



MARIN COUNTY COMMUNITY DEVELOPMENT AGENCY

BRIAN C. CRAWFORD, DIRECTOR

STAFF REPORT TO THE DEPUTY ZONING ADMINISTRATOR HORIE VARIANCE

Item No:	C2.	Application No:	VR10-3
Applicant:	Traci T. Horie	Owner:	Wilfred and Renee Horie
Property Address:	85 Corte Dorado Mill Valley	Assessor's Parcel:	070-011-25
Hearing Date:	November 12, 2009	Planner:	Daniella Hamilton
	RECOMMENDATION:		Approved with Conditions
	APPEAL PERIOD:		10 days to the Marin County Planning Commission
	LAST DATE FOR ACTION:		November 24, 2009

PROJECT DESCRIPTION:

The applicant, Tracie T. Horie, on behalf of the owners, Wilfred and Renee Horie, is requesting Variance approval to raise the roof of the existing residence for a total height of 24 feet 8 inches above grade, and remove and replace an existing staircase. All work would be located within the existing footprint of the residence. The Variance is necessary because the work would take place within the required front yard and side yard setbacks. The proposed project would maintain the following setbacks from corresponding property lines: 1) 6 feet 2 inches from the southwestern front property line, 2) 60 feet 7 inches from the eastern rear property line, 3) 7 feet 6 ¾ inches from the western side property line, and 4) 120 feet from the northern side property line. The subject property is located at **85 Corte Dorado in Greenbrae** in the R-1:B-2 zone, further identified as **Assessor's Parcel 070-011-25**.

GENERAL INFORMATION:

CWP Land Use Designation:	SF5 (Single-family, 2-4 units/acre)
Zoning:	R-1:B-2 (Residential, Single Family, 10,000 sq. ft. min. lot size)
Lot size:	32,884 square feet
Adjacent Land Uses:	Single-family residential
Vegetation:	Native and introduced landscaping
Topography and Slope:	Steeply sloping
Environmental Hazards:	None identified

ENVIRONMENTAL REVIEW:

The Environmental Coordinator has determined that this project is Categorically Exempt from the requirements of the California Environmental Quality Act (CEQA) pursuant to Section 15301, Class 1 of the CEQA Guidelines because the proposed project would not result in significant tree removal, grading, drainage alterations or other adverse 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 earliest possible decision date in accord with California Government Code requirements. This notice has been mailed to all property owners within 300 feet of the subject property.

PLAN CONSISTANCY:

The project is subject to policies of the Marin Countywide Plan, the Kentfield/Greenbrae Community Plan, and the regulations of the Marin County Code. In particular, the Countywide Plan's Community Design Element contains policies for the built environment requiring project designs that are aesthetically appealing and that protect the visual quality of the natural environment (Marin Countywide Plan Policy DES-1.1). The Kentfield/Greenbrae Community Plan Land Use Policy for Subarea "I" states that development should comply with community plan standards, and be compatible with local topography, established community character and recommended community appearance. The proposed development is consistent with these policies as described in the analysis section and the attached Resolution.

PROJECT ANALYSIS:

SETTING

The subject property is located at the end of a cul-de-sac in a residential neighborhood of unincorporated Greenbrae within close proximity to the borders of the Cities of San Rafael and Larkspur to the north. The neighborhood is characterized by single family residences. Steep topography at the rear of the properties located on the northeast side of Corte Dorado necessitated location of the existing residences closer to the front property line than the 25 foot minimum that would be required pursuant to the development standards of the R-1:B-2 zoning district. Of the houses on the northeast side of the street, the existing residence at 85 Corte Dorado is set back furthest from the street. In addition to the steepness at the rear of the project site, a utility easement running north to south bisecting the property further constrains the developable area.

BACKGROUND

The area of Greenbrae bounded by Wolfe Grade on the west, City of San Rafael and City of Larkspur to the north, City of Larkspur and Eliseo Avenue to the east, and Sir Francis Drake Boulevard to the south is zoned R-1:B-2 (with the exception of one property zoned RSP-0.33 and two zoned for non-residential uses). Subdivisions in this

area of Greenbrae were originally constructed with reduced front and side yard setbacks due to site constraints related to topography. Intending to provide consistent guidance for future development in this area, the Board of Supervisors issued a mass Variance finding. It was later determined that this finding exceeded the Board's authority and the variances were rescinded by Board action in 1974. Since that time, the existing residences in Greenbrae have been found to be legal, non-conforming with regard to setbacks. Variance findings are still required for many renovations and additions in this area of Greenbrae due to the fact that most existing residences were originally constructed with reduced setbacks, and/or the properties are unusually constrained by the steep topography, utility easements, and natural features including trees and drainage ways.

DEVELOPMENT ISSUES

The applicant proposes to demolish the existing stairway located within the required front yard setback and replace it with a new stairway with a lower landing and shallower steps. In addition, the project involves raising the height of the roof by 2 feet 6 inches at the front and adding a new chimney on the western side of the residence. The existing residence is a two-story, 2,410 square foot single-family residence, which results in a floor area ratio of 7.33 percent on the 32,884 square foot property. The existing residence reaches a maximum height of 22.2 feet above existing grade, and is located within 6 feet 2 inches of the southwestern front property line and within 7 feet 6 ¾ inches of the western side property line. The proposed project would not extend development beyond the existing footprint of the residence, and at 24 feet 8 inches above grade, would not exceed the maximum height (30 feet) allowed in the R-1:B-2 zone district.

The proposed project requires Variance approval because the new work, even though it does not add to the building area, would take place in a portion of the existing residence that encroaches into the required side and front setbacks. Pursuant to Development Code Section 22.54.030.D, a variance request that would result in more than 40 percent setback variation calls for a public hearing.

CONCLUSION

As discussed in the attached Resolution, the proposed project would be consistent with the mandatory Findings for Variance approval because the property is constrained by the steepness of the eastern portion of the site as well as the utility easement bisecting the site, and the development would not adversely affect surrounding properties. The proposed development is consistent with the policies of the Marin Countywide Plan and the Kentfield/Greenbrae Community Plan because it would be compatible with the surrounding community.

RECOMMENDATION:

Staff recommends that the Deputy Zoning Administrator review the administrative record, conduct a public hearing, and adopt the attached Resolution approving the Horie Variance based on the findings and subject to the conditions contained therein.

Attachments:

1. Resolution recommending approval of the Horie Variance
2. Environmental Document
3. Location Map
4. Assessor's Parcel Map
5. Exhibit A: Project Plans (Sheets A1, A1.1, 1.2, A1.3, A1.4, A2.1,2.2, 2.3,2.4, A3.1, 3.2, and A3.3)
6. Department of Public Works Memorandum, October 5, 2009
7. Greenbrae Property Owners Association letter, December 16, 2009
8. Kentfield Fire Protection District memorandum, July 27, 2009

MARIN COUNTY DEPUTY ZONING ADMINISTRATOR

RESOLUTION -----

A RESOLUTION APPROVING THE HORIE VARIANCE
ASSESSOR'S PARCEL 070-011-25

SECTION I: FINDINGS

- I. WHEREAS the applicant, Tracie T. Horie, on behalf of the owners, Wilfred and Renee Horie, is requesting Variance approval to raise the roof of the existing residence 2 feet 6 inches for a total height of 24 feet 8 inches above grade, and remove and replace an existing staircase. All work would be located within the existing footprint of the residence. The Variance is necessary because the work would take place within the required front yard and side yard setbacks. The proposed project would maintain the following setbacks from corresponding property lines: 1) 6 feet 2 inches from the southwestern front property line, 2) 60 feet 7 inches from the eastern rear property line, 3) 7 feet 6 ¾ inches from the western side property line, and 4) 120 feet from the northern side property line. The subject property is located at **85 Corte Dorado in Greenbrae** in the R-1:B-2 zone, further identified as **Assessor's Parcel 070-011-25**.
- II. WHEREAS the Marin County Deputy Zoning Administrator held a duly noticed public hearing on November 12, 2009 to consider the merits of the project, and hear testimony regarding 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 (CEQA), per Section 15301, Class 1 of the CEQA Guidelines because it would not result in significant tree removal, grading, drainage alterations or other adverse impacts on the environment.
- IV. WHEREAS The proposed project, as modified by the conditions of approval, is consistent with the goals and policies of the Marin Countywide Plan as discussed below:
 1. 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*) because the project would not entail the removal of native trees and the project site was previously developed.
 2. The project would not result in impacts to special-status species (*CWP Policies BIO-1.1, BIO-2.1, and BIO-2.2*) because, according to the California Natural Diversity Database, the subject property does not provide habitat for special-status species of plants or animals.

3. The project would not significantly impact the ecotones on the project site (*CWP Policies BIO-2.3 and BIO-2.4*) because the subject property is located far enough from the shoreline to avoid being constrained by ecotones.
 4. No wetlands or stream conservation areas would be affected by the project (*CWP Policies BIO-3.1 and CWP BIO-4.1*) because there are no wetlands or streams on or adjacent to the subject property.
 5. The project would not result in significant storm water 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*) because the project would not involve grading or disturbance of soil, nor would it increase the impermeable area on the site, and the existing drainage system complies with the standards and best management practices required by the Department of Public Works.
 6. The project would be constructed in conformance County earthquake standards, as verified during review of the Building Permit application (*CWP Policies EH-2.1, EH-2.3, and CD-2.8*) and the subject property is not constrained by unusual geotechnical problems, such as existing fault traces.
 7. The project design and conditions of approval 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*).
 8. The project would meet energy efficient standards for exterior lighting, and would reduce excessive lighting and glare (*CWP Policy DES-1.h*) because exterior up-lighting is not proposed, and standard conditions of project approval require that lighting be downward directed.
 9. The project would preserve visual quality and protect scenic quality and views of the natural environment from adverse impacts related to development (*CWP Policy DES-4.1*) because the proposed development would be consistent with the Marin County Single-family Residential Design Guidelines.
 10. The project will comply with the Marin County Single Family Dwelling Energy Efficiency Ordinance (*CWP Policy EN-1.c*) because the Energy Efficiency Ordinance requirements would be implemented during the Building Permit review process to ensure that the project minimizes energy use.
- V. WHEREAS the project will be compatible with community design standards, local topography, community character and community appearance, the project complies with Kentfield/Greenbrae Community Plan Land Use Policies for Subarea "I".

VI. WHEREAS the Marin County Deputy Zoning Administrator finds that the proposed project is consistent with the mandatory findings for Variance approval (Section 22.54.050 of the Marin County Code) as described below.

- A. There are special circumstances applicable to the property (e.g., location, shape, size, surroundings, or topography), so that the strict application of this Development Code denies the property owner privileges enjoyed by other property owners in the vicinity and under identical zoning districts.**

Due to constraints unique to the project site, including the unusual shape of the lot, the steepness of the rear portion of the site, and the utility easement bisecting the property, strict application of the Code denies the property owner privileges enjoyed by owners of less constrained properties in the vicinity.

- B. That granting the Variance does not allow a use or activity which is not otherwise expressly authorized by the regulations governing the subject parcel.**

The project involves alterations to an existing residence, a principally permitted use in the R-1:B-2 zone district. Therefore the project would not allow a use or activity which is not otherwise expressly authorized by the regulations governing the subject parcel.

- C. That granting the Variance does not result in special privileges inconsistent with the limitations upon other properties in the vicinity and zoning district in which the real property is located.**

The project would not result in special privileges inconsistent with the limitations upon other properties in the vicinity and zoning district in which the real property is located. Rather, the project would allow the property owner to enjoy the same privileges as enjoyed by owners of neighboring properties, and typical properties located in the R-1:B-2 zone district. The project involves alterations to an existing residence of a nature (use and design) that is consistent with the residential character of the surrounding neighborhood.

- D. That granting the Variance will not be detrimental to the public interest, health, safety, convenience, or welfare of the County, or injurious to the property or improvements in the vicinity and zoning district in which the real property is located.**

The development would not have detrimental effects on public interest, health, safety, convenience or welfare of the County, or injurious to the property or improvements in the vicinity and zoning district in which the real property is located because it involves alterations to an existing residence in a residential zone. The project would cause no injury to the property nor to improvements in the vicinity or the zone district., and is of compatible design with respect to single family homes along Corte Dorado.

SECTION II: CONDITIONS OF PROJECT APPROVAL (VR 10-3)

NOW, THEREFORE, LET IT BE RESOLVED, that the Deputy Zoning Administrator approves the Horie Variance application subject to the following conditions:

1. Pursuant to Marin County Code sections 22.54.050, this approval authorizes raising the roof of the existing residence for a total height of 24 feet 8 inches above grade, and removal and replacement of an existing staircase. All work shall be located within the existing footprint of the residence. The Variance is necessary because the work will take place within the front yard and side yard setbacks. The approved project shall maintain the following setbacks from corresponding property lines: 1) 6 feet 2 inches from the southwestern front property line, 2) 60 feet 7 inches from the eastern rear property line, 3) 7 feet 6 ¾ inches from the western side property line and 4) 120 feet from the northern side property line. The subject property is located at **85 Corte Dorado in Greenbrae** in the R-1:B-2 zone, further identified as **Assessor's Parcel 070-011-25**.
2. Plans submitted for a Building Permit shall substantially conform to plans identified as "Exhibit A," entitled, "85 Corte Dorado," consisting of 12 sheets prepared by Aleck Wilson Architects Inc., dated 9/22/2009 and received October 19, 2009, and on file with the Marin County Community Development Agency, except as modified by the conditions listed herein.
3. Approved exterior building materials and colors shall substantially conform to the color/materials sample board which is identified as "Exhibit B," prepared by Aleck Wilson Architects, received August 12, 2009, and on file with the Marin County Community Development Agency including:
 - a. Siding
 - b. Roof
 - c. Window frame and handrail

All flashing, metal work, and trim shall be treated or painted an appropriately subdued, non-reflective color.
4. BEFORE ISSUANCE OF A BUILDING PERMIT, the applicant shall revise the site plan or other first sheet of the office and job site copies of the Building Permit plans to list these conditions of approval as notes.
5. BEFORE ISSUANCE OF A BUILDING PERMIT, the applicant shall mark or call-out the approved building setbacks on the Building Permit plans indicating the minimum front yard, and the distance of the building from the nearest property line at the closest point.
6. BEFORE ISSUANCE OF A BUILDING PERMIT, the applicant shall submit a signed Statement of Design Conformance contained in the Green Building Residential Certification Form demonstrating that the project meets or exceeds the required green building rating "Silver."
7. Exterior lighting shall be located and/or shielded so as not to cast glare on nearby properties.

Comment [TL1]: Please e
or the more specific requirem
exterior lights that is in speci

8. If archaeological, historic, or prehistoric resources are discovered during construction, construction activities shall cease, and the Community Development Agency staff shall be notified so that the extent and location of discovered materials may be recorded by a qualified archaeologist, and disposition of artifacts may occur in compliance with State and Federal law. A registered archeologist, chosen by the County and paid for by the applicant, shall assess the site and shall submit a written report to the Community Development Agency staff advancing appropriate mitigations to protect the resources discovered. No work at the site may recommence without approval of the Community Development Agency staff. All future development of the site must be consistent with findings and recommendations of the archaeological report as approved by the Community Development Agency staff. If the report identifies significant resources, amendment of the permit may be required to implement mitigations to protect resources. Additionally, the identification and subsequent disturbance of an Indian midden requires the issuance of an excavation permit by the Department of Public Works in compliance with Chapter 5.32 (Excavating Indian Middens) of the County Code.
9. 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.
10. BEFORE FINAL INSPECTION, the applicant shall submit a signed Statement of Construction Conformance contained in the Green Building Residential Certification Form certifying that the measures identified in the Statement of Design Conformance have been installed and/or utilized as part of the project to meet or exceed the required green building rating level.
11. Any changes or additions to the project shall be submitted to the Community Development Agency in writing for review and approval before the contemplated modifications may be initiated. Construction involving modifications that do not substantially comply with the approval, as determined by the Community Development Agency staff, may be required to be halted until proper authorization for the modifications are obtained by the applicant.

SECTION III: VESTING AND APPEAL RIGHTS

NOW, THEREFORE BE IT FURTHER RESOLVED that the applicant must vest this approval by obtaining a Building Permit for the approved work and substantially completing the improvements in accordance with the approved permits by November 12, 2011, or all rights granted in this approval shall lapse unless the applicant applies for an extension at least 10 days before the expiration date above and the Community Development Agency staff approves it. An extension of up to four years may be granted for cause pursuant to Section 22.56.050.B.3 of the Marin County Code.

The Building Permit approval expires if the building or work authorized is not commenced within one year from the issuance of such permit. A Building Permit is valid for two years during which construction is required to be completed. All permits shall expire by limitation and become null and void if the building or work authorized by such permit is not completed within two years from the date of such permit. Please be advised that if your Building Permit lapses after the vesting date stipulated in the Planning permit (and no extensions have been granted), the Building Permit and planning approvals may become null and void. Should you have difficulty meeting the deadline for completing the work pursuant to a Building Permit, the applicant may apply for an extension at least 10 days before the expiration of the Planning permit.

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 Planning Department, Room 308, Civic Center, San Rafael, no later than 4:00 p.m. on November 26, 2009.

SECTION IV: DECISION

ADOPTED at a regular meeting of the Deputy Zoning Administrator of the County of Marin, State of California, on the 12th day of November, 2009.

JOHANNA PATRI, AICP
DEPUTY ZONING ADMINISTRATOR

Attest:

Joyce Evans
Deputy Zoning Administrator Secretary

Comment [TL2]: Use this if the application was NOT submitted for enforcement case. Pick the appropriate requirements and delete those that do not apply. Select one or both of the 2 codes for extensions - Section 22.44.050 for Precise Development Plans and Section 22.56.050.B.3 applies to all other Tentative Maps. (Note: For coastal zone where the Coastal Commission has permit jurisdiction over the CDD, use the appropriate extension citation from the Zoning Ordinance; eg. 22.82.050 Review, 22.77.040(7) for Tidewater, 22.86.070 for Variance.)