



MARIN COUNTY
COMMUNITY DEVELOPMENT AGENCY

BRIAN C. CRAWFORD, DIRECTOR

**STAFF REPORT TO THE DEPUTY ZONING ADMINISTRATOR
STOREK DESIGN REVIEW AND VARIANCE**

Item No:	H1.	Application No:	DR 10-24 & VR 10-4
Applicant:	Rich Storek	Owner:	Rich Storek
Property Address:	16 Madrone Park Circle, Mill Valley	Assessor's Parcel:	048-021-03
Hearing Date:	May 13, 2010	Planner:	Scott Greeley

RECOMMENDATION:	Approval of Design Review with Conditions and Denial of Variance
APPEAL PERIOD:	May 27, 2010
LAST DATE FOR ACTION:	May 22, 2010

PROJECT DESCRIPTION:

The applicant is requesting Design Review and Variance approval to construct a total of 258 square feet of additions on three levels, 379 square feet of loft space with a ceiling height of less than 7 feet 6 inches, a 484 square foot garage, add a new deck, patio and to renovate portions of the existing 2,068 square foot residence on an 8,149 square foot lot. The proposed 2,326 square foot residence, with garage, would have a floor area ratio of 28.5%. The proposed lower floor addition would have the following minimum setbacks: 1) 4 feet 10 inches from the southerly front property line; 2) 59 feet from the northerly rear property line; 3) 6 feet 2 inches from the easterly side property line; and 4) 86 feet from the westerly side property line. The proposed deck and street level addition would have the following minimum setbacks: 1) 29 feet from the southerly front property line; 2) 34 feet from the northerly rear property line; 3) 7 feet from the easterly side property line; and 4) 67 feet from the westerly side property line. The upstairs loft space would have the following minimum setbacks: 1) 25 feet from the southerly front property line; 2) 40 feet from the northerly rear property line; 3) 21 feet from the easterly side property line; and 4) 66 feet from the westerly side property line. The proposed garage would have the following minimum setbacks: 1) 3 feet 11 inches from the southerly front property line; 2) 63 feet from the northerly rear property line; 3) 4 feet 7 inches from the westerly side property line; and 4) 69 feet from the easterly side property line. The proposed loft addition would attain a maximum height of approximately 42 feet 5 inches. The other additions to the house and the garage would attain a maximum height of 35 feet. Design Review is required for aspects of the additions which exceed 30 feet and are not more than 35 feet, as well as for the proposed garage within the front and side setbacks. A Variance is required for proposed heights of the addition in excess of 35 feet and for portions of the addition, not related to the garage, which encroach into the front setback.

DZA Staff Report
May 13, 2010
Item No. H1, page 1

I:\Cur\SG\2009\04802103_Storek_090409\DZA Staff Report_Storek_051310.doc

GENERAL INFORMATION:

Countywide Plan: SF6 (Single Family, Residential, less than 10,000 square foot lot size)
Zoning: R-1:B-1 (Residential, Single Family, 7 dwelling units per acre)
Community Plan Area: Tamalpais
Lot size: 8,149 square feet
Adjacent Land Uses: Residential
Vegetation: Moderate concentrations of native vegetation and grasses
Topography and Slope: Steeply sloping
Environmental Hazards: Steep Slopes

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 15301, Class 1 of the CEQA Guidelines because it entails construction of additions and renovations to an existing residence and does not result in potentially significant impacts to the environment.

PUBLIC NOTICE:

The Community Development Agency has provided public notice identifying the applicant, describing the project and its location, and the date of the public hearing. This notice has been mailed to all property owners within 300 feet of the subject property. Comments have been received by neighbors who support the project as well as one who objects to the proposed project. The individual that objects to the project largely bases his arguments that past development standards required of other neighbors have not been met along with other issues addressed in the Project Analysis and attached resolution. Due to the large volume received, the majority of the comments were not provided as attachments. They are available however in the public record.

PLAN CONSISTENCY:

The proposed project is subject to the goals and policies of the Marin Countywide Plan, the Tamalpais Area Community Plan, the Single-family Residential Design Guidelines and the mandatory findings for Design Review and Variance in the Development Code. The project's conformance with these policies, guidelines, and standards is discussed in the attached resolution

PROJECT ANALYSIS:

The applicant is proposing to construct a 258 square foot addition along three levels, 379 square feet of loft space with a ceiling height of less than 7 feet 6 inches which is not recognized as floor area according to the Tamalpais Area Community Plan, a 504 square foot garage, add a new deck, patio and to renovate portions of the existing 2,068 square foot residence. The 8,149 square foot property is steeply sloping, with an approximate average slope of 68%, along with a light planting of native vegetation and grasses. The northerly rear of the property is on a hillside with views of Mill Valley.

The project is subject to the Tamalpais Area Community Plan and located in the Homestead Valley portion of Mill Valley. and the property was originally created as historic Lots 2 and 4 in the "Madron Park Tract" subdivision, recorded on August 1, 1911.

In a recent Court of Appeals case, *Witt Home Ranch v. County of Sonoma*, 208 Cal. App. Lexis 1160 (2008), it was determined subdivision maps created, approved, and recorded prior to 1929 do not qualify for protection under the California Subdivision Map Act. Typically, a Certificate of Compliance is necessary to determine the legal status of such lots created prior to this date. In October 2004, the Community Development Agency granted a building permit for the existing residence. Pursuant to Subdivision Map Act Section 66499.34, the building permit was functionally equivalent to a Certificate of Compliance which recognized Assessor's Parcel Number 048-021-03, comprised of historic lots 2 & 4 of the "Madron Park Tract" as a single legal lot of record.

The property is surrounded by other single family developed lot areas ranging from approximately 4,750 square feet to 1.02-acres. The development in this area is almost entirely single family units. Per Table 2-5 of Chapter 22.10.040 of the Marin County Development Code, Design Review findings are deemed necessary for a primary residence which exceeds 30 feet in height in the R-1:B-1 zoning district. Design Review findings are outlined in 22.42.060 of the Development Code and can permit a single family residence in such circumstances to attain a maximum height of 35 feet, so long as appropriate findings of quality design and community consideration can be made.

Per Chapter 22.54.030 of the Marin County Development Code, a Variance is also required because the proposed addition exceeds 35 feet in height and the proposed front setback of the addition encroaches into the 25 foot setback established by the zoning district. Variance findings are outlined in 22.54.050 of the Development Code and specifically require that a unique and special circumstance exists, a use which is otherwise entitled is being deprived, no special use not otherwise permitted in the zoning district will be granted, and that it does not conflict with the safety and the public welfare.

The project has been reviewed and commented on by the Marin County Department of Public Works, Marin Municipal Water District, Southern Marin Fire Protection District, and the Tamalpais Design Review Board, all of which have recommended project approval or conditional approval as outlined in the Conditions of Approval in the attached Resolution.

Staff has also received comments from a neighboring resident, Charles Sands, who has raised issues with the merits of the project. Several issues raised by Mr. Sands relate to the history of the lot and previous construction and is not relevant to this project. If Mr. Sands wishes to challenge existing construction, which he feels to be illegally constructed or is currently being used for an unauthorized activity, he needs to raise these issues with Code Enforcement. If he is challenging the rights to use of an existing access easement to and from the property he will need to pursue this through civil means. Other issues, Mr. Sands has raised including the adequacy of the Geotechnical Report and parking and access issues have already been submitted or resolved through the Department of Public Works.

Following review of the project for consistency with County policy, staff was able to make the necessary Design Review findings for project approval, but was unable to make the necessary Variance findings for project approval because the property is not subject to unique circumstances in relation to the surrounding properties and that he was not being deprived of a

use he was otherwise entitled to since he already has a legal non-conforming residence. In addition, it has been determined that the proposed additions could be otherwise achieved exclusively through Design Review or by complying with the zoning district standards. By complying with development standards outlined in the Development Code, the applicant could pursue such development ministerially. As such, staff is recommending approval of the proposed Design Review, but not the Variance, as outlined in the attached resolution.

RECOMMENDATION:

Staff recommends that the Deputy Zoning Administrator review the administrative record, conduct a public hearing, and adopt the attached resolution approving the Storek Design Review and denying the Variance.

- Attachments:**
1. *Recommended Resolution approving the Storek Design Review and denying the Variance*
 2. *CEQA Exemption*
 3. *Assessor's Parcel Map*
 4. *Project Plans*
 5. *Exhibit B "16 Madrone Park Circle • M.V.", received September 4, 2009*
 6. *Biological Assessment*
 7. *Geotechnical Report*
 8. *Letter by Charles Sands, dated April 29, 2010*
 9. *Email by Rich Storek, dated March 27, 2010*
 10. *Marin County Department of Public Works Memo, dated January 12, 2010*
 11. *Marin Municipal Water District Memo, dated September 24, 2009*
 12. *Southern Marin Fire Protection District Memo, dated September 21, 2009*
 13. *Tamalpais Design Review Board Minutes, dated October 7, 2009*

MARIN COUNTY DEPUTY ZONING ADMINISTRATOR

RESOLUTION NO. 10-
A RESOLUTION APPROVING THE STOREK DESIGN REVIEW AND DENYING THE
VARIANCE
16 MADRONE PARK CIRCLE, MILL VALLEY
ASSESSOR'S PARCEL 048-021-03

SECTION I: FINDINGS

- I. WHEREAS, Rich Storek, is seeking Design Review and Variance approvals to construct a total of 258 square feet of additions on three levels, 379 square feet of loft space with a ceiling height of less than 7 feet 6 inches, a 484 square foot garage, add a new deck, patio and to renovate portions of the existing 2,068 square foot residence on an 8,149 square foot lot. The proposed 2,326 square foot residence, with garage, would have a floor area ratio of 28.5%. The proposed lower floor addition would have the following minimum setbacks: 1) 4 feet 10 inches from the southerly front property line; 2) 59 feet from the northerly rear property line; 3) 6 feet 2 inches from the easterly side property line; and 4) 86 feet from the westerly side property line. The proposed deck and street level addition would have the following minimum setbacks: 1) 29 feet from the southerly front property line; 2) 34 feet from the northerly rear property line; 3) 7 feet from the easterly side property line; and 4) 67 feet from the westerly side property line. The upstairs loft space would have the following minimum setbacks: 1) 25 feet from the southerly front property line; 2) 40 feet from the northerly rear property line; 3) 21 feet from the easterly side property line; and 4) 66 feet from the westerly side property line. The proposed garage would have the following minimum setbacks: 1) 3 feet 11 inches from the southerly front property line; 2) 63 feet from the northerly rear property line; 3) 4 feet 7 inches from the westerly side property line; and 4) 69 feet from the easterly side property line. The proposed loft addition would attain a maximum height of approximately 42 feet 5 inches. The other additions to the house and the garage would attain a maximum height of 35 feet. Design Review is required for aspects of the additions which exceed 30 feet and are not more than 35 feet, as well as for the proposed garage within the front and side setbacks. A Variance is required for proposed heights of the addition in excess of 35 feet and for portions of the addition, not related to the garage, which encroach into the front setback. **The subject property is located at 16 Madrone Park Circle in Mill Valley, and is further identified as Assessor's Parcel 048-021-03.**
- II. WHEREAS the Marin County Deputy Zoning Administrator held a duly-noticed public hearing May 13, 2010, 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 of the CEQA Guidelines because it entails construction of additions and renovations to an existing residence and does not result in potentially significant impacts to the environment.

IV. WHEREAS the Marin County Deputy Zoning Administrator finds that the proposed project is consistent with the following pertinent land use policies of the Tamalpais Area Community Plan including:

- A. The project is consistent with the residential character of the surrounding community (Tamalpais Area Community Plan, Land Use Policy, LU-1.3);
- B. The project has been deemed to be consistent with the overall policies and intent of the community plan (Tamalpais Area Community Plan, Section VII (C and E). While the Community Plan does have programs for hillside height, including Land Use Policy LU-1.4b and LU-1.4c, the Community Plan lists such programs as guidelines. Projects which deviate from the guidelines may be considered, if the proposal is consistent with the objective and purpose of the plan and the intent of the plan (Tamalpais Area Community Plan, Section III (D), page III-35), as it has been determined to be by the Design Review findings below and the Tamalpais Design Review Board.

V. Whereas, the Marin County Deputy Zoning Administrator finds that the Mandatory Findings for a Variance per Section 22.54.050 of the Marin County Zoning Code cannot be made based on the following findings:

- 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.**

This property is on Madrone Park Circle, a neighborhood which was largely built prior to current zoning and other development standards, which include issues with many surrounding properties with regards to steep slopes, roadway access, and parking. In this instance, the residence was originally constructed in 1925, before the first zoning ordinance was adopted in Marin County. The property, at this time, is conventionally zoned which calls for specific standards to be met prior to being issued a new building permit. In many situations in this community, Variances are necessary in order to have a proposed project considered. Per State law, Variances are undertaken on a case-by-case basis and precedent is not a factor. A Variance is intended as a solution to a unique problem that only impacts the property owner(s) and which otherwise prevents the property owner(s) from being able to enjoy an activity that is enjoyed by others in the area and the zoning district. Based on review of the plans, as well as past meetings with the applicant, it has been determined that the upstairs renovation and addition is possible without requiring a Variance by modifying the proposed design. As such, the owner is not being denied a privilege (or use) that other property owners in the vicinity enjoy. Additionally, the use, in this situation, is as a primary residence, which the present owner is already enjoying and not being denied of. An addition to the residence is not something the owner is otherwise entitled to, especially when it can be accomplished at a reduced height through redesign of the project and through Design Review exclusively. The owner/applicant's assertion that the portion requiring a Variance is limited in scope, addresses a "dysfunctional bed/bathroom" design is inadequate.

In *Orinda Association v. Board of Supervisors of Contra Costa County* (1986) 182 Cal.App.3d 1145 the court states:

"The facts set forth in the required findings must address "the critical issue whether a variance was necessary to bring the [owner of the subject parcel] into substantial parity with other parties holding property interests in the zone. [Citation.]" (Id. at pp. 520-521, 113 Cal.Rptr. 836, 522 P.2d 112.) Thus, data focusing on the qualities of the property and Project for which the variance is sought, the desirability of the proposed development, the attractiveness of its design, the benefits to the community, or the economic difficulties of developing the property in conformance with the zoning regulations, lack legal significance and are simply irrelevant to the controlling issue of whether strict application of zoning rules would prevent the would-be developer from utilizing his or her property to the same extent as other property owners in the same zoning district. (Ibid; Broadway, Laguna etc. Assn. v. Board of Permit Appeals, supra, 66 Cal.2d at pp. 773-781, 59 Cal.Rptr. 146, 427 P.2d 80.) . . . Findings with respect to this Project's perceived desirability are actually irrelevant and superfluous."

Therefore, the proposed project is inconsistent with this finding.

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 Variance is limited to the proposed remodel and addition on the upper floor of the residence and is intended for residential uses. The property is zoned R-1:B-1, which is a single family residential zoning district. Therefore, the project is consistent with this finding.

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.

Variations are only for use in unusual, individual circumstances related to the property. There is no basis for granting a variance if the circumstances of the project site cannot be distinguished from those on surrounding lots. The approval or denial of a variance does not create a precedent for subsequent variance requests. Because each variance is based upon special circumstance relating to the site for which it is proposed, the past grant or denial of variances for other properties in the area does not mandate similar action on the part of the hearing body.

As noted in the above findings, the property's constraints are not unique to the area and all properties are subject to the same standards. In addition, the owner is still presently able to enjoy the property with its intended residential use and the design could be done so that only Design Review findings are otherwise necessary. Based on this, approving a Variance would then be granting a special

privilege not otherwise enjoyed by other property owners. Therefore, the proposed project is inconsistent with this finding.

- 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 project has been reviewed and conditioned by the Department of Public Works, the Southern Marin Fire Protection District, and the Marin Municipal Water District. The project has been deemed to be consistent with applicable design and safety standards, per the conditions of approval below. Additionally, letters from surrounding neighbors and residents of the community, which can be found in the public record, as well as the Tamalpais Design Review Board have found the design to be acceptable. Also, the project would be subject to review and compliance with the most current Uniform Building Code during the building permit review process. Therefore, the project would be consistent with this finding.

- VI. WHEREAS the Marin County Deputy Zoning Administrator finds that the proposed project is consistent with the mandatory findings to approve the Design Review application (Section 22.42.060 of the Marin County Code) as specified below.

The proposed project which is subject to Design Review excludes all portions of the project in excess of 35 feet in height and those parts of the addition, excluding the garage, which encroach into the front setback. The portions in excess of 35 feet and which encroach into the setbacks, not including the garage, are subject to Variance findings of approval discussed above in Section I: Findings, subsection V.

- A. **The proposed development provides architectural design, massing, materials, and scale appropriate to and compatible with the site surroundings and the community;**

The proposed design, setbacks, and scale would not substantially increase the bulk of the residence and would maintain consistency with other residences found in the surrounding neighborhood. Construction of the project would conform to a principally permitted residential use in the governing R-1:B-1 zoning district. Finally, the design of the project would respect the surrounding natural environment, and would utilize colors and materials consistent with the prevailing community character. Therefore, the project is consistent with this finding.

- B. **The proposed development results in site layout and design (including building arrangement, exterior appearance, heights, setbacks, drainage, fences and walls, grading, lighting, signs, etc.) that will not eliminate significant sun and light exposure, views, vistas, and privacy to adjacent properties; that will not result in light pollution, trespass, and glare; and that will not adversely affect rights-of-way or pathways for circulation;**

The proposed project is not consistent with this finding since portions of the proposed renovations and additions will be visible to the larger community downhill from Madrone

Park Circle and could lead to potential privacy concerns from downhill neighbors. In order to ensure that adequate privacy is maintained for downhill residents, the project has been conditioned to include a minimum of 4 additional 24-inch or larger box, fast growing, native trees along the rear of the property. The project as proposed and conditioned would avoid adverse effects to the air, light, and privacy enjoyed on surrounding properties. In addition, rights-of-way and pathways for generally circulation will not be impacted. Therefore, the project, as conditioned, is consistent with this finding.

- C. **The proposed development will provide appropriate separation between buildings and will be properly and adequately landscaped with maximum retention of trees, native plants, and other natural features consistent with fire safety requirements;**

The proposed project is not consistent with this finding since portions of the proposed renovations and additions will be visible to the larger community downhill from Madrone Park Circle. In order to ensure that the project is adequately landscaped, the project has been conditioned to include a minimum of 4 additional 24-inch or larger box, fast growing, native trees along the rear of the property. This will provide additional screening. Therefore, the project, as conditioned, is consistent with this finding.

- D. **The proposed development will minimize cut and fill, the reforming of the natural terrain, and appurtenant structures (e.g. retaining walls and bulkheads);**

The proposed project site is subject to steep slopes, but the project is situated close to the front of the property. This minimizes the necessary amount of cut and fill or reforming of terrain. Therefore, the project is consistent with this finding.

- E. **The proposed development complies with the Single-family Residential Design Guidelines and the design and locational characteristics listed in Chapter 22.16 (Planned District Development Standards);**

The proposed project, subject to Design Review (i.e. excluding all portions of the project in excess of 35 feet in height and those encroaching into the front setback, not including the garage) would be consistent with the applicable Single-family Residential Design Guidelines. The portions in excess of 35 feet are not addressed here and are subject to Variance findings of approval discussed above in Section I: Findings, subsection V. In particular, the project would further the goals of the following guidelines:

- Design Guideline A-1.1: The project would not result in the removal of healthy, mature, native trees.
- Design Guideline A-1.4: The project is largely towards the front of the property and would minimize the amount of new grading.
- Design Guideline C-1.1: The project maintains setbacks that are commonly found in the larger community of Madrone Park Circle.
- Design Guideline D-1.1: The project adequately divides up the mass of the proposed project to minimize its overall effective visual bulk.

- Design Guideline D-1.5: The project as proposed is not consistent with this finding. To make it consistent with the policy, the project has been conditioned to include a revised landscaping plan with screening trees to be planted at the rear of the property. The trees will make the proposed project consistent with this policy.
- Design Guideline D-1.7: The proposed building materials would compliment the surrounding natural and built environment.
- Design Guideline E-1.1: The project will comply with the green building requirements of Marin County's Green Building program.

In addition, the proposed project is consistent with all of the Planned District Development Standards, and in particular with the following standards:

- Development standard K.1 which typically limits the height of primary structures to 30 feet and accessory structures to 15 feet, except in unusual circumstances resulting from irregular site characteristics, such as topography, where the requirement can be waived so long as the structure(s) will not impinge significantly on sun and light exposure, views, vistas, and privacy of adjacent properties and rights-of-way. Due to the steepness of the slope and the proposed project will not impinge on adjacent properties in such a way, a waiver can be granted.
- Development standard K.2 indicates that building materials should be chosen that would blend into the natural environment unobtrusively. The exterior materials would be compatible with the character of the local community.

Therefore, the project is consistent with this finding.

F. The project is designed to conserve energy and natural resources by meeting the green building standards found in Table 4-6 of the Marin County Code Chapter 22.42.060; and

The project, upon application for a building permit, is subject to Green Building standards identified in Table 4-6 of the Marin County Code Chapter 22.42.060, which must be met prior to final building permit inspection. Therefore, the project is consistent with this finding.

G. The design, location, size, and operating characteristics of the proposed use are consistent with the Countywide Plan and applicable zoning district regulations and will not be detrimental to the public interest, health, safety, convenience, or welfare of the County.

- A. The project would be consistent with the R-1:B-1 (Residential, Single Family) land use designation;
- B. The project will be consistent with the policies of the Tamalpais Area Community Plan and Appendices pertaining to design and development in the Homestead Valley Area of the Tamalpais Area Community Plan as noted above in Section I (IV). While the guidelines established by the plan for hillside lots limit building height to 30 feet above natural grade, deviations of this are permitted if what is being proposed meets

the intent of the plan. In addition, the Tamalpais Design Review Board has found that the project is consistent with the intent of the community plan and is in the interest of the community;

- C. The project will comply with CWP policies minimizing air, water, and noise pollution and comply with applicable standards for air quality. The project will cause less than significant short-term increases in construction-related emission and short-term construction-generated noise impacts will be minimized by limiting the hours of construction to the hours of 7:00a.m. and 5:00p.m., Monday through Friday, and between the hours of 9:00a.m. and 4:00p.m. on Saturday. (CWP Policies Noise Policies NO-1.1, NO-1.3);
- D. The project has been designed to avoid hazards from erosion, landslide, floods, and fires, and will result in a built environment which is healthful, safe, quiet, and of good design both functionally and aesthetically. To minimize the risk of fires and ensure adequate fire protection, the Southern Marin Fire Protection District will ensure compliance with fire safety codes and standards including an approved vegetation fire management plan. (CWP Policies, Environmental Hazards Policies, EH-4.1, EH-4.2, EH-4.c, EH-4.d, Community Design Policies DES-1.1, DES-1.g, DES-4.c, DES-5.1);
- E. The project will comply with Marin County development standards related to parking, grading, drainage, flood control, and utility improvements as verified by the Department of Public Works. (CWP Policies, Biological Policy, BIO-4.20);
- F. Per the submitted Biological Assessment, provided by Jeff Dreier, Biologist, for WRA Environmental Consultants, the project will not result in impacts to special-status species (CWP Policies Biological Resources, BIO-1.1 and BIO-2.1);
- G. The project will comply with the Marin County Single Family Dwelling Energy Efficiency Ordinance due to the project needing to meet a Green rating under the Marin Green Home: Green Building Residential Certification Program (CWP Policies, Energy and Green Building EN-3.1 and EN-3.a).

Overall, the portions of the proposed project which are subject to Design Review, are consistent with the goals and objectives of the Marin Countywide Plan.

SECTION II: CONDITIONS OF PROJECT APPROVAL

Marin County Community Development Agency, Planning Division

1. Pursuant to 22.42 (Design Review) of the Marin County Code, the Storek Design Review is approved to allow the construction of a total of 258 square feet of additions on two levels, a 484 square foot garage, a new deck, patio and to renovate portions of the existing 2,068 square foot residence on an 8,149 square foot lot. The 2,326 square foot residence, with garage, shall have a floor area ratio of 28.5%. The deck and street level addition shall have the following setbacks: 1) 29 feet from the southerly front property line; 2) 34 feet from the northerly rear property line; 3) 7 feet from the easterly side property line; and 4) 67 feet from the westerly side property line. The garage shall have the following minimum setbacks: 1) 3 feet 11 inches from the southerly front property line; 2) 63 feet from the

northerly rear property line; 3) 4 feet 7 inches from the westerly side property line; and 4) 69 feet from the easterly side property line. The street level, lower floor, and garage shall attain a maximum height of 35 feet. The subject property is located at **16 Madrone Park Circle, Mill Valley** and is further identified as **Assessor's Parcel 048-021-03**.

Pursuant to 22.54 (Variance) of the Marin County Code, the Storek Variance is denied.

2. Plans submitted for a Building Permit shall substantially conform to plans identified as "File Copy," entitled, "16 Madrone Park Circle Mill Valley CA APN# 048 021 03 Addition/Remodel," consisting of fourteen sheets prepared by Storek Architecture, dated December 14, 2009 and received on December 16, 2009 and on file with the Marin County Community Development Agency, except as modified by the conditions listed herein.
 - The additions to the residence, including the deck space, shall meet the minimum setbacks of: 1) 25 feet from the southerly front property line; 2) 5 feet from the westerly and easterly side property lines; 3) and 25 feet from the northerly rear property line.
 - The maximum height permitted for any portion of the proposed addition on the residence, deck, or garage space shall be 35 feet.
3. Approved exterior building materials and colors shall substantially conform to the color/materials sample board which is identified as "Exhibit B," prepared by Rich Storek Architecture, received September 4, 2009, and on file with the Marin County Community Development Agency including:
 - a. Cedar shingle siding, natural stain
 - b. A dark brown "Standing Seam Metal Roof"
 - c. White window/door casing
 - d. Sky blue window/door trim

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 and side yards, 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 revised landscaping plan which provides a minimum of 4 additional native screening trees along the rear of the residence. The landscaping shall be a minimum 24-inch box size and subject to staff approval.

7. BEFORE ISSUANCE OF A BUILDING PERMIT, the applicant shall submit a letter from the Marin Municipal Water District indicating that the proposed landscaping complies with all conditions of the District's Water Conservation Ordinance.
8. Exterior lighting shall be shielded so as not to cast glare on nearby properties.
9. 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.
10. 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.
11. All utility connections and extensions (including but not limited to electric, communication, and cable television lines) serving the development shall be undergrounded from the nearest overhead pole from the property, where feasible as determined by the Community Development Agency staff.
12. BEFORE FOUNDATION INSPECTION, the applicant shall have a licensed land surveyor or civil engineer with proper certification conduct a survey of the front and side property lines and install property line survey hubs with connecting colored line in locations that can be readily used by the Building and Safety Inspection staff to verify building setbacks

Comment [TL1]: Please edit or the more specific requirements lights that is in special conditions

Comment [TL2]: Pick the

prior to approval of the foundation inspection. If new survey hubs are installed, the project land surveyor or civil engineer must submit written confirmation that the staking of property lines has been properly completed and submit a written (stamped) confirmation to the Planning Division. The requirement for new survey markers may be waived if proper survey markers already exist at the site and can be used to definitely measure building setbacks. It is recommended that the surveyor or civil engineer set the required setback and/or property lines with clearly marked stakes or colored line. The building setback verification can also be satisfied by having a licensed land surveyor or civil engineer with proper certification conduct a survey of the front and side property lines and the installed project foundation forms. The surveyor or engineer would then verify that the proposed project foundation complies with the approved setback distances from adjacent property lines as shown on the approved building permit plans and submit written (stamped) confirmation to the Planning Division. Please refer to the "Building Inspection Procedures" document available at the Marin County Planning Department and on-line at http://www.co.marin.ca.us/depts/CD/Forms/Building_Inspection_Procedures.pdf for additional details regarding this requirement.

Comment [TL3]: Pick the

Comment [TL4]: This construction that is located up to a minimum required setback on properties OR that is located within property line on properties located in zoning district. This condition requires the applicant to verify compliance with setback features, such as wetlands and please exercise your discretion on other discretion which do not meet the criteria

13. BEFORE APPROVAL OF THE FRAMING INSPECTION, the applicant shall have a licensed land surveyor or civil engineer with proper certification submit a written (stamped) building height survey confirming that the additions achieve a maximum height of 35 feet above grade.
14. BEFORE FINAL INSPECTION, the applicant shall submit a Statement of Completion, signed by a certified or licensed landscape design professional, verifying that all approved and required landscaping has been installed in accordance with the approved landscape plan and Chapter 23.10 of the Marin County Code, where applicable.
15. BEFORE ISSUANCE OF A BUILDING PERMIT, the applicant shall provide confirmation to the Planning Division that the Fire Marshal has approved the Vegetation Management/Defensible Space Plan and that the project complies with all applicable fire safety requirements.
16. BEFORE FINAL INSPECTION, the applicant shall provide confirmation from the Fire Marshal that all requirements of the Southern Marin Fire Protection District have been met.
18. 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.

Marin County Public Works Department, Land Development Division

19. BEFORE ISSUANCE OF A BUILDING PERMIT, the proposed fence/retaining wall shall be built at least 4 feet back from edge of pavement.
20. BEFORE ISSUANCE OF A BUILDING PERMIT, on sheet L1.2, the applicant shall clarify if the drywells are existing or proposed. Also show how the downspouts are being connected to the drywells.

21. BEFORE ISSUANCE OF A BUILDING PERMIT, a registered Engineer shall design the site retaining walls, and drainage plans. Plans must have the engineer's signature and stamp.
22. BEFORE ISSUANCE OF A BUILDING PERMIT, 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).
23. BEFORE ISSUANCE OF A BUILDING PERMIT, the applicant shall submit engineer's calculations for site/driveway retaining walls, signed and stamped by the engineer.
24. BEFORE ISSUANCE OF A BUILDING PERMIT, the applicant shall submit an erosion and siltation plan.
25. BEFORE ISSUANCE OF A BUILDING PERMIT, on the plans that the Design Engineer/Architect shall certify to the County in writing that all grading, drainage, and retaining wall construction was done in accordance with plans and field directions. Also note that driveway, parking, and other site improvements shall be inspected by a Department of Public Works engineer.

SECTION III: VESTING, PERMIT DURATION, AND APPEAL RIGHTS

NOW, THEREFORE BE IT FURTHER RESOLVED that the applicant must vest this Design Review approval by complying with all conditions of approval, obtaining Building Permits for the approved work, and substantially completing approved work before May 13, 2012, 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 22.44.050.B and/or Section 22.56.050.B.3of 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 Community Development Agency - Planning Division, Room 308, Civic Center, San Rafael, no later than **4:00 p.m. on May 27, 2010.**

SECTION IV: ACTION

PASSED AND ADOPTED at a regular meeting of the Deputy Zoning Administrator of the County of Marin, State of California, on the 13th day of May 2010.

JOHANNA PATRI
MARIN COUNTY DEPUTY ZONING ADMINISTRATOR

Attest:

Joyce Evans
DZA Secretary

I:\Cur\SG\2009\04802103_Storek_090409\DZA Staff Report _ Storek_051310.doc