



MARIN COUNTY  
COMMUNITY DEVELOPMENT AGENCY

BRIAN C. CRAWFORD, DIRECTOR

**STAFF REPORT TO THE MARIN COUNTY  
DEPUTY ZONING ADMINISTRATOR  
MALIK VARIANCE AND DESIGN REVIEW**

**RECOMMENDATION:** Denial of the Design Review and height  
Variance and approval, in part, of the  
setback Variance with Conditions  
**HEARING DATE:** March 3, 2011

Application No(s):	VR09-3 and DM09-20	Applicant(s):	Shujaullah Malik
Project ID:	08-0098	Owner(s):	Shujaullah Malik
Agenda Item:	2	Assessor's Parcel No(s):	047-052-07
Last Date for Action:	March 8, 2011	Property Address:	49 Castle Rock Drive, Mill Valley
		Project Planner:	Scott Greeley (415) 499-7043 <a href="mailto:sgreeley@co.marin.ca.us">sgreeley@co.marin.ca.us</a>
		Signature:	
Countywide Plan Designation:	SF6 (Single Family, Residential, 4-7 dwelling units per acre)		
Community Plan Area:	Tamapais		
Zoning:	R-1 (Residential, Single Family, 7,500 square foot minimum lot size)		
CEQA:	Categorical Exemption, State CEQA Guidelines, Section 15301, Class 1, Addition to an existing structure		

**PROJECT DESCRIPTION**

**NOTE: The public notice incorrectly indicated the proposed front yard setback as 25 feet. The proposed front yard setback is 23 feet, and the project requires a setback Variance as well as a height Variance.**

The applicant is requesting Variance and Design Review approval to construct a 297 square foot upper level addition. The proposed structure consists of a three level residence with a main floor, second floor and basement, and a total floor area of 2,603 square feet. The addition would reach a maximum height of 39 feet 6 inches above natural grade and the project would result in a 23.8% floor area ratio (FAR). The upper level addition would have the following minimum setbacks: (1) 23 feet from the northwesterly front property line; (2) 71 feet from the easterly rear property line; (3) 6 feet 1 inches from the southerly

side property line; and (5) 45 feet from the northeasterly side property line. All exterior construction activity has been designated to occur by the owner/applicant from August 1st-January 31<sup>st</sup>. No limitation on interior construction has been identified. Design Review is required because the addition to the residence exceeds 30 feet in height. A Variance is required because the addition exceeds 35 feet in height and the proposed front setback is less than 25 feet. Per Chapter 22.54.030 (D) ((3)), a public hearing Variance is required for structures greater than 37 feet in the project's zoning district. The zoning for this parcel is R-1. The subject property is located at 49 Castle Rock Drive in Mill Valley, and is further identified as **Assessor's Parcel** 047-052-07.

## **PROJECT SETTING**

Lot size:	9,620 square feet
Adjacent Land Uses:	Residential
Vegetation:	Moderate concentrations of native vegetation and grasses
Topography and Slope:	Steeply sloping
Environmental Hazards:	Wildland Urban Interface zone

The parcel has been surveyed by Ernest Renner, Engineer for Renner Engineering, and Gene Porter, Engineer, as having an area of 9,620 square feet, or approximately 0.22-acres. The property is on Castle Rock Drive, a very narrow and non-County maintained road, located in a residentially developed area located off Sequoia Valley Road in Mill Valley. The property is subject to very steep downward slopes, in excess of 75%.

The property is located within the Wildland and Urban Interface Zone and in an area identified as having potentially high archaeological sensitivity. According to the California Natural Diversity Database, several sensitive species, including the Tamalpais Oak (*Quercus parvula* var. *tamalpaisensis*), Diablo Helianthella (*Helianthella castanea*), Small Groundcone (*Boschniakia hookeri*), Minute Pocket-moss (*Fissidens pauperculus*) and Northern Spotted Owl, were identified as being found on the site or in the area.

In order to determine whether the proposed project might have an impact on these species, as well as potentially others, the applicant hired the services of Daniel Edelstein, Biologist, to examine the site and prepare a biological assessment.

## **BACKGROUND**

The property was originally identified as Lots 42 and 48 of the Castle Park Subdivision, recorded in June 1910. The lots were merged in 1985. The residence was constructed in 1963 and was one of three residences which were granted a 10 foot front setback due to slope considerations of the site. The paved road is narrow and not a County maintained road. Castle Rock Drive is identified by the Assessor's Office as being a 20 foot wide right of way.

The property is developed with an existing residence, which has fallen into disrepair, including loose decking that extends off of Castle Rock Drive, which will likely need to be repaired or replaced in order to safely access the property. While a Variance and Design Review have been applied for, it is evident from past site visits that work has already taken place on the residence, without a building permit, most notably on the enclosing of the carport into a garage. The work is clearly not complete and it appears as though no new work has been done on the residence for some time.

The application was first submitted on September 16, 2008 and was transmitted to the Department of Public Works, Marin Municipal Water District, Southern Marin Fire Protection District, Homestead Valley Sanitary District, and the Tamalpais Design Review Board. In addition to the architectural and site plans

for the proposed project, the information and materials submitted during the completeness review of the application included the following:

- A property survey, prepared by Renner Engineering
- An average slope calculation, prepared by Michael Ford, Licensed Surveyor
- A biological assessment, prepared by Daniel Edelstein, Biologist
- A landscape site assessment, prepared by Paul Leffingwell, Licensed Landscape Architect
- A preliminary Title Report, issued by Cal Land in 2005

All of the agencies that received a transmittal regarding the project responded that the project could be constructed in conformance with their requirements. Standard conditions of approval were recommended by those agencies, which have been incorporated into the attached Resolution. The Tamalpais Design Review Board recommended approval of the proposed project.

The application was deemed complete on January 7, 2011 and notice was subsequently provided of the Deputy Zoning Administrator hearing.

**RECOMMENDATION:**

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

- Attachments:
1. *Recommended Resolution denying in part the Malik Design Review and in part conditionally approving the Malik Variance*
  2. *CEQA Exemption*
  3. *Location Map*
  4. *Assessor's Parcel Map*
  5. *Project Plans*
  6. *Michael Ford, Average Slope, calculations*
  7. *Matt Galland letter, dated September 29, 2008*
  8. *Donald Johnson letter, dated February 10, 2011*
  9. *Marin County Department of Public Works Memo, dated January 30, 2009*
  10. *Marin Municipal Water District Memo, dated January 23, 2009*
  11. *Tamalpais Design Review Board Memo, dated February 4, 2009*

MARIN COUNTY DEPUTY ZONING ADMINISTRATOR

RESOLUTION 11-

A RESOLUTION DENYING IN PART THE MALIK DESIGN REVIEW AND HEIGHT VARIANCE AND  
IN PART CONDITIONALLY APPROVING THE SETBACK VARIANCE  
49 CASTLE ROCK DRIVE, MILL VALLEY  
ASSESSOR'S PARCEL 047-052-07

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**SECTION I: FINDINGS**

- I. WHEREAS the applicant and owner, Shujaullah Malik, is seeking Variance and Design Review approvals to construct a 297 square foot upper level addition. The proposed structure consists of a three level residence with a main floor, second floor and basement, and a total floor area of 2,603 square feet. The addition would reach a maximum height of 39 feet 6 inches above natural grade and the project would result in a 23.8% floor area ratio (FAR). The additions would have the following minimum setbacks: (1) 23 feet from the northwesterly front property line; (2) 71 feet from the easterly rear property line; (3) 6 feet 1 inches from the southerly side property line; and (5) 45 feet from the northeasterly side property line. All exterior construction activity has been designated to occur by the owner/applicant from August 1st-January 31<sup>st</sup>. No limitation on interior construction has been identified. Design Review is required because the addition to the residence exceeds 30 feet in height. A Variance is required because the addition exceeds 35 feet in height and the front setback is less than 25 feet. Per Chapter 22.54.030 (D) ((3)), a public hearing Variance is required for structures greater than 37 feet in the project's zoning district. The zoning for this parcel is R-1. The subject property is located at **49 Castle Rock Drive in Mill Valley**, and is further identified as **Assessor's Parcel 047-052-07**.
- II. WHEREAS the Marin County Deputy Zoning Administrator held duly-noticed public hearings on February 17, 2011 and March 3, 2011, 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, per Section 15301, Class 1 of the CEQA Guidelines because it entails an addition to an existing residence and would 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 Marin Countywide Plan policies:
  - A. 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 a substantial number of mature, native trees and the project site was previously developed.
  - B. The project would not result in impacts to special-status species (*CWP Policies BIO-1.1, BIO-2.1, and BIO-2.2*) because, as proposed, with outside construction occurring only during the months of August-January, according to Daniel Edelstein, Biologist, the project will result in no significant impact to the Northern Spotted Owl or any other special status species. The biologist conducted a survey and found no evidence of special status species on the site.

- C. 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.
- D. 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.
- E. 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 proposed drainage system complies with the standards and best management practices required by the Department of Public Works.
- F. 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.
- G. 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.f, and EH-4.n*), and clearance of vegetation around the proposed structure (*CWP Policy EH-4.h*).
- H. The project would meet energy efficient standards for exterior lighting, and would reducing 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.
- I. 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, modified by the Conditions of Approval, would be consistent with the Marin County Single-family Residential Design Guidelines, as discussed below in Design Review findings E.
- J. 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.
- K. The Tamalpais Area Community Plan has programs which regulates hillside development, indicating that no part of the building should exceed 30 feet in height above natural grade (Land Use Policy LU-1.4b). While the project, as proposed, has been deemed to be consistent with the overall policies and intent of the Tamalpais Area Community Plan (Tamalpais Area Community Plan, Section VII (C and E), as modified by the Conditions of Approval, the total height of the residence will be reduced to 30 feet or less and moved forward to the front of the lot, in line with the rest of the residence. Due to this modification, the project would be consistent with this land use program. As modified through Conditions of Approval, it will be integrated harmoniously into the neighborhood. The residential addition will also be further enhanced by the enclosing of the carport and stabilizing the deck

on which it sits resulting in a parking facility for two off street parking spaces (Tamalpais Area Community Plan, Land Use Policy, LU-1.4d).

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

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

The project, as proposed, is inconsistent with this finding, because it creates excessive height and results in a cantilevering element on the main (top) floor of a hillside residence as discussed further below in Design Review Finding E and G. The proposed addition is inconsistent with the Countywide Plan Community Design Policies, DES-4.1 and 4.c, which preserve visual quality and views of the natural environment, which includes hillsides, as well as the regulation of mass and scale. The addition, as proposed would create a massive, overhanging, appearance to those in the valley, with the addition extending unnaturally high and forward. The support beams would also be clearly visible to those downhill of the project and add to the perceived bulk and mass. In addition, the Tamalpais Area Community Plan states for hillside lots that “no part of a building shall exceed 30 feet above natural grade” (Tamalpais Area Community Plan, Land Use Policies, LU-1.4b). In order to correct this, the Conditions of Approval require the relocation of the addition to the front of the property, extending out towards the northeasterly side of the property, maintaining the same or greater front setback as the existing permitted residence which had received a 10 foot front setback Variance in 1963. Due to the steepness of the slope found on the property, in excess of 75%, moving the proposed addition to the front of the property is appropriate. The new addition can also be stepped down from the main level off of the living room in order to ensure a height of no greater than 30 feet for the addition. The project, as modified through the Conditions of Approval, will make it unnecessary for Design Review to be made since it will not exceed 4,000 square feet, have a height of 30 feet or less, have a floor area ratio of less than 30%, and with exception to the front setback, meet all other setback standards for the R-1 zoning district.

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 project, as proposed, creates a cantilevering effect of a residence on a hillside. As modified by conditions of approval, with the upper level addition being moved to the front of the property and extending along the northeasterly side, the proposed project would be consistent with this finding. This finding however would no longer be necessary as Design Review would no longer be required.

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 residential development will maintain similar setbacks to those found in the surrounding community and provide adequate setbacks from property lines and adjacent residential development. The submitted site assessment, by Paul Leffingwell, Licensed Landscape Architect of Leffingwell Associates, states that the site is not likely suitable to accommodate additional tree plantings and that additional plantings may result in impacts to trees that are already there. No trees are being proposed for removal with this project. Mr. Leffingwell, has recommended, however, to help support existing landscaping that all construction materials be cleaned up off the site otherwise. Therefore, the project, conditioned as such, 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 and largely within the footprint of the existing structure. 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 project, as proposed, is inconsistent with this finding, because it creates a cantilevering element on the main (top) floor and extends further out along the downhill portion of the slope, which is inconsistent with the Single-family Residential Design Guidelines D-1.3 and D-1.5. It is also directly inconsistent with Single-family Residential Design Guidelines C-1.3 and D-1.1 which require residences on hillsides to be stepped back to minimize interference with privacy and views of neighbors down slope from the property, as well as reduce the perceived effective visual bulk of the residence upon the hillside. In order to correct this, the applicant shall move this addition to the front of the property, away from the edge of the hillside, extending out along the northeasterly side, and maintaining the same or greater front setback as the existing permitted residence. The addition can also be stepped down from the main level off of the living room in order to ensure a height of no greater than 30 feet for the addition. As a result of the residence being situated high on the hillside, making the necessary policy consistency findings for hillside design with the Single-family Residential Design Guidelines, as well as the Tamalpais Area Community Plan, cannot be made, especially when viable alternatives exist. As modified by the Conditions of Approval, the addition will maintain the profile and design integrity of the existing residence without significantly impacting the existing hillside setting. In addition, by reducing the overall height of the residence to 30 feet or less, findings for Design Review are no longer necessary.

**F. The project design includes features which foster energy and natural resource conservation while maintaining the character of the community; and**

Prior to issuance of a building permit, the applicant will need to demonstrate that current Marin County green building standards are being met. 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.**

The project, as proposed, is inconsistent with this finding, because it creates a cantilevering element on the main (top) floor of a residence on a hillside results in a bulky and massive appearance. This leads to an inconsistency with the Countywide Plan Community Design Policies, DES-4.1 and 4.c, which preserve visual quality and views of the natural environment for development upon hillsides, as well as the regulation of mass and scale. As such, Design Review findings cannot be made to approve the proposed addition. A way to correct this, is for the applicant to move the addition to the front of the property, extending out along the northeasterly side, and maintaining the same or greater front setback as the existing permitted residence. The new addition can also be stepped down from the main level off of the living room in order to ensure a height of no greater than 30 feet for the addition. The addition cannot exceed 30 feet in height otherwise Design Review findings are needed and, because of inconsistencies with County and community plan policies as discussed in Design Review Findings A and E, these findings cannot be made. The project as modified through the conditions of approval will make it unnecessary for Design Review findings to be made since it will not exceed 4,000 square feet, the addition will have a height of 30 feet or less, the residence will have a floor area ratio of less than 30%, and with exception to the front setback, the addition will meet all other setback standards for the R-1 zoning district.

VII. 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 can be made for the project, as modified by the conditions of approval, 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 Castle Rock Drive, a neighborhood which was largely created and 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 map was recorded in 1910 and the residence was originally constructed in 1963. In 1963, as well, a Variance was approved for a reduced, 10 foot setback to accommodate development upon the steep hillside slope. The residence has been vacant for some time and it has fallen into disrepair. The carport, which has already been at least in part enclosed already, sits upon a deck in which the structural soundness is questionable.

While the steepness of residential lots in the neighborhood is a common constraint, the average lot slope for this property is approximately 75%, according to Michael Ford, a licensed surveyor. Information on the average slopes of neighboring residences are approximately 49-67%, making this property one of the steepest lots in the neighborhood and, therefore, a special circumstance that is unique to the property. Pursuant to Government Code section 65906, a Variance may be granted when there are specific physical circumstances that distinguish the project site from its surroundings.

The height of the proposed upper level addition is identified as being 39 feet 7 inches. Staff has found that this proposed addition is inconsistent with County policy and Design Review findings cannot be made and, in addition, the findings for a height Variance cannot be made here, because it has been demonstrated that alternative designs could achieve the same ends without violating County and community policies and the applicant is therefore not being denied privileges otherwise enjoyed by other property



owners in the vicinity and zoning district. As noted above, the addition can be relocated to the front of the property, and extend out along the northeasterly side of the property, while maintaining a consistent or greater front setback as the existing permitted residence. Due to the steepness of the slope found on the property, in excess of 75%, as was found for the prior Variance, moving the proposed addition to the front of the property is appropriate. The addition can also be stepped down from the main level off of the living room in order to ensure a height of no greater than 30 feet for the addition. The project as modified through the Conditions of Approval will make it unnecessary for Design Review or any other discretionary review findings to otherwise be made and, as noted above in Design Review Findings A, E, and G would also otherwise be consistent with County and community policies. The project has therefore been conditioned to reflect this. Findings for a height Variance cannot be made, as noted above, however due to the extreme steepness of the slope of the property and the existing physical conditions of the property make the project, as modified by the Conditions of Approval, findings for a reduced front setback Variance can be made.

**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 upper level addition to the existing single-family residence and is intended for residential use. The property is zoned R-1, which is a single family residential zoning district, allowing residential use. Therefore, the granting of the Variance does not allow a use or activity which is not authorized by the zoning district and the proposed 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.**

The purpose of granting a Variance is to allow development on uniquely constrained properties that achieves parity with the development in the surrounding area. The upper level addition, as proposed for the height Variance, is inconsistent with the Countywide Plan, the Tamalpais Area Community Plan, the Single-family Residential Design Guidelines and it has been determined that the addition the applicant is requesting can be achieved without a Variance for height. Therefore, the finding for a height Variance cannot be made since it would otherwise grant special privileges to the property owner. As noted earlier, the project would be made consistent with applicable County and community plan policies by relocating the addition however to the front of the property. Granting the setback Variance would not result in a special privilege inconsistent with the limitations of development upon other properties in the vicinity because the extreme slope of the property, in this case 75%, and the existing physical conditions of the site are special circumstances, and the project would not result in any public detriment. These findings were also made for a prior setback Variance in 1963. Therefore, the proposed project is consistent 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 height Variance, as noted above in Countywide Plan consistency and Design Review Findings A, E and G, is inconsistent with the Countywide Plan, the Tamalpais Area Community Plan, and the Single-family Residential Design Guidelines, resulting in

adverse impacts, and the finding cannot be made. Consistency with applicable County and community plan policies and findings can otherwise be made by relocating the addition to the front of the property. The project has been reviewed and conditioned by the Department of Public Works and the Marin Municipal Water District. The project has been deemed to be consistent with applicable design and safety standards, and the project, as modified by the conditions of approval, would not result in adverse visual effects to the character of the surrounding community or impact views or privacy of surrounding properties. Additionally, letters of support 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 supported the renovation and improvements that will come as a result of the project. Also, the project would be subject to review and compliance with the most current California Building Code during the building permit review process. Therefore, the project is consistent with this finding.

VIII. WHEREAS the Marin County Deputy Zoning Administrator hereby approves the Malik Variance and Design Review subject to the conditions of approval listed below. This approval authorizes the construction of a 297 square foot upper level addition. The structure consists of a three level residence with a main floor, second floor and basement, and a total floor area of 2,603 square feet. The addition shall result in a 23.8% floor area ratio (FAR). The upper level addition shall be relocated to the front of the property, extending out along the northeasterly side, and maintain the same or greater front setback as the existing permitted residence. The addition shall reach a maximum height of 30 feet above natural grade and have the following minimum setbacks: (1) 10 feet from the northwesterly front property line; (2) 71 feet from the easterly rear property line; (3) 6 feet 1 inches from the southerly side property line; and (5) 6 feet from the northeasterly side property line. All exterior construction activity shall occur between August 1<sup>st</sup> and January 31<sup>st</sup>. There is no limitation on interior construction beyond the dates and times identified in the days and hours of operation found below in the Conditions of Approval. The subject property is located at **49 Castle Rock Drive, Mill Valley**, and is further identified as **Assessor's Parcel 047-052-07**.

## SECTION II: CONDITIONS OF APPROVAL

### CONDITIONS OF APPROVAL

Community Development Agency – Planning Division

#### STANDARD CONDITIONS

1. Plans submitted for a Building Permit shall substantially conform to plans identified as "Exhibit A," entitled, "Malik Residence," consisting of sixteen sheets prepared by Brian Johnston, Architect and Renner Engineering, received September 16, 2008, with revisions received June 16, 2009 and January 27, 2010, and on file with the Marin County Community Development Agency, except as modified by the conditions listed herein.

BEFORE ISSUANCE OF A BUILDING PERMIT, the applicant shall submit a complete set of revised plans for review and approval by the Community Development Agency staff depicting the following changes. Once approved, the plans shall be incorporated into the approved project file as "Exhibit A-1" and shall supersede "Exhibit A."

- a. The applicant shall submit a color sample for the proposed residence. The colors of the residence should blend with the natural landscape of earthtones found in the community. All flashing, metal work, and trim shall be treated or painted an appropriately subdued, non-reflective color.

- b. The applicant shall move the upper level addition to the front of the property, extending out along the northeasterly side, and maintaining the same or greater front setback as the existing permitted residence. The upper level addition shall be stepped down from the main level off of the living room, where necessary, in order to ensure a height of no greater than 30 feet and maintain a minimum northeasterly side setback of 6 feet.
2. 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 Variance conditions of approval as notes.
  3. 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 residence and garage from the nearest property line at the closest point.
  4. BEFORE ISSUANCE OF A BUILDING PERMIT, the applicant shall revise the plans to depict the location and type of all exterior lighting for review and approval of the Community Development Agency staff. Exterior lighting visible from off site shall be permitted for safety purposes only, shall consist of low-wattage fixtures, and shall be directed downward and shielded to prevent adverse lighting impacts on nearby properties. Exceptions to this standard may be allowed by the Community Development Agency staff if the exterior lighting would not create night-time illumination levels that are incompatible with the surrounding community character and would not shine on nearby properties.
  5. 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 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/side/rear 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](http://www.co.marin.ca.us/depts/CD/Forms/Building_Inspection_Procedures.pdf) for additional details regarding this requirement.
  6. 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 building conforms to the roof ridge elevations that are shown on the approved Building Permit plans, based on a benchmark that is noted on the plans. 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](http://www.co.marin.ca.us/depts/CD/Forms/Building_Inspection_Procedures.pdf) for additional details regarding this requirement.

**Comment [TL1]:** Pick the relevant property lines.

**Comment [TL2]:** This condition applies to any structure that is located up to or within 1 foot of the minimum required setback on conventionally-zoned properties OR that is located within 5 feet of a property line on properties located in a planned zoning district. This condition may also be used to verify compliance with setbacks from important site features, such as wetlands and streams. However, please exercise your discretion in imposing this requirement on other discretionary applications which do not meet the criteria above.

**Comment [TL3]:** This condition applies to new or substantially expanded residential or other large structures (i.e. increasing the existing total floor area by 50% or greater, resulting in a minimum floor area of 3,000 square feet). However, please exercise your discretion in imposing this requirement on other discretion applications which do not meet the criteria above (i.e. if the project involves a discretionary permit for a structure/addition that is proposed near or at the maximum allowed height on a visually-sensitive lot).

7. 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.
8. 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.
9. 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.
10. 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 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 property line 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](http://www.co.marin.ca.us/depts/CD/Forms/Building_Inspection_Procedures.pdf) for additional details regarding this requirement.

11. 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 buildings conform to the roof ridge elevations that are shown on the approved Building Permit plans, based on a benchmark that is noted on the plans. 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](http://www.co.marin.ca.us/depts/CD/Forms/Building_Inspection_Procedures.pdf) for additional details regarding this requirement.
12. The applicant shall clean up all construction material and debris that exists. In addition, BEFORE FINAL INSPECTION, the applicant shall make sure that no new construction debris is left on-site.
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 this application, for which action is brought within the applicable statute of limitations.
14. 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 Department of Public Works - Land Use and Water Resources Division

15. BEFORE ISSUANCE OF A BUILDING PERMIT, the applicant shall provide a site drainage plan, if there are any modifications being made to the existing site drainage.

Southern Marin Fire Protection District

16. 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.
17. BEFORE FRAMING INSPECTION, the applicant shall provide confirmation to the Planning Division from the Fire Marshal confirming that the Vegetation Management /Defensible Space Plan has been implemented and that the fire suppression water supply is in place.
18. 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.

Marin Municipal Water District

19. All landscape and irrigation plans must be designed in accordance with District landscape ordinance #385.

20. Should backflow protection be required, said protection shall be installed as a condition of water service.

**SECTION III: VESTING AND APPEAL RIGHTS**

NOW, THEREFORE BE IT FURTHER RESOLVED that the applicant must vest this Coastal Permit and Design Review approval by complying with all conditions of approval, obtaining Building Permits for the approved work, and substantially completing approved work before **March 3, 2013**, or all rights granted in this approval shall lapse unless the applicant applies for an extension at least 30 days before the expiration date above and the Deputy Zoning Administrator approves it. An extension of up to four years may be granted for cause pursuant to Section 22.56.1201 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 Community Development Agency - Planning Division, Room 308, Civic Center, San Rafael, no later than **4:00 p.m. on March 17, 2011**.

**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 3<sup>rd</sup> day of March, 2011.

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JOHANNA PATRI, AICP  
MARIN COUNTY DEPUTY ZONING ADMINISTRATOR

Attest:

\_\_\_\_\_  
Joyce Evans  
DZA Secretary