

**MARIN COUNTY PLANNING COMMISSION HEARING MINUTES**

**July 26, 2004**

**Marin Center (Exhibit Hall) - San Rafael, California**

*Commissioners Present:* Allan Berland, Chairman  
Steve Thompson, Vice Chairman (Absent for Items #1 – 5)  
Hank Barner (Excused from Item #1-5)  
Don Dickenson  
Randy Greenberg  
Jo Julin

*Commissioners Absent:* Wade Holland

*Staff Present:* Alex Hinds, Director, Community Development Agency  
Brian C. Crawford, Deputy Director, Planning Services  
Eric Steger, Department of Public Works  
Armando Algeria, EHS  
Tim Haddad, Environmental Coordinator  
Megan Basinger, Planner  
Anna Camaraota, Assistant Planner  
Neal Osborne, Planner  
Michelle Reed/Jessica Woods, Recording Secretary

*Minutes Approved on:* **August 9, 2004**

Convened at 10:30 p.m.  
Adjourned at 12:30 p.m.  
Reconvened at 1:30 p.m.  
Adjourned at 8:00 p.m.

1. ROUTINE TRANSACTIONS

- a. Incorporate Staff Reports into Minutes

*M/s, Holland/Julin, and passed unanimously of those present, to incorporate the staff reports into the Minutes. Motion passed 4/0 (Commissioner Holland, Commissioner Barner and Commissioner Thompson absent).*

- b. Continuances - None

- c. Approval of Minutes – None

2. COMMUNICATIONS

The Commission acknowledged several pieces of correspondence for their review.

3. OPEN TIME FOR PUBLIC EXPRESSION (LIMITED TO THREE MINUTES PER SPEAKER)

There were no public comments.

4. FUTURE AGENDA DISCUSSION ITEMS, FIELD TRIPS

Update on Planning Commission Actions

August 2, 2004 – Countywide Plan Updated (continued hearing)

August 9, 2004

Murray Design Review (Woodacre) – Continued to future hearing date  
Antonioli Lot Line Adjustment/Precise Development Plan (Novato)  
D’Ambra Coastal Permit/Design Review/Variance (Stinson Beach)

Countywide Plan Update (continued hearing)

August 16, 2004 – Countywide Plan Meeting

August 23, 2004

San Rafael Rock Quarry Rezoning/Master Plan  
Moritz Coastal Permit Design/Review  
Pelligra Floating Home Appeal (Sausalito)  
Massabeh Master Plan Amendment (Mill Valley)

August 30, 2004 – Countywide Plan Update (continued hearing)

Field Trips

- Moritz (Bollinas)- August 17, 2004

- San Rafael Rock Quarry – staff report at August 2 meeting regarding status of group visit.

The project is a proposal to allow construction of a 28.5-foot high, 1,440 square foot single-family residence, representing a 14.4 percent floor area ratio (FAR) on a 10,000 square foot property. In addition, the project was approved to allow construction of a two-car parking deck and an on-site sewage disposal system. The project is subject to Design Review because the property has a lot area that is less than 50 percent of the minimum lot size that is required by the governing A-2 (Limited Agricultural, two-acre minimum lot size) zoning district. The subject property is located at **373 Grandview Avenue, Novato** and is further identified as **Assessor's Parcels 157-132-15, -16 & -17**.

Anna Camaraota, Assistant Planner, summarized the staff report and recommended that the Commission deny the Neff Appeal and sustain the Community Development Agency's conditional approval of the Higgins Design Review to allow construction of a 28.5-foot high, 1,440-square-foot single-family residence and associated site improvements, including a two-car parking deck and an on-site sewage disposal system.

Commissioner Dickenson questioned the access to the storage underneath the parking deck. Planner Camaraota responded that the enclosed area underneath the parking deck was at the request of the Fire Department.

Commissioner Dickenson questioned what area would be used for vehicle parking during construction. Planner Camaraota responded that there is a dirt road below the project site to access the property.

In response to Commissioner Dickenson's question about the Valley Oak tree that overhangs the proposed home, Planner Camaraota responded that the tree would not be impacted during construction.

In response to Commissioner Greenberg's question about second units, Planner Camaraota responded that the requirements under the new law would still apply.

Commissioner Greenberg requested that the condition regarding trim color be reviewed. Staff agreed.

In response to Commissioner Julin's comments, Planner Camaraota indicated that samples of the building materials would be provided as part of the conditions.

The public hearing was opened.

Monty Georgeson, attorney representing T.J. Neff/appellant, reiterated his concerns regarding the septic system. He expressed concern for the tree growing in the location of the leach field. He believed a re-evaluation of the septic system must be conducted for compliance. He further noted that, in his opinion, a home built on this lot should be a one-story home spread throughout the entire lot, which would be more compatible with the existing neighborhood.

In response to Commissioner Julin's question about ownership of parcel #14, Mr. Georgeson responded that parcel #14 is under joint ownership, with Mr. Higgins owning 73%.

Valerie Higgins, attorney and sister of applicant, asked the Commission to consider all the facts and evidence provided in order to make a proper determination on this matter.

William Higgins, owner/applicant, explained that an arborist reviewed the tree and with some pruning it would be left in a thriving condition. He also pointed out that the windows are fire proof, which is required by the Fire Department. He noted that the home would be an earth tone color in order to blend in with the existing surroundings. He further requested that the Commissioner deny the appeal.

Dietrich Stroeh, representing CSW Engineering Group, pointed out that the leach field is acceptable for this size home. He also believed there is some flexibility around the tree in question.

Kyle Fraser, neighbor, supported the appeal.

Marty Wickenhiser, representing Avalar Real Estate, urged the Commission to approve the appeal.

The public hearing was closed.

Commissioner Dickenson had no objection to allowing construction parking within the right-of-way but off the street or the storage underneath the parking deck. He further noted that he is satisfied with staff's recommendation and believed the proposal is reasonable. Commissioner Greenberg concurred with Commissioner Dickenson's comments, but also recommended using a dark earth tone color.

Chairman Berland supported staff's recommendation, except for Condition #20 because in his view it would create a cloud on the title and is not necessary. Commissioner Julin disagreed and believed Condition #20 should remain. Armando Alegria, representing EHS, pointed out that EHS reviews the gross floor area, but not the external area.

Chairman Berland asked for a motion.

*M/s, Dickenson/Greenberg, to approve the draft resolution presented by staff because 4 votes were required to modify any condition to deny the appeal. Motion passed 4/0 (Commissioner Barner excused, Commissioner Holland and Commissioner Thompson absent).*

MARIN COUNTY PLANNING COMMISSION

RESOLUTION NO. 04-006

A RESOLUTION DENYING THE NEFF APPEAL AND SUSTAINING THE  
COMMUNITY DEVELOPMENT AGENCY'S CONDITIONAL APPROVAL OF THE HIGGINS DESIGN  
REVIEW

373 GRANDVIEW AVENUE, NOVATO  
ASSESSOR'S PARCELS 157-132-15, 16 & 17

\* \* \* \* \*

SECTION I: FINDINGS

- I. WHEREAS William and Elizabeth Higgins are requesting Design Review approval to allow construction of a 28.5-foot high, 1,440 square foot single-family residence, representing a 14.4 percent floor area ratio (FAR) on the 10,000 square foot property and to allow construction of a two-car parking deck and an on-site sewage disposal system. The proposed residence would maintain the following minimum setbacks from corresponding property lines: 8 feet from the north (left side) property line, 43 feet from the south (right side) property line, 32.5 feet from the east (rear) roadway easement line (following the 7.5-foot wide right-of-way dedication), and 30 feet from the front property line. The proposed two-car parking deck would maintain the following minimum setbacks from corresponding property lines: 3 feet from the north (right side) property line, 3.5-feet from the south (right side) property line, 145 feet from the east (rear) roadway easement line (following the 7.5-foot wide right-of-way dedication), and 13 feet from the west (front) roadway easement line. The subject property is identified as 373 Grandview Avenue, Novato and is further identified as Assessor's Parcels 157-132-15, 16 and 17.
  
- II. WHEREAS on May 12, 2004, the Community Development Agency issued a Notice of Decision on the Higgins Design Review granting conditional approval for construction of the 28.5-foot high, 1,440 square foot single-family residence, two-car parking deck and an on-site sewage system.
  
- III. WHEREAS, a timely appeal of the Community Development Agency's approval of the Higgins Design Review was been filed by T. J. Neff, owner of the adjacent property to the northwest located at 363 Grandview Avenue, Novato (Assessor's Parcel 157-132-47), which includes the following assertions:
  - (1) The septic design is not adequate.
  - (2) The proposed parking facilities are inappropriate and are out of character with the neighborhood. The parking structure has been designed to accommodate storage and/or allow the applicant to increase number of bedrooms.
  - (3) The requirements from the Novato Fire Department are inadequate to ensure fire safety.
  - (4) The County cannot adequately guarantee that additional bedrooms would not be illegally added.
  - (5) Any change to the structure should be subject to Design Review if approval is granted.
  - (6) The structure would block views of green lands from the properties located above.
  - (7) The proposed size, shape, and use of the residence are incompatible with the neighborhood.
  - (8) The proposed development will not properly and adequately perform or satisfy its functional requirements and will be unsightly and/or create incompatibility and disharmony with the surrounding neighborhood. The proposed development will impair, or substantially interfere with the development, use or enjoyment of other property in the vicinity and will adversely affect light, air, privacy and view or the orderly development of the neighborhood as a whole, including the public lands and rights-of-way. The proposed development will impair, inhibit, or limit further investment or

improvements in the vicinity, including public lands and rights-of-way. The proposed development will not be properly or adequately landscaped and trees and other natural features will not be used or conserved.

- (9) The proposed development will not meet Planned District Development Standards (Marin County Code, Chapter 22.16) because the size, shape, and location of the proposed structure will be a visual blight to the neighborhood. The proposed development will have negative physical and visual effects resulting from improperly planned and inappropriate development.
- (10) The project is inconsistent, with existing land uses in the vicinity and approval would be detrimental to the public interest.
- (11) The Notice of Decision included 32 conditions of approval which the County cannot effectively enforce.

IV. WHEREAS the Marin County Planning Commission held a duly noticed public hearing on July 26, 2004, to consider the merits of the project and appeal, and hear testimony in favor of, and in opposition to, the project.

V. WHEREAS the Marin County Planning Commission finds that this project is Categorically Exempt from the requirements of the California Environmental Quality Act pursuant to Section 15303, Class 3(a) of the CEQA Guidelines because it entails construction of a single family residence with no potentially significant impacts on the environment.

VI. WHEREAS the Marin County Planning Commission finds that the proposed project is consistent with the Countywide Plan policies because it would.

- A. Contribute to the diversity of housing stock within the Blackpoint Community without adversely affecting agricultural areas or public open space in the project vicinity;
- B. Comply with Marin County standards for flood control, geotechnical engineering, and seismic safety, and include improvements to protect lives and property from hazard;
- C. Result in development which conforms to the governing standards related to building height, size and location;
- D. Comply with governing development standards related to parking, grading, drainage, and utility improvements as verified by the Department of Public Works;
- E. Not cause significant adverse impacts on water supply, fire protection, waste disposal, schools, traffic and circulation, or their services;
- F. Minimize soil disturbance and maximize protection of natural vegetation; and
- G. Minimize potential hazards to the public from private construction.

VII. WHEREAS the Marin County Planning Commission finds that the proposed project, is consistent with all of the mandatory findings to approve the Higgins Design Review application (Section 22.42.060 of the Marin County Code) as specified below.

- A. **The proposed development will properly and adequately perform or satisfy its functional requirements without being unsightly or creating incompatibility/disharmony with its locale and surrounding neighborhood.**

The design of the proposed project would adequately perform the functional requirements of one-bedroom residence, including the provision of adequate parking for residents and guest and on-site

sewage treatment, and would result in a structure that is appropriate for the site and compatible with existing development within the surrounding neighborhood. The proposed improvements include a 28.5-foot high, approximately 1,400 square foot single-family residence, representing a 14.4 percent floor area ratio (FAR) on the 10,000 square foot property. Additional improvements include an on-site septic system, which has been reviewed in accordance with Marin County Code §18.06 (Individual Sewage Disposal Systems) and approved by the Department of Environmental Health, and a two-car parking deck. As modified herein, the proposed parking deck and adjoining driveway would allow parking for four cars and would meet the minimum parking standards (two resident and two guest spaces) required by Marin County Code §24.04.340 (Minimum Required Parking Spaces). On-grade paths would provide pedestrian access from the roadway to the residence which would be located approximately 135 feet downslope from the edge of the roadway. The proposed residence would be located on a wooded hillside on a moderate, east-facing slope that is approximately 70-feet east (downslope) from the nearest adjacent residence. The location and design of the structure would result in an elevation differential of approximately 18.8 feet between the proposed roofline and the existing road above, leaving unobstructed views over the residence. The driveway and car deck would be located immediately off of Grandview Avenue in a pattern that is typical along the east (downsloping) side of Grandview Avenue. The driveway was designed with a 16.5 percent downslope in order to reduce the height, thereby minimizing the appearance of the structure from the roadway and from the neighboring residence north of the parking deck. The parking structure would be limited to a platform with open railings. Seven trees would be removed to allow construction of the project: three to allow construction of the car deck, one to allow construction of the residence and three to comply with the required vegetation management plan. Replacement trees would consist of two Buckeyes along the southerly property line. A hedgerow of *Pittosporum Tobira* would provide additional screening between the proposed residence and the adjacent neighbor to the west. Remaining trees and proposed trees and landscaping would further obscure the residence from adjacent properties located upslope and Condition 7 would require that exterior colors be revised to utilize dark earth tones that would blend with the natural wooded environment. The proposed residence would meet the following minimum setbacks from corresponding property lines: 8 feet from the north (left side) property line, 43 feet from the south (right side) property line, 32.5 feet from the east (rear) roadway easement line, and 30 feet from the front property line. The proposed two-car parking deck would meet the following minimum setbacks from corresponding property lines: 3 feet from the north (right side) property line, 3.5-feet from the south (right side) property line, 145 feet from the east (rear) roadway easement line, and 13 feet from the west (front) roadway easement line. The setbacks meet the minimum setbacks required by the A-2 zoning district.

**B. The proposed development will not impair, or substantially interfere with the development, use, or enjoyment of other property in the vicinity, including, but not limited to, light, air, privacy and views, or the orderly development of the neighborhood as a whole, including public lands and rights-of-way.**

The project would not substantially interfere with the development, use, or enjoyment of other property in the vicinity, or the orderly development of the neighborhood as a whole for the following reasons: (1) the proposed structure would be located downslope from existing residences and would maintain adequate setbacks from all adjacent property lines and would not block light or air from other properties in the vicinity; (2) existing and new trees, and proposed landscaping would obscure the residence from off-site views and would provide privacy for both, the occupants of the proposed residence and for neighboring residents; (3) the building's height, bulk, and mass would be proportionate to the site and the building locations would not obstruct views; (4) finally, the proposed single-family residence would be located on an in-fill site within an existing residential neighborhood and would be compatible with existing uses in the vicinity and with the existing character of the neighborhood.

- C. The proposed development will not directly, or cumulatively, impair, inhibit, or limit further investment or improvements in the vicinity, on the same or other properties, including public lands and rights-of-way.**

The discussion contained in findings A and B above support this finding.

- D. The proposed development will be properly and adequately landscaped with maximum retention of trees and other natural features and will conserve non-renewable energy and natural resources.**

The proposed residence would be screened from adjoining properties and rights-of-way by existing mature trees and by proposed trees and landscaping. A condition of approval will require the applicant to install protective barriers around the driplines of all trees that are to be preserved in order to prevent construction impacts from construction staging, grading, stockpiling of materials, etc., and in order to preserve the long-term health and vigor of said trees. In order to ensure conservation of non-renewable energy, the structure will be subject to the requirements of Title 24 (California Energy Efficiency Standards). In addition, the applicant has proposed installation of 5 flush-mounted solar panels on the roof of the new residence.

- E. The proposed development will be in compliance with the design and locational characteristics listed in Chapter 22.16 (Planned District Development Standards).**

*The project is consistent with the required finding cited above because the proposed single-family residence would result in a structure of a height, mass and bulk proportionately appropriate to the site and would provide adequate setbacks from property lines and other buildings on the subject and surrounding properties. Construction of the proposed single-family residence would conform to a principal permitted use in the zoning district which governs the subject property and would be situated solely on the subject property. Landscaping proposed by the applicant and additional planting required by conditions of project approval would adequately screen the structure from off-site locations, would stabilize and prevent the erosion of graded soils around the structure, and would enhance the privacy of the occupants of the subject and surrounding properties. The proposed single-family residence would minimize drainage alterations, grading and excavation, tree removal and other adverse physical effects on the natural environment. Finally, the design of the proposed single-family residence would be compatible with that of other houses in the vicinity, would respect the surrounding natural environment, and would not adversely affect views of other properties in the vicinity.*

- F. The proposed development will minimize or eliminate adverse physical or visual effects which might otherwise result from unplanned or inappropriate development, design, or placement. Adverse effects include those produced by the design and location characteristics of the following:**

- 1. The area, heights, mass, materials, and scale of structures;**

The discussion contained in findings A and B supports this finding.

- 2. Drainage systems and appurtenant structures;**

The Department of Public Works has reviewed and accepted the application as complete. In addition, the Department of Public Works will review the project for compliance with Title 24 of the Marin County Code as part of the building permit process.



**3. Cut and fill or the reforming of the natural terrain, and appurtenant structures (e.g., retaining walls and bulkheads);**

Grading would be minimized to the extent feasible and the Department of Public Works will review the project for compliance with the requirements of Title 24 as part of the building permit process.

**4. Area, paths, and rights-of-way for the containment, movement or general circulation of animals, conveyances, persons, vehicles, and watercraft.**

Proposed construction would not be located within any historic paths or within existing rights-of-way located adjacent to Grandview Avenue (a developed roadway) or Hemlock Avenue (a paper street) and would not result in any adverse effects to the circulation of animals, conveyances, persons, or vehicles.

**5. Will not result in the elimination of significant sun and light exposure, views, vistas, and privacy to adjacent properties.**

The discussion contained in findings B above support this finding.

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

The proposed residence is moderate in size and would utilize photovoltaic solar electric panels. In addition, the project will be subject to the requirements of Title 24 (California Energy Efficiency Standards).

**H. The design, location, size, and operating characteristics of the proposed use are consistent with the Countywide Plan and applicable zoning district regulations, are compatible with the existing and future land uses in the vicinity, and will not be detrimental to the public interest, health, safety, convenience, or welfare of the County.**

For all of the reasons outlined in sections A through G above, staff has determined that the project is consistent with this finding.

**VIII. WHEREAS the Marin County Planning Commission finds that the Neff appeal does not provide sufficient bases to overturn the Community Development Agency's Conditional Approval of the Higgins Design Review, based upon the assertions and responses below:**

- 1. The septic design is not adequate, due to poor or marginal percolation tests on the subject property. The septic permit was not properly issued, and the septic plans and soils reports fail to meet the requirements of Marin County Code §18.06. In the text report submitted, 9 of 15 holes failed. In addition, two of the remaining 6 were "n/a" – not applicable. [Fourteen] other holes were not used, because they were outside of the proposed drain field. In notes to the 3/21/01 Site Review by "E. J.", it was noted that there was "water in 2 profile holes." The admonition by J. Dietrich Stroeh, the engineer that an "intercept trench" be required to mitigate "high seasonal groundwater" and "water seepage" has not been incorporated into the conditions for approval of the septic system or the development. In addition, the leach field is on an area averaging 34 degree slope, line #4 appears to be less than ten feet from the structure, and 5 of the 6 lines are within fifteen feet of the structure.*

Response to Appeal:

The Department of Environmental Health (EHS) has found that the proposed septic system design is in compliance with rules and regulations governing septic systems and the permit to construct was properly issued. There is no evidence to support claims that the approved septic design is inadequate because: (1) the appellant's assertion that there were failing tests on the site are true, however the location of the approved septic system is not contained within the area of failing percolation tests; (2) the appellant's assertion that there is no intercept trench proposed is incorrect, as an intercept and a "V" ditch are included in the approved design; (3) although the site is located on a moderate slope, existing regulations do not place limitation on slope; (4) the appellant's assertion that leach field trench #4 and leach field lines #5 and #6 do not meet the required minimum setback are incorrect because the minimum setback is 10 feet and leach field trench #4 and leach field lines #5 and #6 are located with setbacks of 10 and 14 feet, respectively. Finally, it should be noted that the required length of disposal field is 72 lineal feet and the approved design has a length of 132 feet—almost double the requirement.

2. *The proposed parking facilities are inappropriate and are out of character with the existing neighborhood. The design and size of the parking structure, notwithstanding the claim that it complies with parking standards established by the Marin County Code, suggests that it will be used improperly for storage, or to aid the applicant in using the residence for more than its one-bedroom approved plan. The conditions imposed are inadequate to compensate for the excessive bulk of the parking structure.*

Response to Appeal:

The applicant has proposed a parking deck with open railing, rather than an enclosed garage, to meet County requirements. The applicant's proposed driveway and parking deck would accommodate four on-site spaces. The proposed parking deck was required to be reduced in size by 111 square feet through conditions of project approval so that it would reflect the *minimum* dimensions necessary to comply with Marin County Code §24.04.340 (Minimum Required Parking Spaces) and to reduce the overall height of the structure in order to minimize the appearance from the roadway and from the neighboring residence to the north. Because the approved parking does not include plans for an enclosed garage, it would result in the least amount of bulk feasible given the existing slope. Additionally, the enclosure of the understory area is necessary to comply with the Fire District's requirement to prevent penetration of burning brands and embers in the event of a fire. The appellant's assertion that the parking structure would be used for "improper" storage or would lead to illegal conversion from a one-bedroom to a two- (or more) bedroom residence is unfounded.

3. *The purported accommodations to the lack of defensible space zone are inadequate to ensure the fire safety of the proposed structure.*

Response to Appeal:

The Novato Fire Protection District has reviewed and approved the project based upon the fulfillment of conditions designed to compensate for limitations posed by the proximity of the proposed residence to neighboring property lines. These conditions include (but are not limited to) installation of an automatic fire sprinkler system, which must be installed throughout the entire residence including those areas typically exempted by NFPA Standards 13D and 13R, the use of non-combustible construction materials, and a requirement that the undersides of all decks, roof eaves, and parking overhangs be boxed in to prevent penetration of burning brands and embers in the event of a fire.

4. *The County's overview of illegal conversions is inadequate to guarantee that the residence will not be converted to a two-bedroom residence.*

Response to Appeal:

The appellant's assertion implies intent on the part of the applicant to violate the Marin County Code and is speculative. The applicant is proposing construction of a one-bedroom, single-family residence and has submitted plans that reflect a one-bedroom design. Due to limitations of the approved septic system, the residence would be restricted to one bedroom unless septic system upgrades were approved and constructed to accommodate additional bedrooms. As with all substantiated violations within the jurisdiction of the County of Marin, illegal conversions of approved structures would be subject to Code Enforcement action in accordance with Marin County Code §22.122 (Enforcement of Development Code Provisions).

5. *Any change to the structure should be subject to Design Review if approval is granted.*

Response to Appeal:

In accordance with Marin County Code §22.42.0.0 (Substandard Building Sites), all subsequent development and physical improvements proposed on the subject property would be subject to Design Review.

6. *The design as conditionally approved blocks the view of green lands from the properties above. The view would not be "unobstructed" as claimed in the Notice of Decision.*

Response to Appeal:

The proposed 28.5-foot high residence would be located on a wooded hillside approximately 135 feet down slope from the edge of Grandview Avenue on a moderate, east-facing slope. The proposed residence would be located approximately 70-feet east (downslope) of the nearest adjacent residence. The location and design of the structure would result in an elevation differential of approximately 18.8 feet between the proposed roofline and the existing road above, leaving unobstructed views over the residence. The driveway and car deck would be located immediately off of Grandview Avenue in a pattern that is typical along the east (downsloping) side of the roadway. The driveway was designed with a 16.5 percent downslope in order to keep the structure as low as possible, thereby minimizing its appearance from the roadway and from the neighboring residence located north of the parking deck. In addition, the parking structure would be limited to a platform with open railings to minimize the appearance of the mass and bulk. The subject property is comprised of four historic legal lots of record. The proposal currently under review meets the mandatory Design Review Findings necessary to grant a development permit.

7. *The structure is inconsistent with the size, shape, and uses in the neighborhood. Although purportedly only a one-bedroom structure, the height, mass, and location of the structure, as well as its boxlike shape, are inconsistent with the neighborhood and its current uses and values.*

Response to Appeal:

The proposed height, mass, and location of the structure are consistent with the site development standards required by the governing A-2 (Agricultural, Limited District, two-acre minimum lot size) zone district. In addition, the proposed residence falls within the range of existing house sizes, and is smaller than the average and median size and floor area ratio (FAR) of homes located within a 600-

foot radius of the subject property. This is supported by the data provided in the table on the following page).

<i>Address</i>	<b>Living Area</b>	<b>Garage Area</b>	<b>Land Area</b>	<b>Adjusted Floor Area Ratio (excludes up to 540 s.f. of existing garage area)</b>
330 GRANDVIEW AVE	1913	0	7500	25.5%
324 GRANDVIEW AVE	1034	198	7500	13.8%
329 GRANDVIEW AVE	1840	0	5000	36.8%
327 GRANDVIEW AVE	2050	0	17500	11.7%
331 GRANDVIEW AVE	2396	0	7500	31.9%
335 OAK AVE	1132	440	15000	7.5%
360 GRANDVIEW AVE	2539	377	7500	33.9%
340 GRANDVIEW AVE	1328	0	5000	26.6%
348 GRANDVIEW AVE	968	500	10000	9.7%
354 GRANDVIEW AVE	1002	296	15000	6.7%
358 GRANDVIEW AVE	1432	0	12500	11.5%
396 GRANDVIEW	2330	659	32500	7.5%
359 GRANDVIEW AVE	968	420	7500	12.9%
355 GRANDVIEW AVE	1915	0	10000	19.2%
341 GRANDVIEW AVE	1907	504	7500	25.4%
349 GRANDVIEW AVE	1428	0	20000	7.1%
383 GRANDVIEW AVE	1946	336	20000	9.7%
340 OAK AVE	1632	0	17500	9.3%
144 OAK AVE	1850	0	100000	1.9%
341 OAK AVE	2036	0	5000	40.7%
345 OAK AVE	1568	480	27500	5.7%
368 LAUREL AVE	3444	733	22500	16.2%
428 GRANDVIEW AVE	1220	0	12500	9.8%
410 GRANDVIEW AVE	1797	400	7500	24.0%
420 GRANDVIEW AVE	2050	572	7500	27.8%
438 GRANDVIEW AVE	1909	380	12500	15.3%
435 GRANDVIEW AVE	2714	470	15000	18.1%
421 GRANDVIEW AVE	1204	0	7500	16.1%
202 SAN RAFAEL ST	2456	440	13206	18.6%
427 GRANDVIEW AVE	1802	440	10000	18.0%
445 GRANDVIEW AVE	2044	613	25000	8.5%
447 GRANDVIEW AVE	2846	489	15000	19.0%
410 LAUREL AVE	2372	626	51836	4.7%
<b>Average</b>	<b>1,851 s.f.</b>		<b>16,895 s.f.</b>	<b>16.7%</b>
<b>Median</b>	<b>1,907 s.f.</b>		<b>12,500 s.f.</b>	<b>15.3%</b>

\*Information is based on the most reliable data available through the County of Marin Assessor's Office.

8. *The proposed development will not properly and adequately perform or satisfy its functional requirements and will be unsightly and/or create incompatibility and disharmony with the surrounding neighborhood. The proposed development will impair, or substantially interfere with the development, use or enjoyment of other property in the vicinity and will adversely affect light, air, privacy and view or the orderly development of the neighborhood as a whole, including the public lands and rights-of-way. The proposed development will impair, inhibit, or limit further investment or improvements in the vicinity, including public lands and rights-of-way. The proposed development will not be properly or adequately landscaped and trees and other natural features will not be used or conserved.*

Response to Appeal:

The points set out above in Item 8 reflect many of the findings for Design Review from the Marin County Code. For the reasons discussed under the background section of this report, staff finds that the proposed development will not result in negative impacts because (1) the proposed structure would be located downslope from existing residences and would maintain adequate setbacks from all adjacent property lines and would not block light or air from other properties in the vicinity; (2) existing and new trees, and proposed landscaping would obscure the residence from off-site views and would provide privacy for both, the occupants of the proposed residence and for neighboring residents; (3) the building's height, bulk, and mass would be proportionate to the site and the building locations would not obstruct views; (4) finally, the proposed single-family residence would be located on an in-fill site within an existing residential neighborhood and would be compatible with existing uses in the vicinity and with the existing character of the neighborhood.

9. *The proposed development will not meet Planned District Development Standards (Marin County Code, Chapter 22.16) because the size, shape, and location of the proposed structure will be a visual blight to the neighborhood. The proposed development will have negative physical and visual effects resulting from improperly planned and inappropriate development.*

Response to Appeal:

Although the appellant has asserted that the project will not comply with the Planned District Development Standards contained in Marin County Code, Chapter 22.16, he has not submitted or presented any additional information to support this belief. Staff finds that the project is consistent with the required finding cited above because the proposed single-family residence would result in a structure of a height, mass and bulk proportionately appropriate to the site and would provide adequate setbacks from property lines and other buildings on the subject and surrounding properties. Construction of the proposed single-family residence would conform to a principal permitted use in the zoning district which governs the subject property and would be situated solely on the subject property. Landscaping proposed by the applicant and additional planting required by conditions of project approval would adequately screen the structure from off-site locations, would stabilize and prevent the erosion of graded soils around the structure, and would enhance the privacy of the occupants of the subject and surrounding properties. The proposed single-family residence would minimize drainage alterations, grading and excavation, tree removal and other adverse physical effects on the natural environment. Finally, the design of the proposed single-family residence would be compatible with that of other houses in the vicinity, would respect the surrounding natural environment, and would not adversely affect views of other properties in the vicinity.

10. *The design, location, size, and operating characteristics of the proposed use are not consistent, nor compatible with the existing land uses in the vicinity. It would be detrimental to the public interest of*

*the County. Hemlock is not a developed street and should not be and the proposed development is essentially the first development on Hemlock, although its vehicle access is from Grandview.*

Response to Appeal:

The property consists of a double-frontage lot that is located between Grandview Avenue (a developed street) and Hemlock Avenue (a partially improved, dirt road). The property would be accessed by way of Grandview Avenue and would not require improvements to Hemlock Avenue. The modest size, simple design, and low profile roof of the two-level residence would result in a structure of a height, mass, and bulk proportionately appropriate to the site and would provide adequate setbacks from property lines and other buildings on the subject and surrounding properties. Construction of the proposed single-family residence would conform to a principally permitted use in the A-2 zoning district, which governs the subject property and would be situated solely on the subject property.

11. *The Notice of Decision has cited 32 conditions of approval (including some items with numerous sub-parts) and the Petitioner submits that it will be critical, but difficult, to supervise and enforce compliance with the conditions if this project receives approval. Accordingly it is necessary to establish with some clarity and certainty the means by which enforcement of conditions will be available and paid for by the applicant. The County has demonstrated that it has neither the supervisory personnel nor the will to scrutinize the proposed development to the degree necessary, because of the sensitivity of the site, and especially with the numerous conditions imposed that must be carefully overseen.*

Response to Appeal:

The County has established procedures for signing off on all phases of construction. These procedures include periodic inspections by Building Inspection staff throughout the development process. Final Inspection of the project will require that all conditions of project approval are met. In addition, in the event that Zoning or Building Code violations are discovered, the property owner would be subject to code enforcement action under the provisions of Marin County Code, Chapter 22.122. Additionally, the CDA has recently adopted construction compliance guidelines that provide staff with greater oversight on construction projects to ensure that they are built in accordance with the approved plan.

## **SECTION II: PROJECT APPROVAL**

NOW, THEREFORE, BE IT RESOLVED that the Marin County Planning Commission hereby denies the Neff appeal and sustains the Community Development Agency's conditional approval of the Higgins Design Review subject to the following conditions:

Marin County Community Development Agency, Planning Division

1. Pursuant to Marin County Code Chapter 22.42, the Moran Design Review is approved to allow construction of a 28.5-foot high, 1,440 square foot single-family residence, representing a 14.4 percent floor area ratio (FAR) on the 10,000 square foot property. In addition, this approval permits construction of a two-car parking deck and an on-site sewage system. The residence is approved with the following minimum setbacks from corresponding property lines: 8 feet from the north (left side) property line, 43 feet from the south (right side) property line, 32.5 feet from the east (rear) roadway easement line (following the 7.5-foot wide right-of-way dedication), and 30 feet from the front property line. The two-car parking deck is approved with the following minimum setbacks from corresponding property lines: 3 feet from the north (right side) property line, 3.5-feet from the south (right side) property line, 145 feet from the east (rear) roadway easement line (following the 7.5-foot wide right-of-way dedication), and 13 feet from the west (front)

roadway easement line. The subject property is identified as 373 Grandview Avenue, Novato and is further identified as Assessor's Parcels 157-132-15, 16 and 17.

2. Plans submitted for a building permit shall substantially conform to plans identified as "Exhibit A: Higgins Residence", prepared on March 12, 2003 with current revisions dated November 11, 2003, and on file in the Marin County Community Development Agency.
3. BEFORE ISSUANCE OF A BUILDING PERMIT, the applicant shall revise the site plan to reduce the overall length of the parking deck by six feet (111 square feet).
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 Design Review Conditions of Approval as notes.
5. 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 Director. Exterior lighting shall be permitted for safety purposes only, must consist of low wattage fixtures, and must be directed downward and hooded. Specification (cut sheets) for exterior lighting fixtures shall be provided.
6. BEFORE ISSUANCE OF A BUILDING PERMIT, the applicant shall file a Merger Determination Application (with applicable fees) for historic lots 315, 316, 317, and 239 as shown upon that certain map entitled, "Grandview Map 'B', East Part of Division 'D', Rancho De Novato, Marin County California" filed for record November 13, 1905 in Volume 2 of Maps, at Page 41, Marin County Records.
7. BEFORE ISSUANCE OF A BUILDING PERMIT, the applicant shall submit either: A) a Statement of Conformance, signed by a certified or licensed landscape design professional confirming that the landscape design requirements of Chapter 23.10 of the Marin County Code (attached) have been met; or B) a letter from the North Marin Water District indicating that the proposed landscaping complies with the District's current water conservation and landscape ordinance.
8. BEFORE ISSUANCE OF A BUILDING PERMIT, the applicant shall submit revised exterior paint color samples for review and approval by the agency director. Proposed colors shall consist of dark, earth-tone shades to blend with the natural wooded environment.
9. Construction activity is only permitted between the hours of 7:00 a.m. and 5:00 p.m., Monday through Friday, and 9:00 a.m. and 4:00 p.m. on Saturday. No construction activity shall be permitted on Sunday or Holidays. At the applicant's request, the Director may administratively authorize minor modifications to these hours of construction.
10. During construction, the applicant shall take all appropriate measures, including watering of disturbed areas and covering the beds of trucks hauling fill to or spoils from the site, to prevent dust from grading and fill activity from depositing on surrounding properties.
11. All soils disturbed by development of the project shall be reseeded with native grasses or wildflowers to control erosion.
12. The applicant shall be responsible for ensuring that all construction vehicles, equipment and materials are stored on-site and off the street so that pedestrian and vehicles can pass safely at all times.
13. The applicant shall be responsible for ensuring that the number of construction vehicles shall be limited to the minimum number necessary to complete the project.



14. All utility connections and extensions serving the project shall be installed underground.
15. All flashing, metal work and trim shall consist of an appropriately subdued, non-reflective color.
16. Only those trees shown on the site plan as proposed to be removed, if any, may be removed. No other existing trees on the subject property shall be removed except to comply with local and State fire safety regulations, to prevent the spread of disease as required by the State Food and Agriculture Department, and to prevent reasonably safety hazards to people and property.
17. BEFORE ISSUANCE OF A BUILDING PERMIT, the applicant shall construct temporary fencing around the outer dripline of all trees on the property which are located adjacent to the approved construction site and yard areas that are subject to site grading. The fencing shall remain until all construction, including utilities, is completed. No construction activity (including grading, access, materials storage, and soil stockpiling) shall occur within the dripline of all protected trees. If utility lines must be located within the dripline, the trenches must be cut by hand and all roots one inch or greater in diameter must be protected and if necessary, sawn but not torn or ripped. If construction access, storage or stockpiling must be located within the dripline, then at least a 6-inch mulch layer must first be installed. At the end of construction, the area shall be aerated and the tree fertilized. Any tree accidentally damaged during construction shall be inspected and treated by an arborist. In the event the tree is removed or permanently damaged, it shall be replaced with similar tree species on a two to one basis, unless express approval to waive replacement is granted by the Director. Proof that the temporary fencing has been installed can be made to the Community Development Agency by photographs.
18. BEFORE FINAL INSPECTION, the applicant shall install all proposed landscaping and a drip irrigation system to serve it. The applicant shall call for a Community Development Agency staff inspection of the landscaping and irrigation at least five working days before the anticipated completion of the project. Failure to pass inspection will result in withholding of the occupancy certificate and imposition of hourly fees for subsequent reinspections.
19. PRIOR TO FINAL INSPECTION, the applicant shall submit a "Statement of Completion," signed by a certified or licensed landscape design professional, which confirms that the approved landscaping was installed as designed, or written proof from the North Marin Water District that the installed landscaping has been planted in conformance with the plans approved by the district.
20. BEFORE FINAL INSPECTION, the applicant shall record a deed restriction whereby property owners, on behalf of themselves, their heirs, assigns, and successors, stipulate that the residence approved herein shall limited to one bedroom. Any deviation from the recorded deed restriction shall be subject to Enforcement as outlined under Section 22.122 (Enforcement of Development Code Provisions) of the Marin County Code. This condition should not be construed to prohibit future consideration of zoning and/or land use permit applications in accordance with the provision of the Marin County Code in effect at that time.
21. Any changes or additions to the project shall be submitted to the Community Development Agency for review and approval before the contemplated modifications may be initiated.

Marin County Department of Public Works, Land Use and Water Resources Division

22. BEFORE ISSUANCE OF A BUILDING PERMIT, the applicant shall provide the following information as specified below:
  - a. Improvement plans shall conform to Title 24 of the Marin County Code and as required by the Department of Public Works and by the Novato Fire Protection District.

- b. Improvement plans shall be prepared, signed and stamped by a registered Civil Engineer or Architect.
- c. The applicant shall submit a Stability Report prepared by a registered Civil Engineer with geotechnical expertise or a certified Geotechnical Engineer. The report must attest to the suitability and geological feasibility of placing a building on the site and identifying any drainage or soils problems that the design of the project must accommodate.
- d. Plans shall be reviewed and approved by the soils engineer. Certification shall be either by the engineer's signature and stamp on the plans or a signed and stamped letter.
- e. Engineer's calculations for site/driveway retaining walls signed and stamped by the structural engineer shall be submitted
- f. Separate building permits are required for site/driveway retaining walls with a height of more than four feet, or three feet when backfill area is sloped or has a surcharge.
- g. Erosion and siltation control plans shall be submitted. Erosion control and siltation control measures must be installed along slope contours.
- h. The plans shall include a note that the Design Engineer shall certify to the County of Marin in writing (include signature and stamp) that all grading, and drainage work was done in accordance with approved plans and field directions. All field changes shall be described. Revised drawings shall be resubmitted for review and approval by the Department of Public Works. The plans shall note that prior to final inspection, driveway, parking, and site improvements shall be inspected by the Department of Public Works engineer.
- i. 7.5-foot wide right-of-way dedication to the County of Marin for roadway and utility purposes along the frontages of Grandview Avenue and Hemlock Avenue shall be processed and recorded.
- j. Site plans shall be revised to locate walkway steps no closer to the roadway than the existing right-of-way line.
- k. Show on the Site Plan where the Typical Driveway Section and Drainage Swale detail are applicable.
- l. Obtain an encroachment permit from the Department of Public works for all work within the road right-of-way.

North Marin Water District

- 23. BEFORE FINAL INSPECTION, the applicant shall make all financial arrangements and complete installation of new domestic water service from the existing water main.

Marin County Community Development Agency—Environmental Health Services Division

- 24. BEFORE ISSUANCE OF A BUILDING PERMIT, the applicant shall provide a will serve letter from the North Marin Water District.
- 25. An onsite sewage disposal system is to be constructed in accordance with the approved permit, issued on February 11, 2004, and on file in the Department of Environmental Health Services.

Novato Fire Protection District

26. PRIOR TO INSTALLATION OF FIRE SPRINKLER SYSTEM, plans and hydraulic calculations shall be submitted to the Fire Marshall for review. An automatic fire sprinkler system is required to be installed throughout the entire residence including those areas exempt by NFPA Standards 13D and 13R. The applicant must contact the North Marin Water District for an application to upgrade domestic meter size to a minimum required to deliver the required demand for the sprinkler system
27. Fire hydrants capable of supplying 1,750 gallons per minute minimum will be required to be installed so that the maximum distance to the residence does not exceed 300 feet. The fire hydrant shall be spotted by the Fire Marshal and contain at least one 4 ½” and one 2 ½” outlet. Installation shall conform to the specifications of the North Marin Water District.
28. The existing fire hydrants nearest the structure and located by the Fire Marshal shall have the body upgraded to have at least one 4 ½” and one 2 ½” outlet. Contact the North Marin Water District for hydrant specifications and installation.
29. Fire hydrants shall be installed, tested, and operational prior to framing.
30. Roadways shall not be less than 20 feet wide capable of accommodating a 60,000 GVW and driveways not less than 16 feet wide capable of accommodating a 40,000 GVW, consisting of all weather surface (AC paving or concrete), and unobstructed. Improvements to roadways and driveways shall be installed prior to framing.
31. The address shall be posted, clearly visible from the street with illuminated numerals and contrasting with their background conforming to Fire Protection Standard 205.
32. PRIOR TO FINAL INSPECTION, an irrigated “greenbelt” vegetation management plan (VMP)-Fuels Management Plan conforming to the standards of the Novato Fire Protection District shall be prepared and implemented at the site. The VMP-Fuels Management Plan shall conform to Fire Protection Standard 220. The VMP submitted on December 31, 2003 appears to comply with NFPD standard 220. The plan shall be incorporated into the landscape plan for the project and submitted to the Fire Marshal along with an executive summary style description of the plan prior to implementation.
33. Due to the fact that the required defensible space zone can not be met due to property line proximity, and the inability to meet the required fire flow, only non-combustible construction will be allowed on the structure in areas that cannot meet the defensible space zones. This means only non-combustible exterior siding will be required throughout and “fire lite” window assemblies (or equal) will be required on the sides of the residence that cannot meet the VMP zones due to the property line limitations. In addition, all decks, eaves, and parking overhangs shall be boxed to prevent penetration of burning brands and embers, and the underside of decks and eaves shall be enclosed and deck surfaces shall be of non-combustible or approved fire resistant materials.

### **SECTION III: VESTING OF RIGHTS**

The applicant must vest this Design Review approval by securing a Building Permit for all of the approved work and substantially completing all approved work by July 26, 2006, 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 Director approves it. Design Review extensions to a total of not more than four (4) years may be granted for cause pursuant to Marin County Code Section 22.56.050.

### **SECTION IV: APPEAL RIGHTS**

NOW, THEREFORE BE IT FURTHER RESOLVED that this decision is final unless appealed to the Marin County Board of Supervisors. A Petition for Appeal and a \$675.00 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 **August 5, 2004.**

**SECTION V: VOTE**

PASSED AND ADOPTED at a regular meeting of the Planning Commission of the County of Marin, State of California, on the 26<sup>th</sup> day of July, 2004, by the following vote to wit:

AYES:

NOES:

ABSENT:

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ALLAN BERLAND, CHAIRMAN  
MARIN COUNTY PLANNING COMMISSION

Attest:

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Jessica Woods  
Recording Secretary

The project is a proposal to replace the existing garage with a new master bedroom suite and construct a new 822 square foot, detached, three-car garage with a storage room. The improved residence will total approximately 3,289 square feet, attain a height of 17 feet above grade, and will maintain the following setbacks to the nearest corresponding property lines: 23 feet from the western rear property line, 5 feet from the top bank of the stream (retaining wall in rear yard), and 64 feet from the northern side property line. The subject property is located at **21 N. Ridgewood Road, Kentfield**, and is further identified as **Assessor's Parcel 074-241-01**.

Megan Basinger, Planner, summarized the staff report and recommended that the Commission deny the Braun appeal and sustain the Community Development Agency's conditional approval of the Moran Design Review allowing the conversion of the existing two-car garage into a master bedroom suite and the construction of a detached 822-square-foot garage located within the stream conservation area (SCA) of an un-named ephemeral stream that meanders along the southwesterly edge of the property.

The hearing was opened to the public.

Aaron Braun, appellant, requested that the stream conservation area be studied in regard to this lot. He pointed out that this project would impact the view of several neighbors. He further noted that, due to the fact that trees were removed from the site, the area is very visible.

Pete Peterson, landscape architect for the appellant, concurred that the trees removed by the Morans did screen the story poles for the project, and now with the trees removed, the site is very visible.

Rob Becker, 10 Acorn Lane, pointed out that additional screening is needed in order to mitigate the visual impacts. He also expressed concern for the retaining wall being located in the middle of the creek.

Richard Moran, applicant, explained that a tree was removed due to the storm in the fall of 2002 and the other tree that was removed was diseased. He received approval for the project from the Kent Woodlands Property Owners Association in the spring of 2003. He further indicated that the project would not be detrimental to the lot and urged the Commission to deny the appeal.

In response to Commissioner Dickenson's question about the oak tree in close proximity to the proposed construction, Mr. Moran responded that he would be willing to build around the tree in order to address the concerns of the neighbors.

In response to Commissioner Julin's question about drawing A-2 of the project plans, Mr. Moran responded that drawing A-2 is depicting a storage area.

Mr. Becker requested that the privacy of his lot be protected.

Erin Becker, 10 Acorn Lane, provided staff and the Commission with several photographs for their consideration. She then asked the Commission to review the entire project including the impacts on the surrounding views in the neighborhood.

Arlene Dinges, representing Kent Woodlands POA, noted that the Association is in support of the project. She also pointed out that the Association has their own conditions of approval that would stabilize the bank and restore the privacy before the project could move forward.

Verna Gray, 26 Acorn Way, expressed concern for her privacy and requested additional screening to mitigate the visual impacts.

Ms. Dinges pointed out that there was a great deal of controversy when the Design Review of POA approved this project, but the Association did request nine conditions of approval related to landscaping, drainage, and replacement of trees. She pointed out that the Design Review of POA was unaware of the new owners of 10 Acorn Way and since being informed of their purchase they were involved in the process. She then discussed the letter of approval that outlined several conditions of approval for the Commission's consideration.

Catherine Caulfield, representing EAC of West Marin, requested that the Commission review the code and be uniform in their decision regarding applicability of SCA policies.

Mike Fowler, President, Kent Woodlands POA, indicated that the Association is in the process of developing a set of rules to be followed, which would be provided to the Commission when available. He further urged the Commission to support the Moran project.

The public hearing was closed.

Commissioner Dickenson had reservations in regard to the extent of the encroachment into the SCA.

Commissioner Barner expressed concern for the garage's height of 20 feet. He felt the roofing material should be fire retardant. He also expressed concern for the visual impacts of the home to the surrounding neighborhood. He further believed the trunks of the removed trees should be removed in order to avoid an eyesore.

Commissioner Greenberg pointed out that the landscaping must be addressed and the house and trim needs to be a darker color in order to blend in with the existing surroundings.

Commissioner Thompson expressed concern for the project as well as the stream.

Commissioner Thompson believed the roof pitch of the garage should be reduced and the landscaping must be addressed as well.

Commissioner Julin discussed the landscaping and requested that more native plants be used.

Deputy Director Crawford recommended that with the appellant's and the property owners' consent the Commission continue this item to the October 11, 2004 Planning Commission hearing in order for the property owner to address the Commission's concerns, or alternatively, the Commission could deny the application without prejudice allowing the Moran's to re-file an application with direction from the Commission. In response to a question from Commissioner Barner, Mr. Crawford clarified that both the applicant and the appellant should agree to the continuance. Mr. Peterson then contacted Mr. Braun by telephone (Mr. Braun left the hearing after providing testimony) and obtained his consent for the continuance.

Mr. Braun and Mr. Moran agreed to a continuance to October 11. Mr. Moran noted that he is willing to work with the neighbors in order to resolve the vegetation and screening issues. He also agreed to use a darker earth tone color rather than the white color in order to blend in with the existing surroundings.

Deputy Director Crawford discussed the need for a landscape plan and noted that Commissioner Greenberg desired to view the proposed landscape plan as part of the project that would include additional trees strategically located in terms of species, size, and design to address the concerns of the neighbors. The Commission concurred with the request for a thorough landscape plan as part for the revised project.

Chairman Berland asked for a motion.

*M/s, Dickenson/Julin, to continue the item to the October 11, 2004 Planning Commissioner hearing in order for the property owner to address the Commission's concerns with the consent of both the applicant and appellant. Motion passed 6/0 (Commissioner Holland absent).*

The project is a proposal to construct a 1,777 square foot, two-story, single-family residence with an attached 291 square foot garage on a 7,823 square foot lot. Including the 26 square foot window seat and the 106 square foot vaulted ceiling space in the living room, the “visually apparent” floor area would be 1,897 square feet. The subject property is located at the corner of Hawthorne Road and Ocean Parkway, the first public road on the bluff adjacent to the Pacific Ocean. The residence would result in the redevelopment of the residential property that previously was improved with a single-family residence and a second unit that were destroyed by fire in December 2002. An existing septic system that exists on the property would be utilized for the proposed residence. The project would result in a Floor Area Ratio of 23% and a “visually apparent” FAR of 25%. The single-family residence would have a maximum height of 24.75 feet above grade. The proposal includes the following additional structures/improvements: (1) a lap pool; (2) a 6-foot wood fence; and (3) a tool storage area within a 6-foot tall, 120 square foot, wood fence enclosure. The 10 foot by 40 foot lap pool would be located in the southern corner of the property with the 40 foot length of the pool along the Hawthorne Road frontage. The pool would have property line setbacks of 0.5 feet from Ocean Parkway and Hawthorne Road. The 6 foot tall wood fence would be located around the pool, along Hawthorne Road, along the rear property line, and partially along the northeast side property line, and then would connect to the side of the residence to enclose the side and rear yard areas. The subject property is located at **216 Ocean Parkway, Bolinas**, and is further identified as **Assessor's Parcel 191-191-08**.

Neal Osborne, Planner, summarized the staff report and recommended that the Commission review the administrative draft, conduct a public hearing, and adopt the attached resolution conditionally approving the Salwen Coastal Permit.

Commissioner Dickenson read language into the record from the Bolinas Gridded Mesa Plan for the Commission’s consideration.

In response to Commissioner Barner’s concern regarding the square-footage of the proposed residence, Planner Osborne responded that the correct number is 1,777 square feet.

Commissioner Greenberg expressed concern about the ownership of the undeveloped property directly behind the Salwen lot. Planner Osborne responded that staff did not have that information available.

In response to Commissioner Barner’s question about whether Ocean Parkway is a County-maintained road, Eric Steger, Public Works, responded in the affirmative.

In response to Commission Dickenson’s question regarding the fence, Mr. Steger responded that the fence was acceptable.

The hearing was opened to the public.

Jack Byars, architect, announced to the Commission that he is present to answer the Commission’s questions.

Ellen Salwen, appellant, noted that she was approached to buy part of the lot, but she declined the offer. She then provided the Commission with photographs depicting the views of the surrounding neighborhood for the Commission’s consideration.

Vince Howes, representing, Salem Howes Associates, supported the project and pointed out to the Commission that he has conducted studies for the bluff area in Bolinas for the Department Public Works.



In response to Commissioner Dickenson's question, Mr. Howes responded that there is no way to determine how fast an area of bluff could erode, but he pointed out that 1.5 feet of erosion could occur over a year in that particular area.

David Kimble, Bolinas resident, pointed out that the area collapsed during the dry season in October. He also felt the project would be a new project rather than a replacement of the old one.

Bobbie Kimble, Bolinas resident, summarized the history of the lot since the current owner purchased the lot in 1991 for the Commission's consideration. She further noted that the letter dated 2003 in regard to the septic system did not meet code requirements.

Robert Hunter, Bolinas resident, expressed concern for the bluff and erosion and urged the Commission to require the owners to reduce the size of their home.

Lisa Herbert, Bolinas resident, noted that one of her trees was damaged from the fire that occurred on the subject lot. She also discussed the Bolinas Community Plan and the Gridded Mesa Plan, which should be followed.

Shannon Kikenny, Bolinas resident, believed this project is too extreme for this size lot and expressed concern for the close proximity to the bluff as well.

Rick Hall, Bolinas resident, pointed out that he was required to build a reserve mound when he purchased his property and asked the Commission why it is not required in this case.

Catherine Caulfield, representing EAC of West Marin, expressed concern for the following: 1) geologic stability; 2) house location; 3) house size; 4) pool; and 5) septic system. She further requested that the local Gridded Mesa Plan be enforced.

Don Smith, Bolinas resident, expressed concern for the precedent this project would set in the neighborhood.

The public hearing was closed.

Commissioner Dickenson expressed concern for the proposed categorical exemption with respect to the property's location within the bluff erosion zone and the potential geophysical hazards.

In response to Commissioner Greenberg's question regarding the back up septic system, Planner Osborne responded that there are two back up systems, one is located on the side and other is located at the rear of the property. Staff added that the system is under ground, which was present for the previous residence.

Ms. Salwen indicated to the Commission that she has tried to the best of her ability to comply with all of the County's requirements.

In response to Commission Dickenson's question about the California Coastal Commission, Planner Osborne responded that the coastal Commission staff did not comment in opposition to the project, but did recommend imposing a condition prohibiting future bluff retaining walls.

Commissioner Julin believed the 10% rule should not be waived. She also concurred with the five comments made by Ms. Caulfield.

Commissioner Barner explained that erosion on this lot would take place no matter what occurred. He also expressed concern for the fence on the lot as well as the septic system. He further believed the house size should be reduced for this size lot.

Commissioner Thompson believed the Commission should approve the house at the same size, but not the pool.

Commissioner Greenberg commented that the Mesa Plan should be followed. She also expressed concern for the septic system and believed it must be investigated. She further stated that the pool is too close to the setbacks and must be addressed as well.

Commissioner Dickenson believed the 10% rule should not apply to this project. He added that the lap pool is inappropriate for this particular lot and the information about erosion is hard to predict for the future. He further believed the County should conduct a peer review of the geotechnical aspects of the site.

Chairman Berland expressed concern for the fence as well. He further added that he is unable to make the findings that have been presented to the Commission required by Policy LU-1.3 concerning bluff erosion and stability.

The Commission requested that an independent geologist conduct the study.

The Commission requested that the erosion of bluff be reviewed on a 5-year integral basis.

Deputy Director Crawford recommended that, if the Commission votes to deny the project, they should do so at today's hearing inasmuch as it is the last date for action on the permit request and suggested the particular findings that could be made to support that decision.

Commissioner Barner requested that the septic system be tested before the project comes back before the Commission. Staff pointed out that Finding 6 discussed the geological area in regard to Commissioner Barner's concern.

Chairman Berland asked for a motion.

***M/s, Barner/Julin, to indicate an intent to deny the Coastal Permit application based on the findings summarized by staff, and direct staff to return at the hearing of August 9, 2004 with a resolution supporting this decision. The hearing regarding ratification of the resolution was continued to August 9, 2004. Motion passed 6/0 (Commissioner Holland absent).***

The project is a proposal to construct an extension to Eucalyptus Way for access to four lots, provide potential access to the Salvato lot, and construct one single-family residence. The project would also include off-site improvements to widen Eucalyptus Way to a 16-foot minimum width, construct a 3-foot tall, 54-foot-long, retaining wall along the widened portion of Eucalyptus Way, construct drainage improvements along Eucalyptus Way and Glenwood Avenue right-of-ways, and install new landscaping along the widened portion of Eucalyptus Way. The current project is a proposal to construct a 580-foot long, 16-foot wide paved “common driveway” extension of Eucalyptus Way that would bisect three landslides. Grading work would consist of 2,770 cubic yards of excavation and 2,580 cubic yards of fill to repair the landslide areas, construction of drainage improvements, and retaining walls. The common driveway would extend to the northeast from the end of the existing paved “Eucalyptus Way” with a short 21% sloped section as it turns upslope, a 15.6% slope, and ultimately to a 2.5% slope. One 190-foot-long concrete retaining wall, with heights of 2-feet to 7-feet, would be constructed on the upslope side of the curve at the beginning of the common driveway. Another 85-foot-long concrete retaining walls, stepped back 4-feet from the first wall, with heights of 1-foot to 6.5-feet, would be constructed upslope of the first wall. Two other stepped retaining walls with heights of 3-feet to 6.5-feet would be constructed to provide a turnaround area. Prior to taking action on the Engel Design Review application, the Planning Commission will consider adopting a mitigated negative declaration for the project pursuant to the California Environmental Quality Act (CEQA). The subject Engel properties would have site addresses of **625, 629, 633, and 637 Eucalyptus Way, Mill Valley**, and are also identified as **Assessor’s Parcels 049-051-29, -30, -31 and -32**. The Salvato property is located **southwest of the turnaround area at the end of the proposed common driveway adjacent to 604 Eucalyptus Way and 641 Eastwood Way**. The site address would be **640 Eucalyptus Way** and is also identified as **Assessor’s Parcel 049-052-19**.

Neal Osborne, Planner, summarized the staff report and recommended that the Commission review the administrative draft, conduct a public hearing, consider the proposed Negative Declaration and the comments and responses thereto, and adopt the recommended resolutions adopting a Negative Declaration of Environmental Impact and conditionally approving the Engel Design Review.

In response to Commissioner Dickenson’s question, Planner Osborne responded that when there are seven homes a driveway would become a road at the discretion of the Public Works Department to determine the standard. Eric Steger, Public Works, added that seven or more houses would require that it be called a “roadway.”

In response to Commissioner Dickenson’s question, Planner Osborne responded that the owners of Lots 10 and 11 have access with a right-of-way, but they access their lots from the other side.

In response to Commissioner Greenberg’s question, Planner Osborne responded that the most recent study conducted for the geotechnical report was done back in January 2000, and that he did not add information about house size in the area.

In response to comments, Planner Osborne explained that the parking requirements are two for guests and two spaces for the residents.

The hearing was opened to the public.

Irving Schwartz, civil engineer, pointed out that parts of the driveway are wider than others, so vehicles would have maneuverability. He also believed the project would be a great asset to the different lots. He pointed out that there are culverts along the driveway to help with the drainage and they are willing to build plastic tubing culverts if so desired by the Commission.

In response to Commissioner Dickenson’s question regarding landscaping located in the right-of-way, Planner Osborne read Condition #32 into the record for the Commission’s consideration.

Craig Herzog, representing Herzog Geotechnical, discussed the studies that were conducted and provided his knowledge in that regard.

Casey Goltermann, representing Eucalyptus Investors, thanked staff for all their hard work on this matter. He explained that he visited the site with an engineer who indicated there is adequate space with an extra two to three feet of space along the driveway. He further pointed out that they reduced the project from 10 lots to 4 lots and believed they had tried to address all the concerns of the neighborhood.

Dennis Kavanaugh, representing neighbors opposed to the project, noted that the information has not changed in the last four years. He believed the tests must be conducted ahead of time. He expressed concern for the term "roadway" being used. He also expressed concern for the drainage along the driveway. Mr. Kavanaugh cited and summarized sections of the California Environmental Quality Act as the basis for requiring an environmental impact report (EIR) for the project before a decision made on the design review application.

Frank Kennedy, consulting civil engineer representing, Mr. Kavanaugh, pointed out that in his review of the project, the development of the property would result in a 5% increase in runoff as opposed to the 1% runoff increase calculated by the applicant's engineers. This discrepancy should be resolved before a complete and accurate understanding of the drainage impacts of the project can be fully understood. Mr. Kennedy also provided testimony that the project has not sufficiently demonstrated compliance with standards of the Regional Water Quality Control Board (RWQCB) and Bay Area Stormwater Management Agencies Association (BASMAA). Mr. Kennedy's comments are more fully set out in a letter report dated July 22, 2004 filed with the Community Development Agency and submitted into the record for today's proceedings.

L. B. Karp, geotechnical engineer representing Mr. Kavanaugh, summarized a number of deficiencies with respect to the design of the project and supporting technical information provided by the applicant, which are more fully described in his letter of July 22, 2004 filed with the Community Development Agency and submitted into the record for today's proceedings.

Margaret Zegart, Mill Valley resident, requested that landscaping be removed unless it is native. She also expressed concern for the design of Eucalyptus Way in regard to emergency vehicles. She further agreed that an EIR is needed for this project.

Nicola Stiff, Eucalyptus Way resident, requested that the conditions in regard to landscaping remain.

Price Crozer, Eucalyptus Way resident, commented on the landscaping and retaining walls, which in his view would soften the noise impacts. He expressed concern for the fact that native plants are not being used and believed a better plant selection should be explored.

William Wiess, pointed out that the driveway would affect four homes and the owners desired the road to be fixed as soon as possible, but expressed concern for waiting until the project is approved.

Karen Walter, 637 Glenwood Ave., noted her opposition to the project and requested that drainage flowing to the creek be addressed.

William Peters and Paul Schneider indicated that all their concerns had been raised by previous testimony.

The public hearing was closed.

Tim Haddad, Environmental Coordinator, explained that the issues raised four years ago had not changed. He noted that Miller Pacific has made an independent analysis in regard to this project, which he supported.

Commissioner Dickenson pointed out that the Commission's responsibility is to determine if it has the information required to support Negative Declaration. Mr. Haddad responded that the Commission's job is to either approve or not approve the Negative Declaration.

Chairman Berland asked Eric Dabanian of Miller Pacific to discuss the specific evidence contained in the report Messer, Kennedy and Karp submitted to the Commission. Mr. Dabanian explained his group did a peer review, which was provided to the Commission.

In response to Commissioner Thompson's questions regarding the figures, Mr. Dabanian responded that the calculations are not high. He believed the engineer used a conservative number with the calculations.

Commissioner Dickenson believed an independent study should be conducted to achieve accurate information, and that a focused EIR is the appropriate process to accomplish that objective.

Commissioner Greenberg pointed out that the information provided to the Commission is not adequate because there are remaining questions unanswered. Agency Director Hinds noted that the Commission could request that an EIR be conducted or ask for more studies to be conducted on certain topics before deciding if an EIR should be required.

Commissioner Thompson expressed concern for the pictures in the report and noted that they did not match what he viewed during his site visit.

Commissioner Barner expressed concern for the fact that the report only addressed one slide when four slides actually occurred on the lot.

Agency Director Hinds directed the Commission to review the information presented and then provide direction to staff on how to proceed.

In response to Commissioner Berland's request, Deputy Director Crawford summarized the Commission's views of the focused EIR as follows: independent analysis of landslides, the type and extent of landslide repair, and engineered calculations for proposed retaining walls associated with road improvements; independent photo simulations to verify the accuracy of visual impact analysis for the project; independent review of stormwater runoff impacts from the project, including but not limited to the influence of the recent fire upslope of the project site, compliance with RWQCB and BASMAA standards; and additional independent analysis of traffic circulation hazards associated with the width and turning radius of the Eucalyptus Way.

Commissioner Greenberg believed the road should be reviewed for safety access by large vehicles during construction and after construction is complete and to evaluate the impacts associated with the driveway slopes for all of the lots proposed to be accessed by the paper street extension.

Commissioner Barner recommended studying the traffic along Eucalyptus Way as well.

Commissioner Thompson indicated that the 18% slope of the roadway is a maximum percentage and currently as proposed the roadway is 21%, which should be addressed.

Agency Director Hinds noted that the Commission questioned the feasibility of the mitigation measures.

Chairman Berland asked for a motion.

***M/s, Dickenson/Thompson, that the Planning Commission finds that based on the substantial evidence in the record that a Negative Declaration is not appropriate and a Focused Environmental Impact Report should be***

*prepared to address the issues identified and direct staff to prepare a revised Resolution for approval at the August 9<sup>th</sup> meeting. Motion passed 6/0 (Commissioner Holland absent).*

Deputy Director Crawford announced that this item would be continued to the Commission on August 9<sup>th</sup> in order for staff to prepare a revised resolution reflecting the Commission's decision. He also announced that a design review application cannot be acted upon until an Environmental Impact Report is completed.

9. DRAFT MARIN COUNTYWIDE PLAN

Public hearing on the Draft Countywide Plan.

This item was tabled and rescheduled to the August 2, 2004 Planning Commission hearing due to the late hour.

*Chairman Berland adjourned the meeting at 8:00 p.m. and continued the Countywide Plan discussion to August 2, 2004 at 1:00 p.m.*