

MARIN COUNTY PLANNING COMMISSION

RESOLUTION \_\_\_\_\_

A RESOLUTION UPHOLDING THE NOBLE APPEAL AND  
DENYING THE MILLSTEIN DESIGN REVIEW 04-20  
ASSESSOR'S PARCEL 071-121-42  
20 GEARY AVENUE, KENTFIELD

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**SECTION I: FINDINGS**

- I. WHEREAS Mark Millstein is requesting Design Review approval for the construction a two-story, 4,169 square foot single-family residence with an attached 404 square foot garage on an approximately 43,560 square foot (1 acre) parcel in Kentfield. As proposed, the dwelling would have a maximum height of 30 feet above finished grade and would maintain the following approximate setbacks from the following corresponding property lines: 41 feet from the southerly front property line, 41 feet from the easterly side property line, 56 feet from the northerly rear property line, and 33.5 feet from the westerly side access easement. Proposed building materials include “Celotex – Presidential Shake, Autumn Blend” gray asphalt shingle roofing, cedar shingle siding painted “Olympic 920 Aspen Tan,” “Benjamin Moore HC-21 Huntington Beige” stucco siding, and wood and stucco trim. Also proposed is construction of a new pool, patio and lawn area to the east of the proposed residence. The subject property is located at **20 Geary Avenue, Kentfield** and is further identified as **Assessor's Parcel 071-121-42**.
  
- II. WHEREAS on June 30, 2004, the Community Development Agency issued a conditional approval of the Millstein Design Review granting authorization for the construction of a 4,169 square foot single-family residence with an attached 404 square foot garage on an approximately 43,560 square foot vacant parcel in Kentfield. The dwelling was approved to have a maximum height of 30 feet above finished grade and was approved to maintain the following setbacks from the following corresponding property lines consistent with “Exhibit A”: 41 feet from the southerly front property line, 41 feet from the easterly side property line, 56 feet from the northerly rear property line, and 33.5 feet from the westerly side access easement. Conditions of approval required deletion of the pool and driveway entry gate, and conversion of the upper level roof from a gable to a hip design.
  
- III. WHEREAS, a timely appeal of the Community Development Agency’s approval of the Millstein Design Review has been filed by James Noble asserting the following issues: 1) the single-family residence would be incompatible with the community character and would result in visual impacts due to the overall size and scope of the project; 2) the project would result in excessive grading and site disturbance; 3) the hours of construction should be modified to reflect other recently approved projects in the area, including prohibition of construction activities on weekends; and 4) additional information is required regarding landscaping, drainage, and clarification regarding the exact size allowed for the approved yard area.
  
- IV. WHEREAS the Marin County Planning Commission held a duly noticed public hearing on September 13, 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 voted unanimously to deny the project on September 13, 2004 subject to ratification of this resolution.
  
- VI. WHEREAS the Marin County Planning Commission finds that the proposed project is Categorical Exempt from the requirements of the California Environmental Quality Act, per Section 15270 because CEQA does not apply to project which a public agency rejects or disapproves.

- VII. WHEREAS the Marin County Planning Commission finds that the proposed project is inconsistent with the Marin Countywide Plan for the following reasons:
- A. EQ-3.1 (Project Review Procedures): The project would result in the removal of 43 trees. Policy EQ-3.1 refers to Table EQ-7 in the Countywide Plan (CWP) which requires that for wooded hillsides, every effort be made to retain trees in their natural setting. Overall, the extent of tree removal is excessive. Furthermore, based on the amount of site disturbance and grading, there are concerns about the chances of survival for a number of large trees on site located in close proximity to the structure. Based on this information, the project has not adequately fulfilled this policy.
  - B. EQ-3.16 (Minimize Excavating, Grading, and Filling): The proposed project would require approximately 2,400 cubic yards of grading with a net off-haul of approximately 1,800 cubic yards of excavated soil material (approximately 180, 10-ton truck loads). Policy EQ-3.16 requires that development shall minimize excavating, grading, and filling while allowing for adequate access. A minimal amount of grading and excavation cannot be achieved for development of this site in consideration of its steep topography and to meet required access and parking standards of Marin County Code Sections 24.04.280 and 24.04.340. However, the proposed flat yard area located to the east of the proposed residence would be inappropriate for the hillside site based on the levels of grading and tree removal required to construct those improvements.
  - C. EQ-3.25 (Scale of Development): The proposed residence is significantly larger than most other homes in the adjacent area, but would result in a floor area ratio (FAR) that is comparable to development in the neighborhood given the comparatively larger size of the property. However, due to the steep topography of the subject property and its unique transitional location between residential development to either side of Geary Avenue (smaller homes to the south, larger homes to the north), the size of the proposed structure would be out of scale with other development in the neighborhood. The structure would have a looming, obtrusive presence in the neighborhood due to its overall profile, anticipated amounts of grading and tree removal, and general elevation above the majority of smaller homes to the south of Geary Avenue below.
  - D. H2.2 (Design that Fits into the Neighborhood Context): The project would not enhance the neighborhood identity and sense of community because the proposed 4,573 square foot residence would be approximately 2,000 square feet larger in size and overall scale than the much smaller homes that characterize the historic development patterns to the south of Geary Avenue (the average home size of the homes at 7, 9, 11 and 13 Altamira Avenue, and 6, 8, 10, and 16 Geary Avenue amount to 2,570 square feet in floor area – including garage).
- VIII. WHEREAS the Marin County Planning Commission finds that the proposed project is inconsistent with the Kentfield/Greenbrae Community Plan because the project would require excessive grading and tree removal, and would result in a development that is out of scale with respect to the immediate neighborhood (Policy Item 8, Subarea G). The proposed project would result in a large residence that would appear in stark contrast to smaller homes located at a lower elevation to the south. While large homes do exist in the surrounding neighborhood, the proposed development is not appropriate for the site because the proposed residence would be out of scale with the streetscape and most of the existing homes along Geary Avenue that provide a context for the neighborhood most affected by the project.

IX. WHEREAS the Marin County Planning Commission finds that the proposed project is inconsistent with the development standards RMP-5.0 zoning district (Chapter 22.16 of the Marin County Code) because the proposed project would be inconsistent with standards established for the protection of trees and vegetation, minimization of grading, and effective use of landscaping. The proposed project would disturb approximately 45% of the property, including the removal of at least 43 existing trees as a result of excavation and grading for construction of an approximately 120-foot long access driveway. Large retaining walls (up to 13 feet in height) required for the construction of the yard, driveway, and turnaround areas would substantially alter the natural terrain resulting in approximately 450 lineal feet of partially visible retaining walls. The proposed landscaping is incomplete and should incorporate larger specimens of drought tolerant, native plant species. For the reasons discussed above, the project would not be consistent with the regulatory standards of the RMP zoning district.

X. WHEREAS the Marin County Planning Commission finds that the Millstein Design Review application, is inconsistent with the mandatory Design Review findings 1, 2, 4, 5, 6a, 6c, 6d, 6e, and 8 below (Section 22.42.060 of the Marin County Code).

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

The proposed residence, driveway, and yard area would not satisfy their functional requirements without being unsightly or creating substantial disharmony with its locale and surroundings because the project would result in a large residence and level outdoor activity area being imposed on a hillside property resulting in development that is out of character with the natural topography of the site and the residential development to the south. The overall size and scope of the project would adversely contrast with the surrounding natural hillside environment as opposed to blending with it.

**2. It 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 and pleasing development of the neighborhood as a whole, including public lands and rights-of-way.**

The proposed project may impair the orderly and pleasing development of the neighborhood as a whole, because the proposed project would result in the development of a large residence that is out of scale with smaller residential development to the south.

**3. It will not directly, or cumulative, 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 project would not impair further investment or improvements in the vicinity because the proposed structure, if built, would be required to comply with safety standards as established by the Uniform Building Code.

**4. It 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 project would involve the removal of at least 43 trees. The extent of site disturbance resulting from the project (45%) does not maximize retention of trees and minimize alterations to the natural topography. Although the applicant has proposed a number of tree and plant specimens to provide screening for the structure, many of the plant and tree species are slow growing and would require a significant amount of time to fill in around the structure and effectively screen and soften its

appearance from off-site locations. The proposed plantings would provide minimal screening and would not counteract the amount of site disturbance incurred by the project.

**5. It will be in compliance with the design and locational characteristics listed in Chapter 22.16 (Planned District Development Standards) of the Marin County Development Code.**

The project would not be in compliance with the design and locational characteristics listed in Chapter 22.16 (Planned District Development Standards) of the Marin County Development Code for the reasons discussed in Finding VIII above.

**6. It 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 of characteristics of the following:**

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

Although the proposed residence incorporates many design techniques encouraged in hillside development, the overall size and scale of the structure would contrast with the surrounding natural hillside environment (as opposed to blending in with the surrounding natural environment), result in excessive grading and tree removal, and result in a development that is out of scale with the uniform single-family residential development on the smaller, level lots to the south of the project.

**b. Drainage systems and appurtenant structures;**

The drainage system for the project has been preliminarily reviewed and accepted by the Department of Public Works. As part of the Building Permit review, the Department of Public Works will review the grading and drainage plans to ensure that the project incorporates drainage systems that will adequately collect, convey and distribute surface run-off into appropriate drainage systems.

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

The proposed project does not minimize the reforming of the natural terrain because it would disturb approximately 40% to 45% of the property, including the removal of at least 43 existing trees as a result of excavation and grading for construction of an approximately 120-foot long access driveway. Additionally, large retaining walls (up to 13 feet in height) required for the construction of the yard, driveway, and turnaround areas would substantially alter the natural terrain resulting in approximately 450 lineal feet of retaining walls.

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

The development on the property will not interfere with the containment, movement, or circulation of animals, conveyances, or persons. Conditions of approval will require measures to address general neighborhood circulation during the construction process.

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

The residence has been designed to step up the hillside in an effort to minimize the visual profile of the structure as viewed from off-site locations. However, the proposed colors and materials would not blend the structure in with the surrounding natural environment to the greatest extent feasible. Finally, the overall scale and size of the residence, along with proposed colors, materials, and site disturbance, would result in a project that does not minimize its visual presence as viewed from off-site locations.

- 7. **It includes features which foster energy and natural resource conservation while maintaining the character of the community.**

The residence would foster energy and natural resource conservation because it will be required to meet the standards of Marin County Ordinance 3356 (Energy Efficiency Standards for Single Family Dwellings).

- 8. **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.**

The project is inconsistent with policies in the Marin Countywide Plan, and the Kentfield/Greenbrae Community Plan for the reasons discussed in Findings VI and VII above. As such, the construction of the single-family residence could be detrimental to the public interest, health, safety, convenience or welfare because the project would result in development that is out of scale and incompatible with other development in the vicinity.

- XI. WHEREAS the Marin County Planning Commission finds that the project could be consistent with the County's land use plans, polices, and standards by modifying the site and building design in the following manner:

- A. Reduce the amounts of grading and site disturbance by eliminating the yard area, minimizing the length and height of retaining walls, and considering alternate locations for driveway access to the property;
- B. Utilize darker, earthtoned colors and materials for roofing, siding, trim, and other site improvements including but not limited to retaining walls and driveway surfaces;
- C. Reduce the overall size of the residence;
- D. Continue to utilize a simple, split level design that steps up the hillside; and,
- E. Submit a landscaping plan that minimizes tree removal and incorporates a vegetation/fuels management program.

**SECTION II: ACTION**

NOW, THEREFORE BE IT RESOLVED that the Marin County Planning Commission sustains the Noble Appeal and denies the Millstein Design Review application.

**SECTION III: 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 October 7, 2004.**

**SECTION IV: VOTE**

PASSED AND ADOPTED at a regular meeting of the Planning Commission of the County of Marin, State of California, on the 27<sup>th</sup> day of September, 2004, by the following vote to wit:

AYES:

NOES:

ABSENT:

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ALAN BERLAND, CHAIRMAN  
MARIN COUNTY PLANNING COMMISSION

Attest:

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Jessica Woods  
Recording Secretary