



MARIN COUNTY

COMMUNITY DEVELOPMENT AGENCY

ALEX HINDS, DIRECTOR

STAFF REPORT TO THE PLANNING COMMISSION SELTZER APPEAL OF THE PAPPAS DESIGN REVIEW CLEARANCE

Item No:	7.	Application No:	DC 06-3
Applicant:	Peter Pappas	Owners:	Peter and Sophie Pappas
Appellant:	Bruce Seltzer	Address:	465 Fawn Drive, San Anselmo
Hearing Date:	August 8, 2005	Assessor's Parcel:	177-071-07
		Planner:	Thomas Lai

RECOMMENDATION:	Deny the Appeal and Approve the Design Review Clearance
APPEAL PERIOD:	Ten calendar days to the Marin County Board of Supervisors (August 18, 2005)
LAST DATE FOR ACTION:	September 12, 2005

SUMMARY RECOMMENDATION:

On July 8, 2005, the Community Development Agency (CDA) issued a Design Review Clearance determination approving the proposed installation of a patio cover in the rear yard of a property that is currently being developed with a new single-family residence, garage, pool house, and swimming pool. On July 15, 2005, an appeal was filed by the owner of an adjoining property located at 485 Fawn Drive raising a number of concerns that are summarized in the bases of appeal below. Staff recommends that the Planning Commission deny the appeal and uphold the CDA's determination that the proposed work qualifies for a Design Review Clearance.

PROJECT DESCRIPTION:

The proposed work includes the installation of a 10-foot, 9-inch high patio cover in the rear yard of the property, spanning a distance of approximately 65 feet between the pool house and garage. The 18-foot deep structure would cover an approximately 1,166 square foot area and maintain the following setbacks from the nearest property lines: (1) 24 feet from the nearest portion of the rear property line that is located to the east; (2) 40 feet from the northerly side property line; and (3) 109 feet from the southerly side property line. The patio cover would consist of a steel-framed structure with a concrete roof. The applicant has indicated that neither the roof of the patio cover nor the adjoining garage or pool house are proposed to be used as a sport court. A row of planter boxes would be placed on the downslope edge of the patio cover, and 5-gallon sized monterey cypress trees would be planted along the easterly rear property line for visual screening purposes. (Please refer to Attachments 7 to 9.) Also included in the Design Review Clearance determination is the proposed installation of a wooden screen around two air conditioning units that are located on the roof of the adjoining garage.

BASES OF APPEAL:

The following bases for appeal were cited by Mr. Bruce Seltzer, owner of an adjoining property located at 485 Fawn Drive: (1) the patio cover results in an oversized secondary structure that exceeds the originally-approved plan, is contrary to previous County decisions, and would be visible from surrounding properties; (2) no public or community review was provided prior to the issuance of the Design Review Clearance approval; (3) construction commenced on the patio cover prior to issuance of a building permit; (4) other structures on the property, including the garage and pool house, have not been constructed in compliance with the original approvals; and (5) the development has resulted in construction impacts relating to roadway damage, inadequate erosion control, grading impacts, and violation of construction hours. (Please refer to Attachment 2.)

GENERAL INFORMATION:

Countywide Plan:	Planned Residential, Ridge and Upland Greenbelt (one unit per one to 10 acres)
Zoning:	RMP-1.0 (Residential Multiple Planned District, one unit per acre)
Lot size:	1.36 acres (per Assessor's records)
Adjacent Land Uses:	North: Sleepy Hollow/Terra Linda Open Space Preserve East, West, South: Single-family Residences
Vegetation:	Open grassy hillside with two clusters of oak and cedar trees
Topography and Slope:	Moderate to steep hillsides extending up from Fawn Drive at a slope of approximately 30%
Environmental Hazards:	None identified

ENVIRONMENTAL REVIEW:

The Environmental Coordinator has determined that this project is categorically exempt from the requirements of the California Environmental Quality Act pursuant to Section 15303, Class 3(e) of the CEQA Guidelines because the construction of a residential accessory structure would not result in potentially significant impacts on the environment.

PUBLIC NOTICE:

The Community Development Agency has provided public notice identifying the applicant, describing the project and its location, and giving the earliest possible decision date in accord with California Government Code requirements. This notice has been mailed to all property owners within 600 feet of the subject property. Staff has received three letters of concern from residents in the neighborhood. (Please refer to Attachments 12 to 14.)

PLAN CONSISTENCY:

The proposed project is generally consistent with the goals and policies of the Marin Countywide Plan. Please refer to the plan consistency findings contained in the attached resolution.

PROJECT ANALYSIS:

Background

The property was acquired by Peter and Sophie Pappas in early 1999. The applicant's first Design Review application consisted of a proposal to construct a 30-foot high, 8,324 square foot residence, an attached 1,456 square foot garage, and a 40-foot by 20-foot inground swimming pool below the residence and above Fawn Drive. It involved significant grading of approximately 6,700 cubic yards with excavation depths up to 19 feet. This application was considered and denied without prejudice by the Planning Commission on June 21, 1999 on grounds that the project is incompatible with the scale and character of the neighborhood and would require excessive grading.

Subsequent to the Planning Commission's decision, the applicant redesigned the project and submitted a proposal to construct a 26-foot high, 4,811 square foot residence, a 1,152 square foot garage, and a 36-foot by 18-foot inground swimming pool. In addition to the reduction to the size of the residence and garage, the swimming pool was relocated to the northerly side yard and the overall amount of grading was reduced to 2,100 cubic yards, of which 900 cubic yards would be retained on-site and 1,200 cubic yards exported. This proposal was approved by the Community Development Agency on September 8, 2000. The applicant subsequently submitted a Design Review Clearance application to construct a detached 12-foot high, 388 square foot weight room behind the approved residence and swimming pool, towards the northeasterly corner of the property. A Design Review Clearance was issued by the Community Development Agency approving the weight room on October 25, 2001.

In September 2003, the applicant submitted a Design Review amendment application seeking approval to expand the size of the residence to a 6,399 square foot structure with a 1,320 square foot garage below a new 80-foot by 40-foot level play area that would occupy the easterly rear yard of the property above the garage. On March 16, 2005, the Marin County Board of Supervisors upheld the Planning Commission's decision and denied the application.

On July 5, 2005, the applicant submitted a Design Review Clearance application for the current proposal seeking approval for the installation of a patio cover that would span the area in the rear yard of the property between the garage and the pool house, as described in the project description above. On July 8, 2005, the Community Development Agency staff issued a Design Review Clearance determination that approved the proposed work. (Please refer to Attachment 3.) On July 15, 2005, Bruce Seltzer, neighbor and owner of 485 Fawn Drive, filed the appeal of the Design Review Clearance.

Analysis of Application:

The proposed scope of work was found to be minor and incidental to the residential use of the property and within the intent and objectives for Design Review pursuant to Marin County Code Section 22.42.020.B.7. (Please refer to Attachment 3.) This determination was made based on the following findings:

1. The proposed patio cover and equipment screen are accessory to the primary single-family residential use of the property and allowed by the governing Residential Multiple Planned zoning district.
2. The proposed structures would be consistent with respect to style, building materials, and colors with the existing development on the property.
3. The patio cover would be constructed within the interior portion of the property, would attain a maximum height of 10 feet, 9 inches that is below the 15-foot height limit for an accessory structure, and would maintain adequate setbacks from all property lines.
4. No off-site visual impacts would result from the proposed construction because views of the patio cover uphill from Fawn Drive and surrounding properties would be screened by the residence and pool house. Views of the patio cover downhill from surrounding properties would be limited to the concrete roof and softened through the proposed landscape plantings.
5. The proposed work would not result in other off-site visual impacts relating to privacy or light conditions and may improve privacy conditions for the upsloping property located at 475 Fawn Drive (Robinson) by screening views of the patio area.
6. The proposed work would be located within an existing developed area, and thus would not result in any additional site grading, retaining wall construction, or tree removal.

Analysis of Appeal:

1. Visual Impact

The appellant asserts that the patio cover results in an oversized secondary structure that exceeds the originally-approved plan, is contrary to previous County decisions, and would be visible from surrounding properties.

As shown in Table 1 below, the property is approved for construction of a 4,811 square foot residence, 1,152 square foot garage, and 388 square foot pool house. The patio cover was not included in the original approved plans for the development and past decisions did not preclude this type of use or construction on the property. The current proposal qualifies for a Design Review Clearance because the patio cover would occupy a concrete patio area that is situated behind the residence within the rear yard of the property and below the line of sight for the closest uphill neighbor, and would be constructed with similar building materials and colors as the adjoining garage and pool house. Staff found that no significant off-site visual impacts would result based on the following factors: (1) views of the structure uphill from vantage points along Fawn Drive would be entirely or partially screened by other development components including the residence, garage, and pool house; (2) views of the structure from the side and from uphill vantage points would be comprised primarily of the concrete roof; and (3) views from the closest neighboring property to the east (475 Fawn Drive - Robinson) would consist of the concrete roof structure and softened by the existing vegetation and new landscaping consisting of a row of cypress trees that the applicant would plant along the common property line. (Please refer to Attachments 10a, 10b, and 10c.)

The structure maintains ample setbacks from the nearest property lines including 40 feet from the northerly side property line, 109 feet from the southerly side property line, and 24 feet from the nearest portion of the rear property line that is located to the east. The proposal does not include design features, such as fencing, railing, and/or sport facilities that qualify it as a sport court, which would require a public hearing Use Permit. Additionally, an analysis of the rear yard indicates that it is not of sufficient size to accommodate a tennis court (60 feet by 120 feet). (Please refer to Attachment 11.) Consequently, this basis of appeal cannot be supported.

**Table 1: Comparison of Project Characteristics
(465 Fawn Drive, San Anselmo)**

	1999 DR (Denied)	2000 DR (Approved)	2001 DC (Approved)	2003 Amend (Denied)	2005 DC
House Size	8,324 sq. ft.	4,811 sq. ft.	No change	6,399 sq. ft.	No change
Garage Size	1,456 sq. ft.	1,152 sq. ft.	No change	1,320 sq. ft.	No change
Pool House Size	0	0	388 sq. ft.	No change	No change
Patio Cover	0	0	0	0	1,166 sq. ft.
TOTAL BUILDING AREA	9,780 sq. ft.	5,963 sq. ft.	6,351 sq. ft.	8,100 sq. ft.	7,517 sq. ft.

DR = Design Review
DM = Design Review Amendment
DC = Design Review Clearance

2. Public Comment

The appellant asserts that the Design Review Clearance determination was made without public or community review. The Design Review Clearance review procedure is intended to provide a prompt decision to be made for certain minor projects without a public notice. The proposal qualified for a Design Review Clearance for the reasons discussed in the response to the first basis of appeal above. A copy of the determination was copied to the three neighbors who may be affected by the proposal as a courtesy.

3. Building Permit

The appellant asserts that the construction commenced on the patio cover prior to issuance of a Building Permit. Review of the Building and Safety Division records indicates that the Building Permit was issued on the same day as the Design Review Clearance determination. The permit was issued with the submittal of a letter from the applicant indicating that he would incur all risks associated with the any construction in furtherance of the Building Permit in the event an appeal was filed of the Design Review Clearance approval. (Please refer to Attachment 4.) Upon receipt of the appeal on July 15, 2005, the Building and Safety Division suspended the Building Permit and posted a stop work order on further construction of the patio cover pending resolution of the Design Review Clearance appeal. Consequently, the applicant does not have a vested right to the patio cover that was approved through the Design Review Clearance.

4. Non-compliance Issues

The appellant asserts that other structures, including the garage and pool house, have not been constructed in compliance with the original approvals. This basis of appeal is not within the scope of work for the Design Review Clearance determination. Nonetheless, the following provides a summary of the status of the construction to date on the property.

a. Residence

The residence is currently in substantial compliance with the original Design Review approval. Building and Safety Division staff has confirmed the structure's compliance with the approved building dimensions and maximum floor area. The finished floor elevations have been confirmed by a surveyor's certification. The structure has been inspected by the Building and Safety Division as being in compliance with the Building Permit.

b. Garage

The garage is currently in substantial compliance with the original Design Review approval. However, during an earlier phase of construction, the garage was found by the Building and Safety Inspection staff to have exceeded the approved length of 48 feet by 4.8 feet. That exceedance added 160 square feet to the 1,125 square foot garage. Subsequent modifications made to the structure have been reviewed by the Building and Safety Division staff and found to be in substantial compliance with the original approval. The structure has been inspected by the Building and Safety Division as being in compliance with the Building Permit.

c. Pool House

The pool house is currently in substantial compliance with the original Design Review Clearance approval. However, during an earlier phase of construction, this structure was found by the Building and Safety Division staff to have exceeded the approved width by 5 feet, 2 inches, which would add approximately 142 additional square feet to the approved floor area of 388 square feet. Subsequent modifications proposed by the applicant to resolve the violation were found by staff to be in substantial compliance with the original approval. The following modifications were found to be in substantial compliance with the original approval: (1) replacement of a sloped roof design with a flat roof, which reduced the overall building height from 12 feet to 10 feet, 9 inches; and (2) incorporation of a covered porch with an arched opening along the side that creates minimal additional mass and bulk to the structure. The garage has been inspected by the Building and Safety Division as being in compliance with the Building Permit.

5. Construction Impacts

The appellant asserts that the development has resulted in construction impacts relating to roadway damage, inadequate erosion control, grading impacts, and violation of construction hours. Although this basis of appeal is not within the scope of work for the Design Review Clearance determination, staff from the Department of Public Works is investigating these complaints and will report their findings at the public hearing.

Alternative to the Recommendation

In-lieu of the recommendation by staff to sustain the Community Development Agency's Design Review Clearance determination, the Planning Commission may take action to sustain the appeal and deny the Design Review Clearance.

Should the Planning Commission find that the scope of the proposed work does not qualify for a Design Review Clearance, the Commission would need to take action to sustain the appeal, deny the Design Review Clearance, and require the applicant to file a Minor Design Review application. The Commission will need to make findings that the project is not considered minor and incidental in nature and does not qualify as an improvement that is exempt from Design Review pursuant to Marin County Code Section 22.42.020.B. A Minor Design Review application would be subject to the processing and public notification requirements as set forth in Marin County Code Chapters 22.42 and 22.118 and the required Design Review findings contained in Marin County Code Sections 22.42.060 and 22.16.030.

Additionally, if the Planning Commission finds that the project cannot be approved as proposed through a Design Review Clearance or Minor Design Review, the Commission may give direction to the applicant to modify or redesign the project. Some possible measures to consider include: (1) reduction to the size of the covered patio structure in order to detach it from the garage and pool house; (2) replacing the steel framed construction with a wood-framed construction for the patio cover; (3) replacing the solid concrete roof for the patio cover with an open beam or latticed design; (4) requiring the submittal of a complete landscape plan with sufficient numbers and types of trees and shrubs for the area extending from the covered patio to the easterly rear property line; (5) requiring the area to the east of the patio cover and pool house to be backfilled with top soil to restore the pre-existing natural slope and to provide for a suitable base for the proposed cypress trees and any additional landscaping that may be necessary to create a landscape buffer from the adjoining property at 475 Fawn Drive; and/or (6) requiring the property owner to record a deed restriction that would run with the property and preclude the installation or conversion of the roof area occupying the patio cover, pool house, and garage into a tennis court or any type of sport court without approval from the County.

CONCLUSION:

The Community Development Agency found that the proposed project qualified for a Design Review Clearance. Although staff finds that the bases for appeal as set forth by the appellant could not be supported in its entirety, the appeal does raise certain legitimate issues relating to the development on this property, and the Planning Commission has the option to sustain the appeal and require the applicant to apply for a Minor Design Review.

RECOMMENDATION:

Staff recommends that the Planning Commission review the administrative record, conduct a public hearing, and move to adopt the attached resolution denying the appeal and sustaining the Community Development Agency's determination on the Design Review Clearance.

- Attachments:
1. Proposed Resolution Denying the Seltzer Appeal and Sustaining the Community Development Agency's Approval of the Pappas Design Review Clearance
 2. Petition for Appeal (received 7/15/05) and Bruce Seltzer Letters, (7/11/05, 7/11/05, 7/15/05)
 3. Community Development Agency Design Review Clearance, (7/8/05)
 4. Peter Pappas Memorandum, (7/8/05)
 5. Vicinity Map
 6. Assessor's Parcel Map
 7. Site Plan
 8. Elevation, Roof & Floor Plan
 9. Site Photos
 - 10a. Photos of views from 485 and 475 Fawn Drive
 - 10b. Photos of views from 5 and 33 Fox Lane
 - 10c. Photos of views from 400 Fawn Drive and Open Space
 11. Tennis Court Analysis
 12. Ernie Iaconetti Email, (7/12/05)
 13. Robin Robinson Letter, (7/23/05)
 14. Stella Der DeAngelis Letter, (7/24/05)

MARIN COUNTY PLANNING COMMISSION

RESOLUTION NO. _____

A RESOLUTION DENYING THE SELTZER APPEAL AND SUSTAINING THE COMMUNITY DEVELOPMENT AGENCY'S APPROVAL OF THE PAPPAS DESIGN REVIEW CLEARANCE (DC 06-3) 465 FAWN DRIVE, SAN ANSELMO ASSESSOR'S PARCEL 177-071-07

SECTION I: FINDINGS

- I. WHEREAS Peter and Sophie Pappas have submitted an application to install a 10-foot, 9-inch high patio cover in the rear yard of a property which is being developed with a residence, garage, pool house, and swimming pool. The proposed patio cover would span a distance of approximately 65 feet between the pool house and garage and would maintain a minimum setback of 24 feet from the nearest portion of the rear property line that is located to the east. In addition, the applicant proposes to install a wooden screen around two air conditioning units that are located on the roof of the adjoining garage. The following bases for appeal were cited: (1) the patio cover results in an oversized secondary structure that exceeds the originally-approved plan, is contrary to previous County decisions, and would be visible from surrounding properties; (2) no public or community review was provided; (3) construction commenced on the patio cover prior to issuance of a building permit; (4) other structures are not in compliance with the original approvals; and (5) the development has resulted in construction impacts relating to roadway damage, inadequate erosion control, grading impacts, and violation of construction hours. The subject property is located at **465 Fawn Drive, San Anselmo** and is further identified as **Assessor's Parcel 177-071-07**.
- II. WHEREAS on July 8, 2005, the Community Development Agency issued a determination that the proposed work qualifies for a Design Review Clearance pursuant to the requirements of Marin County Code Section 22.42.020.B.7.
- III. WHEREAS a timely appeal was filed by Bruce Seltzer, owner of adjoining property located at 485 Fawn Drive, on July 25, 2005. The following bases for appeal were cited: (1) the patio cover results in an oversized secondary structure that exceeds the originally-approved plan, is contrary to previous County decisions, and would be visible from surrounding properties; (2) no public or community review was provided prior to the issuance of the approval; (3) construction commenced on the patio cover prior to issuance of a building permit; (4) other structures on the property, including the garage and pool house, have not been constructed in compliance with the original approvals; and (5) the development has resulted in construction impacts relating to roadway damage, inadequate erosion control, grading impacts, and violation of construction hours.
- IV. WHEREAS the Marin County Planning Commission held a duly noticed public hearing on August 8, 2005, 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 the proposed project is Categorically Exempt from the requirements of the California Environmental Quality Act, per Section 15303, Class 3(e) because the construction of a building that is accessory to a single-family residence would not result in significant adverse environmental effects.
- VI. WHEREAS the Marin County Planning Commission finds that the proposed project is consistent with the Marin Countywide Plan for the following reasons.

- A. The project would be consistent with the PR (Planned Residential, one unit per one to 10 acres) land use designation.
- B. The project would comply with Marin County standards for flood control, geotechnical engineering, and seismic safety, and include improvements to protect lives and property from hazard;
- C. The project would comply with governing development standards related to roadway construction, parking, grading, drainage, flood control and utility improvements as verified by the Department of Public Works; and
- D. The project would not cause significant adverse impacts on water supply, fire protection, waste disposal, schools, traffic and circulation, or other services.

VII. WHEREAS the Marin County Planning Commission finds that findings for a Design Review Clearance can be made for the proposed project pursuant to Marin County Code Section 22.42.020.B.7.

The proposed work is minor and incidental to the residential use of the property and within the intent and objectives for Design Review, based on the following findings:

- A. The proposed patio cover and equipment screening are accessory to the primary single-family residential use of the property and allowed by the governing Residential Multiple Planned zoning district.
- B. The proposed structures would be consistent with respect to style, building materials, and colors with the existing development on the property.
- C. The patio cover would be constructed within the interior portion of the property, would attain a maximum height of 10 feet, 9 inches that is below the 15-foot height limit for an accessory structure, and would maintain adequate setbacks from all property lines.
- D. No off-site visual impacts would result from the proposed construction because downhill views of the patio cover from Fawn Drive and surrounding properties would be screened by the residence and pool house. Uphill views of the patio cover would be limited to the concrete roof and softened through the proposed landscape plantings.
- E. The proposed work would not result in other off-site visual impacts relating to privacy or light conditions and may improve privacy conditions for the upsloping property by screening views of the patio area.
- F. The proposed work would be located within an existing developed area, and thus would not result in any site grading, retaining wall construction, or tree removal.
- G. Overall, the project is consistent with the intent of Chapter 22.42 (Design Review) of the Marin County Code.

VIII. WHEREAS the Marin County Planning Commission finds that the bases for appeal cannot be sustained based on the following reasons.

- A. The appellant asserts that the patio cover results in an oversized secondary structure that exceeds the originally-approved plan, is contrary to previous County decisions, and would be visible from surrounding properties. The property is approved for construction of a 4,811 square foot residence, 1,152 square foot garage, and 388 square foot pool house. The patio cover was not included in the

original approved plans for the development and past decisions did not preclude this type of use or construction on the property. The current proposal qualifies for a Design Review Clearance because the patio cover would occupy a concrete patio area that is situated behind the residence within the rear yard of the property and below the line of sight for the closest uphill neighbor, and would be constructed with similar building materials and colors as the adjoining garage and pool house. Staff found that no significant off-site visual impacts would result based on the following factors: (1) views of the structure uphill from vantage points along Fawn Drive would be entirely or partially screened by other development components including the residence, garage, and pool house; (2) views of the structure from the side and from uphill vantage points would be comprised primarily of the concrete roof; and (3) views from the closest neighboring property to the east (475 Fawn Drive - Robinson) would consist of the concrete roof structure and softened by the existing vegetation and new landscaping consisting of a row of cypress trees that the applicant would plant along the common property line.

The structure maintains ample setbacks from the nearest property lines including 40 feet from the northerly side property line, 109 feet from the southerly side property line, and 24 feet from the nearest portion of the rear property line that is located to the east. The proposal does not include design features, such as fencing, railing, and/or sport facilities that qualify it as a sport court, which would require a public hearing Use Permit. Additionally, an analysis of the rear yard indicates that it is not of sufficient size to accommodate a tennis court (60 feet by 120 feet). Consequently, this basis of appeal cannot be supported.

- B. The appellant asserts that the Design Review Clearance determination was made without public or community review. The Design Review Clearance review procedure is intended to provide a prompt decision to be made for certain minor projects without a public notice. The proposal qualified for a Design Review Clearance for the reasons discussed in the response to the first basis of appeal above. A copy of the determination was copied to the three neighbors who may be affected by the proposal as a courtesy.
- C. The appellant asserts that the construction commenced on the patio cover prior to issuance of a Building Permit. Review of the Building and Safety Division records indicates that the Building Permit was issued on the same day as the Design Review Clearance determination. The permit was issued with the submittal of a letter from the applicant indicating that he would incur all risks associated with the any construction in furtherance of the Building Permit in the event an appeal was filed of the Design Review Clearance approval. Upon receipt of the appeal on July 15, 2005, the Building and Safety Division suspended the Building Permit and posted a stop work order on further construction of the patio cover pending resolution of the Design Review Clearance appeal. Consequently, the applicant does not have a vested right to the patio cover that was approved through the Design Review Clearance.
- D. The appellant asserts that other structures, including the garage and pool house, have not been constructed in compliance with the original approvals. This basis of appeal is not within the scope of work for the Design Review Clearance determination. Nonetheless, the following provides a summary of the status of the construction to date on the property.

- 1. Residence

The residence is currently in substantial compliance with the original Design Review approval. Building and Safety Division staff has confirmed the structure's compliance with the approved building dimensions and maximum floor area. The finished floor elevations have been confirmed by a surveyor's certification. The structure has been inspected by the Building and Safety Division as being in compliance with the Building Permit.

- 2. Garage

The garage is currently in substantial compliance with the original Design Review approval. However, during an earlier phase of construction, the garage was found by the Building and Safety Inspection staff to have exceeded the approved length of 48 feet by 4.8 feet. That exceedance added 160 square feet to the 1,125 square foot garage. Subsequent modifications made to the structure have been reviewed by the Building and Safety Division staff and found to be in substantial compliance with the original approval. The structure has been inspected by the Building and Safety Division as being in compliance with the Building Permit.

3. Pool House

The pool house is currently in substantial compliance with the original Design Review Clearance approval. However, during an earlier phase of construction, this structure was found by the Building and Safety Division staff to have exceeded the approved width by 5 feet, 2 inches, which would add approximately 142 additional square feet to the approved floor area of 388 square feet. Subsequent modifications proposed by the applicant to resolve the violation were found by staff to be in substantial compliance with the original approval. The following modifications were found to be in substantial compliance with the original approval: (1) replacement of a sloped roof design with a flat roof, which reduced the overall building height from 12 feet to 10 feet, 9 inches; and (2) incorporation of a covered porch with an arched opening along the side that creates minimal additional mass and bulk to the structure. The garage has been inspected by the Building and Safety Division as being in compliance with the Building Permit.

SECTION II: ACTION

NOW, THEREFORE BE IT FURTHER RESOLVED that the Marin County Planning Commission hereby denies the Seltzer appeal and sustains the Community Development Agency's determination that the proposed work qualifies for a Design Review Clearance and is exempt from the Design Review requirements of Marin County Code pursuant to Section 22.42.020.B.7.

SECTION III: APPEAL RIGHTS

NOW, THEREFORE BE IT RESOLVED that this decision is final unless appealed to the Marin County Board of Supervisors. A Petition for Appeal and a \$700.00 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 18, 2005.**

SECTION IV: VOTE

PASSED AND ADOPTED at a regular meeting of the Planning Commission of the County of Marin, State of California, on the 8th day of August, 2005, by the following vote to wit:

AYES:

NOES:

ABSENT:

STEVE C. THOMPSON, CHAIRMAN
MARIN COUNTY PLANNING COMMISSION

Attest:

Jessica Woods
Recording Secretary