


**STAFF REPORT TO THE MARIN COUNTY
PLANNING COMMISSION
Marmor Appeal of the Rushworth Design Review**

Recommendation: Deny the Appeal and approve the project
Hearing Date: June 13, 2022

Application No(s):	P3173	Owner(s):	John and Teresa Rushworth
Agenda Item:	4	Assessor's Parcel No(s):	186-141-03
Last Date for Action:	N/A	Property Address:	Vacant lot on Pt. San Pedro Road, San Rafael
		Project Planner:	Immanuel Bereket (415)473-2755 lbereket@marincounty.org
		Signature:	
Countywide Plan Designation:	SF6 (Residential, Single-family, 4-7 units per 1 acre)		
Community Plan Area:	N/A		
Zoning District:	BFC-RSP-7.26 (Bay Front Conservation, Residential, Single-family Planned)		
Environmental Determination:	Exempt per CEQA Guidelines section 15303, Class 3		

PROJECT SUMMARY

The applicant requests Design Review approval to construct a 2,511 square-foot single-family residence with an enclosed 808 square-foot understory (non-habitable) and an attached 535 square-foot garage on a vacant lot in South San Rafael. The proposed development would result in a building area of 3,854 square feet, a floor area of 3,319 square feet, and a floor area ratio (FAR) of 48 percent on the 6,959 square-foot lot. The proposed building would reach a maximum height of 29 feet, ten ¾ inches above the surrounding grade, and the exterior walls would have the following setbacks: 15 feet from the northwestern front property line; five feet from the northeastern side property line; five feet, three inches from the southwestern side property line; and 64 feet, seven inches from the southeast rear property line. Various site improvements would also be entailed in the proposed development, including a driveway, new landscaping, and various general site improvements to accommodate the proposed project.

Design Review approval is required because the project involves the construction of a new structure in a planned development district, under Marin County Code Section 22.42.020(A).

PROJECT SETTING

Characteristics of the site and surrounding area are summarized below:

Lot Area:	6,659 square foot lot
Adjacent Land Uses:	Single-family residences
Topography and Slope:	9.87 percent slope
Existing Vegetation:	The site contains a mature Live Oak tree classified as a protected tree under the Marin County Code Chapter 22.27 (Native Tree Protection and Preservation), and primarily non-native and invasive species such as wild oat (<i>Avena fatua</i>), rip-gut brome (<i>Bromus diandrus</i>), Italian thistle (<i>Carduus pycnocephalus</i>), Cape ivy (<i>Delairea odorata</i>), French broom (<i>Genista monspessulana</i>), sourgrass (<i>Oxalis pre-capris</i>), red-stem filaree (<i>Erodium cicutarium</i>), Bermuda grass (<i>Cynodon dactylon</i>), sweet fennel (<i>Foeniculum vulgare</i>), Italian ryegrass (<i>Festuca perennis</i>), soft chess (<i>Bromus hordeaceus</i>), foxtail barley (<i>Hordeum murinum leporinum</i>), medusahead (<i>Elymus caput-medusae</i>), scarlet pimpernel (<i>Anagallis arvensis</i>), cut-leaf geranium (<i>Geranium dissectum</i>), Himalaya berry (<i>Rubus armeniacus</i>), poison hemlock (<i>Conium maculatum</i>) and a number of small blackwood acacia trees (<i>Acacia melanoxyton</i>), among others.
Environmental Hazards:	The project site is located in the Moderate Fire risk zone, and no seismically active fault crosses the project site or is in proximity to the site.

The project site is located in an unincorporated area in south San Rafael, California. The 6,659 square-foot (0.16-acre) lot slopes downward to the south from Point San Pedro Road and towards the salt marsh located just beyond the site's southern boundary. The wetland located south of the subject parcel is a managed tidal salt marsh and is roughly enclosed by Beach Drive, Oak Drive, and Point San Pedro Road and is separated from the Bay by Beach Drive. The marsh is connected to the Bay only through a pipe under Beach Drive equipped with a flap gate that can be secured in an open or closed position. Tidal flows are managed by manually opening or closing the flap gate. The flap gate can allow managed tidal flows into the marsh, prevent backflow into the salt marsh during incoming tides, or allow water to flow into the Bay during storm events.

BACKGROUND

The application was submitted on May 20, 2021. Upon receipt, the application was transmitted to the Department of Public Works (DPW), the San Rafael Sanitation District, the Bay Conservation and Development Commission (BCDC), Marin Municipal Water District, and the application material was posted online for review. A site visit was made on May 26, 2021, and a project notice was installed the same day.

On June 17, 2021, the application was deemed incomplete and, upon the applicant's request, a 60-day extension was granted on July 10, 2021. On September 7, 2021, the applicant submitted the requested materials, including an additional Biological Site Assessment, boundary and topographical survey, story-pole, and other materials in support of the project. On September 10, 2022, the application was deemed incomplete for clarifications regarding sewer lateral connection and comments submitted by the San Rafael Sanitary District. Once the applicant submitted a will-serve letter from the application on September 21, 2021, the application was deemed complete on October 18, 2022. The application was forwarded to the Environmental Planning Division for

review. Upon reviewing the project file, the different Biological Site Assessments prepared by the applicant and the appellant, and the other technical studies, the Environmental Planning Division determined that the application qualifies for Categorical Exemption.

In response to a Notice and Referral of Planning Application for Design Review application that was published on November 1, 2021, the County received multiple communications from neighboring residents who raised objections to the project. The objections and concerns raised by the neighbors relate to possible encroachment into the wetlands, the project's impacts on wildlife habitat and vegetation, the size and bulk of the proposed project, impacts on an Oak tree present on the site, and overall neighborhood compatibility. In addition to these objections, the adjacent neighbor to the northeast at 732 Pt. San Pedro Road objected to the proposed project based on its purported impacts on views, privacy, and access to sunlight. Siegel Environmental, LLC., on the behest of the neighbors at 732 Pt. San Pedro Road, reviewed and questioned the conclusions of a Biological Site Assessment (BSA) prepared by Huffman Broadway Associates Inc., dated August 2021, for the proposed project. The issues raised by the neighbors are addressed in detail in the administrative Design Review Decision the Planning Division issued on March 22, 2022. The Planning Department's decision is provided as Attachment No. 6 to this report.

RECOMMENDATION

Staff recommends the Planning Commission review the administrative record, conduct a public hearing, and deny the Appeal and sustain the Rushworth Design Review Decision conditionally approving the Rushworth Design Review, based on the findings and subject to the conditions contained in the attached resolution.

Attachments:

1. Recommended resolution
2. Uniformly Applicable Standards 2022
3. CEQA Exemption
4. Appeal Petition
5. Applicant's response to the appeal petition
6. Rushworth Design Review Administrative Decision
7. Department of Public Works, Land Development Division, Inter-Office memorandum dated September 24, 2021
8. San Rafael Sanitary District memorandum dated July 8, 2021, and November 16, 2021
9. Correspondence
10. Exhibit A - Project plans

MARIN COUNTY PLANNING COMMISSION

RESOLUTION NO. _____

A RESOLUTION DENYING THE MARMOR APPEAL OF THE RUSHWORTH DESIGN REVIEW

VACANT LOT ON POINT SAN PEDRO ROAD, SAN RAFAEL
ASSESSOR'S PARCEL: 186-141-03

SECTION I: FINDINGS

1. **WHEREAS**, John Wright, on behalf of the property owners, requests a Design Review approval to construct a new 2,511 square-foot single-family residence with an enclosed 808 square-foot understory and an attached 535 square-foot garage on a vacant lot in South San Rafael. The 3,854 square feet of approved development shall result in a floor area ratio of 48 percent on the 6,959 square foot lot. The approved building shall reach a maximum height of 29 feet, ten 3/4 inches feet above the surrounding grade, and the exterior walls shall have the following setbacks: 15 feet from the northwestern front property line; five feet from the northeastern side property line; five feet, three inches from the southwestern side property lines; and 64 feet, seven inches from the southeast rear property line. Various site improvements would also be entailed in the proposed development, including a driveway, new landscaping, and various general site improvements to accommodate the proposed project.

The property is located on a vacant lot on Point San Pedro Road, San Rafael, and is further identified as Assessor's Parcel 186-141-03.

2. **WHEREAS**, on March 22, 2022, the Marin County Planning Division approved the project.

3. **WHEREAS**, on March 31, 2022, Bonita Marmor submitted a timely appeal of the Rushworth Design Review approval.

4. **WHEREAS**, on June 13, 2022, the Marin County Planning Commission held a duly noticed public hearing to take public testimony, consider the project, and upheld the Deputy Zoning Administrator's decision.

5. **WHEREAS**, the bases of appeal are insufficient to overturn the Planning Division's decision, for the reasons discussed below.

A. The appellant asserts that the proposed development fails to conform to County Design Review Guidelines because, contrary to the conclusions stated in the Administrative Decision, the architectural design, massing, and scale are incompatible with the site surroundings and the community.

Response:

In this appeal point, the Appellant argues that the proposed house is too big for the site and conflicts with Design Review Guidelines.

The project site is zoned BFC-RSP (Bay Front Conservation, Residential, Single-family Planned). The RSP zoning district is intended for areas suitable for single-family residential development in a suburban setting and similar and compatible uses. Quantifiable development standards such as minimum lot size, setbacks, and floor area ratio (FAR) are established through a Master Plan or Design Review process, whichever is applicable. Additionally, the BFC zoning district is an overlay zone intended to, amongst other goals, prevent further destruction or deterioration of habitat and environmental resources and to preserve public access to the bayfront and view corridors to the bayfront. Because developments in the BFC-RSP zone are reviewed and approved case-by-case basis, building placement, size, mass, and design vary.

The project site is located on the bayside of Pt. San Pedro Road, between Beach Drive to the southwest and Marine Drive to the west. In this portion of Pt. San Pedro Road, the project site is the only vacant land, while the rest of the block is developed with detached single-family residences with varying sizes, bulks, masses, setbacks, heights, architectural styles, color and material, and distances from the marshland to the south.

When viewed from Pt. San Pedro Road, most of the residences on the bayside appear as single-story structures because they are built against the hillside below, except for two properties at 738 and 740 Pt. San Pedro Road, which feature habitable spaces above the garages. Some residences further to the east are not visible from Pt. San Pedro Road because those houses are built at a lower elevation, and a six-foot fence along the public rights-of-way blocks those developments from view. When viewed from the bayside, all the developments appear to be either two- or three-story buildings. The proposed project would not be the first two-story development facing Pt. San Pedro Road and would be consistent with the most recent developments on this portion of Pt. San Pedro Road at 738 and 740 Pt. San Pedro Road. The project would be consistent with the neighborhood development pattern.

The Appellant does not identify which development Standards or Design Guidelines the project violates and provides no evidence to substantiate the claim.

B. The appellant asserts that the project encroaches into the Wetland Conservation Area (WCA) in violation of the Marin Countywide Plan policies.

Response:

In this appeal point, the Appellant argues that further biological site assessment must be conducted, the Army Corps of Engineers must validate that the wetland

limits identified by the applicant's consultants and the proposed project's encroachment into the WCA violate the CWP policies.

As documented in the Planning Division's decision to approve the project, the applicant submitted a Biological Site Assessment (BSA) prepared by Huffman Broadway Associates Inc., dated May 2021. In response to staff's request to identify the extent of the Mean High Tide and response to comments submitted by Siegel Environmental, LLC., who were commissioned by the Appellant to review the BSA, the applicant submitted an Addendum BSA dated December 17, 2021. The Addendum BSA concluded that Mean High Tide (MHT), sometimes referred to as Mean High Water (MHW), is located over 25 feet outside the subject parcel, whereas the Appellant's consultant did not identify the location of the MHT/MHW. Whereas the applicants' biologist determined that MHT/MHW limit to be slightly under six feet NAVD-88, the Appellant's biologist concluded that the MHT/MHW is 6.04 feet NAVD-88. In any event, the peak high tide limit is not relevant to the measurement of the 100-ft WCA buffer zone. The 100-ft buffer zone is established by a biologist based on a site inspection and line of tidal highest tidal action (as applied by the Bay Conservation and Development District). In this case, the Appellant's consultants have not submitted a site-specific analysis to refute the determinations made by Huffman Broadway Associates Inc.

The application proposes to encroach into the 100-ft WCA buffer zone by four feet (for a drilled-pier foundation to support the residence) and nine feet (shallow foundations to support the proposed deck). A lateral sewer connection will connect to a sewer main running along Beach Road through a proposed easement by the adjacent property owner on the west side of the parcel. The rest of the proposed development would be located outside of the 100-ft WCA buffer zone. Other improvements within the WCA buffer zone involve the removal of non-native species, including invasive species such as ice-plant and pampas grass, and vegetation with native species, thereby providing an improved quality of wildlife habitat.

The CWP Policy BIO-3.1(4) permits minor encroachments into the buffer zone where biological site assessments demonstrate that minimal incursion within the minimum WCA setback distance would not result in any significant adverse direct or indirect impacts on wetlands. The proposed encroachments would occur in the upper limits of the wetland buffer zone, and these minor incursions into the upper limits of the wetland buffer zone would not result in any direct or indirect biological impacts to the salt marsh located on the adjacent property. This conclusion is supported by several biological site assessment studies completed by Huffman Broadway Associates Inc., (dated August 21, December 2021, and February 2022). Neither the Appellant nor Siegel Environmental, LLC., provided any documentation to contradict the conclusions reached by Huffman Broadway Associates Inc. Additionally, nothing in the record substantiates the claim that the proposed encroachments would be contrary to the Countywide plan policies or result in environmental impacts. The proposed encroachments would be similar to other developed properties in this area.

C. The appellant asserts that the project must go through CEQA (California Environmental Quality Act) review even if it otherwise qualifies for a categorical exemption because it is subject to several of the exceptions to the exemption relied upon by the County.

Response:

In this appeal point, the Appellant argues that the proposed project is ineligible for a categorical exemption from CEQA.

The project is categorically exempt from the provisions of the California Environmental Quality Act (CEQA, Public Resources Code §21000, et seq., and California Code of Regulations, §15000, et seq.) under Section 15303(A) of the State CEQA Guidelines ("New Construction or Conversion of Small Structures") - as the project falls squarely within the requirements for this exemption, as demonstrated by substantial evidence in the record and explained below.

CEQA and its implementing regulations (the State CEQA Guidelines) establish a three-tier process for assessing the environmental impact of proposed activities (See Guidelines, § 15002, subd. (k)):

When a lead agency finds a project approval to be categorically exempt from CEQA, this determination at the initial step of CEQA's multi-tiered process *necessarily includes an implied finding* that none of the exceptions listed in the State CEQA Guidelines Section 15300.2 are applicable. A party challenging an agency's categorical exemption determination on the basis that the "unusual circumstances" exception applies generally has the burden to show both (1) unusual circumstances (i.e., the project has some feature distinguishing it from others in the exempt class, such as size or location), and (2) "a reasonable possibility of a significant effect [on the environment] due to [those] unusual circumstance[s]." (*Berkeley Hillside Preservation v. City of Berkeley* (2015) 60 Cal.4th 1086, 1105, 1115.) This burden fails to be met, as the Appellant does not (1) provide any evidence that the project will have a significant effect on the environment nor (2) prove both the presence of unusual circumstances and a significant environmental effect would occur due to the project.

Furthermore, the project does not trigger any of the other exceptions in State CEQA Guidelines Section 15300.2. Neither the project site nor any of the adjacent properties are listed in the California Register of Historical Resources or in the National Register of Historic Places. There are no designated scenic highways adjacent to the project site and the project site is not located on a hazardous waste site list compiled under Government Code Section 65962.5. The County's standard practice is that the 100-ft WCA buffer are not necessarily to be a "particularly sensitive environment where the project may impact on an environmental resource of hazardous or critical concern where designated, precisely mapped and officially adopted pursuant to law." The CWP polices permit minor encroachments into the 100-ft WCA is permitted where biological site

assessments conclusively demonstrate no impacts to environmental resources would occur due to the project. Therefore, the location exception under State CEQA Guidelines Section 15300.2(a) does not apply to the current project. Therefore, none of the exceptions to the use of categorical exemptions in State CEQA Guidelines Section 15300.2 apply to the proposed project. Substantial evidence based on the whole of the record supports the exemption determination.

D. The appellant asserts that the radical pruning of the existing Heritage size Coastal Live Oak required to allow for the size and siting of the residence jeopardizes the tree's survival and puts at risk the biodiversity that thrives in and around the tree.

Response:

In this appeal point, the Appellant argues that aggressive and damaging pruning will be required to accommodate the proposed residence, compromising the tree's survival and the wildlife it supports.

As detailed in the Planning Division's administrative decision, the project site contains a mature Coast Live Oak tree, classified as a protected tree under the Marin County Code Chapter 22.27 (Native Tree Protection and Preservation). As part of the application packet, the applicant submitted an arborist report prepared by Urban Forestry Associates, Inc., dated May 2021. The arborist report, which was prepared before the story-poles were installed, recommended tree protection measures that the contractor must follow. Once story-poles were installed, Urban Forestry Associated, Inc., revisited the site and issued a Supplemental Arborist Report, dated April 19, 2022. The Supplemental Arborist Report recommended that the three-foot roof overhang should be reduced to a one-foot overhang to ensure the tree's long-term survival, while it reiterated the tree protection measures previously recommended. The Appellant has provided no evidence or expert reports to substantiate their assertion or to contradict the conclusions reached and the recommendations made by Urban Forestry Associated, Inc.

E. The appellant asserts that the project infringes upon the views, air, light and privacy currently enjoyed by the surrounding neighbors.

Response:

In this appeal point, the Appellant argues that the proposed project is inconsistent with CWP policies related to views, light, air and privacy.

Views: Depending on a vista point, available views are both immediate and distant in nature, including a view of San Rafael Bay, the San Rafael Bridge, distant cities, distinctive geologic features such as the East and West Marin Islands, Marin Islands National Wildlife Refuge, hillside terrain, wooded canyons, ridges or bodies of water.

Although the project will alter views to the site from offsite locations as the proposed building will be visible from Pt. San Pedro Road, the project is designed in compliance with CWP Implementing Program DES-4.a because the project would not impact scenic public vista points or view corridors. The project also complies with CWP Program DES-4.c because the project will result in a building oriented and sited to minimize potential visual effects to adjoining neighbors, including locating the tallest portion of the building (the upper floor) recessed at least 10 feet from each side of property lines. Further, CWP Implementing Program DES-4.b, DES-4.d, DES-4.e, and DES-4.f do not apply in this case because the project is not located near a visually prominent ridgelines, does not involve the construction of a public facility, and is not near a designated scenic highway.

Light and Air: The proposed residence has been sited, planned, and designed to cause the least intrusion on light and air currently enjoyed by the neighboring properties in the vicinity because, as proposed, the tallest portion of the building (the upper floor) recessed at least 10 feet from each side of property lines, which aims to preserve views from the interior of the adjacent properties. The proposed setbacks are typical for an area considered an urban environment where developments maintain no more than five feet setback from their respective property lines.

Privacy Concerns: As depicted in Sheet A5.1 of the project plans, the project includes three windows at the main level and two windows on the upper floor facing this neighbor. Two of the three windows on the main level would be inoperable and installed at a high sill height (six feet, two inches) above the finished floor. One would be located in the garage, while the second would be placed in the living room. Neither one would provide a clear line of sight to the neighboring property. The third window at this level would be installed in the kitchen, above the sink, and face the neighbor's wall. Further, one of the two windows on the upper floor would be inoperable and installed at a high sill height (six feet, two inches) above the finished floor. The second window on the upper level would face primarily the street and partially in the Appellant's direction (garage roof). Therefore, neither of the two windows on the upper floor would provide a clear line of sight or cause a substantial adverse impact upon the privacy of other properties, including the adjacent neighbor.

6. **WHEREAS**, the project is Categorically Exempt from the requirements of the California Environmental Quality Act (CEQA) pursuant to Section 15303, Class 3 of the CEQA Guidelines because it entails the construction of a new house on a vacant lot located on an urban environment and would not have significant impacts on the environment.

7. **WHEREAS**, the project is consistent with the goals and policies of the Marin Countywide Plan for the following reasons:

- A. The project is consistent with the CWP woodland preservation policy (BIO-1.3) because the project would not entail the irreplaceable removal of a substantial

number of mature, native trees. As documented in the Arborist Report, prepared by Urban Forestry Associated Inc., dated May 2021, the project site contains a mature Coast live oak tree classified as a protected tree under the Marin County Code Chapter 22.27 (Native Tree Protection and Preservation). This tree will remain, and tree protection measures will be implemented during the construction phase. Additionally, as documented in the Biological Site Assessment reports prepared by Huffman-Broadway Group, Inc., dated May 2021, December 2021, and February 2022, the project includes the removal of non-native vegetation such as ice plants and pampas grass and replacement with native shrubs and grasses. Therefore, the construction of the proposed project will not result in the irreplaceable removal of protected trees because the project proposes the removal of non-native vegetation and replacement with native vegetation and protection for the existing Live Oak tree.

- B.** The project is consistent with the CWP special-status species protection policy (BIO-2.2) because the subject property does not provide habitat for special-status species of plants or animals. As documented in the biological site assessment reports prepared by Huffman-Broadway Group, Inc., dated May 2021, no special-status plant or wildlife species or sensitive habitats were found on the project site. This conclusion was supported by a further review conducted by Rana Resources, on behalf of the applicant, in a memorandum dated February 6, 2022. Therefore, the construction of the proposed project will not impact special-status plants or wildlife species or any sensitive habitats.

Further, the project is consistent with the CWP special-status species protection policy (BIO-2.2) because the subject property does not provide habitat for special-status species of plants or animals. Because the project is proposed to occur away from the WCA, at the upper elevation of the property adjacent to Point San Pedro Road, the project would not cause impacts to biological resources, including special-status species, as long as the applicant follows Best Management Practices to control erosion and sedimentation.

- C.** The project is consistent with the CWP natural transition and connection policies (BIO 2.3) because the project would not substantially alter the margins along riparian corridors, wetlands, baylands, or woodlands. As illustrated in Sheet A.02 of the project plans, the pier foundation for the structure would be 96 feet away from the edge of the wetlands. The posts supporting the attached deck will be 75 feet or more away from the edge of the wetlands. The deck would overhang the area of the WCA by about 12 feet and would shade vegetation in and around the gravel directly beneath the deck. Under Bio 3(4), page 2.4-17 of the CWP, incursions into the WCA may be permitted if a BSA demonstrates that minimal incursion within the WCA would not result in any significant adverse direct or indirect impacts on wetlands.
- D.** The BSA demonstrates that the project would not adversely impact the wetland and meets the exceptions listed in Biological Policy 3.1. Implementing best management practices (BMPs) will protect sensitive biological resources.

- E.** The project is consistent with the CWP protection of wetland policies (BIO 3.1) because the proposed four feet (for a drilled-pier foundation to support the residence) and nine feet (shallow foundations to support the proposed deck) encroachments into the required 100-foot buffer zone would not result in significant direct or indirect impacts to biological resources. Policy BIO-3.1(4) permits minor encroachments into the buffer zone where a site assessment demonstrates that minimal incursion within the minimum WCA setback distance would not result in any significant adverse direct or indirect impacts on wetlands.
- F.** The remaining portions of the property beyond the proposed house and associated deck area are locations within the 100-foot wetland setback currently vegetated with non-native species, including invasive species such as ice-plant and pampas grass. The proposed landscape plans would remove non-native vegetation and restore the site with native vegetation, thereby providing an improved quality of wildlife habitat.
- G.** The applicant prepared and submitted a Biological Site Assessment (BSA), prepared by Hoffman-Broadway Group, Inc. and dated May 2021. According to the study, the nearest edge of the salt marsh wetland is located 9 feet beyond the southern border of the project site, and the 100-foot buffer zone extends inland approximately 91 feet onto the subject property. The proposed encroachments would occur in the upper limits of the wetland buffer zone, and these minor incursions into the upper limits of the wetland buffer zone would not result in significant direct or indirect biological impacts to the salt marsh located on the adjacent property.
- H.** The project qualifies for the exception provided in Policy BIO-3.1(4) because the biological site assessments demonstrate that the minor incursions into the upper limits of the wetland buffer zone would not result in significant direct or indirect biological impacts to the salt marshland located offsite, adjacent project site. Additionally, nothing in the record substantiates the claim that the proposed encroachments would be contrary to the Countywide plan policies or result in environmental impacts. The proposed encroachments would be similar to other developed properties in this area.
- I.** The project is consistent with the CWP special-status species protection policy (BIO-5.1) because the property boundary is approximately 15 linear feet beyond the recommended 10 feet landward of mean high tide, resulting in a buffer area of 25 linear feet landward of mean high tide. Countywide Plan policy BIO-5.1 uses the following criteria to evaluate proposed development projects that may impact the Baylands Corridor:

For small parcels (2 acres or less in size), encourage property owners where suitable habitat exists to preserve up to 10 feet landward of mean high tide as a species refuge area for high water events. Site constraints, opportunities for avoidance of sensitive biological resources, and options for alternative mitigation, may also be considered.

As documented in BSA Addendum prepared by Huffman-Broadway Group, Inc., dated December 17, 2021, the study located 10 feet landward of mean high tide elevation to be 6 feet NAVD-88. Based on Mean High Tide (MHT) and Mean High Water (MHW) measurements, the property boundary is approximately 15 linear feet beyond the recommended ten linear foot distance outlined in Marin Countywide Plan policy *BIO-5.1* for a total buffer of 25 linear feet. Therefore, the project will be in full compliance with Countywide Plan Bio-5.1.

- J. The project is consistent with CWP water quality policies and would not result in substantial soil erosion or discharge of sediments or pollutants into surface runoff (WR-1.3, WR-2.2, WR-2.3) because the grading and drainage improvements would comply with the Marin County standards and best management practices required by the Department of Public Works.
 - K. The project is consistent with CWP seismic hazard policies (CWP Policies EH-2.1, EH-2.3, and CD-2.8) because it would be constructed in conformance with County earthquake standards, as verified during the review of the Building Permit application, and the subject property is not constrained by unusual geotechnical problems, such as existing fault traces.
 - L. The project is consistent with CWP fire hazard management policies (EH-4.1, EH-4.2, EH-4.5) because it would meet all fire safety requirements, as verified by the local fire protection district during the review of the Building Permit application.
 - M. The project is consistent with CWP aesthetic policies and programs (DES-4.1 and DES-4.e) because it would protect scenic quality and views of ridgelines and the natural environment from adverse impacts related to development. The project site is not located within a Ridge and Upland Greenbelt Area. Any further potential visual impacts to the Project site are addressed through compliance with Chapter 22.26.040 of the Marin County Code, the Single-Family Residential Design Guidelines, and the mandatory findings for Design Review approval.
 - N. The project is consistent with CWP residential design policies and programs (DES-3.b and DES-4c) because it would fit within the neighborhood context, minimize the perception of mass and bulk, and comply with the Single-family Residential Design Guidelines. Given that the project provides a minimum of five-foot side yard setbacks at the main level and a minimum of seven-foot side yard setbacks at the upper level, the house's design fits as closely as possible with the intent behind the Single-family Residential Design Guidelines.
8. **WHEREAS**, the project is consistent with the Mandatory Findings for Design Review (Marin County Code Section 22.42.060).
- A. The proposed amendment complies with the Single-family Design Guidelines, as applicable, the characteristics listed in Chapter 22.16 (Discretionary Development Standards) and 22.32.168 (Tidelands), as well as any applicable**

standards of the special purpose combining districts provided in Chapter 22.14 of this Development Code.

There are no standards provided in Chapter 22.14 that apply to the project. The project, as conditionally approved, is consistent with the Design Guidelines and Discretionary Development Standards because it is designed to avoid adversely affecting natural resources or the character of the local community. The proposed amendment's consistency with the standards and guidelines most pertinent to the subject property is discussed below.

SITE PREPARATION: Development Standards J.1 through J.6; Design Guidelines A-1.2 through A-1.4

Due to the sloped lot and in an effort to limit the amount of ground disturbance, the applicant has proposed a site plan that locates the proposed home on the highest elevation of the site, resulting in 85 cubic yards of fill and 40 cubic yards. As a result, the project would retain the site's natural features and avoid the disturbance of sensitive resources. The applicant has submitted a "Geotechnical Investigation Report," prepared by Rollo and Ridley, Inc. and dated August 26, 2021. The report states that the proposed improvements would be feasible from a geotechnical perspective. Further, the report states that a pier-drilled foundation system is recommended to support the new residence due to the sloping terrain along the western half and the soft soils along the eastern half of the proposed structure. Accordingly, the County's Department of Public Works has required the submittal and approval of a final detailed geotechnical report prior to the issuance of a building permit for the project.

BUILDING LOCATION: Development Standards D.1 through D.4; Design Guidelines D-1.6

Due to the sloped lot and vehicular access requirements, the applicant has proposed a site plan which locates the proposed residence closer to Pt. San Pedro Road, against the hillside. As a result, the project would retain natural vegetation and minimize encroachment into the WCA to the maximum extent feasible. Consistent with the development pattern in the neighborhood, the structure has been sited adjacent to the roadway with an emphasis on minimizing changes to the natural topography. Additionally, the project site is not considered a visually prominent ridgeline location and is not burdened within the mapped Ridge and Upland Greenbelt area.

PROJECT DESIGN: Development Standard I.1 and I.2; Design Guideline D-1.7

The structure would not exceed a maximum height of 30 feet, consistent with the height standards for the respective zoning district. The proposed exterior features a contemporary architectural design that incorporates materials and façade articulations to enhance visual interest. The exterior materials are horizontal siding in "Marina Gray" colors mixed with smooth application of stucco in a light brown finish. The

relatively flat roof profile is intended to minimize the bulk and mass appearance of the building.

The front elevation features varying façade articulation with horizontal siding in "Marina Gray" colors, window and door openings, smooth stucco in light brown color, brown anodized window trims, and gray gutters and downspouts. The articulation of the architectural forms, blending with various finishes, creates an attractive front elevation. Rear and side elevations feature similar materials and architectural elements to provide a cohesive design, while the rear elevations would feature a deck that serves as a focal point. All exterior materials and finishes work together as a palette of gray tone colors, creating harmony with the surroundings. The colors used and materials complement the neighboring residences and are within an earth tone range.

MASS AND BULK: Design Guidelines D-1.1 through D-1.5

A query of the County's Assessor's records for properties located within the unincorporated area of the County and within 600 feet of the project site indicates that residences range in size from 4,583 square feet to 696 square feet (excluding garages and detached accessory structures), with an average area of 2,290 square feet. At 3,319 square feet, the size of the proposed residence would be consistent with the range of residences within the vicinity.

The structure would not exceed a maximum height of 30 feet. As viewed from the street, the main floor would be set back five feet, three inches, and five feet from the south and north side property lines, respectively. The upper floor would be recessed ten feet and seven feet one inch from the south and north side property lines, respectively. The house would be stepped up with the slope from front to rear on three levels. At the street level, the structure would appear as a two-story residence. The proposed building incorporates articulated building forms and contrasting colors that effectively break up the visual bulk and mass. Further, given the area of the lot, the building is moderate in size.

EXTERIOR LIGHTING: Development Standard G; Design Guideline C-1.11

All exterior lights will be recessed and directed downward. Special Condition No. 3 has been included and would require that all exterior lighting be directed downward and shrouded, thereby minimizing glare to adjacent properties and light emissions into the night sky.

LANDSCAPING AND VEGETATION REMOVAL: Development Standard F; Design Guideline A-1.1

The applicant has provided a landscaping plan that shows retention of the existing protected Live Oak tree and removal of non-native vegetation such as ice plant and pampas grass, which would be replaced with native shrubs and grasses, including

California Fescue, California Wild Lilac, Pt. Reyes Ceanothus and other ornamental non-invasive groundcovers.

ACCESS: Development standard C; Design Guidelines A-1.5

The Access to the site would be provided from Pt. San Pedro Road via a new driveway. The Department of Public Works has reviewed the driveway design and determined that the design meets Title 24 requirements.

NEIGHBORHOOD COMPATIBILITY: Design Guidelines B-1.1, C-1.1 through C-1.3, C-1.7

As proposed, the building would reach a maximum height of 29 feet, ten and $\frac{3}{4}$ inches above the surrounding grade, where the governing BFC-RSP zoning district allows a maximum of 30 feet. The project proposes 15 feet front yard setback, and five feet from the northeastern side property line and five feet, three inches from the southwestern side property lines, where no setbacks are required. Because the project would provide the same setback as the existing residences on each side, the building-to-building separation will be at least ten feet, creating adequate separation between the residences.

The proposed residence has been sited, planned, and designed to cause the least intrusion on the views, light, air, and privacy of other properties in the vicinity because, as proposed, second-floor windows on the east and west elevations will be provided at a high sill height to ensure the least intrusive vantage points to 724 and 732 Pt. San Pedro Road while allowing for proper ventilation and natural lighting for the proposed residence. The design of the second-floor plan features a step-back that further protects light and air to the adjacent properties, thereby reducing the potential impacts to view, light, and air obstruction.

Further, the project is designed in a contemporary style, which adds to the architectural diversity of the neighborhood. The exterior materials are composed of smooth-application stucco in a light brown color and siding in an ocean gray color to blend with the natural and built environment. The articulation of the architectural forms blending with a variety of finishes creates an attractive exterior finish. All exterior materials and finishes work together as a palette of earth tone colors, creating harmony with the surroundings. The colors and materials used compliment the neighboring residences, and are within an earth tone range. Therefore, the project would not infringe upon the neighboring private property or upon public lands and rights-of-way, nor would it directly, or in a cumulative manner impair, inhibit, or limit further investment in the vicinity.

B. The proposed development provides architectural design, massing, materials, and scale that are compatible with the site surroundings and the community.

As discussed in detail above, the project is designed to blend in with its surroundings through earthen tone materials and variety in design elements. The massing and scale

of the project are in keeping with other structures in the vicinity, and existing and proposed vegetative screening would soften views of the project from neighboring residences.

- C. The proposed development results in site layout and design that will not eliminate significant sun and light exposure or result in light pollution and glare; will not eliminate primary views and vistas; and will not eliminate privacy enjoyed on adjacent properties.**

The project will alter views to the site from offsite locations as the proposed building will be visible from Pt. San Pedro Road. As discussed above, the project will result in a building that is oriented on the site in a way that will not result in development that infringes upon the views, air, light, and privacy currently enjoyed by the surrounding neighbors. The building is designed and sited to minimize potential visual effects to adjoining neighbors, including locating the tallest portion of the building (the second floor) recessed at least 10 feet from each side of property lines. The design of the second-floor plan features a step back that preserves distance views, light, and air, thereby reducing the potential for view, light, and air obstruction at 724 and 732 Pt. San Pedro Road. At a maximum height of 29 feet ten inches, the project would be below the maximum height requirements for the relative zoning district (30-foot maximum for primary structure, 15 foot maximum for detached accessory structures).

- D. The proposed development will not adversely affect and will enhance where appropriate those rights-of-way, streetscapes, and pathways for circulation passing through, fronting on, or leading to the property.**

The project site is located entirely on private property. Therefore, the project would not encroach onto adjoining private properties, public lands, public easements, trails and rights-of-way.

- E. The proposed development will provide appropriate separation between buildings, retain healthy native vegetation and other natural features, and be adequately landscaped consistent with fire safety requirements.**

The project will provide a minimum of five feet side yard setbacks in order to provide adequate separation between adjacent properties. The design of the second-floor plan features a step back that increases the separation between properties, thereby reducing the potential for view, light, and air obstruction. Further, the landscape plan shows retention of the existing Live Oak tree and removal of non-native vegetation such as ice plant and pampas grass, which would be replaced with native shrubs and grasses, including California Fescue, California Wild Lilac, Pt. Reyes Ceanothus, and other ornamental non-native groundcovers.

Therefore, as conditioned, the proposed design of the new two-story residence provides an orderly and attractive development in harmony with other properties in the

vicinity because the exterior materials and the proposed architectural style are in keeping with the architecture and finishes of other recently developed properties.

SECTION II: ACTION

NOW, THEREFORE, BE IT RESOLVED that the project described in condition of approval 1 is authorized by the Marin County Planning Commission and is subject to the conditions of project approval.

This decision certifies the proposed project's conformance with the requirements of the Marin County Development Code and in no way affects the requirements of any other County, State, Federal, or local agency that regulates development. In addition to a Building Permit, additional permits and/or approvals may be required from the Department of Public Works, the appropriate Fire Protection Agency, the Environmental Health Services Division, water and sewer providers, Federal and State agencies.

SECTION III: CONDITIONS OF PROJECT APPROVAL

NOW, THEREFORE, BE IT RESOLVED that the Marin County Planning Commission hereby dismisses the appeal and approves the Rushworth Design Review, subject to the conditions listed below.

CDA-Planning Division

1. This Design Review approval authorizes the construction of a new 2,511 square-foot single-family residence with an enclosed 808 square-foot understory and an attached 535 square-foot garage on a vacant lot in South San Rafael. The 3,854 square feet of approved development shall result in a floor area ratio of 48 percent on the 6,959 square foot lot. The approved building shall reach a maximum height of 29 feet, ten $\frac{3}{4}$ inches feet above the surrounding grade, and the exterior walls shall have the following setbacks: 15 feet from the northwestern front property line; five feet from the northeastern side property line; five feet, three inches from the southwestern side property lines; and 64 feet, seven inches from the southeast rear property line. Various site improvements would also be entailed in the proposed development, including a driveway, new landscaping, and various general site improvements to accommodate the proposed project.
2. Plans submitted for a Building Permit shall substantially conform to plans identified as Exhibit A, entitled "The Carter Family Home," consisting of 25 sheets prepared by Studio Nahemow Design, received in final form on September 9, 2021, and on file with the Marin County Community Development Agency, except as modified by the conditions listed herein.
 - a. All roof overhang shall be reduced to a one-foot overhang.
3. The project shall conform to the Planning Division's "Uniformly Applied Conditions 2022" with respect to all of the standard conditions of approval and the following special conditions: 3 and 4.

SECTION IV: VESTING

NOW, THEREFORE, BE IT RESOLVED that unless conditions of approval establish a different time limit or an extension to vest has been granted, any permit or entitlement not vested within three years of the date of the approval shall expire and become void. The permit shall not be deemed vested until the permit holder has actually obtained any required Building Permit or other construction permit and has substantially completed improvements in accordance with the approved permits, or has actually commenced the allowed use on the subject property, in compliance with the conditions of approval.

SECTION V: 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 the required fee must be submitted in the Community Development Agency, Planning Division, Room 308, Civic Center, San Rafael, no later than ten business days from the date of this decision.

SECTION VI: VOTE

PASSED AND ADOPTED at a regular meeting of the Planning Commission of the County of Marin held on this 13th day of June 2022 by the following vote:

AYES: COMMISSIONERS

NOES:

ABSENT:

DON DICKENSON, CHAIR
MARIN COUNTY PLANNING COMMISSION

Attest:

Ana Hilda Mosher
Planning Commission Recording Secretary