

**RESOLUTION NO. 2008-\_\_\_\_\_**  
**RESOLUTION OF THE MARIN COUNTY BOARD OF SUPERVISORS**  
**APPROVING THE HANSEN APPEAL OF THE MARIN COUNTY PLANNING COMMISSION'S**  
**DENIAL OF THE TROUSSIEUX VARIANCE AND DESIGN REVIEW AND APPROVING THE**  
**PROJECT WITH CONDITIONS**  
**160 HOMESTEAD BOULEVARD, MILL VALLEY**

**ASSESSOR'S PARCEL 048-042-10**

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**SECTION 1: FINDINGS**

- I. WHEREAS the applicant, Fani Hansen, on behalf of Luc and Marin Troussieux, proposes to construct 1,395 square feet of additions to a 2,601 square foot residence as well as a new 390 square foot garage. The proposed floor area would be 3,996 square feet, resulting in a 21 percent floor area ratio on the 18,677 square foot lot. The edge of the roof for the residential additions would reach a maximum height of 44 feet above surrounding grade, and the exterior walls would have the following minimum setbacks: 29 feet from the southern front property line; 7.5 feet from the western side property line; 33 feet from the eastern side property line, and; more than 100 feet from the northern rear property line. The subject property is located at 160 Homestead Boulevard, Mill Valley, and is further identified as Assessor's Parcel 048-042-10.
- II. WHEREAS the Marin County Community Development Agency denied the application on February 22, 2008.
- III. WHEREAS the applicant submitted a timely appeal of the community Development Agency's denial of the project to the Planning Commission on February 29, 2008.
- IV. WHEREAS the Marin County Planning Commission held a hearing on April 28, 2008 to consider the Hansen appeal and the Troussieux project and unanimously denied the Hansen appeal and the Troussieux project.
- V. WHEREAS the applicant submitted a timely appeal of the Planning Commission's denial of the Hansen Appeal and denial of the Troussieux project to the Marin County Board of Supervisors on May 5, 2008.
- VI. WHEREAS the proposed project is Categorically Exempt from the California Environmental Quality Act (CEQA) per CEQA Guidelines section 15301, Class 1, because it is an addition to a residence that would not result in substantial ground disturbance, vegetation removal, or other potentially significant effects on the environment.
- VII. WHEREAS the Marin County Board of Supervisors finds that the applicant's bases for appeal are sufficient to establish affirmative Design Review and Variance findings, based on conditions of approval modifying the project to reduce the total floor area as proposed by the applicant to address floor area conflicts with the Community Plan, because it would substantially further Marin County policies that encourage green building techniques and sustainable development, as further discussed in the Design Review findings below.
- VIII. WHEREAS the Marin County Board of Supervisors finds that the proposed project is consistent with the Marin Countywide Plan because it would substantially further policies that encourage green building and sustainable development, as is discussed in Design Review finding H below. In addition, the project would substantially conform to the land use and floor area policies contained in the Tamalpais Community Plan.

IX. WHEREAS the Marin County Board of Supervisors finds that the proposed project is consistent with all the mandatory findings to approve a Design Review (Marin County Code Section 22.42.060).

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

The upper level addition would preserve the views of the valley below enjoyed on the surrounding properties because it would not exceed a height of 13 feet above the elevation of Homestead Boulevard. Further, the innovative and contemporary design of the addition would provide visual interest to the area, enhancing the character of the community along Homestead Boulevard. Therefore, the proposed project is consistent with this finding.

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

Due to the steep slope of the property and the existing tree cover surrounding the residence, the addition would not result in adverse effects to the light or privacy enjoyed by surrounding properties. The addition would rise approximately 13 feet above the level of the Homestead Boulevard road grade, avoiding adverse effects to views, and the existing vegetation in the area would provide sufficient screening to maintain the privacy of the adjacent properties. Therefore, the proposed project is consistent with this finding.

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

The proposed project would not impede access on Homestead Boulevard and there are no recognized trails in the area that would be affected by the project. Further, the project would improve the emergency access and turnaround area for fire protection. Therefore, the proposed project is consistent with this finding.

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

The property is landscaped with mature conifers and deciduous trees that provide ample screening to the adjacent properties. The applicant has submitted a landscape plan that shows the construction of terraces down slope of the residence that would be surfaced with grass covered geoblock, a gravel petanque court, and additional oaks and shrubs. Substantial grading and high retaining walls would not be necessary for these features because they would be stepped down the slope. Further, since the addition would be above the existing residence, the project would not result in substantial grading, tree removal, or changes to existing drainage patterns. Therefore, the proposed project is consistent with this finding.

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

The proposed project advances the goals of the Planned District Development Standards by effectively balancing the sustainable development standards with the standards related to preserving the character of the local community. In particular, the project would be consistent with the following standards:

- Development standard G. indicates that facilities and design features called for in the Marin Countywide Plan should be provided on site. The proposed project would attain a Platinum green building rating, and would include a solar energy system mounted on the roof of the addition that would offset a substantial proportion of the energy required for the addition. Further, as a condition of approval, approximately 600 square feet of the lowest level of existing residence shall be converted into a cistern to capture rainwater. The rainwater would be used for the landscaping during the dry portion of the year and would reduce the impacts of erosion that could occur due to the steepness of the site by releasing stormwater at a slower rate than the natural rainfall.
- Development standard I. indicates that exterior lighting should be designed to prevent adverse impacts on nearby properties. As a condition of project approval, the applicant shall submit a lighting plan that is consistent with this standard.
- Development standard K.1 indicates that primary structures should not exceed a height of 30 feet above grade unless it is determined that the site terrain features make the height standard ineffective in minimizing the visibility of the structure. The steep terrain makes the height standard ineffective because constructing the upper level addition in conformance with the height standard would necessitate locating it closer to Homestead Boulevard, which would result in development that would rise higher above the road grade than that proposed, potentially blocking views enjoyed from the surrounding properties.
- Development standard K.2 indicates that building materials should be chosen that would blend into the natural environment unobtrusively. As a condition of project approval, the large windows of the upper level addition would be tinted and treated to reduce sun reflection that would be visible from the valley below.

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

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

As discussed in Design Review finding A above, the height, mass, and scale of the proposed addition would be compatible with the character of the local community.

2. Drainage systems and appurtenant structures;

As discussed in Design Review findings D and E above, the project would not result in substantial changes to existing drainage patterns.

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

As discussed in Design Review finding D above, the project would not result in substantial grading.

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

As discussed in Design Review finding C above, the project would not result in adverse effects to rights-of-way or community circulation.

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

As discussed in Design Review finding B above, the project would not result in adverse effects to the views, light, or privacy enjoyed on adjacent properties.

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

The project would employ green building techniques that would result in a “Platinum” rating under the County’s “New Home Green Building Residential Guidelines Certification Form.” The green building techniques proposed include double glazed windows, a solar water system, and large windows that would improve passive solar exposure on this north-facing slope. Further, as discussed in finding E above, the lowest level of the residence would be converted into a cistern, which would conserve water and reduce the potential of erosion. Therefore, the proposed project is consistent with this finding.

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

As discussed in finding E above, the project would be consistent with the zoning standards and would be compatible with the character of the local area. The project would advance the overarching theme of planning sustainable communities articulated in the Countywide Plan.

- X. WHEREAS the Marin County Board of Supervisors finds that the proposed project is consistent with all of the mandatory findings to approve a Variance (Marin County Code Section 22.54.050).

**A. There are special circumstances applicable to the property (e.g. location, shape, size, surroundings, or topography), so that the strict application of this Development Code denies the property owner privileges enjoyed by other property owners in the vicinity and under identical zoning districts.**

The average lot slope for the property is approximately 42 percent and the property has a steeper topographical undulation on the eastern side of the existing residence. Pursuant to Government Code section 65906 a Variance may be granted when:

1. There are specific physical circumstances that distinguish the project site from its surroundings; and
2. These unique circumstances would create an unnecessary hardship for the applicant if the usual zoning standards are applied.

Several of the surrounding properties are also located on a steep hillside, and this is a common constraint to development in this area. Development on the subject property is not only constrained by the steep hillside, it is also constrained by the undulation on the eastern portion of the site. This undulation is characterized with a slope stability category of 4 (Marin County slope stability map, Wagner, 1977), which is the most unstable category and is often characterized by soil creep, landslides and erosion. Therefore, the proposed project is consistent with this finding.

**B. That granting the Variance does not allow a use or activity, which is not otherwise expressly authorized by the regulations governing the subject property.**

Granting the Variance would not alter the single-family residential use of the subject property. Therefore, the proposed project is consistent with this finding.

**C. That granting the Variance does not result in special privileges consistent with the limitations upon other properties in the vicinity and zoning district in which the real property is located.**

The purpose of granting Variances is to allow development on uniquely constrained properties that achieves parity with the development in the surrounding area without imposing an unreasonable hardship on the property owner. Approving the project would not constitute a grant of special privilege because there are special physical circumstances related to slope and slope stability that are unique to the subject property and the project would not result in any public detriment. Therefore, the proposed project is consistent with this finding.

**D. That granting the Variance will not be detrimental to the public interest, health, safety, convenience, or welfare of the County, or injurious to the property or improvements in the vicinity and zoning district in which the real property is located.**

The proposed project would not result in adverse visual effects to the character of the surrounding community, as further discussed in the Design Review findings above. Therefore, the proposed project is consistent with this finding.

## **SECTION 2: CONDITIONS OF APPROVAL**

### **Community Development Agency – Planning Division**

1. The Troussieux Minor Design Review (DM 08-1) and Variance approval allows the applicant to construct 1,395 square feet of additions to a 2,601 square foot residence as well as a new 390 square foot garage. The edge of the roof for the residential additions would reach a maximum height of 44 feet above surrounding grade, and the exterior walls would have the following minimum setbacks: 29 feet from the southern front property line; 7.5 feet from the western side property line; 33 feet from the eastern side property line, and; more than 100 feet from the northern rear property line. The property is located at 160 Homestead Boulevard, Mill Valley, and is also identified as Assessor's Parcel 048-042-10.

2. The plans submitted for a Building Permit shall substantially conform to plans identified as "Exhibit A," entitled, "160 Homestead Boulevard," consisting of 14 sheets prepared by Danadjieva Hansen Architects, received January 9, 2008, and on file with the Marin County Community Development Agency, except as modified by the conditions listed herein.
3. BEFORE ISSUANCE OF A BUILDING PERMIT, the applicant shall make the following modifications to the project:
  - A. The applicant shall note that the large windows of the upper level addition shall be tinted green or another subdued color and treated to reduce reflectivity.
  - B. The applicant shall convert the lowest level of the existing structure, containing approximately 600 square feet of floor area, into a cistern to capture rainwater.
4. BEFORE ISSUANCE OF A BUILDING PERMIT, the applicant shall revise the site plan or other first sheet of the office and job site copies of the Building Permit plans to list these conditions of approval as notes.
5. BEFORE ISSUANCE OF A BUILDING PERMIT, the applicant shall revise the plans to depict the location and type of all exterior lighting for review and approval of the Community Development Agency staff. Exterior lighting visible from off site shall be permitted for safety purposes only, shall consist of low-wattage fixtures, and shall be directed downward and shielded to prevent adverse lighting impacts on nearby properties. Exceptions to this standard may be allowed by the Community Development Agency staff if the exterior lighting would not create night-time illumination levels that are incompatible with the surrounding community character and would not shine on nearby properties.
6. BEFORE ISSUANCE OF A BUILDING PERMIT for any of the work identified in Condition 1 above, the applicant shall install temporary construction fencing around the dripline of the existing mature native trees in the vicinity of any area of grading, construction, materials storage, soil stockpiling, or other construction activity. The fencing is intended to protect existing vegetation during construction and shall remain until all construction activity is complete. The applicant shall submit a copy of the temporary fencing plan and site photographs confirming installation of the fencing to the Community Development Agency.
7. BEFORE APPROVAL OF THE FRAMING INSPECTION, the applicant shall submit documentation from the project engineer or "as-built" service, to be approved by the Chief Building Inspector, confirming that the floor area of the building conforms to the floor area that is shown on the approved Building Permit plans. A registered engineer or "as-built" service must stamp and wet sign this verification. Alternatively, the applicant may request that the Building and Safety Inspection staff verify the floor area based on measurement marks on the subfloor and second/third floor framing.
8. BEFORE APPROVAL OF THE FRAMING INSPECTION, the applicant shall have a licensed land surveyor or civil engineer with proper certification submit a written (stamped) building height survey confirming that the building conforms to the roof ridge elevations that are shown on the approved Building Permit plans, based on a benchmark that is noted on the plans. Alternatively, the applicant may install a story stud that clearly indicates the maximum building height through height increments that are marked on the stud and preapproved by the Building and Safety Inspection staff before installation or request that the Building and Safety Inspection staff measure the plate heights for conformance with the approved plans.

9. All exterior materials shall be subdued, earth tone colors to blend with the surrounding landscape. All flashing, metal work, and trim shall be treated or painted an appropriately subdued, non-reflective color.
10. If archaeological, historic, or prehistoric resources are discovered during construction, construction activities shall cease, and the Community Development Agency staff shall be notified so that the extent and location of discovered materials may be recorded by a qualified archaeologist, and disposition of artifacts may occur in compliance with State and Federal law. A registered archeologist, chosen by the County and paid for by the applicant, shall assess the site and shall submit a written report to the Community Development Agency staff advancing appropriate mitigations to protect the resources discovered. No work at the site may recommence without approval of the Community Development Agency staff. All future development of the site must be consistent with findings and recommendations of the archaeological report as approved by the Community Development Agency staff. If the report identifies significant resources, amendment of the permit may be required to implement mitigations to protect resources. Additionally, the identification and subsequent disturbance of an Indian midden requires the issuance of an excavation permit by the Department of Public Works in compliance with Chapter 5.32 (Excavating Indian Middens) of the County Code.
11. All construction activities shall comply with the following standards:
  - a. Construction activity is only permitted between the hours of **7:00 a.m. and 6:00 p.m., Monday through Friday**, and **9:00 a.m. and 5:00 p.m. on Saturday**. No construction shall be permitted on Sundays and the following holidays (New Year's Day, President's Day, Memorial Day, Independence Day, Labor Day, Thanksgiving Day, and Christmas Day). Loud noise-generating construction-related equipment (e.g., backhoes, generators, jackhammers) can be maintained, operated, or serviced at the construction site from 8:00 a.m. to 5:00 p.m. Monday through Friday only. Minor jobs (e.g., painting, hand sanding, sweeping) with minimal or no noise impacts on the surrounding properties are exempted from the limitations on construction activity. At the applicant's request, the Community Development Agency staff may administratively authorize minor modifications to these hours of construction.
  - b. It shall be the responsibility of the applicant to ensure that all construction materials and equipment are stored on-site (or secured at an approved off-site location) and that all contractor vehicles are parked in such a manner as to permit safe passage for vehicular, pedestrian, and bicycle traffic at all times.
12. All new utility connections and extensions (including but not limited to electric, communication, and cable television lines) serving the development shall be undergrounded from the nearest overhead pole from the property, where feasible as determined by the Community Development Agency staff.
13. The applicant/owner hereby agrees to defend, indemnify, and hold harmless the County of Marin and its agents, officers, attorneys, or employees from any claim, action, or proceeding, against the County or its agents, officers, attorneys, or employees, to attack, set aside, void, or annul this approval, for which action is brought within the applicable statute of limitations.
14. Any changes or additions to the project shall be submitted to the Community Development Agency in writing for review and approval before the contemplated modifications may be

initiated. Construction involving modifications that do not substantially comply with the approval, as determined by the Community Development Agency staff, may be required to be halted until proper authorization for the modifications are obtained by the applicant.

15. BEFORE FINAL INSPECTION, the applicant shall submit a signed Statement of Completion confirming that the project has been constructed in compliance with all of the measures that were used to meet the "Platinum" rating under the Marin Green Home: New Home Green Building Residential Design Guidelines.
16. BEFORE FINAL INSPECTION, the applicant shall install all landscaping and an automatic drip irrigation system in accordance with the approved landscape plan. The applicant shall call for a Community Development Agency staff inspection of the landscaping at least five working days before the anticipated completion of the project. Failure to pass inspection will result in withholding of the Final Inspection approval and imposition of hourly fees for subsequent reinspections.

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

17. BEFORE ISSUANCE OF A BUILDING PERMIT, comply with the following requirements:

- A. The plans shall be reviewed and approved by Registered Civil Engineer with soils engineering expertise or a Registered Geotechnical Engineer. Certification shall be either by the engineer's stamp and signature on the plans, or by stamp and signed letter. In addition, provide a copy of the geotechnical report by Earth Science referenced on the plan set and incorporate recommendations from the report as appropriate.
- B. Clearly show on site plans how existing driveway will be modified. Provide cross section. Label and dimension all work. All new construction in the right of way is subject to a recorded encroachment permit. Private use facilitates or large landscaped areas shall not be allowed in the right of way, and all work in the right of way is subject to the Road Commissioners' approval.
- C. Provide a site drainage and grading plan stamped by a registered Civil Engineer or Architect. Show the limits of grading on the plans. Provide a stormwater control plan showing post construction measures. The project shall conform to Marin County's Low Impact Development guidelines and requirements. Direct discharge of collected water should be dissipated on the subject property.
- D. The driveway and site retaining walls shall be designed by a licensed civil engineer. A separate building permit is required for site/driveway retaining walls with a height more than 4' (or 3' when backfill area is sloped or has a surcharge). Show the elevations at the top and bottom of all new retaining walls on the plans.
- E. Garage interior parking spaces shall be dimensioned and shall be a minimum of 9' x 20' (MCC Section 24.04.380).
- F. Provide an erosion and sediment control plan. Due to the lot steepness include a debris fence below construction zone.



- G. Note on the plans that the Design Engineer/Architect shall certify to the County in writing that all grading, drainage, and retaining wall construction was done in accordance with plans and field directions.

Southern Marin Fire Protection District

18. BEFORE FINAL INSPECTION, the applicant shall provide written confirmation from the Fire Marshal that all requirements of the Fire District have been met.

Marin Municipal Water District

19. All landscape and irrigation plans must be designed in accordance with the most current District landscape requirements (Ordinance 385). Prior to providing water service for new landscape areas, or improved or modified landscape areas, the District must review and approve the project's working drawings for planting and irrigation systems.

**SECTION 3: VESTING**

The applicant must vest this approval within two years by: (1) obtaining a Building Permit or other construction permit, if required, for the approved work and substantially completing the improvements in accordance with the approved permits or all rights granted in this approval shall lapse unless the applicant applies for an extension at least 10 days before the expiration above (June 24, 2010) and the Community Development Agency staff approves it. An extension of up to four years may be granted for cause pursuant to Section 22.44.050.Band/or Section 22.56.050.B.3of the Marin County Code.

The Building Permit approval expires if the building or work authorized is not commenced within one year from the issuance of such permit. A Building Permit is valid for two years during which construction is required to be completed. All permits shall expire by limitation and become null and void if the building or work authorized by such permit is not completed within two years from the date of such permit. Please be advised that if your Building Permit lapses after the vesting date stipulated in the Design Review Variance approval (and no extensions have been granted), the Building Permit, Design Review and Variance approvals may become null and void. Should you have difficulty meeting the deadline for completing the work pursuant to a Building Permit, you may apply for an extension to the Design Review and Variance at least 10 days before the expiration of the approval.

**SECTION 4: ACTION**

NOW THEREFORE, BE IT RESOLVED that the Marin County Board of Supervisors hereby upholds the Hansen appeal of the Marin County Planning Commission's decision and approves the Troussieux Design Review and Variance, subject to the conditions herein.

**SECTION 5: ADOPTION**

**PASSED AND ADOPTED** at a regular meeting of the Board of Supervisors of the County of Marin held on this \_\_\_\_th day of \_\_\_\_\_, 2008, by the following vote:

AYES: SUPERVISORS

NOES:

ABSENT:

\_\_\_\_\_  
PRESIDENT, BOARD OF SUPERVISORS

ATTEST:

\_\_\_\_\_  
CLERK