

**MILL VALLEY PLANNING COMMISSION
MINUTES**

REGULAR MEETING OF TUESDAY, NOVEMBER 13, 2012

COUNCIL CHAMBERS, CITY HALL, 7:00PM

26 CORTE MADERA AVENUE

PLANNING	David Rand – Chair
COMMISSION	Barbara Chambers – Vice Chair
MEMBERS:	Heidi Richardson
	John McCauley
	Steve Geiszler

CALL TO ORDER

ORAL COMMUNICATIONS: Time for comments from members of the public on issues not on this Planning Commission agenda. (Limited to 3 minutes per person.)

PLANNING AND BUILDING DIRECTOR'S ORAL REPORT: Report on items being considered by the City Council.

LIAISON REPORTS: None

APPROVAL OF MINUTES: None

APPROVAL OF AGENDA:

It was M/s by Commissioner McCauley/Commissioner Richardson to continue item #3 410 Magee to the December 10 hearing and approve the agenda. The motion was carried 5/0.

PUBLIC HEARING

1. 312 Eldridge - Fowler - Design Review & Second Unit Permit - File No. 4014 (Moore) A STUDY SESSION to review the application of Stephen Fowler for the removal of a 1,896 square foot house and a 396 square foot garage and the construction of a 4,105 square foot house, a 490 square foot second unit, and a 520 square foot garage on a 22,500 square foot parcel owned by Stephen Fowler.

312 Eldridge doc.

Applicant presentation from landscape architect Jim Bradanini

Public Comment - None

Commission Deliberation

Commissioner Richardson feels there are some nice pieces of this design but has issues with the glass in the entry and the height of the bedroom. She described how the bedroom could be relocated. She does have concerns about the parking and the amount of deck area that is shading lower levels. She would like to see a physical model instead of a computer model to see more detail. She would like to see an elevation from Eldridge. She stated the second unit seems like an afterthought and asked to consider eliminating it to use the extra parking for guest parking.

Commissioner Geiszler echoes the comments regarding the 3 story element plus façade and ceiling heights being too tall. He likes the site and feels the landscaping is nice. He is concerned about the driveway walls being 8-10' tall and being in close proximity to the Oak trees. He would like to see an arborist report. He is fine with the materials of the house. He feels the decks add to the bulk of the house and the physical will help to picture it. He would like to see how the FAR is calculated through a map. He had a concern about having enough guest parking. His main concern is the heights.

Commissioner McCauley likes the material selections but has concerns about glazing regarding cross canyon views. He is interesting in knowing more about the decking and the windows behind them. He would like to know via diagram if you could get parking up top and that it works well. He is okay with the second unit parking being further away but would like to make sure the unit is viable. He feels it is very well situated in terms of privacy but would like to know more about where the decks are in proximity to the neighbors. He agrees they need to see a physical model. He agrees with the concerns about heights and maxing the FAR.

Commissioner Chambers agrees with all the comments and feels it's a really nice design. She would like to see the second unit parking work and the street parking for guests. She would like to see really good cross references with the elevations and landscape.

Commissioner Rand likes the design but has cross canyon view and height concerns. He would like to see a scheme for guest parking.

2. [51 Walnut - Chambers - Design Review - File No. 4004 \(Zanarini\) A public hearing to hear the application of Chambers & Chambers Architects for Design Review and a Categorical Exemption from the California Environmental Quality Act in connection with the demolition of an existing residence and the construction of a new 2,717 square foot residence on a parcel owned by Shahram Ghoidsian.](#)

51 Walnut doc.

Commissioners Chambers and Richardson recused.

Staff presentation from Associate Planner Zanarini

Applicant presentation from owners Josh and Jennifer Deitch

Public Comment

Commission Deliberation

Motion

It was **M/s** by Commissioner Geiszler/Commissioner McCauley to approve the application and find:

- A. *The project is Categorical Exemption from the CEQA requirement for the preparation of environmental documents under Section 15303(a) of the CEQA Guidelines.*

CEQA Guidelines Section 15303(a) exempts “one single-family residence in a single-family zone.” The project at 51 Walnut is consistent with this class of Categorical Exemption and no further environmental assessment is required.

- B. *The proposal is consistent with the General Plan and the Municipal Code.*

The new house and existing detached garage is a single-family residential development project consistent with the single-family land use designation in the General Plan. The project meets the height and floor area ratio requirements of the Municipal Code for single-family residences. In response to public testimony and Commission concerns raised during its deliberations on the Design Review application, the Commission considered and then approved a variance to shift the proposed residence 18 inches into the south interior yard setback. The findings for the approval of the variance follow in paragraph E, below. The finished floor elevation of the new residence will conform to the requirements of the City’s Floodplain Management regulations (Title 18 of the Mill Valley Municipal Code).

- C. *The proposal is consistent with the residential design guidelines adopted by the City.*

The proposal is consistent with applicable City Design Guidelines 17 (Scale, Mass and Height) 19 (Windows, Roofs and Skylights) and 21 (Parking) as a result of changes to the project since the prior Study Session and Commission deliberations and direction at the conclusion of the public hearing to further modify the proposed design and site plan of the residence by shifting the residence approximately 4 feet further back from the street and 18 inches further to the south; by widening the existing driveway to the rear detached garage to 10 feet; by locating and sizing the second story windows to address the privacy of adjoining neighbors; by reducing the overall building height and still conforming to the City’s floodplain regulations; by reducing the size of the deck off of the second floor master bedroom and incorporating it into design of that portion of the roof; by designing a hip roof instead of the previously proposed double shed roof design; and by maintaining the existing detached garage at the rear of the property to reduce the overall

length of the house and are consistent with .

- D. *The City has considered whether to apply any limitations on building, size, height and setbacks pursuant to Section 20.66.045.*

No limitations have been placed on the project pursuant to Section 20.66.045.

- E. *A Variance to allow the proposed residence to encroach up to 18 inches into the southerly required interior yard setback based on the following:*

1. That there are exceptions, or extraordinary circumstances, or conditions applying to the land, building or use referred to in the application, which circumstances or conditions are peculiar to the property in question, and do not apply generally to land, buildings and/or uses in the same district.

The adjacent public lane and related right-of-way along the entire southerly boundary of the subject property is an extraordinary circumstance that creates approximately 10 feet of additional separation between the proposed new residence and the existing residence of the adjacent neighbor at 55 Walnut Avenue than would otherwise be provided by the required interior yard setbacks, and utilizing a portion (up to 18 inches) of the required interior setback without significant impact to the adjacent neighbor or the existing public path creates the opportunity to shift the new residence approximately 4 feet further to the rear of the property and away from the street in response to concerns about the proximity of the building to the street, and to widen the existing driveway and provide improved access to the rear detached garage and improved off-street parking in a neighborhood with very limited on-street parking.

2. That the hardship is not due to any action on the part of the applicant.

The proposed residence meets all residential development standards for height, lot coverage and floor area ratio. However, the existing lot is approximately 45 feet in width (the minimum lot width in the RS-6 zone is 60 feet) and is also subject to the 30-foot creek setback requirement at the rear of the property. The lot is also located at a portion of a curve in Walnut Avenue that amplifies the presence of a structure in relation to the sidewalk and street such that a greater than minimum exterior yard setback is required to offset that effect. There is an existing legal non-conforming detached garage at the rear of the lot (and within the required creek setback) and narrow driveway that are existing features on the lot to be incorporated into the site plan and further limit the location of the new residence on the lot.

3. That the granting of the application is necessary for the preservation and enjoyment of reasonable property rights of the petitioner.

Shifting the new residence up to 18 inches into the southerly interior yard setback allows the existing driveway to be widened and makes access to and from the existing detached

garage at the rear of the property safer and more convenient, thereby preserving adequate off-street parking for residents and guests without diminishing the enjoyment of the backyard by creating additional hard surfaces for a vehicle turnaround area. Shifting the residence to the south also allows the new residence to be shifted back further away from the street without also significantly affecting the size and enjoyment of the backyard.

4. That the granting of such application will not under the circumstances of the particular case, affect adversely the health, comfort or safety of persons residing or working in the neighborhood of the property of the applicant and will not, under the circumstances of the particular case, be detrimental to the public welfare or injurious to property or improvements in the neighborhood.

Granting the variance improves the safety and comfort of the residents and neighbors by providing a wider driveway for safer and more convenient off-street parking in an area of very limited on-street parking; improves the physical relationship between the location of the new, two-story residence and that portion of Walnut Avenue for the benefit of passers-by on the public street or sidewalk; increases the privacy, open air and light to 45 Walnut Avenue by moving the house away from the north property line; and does not impact the right-of-way, limit the access to or enjoyment of the adjacent public path to the south .

CONDITIONS OF APPROVAL

PLANNING DEPARTMENT: Any questions, contact Tom Zanarini, 415-388-4033 x 4810

1. Floor plans and building elevations shall be in substantial conformance with plans prepared by Chambers and Chambers Architects received by Planning Department September 27, 2012 on file with the Mill Valley Planning and Building Department, except as may be modified by these conditions of approval.

Conditions Requiring Compliance Prior to Issuance of Building Permits

2. Except as otherwise modified by these conditions of approval, plans submitted to the Building Department for plan check shall be in substantial conformance with those approved by the Planning Commission. Any changes to the approved Design Review plans, including changes to windows or the demolition plan, must be reviewed with and approved by the Planning Department prior to submitting for a building permit or a revision to the building permit. Any changes must be clearly highlighted (with a "bubble" or "cloud") on plans submitted to the Planning Department. A list describing in detail all such changes shall be submitted and attached to the plans. Any changes that have not been explicitly approved by the Planning Department are not valid and may be subject to stop work orders and/or require removal.
3. All conditions of approval shall be included on the front sheet of the construction drawing submitted for a building permit.

4. Prior to issuance of building permit, the applicant shall submit Green Building Compliance Form, which includes a signature page for the certifying agency (Build it Green or LEED) to confirm Design Conformance based on the Green Building Checklist submitted during the planning application.
5. Prior to issuance of a building permit, on the proposed project, the applicant shall arrange a pre-construction meeting with staff that shall be attended by Mill Valley staff, the owner, contractor and all sub-contractors to review these conditions of approval, permitted hours of operation etc.
6. Prior to issuance of a building permit, a sign shall be posted in a location where the sign is clearly readable from the public right-of-way. The sign shall be 9 to 12 square feet in size. Information on the sign shall include:
 - a. Address of site.
 - b. Permitted hours of construction.
 - c. Name, address and phone number of the contractor.
 - d. Name, address and phone number of the person responsible for the project.
 - e. Name and phone number of the party to call in case of an emergency.
 - f. Requirement that workers carpool to the site.
 - g. The phone number of the City of Mill Valley Code Enforcement Officer.

Conditions Requiring Compliance Prior to Final Inspection/Occupancy

7. Site landscaping shall be in substantial conformance with the Landscape Plan on file with the Mill Valley Planning and Building Department. The final landscape plan shall be stamped by a licensed landscape architect and filed with the Planning Department prior to occupancy. Plans for any irrigation of the site shall be incorporated into the landscape plan. All planting shown on the approved plan shall be installed prior to occupancy of the proposed residence. Upon the discretion of the Planning Director, installation may be suitably guaranteed by posting a cash bond equal to 100% of the cost and installation of any landscape improvements.

General Conditions

8. The applicant shall indemnify, defend and hold harmless the City, its officers, agents and employees (collectively "the City") from any and all claims, actions, lawsuits, damages, losses and liabilities arising or resulting from the granting of this permit by the City, the performance of the use authorized by this permit or the exercise of the rights granted by this permit. The applicant's obligation to indemnify, defend and hold harmless the City shall include, but not be limited to, paying all fees and costs incurred by legal counsel of the City's choice in representing the City in connection with any such claims, actions or lawsuits, any expert fees, and any award of damages, judgments, verdicts, court costs or attorneys' fees in any such claim, action or lawsuit.

9. The light source of all exterior lighting fixtures shall be shielded from adjacent properties.
10. The project shall comply with all applicable Energy Efficiency Regulations in the Mill Valley Municipal Code.
11. All portions of the job site in view of the public and immediately adjacent neighbors shall be maintained in an orderly condition. All trash, debris, construction scraps and broken or unused machinery shall be removed from the site at the end of each work week. Construction materials not used within two weeks of their delivery date shall be screened from public view. All sidewalks, driveways and public/private roadways fronting the subject site shall be broom cleaned at the end of each work day.
12. Prior to pouring the foundation, the applicant shall submit to the Planning Department a wet-stamped certification from a licensed surveyor that confirms that the location of the residence on the site complies with the approved setbacks.
13. Prior to sheathing the roof, the applicant shall submit a wet-stamped certification from a licensed surveyor to the Planning Department confirming that the height of the roof for the residence complies with the approved plans.
14. Property lines shall be certified by a licensed surveyor at the time of the first foundation related building inspection.
15. A surveyor shall certify that the finished floor and flood opening comply with Title ~~24~~18 of the Municipal Code prior to setting the first floor foundation.
16. An elevation certificate certifying that the finished floor elevation and flood openings are in compliance with Title ~~24~~18 of the Municipal Code is required prior to final building inspection.
17. The hours of construction activity, including the use of power tools, shall be limited to 8:00 a.m. to 5:00 p.m. Monday through Friday. Construction is not allowed on Saturdays, Sundays, or holidays.
18. The second level deck off of the master bedroom shall be redesigned to be no larger than 6 feet x 5 feet and incorporated into a hip roof design over the rear ground level porch. .
19. The house shall be moved 4 feet to the rear of the property so that the rear wall aligns with the wall break at 45 Walnut Avenue as shown on Sheet A1.1 of the project plans cited in Condition #1.
20. The overall height of the house shall be reduced to conform with the City's floodplain management regulations that require a finished floor elevation in the FEMA designated AE flood zone of no more than 1-foot above the base flood elevation of 33.8 feet, while maintaining the existing plate heights and roof pitch.

FIRE DEPARTMENT: Any questions, contact Tom Welch, Fire Marshal, 389-4130

21. VMP provided with a copy taken for the file. Prior to approval or issuance of a building permit, provide a Vegetation Management Plan (VMP) in compliance with Fire Department Standard 220. Please contact Battalion Chief Barnes with any questions at 389-4130.
22. Fire Sprinklers:

A fire sprinkler system shall be provided for:
 - a) All new construction.
 - b) Fire sprinkler coverage shall be provided through the entire structure as per Uniform Fire Code Section 1001.9.
 - c) Plans for fire sprinkler system design and hydraulic calculations shall be completed by a licensed C-16 sprinkler contractor and submitted to the Mill Valley Fire Department for approval prior to installation. Fire sprinkler system design and installation shall conform to the provisions of the Mill Valley Fire Department and N.F.P.A. Standard 13D.
23. The address shall be posted in accordance with requirements of the California Building Code, Uniform Fire Code, and Fire Department Standard 205. Final inspection and signoff of address posting shall be coordinated through the Building Department.
24. Smoke and CO detectors shall be installed in accordance with the California Building Code. Final inspection and signoff of smoke and CO detectors shall be coordinated through the Building Department.
25. Noncombustible roofing shall be provided for:
 - a) All new roofs shall be non-combustible.

NOTE: A “noncombustible” roof is a Class A roof (for other than Group R Occupancies, a Class A or Class A assembly) as defined in the Uniform Building Code and approved by the Building Department.
26. Prior to occupancy, a spark arrester shall be installed on the chimney(s) (3/8 to 1/2” mesh minimum).
27. Final occupancy approval shall not be granted by the Fire Department unless all conditions have been met.
28. Fire Department and City personnel shall be granted access to private driveways and private roadways in order to enforce applicable ordinances related to fire codes, municipal and penal codes pertaining to maintaining road access for emergency vehicles.

29. To avoid inspection delays by the Fire Department, all requests must be made at least 48 hours in advance.
30. All permits and/or inspection fees required by the Fire Department shall be paid in full prior to final occupancy being granted.

DEPARTMENT OF PUBLIC WORKS: Any questions, contact Julie McClure, 388-4033

31. GENERAL

- a. A construction management plan/schedule is required from Department of Public Works as part of the building permit submittal and prior to building permit approval and shall be incorporated into the job set of plans. This plan shall be a binding document; failure to adhere to the plan may result in stoppage of the project. This plan shall be updated as project conditions may change. Updates to plan shall be provided to the Department of Public Works. Plan / schedule shall include (but not be limited to) work schedule (intended start of construction date, road or lane closure intent/dates, important milestones and proposed final dates), storage type and location and travel routes.
- b. Prior to the issuance of any permits, applicant shall provide the Department of Public Works recorded easement documentation indicating necessary right-of-way for bridge and driveway facilities for use by adjacent property.
- c. Prior to the issuance of any permits, applicant shall stake (or mark in a manner acceptable to the Department of Public Works) driveway bridge abutment (or other foundation for bridge) location to ensure abutments are out of the banks of the channel. Applicant shall notify Department of Public Works when markings are in place. Department of Public Works shall inspect and if locations are found to be out of the banks of the drainage way shall release this item as a requirement of permit issuance. Final project sign off will be required by the Department of Public Works, therefore final location of installed bridge facility must also be confirmed to be located out of banks of channel.

32. DRAINAGE

- a. All site drainage shall be dissipated in a manner that prevents erosion and conforms to current storm water discharge practices in Marin County. The applicant is responsible for ensuring storm water runoff is maintained in its natural path.
- b. Final drainage improvements shall be prepared by a Civil Engineer, and reviewed and approved by the City Engineer prior to issuing a Building Permit.
- c. Drainage improvements shall be installed as per the recommendation of

- d. the soils evaluation prepared by the project soils engineer. Since drainage is not codified, but controlled by civil law, an Attorney should be consulted to verify that any proposed concentration of water that is currently sheet flowing over the property will not result in legal liability for the applicant.
- e. All stormwater runoff lines (such as building downspout lines, landscape drain lines, etc.) must be discharged in a manner that conforms to the current stormwater discharge practices in Marin County.

33. **STORMWATER POLLUTION PREVENTION** – Applicant is responsible for ensuring that contractor uses Best Management Practices for the Construction Industry (“General Construction and Site Supervision” brochure available at the Department of Public Works) to prevent storm drain pollution. Applicant shall be responsible for any environmental damage caused by his/her contractors or employees.

34. **WATER QUALITY CERTIFICATION PROGRAM** – No construction activity or placement of structures and/or debris is allowed within a waterway with a defined bed and bank.

35. **SOILS AND GRADING**

- a. All exposed areas resulting from excavation and grading shall be seeded or planted with appropriate vegetation and maintained until established to prevent erosion.
- b. A Grading Permit is required from Department of Public Works for site grading. The applicant shall comply with the requirements of Section 14.32 of the Municipal Code (copies available at the Public Works office) by providing the Department of Public Works with the following:
Note: The applicant should submit the application and all supporting documents at least two weeks prior to the scheduled start of construction in order to avoid delay.
 - i. A site map, foundation plan and grading plan.
 - ii. A completed Grading Permit Application.
 - iii. Submit 3 copies of the soil engineers report to the Department of Public Works along with 2 copies of the site plan showing the outline of the proposed structure, cross sections, a foundation plan if available, and \$1,500 refundable deposit to cover actual cost of peer review by City-retained soils engineer.
 - iv. A construction schedule.

- v. A grading security for \$5,000 shall be submitted in the form of a Certificate of Deposit (CD) or cash to cover grading, drainage, and erosion control. Contact the Department of Public Works for details.
- c. An erosion control plan, which includes a signed statement by the soils engineer that erosion control is in accordance with CAQSA standards. The erosion control plan shall demonstrate protection of disturbed soil from rain and surface runoff and demonstrate sediment controls as a “back-up” system. (Temporary seeding and mulching or straw matting are effective controls.).
- d. The Soils Engineer shall provide a letter to the Department of Public Works certifying that all grading and drainage has been constructed according to plans filed with the grading permit and his/her recommendations. Any changes in the approved grading and drainage plans shall be certified by the Soils Engineer and approved by the Department of Public Works. No modifications to the approved plans shall be made without approval of the Soils Engineer and the Department of Public Works.
- e. The existing vegetation shall not be disturbed until landscaping is installed or erosion control measures, such as straw matting, hydroseeding, etc, are implemented.
- f. All exposed areas resulting from excavation and grading shall be seeded or planted with appropriate vegetation and maintained until established to prevent erosion.

36. ENCROACHMENTS

- a. A Revocable Encroachment Permit is required from the Public Works Department for all work within the right-of-way.
- b. A Revocable Encroachment Permit shall be recorded at the Marin County Recorder’s Office prior to any construction in the right-of-way.
- c. An encroachment security in the a form of a Certificate of Deposit (CD) or cash in the amount of the work to be constructed in the right-of–way shall be submitted to the Public Works Department with the Encroachment Permit.
- d. Construction within the public right-of-way is limited to that necessary to support the lot’s use. This includes driveways, sidewalks, and sometimes car garages or decks on steep hillsides. Garbage can enclosures are not permitted in the right-of-way. Fences, gates, structures, and walls within the right-of-way will only be approved when they meet the conditions set in Section 11.16.010 and 20.60.065 of the Mill Valley Municipal Code.
- e. Submit drawing(s) of the fence/gate/wall showing height, type of material and location proposed of all improvements to the Public Works Department for review and approval.

37. SEWAGE SYSTEM REQUIREMENTS – The applicant shall obtain a sewer connection permit from the Department of Public Works. The fee for this permit is \$5,000 for a single family home, \$4,000 for each additional unit, except the fee is \$1,250 for a second unit under 700 sq. ft. Inspection fees may be added to the basic connection fee.
38. MATERIAL STORAGE – All construction materials, debris, and equipment shall be stored on site. If that is not physically possible, an encroachment permit shall be obtained from the Department of Public Works prior to placing any construction materials, debris, debris boxes or unlicensed equipment in the right-of-way. The fee for using the right-of-way for storage of construction materials or equipment is \$10.00 per day in residential areas, and \$20.00 per day in commercial areas. A minimum of 12' clearance shall be maintained at all times along the roadway. The placing of portable restroom facilities in the City right-of-way will not be permitted.
39. ROAD BOND –
- a) A \$10,000 road security in the form of a Certificate of Deposit (CD) or cash for repair of damage to the City streets shall be submitted to the Public Works Department prior to the issuance of any permits.
 - b) Submit a DVD clearly showing the existing condition of the road of the proposed travel route to the Department of Public Works prior to the start of construction.

Applicants are advised that absent clear videotape evidence to the contrary, road damage must be repaired to the satisfaction of the City prior to release of the road security. Damage assessment will be at the sole discretion of the City, and neighborhood input will be considered in making that assessment.

40. ROAD CLOSURES
- a. Road closures will only be permitted with prior authorization of the Department of Public Works consistent with the City's road closure policy. Persons wanting to close the road are required to provide written notification to affected property owners and neighbors. Signs containing details of the proposed closure must be posted 48 hours in advance. Coordinate traffic control and all temporary road closures with the Mill Valley Department of Public Works. Contact Julie McClure, Engineering Technician, at the Department of Public Works at 388-4033 to obtain a road closure permit.
 - b. Submit a traffic detour plan to the Department of Public Works.
41. ROAD IMPACT FEE - All Projects with a construction value of \$10,000 or more will be charged a fee of 1% of the building permit value.
42. TREES AND VEGETATION - Trees and vegetation shall be trimmed according to Section 11.24.090 of the Mill Valley Municipal Code. Trees and shrubs shall be kept

trimmed so that the lowest branches projecting over public properties provide a clearance of not less than eight (8) feet. Bushes and other vegetation shall be trimmed so no portion hangs over the sidewalk or the road if no sidewalk is present.

43. OFFSITE IMPROVEMENT REQUIREMENTS - All improvements within the public right-of-way shall be in accordance with the Uniform Construction Standards of All Cities and County of Marin unless noted otherwise herein.
44. The street shall be overlaid with a minimum of 2 inches of asphalt. Limits of overlay shall be along the project property frontage.

BUILDING DEPARTMENT: Any questions, contact Dan Martin, 388-4033

45. The project shall be subject to the 2012 California Building, Plumbing, Electrical, Mechanical, Energy, and other applicable Title 24 codes.

Expiration of Approval

46. This approval shall expire one year from the date of approval unless a building permit has been issued. Prior to the expiration of a design review approval, the applicant may apply to the Director of Planning and Building for a one-year extension from the date of expiration. The Director of Planning and Building may make minor modifications of the approved design at the time of extension if he/she finds that there has been a substantial change in the factual circumstances surrounding the originally approved design. If building permit is issued during the effective life of the design review approval, the expiration date of the design review approval shall be automatically extended to coincide with the expiration date of the building permit.
47. This approval is effective from the date of approval until the building permit is issued and shall expire one year after approval should a building permit not be issued.

The motion was carried 2/1 with Commissioner Geiszler opposing.

3. 410 Magee - Crescini - Design Review - File No. 4018 (Zanarini) A public hearing to hear the application of Michael Rex Associates for Design Review and a Categorical Exemption from the California Environmental Quality Act in connection with the demolition of an existing residence and the construction of a new 5,148 square foot residence on a parcel owned by Tiffanie DeBartolo.

[410 Magee doc.](#)

This item was continued to the December 10, 2012 hearing.

4. [414 Miller Avenue - Whole Foods - Conditional Use Permit - File 4030 \(Moore\) Public Hearing to consider the application of Whole Foods Market at 414 Miller Avenue for an amendment to its existing Conditional Use Permit to change its opening time from 8:00 AM to 7:00 AM.](#)

[414 Miller Ave](#)

[Staff presentation from Planning Director Moore](#)

[Applicant presentation from Whole Foods store manager, Christopher Ross](#)

[Public Comment](#)

[Commission Deliberation](#)

[Motion](#)

It was M/s by Commissioner McCauley/Commissioner Richardson to approve the application and find:

- A. The amendment to the existing Conditional Use Permit to set the hours of operation from 7:00 AM to 8:00 PM, Monday through Sunday is consistent with the General Plan and Municipal Code.

Whole Foods is a conditionally permitted use in the CN (Neighborhood Commercial) zone with an existing Conditional Use Permit in effect since 1991. The modification of the hours of operation to 7:00 AM to 8:00 PM, Monday through Sunday conforms to the requirement in Section 20.40.050(D), that the Planning Commission hold a public hearing and consider the request for hours that exceed 8:00 AM to 8:00 PM. Section 20.40.050(D) does not establish any limit on the days of the week the hours may be in effect. The amendment to the existing CUP is also consistent with General Plan Land Use Policy C-5 which supports community and neighborhood serving commercial uses along Miller Avenue.

- B. The approval of a Conditional Use Permit will not be detrimental to the health, safety, peace, morals, comfort or general welfare of persons residing or working in the neighborhood of such proposed use nor be detrimental or injurious to property and improvements in the neighborhood of such proposed use, nor to the general welfare of the City.

a. *The modification to hours of operation to 7:00 AM to 8:00 PM, Monday through Sunday will not affect any other operations of the market.*

b. *The modification of the hours of operation is consistent with other uses on Miller*

Avenue, such as the recently approved CUP for a Pilates studio and the existing Safeway at Miller and Camino Alto.

- c. *The Mill Valley Police Department reports no specific noise or operational complaints related to the Whole Foods at 414 Miller Avenue.*
- d. *The Whole Foods delivery guidelines, which had never been formally adopted as a condition of approval of any prior conditional use permit, have been incorporated into the conditions of approval of this application.*

CONDITIONS OF APPROVAL

1. The hours of operation of the Whole Foods at 414 Miller Avenue shall be 7:00 AM to 8:00 PM, Monday through Sunday.
2. This amendment of the existing Conditional Use Permit for Whole Foods at 414 Miller Avenue is to modify the hours of operation only. All other prior conditions of approval adopted by the City of Mill Valley shall remain in full force and effect.
3. Whole Foods shall strictly enforce the following delivery guidelines for its vendors:
 - Deliveries shall not be accepted prior to 7:00 AM nor after 8:30 PM, Monday through Sunday.
 - Drivers shall turn off their trucks when parked.
 - Deliveries shall exit the store to Miller Avenue via Evergreen Avenue.
 - Delivery vehicles shall not block residential driveways.
4. Refrigerated or other vehicles or trailers temporarily stored on the property and making a consistent mechanical or engine noise as part of their normal operation shall be turned off and left off no later than the close of business each night and shall not be restarted until after the store is open for business the next day.

The motion was carried 5/0.

5. [7 Cottage Avenue - Design Review - Turner - File No. 4024 \(Zanarini\) A STUDY SESSION to hear the application of Melanie Turner of Pfau Long Architecture for Design Review for a 983 square foot addition to an existing 560 square foot single-family home on a 5,090 square foot lot owned by Stefanie and Tim Rosa.](#)

7 Cottage Ave doc.

Applicant presentation from architect Peter Pfau

Public Comment

Commission Deliberation

Commissioner Chambers feels it's a nice design but would like see some consideration for the neighbor in regards to the window. She feels it's a beautiful floor plan. She would like to see a height reduction of the angle of the shed roof and reworking the master bath to get it away from the property line and maybe set that back a bit.

Commissioner McCauley echoes all Commissioner Chambers comments.

Commissioner Richardson agrees with all the comments. She suggested rotating or moving the bathroom to the front of the master bedroom.

Commissioner Geiszler stated he likes the design as well. He stated he can appreciate that that neighbor feels the design is looming but he stated this house could have been 25' tall compared to the 17' proposed now. He stated that the setback is the same as the neighbors have. He asked at what point does your property rights trump the applicant's property rights. He feels the idea of tweaking the floor plan is up to the architect but thinks you could change the roofline with a gable over the bathroom. He stated if you brought the house forward he would be concerned about the safety to the Oak tree. He appreciates that the neighbor will have to look up at the house but that is part of living in a canyon. He feels the applicant could look at the window situation to create some privacy and the roof line but he doesn't feel the need to change the floor plan as the design is well under the building requirements.

Commissioner Rand he feels the design is brilliant especially for a complicated lot. He understands the privacy issues and would like to see some tall vegetation to help the neighbor.

Adjourn

It was **M/s** by Commissioner Richardson/Commissioner Geiszler to adjourn. The motion was carried 5/0.

Any decision made by the Planning Commission on the above items may be appealed to the City Council by filing a letter with the Planning Department within 10 calendar days describing the basis for the appeal accompanied by the \$250 appeal fee.