



CITY OF NOVATO
COMMUNITY DEVELOPMENT

DESIGN REVIEW COMMISSION

Meeting Minutes

ZOOM TELECONFERENCE
Wednesday, April 7, 2021 - 7:00 PM

A. CALL TO ORDER, PLEDGE OF ALLEGIANCE, AND ROLL CALL

The Design Review Commission meeting began at 7:05 PM.

Commission Present: Chair Joe Farrell, Vice Chair Patrick MacLeamy, Commissioner Michael Barber, and Commissioner Emily Studer

Absent: Commissioner Edridge

Staff Present: Planning Manager Steve Marshall and Planner II Kaitlin Zitelli

B. APPROVAL OF FINAL AGENDA

COMMISSION ACTION: Upon motion by Vice Chair MacLeamy and seconded by Commissioner Studer, the Design Review Commission voted 4-0-0-1 via roll call to approve the Final Agenda.

AYES: Commissioners MacLeamy, Barber, Studer, and Farrell

NOES: None

ABSTAIN: None

ABSENT: Commissioner Edridge

Motion carried.

C. PUBLIC COMMENT

There was no public comment.

D. CONSENT ITEM

D.1. Approval of DRC Minutes of October 7, 2020 (JF, PM, MB, ME, ES)

COMMISSION ACTION: Upon motion by Commissioner MacLeamy and seconded by Commissioner Studer, the Design Review Commission voted 4-0-0-1 via roll call to approve the DRC Minutes of October 7, 2020.

AYES: Commissioners MacLeamy, Barber, Studer, and Farrell

NOES: None
ABSTAIN: None
ABSENT: Commissioner Edridge

Motion carried.

PUBLIC HEARING

E. CONTINUED ITEMS

NONE

F. NEW ITEMS - HEARINGS

F.1. HODGE/WOODALL RESIDENCE ADDITION P2021-004; DESIGN REVIEW CEQA CATEGORICALLY EXEMPT – SECTION 15303 APN 124-291-57; 333 SAN MARIN DRIVE

Conduct a public hearing, consider, and possibly deny or approve a design review application for a 307 square-foot second-story residential addition to an existing two-story single-family residence on a hillside lot at 333 San Marin Drive.

Planner II Zitelli presented the staff report and described the purpose of the design review hearing and the project.

Design Review Commissioners asked questions related to why staff was recommending denial of the project and requested confirmation of the average slope of the lot as it was listed incorrectly in the staff report.

Commissioner Barber asked if development of the surrounding neighborhood pre-dated the hillside ordinance. Planner II Zitelli answered yes. Commissioner Barber asked if the second story guidelines step-back requirement was a specific dimension. Planner II Zitelli stated no dimension is given.

Vice Chair MacLeamy asked what the existing and proposed areas of the home were and asked what the existing Floor Area Ratio (FAR) was.

Vice Chair MacLeamy asked if the Commission's decision can be appealed.

Planner II Zitelli confirmed the matter was appealable to the Planning Commission and City Council.

Ramiro Alvarez and Zack Illinetsky with Green Bay Remodeling representing the homeowners, presented the project plans and described the design of the proposed addition.

The homeowners Robert Hodge and Jacqueline Woodall discussed why they are pursuing the addition to their home and further described the project.

Chair Farrell asked staff if the addition were a ground floor addition, would it still be subject to the hillside requirements and design review? Planner II Zitelli answered yes, although the second-story guidelines would not apply in that instance.

SUMMARY OF PUBLIC COMMENT

NUMBER OF SPEAKERS: 2

Chris and Sarah Inclenrock, residents of the adjacent residence at 329 San Marin Drive stated their concerns about the project as they believed it would negatively impact their property. Mr. and Ms.

Inclenrock stated that the project would result in shade impacts to outdoor yard areas of their property, would decrease their property value, and infringe on their privacy. They noted their rear yard already receives hardly any sunlight seven months a year. They acknowledged the staff report prepared for the project and supported staff's recommendation to deny the project.

SUMMARY OF COMMISSION COMMENTS

Commissioner Studer stated that design-wise the addition looks fine and matches the existing home and the neighborhood.

Commissioner Barber commented that the lack of the second-story step-back could be easily solved by shrinking the addition or moving the floor plan around. He stated that he could not see a way to make one of the two additional findings required to approve the project, as the design of the addition is not unique, nor does the site have unique conditions. He did not think the project met finding a. or b. of the Hillside Ordinance to allow a greater FAR.

Vice Chair MacLeamy stated he was on DRC when the City approved the Hillside Ordinance and he helped with the language and FAR requirements. He stated that the project was a good addition and doesn't believe the FAR requirements in the Hillside ordinance apply to this project because the site was 'benched' by the developer at the time the subdivision was created. He noted the proposed addition is similar to other homes in the neighborhood including the adjacent home at 329 San Marin Drive, and he is ready to approve the project.

The Commissioners discussed the Hillside Ordinance and its applicability to the project site.

Chair Farrell read the purpose of the Hillside Ordinance as found in NMC Division 19.26.010, and said the project site was not a hillside, and that the home with the proposed addition would not block views of Mt. Burdell behind the project site. He said the project should meet the second-story addition guidelines and should have a step-back of at least 2-feet on the side of the addition.

Vice Chair MacLeamy says that the FAR maximum being exceeded must be addressed as well.

The Commissioners discussed the Hillside Ordinance and its applicability to the project site, and Chair Farrell asked staff if the lot could not be considered a hillside lot in this instance.

Planning Manager Marshall stated he could not support finding the Hillside Ordinance does not apply to the project site and noted such a position would have implications with respect to future projects. He suggested revisiting the two additional findings that can be made for allowing additional FAR on a hillside lot from the perspective of the intents of the Hillside Ordinance as acknowledged by Commissioner Farrell. He stated the Commission has the discretion to consider the project's consistency with the required findings based on the stated intents of the Hillside Ordinance.

The Commissioners discussed the visibility of the proposed addition and the potential for the addition to block views of Mt. Burdell. They also discussed what kind of precedent approving this project might set.

Vice Chair MacLeamy spoke to staff, stating that the two findings to approve additional FAR did not make sense in this instance and that the Hillside Ordinance makes building a home in Novato difficult.

Planning Manager Marshall responded that staff is not oblivious to the challenges often faced by homeowners when their projects are subject to the Hillside Ordinance. However, staff does not have the same level of discretion as the Commission when considering projects. Planning Manager Marshall stated the Commissioners may use the purpose statements from the Hillside Ordinance as read earlier by Chair Farrell to consider the consistency with required findings and standards.

Vice Chair MacLeamy said that the Hillside Ordinance could use some improving and clarification. He noted that through the appeals process the City Council could overturn a decision made by the DRC if

they did not agree.

Chair Farrell reiterated the DRC has to the discretion to look at the big picture and determine what constitutes compliance.

Vice Chair MacLeamy stated his interested in a conditioned approval based on the Hillside Ordinance being improperly applied to a benched lot and an FAR finding is not needed; add a condition requiring side and rear step back.

Chair Farrell noted he could make finding a. based on the overall intent of the Hillside Ordinance recognizing the project has minimal visibility from the perspective of impairing views of Mt. Burdell.

Vice Chair MacLeamy made a motion to make finding a. as quoted in the staff report to allow for an FAR exceeding the FAR established for the property by the Hillside Ordinance on the basis the project has minimal effect on views of Mt. Burdell, and approve the project, with modifications to condition of approval #2 that the addition meet the second story setback requirement.

Chair Farrell clarified that the step-back requirement should be a minimum of 2-feet on the side.

Commissioner MacLeamy amended his motion to include the addition must meet a minimum 2-foot side step-back.

COMMISSION ACTION: Upon a motion by Commissioner MacLeamy and seconded by Chair Farrell, the Design Review Commission voted 3-1-0-1 via roll call to make finding a. as quoted in the staff report to allow for an FAR exceeding the FAR established for the property by the Hillside Ordinance on the basis the project has minimal effect on views of Mt. Burdell, and approve the project, with modifications to condition of approval #2 to require the addition to step-back a minimum of 2-feet from the side of residence.

AYES: Commissioners MacLeamy, Studer, and Farrell

NOES: Commissioner Barber

ABSTAIN: None

ABSENT: Commissioner Edridge

Motion carried.

Modifications are reflected below with ~~strikeout~~ for language that was deleted, **bold** for language that was added:

- The proposed addition shall be redesigned to be setback **a minimum of 2-feet** from the existing side ~~and rear~~ house lines at the first floor of the home, to the satisfaction of the Community Development Director or their designee prior to an issuance of a building permit for the project.

COMMISSION FINDINGS

The Design Review Commission hereby approves the design review application for the Hodge/Woodall Residence addition based on the following findings as more specifically discussed in the staff analysis section of the staff report.

1. **CEQA Finding:** The Design Review Commission hereby finds that the proposed project is categorically exempt from the requirements of the California Environmental Quality Act (CEQA) and the City of Novato Environmental Review Guidelines, pursuant to CEQA Guidelines Section 15303 *New Construction and Conversion of Small Structures*. Section 15303 exempts the construction of new, small structures, including but not limited to the construction of one (1) single-family residence. The proposed project is a 307 square-foot addition to an existing single-family residence, therefore the project meets the criteria for this CEQA exemption.

2. In accordance with Section 19.42.030.F. of the Novato Municipal Code and on the basis of the discussion in the staff analysis section of this report above, the Design Review Commission finds that:
 - a) The design, layout, size, architectural features and general appearance of the project is consistent with the general plan, and any applicable specific plan, and with the development standards, design guidelines, and all applicable provisions of this code, including this title and any approved master plan and precise development plan.
 - b) The project would maintain and enhance the community's character, provide for harmonious and orderly development, and create a desirable environment for the occupants, neighbors, and visiting public.
 - c) The project would not be detrimental to the public health, safety, or welfare; is not materially injurious to the properties or improvements in the vicinity; does not interfere with the use and enjoyment of neighboring existing or future developments and does not create potential traffic, pedestrian or bicycle hazards.
3. **Supplemental Design Review Findings:** In accordance with Section 19.26.060 of the Novato Municipal Code, and on basis of the facts presented above in the staff analysis section of this staff report, the Design Review Commission finds:
 - a) The design, scale, massing, height and siting of development is compatible with the character and scale of the surrounding developed neighborhood.
 - b) The design and site layout of the hillside project is respectful of and protects the natural environment to the maximum extent feasible.
 - c) Site grading has been designed to be as minimal as possible to achieve sensitive hillside design, minimize tree removal, and provide safe site access and required parking.
 - d) The hillside project has been designed and sited to screen development, to the extent feasible, through clustering and/or avoiding of highly visible hillsides, ridgelines, and knolls.
4. In accordance with Section 19.26.050 I. of the Novato Municipal Code, on the basis that the addition would have minimal impacts on views of the hillside behind the home, the Design Review Commission finds that:
 - a) The subject property contains unique conditions, which permit the building to be secluded and have minimal visibility (upon completion) from off-site public or private property.

CONDITIONS OF APPROVAL

Planning Division of the City of Novato Community Development Department:

1. Design Review shall expire two (2) years from the date of approval unless within that time a building permit has been issued and remains valid.
2. The proposed addition shall be redesigned to be setback a minimum of 2-feet from the existing side and house lines at the first floor of the home, to the satisfaction of the Community Development Director or their designee prior to the issuance of a building permit for the project.
3. Significant design alterations shall be brought to the Planning Division for consideration. No

deviation from the approved plans, including color changes or substitution of materials shall be made without staff approval.

4. Construction associated with this approval shall conform to NMC Section 19.22.070 – *Noise and Construction Hours*.
5. The approval granted herein shall not become effective until all appropriate fees billed by the City of Novato to the application account are paid in full in accordance with the City’s cost Base Fee System. Failure to pay said fees may result in the City withholding issuance of related building permit, certificate of occupancy, recordation of final maps or other entitlements.

Novato Fire Protection District:

6. The address shall be posted clearly visible from the street with numerals illuminated and contrasting color to their background conforming to Novato Fire Protection Standard #205.
7. The facility and improvements shall comply with California Building Code and State Fire Marshal building standards and regulations.
8. The project is located in a wildland-urban interface area and must meet all applicable California Building Code requirements.

North Marin Water District:

9. The project must conform to District Regulation 15 – Mandatory Water Conservation Measures. Occupancy approval shall not be granted until compliance with water conservation measures, as applicable, can be verified.

General

10. Indemnity and Time Limitations
 - a. The applicant shall defend, indemnify and hold harmless the City, its agents, officers, attorneys and employees from any claim, action, or proceeding brought against the City or its agents, officers, attorneys, or employees, to attack set aside, void or annul the City’s decision to approve the application and associated environmental determination at issue herein. This indemnification shall include damages or fees awarded against the City, if any, cost of suit, attorney’s fees, and other costs and expenses incurred in connection with such action whether incurred by the applicant, the City, and/or parties initiating or bringing such action.
 - b. The applicant shall defend, indemnify and hold harmless the City, its agents, officers, employees, and attorneys for all costs incurred in additional investigation (such as the environmental determination at issue herein or any subsequently required Environmental Document), if made necessary by said legal action and if the applicant desires to pursue securing such approvals, after initiation of such litigation, which are conditioned on the approval of such documents, in a form and under conditions approved by the City Attorney.
 - c. The applicant indemnifies the City for all the City’s costs, fees, and damages which the City incurs in enforcing the above indemnification provisions.
 - d. Unless a shorter period applies, the time within which judicial review of this decision must be sought is governed by California Code of Civil Procedure, Section 1094.6.

- e. The Conditions of Project Approval set forth herein include certain fees, dedication requirements, reservation requirements, and other exactions. Pursuant to Government Code Section 66020(d)(1), these Conditions constitute written notice of a statement of the amount of such fees, and a description of the dedications, reservations, and other exactions. The applicant is hereby further notified that the 90-day approval period in which you may protest these fees, dedications, reservations, and other exactions, pursuant to Government Code Section 66020(a), has begun. If the applicant fails to file a protest within this 90-day period complying with all of the requirements of Section 66020, the applicant will be legally barred from later challenging such exactions.

G. Workshops

NONE

H. GENERAL BUSINESS

These items include significant and administrative actions of special interest and will usually include a presentation and discussion by the Commission. They will be enacted upon by a separate vote.

NONE

I. ADJOURNMENT

Motion to adjourn at 8:40 PM by Commissioner Barber, seconded by Commissioner Studer. The Commission voted 4-0-0-1 to approve motion

AYES: Commissioners Barber, Studer, MacLeamy, and Farrell

NOES: None

ABSTAIN: None

ABSENT: Commissioner Edridge

I HEREBY CERTIFY that the foregoing minutes were duly adopted at the Design Review Commission meeting of April 7, 2021.

/Shelley Woods/

Shelley Woods, Senior Office Assistant