

**ATTACHMENT 9**  
**PLANNING COMMISSION**  
**STAFF REPORT AND ATTACHMENTS**  
**MARCH 28, 2017**



# CORTE MADERA PLANNING COMMISSION STAFF REPORT

**ITEM NO. 3A**

REPORT DATE: MARCH 24, 2017  
MEETING DATE: MARCH 28, 2017

**SUBJECT:**

REVIEW AND RATIFICATION OF A RESOLUTION FOR APPROVAL OF DESIGN REVIEW APPLICATION PL-2016-0007 – FOR A MAJOR REMODEL AND ADDITION OF A NEW THIRD FLOOR WITH ADDITIONS TOTALLING 1,516 SQUARE FEET AT 159 PRINCE ROYAL DRIVE, REFLECTING THE PLANNING COMMISSION MOTIONS OF APPROVAL AT THE MARCH 14, 2017 PUBLIC HEARING

**SITE:**

**159 PRINCE ROYAL DRIVE**  
APN 038-274-01

**APPLICANTS:**

Joel Hernandez and Stacy UyBico

**CEQA STATUS:**

The Planning Department recommends that the project is exempt from the California Environmental Quality Act under Categorical Exemption Class 1 (CEQA Article 19, Section 15301).

**PROCEDURE:**

The Planning Commission's decision is final unless appealed to or called up by the Town Council within ten calendar days.

**BACKGROUND:**

Below is a chronological listing of events pertaining to this application:

**February 4, 2016** An application was filed for Major Design Review for a major remodel of an existing two level residence including the addition of a third level.

**May 10, 2016** The Planning Commission held a Preliminary Study Session to facilitate an open dialogue between the applicant, commissioners and interested members of the public. Feedback provided at the hearing included questions regarding the general aesthetic of the design, the compatibility of a three level residence in the neighborhood, and potential for impacts on neighboring residences.

**June, 2016 – December, 2016** The applicant engaged in neighborhood outreach, worked through multiple revisions of the project plans and worked with Staff to prepare a complete application.

**January 26, 2017** The Planning Department determined the application to be complete after review of submitted information and recommended that the project qualifies for categorical exemption under Section 15301 of the California Environmental Quality Act (CEQA) Guidelines.

**February 3, 2017** Notices were mailed to all residents within 300 feet of the subject property.

**February 14, 2017** The Planning Commission held a public hearing, heard testimony from the applicant and interested parties and continued the hearing to a date uncertain.

**February 17** Notices were mailed to all residents within 300 feet of the subject property.

**February 28, 2017** The Planning Commission made a motion to postpone the hearing to a date certain on March 14, 2017.

**March 14, 2017** The Planning Commission held a public hearing on the item, heard testimony from the applicant and interested parties, and made a motion to conditionally approve the project with the request that staff provide a revised resolution at the March 28, 2017 Planning Commission meeting for consideration as a consent item.

**March 28, 2017** A revised resolution is brought before the Planning Commission as a consent item for ratification of the motion made on March 14, 2017.

#### **DISCUSSION:**

On March 14, 2017, the Planning Commission held a public hearing to discuss the proposed project at 159 Prince Royal. The applicant presented illustrations of proposed tree trimming of trees on both sides of the existing structure in response to previously-expressed concerns raised by the Commission related to view impacts from 180 Prince Royal Drive. The commission discussed this proposal as it related to Design Review Finding #3. The Commission approved a motion (4-1 in favor), to approve the project based on its ability to make all of the required findings and requested that staff return with a revised resolution reflecting the Commission's conditions of approval, to be considered as a consent item.

Staff revised the resolution (Attachment 1) and has included additional conditions of approval based on the discussion and requests of the Commission. These conditions will result in a landscaping plan that provides additional plantings, improved screening and beautification of the site. A certified arborist, hired by Staff will confirm feasibility of the landscaping plan and provide a tree protection plan and further consultation to ensure that all applicable conditions of approval are met throughout the duration of the project. Furthermore, vegetation on the subject property may not exceed a fixed height specified in the condition of approval. In addition, Staff will require elevation certificates at the time of foundation inspection and installation of roof framing to periodically evaluate compliance with project plans and required conditions of approval. Staff has listed the additional and revised conditions of approval below:

3. *Height of Vegetation – No existing or proposed vegetation, inclusive of trees, may exceed an imaginary horizontal plane; set 20 feet above the level of the existing driveway, or approximately 160 feet above sea level. Height shall be measured relative to the off-site reference pins indicated on the survey submitted with the approved plan set.*
4. *Landscaping Plan*
  - a. *Show all existing and proposed landscaping within the property boundaries. The plan shall indicate the location, species, box size, height at time of planting and expected height within 3 years.*
  - b. *Provide additional landscaping, including new trees and plantings on the west and north*

- side of the property to provide additional visual screening of the structure.*
- c. New landscaping should be composed primarily of native and drought tolerant species.*
  - d. Any tree proposed for removal and any tree which is significantly damaged during construction, between 6 and 25 inches must be replaced with a minimum 24" box size while those trees equal to or greater than 25 inches in diameter, must be replaced at a 2:1 ratio, with a minimum 24" box size*
  - e. All trees shown on the landscaping plan must be maintained for a minimum of 5 years following construction.*
5. *Arborist Consult – The Town will hire an independent certified consulting arborist certified in risk assessment, and paid for by the applicant, to assess the feasibility of the landscaping plan and provide a tree protection plan. This assessment shall include, but not be limited to the following considerations:*
    - i. feasibility of trimming and continued management of existing and proposed vegetation to comply with condition of approval #3 listed above*
    - ii. consideration of foundation and structural plans as they relate to effects on trees within close proximity of the construction area*
  6. *Height Verification*
    - a. At the time of foundation inspection, provide an elevation certificate to the Town from a licensed surveyor or engineer showing that the height of the foundation does not exceed the elevation of the existing foundation.*
    - b. After installation of the first roof truss or initial roof framing, provide confirmation in writing to the Town from a licensed surveyor or engineer that the height of the structure is consistent with the approved building permit plans. Existing elevations are taken from the Topographic Survey drawn on August 24, 2012 by Gregory Cook and provided with the approved plan set.*
  7. *At the time of building permit submittal for any foundation work, the Planning Department shall review the plans for compliance with the approved plan set. Any deviation from the approved plan set may require a Permit Amendment, at the discretion of the Planning Director. The Director may also refer proposed changes of the approved plans to the Planning Commission for review.*
  8. *The applicant shall be required to implement measures to avoid unsightly construction-related impacts, such as the accumulation of spoils or debris, and contain construction equipment and materials within a confined space adjacent to the area of ground disturbance and/or area of new construction, and away from vegetation to be retained.*
  9. *Construction Management Plan - A Construction Management Plan and Parking Plan shall be prepared by the applicant and submitted at or before the time of building permit application submittal to the satisfaction of the Planning and Building and Public Works Departments in order to minimize impacts on the neighborhood and significant vegetation on-site during the construction period.*

Note that this application is also subject to a standard condition of approval included with all projects that no other changes shall be made to the approved site plan or landscape plans without written

approval from the Corte Madera Planning Department. If the applicant proposes changes that require Planning Department review to determine conformance with the approved plans, the Planning Director may require a \$500 deposit for a Permit Amendment, pursuant to the Corte Madera Fee Schedule. The Planning Director may also refer proposed changes of the approved plans to the Planning Commission for review.

**RECOMMENDATION:**

Staff recommends the Planning Commission ratify and affirm its decision made on March 14, 2017 by approving resolution No. 17-003.

**ATTACHMENTS:**

1. Resolution No. 17-003 For Approval
2. Draft Minutes of 3/14/17

**Attachment 1**  
**Resolution No. 17-003**

**BEFORE THE TOWN OF CORTE MADERA PLANNING COMMISSION**

<b>In the Matter of:</b> DESIGN REVIEW PERMIT PL-2016-0007 FOR A MAJOR REMODEL AND ADDITION OF A NEW THIRD FLOOR WITH ADDITIONS TOTALLING 1,516 SQUARE FEET AT 159 PRINCE ROYAL DRIVE.	<b>Resolution No. <u>17-003</u></b> <b>Adoption Date: <u>March <del>14</del>28, 2017</u></b> <b>Appeal Period Ends: <u>March <del>24</del>April 7, 2017</u></b>
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**WHEREAS**, on February 4, 2016, an application was filed for Major Design Review for a major remodel of an existing two level residence including the addition of a third level; and

**WHEREAS**, on May 10, 2016, the The Planning Commission held a Preliminary Study Session to facilitate an open dialogue between the applicant, commissioners and interested members of the public. Feedback provided at the hearing included questions regarding the general aesthetic of the design, the compatibility of a three level residence in the neighborhood, and potential for impacts on neighboring residences; and

**WHEREAS**, on January 26, 2017, the Planning Department determined the application to be complete and recommended that the project qualifies for categorical exemption under Section 15301 of the California Environmental Quality Act Guidelines; and

**WHEREAS**, on February 3, 2017, public hearing notices were mailed to property owners within 300 feet of the subject property and posted in three public places; and

**WHEREAS**, on February 14, 2017, the Corte Madera Planning Commission held a public hearing on the item, and heard testimony from the applicant and interested parties; and

**WHEREAS**, on February 17, 2017 public hearing notices were mailed to property owners within 300 feet of the subject property and posted in three public places; and

**WHEREAS**, on February 28, 2017, the Corte Madera Planning Commission postponed the public hearing to a date certain; and

**WHEREAS**, on March 14, 2017, the Corte Madera Planning Commission held a public hearing on the item, ~~and~~ heard testimony from the applicant and interested parties, and made a motion to approve the project with the request that staff provide a revised resolution at the March 28 Planning Commission meeting for consideration as a consent item; and

**WHEREAS**, on March 28, 2017, the Corte Madera Planning Commission reviewed the revised resolution;

**NOW, THEREFORE, BE IT RESOLVED**, that the Planning Commission does hereby **APPROVE** Design Review Permit PL-2016-0007 for a major remodel of an existing two level

residence including the addition of a new third floor, with additions totaling 1,516 square feet at 159 Prince Royal Drive, based upon the finding that the proposed project is in substantial conformity with the General Plan and Zoning Ordinance based upon the findings listed below in accordance with Section 18.30.070 of the Municipal Code, and subject to the conditions of approval listed below.

### **CALIFORNIA ENVIRONMENTAL QUALITY ACT (“CEQA”) DETERMINATION**

This project is categorically exempt from the California Environmental Quality Act (CEQA) Guidelines pursuant to California Code of Regulations, Title 14, Division 6, Chapter 3, (“CEQA Guidelines”), under Section 15301, because said Guidelines provision exempts the minor modifications to existing structures.

### **DESIGN REVIEW: REQUIRED FINDINGS**

The Planning Commission hereby makes the following findings required by Section 18.30.070 of the Corte Madera Municipal Code and based on California State law.

**1. The project conforms with the General Plan, any applicable Specific Plan, and all provisions of the Zoning Ordinance.**

The proposed project is consistent with both the Zoning Ordinance and the General Plan. The project meets all development standards of the R-1 Zoning District including but not limited to: height, floor area, setbacks, lot coverage and parking.

The project complies with the General Plan because it represents a significant reinvestment in existing housing stock that will improve the safety and structural soundness of the residence. The project is consistent with General Plan Policy CD-2.3, which requires that “new residential construction, including large additions, to respect the scale and character of nearby structures by minimizing abrupt or excessive difference in appearance or scale,” and Policy LU 2.4, that seeks to “ensure that new residential development and upgrades to existing residential development are compatible with existing neighborhood character and structures.” The structure is surrounded by a variety of homes that range from 1-3 stories. The proposed three story structure would be similar in height to other three story homes directly across Prince Royal Drive, at 164 and 168 Prince Royal. The remodel will preserve the residential use and character of the structure while introducing modern architectural elements that follow the improvements of other homes in the neighborhood, including 407 and 411 Prince Royal Drive, as well as 220 Granada which is a modular design approved by the Planning Commission in 2016.

The proposed residence would increase the functional floor area of the residence, improving the livability of the property for the property owners and doing so in manner which is harmonious with a neighborhood that is continually being improved through similar projects. The design of the structure uses significant articulation between wall faces to create “design approaches that break the mass of wall planes,” consistent with



Implementation Program CD-2.4.a. The applicants specifically maintained the existing setbacks of the structure in response to requests of the adjacent neighbor. Along with the deliberate siting of the structure, the applicants have also used clerestory windows in deliberate locations to alleviate privacy concerns of the adjacent neighbor. This is consistent with the residential design guidelines within Policy CD-2.4 which call for "limiting the impact of the proposed second story on privacy to adjoining residences... through features such as window size and placement...etc."

2. **The project will not unnecessarily remove trees and natural vegetation, will preserve natural landforms and ridgelines, does not include excessive or unsightly grading of hillsides, and otherwise will not adversely affect the natural beauty of the Town.**

The project will not adversely affect the natural beauty of the Town. The project will utilize the existing graded portion of the lot - avoiding any change in the existing topography, unnecessary grading or unsightly changes to the slope or surrounding natural vegetation. There are a number of trees on the property, the majority of which are not within close proximity of the building location and will not be removed or damaged in the construction process. Much of the existing vegetation immediately surrounding the project site will be replaced according to the landscaping indicated on the site plan and new plantings will be primarily drought tolerant, non-invasive, native plantings, respecting the close proximity to Ring Mountain open space and complying with provisions of the General Plan which encourage the use of such vegetation. An additional landscaping plan will be provided by the applicant and reviewed by staff. This landscaping plan will include additional plantings along the west and norther portion of the lot that will provide visual screening and soften the transition between the slope of the lot and the structure. Any significant tree proposed to be removed, or that dies as a result of construction within 10 years of project completion will be replaced on the lot.- In addition, an arborist will be required to be hired by the Planning Department to assess the feasibility of the landscape plan, require modifications as necessary, develop a tree protection plan, and be consulted during project construction. These conditions ensure that the project will not adversely affect the natural beauty of the Town and that natural vegetation is not unnecessarily removed.

3. **The project will not significantly and adversely affect the views, sunlight, or privacy of nearby residences, provides adequate buffering between residential and nonresidential uses, and otherwise is in the best interests of the public health, safety and general welfare.**

The applicant has received 8 letters from surrounding neighbors, including 2 letters which communicate concerns of view impacts. The neighbor at 163 Prince Royal Drive, immediately east of the subject property, has raised concerns over impacts to western views from their kitchen window due to the location of the applicant's proposed covered entryway. This was an issue that was raised in the first preliminary study session. In response, the applicant reduced the length of the entryway by 1/3, from just over 30

feet in length, to 17 feet. The entryway would modify a view of the pine trees adjacent to Prince Royal Drive and remains a concern for the neighbor, as articulated in the letter they provided. The applicant has maintained a single story garage without any addition directly above it to remove any potential shading or view impacts and those aspects of the project are not a concern for the adjacent neighbor. The Commission finds that view impacts to the adjacent neighbor are minimal and not significantly or adversely affected due to the fact that the view is from a small kitchen window and the nature of the existing view is limited to the pine trees adjacent to 159 Prince Royal Drive. Views of nearby houses and other neighborhood vegetation would not be affected.

The owner of 180 Prince Royal Drive provided a letter stating that the project would have a significant adverse effect on the views from her property. A majority of the applicant's views are from the upper floor, as the lower level is limited to near views of the neighborhood and of the significant vegetation and redwood trees in her front yard. At the upper level of the home, the master bedroom extends the length of the north elevation with two sets of French doors leading to a balcony. The redwood trees growing in the front yard block approximately half of the width of the potential view area from the balcony. A PG&E power pole and wiring are conspicuously located within the existing viewshed. Beyond this power pole, there are open views from the west to the northwest include Mt. Tamalpais and the hills beyond San Rafael and Fairfax.

The proposed remodel and addition would increase the height of the structure at 159 Prince Royal which would result in the loss of a portion of the view from one of the master bedroom windows and the adjacent portion of the upper balcony. The view primarily includes portions of the distant San Rafael hills and a very limited portion of the existing view of the Corte Madera Marsh.

The General Plan acknowledges that view impacts are often part of the development process and calls for minimization of *significant* negative impacts to neighbor's views. The General Plan does not provide guidance on how to quantify the significance of a view or the significance of an impact. The General Plan does place a clear emphasis on balancing neighbor and applicant interests, or as stated in Policy LU-2.8, "view preservation shall be balanced with a property owner's right to develop." This message is echoed in Section 5.3 of the General Plan where it states, "the evaluation and analysis of new or expansion projects must balance the needs of the home owner with potential neighborhood impacts affecting views, sunlight, privacy and safety. This balance must be determined on a case-by-case basis."

In this case, while it is acknowledged that the project will result in some blockage of existing views for both 163 and 180 Prince Royal Drive, the Commission finds that the views of these and other properties within the vicinity will not be *significantly and adversely affected*. The *open* view at 180 Prince Royal Drive is wide, encompassing Mt. Tamalpais, West Corte Madera, Baltimore Ridge and the hills of Larkspur and the Ross Valley. Views to the East and Northeast are significantly obscured by redwood trees and other thick vegetation on the neighbor's own property. The view blockage of the proposed structure represents a limited proportion – roughly 1/5 - of the existing views

to the west and northwest. If the neighbor's redwood trees were pruned or "windowed" to thin their branches, the proposed development would block an even smaller proportion of the total view from 180 Prince Royal Drive. Ultimately the Commission finds that the additional height of the proposed residence would impact the view of 180 Prince Royal Drive but in no way would this impact be significant when viewed in the context of existing views. Furthermore, the Commission finds that views from 180 Prince Royal Drive have the potential for improvement, if blockages caused by adjacent vegetation were managed to reveal north and northeastern views.

Furthermore, the view impacts resulting from the increase height of the upper floor addition would be significantly mitigated by the management of trees adjacent to the subject structure. These trees currently block portions of the views of the San Rafael hills and Corte Madera Marsh. Trimming of these trees would increase views of those features and would result in a net increase of views when considered in tandem with the view blockages that would be caused by the increased height of the structure. A condition of approval for the project states that vegetation may not exceed a horizontal plane set at 20 feet above the existing level of the driveway. The applicant will also be required to prevent vegetation from exceeding this plane into the future.

Sunlight impacts are limited to the neighboring property at 163 Prince Royal and are insignificant. The adjacent structure is approximately 18 feet from the wall of the second level of the subject property and the floor level of neighboring house is approximately 10.5 feet higher than the applicant's driveway. The garage of the proposed structure has been maintained as a single level to further diminish any sunlight impacts to the neighboring property. Ultimately the higher location of the adjacent house, distance between structures and step back of the subject residence from the street significantly diminish any potential shading impacts.

Privacy impacts to this neighboring residence were mitigated through the use of clerestory windows at the upper floor, while the middle floor has two windows with limited view due to the neighbor's fence and vegetation. There are multiple balconies and decks, at the first, second and third levels. The lower level deck at the rear of the property and the patio above the garage do not create a significant and adverse impact because the height of the adjacent property is raised above the elevation of the deck and all other neighbors are a significant distance from the property. The second and upper level decks do not create any significant and adverse privacy impacts because each element is at a height that limits the ability of occupants to view inside the neighboring residence.

**4. The structure, site plan and landscaping are in scale and harmonious with existing and future development adjacent to the site and in the vicinity and with the landforms and vegetation in the vicinity of the site.**

The structure, site plan and landscaping are in scale and harmonious with surrounding development and neighborhood topography. Surrounding development is comprised of 1, 2 and 3 story residences. A majority of residences in the immediate vicinity retain

much of their original 1960's architecture while some have undergone major remodels that hint at current design preferences and trends. Two examples of significant remodels in the immediate vicinity include 207 and 211 Prince Royal Drive which are a significant contrast from one another and from the original structures that they replaced. 207 Prince Royal Drive is a modern design using rectangular elements, flat rooves and exposed steel whereas 211 Prince Royal uses a craftsman inspired design with wood shingles and white trim.

The redesigned residence builds on some of the traditions of the neighborhood which include a mix of craftsman style homes, traditional ranch homes and single-story shed roof homes. The existing structure has modern architectural elements, including a shed roof over the garage. The proposed design will replace this shed roof and build on this previous modern element. The design uses flat rooves and rectangular elements with modern materials, including glass, stucco, travertine and wood paneling that add a level of contemporary design to the neighborhood.

Landscaping includes existing trees along the west elevation in combination with proposed plantings around the footprint of the structure to soften the transition from the sloping lot to the structure. Overall the structure and landscaping are in scale and harmonious with the surrounding development and the project avoids modification of the lot topography that would be out of character with the neighborhood.

**5. Development materials and techniques will result in durable high-quality structures.**

The existing structure was constructed in 1964 and has had little improvements made since that time. The proposed design and construction will use high quality and durable construction and fabrication materials and will improve the safety and soundness of the structure for the occupants.

**6. The structures, site plan, and landscaping create an internal sense of order, provide a visually pleasing setting for occupants, visitors, and the general community, are appropriate to the function of the site, and provide safe and convenient access to the property for pedestrians, cyclists and vehicles.**

The property is setback from the front property lines and maintains a clear line of site for those entering and exiting the property as well as those passing along the street. The project will be an attractive, modern and visually pleasing addition to the neighborhood and will not create an adverse condition for pedestrians, cyclists or vehicles.

**7. To the maximum extent feasible, the project includes the maintenance, rehabilitation, and improvement of existing sites, structures, and landscaping, and will correct any violations of the Zoning Ordinance, Building Code, or other municipal violations that exist on the site.**

There are no known violations of the Zoning Ordinance, Building Code or other municipal code on this parcel. The project will comply with all applicable regulations and standards. The proposed structure would be a significant improvement over the aging structure which currently occupies the property.

8. **The design and location of signs are consistent with the character and scale of the buildings to which they are attached or which are located on the same site, the signs are visually harmonious with surrounding development and there are no illegal signs on the site.**

The project does not include any signs.

### **CONDITIONS OF APPROVAL**

#### **PLANNING DEPARTMENT**

1. Plans submitted for building permit shall include these conditions of approval on one or more of the sheets.
2. The applicant shall provide with the building permit application submittal a signed "Owner and Contractor Statement" (attached). This signed document acknowledges that the owner and contractor have read, understand and accept the responsibility to implement the conditions of approval. The proposed project shall be constructed substantially in accordance with "Joel and Stacey Home Renovation" project plans stamped "Official Exhibit" with a RECEIVED stamp date of January 31, 2017, and the colors and materials boards stamped "Official Exhibit, Approved by P.C., Resolution 17-003, Permit No. PL-2016-0007, 3/14/17" except as amended by the conditions listed below.
3. Height of Vegetation – No existing or proposed vegetation, inclusive of trees, may exceed an imaginary horizontal plane; set 20 feet above the level of the existing driveway, or approximately 160 feet above sea level. Height shall be measured relative to the off-site reference pins indicated on the survey submitted with the approved plan set. This condition shall be on-going and shall be maintained unless or until obtaining new permits or approvals or modifying existing permits or project approvals
4. A Landscaping Plan shall be submitted by the applicant and approved by the Planning Department prior to the submittal of any Building Department Permits and shall include at minimum, the following:
  - a. Show all existing and proposed landscaping within the property boundaries. The plan shall indicate the location, species, box size, height at time of planting and expected height within 3-5 years.
  - b. Provide additional landscaping, including new trees and plantings on the west and north side of the property to provide additional visual screening of the structure.

- c. New landscaping should be composed primarily of native and drought tolerant species.
  - d. Any tree proposed for removal or requiring removal during construction, or within 10 years following completion of construction, between 6 and 25 inches in circumference must be replaced in-kind with a minimum 24" box size while those trees equal to or greater than 25 inches in circumference, must be replaced in-kind at a 2:1 ratio, with a minimum 24" box size
  - e. The landscape plan shall be maintained in substantial conformity with the approved landscape plan for a minimum of 10 years following construction.
- 5. Arborist Consult – The Town will hire an independent certified consulting arborist certified in risk assessment, and paid for by the applicant, to assess the feasibility of the landscaping plan, require any modifications as necessary, and provide a tree protection plan. This assessment shall include, but not be limited to the following considerations:
  - i. feasibility of trimming and continued management of existing and proposed vegetation to comply with condition of approval #3 listed above—consideration of foundation and structural plans as they relate to effects on trees within close proximity of the construction area.
- 6. Height Verification
  - a. At the time of final foundation inspection, provide an elevation certificate to the Town from a licensed surveyor or engineer showing that the height of the foundation does not exceed the elevation of the existing foundation.
  - a.b. After installation of the first roof truss or initial roof framing, provide confirmation in writing to the Town from a licensed surveyor or engineer that the height of the structure is consistent with the approved building permit plans. Existing elevations are taken from the Topographic Survey drawn on August 24, 2012 by Gregory Cook and provided with the approved plan set.
- 7. At the time of building permit submittal for any foundation work, the Planning Department shall review the plans for compliance with the approved plan set and approved scope of work. Any changes to the approved plans may require a Permit Amendment, at the discretion of the Planning Director. The Director may also refer proposed changes of the approved plans to the Planning Commission for review.
- 8. The applicant shall be required to implement measures to avoid unsightly construction-related impacts, such as the accumulation of spoils or debris, and contain construction equipment and materials within a confined space adjacent to the area of ground disturbance and/or area of new construction, and away from vegetation to be retained.
- 3.9. Construction Management Plan - A Construction Management Plan and Parking Plan shall be prepared by the applicant and submitted at or before the time of building permit application submittal to the satisfaction of the Planning and Building and Public Works Departments in order to minimize impacts on the neighborhood and significant vegetation on-site during the construction period.

- | 4-10. If this project requires a new water service or a larger water meter then prior to submitting an application for a building permit with the Town of Corte Madera, the applicant shall provide written documentation that the project complies with the graywater provisions of Title 13 of the Marin Municipal Water District (MMWD) Code (Ordinance 429). MMWD Graywater information is available at [marinwater.org/155/Graywater](http://marinwater.org/155/Graywater) or 415-945-1530.
  
- | 5-11. No other changes shall be made to the approved site plan or landscape plans without written approval from the Corte Madera Planning Department. If the applicant proposes changes that require Planning Department review to determine conformance with the approved plans, the Planning Director may require a \$500 deposit for a Permit Amendment, pursuant to the Corte Madera Fee Schedule. The Planning Director may also refer proposed changes of the approved plans to the Planning Commission for review.
  
- | 6-12. Design review approval shall remain valid for a period of one year after which the approval shall lapse and become null and void. The issuance of a building permit shall constitute an extension of the design review approval which shall then remain valid during the same time period the building permit is active. If building permits have not been issued before expiration of design review approval, an extension may be requested as prescribed in Section 18.30.090 of the Town Zoning Ordinance. Such requests must be made before expiration of the Design Review approval. If building permits expire before completion of the project, the Planning Director may at their discretion, permit an extension of the Design Review approval.
  
- | 7-13. All exterior lighting must be (night sky compliant) and not create a glare or hazard on adjoining streets, properties or residential areas. Said lighting must be designed and installed so that the filaments, light sources or lenses are shielded with opaque material in such a way that they will not be visible at property lines. Any changes to proposed lighting must be approved by the Planning Department.
  
- | 8-14. Prior to a final building inspection of this project, the applicants shall contact the Planning Department to schedule an inspection of the finished project to ensure compliance with all of the required conditions of approval.

#### BUILDING DEPARTMENT

- | 9-15. Building permits are required for this project. Please contact the Corte Madera Building Department for specific submittal requirements. Plans shall comply with the 2016 Building Standards Codes.
  
- | 10-16. Hours of construction shall be limited to 7:30 a.m. to 5:00 p.m., Monday through Friday, and 10:00 a.m. to 5:00 p.m. on Saturday, provided that if any reasonable and credible work-related complaints are received by the Town about construction on a weekend, no further work shall be conducted on a Saturday; and provided further, if any reasonable and credible work-related complaints are received by the Town about construction during any weekday, the Planning Director is vested with the authority to impose reasonable conditions to address the issues that gave rise to the complaint. Whether or

not a complaint about construction is reasonable and credible shall be left to the sole and sound judgment of the Planning Director. In order to mitigate the adverse impacts the applicant's construction activities have on neighboring property owners and renters, the Planning Director shall be vested with the authority to impose reasonable conditions on the applicant's hours of construction and/or the applicant's construction activities. No workers shall be on the site except during these hours. Without limiting the generality of the foregoing, no preparatory work or staging shall be allowed to occur on the site or on adjacent properties except during the hours specified above. No work shall be performed on a legal holiday.

## PUBLIC WORKS/ENGINEERING DEPARTMENT

### Grading and Drainage

14. In accordance with section 15.20.030 of the Municipal Code, the applicant may be required to obtain a **Grading and Drainage Permit** from the Public Works Department prior to issuance of a Building Permit. The application for this permit shall include, but not be limited to, a site grading plan/drainage plan showing topographic information prepared by a licensed civil engineer or landscape architect. If a geotechnical report is required, the project geotechnical/soils engineer shall review and approve the grading/drainage plan for conformance to the report prepared for the project.
15. No earthwork shall take place during the rainy season between October 15th and April 15th without special written authorization from the Director of Public Works. Unless specifically exempted, earthwork operations will require an **Erosion and Sediment Control Permit** from the Public Works Department per Municipal Code Section 15.20.285. The permit will require the installation and maintenance of appropriate erosion and sedimentation control measures for the proposed work. The applicant will be required to obtain the permit prior to the issuance of Building Permit.
16. As of July 1, 2015 new projects must comply with NPDES Phase II permit storm water discharge requirements. Show how this project will comply with the new requirements and fill out required forms. This requirement will be prepared by an Engineer familiar with NPDES Phase II permit storm water discharge requirements.
17. Where possible, drainage facilities shall be installed to collect roof drainage and surface water runoff from driveways, walkways, and other paved surfaces. Drainage shall be conveyed and disposed in a manner that avoids concentrated flows and minimizes impacts to adjoining properties. Drainage collection systems shall be designed to Town standards and the flow shall be conveyed to a publicly maintained or natural storm drain system. Runoff shall not be diverted from one drainage area to another. The subsurface drainage system of the foundation or the retaining wall shall remain separate from the surface drainage system.
18. Per Municipal Code Section 12.56.010, portions of the existing sidewalk and/or driveway approach along the property frontage that show severe cracking and/or displacement will require repair or replacement as required by the Public Works Department.

### Work In Public Right-of-Way



19. Per Town Resolution No. 3314, a project over \$10,000.00 is subject to the **Street Impact Fee** equal to 1% of the project valuation. Applicability of this fee will be determined at the time of Building Permit.
20. At the time of Building Permit, the Public Works/Engineering Department will inspect encroachments, vegetation, sidewalks, and drainage at the property for compliance with the Town Municipal Code. The applicant shall bring the property into compliance with the Municipal Code in accordance with Town standards and to the satisfaction of the Public Works Director/Town Engineer prior to final acceptance of the project.
21. The applicant will be required to obtain an **Encroachment Permit** from the Public Works Department for all activities within, or use of, the public right-of-way (curbs, sidewalks, etc...) per Municipal Code Section 12.04.040. Work in the public right-of-way shall be in conformance with the Marin County Uniform Construction Standards and Specifications. The permit shall be obtained prior to any work being performed within the Town right-of-way.
22. Per Municipal Code Section 12.04.040, an **Encroachment Permit** from the Public Works Department will be required for any activities within, or use of, the public right-of-way such as placement of debris boxes, staging of equipment in the street, traffic control activities, or street closures, subject to the review and approval of the Public Works Department.
23. The applicant may be required to prepare and submit a **Construction Management Plan** to the Public Works/Engineering Department prior to the issuance of the Building Permit. The Plan shall provide a general overview of the construction process as it affects the public right-of-way and surrounding neighbors. At a minimum, the plan should outline the schedule of construction, the locations for staging of equipment and materials, and the truck routes that will be used for deliveries.
24. Prior to the issuance of the Building Permit, the applicant may be required to provide a **Construction Parking Plan** to Public Works. The Plan shall propose a system to minimize the effect of construction worker parking in the neighborhood, include an estimate of the number of workers and vehicles that will be present on the site during various phases of construction, and indicate where sufficient off-street parking will be provided.

#### Sanitary Sewer

25. The existing sewer lateral serving the property shall be pressure tested or inspected by in-line video equipment from the building foundation to the main in accordance with Sanitary District No. 2 standards. Should the lateral fail this test, the applicant shall obtain a **Sanitary Sewer Permit** for the repair or replacement of the lateral in accordance with District standards prior to final acceptance of the project.
26. The applicant may be required to obtain a **Sanitary Sewer Permit** to be issued by Sanitary District No. 2 for all work associated with the sanitary sewer mains or laterals serving this property, including the installation of a backflow preventer device. An application for this permit shall be made to the District prior to beginning any work on the sanitary sewer system.

27. Per Town Ordinance 21.32.050 and Sanitary District #2 Ordinance 34 § 2, the applicant is subject to an additional **Sewer Connection Charge** based upon an alteration of use. This alteration may be the result of changes to the premises or to the use of sewer facilities, in terms of either discharge or strength. The additional sewer connection charge shall be \$2,103 if paid in FY2015-2016.

#### Construction Operations

28. Prior to the issuance of a Building Permit, it may be required that a cash deposit up to a maximum amount of \$10,000 be posted for bonding purposes to ensure repair of any damage to roadways, landscaping, and other public improvements in the Town right-of-way caused by the applicant's construction-related activities. The amount of the cash deposit shall be determined at the time of the Building Permit. Said cash deposit shall not be released until the project, including all landscaping, is completed and all required repairs have been made.
29. Prior to the issuance of Building Permit, a video or photographic inspection of the existing conditions of the roadways and other public improvements adjoining the project may be required of the applicant. The inspection results shall be submitted to the Public Works Department.
30. Any damage to the street caused by heavy equipment or because of project construction activities shall be repaired, at the applicant's expense, prior to issuance of the Certificate of Occupancy. All hazardous damage shall be repaired immediately. Any heavy equipment brought to the construction site shall be transported by truck.
31. Per Municipal Code Section 9.33.100, the applicant shall employ best management practices (BMPs) as appropriate from the California Stormwater Best Management Practice Handbook for Construction Activity, latest edition, or from the Erosion and Sedimentation Control Field Manual published by the California Regional Water Quality Control Board, to control and prevent the discharge of sediment, debris and other construction related wastes to the storm drainage system or waterways, including, but not limited to, general construction, concrete and mortar application, heavy equipment operation, road work and paving, and earth-moving activities.

#### FIRE DEPARTMENT

32. This project is within the town of Corte Madera's wildland urban interface fire area, and is required to comply with specific regulations regarding: exterior building materials, vegetation/landscaping, firefighting water supply, fire apparatus access. Please contact the fire and planning/building departments for specific requirements for this project.
33. The interior of the building shall be provided with an automatic sprinkler system. The design and calculations for the system shall be approved by the Fire Department prior to close-in of framing.
34. The roof shall be constructed to be fire retardant (class A) or non-combustible and all chimneys shall have spark arresters. Roof and chimney plans shall be approved by the Fire Department prior to any construction.

35. Prior to the issuance of a Certificate of Occupancy, Fire Department-approved address identification shall be installed.
36. All tree limbs and vegetation within ten feet of chimneys shall be removed.
37. Smoke alarms and carbon monoxide alarms shall be installed in the structure, as required by the California Building Code/ California Residential Building Code.

#### INDEMNIFICATION AGREEMENT

38. The applicant/owner shall:
  - A. Defend, indemnify, and hold harmless the Town of Corte Madera and its agents, officers, attorneys, or employees from any claim, action or proceeding (collectively referred to as "proceeding") brought against the Town or its agents, officers, attorneys, or employees to attack, set aside, void, or annul an approval, which proceeding is brought within the applicable statute of limitations. The indemnification shall include, but not be limited to, damages, fees and/or costs awarded against the Town, if any, and the cost of suit, attorney's fees, and other costs, liabilities and expenses incurred in connection with such proceeding whether incurred by the applicant, the Town, and/or the parties initiating or bringing such proceeding.
  - B. Defend, indemnify, and hold harmless the Town, its agents, officers, attorneys, or employees for all costs incurred in additional investigation or study of, or for supplementing, redrafting, revising, or amending any document, if made necessary by said proceeding and if applicant desires to pursue securing such approvals, after initiation of such proceeding, which are conditioned on the approval of such documents.
  - C. In the event that a proceeding is brought, the Town shall promptly notify the applicant of the existence of the proceeding and the Town will cooperate fully in the defense of such proceeding. In the event that the applicant is required to defend the Town in connection with any said proceeding, the Town shall retain the right to (1) approve the counsel to defend the Town, (2) approve all significant decisions concerning the matter in which the defense is conducted, and (3) approve any and all settlements, which approval shall not be unreasonably withheld. The Town shall also have the right not to participate in said defense, except that the Town agrees to cooperate with the applicant in the defense of said proceeding. If the Town chooses to have counsel of its own defend any proceeding where the applicant has already retained counsel to defend the Town in such matters, the fees and expenses of the counsel selected by the Town shall be paid by the Town. Notwithstanding the immediately preceding sentence, if the Town attorney's office participates in the defense, all Town attorney fees and costs shall be paid by the applicant.
  - D. In the event that the Town is require to initiate legal action to enforce the above indemnification conditions, the applicant shall indemnify the Town for any and all

costs and fees incurred by the Town in connection with that enforcement action.

APPEAL PERIOD

39. No building permit, Certificate of Occupancy, or other Town approval shall be issued until the expiration of the appeal period. The appeal period extends ten calendar days from the date the decision of the Planning Commission or Zoning Administrator was made. Unless a shorter statute of limitations period applies, the time within which judicial review must be sought is governed by California Code of Civil Procedure Section 1094.6.

STOP WORK ORDER - RED TAG ORDINANCE

40. Per Section 15.70.010 of the Municipal Code, whenever any construction or other work that is subject to any provision of the Code has been, or is being, done in any manner that is contrary to any of the provisions of the Code, any ordinance of the Town, or any condition of a permit, approval, or other entitlement granted by the Town, the Town Manager or his/her designee may order that all construction or work on the property be stopped immediately by notice in writing mailed to any person engaged in doing or causing such work to be done and the owner of the property, and by posting on the property where the violation has occurred, or is presently occurring, a notice to stop such construction or work. Such person shall forthwith stop such work until authorized by the Town to proceed.

\* \* \* \* \*

**PASSED AND ADOPTED** by the Corte Madera Planning Commission on March 14, 2017 by the following vote:

AYES: [Bundy, Caldera, Chase, Freedman](#)

NOES: [Metcalf](#)

ABSTAIN:

ABSENT:

\_\_\_\_\_  
Peter Chase, Chair Date

\_\_\_\_\_  
Adam Wolff, Director of Planning and Building Date

**Attachment 2**  
**Draft Minutes March 14, 2017**

**DRAFT MINUTES  
REGULAR PLANNING COMMISSION MEETING  
MARCH 14, 2017  
CORTE MADERA TOWN HALL  
CORTE MADERA**

**COMMISSIONERS PRESENT:** Chair Peter Chase  
Vice-Chair Phyllis Metcalfe  
Commissioner Bob Bundy  
Commissioner Nicolo Caldera  
Commissioner Jennifer Freedman

**STAFF PRESENT:** Adam Wolff, Planning Director  
Douglas Bush, Assistant Planner  
Judith Propp, Assistant Town Attorney  
Joanne O'Hehir, Minutes Recorder

**1. OPENING:**

- A. Call to Order** – The meeting was called to order at 7:32 p.m.
- B. Pledge of Allegiance** – Chair Chase led in the Pledge of Allegiance.
- C. Roll Call** – All the commissioners were present.

**2. PUBLIC COMMENT – NONE**

**3. CONSENT CALENDAR – NONE**

**4. CONTINUED HEARINGS**

- A. 159 PRINCE ROYAL DRIVE – CONTINUED HEARING FOR A DESIGN REVIEW APPLICATION FOR A MAJOR REMODEL WITH THIRD FLOOR ADDITION AT 159 PRINCE ROYAL DRIVE** (Assistant Planner Doug Bush)

Chair Chase and Commissioner Bundy confirmed they had returned for a site visit, while the remaining commissioners confirmed they did not make an additional visit.

Senior Planner Bush presented the staff report. He provided background information on the first public hearing on February 14, 2017, noting that the commissioners held a general view that the project should have less impact. Mr. Bush discussed the correspondence received from the applicant following the first hearing that relates to tree trimming and he confirmed there are no changes to the plans.

Planning Director Wolff said he had visited 180 Prince Royal Drive to view the impacts of the proposed project from different areas of the home.

Joel Hernandez, Owner, discussed the reasons they prefer the original design and the problems resulting from removing the third floor to decrease the height. Mr. Hernandez discussed neighborhood support, and said he is unable to address a compromise with the neighbor at 180 Prince Royal Drive. He thought that sufficient distance exists between the two dwellings to render the height increase less impactful than it could be otherwise.

Mr. Hernandez discussed the proposed mitigation measure of tree trimming and noted that the owner of 180 Prince Royal Drive could trim a redwood tree on their own property to improve their view. He commented on the finding relating to the need to take into account all views from a property, not just a single view from a window.

In response to Commissioner Bundy, Mr. Hernandez said they have not consulted an arborist about tree trimming. Commissioner Bundy expressed concern that construction might negatively affect the trees on the east side of the property.

In response to Vice-Chair Metcalfe, Mr. Bush discussed the requirements for a tree permit, noting that there are certain species of nuisance trees that could be removed without a permit. He noted that pruning and minor topping does not usually require a permit.

In response to Chair Chase, Mr. Hernandez said they have not submitted a landscape plan.

Phyllis Galanis, 215 Prince Royal Drive, said that there should be confirmation that it would be possible for the owner of 180 Prince Royal to remove the redwood tree.

Margaret Bandel, 180 Prince Royal Drive, said the applicant was advised to consider alternative designs. She noted that some of the commissioners had discussed significant impacts and she commented on the lack of a landscape plan. Ms. Bandel stated that tree trimming would not mitigate an additional 6 feet of massing.

Mr. Wolff confirmed that a redwood tree would require a permit for removal if the circumference of the tree is 50 inches or more, but that pruning is allowed. He said that the Town's sunlight preservation ordinance has mediation rules relating to view obstruction that are not addressed by the Town but by the property owners.

Chair Chase noted that Ms. Bandel stated the applicants were asked to consider revising their plans. Mr. Bush confirmed that the offer to trim trees defines the response to the commissioners.

Vice-Chair Metcalfe said she would not consider approving the project without a landscape plan. Mr. Wolff noted that a drawing was submitted in the packet that provides landscape details. Vice-Chair Metcalfe confirmed that a tree-trimming proposal does not constitute sufficient mitigation efforts.

Commissioner Bundy stated that the views from 180 Prince Royal would be affected by the project and that trimming the trees on the east and west side of the property would improve the

view. Commissioner Bundy said he would favor a landscape plan and an arborist's report that included tree-trimming advice.

Commissioner Caldera said the project does not affect the views of 180 Prince Royal Drive to the extent he finds significant and that he could approve the project as presented.

Commissioner Freedman discussed the view impacts. She said the most significantly affected view is from one window in the master bedroom, but that the views from other windows on the two levels are not affected with the primary view of Mt. Tamalpais being preserved. Commissioner Freedman said that she could support the project with a plan to prune and maintain the trees to preserve views for 180 Prince Royal.

Chair Chase discussed his belief that the tree proposal would make a difference to the views from 180 Prince Royal, and that he would prefer the report to be undertaken by a State Certified Hazard arborist. Chair Chase said a complete landscape plan should be submitted in addition to a construction management plan that addresses foundation excavation and off haul.

The commissioners agreed with Mr. Wolff's suggestion that staff would procure the arborist.

Chair Chase discussed the required findings relating to landscaping. Commissioner Caldera confirmed he would like the project to move forward, since the tree trimming should improve the view impacts, and Commissioner Freedman said she could consider approving the application with responsibility for the arborist report, landscape plan and construction plan taken by staff.

**MOTION:** Moved by Commissioner Bundy, seconded by Commissioner Freedman, to approve Resolution No. 17-003, Design Review Permit PL-2016-0007 for a major remodel and addition of a new third floor with additions totaling 1,516 square feet at 159 Prince Royal Drive, with the added conditions that a State Certified Hazard arborist of the Town's choosing will submit a report that includes the intent of the tree-topping, the existing health of the trees and a method of maintaining the views of 180 Prince Royal; that the arborist reviews a preliminary structural plan to ensure construction does not affect the survival of trees during the construction process, and is engaged throughout excavation to backfill to ensure the trees are not harmed; that a tree protection plan is submitted for the construction period and that the applicant submits a complete landscape plan and construction management plan that addresses soil removal.

**AYES:** Bundy, Freedman, Caldera, Case  
**NO:** Metcalfe

Vice-Chair Metcalfe discussed her preference that information should be presented to the Commission regarding the findings before approving the project, and Mr. Bush read the appeal rights.



**ATTACHMENT 10**  
**CORRESPONDENCE REGARDING STORY**  
**POLES**

April 24, 2017

Town Council  
Town of Corte Madera  
300 Tamalpais Drive  
Corte Madera, CA 94925

Dear Members of the Town Council,

We are writing to explain our perspective on the Town's requirements for story pole installation, our maintaining the story poles at our home for three months, and the staff's current request to go beyond Town requirements and re-erect the story poles. Additionally, we would like to explain the financial and practical challenges to re-erecting the story poles prior to the appeal hearing for our application.

First, the Town's Design Review Application states:

*"At least two weeks before the Planning Commission Meeting regarding your application involving any new structures, additions to existing structures or free standing signs, you are responsible for erecting story poles to represent the actual height and area of that structure(s) or sign(s). The applicant shall submit a story pole plan and the installation of the story poles shall be certified in writing by a licensed surveyor or engineer. Finally the story poles shall be removed from the site within two weeks of approval or denial of the project."*

On December 20, 2016, we contracted with a company to erect the story poles. Shortly thereafter, we submitted the required official letter of certification by a surveyor to the Planning Department. During the lengthy period when the story poles were up, multiple pictures were taken by us, the neighbors, Town Planning Department Staff, and all Commissioners that visited the site. The story poles even remained erected while waiting for the Continuance Hearing on March 14, 2017. After approval of our project on March 14, 2017, closely following the instructions written on the Design Review Applications that they should be removed within 2 weeks of an approval, we removed the story poles on March 20, 2017. **The story poles were up for 3 months** prior to the Planning Commission final decision.

According to the Design Review Application, the Town has established a procedure for story poles review by the Planning Commission and not for appeals. If the Town required tearing down and re-erecting the story poles, this should be required and disclosed in the application. We believe that the instructions should not require that the applicant remove the story poles after an approval if indeed the Town wanted them to remain standing.

The Planning Department and the neighbors took and submitted multiple pictures showing the story poles. They can be found in the Staff Reports developed by the Planning Department. With that said, we would strongly caution the use of altered or zoomed in photos that were submitted by the appellant that do not accurately show the true nature of the views in question. The photos obtained by the Planning Department, however, should suffice as neutral, unaltered and accurate representation of the home with the story poles for your reference.

Additionally, the financial re-investment to erect the story poles is a substantial cost, a burden we prefer not to undertake. The initial cost of erecting the story poles and maintaining them approached \$5000. The original contract of the story poles was for 1 month. Therefore, every month after the original end date required additional payment. In addition to the extra months added to the contract, the story poles were exposed to severe and inclement weather, knocking down both the poles and the flags on multiple occasions. This required the contractor to return and repair the poles, requiring additional cost to us.

*The fee paid by the appellant is \$300 for the appeal while the cost for us to re-erect the story poles would approximate the original \$5000 that we have already spent, doubling our costs that were already initially extensive. That is not a small amount to pay, especially when the erecting of story poles for this Appeal Hearing is only a recommendation and not a requirement from the Town.*

Lastly, the cost of erecting the story poles is not just financial. The placement of the story poles required the partial loss of the use of our garage and front driveway. Now, with the arrival of our newborn son this past March 25, 2017 and the addition of a 3<sup>rd</sup> vehicle, the private use of our entire garage is a personal necessity.

We do hope you understand our decision in respectfully declining to re-erect the story poles. We feel that since the story poles were up for 3 months when the requirement was for only 2 weeks prior to the Planning Commission Hearing, it gave ample opportunity for our project to be dissected by the Planning Commission and Town staff, who your Council has tasked with carrying out such close scrutiny on your behalf. Although the story poles will not be re-erected, we invite all the Town Council members to visit our home and the project site at their convenience.

Thank you for your understanding.

Sincerely,



Joel Hernandez



Stacy UyBico M.D.

## Adam Wolff

---

**From:** Riley Hurd <rhurd@rflawllp.com>  
**Sent:** Tuesday, April 25, 2017 7:05 AM  
**To:** Adam Wolff  
**Cc:** Doug Bush  
**Subject:** Prince Royal - Story Poles

Adam,

The story poles are not up for this appeal. We request the item be continued to the next available Council meeting. I would submit that based on the Town's Code and policies, this continuance must occur.

Story poles are more than just a critical tool for the decision makers. They are a notice and representation to those in the area that an application or appeal is occurring. That is why they are required to be up **14-days** in advance of any hearing, and why they must be certified as accurate by a licensed engineer or surveyor.

When an appeal is filed, the PC decision is invalidated, and the hearing at the Council is *de novo*. All of the requirements, such as story poles, apply.

The following is the Town's story pole policy:

### "REQUIREMENTS FOR STORY POLE INSTALLATION

At least **two weeks** before the Planning Commission Meeting regarding your application involving any new structures, additions to existing structures or free standing signs, you are responsible for erecting story poles to represent the actual height and area of that structure(s) or sign(s). The story poles installed shall show the height at each corner of the structure(s) or sign(s), the maximum height, and the outline of proposed structure(s) or sign(s) **with netting between the poles**. The applicant shall submit a story pole plan and the installation of the story poles shall be certified in writing by a **licensed surveyor or engineer**. Finally the story poles shall be removed from the site within two weeks of approval or denial of the project."

As noted above, this project has not yet been approved or denied, it is in a no-action state until a decision by the Council. Compliant story poles must be up 14-days before the appeal hearing. Failure to do so violates due process and notice requirements, as others may have joined in the appeal had the poles been up on time.

I would also note that I saw no netting up during the PC review, only a sagging string. I would also like to request a copy of the story pole plan used for the PC and a copy of the engineer/surveyor certification, as at least one neighbor felt the poles used for that process were inaccurate.

We hope you understand why we are putting such an emphasis on complying with the story pole requirement. This appeal is mainly about view blockage, and the only way this can be understood is via story poles erected in compliance with the law.

Thank you and we await your reply.

Riley F. Hurd III, Esq.  
RAGGHIANI | FREITAS LLP  
1101 5th Avenue, Suite 100  
San Rafael, CA 94901  
Tel: 415.453.9433 ext. 126  
Fax: 415.453.8269  
Email: [rhurd@rflawllp.com](mailto:rhurd@rflawllp.com)  
Website: <http://www.rflawllp.com/>

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## Adam Wolff

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**From:** Joel Hernandez <joeldhernandez369@gmail.com>  
**Sent:** Wednesday, April 26, 2017 12:19 AM  
**To:** Adam Wolff; Doug Bush  
**Cc:** Stacy UyBico; Edward Yates  
**Subject:** Story poles

Dear Adam and Doug,

We wanted to clarify our understanding of the story pole situation with you. We were not specifically told or instructed by Staff to keep the story poles up until the appeals period was over nor was there this recommendation to our knowledge. I think you know we do comply with requirements (and even most your recommendations), so we would have done so had we been instructed this way. Your email as copied below from 1/26/17 states to wait until the PC hearing and then we can remove them which we followed. In fairness to you, we remember having a conversation with Doug where he stated that we "may" be asked by the council if there was an appeals to put the story poles "back up again", but we were not given a recommendation by Staff specifically that they can and should stay up for the appeals period despite what the requirements are in the permit application that they be removed by a certain time. This of course we understood to mean it was a choice to re-erect them on our part from a recommendation, not a town requirement which was the correct understanding. But all we actually did was follow the written town requirement in every step set forth in the town application as we did not want to have problems from disobeying the 2 week deadline after approval when the town mandates they have to be removed.

There was a loophole in our case because the resolution was not signed until 2 weeks after the approval, and the appeals period did not start until the resolution was signed.

Time frame for our case:

Mar 14: Approval  
Mar 28: Resolution signed and start of appeals period  
Mar 29- April 7: 10 day appeals duration

Because we had to remove the story poles within 2 weeks of the approval, we had to remove them within the 2 weeks dated Mar 14-28. This was before the appeals period even started. We were not told by Staff to keep them up until the Apr 7 last day of appeals, and certainly did not have permission by Staff to keep them up after the 2 week post approval time frame when the town mandated their removal.

We completely understand though that its standard procedure to at least ask applicants to re-erect them pre-empting what the council may ask, but thank you for again explaining that this is a recommendation, not a requirement. Maybe the town can consider changing their requirements in the application for the future to just state "story poles shall remain erected until the appeals period has ended" to avoid scenarios such as this from occurring again if staff and council does think the town should have a similar requirement for appeals. We hope you understand our decision in choosing not to re-erect them from our prior letter, and thank you for passing on that letter to the town council on our behalf.

Also, just as a side-note, the appellant waited until the very last day, April 7 (day 10 out of 10) to submit the appeal. While this is their right, had they submitted earlier (such as day 1-9) instead of the last day, the "next available meeting" of the council would have been April 18 to our estimation (as the town would have been able to notice for this meeting on April 7). The appellant would have likely been available and not again out of town on this April 18 date. Instead, they wait until day 10 to appeal which pushed the next available council hearing therefore on May 2 due to the official noticing time required by the Town. Then, they stated that they need a continuance because she is out of town on May 2. This could have been much better planned by them time-wise since the ordinance actually states when the meeting is to be set without equivocation (re: next available as defined only by passage of time) so they could have determined accurately when that next available time is and planned accordingly.

Thanks.

Sincerely,

Joel and Stacy

---

Email response sent on 1/26/17 from Staff when we asked when we could remove the story poles:

Joel,

First I'd like to confirm the hearing date of February 14 for your project. There are a few minor issues I've listed below, but the plans are sufficient to bring to the hearing. Please confirm whether you and/or your architect will be available on that date.

**We do ask that the story poles stay in place until the hearing. In this case we think it is a necessity and will reduce the risk of a second hearing. One reason for this is that there is a possibility that the commissioners may wish to view the story poles from a neighboring property which would require time for scheduling.**

As far as the plans go, we'd like to see the following addressed by the end of next week:

- The retaining wall along the side of the house appears to be a single level but plan notes indicate terracing. Is this a single wall or multiple levels? Please clarify.
- We don't have any significant concerns with the design of the deck and rear retaining walls however any further detail you can provide on the landscaping would be beneficial. How fast does it grow, how high, would it provide screening etc.? A short description with example photos would be helpful.
- Do you have anything in writing from the neighbor at 163? It would be helpful if they would provide something to you or to staff.
- Small detail correction on Sheet A-3.3. The West Elevation shown here should match A3.1. The detail of the glass railing as seen through the open walkway is not shown here as it is on A3.1.

*Douglas Bush*  
*Assistant Planner*  
*Town of Corte Madera*  
[dbush@tcmmail.org](mailto:dbush@tcmmail.org)  
415-927-5791

Good Morning Doug,

I was just following up on when the Commissioners would be coming to view our story poles at 159 Prince Royal Drive as I will need to contact the story pole contractor to not inadvertently take them down before they can be viewed. The story poles have already been up for 37 days, 7 days past my contract end date.

Also, if the Commissioners would like a site visit, I would be free to escort them around my property as well.

Thank you.

Best,  
Joel

**ATTACHMENT 11**

**CORRESPONDENCE REGARDING SCHEDULING  
OF TOWN COUNCIL HEARING**



## Adam Wolff

---

**From:** Adam Wolff  
**Sent:** Thursday, April 20, 2017 4:40 PM  
**To:** 'Joel Hernandez'; Doug Bush; Stacy UyBico  
**Cc:** Edward Yates; Riley Hurd; msbandel@gmail.com  
**Subject:** RE: Appeal

All,

So there is no misunderstanding about the appellant's request to move the appeal hearing date and the timeline associated with such request, I have pasted staff's correspondence with the appellant's attorney, Riley Hurd, below. I would request that both parties come to an agreement regarding an available date for the Town Council hearing, bearing in mind that one party or the other may always request that the Council continue the matter to another date even if such hearing is scheduled to be heard. May 2, May 16, and June 6 are all options. Given that there is not an agreement at this point that May 2 or May 16 can work for all, if we don't hear from you by 11am tomorrow morning, we will be sending a public hearing notice tomorrow afternoon for this item to be heard on May 2, as the default hearing date deemed "available" by the Planning Director. I would obviously like to avoid sending out a notice to the neighborhood that later has to be cancelled and would prefer not having to prepare for a hearing that may not get heard.

Please let me know if you have any questions.

Best,  
Adam

ADAM WOLFF, AICP  
Director, Planning and Building  
Town of Corte Madera  
415.927.5059  
awolff@tcmmail.org

---

**From:** Riley Hurd [mailto:rhurd@rflawllp.com]  
**Sent:** Wednesday, April 19, 2017 2:24 PM  
**To:** Doug Bush  
**Cc:** Adam Wolff  
**Subject:** RE: Appeal - 159 Prince Royal Drive

Doug,

My client works for the County of Marin and is required to be at a Child Support Directors Conference in Orange County the entire first week of May. We would respectfully request the item be scheduled for May 16. Let us know, thanks.

Riley F. Hurd III, Esq.  
RAGGHIANI | FREITAS LLP  
1101 5th Avenue, Suite 100  
San Rafael, CA 94901  
Tel: 415.453.9433 ext. 126  
Fax: 415.453.8269  
Email: [rhurd@rflawllp.com](mailto:rhurd@rflawllp.com)

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**From:** Doug Bush [<mailto:dbush@tcmmail.org>]

**Sent:** Monday, April 17, 2017 3:46 PM

**To:** Riley Hurd <[rhurd@rflawllp.com](mailto:rhurd@rflawllp.com)>

**Cc:** Adam Wolff <[awolff@tcmmail.org](mailto:awolff@tcmmail.org)>

**Subject:** Appeal - 159 Prince Royal Drive

Riley,

Thank you for your call on Friday. We have tentatively scheduled a hearing date for May 2. How does that date work for you? We will follow up shortly with details on the appeals procedures.

Regards,

*Douglas Bush*  
*Assistant Planner*  
*Town of Corte Madera*  
[dbush@tcmmail.org](mailto:dbush@tcmmail.org)  
415-927-5791

**From:** Joel Hernandez [<mailto:joeldhernandez369@gmail.com>]

**Sent:** Thursday, April 20, 2017 3:05 PM

**To:** Adam Wolff; Doug Bush; Stacy UyBico

**Cc:** Edward Yates

**Subject:** Re: Appeal

To Doug Bush and Adam Wolff,

At this time, we respectfully and strongly object to the possible postponement of the appeal hearing to May 16.

According to Town Code 18.34.060 (copied below) the appeal shall be scheduled for the "next available meeting." On April 12, 2017, you had informed us that the appeal hearing was tentatively scheduled for May 2, 2017, meaning that this was an available next meeting. We agreed because this seemed to be a reasonable "next available meeting" as stated in the code, which would allow appropriate Town noticing to occur.

Arrangements have already been made and confirmed with my employer because I was originally scheduled to work on May 2nd and needed the day off for the hearing. I am also scheduled to work on May 16. We have also informed our attorney, who already confirmed that he will be available to attend the hearing on May 2nd. Lastly, child care arrangements have already been obtained for May 2nd.

When the appellant filed the appeal, she had already hired an attorney who should have been aware that according to the Town Code, the appeal would be heard at a closely followed meeting. We do not think it is fair that they have

allowed to have the appeal tentatively scheduled but then waited until a much later date to request a postponement citing a "scheduling conflict."

As you are already aware, it has been almost 14 months since the original application has been submitted. If we were fortunate enough to obtain another approval from the Town Council to continue this project, we still have many conditions to satisfy as set forth by the Planning Commission before we can even apply for building permits, thus further delaying the overall time frame for many weeks, if not months. Therefore, we kindly request that the Town expedite this appeals process, follow the Town Code in order to prevent any unnecessary delays, and finalize the hearing date for May 2nd as originally intended.

Thank you for your time and consideration.

Sincerely,  
Joel Hernandez and Stacy UyBico

### **18.34.060 - Action of planning director and setting hearings.**

(a)

Following the filing of an appeal or notice of review permitted under this title, the planning director shall schedule the appeal or review for the **next available meeting** of the planning commission or town council, whichever is appropriate; provided, however, that said "next available meeting" shall be that meeting which next follows the passage of time, notice of which is required to be given under state and/or town law. The planning director shall transmit to the planning commission or town council a copy of the appeal or review, and copies of all applicable maps and documents, including minutes of public hearings, statements of findings, and of decisions made and of reports which may have been prepared by the planning director, zoning administrator and/or planning commission, setting forth their views of the facts and circumstances of the case.

On Thu, Apr 20, 2017 at 12:27 PM Doug Bush <[dbush@tcmmail.org](mailto:dbush@tcmmail.org)> wrote:

Joel and Stacy,

We received a request that the appeal be postponed to May 16 due to scheduling conflicts for the appellant. Are you available to attend a hearing on that date?

Thank you,

*Douglas Bush*

*Assistant Planner*

*Town of Corte Madera*

[dbush@tcmmail.org](mailto:dbush@tcmmail.org)

415-927-5791



**ATTACHMENT 12**  
**ADDITIONAL SUBMITTED MATERIALS**

04/25/2017

Dear member of the Town Council:

We own 163 Prince Royal Dr. the only adjacent neighbor to 159 Prince Royal Dr. at the east side. We agreed and welcome the development of our town and improve the neighborhood appearance of our street. With all respect to 159 Prince Royal Dr. resident we had shown our interest and excitement about the remodeling.

However, we are not expecting their improvement impacts our view and damage us by losing property value and confined life style.

### VIEW BLOCKAGE

Our West side of our resident we have Mount Tamalpais view that we can see from family room, kitchen, master bedroom, master bath and of course backyard.

1. From the north west of our house, if 159 Prince royal Dr. third story builds up the overhand roof and handrail will interfere and block the Mount Tamalpais view from our backyard and Master bedroom.



Bedroom: This photo is taken after the story poles are down. You can see the existing roof North East corner along the palm tree. The third floor has sit back few feet but still has balcony, railing and overhang roof along the existing North East building corner that blocks the Mount Tam view.

2. From west side of our house, the new design effects the Mount Tamalpais completely get blocked by the stair tower of 159 Prince royal Dr. As a result, we lose the view of our family room and kitchen windows.



Kitchen: Entryway/ foyer & staircase tower



Family room/ kitchen: This image is slightly zoomed in when the weather was clear for the purpose of showing the location of Mount Tam and staircase story poles on the upper right of the photo. In addition the oversize front entrance and foyer is along the lower photo which shows significant vegetation and hillsides will be block with structure.

3. From west side of our house, the new design effects the west Corte Madera hills view partially interfere and block with 159 Prince royal Dr. oversize outdoor entryway and large indoor foyer. As a result, we lose a significant dining room, kitchen view and partial of family room view.



Dining room: Entryway and foyer

I provided the information to get the impression of how significant views will be blocked for 163 Prince Royal DR. resident with this design including any structure over or beyond garage and the third story building with extended staircase tower.

159 Prince Royal dr. is located on a large land that has option to step down the hill and spread the floor plan on its own large land without any neighbor's objection.

I am sure after the Town Council members look at our concern, will make a fair decision in accordance with the rules or standards that no resident to be impacted negatively.

Warm regards,  
Hooshang Davanloo  
Tamila Faridjoo



Jan & Maria Elena Keizer  
172 Prince Royal Dr.  
Corte Madera, CA 94925  
(415) 924-9756 (H)  
mek623@sbcglobal.net

Corte Madera Planning Commission  
300 Tamalpais Dr.  
Corte Madera, CA 94925

March 27, 2017

Attention: Mr. Adam Wolff, AICP  
Director of Planning  
Corte Madera Planning Department

Subject: Item: 3-A  
Consent Calendar  
Agenda for CMPC meeting of March 28, 2017  
Item: 6-A Lot Coverage Study Session.

References: Remodeling of 159 Prince Royal Dr.  
Applications, Maps, Photos, Correspondences  
and Minutes regarding same.  
Packet content of Agenda for  
CMPC meeting of March 28, 2017

Dear Mr. Wolff,

We respectfully request that the Consent Calendar Item 3-A be continued as an agenda item to an uncertain future date until such time as a final decision on Item 6-A has been determined. The very crux of the arguments for and against the approval of Item 3-A are contained within the scope of tonight's Item: 6-A and are germane to the entire town.

We will attend the meeting in support our request.

Respectfully submitted,



Jan D. Keizer