



STAFF REPORT

TO: Mayor and City Council
FROM: Amber El-Hajj, Associate Planner
SUBJECT: 500 Miller Avenue Vesting Tentative Subdivision Map (Von der Worth)
DATE: February 7, 2011

Approved for Forwarding:


James C. McCann, City Manager

1 **Issue:**

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3 Consideration of a Resolution to approve a Vesting Tentative Subdivision Map to
4 subdivide a 52,678 square foot property at 500 Miller Avenue into nine residential
5 condominium lots and commercial parcels.
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7 **Recommendation:**

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9 Adopt the Resolution.
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11 **Background:**

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13 Al Von der Worth is requesting approval of a Vesting Tentative Map to create nine
14 residential parcels and designated common area parcels on a 52,678 square foot site at
15 500 Miller Avenue, Assessor's Parcel Number 48-071-38 & 39. The property is zoned
16 CN-PD (Neighborhood Commercial with a Planned Development overlay). A copy of the
17 Vesting Tentative Map is attached.
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19 Pursuant to Chapter 21.20.110(C) of the Mill Valley Municipal Code, "the Planning
20 Commission shall approve, conditionally approve or disapprove a Tentative Map and
21 shall report in writing on the Map to the City Council, who shall act upon the report of
22 the Planning Commission." The purpose of this City Council hearing is only to act on the
23 Vesting Tentative Map; all other project applications, including the landscape plan and

City Council Staff Report

Subject: 500 Miller Avenue Vesting Tentative Subdivision Map

Date: February 7, 2011

24 the design of the residential and commercial structures, were approved by the Planning
25 Commission on December, 13, 2011.

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27 A Vesting Tentative Map is a mechanism created by the Legislature as part of the state
28 Subdivision Map Act that confers vested rights to proceed with a development that is in
29 substantial compliance with policies and regulations in effect at the time the applicant is
30 deemed complete. The intent of the vesting provisions of the Map Act are to provide
31 certainty that the regulatory circumstances on which the applicant has relied upon will
32 not change during the course of the entitlement process.

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34 **Discussion:**

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36 The Vesting Tentative Map is required to divide the property into individual lots for sale.
37 The applicant is proposing to create 11 lots. Lots A-I would be residential units. Parcels
38 A & B would be common areas owned by the property owners association. Parcel A
39 would include landscaping, shared access roadway, parking, the pedestrian paths along
40 the property, the elevator area and hallways in the residential structure, and the stairway
41 along the west side of the property. Parcel B contains the commercial structure on the
42 property.

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44 The Vesting Tentative Map has been reviewed by the Public Works Department and sent
45 to all appropriate reviewing agencies, consistent with the requirements of the Subdivision
46 Map Act. Conditions of approval have been included which must be fulfilled prior to
47 recordation of the Final Map, which will formally create the 15 parcels. The Planning
48 Commission determined that with the incorporation of the conditions of approval, the
49 Vesting Tentative Map is consistent with the Mill Valley General Plan and Municipal
50 Code as well as the Subdivision Map Act.

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52 **Fiscal Impact:**

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54 By approving the Vesting Tentative Subdivision Map the applicant will have the ability
55 to sell each of the nine residential condominium units which will increase the revenue the
56 City receives from property tax. The approval of the project will increase revenue for the
57 City since the applicant will be required to obtain building and grading permits from
58 applicable City Departments. The future completion of the commercial building will
59 continue to bring revenue into the City from sales tax and business license fees.

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63 **Attachments:**

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- 65 1. Draft Resolution
- 66 2. Planning Commission Staff Report, December 13, 2010
- 67 3. Planning Commission Minutes, December 13, 2011
- 68 4. Vesting Tentative Subdivision Map

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C. The City Council certified the Environmental Impact Report associated with the project at 500 Miller Avenue and the Vesting Tentative Subdivision Map on July 2, 2007.

PASSED AND ADOPTED this ___ day of _____, 2011, by the following vote:

AYES:
NOES:
ABSENT:

APPROVED:

Kenneth R. Wachtel, Mayor

ATTEST:

Kimberly Wilson, Deputy City Clerk

Lot Size:

52,678 square feet

For purposes of general comparison to the earliest project proposal for this site, staff has used data from the original study session meeting on December 10, 2007 in the table below. Many of the prior study session plans do not contain as much information as the current set of plans, as site data calculations were not required at the time. The December 2007 set of plans contained sufficient data to use as a comparison to the current proposal; however, information such as setbacks and total building size of the residential building were not included in these plan sets.

	Allowed	Earlier Proposal (per study session plan 12/10/07)	Most Recent Proposal (per study session plan 3/8/10)	Proposed
Number of Residential Units:	n/a in a CN zone	22	9	9
Floor Area of Residential Building:	n/a in a CN zone	16,737 sq. ft.	12,098 sq. ft.	11,974 sq. ft.
Commercial Building Size:	Size of structure based on Parking Requirements	2,963 square feet	4,950 square feet	4,948 square feet
Lot Coverage:	n/a in a CN zone	26,134 square feet 49%	16,188 square feet 31%	16,516 square feet 31%
North Setback:	n/a in a CN zone	Unknown	Unknown	0' at closest point
East Setback:	n/a in a CN zone	Unknown	Unknown	5'1" at closest point
South Setback:	15 feet (adjacent to residential)	Unknown	Unknown	35' at closest point
West Setback:	n/a in a CN zone	Unknown	Unknown	5'1" at closest point
Height:	35 feet maximum in CN zone; however, PD zoning allows higher	39 feet at highest point	37 feet at highest point	37 feet at highest point

Cut:		12,000 CY	10,425 CY	10,900 CY
Impervious Surface:		Unknown	24,637 square feet	24,785 square feet
Parking				
Residential Units:	2 spaces per unit	30 spaces (1.5 spaces per unit)	18 spaces (one two-car garage per unit)	18 spaces (one two-car garage per unit)
Commercial Uses:	Must meet requirements in Section 20.60.090 I	18 spaces	22 spaces	25 spaces

PRIOR REVIEW

In June 2007, the Planning Commission recommended that the City Council certify the Environmental Impact Report (EIR) and approve the Rezoning of the subject property to CN-PD (Neighborhood Commercial Planned Development Combining). At this meeting, the Planning Commission also approved the General Plan Amendment designating the subject property Residential/Commercial. On July 2, 2007, the City Council voted to certify the EIR and approve the General Plan Amendment and Rezoning. In early 2008, the Local Agency Formation Commission (LAFCO) approved annexation of the property (and seven adjacent parcels) into the City of Mill Valley.

In December 2007, the Planning Commission held a study session to review a proposed mixed unit development involving 2,963 square feet of commercial space and 22-unit multi-family residential development. At this meeting the Planning Commission raised the following concerns/issues:

- The mass and bulk of the proposed project along Miller Avenue;
- The density of the proposed project;
- Reduction of units and increase in commercial to create a balanced mixed-use project;
- The amount of cut associated with the project.

In November of 2008 the applicant returned for a second study session to review revised project plans, the proposed project at the time consisted of 3,000 square feet of commercial space and 15 housing units. At this meeting the Commission's primary issues/concerns consisted of:

- The reduction of units (since the previous proposal) but no reduction of FAR;
- The mass and bulk of a three story structure on Miller Avenue;
- Opening up the middle of the structures to break up the massing of the residential building;

- Separating the parking from the street and creating a better pedestrian streetscape;
- A possible reduction in parking for the proposed affordable units.

In September 2009 the applicant returned to the Planning Commission for a study session on a revised project consisting of 3,600 square feet of commercial space and nine residential units. According to Section 20.80.090, the proposal for nine units requires an affordable housing in-lieu fee to the City instead of building affordable units. The Planning Commission had the following concerns/issues at this meeting:

- Provide examples of the inside and outside of manufactured housing to see what it would look like;
- A reduction in required parking for the project could possibly be supported considering the mixed-use on the site;
- The exterior should be simplified to fit into the hillside and the character of Mill Valley;
- The sidewalk in front of the project should be widened;
- Story poles and sections for the Commission to see the visual massing of the building on Miller Avenue;
- The Commission felt that the applicant should consider a two story building instead of a three story to bring down the mass, bulk, and height.

The project returned to the Planning Commission for a fourth study session on July 26, 2010. Since the previous study session the applicant hired a new architect who changed the style of the project to help accommodate the previous concerns from the Commission. At this meeting the Commission made the following suggestions regarding the proposal: 4,950 square feet of commercial space and nine dwelling units;

- Reduce the overall mass, bulk, and height by modifying the overall roof form and redistributing the mass from units 5 and 6;
- Reduce the number of units and reduce the units for overall size reduction;
- Looking at the space between the floors to lower the building overall;
- Adding additional windows at the building ends, courtyard, and enlarging the dormers to introduce more light into the building;
- Adding more design to the public space;
- A more detailed landscape plan;
- Details on the garage lighting;
- Setting up full story poles so that the Commission can obtain a clearer picture of the impact of a three story building vs. two stories.

STAFF ANALYSIS

Special Development Permit

Pursuant to Section 20.57.020 of the Mill Valley Zoning Ordinance, a Special Development Permit is required to construct any building in a zoning district with a PD

district overlay. In 2007, when the City Council pre-zoned the subject property for annexation to the City, staff recommended, and the Commission and Council concurred, that due to the unusual characteristics of the site, including the steep terrain and existing vegetation, a PD district overlay was appropriate to allow site development that would respect the physical constraints of the site. Pursuant to the Municipal Code, at the time of approving a Special Development Permit, the Planning Commission may allow lot area, lot width, yard, height, bulk and space, and parking space requirements to vary from those which would otherwise apply in the basic zoning district. There are not many development standards for the CN zone, as most development within CN zones is restricted by parking requirements. Mixed-Use development is allowed within the CN zone and the subject property has a General Plan land use classification of Residential/Commercial to accommodate the mixed-use project. The only development standards in the CN zone that are not parking related are the maximum building height (35'), and the setback requirement between a commercially zoned property adjacent to a residentially zoned property (the parcel to the south). In this case, the south setback must be a minimum of 15' per the development standards.

As mentioned above, the maximum building height allowed in the CN zone is 35'; the currently proposed project reaches a maximum height of 37', which is allowable within the PD zone with the approval of the Special Use Permit. The proposed project meets the other applicable development standards for the site including the required parking. The Planned District overlay allows the units to be clustered on the site, as shown on the proposed plan, to best accommodate the site constraints of the property, including its unusual shape, existing trees and sloping terrain.

Vesting Tentative Map

A Tentative Subdivision Map is required to individually subdivide and sell the attached dwelling units. A "vesting" tentative map is permitted by the state Subdivision Map Act and is different from a standard tentative map because when it is approved, it locks in or "vests" the development standards in effect at the time of adoption and protects the applicant from any subsequent changes in applicable standards or fees that the City may put in place after the project is approved, but before it is built. Specifically, the applicant is proposing a condominium map to allow individual sales of each of the dwelling units. Each unit owner will own their own space; the rest of the property will be owned and maintained in common. The applicant will establish a homeowners association or similar organization which will maintain the common space.

The Vesting Tentative Map has been reviewed by the Public Works Department and sent to all appropriate reviewing agencies. The Planning and Public Works Departments have determined that the Vesting Tentative Map is consistent with the Mill Valley General Plan and Municipal Code as well as the Subdivision Map Act, and the Planning Commission can recommend approval of the Map to the City Council.

Concerns from the July 2010 Study Session

In order to address the concerns raised at the July 2010 study session, the applicant has submitted redesigned plans and a response letter to issues raised by the Commission (**Attachment 1**).

- Reduce the overall mass, bulk, and height by modifying the overall roof form and redistributing the mass from units 5 and 6

The applicant modified the north elevation by reducing the overall length of the third story roof line. By reducing the length of the roofline on the western side of the roof the massing is reduced and the structure reduces in height from the center units. Another area in which mass and bulk were reduced is in the stair/elevator area. The previous proposal showed the roof line of this central area in the residential building as being the largest but now the roof has been reduced to sit below the two sides of the residential building. This breaks the residential building up and makes it seem as though there are two structures rather than the one. The overall height of the residential structure stays the same as the previous proposal at a maximum height of 37' above natural grade; but the modifications in the roof provide fewer roof lines at that height, which breaks up the building and decreases its apparent mass from Miller Avenue.

- Reducing the number of units and reducing the units for overall size reduction

There has been no reduction in the number of units since the previous proposal; however, with the reduction of the third story roof line there have been reductions in the units that had floor area on the third level. None of the units have been reduced significantly; however, five of the units have decreased in size with the current proposal and the overall floor area for the building decreased by 124 square feet.

- Looking at the space between the floors to lower the overall building height

While the overall building height has not been reduced in the current proposal, the roof line of the third floor was reduced by a third which creates a break in the three story section of the west side of the residential structure. Reduction in the third story on the western side brings the height down to two stories in a larger area rather than three stories, as was previously proposed. The reduction in the third story roof line helps decrease the mass, bulk, and height without the need to reduce the structure's overall height and the size of the units.

- Adding additional windows at the building ends, courtyard, and enlarging the dormers to introduce more light into the building

Windows have been added at the sides and at the rear of the residential structure to provide additional light into the interior of the building. The additional windows help break up the walls to reduce the view of a large blank wall as you are driving into and out

of Mill Valley along Miller Avenue. The larger dormers along the north elevation of the building help break up the massing of the building along Miller Avenue by bringing more articulation to the design of the building. The applicant has also added trellises along the base of the residential structure to help reduce the visual impact of the retaining wall in along the rear wall of the property.

- Adding more design to the public space

The applicant has added additional features to the public spaces to enhance them. These additions include concrete pavers with planting strips, concrete seats with planting areas, and an electric car charging station.

- A more detailed landscape plan

The applicant has submitted a more detailed landscape plan showing the landscape elements of the public spaces, entry courtyard to the residential area, the planting along the front edge of the parking areas, and a the east and west sides of the property. This plan has been reviewed by the Fire Department along with the Vegetation Management Plan.

- Additional details on the garage lighting

The lighting plan specifies type of lighting and locations. The applicant's have chosen light fixtures which omit low levels of light and the fixtures are shielded to avoid any glare coming off the parking area of the property. Most of the garage lighting is located within the residential garages and cannot be seen from Miller Avenue. Per the Commission's request the applicant has placed the lights in areas that will minimize glare at night.

- Putting up full story poles on the site to show the actual building heights and roof lines

Staff has verified that the story poles which are shown in the plan set match what is on the site and the story poles have been certified. The topography of the site and existing vegetation make it difficult to string every roof line; therefore, the applicant was instructed by staff to show the most significant building heights and to tape the most prominent ridgelines.

Design Review

Since the project contains both residential and non-residential components findings for Design Review include both the Residential Design Guidelines and the non-residential findings from Section 20.66.040 which are summarized below.

Residential Design Guidelines

Slope Design Guidelines

Although there is a significant cut involved in the proposed project, the rear portion of the site is left undisturbed by placing the proposed buildings closer to Miller Avenue. The guidelines call for buildings to be in scale with its surroundings, while avoiding exaggerating mass, bulk, and height. The applicant and architect have created buildings that are in scale with their surroundings (most recently, the approval of 505 Miller Avenue which is across the street) while reducing the mass, bulk, and height by building low on the lot closest to Miller Avenue and not higher on the existing hillside. This proposal keeps the new structures closer to the commercial uses on Miller and away from the single-family homes behind the project. There are several environmental mitigation measures involved with the cut of the hillside which must be met prior to the applicant obtaining a grading permit from the Public Works Department. All of the mitigation measures, including the mitigation pertaining to grading, can be found in the Conditions of Approval in **Exhibit B** and the Mitigation Monitoring Program (**Attachment 2**).

Flora and Fauna Design Guidelines

The project maintains the existing vegetation on approximately half of the site. The rear portion of the lot will be maintained in its natural state with no building or excavation proposed in this area. Maintaining the rear portion of the lot as it is creates a privacy buffer between the single-family residences behind the project site and the new residential and commercial structures. The applicant has set both structures along the Miller Avenue frontage of the lot which also keeps the maximum heights of the buildings below the ridgeline of the slope on the property. This helps reduce the mass and bulk of the building since the natural topography and height of the slope on the property is larger than the maximum height of the building.

The proposed landscape plan for the project uses native plantings and has been reviewed and approved by the Fire Department per their standards regarding Vegetation Management and minimizing fire hazards on the site. The project involves removing some existing vegetation but does not include the removal of any substantial trees on the site.

Soils and Grading Design Guidelines

The current project proposes 10,900 CY of cut for the 9 units and 4,948 square foot commercial building. As shown on the plan, there is a significant cut into the existing hillside that will be used as project-related fill or will be off-hauled. This number has increased by 475 square feet since the July 2010 study session in order to expand the parking area 2' south to accommodate the required parking width dimensions. There is one large retaining wall that will run along the rear of the residential structure. The applicant has proposed lattice screening along Miller Avenue to hide the east side of the retaining wall, and the residential building's south wall will be retaining the hillside to

the rear of the building. There are no significant cuts involved with landscaping the site. The proposed landscaping will take place in the flatter areas, as well as the areas that were disturbed by grading for the residential and commercial structures.

Drainage Design Guidelines

The site drainage for the proposed development has been reviewed by the Public Works Department. The drainage plan will be further reviewed by DPW when the project is submitted for Building and Drainage Permits. There are several specific mitigation measures related to drainage for this project. As mentioned above those can be found in the conditions of approval and **Attachment 2**.

Building Design Guidelines

The building materials proposed for the project will be reviewed and approved by the Fire Department and Building Department when the project is submitted for a Building Permit. The project is located within the Wildlife Urban Interface (WUI) zone and will adhere to the standards for that zone.

The scale, mass, and height guideline is one that is discussed throughout this report and has been an area of concern for the Planning Commission from the beginning of the project. The applicant has adjusted the current elevations by removing 30% of the western third story roof line, adding windows to the structure, and enlarging the dormers along the front elevation to address the Commission's concern.

The applicant has provided all of the required parking for both uses on the site; this guideline is discussed further below as it pertains to both the residential and non-residential structures. The applicant has chosen colors which are compatible with the surrounding neighborhood as well as colors that minimize the visual impact of the development by blending the structures into the hillside.

Non-Residential Design Review Findings

Section 20.66.040 provides design review findings for non-residential developments. The applicable findings related to this project are discussed in detail in the findings in **Exhibit A**. In summary, the non-residential findings for design review include attractive development which shall be in substantial harmony with the projects surroundings; that it does not impair or interfere with the use of surrounding properties; that the materials, colors, and architecture be compatible with other structures in the vicinity; that it be adequately landscaped; that cut and fill will be minimized and erosion prevented; that the project would minimize or avoid adverse effects on natural resources; and that the proposal is consistent with the General Plan.

The proposed commercial building is less substantial in size, height, mass, and bulk than the larger residential building. The commercial building is compatible with other two story commercial structures along Miller Avenue and will increase available commercial

square footage in this stretch of Miller Avenue. The commercial structure will not impair or interfere with the development or use of other properties within the vicinity.

The materials and colors will be similar in style to that of the residential building and will be compatible with the surrounding neighborhood as well as the existing topography. The proposed drainage plan which was discussed in the residential analysis has been reviewed by the Public Works Department and will be further reviewed in the building permit stage.

The cut associated with the commercial building is less significant than the residential building, and any retaining walls in this area will be screened from Miller Avenue with planting, fences, or decorative stone. The circulation on the site has been reviewed and approved by the Public Works Department as well as in the EIR. The project contains the required widths for parking spaces, driveways, access, and parking areas, resulting in a project that meets the Zoning Code and General Plan designation of Commercial/Residential.

Parking

Each of the residential units has a two-car garage which is located under the units in the ground floor parking area. Each unit has direct access from their garage up to their unit with the exception of units 1 & 2, which have access from their garage directly into the elevator/stairwell area that leads into their unit. Multi-family development of over four units requires guest parking at a rate of $\frac{1}{4}$ of a parking space for each unit be provided on the site. For 9 units, this would result in 3 guest parking spaces required on the site. There are 23 parking spaces provided for the commercial uses that can be shared with the residential uses. With the PD zoning, no parking variance is required for the shared parking. The PD allows the Commission to make this determination.

The 4,948 square foot commercial building is broken into two levels; the first level is 2,108 square feet with the second level being 2,840 square feet. The usable commercial space has been broken down by the applicant as retail on the first level and professional offices on the second. Since the commercial building has not been broken into tenant spaces at this time, the parking is calculated based on the gross square feet for each level. If the applicant had only office uses on the second floor, they would be required to have 13 parking spaces to accommodate that use (one parking space for every 225 square feet). For the first level as retail uses (this does not include sit down restaurants, workout studios, or any more intensive use in the parking code) 9 parking spaces would be required (one parking space for every 250 square feet). The total required spaces would be 22 parking spaces. 23 are provided in the parking garage. If the applicant wanted to have a more intensive use in either level of the commercial building, such as a restaurant, they would need to make the parking work. The PD zoning does not require Conditional Use Permits for uses which typically require that permit in the CN zone; however, the availability of parking restricts the type of uses that can be in the building. At this time, since the tenant spaces are not divided on the current set of plans, staff is unable to allot certain uses to certain spaces, so a condition of approval has been added to the plans to

require the applicant to balance the parking with the uses. This will be addressed at the building permit stage, as tenant improvements are proposed.

Setbacks

There are no required setbacks in the CN zone, except when adjacent to a residentially zoned parcel. In those cases, the setback for the commercial building is subject to the residential standards for that adjoining zone. Since the site is adjacent to County residentially zoned property staff has used the residential standard for an RS zone which would be a 15' setback for a 52,678 square foot lot. The project maintains a 35' setback at the closest point to that residentially zoned property, which exceeds the requirement. The residentially zoned properties which are closest to this development are located above the project on the hillside and will look down onto the project as it is proposed.

In-lieu Fee

No affordable units are required for the project. The applicant is required to pay an in-lieu fee for residential developments of two to nine dwelling units. The size of the project will require the applicant to pay 11% of the current inclusionary subsidy differential established by the City. This fee is dependent on the valuation of building a residential dwelling unit and will be determined by the Director of Planning and Building when the applicant submits the project to the Building Department for a Building Permit. The fee will be collected by the City prior to obtaining a final on the residential portion of the project. This has been added as a condition of approval.

Lot Line Adjustment

The applicant has already submitted the required lot line adjustment and it has been reviewed and approved by Planning. The applicant will submit the information to the Public Works Department and then records the lot line adjustment documents with the County of Marin. The lot line adjustment must be complete prior to issuance of a building permit, and a condition of approval has been added to address this requirement.

ENVIRONMENTAL REVIEW

An Environmental Impact Report on the Miller Avenue Annexation, which included a mixed-use project consisting of 2,963 square feet of commercial space and 22 residential dwelling units on the subject property was prepared, reviewed and certified by the City. Although the size of the commercial buildings increased with the current proposal and the number of housing units decreased, no new environmental review has been required because the currently proposed project has decreased in overall size, which essentially lowers the impacts on the environment. On July 2, 2007, the City Council certified the Miller Avenue Annexation and Development Environmental Impact Report, including a Mitigation Monitoring and Reporting Program (**Attachment 2**). All required mitigation measures have been incorporated into the revised project design. Those mitigation measures that have not been completed are included as conditions of project approval in

Exhibit B. There are three cumulative traffic mitigation measures that are required to be addressed by the projects covered by the EIR: 542 and 500 Miller. These measures essentially require each project to make a fair share contribution toward identified traffic improvements along Miller Avenue at LaGoma, Reed and Gomez. Since the approval of the EIR, the City has commenced the Miller Avenue Streetscape Plan that has included significant community input on these and other issues related to the overall design and configuration of Miller Avenue. Approval of the Miller Avenue Streetscape Plan could result in some, or all of these mitigations being rendered as no longer feasible, and, therefore, no longer applicable to these projects. If they do remain as part of the plan, the applicants would be required to make a fair share contribution toward their implementation as defined by the respective measures.

PUBLIC COMMENT

No public comment has been received since the previous Planning Commission Study Session.

NEXT STEPS

The Planning Commission has final decision-making authority on the Special Zoning Permit and Design Review, unless it is appealed to the City Council. The Planning Commission must make a recommendation on the Vesting Tentative Map, which must then be approved by the City Council.

EXHIBITS

- A. FINDINGS FOR APPROVAL
- B. PROJECT CONDITIONS OF APPROVAL

ATTACHMENTS

1. APPLICANTS RESPONSE TO THE JULY 2010 PLANNING COMMISSION STUDY SESSION
2. MITIGATION MONITORING AND REPORTING PROGRAM FROM THE EIR
3. BUILD IT GREEN MULTI-FAMILY WORKSHEET
4. PLANNING COMMISSION STUDY SESSION MINUTES DATED JULY 26, 2010

2. 500 Miller - Von der Worth - Design Review, Special Use Permit & Tentative Map - File No. 3187 (El-Hajj) A public hearing to consider the application of Al Von der Worth for Design Review, a Special Use Permit, and a Tentative Map in connection with a mixed-use project involving 4,948 square feet of commercial space and 9 attached dwelling units on a 1.63 acre site. The Tentative Map will require an approval from the City Council after the Planning Commission reviews it and makes a recommendation.

500 Miller Staff Report doc.

Staff Report Presentation from Associate Planner El-Hajj and Questions from the Commission

Applicant Presentation from architect Steve Wisenbaker

Public Comment

Commission Deliberation

It was **MOVED** by **Commissioner Richardson** and **SECONDED** by **Commissioner Utzman** to Approve to project and:

A. Make the required finding and approve the Special Development Permit by finding:

1. The establishment, maintenance or operation of the use applied for will not, under the circumstances of the particular case, be detrimental to the health, safety, peace, morals, comfort or general welfare of the persons residing or working in the neighborhood of such proposed use, not be detrimental or injurious to property and improvements in the neighborhood.

Construction of the proposed residential development will be required to be in compliance with all adopted codes, including fire and building codes, thereby ensuring the health and safety of persons in or near the development. Landscaping will be installed pursuant to a Vegetation Management Plan approved by the Fire Department to minimize fire hazard. The project must be built in compliance with the approved conditions of approval and the Mitigation Monitoring and Reporting Program, to protect public health, safety and welfare.

B. Make the required findings and approve the Design Review application by finding:

1. The proposal is consistent with the City of Mill Valley General Plan and Mill Valley Municipal Code

The project meets all the applicable standards for the CN zoning district with the exception of the height maximum which is addressed with the approval of the project

under the Planned Development overlay. The location of the new units to transit services on Miller Avenue, and public facilities such as schools, and parks in the nearby vicinity, make this site appropriate for a mixed-use development, consistent with the General Plan land use designation of Residential/Commercial and the requirements of the CN-PD zoning district.

2. The proposal is consistent with the Residential Design Guidelines adopted by the City

As discussed in detail in the certified EIR prepared for the project, the proposal is consistent with the City's Residential Design Guidelines and all of the mitigation measures which were to be completed prior to design review approval have been met at this time. The proposed building materials are authentic, natural and representative of those used in the surrounding commercial and residential areas of Miller Avenue, the applicant has built the project into the front, less sloped, portion of the lot, the applicant is maintaining over half the site in its natural state, the Fire and Public Works Departments have reviewed the proposed Vegetation plans and drainage plans, and the privacy and views of the residential neighbors to the north of the project are maintained by the rear end of the lot staying in its natural state and with landscaping to maintain privacy and views along Miller Avenue.

3. The proposal is consistent with the required findings for Non-Residential Projects per Section 20.66.040 of the Zoning Code

- a. It will carry out its intended function while resulting in an attractive development which will be in substantial harmony with its locale and surroundings and generally compatible with the size, mass, and height of other buildings in the vicinity.

The proposed commercial aspect of the project will provide a two-story retail/office building which is similar to many of the two-story buildings along Miller Avenue. The maximum height of the commercial buildings will be under the allowable height of 35' in the CN zone and is not massive or bulky in comparison with surrounding buildings or the recently approved mixed-use building at 500 Miller Avenue.

- b. It will not impair or interfere with the development, use or enjoyment of other property in the vicinity including public lands and rights-of-way.

The proposed development is entirely located within the property lines and will not interfere with the development of other property in the vicinity or public lands and rights-of-way.

- c. The materials, colors, and architectural character will be generally compatible with other structures in the vicinity.

The proposed colors, materials, and architectural character of the commercial building are compatible generally with other properties in the vicinity. The

applicant has chosen colors and materials which will blend the building into the hillside and make it less visible from the across Miller and beyond.

- d. It will be appropriately and adequately landscaped with maximum retention of existing site vegetation.

Though the applicant is developing the front portion of the site the rear portion of the site will remain in its natural state. The front developed portion has a detailed landscape plan which has been reviewed by the Planning Department. The applicant's will submit a final landscape plan with the Building Permit submittal which will be reviewed by the Planning and Fire Departments.

- e. Drainage systems and appurtenant structures have been designed to minimize or avoid adverse impacts on other properties.

The drainage plan provided has been reviewed by the Public Works Department and will be further reviewed prior to a building permit being issued for the project. The drainage plan will also include the mitigation measures from the EIR which include a detention basin on the project site. The mitigation measures from the EIR will ensure that the project will not have adverse impacts on other properties.

- f. Proposed cut and fill areas will be minimized and special care taken so that all disturbed areas will be final graded to a natural appearing configuration and planted or seeded to prevent erosion.

The cut associated with the commercial buildings will be done per the grading and building permits which will incorporate the mitigation measures from the EIR. This will ensure that the grading of the site is done properly with the least amount of impact. The applicant will use the architecture and natural landscaping to make the property look natural and erosion control measures will be taken throughout the duration of the project.

- g. The design and location of sidewalks, pathways, parking areas, driveways, and roads will meet the intended functional requirements and minimize or avoid adverse affects on natural resources or adjacent properties.

All of the above mentioned features of the project have been designed to meet all applicable codes in the Mill Valley Municipal Code. The parking areas contain enough parking for the residential and commercial components of the project and the circulation of the site has been reviewed by the Public Works Department. All mitigation measures pertaining to circulation will be incorporated into the project prior to issuance of a grading or building permit.

- h. The proposal is consistent with the Design Guidelines contained in the Mi

Valley General Plan or adopted by the City Council.

The proposed mixed-use development is designated Residential/Commercial in the General Plan and is therefore consistent with that document and the City's prior decision to annex the property with that land use designation. The residential portion of the project is consistent with the residential design guidelines and the commercial portion is consistent with these findings.

- i. The City has considered and applied any limitations on building size, height, and setbacks pursuant to Section 20.66.045

Successive Planning Commission Study Sessions have determined that the previously proposed 22 and 15 unit developments were too massive for the property. These limitations were made based on the steep slope of the lot and its proximity to and prominence along Miller Avenue. The Planning Commission has used its authority under Section 20.66.045 to address the height, bulk and mass of the project over time and has determined that the design of the current proposal requires no further limitations and meets applicable residential and non-residential design guidelines.

- C. The approval of the proposal is in compliance with the California Environmental Quality Act.

Pursuant to the California Environmental Quality Act, the City prepared and circulated for public review an Environmental Impact Report analyzing the potential impacts of the proposed project and identifying appropriate mitigation. On July 2, 2007, the City Council certified the Miller Avenue Annexation and Development Environmental Impact Report. All applicable mitigation measures have been incorporated into the project design or are required as conditions of project approval.

- D. Make the required findings and approve the Vesting Tentative Map application by finding:

1. The Vesting Tentative Map meets the City's Subdivision Ordinance and the requirements of the Subdivision Map Act.

The Vesting Tentative Map was reviewed by the City and has been found to conform to the City's Subdivision Ordinance and the Subdivision Map Act. The map will allow the creation of 9 attached residential units on the property, which will allow the applicant the ability to sell the attached units, consistent with the General Plan land use designation of Residential/Commercial and the CN-PD zoning of the site. The remainder of the site will be owned and maintained through a Homeowners Association or similar maintenance agreement.

FINAL CONDITIONS OF APPROVAL & MITIGATION MEASURES

PLANNING DEPARTMENT: Any questions, contact Amber El-Haji, 415-388-4033 x134

1. Floor plans and building elevations shall be in substantial conformance with plans prepared by Steve Wisenbaker AIA, Architects & Planners dated received by Planning Department November 10, 2010 on file with the Mill Valley Planning and Building Department, with the following changes:
 - a. No portion of the project shall encroach into the public right-of-way along Miller Avenue.
 - b. The applicant shall use a minimum 24"-box tree for all street trees.
 - c. The applicant shall install wood casing and seal on the windows at a depth of at least 2'. The window detail is shown on page 11 on detail 7.
 - d. The applicant shall re-design the columns along the north elevation of the commercial building to reduce their size in relation to the overall structure. The beams shown on page 11 details 1 and 3 shall be reduced to 3' x 10' and the 6' beams shown on page 11 detail 4 shall be reduced to 4' x 10'.
 - e. The applicant shall work with staff and an Arborist to ensure that the proposed Redwood trees on the east side of the property are planted in appropriate spaces to help protect the structural integrity of the wall in that location, as well as add screening to the solid stucco east elevation wall.
 - f. The applicant shall add lattice and planting materials to the stucco wall on the east elevation and will use minimum 15-gallon vines on the east side of the project to help screen that wall.
 - g. The applicant shall continue the lattice and planting to the trellis area along Miller Avenue to screen the garage level of the project and to minimize artificial light from the garage.
 - h. All venting on the residential building shall be located along the rear of the project. No venting material shall be visible from Miller Avenue.
 - i. The applicant shall choose darker colors for the building. The proposed colors shall be approved as a consent item at a future Planning Commission meeting.

Conditions Requiring Compliance Prior to Issuance of Building Permits

2. Except as otherwise modified by these conditions of approval, plans submitted to the Building Department for plan check shall be in substantial conformance with those approved by the Planning Commission. Any changes to the approved Design Review plans, including changes to windows or the demolition plan, must be reviewed with and approved by the Planning Department prior to submitting for a building permit or a revision to the building permit. Any changes must be clearly

highlighted (with a "bubble" or "cloud") on plans submitted to the Planning Department. A list describing in detail all such changes shall be submitted and attached to the plans. Any changes that have not been explicitly approved by the Planning Department are not valid and may be subject to stop work orders and/or require removal.

3. All conditions of approval and mitigation measures shall be included on the front sheet of the construction drawing submitted for a building permit.
4. Prior to issuance of a building permit, on the proposed project, the applicant shall arrange a pre-construction meeting with staff that shall be attended by Mill Valley staff, the owner, contractor and all sub-contractors to review these conditions of approval, permitted hours of operation etc.
5. Prior to issuance of a building permit, the applicant will submit the CC&R's for the proposed homeowner's association or tenant maintenance agreement for the Planning Department's review and approval.
6. Prior to issuance of a building permit, a sign shall be posted in a location where the sign is clearly readable from the public right-of-way. The sign shall be 9 to 12 square feet in size. Information on the sign shall include:
 - a. Address of site.
 - b. Permitted hours of construction.
 - c. Name, address and phone number of the contractor.
 - d. Name, address and phone number of the person responsible for the project. e. Name and phone number of the party to call in case of an emergency.
 - f. Requirement that workers carpool to the site.
 - g. The phone number of the City of Mill Valley Code Enforcement Officer.

Conditions Requiring Compliance Prior to Final Inspection/Occupancy

7. Site landscaping shall be in substantial conformance with the Landscape Plan on file with the Mill Valley Planning and Building Department. The final landscape plan shall be stamped by a licensed landscape architect and filed with the Planning Department prior to occupancy. Plans for any irrigation of the site shall be incorporated into the landscape plan. All planting shown on the approved plan shall be installed prior to occupancy of the proposed residence. Upon the discretion of the Planning Director, installation may be suitably guaranteed by posting a cash bond equal to 100% of the cost and installation of any landscape improvements.
8. Prior to occupancy, the applicant will pay the City an in-lieu fee of 11% of the current inclusionary subsidy differential established by the City. This fee will be determined when a building permit is applied for based on the valuation of a comparable dwelling unit.

9. Prior to occupancy, the applicant will submit a sign program for the commercial buildings which can be reviewed and approved by the Zoning Administrator. This sign program will reflect the visual mitigation measure which addresses signage and awnings in the EIR.

General Conditions

10. The applicant shall indemnify, defend and hold harmless the City, its officers, agents and employees (collectively "the City") from any and all claims, actions, lawsuits, damages, losses and liabilities arising or resulting from the granting of this permit by the City, the performance of the use authorized by this permit or the exercise of the rights granted by this permit. The applicant's obligation to indemnify, defend and hold harmless the City shall include, but not be limited to, paying all fees and costs incurred by legal counsel of the City's choice in representing the City in connection with any such claims, actions or lawsuits, any expert fees, and any award of damages, judgments, verdicts, court costs or attorneys' fees in any such claim, action or lawsuit.
11. All mitigation measures as indicated in the certified Final Environmental Impact Report for the Miller Avenue Annexation & Development prepared by Amy Skewes-Cox, AICP shall apply to the project and shall be complied with either prior to building permit issuance, throughout construction or prior to occupancy, as appropriate.
12. There are 23 parking spaces allotted to the uses in the commercial building. No more intensive use than retail on the first level or office on the second can be located in the building without meeting the parking standards in Section 20.60.090I. No variations from the parking standards will be made with this development unless additional parking is created on-site.
13. Any food service or preparation use in the commercial building shall require a conditional use permit.
14. The light source of all exterior lighting fixtures shall be shielded from adjacent properties.
15. The project shall comply with all applicable Energy Efficiency Regulations in the Mill Valley Municipal Code.
16. All portions of the job site in view of the public and immediately adjacent neighbors shall be maintained in an orderly condition. All trash, debris, construction scraps and broken or unused machinery shall be removed from the site at the end of each work week. Construction materials not used within 2 weeks of their delivery date shall be screened from public view. All sidewalks, driveways and public/private roadways fronting the subject site shall be broom cleaned at the end of each work day.
17. Prior to pouring the foundation, the applicant shall submit to the Planning Department a wet-stamped certification from a licensed surveyor that confirms that the location of the residence on the site complies with the approved setbacks.

18. Prior to sheathing the roof, the applicant shall submit a wet-stamped certification from a licensed surveyor to the Planning Department confirming that the height of the roof complies with the approved plans.
19. Property lines shall be physically identified (string line or equal) and must be certified by a licensed surveyor at the time of the first foundation related building inspection.
20. The hours of construction activity, including the use of power tools, shall be limited to 8:00 a.m. to 5:00 p.m. Monday through Friday. Construction is not allowed on Saturdays, Sunday or holidays.

FIRE DEPARTMENT: Any questions, contact Jeff Davidson, Fire Marshal, 389-4130

21. Provide a UL-listed key box on site as required by the Mill Valley Fire Department.
22. Fire Sprinklers required.
 - a) All new construction.
 - b) Plans for fire sprinkler system design and hydraulic calculations shall be completed by a licensed C-16 sprinkler contractor and submitted to the Mill Valley Fire Department for approval prior to installation. Fire sprinkler system design and installation shall conform to the provisions of the Mill Valley Fire Department and N.F.P.A. Standard 13D.
23. The address shall be posted in accordance with the Uniform Fire Code. Final inspection and signoff of address posting shall be coordinated through the Building Department. Based on the size and scope of the project a map at a main access point with building layout/addresses will most likely be needed.
24. A fire alarm system with approved horn/strobes to be installed.
25. The entire building (residential and commercial) to include sprinkler and alarm components shall be monitored 24/7 by a U.L. approved Central station.
26. Noncombustible roofing shall be provided for:
 - a) All new roofs shall be non-combustible.

NOTE: A “noncombustible” roof is a Class A roof (for other than Group R Occupancies, a Class A or Class A assembly) as defined in the Uniform Building Code and approved by the Building Department. (For further details, contact Jeff Davidson, Fire Marshal at 389-4130.)
27. Prior to occupancy, a spark arrester shall be installed on the chimney(s) (1/8” mesh minimum).

28. Any elevator installed shall be designed to EMS/Gurney width specifications.
29. A dry standpipe system to be installed with connections/outlets on all stairwells.
30. A new Jones model 3760 fire hydrant to be installed and collocated at/with fire sprinkler connections.
31. Final occupancy approval shall not be granted by the Fire Department unless all conditions have been met.

DEPARTMENT OF PUBLIC WORKS: Any questions, contact Dick Dudak, 388-4033

32. DRAINAGE

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

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

34. SOILS AND GRADING

- a) No grading shall be permitted between October 15 and April 15. (Grading is considered to be any movement of earthen materials necessary for the completion of the project. This includes, but is not limited to cutting, filling, excavation for foundations, and the drilling of pier holes. It does not include the boring or test excavations necessary for a soils engineering investigation.)
- b) A grading security for \$10,000 shall be submitted in the form of a Certificate of Deposit (CD) or cash to cover grading, drainage, and erosion control. Contact the Department of Public Works for details.
- c) Submit an erosion control plan, which includes a signed statement by the soils engineer that erosion control is in accordance with ABAG standards. The erosion control plan shall demonstrate protection of disturbed soil from rain and surface runoff and demonstrate sediment controls as a “back-up” system. (Temporary seeding and mulching or straw matting are effective controls.)
- d) The Soils Engineer shall provide a letter to the Department of Public Works certifying that all grading and drainage has been constructed according to plans

filed with the grading permit and his/her recommendations. Any changes in the approved grading and drainage plans shall be certified by the Soils Engineer and approved by the Department of Public Works. No modifications to the approved plans shall be made without approval of the Soils Engineer and the Department of Public Works.

35. OFFSITE IMPROVEMENT REQUIREMENTS

- a. The applicant shall contribute 5% of the costs of traffic improvements deemed necessary by the City Engineer to mitigate the impacts of the development in this area. In no event shall the applicant's share exceed \$25,000 (5% of the total cost of improvements not exceed \$500,000). After 10 years any unused portion of the applicant's share (5%) shall be refunded to the applicant.
- b. The final version of improvements in the Miller Ave right-of-way shall conform to the proposed improvements in the Miller Avenue Streetscape.

36. ENCROACHMENTS –

- a. A Revocable Encroachment Permit is required from the Public Works Department for all work within the right-of-way.
- b. Construction within the public right-of-way is limited to that necessary to support the lot's use. This includes driveways, sidewalks, and sometimes car garages or decks on steep hillsides. Garbage can enclosures are not permitted in the right-of-way. Fences, gates, structures, and walls within the right-of-way will only be approved when they meet the conditions set in Section 11.16.010 and 20.60.065 of the Mill Valley Municipal Code. An encroachment permit is required for all work within the public right-of way.
- c. A small portion of the site work for this project lies within the County's right-of-way for Reed Street. The work consists mainly of drainage improvements and landscaping. An Encroachment Permit from the County will be necessary for this work. The applicant is advised to have the County review this encroachment early in the design process.
- d. The new driveway approaches shall conform to ADA requirements. This shall include maintaining a four-foot wide pedestrian path of travel across the approach with a cross-slope not to exceed two percent.

37. SEWAGE SYSTEM REQUIREMENTS –

- a. The applicant shall obtain a sewer connection permit from the Department of Public Works. The fee for this permit is \$55,000 for the project. If a food service tenant occupies one or both of the retail spaces, then additional sewer connection fees may be necessary. An evaluation of the Building Permit plans will determine if additional fees are necessary. Any additional sewer connection fees shall be paid prior to obtaining the Building Permit for the food service tenant. Inspection fees may be added to the basic connection fee.
- b. The sanitary sewer and storm drain facilities for this project will remain property of the development. A joint maintenance agreement for these

facilities shall be prepared and included in the CC&R's.

38. TRAFFIC – Submit a construction management plan prior to issuance of a Building Permits showing work schedule, storage, travel routes, closures, and access. The construction management plan shall be submitted in time to be incorporated into the job set of plans. The construction management plan shall become a binding document, and failure to adhere to the plan may result in stoppage of the project.

39. CONSTRUCTION IMPACT

- a. All construction materials, debris, and equipment shall be stored on site. If that is not physically possible, an encroachment permit shall be obtained from the Department of Public Works prior to placing any construction materials, debris, debris boxes or unlicensed equipment in the right-of-way. The fee for using the right-of-way for storage of construction materials or equipment is \$10.00 per day in residential areas, and \$20.00 per day in commercial areas. A minimum of 12' clearance shall be maintained at all times along the roadway. The placing of portable restroom facilities in the City right-of-way will not be permitted.
- b. A construction fence shall be installed behind the sidewalk to separate pedestrians from the work zone. The feet on the fence shall not encroach on the sidewalk.
- c. The sidewalk shall be kept open for pedestrian traffic whenever possible. If a portion of the sidewalk must be blocked, then an accessible pedestrian path of travel shall be established to route pedestrians around the work zone. Closing of the sidewalk and elimination of the parking spaces in front of the project for the duration of the project will not be permitted.

40. ROAD BOND –

- a) A \$10,000 road security in the form of a Certificate of Deposit (CD) or cash for repair of damage to the City streets shall be submitted to the Public Works Department prior to the issuance of any permits.
- b) Submit a DVD clearly showing the existing condition of the road from Throckmorton to Cascade to the Department of Public Works prior to the start of construction. If digital format is not available, a VHS format tape will also be acceptable.

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

41. ROAD CLOSURES – Road closures are not permitted on this street. A land closure may be permitted if Public Works authorizes it..

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

42. The project shall be subject to the 2007 California Building, Plumbing, Electrical, Mechanical, Energy, and other applicable Title 24 codes.

Expiration of Approval

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

MITIGATION MEASURES

Mitigation Measures Requiring Compliance Prior to Issuance of a Building Permit

Hydrology and Water Quality

HYDRO-1(a): The project shall conform to all relevant County and City-related flood control requirements. The projects shall be designed to be consistent with Program PH 1-1 of the City of Mill Valley General Plan, which states that new roads and structures constructed within the Flood Insurance Program floodplain shall be constructed to minimize any reduction in the surface area of the flood plain by building structures on piles, or by limiting landfill to only the area occupied by the structure and by allowing for the flow of floodwater across roads that would otherwise serve as a dam blocking water from flowing across areas that now serve as a portion of the floodwater overflow area. The projects shall be designed to be consistent with the City of Mill Valley Municipal Code Chapter 18.04: Floodplain Management Ordinance.

HYDRO-1(b): The applicants shall comply with the Mill Valley Public Works Department standard project Conditions of Approval. These detail drainage, grading, and erosion control requirements. The City requires that final drainage improvement and grading plans be prepared by a civil engineer and soils engineer, respectively, and that the plans be reviewed and approved by the City before issuance of a building permit.

HYDRO – 1(c): The applicants shall cover the cost of a third-party peer review of the final drainage and grading plans prior to issuance of a building permit.

HYDRO-1(d): The elevation of the parking area of the mixed-use project shall be raised by approximately 1 foot. With this measure, there could be ancillary impacts related to the

steepness of the driveway access and overall height of the project. The overall height of the project would need to be adjusted and the change in height shall be shown in the recommended visual simulation as addressed in Mitigation Measure VISUAL-1(h).

HYDRO-1(f): The applicant for the mixed-use project shall construct the on-site storage basin as described to mitigate against otherwise additional peak flows directed to the Reed Street drain that flows into Arroyo Corte Madera del Presidio.

Visual Resources

VISUAL-3(j): Prior to the issuance of a building permit for the residential project, the applicant shall submit an exterior lighting plan prepared by a lighting professional or licensed engineer that identifies the type and wattage of lighting, locations, and shielding to minimize glare for nearby residents.

Public Services

SERV-2: The project applicants shall pay all applicable school impact fees.

Mitigation Measures Requiring Compliance Prior to Issuance of a Grading Permit

Hydrology and Water Quality

HYDRO-2: Prior to construction, the applicants for both the mixed-use and residential projects shall prepare a Storm Water Pollution Prevention Plan (SWPPP) and Erosion Control Plan for their respective projects for approval by Mill Valley Public Works Department. Pursuant to NPDES requirements, the SWPPP shall a) identify specific types and sources of stormwater pollutants, b) identify the location and nature of potential impacts, and c) specify appropriate control measures to eliminate any potentially significant impacts on receiving water quality from stormwater runoff. Control measures shall include public education and design or source control management practices, as appropriate, to mitigate potential water quality effects.

HYDRO-3: In accordance with the Mill Valley Public Works Department requirements, the applicants shall ensure that all site drainage be dissipated in a manner that prevents erosion and conforms to stormwater discharge practices in Marin County. The applicant's hydraulic reports shall be approved by the Mill Valley Public Works Department. Best management practices shall be implemented during the construction phase to minimize sedimentation. These include implementation of the RWQCB's "C.3" recommended practices for erosion and sediment control measures during construction.

Biological Resources

BIO-1: A pre-construction nesting survey for raptors shall be conducted for the proposed residential project if initial grading for any residence is to be conducted during the months of April through July. The surveys shall be conducted by a qualified biologist no more than 30 days prior to initiation of grading or tree removal. If any active raptor nests are found within 300

feet of proposed grading and construction areas after April, grading, construction, and tree removal within this setback distance shall stop until any young have fledged. If permanent avoidance of nests is not feasible, impacts on raptor nests shall be minimized by avoiding disturbance to the nest location during the nesting season until a qualified biologist verifies that either a) the birds have not begun egg-laying and incubation, or b) the juveniles from those nests are foraging independently and are capable of independent survival at an earlier date. Construction, grading, and tree removal may proceed during the non-nesting season (Augusta through March) without requiring preconstruction surveys.

BIO-4: a Broom Eradication Program shall be prepared as part of each development application on the residential and mixed-use sites and implemented as part of the landscape plans for each development. French and Scotch broom shall be removed as part of initial grubbing during site development, and graded slopes and areas disturbed as part of individual applications shall be monitored to prevent establishment and spread of these species. Removal and monitoring shall include annual late winter removal of any rooted plants when soils are saturated and cutting back of any remaining flowering plants in the spring before seed begins to set in late April. This shall continue on an annual basis for at least three years until replacement groundcover and landscaping have become successfully established.

Transportation

TRANS-4: The mixed-use project applicant shall provide a construction logistics plan for approval by the City's Department of Public Works prior to project construction. The logistics plan shall state hours of construction, hours for truck travel on City streets, truck routing, and truck parking to ensure that significant traffic conflicts would not occur during construction. If necessary, the City shall impose restrictions on the location and timing of construction truck operations.

TRANS-7: The residential project applicant shall provide a construction logistics plan for approval by the City's Department of Public Works. The logistics plan shall state hours of construction, hours for truck travel on City streets, truck routing, and truck parking to ensure that significant traffic conflicts would not occur during construction. If necessary, the City shall impose restrictions on the location and timing of construction truck operations.

Air Quality

AIR-1(a): Consistent with guidance from the BAAQMD, the following measures shall be required in construction contracts and specifications for the mixed-use and residential projects:

- Water all active construction areas at least twice daily and more often during windy periods; active areas adjacent to existing land uses shall be kept damp at all times, or shall be treated with non-toxic stabilizers or dust palliatives;
- Cover all trucks hauling soil, sand, and other loose materials or required all trucks to maintain at least 2 feet of freeboard;

- Pave, apply water three times daily, or apply (non-toxic_ soil stabilizers on all unpaved access roads, parking areas, and staging areas at construction sites;
- Sweep daily (preferably with water sweepers) all paved access roads, parking areas, and staging areas at construction sites; water sweepers shall vacuum up excess water to avoid runoff-related impacts to water quality;
- Sweep streets daily (preferably with water sweepers) if visible soil material is carried onto adjacent public streets;
- Apply non-toxic soil stabilizers to inactive construction areas;
- Enclose, cover, water twice daily, or apply non-toxic soil binders to exposed stockpiles (dirt, sand, etc.);
- Limit traffic speeds on unpaved roads to 15 miles per hour;
- Install erosion control measures to prevent silt runoff to public roadways;
- Replant vegetation in disturbed areas as quickly as possible;
- Install wheel washers for all existing trucks, or wash off tires or tracks of all trucks and equipment leaving the site;
- Suspend excavation and grading activity when winds result in visible dust plumes despite control efforts; and
- Limit the area subject to excavation, grading and other construction activity at any one time.

AIR-1(b): All neighboring properties located within 500 feet of the mixed-use and residential sites shall be provided with the name and phone number of a designated construction dust control coordinator who can respond to complaints by suspending dust-producing activities or providing additional personnel or equipment for dust control. Residents shall also be provided with the phone number of the BAAQMD. The dust control coordinator shall be available during all times when grading is occurring and shall maintain a log of complaints.

Mitigation Measures Requiring Compliance Prior to Building Permit or Grading Permit (as specified in the EIR)

Air Quality

AIR-2(a): The following measures shall be required in construction contracts and specifications for the project:

- Use alternative fueled (non-diesel) construction equipment whenever feasible;

- Minimize idling time for diesel equipment (2 minutes maximum);
- Maintain properly tuned equipment; and
- Use on-road trucks and non-road diesel-powered equipment that are model year 2004 or newer or meet the 2004 standards for heavy-duty diesel trucks/equipment. A fleet of 2004 model year heavy-duty diesel trucks would, based on the EMFAC-2002 model, generate roughly 43 percent less PM₁₀ than a typical vehicle age mix.

AIR-2(b): As part of a construction management plan, contractors shall identify off-site truck staging areas to be located at least 200 feet from any residences, school property or other sensitive receptor. This staging area shall be used by trucks waiting to enter the project site and drivers could be notified by radio when needed at the project site. Extended idling (longer than 5 minutes) would not be allowed at the staging area (as per legal mandate).

Mitigation Measures Requiring Compliance Prior to Occupancy of the Building

Public Services

Serv-1: In consultation with the Mill Valley Fire Department, the applicants shall revise the project plans to provide for higher-rated building construction (e.g., steel or concrete instead of wood frame) that is more resistant to fires. Additional fire safety measures shall include the following for both the mixed-use and residential project sites:

- On-site fire hydrants;
- Use of special fire inspectors prior to issuance of occupancy permits; and
- Additional fire hazard rating for improved sprinklers.

General Mitigation Measures

Visual Resources

VISUAL-3(e): Prior to construction, the applicants for both projects shall investigate ways to use green building products or materials, and shall increase energy conservation by window treatments and insulation that exceed California Energy Commission's standards and that meet the County's standards for "green" development. Information from the California Integrated Waste Management Board shall be obtained and the applicants shall include some of the following elements in the building designs:

- Recycled content of selected building materials (e.g., use of Trex or similar product for decking);
- Certification of wood products to show that materials are from sustainably managed sources; and
- Building materials that are locally available to minimize transportation energy and resource costs.

The applicants shall review the County's document entitled "New Home Construction Green Building Guidelines" (August 2002) to determine the best elements to incorporate into their projects. A letter identifying extra energy conservation and sustainable design elements shall be submitted for each project to the Mill Valley Planning & Building Department for discussion prior to issuance of building permits.

Cultural Resources

CULT-1: If any indicators of the presence of cultural resources are discovered during the construction of the project, earth-disturbing work shall be halted in an area within a radius of 10 feet around the suspected deposits, and an archaeologist or cultural resource specialist shall be consulted in accordance with applicable laws and regulations. The City of Mill Valley Planning & Building Department shall be notified within 24 hours. If deemed appropriate under CEQA, data and artifact recovery shall be conducted during the period when construction work is halted. Significant cultural materials include, but are not limited to, chipped stone, groundstone, shell and bone artifacts, concentrations of fire cracked rock, ash, charcoal, shell, bone, and historic features such as privies or building foundations.

Appropriate mitigation may include monitoring of further construction and/or systematic excavation of the resources. Any artifacts or samples collected as part of the initial discovery, monitoring, or mitigation phases shall be properly conserved, catalogued, analyzed, evaluated, and curated along with associated documentation in a professional manner consistent with current archaeological standards.

CULT-2: If human remains are discovered during the construction of the project, an appropriate representative of Native American groups and the County Coroner shall be informed and consulted, as required by Section 7050.5 of the California Health and Safety Code. No further excavation or disturbance of the site of the "find" or any nearby area shall be undertaken until authorized by the County Coroner.

Noise

NOISE-2: The following steps shall be taken to minimize construction noise impacts from both the residential and the mixed-use projects:

- a) The applicant shall apply for and receive a special permit from the City as required by the noise ordinance;
- b) Construction hours shall be limited to the hours listed in the Conditions of Approval;
- c) All internal combustion engine-driven equipment shall be equipped with mufflers that are in good condition and appropriate for the equipment;
- d) "Quiet" models of air compressors and other stationary noise sources shall be used where technology for such exists;
- e) Stationary noise-generating equipment shall be located as far as possible from sensitive receptors when sensitive receptors adjoin or are near a construction project area;
- f) Unnecessary idling of internal combustion engines shall be prohibited; and

- g) A “noise disturbance coordinator” shall be designated who would be responsible for responding to any local complaints about construction noise. The disturbance coordinator would determine the cause of the noise complaints (e.g., starting too early, bad muffler, etc.) and institute reasonable measures warranted to correct the problem. A telephone number for the disturbance coordinator shall be conspicuously posted at the construction site.

Mitigation Measures Required if a Restaurant Use is Proposed in the Commercial Building

Air Quality

AIR-3: The developer of the restaurant at the mixed-use site shall install exhaust vents in accordance with accepted engineering practice and install and maintain exhaust filtration systems or other accepted methods of odor reduction.

AIR-4: All rental agreements for the mixed-use project shall disclose the presence of the restaurant and potential for cooking odors from the adjacent restaurant use. A copy of the rental agreements shall be provided to the City prior to the issuance of an occupancy permit for the residential units in the mixed-use project.

The use of one or both of the above measures would reduce this potential impact to less than significant.

Mitigation Measures which should comply with the Miller Avenue Plan

Cumulative Impacts and Mitigation Measures

TRANS-CUMULATIVE1: Various measures shall be considered to alleviate this impact, including installation of a traffic signal, prohibition of specific turning movements, or acceptance of LOS E conditions (with average delays increasing by less than four second) during the one-hour peak weekday PM period.

Installation of a traffic signal would result in LOS C during the AM peak hour and a LOS B during the PM peak hour under cumulative traffic loads. Assuming cumulative traffic, the average delay per vehicle would be reduced by 32 percent in the AM peak hour and by 51 percent in the PM peak hour. However, it shall be noted that the installation of a traffic signal could result in unacceptably modified travel patterns on nearby streets and intersections.

As an alternative mitigation to a traffic signal, an acceptable LOS D could be achieved at the intersection by prohibiting the left-turn movements from either La Goma Street or from Montford Avenue. This would result in the re-assignment of traffic to adjacent streets and could cause increased traffic levels at the intersections of Miller Avenue at Evergreen Avenue or at Locust Avenue. Another option would be to prohibit left turns from Miller Avenue onto La Goma Street. A detailed traffic operations and circulation analysis shall be conducted by the applicants of the mixed-use and residential projects to ascertain the potential impacts of a traffic signal or turn prohibits and all necessary mitigation measures shall be implemented by the applicants and/or the City.

The City may adopt a fee program for contribution to a traffic signal or other solution based on future circulation needs identified in the City's Circulation Element and the Miller Avenue Plan which is currently underway,

The City could also consider allowing LOS E for only the PM peak hour at this intersection, and could monitor the LOS to see if future trip generation is reduced over time.

To adequately mitigate this potential impact, the applicants shall contribute their "fair share" towards the necessary signalization or other improvements to alleviate cumulative traffic impacts. The applicant's fair share of relevant improvements shall be based on its contribution to cumulative daily and PM peak hour trips, and shall be applied towards improvements that the City determines to be most directly impacted by approval of the project. The applicants and their traffic consultants shall work with the City to determine the scope and priority of these improvements, and the city shall prepare and adopt a program that 1) identifies the improvements necessary to address the cumulative impacts on Miller Avenue, 2) establishes a fee program for collection of fair share fees; and 3) establishes a timeline for construction of the needed improvements. The program shall be adopted, and the applicant shall pay its fair share into the program, prior to the issuance of occupancy permits for the project. The City shall require all new projects along Miller Avenue and in Downtown Mill Valley that are anticipated to contribute to cumulative traffic concerns along Miller Avenue to participate in the City's mitigation program.

In addition, the project applicants shall partake in Transportation Demand Management (TDM) and Transportation System Management (TSM) measures to reduce overall cumulative traffic. Specifically, pedestrian pathways shall be included as TDM and TSM measures. These measures would reduce the project's share of the cumulative impact to less than significant.

TRANS-CUMULATIVE 2: The Reed Street median of Miller Avenue shall be striped or reconfigured to provide separate southbound left and through traffic lanes. A single northbound lane would continue to be provided in the median. This lane layout would be the same as currently used at the intersection of Miller Avenue with Evergreen Avenue. With the revised lane configuration, the intersection would operate at LOS D or better during both the AM and PM peak hours under cumulative traffic loads. This impact would be reduced to a less-than-significant level if implemented by the project applicants

TRANS-CULULATIVE 3: Pavement markings shall be added to channel all traffic from Gomez Way into a right-turn onto Miller Avenue, requiring motorists to travel through on Miller Avenue and prohibiting left-turns onto Camino Alto. This would reduce the cumulative traffic delay at the intersection to an acceptable LOS C during the AM peak hour and LOS B during the PM peak hour.

Because this mitigation measure would prohibit Gomez Way traffic from using Miller Avenue's eastbound left-turn lanes to Camino Alto, which is already an illegal maneuver, some drivers would seek the first available U-turn would be at the drive way to the Pickleweed residential development. The existing storage lane and turning movement space at this location would be adequate to serve the U-turning traffic from Gomez Way.

Assuming that the project applicants implement this mitigation measure as part of project approval, this impact would be reduced to a less-than-significant level.

The motion to Approve was carried unanimously.

3. 290 Edgewood - Tardy - Design Review & Variance - File No. 3445 (Zanarini) A public hearing to consider the application for a new 2,783 sq. ft. single family house with an attached garage and parking deck on a vacant lot. The hearing will only consider the City Council's direction to the Planning Commission to review, as necessary, and clarify its prior decisions on the following items: conformance with design guidelines; site drainage and erosion control; landscape at the lower portion of the property in the vicinity of Hazel Avenue; construction management as it relates to worker, equipment and materials staging and potential impacts to Edgewood and Hazel Avenues; removal of the heritage redwood tree in the Edgewood Avenue public right-of-way adjacent to the subject property; parking deck size and driveway configuration; and house size. The Planning Commission's decision will be returned to the City Council at a date to be determined (and subject to subsequent public notice) for a continued public hearing on the appeal filed by Bob and Elza Burton.

290 Edgewood Staff Report doc.

Staff Report Presentations

Commission Discussion

Public Comment

Commission Deliberation

The Commission summarized issues the City Council requested clarification on:

Height:

Commissioner Utzman stated normally when you get into height issues on a slope like this, the first option is to dig into the hillside to drop the building down. Because the site is in a redwood grove that kind of digging is not compatible with the redwood trees. He stated that after a lot of deliberation and discussion the Commission made the decision to minimize the cutting and coupled with the location of the driveway dictated the height.

Site Drainage & Erosion:

No change or deliberation to the summary.

Landscape to Hazel: