

RESOLUTION NO. _____

RESOLUTION OF THE PLANNING COMMISSION OF THE CITY OF MILL VALLEY RECOMMENDING THAT THE CITY COUNCIL ADOPT A MITIGATED NEGATIVE DECLARATION; REZONE ASSESSOR PARCELS NUMBERS. 028-212-07, 028-212-11, 028-212-13 AND 028-212-14 KNOWN AS 363 MILLER AVENUE, 5, 15 & 19 LA GOMA STREET FROM C-N (NEIGHBORHOOD COMMERCIAL) TO CN-PD (NEIGHBORHOOD COMMERCIAL - PLANNED DEVELOPMENT COMBINING DISTRICT); APPROVE A SPECIAL DEVELOPMENT PERMIT; AND APPROVE A DESIGN REVIEW TO ALLOW A MIXED-USED COMMERCIAL AND RESIDENTIAL PROJECT AT THE SUBJECT PROPERTY

WHEREAS, on April 25, 2005 Jonathan Parker, the owner of the property known as 363 Miller Avenue, 5, 15 and 19 La Goma Street which is also known as assessor parcels numbers 028-212-07, 028-212-11, 028-212-13 and 028-212-14 (the "Property"), submitted an application consisting of Design Review, Environmental Review, Special Development Permit, and Rezoning of the entire property from Neighborhood Commercial (C-N) to Neighborhood Commercial-Planned Development (CN-PD) (collectively, the "Project"); and,

WHEREAS, the Initial Study and a Final Mitigated Negative Declaration prepared for the project concluded that there is not substantial evidence that the Project will have a significant effect on the environment with implementation of the identified mitigation measures; and,

WHEREAS, the Planning Commission held a public hearing during a regular scheduled meeting on October 27, 2008, to review and consider the Project in its entirety, including the rezone and the Final Mitigated Negative Declaration for the Property; and,

NOW, THEREFORE, BE IT RESOLVED that the Planning Commission of the City of Mill Valley does hereby recommend that the City Council:

1. Consider and Adopt the Final Mitigated Negative Declaration for the Project, based on the evidence in the record of proceedings and findings set forth in Exhibit A, attached hereto and incorporated herein by reference.
2. Adopt Mitigation Monitoring Program for the Project, attached hereto as Exhibit B and incorporated herein by reference, pursuant to the requirements of the California Environmental Quality Act Guidelines Section 15074 (c).
3. Approve the request to rezone the Property from Neighborhood Commercial (C-N) to Neighborhood Commercial-Planned Development (CN-PD) based on the following findings:
 - a. Rezoning the Property from Neighborhood Commercial (C-N) to Neighborhood Commercial-Planned Development (CN-PD) will not cause any significant environmental impact as shown in the Initial Study and Final Mitigated Negative Declaration dated September 2008.

- b. The Project will not adversely affect or impair the benefits of occupancy, most appropriate development, property value stability, or the desirability of property in the vicinity because the existing inhabitable structures will be removed and the architectural elements of the project as designed and conditioned, are a quality addition to the area, and will not adversely visually impair the benefits of the properties in the vicinity since none of the proposed buildings will be taller than the allowed height for the current zone.
 - c. Rezoning the Property to Neighborhood Commercial-Planned Development (CN-PD) is compatible with adjacent land uses and land use designations and therefore it is anticipated that the establishment of the project will not be injurious or detrimental to the health, safety, or general welfare of persons or property in the vicinity of the proposed use or structure, or the general welfare of the City.
4. Approve the requested Special Development Permit for the Property based on the findings set forth in Exhibit C, attached hereto and incorporated herein by reference findings, subject to the Conditions of Approval set forth in Exhibit E attached hereto, and incorporated herein by reference.
 5. Approve the requested Design Review for the Property based on the findings set forth in Exhibit D, attached hereto and incorporated herein by reference findings, subject to the Conditions of Approval set forth in Exhibit E attached hereto, and incorporated herein by reference.

THE FOREGOING RESOLUTION WAS PASSED AND ADOPTED at a regular meeting of the Planning Commission of the City of Mill Valley on the ____ day of ____, 2008 by the following vote:

AYES:
NOES:
ABSENT:
ABSTAIN:

 Chairman of the Planning Commission

ATTEST:

 Secretary of the Planning Commission

EXHIBIT A

FINDINGS FOR ADOPTION OF A FINAL MITIGATED NEGATIVE DECLARATION 363 Miller Avenue, 5, 15 & 19 La Goma Street, APNs 028-212-07, 028-212-11, 028-212-13 and 028-212-14, Application Number 3189

Based on California Environmental Quality Act Guideline, 15074, Consideration and Adoption of a Negative Declaration or Mitigated Negative Declaration, the City Council should make the following findings for adoption:

- A. *The City Council shall adopt the proposed negative declaration or mitigated negative declaration only if it finds on the basis of the whole record before it (including the initial study and any comments received), that there is no substantial evidence that the project will have a significant effect on the environment and that the negative declaration or mitigated negative declaration reflects the city's independent judgment and analysis.*

Based on the environmental review process, which included an Initial Study and the completion of a Final Mitigated Negative Declaration, and the whole record, there is no substantial evidence that the project will have a significant effect on the environment. The Final Mitigated Negative Declaration addresses and mitigates all potential environmental impacts and reflects the city's independent judgment and analysis.

- B. *When adopting a negative declaration or mitigated negative declaration, the city shall specify the location and custodian of the documents or other material which constitute the record of proceedings upon which its decision is based.*

The location of all project related documents, including the Final Mitigated Negative Declaration and material that constitute the record of proceedings upon which this decision is based, is City Hall – 26 Corte Madera Avenue, Mill Valley, California, 94939. The custodian is the Planning Department.

EXHIBIT B

MITIGATION MONITORING PROGRAM

**363 Miller Avenue, 5, 15 & 19 La Goma Street, APNs 028-212-07, 028-212-11, 028-212-13
and 028-212-14, Application Number 3189**

MITIGATION MEASURES	IMPLEMENTATION	MONITORING	TIMING
Section III. AIR QUALITY			
<p>Mitigation III-1: The project shall implement the following measures for all construction occurring in the City to control fugitive dust and diesel exhaust emissions:</p> <ul style="list-style-type: none"> •Water all active construction areas at least twice daily. •Watering or covering of stockpiles of debris, soil, sand or other materials that can be blown by the wind. •Cover all trucks hauling soil, sand, and other loose materials or require all trucks to maintain at least two 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. •Sweep streets daily (preferably with water sweepers) if visible soil material is carried onto adjacent public streets; water sweepers shall vacuum up excess water to avoid runoff-related impacts to water quality. •Hydroseed or 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.). 	<p>Project Sponsor/Construction Contractor</p>	<p>City Building Inspector, City Department of Public Works</p>	<p>The City Building Inspector and the City Department of Public Works shall ensure that the construction-period measures are being implemented throughout the construction period.</p>

MITIGATION MEASURES	IMPLEMENTATION	MONITORING	TIMING
<ul style="list-style-type: none"> •Limit traffic speeds on unpaved roads to 15 mph. •Install sandbags or other erosion control measures to prevent silt runoff to public roadways. •Replant vegetation in disturbed areas as quickly as possible. •Maintain properly tuned heavy equipment. •Limit the hours of construction and grading activities. •Minimize idling time for heavy equipment to no more than 5 minutes. 			
<p>Section IV: BIOLOGICAL RESOURCES</p>			
<p>Mitigation IV-1a (Phase 1):</p> <p>1. Prior to the issuance of a demolition permit and/or tree removal permit, the applicant shall obtain a Streambed Alteration Agreement from the DFG. The applicant shall implement all recommended protective measures and best management practices to ensure that activities within 50 feet of the top of bank of Arroyo Corte Madera del Presidio Creek do not result in any adverse effects to fish or wildlife species.</p> <p>2. A qualified biologist shall monitor all clearing, grubbing, grading, demolition, and construction activities that take place within 25 feet of the top of bank of Arroyo Corte Madera del Presidio Creek to ensure that work is conducted in accordance with the Streambed Alteration Agreement. The biologist shall have the authority to stop work, if necessary.</p>	<p>Project Sponsor and Construction Contractor</p>	<p>Department of Planning and Building</p>	<p>The Department of Planning and Building shall not issue a demolition permit until the Agreement is in place.</p> <p>The City Building Division shall ensure that a qualified biologist is on site during activities within 25 feet of the top of bank.</p>

MITIGATION MEASURES	IMPLEMENTATION	MONITORING	TIMING
<p>Mitigation IV-1b (Phase 2):</p> <p>1. Prior to the start of creek bank stabilization activities, the applicant shall obtain all necessary permits, including, but not limited to, a Section 404 permit from the Corps, a Biological Opinion or concurrence letter from NOAA’s NMFS and USFWS, and a Streambed Alteration Agreement from the DFG.</p> <p>2. A qualified biologist shall monitor all clearing, grubbing, grading, demolition, and construction activities that take place within 25 feet of the top of bank of Arroyo Corte Madera del Presidio Creek</p> <p>3. If it is necessary to divert the creek channel, the applicant shall retain the services of a qualified biologist to collect and relocate fish, and any other federally-listed aquatic species, prior to diverting the creek. To plan for the possibility of having to relocate fishes, a Fish Relocation Plan shall be written and approved by NOAA’s NMFS, USFWS, and DFG during the Corps permit process.</p> <p>4. Best Management Practices (BMPs) shall be implemented for all creek bank work, in accordance with the Marin County Stormwater Pollution Prevention Program (MCSTOPPP) Standards and typical BMPs as listed below, or as modified by any permit issued by the USACE pursuant to the Clean Water Act, by the DFG as part of the Streambed Alteration Agreement, and/or any protocols</p>	<p>Project Sponsor and Construction Contractor</p>	<p>Department of Planning and Building</p>	<p>The Department of Planning and Building shall not issue a grading permit until the agreement and permits are in place.</p> <p>The Department of Planning and Building shall ensure that a biologist is on site during activities within 25 feet of the top of bank.</p>

MITIGATION MEASURES	IMPLEMENTATION	MONITORING	TIMING
<p>or requirements of the Biological Opinion issued by NOAA's NMFS and USFWS.</p> <p>Typical MCSTOPP Standards:</p> <ul style="list-style-type: none"> • Schedule work to avoid wildlife breeding or nesting seasons. • Release flow after work is completed at a reduced velocity to minimize erosion or the washing of fish or amphibians downstream. Consult with a creek naturalist, hydrologist or appropriately trained personnel prior to release to determine appropriate flow velocity if substantial quantities of water have been impounded. • Perform bank repairs in the dry season. • Keep site and channel disturbance, to the minimum necessary, to accomplish the repairs. • Perform work from the top of the bank whenever possible. The operation of equipment in the channel should be kept to a minimum. • Keep disturbance to any existing setback areas to the minimum necessary to accomplish the repair. • If it is necessary to divert or de-water the channel, fish collection and relocation shall be required. <p>Additional Typical BMPs:</p> <ol style="list-style-type: none"> 1. All work that could affect the creek must be completed during the June 1-October 15 work window, as established by NMFS for anadromous salmonids. 2. Erosion control measures shall be in place at all times during demolition, construction, and landscaping. To protect aquatic 			

MITIGATION MEASURES	IMPLEMENTATION	MONITORING	TIMING
<p>organisms, the details of the erosion control measures shall be coordinated with the federal, state, and local agencies.</p> <p>3. To prevent any construction debris, sediment, or pollutants from the construction site from entering the stream channel, protective measures shall be implemented (e.g., silt fences installed at the top of the creek bank). Any material that does not fall into the stream channel during demolition, construction, or landscaping shall be removed immediately, in a manner that has minimal impact to the streambed and water quality.</p> <p>4. The weather forecast shall be monitored for rainfall and the site shall be prepared if significant rain is imminent. If rain is forecast, all materials that are needed to prepare the site for rain shall be readily available on-site.</p> <p>5. To prevent pollutants from entering the creek, all fuels, lubricants and chemicals shall be shored well away from the creek, in an upland location, away from any storm drain system.</p> <p>6. To protect stormwater pollution of the creek, all stockpiles shall be covered and protected.</p> <p>7. All construction equipment shall be in good working condition, showing no signs of fuel or oil leaks.</p>			
<p>Mitigation Measure IV-2: To avoid any nesting season conflict during construction, no trees shall be removed during the known nesting season for this area (March 1 – September 1) and must also be conducted outside the City’s rainy season grading moratorium of October 15 to</p>	<p>Project Sponsor and Construction Contractor</p>	<p>Department of Planning and Building</p>	<p>The Department of Planning and Building shall not issue a tree removal permit between March 1 and September 1 until a nesting</p>

MITIGATION MEASURES	IMPLEMENTATION	MONITORING	TIMING
<p>April 15. If tree removal is slated for any portion of the nesting season (March 1-September 1) a biologist shall first conduct a nest survey of the area 30 days in advance of start of work. If no nesting is found to be occurring, work can proceed as planned. If nest activity is found, the biologist shall flag off a suitable non-disturbance buffer area that will remain until the young have fledged. Meanwhile, work outside the buffer area can proceed as planned.</p>			<p>survey has been completed.</p>
<p>Section V: CULTURAL RESOURCES</p>			
<p>Mitigation V-1: Prior to the issuance of a demolition permit, the applicant shall provide and the City shall approve a plan to preserve the Gladding, McBean tiles from the building at 363 – 371 Miller Avenue and incorporate the tiles into the design of the new building proposed for its site. The plan shall identify a qualified mason to remove the tiles, provide illustrations of how the tiles will be incorporated in the new building and/or site design, and demonstrate that the tiles will be visible to the general public.</p>	<p>Project Sponsor and Construction Contractor</p>	<p>Department of Planning and Building</p>	<p>The Department of Planning and Building shall not issue a demolition permit until approving a plan from the project sponsor to incorporate the Gladding, McBean tiles into the design of the new building proposed for 363 Miller Avenue.</p>
<p>Mitigation Measure V-2: In the event that buried cultural or paleontological resources are encountered, Project activities within 100 feet of the find shall be temporarily halted until a qualified archaeologist or paleontologist can assess the significance of the find and provide proper management recommendations. Prehistoric cultural material includes, but is</p>	<p>Project Sponsor and Construction Contractor</p>	<p>Department of Planning and Building</p>	<p>Ongoing during grading and construction.</p>

MITIGATION MEASURES	IMPLEMENTATION	MONITORING	TIMING
<p>not limited to, shell midden deposits, hearth remains, stone and/or shell artifacts, and/or burials. Historic material, including but not limited to whole or fragmentary ceramic, glass or metal objects, wood, nails, brick, or other materials may occur within the Project area in deposits such as old privies, dumps, or even as part of the fill.</p>			
<p>Mitigation V-3: If human remains are found during project demolition and construction activities, the project proponent must contact the Marin County Coroner who in turn must contact the NAHC if it is determined that the finds are of Native American origin. The NAHC will then contact a most likely descendant who will have the opportunity to make a recommendation within 24 hours after being notified by the NAHC as to how the remains will be treated.</p>	<p>Project Sponsor and Construction Contractor</p>	<p>Department of Planning and Building</p>	<p>Ongoing during grading and construction.</p>
<p>Section VI: GEOLOGY AND SOILS</p>			
<p>Mitigation Measure VI-1: Mitigation of ground shaking requires seismic design of the structure in conformance with the provisions of the most recent version (2007) of the California Building Code. Based on the interpreted subsurface conditions and closest fault type and distance, the design of the project shall be based on the seismic coefficients and site values. These seismic coefficients shall be used in equations 30A-4 through 30A-8 to calculate the design base shear of the new construction.</p>	<p>Project Sponsor and Construction Contractor</p>	<p>Department of Planning and Building</p>	<p>Prior to issuance of building permit. These calculations shall be shown on the construction drawings.</p>

MITIGATION MEASURES	IMPLEMENTATION	MONITORING	TIMING
<p>Mitigation Measure VI-2: Site preparation and grading shall conform to the following recommendations and criteria.</p> <p>1. Surface Preparation – The following shall be undertaken subsequent to the hazardous materials related mitigation measures listed in section VII of this document. Clear all structures, concrete slabs, asphalt pavement, over-size debris, and organic matter from areas where improvements are planned. Existing concrete foundations, slabs or asphalt pavements shall be removed where they conflict with new grades and foundations because “hard points” and reflection cracking are expected if new structures are located over old improvements. Recovered aggregate base and asphalt materials could be stockpiled and used as compacted fill provided they are spread evenly in fills and the asphalt is processed so that the maximum particle size is not greater than 4 inches. Old utility pipes shall either be removed and the resulting excavation properly backfilled with compacted soils, or if they are to be abandoned in place, they shall be filled with a low strength cement grout. Clear all grass, brush, roots, over-sized debris and organic material from turf areas that will be within the new project work area. These “organic” soils will not be suitable for use as structural fill and should be removed from the site or stockpiled for use in landscape areas. Excavate loose soil to expose firm natural soils. Following clearing, stripping and required excavations, the exposed soils within the building area (extending to 5 feet beyond</p>	<p>Project Sponsor and Construction Contractor</p>	<p>Department of Planning and Building</p>	<p>Prior to issuance of building permit. These measures shall be shown on the construction drawings.</p>

MITIGATION MEASURES	IMPLEMENTATION	MONITORING	TIMING
<p>perimeter footings and 3 feet beyond exterior slabs or pavements) should be scarified to a depth of 8-inches, moisture conditioned to above optimum moisture content, and compacted to at least 90 percent relative compaction</p> <p>2. Materials – Soil and rock mixtures generated from on-site excavations may be suitable for use as fill provided the maximum particle sizes are less than 4 inches, they are sufficiently well mixed, and concentrations of highly plastic clay are removed. Processing will include removal, mixing, and moisture conditioning as described below. If imported fill is required, the material shall consist of soil and rock mixtures that: (1) are free of organic material, (2) have a Liquid Limit less than 40 and a Plasticity Index of less than 15, and (3) have a maximum particle size of 4 inches. Any imported fill material needs to be tested to determine its suitability for use as fill material.</p> <p>3. Compacted Fill – On-site fill, backfill, and scarified subgrades should be conditioned near their optimum moisture content. Properly moisture conditioned and cured onsite materials should subsequently be placed in loose horizontal lifts of 8 inches thick or less and uniformly compacted to at least 90 percent relative compaction. In areas where new pavement will be installed, the upper 6 inches should be moisture conditioned to near optimum moisture content and compacted to at least 95 percent relative compaction to provide a</p>			

MITIGATION MEASURES	IMPLEMENTATION	MONITORING	TIMING
uniformly firm and unyielding surface.			
Mitigation Measure VI- 3: To mitigate potential liquefaction and seismic-induced ground settlement hazards, the Project design shall incorporate a rigid concrete mat slab as the appropriate foundation type for the Project.	Project Sponsor and Construction Contractor	Department of Planning and Building	Prior to issuance of building permit. The Department of Planning and Building shall ensure that these measures are incorporated into the construction drawings.
Mitigation Measure VI- 4: The building areas shall be raised slightly and adjoining landscaped areas shall be sloped downward from the buildings. Site drainage shall be discharged away from the building area and outlets shall be designed to reduce erosion of the soils immediately down slope.	Project Sponsor and Construction Contractor	Department of Planning and Building	Prior to issuance of building permit. The Department of Planning and Building shall ensure that these measures are incorporated into the construction drawings.
Mitigation Measure VI- 5: Excavations for utilities shall be in medium stiff to stiff alluvial soil. Bedrock is not likely to be encountered. Trench excavations having a depth of 5 feet or more must be excavated and shored in accordance with OSHA regulations.	Project Sponsor and Construction Contractor	Department of Planning and Building	Prior to issuance of building permit. The Department of Planning and Building shall ensure that these measures are incorporated into the construction drawings.
Mitigation Measure VI-6: A qualified geotechnical engineer shall review the plans and specifications for the project when they are nearing completion	Project Sponsor and Construction Contractor	Department of Planning and Building	Prior to issuance of demolition, grading or building permit and during

MITIGATION MEASURES	IMPLEMENTATION	MONITORING	TIMING
<p>to confirm that the intent of the geotechnical recommendations have been incorporated and to provide supplemental recommendations, if needed. During construction, a qualified geotechnical engineer should observe and/or test site preparation, structural fill placement and compaction, aggregate base placement and compaction, utility trench backfill compaction, and surface drainage. A qualified geotechnical engineer should also observe foundation excavations for the structures and associated improvements to confirm that the soils encountered during construction are consistent with the design criteria.</p>			<p>construction. The Department of Planning and Building shall confirm that a qualified geotechnical engineer has reviewed and approved the plans.</p> <p>The Department of Planning and Building shall ensure that a qualified geotechnical engineer is onsite to observe activities as required.</p>
<p>Mitigation Measure VI- 7: The Project Civil Engineer shall design a site drainage system to collect surface water into a tight pipe storm drain system that discharges water at an appropriate location, preferably into an established storm drainage system. Any areas where vegetation is removed or destroyed during construction shall be covered by standard control measures as described in the most recent version of the California Regional Quality Control Board Erosion and Sediment Control Field Manual.</p>	<p>Project Sponsor and Construction Contractor</p>	<p>Department of Planning and Building</p>	<p>Prior to issuance of building permit. The Department of Planning and Building shall ensure that these measures are incorporated into the construction drawings.</p>
<p>Mitigation Measure VI- 8: New structures shall be founded on a rigid mat slab or deep foundation to mitigate the low potential hazard for minor differential settlements from liquefaction-induced settlement. Isolated shallow spread footings should not be used. However, pad</p>	<p>Project Sponsor and Construction Contractor</p>	<p>Department of Planning and Building</p>	<p>Prior to issuance of building permit. The Department of Planning and Building shall ensure that these measures are incorporated</p>

MITIGATION MEASURES	IMPLEMENTATION	MONITORING	TIMING
<p>footings structurally connected to the mat slab are acceptable to support relatively light, isolated column loads. If these column loads are moderate to high, deep foundations should be utilized. The criteria outlines in Table 7 should be utilized in the design of the foundation.</p>			<p>into the construction drawings.</p>
<p>Section VII: HAZARDS AND HAZARDOUS MATERIALS</p>			
<p>Mitigation Measure VII-1: Prior to building demolition at the Project site, an asbestos and lead-based paint survey shall be conducted. The survey shall be conducted by a qualified professional for the structures proposed for demolition. Asbestos-containing materials shall be abated prior to demolition. Intact lead-based paint found to be secure (not flaking, peeling, or cracked) may be discarded along with demolition debris during the demolition of the structures. Loose and peeling paint shall be disposed of as a state and/or federal hazardous waste, if the concentration of lead exceeds applicable waste thresholds. Hazardous wastes shall be appropriately managed, labeled, transported, and disposed of in accordance with local requirements by trained workers.</p>	<p>Project Sponsor, Qualified hazardous materials specialist.</p>	<p>Department of Planning and Building</p>	<p>Prior to issuance of a demolition permit, City shall ensure that these measures have been followed.</p>
<p>Mitigation Measure VII-2a: Creation of a Soil and Groundwater Management Plan. Prior to the issuance of any grading permits for the Project site, the Project hazardous materials consultant shall meet with the grading contractor and the City of Mill Valley to determine procedures to follow if fuel hydrocarbons (FHCs)-</p>	<p>Project Sponsor, Qualified hazardous materials specialist, grading contractor</p>	<p>Department of Planning and Building, City of Mill Valley Fire Department, Regional Water Quality Control Board</p>	<p>Prior to issuance of grading permit.</p>

MITIGATION MEASURES	IMPLEMENTATION	MONITORING	TIMING
<p>impacted soil and/or groundwater are encountered during grading. If discolored, odorous or otherwise questionable soil and/or groundwater are encountered during grading and excavation activities, the contractor shall stop work in the area and notify a qualified hazardous materials consultant as determined by the City. The selected hazardous materials consultant shall evaluate the suspect soil and/or groundwater using a photo ionization detector (PID) and observation of soil and/or groundwater conditions. If soil and/or groundwater are suspected of being impacted with FHCs, the hazardous materials consultant shall immediately notify the City of Mill Valley Fire Department (MVFD). If the contractor is unable to contact the hazardous materials consultant, the grading contractor shall contact the MVFD. Work shall not proceed in the impacted area until the soil and/or groundwater are tested and continuation of excavation is approved by the MVFD and/or a City of Mill Valley representative.</p> <p>Soil Management Procedures: Impacted soil shall be removed under the supervision of a qualified hazardous materials consultant with personnel with the proper HAZMAT training. Impacted soil shall be removed to the extent feasible and either (1) segregated and stockpiled on, and covered by, 6-mil plastic sheeting pending proper disposal at an approved disposal facility, or (2) transported directly to an approved disposal facility. Soil</p>			

MITIGATION MEASURES	IMPLEMENTATION	MONITORING	TIMING
<p>samples shall be collected from the excavated area to verify that impacted soil has been removed to the extent feasible. Sample analyses shall be based on information from previous site soil and groundwater investigations. A representative of the City of Mill Valley or MVFD shall be present when samples are collected and requested to approve the selected sample analysis. Samples shall be collected in accordance with standard procedures for the investigation of soil possibly containing FHCs. Sampling and disposal activities shall be documented in a written report that shall be submitted to the City of Mill Valley prior to the resumption of activities in the affected area.</p> <p>Groundwater Management Procedures If groundwater enters open trenches/excavations in quantities that require its removal prior to construction, it shall be pumped into a storage tank, and samples shall be collected for laboratory analyses. Depending on the results of analyses, the water may be pumped into the sanitary sewer under permit of Marin Municipal Water Treatment Plant, or it may be necessary to treat the water with activated carbon prior to discharge.</p> <p>Groundwater samples shall be collected from open trenches/excavations in accordance with the standard procedures for an investigation for FHC's content in water. Sample analyses shall be based</p>			

MITIGATION MEASURES	IMPLEMENTATION	MONITORING	TIMING
<p>on information from the previous site soil and groundwater investigation. A representative of the MVFD or City of Mill Valley shall be present when samples are collected and approved the selected sample analyses. Personnel collecting samples or handling the impacted water will have the proper HAZMAT training. EC&A shall document sampling and disposal activities in a written report which shall be submitted to the City of Mill Valley. In addition, any groundwater discharge will require permits from the sanitary sewer district or the Regional Water Quality Control Board (RWQCB). Compliance with permit requirements will ensure that groundwater is managed and disposed of properly.</p>			
<p>Mitigation Measure VII-2b: Soils tested to contain lead levels above hazardous waste thresholds shall be removed or capped prior to construction. The Project site is known to contain lead contamination. Prior to issuance of a grading permit, further investigation to determine the horizontal and vertical extent of lead in shallow soils shall be performed. Following investigation, appropriate remedial action (such as soil excavation and off-site disposal or encapsulation of the lead-affected soils) such as may be prescribed by an appropriate oversight agency (the Marin County Public Works Waste Management Division or the Regional Water Quality Control Board) shall be completed to the satisfaction of that agency.</p>	<p>Project sponsor, qualified hazardous materials specialist.</p>	<p>City Department of Planning and Building; County Public Works Department Waste Management Division; Regional Water Quality Control Board</p>	<p>Prior to the issuance of a grading permit.</p>

MITIGATION MEASURES	IMPLEMENTATION	MONITORING	TIMING
<p>The Project Applicant shall also retain a qualified professional to sample the entire site and remove all soils containing lead above the residential land use standard of 150 mg/kg. No building permit shall be issued for the Project until the lead oversight agency provides certification that measures have been implemented to remediate the site to residential health standards.</p> <p>In the event contaminated soil is not removed, but rather encapsulated under a parking lot or building foundation, the site will be subject to the RWQCB/DTSC Brownfields Program for regulatory oversight.</p>			
<p>Mitigation Measure VII-2c: A Risk Management Plan (RMP) shall be prepared for development of the Project site. The appropriate oversight agency (the Marin County Public Works Waste Management Division or the Regional Water Quality Control Board) shall prepare a Risk Management Plan for development of the Project site. The exact requirements of the RMP will vary, depending on the remediation performed at the Project site and requirements of the lead oversight agency. The RMP shall incorporate all necessary engineering and institutional controls required for safe development of the Project site, and may include Project design elements, construction worker health and safety measures, procedures to address previously undiscovered petroleum-related contamination encountered during construction, soil management procedures, and</p>	<p>Project sponsor, qualified hazardous materials specialist.</p>	<p>City Department of Planning and Building; County Public Works Department Waste Management Division; Regional Water Quality Control Board</p>	<p>Prior to the issuance of a grading permit.</p>

MITIGATION MEASURES	IMPLEMENTATION	MONITORING	TIMING
<p>an operations and maintenance plan to ensure that any measures required following construction are maintained throughout the life of the Project. The findings of current and future environmental investigations shall be incorporated into the RMP and provided to construction contractors, so the information can be incorporated in their employee health and safety and hazards communications programs.</p> <p>The RMP shall be in compliance with state and federal regulations for workers who may come in contact with hazardous waste and lead. State and federal regulations require that workers exposed to contaminants above permissible exposure limits at hazardous waste sites have undergone appropriate training (Title 29 CFR, Part 1910.120 and Title 8 CCR, Section 5192). Workers that come in contact with contaminated soil above hazardous waste thresholds, must be trained in accordance with those regulations. Additional regulations apply to all construction work where an employee may be exposed to lead (Title 29 CFR, Part 1926.62 and Title 8 CCR, Section 1532.1). These regulations require preparation of a Lead Compliance Plan for construction activities, including safety training for construction workers and perimeter air monitoring.</p>			
<p>Section VIII: HYDROLOGY AND WATER QUALITY</p>			
<p>Mitigation Measure VIII-1: A SWPPP shall be prepared by the applicant and provided to the City for review and approval prior to</p>	<p>Project sponsor, qualified hydrologist</p>	<p>Department of Planning and Building; Department of</p>	<p>Prior to issuance of grading permit.</p>

MITIGATION MEASURES	IMPLEMENTATION	MONITORING	TIMING
issuance of grading permits. The SWPPP shall incorporate BMPs that minimize the amount of erosion occurring both during and after construction.		Public Works	
<p>Mitigation Measure VIII- 2: Final plans for the site shall demonstrate that site drainage will be discharged away from the building area. Building areas shall be raised slightly and the adjoining landscaped areas shall be sloped downward at least 0.25 feet or 5 feet (5 percent) from the buildings. Where hard surfaces, such as concrete or asphalt adjoin foundations, these surfaces shall be sloped at least 0.10 feet in the first 5 feet (2 percent). Outlets shall be designed to reduce erosion of soils immediately down slope. Site drainage improvements shall be connected into the existing City storm drainage system to the maximum extent feasible.</p>	Project Sponsor and Construction Contractor	Department of Planning and Building; Department of Public Works	Prior to issuance of grading permit.
<p>Mitigation Measure VIII-3: The vertical creek sections shall be modified per Section A-A and B-B on the Preliminary Grading Plan and shall include:</p> <ol style="list-style-type: none"> 1. All grading shall be done above the ordinary high water mark of the creek to avoid the possibility of disturbing existing habitat. 2. A three-foot, minimum-width bench, with a maximum 2 percent cross-slope shall be graded and receive native plantings to reinforce the embankment. The specifics of these plantings shall be determined by the Project Landscape Architect in consultation with the City. 3. The three-foot bench shall be cut approximately two to three feet below the height of the existing top of bank in 	Project Sponsor and Construction Contractor	Department of Planning and Building; Department of Public Works	Prior to issuance of building permit. The Department of Planning and Building and Department of Public Works shall ensure that these measures are incorporated into the construction drawings.

MITIGATION MEASURES	IMPLEMENTATION	MONITORING	TIMING
<p>accordance with Measure 2 above.</p> <p>4. The slope adjacent to the proposed three-foot bench shall be sloped at a 2:1 maximum grade and landscaped in accordance with the Planting Plan and Section A-A and B-B on the Preliminary Grading Plan. If desired by the reviewing agencies, a portion of the 2:1 slope shall be replaced by a stacked rock wall (1.5 feet maximum height) to provide additional bank support. This section shall also be planted with native vegetation and the actual limits of the stacked rock wall section would be determined based on input from staff from the County of Marin staff and the Geotechnical Engineer. Currently, the stacked wall option has been eliminated from the plan, but could be included if required.</p> <p>5. All grading within the 30-foot creek setback area shall be at a uniform slope with a projected gradient of two percent to promote sheet-flow.</p> <p>6. The non-native vegetation between the top of the creek bank and three feet below the top of the creek bank shall be trimmed or removed to facilitate storm flows. This shall be coordinated through staff at the County of Marin MCSTOPPP.</p> <p>7. All creek bank repairs shall be installed during dry weather flows conforming to any scheduling restraints by the City of Mill Valley or County of Marin staff. Any exposed slopes immediately adjacent to the creek shall be hydro-seeded and covered with an erosion control blanket, fixed in place per the</p>			

MITIGATION MEASURES	IMPLEMENTATION	MONITORING	TIMING
<p>manufacturer’s recommendations prior to the rainy season. Additional BMPs in accordance with the MCSTOPPP standards shall be imposed on the Project area and shall be specified on the final design plans.</p>			
<p>Mitigation Measure VIII- 4: The Project shall be designed to be consistent with Program PH 1-1 of the City of Mill Valley General Plan Policy, Program, and Guidelines, which states that new roads and structures constructed within the Flood Insurance Program flood plain shall be constructed to minimize any reduction in the surface area of the flood plain, by building structures on piles, or limiting landfill to only the area occupied by the structure and by allowing for the flow of flood water across roads which would otherwise serve as a dam blocking water from flowing across areas which now serve as a portion of the flood water overflow area.</p>	<p>Project Sponsor and Construction Contractor</p>	<p>Department of Planning and Building</p>	<p>Prior to issuance of building permit. The Department of Planning and Building shall ensure that these measures are incorporated into the construction drawings.</p>
<p>Mitigation Measure VIII- 5: Information about the site’s 100-year flood zone and the likelihood for future flooding to occur on the site shall be included in the disclosures of the units proposed for sale. Residents of rental units shall be made aware of the potential for flooding on the site through their rental contracts, or similar material provided by the party renting the units.</p>	<p>Project Sponsor</p>	<p>Department of Planning and Building</p>	<p>Prior to issuance of occupancy clearance.</p>
<p>Mitigation Measure VIII- 6: The Project shall be designed to be consistent with the City of Mill Valley Municipal Code Chapter 18.04: Floodplain Management Ordinance.</p>	<p>Project Sponsor and Construction Contractor</p>	<p>Department of Planning and Building</p>	<p>Prior to issuance of building permit. The Department of Planning and Building shall ensure that these</p>

MITIGATION MEASURES	IMPLEMENTATION	MONITORING	TIMING
			measures are incorporated into the construction drawings.
<p>Mitigation Measure VIII- 7: The applicant shall incorporate the NFIP regulations which require that elevators and their associated equipment be protected from flood damage. Section 60.3(a)(3) states that the governing jurisdiction shall: “Review all permit applications to determine whether proposed building sites will be reasonably safe from flooding. If a proposed building site is in a floodprone area, all new construction and substantial improvements shall be constructed with materials resistant to flood damage, (iii) be constructed by methods and practices that minimize flood damages, and (iv) be constructed with electrical equipment and other service facilities that are designed and/or located so as to prevent water from entering or accumulating within the components during conditions of flooding.”</p>	Project Sponsor and Construction Contractor	Department of Planning and Building	Prior to issuance of building permit. The Department of Planning and Building shall ensure that these measures are incorporated into the construction drawings.
Section XI: NOISE			
<p>Mitigation Measure XI-1:</p> <ul style="list-style-type: none"> • Designate a site noise disturbance coordinator during the construction period whose name will be prominently displayed in signage on the site. The coordinator will be responsible to address neighborhood concerns regarding noise and take appropriate actions, where feasible, to reduce noise levels, during construction. • Locate stationary equipment toward the southwesterly side of 	Project Sponsor and Construction Contractor	Department of Planning and Building	Ongoing. The Planning and Building Department’s periodic inspections of the project site during construction shall include review of noise control measures.

MITIGATION MEASURES	IMPLEMENTATION	MONITORING	TIMING
<p>the site.</p> <ul style="list-style-type: none"> Require that construction materials and any site staging occur toward the southwesterly side of the site. Post signs readable from La Goma Street and Miller Avenue at least three days in advance of noise producing activities. 			
<p>Mitigation Measure XI- 2: The plans submitted for a building permit shall comply with the ventilation requirements in the 2007 California Building Code and its appendices, taking into account that windows in rooms along La Goma Street would need to be closed to meet the indoor noise level requirements. The project developer must submit a letter from an acoustical consultant along with the application for a building permit to indicate that the building design complies with the acoustical requirements of the State building code pertaining to exterior noise intrusion.</p>	Project Sponsor and Construction Contractor	Department of Planning and Building	Prior to issuance of grading permits and throughout construction period.
<p>Mitigation Measure XI- 3: Stationary construction equipment shall be located toward the southwesterly side of the site in order to decrease noise disturbances to surrounding residential uses.</p>	Project Sponsor and Construction Contractor	Department of Planning and Building	Prior to issuance of building permit. The Department of Planning and Building shall ensure that these measures are incorporated into the construction drawings.
<p>Mitigation Measure XI- 4: Project construction shall be conducted under the following conditions:</p> <ul style="list-style-type: none"> Construction shall be limited to the hours of 7:00 a.m. to 6:00 p.m. Monday through 	Construction Contractor	Department of Planning and Building	Ongoing.

MITIGATION MEASURES	IMPLEMENTATION	MONITORING	TIMING
<p>Friday. Heavy equipment noise shall be limited to 8:00 a.m. to 5:00 p.m. Monday through Friday.</p> <ul style="list-style-type: none"> Construction outside of these hours may be approved through a noise permit from the Building Official based on a site-specific construction noise mitigation plan and a finding by the Building Official that the construction noise mitigation plan is adequate to prevent noise disturbance of affected uses. If a noise permit is requested for construction outside of permitted hours and/or construction that will exceed the noise limits, the contractor shall use “new technology” power construction equipment with state-of-the-art noise shielding and muffling devices. All internal combustion engines used on the project site shall be equipped with adequate mufflers and shall be in good mechanical condition to minimize noise created by faulty or poor maintained engines or other components. 			
<p>Mitigation Measure XI- 5: Information about the site's location near vehicle maintenance, repair, body work and sales uses and the annoyances or inconveniences associated with these uses shall be included in the disclosures of the units proposed for sale. Residents of rental units shall be made aware of the potential for annoyances and inconveniences associated with proximity to these vehicle-related uses near the site through their rental contracts, or similar material provided by the party renting the units.</p>	<p>Project Sponsor</p>	<p>Department of Planning and Building</p>	<p>Prior to issuance of occupancy clearance, the project sponsor shall provide appropriate documentation of adherence to these measures.</p>

MITIGATION MEASURES	IMPLEMENTATION	MONITORING	TIMING
Section XII: PUBLIC SERVICES			
<p>Mitigation Measure XII-1a: Final plans shall be reviewed to determine if the sprinkler rise/fire department connection is greater than 50 feet from the existing hydrant on La Goma Street. If the connection is greater than 50 feet, the Applicant shall be required to install a new Jones Model 3770 fire hydrant meeting City of Mill Valley specifications within 50 feet of the connection.</p>	Project Sponsor	Fire Department	Prior to issuance of a building permit.
Section XVI: UTILITIES AND SERVICE SYSTEMS			
<p>Mitigation Measure XVI- 1: In accordance with the California Solid Waste Reuse and Recycling Access Act of 1991 (Public Resources Code Sections 42900 through 42911), the project shall include adequate, accessible areas for collecting and loading recyclable materials. Final building plans shall include provisions for both interior and exterior storage areas for recyclables, subject to City review prior to final Project approval. Project plans that clearly delineate these areas shall be submitted to the Planning Department for review and approval prior to issuance of a building permit.</p>	Project sponsor	Department of Planning and Building	Prior to issuance of a building permit.
<p>Mitigation Measure XVI- 2: The Project shall comply with Mill Valley Municipal Code Section 14.42, which requires a portion of construction and demolition debris to be recycled. The Project sponsor shall submit a Waste Management Plan (WMP) form with the building permit application. The required goal is to reuse or recycle at least</p>	Project Sponsor	Department of Planning and Building	Prior to issuance of building permit. The Department of Planning and Building shall ensure that these measures are incorporated into the construction

MITIGATION MEASURES	IMPLEMENTATION	MONITORING	TIMING
50% of Project waste			drawings.

EXHIBIT C

FINDINGS FOR APPROVAL OF A SPECIAL DEVELOPMENT PERMIT 363 Miller Avenue, 5, 15 & 19 La Goma Street, APNs 028-212-07, 028-212-11, 028-212-13 and 028-212-14, Application Number 3189

Based on Municipal Code Section 20.57.070, the Planning Commission recommends that the City Council shall make the following finding for approval:

- A. *No special development permit shall be approved unless a finding is made that 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.*

The establishment, maintenance or operation of the proposed use will not be detrimental to the health, safety, peace, morals, comfort or general welfare of the persons residing or working in the neighborhood, and will not be detrimental or injurious to property and improvements in the neighborhood since the proposed project has completed the environmental process which includes mitigation measures for project related construction and traffic. Additionally, the proposed development is an in-fill site that is located near transit and in a community serving commercial area, and includes commercial space for local serving businesses and affordable housing. The development standards established through the approval of the project further ensures that this finding can be made.

EXHIBIT D

FINDINGS FOR APPROVAL OF DESIGN REVIEW

**363 Miller Avenue, 5, 15 & 19 La Goma Street, APNs 028-212-07, 028-212-11, 028-212-13
and 028-212-14, Application Number 3189**

Based on Municipal Code Sections 20.66.036 and 20.66.040, the Planning Commission recommends that the City Council shall make the following findings for approval:

- A. *The project is consistent with the Mill Valley General Plan and complies with the Mill Valley Municipal Code.*

The project is consistent with the policies and guidelines and conforms to the implementation programs of the General Plan, most notably with the Housing Element Policy H3.6, Housing Element Policy H3.9, Housing Element Implementing Program H3.J, Housing Element Policy H3.15, Land Use Element Policy C-5, Land Use Element Implementing Program C-5-4, and Land Use Element Implementing Program C-5-4. With the approval of the rezone and granting of the Special Development Permit, the project will comply with the Mill Valley Municipal Code.

- B. *The proposal is consistent with the Residential Design Guidelines adopted by the City.*

The project has been reviewed in relation to the Residential Design Guidelines (RDG) and is most notably consistent with said guidelines adopted by the City in that it includes appropriate landscaping to maximize privacy between residences (RDG #6), implements energy conservation measures through the installation of solar panels (RGD #14), implements sustainable design principles by the completion of the Build It Green checklist (RDG #15), all buildings are designed to avoid monumental or massive buildings that would be out of scale with their setting and detract from the neighborhood character (RDG #17), and the earth-tone colors that are utilized are intended to minimize the visual impact of development, blend with the existing land forms and vegetative cover, are compatible with others in the neighborhood, and do not attract attention to themselves (RGD #18).

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

The City has reviewed the project and has considered not to apply any limitations on building, size, height and setbacks pursuant to Section 20.66.045.

- D. *The approval of the proposal is in compliance with the California Environmental Quality Act (CEQA).*

A Final Mitigated Negative Declaration has been completed in compliance with CEQA for this proposed project. Hence, the approval of the proposal is in compliance with CEQA.

- E. 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 project will result in an attractive development based on its proposed design and architecture, and will produce positive benefits due to the site remediation and creek restoration. Based on the uses and design of the proposed project, it will be in substantial harmony with its locale and surroundings and will be generally compatible with the size, mass and height of other buildings in the vicinity.

- F. 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 will not be impair or interfere with the development, use or enjoyment of other property in the vicinity including public lands and rights-of-way since the proposed project has completed the environmental process which includes mitigation measures for project related construction and traffic. Additionally, the proposed development is an in-fill site that is located near transit and in a community-serving commercial area, and includes commercial space for local serving businesses and affordable housing.

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

The materials, colors and architectural character will be generally compatible with other structures in the vicinity since the design intent was to assimilate the mixed-use building with the buildings that abut and surround it and use the residential portion of the project as an architectural transition between the commercial area to the west and residential area to the east.

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

The entire site will be landscaped with a variety of native and screening plant material. Due to demolition and site remediation, retention of existing vegetation will be limited.

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

The drainage systems and appurtenant structures have been designed to minimize or avoid adverse impacts on other properties since the grading and drainage plan includes off-site drainage for the west side (the mixed-use building and parking lot) of the

property, and on-site drainage for the east side (the townhomes and driveway) of the property. Additionally, the total impervious surface area for the site is proposed to be reduced from 70.2% to 55.7%, thus increasing the amount of water that can percolate into the site rather than running off.

- J. *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.*

Besides the enhancements to areas of the creek bank required by the Final Mitigated Negative Declaration, the project does not include any proposed cut and fill areas because of the relative flat nature of the site.

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

The design and location of sidewalks, pathways, parking areas, driveways and roads will meet the intended functional requirements and minimize or avoid adverse effects on natural resources or adjacent properties since the proposed parking area is in the center of the development, the drainage for the paved areas includes on site retention, and all new sidewalks and curb-cuts will meet current American Disability Act accessibility standards.

- L. *The proposal is consistent with all applicable Building Intensity Standards and Design Guidelines contained in the Mill Valley General Plan or adopted by the City Council.*

The project has been reviewed in relation to the Design Guidelines (RDG) and is most notably consistent with said guidelines adopted by the City in that it includes appropriate landscaping to maximize privacy between residences (RDG #6), implements energy conservation measures through the installation of solar panels (RGD #14), implements sustainable design principles by the completion of the Build It Green checklist (RDG #15), all buildings are designed to avoid monumental or massive buildings that would be out of scale with their setting and detract from the neighborhood character (RDG #17), and the earth-tone colors that are utilized are intended to minimize the visual impact of development, blend with the existing land forms and vegetative cover, are compatible with others in the neighborhood, and do not attract attention to themselves (RGD #18).

EXHIBIT E

CONDITIONS OF APPROVAL

363 Miller Avenue, 5, 15 & 19 La Goma Street, APNs 028-212-07, 028-212-11, 028-212-13 and 028-212-14, Application Number 3189

The applicant is responsible for ensuring that the project contractors, subcontractors and construction crew are aware of and comply with these conditions of approval. The conditions shall be reproduced on the first page of the building permit plans.

GENERAL CONDITIONS AND PROVISIONS

- 1) All conditions and mitigation measures of the Final Mitigated Negative Declaration of Environmental Impact and the Mitigation Monitoring Program for the Miller / La Goma Mixed Use Project prepared by CirclePoint are hereby incorporated by reference as conditions of approval for this project and shall be complied with either prior to building permit issuance, throughout construction or prior to occupancy as appropriate. If any condition of the Mitigated Negative Declaration of Environmental Impact conflicts with the following conditions of approval, the mitigation measures in the Mitigated Negative Declaration shall control.
- 2) A building permit is required for the proposed work. The design and construction of all site alterations shall comply with all applicable codes and regulations in effect at the time of plan submittal and building permit issuance. Project is subject to 2007 California Building/Plumbing/Electrical/Mechanical/ Energy and other applicable Title 24 codes.
- 3) Based on the size and scope it is probable that the Fire Department will outsource plan review and site inspection for this project. Applicant will be responsible for the cost of contract plan review and site inspections.
- 4) No use shall be established or changed, or any building or structure constructed or altered, upon the site except in strict conformity with this approval.
- 5) Use of the leaseable commercial floor area shall be limited to retail uses. Any use different than retail requires the approval of a Conditional Use Permit by the Planning Commission.
- 6) This approval shall expire in one year following the date of this approval. Before the expiration of a Design Review approval, the applicant may apply to the Director of Planning and Building for an extension of one year. Not more than two, one-year extension may be granted. The Director of Planning and Building may make minor modifications of the approved design at the time of extension if she finds that there has been a substantial change in the factual circumstances surrounding the originally approved design.

If a building permit is issued during the effective life of this approval, the expiration date of the approval shall be automatically extended to coincide with the expiration date of the building permit.

- 7) 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.

CONDITIONS TO BE COMPLIED WITH PRIOR TO ISSUANCE OF BUILDING PERMIT

- 8) Subdivision of the property is not approved at this time. Any subdivision map shall be submitted with all legal documentation, including but not limited to language of easements, dedications, and Covenants, Conditions and Restrictions, for further review by the Department of Public Works and Department of Planning and Building with final action on the subdivision map to be performed by the Planning Commission and City Council prior to issuance of a building permit.
- 9) Prior to issuance of a building permit, the applicant shall submit a proposal for review by the City and approval by the City Council of how the proposed project complies with the requirements of Section 21.50 of the Municipal Code regarding dedication of land or payment of in-lieu fees for park land. This condition can be completed in conjunction with the subdivision review process (COA #8).
- 10) Except as otherwise noted in these conditions of approval, plans submitted to the Building Department for plan check shall be identical to those approved by the Planning Commission. If any changes are made to the approved plans, the applicant is responsible for clearly identifying all such changes and reviewing them with the Planning Department prior to submitting for a building permit or a revision to the building permit. The 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. All changes that have not been explicitly approved by Staff are not approved. Construction or demolition that does not have previous approval is not valid and shall be subject to stop work orders and may require removal.
- 11) Prior to issuance of a building permit, the applicant shall file a plan outlining the affordability and methods of local marketing for the three affordable housing units. Plan shall indicate that all three units will be permanently reserved for, and affordable to, tenants who are low income (one rental unit and one for sale unit) or who are very low income (one rental unit), as defined by the standards of the U.S. Department of Housing

and Urban Development. This plan shall also include the language of appropriate deed restrictions indicating the affordability of the units in perpetuity.

- 12) Prior to the issuance of a building permit, the applicant shall meet with staff for a pre-construction meeting.
- 13) Prior to the issuance of the building permit, the applicant shall provide the Planning Department a copy of the completed Construction and Demolition Waste Management Plan form submitted to the Building Department.
- 14) Zero property line offsets must maintain one-hour fire protection.
- 15) Retail units must meet all requirements of 2007 CBC Chapter 11B.
- 16) Units 1-10 located above the retail spaces are considered Covered Multifamily Dwellings, and must meet all requirements of 2007 CBC Chapter 11A.
- 17) Wood-burning fireplaces and appliances must meet and are impacted by the requirements of section 14.40 of the Mill Valley Municipal Code.
- 18) Accessible parking and offload area must maintain required clear widths (column cannot encroach on space).
- 19) Access from Miller Avenue shall have a minimum vertical clearance of 13'6" for emergency vehicle access.
- 20) Access road shall have an all-weather surface of cement or asphalt.
- 21) Fire Sprinklers shall be provided throughout the entire project. 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. 13R. (For further details, contact Jeff Davidson, Fire Marshal, at 389-4130.) Fire sprinkler system shall be monitored remotely by a U.L. approved central station 24/7 for fire and trouble. Fire signals shall be transmitted to the fire department dispatch center.
- 22) Water supply. If the location for the proposed fire sprinkler system connection is further away than 50 feet from the closest hydrant, a fire hydrant installation may be required.
- 23) 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.)
- 24) The proposed project is located in or adjacent to a waterway with a defined bed and bank and probably falls under the jurisdiction of the United States Army Corps of Engineers (Section 404 permit) and also the California Regional Water Quality Control Board

(Section 401 certification). The California Department of Fish & Game issues Streambed Alteration Agreements when activities would impact wetlands that are associated with rivers, streams and lakes. The applicant shall complete a JARPA application for obtaining any necessary permits for the work near the creek. The project shall also be presented at a Marin Project Coordination Meeting. Contact Marla Lafer at the Regional Water Quality Board at (510) 622-2348 to get on a meeting agenda. More information about this can be found on the MCSTOPPP website at mcstoppp.org.

- 25) 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.) A Grading Permit is required from Department of Public Works for site grading. The applicant shall comply with the requirements of Section 14.32 of the Municipal Code (copies available at the Public Works office) by providing the Department of Public Works with the following:

Note: The applicant should submit the application and all supporting documents at least two weeks prior to the scheduled start of construction in order to avoid delay.

- a) A completed Grading Permit Application.
 - b) A site map, foundation plan and grading plan.
 - c) A grading security in an amount to be determined 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.
 - d) 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.)
 - e) 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.
- 26) A Revocable Encroachment Permit is required from the Public Works Department for all work within the right-of-way. 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 Sections 11.16.010 and 20.60.065 of the Mill Valley Municipal Code.

- 27) The applicant shall obtain a sewer connection permit from the Department of Public Works. The fee for this permit is \$87,000. A credit of \$30,000 will be given for the existing uses of the property if Certificate of Occupancy is obtained for the new buildings within two years of demolition of the existing buildings. Additional connection fees may be charged for the commercial spaces if any businesses containing food preparation occupy these spaces. If any of the commercial spaces are rented to a business that includes food preparation, then a grease interceptor shall be installed on that business' sewer line. The sewer laterals for the existing buildings shall be abandoned and capped at the City main. New sewer laterals shall be installed for the new buildings.
- 28) The applicant shall submit a construction management plan prior to issuance of Building Permits showing work schedule, storage, travel routes, closures and access (Guidelines are available at the Department of Public Works.). 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. The Construction Management Plan, once approved, shall be posted at the job site with the Building Permit.
- 29) A \$12,000 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.
- 30) The applicant shall submit a DVD clearly showing the existing condition of the Miller Ave from LaGoma to Locust and LaGoma from Miller to Sycamore 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.

- 31) The following are conditions set forth by the Marin Municipal Water District:
 - a) Parcel 028-21-07 is not currently served and no water has been allocated to this property. Water service to this property will require a pipeline extension from the Marin Municipal Water District's existing facilities since the property does not meet the conditions for service (the property must be fronted by a water main; the structure must be within 125 feet of the water main). The applicant must enter into a pipeline extension agreement for the installation of the necessary facilities and said agreement must be approved by the District's Board of Directors. The applicant may apply for a variance to these requirements. The variance must be submitted to the District's Board of Directors for their review and action. All costs associated with the pipeline extension are borne by the applicant.

- b) Complete a High Pressure Water Service Application.
- c) Submit a copy of the building permit.
- d) Pay appropriate fees.
- e) Complete the structure's foundation within 120 days of the date of application.
- f) Comply with the District's rules and regulations in effect at the time service is requested.
- g) All landscape and irrigation plans must be designed in accordance with the most current District landscape requirements (currently Ordinance 385). Prior to providing water service for new landscape areas the District must review and approve the projects working drawings for planting and irrigation systems. Any questions regarding the District's current water conservation and landscape Ordinance should be directed to Charlene Burgi at (415) 945-1525.
- h) Comply with the backflow prevention requirements, if upon the District's review backflow protection is warranted, including installation, testing and maintenance. Questions regarding backflow requirements should be directed to the Backflow Prevention Program Coordinator at (415) 945-1559.

GENERAL CONDITIONS TO BE COMPLIED WITH DURING CONSTRUCTION

- 32) The design and construction shall substantially conform to the plans submitted to the City of Mill Valley Planning Department on October 10, 2008, except as otherwise provided in these conditions of approval. Any modifications to the plans shall be reviewed and approved by Staff prior to modification.
- 33) Property lines must be physically identified (string line or equal) and must be certified by a surveyor at the time of the first foundation-related inspection
- 34) In order to confirm that the project complies with the approved plans, the applicant shall submit the following information to the Planning Department:
 - a) A letter or certificate from a surveyor or architect on record that confirms that the foundation complies with the approved setbacks prior to pouring the foundation.
 - b) A letter or certificate from a surveyor or architect on record confirming the elevation of the lowest floor shall be submitted as soon as the floor is constructed.
 - c) A letter or certificate from a surveyor or architect on record confirming the height of the roof shall be submitted to the planning department prior to roofing.
- 35) All portions of the job site that are in view of the public shall be maintained in an organized and professional manner. All trash, debris, construction scraps and broken/deteriorated machinery shall be removed from the site at the end of each week. If

off loaded construction materials are not used within 2 weeks, they shall be screened from view. All sidewalks, driveways and public/private roadways fronting the subject site shall be broom cleaned at the end of each business day.

- 36) During construction, a sign shall be posted in a location where the sign is legible from the street. The sign shall be 9 to 12 square feet in size. The lettering shall not exceed 4 inches in height. Information on the sign shall include:
 - a) Address of site.
 - b) Permitted hours of construction. The hours of construction activity shall be limited to 7:00 a.m. to 6:00 p.m. Monday through Friday. Construction is not allowed on Saturdays, Sunday or holidays. The use of power tools shall be limited to 8:00 a.m. and 5:00 p.m. Monday – Friday.
 - 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.
- 37) All on-site improvements, such as water main extensions, standpipes, hydrants and access roads, must be serviceable prior to framing the structure.
- 38) 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. Site drainage improvements shall be installed as per the plan developed by CSW/Stuber-Stroeh. The construction level drawings shall show the drainage for the individual buildings.
- 39) 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.
- 40) 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.
- 41) Road closures are not permitted along Miller Ave. A lane closure may be granted with at least 48 hours advance notice to the Department of Public Works. Road closures will only be permitted on LaGoma with prior authorization of the Department of Public

Works consistent with the City's road closure policy. Persons wanting to close the road are required to provide written notification to affected property owners and neighbors. Signs containing details of the proposed closure must be posted 48 hours in advance. Coordinate traffic control and all temporary road closures with the Mill Valley Department of Public Works. Contact Julie McClure, Engineering Technician, at the Department of Public Works at 388-4033 to obtain a road closure permit.

CONDITIONS TO BE COMPLIED WITH PRIOR TO OCCUPANCY OR FINAL INSPECTION (WHICHEVER REQUESTED SOONER)

- 42) In order to confirm that the project complies with the requirements of Title 18, Floodplain Management, of the Municipal code, the applicant shall submit to the Planning Department an Elevation Certificate prior to issuance of occupancy.
- 43) The applicant shall install the proposed landscaping prior to occupancy (whether temporary or permanent) of any unit. Final inspection on the project shall not be granted until the landscaping is installed. No bond shall be accepted in lieu of landscaping. Only the Planning Commission at a public hearing may grant any modification to this condition.
- 44) Maintain emergency vehicle access through the “access and utility easement” shown between the Miller Avenue parking area and the La Goma parking area. This will allow for emergency vehicles to pass through without having to make backing maneuvers.
- 45) Provide a UL-listed key box on site as required by the Mill Valley Fire Department. If there will be a gate for the parking area, that will require a KNOX key switch in addition to the KNOX box.
- 46) The address shall be posted in accordance with requirements of the Uniform Fire Code. Final inspection and signoff of address posting shall be coordinated through Building Department.
- 47) Smoke detectors shall be installed in accordance with the Uniform Building Code. Final inspection and signoff of smoke detectors shall be coordinated through Building Department.
- 48) Fire extinguisher shall be provided a minimum of 1 per floor and a maximum of 50 feet of travel distance. Extinguishers shall be installed in cabinets in common corridor areas.
- 49) The applicant shall comply with Uniform Fire Code requirements relating to the clearance of flammable brush and weeds. A minimum clearance of 30’ from structures and 10’ from roads and property lines shall be maintained. (For details contact Jeff Davidson, Fire Marshal at 389-4130.)
- 50) Prior to occupancy, a spark arrester shall be installed on the chimney(s) (1/4” mesh minimum).

- 51) Final occupancy approval shall not be granted by the Fire Department unless all conditions have been met.
- 52) All permits and/or inspection fees required by the Fire Department shall be paid in full prior to final occupancy being granted.
- 53) Trees and vegetation shall be trimmed according to Section 11.24.090 of the Mill Valley Municipal Code. Trees and shrubs shall be kept trimmed so that the lowest branches projecting over public properties provide a clearance of not less than eight (8) feet. Bushes and other vegetation shall be trimmed so no portion hangs over the sidewalk, or the road if no sidewalk is present.
- 54) All cracked, broken or uplifted sidewalk fronting the property shall be replaced.
- 55) The new driveway approach 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.
- 56) The existing curb cut(s) that will not be used for the new improvements shall be replaced with sidewalk and full height curb.
- 57) The existing curb cut on La Goma closest to Miller shall be replaced with a curb cut that meets ADA standards.