

Notice of Exemption

To: ☒ Office of Planning and Research
PO Box 3044, 1400 Tenth Street, Room 222
Sacramento, CA 95812-3044

From: City of Mill Valley
26 Corte Madera Avenue
Mill Valley, CA 94941

☒ County Clerk
County of Marin
PO Box E
San Rafael, CA 94913

Project Title: Slope Stabilization and Landslide Repair Project to Construct New Retaining Wall

Project Location – Specific: 18 Lower Drive, Mill Valley, CA 94941

Project Location – City: Mill Valley

Project Location – County: County of Marin

Description of Project:

Variance application for a slope stabilization and landslide repair project to construct a new retaining wall in the rear yard of a single-family home above Sutton Manor Creek. The proposed retaining wall requires a variance from the City's creek setback due to its location near the top of the creek bank. In addition, the retaining wall requires variances from the side yard setbacks.

Name of Public Agency Approving Project: City of Mill Valley

Name of Person or Agency Carrying Out Project: Garry Lion (property owner)

Exempt Status: (check one)

- ☐ Ministerial (Sec. 21080(b)(1); 15268);
☐ Declared Emergency (Sec. 21080(b)(3); 15269(a));
☐ Emergency Project (Sec. 21080(b)(4); 15269(b)(c));
☒ Categorical Exemption. State type and section number: 15304, Minor Alterations to Land
☐ Statutory Exemptions. State code number: _____

Reasons why project is exempt:

The project would stabilize and retain the existing slope that was the subject of a landslide in March 2019. The retaining wall would protect the slope and creek from further slides. Implementation of erosion control measures during and following construction would protect the creek from stormwater runoff impacts.

Lead Agency

Contact Person: Steven Ross, Senior Planner Area Code/Telephone/Extension: 415-388-4033

If filed by applicant:

1. Attach certified document of exemption finding.
 2. Has a Notice of Exemption been filed by the public agency approving the project? ☐ Yes ☒ No

Signature:  Date: 11-13-2019 Title: Senior Planner

☒ Signed by Lead Agency

☐ Signed by Applicant

Date received for filing at OPR: Governor's Office of Planning & Research

NOV 19 2019

STATE CLEARINGHOUSE

EXHIBIT A
FINDINGS FOR APPROVAL
18 Lower Drive, APN, File No. 033-181-31

A. The project qualifies for a Categorical Exemption from the California Environmental Quality Act (CEQA) pursuant to Section 15304 (Minor Alterations to Land) of the CEQA Guidelines.

1. CEQA Guidelines Section 15304 exempts Minor Alterations to Land such as the proposed project that result in minor trenching and backfilling where the surface is restored. The project would stabilize and retain the existing slope that was the subject of a landslide in March 2019. The retaining wall would protect the slope and creek from further slides. Implementation of erosion control measures during and following construction would protect the creek from stormwater runoff impacts. A biological evaluation of the project (Kelly Biological Consulting, October 30, 2019) concluded that the proposed retaining wall would be constructed on the upper part of the bank in an area which lacks riparian vegetation and has limited understory vegetation. As such, it does not provide the beneficial functions of a typical riparian zone. Therefore, construction of the proposed retaining wall would not result in any significant biological or other environmental impacts.

B. The variances to permit the construction of the retaining wall are be consistent with the general purposes of Title 20 of the Mill Valley Municipal Code pursuant to the required findings under Section 20.64.070 as stated below:

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

Granting of the variances for the retaining wall would address the special circumstances of the property, which was subdivided and constructed prior to adoption of the City's creek setback, and experienced a landslide in March 2019 that impacted footings supporting the deck, and is within ten feet of the home's foundation.

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

Granting the variances would address an existing hazard that is due to the proximity of the home to the creek, a situation created when the property was originally subdivided. The retaining wall would protect the property owner from further hardship that could occur if additional slope failure were to occur.

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

The retaining wall would protect the property owner from further hardship that could occur if additional slope failure were to occur, thereby preserving the owner's right to reasonably utilize the property.

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

Granting the variances would protect the health, comfort, and safety of the residents of the property as well as adjacent properties by stabilizing the slope, and would therefore not be detrimental to the public welfare or injurious to property or improvements in the neighborhood.

EXHIBIT B
CONDITIONS OF APPROVAL
18 Lower Drive
APN 033-181-31, File No. PL19-4852

Planning Department

1. Plans and elevations shall be in substantial conformance with plans prepared by Miller Pacific Engineering Group dated received October 29, 2019 by the Mill Valley Planning Department and labeled "Exhibit A" on file with the Mill Valley Planning and Building Department.
2. Prior to the City's issuance of a building permit, required permits shall be obtained from other agencies with jurisdiction over the project, if applicable, such as the California Department of Fish and Wildlife and the San Francisco Regional Water Quality Control Board. Evidence of the required agency permits, or exemption from such permits, shall be provided to the City by the applicant or agency.
3. All conditions of approval shall be included on the first sheet after the cover sheet of the construction drawings submitted for a building permit.
4. Except as otherwise noted in these conditions of approval, the plans submitted to the Building Department for plan check shall be identical to those approved by the Planning Commission or Zoning Administrator. If any changes are made to the approved Design Review 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 and/or Grading Permit. All changes made to the Design Review Plans approved by the Planning Commission/Zoning Administrator and the Building Permit construction document submittal must be clearly highlighted with a "bubble" or "cloud" on plans and marked with a "Delta 'P'" at the time of initial Building Permit submittal. A list describing in detail all such changes shall be submitted and attached to these plans. Any changes that have not been clouded on the plans and noted in a transmittal memo and explicitly approved by Staff are not approved. Construction or demolition that does not conform to the Design Review approval is not valid and shall be subject to stop work orders and may require removal.
5. Acceptance of the construction drawings and specifications does not release the applicant and owner from correction of mistakes, errors, or omissions contained therein. If, during the course of construction, the public interest requires a modification or a departure from these accepted plans, the City shall have the authority to require such modifications or departure and specify the manner in which the same is to be made.
6. 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 attorney fees in any such claim, action or lawsuit.

7. Variance approval shall expire one year after approval. Prior to the expiration of a Variance 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 one 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 he/she finds that there has been a substantial change in the factual circumstances surrounding the originally approved design. 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. If Building Permits are issued during the effective life of the Variance approval, the expiration date of the Variance approval shall be automatically extended to concur with the expiration date of the Building Permit.

Public Works Department

8. The City of Mill Valley encourages all projects to implement one or more of the stormwater runoff reduction design measures discussed by section E.12.b of the State Water Resources Control Board Water Quality Order 2013-001-DWQ which include: rooftop and impervious area disconnection from storm drain collection systems, porous pavement, green roofs, vegetated swales and rain barrels/cisterns.
9. Post-project stormwater peak flows shall be metered on-site to match pre-development peak flows for at 10-year storm event. The method for metering stormwater flows shall be approved by the City Engineer. Applicant shall submit a Stormwater Control Exhibit as part of the Grading Permit Application.
10. An Encroachment Permit will be required for any work occupying the public Right of Way including parking, loading, debris bin, equipment operation etc. Please contact the Department of Public Works or visit www.cityofmillvalley.org/gov/departments/publicworks for application information. Please note that required insurance documentation, and traffic and pedestrian control plans (if required) are part of the Encroachment Permit process.
11. Contractor must contact the Department of Public Works to obtain a Lane Closure, Road Closure and/or a transportation permit if construction vehicles exceeding 26 feet in length are required during anytime during the construction period.
12. Prior to Final Building Inspection, the Department of Public Works will inspect the site and require compliance with City of Mill Valley Codes regarding Frontage Improvements (MVMC 11.24), Encroachments (MVMC 11.24, 12.04 and 12.08), Sight

Distance (MVMC 12.04), Vegetation Management (MVMC 11.24, 12.04, 12.08, and Fire Protection Standard 220), and Premises Identification (Fire Protection Standard 205).

13. Contractor must contact the Department of Public Works to obtain a Lane Closure, Road Closure and/or a transportation permit if construction vehicles exceeding 26 feet in length are required during anytime during the construction period.
14. Project may require a sewer lateral inspection per MVMC 17.04.270 unless the applicant can demonstrate the lateral has been replaced within the last 20 years. Please contact the Department of Public Works or visit http://www.cityofmillvalley.org/gov/departments/publicworks/wastewater/sewer_lateral_ordinance.htm for more information.
15. A Construction Management Plan (CMP) shall be submitted to the City as part of the Building Permit and/or Grading Permit and shall be incorporated into the plans. This plan shall be a binding document. Failure to adhere to the plan may result in a "Stop Work Notice" being placed on the project. An electronic copy of the APPROVED CMP shall be submitted to the City, and may be posted to the city's website. This plan shall be updated as project conditions warrant. Updates to the plan shall be provided to the City for review and approval. The CMP shall include but not be limited to:
 - a) Work schedule (start of construction date, road or lane closure intent/dates, important milestones and proposed final dates)
 - b) Construction Hours
 - c) Construction Waste Management Plan
 - d) Staging/storage type and location
 - e) Travel routes and turn-around locations
 - f) Road and/or lane closures (Applicant to provide information on how many anticipated road closures, and the reasons for each road closure).
 - g) Worker auto parking space locations/construction parking
 - h) Phasing (if applicable)
 - i) If construction improvements are located in areas of steep slopes, the Contractor shall provide safe temporary hard surface stair access to the improvements. This access shall be shown on the CMP.

The CMP may be more stringent if the project is located close to schools or in impacted neighborhoods. A CMP may be required to be modified if a neighborhood becomes "impacted" during the course of the construction. Impacted neighborhoods are defined as areas in geographic proximity (i.e. using the same streets for access) with a significant number of simultaneous construction projects.

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. to 5:00 p.m. Monday through Friday. Delivery times shall be determined at the time of Building Permit review and included on the Construction Management Plan sign.

A **24 inch by 36 inch weatherproof copy** of the approved Construction Management Plan shall be posted on the site as part of a job site sign and located so as to be clearly readable from the public right-of-way. In addition to the approved Construction Management Plan, the sign shall include the following information:

- a) Address of the project site.
 - b) Permitted hours of construction and of deliveries/off-haul.
 - c) Name, e-mail address and direct phone number of the General Contractor.
 - d) Name, e-mail address and direct phone number of the person responsible for managing the project.
 - e) Name and direct phone number of the party to call in case of an emergency.
 - f) City of Mill Valley Code Enforcement Officer (415-389-4203).
16. 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 11' passable auto traffic clearance (paved travel way) 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.
17. All portions of the job site shall be maintained in an organized and professional condition. All trash, debris, construction scraps and broken/deteriorated machinery shall be removed from the site by the end of each week. If off loaded construction materials are not used within 2 weeks, they 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 business day.
18. A Pre-Construction Meeting is required. Prior to initiation of any work on the proposed project, the applicant shall arrange a pre-construction meeting that shall be attended by City of Mill Valley staff, the owner, general contractor, and sub-contractors responsible for demolition, foundation and excavations, framing, roofing and major deliveries to review these conditions of approval, permitted hours of operation, etc. Staff may require additional subcontractors depending on project scope. The general contractor is responsible for ensuring that all contractors adhere to the Construction Management Plan and all Conditions of Project Approval and Conditions of all permits (Building, Grading, Encroachment, etc.).
19. All required construction signage and any required tree-protection shall be posted and available for City inspection at the time of the Pre-construction meeting. If these measures are not in place at the time of the pre-construction meeting, a re-inspection fee will be required and issuance of building permit will be delayed.
20. All permits and/or inspection fees required shall be paid in full prior to final occupancy being granted.

21. All projects with a construction value of \$10,000 or more are subject to a Road Impact Fee of 1% of the Building Permit value. This fee is calculated and collected, through the Building Department at the time of Building Permit issuance.
22. Projects with a valuation over \$50,000 require a sewer lateral inspection per MVMC 17.04.270 unless the applicant can demonstrate the lateral has been replaced within the last 20 years. Please contact the Department of Public Works or visit http://www.cityofmillvalley.org/gov/departments/publicworks/wastewater/sewer_lateral_ordinance.htm for more information.
23. For all improvements within the public right of way, the applicant shall submit plans to adequately describe the work. Plans shall include but not be limited to drainage details, cross-sections, driveway/roadway grades and utility locations as necessary.
24. Any improvements, public or private, damaged during construction shall be replaced, by the applicant, in-kind or with new improvements. All cracked, broken, or uplifted sidewalk, driveway and/or curb and gutter fronting the property shall be replaced. Applicant shall coordinate with the Department of Public Works prior to the start of the project improvements to identify the extents and limits of replacement.
25. 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 road.

Fire Department

The following condition(s) shall apply to this application based on City of Mill Valley Ordinance 1286 and the provisions of the 2016 California Fire Code, Ordinance 1228 and the provisions of the 2003 International Urban Wildland Interface Code and standards development and adopted by the Mill Valley Fire Department (Note Ordinances 1262 and 1228 and the City's Fire Prevention Standards are available on the City of Mill Valley web site at <http://www.cityofmillvalley.org> and can be located on the fire prevention portion of the Fire Department webpage):

26. The address shall be posted in accordance with requirements of the California Building Code, California Fire Code and Fire Department Standard 205. Final inspection and signoff of address posting shall be coordinated through Building Department.
27. Final occupancy approval shall not be granted by the Fire Department unless all conditions have been met.
28. Fire Department and City personnel shall be granted access to private driveways and private roadways in order to enforce applicable ordinances related to fire codes, municipal and penal codes pertaining to maintaining road access for emergency vehicles.

Building Department

16. All construction shall comply with the 2016 California Building Code, Plumbing Code, Electrical Code, and Mechanical Code, and other applicable Title 24 Codes.
17. It is the responsibility of the designer(s) to ensure that all of the above Title 24 codes, as well as any applicable Mill Valley Municipal Codes are incorporated into the design.

Marin Municipal Water District

Note it is the applicant's responsibility to procure the necessary review/approval of the following items, which are required prior to issuance of a building permit. Evidence of compliance (compliance letter, etc.) shall be submitted to the Planning Department as part of the building permit review process:

18. All landscape and irrigation plans must be designed in accordance with the most current Marin Municipal Water District (MMWD) landscape requirements. Prior to providing water service for new landscape areas, or improved or modified landscape areas, MMWD must review and approve the project's working drawings for planting and irrigation systems. Any question regarding the MMWD's current water conservation and landscape Ordinance should be directed to (415) 945-1497 or plancheck@marinwater.org.
19. Installation of a gray water recycling system is required for all projects that require installation of new water service and existing structures undergoing "substantial remodel" that necessitates an enlarged water service in compliance with Ordinance No. 429.