

**STAFF REPORT TO THE DEPUTY ZONING ADMINISTRATOR
SCHNEIDER USE PERMIT AND SECOND UNIT PERMIT**

Item No:	C1	Application No:	UP 08-5 and SU 08-16
Applicants:	David Vaughn	Owners:	Mr. & Mrs. Schneider
Property Address:	799 Bolinas Rd	Assessor's Parcel:	197-032-06
Hearing Date:	January 17, 2007	Planner:	Kristina Tierney

RECOMMENDATION:	Approve with Conditions
APPEAL PERIOD:	January 31, 2008
LAST DATE FOR ACTION:	February 4, 2008

PROJECT DESCRIPTION:

The applicant has applied for a Use Permit and Second Unit Permit to convert an existing 458 square foot, detached accessory structure to a legal, detached second unit. The building is currently located 24 feet from the front property line, where 25 feet is otherwise required under the governing R-1 zoning district. The application is to also allow the height of the structure to be 17.5 feet, where a maximum of 15 feet is permitted under the governing zoning district and for an encroachment into the side set back by approximately 2 feet. Proposed amendments to the existing structure include demolition of existing walls, construction of 196 square feet of new floor space, construction of a new bathroom, installation of new windows, and replacement of a portion of the existing roof.

As built, the detached second unit attains a height of approximately 17.5 feet above grade and maintains the following setbacks from corresponding property lines: front (northeast) 25 feet, side (northwest) 8 feet two inches, rear (southwest) 21 feet one inch, and over 50 feet from the side (southeast).

GENERAL INFORMATION:

Countywide Plan:	SF6 (Single-family, <10,000 square foot min lot area, 4-7 units/acre)
Zoning:	R1 (Single-Family Residential, 7,500 square foot minimum lot area)
Lot size:	5,500 square feet
Adjacent Land Uses:	Single-family Residential
Vegetation:	Developed
Topography and Slope:	Moderately sloping
Environmental Hazards:	None identified

ENVIRONMENTAL REVIEW:

The Environmental Coordinator has determined that this project is Categorically Exempt from the requirements of the California Environmental Quality Act (CEQA) pursuant to 15301, Class 1 of the CEQA Guidelines because the legalization of an existing accessory structure on a residentially developed lot would have no potentially significant impacts on the environment.

PUBLIC NOTICE:

The Community Development Agency has provided public notice identifying the applicant, describing the project and its location, and giving the earliest possible decision date in accord with California Government Code requirements. This notice has been mailed to all property owners within 300 feet of the subject property. The Planning staff has received no adverse comments regarding the proposed project.

PLAN CONSISTENCY:

The proposed project is generally consistent with the goals and policies of the Marin Countywide Plan. The proposed improvements are accessory to the principally permitted residential use of the property. Please also refer to the plan consistency findings contained in the attached resolution.

PROJECT ANALYSIS:

The existing detached accessory structure is located in the northwestern front yard. The R1 Zoning District requires a 10 foot side yard on a corner lot; however, the applicant is requesting approval of an 8 foot two inch setback, due to the location of the existing structure. As the accessory building is an existing structure and the addition would be a very minor alteration to the building, potential visual or privacy impacts to neighbors would be minimal because the existing structure is well screened by existing vegetation and fencing. The existing one-story building is currently 17.5 feet tall, which exceeds the 15 foot height limit and is currently located 24 feet from the front property line, where 25 feet is otherwise required under the governing R-1 zoning district. As a result, the applicant is also requesting approval to exceed the established height standard. Overall, the proposed location of the second unit and the addition is appropriate given its lack of adverse impacts, modest size, and design.

Additionally, the prior owner applied for and received approval for a use permit for the as-built structure in 1998 in response to a code enforcement complaint. The permit was approved by the Deputy Zoning Administrator on August 27, 1998; however, the permit was never vested. The current use permit would legalize this structure and allow for a minor addition to convert the building into a second unit.

RECOMMENDATION:

Staff recommends that the Deputy Zoning Administrator review the administrative record, conduct a public hearing, and adopt the attached resolution approving the Schneider Use Permit.

Attachments:

1. Proposed Resolution recommending approval of the Schneider Use Permit (UP 08-18)
2. CEQA Exemption
3. Location Map
4. Site Plan
5. Floor Plan and Elevations
6. Picture of Proposed Second Unit
7. Department of Public Works, Land Use & Water Resources memorandum, 1/2/08
8. Marin Municipal Water District letter, 1/18/07
9. Marin County Fire Department letter, 10/9/07
10. Ross Valley Sanitary District letter, 8/14/07

MARIN COUNTY DEPUTY ZONING ADMINISTRATOR

RESOLUTION 08-XXX

A RESOLUTION APPROVING THE SCHNEIDER USE PERMIT (UP 08-5) AND SECOND NIT PERMIT (SU 08-16)
799 BOLINAS AVE, FAIRFAX
ASSESSOR'S PARCEL 197-032-06

SECTION I: FINDINGS

- I. WHEREAS the applicant, David Vaughan, on behalf of the owners, Phillip and Suzanne Schneider, have submitted a Use Permit and Second Unit Permit application to convert an existing 458 square foot, detached accessory structure to a legal, detached second unit. The structure currently reaches 17.5 feet, where a maximum of 15 feet is permitted under the governing zoning district. Proposed amendments to the existing structure include demolition of existing walls, construction of 196 square feet of new floor space, construction of a new bathroom, installation of new windows, and replacement of a portion of the existing roof. As built, the detached accessory structure attains a height of 17.5 feet above grade and would be located the following setbacks from relevant property lines: front (north) 25 feet and side (west) 8 feet 2 inches.
- II. WHEREAS the Marin County Deputy Zoning Administrator held a duly noticed public hearing January 17, 2008, to consider the merits of the project, and hear testimony in favor of and in opposition to the project.
- III. WHEREAS the Marin County Deputy Zoning Administrator finds that the proposed project is Categorically Exempt from the requirements of the California Environmental Quality Act, per 15301, Class 1 because the structure is an existing facility and the proposed addition would not increase the floor area by more than 50 percent and would have no potentially significant impacts on the environment.
- IV. WHEREAS the Marin County Deputy Zoning Administrator finds that the proposed project is consistent with the **Marin Countywide Plan** for the following reasons:
 - A. The project would be consistent with the SF6 (Single-family, <10,000 square foot min lot area, 4-7 units/acre) land use designation;
 - B. The project would comply with Marin County standards for flood control, geotechnical engineering, and seismic safety, and include improvements to protect lives and property from hazard;
 - C. The project would comply with governing development standards related to roadway construction, parking, grading, drainage, flood control and utility improvements as verified by the Department of Public Works;
 - D. The project would not cause significant adverse impacts on water supply, fire protection, waste disposal, schools, traffic and circulation, or other services; and

E. The project would minimize soil disturbance and maximize retention of natural vegetation.

V. WHEREAS the Marin County Deputy Zoning Administrator finds that, in accordance with the conditions of approval, the Mandatory Findings for a **Use Permit** per Section 22.48.040 of the Marin County Code can be made for the following reasons:

A. The proposed use is allowed, as a conditional use, within the subject-zoning district and complies with all of the applicable provisions of this Chapter.

The proposed improvements conform to the R1 zoning district standards and with Marin County Code Section 22.20.090.2.c, Setback Requirements and Exceptions, because the applicant is applying for a Use Permit for the detached accessory structure located within a required setback.

B. The proposed use is consistent with the Countywide Plan and applicable Community Plans.

Please see Section IV above.

C. The approval of the Use Permit for the proposed use is in compliance with the California Environmental Quality Act (CEQA).

Please see Section III above.

D. The design, location, size, and operating characteristics of the proposed use are compatible with the existing and future land uses in the vicinity.

The design, location, and size of the proposed site improvements are compatible with the single-family residential land use of the neighborhood.

E. The proposed use would not impair the architectural integrity and character of the zoning district in which it is to be located.

The proposed improvements would not impair the architectural integrity and character of the R1 zoning district.

F. That granting the Use Permit will not be detrimental to the public interest, health, safety, convenience, or welfare of the County, or injurious to the property or improvements in the vicinity and zoning district in which the real property is located.

The project proposes modestly sized improvements, accessory to the single-family residence. Including the findings described above in Section V, A through E, the granting the Use Permit will not be detrimental to the public interest, health, safety, convenience, or welfare of the County, or injurious to the property or improvements in the vicinity and zoning district in which the real property is located.

SECTION II: CONDITIONS OF PROJECT APPROVAL

NOW, THEREFORE, BE IT RESOLVED that the Marin County Deputy Zoning Administrator hereby approves the Schneider Use Permit subject to the following conditions:

Community Development Agency – Planning Division

1. Pursuant to Chapter 22.48 (Use Permits) of the Marin County Code, the Schneider Use Permit is approved for the legalization of a 654 square foot detached second unit. The detached accessory structure will maintain a height of 17.5 feet above grade and maintains the following setbacks from corresponding property lines: front (northeast) 25 feet, side (northwest) 8 feet two inches, rear (southwest) 21 feet one inch, and over 50 feet from the side (southeast). The subject property is located at 799 Bolinas Road, Fairfax, and is further identified as Assessor's Parcel 197-032-06.
2. Plans submitted for a Building Permit, if applicable, shall substantially conform to plans identified as "Exhibit A," entitled "Construction of Guest House Remodel", consisting of 4 sheets prepared by David Vaughan, architect, and received November 6, 2007, with revisions received on December 6, 2007 and on file with the Marin County Community Development Agency, except as modified by the conditions listed herein.
3. BEFORE ISSUANCE OF A BUILDING PERMIT, the applicant shall revise the site plan or other first sheet of the office and job site copies of the Building Permit plans to list these conditions of approval as notes.
4. BEFORE FOUNDATION INSPECTION, the applicant shall have a licensed land surveyor or civil engineer with proper certification conduct a survey of the northern side property line and install property line markers that can be readily verified by the Building and Safety Inspection staff to verify building setbacks and submit a written (stamped) confirmation to the Planning Division confirming that the staking of the property lines has been properly completed. In addition, it is recommended that the required setback lines be clearly marked by stakes similar to batter boards that are installed at the foundation corners. The requirement for new survey markers may be waived if proper survey markers already exist at the site and can be used by the Building and Safety Inspection staff to definitely measure building setbacks. Alternatively, the applicant may submit a written (stamped) confirmation from a licensed land surveyor or qualified civil engineer confirming the property line markers and the building setbacks to the northern side property line based on the approved setbacks as shown on the Building Permit plans.
5. If archaeological, historic, or prehistoric resources are discovered during construction, construction activities shall cease, and the Community Development Agency staff shall be notified so that the extent and location of discovered materials may be recorded by a qualified archaeologist, and disposition of artifacts may occur in compliance with State and Federal law. A registered archeologist, chosen by the County and paid for by the applicant, shall assess the site and shall submit a written report to the Community Development Agency staff advancing appropriate mitigations to protect the resources discovered. No work at the site may recommence without approval of the Community Development Agency staff. All future development of the site must be consistent with findings and recommendations of the archaeological report as approved by the Community Development Agency staff. If the report identifies significant resources, amendment of the permit may be required to implement mitigations to protect resources. Additionally, the identification and subsequent disturbance of an Indian midden requires the issuance of an excavation permit by the Department of Public Works in compliance with Chapter 5.32 (Excavating Indian Middens) of the County Code.

6. Exterior lighting shall be located and/or shielded so as not to cast glare on nearby properties.
7. All construction activities shall comply with the following standards:
 - a. Construction activity is only permitted between the hours of **7:00 a.m. and 6:00 p.m., Monday through Friday**, and **9:00 a.m. and 5:00 p.m. on Saturday**. No construction shall be permitted on Sundays and the following holidays (New Year's Day, President's Day, Memorial Day, Independence Day, Labor Day, Thanksgiving Day, and Christmas Day). Loud noise-generating construction-related equipment (e.g., backhoes, generators, jackhammers) can be maintained, operated, or serviced at the construction site from 8:00 a.m. to 5:00 p.m. Monday through Friday only. Minor jobs (e.g., painting, hand sanding, sweeping) with minimal or no noise impacts on the surrounding properties are exempted from the limitations on construction activity. At the applicant's request, the Community Development Agency staff may administratively authorize minor modifications to these hours of construction.
 - b. It shall be the responsibility of the applicant to ensure that all construction materials and equipment are stored on-site (or secured at an approved off-site location) and that all contractor vehicles are parked in such a manner as to permit safe passage for vehicular, pedestrian, and bicycle traffic at all times.
8. All utility connections and extensions (including but not limited to electric, communication, and cable television lines) serving the development shall be under grounded from the nearest overhead pole from the property, where feasible as determined by the Community Development Agency staff.
9. The applicant/owner hereby agrees to defend, indemnify, and hold harmless the County of Marin and its agents, officers, attorneys, or employees from any claim, action, or proceeding, against the County or its agents, officers, attorneys, or employees, to attack, set aside, void, or annul an approval of this Permit, for which action is brought within the applicable statute of limitations. This indemnification shall include, but not be limited to, damages, fees, and/or costs awarded against the County, if any, and the cost of suit, attorney's fees, and other costs, liabilities, and expenses incurred in connection with such proceedings, whether incurred by the applicant/owner, the County, and/or the parties initiating or bringing such proceeding.
10. Any changes or additions to the project shall be submitted to the Community Development Agency in writing for review and approval before the contemplated modifications may be initiated. Construction involving modifications that do not substantially comply with the approval, as determined by the Community Development Agency staff, may be required to be halted until proper authorization for the modifications are obtained by the applicant.

Marin County Department of Public Works

Prior to Issuance of a Building Permit:

11. The site plan shall be amended to include topography and the footprint of the proposed modified structure.
12. A registered Engineer shall design a complete drainage plan and grading plan, bearing their stamp and signature. Plans shall indicate all existing and proposed drainage improvements.

13. The plans shall be reviewed and approved by Registered Civil Engineer with soils engineering expertise or a Registered Geotechnical Engineer. Certification shall be either by the engineer's stamp and signature on the plans, or by stamp and signed letter.
14. A separate Building Permit will be required for any site/driveway retaining walls with a height more than 4 feet (or 3 feet when backfill area is sloped or has a surcharge). Walls shall be designed by a registered Engineer and calculations shall be provided.
15. Note on the plans that a Design Engineer/Architect shall certify to the County in writing that all grading, drainage, and retaining wall construction, if any, was done in accordance with plans and field directions.
16. Submit an Erosion and Siltation Control Plan if grading or site disturbance is to occur between October 15 and April 15.

Marin Municipal Water District

17. Complete a High Pressure Water Service Application.
18. Submit a copy of the building permit.
19. Pay appropriate fees and charges.
20. Comply with the District's rules and regulations in effect at the time service is requested, including the installation of a separate meter to serve the second unit.
21. 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, or improved or modified landscape areas, the District must review and approve the project's 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 (415) 945-1525.
22. 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.

Marin County Fire Department

23. Final occupancy will not be approved until cleared by the Fire Department.
24. An emergency vehicle clear zone such that vegetation adjacent to driveways and access roads is cleared to a minimum of 15 feet vertically (no exceptions) and 10 feet horizontally (no exceptions, first 5 feet). The Department of Public Works enforces the road and driveway standards.

Note that if a gate is contemplated, Fire Department approval for gates on the access road and/or driveway is required. If the gate is locked in any fashion, a MCFD Knox rapid entry system is mandatory.

25. The road signage indicating the address of the new unit/residence is required. Numbers are required to be a minimum of 4 inches in height with a 3/8 inch stroke, on a sharply contrasting background.

26. A defensible space zone (minimum 30-100 feet) and vegetation management plan is required. At a minimum, the vegetation management plan must contain a site plan showing the existing vegetation (including existing trees) and those proposed to be added and/or removed, the proposed structures with their defensible space zone(s) delineated plant types and spacing. The vegetation management plan must also contain a list of proposed plants that are consistent with an approved (non-pyrophytic) plant list. Please see the Marin County Fire Department Prevention bureau Defensible Space Standard which may be downloaded from www.marincountyfire.org.

The defensible space must be in place prior to framing. Annual maintenance is required. Trees shall not be planted in a location that, when mature, said trees will contact overhead power lines.

27. Residential Sprinkler System: As part of the sprinkler system installation, a spare sprinkler head cabinet containing two spare sprinkler heads, and the applicable sprinkler head wrench will be required prior to final approval of the sprinkler system.
28. Class "A" Roofing (design approval and site inspection by the Building Department)
29. Smoke Detection System (design approval and site inspection by the Building Department)

Ross Valley Sanitary District

30. A sewer permit is required and may be issued by the District after the building permit is obtained and all appropriate fees have been paid.
31. Installation of the private sewer lateral must meet District specifications and be inspected by a District inspector before it is covered.

SECTION III: VESTING, PERMIT DURATION, AND APPEAL RIGHTS

NOW, THEREFORE BE IT FURTHER RESOLVED that the applicant must vest this approval by: obtaining a Building Permit or other construction permit, if required, for the approved work and substantially completing the improvements in accordance with the approved permits. An extension of up to four years may be granted for cause pursuant to Section 22.56.050.B.3 of the Marin County Code. Upon vesting of this approval, this Use Permit shall be valid in perpetuity upon timely vesting of the approval and adherence to all conditions of approval.

The Building Permit approval expires if the building or work authorized is not commenced within one year from the issuance of such permit. A Building Permit is valid for two years during which construction is required to be completed. All permits shall expire by limitation and become null and void if the building or work authorized by such permit is not completed within two years from the date of such permit. Please be advised that if your Building Permit lapses after the vesting date stipulated in the Use Permit approval (and no extensions have been granted), the Building Permit and Use Permit approvals may become null and void. Should you have difficulty meeting the deadline for completing the work pursuant to a Building Permit, the applicant may apply for an extension to the Use Permit at least 10 days before the expiration of the Use Permit approval.

NOW, THEREFORE BE IT FURTHER RESOLVED that this decision is final unless appealed to the Planning Commission. A Petition for Appeal and a \$600.00 filing fee must be submitted in the Community Development Agency – Planning Division, Room 308, Civic Center, San Rafael, no later than **January 31, 2008**.

SECTION IV: ACTION

PASSED AND ADOPTED at a regular meeting of the Deputy Zoning Administrator of the County of Marin, State of California, on the 17th day of January 2008.

Jeremy Tejirian, AICP
MARIN COUNTY ACTING DEPUTY ZONING ADMINISTRATOR

Attest:

Joyce Evans
DZA Secretary