

MARIN COUNTY DEPUTY ZONING ADMINISTRATOR MINUTES
Marin County Civic Center, Room #328 - San Rafael
MEETING – January 31, 2008

Hearing Officer Jeremy Tejirian, AICP
 Johanna Patri, AICP

Staff Present: Neal E. Osborne, Planner
 Kristina Tierney, Planner
 Curtis Havel, Senior Planner

Joyce Evans, Recording Secretary

Convened at 9:03 A.M.
Adjourned at 9:07 A.M.
Reconvened at 9:12 A.M.
Adjourned at 9:28 A.M.

January 31, 2008

**A. NEGATIVE DECLARATION OF ENVIRONMENTAL IMPACT:
CRANDALL COASTAL PERMIT (CP 03-25) AND LAND DIVISION (LD 03-7)**
B. CRANDALL COASTAL PERMIT (CP 03-25) AND LAND DIVISION (LD 03-7)

Hearing proposing to divide an existing 3.32-acre property into two lots. The applicant submitted revised plans in response to comments received on the Draft Negative Declaration of Environmental Impact in November 2006. The location of the reserve leachfield is now proposed downslope and west of the existing residence more than 320 feet from the wetland seep and 100 feet from the ephemeral stream. The proposed driveway would be 23 feet from the edge of the wetland seep. The lot shapes and sizes have also been modified to provide a more regular boundary between the two proposed lots with areas of 1.64-acre for Parcel 1, and 1.68-acre for Parcel 2. Six existing accessory buildings would be removed from the property or relocated to comply with yard and creek setback requirements. Parcel 2 is proposed with a 5,940 square foot building envelope and a septic system area for a future single-family residence, located upslope and a minimum of 75 feet southeast of the existing residence on Parcel 1. The building envelope would be a minimum of 35 feet west of the Panoramic Highway right-of-way on the outside curve of a steep switchback. Driveway access would be provided from the switchback on Panoramic Highway where a portion of the guardrail would be removed. An existing spring box used to collect groundwater for irrigation purposes would not be modified. The subject property is located at **6950 Panoramic Highway, Stinson Beach** and is further identified as **Assessor's Parcel 195-233-23**.

The public testimony portion of the hearing was opened and closed.

The Hearing Officer acknowledged receipt of a supplemental memorandum from staff dated January 17, 2008. Staff recommends a further continuance of the Crandall project to February 28, 2008, to allow adequate time for the applicant's design engineer to prepare detailed plans of the common driveway that comply with Marin County Code as specified by the Department of Public Works.

The Hearing Officer continued the item to the hearing of February 28, 2008.

Marin County Community Development Agency

Alex Hinds, Director

NOTICE OF DECISION

Applicant's Name: Phillip and Suzanne Schneider

Application (type and number): Use Permit (UP 08-5) and Second Unit Permit (SU 08-16)

Assessor's Parcel Number: 197-032-06

Project Location: 799 Bolinas Road, Fairfax

For inquiries, please contact: Kristina Tierney, Planner

Decision Date: January 17, 2008

DETERMINATION: Approved with Conditions

Minutes of the January 17, 2008, Deputy Zoning Administrator's hearing are attached specifying action and applicable conditions 1-31 and 1-7.

Marin County Community Development Agency

Jeremy Tejirian, AICP
Hearing Officer

**C1. USE PERMIT (UP 08-5) AND SECOND UNIT PERMIT (SU 08-16):
PHILLIP AND SUZANNE SCHNEIDER**

Hearing proposing 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). The subject property is located at **799 Bolinas Road, Fairfax**, and is further identified as **Assessor's Parcel 197-032-06**.

In response to the Hearing Officer, staff summarized the revised staff report. The findings for the second unit were incorporated into the document and other minor changes were made. The existing tool shed and carport shown on the plans, no longer exist.

The Hearing Officer made the following changes to the resolution:

- SECTION I: FINDINGS V. (D) add: "because the accessory structure would be used as a second unit, which is commonly associated with the surrounding residential uses."
- SECTION I: FINDINGS V. (E) add: "because of the accessory structure's modest size. Further, the design of the accessory structure is consistent with the Single-family Residential Design Guidelines."
- SECTION I: FINDINGS V. (F) add: "The modestly-sized addition to the second unit would result in a total floor area ratio on the property that is well below the maximum 30 percent allowed by the R-1 zoning district and the exterior materials would be similar to the exterior materials commonly used in the local community. The proposed project would not result in any public detriment because it would be consistent with the findings described above in Section V, A though E, and because it would be compatible with the surrounding community." and
- Correct the appeal period to February 4, 2008, to include the Martin Luther King Holiday.

The public testimony portion of the hearing was opened and closed.

The Hearing Officer approved the Schneider Use Permit and Second Unit Permit, based on the Findings and subject to the Conditions set forth in the Resolution as modified.

The Hearing Officer informed all parties of interest that this action may be appealed to the Marin County Planning Commission within ten (10) working days.

MARIN COUNTY DEPUTY ZONING ADMINISTRATOR

RESOLUTION 08-100

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 on 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 because the accessory structure would be used as a second unit, which is commonly associated with the surrounding residential uses,.

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 R-1 zoning district because of the accessory structure's modest size. Further, the design of the accessory structure is consistent with the Single-family Residential Design Guidelines.

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 modestly-sized addition to the second unit would result in a total floor area ratio on the property that is well below the maximum 30 percent allowed by the R-1 zoning district and the exterior materials would be similar to the exterior materials commonly used in the local community. The proposed project would not result in any public detriment because it would be consistent with the findings described above in Section V, A through E, and because it would be compatible with the surrounding community.

SECOND UNIT PERMIT FINDINGS FOR NEW SECOND UNIT (Marin County Code Section 22.32.140.G)

- A. The new second unit would be located on the same parcel on which the owner of record maintains a primary residence.**

The property owner maintains a homeowner's exemption in their name for the property indicating that they maintain their primary residence on the property.

- B. The new second unit complies with all of the current property development standards of this Development Code (e.g., height, setbacks, floor area ratio), for a dwelling unit in the residential zoning district in which it is located. A detached second unit shall comply with development standards required for detached structures within the residential zoning district in which it is located.**

A Use Permit is being processed concurrently to allow for the proposed setbacks.

- C. The new second unit would meet all applicable building codes adopted by the County.**

The structure will be required to comply with current California Building Code prior to receiving a building permit.

- D. The new second unit would be the only additional dwelling unit on the parcel.**

A site visit conducted by staff indicates that the property is currently developed with only one primary dwelling unit. Therefore, the second unit would be the only additional dwelling unit on the property.

- E. Adequate sanitary services would be provided for the additional wastewater resulting from the new second unit, in compliance with County and State regulations, and with the requirements of the local sanitary district, if applicable.**

The Ross Valley Sanitary District has adequate capacity to serve the proposed second unit.

- F. Adequate water supplies would be provided to serve the new second unit in compliance with County and State regulations, and with the requirements of the local water district, if applicable.**

The Marin Municipal Water District has adequate capacity to serve the proposed second unit.

- G. The parcel on which the new second unit would be located meets the minimum building site area requirements of the zoning district in which it is located. The slope ordinance shall apply in determining the minimum parcel size, where appropriate. The minimum building site area requirements of the governing zoning and the slope ordinance shall be waived in those cases where the second unit is created within the footprint of an existing structure on the site.**

The second unit will be largely located within the existing footprint of the detached accessory building. A small addition is proposed to accommodate a kitchen and bathroom. Additionally, the total floor area on the property would not exceed the 30% floor area ratio standard established by the R-1 zoning district.

- H. The addition of a second unit would incorporate materials, colors, and building forms that are compatible with the existing residence on the property.**

The detached accessory building is an existing structure. The colors and materials of the addition will match the existing building.

- I. **The floor area of a new second unit shall not exceed 750 square feet. In addition, the floor area of the primary and second unit combined shall not exceed the floor area ratio of the particular residential zoning district in which the parcel is located, if applicable. For new detached second units, the square footage of attached, potentially habitable storage or other accessory use areas (not including garage space) shall be counted toward the 750 square foot size limit.**

The proposed second unit would total 654 square feet.

- J. **The parcel on which the new second unit would be located shall have a minimum of one off-street parking space assigned to a studio or one-bedroom second unit or two off-street parking spaces assigned to a two-or-more-bedroom second unit. Off-street parking spaces assigned to the second unit shall be independently accessible and shall be in addition to those required for the primary residence, in compliance with Title 24 standards.**

One independently accessible parking space will be provided for the second unit. The parking plan has been reviewed and accepted by the Department of Public Works.

- K. **A second unit shall be allowed only where the street providing access to the site is of the minimum width necessary to allow for the safe passage of emergency vehicles, in compliance with Title 24 standards, as determined by the Department of Public Works.**

The Department of Public works has reviewed the proposed second unit and determined that Bolinas Road provides adequate street widths to allow for the safe passage of emergency vehicles.

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 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: SECOND UNIT STANDARDS:

The second unit approved herein shall meet the following adopted standards established by Marin County Code Section 22.32.140 in addition to any other applicable requirements of County Code.

1. 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.
2. The primary or the secondary unit shall be owner occupied. Owner occupancy shall be defined as the maintenance of a Home Owner's Exemption by the owner of record with the County Assessor. No additional dwelling units other than the primary dwelling unit and the subject second dwelling unit shall be permitted on the subject property. A second unit may be rented but shall not be sold separately from the single-family unit.
3. The addresses for the primary dwelling unit and the second unit shall be posted in conformance with the latest adopted version of the California Fire Code.
4. BEFORE FINAL INSPECTION AND UPON VESTING OF THIS PROJECT, the Community Development Agency shall file this Notice of Decision, including all second unit standards, with the Marin County Recorder's Office. Recordation of the Notice of Decision shall serve to advise future property owners of the standards applicable to maintenance of the second unit.
5. Any changes or additions to the project shall be submitted to the Community Development Agency staff for review and approval before the contemplated modifications may be initiated.
6. Future additions to the second unit to increase its size up to the 750 square foot maximum may be authorized by the Community Development Agency staff without a new Second Unit Permit if the second unit meets all of the adopted second unit standards.

Marin County Department of Public Works, Land Use and Water Resources Division

7. BEFORE ISSUANCE OF A BUILDING PERMIT, the applicant shall pay Transportation Facilities fees in accordance with Marin County Code Chapter 15.07.

SECTION IV: 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 **February 4, 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

Marin County Community Development Agency

Alex Hinds, Director

NOTICE OF DECISION

Applicant's Name: Peter Salcuni

Application (type and number): Use Permit (UP 08-3) and Second Unit Permit (SU 08-3)

Assessor's Parcel Number: 049-101-39

Project Location: 507 Pineo Avenue, Mill Valley

For inquiries, please contact: Curtis Havel, Senior Planner

Decision Date: January 17, 2008

DETERMINATION: Approved with Conditions

Minutes of the January 17, 2008, Deputy Zoning Administrator's hearing are attached specifying action and applicable conditions 1-11.

Marin County Community Development Agency

Jeremy Tejrjian, AICP
Hearing Officer

**H2. USE PERMIT (UP 08-3) AND SECOND UNIT PERMIT (SU 08-3):
PETER SALCUNI**

Hearing to consider the authorization of the unpermitted construction of a 644 square foot, 12-foot tall detached second unit on an 8,800 square foot property developed with a 1,700 square foot single-family residence and 280 square foot garage (lot, home and garage size per current Assessor's Records). As proposed, the detached second unit would maintain the following minimum setbacks from corresponding property lines: 7 feet 4 inches from the westerly side property line; and, 3 feet from the southerly rear property line. Use Permit approval is required because the detached second unit would maintain distances of 7 feet 4 inches and 3 feet from property lines where 10 feet would otherwise be required by the R-A:B-2 zoning district. The subject property is located at **507 Pineo Avenue, Mill Valley**, and is further identified as **Assessor's Parcel 049-101-39**.

In response to the Hearing Officer, staff summarized his supplemental memorandums dated January 7, and January 15, 2008, received from Bridger Mitchell and Cela O'Conner regarding concerns with the Stream Conservation Area (SCA), Design Review findings and the setbacks from the property lines. Staff verified that the distance from the top of creek bank is 51 feet. Therefore, the project is consistent with the Stream Conservation Area (SCA) policies contained in the Countywide plan. The title of the Resolution was amended to include Design Review. Finally, the substandard distance to property lines are addressed through Use Permit findings.

The Hearing Officer noted that there was not enough space between the property line and second unit for additional vegetation. Furthermore, the project does not encroach into the Stream Conservation Area (SCA), therefore we do not have the nexus to require additional landscaping.

The Hearing Officer asked to have the dates corrected to reflect today's date and the appeal period to run until February 4, 2008 to include the Martin Luther King holiday.

The public testimony portion of the hearing was opened and closed.

The Hearing Officer approved the Salcuni Use Permit and Second Unit Permit, based on the Findings and subject to the Conditions set forth in the modified Resolution.

The Hearing Officer informed all parties of interest that this action may be appealed to the Marin County Planning Commission within ten (10) working days.

MARIN COUNTY DEPUTY ZONING ADMINISTRATOR
RESOLUTION 08-101

A RESOLUTION APPROVING THE SALCUNI USE PERMIT 08-3, DESIGN REVIEW CLEARANCE 08-58, AND SECOND UNIT PERMIT 08-3 ASSESSOR'S PARCEL 049-101-39 507 PINEO AVENUE, MILL VALLEY

SECTION I: FINDINGS

I. WHEREAS Peter Salcuni has submitted a Use Permit and Second Unit Permit application to authorize the unpermitted construction of a 644 square foot, 12-foot tall detached second unit on an 8,800 square foot property developed with a 1,700 square foot single-family residence and 280 square foot garage (lot, home and garage size per current Assessor's Records). As proposed, the detached second unit would maintain the following minimum setbacks from corresponding property lines: 7 feet 4 inches from the westerly side property line; and, 3 feet from the southerly rear property line. Use Permit approval is required because the detached second unit would maintain distances of 7 feet 4 inches and 3 feet from property lines where 10 feet would otherwise be required by the R-A:B-2 zoning district.

The subject property is located at 507 Pineo Avenue, Mill Valley, and is further identified as Assessor's Parcel 049-101-39.

II. WHEREAS the Marin County Deputy Zoning Administrator held a duly noticed public hearings on January 17, 2008 and September 27, 2007 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 Section 15303, Class 3 because it entails legalization of a detached accessory structure on a residentially developed property and would not entail any tree removal or grading.

IV. WHEREAS the Marin County Deputy Zoning Administrator finds that the proposed project is consistent with the Marin Countywide Plan and the Tamalpais Area Community Plan for the following reasons:

- A. The construction of a new detached accessory structure would be consistent with the SF5 (Single Family, 2 to 4 units per 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;

- E. The project would provide housing opportunities on an infill site which is served by existing roadways, and necessary public and community facilities within the City Centered Corridor without adversely affecting agricultural areas or public open space in the project vicinity;
 - F. The project incorporates design features that minimize soil disturbance and maximize preservation existing vegetation to prevent erosion and preserve water quality and aesthetics;
 - G. The project would create a second unit, thereby increasing the County's stock of affordable housing;
 - H. *The project is consistent with the Stream Conservation Policies of the Marin Countywide Plan;*
 - I. The project would be served by the Marin Municipal Water District for water service and an the Tamalpais Valley Sanitary District for sewage disposal; and
 - J. The project would not adversely impact the surrounding built environment relative to off-site views from adjacent properties, and privacy for the subject and surrounding properties.
- V. WHEREAS the Marin County Deputy Zoning Administrator finds that the proposed project is consistent with the regulations of Title 22 of the Marin County Code because the project consists of the legalization of a detached accessory structure which is a permitted use in the R-A:B-2 zoning district. Accessory structures are allowed to be located within the required yards subject to the securing of a Use Permit in accordance with Section 22.48.040 of the Marin County Code.
- VI. WHEREAS the Marin County Deputy Zoning Administrator finds that the proposed project is consistent with the mandatory findings to approve the Use Permit application (Section 22.48.040 of the Marin County Code) as specified below.

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 detached accessory structure is allowed as a conditional use within the governing R-A:B-2 (Residential, Agriculture, 10,000 square foot minimum lot area) zoning district.

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

The proposed use is consistent with the Countywide Plan and the Tamalpais Area Community Plan for reasons discussed in Section IV above.

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

The proposed project is categorically exempt from the California Environmental Quality Act for the reasons discussed in 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 proposed project would be compatible with existing and future land uses in the area because the detached accessory structure would be used as a second unit which is commonly associated with surrounding residential land uses

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

The detached accessory structure would be visually compatible with proposed development on the subject parcel and surrounding parcels because it would utilize building forms, materials and colors that are harmonious with other buildings and materials in the neighborhood

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 granting of 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 because the project is located on a property that is disturbed by residential development and associated uses, and will not obstruct any adjacent neighbor's views, air, light, or privacy. Additionally, the detached accessory structure would be required to meet Uniform Building Code standards and, therefore would preclude potential injury to improvements on the subject property, and improvements on neighboring properties.

VII. WHEREAS the Marin County Deputy Zoning Administrator finds that the proposed project, is consistent with all of the mandatory findings to approve the Second Unit Permit application (Section 22.32.140.G of the Marin County Code) as specified below.

A. The new second unit would be located on the same parcel on which the owner of record maintains a primary residence.

According to current Marin County Assessor's Records, the property owner maintains a homeowner's exemption in their name for the property indicating that they maintain their primary residence on the property.

B. The new second unit complies with all of the current property development standards of this Development Code (e.g., height, setbacks, floor area ratio), for a dwelling unit in the residential zoning district in which it is located. A detached second unit shall comply with development standards required for detached structures within the residential zoning district in which it is located.

The proposed project complies with the 30% floor area ratio established by the R-A:B-2 zoning district. Although the proposed detached second unit accessory structure would be located in the required side and rear yard setbacks, accessory structures are allowed to be located within the required yards subject to the securing of a Use Permit in accordance with Section 22.48.040 of the Marin County Code. Please refer to Section VI of this Resolution to view the Use Permit findings for the project.

C. The new second unit would meet all applicable building codes adopted by the County.

The structure will be required to meet the requirements of the Uniform Building Code during the Building Permit process.

D. The new second unit would be the only additional dwelling unit on the parcel.

A site visit conducted by staff indicates that the property is currently developed with a single-family residence, a detached second unit, and a detached garage.

E. Adequate sanitary services would be provided for the additional wastewater resulting from the new second unit, in compliance with County and State regulations, and with the requirements of the local sanitary district, if applicable.

The Tamalpais Community Services District has adequate capacity to serve the proposed second unit.

F. Adequate water supplies would be provided to serve the new second unit in compliance with County and State regulations, and with the requirements of the local water district, if applicable.

The Marin Municipal Water District has adequate capacity to serve the proposed second unit.

G. The parcel on which the new second unit would be located meets the minimum building site area requirements of the zoning district in which it is located. The slope ordinance shall apply in determining the minimum parcel size, where appropriate. The minimum building site area requirements of the governing zoning and the slope ordinance shall be waived in those cases where the second unit is created within the footprint of an existing structure on the site.

The 8,800 square foot property is below the 10,000 square foot minimum lot size requirement of the R-A:B-2 zoning district. However, findings have been made in Section VIII below that the property contains sufficient lot area to locate a detached second unit on the property without exceeding the 30% floor area ratio standard, and without impeding views enjoyed by surrounding properties.

H. The addition of a second unit would incorporate materials, colors, and building forms that are compatible with the existing residence on the property.

The second unit incorporates building forms, colors, and materials that are compatible with the built environment.

I. The floor area of a new second unit shall not exceed 750 square feet. In addition, the floor area of the primary and second unit combined shall not exceed the floor area ratio of the particular residential zoning district in which the parcel is located, if applicable. For new detached second units, the square footage of attached, potentially habitable storage or other accessory use areas (not including garage space) shall be counted toward the 750 square foot size limit.

The proposed second unit is 644 square feet consistent with this finding. Additionally, the total floor area on the property would not exceed the 30% floor area ratio standard established by the R-A:B-2 zoning district.

- J. The parcel on which the new second unit would be located shall have a minimum of one off-street parking space assigned to a studio or one-bedroom second unit or two off-street parking spaces assigned to a two-or-more-bedroom second unit. Off-street parking spaces assigned to the second unit shall be independently accessible and shall be in addition to those required for the primary residence, in compliance with Title 24 standards.**

The project site has adequate area to accommodate an additional parking space for the second unit. Therefore, a condition of approval has been incorporated into the resolution which requires the development of one additional parking space at the project site.

- K. A second unit shall be allowed only where the street providing access to the site is of the minimum width necessary to allow for the safe passage of emergency vehicles, in compliance with Title 24 standards, as determined by the Department of Public Works.**

The Department of Public Works have reviewed the proposed second unit and determined that Pineo Avenue provides adequate street widths to allow for the safe passage of emergency vehicles.

VIII. WHEREAS the Marin County Deputy Zoning Administrator finds that the proposed project, is consistent with all of the mandatory findings to approve the Design Review application (Section 22.42.060.B of the Marin County Code) because the project is minor and incidental to the existing single-family residential use on the property and within the intent and objectives for Design Review, based on the following findings:

1. The project is located on a lot which contains sufficient area to located a detached second unit and would not exceed the 30% floor area ratio standard.
2. The project will not result in adverse visual, noise, or physical impacts on surrounding properties and rights-of-way.
3. The project is consistent with the intent of Chapter 22.42 (Design Review) of the Marin County Code.

SECTION II: CONDITIONS OF PROJECT APPROVAL

NOW, THEREFORE, BE IT RESOLVED that the Marin County Deputy Zoning Administrator hereby approves the Salcuni Use Permit 08-3 and Second Unit Permit 08-3 subject to the following conditions:

Marin County Community Development Agency, Planning Division

1. Pursuant to Marin County Code Sections 22.48.040 (Use Permit) and 22.32.140.G (Second Unit Permit), AND AS MODIFIED BY THESE CONDITIONS OF APPROVAL, the Salcuni Use Permit 08-3 and Second Unit Permit 08-3 hereby approves the unpermitted construction of a 644 square foot, 12-foot tall detached second unit on an 8,800 square foot property developed with a 1,700 square foot single-family residence and 280 square foot garage (lot, home and garage size per current Assessor's Records). The detached second unit is approved to maintain the following minimum setbacks from corresponding property lines: 7 feet 4 inches from the westerly side property line; and, 3 feet from the southerly rear property line.

The property is located at 507 Pineo Avenue, Mill Valley, and is further identified as Assessor's Parcel 049-101-39. Unless a public emergency services provider recommends otherwise or unique circumstances necessitate a change, the street address for the primary residence approved herein shall be 507 Pineo Avenue, Mill Valley. The street address for the second unit that is approved herein shall be 509 Pineo Avenue, Mill Valley.

2. Plans submitted for a building permit shall substantially conform to plans identified as "Exhibit A," entitled, "Salcuni Residence," consisting of 5 sheets, prepared by Ken's Drafting Service, LLC, dated March 28, 2007, and on file in the Marin County Community Development Agency.
3. BEFORE FOUNDATION INSPECTION, the applicant shall have a licensed land surveyor or civil engineer with proper certification conduct a survey of the rear and side property lines and install property line markers that can be readily verified by the Building and Safety Inspection staff to verify building setbacks for the detached accessory structure 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.
4. BEFORE FINAL INSPECTION AND UPON VESTING OF THIS PROJECT, the Community Development Agency shall file this Notice of Decision, including all conditions of project approval, with the Marin County Recorder's Office to advise future property owners of the property development restrictions, particularly with respect to standards applicable to maintenance of the second unit.
5. The primary or the secondary unit shall be owner occupied. Owner occupancy shall be defined as the maintenance of a Home Owner's Exemption by the owner of record with the County Assessor. No additional dwelling units other than the primary dwelling unit and the subject second dwelling unit shall be permitted on the subject property. A second unit may be rented but shall not be sold separately from the single-family unit.
6. All exterior lighting visible from off site shall be permitted for safety purposes only, shall consist of low-wattage fixtures, and shall be directed downward and shielded to prevent adverse lighting impacts on nearby properties. Exceptions to this standard may be allowed by the Community

Development Agency staff if the exterior lighting would not create night-time illumination levels that are incompatible with the surrounding community character and would not shine 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.
 - c. During construction, the applicant shall take all appropriate measures, including watering of disturbed areas and covering the beds of trucks hauling fill to or spoils from the site, to prevent dust from grading and fill activity from depositing on surrounding properties.
 - d. All soils disturbed by development of the project shall be reseeded with native grasses or wildflowers to control erosion.
8. 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 Salcuni Use Permit 08-3 and Second Unit Permit 08-3 for a second unit, for which action is brought within the applicable statute of limitations.
9. 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.

Department of Public Works, Land Development

10. BEFORE ISSUANCE OF A BUILDING PERMIT, the applicant shall provide pertinent design information as specified below.
 - a. The Site Plan shall show an additional on-site, independently accessible parking space with minimum dimensions of 8.5 feet wide by 18 feet long for the second unit.
 - b. An encroachment permit shall be required for work within the road right-of-way.

- c. Applicant shall pay Public Transportation Facilities fees in accordance with Marin County Code Chapter 15.07.

Southern Marin Fire Protection District

- 11. BEFORE FINAL INSPECTION, the applicant shall provide confirmation from the Fire Marshal that all requirements of the Southern Marin Fire Protection District have been met, including but not limited to the following items:
 - a. Fire sprinklers are required;
 - b. The address shall be posted in accordance with the requirements of the Uniform Fire Code; and,
 - c. Non-combustible roofing is required.

SECTION III: VESTING, PERMIT DURATION, AND APPEAL RIGHTS

NOW, THEREFORE BE IT FURTHER RESOLVED that the applicant must vest this Salcuni Use Permit 08-3 and Second Unit Permit 08-3 approval by obtaining a Building Permit, or other construction permit if required, for the approved work and substantially completing all work before September 27, 2009, or all rights granted in this approval shall lapse unless the applicant applies for an extension at least 10 days before the expiration date above and the Community Development Agency staff approves it. 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 completion of the requirements to vest this application, the Second Unit Permit shall remain valid in perpetuity as long as all the terms of this permit are maintained.

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 and Second Unit Permit approval (and no extensions have been granted), the Building Permit and Use Permit and Second Unit 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 and Second Unit Permit at least 10 days before the expiration of the Use Permit and Second Unit Permit approvals.

NOW, THEREFORE BE IT FURTHER RESOLVED that this decision is final unless appealed to the Marin County 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 4:00 p.m. on February 4, 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 DEPUTY ZONING ADMINISTRATOR

Attest:

Joyce Evans, Deputy Zoning Administrator Secretary