

ALEX HINDS, DIRECTOR

Perry and Cindy Kerson

STAFF REPORT TO THE DEPUTY ZONING ADMINISTRATOR

Kerson Use Permit and Design Review

UP 08-8 Item: C1. Application:

Applicant: Perry and Cindy Kerson Owner: Address:

49 Martling Road,

San Anselmo Assessor's Parcel: 176-042-07

Hearing Date: January 31, 2008 Planner: Neal Osborne

> **RECOMMENDATION: Approval with Conditions**

APPEAL PERIOD: Ten business days ending February 14, 2008

LAST DATE FOR ACTION: March 14, 2008

PROJECT DESCRIPTION:

The project is a proposal to legalize the as-built construction of two storage sheds and a proposal to construct new access stairs located within the 25-foot front yard area of a 22,000 square foot lot that is developed with a 2,077 square foot single-family residence, carport, and swimming pool. The total floor area of the proposed sheds would be 212 square feet for a combined total floor area of 2,289 square feet. As proposed, the floor area ratio (FAR) would be 10%. Shed 1 has 88 square feet of floor area and is located under an existing deck in the front of the existing single-family residence. The maximum height is 10 feet above grade. The property line setbacks for Shed 1 are: 11 feet front (west), 26 feet side (northwest), 53 feet side (southeast), and 194 feet rear (northeast). Shed 2 has 124 square feet of floor area and is located under an existing parking deck. The maximum height is 11.5 feet above grade. The property line setbacks for Shed 2 are: 7.5 feet front (west), 74 feet side (northwest), 16 feet side (southeast), and 226 feet rear (northeast).

Use Permit approval for detached accessory structures is required to permit the storage sheds that would encroach 14 feet, and 17.5 feet, into the 25-foot front yard required for sheds pursuant to the R1:BD zoning and yard regulations in Marin County Code Sections 22.20.090 and 22.30.050. Use Permit approval is also required for the access stairs and landings that would be more than 1.5 feet above grade and would encroach 13 feet into the 19-foot front yard area required for stairs and landings. The proposed access stairs to Shed 1, and existing stairs to Shed 2, would extend across the front property line into the Martling Road right-of-way. The proposed legalization of the as-built construction of new stairs in the road right-of-way is subject to Design Review and an Encroachment Permit.

GENERAL INFORMATION:

Countywide Plan

Land Use Designation: SF4, Single-family, one unit to two units per acre

Community Plan: Sleepy Hollow Zoning: R1:BD (Residential, Single-Family, BD – Sleepy Hollow Building District

Lot size: 15,000 square feet minimum
Adjacent Land Uses: Single-family residential
Vegetation: Introduced landscaping
Topography and Slope: 67% upslope to the east

Environmental Hazards: Proximity to the San Andreas and Hayward Fault Zones, Urban Wildland

Interface fire area, and slope stability

ENVIRONMENTAL REVIEW:

The Environmental Coordinator has determined that this project is Categorically Exempt from the requirements of the California Environmental Quality Act pursuant to Section 15303, Class 3(e) of the CEQA Guidelines because it is the legalization of the construction of detached sheds, stairs, and retaining walls accessory to a single-family residence with no potentially significant impacts on the environment.

PUBLIC NOTICE:

The Community Development Agency, Planning Division, has provided public notice identifying the applicant, describing the project and its location, and giving the hearing date in accord with California Government Code requirements. This notice has been mailed to all property owners within 600 feet of the subject property.

PLAN/ZONING CONSISTENCY:

The proposed project would be substantially consistent with the intent of the goals and policies of the Marin Countywide Plan and the Sleepy Hollow Community Plan (see Sections IV and V of the attached Resolution).

PROJECT ANALYSIS:

Setting

The subject property has a steep 67% upslope from the 156 lineal foot frontage on the 80-foot to 100-foot wide Martling Road right-of-way. The improved road is very narrow due to the steep slopes in the right-of-way and has varying pavement widths with an upper lane and a lower lane on separate levels terraced in the hill. On-site parking is currently provided on a parking deck that also provides a portion of the roof of Shed 2.

The property is located within the Single-family Residential, R1:BD zoning district that establishes a 15,000 square foot minimum lot area. The zoning district standards require 25 feet front, 10 feet side, and 10 feet rear setbacks from property lines for detached accessory structures. The maximum height standard for accessory structures is 15 feet above grade and the maximum floor area ratio (FAR) of 30% of the yard area where the structure is located. Exceptions to the front and side yard requirements for parking structures are provided in Section 22.20.090.E.2 of Marin County Code for properties with greater than 20% slope in the front one-half of the property. Because the property has a 67% slope, the property line setbacks required for the parking deck are 3 feet front and 3 feet sides.

Use Permit

The proposal to legalize the construction of storage sheds below an as-built deck in the front of the residence and below the parking deck is subject to the Use Permit review process for their locations in the front yard. The storage sheds would be set back 11 feet and 7.5 feet, respectively, from the front property line, where 25 feet is the zoning standard. The storage sheds have maximum heights of 8.25 feet, and 11.5 feet, respectively above natural grade where 15 feet is the zoning standard. The use of the space under the deck in front of the residence, and under the parking deck, for enclosed storage sheds would not result in detrimental impacts to views, light, or privacy to adjacent properties.

Design Review

Design Review is required pursuant to Marin County Code Section 22.20.090C.6.d for construction in the road right-of-way. The applicant has modified his stair plans in response to staff direction. As now proposed, staff finds that the design and location of the proposed access stairs and garbage can storage pad in the Martling Road right-of-way would fit into the community character and would improve the ability to safely access the residence. Staff also finds that the fence on the north side property line represents an unnecessary visual impact, which can be adequately modified by lowering the fence height to 6 feet, as recommended in Condition of Approval 6(b).

Public Comments

Staff received no comments from surrounding property owners in response to the public notice.

Conclusion

Staff finds the proposal to legalize the construction of a storage shed under the front deck, and another storage shed under the parking deck would comply with the Countywide Plan policy for the provision of appropriate infill development accessory to an existing single-family residence. Use Permit findings can be made for the location of the storage sheds in the front yard because it would be below the decks and a minimum of 7.5 feet from the front property line with no detrimental impacts to the neighborhood. The project would not result in any substantial adverse impacts or detriment to surrounding properties and would efficiently utilize space under existing structures without more land disturbance or impervious surface areas.

RECOMMENDATION:

Staff recommends that the Deputy Zoning Administrator review the administrative record, conduct a public hearing, and approve with conditions the Kerson Use Permit and Design Review based on the findings contained in the attached resolution.

Attachments: 1.

- Proposed Resolution recommending conditional approval of the Kerson Use Permit and Design Review
- 2. Environmental Determination
- 3. Location Map
- 4. Assessor's Parcel Map
- 5. Site Plan
- 6. Shed 1 Floor Plan
- 7. Shed 2 Floor Plan
- 8. West Elevation

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- 9. South Elevation
- 10. North Elevation
- 11. Department of Public Works, Land Use and Water Resources Division memorandum, 1/8/08
- 12. Marin Municipal Water District letter, 11/6/07
- 13. Perry and Cindy Kerson letter, 11/2/07

MARIN COUNTY DEPUTY ZONING ADMINISTRATOR

A RESOLUTION APPROVINGTHE KERSON USE PERMIT AND DESIGN REVIEW

49 MARTLING ROAD, SAN ANSELMO

ASSESSOR'S PARCEL 176-042-07

SECTION 1: FINDINGS

- I. WHEREAS, Perry Kerson, on behalf of the owners, Perry and Cindy Kerson, submitted an application for Use Permit approval to legalize the as-built construction of two storage sheds and a proposal to construct new access stairs located within the 25-foot front yard area of a 22,000 square foot lot that is developed with a 2,077 square foot single-family residence, carport, and swimming pool. The total floor area of the proposed sheds would be 212 square feet for a combined total floor area of 2,289 square feet. As proposed, the floor area ratio (FAR) would be 10%. Shed 1 has 88 square feet of floor area and is located under an existing deck in the front of the existing single-family residence. The maximum height is 10 feet above grade. The property line setbacks for Shed 1 are: 11 feet front (west), 26 feet side (northwest), 53 feet side (southeast), and 194 feet rear (northeast). Shed 2 has 124 square feet of floor area and is located under an existing carport deck. The maximum height is 11.5 feet above grade. The property line setbacks for Shed 2 are: 9 feet front (west), 74 feet side (northwest), 16 feet side (southeast), and 226 feet rear (northeast). The subject property is located at 49 Martling Road, San Anselmo, and is further identified as Assessor's Parcel 176-042-07.
- II. WHEREAS the Marin County Deputy Zoning Administrator held a duly noticed public hearing on January 31, 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 Section 15303, Class 3(e) because the legalization of the construction of detached storage sheds, stairs, and retaining walls accessory to a single-family residence would not result in significant adverse environmental effects.
- IV. WHEREAS the Marin County Deputy Zoning Administrator finds that the proposed project is consistent with the Marin Countywide Plan because it would:
 - A. Provide improvements to existing housing developments on an infill site that is served by existing roadways, and necessary public and community facilities within the City Centered Corridor:
 - B. Cluster development below ridgelines while preserving existing mature vegetation;

- C. Contribute to the diversity of housing stock for Sleepy Hollow residents;
- D. Not cause significant adverse impacts on water supply, fire protection, waste disposal, schools, traffic and circulation, or their services;
- E. Minimize soil disturbance and maximize the preservation of natural vegetation; and
- F. Provide consistency with the land use designation of SF4, Single-family residential, 1 unit to 2 units per acre.
- V. WHEREAS the Marin County Deputy Zoning Administrator finds that the proposed project is consistent with the intent of the Sleepy Hollow Community Plan because the project would:
 - A. Maintain the semi-rural character of the community as defined by its small town residential setting and the quality of the natural environment;
 - B. Provide for in-fill development under the deck areas that would be integrated harmoniously into the neighborhood character predominately; and
 - C. Enhance the quality of the neighborhood and the residence with the provision of enclosed storage space below the permitted deck and parking spaces on a steep upslope lot.
- VI. WHEREAS the Marin County Deputy Zoning Administrator finds that the proposed project is consistent with the mandatory findings to approve a Use Permit (Marin County Code Section 22.48.040).
 - 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 88 square foot storage shed below the attached front deck to the residence, and the 124 square foot storage shed below the detached parking deck would be subordinate to an existing 2,077 square foot residence. The detached storage sheds are permitted uses in the R1:BD zoning district pursuant to Marin County Code Section 22.10.030, Table 2-3. The accessory structures are allowed as conditional uses because of the location in the front yard pursuant to Marin County Code Section 22.20.090.C.2.c.

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

The use of the 88 square foot storage shed below the attached front deck to the residence, and the 124 square foot storage shed below the detached parking deck would be accessory to a residential use that is permitted in the SF4 land use designation in the Sleepy Hollow Community Plan. Conditions of approval would be required for the accessory structures so that they would comply with the Building Code requirements and thereby would be structurally safe, and would not create a detriment to the public welfare or be injurious to property or improvements in the neighborhood.

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

The use of the 88 square foot storage shed below the attached front deck to the residence, and the 124 square foot storage shed below the detached parking deck would be accessory to a residential use that is a class of project that is exempt from CEQA pursuant to CEQA Guidelines Section 15303, Class 3(e) because it would not result in potentially adverse impacts regarding additional land disturbance, impermeable surface area, visual impacts, or noise.

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 88 square foot storage shed below the attached front deck to the residence, and the 124 square foot storage shed below the detached parking deck design, location, and size would fit into the neighborhood and would maintain adequate setbacks to neighboring properties to be compatible with existing and future 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 use of the proposed accessory structures would be consistent with other development in the vicinity.

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 88 square foot storage shed below the attached front deck to the residence, and the 124 square foot storage shed below the detached parking deck would be required to comply with the Uniform Building Code requirements and thereby would be structurally safe, and would not create a detriment to the public welfare or be injurious to property or improvements in the neighborhood. Consequently the storage sheds would be structurally safe, and would not create a detriment to the public welfare or be injurious to property or improvements in the neighborhood.

- VII.WHEREAS the Marin County Deputy Zoning Administrator finds that the proposed project components located within the Martling Road right-of-way, is consistent with the mandatory findings to approve a Design Review (Marin County Code Section 22.42.060).
 - A. The proposed development will properly and adequately perform or satisfy its functional requirements without being unsightly or creating incompatibility/disharmony with its locale and surrounding neighborhood.

The proposed access stairs and garage can storage pad that encroach into the road right-of-way 4 feet would provide access to the residence on a steep 67% up slope lot that begins 6 feet from the edge of existing pavement. The access stairs and garage can storage pad would have no adverse visual impacts to the neighborhood.

B. The proposed development will not impair, or substantially interfere with the development, use, or enjoyment of other property in the vicinity, including, but not limited to, light, air, privacy and views, or the orderly development of the neighborhood as a whole, including public lands and rights-of-way.

The proposed access stairs and garbage can storage pad would not interfere with guest parking spaces along the frontage of the property and would not impair development in the neighborhood.

C. The proposed development will not directly, or cumulatively, impair, inhibit, or limit further investment or improvements in the vicinity, on the same or other properties, including public lands and rights-of-way.

The proposed access stairs and garbage can storage pad would not impair improvements in the vicinity.

D. The proposed development will be properly and adequately landscaped with maximum retention or trees and other natural features and will conserve non-renewable energy and natural resources.

The proposed parking access stairs and garbage can storage pad would not interfere with landscaping, would maintain trees and natural resources while providing improved access to the front of the residence.

E. The proposed development will comply with applicable design and location characteristics listed in Chapter 22.16 (Planned District Development Standards).

The proposed access stairs and garbage can storage pad would comply with the parking and driveway requirements of Marin County Code and would be compatible with the neighborhood character.

- F. The proposed development will minimize or eliminate adverse physical or visual effects that might otherwise result from unplanned or inappropriate development, design, or placement. Adverse effects include those produced by the design and location characteristics of the following:
 - 1. The area, heights, mass, materials, and scale of the structure.
 - 2. Drainage systems and appurtenant structures.
 - 3. Cut and fill or the reforming of the natural terrain, and appurtenant structures (e.g., retaining walls and bulkheads).
 - 4. Areas, paths, and rights-of-way for the containment, movement or general circulation of animals, conveyances, persons, vehicles, and watercraft.
 - 5. Will not result in the elimination of significant sun and light exposure, views, vistas, and privacy to adjacent properties.

The proposed access stairs and garbage can storage pad would have a maximum height of 3 feet above grade, without substantial change to drainage, would not affect circulation on the road, and would not impact views from adjacent properties.

G. The project design includes features that foster energy and natural resource conservation while maintaining the character of the community.

The proposed access stairs and garbage can storage pad would allow for continued use of the residence with more direct and alternative access to the front door, conserving energy and maintaining the character of the community.

H. The design, location, size, and operating characteristics of the proposed use are consistent with the Countywide Plan and applicable zoning district regulations, are compatible with the existing and future land uses in the vicinity, and will not be detrimental to the public interest, health, safety, convenience, or welfare of the County.

The proposed access stairs and garbage can storage pad would comply with the parking and driveway requirements of Marin County Code and would be compatible with the Countywide Plan and zoning regulations by allowing for in-fill development for safe access to existing housing, and safe travel width on Martling Road.

SECTION 2: CONDITIONS OF PROJECT APPROVAL

NOW, THEREFORE, BE IT RESOLVED that the Marin County Deputy Zoning Administrator hereby approves the Kerson Use Permit (UP 08-08) and Design Review subject to the following conditions:

Marin County Community Development Agency, Planning Division

- 1. The Kerson Use Permit and Design Review are approved pursuant to Chapters 22.48 and 22.42 of Marin County Code to legalize the as-built construction of two storage sheds and access stairs located within the 25-foot front yard area of a 22,000 square foot lot that is developed with a 2,077 square foot single-family residence, carport, and swimming pool. The total floor area of the approved sheds is 212 square feet for a combined total floor area of 2,289 square feet. As approved, the floor area ratio (FAR) would be 10%. Shed 1 is approved with 88 square feet of floor area and is located under an existing deck in the front of the existing single-family residence. The maximum height is 10 feet above grade. The property line setbacks approved for Shed 1 are: 11 feet front (west), 26 feet side (northwest), 53 feet side (southeast), and 194 feet rear (northeast). Shed 2 has 124 square feet of floor area and is located under an existing carport deck. The maximum height is 11.5 feet above grade. The property line setbacks approved for Shed 2 are: 9 feet front (west), 74 feet side (northwest), 16 feet side (southeast), and 226 feet rear (northeast). The subject property is located at 49 Martling Road, San Anselmo, and is further identified as Assessor's Parcel 176-042-07.
- 2. Except as modified herein, the required Building Permit and site improvements shall substantially conform to plans on file with the Marin County Community Development Agency, Planning Division identified as Exhibit A, "Kerson Residence", consisting of six sheets, prepared by Dan William Phipps, Licensed Architect with a print date of October 24, 2007, and "Topographic Survey" consisting of one sheet prepared by Stephen Jerome Flatland, Licensed Land Surveyor, dated November 2007.

- 3. Within 30 days of this decision, the applicant must submit Building Permit applications to legalize the two storage sheds, access stairs, and retaining walls. Requests for an extension to this timeline must be submitted in writing to the Community Development Agency staff and may be granted for good cause, such as delays beyond the applicant's control.
- 4. Within 60 days of this decision, a Building Permit for all approved work must be obtained. Requests for an extension to this timeline must be submitted in writing to the Community Development Agency staff and may be granted for good cause, such as delays beyond the applicant's control.
- 5. Within 180 days of this decision, the applicant must complete the approved construction and receive approval of a final inspection by the Building and Safety Division. BEFORE FINAL INSPECTION, the applicant shall call the Marin County Community Development Agency Code Enforcement Section for an on-site inspection to determine that all terms of the conditions of approval have been met. Requests for an extension to this timeline must be submitted in writing to the Community Development Agency staff and may be granted for good cause, such as delays beyond the applicant's control.
- 6. BEFORE ISSUANCE OF A BUILDING PERMIT, the applicant shall satisfy the following requirements of the Marin County Community Development Agency, Planning Division:
 - a. Revise the site plan or other first sheet of the office and job site copies of the Building Permit plans to list these Use Permit and Design Review Conditions of Approval as notes.
 - b. Reduce the fence heights along the north side property line to 6 feet maximum above natural grade and submit photographs to verify the height reduction.
- 7. All flashing metal work and trim shall be an appropriately subdued, nonreflective color.
- 8. 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.
- 9. 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.
- 10. Utility connections and extensions for electric and telecommunication lines serving the development shall be undergrounded from the nearest overhead pole from the property or from the existing residence, where feasible as determined by the Community Development Agency staff.
- 11. 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 an 88 square foot detached shed, a 124 square foot shed, retaining walls, and access stairs, for which action is brought within the applicable statute of limitations.
- 12. 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 Use and Water Resources Division

- 13. BEFORE ISSUANCE OF BUILDING PERMIT, the applicant shall submit or complete the following items.
 - a. An encroachment permit shall be required for the stairways and any existing retaining walls constructed within the road right-of-way. Application information and an example drawing are available directly from DPW. Application and signed permit shall be completed prior to issuance of any Building Permits.

Marin Municipal Water District

14. All landscape and irrigation plans must be designed in accordance with the most current District landscape requirements (presently from 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.

SECTION 3: VESTING, PERMIT DURATION, AND APPEAL RIGHTS

NOW, THEREFORE BE IT RESOLVED that the applicant must vest the Kerson Use Permit and Design Review approval before July 31, 2008 with the issuance of Building Permits and substantial completion of all improvements in accordance with the conditions of approval, or all rights granted in this approval shall lapse unless the applicant applies for an extension at least 30 days before the expiration date and the Director approves it.

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 Permits lapse after the vesting date stipulated in the Use Permit and Design Review approval (and no extensions have been granted), the Building Permits and Use Permit and Design Review 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 Design Review at least 10 days before the expiration of the Use Permit and Design Review approval.

NOW, THEREFORE BE IT FURTHER RESOLVED that this Use Permit for a 88 square foot storage shed below the front deck of the residence, and for a 124 square foot storage shed below the parking deck, both of which are located within the front yard area shall be valid upon timely vesting of the approval and will remain valid indefinitely, unless the conditions of approval are violated in which case the Use Permit may be revoked.

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, Room 308, Civic Center, San Rafael, no later than 4:00 p.m. on February 14, 2008.

SECTION 4: ADOPTION

ADOPTED at a regular meeting of the Deputy Zoning Administrator of the County of Marin, State of California, on the 31st day of January 2008.

	JOHANNA PATRI, AICP DEPUTY ZONING ADMINISTRATOR
Attest:	
Joyce Evans Deputy Zoning Administrator Secretary	