

MARIN COUNTY DEPUTY ZONING ADMINISTRATOR MINUTES
Marin County Civic Center, Room #328 - San Rafael
MEETING – March 13, 2008

Hearing Officer Jeremy Tejirian, AICP
 Benjamin Berto

Staff Present: Curtis Havel, Senior Planner
 Veronica Corella Pearson, Planner

Joyce Evans, Recording Secretary

Convened at 9:07 A.M.
Adjourned at 9:34 A.M.
Reconvened at 9:38 A.M.
Adjourned at 10:00 A.M.

March 13, 2008

Marin County Community Development Agency

Alex Hinds, Director

NOTICE OF DECISION

Applicant's Name: Janet Lehua
Application (type and number): Use Permit (CP 08-2)
Assessor's Parcel Number: 043-213-02
Project Location: 226 Reed Circle, Mill Valley
For inquiries, please contact: Curtis Havel, Planner
Decision Date: March 13, 2008

DETERMINATION: Approved with Conditions

Minutes of the March 13, 2008, Deputy Zoning Administrator's hearing are attached specifying action and applicable conditions 1-16.

Marin County Community Development Agency

Jeremy Tejirian, AICP
Hearing Officer

H1. USE PERMIT (UP 08-2): JANET LEHUA

Hearing to consider construction of a new 665 square foot, 11-foot, 7-inch tall detached garage and storage/mechanical room located 5 feet from the northeasterly front property line and 10 feet from the southerly side property line (where a front yard setback of 25 feet would otherwise be required). Also proposed, but not subject to Use Permit approval, is the construction of 612 square feet of additions onto the existing 1,726 square foot single-family residence for a total residential floor area of 2,523 square feet on the 13,951 square foot lot resulting in a floor area ratio of 18.1%; and, conversion of 748 square feet of the single-family residence into a second dwelling unit. Proposed building materials include composition shingle roofing and siding to match the existing residence. Also proposed is construction of a new deck and glass windscreen along the rear of the residence. The subject property is located **226 Reed Circle, Mill Valley**, and is further identified as **Assessor's Parcel 043-213-02**.

In response to the Hearing Officer, staff explained that the project description in the agenda should include the southerly side setback is ten feet. He described an e-mail correspondence from Mimi Towle, neighbor, expressing concerns regarding location of the proposed garage, and suggested alternatives to the design. Staff stated that her comments were representative of other community comments on the project. While the proposed garage is visible from the street, it is ~~not in~~ consistent with development patterns in the community. The applicant had modified the project so that the garage doors did not face the street and the height of the garage is actually under the height limit for the zoning district. After staff continued the item from a previous hearing, the applicant hired a traffic consultant to evaluate the traffic patterns and circulation, and found that the project would not result in adverse impacts on the traffic flow. An e-mail from Janet Lehua questioned the address for the second unit, and staff stated that an address of # 228 Reed Circle is appropriate.

The Hearing Officer noted that The State of California has directed local jurisdictions to handle applications for second units on a ministerial basis, similar to Building Permits. Further, the second unit permit application in this case is not necessarily linked to the Use Permit application for the garage. The action for the second unit will be taken by staff, but is not within the Hearing Officer's purview or authority. Therefore, the second unit approval was removed from consideration at ~~today's~~ the hearing.

The public testimony portion of the hearing was opened.

Bill Cullen, ~~archtitect~~ architect, concurred with the Conditions of Approval, and asked if the utilities needed to be undergrounded.

David Curtis and Barry Kuhn, neighbors, expressed concerns with:

- Keeping the community character;
- Lack of notification of a hearing from the Strawberry Design Review Board;
- Dual parking structures;
- A setback of five feet from the front for a detached structure, where 25 feet is required; and
- Safety concerns for speeding fire trucks on a curve where visibility is an issue.

The public testimony portion of the hearing was closed.

The Hearing Officer responded to the comments;

- Staff will have some description regarding the undergrounding of the utilities;
- Community character will not be an issue because of the dual garages;
- The Transportation Facilities fee is linked to the second unit and will be deleted from this resolution;
- The Hearing Officer noted that all decisions are based on County of Marin Codes and guidelines, and ~~although there is no requirement to notice the Design Review Board meetings, the County is now noticing those meetings~~the County has begun noticing the Design Review meetings;
- After a site visit by our Department of Public Works, Land Use and Transportation, it was determined that the site distance is adequate;
- ~~Community Character is determined by~~Decisions are based on published design guidelines, which were used as a criteria to avoid having the garage doors facing the street;

The Hearing Officer approved the project with the following modifications:

- The Second Unit Resolution will be deleted;
- As indicated in Finding IV. E, the project would comply with the requirements of Marin County Code Chapter 13.18 by avoiding visibility obstructions to vehicles on either Reed Boulevard or Reed Circle. Further, the garage has been designed in conformance with Marin County Design Guideline C-1.4 because the garage would be detached from the residence and would be oriented with the door turned away from the street to minimize its visual presence. This orientation would also provide sufficient back-out space to satisfy the requirements of the Department of Public Works;
- The project would be consistent with the Transportation Policies contained in the Marin Countywide Plan, as verified by the Department of public Works, because it would comply with the requirements of Marin County Code Chapter 13.18 by avoiding visibility obstructions to vehicles.
- Condition of Approval 14 (b)- Department of Public Works: deleted; and
- Correct the date to March 13, 2008.

The Hearing Officer approved the Lehua Use Permit based on the Findings and subject to the Conditions 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 08-113

A RESOLUTION APPROVING THE LEHUA USE PERMIT 08-1
ASSESSOR'S PARCEL 043-213-02
226 REED CIRCLE, MILL VALLEY

SECTION I: FINDINGS

- I. WHEREAS William Cullen, on behalf of the property owner, Janet Lehua, has submitted a Use Permit application proposing to construct a new 665 square foot, 11-foot, 7-inch tall detached garage and storage/mechanical room located 5 feet from the northeasterly front property line and 10 feet from the southerly side property line. Proposed building materials include composition shingle roofing and siding to match the existing residence. Use Permit approval is required because the detached accessory structure would be located 5 feet from the front property line where 25 feet would otherwise be required. The subject property is located at 226 Reed Circle, Mill Valley, and is further identified as Assessor's Parcel 043-213-02.
- II. WHEREAS the Marin County Deputy Zoning Administrator held a duly noticed public hearing on March 13, 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 because it entails construction of an accessory structure on a residentially developed property that would not result in grading or other adverse environmental impacts.
- IV. WHEREAS the Marin County Deputy Zoning Administrator finds that the proposed project is consistent with the Marin Countywide Plan and the Strawberry Community Plan for the following reasons:
 - A. The construction of a new detached accessory structure would be consistent with the SF5 (Single Family, 4 to 7 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 be consistent with the Transportation Policies contained in the Marin Countywide Plan, as verified by the Department of Public Works, because it would comply with the requirements of Marin County Code Chapter 13.18 by avoiding visibility obstructions to vehicles.
 - F. The project incorporates design features that minimize soil disturbance and maximize preservation existing vegetation to prevent erosion and preserve water quality and aesthetics;
 - H. The project would be served by the Marin Municipal Water District for water service and an the Richardson Bay Sanitary District for sewage disposal; and
 - I. 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 construction of a detached accessory structure which is a permitted use in the R-1:B-2 zoning district. Accessory structures are allowed to be located within the required yards and exceed the 15-foot height limit 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 proposed detached garage and storage accessory structure is allowed provided it is accessory to the primary residential use of the property within the governing R-1:B-2 (Residential, Single Family, 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 Strawberry 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 garage and storage area which is commonly associated with surrounding residential land uses. As indicated in Finding IV.E, the project would comply with the requirements of Marin County Code Chapter 13.18 by avoiding visibility obstructions to vehicles on either Reed Boulevard or Reed Circle. Further, the garage has been design in conformance with Policy C-1.4 of the Marin County Single Family Residential Design Guidelines because the garage would be detached from the residence and would be oriented with the door turned away from the street to minimize its visual presence. This orientation would also provide sufficient area for ingress and egress, satisfying the requirements of the Department of Public Works.

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 be constructed in a manner which would preclude potential injury to improvements on the subject property, and improvements on neighboring properties.

SECTION II: CONDITIONS OF PROJECT APPROVAL

NOW, THEREFORE, BE IT RESOLVED that the Marin County Deputy Zoning Administrator hereby approves the Lehua Use Permit 08-1 subject to the following conditions:

Marin County Community Development Agency, Planning Division

1. Pursuant to Marin County Code Section 22.48.040 (Use Permit), AND AS MODIFIED BY THESE CONDITIONS OF APPROVAL, the Lehua Use Permit 08-1 hereby approves the construction of a 665 square foot, 11-foot, 7-inch tall detached garage and storage/mechanical room located 5 feet from the northeasterly front property line and 10 feet from the southerly side property line. Approved building materials include composition shingle roofing and siding to match the existing residence.

The property is located at 226 Reed Circle, Mill Valley, and is further identified as Assessor's Parcel 043-213-02.

2. Plans submitted for a building permit shall substantially conform to plans identified as "Exhibit A," entitled, "Lehua Addition," consisting of 3 sheets, prepared by William Cullen, dated April 2007, revised November 23, 2007 and March 5, 2008, and on file in the Marin County Community Development Agency.
3. BEFORE ISSUANCE OF A BUILDING PERMIT, the applicant shall revise site plan or other first sheet of the office and job site copies of the Building Permit plans to list these Use Permit Conditions of Approval as notes.
4. BEFORE ISSUANCE OF A BUILDING PERMIT, the applicant shall revise the plans to depict the location and type of all exterior lighting for review and approval of the Community Development Agency staff. 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. The Building Plans shall include specifications (cut sheet) for all exterior lights.
5. BEFORE ISSUANCE OF A BUILDING PERMIT, the applicant shall submit a landscape and irrigation plan for review and approval by the Community Development Agency. The plan shall include native, drought-tolerant planting selections (including scientific and common plant names, and container sizes) that partially screen and soften the appearance of the new garage/storage structure. The landscape plan must also clearly depict trees to be removed, and location, type and size of replacement trees.
6. BEFORE FOUNDATION INSPECTION, the applicant shall have a licensed land surveyor or civil engineer with proper certification conduct a survey of the front and side property lines to verify building setbacks for the detached accessory structure and submit a written (stamped) confirmation to the Planning Division confirming that the structure maintains distances to property lines consistent with this approval.
7. 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.
8. BEFORE FINAL INSPECTION, the applicant shall install all proposed and required landscaping and a drip irrigation system to serve it. The applicant shall call for a Community Development Agency staff inspection of the landscaping and irrigation at least five working days before the anticipated completion of the project. Failure to pass inspection will result in withholding of the occupancy certificate and imposition of hourly fees for subsequent reinspections.
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.
 - 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.
10. All utility connections and extensions (including but not limited to electric, communication, and cable television lines) serving the development shall be undergrounded from the nearest overhead pole from the property, 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 the Lehua Use Permit 08-1 for a detached accessory structure, 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 Development

13. Portions of the existing privacy fence and patio facility encroach into the road right-of-way. The County of Marin has no record of any permit for its existence in the right-of-way and therefore requires that it be removed and located outside of the road right-of-way.
14. BEFORE ISSUANCE OF A BUILDING PERMIT, the applicant shall submit pertinent design information as specified below.
 - a. Revise plans to depict 5-foot to 10-foot radius driveway flares.
 - b. An Encroachment Permit will be required for construction within the road Right-Of-Way.
 - c. Revise plans to depict and label the 15-foot structure setback line consistent with subdivision map.

Southern Marin Fire Protection District

15. An automatic residential fire sprinkler system is required to be installed in the main residence, including garages. Plans for fire sprinkler system design shall be reviewed and approved by the Southern Marin Fire Protection District prior to installation.
16. BEFORE FINAL INSPECTIONS, the applicant shall submit written certification from the District Fire Marshal that the project complies with all District regulations, including, but not limited to the following items listed below.
 - a. Smoke detectors shall be installed in accordance with the Uniform Building Code.
 - b. A remotely located, second means of egress shall be provided for each floor above the first.
 - c. The address shall be posted in accordance with requirements of the Uniform Fire Code.
 - d. Non-combustible roofing is required for all new construction.
 - e. Provide for compliance with Public Resources Code 4291 relating to brush and weed clearance.
 - f. Prior to occupancy, a spark arrestor shall be installed on the chimney(s).

SECTION III: VESTING, PERMIT DURATION, AND APPEAL RIGHTS

NOW, THEREFORE BE IT FURTHER RESOLVED that the applicant must vest this Lehua Use Permit 08-1 approval by obtaining a Building Permit, or other construction permit if required, for the approved work and substantially completing all work before January 31, 2010, 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.

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 approval 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 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 March 24, 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 13th day of March, 2008.

JEREMY TEJIRIAN, AICP
MARIN COUNTY DEPUTY ZONING ADMINISTRATOR

Attest:

Joyce Evans
Deputy Zoning Administrator Secretary

**H3. DESIGN REVIEW (DM 07-43) AND USE PERMIT (UP 07-32):
LORI ROBINSON AND ROSEMARIE SCAFA**

Hearing proposing additions and renovations to an existing 1,683 square foot residence on the 17,916 square foot parcel. Design Review is required for retaining walls, pool, vestibule, and ~~landcapelandscape~~ and hardscape features. Use Permit approval is required for encroachment of the carport and storage enclosure into the front (west) and side (south) setbacks. The proposed work to occur within the setbacks include: 1) a new 25 foot long by 8.5 foot wide vestibule, with a height of 9 feet, 3 inches; 2) new pool, terrace and retaining wall (height of 9 feet); 3) new stairs, retaining wall (Max. height of 9 feet), and planter boxes; 4) new 673 square foot carport and storage, with a height of 12 feet. Also proposed is a new 650 square foot addition to the rear (east) of the residence, connected to the main residence by an enclosed bridge. The subject property is located at **530 Shoreline Highway, Mill Valley**, and is further identified as **Assessor's Parcel 050-081-13**.

In response to the Hearing Officer, staff summarized the supplemental memorandum, highlighting the issues brought forth at the August 30, 2008 hearing, including revised architectural plans, detailed landscape plan and a drainage plan and hydrology report.

The public testimony portion of the hearing was opened.

~~Ernie~~Ernie Selander, architect, spoke regarding the 3 foot setbacks on the side on the side of the garage that will eliminate any downhill drainage issues. He asked if the ~~vestibul~~vestibule could encroach into the setback. He discussed the net water runoff and the setback near the tree.

Jonathan Canick, neighbor, spoke regarding concerns with the bamboo that touches the power lines, a retaining wall built without sufficient support, and drainage diverted into his backyard that caused flooding. He would like to address these issues with the ~~applicant~~applicant, but has not been successful to date.

The Hearing Officer noted that the ~~memorandum~~memorandum from the Department of Public Works, regarding ~~that~~the lack of completion regarding the drainage issue, and lack of a drainage plan. A set of drainage plans, showing the ~~existng~~existing pattern and methods to ~~elivate~~elevate the problem such as ~~permiabile~~permeable surfaces, will be needed to approve the project. The bamboo that ~~touch~~touches the power lines needs to be addressed to comply with PG&E clearance requirements and the siting of the carport in relationship to the distance to the tree. Borings will have to be taken to ascertain if the location of the where the carport should would impact the oak at 528 Shoreline Highway be located. A Condition of Approval should be added stating that the carport will not be used as a deck. A pathway for access for fire ~~personnel~~personnel is a concern and therefore a setback from the side property lines is appropriate.

The Hearing Officer continued the item to the hearing of April 19, 2008 so that the applicant can gather the above information.