



**MARIN COUNTY
COMMUNITY DEVELOPMENT AGENCY**

ALEX HINDS, DIRECTOR

**STAFF REPORT TO THE DEPUTY ZONING ADMINISTRATOR
Miller Use Permit**

Item:	C-1	Applications:	UP 08-28, DC 08-45, SU 08-25
Applicant:	Ralph Alexander	Owner:	Michael Miller
Address:	55 Caribe Isle, Novato	Assessor's Parcel:	157-530-07
Hearing Date:	July 31, 2008	Planner:	Vivian Lo
		Reviewed by:	Ben Berto

RECOMMENDATION: Approval with Conditions
APPEAL PERIOD: August 11, 2008
LAST DATE FOR ACTION: August 1, 2008

PROJECT DESCRIPTION:

The applicant is seeking Use Permit approval to convert an existing 400 square foot detached accessory structure located at the rear of the property to a legal second unit. The Use Permit approval is required because the as-built height of the structure is 17 feet, 2 inches from grade, where a maximum of 15 feet is permitted under the governing zoning district.

As built, the detached second unit attains a height of approximately 17 feet 2 inches from grade and maintains the following setbacks: 10 feet minimum from rear property line (west); 17 feet minimum from north and south side property lines; and 100 feet minimum from front property line (east). The structure has been in place since 2004.

Also proposed, but not a part of this Use Permit application, is Second Unit Permit and Design Review Clearance.

GENERAL INFORMATION:

Countywide Plan	Baylands
Land Use Designation:	SF4, Single-family residential, 20,000 square foot to 1< acre minimum lot area, 1-2 units per acre
Zoning:	BFC-RSP-1.6, Bayfront Conservation, Residential Single-family Planned, 1.6 units/acre
Lot size:	14,400 square feet
Adjacent Land Uses:	Single-family residential
Vegetation:	Introduced landscaping
Topography and Slope:	Level
Environmental Hazards:	Not indentified

ENVIRONMENTAL REVIEW:

The Environmental Coordinator has determined that this project is Categorically Exempt from the requirements of the California Environmental Quality Act pursuant to 15303, Class 3(a) of the CEQA Guidelines because the legalization of an existing accessory structure on a residentially developed lot would have no potentially significant impacts on the environment.

PUBLIC NOTICE:

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

Written approvals were received from Bel Marin Keys Community Services District, Michael J. Fish of 42 Cavalla Cay, Bambi & Brent Buckles of 23 Caribe Isle, and Jason & Penny Bacharach of 40 Caribe Isle for the project.

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 Bel Marin Keys Community Plan. Please refer to the plan consistency findings contained in the attached resolution.

PROJECT ANALYSIS:

The subject property is located within the Bayfront Conservation, Single-family Residential Planned, RSP-1.6 zoning district of Bel Marin Keys. The existing accessory building was previously approved in 2003 with a Design Review Clearance. The approved building height was 14.75 feet. The as-built height for the accessory building is 17 feet, 2 inches. The maximum height standard for accessory structures without Use Permit approval is 15 feet above grade. As a result, the applicant is requesting approval to exceed the 15 feet height standard.

Overall, the height and location of the accessory structure is appropriate. It is adequately screened by a fence and landscaping and is modest in size and design.

Although not a part of the Miller Use Permit application, the applicant is also applying for Second Unit Permit and Design Review Clearance to convert the detached accessory structure into a legal second unit.

Public Comments

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

Bel Marin Keys Architectural Control Committee has reviewed and approved the Use Permit for the height of 17 feet, 2 inches for the proposed second unit structure.

Staff received letters of approval from neighbors at 23 Caribe Isle, 40 Caribe Isle, and 42 Cavalla Cay.

RECOMMENDATION:

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

Attachments:

1. Photos
2. Letter of approval from Bel Marin Keys Community Services District
3. Letter of approval from neighbor at 42 Cavalla Cay
4. Letter of approval from neighbor at 23 Caribe Isle
5. Letter of approval from neighbor at 40 Caribe Isle
6. Section drawing of accessory structure

MARIN COUNTY DEPUTY ZONING ADMINISTRATOR

RESOLUTION #08-

**A RESOLUTION APPROVING
THE MILLER USE PERMIT 08-28
55 CARIBE ISLE, NOVATO**

ASSESSOR'S PARCEL 157-530-07

SECTION I: FINDINGS

- I. WHEREAS, Ralph Alexander, on behalf of the owners, Michael and Susan Miller, submitted an application for Use Permit to convert an existing 400 square foot, 17 feet, 2 inches tall, detached accessory structure into a legal second unit. Use Permit approval is required because the detached accessory structure has an as built height of 17 feet, 2 inches where 15 feet would be allowed. The subject property is located at 55 Caribe Isle, Novato, and is further identified as Assessor's Parcel 157-530-07.
- II. WHEREAS the Marin County Deputy Zoning Administrator held a duly noticed public hearing on July 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(a) because the conversion of the detached accessory structure to a legal second unit 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 for the following reasons:
 - A. The project would be consistent with the SF4 (Single-family, 20,000 square foot to <1 acre minimum lot area, 1-2 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;
 - 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, 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 400 square foot detached second unit would be subordinate to an existing residence and is a permitted use in the BFC-RSP-1.6 zoning district pursuant to Marin County Code Section 22.10.030, Table 2-3. The proposed improvements conform to the BFC-RSP-1.6 zoning district standards and with Marin County Code Section 22.20.090.2.c, Setback Requirements and Exceptions because the applicant is applying for a Use Permit for the detached accessory structure located within a required setback.

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

Please see Section IV above.

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

Please see Section III above.

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

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

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

The proposed improvements would not impair the architectural integrity and character of the BFC-RSP-1.6 zoning district.

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

The project proposes minor interior improvements, accessory to the single-family residence. Including the findings described above in Section V, A through E, 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.

SECTION II: CONDITIONS OF PROJECT APPROVAL

NOW, THEREFORE, BE IT RESOLVED that the Marin County Deputy Zoning Administrator hereby approves the Miller Use Permit (UP 08-28) subject to the following conditions:

Marin County Community Development Agency, Planning Division

1. Pursuant to Chapter 22.48 (Use Permits) of the Marin County Code, the Miller Use Permit is approved for the over height of a 400 square foot detached accessory structure. The detached accessory structure will maintain a height of 17 feet, 2 inches above grade and maintains the following setbacks from corresponding property lines: 10 feet minimum from rear property line (west); 17 feet minimum from north and south side property lines; and 100 feet minimum from front property line (east). The subject property is located at 55 Caribe Isle, Novato, and is further identified as Assessor's Parcel 157-530-07.

A separate Second Unit Permit and Design Review Clearance applications are filed to convert the detached accessory structure to a legal second unit. They are not part of this Use Permit application.

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, "Miller Residence," consisting of six sheets, received December 4, 2007; Exhibit A-1, "Miller Residence, site plan," received March 17, 2008, prepared by Ralph J. Alexander & Associated; Exhibit A-2, "Play Pavilion-Miller Res," consisting one sheet, prepared by Harney Construction, received March 17, 2008; and Exhibit A-3, "Section A-A," consisting one sheet, received June 2, 2008, prepared by Ralph J. Alexander & Associates.
3. The detached accessory structure shall not contain cooking facilities, and shall not be rented as a separate dwelling, unless a Second Unit Permit is first obtained from the County of Marin Community Development Agency.
4. 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.
5. BEFORE FINAL INSPECTION AND VESTING THE APPROVAL, the Notice of Decision shall be recorded on the title of the subject property.
6. Exterior lighting shall be located and/or shielded so as not to cast glare on nearby properties.
7. 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.

8. 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.
9. 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.
10. 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.
11. 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

12. Prior to Issuance of BUILDING PERMIT, the applicant shall submit or complete the items under the Second Unit Permit application.

SECTION III: VESTING, PERMIT DURATION, AND APPEAL RIGHTS

NOW, THEREFORE BE IT RESOLVED that the applicant must vest the Miller Use Permit approval before July 31, 2009 with the issuance of a Building Permit 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 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 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 detached accessory structure within the rear yard area and over 15 feet tall 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 August 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 July, 2008.

Johanna Parti, AICP
DEPUTY ZONING ADMINISTRATOR

Attest:

Joyce Evans
Deputy Zoning Administrator Secretary