



MARIN COUNTY COMMUNITY DEVELOPMENT AGENCY

ALEX HINDS, DIRECTOR

STAFF REPORT TO THE DEPUTY ZONING ADMINISTRATOR ZIEGLER USE PERMIT

Item No:	C1	Application No:	UP 09-3
Applicants:	Schwartz and Architecture	Owners:	Sophie Ziegler
Property Address:	2200 Nicasio Valley Rd., Nicasio	Assessor's Parcel:	121-160-31
Hearing Date:	July 31, 2008	Planner:	Veronica Corella-Pearson

RECOMMENDATION:	Approve with Conditions
APPEAL PERIOD:	August 14, 2008
LAST DATE FOR ACTION:	July 31, 2008

PROJECT DESCRIPTION:

The applicant, Schwartz and Architecture, has applied on behalf of the owner, Sophie Ziegler, for Use Permit approval to allow construction of a new 126 foot by 60 foot tennis court, with chain link fencing which will have a height of 10 feet. The tennis court will be located 110 feet from the front (south) property line, and over 200 feet away from all other property lines. Also proposed is external path lighting which would be downcast and low wattage. Use Permit approval is required for the proposed tennis court pursuant to Marin County Code Section 22.32.130.D.

GENERAL INFORMATION:

Countywide Plan:	AG1 (1 unit/31-60 acres)
Zoning:	ARP-60 (Agricultural, Maximum density 1 unit/60 acres)
Lot size:	41.3 acres
Adjacent Land Uses:	Single-family residential
Vegetation:	Annual grassland with California bay
Topography & Slope:	Level to moderately sloping
Environmental Hazards:	None identified

ENVIRONMENTAL REVIEW:

The Environmental Coordinator has determined that this project is Categorically Exempt from the requirements of the California Environmental Quality Act (CEQA) pursuant to 15303, Class 3 of the CEQA Guidelines because construction of the tennis court will not result in significant negative impacts to the environment.

PUBLIC NOTICE:

The Community Development Agency has provided public notice identifying the applicant, describing the project and its location, and giving the earliest possible decision date in accord with California Government Code requirements. This notice has been mailed to all property owners within 600 feet of the subject property. To date, no correspondence has been received in response to the public notice.

PLAN CONSISTENCY:

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

BACKGROUND:

The property was recently approved for the demolition of an existing residence and new development which will include the construction of a new one-story, 4 bedroom residence, which will have a size of 4,025 square feet with a detached garage that will be 1,075 square feet and a work studio that will be 745 square feet. Also approved is: 1) the removal and replacement of an existing culvert; 2) the removal and relocation of propane tanks; 3) re-grading previously disturbed areas; 4) a new septic system; 5) the removal of a retaining wall; 6) the removal of 20 protected native trees and replacement with 66 trees; 7) a photovoltaic system; and 8) an outdoor kitchen, swimming pool and spa.

PROJECT ANALYSIS:

The tennis court would be located on the southern portion of the property, which is currently an outdoor riding arena. It would be 126 feet by 60 feet and setback 110 feet from the front property line and over 200 feet from all other property lines. Existing is a row of mature Eucalyptus along the front property line (south) and on the east side and within 65 feet is a grove of California bay laurel. The applicant is proposing 16 evergreen trees surrounding the west side of the court to provide additional vegetative screening. The proposed fencing would be open black chainlink fencing which would be 10 feet in height. Proposed lighting includes downlighting which will be located around the perimeter of the court and will be shielded.

After a site visit and review of the supplemental and required materials, staff finds that the proposed tennis court is located in an area of existing disturbance and will not result in adverse grading or vegetation removal. In addition, the existing and proposed landscaping will sufficiently shield the court from the public. Yet, staff is recommending that under Condition of Approval #4 that the only lighting be along the walkway to, and at the entrance gate of the tennis court, and that all lighting be low wattage, downcast and shielded. In addition all trees proposed be native to Marin County.

RECOMMENDATION:

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

Attachments:

1. Proposed Resolution recommending approval with conditions of the Ziegler Use Permit (UP 09-3)
2. CEQA Exemption

3. Location Map
4. Site Plan
5. Key Plan
6. Site Plan
7. Site Plan and Fencing Details
8. Landscape Plan and Legends
9. Lighting Specifications (2 pages)
10. Environmental Health Services, Water memo sent 4/24/08
11. Environmental Health Services, Sewage memo sent 4/16/08
12. Department of Public Works – Land Development, memo sent 4/15/08
13. Nicasio Design Review Board, letter sent 4/23/08
14. Marin County Fire Department, letter sent 5/20/08

MARIN COUNTY DEPUTY ZONING ADMINISTRATOR

RESOLUTION _____

A RESOLUTION CONDITIONALLY APPROVING THE YOSHIDA USE PERMIT (UP 07-31)
2200 NICASIO VALLEY ROAD, NICASIO
ASSESSOR'S PARCEL 121-160-31

SECTION I: FINDINGS

- I. WHEREAS the applicant, Schwartz and Architecture, has applied on behalf of the owner, Sophie Ziegler, for Use Permit approval to allow construction of a new 126 foot by 60 foot tennis court with chain link fencing which will have a height of 10 feet. The tennis court will be located 110 feet from the front (south) property line, and over 200 feet away from all other property lines. Also proposed is external path lighting which would be downcast and low wattage. The subject property is located at 2200 Nicasio Valley Road, Nicasio and is further identified as Assessor's Parcel 121-160-31.
- II. WHEREAS the Marin County Deputy Zoning Administrator held a duly noticed public hearing 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 15303, Class 3 because construction of the tennis court will not result in significant negative impacts to 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 is consistent with *CWP* natural systems policies requiring the enhancement, protection, and management of native habitats and the protection of woodlands, forest, and tree resources (*CWP Policies BIO-1.1 and BIO-1.3*).
 - B. The project complies with *CWP* natural systems policies supporting vegetation and wildlife disease management programs and promoting the use of native plant species (*CWP Policies BIO-1.4, BIO-1.5 and BIO-1.6*).
 - C. The project will not result in impacts to special-status species (*CWP Policies BIO-1.1, BIO-2.1, and BIO-2.2*).
 - D. The project will not significantly impact the ecotones on the project site, or natural transitions between habitat types on the project site and those ecotones on the private open space adjacent to the project site, or impact corridors for wildlife movement (*CWP Policies BIO-2.3 and BIO-2.4*).

- E. No wetlands or stream conservation areas will be affected by the project (*CWP Policies BIO-3.1 and CWP BIO-4.1*).
 - F. The project will not result in significant stormwater runoff to downstream creeks or soil erosion and discharge of sediments into surface runoff (*CWP Policies WR-2.1, WR-2.2, WR-2.3, and WR-2.4*).
 - G. The project avoids hazardous geological areas and will be designed to County earthquake standards through review of the Building Permit application review (*CWP Policies EH-2.1, EH-2.3, and CD-2.8*).
 - H. The project design and improvements ensure adequate fire protection (*CWP Policy EH-4.1*), water for fire suppression (*CWP Policy EH-4.c*), defensible space, compliance with Marin County fire safety standards, construction of fire sprinklers and fire-resistant roofing and building materials (*CWP Policies EH-4.d, EH-4.e, EH-4.f, and EH-4.n*), and clearance of vegetation around the proposed structure (*CWP Policy EH-4.h*).
 - I. The project has been designed ensure that development in the rural area is consistent with local design and scale and does not detract from the open character of the surrounding landscape or public open space (*CWP Policy DES-1.2*).
 - J. The project will require energy efficient standards for exterior lighting, reducing excessive lighting, light pollution, light trespass, and glare. (*CWP Policy DES-1.h*).
 - K. The project will preserve visual quality and protect scenic quality and views of the natural environment from adverse impacts related to development (*CWP Policy DES-4.1*).
- V. WHEREAS the Marin County Deputy Zoning Administrator finds that the proposed project is consistent with the Nicasio Community Plan because the project would:
- A. Minimize adverse physical and visual effects of the project by adequately screening it from off-site locations;
 - B. Provide for development which is in harmony with the natural and built environment;
 - C. Preserve agricultural land and protect the natural beauty of the area.

VI. 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 ARP-60 zoning district standards and with Marin County Code Section 22.32.130.D which allows tennis courts with a Use Permit.

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

Please see Section IV and V 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 tennis court has been sited and designed to be screened from all neighboring properties utilizing evergreen trees as vegetative screening. A tennis court is a compatible with the single-family residential land use of the neighboring properties.

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

The tennis court is sufficiently screened and will not result in incompatibility with the ARP-60 (Agricultural, Residential Planned, Maximum density 1 unit/60 acres) zoning district since it will not be visible to neighboring properties or to the public.

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 is located entirely on the subject property, and will not be sited in a location which would result in adverse impact to public health or welfare.

SECTION II: CONDITIONS OF PROJECT APPROVAL

NOW, THEREFORE, BE IT RESOLVED that the Marin County Deputy Zoning Administrator hereby approves the Yoshida 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 Ziegler Use Permit is approved for the construction of a new 126 foot by 60 foot tennis court, with chain link fencing which will have a height of 10 feet. The tennis court will be located 110 feet from the front (south) property line, and over 200 feet away from all other property lines. Also proposed is external path lighting which would be downcast and low wattage. The subject property is located at 2200 Nicasio Valley Road, Nicasio and is further identified as Assessor's Parcel 121-160-31.
2. Plans submitted for a Building Permit shall substantially conform to plans identified as "Exhibit A," entitled "2200 Nicasio Valley Road," consisting of 6 sheets prepared by Schwartz and Architecture, and received March 31, 2008, and on file with the Marin County Community Development Agency, except as modified by the conditions listed herein.
 - a. Landscape plans shall show all replacement trees being native trees of Marin County.
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. The only exterior lighting that is approved for the tennis court is at the entrance and walkway to the tennis court, which shall be low wattage, downcast and shielded.
5. BEFORE ISSUANCE OF A BUILDING PERMIT for any of the work identified in Condition 1 above, the applicant shall install temporary construction fencing around the dripline of the existing trees in the vicinity of any area of grading, construction, materials storage, soil stockpiling, or other construction activity. The fencing is intended to protect existing vegetation during construction and shall remain until all construction activity is complete. The applicant shall submit a copy of the temporary fencing plan and site photographs confirming installation of the fencing to the Community Development Agency.
6. BEFORE ISSUANCE OF A BUILDING PERMIT, the applicant shall submit either: 1) a Statement of Conformance, signed by a certified or licensed landscape design professional confirming that the landscape design requirements of Chapter 23.10 of the Marin County Code have been met.
7. BEFORE FINAL INSPECTION, the applicant shall submit a Statement of Completion, signed by a certified or licensed landscape design professional, verifying that all approved and required landscaping has been installed in accordance with the approved landscape plan and Chapter 23.10 of the Marin County Code, where applicable.

8. BEFORE FINAL INSPECTION, the applicant shall install all landscaping and an automatic drip irrigation system in accordance with the approved landscape plan. The applicant shall call for a Community Development Agency staff inspection of the landscaping at least five working days before the anticipated completion of the project. Failure to pass inspection will result in withholding of the Final Inspection and imposition of hourly fees for subsequent reinspections.
9. The applicant shall retain the services of a licensed arborist, botanist, or forester to periodically monitor the construction activities and to submit a report confirming that the project has complied with all of the best management practices and other requirements of the tree assessment BEFORE FINAL INSPECTION.
10. All site development construction practices shall be in accord with the recommended guidelines and inspection schedule contained in the tree assessment stated on sheet L-1.1C of the plans. The applicant shall comply with all recommendations made by the licensed professional with respect to tree protection during construction activities, general tree care practices, and long-term vegetation management to ensure continued viability of the site's native vegetation.
11. BEFORE FINAL INSPECTION, the applicant shall submit a Statement of Completion, signed by a certified or licensed landscape design professional; verifying that all approved and required landscaping has been installed in accordance with the approved landscape plan and Chapter 23.10 of the Marin County Code, where applicable.
12. 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 measures 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 measures 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.

13. 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.
14. 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.
15. 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 Use 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.
16. 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 - Land Use and Water Resources Division

17. PRIOR TO ISSUANCE OF A BUILDING PERMIT the applicant shall provide a Stormwater Control Plan (SPC) that meets those criteria contained in the MCSTOPP Guidance for Applicants, Stormwater Quality Manual for Development Projects in Marin County. The SPC

shall include a Stormwater Pollution Prevention Plan that includes construction measures, permanent post construction measures (SPC) and an operation and maintenance plan to maintain the stormwater facilities in perpetuity. Prior to final inspection and once the improvements have been completed, the property owner shall sign the O&M plan as the responsible party.

SECTION III: VESTING, PERMIT DURATION, AND APPEAL RIGHTS

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

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

NOW, THEREFORE BE IT FURTHER RESOLVED that this decision is final unless appealed to the Planning Commission. A Petition for Appeal and a \$600.00 filing fee must be submitted in the Community Development Agency – Planning Division, Room 308, Civic Center, San Rafael, no later than **August 14, 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 31st day of July, 2008.

JOHANNA PATRI, AICP
MARIN COUNTY ACTING DEPUTY ZONING ADMINISTRATOR

Attest:

Joyce Evans
DZA Secretary