



MARIN COUNTY
 COMMUNITY DEVELOPMENT AGENCY
 BRIAN C. CRAWFORD, DIRECTOR

**STAFF REPORT TO THE MARIN COUNTY
 DEPUTY ZONING ADMINISTRATOR
 HATHAWAY FLOATING HOME ADJUSTMENT**

RECOMMENDATION: Approve with Conditions
HEARING DATE: April 14, 2011

Project ID No:	10-0260	Applicant:	Paul Bergeron
Application No:	FH 11-4		(415) 332-7539
			Paul@PaulBergeronRealEstate.com
Agenda Item:	2	Owners:	Brad and Teddie Hathaway,
Last Date for Action:	May 22, 2011	Assessor's Parcel No:	901-070-30.
		Property Address:	30 East Pier, Kappas Marina, Sausalito
		Project Planner:	Lorene Jackson
			(415) 473-5084
			lajackson@co.marin.ca.us
		Signature:	

Countywide Plan Designation: FH (Floating Home))
 Community Plan Area: N.A.
 Zoning: BFC-RF (Bayfront Conservation District, Residential Floating Home Marina
 CEQA: Categorically Exempt per Section 15301, Class 1

PROJECT DESCRIPTION:

The applicant, Paul Bergeron, on behalf of owners Brad and Teddie Hathaway, is proposing to construct a 576-square foot addition to an existing 1,404-square foot floating home. The resulting 1,980-square foot structure would attain a maximum height of 25.3 feet above the water line, with an additional 2 feet of chimney, and result in an 823-square foot main level and 329-square foot second level. The existing 828-square foot barge level would remain the same. The project would entail a new, 329-square foot second level and a 247-square foot addition to the main level created by enclosing the existing front and northerly side decks. The resulting dimensions of the superstructure, including roof overhangs and bay windows, would be approximately 48.5 feet in length by 27 feet in width. The floating home would have the following setbacks from the adjacent floating homes: 10 feet from 32 East Pier and 11.2 feet from 28 East Pier. A Floating Home Adjustment is required because the proposed addition would exceed each of the following: a maximum height of 20 feet above the water line, a length of 46 feet, and a width of 20 feet.

PROJECT SETTING

Adjacent Land Uses:	Floating Homes
Vegetation:	None
Topography and Slope:	None
Environmental Hazards:	Wind-blown storm waves and tsunami

The subject floating home is located within the floating home community of Waldo Point Harbor, Sausalito. Access to the floating homes is provided across the East Pier of the Kappas Marina. County GIS indicates that the subject parcel does not overlay underwater road right of ways.

The County GIS Natural Diversity Database indicates that the tidal wetland near the project site is potential habitat for the Hairless Popcorn Flower, California Black Rail, and White-rayed Pentachaeta. The relevant habitat for both the Hairless Popcorn Flower and the California Black Rail is salt-water marshes. The existing floating home rests on the mud during low tide. Mudflats are not suitable habitat for the Hairless Popcorn Flower; which is presumed extinct with the last specimen collected in 1924. Mudflats do not provide suitable nesting for California Black Rail; they breed in salt or freshwater marshes where the ground is moist but not entirely submerged. The habitat for the White-rayed Pentachaeta is bunchgrass communities associated with serpentine soils, which do not occur on this site.

BACKGROUND

On August 31, 2010, Paul Bergeron submitted an application for a Floating Home Architectural Deviation to construct a 262-square foot second floor addition to an existing 1,404-square foot floating home. As initially proposed, the addition would have retained the existing maximum height of 20 feet from the water line and resulted in an 828-square barge level and 838-square foot main level. The initial project would have entailed a 126-square foot addition to the front and 126-square foot addition to the rear upper level, resulting in a main floor that generally matched the footprint of the barge level. The resulting dimensions of the superstructure, including roof overhangs, would have been approximately 50.5 feet in length by 26 feet in width. A Floating Home Architectural Deviation was required because the proposed addition would exceed a maximum length of 46 feet and width of 20 feet, and would exceed a maximum height of 16 feet above the water line, but not exceed 20 feet.

The adjacent neighbor at 28 East Pier expressed concern about the enclosure of the rear deck, which they felt would reduce more than half of their water view from their outdoor living area. They were otherwise supportive of the project's roof alterations, front addition, and remodeled walkway. (Attachment 9)

In response to the neighbor's concerns, the applicant redesigned the project and filed the current application for a Floating Home Adjustment on December 9, 2010. The subject application is for a larger 576-square foot addition that leaves the easterly rear deck of the main level open and adds a 329-square foot second level. The current application includes a 247-square foot addition to the main level, which includes the originally proposed westerly front addition and interior stairway to the second level.

The applicant provided project plans and a letter of reason for the architectural adjustment. (Attachment 6) No story poles were installed.

The project was reviewed by the Southern Marin Fire Protection District, Floating Homes Association, Waldo Point Harbor Master, and the Sausalito Sanitary District. Received comments are presented in Attachments 7 and 8. No other comments were received from reviewing agencies or associations.

The Community Development Agency 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 was mailed to all property owners within 300 feet of the subject property, as well as to interested parties. At the time this staff report was prepared, no adverse comments were received. The applicant submitted a signed statement of approval from all neighboring owners at 27, 28, 29, and 31 East Pier, as well as the current tenants at 32 East Pier. (Attachment 10)

RECOMMENDATION

Staff recommends that the Deputy Zoning Administrator review the administrative record, conduct a public hearing, and adopt the attached resolution approving the Hathaway Floating Home Adjustment.

- Attachments:
1. Recommended Resolution approving the Hathaway Floating Home Adjustment.
 2. CEQA Exemption
 3. Location Map
 4. Assessor's Parcel Map
 5. Site and Project Plans
 6. Paul Bergeron Letter, 12/9/2010
 7. Waldo Point Harbor Master Letter, 2/3/2011
 8. Southern Marin Fire Protection District Letter 9/21/2010 and Email, 12/13/2010
 9. Gordon Haight and Linda Meyer (Neighbors) Letter, 10/12/2010
 10. Signed Letter of Support from Adjacent Neighbors, dated 2/7/2011 and received 3/22/2011

MARIN COUNTY DEPUTY ZONING ADMINISTRATOR

RESOLUTION NO. _____

A RESOLUTION APPROVING
HATHAWAY FLOATING HOME ADJUSTMENT (FH 11-4)
30 EAST PIER, KAPPAS MARINA, SAUSALITO
ASSESSOR'S PARCEL 901-070-30

SECTION I: FINDINGS

- I. WHEREAS Paul Bergeron, on behalf of owners Brad and Teddie Hathaway, is proposing to construct a 576-square foot addition to an existing 1,404-square foot floating home. The resulting 1,980-square foot structure would attain a maximum height of 25.3 feet above the water line, with an additional 2 feet of chimney, and result in an 823-square foot main level and 329-square foot second level. The existing 828-square foot barge level would remain the same. The project would entail a new, 329-square foot second level and a 247-square foot addition to the main level that would be created by enclosing the existing front and northerly side decks. The resulting dimensions of the superstructure, including roof overhangs, would be approximately 48.5 feet in length by 27 feet in width. The floating home would have the following setbacks from the adjacent floating homes: 10 feet from 32 Kappas East Pier and 11.2 feet from 28 Kappas East Pier. A Floating Home Adjustment is required because the proposed addition would exceed each of the following: a maximum height of 20 feet above the water line, a length of 46 feet, and a width of 20 feet. The zoning for these parcels is CP (Planned Commercial). The subject property is located at **30 East Pier, Kappas Marina Sausalito** and is further identified as **Assessor's Parcel 901-070-30**.
- II. WHEREAS the Marin County Deputy Zoning Administrator held a duly noticed public hearing on April 14, 2011 to consider the merits of the project, and hear testimony in favor of and in opposition to the project. The Community Development Agency has provided public notice identifying the applicant, describing the project and its location, and the date of the public hearing. This notice has been mailed to all property owners within 300 feet of the subject property, as well as to interested parties.
- 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 (CEQA) pursuant to Section 15301, Class 1 of the CEQA Guidelines because it is a minor addition to an existing houseboat that would not result in potentially significant impacts to the environment.
- IV. WHEREAS the Marin County Deputy Zoning Administrator finds that the proposed project is consistent with the Marin Countywide Plan (CWP) and the Richardson Bay Special Area Plan because the project would be consistent with the following policies:
 - A. The project is consistent with the CWP's Floating Home land use designation and policies for the Bayland Corridor (CWP Policies BIO-5.1) The project is consistent with Policy 1 of the Richardson Bay Special Area Plan-Residential Vessels and Floating Structures, which allow floating homes on the Bayfront

Conservation Floating Home land use designations and the subject property will continue to be used for a residential floating home.

- B. The project is consistent with CWP Policies BIO-3.1, and policies of the Richardson Bay Special Area Plan, which call for the protection of wetland areas, because the project is an addition to and existing floating homes that would result in no change in the amount of bay shadow fill.
 - D. The project is consistent with CWP Policy DES-4.1 and Policy 10 of the Richardson Bay Special Area Plan-Public Access, Views, and Vistas, because the project would preserve visual qualities and view potential of the surrounding environment, because the project would not result in significant loss of views and would not adversely affect the visual quality of the marina.
 - E. The project would not result in impacts to special-status species (CWP Policies BIO-1.1, BIO-2.1, and BIO-2.2) because there is no suitable habitat on-site. Further, since the proposed project would not change the size of the existing barge, there would be not change in potential habitat.
 - F. The project would avoid excessive lighting and glare (CWP Policy DES-1.h) because standard conditions of project approval require that lighting be downward directed.
 - G. The project design and conditions of approval ensure adequate fire protection (CWP Policy EH-4.1) and compliance with Marin County fire safety standards (CWP Policies EH-4.d and EH-4.n).
- V. WHEREAS the Marin County Deputy Zoning Administrator finds that the proposed project is consistent with the mandatory findings for Floating Home Adjustment, pursuant to Section 22.46.040 of the Marin County Code can be made because:

A. The requested adjustment will not adversely or substantially diminish:

a. Light and ventilation to floating homes berthed adjacent to the proposed floating home

The increased length of the project would be created by a bay window and roof overhang to the westerly front of the floating home near the dock. A minor roof overhang above the new stairway along the northerly portion of the floating home would increase the width of the existing floating home by approximately 5 inches. While both the expanded length and width would result in an approximate length of 48.5 feet and width of 27 feet, which exceeds the 46-foot by 26-foot standard, they are minor architectural projections that don't exceed 30 inches (e.g. decks, roof overhangs, and bay windows) and are therefore allowed (MCC Section 22.46.030C.1.b.)

The existing floating home attains a maximum height of 19.9 feet, which includes a roof-top deck with solid mansard/railing. The new second level would increase the maximum height by 5.4 feet, not including a two-foot high chimney and flue.

The floor area of the new second level would be 30% of the floor level of the main level of the superstructure.

The project would not encroach into right of ways and is comparable to other floating homes in the area. The proposed project would correct an existing 9-inch encroachment into the 10-foot required separation between the adjacent floating home at 32 East Pier. This would offset an increased floor area along the northerly side of the floating home.

While the project increases mass and bulk, the stepped second floor addition, articulation, and fenestration would blend with the character of the community. The project would provide adequate separation to adjoining floating homes of 10 feet to the north and 11.2 feet to the south. Therefore, the project would not substantially diminish light, ventilation, and views to surrounding floating homes.

- b. Existing views and/or view corridors enjoyed by owners or tenants of neighboring or adjoining floating homes and floating home sites. The term "neighbor" is not to be construed to mean the owners or occupants of land-based properties or improvements.**

The project has been designed to preserve the view corridors enjoyed by adjoining floating homes. In lieu of building out on the easterly rear deck, which is a critical line of sight for neighboring views, the project would create the desired extra floor area with a small second floor addition

B. The size of the requested adjustment is:

- a. Comparable and compatible with the size of neighboring floating homes; and**

Floating homes within the immediately surrounding area represent an eclectic mix of various sizes, dimensions, and heights. Adjacent floating homes range from approximately 963 square feet to 3,380 square feet. While adjacent homes at 28 and 32 East Pier are one story, there are many two-story floating homes nearby. The project is a modest second-story addition that is set to the middle of the floating home to preserve viewsheds for neighboring floating homes.

- b. Will not encroach into any right-of-way, fairway, adjoining berth or any required open space.**

The project would not encroach into any fairways, paper streets, or adjoining berths, and would comply with Marin County Code Section 11.21.050 because the floating home would maintain a minimum of 10 feet separation from adjacent floating homes, where 10 feet is required for two-story structures.

C. The requested adjustment is the minimum necessary to satisfy the objectives sought by the owner and/or builder of the floating home.

The applicant has indicated that the proposed project is the minimum amount of space necessary to balance the objectives of the owner and preserve the views of

neighboring floating homes. While the initial project was for a smaller addition, it would have blocked the view of a neighboring floating home. The owners were seeking two separate studios, one in the front and one in the rear. The rear studio was moved to the second floor and the front studio area retained. By adding a small second floor, the addition includes the additional floor area of an interior stairway.

D. The requested adjustment will not result in any detriment to other floating homes in the immediate vicinity of the proposed floating home.

As discussed above, the height, length, width, and massing would not significantly diminish light, ventilation, and views. The project would be in character with the existing floating homes in the vicinity and, therefore, would not be detrimental to other floating homes in the immediate vicinity.

E. The deviation will not result in public health and safety hazards, including, but not limited to, applicable fire safety standards.

As conditioned, the addition would not result in public health and safety hazards because the project would not interfere with the existing walking decks, would provide adequate separation between floating homes, and would comply with all fire protection and prevention standards in the California Building Code, as verified during the building permit process.

SECTION II: ACTION

WHEREAS the Marin County Deputy Zoning Administrator hereby approves the Hathaway Floating Home Adjustment (FH-4) subject to the conditions of approval listed below. This approval authorizes the construction of a 576-square foot addition to an existing 1,404-square foot floating home. The resulting 1,980-square foot structure is approved to attain a maximum height of 25.3 feet above the water line, with an additional 2 feet allowed for a chimney, and to result in an 823-square foot main level and 329-square foot second level. The existing 828-square foot barge level shall remain the same dimensions. The project is approved to construct a new, 329-square foot second level and a 247-square foot addition to the main level that would be created by enclosing the existing front and northerly side decks. The resulting dimensions of the superstructure, including roof overhangs, are approved to be 48.5 feet in length by 27 feet in width. The floating home is approved to have the following setbacks (above and below water) from the adjacent floating homes: 10 feet from 32 East Pier and 11.2 feet from 28 East Pier. The subject property is located at **30 East Pier, Kappas Marina, Sausalito** and is further identified as **Assessor's Parcel 901-070-30**.

This decision certifies the proposed project's conformance with the requirements of the Marin County Development Code and in no way affects the requirements of any other County, State, Federal, or local agency that regulates development. A Building Permit and additional permits and/or approval may be required from the Department of Public Works, and the appropriate Fire Protection Agency.

SECTION III: CONDITIONS OF APPROVAL

County Community Development Agency - Planning Division

1. Plans submitted for a Building Permit shall substantially conform to plans identified as **Exhibit A**, entitled "Hathaway", consisting of four sheets prepared by Cobb Design and Drafting, revised January 12, 2011 and received January 31, 2011 and on file in the Marin County Community Development Agency, Planning Division, except as modified by the conditions listed herein.
2. BEFORE ISSUANCE OF A BUILDING PERMIT, the applicant shall submit a complete set of revised plans for review and approval by the Community Development Agency staff depicting the following changes. Once approved, the plans shall be incorporated into the approved project file as **Exhibit A-1** and shall supersede **Exhibit A**:
 - a. Revise all plans to indicate the full length and wide of the floating home that includes all portions of the structure (e.g. barge, bay windows, and roof overhangs.)
3. Approved exterior building materials and colors shall substantially conform to the color/materials sample sheet which is identified as **Exhibit B**, prepared by Paul Bergeron, received September 14, 2011 and on file with the Marin County Community Development Agency including:
 - a. Siding: Board and batten, color - Benjamin Moore 075, Vermont Slate
 - b. Mansard Wall/roofing: Cedar shingle, natural color
 - c. Trim: White
 - d. Rounded Roof: epoxy coating – Deck-70, beige

All flashing, metal work, and trim shall be treated or painted an appropriately subdued, non-reflective color.
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 Floating Home Adjustment conditions of approval as notes.
5. BEFORE ISSUANCE OF A BUILDING PERMIT, the applicant shall submit engineering calculations demonstrating that the existing barge can support the proposed addition without the use of sponsons or other floatation structures that would encroach within the approved setbacks.
6. BEFORE ISSUANCE OF A BUILDING PERMIT, the applicant shall submit written verification from the Harbor Master that the subject floating home maintains 10-foot setbacks (above and below water) from the adjacent floating homes. No allowance will be granted for encroachments due to sponsons or other floatation structure (MCC Section 22.32.075.)
7. Exterior lighting shall be located and/or shielded so as not to cast glare on nearby properties.

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. 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 application, for which action is brought within the applicable statute of limitations.
10. Any changes or additions to the project shall be submitted to the Community Development Agency in writing for review and approval before the contemplated modifications may be initiated. Construction involving modifications that do not substantially comply with the approval, as determined by the Community Development Agency staff, may be required to be halted until proper authorization for the modifications are obtained by the applicant.

Southern Marin Fire Protection District

11. BEFORE FINAL INSPECTION, the applicant shall provide confirmation from the Fire Marshal that all requirements of the Southern Marin Fire Protection District have been met.

SECTION IV: VESTING, PERMIT DURATION, AND APPEAL RIGHTS

NOW, THEREFORE BE IT FURTHER RESOLVED, 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 by **April 14, 2013**, 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 Planning permit (and no extensions have been granted), the Building Permit and planning 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 at least 10 days before the expiration of the Planning permit.

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, before **4:00 p.m. on April 28, 2011.**

SECTION V: DECISION

ADOPTED at a regular meeting of the Deputy Zoning Administrator of the County of Marin, State of California, on the 14th day of April 2011.

JOHANNA PATRI
MARIN COUNTY DEPUTY ZONING ADMINISTRATOR

Attest:

Joyce Evans
DZA Secretary