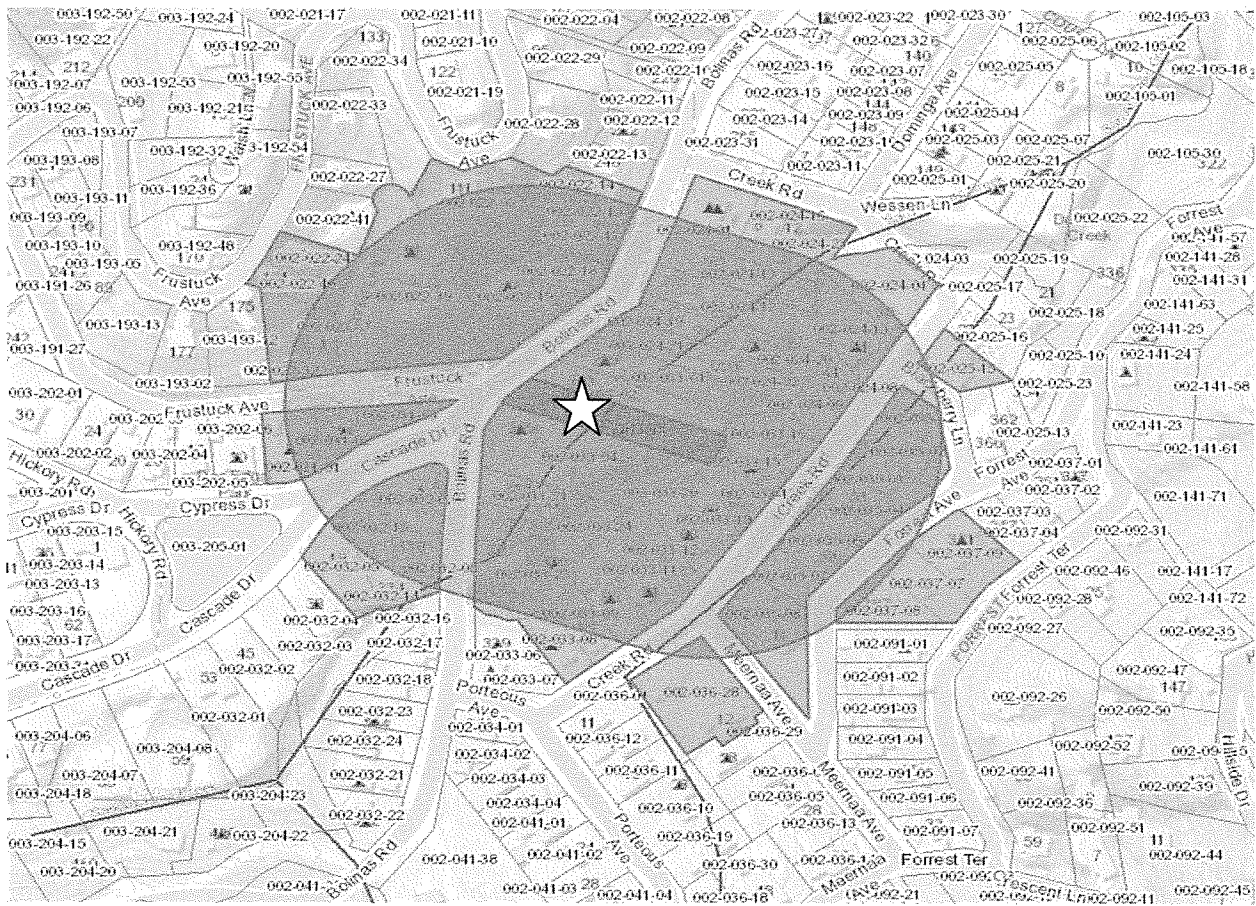


**TOWN OF FAIRFAX
STAFF REPORT
Department of Planning and Building Services**

TO: Fairfax Planning Commission
DATE: May 19, 2016
FROM: Jim Moore, Director of Planning and Building Services
Michelle Levenson, Zoning Technician
LOCATION: 303 Bolinas Road; Assessor's Parcel No. 002-033-02
ZONING: Residential RD 5.5-7 Zone
PROJECT: Construct a Residential Second Living Unit
ACTION: Use Permit, Parking Variance and Residential Second Living Unit
Square Footage Variance; Application # 16-16
APPLICANT: Laura Kehrlein, Architect-Fredric C. Divine Associates
OWNER: William and Martha Lawlor
CEQA STATUS: 15301(l)(4), 15303(e) and 15305(a)



303 BOLINAS ROAD

BACKGROUND

The project site is 12,308-square feet, level in topography (7-percent slope) and is developed with a 2,658-square-foot single family residence that was constructed in 1931. In addition to the residence, a 72-square-foot shed and an arbor structure are present on the site.

DISCUSSION

The project involves the construction of a detached, one-story, 713-square-foot residential second living unit that would include a 296-square-foot porch and a 250-square-foot deck. The new unit would reach a maximum height of 15 feet and would be accessed by the existing driveway and a new, approximately 15-foot-long pathway constructed of pervious materials. The shed and arbor structure would be removed prior to construction of the second unit.

The residential second living unit would comply with the zoning regulations for the RD 5.5-7 Zone as follows:

	Front Setback	Rear Setback	Combined Front/rear Setback	Side Setbacks	Combined Side Setbacks	FAR	Lot Coverage	Height
Required/ Permitted	6 ft.	20 ft. (creek setback)	25 ft.	5 ft. & 5 ft.	15 ft.	.40	.35	15 feet, 1 story (accessory structures)
Existing	6 ft.	171 ft.	177 ft.	5 ft. & 10 ft. (driveway within setback)	15 ft.	.22	.14	n/a
Proposed	6 ft.	80 ft.	86 ft.	5 ft. & 8 ft.	13 ft.	.27	.19	15 feet, 1 story (second unit)

The project requires approval of the following discretionary permits:

Conditional Use Permit

Town Code §17.084.030(J) defines a residential second living unit as a “conditional use”, requiring approval of a Conditional Use Permit by the Planning Commission. In addition, Town Code 17.084.050(A) requires that a Conditional Use Permit be obtained prior to any improvements or modifications on a site or to a structure on a site failing to meet the minimum area and width requirements. While the site complies with the minimum area requirement of 5,500 square feet (the site is 12,308 square feet), it does

not meet the minimum width requirement of 60 feet (the minimum width of the site is 45 feet) and is considered “legal non-conforming”. Therefore, a Conditional Use Permit is required to allow the use of the new living unit and to construct a new structure on a non-conforming site.

Residential second units are allowable uses in the RD 5.5-7 Zone (Town Code Section 17.084.030(J)). Several other properties in the immediate neighborhood contain detached, residential second units that either have been approved by the Town or pre-date the Town Code residential second unit provisions. Such properties include 161 Bolinas, 165 Bolinas and 281/283 Bolinas Road(s). Thus, allowing the construction of a new, residential second unit would not result in the property being out of character with similar developments throughout the “Pacheco Tract” subdivision.

Town Code Section 17.084.060 states that a new, second unit must comply with the Town’s Design Review Criteria (Chapter 17.020 of the Town Code) and directs the Planning Director to review second units for compliance with the Design Review Criteria. Prior to the issuance of a Building Permit for the project, the Planning Director will review the design of the second unit for compliance with the Town’s Design Review Criteria.

Town Code Section 17.084.010 outlines the “Purpose” of the Town’s residential second unit regulations. In particular, this section of the Town Code states that the intent of the second unit provisions are to “...encourage construction of new accessory residential units...to provide rental housing units for persons who are elderly or disabled, to provide economic support for resident families of limited income and to protect the single-family character of a neighborhood by ensuring that residential second units are installed under such additional conditions as may be appropriate to further the purposes of this chapter...”

Town Code Section 17.084.040(B) sets forth limits on the size of second units, furthering the “Purpose” of the Town Code. In particular, this section of the Code states that second units shall be limited to a studio or one bedroom and shall not exceed 700 square feet or 30-percent of the gross square footage of the principle residence, whichever is more restrictive. For the proposed project, thirty-percent of the gross square footage of the residence is 798 square feet, therefore the Code requires that the new unit not exceed 700 square feet. The applicant has requested approval of a 713-square-foot unit, thereby requiring a variance to the residential second unit square footage requirement. A discussion of the variance request for the square footage requirement is discussed in more detail, below.

Town Code Section 17.048.040(D) requires the provision of a total of three, off-site parking spaces, one of which must be covered, for a residential second unit. The applicant would comply with the parking requirement by providing parking for one vehicle in an existing garage, and two vehicles underneath an existing deck. (Attachment A- “Applicant’s Supplemental Information-Site Plan, Sheet A-1”). As proposed, the eastern-most parking space would intrude into the required side-setback

by two (2) feet. The applicant is requesting a side-setback variance for this parking space. (Please see below for a discussion of the required variances).

The project site is relatively flat, without physical obstructions and large in area, when compared to other residential sites in the Town. In addition, parking for the new unit can be accommodated entirely on site. As discussed in more detail below, Staff believes that with minor modifications the project can be constructed without exceeding the residential second unit square footage requirements or locating parking within a required side setback. With minor project modifications, staff believes that the Planning Commission can make the findings necessary to issue a Conditional Use Permit for the project, in accord with Town Code Section 17.032.060. In particular the required findings direct the Commission to approve a Conditional Use Permit application if the Commission can find that issuance of the use permit would not “constitute a grant of special privilege and shall not contravene the doctrines of equity and equal treatment...”

Variance(s)

Residential Second Unit Square Footage Requirements- As discussed above, the applicant has requested a variance to exceed the required maximum square footage requirement of 700 square feet by 13 square feet, for a total square footage of 713 square feet for the new unit. To date, the Planning Commission has not approved any new residential second unit that exceeds the Town’s requirements. There are no physical obstructions or site constraints that would warrant special consideration in siting the proposed unit thus requiring the structure to exceed the 700-square-foot maximum size limitation.

The applicant has provided information outlining the special circumstances that warrant the need for a unit with square footage that exceeds the second unit square footage requirements. (Attachment A-“Applicant’s Supplemental Information, Variance Questionnaire, Revised 04-26-2016”). In particular, the applicant contends that proposing to implement “Green Building Technologies” in an effort to (presumably) allow an increase in the Floor Area Ratio (FAR) requirement for the project – is similar to, and a rationale for, allowing an increase in the maximum allowable size of the second unit. However, staff does not agree with this rationale for the following reason.

With regard to using “Green Building Technologies to off-set exceedances in FAR requirements, Town Code Section 17.136.010 states, “It is the purpose of this chapter to impose a maximum limit for the floor area of single-family residences or duplexes...”. However, when a single-family residence or duplex cannot be developed without exceeding the required FAR and also meets the Town’s variance requirements of (e.g., would not grant a special privilege or be inconsistent with the intent of the Town’s General Plan or Zoning Ordinance) exceedances in FAR may be granted by the Planning Commission through the application of “green points”. (Town Code Sections 17.136.040(A) through (C)).

As indicated above, the required FAR for the RD 5.5-7 Zone is .40; the existing FAR for the site is .22. Construction of the project would result in a FAR of .27 therefore the site would continue to comply with the FAR requirements for the RD 5.5-7 zone with implementation of the project.

As directed by the Town Code, Staff believes that “green points” for utilizing Green Building Technologies applies to single-family residences and duplexes that exceed the FAR for the given residential zone. Therefore using “green points” to approve an exceedance in the second unit square footage requirements is not in keeping with the intent of the Code. Thus, staff recommends that the Planning Commission deny a variance for the square footage exceedance and require the applicant to reduce the size of the proposed second unit by 13 square feet to a total of 700 square feet, in accord with Town Code Section 17.084.040(B).

Side Yard Setback-As discussed above the combined side setback requirement in the RD 5.5-7 Zone is 15 feet. One (1) of the on-site parking spaces would be located two (2) feet within the combined side setback and would require a variance to the Town Code’s parking regulation that prohibits the location of required parking within a side setback (Town Code § 17.052.010). A stairway leading from a second-story deck to the rear yard provides an obstruction to locating the parking space outside of the combined side setback. Staff requested that the applicant evaluate whether the stairway could either be relocated or removed, preventing the intrusion of the parking space into the combined side setback. The applicant’s response is provided in Attachment A- “Applicant’s Supplemental Information, letter dated February 24, 2016”.

Staff believes that the required on-site parking can be provided without intruding into the side setback by relocating the stairs to the east. Thus Staff recommends that the Planning Commission deny a variance to the combined side setback requirement and condition the project such that the three required parking spaces be located on-site outside of the required, combined side setback.

Other Agency/Department Comments/Conditions

Ross Valley Fire Department

1. The project is located within the Wild-Land Urban Interface (WUI) thus new construction must comply with CBC Chapter 7A and CFC Chapter 49. The following conditions must be implemented with the project to comply with the WUI requirements:
 - a. A fire sprinkler system shall be installed throughout the existing single-family residence and the new second unit. The sprinkler system shall comply with the requirements of the National Fire Protection Association.
 - b. Preparation and implementation of a Vegetation Management Plan (VMP) is required for the project.

2. Smoke detectors in the residence shall be provided with AC power and be interconnected for simultaneous alarm. Detectors shall be located in each sleeping room, outside of sleeping rooms centrally located in the corridor and over the center of all stairways with a minimum of one detector per story of the occupied portion of the residence.
3. Carbon monoxide alarms shall be installed and located outside of every bedroom located in each dwelling unit, and on every level of a dwelling unit, including the basement.
4. Address numbers at least 4-inches in height must be placed adjacent to the front door of the principle residence. Address numbers must be internally illuminated, placed to a light or constructed of reflective materials.
5. Roofing material shall be a minimum Class "A" rated assembly.

Marin Municipal Water District (MMWD)

1. A pipeline extension from the end of MMWD's facilities is required to service the new unit. A pipeline extension agreement is required.

Ross Valley Sanitary District

1. A sewer connection permit is required to service the new unit. All District requirements pertaining to private side sewer/lateral shall be implemented.

The Town of Fairfax Police Department and the Town of Fairfax Building and Public Works Department(s) were provided with project information; neither agency submitted comments on the project.

RECOMMENDATION

1. Open the public hearing and take testimony.
2. Close the public hearing.
3. Move to continue Application # 16-16 to the June 16, 2016, meeting and direct the applicant to revise the plans as follows: (1) decrease the square footage of the second unit to the required 700 square feet; and (2) relocate the stairway to the deck so the required parking can be located out of the side yard setback. Direct Staff to prepare a resolution for approval subject to the plans being amended as directed.

Alternative Recommendations

1. Move to deny Application #. 16-16 and direct Staff to prepare a resolution for denial

for the June 16, 2016, meeting.

2. Move to approve the application and direct staff to prepare a resolution for approval as submitted for the June 16, 2016, meeting.

ATTACHMENTS

Attachment A – Applicant's Supplemental Information

Michelle Levenson

From: Laura Kehrlein <laura@fdivinearchitects.com>
Sent: Tuesday, April 26, 2016 2:21 PM
To: Michelle Levenson
Subject: RE: 303 Bolinas Road
Attachments: VARIANCE QUESTIONNAIRE Revised.pdf

Hi Michelle

Here you go. Please note that the existing width of the property is 45'-0" when measured perpendicular to the side property lines. A 60' width is required in the RD 5.5-7 zoning district.

Sincerely

Laura Kehrlein
Project Architect
Fredric Divine Architects
1924 Fourth Street
San Rafael, CA 94901
PH: 415-457-0220 X 103
Fax: 415-454-9581

From: Michelle Levenson [<mailto:mlevenson@townoffairfax.org>]
Sent: Monday, April 25, 2016 10:22 AM
To: Laura Kehrlein <laura@fdivinearchitects.com>
Subject: RE: 303 Bolinas Road

Hi Laura-I will be working on the staff report for 303 Bolinas Road this week. In your email, below, you said that you were going to send in more information regarding the variance request for 303 Bolinas Road; it would be great if I could receive the additional information this week so I can include it in the report.

Thanks-Michelle

From: Laura Kehrlein [<mailto:laura@fdivinearchitects.com>]
Sent: Friday, April 08, 2016 3:57 PM
To: Michelle Levenson
Subject: RE: 303 Bolinas Road

Thank You Michelle for your response.

Our office acknowledges the staff positions in your letter of April 6 and have advised our client. A two foot encroachment is requested for the third parking space. A compact parking space would comply and not encroach in the setback. The owners of the property have a Prius, which can fit in a compact parking space. Our office still feels that we have findings to warrant the request of a variance. In the area where the parking is located is only 45'-0" wide, where 60' is required I have also advised my client regarding the expanded floor area.

We would like to proceed with the application as it stands, and get comments from the planning commission on these issues. I will adjust the variance findings, as I didn't clearly emphasize the width of the property previously. I was hoping to get you revised findings this afternoon, but ran out of time. I hope you have a great weekend.

Sincerely

Laura Kehrlein
Project Architect
Fredric Divine Architects
1924 Fourth Street
San Rafael, CA 94901
PH: 415-457-0220 X 103
Fax: 415-454-9581

From: Michelle Levenson [<mailto:mlevenson@townoffairfax.org>]
Sent: Thursday, April 07, 2016 11:23 AM
To: Laura Kehrlein <laura@fdivinearchitects.com>
Subject: RE: 303 Bolinas Road

Unfortunately the soonest we could get the item on an agenda was for the May 19th meeting. The April meeting filled up quickly with applications that were completed prior to the 303 Bolinas application, as well as two discussion items.

Michelle

From: Laura Kehrlein [<mailto:laura@fdivinearchitects.com>]
Sent: Wednesday, April 06, 2016 11:03 AM
To: Michelle Levenson
Subject: RE: 303 Bolinas Road

Thank You Michelle

I was hoping we would have been able to make the April meeting. Trying to find the title report in my client's files took some time. The ended up having to call the title company to get another copy. Please schedule us for the next available meeting. My clients want to start construction this summer.

Thank You

Laura Kehrlein
Project Architect
Fredric Divine Architects
1924 Fourth Street
San Rafael, CA 94901
PH: 415-457-0220 X 103
Fax: 415-454-9581

From: Michelle Levenson [<mailto:mlevenson@townoffairfax.org>]
Sent: Wednesday, April 06, 2016 10:43 AM

To: Laura Kehrlein <laura@fdivinearchitects.com>
Subject: FW: 303 Bolinas Road

Hi Laura-

The project is "complete". We have scheduled it for the May 19, 2016, Planning Commission meeting. Please see the attached letter for additional information.

Thank you-
Michelle Levenson

Zoning Technician
Town of Fairfax

From: Linda Neal
Sent: Wednesday, April 06, 2016 10:24 AM
To: Michelle Levenson
Subject: RE: 303 Bolinas Road

Architect is checking on status of 303 Bolinas Road.

Linda Neal
Principal Planner

From: Laura Kehrlein [<mailto:laura@fdivinearchitects.com>]
Sent: Wednesday, April 06, 2016 9:52 AM
To: Linda Neal <lneal@townoffairfax.org>
Subject: 303 Bolinas Road

Hi Linda

Just checking on the status of this project. I submitted the title reports and design review criteria a few weeks ago, so has this application been deemed complete?

Thank You

Laura Kehrlein
Project Architect
Fredric Divine Architects
1924 Fourth Street
San Rafael, CA 94901
PH: 415-457-0220 X 103
Fax: 415-454-9581

VARIANCE QUESTIONNAIRE
303 BOLINAS ROAD
Revised 04-26-2016

1. Special circumstances applicable to the property.

Parking:

The existing property averages 273 feet long and is 53 feet wide along the street frontage. For a property in the R5.5-7 Residential Zone, with a slope less than 10%, a minimum width of 60'-0" is required. When measured perpendicular to the side property line, the lot width is only 45'-0". When combined side yard setbacks of 15'-0" are applied, this does not provide a very wide buildable envelope in which to place parking. The existing driveway alongside the residence is located completely within the side yard setback.

Building Area:

Due to the size of the property at 12,307 SF and the size of the existing residence, a deviation from the maximum allowed second unit floor area of 700 SF is requested. The existing residence is 2,659 SF and the proposed second unit is 713 SF. The existing floor area ratio of the residence is 21.60% and the proposed second unit floor area ratio is 5.79%. The combined floor area ratio of 27.39 % which is considerably less than the maximum allowed of 40%.

2. Why the variance will not materially adversely affect the health or safety of persons residing or neighborhood, etc.

Parking:

The proposed improvements are consistent with the historical use of the property. A one car garage is located at the rear of the residence, on the lower level, with access from the driveway that runs along the side of the home. Currently the owners park in the driveway which is located in the side yard setback. Under this application, parking would be moved behind the existing main residence and only parking space would encroach 2'-1" into the side yard setback. Adjacent properties to the north and south have similar lot sizes, and lot widths and have a similar parking situation.

Building Area:

Zoning Code 17.136.040 allows for increases beyond the maximum FAR for using green building technology. One point may be granted to a project for each green building category, with each green point being equal to a floor area percentage of 0.01, up to a maximum of 10 percentage points may be given. A Green Point rated checklist has been submitted as part of this application where 83 points are proposed. Only a 1.02% increase in the floor area is requested.

3. **Why complying with the Town Ordinance requirements will be a hardship for the owner.**

Parking:

Due to existing conditions, such as the existing placement of the main residence and rear deck, one of the proposed parking space that encroaches into side yard setback can't be moved further into the allowable building area. One of the cars the owners have is a compact type car, which is smaller than a standard parking space, and would fit within the building envelope.

Building Area:

The homeowners are currently living in a 2,659 SF residence and would be downsizing to a 713 SF home. The proposed second unit meets all setback requirements and the proposed FAR is far less than the maximum allowed for the property. The proposed combined floor area ratio is 27.40 %. No significant increase in building bulk is proposed, and the granting of such an exception would not be inconsistent with the intent of the General Plan or the Zoning Ordinance.

**DESIGN REVIEW CRITERIA
303 Bolinas Road**

- (A) The proposed development shall create a well composed design, harmoniously related to other facilities in the immediate area and to the total setting as seen from hills and other key vantage points in the community.**

The proposed cottage is to be placed in the rear yard of a 12,307 SF lot. An existing residence with a craftsman design built in 1931 is located at the front portion of the property, with a driveway to the back of the property along the side yard. Although the front of the existing front residence has a stucco exterior finish, the rear and sides of the existing residence are of more of a traditional character with wood horizontal siding. Craftsman elements such as a wraparound porch, windows with top grids, wood trim, and a hip roof have been incorporated into the design of the new cottage.

- (B) Only elements of design which have a significant relationship to the exterior appearance of structures and facilities to be considered; these elements may include height, arrangement on the site, texture, material, color, signs, landscaping and appurtenances.**

Currently there is a wood fence that divides the yard into two spaces. The new cottage is to be placed where this fence is presently located in the back portion of the yard. The new dwelling has been placed in the rear of the lot so that it may occupy its own separate space from the existing residence. As many of the existing trees and shrubs as possible will remain on the site.

- (C) The proposed development shall be of a quality and character appropriate to, and serving to protect the value of, private and public investments in the immediate area.**

The application is proposing high quality finishes such as cement board horizontal siding with an integrated tan color. Energy efficient windows and a class "A" composition shingle roof will be used. These materials will meet the special requirements for new structures in the Wildland Urban Interface fire zone. Green building technology will also be incorporated into the design of the new structure.

- (D) The proposed development shall conform with all requirements for landscaping, screening, usable open space and design of parking and off-street loading areas.**

The one car garage under the rear of the current home will remain. Two additional parking spaces will be located in the driveway behind the existing residence. One parking space will be located in front of the residence on Bolinas Road. The front portion of the rear yard along with the garden area and mature trees will remain.

- (E) Where the proposed development is located in an area where a neighborhood plan or precise plan has been adopted by the town, the design of the development shall conform in all significant respects with the plans.**

The property is not located in a neighborhood or precise plan.

- (F) There shall exist sufficient variety in the design of the structures and grounds to avoid monotony in external appearance.**

A variety of materials and colors are proposed. The body of the cottage will be a tan color with white soffit and eave trim, white window frames with sage green trim. A wraparound porch that connects to the rear yard and creek area is a key feature of the proposed design.

- (G) The size and design of the structure shall be considered for the purpose of determining that the structure is in proportion to its building site and that it has balance and unity among its external features so as to present a harmonious appearance.**

The new cottage will be one story, with a maximum height of fifteen feet and 723 SF in floor area. The proposed floor area is 27% of the 2,659 SF main residence, which is less than the maximum 30% required by the zoning code. An increase to the lot coverage is 8% for a total of 32.34% for the entire property.

- (H) The extent to which the structure conforms to the general character of other structures in the vicinity insofar as the character can be ascertained and is found to be architecturally desirable.**

The proposed cottage will integrate craftsman design elements, as mentioned earlier, to complement with the adjacent residences in the vicinity. The maximum height of the cottage is 15'-0" and will be minimally visible from adjacent properties.

- (I) The extent to which ornamentation is to be used, and the extent to which temporary or second-hand materials, or materials which are imitative of other materials, are to be used.**

A simple cottage that is harmonious with the existing residence is proposed. Wood trim will be used around the window frames, and at the wraparound porch. When feasible, second hand materials can be considered as well as green building products.

- (J) The extent to which natural features, including trees, shrubs and natural grade are to be retained.**

As much of the existing landscaping on the site will remain. A mature magnolia tree in the front yard of the existing residence, as well as the walnut and fir trees in the lawn of the rear yard will remain. A fig and walnut tree in the footprint of the new cottage are proposed to be removed. No landscape changes are proposed adjacent to the creek area.

- (K) The accessibility of off-street parking area and relation of parking areas to traffic on adjacent streets.**

Access to the parking area is by an existing driveway to Bolinas Road alongside the south side of the main residence. No changes to the existing traffic patterns are proposed.

(L) The reservation of landscaping areas for the purpose of separating or screening service and storage areas from the street and adjoining building sites.

Currently garbage cans are stored adjacent to the parking area and no changes are proposed in this location as part of this application. An existing storage shed will be removed as part of the improvements to the property.

(M) In the case of any commercial or industrial structure, the Planning Commission shall consider the proximity to any residential district.

The proposed application is residential.

(N) The Planning Commission and Town Council may adopt design guidelines.

There are no design guidelines at this time.