

# Town of Tiburon STAFF REPORT

AGENDA ITEM E5



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TO: **DESIGN REVIEW BOARD**

FROM: **PLANNING MANAGER WATROUS**

SUBJECT: **761 HILARY DRIVE; FILE # 703094  
SITE PLAN AND ARCHITECTURAL REVIEW FOR GRADING IN  
ASSOCIATION WITH DRAINAGE IMPROVEMENTS, ALONG WITH  
CONSTRUCTION OF A FENCE AND LANDSCAPING**

MEETING DATE: **SEPTEMBER 4, 2003** \_\_\_\_\_

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## PROJECT DATA:

<b>ADDRESS:</b>	<b>761 HILARY DRIVE</b>
<b>ASSESSOR'S PARCEL:</b>	<b>55-253-18</b>
<b>FILE NUMBER:</b>	<b>703094</b>
<b>PROPERTY OWNERS:</b>	<b>ST. HILARY CATHOLIC CHURCH</b>
<b>APPLICANT:</b>	<b>CARLILE AND MACY (ENGINEERS)</b>
<b>LOT SIZE:</b>	<b>7.27 ACRES</b>
<b>ZONING:</b>	<b>RO-1 (SINGLE-FAMILY RESIDENTIAL-OPEN)</b>
<b>GENERAL PLAN:</b>	<b>MEDIUM LOW DENSITY RESIDENTIAL</b>
<b>FLOOD ZONE:</b>	<b>C</b>
<b>DATE COMPLETE:</b>	<b>AUGUST 16, 2003</b>

## **PRELIMINARY ENVIRONMENTAL DETERMINATION**

Town Planning Division Staff has preliminarily determined that this proposal is exempt from the provisions of the California Environmental Quality Act (CEQA) as specified in Section 15304.

## **PROPOSAL**

The applicant requests after-the fact Design Review approval for the placement of approximately 240 cubic yards of fill on property owned by St. Hilary Church at 761 Hilary Drive. The applicants had received approvals from the Tiburon Public Works Department to construct drainage improvements related to ongoing expansion of the facilities on the site. However, a substantial amount of earth was moved into place in the southwest corner of the property, near the entrance to the site along Hilary Drive, which had not been indicated on the approved plans. Staff determined that Site Plan and Architectural Review approval was required, as the maximum amount of grading permitted without Design Review approval is 50 cubic yards. The application requests after-the-fact approval for placement of this fill. It also proposes the extension of an existing fence along the south side of Hilary Drive, and the installation of certain landscaping improvements.



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The Site Plan and Architectural Review application was filed as a Staff-level item. Nearby property owners expressed concerns with this application. Consistent with Planning Division policy, the application has been referred to the Design Review Board for action.

### BACKGROUND

The location of the drainage improvements and fill is on the southwest corner of the St. Hilary Church property, adjacent to an open grassy play field maintained by the church. A drainage swale has been maintained in this area, collecting water from uphill across Hilary Drive. The swale sloped up toward the adjacent residential property on one side, and up to the play field on the other side. The bottom of the swale was generally below the level of the adjacent lot. This area contained dense scrubby vegetation and was lightly maintained.

Representatives from St. Hilary Church contacted the Public Works Department for a permit to install a new drainage pipe in the location of the swale to better transport drainage from uphill. The plans originally submitted to the Town indicated that the drainage pipe would be situated at roughly the bottom of the swale. Some dirt fill would be placed adjacent to the grassy area, sloping down to cover the proposed pipe with a foot or two of soil. The Town issued an encroachment permit based upon these drawings.

A substantially larger amount of fill (approximately 240 cubic yards) was placed on top of the installed drainage pipe than was approved by the Public Works Department. Much of the fill material was raised to the level of the adjacent play field, and above much of the level of the adjacent lot at 750 Hilary Drive.

A subsequent meeting was held at the site with representatives of St. Hilary Church, the owners of the home at 750 Hilary Drive and the Town Engineer. At that meeting, a verbal agreement was reached that a portion of the fill closest to the adjacent property would be removed, resulting in a four foot (4') wide separation at the bottom between the fill and the adjacent retaining wall, and a 2:1 slope going back to the top of the play field. Plans submitted by representatives of St. Hilary Church after the meeting indicate only a one foot separation between the fill and the adjacent retaining wall. These plans are now being reviewed as part of this Site Plan and Architectural Review application.

### ANALYSIS

The location of the drainage improvements and fill is adjacent to the residential property at 750 Hilary Drive. The neighboring property includes a wooden fence along the adjoining property line, supported by a concrete retaining wall. As previously noted, the previous drainage swale generally below the level of the adjacent lot, and sloped up toward the residential property on one side, and up to the play field on the other side. The bottom of the swale was generally below the level of the adjacent lot, and contained dense scrubby vegetation that was lightly maintained and subsequently removed.



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The current fill location creates potential privacy problems for the adjacent residence at 750 Hilary Drive. The fill has essentially created a 30 to 40 foot extension of the play field, with the top of the fill at the same grade as the play field. Although a temporary chain link fence is situated at the border of the play field and the fill area, removal of the fence would make it possible for the activities of school children on the play field to extend onto the newly filled area. The level of the filled area, in combination with the removal of shrubbery prior to the filling, would allow people to look down into the rear yard of the adjacent property, and into a bedroom window of the house. These are substantial changes that would not normally be associated with drainage improvements, but are created solely by the extent of the fill.

It would be possible to limit access to the fill area by requiring the construction of a fence along the previous border of the play field. Ground cover landscaping could be planted on top of the fill that would discourage use of this area by pedestrians and animals. It is recommended that any approval should require the installation and permanent maintenance of a fence and landscaping in this area. A solid fence at this location would also restore much of the privacy lost by the adjoining residential property by the removal of the shrubbery on the site.

The revised drawings for this project propose planting of 15 gallon sized myoporum bushes on the lower portion of the fill area to provide screening for the home at 750 Hilary Drive. However, the detail drawings indicate that the plantings would be only one foot from the property line, leaving minimal room for the plants to grow and for the separation at the bottom of the fill. Further, these shrubs could grow to heights that would intrude into the water views across this property currently enjoyed by several residents on the uphill side of Hilary Drive.

The Town Engineer has several technical concerns with the project as currently proposed. The applicant has yet to demonstrate that the fill area has been properly compacted. Efforts must be made to avoid blocking the weep holes at the base of the retaining wall on the property at 750 Hilary Drive, and insuring that the project will not result in any drainage impacts on this adjacent property. Final slopes for the fill area should not exceed 2:1 at any point. These issues can be addressed as potential conditions of approval to be enforced by the Public Works Department.

The proposed fence would extend the line of the fence that currently exists along the southern edge of Hilary Drive. This wood and wire fencing is intended to provide appropriate security for the play field and to discourage trespassing on the site.

### CONCLUSION

The basic issue of this application is whether the amount of fill appropriate for this site, or constitutes excessive fill adjacent to a single-family home. The Design Review Board should carefully evaluate the existing and proposed configurations of the fill area on the site to determine if modifications need to be made to prevent unnecessary privacy impacts on the adjacent property at 750 Hilary Drive. The proposed landscaping should also be scrutinized to avoid potential view impacts on other homes in the vicinity.

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### **PUBLIC COMMENT**

During the original Staff-level review of this application, letters were received from the adjacent property owners at 750 Hilary Drive and from the nearby property owners at 735 Hilary Drive regarding the subject application.

### **RECOMMENDATION**

The Board should review this project with respect to Zoning Ordinance Sections 4.02.07 (Guiding Principles) and determine that the project is exempt from the provisions of the California Environmental Quality Act (CEQA) as specified in Section 15304.

It is recommended that the Design Review Board:

1. Direct Staff to prepare a resolution denying this application;
2. Direct the applicant to return with modified drawings that mitigate the concerns raised within this report; or
3. Approve the project as proposed, subject to the attached conditions of approval.

### **ATTACHMENTS**

1. Conditions of approval
2. Application and supplemental materials
3. Letter from Wayne Howard, dated April 21, 2003
4. Letter from Steve and Deborah Bendinelli, dated June 27, 2003
5. Letter from Wayne and Carla Howard, dated July 9, 2003
6. Submitted plans

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### CONDITIONS OF APPROVAL

#### 761 HILARY DRIVE

#### FILE #703094

1. The work approved under this application, including all conditions of approval contained herein, shall be completed within thirty (30) days of the date of approval of this application..
2. The development of this project shall conform with the application dated by the Town of Tiburon on June 23, 2003, as amended by these conditions of approval. Any modifications to the plans of June 23, 2003, as amended herein, must be reviewed and approved by the Design Review Board.
3. Plans submitted to the Building Division for plan check shall be identical to those approved by the Design Review Board. If any changes are made to the approved Design Review plans, the permit holder is responsible for clearly identifying all such changes when submitted to the Building Division for plan check. Such changes must be clearly highlighted (with a "bubble" or "cloud") on the submitted plans. A list describing in detail all such changes shall be submitted and attached to the building plans, with a signature block to be signed by the Design Review Staff member indicating that these changes have been reviewed and are approved, or require additional Design Review. All changes that have not been explicitly approved by Staff as part of the Building Plan Check process are not approved. Construction that does not have Design Review approval is not valid and shall be subject to stop work orders and may require removal.
4. The applicant must meet all requirements of other agencies prior to the issuance of a building permit for this project.
5. The applicant shall comply with all requirements of the Town Engineer.
6. Proof of adequate soil compaction shall be provided to the satisfaction of the Town Engineer.
7. The applicant shall make efforts to the satisfaction of the Town Engineer to insure that the improvements do not create significant damage to the retaining wall or drainage impacts on the adjacent property at 750 Hilary Drive.
8. All final slopes of the fill area shall not exceed a slope of 2:1.