

Town of Tiburon STAFF REPORT

AGENDA ITEM D-1



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TO: **DESIGN REVIEW BOARD**

FROM: **BRIAN LYNCH, ASSOCIATE PLANNER**

SUBJECT: **70 PASEO MIRASOL; FILE #20328
SITE PLAN AND ARCHITECTURAL REVIEW FOR THE
CONSTRUCTION OF A FENCE WITH A VARIANCE FOR EXCESS
FENCE HEIGHT.**

MEETING DATE: **JANUARY 15, 2004** REVIEWED BY: DMW

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PROJECT DATA:

OWNER/ APPLICANT:	JOHN & MARSHA NORRIS
ADDRESS:	70 PASEO MIRASOL
ASSESSOR PARCEL NUMBER:	038-331-03
FILE NUMBER:	20328
LOT SIZE:	21,119 SQUARE FEET
ZONING:	RO-2 (SINGLE-FAMILY RESIDENTIAL, OPEN)
GENERAL PLAN:	M (MEDIUM DENSITY RESIDENTIAL)
FLOOD ZONE:	C
DATE COMPLETE:	JANUARY 5, 2004
CEQA EXEMPTION:	JANUARY 15, 2004
PERMIT STREAMLINING ACT DEADLINE:	MARCH 14, 2004

PRELIMINARY ENVIRONMENTAL DETERMINATION:

Town Planning Division Staff has made a preliminary determination that this proposal would be exempt from the provisions of the California Environmental Quality Act (CEQA) as specified in Section 15303.

PROPOSAL:

The applicant has submitted a request to construct a fence, with a variance for excess height, on the property located at 70 Paseo Mirasol. The fence would be located along the rear property line, and portions of side property lines. Three different fence designs would be used for the project. An eight (8) foot wood fence would be installed along a portion of the south (right side) property line, a six (6) foot high wire mesh fence would be located along the east (rear) and north (left side) property lines, and a six (6) foot high wood fence would return to the house to enclose the rear yard.



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The Zoning Ordinance states that when a fence is located within the required setback area of a property, it cannot exceed a height of six (6) feet. Since the proposed fence along the south property line would be eight (8) feet in height, a variance of two (2) feet is required.

ANALYSIS:

Zoning

Other than the request for a variance for excess fence height, the project is in compliance with the development standards for the RO-2 zoning district.

Design issues

In August of 2003, the Town approved a lot line adjustment between the adjacent properties of 66 and 70 Paseo Mirasol. The lot line adjustment essentially resulted in a land swap of approximately 1,300 square feet. The main purpose of the project is to construct a fence to follow the new lot line between the subject properties.

The eight (8) foot high fence along the south property line would be comprised of redwood with the top two feet consisting of lattice. This fence would have a stepped design down the hillside. The six (6) foot high fence along the rear property line would be wire mesh with redwood posts and redwood top rail. This fence would be installed through the group of redwood trees in the rear yard to the top of the creek bank adjacent to the property at 74 Paseo Mirasol. The applicant has indicated that no tree removals would be required for the installation of the wire mesh fence. The six (6) foot fence adjacent to the house would be comprised of solid redwood.

The design of the (8) foot fence along the south property line was established through a mediation agreement between the adjacent property owners. The design would provide adequate privacy while maintaining good aesthetics. The six (6) foot high wire mesh fence would be constructed to keep the deer, which are prevalent in the area, out of the rear yard. The applicant has suggested that the wire mesh design would be the least intrusive design for adjacent neighbors. To ensure that the impact of this fence is minimized, staff has conditioned the project so that green vinyl coated wire is used. The six (6) foot high solid wood fence adjacent to the residence would match the exterior siding of the building. As conditioned, there do not appear to be any significant view impacts from the proposed project.

Variance

In order to grant the requested variance, the Board must make the following findings as required by Section 4.03.05 of the Tiburon Zoning Ordinance:

- 1. Because of special circumstances applicable to the property, including size, shape, topography, location, or surroundings, the strict application of this Ordinance will deprive the applicant of privileges enjoyed by other properties in the vicinity and in the same or similar zones.**



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The applicant has stated that his residence at 70 Paseo Mirasol was required to be constructed in such a way as to preserve the views of neighboring properties. This resulted in the house being built askew on the lot, and adjacent to the south lot line. While this design preserved views across the site, it created privacy issues between the applicant and the owners of 66 Paseo Mirasol. In addition, a large Monterey Pine tree that once provided privacy between the properties was removed due to disease. These special circumstances deprive the applicant of adequate privacy enjoyed by other properties in the vicinity. Additional information has been provided by the applicant in the attached findings for the variance (Exhibit #3).

2. The variance will not constitute a grant of special privileges inconsistent with the limitation upon other properties in the vicinity and in the same or similar zones.

There is a significant grade difference between the rear yard at 66 Paseo Mirasol and the residence at 70 Paseo Mirasol. Where privacy issues have been a concern, the Town has granted variances to build fences over six feet in height. Therefore, granting the variance would not constitute a special privilege inconsistent with the neighborhood. Additional information has been provided by the applicant in the attached findings for the variance (Exhibit #3).

3. The strict application of this Ordinance would result in practical difficulty or unnecessary hardship.

The lack of privacy a six foot fence would provide would be an unnecessary hardship for the applicant.

4. The granting of the variance will not be detrimental to the public welfare or injurious to other properties in the vicinity.

The affected property owners are in support of the variance, therefore the granting of the variance would not appear to be detrimental to the public welfare or injurious to other properties in the vicinity.

Public Comment

Sanford Goldeen, 337 Blackfield Drive, has submitted a letter of objection to the project. Mr. Goldeen suggests that the fences would disrupt the Ring Mountain Open Space and critical animal habitat, and would be a potentially unattractive structure.

Mary Griffin, 74 Paseo Mirasol, has submitted a letter of objection to the portion of the fence along the rear property line. Ms. Griffin states that the fence would impact the views from her property.

Paul Smith, attorney for Charles and Virginia Quick, 66 Paseo Mirasol, has submitted a letter which states that the Quicks have no objection to proceeding with the construction of the fence. Attached to the letter is the signed grant deed for the piece of property associated with the lot line adjustment.



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Charles and Virginia Quick, 66 Paseo Mirasol, have submitted a letter stating that they have no objection to the construction of the fence or the variance. However, the Quicks state that a kickboard at the bottom of the fence, level with the ground, would potentially present drainage problems on their property because it would disrupt the flow of water which currently goes into an existing catch basin at the bottom of the property.

RECOMMENDATION:

It is recommended that the Board review this project with respect to Zoning Ordinance Sections 4.02.07, 4.03.05 (guiding principles for design review, and required variance findings) and determine that the project is exempt from the provisions of the California Environmental Quality Act (CEQA) as specified in Section 15303. If the Board finds that the design of the project is consistent with the Guiding Principles for Site Plan and Architectural Review and all findings for the variance for excess fence height can be made, it is recommended that the project be approved with the attached Conditions of Approval.

EXHIBITS:

1. Conditions of Approval
2. Application and supplemental materials dated March 26, 2003.
3. Applicant's findings for the variance.
4. Letter submitted by Sanford Goldeen, 337 Blackfield Drive
5. Letter submitted by Mary Griffin, 74 Paseo Mirasol.
6. Letter submitted by Paul Smith, attorney for Charles and Virginia Quick, 66 Paseo Mirasol
7. Letter submitted by Charles and Virginia Quick, 66 Paseo Mirasol
8. Plans for the project

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EXHIBIT 1

CONDITIONS OF APPROVAL 70 Paseo Mirasol FILE #20328

1. This approval shall be used within three (3) years of the approval date, and shall become null and void unless a building permit has been issued.
2. The development of this project shall conform to the application and plans dated by the Town of Tiburon on December 10, 2003, or as amended by these conditions of approval. Any modifications to the plans must be reviewed and approved by the Design Review Board.
3. Plans submitted to the Building Department 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 Department 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. Proof of recordation of the recent lot line adjustment between the properties at 66 and 70 Paseo Mirasol shall be submitted prior to the issuance of a building permit.
5. The proposed six (6) foot high wire mesh fence shall be constructed with green vinyl coated wire to minimize view impacts and blend in with the existing vegetation. This fence shall also be installed above the top of the creek bank.