





# Town of Tiburon

## STAFF REPORT

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revised fence design was not approved. On March 5, 2004, Mr. Bernal submitted an appeal of the staff-level decision on the application, which is based on the two different grounds as discussed below. (**Exhibit #2**).

### **REVIEW BY PLANNING DIVISION STAFF:**

The original application, submitted October 27, 2003, was reviewed by the Planning Division as a staff-level application. Staff reviewed the documents submitted by the applicant, visited the site to view the proposed location for the fence, and mailed public courtesy notices describing the project to the neighbors in the vicinity. Although no comments were received during the public review period, staff had a concern about the project; the proposed fence appeared to be relatively tall and close to the street. Staff considered the fact that the fence could have adverse impacts on views from adjacent properties and create a tunnel effect on Spanish Trail. Staff also considered the fact that the Board has discouraged the installation of tall, solid fences adjacent to the roadway in the recent past. Moreover, the Board has recently directed Planning Staff to be weary of fence applications that appear “wall off” the property from the street, even if adjacent property owners do not object. The Board has expressed their concern that the perpetuation of such applications could cumulatively change the character of a neighborhood.

After taking this information into consideration, staff determined that a 5’6” fence would not be too intrusive in the proposed location because the property slopes dramatically down from the street, reducing the effective height of the fence. The design of the fence was also simple and understated. For these reasons, coupled with the fact that no comments were received from the public, staff approved the project on November 18, 2004.

During the construction process, Planning Division staff received two complaints about the fence that was being built. Staff visited the site and noted that the fence being installed was of a different design than what was approved. The fence had posts that extended above six feet in height in some locations, with decorative copper caps. It was also noted that the height of the fence was over 5’6” towards the northeast corner of the property, adjacent to 2312 Spanish Trail. For these reasons, the applicant was required to stop the project and rebuild the fence according to the original plans, or submit an as-built application for the current fence design.

The as-built application was submitted on February 5, 2004. Staff reviewed the submitted documentation, and sent public courtesy notices regarding the subject application to neighbors in the vicinity. In response to this courtesy notice, the Town received complaints from several of the adjacent property owners. While most of the complaints were taken over the telephone, one letter of objection was submitted by Anne and Lawrence Drew, of 2345 Spanish Trail. The letter expresses the Drew’s concern about the subject fence, and suggests that the fence blocks views to the bay and is out of character with the neighborhood. The telephone calls that were received regarding the project were similar in nature to the Drew’s letter. Partially based on the public’s concerns, and based on viewing the as-built fence, Planning Division staff found that the as-built design of the fence and the proposed entry trellis would have negative visual impacts on the neighborhood, and would be out of character with the existing development on properties in the vicinity. Therefore, staff partially granted the as-built plan; approving the



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parking area trellis down further on the property, and denying the entry trellis and as-built fence design.

### **BASIS FOR THE APPEAL:**

There are two (2) grounds upon which the appeal (**Exhibit #2**) is based, which are summarized as follows:

**Ground #1** The height and design of the fence is consistent with other fences along Spanish Trail. The location of the fence is below the elevation of street, which reduces the visual impact of the fence.

*Staff Response:* The Guiding Principles in the review of Applications (Section 4.02.07 of the Tiburon Zoning Ordinance) require that the acting body consider, among other things, how the proposed project would affect adjacent properties, the compatibility of architectural style and exterior finish of a proposed project, in addition to established neighborhood character. The as-built fence with the decorative post caps, and the proposed entry trellis, are not consistent with other fences in the vicinity. There is also a fence at 2300 Spanish Trail that ranges in height from four (4) to six (6) feet and is comprised of solid wood, but exhibits a more traditional design than the subject fence. There is a fence further down the street at 2380 Spanish Trail that is approximately six (6) feet in height and comprised of solid wood, but is also of a more traditional design. No fence on the street incorporates an entry pergola or trellis in its design.

A 5'6" tall solid fence, as approved, has the potential to be a visual barrier and creates a narrowing effect on the street, however, the topography of the site and its understated design make it acceptable. The decorative fence posts, the increased fence height, and the proposed entry trellis would detract from the understated nature of the original design, making the impacts of the fence more significant, and creating an inconsistent appearance with the established neighborhood character.

**Ground #2** The property has been recently burglarized, and the as-built fence is necessary for the security and safety for the appellants home.

*Staff Response:* The decorative post caps and the pedestrian trellis would have little or no effect of creating additional security and safety over a 5'6" solid wood fence.

### **PUBLIC COMMENT:**

Carol Forell, 2299 Spanish Trail, and Sharon Bass, 2230 Spanish Trail, have submitted a letter of objection to the subject fence. The author states that the fence blocks views of the bay for pedestrians and people in vehicles. The fence would also appear to create a tunnel effect on Spanish Trail.



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Kirk D. Whittingham, 2356 Spanish Trail, has written a letter in support of the subject fence. Mr. Whittingham states that the fence with decorative fence posts is more attractive than the approved fence design, and would appear to be in conformance with neighborhood character.

### **CONCLUSION:**

Prior to making a decision on the fence applications, Planning Division Staff considered the Guiding Principles, considered the comments from adjacent neighbors, and considered the direction of the Board on similar projects in the recent past. As a result, Planning Division Staff found that the as-built fence and proposed entry trellis would be out of character with the surrounding neighborhood and would not have compatible architectural style and finishes. The installation of the subject fence and proposed entry trellis would have the cumulative effect of changing the unenclosed appearance of the surrounding properties.

### **RECOMMENDATION:**

It is recommended that the Design Review Board uphold the decision of Planning Division Staff and direct Staff to return with a resolution denying the appeal.

### **EXHIBITS:**

1. Notice of Appeal filed by Jerry Bernal
2. Letter from Anne and Lawrence Drew, 2345 Spanish Trail
3. Letter from Carol Forell, 2299 Spanish Trail, and Sharon Bass, 2230 Spanish Trail
4. Letter from Kirke D. Whittingham, 2356 Spanish Trail
5. Plans associated with the original fence application dated October 27, 2003.
6. Plans associated with the as-built fence and trellises dated February 5, 2004.