

# Town of Tiburon STAFF REPORT

AGENDA ITEM E6



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TO: **DESIGN REVIEW BOARD**

FROM: **PLANNING MANAGER WATROUS**

SUBJECT: **2120 MAR EAST STREET; FILE # 20436  
SITE PLAN AND ARCHITECTURAL REVIEW TO LEGALIZE THE AS-BUILT CONSTRUCTION OF ADDITIONS TO A PREVIOUSLY APPROVED TWO-FAMILY DWELLING, AND CONSTRUCTION OF A GATE AND MODIFICATIONS TO A BOAT DOCK, WITH VARIANCES FOR REDUCED FRONT YARD SETBACK AND EXCESS BUILDING HEIGHT, AND A FLOOR AREA EXCEPTION**

MEETING DATE: **OCTOBER 21, 2004** \_\_\_\_\_

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## PROJECT DATA:

<b>ADDRESS:</b>	<b>2120 MAR EAST STREET</b>
<b>ASSESSOR'S PARCEL:</b>	<b>59-181-90</b>
<b>FILE NUMBER:</b>	<b>20436</b>
<b>PROPERTY OWNER:</b>	<b>FANI AND GARY HANSEN</b>
<b>APPLICANT:</b>	<b>SAME</b>
<b>LOT SIZE:</b>	<b>7,210 SQUARE FEET</b>
<b>ZONING:</b>	<b>R-2 (TWO-FAMILY RESIDENTIAL)</b>
<b>GENERAL PLAN:</b>	<b>H (HIGH DENSITY RESIDENTIAL)</b>
<b>FLOOD ZONE:</b>	<b>C</b>
<b>DATE COMPLETE:</b>	<b>OCTOBER 1, 2004</b>

## 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 15301.

## PROPOSAL

A two-family dwelling is currently under construction on property located at 2120 Mar East Street. Inspections of the project have revealed that several additions have been constructed that were not shown on the plans approved for Site Plan and Architectural Review for this project. A lower level area has been constructed beneath a detached garage, along with an extension of the lower level of the main structure. The applicant is requesting Design Review approval for these as-built additions. The applicant is also requesting approval of a driveway gate and modification to the boat lift for a dock; neither of these improvements has yet been constructed.



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The current application would not change the approved lot coverage for the site, as the additions are situated within the existing foot print of the approved structures. The as-built additions would increase the floor area of this property by 587 square feet to a total of 4,727 square feet, which is greater than the 2,721 square foot floor area ratio allowed for a lot of this size. Therefore a floor area exception is required.

The as-built addition beneath the detached garage is situated adjacent to the front property line. As a 15 foot front yard setback is required in the R-2 zone, a variance is requested for reduced front yard setback. This same addition lowered the bottom of the garage structure, thereby increasing the calculated height of the building to 18 feet. As the maximum height of an accessory structure is 15 feet, a variance is also requested for excess building height.

### **BACKGROUND**

The two-family dwelling under construction on this site was approved in 2003 (File # 20240) after a lengthy, controversial review process. The application included requests for reduced front yard setback (for the detached garage), excess lot coverage and a floor area exception. During the review of the project, the size of the proposed structure was repeatedly decreased, from a 4,752 square foot structure with 712 square feet of garage space reviewed by the Design Review Board on December 20, 2001, to a design with 3,588 square feet of living space and 692 square feet of garage space, reviewed by the Board on August 15, 2002. The final size for the project approved on January 16, 2003 was 4,140 square feet, with an additional 846 square feet of garage space.

Most of the concern raised by surrounding property owners regarding the project involved the height, mass and bulk of the proposed structures. The Design Review Board and Town Council shared these concerns during the review process. As a result, the eventually approved building plans significantly reduced the height and visible mass and bulk of the main building on the site.

### **ANALYSIS**

#### **Design Issues**

##### As-built additions

The lower level beneath the detached garage has a calculated floor area of 414 square feet. One end of the addition has ceiling heights less than 7 feet, and therefore does not meet the definition of floor area. The side of the addition facing the interior of the site is completely finished in glass, with multiple sliding glass doors. The submitted plans indicate a “water closet and washing facility for use by gardeners and dog washing.”

This addition has a high potential for use as living space, likely as a guest room. Although the glass walls would limit the privacy of this space and are consistent with the exterior design of the rest of the project, the addition does not have the appearance of a storage area or other utility space, particularly with the electrical and plumbing fixtures installed in this area. It is



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recommended that the plumbing be removed from this addition to limit its potential as a possible guest room.

The approved building plans for the lower level of the main building included several rooms indicated as utility space that were not included in the approved Site Plan and Architectural Review plans for this project. The as-built plans show that the kitchen area has been extended into one of the utility rooms, with a separate utility room accessed only from the outside. The remaining utility room also has a glass wall facing the interior of the site, but has only a small window to the rear and is relatively narrow, limiting its potential for use as living space.

Both of these additions are visible primarily from the interior of the property, although the area beneath the detached garage is somewhat visible from the adjacent home at 2110 Mar East Street. Neither addition adds significantly to the overall visual mass and bulk of the project.

### Driveway gate

Fencing has been constructed around much of the perimeter of the site in accordance with the approved Site Plan and Architectural Review application for this project. The applicant now wishes to construct a 6 foot tall metal driveway gate along the front property line. The applicant has indicated that the gate is necessary to provide adequate security for the property.

Mar East Street has a relatively narrow roadway which one-way traffic in the vicinity of the subject property. On-street parking, caused by the limited number of off-street parking spaces for homes in this neighborhood, further narrows the travel path for vehicles on this street. The Town has also received complaints regarding the speed of vehicles traveling along this stretch of Mar East Street.

It has been the policy of the Town to require that all residential driveway gates be situated at least 15 feet from the adjacent roadway. This allows vehicles (such as delivery trucks and guest vehicles) to pull safely out of traffic while waiting for the gate to be opened. The proposed gate location would not allow any such pull-out area, forcing vehicles to wait within the narrow adjacent roadway, resulting in an unsafe traffic condition. The gate would also limit the ability of the approved on-site parking area to be used for guest parking, leaving only the four garage spaces for two dwelling units. Therefore, Staff recommends that the driveway gate either be relocated to a position at least 15 feet from the roadway or be denied.

### Boat lift

The approved plans for the boat dock included two davits on the side of the dock to be used to hoist a boat out of the water. The applicant has now proposed to replace the davits with a hydraulic lift to be placed at the end of the dock.

Concerns have been raised in the past regarding boat lifts that allow the storage of a boat at heights well above the level of the adjacent dock, as boats stored so far above water can intrude into views from neighboring properties. The proposed boat lift would only allow a boat to be lifted to a level roughly even with the level of the dock. As a result, the revised lift location



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should not intrude into the viewlines from other neighboring properties, except for minimal water view blockage from other nearby docks or from rooms well above water level in neighboring homes.

### **Zoning**

Staff has reviewed the proposal and finds it to be in conformance with the development standards for the R-2 zone with the exception of the previously noted requests for variances for reduced side yard setback and excess building height, and a floor area exception.

### Variances

As previously noted, many of the lots along Mar East Street have similar lot configurations, and older nonconforming homes which do not comply with current zoning requirements. Particularly on the bay side of the street, many homes have had to request multiple variances for reduced setbacks in order to approve relatively minor additions. Other properties in the vicinity that have recently received variances for reduced setbacks include homes at 2108 & 2110, 2200, 2211, 2311, 2322, 2334, 2336 & 2348 Mar East Street (Files #20108, 298037, 2733, 27212, 27331, 200048, 27217 & 26510), 5 & 7 and 11 & 15 Linda Vista Avenue (Files #299012 & 27302) and 2129, 2298, 2323 and 2355 Paradise Drive (Files #27403, 27731, 26607 & 27728).

Fewer instances exist in the area or in the same or similar zones for variances for excess building heights for accessory structures. Most such approved variances have been granted where sloping site topography makes it difficult to comply with this height requirement. There have been several instances in which building height variances have been granted where the variance is necessitated by lowering the bottom level of the structure, with the ridgeline remaining unchanged.

In order to grant the requested variances, the Board must make all of the following findings 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.***

The subject property drops away significantly from the street toward the bay, although not as sharply as many other properties along Mar East Street and Paradise Drive. The surrounding properties have similar physical conditions which restrict the location of reasonable building additions. The physical characteristics of the subject property therefore create special circumstances which otherwise would constrain development of the property in a manner consistent with other homes in the vicinity while complying with the requirements of the R-2 zone.



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- 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.***

As stated above, several other homes in this neighborhood have received variances for reduced front yard setbacks. Other variances have been granted for overheight structures in which the bottom level of the building has been lowered in a manner similar to that caused by the as-built addition beneath the detached garage. Therefore, the granting of these variances would be generally consistent with the limitations upon other properties in the same or similar zones.

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

The strict application of the front yard setback requirement would force any structural additions to the center of the site, resulting in a more crowded interior of the site. The size of this property is less than the minimum lot size in the R-2 zone, which is a physical characteristic that would create a practical difficulty and unnecessary hardship in complying with these zoning standards.

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

As described above, the as-built addition beneath the detached garage does not appear to create any significant view or visual impacts on neighboring homes.

### Floor Area Exception

Section 4.02.08 of the Tiburon Zoning Code states that the Design Review Board may grant exceptions to the required floor area ratio requirements if it makes the following two findings:

1. The applicant has demonstrated that the visual size and scale of the proposed structure is compatible with the predominant pattern established by existing structures in the surrounding neighborhood; and
2. The applicant has demonstrated that the proposed structure is compatible with the physical layout of the site. The characteristics include, but are not limited to, the scale of trees, rock outcroppings, stream courses, land forms, and the dimensions of the lot.

The Design Review Board has previously determined that the visual size and scale of the approved two-family dwelling was compatible with the surrounding neighborhood and is compatible with the physical layout of the site. The subject additions are situated within the footprint of the approved buildings and below previously approved building area. These additions are not particularly visible from off the site, and therefore would not alter the



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relationship of the approved buildings to the development pattern in the vicinity and to the layout of the site.

From the evidence provided, Staff believes that there is sufficient evidence to support the findings for the requested variances and floor area exception.

### **Public Comment**

As of the date of this report, no letters have been received regarding the project.

### **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 15301. If the Board agrees with Staff's conclusions, the project should be approved, with the exception of the driveway gate and the requirement that the bathroom be removed from the addition beneath the detached garage. If the Board wishes to approve the project, Staff recommends that the attached conditions of approval should be applied.

### **ATTACHMENTS**

1. Conditions of approval
2. Application and supplemental materials
3. Minutes of the January 16, 2003 Design Review Board meeting
4. Submitted plans

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### CONDITIONS OF APPROVAL

2120 MAR EAST STREET

FILE #20436

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 with the application dated by the Town of Tiburon on September 20, 2004, or as amended by these conditions of approval. Any modifications to the plans of September 20, 2004 and October 14, 2004, 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. The applicant must meet all requirements of other agencies prior to the issuance of a building permit for this project.
5. All exterior lighting fixtures other than those approved by the Design Review Board must be down light type fixtures.
6. The driveway gate shall either be relocated to a position at least 15 feet from the roadway or shall not be constructed.
7. All plumbing fixtures shall be removed from the addition beneath the detached garage.