

Town of Tiburon STAFF REPORT

AGENDA ITEM E6



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TO: **DESIGN REVIEW BOARD**

FROM: **PLANNING MANAGER WATROUS**

SUBJECT: **249 DIVISO STREET; FILE #20447
SITE PLAN AND ARCHITECTURAL REVIEW FOR THE
CONSTRUCTION OF ADDITIONS TO AN EXISTING SINGLE-FAMILY
DWELLING, WITH VARIANCES FOR REDUCED FRONT AND SIDE
YARD SETBACKS AND A FLOOR AREA EXCEPTION**

MEETING DATE: **FEBRUARY 17, 2005** _____

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PROJECT DATA:

ADDRESS:	249 DIVISO STREET
ASSESSOR'S PARCEL:	059-131-05
FILE NUMBER:	20447
PROPERTY OWNERS:	DEB FROST
APPLICANT:	SUSTAINABLE ARCHITECTURE CONSULTING
LOT SIZE:	3,251 SQUARE FEET
ZONING:	R-1 (SINGLE-FAMILY RESIDENTIAL)
GENERAL PLAN:	MEDIUM HIGH DENSITY RESIDENTIAL
FLOOD ZONE:	C
DATE COMPLETE:	JANUARY 13, 2005

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 is requesting Design Review approval for the construction of additions to an existing two-story single-family dwelling on property located at 249 Diviso Street. Changes to the main floor of the house would include the construction of a new two-car parking deck and the conversion of the existing garage into a bedroom. A new third story would be constructed, which would include an office, closet and bathroom. In addition, three new tube skylights would be installed, and one existing flat skylight would be relocated to the new roofline. The existing driveway approaching across the street right-of-way to the south would be abandoned, and a new direct driveway would lead to the parking deck.



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The proposed additions would increase the lot coverage on the site by approximately 10 square feet to a total of 1,538 square feet (47.2%). Although this would exceed the 30.0% maximum lot coverage permitted in the R-1 zone, Town policy has been to not require a variance for lot coverage for projects that would cause the lot coverage for a property that already exceeds the maximum lot coverage to increase by less than one percent.

The proposed addition would increase the floor area of the house to 2,217 square feet, which would be 1,083 square feet greater than the floor area ratio for a lot of this size. Therefore a floor area exception is requested.

The proposed addition would extend to the front property line, which is less than the 15 foot minimum front yard setback required in the R-1 zone. A variance is therefore requested for reduced rear yard setback.

The proposed addition would also extend to within 6 feet, 5 inches of the northern side property line, which is less than the 8 foot minimum side yard setback required in the R-1 zone. A variance is therefore also requested for reduced side yard setback.

A color and materials board has not been submitted, as the proposed addition would match the exterior colors and materials of the existing house.

ANALYSIS

Design Issues

The existing house is situated on a very small (3,251 square foot) lot that slopes down from Diviso Street to Centro West Street. This house currently has two stories of living space, with two bedrooms and two bathrooms. A one-car garage is situated on the main level of the house. The driveway leading to the garage extends across the Diviso Street right-of-way in front of the adjacent property to the south. The house extends to within 3 feet of the northern side property line, and a portion of the garage actually extends beyond the front property line.

The proposed garage conversion would add a third bedroom to the house. The area within the proposed upper level is designated as an office; however, the proposed upper level floor plan also shows a bathroom, a large walk-in closet, and an extensive south-facing deck. The layout of this floor has the size and appearance more generally associated with a master bedroom suite than a home office.

The adjacent property owner to the north at 1901 Centro West Street has raised concerns about the potential impacts of the proposed upper floor addition. This adjacent lot has a rear yard area and deck adjacent to the side property line of the subject site. Although the upper floor has been set back from the line of the existing lower floor, this addition would still be only 6 feet, 5 inches from the shared property line. As a result, the addition would result in a substantial increase in the visual mass and bulk of the subject house when viewed from the rear yard and deck of the neighboring property. The adjacent property owner has also raised a concern about potential sunlight blockage that could be caused by the addition; based on a winter time midday



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site visit by Staff; it does not appear that the addition would block sunlight into this portion of the adjacent property.

The owner of the home across the street from the subject site at 250 Diviso Street has indicated to Staff that the proposed upper floor addition would block views of Downtown Tiburon and the Belvedere Lagoon from the living room of this house. The Design Review Board is encouraged to visit both this property and the home at 1901 Centro West Street to better evaluate the potential view and visual impacts of the proposed addition.

The Town of Tiburon's garage conversion policy states that a replacement garage space may not be required if "there is adequate space on the property to provide an improved but uncovered parking area of equal or greater capacity than that being converted, while meeting all setback requirements." The small dimensions of the subject property do not leave any space for a replacement one-car garage on the site. It should be noted that the existing garage space is situated almost wholly within the required front yard setback.

The proposed parking deck would have a length of 23 to 26 feet from the roadway to the upper floor of the house. Almost all of this deck would be situated within the street right-of-way. The deck would leave little room for vehicles to back up before entering the roadway. The visibility for vehicles backing up would be very poor; landscaping along the side property line, along the front of the adjacent property (used to provide privacy for the house and rear yard at 1901 Centro West Street) and a utility pole at the street all combine to severely limit visibility up Diviso Street. Given the high speeds at which vehicles often travel down this street, this poor visibility would likely result in an unsafe condition whenever cars leave the parking deck.

The submitted plans indicate other improvements to be installed within the right-of-way. The existing driveway would be removed, and the right-of-way would be developed with a child's play area and sitting area. Additional landscaping proposed along the edge of the roadway would further visually shield this area. The intent of these improvements would appear to create a private yard area within the street right-of-way.

Section 4.02.04 (d) of the Tiburon Zoning Ordinance (Guiding Principles in the Review of Site Plan and Architectural Review Applications) states that the Design Review Board shall consider "the relationship between the size and scale of improvements and the size of the property on which the improvements are proposed." The existing two bedroom, two bathroom house has 1,475 square feet of floor area and a one-car garage on a 3,251 square foot lot. This would appear to be a reasonable amount of development to be expected on a lot less than a third of the minimum lot size in the R-1 zone. The proposed project would result in a three bedroom, three bathroom, 2,217 square foot home with a large upper floor office; a much larger lot size is usually required to support a home with these characteristics. The proposed improvements in the street right-of-way are also indicative of an overdevelopment of the site, as the yard areas would spill over nearly to the edge of the roadway.

The only other area of Tiburon with such small developable lot areas is the neighborhood of homes along the water along Mar East Street and Paradise Drive; in that neighborhood, larger homes have been permitted on such small lots based on the overall pattern of development in



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the area and taking into consideration the unique location of these lots which rear into the bay. The subject property does not share these characteristics; in this part of Old Tiburon, smaller lots are developed with smaller homes, and the parcels do not border the water.

As previously noted, the proposed upper floor office has the characteristics of a second master bedroom suite, including a bathroom, a walk-in closet and a deck oriented to capture views to the south. Such a home office is amenity generally found only in larger homes, and cannot be considered to be a necessity for a home on a small lot. The upper floor addition would attempt to construct an oversized amenity at the expense of the views and visual character of several neighboring properties. A better design solution could be to create an office within the existing crawl space to the rear of the lower level of the house; such an addition would add to the utility of the house within the existing footprint of the building without impacting nearby homes.

Zoning

Staff has reviewed the proposal and finds it to be in conformance with the development standards for the R-1 zone with the exception of the previously noted variances for reduced front and side yard setbacks and floor area exception.

Variances

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 is extremely small, and less than a third of the minimum lot size required in the R-1 zone. The site is also bounded on two sides by public streets, sloping down sharply in between these frontages. The size and shape of the lot are special circumstances that effectively limit the area upon which additions could be constructed to the subject house. However, other properties in the vicinity and in the same or similar zones do not generally enjoy the privileges sought by the applicant to create such a large house in relationship to the size of the lot. Therefore, the strict application of the setback requirements for this property would not deprive the owners of this property of development privileges enjoyed by other properties in the vicinity.

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.***

Numerous other properties in the surrounding Old Tiburon neighborhood have received variances for reduced front and side yard setbacks, particularly when



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adding on to older homes that have been developed with legally nonconforming setbacks.

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

The strict interpretation of the required front and side yard setbacks would eliminate the proposed home office and parking deck, and force the owner to maintain the house in its present condition. As stated previously, the existing size of the house appears to represent a reasonable level of development for this small house. Further, the proposed office would be an amenity that is generally associated only with larger houses on larger lots, and the proposed parking deck would result in an unsafe parking condition. The failure to allow an oversized residential amenity and an unsafe parking condition would not result in either an unnecessary hardship or a practical difficulty 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.*

As noted above, the proposed upper floor addition would result in unwanted visual and view impacts for several nearby homes. The proposed parking deck would result in an unsafe parking configuration that could prove to be detrimental to the safety and public welfare of residents driving along Diviso Street.

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 surrounding Old Tiburon neighborhood includes many homes that have a vertical design with more than two building levels. However, most of these homes have been developed on larger lots than the subject property; it is difficult to tell whether the visual size and scale that would result from the proposed upper floor addition would be consistent with the size and scale of other, larger nearby homes on larger lots.

The proposed project would not appear to be compatible with the physical layout of the site. Adding one more floor on top of an existing two-level house would exacerbate the vertical



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nature of the house in relationship to this small lot. The overly large size of this house would also appear to be incompatible with the small dimensions of the lot.

Section 4.02.08 states that the Floor Area Ratio Guidelines “is intended to indicate a reasonable maximum” floor area for the property. It would appear that the existing size of the house, which is already nearly 30% above the floor area ratio for a lot of this size, would be more consistent with the “reasonable maximum” development potential of this lot that the proposed floor area, which would be nearly double (95.5% above) the floor area ratio for a lot of this size.

From the evidence provided, Staff believes that there is insufficient 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 subject application. Staff has spoken to the owners of 1901 Centro West Street and 250 Diviso Street, who have raised concerns addressed elsewhere in this report.

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 15303. If the Board agrees with Staff’s conclusions, the Board should direct Staff to prepare a resolution denying the subject application. If the Board wishes to approve the project, Staff would recommend that the attached conditions of approval be applied.

ATTACHMENTS

1. Conditions of approval
2. Application and supplemental materials
3. Submitted plans

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CONDITIONS OF APPROVAL

249 DIVISO STREET

FILE #20447

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 December 17, 2004, or as amended by these conditions of approval. Any modifications to the plans of December 17, 2004, 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 Planning Division 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 Planning Division 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 skylights shall be bronzed or tinted and no lights shall be placed in the wells.
6. All exterior lighting fixtures must be down light type fixtures.