

Town of Tiburon

STAFF REPORT

AGENDA ITEM _____ E3



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TO: DESIGN REVIEW BOARD

FROM: KRISTIN KRASNOVE, ASSOCIATE PLANNER

SUBJECT: 989 TIBURON BOULEVARD; FILE NO. 20530
SITE PLAN AND ARCHITECTURAL REVIEW FOR THE
CONSTRUCTION OF WALLS AND FENCES, WITH A VARIANCE FOR
EXCESS WALL AND FENCE HEIGHT

MEETING DATE: OCTOBER 20, 2005 _____

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PROJECT DATA:

OWNER:	DONALD AND CANDACE KAGIN
ARCHITECT:	JIM MALOTT
ADDRESS:	989 TIBURON BOULEVARD
ASSESSOR PARCEL NUMBER:	058-132-17
FILE NUMBER:	20532
LOT SIZE:	26,290 SQUARE FEET
ZONING:	R-1 (SINGLE-FAMILY RESIDENTIAL)
GENERAL PLAN:	MH (MEDIUM-HIGH DENSITY RESIDENTIAL)
FLOOD ZONE:	C
DATE COMPLETE:	SEPTEMBER 30, 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 15301.

PROPOSAL:

The applicant is requesting Site Plan and Architectural Review approval to construct a five foot tall retaining wall with a three foot guard rail on the property located at 989 Tiburon Boulevard. The property is developed with a single-family home.

The subject property is a flag shaped lot with a 400 foot driveway providing access to Tiburon Boulevard. The property borders the Hilarita Open Space to the south. The proposed retaining wall and railing would be located along the expanded driveway on the southern property line. The overall height of the wall and railing would be eight feet, which exceeds the allowed fence height by two feet, therefore a variance for excess wall and fence height is requested (eight feet in lie of the allowed six feet).



Town of Tiburon

STAFF REPORT

ANALYSIS:

Design Issues

In order to expand the existing driveway to allow for emergency vehicle turnaround and additional parking, a new retaining wall along the south property line is required. Due to the height of the wall a safety railing is required per the Building Code. Typically safety railings are set three feet back from the top of walls in order to comply with the six foot height limit. Due to the need for nine additional feet of driveway space, the applicant is requesting to locate the railing directly above the retaining wall. In essence, the applicant is requesting relief from the three foot separation requirement.

The proposed retaining wall and railing would be painted dark gray or green to blend in with the landscape, and the railing would have a dark bronze cap. The existing driveway curb is only minimally above grade; however, as the driveway expands over the slope, the retaining wall height needs to be increased. The existing concrete driveway would be replaced with an expanded driveway and turnaround made of a textured/colored concrete. The wall and railing would be 80 feet long.

The proposed wall and railing would be most visible from the Hilarita Open Space to the south. The applicant is proposing to plant Oak trees, Manzanitas, Junipers, and Toyons on the downhill side of the wall to help mitigate the visual impacts of the proposed wall.

Zoning

Staff has reviewed the proposal and finds it to be in conformance with the development standards for the R-1 zoning district with the exception of the previously noted variance for excess wall height.

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.**

The subject property slopes from north to south creating the need for walls to retain the slope. In order to create adequate space for emergency vehicle turnaround, there is not space for the railing to be separated from the top of the retaining wall. It would not be possible in this case to terrace the walls to reduce the visual height due the proximity of the driveway to the property line.



Town of Tiburon

STAFF REPORT

- 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 vicinity and other properties in the R-1 zone have received variances for excess wall height in areas where the topography of the site would make the setback of the railing from the wall impossible to meet the normal safety needs enjoyed by other residential property owners.

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

In order to achieve adequate emergency vehicle turnaround requested by the Fire Department for the property, the railing needs to be located directly above the retaining wall. Requiring the separation of the railing from the wall would not allow for the needed additional driveway space, placing an unnecessary hardship on 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 proposed, the design of the subject fence would not appear to result in unwanted view or visual impacts on neighboring properties and would not result in significant impacts detrimental to the public welfare or injurious to other properties in the vicinity.

Public Comment

Two letters in support of the project have been received from the adjacent property owners at 1655 and 1661 Mar West Street.

RECOMMENDATION:

It is recommended that the Board review this project with respect to Zoning Ordinance Sections 4.02.07 and 4.03.05 (Guiding Principles, and Variance Findings by Acting Body) 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, then 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 September 6, 2005
3. Applicant's findings for the Variance
4. Plans for the proposed project

Town of Tiburon

STAFF REPORT



EXHIBIT 1

CONDITIONS OF APPROVAL 989 TIBURON BOULEVARD FILE #20530

1. This approval shall be used within 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 received by the Town of Tiburon on September 6, 2005, or as amended by these conditions of approval. Any modifications to the approved plans must receive further design review and approvals.
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. If this approval is challenged by a third party, the property owner/applicant will be responsible for defending against this challenge. The property owner/applicant agrees to defend, indemnify and hold the Town of Tiburon harmless from any costs, claims or liabilities arising from the approval, including, without limitations, any award of attorney's fees that might result from the third party challenge.