

# Town of Tiburon STAFF REPORT



AGENDA ITEM \_\_\_\_\_

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TO: **DESIGN REVIEW BOARD**

FROM: **PLANNING MANAGER WATROUS**

SUBJECT: **POTENTIAL AMENDMENT TO SITE PLAN AND ARCHITECTURAL  
REVIEW REQUIREMENTS FOR MECHANICAL EQUIPMENT,  
EXTERIOR LIGHTING AND SAFETY RAILINGS**

MEETING DATE: **JANUARY 19, 2006** \_\_\_\_\_

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## **BACKGROUND**

During the course of reviewing a number of Site Plan and Architectural Review applications and discussions with Tiburon residents, concerns have been raised that have indicated the need for several amendments to the Tiburon Zoning Ordinance. In particular, concerns were raised about requiring design review approval for noise-generating exterior mechanical equipment; including downlight requirements in principles for Design Review for exterior lighting; and whether safety railings on top of retaining walls should be included in the calculation of wall heights. Staff has prepared draft language for these three specific changes.

## **ANALYSIS**

### Mechanical Equipment

Section 4.02.02 (a) of the Tiburon Zoning Ordinance requires Site Plan and Architectural Review approval for any structure more than 42 inches (3½ feet) in height. Most exterior air conditioning units and many other pieces of mechanical equipment are less than 42 inches in height. Although the location of such equipment rarely results in unwanted visual impacts due to their relatively low height, the Town sometimes receives complaints from neighboring residents about noise generated by the equipment when installed in inappropriate locations. Placement of noisy equipment near property lines or below bedroom windows of adjacent residences can result in unwanted noise impacts for these neighbors.

Specific setback standards for noise-generating equipment may not be appropriate. Site characteristics such as topography and the location of bedrooms or other quiet spaces for neighboring homes need to be considered in determining the most appropriate location for such equipment.

In order to require Site Plan and Architectural Review for noise-generating exterior equipment, the following changes would be required to the Zoning Ordinance:



# Town of Tiburon

## STAFF REPORT

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Section 4.02.02 (c) would be amended to require Site Plan and Architectural Review approval for:

- (c) “Placement or installation of swimming pools and/or spas; **installation or relocation of exterior air conditioning units or similar noise-generating mechanical equipment**; placement or erection of solar panels, satellite dishes greater than one meter in diameter, skylights, and/or devices of a similar nature, as determined by the Planning Director or his designee. (Please note that the placement of signs does not require Site Plan & Architectural Review, but does require a "sign permit", pursuant to Chapter 16A of the Tiburon Town Code.)”

Section 4.02.06 (Planning Director as Acting Body on Applications for Minor Alterations) would be modified as follows:

“Site Plan & Architectural Review applications for the following items are considered to be Minor Alterations and may be acted upon by the Planning Director or his designee in lieu of the Design Review Board:

- a. Residential additions less than 500 square feet in floor area.
- b. Accessory buildings or structures less than 500 square feet in floor area.
- c. Fences, walls, and/or retaining walls.
- d. Minor exterior alterations such as windows, decks, skylights, solar panels, satellite dishes, and similar items as determined by the Planning Director.
- e. Re-roofs.
- f. Swimming pools.
- g. Spas.
- h. **Installation or relocation of exterior air conditioning units or similar noise-generating mechanical equipment.**
- i. Modifications to approved Site Plan & Architectural Review permits when determined to be minor in nature.
- j. Other applications which the Planning Director determines to be appropriate for Staff action.”

In order to ensure that the appropriate location of noise-generating equipment is considered in the review of Site Plan and Architectural Review applications, Section 4.02.07 (b) (Guiding Principles in the Review of Applications) would be amended to read as follows:

“In reviewing applications for Site Plan & Architectural Review, the acting body shall consider the following principles as they may apply:

- (b) “*Site Layout in Relation to Adjoining Sites.* The location of proposed improvements on the site in relation to the location of improvements on adjoining sites, with particular attention to view considerations, privacy, **location of noise-generating exterior mechanical equipment**, adequacy of light and air, and topographic or other constraints on development imposed by particular site conditions;”



# Town of Tiburon

## STAFF REPORT

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### Exterior Lighting

Over the past ten years or more, the Planning Division and Design Review Board have consistently imposed a condition of approval on Site Plan and Architectural Review applications stating that “All exterior lighting fixtures other than those approved by the Design Review Board must be down light type fixtures.” The only reference to lighting issues for Design Review applications contained in the Zoning Ordinance is Section 4.02.07 (h) (Guiding Principles in the Review of Applications), which currently reads as follows:

“In reviewing applications for Site Plan & Architectural Review, the acting body shall consider the following principles as they may apply:

- (h) “*Lighting.* Proposed lighting, insofar as it should not invade the privacy of other properties, or produce glare or light pollution; yet provide adequate illumination for safety and security purposes. The acting body may impose a condition that following issuance of a certificate of occupancy or final building inspection, all exterior lighting shall be subject to a 30-day light level review by the Planning Department to ensure conformance with this guideline.”

In order to more properly emphasize the importance of downlighting for new exterior lighting fixtures, it is recommended that the phrase “all proposed exterior lighting shall be shielded downlighting” to the end of this section.

The uniform requirement for downlight fixtures has been used as a means to insure that new lighting does not “not invade the privacy of other properties, or produce glare or light pollution; yet provide adequate illumination for safety and security purposes.” Town Staff has rarely, if ever, conducted a “30-day light level review” as a means of determining whether lighting levels are appropriate, as the requirement to install downlight fixtures has done an adequate job of ensuring conformance with this principle.

It is therefore recommended that Section 4.02.07 (h) be amended to read as follows:

- (h) “*Lighting.* Proposed lighting, insofar as it should not invade the privacy of other properties, or produce glare or light pollution; yet provide adequate illumination for safety and security purposes. ~~The acting body may impose a condition that following issuance of a certificate of occupancy or final building inspection, all exterior lighting shall be subject to a 30-day light level review by the Planning Department to ensure conformance with this guideline.~~ **All proposed exterior lighting shall be shielded downlighting.** “

### Safety Railings

The Uniform Building Code (UBC) requires that a three foot (3’) tall safety railing be installed on or near most retaining walls over three feet in height to prevent people walking near such walls from falling off the edge to a level below. When this railing is placed on top of the wall, the



# Town of Tiburon

## STAFF REPORT

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overall height of the structure is measured as the plumb vertical distance between the natural or finished grade (whichever is lower) at the base of the wall to the top of the railing. As walls and fences have a maximum height of six feet (6') when located within required setbacks, the safety railing often has the effect of increasing the measured height of the combined wall and railing to more than 6 feet. Such occasions have resulted in numerous recent requests for variances for excess wall and fence height.

The Town has adopted an administrative policy that states that:

“If two or more fences or walls are constructed with a horizontal separation of three feet (3') or less between the faces of the structures, the height of the respective structures shall be combined to determine the total wall or fence height. However, if the walls and/or fences are separated by a horizontal distance greater than three feet (3'), the heights of the structures shall be calculated separately.”

In order to avoid variance requests, many owners have chosen to follow this policy and place the required safety railing 3 feet behind the top of their retaining walls. However, this has resulted in safety railings that often cut through landscaped areas behind these walls; such railings are aesthetically unattractive, unnecessarily reduce the size of the landscaped area, and increase the likelihood that someone will walk between the railing and the wall and fall off the wall. The Building Official has observed such installations and has concerns that the resulting railings are inconsistent with the intent of the UBC to ensure the safety of residents and guests on these properties.

In order to address these issues, it is recommended that Section 5.06.04 (b[2]) (Yard Regulations) be amended to read as follows:

- (b) “Fences, walls, hedges, walks, driveways, and garage aprons and similar paved areas may occupy any required yard, provided that:
  - 2. A fence, wall, or retaining wall shall not exceed six (6) feet in height in any yard, unless all of the following conditions are met:
    - a. The fence and/or wall is located along a private residential property line shared with another private residential property;
    - b. There is a difference in surface elevation between the two adjoining properties along the property line upon which the proposed fence and/or wall is to be located;
    - c. The fence and/or wall would have a maximum height of six (6) feet on the upper side of the structure; and a maximum height on the lower side of the structure of six (6) feet plus the difference in

# Town of Tiburon STAFF REPORT

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surface elevation between the adjoining yard areas at the property line, but in no instance more than nine (9) feet;

- d. The Acting Body determines that a fence and/or wall with a height of six (6) feet on the lower side of the structure would not provide an effective privacy screen for the adjoining properties; and
- e. The Acting Body determines that the proposed fence would not result in significant view obstruction or visual impacts on properties in the vicinity.

**A safety railing on top of a retaining wall as required by the Uniform Building Code shall not count toward the measured height of the retaining wall if the Building Official determines that the location of the railing is necessary for safety purposes. Site Plan & Architectural Review approval shall be required for such railings and walls as provided in Section 4.02.00 of this Chapter.**

## FUTURE ACTIONS REQUIRED

These proposed changes to the Zoning Ordinance are being presented to the Design Review Board for courtesy review. The amendments have been scheduled for a hearing before the Planning Commission on January 25, along with other potential amendments to the Zoning Ordinance. The Planning Commission will make a recommendation to the Town Council regarding the possible adoption of these amendments.

## RECOMMENDATION

It is recommended that the Design Review Board discuss the potential amendments to the Tiburon Zoning Ordinance and provide feedback that will be passed along for consideration by the Planning Commission and Town Council.