



Town of Tiburon

STAFF REPORT

The proposed lots would be subject to the regulations of the R-2 (Two-Family) zoning district, which establish setbacks and lot coverage limitations for these lots; however, the project would include a deed restriction limiting the development on each lot to a single-family home in order to address potential density concerns in the neighborhood.

Minor grading would be required for the construction of the residence and subsequent 12' asphalt driveway providing access from Esperanza Street. The new garage and residence would be cut into the slope above the existing residence. The existing pedestrian path across the property would be retained during construction and the applicant has committed to enhancing the path, which is not currently pedestrian friendly during the wetter months of the year.

An Alternative Lot Layout drawing (Sheet 6) was also submitted by the applicant at the request of Staff. This alternative plan slightly increases the magnitude of the slope exception, but it results in a more logical and traditional lot pattern, consistent with surrounding development, creating two lots of similar size (10,000 and 12,000 square feet) and shape. Staff prefers the Alternate Lot Layout.

Subdivision Improvements

The site slopes down from Esperanza Street toward Mar West Street, with an east to west slope of 11.3% to 19.8% with a negligible north to south cross-slope. Proposed Lot 1 would have a slope of 11.29% and proposed Lot 2 would have a slope of 19.81%. The Tiburon Municipal Code requires a minimum lot area for a slope between 15% and 19.99% of 15,000 square feet. Proposed Lot 2 would be 915 square feet deficient, so a slope exception is required.

Section 14-7.2 of the Subdivision Ordinance states the minimum lot size standards may be modified or waived by the Town Engineer because of unique site conditions. The Town Engineer found that unique physical characteristics exist that would warrant an exception to the minimum lot size standard (**Exhibit 6**).

The applicant has submitted a geotechnical report (**Exhibit 5**) for the property. The investigation found that the site consists of a four to eight foot depth of soft to silty clays and sandy clays, underlain by weathered siltstone and sandstone bedrock. No geotechnical or geologic hazards were found on the site. The report found the site to be generally suitable for development, and made several other recommendations for improvements to be completed as part of any future construction on the property.

The applicant has submitted a biological reconnaissance that indicated the site is covered in ornamental flowers, shrubs and fruit trees. Non native acacia trees were



Town of Tiburon

STAFF REPORT

also observed as well as non native grasses, shrubs, and trees. No serpentine rock outcrops were observed on the site. The biological reconnaissance concluded that the site is very unlikely to support special status species.

The submitted plans for this application (**Exhibit 3**) illustrate the allowable setbacks parameters for the two proposed lots in conformance with the R-2 zoning of the property. A conceptual building footprint has also been included on the drawings to illustrate a house location on proposed Lot 2. The conceptual plans indicate a proposed driveway providing access from the end of Esperanza Street, while the existing house is served by a driveway off Mar West Street. The access of the existing residence would remain unchanged as a result of the proposed minor subdivision.

ANALYSIS

Issues

Staff was somewhat skeptical when this application was first filed, if only because land divisions in Old Tiburon are so rare. The most recent lot splits (other than condominium conversions) in Old Tiburon were approved in the 1970's. The narrow streets, small lots, lack of parking, and relatively high density in Old Tiburon are legitimate concerns that argue against increased density of development in this neighborhood.

However, in reviewing the situation specific to this proposal, and canvassing the entire R-2 zone of Old Tiburon, Staff concludes that this land division is appropriate and would not result in a precedent for additional land divisions.

On a neighborhood scale, the subject lot is clearly an aberration, as a visual comparison of the lot pattern surrounding it reveals (see **Exhibit 15**). Staff believes that no other parcels in the entire R-2 zone possess the characteristics of this property that make it amenable to division. There are very few properties of comparable size in the R-2 zone, and the few others either have extremely steep slopes, lack appropriate access, or suffer other physical drawbacks that render future division extremely unlikely.

When viewed in singularity, the subject property appears a natural fit for division. The streets accessing the new home (Beach Road and lower Esperanza Street) are among the best in Old Tiburon; parking for four cars could easily be accommodated on the 12,000 square foot lot; access would be direct and level; the slope is not an obstacle to construction; construction of a home would not appear to be detrimental to the surrounding neighborhood; and the applicant has addressed the potential density issue by agreeing to deed restrictions that would result in no greater density than if a duplex were built on the current parcel as allowed by the R-2 zoning.



Town of Tiburon

STAFF REPORT

General Plan Consistency and Zoning Ordinance Conformance

The areas of the two proposed lots are consistent with the current R-2 zoning and High Density Residential General Plan designation for this property. As stated above, proposed Lot 2 would not meet the minimum lot size requirement for the slope of the property. The Town Engineer has made the findings to grant an exception to the lot area requirement pursuant to the Municipal Code.

Tiburon General Plan Land Use Element Policy LU-19 states that subdivision of existing developed lots should be discouraged unless the following criteria are met:

- a) *Acceptable access can be readily provided.*

The property is bordered by both Mar West Street and Esperanza Street, which provide adequate access to the site.

- b) *All newly created lots have an average slope of less than 30%*

As stated above, the average slope for both parcels would be 11.3% to 19.8%.

- c) *Development could avoid ridgelines or prominently visible areas.*

There are no ridgelines on the subject property. The proposed Lot 2 is visible to Old Tiburon residents passing by the site, but is not visually prominent.

- d) *Consistency with general plan, zoning and subdivision ordinances, and any applicable specific plans is demonstrated.*

As stated above, the proposed subdivision would be consistent with the general plan and with zoning requirements. Compliance with the subdivision ordinance is addressed below. There are no specific plans or precise plans applicable to this property.

- e) *Proposed lot sizes and density are compatible with surrounding pattern of development and the characteristics of the subject property are comparable with those of surrounding properties.*

The proposed lot sizes and density are compatible with the surrounding lots in Old Tiburon. One new single-family residence on proposed Lot 2 would not materially alter the density of the area. The existing property is double the size of most properties within the Lyford's Cove Old Tiburon subdivision, and the proposed lot sizes of 8,005 square feet and 14,085 square feet would be



Town of Tiburon

STAFF REPORT

comparable with those of surrounding properties. The Alternate Division Line layout would result in lot areas of 10,085 square feet and 12,005 square feet.

- f) *Sensitive treatment of trees and other significant natural features can be achieved within the proposed lotting pattern.*

There are no significant natural features on the property which would be affected by the proposed minor subdivision. The 36" Acacia tree is the only tree on the site protected under the Tiburon Tree Ordinance, and it is not proposed to be removed.

- g) *All basic services can be provided to the site, including sewer lines.*

All basic services, including sewer lines, are available to serve the site.

- h) *New homes can be accessed by a driveway. No driveway shall serve more than three units.*

Both the existing home and proposed home would be served by separate driveways; one (existing) connecting to Mar West Street; the other to Esperanza Street.

Subdivision Ordinance Compliance

Chapter 14 of the Tiburon Municipal Code (Subdivision Ordinance) requires that the Planning Commission make the following findings in approving a Tentative Map for a Minor Subdivision:

- a. Plan Consistency. As stated above, the proposed map is consistent with the goals and objectives of the Tiburon General Plan and would, on balance, further the goals and objectives of the General Plan.
- b. Design or Improvement. With the granting of the slope exception, the design of the proposed subdivision is consistent with Town policies and regulations regarding subdivision of property.
- c. Type of Development. The proposed subdivision would result in a single-family home which is a permitted and common type of development in Old Tiburon and in the R-2 zone.
- d. Density of Development. The proposed density is consistent with surrounding development.



Town of Tiburon

STAFF REPORT

- e. Fish or Wildlife. The subject property is situated within an area that is generally developed and one residence is already constructed. There will be no impacts on fish or wildlife from the subdivision application approval.
- f. Public Health. The proposed subdivision has no characteristics that would cause significant public health problems.
- g. Access. The access to the proposed lots would utilize Mar West Street and Esperanza Street and would not overburden these streets. The public access easement providing a foot path across the property would be maintained and enhanced.
- h. Dedications. There are no lands or improvements proposed to be dedicated to the Town as part of this project. Improvements to the path would be accepted by the Town upon completion, by means of an encroachment permit.
- i. Discharge of Waste. The future house on proposed Lot 2 would be required to hook up to the public sewer system, in conformance with the requirements of the Town of Tiburon and Sanitary District #5.
- j. Regional Housing Needs. The project is consistent with the Town's Housing Element goals and policies.

Public Comments

As of the writing of this report, Staff has received seven letters related to this project. Two letters from William Lukens, President of the Lyford's Cove Old Tiburon Homeowners' Association, included concern about maintenance of the footpath running through the site and increased density in the area. James Raives from Marin County Open Space submitted a letter regarding potential impacts on the adjacent John Thomas Howell Botanical Garden. One letter from Phil Cassou, President of the Belvedere-Tiburon Landmarks Society, was submitted opposing the project due to possible impact on the wildflower preserve in the adjacent Botanical Garden. The applicant, Diane Ho, submitted two letters rebutting the various public comments. Staff also received one letter from the adjacent property owners at 1659 Mar West Street expressing support for the subject project. The applicant has also submitted plans with signatures of the property owners at 1659 Mar West Street, 1661 Mar West Street, and 145-147 Esperanza Street. The letters are attached as **Exhibits 7 through 12.**



Town of Tiburon

STAFF REPORT

Environmental Status

An initial study/draft mitigated negative declaration was prepared for this project and released for public comment on March 2, 2005. The initial study/draft mitigated negative declaration is attached as **Exhibit 4**. The public review period ends on March 23, 2005.

The initial study identified the potential for significant environmental impacts in the following categories:

- Air Quality
- Biological Resources
- Cultural resources
- Geology/Soils
- Hydrology/Water Quality
- Noise
- Transportation/Traffic

Mitigation measures have been developed that would reduce the potential for adverse environmental impacts to less-than-significant levels. The majority of potential impacts can be mitigated through normal compliance with Town design review and building procedures, and with Tiburon Fire Protection District requirements.

As of the writing of this report, no comments on the draft Mitigated Negative Declaration have been received, and no substantial evidence in support of a fair argument that a significant adverse impact would result from the project has been put forth.

RECOMMENDATION

Staff recommends that the Planning Commission take testimony on this item, close the public hearing, deliberate upon the project, and adopt the draft resolution conditionally approving the tentative subdivision map application subject to the conditions therein. Staff recommends that the Planning Commission approve the "Alternative Lot Division Line" as shown on Sheet 6 Layout proposed in the subdivision map drawings.

EXHIBITS

1. Draft Resolution
2. Application form and additional submittal information
3. Tentative subdivision map drawings (6 sheets) received 11/1/2004



Town of Tiburon

STAFF REPORT

4. Draft Initial Study/ Mitigated Negative Declaration
5. Geotechnical Report prepared by Globe Soil Engineers; November 8, 1999
6. Memo from Town Engineer dated February 28, 2005
7. Letter from James Raives, Open Space District, received August 31, 2004
8. Letter from William Lukens, received August 31, 2004
9. Letter from Diane Ho, received September 27, 2004
10. Letter from Phil Cassou, received October 18, 2004
11. Letter from William Lukens received December 20, 2004
12. Letter from Diane Ho, received February 2, 2005
13. Letter from Lucy Macmillan, biologist, received November 2, 2004
14. Letter from Lucy Macmillan, biologist, received February 9, 2005
15. Map of surrounding R-2 properties
16. Superior Court of California granting of quiet title obtained by Diane Ho
17. Grant of Easement in Gross from Diane Ho to the Town of Tiburon, dated 6 October, 1988

Shared/planning/planning commission/staff reports/2005/1655 Mar West tent map.doc