



Town of Tiburon

STAFF REPORT

AGENDA ITEM _____

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TO: **Members of the Planning Commission**

FROM: **Kevin Bryant, Advance Planner**

SUBJECT: **Update of Secondary Dwelling Unit Standards**

MEETING DATE: **April 27, 2005** REVIEWED BY: SA

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BACKGROUND

Following passage of a 2002 state law which prohibits discretionary review or a public hearing for applications for secondary dwelling units, the Town Council amended the Zoning Ordinance to eliminate the need for any discretionary permit for secondary dwelling units. The Ordinance (No. 475 N.S.) establishes that in order to grant a Secondary Dwelling Unit Permit, an application must demonstrate that the secondary unit would comply with the current Standards for Secondary Dwelling Units. The Ordinance also states that the Standards for Secondary Dwelling Units shall be established by Resolution of the Town Council, and may be amended from time to time. The current Standards for Secondary Dwelling Units were adopted on July 16, 2003.

ANALYSIS

At the time the current Standards for Secondary Dwelling Units were adopted by the Town Council, Staff indicated that the standards took a very conservative and cautious approach and was hopeful that some of the more rigorous standards could be relaxed once a comfort level is reached that potentially undesirable outcomes will be avoided.

Since adoption of the new Ordinance and Standards, the Town has approved only one Secondary Dwelling Unit.

Based on preliminary contact with potential applicants, Staff believes that some of the Standards could now be relaxed while continuing to limit potential impacts from newly constructed Secondary Dwelling Units. This would allow for additional Secondary Dwelling Units which are compatible with our residential neighborhoods, but are not allowed under the existing Standards.

Currently, the Standards for Secondary Dwelling Units make a distinction between applications which consist of any new construction and applications which do not require any new construction. Several Standards are designed to limit the impact of new construction, regardless of whether or not the application for a Secondary Dwelling Unit requires any other Zoning Permit.



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Staff believes a better distinction would be between applications for Secondary Dwelling Units which are part of a project which requires other Zoning Permits and those that are not. This is because applications which require additional Zoning Permits will be reviewed for issues relating to view blockage, privacy, compatibility, and appropriate site placement.

Below is review of the existing Standards that Staff recommends for revision.

Standard 5: Unit Size. Under this standard, any Secondary Unit which requires any new construction is limited to 400 square feet in size. This is true even if the Secondary Dwelling Unit is proposed as part of larger project which requires additional Zoning Permits, such as Site Plan and Architectural Review. Staff believes that an applicant who is making an application for a Secondary Unit as part of a larger project that would be subject to discretionary review should be allowed to apply for a Secondary Unit larger than 400 square feet because the unit can be evaluated for potential negative impacts.

In addition, Staff believes that 500 square feet, which is the cutoff point between Staff-level and Design Review Board-level Site Plan and Architectural Review applications, would be a more appropriate size limit for newly constructed Secondary Dwelling Units that are not part of a larger project.

Standard 9: Location within Existing Home. Standard 9 limits a proposed Secondary Dwelling Unit located within an existing Primary Unit to only that portion of the existing Primary Unit which conforms to the height and bulk regulations of the Zoning District where it is located. This creates a situation where portions of a main house which are legal but nonconforming could not be used as a Second Unit, while the same portions could be used as part of the Primary Unit. Staff believes that because an area could be used for living area as part of the Primary Unit, it should also be able to be used as living area as part of a Secondary Unit.

Standard 11: Slope. The current Standards do not allow newly constructed Secondary Dwelling Units to be located on land in excess of 30 percent slope. Staff believes that the size and height limits of new Secondary Dwelling Units proposed without the need for other Zoning Permits eliminate the need for this standard.

Standard 12: Grading. This Standard limits grading for a Secondary Dwelling Unit that constitutes new construction to 30 cubic yards of grading or earth movement. After preliminarily reviewing some plans and conferring with the Building Official, Staff has determined that 30 cubic yards is too limiting. Staff believes that height and size restrictions would eliminate the need for any restriction on site grading associated with a Secondary Dwelling Unit. However, if the Planning Commission believes that some



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limitation should still be in place, Staff recommends that the grading/earth movement maximum be revised to 100 cubic yards.

Recommended Changes to the Standards for Secondary Dwelling Units

To implement the changes described above, Staff would recommend replacing Standards 5 through 12 with the following:

5. The proposed **Secondary Dwelling Unit**, if any portion thereof constitutes **New Construction** and is not proposed as part of a project for which any other Zoning Permit is required, would:
 - a. Not exceed a maximum **Floor Area** of 500 square feet.
 - b. Conform to the minimum required yard regulations for the **Zone** or **Planned Development** in which it is located, as set forth in Article 2 of Chapter 16 of the Tiburon Municipal Code. In addition, the **Primary Unit** and proposed **Secondary Dwelling Unit** together would conform to the lot coverage and floor area ratio limitations for the **Zone** or **Planned Development** in which they are located, as set forth in Article 2 of Chapter 16 of the Tiburon Municipal Code. No variances or floor area exceptions are permitted.
 - c. Be single story and would not exceed fifteen (15) feet in **Height**, as defined in Section 16-5.6.7 of the Municipal Code.
6. The proposed **Secondary Dwelling Unit**, if located in an existing **Primary Unit** or lawfully existing detached **Accessory Building or Structure**, or if proposed as a part of a project for which at least one other Zoning Permit is required, would not exceed one-third (1/3) of the maximum **Floor Area Ratio Guideline** for the property (as prescribed in Section 16-4.2.8 of the Municipal Code), or 1,000 square feet of **Floor Area**, whichever is less.
7. The proposed **Secondary Dwelling Unit**, if converted from a lawfully existing detached **Accessory Building or Structure** and not proposed as part of a project for which any other Zoning Permit is required, would meet all minimum required yard regulations for a **Dwelling Unit**, notwithstanding provisions of Section 16-5.6.4(a) of the Tiburon Municipal Code applying to detached accessory buildings.

RECOMMENDATION

Take any public testimony on the proposed revisions to the Standards for Secondary Dwelling Units and make any desired revisions.

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Adopt the Resolution recommending to the Town Council adoption of the revised Standards for Secondary Dwelling Unit document.

EXHIBITS

1. Draft Resolution for Amended Standards for Secondary Dwelling Units

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