





# Town of Tiburon

## STAFF REPORT

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### PROPOSAL:

The Design Review Board first reviewed the application at the November 3, 2005 Design Review Board meeting. The original project design included significant landscaping and site plan improvements as well as additions to the west side of the house.

At that meeting, several neighboring property owners voiced concern over the location of the pool and pool deck, types of landscaping and fencing, potential light pollution from increased windows, chimney height, view impacts from Bartel Court, and the stucco color. The Board shared some of these concerns, and recommended that modifications to the site plan and house addition be made. The application was continued to the December 1, 2005 meeting to allow the applicant time to revise the plans for the project.

The applicant subsequently submitted revised plans for this application. The lot coverage amount did not change and the floor area was reduced by 90 square feet but still exceeded the floor area ratio for this site. The lot coverage Variance and Floor Area Exception requests therefore remained. The revised project design also relocated the pool and pool deck within the side and rear yard setbacks. The details for the landscaping included retaining walls from two to six feet in height; a wood and wire deer fence with a maximum height of five feet, and a five foot iron ornamental fence along Audrey Court and along the boundary with 8 Acela Drive.

The change in floor plan included a reconfiguration of the family room and main level bedroom so that the wall on the north side of the house was diagonal and improved the sight line from the uphill properties on Bartel Court. A slight reduction in the amount of windows was achieved by eliminating the decorative balcony and removing one of the side lights adjacent to the French Door.

At the December 1, 2005 meeting, the neighboring property owners again raised concerns over the amount of windows and existing roof height. The Design Review Board considered the testimony of the neighbors, and determined that further window reduction was necessary for uphill-facing windows. The Design Review Board therefore added a condition of approval requiring a 30% reduction in the window area on the east elevation. The Board acknowledged that the existing roof creates view impacts on neighbors; however, no changes to the roof were part of the current application. The Board then voted (3-2) to approve the subject application. On December 12, 2005, the appellants filed a timely appeal of this decision.

The Town Council heard the appeal on February 1, 2006. It was the consensus of the Council that the additional floor area was acceptable in concept, but that modifications needed to be made to the project design to further mitigate potential privacy and light pollution impacts of the proposed project and make the project more compatible with the surrounding neighborhood. The Council unanimously voted to remand the application to the Design Review Board for further review, recommending that the Board consider the following modifications to the previously approved project design:



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- Reduce the amount of windows on the east elevation;
- Eliminate the upper level balcony on the east elevation;
- Reduce the amount of light pollution for uphill neighbors; and
- Consult the Town Attorney for an answer as to whether lowering the roof could be considered a reasonable part of the current application.

### ANALYSIS:

The applicant has now submitted revised plans for the proposed additions, which include the following changes from the design approved by the Design Review Board on December 12, 2005:

- The existing upper roof has been lowered four feet;
- The slope of the roof over the proposed living room has been changed so that the roofline is lowered 2 feet on the uphill side and raised approximately 18 inches on the downhill side.
- The French doors and side lite on the upper east elevation have been replaced with a window the same size as the existing window;
- The upper balcony on the east elevation has been eliminated; however the balustrade remains as an ornamental feature; and
- The upper floor windows on the east elevation have been designated to be fitted with pre-programmed black-out shades.

The lot coverage on the site would be increased by 439 square feet to a total of 3,082 square feet (16.6%), which exceeds the maximum permitted lot coverage in the RO-2 zoning district; therefore a variance for excess lot coverage is requested (16.6% in lieu of the allowed 15%). The floor area of the existing house is proposed to be 4,813 square feet, which exceeds the allowed floor area for a lot of this size; therefore a floor area exception is also requested (4,813 square feet in lieu of the maximum 3,855 square feet).

As previously proposed, the lower level addition would also include a reconfiguring of the existing secondary dwelling unit. The kitchen and living area would still be expanded and a new wine storage area, laundry room, bathroom, bedroom, and closet would be added to the lower level.

The proposal still includes demolition of the southwest corner of the existing structure, which is currently made up of a deck, one-car garage, and a carport. The west side of the residence would be expanded into the demolished area to provide for an enlarged bedroom and bathroom.

An in-ground lap pool would be installed in the rear yard where the driveway is currently located. A patio with an in-ground spa would be constructed beyond the living room at the front of the house. The landscape plan would also include the removal of one 25 foot tall pine tree. Stone pavers and a water fountain surrounded by a six foot stucco wall would be installed in the front entry to the left of the driveway. On the south side of the residence a new stone paver patio



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with steps leading down to a natural walking path and a water fountain would be constructed. Raised planters would be located along the west property line, and a new deer fence would be constructed around the perimeter of the property. A new parking space would be located in front of the new stone patio and retaining wall.

The exterior façade of the residence would be updated with new doors, windows, deck railings, and a stucco finish. An ornamental fence and driveway gate would also be installed.

The revised project design substantially addresses the issues raised by the Town Council. The roof has been lowered and the east elevation balcony has been eliminated. Although some reduction in windows and black out shades have been proposed, the Board may want to determine whether the proposed plan adequately meets the request of the Council to decrease the fenestration on the uphill side to reduce the amount of light pollution on uphill neighbors. The overall size of the structure has not been changed as the Council did not determine the size of the structure to be a concern.

### Zoning

As previously mentioned, the proposed dwelling would not comply with the lot coverage and floor area regulations of the RO-2 zoning district. Besides the requested variance and floor area exception, the project would be in compliance with all other zoning district requirements.

### Variance

- 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 18,548 square foot lot size is 7.3% smaller than the 20,000 square foot minimum lot size for the RO-2 zone. This condition creates special circumstances that would 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 undersized properties in the RO-2 zone have received variances for excess lot coverage. Therefore, granting the excess lot coverage variance would not be a special privilege inconsistent with properties in the vicinity.

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



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Expanding the second story would be more intrusive than the proposed addition. Because a second story expansion would likely be difficult to approve due to potential view impacts, it would be a hardship to strictly apply the Ordinance in regards to lot coverage

**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 excess lot coverage variance would not appear to have an adverse impact on views, privacy, or otherwise on the properties in the vicinity.

### Floor Area Exception

As previously mentioned, the proposed dwelling would not comply with the Town's floor area regulations. In order to grant the requested floor area exception, the Board must make the following findings as required by Section 4.02.08 of the Tiburon Zoning Ordinance:

**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.**

The proposed addition would be consistent with the development of properties in the vicinity. Numerous homes in the area significantly exceed the floor area requirements, and this project would not be incompatible with structures in the surrounding neighborhood.

**2. The applicant has demonstrated that the proposed structure is compatible with the physical characteristics 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 applicant has stated the proposed project would be compatible with the physical characteristics of the site because due to the lot orientation and topography, the additions would not highly visible from surrounding properties or the street. The topography of the lot would reduce the visual impact of the addition on the property.

From the evidence provided, Staff believes that there is sufficient evidence to support the findings for the requested variance for excess lot coverage and floor area exception.

### **Public Comment**

To this date, one letter was received from the property owner at 6 Audrey Court, Michael King, regarding the roof height and windows. The applicant has submitted a letter in response to the comments received by Mr. King. No other public comment has been received concerning the subject project.

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### RECOMMENDATION:

It is recommended that the Board review this project with respect to Zoning Ordinance Sections 4.02.07, 4.02.08 and 4.03.05 (Guiding Principles, Floor Area Exceptions, 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 February 21, 2006
3. Letter from the Community Development Director to the applicant dated February 3, 2006
4. Letter from Michael King, received February 16, 2006
5. Letter from Tyler Phillips, received February 23, 2006
6. Design Review Board Staff report dated December 1, 2005
7. Design Review Board Staff report dated November 3, 2005
8. Town Council Staff report dated February 1, 2006
9. Minutes of the December 1, 2005 Design Review Board meeting
10. Minutes of the November 3, 2005 Design Review Board meeting
11. Minutes of the February 1, 2006 Town Council meeting
12. Revised plans

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### CONDITIONS OF APPROVAL

#### 2 AUDREY COURT

#### FILE #20540

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 February 21, 2006, or as amended by these conditions of approval. Any modifications to the plans of February 21, 2006, 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 exterior lighting fixtures must be shielded, down light type fixtures.
6. 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.
7. The decorative entry gate iron gate shall not exceed six feet in height.