



TOWN OF TIBURON
1505 Tiburon Boulevard
Tiburon, CA 94920

Design Review Board Meeting
October 4, 2007
Agenda Item: **DI**

STAFF REPORT

To: **Members of the Design Review Board**

From: **Associate Planner Tyler**

Subject: **2 Las Palmas Way; File #20725
Adoption of a Resolution Memorializing Partial Approval of a Site
Plan and Architectural Review Application for Additions to an Existing
Single-Family Dwelling with Variances for Reduced Side Yard Setback
And Excess Wall Height**

Reviewed By: _____

SUMMARY

On September 20, 2007, the Design Review Board considered a request to approve a Site Plan and Architectural Review application for additions to an existing single-family dwelling, with variances for reduced side yard setback and excess wall height, on property located at 2 Las Palmas Way. After considering the application, the Board approved the request for additions to the existing single-family dwelling and the associated reduced side yard setback variance, but denied the request to construct a seven to twelve foot high wall around a majority of the property (some located on the property and portions not on the property) and a variance for excess wall height.

Staff has prepared a resolution memorializing the Board's decisions. The draft resolution is attached.

RECOMMENDATION

It is recommended that the Design Review Board adopt the attached resolution.

Exhibits: 1. Draft Resolution

Prepared By: Laurie Tyler, Associate Planner



TOWN OF TIBURON
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Design Review Board Meeting
October 4, 2007
Agenda Item: **E2**

STAFF REPORT

To: **Members of the Design Review Board**

From: **Assistant Planner Phillips**

Subject: **NOTICE OF CONTINUANCE**
78 Red Hill Circle; File #20728
Site Plan and Architectural Review to Construct Exterior
Alterations to an Existing Single-Family Dwelling,
with Variances for Reduced Side Yard Setbacks

Reviewed By: _____

Staff recommends that this item be continued for the following reason(s):

- No story poles have been erected/no certification received
- Requested information has not been received (plans)
- Item not properly advertised
- The applicant has requested a continuance to: **October 18, 2007**
- Other:

Prepared By: **Scott Phillips, Assistant Planner**



TOWN OF TIBURON
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Design Review Board
October 4, 2007
Agenda Item: **F3**

STAFF REPORT

To: **Members of the Design Review Board**

From: **Assistant Planner Phillips**

Subject: **249 Diviso Street; File #20734
Site Plan and Architectural Review to Construct Walls, Fences and
Landscaping Improvements, with a Variance for Excess Wall Height**

Reviewed By: _____

PROJECT DATA

ADDRESS: 249 DIVISO STREET
OWNER: DEB FROST
APPLICANT: WARREN SIMMONDS (ARCHITECT)
ASSESSOR'S PARCEL: 059-131-05
FILE NUMBER: 20734
LOT SIZE: 3,197 SQUARE FEET
ZONING: R-1 (SINGLE FAMILY RESIDENTIAL)
GENERAL PLAN: MEDIUM HIGH DENSITY RESIDENTIAL
FLOOD ZONE: C
DATE COMPLETE: SEPTEMBER 13, 2007

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 15303.

PROPOSAL

The applicant is requesting Design Review approval for the construction of exterior alterations on property located at 249 Diviso Street. The subject property is developed with a single-family dwelling.

The alterations would include resurfacing and expansion of the existing narrow driveway to allow for an additional off-street parking space, a solid wood fence along the side property lines, various stone retaining walls throughout the property and a new monument mailbox adjacent to the street. French doors would also be added to the side of the home.

A solid wood fence, 8 feet in height, would be constructed along the side property line. The fence would increase from 6 feet height at Centro West, to a maximum height of 10 feet adjacent to the driveway. As the maximum fence height within the required side yard setback is 6 feet, a variance is requested to construct a fence of excess height.

ANALYSIS

Design Issues

The subject home is located halfway up Diviso Street and is characterized by a double slope. The lot slopes dramatically from Diviso Street down to Centro West and subtly from side property line to side property line. Mature landscaping exists between the subject home and the adjacent properties.

The existing 6 feet wooden fence along the side property line is in a somewhat dilapidated state and is screened from view from Diviso Street and Centro West by mature landscaping and vegetation that extends over the fence.

When viewed from the subject house and most of the side yard, the top of the existing fence is below the street level of Diviso Street and slightly above Centro West. The deck spa and outdoor area at the adjacent property at 239 Diviso Street abuts the fence and is approximately 3 feet above grade. The 6 foot tall fence therefore provides marginal privacy or sound protection for the subject property. An addition 2 feet of fence height would increase the amount privacy between the two properties. The additional wall height would only be slightly noticeable when viewed from Centro West, and would not appear to intrude into any views from neighboring homes. The board members are encouraged to view the location of the proposed fence extension from the rear of the property at Centro West.

Zoning

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

In order to grant the requested variance, the Board must make all of the following findings 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 substantially between the side property lines dramatically exposing the side of the subject property to visual and noise impacts from adjacent properties. The topography is a special circumstance that would deprive the owners of this property from 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 properties in the R-1 or similar zones in Tiburon with similar site characteristics have been granted variances for excess fence and/or wall height in order to address noise or privacy issues that would not be adequately decreased by a fence 6 feet in height.

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

The construction of a 6 foot tall fence would result in undesirable noise and privacy impacts on the subject residence due to the location of the adjacent neighboring property below the side property line. The strict application of the fence height requirement would therefore place an unnecessary noise and privacy 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 noted above, the design of the subject wall and fence would not result in unwanted view or visual impacts on neighboring properties.

From the evidence provided, Staff believes that there is sufficient evidence to support the findings for the requested variance.

Public Comment

As of the date of this report, no letters have been received regarding this project.

RECOMMENDATION

The Board should review this project with respect to Zoning Ordinance Section 4.02.07 (Guiding Principles) , 16-4.3 (Variances) 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 finds the design to be acceptable and in conformance with the Town's Design Guidelines, Staff recommends that the attached conditions of approval be applied.

ATTACHMENTS:

1. Conditions of approval
2. Application and supplemental material
3. Submitted plans

EXHIBIT 1

CONDITIONS OF APPROVAL

249 DIVISO STREET

FILE #20613

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 August 30, 2007, or as amended by these conditions of approval. Any modifications to the plans of August 30, 2007, 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 requirements of the Town Engineer shall be met.
6. An encroachment permit shall be filed with the Town of Tiburon Public Works Department, for the expanded driveway, additional parking space, retaining wall and monument mailbox, within the right-of-way.
7. Guardrails approved as part of this application shall contain no horizontal elements other than the top and bottom rails.
8. All exterior lighting fixtures other than those approved by the Design Review Board must be down light type fixtures.
9. 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.



TOWN OF TIBURON
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Design Review Board Meeting
October 4, 2007
Agenda Item: **F4**

STAFF REPORT

To: Members of the Design Review Board

From: Community Development Department

**Subject: 38 Reed Ranch Road; File #20735
Site Plan and Architectural Review to Legalize As-Built Construction
of a Spa and Deck, With a Variance for Reduced Side Yard Setback**

PROJECT DATA

ADDRESS: 38 REED RANCH ROAD
ASSESSOR'S PARCEL: 034-303-02
FILE NUMBER: 20735
PROPERTY OWNERS: KAMBIZ AND SHIDEH SHADAN
APPLICANT: MOHAMAD SADRIEH (ARCHITECT)
LOT SIZE: 12,360 SQUARE FEET
ZONING: RO-2 (SINGLE-FAMILY RESIDENTIAL-OPEN)
GENERAL PLAN: MEDIUM DENSITY RESIDENTIAL
FLOOD ZONE: C
DATE COMPLETE: SEPTEMBER 13, 2007

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 Design Review approval to legalize the as-built construction of a spa and deck. The property is currently developed with a single-family dwelling. The project would not increase the floor area or calculated lot coverage for the property.

The spa is located within 4 feet of the western (right) side property line, within the 15 foot side yard setback required under the RO-2 zone. Since spas and swimming pools are only permitted within the required rear yard setback, a variance is requested for reduced side yard setback.

BACKGROUND

The applicant filed a Staff-level Site Plan and Architectural Review application (File #706049) in 2006 to install the spa to the west of the house, approximately 10 feet from the side property line. Although the spa was to be located within the 15 foot side yard setback, the application was incorrectly approved by Planning Division staff on April 26, 2006.

The applicant subsequently obtained a building permit to construct the spa. During an inspection of the site, the Building Division discovered that the spa was installed closer to the side property line and that an elevated deck was installed around the spa. The applicant was then directed to either install the spa according to the approved plans or obtain a variance for the as-built condition, and has chosen to submit the subject variance application.

ANALYSIS

Design Issues

The subject property slopes down from Reed Ranch Road. The spa is located within a relatively level area to the west side and front of the existing house that is utilized for yard area and includes an outdoor barbecue area. The rear of the site slopes down below the location of the spa and deck. A wooden fence extends along the side property line in the area of the spa.

The spa is situated on a level concrete pad which sits above the slope down to the rear yard. The applicant has constructed an elevated deck three feet above the pad which surrounds the spa. A wooden safety railing borders the edge of the deck, and wooden lattice has been added on the downhill side to screen the sides of the spa.

The fence and shrubbery near the spa appear to provide adequate privacy screening for the spa and deck. The applicant has indicated that he has consulted with the neighboring property owners, including the owners of the adjacent home near the spa at 34 Reed Ranch Road, and has received no objections to the current spa location.

Zoning

Staff has reviewed the proposal and finds it to be in conformance with the development standards for the RO-2 zone with the exception of the previously noted variance for reduced side yard setback.

In order to grant the requested variance, the Board must make all of the following findings 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 is substantially smaller than the 20,000 square foot minimum lot size required in the RO-2 zone with topography, fencing and landscaping that shields the side yard from nearby homes. These physical characteristics are

special circumstances that would deprive the owners of this property of privileges enjoyed by other properties in the vicinity if the subject variance is not granted.

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 in the RO-2 zone have received variances for reduced side setbacks.

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

The strict application of the side yard setback requirement would not allow the addition to utilize the deck space for the spa, and would require placement of the spa below the house. Such a lower location would likely require more substantive support structures, which could result in undesirable visual mass when viewed from below the home. The imposition of this requirement would severely limit the size and placement of improvements on the site, creating a practical difficulty and an unnecessary hardship on the applicants.

4. ***The granting of the variance will not be detrimental to the public welfare or injurious to other properties in the vicinity.***

As described above, the proposed addition would not result in substantial privacy or other impacts on homes in the vicinity.

From the evidence provided, Staff believes that there is sufficient evidence to support the findings for the requested variance.

Public Comment

As of the date of this report, no letters have been received regarding the subject application.

RECOMMENDATION

The Board should review this project with respect to Zoning Ordinance Sections 4.02.07 (Guiding Principles) and determine that the project is exempt from the provisions of the California Environmental Quality Act (CEQA) as specified in Section 15301. If the Board wishes to approve the project, Staff would recommend that the attached conditions of approval be applied.

ATTACHMENTS

1. Conditions of approval
2. Application and supplemental materials
3. Submitted plans

Prepared by: **Daniel M. Watrous, Planning Manager**

CONDITIONS OF APPROVAL

38 REED RANCH ROAD

FILE #20735

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 September 11, 2007, or as amended by these conditions of approval. Any modifications to the plans of September 11, 2007, 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. 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.
5. The applicant must meet all requirements of other agencies prior to the issuance of a building permit for this project.
6. All exterior lighting fixtures must be downlight type fixtures.
7. All requirements of the Town Engineer shall be met.
8. An as-built penalty fee of \$935.00 shall be paid prior to final approval of building permits for this project.



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Design Review Board
October 4, 2007
Agenda Item: **F5**

STAFF REPORT

To: **Members of the Design Review Board**

From: **Assistant Planner Phillips**

Subject: **771 Tiburon Boulevard; File #707129
Site Plan and Architectural Review for Construction of a New
Single-Family Home**

Reviewed By: _____

PROJECT DATA

ADDRESS: 771 TIBURON BOULEVARD
OWNER: GINA ALIOTO ROSS
APPLICANT: JERRY FRATE (ARCHITECT)
ASSESSOR'S PARCEL: 055-253-05
FILE NUMBER: 707129
LOT SIZE: 14,472 SQUARE FEET
ZONING: R-1 (SINGLE FAMILY RESIDENTIAL)
GENERAL PLAN: MEDIUM HIGH DENSITY RESIDENTIAL
FLOOD ZONE: C
DATE COMPLETE: SEPTEMBER 13, 2007

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 15303.

PROPOSAL

The applicant has submitted a request for construction of a new single-family dwelling on the property located at 771 Tiburon Boulevard. Currently a partially demolished single-family dwelling occupies the property. The applicant originally submitted for a Staff-Level Design Review for an addition of less than 500 square feet. During construction of the approved addition, the walls of the existing second story were found to be unsound and were subsequently removed during demolition. The demolition of the second story constituted more than 50% of the existing walls of the structure. By demolishing more than 50% of the structure, the project is therefore classified as "new construction."

The project proposed would maintain a two-story design. The partially demolished structure has a two level floor plan containing four bedrooms, a living room, dining room, kitchen and a two-car garage. The proposal intends to enlarge the home on the second floor at the rear, to include expansion of the master bedroom suite and existing kitchen. The roof would be reconfigured and increased in height by 1 foot. The front entryway would be expanded as well.

The proposed structure would create a lot coverage of 2,464 square feet (17%) which is below the maximum permitted lot coverage in the R-1 zoning district (30%). The proposed structure would create a gross floor area of 2,658 square feet, which is also below the maximum permitted floor area for a parcel of this size (3,447 sq. ft.).

A color and materials board has been submitted, and will be present at the meeting for the Board to review. The structure would be finished with dark brown cedar shingle siding with light gray colored trim. The roof would utilize dark brown asphalt shingles.

ANALYSIS

Zoning

Staff has reviewed the proposal and finds it to be in conformance with the development standards for the R-1 zone.

Design Issues

The subject site is located between Gilmartin Drive and Rock Hill Drive along Tiburon Boulevard. The property is surrounded by multi-story single-family dwellings.

Changes are proposed to the home design compared to what was approved in the staff-level Design Review. The covered front porch area and steps would be completely enclosed into floor area with associated additional windows. The front door would now be located on the ground level. Roof ridgelines would be extended outward on the left side and rear of the home (clouded on the elevations). No additional height of the home is proposed over what was approved in the staff-level Design Review.

The proposed additions would not substantially increase the mass and bulk of the existing structure. The proposal seeks to expand the front entry way and to expand the home at the rear. Residents directly behind the subject property would see the addition, but it would not likely impact privacy or viewsheds of these properties.

The interior of the home would be modified to accommodate the new addition and to create a more functional home. A new covered porch above the garage doors and a small side deck on the second level would be added to create a more architecturally pleasing façade. Common space would be added in the form of a great room that would be connected to the expanded kitchen.

A substantial amount of roof changes are proposed compared to what was preexisting. Gables would be added to each of the elevations that would serve to add more building articulation.

Exterior improvements include new cedar shingle siding, expansion of the roof height by one foot with new asphalt shingles, new windows and new garage doors.

Public Comment

As of the date of this report, no letters have been received regarding this project.

RECOMMENDATION

The Board should review this project with respect to Zoning Ordinance Section 4.02.07 (Guiding Principles) 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 finds the design to be acceptable and in conformance with the Town's Design Guidelines, Staff recommends that the attached conditions of approval be applied.

ATTACHMENTS:

1. Conditions of approval
2. Application and supplemental material
3. Submitted plans

EXHIBIT 1

CONDITIONS OF APPROVAL

771 TIBURON BOULEVARD

FILE #707129

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 September 12, 2007, or as amended by these conditions of approval. Any modifications to the plans of September 12, 2007, 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. 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.
5. The applicant must meet all requirements of other agencies prior to the issuance of a building permit for this project.
6. All skylights shall be bronzed or tinted and no lights shall be placed in the wells.
7. All exterior lighting fixtures other than those approved by the Design Review Board must be down light type fixtures.
8. Prior to the issuance of building permits, the applicant shall submit verification from a licensed landscape architect that the proposed landscape plan conforms to M.M.W.D. landscape regulations, as required by Town Council Ordinance.

9. Prior to the issuance of final building inspection approval, all landscaping and irrigation shall be installed in accordance with approved plans. The installation of plantings and irrigation shall be verified by a Planning Division field inspection prior to the issuance of occupancy permits.
10. Prior to underfloor inspection, a certified survey of the structure foundation will be required. Required documents shall include graphic documentation locating the building on a site plan and including specific dimensions from property lines and other reference points as appropriate, and elevations relative to sea level of the foundation walls and slabs. No inspections will be provided until the survey results have been verified.
11. The project shall comply with the following requirements of the Tiburon Fire Protection District:
 - a. The structure shall have installed throughout an automatic fire sprinkler system in accordance with NFPA standard 13-D. The system design, installation and final testing shall be approved by the District Fire Prevention Officer (UFC 1003).
 - b. Approved smoke alarms shall be installed to provide protection to all sleeping areas (UBC 310).
 - c. Approved spark arresters shall be installed on chimneys (UFC 1109).
 - d. All vegetation, existing and new, shall comply with the recommendations of Fire Safe Marin, and the requirements of UFC 1103.
12. The following requirements of the Marin Municipal Water District shall be met:
 - a. A High Water Pressure Water Service application shall be completed.
 - b. A copy of the building permit shall be submitted.
 - c. Appropriate fees shall be paid.
 - d. The structure's foundation shall be completed within 120 days of the date of application.
 - e. The applicant shall comply with the District's rules and regulations in effect at the time service is requested.
13. All requirements of the Town Engineer shall be met.



TOWN OF TIBURON
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Design Review Board Meeting
October 4, 2007
Agenda Item: **F6**

STAFF REPORT

To: **Members of the Design Review Board**

From: **Associate Planner Tyler**

Subject: **275 Diviso Street; File No. 707126
Site Plan and Architectural Review for Construction of a
New Single-Family Dwelling**

Reviewed By: _____

PROJECT DATA

OWNER: KATHLEEN & NICHOLAS WILSEY
APPLICANT/ARCHITECT: AVI RON/DEAN JONES
ADDRESS: 275 DIVISO STREET
ASSESSOR'S PARCEL NUMBER: 059-071-51
FILE NUMBER: 707126
LOT SIZE: 18,050 SQUARE FEET
ZONING: R-1 (SINGLE-FAMILY RESIDENTIAL)
GENERAL PLAN: MH (MEDIUM HIGH DENSITY RESIDENTIAL)
FLOOD ZONE: C
DATE COMPLETE: SEPTEMBER 13, 2007

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 15303.

PROPOSAL

The Town has received an application for construction of a new single-family dwelling located at 275 Diviso Street. The property is currently vacant.

The proposed project would result in a two-story structure with a Mediterranean architectural theme. The upper level would include a living room, dining room, kitchen, breakfast nook, and a three car garage. A deck would extend off the dining room and connect with a larger main deck at the rear of the home, accessed by the breakfast nook, kitchen and living room. The lower level would include three bedrooms, two bathrooms, laundry room, and master bedroom suite. A

smaller deck would extend toward the rear of the home with access from the master bedroom suite and two bedrooms. In addition, a five to six foot high entry fence would extend across the front of the property along Diviso Street.

The proposed structure would result in lot coverage of 4,469 square feet (25%), which is below the maximum permitted lot coverage in the R-1 zone (30%). The proposed structure would result in a gross floor area of 3,795 square feet, which is below the maximum permitted floor area ratio for a property of this size (3,805 sq. ft.).

The façade of the home is proposed in a Mediterranean theme in both its architectural style and color/materials. Several variations of stone façade in warm neutral colors are proposed around the structure, along with stucco siding in a shade of beige and a multi-colored tile roof. A color/materials board will be available for review at the meeting.

ANALYSIS

Design Issues

The proposed structure is designed to take advantage of views primarily from San Francisco to Belvedere, including but not limited to, the San Francisco Bay, the Golden Gate Bridge, Sausalito and the Tiburon Harbor. The lot is currently vacant and contains mature redwood, oak and pear trees throughout the site. The site is nestled between Diviso and Centro West Streets and slopes steeply downward towards Centro West Street.

The adjacent property owner at 295 Diviso Street (north) has raised concerns regarding potential view blockages from their living room and exterior patio accessed from both the living and dining rooms. Staff visited the home and verified that from within the living room, views of Angel Island and portions of downtown San Francisco would be lost. From the exterior patio, similar views would be lost. A majority of the view blockage from both the living room and patio would result from the tallest portion of the proposed dwelling, which serves the purpose of providing light within the home. This section of the roof is elevated approximately six feet in height with windows on each side to allow natural light into the home, while providing a roughly seventeen foot high ceiling within the structure. If this six foot high section of elevated roof were eliminated, dropping the house down in height by six feet, views of Angel Island and downtown San Francisco would be maintained.

The property owner across the street from the site at 2040 Vistazo East raised similar concerns regarding potential view blockages from their dining room. Currently the home maintains views to the west of Belvedere Cove, the Tiburon Harbor and the Golden Gate Bridge. Views of San Francisco can be seen from additional windows facing south within the dining room; however, the home is oriented to take advantage of views to the west. The proposed dwelling would impede on views of the Tiburon Harbor and water due to the elevated section of the roof which again only provides light into the home. If this section of the roof were eliminated, the neighbors would not lose as much water view. In addition, the proposed entry fence which would extend across the length of the property along Diviso Street may also impede on similar views of the water.

During Staff review of a prior submittal for a new home on the site, the property owner at the time was advised of a public pathway leading up towards the base of the site from below Centro West Street. Currently, a dedicated public pathway is not provided across the subject site. The owner was willing to provide a pathway along the southern property line; however the project was withdrawn and to date, no legal public pathway exists.

The current property owner was advised of the possibility of a dedicated pedestrian pathway across the site, but has not shown interest in doing so. Town Staff and the Design Review Board legally do not have the authority to require the applicant to provide a dedicated pedestrian pathway across the site. If the owners wish to provide one, they would need to approach the Town to discuss the possibility of establishing a pedestrian pathway easement across the site.

Hillside Design Guidelines

The following portions of the Hillside Design Guidelines should be used to evaluate the hillside design of the house as proposed:

- *Goal 3, Principal 7 (a) states that view protection is more important for the primary living areas of a dwelling than for less actively used areas of a dwelling.* The proposed dwelling would impede on views from within the living room at 295 Diviso Street and from within the dining room at 2040 Vistazo East Street.
- *Goal 3, Principal 7 (c) states that blockage of the center of a view is more damaging than blockage of a side of a view.* The left portion of the view from within the living room at 295 Diviso Street would be lost due to the elevated section of the roof extending across the length of the home.
- *Goal 3, Principal 7 (d) states that blockage of important objects in the view is more difficult to accept than blockage of other, less well-known landmarks.* From within the living room at 295 Diviso Street, Angel Island and downtown San Francisco would be lost. From within the dining room at 2040 Vistazo East, water views and a small section of the Tiburon Harbor would be lost.

The Design Review Board is encouraged to visit the site and surrounding neighbors' homes to view the story poles to better evaluate the extent of this proposal.

Zoning

The project conforms to the regulations for the Single-Family Residential (R-1) Zone.

Public Comment

To date, no letters have been received regarding the subject application.

CONCLUSION

There appear to be architectural features which would elevate portions of the roofline, resulting in clerestory windows and very high ceiling heights. Staff would recommend that these areas be

lowered or eliminated, and the project re-evaluated to determine if the structure would still impede on viewsheds for the surrounding neighbors.

RECOMMENDATION

Staff recommends that the Board:

1. Review this project with respect to Zoning Ordinance Section 4.02.07 (Guiding Principles) and the Hillside Design Guidelines;
2. Continue the application;
3. If the Board wishes to approve the project, it should be determined that the project is exempt from the provisions of the California Environmental Quality Act (CEQA) as specified in Section 15303, and findings should be articulated for the requested approval. Staff would recommend that the attached conditions of approval be applied.

- Exhibits:
1. Conditions of Approval
 2. Application and Supplemental Materials
 3. Letter dated September 27, 2007 from Robin Lea
 4. Letter dated September 27, 2007 from Robin and Sherry Long DeMandel
 5. Letter dated September 27, 2007 from John and Francesca Madden
 6. Submitted Plans

Prepared By: Laurie Tyler, Associate Planner

CONDITIONS OF APPROVAL

275 DIVISO STREET

FILE NO. 707126

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. Project construction shall substantially conform to the application materials and drawings received by the Town of Tiburon on September 7, 2007, as amended by these conditions of approval. Any substantial modification to the project as approved herein 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. 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.
5. The applicant must meet all requirements of other agencies prior to the issuance of a building permit for this project.
6. All skylights shall be bronzed or tinted and no lights shall be placed in the wells.
7. All exterior lighting fixtures shall be “down-light” type fixtures.
8. Prior to the issuance of building permits, the applicant shall submit verification from a licensed landscape architect that the proposed landscape plan conforms to M.M.W.D. landscape regulations, as required by Town Council Ordinance.
9. Prior to the issuance of final building inspection approval, all landscaping and irrigation shall be installed in accordance with approved plans. The installation of plantings and irrigation shall be verified by a Planning Division field inspection prior to the issuance of occupancy permits.

10. Prior to underfloor inspection, a certified survey of the structure foundation will be required. Required documents shall include graphic documentation locating the building on a site plan and including specific dimensions from property lines and other reference points as appropriate, and elevations relative to sea level of the foundation walls and slabs. No inspections will be provided until the survey results have been verified.
11. The project shall comply with the following requirements of the Tiburon Fire Protection District:
 - a. The structure shall have installed throughout an automatic fire sprinkler system in accordance with NFPA standard 13-D. The system design, installation and final testing shall be approved by the District Fire Prevention Officer (UFC 1003).
 - b. Approved smoke alarms shall be installed to provide protection to all sleeping areas (UBC 310).
 - c. Approved spark arresters shall be installed on chimneys (UFC 1109).
 - d. All vegetation, existing and new, shall comply with the recommendations of Fire Safe Marin, and the requirements of UFC 1103.
12. The following requirements of the Marin Municipal Water District shall be met:
 - a. A High Water Pressure Water Service application shall be completed.
 - b. A copy of the building permit shall be submitted.
 - c. Appropriate fees shall be paid.
 - d. The structure's foundation shall be completed within 120 days of the date of application.
 - e. The applicant shall comply with the District's rules and regulations in effect at the time service is requested.
13. All requirements of the Town Engineer shall be met.
14. A detailed lighting plan indicating the placement of all exterior lighting and style of lighting fixtures shall be submitted with the construction documents filed for building permits.



TOWN OF TIBURON
1505 Tiburon Boulevard
Tiburon, CA 94920

Design Review Board Meeting
October 4, 2007
Agenda Item: **F7**

STAFF REPORT

To: Members of the Design Review Board

From: Community Development Department

**Subject: 85 East View Avenue; File #20720
Site Plan and Architectural Review for the Construction of
a New Single-Family Dwelling, with Variances for Reduced Front, Side
and Rear Yard Setbacks, Excess Lot Coverage and Excess Building
Height, and a Floor Area Exception**

PROJECT DATA

ADDRESS: 85 EAST VIEW AVENUE
ASSESSOR'S PARCEL: 060-105-67
FILE NUMBER: 20720
PROPERTY OWNERS: GEORGE AND MARY QUESADA
APPLICANT: SCOTT HOPPE
ARCHITECT: CHARLES STEWART
LOT SIZE: 2,520 SQUARE FEET
ZONING: R-1 (SINGLE-FAMILY RESIDENTIAL)
GENERAL PLAN: MEDIUM HIGH DENSITY RESIDENTIAL
FLOOD ZONE: C
DATE COMPLETE: SEPTEMBER 12, 2007

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 15303.

PROPOSAL

The applicant is requesting Design Review approval for the construction of a new five-story single-family dwelling on property located at 85 East View Avenue. The subject property is currently vacant.

The first (lowest) level of the house would include a two-car garage and a one-car garage, along with a utility room. The second level would include two bedrooms, a bathroom and a laundry room. The third level would include a master bedroom suite, along with a guest room and bathroom. The fourth level would include a family room, kitchen, dining room and a half bathroom. The fifth (highest) level would include a living room. Terraces and/or decks would extend off the fourth and fifth floors, along with an “access terrace” on the fifth level providing some access from East View Avenue above. The five levels would be connected by an interior stairway, with no elevator proposed for the house.

The following variances and exception would be required for the proposed house:

- The floor area of the proposed house would be 3,377 square feet (134.0%), which is greater than the 35.0% maximum floor area permitted for a lot of this size.
- The proposed house would cover 1,584 square feet (62.9%) of the site, which is greater than the 30.0% maximum lot coverage permitted in the R-1 zone.
- The proposed house would extend to within 4 feet, 9 inches of the front property line, 3 feet of the south side property line, 5 feet, 6 inches of the north side property line, and 1 foot, 6 inches of the rear property line, which would be less than the 15 foot front yard, 8 foot side yard and 13 foot rear yard setbacks required for this lot.
- The height of the proposed house would be 47 feet, which is greater than the 30 foot maximum building height in the R-1 zone.

A color and materials board has been submitted, and will be present at the meeting for the Board to review. The structure would be finished with grey colored stucco walls and white and clear finish wood trim. The flat membrane roof would have a light grey finish.

ANALYSIS

Design Issues

Corinthian Island is a neighborhood with very small, steeply sloped lots. The northern half of Corinthian Island lies within Tiburon, while the southern half lies within Belvedere. Due to the steep topography and small lot sizes, most, if not all, homes on Corinthian Island have either received variances or have nonconforming conditions related to setbacks, lot coverage, building height and floor area ratio.

The subject property is steeply sloped, with frontage on East View Avenue above, and extends down to Alcatraz Avenue below. The site is a vacant lot nestled among older homes along the

western end of East View Avenue. The lot is visible from the Ark Row portion of Main Street below.

A table has been prepared (Exhibit 6) which compares the floor area of the proposed house to that of other homes in the Tiburon portion of Corinthian Island. Most of these homes were developed prior to 1991, when the Town first adopted its floor area ratio requirements, and therefore the larger floor areas of these homes are legally established nonconforming conditions. Since 1991, only four homes on Corinthian Island have received approvals for additions or new construction. All four of these homes exceeded the 35% floor area ratio, with floor area exceptions approved ranging from 38.2% (78 East View Avenue) to 63.4% (71 East View Avenue.) The 134.0% floor area ratio proposed for the subject house would be more than double that of any exception approved in the vicinity since the inception of the Town's floor area ratio standards.

Other, older homes on Corinthian Island, developed prior to 1991, have substantially higher floor area ratios. Only 2 of the 22 lots on the Tiburon side of the island have floor area ratios in excess of 100%. A 2,918 square foot home was constructed on the 2,332 square foot lot at 53 East View Avenue in 1966, and a 2,442 square foot house was constructed on the 2,015 square foot lot at 83 East View Avenue in 1970. Two other homes (90 & 100 East View Avenue) have floor area ratios in excess of 95%. Except for these four sites, no other lot on the Tiburon side of Corinthian Island has a floor area ratio in excess of 72%. Further, only 5 of these 22 lots are smaller than the subject property, yet the floor area proposed would be larger than any other home on Corinthian Island.

Prior to 1991, the Town could grant exceptions to the 30 foot maximum building height to allow for an additional 6 feet of building height. There are no records of any height variances granted for the 47 foot height requested as part of this application and staff is unaware of any other five-story structures in Tiburon. The lack of an elevator for this house would increase the mass of the house due to the extensive interior stairwells needed to connect to the five floor levels. The absence of an elevator would also appear to be impractical, creating an undesirably arduous interior access from the garages to the levels above.

The applicant has indicated that the proposed building height is necessary due to the need to place the garages on the lower level of the site, with access from the lower portion of Alcatraz Avenue rather than access from East View Avenue above. However, a lower garage location does not necessarily mean that the house needs to include four stories of living space on top of the garage. A parking structure accessed from East View Avenue at the top of the site, in a manner similar to most other homes on Corinthian Island, would eliminate the need to extend the structure from the highest to the lowest elevations of the site.

The height of the proposed house and its reduced side yard setbacks has raised concerns for the Tiburon Fire Protection District. Emergency access to the site would be limited along both side

of the house. The height of the building would require that the house be constructed to commercial building standards. The originally submitted landscaping plans showed bamboo to be planted within the reduced side yard areas to help visually screen the house; however, the Fire Marshall prohibited the planting of such combustible vegetation so close to the house.

Several neighboring property owners have raised concerns about construction staging for this project. Although construction-related issues are generally not within the purview of the Design Review Board, at least one neighbor has noted that the design of the house covers so much of the lot that it would leave little or no room for construction staging on the property, causing construction impacts to overflow onto nearby streets. A house design that would not develop the lower level of the site would leave an area for construction staging that would lessen the potential for such impacts on the neighboring residents.

Story poles have been erected for the proposed house. Views of the poles from East View Avenue are somewhat screened by existing vegetation that will likely be removed during construction. The poles do not appear to indicate substantial view impacts for any homes uphill from the site, although the owner of the house across the street at 84 East View Avenue has stated that the house would interfere with views toward Ark Row from several rooms of this nearby home. The story poles do not appear to substantially intrude into views for the adjacent residence at 83 East View Avenue. The story poles clearly indicate the massiveness of the proposed house when viewed from neighboring homes, from Alcatraz Avenue leading down to Main Street, and from below the site on Ark Row. The Design Review Board is encouraged to view the story poles from these nearby locations.

Planning staff has met with the applicant on several occasions and has expressed concerns about the overall design of the house; size, visual mass and bulk and extent of the variances and floor area exception requested, particularly in comparison to other homes on Corinthian Island. Staff repeatedly recommended that the applicant substantially redesign the proposed house to better fit the site and its surroundings. In response, the applicant has reduced the floor area by 237 square feet, with little or no changes to the basic house design. The applicant has since indicated that he did not want to make further changes at this time, instead wanting to receive input from the Design Review Board.

Hillside Design Guidelines

The following portions of the Tiburon Hillside Design Guidelines should be used to evaluate the proposed house design:

- Goal 1, Principle 1 of the Guidelines states that projects should “*cut [the] building into [the] hillside to reduce effective visual bulk.*” Some portions of the proposed structure would be cut into the hillside, but the visual bulk of a five-story,

predominantly vertical house design would still be highly visible from Alcatraz Avenue and Main Street below.

- Goal 1, Principle 2 of the Guidelines states that projects should “*terrace [the] building using the slope [and] use roofs of lower levels for the decks of lower levels.*” The proposed house design uses little terracing, instead stacking five building levels on top of each other in such a fashion that on direct interior stairway links all five floor levels. The fourth and fifth level decks and terraces use the roofs of lower levels.
- Goal 1, Principle 9 of the Guidelines states that projects should “*excavate underground or below grade rooms to dramatically reduce effective bulk, provide energy efficiency and environmentally desirable spaces.*” The utility room, laundry room and several bathrooms would be located in excavated spaces. All other rooms project well above grade.
- Goal 2, Principle 6 of the Guidelines states that projects should “*control window placement for sun, privacy and view. Avoid large expanses of floor to ceiling windows and ‘picture windows.’ ‘Frame’ views with carefully thought out windows. Avoid placing windows where they will ‘look right into’ someone else’s home. Instead, use skylights or smaller, well placed windows for specific views and light.*” The east side of the proposed house contains minimal windows to help maintain privacy for the adjacent home at 83 East View Avenue. The other three sides of the house contain extensive window area which would likely create privacy impacts for the adjacent home at 87 East View Avenue and reduce the privacy for the proposed home from the street above.
- Goal 2, Principle 9 of the Guidelines states that “*acoustic privacy is important to all residents. Any dwelling should be planned with active spaces and possible noise pollution sources screened or controlled to prevent a nuisance to neighbors.*” The large outdoor terraces and decks on the fourth and fifth levels would lessen the acoustic privacy for the homes on either side of the property.
- Goal 2, Principle 11 of the Guidelines states that projects should “*site buildings so they don’t ‘stand out’ because of location on the property.*” The design of the proposed house would cause the building to extend all the way from the top of the site to the bottom. The five floor levels would push the house toward Main Street and make the structure stand out because of its location on the site.
- Goal 2, Principle 13 of the Guidelines states that “*limits for heights of dwellings above grade strictly adhered to... Some elements exceeding height limits may be granted because they provide visual delight – turrets, ‘widow’s walks,’ flagpoles,*

etc. – if no other problems (view blocks, etc.) occur.” The proposed 47 foot tall, five story structure would not result in “visual delight,” but would instead result in excessive visual mass and bulk when viewed from below the site.

- Goal 3, Principle 7 (A) of the Guidelines states that “*view protection is more important for the primary living areas of a dwelling (e.g. living room, dining room, family room, great room, kitchen, and decks associated with these rooms) than for less actively used areas of a dwelling (e.g. bedroom, bathroom, study, office, den).*” According to the owner of the home at 84 East View Avenue, the story poles are visible from the dining room, kitchen, deck and master bedroom of the nearby home.
- Goal 3, Principle 7 (B) of the Guidelines states that the “*horizon line is [the] most sensitive part of [a] view, then foreground, then middleground.*” The proposed house would be situated below the homes across the street, and would not intrude into the horizon line from the neighboring residence at 84 East View Avenue.
- Goal 3, Principle 7 (C) of the Guidelines states that “*blockage of [the] center of view [is] more damaging than blockage of [the] side of view.*” The proposed house would be visible from the lower portion of the center of the view for the home at 84 East View Avenue.
- Goal 3, Principle 7 (D) of the Guidelines states that “*blockage of important objects in the view (Golden Gate Bridge, Belvedere Lagoon, Sausalito, Angel Island) is more difficult to accept than blockage of other, less well known landmarks.*” The proposed house would block a narrow view of Ark Row from the residence at 84 East View Avenue, but no views of “important objects.”
- Goal 3, Principle 7 (E) of the Guidelines states that “*a wide panoramic view can accept more view blockage than the smaller slot view.*” The nearby home at 84 East View Avenue has a wide panoramic view, but only a narrow view of Ark row below that would be affected by the proposed house.

Zoning

Staff has reviewed the proposal and finds that it is not in conformance with the development standards for the R-1 zone, as variances are requested for all setbacks, lot coverage and building height, along with a floor area exception.

Guiding Principles for Site Plan and Architectural Review

Section 16-4.2.7 of the Tiburon Zoning Ordinance (Guiding Principles in the Review of Applications) states that “in reviewing applications for Site Plan & Architectural Review, the acting body shall consider the following principles as they may apply”:

- (a) Site Plan Adequacy. *Proper relation of a project to its site, including that it promotes orderly development of the community, provides safe and reasonable access, and will not be detrimental to the public health, safety, and general welfare.* The proposed house design would overwhelm the site, and would appear massive even in comparison to the other vertical house designs on Corinthian Island. The access from below the site would be inconsistent with the street-level parking and access provided for other homes along East View Avenue. The overdevelopment of the site would leave little or no room for on-site construction staging, which could create public safety concerns and result in construction-related impacts that would be unnecessary temporary disruptions to the general welfare of the residents of Corinthian Island.
- (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, adequacy of light and air, and topographic or other constraints on development imposed by particular site conditions.* The topography of Corinthian Island has resulted in home designs that are more vertical and closely bunched than in other Tiburon neighborhoods. However, even by the standards of Corinthian Island, the proposed house design would visually overwhelm the site. As noted above, three sides of the house contain extensive window area which would likely create privacy impacts for the adjacent home at 87 East View Avenue and reduce the privacy for the proposed home from the street above.
- (c) Neighborhood Character. *The height, size, and/or bulk of the proposed project bear a reasonable relationship to the character of existing buildings in the vicinity. A good relationship of a building to its surroundings is important. For example, in neighborhoods consisting primarily of one-story homes, second-story additions shall be discouraged, or permitted with increased setbacks or other design features to minimize the intrusion on the neighborhood.* As noted above, Corinthian Island is a neighborhood in which most homes already have excessive heights and floor area ratios in comparison to other areas of Tiburon. Even given this neighborhood character, the height, size and bulk of the proposed home would exceed those of all other homes on this portion of Corinthian Island.

VariANCES

In order to grant the requested variances, the Board must make all of the following findings 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 has a small size and steep topography by both the standards of Corinthian Island and Tiburon as a whole. The strict application of the R-1 development standards 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 properties on Corinthian Island have received variances for reduced setbacks, excess lot coverage and excess building height. However, Staff is unaware of any property in the vicinity, or anywhere else in Tiburon, which has received variances for all four building setbacks, excess lot coverage and building height as requested by this application. The proposed building height would appear to be in excess of the height previously granted for any structure in Tiburon. Therefore, the cumulative granting of these variances would be inconsistent with the limitations upon other properties in the vicinity and in the same or similar zones.

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

The strict interpretation of the required yard setbacks, lot coverage and building height would result in a very small house on the site. The house would be very narrow and pushed down the hill away from the front property line in a manner that would create an impractical house design. However, the extent of the variances requested could be substantially lessened without any practical difficulty or unnecessary hardship. In particular, a reduction in the building height and lot coverage could be easily accomplished by removing one or more stories from the house, and eliminating the lower garage would likely pull the house out of the rear yard setback.

4. ***The granting of the variance will not be detrimental to the public welfare or injurious to other properties in the vicinity.***

As described above, the proposed house design would result in some view blockage for the nearby home at 84 East View Avenue. The excessive window area on three sides of the house would likely create privacy impacts for the

adjacent home at 87 East View Avenue and reduce the privacy for the proposed home from the street above. The siting of the house would limit the area for on-site construction staging, which could create construction-related safety concerns and disruptions for other homes in the vicinity. The granting of the requested variances would therefore be injurious to other properties in the vicinity.

Floor Area Exception

Section 4.02.08 of the Tiburon Zoning Code states that the Design Review Board may grant exceptions to the required floor area ratio requirements if it makes the following two findings:

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; and
2. The applicant has demonstrated that the proposed structure is compatible with the physical layout 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.

Although many of the homes on Corinthian Island are visually prominent, the proposed house would have a much larger visual size and scale than other homes in the vicinity. The house would not be compatible with the physical layout of the site, as the structure would be stacked up on the slope rather than following the contours of the site.

From the evidence provided, Staff believes that the house design is inconsistent with the Guiding Principles for Site Plan and Architectural Review, and that there is insufficient evidence to support the findings for the requested variances and floor area exception for the proposed house design.

Public Comment

As of the date of this report, one letter has been received regarding the subject application from the owners of 84 East View Avenue, raising issues noted above regarding potential view impacts and issues related to the size of the house in relation to other homes on Corinthian Island, visual impacts from below and construction staging concerns. Staff has also received similar verbal concerns from other neighboring homeowners on Corinthian Island, along with a letter from the owner of 12 Alcatraz Avenue.

CONCLUSION

The proposed house is inconsistent with the Hillside Design Guidelines and the Guiding Principles for Site Plan and Architectural Review. The house would be incompatible with the size, scale and character of Corinthian Island. Findings cannot be made to support the extent of the variances and floor area exception requested. Staff has repeatedly encouraged the applicant to make substantial changes to the project design, but the applicant has only reduced the floor area of the house by 237 square feet, with little or no changes to the basic house design.

If the Design Review Board concurs that the house design is unacceptable and needs to be completely redesigned, the Board may either continue the application to another meeting or direct Staff to prepare a resolution denying the application. In situations where the house design submitted has been found to be so inconsistent with Town guidelines and principles, Staff feels that it is more appropriate to deny the application, with encouragement to the applicant to submit a new application with a completely new house design that would be more in keeping with these guidelines and the character of the surrounding neighborhood. In such instances, the Design Review Board has previously denied an application “with prejudice,” allowing the applicant to resubmit a substantially revised design without waiting a year (as otherwise required by the Zoning Ordinance). The Board may also consider waiving fees for the resubmittal if the revised project design is consistent with the Board’s direction.

RECOMMENDATION

The Board should review this project with respect to Zoning Ordinance Sections 4.02.07 (Guiding Principles) 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 the direction of Staff, the Board should direct Staff to prepare a resolution denying the application with prejudice. The Board may also continue the application to a future meeting, with direction to the applicant to substantially revise the plans for the proposed house. If the Design Review Board wishes to approve the project, the Board must articulate findings necessary to approve the variances and floor area exception, and Staff would recommend that the attached conditions of approval be applied.

ATTACHMENTS

1. Conditions of approval
2. Application and supplemental materials
3. Goal 1, Principles 1, 2, & 9 of the Hillside Design Guidelines
4. Goal 2, Principles 6, 9, 11 & 13 of the Hillside Design Guidelines
5. Goal 3, Principles 7 (A-E) of the Hillside Design Guidelines
6. Table of Floor Areas in the Vicinity of 85 East View Avenue
7. Letter and photographs from Brian and Jan Matas, dated September 25, 2007
8. Letter from Anne Kasanin, dated September 27, 2007
9. Submitted plans

Prepared by: **Daniel M. Watrous, Planning Manager**

CONDITIONS OF APPROVAL

85 EAST VIEW AVENUE

FILE #20720

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 June 8, 2007, or as amended by these conditions of approval. Any modifications to the plans of August 16, 2007 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. 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.
5. The applicant must meet all requirements of other agencies prior to the issuance of a building permit for this project.
6. All skylights shall be bronzed or tinted and no lights shall be placed in the wells.
7. All exterior lighting fixtures other than those approved by the Design Review Board must be down light type fixtures.
8. Prior to the issuance of building permits, the applicant shall submit verification from a licensed landscape architect that the proposed landscape plan conforms to M.M.W.D. landscape regulations, as required by Town Council Ordinance.
9. Prior to the issuance of final building inspection approval, all landscaping and irrigation shall be installed in accordance with approved plans. The installation of plantings and irrigation shall be verified by a Planning Division field inspection prior to the issuance of occupancy permits.

10. Prior to underfloor inspection, a certified survey of the structure foundation will be required. Required documents shall include graphic documentation locating the building on a site plan and including specific dimensions from property lines and other reference points as appropriate, and elevations relative to sea level of the foundation walls and slabs. No inspections will be provided until the survey results have been verified.
11. A construction sign shall be posted on the site during construction of the project, in a location plainly visible to the public. The sign shall be 24" x 24" in size and shall be made of durable, weather-resistant materials intended to survive the life of the construction period. The sign shall contain the following information: job street address; work hours allowed per Chapter 13 of the Tiburon Municipal Code; builder (company name, city, state, ZIP code); project manager (name and phone number); and emergency contact (name and phone number reachable at all times). The sign shall be posted at the commencement of work and shall remain posted until the contractor has vacated the site.
12. The project shall comply with the following requirements of the Tiburon Fire Protection District:
 - a. The structure shall have installed throughout an automatic fire sprinkler system in accordance with NFPA standard 13-R. The system design, installation and final testing shall be approved by the District Fire Prevention Officer (UFC 1003).
 - b. Approved smoke alarms shall be installed to provide protection to all sleeping areas (UBC 1210).
 - c. Approved spark arresters shall be installed on chimneys (UFC 1101).
 - d. A "green belt" shall be provided by cutting and clearing all combustible vegetation within 30 feet of the structure. All vegetation within 100 feet of the structure or to the property line shall comply with the requirements of Fire Safe Marin, and the Tiburon Fire Protection District Guidelines (UFC 1103).
13. The following requirements of the Marin Municipal Water District shall be met:
 - a. A High Water Pressure Water Service application shall be completed.
 - b. A copy of the building permit shall be submitted.
 - c. Appropriate fees shall be paid.
 - d. The structure's foundation shall be completed within 120 days of the date of application.
 - e. The applicant shall comply with the District's rules and regulations in effect at the time service is requested.

14. The applicants shall obtain a sewer permit from the Sanitary District No. 5 and pay all applicable fees prior to construction of a side sewer and connection to the sewer main. After connection to the sewer main but prior to commencement of discharge and prior to covering of the pipe, the District shall be contacted and allowed to inspect the connection for conformance to standards.
15. All requirements of the Town Engineer shall be met.