



STAFF REPORT

To: Members of the Design Review Board

From: Planning Manager Watrous

Subject: 2312 Spanish Trail; File #21017
Site Plan and Architectural Review for the Construction of a New Detached Two-Family Dwelling, with Detached Two-Family Dwelling Exception and a Variance for reduced Front Yard Setback
(Continued from November 4, 2010)

Reviewed By: _____

PROPOSAL

The applicant is requesting Design Review approval for the construction of a new detached two-family dwelling and two parking structures on property located at 2312 Spanish Trail. A detached two-family dwelling exception and a variance for reduced front yard setback are also requested. The property is currently developed with a single-family dwelling, a parking structure and two detached storage sheds, one of which would be removed as part of this project.

BACKGROUND

This application was first reviewed at the July 15, 2010 Design Review Board meeting. At that meeting, several neighboring property owners raised concerns about potential view and privacy impacts from the proposed house, parking impacts on the surrounding neighborhood and whether the application was consistent with the guidelines for detached two-family dwelling units. The Design Review Board shared some of these concerns, but did not rule out the possibility of a detached two-family dwelling on this site. It was the consensus of the Board that a more modestly proportioned house moved further up the hill might be acceptable. The application was continued to allow the applicant time to redesign the proposed dwelling.

The applicant subsequently submitted revised plans for the project that included the following changes:

- The western portion of the proposed second dwelling was pushed back approximately 9 feet and the front porch was narrowed in front of that portion of the building. The size of the dwelling unit was reduced from 1,180 square feet to 1,117 square feet. The ridgeline of the building was reduced in height by one foot. With the exception of the aforementioned modifications to the western portion of the building, the width, depth, finished floor height and location of the dwelling on the site remained unchanged.

- The existing parking structure on the lower portion of the site accessed from Vista Del Mar was to be removed and replaced with a new two-car garage. The garage was to be finished with a sod roof to create a usable outdoor space for the property.
- A new two-car parking deck was proposed within the street right-of-way at the front of the site accessed from Spanish Trail. The deck was to be built above the existing storage shed at this location, with the roofline of the shed lowered to accommodate the parking deck.

The Design Review Board reviewed the revised plans at the October 7, 2010 meeting. At that meeting, several neighbors again objected to the proposed project and felt that the application would be inconsistent with the guidelines for detached two-family dwelling units and incompatible with the character of the surrounding neighborhood. The consensus of the Design Review Board was that, as designed, the project did not meet the criteria for a detached two-family dwelling exception. The Board suggested that the proposed dwelling needed to be better articulated, possibly stepped into the hillside and/or moved uphill on the site. The applicant proposed eliminating the garage structure on Vista Del Mar and the Board felt that that would help reduce the visual mass of the project. The application was again continued to allow the applicant time to further redesign the project.

The applicant subsequently submitted revised plans which included the following changes:

- The roof of the front porch was removed from the proposed second dwelling and the entry stairway leading up from Vista Del Mar was relocated to the eastern side.
- The previously proposed two-car garage along Vista Del Mar was eliminated and replaced with a two-car parking pad.

With the exception of the aforementioned modifications, the floor area, height and location of the dwelling on the site remained unchanged. The new two-car parking deck was still proposed to be constructed within the street right-of-way at the front of the site, accessed from Spanish Trail.

The Design Review Board reviewed the revised plans at the November 4, 2010 meeting. The Board appeared to be generally in consensus that it was possible to approve two separate dwellings on this site in terms of the ordinance requirements, but requested additional information to determine that physical conditions exist on the lot that render impractical or difficult the construction of attached units or clearly demonstrate the site planning superiority and land use compatibility benefits of detached units for the lot. The Board also recommended that the project design be modified to lessen the visual mass of the house. The application was again continued to allow the applicant time to further redesign the project.

REVISED PROJECT DESIGN

The applicant has now submitted revised plans for the proposed project. The following changes have been made to the project design:

- The detached dwelling unit has been reduced in size from 1,117 square feet to 992 square feet. One bedroom has been moved from the western side of the building to the rear of the structure, reducing the width of the building from 46 feet to 33 feet.
- The dwelling has been moved back on the site approximately 3 feet and the height of the structure has been reduced approximately one foot.
- The front porch cover has been reinstated to the front of the dwelling.
- An open trellis has been added on top of the proposed parking pad on Vista Del Mar.

The applicant has prepared written comments and a conceptual design for an attached second dwelling unit to illustrate the difficulty of attaching a second dwelling unit to the existing building on the site.

ANALYSIS

Design Issues

The revised project design responds to some of the concerns raised during the review of the previously submitted plans for this project. The reduced floor area, width and height and the relocated siting of the proposed dwelling unit would reduce the visual mass of the building and the front porch cover would add articulation to the structure. The trellis over the proposed parking pad would also increase the visual articulation of the structures on the site.

The Design Review Board is encouraged to view the revised story poles for this project from the homes at 2321 & 2300 Vista Del Mar and 2356 Spanish Trail to evaluate the possible view impacts and visible mass of the proposed building.

Zoning

Staff has reviewed the proposal and finds that it is in conformance with the development standards for the R-2 zone, with the exception of the previously noted detached two-family dwelling exception and variance for reduced front yard setback.

In its previous reviews of the requested exception, the Board considered the criteria listed in Section 16-40.020 (F) of the Tiburon Zoning Ordinance. It was the consensus of the Board that the application was consistent with most of the criteria, as described in the previous Staff reports. At the November 4, 2010 meeting, the Board determined that the applicant had not yet demonstrated consistency with two of the remaining criteria. The revised project design must be evaluated for consistency with the following criteria:

2. ***Physical conditions exist on the lot that render impractical or difficult the construction of attached units; or the site planning superiority and land use compatibility benefits of detached units are clearly demonstrated for the lot.***

At the October 7 and November 4, 2010 meetings, the Design Review Board noted the narrow width of the subject property in the vicinity of the existing structure on the site and indicated that this narrowness could make it difficult to construct an attached second dwelling unit at this portion of the property. The representatives of the owners of the adjacent residence at 2356 Spanish Trail have indicated that a large or tall second dwelling unit attached to the rear of the existing building on the site could substantially impact their water views.

The applicant has submitted written comments regarding this criterion, attached as **Attachment 3**. In addition to the narrowness of the site, the applicant notes that the existing structure on the site extends to within both side yard and the front yard setbacks, limiting the area upon which to locate an attached second dwelling. The applicant also contends that an attached unit, unless designed with a flat roof, would block views from the second floor of the existing building, would be architecturally incompatible with the existing building and would likely involve the removal of a large magnolia tree on the site.

The applicant also contends that a detached second dwelling unit would demonstrate site planning superiority, as such a design would provide the residents of the new dwelling with better views, better access to parking and a yard and landscaped buffer between the two homes on the site. The applicant asserts that separating the two dwelling units allows for more architectural flexibility and eliminates the potential for a very long building elevation on a narrow portion of the property.

The applicant has submitted conceptual design plans illustrating a potential attached second dwelling unit. The flat roof design solution would accommodate roughly the same floor plan as the currently proposed detached dwelling unit. The low roofline of this design would not likely intrude into the views of the adjacent home at 2356 Spanish Trail. Staff believes that this is a plausible building design that indicates that an attached second dwelling unit is practical on the site. The floor plans of the existing building indicate that new windows could be added to the eastern side of the lower floor area if a new dwelling unit was attached to the rear of the building. The applicant contends that such a design would be architecturally inferior and would still result in design difficulties for the existing building, would block the windows of the existing lower floor, and would limit the ventilation and egress for this space.

3. *Two dwelling units in two detached buildings would likely reduce visual, environmental, privacy or other impacts as compared to a probable attached two-family dwelling on the lot.*

As noted above, the revised project design would reduce the visual impacts of the proposed project when viewed from below on Vista Del Mar. The applicant contends that the view impacts that would likely be caused on the residence at 2356 Spanish Trail by an attached second dwelling unit would be greater than

those that would be caused on the homes at 2321 & 2300 Vista Del Mar by the revised project design.

As noted in the previous Staff reports for this project, the Board determined that the project was consistent with the other criteria contained in Section 16-40.020 for review of a detached two-family dwelling exception. The Board also had indicated that it could make the findings necessary for the variance for reduced front yard setback.

PUBLIC COMMENT

As of the date of this report, no letters have been received regarding this application since the November 4, 2010 meeting.

PERMIT STREAMLINING ACT

The State Permit Streamlining Act requires that the Town take action on an application within a specified time period. The Act allows the applicant to grant a one time, 90-day extension to the deadlines for making a decision, and the applicant has granted the time extension for this application.

The extended deadline for this application will expire on December 13, 2010. Therefore, the Design Review Board must make a decision on this application at the December 2 meeting. Failure to make a decision would result in automatic approval of the application.

CONCLUSION

The revised project design appears to address the Design Review Board's concerns about reducing the visual mass of the proposed building. The applicant has provided written comments and a conceptual plan for an attached second dwelling unit to attempt to demonstrate compliance with the criteria for a detached two-family dwelling exception.

Section 16-40.020(I) of the Tiburon Zoning Ordinance states that the Design Review Board "may approve, approve with conditions, or deny any application for a detached two-family dwelling exception. In taking its action, the [Board] shall make findings based on evidence in the record. The burden rests with the applicant to convince the board that the project has met the criteria necessary for approval." If the Board wishes to approve this project, in its deliberations it must explain how the application is consistent with these criteria before taking action on the application.

Due to the level of controversy surrounding this project, Staff recommends that the Board's decision to approve or deny this application be supported by the adoption of a resolution either approving or denying the application. Draft resolutions for each option are attached and may be modified by the Board prior to adoption.

RECOMMENDATION

1. The Board should review this project with respect to Zoning Ordinance Sections 16-52.020 (H) (Guiding Principles for Site Plan and Architectural Review) and 16-40.020.
2. If the Board determines that the application is consistent with the criteria contained in Section 16-40.020, the Board must make findings in support of these criteria based on evidence in the record and should determine that the project is exempt from the provisions of the California Environmental Quality Act (CEQA) as specified in Section 15301, and vote to adopt the attached resolution (**Attachment 1**) approving the application, with conditions of approval to be applied to the project.
3. If the Board determines that the application is inconsistent with the criteria contained in Section 16-40.020, the Board should vote to adopt the attached resolution (**Attachment 2**) denying the application.

ATTACHMENTS

1. Draft resolution of approval
2. Draft resolution of denial
3. Description of project changes and letters from applicant, dated November 22 & 23, 2010
4. Design Review Board Staff report dated July 15, 2010
5. Design Review Board Staff report dated October 7, 2010
6. Design Review Board Staff report dated November 4, 2010
7. Minutes of the July 15, 2010 Design Review Board meeting
8. Minutes of the October 7, 2010 Design Review Board meeting
9. Minutes of the November 4, 2010 Design Review Board meeting
10. Submitted plans

CONDITIONS OF APPROVAL

2132 SPANISH TRAIL

FILE #710021

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 16, 2010, or as amended by these conditions of approval. Any modifications to the plans of November 22, 2010 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. All requirements of the Town Engineer and the Tiburon Public Works Department shall be met. An encroachment permit shall be required for all improvements and landscaping within Town right-of-way. No new walls, fences or similar structures shall be built within Town right-of-way. The parking deck on Spanish Trail shall be approved by Town Council pursuant to Section 19-4 (b[1]) of the Tiburon Municipal Code.

9. 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.
10. 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.
11. 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.
12. 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.
13. 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. The system design, installation and final testing shall be approved by the District Fire Prevention Officer (CFC 903.2).
 - b. Approved smoke alarms shall be installed to provide protection to all sleeping areas (CFC 907.2.10).
 - c. The vegetation on this parcel shall comply with the requirements of the Tiburon Fire Protection District and the recommendations of Fire Safe Marin. (CFC 304.1.2).
14. 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.
15. All requirements of the Town Engineer shall be met, including, but not limited to, the following, which shall be noted on building plan check plans:
- a. A Public Works encroachment permit will be needed for all work to be conducted within Town street rights-of-way. The parking deck within the Spanish Trail right-of-way must be approved by the Tiburon Town Council prior to construction.
 - b. The public right-of-way shall be protected from damage during construction, or repairs shall be made to the satisfaction of the Tiburon Public Works Department.
16. 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.
17. Prior to issuance of a Certificate of Occupancy for the project, Owner shall record a deed restriction prohibiting future condominiumization or subdivision of the property for the duration that the Detached Two-Family Dwelling remains in existence. Said deed restriction shall be reviewed and approved by the Town Attorney prior to recordation, and following recordation, a recorded copy shall be transmitted to the Town for its permanent record.
18. The existing two-family dwelling on the site shall be converted into a single-family dwelling. The kitchen shall be removed from the lower level dwelling unit and the floor area of that level shall be fully incorporated into the floor area of the main dwelling unit.
19. The porch roof of the proposed dwelling unit shall be reduced in depth to eight feet (8').