



TOWN OF TIBURON
1505 Tiburon Boulevard
Tiburon, CA 94920

Design Review Board Meeting
December 1, 2011
Agenda Item: **1**

STAFF REPORT

To: Members of the Design Review Board

From: Planning Manager Watrous

Subject: 8 Wilkins Court; File #21117
Adoption of a Resolution Denying Site Plan and Architectural Review for the Construction of Deck Additions to an Existing Single-Family Dwelling, with a Variance for Reduced Side Yard Setback

Reviewed By: _____

BACKGROUND

On November 3, 2011, the Design Review Board held a public hearing for a Site Plan and Architectural Review application for the construction of deck additions to an existing single-family dwelling, with a Variance for reduced side yard setback, on property located at 8 Wilkins Court. At that meeting, the Design Review Board voted (5-0) to direct Staff to prepare a resolution denying the application. The draft resolution has been prepared and is attached.

RECOMMENDATION

It is recommended that the Design Review Board adopt the draft resolution denying the Site Plan and Architectural Review and Variance application for 8 Wilkins Court.

ATTACHMENTS

1. Draft resolution

RESOLUTION NO. 2011- (Draft)

A RESOLUTION OF THE DESIGN REVIEW BOARD OF THE TOWN OF TIBURON
DENYING A SITE PLAN AND ARCHITECTURAL REVIEW APPLICATION FOR
THE CONSTRUCTION OF A DECK ADDITION TO AN EXISTING SINGLE-FAMILY
DWELLING, WITH A VARIANCE FOR REDUCED SIDE YARD SETBACK
AT 8 WILKINS COURT
ASSESSOR PARCEL NO. 039-032-10

WHEREAS, the Design Review Board of the Town of Tiburon does resolve as follows:

Section 1. Findings.

- A. On October 6, 2011, the Town of Tiburon received an application for Site Plan and Architectural Review for the construction of a deck addition to an existing single-family dwelling, with a Variance for reduced side yard setback (File #21117) on property located at 8 Wilkins Court. The application consists of the following:
1. Application form and supplemental materials received October 6, 2011; and
 2. Site plan, demolition plans, landscape plan and elevations prepared by Miles Berger, Architect, received October 6, 2011;
- B. The Design Review Board held a duly-noticed public hearing on November 3, 2011, and heard and considered testimony from interested persons.
- C. The Design Review Board reviewed the submitted plans for the proposed project in accordance with Section 16-52.020 (H) of the Tiburon Zoning Code (Guiding Principles in the Review of Site Plan and Architectural Review Applications), Section 16-52.030 (E) of the Tiburon Zoning Code (Variance Findings by Review Authority) and the Tiburon Hillside Design Guidelines. The Design Review Board finds, based upon application materials and analysis presented in the November 3, 2011 Staff Report, public testimony, as well as visits to the site, that the physical circumstances of the site would not preclude the applicant from having an adequately sized deck and would therefore not deprive the applicant of privileges enjoyed by other properties in the vicinity and in the same or similar zones.
- D. The Design Review Board further finds that the strict application of the required side yard setback would not result in any practical difficulty or unnecessary hardship for the applicant, as a previously approved deck for the site would be over 300 square feet in size, which would provide adequate space for any reasonably expected use of an exterior deck, and there are other locations at which the existing deck may be expanded without encroaching into the required side yard setback.

Section 2. Denial.

NOW, THEREFORE BE IT RESOLVED that the Design Review Board of the Town of Tiburon does hereby deny the application for Site Plan and Architectural Review and a Variance for the reasons set forth above.

PASSED AND ADOPTED at a regular meeting of the Design Review Board of the Town of Tiburon on December 1, 2011, by the following vote:

AYES: BOARDMEMBERS:

NOES: BOARDMEMBERS:

ABSTAIN: BOARDMEMBERS:

JOHN KRICKENSKY, CHAIRMAN
TIBURON DESIGN REVIEW BOARD

ATTEST:

DANIEL M. WATROUS, SECRETARY



STAFF REPORT

To: Members of the Design Review Board

From: Planning Manager Watrous

Subject: 460 Ridge Road; File #711085
Site Plan and Architectural Review for the Construction of a New Single-Family Dwelling, with a Floor Area Exception
(Continued from November 3, 2011)

Reviewed By: _____

BACKGROUND

The applicant is requesting Design Review approval for the construction of a new two-story single-family dwelling on property located at 460 Ridge Road. The subject site is currently developed with an existing two-story dwelling. The project will demolish most (over 50%) of the floor area of the existing building.

This application was first reviewed at the October 6, 2011 Design Review Board meeting. At that meeting, several neighbors raised concerns about the location of the house in relation to present and future homes in the vicinity; light and glare from windows of the proposed house; potential privacy impact; and the amount of grading and landscaping to be removed associated with the project.

The Design Review Board shared many of these concerns. The Board determined that the project did not reasonably minimize grading on the site and that the landscaping plan was inadequate. The Board determined that the amount of glazing on the house was excessive and would result in nighttime light impacts on nearby residences. The Board also felt that the location of the new portions of the house would be inconsistent with the pattern of development in the vicinity and could affect the placement of a new home or future additions on the adjacent property at 480 Ridge Road.

The application was continued to the November 2, 2011 meeting to allow the applicant time to redesign the proposed project to address these concerns. The applicant subsequently submitted revised plans for the project, which included the following changes to the project design:

- The master bedroom suite has been modified to reduce the size of the bedroom and bathroom, but to increase the size of the closet. The pantry has been reduced by almost 8 feet and the kitchen has been reduced in width by one foot. The foyer has been expanded. As a result, the proposed floor area of the house has increased

by 91 square feet from the previously proposed 4,340 square feet to 4,431 square feet.

- The floor level of the lower level and basement areas has been raised 3 feet, lowering the ceiling heights in the lower level from 15 feet to 12 feet. The floor level of the garage has been raised 4.5 feet. The roof elevation of the proposed house remains unchanged.
- The windows on the front of the house have been slightly modified. The number and location of the upper floor windows are unchanged, but the windows are somewhat smaller. The lower level windows have been more substantially reduced in size.
- The overall height of the retaining walls along the driveway has been reduced. However, the proposed walls are over 6 feet in height in certain areas within the required side yard setback; these walls would need to be reduced to 6 feet to comply with the maximum wall height allowed within a required setback.
- A new two-car parking bay is proposed adjacent to the driveway within the front yard.
- The terraced patio and lawn areas to the rear of the house have been scaled back to a series of decks that would not extend as far into the rear of the site. A swimming pool and fire pit are now requested. Screened pool equipment would be located on the lower portion of the site.
- More detailed landscaping plans have been provided that would keep much of the existing screening vegetation along the front of the property. A new fenced lawn area is now proposed between the front of the house and the driveway.

The Design Review Board reviewed these changes at the November 3, 2011 meeting. At that meeting, several neighboring property owners again raised issues regarding potential light and glare impacts and the location of the house in relation to present and future homes in the vicinity.

The Design Review Board determined that the revised project design addressed concerns about the amount of proposed grading and that the revised landscaping plan provided better information. However, the Board still felt that the amount of glazing on the front of the house was excessive and would result in nighttime light impacts on nearby residences. The Board also felt that the location of the new portions of the house was still inconsistent with the pattern of development in the vicinity and could affect the placement of a new home or future additions on the adjacent property at 480 Ridge Road. The application was continued to the December 1, 2011 meeting to allow the applicant time to redesign the proposed project to address these concerns.

The applicant now submitted further revised plans for the project, which include the following changes to the project design:

- The eastern side of the house has been shifted substantially toward the center of the lot. The first floor has been moved 14 to 15.75 feet to the west, while the second floor has been moved from 14 to 22 feet. With the master bedroom shifted to a less prominent location, the applicants propose to keep the ceiling height as originally proposed, withdrawing their verbal proposal to lower this area one foot. The footprint of the house would no longer be adjacent to the east side and rear yard setback lines.
- One bedroom has been removed from the second floor and the guest bathroom on the first floor has been made smaller. As a result, the floor area of the proposed house has been decreased by 159 square feet to 4,681 square feet, which is 202 square feet greater than the floor area ratio of 4,479 square feet for a lot of this size. The size of the basement area has been reduced from 665 square feet to 319 square feet. The requested floor area exception has been reduced from 361 square feet to 202 square feet. The lot coverage for the proposed house has been reduced by 94 square feet to 3,499 square feet (14.1%) of the site, which would be less than the 15.0% maximum lot coverage permitted in the RO-2 zone.
- Several changes have been made to the windows on the front elevation. The windows above the front door on the second floor would be screened by permanent wood louvers. The windows in the bedroom hall have been reduced from four to two. Two narrow windows have been removed from the east end of the stairway, and a large tree is proposed to be planted in front of the remaining large stairway window.
- Other modifications to the previous project design include additional on-site parking to the side of the garage; reduced retaining wall heights within the side yard setbacks; slightly relocated swimming pool location and addition of an adjacent spa; and revised plant species near the guest parking area to eliminate potential view blockage issues.
- The colors and materials for the proposed house that were presented at the previous meeting are unchanged.

ANALYSIS

Design Issues

The most recently revised project is much more responsive to the concerns raised by the Design Review Board and neighboring residents at the previous meeting. The eastern portion of the proposed house has been moved substantially to the west, away from the home at 480 Ridge Road. The new building footprint would only extend slightly to the east of the existing footprint and should not interfere with any future building expansion of the neighboring home. The more centralized building location would also be much more consistent with the overall development pattern along this side of Ridge Road.

As noted above, several changes have been made to the front elevation of the house to address the issue of potential lighting impacts on uphill neighbors. Staff believes that the permanent wooden louvers proposed for the windows above the front door will adequately screen the light from these windows. However, staff believes that the remaining large stairway window is excessive to provide light into a stairway and that the neighbors should not have to depend on the success of the tree proposed to be planted in front of the window for adequate light screening. Staff recommends that this window be reduced to the size of the clerestory window for the master bedroom closet to prevent inappropriate light and glare.

In order to grant the requested floor area exception, the Board must make all of the following findings required by Section 16-52.020(I[4]) of the Tiburon Zoning Ordinance:

1. ***The applicant has demonstrated that the visual size and scale of the proposed structure is compatible with the predominant pattern established by existing structures in the surrounding neighborhood.***

The surrounding Hillhaven neighborhood contains many dwellings on sloping lots with multiple stories similar to the design of proposed house. The proposed structure would therefore be compatible with the predominant pattern established by existing structures in the surrounding neighborhood.

2. ***The applicant has demonstrated that the proposed structure is compatible with the physical characteristics of the site. The characteristics include, but are not limited to, shape and steepness of the lot, ease of access, and the presence of natural features worthy of retention, such as trees, rock outcroppings, stream courses and landforms.***

The proposed house would be situated on the relatively level portion of the site occupied by the existing house. The revised project design would not substantially alter the existing relationship of structures on the site to the contours of this lot.

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

PUBLIC COMMENT

As of the date of this report, the Town has not received any letters regarding this application since the November 3, 2011 meeting.

RECOMMENDATION

The Board should review this project with respect to Zoning Ordinance Sections 16-52.020 (H) (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 Design Review Board agrees with Staff's conclusions, it is recommended that the application be continued to a later date, and that the Board give direction to the applicant regarding requested project design modifications.

If the Board wishes to approve the application, it is recommended that the attached conditions of approval be applied.

ATTACHMENTS

1. Conditions of approval
2. Revised project details, dated November 21, 2011
3. Design Review Board staff report dated October 6, 2011
4. Design Review Board staff report dated November 3, 2011
5. Minutes of the October 6, 2011 Design Review Board meeting
6. Revised plans

CONDITIONS OF APPROVAL

460 RIDGE ROAD

FILE #711085

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 15, 2011, or as amended by these conditions of approval. Any modifications to the plans of November 22, 2011 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 other than those approved by the Design Review Board must be down light type fixtures.
7. 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.

8. The project shall comply with the requirements of the California Fire Code to the satisfaction of the Building Official. The Tiburon Fire Protection District recommends the following conditions of approval:
 - 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
 - d. The access gate shall have a minimum unobstructed width of 12 feet. The gate shall be operable using the Fire District's "Knox" key system. CFC 503.6.2
9. All requirements of the Marin Municipal Water District shall be met.
10. The applicants shall obtain any necessary sewer permits from 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.
11. 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. The location of the front property line shall be confirmed and the proposed wall must be moved at least three feet (3') onto the private property to provide appropriate line of sight at the driveway entrance/exit.
 - b. The plans must show how stormwater drainage will be handled on impermeable areas, especially the asphalt driveway.
 - c. Any proposal that would encroach onto public right-of-way is not permitted. This would include fences, retaining walls and permanent improvements. Under special circumstances the Town may consider these encroachments. Should the applicant consider their case to be a unique circumstance their proposal should be clearly documents and resubmitted. An encroachment permit will be required for the driveway approach.

- d. All encroachments, such as driveway approaches, sidewalks, small drainage facilities and short-height landscaping, need to be processed through a standard Public Works encroachment permit application with plans or schematics for review. Unless the encroachment is minor or routine in nature, a permit shall be accompanied by a Memorandum of Encroachment that must be recorded by the property owner with the County of Marin.
 - e. 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.
12. The front stairway window shall be reduced in size to match the size of the clerestory window for the master bedroom closet.



TOWN OF TIBURON
1505 Tiburon Boulevard
Tiburon, CA 94920

Design Review Board Meeting
December 1, 2011
Agenda Item: **3**

STAFF REPORT

To: Members of the Design Review Board
From: Associate Planner Tyler
Subject: 2308 Mar East Street; File No. 21116; Site Plan and Architectural Review for Construction of Additions to an Existing Single-Family Dwelling with Variances for Reduced Side Yard Setbacks and Excess Lot Coverage and a Floor Area Exception
Reviewed By: _____

PROJECT DATA

ADDRESS: 2308 MAR EAST STREET
OWNER: PETER WILTON
APPLICANT: MOHAMAD SADRIEH
ASSESSOR'S PARCEL: 059-195-01
FILE NUMBER: 21116
LOT SIZE: 11,000 SQUARE FEET (DRY LAND = 2,017)
ZONING: R-2 (TWO-FAMILY RESIDENTIAL)
GENERAL PLAN: H (HIGH DENSITY RESIDENTIAL)
FLOOD ZONE: X/VE
DATE COMPLETE: NOVEMBER 10, 2011

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.

PROJECT DESCRIPTION

The applicant is proposing to construct additions to an existing single-family dwelling with variances for reduced side yard setbacks and excess lot coverage, and a floor area exception on property located at 2308 Mar East Street. Currently the property is improved with a two-story dwelling which overlooks Raccoon Strait.

The main level (street level) of the home includes a dining room, lounge, kitchen, a bedroom and bathroom, a store room, a two-car garage and a large sun room. The lower level of the home includes a bedroom and bathroom, the master bedroom suite, laundry room, a storage cellar, and two decks.

The proposal would incorporate small additions throughout the structure as part of an overall interior and exterior remodel to the home. At the main level of the home, the front entry walkway would be partially in-filled for a new interior stairwell, and a small addition is proposed at the rear of the dwelling for an expanded kitchen. A new deck would extend off the rear at this level.

At the lower level of the home, the existing rear deck would be partially converted to additional bedroom space and a new larger deck would extend off the existing rear deck. The side deck would also be expanded at the rear, and a new exterior stair/walkway would be incorporated from the front of the property to the side deck for improved functionality.

Tidal lots, such as the subject property, use the area above the mean high tide line (dry land), in determining gross floor area ratio and lot coverage. The proposal would result in lot coverage of 1,434 square feet (71.1%) which greatly exceeds the maximum permitted lot coverage in the R-2 zoning district (35.0%). A variance has therefore been requested for excess lot coverage. The proposal would result in a gross floor area of 2,900 square feet, which exceeds the maximum permitted floor area ratio by 2,194 square feet for a parcel of this size (2,017 sq. ft.). Therefore a floor area exception has been requested.

In addition, the existing left side yard setback is 6 inches, and the right side yard setback is 4 feet. The application proposes minor expansions within both side yard setbacks, and would continue the non-conforming setbacks of 6 inches on the left side and 4 feet on the right. As the minimum side yard setbacks in the R-2 zone are 8 feet, variances have been requested to continue the reduced side yards.

Proposed color and materials for the dwelling include stucco siding in dark beige, gray window sashes, metallic grey facia, and oiled timber striping at the garage door, fencing and foundation skirt. A color/materials board will be available for review at the board meeting.

ANALYSIS

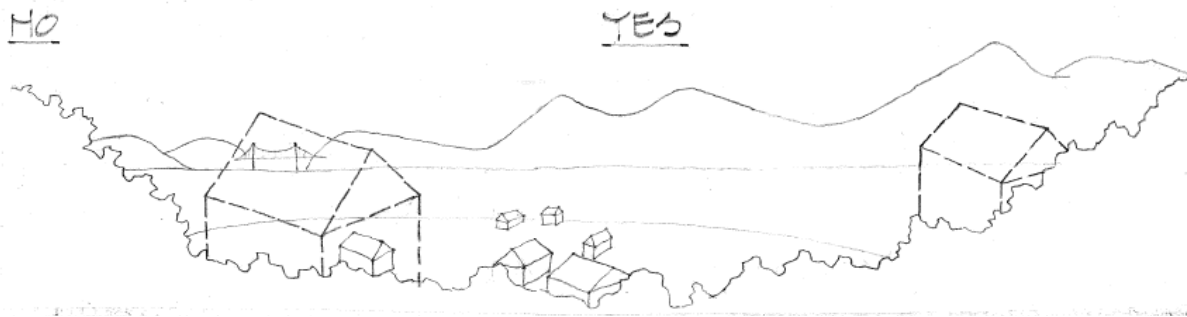
Design Issues

The existing structure is located on a steep lot and is cantilevered over Raccoon Strait, with views of the East Bay, Angel Island, San Francisco and the Golden Gate Bridge. According to recent flood hazard maps, this property is a tidal lot and is therefore located within a flood hazard zone. Staff has reviewed the proposed project in relation to the Town's Flood Damage Prevention ordinance (Tiburon Municipal Code Chapter 13D), and has found that the project would not require any additional elevation above the base flood elevations, nor require special construction materials or methods. However, if the cost of this proposal equals or exceeds fifty percent of the market value of the structure before the start of construction, then this project would need to comply with the Town's Flood Damage Prevention ordinance.

The existing structure is located in close proximity to the neighboring dwelling units on either side of the property, as the majority of dwelling units located along Mar East Street are constructed in this fashion. The adjacent dwelling to the east at 2310 Mar East Street currently projects further out to the south over the water. The dwelling to the west, at 2306 Mar East

Street, also projects further out, but is at a different angle than the subject dwelling, most likely to gain more direct views of San Francisco and the Golden Gate Bridge.

The proposal would incorporate a small kitchen addition on the main level of the home in the eastern rear corner, where an interior stairwell and sunroom currently exist. This minor addition, combined with the new rear decking at the same level, would continue a non-conforming left side yard setback of 6 inches. Even though the left side yard setback would remain at 6 inches, there would still appear to be an adequate separation between the subject structure and the neighboring two-family dwelling to the east at 2310 Mar East Street. As of the date of this report, it is difficult to determine whether the proposed addition and deck expansions would extend into the views toward the Golden Gate Bridge from the primary living areas of these neighboring homes. If so, the project would be inconsistent with Goal 3, Principle 7(d) of the Hillside Design Guidelines (illustrated below) which states that “the blockage of important objects in the view is more difficult to accept than blockage of other, less well-known landmarks.”



As part of the lower level new expanded rear deck, the existing right side yard deck would also be expanded, and a new exterior walkway would be constructed along the right side of the dwelling for overall improved exterior circulation. This proposed expansion of the existing right side deck would also continue a non-conforming right side yard setback of approximately 4 feet. It should be noted that both the main level and lower level proposed decks at the rear of the dwelling would have a similar depth dimension, and the main level deck would be covered with the installation of a new roof overhang.

However, the right side deck expansion would extend opposite the master bedroom of the neighboring dwelling to the west at 2306 Mar East Street. These neighboring residents have raised privacy concerns due to the proximity of this expanded deck to the west-facing window for this bedroom. These neighbors have also raised concerns about the amount of lighting on the rear decks, the removal of a tree adjacent to the western side of the building and the potential use of the side yard area near the front of the lot.

Staff does not foresee any design issues with the enhanced interior improvements and proposed minor floor area additions to the structure. Improvements to the color and materials and proposed new windows and doors throughout the dwelling would not appear to negatively impact the adjacent neighbors or surrounding neighborhood. However, the proposed rear decks on both the main level and lower level could have the potential to result in both view infringements and privacy impacts on the adjacent dwellings to the east and west. In addition, the installation of

exterior recessed LED down lights in the overhangs of each rear deck may also result in lighting impacts on the adjacent neighbors.

Staff recommends that the Board visit the site and adjacent homes and consider these improvements and potential impacts in reviewing the subject application.

Zoning

Staff has reviewed the proposal and finds that it is in conformance with the remaining development standards for the R-2 zone, with the exception of the previously noted variances for both reduced side yard setbacks and excess lot coverage, in addition to a floor area exception.

In order to grant the requested variances for reduced side yard setbacks and excess lot coverage, the Board must make all of the following findings required by Section 16-52.030(E) 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 substantially the same zone.**

The subject site slopes steeply downward towards the bay and is extremely narrow (45 feet in width), similar to many of the properties in the immediate vicinity. The existing structure is constructed partially below the mean high tide line and over Raccoon Strait. These are special circumstances applicable to the property.

- 2. The variance will not constitute a grant of special privileges, inconsistent with the limitations upon other properties in the vicinity and in the same or substantially the same zone.**

Granting variances for reduced side yard setbacks and excess lot coverage would not constitute a grant of special privileges, as a majority of the properties in the immediate vicinity of the subject site have requested and been granted multiple variances in order to build more adequately sized dwellings, than what would normally only be permitted, due to the small dry land areas of each parcel.

- 3. The strict application of this Ordinance would result in practical difficulty or unnecessary physical hardship. Self-created hardships may not be considered among the factors that might constitute special circumstances. A self-created hardship results from actions taken by present or prior owners of the property that consciously create the very difficulties or hardships claimed as the basis for an application for a variance.**

The strict application of this ordinance could result in a practical difficulty if the applicant is required to push the deck expansions and extensions in from the side property lines, if the expanded decks provide an adequate separation between the neighboring dwelling units. This would also apply to the small kitchen expansion in the left rear corner of the dwelling. However, there would be no practical difficulty in pulling the proposed deck

expansion on the right side of the property back to the required setback line to provide more appropriate separation from the master bedroom of the adjacent residence at 2306 Mar East Street. The proposed deck expansions could also be reduced in size to avoid increased lot coverage without creating a practical difficulty on the applicant.

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

It would appear that granting both the side yard setbacks and excess lot coverage variances could be detrimental and/or injurious to the neighboring properties at 2306 and 2310 Mar East, if the deck expansions and extensions were permitted, due to the potential for view, privacy and lighting infringements.

There would appear to be insufficient evidence to support the findings for the variances requested.

In order to grant the requested floor area exception, the Design Review Board must make the following findings as required by Section 16-52.020(I[4]) of the Tiburon Zoning Ordinance:

1. The applicant has demonstrated that the visual size and scale of the proposed structure is compatible with the predominant pattern established by existing structures in the surrounding neighborhood.

The proposed additions would not substantially alter the visual size and scale of the dwelling, as the proposed additions are minor expansions to existing living areas, currently located either at the rear of the dwelling and covered by the existing roof of the structure, or at the right side of the property, which would not be visually prominent. Therefore, the visual size and scale of the dwelling with the minor additions as proposed would remain compatible with the existing structures in the surrounding neighborhood.

2. The applicant has demonstrated that the proposed structure is compatible with the physical characteristics of the site. The characteristics include, but are not limited to, shape and steepness of the lot, ease of access, and the presence of natural features worthy of retention, such as trees, rock outcroppings, stream courses and landforms.

The proposed additions are minor and would not substantially alter the appearance of the dwelling. While the small expansion to the new kitchen area at the left rear corner of the dwelling would further encroach on the bay, this encroachment would be minor and the overall minor additions to the dwelling would continue to be compatible with the physical characteristics of the site.

From the evidence provided, Staff believes there is sufficient evidence to support the findings for the requested floor area exception. However, projects which request both a floor area exception and an excess lot coverage variance are viewed generally as a fundamental overbuilding of the lot, and are usually not supported.

Public Comment

As of the date of this report, the Town has received one letter from the neighboring property owners at 2306 Mar East Street and has received verbal objection from the residents at 2310 Mar East Street.

RECOMMENDATION

Staff recommends that the Board:

1. Review the project with respect to Zoning Ordinance Section 16-52.020(H) (Guiding Principles) and Section 16-52.030(E) (Variances) and Section 16-52.020(I) (Floor Area Ratio Guidelines); and
2. Determine that the project is exempt from the California Environmental Quality Act (CEQA) pursuant to Section 15301; and
3. Determine whether the proposed rear decks at both the main level and lower level would negatively impact the adjacent dwellings in terms of views, privacy and lighting. If the board determines that negative impacts would occur, then Staff recommends that the Board continue the application, with direction given to the applicant to modify and or reduce the size of both the main and lower level rear decks. If the Board disagrees with Staff's recommendation, then findings should be articulated for the requested variances, and Staff would recommend that the application be approved, subject to the attached conditions of approval.

- Exhibits:
1. Conditions of Approval
 2. Application and Supplemental Materials
 3. Letter from Magdalena Yesil and Jim Wickett, dated November 22, 2011
 3. Submitted Plans

Prepared By: Laurie Tyler, Associate Planner

Exhibit 1

CONDITIONS OF APPROVAL
2308 MAR EAST STREET
FILE NO. 21116

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. Construction shall conform with the application and plans dated by the Town of Tiburon on September 19, 2011, or as amended by these conditions of approval and plans of November 2, 2011. Any modifications to the plans must receive Design Review approval.
3. Project elements shown on construction drawings submitted to the Building Division for plan check shall be essentially identical to those project elements shown on drawings approved by the Design Review Board. The permit holder is responsible for clearly identifying on construction drawings any and all changes to project elements. Such changes must be clearly highlighted (with a "bubble" or "cloud") on the construction drawings. A list describing in detail all such changes shall be submitted and attached to the construction drawings, with a signature block to be signed by the Planning Division Staff member indicating whether these changes have been reviewed and are approved, or will require additional Design Review approval. All such changes that have not been explicitly approved by the Town are not "deemed approved" if not highlighted and listed on construction drawings. Construction of any such unapproved project elements is in violation of permit approvals and shall be subject to Stop Work Orders and removal.
4. The applicant must meet all requirements of other agencies prior to the issuance of a building permit for this project.
5. All skylights shall be bronzed or tinted in a non-reflective manner (minimum 25%) and no lights shall be placed in the wells.
6. All exterior lighting fixtures other than those approved by the Design Review Board must be down-light-type fixtures.
7. 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.

8. 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.
9. All requirements of the Director of Public Works/Town Engineer shall be met. An encroachment permit shall be filed and issued with the Town of Tiburon Public Works Department, for all work to be conducted within Town right-of-way, or Town-owned land, as defined in Chapter 19 of the Tiburon Municipal Code.
10. A copy of the Planning Division's "Notice of Action" including the attached "Conditions of Approval" for this project shall be copied onto a plan sheet at the beginning of the plan set(s) submitted for building permits.
11. The project shall comply with the following requirements of the California Fire Code and the Tiburon Fire Protection District:
 - a) The structure shall have installed 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
12. The project shall comply with the Town's Flood Damage Prevention Ordinance (13D), if the cost of the project equals or exceeds fifty percent of the market value of the structure, before the start of construction of this project.



TOWN OF TIBURON
1505 Tiburon Boulevard
Tiburon, CA 94920

Design Review Board Meeting
December 1, 2011
Agenda Item: **4**

STAFF REPORT

To: Members of the Design Review Board
From: Associate Planner Tyler
Subject: 91 Sugar Loaf Drive; File No. 711107; Site Plan and Architectural Review for Construction of a New Single-Family Dwelling with a Floor Area Exception
Reviewed By: _____

PROJECT DATA

ADDRESS: 91 SUGAR LOAF DRIVE
OWNER: PARI AND LOPA CHOKSI
APPLICANT: POLSKY-PERLSTEIN ARCHITECTS
ASSESSOR'S PARCEL: 058-282-04
FILE NUMBER: 711107
LOT SIZE: 25,478 SQUARE FEET
ZONING: RO-2 (SINGLE-FAMILY RESIDENTIAL-OPEN)
GENERAL PLAN: M (MEDIUM DENSITY RESIDENTIAL)
FLOOD ZONE: X
DATE COMPLETE: NOVEMBER 21, 2011

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.

PROJECT DESCRIPTION

The applicant is requesting to construct a new single-family dwelling with a floor area exception, located at 91 Sugar Loaf Drive. Currently the property is improved with a two-story dwelling. As more than 50% of the existing perimeter walls of the dwelling will be demolished, the application has been deemed a new single-family dwelling.

The existing lower level of the home includes the master bedroom suite, two bedrooms, one bathroom and a two-car garage. A deck extends off the master bedroom. The upper level of the home includes the living room, dining room, family room, kitchen, and a bedroom and bathroom. A larger deck extends off the living and dining room areas. A smaller deck extends off the family room.

The new lower level of the home would include three bedrooms, two bathrooms, an exercise room, laundry room, mechanical room, and a three-car garage. A deck would extend off one of the bedrooms at the rear of the dwelling. The upper floor would include the master bedroom suite, the family room, living room, dining room, kitchen, guest bedroom and bathroom, wine storage, a powder room and two terraces. An elevator and interior stairwell would service both floors.

The proposal would result in lot coverage of 3,705 square feet (14.54%) which is below the maximum permitted lot coverage in the RO-2 zoning district (15.0%). The proposal would result in a gross floor area of 4,900 square feet, which exceeds the maximum permitted floor area ratio by 352 square feet, for a parcel of this size (4,548 sq. ft.). Therefore a floor area exception has been requested.

The proposed colors and materials include stucco siding in neutral tones of beige, grey stone wall veneer, brushed steel columns, aluminum finish window, door sashes and frames, stained mahogany veneer garage doors, stained cedar soffits at roof overhangs, and a grey membrane roofing material. A color/materials board will be available at the board meeting for review.

ANALYSIS

Design Issues

The existing structure is designed to take advantage of expansive panoramic views to the south and west of Angel Island, the Bay Bridge, San Francisco, the Golden Gate Bridge, the Marin Headlands, Richardson Bay and Mount Tamalpais. The site slopes moderately downward from Sugar Loaf Drive and is relatively level where the current structure is located and the proposed structure would be located. Below the existing building pad, the site slopes steeply downward to the south and to the west and is mostly unusable due to the severity of the slope.

Although the proposed dwelling would appear to have both levels of the home “stacked” on top of each other, the design of the structure is contemporary, resulting in colors, materials and varying wall angles that provide articulation on each elevation of the structure, so that it would not appear as a single plane on each elevation. Staff’s only concern with the design of the structure would be the downhill elevation (south) which contains cantilevered elements that would result in a structure with increased bulk when viewed from below. The cantilevered elements create the need for the requested floor area exception, as the zoning ordinance definition of gross floor area includes all area beneath cantilevered living space.

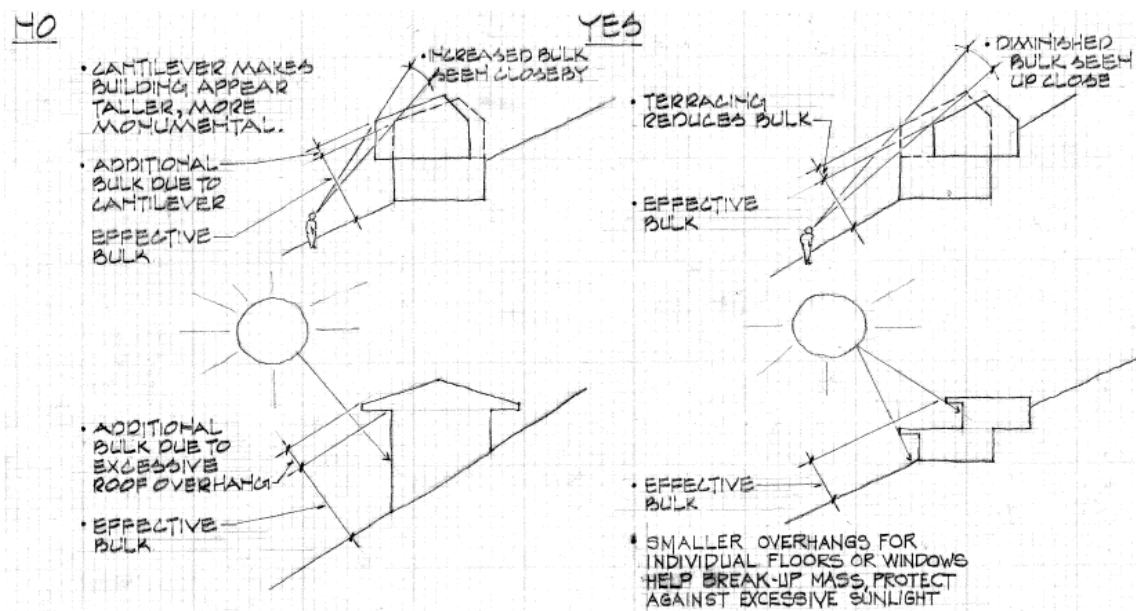
The adjacent uphill neighbor at 89 Sugar Loaf Drive has expressed concerns regarding the project and the potential for view impacts from within the kitchen area of her home. This adjacent dwelling has views to the south of San Francisco, the San Francisco Bay and the Golden Gate Bridge through a large dining room window. This dwelling also has views to the west of the Marin Headlands, Richardson Bay and Mount Tamalpais through a large kitchen window. The proposal would appear to impact views to the west through the large kitchen window, due to the proposed master bedroom suite at the upper level of the new dwelling.

While this adjacent property has panoramic views toward the south, the views toward the west through the large kitchen window are significant and important as Richardson Bay is located just below the horizon line of Strawberry, Mill Valley and the Marin Headlands. In visiting 89 Sugar Loaf Drive and speaking with the neighbor, Staff recognizes that the bulk of the view infringement would be from the proposed upper level master bedroom suite. It would appear that re-locating the master bedroom suite to the lower level, behind the proposed garage, instead of above the proposed garage, would help remedy the view infringement. It would also appear to still allow the owner of the subject property to retain a similar viewshed to the north-west, regardless if the master bedroom suite was on the upper or lower level of the home. It should also be noted that the amount of cantilevered areas on the lower level, adjacent to the proposed garage, would be reduced which in turn would reduce the proposed floor area ratio.

Hillside Design Guidelines

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

- *Goal 1, Principle 6 states that projects should avoid massive roof overhangs and cantilevers on downhill faces of buildings.*

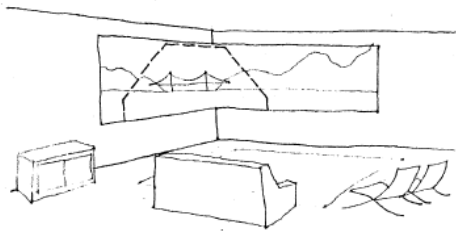


According to the elevations provided, the proposed rear (south) elevation, which faces downhill, would have cantilevers, resulting in effective bulk when viewed from below.

- Goal 3, Principle 7(a) states the view protection is more important for the primary living areas of a dwelling (i.e. living, dining, family, great room, kitchen and decks associated with these rooms) than less actively used areas of a dwelling (i.e. bedroom, bathroom, study, office, den).

NO

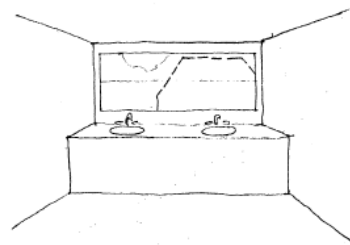
• PROPOSED STRUCTURE
BLOCKS LIVING ROOM VIEW -



• GREAT IMPACT ON
LIVABILITY

YES

• PROPOSED STRUCTURE
BLOCKS BATHROOM VIEW



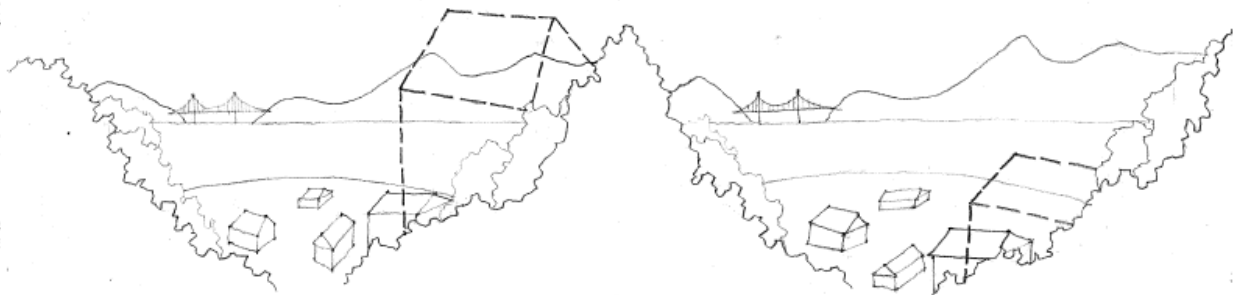
• LITTLE IMPACT ON
LIVABILITY

The proposed dwelling would impact views of Richardson Bay from within the kitchen area of 89 Sugar Loaf Drive.

- Goal 3, Principle 7(b) states that the horizon line is the most sensitive part of a view, then foreground, then middleground. If possible, avoid cutting the horizon line of a neighbor's view.

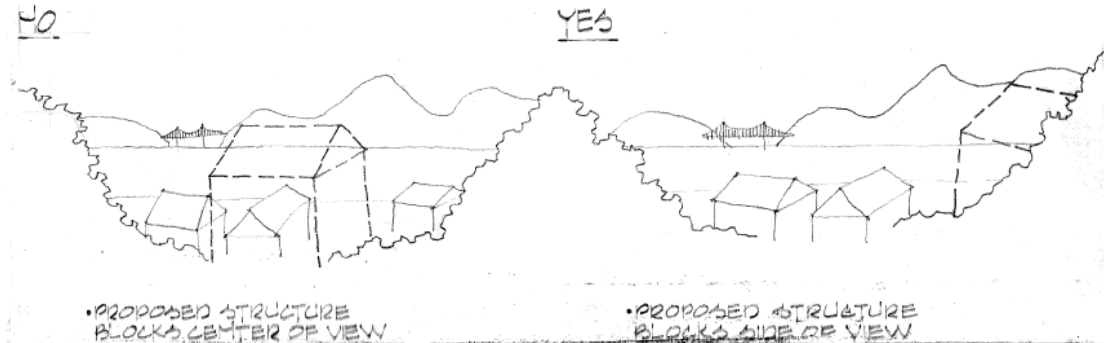
NO

YES



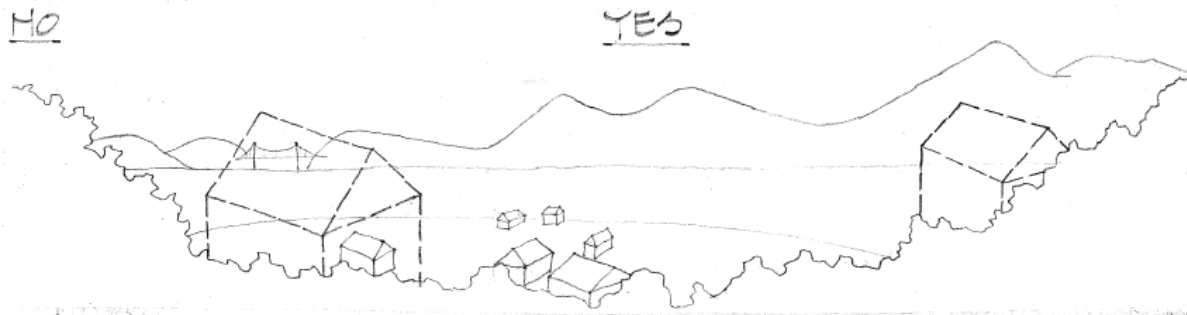
The proposed dwelling would impact the left portion of the foreground and middleground of the view from the kitchen window at 89 Sugar Loaf Drive.

- *Goal 3, Principle 7(c) states that blockage of the center of a view is more damaging than blockage of a side view.*



The proposed dwelling would block the side view of Richardson Bay from the kitchen window at 89 Sugar Loaf Drive.

- *Goal 3, Principle 7(d) states the blockage of important objects in the view is more difficult to accept than blockage of other, less well-known landmarks.*



The proposed dwelling would block a large portion of water views of Richardson Bay from the kitchen window at 89 Sugar Loaf Drive.

Staff recommends that the Board visit the site and the adjacent neighbor at 89 Sugar Loaf Drive to better understand the extent of the proposal.

Zoning

Staff has reviewed the proposal and finds that it is in conformance with the remaining development standards for the RO-2 zone, with the exception of the previously noted floor area exception.

In order to grant the requested floor area exception, the Design Review Board must make the following findings as required by Section 16-52.020(I[4]) of the Tiburon Zoning Ordinance:

1. **The applicant has demonstrated that the visual size and scale of the proposed structure is compatible with the predominant pattern established by existing structures in the surrounding neighborhood.**

The visual size and scale of the proposed structure, while larger than what currently exists, would be compatible with the pattern established by the existing structures in the surrounding neighborhood, as most homes along Sugar Loaf Drive are fairly large in size and designed to take advantage of expansive views to the south and west with the incorporation of numerous windows on downhill facing elevations.

- 2. The applicant has demonstrated that the proposed structure is compatible with the physical characteristics of the site. The characteristics include, but are not limited to, shape and steepness of the lot, ease of access, and the presence of natural features worthy of retention, such as trees, rock outcroppings, stream courses and landforms.**

The proposed structure would remain compatible with the physical characteristics of the site, as the new structure would be constructed in approximately the same location as the current structure on the level area of the site. Improvements to the driveway area and associated landscaping would also not drastically change from what currently exists.

From the evidence provided, Staff believes there is sufficient evidence to support the findings for the requested floor area exception.

Public Comment

As of the date of this report, one letter has been received from the adjacent neighbor at 89 Sugar Loaf Drive.

RECOMMENDATION

Staff recommends that the Board:

1. Review the project with respect to Zoning Ordinance Section 16-52.020(H) (Guiding Principles) and Section 16-52.020(I) (Floor Area Ratio Guidelines); and
2. Determine that the project is exempt from the California Environmental Quality Act (CEQA) pursuant to Section 15303; and
3. Determine whether view infringements from the kitchen window at 89 Sugar Loaf Drive are significant, and if found to be, continue the application with direction given to the applicant to explore design alternatives to minimize the view impact when viewed from the adjacent neighbor's kitchen window. If the Board disagrees with Staff's recommendation, then Staff would recommend that the application be approved, subject to the attached conditions of approval.

Exhibits:

1. Conditions of Approval
2. Application and Supplemental Materials
3. Letter dated November 2, 2011 from April Hopkins Rox of 89 Sugar Loaf Drive
4. Submitted Plans

Prepared By: Laurie Tyler, Associate Planner

Exhibit 1

CONDITIONS OF APPROVAL
91 SUGAR LOAF DRIVE
FILE NO. 711107

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. Construction shall conform with the application and plans dated by the Town of Tiburon on November 1, 2011, as amended by these conditions of approval. Any modifications to the plans must receive Design Review approval.
3. Project elements shown on construction drawings submitted to the Building Division for plan check shall be essentially identical to those project elements shown on drawings approved by the Design Review Board. The permit holder is responsible for clearly identifying on construction drawings any and all changes to project elements. Such changes must be clearly highlighted (with a "bubble" or "cloud") on the construction drawings. A list describing in detail all such changes shall be submitted and attached to the construction drawings, with a signature block to be signed by the Planning Division Staff member indicating whether these changes have been reviewed and are approved, or will require additional Design Review approval. All such changes that have not been explicitly approved by the Town are not "deemed approved" if not highlighted and listed on construction drawings. Construction of any such unapproved project elements is in violation of permit approvals and shall be subject to Stop Work Orders and 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 in a non-reflective manner (minimum 25%) 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 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.

9. Prior to under-floor inspection, a certified survey of the structure foundation will be required. Required documents shall include: 1) graphic documentation accurately locating the building on a site plan; 2) specific distances from property lines and other reference points to the foundation as appropriate; and 3) elevations relative to mean sea level of the foundation walls and slabs. No inspections will be provided until the survey results have been verified.

10. The project shall comply with the following requirements of the California Fire Code and the Tiburon Fire Protection District:
 - a. The structure shall have installed throughout an automatic fire sprinkler system. The system design shall be in accordance with NFPA 13R, installation and final testing shall be approved by the Fire Code Official. 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 District and the recommendations of Fire Safe Marin. CFC 304.1.2
 - d. The fire pit shall be located a minimum of 15 feet from any property line, combustible vegetation and combustible construction.
 - e. This project occurs in a Wildland Urban Interface Zone and may be subject to the requirements of Section R327 of the CRC.

11. 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.

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. All requirements of the Director of Public Works/Town Engineer shall be met. An encroachment permit shall be secured from the Town of Tiburon Public Works Department for all work to be conducted within Town right-of-way, or Town-owned land, as defined in Chapter 19 of the Tiburon Municipal Code.
14. Site drainage should be reviewed and addressed regarding how it will affect the public roadway or other parts of the public right-of-way.
15. Drainage from the dwelling and down spouts from gutters shall be mitigated onsite, and shall not drain onto adjacent properties.
16. Public right-of-way shall be protected from damage during construction, or repairs shall be made to the satisfaction of the Town.
15. A copy of the Planning Division's "Notice of Action" including the attached "Conditions of Approval" for this project shall be copied onto a plan sheet at the beginning of the plan set(s) submitted for building permits.
16. The final landscape and irrigation plans must comply with the current water efficient landscape requirements of MMWD and are subject to the following:
 - a. The construction plans submitted to the Town for the issuance of a building permit/grading permit must be pre-approved by MMWD with the submitted plans stamped as approved by MMWD.
 - b. The building permit application must be accompanied by a letter from MMWD approving the landscape and irrigation plans.
 - c. If the MMWD-approved plans substantially differ from the Town-approved plans, these differences may require additional review through the Town's design review permit process and/or a revision to the Town's permit.
 - d. The applicant is responsible for contacting MMWD for all inspections, approval and sign-off on landscape and irrigation installation. Upon approval, MMWD shall issue a Certificate of Completion, which must be submitted to the Planning Division before building permit final sign-off or a Certificate of Occupancy is issued by the Tiburon Community Development Department.