



TOWN OF TIBURON  
1505 Tiburon Boulevard  
Tiburon, CA 94920

Design Review Board Meeting  
December 15, 2011  
Agenda Item: **I**

## 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  
(Continued from December 1, 2011)

**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 was prepared and presented at the December 1, 2011 Design Review Board meeting.

At that meeting, several Boardmembers stated that they had visited the site since the November 3<sup>rd</sup> meeting and discussed the possibility of whether there should be additional discussion regarding whether the necessary findings could be made to support the requested variance. The Design Review Board voted to continue discussion regarding the draft resolution to the December 15, 2011 meeting.

## ANALYSIS

As noted in the November 3, 2011 staff report for this application, staff believed that two of the four findings necessary to grant the requested variance could be made, but staff was unable to make the two other findings. The two findings that staff was unable to make were summarized as follows in the previous staff report:

- 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 location of the existing house and the driveway access to this site are unusual, with the entryway to the house facing the rear of the site and rearmost portions of the residence facing downhill toward the front of the property. The lot also slopes steeply down to a cul-de-sac at the end of Wilkins Court and a portion of the existing house is situated within the side yard setback.

During the review of the previous variance request, the Design Review Board concluded that because of these circumstances, the strict application of the required side yard setback would deprive the applicants the ability to connect the main level of the house to its primary yard space, as enjoyed by other properties in the vicinity and in the same or similar zones. However, the requested modification does not involve any changes to the stairway area and the connectivity of the deck to the rear yard. 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.

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

The strict application of the required side yard setback would not result in any practical difficulty or unnecessary hardship for the applicant. The previously approved deck was over 300 square feet in size, which provides adequate space for any reasonably expected use of an exterior deck. If the applicant desires additional deck space for certain amenities, there are other locations at which the deck may be expanded without encroaching into the required side yard setback.

At the November 3, 2011 meeting, the Design Review Board was unable to make these findings and directed staff to prepare a resolution denying the variance request. Staff recommends that the Design Review Board visit the site once more and determine if there is sufficient evidence to support the findings for the requested variance.

### **RECOMMENDATION**

It is recommended that the Design Review Board:

1. Discuss whether the findings can be made to grant the requested variance;
2. If the Board can make the findings necessary to grant the requested variance, the attached conditions of approval should then be applied to the application;
3. If the Board cannot make the findings necessary to grant the requested variance, the Board should adopt the draft resolution denying the Site Plan and Architectural Review and Variance application for 8 Wilkins Court.

**ATTACHMENTS**

1. Draft conditions of approval
2. Draft resolution
3. Design Review Board staff report, dated November 3, 2011
4. Minutes of the November 3, 2011 Design Review Board meeting

**CONDITIONS OF APPROVAL**

**8 WILKINS COURT**

**FILE #21117**

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 October 6, 2011, or as amended by these conditions of approval. Any modifications to the plans of October 6, 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. The project shall comply with all requirements of the Tiburon Fire Protection District:
8. All requirements of the Marin Municipal Water District shall be met.
9. All requirements of the Town Engineer shall be met

**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 15, 2011, by the following vote:

AYES: BOARDMEMBERS:

NOES: BOARDMEMBERS:

ABSTAIN: BOARDMEMBERS:

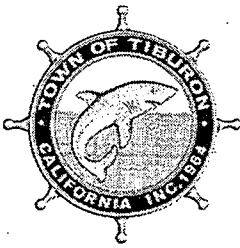
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JOHN KRICKENSKY, CHAIRMAN  
TIBURON DESIGN REVIEW BOARD

ATTEST:

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DANIEL M. WATROUS, SECRETARY



**TOWN OF TIBURON**  
 1505 Tiburon Boulevard  
 Tiburon, CA 94920

Design Review Board Meeting  
 November 3, 2011  
 Agenda Item: **2**

**STAFF REPORT**

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

**From:** Planning Manager Watrous

**Subject:** 8 Wilkins Court; File #21117  
 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:** \_\_\_\_\_

**PROJECT DATA**

**ADDRESS:** 8 WILKINS COURT  
**ASSESSOR'S PARCEL:** 039-032-10  
**FILE NUMBER:** 21117  
**PROPERTY OWNERS:** RANDALL DOCTOR  
**APPLICANT:** MILES BERGER (ARCHITECT)  
**LOT SIZE:** 18,070 SQUARE FEET  
**ZONING:** RO-2 (TWO-FAMILY RESIDENTIAL)  
**GENERAL PLAN:** MEDIUM DENSITY RESIDENTIAL  
**FLOOD ZONE:** X  
**DATE COMPLETE:** OCTOBER 11, 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.

**PROPOSAL**

The applicant is requesting Design Review approval for the construction of deck additions to an existing single-family dwelling on property located at 8 Wilkins Court. The existing deck to the rear of the main level living room would be expanded. A new exterior stairway would connect the deck to the rear yard below. Several windows on the rear of the house would also be expanded.

On May 5, 2011, the Design Review Board approved a previous Design Review application for a deck addition for this property, with a variance for reduced side yard setback. The previous deck extended to within 7 feet, 4-inches of the left (western) side property line, within the 15 foot side yard setback required in the RO-2 zone. The applicant now wishes to further expand the

previously approved deck to a location within 5 feet of the side property line. A new variance is therefore requested for this additional encroachment into the required side yard setback.

The proposed deck additions would increase the calculated lot coverage on the site by 74.5 square feet to a total of 2,661 square feet (14.7%), which is less than the 15.0% maximum lot coverage allowed in the RO-2 zone. The proposed project would not increase the floor area of the existing house on the site.

A color and materials board has not been submitted, as the exterior colors and materials would match those of the existing house.

## ANALYSIS

### Design Issues

The existing and proposed deck is visible from the end of Wilkins Court below. The adjacent home to the northwest at 6 Wilkins Court is situated well above the site of the deck. The difference in elevation and the existing side property line fence would minimize any views of the proposed deck addition and stairway from this neighboring residence. The owners of 6 Wilkins Court have submitted a letter supporting the requested deck modification.

The applicant indicates that the deck modification is requested due to "the smallness of the [previously approved] deck being difficult to furnish for reasonable use." The proposed deck modification would add a semicircular space at the western corner of the deck, purportedly to site a large circular table owned by the property owners.

The previously approved deck space in front of the living room was 22 feet wide and ranged in depth from 10 to 18 feet. The size of that deck cannot be characterized as "small" and would afford ample space to place almost all furniture normally associated with an outdoor deck. It should also be noted that the deck wraps around the entire rear of the house, with additional deck space on the other side of the family room.

### Zoning

Staff has reviewed the proposal and finds that it is in conformance with the development standards for the RO-2 zone, with the exception of the requested 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 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 similar zones.*

The location of the existing house and the driveway access to this site are unusual, with the entryway to the house facing the rear of the site and rearmost portions of the residence facing downhill toward the front of the property. The lot also slopes steeply down to a cul-de-sac at the end of Wilkins Court and a portion of the existing house is situated within the side yard setback.

During the review of the previous variance request, the Design Review Board concluded that because of these circumstances, the strict application of the required side yard setback would deprive the applicants the ability to connect the main level of the house to its primary yard space, as enjoyed by other properties in the vicinity and in the same or similar zones. However, the requested modification does not involve any changes to the stairway area and the connectivity of the deck to the rear yard. 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.

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 RO-2 and similar zones have been granted variances for reduced side yard setbacks.

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

The strict application of the required side yard setback would not result in any practical difficulty or unnecessary hardship for the applicant. The previously approved deck was over 300 square feet in size, which provides adequate space for any reasonably expected use of an exterior deck. If the applicant desires additional deck space for certain amenities, there are other locations at which the deck may be expanded without encroaching into the required side 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 deck addition would not project into the views of or create privacy impacts for any neighboring residences.

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

#### **PUBLIC COMMENT**

As of the date of this report, one letter has been received regarding this application from the neighboring property owner at 6 Wilkins Court, supporting the request.

## **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 15301. If the Board agrees with staff's conclusions, the Board should direct staff to return to the next meeting with a resolution denying the application. If the Design Review Board wishes to approve the project, the necessary findings must be made to support the variance request and the attached conditions of approval should then be applied to the application.

## **ATTACHMENTS**

1. Conditions of approval
2. Application and supplemental materials
3. Design Review Board staff report dated May 5, 2011
4. Minutes of the May 5, 2011 Design Review Board meeting
5. Letter from Laurie Smith and Jim Bowlbliss, dated September 22, 2011
6. Submitted plans

## E. PUBLIC HEARINGS AND NEW BUSINESS

2. **8 WILKINS COURT:** File No. 21103; Randall Doctor, Owner; Site Plan and Architectural Review for construction of deck additions, with a Variance for reduced side yard setback. The applicant proposes to modify a previously approved deck additions to the rear of the living room. The deck would extend to within 5 feet of the western side property line, which would be less than the 15 foot required side yard setback in the RO- 2 zone. Assessor's Parcel No. 039-032-10.

The applicant is requesting Design Review approval for the construction of deck additions to an existing single-family dwelling on property located at 8 Wilkins Court. The existing deck to the rear of the main level living room would be expanded. A new exterior stairway would connect the deck to the rear yard below. Several windows on the rear of the house would also be expanded. On May 5, 2011, the Design Review Board approved a previous Design Review application for a deck addition for this property, with a variance for reduced side yard setback. The previous deck extended to within 7 feet, 4 inches of the left (western) side property line, within the 15 foot side yard setback required in the RO-2 zone. The applicant now wishes to further expand the previously approved deck to a location within 5 feet of the side property line. A new variance is therefore requested for this additional encroachment into the required side yard setback.

Miles Berger, architect, said that they brought this project to the Board previously regarding the addition of a deck to the house. He said that because of the pie-shaped nature of the site, one piece of it sits within the side yard setback. He noted that they received approval from the Board for the variance, but just as the project began his client said that the deck design would not work for them because the dining table location on the deck would block views. Mr. Berger said that they would like to add a small area to the deck so they can put their dining table outside without blocking views from the living room. He said that all of the findings could be made except for practical difficulty. He noted that they have a letter from neighbors approving of the project and he felt that the project would not affect any of the neighbors. He said that the practical difficulty was that they need a location to put the dining table where it would not block the view from the living room.

Boardmember Tollini asked for the height of the wood railing. Mr. Berger said that it would be 44 inches and would match the existing height of the railing.

There were no public comments.

Boardmember Chong said he was struggling to make the hardship finding for this application. He felt that the previous addition made sense. He said that there were clear reasons why the Town created setbacks and he did not think that furniture should be considered as creating a hardship.

Boardmember Tollini said there are actually two findings that need to be made--the hardship finding and the unusual physical characteristics of the site. He said that the only hardship concern was the chair heights for the furniture. He found this to be similar to an item on Spanish Trail where it did not impact neighbors but the Board voted it down because the finding could not be made.

Boardmember Johnson said that he also had a hard time making the hardship finding, given the size of the approved deck. He did not think the table would really block the view.

Vice-Chair Emberson said that she had the same concerns and had a hard time especially since it would not affect any of the neighbors, but she could not make the finding.

Chair Kricensky said at the previous meeting the applicant was interested in making the deck symmetrical and creating space for the stairs leading to the rear yard. He said that there were other areas where the table could be located and he suggested expanding the deck on the other side by the kitchen.

Mr. Berger said that they chose not to expand the area by the kitchen because that side is a small deck off the family room and they do not like to use it. He said that the larger deck has the view and that is where they would like to have their activities. He said that the practical difficulty was that they would lose their views from the dining and living room.

Planning Manager Watrous asked if the semi-circular deck addition could be moved to the right and down. Mr. Berger said that it would then be in front of the dining room. He said that the current location would be under the trees and out of the view from the rooms. He said that the deck addition needed to be in that location to be in the most highly usable part of the space.

Vice-Chair Emberson said the deck area could be easily moved out of the setback and there would not a big view impact from every room in the house.

Boardmember Tollini said that if the view was really the issue then there were better solutions than the proposed addition in the setback. He said that it defeats the purpose of the zoning to allow building in the setback without making the findings.

Mr. Berger said that the proposed addition would be 2 feet, 6 inches further into the setback. He asked whether or not it would be acceptable to move it back so it aligns with what was approved last time. Planning Manager Watrous said if it the additional deck area was still in the setback then it would still need a variance.

Planning Manager Watrous said the findings would still need to be made and he stated that no variance would be necessary if the project was revised so that no portion of the new deck addition would be within the setback.

**ACTION:** It was M/S (Emberson/Johnson) to direct staff to prepare a resolution denying the request for the variance at 8 Wilkins Court. Vote: 5-0

3. **6 APOLLO ROAD:** File No. 711105; Simon and Jennifer Barker, Owners; Site Plan and Architectural Review for conversion of a garage into living space for an existing single family dwelling. A 412 square foot two-car attached garage would be converted into a bedroom or family room and a bathroom. Assessor's Parcel No. 034-271-03.

The applicant is requesting to convert an existing 2-car garage into living space at an existing single-family dwelling located at 6 Apollo Road. The existing 2-car garage would be converted into either a bedroom or a family room with a bathroom. The garage door would be removed as part of the conversion and a boxed bay window would be installed, modifying the appearance of the front elevation of the home.

The proposed garage conversion would add 412 square feet of floor area to the dwelling, which would result in a gross floor area of 1,526 square feet, which is 1,233 square feet below the maximum permitted gross floor area (2,759 square feet). The addition of a boxed bay window would increase the lot coverage by 21 square feet, which would result in total lot coverage of 1,834 square feet (24.2%), which is below the maximum permitted lot coverage in the R-1 zone (30.0%).



**TOWN OF TIBURON**  
 1505 Tiburon Boulevard  
 Tiburon, CA 94920

Design Review Board Meeting  
 December 15, 2011  
 Agenda Item: **2**

**STAFF REPORT**

**To:** Members of the Design Review Board  
**From:** Planning Manager Watrous  
**Subject:** 1599 Tiburon Boulevard; File #51110  
 Sign Permit for the Installation of Signs for a Drug Store and Pharmacy  
 (CVS/pharmacy)  
**Reviewed By:** \_\_\_\_\_

**PROJECT DATA**

**ADDRESS:** 1599 TIBURON BOULEVARD  
**ASSESSOR'S PARCELS:** 058-171-88 & 89  
**FILE NUMBER:** 51110  
**PROPERTY OWNERS:** ZELINSKY PROPERTIES LLC  
**APPLICANT:** ARMSTRONG DEVELOPMENT PROPERTIES, INC.  
**LOT SIZE:** 1.63 ACRES  
**ZONING:** NC/AHO (NEIGHBORHOOD COMMERCIAL/  
 AFFORDABLE HOUSING OVERLAY)  
**GENERAL PLAN:** NEIGHBORHOOD COMMERCIAL/AFFORDABLE  
 HOUSING OVERLAY  
**FLOOD ZONE:** X (BUILDING; OUTSIDE 500-YEAR FLOOD EVENT)  
 AE (PARKING LOT; SUBJECT TO 100-YEAR FLOOD)  
**DATE COMPLETE:** NOVEMBER 22, 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 15311.

**PROPOSAL**

The applicant is requesting approval of a sign permit for the installation of signage for the soon-to-be-opened drug store and pharmacy (CVS/pharmacy) at 1599 Tiburon Boulevard. The proposal includes the following signs:

- A 61.38 square foot, indirectly-illuminated under marquee sign above the store entrance. The sign would consist of red plastic letters with the words

“CVS/pharmacy” mounted on a white rectangular background. The sign would utilize individual letters, with LED halo-lit illumination.

- A 3.19 square foot non-illuminated under marquee sign mounted below the canopy of the drive-through pharmacy. The sign would consist of red acrylic letters with the word “Drive-thru” on a white rectangular background.
- Three 4.60 square foot non-illuminated signs in the storefront windows. Each sign would consist of red vinyl film mounted on the window with the words “CVS/pharmacy.”

## ANALYSIS

The 78.37 square feet of proposed sign area is less than the 78.75 square foot maximum sign area for a building of this size. The sign area calculations and subject application do not include signs for the unknown future retail tenant that would occupy the southwest corner of the building. The previous freestanding monument sign at the corner of Tiburon Boulevard and Beach Road has been removed and no such replacement sign is requested as part of this application.

The *Downtown Tiburon Design Handbook* includes guidelines for signage in Downtown Tiburon. The handbook lists under marquee signs (described as “overhead-mounted hanging signs”), metal and custom plastic materials, and indirect lighting as appropriate for stores along Tiburon Boulevard. The handbook states that “repetitive signage” is “inappropriate and, in almost all cases, prohibited in Downtown Tiburon.” The Board should consider whether the three proposed window signs with the same design would be considered to be “repetitive signage” and should be replaced with a single sign or be eliminated.

This handbook also states that “signs for businesses in Downtown Tiburon should reflect the following characteristics:

- Creative use of substantial, time-honored materials
- Classic designs and imagery
- Elegant finishes and touches
- Artistic expression responsive to Tiburon’s man-made and natural environments.”

The indirect halo-style illumination for the main store sign would consist of LED lights on the backs of the sign letters that would shine to the rear onto the rectangular background and reflect around the outside edges of the sign letters. Such lighting is generally understated in nature and is less noticeable than indirect floor lighting mounted in front or above a sign. Signs with similar illumination have been recently approved in Downtown Tiburon for Union Bank and Guaymas Restaurant.

The red and white colors of the proposed signs are consistent with the corporate identification for CVS/pharmacy. The indirect lighting for the main sign would not cause light to shine through the red letters, minimizing the brightness of the color for the lettering. However, the white rectangular background upon which the LED lights would shine may be inappropriately bright when illuminated. This white background color may also be inconsistent with the characteristics

described in the *Downtown Tiburon Design Handbook* as “elegant finishes and touches.” The Design Review Board may wish to consider changing the color of the background to match the colors of the siding or trim of the building to create a more understated appearance in keeping with the guidelines in the handbook.

However, staff does not recommend a similar change to the white background of the drive-through pharmacy sign. Without any lighting on that sign, a more muted background color would make this sign less visible and reduce the sign’s effectiveness in identifying the location of the drive-through pharmacy and providing necessary direction for drive-through customers.

The illustrations accompanying the subject application indicate a series of graphics to be installed behind the proposed window signs. These graphics would be mounted on an interior wall several feet behind the window, to the rear of the checkout counters. The wall-mounted graphics are intended to include photo montages from Tiburon’s past and would therefore not be classified as signs. However, staff is concerned about the potential to replace these graphics with other store signage in the future. As part of the building permits for the drug store renovation currently underway staff has disallowed installation of any lighting in this area to reduce the potential for placement of additional signage on these walls. Staff recommends a condition of approval prohibiting any signage at this location in the future.

## **PUBLIC COMMENT**

As of the date of this report, three letters have been received regarding this application from Belvedere residents objecting to the illumination and/or design of the proposed signs.

## **RECOMMENDATION**

Staff recommends that the Design Review Board:

1. Review this project with respect to the Sign Ordinance and the Downtown Design Handbook;
2. Determine that the project is exempt from the California Environmental Quality Act (CEQA) as specified in Section 15311;
3. Approve the project, subject to the attached conditions of approval.

## **ATTACHMENTS**

1. Conditions of approval
2. Application and supplemental materials
3. Letter from Jeanette Carr, dated December 2, 2011
4. Letter from Marcia McGovern, dated December 4, 2011
5. Letter from Carol Kurland, dated December 5, 2011
6. Submitted plans

## **CONDITIONS OF APPROVAL**

### **1599 TIBURON BOULEVARD**

#### **FILE #51110**

1. This permit approves signage for the business located at 1599 Tiburon Boulevard in the Town of Tiburon. The total area of the sign(s) approved in this application shall not exceed 78.37 square feet. The sign(s) shall be in conformance with the application approved by the Town of Tiburon on December 15, 2011, as amended by these conditions of approval. Any modifications to the application as approved must be reviewed and receive Tiburon Planning Division approval.
2. Compliance with all applicable safety codes is required.
3. Prior to erection of the signage, sign owner shall obtain all required building, electrical, or related permits pursuant to the Town's adopted building and construction codes, as set forth in Chapter 13 of the Tiburon Municipal Code.
4. Prior to erection of the signage, an encroachment permit (if required) 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.
5. The issuance of this sign permit shall not be valid if the approval constitutes a violation of the Tiburon Sign Ordinance (Chapter 16A of the Tiburon Municipal Code). No permit presuming to give authority to violate or cancel the provisions of said chapter shall be valid.
6. The approved sign utilizes exposed light sources. This permit approval is conditional upon, and only becomes final when, within sixty (60) days of commencement of operation of the lighting and sign, the Director of Community Development finds that the light from the sign does not cause unreasonable glare or annoyance to persons of ordinary sensibility. The sign owner must immediately inform the Director in writing of the commencement of operation of the lighting and sign such that the Director's review may proceed expeditiously. Failure to so notify the Director shall toll the commencement of the sixty (60) day review period commensurate with the delay in written notification. The Director's finding with respect to unreasonable glare or annoyance may be made only after a duly noticed hearing at which evidence is taken and a written decision is issued. The Director of Community Development's inquiry shall not include consideration of the message content of the sign, and shall be restricted to the physical method of presentation (i.e. lighting) of the message.

7. The Town may make inspections as necessary to determine whether any sign is in compliance with this approval and other applicable regulations. Reasonable notice shall be provided when the inspection requires access to areas other than those available to the general public.
8. Dilapidated signs are prohibited. The sign owner shall maintain the sign and all supporting components in good repair and finish. Substantially deteriorated, badly weathered, rusty, or otherwise poorly maintained signs shall be subject to public nuisance abatement or other available remedies.
9. This sign permit shall be valid for 180 days following approval, and shall expire and become null and void unless the signs, as approved, are erected prior to that date, unless an application for time extension, filed in writing with the Planning Division, is granted by the Director of Community Development.
10. 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.
11. No signage shall be installed on the interior walls directly behind the proposed window signs.



## 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  
*Continued from December 1, 2011*

**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.

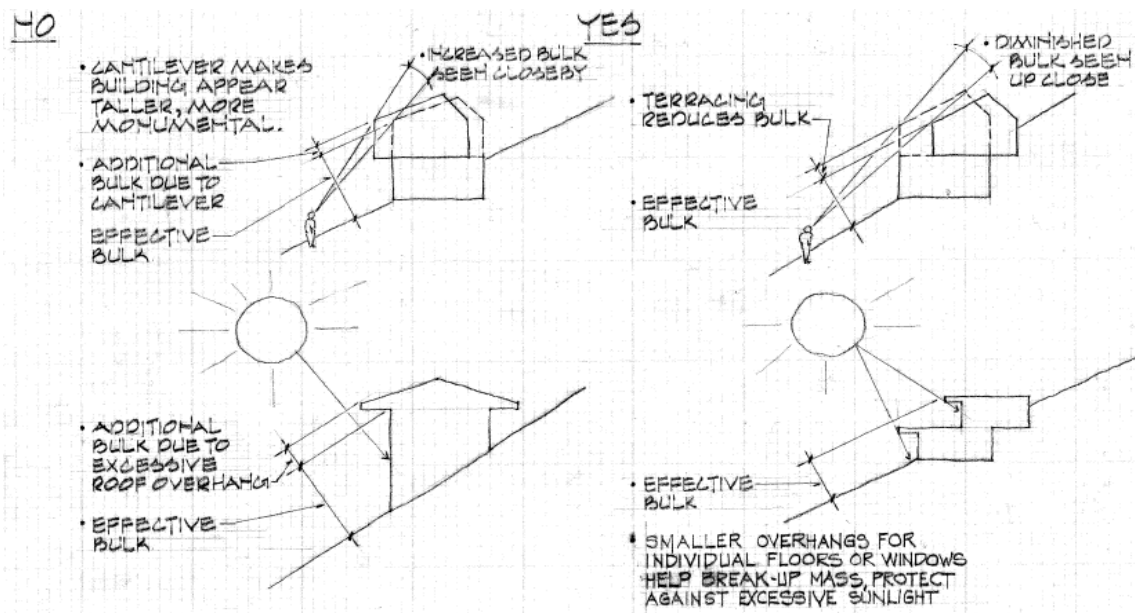
The adjacent uphill neighbor at 89 Sugar Loaf Drive has expressed concerns regarding the project and the potential for view impacts from within the kitchen area of her home. This adjacent dwelling has views to the south of San Francisco, the San Francisco Bay and the Golden Gate Bridge through a large 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.

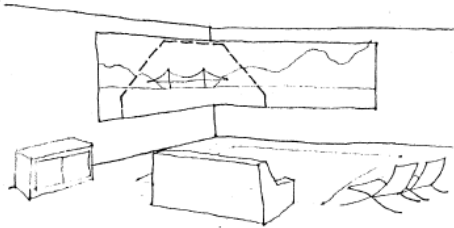


According to the elevations provided, the proposed rear (south) elevation, which faces downhill, would have cantilevers, resulting in effective bulk when viewed from below.

- *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

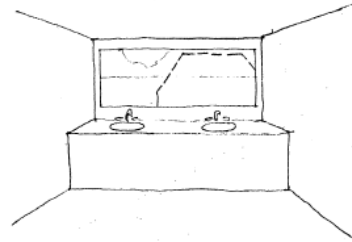
• PROPOSED STRUCTURE  
BLOCKS LIVING ROOM VIEW -



• GREAT IMPACT ON  
LIVABILITY

YES

• PROPOSED STRUCTURE  
BLOCKS BATHROOM VIEW



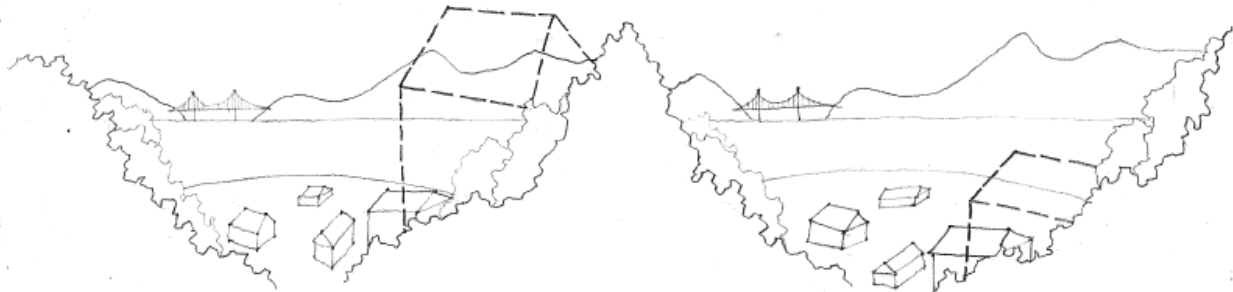
• LITTLE IMPACT ON  
LIVABILITY

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.*

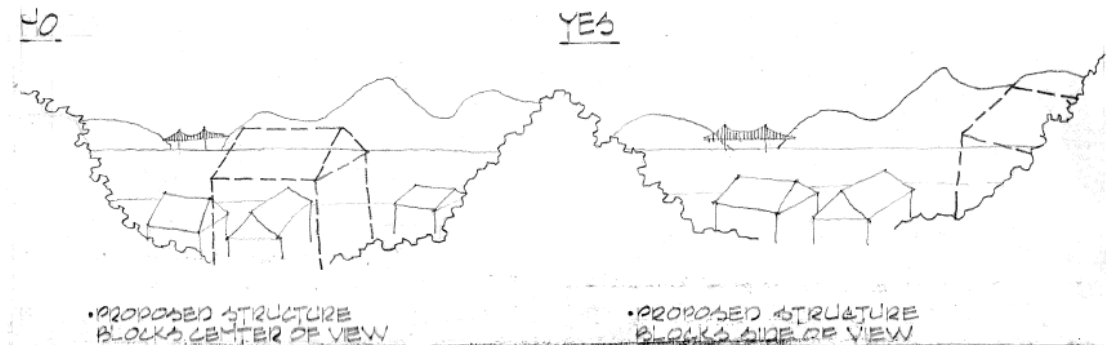
NO

YES



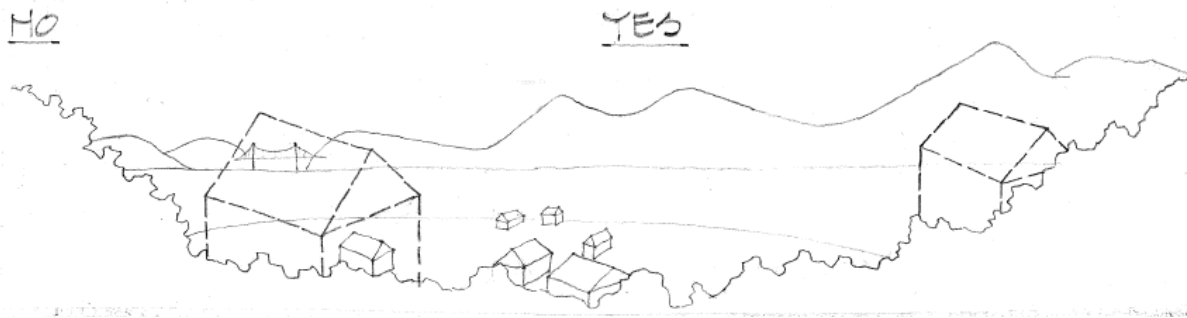
The proposed dwelling would impact the left portion of the foreground and middleground of the view from the kitchen window at 89 Sugar Loaf Drive.

- 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 located at 89 Sugar Loaf Drive. In addition, the applicant has submitted a letter in response to the concerns raised by the adjacent neighbor regarding view blockage.

**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.	Letter dated December 6, 2011 from Polsky Perlstein Architects
	5.	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. 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.
17. 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.
18. 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.



TOWN OF TIBURON  
1505 Tiburon Boulevard  
Tiburon, CA 94920

Design Review Board Meeting  
December 15, 2011  
Agenda Item: **4**

## STAFF REPORT

**To:** Members of the Design Review Board  
**From:** Planning Manager Watrous  
**Subject:** 290 Cecilia Way; File #21108  
Site Plan and Architectural Review for the Construction of a New Single-Family Dwelling, with Variances for Reduced Rear Yard Setback and Excess Lot Coverage  
**Reviewed By:** \_\_\_\_\_

### PROJECT DATA

**ADDRESS:** 290 CECILIA WAY  
**ASSESSOR'S PARCEL:** 034-212-15  
**FILE NUMBER:** 21108  
**PROPERTY OWNERS:** CANDACE AND JASON WASHING  
**APPLICANT:** MARK LONNING  
**LOT SIZE:** 8,540 SQUARE FEET  
**ZONING:** R-1-BA (SINGLE-FAMILY RESIDENTIAL-BEL AIRE)  
**GENERAL PLAN:** MEDIUM HIGH DENSITY RESIDENTIAL  
**FLOOD ZONE:** X  
**DATE COMPLETE:** NOVEMBER 22, 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.

### PROPOSAL

The applicant is requesting Design Review approval for the construction of a new one-story single-family dwelling on property located at 290 Cecilia Way. The subject site is currently developed with an existing one-story dwelling and detached garage. The project would demolish most (over 50%) of the floor area of the existing building and completely reconfigure the interior of the house.

The house would include a master bedroom suite, along with three additional bedrooms, two more bathrooms, a living room, kitchen, den and entry. The house would connect to a new two-car garage in the same general area as the existing detached garage, which will be demolished.

Three new skylights would be installed. The ridgeline of the house would increase in height from the existing 12 feet, 8 inches to a new height of 14 feet, 8 inches.

The floor area of the proposed house would increase by 1,274 square feet to a total of 2,854 square feet, which is the maximum floor area for a lot of this size. The house would cover a total of 3,454 square feet (40.5%) of the site, which would be greater than the 30.0% maximum lot coverage permitted in the R-1-BA zone. A variance for excess lot coverage is therefore requested.

The house would be connected to the existing detached garage, which is situated 6 feet from the rear property line. By connecting to the house, the rear yard setback for the garage becomes the rear yard setback for the house, and would be less than the 23 foot rear yard setback required for this lot. A variance is therefore also requested for reduced rear yard setback.

A color and materials board has been submitted and will be present at the meeting for the Board to review. The exterior of the proposed house would include beige wood siding with off-white trim. The roof would utilize dark grey composition shingles.

## **ANALYSIS**

### **Design Issues**

The subject property is a level lot at the corner of Cecilia Way and Harriet Way. The existing house is L-shaped, with its main frontage along Cecilia Way. The detached two-car garage sits in the rear of the lot facing onto Harriet Way. A hedge beyond the front property line wraps around the street frontages of the lot.

The project would extend the house 5 feet toward Cecilia Way and 13 feet, 6 inches closer to Harriet Way. The existing detached garage would be demolished and replaced with a similar sized garage situated 10 feet, 10 inches closer to the Harriet Way side property line. The house would be connected to the new garage, resulting in one attached structure on the site. The proposed house would comply with the front and side yard setback for this lot and the rear yard setback at the rear of the proposed attached garage would be identical to the existing setback of the existing garage on the site.

The design of the proposed house and garage is intended to preserve a usable rear yard area in the southeast corner of the lot. By moving the house location toward the street sides of the lot and maintaining the same garage setback to the rear property line, the residence would preserve any separation between the dwelling and adjacent homes. The increased visibility of the house due to its placement closer to the street frontages would be lessened by the applicant's proposal to retain the existing screening hedge along the front and side property lines.

### **Zoning**

Staff has reviewed the proposal and finds that it is in conformance with the development standards for the R-1-BA zone, with the exception of the requested variances for excess lot coverage and reduced rear yard setback.

In order to grant the requested variances, 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 similar zones.***

The 8,540 square foot size of the subject property is considerably smaller than the 10,000 square foot minimum lot size in the R-1-BA zone. The historical reluctance to approve second story additions in the Bel Aire neighborhood limits the development of two-story construction projects. These situations create special circumstances that would deprive the owners of this property of development privileges enjoyed by other properties in the vicinity.

2. ***The variance will not constitute a grant of special privileges, inconsistent with the limitation upon other properties in the vicinity and in the same or similar zones.***

Numerous other properties in the R-1-BA and similar zones have been granted variances for reduced rear yard setbacks and/or excess lot coverage.

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

The strict application of the maximum lot coverage requirement for this property would either require the construction of a second story addition that would be inconsistent with the character of the surrounding Bel Aire neighborhood or would limit the floor area for a house on this lot to a level substantially below the allowable floor area ratio for a lot of this size. These building limitations would result in a practical difficulty on the applicant.

The strict application of the required rear yard setback would require the applicant to relocate the garage and driveway from its current location to a site closer to the intersection of Cecilia and Harriet Ways. The proximity of a new driveway to this intersection could result in a more dangerous traffic situation for vehicles backing out of the garage. As a result, compliance with the required rear yard setback would result in a practical difficulty for 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 described above, the proposed house would not project into the views of or create privacy impacts for any neighboring residences.

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

## **PUBLIC COMMENT**

As of the date of this report, the Town has received no letters regarding the subject application.

## **RECOMMENDATION**

The Board should review this project with respect to Zoning Ordinance Sections 16-52.020 (H) (Guiding Principles) and 16-52.030 (E) (Variance Findings) 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 attached conditions of approval be applied.

## **ATTACHMENTS**

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

## CONDITIONS OF APPROVAL

### 290 CECILIA WAY

#### FILE #21108

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 May 11, 2011, or as amended by these conditions of approval. Any modifications to the plans of November 10, 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 Southern Marin Fire Protection District recommends the following conditions of approval:
  - a. This project is within the Wildland Urban Interface (WUI) Zone as determined by the Southern Marin Fire Protection District. All applicable requirements in 2010 California Building Code Chapter 7A shall be followed.
  - b. The driveway serving this project shall meet the following standards related to dimensions, surfacing and slope:
    - i. Driveways shall be a minimum of 12 feet in width;
    - ii. The driveway shall not exceed a slope of 18% and be of an all-weather surface (asphalt or concrete or other approved material). Driveways between 18% and 22% may be allowed with the expressed written approval of the Fire District. Slope in excess of 18% shall be finished with ribbed concrete.
  - c. A vertical overhead clearance of 13'6" shall be maintained free of obstructions above any roadbed (trees, brush, etc.).
  - d. Prior to framing, a new fire hydrant installation or existing fire hydrant upgrade shall be required if the closest hydrant is greater than 350 feet from the edge of the structure. Said hydrant shall be capable of providing a flow of 1,000 gallons per minute to the site.

If there is an existing hydrant located within 350 feet of the proposed structure, an upgraded hydrant shall be provided at the owners' expense if the existing hydrant does not meet the requirements of the Southern Marin Fire Protection District Ordinance Section 507.5.7.

Details of hydrant placement shall be reviewed and approved by the Southern Marin Fire Protection District and the Marin Municipal Water District.
  - e. The current scope of work appears to be greater than 50% of the existing structure and fire sprinklers shall be required. A fire sprinkler system shall be provided for:
    - i. All new construction.
    - ii. If the combination of the addition, alteration or remodeling exceeds 50% of the floor area of the existing structure, the project is considered a "substantial remodel" and the entire structure shall be retrofitted with a fire sprinkler system. A substantial remodel is

defined as when alterations or renovation of any structure, which combined with any additions to the structure, affects a floor area, which exceeds fifty percent of the existing floor area of the structure or when any changes are made in the building, such as walls, columns, beams or girders, floor or ceiling joists and coverings, roof rafters, roof diaphragms, foundations, piles or retaining walls or similar components, the floor area of all rooms affected by such changes shall be included in computing floor areas for purposes of applying this definition. This definition does not apply to the replacement and upgrading of residential roof coverings.

- iii. Existing Buildings. In any building with an existing automatic sprinkler system, protection shall be extended to any all of alteration, repair, remodel or addition, regardless of job size so that 100% coverage is maintained.
  - iv. In any building found to have OMEGA sprinkler heads identified as part of the U.S. Consumer Products Safety Commission recall, all sprinkler heads subject to this recall shall be replaced with listed and approved heads.
  - v. Fire sprinkler coverage shall be provided through the entire structure as per Uniform Fire Code Section 1001.9.
  - vi. Residential structures in excess of 6,000 square feet shall be designed using a four-head calculation as per N.F.P.A. Standard 13-R.
  - vii. Plans for fire sprinkler system design and hydraulic calculations shall be completed by a licensed C-16 sprinkler contractor and submitted to the County Building Department/Southern Marin Fire District for approval prior to installation. Fire sprinkler system design and installation shall conform to the provisions of the County Building Department/Southern Marin Fire District and N.F.P.A. Standard(s) 13, 13D or 13R.
- f. The address shall be posted in accordance with requirements of the California Fire Code.
- g. Smoke detectors shall be installed in accordance with the California Building Code.
- h. Noncombustible roofing shall be provided for:
- i. All new roofs shall be non-combustible.
  - ii. Roof Repairs or replacement:
    - a. Less than 25% - no requirement
    - b. 25% to 50% - Class C minimum
    - c. 50% or more – Non Combustible
  - iii. In no case shall the roofing material used be less fire resistive than the existing roof.

NOTE: A "noncombustible" roof is a Class A roof (for other than Group R Occupancies, a Class A or Class A assembly) as defined in the California Building Code.

- i. The applicant shall comply with California Fire Code and Public Resource Code 4291 requirements relating to the clearance of flammable brush and weeds. A minimum clearance of 30' from structures and 10' from roads and property lines shall be maintained.
  - j. Prior to construction a Vegetation Management Plan (VMP) shall be submitted for review and approval by the Fire District.
  - k. Prior to occupancy, a spark arrestor shall be installed on the chimney(s).
  - l. Residential solar installations shall comply with the following:
    - i. Section 605.11 Alternative Power Supplies. The use of an electrical power supply, (including but not limited to; photovoltaic, wind, geothermal or fuel fired generators) other than the community's commercial source, currently Pacific Gas and Electric, shall comply with section 605.11.1 through 605.11.3.
    - ii. 605.11.1. The electrical service disconnect for the alternative power supply shall be located within eight feet from the P. G. & E. electrical service disconnect on the same or an adjacent exterior wall. The disconnect shall be accessible to emergency personnel from the exterior without the use of ladders or other special equipment.
    - iii. 605.11.2. The following wording shall placed on a permanent sign attached at the main electrical disconnect from P.G. & E. The sign shall be red background with white letters or a white background with red letters. Minimum size 2-1/2" X 6" with a minimum 22pt. font.
    - iv. 605.11.3. All wiring that may contain electrical potential when the alternate service disconnect has been activated, (such as the wiring between the solar arrays and the DC electrical disconnect on a photovoltaic system) shall be completely contained in metal conduit.
  - m. All on-site improvements, such as water main extensions, hydrants and access roads, must be serviceable prior to framing the structure.
  - n. Final occupancy approval shall not be granted/released until authorization to the Community Development Agency has been received from the Fire District.
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. 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.
  
  - b. 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.
  
  - c. 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.



## STAFF REPORT

**To:** Members of the Design Review Board  
**From:** Associate Planner Tyler  
**Subject:** 4 McCart Court; File No. 711133; Site Plan and Architectural Review for Construction of a New Single-Family Dwelling with a Floor Area Exception  
**Reviewed By:** \_\_\_\_\_

### PROJECT DATA

**ADDRESS:** 4 MCCART COURT  
**OWNER:** BRUCE LAVINE & LISA ZIMMERMAN  
**APPLICANT:** ROSSINGTON ARCHITECTURE  
**ASSESSOR'S PARCEL:** 05-171-22  
**FILE NUMBER:** 711133  
**LOT SIZE:** 14,083 SQUARE FEET  
**ZONING:** R-1 (SINGLE-FAMILY RESIDENTIAL-OPEN)  
**GENERAL PLAN:** MH (MEDIUM-HIGH DENSITY RESIDENTIAL)  
**FLOOD ZONE:** X  
**DATE COMPLETE:** NOVEMBER 30, 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.

### BACKGROUND

The applicant previously received design review approval for construction of a major addition and remodel, including a floor area exception, to the property on May 5, 2011. During construction of the project, more than 50% of the existing perimeter walls were removed. Once more than 50% of the existing perimeter walls are removed, the applicant is required to resubmit the project as a new single-family dwelling for the Design Review Board to re-review and consider.

### PROJECT DESCRIPTION

The applicant has now submitted plans which propose the construction of a new single-family dwelling with a floor area exception, located at 4 McCart Court. The property was previously

improved with a two-story dwelling, which has now been demolished. The plans submitted do not indicate any modifications from the previous approval.

The main level of the existing home includes the entry area, family room, three bedrooms, one bathroom, a laundry room and a studio. The upper level of the home includes the living room, dining room, kitchen, foyer, master bedroom suite, a bedroom and bathroom and an office. A deck extends across the rear of the dwelling at the upper level, with access through the living room and master bedroom. Currently the home does not have an enclosed garage or covered carport.

The proposed lower level of the home would include the family room, three bedrooms, two bathrooms, an office, a laundry area, a piano nook and a two car garage. The proposed upper level of the home would include the entry foyer, living room, dining room, kitchen, a bedroom and bathroom, and the master bedroom suite. A deck would extend off the rear of the dwelling at the upper level with access through the master bedroom, living and dining rooms.

The proposal would result in a dwelling with a gross floor area of 3,592 square feet, which exceeds the maximum permitted floor area for a property of this size (3,409 sq. ft.). Therefore, a floor area exception has been requested. The proposal would also increase the lot coverage by 546 square feet, for total lot coverage of 2,218 square feet (16.0%), which is below the maximum permitted lot coverage in the R-1 zone (30%).

Color and materials proposed for the exterior of the home include cedar shingles in a blue/green stain, white trim and grey composition shingle roofing. A color and materials board will be available for review at the meeting.

## **ANALYSIS**

### Design Issues

The subject site is located on the small cul-de-sac, McCart Court, which is accessed from Tiburon Boulevard. Only three dwellings are located on McCart Court. The site is designed to take advantage of views from the Golden Gate Bridge across Richardson Bay to Mt. Tam.

The applicant has not modified the project from the previous proposal. As part of the reconstruction of the dwelling, the proposal indicates a remodel of the overall interior of the dwelling for improved functionality. Part of the interior remodel includes converting an existing studio area back into garage space, which the property had been lacking. Also proposed are expansions at the front of the dwelling, infill of a few small areas including the existing entry area, and an office addition at the rear of the home. An elevated walkway would be constructed leading between the edges of the driveway/street level, up to the front door.

In addition, the roof style would be modified from the previous mansard style roof (flat) to a traditional gable style (pitched) roof. Prior to the last hearing on the project, the adjacent neighbor at 2 McCart Court had voiced concerns regarding the potential for view blockages with the roof proposed at the time. The applicant therefore modified the roof pitch from a 3:12 down to a 2.5:12, which flattened the roof and lowered the pitch, resulting in a revised roof height of twenty feet (20'0") from grade.

Staff visited the adjacent property at 2 McCart Court to view the revised story poles prior to the last hearing, which appeared to remedy the previously obstructed views of Richardson Bay. The adjacent neighbor had indicated to staff that the revised proposal appeared acceptable in terms of maintaining views of the bay; however, the neighbor had requested that the Board consider requiring the applicant to provide a surveyor's certification of the maximum height of the roof framing during construction, to ensure that the story poles and the constructed structure are consistent. The Board agreed and Staff included a condition of approval to that affect. The neighbor had also requested that the roof vents and exhaust pipes be painted dark to match the proposed roofing material, which was also included as a condition of approval.

The plans indicate several skylights to be installed on the roof. It should be noted that the two skylights located on the north side of the dwelling, located over the master bedroom and bathroom received previous design review approval by Staff on November 3, 2011. In addition, the landscaping plan, which includes a swimming pool and spa, was also reviewed and approved by Staff and the Tiburon Fire Protection District on October 6, 2011.

Staff does not foresee any other design issues with the proposal.

### Zoning

Staff has reviewed the proposal and finds that it is in conformance with the development standards for the R-1 zone, with the exception of the previously noted floor area exception.

### 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 proposed dwelling would remain similar in visual size and scale to the dwelling which previously existed. The dwelling would be reconstructed similar to the pre-existing dwelling, with expansions located at the front of the dwelling and at infill areas. The expansion at the front of the home would also not be noticeable from McCart Court and would not result in any visual prominence. Therefore, the visual size and scale of the dwelling would be 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.**

As part of the complete reconstruction of the dwelling, the expansion at the front of the home is where a majority of the new floor area is located. The existing site currently lacks a useable front yard, and even though the dwelling would project further into the front yard,

the property would still maintain an adequate sized driveway and access area for the dwelling. The remaining new floor area would be mostly infill, with the exception of the office addition at the rear which would not substantially alter the appearance of the dwelling, nor alter the functionality of the rear yard. The dwelling would therefore 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.

### Public Comment

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

### **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. Approve the project, subject to the attached conditions of approval.

Exhibits:

1. Conditions of Approval
2. Application and Supplemental Materials
3. Minutes of the April 7, 2011 Design Review Board meeting
4. Minutes of the May 5, 2011 Design Review Board meeting
5. Submitted Plans

Prepared By: Laurie Tyler, Associate Planner

**Exhibit 1**

**CONDITIONS OF APPROVAL  
FILE NO. 711133  
4 MCCART COURT**

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 22, 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, 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 District and the recommendations of Fire Safe Marin. CFC 304.1.2
  - d. The access gate shall have a minimum unobstructed width of 12'. Gates shall be operable using the Fire District's "Knox" key system. CFC 503.6.2
  
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. Public right-of-way shall be protected from damage during construction, or repairs will be made to the satisfaction of the Town.
15. The storm drainage line (and easement) which runs through this property is not Town-owned or maintained, but must be maintained by the property owner to drain properly to a Town-owned and operated drainage system behind the backyard. Storm drainage from the cul-de-sac must be able to drain through the property or localized flooding may occur. Plans submitted for building permits should include drainage line improvements.
16. 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.
17. 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.
18. A licensed surveyor's certification of the maximum height of roof framing during construction shall be required. A copy of the certification shall be submitted to both the Planning and Building Divisions during construction. Any discrepancies between the story poles heights and the constructed roof framing shall require an amendment to the Design Review approval.
19. The roofing vents and exhaust pipes shall be painted dark to match the roofing color.
20. Fencing shall not exceed a height of six feet (6') measured from grade.

21. An encroachment permit shall be filed with Richardson Bay Sanitary District for improvements located within the sanitary easement(s).
22. The fire pit shall be located a minimum of 15 feet from any property line, combustible vegetation and combustible construction.