

# Town of Tiburon

## STAFF REPORT



AGENDA ITEM \_\_\_\_\_

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TO: **PLANNING COMMISSION**

FROM: **SCOTT ANDERSON, DIRECTOR OF COMMUNITY DEVELOPMENT**

SUBJECT: **642 TIBURON BOULEVARD; FILE #10601; CONDITIONAL USE PERMIT TO OPERATE A LARGE FAMILY DAY CARE HOME IN AN R-1 ZONE; MARIN COUNTY ASSESSOR PARCEL NO. 055-171-25**

MEETING DATE: **APRIL 26, 2006** \_\_\_\_\_

REPORT DATE: **APRIL 21, 2006**

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### PROJECT DATA

Address:	642 Tiburon Boulevard
Assessor's Parcel Number:	055-171-25
File Number:	10601
Lot Size:	12,550 square feet
General Plan:	MH (Medium High Density Residential)
Zoning:	R-1 (Single Family Residential)
Current Use:	Single Family Residential/Small Family Day Care Home
Owner:	Lars Bergholdt and Lara Bisserier
Applicant:	same
Date Complete:	February 26, 2006
CEQA Determination:	Statutorily Exempt

### PROJECT DESCRIPTION

The applicants propose to enlarge an existing small family day care home serving up to 8 children into a large family day care home serving up to 12 children, including two who live in the home. The request is therefore for permission to have up to 10 children who do not live at the site be served by the day care home. Under state law, a large family day care home may serve up to 14 children. Application materials are attached as **Exhibit 1**.

Most of the day care activity would occur within the walls of the home. A fenced, secure outdoor use area is proposed at the south (rear) yard area adjacent to the inside playroom. Outside hours of use would be limited by the operators.

### REGULATORY FRAMEWORK

The State of California has to some degree pre-empted the field of local regulation of day care homes (**Exhibit 2**). Small family day care homes require no local zoning permits, and large family day care homes allow only limited local application of adopted "reasonable" standards regarding "spacing and concentration, traffic control, parking, and noise control relating to such



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homes” during the review of conditional use permits. Large family day care homes are also statutorily exempt from environmental review under CEQA.

State law does not allow a public hearing on large family day care homes unless, following notice, a written request is received from an “affected” party, which is limited to the applicant and owners or residents within 100 feet of the subject property. Two letters requesting a hearing were received from affected parties. These are attached as **Exhibits 3 and 4**. Notices sent out to date on this application are attached as **Exhibits 5 and 6**.

The Town of Tiburon does not have any existing use permits for large family day care homes within its boundaries; it also does not have separate adopted standards addressing such uses in its ordinances. The Town must therefore rely on its rather general conditional use permit regulations, as contained in Section 4.04 of the Zoning Ordinance, for application of “reasonable” standards.

Section 4.04.02 of the Tiburon Zoning Ordinance states that the purposes of the review of conditional use permit applications are to:

- (a) Determine whether the location proposed for the Conditional Use applied for is properly related to the development of the neighborhood as a whole.

*Location issues are limited by State law to a determination as to whether spacing and concentration meet Town standards. As there are no other known large family day care homes in Tiburon, and no adopted standards for spacing or concentration, this is not an issue.*

- (b) Determine whether the location proposed for the particular Conditional Use applied for would be reasonably compatible with the types of uses normally permitted in the surrounding area.

*See response to (a) above.*

- (c) Evaluate whether or not adequate facilities and services required for such use exist or can be provided.

*See response to (a) above.*

- (d) Stipulate such conditions and requirements as would reasonably assure that the basic purposes of this Chapter and the objectives of the General Plan would be served.

*Large family day care homes allow only limited local application of adopted reasonable standards regarding “spacing and concentration, traffic control, parking, and noise control relating to such homes. Conditions set forth in the draft Resolution attempt to set forth such reasonable controls.*



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- (e) Determine whether the Town is adequately served by similar uses presently existing or recently approved by the Town.

*See response to (a) above.*

Section 4.02.03 (b) of the Zoning Ordinance sets forth general standards that could be applied in the review of conditional use permits in an attempt to address “probable impacts on persons, land uses, adjoining properties, and the general vicinity. These are:

- (1) Probable inconvenience, damage, or nuisance from noise, smoke, odor, dust, vibration, radiation, or similar causes.

*Primary issues associated with the proposed use are noise, parking and traffic. These issues are discussed below.*

- (2) Probable hazard from explosion, contamination, or fire.

*State law allows the Town to apply specific regulations of the California Building Code aimed at large family day care homes, incorporated as a condition of approval in the Resolution.*

- (3) Probable inconvenience, economic loss, or hazard occasioned by unusual volume or character of traffic or the congregating of a large number of people.

*See the discussion below on traffic safety and inconvenience.*

- (4) The number of such uses presently existing or recently approved within the area.

*There are no other such uses in the area.*

### ANALYSIS

Significant concerns needing to be addressed with this application are associated with noise, traffic and parking.

#### Noise

Potential noise issues most directly affect the adjacent residence at 650 Tiburon Boulevard, owned by Mark Lomas. Mr. Lomas has previously indicated to Staff that a properly designed and constructed fence would likely address his noise concerns. Staff will provide for the hearing standards for fence material density and construction methodology that should effectively block sound to a considerable degree. The use is not expected to exceed noise exposure guidelines as set forth in the Town’s General Plan Noise Element. Limitations of the hours of outside use should be secured from the applicant and incorporated into the Resolution.



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### Parking

There is sufficient space for at least 5 or 6 vehicles to be on the property at one time. This is more than is typical for single family residences. It appears that the owners typically do not park in the garage at present. Increased use of the garage for parking of the owners' vehicles would provide additional space for day care parking and maneuvering, and should be required. A more formalized parking plan should also be required, with proper parking instructions provided to clients. Staff believes that the combination of increase garage use, a more formalized parking layout, and instruction to clients on entering and exiting the site would adequately address on-site parking issues.

### Traffic

The primary issue raised with application is the traffic safety issues associated with an already difficult entry/exit from the property onto Tiburon Boulevard. The subject property shares access onto Tiburon Boulevard with four other homes, all of which have Bayshore Terrace addresses. Bayshore Terrace is privately-maintained amalgamation of roadway and public utility easements located on several properties (see **Exhibit 7**). Especially during periods of heavy traffic along Tiburon Boulevard, entry and exit from Bayshore Terrace can be daunting, especially for vehicles exiting left onto westbound Tiburon Boulevard from Bayshore Terrace, or entering left onto Bayshore Terrace from westbound Tiburon Boulevard.

The primary concern of Bayshore Terrace residents is that approval of the large family day care home will increase traffic trips to and from the home, exacerbating the already difficult turning movements at the intersection.

The Interim Town Engineer and the Tiburon Police Chief visited the site and prepared a memo (**Exhibit 8**) dated February 26, 2006 expressing concern, among other things, about increased traffic safety problems at the intersection from increased use.

Staff believes that there are several meaningful measures that can be taken to ensure that the large family day care home operation closely mimics the existing small family day care home in terms of impacts, and has structured its recommendations around that concept. These measures include:

- Limiting the total number of children in the home to eleven at any one time (two reside there), consistent with the applicant's letter to neighbors dated January 5, 2006 (included as part of Exhibit 1).
- Requiring that at least two clients have more than one child at the facility at the same time (thereby reducing trips)
- Staggering drop-off and pick-up times and the exiting of vehicles from the property
- Requiring owner parking in the existing garage

In addition, reasonable requirements must be in place regarding vehicular exiting from the day care home such that all clients would make a right turn only during heavy traffic times and on occasions when there is another vehicle behind them waiting to exit onto Tiburon Boulevard.



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These should be specified as firm rules associated with the privilege of being clients of the day care home. Additional suggestions for reasonable measures to minimize any changes in impact levels over the current situation would be welcomed by Staff.

Caltrans' traffic engineer indicates that there have been no reported accidents at this intersection between 7/1/2000 and 6/30/2005, which is the most recent five year period for which statistics are available, and also indicates that based on the control measures and information provided by the applicant, there would be no meaningful change in traffic pattern or volume (**Exhibits 9 and 10**). No Caltrans permits appear to be required for this application.

### ENVIRONMENTAL REVIEW

Large family day care home projects are statutorily exempt from the requirements of the California Environmental Quality Act under Section 1597.46 of the Health and Safety Code.

### CONCLUSION

While the location of the proposed use is far from ideal from a vehicular entry/exit standpoint, Staff concludes that by reasonably limiting and conditioning the use to address traffic, parking, and noise issues, the overall change in impact caused by the large day care home will be insignificant in comparison with impacts generated by the existing small family day care home use on the site, which is not subject to Town regulation. Staff encourages reasonable cooperation and accommodation from the applicant and other affected parties toward this very achievable end, and anticipates that the applicant will present at the meeting additional details of proposed operational controls intended to reduce impacts.

### RECOMMENDATION

Staff recommends that the Planning Commission take public testimony on this item, close the public hearing, deliberate upon the project merits, and finalize or incorporate any needed conditions or modifications into the draft Resolution (**Exhibit 11**) prior to adopting it.

### EXHIBITS

1. Application form and supplemental materials.
2. Excerpts from California Health & Safety Code statutes.
3. Letter from Mary Jane Wentz, March 13, 2006.
4. Letter from Steven Brady, March 14, 2006.
5. Notice of Pending Application, March 6, 2006.
6. Notice of Public Hearing, April 2006.
7. Diagram showing Bayshore Terrace and adjoining properties.
8. Memo from Town Engineer, February 22, 2006.
9. Letter from Caltrans, April 4, 2006.
10. E-mail from Caltrans, April 13, 2006.
11. Draft Resolution.