



## STAFF REPORT

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

**From:** Community Development Department

**Subject:** 77 East View Avenue; File Nos. DR2016104, VAR2016033, VAR2016034, VAR2016035 & FAE2016011 ; Site Plan and Architecture Review for Construction of Additions to an Existing Single-Family Dwelling, with Variances for Reduced Front Setback and Excess Building Height, and a Floor Area Exception (*Continued from October 20, 2016*)

### BACKGROUND

The applicant is requesting Design Review approval for the construction of additions to an existing three-story single-family dwelling on property located at 77 East View Avenue. The application was first reviewed at the October 20, 2016 Design Review Board meeting. At that meeting, neighboring residents at 75 & 81 East View Avenue raised concerns about view and privacy impacts from the proposed additions and the overall mass of the project. The Design Review Board shared these concerns, stating that the house was too large and too wide, and would have privacy impacts on the home at 81 East View Avenue. The Board continued the application to the December 1, 2016 meeting.

The applicant has submitted revised plans for the project. The width of the house would be narrowed by 1 foot, 10 inches and would now comply with both side setbacks. The roof over the proposed garage has been changed to a flat design. The upper level deck off the living room has been shortened by 2 feet, 6 inches, and the railing has been changed from a solid wood design to a glass railing. Additional screening landscaping has been proposed around the house, although this vegetation has not been reviewed by the Tiburon Fire Protection District for compliance with their vegetation management standards.

Minor changes have been made to all three floors of the house. A total of 95 square feet has been removed from the upper level, 77 square feet from the middle level and 35 square feet from the lower level. The total floor area of the house has been reduced 242 square feet to a new proposed total of 2,942 square feet (55.8%), which is greater than the 35.0% maximum floor area permitted for a lot of this size. A floor area exception is therefore still requested. The lot coverage of the site would increase by 804 square feet to 1,536 square feet (29.1%), which is less than the 30.0% maximum lot coverage permitted in the R-1 zone.

Variances would still be required for reduced front setback and excess building height, as the proposed front setback and building height have not changed. The additions would now comply with the side setbacks and a variance is no longer required for reduced side setback.

## **ANALYSIS**

### **Design Issues**

The proposed changes to the project design appear to generally respond to the direction given by the Design Review Board at the October 20, 2016 meeting. The width of the house has been reduced, with the additions pulled out of both side setbacks and slightly further from both nearby homes, although the 1 foot, 10 inch reduction would be relatively modest. The smaller upper deck would somewhat lessen, but not eliminate, the potential privacy impacts for the adjacent home, but the substitution of a glass guardrail would somewhat offset this effect. The flat roof over the garage would reduce the visual mass of the building when viewed from the street.

The Design Review Board should view the revised story poles from the homes at 75 & 81 East View Avenue. The Board should then review the revised project design to determine if the changes made are sufficient to address the concerns raised at the previous meeting.

### **Zoning**

Staff has reviewed the proposal and finds that it is generally not in conformance with the development standards for the R-1 zone, as variances are requested for reduced front setback and excess building height, along with a floor area exception.

In the October 20, 2016 staff report, staff determined that there was sufficient evidence to support the findings for the requested variances for reduced front setback and excess building height and floor area exception, but not for the side setback variance. The side setback variance is no longer required.

### **Public Comment**

As of the date of this report, no letters have been received regarding the subject application since the October 26, 2016 Design Review Board meeting.

## **RECOMMENDATION**

The Design Review Board should review this project with respect to Zoning Ordinance Sections 16-52.020 (H) (Guiding Principles) and determine that the project is exempt from the provisions of the California Environmental Quality Act (CEQA) as specified in Section 15303. If the Board wishes to approve the application, it is recommended that the attached conditions of approval be applied.

## **ATTACHMENTS**

1. Conditions of approval
2. Supplemental application materials
3. Design Review Board staff report dated October 20, 2016
4. Minutes of the October 20, 2016 Design Review Board meeting
5. Submitted plans

Prepared By: Daniel M. Watrous, Planning Manager

## CONDITIONS OF APPROVAL

### 77 EAST VIEW AVENUE

#### FILE # DR2016104, VAR2016033, VAR2016034, VAR2016035 & FAE2016011

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 dated by the Town of Tiburon on August 4, 2016, or as amended by these conditions of approval. Any modifications to the plans of November 17, 2016 must be reviewed and approved by the Design Review Board.
3. Project elements shown on construction drawings submitted to the Building Division for plan check shall be essentially identical to those project elements shown on drawings approved by the Design Review Board. The permit holder is responsible for clearly identifying on construction drawings any and all changes to project elements. Such changes must be clearly highlighted (with a "bubble" or "cloud") on the construction drawings. A list describing in detail all such changes shall be submitted and attached to the construction drawings, with a signature block to be signed by the Planning Division Staff member indicating whether these changes have been reviewed and are approved, or will require additional Design Review approval. All such changes that have not been explicitly approved by the Town are not "deemed approved" if not highlighted and listed on construction drawings. Construction of any such unapproved project elements is in violation of permit approvals and shall be subject to Stop Work Orders and removal.
4. The applicant must meet all requirements of other agencies prior to the issuance of a building permit for this project.
5. All exterior lighting fixtures other than those approved by the Design Review Board must be down-light-type fixtures.
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. If this approval is challenged by a third party, the property owner/applicant will be responsible for defending against this challenge. The property owner/applicant agrees to defend, indemnify and hold the Town of Tiburon harmless from any costs, claims or liabilities arising from the approval, including, without limitations, any award of attorney's fees that might result from the third party challenge.
8. A construction sign shall be posted on the site during construction of the project, in a location plainly visible to the public. The sign shall be 24" x 24" in size and shall be made of durable, weather-resistant materials intended to survive the life of the construction period. The sign shall contain the following information: job street address; work hours allowed per Chapter 13 of the Tiburon Municipal Code; builder (company name, city,

state, ZIP code); project manager (name and phone number); and emergency contact (name and phone number reachable at all times). The sign shall be posted at the commencement of work and shall remain posted until the contractor has vacated the site

9. 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.
10. Prior to issuing a grading or building permit the applicant shall implement measures for site design, source control, run-off reduction and stormwater treatment as found in the Bay Area Stormwater Management Agency Association (BASMAA) Post-Construction Manual available at the Planning Division or online at the Marin County Stormwater Pollution Prevention Program (MCSTOPPP) website at [www.mcstoppp.org](http://www.mcstoppp.org).
11. All requirements of the Town Engineer shall be met, including, but not limited to, the following, which shall be noted on building plan check plans:
  - a. The site must provide at least one Post Construction mitigation in accordance with E.12 of the Town's Municipal Stormwater Permit and the BASMAA Post-Construction Manual Design Guidance for Stormwater Treatment and Control for Projects in Marin, Sonoma, Napa, and Solano Counties. Prior to building permit issuance complete the Project Data Form indicating which runoff reduction measure will be used and delineate the areas and locations of runoff reduction measures on a site plan.
  - b. A detailed construction management plan shall be submitted prior to building permit issuance and shall be subject to review and approval by the Public Works Department. The maximum limit of road closures during construction shall be 18 days for the duration of the project in accordance with the amount specified in the preliminary construction management plan.
  - c. An Encroachment Permit from DPW is required for any work within the Town's road right-of-way, including, but not limited to, utility trenching, installation of new utility connections, and modifications to the driveway apron. The plans shall clearly identify all proposed work in the right of way and an Encroachment Permit shall be obtained prior to conducting such work. If no work is proposed within the public right-of-way this comment may be disregarded.
  - d. Prior to building permit issuance specify on the building permit plan set the total volume of displaced earth (cut and fill).
  - e. Prior to building permit issuance an erosion and sediment control plan shall be submitted as part of the plan set.

- f. Prior to building permit issuance the applicant shall complete the Construction Erosion and Sediment Control Applicant Package that can be found on the Town's website.
  - g. Prior to building permit issuance provide a geotechnical report prepared by a licensed soils engineer.
  - h. Plans, reports, calculations and other relevant project files shall be reviewed and approved by the Public Works Department for impacts to the public right-of-way prior to building permit issuance.
  - i. Prior to building permit final all damage to the streets that result from the subject construction activities shall be restored by applicant/developer. Inspections by the Public Works Department shall take place prior construction, during construction and prior to final to identify extent of restoration and to ensure its adequacy.
12. The final landscape and irrigation plans must comply with the current water efficient landscape requirements of MMWD.
13. The project shall comply with the requirements of the California Fire Code and the Tiburon Fire Protection District, including, but not limited to, the following:
- 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. Access shall extend to within 150 feet of all portions of the facility and all portions of the exterior walls of the first story of the building as measured by an approved route around the exterior of the building or facility. CFC 503.1.1
  - c. Approved smoke alarms shall be installed to provide protection to all sleeping areas. CFC 907.2.10
  - d. The vegetation on this parcel shall comply with the requirements of TFPD and the recommendations of Fire Safe Marin. This may require landscape stairs around the exterior of the structure. CFC 304.1.2
  - e. East View Avenue is an existing nonconforming street that is not wide enough to meet current Fire District standards. As the street is unlikely to be widened, an alternate means of protection shall be provided, subject to the review and approval of the Fire Marshal.
14. The project shall comply with all requirements of Sanitary District No. 5.
15. A construction staging plan shall be approved by the Building Official and Public Works Department prior to issuance of a building permit for this project. The staging plan shall include the following information:

- a. Staging areas and means of construction during the various stages of the projects.
- b. Indicate the impacts to the roadway.
- c. Specify which street frontages will be affected, if any, and whether traffic in Belvedere will be affected. If street frontages will be affected by construction activities, staging or parking, provide traffic control plans and the expected frequency of road closures.
- d. Expected project duration and preliminary construction schedule.
- e. Specify whether East View Avenue will be closed during the demolition and re-construction of the retaining wall and means of retaining the soil and street during construction. The maximum limit of road closures is 5 days for the duration of the project in accordance with the amount specified in the construction management plan. Road closures shall not conflict with garbage pickup days or street sweeping days. Work within the public right of way, including road closures, shall not be permitted on weekends.
- f. Specify the expected frequency and quantity of dump truck trips for the various stages of the project.
- g. Specify what heavy equipment will be utilized at the various stages of the projects and its expected location and duration of use.



# TOWN OF TIBURON LAND DEVELOPMENT APPLICATION



## TYPE OF APPLICATION

- |   |  |  |
|---|--|--|
| <input type="checkbox"/> Conditional Use Permit   | <input checked="" type="checkbox"/> Design Review (DRB)    | <input type="checkbox"/> Tentative Subdivision Map   |
| <input type="checkbox"/> Precise Development Plan | <input type="checkbox"/> Design Review (Staff Level)       | <input type="checkbox"/> Final Subdivision Map       |
| <input type="checkbox"/> Secondary Dwelling Unit  | <input checked="" type="checkbox"/> Variance(s) <u>3</u> # | <input type="checkbox"/> Parcel Map                  |
| <input type="checkbox"/> Zoning Text Amendment    | <input checked="" type="checkbox"/> Floor Area Exception   | <input type="checkbox"/> Lot Line Adjustment         |
| <input type="checkbox"/> Rezoning or Prezoning    | <input type="checkbox"/> Tidelands Permit                  | <input type="checkbox"/> Condominium Use Permit      |
| <input type="checkbox"/> General Plan Amendment   | <input type="checkbox"/> Sign Permit                       | <input type="checkbox"/> Seasonal Rental Unit Permit |
| <input type="checkbox"/> Temporary Use Permit     | <input type="checkbox"/> Tree Permit                       | <input type="checkbox"/> Other _____                 |

## APPLICANT REQUIRED INFORMATION

SITE ADDRESS: 77 EASTVIEW AVE. PROPERTY SIZE: 5274 S.F.  
 PARCEL NUMBER: 060-105-92 ZONING: R-1

PROPERTY OWNER: CLINTON YEE  
 MAILING ADDRESS: P.O. BOX 330141  
SAN FRANCISCO, CA 94133  
 PHONE/FAX NUMBER: 415-812-1470 E-MAIL: clintonbuilder@gmail.com

APPLICANT (Other than Property Owner): \_\_\_\_\_  
 MAILING ADDRESS: \_\_\_\_\_

PHONE/FAX NUMBER: \_\_\_\_\_ E-MAIL: \_\_\_\_\_

ARCHITECT/~~DESIGNER~~/ENGINEER MICHAEL HECKMANN  
 MAILING ADDRESS: 1680 TIBURON BLVD. #1  
TIBURON, CA 94920  
 PHONE/FAX NUMBER: 415-435-2446 E-MAIL: heckmannarchitects@earthlink.net  
435-2875

*Please indicate with an asterisk (\*) persons to whom Town correspondence should be sent.*

BRIEF DESCRIPTION OF PROPOSED PROJECT (attach separate sheet if needed):  
REMODELING & ADDITIONS TO A 3-STORY SINGLE FAMILY  
RESIDENCE

I, the undersigned owner (or authorized agent) of the property herein described, hereby make application for approval of the plans submitted and made a part of this application in accordance with the provisions of the Town Municipal Code, and I hereby certify that the information given is true and correct to the best of my knowledge and belief.

I understand that the requested approval is for my benefit (or that of my principal). Therefore, if the Town grants the approval, with or without conditions, and that action is challenged by a third party, I will be responsible for defending against this challenge, with the defense counsel subject to the Town's approval. I therefore agree to accept this responsibility for defense at the request of the Town and also agree to defend, indemnify and hold the Town harmless from any costs, claims or liabilities arising from the approval, including, without limitation, any award of attorney's fees that might result from the third party challenge.

Signature: \* \_\_\_\_\_

Date: \_\_\_\_\_

The property involving this permit request may be subject to deed restrictions called Covenants, Conditions and Restrictions (CC&Rs), which may restrict the property's use and development. These deed restrictions are private agreements and are NOT enforced by the Town of Tiburon. Consequently, development standards specified in such restrictions are NOT considered by the Town when granting permits.

You are advised to determine if the property is subject to deed restrictions and, if so, contact the appropriate homeowners association and adjacent neighbors about your project prior to proceeding with construction. Following this procedure will minimize the potential for disagreement among neighbors and possible litigation.

Signature: \* \_\_\_\_\_

Date: 8.4.16

*\*If other than owner, must have an authorization letter from the owner or evidence of de facto control of the property or premises for purposes of filing this application*

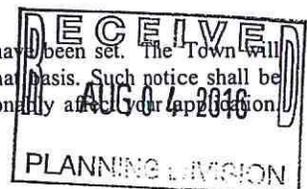
#### NOTICE TO APPLICANTS

Pursuant to California Government Code Section 65945, applicants may request to receive notice from the Town of Tiburon of any general (non-parcel-specific), proposals to adopt or amend the General Plan, Zoning Ordinance, Specific Plans, or an ordinance affecting building or grading permits.

If you wish to receive such notice, then you may make a written request to the Director of Community Development to be included on a mailing list for such purposes, and must specify which types of proposals you wish to receive notice upon. The written request must also specify the length of time you wish to receive such notices (s), and you must provide to the Town a supply of stamped, self-addressed envelopes to facilitate notification. Applicants shall be responsible for maintaining the supply of such envelopes to the Town for the duration of the time period requested for receiving such notices.

The notice will also provide the status of the proposal and the date of any public hearings thereon which have been set. The Town will determine whether a proposal is reasonably related to your pending application, and send the notice on that basis. Such notice shall be updated at least every six weeks unless there is no change to the contents of the notice that would reasonably affect your application. Requests should be mailed to:

Town of Tiburon  
Community Development Department  
Planning Division  
1505 Tiburon Boulevard  
Tiburon, CA 94920  
(415) 435-7390 (Tel) (415) 435-2438 (Fax)  
[www.townoftiburon.org](http://www.townoftiburon.org)



VAR2016-035  
VAR2016-034  
FAE2016-011

\$1325  
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230

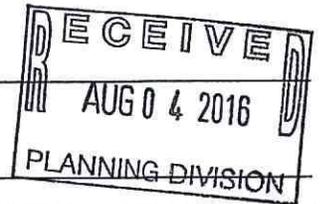
DO NOT WRITE BELOW THIS LINE

VAR2016-033 DEPARTMENTAL PROCESSING INFORMATION		
Application No.: DR2016-104	GP Designation:	Fee Deposit: \$2905
Date Received: 8/4/2016	Received By: [Signature]	Receipt #: R1655
Date Deemed Complete: 9/28/16	Action:	By: [Signature]
Acting Body:	Date:	
Conditions of Approval or Comments: _____	Resolution or Ordinance # _____	

## DESIGN REVIEW SUPPLEMENTAL APPLICATION FORM

Please fill in the information requested below (attach separate sheet as needed):

1. Briefly describe the proposed project: REMODELING & ADDITIONS TO A  
3-STORY SINGLE FAMILY RESIDENCE
  
2. Lot area in square feet (Section 16-100.020(L)): 5274
3. Square footage of Landscape Area: 3535
4. Proposed use of site (example: single family residential, commercial, etc.):  
Existing SINGLE FAMILY RESIDENCE  
Proposed " " "
5. Describe any changes to parking areas including number of parking spaces, turnaround or maneuvering areas.  
EXISTING 2 CAR DECK PARKING SPACES REPLACED BY  
NEW 2-CAR GARAGE



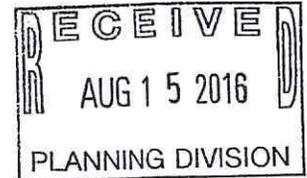
TO BE COMPLETED BY APPLICANT				STAFF USE ONLY	
ITEM	EXISTING	PROPOSED ADDITION AND/OR ALTERATION	PROPOSED	CALCULATED	PER ZONE
<b>Yards</b> (Setbacks from property line) (Section 16-100.020(Y))* Front	5.6 ft.	-3.0 ft.	2.6 ft.	ft.	ft.
Rear	37.0 ft.	+ .3 ft.	37.3 ft.	ft.	ft.
Right Side	12.3 ft.	-6.1 ft.	6.2 ft.	ft.	ft.
Left Side	17.5 ft.	-9.3 ft.	8.2 ft.	ft.	ft.
<b>Maximum Height</b> (Section 16-30.050)*	31.5 ft.	+5.5 ft.	37.0 ft.	ft.	ft.
<b>Lot Coverage</b> (Section 16-30.120(B))*	767 sq.ft.	769 sq.ft.	1536 sq.ft.	sq.ft.	sq.ft.
<b>Lot Coverage as Percent of Lot Area</b>	14.5 %	14.6 %	29.1 %	%	30 %
<b>Gross Floor Area</b> (Section 16-100.020(F))*	1546 sq.ft.	1603 sq.ft.	3149 sq.ft.	sq.ft.	1846 sq.ft.

\*Section numbers refer to specific provisions or definitions in the Tiburon Municipal Code Chapter 16 (Zoning)

Garage-431 #



# Heckmann Architects

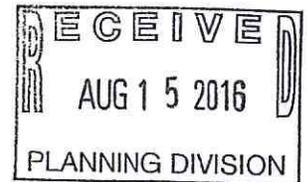


RE: 77 East View Ave.

## Findings to support Front Setback Variance      15 Aug 16

1. The property is a steeply sloping downslope lot with the edge of slope beginning at the street edge. The only functional access must be at this edge of slope which is typical of most of the existing residences on this side of the street.
2. Most residences in this vicinity are also located very close to the front property line with very little setback.
3. Locating the structure beyond the front setback would push the structure to a precipitous and very difficult to build position on the property. This would also cause the structure to be oddly and impracticably narrow since the property depth is quite narrow.
4. Shifting the structure east to respect the front setback would place the structure and interior spaces such that they would impact the privacy and views of the two adjacent residences.

# Heckmann Architects



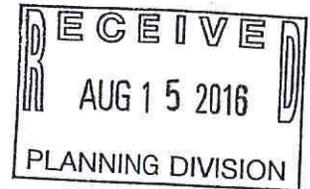
RE: 77 East View Ave.

## Finding to support Height Variance

15 Aug 16

1. The steeply sloping nature of the existing property contributes to the need for encroachment of the roof of any practical building depth and roof shape that is compatible to the design character.
2. Many residences in this vicinity on similar steep terrain extend up beyond the height restriction.
3. If the structure respected the height limit, the resulting size and shape of the roof would be oddly configured and incompatible with the architectural style that is appropriate for the context of this property.
4. No adjacent residences have view impacts or imposing mass issues by the proposed roof height. The public has no clear view of the roof encroachment from the street frontage. The public view from the streets below will be of a structure that is the appropriate scale compared to the adjacent homes.

# Heckmann Architects



RE: 77 East View Ave

## Findings to support Floor Area Exception 15 Aug 16

1. The scale and massing of the proposed residence is quite similar to the adjacent residences on this street. The structure will also be complimentary to the surrounding homes on this hillside.
2. The vertical shape of the proposed structure and its limited depth from the street is compatible to the general shape and steepness of the existing property.

# Heckmann Architects

## 77 Eastview Ave – List of Revisions

1. Garage - Replace gable roof with flat roof and lower plate line by 1 foot, remove about a foot of north side of garage, shift garage 3 feet toward the street.
- 2a. Upper Level – Abandon concept of privacy wall at north end of deck
- 2b. Upper Level - Reduce width of living room deck projection from 6'-5" to 4'-0"
- 2c. Upper Level – Increase dining room deck projection from 9'-10" to 10'-10"
3. Middle Lvl - Shift 'Bath 1' three feet toward the street
4. Middle Lvl - Retain roof of Bedroom 3 outside of Bedroom 1
5. Middle Lvl - Extend Master Bedroom by 2'-0" to the east
6. Middle Lvl - New location for stair down to Lower Level offset to the east
7. Lower Lvl - Extend wall of Bedroom 2 suite by 2'-0" to the east
8. Lower Lvl - New location for stair up to Middle Level offset to the east
9. Lower Lvl – Uphill retaining walls shift so that they define the west wall of the habitable spaces
10. Site plan - Omit landing at the top of railroad tie steps at north side of house
11. All levels – Pull back south wall at stair so NO setback encroachment
12. Add landscaping to site plan





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

Design Review Board Meeting  
 October 20, 2016  
 Agenda Item: **2**

<b>STAFF REPORT</b>	
<b>To:</b>	<b>Members of the Design Review Board</b>
<b>From:</b>	<b>Planning Manager Watrous</b>
<b>Subject:</b>	<b>77 East View Avenue; File Nos. DR2016104, VAR2016033, VAR2016034, VAR2016035 &amp; FAE2016011 ; Site Plan and Architecture Review for Construction of Additions to an Existing Single-Family Dwelling, with Variances for Reduced Front and Side Setbacks and Excess Building Height, and a Floor Area Exception</b>
<b>Reviewed By:</b>	_____

**PROJECT DATA**

**ADDRESS:** 77 EAST VIEW AVENUE  
**OWNER:** CLINTON YEE  
**APPLICANT:** MICHAEL HECKMANN (ARCHITECT)  
**ASSESSOR'S PARCEL:** 060-105-92  
**FILE NUMBERS:** DR2016104, VAR2016033, VAR2016034, VAR2016035 & FAE2016011  
**LOT SIZE:** 5,274 SQUARE FEET  
**ZONING:** R-1 (SINGLE-FAMILY RESIDENTIAL)  
**GENERAL PLAN:** MH (MEDIUM HIGH DENSITY RESIDENTIAL)  
**FLOOD ZONE:** X  
**DATE COMPLETE:** SEPTEMBER 28, 2016

**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 Design Review approval for the construction of additions to an existing three-story single-family dwelling on property located at 77 East View Avenue. On the upper level, the existing great room would be expanded and converted into a living room, kitchen and dining room, along with a new two-car garage and a large deck to the rear. On the middle level, the existing living room, kitchen and dining room would be expanded and converted into a master bedroom suite, laundry room and storage, while also expanding another existing bedroom and adding a bathroom and a deck to the rear of the master bedroom. On the lower level, the

existing master bedroom suite would be expanded and converted into two bedrooms and bathrooms, with a deck off one bedroom. Seven skylights would be installed.

The lot coverage of the site would increase by 769 square feet to 1,536 square feet (29.1%), which is less than the 30.0% maximum lot coverage permitted in the R-1 zone. The floor area of the house would more than double, increasing from the current size of 1,546 square feet by 1,603 square feet to a total of 3,149 square feet (59.7%), which is greater than the 35.0% maximum floor area permitted for a lot of this size. A floor area exception is therefore requested.

In addition, the following variances would be required for the proposed house:

- The proposed house would extend to within 2 feet, 6 inches of the front property line, which would be less than the 15 foot front setback required in the R-1 zone.
- The proposed house would extend to within 6 feet, 3 inches of the east (right) side property line, which would be less than the 8 foot side setback required in the R-1 zone.
- The height of the proposed house would be 37 feet, which is greater than the 30 foot maximum building height in the R-1 zone.

A color and materials board has been submitted, and will be present at the meeting for the Board to review. The structure would be finished with off-white wood walls, with off-white and black trim. Grey asphalt shingle roofing would be installed.

## PROJECT SETTING



The subject property is steeply sloped, with frontage on East View Avenue above, and extends down to the portion of Alcatraz Avenue below leading to Ark Row. The site is visible from the Ark Row portion of Main Street below.

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

## **ANALYSIS**

### **Design Issues**

The homes on the Tiburon portion of Corinthian Island are generally small, ranging in size from 490 to 2,918 square feet. Only three homes in this area are larger than 2,500 square feet. The 3,149 square feet of floor area proposed as part of this application would make this the largest home in the immediate vicinity.

Story poles have been erected for the proposed additions. The poles do not appear to indicate substantial view impacts for any homes uphill from the site, but would be most visible from the homes on either side at 75 & 81 East View Avenue. The residence at 75 East View Avenue to the west has a guest room and deck below a parking pad which has some views toward downtown Tiburon and hillsides that might be affected by the proposed additions. However, views from the primary living areas of the home which are lower on the site would not appear to be affected by the additions.

The proposed additions feel very close to the home at 81 East View Avenue to the east of the site, but would not appear to affect primary views from this residence. Although the additions would comply with the required 8 foot side setback, the neighboring dwelling appears to be only about 2 feet from the side property line, resulting in a relatively narrow distance between the two buildings. The mass of the additions would most affect the windows closest to the street on both floors of the adjacent home and views to the west could be impacted for these windows, but other windows further to the rear appear to be situated beyond the line of the additions. The Design Review Board is encouraged to view the story poles from the homes at 75 & 81 East View Avenue.

The proposed additions would substantially widen the existing home and would make the footprint of the house stretch across nearly the entire width of the lot. The additions would extend up to the west side setback and 1 foot, 9 inches into the east side setback. As noted above, the additions would make the house feel very close to the residence at 81 East View Avenue. In addition, stairways leading down the east side of the house would make the home feel even closer to the home at 75 East View Avenue. Due to these concerns and given the large proposed size of the house relative to other homes on Corinthian Island, Staff believes that the additions should at least be pulled back to comply with the east side setback and possibly pulled back from the west side setback to better separate the building from the home at 81 East View Avenue.

Issues have been raised on other lots on Corinthian Island regarding the location of property lines, with different deeds and historical maps creating confusion over the actual property lines for individual lots. The neighboring property owners at 81 East View Avenue have raised questions about the accuracy of the property lines shown on the submitted plans and have requested that a survey be completed to determine the side property line between the two lots. A pin has been

recently installed in the street at the shared property line by the applicant's civil engineer. The Design Review Board should determine whether there is sufficient doubt over the accuracy of the submitted plans to require such a survey.

## **Zoning**

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

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 subject property has a small size and steep topography by both the standards of Corinthian Island and of Tiburon as a whole. The strict application of the R-1 development standards would deprive the owners of this property of development privileges enjoyed by other properties in the vicinity which have pulled homes into the front setback and exceed the maximum building height on such steep lots.

However, the lot is approximately 68 feet wide in the area of the house, which exceeds the 40 foot minimum lot width required in the R-1 zone. There are no special circumstances applicable to this property that would make the strict application of the side setback requirement deprive the applicant of privileges enjoyed by other properties in the vicinity.

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

Numerous other Tiburon properties on Corinthian Island have received variances for reduced setbacks and excess building height.

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

The strict interpretation of the required front setback and maximum building height would result in a house that would be pushed further down the steep site and kept lower in a manner that would be inconsistent with the development pattern of other homes on Corinthian Island. The strict application of the required side setback would not substantially alter the design of the house and would not result in a practical difficulty or unnecessary hardship on the applicant.

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

As noted above, the proposed project may create view impacts for the home at 81 East View Avenue. However, these view impacts would not appear to be the result of the requested reductions in front or side setbacks. Although the height of the additions could add to this concern, there are also portions of the proposed additions which would exceed the maximum building height that would not result in any impacts on neighboring homes.

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.***

Many of the homes on Corinthian Island are visually prominent, similar to the design of the house with the proposed additions.

**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 overall design of the proposed additions would be considered to be generally compatible with the steep physical layout of the site and the limited lot size. As noted above, the additions would appear to be wider than necessary for the site and would make the house feel too close to the home at 81 East View Avenue.

From the evidence provided, Staff believes that there is sufficient evidence to support the findings for the requested variances for reduced front setback and excess building height and floor area exception, but not for the side setback variance.

### **Public Comment**

As of the date of this report, one letter has been received regarding the subject application from the owners of 81 East View Avenue.

### **RECOMMENDATION**

The Design Review Board should review this project with respect to Zoning Ordinance Sections 16-52.020 (H) (Guiding Principles) and determine that the project is exempt from the provisions of the California Environmental Quality Act (CEQA) as specified in Section 15303. If the Board agrees with staff's conclusions, it is recommended that the application should be continued with direction to redesign the project to comply with the required side setback and address any other design concerns. If the Board can make the findings required to approve the requested side

setback variance, along with the other variances and exception, it is recommended that the attached conditions of approval be applied.

## **ATTACHMENTS**

1. Conditions of approval
2. Application and supplemental materials
3. Letter from Andrina and Ken Weller, dated September 19, 2016
4. Submitted plans

Prepared By: Daniel M. Watrous, Planning Manager

Cedric Barringer, owner and designer, said that the footprint and FAR of the design remained unchanged. He described changes to the building volume, roof height and windows. He reviewed the landscape plan and noted that a fast growing, thick screening hedge would be planted between the house and 10 Apollo Road along the entire property line. He stated that only the tops of the fixed windows would be visible above the hedge, but he agreed to grow the hedge higher if needed. He stated that this design would be less intrusive to the neighbors, respect the setbacks, and respect the privacy of all of his neighbors, and he believed that the house would add value to the neighborhood.

There were no public comments.

Boardmember Tollini said that the project initially started out too large and did not fit proportionally within the constraints of the lot and neighborhood and the second revision was a modest improvement. After visiting the site again, he believed that the third revision worked. He noted that there were no objections to the project, which demonstrated that the concerns were satisfied. He said that his only concern was the height of the east-facing glazing, but he noted that it would face into the center of the lot and be screened by landscaping. He felt that the architect did a great job responding to the directions of the Board, and he fully supported the project.

Vice Chair Emberson stated that she also supported the project. She asked about relation of the deck height to the finished grade and Mr. Barringer said that the existing slab is 6 inches above the current grade, and after removing the deck the slab would be about 3 inches lower than the existing deck.

Chair Kricensky agreed with the other Boardmembers. He said that the project was reasonable and his only concern was the height of the windows on the east side. He stated that the windows might have recessed lights that would be visible through the top windows. Boardmember Tollini said that the angle of the roof would not be severe enough for those lights to be seen directly. Chair Kricensky acknowledged that the lights might be far away. Vice Chair Emberson stated that the lights would not be too visible with the landscape screening.

<p><b>ACTION:</b> It was M/S (Emberson/Tollini) that the request for 8 Apollo Road is exempt from the California Environmental Quality Act and to approve the request, subject to the attached conditions of approval. Vote: 3-0.</p>
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- 2. 77 EAST VIEW AVENUE:** File Nos. DR2016104, VAR2016033, VAR2016034, VAR2016035 & FAE2016011; Clinton Yee, Owner; Site Plan and Architectural Review for construction of additions to an existing single-family dwelling, with Variances for reduced front and side setbacks and excess building height, and a Floor Area Exception. The applicant proposes to construct 1,603 square feet additions to an existing three-story house, which would result in a floor area ratio of 59.7%, which is greater than the 35.0% maximum for a lot of this size. The front setback would be 2 feet, 6 inches in lieu of the minimum 15 feet. The east side setback would be 6 feet, 3 inches in lieu of the minimum 8 feet. The house would be 37 feet tall, in lieu of the maximum building height of 30 feet. Assessor's Parcel No. 060-105-92.

The applicant is requesting Design Review approval for the construction of additions to an existing three-story single-family dwelling on property located at 77 East View Avenue. On the upper level, the existing great room would be expanded and converted into a living room, kitchen and dining room, along with a new two-car garage and a large deck to the rear. On the middle level, the existing living room, kitchen and dining room would be expanded and converted into a master bedroom suite, laundry room and storage, while also expanding another existing bedroom and adding a bathroom and a deck to the rear of the master bedroom. On the lower level, the existing master bedroom suite would be expanded and converted into two bedrooms and bathrooms, with a deck off one bedroom. Seven skylights would be installed.

The lot coverage of the site would increase by 769 square feet to 1,536 square feet (29.1%), which is less than the 30.0% maximum lot coverage permitted in the R-1 zone. The floor area of the house would more than double, increasing from the current size of 1,546 square feet by 1,603 square feet to a total of 3,149 square feet (59.7%), which is greater than the 35.0% maximum floor area permitted for a lot of this size. A floor area exception is therefore requested.

In addition, the following variances would be required for the proposed house:

- The proposed house would extend to within 2 feet, 6 inches of the front property line, which would be less than the 15 foot front setback required in the R-1 zone.
- The proposed house would extend to within 6 feet, 3 inches of the east (right) side property line, which would be less than the 8 foot side setback required in the R-1 zone.
- The height of the proposed house would be 37 feet, which is greater than the 30 foot maximum building height in the R-1 zone.

Michael Heckmann, architect, Described the project and said that they started with a design concept that was meant to be a clean, uncluttered, traditional style and would capture views toward Angel Island. He said that the project would not obstruct the views from neighboring homes. He believed that they have responded positively to any issues between neighbors. He said that there would be a sizable distance between the buildings, which would be a reasonable distance between houses on this street given the predominant development pattern in the vicinity. He stated that the neighbors' views that would be impacted are not from primary living spaces, but were views across a mostly vacant lot. He presented photographs of the various properties that are impacted and he stated that the critical views of all of these properties would be preserved. He noted the floor area ratios of many houses in the neighborhood are similar to what was proposed, with some lower and some higher. He said that he communicated with the owners of 81 and 75 East View Avenue, but only met with the Welters yesterday due to their travel schedule. He said that they were respectful of the neighbors and that their views and privacy would be preserved by this design.

Vice Chair Emberson said that the location of the wood deck for the home at 81 East View Avenue is on the property and she felt that that raised questions about the location of the

property line is. She asked to see a certified copy of the survey. Mr. Heckmann said that a boundary survey was recorded with the County, and he shared the content of what was filed.

Boardmember Tollini asked if the topography was extracted from the survey. Mr. Heckmann said that all of the design was done with information from the survey and all of the boundary lines matched what was filed with the county.

The public hearing was opened.

Ken Welter said that they were not aware of any filing of the boundary survey with the county. He said that his home was built on the same footprint as it was originally constructed. He characterized the project design as a large mass, vertical, and plain. He said that the middle level of their house is their main living area which includes their kitchen, dining, and living room. He displayed photographs showing how much of the view would be blocked by the project from various rooms. He said that they were disputing the boundary on the survey and stated that the original boundary was respected for 50 years. He said that the landscaping is completely overgrown and they have not seen a proposal for landscaping other than removing trees. He felt that the house would be too large for the neighborhood. He said that the story poles did not appear to be accurate or detailed enough. He said that he spoke with Mr. Heckmann about moving the house toward the street to reduce impacts.

Andrea Welter said that they have big concerns over the project, including losing views. She said that the house would double in size and add a garage and would look monstrous on the hillside. She said that they would like a home that did not feel like it was on top of theirs and more in keeping with the size of other homes in the area. She said that they would like to get another opinion from another surveyor and she was concerned that the project was basing the setback and including part of their floor area based on this other survey.

Ulrik Binzer stated that they went through a similar situation with the house at 85 East View Avenue and he thought that it would be prudent to take some time now to explore issues regarding the survey. He stated that the house design seemed plain and would not terrace in accordance with the Hillside Design Guidelines. He suggested using the space closer to the road for expansion rather than pushing the house out into neighbors' views.

David Sparks said that he purchased a home designed by a renowned architect, with multiple levels and it is relatively small. He said that it was very important to carefully consider the impact of anything to be built in the neighborhood that would destroy the area and compromise views. He felt that the existing home needed to be renovated, but these issues need to be addressed in a way that would respect and enhance the existing neighborhood.

Mr. Heckmann stated that he believed that the house design was well articulated and would be a nice, straightforward home with traditional themes. He believed that that this would be a great asset to the neighborhood. He described discussions with the Welters regarding surveys and topographic maps. He stated that no view corridors have been recorded across this site and said that the views that would be blocked from the Welters' house were secondary rooms and they would preserve views from the primary rooms.

Vice Chair Emberson said she did not see a story pole that matched the main ridgeline and asked whether the story poles were correct. Mr. Heckmann said that they could add a story pole showing the ridge. He stated that several trees would be removed, which would help the neighbors' views.

The public hearing was closed.

Vice Chair Emberson pointed out that this would be the biggest house in the neighborhood on one of the largest lots, and that the other large lot has a 2,800 square foot house. She believed that the house would be too big for the lot and she is worried that the recorded map was different than the survey. She said that she could not possibly make an informed decision without knowing the property boundaries. She believed that the house would be too big for the lot, too big for the neighborhood, and she characterized the east elevation of the design as underwhelming.

Boardmember Tollini agreed with Vice Chair Emberson. He stated that he visited the house at 75 East View Avenue. He said that the views that would be impacted for the home at 81 East View Avenue were primarily secondary views from bedrooms, but he felt that the project was too impactful. He said that the project felt too close to the home at 81 East View Avenue. He said that the western windows would resemble a light well. He stated that the house would be very wide and inconsistent with the pattern of development for the neighborhood of narrower homes. He said that additional floor area was requested to make the house wider and if more area was needed it should step down the hillside. He said that the privacy of the master bedroom at 81 East View Avenue would also be significantly impacted by the proposed deck and any deck at that level needed to be on the eastern side of the property. He said that it would be great if the neighbors could agree on the facts of the surveys. He said that this larger lot should not have such a disproportionately high floor area exception.

Chair Kricensky agreed with the other Boardmembers. He stated that the structure had to be wide to avoid building down the hillside and blocking views, but because it would be so wide, it would appear massive. He did not believe that the Board would even consider encroaching on the setback with a lot this size. He said that there needed to be more breathing space between the homes. He said that the use of the deck would not be compatible with the neighbors' bedroom. He suggested moving the house back towards the road, but understood that engineering it might not be feasible. He suggested making the house narrower and giving the applicant time to talk with their neighbors and see their rooms. He said that there has to be some give and take, and the house could be expanded to some extent.

Boardmember Tollini said that it was reasonable to expect some redevelopment of the property and some impacts, and he did not think there were borrowed views, but he felt that the proposed project was not close to being acceptable.

<p><b>ACTION:</b> It was M/S (Tollini/Emberson) to continue the application for 77 East View Avenue to the December 1, 2016 meeting. Vote: 3-0.</p>
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