



TOWN OF TIBURON
1505 Tiburon Boulevard
Tiburon, CA 94920

Design Review Board Meeting
December 1, 2016
Agenda Item: **3**

STAFF REPORT

To: Members of the Design Review Board

From: Planning Manager Watrous

Subject: 150 Avenida Miraflores; Consider Adoption of Resolutions Denying Appeal of Planning Staff Approval of Tree Permit to Permit the Removal of one (1) Italian Stone Pine Tree and one (1) Cajeput tree, and Appeal of Planning Staff Denial of Tree Permit to Permit the After-the-Fact Planting of one (1) Italian Stone Pine Tree, one (1) Cajeput Tree, one (1) Cotoneaster Tree and one (1) Privet Tree; Edwin and Nancy Clock, Owners/Applicants/Appellants; Firuze Hariri, Applicant; File Nos. TREE2016001 & TREE2016017; Assessor's Parcel Number: 039-111-09

Reviewed By: _____

BACKGROUND

Following a public hearing and discussion at its November 3, 2016 regular meeting, the Design Review Board directed to staff to prepare draft resolutions denying appeals of an approved tree permit (File No. TREE2016001) to permit the removal of one (1) Italian Stone Pine tree and one (1) Cajeput tree on Town of Tiburon right-of-way adjacent to property located at 150 Avenida Miraflores and a denied tree permit (File No. TREE2016017) to permit the after-the-fact planting of one (1) Italian Stone Pine tree, one (1) Cajeput tree, one (1) Cotoneaster tree and one (1) Privet tree on the same property. The resolutions were to be considered for adoption at the next regular meeting.

The draft resolutions are attached as **Exhibits 1 & 2**. Draft minutes of the November 3, 2016 meeting are also included in the Design Review Board packet.

RECOMMENDATION

Staff recommends that the Board adopt the draft resolutions denying the subject appeals.

ATTACHMENTS

1. Draft resolution for Tree Permit TREE2016001
2. Draft resolution for Tree Permit TREE2016017
3. Letter from Edwin and Nancy Clock, dated November 8, 2016

Prepared By: Daniel M. Watrous, Planning Manager

RESOLUTION NO. 2016-(Draft)

**A RESOLUTION OF THE DESIGN REVIEW BOARD OF THE TOWN OF TIBURON
DENYING AN APPEAL BY EDWIN AND NANCY CLOCK OF THE APPROVAL OF A
TREE PERMIT WITHIN TOWN OF TIBURON RIGHT-OF-WAY
ADJACENT TO 150 AVENIDA MIRAFLORES**

ASSESSOR PARCEL NO. 039-111-09

WHEREAS, On January 12, 2016, the Town of Tiburon received an application for a Tree Permit (File #TREE2016001) to permit the removal of one (1) Italian Stone Pine tree and one (1) Cajeput tree on Town of Tiburon right-of-way adjacent to property located at 150 Avenida Miraflores, proposed by Firuze Hariri (“Applicant”), the owner of the property at 163 Avenida Miraflores; and

WHEREAS, Town staff recognized that these trees were properly defined as “tree” under the Town of Tiburon Guide to Policies for Trees on Town Property and the provisions of Title IV, Chapter 15A (Trees) of the Tiburon Municipal Code (Tiburon Tree Ordinance), processed the application pursuant to the Tiburon Tree Ordinance, and notified neighboring property owners and consulted with Edwin and Nancy Clock (“Appellants”), the owners of the property at 150 Avenida Miraflores, during the process; and

WHEREAS, on April 20, 2016, Town staff conditionally approved the subject application; and

WHEREAS, on May 2, 2016, the Appellants filed a timely appeal of the staff’s decision to conditionally approve the application; and

WHEREAS, on November 3, 2016, the Design Review Board held a duly-noticed hearing on the appeal, during which testimony was heard and considered regarding the application and the Planning Division staff’s review of the application; and

WHEREAS, the Design Review Board reviewed the application in accordance with provisions of the Tiburon Tree Ordinance, and based on site visits, application materials and analysis contained in the staff report dated November 3, 2016 and in the entire record, and hearing all testimony at the appeal hearing, finds that the approval, as conditioned, is consistent with applicable purposes, policies and regulations of said Chapter and that the subject trees should be removed. The Board determined that the trees intrude into the Applicant’s views and do not provide substantial privacy or visual screening, erosion control or wind protection for the Appellants’ home, or are not Protected Trees as defined in the Tiburon Tree Ordinance; and

WHEREAS, the Design Review Board voted 4-0 to direct Staff to prepare a resolution denying the appeal.

NOW, THEREFORE BE IT RESOLVED that the Design Review Board of the Town of Tiburon does hereby deny the appeal of the approval of the Tree Permit application for the reasons set forth above.

PASSED AND ADOPTED at a regular meeting of the Design Review Board of the Town of Tiburon on December 1, 2016, by the following vote:

AYES: BOARDMEMBERS:

NOES: BOARDMEMBERS:

ABSENT: BOARDMEMBERS:

ABSTAIN: BOARDMEMBERS:

JOHN KRICKENSKY, CHAIR
TIBURON DESIGN REVIEW BOARD

ATTEST:

KYRA O'MALLEY, SECRETARY

RESOLUTION NO. 2016-(Draft)

**A RESOLUTION OF THE DESIGN REVIEW BOARD OF THE TOWN OF TIBURON
DENYING AN APPEAL BY EDWIN AND NANCY CLOCK OF THE DENIAL OF A TREE
PERMIT WITHIN TOWN OF TIBURON RIGHT-OF-WAY
ADJACENT TO 150 AVENIDA MIRAFLORES**

ASSESSOR PARCEL NO. 039-111-09

WHEREAS, On May 9, 2016, the Town of Tiburon received an application for a Tree Permit (File #TREE2016017) to permit the after-the-fact planting of one (1) Italian Stone Pine tree, one (1) Cajeput tree, one (1) Cotoneaster tree and one (1) Privet tree on Town of Tiburon right-of-way adjacent to property located at 150 Avenida Miraflores, proposed by Edwin and Nancy Clock (“Appellants”), the owners of the property at 150 Avenida Miraflores; and

WHEREAS, Town staff followed the Town of Tiburon Guide to Policies for Trees on Town Property and the provisions of Title IV, Chapter 15A (Trees) of the Tiburon Municipal Code (Tiburon Tree Ordinance) and notified neighboring property owners and consulted with the Appellants during the process; and

WHEREAS, on July 26, 2016, Town staff denied the subject application; and

WHEREAS, on August 8, 2016, the Appellants filed a timely appeal of the staff’s decision to deny the application; and

WHEREAS, on November 3, 2016, the Design Review Board held a duly-noticed hearing on the appeal, during which testimony was heard and considered regarding the application and the Planning Division staff’s review of the application; and

WHEREAS, the Design Review Board reviewed the application in accordance with provisions of the Tiburon Tree Ordinance, and based on site visits, application materials and analysis contained in the staff report dated November 3, 2016 and in the entire record, and hearing all testimony at the appeal hearing, finds that the denial of the appeal is appropriate, because the trees would not have been approved by the Town if requested prior to their planting, due to the potential for view impairment caused by these trees in this location to neighboring properties; and

WHEREAS, the Design Review Board bases its decision on the Tiburon Tree Ordinance which addresses these plantings as trees, and requires consideration for the potential for unreasonable or undesirable view blockage by trees at maturity, and the trees subject to this appeal impact the views of neighboring properties; and

WHEREAS, maintenance and retention of the trees subject to this appeal would not materially aid in the creation of shade, privacy, soil stability, noise buffering, wind protection and erosion and landslide prevention to Appellant’s property; and

WHEREAS, the Design Review Board voted 4-0 to direct Staff to prepare a resolution denying the appeal.

NOW, THEREFORE BE IT RESOLVED that the Design Review Board of the Town of Tiburon does hereby deny the appeal of the denial of the Tree Permit application for the reasons set forth above.

PASSED AND ADOPTED at a regular meeting of the Design Review Board of the Town of Tiburon on December 1, 2016, by the following vote:

AYES: BOARDMEMBERS:

NOES: BOARDMEMBERS:

ABSENT: BOARDMEMBERS:

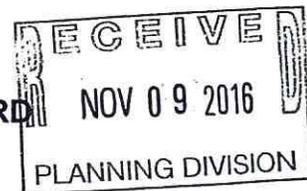
ABSTAIN: BOARDMEMBERS:

JOHN KRICKENSKY, CHAIR
TIBURON DESIGN REVIEW BOARD

ATTEST:

KYRA O'MALLEY, SECRETARY

MEMORANDUM TO TIBURON DESIGN REVIEW BOARD



To: Design Review Board Members J. Kricensky, L. Emberson, B. Chong,
G. Cousins and M. Tollini

Re: Tree 2016001 & Tree 2016017

From: Appellants/Property Owners Edwin H. Clock and Nancy M. Clock

Date: November 8, 2016

Following the Design Review Board's hearing last Thursday evening, November 3, 2016, we met with our professional arborists and determined that it would be possible to transplant several of the landscaping to our private property that was at issue in the hearing.

Specifically, we request that DRB grant us permission to transplant – rather than cut down and kill – the privet, the cotoneaster and the melaleuca quinquenervia currently located on Town right of way to our private property (the southeast corner of our 19,000 square foot lot) where none of these landscaping will be visible from either Avenida Miraflores nor lower Francisco Vista Court. We believe it to be consistent with both the Tiburon Tree and View ordinances to maintain viable and attractive landscaping when no view impairment is involved.

Thank you in advance for including this provision in your final resolutions. Of course, we retain the right to appeal DRB's final ruling to the Tiburon Town Council at the appropriate time.

Cc: Mr. D. Watrous ✓