



**STAFF REPORT**

**To:** Members of the Design Review Board  
**From:** Planning Manager Watrous  
**Subject:** 85 East View Avenue; File Nos. DR2016091, VAR2016026, VAR2016027, VAR2016028, VAR2016029, VAR2016030 & FAE2016009 ; Site Plan and Architecture Review for Construction of a New Single-Family Dwelling, with Variances for Reduced Front and Side Setbacks, Excess Lot Coverage and Excess Building Height, and a Floor Area Exception  
**Reviewed By:** \_\_\_\_\_

**PROJECT DATA**

**ADDRESS:** 85 EAST VIEW AVENUE  
**OWNER:** DAVID AND TANDY FORD  
**APPLICANT:** DAVID THOMPSON (ARCHITECT)  
**ASSESSOR'S PARCEL:** 060-105-67  
**FILE NUMBERS:** DR2016091, VAR2016026, VAR2016027, VAR2016028, VAR2016029, VAR2016030 & FAE2016009  
**LOT SIZE:** 1,968 SQUARE FEET  
**ZONING:** R-1 (SINGLE-FAMILY RESIDENTIAL)  
**GENERAL PLAN:** MH (MEDIUM HIGH DENSITY RESIDENTIAL)  
**FLOOD ZONE:** X  
**DATE COMPLETE:** AUGUST 10, 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 a new four-story single-family dwelling on property located at 85 East View Avenue. The subject property is currently vacant.

The first (lowest) level of the house would include a bedroom, bathroom study and storage area. The second level would include a master bedroom suite and laundry room. The third level would include a living room, kitchen, dining room and a half bathroom. The fourth (highest) level would

include a two-car garage and an entry. A deck would extend off the second level, along with access to a patio area on the first level and a roof deck adjacent to the entry on the fourth level. All four levels would be connected by an interior stairway and an elevator. Skylights would be installed above the entry stairs on the fourth level and the first level study. A wire fence would extend along the west (left) side property line. An additional parking pad would be created to the left of the driveway.

The floor area of the proposed house would be 1,908 square feet (97.1%), 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 up to the front property line, which would be less than the 15 foot front yard setback required in the R-1 zone.
- The proposed house would extend to within 3 feet of the east (right) side property line, which would be less than the 8 foot side yard setback required in the R-1 zone.
- The proposed house would extend to within 3 feet, 4 inches of the west (right) side property line, which would be less than the 8 foot side yard setback required in the R-1 zone.
- The proposed house would cover 1,227 square feet (62.3%) of the site, which is greater than the 30.0% maximum lot coverage permitted in the R-1 zone.
- The height of the proposed house would be 42 feet, 11 inches, 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 wood and light grey colored stucco walls, with dark grey trim. A grey flat roof with gravel would be installed.

## **BACKGROUND**

In 2007, a previous owner of the subject property filed an application (File #20720) for construction of a single-family dwelling on this site. The application included a five-story project design with garages at the lowest level of the building and included requests for variances for reduced front, side and rear yard setbacks, excess lot coverage and excess building height, along with a floor area exception. This application was reviewed at the October 4, 2007 Design Review Board meeting. At that time, several neighboring property owners objected to the overall size of the proposed house, stating that the design was inconsistent with the character of other homes on Corinthian Island and could result in view impacts for nearby residences. The Design Review Board echoed many of these concerns, particularly with the overall floor area and mass and bulk of the house. The application was continued to allow the applicant time to address these concerns.

On March 20, 2008, the Design Review Board considered a revised project design with four levels and garage access on the uppermost level of the house. The Board approved the application with the following exception and variances:

- Floor area of 2,450 square feet (97.2%).
- Reduced front setback of 6 inches.
- Reduced side setbacks of 5 feet of the east (right) side property line and 3 feet of the west (left) side property line.
- Lot coverage of 1,384 square feet (54.9%) of the site.
- Excess building height of 42 feet.

The application expired before a building permit could be obtained for the project. The property was then sold to the current property owner.

In 2015, a new application (File #VAR2015019) was filed for construction of a new four-story home on the site. The application requested the following exception and variances:

- Floor area of 2,593 square feet (103.1%).
- Reduced front setback of 5 feet, 9 inches.
- Reduced east (right) setback of 5 feet.
- Lot coverage of 1,332 square feet (53.0%) of the site.
- Excess building height of 42 feet.

The application was reviewed at the November 19, 2015 Design Review Board meeting. At that meeting, several neighboring property owners raised concerns about the size of the house, potential light and view blockage and compatibility with the surrounding neighborhood. The Board shared some of these concerns and suggested that the house be stepped back and pushed further into the hillside to lessen impacts on the homes at 83 & 87 East View Avenue and better comply with the Hillside Design Guidelines. The application was continued to the December 17, 2015 meeting.

The applicant subsequently investigated a question regarding the location of the property lines. A survey and attendant research indicated that the lot was smaller than previously thought and that the neighboring home at 83 East View Avenue extends across the shared side property line. The applicant withdrew the application to redesign the house in light of this new information.

## PROJECT SETTING



The subject property is steeply sloped, with frontage on East View Avenue above, and extends down to Alcatraz Avenue below. The site is a vacant lot nestled among older homes along the western end of East View Avenue. The lot 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 proposed house design is smaller than the previous homes proposed for this site, with the floor area reduced by 685 square feet from the 2015 application. The downhill end of the home has been moved 2 to 3 feet uphill and the second and third floors of the house have been moved much closer to the front property line.

Story poles have been erected for the proposed house. The poles do not appear to indicate substantial view impacts for any homes uphill from the site, but would appear to intrude somewhat into the views from the adjacent residences at 83 & 87 East View Avenue.

The following principles of the Hillside Design Guidelines should be used in evaluating the potential view impacts from the neighboring homes:

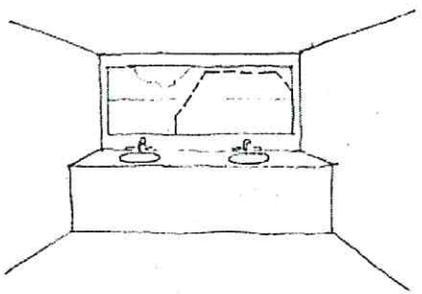
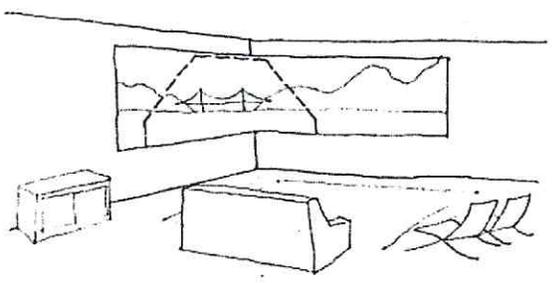
Goal 3, Principle 7 (A) of the Hillside Design Guidelines states that “view protection is more important for the primary living areas of a dwelling (e.g. living room, dining room, family room, great room, kitchen, and decks associated with these rooms) than for less actively used areas of a dwelling (e.g. bedroom, bathroom, study, office, den).” The proposed house would intrude into the views from the kitchen, dining room and bedrooms of the home at 83 East View Avenue and from the living room of the home at 87 East View Avenue.

NO

YES

• PROPOSED STRUCTURE  
BLOCKS LIVING ROOM VIEW -

• PROPOSED STRUCTURE  
BLOCKS BATHROOM VIEW



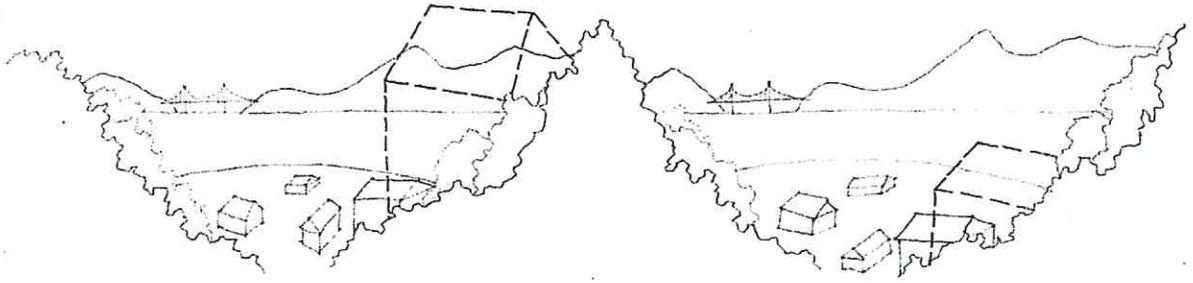
• GREAT IMPACT ON  
LIVABILITY

• LITTLE IMPACT ON  
LIVABILITY

Goal 3, Principle 7 (B) of the Hillside Design Guidelines states that the “horizon line is [the] most sensitive part of [the] view, then foreground, then middleground.” The proposed home would be in the foreground view and extend past the horizon line from the home at 83 East View Avenue. The house would be situated in the middleground of the view of the home at 87 East View Avenue.

NO

YES

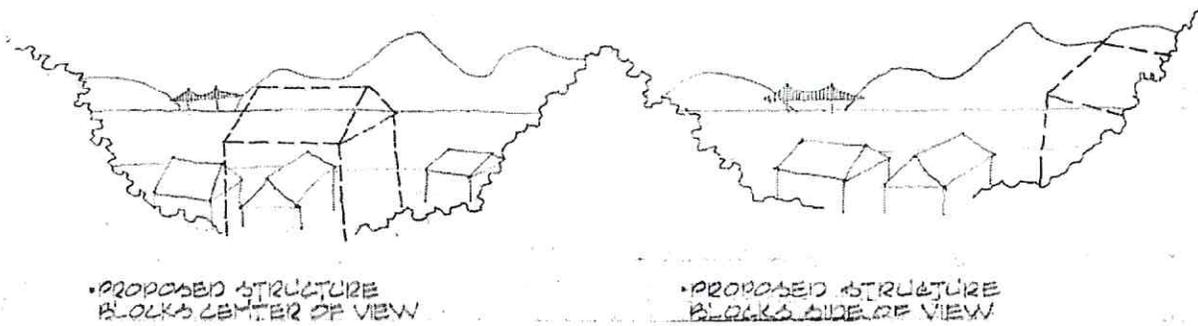


Goal 3, Principle 7 (C) of the Hillside Design Guidelines states that “blockage of center of [the] view [are] more damaging than blockage of [the] side of [the] view.” The proposed house would intrude into the side of the view from the home at 83 East View Avenue, but the center of the view from the kitchen and dining room. The living room of the home at 87 East View Avenue has windows on two sides, with the proposed house sitting in the center of one of the windows.

2. BLOCKAGE OF CENTER OF VIEW MORE DAMAGING THAN BLOCKAGE OF SIDE OF VIEW.

NO

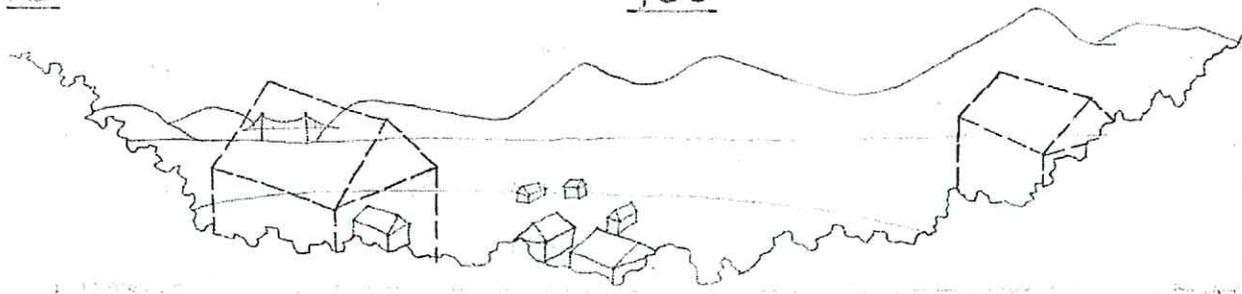
YES



Goal 3, Principle 7 (C) of the Hillside Design Guidelines states that “blockage of important objects in the view (Golden Gate Bridge, Belvedere Lagoon, Sausalito, Angel Island) is more difficult to accept than blockage of other, less well-known landmarks.” The proposed house would block views of Mt. Tamalpais and Belvedere Lagoon from the kitchen and dining room of the home at 83 East View Avenue and would block views of San Francisco Bay and Angel Island from the living room of the home at 87 East View Avenue.

NO

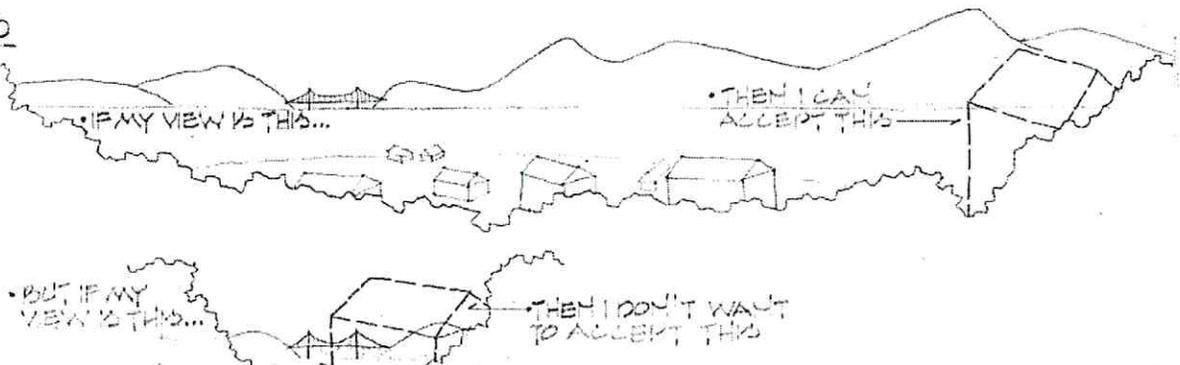
YES



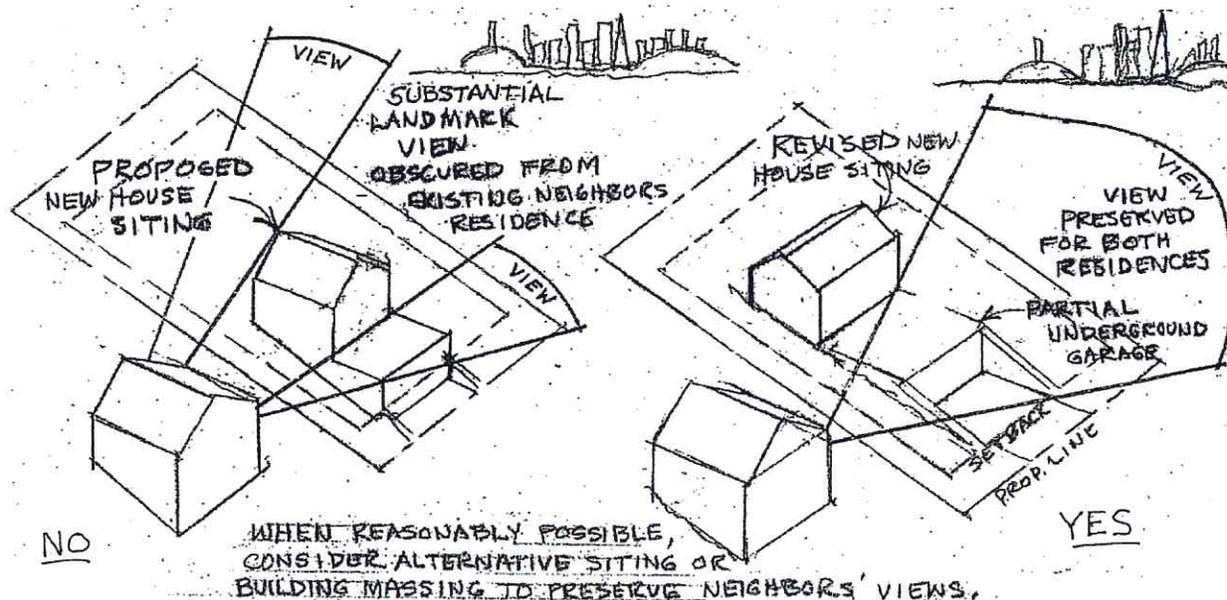
Goal 3, Principle 7 (E) of the Hillside Design Guidelines states that “a wide panoramic view can accept more view blockage than the smaller slot view.” The home at 83 East View Avenue has a relatively panoramic view to the north and west, while the home at 87 East View Avenue has bifurcated views to the east and west.

YES

NO



Goal 3, Principle 8 of the Hillside Design Guidelines states that “a view across a vacant lot is often considered to be a ‘borrowed’ view, which is likely to be compromised by the eventual development of the vacant lot. A borrowed view is one which is temporary in nature and which may be reasonably expected to change upon development of the lot. Consideration may be given to preserving portions of a borrowed view if this is the only substantial view for a neighboring home.” The views from the dining room and kitchen of the home at 83 East View Avenue are directly across the subject site and could be considered to be borrowed views. The view from the living room at 87 East View Avenue is currently limited by the home at 83 East View Avenue beyond the subject property and only a portion of the proposed house would extend beyond the other neighboring home and into views toward Angel Island.



The Design Review Board is encouraged to view the story poles from the homes at 83 & 87 East View Avenue.

The Public Works Department and several neighboring property owners have raised concerns about construction staging for this project. Although construction-related issues are generally not within the purview of the Design Review Board, the design of the house would leave little or no room for construction staging on the property, potentially causing construction impacts to overflow onto nearby streets. The Public Works Department has recommended adoption of conditions of approval detailing requirements of a construction staging plan to be reviewed by the Town prior to issuance of a building permit for this project.

### 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 yard setbacks, excess lot coverage 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.

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 properties on Corinthian Island have received variances for reduced setbacks, excess lot coverage and excess building height and the Design Review Board approved similar variances for a construction of a new house on this site in 2008.

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 yard setbacks, lot coverage and building height would result in a very small house on the site that would be inconsistent with the development pattern of other homes on Corinthian Island. The house would be very narrow and pushed down the hill away from the front property line in a manner that would create an impractical house design.

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 homes at 83 & 85 East View Avenue. However, some of these view impacts may be the result of borrowed views across this currently vacant lot.

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 proposed house and the design of the house approved for this property in 2008.

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.*

Although the vertical nature of the proposed house design could be considered to be incompatible with the physical layout of the site, the steepness of the subject property and the limited lot size substantially restricts the ability of any house design to more closely follow the contours of the site.

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

### **Public Comment**

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

### **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 attached conditions of approval be applied.

### **ATTACHMENTS**

1. Conditions of approval
2. Application and supplemental materials
3. Design Review Board staff report dated November 19, 2015
4. Minutes of the November 19, 2015 Design Review Board meeting
5. Submitted plans

Prepared By: Daniel M. Watrous, Planning Manager

## CONDITIONS OF APPROVAL

### 85 EAST VIEW AVENUE

#### FILE # DR2016091, VAR2016026, VAR2016027, VAR2016028, VAR2016029, VAR2016030 & FAE2016009

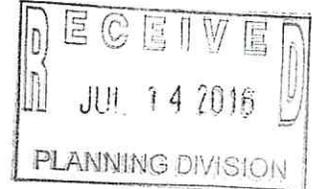
1. This approval shall be used within three (3) years of the approval date, and shall become null and void unless a building permit has been issued.
2. Construction shall conform with the application dated by the Town of Tiburon on July 14, 2016, or as amended by these conditions of approval. Any modifications to the plans of August 4, 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. A photovoltaic energy system shall be installed in compliance with the requirements of Section 16-40.080 of the Tiburon Zoning Ordinance.
11. 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).
12. 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. 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.
  - c. Prior to building permit issuance specify on the building permit plan set the total volume of displaced earth (cut and fill).
  - d. Prior to building permit issuance an erosion and sediment control plan shall be submitted as part of the plan set.
  - e. 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.
  - f. The project shall be subject to post rain event erosion control inspections.

- 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.
13. The final landscape and irrigation plans must comply with the current water efficient landscape requirements of MMWD.
14. 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. The automatic fire sprinkler system shall be upgraded to a NFPA 13R system with the FDC located below the structure on East View Avenue. 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. A means of egress/access shall be provided from each level of the home to exterior stairs. 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. Shredded bark is prohibited. CFC 304.1.2
  - e. All solar panels shall comply with TFPD standard 605.11.
15. The project shall comply with all requirements of Sanitary District No. 5.
16. The roof material color shall be a medium to dark color to be reviewed and approved by Planning Division staff prior to issuance of a building permit for this project.
17. 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

- Conditional Use Permit
- Precise Development Plan
- Secondary Dwelling Unit
- Zoning Text Amendment
- Rezoning or Prezoning
- General Plan Amendment
- Temporary Use Permit
- Design Review (DRB)
- Design Review (Staff Level)
- Variance(s) 5 #
- Floor Area Exception
- Tidelands Permit
- Sign Permit
- Tree Permit
- Tentative Subdivision Map
- Final Subdivision Map
- Parcel Map
- Lot Line Adjustment
- Condominium Use Permit
- Seasonal Rental Unit Permit
- Other \_\_\_\_\_

APPLICANT REQUIRED INFORMATION

SITE ADDRESS: 85 Eastview Ave PROPERTY SIZE: 1,968 SF.  
PARCEL NUMBER: 0600-105-67 ZONING: R1

PROPERTY OWNER: David & Tandy Ford  
MAILING ADDRESS: P.O. Box 242, Tiburon CA, 94920 and  
324 Camino Cerrito, Santa Fe, NM 87505  
PHONE/FAX NUMBER: 415-860-3673 E-MAIL: dford415@gmail.com

APPLICANT (Other than Property Owner): David Thompson  
MAILING ADDRESS: 219 Shoreline Highway  
Mill Valley, CA 94941  
PHONE/FAX NUMBER: 415-706-6598 E-MAIL: david@thompsonstudio.com

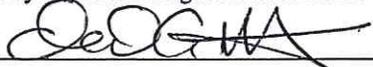
ARCHITECT/DESIGNER/ENGINEER David Thompson, Thompson Studio Architects  
MAILING ADDRESS: 219 Shoreline Highway  
Mill Valley, CA 94941  
PHONE/FAX NUMBER: 415-706-6598 E-MAIL: david@thompsonstudio.com

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

BRIEF DESCRIPTION OF PROPOSED PROJECT (attach separate sheet if needed):  
New single family residence on a vacant lot.  
\_\_\_\_\_  
\_\_\_\_\_  
\_\_\_\_\_

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: 7/06/2016

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: 7/06/2016

*\*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)

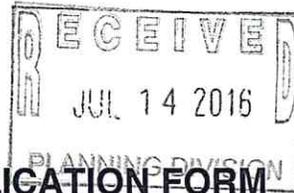


EAE 2016009

VAR2016-

DO NOT WRITE BELOW THIS LINE

026, 027, 028, 029, 030 DEPARTMENTAL PROCESSING INFORMATION		
Application No.: DR2016-091	GP Designation:	Fee Deposit: \$450/WAIVED
Date Received: 7/14/16	Received By: LS	Receipt #: R1550
Date Deemed Complete: 8/10/16	Action:	By: 
Acting Body:		Date:
Conditions of Approval or Comments: _____	Resolution or Ordinance # _____	



**DESIGN REVIEW SUPPLEMENTAL APPLICATION FORM**  
**FOR NEW RESIDENCE OR OTHER MAIN BUILDING**

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

**Use of Site** (example: single family residential, retail, office, service, etc.):

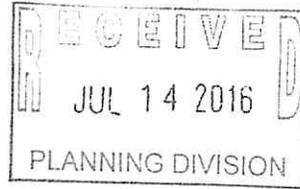
Existing: Undeveloped Residential lot

Proposed: New single family residence

Square Footage of Landscape Area: 530 SF

TO BE COMPLETED BY APPLICANT			STAFF USE ONLY	
ITEM	EXISTING (if existing building is to be demolished)	PROPOSED (reflects proposed construction)	CALCULATED	PER ZONE
Setbacks from property line (Section 16-100.020(y))* Front	N/A ft.	VARIES 0'-0" TO 8'-10 1/2" ft.	ft.	ft.
	Rear	N/A ft. 20%	ft.	ft.
	Right Side	ft. 3'	ft.	ft.
	Left Side	ft. 3'-4"	ft.	ft.
Maximum Height (Section 16-30.050)*	ft.	42'-11" ft.	ft.	ft.
Lot Coverage (Section 16-30.120(B))*	sq.ft.	1227 sq.ft.	sq.ft.	sq.ft.
Lot Coverage as Percent of Lot Area	%	62.3 %	%	%
Gross Floor Area (Section 16-100.020(F))*	sq.ft.	1908 sq.ft.	sq.ft.	sq.ft.
Net Floor Area (if office building) (Section 16-32.040)	Sq.ft.	Sq.ft.	Sq.ft.	Sq.ft.
Number of Parking Spaces Provided	spaces	3 spaces	spaces	spaces

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



**COMMUNITY DEVELOPMENT DEPARTMENT**  
 Planning Division (415)-435-7390  
[www.ci.tiburon.ca.us](http://www.ci.tiburon.ca.us)

**APPLICATION FOR VARIANCE**

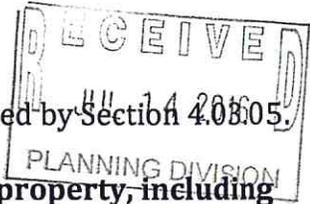
A Variance is a form of regulatory relief available when a strict or literal application of zoning development standards would result in practical difficulties or unnecessary physical hardships for an applicant. These difficulties and/or hardships must be caused by physical conditions on, or in the immediate vicinity of, a site. Please refer to Section 16.52.030 of Chapter 16 (Zoning) of the Tiburon Municipal Code for additional information regarding Variances.

**WHAT VARIANCE(S) ARE YOU REQUESTING?**

<b>Condition</b>	<b>Zoning Requirement</b>	<b>Existing Condition</b>	<b>This Application Proposes</b>	<b>Magnitude Of Variance Requested</b>
Front Setback	15'-0"		0	15'-0"
Rear Setback				
Left Side Setback	8'-0"		3'-4"	4'-8"
Right Side Setback	8'-0"		3'-0"	5'-0"
Lot Coverage	30%		62.3%	32.3%
Height	30'-0"		42'-11"	12'-11"
Parcel Area Per Dwelling Unit				
Usable Open Space				
Parking				
Expansion of Nonconformity				
Other (Please describe):				

## Variations

In order to grant variations all of the following finds are required by Section 4.08.05.



- 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.**

85 Eastview has a small size and steep topography both by the standards of Corinthian Island and 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.

Furthermore, because of the recently discovered conflict in the property boundaries the property is further burdened and restricted well beyond what the owners thought they owned.

- 2. The variations 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 on Corinthian Island and most all the properties on the same side of Eastview Avenue have received variations (or were built with non-conforming conditions ) for reduced setbacks, excess lot coverage and excess building height. Note that #83 Eastview is actually built several feet over it's property line on the west side adjacent to the proposed project into a section of land that is not owned by anyone. This land or "hiatus" does contribute to an increased side yard setback that is actually larger then the official 3'-0" setback requested. If this ±9'-0" wide "hiatus" was split between the two properties then the perceived east side yard setback would be ±7'-6" at the upper section of the home and 12'-6" at the downhill section of the home.

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

The strict interpretation of the required yard setbacks, lot coverage and building height would result in an exceptionally small house on the site. The house would be very narrow and pushed down the hill away from the front property line in a manner that would create an impractical house design. Simply said, without the granting of these variations it would be impossible to build a home on this site.

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

The proposed project will not create substantial view blockage or access to light for other homes in the area. Per the request of the neighbor to the east the house has been located as close to the street as possible to further mitigate impacts on their property. Any potential privacy concerns on the east side of the building can be addressed by the use of nontransparent glass in the windows.

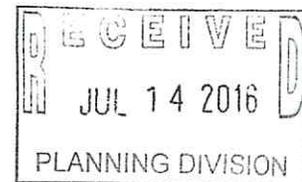
Section 4.02.08 of the Tiburon Zoning Code states that the Design Review Board may grant exceptions to the required floor area ratio requirements if it makes the following two findings:

- **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; and**

Many of the homes on Corinthian Island are visually prominent, especially when viewed from below, similar to the proposed project and the house approved for this property in 2008. It is also important to note this design is very similar to the design of the adjacent home at #83 Eastview, but is carved into the hill more and the vertical mass is significantly more articulated. The proposed project is compatible with the pattern of the neighborhood as it has a single story garage at the upper street level and presents a taller, vertical structure to the downhill view due to the steepness of the site.

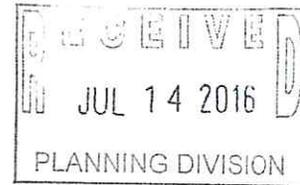
- **The applicant has demonstrated that the proposed structure is compatible with the physical layout of the site.**

As with the previously approved design this design is similar in many ways to the design of #83 Eastview and many of the homes on the down sloping side of Eastview Avenue. All the homes have a garage or one story structure at the upper most portion of the site and present a taller, vertical structure to the lower level. The house has been carved into the hillside as much as possible and steps down the hill where possible to reduce the overall height. Since the lot is so steep and the lot is very small the resulting structure has a vertical quality to it's mass which is typical of the neighborhood.



July, 2016

To: Members of the Tiburon Design Review Committee  
From: David & Tandy Ford



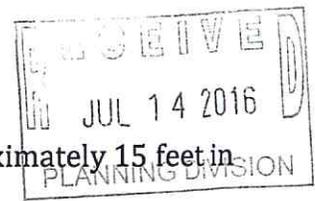
In November, 2015 we presented an application to build a new home at 85 Eastview. During the application process we were advised that the lot size was not as represented when we purchased it, which made development as intended impossible. We have now made a new application based on the most recent survey of the lot prepared by Lawrence Doyle.

## **BACKGROUND**

In April 2015 my wife and I had purchased lot 72, 85 Eastview Avenue. We purchased the property with the understanding that the lot size was as delineated by markers placed by the sellers' surveyor, JL Engineering; that a record of survey had been filed consistent with the JL Engineering markers; that the lot was as represented in architectural plans prepared by the sellers' architect, Miles Berger; that the lot was as set forth in the assessor's parcel map; and that the sellers had no knowledge of any lot line issues. In part because Design Review had previously approved the Berger prepared plans, we had no suspicion whatsoever that the lot was anything other than represented.

In December of last year, after substantial effort had already been made to obtain approvals for our new design, our surveyor, Lawrence Doyle, advised us that due to an "exception" in our deed, the 85 East View lot was approximately 15 feet narrower than represented by the sellers and 15 feet narrower than what appeared in the Berger plans previously submitted to this Committee.

Doyle had been hired to not only survey our lot, but was retained by the new owner of 87 Eastview and her architect, Miles Berger. In the course of reconciling the common lot line between our lot and hers, Doyle discovered that inconsistencies between two subdivision maps resulted in an overlap of the two parcels. As described to us, the 87 Eastview property lot lines were established by the 1908 Map of Corinthian Island, whereas the 85 Eastview property lot lines were established by a subsequent map created in 1924. The maps are inconsistent, and the described lots overlap by approximately 15 feet. Our deed gave precedence to the 87 Eastview lot line description and created an exception acknowledging that the overlap between the two properties was part of the 87 Eastview lot. In short



the overlap between the two maps reduced our parcel by approximately 15 feet in width.

The result of the lot line discrepancy uncovered by Doyle was that 85 Eastview was not as represented, and certainly not as represented to both us and Design Review by the previous owners and Miles Berger in their application.

Adding to the confusion and development nightmare, Doyle also discovered that the home constructed on 87 Eastview was largely constructed off the lot lines set forth in the 1908 map, and is actually situated in the middle of the Eastview right of way. Further, on the other side of our lot, Doyle discovered a strip of land that was never deeded to anyone by the original owners going back to the early 1900s, creating a "hiatus" strip between 85 Eastview and 83 Eastview. Also, like the home at 87 Eastview, the home at 83 Eastview was partially built beyond its lot lines and now extends over the "hiatus" area.

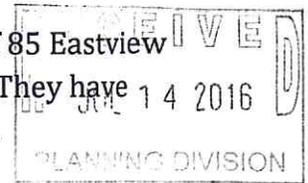
The lot line issues are more readily apparent from the attached maps.

#### **UNSUCCESSFUL ATTEMPTS TO RECTIFY THE LOT LINE PROBLEM**

During our initial Design Review process, and before we had any knowledge of the lot line issues, we received what seemed to be an odd email from the new owner of 87 Eastview in which she mentioned the existence of a "lot line issue". We wrote her back suggesting she schedule a time to meet with our architect and asked her what she meant by the "lot line issue." She didn't answer. In fact through months of trying to reach her, speak to her, write to her, and meet with her attorney ... she has never directly responded to us, choosing instead to point to the Doyle survey and lay claim to the overlap.

While we can't argue with the surveyor's findings or the claim made by the owner of 87 Eastview, we did try to rectify the problem in several different ways. We offered to buy all, or a portion, of the overlap she laid claim to. We offered to pay what we considered a very high price but she never responded to our offer. We even suggested taking joint action to reset the lot lines consistent with the general community understanding and with building placement on the affected lots. We even enlisted the sellers of our lot to intervene and contribute to a purchase or broker an agreement that would allow us to go forward with development of the lot we thought we purchased. Unfortunately in all cases the owner of 87 Eastview chose not to respond to us or consider any practical approach to the problem.

On several occasions we have even demanded that the sellers of 85 Eastview (now residing in Virginia) rescind the sale and buy back the property. They have refused, preferring to seek resolution through mediation and litigation.



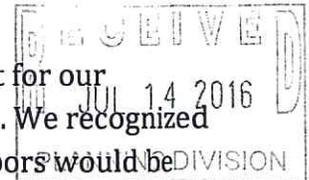
## **OUR INITIAL EFFORTS TO DEVELOP 85 EASTVIEW**

In the Spring 2014, prior to even purchasing the lot, we wrote a letter to residents of Corinthian Island advising them that we were doing due diligence and asked for feedback. We gave our phone number, residential address and email address. We didn't get a large response, but that letter led to dialogue with the owners of 83, 84, 100 and the administrator for the estate of the previous owner of 87 Eastview. In the Spring 2014 we also met with the Fire Department and the Planning Department to solicit feedback. Based on that research, and armed with significant information provided by the previous owners, their architect, their surveyor and the listing agent, we purchased the property. After closing we found a builder who we were sure would both do a great job and would be sensitive to building on Corinthian Island. We selected Tim Peterson. Tim grew up in Tiburon, lives in Tiburon, has his office immediately below the site and is very experienced building on small hillside lots. Tim often works with David Thompson and suggested that David be retained as the architect for the project. Tim took us to look at one great example of a project they had previously collaborated on.

While we liked the previous design, and for the most part replicated it in our initial submission to Design Review, we chose David as our architect because of his successful collaboration with Tim. The only initial instruction we gave him was to remove the car elevator from the initial design presented as part of our purchase package. What my wife and I wanted more than anything was a very energy efficient home (we hope to be LEEDS Certified) with a great walk score. We wanted a house we'd be very proud of, a house with a small carbon and water use footprint, a house that could be a great example of what could be done with an infill lot.

During the design process for our original plans we again consulted with as many of our neighbors as we could to seek and incorporate their input. While the design presented in November began with the previous approved design, we made small changes based on feedback that we hoped everyone would agree were improvements. For reasons best known to him, Berger circulated an email encouraging opposition to the design we submitted - even though the design was nearly identical to his original plans (except for the removal of the car elevator). That email seemed to result in opposition by the owners of 83, 84 and 87 Eastview.

Following the November Design Review meeting, and out of respect for our neighbors, we immediately set out to make every change requested. We recognized the sensitivity of every issue raised and hoped that all of our neighbors would be pleased with our efforts to address their concerns. . While in the process of preparing a new submission, we were advised by Doyle of the lot line issue.



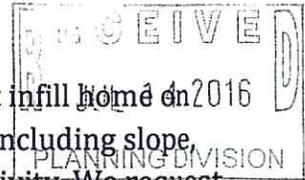
### **THE NEW PLAN TO DEVELOP 85 EASTVIEW**

Recognizing that the Doyle survey limited our options for development, and being unable to come to some reconciliation with the owner of 87 Eastview, we addressed a new development plan regularly with both the Town Planning Department and the Fire Department. Faced with a significantly smaller lot and the challenges of a very steep site, we worked closely with the Planning Department and Fire Department to consider reasonable options. Ultimately we based the design presented here on discussions with them as to appropriate setbacks and variances.

Based on those discussions, and their suggestions, we moved the home closer to both the lot line on the east and the west lot borders. It's important to note that the lot line to the east is buffered by the "hiatus" that adds an additional (approximately) 8 feet of buffer between the properties.

Consistent with the Doyle survey we've proceeded with the lot as per the drawings provided here. The lot is approximately 45 feet wide at upper Eastview and quickly narrows to approximately 31 feet. Thus we've designed the house presented not to the dimensions of the 45 foot wide lot we thought we bought, but to the 31 foot wide lot we indisputably own.

While we know Design approval is often difficult, misrepresentation concerning true lot lines has made this process extraordinarily difficult and stressful. My wife and I wanted to build a great example of what could be accomplished on an infill lot and we still want to do that. We have reconciled ourselves to a smaller and more expensive house, but still want to move forward. Although we understand lot line issues are prevalent on Corinthian Island, in this instance the matter goes well beyond the norm. Our problem is further exacerbated by the fact that we didn't even know there was a lot line issue with this lot, and believed the sellers when they told us that a record of survey had been filed establishing lot lines consistent with corner markers and the Berger plans. Frankly, while this process has been unduly stressful, we hope for a congenial neighborhood experience but fear all of these issues might make that difficult to achieve. We sincerely hope not.

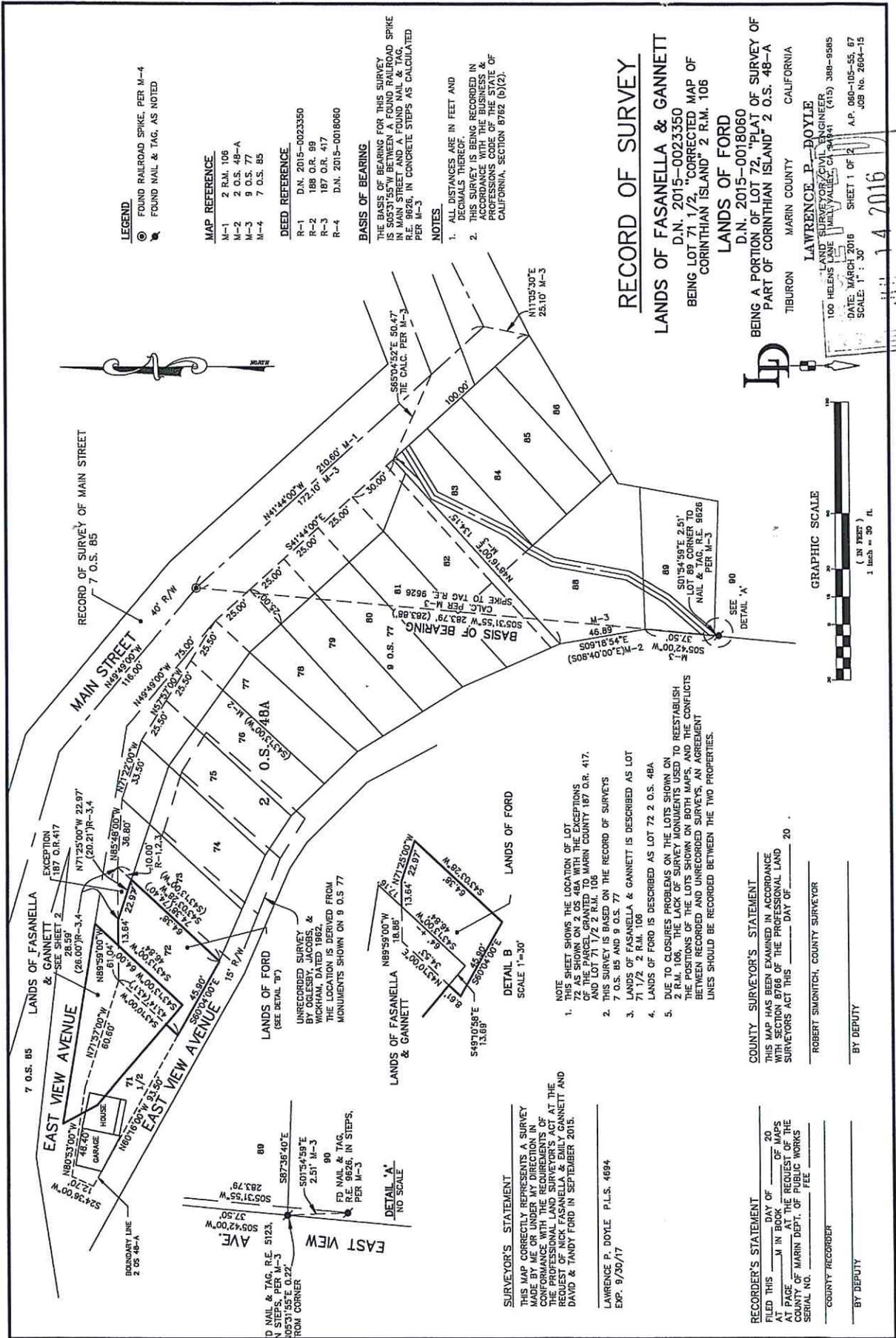


Thus we present to you today an energy and water efficient infill home on what is today an unusually small infill lot. The lot has restrictions including slope, size and access. We have worked hard to address each with sensitivity. We request several variances. We have no choice but to ask for height and setback variances.

With regards to the setback variances we consulted with the Town Planning Department and the Fire Department and have designed a house asking for less variance than we believe they were willing to recommend and accept. In order to preserve emergency access, we have included steps along entire west side of the house and doors to the outside from every level. In addition, the house will be built to the strictest fire safety standards pursuant to our discussions with the Fire Marshall. In addition, while we've mentioned the hiatus we do hope to work with the owner of 83 Eastview to possibly gain "quiet title" and split both the cost and the land gained. Regardless, the hiatus adds an additional buffer between lots and, as discussed with the Fire Department allows for necessary access on the west side of the house as well.

We have an architect and a builder with significant experience building on small steep lots with minimal setbacks. In fact they are currently working on a comparable home in Sausalito and we would be happy to share that address with you. We are sensitive to the needs of the Town, the Fire Department and our Corinthian Island neighbors and hope and expect everyone will be proud of the results we achieve here. We expect the new home as designed to be a great example of taking what is today a rather unsightly infill lot and making great and efficient use for not only our benefit but for the benefit of the community.

Thank you.



**LEGEND**

- FOUND RAILROAD SPIKE, PER M-4
- ⊗ FOUND NAIL & TAG, AS NOTED

**MAP REFERENCE**

- M-1 2 R.M. 106
- M-2 2 O.S. 48-A
- M-3 9 O.S. 77
- M-4 7 O.S. 85

**DEED REFERENCE**

- R-1 D.N. 2015-0023350
- R-2 188 O.R. 99
- R-3 187 O.R. 417
- R-4 D.N. 2015-0018060

**BASIS OF BEARING**

THE BASIS OF BEARING FOR THIS SURVEY IS S05°31'55"W BETWEEN A FOUND RAILROAD SPIKE IN MAIN STREET AND A FOUND NAIL & TAG MONUMENT, IN CONCRETE STEPS AS CALCULATED PER M-3.

**NOTES**

- ALL DISTANCES ARE IN FEET AND DECIMALS THEREOF.
- THIS SURVEY IS BEING RECORDED IN ACCORDANCE WITH THE BUSINESS & PROFESSIONS ACT, SECTION 8762 (b)(2), OF CALIFORNIA.

**RECORD OF SURVEY**

LANDS OF FASANELLA & GANNETT  
 D.N. 2015-0023350  
 BEING LOT 71 1/2, "CORRECTED MAP OF CORINTHIAN ISLAND" 2 R.M. 106

**LANDS OF FORD**

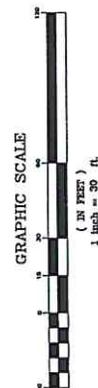
D.N. 2015-0018060  
 BEING A PORTION OF LOT 72, "PLAT OF SURVEY OF PART OF CORINTHIAN ISLAND" 2 O.S. 48-A  
 TIBURON MARIN COUNTY CALIFORNIA

LAWRENCE P. DOYLE  
 LAND SURVEYOR/CIVIL ENGINEER  
 100 HELENS LANE WILLYVILLE, CA 94991 (415) 388-9585

DATE: MARCH 2016 SHEET 1 OF 2  
 SCALE: 1" = 30'

APR 14 2016

PLANNING DIVISION



**SURVEYOR'S STATEMENT**

THIS MAP CORRECTLY REPRESENTS A SURVEY MADE BY ME OR UNDER MY DIRECTION IN CONFORMANCE WITH THE REQUIREMENTS OF BUSINESS & PROFESSIONS ACT, SECTION 8762 (b)(2), AT THE REQUEST OF LUCKY FASANELLA & FAMILY GANNETT AND DAVID & TANDY FORD IN SEPTEMBER 2015.

LAWRENCE P. DOYLE P.L.S. 4694  
 EXP. 9/30/17

**RECORDER'S STATEMENT**

FILED THIS \_\_\_\_\_ DAY OF \_\_\_\_\_ 20\_\_\_\_  
 AT \_\_\_\_\_ M IN BOOK \_\_\_\_\_ OF MAPS  
 COUNTY OF MARIN DEPT. OF PUBLIC WORKS  
 SERIAL NO. \_\_\_\_\_ FEE \_\_\_\_\_

**COUNTY RECORDER**

BY DEPUTY

**COUNTY SURVEYOR'S STATEMENT**

THIS MAP HAS BEEN EXAMINED IN ACCORDANCE WITH SECTION 8766 OF THE PROFESSIONAL LAND SURVEYORS ACT THIS \_\_\_\_\_ DAY OF \_\_\_\_\_ 20\_\_\_\_.

ROBERT SIMONITCH, COUNTY SURVEYOR

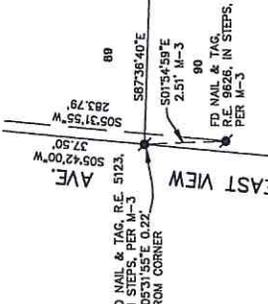
BY DEPUTY

- THIS SHEET SHOWS THE LOCATION OF LOT 72 AS SHOWN ON 2 O.S. 48A WITH THE EXCEPTIONS AND LOT 71 1/2 2 R.M. 106 MARIN COUNTY 187 O.R. 417.
- THIS SURVEY IS BASED ON THE RECORD OF SURVEYS 7 O.S. 85 AND 9 O.S. 77
- LANDS OF FASANELLA & GANNETT IS DESCRIBED AS LOT 71 1/2 2 R.M. 106
- LANDS OF FORD IS DESCRIBED AS LOT 72 2 O.S. 48A.
- DUE TO CLOSURES PROBLEMS ON THE LOTS SHOWN ON 2 R.M. 106, THE LACK OF SURVEY MONUMENTS USED TO REESTABLISH THE POSITIONS OF THE LOTS SHOWN ON BOTH MAPS, AND THE CONFLICTS BETWEEN RECORDED AND UNRECORDED SURVEYS, AN AGREEMENT LINES SHOULD BE RECORDED BETWEEN THE TWO PROPERTIES.

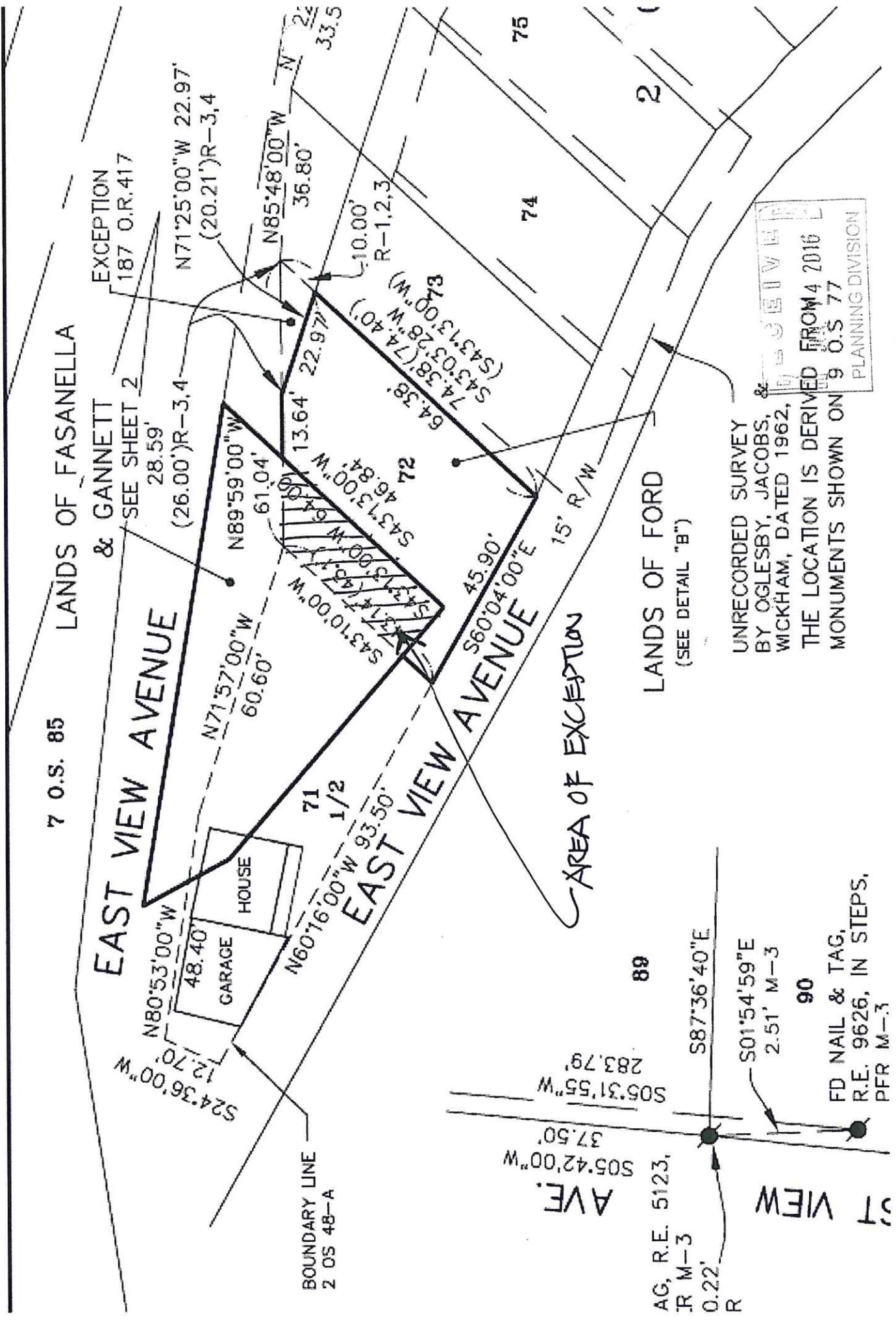
**DETAIL B**  
 SCALE 1"=30'



**DETAIL A**  
 NO SCALE



OFFICIAL RECORD OF SURVEY FOR 87 & 85 EASTVIEW



7 O.S. 85

LANDS OF FASANELLA

& GANNETT

EXCEPTION  
187 O.R. 417

EAST VIEW AVENUE

EAST VIEW AVENUE

AREA OF EXCEPTION

LANDS OF FORD

(SEE DETAIL "B")

UNRECORDED SURVEY

BY OGLESBY, JACOBS, &  
WICKHAM, DATED 1962,

THE LOCATION IS DERIVED FROM 4 2016  
MONUMENTS SHOWN ON 9 O.S. 77

PLANNING DIVISION



BOUNDARY LINE  
2 OS 48-A

89

S05°31'55"W  
283.79'

S01°54'59"E  
2.51' M-3

90

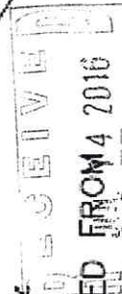
FD NAIL & TAG,  
R.E. 9626, IN STEPS,  
PFR M-3

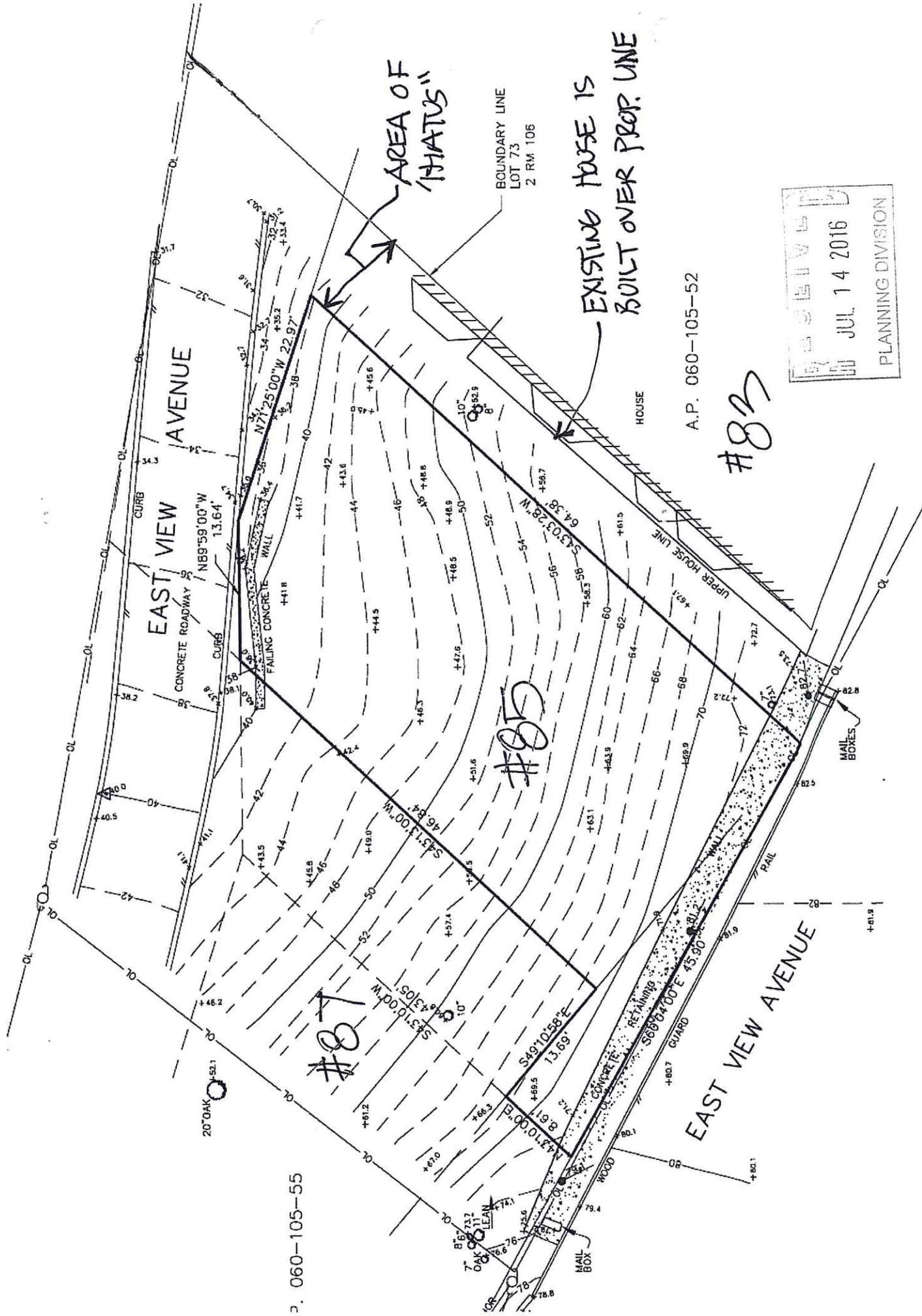
AG, R.E. 5123,  
R M-3

S05°42'00"W  
37.50'

S87°36'40"E

EAST VIEW





AREA OF 'HIATUS'

BOUNDARY LINE  
LOT 73  
2 RM 106

EXISTING HOUSE IS  
BUILT OVER PROP. LINE

A.P. 060-105-52

#83

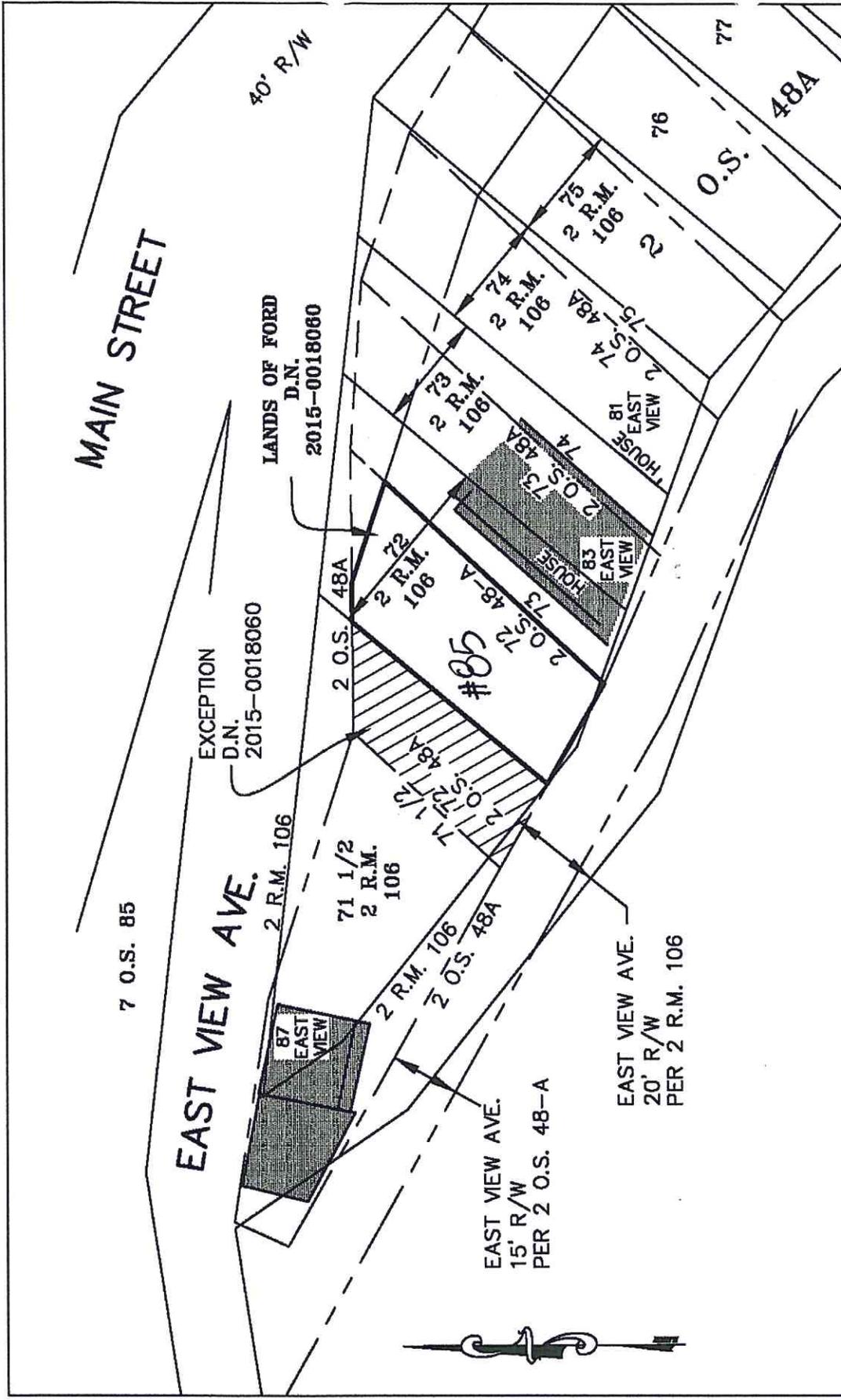
RECEIVED  
JUL 14 2016  
PLANNING DIVISION

#85

#87

P. 060-105-55

SURVEY SHOWING RECORDED BOUNDARY SURVEY FOR #85 EASTVIEW



**BOUNDARY PLAT**  
 A.P. 060-105-67  
 TIBURON MARIN COUNTY CALIFORNIA

SCALE: 1" = 30'  
 DATE: 12/14/15  
 DRAWING NO. 2604-PLAT

**LAWRENCE P. DOYLE**  
 LAND SURVEYOR/CIVIL ENGINEER  
 100 HELENS LANE MILL VALLEY, CA 94941 (415-388-9585)

PLANNING DIVISION  
 SHEET 1 OF 1



REVISD: 1/20/2016  
 UPDATED DEED INFORMATION

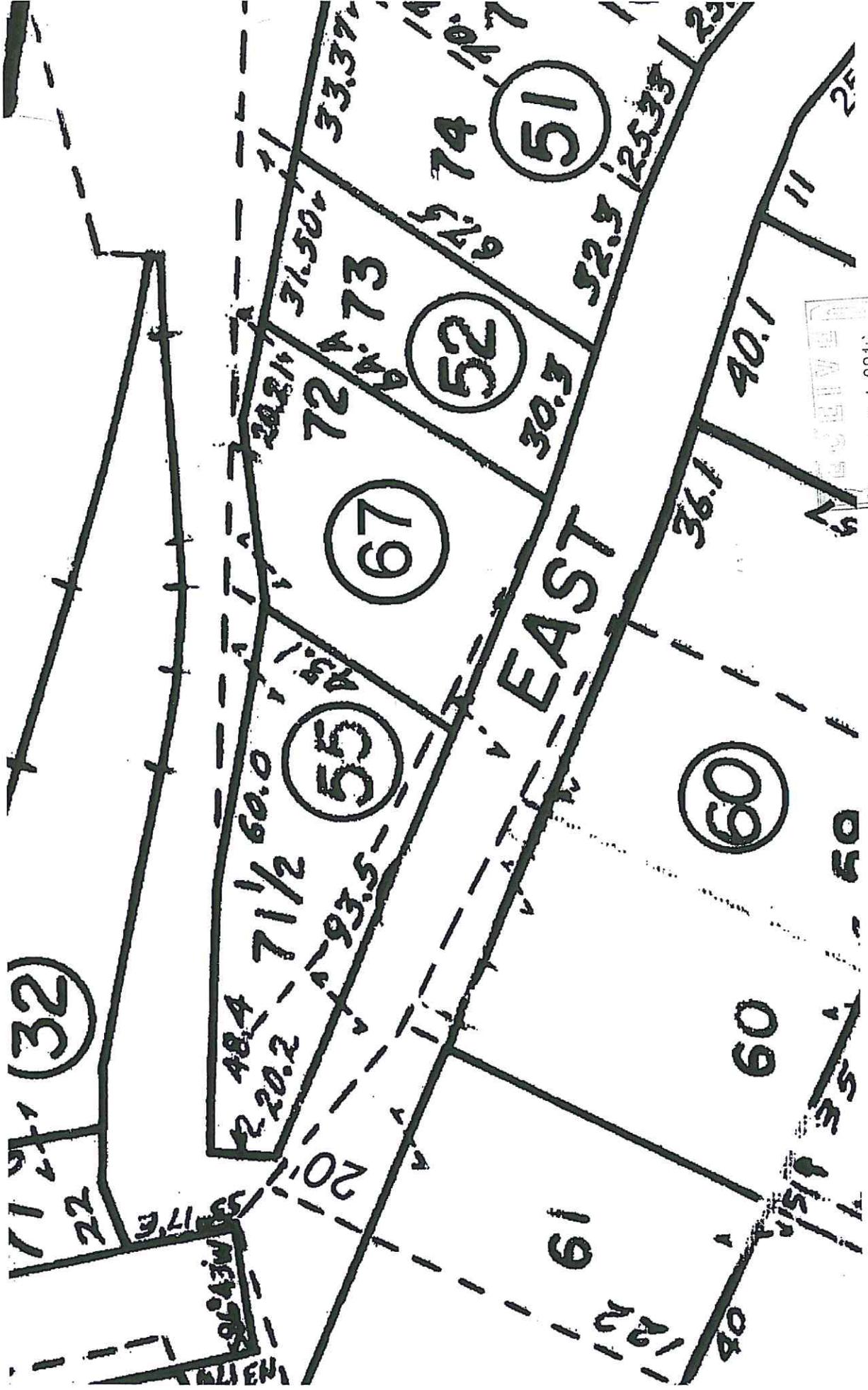
- LEGEND**
- BOUNDARY PER 2 R.M. 106
  - - - BOUNDARY PER 2 O.S. 48-A
  - HOUSE

*PRELIMINARY SURVEY SHOWING*





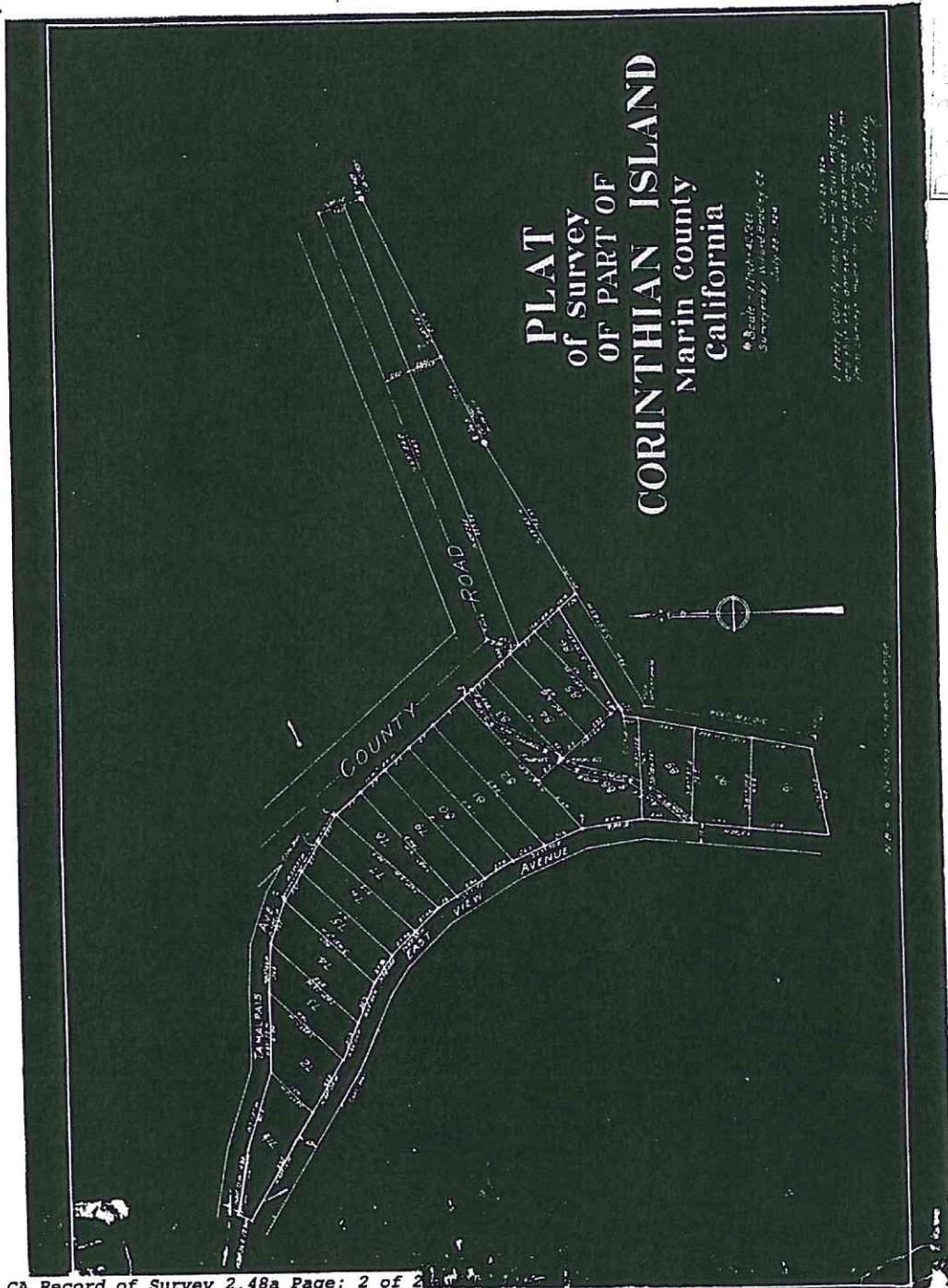
ACCESSORS PARCEL MAP  
MATCHES 1924 MAP



RECEIVED  
JUL 14 2016  
PLANNING DIVISION

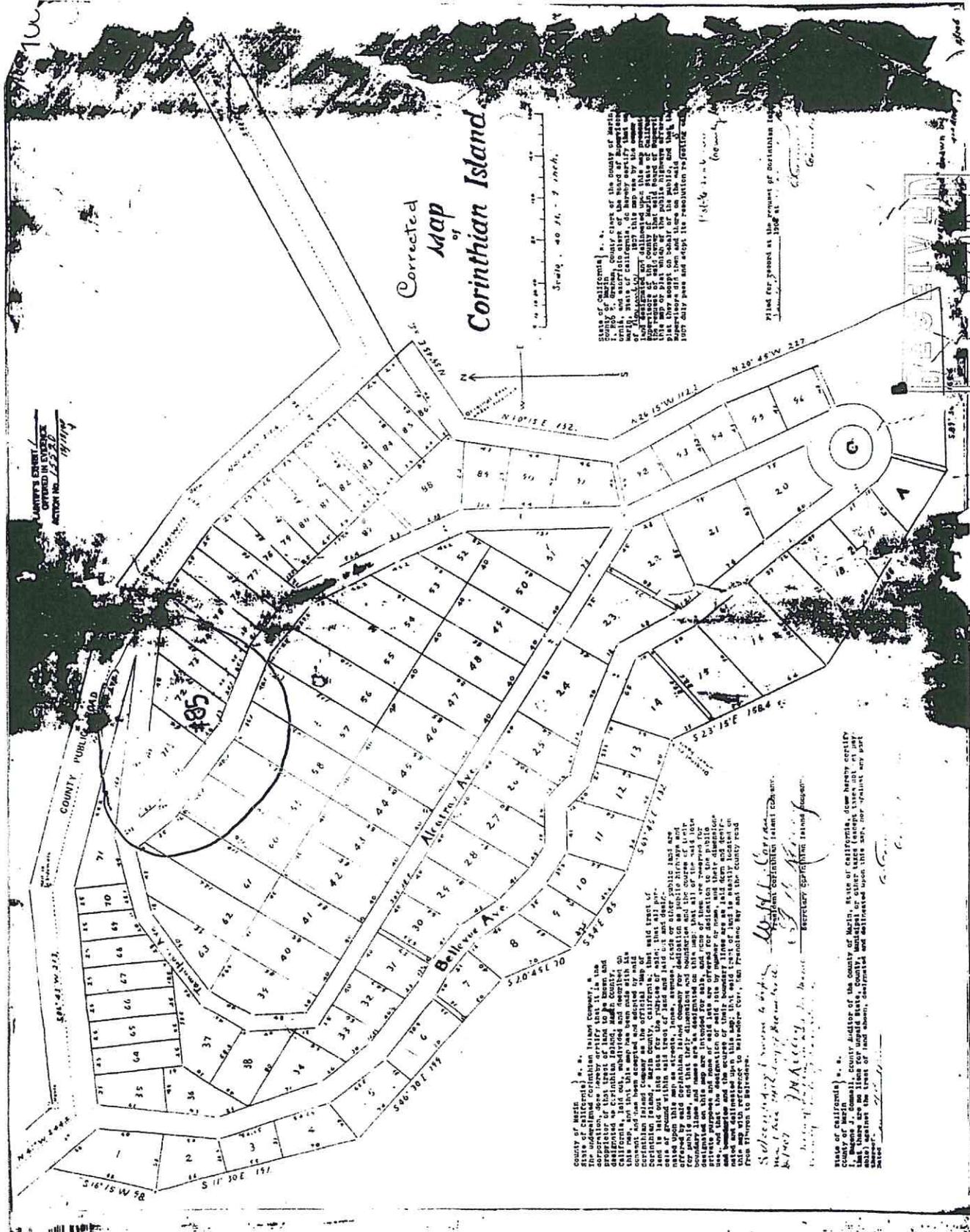
1924 MAP - MATCHES ACCESSORS PARCEL MAP

48-A



RECEIVED  
JUL 14 2016  
PLANNING DIVISION

1908 MAP



Corrected  
Map  
of  
Corinthian Island.

Scale - 40 ft. = 1 inch.

State of California )  
County of Marin )  
I, J. M. ... )  
County Clerk of the County of Marin )  
do hereby certify that the above )  
map was filed for record in the )  
office of the County Clerk of the )  
County of Marin, California, on )  
the 15th day of ... 1908, and that )  
the same complies with the )  
requirements of the laws of the )  
State of California, and that )  
the same is a true and correct )  
copy of the original map as )  
submitted to me for record, and )  
that I have no objection to its )  
being published and used for )  
all purposes for which it was )  
submitted to me for record.

Filed for record at the request of Corinthian Island Company, Inc. 1908

LAND'S OFFICE / OFFICIAL SURVEY / SECTION NO. 12320 / 1908

PLANNING DIVISION

County of Marin )  
I, J. M. ... )  
County Clerk of the County of Marin )  
do hereby certify that the above )  
map was filed for record in the )  
office of the County Clerk of the )  
County of Marin, California, on )  
the 15th day of ... 1908, and that )  
the same complies with the )  
requirements of the laws of the )  
State of California, and that )  
the same is a true and correct )  
copy of the original map as )  
submitted to me for record, and )  
that I have no objection to its )  
being published and used for )  
all purposes for which it was )  
submitted to me for record.

Witness my hand and seal of office at San Francisco, California, this 15th day of ... 1908.

State of California )  
County of Marin )  
I, J. M. ... )  
County Clerk of the County of Marin, State of California, do hereby certify )  
that the above map was filed for record in the office of the County Clerk of the )  
County of Marin, California, on the 15th day of ... 1908, and that the )  
same complies with the requirements of the laws of the State of California, )  
and that I have no objection to its being published and used for all purposes )  
for which it was submitted to me for record.



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

Design Review Board Meeting  
November 19, 2015  
Agenda Item: **5**

## **STAFF REPORT**

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

**From:** Planning Manager Watrous

**Subject:** 85 East View Avenue; File No. VAR2015019; Site Plan and Architecture Review for Construction of a New Single-Family Dwelling, with Variances for Reduced Front and Side Yard Setbacks, Excess Lot Coverage and Excess Building Height, and a Floor Area Exception

**Reviewed By:** \_\_\_\_\_

### **PROJECT DATA**

**ADDRESS:** 85 EAST VIEW AVENUE  
**OWNER:** DAVID AND TANDY FORD  
**APPLICANT:** DAVID THOMPSON (ARCHITECT)  
**ASSESSOR'S PARCEL:** 060-105-67  
**FILE NUMBER:** VAR2015019  
**LOT SIZE:** 2,515 SQUARE FEET  
**ZONING:** R-1 (SINGLE-FAMILY RESIDENTIAL)  
**GENERAL PLAN:** MH (MEDIUM HIGH DENSITY RESIDENTIAL)  
**FLOOD ZONE:** X  
**DATE COMPLETE:** OCTOBER 28, 2015

### **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 a new four-story single-family dwelling on property located at 85 East View Avenue. The subject property is currently vacant.

The first (lowest) level of the house would include two bedrooms and a bathroom. The second level would include a master bedroom suite. The third level would include a living room, kitchen, dining room and a half bathroom. The fourth (highest) level would include a two-car garage and an entry. Decks would extend off the second and third levels, along with access to a patio area on

the first level and a roof deck adjacent to the entry on the fourth level. All four levels would be connected by an interior stairway and an elevator.

The floor area of the proposed house would be 2,593 square feet (103.1%), 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 5 feet, 9 inches of the front property line, which would be less than the 15 foot front yard setback required in the R-1 zone.
- The proposed house would extend to within 5 feet of the east (right) side property line, which would be less than the 8 foot side yard setback required in the R-1 zone.
- The proposed house would cover 1,332 square feet (53.0%) of the site, which is greater than the 30.0% maximum lot coverage permitted in the R-1 zone.
- The height of the proposed house would be 42 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 wood and light grey colored stucco walls, with dark grey trim. The color and materials of the flat roof has not been specified.

## **BACKGROUND**

In 2007, a previous owner of the subject property filed an application (File #20720) for construction of a single-family dwelling on this site. The application included a five-story project design with garages at the lowest level of the building and included requests for variances for reduced front, side and rear yard setbacks, excess lot coverage and excess building height, along with a floor area exception. This application was reviewed at the October 4, 2007 Design Review Board meeting. At that time, several neighboring property owners objected to the overall size of the proposed house, stating that the design was inconsistent with the character of other homes on Corinthian Island and could result in view impacts for nearby residences. The Design Review Board echoed many of these concerns, particularly with the overall floor area and mass and bulk of the house. The application was continued to allow the applicant time to address these concerns.

On March 20, 2008, the Design Review Board considered a revised project design with four levels and garage access on the uppermost level of the house. The Board approved the application with the following exception and variances:

- Floor area of 2,450 square feet (97.2%), 143 square feet greater than the size requested by the current application.

- Reduced front yard setback of 6 inches, less than the 5 foot setback requested by the current application.
- Reduced side yard setbacks of 5 feet of the east (right) side property line and 3 feet of the west (left) side property line, while the requested application requests a 5 foot setback on the east side and an 8 foot setback on the west side. A variance was not requested for reduced rear yard setback for the approved house design.
- Lot coverage of 1,384 square feet (54.9%) of the site, 52 square feet less than the size requested by the current application.
- Excess building height of 42 feet, identical to that proposed by the current application.

## ANALYSIS

### Design Issues

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.

The subject property is steeply sloped, with frontage on East View Avenue above, and extends down to Alcatraz Avenue below. The site is a vacant lot nestled among older homes along the western end of East View Avenue. The lot is visible from the Ark Row portion of Main Street below.

Story poles have been erected for the proposed house. Views of the poles from East View Avenue are somewhat screened by existing vegetation that will likely be removed during construction. The poles do not appear to indicate substantial view impacts for any homes uphill from the site, but would appear to intrude somewhat into the side views from the adjacent residence at 83 East View Avenue.

Staff has compared the proposed plans with those approved for the previous house in 2008 to evaluate the relationship of the proposed house to the home at 83 East View Avenue. The proposed house would extend approximately 1 foot, 3 inches further to the rear than the previously approved building and would be 5 feet, 6 inches taller at the rearmost point of the structure. As a result, there would be more building mass visible from the decks and windows of the rearmost portion of the adjacent home than was previously approved by the Design Review Board. The neighboring property owner has requested that the Design Review Board consider directing the applicant to pull the house closer to the front property line to alleviate the visual impacts of the rear portions of the house. The Design Review Board is encouraged to view the story poles from the home at 83 East View Avenue, as well as from the house to the west at 87 East View Avenue.

The only windows on the east elevation of the proposed house facing this neighboring residence would be narrow windows illuminating the internal stairway. The adjacent property owner has requested that these windows be made nontransparent to reduce any potential privacy impacts. With the exception of the uppermost level deck, the other proposed exterior decks would be oriented away from the home at 83 East View Avenue toward the home to the west at 87 East View, which is also oriented to the west, away from the subject property.

Several neighboring property owners have raised concerns about construction staging for this project. Although construction-related issues are generally not within the purview of the Design Review Board, the design of the house would leave little or no room for construction staging on the property, potentially causing construction impacts to overflow onto nearby streets. Staff recommends adoption of condition of approval requiring approval of a construction staging plan by the Building Official prior to issuance of a building permit for this project.

### **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 yard setbacks and excess lot coverage and 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.

- 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 properties on Corinthian Island have received variances for reduced setbacks, excess lot coverage and excess building height and the Design Review Board approved similar variances for a construction of a new house on this site in 2008.

- 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 yard setbacks, lot coverage and building height would result in a very small house on the site that would be inconsistent with the development pattern of other homes on Corinthian Island. The house would be very narrow and pushed down the hill away from the front property line in a manner that would create an impractical house design.

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 would not create substantial view impacts for other homes in the vicinity and potential privacy impacts may be addressed through the use of nontransparent glass for windows on the east side of the building.

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 proposed house and the design of the house approved for this property in 2008.

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.***

Although the vertical nature of the proposed house design could be considered to be incompatible with the physical layout of the site, the steepness of the subject property and the limited lot size substantially restricts the ability of any house design to more closely follow the contours of the site.

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

### **Public Comment**

As of the date of this report, two letters have been received regarding the subject application from the owners of the adjacent properties at 83 & 87 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 attached conditions of approval be applied.

## ATTACHMENTS

1. Conditions of approval
2. Application and supplemental materials
3. Submitted plans
4. Letter from Ulriz Binzer, dated November 12, 2015
5. Letter from Emily Gannett and Nick Fasanella, dated November 12, 2015

Prepared By: Daniel M. Watrous, Planning Manager

the new residence do not match the plans for the established building envelope. The submitted plans show the established building envelope 26 feet from the eastside property line and the established building envelope is 27 feet from the property line. Staff added a condition of approval to have the plans show the proposed home within the established building envelope, but with the correct distance from the property line.

Mohamad Sadrieh, architect, said that the access to this property is via a driveway that opens to a corner of the lot. He described the house design and said the placement of the rooms to capture views and provide access to the back yard. He said that in order to protect the views of neighbors and access the lower yard directly, they would lower the grade at the garage by 4-5 feet. He said that they are requesting no variances or exceptions and have contacted all neighbors and heard no objections to the project.

There were no public comments.

Boardmember Cousins asked for clarification regarding the issue with the building envelope. Associate Planner O'Malley stated that the Town Council approved a change to the building envelope to move it within 27 feet from the side property line and the drawings need to be updated to comply with that change.

Boardmember Cousins said that the plans comply with the Hillside Design Guidelines and it is an attractive design. He supported the project.

Boardmember Chong stated that this would be a lovely house. Vice Chair Kricensky agreed that the project had done a nice job of complying with the Hillside Design Guidelines and the zoning requirements.

**ACTION:** It was M/S (Emberson/Cousins) that the request for 25 Gilmartin Drive is exempt from the California Environmental Quality Act and to approve the request, subject to the attached conditions of approval. Vote: 4-0.

Boardmember Chong recused himself from the following item.

5. **85 EAST VIEW AVENUE:** File No. VAR2015019; David and Tandy Ford, Owners; Site Plan and Architectural Review for construction of a new single-family dwelling, with Variances for reduced front and side yard setbacks, excess lot coverage and excess building height, and a Floor Area Exception. The applicant proposes to construct a new four-story, 2,593 square foot house, which would result in a floor area ratio of 103.1%, which is greater than the 35.0% maximum for a lot of this size. The front yard setback would be 5 feet, 9 inches in lieu of the minimum 15 feet and the east side yard setback would be 5 feet, in lieu of the minimum 8 feet. The lot coverage of the house would be 1,332 square feet (53.0%), which is greater than the 30.0% maximum lot coverage permitted in the R-1 zone. The house would be 42 feet tall, in lieu of the maximum building height of 30 feet. Assessor's Parcel No. 060-105-67.

The applicant is requesting Design Review approval for the construction of a new four-story single-family dwelling on property located at 85 East View Avenue. The subject property is currently vacant. The first (lowest) level of the house would include two bedrooms and a bathroom. The second level would include a master bedroom suite. The third level would include a living room, kitchen, dining room and a half bathroom. The fourth (highest) level would include a two-car garage and an entry. Decks would extend off the second and third levels, along with access to a patio area on the first level and a roof deck adjacent to the entry on the fourth level. The floor area of the proposed house would be 2,593 square feet (103.1%), 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 5 feet, 9 inches of the front property line, which would be less than the 15 foot front yard setback required in the R-1 zone.
- The proposed house would extend to within 5 feet of the east (right) side property line, which would be less than the 8 foot side yard setback required in the R-1 zone.
- The proposed house would cover 1,332 square feet (53.0%) of the site, which is greater than the 30.0% maximum lot coverage permitted in the R-1 zone.
- The height of the proposed house would be 42 feet, which is greater than the 30 foot maximum building height in the R-1 zone.

David Thompson, architect, presented images of the project from different vantage points. He stated that the owners found this property appealing due to its location and the fact that a similar size and style home had previously been approved for this lot. He said that the proposed design did not exceed the style or scope of that other earlier project. He described the elements of the project design and stated that the roof was kept as low as possible to minimize the height. He said that the owners' preference was a contemporary design and he displayed a drawing comparing this project with the previously approved house design. He pointed out a discrepancy in the staff report comparing the two projects and stated that the previously approved house would have extended 15 inches beyond the footprint of the proposed project, had more mass extending down on the fourth floor and also would have extended within a foot of the street at the front. He said that the extent and height of the proposed project would be slightly less than the previous project, but both are contemporary style designs and have a similar approach to glazing and massing. He noted that the proposed floor area was slightly larger than that of the previously approved project, but he felt that this was misleading because the other project had about 1,000 square feet of basement space. He said that they were asking for approval of a project that would be slightly less impactful than the previously approved project.

Mr. Thompson said that they have reached out to adjacent neighbors and one uphill neighbor expressed concerns about road closures. He said that they reached out with a design and met with

three neighbors. He said that one of the concerns from the owner of 87 East View Avenue was blocking views to Angel Island and Raccoon Strait, but he believed that any views in that direction are already blocked more by existing structures. He said that the neighbor was also concerned about the closeness to the neighboring property and light blockage, but the proposed house would be at the setback line and within the rear yard setback, but there would be some shading, probably in the early morning. He said that they were also concerned with the bank of windows that could compromise their privacy, but he stated that the windows would be further to the north and not orientated toward the neighboring property.

Mr. Thompson stated that another neighbor at 83 East View Avenue suggested moving the building six feet up the hill to preserve views. Mr. Thompson stated that this project would have the same impacts as the previously approved project. He said that the main source of views and light is from the rear of the homes along East View Avenue. He noted that the Hillside Design Guidelines state that the views across a vacant lot are considered “borrowed” until the vacant lot is developed. He said that they proposed to eliminate the solid guardrail and replace it with a solid glass guardrail to reduce the visual mass of the building and preserve views and light. He said that a geotechnical report was done for the site and there is nothing that would negatively affect construction on the site. He acknowledged that construction projects on Corinthian Island are challenging, but noted that most houses in the area were built without the code requirements and civil engineering practices that are now in place, yet all managed to be built on the same one-way road that as the subject property.

The public hearing was opened.

Brian Matas said that he lives directly across from this proposed construction. He said that East View Avenue is a substandard road and they are very concerned about any construction that could have an adverse effect on the homes on the street. He suggested that the house size was excessive and out of character with the other homes in the vicinity, with variances in all directions. He was also concerned about the stability of the lot and stated that in 1982 the road slid at this location, including the asphalt and extending close to his own house, so he was concerned that this proposed home is on the site of a slide. He said that he had not seen any of the studies that have been done and he believed that the Town should ensure that East View Avenue is not further compromised. He said that there is a risk to surrounding homes during construction and expressed concern about responsibility or liability to surrounding properties. He said that construction would also impact emergency services and he felt that there should be a requirement that East View Avenue be accessible at all times.

Ulrik Binzer said that the proposed house would eliminate views and natural light from their main living areas and his neighbors at 87 East View Avenue would also lose views. He said that these impacts could be avoided by moving the house closer to the street. He presented a schematic drawing of the views that would be impacted from his home and photographs from inside his home. He said that there would be a massive concrete wall right in front of each of his main living areas. He also showed a photograph from 87 East View Avenue showing their potential view impacts. He said that moving the house into the hillside would maintain most of these views. He stated that every house on Corinthian Island is close to the street and it is rare to have a third guest parking spot in this area. He made several arguments to show that moving the

house closer to the street was doable and important to maintain views. He stated that there were discussions with Town personnel and the original architect who made it clear that the proposed home would never be built on the site. He felt that moving the house closer to the street would strike a better balance between the interests of the applicant and the neighbors.

Emily Fasanella stated that she agreed with everything Mr. Binzer said. She strongly encouraged moving the home closer to the street.

Ken Welter stated that houses on East View Avenue have views from all sides and his own house has 360 degree views. He said that the story poles come up over Mr. Binzer's deck and block his own view. He said that the proposed house would be very large relative to the lot size. He said that his house has 29 pilings and he believed that there will be significant piling driven into the side of the hill to build this house. He was also concerned about the safety of children in the neighborhood during construction.

Janice Westerling concurred with the suggestions provided by other neighbors. She felt that the architect described the proposed house in relation to the previously approved house rather than to what is appropriate for the lot. She believed that a house that asks for variances for lot coverage, setbacks and height would be too large for the site.

Nick Fasanella said that a bank of windows would directly face their house. He said that they were told that the windows would be tinted, which he believes to mean that they would be able to see in his house but he would not be able to see into their house.

Mr. Thompson thought that it was reasonable to use a project that has been approved as a model for the site. He said that he would like to see the views from 87 East View Venue to better understand it and requested an invitation to see them. He said that the house at 83 East View Avenue has a large amount of windows that open out to a roof deck and he believed that there are light and views in that direction. He said that they are open to listening to and analyzing the neighbors' concerns as the project moves forward.

Planning Manager Watrous stated that the color and materials board did not indicate the materials of the roof. Mr. Thompson said that the majority of the roof would be covered with solar panels, but under that it would be a dark color. Planning Manager Watrous asked for a sample of those materials, and Mr. Thompson said that they would provide it.

The public hearing was closed.

Boardmember Cousins said that the previous decision on a house at this site has little bearing and the Board needs to look at what is right for the site at this time. He stated that this is one of the smallest lots in Corinthian Island and the proposed house would be one of the larger homes. He said that the proposed house would be extremely large with multiple variances and needs to have a form that is appropriate for the site. He believed that the side yard setback with 83 East View Avenue must be maintained. He said that the existing houses along the street include a main façade that is two stories and set back, while the proposed house would have three stories and be

out of character with the other homes. He felt that the house would have too much glazing. He suggested reducing the form and scope of the house and pushing it into the hillside.

Boardmember Emberson agreed with Boardmember Cousins' comments and said that she did not want to compare the house with what was approved in the past. She questioned why the house was not pushed back into the hillside, as setting it back more would mitigate several of the problems and comply with the Hillside Design Guidelines. She said that she liked the design of the house and did not see a problem with the windows. She felt that it is a luxury to have an extra guest parking space on the street at the expense of the neighbors' light and views.

Vice-Chair Kricensky agreed with the other Boardmembers. He discussed the concept of borrowed views and said that other homes need to be designed with the understanding that someone is going to build a house on the lot. He agreed with Boardmember Cousins, however, that the house is rather large and would have too many windows that would emanate a lot of light in a relatively dark neighborhood. He said that stepping back the house would dramatically reduce its mass. He said that there is a nice view from 87 East View Avenue but that house would likely be replaced in the future. He said that the big issue was the massing of the house and that stepping it back would preserve neighbors' views and reduce its vertical mass.

ACTION: It was M/S (Cousins/Emberson) to continue the application for 85 East View Avenue to the December 17, 2015 meeting. Vote: 3-0-1 (Chong recused).
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Boardmember Chong rejoined the meeting.

6. **31 APOLLO ROAD:** File No. VAR2015020; Achuck Family Partnership, LP, Owner; Site Plan and Architectural Review for construction of a new single-family dwelling, with a Variance for excess lot coverage. The applicant proposes to construct a new one-story, 2,405 square foot house with a 363 square foot garage. The lot coverage of the house would be 2,768 square feet (32.7%), which is greater than the 30.0% maximum lot coverage permitted in the R-1 zone. Assessor's Parcel No. 034-262-16.

The applicant is requesting Design Review approval for the construction of a new one-story single-family dwelling on property located at 31 Apollo Road. The subject property is currently developed with a single-family dwelling, which would be demolished. The proposed house would include a living room, kitchen, dining room, a master bedroom suite, three additional bedrooms, two more bathrooms and a laundry room. Parking would be provided by an attached one-car garage and an open parking space adjacent to the driveway.

The floor area of the proposed house would be 2,405 square feet, which is 442 square feet less than the floor area ratio for a lot of this size. The proposed house would cover 2,768 square feet (32.7%) of the site, which is greater than the 30.0% maximum lot coverage permitted in the R-1 zone. A variance is therefore requested for excess lot coverage.

Lionel Achuck, owner, said that the building envelope for this site is wider in the front than the rear. He stated that the proposed design would be in keeping with the overall feel of the neighborhood, with an overall mass similar to other existing homes. He said that they received