



TOWN OF TIBURON
1505 Tiburon Boulevard
Tiburon, CA 94920

Design Review Board Meeting
October 6, 2016
Agenda Item: **3**

STAFF REPORT

To: Members of the Design Review Board
From: Planning Manager Watrous
Subject: 6 Via Capistrano; File Nos. DR2016105 & VAR2016036; Site Plan and Architectural Review for the Construction of Additions to an Existing Single-Family Dwelling, with a Variance for Reduced Side Setback
Reviewed By: _____

PROJECT DATA

ADDRESS: 6 VIA CAPISTRANO
OWNER: TOP TIER GROUP, INC.
APPLICANT: JAY SHERLOCK (ARCHITECT)
ASSESSOR'S PARCEL: 038-312-02
FILE NUMBERS: DR2016105/VAR2016036
LOT SIZE: 20,473 SQUARE FEET
ZONING: RO-2 (SINGLE-FAMILY RESIDENTIAL-OPEN)
GENERAL PLAN: M (MEDIUM HIGH DENSITY RESIDENTIAL)
FLOOD ZONE: X
DATE COMPLETE: SEPTEMBER 15, 2016

PRELIMINARY ENVIRONMENTAL DETERMINATION

Town Planning Division Staff has made a preliminary determination that this proposal would be exempt from the provisions of the California Environmental Quality Act (CEQA), as specified in Section 15303.

PROJECT DESCRIPTION

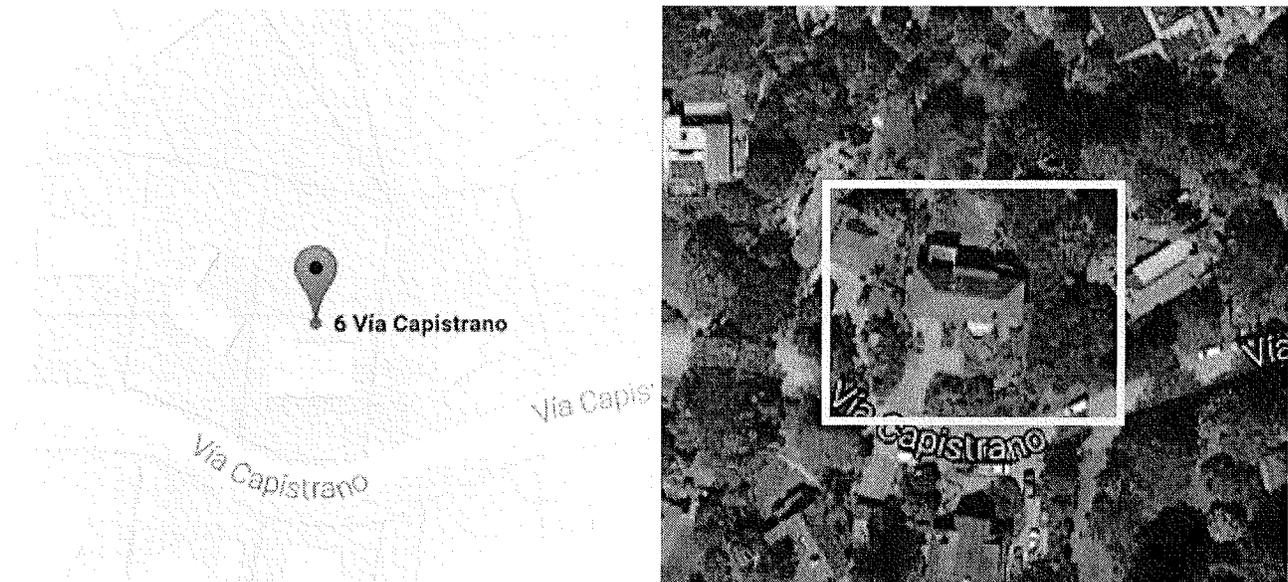
The applicant is requesting Design Review approval for the construction of additions to an existing two-story single-family dwelling on property located at 6 Via Capistrano. Two additions to the rear of the second floor would add an additional bedroom and two bathrooms, and expand the existing master bedroom suite. A bicycle storage room would be added on the first floor behind the garage and below the new bedroom. An outside stairway would be added along the side of the house leading to the new second floor bedroom. The exterior materials of the house would be modified on different elevations.

The floor area of the house would be increased by 661 square feet to a total of 4,026 square feet, which is 21 square feet less than the 4,047 square foot floor area ratio for this site. The proposal would increase the lot coverage on the site by 108 square feet to a total of 2,281 square feet (11.1%), which is less than the 15.0 % maximum lot coverage permitted in the RO-2 zone.

The existing house extends to within 10 feet, 1 inch of the west (left) side property line. One of the proposed additions would follow the alignment of the existing house and would also extend to within 10 feet, 1 inch of the property line. As a 15 foot side setback is required in the RO-2 zone, a variance is requested for reduced side setback.

A color and materials board has been submitted and will be present at the meeting for the Board to review. The house would be refinished with wood siding, light beige stucco and bronze trim. Dark grey composition shingles would be installed on the roof.

PROJECT SETTING



The subject property is situated on a relatively level site on the uphill side of Via Capistrano just west of the intersection with Reed Ranch Road. Mature vegetation extends along the rear and sides of the house.

ANALYSIS

Design Issues

The proposed second floor addition on the right (east) side of the house would include several bathroom windows that would face in the direction of the adjacent home at 4 Via Capistrano. The windows would appear to be screened by a series of mature trees along the common property

line, but the Design Review Board may wish to consider requiring that one or more of these windows use obscure glazing for privacy protection.

The bedroom and bicycle storage additions on the left (west) side of the house would extend into the required side setback. The footprint of the neighboring residence at 8 Via Capistrano angles toward the shared property line, bringing the two dwellings in closer proximity in the area of the proposed additions. The proposed west-facing second floor bedroom windows would be visible over the fence along the side property line from several upper level windows of the adjacent home. The placement of these windows within the required setback would exacerbate potential privacy concerns with the windows of both homes facing each other. In addition, the proposed outside stairway on this side within the required setback would heighten the visibility of residents walking up and down the stairs for the neighboring dwelling.

There do not appear to be any structural issues that would prevent the proposed western addition from being pushed back to comply with the required setback. A smaller addition would slightly reduce the size of the proposed additional bedroom on the second floor and would likely result in a larger first floor family room instead of the currently proposed bicycle storage room. The Design Review Board may also wish to consider eliminating the outside stairway and raising the bedroom window sill heights to lessen any potential privacy concerns with the addition.

Zoning

Staff has reviewed the proposal and finds that it is in conformance with the development standards for the RO-2 zone, with the exception of the requested variance for reduced side setback.

In order to grant the requested variance, the Board must make all of the following findings required by Section 16-52.030 (E) of the Tiburon Zoning Ordinance:

1. ***Because of special circumstances applicable to the property, including size, shape, topography, location, or surroundings, the strict application of this Ordinance will deprive the applicant of privileges enjoyed by other properties in the vicinity and in the same or similar zones.***

The size of the lot is larger than the 20,000 square foot minimum lot size required in the RO-2 zone, and the lot is generally rectangular and has a moderate slope. The existing house is situated within the required west side setback, but the proposed additions could be easily redesigned to comply with the required setback. Therefore staff does not believe that these physical characteristics would create special circumstances that would deprive the applicant of privileges enjoyed by other properties in the vicinity and in the same or similar zones if the minimum side setback requirement is strictly applied.

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 in the RO-2 and similar zones have been granted variances for reduced side setbacks, often to align additions with an existing house footprint or due to topographical constraints on the location of future additions. Therefore, the requested variance would not appear to be a grant of special privileges, inconsistent with the limitations upon other properties in the vicinity and in the same or substantially the same zone.

- 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.*

As noted above, the existing house is situated within the required west side setback, but the proposed additions could be redesigned to comply with the required setback. Staff therefore does not believe that the strict application of the minimum side setback requirement would result in practical difficulty or unnecessary physical hardship.

- 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 location of the proposed additions within the required setback could result in privacy impacts on the home at 8 Via Capistrano.

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

Public Comment

As of the date of this report, 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, the application should be continued with direction to redesign the project to comply with the required side setback. If the Board can make the findings required to approve the requested variance, it is recommended that the attached conditions of approval be applied.

ATTACHMENTS

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

Prepared By: Daniel M. Watrous, Planning Manager

CONDITIONS OF APPROVAL

6 VIA CAPISTRANO

FILE #DR2016105 & VAR2016036

1. This approval shall be used within three (3) years of the approval date, and shall become null and void unless a building permit has been issued.
2. Construction shall conform with the application dated by the Town of Tiburon on August 8, 2016, or as amended by these conditions of approval. Any modifications to the plans of September 27, 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. 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.
7. A construction sign shall be posted on the site during construction of the project, in a location plainly visible to the public. The sign shall be 24” x 24” in size and shall be made of durable, weather-resistant materials intended to survive the life of the construction period. The sign shall contain the following information: job street address; work hours allowed per Chapter 13 of the Tiburon Municipal Code; builder (company name, city, state, ZIP code); project manager (name and phone number); and emergency contact

- (name and phone number reachable at all times). The sign shall be posted at the commencement of work and shall remain posted until the contractor has vacated the site
8. 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.
 9. 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 public right-of-way shall be protected from damage during construction, or repairs shall be made to the satisfaction of the Tiburon Public Works Department.
 - b. Any proposal that would encroach onto the public right-of-way is not permitted. This would include fences, retaining walls and other structures.
 - c. Typical encroachments, such as driveway approaches, walkways, drainage facilities, and short-height landscaping, need to be processed through a standard Public Works encroachment permit application with plans for review.
 10. The final landscape and irrigation plans must comply with the current water efficient landscape requirements of MMWD.
 11. The project shall comply with the requirements of the California Fire Code and the Southern Marin Fire Protection District, including, but not limited to, the following:
 - a. Prior to construction, a vegetation management plan (VMP) shall be submitted for review and approval by the Fire District which includes the following:
 - i. The entire plan content elements described in narrative form.
 - ii. No less than three (3) sets of plans shall be sent for code official review which includes the house, zone, plant type and spacing.
 - iii. The Hazard Assessment matrix.
 - iv. The list of plants to be used and materials consistent with the approval plant list.
 - v. Prepared according to the Southern Marin Fire District Standard 220 Vegetation/Fuel Management Plan.
 - b. Prior to construction, a fire hydrant upgrade is required. When additions or modifications are made, the nearest fire hydrant (if a new one is not required)

located by the Fire Code Official, shall be upgraded to the minimum standard of one 4½ inch outlet and one 2½ inch outlet. An exception to this requirement may be made if the cost of upgrading the fire hydrant exceeds 2% of the cost of the permit based on the building permit valuation.

- c. A vertical overhead clearance of 13'6" shall be maintained free of obstructions above any roadbed (trees, brush, etc.)
- d. A fire sprinkler system shall be required for this project, including the following:
 - i. If the combination of the addition, alteration or remodeling exceeds 50% of the floor area of the existing structure, the project is considered a "substantial remodel".
 - ii. Fire sprinkler coverage shall be provided throughout the entire structure according to Chapter 9 of the California Fire Code.
 - iii. Fire sprinkler system shall be installed according to NFPA 13D and Southern Marin Fire Standard 401.
 - iv. Plans for fire sprinkler design and hydraulic calculations shall be completed by a licensed C-16 sprinkler contractor and submitted to the Southern Marin Fire District, Fire Prevention Bureau for approval prior to installation. Fire sprinkler design and installation shall conform to the provisions of the Southern Marin Fire District Standard 401 and NFPA standard(s) 13, 13D or 13R.
- e. The address shall be posted in accordance with requirements of the California Fire Code and SMFD Standard 205 (Premises Identification).
- f. Smoke and carbon monoxide detectors shall be installed in accordance with the California Building Code.
- g. Noncombustible roofing is required and shall be provided as follows;
 - i. All new roofs shall be non-combustible.
 - ii. Roof repairs or replacement of less than 25% shall have no requirement. Repairs or replacement of 25% to 50% shall use Class C minimum roofing. Repairs of 50% or more shall use non-combustible roofing (Class A roof [for other than Group R Occupancies, a Class A or Class A assembly] as defined by the California Building Code).
 - iii. In no case shall the roofing material used be less fire resistive than the existing roof.

- h. Prior to occupancy, a spark arrestor shall be installed on the chimney(s).
 - i. This project shall comply with California Fire Code Chapter 33 – *Fire Safety During Construction and Demolition*. These requirements include but are not limited to Temporary Heating Equipment, Precautions Against Fire, Flammable and Combustible Liquids, Flammable Gases, Owners Responsibility for Fire Protection, Fire Reporting, Access for Fire Fighting, Means of Egress, Water Supply for Fire Protection, Standpipes, Automatic Fire Sprinkler Systems, Portable Fire Extinguishers, Motorized Construction Equipment, and Safeguarding Roofing Operations.
 - j. Fire access to the project as well as other surrounding properties shall be maintained at all times. Unapproved restrictions in roadway access shall result in citations and vehicles being towed at the owner’s expense.
12. The project shall comply with all requirements of the Richardson Bay Sanitary District.

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:* [Signature] Date: 8/4/16

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:* [Signature] Date: 8/4/16

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

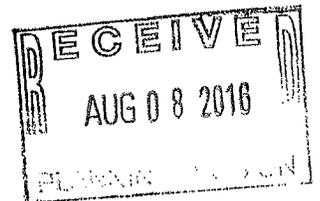
NOTICE TO APPLICANTS

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

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

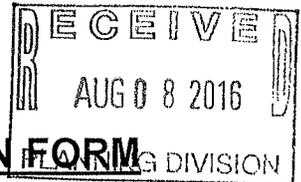
The notice will also provide the status of the proposal and the date of any public hearings thereon which have been set. The Town will determine whether a proposal is reasonably related to your pending application, and send the notice on that basis. Such notice shall be updated at least every six weeks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

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



DO NOT WRITE BELOW THIS LINE

VAR2016036 DEPARTMENTAL PROCESSING INFORMATION		
Application No.: <u>DR2016105</u>	GP Designation:	Fee Deposit: <u>\$1395</u>
Date Received: <u>8/8/2016</u>	Received By: <u>[Signature]</u>	Receipt #: <u>R1658</u>
Date Deemed Complete: <u>9/15/16</u>	Action:	By: <u>[Signature]</u>
Acting Body:	Date:	
Conditions of Approval or Comments: _____	Resolution or Ordinance # _____	



DESIGN REVIEW SUPPLEMENTAL APPLICATION FORM

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

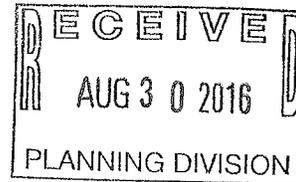
- Briefly describe the proposed project: • (N) INTERIOR RENOVEL • (N) ADDITION TO 1ST LEVEL (108 # TO INCREASE FOOTPRINT • TWO (N) ADDITIONS AT 2ND LEVEL ABOVE THE (E) FOOTPRINT. • (N) EXTERIOR STUCCO AND WOOD SIDING TO REPLACE (E) STUCCO & SIDING.
- Lot area in square feet (Section 16-100.020(L)): 20,473
- Square footage of Landscape Area: NO NEW LANDSCAPING ON THIS PERMIT (EXISTING LANDSCAPE AREA 8,786 PLANTS, TREES, BUSHES)
- Proposed use of site (example: single family residential, commercial, etc.):
 Existing SFR
 Proposed SFR
- Describe any changes to parking areas including number of parking spaces, turnaround or maneuvering areas.
NO CHANGES TO PARKING AREA

TO BE COMPLETED BY APPLICANT				STAFF USE ONLY	
ITEM	EXISTING	PROPOSED ADDITION AND/OR ALTERATION	PROPOSED	CALCULATED	PER ZONE
Yards (Setbacks from property line) (Section 16-100.020(Y))* Front	30' ft.	— ft.	— ft.	ft.	30 ft.
Rear	42'-1 1/2" ft.	— ft.	— ft.	ft.	20%-25 ft.
Right Side	20'-8" ft.	- ft.	- ft.	ft.	15 ft.
Left Side	10'-1" ft.	- ft.	10'-1" ft.	ft.	15 ft. VARI
Maximum Height (Section 16-30.050)*	27'-7 1/2" ft.	— ft.	— ft.	ft.	30 ft.
Lot Coverage (Section 16-30.120(B))*	2,173 sq.ft.	2,281 sq.ft.	2,281 sq.ft.	sq.ft.	3071 sq.ft.
Lot Coverage as Percent of Lot Area	10.6 %	11.14 %	11.14 %	%	15 %
Gross Floor Area (Section 16-100.020(F))*	3,365 sq.ft.	4,026 sq.ft.	4,026 sq.ft.	sq.ft.	4,047 sq.ft. +600

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

August 15th, 2016

Tiburon Planning Department
1505 Tiburon Blvd,
Tiburon, CA 94920



Property Address:
6 Via Capistrano
Tiburon, CA 94920

Description of Variance:

The request for variance is to build in the side setback on the west side of the property. The house was originally built within the existing west side set back and is located between 10'-1" to 10'-7" from the property line. The current side set back is 15 feet.

The proposed addition on the west rear side of the property is a total of 108 square feet. 67 square feet of the 108 square foot addition will be in the side set back. The house and the addition are not parallel to the property line. The proposed addition will be between 10' 7" and 11' 1" from the property line which is farther from the property line than the existing structure.

To create a harmonious addition and not create an unusual jog in the wall we are proposing to continue the addition in line the existing house to prevent an off balance and a potential unsightly condition.

- A. We are requesting the above variance due to the existing subject property characteristics. The subject property has special circumstances due to the unique physical characteristics of the site. The existing structure is perched on a level portion of the lot. To keep a beautiful and harmonious exterior appearance and avoid creating any abnormal angles or to build into the open, usable rear yard we are proposing to keep the west side wall in a continuous straight line, creating a cleaner looking addition. Strict application of this code denies the property owner privileges enjoyed by other owners in this vicinity and under identical zoning districts. Building in the rear yard would reduce rear, private, open space which other neighbors have the privilege of using and enjoying.
- B. The subject property is a single family residence and will remain a single family residence. Granting the variance will not change the use or activity of the property.
- C. Granting the variance will not result in special privileges inconsistent with the limitation upon other properties in the vicinity. Some of the neighboring properties have been built within the current setbacks at time of construction. By granting this variance the owners of the subject property will have privileges enjoyed by other owners in this vicinity and under identical zoning districts. This variance will bring the disadvantage subject property up to the level of use enjoyed by neighbors. The existing structure was originally built in the side setback and the granting of the variance will not result in a special privileges that are inconsistent with limitations on other properties in the vicinity in the similar zone.



- D. The strict application of the zoning regulations would result in practical difficulty forcing the additional space to be not consistent compared to the existing architectural language currently experienced with this structure. Unsightly forced roof lines would be unattractive and new re-entrant corners caused by extruded portions of new additions can increase dangerous conditions during an earthquakes. To avoid squaring off the North West corner we would ensure unnecessary and unreasonable physical hardships to the landowners and the function of the variance is to relieve such consequences.
- E. The granting of this variance will not be detrimental to the public interest, health, safety, convenience, or welfare of the County, or injurious to the property or improvements in the vicinity and zoning district in to which the property is located. By building within the side setback and creating a harmonious exterior appearance we are creating a healthy setting and potential for appreciated value for both the property owners and neighboring properties.

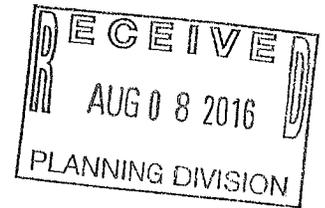
Thank you in advance for your consideration. Please feel free to contact us at any time with questions or concerns.

Best Regards,

Jay Sherlock
Architect, CA#33354
jay@studioj-arch.com
415-999-5803

Plant List

(see A-1.2 for tree locations)



- 8" Pine
- 11" Oak
- (3) 5" Oak
- 8" Oak
- 12" Oak
- 12" Oak
- 10" Oak
- (2) 4" Oak
- (2) 5" Oak
- 7" Oak
- 7" Oak
- 5" Oak
- (2) 7" Oak
- 8" Oak
- 30" Pine
- (4) 4" Oak
- (2) 20" Pine
- 4" Oak
- 19" Pine
- 8" Oak
- 36" Oak
- 10" Oak
- 24" Redwood
- 24" Redwood
- 24" Redwood
- 24" Redwood
- 4" Oak
- 4" Plum
- 17" Redwood
- 19" Redwood
- (2) 13" Redwood
- 8" Oak