



City of Santa Barbara California

PLANNING COMMISSION STAFF REPORT

REPORT DATE: March 3, 2011
AGENDA DATE: March 10, 2011
PROJECT ADDRESS: 1233 Mission Ridge Road (MST2010-00186)
TO: Planning Commission
FROM: Planning Division, (805) 564-5470
 Danny Kato, Senior Planner *DYK*
 Kelly Brodison, Assistant Planner *KB*

I. PROJECT DESCRIPTION

The project consists of a proposal to demolish the existing residence, accessory building, and detached garage totaling 2,847 square feet, and construct a new single-family residence and an Additional Dwelling Unit on a 31,584 square foot lot in the Hillside Design District. The new single family dwelling is proposed as a 3,796 square foot two-story single-family residence with an attached 407 square foot two-car garage, 192 square foot workshop, 674 square foot covered patio, 50 square foot second-story deck, pool, spa, hardscape and retaining walls. The Additional Dwelling Unit is proposed as a 920 square foot one-story additional dwelling unit, with a 459 square foot two-car garage and a 125 square foot storage area attached to the main house.

This is an appeal of a Staff Hearing Officer approval of the requested Performance Standard Permit on January 26, 2011. The appellant asks the Planning Commission to deny the project (refer to Exhibit A – Appellant’s Letter).

II. REQUIRED APPLICATIONS

The discretionary application required for this project is a Performance Standard Permit to permit an additional dwelling on a one-family residentially zoned lot (SBMC § 28.93.030.E).

III. RECOMMENDATION

The proposed project conforms to the City’s Zoning and Building Ordinances and the policies of the General Plan. The proposed project does not have a significant impact on public views, and has been reviewed and approved by the City of Santa Barbara Fire Department. In addition, the size and massing of the project have been found to be consistent with the surrounding neighborhood by the Single Family Design Board. The project will require Final Design Approval from the Single Family Design Board before a building permit will be issued. Further, the City’s Environmental Analyst has examined the site and reviewed the proposed plans, and has determined that the project will not result in a significant effect on the environment and is exempt from further environmental review pursuant to California Environmental Quality Act Guidelines Section 15303. Therefore, Staff recommends that

SITE INFORMATION AND PROJECT STATISTICS

A. SITE INFORMATION

| | |
|--|--|
| Applicant: Mark Shields, Design Arc | Property Owner: Thomas and Barbara Sanborn |
| Parcel Number: 019-231-007 | Lot Area: 31,584 square feet |
| General Plan: Residential, 1 unit/acre | Zoning: E-1 |
| Existing Use: Residential | Topography: 8.94% |
| Adjacent Land Uses: | |
| North - Residential South - Residential | East - Residential West - Residential |

B. PROJECT STATISTICS

| Proposed | Main Residence | Additional Dwelling Unit |
|-----------------|----------------|--------------------------|
| Living Area | 3,796 | 920 |
| Garage | 407 | 459 |
| Accessory Space | 192 | 125 |

C. PROPOSED LOT AREA COVERAGE

Building: 5,899 sf 19% Hardscape: 8,070 sf 25.5% Landscape: 17,615 sf 55.5%

IV. ZONING ORDINANCE CONSISTENCY

| Standard | Requirement | Existing | Proposed SFR | Proposed ADU |
|---------------------------------|-------------|--------------|---|--------------|
| Setbacks -Front -Interior | 30' 10' | >30' >10' | 30' at Greenridge ~50' at rear ~17' at side | N/A 10' |
| Building Height | 30' | 1 story | 24' at master bedroom | 17' |
| Parking | 4 | 2 | 2 covered | 2 covered |
| Lot Area Required for Each Unit | 15,000 sf | 31,584 sf | 15,000 sf | 15,000 sf |
| Open Yard | 1,250 sf | >1,250 sf | >1,250 sf | >1,250 sf |

The zoning requirements in the above table apply to both structures. Both the proposed single family residence and the additional dwelling unit meet all of the applicable zoning requirements.

A. PERFORMANCE STANDARD PERMIT FOR ADDITIONAL DWELLING UNIT

Chapter 28.93 of the Municipal Code provides opportunity for additional dwelling units on single-family lots through the approval of a Performance Standard Permit (PSP). The criteria for granting a PSP require that there be adequate lot area, adequate egress and ingress, and that the location of the additional dwelling complies with all applicable ordinances.

The subject property is zoned E-1, with an average overall slope of 8.94%, which requires a minimum lot area of 15,000 square feet per unit. This 31,584 square foot property provides adequate lot area for two residences. Access to the lot and ingress/egress to each unit will be provided by the existing driveway from Greenridge Lane. The location of both proposed residential units conforms to the requirements of the Zoning Ordinance with regard to setbacks, distance between buildings, building height, parking and open yard.

V. APPEAL ISSUES

A. INADEQUATE FINDINGS

Appellant's Contention: The appellant states that the findings fail to identify the substantial evidence supporting the approval of the Performance Standard Permit.

Staff's Response: The Staff Hearing Officer finding referenced Section IV of the Staff Hearing Officer's staff report, where the reasoning and basis for the decision were described in detail. This is an acceptable method to state the reasoning for the decision, and the finding is adequate.

B. COMPLIANCE WITH PERFORMANCE STANDARD PERMIT REQUIREMENTS FOR ADDITIONAL DWELLING UNITS (SBMC §28.93.030E)

Appellant's Contention: The appellant states that the project site does not have adequate lot size or adequate ingress and egress for the Additional Dwelling Unit, that the project improperly expands a nonconforming use, that the location of the additional dwelling unit does not comply with the secondary dwelling unit requirements, that the project is inconsistent with the General Plan, and that the project is a nuisance.

Staff Response:

Lot Size. The minimum lot size for newly created lots in the E-1 Zone is 15,000 square feet. Therefore, to meet the required findings for a Performance Standard Permit for an Additional Unit, this lot is required to have twice the minimum lot area, or 30,000 square feet. The appellant argues that the City's permit tracking database shows the lot area as having 28,964 square feet of lot area. Because the lot size information in the database is only an estimate created by "rubber-sheeting" parcel lines to match aerial photos, one of the first items of information that staff required in the initial review of this project was verification that the lot size was at least 30,000 square feet. The applicant provided three separate lot size calculations prepared by a registered civil engineer and two licensed surveyors, based on the last boundary

line survey. These were provided to the appellant on January 10, 2011 and February 8, 2011. All three lot size calculations concluded that the lot size has 31,584 square feet of lot area. Based on the more specific information contained in the lot area calculations, Staff determined that the lot size is adequate.

Ingress/Egress. The lot is currently accessed from Greenridge Lane, a private lane that is accessed from Mission Ridge Road. The road easement is 20 feet wide. There is one short area of the road limited to approximately 16'-4" in width due to overgrown vegetation at the corner of Mission Ridge and Greenridge. The City's Transportation Planning Division staff have determined that Greenridge Lane provides adequate access for day-to-day use by residents and visitors.

The current City Fire Code requires new fire access roads be built to a 20 foot width. While it is true that neither Greenridge Lane nor Mission Ridge Road comply with today's high fire standards, both of these roads were installed before today's standards existed and therefore, like many roads on the Riviera, are considered legally non-conforming.

In the High Fire Areas of the City, the City Fire Department and Fire Marshall determine the necessary actions to sufficiently protect structures and the public from the threat of wildland fire. It is the job of the Fire Department to interpret and enforce the policies and requirements of the City's Wildland Fire Plan and Fire Code to achieve the necessary level of fire protection. The potential risks associated with existing non-conforming nature of several roads in the Riviera such as Greenridge Lane were analyzed in the development of the City's Wildland Fire Plan and Fire Code and are considered in detail by the Fire Department in their project reviews.

When new subdivisions or fire access roads are proposed, these developments are required to meet the minimum road width requirement of 20'. For existing roads that serve multiple residences and don't currently meet the minimum 20 foot width, the Fire Marshall generally does not require a single development on the road to widen the road unless it is determined that the existing road will not allow fire equipment to reach the proposed development and would, therefore, pose a threat to those proposed structures and residences. Section 104.8 of the California Fire Code states that the fire code official has the authority to grant modifications for individual cases, provided the fire code official shall first find that special individual reasons makes the strict letter of this code impractical, and the modification is in compliance with the intent and purpose of this code and that such modification does not lessen health, life and fire safety requirements. In Santa Barbara, the City Fire Marshall and the Prevention Bureau staff serve as the City's fire code officials.

In this case, the City Fire Department reviewed the fire access at Greenridge Lane, the proposed project plans, the development served by the lane; and has driven City fire equipment up the lane. In the event of a fire emergency, the first two addresses on Greenridge Lane (1225 & 1235 Mission Ridge Road) may be accessed directly from Mission Ridge Road itself without the need to use Greenridge Lane. This leaves four lots remaining with sole access from Greenridge Lane (1229, 1231, 1233 and 1234 Mission Ridge Road). Based on the review of the plans and a physical inspection of the access route with City fire equipment, the Fire Marshall has determined that the road is wide enough for City fire engines and that it provides an adequate level of access for all of the existing and proposed development along the road.

Further, the Fire Marshall has determined that the project is not considered a change in use as it will remain residential, and it is not anticipated to create a substantially different demand on fire protection services or interfere or impair emergency evacuation of the area.

Additionally, the Fire Marshall has reviewed the proposed building design and access around the proposed buildings, and has found that site design meets all fire code requirements. In a letter addressed to Tom and Barbara Sanborn, dated January 11, 2011, (Exhibit B), the Fire Department states that the proposed structures will meet Fire Department access standards and will be designed and constructed to High Fire Construction requirements. The new structures will be equipped with automatic fire sprinkler systems whereas the existing buildings are not. The proposed landscaping is designed to comply with the High Fire Landscape Guidelines and Defensible Space requirements. The existing accessory building on the property does not meet fire access standards, as the existing accessory building is 269 feet from the end of Greenridge Lane. The new Additional Dwelling Unit will be 150 feet from the end of the Lane and the main house will also be constructed closer to that access point. Therefore, the proposed project (which would remove all existing improvements) will substantially increase the level of fire safety on this property when compared to the existing conditions. The proposed project, in effect, will remove deficiencies on the current property concerning access, fire resistant construction and sprinkler requirements of the 2010 California Fire Code. For these reasons, the Fire Marshall has determined that the proposed project would not expose people or structures to significant risk of loss, injury or death involving wildland fires.

Expansion of Nonconforming Use: At this time, there are no nonconforming uses on the site. The lot contains a single family residence, a detached garage, and an accessory building. All three buildings are permitted. The accessory building had an unpermitted kitchen, which created an illegal dwelling unit. However, through the enforcement process, the kitchen was removed, and the building was re-converted back to an accessory building. All three buildings are proposed to be demolished as part of this project. Since there are no nonconforming buildings or uses on site and all structures on the property will be demolished as part of the proposed project, the project does not expand a nonconforming use.

Even if a nonconforming additional dwelling unit did exist on the site, the approval of a Performance Standard Permit for an Additional Dwelling Unit would change the legal status of the building from "nonconforming," to "approved and conforming." An expansion of the Additional Dwelling Unit in such a case would not be an expansion of a nonconforming use, but rather the expansion of a conforming use.

The parcel is nonconforming to the 90' public street frontage requirement, in that it does not have any public street frontage. Because the proposal does not increase the nonconformity of the lot (e.g. the project does not result in less public street frontage), the Additional Dwelling Unit is allowed, as would an addition to a house on a lot without street frontage.

Secondary Dwelling Unit Requirements. The Secondary Dwelling Unit requirements do not apply to Additional Dwelling Units. Secondary Dwelling Units and Additional Dwelling Units are different uses under the Municipal Code. Secondary Dwelling Units (also known as "granny units," or "in-law units," are allowed ministerially, as long as they comply with the requirements contained in SBMC §28.94.030.Z. Some of those requirements are: a minimum

lot size of 7,000 s.f., the two units must be connected, the Secondary Dwelling Unit is limited to 600 s.f. in size, and a prohibition in the high fire zone. Secondary Dwelling Units are considered to be part of a Single Family Dwelling, and buildings that contain a main residence and a Secondary Dwelling Unit are not considered duplexes.

Additional Dwelling Units may be located in the High Fire Hazard area. Secondary Dwelling Units may not be located in the High Fire Hazard area. The main reason for this differential treatment between Secondary Dwelling Units and Additional Dwelling Units is the difference in the potential residential density presented by the two uses. Additional Dwelling Units require the same amount of lot area as the underlying zone (i.e. a main unit and an Additional Dwelling Unit on a lot requires twice the minimum lots size), whereas a Secondary Dwelling Unit may be located on a lot as small as 7,000 s.f. where another main residence is already located.

General Plan Inconsistencies: The project complies with the Seismic Safety and Safety Element of the General Plan, in that the Fire Department has determined the access to be adequate. It would be inappropriate to compare the project to proposed General Plan Amendments, as there is no guarantee that the currently proposed amendments to the General Plan will be adopted. The only General Plan policies that apply are the existing policies currently in effect.

Nuisance: The project meets all applicable requirements of the Zoning Ordinance, and access and evacuation has been deemed adequate by the Fire Department. The project is not a nuisance, pursuant to SBMC §28.98.001.

C. CATEGORICAL EXEMPTION IS NOT AVAILABLE FOR THIS PROJECT

Appellant's Contention: The appellant states that the project cannot be found categorically exempt from CEQA because: a) the project is too large to qualify for the small structures exemption; b) unusual circumstances preclude the use of a categorical exemption; c) the project site is located in a particularly sensitive environment; d) the cumulative impacts of the project and other past, present, or reasonably foreseeable future projects present a potentially substantial adverse effect on the environment; e) the City has not adopted thresholds of significance; and f) the Staff Hearing Officer's findings are not in compliance with CEQA. The appellant argues that an environmental impact report must be prepared before the project may be approved.

Staff's Response:

Project Too Large To Qualify For New Construction Categorical Exemption. The appellant states that the project does not qualify for a categorical exemption from CEQA under Section 15303 New Construction of Small Structures because the structure is not a small structure by local standards given the floor area ratio of the main residence and additional dwelling unit. CEQA is a state law. The state defines the scope of CEQA through its statutes and administrative guidelines.

State CEQA Guidelines Section 15303 states that a project may qualify for a categorical exemption if the project involves the construction of a limited number of new small structures.

The term “small structures” in this section does not refer to City of Santa Barbara local standards and floor area ratios, but to the State of California’s determination as to the class of development that is considered a small enough to not have significant effects on the environment. The evaluation of local floor area ratios and other local standards are, therefore, not relevant when discussing whether the project meets the State’s CEQA definition of small.

Subsection (a) of the Section 15303 New Construction exemption specifies that a project can be considered categorically exempt if the project includes construction of:

One single-family residence, or a second dwelling unit in a residential zone. In Urbanized areas, up to three single-family residences may be constructed or converted under this exemption.

The term “urbanized areas” is defined in CEQA Guidelines Section 15387 and refers specifically to those areas mapped by the US Census Bureau as having a certain density and population. The project site and surrounding areas are, clearly mapped as “urbanized” by the US Census Bureau and, therefore, up to three residences could be built and still meet this small structures exemption category. Construction of the proposed single-family residence and additional dwelling unit therefore, clearly qualify for a CEQA categorical exemption under Section 15303 New Construction of Small Structures. Furthermore, CEQA Guidelines section 15300.4 states that local agencies may not require environmental impact reports for projects described within the classes and examples of the state’s categorical exemptions, except under the provisions of Guideline Section 15300.2.

Unusual Circumstances and Sensitive Environment Preclude the Use of Categorical Exemption. A Categorical Exemption from CEQA can not be used where there is a reasonable possibility that the activity will have a significant effect on the environment due to unusual circumstances or the projects location in a particularly sensitive environment (CEQA Guidelines Section 15300.2(a) and (c)). Specifically, the Appellant states that the project could potentially result in significant aesthetic, visual, and fire hazard impacts due to its unique location in a visually sensitive and high fire hazard area.

The appellant expresses concerns that the project has a significant affect on scenic vistas and will significantly impact the aesthetics of the area. The project is located in an area fully developed with single-family residences. The proposed project would not significantly block views of the ocean or mountains from public viewing locations or scenic view corridors. While the project will change private views for a few of the adjacent residences, public scenic views and vistas of the larger community will not be significantly impacted. While it is proper to consider the project impacts on private views, the question under CEQA is whether the project will adversely affect the environment of persons in general, not whether a project will affect particular persons. The partial obstruction of a few private views in a project’s immediate vicinity is not regarded as a significant environmental impact under CEQA.

The proposed project retains existing mature oak trees on the property, involves minimal grading, and is located in an area already fully developed with single-family residences. The project is consistent with the surrounding neighborhood and has received positive comments from the Single Family Design Review Board at concept review. The City’s Urban Historian

has reviewed the project site and has determined that the existing residence on the site would not qualify as a Structure of Merit or Landmark and therefore, would not need further analysis in a Historic Structures Report. The project, therefore, will not substantially degrade the visual character or quality of the site, significantly affect day or nighttime views in the area, and will not impact historic resources.

The appellant also states that because the project is in a High Fire Hazard Area and the existing roads are non-conforming to today's Fire Requirements, that the project could present a substantial cumulative risk to life and property from wildfires. Please see subsection V.B. "Ingress/Egress" above for a detailed discussion of fire hazard issues. As discussed in subsection V.B., the City of Santa Barbara Fire Department has reviewed and approved the proposed project and determined that the new construction will comply with fire construction requirements. Currently, the existing accessory building on the property does not meet fire access standards because of its distance from the end of Greenridge Lane, the type of construction and landscaping materials and the lack of a fire sprinkler system. Therefore, the proposed project (which would remove all existing improvements) would provide a substantial net increase in level of fire safety from existing conditions on the site. The Fire Department has also determined that the access road to the property (Greenridge Lane) is wide enough for City fire engines and provides an adequate level of access for all of the existing and proposed development along the road because the project as a whole takes a non-conforming property and brings it into substantial conformance for fire and life safety purposes. Further, the City has an approved evacuation plan for the area and the Fire Department has determined that the proposed project would not impede or interfere with evacuation of the area. For these reasons, it has been determined that the proposed project will not expose people or structures to significant risk of loss, injury or death involving wildland fires or interfere with the implementation of an emergency evacuation plan.

In conclusion, the City's Environmental Analyst Staff have examined the site, reviewed the proposed plans, and examined the appellant's concerns and has determined that the project will not result in a project specific or cumulative significant effect on the environment due to unusual circumstances or its location in a particularly sensitive environment. The project, therefore, qualifies for a categorical exemption from further environmental review pursuant to the California Environmental Quality Guidelines Section 15303 New Construction.

Failure to Adopt Thresholds of Significance. The appellant states that the City Staff is applying thresholds to projects without having an adopted set of thresholds. CEQA Guidelines Section 15064.7 encourages, does not require, public agencies to develop and publish thresholds of significance. The City has developed thresholds over the years that are reflected in standard language in Initial Studies prepared by the City. These thresholds are based on Appendix G of the CEQA Guidelines, State and Federal policies and laws, and the City's Master Environmental Assessment, General Plan, Zoning Ordinance, and other resource specific policy documents approved by the City Council.

D. THE GOOD NEIGHBORHOOD POLICY WAS NOT INSTITUTED

Appellant's Contention: The appellant states that the applicant has not followed the Good Neighborhood Policies by not installing story poles.

Staff's Response: Neighboring residents have expressed concerns about the proposed project's effects on their private views. The applicant has been directed to install story poles by the Single Family Design Board and by Staff. The story poles must be installed to the Standard Level prior to returning to the SFDB. This appeal is for the approval of the Performance Standard Permit. Architecture, design and neighborhood compatibility are not findings that are required by the SHO to approve a PSP. Therefore, the appropriate opportunity for the story poles has not yet been reached. This project will not return to the Single Family Design Board, nor will it receive a Project Design Approval, until story poles have been installed.

VI. FINDINGS

The Planning Commission finds the following:

PERFORMANCE STANDARD PERMIT (SBMC 28.93.030)

The Performance Standard Permit complies with all standards of SBMC 28.93.030.E, including adequate lot area for two residential units with associated existing accessory space, and adequate ingress and egress for each residence. Based on the discussions in Sections V.B and C of this Staff Report, the Planning Commission concludes there is adequate ingress and egress to the project site for day-to-day and emergency use. The project is located on a 31,584 square foot lot of which is more than the minimum lot size required for an Additional Dwelling Unit in the E-1 zone district, as described in Sections III. and IV of this Staff Report. The new structures will comply with all ordinance standards of the E-1 Zone including height and setbacks, parking and open yard, as described in Section IV.

Exhibits:

- A. Appellant's Letter dated February 7, 2011
- B. Fire Department Letter dated January 11, 2011
- C. Survey documentation
- D. SHO Staff Report dated January 19, 2011
- E. SHO Resolution No. 002-11
- F. SHO Minutes dated January 26, 2011
- G. Site Plan

LAW OFFICE OF MARC CHYTILO

ENVIRONMENTAL LAW

February 7, 2011

RECEIVED
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CITY OF SANTA BARBARA
PLANNING DIVISION

VIA HAND DELIVERY
Mr. John Jostes, Vice Chair
Santa Barbara City Planning Commission
c/o Planning Division
Community Development Department
630 Garden Street
Santa Barbara, California 93101

RE: Appeal of SHO Approval (January 26, 2011)- Application # MST2010-00186
1233 Mission Ridge Road

Vice-Chair Jostes and Members of the Planning Commission,

This office represents Judy and David Denenholtz who hereby appeal the Staff Hearing Officer's January 26, 2011 decision issuing a Performance Standard Permit and authorizing a second dwelling unit as part of a proposed residential project located on the private Green Ridge Lane in Santa Barbara's upper Riviera neighborhood but with a street address of 1233 Mission Ridge Road ("Project"). The Denenholtzs are homeowners near the Project and are concerned about several aspects of the Project including the size, bulk and scale of the project; the Project's blockage of views from homes, streets, and open space areas of the ocean and city; the adequacy of existing roadways, in particular Green Ridge Lane, to provide safe and adequate ingress and egress during wildfire-induced emergency conditions; safety issues surrounding emergency vehicle access based on past experience; and the City's compliance with CEQA. A number of other neighbors have expressed strong reservations about the project and appeared in opposition before the Single Family Design Board (SFDB) and the Staff Hearing Officer. We ask that the Planning Commission reverse the Staff Hearing Officer's decision by denying the Performance Standard Permit for an additional dwelling unit, and directing the preparation of an environmental impact analysis for the remainder of the Project.

This appeal is addressed to the Vice Chair as Planning Commission Chairman Bartlett has appeared on behalf of the owner at the SFDB and may not participate in this proceeding. Gov. Code § 87100, et seq.

The preliminary issues in this appeal are as follows:

LAW OFFICE OF MARC CHYTILO
P.O. Box 92233 • Santa Barbara, California 93190
Phone: (805) 682-0585 • Fax: (805) 682-2379
Email(s): airlaw5@cox.net (Marc); anacitrin@cox.net (Ana)

EXHIBIT A

Issue #1: Inadequate Findings

Findings serve an essential function in administrative decisionmaking, in identifying the substantial evidence upon which a decision is based, demonstrating compliance with all statutory and regulatory criteria and requirements, bridging the analytic gap between the raw evidence and the ultimate decision. *Orinda Ass'n v. Bd. of Supervisors* (1986) 182 Cal. App. 3d 1145, 1162, citing *Topanga Assn. for a Scenic Community v. County of Los Angeles* (1974) 11 Cal. 3d 506, 510. When a statute imposes specific details to the necessary findings, there is a "burden on the approving agency to affirmatively show that it has considered the identified means of [complying with the statute]." *Village Laguna of Laguna Beach v. Board of Supervisors of Orange County* (1982) 134 Cal. App. 3d 1022, 1034.

The minutes of the SHO hearing state that the SHO adopted the findings as contained in the Staff Report. The Staff Report includes the following:

VI. FINDINGS

The Staff Hearing Officer finds the following:

A. PERFORMANCE STANDARD PERMIT (SBMC 28.93.030)

The Staff Hearing Officer finds that the Performance Standard Permit complies with all standards of SBMC 28.93.030.E, including adequate lot area for two residential units, with associated existing accessory space, and adequate ingress and egress for each residence. The Additional Dwelling Unit has adequate ingress and egress, complies with all ordinance standards including height and setbacks, and is located on a lot of adequate size for an Additional Dwelling Unit in the E-1 zone district, as described in Section IV of the staff report.

The Findings fail to identify the substantial evidence supporting these conclusions, do not recite to the applicable authority concerning the adequacy of surveys or the standards for ingress and egress, and fail to bridge the analytical gap. They constitute little more than just recitation of the ordinance. This abbreviated finding deprives the public and reviewing decisionmakers of any information regarding the City's analysis and consideration of the evidence.

Issue # 2: Compliance with Performance Standard Permit Requirements for Additional Dwelling Units (SBMC § 28.93.030E)

The Staff Hearing Officer's action approving an additional dwelling unit on Green Ridge Lane is not in accord with SBMC § 28.93.030E. In order to grant a Performance Standard Permit ("PSP"), the Staff Hearing Officer must find that: 1) the lot has an area two times the lot area required for one unit in the E-1 zone (30,000 square feet for 2 dwelling units); 2) there are adequate provisions for ingress and egress; and 3) the location of the additional dwelling complies with all applicable ordinances. (SBMC 28.93.030E.). This permit was improperly approved because the Staff Hearing Officer did not have evidence to support determinations.

regarding: 1) whether this lot has more than the required lot area (30,000 square feet); 2) whether adequate provisions for ingress and egress exist for the additional dwelling unit; and 3) whether the location of the additional dwelling unit complies with all applicable ordinances. Additionally and separately, this project and permit should not and cannot be approved due to the lack of evidence of lot size and the substandard and nonconforming nature of vehicular access.

1) Lot Size

The subject property is zoned E-1 and requires a minimum lot area of 15,000 square feet per unit. Therefore, the lot must be at least 30,000 square feet to meet the PSP requirement for two residences. SBMC § 28.93.030.E.

There is evidence in the record gained from City files that the lot is 28,964.64 square feet. Exhibit 1. The Assistant Planner testified at the SHO hearing that three surveys had been conducted on this lot, each finding the lot to exceed 30,000 square feet. However, the City Planning file indicates that there are no actual surveys, and only one letter from a surveyor that calculated the area of the lot using a 1947 legal description of the property. Appellants have made several reviews of the record, and specifically requested the surveys on several occasions. The SFDB was told there was a survey on file, as was the SHO; when in fact there is no physical survey, only a calculation of area based on an ancient and unverified legal description. It is well known that surveys performed over fifty year ago were not entirely accurate, and some portion of the claimed lot may have been lost by adverse use and possession if occupied by an adjacent building or if the legal description is otherwise in error. The SHO relied on evidence not in the record in the form of staff's incorrect assertion that there were in fact three surveys in the record. This letter is concomitantly a request under the Public Records Act, Gov. Code § 6250 for copies of the three separate physical surveys relied on by the SHO, as they have not been included within the City's planning or design files before the date of the SHO hearing, or were otherwise withheld from appellants.

2) Adequate Ingress and Egress Does Not Exist

The Project is located on a substandard, non-conforming road in a very hazardous part of the City. Green Ridge Lane lacks sufficient width to accommodate any intensification of development or use. There are currently more developed residential lots that rely on Green Ridge Lane as their access than are permitted under the currently applicable zoning ordinance. Approval of a PSP will increase both the amount of development served by the non-conforming Green Ridge Lane and the level of use and activity that will be experienced on the roadway.

a) High Fire Hazard Area Background

The Project is located in the City's "High Fire Hazard Area" due to exposure to wildfire risk. The Project area was evacuated for both the Tea and Jesusita fires in the last 2 years, and is

adjacent to the steep slopes of Sycamore Canyon that remain covered with dense stands of mature chaparral vegetation. This combination of steep slopes and mature vegetation create extraordinary wildfire risks for residents. See generally the Seismic Safety-Safety Element, August 1979, pages 55 et seq. This hazard is exacerbated by Global Climate Change, which is widely accepted to be increasing the frequency and intensity of wildfire, including in Santa Barbara. See, generally, Plan Santa Barbara FEIR, § 18.1.4.

The City has designated the Foothill Zone as “high risk” for wildfire hazard due in part to inadequate roadways. (See Santa Barbara Wildland Fire Plan, Table 3; hereinafter “WF Plan;” excerpts attached as Exhibit 2). The main roads in the Foothill Zone are a “mixture of conforming and existing non-conforming” and are “further narrowed due to vegetation encroachment.”

The hazardous conditions of roadways in the high fire hazard zones is further documented in the recent independent audit of the status of the City’s foothill roadways. The Auditing Engineer concluded “[m]any of the roads in the Foothill and Extreme Foothill Zones do not meet current Fire Department access . . . standards.” (Final Engineer’s Report, FY 2010-11, City of Santa Barbara Wildland Fire Suppression Assessment, May 2010, page 2, attached as Exhibit 3.)

Additionally, the Project is located at the end of a dead-end road that is over 300 ft long and does not provide adequate space for multiple vehicles to turn around. Emergency equipment serving the Project must pass five other driveways that could have exiting traffic or other obstructions in event of an emergency evacuation to gain access to the Project.

The WF Plan assigns High Ridge Road and Green Ridge Lane to an evacuation unit located to the east. Mission Ridge Road, to which they attach, is in a different evacuation unit. Exhibit 5, page 66. This very unusual assignment create considerable doubt how Green Ridge Lane residents would be evacuated - a strict reading of the WF Plan could have them existing out through Sycamore Canyon. Residents have no assurances that they will be correctly advised during a wildfire - advice which may be essential to survival.

b) Ingress and Egress on Green Ridge Lane Does Not Comply with City Fire Development Standards

In 2010 the Santa Barbara City Council adopted Ordinance No. 5535 amending the existing Fire Code to adopt the state Fire Code’s standards and in particular delineating standards for fire access roads as follows:

503.2.1 Dimensions. Fire apparatus access roads shall have an unobstructed width of not less than 20 feet (6096 mm) except for approved security gates in accordance with Section 503.6 and an unobstructed vertical clearance of not less than 13 feet 6 inches. If a fire apparatus access road serves three or fewer single-

family residential units, the required width may be reduced to not less than 16 feet (4879 mm) upon the approval of the fire code official. (Emphasis added.)

Green Ridge Lane currently serves six residences and according to the City's ordinance should measure not less than 20 feet wide. In fact, the road is barely 16 feet wide at its widest points, and narrows below 16 feet for about 20 feet, in some places as little as 14 feet.¹ The road is inadequate to serve the homes it serves now, and clearly cannot accept additional residences or increased levels of use without compromising the safety of existing and new residents. Recently emergency vehicles were blocked by parked vehicles on Green Ridge Lane, compromising response to a Green Ridge Lane resident experiencing a medical emergency. Green Ridge Lane was too narrow and competing parked traffic prevented complete emergency vehicle access.

The Fire Department's acceptance of a substandard road is not dispositive of the adequacy of the roadway for ingress and egress, and in fact, does not overtly purport that it is. It is important to note that evacuation during wildfire and similar emergency conditions is typically managed by law enforcement, not the Fire Department, whose role is to respond to the fire while law enforcement manages evacuation. The Planning Commission must make an independent evaluation and determination that there are "adequate provisions for ingress and egress" in light of the community roadway capacity. SBMC §28-93-030.E. There is ample evidence of the inadequacy of roadways to accommodate additional residents in the area of the Project, and both Fire Inspector Jim Austin's letter and testimony at the hearing failed to address the required adequacy of ingress and egress. Thus the Planning Commission must deny the proposed PSP due to the fundamental shortfall in essential roadway capacity.

c) Studies and Experience Show that Adding Dwelling Units Without Improving Egress is Hazardous

There is considerable relevant information available to evaluate the state of Project area roadways, and demonstrate that adding moiré residents compromises everyone's ability to safely evacuate. Professor Tom Cova's seminal study Public Safety in the Urban-Wildland Interface: Should Fire-Prone Communities Have a Maximum Occupancy?, Natural Hazards Review, August 2005 looked specifically at the challenges of evacuating a Santa Barbara foothill community in emergency conditions. Exhibit 8. Professor Cova studied Mission Canyon and concluded that "[r]esidential development in fire-prone areas is continuing without commensurate improvements to community-based transportation egress systems." *Id.*, p. 107. Professor Cova's thesis has been that neighborhoods have evacuation capacities limited by the roadways, and that Mission Canyon's steep, twisty, over parked and narrow roadways substantially impaired evacuation capacity. The Riviera has similarly constraining road conditions.

¹ The Fire Code specifies that roadway widths are measured from the face of curbs, where present, and must be surfaced to provide all-weather driving capabilities. CFC 902.2.2.2.

Cova's results are validated, and the complexity of the modeling of this issue expanded in Emergency Planning in the Urban-Wildland Interface: Subdivision-Level Analysis of Wildfire Evacuations, Brian Wolshon, and Emile Marchive III, *Journal of Urban Planning and Development*, March 2007, attached as Exhibit 9. Professor Wolshon concluded that evacuation modeling of neighborhoods threatened with wildfire should look at both microscopic platforms (neighborhood level) as well as macroscopic modeling systems (regional level). *Id.*, at p. 74. The neighborhoods in Wolshon's study also possessed winding, narrow and steep roadways. *Id.*, p. 75. Wolshon concluded, not surprisingly, that the greater the volume of traffic to evacuate, the greater the time required. *Id.*, 80.

The end result is that the City has failed to analyze or even consider the effect of additional dwellings and residents on emergency evacuation capacity. While it is true that any number of uncertainties could and would affect how well an evacuation could proceed, in light of the several studies cited herein concluding that there is currently inadequate emergency evacuation capacity on area roads, adding a single additional car to an emergency wildfire evacuation could cross the tipping point. The simple fact is that our foothill communities, including the Riviera generally and Green Ridge Lane specifically, are oversubscribed, and in a reasonable worst-case fire scenario, some people will not be able to escape. If they happen to leave their homes and are blocked or stopped, or overtaken by flames, they will likely die. That happened in Oakland in 1991 and in Greece on August 26, 2007. See Exhibit 10, United States Fire Administration, Technical Report Series, *The East Bay Hills Fire*, Oakland-Berkley, California, FEMA, excerpts, on the East Bay Fires. See also Los Angeles Times, August 27, 2007, LATimes.com. ("Most of the people killed in Greece's worst fires in decades were burned to death as they tried to flee, trapped in their cars or in charred fields.") Many of the conditions that led to the Oakland deaths are present or can occur in the Riviera.

Again, given the location of the Project in a high fire hazard area in a neighborhood of narrow winding roadways, there has been no showing of adequate ingress and egress for adding a dwelling unit to Green Ridge Lane, and the PSP should be denied.

- d) The Existing Development Is Non-Conforming and the Proposed Development Will Improperly Expand That Nonconforming Use

The existing guesthouse on the site is non-conforming with applicable E-1 zoning, which allows only a single family home in the zone district. A second dwelling unit is prohibited in the E-1 zone district when in a high fire hazard area. § 28.94.030.Z.11. While "additional one-family dwellings" are arguably allowable with a PSP, the existing guest house does not have the benefit of a PSP and as such is currently non-conforming under existing zoning. It is axiomatic that the City cannot allow the expansion of nonconforming uses. See generally *Edwards v. County of Los Angeles* (1953) 40 Cal. 2d 642, 651 (contrasting a landowners rights regarding continuance of nonconforming uses with proposals to expand such uses).

Additionally, the E-1 zone requires at least 90' of public street frontage. SBMC §28.15.080. The lot in question was separated from Arbolado Road by a lot split and has no public road frontage.

Finally, the uses associated with the existing development on the site is non-conforming as to roadway width and access. As noted above, the minimum roadway width for a residence on a private roadway serving 4 or more houses is 20'. The existing roadway is surfaced to 14' wide near its intersection with Mission Ridge Road, and remains below 16' for approximately 20'.

A PSP may only be issued if the additional dwellings "comply with the provisions of all other applicable ordinances." SBMC § 28.93.030.E.

The zoning ordinance includes provisions, as do most zoning ordinances, for the cessation of non-conforming uses and activities when there are physical changes at the property. SBMC § 29.87.035.B specifies that non-conforming uses may continue only if there is no enlargement of the space devoted to the non-conforming use. Once a non-conforming structure is replaced by a conforming structure, that structure "shall not thereafter be used or occupied by a nonconforming use. Id., at C. The zoning ordinance further establishes that these provisions apply to both structures and uses that become nonconforming due to "any subsequent change in regulations," such as the City's adoption of the 20' minimum road width standards. SBMC §29.87.035.

SBMC § 29.87.035 should be applied in light of its purpose to eventually conform the uses in each district to the zoning law and current regulations including the fire code. In this case, the City Council recently adopted a fire code with minimum fire access road requirements. Green Ridge Road is nonconforming to the new 20 foot safety access requirement and therefore any expansion of development (increasing the residences from six to seven) is an expansion of the nonconforming use.

The spirit of zoning ordinances and accompanying provisions allowing continued nonconforming uses is to restrict, not increase, the nonconforming use. *Edmonds v. County of Los Angeles* (1953) 40 Cal.2d 642, 651. Accordingly, courts generally sustain restrictions on extension or enlargement of a nonconforming use, thereby enforcing the zoning ordinance and upholding the police power. The public welfare must be considered from the standpoint of the objective of zoning and of all the property within any particular use district. *Rehfeld v. San Francisco*, 218 Cal. 83, 85. It was not and is not contemplated that pre-existing nonconforming uses are to be perpetual. *State ex rel. Miller v. Cain*, 40 Wn.2d 216.

Given the multiple forms of zoning ordinance nonconformance on this site, and in particular the inconsistency between minimum roadways widths and the existing conditions, the finding of adequate roadway ingress and egress - continuing and expanding a non-conforming use - is not supported by the evidence.

The existing "guest house" has been cited by the City as containing an unpermitted and illegal kitchen, and as such, is not a guest house at all. The applicant cannot claim any form of vested or other right to an illegal use of this structure. The applicant seeks a PSP for an "additional dwelling unit" that they have characterized as a "guest house" but is allowed as a "one-family dwelling." A one-family dwelling can presumably be used as any ordinary residence, unlike the existing structure which has no kitchen. There are no Project-specific conditions on the level of use, or limits imposed by the zoning ordinance, thus the City's analysis, for ingress/egress adequacy findings, zoning ordinance consistency, including nonconforming uses, and for CEQA impact analysis purposes must consider "worst case" levels of usage up to the maximum allowable under ordinance. There is no specific treatment or limitations for guest houses in the zoning ordinance, so the appropriate level of use is as a full-time one-family dwelling unit on the site. This use clearly involves a much higher level of activity and site utilization than the current conditions - a guest house with no kitchen - which conflict with the narrow roadway and nonconforming ingress and egress. Under the zoning ordinance, the City may not allow the expansion of the nonconforming roadway use as part of approving the expansion of structural development on the site. SBMC §29.87.035.C.

e) The Location of the Additional Dwelling Unit Does Not Comply with the Provisions of All Other Applicable Ordinances

The Municipal Code directs that "the location of such additional dwellings shall comply with the provisions of all other applicable ordinances." § 28.93.030E. The zoning ordinance prohibits secondary dwelling units in High Fire Hazard Areas. § 28.94.030.Z.11. The Project is in a High Fire Hazard Area. Adding a second dwelling unit is prohibited by ordinance, and as such, the PSP cannot be granted.

Staff has indicated they believe a definitional distinction applies between a "secondary dwelling unit" and an "additional dwelling unit," even though the term "additional dwelling unit" is not specifically defined in the zoning ordinance. Sophistic arguments aside, the Project is adjacent to expansive stands of mature chaparral on the steep slopes of Sycamore Canyon - areas that did not burn in either the Tea or Jesusita Fires and thus are still highly prone to wildfire. Fire access is restricted not only by the narrow, fourteen (14) foot wide Green Ridge Lane but also the acute geometry (approximately 160 degree) and steep section of Green Ridge Lane's intersection with Mission Ridge Road. The prohibition against secondary dwelling units in High Fire Hazard Areas reflects a common-sense awareness that adding multiple families to single driveways, especially on long private roads, is a recipe for disaster. A hasty emergency evacuation of the residents (some of whom are not mobile and require assistance) of Green Ridge Lane while emergency responders are going down the lane to address a fire is simply impossible on a fourteen foot wide road. Thus, in spite of Staff's belief in a definitional distinction between secondary and additional dwelling units, the policy rationale for the prohibition of multiple dwellings on single lots applies with vigor to this Project due to its location in the High Fire

Hazard Area. The wildfire hazard inherent in Santa Barbara's foothills militates towards a reduced number of families living on this lot, not more.

f) General Plan Inconsistencies

The Project conflicts with the WF plan policies identified supra. It conflicts with the Seismic Safety and Safety Element's Recommended Development Control that all proposals for new development comply with City regulations, (Seismic Safety and Safety Element at 61); that roadways be maintained at 32' in width on a 40' right of way, (id., at 59) and that emergency access routes for new subdivisions (to which the PSP is tantamount) be adequate to allow fire and other emergency service vehicles to gain access. Id., at 62.

Additionally, the Project conflicts with a number of initiated elements of Santa Barbara's General Plan revision, Plan Santa Barbara. These include LG6, and implementing action LG6.2, limiting new residential development in high fire areas; LG 16 and implementing action LG16.1 considering lower densities in areas in areas constrained by fire access and viewshed considerations; and H15, prohibiting second units in the high fire hazard zones. The City must consider the effect of proposed developments in light of initiated General Plan revisions.

As the blueprint for all development, the General Plan must be considered in all development actions. The General Plan makes repeated referrals to the goals, policies and needs to restrict second dwelling units in high fire hazard areas as a general rule. This rationale is heightened due to the inadequate width of Green Ridge Lane. General Plan inconsistencies necessitate denial of the PSP.

g) Nuisance

The proposed intensification of the development and activity on the site constitutes a nuisance for the residents of Green Ridge Lane and for residents of the Riviera that rely on Mission Ridge Road as an evacuation route. The project proposes to exacerbate a hazardous condition in an already hazardous area prone to wildfire. It fails to meet basic zoning ordinance standards to address public health and safety issues. As such it is a private and public nuisance. See generally SBMC §28.98.001 (any buildings or use of property contrary to zoning ordinance are public nuisance).

For all these reasons, appellant believes that the PSP permit should not and cannot be issued for the proposed Project. We ask the Planning Commission to overturn the decision of the SHO and deny the PSP.

Issue #3: The Project Requires CEQA Impact Analysis

A Performance Standard Permit is a discretionary action subject to CEQA. The code establishes that the SHO "may" grant a performance permit if the findings are made. SBMC § 28.93.020.A. The term "may" in the ordinance denotes an optional or discretionary action, as distinguished from the term "shall" that denotes a mandatory duty. See § 28.02.005. Section 28.92.030.E. again uses the term "may" - a PSP permit "may be granted by the Staff Hearing Officer" for an additional dwelling, reiterating that there is no obligation by the SHO or entitlement to the applicant for this dispensation.

1) A Categorical Exemption Is Not Available For This Project

The Staff Hearing Officer and planning staff have summarily concluded that the Project is categorically exempt from CEQA under the § 15303 exemption without performing any form of environmental assessment.

In enacting CEQA, the legislature empowered the Secretary of the Resources Agency to exempt certain classes of projects which have been determined not to have a significant effect on the environment. Pub. Resources Code § 21084 (a). These classes of projects are now listed in the CEQA Guidelines. The City contends the Project is exempt from CEQA under the Guidelines §15303 for "New Construction or Conversion of Small Structures":

15303. NEW CONSTRUCTION OR CONVERSION OF SMALL STRUCTURES

Class 3 consists of construction and location of limited numbers of new, small facilities or structures; installation of small new equipment and facilities in small structures; and the conversion of existing small structures from one use to another where only minor modifications are made in the exterior of the structure. The numbers of structures described in this section are the maximum allowable on any legal parcel. Examples of this exemption include, but are not limited to:

One single-family residence, or a second dwelling unit in a residential zone. In urbanized areas, up to three single-family residences may be constructed or converted under this exemption.

The Project is not categorically exempt from CEQA because: a) the project is too large to apply to the small structures exemption; b) unusual circumstances preclude the use of a categorical exemption; c) its location in a particularly sensitive environment precludes the use of a categorical exemption; and d) the cumulative impacts preclude exemption. The Staff Hearing Officer's findings are not in compliance with CEQA, and a full environmental impact assessment should be required before the Project may be lawfully approved.

a) A Categorical Exemption is Unavailable Because the Project is Not a Small Structure

The § 15303 exemption is limited to "construction ... of ... small facilities or structures." The Project is very large. The Project has structures totaling over 8,500 square feet, in contrast to the current existing structure totaling just 2,847 square feet.

The size exceeds the recommendations for Floor to Lot Area Ratios (FAR) delineated in the Single-Family Residence Design Guidelines ("SFR Guidelines"). Compatibility Guideline No. 8 states that applicants should strive for a project which falls in the "less than 85% of maximum FAR" range for the project size. (SFR Guidelines, p. 21-C). Although maximum FARs are applied as guidelines rather than requirements on lots that are 15,000 square feet or larger, the SFR Guidelines have calculated recommended FARs for projects that exceed 15,000 square feet. This 31,584 square foot lot is just under $\frac{3}{4}$ acre.² According to the SFR guidelines the recommended dwelling area (85% of maximum FAR) for a $\frac{3}{4}$ acre lot is 4,127 square feet. (SFR Guidelines, p. 23-C). The Project's total net square footage for all site structures is 5,899 square feet, exceeding the maximum recommended area by 1,772 square feet.

Apparently in order to circumvent the FAR guideline, the FAR for the Project has been calculated assuming that the single lot has been split into two lots: one measuring 15,000 square feet and one measuring 16,584 square feet. With this arbitrary lot division, the FAR of Unit 1 is calculated to be 99.9% and the FAR of Unit 2 at 34%. However, even though they are physically attached to Unit 1, the 459 square foot garage and 125 square foot storage unit have both been attributed to Unit 2. This appears to have been apportioned to ensure that the Unit 1 FAR is less than 100%. Regardless of whether the lot is split or not, or whether a garage and storage structure are located adjacent to Unit 1 and attributed to Unit 2, the maximum FAR guidelines of 85% have been exceeded, and this Project is considered large under the City's Guidelines and criteria.

Additionally, the SFR Guidelines recommend that "careful consideration should be given to projects that propose greater than 250 square feet of [covered porches, loggias, covered decks] or when they are greater than 10% of the total net square footage of the structure." (SFR Guidelines p. 20-C). The Project proposes 1,111 square feet of covered porches, decks and trellises, which constitute 19% of the total net square footage of the structure, and again greatly exceeds the SFR Guidelines. Lastly, to add to this large scale, the Project proposes 2,128 square feet of uncovered patios, 4,201 square feet of pervious paved surface and a pool and spa.

The large size of this Project including: 1) exceeding the recommended FAR guidelines for dwellings by 1,772 square feet; 2) exceeding the covered porches guidelines by 861 square feet; and 3) adding 6,329 square feet of additional patios and paved surfaces precludes the use of the

² The ratio is higher if the lot is smaller.

§15303 Categorical Exemption for small structures. We ask that either you require the applicant to conform with the FAR guidelines or require an environmental impact report for this large structure.

b) Unusual Circumstances Preclude the Use of a Categorical Exemption

A categorically exempt project loses its exempt status if there is a reasonable possibility that the activity will have a significant effect on the environment due to unusual circumstances. Guidelines § 15300.2 (c); *Salmon Protection & Watershed Network v. County of Marin* (2004) 125 Cal. App. 4th 1098, 1105. To sustain the "unusual circumstances exception", the evidence must show some feature of the project that distinguishes it from others in the exempt class. *San Lorenzo Valley Community Advocates for Responsible Education v. San Lorenzo Valley Unified School Dist.*, 139 Cal. App. 4th 1356, 1394 (Cal. App. 6th Dist. 2006).

The Project is "unusual" due to: 1) its large size, both in its dwelling area and outdoor paved surfaces (see above); 2) its inconsistency with the applicable zoning ordinance and General Plan (see above); 3) its adverse effect on the views and aesthetics of the area (see below); and 4) its location in a High Fire Hazard Area and lack of adequate fire access (see above).

In order to determine whether there is a reasonable possibility that the activity will have a "significant effect on the environment" the Agency should conduct an Initial Study using an environmental assessment or similar analysis.... (CEQA Guidelines §15063(a)(2)). Since the City of Santa Barbara has not adopted thresholds for its agencies to conduct consistent and efficient Initial Studies, we look to Appendix G of the CEQA guidelines to determine whether the Project will have a "significant effect" on the environment. In this case we find there are potential significant effects in the "Aesthetics" and "Hazards and Hazardous Materials" sections delineated in Appendix G. In particular, the existence of substandard road widths in a high fire hazard area jeopardizes emergency services to current and Project residents. A 20' to 32' road width is necessary to allow residents to evacuate while emergency equipment enters the area to respond to the emergency. A 14' wide road and irregular intersection geometry preclude the provision of adequate access to the site. Therefore, the §15303 Categorical Exemption should again be precluded based on the "unusual circumstances" exception and an environmental impact report should be required.

i) Pattern and Practice: Failure to Adopt Thresholds of Significance

City practice for SHO actions on PSPs typically includes a step labeled "environmental assessment." Unfortunately, there is apparently no defined procedures for conducting an environmental assessment. The SHO officer's Findings and the Staff Report's brief attempt at justification of a Categorical Exemption cannot suffice as an environmental assessment.

Further, CEQA encourages each public agency to develop and publish thresholds of significance that the agency uses in the determination of the significance of environmental effects. (CEQA Guidelines § 15064.7). By adopting thresholds of significance, a lead agency “promotes consistency, efficiency, and predictability” in the environmental review process. (Office of Planning and Research, *Thresholds of Significance: Criteria for Defining Environmental Significance* (CEQA Technical Advice Series, 1994), p. 4). The City of Santa Barbara to date has not adopted CEQA thresholds of significance. Rather, thresholds used for individual projects derive in part from the antiquated Master Environmental Assessment (MEA), from the CEQA Guidelines, from Staff memoranda, and other unknown sources in a capricious *ad hoc* manner. Many City environmental documents, including the instant Staff Report, fail to identify the source of the specific thresholds used for individual impact categories. This creates inconsistency and unpredictability in the City’s environmental review of each project, deprives the public of the ability to verify the source of a given threshold, and creates the potential for each environmental document to utilize the threshold that best achieves the desired outcome. This failure to adopt thresholds of significance, undermining the consistency and legitimacy of City environmental documents, constitutes a pattern and practice of violating the requirements of CEQA.

ii) Aesthetic Impacts

In the absence of the City’s adopted thresholds of significance, we look to Appendix G of the CEQA Guidelines for impact thresholds. Regarding aesthetic impacts, Appendix G (in pertinent part) recommends that the lead agency consider if the project would: “1) have a substantial adverse effect on a scenic vista, or 2) substantially degrade the existing visual character or quality of the site and its surroundings” (CEQA Guidelines, Appendix G).

Any substantial negative effect of a project on view and other features of beauty could constitute a significant environmental impact under CEQA. (*Quail Botanical Gardens Foundation, Inc. v. City of Encinitas* (1994) 29 Cal.App.4th 1597, 1604.)

“That a project affects only a few private views may be a factor in determining whether the impact is significant.” *Ocean View Estates Homeowners Association, Inc. v. Montecito Water District* (2004) 116 Cal.App. 4th 396, 402. “As on other CEQA topics, the opinions of area residents, if based on direct observation, may be relevant as to aesthetic impact and may constitute substantial evidence in support of a fair argument; no special expertise is required on this topic. (*Ocean View Estates, supra*, 116 Cal.App.4th at p. 402.)” *The Pocket Protectors v. City of Sacramento* (2004) 124 Cal.App 4th 903, 937

The Riviera is renowned for its views of the City, the waterfront and the Ocean. Chase Palm Park offers a visual punctuation to the interface of sea and land, while sunsets and sunrises inspire on a daily basis. From High Ridge and Green Ridge Lanes, the site is visible, as it is from most of the residences on these streets.

City General Plan Visual Resources Policy 3.0 states: “New development shall not obstruct scenic view corridors, including those of the ocean and lower elevations of the City viewed

respectively from the shoreline and upper foothills, and of the upper foothills and mountains viewed respectively from the beach and lower elevations of the City.” There is no modifier “important” limiting which view corridors can be sacrificed and which saved, nor does the text of Policy 3 suggest that obstruction of some scenic view corridors is appropriate. In this case, staff has improperly inserted the qualifier “important” to viewing locations or scenic corridors. The General Plan protects scenic corridors, and the Project is located in a prominent and highly visible location on the Riviera. The Open Space Element designates the Project area as a Major Hillside with open space features and values that should be protected. Page 102. The Conservation Element notes that hillsides provide visual resources to residents, using the Riviera as an example that provides views of the ocean and mountains. Page 10. As the Constitution for all development in a community (*Leshar Communications v. City of Walnut Creek* (1990) 52 Cal. 3d 531, 540) against which all City actions must be consistent, the General Plan is missing from the Staff Report’s analysis.

Further, the visual resources goals and policies counsel the CEQA process and serve as thresholds in the absence of other objective criteria. Inconsistencies with the General Plan signal potential CEQA significant impacts, and there is no effort at reconciling these apparent inconsistencies with the CEQA analysis.

iii) Fire Hazard

Appendix G of the CEQA Guidelines also lists “Hazards and Hazardous Materials” as a potential impact that should be addressed in an agency’s Initial Study. Appendix G (in pertinent part) recommends that the lead agency consider if the project would: 1) Impair implementation of or physically interfere with an adopted emergency response plan or emergency evacuation plan? or 2) Expose people or structures to a significant risk of loss, injury or death involving wildland fires, including where wildlands are adjacent to urbanized areas or where residences are intermixed with wildlands?

The fire hazard present in the Project’s neighborhood is an unusual circumstance that distinguishes the Project from other small structures in the Class 3 exemption class. The Project is located along Mission Ridge Road in the “Foothill Zone” which has been designated by the Santa Barbara Wildland Fire Plan (“WF Plan,” excerpts attached as Exhibit 5) as a “High Fire Hazard Area.” (WF Plan, p. 37, Figure 19).

The WF Plan describes the Foothill Zone as follows: “The potential fire behavior in this zone is considered high to extreme depending on weather and fuel conditions. This zone is defined as areas within the City where a combination of flammable chaparral, oak forest, riparian vegetation, eucalyptus groves, and landscaped fuels intermix with residential areas to pose a significant fire threat.” (WF Plan, § 2.5.2.).

The City has designated the Foothill Zone as “high risk” as it pertains to the roads. (WF Plan, p. 41, Table 3). The main roads are a “mixture of conforming and existing non-conforming” and are “further narrowed due to vegetation encroachment.” They do not meet the Fire Department’s access standards. These conclusions are reiterated in the 2010 Engineers Report, Exhibit 4.

Additionally, the Project is located at the end of a dead-end road that is over 300 ft long. The WF Plan assigns High Ridge Road and Green Ridge Lane to an evacuation unit located to the east. Mission Ridge Road, to which they attach, is in a different evacuation unit. Exhibit 5, page 66.

And, although the Project's second dwelling unit does not require a Conditional Use Permit, the City's Zoning Ordinance has banned second dwelling units in "High Fire Hazard Areas". (SBMC 28.94.030). Thus indicating that the City has determined that additional dwelling units in High Fire Hazard Area pose a safety risk. Notably, Government Code section 815.6 provides: "Where a public entity is under a mandatory duty imposed by an enactment that is designed to protect against the risk of a particular kind of injury, the public entity is liable for an injury of that kind proximately caused by its failure to discharge the duty unless the public entity establishes that it exercised reasonable diligence to discharge the duty." Adding a new residence to the end of Green Ridge Lane endangers the ability of other residents to evacuate safely in emergency conditions.

In conclusion, the Project's location in a High Fire Hazard Area differentiates it from others in the exempt class (of small structures) and poses a significant environmental effect due to its interference with emergency evacuation plans and fire access as well as significant risk of loss, injury or death involving wildland fires.

c) Location in a Particularly Sensitive Environment Precludes the Use of a Categorical Exemption

A categorically exempt project may also lose its exempt status if they are located in a particularly sensitive environment. Class 3 exemptions (including § 15303) "are qualified by consideration of where the project is to be located – a project that is ordinarily insignificant in its impact on the environment may in a particularly sensitive environment be significant. Therefore, these classes are considered to apply all instances, except where the project may impact on an environmental resource of hazardous or critical concern where designated, precisely mapped, and officially adopted pursuant to law by federal, state, or local agencies." (CEQA Guidelines §15300.2).

This Project is located in a "High Fire Hazard Area" with inadequate fire access as determined by the City and the independent Engineer's Report. CEQA therefore requires environmental review before the Project may be approved. (CEQA Guidelines § 15300.2 (c)).

d) Cumulative Impacts Preclude the Use of a Categorical Exemption

A Categorical Exemption is not available when a project may have cumulative impacts. Guidelines § 15300.2(b). Approval of an excessive oversized set of structures, plus a second residential unit, will incite other nearby landowners to consider similar over-development of

their lots, resulting in additional traffic on narrow windy roads and the semi-rural nature of the area transitions to an urban setting.

Additionally, replacing 2,700 square feet of structure with over 10,000 square feet of new development, including a new pool and other amenities will materially increase the number of employees assisting with the maintenance and servicing of such a large property, contributing to a cumulative Project impact.

Issue # 4: Denial of the Benefits of and Interference with the Good Neighbor Process

As explained to the applicant and the SFDB, the neighbors on Green Ridge Lane are troubled by the size of the structures and site intensification with the addition of a full second house on the lot. The SFDB agreed that the initial proposal was far too large for the neighborhood and site, and some reductions were made. The neighbors remain skeptical, particularly concerning specific view corridors, including views to Chase Palm Park and the waterfront, and asked the applicant, planning staff and SFDB to install story poles to illustrate how the project might affect the views of the ocean and City. See Exhibits 1 & 2. While the SFDB did order story poles, they allowed the applicant to choose whether to install them before the instant Staff Hearing Officer (SHO) hearing or the subsequent SFDB hearing. SFDB Minutes, 11/22/10. The applicant disregarded requests from the neighborhood to install story poles. Thus the neighbors' view impact concerns have been unaddressed, leading to the Denenholtz' and others' opposition.

We ask that you continue this hearing and direct the applicant to erect full story poles per the SFDB Guidelines, 4/27/2010. "The purpose of story poles is to assist the Single Family Design Board (SFDB), staff and interested neighbors (and if proposal is appealed, the Planning Commission and/or Council) in determining consistency regarding appropriate size, bulk and scale; height; neighborhood compatibility and/or minimizing impacts on important public views." Only through the erection of story poles can the Project's view blockage be gauged, and hopefully adjusted to reduce or avoid occlusion of important views by neighbors. Staff has advised they intend to require story poles in advance of the Planning Commission hearing, which while appreciated, is too late in the process for a "good Neighbor" resolution of community concerns.

It is evident from the SFDB minutes that numerous neighbors have raised concerns over this project, as validated by the SFDB's own action directing a "substantial" reduction in the Project size. Staff is aware this was and is a controversial project. The Project has evolved to involve more significant land use policy considerations, including emergency access, survey data adequacy, General Plan and zoning ordinance consistency, etc. As such this Project exceeds the scope of Projects appropriate for the SHO's determination. Appellants asked the SHO to simply refer this project to the Planning Commission, but that request was denied.

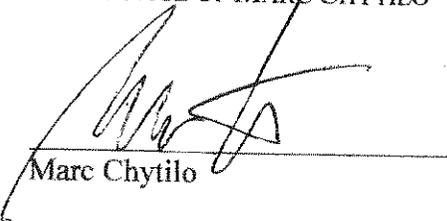
Appellants just need to know the effect of the Project on their neighborhood, their views and their safety. A critical aspect of this is story poles to show the project's effects on view corridors. Appellants were advised by planning staff that there had been considerable discussion in the Planning Department and among planning department staff regarding this project, including a consideration of the timing for story poles. Apparently the expectation that this project would be appealed to the Planning Commission was one justification for the decision to not grant our request that story poles be installed before the SHO hearing. This is, of course, a self-fulfilling prophesy as Appellants cannot be expected to waive all appellate rights before seeing the effect the Project will have on this homes. It is unfair to the public for the applicant to prevent the early disclosure of information critical to a public concern over a land use project and to force an appeal to the Planning Commission. Unfortunately, this process has been administered in such a way as to mandate this appeal for affected neighbors to be apprised of basic project information before waiving their appellate rights.

Conclusion

In conclusion, we request that you grant this appeal and deny the Performance Standard Permit for the additional dwelling and require that a full environmental review process be initiated for the remaining Project. The Staff Hearing Officer did not make sufficient findings in accord with the Zoning Ordinance and therefore the Performance Standard Permit should be denied. Additionally, the Project is not categorically exempt from CEQA because a) the project is too large to apply to the small structures exemption; b) unusual circumstances preclude the use of a categorical exemption; c) location in a particularly sensitive environment precludes the use of a categorical exemption; and d) cumulative impacts preclude the use of a categorical exemption.

Respectfully Submitted,

LAW OFFICE OF MARC CHYTILO



Marc Chytilo

Exhibits

(attached to SHO Comment letter and not repeated here, available upon request)

1. Email, Marc Chytilo to Thomas Sanborn, RE: Request for Discussion of Concerns and Story Poles, January 19, 2011

2. Letter, Marc Chytilo to Jaime Limon, Santa Barbara Community Development Department, December 28, 2010
3. City of Santa Barbara Parcel Lookup Results - Details, 8/27/2010
4. Final Engineer's Report, FY 2010-11, City of Santa Barbara Wildland Fire Suppression Assessment, May 2010, pages 1-2
5. City of Santa Barbara Fire Department Wildland Fire Plan, 1/21/2004, pages 25, 41, 64-65
6. Santa Barbara County Private Road and Driveway Standards: Development Standard # 1
7. City of Santa Barbara Fire Prevention Bureau Access and Hydrant Information, 5/17/01
8. Cova, Thomas, Public Safety in the Urban-Wildland Interface: Should Fire-Prone Communities Have a Maximum Occupancy?, Natural Hazards Review, August 2005
9. Emergency Planning in the Urban-Wildland Interface: Subdivision-Level Analysis of Wildfire Evacuations, Brian Wolshon, and Emile Marchive III, Journal of Urban Planning and Development, March 2007
10. United States Fire Administration, Technical Report Series, The East Bay Hills Fire,, Oakland-Berkley, California, FEMA, excerpts



City of Santa Barbara

Fire Department

www.ci.santa-barbara.ca.us

January 11, 2011

Tom and Barbara Sanborn
1233 Mission Ridge Road
Santa Barbara, CA 93103

Administration

Phone: 805.564.5644
Fax: 805.564.7300

Fire Prevention/
Public Education

Phone: 805.564.5671
Fax: 805.564.5671

1233 Mission Ridge St.
Santa Barbara, CA
93103

Subject: Proposed Development at 1233 Mission Ridge Road, MST2010-00186

Dear Tom and Barbara Sanborn,

This letter shall serve for all interested and concerned parties as documentation that I have reviewed the conceptually proposed development for the above project on several occasions. During the early reviews I have made suggestions to improve emergency access and provided input for current Fire Code requirements. As of the date of this letter those suggestions and comments have been addressed to my satisfaction.

This proposal will relocate the guest house to within Fire Department access standards, which is currently not the case. The current main house, as will the proposed main house, is within Fire Department access standards. All of the new proposed structures will be designed and constructed to current High Fire construction requirements and will be provided with automatic fire sprinkler systems. The current landscaping meets, and in some cases exceeds High Fire Defensible Space requirements. The new project will be required to meet current High Fire Landscape Guidelines and Defensible Space requirements.

Based on the above mentioned conditions this proposal will provide a higher degree of fire safety for the property owners and the surrounding residence. As currently proposed this project is approved by the Fire Department.

Sincerely,

A handwritten signature in black ink, appearing to read "Jim Austin".

Jim Austin, Fire Inspector III/Investigator

Cc: Mark Shields, Design Arc

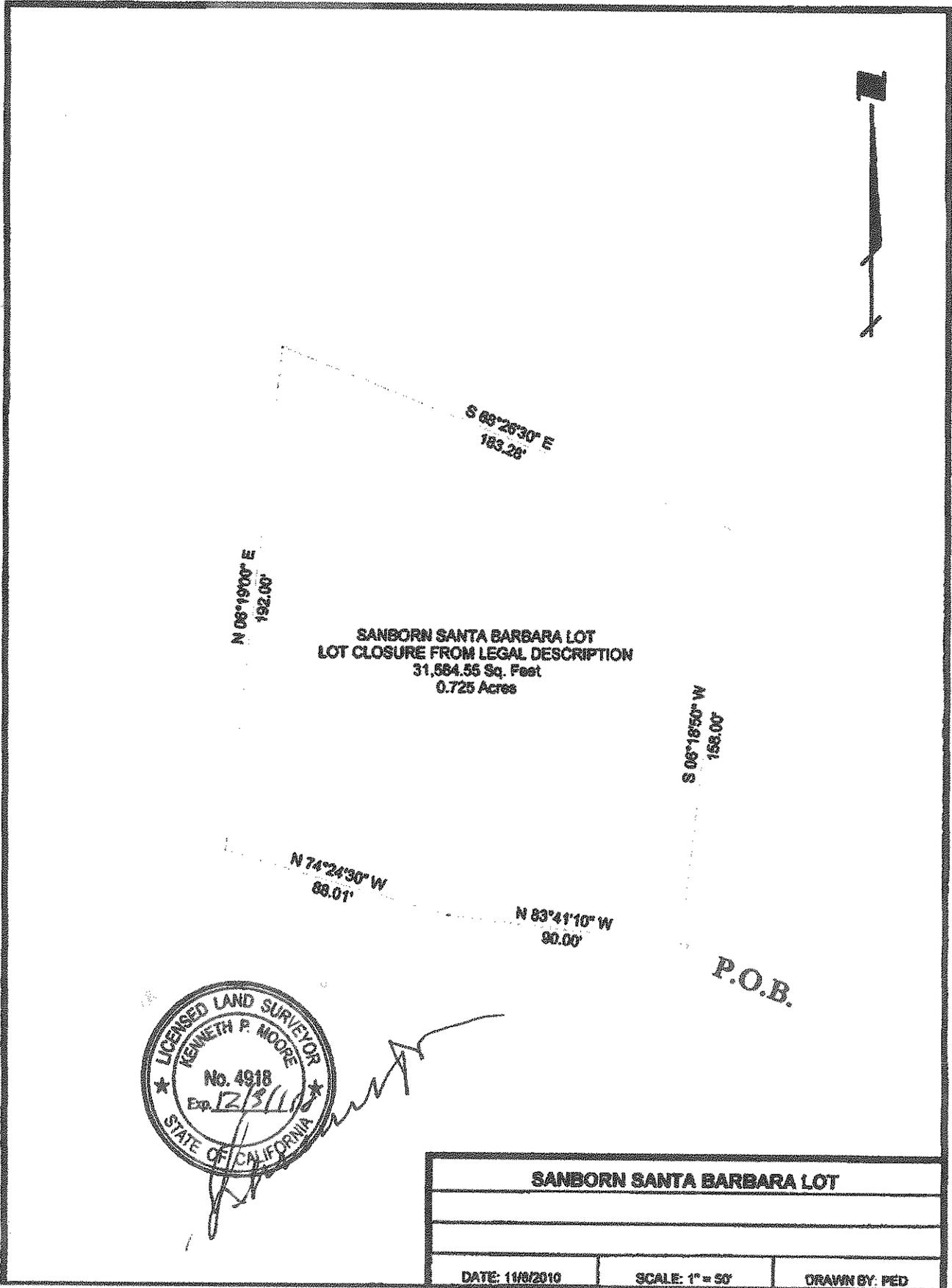
EXHIBIT B

TRACT NAME: SANBORN SANTA BARBARA LOT
DESCRIPTION: LOT CLOSURE FROM LEGAL DESCRIPTION
DISTANCE UNITS: Feet
POINT OF BEGINNING: N=5000.00000', E=5000.00000'

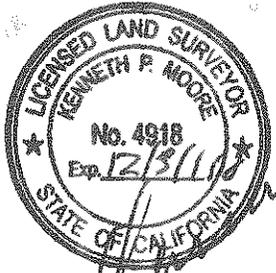
| TYPE | DIRECTION | DISTANCE | NORTHING | EASTING | DESCRIPTION |
|------|---------------|----------|-------------|-------------|-------------|
| LINE | N 83°41'10" W | 90.00' | 5009.89777' | 4910.54591' | |
| LINE | N 74°24'30" W | 88.01' | 5033.55308' | 4825.77453' | |
| LINE | N 06°19'00" E | 192.00' | 5224.38744' | 4846.89903' | |
| LINE | S 68°26'30" E | 183.28' | 5157.04152' | 5017.35749' | |
| LINE | S 06°18'50" W | 158.00' | 4999.99989' | 4999.98140' | |

Area: 31,584.55 Sq. Feet, 0.725 Acres (Un-balanced)
Perimeter: 711.29'
Closing line: N 89°40'35" E, 0.02'
Error in closure: 1:38235





SANBORN SANTA BARBARA LOT
LOT CLOSURE FROM LEGAL DESCRIPTION
31,684.55 Sq. Feet
0.725 Acres



| | | |
|----------------------------------|-----------------|---------------|
| SANBORN SANTA BARBARA LOT | | |
| | | |
| | | |
| DATE: 11/8/2010 | SCALE: 1" = 50' | DRAWN BY: PED |

Macomber Surveying

4023 Primavera Rd #B
Santa Barbara, Ca. 93110
phone 805 967-9226
fax 805 681-9158

date: June 4, 2010

To: Tom Sanborn

RE: Topography Map

Tom:

Per your request.

The area of the lot was determined by record bearing and distance for the boundaries of the lot as shown for Lot 3, Book 28, Page 85, Record of Surveys filed in August, 1947. Area = 31854 sq. ft.

The average slope was determined by using the formula from the city code, $S = .00229 \text{ IL/A}$. $S = 8.94\%$

A = lot size in acres $31584/43560 = .725$

I = Contour interval = 2 ft.

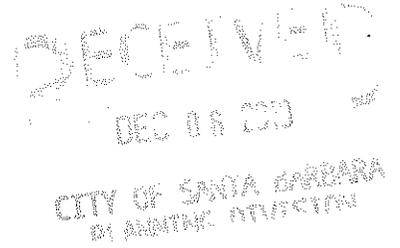
L = Length of contours = 1415.77

S = Average slope

Yours truly,



Archie L. Macomber, LS 4817



Macomber Surveying
4023 Primavera Rd #B
Santa Barbara, Ca. 93110
phone 805 967-9226
fax 805 681-9158

date: Oct. 11, 2010

To: Tom Sanborn

RE: Topography Map

Tom:

Per your request. This is a letter to correct a typo in a letter dated June 4, 2010. The Area is = 31584 not 31854 sq. ft. as stated in the previous letter.

The area of the lot was determined by record bearing and distance for the boundaries of the lot as shown for Lot 3, Book 28, Page 85, Record of Surveys filed in August, 1947. Area = 31584 sq. ft.

The average slope was determined by using the formula from the city code, $S = .00229 \text{ IL/A}$. $S = 8.94 \%$

A = lot size in acres $31584/43560 = .725$

I = Contour interval = 2 ft.

L = Length of contours = 1415.77

S = Average slope

Yours truly,



Archie L. Macomber, LS 4817



AVERAGE SLOPE

$$S = .00229 \text{ IL} / A$$

$$S = 8.94$$

$$A = \text{LOT SIZE IN ACRES } 31584/43560 = .725$$

$$I = \text{CONTOUR INTERVAL} = 2 \text{ FT}$$

$$L = \text{LENGTH OF CONTOURS} = 1415.77$$

TABLE

| | | |
|-----|---|--------------|
| 688 | = | 212.56 |
| 686 | = | 204.93 |
| 684 | = | 207.10 |
| 682 | = | 199.88 |
| 680 | = | 186.84 |
| 678 | = | 192.20 |
| 676 | = | 126.69 |
| 674 | = | 58.55 |
| 672 | = | <u>27.02</u> |
| | | 1415.77 |

MIKE GONES
C I V I L E N G I N E E R

January 10, 2011

Job # 11338

Tom and Barbara Sanborn
1233 Mission Ridge Road
Santa Barbara, Ca.93101

Subject: 1233 Mission Ridge Road

In accordance with your request we calculated the average slope of subject parcel as 9.18%. The calculation was based on the field survey prepared by Macomber Surveying performed in 2010. We used the methodology per City Municipal Code Section 28.15.080. Lot Area was calculated as 31,584.62 Sq. Ft (0.725 acres).

Please call if we can be of further assistance at this time.

Sincerely,


Mike Gones





City of Santa Barbara California

STAFF HEARING OFFICER STAFF REPORT

REPORT DATE: January 19, 2011
AGENDA DATE: January 26, 2011
PROJECT ADDRESS: 1233 Mission Ridge Road (MST2011-000186)
TO: Staff Hearing Officer
FROM: Planning Division, (805) 564-5470
Danny Kato, Senior Planner *DK*
Kelly Brodison, Assistant Planner *KAB*

I. PROJECT DESCRIPTION

The project consists of a proposal to demolish the existing residence, accessory building, and detached garage totaling 2,847 square feet, and to construct two new single-family residences on a 31,584 square foot lot in the Hillside Design District. The proposal includes Unit 1 as a 3,796 square foot two-story single-family residence with an attached 407 square foot two-car garage, 192 square foot workshop, 674 square foot covered patio, 50 square foot second-story deck, pool, spa, hardscape and retaining walls. Unit 2 is proposed as a detached, 920 square foot one-story additional dwelling unit, with a 459 square foot two-car garage and a 125 square foot storage area that are attached to Unit 1. The discretionary application required for this project is a Performance Standard Permit to permit an additional one-family dwelling on a one-family residentially zoned lot (SBMC 28.93.2030).

II. RECOMMENDATION

The proposed project conforms to the City's Zoning and Building Ordinances and policies of the General Plan. In addition, the size and massing of the project have been reviewed by Staff and conceptually reviewed by the Single Family Design Board and have been found to be consistent with the surrounding neighborhood. Therefore, Staff recommends that the Staff Hearing Officer approve the project.

III. SITE INFORMATION AND PROJECT STATISTICS

A. SITE INFORMATION

| | |
|--|--|
| Applicant: Mark Shields, Design Arc | Property Owner: Thomas and Barbara Sanborn |
| Parcel Number: 019-231-007 | Lot Area: 31,584 square feet |
| General Plan: Residential, 1 unit/acre | Zoning: E-1 |
| Existing Use: Residential | Topography: 8.94% |
| Adjacent Land Uses: | |
| North - Residential South - Residential | East - Residential West - Residential |

B. PROJECT STATISTICS

| | Main Residence | Additional Dwelling Unit |
|-----------------|----------------|--------------------------|
| Living Area | 3,796 | 920 |
| Garage | 407 | 459 |
| Accessory Space | 192 | 125 |

C. PROPOSED LOT AREA COVERAGE

Building: 5,899 sf 19% Hardscape: 8,070 sf 25.5% Landscape: 17,615 sf 55.5%

IV. ZONING ORDINANCE CONSISTENCY

| Standard | Requirement/ Allowance | Existing | Proposed |
|---------------------------------|------------------------|-----------|-----------|
| Setbacks | | | |
| -Front | 30' | >30' | 30' |
| -Interior | 10' | >10' | 10' |
| Building Height | 30' | 1 story | 24' |
| Parking | 4 | 2 | 4 |
| Lot Area Required for Each Unit | 15,000 sf | 31,584 sf | No change |
| Open Yard | 1,250 sf | >1,250 sf | >1,250 sf |

The proposed structures meet all of the current zoning requirements.

A. PERFORMANCE STANDARD PERMIT FOR ADDITIONAL DWELLING UNIT

Chapter 28.93 of the Municipal Code provides opportunity for additional dwelling units on single family lots through the approval of a Performance Standard Permit (PSP). The criteria

for granting a PSP require that there be adequate lot area, egress and ingress, and that the location of the additional dwelling complies with all applicable ordinances.

The subject property is zoned E-1, with an average overall slope of 8.94%, which requires a minimum lot area of 15,000 square feet per unit. This 31,584 square foot property provides adequate lot area for two residences. Access to the lot and ingress/egress to each unit will be provided by the existing driveway off of Greenridge Lane. The location of both proposed residential units conforms to the requirements of the Zoning Ordinance, as shown in the table above.

V. DISCUSSION

A. ENVIRONMENTAL REVIEW

The proposed project would not block views of the ocean or mountains from important public viewing locations. While the project will change private views for a few of the adjacent residences, important scenic views and vistas of the larger community will not be impacted. The proposed project retains existing mature oak trees on the property, involves minimal grading, and is located in an area already fully developed with single family residences. The project, therefore, will not substantially degrade the visual character or quality of the site or significantly adversely affect day or nighttime views in the area. The City's Urban Historian has reviewed the project site and has determined that the existing residence on the site would not qualify as a Structure of Merit or Landmark and therefore, would not need further analysis in a Historic Structures Report. Staff and the Environmental Analyst have examined the site and reviewed the proposed plans, and have determined that the project will not result in a significant effect on the environment. Therefore the project has been determined to be exempt from further environmental review pursuant to the California Environmental Quality Guidelines Section 15303 New Construction.

B. DESIGN REVIEW

This project was reviewed by Single Family Design Board (SFDB) on three occasions and meeting minutes are attached as Exhibit C. At the first meeting on July 19, 2010, the SFDB requested that the applicant reduce the square footage as well as size, bulk, and scale, and lower the ridge height. The main residence was proposed to be 143% of the FAR guidelines, and the Additional Dwelling Unit was proposed to be 32% of the FAR guidelines. Although maximum FARs are not applied as requirements for lots greater than 15,000 square feet in size, the Board felt that the overall size of the proposed main residence was excessive for this lot. However the Board stated that the Performance Standard Permit was supportable.

The project returned to the SFDB for a second time on August 30, 2010. The applicant responded to comments from the Board and concerns from the adjacent neighbors by lowering the ridge heights of the main structure and reducing the overall square footage. The main structure was also moved two feet to the north in order to address privacy concerns from the adjacent neighbor to the south. The Board appreciated the overall design however, stated the project could be further reduced in size.

When the project returned for its third review on November 22, 2010, the Board expressed their appreciation for the quality and style of architecture and stated that the project is well integrated with the lot. The applicant had reduced the size of the main house so that it is at 99% of the maximum guideline FAR, and the Additional Dwelling Unit was increased slightly to be 34% of the maximum guideline FAR. The Board was satisfied with this reduction in square footage. The project was continued with positive comments to the Staff Hearing Officer for review of the Performance Standard Permit. The Board requested that subsequent to the SHO review, and prior to returning to the SFDB, story poles be installed to the Standard Level as described in the Single Family Design Board Guidelines. The overall project design will continue to be reviewed by the Single Family Design Board.

VI. FINDINGS

The Staff Hearing Officer finds the following:

A. **PERFORMANCE STANDARD PERMIT (SBMC 28.93.030)**

The Staff Hearing Officer finds that the Performance Standard Permit complies with all standards of SBMC 28.93.030.E, including adequate lot area for two residential units, with associated existing accessory space, and adequate ingress and egress for each residence. The Additional Dwelling Unit has adequate ingress and egress, complies with all ordinance standards including height and setbacks, and is located on a lot of adequate size for an Additional Dwelling Unit in the E-1 zone district, as described in Section IV of the staff report.

Exhibits:

- A. Site Plan
- B. Applicant's letter, dated December 2, 2010
- C. SFDB Minutes

21 W. 5th Street
 Los Angeles, CA 90012
 310.412.1111
 www.designarc.com
 ARCHITECT: [Name]
 INTERIORS: [Name]

**SANBORN
 RESIDENCE**
 1233 Mission Ridge Road
 Santa Barbara, California

| | |
|---------------------------|-----------------|
| Project: [Name] | Date: [Date] |
| Client: [Name] | Scale: [Scale] |
| Architect: [Name] | Sheet: [Number] |
| Interior Designer: [Name] | |
| Engineer: [Name] | |
| Contractor: [Name] | |
| Photographer: [Name] | |
| Model Maker: [Name] | |
| Printer: [Name] | |

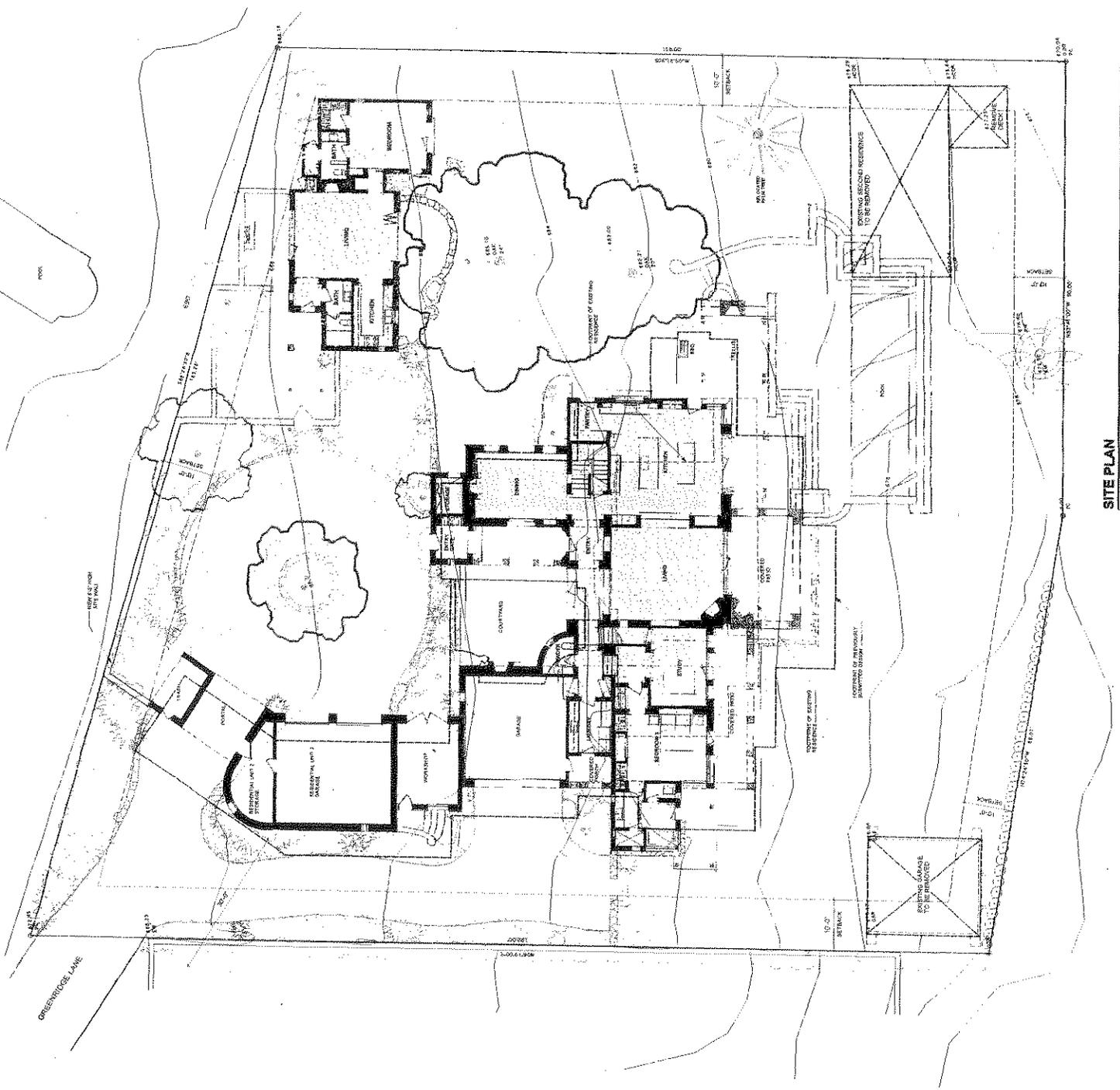
SITE PLAN

A1.1

Date: [Date]
 Number: [Number]

SCALE: 1/8" = 1'-0"

SITE PLAN





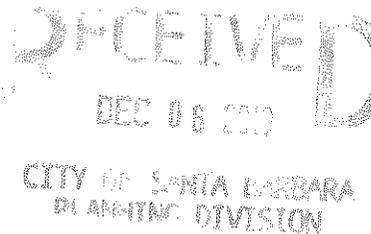
Tom and Barbara Sanborn

1233 Mission Ridge Rd
Santa Barbara, CA 93103

Home/Fax 805 845-8338
Office 805-845-6522
tsanborn@pacbell.net

December 2, 2010

Staff Hearing Officer
City of Santa Barbara
P.O. Box 1990
Santa Barbara, CA 93102-1990



Re: Performance Standard Permit, 1233 Mission Ridge Road; APN 019-231-007; E-1

Dear Staff Hearing Officer:

The following summary is provided for the above referenced property:

1. Proposal to demolish the existing residence, a secondary residence and a detached garage totaling 2,847 square feet and construct two new single-family residences on a 31,584 square foot lot with an average overall slope of 8.9% in the Hillside Design District. The proposal includes Residential Unit 1 as a 3,796 square foot two story single-family residence with an attached 407 square foot garage, attached 192 square foot workshop, 674 square feet of covered patio, 50 square feet of covered second story deck, pool, spa, hardscape and retaining walls. Residential Unit 2 is a proposed 920 square foot one-story residential unit with a 459 square foot detached two car garage and 125 square foot storage area. The proposed total of 4,395 square feet for Residential Unit 1 is 99.9% of the Design Guideline FAR. The proposed total of the 1,504 square feet for Residential Unit 2 is 34% of the Design Guideline FAR.
2. The subject property and design proposal meet the standards for an additional dwelling as provided by Chapter 28.93 of the City's Zoning Ordinance (Performance Standard Permits) Section 28.93.030 Paragraph E. (Additional Dwelling Units). The subject property, zoned E-1 is 31,584 square feet with an overall slope of 8.9%. The property has adequate ingress and egress.
3. No modifications of the proposed design are requested or currently required.

4. The property currently has two permitted, non-conforming structures; a secondary residence and a detached garage. The second residence was permitted and constructed as a two bedroom, two bath unit in the late 1940s. It encroaches five feet into the site's ten foot side yard setback and is considered non-conforming. The existing two car garage is sited within a foot of the southerly and westerly property lines and is also considered non-conforming. The removal of these two structures and the construction of the new one-bedroom, two-bath Residential Unit 2 and garage will remove existing encroachments, expand view sheds, help integrate and feature the mature oaks on the site, increase privacy for our neighbors, improve access in the event of fire or other emergencies and bring all structures on the site into conformance with current codes and standards. The Single Family Design Board on July 19th reviewed the overall conceptual plans and made separate motions to support the proposed additional dwelling unit and the proposed entry portal/ motor court configuration. The Board met on November 22nd and again strongly supported the current conceptual design and released it for consideration by the Staff Hearing Officer with a 7-0 vote.

Thank you for your consideration.

Sincerely,

Thomas H. Sanborn



SINGLE FAMILY DESIGN BOARD
CASE SUMMARY

1233 MISSION RIDGE RD

MST2010-00186

R- 2 SFR

Page: 1

Project Description:

This is a revised project description. Proposal to demolish the existing residence, accessory building, and detached garage totaling 2,847 square feet and construct two new single-family residences on a 31,584 square foot lot in the Hillside Design District. The proposal includes Unit 1 as a 3,796 square foot two-story single-family residence with an attached 407 square foot two-car garage, 192 square foot workshop, 674 square foot covered patio, 50 square foot second-story deck, pool, spa, hardscape and retaining walls. Unit 2 is proposed as a 920 square foot one-story additional dwelling unit with a 459 square foot two-car garage and a 125 square foot storage area attached to the main house. Staff Hearing Officer approval of a Performance Standard Permit is requested to allow an additional dwelling unit per SBMC 28.93.030.E. The proposed total of 4,395 square feet for Unit 1 is 99.9% of the maximum guideline floor to lot area ratio. The proposed total of 1,504 square feet for Unit 2 is 34% of the maximum guideline floor to lot area ratio.

Activities:

11/22/2010

SFDB-Concept Review (Cont.)

(Third concept review. Comments only; project requires Environmental Assessment and Staff Hearing Officer review of a Performance Standard Permit.)

Actual time: 3:31

Present: Marc Shields, Architect; Tom and Barbara Sanborn, Owners.

Public comment opened at 3:48 p.m.

Marc Chytilo, opposed: requested story poles; had issues with mass, bulk, and scale.

Judy Denenholz, opposed: requested applicants follow the good neighbor workshop process; requested story poles.

Keith Rivera, representing neighbors to immediate south: addressed privacy impacts, requested story poles demonstrating window toward neighbors open space.

Beverly Johnson Trial, opposed: requested a new survey.

Beverly Johnson Trial for Allan Trial: opposed: addressed floor area ratio concerns.

Sara Lytle, in favor of the project; nice addition to the Riviera neighborhood.

Larame Greene, in support of the project; massing is appropriate.

A letter of concern from Paula Westbury was acknowledged.

Public comment was closed at 4:02 p.m.

Activities:

Motion: Continued indefinitely Staff Hearing Officer with the following comments:

1) The Board has given the applicant the option to either return to the Full Board after Story poles are installed, or proceed to the Staff Hearing Officer and then return to the Full Board. The Board requests story poles to be installed prior to returning to the full board.

2) The Board compliments and appreciates the applicant's reduction in square footage and the quality of architecture.

3) The quality and style of architecture are well integrated with lot; the alcove/portal entry to the garage is well executed.

Action: Miller/Woolery, 7/0/0. Motion carried.

11/15/2010 SFDB-Resubmittal Received

concept continued.

8/30/2010 SFDB-Concept Review (Cont.)

(Second concept review. Comments only; project requires Environmental Assessment and Staff Hearing Officer review of a Performance Standard Permit.)

Actual time: 6:02

Present: Mark Shields, Architect; Bruce Bartlett, Designer; Mr. and Mrs. Sanborn, Owners.

Ms. Bedard, Planning Technician provided staff comments and remained available to respond to questions from the Board. The applicant submitted four public comment letters in support of the project.

Public comment was opened at 6:22 p.m.

Greg Baranoff: addressed potential second unit, concerned about square footage.

Marc Chytilo, representing Judy Denenholtz: concerned about project size and west wall massing.

Beverly Johnson Trial: concerned about kitchen, lack of screen trees, and loss of views.

Alain Trial: concerned that architecture is contrary to guidelines.

Dan Gainey, neighbor: concerned about loss of privacy.

Keith Rivera: representing Mr. and Mrs. Gainey: concerned about loss of privacy, requested 3-D model.

Katie O'Rielly Rogers: representing Mr. and Mrs. Gainey: concerned about privacy issues, project size.

A letter in opposition from Paula Westbury was acknowledged.

Public comment was closed at 6:43 p.m.

Motion: Continued indefinitely to the Full Board with the comment to significantly reduce the square footage.

Action: Bernstein/Miller, 6/0/1. Motion carried. (Carroll abstained.)

8/23/2010 SFDB-Resubmittal Received

3 sets of plans + resubmittal forjm

Activities:**7/19/2010****SFDB-Concept Review (New) - PH**

(Comments only; project requires environmental assessment and Staff Hearing Officer review of a Performance Standard Permit.)

Actual time: 6:16

Present: Bruce Bartlet, Architect, DesignARC; Mark Shields, Designer; Tom and Barbara Sandborn, Owners.

Public comment was opened at 6:34 p.m.

Judy Denenholz: opposed to the large size; concerned about fire truck access and neighborhood incompatibility.

Dan Gainey, neighbor: opposed to the loss of privacy.

Greg Baranoff: concerned about loss of views and the large size.

Beverly Johnson Trial: opposed to the large house on a small lot; read a letter from Jim Knight who urged the Board to adhere to the NPO, SFR and Hillside guidelines.

Public comment was closed at 6:52 p.m.

Seven letter expressing opposition or concerns from David and Judy Denenholz, Edith Baranoff, Alain Trial, Jim Knight, Charles Joyce Wright, Frank and Gina Meyers, and Paula Westbury were acknowledged. A letter in support containing 23 signatures was acknowledged. Four additional letters in support from Mary Lou Fahy, Bill Freudenberg & Sarah Stewart, Laurel G. Phillips, and Glen & Dorothy Dyruff were submitted by the applicant.

Motion: Continued four weeks to the Full Board with the following comments:

- 1) Study reducing the square footage as well as size, bulk, and scale.*
- 2) Study lowering the ridge height.*
- 3) Provide supporting information about impacts of the house on the neighborhood. Consider installing story poles. Provide a site section through the property.*
- 4) Provide an arborist report for the existing Oak trees near the house.*
- 5) Provide additional information for landscaping along western property line.*
- 6) The performance standard permit is supportable because there is an existing guest house.*
- 7) The front entry portal design is appreciated.*

Action: Woolery/Bernstein, 7/0/0. Motion carried.

7/6/2010**SFDB-Concept Review (New) - PH**

(Comments only; project requires environmental assessment and Staff Hearing Officer review of a Performance Standard Permit.)

Postponed two weeks at the applicant's request.





City of Santa Barbara California

CITY OF SANTA BARBARA STAFF HEARING OFFICER

RESOLUTION NO. 002-11 1233 MISSION RIDGE ROAD PERFORMANCE STANDARD PERMIT JANUARY 26, 2011

APPLICATION OF MARK SHIELDS OF DESIGN ARC, ARCHITECT FOR THOMAS AND BARBARA SANBORN, PROPERTY OWNERS, 1233 MISSION RIDGE ROAD, APN 019-231-007, E-1 ONE FAMILY RESIDENCE ZONE, GENERAL PLAN DESIGNATION: RESIDENTIAL 1 UNIT PER ACRE (MST2010-00186)

Proposal to demolish the existing residence, accessory building, and detached garage totaling 2,847 square feet and construct two new single-family residences on a 31,584 square foot lot in the Hillside Design District. The proposal includes Unit 1 as a 3,796 square foot two-story single-family residence with an attached 407 square foot two-car garage, 192 square foot workshop, 674 square foot covered patio, 50 square foot second-story deck, pool, spa, hardscape and retaining walls. Unit 2 is proposed as a 920 square foot one-story additional dwelling unit with a 459 square foot two-car garage and a 125 square foot storage area attached to the main house. The proposed total of 4,395 square feet for Unit 1 is 99.9% of the maximum guideline floor to lot area ratio. The proposed total of 1,504 square feet for Unit 2 is 34% of the maximum guideline floor to lot area ratio. The discretionary application required for this project is a Performance Standard Permit to permit an additional dwelling on a one-family residentially zoned lot (SBMC § 28.93.030.E). The Environmental Analyst has determined that the project is exempt from further environmental review pursuant to the California Environmental Quality Guidelines Section 15303.

WHEREAS, the Staff Hearing Officer has held the required public hearing on the above application, and the Applicant was present.

WHEREAS, 1 person appeared to speak in favor of the application, and 5 people appeared to speak in opposition thereto, and the following exhibits were presented for the record:

1. Staff Report with Attachments, January 19, 2011.
2. Site Plans
3. Correspondence received in support of the project:
 - a. Laurel G. Phillips, 1214 High Ridge Road, Santa Barbara, CA 93103.
 - b. Glen and Dorothy Dyruff, 1234 Mission Ridge Road, Santa Barbara, CA 93103.
 - c. Mary Lou Fahy, 1219 High Ridge Road, Santa Barbara, CA 93103.
 - d. Bill Freudenburg and Sarah Stewart, 1235 Mission Ridge Road, Santa Barbara, CA 93103.
4. Correspondence received in opposition to the project:
 - a. Keith Rivera, 339 Woodley Court, Santa Barbara, CA 93105.
 - b. Dan and Diane Gainey, 817 Arbolado Road, Santa Barbara, CA 93103.

- c. Marc Chytilo, P.O. Box 92233, Santa Barbara, CA 93190.
- d. Judy and David Denenholtz, 1225 Mission Ridge Road, Santa Barbara, CA 93103.
- e. Beverly Johnson Trial, 1218 High Ridge Lane, Santa Barbara, CA 93103.
- f. Alain Trial, 1218 High Ridge Lane, Santa Barbara, CA 93103.
- g. Beth Ford, 314 Elizabeth Street, Santa Barbara, CA 93103.
- h. Frank and Gina Meyers, 1229 Mission Ridge Road, Santa Barbara, CA 93103.

NOW, THEREFORE BE IT RESOLVED that the City Staff Hearing Officer:

- I. Approved the Performance Standard Permit, making findings that the Performance Standard Permit complies with all standards of SBMC 28.93.030.E, including adequate lot area for two residential units, with associated existing accessory space, and adequate ingress and egress for each residence. The Additional Dwelling Unit has adequate ingress and egress, complies with all ordinance standards including height and setbacks, and is located on a lot of adequate size for an Additional Dwelling Unit in the E-1 zone district, as described in Section IV of the Staff Report.
- II. Said approval is subject to the following conditions
 - A. The two existing oak trees (20" and 24") on the east side of the property shall be preserved, protected, and maintained. The recommendations for tree protection during construction, including the suggested changes to the plans included in the body of the arborist letter report from Westree dated August 12, 2010, shall be incorporated into the project and included in any plans submitted for a building permit associated with this project.
 - B. Construction vehicle/ equipment/ materials storage and staging shall be done on-site. No parking or storage shall be permitted within the public right-of-way or Greenridge Lane, unless specifically permitted by the Transportation Manager with a Public Works permit.
 - C. During construction, free parking spaces for construction workers shall be provided on-site or off-site in a location subject to the approval of the Transportation Manager.

This motion was passed and adopted on the 26 day of January, 2011 by the Staff Hearing Officer of the City of Santa Barbara.

PLEASE BE ADVISED:

1. This action of the Staff Hearing Officer can be appealed to the Planning Commission or the City Council within ten (10) days after the date the action was taken by the Staff Hearing Officer.
2. If the scope of work exceeds the extent described in the Modification request or that which was represented to the Staff Hearing Officer at the public hearing, it may render the Staff Hearing Officer approval null and void.
3. If you have any existing zoning violations on the property, other than those included in the conditions above, they must be corrected within thirty (30) days of this action.
4. Subsequent to the outcome of any appeal action your next administrative step should be to apply for Single Family Design Board (SFDB) approval and then a building permit.
5. **PLEASE NOTE: A copy of this resolution shall be reproduced on the first sheet of the drawings submitted with the application for a building permit.** The location, size and design of the construction proposed in the application for the building permit shall not deviate from the location, size and design of construction approved in this modification.
6. **NOTICE OF APPROVAL TIME LIMITS:** The Staff Hearing Officer's action approving the Performance Standard Permit shall expire two (2) years from the date of the approval, per SBMC §28.87.360, unless:
 - a. A building permit for the construction authorized by the approval is issued within twenty four months of the approval. (An extension may be granted by the Staff Hearing Officer if the construction authorized by the permit is being diligently pursued to completion.) or;
 - b. The approved use has been discontinued, abandoned or unused for a period of six months following the earlier of:
 - i. an Issuance of a Certificate of Occupancy for the use, or;
 - ii. one (1) year from granting the approval.

The ten calendar day appeal period to the Planning Commission was announced and is subject to suspension for review by the Planning Commission.

ACTUAL TIME: 9:18 A.M.

B. APPLICATION OF MARK SHIELDS OF DESIGN ARC, ARCHITECT FOR THOMAS AND BARBARA SANBORN, PROPERTY OWNERS, 1233 MISSION RIDGE ROAD, APN 019-231-007, E-1 ONE FAMILY RESIDENCE ZONE, GENERAL PLAN DESIGNATION: RESIDENTIAL 1 UNIT PER ACRE (MST2010-00186)

Proposal to demolish the existing residence, accessory building, and detached garage totaling 2,847 square feet and construct two new single-family residences on a 31,584 square foot lot in the Hillside Design District. The proposal includes Unit 1 as a 3,796 square foot two-story single-family residence with an attached 407 square foot two-car garage, 192 square foot workshop, 674 square foot covered patio, 50 square foot second-story deck, pool, spa, hardscape and retaining walls. Unit 2 is proposed as a 920 square foot one-story additional dwelling unit with a 459 square foot two-car garage and a 125 square foot storage area attached to the main house. The proposed total of 4,395 square feet for Unit 1 is 99.9% of the maximum guideline floor to lot area ratio. The proposed total of 1,504 square feet for Unit 2 is 34% of the maximum guideline floor to lot area ratio.

The discretionary application required for this project is a Performance Standard Permit to permit an additional dwelling on a one-family residentially zoned lot (SBMC § 28.93.030.E).

The Environmental Analyst has determined that the project is exempt from further environmental review pursuant to the California Environmental Quality Guidelines Section 15303.

Case Planner: Kelly Brodison, Assistant Planner

Present: Mark Shields, Architect; and Thomas and Barbara Sanborn, Owners.

Ms. Reardon announced that she read the Staff Report for the proposed project and also visited the site and surrounding neighborhood.

Kelly Brodison, Assistant Planner, gave the Staff presentation and recommendation, and announced a correction to the staff report in the correct maximum height of the building to be 29 feet, 6-inches, and not 24 feet as stated in Section IV, of the staff report.

The Public Hearing was opened at 9:41 a.m.

The following people spoke in opposition or with concerns regarding the proposed project:

1. Keith Rivera (neighbor to and agent for Dan & Diane Gainey) requested that the pending story poles address second-floor window locations in order to further address potential neighborhood privacy impacts.

2. Beverly Johnson Trial (northerly neighbor – also submitted and read letter from husband Alan Trial), requested a delay in review of the proposed project until pending installation of story poles, and spoke of concerns of negative impacts to neighborhood density.
3. Beth Ford (with two submitted photos), spoke of concerns of density impacts and the existing difficulty for safe ingress and egress.
4. Marc Chytilo spoke of concerns of inadequate safe emergency access in the High Fire area of the proposed project, inadequate safe ingress and egress, negative neighborhood impact and compatibility issues, massing FAR calculations, and massing of the motor court.
5. Judy Denenholz, spoke of concerns regarding the inadequate size of the lot to support two structures, large FAR calculations, and negative neighborhood impacts.

Laurel Phillips spoke in support of the proposed project, and commented on the beauty of the proposed project and the patience of the owners.

Various public correspondence letters and one petition in support were submitted by Thomas Sanborn (from Laurel Phillips, Glen and Dorothy Dyruff, Mary Lou Fahy, Bill Freudenburg and Sarah Stewart).

Letters in opposition were acknowledged from Dan and Diane Gainey and Marc Chytilo (agent for Judy and David Denenholz).

The Public Hearing was closed at 10:00 a.m.

Jim Austin, Fire Inspector III/Investigator, stated that he did not have specific reports from fire crews of any difficulty of ingress or egress to Greenridge Lane, and that his assessment on the high fire safety of the existing structures and site and the proposed structures and new landscaping is that the project improves the existing situation.

Melissa Hetrick, Environmental Analyst/Project Planner, spoke on the project's CEQA categorical exemption requirements.

Ms. Brodison clarified the FAR calculations and the surveys conducted to confirm those calculations.

Ms. Reardon clarified with the applicant the intent to include tree protection measures during construction and discussed potential conditions of approval. The applicant expressed agreement with the proposed conditions of approval.

ACTION:

Assigned Resolution No. 002-11

Approved the Performance Standard Permit making the findings outlined in the written Staff Report dated January 19, 2011.

Said approval is subject to the following conditions:

- A. The two existing oak trees (20" and 24") on the east side of the property shall be preserved, protected, and maintained. The recommendations for tree protection during construction, including the suggested changes to the plans included in the body of the arborist letter report from Westree dated August 12, 2010, shall be incorporated into the project and included in any plans submitted for a building permit associated with this project.
- B. Construction vehicle/ equipment/ materials storage and staging shall be done on-site. No parking or storage shall be permitted within the public right-of-way or Greenridge Lane, unless specifically permitted by the Transportation Manager with a Public Works permit.
- C. During construction, free parking spaces for construction workers shall be provided on-site or off-site in a location subject to the approval of the Transportation Manager.

The ten calendar day appeal period to the Planning Commission was announced and is subject to suspension for review by the Planning Commission.

ACTION:

(10:19 a.m.)

A five-minute break was called to give the applicant of Item A, 2849 Verde Vista Drive time to return to the Public Hearing.

III. ADJOURNMENT

Ms. Reardon adjourned the meeting at 10:43 a.m.

Submitted by,

Kathleen Goo, Staff Hearing Officer Secretary

