



# City of Santa Barbara California

II.C.

## STAFF HEARING OFFICER STAFF REPORT

**REPORT DATE:** January 2, 2013  
**AGENDA DATE:** January 9, 2013  
**PROJECT ADDRESS:** 718-728 N. Voluntario Street (MST2012-00407)  
**TO:** Susan Reardon, Senior Planner, Staff Hearing Officer  
**FROM:** Planning Division, (805) 564-5470  
Renee Brooke, AICP, Senior Planner  
Suzanne Riegle, Assistant Planner

### I. PROJECT DESCRIPTION

The subject property is part of the Tres Palmas condominium development located at 718-728 N. Voluntario St. The proposal includes improvements located on the private properties for the units located at 718 and 720 N. Voluntario Street and extends into the lot defined as common area for the condominium development. The proposed improvements at 718 N. Voluntario Street include the demolition and replacement of a 347 square foot "as-built" wood deck and 60 linear-foot "as-built" wood fence in the same locations. The proposed improvements at 720 N. Voluntario Street include the demolition of a 300 square foot "as-built" wood deck and 75 linear-foot "as-built" wood fence and replacement with a new 400 square foot concrete deck and an 85 linear-foot wood fence in the same locations. The project also includes a new storm drain line, trash enclosure, storage enclosure and a 50 square-foot sunroom addition. The discretionary land use applications required for this project are:

1. A Modification to allow a deck and planter exceeding ten inches in height to encroach into the required six-foot interior setback (SBMC §28.18.060 and 28.92.110); and
2. A Modification to allow the combined height of retaining walls and fencing to exceed eight feet in height within the required six-foot interior setback (SBMC §28.87.170 and 28.92.110).

Date Application Accepted: 10/31/2012

Date Action Required: 1/29/2013

### II. RECOMMENDATION

Staff recommends that the Staff Hearing Officer approve the project.

### III. SITE INFORMATION AND PROJECT STATISTICS

#### A. SITE INFORMATION

Applicant:	Howard Wittausch, Architect	Property Owners:	Tres Palmas Homeowner's Association, Therese Cummings, and the Ruth Ann Glater Trust
Parcel Numbers:	031-131-033, -029 & -030	Lot Area:	various
General Plan:	Medium Density Residential	Zoning:	R-2
Existing Use:	Residential	Topography:	10% slope
Adjacent Land Uses:	Residential		

### IV. DISCUSSION

The proposal includes improvements located on the private properties for the units located at 718 and 720 N. Voluntario Street and extends into the lot defined as common area for the condominium development.

The Tres Palmas Homeowner's Association is proposing to replace the storm drain line along the southerly property line within the common area for the development. The topography in this area is such that the owners of adjacent units constructed decks without permits that span from the private yard area to the property line to make the yard more useable. The unpermitted improvements in the yards for units 718 and 720 N. Voluntario Street must be removed to replace the drain.

The proposed improvements at 718 N. Voluntario Street include the demolition and replacement of a 347 square foot "as-built" wood deck and 60 linear-foot "as-built" wood fence in the same location. The proposed improvements at 720 N. Voluntario Street include the demolition of a 300 square foot "as-built" wood deck and 75 linear-foot "as-built" wood fence and replacement with a new 400 square foot concrete deck and an 85 linear-foot wood fence in the same location. The project also includes a new storm drain line, trash enclosure, storage enclosure and a 50 square-foot sunroom addition.

The first Modification request is required to allow the replacement decks and planters to exceed ten-inches in height within the required six-foot interior setback. The decks provide a level useable yard area that is not anticipated to impact the adjacent downhill neighbors. The unpermitted improvements have been in place for many years without any reported neighborhood concern. The applicant has stated that the decks and fencing may have been built at the time of the development. Evidence could not be found to document when the decks and fencing were constructed. The decks are taller than ten-inches in height above grade due to the change in topography.

The second Modification request is to allow the combined height of retaining walls and fencing to exceed eight feet in height within a required setback. The five-foot-high site/privacy fencing is located within five feet of site and retaining walls located on the adjacent property at 716 N.

Voluntario Street. The cumulative height of the walls on both properties is approximately 10'-11". The applicant is proposing to replace the existing unpermitted five-foot wood fence with another five-foot tall wood fence in the same location. The fence will continue to provide privacy between the properties and is consistent with purpose and intent of the ordinance.

This project was reviewed by the Architectural Board of Review on November 5, 2012, and the Board found the proposed modifications posed no adverse aesthetic impacts and stated that the galvanized fence posts should be concealed by wood.

**V. FINDINGS**

The Staff Hearing Officer finds that the Modification to allow decks and planters to exceed ten inches in height within a setback is consistent with the purposes and intent of the Zoning Ordinance and is necessary to secure an appropriate improvement on the lot. The proposed deck and planter improvements are appropriate because they allow for the repair of storm drain improvements while providing a level useable open space area in an area constrained by topography.

The Staff Hearing Officer finds that the Modification to allow the combined wall height to exceed eight feet in height within a setback is consistent with the purposes and intent of the Zoning Ordinance and is necessary to secure an appropriate improvement on the lot. The proposed five foot fence in combination with the adjacent neighbor's retaining and site walls will exceed the allowable height by approximately 2'-11" and is appropriate to minimally secure a private yard with no anticipated impacts to the adjacent neighbor.

Exhibits:

- A. Site Plan (under separate cover)
- B. Applicant's letter, dated October 31, 2012
- C. Letters from Allen & Kimbell, LLP dated 10/17/12, 10/18/12, and 12/3/12
- D. ABR Minutes

Contact/Case Planner: Suzanne Riegle, Assistant Planner  
(SRiegle@SantaBarbaraCA.gov)  
630 Garden Street, Santa Barbara, CA 93101  
Phone: (805) 564-5470 x 2687

**WILLIAM HOWARD WITTAUSCH**  
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October 31, 2012

Susan Reardon, Modification Hearing Officer  
Planning & Development  
City of Santa Barbara  
630 Garden Street  
Santa Barbara, CA 93101

RECEIVED  
OCT 31 2012  
CITY OF SANTA BARBARA  
PLANNING DIVISION

Re: Modification Request - 720 No. Voluntario Street, Santa Barbara  
APN 031-131-030

Dear Ms. Reardon,

It is proposed to remove the existing raised wood deck and wood fence constructed within the required 6 foot interior setback to provide construction access for the installation of a storm drain line and to construct a new concrete deck 4 feet from the property line and a wood fence 18" from the property line. The deck provides required outdoor living space and is more than 10" above grade; the fence is 8 feet above grade.

This is to request three modifications to Santa Barbara Municipal Code as follows:

- I. Permit the proposed wood fence to exceed the maximum allowed height of 8 feet in the required 6 foot interior setback. (§28.87.170.A)
- II. Permit the proposed concrete deck to encroach 24" into the required 6 foot interior setback. (§28.87.062.B.1)

Modification I is requested for the following reasons:

1. The proposed fence is 5 feet above patio grade, less than 8 feet above finish grade on the subject property and, due to a 3+ foot retaining wall at the property line, is more than 8 feet above finish grade on the adjoining property.
2. The proposed wood fence replaces the existing fence being removed in kind and is at the same height and in the same location as the existing fence.
3. The existing wood fence supports the raised wood deck which provides lateral support to the fence and is also in a deteriorated condition. Removal of the deck removes the lateral support of the fence, requiring the fence to be replaced.
4. The proposed fence provides privacy screening between properties requested by resident owners of both properties.

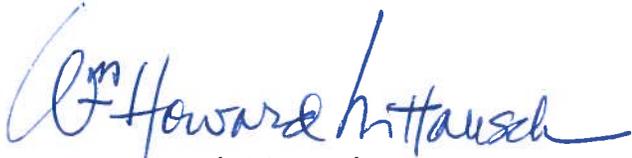
Modification II is requested for the following reasons:

1. Existing grade outside the owner's unit (#720) slopes from the building to a retaining wall at the property line at a rate of 1 to 2 and cannot be used as outdoor living space.
2. The existing raised wood deck is dry-rotted and needs to be removed. Foundation supports have settled and need to be replaced.
3. The proposed concrete deck provides required private outdoor living space and is not subject to dryrot or insect infestation.
4. The setback does not allow for a patio with sufficient space for patio furniture.

Susan Reardon  
October 31, 2012  
Page 2

If you have any questions or suggestions or should you require any additional information, please call me. Thank you for your consideration.

Sincerely,

A handwritten signature in blue ink that reads "Wm. Howard Wittausch". The signature is written in a cursive style with a large, stylized initial "W".

Wm. Howard Wittausch  
Architect Civil Engineer

cc: Therese Cummings  
Mike Brelje, Attorney for Therese Cummings  
James Sweeney, Attorney for Tres Palmas HOA

Attorneys  
At Law



PAUL A. GRAZIANO\*†  
CHARLES D. KIMBELL  
BRADLEY E. LUNDGREN  
JOHN H. PARKE  
JAMES M. SWEENEY

DAVID E. GRAFF

W. JOE BUSH\*  
OF COUNSEL

GEORGE H. ALLEN  
(1921-2010)

\*Certified Specialist: Estate Planning,  
Trust and Probate Law  
†Certified Specialist: Taxation Law  
The State Bar of California  
Board of Legal Specialization

RECEIVED  
OCT 31 2012

CITY OF SANTA BARBARA  
PLANNING DIVISION

October 18, 2012  
Via Personal Delivery

Suzanne Riegle, Planner  
Planning & Zoning  
Community Development  
City of Santa Barbara

**RE: APNs 031-131-033 and 031-131-030  
Tres Palmas HOA, and 720 North Voluntario Street  
Site drainage and fence project**

Dear Ms. Riegle:

Allen & Kimbell, LLP represents the Tres Palmas Homeowners Association. The Association has reviewed and approved the work proposed in its common area, and on the separate lot owned by Therese Cummings located at 720 North Voluntario Street, as described on the plans dated February 20, 2012, as revised through October 18, 2012 and prepared by Wm. Howard Wittausch, Architect and Civil Engineer.

Sincerely,

ALLEN & KIMBELL, LLP

By

James M. Sweeney, Esq.

A handwritten signature in blue ink, appearing to read 'James M. Sweeney', is written over the typed name.

JMS/lmw  
CC: Client

**EXHIBIT C**

December 3, 2012  
**Via Personal Delivery**

Suzanne Riegle, Planner  
Planning & Zoning  
Community Development  
City of Santa Barbara

***RE: APNs 031-131-033 and 031-131-029  
Tres Palmas HOA, and 718 North Voluntario Street  
Site drainage and fence project***

Dear Ms. Riegle:

I am the trustee of the Ruth Ann Glater Trust, dated 7/21/86, and in that capacity I own the property located at 718 North Voluntario Street in the Tres Palmas Homeowners Association. I have reviewed and approved the work proposed in the Trust's separate lot, as described on the plans dated February 20, 2012, as revised through October 18, 2012, and prepared by Wm. Howard Wittausch, Architect and Civil Engineer.

Sincerely,

Sharon C. Kennedy,  
Successor trustee of the Ruth Ann Glater  
Trust, dated 7/21/86

RECEIVED  
OCT 31 2012  
CITY OF SANTA BARBARA  
PLANNING DIVISION

TRES PALMAS HOMEOWNERS ASSOCIATION

Suzanne Riegle, Planner  
Planning & Zoning  
Community Development  
City of Santa Barbara

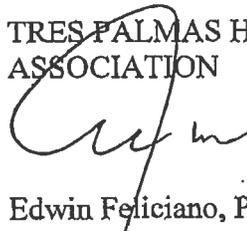
**RE: APNs 031-131-033 and 031-131-030  
Tres Palmas HOA, and 720 North Voluntario Street  
Site drainage and fence project**

DearMs. Riegle:

This letter will confirm that Allen & Kimbell, LLP represents the Tres Palmas Homeowners Association in all matters relating to the drainage project proposed for the Association's common area, and on the separate lot owned by Therese Cummings located at 720 North Voluntario Street.

Sincerely,

TRES PALMAS HOMEOWNERS  
ASSOCIATION



Dated: October 17, 2012 By:

Edwin Feliciano, President



## DESIGN REVIEW ACTIVITIES SUMMARY

**720 N VOLUNTARIO ST (MST2012-00407)**

**R-ADDN, DECK & FENCE**

*Proposal to replace a 300 square foot as-built wood deck and 75 linear foot wood fence with a new 400 square foot concrete deck and 85 linear foot wood fence in the same location. The project also includes a new storm drain line, new trash enclosure, and enclosing 50 square feet of a covered porch area for new floor area. Staff Hearing Officer review of a zoning modification is requested.*

**Status: Pending**

**DISP**

**Date 3**

**ABR-Consent (New)**

**CONT**

**11/05/12**

(Comments only; project requires environmental review and Staff Hearing Officer review of a zoning modification.)

Continued to the Staff Hearing Officer with comments: 1) project poses no negative aesthetic impacts; 2) galvanized fence posts are to be concealed with wood.

**EXHIBIT D**