



# City of Santa Barbara California

## STAFF HEARING OFFICER STAFF REPORT

**REPORT DATE:** May 8, 2014  
**AGENDA DATE:** May 14, 2014  
**PROJECT ADDRESS:** 438 Conejo Road (MST2013-00336)  
**TO:** Susan Reardon, Senior Planner, Staff Hearing Officer  
**FROM:** Planning Division, (805) 564-5470  
 Danny Kato, Senior Planner *DJK*  
 Suzanne Riegle, Associate Planner *SR*

### I. PROJECT DESCRIPTION

The 6,880 square-foot site is currently vacant. The previous residence was destroyed in the Tea Fire in November 2008. The proposed project involves the construction of a two-story, 2,006 square foot, single-family residence and an attached 440 square foot two-car garage. The proposal includes the removal of five (5) existing trees, new site walls and decks, and 264 cubic yards of site grading. The proposed total of 2,446 square feet, located on a 6,880 square foot parcel in the Hillside Design District, is 84% of the maximum floor-to-lot area ratio (FAR).

The discretionary applications required for this project are:

1. A Front Setback Modification to allow new construction within the required 35-foot front setback along the Conejo Lane frontage (SBMC § 28.15.060 and SBMC § 28.92.110); and
2. An Interior Setback Modification to allow new construction within the required 15-foot interior setback to the south (SBMC § 28.15.060 and SBMC § 28.92.110); and
3. An Interior Setback Modification to allow new construction within the required 15-foot interior setback to the north (SBMC § 28.15.060 and SBMC § 28.92.110).

Date Application Accepted: March 18, 2014

Date Action Required: June 16, 2014

### II. RECOMMENDATION

Staff recommends that the Staff Hearing Officer approve the project, subject to a condition.

**III. SITE INFORMATION AND PROJECT STATISTICS**

**A. SITE INFORMATION**

Applicant:	Jonathan Villegas	Property Owner:	Luis Fernandez
Parcel Number:	019-061-013	Lot Area:	6,880 sq. ft.
General Plan:	Low Density Residential Max 1 du/acre	Zoning:	A-1
Existing Use:	Vacant	Topography:	34% est. avg. slope

**B. PROJECT STATISTICS**

	<b>Existing</b>	<b>Proposed</b>
Living Area	None	2,006 sq. ft.
Garage	None	440 sq. ft.

**C. PROPOSED LOT AREA COVERAGE**

Building: 1,802 sf 12% Hardscape: 1,189 sf 18% Landscape: 3,889 sf 56%

**D. FLOOR-AREA RATIO (FAR)**

Max. Allowed FAR: 0.424 Proposed FAR: 0.356 = 84% of Max. Allowed FAR

**IV. DISCUSSION**

The proposed project involves the construction of a new single family residence, attached two-car garage, and site retaining walls. The prior two-story, single-family, residence and attached garage were destroyed by the Tea Fire. In 1965, the property was zoned E-1, and a Modification was approved to allow the construction of the original residence at a distance of 20 feet from the front property line. An uncovered parking area was permitted to encroach five-feet into the required 10 foot interior setback to the south. In 1975, the property was the subject of a rezone to A-1 zoning, which requires larger setbacks, and the property became legal non-conforming to the required 35' front setback off Conejo Lane and the 15' interior setback to south.

Pursuant to SBMC §28.87.038, all non-conforming development destroyed by a natural disaster can be replaced in its previous location within three years of the date of loss. The Tea Fire incident occurred more than three years ago in November 2008; therefore, the non-conforming ordinance no longer applies and any improvements that do not meet Zoning Ordinance standards require Modification approval.

The proposed project has larger setbacks from the southerly and easterly property lines than the previously existing house. The applicant has requested a setback modification to allow the construction of the two-story residence to encroach five feet into the interior setbacks to the north and south, and five feet into the front setback to the east along the Conejo Lane frontage. The existing lot is non-conforming to lot size at 6,880 square feet, and with an estimated slope of 34%, is extremely undersized. A new lot in the A-1 zone with a slope of greater than 30%

would require a minimum of three acres. The lot is further constrained by a 35-foot front setbacks, three 15-foot interior setbacks, and steep slopes.

This project was reviewed by the Single Family Design Board (SFDB) on August 26, November 18 and December 2, 2013 and January 27 and February 24, 2014. At the February 24, 2014 meeting the Board forwarded the project to the Staff Hearing Officer, making the finding that the proposed modifications are aesthetically appropriate. The proposed modifications do not pose consistency issues with appearance, compatibility, quality architecture, and materials. The Board appreciated the redesign and attempts to meet the neighborhood compatibility guidelines. The majority of the Board was concerned with the apparent height of the tower, and directed the applicant to study: a) lowering the height of the tower, b) softening the tower with landscaping, c) moving the stairs to the other side of the tower, and d) the window placements in the tower.

#### **V. CEQA ENVIRONMENTAL DETERMINATION:**

The project site is located within an area mapped as the Prehistoric Sites and Watercourses Archaeological sensitivity area. An archaeological letter report, prepared by David Stone, concluded that it is unlikely that artifacts will be encountered during the proposed construction of the new residence. Staff recommends that the standard unanticipated archaeological discovery condition shall be reproduced on the plans prior to submittal for building permit.

The scope of work of the project is within the scope of the 2011 General Plan and the Program EIR analysis for the General Plan. The project is consistent with the development density designated and analyzed by the Program EIR, and potential project-specific environmental effects are addressed with existing development standards and regulations. Based on City Staff analysis, no further environmental document is required for this project pursuant to the California Environmental Quality Act (Public Resources Code §21083.3 and Code of Regulations §15183- Projects Consistent with the General Plan) and the CEQA Certificate of Determination (Exhibit H). City Council environmental findings adopted for the 2011 General Plan remains applicable for this project. A decision-maker finding that the project qualifies for the §15183 CEQA determination is required.

#### **VI. FINDINGS AND CONDITIONS**

The project qualifies for an exemption from further environmental review under CEQA Guidelines Section 15183, based on the City staff analysis and the CEQA certificate of determination on file for this project.

The Staff Hearing Officer finds that the setback Modifications are consistent with the purposes and intent of the Zoning Ordinance and are necessary to secure appropriate improvements on this lot. The lot is significantly below the required minimum lot size for the A-1 Zone; the property has a steep overall slope of 34%, and is further constrained the required setbacks. The proposed expansion of the residence and garage into the front and interior setbacks allows for a rebuild of the previous home with a minor expansion.

Said approval is subject to the following conditions:

1. The following language shall be added to the plans submitted for building permit:

“Prior to the start of any vegetation or paving removal, demolition, trenching or grading, contractors and construction personnel shall be alerted to the possibility of uncovering unanticipated subsurface archaeological features or artifacts associated with past human occupation of the parcel. If such archaeological resources are encountered or suspected, work shall be halted immediately, the City Environmental Analyst shall be notified and an archaeologist from the most current City Qualified Archaeologists List shall be retained by the applicant. The latter shall be employed to assess the nature, extent and significance of any discoveries and to develop appropriate management recommendations for archaeological resource treatment which may include, but are not limited to, redirection of grading and/or excavation activities, consultation and/or monitoring with a Barbareño Chumash representative from the most current City Qualified Barbareño Chumash Site Monitors List, etc.

If a discovery consists of possible human remains, the Santa Barbara County Coroner shall be contacted immediately. If the Coroner determines that the remains are Native American, the Coroner shall contact the California Native American Heritage Commission. A Barbareño Chumash representative from the most current City Qualified Barbareño Chumash Site Monitors List shall be retained to monitor all further subsurface disturbance in the area of the find. Work in the area may only proceed after the Environmental Analyst grants authorization.

If a discovery consists of possible prehistoric or Native American artifacts or materials, a Barbareño Chumash representative from the most current City Qualified Barbareño Chumash Site Monitors List shall be retained to monitor all further subsurface disturbance in the area of the find. Work in the area may only proceed after the Environmental Analyst grants authorization.”

2. Compliance with Tier 3 Storm Water Management Program requirements must be shown on the plans prior to final approval by the Single Family Design Board.

Exhibits:

- A. Site Plan (under separate cover)
- B. Applicant's letter, dated March 9, 2014
- C. SFDB Minutes

Contact/Case Planner: Suzanne Riegler, Associate Planner  
([SRiegler@SantaBarbaraCA.gov](mailto:SRiegler@SantaBarbaraCA.gov))  
630 Garden Street, Santa Barbara, CA 93101  
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Luis Fernandez  
126 North Aliso Street  
Santa Barbara, CA 93103  
March 9, 2014

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

**Re: Modification Request for 438 Conejo Road, Santa Barbara CA 93103  
APN: 015-172-023**

Dear Staff Hearing Officer:

This is a vacant lot that previously resided a single family residence prior to the Tea Fire natural disaster that befell Santa Barbara in 2008. A new 2 story (2,000 sq. ft.) single family residence with a (440 sq. ft.) attached garage is being proposed on this lot. The proposed new residence will be encroaching into the front setback 5 feet, encroaching into the interior North and South setbacks 5 feet as well. The other proposed improvements to this property is include new site and boundary walls with planted beds in between. On the Northerly property line the terraced walls follow the grade with plantings in front of them to screen the verticalness of the walls from a human scale reference.

A modification being requested is to allow the new residence to encroach 5 feet in the Easterly front yard setback to accommodate the proposed plan at the tower. The required setback currently associated with the A-1 zoning is 35 feet from the front property line. The new proposed setback modification of 30 feet from the front property line is more in line with similar residential lot sizes.

A modification being requested is to allow the new residence to encroach 5 feet in the Northerly interior yard setback to accommodate the proposed plan at the 2-car attached garage. The required setback currently associated with the A-1 zoning is 15 feet from the interior property line. The new proposed setback modification of 10 feet from the front property line is more in line with similar residential lot sizes.

DARKMOON BUILDING DESIGN AND ENGINEERING

36 Touran Lane • Goleta • California 93117 • (805) 680-6874 • fax (805) 456-3854 • darkmooneng@gmail.com

**EXHIBIT B**

Re: Modification Request for 438 Conejo Road, Santa Barbara CA 93103APN: 015-172-023

March 9, 2014

Page 2

A modification being requested is to allow the new residence to encroach 5 feet in the Southerly interior yard setback to accommodate the proposed plan at the lower floor Bedroom 2. The required setback currently associated with the A-1 zoning is 15 feet from the interior property line. The new proposed setback modification of 10 feet from the front property line is more in line with similar residential lot sizes.

A modification being requested is the access stairs to the rear yard adjacent to the Master Bedroom. This modification allows for greater use of the limited rear yard on this property.

A modification of the Northerly taller site walls to allow terracing and planting in between. These wall are necessary to encompass the proposed structure. The terraced site walls with plantings reduce the vertical human scale effect.

The major benefits of having allowing the modification is that this property become a viable single family residence for the current owner and without these modification it would be unfeasible to construct the house for the current owner.

Sincerely,

A handwritten signature in black ink that reads "Jonathan Villegas". The signature is written in a cursive style with a long horizontal flourish extending to the right.

Jonathan Villegas, P.E.

**DARKMOON**

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## DESIGN REVIEW ACTIVITIES SUMMARY

**438 CONEJO RD (MST2013-00336)**

**R-TEA FIRE REBUILD**

*Revised project. Proposal to construct a two-story, 2,006 square foot, single-family residence and an attached 440 square foot two-car garage. The previous residence was destroyed in the Tea Fire. The proposal includes the removal of five (5) existing trees, new site walls and decks, 264 cubic yards of site grading. The proposal includes Staff Hearing Officer review for requested zoning modifications. The proposed total of 2,446 square feet, located on a 6,880 square foot parcel in the Hillside Design District, is 84% of the maximum floor-to-lot area ratio (FAR). The prior design was three-stories and 79% FAR.*

**Status: Pending**

**DISP**

**Date 3**

**SFDB-Concept Review (New) - PH**

**CONT**

**08/26/13**

(Concept review only; project requires environmental assessment and Staff Hearing Officer review for requested zoning modifications.)

Actual time: 4:42 p.m.

Present: Jose Luis Esparza, Architect; and Luis Fernandez, Owner.

Public comment opened at 4:53 p.m.

Letters of expressed concerns from Sam Masooman and Keith Wright were acknowledged.

1) Brian Milburn, opposition; expressed concerns regarding mass, size, bulk and scale, and neighborhood compatibility. Suggested story poles be erected.

Public comment closed at 4:57 p.m.

Motion: Continued indefinitely to Full Board with comments:

- 1) The Board is ok with the proposed removal of the palm trees.
- 2) Consider a terraced approach to the site plan grading, particularly as the Tier 3 Storm Water Management Program requirement is addressed.
- 3) Provide elevations of proposed retaining walls in and around the site.
- 4) Provide site sections that include the relationship to the two-story residence above the site and some understanding of what may occur on the two vacant lots on either side of the lot. Also include the relationship to the proposed exterior deck on the south side.
- 5) The Board finds the overall size, scale and bulk to be too large, and looks forward to reductions in the overall square footage and floor plan configuration. The Board discussed methods to consider eliminating square footage from within the required setbacks on the second and third floors.
- 6) Board could support some encroachment of the first floor into the required 15 foot and 35 foot setbacks, however not as currently presented.
- 7) Study reducing the size of the deck, and provide sections of the deck so we understand how the roof and retaining walls meet the deck.
- 8) The Board does not discourage a third floor master bedroom. However, study a smaller third floor that would not encroach on the 15 foot required setback, and consider a resolution that would create an ability to step up to the required 1,250 square feet of open yard space.
- 9) Study the proportions and scale of the elevations.
- 10) Study the massing over the garage as it is too large.

- 11) The size/exposure of stucco retaining wall is too large. Using a terracing approach could help with this.
- 12) Study the proportions of the front door opening.
- 13) Study the column and corbel on the small exterior patio on the first floor.
- 14) Study window, sizes, fenestrations and locations.
- 15) Provide a landscape plan in conjunction with the approach of terracing, and include how exposed retaining walls will be treated.
- 16) Have discussions with the neighbors, particularly the owners of the undeveloped, adjacent, properties (434 & 444 Conejo), as well as the owners of 352 Conejo Rd.
- 17) Study stepping back the second and third floor.

Action: Sweeney/Miller, 6/0/0. Motion carried. (Pierce absent).

**SFDB-Concept Review (Cont.)**

**CONT**

**11/18/13**

(Second Concept review. Comments only; project requires environmental assessment and Staff Hearing Officer review for requested zoning modifications. The project was last reviewed on August 26, 2013.)

Actual time: 3:57 p.m.

Present: Jose Luis Esparza, Architect;  
Bill Mellett, Landscape Architect;  
and Luis Fernandez, Owner.

Public comment opened at 4:25 p.m.

- 1) Sieglinde Pukke, neighbor, 352 Conejo Rd, had questions regarding the FAR and retaining walls on the property line.

Letters of expressed concern from Brian and Laura Milburn, neighbors, 450 Conejo Rd., regarding neighborhood compatibility of a three story building, Sam Masooman, neighbor, 444 Conejo Rd., regarding outdoor lighting on the deck, and Paula Westbury were acknowledged.

Public comment closed at 4:28 p.m.

Motion: Continued two-weeks to Full Board with comments:

- 1) Study the front entry way, regarding the relationship between the driveway, the turnaround, and providing a more formal pedestrian entry way.
- 2) Ensure the car turnaround complies with the City standards.
- 3) Provide elevations for all site walls and fences.
- 4) Clarify the heights of all walls by clearly labeling the finished grades, and the tops and bottoms of all site walls.
- 5) Specify the locations of all site walls and perimeter fencing, and clearly specify locations and materials of all railings.
- 6) Study fence transition and turning options, including decorative elements (i.e. finials or other decorative elements).
- 7) Clarify the retaining wall in the back of the house (section B) and on the west property line (as seen on the east elevation).
- 8) The Board finds the third story may be supportable, however has requested that the applicant provide an analysis of the 20-closest lots to provide clarification of the one, two, and three-story homes in the immediate neighborhood, in order to verify neighborhood compatibility.
- 9) Reduce the height of the entry tower element to provide a more complimentary appearance with the adjacent roofs.
- 10) Study proportions and locations of the windows in the tower element.
- 11) Study the front window fenestrations and locations of the dividing lights on first and second floor.
- 12) Locate all exterior lighting, downspouts, scuppers, and other applicable roof drainage materials.
- 13) Label the finished grades on the sections and exterior elevations.
- 14) Indicate possible location of the vegetable garden
- 15) Provide renderings of the front elevation to include planting materials and shading.

Action: Miller/James, 4/0/0. Motion carried. (Bernstein/Woolery/Zimmerman absent).

**SFDB-Concept Review (Cont.)**

**CONT**

**12/02/13**

(Third concept review. Comments only; project requires environmental assessment and Staff Hearing Officer review for requested zoning modifications. The project was last reviewed on November 18, 2013.)

Actual time: 4:57 p.m.

Present: Jose Luis Esparza, Architect  
Bill Mellet, Landscape Architect

Luis Fernandez, Owner.

Public comment opened at 5:13 p.m. As no one wished to speak, public comment was closed.

Motion: Continued indefinitely to the Full Board with comments:

- 1) The Board finds the third story may be supportable, however carries forward the comment from the prior minutes for the applicant to provide an analysis of the 20-closest lots to provide clarification of the existing and approved one, two, and three-story homes in the immediate neighborhood, in order to verify neighborhood compatibility.
- 2) Provide a two-story alternative.
- 3) Study the (east elevation) downspouts on first and second floors.
- 4) Study the connection of the first story roof and how it intersects at the tower element.
- 5) Provide further study of and example photographs of the exterior staircase.
- 6) Study the landscape plan for a revised design approach at the front entry way to designate a pedestrian only entry (no vehicle access/parking).

Action: Sweeney/Zimmerman, 6/0/0. Motion carried. (Miller absent).

**SFDB-Concept Review (Cont.)**

**CONT**

**01/27/14**

(Revised project. Comments only; project requires environmental assessment and Staff Hearing Officer review for requested zoning modifications. The project was last reviewed on December 2, 2013.)

Actual time: 3:27 p.m.

Present: Jonathan Villegas, Designer;  
Luis Fernandez, Owner.

Public comment opened at 3:37 p.m. As no one wished to speak, public comment was closed.

Motion: Continued two weeks to Full Board with comments:

- 1) Provide photographs of contemporary homes in the neighborhood.
- 2) Provide a landscape plan.
- 3) Study reducing the plate heights of the second floor.
- 4) Study the tower, possibly incorporate corner windows.
- 5) Simplify the colors and materials palette.
- 6) Study horizontal wood placement.
- 7) Study the roof pitch.
- 8) Provide alternative light fixtures.
- 9) The Board appreciates the owner's attempt to work with the Board and neighbors and is supportive of the current direction of the design.
- 10) Provide details for the casement windows.
- 11) Provide details for the fireplace cap.

Action: Bernstein/Woolery, 6/0/0. Motion carried. (Zimmerman absent).

**SFDB-Concept Review (Cont.)**

**CONT**

**02/24/14**

(Revised project. Comments only; project requires environmental assessment and Staff Hearing Officer review for requested zoning modifications. The project was last reviewed on January 27, 2014.)

DRAFT

Actual time: 3:33 p.m.

Present: Jonathan Villegas, Architect; Joan Radis, Landscape Architect; and Luis Fernandez, Owner.

Public comment opened at 3:45 p.m. As no one wished to speak, public comment was closed.

Motion: Continued indefinitely to the Staff Hearing Officer for return to the Full Board with comments:

- 1) The modifications are aesthetically appropriate. The proposed modifications do not pose consistency issues with appearance, compatibility, quality architecture and materials.
- 2) The Board appreciates the redesign and attempts to meet the neighborhood compatibility guidelines.
- 3) The majority of the Board has concerns with the apparent height of the tower. Study a) lowering the height of the tower, b) softening the tower with landscaping, c) moving the stairs to the other side of the tower, d) the window placements in the tower.

- 4) Study simplifying the roof design.
  - 5) The Board is supportive of the landscape plan. Contact the neighbors with selected tree species.
- Action: Bernstein/James, 7/0/0. Motion carried.