



City of Santa Barbara California

PLANNING COMMISSION STAFF REPORT

REPORT DATE: April 28, 2005
AGENDA DATE: May 5, 2005
PROJECT ADDRESS: 1013 San Diego Road (MST2004-00887)
TO: Planning Commission
FROM: Planning Division, (805) 564-5470
Jan Hubbell, AICP, Senior Planner
Allison De Busk, Associate Planner

I. PROJECT DESCRIPTION

The proposal involves the demolition of the existing 232 square foot study that connects the main residence to the second unit ("cottage"); construction of 261 square feet of additions to the main residence; construction of two new covered porches totaling 130 square feet; construction of 203 square feet of new decks; an as-built deck, an as-built spa and a new fence and trellis. These improvements would result in two detached single-family residences (totaling 3,334 square feet and 569 square feet respectively), an accessory building of 240 square feet and one covered garage parking stall and two uncovered parking spaces on the property. The applicants are also proposing development restrictions that would limit the ultimate size of the main home to 4,305 square feet and limit the cottage and recreation building to their current sizes (Exhibits B and C, Site Plan and Applicant Letter).

The discretionary applications required for this project are:

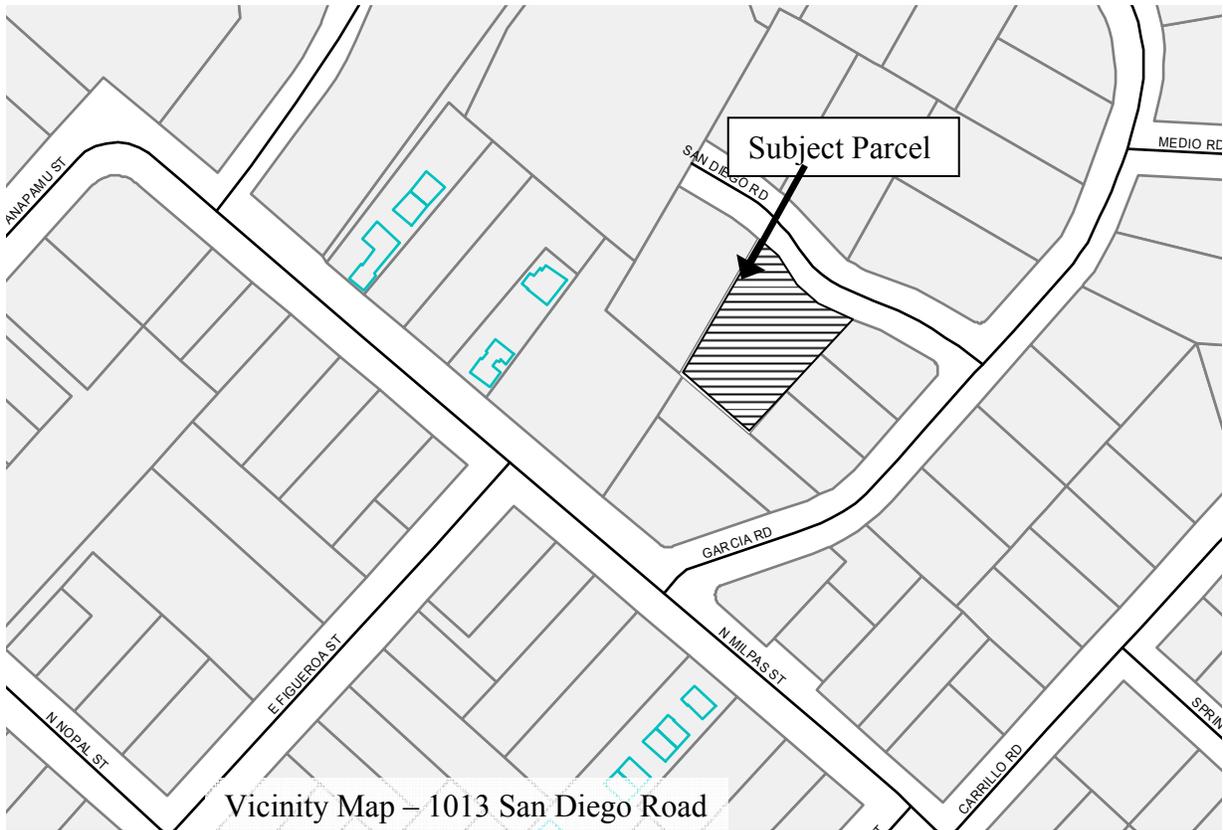
1. A Modification to allow less than the required building separation between the main residence and the additional dwelling unit (SBMC § 28.15.070);
2. A Modification to permit an as-built deck to encroach into the required interior yard setback (SBMC §28.15.060);
3. A Modification to provide less than the required number of covered parking stalls (SBMC §28.90.100);
4. A Modification to allow less than the required lot area for an additional dwelling unit in the E-1 zone (SBMC § 28.94.030.X and 28.15.080); and
5. A Conditional Use Permit for an additional dwelling unit in a single-family zone (SBMC § 28.94.030.X).

II. EXECUTIVE SUMMARY

The proposed project would not typically be supported by staff given that the lot does not satisfy the minimum requirements for an additional dwelling unit. However, in this case the goal is to clean up the record on the property and clearly identify what legally exists on site and what improvements could legally be made in the future, thereby providing clear development options for the applicant as well as City Staff. If the Planning Commission approves the Conditional Use Permit (CUP) for the Additional Dwelling Unit (ADU), future development potential could be subject only to zoning setback and height limitations unless limited through the CUP. For this reason, the applicant has proposed site development restrictions. Staff believes that restrictions more stringent than those proposed by the applicant are appropriate and therefore recommends that future development be limited to those improvements shown on the plans reviewed as part of this proposal, with no additional square footage permitted (except for parking). Staff also recommends that covered parking for the main residence be provided, which would require construction of at least one additional covered parking stall. The applicant requests that the requirement for additional parking be postponed until such time as they pursue a more significant remodel or addition to the residence. Staff is unable to support a Modification to allow the as-built deck off of the kitchen to remain.

If the Planning Commission does not approve the Conditional Use Permit, the site would remain as a legal duplex subject to the provisions outlined in the City's nonconforming ordinance, as the property is nonconforming as to density and configuration. If the Conditional Use Permit is denied, staff will proceed with enforcement of the as-built deck in the side yard setback and the over-height fence in the front yard.

DATE APPLICATION ACCEPTED: April 12, 2005
DATE ACTION REQUIRED: June 12, 2005



III. BACKGROUND / HISTORY

There is a provision in the CUP section of the Municipal Code (§28.94.030, X) that allows for Additional Dwelling Units in single-family zones through a CUP. Secondary Dwelling Units are not allowed on the site because it is in the High Fire Zone. The applicants' intention is to remove the nonconforming status of the property through the CUP.

The subject parcel has a long history with the City, primarily related to Code Enforcement cases. The current property owners have cleaned up the site with regard to outstanding Code Enforcement cases, and would like to have the opportunity to pursue additional development in the future. This is currently not possible because the development on site is nonconforming as to density. On parcels that have a density above that which is permitted by the Zoning Ordinance, no additional square footage is permitted to be added to the property, excepting specific improvements outlined in the Nonconforming Ordinance (refer to Exhibit D).

Attached is a timeline that outlines the permit history and activity on this parcel (Exhibit E). In 1984, City staff determined that the property contained two legal units. This was verified by the City Attorney in a letter dated May 22, 1990, and was reconfirmed in Zoning Information Reports prepared in 1988, 1989 and 2002.

Continued use of a site as an illegal dwelling unit does not create a de facto dwelling unit. However, in this case, the City made a determination that there were two legal units on the site

and subsequent buyers of the property relied on this information when making the decision to purchase the property. Staff does not believe there is anything in the file that would justify changing the status quo at this time.

The current owners want to clean up the site violations and provide a means by which to add square footage on to the main residence, both with the present proposal and in the future. Staff would like to clean up the file history for the property and bring the property into some sense of compliance with the provisions of the Municipal Code.

The subject parcel is located in the High Fire Area and, therefore, it is not possible for the second unit to be considered a secondary dwelling unit or “granny flat”. This leaves an Additional Dwelling Unit as the most logical way to legalize the existing development on site and allow for future residential additions, hence the subject application.

IV. SITE DESCRIPTION

Applicant:	Raymond Appleton
Property Owner:	Paul and Jacqueline Kurta
Project Address:	1011 and 1013 San Diego Road
Parcel Number:	029-202-015
General Plan:	Residential – 12 units per acre
Zoning:	E-1 One Family Residence Zone
Existing Use:	Duplex
Proposed Use:	Two single-family residences
Topography:	12% slope to the south
Access:	San Diego Road
Adjacent Land Uses:	
North:	single-family residential
South:	single-family residential
East:	single-family residential
West:	single-family residential

V. OTHER COMMITTEE REVIEW

A. ENVIRONMENTAL REVIEW

The Environmental Analyst has determined that the project is exempt from further environmental review pursuant to the California Environmental Quality Act Guidelines Section 15301(e). Section 15301 allows for additions to existing private structures provided the addition will not increase the floor area by more than 50% of the floor area before the addition or 2,500 square feet, whichever is less. The proposed addition would be significantly less than 50% of the existing structure and less than 2,500 square feet.

B. ARCHITECTURAL BOARD OF REVIEW

The Architectural Board of Review (ABR) reviewed the project on January 31, 2005. The project was continued indefinitely to Planning Commission with the following comments: 1) The Board finds the architecture is acceptable as presented. 2) The Board finds there are no aesthetic concerns. 3) The applicant is to provide more landscaping with a tree in the parking area. 4) Provide turf in the motor court. 5) It was suggested to study the appearance of the existing garage door to make it more appealing.

The applicant has since revised the proposed driveway paving to make it simpler and more compatible with the existing development on site.

VI. ISSUES

A. ZONING ORDINANCE CONSISTENCY / SITE STATISTICS

Standard (E-1 Zone)	Requirement/ Allowance	Proposed
Lot Area	22,500 sq. ft. of lot area needed for parcel given slope of 12% 45,000 sq. ft. of lot area needed for an additional dwelling unit	15,268 sq. ft. of lot area provided. A lot area modification is proposed for the additional dwelling unit
Setbacks -Front -Interior -Rear	30' 10' 10'	14' (existing nonconforming setback) 7'-6" to house, 2' to accessory building (existing nonconforming setbacks) 10' to accessory building
Building Height	30' plus solar access requirements	20' – meets solar requirements
Distance between buildings	20'	9'
Parking	4 covered spaces	1 covered, 2 uncovered spaces
Open Yard	1,250 sq. ft.	2,500 sq. ft.
Lot Coverage -Building -Paving/Driveway -Landscaping	No requirements for lot coverage breakdown	3,272 sq.ft. (21.43%) 3,351 sq.ft. (21.95%) <u>8,645 sq.ft. (56.62%)</u> 15,268 sq.ft. (100%) = Total

The proposed project would require Modifications for lot area, building separation, interior yard setback and parking. Currently, there are several portions of the building that encroach into required setbacks; however, these are legal nonconforming situations that do not require Modifications.

1. Lot Area Modification

The applicant is requesting a lot area modification to allow the existing “cottage” to be formally deemed an additional dwelling unit although the subject parcel contains less than the required 45,000 square feet of lot area. As the City has

previously determined that the cottage is a legal nonconforming second unit on the site, staff is able to support the lot area modification to legalize the cottage as an additional dwelling unit with the condition that no additional square footage be permitted beyond that currently proposed. Please see Housing Element Section below for additional discussion.

2. **Distance Between Buildings Modification**

Currently, the two units are configured as one structure. The applicant is proposing to demolish the study that connects the two units, thereby creating two single-family residences and resulting in 9 feet between the two residences. This configuration is more consistent with the zoning ordinance than the existing configuration in that duplexes are not permitted in single-family zones. Based on original permit history, it appears as though the cottage and main residence were originally attached with a covered porch which served as a breezeway between the structures. Staff is supportive of the building separation modification because it eliminates the duplex configuration of the buildings, and is more consistent with the zoning ordinance in terms of unit configuration.

3. **Side Yard Setback Modification for Deck**

There is currently a deck located off of the kitchen that encroaches into the required 10-foot side yard setback. Staff can find no record of a permit for this deck, and original construction plans for the main house (issued in 1950) do not identify it (although the covered porch area off the kitchen is included). In subsequent building permit applications, the deck is shown; however, its dimensions are inconsistent and never identify the setback from the side yard. As staff can find no evidence that this deck was permitted in its current location, staff can find no reason to support a Modification to allow it to encroach into the required setback.

4. **Parking Modification**

The site currently has one garage parking stall and is nonconforming to parking. The driveway is currently used as informal uncovered parking. The applicant is proposing to formalize two uncovered parking stalls at the end of the driveway. This would result in one covered stall and two uncovered stalls where four covered stalls are required. However, the cottage is a one-bedroom unit of less than 750 square feet and staff would support a parking modification for this unit given that its parking demand would be less than two stalls. Staff recommends that, at a minimum, one additional covered parking stall be constructed for use by the main residence to provide some covered parking. This would be similar to the parking requirement for a secondary dwelling unit (two covered stalls and one uncovered stall). The applicant does not believe that the small net addition of square footage proposed at this time should require the expense of providing additional covered parking at this time. They suggest postponing this improvement until such time as they propose to increase the square footage of

the home by more than 5% of its existing size. Staff disagrees. In requesting a Conditional Use Permit and a Lot Area Modification, the applicant is requesting more development than would be allowed by right in a single-family zone. To be compatible with surrounding single-family development, at least two spaces should be covered.

B. GENERAL PLAN CONFORMANCE

1. Land Use Element

The subject site has a General Plan Land Use Designation of Residential – 12 units per acre and is located in the Lower Riviera neighborhood. The Lower Riviera is located between the bottom of the Riviera and Alameda Padre Serra and between the Old Mission and Canon Perdido Street. The General Plan describes this area as one that is primarily given over to residential uses, with single-family home development predominating. The area is primarily designated as three dwelling units to the acre, but there are portions to the west and south that are designated as twelve units per acre, such as the subject parcel.

The proposed project would result in a density of 5.7 units per acre, which is consistent with the 12 units per acre designation. The residential use and density of the subject site is consistent with its General Plan designation.

2. Housing Element

The City Housing Element encourages the use of bonus density units as a means to provide affordable housing for low-income individuals, seniors, and other special needs households. Oftentimes, the City will condition units gained through a lot area modification to be made affordable. The City also requires that secondary dwelling units be rented to immediate family or to low or moderate income households. Affordability provisions are not typically required on other Additional Dwelling Unit CUPs because they typically satisfy density requirements. Affordability is an option that is available to the Planning Commission if it is deemed appropriate. The Housing Element also contains policies that encourage protection and preservation of existing safe housing and rental units. This second unit has been rented out for more than 20 years and has been brought up to compliance with Building Codes to make it a safe unit. Therefore, Staff is not recommending an affordability condition because the unit is existing and its small size will keep rental income at a relatively low level by design.

VII. RECOMMENDATION/FINDINGS

Staff recommends that the Planning Commission deny the deck setback Modification and approve the Building Separation Modification, Parking Modification, Lot Area Modification and Conditional Use Permit, subject to the Conditions of Approval in Exhibit A and making the following findings for the project:

A. INTERIOR YARD SETBACK MODIFICATION (SBMC §28.15.060)

The Planning Commission must find that the requested interior yard setback modification is consistent with the purposes and intent of the Zoning Ordinance and that it is necessary to secure an appropriate improvement on the lot, prevent unreasonable hardship, or promote uniformity of improvement.

The proposed interior yard setback modification for the as-built deck is not consistent with the purposes and intent of the Zoning Ordinance and is not necessary to secure an appropriate improvement on the lot, prevent unreasonable hardship, or promote uniformity of improvement. The deck can be relocated and still provide for enjoyable outdoor space.

B. BUILDING SEPARATION MODIFICATION (SBMC §28.15.070)

The Planning Commission must find that the requested modification to provide less than the required 20-foot distance between main buildings on the lot is consistent with the purposes and intent of the Zoning Ordinance and that it is necessary to secure an appropriate improvement on a lot, prevent unreasonable hardship, or promote uniformity of improvement.

Existing residential development on site consists of a nonconforming duplex. Removal of the connection between the two residential units creates a more conforming residential development, as duplexes are not permitted in One Family Zone Districts. Requiring additional separation between the structures would be an unnecessary hardship and would not necessarily benefit adjacent development. Therefore, the Modification is consistent with the purposes and intent of the Zoning Ordinance, and is necessary to secure an appropriate improvement on the lot.

C. LOT AREA MODIFICATION (SBMC §28.15.080 AND 28.94.030 (X))

The Planning Commission must find that the requested lot area modification is consistent with the purposes and intent of the Zoning Ordinance and that it is necessary to secure an appropriate improvement on the lot, prevent unreasonable hardship, or promote uniformity of improvement.

The subject parcel is currently developed with two residential units in a duplex configuration. The subject project would separate the structures, thereby creating two single-family residences on site. As the density of the site would remain unchanged following the project, there would be no direct impact on the neighborhood and granting the lot area modification would permit two units to remain on site while allowing for a small addition to the main residence. The Modification is necessary to secure an appropriate improvement on the lot and prevent unreasonable hardship.

D. CONDITIONAL USE PERMIT (SBMC §28.94.030 (X))

1. Any such use is deemed essential or desirable to the public convenience or welfare and is in harmony with the various elements or objectives of the Comprehensive General Plan;

The proposed use of the site for two residential units is an existing nonconforming situation. Approval of the CUP for an additional dwelling unit and separation of the building thereby eliminating the duplex configuration, will make the two units consistent with the

requirements of the zoning ordinance and General Plan. Subject to the attached conditions of approval, no change in density or intensity of use would occur.

2. Such uses will not be materially detrimental to the public peace, health, safety, comfort and general welfare and will not materially affect property values in the particular neighborhood involved;

As the use currently exists on site and may remain in effect for the life of the property, there would be no impact on the public peace, health, safety comfort or general welfare of the neighborhood. As the proposed use is unique to the site and the existing development of the property, there would be no precedent for increasing the density of development in the neighborhood and therefore would have no direct effect on property values.

3. The total area of the site and the setbacks of all facilities from property and street lines are of sufficient magnitude in view of the character of the land and of the proposed development that significant detrimental impact on surrounding properties is avoided.

A lot area modification has been deemed appropriate for the site given the unique development existing on the site. Although existing development does not satisfy required setbacks, it is a legal nonconforming situation. All new construction would comply with all current building and zoning regulations. No detrimental impact on surrounding properties would occur as the use of the site for two residential units would not change.

4. Adequate access and off-street parking including parking for guests is provided in a manner and amount so that the demands of the development for such facilities are adequately met without altering the character of the public streets in the area at any time.

There is adequate access from the street and adequate off-street parking. A one-car garage currently exists for parking and a new two-car garage would be required to satisfy parking demand. No guest parking would be provided formally on site, although there would be a new driveway that could accommodate guest parking on a temporary basis. With these improvements, the impact on adjacent public streets would likely be reduced.

5. The appearance of the developed site in terms of the arrangement, height, scale and architectural style of the buildings, location of parking areas, landscaping and other features is compatible with the character of the area.

The design of the project has been reviewed by the City's Architectural Board of Review and has been determined to be compatible with the neighborhood.

Exhibits:

- A. Conditions of Approval
- B. Site Plan
- C. Applicant's letter dated April 11, 2005
- D. Excerpt, SBMC §28.87.030 E - Nonconforming Uses
- E. Site Permit Chronology

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- F. ABR Minutes
- G. Letter from neighbor (previously distributed under separate cover)