



City of Santa Barbara California

PLANNING COMMISSION STAFF REPORT

REPORT DATE: April 30, 2009
AGENDA DATE: May 14, 2009
PROJECT ADDRESS: 1415 Mission Ridge Road (MST2009-00051)

TO: Planning Commission
FROM: Planning Division, (805) 564-5470
Danny Kato, Senior Planner *DJK*
Roxanne Milazzo, Associate Planner *R Milazzo*

I. PROJECT DESCRIPTION

The 13,766 square foot project site is currently developed with a single family residence and 2-car garage. The proposed application is a request for the "as-built" enclosure of a 192 square foot second-story patio. The discretionary application required for this project is a Modification to permit alterations/additions within the required ten-foot interior setback (SBMC §28.15.060).

On March 11, 2009, the Staff Hearing Officer made the required findings and approved the request. This is an appeal of that action.

II. RECOMMENDATION

Staff recommends that the Planning Commission deny the appeal, upholding the decision of the Staff Hearing Officer and approve the project, making the findings in Section VI of the staff report.



1415 Mission Ridge Road

DATE ACTION TAKEN BY THE STAFF HEARING OFFICER: March 11, 2009
DATE ACTION REQUIRED: Not Applicable

III. SITE INFORMATION AND PROJECT STATISTICS

A. SITE INFORMATION

Appellant: James Kahan/Tony Fischer	Agent: Dudek & Associates
Property Owner: Richard Godfrey	Lot Area: 13,766 sf
General Plan: 3 Units Per Acre	Zoning: A-2
Parcel Number: 019-103-004	Topography: 22%
Adjacent Land Uses: North – Mission Ridge Road East – One-Family Residence South – One-Family Residence West – One-Family Residence	

B. PROJECT STATISTICS

	Existing	Proposed
Living Area	2,613 sf	192 sf “as-built” = 2,805 sf
Garage	400 sf	400 sf
Accessory Space	N/A	N/A

IV. ZONING ORDINANCE CONSISTENCY

Interior Setback 10’ required 3’ Existing 3’ Proposed

V. DISCUSSION

Due to this property’s location within the Hillside Design District and an overall slope in excess of 20%, this project is subject to review by the Single Family Design Board (SFDB). On February 17, 2009, the SFDB reviewed the “as-built” construction and continued the item indefinitely to the Staff Hearing Officer with the following comments: 1) Architecture is compatible. 2) The Modification request is supportable. 3) NPO findings can be made. The project is compatible with the neighborhood given the large lot next door; the large distance between houses mitigates impact.

The residence, built in 1952, was constructed with a raised patio at a distance of 3’ from the interior lot line. In 1998, the current owners enclosed the patio, which resulted in new floor area within the required 10’ interior setback. A recent Zoning Information Report (ZIR) identified the violation, and enforcement was initiated against the current owners. In an effort to legalize the addition as it exists, the property owners applied for a Modification to permit the “as-built” construction within the setback. Although Staff typically discourages the use of the Modification process for legalization of illegal construction, required findings were made and the project was approved. The Staff Hearing Officer’s decision was based on the position that the “as-built” space actually reduced the impacts of the original deck, which due to its size, provided a large area for outdoor entertaining. Also considered was the distance being provided between the habitable space on this site and the immediate neighbor, which exceeds the 20’ separation required by the Ordinance. Staff and the SHO did not allow the fact that the

construction was "as-built" to influence the decision making process. In fact, in preliminary consultations with the applicant, Staff expressed the unlikelihood of support for the application. Only after a site visit did Staff recognize that the findings related to the purpose and intent of the Ordinance were not only being met, but exceeded.

It is the appellant's position that it is inappropriate to use the Modification process to legalize structures constructed in violation of the law. Staff's response is that we treat projects involving "as-built" construction that are requesting Modification approval in order to legalize their existence the same as new projects, and if the findings can be made, we support the project.

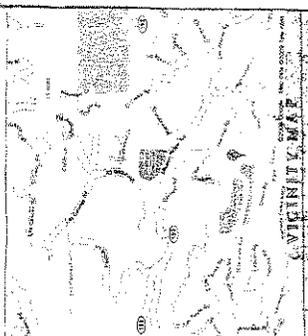
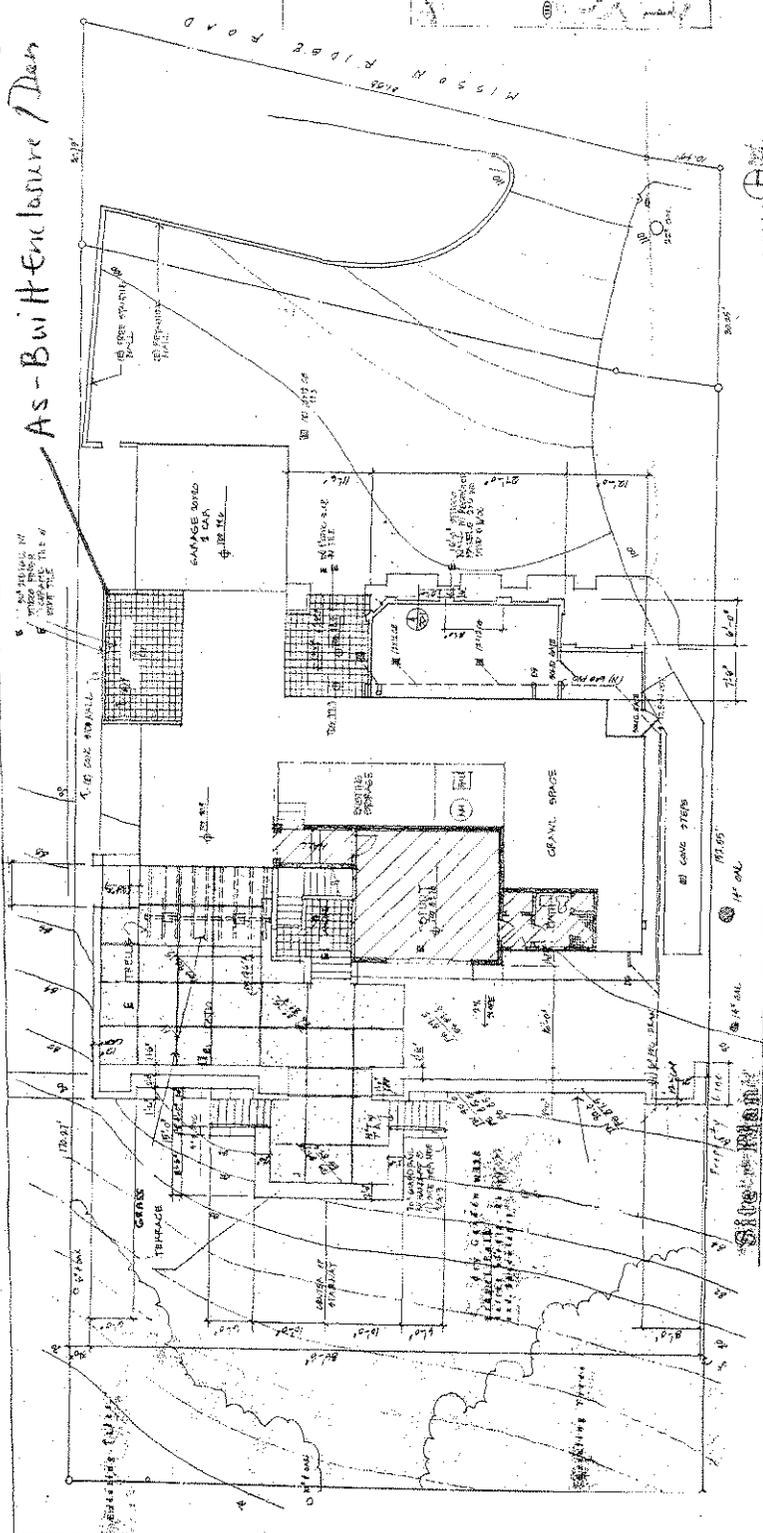
The appellant's letter also stated concern that environmental review had not been done for the project. Staff determined that the project qualified for an exemption from further environmental review under Section 15301 (minor alteration of existing private structures) of the California Environmental Quality Act (CEQA) Guidelines as it involves a negligible addition to the existing building. The legal notice that went out prior to the hearing gave that information.

VI. FINDINGS

Staff recommends that the Planning Commission deny the appeal and uphold the decision of the Staff Hearing Officer, making the findings that the Modification to permit the alteration/addition within the interior setback is consistent with the purpose and intent of the Ordinance, due to the separation provided between this habitable space and the nearest habitable space on the adjacent lot, and is necessary to secure the appropriate improvement of reducing the impacts associated with an outdoor amenity that encourages congregation.

Exhibits:

- A. Site Plan
- B. Appellant's letter dated March 23, 2009
- C. Correspondence
- D. SHO Resolution & Minutes
- E. SHO Staff Report



PROJECT STATISTICS

Average Lot Size: 10,000 sq. ft.
 Address: 12345 CIVILITY WAY
 ZIP: 90000

City: Los Angeles
 County: Los Angeles
 State: CA
 Country: USA

Year: 2000
 Project Type: Residential
 Subtype: Single-Family Detached

Site Area: 192 sq. ft.
 Lot Area: 10,000 sq. ft.
 Building Area: 1,000 sq. ft.

City: Los Angeles
 County: Los Angeles
 State: CA
 Country: USA

Year: 2000
 Project Type: Residential
 Subtype: Single-Family Detached

LIST OF DRAWINGS

- A1 Site Plan
- A2 Upper Floor Plans
- A3 West, North, South Elevations / As-Built Elevations
- A4 West, South Elevations TO ARCHT. REF. 2005-01522

Drawing Legend

1	As-Built
2	Proposed
3	Existing
4	As-Built with Modification
5	As-Built with Modification
6	As-Built with Modification
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98	As-Built with Modification
99	As-Built with Modification
100	As-Built with Modification

SCOPE OF WORK
 "As-Built" Enclosure of a 192 sq. ft. 2nd story permitted patio in the westerly setback

JAMES O. KAHAN
ATTORNEY AT LAW

3709 DIXON STREET
(FORMERLY MAGNOLIA LANE)
SANTA BARBARA, CALIFORNIA
93105-2419

TELEPHONE (805) 682-2972
FACSIMILE (805) 682-8914
E-MAIL kahan.jim@gmail.com

March 23, 2009

Planning Commission
c/o Community Development Department
630 Garden Street
Santa Barbara, CA 93101

Re: Notice of Appeal of Staff Hearing Officer Approvals
Date of Actions: March 11, Resolution No. 018-09
1415 Mission Ridge Road

NOTICE OF APPEAL

Friends of Outer State Street ("FOOSS") hereby appeals all approvals given by the Staff Hearing Officer on March 11, 2009 for the project at 1415 Mission Ridge Road. These approvals include, without limitation:

1. A Modification to permit alterations/additions within the required ten-foot interior setback.

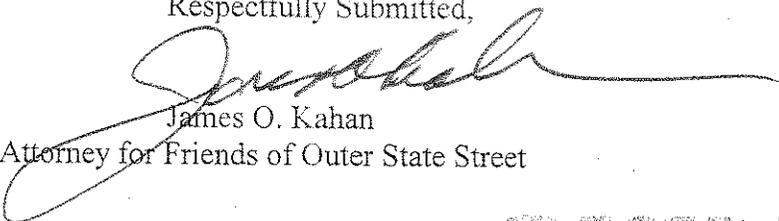
This approval is contrary to law and not supported by the facts. The "findings" were merely conclusions of law that did not bridge the analytic gap between the facts and the conclusion. It is inappropriate to use the modification process to legalize structures that were constructed in violation of the law.

Neither the Resolution or Staff Report indicate that there was any environmental review. The approval of the modification violates the California Environmental Quality Act ("CEQA").

After I have more completely reviewed the recording of the hearing and other relevant documents and information, I will submit a written amplification of this appeal.

A check for \$180 for the appeal fee is enclosed.

Respectfully Submitted,


James O. Kahan
Attorney for Friends of Outer State Street

Enclosure (Check - \$180)

RECEIVED
MAR 23 2009

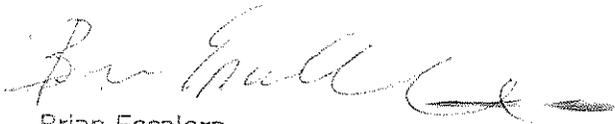
CITY OF SANTA BARBARA
PLANNING DIVISION

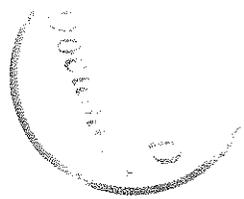
EXHIBIT B

BRIAN ESCALERA
1425 Mission Ridge Road
Santa Barbara, Ca., 93103
January 3, 2009

To whom it may concern:

I live immediately to the west and adjoin the property owned by Richard Godfrey at 1415 Mission Ridge Road. I am aware that he built a room over his existing patio on the west side of his house, facing my property and within the legal setback rule. This room appears well designed and attractive and is placed behind bushes that shield it from my house almost entirely. It also appears to be at least 70 feet from the nearest corner of my house. As such, I am entirely comfortable with this addition and believe it should be left in place.


Brian Escalera



From the desk of
John J. Gobbell, Jr.

February 24, 2009

REC'D FEB 27 2008

Staff Hearing Officer
Community Development Department
City of Santa Barbara
630 Garden Street
Santa Barbara, California 93101

RE: Application #: MST2009-00051
1415 Mission Ridge Rd.
Santa Barbara, California
APN: 019-103-004
Owner: Godfrey

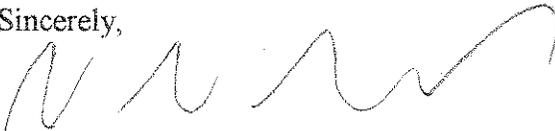
Dear Staff Hearing Officer:

I wanted to write regarding the above application in that I reside at a property (see address below) located across the street from the property in question. It is also my understanding that a meeting regarding the application is scheduled for March 11, 2009.

We have lived in this location for many years. The Godfrey's have also been responsible neighbors with a well maintained and attractive residence. More specific to their pending application, we wanted to let you know that their as-built addition does not appear to affect our property in any way in terms of our view potential or any other consideration that I can think of.

We appreciate your careful consideration in this matter.

Sincerely,



J.J. Gobbell

RECEIVED
FEB 26 2009
CITY OF SANTA BARBARA
PLANNING DIVISION

PUBLIC COMMENT CORRESPONDENCE:

DISTRIBUTED ON: 3-3-09

SHO (4):

- STAFF HEARING SUPERVISOR (Renee Brooke)
- STAFF HEARING OFFICER (SUZIE REARDON)
- ORIGINAL TO PLANNING TECH FOR FILE
- APPLICANT

The Gobbell Family
1404 Mission Ridge Road
Santa Barbara, California 93103
(805) 963-4158

PLANNING
Document

Reardon, Susan

From: dianne channing [dchanning@cox.net]
Sent: Friday, March 06, 2009 9:57 AM
To: Reardon, Susan
Subject: 1415 Mission Ridge

Below is the email that I sent to the Single Family Design Board. I would like to emphasize that this addition as built poses no detriment to the neighbors or community. I believe it should be granted "as built" permission and the required zoning modification without any changes to the structure.

Thank you for your consideration

Dianne Channing 1502 Franceschi Road

To the Single Family Design Board:

I live in the immediate neighborhood of 1415 MIission Ridge. My home is located at 1502 Franceschi Road. My husband and I have seen the addition to the Godfrey home that will require "as built " permits and a modification. It is our opinion that the addition was built beautifully with quality workmanship and poses no detriment to the community or the immediate neighborhood. We recommended that you approve the addition and the modification.

Thank you for your consideration

Dianne Channing
1502 Franceschi Road
963-2127



Staff Hearing Officer,

This is done already.

It is very difficult, lost
Tree that stopped the fire -
Home is OK. That's why,
Lost a cat too, never
ever should have done
The project - It's done -
Be well, never be bad,
Leave it now. Be well

Sincerely,

Paula Westbury
PAULA WESTBURY

Thank you
Be well

+ Happy

March 9, 2009
650 Miramonte
Santa Barbara
Calif 93109

Ve. D. 1415 Mission
Ridge Rd -
Please read at the
Hearing at 3-11-09
Thank You

RECEIVED
MAR 10 2009

CITY OF SANTA BARBARA
PLANNING DIVISION





City of Santa Barbara California

CITY OF SANTA BARBARA STAFF HEARING OFFICER

RESOLUTION NO. 018-09
1415 MISSION RIDGE ROAD
MODIFICATION
MARCH 11, 2009

APPLICATION OF DUDEK & ASSOCIATES FOR RICHARD GODFREY, 1415 MISSION RIDGE ROAD, APN 019-103-004, A-2 ONE-FAMILY RESIDENCE ZONE, GENERAL PLAN DESIGNATION: 3 UNITS PER ACRE (MST2009-00051)

The 13,766 square foot project site is currently developed with a single family residence and 2-car garage. The proposed application is a request for the "as-built" enclosure of a 192 square foot second-story patio. The discretionary application required for this project is a Modification to permit alterations/additions within the required ten-foot interior setback (SBMC §28.15.060).

The Environmental Analyst has determined that the project is exempt from further environmental review pursuant to the California Environmental Quality Guidelines Section 15301.

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

WHEREAS, no one appeared to speak in favor or opposition of the application, and the following exhibits were presented for the record:

1. Staff Report with Attachments, March 4, 2009.
2. Site Plans
3. Correspondence received in support of the project:
 - a. J. J. Gobbell, 1404 Mission Ridge Road
 - b. Dianne Channing
 - c. Brian Escalera
 - d. Paula Westbury, 650 Miramonte Drive

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

Approved the subject application making the following findings and determinations:

The Modification is consistent with the purposes and intent of the Zoning Ordinance and is necessary to secure an appropriate improvement on site. The large separation between the "as-built" habitable space and the adjacent neighbor provides the buffer zone as intended by the Ordinance and the impacts associated with an outdoor amenity that encourages congregation has been reduced by the solid wall construction.

This motion was passed and adopted on the 11th day of March, 2009 by the Staff Hearing Officer of the city of Santa Barbara.

I hereby certify that this Resolution correctly reflects the action taken by the city of Santa Barbara Staff Hearing Officer at its meeting of the above date.

Gloria Shafer, Staff Hearing Officer Secretary

Date

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 or Modifications 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.

SHO MINUTES – MARCH 11, 2009

APPLICATION OF DUDEK & ASSOCIATES FOR RICHARD GODFREY, 1415 MISSION RIDGE ROAD, APN 019-103-004, A-2 ONE-FAMILY RESIDENCE ZONE. GENERAL PLAN DESIGNATION: 3 UNITS PER ACRE (MST2009-00051)

The 13,766 square foot project site is currently developed with a single family residence and 2-car garage. The proposed application is a request for the “as-built” enclosure of a 192 square foot second-story patio. The discretionary application required for this project is a Modification to permit alterations/additions within the required ten-foot interior setback (SBMC §28.15.060).

The Environmental Analyst has determined that the project is exempt from further environmental review pursuant to the California Environmental Quality Guidelines Section 15301.

Present: Jean Grey, Architect; Richard Godfrey, Owner;

Roxanne Milazzo, Associate Planner, gave the Staff presentation and recommendation.

The Public Hearing was opened at 9:42 a.m.

Three letters in support of the project from Dianne Channing, J.J. Gobbell, and Brian Escalera were acknowledged.

A letter from Paula Westbury in support of the project was acknowledged.

The Public Hearing was closed.

Ms. Reardon announced that she read Staff Report and visited the site and surrounding neighborhood. Ms. Reardon noted that action taken today does not include approval of the requested outdoor bar sink and fireplace, but is only for setback encroachments.

ACTION:

Assigned Resolution No. 018-09

Approved the project making the finding that the Modification is consistent with the purposes and intent of the Zoning Ordinance and is necessary to secure an appropriate improvement on site. The large separation between the “as-built” habitable space and the adjacent neighbor provides the buffer zone as intended by the Ordinance and the impacts associated with an outdoor amenity that encourages congregation has been reduced by the solid wall construction.

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



City of Santa Barbara California

STAFF HEARING OFFICER STAFF REPORT

REPORT DATE: March 4, 2009
AGENDA DATE: March 11, 2009
PROJECT ADDRESS: 1415 Mission Ridge Road (MST2009-00051)
TO: Susan Reardon, Senior Planner, Staff Hearing Officer
FROM: Planning Division, (805) 564-5470
 Renee Brooke, AICP, Senior Planner *RLB*
 Roxanne Milazzo, Associate Planner *Rmf*

I. PROJECT DESCRIPTION

The 13,766 square foot project site is currently developed with a single family residence and attached 2-car garage. The proposed application is a request for the "as-built" enclosure of a 192 square foot second-story patio. The discretionary application required for this project is a Modification to permit alterations/additions within the required ten-foot interior setback (SBMC §28.15.060).

Date Application Accepted: February 17, 2009 Date Action Required: May 17, 2009

II. RECOMMENDATION

Staff recommends that the Staff Hearing Officer approve the project as submitted.

III. SITE INFORMATION AND PROJECT STATISTICS

A. SITE INFORMATION

Applicant: Dudek & Associates	Property Owner: Richard Godfrey
Parcel Number: 019-103-004	Lot Area: 13,766 sf
General Plan: 3 Units Per Acre	Zoning: A-2
Existing Use: One-Family Residence	Topography: 22%

Adjacent Land Uses:

North – Mission Ridge Road
 South – One-Family Residence

East - One-Family Residence
 West – One-Family Residence



B. PROJECT STATISTICS

	Existing	Proposed
Living Area	2,613 sf	192 sf "as-built" = 2,805 sf
Garage	400 sf	400 sf
Accessory Space	N/A	N/A

C. FLOOR-AREA RATIO (FAR)

MAX. ALLOWED FAR: .31 PROPOSED FAR: .23 = 75.9% OF MAX. ALLOWED FAR

IV. ZONING ORDINANCE CONSISTENCY

Interior Setback 10' Required 3' Existing 3' Proposed

V. DISCUSSION

Due to this property's location within the Hillside Design District and an overall slope in excess of 20%, this project is subject to review by the Single Family Design Board (SFDB). On February 17, 2009, the SFDB reviewed the "as-built" construction and continued the item indefinitely to the Staff Hearing Officer with the following comments: 1) Architecture is compatible. 2) The Modification request is supportable. 3) Project is compatible with the neighborhood given the large lot next door; the large distance between houses mitigates impact.

The residence, built in 1952, was constructed with a raised patio at a distance of 3' from the interior lot line. In 1998, the current owners enclosed the patio which resulted in new floor area within the required 10' interior setback. A recent Zoning Information Report (ZIR) identified the violation and initiated enforcement activity against the current owners. In an effort to legalize the addition as it exists, the property owner is requesting a Modification for new floor area within the required setback. It is the applicant's position that the "as-built" room results in an improvement over the legal deck encroachment, which, due to its size encouraged congregation within the setback. The applicant also pointed out that due to the distance between the "as-built" room and the nearest neighbor's living and outdoor living areas, the purpose and intent of the buffer zone is being met.

Although Staff discourages the use of the Modification process for legalization of illegal construction, particularly when the approval results in habitable space within a required setback, Staff supports this request for the following reasons: 1) The new floor area is an enclosed space versus the original raised open deck. When considering the impacts related to noise, the room provides a better buffer than an area used for outdoor entertaining; 2) Adequate distance is provided between residential uses. The required 10' interior setbacks intend to provide 20' between neighboring living spaces. As seen in the aerial photograph, the distance existing between this room addition and the neighbor's living space greatly exceeds that distance. Even when the overheight hedge, which separates the properties, is reduced to

regulation height, the windows of the "as-built" room will not look into neighboring living or outdoor living space areas.

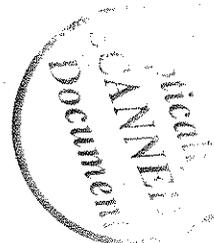
VI. FINDINGS

The Staff Hearing Officer finds the Modification is consistent with the purposes and intent of the Zoning Ordinance and is necessary to secure an appropriate improvement on site. The second-story patio is non-conforming and could remain in its location and use as an outdoor congregation area. The large separation between the "as-built" habitable space and the adjacent neighbor provides the buffer zone as intended by the Ordinance and the typical impacts related to noise and odor associated with an outdoor amenity that encourages congregation has been reduced by the solid wall construction.

Exhibits:

- A. Site Plan (under separate cover)
- B. Applicant's letter dated 2-23-09

Contact/Case Planner: Roxanne Milazzo, Associate Planner
(rmilazzo@SantaBarbaraCA.gov)
630 Garden Street, Santa Barbara, CA 93101
Phone: (805) 564-5470



DUDEK

621 CHAPALA STREET
SANTA BARBARA, CALIFORNIA 93101
T 805.963.0651 F 805.963.2074

February 23, 2009

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

REGARDING: Abatement of Zoning Violation; Resolution of ENF Case #2008-01522 for the property located at 1415 Mission Ridge Road; (APN 019-103-004)

Staff Hearing Officer,

Thank you for the opportunity to present for your consideration our requests in the abatement of zoning violations associated with Case number ENF 2008-01522. My client and I are seeking to resolve the violations by requesting: 1) a modification and an "As Built" designation for the enclosure of an existing and permitted patio within the westerly setback of the property; 2) an "As Built" designation for a bar sink plumbed to code on the rear deck; and 3) an "As Built" designation for the vented decorative gas fireplace that replaced a BBQ on the original patio. The decorative gas fireplace is not a source of heat and has been installed to code with proper clearances, connections and a roof vent.

The above cited violation also included comments regarding the storage of items in the garage as well as the citation of a shed in the setback. Photos attached to this submittal demonstrate that the items in the garage have been removed, thereby resolving the inaccessibility issue and that the shed within the setback has been removed, thereby rectifying that comment.

Existing Site Conditions/Background

The subject property (APN 019-103-004) is located on Mission Ridge Road within the A-2 Zone District. It is presently developed with a 3,205 sq. ft., two-story, single-family residence including three bedrooms, three and a half bathrooms and a two car garage. The FAR limit on the parcel is .31 and the improvements total 73.6% of the total allowed FAR. The 13,766 sq. ft. lot is accessed off Mission Ridge Road, which serves as the northerly boundary (with residences across the road) of the property; and is bounded by residential uses to the west, south and east.



Exhibit B

numerous letters neighbors in support of the enclosure were submitted to the SFDB.

Although the enclosed patio is in the setback, the distance from the enclosure to the residence on the neighboring property is over 100' and well landscaped. The enclosure on the subject property is completely obscured from the westerly adjacent property. In discussions with the westerly adjacent neighbor regarding the enclosure, the neighbor has stated there are no negative impacts associated. The same neighbor has written a letter (attached) stating, "I am entirely comfortable with this addition and believe it should be left in place." Finally, items previously in the garage which made the area inaccessible have been removed, and the shed that was within the westerly setback has also been removed, thereby completely resolving the additional comments.

Presently, the owner is in escrow and the potential buyer intends to continue to use the enclosure as an office/den. He will likely back out of the purchase of the home if the area and associated improvements are not permitted. This would be a devastating financial blow. Given the discussion above, we earnestly hope you will support the requests we have made.

I hope this letter provides you with enough information to process the request. Please do not hesitate to contact me with any questions or concerns. I can be reached at 963.0651 ext. 3531 or via email: jgray@dudek.com.

Thank you.

Sincerely,



Jane Gray
Environmental Planner

