



City of Santa Barbara California

PLANNING COMMISSION STAFF REPORT

REPORT DATE: September 1, 2011
AGENDA DATE: September 8, 2011
PROJECT ADDRESS: 502 E. Micheltorena Street (MST2011-00186)
TO: Planning Commission
FROM: Planning Division, (805) 564-5470
 Danny Kato, Senior Planner *DK*
 Daniel Gullett, Associate Planner *DG*

I. PROJECT DESCRIPTION

The applicant proposes to demolish an existing detached 182 square foot single-car garage, and construct a new 185 square foot attached single-car garage in the interior setback, and construct a 426 square foot single-story addition to the existing 900 square foot single-family residence, on a 5,194 square-foot lot. This is an appeal of the Staff Hearing Officer's denial of the requested Modifications on July 13, 2011.

II. REQUIRED APPLICATIONS

The discretionary applications required for this project are:

1. A Modification to allow the new garage to encroach into the three-foot interior setback (SBMC Sections 28.18.060 & 28.92.110); and
2. A Modification of the R-2 Zone Open Yard standards (SBMC Sections 28.18.060 & 28.92.110).

III. RECOMMENDATION

Staff recommends that the Planning Commission deny the appeal, upholding the Staff Hearing Officer's denial of the project, making the findings outlined in Section VII of this report.



Figure 1: Project Vicinity

IV. SITE INFORMATION AND PROJECT STATISTICS

A. SITE INFORMATION

Applicant: Paul Zink	Property Owner: Douglas Foster
Parcel Number: 029-031-001	Lot Area: 5,194 sf
General Plan: Residential, 12 units/acre	Zoning: R-2
Existing Use: Single Family Residence	Topography: 13% est. slope
Adjacent Land Uses:	
North – Single Family Residential	East – Two Family Residential
South – Single Family Residential	West – Two Family Residential

B. PROJECT STATISTICS

	Existing	Proposed
Living Area	900 sf	1,326 sf
Garage	182 sf	185 sf
Floor Area Ratio	0.21 = 44% of Max Guideline FAR	0.29 = 61% of Max Guideline FAR

V. ZONING ORDINANCE CONSISTENCY

Standard	Requirement/ Allowance	Existing	Proposed
-Front (Micheltorena)	15 ft	15 ft	No change
-Front (Olive St.)	15 ft	12 ft 6 in	No change
-Interior (parking)	3 ft	0 ft	0 ft*
-Interior (building)	6 ft	9 ft 6 in	6 ft
Building Height	30 ft	19 ft 10 in	No change
Parking	2 space	1 space	No change
Open Yard	1,250 sf	~1,189 sf	938 sf*
Lot Coverage			
-Building	N/A	1,250 sf 24.1%	1,704 sf 32.8%
-Paving/Driveway	N/A	1,370 sf 26.4%	932 sf 17.9%
-Landscaping	N/A	2,574 sf 49.5%	2,558 sf 49.3%

*Requires Modification

The proposed project would meet the requirements of the R-2 Zone, with the exception of the location of the garage and size and dimensions of the open yard.

In 2003, the Modification Hearing Officer granted Modifications allowing portions of the residence and courtyard fountain to encroach up to 2.5 feet into the 15-foot front setback on Olive Street, and to allow the entry courtyard wall to exceed 3.5 feet in height 9.5 feet from the front lot line on Olive Street.

VI. ISSUES

A. MODIFICATIONS

The proposed project requires two Modifications:

Open Yard

The R-2 Zone requires minimum dimensions of 20 feet and a minimum open yard size of 1,250 square feet. The purpose of open yard, as defined in the Zoning Ordinance, is to provide usable outdoor living space and/or visual open space. The existing open yard area is non-conforming to size due to the location of the garage 15.5 feet from the southern property line and the less than 20-foot dimensions of the entry courtyard. The

proposed project would reduce the open yard that currently conforms to the 20-foot dimension, from the current ~1,189 square feet to ~938 square feet.

If the garage was moved to its proposed location and the proposed addition was reconfigured to provide a 20-foot setback from the southern property line, an open yard that conforms to the R-2 Zone standards could be provided on the site (see Exhibit C for an alternative footprint). Because other options exist that would conform to open yard standards and still achieve the goals of moving the garage and providing a reasonable single-story addition to the residence, staff does not support the requested Open Yard Modification.

Interior Setback

The other requested Modification is to allow a new single car garage to be located on an interior property line. The proposed garage is slightly larger (3 square feet) and located closer to Micheltorena Street than the existing garage (23.5 feet vs. ~68 feet from back of sidewalk). The new garage would also be slightly lower than the existing garage (10 feet vs. 10.25 feet). The interior clear width of the proposed garage at 9.25 feet would not meet the City standard of 10.5 feet; however, the area is constrained by the existing house and eastern property line.

The relocated garage would reduce the paved area, reduce impacts of light and noise of automobiles to the yard areas of the neighboring properties, and provide the opportunity for additional landscaping and a conforming open yard area on the site. In review of the Staff Hearing Officer plans, Transportation Planning staff indicated that the relocation of the garage toward Micheltorena Street and dedicated locations for the water heater and washer/dryer outside of the garage would increase the likelihood of the use of the garage for parking. The plans reviewed by the Staff Hearing Officer also provided additional storage where the new "gallery" is now proposed, which further justified Transportation Planning staff's support for the relocated garage.

Staff could support the Modification to relocate the garage for the reasons stated above if it were part of a proposal that had the added benefit of creating a conforming open yard area. As currently proposed, Staff cannot support the requested interior setback Modification.

B. FLOOR PLAN CONFIGURATION

As part of our plan review, Planning staff noted that the floor plan configuration of the proposed addition was not consistent with the Planning Division's administrative policies for residential unit configuration. However, since Staff's recommendation to the SHO was for denial of the project, we did not directly address it at that time. Instead, we recommended that if the SHO was inclined to approve the project, the full bathroom in the addition be reduced to a half bath to minimize the potential for a portion of the residence to be used as an illegal dwelling unit (see plan reviewed by SHO, Exhibit D).

The attached 2001 Planning Commission Staff Report (Exhibit E) provides background and details the Planning Division's administrative policies regarding review of floor plan configurations. The overall objective of those policies is to balance desired residential amenities with the community's desire to limit proliferation of illegal dwelling units. These policies are routinely applied to ministerial staff review of building permits and plan review for discretionary permit approvals. Substantial Zoning and Building and Safety staff resources are dedicated to the prevention and abatement of illegal dwelling units in our community. According to City records, between 65 and 79 new enforcement cases dealing with illegal dwelling units were created annually between 2007 and 2010.

The revised plan for consideration by the Planning Commission includes a new hallway between the relocated garage and the main portion of the addition. As the 2001 Planning Commission Staff Report notes, areas connected by a long, narrow hallway should be carefully scrutinized by staff for their potential to be used as a separate dwelling unit. In this case, due to the overall configuration of the house and the long, narrow addition with a full bathroom and exterior access, staff believes the proposed floor plan easily lends itself to be used as an additional, illegal unit. For that reason, if this project were approved, Staff would recommend that either the bathing facilities or the exterior access be removed from the proposed addition.

In applying these policies, Staff is not questioning the intentions of the current owner or applicant with respect to potential illegal use of this space. Our intent is to apply policies fairly and consistently and consider the useful life of the structure and its potential for conversion into an illegal unit, regardless of current or future ownership.

C. STAFF HEARING OFFICER REVIEW

At the July 13, 2011 hearing, the Staff Hearing Officer, Susan Reardon, expressed support for the requested interior setback modification for the garage and concerns with the requested open yard modification. Ms. Reardon and the applicant discussed revisions to the project to enable the open yard to be found consistent with the purpose and intent of the Zoning Ordinance, including elimination of the then proposed 20 sf addition in the entry courtyard and relocation of the existing six foot high retaining wall closer to Olive Street to provide more usable outdoor area for the residents. In the revised Planning Commission plan, the entry courtyard addition was removed, but the stucco wall along Olive Street is not proposed to move from its current location.

After the discussion, applicant requested that the Staff Hearing Officer allow the addition to have a full bathroom instead of a half bath. Ms. Reardon indicated that given the configuration of the accessory space and Zoning Ordinance requirements and administrative policies, a full bath is not allowed. In response, the applicant requested that the project be denied. SHO Minutes and Resolution are provided as Exhibit F.

D. DESIGN REVIEW

The project site is located in the Lower Riviera Special Design District and is thus subject to Single Family Design Board (SFDB) review and the Lower Riviera Special Design District Design Guidelines. The project was conceptually reviewed by SFDB on April 6, 2011 (See Exhibit G for meeting minutes). At that review, the garage was proposed 20 feet from the back of sidewalk on Micheltorena Street. SFDB asked that the proposed garage be moved back to the front plane of the adjacent house to the east, or 24.25 feet from the back of sidewalk. In response to the SFDB request, the applicant relocated the garage to 23.5 feet from the back of sidewalk. SFDB referred the project to the Staff Hearing Officer for consideration of the subject Modifications, stating that there were no negative aesthetic comments associated with the garage relocation or the requested Open Yard Modification. SFDB has not reviewed the revised proposal, as it is substantially similar to the previous proposal as it relates to the proposed Modifications. Subsequent SFDB approval would be required pending Modification approvals.

C. ENVIRONMENTAL REVIEW

The Environmental Analyst has determined that the project is exempt from further environmental review pursuant to the California Environmental Quality Act Guidelines Sections 15301 (Existing Facilities) and 15305 (Minor Alterations in Land Use Limitations).

VII. FINDINGS

The Planning Commission finds the following:

- 1) The requested Modification to the R-2 Open Yard standards is not consistent with the purposes and intent of the Zoning Ordinance and is not necessary to secure an appropriate improvement on the lot. There are other one-story design alternatives including re-orientation of an addition with a minor decrease in size that would provide both an appropriate addition and a conforming open yard area.
- 2) The requested Modification to allow the new garage to encroach into the interior setback is not consistent with the purposes and intent of the Zoning Ordinance and is not necessary to secure an appropriate improvement on the lot. The new garage does not constitute an appropriate improvement on the lot without an associated proposal that has the added benefit of creating a conforming open yard area and would otherwise conform to all other aspects of the Zoning Ordinance.

Planning Commission Staff Report
502 E. Micheltorena St. (MST2011-00186)
September 1, 2011
Page 7

Exhibits:

- A. Applicant's Appeal letter, dated July 21, 2011
- B. Reduced Site Plan
- C. Conforming Open Yard Option
- D. Site Plan reviewed by SHO
- E. 2001 Configuration of Residential Units Staff Report (without exhibits)
- F. SHO Minutes and Resolution
- G. SFDB Minutes

PAUL R. ZINK, AIA

779 Calabria Drive
Santa Barbara, CA 93105
(805) 569-3909
zinkaia@aol.com

RECEIVED
JUL 27 2011

CITY OF SANTA BARBARA
PLANNING DIVISION

July 27, 2011

Planning Division
City of Santa Barbara
P.O. Box 1990
Santa Barbara, CA 93102-1990

RE: Appeal of Staff Hearing Officer Denial of the
Modification Application for 502 E Micheltorena Street
APN: 029-031-001
Zoning R-2 / Downtown: Laguna
MST 2011-00186

We are requesting that the Planning Commission review our proposed project and the requested modifications that were reviewed and denied at the Staff Hearing Officer meeting on July 13, 2011.

In our application we are requesting two (2) modifications in order to build a single story addition to an existing single story residence. The project site is located in the Lower Riviera Special Design District. It is the stated purpose of the Design Guidelines to design projects that will not diminish the unique architectural style or character of the Bungalow Haven Neighborhood. It is also noted in these Guidelines that City Staff is encouraged to use the modification process to protect and enhance the neighborhood character when necessary. (Section 4.2 Item D, page 8.) We feel that the Planning Commission can make the findings that the requested modifications are in keeping with the existing development patterns of the existing neighborhood with no significant negative impacts.

When the project was being reviewed with the Staff Hearing Officer we were able to reach a consensus with the Officer regarding the two (2) requested modifications. The point of disagreement came with the issue of a half bath verses a full bath. The City Staff would like to impose a half bath as a condition of approval because there is no interior connection between the existing house and the proposed addition. The City Staff's underlining concern is that the proposed addition could be converted to an illegal rental too easily. It is not my Client's interest to have a rental on their property. We offered to the Staff Hearing Officer that my Client is willing to sign a Zoning Declaration that would be recorded with the parcel deed as a part of the approval stating that an additional dwelling unit on the property is not allowed. This type of Zoning Declaration is a standard form that has been used numerous times in our City. The Staff Hearing Officer and City Staff were not satisfied with this restriction. It was suggested that we either accept a half bath or the project could not be supported. It is at this point I choose to take the denial and request that the Planning Commission weigh in on this modification application.

EXHIBIT A

This application is a discretionary item which allows the City Planning Staff to impose additional restrictions to our project that are not part of the Zoning Ordinance. The real concern is that the Staff is assuming one's guilt or their desire to break the Zoning Rules without the evidence that such activity has occurred or will occur in the future. Once again, it is not my Client's intention to convert this addition to an additional residential unit. What my Client has is a 900 square foot one bedroom one bath house and would like to add an additional bedroom and full bath. The primary use of the additional bedroom will be a Study but will also be used as a Guest Bedroom for visiting friends.

Since the Staff Hearing Officer meeting my Client has agreed to make some minor changes to the proposed plan based upon this meeting. They have agreed to provide an interior connection from the main house to the proposed addition. This will result in the loss of the exterior storage space but this is a concession that they are willing to make. We also added a door from the back of the garage to the side yard and removed the requested 20 square foot addition to the Living Room that the Staff Hearing Officer was not comfortable with. An additional existing door from the Dining Room to the Front Courtyard was added to the plans that was missing.

When this application is reviewed at the Planning Commission it will be pointing out that the existing parcel is a corner lot with two front yard setbacks. The parcel is also only 5,194 square feet when the minimum R-2 lot size is 7,000 square feet. These are the physical hardships that make development on this parcel more difficult than other lots in this neighborhood. The City policy of providing 1,250 square feet of open yard area does not take into account the size of the lot. Having a substandard lot size creates a hardship and the corner lot setbacks make development on this parcel more difficult than interior lots.


The City Staff Report indicate that a conforming second story addition without needing any modifications is available. They are correct. Yet we are proposing a single story addition that is more in keeping with the neighborhood. It is the intent of the Lower Riviera Special Design District Guidelines to provide additions that do not distract or visually interfere with the traditional character of the neighborhood. Please refer to our letter to the Staff Hearing Officer for additional justification and rationale for the requested modifications.

The revised Floor Area Ratio for the proposed project is 61% of the allowable guideline for a lot of this size. The proposed addition is 426 square feet with an attached 185 square foot garage.

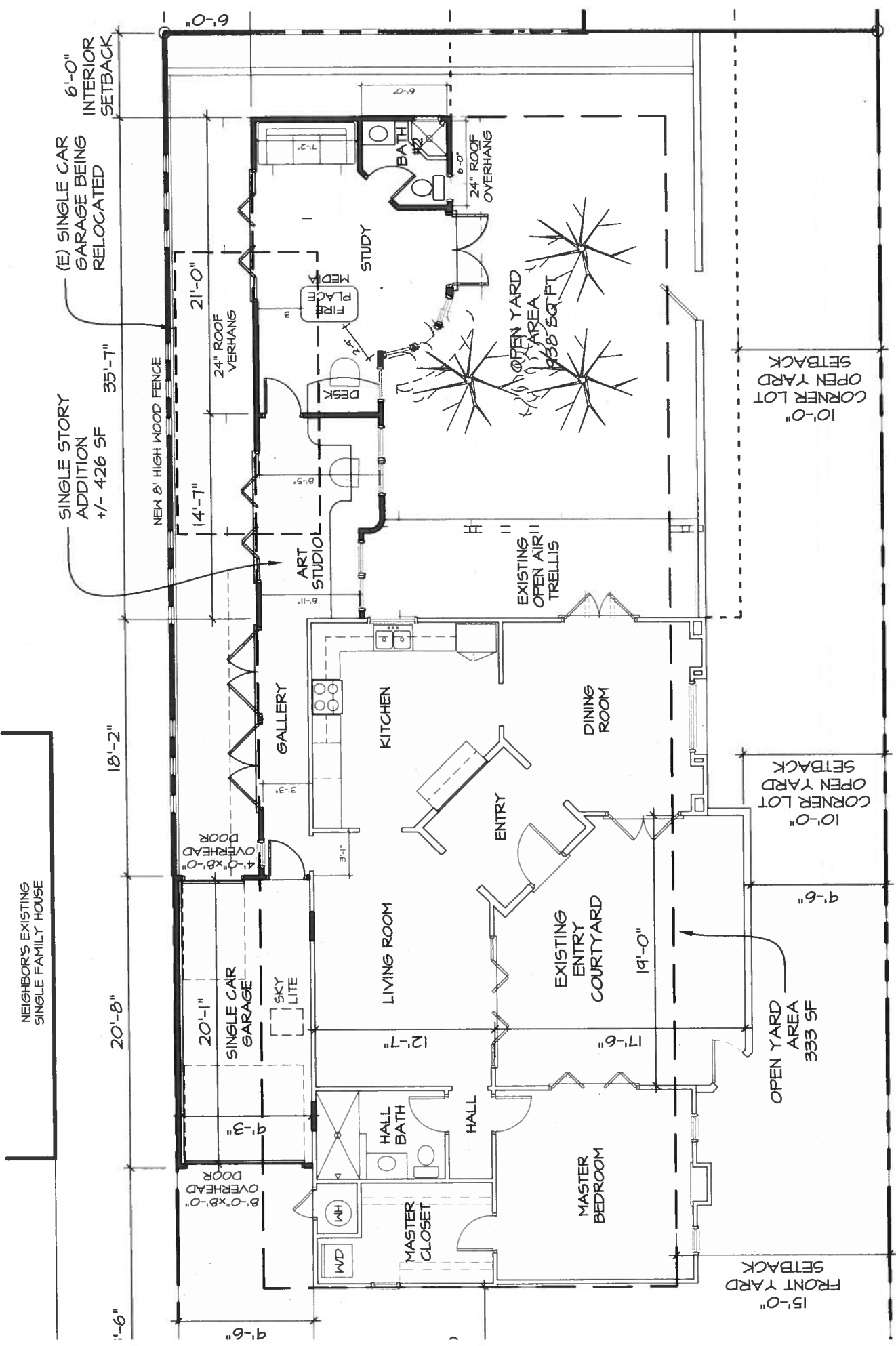
If for some reason the Planning Commission is not able to make the findings for the requested modification with a full bath we have included an option that contains a half bath. This is not our desired solution. Yet if it is the only way in which we may proceed with a single story solution, then my Client is willing to take this option over a second story conforming addition.

We look forward to the opportunity to discuss this project with the Planning Commission. If you have any questions, please call 805-569-3909 or e-mail ZinkAIA@aol.com.

Sincerely,



Paul R, Zink, AIA



NEIGHBOR'S EXISTING SINGLE FAMILY HOUSE

1'-6"

9'-6"

20'-8"

18'-2"

35'-7"

6'-0" INTERIOR SETBACK

(E) SINGLE CAR GARAGE BEING RELOCATED

NEW 8' HIGH WOOD FENCE

14'-7"

21'-0"

24" ROOF OVERHANG

24" ROOF OVERHANG

6'-0"

SINGLE STORY ADDITION +/- 426 SF

ART STUDIO

STUDY

BATH

24" ROOF OVERHANG

6'-0"

21'-0"

24" ROOF OVERHANG

6'-0"

20'-1"

SINGLE CAR GARAGE

SKY LITE

12'-7"

LIVING ROOM

KITCHEN

DINING ROOM

ENTRY

EXISTING ENTRY COURTYARD

19'-0"

17'-6"

OPEN YARD AREA 333 SF

9'-6"

10'-0" CORNER LOT OPEN YARD SETBACK

10'-0" CORNER LOT OPEN YARD SETBACK

15'-0" FRONT YARD SETBACK

15'-0" FRONT YARD SETBACK

10'-0" CORNER LOT OPEN YARD SETBACK

10'-0" CORNER LOT OPEN YARD SETBACK

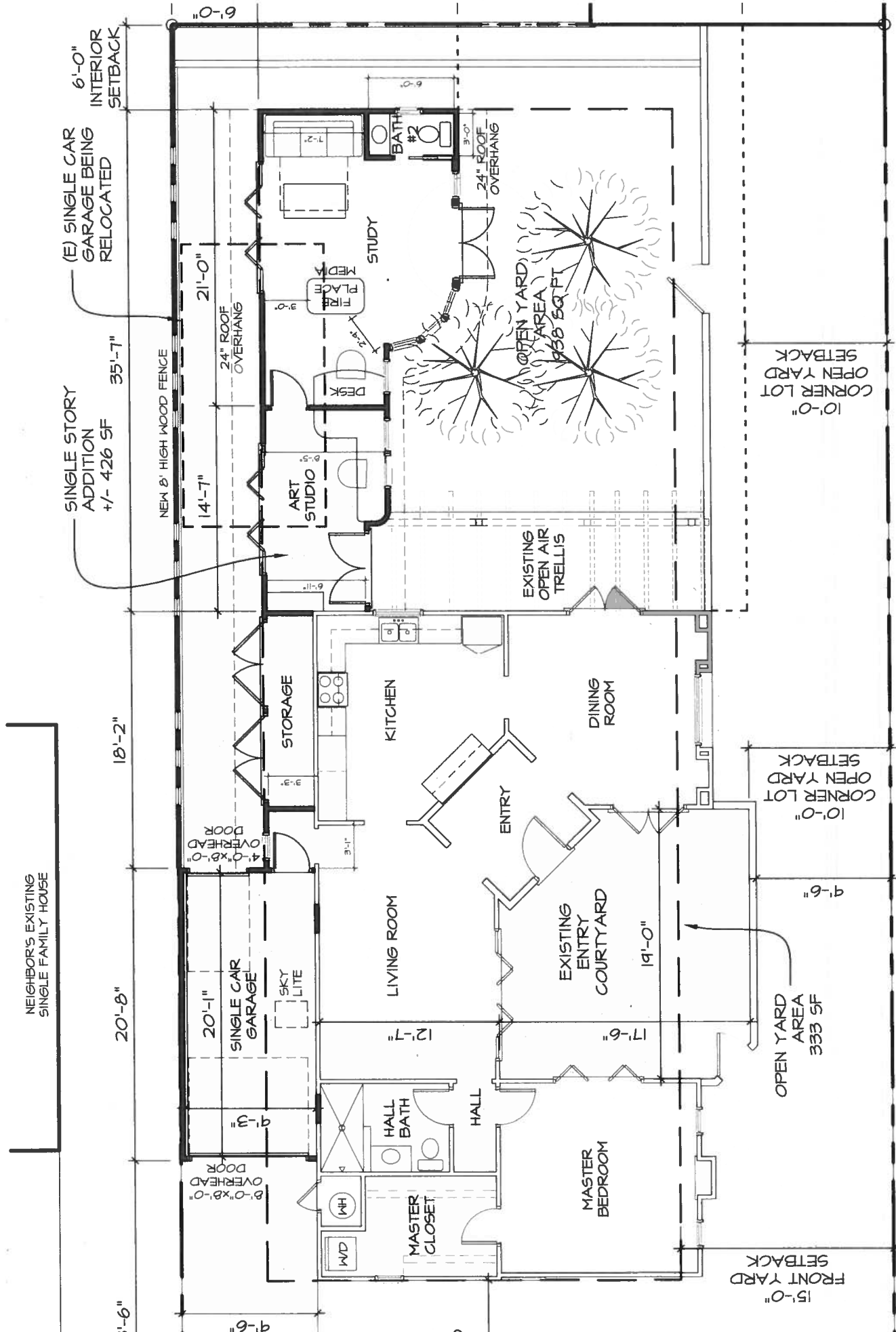
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JULY 21, 2011

FULL BATH - REVISED PROPOSAL

502 E. MICHELTORENA STREET, SANTA BARBARA, CA 93101

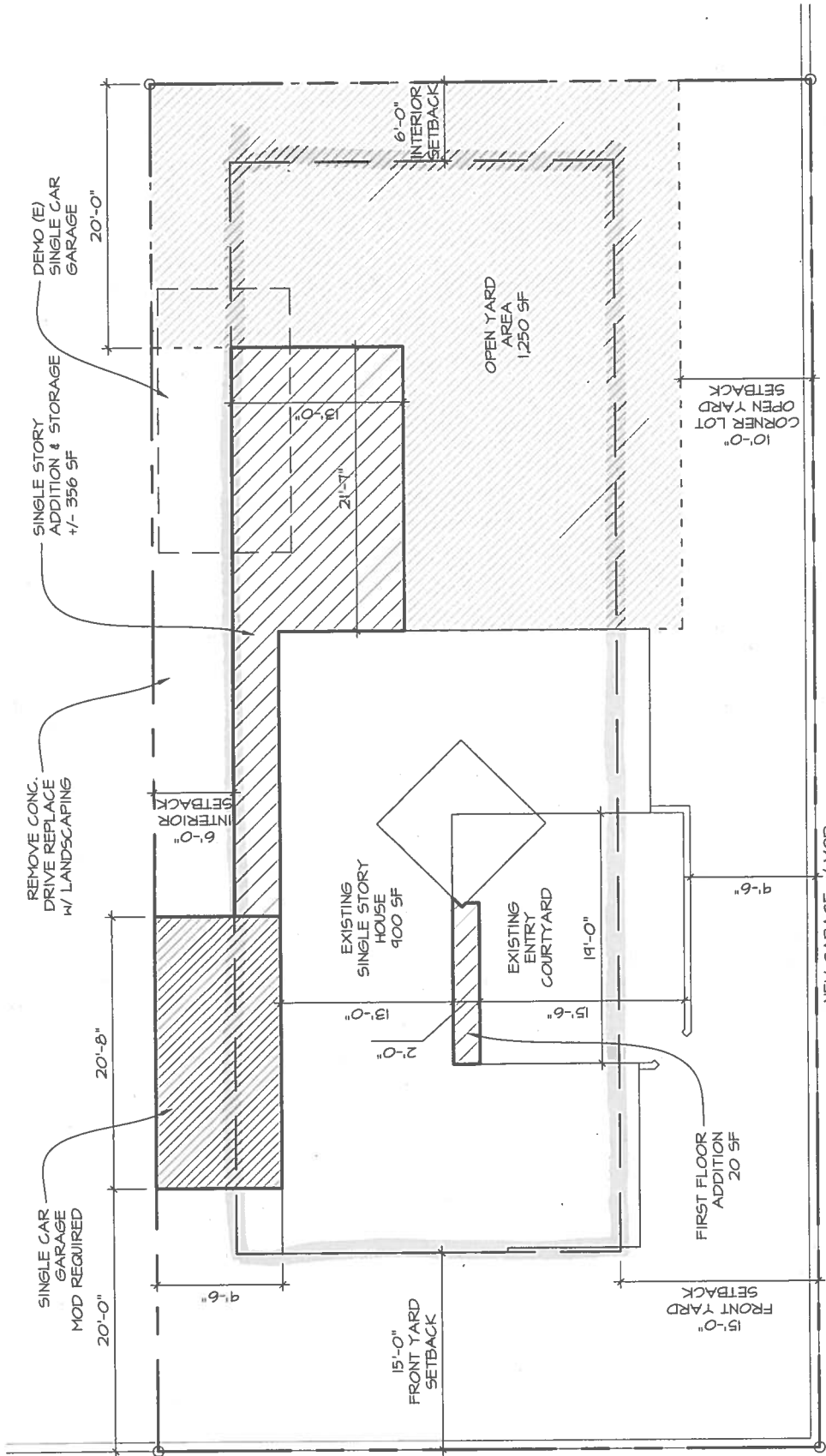


HALF BATH - ALTERNATIVE PROPOSAL

JULY 21, 2011

502 E. MICHELTORENA STREET, SANTA BARBARA, CA 93101





OPTION 1 FIRST FLOOR ADDITION
 NEW GARAGE W/ MOD FIRST FLOOR ADDITION
 502 E. MICHELTORENA STREET, SANTA BARBARA, CA 93101

PAUL ZINK, AIA
 SANTA BARBARA, CA
 APRIL 21, 2011

OLIVE STREET

NO.	REVISIONS

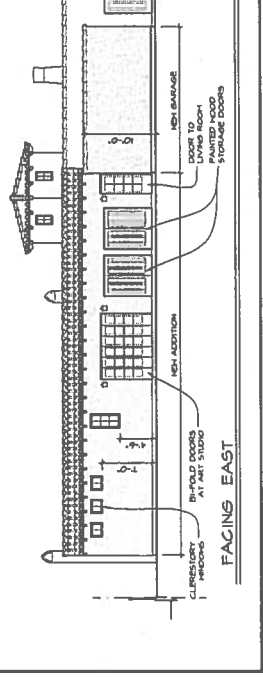
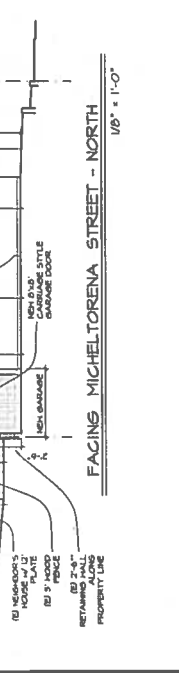
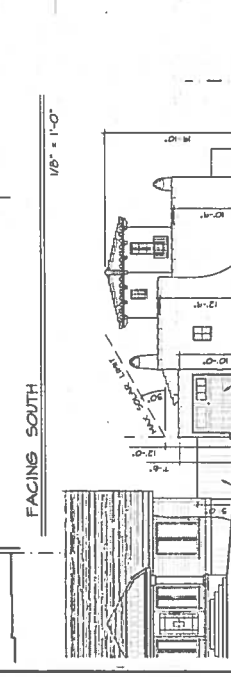
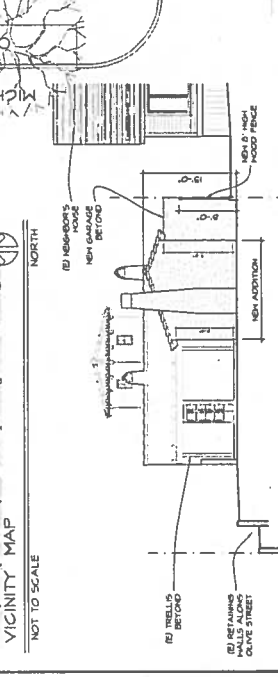
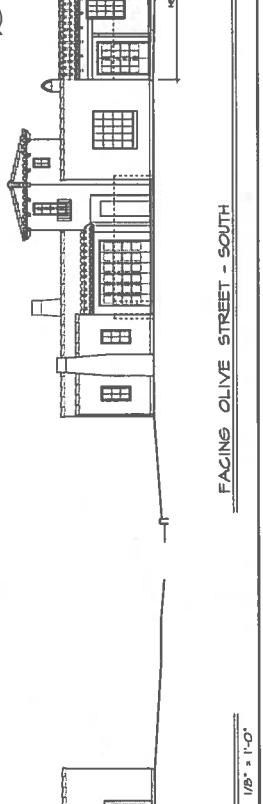
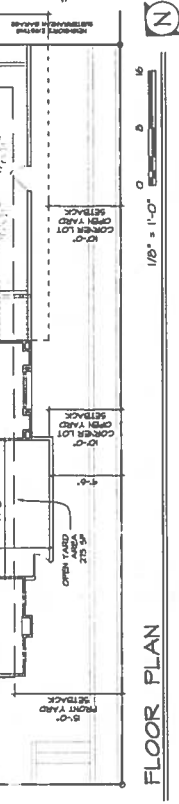
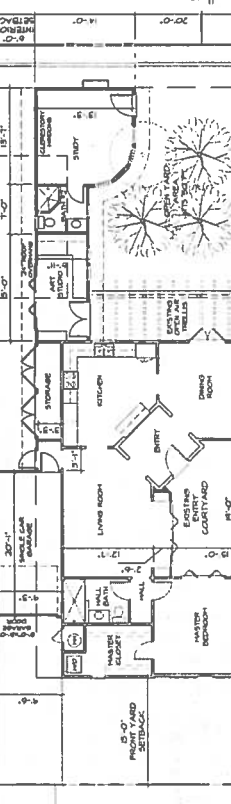
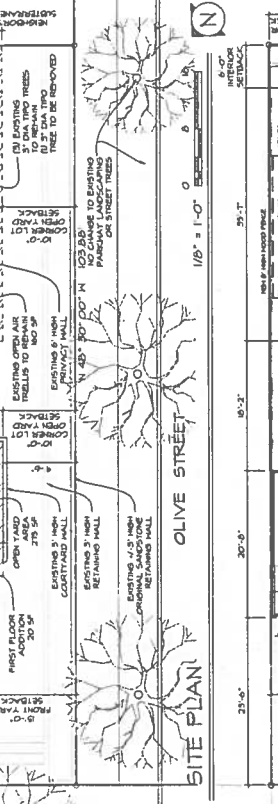
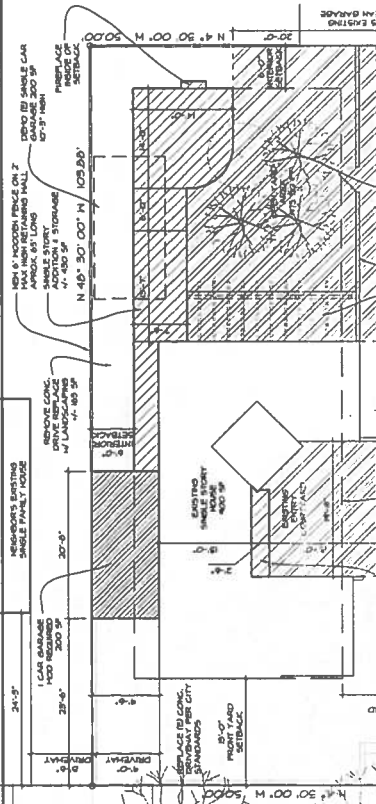
ZINK ARCHITECT
 PAUL ROBERT ZINK
 ARCHITECT
 779 Calabria Drive
 Santa Barbara, CA 93105
 (805) 569-3909
 www.zinknaa.com

Posterior Family Remodel
 502 E. Michelorena Street
 Santa Barbara, CA 93101

GENERAL DATA
 PROJECT ADDRESS: DOUELAS FOSTER
 and OWNER: SANTA BARBARA, CA 93101
 (805) 570-7932
 ARCHITECT/AGENT: PAUL R. ZINK, AIA
 SANTA BARBARA, CA 93105
 (805) 569-3909
 APN: 029-028-001
 ZONING: R-2
 AVERAGE SLOPE: 15%
 GRADINGS: NONE
 HIGH FIRE AREA: NO
 FIRE SPRINKLERS: NO
 COASTAL ZONE: NO
 FLOOD PLAN: NO
 OCCUPANCY: R-3 & I-1
 CONSTRUCTION TYPE: V-NR
 NUMBER OF STORIES: ONE STORY
 BUILDING HEIGHT: 14'-0" EXISTING STRUCTURE
 15'-0" PROPOSED ADDITION
 BUILDING AREA:
 NET GROSS
 EXISTING HOUSE 900 SF
 1050 SF
 200 SF
 200 SF
 DETACHED GARAGE 182 SF
 200 SF
 200 SF
 200 SF
 TOTAL 1082 SF
 1250 SF
 160 SF
 160 SF
 DEHO GARAGE 182 SF
 200 SF
 475 SF
 475 SF
 ADDITION TO HOUSE 450 SF
 186 SF
 186 SF
 NEW ATTACHED GARAGE 185 SF
 1595 SF
 185 SF
 186 SF
 186 SF
 TOTAL HOUSE 1350 SF
 1595 SF
 185 SF
 186 SF
 186 SF
 TOTAL 1535 SF
 1721 SF
 5,914 SF OR 0.14 ACRES
 LOT SIZE: 5,914 SF OR 0.14 ACRES
 LOT COVERAGE: EXISTING 1,250 SF
 PROPOSED 1,721 SF
 BUILDINGS: 1,250 SF
 24.1%
 1,721 SF
 35.1%
 PATIO & PAVING: 1,370 SF
 26.4%
 915 SF
 17.6%
 LANDSCAPING: 2,574 SF
 44.5%
 2,550 SF
 44.3%
 3,194 SF
 100%
 3,194 SF
 100%
 1 COVERED - EXISTING
 PARSING: 1 COVERED - EXISTING
 SCOPE OF WORK:
 1 DEHO PERMITTED GARAGE, 200 SQ FT
 2 NEW SINGLE CAR GARAGE, 200 SQ FT
 3 ADDITION OF 450 NET SQ FT
 MODIFICATIONS:
 REQUESTING A MODIFICATION TO ALLOW A MINIMUM DISTANCE FOR THE REQUIRED OPEN AREA TO BE 15'-0" AND THE MINIMUM SETBACKS WILL BE (2) AREAS FOR A TOTAL SIZE OF 1,250 SQ FT.
 REQUESTING A MODIFICATION TO ALLOW THE SIDE/REAR SETBACKS TO BE WITHIN THE NON-CONFORMING SINGLE CAR GARAGE.

AS1
 Sheet
 Date: 2011-08
 Drawn: PZ Zink
 Job: 2011-08
 Scale: 1/8" = 1'-0"

GENERAL DATA
 PROJECT ADDRESS: DOUELAS FOSTER
 and OWNER: SANTA BARBARA, CA 93101
 (805) 570-7932
 ARCHITECT/AGENT: PAUL R. ZINK, AIA
 SANTA BARBARA, CA 93105
 (805) 569-3909
 APN: 029-028-001
 ZONING: R-2
 AVERAGE SLOPE: 15%
 GRADINGS: NONE
 HIGH FIRE AREA: NO
 FIRE SPRINKLERS: NO
 COASTAL ZONE: NO
 FLOOD PLAN: NO
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 REQUESTING A MODIFICATION TO ALLOW THE SIDE/REAR SETBACKS TO BE WITHIN THE NON-CONFORMING SINGLE CAR GARAGE.





City of Santa Barbara California

PLANNING COMMISSION

STAFF REPORT

REPORT DATE: November 2, 2001
AGENDA DATE: November 8, 2001
SUBJECT: CONFIGURATION OF RESIDENTIAL UNITS
TO: Planning Commission
FROM: Planning Division, (805) 564-5470
 Jan Hubbell, Acting Development Review Supervisor
 Danny Kato, Zoning & Enforcement Supervisor *DJK*

INTRODUCTION

On two Tuesdays, May 1 and 8, 2001, a member of the public addressed the Mayor and Council during the public comment portion of the Council meeting. His stated concern was that Planning Staff is not allowing exterior doors to bedrooms in residential units, but his underlying concern was that Planning Staff's actions to reduce the potential for illegal dwelling units were infringing on the rights of property owners to have certain amenities in their houses. Planning Commission also discussed some specific projects at a lunch meeting in May 2001.

The main tool that the City has to reduce potential for illegal dwelling units is a definition of residential unit that was adopted by Council in 1994. Prior to 1994, City policies were more permissive with regard to the types of improvements that could be allowed in residences, resulting in portions of residential units that were easily converted to illegal dwelling units. In recent years, Staff's administration of the definition of residential unit has become too restrictive. During the late spring/early summer 2001, Staff reviewed its policies regarding the configuration of residential units, and revised them to achieve a better balance between allowing amenities that are desirable in residential units, and reducing the potential for illegal dwelling units.

BACKGROUND

The City of Santa Barbara has a problem with illegal dwelling units. High housing prices and rents make the prospect of converting portions of legal residential units into illegal dwelling units very attractive. For example, a recent News-Press article stated that the median housing price was \$629,000. If someone put 20% down (\$126,000), the monthly mortgage payment for a median house (including property tax and insurance) would be about \$4,100. The Redevelopment Agency's annual housing survey found that the median monthly rent for a one bedroom apartment is \$1,020, and \$1,395

for two bedroom apartment, which is a significant portion (between 25% and 34%) of the monthly payment.

For many years, the Community Development Department Staff has been working with property owners and the City Attorney's Office to abate illegal dwelling units. Prior to 1994, Staff did not have many tools to help prevent the proliferation of illegal dwelling units. For instance, the Zoning Ordinance only allows one residential unit in the single family zones. However, the Zoning Ordinance's definition of a residential unit at that time was quite broad:

28.04.210 Dwelling Unit.

One (1) or more rooms in a dwelling, apartment house or apartment hotel designed for or occupied by, one (1) family for living or sleeping purposes and having not more than one (1) kitchen.

This broad definition did not provide much guidance to Staff, beyond the limitation of one kitchen; thus Staff approved almost any floor plan for a residential unit as long as it only contained one kitchen. As a result, an approved floor plan configuration could include areas that could easily be converted to illegal dwelling units, such as bedrooms with full baths, wet bars and exterior entrances.

In 1994, the City received a number of complaints from residents in areas with many illegal dwelling units. The permit records revealed that Staff had approved floor plan configurations that were easily converted to illegal dwelling units. The Planning Commission and City Council held public hearings, and adopted an expanded definition of residential unit that allowed the Community Development Director to declare an area as a residential unit if certain elements were present. The definition of residential unit adopted in 1994 is as follows:

28.04.469.5 Residential Unit.

- A. A building or portion thereof designed or occupied for residential purposes, containing not more than one (1) kitchen per residential unit, but not including hotels or boarding houses.
- B. A residential unit may be declared by the Community Development Director when a building or portion thereof is configured or occupied for residential purposes, whether permanent or temporary, and contains elements evidencing separate residential occupancy. Elements to be considered may include, but are not limited to, the proximal arrangement and various combinations of:
 1. Sink or bar sink;
 2. Garbage disposal;
 3. Dishwasher;
 4. Toilet;
 5. Bathing facility;
 6. Interior locking doors;
 7. Exterior entrance;
 8. Exterior staircase;
 9. Separate yard, patio, deck or balcony;

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10. Separate phone line, cable line, or utility line;
11. Separate garage or parking area (covered or uncovered) or carport;
12. Countertops or cupboards;
13. Sleeping loft; or
14. Separate address/mail box designation.

Issuance of a building permit or other approvals does not, of itself, establish that a building or portion thereof is not a residential unit.

City Council directed Staff to examine proposed floor plan configurations, and to use the new definition of residential unit to deny certain improvements in areas that have high potential for conversion into illegal dwelling units. Improvements that are routinely denied are bathing facilities in areas with no interior access to the main residential unit, and wet bars in master bedrooms with exterior entrances.

As Planning Staff implemented the 1994 definition of residential unit, applicants became more "creative," showing only the improvements that could be approved, then adding other improvements without permits after the final inspection. Staff found out about these additional improvements because some of these properties came back as enforcement cases for illegal dwelling units.

Over time, in order to respond to this creativity and to continue to implement Council's direction, Planning Staff's implementation of the 1994 definition became increasingly restrictive, i.e. fewer of the items on the list were necessary before Staff declared a residential unit. For example, as of April 2001, it was fairly common for Staff to deny exterior doors to master bedrooms (without wet bars), where the exterior door opened onto a side yard. Staff worked with all applicants to try to find a combination of improvements that both met the applicants' needs and reduced the potential for conversion into illegal dwelling unit, but in most cases, Staff's decision was weighted much more towards reducing the potential for conversion.

The reason that staff routinely decided in favor of reducing potential for conversion is that once building permits are issued for items like exterior doors or bathing facilities, the City cannot require the removal of those improvements if the area is later found to be an illegal dwelling unit. For instance, if a building permit for a master bedroom with an exterior door and bar sink and counter is approved, and an enforcement case reveals that the area is being used as an illegal dwelling unit, the City cannot require the removal of any of the improvements allowed by the building permit. So after the enforcement case is closed, it's very easy to re-establish the illegal dwelling unit. The Administrative Fine of \$100 (1st offense), \$200 (2nd offense) or \$250 (3rd+ offense) is not much when compared to the potential rent generated from the illegal dwelling unit.

Whenever Staff reviewed a proposed floor plan configuration, the history of the property was taken into consideration. If the property did not have a history of illegal dwelling units or illegal habitable space, the decision about the types of improvements to allow was made in favor of the applicant, as much as possible. However, if the property had a history of illegal dwelling units or illegal habitable space, the decision about the types of improvements to allow was usually not made in favor of the applicant, as the zoning regulations had been violated previously.

New Design Paradigm

The balancing act between an individual's desire for amenities in residential units and community desire for legal dwelling units has become even more difficult, due to a new design paradigm for houses. Until fairly recently, a typical house would have a single master bedroom. For example, a typical three bedroom/two bath home would have one modestly sized master bedroom and master bath, two bedrooms and a common bathroom. The purpose of the master bedroom was for sleeping and bathing. The master bedroom may have had direct access to the backyard area, although this type of exterior access was not predominant. Even less common was a wet bar. Additionally, it was unusual for a typical house to have more than one master bedroom.

Today, the purpose of the master bedroom seems to include a place to "retreat," as well as a place to sleep and bathe. Houses built today almost always include very large master bedrooms and master bathrooms, with sitting areas and wet bars. Additionally, market demand is increasing for multiple master bedrooms and exterior doors (usually double French doors or large sliding glass doors), whether from bedrooms or from other parts of the house, given Santa Barbara's mild climate. It is not unusual for a proposal for a new house or a remodel to include three or more master bedrooms, each with exterior doors and wet bars.

Master bedrooms with exterior doors (especially those with wet bars) are easy to convert into illegal dwelling units (it can be as easy as putting a lock on an interior door). When the typical house included only one master bedroom, the likelihood of such a conversion was fairly small, as the floor plan for the remaining portion of the legal unit was awkward. However, with today's paradigm of multiple master bedrooms, if a property owner converted one of the master bedrooms into an illegal dwelling unit, the floor plan of the remaining portion of the legal unit would continue to make sense. Thus, the balancing act between an individual's desire for amenities and the community's desire for legal residential units is more difficult.

CURRENT POLICY ON RESIDENTIAL UNIT CONFIGURATION

Based on discussions that occurred during the late spring/early summer 2001, Planning Staff has created an internal policy that outlines how Staff is to administer the definition of residential unit in the Zoning Ordinance. The purpose of this policy is to provide guidance for Staff in determining whether improvements will be allowed when the configuration appears to be a residential unit.

In General

1. Half-baths (toilet and sink) are permissible in virtually all locations, whether detached or attached to the main structure.
2. Tank-type ("normal") water heater shall not be allowed in detached structures, unless that water heater is for both the main building and the detached structure.

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3. Proposals for multiple tank-type water heaters in main structures shall be examined carefully. Depending on the floor plan configuration, they may or may not be allowed.
4. Tankless ("on-demand") water heaters can be allowed in multiple locations.
5. In 99.9% of all cases, one kitchen is allowed per residential unit. Exceptions can be made for extremely large (10,000 s.f. +) single family residences, depending on the floor plan configuration (e.g. both a catering kitchen and a regular kitchen can be allowed in extremely large houses).
6. Kitchen sinks are not allowed except in approved kitchens.
7. Food preparation facilities, such as stoves, refrigerators, hot plates, microwaves, etc. shall not be allowed, except in approved kitchens.
8. One laundry area is allowed per residential unit.
9. One laundry tub (deep sink) can be allowed in the approved laundry area.
10. Maximum length of counters outside approved kitchens and bathrooms (hereinafter referred to as bar counters) is five feet.
11. Maximum bowl size of sinks outside approved kitchens and laundry areas (referred to as bar sinks) is 12" x 12". Lavatory sinks are allowed in bathrooms.
12. Garbage disposals in sinks outside approved kitchens are not allowed.
13. "Rough-in" plumbing for future plumbing fixtures shall not be allowed.
14. Proposals for multiple heating systems will be examined carefully. Depending on the floor plan configuration, they may or may not be allowed.
15. Properties with a history of illegal dwelling unit use shall be examined carefully, and improvements such as exterior doors, bathing facilities, bar counters/sinks, washer/dryer hookups, etc. shall be severely limited on such properties if the applicant is the violator. However, if the violator sells the property, the property is treated as if it has no history of illegal dwelling unit use (i.e. the new owners get a "clean slate," and are not penalized by the activities of the violators). In order to get the clean slate, the new owners must not be relatives of the violator. Additionally, the transfer of property from the violator to a trust or holding company for the violator will not qualify it for the clean slate.
16. The recordation of a Zoning Compliance Declaration may be required.

Detached Structures and Areas with No Interior Access to the Main Living Area

1. Bathing facilities with interior access to the detached structure shall not be allowed. However, exterior showers or shower rooms with exterior access only can be allowed.
2. Bar counters with a bar sink may be allowed on a case-by-case basis. For example, bar counters and bar sinks could be allowed in pool cabanas.
3. Only tankless water heaters shall be allowed, unless the water heater is also for the main residential unit.

Attached Structures with Interior Access to the Main Living Area

The type of interior access to the main living area will determine the types of improvements that are allowed:

1. Areas that are connected by a long, narrow hallway shall be examined carefully. Depending on the floor plan configuration, they may either be treated as detached structures (above), or areas that are clearly part of the main living area (below).
2. Areas that are connected by a spiral stairway shall be examined carefully. Depending on the floor plan configuration, they may either be treated as detached structures (above), or areas that are clearly part of the main living area (below).
3. Areas that can be easily closed off into separate residential units shall be examined carefully. Depending on the floor plan configuration, they may either be treated as detached structures (above), or areas that are clearly part of the main living area (below).

Areas that are Clearly Part of the Main Living Area

1. Generally, master bedrooms (bedrooms with attached full bathrooms) or similar configurations without bar counters and bar sinks will be allowed to have exterior doors onto backyards or decks.
2. Generally, master bedrooms or similar configurations without exterior doors will be allowed to have bar counters (5 foot maximum) and bar sinks (12"x12" maximum bowl size).
3. Master bedrooms or similar configurations shall not have both exterior doors and bar counters/sinks.
4. Generally, up to three master bedrooms as described above shall be allowed without much scrutiny.
5. More than three master bedrooms as described above may be allowed on a case-by-case basis. However, if the configuration resembles a boarding house or hotel, it will not be allowed.
6. The recordation of a Zoning Compliance Declaration may be required.

QUESTIONS FOR THE COMMISSION

The maximum sink size of 12"x12" in areas outside the kitchen and laundry area is a compromise between no sink (reduced potential for conversion to illegal dwelling units) and a double-bowl kitchen sink (desired by many individuals). The bar sink in areas outside the kitchen and laundry areas allows people to have water, and to clean small items, but makes it inconvenient to wash big dishes and pots and pans, thereby reducing the potential for conversion to illegal dwelling units. This requirement is fairly easy to enforce, as any new plumbing requires a building permit, and the City can review the plans, and require that the sink size be reduced.

The maximum counter length of 5 feet is a compromise between no counters (reduced potential for conversion to illegal dwelling units) and up to 15 feet of counters (desired by many individuals). The idea here is to allow a certain amount counter space, but not so much that it makes an area that is easily converted to a kitchen. Cabinets other than those supporting the counters (such as upper cabinets, pantries, etc.) have not been addressed. Limiting the counter length in order to prevent conversions of area to illegal dwelling units is not easily done, as the installation of counters and cabinets do not require building permits (as long as there is no structural, electrical or plumbing changes). Questions for the Commission are these:

1. Is the maximum sink size of 12"x12" in areas outside approved kitchens and laundry areas appropriate? Too big? Too small?
2. Is the maximum counter length of five feet outside approved kitchens appropriate? Too long? Too short?
3. Should the amount of cabinets other than those supporting the counters be regulated? If so, how much should be allowed?

CONCLUSION

Staff believes that the administrative policies listed above provide a good balance between an individual's desire for specific amenities, given an increased demand for multiple master bedrooms, exterior entrances and wet bars, with the community's desire to restrict the proliferation of illegal dwelling units.

Staff would appreciate the Planning Commission's discussion and input on the issue of configuration of residential units.

Exhibits: A-F. Approved Floor Plan Configurations
G-J. Pending Floor Plan Configurations

*** THE FOLLOWING AGENDA ITEM WAS HEARD OUT OF AGENDA ORDER. ***

ACTUAL TIME: 9:50 A.M.

D. APPLICATION OF PAUL ZINK, ARCHITECT FOR DOUGLAS FOSTER, 502 E. MICHELTORENA ST., APN 029-031-001, R-2 ZONE, GENERAL PLAN DESIGNATION: RESIDENTIAL, 12 UNITS PER ACRE (MST2011-00186)

Proposal to demolish an existing detached 182 square foot single-car garage and construct a new 185 square foot attached single-car garage in the interior setback, and a 450 square foot single-story addition to the existing 900 square foot single-family residence, on a 5,194 square-foot lot.

The discretionary land use applications required for this project are:

1. A Modification to allow the new garage to encroach into the three-foot interior setback (SBMC Sections 28.18.060 & 28.92.110); and
2. A Modification of the R-2 Zone Open Yard standards (SBMC Sections 28.18.060 & 28.92.110).

The Environmental Analyst has determined that the project is exempt from further environmental review pursuant to the California Environmental Quality Act Guidelines Sections 15301 (Existing Facilities) and 15305 (Minor Alterations in Land Use Limitations).

Present: Paul Zink, Architect.

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

Dan Gullett, Associate Planner, gave the Staff presentation and recommendation for denial.

The Public Hearing was opened at 10:02 a.m.

Cheri Rae spoke in support of the proposed project and in appreciation of communication efforts by Mr. Zink.

Joe Rution, Bungalow Haven Neighborhood Assoc. Secretary, (submitted support letter) spoke in support of the proposed modifications.

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

A letter of concern from Paula Westbury was acknowledged.

Ms. Reardon expressed support for the requested interior setback modification and concerns with the requested open yard modification. Ms. Reardon and the applicant discussed revisions to the project to enable the open yard to be found consistent with the purpose and intent of the Zoning Ordinance.

The applicant requested that the accessory space be allowed to have a full bathroom instead of a half bathroom. Ms. Reardon indicated that given the configuration of the accessory space and Zoning Ordinance requirements, a full bath is not allowed. Mr. Zink requested that the project be denied.

ACTION: **Assigned Resolution No. 028-11**
Denied the subject application making the findings as outlined in the Staff Report dated July 6, 2011, that:

- 1) The requested Modification to the R-2 Open Yard standards is not consistent with the purposes and intent of the Zoning Ordinance, since options exist to provide appropriate single or two-story additions which would provide for conforming open yard area.
- 2) The requested Modification for an interior setback reduction for the new garage does not constitute an appropriate improvement on the lot without an associated proposal for an addition that otherwise conforms to the Zoning Ordinance.

*** THE FOLLOWING AGENDA ITEM WAS HEARD OUT OF AGENDA ORDER. ***

ACTUAL TIME: 9:40 A.M.

E. **APPLICATION OF PETER EHLEN, ARCHITECT FOR DUCATI OF SANTA BARBARA, 17 W. MONTECITO ST., APN 033-042-007, HRC-2/SD-3 ZONES, GENERAL PLAN DESIGNATION: HOTEL AND RELATED COMMERCE II/BUFFER (MST2010-00220)**

Proposal to permit "as-built" entry doors on the Montecito St. building frontage and an "as-built" window and new roll-up door adjacent to the service bays on the Rey Rd. frontage, on the existing single-story commercial building. The project includes new interior loft space and reconfigured entry which would result in 127 square feet of new floor area, for a total building area of 3,463 net square feet on the 6,000 square foot parcel.

The discretionary land use applications required for this project are:

1. A Modification to allow "as-built" doors within the 20-foot front setback on W. Montecito St. (SBMC Sections 28.22.060, 28.92.110); and
2. A Modification to allow an "as-built" window and new roll-up door within the 20-foot front setback on Rey Rd. (SBMC Sections 28.22.060, 28.92.110).

The Environmental Analyst has determined that the project is exempt from further environmental review pursuant to the California Environmental Quality Act Guidelines Sections 15301 (Existing Facilities) and 15305 (Minor Alterations in Land Use Limitations).

Present: Peter Ehlen, Architect.



City of Santa Barbara California

CITY OF SANTA BARBARA STAFF HEARING OFFICER

RESOLUTION NO. 028-11
502 E. MICHELTORENA STREET
MODIFICATION
JULY 13, 2011

APPLICATION OF PAUL ZINK, ARCHITECT FOR DOUGLAS FOSTER, 502 E. MICHELTORENA ST., APN 029-031-001, R-2 ZONE, GENERAL PLAN DESIGNATION: RESIDENTIAL, 12 UNITS PER ACRE (MST2011-00186)

Proposal to demolish an existing detached 182 square foot single-car garage and construct a new 185 square foot attached single-car garage in the interior setback, and a 450 square foot single-story addition to the existing 900 square foot single-family residence, on a 5,194 square-foot lot.

The discretionary land use applications required for this project are:

1. A Modification to allow the new garage to encroach into the three-foot interior setback (SBMC Sections 28.18.060 & 28.92.110); and
2. A Modification of the R-2 Zone Open Yard standards (SBMC Sections 28.18.060 & 28.92.110).

The Environmental Analyst has determined that the project is exempt from further environmental review pursuant to the California Environmental Quality Act Guidelines Sections 15301 (Existing Facilities) and 15305 (Minor Alterations in Land Use Limitations).

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

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

1. Staff Report with Attachments, July 6, 2011.
2. Site Plans
3. Correspondence received in support of the project:
 - a. Joe Rution, Santa Barbara, CA.
4. Correspondence received in opposition to the project:
 - a. Paula Westbury, Santa Barbara, CA.

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

- I. Denied the subject application making the findings that:
 - 1) The requested Modification to the R-2 Open Yard standards is not consistent with the purposes and intent of the Zoning Ordinance, since options exist to provide appropriate single or two-story additions which would provide for conforming open yard area.
 - 2) The requested Modification for an interior setback reduction for the new garage does not constitute an appropriate improvement on the lot without an associated proposal for an addition that otherwise conforms to the Zoning Ordinance.

SFDB Minutes

June 6, 2011

502 E MICHELTORENA ST

Assessor's Parcel Number: 029-031-001
Application Number: MST2011-00186
Applicant: Paul Zink
Owner: Douglas Foster

(Proposal to construct a 450 square foot one-story addition to the existing 900 square foot one-story single-family residence. The proposal includes demolition of the 182 square foot detached one-car garage and construction of a 185 square foot attached one-car garage on the 5,194 square foot lot. Staff Hearing Officer review of zoning modifications is requested to allow the reconstructed garage to be located within an interior setback and to allow a portion of the required open yard area to have less than the required 20 foot dimensions. The parcel is located in the Lower Riviera Special Design District. Proposal to address enforcement case ENF2010-00220).

(Comments only; project requires Environmental Assessment and Staff Hearing Officer review of requested zoning modifications.)

(4:56)

Present: Paul Zink, Applicant; and Jake Jacobus, Urban Historian.

Mr. Jacobus commented that the proposed project site is in the Lower Riviera Special Identified Historic district, and includes the craftsman style in original design of the home. He recommended that the garage be reconfigured to be pushed slightly back to conform to the architectural style of the rest of the house.

Public comment opened at 5:07 p.m. As no one wished to speak, public comment was closed.

Motion: Continued indefinitely to Staff Hearing Officer and return to Consent with the following comments:

- 1) The Board made positive comments on the proposed project.
- 2) The Board suggests the garage be pushed back a couple of feet, as suggested by staff to be in the same plane as the adjacent neighboring home.
- 3) The Board finds no negative aesthetic impacts regarding the proposed open yard configuration and location of the new garage.

Action: Woolery/Bernstein, 5/0/0. Motion carried. (Zink stepped down, Miller absent).

