



# City of Santa Barbara California

## STAFF HEARING OFFICER STAFF REPORT

**REPORT DATE:** June 23, 2010  
**AGENDA DATE:** June 30, 2010  
**PROJECT ADDRESS:** 1402 Grand Avenue & 860 Jimeno Road (MST2008-00402)

**TO:** Staff Hearing Officer  
**FROM:** Planning Division, (805) 564-5470  
 Danny Kato, Senior Planner *DK*  
 Suzanne Riegler, Assistant Planner *SR*

### I. PROJECT DESCRIPTION

A Substantial Conformance Determination has been requested to allow for changes to the approved project conditions outlined in Staff Hearing Officer Resolution 046-09. Condition II.A.1 required a one-car carport be built and the applicant has revised project to include the construction of a 603 square foot detached two-car garage for 1402 Grand Avenue. The applicant has requested revisions to conditions II.A.2-5, which restricted the vehicular access on the lot to the minimum area needed to turn a vehicle around, with a condition for planters and boulders to restrict vehicular access. The applicant has requested the enlargement of the area identified as a turn around area and a guest parking space.

### II. REQUIRED APPLICATIONS

The discretionary applications required for this project is a Substantial Conformance Determination for consistency with the conditions of approval outlined in Staff Hearing Officer Resolution No. 046-09 (Exhibit B).

### III. SUBSTANTIAL CONFORMANCE

The Staff Hearing Officer is requested to make recommendations on the project revisions and the ability to find the project scope in substantial conformance with the approved project. The proposed revisions to the project conform to the City's Zoning and Building Ordinances and policies of the General Plan. The proposed improvements are shown outside of the property setbacks and are consistent with improvements for a single family residential property. At the time of the approval, condition A.1 was written to assure that the zoning requirement for off-street parking was met on site. The condition required a one-car carport be constructed and identified a preferred location for the carport to minimize grading. The applicant has since revised the project to provide a 603 square foot, two-car garage that does not require an exception to the requirement for two covered parking spaces as identified in SBMC§28.90.100. The maximum garage size in the A-1 zone is 750 square feet. The size and massing of the two-car garage, is consistent with the surrounding neighborhood.

Conditions A.2-5, were crafted to minimize impacts to the large coast live oak adjacent to the proposed turnaround and parking area. Additionally, a neighbor expressed concern at the June 3, 2010 that the property was used as a vacation rental and was ? with areas that could be used for additional vacation rental parking. The city and the property owner have resolved the vacation rental issue and entered a stipulated judgment with the property owner that assures that the property will no longer be used as a vacation rental. The condition required the applicant to reduce the paving to the minimum area required to turn a vehicle around, to reduce the impacts on the dripline of the oak tree on the adjacent property. The applicant wishes to provide an enlarged area for guest parking and maneuverability at the top of the driveway adjacent to the house. Arborist Duke McPherson has stated that with the installation of perforated plastic pipes in holes drilled throughout the exposed soil area, the tree will have proper aeration and water infiltration even though vehicles would be allowed. (Exhibit D)

#### **IV. ISSUES**

##### **A. DESIGN REVIEW**

The revisions to covered parking and turn around area were reviewed by the SFDB on two separate occasions (meeting minutes are attached as Exhibit E). On May 10, 2010, the SFDB stated the there should not be an increase in the amount of paving under the tree. Staff had provided two options of minimized paving which were prepared by the Transportation Staff. The board identified Option 1 (Exhibit F) as the preferred parking maneuver area for the two-car garage. However, the board recommended that the maneuvering area be shifted 9 feet to the east, reduce the garage to 20'8" length to, and keep the rear wall of the garage 19'10" from the property line as shown on the plan. These adjustments would eliminate the parking under the drip line of the tree. The SFDB found the garage architecture is generally acceptable to a majority of the board and stated that the proposed landscape planter should be eliminated along the stone wall adjacent to the turnaround area and that the arborists review the proposed garage location with respect to the downhill oak tree to provide protection measures prior to preliminary approval. The proposed changes are consistent with the zoning ordinance and the final design would be subject to SFDB review and approval.

##### **B. COMPLIANCE WITH THE GENERAL PLAN**

The proposed improvements are consistent with the requirements of the Zoning Ordinance and the General Plan designation as residential. The single family residence and proposed garage observe all required setback and open yard requirements.

##### **C. PARKING**

The existing parking for the property at 1402 Grand Avenue is legally non-conforming with one uncovered parking space. The project approved on June 3, 2009 was conditioned to construct at least a one-car carport to meet the minimum parking requirements as identified in SBMC§28.90.100(G)(1) under the exception for lots developed with 85% or less of the maximum floor to lot area ratio as calculated by §28.15.083 and where the parking meets other location requirements. The project as revised proposes to provide the required two covered off-street parking spaces in conformance with the zoning ordinance by constructing a two-car

garage. The applicant does not wish to use the exception for lots developed with less than 85% of the maximum floor to lot area guideline that allows for one covered and one uncovered parking space. The applicant has requested an uncovered guest parking space. The garage and guest parking space are appropriate improvements for a single family residence. The parking is located outside of all required setbacks and the garage does not exceed the 750 square foot maximum as allowed for in the zoning ordinance.

**D. ENVIRONMENTAL REVIEW**

A letter from Arborist Duke McPherson, dated May 16, 2010, states that the construction of a new two-car garage in the location shown on the plans, as well as the area identified as turnaround and guest parking will not adversely impact the oak tree adjacent to the 860 Jimeno Road property line or the oak tree downhill from the south elevation of the proposed garage.

The project is a minor land transfer between two lots currently developed with single family residences and the construction of a garage CEQA provides an exemption for projects involving minor lot line adjustments where no new building sites have an average slope of greater than 20% and the potential for development would not increase.

The City policies allow for Minor Alterations in Land Use Limitations where the slope of the development area including driveways does not exceed 20%. There are two existing building sites, each developed with a single family residence. Because there is no increase in the potential for development and the proposed building site does not exceed 20%, the Environmental Analyst has determined that the project is exempt from further environmental review pursuant to the California Environmental Quality guidelines Section §15303 (New Construction of Small Structures) and §15305 (Minor Alteration in Land Use Limitations).

**V. NEXT STEPS**

Staff will make the decision to approve or deny the substantial conformance, using the recommendations provided by the Staff Hearing Officer, Single Family Design Board, and Transportation Division Staff.

Exhibits:

- A. Kathleen M. Weinheimer letter, dated June 18, 2010
- B. SHO Resolution No. 046-09
- C. SHO Minutes, dated June 3, 2009
- D. Arborist Letter Report by Duke McPherson, dated May 16, 2010 and April 16, 2009
- E. SFDB Minutes, dated May 10, 2010
- F. Transportation Division Parking Options
- G. Site Plan and elevations (available at the Planning & Zoning Counter)



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FAX (805) 965-6388  
EMAIL: kathleenweinheimer@cox.net

RECEIVED  
JUN 18 2010

CITY OF SANTA BARBARA  
PLANNING DIVISION

June 18, 2010

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

Re: 1402 Grand Avenue

Dear Ms. Reardon:

I represent Melanie Cava and Todd Drevo, owners of the property at 1402 Grand Avenue. When this project was last before you in June of 2009, you approved a lot line adjustment ("LLA") with the adjacent property at 860 Jimeno Road, subject to certain conditions. As you may recall, the purpose of this LLA was to make parking and access at the Grand Avenue site safer and more accessible, as the home is at the end of a 600 foot long, steep, curving, narrow driveway, and located on a street with very little onstreet parking. The purpose of our current application is to request that you find certain changes to the project in substantial conformity with the original approval and allow the project to proceed to recordation.

Condition II.A.1

The first of the Design Review Conditions of Approval of the LLA was a requirement that a one-car carport be constructed to provide covered parking in the concrete parking area. After reviewing the condition, the applicants determined that a two car garage was more appropriate for the project, in that it would be more consistent with the neighborhood, provide increased parking onsite, and eliminate the visual impacts from items stored in the carport. The proposed garage is 562 square feet in size, and located between 15' and 17' 3" from the easterly property line, well outside the required setback. The garage received positive comments from the Single Family Design Board when it was presented for conceptual review in May of this year. Specifics regarding the garage are shown on the site plan and detail plan attached hereto as Exhibit A. We hope that you will agree that this is a preferred alternative to the carport and find this revision in substantial conformance with the original condition.

EXHIBIT A

Ms. Susan Reardon  
June 18, 2010  
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Conditions II.A.2, 3, 4, and 5

The second change we are proposing addresses the issue of the turnaround and parking area at the site. The original conditions of approval limited the turnaround to a hammerhead not to exceed a maximum of 14 feet in width, required a reduction in paving and decomposed granite, and the installation of large boulders between the landscaped area and the turnaround to discourage the use of the area for parking. There was also a requirement that a small tree be planted in the small triangular planter at the beginning of the driveway.

Although I was not in attendance at the original hearing, I understand these conditions were imposed to address the potential impact of parking on an adjacent oak tree, as well as in response to concerns raised regarding the use of the property as a vacation rental. We believe each of these issues have been resolved and that the conditions as presently written are unnecessarily restrictive, negatively impact safety and accessibility to the home, and unfairly limit the owners' ability to utilize their property as a single family residence. In support of our position, we have provided two reports from Duke McPherson affirming the health of the oak, and that it will not be adversely impacted by the presence of decomposed granite, or use of the area outside the setback for parking or maneuvering. Further, I understand you have a copy of the settlement agreement the City has entered into with the owners regarding the vacation rental issue, which provides in part for additional penalties should the use resume. As such, we believe that these conditions are no longer necessary to respond to the original concerns and should be modified to assure that the goals of safe access and maneuverability are met.

Therefore, our proposed revisions, as shown on the attached Exhibit A, would include the addition of guest parking spaces outside the setback (provided they do not interfere with the turnaround), elimination of the small tree in the triangle, as the arborist felt this competed with the oak, preservation of the 10 foot setback area with a stone/curb border, and the addition of a 14 foot wide hammerhead cutout into the setback area to allow vehicles to turn around for exiting the property. The 10 foot setback area, including the triangle, would be covered with mulch/bark and landscaped in a manner recommended by the arborist to not interfere with the oak.

With these changes, we believe that the project will meet the original objectives of the LLA by providing enhanced maneuvering space, guest parking, and increased safety and accessibility without damage to the existing oak. By increasing onsite parking, both in the garage and for guests, the project will eliminate concerns raised by the neighbors on Grand Avenue, who already face an impacted onstreet parking situation. Further, by removing the proposed tree in the triangle area, a potential adverse impact on the oak will be eliminated. Finally, by providing the hammerhead turnaround, the extremely

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dangerous past practice of backing down the 600 foot driveway can be abandoned. In all, the recommended changes enhance the project and benefit the neighborhood. We hope you will find them in substantial conformance with your original approval and accept the proposed revisions.

Conclusion

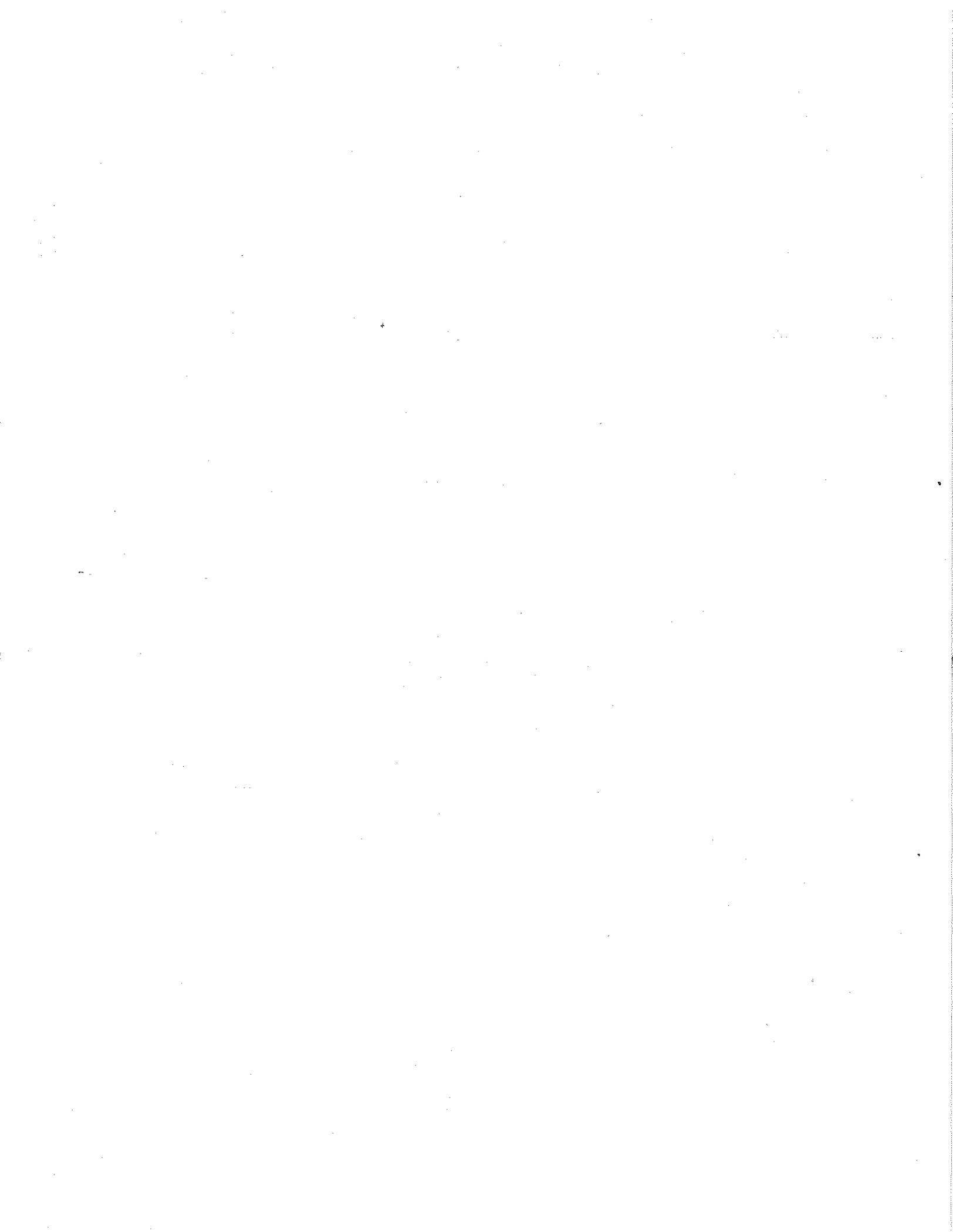
Although the allegations surrounding this application are too numerous to mention, this is essentially a simple request: we are asking for a finding of substantial conformity to allow the substitution of a garage for a carport, and for several changes to the hardscape area to better accommodate the needs of the property owner. None of these changes alter the original findings of consistency of the LLA with the General Plan and Zoning Ordinance, yet both will further the goals of the original application without adversely impacting either the existing environment or the neighboring property owners. We ask for your support in our request. Thank you very much.

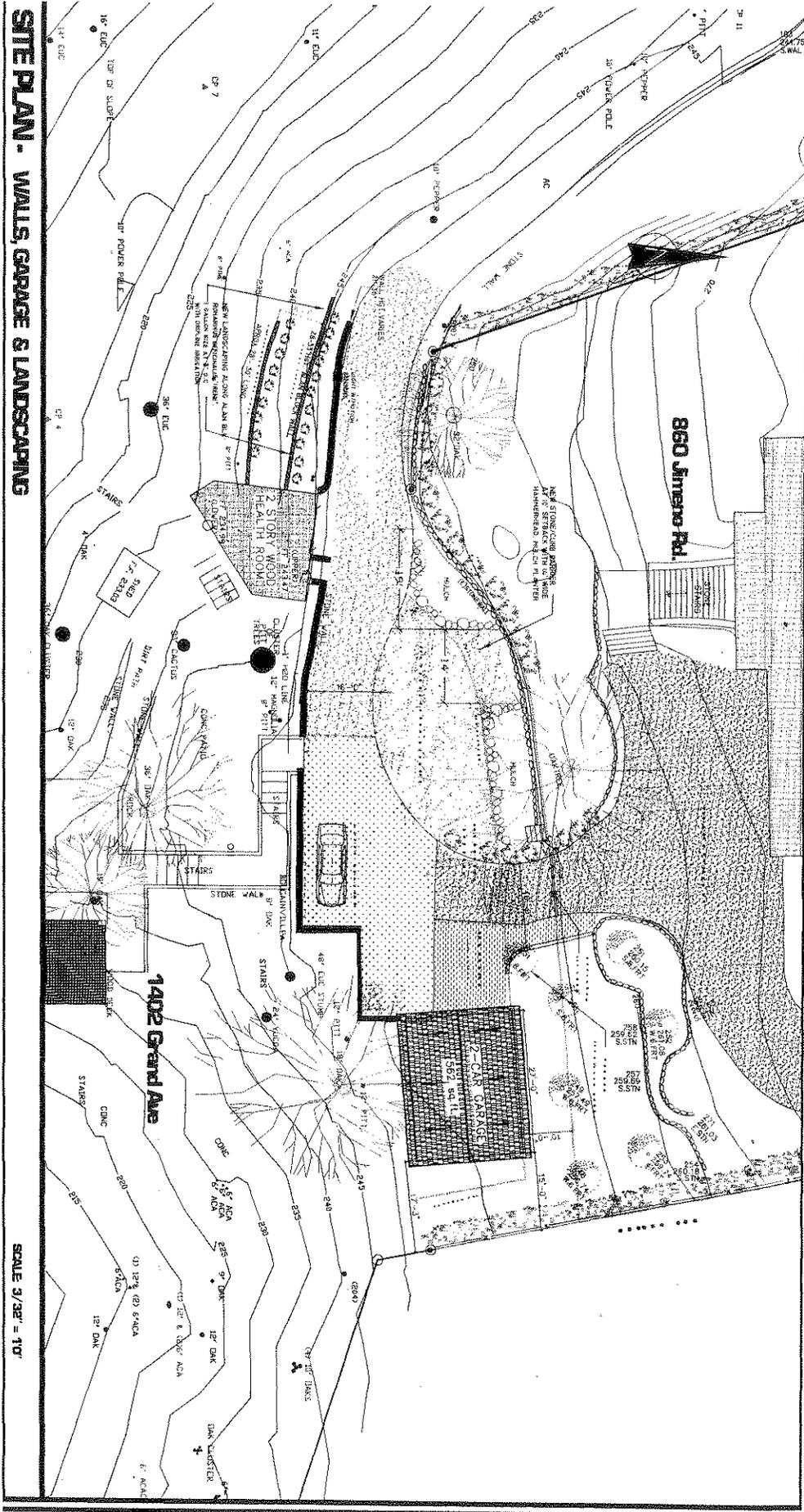
Sincerely,



Kathleen M. Weinheimer

Enclosure





**SITE PLAN - WALLS, GARAGE & LANDSCAPING**



**RICHELE DESIGN**

DESIGNTECH INTERIORS PLANNING PROCESS ENGINEERING  
 PHONE: (805) 568-1303 EMAIL: richele\_design@verizon.net  
 1129 STATE STREET SUITE C SANTA BARBARA CA 93101

DATE	APPR

Exhibit A





# City of Santa Barbara California

CITY OF SANTA BARBARA STAFF HEARING OFFICER

RESOLUTION NO. 046-09  
1402 GRAND AVENUE AND 860 JIMENO ROAD  
LOT LINE ADJUSTMENTS  
JUNE 3, 2009

**APPLICATION OF RICHELE MAILAND AGENT FOR MIDWEST INSTITUTION, LLC & JOSEPH A. YOB, 1402 GRAND AVENUE & 860 JIMENO ROAD, 029-110-036 & 029-110-037, A-1/E-1 AND E-1 SINGLE FAMILY RESIDENTIAL ZONES, GENERAL PLAN DESIGNATION: 1 UNIT/ACRE (MST2008-00402)**

The proposed project consists of a Lot Line Adjustment between the properties located at 1402 Grand Avenue (Parcel 1) and 860 Jimeno Road (Parcel 2). The lot line adjustment will result in a transfer of 3,140 sq. ft. of lot area from Parcel 2 to Parcel 1. The proposal includes the installation of automatic gates at the driveway entry for 1402 Grand Avenue, the landscaping screening of as-built Alan block walls south of the driveway, landscaping of an as-built turnaround area to limit its usage to a turnaround and prevent parking within the setback, and alterations to the house at 860 Jimeno Road including window and door changes.

The discretionary application required for this project is a Lot Line Adjustment (LLA) to change the property line between Parcel 1, 1402 Grand Avenue (APN 029-110-036) and Parcel 2, 860 Jimeno Road (APN 029-110-037) (SBMC §27.40 & Gov. Code §66412).

The Environmental Analyst has determined that the project is exempt from further environmental review pursuant to the California Environmental Quality guidelines Section §15301 (Alterations to Small Structures) and §15305 (Minor Alteration 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 opposition of the application, and the following exhibits were presented for the record:

1. Staff Report with Attachments, May 27, 2009.
2. Site Plans
3. Correspondence received expressing concerns about the project:  
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:

- I. Approved the project making the finding that the proposed lot line adjustment is appropriate for the area and is consistent with the City's General Plan and Building and Zoning Ordinances, as

**EXHIBIT B**

shown in section VI.A -C. The lot line adjustment would create two legal lots that conform to the zoning requirements in the A-1 and E-1 zones as described in Sections V. and VI.C., dated May 27, 2009.

II. Said approval is subject to the following Conditions of Approval for 1402 Grand Avenue:

- A. **Design Review.** The project is subject to the review and approval of the Single Family Design Board (SFDB). SFDB shall not grant preliminary approval of the project until the following Staff Hearing Officer land use conditions have been satisfied for the property located at 1402 Grande Avenue:
1. A one-car carport shall be constructed to provide one covered parking space in the location identified as the concrete parking area. The northern most parking space is the preferred location along the existing fence.
  2. The proposed driveway turnaround shall be a hammerhead not to exceed a maximum of 14 foot width. The applicant shall work with Transportation staff and the SFDB to reduce the amount of paving and decomposed granite as much as possible, especially in the required setbacks to discourage the use of these areas for parking. A physical barrier shall be placed between the turnaround area and the adjacent landscaped areas to discourage access parking.
  3. Large boulders shall be placed along the turnaround edge to prevent parking in areas not designated as the approved turnaround and within the required setback.
  4. The decomposed granite shall be removed from under the Oak tree on the 1402 Grand Avenue property by hand and replaced with bark.
  5. A small tree shall be planted in the small triangular planter.
  6. Irrigation shall be shown on the plans for the Rosemary shrubs.
  7. The exterior lighting for the health room shall be placed on a motion detector.
  8. The driveway entry gate shall be setback a minimum distance of 20 feet from the front property line or shall be reduced to a maximum height of 3.5 feet
  9. **Tree Protection Measures.** The landscape plan shall include the following tree protection measures, intended to minimize impacts on trees:
    - a. **Landscaping Under Trees.** Landscaping under the tree(s) shall be compatible with the preservation of the tree(s).
    - b. **Arborist's Report.** Include a note on the plans that recommendations/conditions contained in the arborist's report prepared by Duke McPherson, dated May 27, 2009, shall be implemented.
  10. **Irrigation System.** The irrigation system shall be designed and maintained with the most current technology to prevent a system failure, and watering of vegetation on the steep slope shall be kept to the minimum necessary for plant

survival. The drip system along the bluff edge shall be removed after one full season of plant growth.

11. **Permeable Paving.** The turnaround area shall remain a permeable paving system that will allow a portion of the paved area runoff to percolate into the ground.
13. **Unit Size.** The size of existing residence to be verified prior to return to the SFDB.
14. **Zoning Compliance Declaration.** A Zoning Compliance Declaration shall be recorded against 1402 Grand Avenue.

B. **Recorded Conditions Agreement.** Prior to the issuance of any Public Works permit or Building permit for the project on the Real Property, the Owner shall execute *a written instrument prepared by Community Development staff*, which shall be reviewed as to form and content by the City Attorney, Community Development Director and Public Works Director, recorded in the Office of the County Recorder, and shall include the following:

1. **Approved Development.** The development of the Real Property approved by the Staff Hearing Officer on June 3, 2009 is limited to a Lot Line Adjustment, construction of a one-car carport, and improvements shown on the plans signed by the Staff Hearing Officer on said date and on file at the City of Santa Barbara.
2. **Recreational Vehicle Storage Limitation.** No recreational vehicles, boats, or trailers shall be stored on the Real Property unless enclosed or concealed from view as approved by the Single Family Design Board (SFDB).
3. **Landscape Plan Compliance.** The Owner shall comply with the Landscape Plan approved by the Single Family Design Board (SFDB). Such plan shall not be modified unless prior written approval is obtained from the SFDB. The landscaping on the Real Property shall be provided and maintained in accordance with said landscape plan. If said landscaping is removed for any reason without approval by the SFDB, the owner is responsible for its immediate replacement. The following tree protection shall be incorporated:
  - a. **(Oak) Tree Protection.** The existing tree(s) shown on the Landscape Plan approved by the SFDB shall be preserved, protected, and maintained (in accordance with the recommendations contained in the arborist's report prepared by Duke McPherson, dated March 26, 2009. A copy of this report shall be attached to the recorded conditions as an exhibit.) The following provisions shall apply to any oak trees to remain on the property:
    - (1) No irrigation systems shall be installed within three feet of the drip line of any oak tree.

- (2) The use of herbicides or fertilizer shall be prohibited within the drip line of any oak tree.

4. **Geotechnical Liability Limitation.** The Owner understands and is advised that the site may be subject to extraordinary hazards from landslides, erosion, retreat, settlement, or subsidence and assumes liability for such hazards. The Owner unconditionally waives any present, future, and unforeseen claims of liability on the part of the City arising from the aforementioned or other natural hazards and relating to this permit approval, as a condition of this approval. Further, the Owner agrees to indemnify and hold harmless the City and its employees for any alleged or proven acts or omissions and related cost of defense, related to the City's approval of this permit and arising from the aforementioned or other natural hazards whether such claims should be stated by the Owner's successor-in-interest or third parties.

C. **Community Development Requirements with Building or Public Works Permit Application.** The following shall be submitted with the application for any Building or Public Works permit and finalized prior to Building or Public Works Permit issuance:

1. **Lot Line Adjustment Required.** The Owner shall submit an executed *Agreement Related to the Lot Line Adjustment, Quitclaim Deed and Acceptance Thereof or Declaration of Lot Line Adjustment* to the Public Works Department, including the legal description of the subject properties prior to, and following the lot line adjustment. A licensed surveyor shall prepare the legal description and said Agreement/Declaration shall be recorded in the Office of the County Recorder.
2. **Contractor and Subcontractor Notification.** The Owner shall notify in writing all contractors and subcontractors of the site rules, restrictions, and Conditions of Approval. Submit a copy of the notice to the Planning Division.

D. **Building Permit Plan Requirements.** The following requirements/notes shall be incorporated into the construction plans submitted to the Building and Safety Division for Building permits.

1. **Design Review Requirements.** Plans shall show all design, landscape and tree protection elements, as approved by the Single Family Design Board, outlined in Section A above.
2. **Grading Plan Requirement for Archaeological Resources.** The following information shall be printed on the grading plans:

If archaeological resources are encountered or suspected, work shall be halted or redirected immediately and the Planning Division shall be notified. The archaeologist shall assess the nature, extent, and significance of any discoveries and develop appropriate management recommendations for archaeological resource treatment, which may include, but are not limited to, redirection of grading and/or excavation activities, consultation and/or monitoring with a

Barbareño Chumash representative from the most current City Qualified Barbareño Chumash Site Monitors List, etc.

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

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

3. **Conditions on Plans/Signatures.** The final Staff Hearing Officer Resolution shall be provided on a full size drawing sheet as part of the drawing sets. Each condition shall have a sheet and/or note reference to verify condition compliance. If the condition relates to a document submittal, indicate the status of the submittal (e.g., Archaeologist contract submitted to Community Development Department for review). A statement shall also be placed on the above sheet as follows: The undersigned have read and understand the above conditions, and agree to abide by any and all conditions which is their usual and customary responsibility to perform, and which are within their authority to perform.

Signed:

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Property Owner \_\_\_\_\_ Date \_\_\_\_\_

---

Contractor \_\_\_\_\_ Date \_\_\_\_\_ License No. \_\_\_\_\_

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Architect \_\_\_\_\_ Date \_\_\_\_\_ License No. \_\_\_\_\_

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Engineer \_\_\_\_\_ Date \_\_\_\_\_ License No. \_\_\_\_\_

- E. **Construction Implementation Requirements.** All of these construction requirements shall be carried out in the field by the Owner and/or Contractor for the duration of the project construction.

1. **Unanticipated Archaeological Resources Contractor Notification.** Prior to the start of any vegetation or paving removal, demolition, trenching or grading,

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

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- F. **Litigation Indemnification Agreement.** In the event the Planning Commission approval of the Project is appealed to the City Council, Applicant/Owner hereby agrees to defend the City, its officers, employees, agents, consultants and independent contractors ("City's Agents") from any third party legal challenge to the City Council's denial of the appeal and approval of the Project, including, but not limited to, challenges filed pursuant to the California Environmental Quality Act (collectively "Claims"). Applicant/Owner further agrees to indemnify and hold harmless the City and the City's Agents from any award of attorney fees or court costs made in connection with any Claim.

Applicant/Owner shall execute a written agreement, in a form approved by the City Attorney, evidencing the foregoing commitments of defense and indemnification within thirty (30) days of the City Council denial of the appeal and approval of the Project. These commitments of defense and indemnification are material conditions of the approval of the Project. If Applicant/Owner fails to execute the required defense and indemnification agreement within the time allotted, the Project approval shall become null and void absent subsequent acceptance of the agreement by the City, which acceptance shall be within the City's sole and absolute discretion. Nothing contained in

this condition shall prevent the City or the City's Agents from independently defending any Claim. If the City or the City's Agents decide to independently defend a Claim, the City and the City's Agents shall bear their own attorney fees, expenses, and costs of that independent defense.

**NOTICE OF APPROVAL TIME LIMITS:**

The Staff Hearing Officer's action approving the Lot Line Adjustment for 1402 Grand Avenue shall terminate two (2) years from the date of the approval, per Santa Barbara Municipal Code §27.40.100. The applicant may apply for an extension of this approval as provided in Section 27.40.100.B.

- III. Said approval is subject to the following Conditions of Approval for 860 Jimeno Road:
- A. **Design Review.** The project is subject to the review and approval of the Single Family Design Board (SFDB). SFDB shall not grant preliminary approval of the project until the following Staff Hearing Officer land use conditions have been satisfied for the property located at 860 Jimeno Road:
1. **Tree Protection Measures.** The landscape plan shall include the following tree protection measures, intended to minimize impacts on trees:
    - a. **Landscaping Under Trees.** Landscaping under the tree(s) shall be compatible with the preservation of the tree(s).
    - b. **Arborist's Report.** Include a note on the plans that recommendations/conditions contained in the arborist's report prepared by Duke McPherson, dated March 26, 2009, shall be implemented.
  2. **Irrigation System.** The irrigation system shall be designed and maintained with the most current technology to prevent a system failure, and watering of vegetation on the steep slope shall be kept to the minimum necessary for plant survival. The drip system along the bluff edge shall be removed after one full season of plant growth.
  3. **Unit Size:** The size of existing residence to be verified prior to return to the SFDB.
- B. **Recorded Conditions Agreement.** Prior to the issuance of any Public Works permit or Building permit for the project on the Real Property, the Owner shall execute *a written instrument prepared by Community Development staff*, which shall be reviewed as to form and content by the City Attorney, Community Development Director and Public Works Director, recorded in the Office of the County Recorder, and shall include the following:
1. **Approved Development.** The development of the Real Property approved by the Staff Hearing Officer on June 3, 2009 is limited to a Lot Line Adjustment

and improvements shown on the plans signed by the Staff Hearing Officer on said date and on file at the City of Santa Barbara.

2. **Recreational Vehicle Storage Limitation.** No recreational vehicles, boats, or trailers shall be stored on the Real Property unless enclosed or concealed from view as approved by the Single Family Design Board (SFDB).
3. **Landscape Plan Compliance.** The Owner shall comply with the Landscape Plan approved by the Single Family Design Board (SFDB). Such plan shall not be modified unless prior written approval is obtained from the SFDB. The landscaping on the Real Property shall be provided and maintained in accordance with said landscape plan. If said landscaping is removed for any reason without approval by the SFDB, the owner is responsible for its immediate replacement. The following tree protection shall be incorporated:
  - a. **(Oak) Tree Protection.** The existing tree(s) shown on the Landscape Plan approved by the SFDB shall be preserved, protected, and maintained (in accordance with the recommendations contained in the arborist's report prepared by Duke McPherson, dated March 26, 2009. A copy of this report shall be attached to the recorded conditions as an exhibit.) The following provisions shall apply to any oak trees to remain on the property:
    - (1) No irrigation systems shall be installed within three feet of the drip line of any oak tree.
    - (2) The use of herbicides or fertilizer shall be prohibited within the drip line of any oak tree.

C. **Community Development Requirements with Building or Public Works Permit Application.** The following shall be submitted with the application for any Building or Public Works permit and finalized prior to Building or Public Works Permit issuance:

1. **Lot Line Adjustment Required.** The Owner shall submit an executed *Agreement Related to the Lot Line Adjustment, Quitclaim Deed and Acceptance Thereof or Declaration of Lot Line Adjustment* to the Public Works Department, including the legal description of the subject properties prior to, and following the lot line adjustment. A licensed surveyor shall prepare the legal description and said Agreement/Declaration shall be recorded in the Office of the County Recorder.
2. **Contractor and Subcontractor Notification.** The Owner shall notify in writing all contractors and subcontractors of the site rules, restrictions, and Conditions of Approval. Submit a copy of the notice to the Planning Division.

D. **Building Permit Plan Requirements.** The following requirements/notes shall be incorporated into the construction plans submitted to the Building and Safety Division for Building permits.

1. **Design Review Requirements.** Plans shall show all design, landscape and tree protection elements, as approved by the Single Family Design Board, outlined in Section A above.
2. **Grading Plan Requirement for Archaeological Resources.** The following information shall be printed on the grading plans:

If archaeological resources are encountered or suspected, work shall be halted or redirected immediately and the Planning Division shall be notified. The archaeologist shall assess the nature, extent, and significance of any discoveries and develop appropriate management recommendations for archaeological resource treatment, which may include, but are not limited to, redirection of grading and/or excavation activities, consultation and/or monitoring with a Barbareño Chumash representative from the most current City Qualified Barbareño Chumash Site Monitors List, etc.

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

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

3. **Emergency Evacuation Plan.** Provide an emergency evacuation plan subject to approval by the Fire Department.
4. **Conditions on Plans/Signatures.** The final Staff Hearing Officer Resolution shall be provided on a full size drawing sheet as part of the drawing sets. Each condition shall have a sheet and/or note reference to verify condition compliance. If the condition relates to a document submittal, indicate the status of the submittal (e.g., Archaeologist contract submitted to Community Development Department for review). A statement shall also be placed on the above sheet as follows: The undersigned have read and understand the above conditions, and agree to abide by any and all conditions which is their usual and customary responsibility to perform, and which are within their authority to perform.

Signed:

\_\_\_\_\_  
Property Owner Date

\_\_\_\_\_  
Contractor Date License No.

\_\_\_\_\_  
Architect Date License No.

\_\_\_\_\_  
Engineer Date License No.

- E. **Litigation Indemnification Agreement.** In the event the Planning Commission approval of the Project is appealed to the City Council, Applicant/Owner hereby agrees to defend the City, its officers, employees, agents, consultants and independent contractors ("City's Agents") from any third party legal challenge to the City Council's denial of the appeal and approval of the Project, including, but not limited to, challenges filed pursuant to the California Environmental Quality Act (collectively "Claims"). Applicant/Owner further agrees to indemnify and hold harmless the City and the City's Agents from any award of attorney fees or court costs made in connection with any Claim.

Applicant/Owner shall execute a written agreement, in a form approved by the City Attorney, evidencing the foregoing commitments of defense and indemnification within thirty (30) days of the City Council denial of the appeal and approval of the Project. These commitments of defense and indemnification are material conditions of the approval of the Project. If Applicant/Owner fails to execute the required defense and indemnification agreement within the time allotted, the Project approval shall become null and void absent subsequent acceptance of the agreement by the City, which acceptance shall be within the City's sole and absolute discretion. Nothing contained in this condition shall prevent the City or the City's Agents from independently defending any Claim. If the City or the City's Agents decide to independently defend a Claim, the City and the City's Agents shall bear their own attorney fees, expenses, and costs of that independent defense.

**NOTICE OF APPROVAL TIME LIMITS:**

The Staff Hearing Officer's action approving the Lot Line Adjustment for 860 Jimeno Road shall terminate two (2) years from the date of the approval, per Santa Barbara Municipal Code §27.40.100. The applicant may apply for an extension of this approval as provided in Section 27.40.100.B.

This motion was passed and adopted on the 3rd day of June, 2009 by the Staff Hearing Officer of the city of Santa Barbara.

STAFF HEARING OFFICER RESOLUTION NO. 046-09  
1402 GRAND AVENUE & 860 JIMENO ROAD  
JUNE 3, 2009  
PAGE 11

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



ACTUAL TIME 10:36 A.M.

F. APPLICATION OF RICHELE MAILAND AGENT FOR MIDWEST INSTITUTION, LLC & JOSEPH A. YOB, 1402 GRAND AVENUE & 860 JIMENO ROAD, 029-110-036 & 029-110-037, A-1/E-1 AND E-1 SINGLE FAMILY RESIDENTIAL ZONES, GENERAL PLAN DESIGNATION: 1 UNIT/ACRE (MST2008-00402)

The proposed project consists of a Lot Line Adjustment between the properties located at 1402 Grand Avenue (Parcel 1) and 860 Jimeno Road (Parcel 2). The lot line adjustment will result in a transfer of 3,140 sq. ft. of lot area from Parcel 2 to Parcel 1. The proposal includes the installation of automatic gates at the driveway entry for 1402 Grand Avenue, the landscaping screening of as-built Alan block walls south of the driveway, landscaping of an as-built turnaround area to limit its usage to a turnaround and prevent parking within the setback, and alterations to the house at 860 Jimeno Road including window and door changes.

The discretionary application required for this project is a Lot Line Adjustment (LLA) to change the property line between Parcel 1, 1402 Grand Avenue (APN 029-110-036) and Parcel 2, 860 Jimeno Road (APN 029-110-037) (SBMC §27.40 & Gov. Code §66412).

The Environmental Analyst has determined that the project is exempt from further environmental review pursuant to the California Environmental Quality guidelines Section §15301 (Alterations to Small Structures) and §15305 (Minor Alteration in Land Use Limitations).

Present: Richele Mailand, Agent.

Suzanne Johnston, Assistant Planner, gave the Staff presentation and recommendation.

The Public Hearing was opened at 10:48 a.m.

Tony Fischer, Attorney representing Mike and Linda Cahill: not opposed to the carport, but concerned that the property is being used as a vacation rental. Supported the Conditions of Approval for protection of the Oak tree. Height limits should be established for the carport, with a flat roof to match the house. Parcel statistics are reversed on elevations, and square footages should to be verified.

Mike Cahill, neighbor, opposed: if approved, roof of carport should be non-reflective and match the house roof and not obstruct the view corridor; suggested restoring the previous rock wall, which was removed.

A letter from Paula Westbury expressing concerns for the project was acknowledged. The public hearing was closed 11:08 a.m.

Mr. Kato, Senior Planner, explained that a property rented for longer than one month it is considered residential; the health room is a detached accessory room and rental as a separate dwelling is not permitted.

Ms. Reardon questioned the minimum area required for head out maneuvering, and whether there is an active code enforcement case. Ms. Wilson responded that the proposal includes options 1 and 2 shown on the plans, and option 2 provides a wider berth for the turnaround. Ms. Johnston replied that her understanding is that option 2 is outside of the setback.

Ms. Reardon questioned whether there is an active building code enforcement case. Ms. Johnston, replied that there is not an open enforcement case as it was determined that there was not a significant square footage change.

Public comment reopened at 11:26.

Tony Fischer, Attorney representing Mike and Linda Cahill: clarified his statements regarding inconsistencies in the square footages listed on the plan.

Public comment was closed.

**ACTION:**

**Assigned Resolution No. 046-09**

Approved the project making the finding that the proposed lot line adjustment is appropriate for the area and is consistent with the City's General Plan and Building and Zoning Ordinances, as shown in section VI.A-C. The lot line adjustment would create two legal lots that conform to the zoning requirements in the A-1 and E-1 zones as described in Sections V. and VI.C., dated May 27, 2009.

Said approval is subject to the Conditions of Approval contained in Exhibits A and B of the Staff Report as revised at the meeting, with the conditions that 1) I.A.2. add "A physical barrier shall be placed between the turnaround area and the adjacent landscaped areas to discourage access parking."; and 2) Add condition I.A.13. "The size of existing units to be verified prior to return to the SFDB"; and 3) Add condition I.A.14. "A Zoning Compliance Declaration shall be recorded." Said approval is also subject to the Conditions of Approval contained in Exhibit B of the Staff Report as revised at the meeting, with the added condition I.A.3. "Unit Size: The size of existing residence to be verified prior to return to the SFDB."

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

**III. ADJOURNMENT**

Ms. Reardon adjourned the meeting at 11:50 a.m.

## Duke McPherson, Arborist

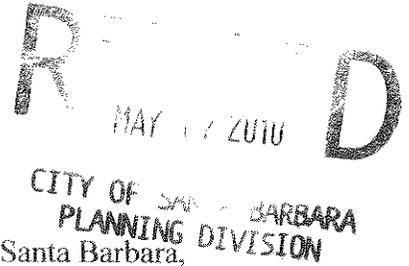
201 East Mountain Drive  
Santa Barbara, CA 93108

Phone 805 705-9529

E-mail: treemanduke@cox.net

May 16, 2010

Richele Mailand  
Richele Design & Consulting  
1129 State Street # 21  
Santa Barbara, CA 93101



Regarding: Coast Live Oak tree protection issues, 1402 Grand Avenue, Santa Barbara, California.

Dear Richele,

I am writing you this arborist letter report to document our findings from our meeting on May 14<sup>th</sup> on the subject property in reference to the protection of a Coast Live Oak, *Quercus agrifolia*, during proposed construction of a detached garage.

The tree is located on the upper edge of a steep slope above and to the northeast of the main residence building (see the accompanying plan section). It has an 18" trunk diameter at 4.5' up from the soil level. At present it appears to be in good health though, being situated in a fast draining soil medium, is subject to fluctuation depending on seasonal rainfall totals.

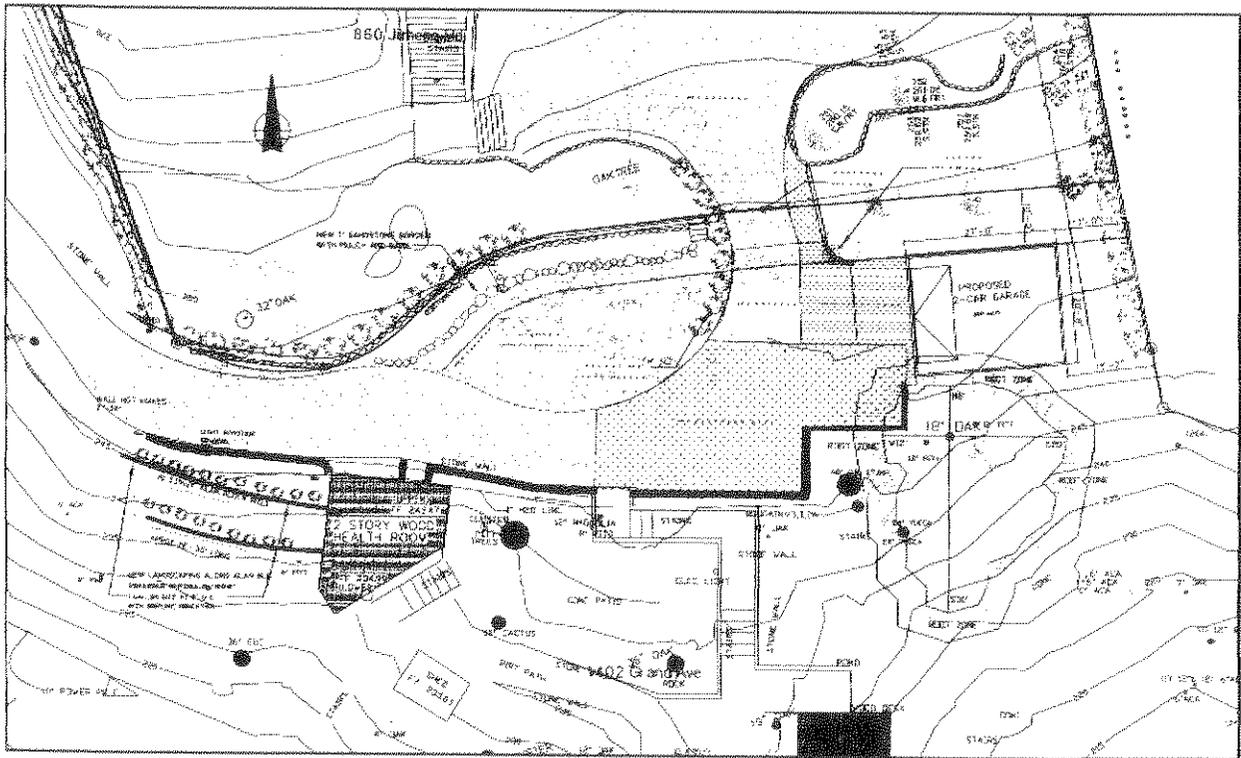
The Critical Root Zone (CRZ) of the tree is represented by the area within the dripline plus 5', is shown on the attached site plan section along with the outline of the proposed garage. The configuration of the garage outline overlaps the CRZ for a maximum of 3' along an 18' section.

I conclude that the area intruded upon by the garage foundation excavation is of such a small fraction of the total CRZ that the tree's health will not be affected.

In this letter I also include concerns of another Coast Live Oak whose trunk is located on the property adjoining (860 Jimeno Road). One of the chief concerns was the proposal to use part of the area within its CRZ for a turnaround. I addressed the problem in a letter form arborist report dated April 16, 2009 to you. I concluded that because the owner had installed perforated plastic pipes in holes drilled throughout the exposed soil area, proper root aeration and water infiltration will occur even though vehicles would be allowed.

Sincerely yours,

Duke McPherson



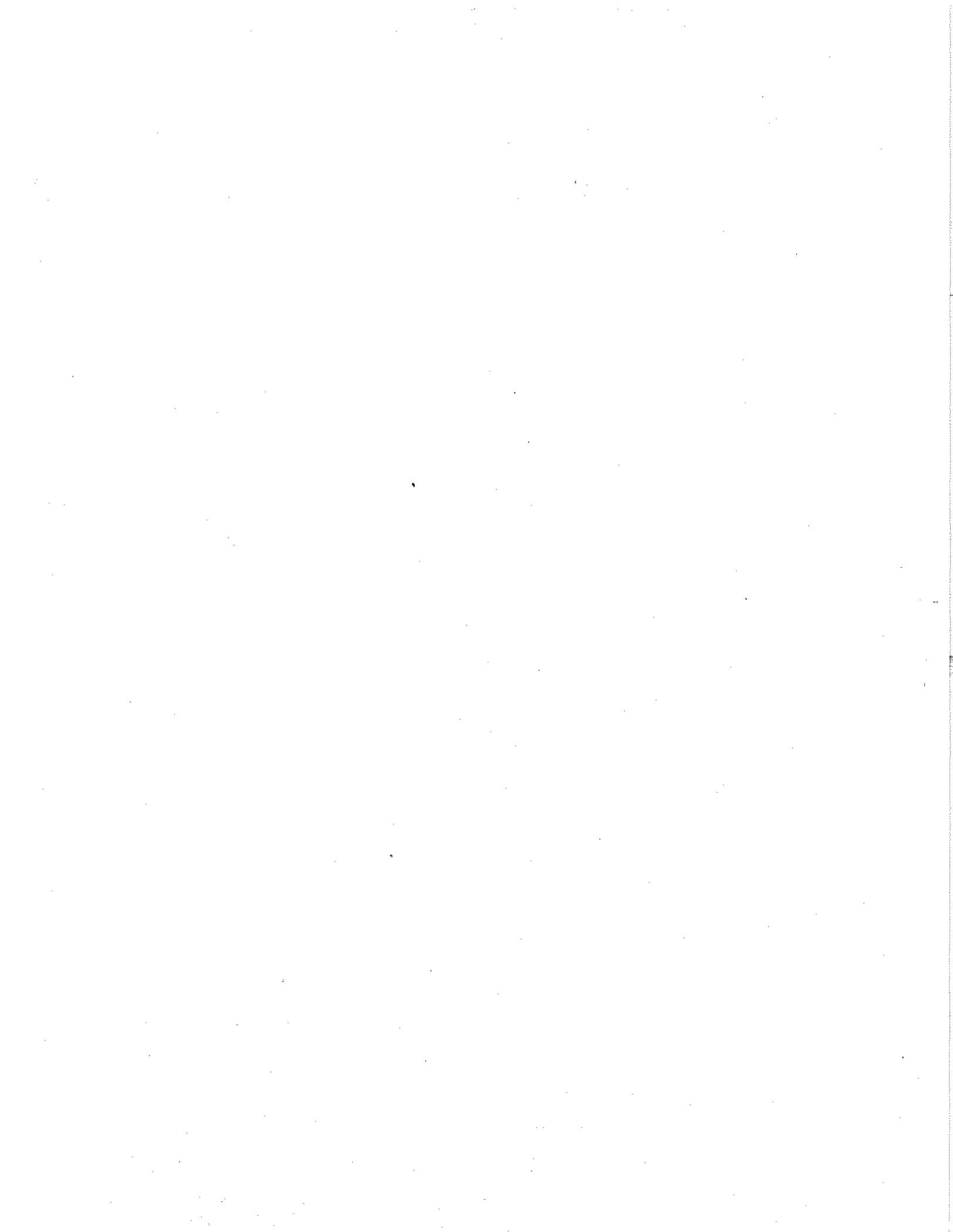
The subject oak (18" trunk diameter) is located to the right of the plan section. Its Critical Root Zone is the area from the trunk to the outer edge of the darkened five foot zone adjoining the tree's dripline.

Report prepared by  
Duke McPherson

A handwritten signature in black ink, appearing to read "Duke McPherson", with a horizontal line extending to the right.

Certified Arborist with the  
International Society of Arboriculture  
Certification # WE-0690A

Member of the  
American Society of  
Consulting Arborists  
Membership # 1113



## Duke McPherson, Arborist

P.O. Box 5667

Santa Barbara, CA 93150

Phone 805 969-4676

E-mail: treemanduke@cox.net

April 16, 2009

Richele Design & Consulting  
914 Anacapa Street  
Santa Barbara, CA 93101

Re: notes added to a letter of March 26, 2009.

Dear Richele,

I am writing this arborist report in letter form concerning the protection of a Coast Live Oak tree, *Quercus agrifolia*, on the property at 860 Jimeno Road, Santa Barbara, California. I wrote an earlier report, dated October 28, 2008, which dealt with some of the same issues as are found here. As mentioned before, the tree is 49" in diameter at 4 ½' up the trunk and despite a recent rather severe pruning and an attack of the California Oak Moth, *Phryganidia californica*, during the summer of 2008, is, in my opinion, in good health. Two inch diameter holes had been cored by the owner to a depth of 18" over a large section of the compacted soil area south of and below a retaining wall 6' from the tree's base.

The issue at present is whether the entire section of 1059 square feet and roughly in the shape of a half circle (termed here, the subject area) can be used to park vehicles or whether it would be preferable to use only a fraction of the area as a "hammerhead turnaround" and mulch and landscape approximately 594 square feet of the area.

First, we need to study exactly what occurs when soil is compacted. The upper most layer is compressed to form a hard crust (approximately 6" depending on soil texture) which inhibits the movement of air that is vital to maintaining good root health. It also prevents water infiltration into the soil during periods of rain. Roots generally do not establish themselves in this layer.

also ref 3.5' geotechnical

It is my opinion that root health could be preserved in the subject area even if it was used for vehicular parking and turning around. I recommend that the entire area be cored in the manner described above and that perforated plastic pipe (Schedule 40 rated with 1/4 " drilled holes) be placed in the holes to a depth of 18". In this way the holes would be preserved permanently as lined aeration and water infiltration tubes thus counteracting the possibility of compaction by vehicular traffic.

The above letter, written on March 28, 2009, leaves out two additional issues:

1. There is a setback line located west of a driveway which borders the subject area on the east, running north to south, and 10' into the area of the Critical Root Zone of the oak tree. To better insure that parking does not occur within the setback, it has been suggested that the area be planted. I recommend that a non-root invasive plant which needs little irrigation water be used such as *Agave attenuata*.
2. Another smaller area at the western end of the subject area is to be planted with a tree. This is a difficult soil for tree roots to penetrate, inhibiting establishment. Also, roots could become invasive to the retaining wall and driveway. I recommend that Agaves or their equivalent be planted here instead of a tree.

Sincerely yours,

Duke McPherson  
Certified Arborist with the  
International Society of Arboriculture  
Certification # WE-690-A

PRELIMINARY REVIEW**2. 1935 E LAS TUNAS RD**

A-1 Zone

**(3:25)** Assessor's Parcel Number: 019-083-006  
 Application Number: MST2009-00563  
 Owner: Fuad and Anne Sarkis  
 Architect: Peter Becker, Architect

(Proposal for as-built stone walls, pedestrian entry gates, driveway gate, new driveway, and landscaping. Approval of this project will abate enforcement case ENF2009-00705.)

Actual time: 3:34

Present: Amy Blakemore, Landscape Architect, Anne Sarkis, Owner

Public comment was opened at 3:38 p.m.

Phil Suding: concerned about the King Palms included in the plant pallet.

A letter in opposition from Paula Westbury was acknowledged.

Public comment was closed at 3:39 p.m.

**Motion: Final Approval of the landscape as submitted.**

Action: Mosel/Deisler, 5/2/0. Motion carried. (Bernstein/Mahan opposed to extensive stone walls.)

The 10-day appeal period was announced.

SFDB-CONCEPT REVIEW (CONT.)**3. 860 JIMENO RD & 1402 GRAND AVE**

**(3:45)** Assessor's Parcel Number: 029-110-037  
 Application Number: MST2008-00402  
 Agent: Richele Mailand  
 Owner: Todd Drevo

(This project has been revised to add a 603 square foot detached two-car garage for 1402 Grand Avenue and the proposed total of 3,401 square feet on the 5.2 acre lot is 47% of the maximum floor to lot area ratio. Staff Hearing Officer determination of substantial conformance is requested. Proposal for a lot line adjustment to decrease 860 Jimeno Road and increase 1402 Grand Avenue by 3,140 square feet. Resulting lot sizes would be 22,598 and 226,973 square feet (5.2 acres) respectively. The lots are located in the Hillside Design District. The project includes a new entry gate and as-built changes to the stone walls along the driveway at 1402 Grand Avenue. The project also includes alterations to the residence at 860 Jimeno Road consisting of replacement of an existing window with new French door, adding a new window, and converting the existing permitted understory to habitable space. Staff Hearing Officer approval is requested for the lot line adjustment.)

**(Comments only; project requires Staff Hearing Officer determination of substantial conformance.)**

Actual time: 3:46

Present: Richele Mailand, Agent; Kathleen Weinheimer, Attorney.

Suzanne Riegle, Assistant Planner explained that project revisions must return to the Staff Hearing Officer to review for substantial compliance with conditions of approval in Resolution 046-09. Staff supports the two car garage but does not support any increase in driveway turnaround area.

Public comment was opened at 3:57 p.m.

Eileen Boris: concerned about maneuverability on site and guest parking on Grand Avenue; light and noise pollution at new gate.

Tony Fischer: opposed to noncompliance with Staff Hearing Officer Conditions of Approval; concerned about possible future rental of the proposed garage; opposed to pitched roof style of garage (submitted written documents).

Mike Cahill, neighbor: opposed to view encroachment of proposed garage.

Joe Yob, neighbor to 860 Jimeno: favors appearance of a garage over a carport.

An e-mail from Jill Kent expressing concerns was acknowledged.

A letter in opposition from Paula Westbury was acknowledged.

Public comment was closed at 4:09 p.m.

Straw vote: is the architectural style of the proposed garage acceptable? 4/3/0

- Motion:**        **Continued indefinitely to the Staff Hearing Officer with the following comments:**
- 1) Reduce the garage length to 20'8" inches, keeping the rear wall at a distance of 19'10" from the property line to move the garage toward the East further away from the Oak tree.
  - 2) The garage architecture is generally acceptable to a majority of the board.
  - 3) Comments 1, 2, 3, 4 and 7 from the meeting of 3/16/2009 were carried forward: 1. The lot line adjustment is supportable as presented. 2. The hammerhead driveway turnaround is approved as noted on plans to be no wider than 14 feet. 3. Remove the decomposed granite under the Oak tree by hand and replace with bark and several large boulders. An arborist is to approve the bark and boulder proposal. 4. Plant a small tree in the small triangular planter. 7. Show irrigation to the Rosemary shrubs.
  - 4) Eliminate the landscape planter along the stone wall.
  - 5) An arborist is to study the proposed garage location in relation to the downhill Oak tree root structure and provide protection measures.

**Action:**        Mahan/Woolery, 7/0/0. Motion carried.

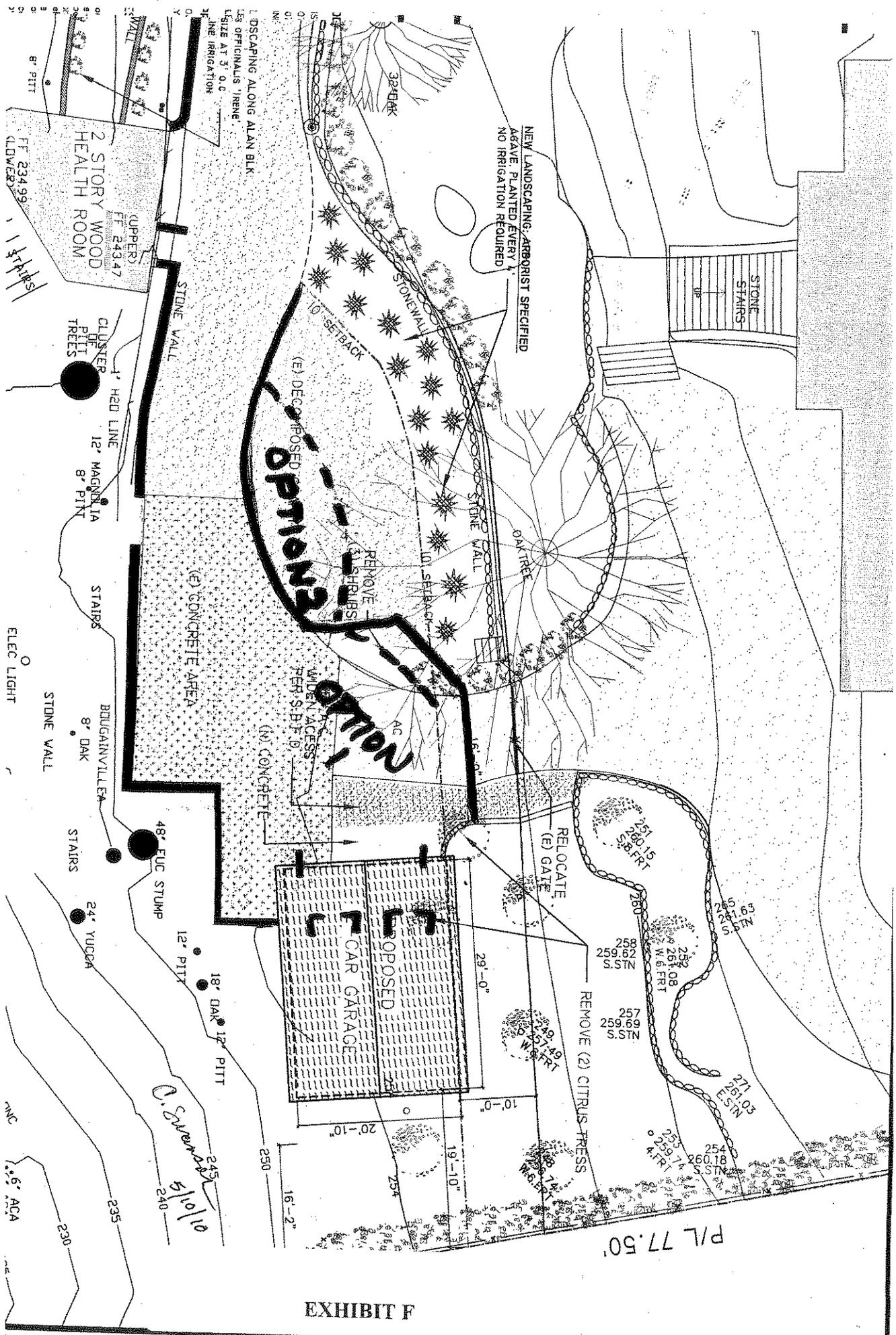


EXHIBIT F

