



City of Santa Barbara California

STAFF HEARING OFFICER STAFF REPORT

REPORT DATE: May 11, 2011
AGENDA DATE: May 18, 2011
PROJECT ADDRESS: 849 Cima Linda Lane (MST2011-00113)
TO: Staff Hearing Officer
FROM: Planning Division, (805) 564-5470
 Renee Brooke, AICP, Senior Planner *RLB*
 Jo Anne La Conte, Assistant Planner *JAL*

I. PROJECT DESCRIPTION

The 23,700 square foot project site is currently developed with a two-story single family residence and attached two-car garage. The proposed project involves exterior alterations and remodeling of the existing residence and the construction of a five foot high fence along Cima Linda Lane. The discretionary application required for this project is a Modification to allow the fence to exceed the maximum allowable height of 3 ½' when located within 10' of a front lot line (SBMC §28.87.170).

Date Application Accepted: April 20, 2011

Date Action Required: July 20, 2011

II. RECOMMENDATION

Staff recommends that the Staff Hearing Officer approve the Modification for the 5' high fence within 10' of the front lot line, subject to conditions.

III. SITE INFORMATION

SITE INFORMATION

Applicant:	Chris Gilliland	Property Owner:	JTM Private Land Trust
Parcel Number:	015-202-029	Lot Area:	23,700 sq. ft.
General Plan:	Residential, 2 units/acre	Zoning:	A-2
Existing Use:	Single family residence	Topography:	23% slope

Adjacent Land Uses:

North – Single family residence
 South – Single family residence

East - Single family residence
 West – Single family residence

IV. BACKGROUND:

A Zoning Information Report (ZIR2010-00430) issued for the property on September 16, 2010 identified an over height hedge at the property that exceeds 3 ½' within 10 feet of the front line and within 20 feet of the driveway but did not identify an existing 5' high wood fence at the front lot line. The existing five-foot high wood fence at the property along Cima Linda Lane is covered with ivy, and likely was not visible at the time of the zoning inspection. The proposal is to rebuild the existing five-foot high wood fence along the front lot line. Per the applicant's letter dated April 21, 2011, the existing wood fence has been in place for over 30 years. The Zoning Ordinance limits the height of fences, screens, walls and hedges to 3 ½' within 10' of the front lot line, and within 10' of either side of a driveway for a distance of 20' back from the front lot line. The Ordinance does not allow a non-conforming fence or wall to be rebuilt to a non-conforming height without a Modification. Staff has researched City records and could not locate any permits on file for the existing five-foot high fence along Cima Linda Lane.

There is also an existing approximately 8-foot high wrought iron vehicle gate with columns along the front of the property, with a connection to a five-foot high wrought iron fence along the side of the driveway. The vehicle gate and columns were constructed with the proper permit (BLD93-00138); however, the approved plans state that the gate and columns were to be located 20 feet back from the front lot line. The gate and columns were actually constructed only 11 to 19 feet back from the front lot line. Also, that building permit did not include the additional five-foot high wrought iron fence along the side of the driveway. As the existing wrought iron gate, columns and fence exceed the 3 ½ height limitation when located within 10 feet of either side of a driveway for a distance of 20' back from the front lot line, a Modification is required to allow them to remain as constructed. The project as submitted did not include a Modification request to allow the over-height fences and columns within 10 feet of the driveway, as this issue was discovered later in the review process. A separate noticed public hearing would need to be scheduled to consider such a Modification request, if the applicant chooses to pursue that option.

V. DISCUSSION:

The proposed project involves exterior alterations and remodeling of the existing single family residence, the removal of an "as-built" five-foot high fence along the front property line and the construction of a new five-foot high fence along Cima Linda Lane. The original proposal also included planting a 42" high hedge in the public right-of-way which is not allowed per Public Works Engineering. Therefore, staff has added a condition that the proposed hedges be removed from the plans. The project was heard at the Single Family Design Board (SFDB) on April 11, 2011 and was forwarded to the Staff Hearing Officer with comments.

A Modification is required to allow the proposed fence to exceed 3 ½' in height within 10' of the front lot line. Staff can support the requested modification to allow the fence because of the site constraints associated with the shape of the lot, the slope at the front of the property, and as the fence will provide privacy for the current development on site which includes a swimming pool area oriented to the interior and front portions of the property and serve as the primary outdoor living area for the residence.

The project was not noticed for an additional Modification for the over-height fence and columns within 10' of either side of a driveway for a distance of 20' back from the property line, as that "as-built" construction was discovered after the project was legally noticed. Staff has added a condition that the fence and columns either be reduced to 3 ½ feet or relocated per the approved plans, with removal of the portion of the fence that was not permitted. If the applicant prefers to pursue a Modification to retain those improvements in their current location, a separate noticed public hearing would need to be scheduled for that action.

VI. FINDINGS AND CONDITIONS

The Staff Hearing Officer finds that the Modification is consistent with the purposes and intent of the Zoning Ordinance and is necessary to secure an appropriate improvement on the lot. The lot is constrained in that it narrows at the back of the property and it is steeply sloped at the front of the property, making it difficult to construct a fence in compliance with the standards and still adequately secure the site while maintaining privacy for the property consistent with other residential development in the area.

Said approval is subject to the following conditions:

1. The hedges proposed to be located in the public right of way shall be removed from the plans and any proposed work in the public right-of-way shall be approved by the Public Works Department.
2. The existing hedge along the driveway shall be reduced to 3 ½' in height within 10' of the driveway for a distance of 20' back from the front lot line.
3. The "as-built" wrought-iron fence and gates, and associated columns, located within 10' of the driveway for a distance 20' back from the front lot line shall either be reduced to 3 ½ feet in height with proper permits, or the columns and vehicle gate shall be relocated to comply with the approved plans on file for BLD93-00138, and the unpermitted portion of the fence shall be removed or reduced to not exceed 3 ½ feet in height.

Exhibits:

- A. Site Plan (under separate cover)
- B. Property Owner's letter dated March 28, 2011
- C. Applicant's letter, dated April 21, 2011
- D. SFDB Minutes of April 11, 2011
- E. One Letter received from the public dated March 28, 2011

Contact/Case Planner: Jo Anne La Conte, Assistant Planner
(jlaconte@SantaBarbaraCA.gov)
630 Garden Street, Santa Barbara, CA 93101
Phone: (805) 564-5470 ext. 3320

March 28, 2011

Staff at the City of Santa Barbara Building Department
630 Garden Street
Santa Barbara, CA 93101

Dear Staff Hearing Officer,

We are the new owners of 849 Cima Linda Lane, Santa Barbara. As you know, with the help of landscape architect Chris Gilliland, we are submitting a request for modification to allow us to build a 5' wooden fence at the same location as the existing one. We would like to explain the circumstance as to why this modification is respectfully requested.

- A. Please refer to the attached email communication from your department to the seller's realtor which explains that you are not enforcing height limitation on the front hedge, stating, *"The only violation is for the overheight hedges in the front, but as you know, we are not currently enforcing on front hedges."* Having received this communication, we went ahead with the purchase of this property. Now, we would like to replace the existing, decaying 5' fence currently shrouded in vines that attract rodents to the neighborhood, with a new fence faced with hedges.
- B. This site is unique to the street in several ways. It drops steeply down, at an over 40% slope, immediately at the property line, and it is pie-shaped because of the sharp angle that Owens Road drops down behind it. With this unique site condition, if we have to follow a frontyard setback of 10', we would need to build at least a 10' high fence, and the setback would reduce our front yard by one-third. This tiny site would be very unattractive and incompatible to the streetscape of Cima Linda Lane, and result in a severe hardship to us. If we have to abide by the 3 1/2' height limitation within the frontyard setback, privacy becomes a serious issue for not only the residents 849 Cima Linda Lane, but also for residents across the street at 840 Cima Linda Lane. Without a 5' wooden fence, their interior is as visible to us as ours is to them.
- C. As shown with the photos below, the Riviera character of Cima Linda Lane is that of hedges and various fences, within the setback, at heights well exceeding 3 1/2'. This beautiful streetscape, that is indeed a unique characteristic of Santa Barbara and Montecito, is one of the things that attracts many to the area.



EXHIBIT B

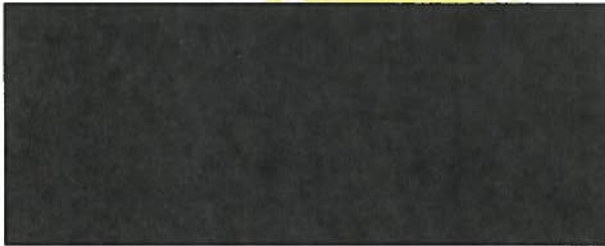


D. Within the pie-shaped area of the yard, a small pool is located which requires a 5' fence. Without a grant of modification, the result will be a 3 1/2' fence on the property line, an approximately 10' corridor of "yard," and then a 5' fence surrounding the pool. There is no doubt that this situation would not only be costly but would also be very unsightly and severely decrease the property value.

We would very much appreciate your understanding and accommodation of this request.

Please call us, or email us, if you have any questions before the hearing date. We will be at the hearing and will also be happy to answer any questions then.

Sincerely,



Current condition of our fence, both inside and outside the property line.



Stake shows 3 1/2' at 10' setback, virtually taking away our yard and privacy.

Office Outlook Web Access Type here to search This Folder Address Book Options Log Off

Mail Reply Reply to All Forward Move Delete Junk Close

- Calendar
 - Contacts
 - Deleted Items (4672)
 - Drafts (74)
 - Inbox (64)
 - Junk E-mail (1870)
 - Sent Items
- Click to view all folders
- Manage Folders...

Fwd: ZIR--849 Cima Linda
Kogevinas Nancy [nancy@kogevinas.com]

Sent: Wednesday, September 22, 2010 6:37 PM
To: [REDACTED]
Attachments: 55224.pdf (329 KB) [Open as Web Page]; ATT00001.htm (846 B)

Have you reviewed this report?
Begin forwarded message:

From: Chris Palme <sbrealtor@paradiseinsb.com>
Date: September 16, 2010 10:20:52 AM PDT
To: Kogevinas Nancy <nancy@kogevinas.com>
Cc: "Friedrichs, Carol" <Carol.Friedrichs@cct.com>
Subject: FW: ZIR--849 Cima Linda

From: Teeter, Betsy [mailto:bteeter@SantaBarbaraCA.gov]
Sent: Thursday, September 16, 2010 10:11 AM
To: Chris Palme
Subject: ZIR

Hi Chris,

Attached is the ZIR for 849 Cima Linda. The plan for the pool has a notation regarding the pool equipment that it must be a minimum of 4 feet from the property line so there is no violation for the pool equipment. The only violation is for the overweight hedges in the front, but as you know, we are not currently enforcing on front hedges.

Thank you.

Betsy Teeter
Planning Technician II
City of Santa Barbara
Community Development Dept./Planning Division
(805) 864-6470 ext. 4563
<<55224.pdf>>

Connected to Microsoft Exchange

**The Fine Print was
changed on 7/6/09.
Please read it.**



Zoning Information Report 849 CIMA LINDA LN

Date: 9/16/2010
To: Property Owners and Prospective Buyers of Residential Property
From: Planning and Zoning Staff
Subject: ZIR2010-00430

Thank you for ordering a City of Santa Barbara Zoning Information Report. The purpose of this report is to identify zoning and building violations; inform the buyer as to the nature of the violations as part of the State's full disclosure laws, and to document the violations for immediate or future enforcement by City Staff. The contents of this report are based on a review of the City's files on the property, a physical inspection, and a review of the City's archive plans and other historical data that may be available, if necessary.

The property was inspected on September 15, 2010.
This Zoning Inspection Report expires on September 16, 2011.

The property's City Zoning Designation is A-2. Requirements of the property's primary zoning designation(s) are listed below. If there are multiple zones, the standards for the more restrictive zone shall apply.

Zone:	A-2
Front Setback	30 feet
Interior Setback	10 feet
Rear Setback	10 feet
Required Open Yard Area	1,250 sq. ft. + 20 foot minimum dimensions
Maximum Height Limit	30 feet
Required Off-street Parking Spaces	2 covered
Distance Between Main Buildings	20 feet
Minimum Lot Area for Newly Created Lots	25,000 sq. ft. x Slope Density Newly created lots must also conform to the General Plan density requirements.
Required Lot Frontage for Newly Created Lots	100 feet

If the property's zoning designation contains additional classifications that are not discussed above, please contact the Planning and Zoning Counter at (805) 564-5578 for more information on the requirements of that particular zoning designation.

PARCEL ATTRIBUTES

The following special districts or other attributes of the property are listed below. If there are no special districts or other attributes, this area will be blank.

High Fire District

Hillside Design District

Demolition Review Study Area

All structures 50 years or older that are proposing partial or full demolition alterations are required to be reviewed by Planning prior to building permit issuance.

High Fire Area - See Notes

Foothill

PROPERTY DESCRIPTION

Two story one family dwelling with attached two car garage and covered rear balcony. Basement understory contains a game room, several storage rooms and a 1/2 bathroom and has no interior access.

Bar sink in the kitchen and laundry sink in the laundry room.

Pool and pool equipment shed.

Entry gate on driveway.

Lot Size (From County Assessor Records): 0.44 Acres

Unit #: **This is a legal dwelling unit.**

	Legal	Illegal
Bedrooms	2	0
Full Baths	2	0
Half Baths	2	0
Sinks	2	0

Smoke Detectors in: All Bedrooms? **Yes** All Hallways? **Yes**

Smoke detectors are required in each sleeping room and each hallway of each story of a dwelling unit. A fire alarm system is required in: 1) apartment houses three (3) or more stories in height or containing 16 or more dwelling units; 2) hotels three (3) or more stories in height or containing 20 or more guest rooms; and 3) congregate care residences three (3) or more stories in height or which have an occupant load of 20 or more. For more information regarding fire alarm system requirements, please call the City's Fire Prevention office at (805) 564-5702.

The property contains 2 parking spaces in garages, 0 parking spaces in carports and 0 uncovered parking spaces.

This property has received the following discretionary land use permits, such as Conditional Use Permits, Modifications, Variances (If none, this area will be blank).

None.

Zoning Ordinance or Building Code Violations (if none, this area will be blank):

ZONING VIOLATIONS:

1. The hedges within 10 feet of the front lot line and within 20 feet of the driveway exceed the maximum allowable height of three and one half feet.

All questions regarding zoning violations should be directed to the City's Planning and Zoning Counter at 630 Garden Street, or (805) 564-5578. All questions regarding building requirements, building permits or building violations should be directed to the City's Building and Safety Counter at 630 Garden Street, or (805) 564-5485.

The Fine Print


- 1) Disclosures
 - a) The ZIR is a good faith effort at full disclosure to a potential buyer of authorized uses and occupancy, including zoning violations, and improvements constructed without City permits or approvals.
 - b) Improvements without permits are illegal. Previous plans showing these improvements as "existing", previous ZIRs describing improvements as legal, previous ZIRs that omit an improvement, or previous ZIRs that describe an improvement as nonconforming do not legalize illegal improvements, including structures. Only City approvals and permits legalize improvements constructed without permits.
 - c) The current ZIR is based on the most recent information, and supersedes previous ZIRs. Improvements that existed at the time of a previous ZIR, but which were not listed on the previous ZIR or were shown as nonconforming, but which are in fact unpermitted and therefore illegal, will be subject to current standards. For example, if a 1987 ZIR did not list an accessory building in a setback, and the current ZIR shows it as a violation, the current determination supersedes the previous determination.
 - d) The zoning inspectors are not building inspectors, and are not versed in the requirements of the Uniform Codes. Therefore, this ZIR does not document violations of the Uniform Codes (such as illegal wiring, illegal plumbing, substandard structural assemblies, etc.). ZIRs identify zoning violations and unpermitted construction.
 - e) Fences, Screens, Walls and Hedges (See SBMC §28.87.170)
 - i) The zoning regulations for fence, screen, wall and hedge height became effective in 1957. Fences, screens, walls and hedges permitted prior to 1957 are nonconforming as to height.
 - ii) Permits are required for fences, screens and walls over 3.5 feet tall from the ground to the highest point of the structure. If such permits do not exist in City records, they are considered illegal, and must be permitted and may require other City approvals. If such fences, screens, walls and hedges are taller than allowed by the Zoning Ordinance, they must be reduced in height when required by the City. Plans in City records that show such items as "existing" do not legalize such items.
 - iii) Permits are required for retaining walls that are more than four feet tall, measured from the bottom of the footing to the highest point on the retaining wall (permits can be required for shorter retaining walls). Contact the Building and Safety Division Counter at (805) 564-5485 for more information.
 - iv) Hedges that existed prior to 1957 are nonconforming to the height limit. Sufficient evidence must be presented to the Community Development Director in order to determine that the hedge existed in its present location in 1957 and is nonconforming.
 - f) This ZIR does not include an analysis of the Solar Access Ordinance (Santa Barbara Municipal Code Chapter 28.11) as it applies to this property. Questions concerning the impact of the Solar Access Ordinance on specific structures should be directed to the Planning and Zoning Counter at 630 Garden Street, or (805) 564-5578.
 - g) If you are selling a home, you must disclose to the buyer any known earthquake weaknesses of your house. The State's Seismic Safety Commission has published a booklet "The Homeowner's Guide to Environmental Hazards and Earthquake Safety," which includes detailed information regarding earthquake hazard disclosure. This booklet should be available from your real estate agent/broker.
 - h) Please be advised that any alterations, additions, construction, improvements or new development may be subject to the review of the Single Family Design Board, the Architectural Board of Review, the Historic Landmarks Commission, the Staff Hearing Officer, or the Planning Commission, depending on a number of factors. If review by one of the bodies is required, the project will be subject to environmental review, as required by the California Environmental Quality Act (CEQA). Please contact the Planning and Zoning Counter at (805) 564-5578 for more information regarding the environmental review process.

- 2) . The enforcement process, as of April 19, 2004.
 - a) The following major violations will be referred to enforcement staff immediately:
 - i) Illegal dwelling units.
 - ii) Illegal conversion of non-habitable space to habitable space.
 - iii) Unpermitted construction of new floor area (habitable or nonhabitable).
 - iv) Elimination of required parking.
 - b) Minor violations are kept on file and are required to be abated prior to, or simultaneously with, the first building permit that is obtained by the new property owner. **HOWEVER**, please be advised that all minor violations will be required to be abated in conjunction with any major violations on the property. City Staff will also require that overheight fences, walls, screens and hedges be reduced in height at this time.
- 3) Validity Period and Extensions
 - a) This ZIR is valid for a period of twelve months after the date of issuance or until a transfer of title occurs, whichever is sooner.
 - b) A ZIR may be extended for a period of one year for half the price of a current ZIR, if the application for the extension is received while the ZIR is still valid. A re-inspection is required.
- 4) Disputes regarding the content of this ZIR.

You have 30 days from receipt to dispute any items in this ZIR. If you do not dispute any items, there is a rebuttable presumption that you agree with the content of the ZIR, and any attempt to dispute such items in the future will be denied. Please contact the preparer of this Zoning Information Report.
- 5) Tenant Displacement Assistance Ordinance
Please be advised that any application to the City for a demolition, alteration, or change of use that will result in the elimination of a residential unit requires compliance with the Tenant Displacement Assistance Ordinance (SBMC Chapter 28.89). The Ordinance requires notice to the tenants about your intent to file an application 60 days prior to the actual filing, and provide monetary displacement assistance.

Zoning Information Report #ZIR2010-00430 was prepared by:

Betsy Teeter, Planning Technician II


Signature

September 16, 2010



LANDSCAPE ARCHITECTURE, CONSULTING & MANAGEMENT

Applicant: Chris Gilliland, CommonGround

21 April 2011

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

RECEIVED
APR 20 2011

CITY OF SANTA BARBARA
PLANNING DIVISION

RE: MODIFICATION REQUEST FOR:

**849 CIMA LINDA LANE
SANTA BARBARA, CA 93103**

Dear Staff Hearing Officer:

There is an existing 5' wood fence approximately 4 feet from the edge of the roadway along Cima Linda Lane that has been in place for over 30 years. It has been overtaken with English and Algerian Ivy over the years and is in a state of severe disrepair. It is falling over in places due to the rotting of the wood posts, and therefore a lack of proper support. The proposal is to replace the fence with a new 5' wood fence (like for like).

The modification being requested is to allow the construction of a fence and planting of a hedge over 42" within the front yard setback. The location of the fence is important because the site slopes drastically from the edge of the roadway toward the residence. If the fence were located 10 feet from the property line/edge of roadway, there would be no privacy from the street and adjacent neighbors without building a fence at least 10-12 feet high. The property also has a very small front yard as it is, and moving the fence down the hill closer to the residence would eliminate approximately 1/3 of the existing front yard. Also, the front yard contains a swimming pool and if the fence were required to be constructed at 42", an additional fence would need to be installed between the residence and the wood fence in question, resulting in an extreme visual blight near the main entry of the residence.

The location of the proposed fence and hedge is also in keeping with the character of the neighborhood. Over 50% of the homes along Cima Linda Lane have over-height fences and/or hedges within the front yard setback. It is a neighborhood that is reminiscent of the hedgerow streets within Montecito.

The major benefits of replacing the existing fence in the same location within the front yard setback are: That privacy is maintained for the property from the street and adjacent neighbors; that the already small size of the front yard is not reduced; that the character of the neighborhood will not be altered; that the desirable habitat for undesirable rodents will be eliminated; and that an additional fence to satisfy the requirements for the swimming pool would not need to be constructed.

Sincerely,

Christopher A. Gilliland
Landscape Architect #4597

4.20.11
date

LANDSCAPE ARCHITECTS ARE LICENSED BY THE STATE OF CALIFORNIA

629 State St., Ste 248 Santa Barbara, CA 93101 phone: 805.963.7088 email: chris@cglandscape.com

EXHIBIT C

NEW ITEM

F. 849 CIMA LINDA LN

A-

Assessor's Parcel Number: 015-202-029
Application Number: MST2011-00113
Architect: Pacific Arc, Inc.
Owner: [REDACTED]

(Proposal for exterior alterations and a 622 square foot interior remodel of an existing two-story, 3,262 square foot single-family residence on a 23,700 square foot lot in the Hillside Design District. The proposed exterior alterations include remodeling the existing second-story balcony to remove structural columns and replace the existing curved arches with a squared opening, relocating an existing window from the south elevation to the west elevation, and replacing two existing doors. The project requires Staff Hearing Officer review for a requested zoning modification to replace an existing over-height fence, to exceed the 3.5 foot maximum height requirement along the front property line.)

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

Continued indefinitely to Staff Hearing Officer with comments:

- 1) The proposed over-height fence and hedge are acceptable given that it provides privacy to the back yard.
- 2) The proposed alterations to the house and upper balcony are acceptable.

March 28, 2011

Staff at the City of Santa Barbara Building Department
630 Garden Street
Santa Barbara CA, 93101

I am writing in support for the request for modification by [REDACTED] at 849 Cima Linda Lane in Santa Barbara. I am the neighbor at 840 Cima Linda Lane, across the Street from the [REDACTED]. I would like their request for a 5'0 wooden fence to be approved as it would be a favorable outcome from our point of view compared to a 3.5 foot fence. The higher fence would look more attractive and keep with the feel of the neighborhood, it would help enhance their privacy, and it would give us more privacy relative to their yard and house. It would not impede our view.

Thank you for your consideration. If you have any questions or need any additional comments from me please do not hesitate to contact me.

Regards



Charles Mounts
840 Cima Linda Lane
Santa Barbara, CA 93108
805 455-5961
londonmounts@aol.com

RECEIVED
APR 20 2011

CITY OF SANTA BARBARA
PLANNING DIVISION

EXHIBIT E