

SANTA BARBARA COUNTY BOARD AGENDA LETTER



Clerk of the Board of Supervisors
105 E. Anapamu Street, Suite 407
Santa Barbara, CA 93101
(805) 568-2240

Agenda Number:

Prepared on: January 9, 2004
Department Name: Planning and Development
Department No.: 053
Agenda Date: January 20, 2003
Placement: Departmental
Estimate Time: 45 minutes
Continued Item: NO
If Yes, date from:
Document File Name: G:GROUP/Permitting/Case
Files/Apl/2000s/2003/03cases/Board
Letter.doc

TO: Board of Supervisors

FROM: Val Alexeef, Director
Planning and Development

STAFF CONTACT: Dan Klemann, Planner (568-2012)
Anne Almy, Supervising Planner (568-2053)

SUBJECT: Morin Appeal of Brier Single Family Dwelling, Case Nos. 03LUP-00000-00028 and 03APL-00000-00021; located at 4527 Via Clarice, east of San Antonio Creek Road, Santa Barbara area; Assessor Parcel Number 153-234-019; Second Supervisorial District

Recommendation:

That the Board of Supervisors deny Ms. Diana L. Morin's (neighbor and aggrieved person) appeal of the Planning Commission's September 17, 2003, decision to grant *de novo* approval of Land Use Permit 03LUP-00000-00028 to construct a one-story single family dwelling, attached garage, minor accessory structures, and grading activities.

Your Board's action should include the following:

1. Adopt the required findings for the project, specified in the Planning Commission's Action Letter, dated September 24, 2003.
2. Deny the appeal, upholding the Planning Commission's *de novo* approval of Land Use Permit 03LUP-00000-00028.

Alignment with Board Strategic Plan:

The recommendations are primarily aligned with actions required by law or by routine business necessity.

Executive Summary and Discussion:

On April 8, 2003, the Planning and Development Department (P&D) approved a Land Use Permit which Ms. Morin appealed to the Planning Commission. On September 17, 2003, the Planning Commission denied Ms. Morin's appeal and granted *de novo* approval for the construction of a new, approximately 4,107 square foot residence with an attached 893 square foot garage, for a total of 5,000 square feet. The approved, average height of the single family dwelling with the attached accessory structures is twenty-one (21) feet and the approved grading activities would include approximately 437 cubic yards (c.y.) of grading (i.e., 99 c.y. of cut and 338 c.y. of fill). Please see the Planning Commission Staff Report, dated August 11, 2003 (Attachment A), which provides a full discussion of the proposed project and the basis for approval.

Ms. Diana Morin, a neighbor who owns a residence across the street from the subject parcel, appealed the Planning Commission's *de novo* approval of the Land Use Permit to the Board of Supervisors (Attachment B). The appellant contends that the Planning Commission and Board of Architectural Review (BAR) erred in their determination that the proposed project is consistent with the Ridgeline and Hillside Development Guidelines and that the proposed project is consistent with the findings required for the Board of Architectural Review's approval. The appellant and applicant have conducted private mediation in an attempt to resolve the appellant's concerns regarding the proposed development; the applicant proposed to reduce the roof height by thirty inches and lower the finish floor by two feet. However the two parties were unable to come to an agreement and the appellant has decided to continue with the appeal, which is as follows:

Ridgeline and Hillside Development Guidelines

The subject property is located within an urban area of the County and, as such, is subject to a twenty-five (25) foot maximum height requirement under the Ridgeline and Hillside District guidelines (Article III, §35-292b.3.a). The appellant contends that by approving a twenty-one (21) foot single family dwelling and attached garage, the Planning Commission and the County Board of Architectural Review have approved development that is out of scale with existing development within the neighborhood, much of which the appellant contends was required to maintain a sixteen (16) foot maximum height for buildings and structures. In the appellant's supplemental information to her appeal (Attachment C), the proposed single family dwelling and attached garage are described as being twenty-five (25) feet in height. However pursuant to Article III, §35-209, building height is defined as the "vertical distance from the average finished grade of the lot covered by the building...to the mean height of the highest gable of a pitch or hip roof." As such, the proposed single family dwelling and attached garage would be twenty-one (21) feet in height—not twenty-five (25) feet.

In determining the proposed project's compatibility with existing development within the neighborhood, the appellant has focused primarily on the houses located adjacent to the subject property (along Via Clarice, east of San Antonio Creek Road), some of which were rebuilt after suffering from extensive damage due to the Painted Cave Fire. These homes (addressed as 4510, 4517, 4520, 4530, 4531, and 4537 Via Clarice) consist of one- and two-story single family dwellings and attached accessory structures. However in focusing solely on the homes along

Via Clarice, the appellant's definition of "neighborhood" is inconsistent with that of staff, the Planning Commission, and the Board of Architectural Review, which includes the entire San Antonio Creek area (i.e., residential development along Via Clarice as well as residential development along Via Maria and San Antonio Creek Road, which contribute to the character of the neighborhood and is important for assessing neighborhood compatibility).

Staff conducted a survey of records on file with the Planning and Development Department (P&D) for development within the San Antonio Creek area. Staff examined the permit history of thirty-eight (38) lots, however only fifteen (15) files contained complete statistics on the size of single family dwellings and only fourteen (14) files contained complete statistics on the size of attached garages, as approved by P&D pursuant to those permits. As such, only these figures were included in the calculations on existing development discussed in this section of this letter. In order to corroborate these figures and to assess the proposed project's mass, bulk, and scale in relation to existing development and neighborhood compatibility, staff supplemented the permit history research with a site visit to the neighborhood. Staff found that these figures accurately represent existing development within the neighborhood and that they may serve as an appropriate baseline for comparison with the proposed development.

Development within the San Antonio Creek neighborhood consists primarily of single- and two-story single family dwellings, as well as accessory structures (e.g., attached and detached garages, workshops, pools, and hardscape features). Single family dwellings range from approximately 2,200 sq.ft. to 4,900 sq.ft. in size; the average size for a single family dwelling is approximately 3,500 square feet. Attached garages range from approximately 450 sq.ft. to 936 sq.ft. in size; the average size for a garage is approximately 650 square feet.

The proposed single family dwelling would be approximately 4,107 sq. ft. and the attached garage would be approximately 893 square feet. At this size and only one-story, the single family dwelling and attached garage would be slightly larger than the averages within the neighborhood, yet squarely within the range of existing development, and would not obtrusively project into the skyline.

Findings Required for BAR Approval

The appellant contends that the BAR erred in making the finding pursuant to §35-329.6.5 of Article III, which states: "Prior to approving any B.A.R. application, the Board of Architectural Review shall make the following findings...There shall be a harmonious relationship with existing and proposed adjoining developments, avoiding excessive variety and monotonous repetition, but allowing similarity of style, if warranted." The proposed single family dwelling and attached garage, the appellant argues, would be significantly taller than existing development within the neighborhood, particularly in regards to development on adjacent parcels to the east and west of the subject property. The appellant states, "In that the height of the proposed residence is radically higher than the adjacent homes, the findings for a Harmonious Relationship with existing development was not satisfied for approval."

On January 31, 2003, the County BAR reviewed the case (case number 02BAR-00000-000276) and granted preliminary approval of the proposed development, subject to the applicant

addressing the following concerns and comments that were designed, in part, to bring the proposed development into harmony with adjoining developments:

- *Motor court is tight: restudy driveway and garage layout; shift home as necessary to improve site plan.*
- *Restudy tall portion of home over family room to improve massing: eliminate dormer.*
- *Return with landscape planting plan.*
- *Include adjacent homes on site, grading and landscape plans.*
- *Design hardscape at the junction of the proposed new driveway, the cul-de-sac and the existing adjacent driveway.*

The case was presented to the BAR for final approval on March 28, 2003. In accordance with the BAR's recommendations, the applicant: revised the design of the motor court; eliminated the dormer in order to improve the massing of the proposed single family dwelling; and, provided a landscape plan that included hardscape features at the juncture of the proposed, new driveway. The appellant attended this meeting and voiced concerns regarding the height of architectural features on the proposed roof (spires, chimneys) and the potential of the proposed development to block the appellant's and other property owners' views of the coastline. The BAR stated that it does not protect private views, however the BAR suggested using trees in the courtyard of the house that did not reach a mature height in excess of twenty-five (25) feet as referenced by the *Sunset Western Garden Book*. (The applicant has revised the proposed landscape plan such that it appears to conform to this suggestion; prior to issuance of a Land Use Permit, the applicant would be required to return to the BAR in order to verify this.) As the applicant implemented the BAR's recommendations, the BAR granted Final Approval and found the proposed project to be in harmony with existing development, as the "design approach is acceptable and character appears appropriate in light of the other Painted Cave Fire rebuilds in [the] neighborhood."¹ Moreover, on March 28, 2003, the County BAR granted final approval of the proposed project after finding that: (1) the proposed single family dwelling and accessory structures are in character with adjacent structures; (2) the proposed project minimizes the use of large understories and exposed retaining walls; and, (3) the applicant has avoided locating the proposed development on a ridgeline (§35-329b.3, Urban Areas). In making these findings, the County BAR determined that the design was acceptable and that the character of the proposed development appeared appropriate in light of the other Painted Cave Fire rebuilds in the neighborhood.

Board of Architectural Review: Purpose and Intent

The final element to Ms. Morin's appeal concerns the Article III Zoning Ordinance, §35-329.1, *Purpose and Intent*, which outlines the general function and purpose of the BAR. Section 35-329.1 states, "The purpose and intent of the Board of Architectural Review is to encourage developments which exemplify the best professional design practices so as to enhance the visual quality of the environment, benefit surrounding property values, and prevent poor quality of design." The appellant contends that the proposed project will result in a decrease in property values for the six properties located along the cul-de-sac of Via Clarice.

¹ Board of Architectural Review Committee Minutes for the meeting of March 28, 2003.

As discussed above, the single family dwelling would be one-story and would not obtrusively project into the skyline or be incongruent with existing development within the neighborhood. The appellant has expressed concerns about the impact that the proposed project would have on private views of the ocean from lots located along the north side of Via Clarice. However, as stated in the *County of Santa Barbara Environmental Thresholds and Guidelines Manual* (2002, 182), the County of Santa Barbara protects only public views—not private views. The appellant’s concerns about the proposed development obstructing the ocean view of surrounding residences—although unfortunate for the tenants and/or owners of these private residences—is not subject to visual resource protection policies and is outside of the BAR’s and the Planning Commission’s purview. Moreover, as discussed above, the height of the proposed single family dwelling is consistent with ordinance restrictions and the proposed development is within the range and scale of existing development within the neighborhood. As such, it is unlikely that the proposed project will significantly reduce the property value of similar residences within the surrounding community.

Mandates and Service Levels:

Pursuant to the Article III Zoning Ordinance, §35-327.3.1, the decision of the Planning Commission may be appealed to the Board of Supervisors by an interested person adversely affected by the Planning Commission’s decision. Pursuant to §35-327.3.2, the appellant must state specifically in the appeal wherein the Planning Commission’s decision is not in accord with the provisions and purposes of the Article or wherein it is claimed that there was an error or an abuse of discretion by the Planning Commission. In this case, the appellant has appealed the decision of the Planning Commission to grant *de novo* approval of Case No. 03LUP-00000-00028 on the basis that the Planning Commission (and the Board of Architectural Review) erred in its interpretation of applicable regulations of the Article III Zoning Ordinance.

Fiscal and Facilities Impacts:

The appellant paid the appeal fee cost of \$292.00. Appeal costs are budgeted in the department’s 2003-2004 budget.

Special Instructions:

Clerk of the Board shall forward a copy of the Minute Order to Planning and Development, Attn: Cintia Mendoza, Hearing Support.

Planning and Development will prepare all final action letters and notify all interested parties of the Board of Supervisors’ final action.

Concurrence:

None.

Attachments: Planning Commission Staff Report
Planning Commission Action Letter
Appellant’s Letter Discussing Grounds for Appeal

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