



BOARD OF SUPERVISORS  
AGENDA LETTER

Agenda Number:

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

Department Name: Planning and  
Development  
Department No.: 053  
For Agenda Of: May 13, 2008  
Placement: Set Hearing  
Estimated Time: 45 minutes  
Continued Item: No  
If Yes, date from:  
Vote Required: Majority

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**TO:** Board of Supervisors

**FROM:** Department John Baker, Director, Planning & Development Department  
Director  
Contact Info: (805) 568-2085

**SUBJECT:** Ni Appeal of Wang Single-Family Dwelling Addition/Garage

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**County Counsel Concurrence**

As to form: Yes

**Auditor-Controller Concurrence**

As to form: No

**Other Concurrence:** N/A

As to form: No

**Recommended Actions:**

Set hearing for June 3, 2008 (Departmental Agenda) to consider an appeal filed by the applicant (Case No. 08APL-00000-00015) of the Planning Commission's March 26, 2008 denial of appeal, Case No. 08APL-00000-00006, and *de novo* approval of Coastal Development Permit Case No. 08CDP-00000-00011. The project involves Assessor's Parcel No. 001-190-035, located at 6346 Via Real in the Carpinteria area, First Supervisorial District.

That the Board of Supervisors:

1. Adopt the required findings for approval of Case No. 08CDP-00000-00011, including CEQA findings, included as Attachment A to this agenda letter;
2. Accept the exemption specified in Attachment B of this agenda letter; and
3. Deny the appeal, Case No. 08APL-00000-00015, thereby upholding the Planning Commission's approval and granting *de novo* approval of Coastal Development Permit Case No. 08CDP-00000-00011, subject to the conditions, included as Attachment C to this agenda letter.

**Summary Text:**

Coastal Development Permit Case No. 08CDP-00000-00011 for this single-family residential addition project was approved by Planning & Development (P&D) staff on February 4, 2008. The P&D approval was appealed to the County Planning Commission, where the appeal was denied and the permit was

granted de novo approval by a (5-0) vote. The appellants, absent from the Planning Commission hearing, have appealed the Commission's decision to the Board. On staff's review, the proposed addition to this single-family residence and new garage meet all applicable zoning and policy requirements and therefore staff recommends approval.

### **Background:**

On January 28, 2008, the agent for the owners, John Godkin, filed an application for Coastal Development Permit (Case No. 08CDP-00000-00011).

The public comment period began on January 28, 2008 and the Coastal Development Permit, 08CDP-00000-00011, was approved by Planning and Development on February 4, 2008.

On February 12, 2008, aggrieved parties Wayne Ni and Peter McKee filed an appeal of P&D's approval of Case No. 08CDP-00000-00011. The CDP appeal was received within the ten-day appeal period, and was assigned Case No. 08APL-00000-00006.

On March 26, 2008, the Planning Commission heard the appeal. The Planning Commission voted 5-0 to deny the appeal and approve the project. An appeal of the Planning Commission decision was filed on April 7, 2008 by the appellant, Wayne Ni.

### **A. Project Description**

The proposed project consists of a first floor addition of 1,182 square feet and a second floor addition of 744 square feet to an existing one-story single-family dwelling of 1,693 square feet. Also proposed is the demolition of the existing detached garage of 528 square feet and construction of a new attached garage of 550 square feet. The maximum height of the proposed additions is approximately 23 feet from the existing grade. A new gravel driveway with a turnaround constructed with permeable pavers is also proposed to access the new garage. No grading over 50 cubic yards is proposed. No native and/or specimen tree removal is proposed. Parking will be provided in the new garage. Water and sanitary service will continue to be provided by the Carpinteria Valley Water District and an onsite septic system. Access will continue to be taken from a private drive accessed via Lomita Lane off of Via Real. The parcel is a 1.0-acre parcel zoned 1-E-1 and shown as Assessors Parcel Number 001-190-035, located at 6346 Via Real in the Carpinteria area, First Supervisorial District.

### **B. Appeal Issues and Staff Discussion**

The following discussion addresses the specific issues raised by the appellants in their April 7, 2008 appeal and staff's response.

#### **1. The Staff Report contained errors that affected the Planning Commission decision.**

**Staff Response:** The staff report did contain errors, which were addressed during staff presentation at the hearing with copies of corrected pages provided to the Commissioners prior to public comment and their deliberation (Attachment E). The corrections were also clearly noted in the

Action Letter dated April 2, 2008. The Board's de novo review in any case affords a new opportunity for hearing.

**2. Planning Staff told the appellants that their presence at the appeal hearing was not required.**

**Staff Response:** In conversation with the appellant, staff informed them that they may be represented by their hired counsel whether or not they could attend the hearing themselves. In further conversations with the appellant's attorney, Derek Westen, he indicated that he would be present at the hearing to represent the appellants' interests. In a letter dated March 11, 2008 (Attachment H) from Mr. Westen to P&D staff, he confirmed that he was representing appellants and that he would address any concerns about scheduling to the Planning Commission. During the Planning Commission hearing, Development Services Director, Dianne Black, called Mr. Westen to notify him that the item was next on the agenda. During that call, Mr. Westen informed Ms. Black that he was no longer retained by the appellants and would not be representing counsel at the hearing. The appeal letter does not specifically state grounds for a claim that there was an error of discretion on the part of the Planning Commission.

**3. The applicant provided story poles that misrepresented the second floor addition.**

**Staff Response:** The applicant advised staff that poles were provided for the benefit of the neighbors. Story Poles were not required by Planning and Development or Board of Architectural Review (BAR) as the project was not subject to BAR jurisdiction. Story poles were not reviewed by County staff prior to initial permit approval. The proposed two-story structure is below required height limits as represented on the project plans.

On staff's review, the revised project meets all zoning and policy requirements, including neighborhood compatibility, visual resources, height, setbacks, and tree protection. All additional project and appeal information is contained in the attached Planning Commission Staff Report, Action Letter, and plans.

**Performance Measure:**

N/A

**Fiscal and Facilities Impacts:**

Budgeted: Yes

**Fiscal Analysis:**

The fee for processing an appeal is \$443 per the current Planning and Development fee schedule adopted by the Board of Supervisors, effective July 1, 2008. Fees were collected when the appeal was filed. The remaining cost of processing these appeals is budgeted in the Permitting and Compliance program of the Development Review South Division on page D-286 of the Fiscal Year 2007/08 adopted budget. P&D staff estimated 30 hours of planner time (\$3,870) to process this Board appeal request.

**Staffing Impacts:**

**Legal Positions:**

N/A

**FTEs:**

N/A

**Special Instructions:**

The Clerk of the Board shall publish a legal notice at least 10 days prior to the hearing on June 3, 2008. The notice shall appear in at least one newspaper of general circulation within the County. The Clerk of the Board shall fulfill noticing requirements. Mailing labels for the mailed notice are attached. A minute order of the hearing and copy of the notice and proof of publication shall be returned to Planning and Development, Attention: David Villalobos.

**Attachments:**

- A. Findings
- B. CEQA Exemption
- C. Conditions
- D. Planning Commission Action Letter, dated April 2, 2008
- E. Revised pages to the March 7, 2008 Staff Report
- F. Staff Report to the Planning Commission, dated March 7, Ni Appeal, dated April 7, 2008
- G. Letter from Derek Westen, dated March 11, 2008
- H. Project Plans
- I. Public Comment Letters

**Authored by:**

Jim Heaton, Planner, (805) 568-2516  
Development Review Division – South, Planning & Development Department

**cc:** Case File 08APL-00000-00015

## **ATTACHMENT A: COASTAL DEVELOPMENT PERMIT FINDINGS**

### **1.0 CEQA FINDINGS**

The proposed project is found to be exempt from environmental review pursuant to Sections 15303(a) and 15303(e), New Construction or Conversion of Small Structures, of the Guidelines for Implementation of the California Environmental Quality Act (CEQA). Please see Attachment B, Notice of Exemption.

Pursuant to Section 35-169.5 of the Article II Zoning Ordinance, a Coastal Development Permit shall only be issued if all of the following findings are made:

#### **2.0 Those findings specified in Section 35-169.6.1.**

Pursuant to Section 35-169.6 of the Coastal Zoning Ordinance, a Coastal Development Permit shall be issued only if all of the following findings are made:

##### ***2.0.1. That the proposed development conforms to 1) the applicable policies of the Comprehensive Plan, including the Coastal Land Use Plan, and 2) with the applicable provisions of this Article or the project falls within the limited exception allowed under Section 35-161 (Nonconforming Use of Land, Buildings and Structures).***

The proposed development conforms to all applicable policies of the Comprehensive Plan, including the Coastal Land Use Plan, as discussed in more detail in Section 6.3 of the staff report. The proposed development is also consistent with all provisions of the Coastal Zoning Ordinance, Chapter 35, and Article II of the County Code, as detailed in Section 6.4 of the staff report. The project site is not related to an industrial use and does not fall within regulations pursuant to Section 35-161. Therefore, this finding can be made.

##### ***2.0.2. That the proposed development is on a legally created lot.***

The lot was created by a lot split, TPM 11,452, recorded on May 18, 1972, Santa Barbara County Recorder's Office, Map Book 9, page 100. Therefore, this finding can be made.

##### ***2.0.3. That the subject property and development on the property is in compliance with all laws, rules and regulations pertaining to zoning uses, subdivisions, setbacks and any other applicable provisions of this Article, and any applicable zoning violation enforcement fees and processing fees have been paid. This subsection shall not be interpreted to impose new requirements on legal nonconforming uses and structures in compliance with Division 10 (Nonconforming Structures and Uses).***

The property is in compliance with all laws, rules and regulations pertaining to zoning uses, subdivisions, setbacks and any other applicable provisions of Article II. There are no zoning violations on the property. The proposed project would also meet all setback requirements and height limitations. Therefore, this finding can be made.

**ATTACHMENT B: NOTICE OF EXEMPTION**

TO: Santa Barbara County Clerk of the Board of Supervisors

FROM: Jim Heaton, Planner

The project or activity identified below is determined to be exempt from further environmental review requirements of the California Environmental Quality Act (CEQA) of 1970, as defined in the State and County Guidelines for the implementation of CEQA.

APN(s): 001-190-035

Case No.:08CDP-00000-00011

Location: Located at 6346 Via Real, Carpinteria

Project Title: Wang Addition and Demolition/ New Garage

**Project Description:**

The Coastal Development Permit application is for a first floor addition of 1,182 square feet and a second floor addition of 744 square feet to an existing one-story single family dwelling of 1,693 square feet. Also proposed is the demolition of the existing detached garage of 528 square feet and construction of a new attached garage of 550 square feet. The maximum height of the proposed additions is approximately 23 feet from the existing grade. A new gravel driveway with a turnaround constructed with permeable pavers is also proposed to access the new garage. No grading over 50 cubic yards is proposed. No native and/or specimen tree removal is proposed. Parking will be provided in the new garage. Water and sanitary service will continue to be provided by the Carpinteria Valley Water District and an onsite septic system. Access will continue to be taken from a private drive accessed via Lomita Lane off of Via Real. The parcel is a 1.0-acre parcel zoned 1-E-1 and shown as Assessors Parcel Number 001-190-035, located at 6346 Via Real in the Carpinteria area, First Supervisorial District.

Name of Public Agency Approving Project: County of Santa Barbara

Name of Person or Agency Carrying Out Project: Jim Heaton

**Exempt Status:** (Check one)

- Ministerial
- Statutory Exemption
- Categorical Exemption
- Emergency Project
- Declared Emergency

**Cite specific CEQA and/or CEQA Guideline Sections:** CEQA Guidelines Section 15303(a), One single-family residence, or a second dwelling unit in a residential zone and CEQA Guidelines Section 15303(e), [New Construction or Conversion of Small Structures].

**Reasons to support exemption findings:**

CEQA Guidelines Section 15303(a) exempts *One single-family residence* and CEQA Guideline Section 15303(e) exempts *Accessory (appurtenant) structures including garages, carports, patios, swimming*

*pools, and fences.* The project may be found exempt from environmental review pursuant to Section 15303(a) of the Guidelines for Implementation of the California Environmental Quality Act (CEQA). Section 15303(a) exempts construction and location of limited numbers of new, small facilities or structures including one single-family residence. The proposed project includes a proposal for an addition to an existing single-family residence and a new attached garage accessory structure. Therefore, the project is consistent with this exemption from CEQA and no further environmental review is required.

***Exceptions pursuant to Section 15300.2 of CEQA***

There is no substantial evidence that there are unusual circumstances (including future activities) resulting in (or which might reasonably result in) significant impacts which threaten the environment. The exceptions to the categorical exemptions pursuant to Section 15300.2 of the State CEQA Guidelines are:

- (a) **Location. Classes 3, 4, 5, 6, and 11 are qualified by consideration of where the project is to be located -- a project that is ordinarily insignificant in its impact on the environment may in a particularly sensitive environment be significant. Therefore, these classes are considered to apply all instances, except where the project may impact on an environmental resource of hazardous or critical concern where designated, precisely mapped, and officially adopted pursuant to law by federal, state, or local agencies.**

There are no mapped environmentally sensitive habitats or sensitive plant or animal species on the subject parcel. The addition is to an existing single-family residence in a previously disturbed area. Therefore this exception does not apply.

- (b) **Cumulative Impact. All exemptions for these classes are inapplicable when the cumulative impact of successive projects of the same type in the same place, over time is significant.**

The addition is to an existing single-family residence in an existing developed rural neighborhood. The scope of the project is limited to the project description and this project is not a portion of a larger cumulative project. Therefore this exception does not apply.

- (c) **Significant Effect. A categorical exemption shall not be used for an activity where there is a reasonable possibility that the activity will have a significant effect on the environment due to unusual circumstances.**

The addition is to an existing single-family residence in a previously disturbed area of the Existing Developed Rural Neighborhood. There are no known or identified potentially significant effects on the environment. Therefore this exception does not apply.

- (d) **Scenic Highways. A categorical exemption shall not be used for a project which may result in damage to scenic resources, including but not limited to, trees, historic buildings, rock outcroppings, or similar resources, within a highway officially designated as a state scenic highway. This does not apply to improvements which are required as mitigation by an adopted negative declaration or certified EIR.**

The project does not impact scenic resources. The subject parcel is not on a scenic highway. While the second-story element may be visible from Via Real, or Highway 101, it would appear as part of

the existing developed neighborhood, and not intrude into the skyline as seen from public viewing areas. Therefore this exception does not apply.

**(e) Hazardous Waste Sites. A categorical exemption shall not be used for a project located on a site which is included on any list compiled pursuant to Section 65962.5 of the Government Code.**

There are no known hazardous or toxic sites on the subject parcel. Therefore this exception does not apply.

**(f) Historical Resources. A categorical exemption shall not be used for a project which may cause a substantial adverse change in the significance of a historical resource.**

There are no known historical resources on the subject parcel. The existing structure was built in 1976 and is not considered a historic resource since the structure is not more than 50 years old. Therefore this exception does not apply.

Lead Agency Contact Person: Jim Heaton Phone #: (805) 568-2516

Department/Division Representative: \_\_\_\_\_ Date: \_\_\_\_\_

Acceptance Date: \_\_\_\_\_

***Note: A copy of this form must be posted at P&D 6 days prior to a decision on the project. Upon project approval, this form must be filed with the County Clerk of the Board and posted by the Clerk of the Board for a period of 30 days to begin a 35 day statute of limitations on legal challenges.***

distribution: Hearing Support Staff  
Project file (when P&D permit is required)  
Date Filed by County Clerk: \_\_\_\_\_.



## **ATTACHMENT C: PROJECT SPECIFIC CONDITIONS**

Case #: 08CDP-00000-00011

Project Name: Wang Additions & Garage Demolition/Construction

Project Address: 6346 Via Real

APN: 001-190-035

1. This Coastal Development Permit is based upon and limited to compliance with the project description, the exhibits and conditions of approval set forth below. Any deviations from the project description, exhibits or conditions must be reviewed and approved by the County for conformity with this approval. Deviations may require approved changes to the permit and/or further environmental review. Deviations without the above-described approval will constitute a violation of permit approval.

The project description is as follows:

**The proposed project consists of a first floor addition of 1,182 square feet and a second floor addition of 744 square feet to an existing one-story single-family dwelling of 1,693 square feet. Also proposed is the demolition of the existing detached garage of 528 square feet and construction of a new attached garage of 550 square feet. The maximum height of the proposed additions is approximately 23 feet from the existing grade. A new gravel driveway with a turnaround constructed with permeable pavers is also proposed to access the new garage. No grading over 50 cubic yards is proposed. No native and/or specimen tree removal is proposed. Parking will be provided in the new garage. Water and sanitary service will continue to be provided by the Carpinteria Valley Water District and an onsite septic system. Access will continue to be taken from a private drive accessed via Lomita Lane off of Via Real. The parcel is a 1.0-acre parcel zoned 1-E-1 and shown as Assessors Parcel Number 001-190-035, located at 6346 Via Real in the Carpinteria area, First Supervisorial District.**

The grading, development, use, and maintenance of the property, the size, shape, arrangement, and location of structures, parking areas and landscape areas, and the protection and preservation of resources shall conform to the project description above, the referenced exhibits, and conditions of approval below. The property and any portions thereof shall be sold, leased or financed in compliance with this project description and the approved exhibits and conditions of approval hereto. All plans (such as Landscape and Tree Protection Plans) shall be implemented as approved by the County.

2. Proposed project shall strictly conform to plans marked Board of Supervisors Hearing Exhibit #1, dated June 3, 2008, approved *de novo* by the Board of Supervisors on June 3, 2008 under 08CDP-00000-00011.
3. All site preparation and associated grading and exterior construction activities shall be limited to the hours between 7:00 A.M. and 4:00 P.M., weekdays only. No construction shall occur on Planning & Development-observed holidays (e.g. Labor Day, Thanksgiving). Construction equipment maintenance shall be limited to the same hours. Non-noise generating construction activities, such as interior painting, are not subject to these restrictions.

4. No grading is proposed for this project. Grading/earth movement in excess of 50 cubic yards cut and fill (total) will require additional permit review. Grading/earth movement is subject to final approval by the Building and Safety Division grading inspector.
5. All exterior lighting shall be hooded and no unobstructed beam of exterior light shall be directed toward any area zoned or developed residential.
6. All changes to the project will require Coastal Development Permit review by P&D for determination of consistency with zoning ordinances.
7. No trees or native vegetation shall be removed as part of the project.
8. **Construction Staging and Storage:** Construction related vehicles, equipment staging and storage areas shall be located onsite and outside of the road and highway right of way. The applicant shall provide all construction personnel with a written notice of this requirement and a description of approved onsite parking, staging and storage areas. The notice shall also include the name and phone number of the applicant's designee responsible for enforcement of this restriction. **Plan Requirements:** Designated construction personnel parking, equipment staging and storage areas shall be depicted on project plans submitted for coastal development (CDP) clearance. A copy of the written notice shall be submitted to P&D prior to CDP issuance. **Timing:** This restriction shall be maintained throughout construction.
9. **Construction Washout Area:** During construction, washing of concrete trucks, paint, equipment, or similar activities shall occur only in areas where polluted water and materials can be contained for subsequent removal from the site, and shall not be conducted within the critical root zones of oak trees on the site. Wash water shall not be discharged to the storm drains, street, drainage ditches, creeks, or wetlands. Areas designated for washing functions shall be at least 100 feet from any storm drain, waterbody or sensitive biological resources. The location(s) of the washout area(s) shall be clearly noted at the construction site with signs. **Plan Requirements:** The applicant shall designate a washout area, acceptable to P&D, and this area shall be shown on the construction and/or grading and building plans. **Timing:** The washout area shall be designated on all plans prior to issuance of Coastal Development Permits. The washout area(s) shall be in place and maintained throughout construction.  
  
**MONITORING:** Grading and Building inspectors shall spot check to ensure compliance on-site.
10. **Archaeological and Historic Resources:** In the event archaeological remains are encountered during grading, work shall be stopped immediately or redirected until a P&D qualified archaeologist and Native American representative are retained by the applicant to evaluate the significance of the find pursuant to Phase 2 investigations of the County Archaeological Guidelines. If remains are found to be significant, they shall be subject to a Phase 3 mitigation program consistent with County Archaeological Guidelines and funded by the applicant. **Plan Requirements/Timing:** This condition shall be printed on all building and grading plans.
11. Prior to issuance of the Coastal Development Permit, the applicant shall pay all applicable P&D permit processing fees in full.

12. If the Planning Commission determines at a noticed public hearing that the permittee is not in compliance with any conditions of this permit pursuant to the provisions of section 35-169.9 of Article II of the Santa Barbara County Code, the Planning Commission may, in addition to revoking the permit pursuant to said section, amend, alter, delete or add conditions to this permit.
13. The applicant's acceptance of this permit and/or commencement of construction and/or operations under this permit shall be deemed acceptance of all conditions of this permit by the permittee.
14. The Planning Commission's approval of this CDP shall expire two years from the date of approval or, if appealed, the date of action by the Board of Supervisors on the appeal, if the permit for use, building or structure permit has not been issued.
15. The use and/or construction of the structure, authorized by this approval cannot commence until the Coastal Development Permit has been issued. Prior to the issuance of the Coastal Development Permit, all of the project conditions that are required to be satisfied prior to issuance of the Coastal Development Permit must be satisfied. Plans accompanying this Coastal Development Permit shall contain all project conditions.
16. Developer shall defend, indemnify and hold harmless the County or its agents, officers and employees from any claim, action or proceeding against the County or its agents, officers or employees, to attack, set aside, void, or annul, in whole or in part, the County's approval of the Coastal Development Permit. In the event that the County fails promptly to notify the applicant of any such claim, action or proceeding, or that the County fails to cooperate fully in the defense of said claim, this condition shall thereafter be of no further force or effect.
17. In the event that any condition imposing a fee, exaction, dedication or other mitigation measure is challenged by the project sponsors in an action filed in a court of law or threatened to be filed therein which action is brought within the time period provided for by law, this approval shall be suspended pending dismissal of such action, the expiration of the limitation period applicable to such action, or final resolution of such action. If any condition is invalidated by a court of law, the County shall review the entire project and substitute conditions may be imposed.
18. If the applicant requests a time extension for this permit, the permit may be revised to include updated language to standard conditions and/or mitigation measures and additional conditions and/or mitigation measures which reflect changed circumstances or additional identified project impacts.