



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: 5/13/08  
Placement: Set Hearing on 5/27/08  
Departmental  
Estimated Time: 2 hours  
Continued Item: No  
If Yes, date from: N/A  
Vote Required: Majority

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**TO:** Board of Supervisors  
**FROM:** Department John Baker, Director  
Director(s) (805) 568-2085  
Contact Info: Zoraida Abresch, Deputy Director  
(805) 934-6585  
**SUBJECT:** Capital Pacific Homes Appeal of the Planning Commission's Denial of the Old Mill Run Recorded Map Modification, Fourth Supervisorial District.

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**County Counsel Concurrence**

As to form: N/A

**Other Concurrence:** N/A

As to form: No

**Auditor-Controller Concurrence**

As to form: N/A

**Recommended Actions:**

That the Board of Supervisors:

Set a hearing for May 27, 2008 to consider the Capital Pacific Homes Appeal (Case No. 08APL-00000-00011) of the County Planning Commission's February 27, 2008 denial of the Old Mill Run Recorded Map Modification (Case No. 07RMM-00000-00006). The project site is located at the corner of Blosser and Old Mill Roads (AP No. 105-020-046) in the Orcutt area of the Fourth Supervisorial District.

At the May 27, 2008 hearing, the Board of Supervisor's action should include the following:

- a) Adopt the required findings for the project specified in the Planning Commission action letter dated March 5, 2008 (Attachment A).
- b) Deny the appeal, 08APL-00000-00011, thereby upholding the Planning Commission's denial of 07RMM-00000-00006.
- c) Grant *de novo* denial of Case No. 07RMM-00000-00006 subject to the findings specified in the Planning Commission action letter and attachments dated March 5, 2008.

**Summary Text:**

**A. Proposed Project**

The proposed project is a request for a Recorded Map Modification to modify Condition #69 for TM 14,532 (Old Mill Run Subdivision) as follows:

“Side and rear yard fencing types and materials shall be of wood fencing and shall be reviewed and approved including the design by the Board of Architectural Review prior to zoning clearance.”

The project site is located in the DR-3.3 (Design Residential) Zone under the Santa Barbara County Land Use and Development Code, located at the corner of Blosser and Old Mill Roads, Orcutt area, Fourth Supervisorial District. No grading, tree or vegetation removal is proposed as a part of this project. All conditions of approval and specifications for the project as approved for TM 14,532 would remain in place except for the modification to condition #69 as proposed for 07RMM-00000-00006.

According to the applicant, wood fencing is more in character with the surrounding neighborhood, is easier to repair, and can act as a superior noise barrier whereas masonry tends to convey an institutional feel to the neighborhood, attract graffiti, confine yard space, and could create additional maintenance expenses for homeowners.

**B. Background**

TM 14,532 (Old Mill Run Subdivision) to divide 19.28 acres into approximately 60 parcels, and 99-DP-029 to develop 58 single family residences was conditionally approved by the County Planning Commission on May 12, 2004. Condition #69, which requires that rear and side yard fencing be constructed of masonry materials, was specifically added by the Planning Commission during the May 12, 2004 hearing. Subsequently, the property was sold, and the new developers are now requesting the subject modification to TM 14,532. The subject wood fencing was considered by the North Board of Architectural Review (NBAR) on August 10, 2007. The NBAR is supportive of alternatives to masonry, however they recommend that fences backing up to central open space areas remain as previously proposed (three-foot tall block wall with wrought iron above). On February 27, 2008, the Planning Commission reviewed the proposed project and denied the request for the modification.

**C. Staff Review**

Pursuant to Section 21-15.9(h) of the Subdivision Regulations, modifications to recorded final or parcel maps, lot split plats, or lot line adjustments shall be approved only if all of the required findings can be made.

Specifically the finding that:

*“There are changes in circumstances that make any or all of the conditions of such a recorded final or parcel map, lot split plat or lot line adjustment no longer appropriate or necessary.”*

In this case, the Planning Commission specifically requested that a condition be added to TM 14,532 (Old Mill Run Subdivision) to require rear and side yard fencing be constructed out of masonry materials. There have not been any changes to the site, its surroundings or circumstances which would suggest that the Planning Commission's original requirement for masonry walls was inappropriate, and therefore, staff is recommending denial of the proposed project.

#### **D. Staff Response to Appeal Letter**

The current appeal (Attachment C) contends that there was a lack of evidence by the Commission in support of the denial, and that Capital Pacific Homes (appellant/applicant) provided ample material to the Planning Commission supporting the position that circumstances have changed from the time that the project was approved (May 12, 2004), and today. The main appeal points and staff responses are summarized as follows:

1. North Board of Architectural Review (NBAR). In their letter dated March 10, 2008 (Attachment C), the appellant states: *On September 8, 2006, the Board of Architectural Review specifically requested that CPH bring the Project back to the Planning Commission to revise the condition of approval to allow wood fencing in place of masonry.*

The NBAR minutes from September 8, 2006 state the following: *NBAR encourages the applicant to return to the Planning Commission to have Condition #69 revised to allow for fencing types. Where solid masonry is used, slumpstone in natural earth tones is accepted.* According to the minutes, the NBAR did not specifically request that condition #69 be revised to allow for wood fencing in the place of masonry. They did, however, suggest that alternative fencing types be considered for rear and side yards.

2. Change in Fencing Design. The appellant states that when the Old Mill Run subdivision was originally reviewed and approved by the Planning Commission in 2004, the developer proposed standard wood or vinyl fencing. According to the appellant, standard wood fencing is comprised of untreated ½-inch cedar planks that are supported by 4X4 wooden posts sunk directly into the ground. Capital Pacific Homes is proposing to use weather proofed 1-inch redwood planks supported by steel posts sunk into concrete.

Although the appellant is proposing to use weather-proofed, 1-inch redwood planks supported by steel posts sunk into concrete instead of the originally requested standard wood or vinyl fencing sunk directly into the ground, the proposed fencing is still a wood type of fencing, which the Planning Commission is not in support of for this project.

3. New Design/Architectural Information Presented at 2/27/08 Hearing. The appellant states that at the Planning Commission hearing of February 27, 2008, new information was presented which was unavailable at the May 12, 2004 hearing. The information presented is summarized in the appellant's letter dated March 10, 2008 (Attachment C). Information presented by the appellant to the Planning Commission showed that masonry walls are an incompatible design for the proposed project, has the potential for unintended hardscaping inside planter areas, potential graffiti problems, increased installation and construction costs in terms of a sagging real estate market, and the unanimous recommendation by the NBAR to return to the Planning Commission to amend the condition.

Although the information presented at the Planning Commission hearing of February 27, 2008 was not presented at the May 12, 2004 hearing, staff believes that these points alone are not enough of a change in circumstances to warrant a revision to a condition which was specifically added by the Planning Commission at that hearing. The Planning Commission considered the information presented by the appellant at the February 27, 2008 hearing, but remained in support of the use of masonry materials for rear and side yard fencing.

4. Previous Recorded Map Modification Approvals. The appellant sites three recent Recorded Map Modification projects which received a positive recommendation by staff and were subsequently approved by the Planning Commission. The appellant notes that in all three of these cases, the finding that *“There are changes in circumstances that make any or all of the conditions of such a recorded final or parcel map, lot split plat or lot line adjustment no longer appropriate or necessary”* was made without regard to policy inconsistencies.

In this case, Condition #69 requiring rear and side yard fencing constructed of masonry materials was specifically added by the Planning Commission at the Planning Commission Hearing of May 12, 2004. The projects sited by the appellant were not requests to modify a condition which was specifically added by the Planning Commission at the hearing, and therefore would not apply to this case.

#### **E. Planning Commission Action**

The County Planning Commission unanimously denied the request of the subject Recorded Map Modification by a vote of 4-0-1 (Blough abstained) on February 27, 2008. The Commission’s decision was appealed to the Board of Supervisors on March 10, 2008. The Planning Commission action letter with project findings and the Planning Commission staff report are included as Attachments A and B.

#### **Fiscal and Facilities Impacts:**

Budgeted: Yes **Fiscal Analysis:**

The cost to offset this appeal is partially offset by the \$443 appeal fee paid by the appellant per the Planning & Development Department fee schedule in effect on the date that the appeals were filed (Resolution 06-359 adopted by the Board of Supervisors on November 14, 2006, effective January 2007). The fee was collected from the appellant and applicant, Jay Higgins of Capital Pacific Homes. The remaining cost of processing the appeal is budgeted in the Permitting and Compliance Program of the Development Review Division – North on page D-290 of the adopted budget for Fiscal Year 2007/2008. There are no facilities impacts. Estimated staff time to process the appeal and prepare for and attend the hearing is approximately 25 hours for an estimated cost of \$3,225.

#### **Special Instructions:**

The Clerk of the Board shall publish a legal notice in the Santa Barbara News Press and the Santa Maria Times and shall complete the mailed noticing requirements for the project at least ten (10) days prior to the May 27, 2008 hearing (mailing labels attached).

The Clerk of the Board shall forward a copy of the Minute Order to Planning & Development, Attention: David Villalobos, Hearing Support.

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

**Attachments:**

- Attachment A – Planning Commission Action Letter dated March 5, 2008.
- Attachment B – Planning Commission Staff Report dated January 24, 2008.
- Attachment C – Appeal Application dated March 10, 2008.

**Authored by:**

Dana Carmichael, Planner II, (805) 934-6266  
Planning and Development Department  
Development Review Division-North

**cc:** Case File: 07RMM-00000-00006  
Records Management  
John Baker, Director, Planning and Development  
Dianne M. Black, Director Development Review  
Agent: Capital Pacific Homes, Attn: Jay Higgins, 4050 Calle Real, Ste 200B, Santa Barbara, CA 93110  
David Allen, Deputy County Counsel  
Dana Carmichael, Planner





# COUNTY OF SANTA BARBARA CALIFORNIA

## PLANNING COMMISSION

COUNTY ENGINEERING BUILDING  
123 E. ANAPAMU ST.  
SANTA BARBARA, CALIF. 93101-2058  
PHONE: (805) 568-2000  
FAX: (805) 568-2030

March 5, 2008

Jay Higgins  
Capital Pacific Homes  
4050 Calle Real, Ste 200 B  
Santa Barbara, CA 93110

PLANNING COMMISSION  
HEARING OF FEBRUARY 27, 2008

**RE: Old Mill Run Recorded Map Modification; 07RMM-00000-00006, TM 14,532**

Hearing on the request of Jay Higgins of Capital Pacific Homes, to consider Case No. 07RMM-00000-00006, [application filed on April 13, 2007] to modify Condition # 69 for TM 14,532 in the DR 3.3 zone district under Section 35.23.060 of the Land Use Development Code. The application involves AP No. 105-020-046, located on the corner of Blosser Drive and Old Mill Road, in the Orcutt area, Fourth Supervisorial District. (Continued from 02/13/08)

Dear Mr. Higgins:

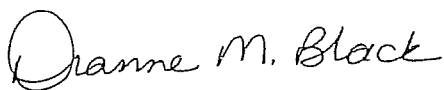
At the Planning Commission hearing of February 27, 2008, Commissioner Valencia moved, seconded by Commissioner Cooney and carried by a vote of 4-0-1 (Blough abstained) to:

1. Adopt the required findings for denial specified in Attachment A of the staff report, dated January 24, 2008, including CEQA findings; and
2. Deny Case No. 07RMM-00000-00006.

***The attached findings reflect the Planning Commission's actions of February 27, 2008.***

Decisions of the Planning Commission may be appealed to the Board of Supervisors by the applicant or any interested person adversely affected by such decision. Appeal applications may be obtained at the Clerk of the Board's office. The appeal form must be filed along with any attachments to the Clerk of the Board. In addition to the appeal form a concise summary of fifty words or less, stating the reasons for the appeal, must be submitted with the appeal. The summary statement will be used for public noticing of your appeal before the Board of Supervisors. The appeal, which shall be in writing together with the accompanying applicable fee must be filed with the Clerk of the Board of Supervisors within ten (10) calendar days of the date of the Planning Commission's decision. This letter or a copy should be taken to the Clerk of the Board of Supervisors in order to determine that the appeal is filed within the allowed appeal period. **The appeal period for this project ends on Monday, March 10, 2008 at 5:00 p.m.**

If this decision is appealed, the filing fee for both non-applicant and applicant is \$443 and must be delivered to the Clerk of the Board Office at 105 East Anapamu Street, Room 407, Santa Barbara, CA. Sincerely,



Dianne M. Black  
Secretary to the Planning Commission

- cc: Case File: 07RMM-00000-00006, TM 14, 532  
Planning Commission File  
Records Management  
Owner: Capital Pacific Homes, 4050 Calle Real, Ste 200B, Santa Barbara, CA 93110  
Engineer: Dennis Bethel & Associates, Inc., 2450 Professional Pkwy, Ste 110, Santa Maria, CA 93455  
County Chief Appraiser  
County Surveyor  
Fire Department  
Flood Control  
Park Department  
Public Works  
Environmental Health Services  
APCD  
Joni Gray, Fourth District Supervisor  
Joe Valencia, Fourth District Commissioner  
David Allen, Deputy County Counsel  
Dana Carmichael, Planner

**Attachments: Attachment A - Findings**

DMB/jao



## ATTACHMENT A: FINDINGS

### 1.0 CEQA FINDINGS

- 1.1 Denial of the subject Recorded Map Modification is exempt from the requirements of the California Environmental Quality Act (CEQA) pursuant to Public Resources Code Section 21080(b)(5) and State CEQA Guidelines Section 15270. Pursuant to County CEQA Guidelines, staff may file a Notice of Exemption when the action to deny becomes final.
- 1.2 The documents and other materials which constitute the record of proceedings upon which this decision is based are in the custody of the Secretary of the Santa Barbara County Planning Commission, Ms. Dianne Black, Planning and Development Department, located at 123 E. Anapamu St., Santa Barbara, CA 93101.

### 2.0 ADMINISTRATIVE FINDINGS

#### *2.1 Findings for denial of the subject Recorded Map Modification*

Pursuant to Section 21-15.9 of the Subdivision Regulations, modifications to recorded final or parcel maps, lot split plats or lot line adjustments shall be approved only if all of the following findings can be made:

- 2.1.1 *There are changes in circumstances that make any or all of the conditions of such a recorded final or parcel map, lot split plat or lot line adjustment no longer appropriate or necessary;*

At the Planning Commission hearing of May 19, 2004, condition #69 from TM 14,532 was added to the project requiring all rear and side yard fencing to be constructed of masonry materials. Subsequently the applicant has requested that all rear and side yard fencing be constructed out of a wood type of material based on maintenance feasibility and installation costs. There have not been any changes in circumstances which would cause condition #69 to be no longer appropriate. Therefore, this finding cannot be made.

- 2.1.2 *The modification does not impose any additional burden on the present fee owner(s) of the property;*

The project is being acted on by the Planning Commission at the request of the present fee owners of the property. No additional undue burden has been identified by County staff, the applicant or the agent.

- 2.1.3 *The modification does not alter any right, interest or title reflected by the recorded final or parcel map, lot split plat or lot line adjustment;*

Neither the proposed RMM nor the anticipated future development would have any impacts on any right, interest or title of TM 14,532.

- 2.1.4 *The recorded final or parcel map, lot split plat or lot line adjustment as modified conforms to the provisions of Section 66474 of the California Government Code;*

The recorded parcel map as modified conforms to the provisions of Section 66474 of the California Government Code (i.e. it does not trigger any of the grounds for denial of a tentative or parcel map).

**2.1.5 *The recorded final or parcel map, lot split plat or lot line adjustment as modified is consistent with the applicable zoning ordinance;***

The project site is suitable for residential development as permitted in the DR-3.3 Zone District. The proposed modification would not affect the density or type of development permitted in the DR-3.3 Zone District.

**2.1.6 *The property for which the modification is sought is in compliance with all laws, rules and regulations pertaining to zoning uses, subdivisions, height and setbacks, and any other provisions applicable to the property for which the modification is sought, and such enforcement fees as established from time to time by the Board of Supervisors have been paid;***

The property is in compliance with all laws, rules and regulations pertaining to zoning uses, subdivisions, height and setbacks. There existing development is permitted and there are no zoning violations on the property.

**2.1.7 *The recorded final or parcel map or lot line adjustment as modified does not result in an increased number of dwelling units or a greater density than the recorded final or parcel map or lot line adjustment.***

The recorded parcel map as modified would not result in an increased number of dwelling units or a greater density than the existing condition.



**SANTA BARBARA COUNTY PLANNING COMMISSION**  
**Staff Report for the Old Mill Run Recorded Map Modification**

**Hearing Date:** February 13, 2008  
**Staff Report Date:** January 24, 2008  
**Case No.:** 07RMM-00000-00006 for TM 14,532  
**Environmental Document:** CEQA Section 15270  
[Projects which are disapproved]

**Deputy Director:** *[Signature]* Lorinda Abresch  
**Division:** Development Review -North  
**Staff Contact:** Dana Carmichael  
**Supervising Planner:** Gary Kaiser  
**Planner's Phone #:** (805) 934-6266

**OWNER:**

Capital Pacific Homes  
4050 Calle Real, Ste 200B  
Santa Barbara, CA 93110  
(805)692-2006

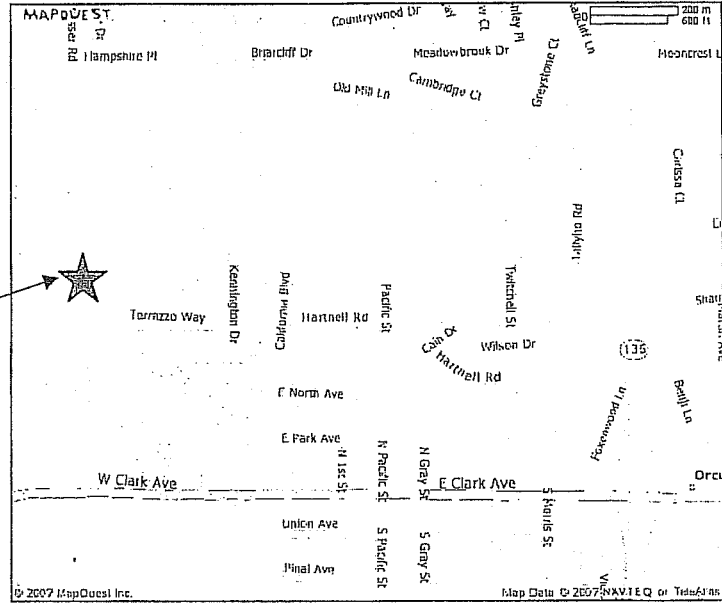
**AGENT:**

Jay Higgins  
Capital Pacific Homes  
4050 Calle Real, Ste 200B  
Santa Barbara, CA 93110  
(805)692-2006

**ENGINEER/SURVEYOR:**

Dennis Bethel & Associates, Inc.  
2450 Professional Pkwy, Ste 110  
Santa Maria, CA 93455  
(805)934-5767

Project Site  
Location



The site is identified as Assessor Parcel Number 105-020-046, located on the corner of Blosser Drive and Old Mill Road in south Orcutt, Fourth Supervisorial District.

Application Complete: September 21, 2007  
Processing Deadline: Within 60 days of CEQA Exemption Determination

**1.0 REQUEST**

Hearing on the request of Jay Higgins of Capital Pacific Homes, to consider Case No. 07RMM-00000-00006, [application filed on April 13, 2007] to modify Condition # 69 for TM 14,532 in the DR 3.3 zone district under Section 35.23.060 of the Land Use Development Code. The application involves AP No. 105-020-046, located on the corner of Blosser Drive and Old Mill Road, in the Orcutt area, Fourth Supervisorial District.

**2.0 RECOMMENDATION AND PROCEDURES**

Follow the procedures outlined below and deny Case No. 07RMM-00000-00006 based on an inability to make required findings.

Your Commission's motion should include the following:

1. Adopt the required findings for denial specified in Attachment A of this staff report, including CEQA findings.
2. Deny Case No. 07RMM-00000-00006.

Refer back to staff if the Santa Barbara County Planning Commission takes other than the recommended action for appropriate findings and conditions.

### **3.0 JURISDICTION**

This project is being considered by the Santa Barbara County Planning Commission based upon Chapter 21 of the County Code Section 21-15.9.g which states that any proposed modification of a final map shall require a public hearing before the decision-maker with current jurisdiction for the final map proposed to be modified. The Planning Commission has permit authority over the subject final map because it had jurisdiction over the tentative tract map when it was originally approved.

### **4.0 ISSUE SUMMARY**

Condition #69 from TM 14,532, which requires that side and rear yard fencing be constructed of masonry materials, was added at the County Planning Commission hearing on May 19, 2004. Subsequently, the property was sold, and the new developers are now requesting that the condition be modified to allow rear and side yard fencing to be constructed out of wood. The applicant states that the proposed wood fencing is more compatible with the existing neighborhoods, is easier to repair than masonry fencing, and would not attract graffiti. Additionally, the proposed wood fencing would be more cost effective. However, the Planning Commission specifically requested that the rear and side yard fencing be constructed out of masonry materials.

### **5.0 PROJECT INFORMATION**

#### **5.1 Site Information**

<b>2.1 Site Information</b>	
Comprehensive Plan Designation	RES 3.3; Residential, 3.3 units per acre
Zoning District, Ordinance	Design Residential, DR -3.3, LUDC, 3.3 dwelling units per gross acre
Site Size	18.78 acres gross/net
Present Use & Development	Old Mill Run Subdivision
Surrounding Uses/Zoning	North: Residential: 10-R-1, 20-R-1

	South: Residential: 10-R-1, MHP (Mobile Home Park) East: Residential: 10-R-1 West: Residential: 1-E-1
Access	Access to the property is via Blosser Road
Public Services	Water Supply: Golden State Water Company Sewage: Laguna County Sanitation District Fire: Santa Barbara County Fire Department School District: Santa Maria Joint Union High School District, Orcutt Union School District.

## 5.2 Project Description

The proposed project is a request of Jay Higgins, agent for Capital Pacific Homes, owner, to consider case number 07RMM-00000-00006 for approval under County Code Chapter 21 to modify condition # 69 of TM 14,532 as follows:

**“Side and rear yard fencing types and materials shall be of ~~masonry materials~~ wood fencing and shall be reviewed and approved including the design by the Board of Architectural Review prior to approval of land use permits zoning clearance.”**

The site is located in the DR-3.3 zone district under the Santa Barbara County Land Use and Development Code, located at the corner of Blosser and Old Mill Roads, Orcutt area, Fourth Supervisorial District. No grading, tree or vegetation removal is proposed as a part of this project. All Conditions of Approval and specifications for the project as approved for TPM 14,532 remain in place except for the modification to condition # 69 as proposed for 07RMM-000000-00006.

## 5.3 Background Information

TM 14,532 (Old Mill Run) to divide 19.28-acres into 60 parcels, and 99-DP-029 to develop 58 single family residences was conditionally approved by the Planning Commission on May 19, 2004. Condition #69, which requires that side and rear yard fencing be constructed of masonry materials, was added by the Planning Commission during their hearing on May 19, 2004. Subsequently, the property was sold, and the new developers are now requesting the subject modification to TM 14,532. In addition, the new developers recently received a Substantial Conformity Determination to phase required landscaping and lighting improvements, and another Recorded Map Modification is being processed to eliminate on-site affordable housing requirements through the payment of in lieu fees and corresponding open space requirements.

## 6.0 PROJECT ANALYSIS

### 6.1 Environmental Review

Pursuant to Section 15270 of the State CEQA Guidelines, projects which are disapproved are statutorily exempt from CEQA requirements. Because it does not appear that the necessary findings can be made for the approval of the applications filed, staff has not conducted formal environmental review. If the Planning Commission (or Board of Supervisors on appeal) believes the application has merit and that there is a possibility that required findings can be made, the matter will have to be referred back to staff for environmental review.

### 6.2 Comprehensive Plan/Zoning/Subdivision Regulation Compliance

The proposed request to modify a condition relative to fencing is not a Comprehensive Plan consistency or zoning compliance issue per se. However, it would appear that one of the required findings for the requested recorded map modification, as specified in the Chapter 21 Subdivision Regulations, cannot be made.

Pursuant to Section 21-15.9(h) of the Subdivision Regulations, modifications to recorded final or parcel maps, lot split/plats or lot line adjustments shall be approved only if all of the following findings can be made, specifically the finding that:

***There are changes in circumstances that make any or all of the conditions of such a recorded final or parcel map, lot split plat or lot line adjustment no longer appropriate or necessary;***

In this case, there have been no changes to the site, its surroundings or circumstances that would suggest that the Planning Commission's original requirement for masonry walls was inappropriate. The applicant notes current economic trends affecting the housing market as a basis for the request but the Planning Commission must decide whether this alone warrants the proposed changes.

### 6.3 Subdivision/Development Review Committee

There were no departments that had conditions of approval.

## 7.0 APPEALS PROCEDURE

The action of the Planning Commission may be appealed to the Board of Supervisors within 10 calendar days of said action: The appeal fee to the Board of Supervisors is \$443.

## ATTACHMENTS

- A. Findings
- B. Site Plan



## ATTACHMENT A: FINDINGS

### **1.0 CEQA FINDINGS**

- 1.1 Denial of the subject Recorded Map Modification is exempt from the requirements of the California Environmental Quality Act (CEQA) pursuant to Public Resources Code Section 21080(b)(5) and State CEQA Guidelines Section 15270. Pursuant to County CEQA Guidelines, staff may file a Notice of Exemption when the action to deny becomes final.
- 1.2 The documents and other materials which constitute the record of proceedings upon which this decision is based are in the custody of the Secretary of the Santa Barbara County Planning Commission, Ms. Dianne Black, Planning and Development Department, located at 123 E. Anapamu St., Santa Barbara, CA 93101.

### **2.0 ADMINISTRATIVE FINDINGS**

#### **2.1 Findings for denial of the subject Recorded Map Modification**

Pursuant to Section 21-15.9 of the Subdivision Regulations, modifications to recorded final or parcel maps, lot split plats or lot line adjustments shall be approved only if all of the following findings can be made:

- 2.1.1. *There are changes in circumstances that make any or all of the conditions of such a recorded final or parcel map, lot split plat or lot line adjustment no longer appropriate or necessary;***

At the Planning Commission hearing of May 19, 2004, condition #69 from TM 14,532 was added to the project requiring all rear and side yard fencing to be constructed of masonry materials. Subsequently the applicant has requested that all rear and side yard fencing be constructed out of a wood type of material based on maintenance feasibility and installation costs. There have not been any changes in circumstances which would cause condition #69 to be no longer appropriate. Therefore, this finding cannot be made.

- 2.1.2 *The modification does not impose any additional burden on the present fee owner(s) of the property;***

The project is being acted on by the Planning Commission at the request of the present fee owners of the property. No additional undue burden has been identified by County staff, the applicant or the agent.

- 2.1.3 *The modification does not alter any right, interest or title reflected by the recorded final or parcel map, lot split plat or lot line adjustment;***

Neither the proposed RMM nor the anticipated future development would have any impacts on any right, interest or title of TM 14,532.

**2.1.4 *The recorded final or parcel map, lot split plat or lot line adjustment as modified conforms to the provisions of Section 66474 of the California Government Code;***

The recorded parcel map as modified conforms to the provisions of Section 66474 of the California Government Code (i.e. it does not trigger any of the grounds for denial of a tentative or parcel map).

**2.1.5 *The recorded final or parcel map, lot split plat or lot line adjustment as modified is consistent with the applicable zoning ordinance;***

The project site is suitable for residential development as permitted in the DR-3.3 Zone District. The proposed modification would not affect the density or type of development permitted in the DR-3.3 Zone District.

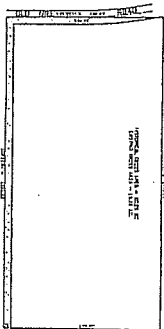
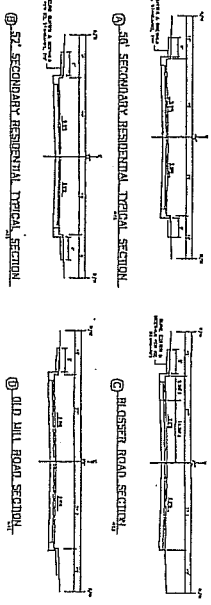
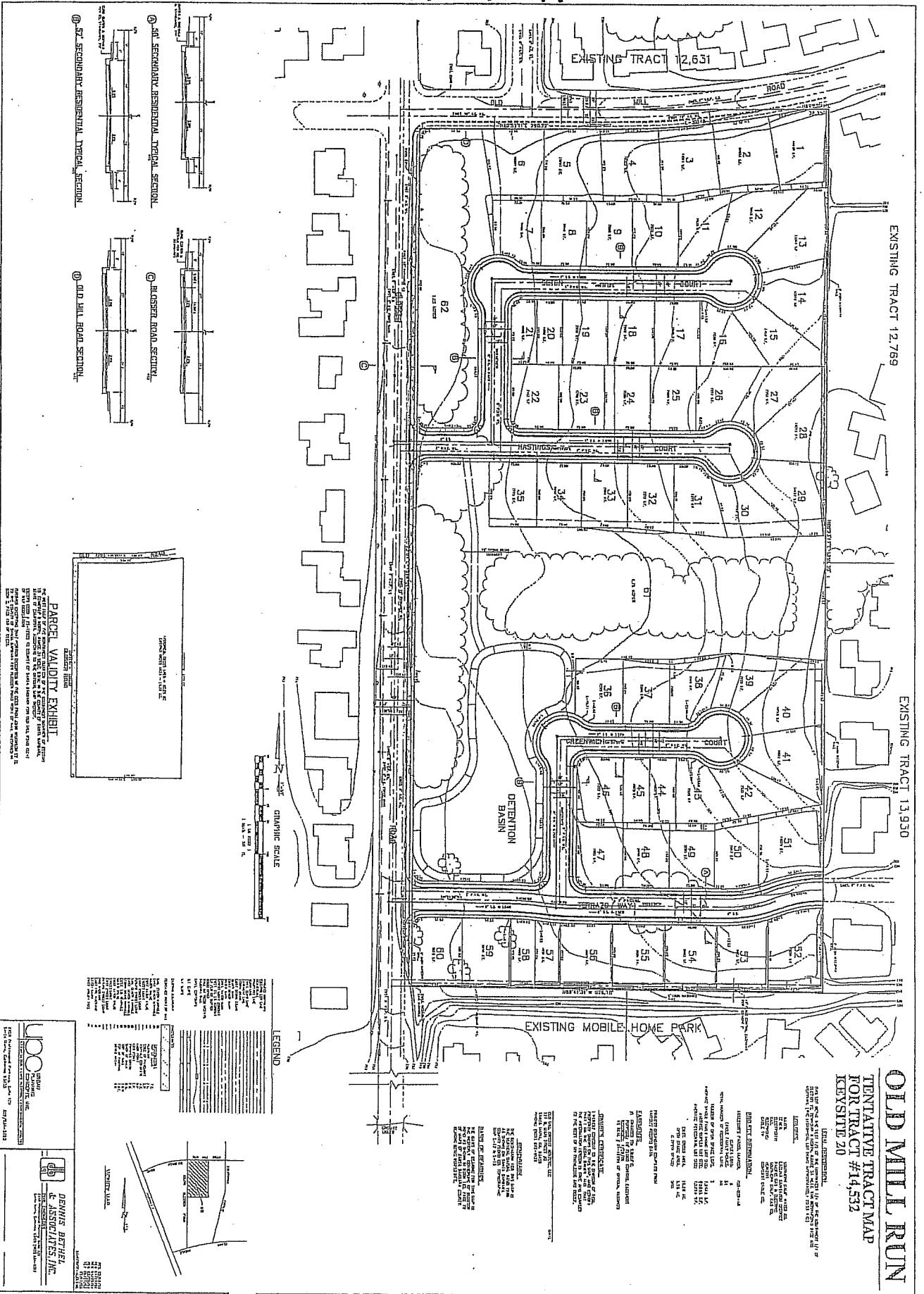
**2.1.6 *The property for which the modification is sought is in compliance with all laws, rules and regulations pertaining to zoning uses, subdivisions, height and setbacks, and any other provisions applicable to the property for which the modification is sought, and such enforcement fees as established from time to time by the Board of Supervisors have been paid;***

The property is in compliance with all laws, rules and regulations pertaining to zoning uses, subdivisions, height and setbacks. There existing development is permitted and there are no zoning violations on the property.

**2.1.7 *The recorded final or parcel map or lot line adjustment as modified does not result in an increase in number of dwelling units or a greater density than the recorded final or parcel map or lot line adjustment.***

The recorded parcel map as modified would not result in an increased number of dwelling units or a greater density than the existing condition.

# ATTACHMENT B SITE PLAN



**LEGEND**

	PROPOSED ROAD
	EXISTING ROAD
	PROPOSED DRIVEWAY
	EXISTING DRIVEWAY
	PROPOSED LOT
	EXISTING LOT
	PROPOSED EASEMENT
	EXISTING EASEMENT
	PROPOSED UTILITY
	EXISTING UTILITY
	PROPOSED STORMWATER BASIN
	EXISTING STORMWATER BASIN
	PROPOSED STORMWATER POND
	EXISTING STORMWATER POND
	PROPOSED STORMWATER CHANNEL
	EXISTING STORMWATER CHANNEL
	PROPOSED STORMWATER STRUCTURE
	EXISTING STORMWATER STRUCTURE
	PROPOSED STORMWATER INLET
	EXISTING STORMWATER INLET
	PROPOSED STORMWATER OUTLET
	EXISTING STORMWATER OUTLET
	PROPOSED STORMWATER MANHOLE
	EXISTING STORMWATER MANHOLE
	PROPOSED STORMWATER CATCHMENT BASIN
	EXISTING STORMWATER CATCHMENT BASIN
	PROPOSED STORMWATER DETENTION BASIN
	EXISTING STORMWATER DETENTION BASIN
	PROPOSED STORMWATER STORAGE BASIN
	EXISTING STORMWATER STORAGE BASIN
	PROPOSED STORMWATER TREATMENT BASIN
	EXISTING STORMWATER TREATMENT BASIN
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	PROPOSED STORMWATER SEDIMENTATION BASIN
	EXISTING STORMWATER SEDIMENTATION BASIN
	PROPOSED STORMWATER RETENTION BASIN
	EXISTING STORMWATER RETENTION BASIN
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	PROPOSED STORMWATER STORAGE POND
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	PROPOSED STORMWATER SEDIMENTATION POND
	EXISTING STORMWATER SEDIMENTATION POND
	PROPOSED STORMWATER RETENTION POND
	EXISTING STORMWATER RETENTION POND

**UPCO**  
 1000 Park Avenue, Suite 1000, New York, NY 10022-1000  
 212-850-1100

**DAVINS, BETHSEL & ASSOCIATES, INC.**  
 1000 Park Avenue, Suite 1000, New York, NY 10022-1000  
 212-850-1100

**OLD MILL RUN**  
 TENTATIVE TRACT MAP  
 FOR TRACT #14,532  
 KEYSITE 20



ATTACHMENT C



PLANNING & DEVELOPMENT  
APPEAL FORM

SITE ADDRESS: BLOSSER AND TERRAZO WAY, ORCUTT, CA

ASSESSOR PARCEL NUMBER: 105-020-46; TRACT 14,532

PARCEL SIZE (acres/sq.ft.): Gross 20 ACRES Net 19.28 ACRES

COMPREHENSIVE/COASTAL PLAN DESIGNATION: PD ZONING: DESIGN RESIDENTIAL 3.3

Are there previous permits/applications? no yes numbers: 07RMM-00000-00006, 99-DP-029, TTM 14,532  
(include permit# & lot # if tract)

Are there previous environmental (CEQA) documents? no yes numbers: 95-EIR-01

1. Appellant: JAY HIGGINS, CAPITAL PACIFIC HOMES Phone: 805-692-2006 X 205 FAX: \_\_\_\_\_

Mailing Address: 4050 CALLE REAL, SANTA BARBARA, CA 93110 E-mail: \_\_\_\_\_  
Street City State Zip

2. Owner: MLB OM 54, LLC Phone: \_\_\_\_\_ FAX: \_\_\_\_\_

Mailing Address: 1280 BISON AVENUE, SUITE B9518, NEWPORT BEACH, CA 92660 E-mail: \_\_\_\_\_  
Street City State Zip

3. Agent: JAY HIGGINS, CAPITAL PACIFIC HOMES Phone: \_\_\_\_\_ FAX: \_\_\_\_\_

Mailing Address: \_\_\_\_\_ E-mail: \_\_\_\_\_  
Street City State Zip

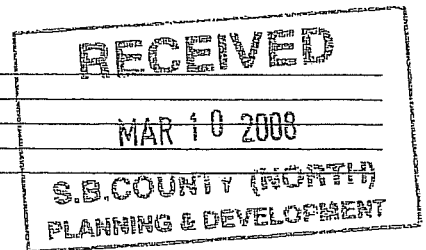
4. Attorney: STEVEN A. AMERIKANER Phone: 805-963-7000 FAX: \_\_\_\_\_

Mailing Address: 21 E. CARRILLO STREET, SANTA BARBARA, CA 93101 E-mail \_\_\_\_\_  
Street City State Zip

COUNTY USE ONLY

Case Number: 08APL-00000-00011 for 07RMM-00006  
Supervisor: CPH Appeal  
Applicable Z: 105-020-046  
Project Plan: Blosser Road and Terrazzo Way  
Zoning Desi: DR-3.3  
Planner: Dana Carmichael

Companion Case Number: \_\_\_\_\_  
Submittal Date: \_\_\_\_\_  
Receipt Number: \_\_\_\_\_  
Accepted for Processing \_\_\_\_\_  
Comp. Plan Designation \_\_\_\_\_



# COUNTY OF SANTA BARBARA APPEAL TO THE :

BOARD OF SUPERVISORS

PLANNING COMMISSION:  COUNTY  MONTECITO

RE: Project Title OLD MILL RUN SUBDIVISION DESIGN CONDITION TO ALLOW WOOD FENCING

Case No. 07RMM-00000-00006

Date of Action FEBRUARY 27, 2008

I hereby appeal the  approval  approval w/conditions  denial of the:

Board of Architectural Review – Which Board? \_\_\_\_\_

Coastal Development Permit decision

Land Use Permit decision

Planning Commission decision – Which Commission? COUNTY

Planning & Development Director decision

Zoning Administrator decision

### Is the appellant the applicant or an aggrieved party?

Applicant

Aggrieved party – if you are not the applicant, provide an explanation of how you are and "aggrieved party" as defined on page two of this appeal form:

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Reason of grounds for the appeal – Write the reason for the appeal below or submit 8 copies of your appeal letter that addresses the appeal requirements listed on page two of this appeal form:

- A clear, complete and concise statement of the reasons why the decision or determination is inconsistent with the provisions and purposes of the County's Zoning Ordinances or other applicable law; and
- Grounds shall be specifically stated if it is claimed that there was error or abuse of discretion, or lack of a fair and impartial hearing, or that the decision is not supported by the evidence presented for consideration, or that there is significant new evidence relevant to the decision which could not have been presented at the time the decision was made.

PLEASE SEE CONCLUSION LETTER DATED MARCH 10, 2008

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**Specific conditions imposed which I wish to appeal are (if applicable):**

- a. THE CONDITION OF APPROVAL THAT REQUIRES REAR AND SIDE YARDS OF THE SUBDIVIDED HOMEOWNER LOTS TO BE DEMARKATED WITH MASONRY BLOCK WALLS. PLEASE SEE ATTACHED COVER LETTER DATED MARCH 10, 2008.
- b. \_\_\_\_\_
- c. \_\_\_\_\_
- d. \_\_\_\_\_


**Please include any other information you feel is relevant to this application.**


**CERTIFICATION OF ACCURACY AND COMPLETENESS** Signatures must be completed for each line. If one or more of the parties are the same, please re-sign the applicable line.


Applicant's signature authorizes County staff to enter the property described above for the purposes of inspection.

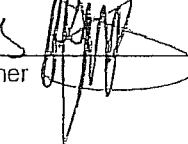
*I hereby declare under penalty of perjury that the information contained in this application and all attached materials are correct, true and complete. I acknowledge and agree that the County of Santa Barbara is relying on the accuracy of this information and my representations in order to process this application and that any permits issued by the County may be rescinded if it is determined that the information and materials submitted are not true and correct. I further acknowledge that I may be liable for any costs associated with rescission of such permits.*

JAY HIGGINS  3-9-08  
Print name and sign - Firm Date

Jay Higgins  3-9-08  
Print name and sign - Preparer of this form Date

JM Higgins  3-9-08  
Print name and sign - Applicant Date

JM Higgins  ON BEHALF OF CAPITAL PACIFIC HOME'S 3-9-08  
Print name and sign - Agent Date

COMIN MORRIS  ON BEHALF OF MCB OLM 54 LLC 3-10-  
Print name and sign - Landowner Date



APPEAL TO THE BOARD OF SUPERVISORS  
COUNTY OF SANTA BARBARA

Submit to: Clerk of the Board  
County Administration Building  
105 E. Anapamu Street, Suite 407  
Santa Barbara, CA 93101

2008 MAR 10 AM 10:20

COUNTY OF SANTA BARBARA  
CLERK OF THE  
BOARD OF SUPERVISORS

RE: Project Title OLD MILL RUN 07 RMM - 00000 - 00066

Case Number 11 11

Tract/ APN Number 14532

Date of action taken by Planning Commission, Zoning Administrator, or Surveyor 2-27-08

I hereby appeal the Denial of the PLANNING COMMISSION  
(approval/ approval with conditions/ or denial) (Planning Commission/ Zoning Administrator/ or County Surveyor)

Please state specifically wherein the decision of the Planning Commission, Zoning Administrator, or Surveyor is not in accord with the purposes of the appropriate zoning ordinance (one of either Articles I, II, III, or IV), or wherein it is claimed that there was an error or an abuse of discretion by the Planning Commission, Zoning Administrator, or Surveyor. {References: Article I, 21-71.4; Article II 35-182.3, 2; Article III 25-327.2, 2; Article IV 35-475.3, 2}

Attach additional documentation, or state below the reason(s) for this appeal.

Please see ATTACHED MEMORANDUM DATED MARCH 10, 2008

Specific conditions being appealed are:

DENIAL OF REZONING MAP MODIFICATION ~~DATA~~ TO RESUB FONCI.

Name of Appellant (please print): JIM HIGGINS

Address: 4050 CALLE REAL # 200B  
SANTA BARBARA, CA 93111 805 637-6670  
(City/ State/ Zip Code) (Telephone)

Appellant is (check one):  Applicant  Agent for Applicant  Third Party  Agent for Third Party

Fee \$ 443 {Fees are set annually by the Board of Supervisors. For current fees or breakdown, contact Planning & Development or Clerk of the Board. Check should be made payable "County of Santa Barbara".}

Signature: [Signature] Date: 3-10-08

FOR OFFICE USE ONLY

Hearing set for: \_\_\_\_\_ Date Received: \_\_\_\_\_ By: \_\_\_\_\_ File No. \_\_\_\_\_

March 10, 2008

Board of Supervisors  
County of Santa Barbara  
105 East Anapamu Street  
Santa Barbara, CA 93101

RE: Old Mill Run; 07RMM-00000-00006; APN 105-020-046

Dear Board of Supervisors:

On May 18, 2004 the County Planning Commission approved the Old Mill Run subdivision project (Project) with Tentative Tract Map, 14,532 and Development Plan 99-DP-029. The Project was conditioned to provide side and rear yard fencing of masonry material. Subsequent design approval of the subject fencing by the Board of Architectural Review was also conditioned.

Capital Pacific Homes (CPH) later purchased the property and Project, and brought the Project before the Board of Architectural Review for design related approvals, of which the subject fencing was one. *On September 8, 2006, the Board of Architectural Review specifically requested that CPH bring the Project back to the Planning Commission to revise the condition of approval to allow wood fencing in place of masonry.*

On April 13, 2007 CPH filed an application for a Recorded Map Modification to revise the Project conditions of approval to allow for wood fencing. On February 27, 2008, the County Planning Commission denied the application request purportedly because no finding could be made that there had been changes in circumstances that made the condition of approval no longer necessary.

We are herein filing an appeal of the Planning Commission denial, as the applicant, based on a lack of evidence by the Commission in support of the denial.

CPH provided ample material to the Planning Commission that circumstances had changed from 2004, when the Project was approved, and today. The applicant and original developer of the Project proposed *standard* wood or vinyl fencing in 2004. Standard wood fencing is comprised of untreated 1/2-inch cedar planks that are supported by 4X4 wooden posts sunk directly into the ground. CPH proposed a new detail that called for weather-proofed 1-inch redwood planks, supported by steel posts sunk into concrete.

New design and architectural information was also presented during the February 27, 2008 hearing:

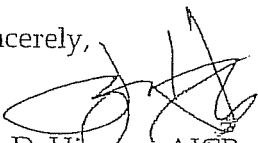
- Photos of the existing homes at the Project site were shown to demonstrate that masonry walls would be an incompatible design.
- Photographs of block walls and the potential for unintended hardscaping inside planter areas were also shown.
- Potential graffiti problems and an *actual* graffiti incident at the site were cited.
- Cost information of installed masonry materials was presented demonstrating a 40% price increase. This information was also conveyed to the Commission in terms of the sagging real estate market and a general concern for the cost of housing, of which construction costs are a factor.
- The unanimous recommendation by the Board of Architectural Review to return to the Planning Commission to amend the condition was also presented.

The above information which was not presented or available to the Planning Commission in 2004, substantiates that in fact, circumstances have changed that make the masonry walls no longer necessary.

We note that since 2000, the Planning Commission has made positive findings for Recorded Map Modifications on 30 out of a total of 32 applications. The bar for finding a change in circumstances is apparently low. As recently as October, 2007, the Planning Commission found that because an applicant had a "change in lifestyle" a Recorded Map Modification was granted (07RMM-00000-00002). Similarly, in December of 2007, the Planning Commission found that a change in project conditions was approvable because of a retrospective change of heart, and not a change of site conditions (07RMM-00000-00008). And in December, 2006, the Commission found that even in light of an increased potential for environmental impacts, a Recorded Map Modification should be granted in light of a lack of policy inconsistencies (06RMM-00000-00003). We note that Planning and Development Department staff has previously found that our Project request is equally lacking in any County planning policy inconsistencies.

Finally, we request that a hearing before the Board of Supervisors be held to continue what Commissioner Blough had suggested as an alternative motion during the February 27, 2008 hearing: to continue the matter to allow CPH to provide a sample of the wood fence material that has been proposed. It would appear a hearing without such detail and information and would be in fact incomplete and partial.

Sincerely,



Jay D. Higgins, AICP

- c. Steven A. Amerikaner, Brownstein, Hyatt, Farber, Shreck  
Gavin Moores, CPH  
Joni Gray, County 4<sup>th</sup> District Supervisor  
Dana Carmichael, County Planning & Development