



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: July 14, 2009
Placement: Set Hearing
Estimated Tme: 1 hour on August 18,
2009
Continued Item: No
If Yes, date from:
Vote Required: Majority

TO: Board of Supervisors

FROM: Department John Baker, Director, 568-2085
Director(s) Planning and Development
Contact Info: Dave Ward, Deputy Director, 568-2520
Development Review Division - South County

SUBJECT: **Set Hearing to Consider an Appeal of the Montecito Planning Commission's
Approval of a Coastal Development Permit for the Terzian Cabana Alterations,
Case Number 09APL-00000-00017**

County Counsel Concurrence

As to form: N/A

Auditor-Controller Concurrence

As to form: N/A

Other Concurrence

As to form: N/A

Recommended Actions:

Set Hearing for the August 18, 2009 Departmental Agenda to consider the request of Susan Basham, attorney for Paul Colombo, to consider the appeal, Case Number 09APL-00000-00017 [appeal filed June 5, 2009], of the Montecito Planning Commission's approval of the Coastal Development Permit for the Terzian Cabana Alterations for exterior alterations to an existing cabana, Case Number 09CDH-00000-00005, in compliance with Section 35-182 of the Article II Coastal Zoning Ordinance, on property located in the 1-E-1 zone. The application involves AP No. 009-360-005, located at 1491 Edgecliff Lane in the Montecito Area, First Supervisorial District. (Time estimate 1 hour; 15 minute staff presentation)

Follow the procedures outlined below and deny the appeal, Case Number 09APL-00000-00017, and conditionally approve the project, Case Number 09CDH-00000-00005, marked "Officially Accepted, County of Santa Barbara (May 27, 2009) Montecito Planning Commission Exhibit 1" based upon the project's consistency with the Comprehensive Plan, including the Coastal Land Use Plan and Montecito Community Plan, and based on the ability to make the required findings.

Your motion should include the following:

1. Deny the appeal, Case No. 09APL-00000-00017;
2. Adopt the required findings for approval of the project, Case Number 09CDH-00000-00005, specified in Attachment A of the Montecito Planning Commission's action, including CEQA findings (Attachment A of this Agenda Letter);
3. Accept the CEQA exemption included as Attachment B of the staff report to the Montecito Planning Commission for Case Number 09CDH-00000-00005 (Attachment B of this Agenda Letter); and
4. Approve the project, Case Number 09CDH-00000-00005, subject to the conditions of approval included as Attachment C of the Montecito Planning Commission's action (Attachment A of this Agenda Letter).

Alternatively, refer back to staff if your Board takes other than the recommended action for appropriate findings and, if necessary, conditions of approval.

Summary Text:

Summary Project Description

Condition #1 of the Montecito Planning Commission's action letter for Case Number 09CDH-00000-00005 contains a complete description of the proposed cabana alterations (page C-1, Attachment A of this Agenda Letter). In summary, the applicant requested a Coastal Development Permit for non-structural exterior alterations to the nonconforming cabana located in the southwest corner of the 0.59-acre (25,707 square-feet) subject parcel. The project includes the following:

- Replace existing wood railings with new wrought iron railings on the roof/observation deck and second-level deck;
- Replace existing windows and doors;
- Replace existing concrete roof tile (eyebrow) with copper standing-seam roofing; and
- Replace existing wood siding with new lap wood-siding (tongue and groove, horizontal).

The applicant's permit application included architectural elevations of the existing cabana (Attachment C of this Agenda Letter) and the proposed alterations to the existing cabana (Attachment D of this Agenda Letter). The existing cabana totals approximately 1,515 square feet. The project would not change or expand the existing size, height or footprint of the cabana. No structural alterations are proposed.

Montecito Planning Commission's Review and Approval

The Montecito Planning Commission considered the proposed project in a public hearing on May 27, 2009. The appellant Paul Colombo raised several issues before and during the hearing. In part, the appellant expressed concerns regarding the impact of the cabana on his privacy. He believes the

applicant plans to use the cabana for social activities and that visitors will have views into his backyard from the rooftop deck of the cabana. The appellant also asserted that a former property owner increased the size and height of the cabana without permits and that the applicant recently completed structural alterations to the cabana in violation of the zoning requirements for nonconforming buildings. The Planning and Development Department (P&D) staff investigated and addressed these concerns in its staff report to the Montecito Planning Commission (Attachment B of this Agenda Letter). The Montecito Planning Commission considered these concerns and ultimately adopted the required findings attached to the staff report and conditionally approved the proposed cabana alterations.

Appeal Issues

The appellant's appeal application, filed June 5, 2009, outlines why the appellant disagrees with the Montecito Planning Commission's approval of the proposed project (Attachment E of this Agenda Letter). The following paragraphs summarize and respond to the applicant's key issues. Additional information may be found in the P&D's staff report to the Montecito Planning Commission (Attachment B of this Agenda Letter).

1. Unauthorized Expansion of Cabana

Appellant's Issue: The appellant contends that the existing cabana is illegal because it was expanded without required permits. The appellant's appeal states, "In 1946 the County issued a building permit for the cabana in question with a footprint measuring 13' x 30' and a height of 15'. Today it is nearly three time larger and has several roof decks . . . Historical photographic evidence confirms that the structure did not have these decks when originally constructed and the structure was expanded many years after 1946, . . . without benefit of required permits . . ."

P&D's Response: The County processed an "Application for Use Permit" (Application No. 686) for the cabana in 1946. Application No. 686 describes the use of the cabana as "Two rooms above, boathouse dressing rooms & shower below—on seawall" (page D-2, Attachment B of this Agenda Letter). The site plan for Application No. 686 shows a cabana with a 13-foot x 30-foot footprint (page D-3, Attachment B of this Agenda Letter). The site plan does not specify whether these dimensions represent the lower-level or upper-level footprint of the cabana. Additional information on the background and status of the cabana may be found in Sections 5.4.2 (page 5, "Permit History of Cabana"), 5.4.3 (page 5, "Current status of Cabana") and 6.3 (pages 10 and 11, "Zoning: Land Use and Development Code Compliance") of the staff report to the Montecito Planning Commission (Attachment B of this Agenda Letter).

The site plan for the proposed cabana alterations (page E-1, Attachment B of this Agenda Letter) shows a cabana with a lower-level footprint of approximately 16-feet x 47-feet and an upper-level footprint of approximately 24-feet x 47-feet. On August 15, 2005, Lincoln Thomas, Building Inspector with the County Building and Safety Division, inspected the exterior of the cabana. He concluded that the size and height of the cabana have not increased since the cabana was constructed in 1946.

P&D initially addressed this same issue more than four years ago. On October 13, 2005, P&D sent the applicant's agent a letter stating, "We [staff] recognize as legal the size and height of the existing cabana . . ." (Attachment F in Attachment B of this Agenda Letter). The letter noted that the site plan for Application No. 686 appears to be inaccurate.

In response to the appellant's concerns, Kevin Greene, Building Inspector with the County Building and Safety Division, inspected the cabana on April 29, 2009; May 4, 2009; May 5, 2009 and May 27, 2009. Mr. Greene required the applicant's contractor to remove drywall from the interior ceilings and walls in order to expose studs, joints, rafters and other supporting members. Based on these inspections, the Building and Safety Division concluded that the overall size and height of the cabana have not increased since the cabana was originally constructed. It also determined that interior remodeling and re-roofing activities initiated in mid-2007 and mid-2008, respectively, did not include any structural alterations to the cabana.

P&D staff located oblique aerial photographs that show the cabana in 1987 (California Coastal Records Project, 8706148), 2002 (California Coastal Records Project, 20023313) and 2004 (California Coastal Records Project, 200404898) (Attachments F, G and H, respectively, of this Agenda Letter). The cabana shown in these photographs generally matches the current cabana.

2. Neighbor's Privacy

Appellant's Issue: The appellant expressed concerns regarding the impact of the cabana on his privacy. His appeal application states, ". . . [cabana] has several roof decks, one of which looms over the appellant's adjacent property, compromising his privacy."

P&D's Response: The Montecito Planning Commission considered this issue. The existing cabana includes roof top decks. This is not a new or proposed use. As mentioned above, Kevin Greene, Building Inspector with the County Building and Safety Division inspected the exterior and interior of the cabana on five separate occasions, including the rafters for the rooftop deck on May 5, 2009. He concluded that the rafters were part of the original structure and were designed to support a rooftop deck. The proposed cabana alterations would not expand or otherwise affect the existing rooftop deck.

Furthermore, the Coastal Land Use Plan, Montecito Community Plan and Coastal Zoning Ordinance do not contain policies or standards that address the privacy issues raised by the appellant. The *Montecito Architectural Guidelines and Development Standards* includes several provisions that encourage property owners to consider their neighbor's privacy when designing projects. The Montecito Board of Architectural Review (MBAR) considers these provisions as part of the design review process. The proposed project is subject to review and approval by MBAR. However, the appellant's concerns are beyond the scope of MBAR's review because the rooftop decks are an existing use and the proposed project would not expand or otherwise affect this existing use.

3. Structural Alterations to Cabana

Appellant's Issue: The appellant seems to assert that the proposed project includes structural alterations to the existing cabana. The appellant stated, "It [cabana] is structurally deteriorated . . . yet the applicant purportedly intends to undertake only exterior repair and maintenance activity."

P&D's Response: This issue was addressed in Section 6.3 of the staff report to the Montecito Planning Commission (pages 10 and 11, Attachment B of this Agenda Letter). In summary, the existing cabana does not meet current setback, height and size standards and, therefore, is a nonconforming building. The cabana may remain provided it conforms to the zoning requirements for nonconforming buildings in Section 35-162 ("Nonconforming Buildings and Structures") of the Coastal Zoning Ordinance. In

general, these requirements prohibit structural alterations to the cabana. Section 35-58 (“Definitions”) of the Coastal Zoning Ordinance includes the following definition:

Structural Alteration: Any change in the supporting members of a building or structure, such as bearing walls, column beams or girders or in the dimensions or configuration of the roof.

The proposed project is limited to non-structural exterior alterations to the existing cabana, such as replacing existing railings, windows, doors, roof tile and siding. The project must comply with the approved project description in Condition #1 (pages C-1 and C-2, Attachment A of this Agenda Letter) which states, “The proposed project is for non-structural exterior alterations to the nonconforming cabana . . . No structural alterations are proposed or intended to be approved as part of the proposed project . . . The project will not enlarge, extend, move, or structurally alter the cabana. It will not change or expand the existing size, height or footprint of the cabana . . .”

Facilitation Process:

The County has established a facilitation process to help resolve land use disputes between project applicants and persons challenging the Planning Commission’s approval of proposed land use projects (Resolution Number 95-462). County Counsel is in the process of scheduling a meeting with the appellant and applicant to discuss possible resolution of the appeal issues. County Counsel will submit a memorandum to your Board before the appeal hearing that summarizes the results of the facilitation process. P&D will review County Counsel’s memorandum and comment as appropriate.

Background:

Sections 5.4 (pages 5 and 6, “Background Information”) and 6.3 (pages 10 and 11, “Zoning: Land Use and Development Code Compliance”) of the staff report to the Montecito Planning Commission provide background information on the subject parcel and existing cabana (Attachment B of this Agenda Letter). This information has been summarized in this Agenda Letter.

Prior to the current permit application for cabana alterations, the Montecito Planning Commission also approved the applicant’s request for a Coastal Development Permit (Case Number 05CDH-00000-00026; approved February 20, 2008) to demolish an existing residence and accessory structures and construct an approximately 3,431 square-foot residence, approximately 658 square-foot attached garage, approximately 791 square-foot detached recreation room and pool on the subject parcel. The applicant recently demolished the existing structures and began constructing the new residence and recreation room. This permit did not authorize any alterations to the existing cabana.

The applicant began remodeling the interior of the cabana in mid-2007 without County review or permits. The applicant has taken steps to correct this matter. In part, the applicant obtained building permits for interior alterations and new roofing material. In mid-2008, the applicant began removing exterior features of the cabana without zoning or building permits. These features included railings on the rooftop deck. The applicant subsequently ceased these demolition activities and submitted an application for this Coastal Development Permit. The proposed project includes removing and replacing existing railings, windows and doors. There are no outstanding zoning violations associated with the cabana or other aspects of the subject parcel.

Fiscal Impacts:

Budgeted: Yes

The project site is located in the Appeals Jurisdiction of the Coastal Zone. As a result, the appellant was not required to pay a fee to file this appeal according to the County's fee schedule. The County's Fiscal Year 2009-2010 Operating Plan – Proposed Budget includes funds for processing appeals (page D-308, Section D, Permitting and Compliance of the Operating Expenditures for Development Review - South). The estimated time and cost for processing this appeal are approximately 32 hours and \$4,900.00.

Staffing Impacts:

None.

Special Instructions:

The Clerk of the Board shall publish a legal notice at least 10 days prior to the hearing on August 18, 2009. The notice shall appear in the Santa Barbara Daily Sound. The Clerk of the Board shall also fulfill the other noticing requirements. P&D will provide mailing labels for the mailed notice. The Clerk of the Board shall provide a minute order and a copy of the notice and proof of publication to P&D, attention David Villalobos.

Attachments:

- A. Montecito Planning Commission's Action Letter for Case Number 09CDH-00000-00005, dated May 29, 2009.
- B. Staff report to the Montecito Planning Commission for Case Number 09CDH-00000-00005, dated May 9, 2009
- C. Existing Cabana, Architectural Elevations (Sheet A3.1, James Mayo Macari, no date, received February 19, 2009)
- D. Proposed Alterations to Existing Cabana, Architectural Elevations (Sheet A3.2, James Mayo Macari, no date, received February 19, 2009)
- E. Applicant's Appeal to the Board of Supervisors, dated June 5, 2009
- F. Aerial Photograph of Cabana, 1987 (California Coastal Records Project, 8706148)
- G. Aerial Photograph of Cabana, 2002 (California Coastal Records Project, 20023313)
- H. Aerial Photograph of Cabana, 2004 (California Coastal Records Project, 200404898)

Authored by:

Allen Bell, Senior Planner (568-2033)

cc:

Dianne Black, Interim Director, P&D

Dave Ward, Deputy Director, Development Review Division, P&D

June Pujo, Supervising Planner, Development Review Division, P&D

Nina Terzian (applicant) (1560 Miramar Beach, Santa Barbara, CA 93108)

James Mayo Macari, AIA (applicant's architect) (519 Chiquita Road, Santa Barbara, CA 93103)

Terzian Cabana Alterations Appeal
Case Number 09APL-00000-00017
July 14, 2009
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Christopher Jacobs (applicant's attorney) (Brownstein Hyatt Farber Schreck LLC (21 E. Carrillo Street,
Santa Barbara, CA 93101)
Paul Columbo (appellant) (1483 Edgecliff Lane, Santa Barbara, CA 93108)
Susan Basham, Price, Postel & Parma LLC (appellant's attorney) (200 East Carrillo Street, Suite 400,
Santa Barbara, CA 93101)

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ATTACHMENT A

Montecito Planning Commission's Action Letter for Case Number 09CDH-00000-00005

May 29, 2009

ATTACHMENT B

Staff Report to the Montecito Planning Commission for Case Number 09CDH-00000-00005

May 9, 2009

ATTACHMENT C

Existing Cabana

1491
EDGECLIFF LN
TERZIAN
RESIDENCE
MONTECITO, CA
APR 18/2018

JAMES
MAYO
MAYO
ARCHITECTS
ARCHITECTS
1000 CANTON RD
SANTA MONICA, CA 90404
TEL: 310.310.1234
WWW.JAMESMAYOARCHITECTS.COM

REVISIONS

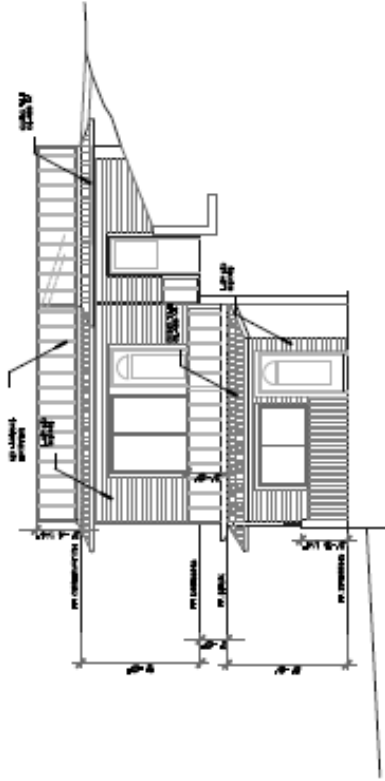
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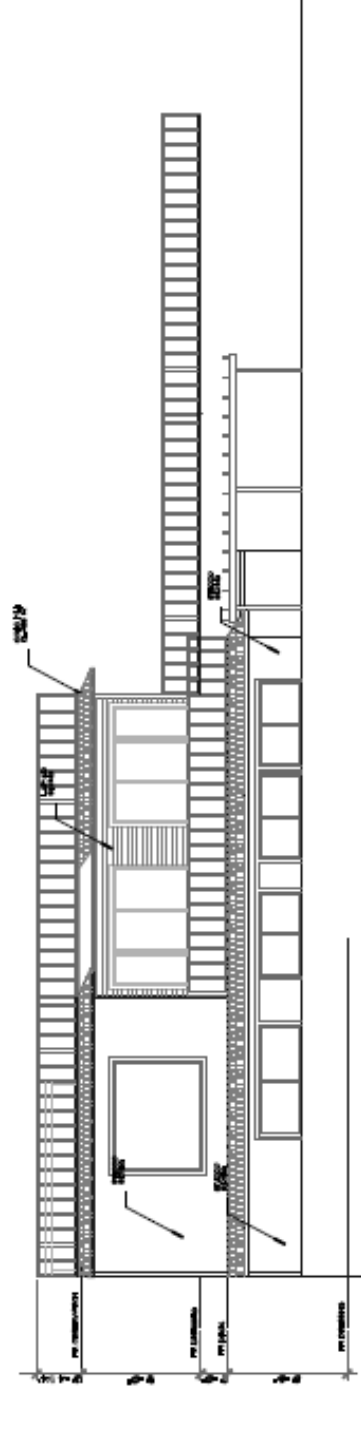
PROJECT TITLE
EXISTING CABANA EXT
ELEVATIONS

SHEET NO.
A3.1



② EAST ELEVATION

SCALE 1/4" = 1'-0"



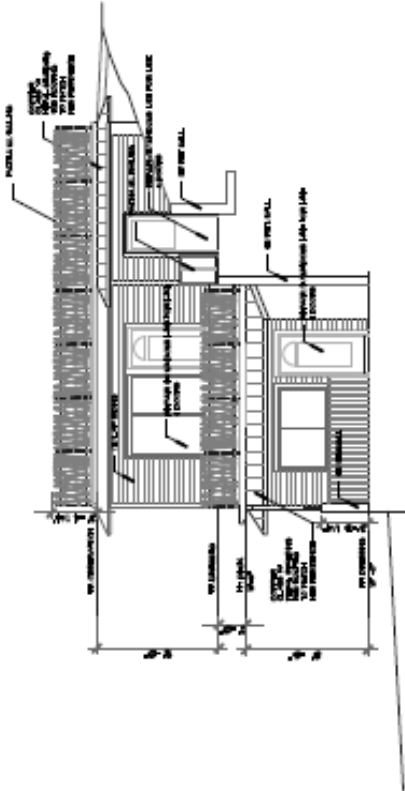
① SOUTH ELEVATION

SCALE 1/4" = 1'-0"

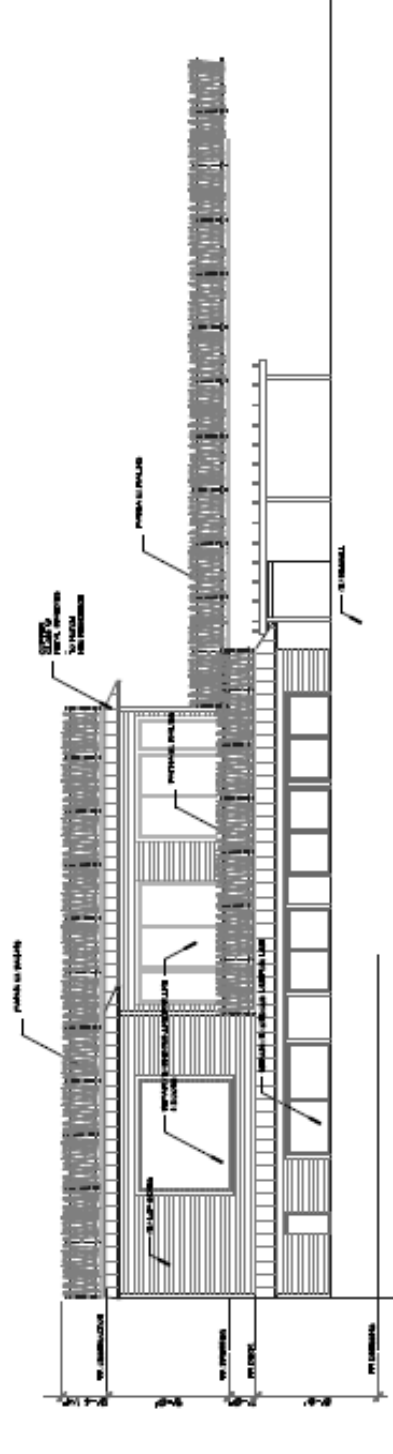
ATTACHMENT D

Proposed Alterations to Existing Cabana

1491 EDGECLIFF LN TERZIAN RESIDENCE MONTECITO, CA APR 2015/2015	JAMES MAYO MAGARI ARCHITECT/LLP	500 CERRITOS ROAD SANTA BARBARA, CA 93103 TEL 805 963-2000 WWW.JMARCHITECTURE.COM						PROJECT TITLE CABANA 5/MT ELEVATIONS	SHEET NO. A3.2
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2 EAST ELEVATION SCALE: 1/4" = 1' - 0"



1 SOUTH ELEVATION SCALE: 1/4" = 1' - 0"

ATTACHMENT E

Applicant's Appeal to the Board of Supervisors

June 5, 2009

ATTACHMENT F
Aerial Photograph of Cabana, 1987
(California Coastal Records Project, 8706148)



ATTACHMENT G
Aerial Photograph of Cabana, 2002
(California Coastal Records Project, 20023313)



ATTACHMENT H
Aerial Photograph of Cabana, 2004
(California Coastal Records Project, 200404898)

