



STAFF REPORT

TO: PLANNING COMMISSION

PREPARED BY: Anjana Mepani, Associate Planner

APPROVED BY: Terry Blount, AICP, Planning Manager

GENERAL INFORMATION

OWNER/APPLICANT: Richard Stahlberg

APPELLANT: Richard Stahlberg

LOCATION: 208 Arreba Street (APN 372-173-001)

PROPOSAL: Public hearing on an appeal of the denial decision of the Zoning Administrator for Use Permit #10-01 and Variance #10-01. The Zoning Administrator denied the applicant's request for Use Permit and Variance approval to allow reconstruction and renovation of a vacant single-family residence and garage.

GENERAL PLAN: Central Martinez Specific Area Plan: Group 2 Residential

ZONING: R-3.5 (Family Residential: 3,500 square feet per dwelling unit)

ENVIRONMENTAL REVIEW: Staff proposes that the Planning Commission find that this permit be categorically exempt (Class 1 - Section 15301, Existing Facilities and CLASS 3 - Section 15303, New Construction or Conversion of Small Structures) from the requirements of CEQA. If the Planning Commission adopts this proposed finding, no further environmental review would be required by State law.

RECOMMENDATION

Review appeal and staff report, accept public comment, and provide decision and/or input and direction to staff and the applicant.

BACKGROUND

The applicant has been considering the reconstruction and renovation of a vacant single-family residence and garage located at 208 Arreba Street for 15 years. As a basis to begin considering improvements to the property, it should be noted that the existing structure has an atypical placement on the 3700 square foot lot. On such a lot, the narrower Robinson Street frontage would be the "front yard" were the lot not already developed. However, the current residence was built in 1924 as one of a row of six bungalows from 208 to 236 Arreba Street (see attached Sanborn Map). The row of bungalows was subsequently subdivided into 50-foot deep lots, placing the entire residence at 208 Arreba in what would normally be the rear yard. Further complicating the application of zoning standards is the City's policy of assigning minimum yard requirements on the orientation of the existing residence, thus the current yards are a 3-foot side yard and 4-foot front and rear yards. With the extent of the existing non-conformities, some exceptions to typical yard setbacks should be anticipated. Over the years, the applicant has informally met with City Staff regarding preliminary project concepts, which had ultimately led to the proposed project before the Zoning Administrator on February 17, 2010. It should be noted that a search of the City's planning files did not turn up any documents for this address. The proposed project site is a corner lot in the R-3.5 zoning district and is surrounded by single-family residential.

DISCUSSION

The applicant has proposed to reconstruct and renovate an existing vacant single-family residence from 1924 and a garage. The proposed renovated residence would have a slightly larger but similar first floor plan to the existing residence and a new second story addition. Further, the proposed reconstructed two-story garage/accessory structure would have a conforming 2-car garage at street level with a home office and storage above. As part of the proposed project, a 20-inch Monterrey Pine tree, in poor health, would be removed. The proposed project would effectively clean up the project site, which has been of concern to neighbors for many years.

Variance: The applicant requested Variance approval for exceptions to the normally required 10-foot interior side yard, normally required 20-foot street-side side yard, and normally required 25-foot rear yard setback requirements to allow a second story addition to the existing residence, and to exceed maximum site area and minimum rear yard coverage requirements. The lot's unusually wide and shallow geometry, and the resultant placement of the existing structures on the lot, makes conformance to conventional zoning standards difficult. The relatively flat topography of the lot and site location of the structures, allows the site to accommodate exceptions to height, size, yard setback, and coverage requirements, if the buildings should cause no negative impacts on neighbor's views and privacy. However, at the Zoning Administrator meeting the adjacent neighbors provided comments on how the second story of the proposed residence and accessory structure would impact their views and privacy.

Use Permit: The applicant requested Use Permit approval to allow an accessory structure over one-story/15' in height and size over 1,000 square feet, which exceeds 50 percent of the proposed residences gross floor area, by 77 percent. The maximum height proposed for both the residence and accessory structure is 24'-3". In terms of

size, the proposed residence would be approximately 1,957 square feet and the proposed accessory structure would be approximately 1,503 square feet.

Zoning Administrator Hearing: The Zoning Administrator denied the applicant's request for a Use Permit and a Variance to allow reconstruction and renovation of a vacant single-family residence and garage at a publicly noticed hearing on February 17, 2010. The decision was based on the record as whole, including the information contained in the staff report and attachments, public testimony, and evidence submitted at the hearing. Both the request for a Use Permit for the garage/accessory structure and the Variances for the addition and alteration to the single-family residence requires that all applicable findings be made in the affirmative for approval. Since the finding that the project "will not be detrimental to the public health, safety or welfare, or materially injurious to properties or improvements in the vicinity" could not be made the project was denied by the Zoning Administrator.

Appeal filed: The applicant submitted an appeal of the Zoning Administrator's decision on February 25, 2010 with an appeal letter, along with neighbor support letters (see attached). The applicant has provided plans of the proposed project for Planning Commission review (see exhibits). It should be noted that the applicant has chosen not to make any changes to the proposal since the Zoning Administrator's meeting and after hearing the public comments and concerns regarding the second story addition to the structures. The following bullet points address items from the applicant's appeal letter.

- Neighbor Support Letters: In the appeal letter, the applicant writes that prior documentation (neighbor support letters) was provided to staff and was missing from the administrative record. The applicant did not provide the neighbor support letters for the file when the application for Use Permit and Variance was made on January 12, 2010. It was not until the receipt of the appeal letter that the neighbor support letters were submitted to planning staff. As the two support letters date back to around 2007, the applicant may have provided prior planning staff with the letters during preliminary project discussions. Further, the neighbor support letter from 209 Arreba Street, a neighbor from across the street, dates back to 2007 and discusses a different version of the proposed project. In addition, although the letter from Josh Wellen is not dated, the letter may date back to 2007, as Mr. Wellen sold 212 Arreba Street (the adjacent property to the east) in 2007 and is no longer the property owner of that address.
- Site Photos: In the appeal letter, the applicant writes that site photos were provided to staff, however the applicant has not provided these pictures to planning staff. Again, it may be that the applicant provided site photos to prior planning staff. The applicant did not provide the site photos for the file when the application for Use Permit and Variance was made on January 12, 2010. However, attached are site pictures taken by staff for reference purposes.
- Windows: The applicant states that the proposed master bedroom windows could have been reduced in size to address the neighbor's privacy concerns. The applicant made no such proposal at the Zoning Administrator hearing, and as noted above, the applicant has not made any changes to the proposed project.

Options for the Planning Commission to Consider: The Planning Commission can make a decision on the appeal, based on the plans as presented by the applicant, at the hearing. Alternatively, the Planning Commission can continue the hearing and direct both the applicant and neighbors to work together with the applicant's designer to produce an alternate plan that would reduce the extent of requested Variance and Use Permit exceptions and be more acceptable to the neighbors by reducing or eliminating perceived view and privacy impacts.

Discussion items for changes to the Residence could include:

- Stepping in the rear portion of the 2nd story six feet from existing first floor, so that it is ten feet from property line as would normally be required by the zoning code;
- Stepping in the 2nd story from the side and rear property lines to meet setbacks, as required by the zoning code;
- Demolishing the existing residence and garages in order to change the residence's orientation to Robinson Street to build a conforming to zoning residence and garage; or
- Notwithstanding the Variance application, further adjustments to the 2nd story to address neighbors view and privacy concerns could include:
 - Reducing or eliminating window(s) on the rear 2nd story elevation,
 - Eliminating the 2nd story addition, or
 - Renovating the existing residence without adding an additional story.

Discussion items for changes to the Accessory Structure could include:

- Reducing overall size to meet the Accessory Structure maximum of 1,000 square feet;
- Eliminating the 2nd story to meet the Accessory Structure height maximum of one-story or 15 feet;
- Moving the accessory structure back, more towards the middle of the lot to meet setbacks and the Accessory Structure Requirements; or
- Notwithstanding the Use Permit and Variance applications, further adjustments to the 2nd story to address neighbors view and privacy concerns could include:
 - Stepping in the 2nd story from all sides, or
 - Tying in the Accessory Structure to the residence for a more traditional site plan, rather than it being a stand alone structure.

ZONING COMPLIANCE FOR THE PROPOSED PROJECT

The table below provides the code requirements applicable to the Residence in the R-3.5 zoning district:

CRITERIA (DEVELOPMENT STANDARDS APPLICABLE FOR THE R-3.5 ZONING DISTRICT)	MINIMUM REQUIRED OR (MAXIMUM ALLOWED)	EXISTING (ONE STORY)	PROPOSED (TWO STORY)	CONFORMITY
Front Property Line Setback	4 feet*	4 feet	4 feet	Y

Side Property Line Setback	10 feet	3 feet	3 feet	Variance Required
Rear Property Line Setback	25 feet	4 feet	4 feet	Variance Required
Building Height	25 feet	11'-5"	24'-3"	Y
Site Coverage (WHOLE LOT)	(40%)	34%	53%	Variance Required
Parking	1 covered and 1 open space	2 covered spaces	2 covered spaces	Y

*Section 22.12.220.B.2 reduces the minimum required front yard to the average of the existing front yards depths in the block.

The table below provides the code requirements applicable to the Accessory Structure:

CRITERIA (DEVELOPMENT STANDARDS APPLICABLE FOR ACCESSORY STRUCTURES)	MINIMUM REQUIRED OR (MAXIMUM ALLOWED)	EXISTING (ONE STORY)	PROPOSED (TWO STORY)	CONFORMITY
Building Height	15'/Single story	Single story	24'-3"/Two story	Use Permit Required
Building Size	<i>(1,000 sq. ft.)/(50% of main structures gross floor area)</i>	447 sq. ft./55%	1,503 sq. ft./77%	Use Permit Required
Rear Property Line Setback	5 feet	1'-4" feet	1'-4" feet	Variance Required
Street-Side Property Line Setback	20 feet	1 foot	6 inches	Variance Required
Site Coverage (MIN. REQ. REAR YARD)	(25%)	58%	63%	Variance Required

ATTACHMENTS

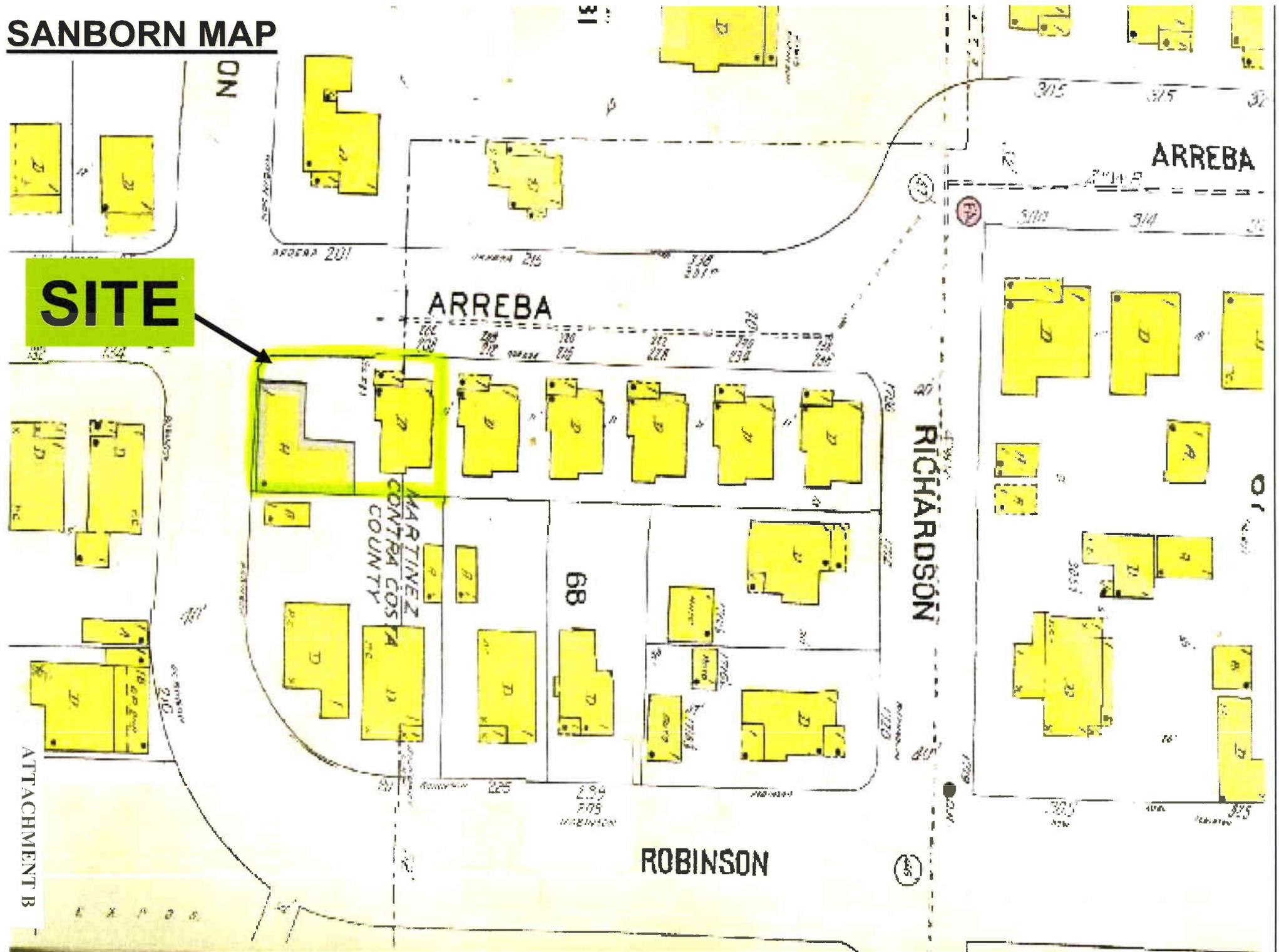
- A. Site Context Map
- B. Sanborn Map
- C. Assessor's Maps
- D. Aerials
- E. Applicant's Appeal Letter and Neighbor Support Letters
- F. Zoning Administrator Denial Letter, Staff Report, and Draft Conditions of Approval
- G. Pictures taken by Staff 8/7/09 and 1/6/10

EXHIBITS

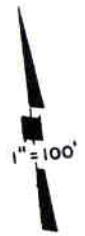
Site Plan, Floor Plans, and Elevations

F:\Community Development\All Projects\RESIDENTIAL\Arreba St, 208 - Stahlberg\Stahlberg - PC - StaffRPT_Final.doc

SANBORN MAP



A - SUNNYSIDE TERRACE - M.B. 14-284
 B - SUNNYSIDE TERRACE EXTENSION - M.B. 14-300
 I - 32 P.M. 37 3-7-74 3-89 P.M. 49 9-30-80

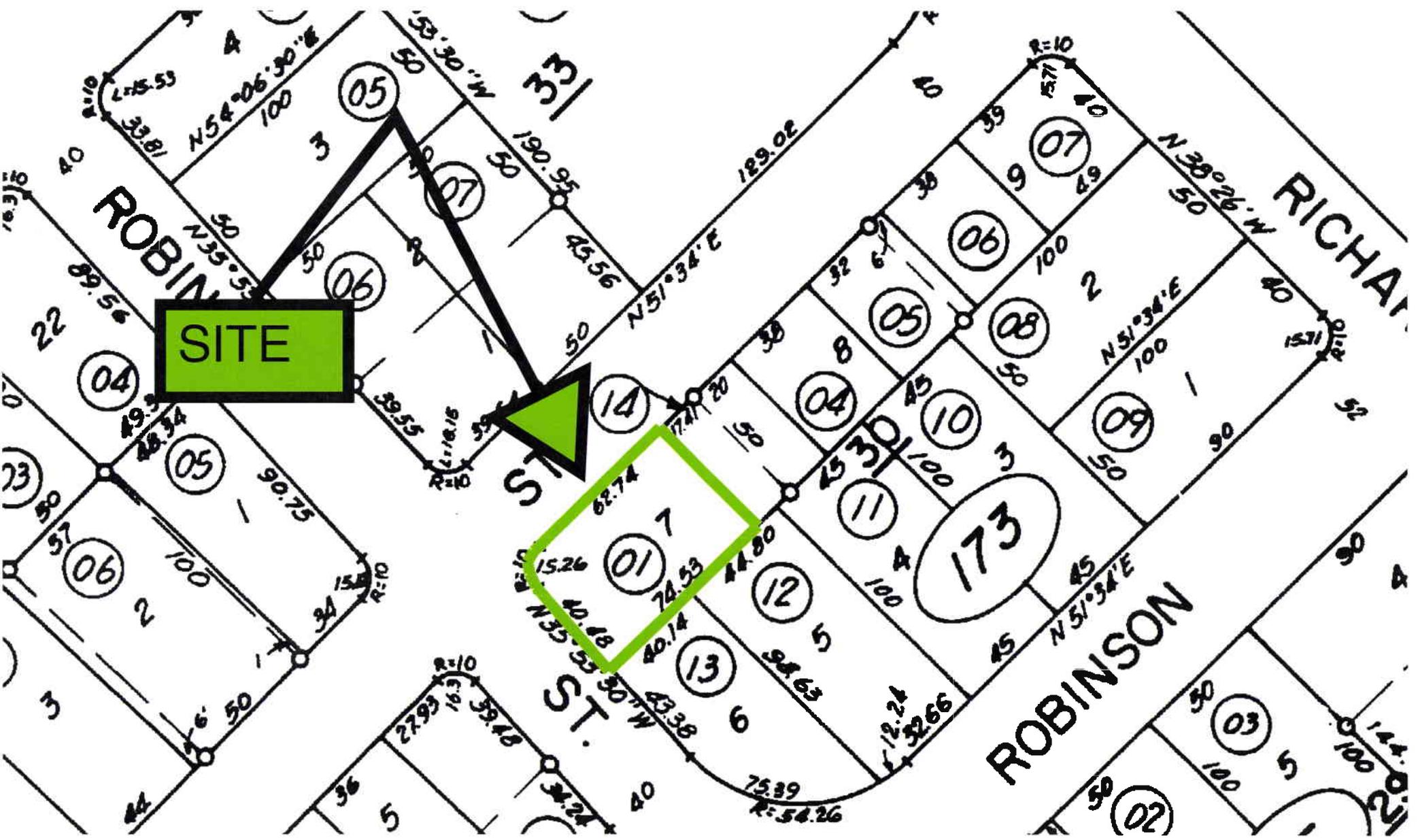


SITE



- 171
- 172
- 173
- 174
- 175
- 176

ATTACHMENT C



SITE CONTEXT AERIAL



SITE

ATTACHMENT D



00 0.005 0.01 0.02 0.03 0.04 Miles

SITE AERIAL



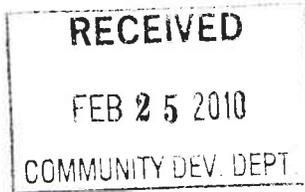
SITE

ARREBA ST

ROBINSON ST



0 0.0015 0.003 0.006 0.009 0.012 Miles



Mr. Richard Stahlberg
208 Arreba Street
Mailing address : 620 Main Street
Martinez, CA

Mr. Terry Blount, AICP
Planning Manager
Community and Economic Development Department
City Hall
525 Henrietta Street
Martinez, CA 94553

RE: Notice of Appeal - ZA Use Permit Application #10-1 and Vacation Application #10-1 - 208 Arreba Street (APN 372-173-001)

Dear Mr. Blount:

This letter serves as my appeal of the February 17, 2010 action by the City's Zoning Administrator (ZA), by which Use Permit Application #10-01 and Variance Application #10-1 were denied.

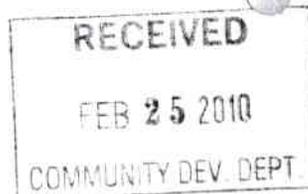
The staff report was well prepared and correctly outlined the staff findings supporting both the Use Permit Application (#10-1) and the accompanying Variance Application (#10-1). The Standards for Approval and Findings were noted on pages 3 thru 5 of the Zoning Administrator Staff Report. The Staff Report Recommended approval of both the Use Permit Application (#10-1) and accompanying Variance Application (#10-1) subject to conditions. It should be noted that the staff report was prepared by Anjana Mepani, Associate Planner, and approved under your direct supervision as the Planning Manager.

The recommended staff conditions of approval were acceptable as noted during my presentation to the ZA.

Public comment was taken during the public hearing portion of the meeting. My immediate neighbor to the southeast, the McCanns - 211 Robinson Street, expressed two concerns relative to the application; namely, that the two story nature of the application which consists of the proposed new master bedroom posed both a privacy concern and detrimentally impacted their view.

Staff findings consisting of Use Permit Finding (b) and Variance Finding (e) correctly addressed the site conditions in that both the relatively flat topography of the lot and the location of the proposed structures preclude the structures from negatively impacting views and privacy of existing residences.

Mr. Terry Blount



February 25, 2010

It was quite apparent that McCanns had objections with regard to the two pending applications in that even after Public Hearing was closed she continued to heckle and disrupt the proceedings. No action by the ZA was taken to correct her unruly actions, which in my opinion had a direct impact on the ZAs final action in denying both the Use Permit and Variance Applications.

It was clear that prior documentation previously provided by me was missing in the administrative record; namely, letters of support from two of my immediate neighbors. The ZA requested this information from Ms. Mepani but she was unable to introduce the documentation. It is my opinion that this too contributed to the ZA denial action.

Site photos provided to staff indicate that historic trees and overgrown landscape, subsequently removed by me in an attempt to dress up the property precluded any view, if any from my neighbor's rear yard. In addition, it does not appear that the City of Martinez has adopted a View Ordinance addressing this perceived impact.

In order to address the perceived privacy issue, proposed windows in the master bedroom could have been reduced in size and raised to provide natural lighting while addressing neighbor privacy concerns. This too was not addressed at any time by the ZA and in my opinion contributed to the ZAs denial action.

It is my opinion that the ZA action did not correctly address or interpret the Staff Findings under Use Permit Finding (b) and Variance Finding (e) and was unnecessarily distracted by the disruptive nature of the McCanns, during the ZA deliberations, a review of the audio tapes will support this conclusion, a copy of which I have requested under a separate cover letter.

Based upon the above I respectfully submit my appeal request to the ZA denial of Use Permit Application #10-1 and Variance Application #10-1.

Please provide me a date certain for the scheduled Planning Commission meeting. I reserve the right to submit additional evidence and documents for the record prior to and at the Planning Commission Appeal Hearing.

Respectfully Submitted

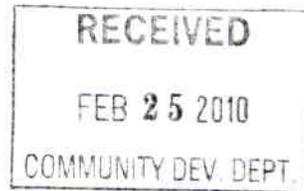
Richard Stahlberg

RS:

cc: Robert Schroder, Mayor w/enclosures

Enclosures: copies of neighbor support letters (previously supplied)

Judy Maatz
209 Arreba St
Martinez CA 94553
925 229 2196



May 22, 2007

City of Martinez Planning Department
City of Martinez Building Department
525 Henrietta St
Martinez CA 94553

I and my brother, Gerald Richardson, own the property at 209 Arreba St in Martinez. We are directly across the street from 208 Arreba St, a property owned by Richard Stahlberg.

Mr. Stahlberg showed us how he intends to replace the existing detached garage with a three car garage with a room above it, add an additional bedroom to the existing house and a second story.

My brother and I support Mr. Stahlberg's remodel at 208 Arreba St. It will not obstruct the view from my property or of any of the surrounding neighbors. It will definitely be a positive addition to the neighborhood. We encourage the City to approve Mr. Stahlberg's designs so that they can move forward with his project.

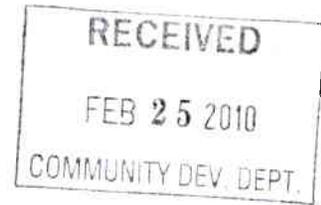
Sincerely,


Judy Maatz


Gerald Richardson

Josh Wellen

PO Box 1704 ~ Martinez, Ca. 94553
415.806.1503



City of Martinez Planning Department
City of Martinez Building Department
525 Henrietta Street
Martinez, Ca. 94553

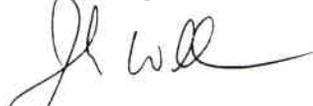
My name is Josh Wellen and I own the property at 212 Arreba Street in Martinez. Richard Stahlberg, the owner of the property next to mine, 208 Arreba, recently showed me his plans and for the remodel of his property at 208.

Mr. Stahlberg showed me how he intends to replace the existing detached garage with a three car garage with a room above it, add an additional bedroom to the existing house and a second story.

Mr. Stahlberg's remodel will not obstruct the view from my property or of any of the surrounding neighbors, and will definitely be a positive addition to the neighborhood.

I am writing this letter to the Planning and Building Departments in support of Mr. Stahlberg's remodel at 208 Arreba and encourage the City to approve his designs so he can move forward with this project.

Sincerely



Josh Wellen



City of Martinez

525 Henrietta Street, Martinez, CA 94553-2394

(925) 372-3515
FAX (925) 372-0257

February 19, 2010

Richard Stahlberg
620 Main Street
Martinez, CA 94553

SUBJECT: VARIANCE #10-01 & USE PERMIT #10-01 DENIAL – 208 ARREBA STREET

Dear Mr. Stahlberg:

On Wednesday, February 17, 2010, acting as Zoning Administrator, I denied the request for a Use Permit and Variance to allow reconstruction and renovation of a vacant single-family residence and garage at 208 Arreba Street, in Martinez. My decision was based on the record as whole, including the information contained in the staff report and attachments, public testimony, and evidence submitted at the hearing. Both the request for a Use Permit for the garage/accessory structure and the Variances for the addition and alteration to the single-family residence require that all applicable findings be made in the affirmative for approval. These findings were detailed in the staff report prepared for the public hearing. Since the finding that the project "will not be detrimental to the public health, safety or welfare, or materially injurious to properties or improvements in the vicinity" could not be made the project was denied.

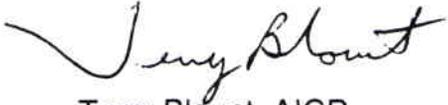
This decision may be appealed to the Planning Commission by yourself or any interested person. There is a 10-day appeal period which ends on Friday, February 26, 2009.

If you wish to appeal the decision to the Planning Commission you will need to submit a letter of appeal which shall include grounds for the appeal and which must be received by the Planning Division within the appeal period. There is an appeal fee of \$100, an additional submittal of 10 sets of plans for the Planning Commission hearing, and a fee of \$130 for noticing.

If you have any question, please call me or my Administrative Aide, Laura Austin at 925.372.3523.

ATTACHMENT F

Sincerely,

A handwritten signature in cursive script that reads "Terry Blount".

Terry Blount, AICP
Planning Manager

cc: Rigo Casarez, Building Permit Technician
Engineering
Project File
Chron
Binder



STAFF REPORT

TO: ZONING ADMINISTRATOR

PREPARED BY: Anjana Mepani, Associate Planner

APPROVED BY: Terry Blount, AICP, Planning Manager

GENERAL INFORMATION

OWNER/APPLICANT: Richard Stahlberg

LOCATION: 208 Arreba Street (APN 372-173-001)

PROPOSAL: Public hearing on a request for Use Permit and Variance approval to allow reconstruction and renovation of a vacant single-family residence and garage. Use Permit approval is required to allow an accessory structure (replacing an existing garage) with a height of two-story/24'-3" when a maximum of one-story/15-feet is normally allowed and a size of approximately 1,500 square feet where a maximum of 1,000 square feet is normally permitted. Variance approval is required for exceptions to the normally required 10-foot interior side yards, normally required 20-foot street-side side yard, and normally required 25-foot rear yard setback requirements to allow a second story addition to the existing residence; and to exceed maximum site area and minimum rear yard coverage requirements.

GENERAL PLAN: Central Martinez Specific Area Plan: Group 2 Residential

ZONING: R-3.5 (Family Residential: 3,500 square feet per dwelling unit)

ENVIRONMENTAL REVIEW: Staff proposes that the Zoning Administrator find that this permit be categorically exempt (Class 1 - Section 15301, Existing Facilities and CLASS 3 - Section 15303, New Construction or Conversion of Small Structures) from the requirements of CEQA. If the Zoning Administrator adopts this proposed finding, no further environmental review would be required by State law.

RECOMMENDATION

Approve Use Permit #10-01 and Variance #10-01 subject to the attached conditions of approval.

BACKGROUND

The applicant has been considering the reconstruction and renovation of a vacant single-family residence and garage for 15 years. Over those years, the applicant informally met with City Staff regarding preliminary project concepts, which has ultimately led to the proposed project. If constructed, the proposed project will effectively clean up the project site, which has been of concern to neighbors for many years.

The applicant is proposing to reconstruct and renovate an existing vacant single-family residence and garage. The proposed renovated residence would have a slightly larger but similar first floor plan to the existing residence and a new second story addition. Further, the proposed reconstructed two-story garage/accessory structure would have a conforming 2-car garage at street level with a home office and storage above. As part of the proposed project, a 20-inch Monterrey Pine tree, in poor health, will be removed.

The lot's unusually wide and shallow geometry, and the resultant placement of the existing structures on the lot, makes conformance to conventional zoning standards difficult. The legally non-conforming corner width (of approximately 45' where 50' is normally required), depth (of approximately 74' where 100' is normally required), and size (of approximately 3,700 square feet where 4,000 square feet is the minimum required), constitutes unique circumstances that justify the requested yard setback and coverage exceptions. The relatively flat topography of the lot and site location of the structures, allows the site to accommodate exceptions to height, size, yard setback, and coverage requirements, where the buildings should cause no negative impacts on neighbor's views and privacy. Also, a majority of the neighboring residences have lot coverages that exceed the maximum site coverage of the R-3.5 zoning district. Variance approval is required for exceptions to the normally required 10-foot interior side yard, normally required 20-foot street-side side yard, and normally required 25-foot rear yard setback requirements to allow a second story addition to the existing residence, and to exceed maximum site area and minimum rear yard coverage requirements.

The maximum height for both the proposed residence and accessory structure would be 24'-3". In terms of size, the proposed residence would be approximately 1,957 square feet and the proposed accessory structure would be approximately 1,503 square feet. Use Permit approval is required to allow an accessory structure over one-story/15' in height and size over 1,000 square feet, which exceeds 50% of the proposed residences gross floor area. The proposed accessory structure would be approximately 77% of the main structures gross floor area.

Currently, the existing residence does not have a usable parking garage and by reconstructing the two-car garage, the property would conform to parking regulations (Martinez Municipal Code Section 22.36.030). Further, the proposed structures will have similar colors and design to the existing residence that was built in 1924. The materials of the proposed structures include stucco, tile insets, and a mission tile roof that will match the existing residence and neighboring properties along Arriba Street. The proposed project site is a corner lot in the R-3.5 zoning district and is surrounded by single-family residential.

ZONING COMPLIANCE

The table below provides the code requirements applicable to the residence in the R-3.5 zoning district:

CRITERIA (DEVELOPMENT STANDARDS APPLICABLE FOR THE R-3.5 ZONING DISTRICT)	MINIMUM REQUIRED OR (MAXIMUM ALLOWED)	PROPOSED	CONFORMITY
Front Property Line Setback	4 feet*	4 feet	Y
Side Property Line Setback	10 feet	3 feet	Variance Required
Rear Property Line Setback	25 feet	4 feet	Variance Required
Building Height	25 feet	24'-3"	Y
Site Coverage (WHOLE LOT)	(40%)	53%	Variance Required
Parking	1 covered and 1 open space	2 covered spaces	Y

*Section 22.12.220.B.2 reduces the minimum required front yard to the average of the existing front yards depths in the block.

The table below provides the code requirements applicable to the accessory structure:

CRITERIA (DEVELOPMENT STANDARDS APPLICABLE FOR ACCESSORY STRUCTURES)	MINIMUM REQUIRED OR (MAXIMUM ALLOWED)	PROPOSED	CONFORMITY
Building Height	15'/Single story	24'-3"/Two story	Use Permit Required
Building Size	(1,000 sq. ft.)/(50% of main structures gross floor area)	1,503 sq. ft./77%	Use Permit Required
Rear Property Line Setback	5 feet	1'-4" feet	Variance Required
Street-Side Property Line Setback	20 feet	6 inches	Variance Required
Site Coverage (MIN. REQ. REAR YARD)	(25%)	63%	Variance Required

STANDARDS FOR APPROVAL and DRAFT FINDINGS

In order to approve the Use Permit to allow exceptions to the normally permitted height and size of Accessory Structures, the Zoning Administrator must make the following findings, which it hereby does:

- (a) The proposed location of the conditional use is in accord with the

objectives of this title, and the purposes of the district in which the site is located. The proposed reconstruction and renovation of the existing single-family residence and accessory structure with the proposed height and size, is contextually compatible with the project site and the surrounding eclectic residential community, as per the spirit and intent of regulations governing such structures and ancillary uses in residential zoning districts.

- (b) The proposed location of the conditional use and the proposed conditions under which it would be operated or maintained will not be detrimental to the public health, safety or welfare, or materially injurious to properties or improvements in the vicinity.** The relatively flat lot and location of the residence and accessory structure preclude the structures height and size from negatively impacting views, light, air, and privacy of existing residences, and will be similar in height to the existing two-story residences sprinkled throughout the surrounding neighborhood. The proposed project will be consistent with surrounding uses and thus will not be detrimental to public health, safety or welfare, or be materially injurious to properties or improvements in the vicinity.
- (c) The proposed conditional use will comply with each of the applicable provisions of this title.** With the exceptions sought as a part of the proposal, the proposed reconstruction and renovation of the single-family residence and accessory structure project complies with all other applicable provisions of Title 22-Zoning of the Martinez Municipal Code, including the development standards for the R-3.5 zoning district.

In order to approve the **Variance** to allow exception to the normally permitted yard setback requirements and coverage requirements, the Zoning Administrator must make the following findings, which it hereby does:

- (a) Strict or literal interpretation and enforcement of the specified regulation would result in practical difficulty;** The enforcement of the typically permitted yard setbacks and coverage requirements would result in practical difficulty, in that the corner lot's legally non-conforming width, depth, and size would disproportionably limit the possible size of the both the residence and accessory structure.
- (b) There are exceptional or extraordinary circumstances or conditions applicable to the property involved or to the intended use of the property which do not apply generally to other properties classified on the same zoning district;** The lot is legally non-conforming in corner width (of approximately 45' where 50' is normally required), depth (of approximately 74' where 100' is normally required), and size (of approximately 3,700 square feet where 4,000 square feet is the minimum required), constituting exceptional and extraordinary circumstances that are generally not found in other properties in the R-3.5 zoning district.
- (c) Strict or literal interpretation and enforcement of the specified regulations would deprive the applicant of privileges enjoyed by the owners of other**

properties; The strict enforcement of the yard setbacks and coverage requirements would deprive the applicant of privileges enjoyed by the owners of other properties within the same zoning district, in that the buildable area of the lot would be limited.

- (d) **Granting of the variance will not constitute a grant of special privileges inconsistent with the limitations of other properties;** Granting this variance is not a special privilege, in that the proposed exceptions to the typical yard setbacks and coverage limits are needed to compensate for the site's reduced width, depth, and size which are limitations not typically encumbering properties within the R-3.5 zoning district. Furthermore, the granting of this variance would not preclude other property owners in a comparable situation and with similar limitations to apply for a variance that can meet all applicable standards and findings for the granting of such a variance.
- (e) **The granting of the variance will not be detrimental to the public health, safety, or welfare, or be materially injurious to property or improvements in the vicinity;** Both the relatively flat topography of the lot and the location of the proposed structures preclude the structures from negatively impacting views and privacy of existing residences. In addition, the quality and design of the proposed structures will be either at or above that of the surrounding homes in the area. Therefore, the granting of the variance will not be detrimental to the public health, safety, or welfare, or be materially injurious to property or improvements in the vicinity.

CONCLUSION

Staff is recommending approval of the Use Permit and Variance request based on the above findings and the attached draft conditions of approval.

ATTACHMENTS

Site Context Map
Conditions of Approval [DRAFT]

EXHIBITS

Site Plan, Floor Plans, and Elevations

F:\Community Development\All Projects\RESIDENTIAL\Arreba St, 208 - Stahlberg\Stahlberg - StaffRPT.doc

CONDITIONS OF APPROVAL

DRAFT AS APPROVED BY ZONING ADMINISTRATOR

Applicant Name: **Richard Stahlberg**

Location: **208 Arreba Street (APN 372-173-001)**

I. Description of Permit

- A. These conditions apply to and constitute the approval of Use Permit #10-01 and Variance #10-01 approval to allow reconstruction and renovation of a vacant single-family residence and garage. Use Permit approval is required to allow an accessory structure (replacing an existing garage) with a height of two-story/24'-3" when a maximum of one-story/15-feet is normally allowed and a size of approximately 1,500 square feet where a maximum of 1,000 square feet is normally permitted. Variance approval is required for exceptions to the normally required 10-foot interior side yards, normally required 20-foot street-side side yard, and normally required 25-foot rear yard setback requirements to allow a second story addition to the existing residence; and to exceed maximum site area and minimum rear yard coverage requirements.

II. Exhibits

The following exhibits are incorporated as conditions of approval, except where specifically modified by these conditions:

EXHIBIT	DATE RECEIVED	PREPARED BY	PAGES
Site Plan, Floor Plans, and Elevations	January 26, 2010	Bill Brobisky	4

All construction plans shall conform to these exhibits. Building permit plans shall include a checklist of these conditions for staff review and verification that the conditions have been met. Where a plan or further information is required by these conditions, it is subject to review and approval by the Planning Division, Building Division or Engineering Division as noted.

III. Conditions

- A. Exterior materials, finishes and colors of the main residence and accessory structure shall match those indicated on the approved plans. Where applicable, construction plans shall include: consistent trim of all exterior doors and windows, and window frames and doors shall be color coordinated to match the building.

- B. All exterior lighting shall be directed such that lights create as little off-site glare and nuisance as is feasible. All fixtures shall be glare-shielded. Energy-saving fixtures shall be used.
- C. Fences, walls, and hedges shall not exceed 6 feet in height and shall not exceed 3.5 feet in height in the required front yard area and within 50 feet of a street intersection.
- D. All construction activities shall conform to the City's Noise Control Ordinance, Chapter 8.34 of the Municipal Code: Construction activities are limited to the hours of 7:00 a.m. to 7:00 p.m., Monday through Friday; and 9:00 a.m. to 5 p.m. Saturday and Sunday. The permittee shall post a sign on the site notifying all workers of these restrictions.
- E. All construction equipment shall be muffled in accordance with State Law.
- F. All fees and deposits required by City and other agencies having jurisdiction shall be paid prior to City approval of the Building Division. Prior to approval of the plans and issuance of permits, applicant shall pay all applicable fees and deposits including plan check fees, inspection, and drainage impact fees. The final amount for the above fees shall be in accordance with the fee schedule in effect of time of payment.
- G. A City Encroachment Permit is required for any work within the City Right-of-Way. A site development permit is required for working on the property.
- H. Construction shall comply with all applicable City and State building codes and requirements including energy conservation requirements.
- I. The on-site finish grading shall require drainage to be directed away from all building foundations at a slope of 2 percent minimum to 20 percent maximum toward approved drainage facilities or swales. Non-paved drainage swales shall have a minimum slope of 1 percent. Contours with spot elevations shall be used on the site construction drawings.
- J. Erosion control measures shall be implemented per plans approved by the City Engineer for all grading work not completed before October 1.
- K. The applicant's engineer shall certify the actual pad elevation for the lot in accordance with City standards prior to foundation inspection.
- L. The finished grading shall be inspected and certified by the developer's engineer that it is in conformance with the approved Grading Plan and Soils Report pursuant to the provisions of Title 15 of the Martinez Municipal Code.

- M. The plans shall include the boundary treatment shown on cross sections, drawn to scale, for retaining walls, fencing and drainage.
- N. Concentrated runoff shall not be permitted to cross sidewalk or driveways. It shall be collected and conveyed to the street or an approved storm drainage system to the satisfaction of the City Engineer. Existing slopes that have no additional discharge directed onto them or are not substantially re-graded can remain as natural runoff.
- O. Applicant shall not increase storm water runoff to adjacent downhill lots unless either, (1) a Drainage Release is signed by the property owner(s) of affected downhill lots and recorded in the office of the County Recorder; or (2) site drainage is collected and conveyed in approved drainage facilities within a private drainage easement through a downhill property. This condition may require collection of on-site runoff and construction of an off-site storm drainage system. All required releases and/or easements shall be obtained prior to issuance of the site development or Building Permit which ever comes first.
- P. Pursuant to Chapter 12.30 of the Martinez Municipal Code, the street frontage improvements along Arreba Street and Robinson Street are required. This includes sidewalks, curb, gutter, and street pavement (to center line of the street). If the frontage improvement has been previously constructed, such as the case for this project, then existing damaged and hazardous improvements shall be removed and replaced to the satisfaction of the City Engineer. The limits of work shall be determined by field inspection, by the City Engineer's office, during construction. Frontage improvement shall include, but not limited to, the following:
1. Replacing damaged sidewalk, curb and gutter on Arreba Street and Robinson Street at the same location.
 2. Removing the existing driveway curb cut on Arreba Street and replacing it with curb and gutter.
 3. Construct handicap access ramp at the corner of Arreba Street and Robinson Street to meet current ADA standards as per Caltrans Standard Plan No. A88A. All required right of way to accommodate the installation of the access ramp shall be dedicated to the City.
- Q. All site improvements, including driveway, frontage improvement, grading and storm drainage, shall be subject to the City Engineer's approval.
- R. All new utility distribution services on-site and off-site shall be installed under ground.
- S. The developer shall keep the adjoining streets free and clean of project dirt, mud, materials and debris during the construction period as is found necessary by the City Engineer.

- T. Water system facilities improvements (if required) shall be designed to meet the requirements of the City of Martinez water service agency and the fire flow requirements of the Contra Costa County Fire Protection District. Applicant shall pay all required water connection fees at the time of payment.
- U. Sewer system connections and plans for sanitary sewer facilities shall be approved by the Central Contra Costa Sanitary District. All requirements of that District shall be met before approval of the improvement plans.
- V. Complete grading, site and improvement plans, specifications and calculations shall be submitted to and approved by the City Engineer, Community Development Director, and/or other agencies having jurisdiction for all improvements within the proposed development prior to issuance of a Building, Site, or Encroachment Permit whichever comes first.
- W. There shall be no parking of construction vehicles or equipment on the surrounding residential streets, including all workers vehicles.
- X. Efficient irrigation, appropriate landscape design and proper maintenance shall be implemented to reduce excess irrigation runoff, promote surface filtration, and minimize use of fertilizers, herbicides, and pesticides.

IV. Validity of Permit and Approval

- A. Zoning Administrator approval is subject to appeal to the Planning Commission within ten calendar days of the approval.
- B. The permits and approval shall expire in one year from the date on which they became effective (unless extended under C) unless a building permit is obtained and construction begun within the one year time period. If approval includes approval of a subdivision, the expiration time period for all concurrently approved permits or approvals shall be two years, but shall also require the recording of the Final Map or Parcel Map within that time period. The effective date of the permit and approval is February 17, 2010.
- C. The time extension of the expiration date, February 17, 2011, of a permit or approval can be considered if an application with required fee is filed at least 45 days before the original expiration date. (Otherwise a new application is required.) A public hearing will be required for all extension applications, except those involving only Design Review. Extensions are not automatically approved: Changes in conditions, City policies, surrounding neighborhood, and other factors permitted to be considered under the law, may require or permit denial.

- D. Nothing contained herein shall be construed to permit any violation of relevant ordinances and regulations of the City of Martinez, or other public agency having jurisdiction.
- E. The permittee, Richard Stahlberg shall defend, indemnify and hold harmless the City and its agents, officers, attorneys and employees from any claim, action, or proceeding brought against the City or its agents, officers, attorneys or employees to attack, set aside, void, or annul the Zoning Administrator's decision to approve Use Permit #10-01 and Variance #10-01, and any environmental document approved in connection therewith. This indemnification shall include damages or fees awarded against the City, if any, cost of suit, attorneys' fees, and other costs and expenses incurred in connection with such action whether incurred by Richard Stahlberg, the City, and/or the parties initiating or bringing such action.
- F. Richard Stahlberg, shall defend, indemnify and hold harmless the City, its agents, officers, employees and attorneys for all costs incurred in additional investigation of, or study of, or for supplementing, preparing, redrafting, revising, or amending any document (such as the Negative Declaration), if made necessary by said legal action and if Richard Stahlberg desires to pursue securing such approvals, after initiation of such litigation, which are conditioned on the approval of such documents, in a form and under conditions approved by the City Attorney.
- G. In the event that a claim, action or proceeding described in Subsection E, above, is brought, the City shall promptly notify Richard Stahlberg of the existence of the claim, action or proceeding, and the City will cooperate fully in the defense of such claim, action or proceeding. Nothing herein shall prohibit the City from participating in the defense of any claim, action or proceeding. In the event that Richard Stahlberg is required to defend the City in connection with any said claim, action, or proceeding, the City shall retain the right to (i) approve the counsel to so defend the City, (ii) approve all significant decisions concerning the manner in which the defense is conducted, and (iii) approve any and all settlements, which approval shall not be unreasonably withheld. The City shall also have the right not to participate in said defense, except that the City agrees to cooperate with Richard Stahlberg in the defense of said claim, action or proceeding. If the City chooses to have counsel of its own to defend any claim, action or proceeding where Richard Stahlberg has already retained counsel to defend the City in such matters, the fees and expenses of the counsel selected by the City shall be paid by the City, except that the fees and expenses of the City Attorney shall be paid by the applicant.
- H. Richard Stahlberg shall indemnify the City for all the City's costs, fees, and damages, which the City incurs in enforcing the above indemnification provisions.

- I. The Conditions of Project Approval set forth herein include certain fees, dedication requirements, reservation requirement, and other exactions. Pursuant to Government Code Section 66020(d)(1), these Conditions constitute written notice of a statement of the amount of such fees, and a description of the dedications, reservations, and other exactions. You are hereby further notified that the 90-day approval period in which you may protest these fees, dedications, reservations, and other exactions, pursuant to Government Code Section 66020(a), has begun. If you fail to file a protest within this 90-day period complying with all of the requirements of Section 66020, you will be legally barred from later challenging such exactions.

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Subject Property - 208 Arreba Street



Subject Property with Garages



ATTACHMENT G

Subject Property Facing Southwest



Subject Property Facing Southeast



Subject Property



Subject Property Garages



Subject Property Garages



Subject Property Residence



Adjacent Neighboring Residences on Arreba Street



Neighboring Residences Across on Arreba Street



Neighboring Residences on Arriba Street



Neighboring Residences on Arriba Street



Neighboring Residences on Robinson Street

