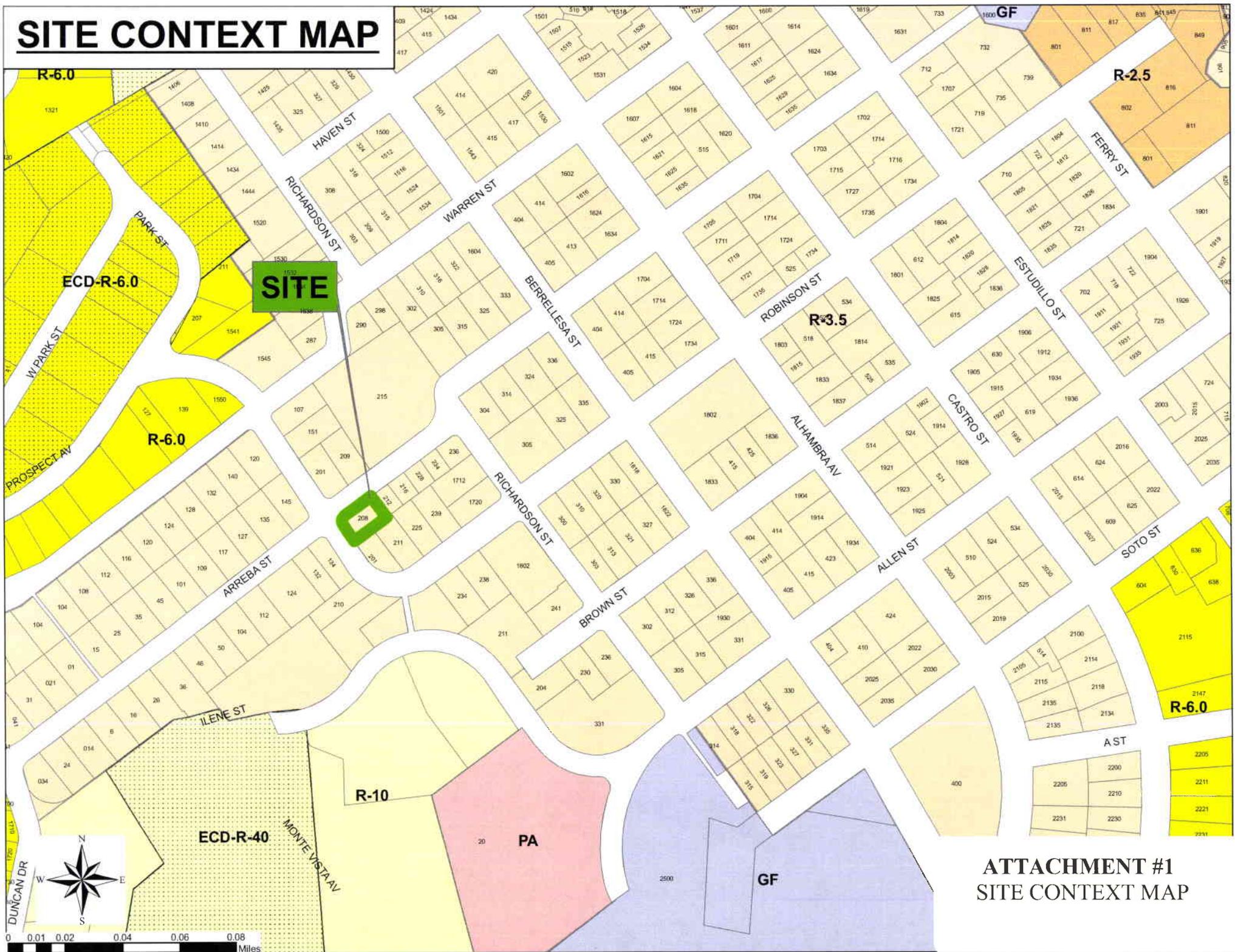
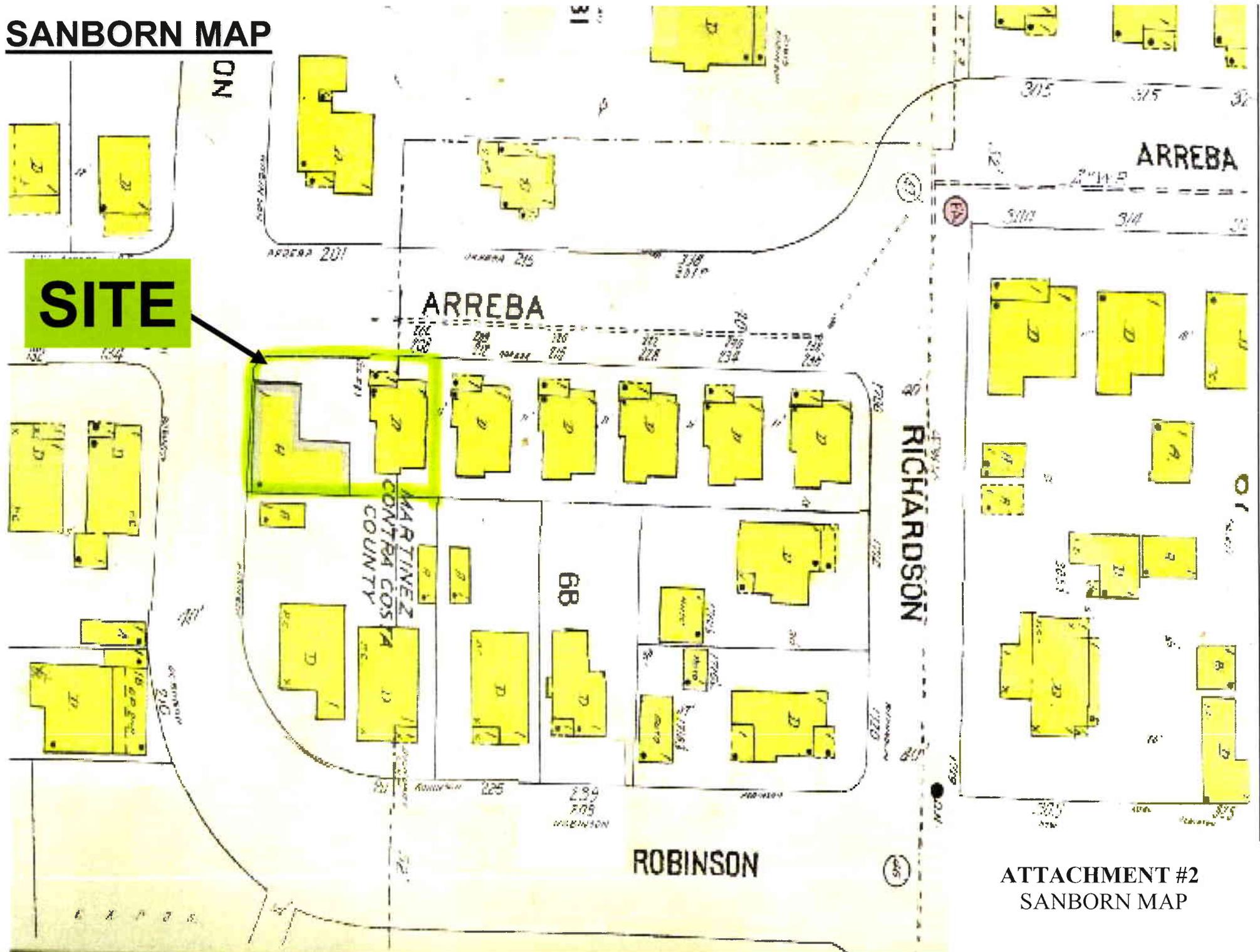


SITE CONTEXT MAP



ATTACHMENT #1
SITE CONTEXT MAP

SANBORN MAP



**ATTACHMENT #2
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



**ATTACHMENT #3
 ASSESSOR'S MAPS**

4-26-09
ASSESSOR'S MAP
BOOK 372 PAGE 17
CONTRA COSTA COUNTY, CALIF.
 FN. 119-2 118-48

SITE CONTEXT AERIAL



ATTACHMENT #4
AERIALS

00 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

Luke and Bianca McCann
211 Robinson Street
Martinez, CA 94553

RECEIVED
APR 2 2010

April 1, 2010

Use Planning City Clerk

Mr. Richard Hernandez
City Clerk
525 Henrietta St.
Martinez, CA 94553

CITY OF MARTINEZ
CITY CLERKS OFFICE

Re: Appeal of Stahlberg, 208 Arriba Street, Planning Commission decision

Dear Mr. Hernandez and Council Members:

This letter serves as formal appeal of the March 23rd, 2010 action by the Planning Committee (PC) where Use Permit Application #10-01 and Variance Applications #10-1 were approved on appeal. I would ask that you reconsider the approval of this project. The project proposal is to have 3500 square feet of dwelling space on a 3700 square foot lot. This proposal is for a 2 story home proposed at 1900+ square feet and a garage proposed at 1500+ square feet. We live at 211 Robinson Street, which is directly behind 208 Arriba Street and this proposal will have a notable negative effect on our quality of life and our property. We challenge the Planning Committees approval for this project because they have not established the findings needed to approve such a plan. To approve this plan is must be proven that the following standards and findings exist:

Please find some of the most pertinent standards that have not been proven (in bold) and our responses to these standards (in standard font).

USE PERMIT STANDARDS FOR APPROVAL:

- **The proposed location of the conditional use is in accordance with the objectives of this title and the purposes of the district in which the site is located.** This proposed site is not contextually compatible with the project site and is direct contrast to the eclectic residential community. All homes covering the entire block contained by Robinson St, Arriba St., and Richardson St, are single story homes. This configuration allows a level of privacy and a view that we enjoy .There are no two story homes on our block. All of the homes are roughly 700-1100 square feet. A property the size and height of the Stahlberg proposal will be a detriment to the homes that border it by its sheer size alone. Besides just our block, this proposal does not fit in with the rest of the neighborhood and would not be consistent with the other properties in the area. There are a small handful of two story homes and all of them are either on big enough lots that they have no immediate neighbors, or they back into a hill and therefore have no negative impacts on neighbors. We wonder why there hasn't been any consideration given to keeping both buildings single story and simply cover more of the lot? The Staff Plan from 3.23.10 indicates that both structures together will equal 53% lot coverage, which means he still has 47% lot coverage to build over. The city planner shared with us at the ZA meeting that our block has notoriously covered 70% or more of their lots. How is it that Mr. Stahlberg is permitted to build upwards and maintain a semblance of a yard while the rest of us lose the enjoyment of our yards as a result of his project? We are not concerned about the coverage to his lot, we feel covering his own lot at 100% is more appropriate than allowing a two story structure. We are

**ATTACHMENT #5
APPELLANTS' APPEAL
LETTER TO PLANNING
COMMISSION'S DECISION**

concerned that the height of the structure has not been reviewed with scrutiny, there has been no design review and we feel there is a lack of understanding of what these lots are actually like.

- **The proposed location of the conditional use and the propose conditions under which it would be operated or maintained will not be detrimental to the public health, safety, welfare, or materially injurious to properties or improvements in the vicinity.** The original application was denied by the city planning manager Mr. Terry Blount on the grounds that it could not be proven that the project “will not be detrimental to the public health, safety or welfare or materially injurious to properties or improvements in the vicinity”. As Mr. Blount stated at the appeal meeting, this was based on the record as a whole based on public feedback and concerned neighbors including ourselves. This project continues to be of negative impact to our quality of life in numerous ways and remains detrimental to our property as established by Mr. Blount. In fact it is concerning to us that upon appeal Richard Stahlberg chose not to make any changes to the initial plan and simply re-submitted the same plan with no changes. It is of much greater concern that the decision by the city planning manager, who initially denied the application, was unanimously overturned by the PC without any changes or exceptions made to the plan. In the Staff Report to the Planning Commission dated 2-17-10 the Stahlberg project was originally proposed as a project that would “cause no negative impacts on neighbors views and privacy” and it was stated that this structure would not “negatively impact view, light, air, and privacy of existing residences”. These statements were made without merit, as proven in the original denial of this proposal and through the omission of these statements from the follow up Staff Report dated 3.23.10. This project will take away our ability to enjoy our home. We will have no sunlight, we will have no privacy, we will lose the view we enjoy of the hills and palm trees. We enjoy our outdoor space as if it is an extension to our home; this 25 foot structure is an invasion to our home life and the enjoyment we should expect be able to derive from our own property.

VARIANCE EXCEPTION STANDARDS FOR APPROVAL:

- **Strict or literal interpretation and enforcement of the specified regulation would result in practical difficulty:** We understand that Mr. Stahlberg’s current home is a non conforming lot and that a variance to rebuild the structure would be required even if he wanted to do a one story home. We are clear that enforcing the typically permitted yard setbacks and coverage requirements would result in less than realistic home. We are not asking Mr. Stahlberg not to rebuild his home, and we are not opposed to the fact that he would need a variance to build in general. To be clear we are opposed to this specific variance asking for 2 two story structures. We do not want a two story building less than 4 feet behind our fence line. In reality he is requesting more than 2 stories, which would be 20 feet, he is requesting 25 feet. His lot is the largest on his side of the block, it is not ill sized in contrast to the picture the city planners are painting, and it’s actually workable plot of land. Neighbors to this property enjoy appropriately sized homes on much smaller lots without any issues.
- **There are exceptional or extraordinary circumstances or conditions applicable to the property involved or to the intended use of the property which do apply generally to other properties classified on the same zoning district.** The magnitude of the current project proposal is excessive and does not meet the strict or literal interpretation of practical difficulty. We have learned from the city planners that a large majority of Martinez residents have non conforming lots, and this further supports that his property does not suffer hardship; in fact these

circumstances represent a majority issue throughout the properties in this zoning district. We think this fact creates the need for a more stringent review of what this standard really means given the realities of a zoning district comprised mostly of legally non conforming properties. The fact that he has a legally non conforming lot does not create any disadvantage to his property or any difficulty that would lend itself to an approval for 2 two story structure. His property does not have exceptional or extraordinary circumstance compared to other properties in the area and there is no evidence of a lack of parity that needs to be resolved through an exception of this scale. In reality Richard is fortunate enough to have the biggest lot on his side of the block.

- **Strict or literal interpretation and enforcement of the specified regulations would deprive the applicant of privileges enjoyed by the owners of other properties:** We agree that the strict enforcement of typically permitted yard setbacks and coverage requirements would result in a less desirable home for the applicant, we also know that this would be the same for any home on the block. The 208 Arreba properties is no different than any other property on the block, all of the homes are legally non conforming use. Richard is not being deprived of any privileges enjoyed by other members of the block .He has the largest lot on his side of the block as we have already shared. He has a current structure that is approximately 700 square feet on the lot today. This is the same size as all of the homes on the Arreba side of the block. It certainly sounds like a special privilege to me if he is viewed as being deprived of privileges enjoyed by owners of other properties when the property owners all have 700 square foot homes that they live in successfully every day. He should be building a home that is in alignment with the rest of the neighborhood, he should be covering his own lot with one story. Instead, he wants to build upwards so he can give himself a yard while taking away the ability of others to enjoy their own yards. No one on the block enjoys a two story home. It is absolutely false that he would be deprived of privilege enjoyed by owners of the other properties. There are very few two story homes in the entire direct vicinity, if they do exist they are built into the hill and do not impact anyone's view as a result of this. The project is not consistent with surrounding use and if anyone is being deprived of something here it's certainly us as the neighbors being severely impacted by the project in the ways mentioned throughout our appeal.
- **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:** The reality is that the current structure is less than 4 feet from our property line and at a proposed 25 feet high building bordering our home this would significantly impact our ability to have a useful back yard with a similar level of privacy which we now have. Additionally two 2 story 25 foot high buildings will make selling our home much more difficult which ultimately will have a negative monetary effect on us. The proposed building would be the equivalent of being higher than 4 sections of our 6' fence stacked on top of one another, clearly dwarfing our property, robbing us of privacy, valuable sunlight, a view of the hills, and a nice breeze that we enjoy. We would not have purchased our home with this structure behind it, we are sadly confident that other potential buyers would feel the same. We have already lost value in our home due to this housing market and do not need to lose anymore at the hands of Richard Stahlberg, we sincerely ask you to reconsider approving an exception of this enormity.
- **Granting of the variance will not constitute a grant of special privileges inconsistent with the limitations of other properties:** We have previously mentioned the fact that the lot coverage proposal for this project already provides a special privilege to Mr. Stahlberg (53% coverage

while the rest of the block has 70% lot coverage or more). We firmly believe that a project of this size would not even be considered if the property was currently being lived in and kept up. The Planning Committee is rewarding Mr. Stahlberg for not taking care of his property. We should not forget that Richard was the one directly responsible for allowing this dilapidated home to sit for 15 years, to become the eyesore and overgrown hazard that it has been for all these years. The message that is clear to me basis this logic is that if you leave your home sitting long enough you will get approved to do whatever you would like to the property when you are finally ready. This doesn't make sense to us and we shouldn't be bullied into settling for two story buildings simply because it's better than nothing.

Richard claims he has approached the city with these plans multiple times over the years but coincidentally enough there is no record of this happening. He has not made a documented attempt to do anything with this property and 15 years later has now been approved to have two full scale buildings put on his property. This is absolutely a special privilege. In fact after speaking with neighbors in the neighborhood and on this very block, projects of far less scale have been denied based on these same zoning restrictions. Gloria, our neighbor on Robinson Street was denied for her exception request to build a structure to house her dying mother. How can we say this is not a special privilege being made to Richard Stahlberg? The Staff Report from 2.17.10 indicates that this is project "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" but our neighbor Gloria was denied a request of much lesser degree so we know this is a special privilege being given to Richard. It was clear during the PC meeting that they were favoring him because he has been a "23 year merchant downtown". What about a new family that has moved into town and has increased property values through home investment and upkeep, doesn't that count for something?

PLANNING COMMISSION MEETING

- **The planning commission was one sided and we are very concerned about how the meeting was carried out.** We were given three "timed" minutes to be able to defend our property. We were only able to speak at the very beginning of the meeting when we had not had the luxury of hearing the points of the PC. We were told we could not respond to any points made by the PC and were not able to defend ourselves and provide important information. The PC spoke down to us the entire meeting; they were clearly biased and did not even ask us one question when they asked Richard several. The PC's treatment of us was so egregious that one of our neighbors is very upset and plans to attend the next meeting to share concerns regarding how we were treated at the hands of the PC. The entire process created a stacked deck against us, giving us no time and no opportunity to provide our thoughts, points, and opinions. We have a 400,000 dollar investment in our home and we have only 3 minutes to defend it.
- **Planning commission members were not prepared,** some of them had left the reports in their vehicles, and all members received some of the reports at the start of the meeting and did not even have time to review them prior to the meeting. More than 1 commissioner made comment about how it was not normal to have additional plans turned in at the time of the meeting. They were clearly confused about what they were even approving, not surprising given that many of them also had different packs of information, some complete and some incomplete. We would ask you to review the minutes/videos from the session so you can witness the chaos for yourselves.

- **Poor behavior by the commissioner was rampant**, but two particularly have struck us as most alarming. Commissioner Ford publicly berated city planning manager Terry Blount for denying the initial application when there was 'only 5 concerned neighbors at the first meeting', she also berated him because Stahlberg had to 'come to the city' for so many years to get this through. As we already explained there is no documentation whatsoever that any plans have ever been reviewed by the city prior to this. Mr. Blount made a fair and accurate denial of this approval and shouldn't be treated like this for doing his job and applying the process as he should. This was such an uncomfortable and concerning point in the meeting especially when Mr. Blount had to defend himself against the PC. This is very alarming to us and makes us strongly question the integrity of this process. We thought these Commissions and Council were here to protect the community and ensure the welfare of Martinez citizens? It shouldn't matter if its 1 or 100 people, every person should count. Also, Commissioner Harriet Burt went as far to inform us that we "gave up our privacy rights when we moved to the Bay Area" she said we have no right to privacy and told us "that we were not going to like what she had to say there is no privacy around here." We weren't given the chance to let her know that we wouldn't have bought this home if a house like the one being proposed was located in the backyard. She told us we had no view and when we offered pictures to show our view, we were ignored and told we were "out of process".
- **There were several recommendations made by Mr. Blount in the March 23 Planning Commission Staff Report, which Mr. Stahlberg simply ignored.** The Planning Commission also ignored these, and did not reference these as creative alternatives. In fact the commission gave no thought to other ways to resolve the concerns we as neighbors had. The Planning committed fixated on changing the 'size of windows' as a compromise, and wanted to 'add ambient light windows' which we still aren't sure we understand since it was under the context of protecting our privacy. How does adding windows provide us more privacy? Well we couldn't ask since we weren't allowed to speak 'out of process' to even provide input on the decisions being made about the windows looking into our own property. There were several back and forth's about how far the Stahlberg structure is currently from our fence line. He said it was 4 feet, and it's not. I can touch it with my arm from the fence. The PC refused to look at our pictures that would have proved that the home is not 4 feet from our fence, this was a debated point in the session and we weren't able to even defend ourselves with actual evidence. They also refused to look at our pictures that would prove that we do have a view. As I mentioned, Harriett told us we couldn't possibly have a view because she had 'walked the neighborhood and there was none'. It may not be her view, but it's our view and we don't want it taken away from us period. She doesn't have to appreciate it like we do; we don't think PC opinions should be weighed heavier than our own opinions and facts.
- **There was discussion which we were not allowed to address at the planning commission because it occurred after our timed 3 minutes and we were told we were "out of process" so couldn't talk.** Richard told the PC that he tried to talk to us and we wouldn't talk to him. Harriet criticized us for our handling of a situation. Now that we have the chance, let me clarify what actually happened. Mr. Stahlberg came to our home to "talk" on Sunday march 21st (2 days prior to meeting). Mr. Stahlberg did knock on our door, and when we stepped outside he simply asked us "what we thought" and then said nothing. Knowing that no changes to his resubmitted plan had been made, we knew that he was not approaching us in good faith but to simply be able to say that he had come over to talk. He did not open a conversation to discuss compromise, concession, or creative solutions. In fact there was no dialogue or suggestions. It

was an awkward short one sided conversation of us simply restating why were not in favor of his 2 - 2 story buildings up against our back fence. He plainly stared and seemed surprised that we did not change our opinion; he said literally nothing during this exchange and then turned around and left. Again at the commission meeting Harriet Burt made some very condescending comments clearly directed at us for "not working with the neighbors" and said it was shameful while she scowled directly at us as a parent would a child. She drew these conclusions without hearing both sides and clearly had made a decision before hearing and understanding all sides.

In conclusion, we are willing to compromise in many areas with the exception of the height of the building and its closeness to our property line. The Stahlberg property has been an eyesore to this neighborhood for over 15 years and we would all like to see it improved and lived in. While anything at this point would be better than the building as it currently is, we should not make such a drastic exception and reward Mr. Stahlberg for not taking care of his property for such a long period of time. It seems that we have been backed into a corner to settle for the proposed project because the PC thinks it is better than an abandoned building, however that isn't true to us. We would rather have it stay as is then have a 25 foot monster encroaching upon our property. Overall we continue to agree with Mr. Terry Blount's original denial of this project proposal based on the grounds that it could not be proven that the project "will not be detrimental to the public health, safety or welfare, or materially injurious to properties or improvements in the vicinity", and for this reason we feel that City Council should not allow this project.

I hope you seriously reconsider this project.

Sincerely,

Luke and Bianca McCann

Handwritten signatures of Luke and Bianca McCann. The signature on the left is 'L. McCann' and the signature on the right is 'Bianca McCann'.

Planning Commission Minutes
Regular Meeting
March 23, 2010
Martinez, CA

CALL TO ORDER

Chair Lynette Busby called the meeting to order at 7:00 p.m. with all members present except Commissioners Avila and Marchiano.

Staff present: Associate Planner Anjana Mepani
Senior Planner Corey Simon
Planning Manager Terry Blount

ROLL CALL

PRESENT: Lynette Busby, Chair, Donna Allen, Vice Chair, Harriett Burt, Commissioner, Rachael Ford, Commissioner, Jeffrey Keller, Commissioner, and Paul Kelly, Planning Commission Alternate.

EXCUSED: None.

ABSENT: AnaMarie Avila-Farias, Commissioner, and Michael Marchiano, Commissioner.

AGENDA CHANGES

None.

PUBLIC COMMENT

None.

CONSENT ITEMS

1. *Minutes of February 23, 2010, meeting.*

On motion by Donna Allen, Vice Chair, seconded by Harriett Burt, Commissioner, the Commission present voted to approve the Minutes of the February 23, 2010, meeting. Motion unanimously passed 6 – 0 (Commissioners Avila and Marchiano absent).

REGULAR ITEMS

2. *Stahlberg Residence VAR #10-01, UP #10-01 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 located at 208 Arreba Street. Applicant: Richard Stahlberg (AM)*

Associate Planner Anjana Mepani presented the staff report, including photos of the site, project information (lot size, zoning, and general plan area), site maps, aerial views, and the applicant's request. She explained the zoning requirements and the background history. She reviewed the Zoning Administrator Hearing, the subsequent denial of the application, and the appeal by the applicant, and described the options available to the Commission.

Commissioner Burt asked about the outcome of the application in 2007. Ms. Mepani explained that there had been no formal application until now, but that the applicant may have obtained the letters of support from his neighbors at that time.

Commissioner Kelly asked about the possible unruly conduct at the Zoning Administrator meeting, mentioning the objections about the proposed size of the rear windows. Mr. Blount said the meeting had been more spirited than unruly. Ms. Mepani noted that the applicant's appeal had suggested changing the size of the windows.

RICHARD STAHLBERG, property owner and downtown business owner, discussed his plans to retire in this home and reasons for wanting the remodel. He indicated that he did give letters of support to Planning staff in 2007, but the current staff cannot find them. He noted that he had submitted updated letters.

MIKE MELANI, Melani & Associates, discussed issues raised at the Zoning Administrator meeting. He noted that some of the neighbors who had expressed concern had misunderstood the notice and posting--the posting had stated 3500 square feet as the lot size, but it had been misinterpreted as the size of the dwelling. He added that many of the lots in the neighborhood are small and nonconforming and some have been improved with increasing lot coverage. He noted that making improvements improves property values.

Mr. Melani maintained that the existing issues with neighbors and compliance with the General Plan and Zoning goals can be resolved. He noted that Mr. Stahlberg has proposed alternatives regarding the second story windows, which he reviewed, adding that he did not favor staggering the second story.

Chair Busby opened the public hearing.

BIANCA MC CANN, 211 Robinson, questioned the distance of the current structure from her house. She stated that approval of this remodel requires that it not impact the privacy and welfare of the existing neighborhood, and that it be consistent with other homes in the area. She added that she was not sure that Mr. Stahlberg would continue to maintain the building, and she expressed concern about the impact on the property value of her own home with a 2-story, 25-foot wall so close. She also noted that the total area of proposed remodel, including the garage, would be close to 3500 square feet.

JIM FLATT expressed support for improving the existing home as beneficial to the City and the neighborhood. He expressed concern that Mr. Stahlberg has spent 15 years trying to build on his property, and he has tried to work with staff and the neighbors to resolve the issues.

GLORIA CUNNINGHAM expressed concern about view impacts, adding that building a larger house would be out of character for the neighborhood.

SUZANNA ISOLA acknowledged she was originally concerned with a 3,500 sq. ft. proposal, and that she was reassured to see what Mr. Stahlberg is actually proposing. She expressed

appreciation to Mr. Stahlberg for showing details to her and for attempting improvement to the neighborhood.

LUKE MC CANN discussed concerns with the impact on views, property values, privacy, and quality of life.

Seeing no further speakers, Chair Busby closed the public hearing.

Chair Busby asked if the staff had seen the color renditions submitted tonight previously; the applicant stated that they had not.

Rebuttal

Mr. Melani noted that the views have been improved thanks to Mr. Stahlberg's improvements. He clarified that he is not an attorney, but a civil engineer and land surveyor. He stated that the primary issue is privacy, noting that a second story is permitted if setbacks are met. He stated that he believes findings can be made to approve the requested variances. He agreed there would still be impacts, but noted that Mr. Stahlberg will continue to work with his neighbors to try to work out the issues.

Chair Busby asked if Mr. Stahlberg had met with his neighbors at 211 Robinson Street; Mr. Stahlberg stated that he had, but they did not want to talk.

Vice Chair Allen asked about the distance of the back setback. Ms. Mepani said that the proposed plans show 4 feet. Mr. Melani said the house was at 4 feet, but the garage may be less.

Commissioner Burt asked if staff had visited the site to clarify the setback distance. Mr. Stahlberg said that if they had not, he would allow them to. Ms. Mepani said that there may be a lean-to in the back that is closer to the fence.

Commissioner Ford commented on the contentious nature of the project and the impact on investment values. She noted that Martinez has a unique sense of community and that she would like to see if it can be resolved without attorneys. Commissioner Ford confirmed that staff has nothing on file in City Hall for the property until 2010. Ms. Mepani said that according to the applicant, he has been meeting with staff for 15 years informally, with nothing documented. Planning Manager Terry Blount said that after a thorough search of records, they could find no documentation.

Commissioner Ford questioned why the application was denied when the staff report recommended approval. Mr. Blount discussed findings that have to be made for use permits and variance. He stated that based on the record in its entirety, the finding regarding "public detriment" could not be made, based on the opposition from the neighbors. Commissioner Ford questioned why only 5 neighbors could keep an improvement from being made, when projects with greater opposition have been approved in spite of Planning Commission opinion.

Commissioner Burt agreed with Commissioner Ford's consternation, especially since some of the opposition was based on the perceived size of the proposed building. She noted that public

contact with the neighbors by the applicant could have been done sooner and better. She acknowledged that many of the neighborhoods in the downtown are older ones, some even with un-permitted improvements. She stated that she did not think the height would impact the view too much. She also noted that 211 Robinson used to be a drug home, and said she was glad to see that the new residents are a positive improvement. She stated that Mr. Stahlberg's improvements could also be an asset in a difficult neighborhood. She said that privacy is a problem everywhere in the Bay Area, and that Mr. Stahlberg's agreement to remove the windows along the back wall is a good gesture, as will be additional architectural details if they can be gained. She concluded that improving the property will improve the neighborhood property values.

Vice Chair Allen agreed with Commissioner Burt. She said that she too had visited the area and agreed that there would not be much impact on the view. She said that the applicant seems to be willing to work with his neighbors on the remaining issues, and these improvements are exactly what the City needs in the older area of town. She encouraged the neighbors to get along.

Commissioner Keller discussed his role on the Housing Element Task Force, and some of the issues raised with this lot. He stated that this is a nice looking project that will improve the lot and the neighborhood, and expressed hope that better agreement could be found with the neighbors.

Commissioner Kelly agreed, stating his first impression is that this design is ideal for the lot and the neighborhood. He also agreed that maybe some way could be found to break up the sheer impact of the wall, and he noted that many areas in the county are zero lot line.

Vice Chair Allen noted that most improvement to any neighborhood needs some kind of concession by the neighbors.

Chair Busby asked if the project was going to the Design Review Committee; Ms. Mepani and Mr. Blount confirmed that it is not required for this project.

Chair Busby suggested that the neighbor meet with the applicant and staff to mediate and resolve issues such as privacy.

Commissioner Ford asked about grandfathering, or legal nonconforming, and subsequent requirements for the property. Mr. Blount said that nonconforming additions are made. They are required to conform to current standards; he acknowledged the difficulty with meeting all the requirements and having any area remaining. Commissioner Ford suggested that the City address the problem for residents trying to improve their property without having enough space.

Mr. Blount confirmed that this would be a good subject for the General Plan update. He briefly discussed the "customer service" goals of his staff, and noted the short turnaround from Mr. Stahlberg's actual application time until the Zoning Administrator hearing. He also reviewed the decision-making process of the Zoning Administrator. Commissioner Ford agreed that the turnaround time had been short, and explained her concerns with making the best decisions for the City and its residents.

Commissioner Burt noted that there is an appeal process to the Planning Commission and the City Council. She acknowledged concerns about property value impacts in the past with other projects, usually with an eventual positive outcome when the residents worked together.

Vice Chair Allen thanked Ms. Mepani for her extremely well-written and complete staff reports, both for the Zoning Administrator hearing and for this meeting.

Mr. Blount reviewed the appeal process to the City Council.

The Commission briefly discussed the available options to mitigate the negative impacts.

On motion by Harriett Burt, Commissioner, seconded by Rachael Ford, Commissioner, the Commission present voted to grant the appeal of the denial decision of the Zoning Administrator for Use Permit #10-01 and Variance #10-01, with changes to the rear architecture of the second floor to include 5 small windows or no windows at all. The Applicant was encouraged to work with the rear neighbor to reach agreement. Motion unanimously passed 6 – 0 (Commissioners Avila and Marchiano absent).

3. *Multi-Family Residential Parking Standards ZA #09-02 Public hearing to review proposed zoning text amendments to the Martinez Municipal Code Chapter 22.36; Off-Street Parking. Proposed changes include: adjusting the minimum required parking for multi-family residential development; establishing a city-wide requirement for guest parking in multi-family residential development; and modifying the design standards and use restrictions of driveways and garages that are used for required parking. The Planning Commission will make its recommendations to the City Council, which will consider the possible amendments at a future date to be announced. (Continued from the February 23, 2010 meeting) Applicant: City of Martinez (CS)*

The meeting paused for five minutes and resumed with all members present as indicated.

Senior Planner Corey Simon presented the staff report, reviewing the additional research into the policies of neighboring cities.

Commissioner Keller asked if any other cities have guest parking requirements linked to the total number of units within the project, and not just at a per-unit rate. Mr. Simon said that none of the cities did. All agencies used a constant per unit rate, and they would usually round up or down, although there might also be an option of making the ratio of required guest parking spaces go down as the number of units within the project rises, with some cutoff point at which there was no additional guest parking requirement.

Mr. Simon also discussed staff's recommendations regarding tandem parking. Vice Chair Allen asked about tandem parking with one space in the garage, and one outside. Mr. Simon said that it was not precluded and could be considered on a case-by-case basis. Vice Chair Allen said she would only approve tandem spaces in garages.

Mr. Simon confirmed that other cities also consider tandem parking on a case-by-case basis.

Vice Chair Allen asked for clarification on the difference between use permits and variances, stating her opinion that a use permit process would be better than variances. Staff deferred to the earlier opinion cited by City Attorney Veronica Nebb, who does not recommend the granting of exceptions to parking standards with a use permit, and that variance or Planned Unit Development approvals are more appropriate..

Commissioner Ford asked why Pleasant Hill's parking requirements are much greater than those of other cities. Mr. Simon said it was probably because Pleasant Hills sees its self as more of a suburban community, as most of the City was on other side of the freeway from the Pleasant Hill Bart Station and away from public transit. After some discussion, Commissioner Ford said that in light of recent problems, she would prefer greater guest parking than .25 (preferably .5 as per City of Pleasant Hill's requirement).

Commissioner Burt expressed concern about guest parking being used by residents. Vice Chair Allen said that the county allows street frontage parking to count towards meeting parking requirements, but she would not support that. Mr. Simon said that staff does not support it either.

Commissioner Keller said he thought a ratio of .25 was adequate, especially when there is overflow on-street parking. Commissioners Burt, Allen and Kelly said that they would support .33 per unit, not counting on-street parking, for 3 or more units.

Before making a recommendation on the entire draft regulations, the Commission chose to first poll members as to its recommendation in regards to just guest parking requirements. On motion by Donna Allen, Vice Chair, seconded by Jeffrey Keller, Commissioner, the Commission present unanimously voted to support a requirement for guest parking at a ratio of .33spaces per unit, not counting on-street parking, for projects with 3 or more units.

Commissioner Allen asked about the exception process. Mr. Simon discussed codified exceptions with the Downtown Overlay District, Specific Plan, etc., but deferred again to Ms. Nebb's concerns. He stated that the purpose of a variance is to create parity, not special favor.

Vice Chair Allen asked about RV parking requirements in multifamily rental projects and condominiums. Staff stated the City currently has a requirement for RV parking spaces in Condominium projects, but does not see a need now add such a regulation for all multifamily projects. Vice Chair Allen stated that the same language and standards should apply to all multi-family projects.

The Commission discussed possible RV restrictions for multi-family projects which adhere to condominium standards. Option discussed included a version of City of Concord's regulations, where the parking of RV's is prohibited in multifamily developments unless RV parking, at a prescribed ratio, is provided. Staff suggested that the Ordinance provide RV parking specifications which must be met if the developers wish to provide RV parking, and that Concord's approach would be workable..

On motion by Donna Allen, Vice Chair, seconded by Rachael Ford, Commissioner, the Commission present voted to adopt the draft resolution recommending that the City Council approve the draft ordinance revising the City's multifamily parking requirements as presented, but with guest parking requirements to be at the ratio of .33 spaces per unit as just previously discussed the by Commission, and that the following new restrictions on the parking of RV's shall be made applicable to all multifamily projects: RV parking shall be prohibited unless RV parking spaces, with a minimum dimension of 10 ft. by 25 ft. are provided at a ratio of .20 spaces per unit. Motion unanimously passed 6 – 0 (Commissioners Avila and Marchiano absent).

COMMISSION ITEMS

Commissioner Burt brought up the formation of the General Plan Task Force. Mr. Blount stated that interested people should contact the mayor. The Council discussed ways of notifying people about the Task Force and other news, possibly compiling an email list.

Vice Chair Allen asked whether the minutes from the Zoning Administrator meeting could be added to the packet next time when there is an appeal. Mr. Blount stated that there was not enough staffing and resources to provide minutes for the Zoning Administrator meetings.

Commissioner Ford mentioned the need for documentation of future counter visits, especially for return visits. The Commission discussed different processes and uses of such documentation. Mr. Simon noted that computer records allow for better tracking.

Commissioner Ford noted that Marty Ochoa, chairman of the Chamber of Commerce, was hospitalized last week following a heart attack.

STAFF ITEMS

Mr. Blount reported that Assistant City Manager Karen Majors will be leaving June 1st and that the position will not be filled again for the time being, due to budget issues. He discussed subsequent staffing constraints and the impact on customer service and support for the Planning Commission.

Mr. Blount gave a brief report on the Planning Commission meeting schedule – noting there would likely be one in April, two in May, and one in July.

Mr. Blount discussed the Design Review Committee process and possible streamlining of the process, including joint Design Review Committee/Planning Commission study sessions when appropriate. The Commission expressed their support of the concept.

COMMUNICATIONS

Commissioner Allen asked about the field trip to Alhambra Highlands, and when the project would be returning. Mr. Blount said that the field trip was still in the planning stage. He added that the meeting on April 27 would discuss the DEIR, and the project would return in July.

On motion by Donna Allen, Vice Chair, seconded by Rachael Ford, Commissioner, the Commission present voted to adjourn at 9:20 p.m., to the next Regular Meeting, April 27, 2010

at 7:00 p.m. in the Council Chambers. Motion unanimously passed 6 – 0 (Commissioners Avila and Marchiano absent).

Respectfully submitted,

Approved by the Planning Commission Chairperson

Transcribed by Mary Hougey

Lynette Busby



City of Martinez

525 Henrietta Street, Martinez, CA 94553-2394

(925) 372-3550
FAX (925) 372-0257

March 30, 2010

Richard Stahlberg
620 Main Street
Martinez, CA 94553

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

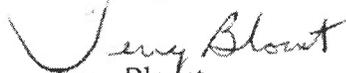
Dear Mr. Stahlberg:

At its meeting on Tuesday, March 23, 2010, the Martinez Planning Commission approved your appeal of the denial decision of the Zoning Administrator, for use permit and variance approval to allow reconstruction and renovation of a vacant single-family residence and garage located at 208 Arreba Street. The Conditions of Approval are attached.

This decision may be appealed to the City Council by yourself or any interested person. There is a 10-day appeal period which ends on April 2, 2010.

You may proceed in applying for your building permit after the appeal period has expired. For more information on obtaining a building permit, please contact Rigo Casarez, Building Permit Technician, at 372-3550.

Sincerely,


Terry Blount
Planning Manager

Attachment

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

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ATTACHMENT #7
PLANNING COMMISSION
APPROVAL LETTER, STAFF
REPORT, CONDITIONS OF
APPROVAL, AND RESOLUTION



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	(1,000 sq. ft.)/(50% of main structures gross floor area)	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

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CONDITIONS OF APPROVAL
AS APPROVED BY PLANNING COMMISSION

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
Color Elevations	March 23, 2010	Applicant and 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. The second floor, rear elevation shall be changed to include five small windows or no windows at all.

- B. 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.
- C. 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.
- D. 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.
- E. 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.
- F. All construction equipment shall be muffled in accordance with State Law.
- G. 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.
- H. 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.
- I. Construction shall comply with all applicable City and State building codes and requirements including energy conservation requirements.
- J. 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.
- K. Erosion control measures shall be implemented per plans approved by the City Engineer for all grading work not completed before October 1.
- L. The applicant's engineer shall certify the actual pad elevation for the lot in accordance with City standards prior to foundation inspection.

- M. 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.
- N. The plans shall include the boundary treatment shown on cross sections, drawn to scale, for retaining walls, fencing and drainage.
- O. 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.
- P. 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.
- Q. 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.
- R. All site improvements, including driveway, frontage improvement, grading and storm drainage, shall be subject to the City Engineer's approval.

- S. All new utility distribution services on-site and off-site shall be installed under ground.
- T. 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.
- U. 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.
- V. 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.
- W. 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.
- X. There shall be no parking of construction vehicles or equipment on the surrounding residential streets, including all workers vehicles.
- Y. 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. Planning Commission approval is subject to appeal to the City Council 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 March 23, 2010.
- C. The time extension of the expiration date, March 23, 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 Planning Commission'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 be 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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RESOLUTION NO. PC 10-02

**A RESOLUTION OF THE PLANNING COMMISSION
OF THE CITY OF MARTINEZ,
GRANTING AN APPEAL OF ZONING ADMINISTRATOR DENIAL AND
APPROVING USE PERMIT #10-01 AND VARIANCE #10-01 REQUESTS TO ALLOW
RECONSTRUCTION AND RENOVATION OF A VACANT SINGLE-FAMILY
RESIDENCE AND GARAGE, WITH EXCEPTIONS TO THE NORMALLY PERMITTED
HEIGHT AND SIZE OF ACCESSORY STRUCTURES, AND EXCEPTIONS TO
PERMITTED YARD SETBACK REQUIREMENTS AND COVERAGE REQUIREMENTS
IN THE R-3.5 ZONING DISTRICT, LOCATED AT 208 ARREBA STREET
(APN: 372-173-001)**

WHEREAS, the City of Martinez received a request for Use Permit and Variance approvals to allow reconstruction and renovation of a vacant single-family residence and garage with exceptions to allow an accessory structure (replacing an existing garage) with a height of two stories/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; also 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; and

WHEREAS, the proposal is consistent with General Plan policies and with the Group 2 Residential land use designation of the Central Martinez Specific Area Plan; and

WHEREAS, the zoning applicable to the property is R-3.5 (Family Residential: 3,500 square feet per dwelling unit) which allows for single-family residences and accessory structures; and

WHEREAS, the reconstruction and renovation of the single-family residence and garage is generally consistent with development standards of the R-3.5 zoning designation and the requirements for the granting of exceptions to those regulations where applicable; and

WHEREAS, the project is categorically exempt from the requirements of CEQA, under Sections 15301 (Existing Facilities) and 15303 (New Construction or Conversion of Small Structures) - CEQA Guidelines; and

WHEREAS, the Zoning Administrator determined the project did not meet all necessary findings for granting the Use Permit and Variance and denied the request at a duly noticed and held public hearing on February 17, 2010; and

WHEREAS, on February 25, 2010, the applicant filed a timely appeal of the Zoning Administrator denial of the request with the City of Martinez; and

WHEREAS, the Planning Commission held a duly noticed public hearing on March 23, 2010, in regards to the said actions and has considered public testimony and all other substantial evidence in the record; and

NOW, THEREFORE, the Planning Commission of the City of Martinez resolves as follows:

1. That the above recitals are found to be true and constitute part of the findings upon which this resolution is based.
2. In order to grant an appeal of the Zoning Administrator's denial and approve the Use Permit application to allow exceptions to the normally permitted height and size of Accessory Structures, the Planning Commission 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.
3. In order to grant an appeal of the Zoning Administrator's denial and approve the Variance application to allow exception to the normally permitted yard setback requirements and coverage requirements, the Planning Commission 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 disproportionately 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.

NOW, BE IT FURTHER RESOLVED that the Planning Commission approves Use Permit #10-01 and Variance #10-01 subject to conditions of approval, incorporated herein by this reference.

I HEREBY CERTIFY that the foregoing is a true and correct copy of a resolution duly adopted by the Planning Commission of the City of Martinez at a regular meeting of said Commission held on the 23rd day of March, 2010:

AYES: Donna Allen, Harriett Burt, Lynette Busby, Rachel Ford, Jeffrey Keller, Paul Kelly

NOES:

ABSENT: AnaMarie Avila Farias & Michael Marchiano

ABSTAINED:

BY:



Lynette Busby
Planning Commission Chair

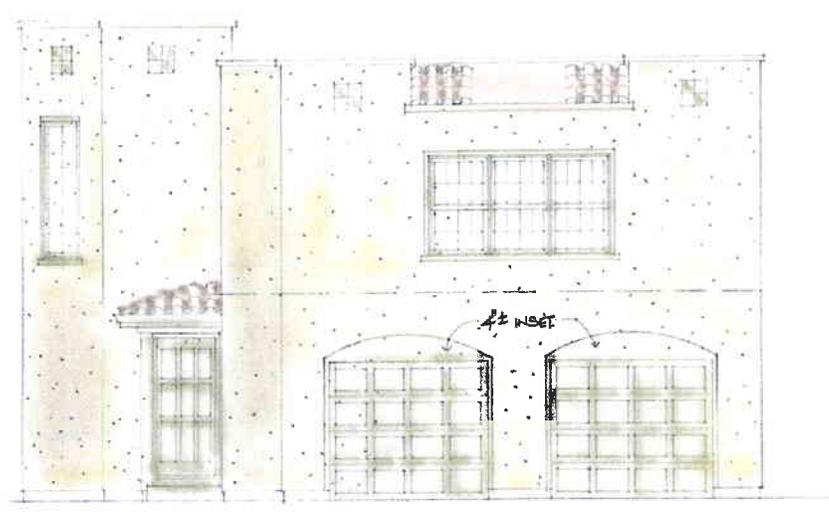


Anjana Mepani
Associate Planner

RECEIVED
MAR 23 2010
COMMUNITY DEV. DEPT



HOUSE FRONT (Arreba St.)



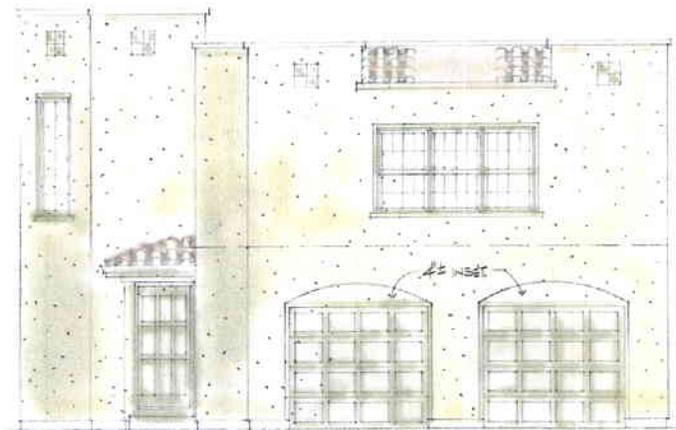
GARAGE (ROBINSON ST.)

ATTACHMENT #8
COLOR ELEVATIONS AND
ADDITIONAL NEIGHBOR
SUPPORT LETTERS

RECEIVED
MAR 23 2010
COMMUNITY DEV. DEPT.



HOUSE - RIGHT
(view from Robinson Street)

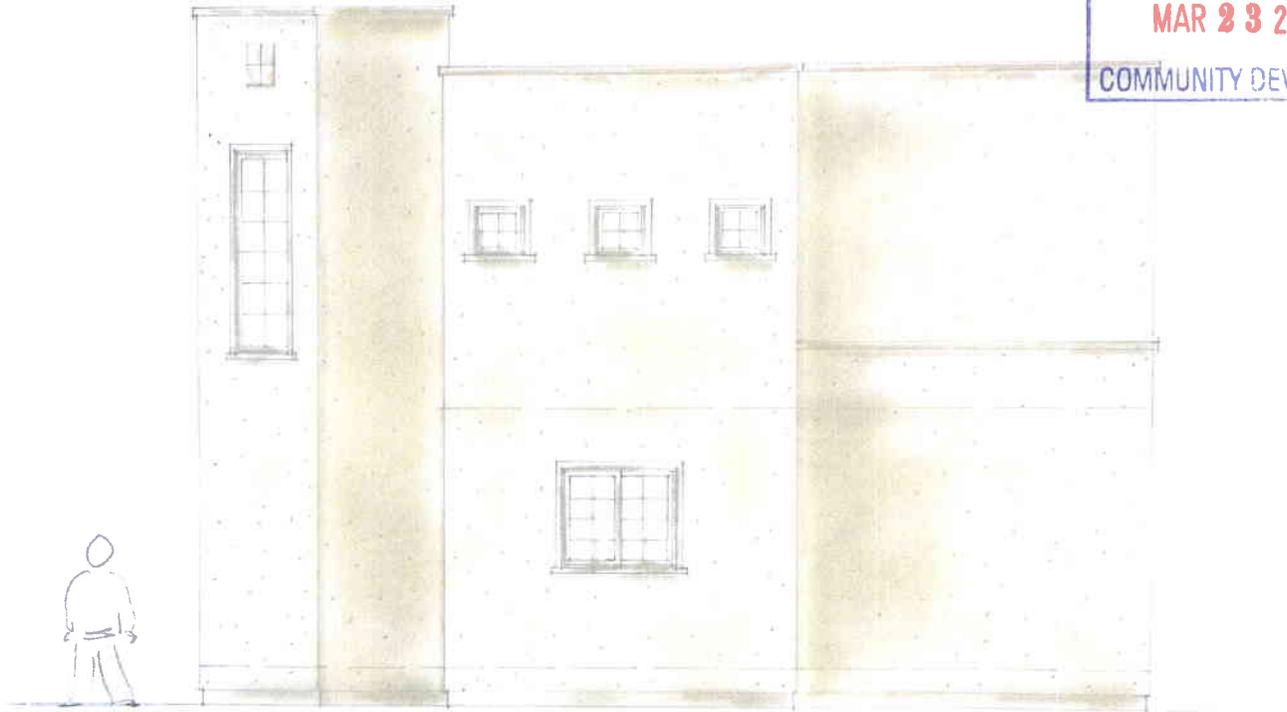


GARAGE (ROBINSON ST.)

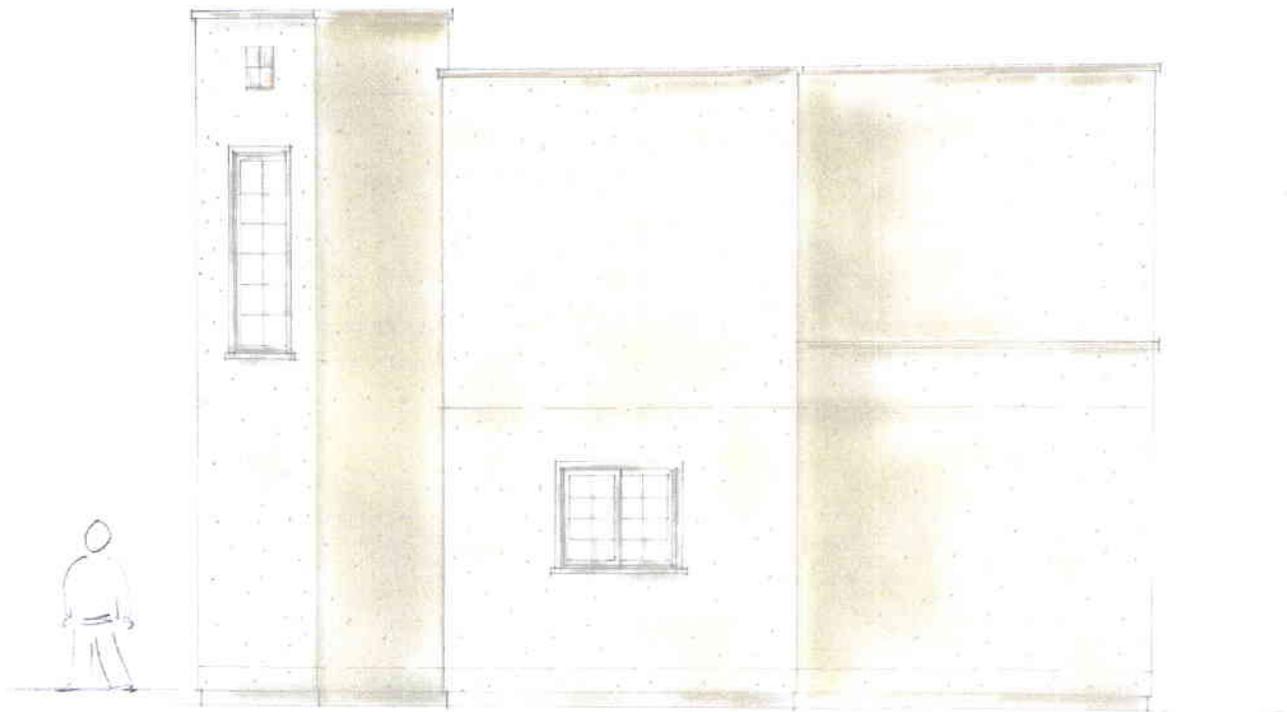
House - rear

With Bedroom window moved to left side

RECEIVED
MAR 23 2010
COMMUNITY DEV. DEPT.



HOUSE REAR

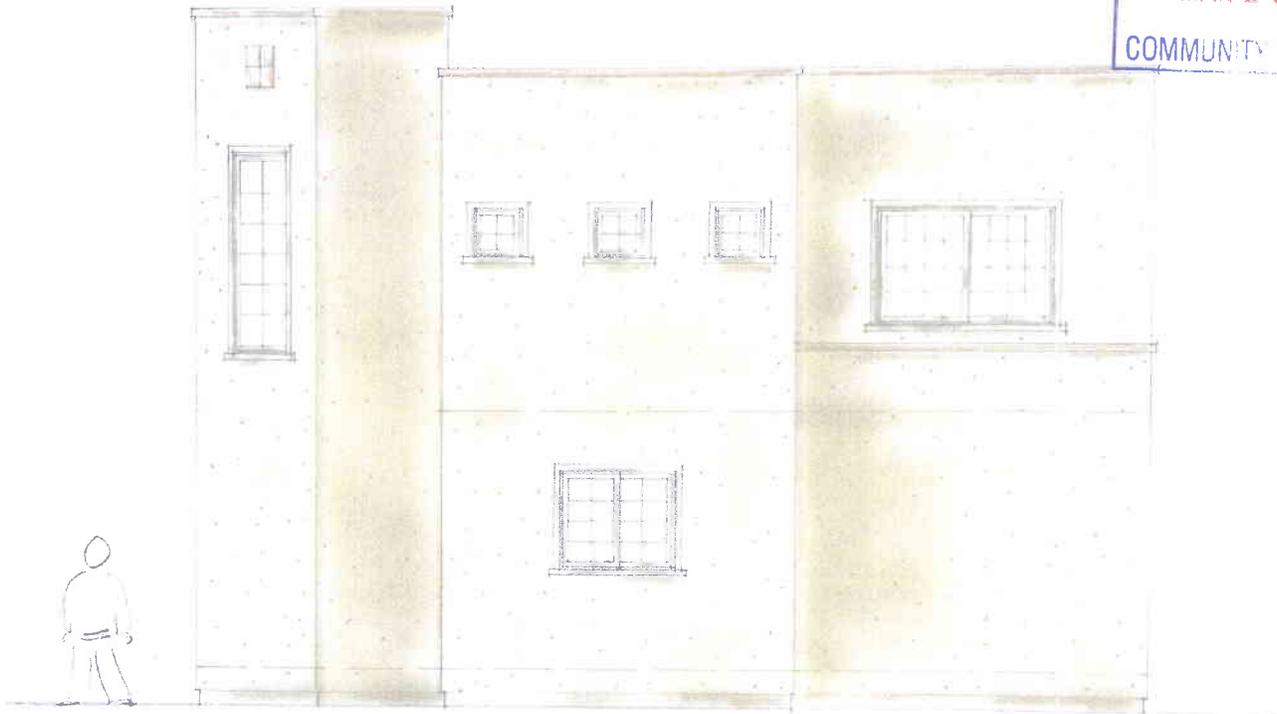


House - rear

With Bedroom and Family room windows moved to side

House - rear _ as it appears on plans

RECEIVED
MAR 23 2010
COMMUNITY DEPT.



HOUSE REAR



HOUSE REAR

Karen Jumper

201 Arreba Street
Martinez, CA 94553



March 22, 2010

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

Hi,

I live at 201 Arreba Street, directly across the street from Mr. Stahlberg's house at 208 Arreba. I think the plans he has for his property are beautiful and tasteful and will improve Arreba Street. This property has been vacant for years, and kids and bums are always lurking around his property because its vacant, so why not put something that will improve the neighborhood. He has my vote.

Thank You

Karen Jumper

LHJS Investments LLC
Magnate Fund #2 LLC
925-270-4882 PH
925-608-0088 FX

February 25th, 2010



To Whom It May Concern:

The following is in regards to the property located at 208 Arreba Street in Martinez.

I own the property at 212 Arreba Street and have since 2007. Since that time, the property has not been inhabited and I would greatly welcome it being upgraded to an inhabitable state.

The current owner of the property has shown me the plans for his proposed remodel and they appear reasonable to me at this time. I do wish to have the time to evaluate how the building of a second story would affect the amount of direct sunlight coming into my living room through the windows that look directly out onto the adjacent property. However it is clear to me that the building of a second story would not adversely affect my current view.

Please feel free to contact me with any further questions or requests for information that you may have.

Sincerely,

Micaela Godzich

Judy Maatz
209 Arreba St.
Martinez, CA 94553
925 229-2196



March 18, 2010

City of Martinez Planning Commission
City of Martinez Planning Department
City of Martinez Building Department
525 Henrietta Street
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 two car garage with a room above it, and add a second story to the existing house.

My brother and I support Mr. Stahlberg's remodel at 208 Arreba St. It will not obstruct the view from my property or 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 he can move forward with his project.

Sincerely,

A handwritten signature in black ink that reads "Judy Maatz".

Judy Maatz

A handwritten signature in black ink that reads "Gerald Richardson".

Gerald Richardson

To:
City of Martinez Planning Commission
City of Martinez Planning Department
City of Martinez Building Department
525 Henrietta Street
Martinez, CA. 94553



We the undersigned have been shown by Richard Stahlberg his plans for remodeling his residence at 208 Arreba Street, and agree with the letter from Judy Maatz, (209 Arreba), that Mr. Stahlberg's remodel will definitely be a positive addition to the neighborhood, and encourage the City to approve Mr. Stahlberg's designs so he can move forward with his project.

Name

Address

Judy Maatz 201 Arreba St Martinez CA
94553

Richard Froland ¹³² 132 ARREBA ST

RYAN W. TERRY 124 ARREBA ST.

M. Jacobs 225 Robinson st.



1550 Prospect Avenue
Martinez, CA 94553
(925) 372-8168

March 3, 2010

Richard Stahlberg
C/O Photography by Stahlberg
1620 Main Street
Martinez, CA 94553

Dear Mr. Stahlberg:

We are so pleased that you are remodeling your house at 208 Arriba Street. The second story and new garage with office space above will be a welcome addition to our neighborhood. The plan that you have proposed will fit in well with the surrounding homes and will be a positive addition to this pleasant corner.

We have lived in our home since 1975 and strongly encourage any improvements that enhance the neighborhood while maintaining Martinez' "home town" atmosphere.

Please feel free to call on us for support for your plan. We are looking forward to having your proposal passed and the beginning of your project!

Sincerely,

Two handwritten signatures in black ink. The first signature is "Jim Flatt" and the second is "Bonni Hart".

Jim Flatt and Bonni Hart



STAFF REPORT



TO: ZONING ADMINISTRATOR

FEBRUARY 17, 2010

PREPARED BY: Anjana Mepani, Associate Planner

APPROVED BY: Terry Blount, AICP, Planning Manager

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:

- (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.

Excerpt from Staff Report
February 17, 2010
Recommending approval.
(approved by Terry Blount
- Planning Manager)



City of Martinez

525 Henrietta Street, Martinez, CA 94553-2394

(925) 372-3515

FAX (925) 372-0257

February 19, 2010

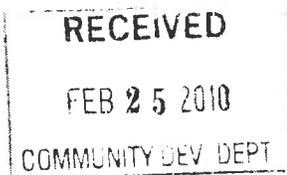
SUBJECT: VARIANCE #10-01 & USE PERMIT #10-01 DENIAL – 208 ARREBA STREET

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.

Sincerely,

Terry Blount, AICP
Planning Manager

Basis upon which
(Terry Blount - Acting
Zoning Administrator)
denied approval.



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.

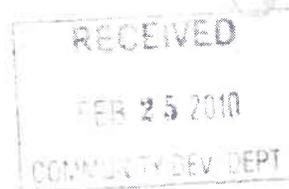
The staff report was well prepared and correctly outlined the staff findings supporting both the Use Permit Application (#10-1) and the accompanying Variance Application (#10-1). The Standards for Approval and Findings were noted on pages 3 thru 5 of the Zoning Administrator Staff Report. The Staff Report 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

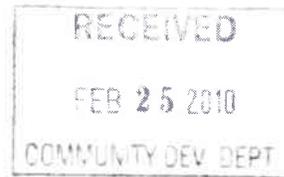
Richard Stahlberg

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

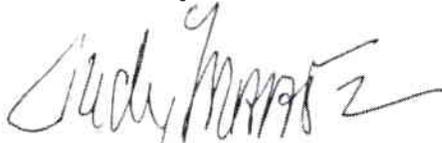
City of Martinez Planning Department
City of Martinez Building Department
525 Henrietta St
Martinez CA 94553

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 the can move forward with his project.

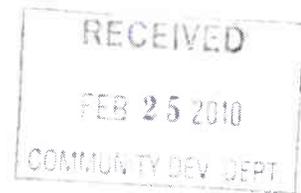
Sincerely,


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 Arriba Street in Martinez. Richard Stahlberg, the owner of the property next to mine, 208 Arriba, 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 Arriba and encourage the City to approve his designs so he can move forward with this project.

Sincerely

A handwritten signature in cursive script that reads "Josh Wellen".

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.

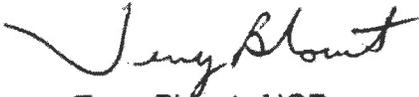
This decision may be appealed to the Planning Commission by yourself or any interested person. There is a 10-day appeal period which ends on Friday, February 26, 2009.

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 #10
ZONING ADMINISTRATOR
DENIAL LETTER, STAFF
REPORT, AND DRAFT
CONDITIONS OF APPROVAL

Sincerely,

A handwritten signature in black ink, appearing to read "Terry Blount". The signature is written in a cursive style with a large initial "T".

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 disproportionately 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

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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 Arriba Street



Subject Property with Garages



**ATTACHMENT #11
PICTURES TAKEN BY
STAFF 8/7/09 AND 1/6/10**

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

