



STAFF REPORT SAN CLEMENTE PLANNING COMMISSION

Date: February 6, 2013

PLANNER: Christopher Wright, Associate Planner *COU*

SUBJECT: Cultural Heritage Permit 11-318/Variance 12-358/Minor Exception Permit 12-410, Markuson Residence, a request to consider a two-story residence with setback exceptions located at 168 West Avenida San Antonio, across the street from a historic structure.

REQUIRED FINDINGS

Prior to approval of the proposed project, the below findings shall be made. The draft Resolution, provided as Attachment 1, and analysis section of this report provide an assessment of the project's compliance with these findings.

Variance, Section 17.16.080(F): to allow exceptions to the front yard and garage setbacks otherwise not allowed by a Minor Exception Permit.

- a. Due to special circumstances applicable to the subject property including size, shape, topography, location or surroundings, the strict application of the Zoning Ordinance is found to deprive the subject property of privileges enjoyed by other properties in the vicinity under identical zone classifications.
- b. The granting of the variance is necessary for the preservation of a substantial property right possessed by other property in the same vicinity and zone and otherwise denied the subject property.
- c. The required conditions of approval ensure that the adjustment authorized will not constitute a grant of special privileges which are inconsistent with the limitations placed upon other properties in the vicinity subject to the same zoning regulations.
- d. The granting of the variance will not be detrimental to the public health, safety or welfare, or materially injurious to properties or improvements in the vicinity.
- e. The granting of a variance is consistent with the General Plan and the intent of this title.

Cultural Heritage Permit, Table 17.16.100: to allow the construction of a residence that abuts a historic structure.

- a. The architectural treatment of the project complies with the San Clemente General Plan.
- b. The architectural treatment of the project complies with any applicable specific plan and this title in areas including, but not limited to, height, setback color, etc.
- c. The architectural treatment of the project complies with the City's Design Guidelines.

- d. The general appearance of the proposal is in keeping with the character of the neighborhood.
- e. The proposal is not detrimental to the orderly and harmonious development of the City.
- f. The proposed project will not have negative visual or physical impacts upon the historic structure.

Minor Exception Permit, Section 17.16.090(F): to allow up to a 20% reduction of the required side yard setback.

- a. The requested minor exception will not interfere with the purpose of the zone or the standards of the zone in which the property is located; and
- b. The neighboring properties will not be adversely affected as a result of the approval or conditional approval of the Minor Exception Permit; and
- c. The approval or conditional approval of the Minor Exception Permit will not be detrimental to the health, safety or welfare of the general public.

BACKGROUND

This is a request to construct a Tudor styled residence at 168 West Avenida San Antonio, with front yard, garage, and side yard setback exceptions. The applicant requests a Variance, Minor Exception Permit, and Cultural Heritage Permit to allow the project. The subject site is located within the Residential-Low Density zoning district and Coastal Overlay (RL-CZ). There is a one-story, 1,669 square foot residence on the site that would be demolished to construct the house. The subject site abuts the Lobos Marinos Coastal Canyon Environmentally Sensitive Habitat Area (ESHA) and a historic structure across the street at 169 West Avenida San Antonio. The historic residence was built in 1928. Refer to Attachment 4 for a summary of the residence's historical significance.

Development Management Team

The City's Development Management Team (DMT) reviewed the applicant's request, determined it meets requirements, and recommends Conditions of Approval to ensure code compliance. The recommended conditions are shown on Attachment 1, Exhibit A.

Noticing

Public notices were distributed and posted per City and State requirements. No public comments have been received to date.

PROJECT DESCRIPTION

The proposed residence is two-stories with 2,312 square feet of floor area. The floor plan includes two bedrooms, two bathrooms, a bonus room, and a second floor balcony at the rear. The proposed residence would have larger front yard, side yard, garage, and coastal canyon setbacks compared to the existing house. The proposed project also includes site improvements. Landscaping will be replaced in the front yard and within the canyon with drought tolerant species. Also, the Coastal Commission is requiring the removal of a nonconforming rear yard deck and stairway they determined to be located within the coastal canyon. These site improvements would bring the site into compliance with zoning standards and goals of the California Coastal Act.

Development standards

The proposed project meets development standards except for the required front yard setback, garage setback, and side yard setbacks. A Variance and Minor Exception Permit are requested to vary from these standards.

The site must comply with rear yard setback requirements applied to coastal canyons. Staff reviewed the topography of the site with Coastal Commission staff. It was determined the stringline setback should be used to protect the canyon, considering topography, native vegetation, and the character of adjacent development. The stringline setback is defined by a line between the closest points of adjacent residences that abut the canyon, located both sides of the subject site (see Figure 1 below). The two properties in the case of the project are: 1713 South Ola Vista and 166 West San Antonio. The Coastal Commission determined 170 West San Antonio does not abut the canyon, so that lot was not used in the stringline. The stringline setback is shown on sheet 1 of the plans.

Figure 1 – Visual of stringline setback requirement

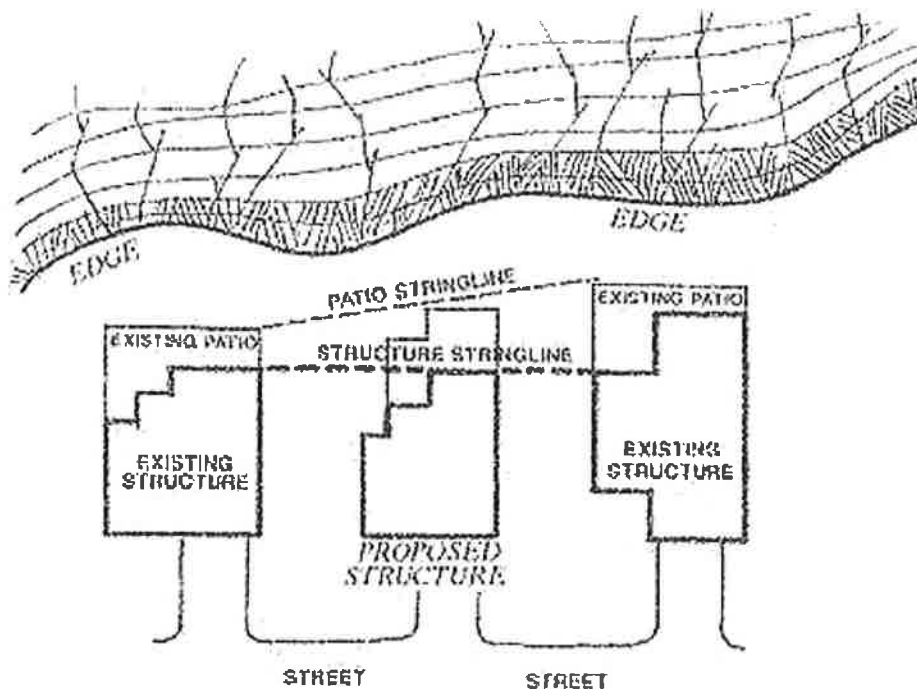


Table 1 identifies development standards and how the project meets requirements.

Table 1 - Development standards

Development standard	Existing	Required	Proposed
Building Height Maximum	13'-6"	25'	24'-10"
Setbacks (Minimum):			
• Front	10'-2"	14'-3"*	10'-4"
• West Side Yard	4'-8"	10% of lot width (5'-1")	5'
• East Side Yard	4'	10% of lot width (5'-1")	5'
• Coastal canyon stringline	6" beyond stringline	Develop within stringline. See plans	Complies
• Garage	17'	18'	17'-3"
• Lot Coverage	29%	50%	32%
• Required Parking (Minimum):	2 spaces	2 spaces	2 spaces
• Front yard landscaping (Minimum)	Less than 50%, no trees	50%, two trees	50%, two trees as conditioned

** The standard RL front yard setback is 20 feet. The house qualifies for a median front setback since there are four developed lots on the block with setbacks shorter than 20 feet.*

PROJECT ANALYSIS

Cultural Heritage Permit

The proposed project requires a CHP because the subject site abuts a historic structure. A Cultural Heritage Permit is required to ensure the project is compatible with historic resources, is consistent with design guidelines, and is in character with the neighborhood. Staff believes the project meets required findings based on the following:

1. The proposed design is compatible with the scale, mass, and form with adjacent structures and the pattern of development in the neighborhood. There are several properties in the neighborhood with front setbacks and building heights similar to the proposed project.
2. The proposed residence will be located across the street from the historic structure with over 85 feet of separation between the two buildings.
3. The Tudor architecture of the proposed project complements the mix of styles in the neighborhood.

Design Review Subcommittee

The Design Review Subcommittee reviewed the project on December 12, 2012 and supported it with no recommended changes.

Variance

A Variance is requested to reduce the required 14 foot 3 inch front yard setback by 3 feet 11 inches [27% reduction] and 2) to reduce the required 18 foot garage setback by 10 inches [5%]. Variances allow projects to vary from development standards in special circumstances. For approval, the subject site must have physical limitations (e.g. topography, pad depth) that deny the applicant from having development rights others have in the vicinity with similar zoning. Zoning variances should be granted only when a property owner has a unique and unusual hardship. Variances cannot have adverse impacts on surrounding properties. To determine if the request qualifies for a variance, staff compared the topography, lot depth, and setbacks of the subject site with other canyon lots on the street block using aerial photography measurements and reviewing property records. Based on this analysis, staff supports the Variance request. Each required finding is identified below and the reasons staff believes the finding can be met:

Finding 1 - "Due to special circumstances applicable to the subject property including size, shape, topography, location or surroundings, the strict application of the Zoning Ordinance is found to deprive the subject property of privileges enjoyed by other properties in the vicinity under identical zone classifications."

This finding can be met because the area and depth of the subject site's building pad is smaller and shallower than lots in the same zoning district, including lots adjacent to the same coastal canyon. The special circumstances are discussed below:

1. The subject site's building pad is the shallowest of 14 canyon lots on the block with a lot width comparable (45 to 50 feet) to the subject site (one lot is not comparable because it is 90 feet wide, almost double the width of the other lots on the block). The coastal canyon setback line is located approximately 18 feet closer to the front property line than the other canyon lots. Therefore, the subject site has a building pad approximately 30% shallower and 500 square feet smaller (23%) than the other properties. If the subject site were similar to the average lot on the block, the applicant could construct a functional house in character with the neighborhood.
2. The coastal canyon setback line is the closest to the front of the subject site, compared to the 14 canyon lots on the block with a similar lot width. The canyon lot most similar to the subject site has a building pad five feet, three inches deeper than the subject site because the canyon setback line is located further from the front property line. The applicant has asked for a 3 foot 11 inch encroachment into the front yard setback to make the development of the lot more comparable with similar properties in the area.

3. The other canyon lots on the block have houses located approximately 21 feet closer to the rear property line than the proposed house. Therefore, the subject property enjoys less developable area on the canyon side of the lot than the other properties on the block.

Finding 2 - "The granting of the variance is necessary for the preservation of a substantial property right possessed by other property in the same vicinity and zone and otherwise denied the subject property."

The variance is necessary to construct a house that protects natural resources (the coastal canyon) by moving the building pad closer to the front property line, while providing a functional floor plan in character with development in the neighborhood. The variance preserves a property right, a building pad with depth and size, possessed by other properties with similar zoning limitations, including other properties that abut the Lobos Marinos coastal canyon Environmentally Sensitive Habitat Area (ESHA). Compared with other properties on the block, the coastal canyon is the closest to the front property line than other lots with a similar lot width (45 to 50 feet).

Finding 3 - "The required conditions of approval assure that the adjustment authorized will not constitute a grant of special privileges which are inconsistent with the limitations placed upon other properties in the vicinity and subject to the same RL zoning regulations."

The project meets this finding because the other residences within the zone and vicinity of the subject site have been developed with front yard building setbacks similar to that being proposed.

Finding 4 - "The granting of the variance will not be detrimental to the public health, safety or welfare, or materially injurious to properties or improvements in the vicinity."

The variance will not adversely impact surrounding properties because:

1. The proposed design is compatible with the scale, mass, and form with adjacent structures and the pattern of development in the neighborhood, since:
 - a. The front yard setback variance will be in character with the neighborhood. The Zoning Ordinance allows residences to have a 14 foot, 3 inch median front yard setback on 14 properties located within the same block and side of the street. Six of the fourteen residences have shorter front setbacks than the median of the street, ranging from 9 feet 10 inches to 12 feet 10 inches. The proposed residence would have a 10 foot 4 inch front setback with the variance. The project has a two-inch larger front setback than the existing residence.
 - b. The variance will allow the proposed residence to have a two-inch larger front setback than the existing house on the subject site. The other portions of the proposed front building elevation (e.g. garage) will be set back further from the street than adjacent development on both sides of the subject site.

- 2. The project brings the driveway approach on subject site into compliance with engineering standards so site access and traffic conditions are expected to be improved.

Finding 5 - "The granting of a variance is consistent with the General Plan and the intent of the Zoning Ordinance."

The project meets this finding because the variance promotes natural resource protection by providing a building pad closer to the front property line comparable to other lots with similar zoning limitations. Further, the setbacks, building architecture, and mass of the project are in character with the surrounding neighborhood.

Minor Exception Permit

A Minor Exception Permit is requested for a one-inch reduction (2%) of the required 5-foot, 1-inch side yard setback. Minor Exception Permits allow for up to a 20% reduction of the required side yard setback or one-foot, four-inches on the subject site. The purpose of Minor Exception Permits is to provide a streamlined review of minor, limited modifications that are reasonable and compatible with adjacent properties. Staff believes the project meets required findings. The setback exception is in character with southwest San Clemente neighborhoods where side setbacks shorter than five feet are common. The existing residence on the subject site has narrower side setbacks than the proposed house.

GENERAL PLAN CONSISTENCY

Table 2 summarizes how the proposed use is consistent with adopted policies outlined in the City of San Clemente General Plan.

Table 2 - General Plan Consistency

Policies and Objectives	Consistency Finding
1.2.9 Require that new residential development in existing residential neighborhoods be compatible with existing structures.	Consistent. The massing, architecture, scale, and setbacks of the proposed residence are in character with the neighborhood. There is a mixture of architectural styles and several residences with front and side setbacks similar to the project.

Table 2 - Continued

Policies and Objectives	Consistency Finding
<p>10.3.6 Through the design review process, encourage that new development is compatible with adjacent existing historic structures in terms of scale, massing, building materials, and general architectural treatment.</p>	<p>Consistent. The proposed residence would be set back at least 85 feet from the historic structure. The proposed structure and historic house both have two-stories. The proposed architecture complements the historic structure.</p>
<p>Coastal Element Policy XV.1 Development in areas adjacent to environmentally sensitive habitat areas and parks and recreation areas shall be site and designed to prevent impacts which would significantly degrade such areas, and shall be compatible with the continuance of such habitat areas.</p>	<p>Consistent. The proposed residence complies with coastal canyon setback requirements and replaces non-native plant species in the canyon with native species. Further, the variance promotes natural resource protection by providing a building pad closer to the front property line comparable to other lots with similar zoning limitations.</p>

ENVIRONMENTAL REVIEW/COMPLIANCE (CEQA):

The Planning Division completed an initial environmental assessment for this project per the California Environmental Quality Act (CEQA). Staff recommends the Planning Commission determine the project is exempt from CEQA as a Class 3 exemption pursuant to Section 15303 because the project involves the construction of a residence in a residential zone on a developed site.

CALIFORNIA COASTAL COMMISSION REVIEW

The project must be approved by the California Coastal Commission (CCC). Condition of approval #7 requires proof of CCC approval before issuing permits.

ALTERNATIVES; IMPLICATIONS OF ALTERNATIVES

1. The Planning Commission can concur with staff and approve the proposed project.

This is the recommended action. This action would result in the adoption of Resolution No. PC 13-007, allowing construction of a residence with setback exceptions on a site across the street from a historic structure, per required findings and conditions of approval.

2. The Planning Commission can approve the project and at its discretion, add, modify or delete provisions of the proposed project or conditions.

This action would result in any modifications being incorporated into the project, such as architectural detail, finish, massing changes or modifications to conditions of approval.

3. The Planning Commission can deny the Variance and/or Minor Exception Permit and chose to forward the project to the DRSC.

This action would result in a redesign of the project to comply with all zoning standards if the Planning Commission decides to deny the Variance and/or Minor Exception Permit. This would require substantial design changes that may warrant DRSC review. This action would require staff to draft a new resolution for denial of the project. The Commission should cite reasons or findings for its denial of the Variance and/or Minor Exception Permit.

4. The Planning Commission can deny the Cultural Heritage Permit, but approve the Variance and/or Minor Exception Permit.

This action would result in not allowing the construction of the residence, but allowing the setback exceptions. This action should be taken if the Commission determines the architecture doesn't meet required CHP findings, and minor modifications can't be made at the meeting to ensure it sufficiently meets them. If the applicant agrees to make major changes, the Commission would table the item. The Commission should direct staff whether the DRSC should review the project changes before the application is reconsidered by the Commission. If the applicant doesn't agree to make major changes, the Commission can deny the CHP of which staff will need to draft a new resolution and the Commission should cite reasons for its denial.

RECOMMENDATION

STAFF RECOMMENDS THAT the Planning Commission approve CHP 11-318/ VAR 12-358/MEP 12-410, Markuson residence, subject to the attached draft resolution and conditions of approval.

Attachments:

1. Resolution No. PC 13-007
Exhibit A – Conditions of approval
2. Location Map
3. Photographs
4. Historic survey sheet on 169 West San Antonio
5. Photograph of materials board
6. Applicant's correspondence

Plans

ATTACHMENT 1

RESOLUTION NO. PC 13-007

A RESOLUTION OF THE PLANNING COMMISSION OF THE CITY OF SAN CLEMENTE, CALIFORNIA, APPROVING CULTURAL HERITAGE PERMIT 11- 318/VARIANCE 12-358/MINOR EXCEPTION PERMIT 12-410, A REQUEST TO ALLOW THE CONSTRUCTION OF A RESIDENCE WITH SETBACK EXCEPTIONS ON A SITE, ABUTTING A HISTORIC STRUCTURE, LOCATED AT 168 WEST SAN ANTONIO

WHEREAS, on July 29, 2011, an application was filed and deemed complete on January 14, 2013, by Kim Markuson, 168 West San Antonio, San Clemente, CA 92672, for Cultural Heritage Permit 11-318/Variance 12-358/Minor Exception Permit 12-410, Markuson Residence; a request to consider the construction of a 2,283 square foot, two-story residence with zoning exceptions. Specifically, the requested setback exceptions include: 1) a variance for approximately a 3 foot 11 inch reduction (27%) of the required 14 foot 3 inch primary structure front setback; 2) a variance for approximately a 10 inch reduction (5%) of the required 18 foot street facing garage setback; and 3) a Minor Exception Permit for approximately a one-inch reduction (2%) of the required five-foot, one-inch side yard setbacks. The site is located at 168 West Avenida San Antonio, across the street from a historic structure and within the Residential-Low Density, Coastal Overlay zoning district (RL-CZ). The legal description is Block 3, Lot 38 of Tract 852 and Assessor's Parcel Number 692-212-35.

WHEREAS, the Planning Division completed an initial environmental assessment for this project in accordance with the California Environmental Quality Act (CEQA) and recommends the Planning Commission determine that the project is exempt from CEQA as a Class 3 exemption pursuant to Section 15303 because the project involves the construction of a residence in a residential zone on a developed site; and

WHEREAS, the City's Development Management Team has reviewed the proposed Conditional Use Permit for consistency with the General Plan policies and other applicable City ordinances and policies; and

WHEREAS, on February 6, 2013, the Planning Commission of the City of San Clemente held a duly noticed public hearing on the subject application and considered evidence presented by City staff, the project applicant, and other interested parties.

NOW THEREFORE, the Planning Commission of the City of San Clemente hereby resolves as follows:

Section 1: The project is categorically exempt from CEQA as a Class 3 exemption pursuant to Section 15303 because the project involves the construction of a residence in a residential zone on a developed site.

Section 2: With respect to CHP 11-318, the Planning Commission finds:

- A. The architectural treatment of the project complies with the San Clemente General Plan in that:
 1. The project is consistent with Land Use Element policies and land use map that limits development to a single family residence in the Residential-Low Density land use district.
 2. The project is consistent with Urban Design Element policies and Design Guidelines, an implementation program, as the architecture is in character with the neighborhood and is compatible with the historic structure across the street.
- B. The architectural treatment of the project complies with the Zoning Ordinance in areas including, but not limited to, height, setback, color, etc., in that the proposed architecture, floor plan, and site plan meet required development standards.
- C. The architectural treatment of the project complies with the architectural guidelines in the City's Design Guidelines in that:
 1. The Tudor style architecture of the proposed project complements the mix of architectural styles in the neighborhood.
 2. The proposed design is compatible with the scale, mass, height, and form with adjacent structures and the pattern of development in the neighborhood because:
 - a. The proposed residence will have two stories, similar to other houses in the neighborhood including an adjacent residence to the west (170 West San Antonio) and the historic structure across the street (169 West San Antonio). The second story of the proposed residence complies with setback requirements.
 - b. The front yard setback variance will be in character with the neighborhood. The Zoning Ordinance allows residences to have a 14 foot, 3 inch median front yard setback on 14 properties located within the same block and side of the street. Six of the fourteen residences have shorter front setbacks than the median, ranging from 9 feet 10 inches to 12 feet 10 inches, where the proposed residence will have a 10 foot 4 inch front setback with the variance.
 - c. The variance will allow the proposed residence to maintain the front yard setback of the existing residence. The other portions of the proposed front building elevation (e.g. garage) will be set back further from the street than adjacent development on both sides of the subject site.

- D. The general appearance of the proposal is in keeping with the character of the neighborhood in that it's Tudor style design complements the mix of architecture on surrounding properties.
- E. The proposal is not detrimental to the orderly and harmonious development of the City in that:
 - 1. The project will be reviewed and inspected to ensure it complies with building, grading, zoning codes, enforced to ensure projects are constructed in a manner that is compatible with adjacent development and the environment.
 - 2. The proposed design is compatible in scale, mass, height, and form with adjacent structures as stated in Section 2(C)(2) of this resolution.
 - 3. The proposed project brings the driveway approach on the subject site into compliance with engineering standards so site access and traffic conditions are expected to be improved.
- F. The proposed project will not have negative visual or physical impacts upon the historic structure in that:
 - 1. The proposed architecture complements the historic structure because it is high quality, consisting of style that beneficially contrasts with the historic structure's Spanish Colonial Revival architecture.
 - 2. The proposed residence will be located across the street from the historic structure with over 85 feet of separation between the two buildings.
 - 3. The scale and massing of the proposed project will be in character with the historic structure. Both structures have a second story.
 - 4. The proposed project will improve the appearance of landscaping along the street.

Section 3: With respect to VAR 12-358, the Planning Commission finds:

- A. Due to special circumstances applicable to the subject property including size, shape, topography, location or surroundings, the strict application of the Zoning Ordinance is found to deprive the subject property of privileges enjoyed by other properties in the vicinity under identical zone classifications in that the area and depth of the subject site's building pad is smaller and shallower than lots in the same zoning district, including lots adjacent to the same coastal canyon, as described below:
 - 1. The subject site's building pad is the shallowest of 14 canyon lots on the block with a lot width comparable (45 to 50 feet) to the subject site (one lot is not comparable

because it is 90 feet wide, almost double the width of the other lots on the block). The coastal canyon setback line is located approximately 18 feet closer to the front property line than the other canyon lots. Therefore, the subject site has a building pad approximately 30% shallower and 500 square feet smaller (23%) than the other properties. If the subject site were similar to the average lot on the block, the applicant could construct a functional house in character with the neighborhood.

2. The coastal canyon setback line is the closest to the front of the subject site, compared to the 14 canyon lots on the block with a similar lot width. The canyon lot most similar to the subject site has a building pad five feet, three inches deeper than the subject site because the canyon setback line is located further from the front property line. The applicant has asked for a 3 foot 11 inch encroachment into the front yard setback to make the development of the lot more comparable with similar properties in the area.
 3. The other canyon lots on the block have houses located approximately 21 feet closer to the rear property line than the proposed house. Therefore, the subject property enjoys less developable area on the canyon side of the lot than the other properties on the block.
- B. The granting of the variance is necessary for the preservation of a substantial property right possessed by other property in the same vicinity and zone and otherwise denied the subject property in that:

The variance is necessary to construct a house that protects natural resources (the coastal canyon) by moving the building pad closer to the front property line, while providing a functional floor plan in character with development in the neighborhood. The variance preserves a property right, a building pad with depth and size, possessed by other properties with similar zoning limitations, including other properties that abut the Lobos Marinos coastal canyon Environmentally Sensitive Habitat Area (ESHA). Compared with other properties on the block, the coastal canyon is the closest to the front property line than other lots with a similar lot width (45 to 50 feet).

- C. The required conditions of approval assure that the adjustment authorized will not constitute a grant of special privileges which are inconsistent with the limitations placed upon other properties in the vicinity and subject to the same RL zoning regulations in that other residences within the zone and vicinity of the subject site have been developed with front yard building setbacks similar to the proposed front setback.
- D. The granting of the variance will not be detrimental to the public health, safety or welfare, or materially injurious to properties or improvements in the vicinity in that:
 1. The proposed design is compatible with the scale, mass, and form with adjacent structures and the pattern of development in the neighborhood, since:

- a. The front yard setback variance will be in character with the neighborhood. The Zoning Ordinance allows residences to have a 14 foot, 3 inch median front yard setback on 14 properties located within the same block and side of the street. Six of the fourteen residences have shorter front setbacks than the median of the street, ranging from 9 feet 10 inches to 12 feet 10 inches. The proposed residence would have a 10 foot 4 inch front setback with the variance. The project has a two-inch larger front setback than the existing residence.
 - b. The variance will allow the proposed residence to have a two-inch larger front setback than the existing house on the subject site. The other portions of the proposed front building elevation (e.g. garage) will be set back further from the street than adjacent development on both sides of the subject site.
2. The project brings the driveway approach on subject site into compliance with engineering standards so site access and traffic conditions are expected to be improved.
- E. The granting of a variance is consistent with the General Plan and the intent of the Zoning Ordinance in that the variance promotes natural resource protection by providing a building pad closer to the front property line comparable to other lots with similar zoning limitations. Further, the setbacks, building architecture, and mass of the project are in character with the surrounding neighborhood.

Section 4: With respect to MEP 12-410, the Planning Commission finds:

- A. The requested minor exception will not interfere with the purpose of the zone or the standards of the zone in which the property is located in that the proposed five-foot setback is in character with other single family residential development in the neighborhood. There are other residences in the vicinity with side yard setbacks less than that required.
- B. The neighboring properties will not be adversely affected as a result of the approval or conditional approval of the Minor Exception Permit in that the side yard materials, construction methods, finishing, and setback comply will be inspected as part of the construction process to ensure compliance with the building code, fire, grading, etc. requirements so the health and safety of adjacent land uses is protected.
- C. The approval or conditional approval of the Minor Exception Permit will not be detrimental to the health, safety or welfare of the general public in that the proposed side yard setback is in character with development in the neighborhood including the existing residence that has narrower side yard setbacks than the proposed site plan.

Section 5: The Planning Commission hereby adopts herby approves CHP 11-318/VAR 12-358/MEP 12-410, subject to the above Findings and the Conditions of Approval attached hereto as Exhibit A.

PASSED AND ADOPTED at a regular meeting of the Planning Commission of the City of San Clemente on February 6, 2013.

Chair

TO WIT:

I HEREBY CERTIFY that the foregoing resolution was duly adopted at a regular meeting of the Planning Commission of the City of San Clemente on February 6, 2013, and carried by the following roll call vote:

AYES: **COMMISSIONERS:**
NOES: **COMMISSIONERS:**
ABSTAIN: **COMMISSIONERS:**
ABSENT: **COMMISSIONERS:**

Secretary of the Planning Commission

EXHIBIT A**CONDITIONS OF APPROVAL*
CHP 11-318/VAR 12-358/MEP 12-410**

1. The applicant or the property owner or other holder of the right to the development entitlement(s) or permit(s) approved by the City for the project, if different from the applicant (herein, collectively, the "Indemnitor") shall indemnify, defend, and hold harmless the City of San Clemente and its elected city council, its appointed boards, commissions, and committees, and its officials, employees, and agents (herein, collectively, the "Indemnitees") from and against any and all claims, liabilities, losses, fines, penalties, and expenses, including without limitation litigation expenses and attorney's fees, arising out of either (i) the City's approval of the project, including without limitation any judicial or administrative proceeding initiated or maintained by any person or entity challenging the validity or enforceability of any City permit or approval relating to the project, any condition of approval imposed by City on such permit or approval, and any finding or determination made and any other action taken by any of the Indemnitees in conjunction with such permit or approval, including without limitation any action taken pursuant to the California Environmental Quality Act ("CEQA"), or (ii) the acts, omissions, or operations of the Indemnitor and the directors, officers, members, partners, employees, agents, contractors, and subcontractors of each person or entity comprising the Indemnitor with respect to the ownership, planning, design, construction, and maintenance of the project and the property for which the project is being approved. The City shall notify the Indemnitor of any claim, lawsuit, or other judicial or administrative proceeding (herein, an "Action") within the scope of this indemnity obligation and request that the Indemnitor defend such Action with legal counsel reasonably satisfactory to the City. If the Indemnitor fails to so defend the Action, the City shall have the right but not the obligation to do so and, if it does, the Indemnitor shall promptly pay the City's full cost thereof. Notwithstanding the foregoing, the indemnity obligation under clause (ii) of the first sentence of this condition shall not apply to the extent the claim arises out of the willful misconduct or the sole active negligence of the City. [*Citation – City Attorney Legal Directive/City Council Approval June 1, 2010*] (PIng.) _____
2. Thirty (30) days after project approval, the applicant shall submit written consent to all of these imposed conditions of approval to the Community Development Director or designee. [*Citation – City Attorney Legal Directive*] (PIng.) _____
3. The applicant shall develop the approved project in conformance with the site plan, elevations, floor plans, landscape plan, and other submittals approved by the Planning Commission. Any deviation from the site plan, elevations, landscaping plan, materials, colors or other approved submittal shall require the owner or designee to submit modified plans and any other applicable materials as required by the City for review and obtain the approval of the City Planner or designee. If the City Planner or designee determines the deviation is significant, the owner or designee shall be required to apply for review and

- obtain the approval of the Zoning Administrator or Planning Commission, as appropriate. *[Citation – City Quality Insurance Program]* ■ (Plng.)_____
4. Cultural Heritage Permit 11-318/Minor Exception Permit 12-410 shall become null and void if the use is not commenced within three (3) years from the date of the approval thereof. Since the use requires the issuance of a building permit, the use shall not be deemed to have commenced until the date that the building permit is issued for the development. *[Citation - Section 17.12.150.A.1 of the SCMC]* (Plng.)_____
 5. A use shall be deemed to have lapsed, CHP 11-318/MEP 12-410 shall be deemed to have expired, when a building permit has been issued and construction has not been completed and the building permit has expired, in accordance with applicable sections of the California Building Code, as amended. *[Citation - Section 17.12.150.C.1 of the SCMC]* (Plng.)_____
 6. The applicant shall have the right to request an extension of CHP 11-318/MEP 12-410 if said request is made and filed with the Planning Division prior to the expiration date as set forth herein. The request may be subject to review and approval by the final decision making authority that ultimately approved or conditionally approved the original application. *[Citation - Section 17.12.160 of the SCMC]* (Plng.)_____
 7. Prior to the issuance of building permits, the owner or designee shall demonstrate to the satisfaction of the City Planner or designee that approval by the California Coastal Commission has been obtained for the project. *[Citation – Division 20 of the Public Resources Code & Section 17.56.050 of the S.C.M.C.]* (Plng.)_____
 8. Prior to the issuance of any permits, plan check fees shall be submitted for the Engineering Department plan check of soils reports and grading plans. *[Citation – Fee Resolution No. 08-81 and Section 15.36 of the SCMC]* (Eng.)_____
 9. Prior to the issuance of any permits, the owner or designee shall submit for review, and shall obtain the approval of the City Engineer or designee for, a soils and geologic report prepared by a registered geologist and/or geotechnical engineer which conforms to City standards and all other applicable codes, ordinances and regulations. *[Citation – Section 15.36 of the SCMC]* (Eng.)_____
 10. Prior to the issuance of any permits, the City Engineer shall determine that development of the site shall conform to general recommendations presented in the geotechnical studies, including specifications for site preparation, treatment of cut and fill, soils engineering, and surface and subsurface drainage. *[Citation – Section 15.36 of the SCMC]* (Eng.) _____

11. Prior to the issuance of any permits, the owner or designee shall submit for review, and obtain the approval of the City Engineer, a precise grading plan, prepared by a registered civil engineer, showing all applicable onsite improvements, including but not limited to, building pad grades, storm drains, sewer system, retaining walls, landscaping, water system, etc., as required by the City Grading Manual and Ordinance. *[Citation – Section 15.36 of the SCMC]* (Eng.)_____
12. Prior to issuance of any permits, the owner or designee shall submit for review, and shall obtain the approval of the City Engineer or designee for frontage improvement plans, including but not limited to the following provisions: *[Citation – Section 15.36, 12.08.010, and 12.24.050 of the SCMC]* (Eng.)_____
- A. Per City Municipal Code Section 12.08.010 (A), when building permit valuations exceed \$50,000, the owner or designee shall construct sidewalk along the property frontage. This includes construction of compliant sidewalk up and around drive approaches to meet current City standards when adequate right-of-way exists.
- B. An Engineering Department Encroachment Permit will be required for all work in the public right-of-way. The frontage improvement plan shall include detailed topographic construction detail to show that current city standards are to be met including but not limited to, the construction of sidewalk up and around drive approaches, where applicable, with a minimum width of 4 feet at no more than 2% cross fall.
- C. Non-monolithic curb and gutter shall be replaced with monolithic curb and gutter, if deemed necessary by the City Engineer.
10. Prior to issuance of any permits, the owner or designee shall submit for review, and shall obtain the approval of the City Engineer or designee for an Administrative Encroachment Permit for the proposed retaining wall as shown on the plans necessary to address the existing slope along the street right of way in order to install compliant sidewalk. *[Citation – Section 15.36, and 12.08 of the SCMC]* ■(Eng.)_____
11. Prior to the issuance of any permits, the owner shall demonstrate to the satisfaction of the City Engineer that the project meets all requirements of the Orange County National Pollutant Discharge Elimination System (NPDES) Storm Drain Program, and Federal, State, County and City guidelines and regulations, in order to control pollutant run-off. The owner shall submit for review, and shall obtain approval of the City Engineer for, plans for regulation and control of pollutant run-off by using Best Management Practices (BMP's). *[Citation – Section 13.40 of the SCMC]* (Eng.)_____

12. Prior to issuance of any permit, the owner or designee shall submit for review a project binder containing the following documents: *[Citation – Section 13.40 of the SCMC]*
(Eng.)_____
- A. If the site is determined to be a “Priority Project” at the time of permit issuance (as defined by the Orange County Municipal Storm Water Permit available at <http://www.waterboards.ca.gov/sandiego/programs/ocstormwater.html>), a final Water Quality Management Plan (WQMP) must be recorded with the Orange County Recorder’s Office and filed with the City. Site design plans shall incorporate all necessary WQMP requirements which are applicable at the time of permit issuance.
- B. If a site is determined to be a “Non-Priority Project”, a final Non Priority Project Checklist must be filed with the City
13. Prior to the issuance of any permits, the owner shall provide surety, improvement bonds, or irrevocable letters of credit for performance, labor and materials as determined by the City Engineer for 100% of each estimated improvement cost plus a 10% contingency, as prepared by a registered civil engineer as required and approved by the City Attorney or the City Engineer, for each applicable item, but not limited to, the following: grading earthwork, grading plan improvements, retaining walls, frontage improvements; sidewalks; sewer lines; water lines; storm drains; and erosion control. *[Citation – Section 15.36 of the SCMC]*
(Eng.) _____
14. A separate Building Permit is required. Plans to construct new building, add or alter the existing building configuration, change in use, add or alter structural, mechanical, electrical or plumbing features of the project must be reviewed and approved through a separate building plan check / permit process. *[S.C.M.C – Title 8 – Chapter 8.16- Fire Code, Title 15 Building Construction - Chapters 15.08, 15.12, 15.16, 15.20]* (Bldg.)_____
15. Prior to issuance of building permits, code compliance will be reviewed during building plan check. *[S.C.M.C – Title 8 – Chapter 8.16- Fire Code, Title 15 Building Construction - Chapters 15.08, 15.12, 15.16, 15.20]*
(Bldg.)_____
16. Building permits shall not be issued unless the project complies with all applicable codes, ordinances, and statutes including, but not limited to, the Zoning Ordinance, Grading Code, Security Ordinance, Transportation Demand Ordinance, Water Quality Ordinance, Title 24 of the California Code of Regulations as adopted by the City including, but not limited to the California Administrative, Building, Electrical, Plumbing, Mechanical, Energy, Green, and Fire Codes. *[S.C.M.C – Title 8 – Chapter 8.16 – Fire Code, Title 15 Building and Construction Chapters 15.08, 15.12, 15.16, 15.20, 15.21, Title 16 Subdivisions, Title 17 Zoning]*
(Bldg.)_____

17. Prior to the issuance of building permits, the owner or designee shall pay all applicable development fees in effect at the time, which may include, but are not limited to, Regional Circulation Financing and Phasing Program (RCFPP), park acquisition and development, water and sewer connection, drainage, Public Facility Construction, transportation corridor, Avenida La Pata Supplemental Road Fee and school fees, etc. *[S.C.M.C. – Title 15 Building and Construction, Chapters 15.52, 15.56, 15.60, 15.64, 15.68, 15.72]* (Bldg.)_____

18. Prior to issuance of building permits, the owner or designee shall submit a copy of the City Engineer approved soils and geologic report, prepared by a registered geologist and/or soil engineer, which conforms to City standards and all other applicable codes, ordinances, statutes and regulations. The soils report shall accompany the building plans, engineering calculations, and reports. *[S.C.M.C – Title 15 – Chapter 15.08 – Appendix Chapter 1 – Section 106.1.4]* (Bldg.)_____

19. Prior to the Building Division's approval to pour foundations, the owner or designee shall submit evidence to the satisfaction of the City Building Official or designee that a registered civil engineer that is licensed to do surveying or land surveyor has certified that the forms for the building foundations conform to the front, side and rear setbacks are in conformance to the approved plans. *[S.C.M.C – Title 15 – Chapter 15.08, Title 17- Chapter 17.24]* (Bldg.)_____

20. Prior to the Building Division's approval of the framing inspection, the owner or designee shall submit evidence to the satisfaction of the City Building Official or designee that a registered civil engineer that is licensed to do surveying or land surveyor has certified that the height of all structures are in conformance to the approved plans. *[S.C.M.C – Title 15 – Chapter 15.08, Title 17- Chapter 17.24]* (Bldg.)_____

21. Underground utilities required. Overhead wiring shall not be installed outside on private property. All utility services located within any lot to be installed underground. *[S.C.M.C – Title 15 – Chapter 15.12-Electrical Code]* (Bldg.) _____

22. Prior to issuance of Certificates of Occupancy, front yard landscaping shall be planted in compliance with Zoning Ordinance regulations, to the satisfaction of the City Planner or designee. ■■(Plng.)_____

- * All Conditions of Approval are standard, unless indicated as follows:
- Denotes modified standard Condition of Approval
- Denotes project specific Condition of Approval




ATTACHMENT 2

LOCATION MAP

CHP 11-318/VAR 12-358/MEP 12-410, Markuson residence
168 West San Antonio



No scale 

OWNER: Mr. and Mrs. Kim Markuson

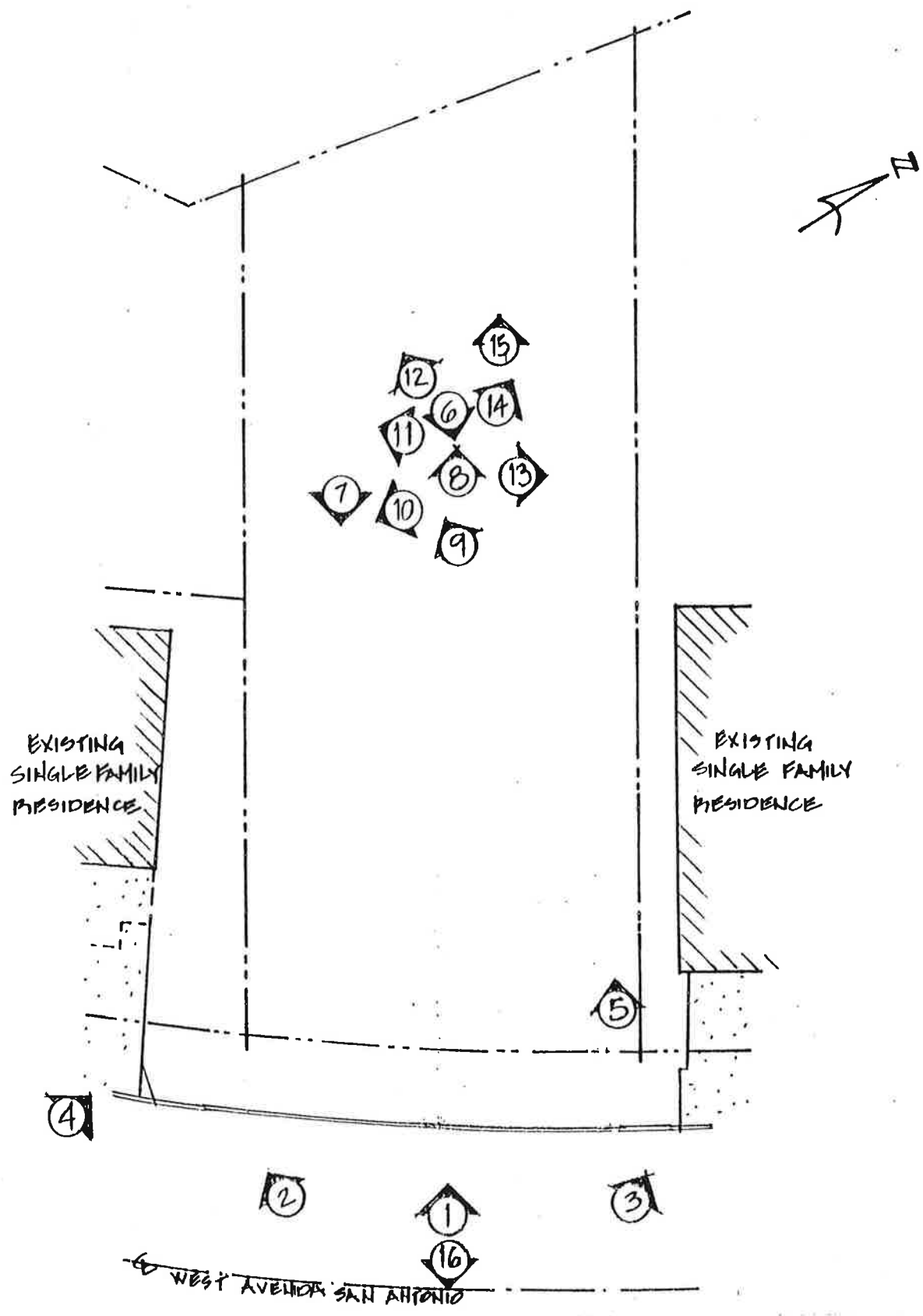




Photo 1



Photo 2



Photo 3



Photo 4



Photo 5



Photo 6



Photo 7



Photo 8



Photo 9



Photo 10



Photo 11



Photo 12



Photo 13



Photo 14



Photo 15



Photo 16

CONTINUATION SHEET

Page 1 of 2 Resource Name or #: 169 W AVENIDA SAN ANTONIO

Recorded by: Historic Resources Group Date: 9/21/2006 Continuation Update

PROPERTY NAME	Unknown
HISTORIC NAME	Unknown
PROPERTY ADDRESS	169 W Avenida San Antonio
ASSESSOR PARCEL NUMBER	692-201-02
PROPERTY TYPE	Residential triplex
OTHER DESCRIPTION	
DATE OF CONSTRUCTION	1928 (F) Building Permit
<hr/>	
INTEGRITY	No substantial changes post-1995 Historic Resources Survey prepared by Leslie Heumann & Associates.
SIGNIFICANCE	This one- and two-story multi-family structure was built for J. L. Miller in 1928. This property is a good example of the Spanish Colonial Revival style as represented in San Clemente. Due to a two-story addition it no longer appears eligible for the National Register, but remains eligible as a contributor to a potential local district under Criterion A for its association with the Ole Hanson/Spanish Village by the Sea period of development (1925-1936).
STATUS CODE	5D
STATUS	The property appears eligible at the local level as a contributor to a potential historic district. It is recommended for retention on the Historic Structures List.
<hr/>	
Project	City of San Clemente Historic Resources Survey Update
Prepared for	City of San Clemente 910 Calle Negicio, Suite 100 San Clemente, CA 92673
Prepared by	Historic Resources Group 1728 Whitley Avenue Hollywood, CA 90028

CONTINUATION SHEET

Page 2 of 2

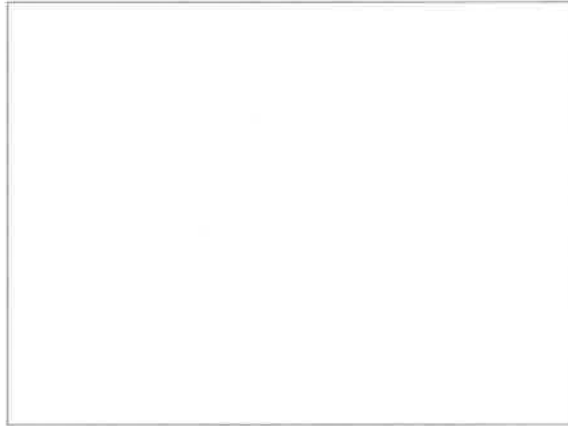
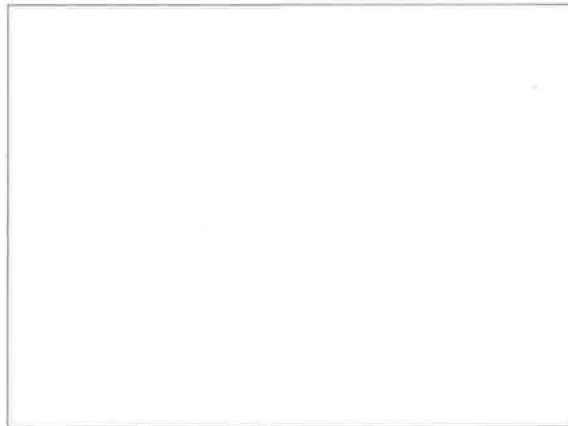
Resource Name or #: 169 W AVENIDA SAN ANTONIO

Recorded by: Historic Resources Group

Date: 9/21/2006

Continuation Update

Photographs of the Subject Property:



Mr. and Mrs. Kim Markuson 5/11/12

168 West Avenida San Antonio
San Clemente, CA



STONE VENEER (blend):

Eldorado Stone;
70% Fieldledge;
Color: Meseta



Eldorado Stone;
50% Country Rubble
Color: Bella



ROOF RIDGE CAP:

Redlana Clay Tile
"Paja Mission" 4000 Series
Color: 4245 Cafe Antigua Blend



BRICK VENEER: ENTRY/DECK/BALCONY PAVERS:

Robinson Brick Company; Thin Brick veneer
Color: Evening/Trade



SHUTTER/PLANTERBOX:

Painted Wood
Dunn Edwards Color: DE 6292 Stone Craft



PATIO DOORS & WINDOWS:

Tierra Pacific Windows, Alum. Clad
Color: 048 Hemlock Green



FASCIA/RAKE/WOOD TRIM/

BRACKET/CORBEL/

POST/GUARDRAIL/GATE

Painted Wood

Sherwin Williams: SW 7024 Functional Gray

ENTRY DOOR/GARAGE DOOR:

Mahogany Wood; Transparent stain

Sherwin Williams: SW 7024 Functional Gray



ROOFING:

Certainteed
'Landmark Plus' fiberglass shingle
Color: Moire Black

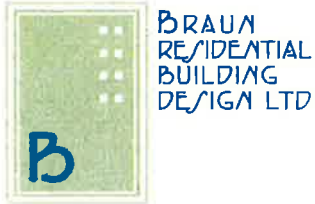


STUCCO:

Color: P-174 Desert Beige
Merlex/Santa Barbara Finish (Smooth)



949.249.9166



October 15, 2012

RE: Cultural Heritage Permit
Design Review

PROJECT/SITE: 168 West Avenida San Antonio
San Clemente, CA

OWNER/S: Mr. and Mrs. Kim Markuson

The owners, Kim and Karen Markuson spent considerable time looking for the designer of the home at 1304 Calle Toledo, a Tudor Cottage style home which I designed in 2001, (see ATTACHMENT # 1). This was the architectural style they wanted for their 'dream' home. Though the proposed new home is not Spanish Colonial Revival in style we feel it is compatible with the adjacent Designated Historic Structure and allows it to 'stand out' on the street. The proposed 1,922 sq. ft. new home is not massive or 'boxy' in form but fits within the existing footprint of the original modest home and the new second floor is minimized by single story roof elements both in the front and rear of the building. The home features a variety of materials and details making it a welcome addition that will blend well with the surrounding homes. The new design provides significantly more curb appeal over the existing home. Attached are photo examples of other homes within a 2 block radius of the project site with similar building style, (see ATTACHMENT # 2).

In contrast with design guideline developed planned residential communities, the Markuson's neighborhood has numerous other architectural styles creating a unique eclectic character through its interesting and charming diversity. ATTACHMENT # 3 includes some photo examples of Tudor and Cottage style homes as well as other non-Spanish Colonial Revival architectural styles that are directly adjacent or in close proximity of City Designated Historic Structures.

Thank you for your consideration.

Sincerely,

Sherry W. Braun



1304 Calle Toledo

West Avenida San Antonio



West Avenida San Antonio



West Avenida San Antonio



West Avenida San Antonio



West Avenida Valencia



Avenida Princessa



West Avenida Alessandro



West Avenida San Antonio



SOME EXAMPLES OF HOMES ADJACENT TO
DESIGNATED CITY HISTORIC STRUCTURES:

10/15/12

168 West Avenida San Antonio

San Clemente, CA

OWNER: Mr. and Mrs. Kim Markuson



“Tudor” style home at 230 Trafalgar Lane
Near Designated Historic Structure at 224 Trafalgar Lane



“Tudor” style home at 225 W. Avenida San Antonio
Near Designated Historic Home at 217 W. Avenida San Antonio

SOME EXAMPLES OF HOMES ADJACENT TO DESIGNATED CITY HISTORIC STRUCTURES:

168 West Avenida San Antonio
OWNER: Mr. and Mrs. Kim Markuson

10/15/12

San Clemente, CA



“Contemporary” style home at 222 Trafalgar Lane directly adjacent to Designated Historic Structure at 224 Trafalgar Lane



“Craftsman” style home directly adjacent to Designated Historic Home at 166 W. Avenida Alessandro

SOME EXAMPLES OF HOMES ADJACENT TO
DESIGNATED CITY HISTORIC STRUCTURES:

168 West Avenida San Antonio
OWNER: Mr. and Mrs. Kim Markuson

10/15/12
San Clemente, CA



“Minimal Colonial” architectural style home directly adjacent to Designated Historic Structure at 138 Avenida Princesa



“Coastal Cottage” style 2006 remodeled home at 137 Avenida Princesa (directly across the street) from Designated Historic Structure at 138 Avenida Princesa



BRAUN
RESIDENTIAL
BUILDING
DESIGN LTD

October 15, 2012

RE: Request for Variance

PROJECT SITE: 168 West Avenida San Antonio
San Clemente, CA

OWNER: Mr. and Mrs. Kim Markuson

168 West Avenida San Antonio is a 5,910 s.f. lot with an existing 1,268 sq. ft. single family one story residence constructed in 1952 by (Owner) Karen Markuson's grandfather. The Markuson's are proposing to demolish the existing home and build a new home of 1,922 sq. ft. (1,255 sq. ft. first floor, 667 sq. ft. second floor).

The California Coastal Commission has determined the Rear String Line to be the limits of buildable area on the Coastal Canyon which deems the right rear corner of the existing structure not in compliance, encroaching approx. 6 1/2". The Coastal Commission has also determined that the existing rear deck and concrete steps must be demolished.

The existing home is a non-conforming structure with a 10' front yard setback which is not in compliance with the current front yard zoning code of a 20' setback or the 14'-3" median setback. The existing / proposed driveway depth is 17.22', also not in compliance with the 18' depth required by the zoning code. Due to the Coastal Commission's highly restrictive Rear String Line limitation, the Markuson's are requesting a variance for the front yard and garage setbacks.

The proposed new home complies with all other zoning codes including the required minimum 5' side yard setbacks. The new second floor is 18' from the front property line exceeding the median front setback requirement of 14'-3". Visually, the second floor is minimized by single story roof elements both in the front and rear of the building resulting in a design that is not massive or 'boxy' in form. The Markuson's feel the excessively restrictive rear string line setback coupled with the front yard zoning setback requirements creates an unfair minimal building footprint which is much smaller than the neighboring properties along this Coastal Canyon edge. Please refer to attached

Pg. 2
Oct. 15, 2012
Markuson Residence
Request for Variance

Google Earth image of West Avenida San Antonio and the Coastal Canyon edge, (Variance Analysis Attachment). Observing the rooflines you will see the Markuson's existing home is nearly the smallest buildable area of the Coastal Canyon edge. Therefore, granting this Variance would permit the Markuson's to build within the existing front building envelope.

Thank you for your consideration.

Sincerely,



Sherry W. Braun



Google earth

Images Date: 3/7/2011 1994 43.245401 N, -117.9623547 W Elev: 128 ft Eye alt: 1104 ft

VARIANCE ANALYSIS ATTACHMENT