



STAFF REPORT

SAN CLEMENTE ZONING ADMINISTRATOR

Meeting Date: December 3, 2014

PLANNER: Sunny Chao, Planning Intern 
Christopher Wright, Associate Planner

SUBJECT: Minor Architectural Permit 14-330 / Minor Exception Permit 14-390, Berg Remodel and Addition, a request to consider an addition to a nonconforming residence.

LOCATION: 226 Avenida Monterey

ZONING/GP: Residential Medium Density zone and Coastal Overlay (RM/CZ)

BACKGROUND:

- In 1948, a 987 square foot single-story residence and detached garage were constructed on the lot. The one car garage is 219 square feet and located at the front of the property.
- The residence and detached garage are legal-nonconforming structures. The buildings do not comply with the required five foot side yard setback. The house has a four foot, two inch north side yard setback and a four foot south side yard setback. The garage has a three foot, seven inch side yard setback.
- The project expands the house, replaces the garage with a larger one, and adds a 555 square foot roof deck. The project adds 546 square feet to the rear of the house. The addition increases the house's floor area to 1,533 square feet (a 55% expansion). The new garage is 240 square feet, which is 21 square feet larger than the existing garage.
- The project includes minor changes to the building's facade, while maintaining the mid-century modern architecture. Refer to sheet 3 of the plans for proposed elevation drawings. A photograph of the house's existing condition is provided in Attachment 3.
- Minor setback exceptions are requested to allow:
 1. The addition at the rear of the house to expand along the nonconforming four foot, two inch side setback. MEP's allow for the continuation of a nonconforming side setback.
 2. A corner of the new garage to have a four foot side setback or 20 percent reduction of the required five foot side setback allowed through the approval of the MEP.
 3. There to be four feet, six inches of space between the house and new garage or a 10 percent reduction of the required five foot setback between buildings allowed through the approval of the MEP.

- Zoning Ordinance Section 17.72.050(l)(3)(a)(i) requires Zoning Administrator approval of a Minor Architectural Permit (MAP) to allow legal-nonconforming residences under 1,400 square feet to be expanded up to 2,100 square feet.
- Zoning Ordinance Section 17.16.090(C)(19)(b) requires Zoning Administrator approval of a Minor Exception Permit (MEP) to allow the minor setback exceptions described above.
- The project meets the required findings for a MAP/MEP in the following ways:
 - There are several similar one and two story residences in the neighborhood as seen in the attached photos.
 - The scale, mass, and design of the project are in character with the neighborhood.
 - The project uses high quality materials of new horizontal wood siding, horizontally-oriented garage door and entry gate, and a stucco finish, which improves the appearance of the structure and neighborhood.
 - The addition conforms to development standards, excluding the requested minor setback exceptions.
 - There are other residences in the neighborhood with nonconforming side setbacks, such as 238 Avenida Monterey and 228 Avenida Monterey.
 - The setback reductions would be compatible with adjacent properties. If approved, two small corners (six square feet each) of the buildings would encroach to four feet of the side property line.
- The Design Review Subcommittee (DRSC) reviewed the project on October 29, 2014 and was in support of the project. Refer to Attachment 4 for meeting minutes.
- Staff supports the request because it meets required findings. A detailed analysis of the complete findings is provided in the Resolution (Attachment 1).
- The public was notified of this hearing item per requirements. Staff has not received comments on this item to-date.

RECOMMENDATION

STAFF RECOMMENDS THAT the Zoning Administrator approve MAP 14-330 / MEP 14-390, Berg Remodel and Addition, subject to the attached Resolution and Conditions of Approval.

Attachments:

1. Resolution # ZA 14-050
Exhibit A Conditions of Approval
2. Location Map
3. Photos
4. October 29, 2014 DRSC Minutes (excerpted)
Plans

RESOLUTION NO. ZA 14-050

A RESOLUTION OF THE ZONING ADMINISTRATOR OF THE CITY OF SAN CLEMENTE, CALIFORNIA, APPROVING MINOR ARCHITECTURAL PERMIT 14-330 / MINOR EXCEPTION PERMIT 14-390, BERG REMODEL AND ADDITION, A REQUEST TO ALLOW AN ADDITION TO A LEGAL-NONCONFORMING RESIDENCE WITH MINOR SETBACK EXCEPTIONS FOR A CONTINUATION OF A LEGAL-NONCONFORMING SIDE SETBACK, REDUCTION OF THE REQUIRED SIDE SETBACK, AND REDUCTION OF THE REQUIRED SETBACK BETWEEN BUILDINGS ON A PROJECT SITE LOCATED AT 226 AVENIDA MONTEREY

WHEREAS, on October 9, 2014, a complete application was submitted by Joseph and Emily Berg, 226 Avenida Monterey, San Clemente, CA 92672, for Minor Architectural Permit (MAP) 14-330 / Minor Exception Permit (MEP) 14-390, a request to allow a 546 square foot addition to a single story legal-nonconforming residence with minor setback exceptions for a continuation of a legal-nonconforming side setback, reduction of the required side setback, and reduction of the required setback between buildings. The project site is located within the Residential Medium Density zone and Coastal Overlay (RM/CZ) at 226 Avenida Monterey. The site's legal description is Lot 40, of Block 21, of Tract 779 and Assessor's Parcel Number 058-103-35; and

WHEREAS, the Planning Division completed an initial environmental assessment of the above matter in accordance with California Environmental Quality Act (CEQA) and recommends that the Zoning Administrator determine this project categorically exempt from CEQA as a Class 1 exemption pursuant to CEQA Guidelines Section 15301(e) because the project involves an addition to an existing structure in an area where all public services and facilities are available to allow for maximum development permissible in the General Plan and the area in which the project is located is not environmentally sensitive; and

WHEREAS, on September 29, 2014, October 6, 2014, and November 10, 2014 the City's Development Management Team reviewed the proposed project for compliance with the General Plan, Zoning Ordinance, and other applicable requirements; and

WHEREAS, on October 29, 2014, the City's Design Review Subcommittee considered the proposed project and recommended approval of the project; and

WHEREAS, on December 3, 2014, the Zoning Administrator held a duly noticed public hearing on the subject application and considered evidence presented by the City staff, the applicant, and other interested parties.

NOW, THEREFORE, the Zoning Administrator of the City of San Clemente hereby resolves as follows:

Section 1: The project is categorically exempt from CEQA as a Class 1 exemption pursuant to CEQA Guidelines Section 15301(e) because the project involves an addition to an existing structure in an area where all public services and facilities are available to allow for maximum development permissible in the General Plan and the area in which the project is located is not environmentally sensitive.

Section 2: With regard to MAP 14-330, the Zoning Administrator finds as follows:

- A. The architectural treatment of the project complies with the San Clemente General Plan in that the project is consistent with policies related to maintaining the character of neighborhoods and ensuring projects are compatible with surrounding development.
- 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 project complies with development standards, excluding setback exceptions that are allowed with the approval of MEP 14-390. The findings for the MEP are shown in Section 3 of this resolution.
- C. The architectural treatment of the project complies with the architectural guidelines in the City's Design Guidelines in that the scale, mass, form, setbacks, and materials are compatible with adjacent structures and the pattern of development in the neighborhood.
- D. The general appearance of the proposal is in keeping with the character of the neighborhood in that:
 - 1. The subject residence would continue to be a single story with the addition of a roof deck. The proposed project is comparable in size to one and two story residences on the street; and
 - 2. The project maintains the residence's mid century modern architecture in a neighborhood of buildings with several styles of architecture.
- E. The proposal is not detrimental to the orderly and harmonious development of the City in that:
 - 1. The scale, mass, and form of the project are in character with the neighborhood for reasons specified in subsection D;
 - 2. The project uses high quality materials of new horizontal wood siding, horizontally-oriented garage door and entry gate, and a stucco finish, which improves the appearance of the structure and neighborhood; and
 - 3. The project complies with development standards, excluding setback exceptions that are allowed with the approval of MEP 14-390.

Section 3: With regard to MEP 14-390, the Zoning Administrator finds as follows:

- 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 minor exceptions are in character with the neighborhood as there are at least two other residences with similar nonconforming side yard setbacks.
- B. The neighboring properties will not be adversely affected as a result of the approval or conditional approval of the MEP in that the setback reductions would be compatible with adjacent properties. If approved, two small corners (six square feet each) of the building's footprint would encroach to four feet of the side property line.
- C. The approval or conditional approval of the MEP will not be detrimental to the health, safety, or welfare of the general public, or materially injurious to properties and improvements in the vicinity, in that the project will be constructed in compliance with all required Building, Safety and Fire codes.

Section 4: The Zoning Administrator of the City of San Clemente hereby approves MAP 14-330 / MEP 14-390, Berg Remodel and Addition, subject to the above Findings and the Conditions of Approval attached hereto as Exhibit A.

PASSED AND ADOPTED at a regular meeting of the Zoning Administrator of the City of San Clemente on December 3, 2014.

SAN CLEMENTE ZONING ADMINISTRATOR

James S. Holloway, Zoning Administrator

**CONDITIONS OF APPROVAL
MAP 14-330 / MEP 14-390, BERG RESIDENCE**

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 owner or designee shall submit written consent to all of these imposed conditions of approval to the Community Development Director or designee. *[Citation – City Attorney Legal Directive/City Council Approval June 1, 2010]* (PInG.)_____
3. Minor Architectural Permit 14-330 / Minor Exception Permit 14-390 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]* (PInG.)_____

4. A use shall be deemed to have lapsed, and MAP 14-330 / MEP 14-390 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]* (PIng.) _____
5. The owner or designee shall have the right to request an extension of MAP 14-330 / MEP 14-390 if said request is made and filed with the Planning Division prior to the expiration date as set forth herein. The request shall be subject to review and approval in compliance with section 17.12.160 of the Zoning Ordinance. *[Citation - Section 17.12.160 of the SCMC]* (PIng.) _____
6. Prior to the issuance of building permits, the applicant or designee shall include within the first four pages of the working drawings a list of all conditions of approval imposed by the final approval for the project. *[Citation - City Quality Assurance Program]* (PIng.) _____
7. Prior to issuance of certificate of occupancy, the project shall be developed in conformance with the site plan, floor plans, elevations, details, and any other applicable submittals approved by the Zoning Administrator on December 3, 2014, subject to the Conditions of Approval. Any deviation from the approved plans or other approved submittal shall require that the owner or designee 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 that 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. *[Citation - Section 17.12.180 of the SCMC]* (PIng.) _____
8. 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. (Bldg.) _____
[S.C.M.C – Title 8 – Chapter 8.16- Fire Code, Title 15 Building Construction - Chapters 15.08, 15.12, 15.16, 15.20]
9. Project has not been reviewed for Building Code compliance. Prior to issuance of building permits, code compliance will be reviewed during building plan check. (Bldg.) _____
[S.C.M.C – Title 8 – Chapter 8.16- Fire Code, Title 15 Building Construction - Chapters 15.08, 15.12, 15.16, 15.20]
10. Prior to issuance of building permits, applicant shall secure all utility agencies approvals for the proposed project. (Bldg.) _____
[S.C.M.C – Title 15 Building Construction]

11. 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. (Bldg.)_____
[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]
12. 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. (Bldg.)_____
[S.C.M.C. – Title 15 Building and Construction, Chapters 15.52, 15.56, 15.60, 15.64, 15.68, 15.72]
13. Prior to issuance of building permits, the owner or designee shall submit two copies of 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. (Bldg.)_____
[S.C.M.C – Title 15 – Chapter 15.08 – Appendix Chapter 1 – Section 106.1.4]
14. 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.)_____
15. Fire sprinkler system required throughout as follows:
 - a. All new Group R occupancies, including the attached garages;
 - b. All existing Group R occupancies and U-1 garages when the total floor area is increased by 50% of the existing area over a 2-year period;
 - c. All existing Group R occupancies and U-1 garages when the total area is increased by 750 square feet or more over a 2-year period;
 - d. All existing Group R occupancies and U-1 garages when an additional story is added to the structure regardless of the area involved;
 - e. An automatic sprinkler system shall be installed throughout any existing Group R Occupancy building when the floor area of the alteration or combination of an Addition and Alteration, within any two year period, is 50% or more of area of the existing structure and where the scope of the

work exposes building framing and facilitates sprinkler installation and is such that the Building/Fire Code Official determines that the complexity of installing a sprinkler system would be similar as in a new building;

f. Any addition to existing building that has fire sprinklers installed.

[S.C.M.C – Title 15 – Chapter 15.08]

(Bldg.)_____

16. Prior to the issuance of any permits, in the event that Grading Plans are required due to anticipated soil processing placing or recompacting 50 cubic yards of soil or more, 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.)_____

17. Prior to the issuance of any permits, in the event that Grading Plans are required due to anticipated soil processing placing or recompacting 50 cubic yards of soil or more, 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.)_____

18. Prior to the issuance of any permits, in the event that Grading Plans are required due to anticipated soil processing placing or recompacting 50 cubic yards of soil or more, 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.)_____

19. Prior to the issuance of any permits, in the event that Grading Plans are required due to anticipated soil processing placing or recompacting 50 cubic yards of soil or more, 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, grading, building pad grades, storm drains, sewer system, retaining walls, water system, etc., as required by the City Grading Manual and Ordinance. *[Citation – Section 15.36 of the SCMC]* (Eng.)_____

20. Prior to the issuance of any permits, in the event that Grading Plans are required due to anticipated soil processing placing or recompacting 50 cubic yards of soil or more, 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.)_____

21. Prior to the issuance of any permits, in the event that Grading Plans are required due to anticipated soil processing placing or recompacting 50 cubic yards of soil or more, 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; sewer lines; water lines; storm drains; and erosion control. *[Citation – Section 15.36 of the SCMC]* (Eng.)_____

22. Prior to issuance of any permits for applicable projects with building permit valuations exceeding \$50,000, the owner or designee shall submit for review, and shall obtain the approval of the City Engineer or designee for frontage improvement plans. The owner or his designee shall be responsible for the construction of all required frontage and onsite improvements as approved by the City Engineer including but not limited to the following:

a. Per City Municipal Code Section 12.08.010 (A), when building permit valuations exceed \$50,000, unless a waiver is obtained from the City Manager, the owner or designee shall construct sidewalk along the property frontage. Although sidewalk does currently exist, this requirement includes construction of compliant sidewalk up and around drive approach or other obstructions to meet current City standards (2% cross fall) when adequate right-of-way exists. When adequate right of way does not exist, the City may require a Condition of Approval requiring a sidewalk easement in order to install compliant sidewalk. Since the street right-of-way is approximately 5 feet behind the curbface a sidewalk easement is anticipated to be required to be granted to the City for the sidewalk to go up and around the drive approach.

b. An Engineering Department Encroachment Permit is required for any work in the public right-of-way.

[Citation – Section 15.36, 12.08.010, and 12.24.050 of the SCMC] ■■(Eng.)_____

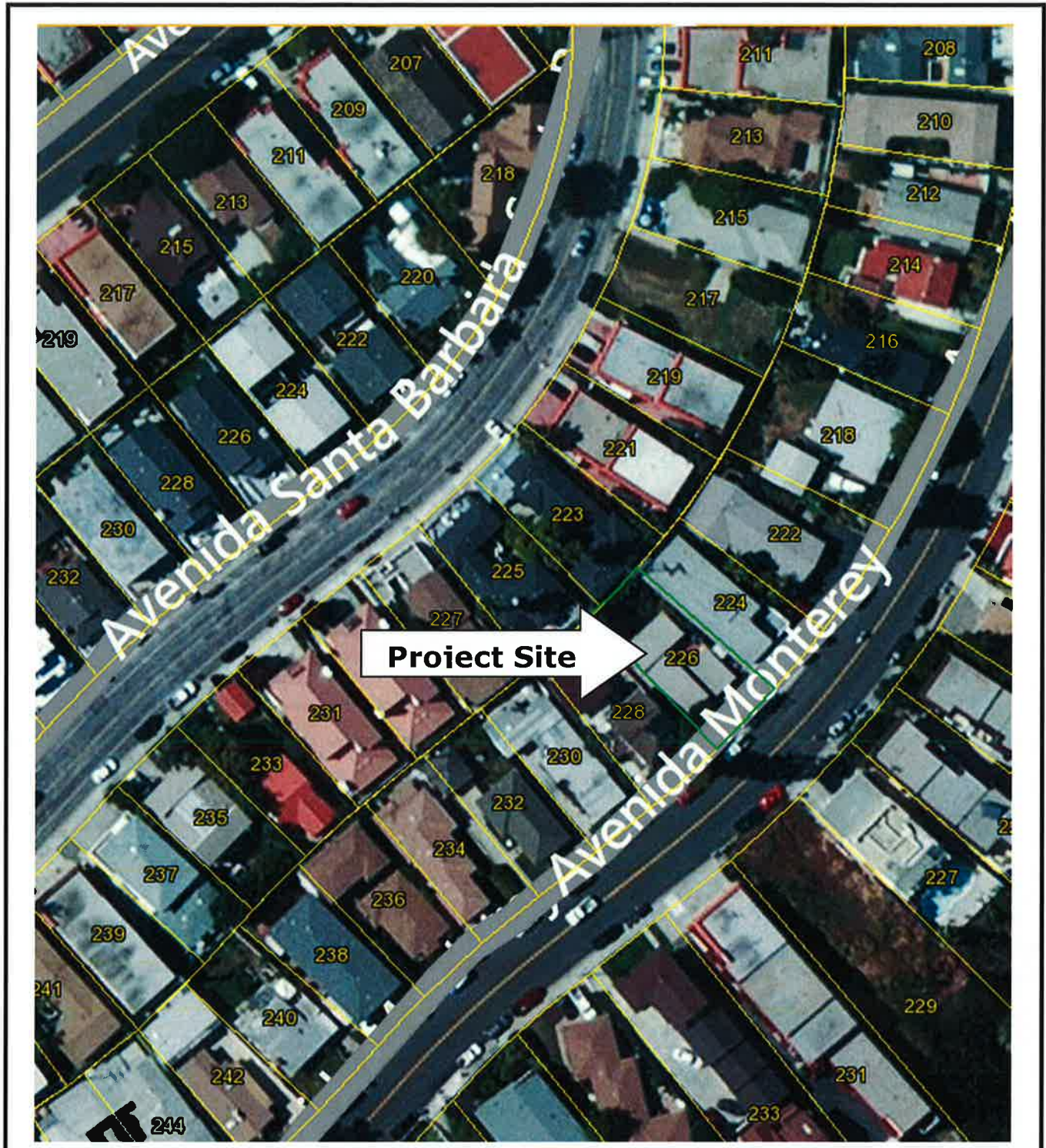
All Conditions of Approval are standard, unless indicated as follows:

- Denotes modified standard Condition of Approval
- Denotes a project specific Condition of Approval



LOCATION MAP

MAP 14-330 / MEP 14-390, Berg Remodel and Addition
226 Avenida Monterey





PHOTOGRAPH OF EXISTING
RESIDENCE



226 Avenida Monterey



PHOTOGRAPHS OF EXISTING
NEIGHBORHOOD



224 Avenida Monterey



228 Avenida Monterey

Neighbors across the Street





CITY OF SAN CLEMENTE
MINUTES OF THE REGULAR MEETING OF THE
DESIGN REVIEW SUBCOMMITTEE
OCTOBER 29, 2014

Subcommittee Members Present: Julia Darden, Jim Ruehlin and Kathleen Ward

Staff Present: Cliff Jones, John Ciampa, and Sunny Chao

1. **MINUTES**

Minutes of the October 15, 2014 meeting.

2. **ARCHITECTURAL REVIEW OF THE FOLLOWING ITEM**

C. **Minor Architectural Permit 14-330/Minor Exception Permit 14-390, Berg Residence** (Chao)

A request to consider an addition to a non-conforming residence located at 226 Avenida Monterey.

Planning Intern Sunny Chao presented the staff report, plans, and photos of the existing residence and neighboring homes.

Subcommittee Chair Darden asked for clarification on the residence's non-conformance.

Ms. Chao stated that the residence has an existing non-conforming side yard setback of 4 feet 2 inches on the North side and the project proposes a non-conforming side yard setback of 4 feet on the South side as well as a 4 feet 6 inch non-conforming setback between buildings for the reconstruction of a larger garage.

Subcommittee Vice Chair Darden asked if the existing garage has a 4 feet side yard setback.

Ms. Chao stated that the existing garage has a non-conforming 3 feet 7 inches side yard setback.

Vice Chair Darden asked if the setback between buildings is also a continuing non-conforming setback.

Mr. Jones stated that the existing setback between buildings is in compliance with the code and that a Minor Exception Permit may allow the proposed setback between buildings to be 4 feet 6 inches.

Vice Chair Darden indicated she had difficulty in envisioning the material for the wire on the roof deck.

The applicant's architect, Carolyn Dias, showed the Subcommittee photos of the railing material proposed for the roof deck. Ms. Dias explained that they chose the wire mesh railing material to ensure the safety of the applicant's small child. Ms. Dias also showed a photo of the deck material and stated they will be using a standard waterproof deck material.

Subcommittee Member Ward asked if the stucco is only on the new addition and if the existing brick will remain.

Ms. Dias stated that they will not be stuccoing the whole house because it would be too much of a financial cost. The mix of brick and stucco will show variations of texture, which is typical of Mid Century Modern architectural style.

Subcommittee Member Ruehlin asked if Staff plans to do a survey of homes more than 50 years old to include in the historical record.

Mr. Jones stated a General Plan Implementation Measure proposes a survey of Mid Century Modern and other distinctive architectural style buildings for historic listing and the survey would likely be limited to commercial buildings.

Vice Chair Darden inquired about the reasoning for constructing a flat roof for the new garage as opposed to a slightly-angled roof on the existing garage.

Ms. Dias said it is an aesthetic decision to have a flat roof garage with horizontal wood siding.

The Subcommittee recommended that the project move forward to the Zoning Administrator for consideration.

3. NEW BUSINESS

None

4. OLD BUSINESS

None

5. ADJOURNMENT