



STAFF REPORT SAN CLEMENTE ZONING ADMINISTRATOR

Meeting Date: October 7, 2015

PLANNER: Christopher Wright, Associate Planner *cpw*

SUBJECT: Minor Exception Permit 15-250, Carter Wall, a request to consider a five foot high wall within the front yard setback of a residence.

LOCATION: 806 S. Ola Vista

ZONING/GP: Zoning: Residential Low Density zone, Special Residential Overlay No. 10, and Coastal Zone Overlay (RL-10/CZ); General Plan: Residential Low Density and Coastal Zone Overlay (RL/CZ)

BACKGROUND:

- On September 16, 2015, the Zoning Administrator continued this item to October 7, 2015, to visit the site and get clarification on the proposed wall height and landscaping.
- The applicant requested a Minor Exception Permit (MEP) to permit a five foot high wall constructed within the required 20 foot front yard setback. The wall was built to buffer the home from street noise, increase safety, and create a usable and private outdoor space. Also, the wall is to function as the five foot high spa enclosure required by the building code.
- At the time of the previous meeting, the wall was six feet high and the base of the wall was partially covered with soil. This coverage caused confusion in terms of evaluating how much higher the wall would be constructed with the approval of a MEP. Since this visit, the applicant has uncovered soil at the base of the wall. The Zoning Administrator stated that a six foot wall did not seem to be in character with the Avenida Barcelona street scene, given most of the properties on both sides of the block did not have structures or hedges over 42 inches high within the front yard. The Zoning Administrator did observe a hedge over 42 inches high at the western end of the block and a fence located between the subject site and an adjacent property (203 Avenida Barcelona).
- In response to the previous meeting, the applicant decided to reduce the height of the wall and request allowance for a five foot high wall in the front yard.
- The subject site is a 9,100 square foot corner lot at the intersection of South Ola Vista and Avenida Barcelona.
- The proposed wall would be constructed of slumpstone and have a brick cap. The wall would have a stucco finish with a color to match the residence.
- The proposed wall would be set back five feet from the front property line (12 feet, 6 inches from curb face) and 14 feet and 6 inches from the side yard property line.

MEP 15-250, Carter Wall

- Zoning Ordinance Section 17.24.90(C)(2) requires Zoning Administrator approval of a Minor Exception Permit (MEP) to allow walls, fences, or shrubs in a front yard setback to be higher than 42 inches, up to a maximum of six feet high.
- Drought tolerant landscaping would be planted in front of the wall to provide screening and limit visual impacts on the street scene. A conceptual landscape plan is provided on sheet 2 of the plans (Attachment 6). Condition of approval no. 7 requires landscaping in front of the wall to be maintained to a maximum height of 42 inches in front of the wall and requires trees to be a minimum of 10 feet from curb face.
- Condition of approval no. 10 requires City Planner approval of a landscape plan in which vegetation or irrigation changes may be required to bring the site into closer conformance with Zoning Ordinance requirements. This may include irrigation system improvements or the replacement of plant material with plant species that are more drought tolerant.
- Engineering staff determined the proposed wall and landscaping trees would be set back far enough from the street and sidewalk to maintain visibility of pedestrian and vehicle traffic.
- After conducting a site visit and considering prior testimony, staff does not support the applicant's request as proposed. For the wall to be in character with the neighborhood (on the Ave. Barcelona frontage), staff recommends either that: 1) the five foot wall be rebuilt with a minimum set back of 10 feet from the front property line, or that 2) the height of the wall be reduced so it is no higher than four feet above the sidewalk. This second option involves lowering the grade level in front and behind the wall and bringing the height of the wall down by one foot. In doing this, the maximum height of the wall would remain at five feet, but the wall would seem lower from the sidewalk and street. Condition of approval no. 6 requires these design changes.
- Staff supports the project as conditioned. With the modifications above, the project meets the required MEP findings because:
 - The proposed wall would be in character with the surrounding neighborhood. With design changes required by conditions of approval, the wall will have a height and set back that is in character with the Avenida Barcelona street scene. At the side property line, between the subject site and adjacent property on Avenida Barcelona (204), the proposed wall will align with a fence on the side property line to maintain the character and depth of the open street scene. Regarding the area where the front yard transitions into the street side yard (S. Ola Vista), the proposed wall is in character with several structures fronting S. Ola Vista in the neighborhood that encroach into setbacks and have a similar scale, massing, and setback. Examples include properties at 201 Trafalgar Lane (building and fence), 203 Trafalgar Lane (hedge and fence), 146 Esplanade (hedge), 155 Avenida Cadiz (fence and house), and 908 S. Ola Vista (deck and building). See Attachment 4 for photographs of these examples.
 - The proposed wall materials complement the residence.
 - The wall would be adequately screened by landscaping to reduce visual impacts.
 - The height increase would not have an adverse affect on safety because the project will not obstruct line-of-sight of pedestrian and vehicle traffic as conditioned.
- The public was notified of this hearing item as required by the Municipal Code. Staff has not received comments on this item to-date.

MEP 15-250, Carter Wall

RECOMMENDATION

STAFF RECOMMENDS THAT the Zoning Administrator approve MEP 15-250, Carter Wall, subject to the attached Resolution and Conditions of Approval.

Attachments:

1. Resolution ZA15-037
Exhibit A: Conditions of Approval
2. Location Map
3. Applicant's correspondence and photographs
4. Photographs of other property examples cited in report
5. September 16, 2005 Zoning Administrator meeting minutes (excerpted)
6. Plans

ATTACHMENT 1

RESOLUTION NO. ZA 15-037

A RESOLUTION OF THE ZONING ADMINISTRATOR OF THE CITY OF SAN CLEMENTE, CALIFORNIA, APPROVING MINOR EXCEPTION PERMIT 15-250, CARTER WALL, A REQUEST TO CONSIDER A WALL OVER 42 INCHES HIGH WITHIN THE REQUIRED 20 FOOT FRONT YARD SETBACK OF A RESIDENCE LOCATED AT 806 S. OLA VISTA

WHEREAS, on July 29, 2015, an application was submitted and deemed complete on August 6, 2015, by Christina and Matthew Carter, 806 S. Ola Vista, San Clemente CA 92672, for Minor Exception Permit (MEP) 15-250, Carter Wall; a request to allow a five foot high wall in the required 20 foot front yard setback of a residence, where a three foot, six inch wall is allowed by-right. The subject site is located at 806 South Ola Vista in the Residential Low Density zone, Special Residential Overlay No. 10, and Coastal Zone Overlay (RL-10/CZ). The site's legal description is Lot 1, Block 11 of Tract 822 and Assessor's Parcel Number 692-253-20.

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 3 exemption pursuant to CEQA Guidelines Section 15303 because the project involves the construction of a minor accessory structure on a developed property; and

WHEREAS, on August 13, 2015, 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 September 16, 2015, 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; and continued the meeting to October 7, 2015 to visit the site and get additional information on the proposed wall height and landscaping.

WHEREAS, on October 2, 2015, 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 3 exemption pursuant to CEQA Guidelines Section 15303 because the project involves the construction of a minor accessory structure on a developed property.

Section 2: 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 walls are an allowed accessory structure in the zone and the requested height increase would be in character with the neighborhood and development along S. Ola Vista.

Section 3: The neighboring properties will not be adversely affected as a result of the approval or conditional approval of the Minor Exception Permit in that:

- A. The proposed wall materials complement the residence.
- B. The proposed wall would be in character with the surrounding neighborhood. With the attached conditions of approval, the proposed wall will be set back 10 feet from the front property line or limited to a height of three feet, six inches above side walk level. In either instance, this height or setback is in character with the height of vegetation and the adjacent fence in the front yards along Avenida Barcelona.
- C. The proposed wall is on a corner lot. Where the wall will transition into the street side yard on S. Ola Vista, the wall is clearly in character with the neighborhoods and other corner lots nearby with structures with a similar scale, massing, and setback. This includes walls, fences, or hedges, buildings, or other structures that: 1) encroach into the street scene, and 2) have a height and size that is similar or greater than the proposed wall. This includes properties at 203 Avenida Barcelona (patio cover, garage), 201 Trafalgar Lane (building and fence), 203 Trafalgar Lane (hedge and fence), 146 Esplanade (hedge), 155 Avenida Cadiz (fence and house), and 908 S. Ola Vista (deck and building). There are other examples of properties further south on S. Ola Vista street.

Section 4: The height of the proposed wall will not be unsightly or incompatible with the character of or uses in the neighborhood for the reasons described in Section 3.

Section 5: 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 improvements do not obstruct views of traffic to and from driveways.

Section 6: The height of the fence will not have negative visual impacts upon the street scene or obstruct views of traffic to and from driveways.

Section 7: The Zoning Administrator of the City of San Clemente hereby approves MEP 15-250, Carter Wall, 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 October 7, 2015.

SAN CLEMENTE ZONING ADMINISTRATOR

James Pechous, Zoning Administrator

**CONDITIONS OF APPROVAL
MEP 15-250, CARTER WALL**

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 Exception Permit 15-250 shall become null and void if the project is not completed within three (3) years from the date of the approval thereof. *[Citation - Section 17.12.150.A.1 of the SCMC]* ■ (PInG.)_____
4. The owner or designee shall have the right to request an extension of Minor Exception Permit 15-250, 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

Resolution No. ZA 15-037

to review and approval in compliance with section 17.12.160 of the Zoning Ordinance. *[Citation - Section 17.12.160 of the SCMC]* (PIng.) _____

5. Prior to issuance of certificate of occupancy, the project shall be develop in conformance with the site plan, and any other applicable submittals approved by the Zoning Administrator on October 7, 2015, subject to the Conditions of Approval and revisions noted below. 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.) _____

6. Prior to resuming construction of the wall, the owner or designee shall submit obtain City Planner approval of revised plans that: 1) show no spas located within the front yard setback, 2) confirm no trees will be planted within 10 feet of the curbface; and 3) require the proposed wall to be set back 10 feet from the front property line or be limited to a height of four feet above sidewalk level.
■ ■ (PIng.) _____

7. Landscaping in front of the wall shall be maintained to not exceed 42 inches in height to ensure line of sight is maintained from the neighboring driveway and intersection with Avenida Barcelona. Unless approved by the City Engineer or Director of Beaches, Parks and Recreation, proposed trees shall be planted on-site and not within 10 feet from the curbface. *[Citation – Section 15.36 of the SCMC]* ■ (Eng.) _____

8. Prior to issuance of any permits with a total construction valuation 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, prepared by a registered civil engineer. The owner or his designee shall be responsible for the construction of all required frontage improvements as approved by the City Engineer including but not limited to the following: *[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, unless a waiver is obtained. This 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. Since the street right-of-way is approximately 10 feet behind the curbface a sidewalk easement is not anticipated to be required to be granted to the City.

B. In the event that street improvements are disturbed or damaged during the

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construction project, the applicants shall be responsible for replacing said street improvements prior to the finalization of any Engineering or Building Permits.

9. An Engineering Department Encroachment Permit shall in place prior to the commencement of any work in the public right-of-way.

10. Prior to landscaping the subject site, the owner or designee shall submit and obtain City Planner approval of a landscape plan. The City Planner may require landscaping changes that bring the site into closer compliance with Zoning Ordinance requirements, including but not limited to irrigation system improvements or the replacement of plant material with plant species that are more drought tolerant.

(■ ■ PIng.)_____

11. Prior to releasing permits, front yard landscaping and hardscape shall be reviewed and approved to the satisfaction of the City Planner or designee. (■ ■ PIng.)_____

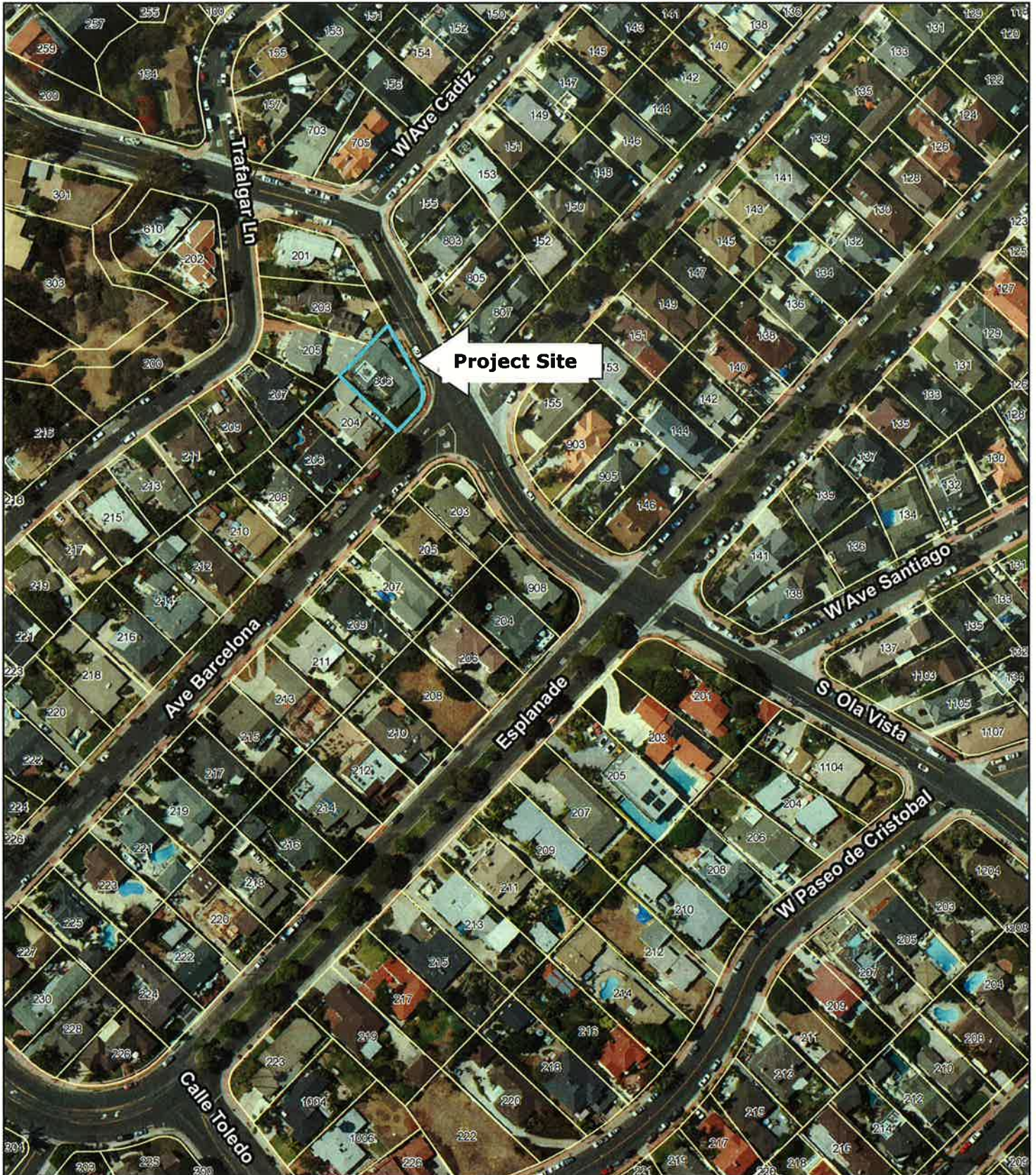
All Conditions of Approval are standard, unless indicated as follows:

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



LOCATION MAP

MEP 15-250
Carter Wall
806 S. Ola Vista



July 23, 2015

City of San Clemente Planning Division
910 Calle Negocio, Suite 100
San Clemente, CA 92673

Re: ~~Minor Architectural Permit~~ **WEP**
806 South Ola Vista

Committee Members,

My husband and I have loved living in our home here on South Ola Vista for the past 22 years. We raised our boys here. They and the other boys in the neighborhood played countless games of soccer and baseball on our grass side yard (technically the front yard). Being a good neighbor is hugely important to our family and preserving the unique character of south west San Clemente is equally important in planning and building a 6' wall (including a portable spa w/ locking safety cover inside the wall). Having a small back yard we want to utilize the 800+ square feet of additional space this front yard provides.

The corner of S. Ola Vista and Barcelona is very busy during the day and can be loud as well. Night time has presented even more issues. When the bars close around 2:00am drunk drivers hoping to avoid the county sheriff will use Ola Vista as a preferred route. With Ola Vista's twists and turns these alcohol impaired drivers have collided into our cars and telephone poles. Our proposed 6' wall brings us both a sound barrier as well as a measure of safety. In addition, the water sounds from the spa will create a pleasant sound buffer from the street noise.

Traveling along Ola Vista there are two other examples of 6' walls that have been built on similar lot configurations (see included examples). These walls have added to the beauty of the existing home as well as the surrounding neighborhood. Our intention is the same. A 6' wall at grade level with a 5' set back from our property line. We will construct the wall to match the color of our existing home using slump stone (see photo) and landscape with native & water wise plantings of varying height and texture.

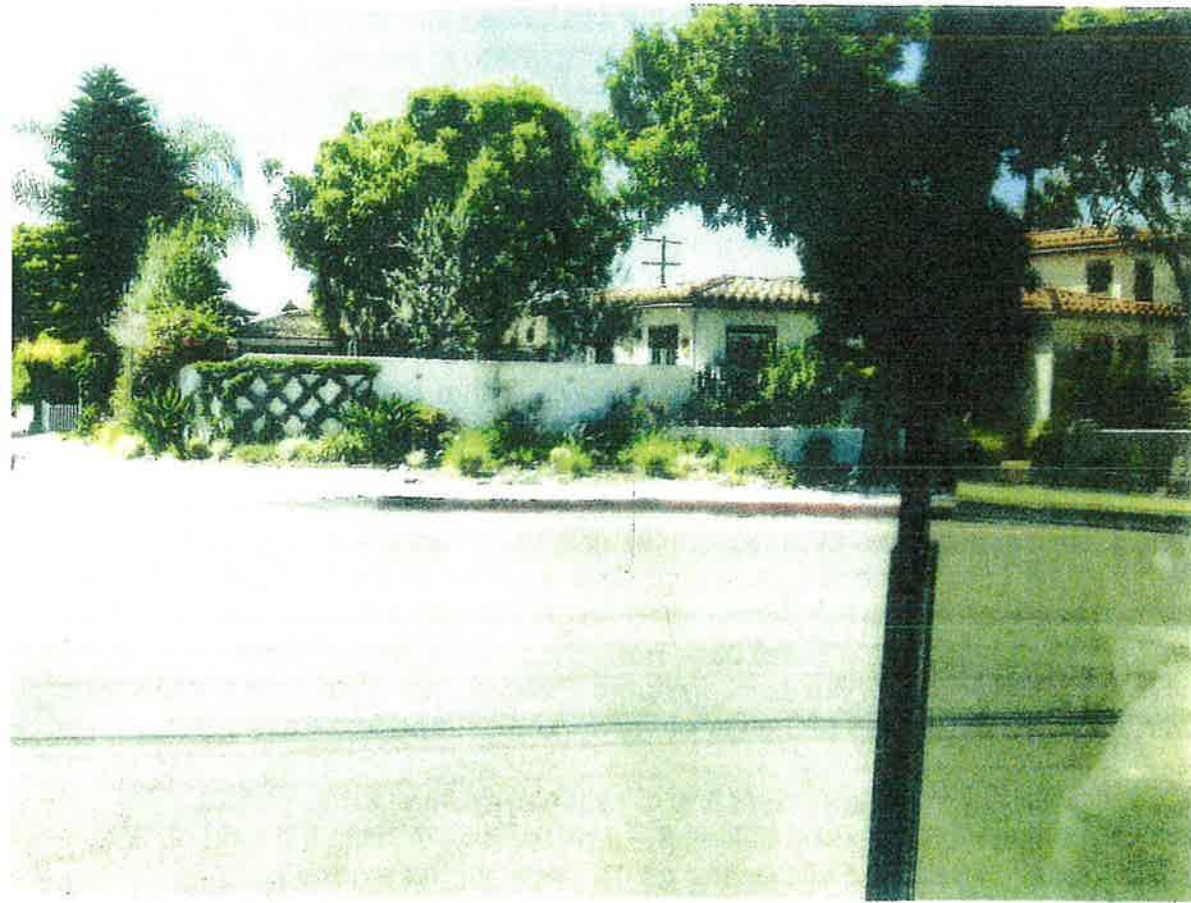
We have also taken into account how important it is to retain sight lines for motorists navigating Ola Vista and Barcelona thereby pulling the wall back 14'6" from the side of our property line (see site plan). We are allowed to go 10' here but have gone an additional 4' in order to maintain safety for motorists. This also helps to make the wall attractive to the eye.

In closing, we thank you for your consideration and have also included photos of our home.

Sincerely,
Christina & Matt Carter

Wall Example A:

North West corner of N. Ola Vista & Ave. Serra



Wall Example B:

South West corner of De La Riviera &
South Ola Vista.

2300 S. Ola Vista



front view



side view

807 S. Ola Vista (neighbor)



* example of painted Slump Stone.



806 S. Ola Vista 1993

806 S. Ola Vista

Prior to construction



our front yard on S. Ola Vista



our side yard on Barcelona (technically front yard)

Current Site Conditions*

*Wall has been partially constructed with a maximum height of five feet in the front yard



View looking north from intersection of Ave. Barcelona and S. Ola Vista.



View of street scene along Ave. Barcelona looking to west from across S. Ola Vista

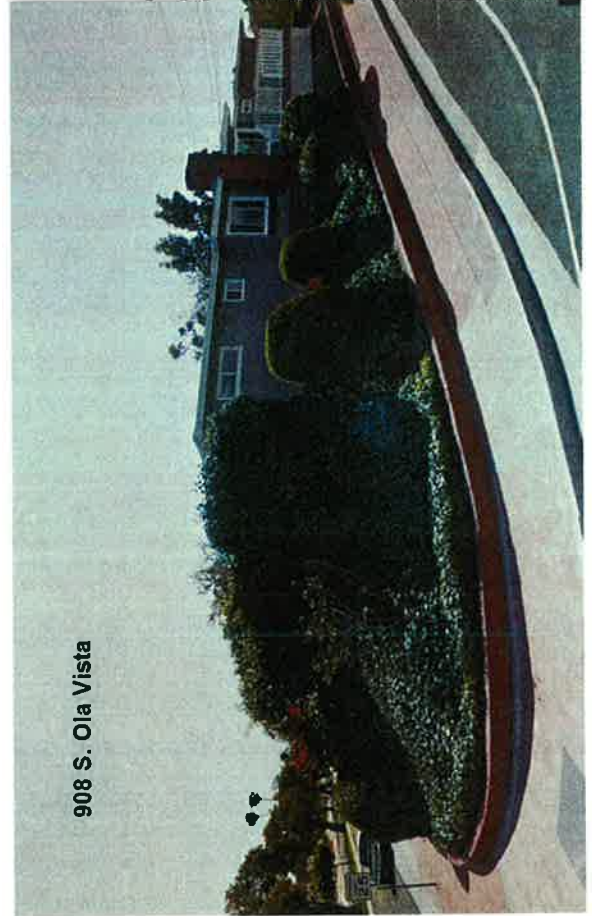


View of street scene along S. Ola Vista. looking to south from sidewalk in front of property

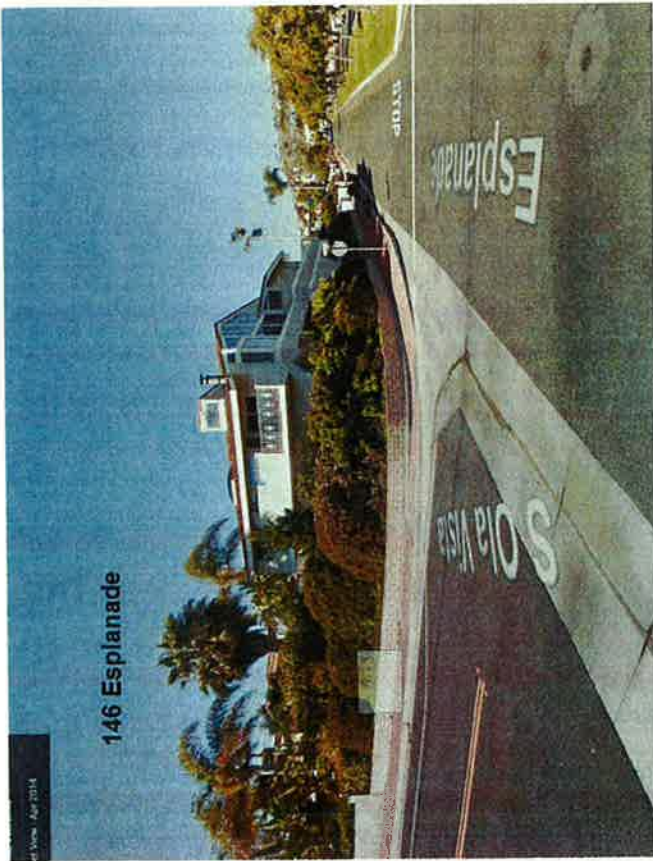
ATTACHMENT 4



203 Ave. Barcelona



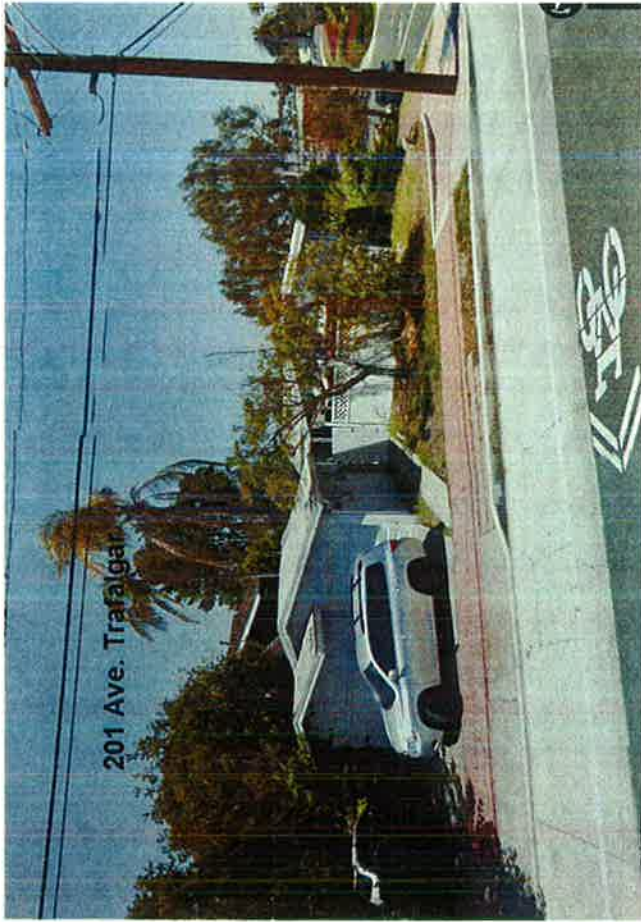
908 S. Ola Vista



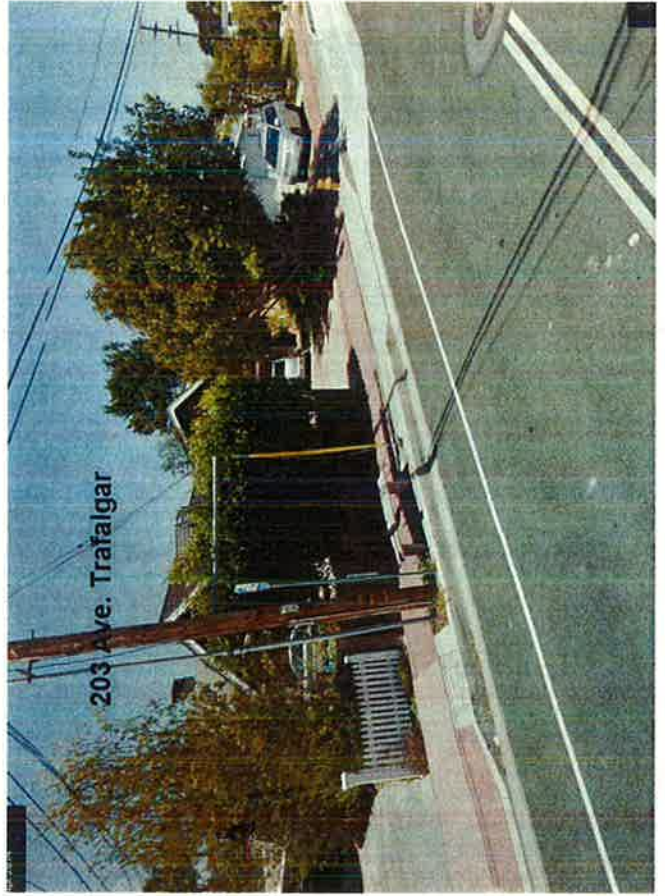
146 Esplanade



155 W. Ave. Cadiz



201 Ave. Trafalgar



203 Ave. Trafalgar

ATTACHMENT 5

These minutes were approved by the Zoning Administrator on 09-21-15.

**CITY OF SAN CLEMENTE
MINUTES OF THE REGULAR
ZONING ADMINISTRATOR MEETING
September 16, 2015**

1. CALL TO ORDER

A Regular Meeting of the City of San Clemente Zoning Administrator was called to order on September 16, 2015 at 3:00 p.m. in Conference Room A of the Community Development Department, located at 910 Calle Negocio, San Clemente, California, by Zoning Administrator Jim Pechous

Staff Present: Jim Pechous, Zoning Administrator (ZA); Christopher Wright, Associate Planner; Amber Gregg, Associate Planner; and Kimberly Maune, Office Specialist II

4. PUBLIC HEARINGS

**B. 806 South Ola Vista – Minor Exception Permit 15-250 – Carter Wall
(Wright)**

Public Hearing to consider a request to allow a six foot high wall in the required 20 foot front yard setback of a residence, where a three foot, six inch wall is allowed by-right. The subject site is located at 806 South Ola Vista in the Residential Low Density zone, Special Residential Overlay No. 10, and Coastal Overlay (RL-10/CZ). The site's legal description is Lot 1, Block 11 of Tract 822 and Assessor's Parcel Number 692-253-20.

Associate Planner Christopher Wright summarized the staff report.

Applicants Matt and Christina Carter were present. Mr. Carter stated they have done their due diligence and they thank the City for their consideration.

Contractor Jim Miller stated there is a house across the street on Barcelona that has a six foot wall. ZA Pechous stated that six foot wall is setback beyond the house.

Mr. Miller stated typically the front door is the front yard, the corner orientation gives this property an unusual designation. It is a busy corner

with an inhibited line of sight. Pulling the wall back will make it safe for traffic. ZA Pechous stated Engineering verified the sight distance is appropriate.

ZA Pechous opened the public hearing, and there being no one desiring to speak to this issue, closed the public hearing.

ZA Pechous stated along Ola Vista there are plenty of examples of walls that encroach. If this request was for the Ola Vista side he would not be concerned. When he visited the site he saw a wall which is being constructed, the grade has been raised two to three feet; therefore, he is concerned about a six foot high wall on top of a three foot high berm and how that will look in comparison to the rest of the neighborhood.

ZA Pechous stated there would be more flexibility if the applicant had come into the City prior to beginning construction. The streetscape on Avenida Barcelona has a consistent 20 foot front yard setback. He observed a hedge over 42 inches in a front yard at the west end of the block and an approximately six foot fence between the project site and the next door neighbor.

ZA Pechous stated there needs to be some level of buffer from the street at a lower level than what is being proposed, especially with the raised grade.

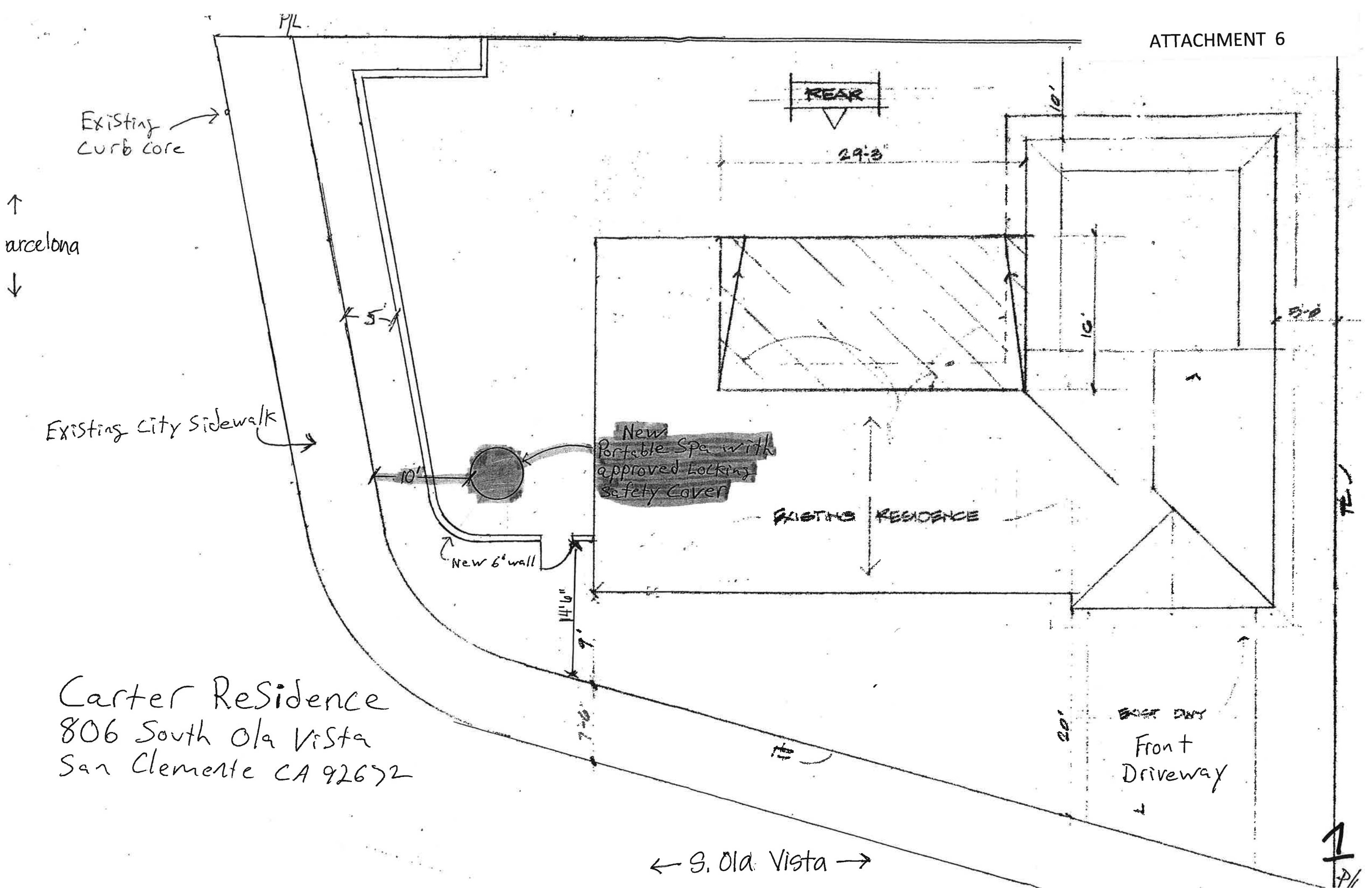
Mrs. Carter stated the dirt against the wall was just put there and will not be staying there. The wall will be six feet from the elevation of the sidewalk. There is a home at the southwest corner of De La Riviera and South Ola Vista which has the same lot configuration as theirs which has a wall.

ZA Pechous stated one of the findings is to evaluate the request in terms of its location, not lots in another area of the City. He understands the desire for privacy, for more usable space, and that a goal is to have a spa. Installation of a spa will require a five foot high non-climbable wall. Because it is a corner lot there isn't a typical backyard. He needs confirmation that the base of the wall does not start three or four feet up from what he saw at the site.

Mr. Miller stated the footing dirt has been left there in case it is needed; it will be removed. ZA Pechous asked if the bottom of the wall is where the picket fence in the photo is; Mr. Miller responded yes, the same grade. ZA Pechous responded then the wall that is there now is more than 42 inches high. Mr. Carter stated that is why they stopped the work.

ZA Pechous stated he is going to continue this item to the next Zoning Administrator meeting. He will revisit the project site for clarification of this request. The continuance will provide an opportunity to establish the exact height of the wall and obtain more details about the landscaping to ensure the design of the wall is in character with the neighborhood.

Action: The Zoning Administrator continued Minor Exception Permit 15-250, Carter Wall, to the October 7, 2015 Zoning Administrator meeting.

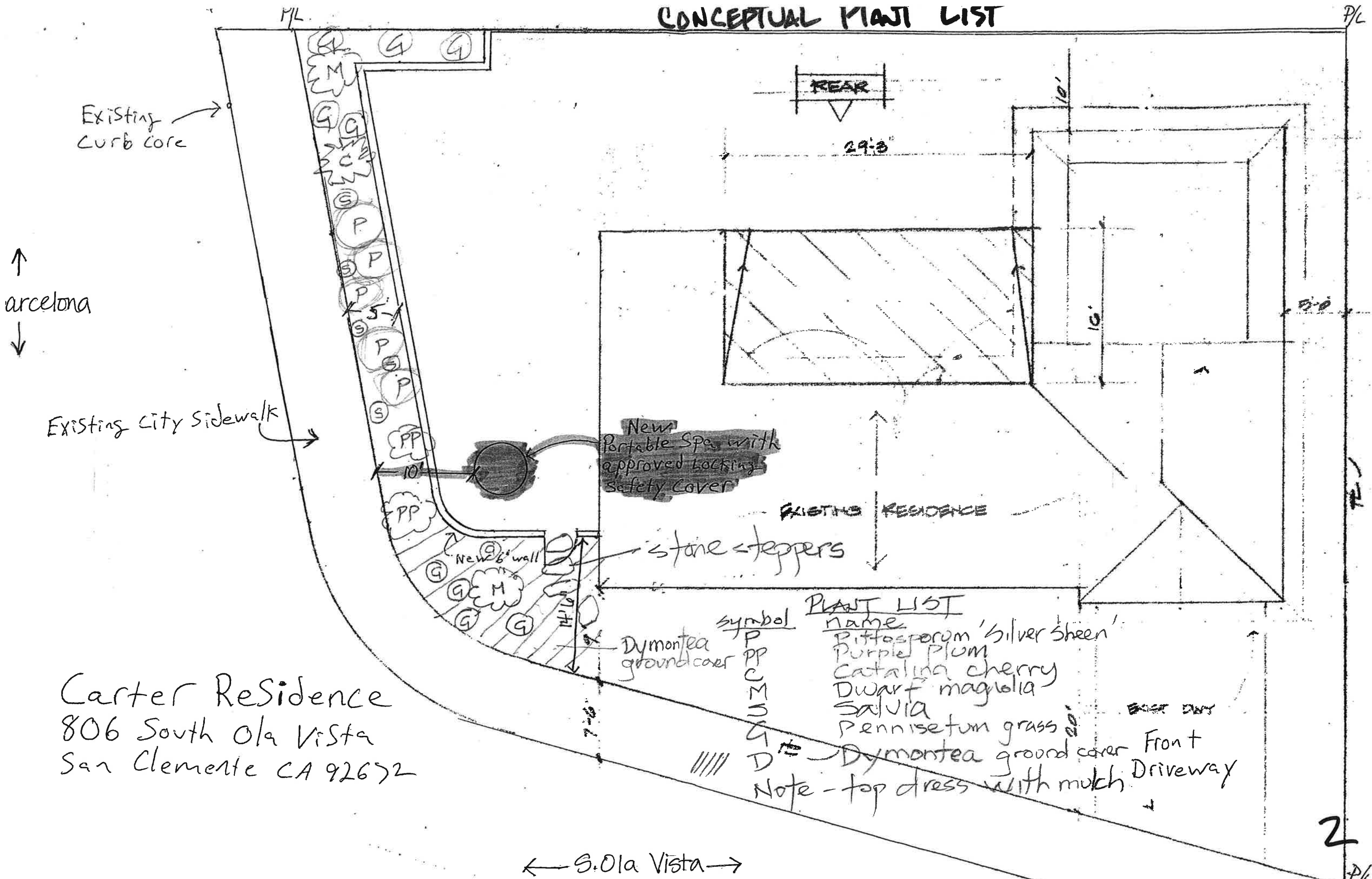


Carter Residence
 806 South Old Vista
 San Clemente CA 92672

← S. Old Vista →

CONCEPTUAL PLANT LIST

P/L



Existing Curb Core

↑
arcelona
↓

Existing City Sidewalk

New Portable Spa with approved locking safety cover

EXISTING RESIDENCE

stone steppers

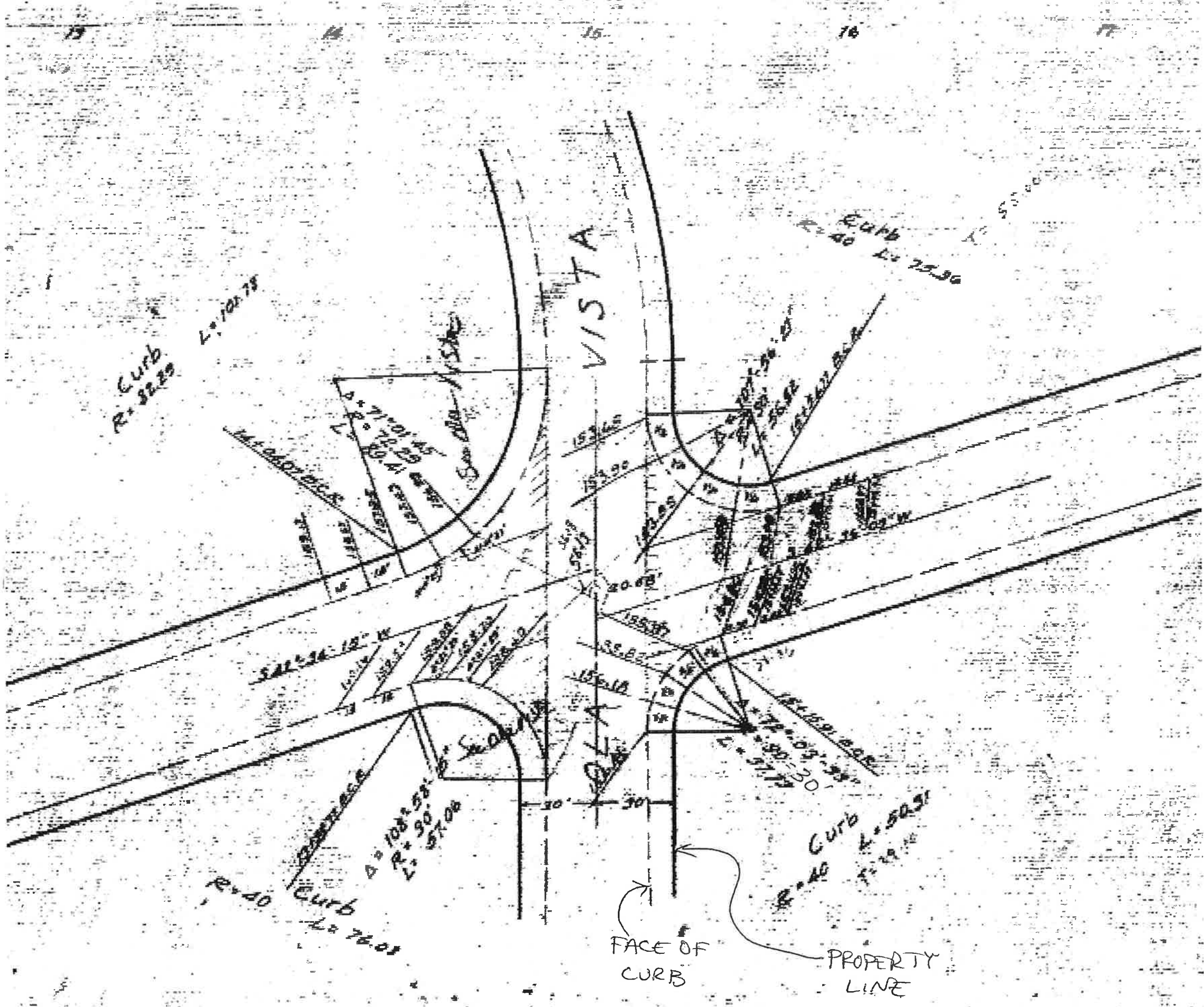
New 6' wall

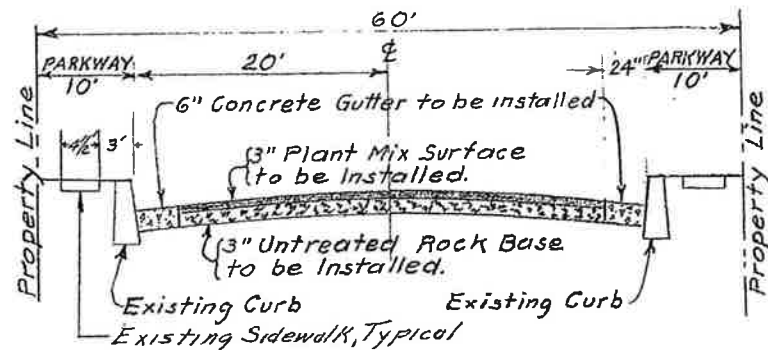
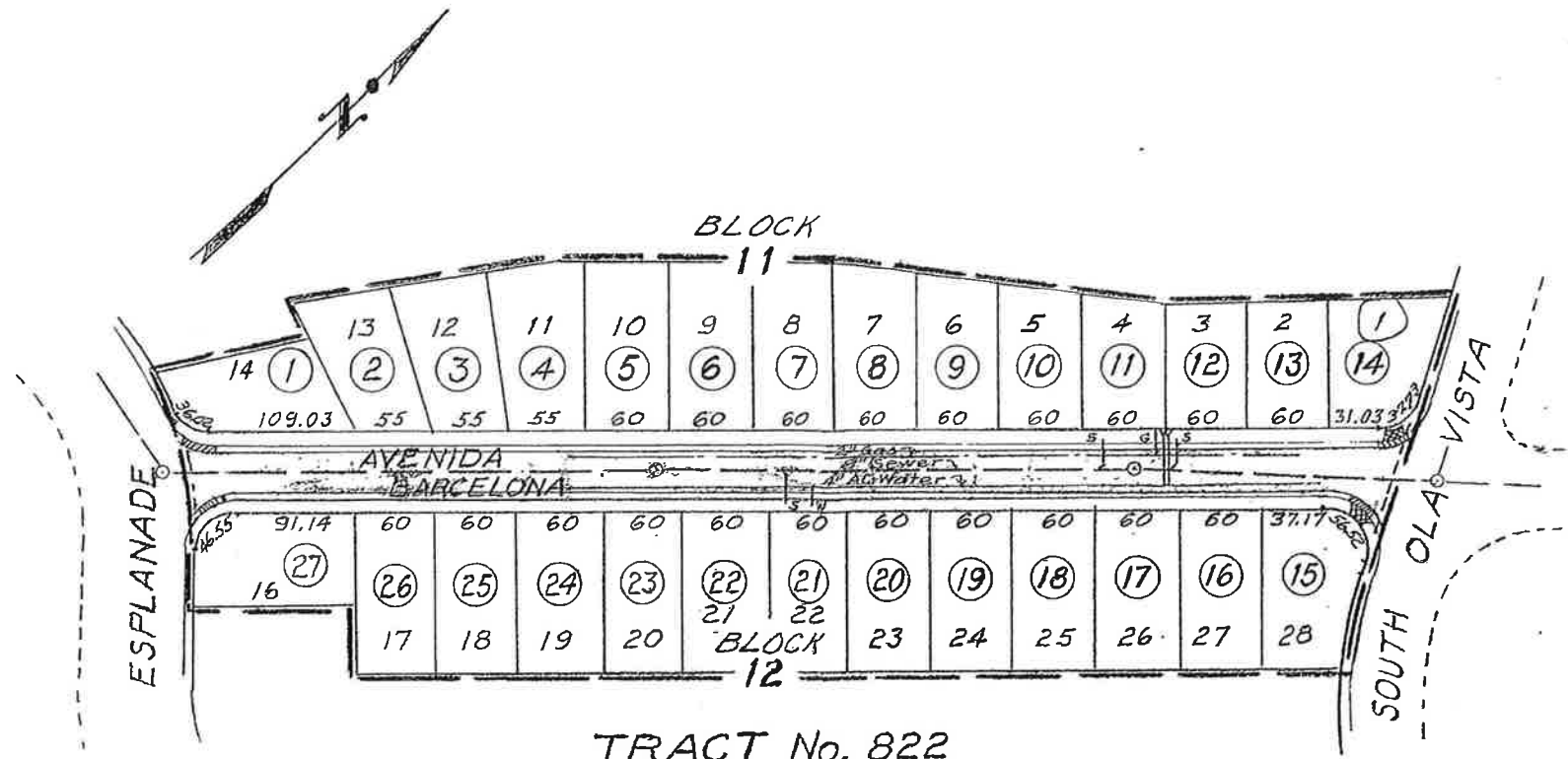
Carter Residence
806 South Ola Vista
San Clemente CA 92672

symbol	PLANT LIST
	name
P	Pittosporum 'Silver Sheen'
PP	Purple Plum
C	Catalina cherry
M	Dwarf magnolia
U	Salvia
G	Pennisetum grass
D	Dymontea ground cover

Note - top dress with mulch. Front Driveway

← S. Ola Vista →





Note: All Manhole Covers to be adjusted to Street Grade.

Tract No 822 as recorded in Book 25 Pages 21-26, Inclusive, of Miscellaneous Maps, records of Orange County, Calif.

LEGEND

- Street Area to be Improved.
- Sewer House Service Stub to be Installed.
- Water House Service Stub to be Installed.
- Gas House Service Stub to be Installed.
- Curbs Gutter to be Constructed.
- Gutter to be Constructed.
- Sidewalk to be Constructed.
- DISTRICT BOUNDARY
- Existing Sewer Main
- Existing Water Main
- Existing Gas Main
- Assessment Parcel Number
- Lot Number. 00

A-1 ✓	
IMPROVEMENT DISTRICT No. 1-61 AVENIDA BARCELONA BETWEEN SOUTH OLA VISTA and ESPLANADE CITY OF SAN CLEMENTE	
Map showing the general nature, location and extent of work to be constructed in Assessment District No. 1-61, and indicating the boundaries of the District.	
CITY ENGINEER: E.H. AYER	DRAFTSMAN: M.T. Kneale
DATE: FEB. 1961	SCALE: 1" = 100'
SHEET 1 OF 1 SHEETS	