



AGENDA REPORT

SAN CLEMENTE CITY COUNCIL MEETING
Meeting Date: May 16, 2017

Agenda Item 7A

Approvals:

City Manager gm

Dept. Head CGD

Attorney _____

Finance gv

Department: Community Development, Planning Division
Prepared By: Kirt A. Coury, Contract Planner

Subject: *APPEAL OF MINOR ARCHITECTURAL PERMIT 16-370, AND MINOR EXCEPTION PERMIT 16-371, QUADE RESIDENCE (404 SOUTH LA ESPERANZA)*

Fiscal Impact: None.

Background: On March 22, 2017, the Zoning Administrator approved Minor Architectural Permit 16-370 and Minor Exception Permit 16-371, Quade Residence, a request for a 1,176 square foot second story addition to a non-conforming residence that continues a five foot, 10-inch side yard setback where six feet is required.

At the meeting, a number of neighbors opposed the project citing concerns with: neighborhood compatibility due to the height of the addition, view impacts, and soil stability. For more background information, please refer to the attached meeting minutes and staff report (Attachments 3 and 4).

Chapter 17.12.140 of the Municipal Code identifies that any person may appeal an action or decision of the Zoning Administrator to the City Council. It should also be noted that the City Council's decision on the appeal shall be final. On April 3, 2017, Dave Buettner filed an appeal to the City Council concerning the approved Minor Exception Permit and Minor Architectural Permit. The primary reasons for the appeal are neighborhood compatibility, adverse massing impact, and impact of privacy on adjacent neighbors. The appeal letter dated April 3, 2017 is provided as Attachment 5.

Discussion: The project site is a 7,105 square-foot lot located in the Residential Low, Special Residential 1 (RL-SR1) district. In 1963, the lot was improved with a 2,373 square foot single-story residence with an attached two-car garage. The residence is legal-nonconforming because the garage encroaches five feet, four inches into the required 20-foot front yard setback and two inches into the required 6-foot side yard setback. Research of building records and permits did not show a variance issued for the property or any indication that the lot and structure were not conforming to development standards at the time of original construction. It is not uncommon to discover homes built during this era are off on setbacks by a couple of inches. This is due to the fact that accurate technology tools (laser) were not available during this time period. The purpose and intent of the Minor Exception Permit process is to provide for streamlined review of requests for minor modifications of selected site development regulations such as this.

The applicant proposes to construct a 1,176 square-foot, second-story addition that provides a new master bedroom at the rear of the home. The addition represents a 49% expansion of the residence, resulting in a new total of 3,549 square feet. It should be noted that the project area is not governed by Covenants, Conditions or Restrictions (CC&R's), nor is it ruled by a Home Owner's Association (HOA).

The applicant requests a Minor Exception Permit (MEP) to allow the addition to encroach two inches into the side yard setback, and a Minor Architectural Permit (MAP) to expand a nonconforming structure.

Analysis

The Zoning Administrator reviewed and approved the project and affirmed the findings for the MAP and MEP in the staff report. The project, as proposed, is not out of character with the neighborhood, does not create adverse massing impacts, does not exceed the allowed maximum building height, and is conditioned to comply with building code requirements. The proposal, to encroach two inches into the required side yard setback, will not be detrimental to the general public or adjacent properties. There is adequate space between the addition and abutting residence for light and ventilation with the requested setback exception. The following summarizes findings for the Minor Exception Permit and the Minor Architectural Permit. For a more detailed analysis of the findings, please refer to the resolution (Attachment 1).

The proposed addition does not have adverse massing impacts, nor will it impact neighborhood compatibility. The second story addition has a varied roofline and building offsets on the side elevation where the encroachment is requested. The second story is set back over 57 feet from the front property line. This preserves the one-story roof element as a focal point closest to the street in character with the neighborhood mostly developed with one-story residences.

The maximum height of the building as proposed is approximately 23 feet. The Zoning Code allows a maximum building height of 25 feet for the Residential Low district. As previously noted, there are no governing CC&R's or HOA further restricting building height. The proposal is a modest expansion so that the building remains in character with the neighborhood. If the house's setbacks were made conforming, the zoning district allows a larger building than the proposal. For example, based on the size of the lot, the current setback requirements, and a maximum lot coverage of 50 percent, the applicant could build a single level home of approximately 3,500 square feet. They could also double that square footage by building a two-story home and build it to the maximum height of 25 feet.

The project was reviewed by the Development Management Team (DMT) on October 13, and December 22, 2016. During the initial review process by the DMT, it was determined that there were no extenuating circumstances regarding soil stability in the immediate area. It should be noted that the project is conditioned to provide a soils report at the time of building plan check submittal. This is a typical requirement and common practice for this type of project.

The proposed materials and architecture will be consistent with the design and features of the existing home, as well as provide articulation and contrast on the front facade. Design features include a large second story setback on the west side of the building, and the use of stucco, a second story pop out element and shadowing to add texture and interest on the facade. Noting the design, layout, building height, and a minor encroachment of two inches into the required side yard setback, staff is recommending that the City Council approve the proposed project.

Recommended

Action: ZONING ADMINISTRATOR AND STAFF RECOMMENDS THAT the City Council approve Minor Architectural Permit 16-370 and Minor Exception Permit 16-371, Quade Residence Addition, located at 404 South La Esperanza.

Attachments:

1. Resolution No.
Exhibit A: Conditions of Approval
2. Location Map
3. March 22nd Zoning Administrator staff report
4. March 22nd Zoning Administrator meeting minutes
5. Letter of Appeal, by Dave Buettner dated April 3, 2017.
6. Letter from Mr. Erik Quade to the City Council dated April 24, 2017
7. Plans

Notification: Newspaper ad, owners of property within 300 feet of site, contacts that requested information or that commented

RESOLUTION NO.

A RESOLUTION OF THE CITY COUNCIL OF THE CITY OF SAN CLEMENTE, APPROVING MINOR ARCHITECTURAL PERMIT 16-370 AND MINOR EXCEPTION PERMIT 16-371, QUADE RESIDENCE, A REQUEST TO CONSIDER AN EXPANSION OF A LEGAL-NONCONFORMING RESIDENCE LOCATED AT 404 SOUTH LA ESPERANZA

WHEREAS, on October 10, 2016, an application was submitted and deemed complete on January 25, 2017 by William Stoffregen on behalf of Erik and Amarette Quade, 404 S. La Esperanza, San Clemente, CA 92672, for Minor Architectural Permit (MAP) 16-370, and a Minor Exception Permit (MEP) 16-371, a request to consider a 1,176 square-foot second-story addition to a legal-nonconforming residence that continues a five-foot, eight-inch side yard setback where six feet is required. The project is located in the Residential-Low Density Zoning district with a Special Residential-1 Overlay (RL-SR1) at 404 South La Esperanza. The legal description is Lot 25 of Tract 5135 and Assessor's Parcel Number is 690-043-03; and

WHEREAS, on October 13, and December 22, 2016, 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 March 22, 2017, the Zoning Administrator of the City of San Clemente held a duly noticed public hearing on the subject application, and considered evidence presented by the applicant, City staff, and other interested parties and approved the request; and

WHEREAS, on April 3, 2017, Dave Buettner appealed the Zoning Administrator's approval of Minor Architectural Permit 16-370 and Minor Exception Permit 16-371 to the City Council; and

WHEREAS, on May 16, 2017, the City Council of the City of San Clemente held a duly noticed public hearing on the subject application, and considered evidence presented by the applicant, City staff, and other interested parties.

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. This is recommended because the project does not result in an expansion of more than 10,000 square feet and is in an urban area where public utilities and services are available. The requested expansion will comply with the development standards required in the General Plan and the Zoning Ordinance; and

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

Section 1. Based upon its review of the entire record, including the Staff Report, any public comments or testimony presented to the City Council, and the facts outlined below, the City Council hereby finds and determines that the proposed project is categorically exempt from CEQA pursuant to State CEQA Guidelines section 15301 (Class 1: Existing Facilities).

The Class 1 exemption specifically exempts from further CEQA review the operation, repair, maintenance, and minor repair of existing public or private structures, involving negligible or no expansion of use beyond that existing at the time of the lead agency's determination. This exemption covers, but is not limited to, interior or exterior alterations, additions to existing structures that will not result in an increase of more than 50 percent of the floor area of the structure before the addition. Here, the proposed project is the addition of 1,176 square feet and minor exterior improvements and will not increase the floor area of the structure by more than 50 percent of the existing floor area. Thus, the project qualifies for the Class 1 exemption.

Furthermore, none of the exceptions to the use of the Class 1 categorical exemption identified in State CEQA Guidelines section 15300.2 apply. The project will not result in a cumulative impact from successive projects of the same type in the same place, over time. There are no unusual circumstances surrounding the project that result in a reasonably possibility of a significant effect on the environment. The project will not damage scenic resources, including trees, historic buildings, rock outcroppings, or similar resources. The project is in conformance with the Secretary of the Interior's Standards for Historic Preservation. The project does not include any hazardous waste sites, and the project will not cause a substantial adverse change in the significance of a historical resource. Thus, the Class 1 exemption applies, and no further environmental review is required.

Section 2: With regard to MAP 16-370, the City Council finds as follows:

- A. The architectural treatment of the project complies with the San Clemente General Plan in that:
 1. The project's size, scale, architecture, setbacks, and materials are consistent with development standards and design guidelines. Therefore, the project is consistent with the Land Use Element Residential Land Uses Goal: *"Achieve a mix of residential neighborhoods and housing types that meets the diverse economic and physical needs of residents, that is compatible with existing neighborhoods and the surrounding environmental setting, and that reflects community expectations for high quality."*
 2. The project involves an addition designed in character and style consistent with the existing home which is expected to improve the aesthetic condition of the property and neighborhood, consistent with Land Use Element

Policy LU-1.04. Single-Family Residential Uses: *"We require that single-family houses and sites be designed to convey a high level of architectural and landscape quality in accordance with the Urban Design Element and Zoning Code..."*;

3. The project meets setback standards to provide space and buffers between land uses. The project has a design and materials that are high quality. The building's scale and massing is in character with and compatible with adjacent properties, consistent with Land Use Element Policy LU-1.06. Residential Infill: *"We require that new residential development be compatible with adjacent structures and land uses and we require: ... b) use of complementary building materials, colors, and forms, while allowing flexibility for distinguished design solutions"; and*
- 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. in that:
1. The project is consistent with Urban Design policy UD-5.10 which requires "the scale and massing of development be compatible with its surroundings and with the General Plan, applicable specific plan, and or area plan." The second story is set back over 57 feet from the front property line. This preserves the one-story roof element as a focal point that is closest to the street as there are several one-story buildings in the neighborhood.
 2. The project is consistent in that it meets setback standards to provide space and buffers between land uses. The proposed encroachment will not adversely affect neighboring properties because the project maintains the existing side yard setback. The encroachment of four-inches represents a six percent encroachment where the Zoning Code allows up to a maximum of 20 percent.
 3. The project has a design and materials that are high quality. The building's scale and massing is in character with and compatible with adjacent properties. The proposed materials and architecture will be consistent with the design and features of the existing home.
- C. The architectural treatment of the project complies with the architectural guidelines in the City's Design Guidelines in that:
1. The project demonstrates "sensitivity to the contextual influences of adjacent properties and the neighborhood" per the requirements of General Design Guidelines II.B and II.B.3.
 2. The project is consistent with this policy because it is in character with the scale and size of one-and-two story houses in the neighborhood.

3. The project modifies the roofline, articulation, and materials to provide variation and interest. This will improve the look of the structure and neighborhood.
- D. The general appearance of the proposal is in keeping with the character of the neighborhood in that:
1. The architectural treatment of the project's scale, mass, form, existing setbacks, and materials are compatible with adjacent structures and the pattern of development in the neighborhood. The second story is set back over 57 feet from the front property line. This preserves the one-story roof element as a focal point that is closest to the street as there are several one-story buildings in the neighborhood.
 2. The project maintains a one-story roofline in the front of the residence with the second-story addition toward the rear of the property in a neighborhood with one-story and two-story residences. The Zoning district allows two stories and a maximum height of 25 feet.
 3. The scale and mass of the proposed project would be comparable to residences in the neighborhood. The proposed development will not adversely affect neighboring properties because the project maintains the existing side yard setback. The encroachment of four-inches represents a six percent encroachment where the Zoning Code allows up to a maximum of 20 percent. Also, the length of the encroachment is 30 percent (24 feet) of the allowed building pad. The building pad is 84 feet long between the front and rear setbacks.
 4. The proposed materials and architecture will be consistent with the design and features of the existing home, as well as provide articulation and contrast on the front facade. Design features include a large second story setback on the west side of the building, and the use of stucco, a second story pop out element and shadowing to add texture and interest on the facade.
- E. The proposal is not detrimental to the orderly and harmonious development of the City in that:
1. The scale, mass, form, and materials of the project are in character with the neighborhood for reasons specified in subsection D.
 2. The project would improve the appearance of the house and neighborhood.
 3. As conditioned, the project complies with development standards.

Section 3: With regard to MEP 16-371, the Zoning Administrator finds as follows:

- A. The architectural treatment of the project complies with the San Clemente General Plan, the Zoning Ordinance, and the City's Design Guidelines, in that the project maintains the character of the residence and meets height and setback requirements with the exception of the existing legal nonconforming side yard setback (a four inch reduction of the required six foot side yard setback).
- B. The general appearance of the proposal is in keeping with the character of the neighborhood. As previously stated, the second story is set back over 57 feet from the front property line. This preserves the one-story roof element as a focal point that is closest to the street as there are several one-story buildings in the neighborhood. Further, the proposal allows a modest expansion of the existing residence as an alternative to demolishing the existing house and constructing a residence that could be substantially larger than the existing house; and
- C. The proposal is not detrimental to the orderly and harmonious development of the City, in that the proposed addition is consistent with the scale and massing of the residences in the neighborhood. As previously stated, the second story is set back over 57 feet from the front property line. This preserves the one-story roof element as a focal point that is closest to the street as there are several one-story buildings in the neighborhood. In addition, the proposed materials and architecture will be consistent with the design and features of the existing home.

Section 4. The City Council of the City of San Clemente hereby approves Minor Architectural Permit 16-370 and Minor Exception Permit 16-371, Quade Residence, subject to the above Findings.

Section 5. The City Clerk shall certify to the passage and adoption of this resolution and enter it into the book of original resolutions.

APPROVED, ADOPTED and SIGNED this _____ day of _____, 2017.

ATTEST:

City Clerk of the City of San Clemente, California

Mayor of the City of San Clemente, California

STATE OF CALIFORNIA)
COUNTY OF ORANGE) §
CITY OF SAN CLEMENTE)

I, JOANNE BAADE, City Clerk of the City of San Clemente, California, do hereby certify that Resolution No. _____ was adopted at a regular meeting of the City Council of the City of San Clemente held on the _____ day of _____, by the following vote:

AYES:

NOES:

ABSENT:

CITY CLERK of the City of
San Clemente, California

APPROVED AS TO FORM:

City Attorney

EXHIBIT A

CONDITIONS OF APPROVAL*
MAP 16-370 and MEP 16-371, QUADE 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 MAP 16-370 and Minor Exception Permit MEP 16-371 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 16-370 and MEP 16-371 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 16-370 and MEP 16-371 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 develop in conformance with the site plan, floor plans, elevations, details, and any other applicable submittals approved by the Zoning Administrator on March 22, 2017, 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. Prior to the Planning Division's final inspection and release of construction permits, a landscaping plant list and/or planting plan shall be submitted to the Planning Division for the front yard. The plan must show how landscaped areas will be re-vegetated that are cleared in the process of construction and show new plants and planting areas that are proposed. New landscaping must meet Zoning Ordinance requirements. (■PIng.)_____
9. Prior to releasing finalized construction permits, front yard landscaping and hardscape shall be completed to the satisfaction of the City Planner or designee. (■PIng.)_____

10. 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.)_____

11. 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.)_____

12. Prior to issuance of building permits, applicant shall secure all utility agencies approvals for the proposed project. *[S.C.M.C – Title 15 Building Construction]* (Bldg.)_____

13. 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.)_____

14. 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.)_____

15. 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.)_____

16. 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.)_____

17. In the event that Grading Plans are required due to anticipated soil processing placing or recompacting 50 cubic yards of soil or more, prior to the review of grading plans and soils reports, the owner or designee shall deposit a minimum of \$5,000.00 for plan check. *[Citation – Fee Resolution No. 08-81 and Section 15.36 of the SCMC]*
 (Eng.)_____

18. Prior to issuance of the building permit, 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 pay all applicable development fees, which may include, but are not limited to, City Attorney review, development, water and sewer connection, parks, drainage, grading, RCFPP, transportation corridor, etc. *[Citation – Fee Resolution No. 08-81& S.C.M.C. Title 15, Building and Construction, Sections 15.52, 15.56, 15.60, 15.64, 15.68, 15.72]* (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 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.)_____

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 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.)_____

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 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 frontage improvements and onsite improvements, including but not limited to, grading, building pad grades, storm drains, sewer system, retaining walls, water system, water quality features, erosion control devices, etc., as required by the City Grading Manual and Ordinance. *[Citation – Section 15.36 of the SCMC]*
 (Eng.)_____

22. 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, prepared by a registered civil engineer. 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: *[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 public property frontages. This includes construction of compliant sidewalk around drive approach or other obstructions to meet current City standards (2% cross fall) when adequate right-of-way exists. Since there is not adequate right-of-way, a sidewalk easement will be required to be granted to the City for any portion of sidewalk needed to go up and around the drive approach or other obstructions unless a waiver is approved by the City Manager.
- B. In the event that areas of sidewalk or other street improvements are disturbed or damaged during the construction project, the applicants shall be responsible for replacing said sidewalk or other street improvements prior to the finalization of any Engineering or Building Permits.
- C. An Engineering Department Encroachment Permit shall in place prior to the commencement of any work in the public right-of-way.
23. Prior to issuance of any permit, 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.)_____
24. Prior to issuance of any permits, the owner shall provide separate improvement surety, bonds, or irrevocable letters of credit, as determined by the City Engineer for 100% of each estimated improvement cost, as prepared by a registered civil engineer as approved by City Attorney/City Engineer, for the following: grading improvements; frontage improvements; sidewalks; sewer lines; water lines; onsite storm drains; and erosion control. In addition, the owner shall provide separate labor and material surety for 100% of the above estimated improvement costs, as

determined by the City Engineer or designee. *[Citation – Section 15.36 of the SCMC]* (Eng.)_____

25. Prior to issuance of certificates of occupancy, the owner shall demonstrate to the satisfaction of the City Engineer and City Maintenance Manager or their designees that all frontage improvements have been completed, and accepted and that any damage to new or existing street right-of-way during construction have been repaired/replaced. *[Citation – Title 12 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

MAP16-370/MEP16-371
Quade Residence
404 S. La Esperanza





FILE COPY

STAFF REPORT
SAN CLEMENTE ZONING ADMINISTRATOR

Meeting Date: March 22, 2017

PLANNER:

Kirt A. Coury, Contract Planner *Kc*

SUBJECT:

Minor Architectural Permit 16-370/Minor Exception Permit 16-371, Quade Residence, a request to consider a 1,176 square foot second-story addition to a nonconforming residence that continues a five foot, eight inch side yard setbacks where six feet is required.

LOCATION:

404 South La Esperanza

ZONING/GP:

Residential Low Density with Special Residential Overlay 1 (RL-SR1)

BACKGROUND:

- The project site is a 7,105 square-foot lot. In 1963, the lot was improved with a 2,373 square foot single-story residence with an attached two-car garage.
- The residence is legal-nonconforming because the garage encroaches five feet, four inches into the required 20-foot front yard setback and four inches into the required 6-foot side yard setback.
- The applicant proposes to construct a 1,176 square-foot, second-story addition that provides a new master bedroom at the rear of the home. The addition represents a 49% expansion of the residence. The proposed project would expand the residence by 49 percent to a total of 3,549 square feet.
- The applicant requests a Minor Exception Permit (MEP) to allow the addition to continue the non-conforming five-foot, eight-inch side yard setback.
- Zoning Ordinance Table 17.16.100A requires Zoning Administrator approval of a Minor Architectural Permit (MAP) to expand a nonconforming structure. The proposed project meets the required findings. The scale, mass, form, and materials of the project are in character with the neighborhood and compatible with adjacent properties because:
 - The size of the second-story and overall house will be consistent with several residences located within the vicinity;
 - The proposed materials and architecture will be consistent with the design and features of the existing home, as well as provide articulation and contrast on the front facade. Design features include a large second story setback on the west side of the building, and the use of stucco, a second story pop out element and shadowing to add texture and interest on the facade;
 - The second story is set back over 57 feet from the front property line. This preserves the one-story roof element as a focal point closest to the street in character with several one-story buildings in the neighborhood; and

- The MAP allows the house to be modestly expanded so the building remains in character with the neighborhood. If the house's setbacks were made conforming, the zoning district allows a larger building than the proposal.
- Zoning Ordinance Section 17.16.090.C.18.b requires Zoning Administrator approval of a Minor Exception Permit (MEP) to allow the continuation of a legal nonconforming side yard setback. The proposed project meets the required findings because:
 - The proposal will not be detrimental to the general public and adjacent properties. There is adequate space between the addition and abutting residence for light and ventilation with the requested setback exception. Additionally, the project must be permitted and inspected for compliance with building codes to ensure the project does not have adverse impacts on health, safety, and welfare;
 - The proposed addition does not have adverse massing impacts. The second story addition has a varied roofline and building offsets on the side elevation where the encroachment is requested. The second story is set back over 57 feet from the front property line. This preserves the one-story roof element as a focal point closest to the street in character with the neighborhood mostly developed with one-story residences; and
 - The request is minor compared the maximum encroachment allowed by the Zoning Code. With a MEP, the Zoning Code allows a maximum setback encroachment of 20 percent (one foot three inches) and the request is to allow the addition to encroach four inches or six percent. Also, the length of the encroachment is 30 percent (24 feet) of the allowed building pad. The building pad is 84 feet long between the front and rear setbacks.
 - The project is categorically exempt from CEQA as a Class 2 exemption pursuant to CEQA Guidelines Section 15301(e) because the project involves an addition to an existing structure that increases existing floor area more than 50 percent but less than 10,000 square feet, and the City has found that the project meets the required conditions of that Class 2 exemption, namely that:
 - The project is 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.
- Staff has not received comments from the public regarding this proposal.

RECOMMENDATION

Based on the information in the staff report and subject to the required Findings and Conditions of Approval, staff recommends that the Zoning Administrator:

1. Determine the project is Categorical Exempt from the requirements of the California Environmental Quality Act pursuant to CEQA Guidelines Section 15301, Class 1(e)(1) (Existing Facilities), and
2. Approve MAP 16-370/MEP 16-371, Quade Residence, subject to attached Resolution ZA 17-008 and conditions of approval.

Attachments:

1. Resolution ZA 17-008
Exhibit A Conditions of Approval
2. Location Map
3. Photos

RESOLUTION NO. ZA 17-008

A RESOLUTION OF THE ZONING ADMINISTRATOR OF THE CITY OF SAN CLEMENTE, CALIFORNIA, APPROVING MINOR ARCHITECTURAL PERMIT 16-370 AND MINOR EXCEPTION PERMIT 16-371, QUADE RESIDENCE, A REQUEST TO CONSIDER AN EXPANSION OF A LEGAL-NONCONFORMING RESIDENCE LOCATED AT 404 SOUTH LA ESPERANZA

WHEREAS, on October 10, 2016, an application was submitted and deemed complete on January 25, 2017 by William Stoffregen on behalf of Erik and Amarette Quade, 404 S. La Esperanza, San Clemente, CA 92672, for Minor Architectural Permit (MAP) 16-370, and a Minor Exception Permit (MEP) 16-371, a request to consider a 1,176 square-foot second-story addition to a legal-nonconforming residence that continues a five-foot, eight-inch side yard setback where six feet is required. The project is located in the Residential-Low Density Zoning district with a Special Residential-1 Overlay (RL-SR1) at 404 South La Esperanza. The legal description is Lot 25 of Tract 5135 and Assessor's Parcel Number is 690-043-03; 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. This is recommended because the project does not result in an expansion of more than 10,000 square feet and is in an urban area where public utilities and services are available. The requested expansion will comply with the development standards required in the General Plan and the Zoning Ordinance; and

WHEREAS, on October 13, and December 22, 2016, 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 March 22, 2017, 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: Based upon its review of the entire record, including the Staff Report, any public comments or testimony presented to the Zoning Administrator, and the facts outlined below, the Zoning Administrator hereby finds and determines that the proposed project is categorically exempt from CEQA pursuant to State CEQA Guidelines section 15301 (Class 1: Existing Facilities).

The Class 1 exemption specifically exempts from further CEQA review the operation, repair, maintenance, and minor repair of existing public or private structures, involving negligible or no expansion of use beyond that existing at the time of the lead agency's

determination. This exemption covers, but is not limited to, interior or exterior alterations, additions to existing structures that will not result in an increase of more than 50 percent of the floor area of the structure before the addition. Here, the proposed project is the addition of 1,176 square feet and minor exterior improvements and will not increase the floor area of the structure by more than 50 percent of the existing floor area. Thus, the project qualifies for the Class 1 exemption.

Furthermore, none of the exceptions to the use of the Class 1 categorical exemption identified in State CEQA Guidelines section 15300.2 apply. The project will not result in a cumulative impact from successive projects of the same type in the same place, over time. There are no unusual circumstances surrounding the project that result in a reasonably possibility of a significant effect on the environment. The project will not damage scenic resources, including trees, historic buildings, rock outcroppings, or similar resources. The project is in conformance with the Secretary of the Interior's Standards for Historic Preservation. The project does not include any hazardous waste sites, and the project will not cause a substantial adverse change in the significance of a historical resource. Thus, the Class 1 exemption applies, and no further environmental review is required.

Section 2: With regard to MAP 16-370, the Zoning Administrator finds as follows:

- A. The architectural treatment of the project complies with the San Clemente General Plan in that:
1. The project's size, scale, architecture, setbacks, and materials are consistent with development standards and design guidelines. Therefore, the project is consistent with the Land Use Element Residential Land Uses Goal: *"Achieve a mix of residential neighborhoods and housing types that meets the diverse economic and physical needs of residents, that is compatible with existing neighborhoods and the surrounding environmental setting, and that reflects community expectations for high quality."*
 2. The project involves an addition designed in character and style consistent with the existing home which is expected to improve the aesthetic condition of the property and neighborhood, consistent with Land Use Element Policy LU-1.04. Single-Family Residential Uses: *"We require that single-family houses and sites be designed to convey a high level of architectural and landscape quality in accordance with the Urban Design Element and Zoning Code..."*;
 3. The project meets setback standards to provide space and buffers between land uses. The project has a design and materials that are high quality. The building's scale and massing is in character with and compatible with adjacent properties, consistent with Land Use Element Policy LU-1.06. Residential Infill: *"We require that new residential development be compatible with adjacent structures and land uses and we require: ... b) use of complementary building materials, colors, and forms, while allowing flexibility for distinguished design solutions"; and*

- 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. in that:
1. The project is consistent with Urban Design policy UD-5.10 which requires "the scale and massing of development be compatible with its surroundings and with the General Plan, applicable specific plan, and or area plan." The second story is set back over 57 feet from the front property line. This preserves the one-story roof element as a focal point that is closest to the street as there are several one-story buildings in the neighborhood.
 2. The project is consistent in that it meets setback standards to provide space and buffers between land uses. The proposed encroachment will not adversely affect neighboring properties because the project maintains the existing side yard setback. The encroachment of four-inches represents a six percent encroachment where the Zoning Code allows up to a maximum of 20 percent.
 3. The project has a design and materials that are high quality. The building's scale and massing is in character with and compatible with adjacent properties. The proposed materials and architecture will be consistent with the design and features of the existing home.
- C. The architectural treatment of the project complies with the architectural guidelines in the City's Design Guidelines in that:
1. The project demonstrates "sensitivity to the contextual influences of adjacent properties and the neighborhood" per the requirements of General Design Guidelines II.B and II.B.3.
 2. The project is consistent with this policy because it is in character with the scale and size of one-and-two story houses in the neighborhood.
 3. The project modifies the roofline, articulation, and materials to provide variation and interest. This will improve the look of the structure and neighborhood.
- D. The general appearance of the proposal is in keeping with the character of the neighborhood in that:
1. The architectural treatment of the project's scale, mass, form, existing setbacks, and materials are compatible with adjacent structures and the pattern of development in the neighborhood. The second story is set back over 57 feet from the front property line. This preserves the one-story roof element as a focal point that is closest to the street as there are several one-story buildings in the neighborhood.
 2. The project maintains a one-story roofline in the front of the residence with the second-story addition toward the rear of the property in a neighborhood with

one-story and two-story residences. The Zoning district allows two stories and a maximum height of 25 feet.

3. The scale and mass of the proposed project would be comparable to residences in the neighborhood. The proposed development will not adversely affect neighboring properties because the project maintains the existing side yard setback. The encroachment of four-inches represents a six percent encroachment where the Zoning Code allows up to a maximum of 20 percent. Also, the length of the encroachment is 30 percent (24 feet) of the allowed building pad. The building pad is 84 feet long between the front and rear setbacks.
 4. The proposed materials and architecture will be consistent with the design and features of the existing home, as well as provide articulation and contrast on the front facade. Design features include a large second story setback on the west side of the building, and the use of stucco, a second story pop out element and shadowing to add texture and interest on the facade.
- E. The proposal is not detrimental to the orderly and harmonious development of the City in that:
1. The scale, mass, form, and materials of the project are in character with the neighborhood for reasons specified in subsection D.
 2. The project would improve the appearance of the house and neighborhood.
 3. As conditioned, the project complies with development standards.

Section 3: With regard to MEP 16-371, the Zoning Administrator finds as follows:

- A. The architectural treatment of the project complies with the San Clemente General Plan, the Zoning Ordinance, and the City's Design Guidelines, in that the project maintains the character of the residence and meets height and setback requirements with the exception of the existing legal nonconforming side yard setback (a four inch reduction of the required six foot side yard setback).
- B. The general appearance of the proposal is in keeping with the character of the neighborhood. As previously stated, the second story is set back over 57 feet from the front property line. This preserves the one-story roof element as a focal point that is closest to the street as there are several one-story buildings in the neighborhood. Further, the proposal allows a modest expansion of the existing residence as an alternative to demolishing the existing house and constructing a residence that could be substantially larger than the existing house; and
- C. The proposal is not detrimental to the orderly and harmonious development of the City, in that the proposed addition is consistent with the scale and massing of the residences in the neighborhood. As previously stated, the second story is set back over 57 feet from the front property line. This preserves the one-story roof element

as a focal point that is closest to the street as there are several one-story buildings in the neighborhood. In addition, the proposed materials and architecture will be consistent with the design and features of the existing home.

Section 4: The Zoning Administrator of the City of San Clemente hereby approves MAP 16-370/MEP 16-371, Quade Residence, 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 March 22, 2017

SAN CLEMENTE ZONING ADMINISTRATOR

Amber Gregg, Zoning Administrator

**CONDITIONS OF APPROVAL
MAP 16-370 and MEP 16-371, QUADE 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 MAP 16-370 and Minor Exception Permit MEP 16-371 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 16-370 and MEP 16-371 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 16-370 and MEP 16-371 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 develop in conformance with the site plan, floor plans, elevations, details, and any other applicable submittals approved by the Zoning Administrator on March 22, 2017, 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. Prior to the Planning Division's final inspection and release of construction permits, a landscaping plant list and/or planting plan shall be submitted to the Planning Division for the front yard. The plan must show how landscaped areas will be re-vegetated that are cleared in the process of construction and show new plants and planting areas that are proposed. New landscaping must meet Zoning Ordinance requirements. (PIng.) _____
9. Prior to releasing finalized construction permits, front yard landscaping and hardscape shall be completed to the satisfaction of the City Planner or designee. (PIng.) _____
10. 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.) _____

11. 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.)_____
12. Prior to issuance of building permits, applicant shall secure all utility agencies approvals for the proposed project. *[S.C.M.C – Title 15 Building Construction]* (Bldg.)_____
13. 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.)_____
14. 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.)_____
15. 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.)_____
16. 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.)_____
17. In the event that Grading Plans are required due to anticipated soil processing placing or recompacting 50 cubic yards of soil or more, prior to the review of grading plans and soils reports, the owner or designee shall deposit a minimum of \$5,000.00 for plan check. *[Citation – Fee Resolution No. 08-81 and Section 15.36 of the SCMC]* (Eng.)_____

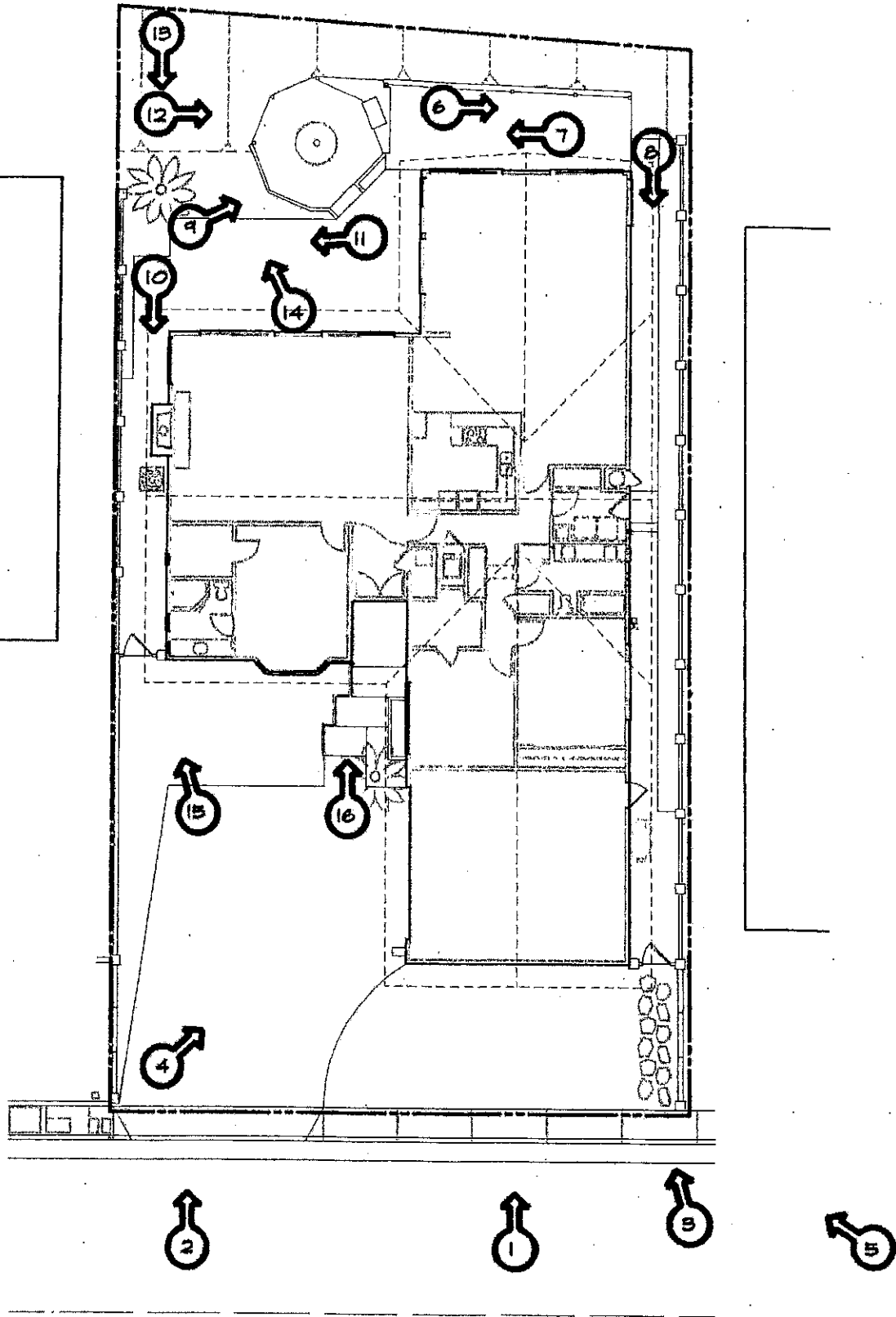
18. Prior to issuance of the building permit, in the event that Grading Plans are required due to anticipated soil processing placing or recompacting 50 cubic yards of soil or more, the owner shall pay all applicable development fees, which may include, but are not limited to, City Attorney review, development, water and sewer connection, parks, drainage, grading, RCFPP, transportation corridor, etc. *[Citation - Fee Resolution No. 08-81& S.C.M.C. Title 15, Building and Construction, Sections 15.52, 15.56, 15.60, 15.64, 15.68, 15.72]* (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 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.)_____
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 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.)_____
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 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 frontage improvements and onsite improvements, including but not limited to, grading, building pad grades, storm drains, sewer system, retaining walls, water system, water quality features, erosion control devices, etc., as required by the City Grading Manual and Ordinance. *[Citation - Section 15.36 of the SCMC]* (Eng.)_____
22. 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, prepared by a registered civil engineer. 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: *[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 public property frontages. This includes construction of compliant sidewalk around drive approach or other

obstructions to meet current City standards (2% cross fall) when adequate right-of-way exists. Since there is not adequate right-of-way, a sidewalk easement will be required to be granted to the City for any portion of sidewalk needed to go up and around the drive approach or other obstructions unless a waiver is approved by the City Manager.

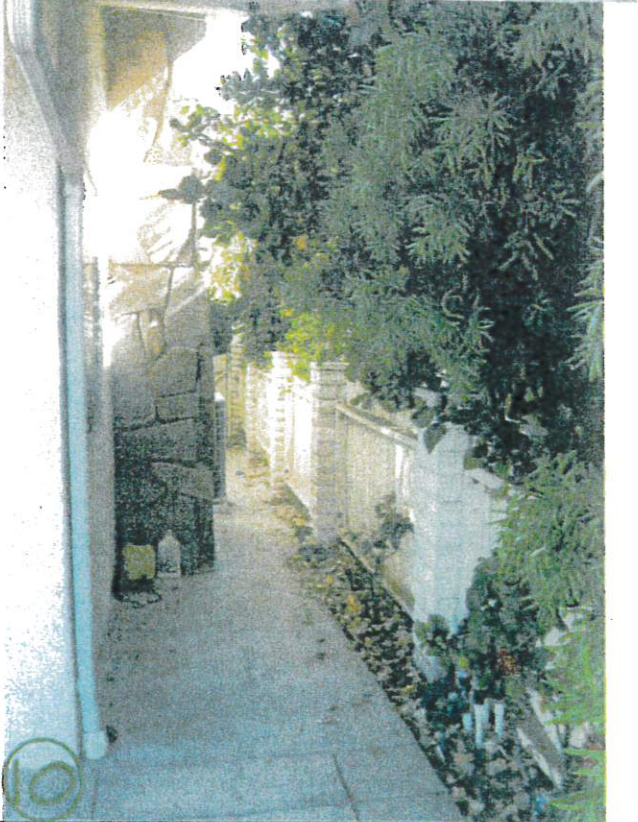
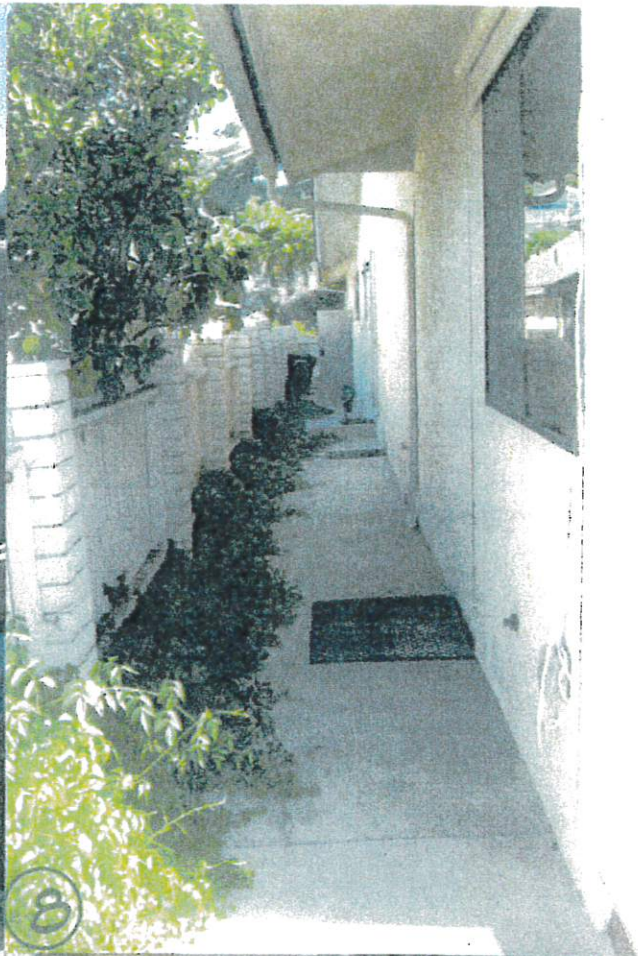
- B. In the event that areas of sidewalk or other street improvements are disturbed or damaged during the construction project, the applicants shall be responsible for replacing said sidewalk or other street improvements prior to the finalization of any Engineering or Building Permits.
 - C. An Engineering Department Encroachment Permit shall in place prior to the commencement of any work in the public right-of-way.
23. Prior to issuance of any permit, 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.)_____
24. Prior to issuance of any permits, the owner shall provide separate improvement surety, bonds, or irrevocable letters of credit, as determined by the City Engineer for 100% of each estimated improvement cost, as prepared by a registered civil engineer as approved by City Attorney/City Engineer, for the following: grading improvements; frontage improvements; sidewalks; sewer lines; water lines; onsite storm drains; and erosion control. In addition, the owner shall provide separate labor and material surety for 100% of the above estimated improvement costs, as determined by the City Engineer or designee. *[Citation – Section 15.36 of the SCMC]*
(Eng.)_____
25. Prior to issuance of certificates of occupancy, the owner shall demonstrate to the satisfaction of the City Engineer and City Maintenance Manager or their designees that all frontage improvements have been completed, and accepted and that any damage to new or existing street right-of-way during construction have been repaired/replaced. *[Citation – Title 12 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



404 S. LA ESPERANZA - PROPERTY EXHIBIT



SHEET 3 OF 5

404 S. LA ESPERANZA - PROPERTY EXHIBIT



404 S. LA ESPERANZA - PROPERTY EXHIBIT



These minutes to be approved at the Zoning Administrator Meeting 4-5-17

**CITY OF SAN CLEMENTE
MINUTES OF THE REGULAR
ZONING ADMINISTRATOR MEETING
MARCH 22, 2017**

FILE COPY

1. CALL TO ORDER

A Regular Meeting of the City of San Clemente Zoning Administrator was called to order on March 22, 2017 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 Amber Gregg.

Staff Present: Amber Gregg, Zoning Administrator; Kirt Coury, Contract Planner; Roxanne Atencio, Office Specialist I.

2. MINUTES

A. The minutes of the Zoning Administrator meeting of February 22, 2017 were approved.

3. ORAL AND WRITTEN COMMUNICATION

None

4. PUBLIC HEARINGS

A. 404 South La Esperanza - Minor Architectural Permit 16-370/Minor Exception Permit 16-371 - Quade Residence Addition (Coury)

Public Hearing to consider a 1,176 square foot second-story addition to a legal nonconforming residence that continues a five foot, eight inch side yard setback where six feet is required. The project is located in the Residential-Low Density Zoning district with a Special Residential 1 Overlay (RL-SR1) at 404 South La Esperanza. The legal description is Lot 25 of Tract 5135 and Assessor's Parcel Number is 690-043-03.

Contract Planner Kirt Coury summarized the Staff Report.

ZA Gregg asked if Applicants would like to speak.

William Stoffregen, the Applicants' architect, clarified the existing home encroaches 2 inches on the southeast side and a 1 inch encroachment on the northwest side of the house, not the four inches stated in the report.

ZA Gregg opened the Public Hearing.

Thomas Whiten stated he was concerned the City issuing Variances would change the character of the neighborhood and allow for "McMansions" to be built. Whiten said decreasing views of the ocean, the pier and other desirable views would decrease property values. Whiten lives on a hill about 95 feet above Esperanza Street at 405 Avenida Arlena so that if anyone built a second story his property would be above it. Whiten explained he bought a house that was cracked in half and had caissons put in and 5 years later they still have cracks which shows the instability of the hill. Whiten continued that he was a professional engineer in New York and having walked the neighborhood and looking at the position of the Applicants' house the property will require severe structural analysis.

Dave Buettner stated he and his wife have been in San Clemente for about 15 years. Before they bought the house they knew they were in a very active geological area. They hired a geologist to look at the property and he said they would be ok as long as they did not make any major changes to their home. Right next to his home, across the street there was a geological distress where large amounts of soil slipped down the hill. The people that lived there spent a fortune stabilizing and installed caissons recently. The reason for the slide was inadequate fill for the foundations of the houses that were built there. Mr. Buettner said he was concerned the Applicants' project will have similar issues. Also, he stated the Staff Report does not reference a soil analysis, slope angle investigation, engineering evaluations, risk assessment, fill adequacy, bearing capacity. Buettner referenced a portion of the Staff Report, "The proposed addition does not have any adverse mass impacts." Mr. Buettner showed a picture of the Applicants' property taken from his backyard and he said the project would have an impact on their view. Buettner pointed out the statement on the Notice of Public Hearing that states Staff has not received any public comments about the project. Buettner said he did not know anything about the proposed project, it could be a potential disaster and he hadn't heard a word about it.

ZA asked Mr. Buettner if he received the Notice of Public Hearing in the mail.

Mr. Buettner said he did receive the Notice of Public Hearing in the mail but it said that no comments had been received regarding the project but comments have not been received because he barely received the public notice.

ZA Gregg stated a Notice of Public Hearing is mailed regarding all discretionary projects where a decision will be made. Public Notices are mailed 10 days prior to the meeting date, advertised in the newspaper and the project site is posted with the notice. That is the opportunity for the public to ask for more information about the proposed project. When the Staff report goes out, which was Friday March 17, 2017, there were no formal comments received by Staff. However, that does not mean that the public does not have the opportunity to come to the Public Hearing to speak. ZA Gregg further explained that this is the standard

process for all Public Hearings whether it be a variance, a minor exception permit, anything that has a discretionary application.

Gregory Lynch stated he lived at 401 Avenida Arlena and pointed out his property on the map displayed on the projection screen. Mr. Lynch stated he is currently upgrading his home. When he started his upgrades he planned to add a second story and had plans drawn up but decided not to do the second story. He wanted to do his project in four phases. Mr. Lynch said he had a fence separating his yard from his neighbor that was tilting to about a 50 degree angle. When Lynch first submitted plans to the City he was told no construction could be done until a soils report was done. The soils reports came back and said to do any upgrades they would need to put in caissons into the property. Mr. Lynch said his primary concern was there should be a soils perspective done for the Applicants' property. Lynch stated he had budgeted about \$250,000 for upgrades to his property. He said they had to installed caissons costing about \$500,000 just to start his upgrades to the home. Lynch said 25 years ago there were major issues with the soil at the back of his property and it had to be reconstructed because the soil was moving. He said the Staff Report did not mention anything about the soil and said he would not want the Applicant's home to have the same movement his house has had. Lynch referenced his garage having cement cracked in half 2-3 inches. He has been in a neighboring house and saw 3 inch crack in the kitchen and cracks are happening throughout the neighborhood. Mr. Lynch said because he stabilized his slope his property is holding up all of the other homes on his street. Caissons were put in 50 feet into the bedrock as a requirement of the City. Mr. Lynch said he thought it was important to have the soil tested since there has been so much movement in the neighborhood and the Applicants are proposing to add more weight to the property and this affects the entire hill.

Cheryl Lynch, wife of Gregory Lynch, stated her grandparents built their home in 1971 and were the original owners of the property. When the Lynches proposed to add a second floor they were told they could not put additional weight on this hill, it had to be put over the garage. Mrs. Lynch shared her concerns about a second floor addition being added to the back of the Applicants' property, rather than the front of the property. Mrs. Lynch said she had to put a half a million dollars in caissons into her hillside to make upgrades. Mrs. Lynch said if the Applicants' property slides down the hill the property below will be devastated. When this community was originally built it was all single story and her grandparents had a lawsuit against the property owners below them for building a 2 story home the City issued a variance for that property. Lynch reference another lawsuit in the neighborhood because of undermining of the soil. Another neighbor put in \$750,000 into their hill to stabilize it. Mrs. Lynch said she was concerned that adding a second story will impact property values of the neighborhood and start a trend for adding second story additions. Cheryl Lynch is a realtor in San Clemente and said she is all about the views stating "I sell views, I sell lifestyles."

Keith Howington stated he and his wife Susan live at 400 Avenida Arlena and pointed to his property on the map.

ZA Gregg asked if it was the two story home on the corner.

Keith Howington answered yes. Howington asked who wrote the Staff Report because it was extremely subjective and made a lot of assumptions. Mr. Howington said all the homes nearby are single story. He continued that the Staff Report was vague about the neighborhood being single story and disagreed with the portion of the report that stated "it will not result in accumulated impact the project over time." Howington is concerned if one goes two story all the houses will go two story. Mr. Howington said it was a major concern that similar geological issues that in the Shorecliff's community will happen in his neighborhood. Howington said the property above his home slid down to the next street where Howington lives and cost \$400,000-\$700,000 to repair. Howington said the project sight and his slope is less than 100 feet away. The road will not stop a landslide and once something moves the entire neighborhood suffers the consequences.

Susan Howington, wife of Keith Howington, said to the Applicants that her biggest concern was that they had no idea how their project will affect the neighborhood.

ZA Gregg asked Mrs. Howington to direct her comments to the ZA and not the Applicants directly.

Susan Howington stated to ZA Gregg she does not know how changes to the Applicant's home will directly affect the neighborhood. For the City to approve it without identifying the risk in the Staff Report seems to be gross negligence. Mrs. Howington said that Staff Report does not identify any of the negative impacts the project will have on the neighborhood and the Staff Report was only positive which is uneducated. The City owes it to their neighborhood to take a look at the potential difficulties and trauma that could be caused to the land itself. If the City is not interested in the property values that is one thing but the City should be interested in the land and the impact it can have on the home of the people around because there is a history of soil movement in the area.

Patricia Lamont of 403 East Avenida Cordoba pointed out her home on the map and said she owned two properties directly above the Applicant's property. She stated the City is not in the business of protecting properties. Ms. Lamont said directly to the Applicants that they were going to wipeout her view of the pier.

ZA Gregg asked Ms. Lamont to direct her comments to the ZA not the Applicants.

Ms. Lamont continued that she never received a Notice of Public Hearing for either of the properties that she owns. She only found out about meeting through another neighbor. Had she been given time she would have hired experts to analyze the financial effects that the Applicants' project will have on her property. Lamont asked that the Applicants take her view into consideration. Ms. Lamont said she lived in San Clemente for 40 years, she loves her home and will lose view of the pier. Lamont offered to have the Applicants come to her property to view how it will affect her view. Also, Lamont said the project will affect the value of her properties. Ms. Lamont suggested that the Applicants build below and not up because it affects other people's views.

ZA Gregg closed the public hearing.

ZA Gregg said she would address some of the concerns that were mentioned during the public hearing. ZA asked Staff to address the geotechnical concerns as well as the discretionary process and the building permit process.

Contract Planner Coury stated this discretionary application is before the ZA today to determine if the project can construct an addition to a nonconforming house, and continue a nonconforming side yard setback of 5.8 feet where 6 feet is required. If these things are approved to move forward with the project, the Applicants would then submit their project and plans to the Building Division for their Building Permit. At that time the Building Division would require a soils study which would identify what would be required for land stability.

ZA Gregg explained further that the application is not before the Zoning Administrator for a two story addition because the City allows a second story addition by development standards. Whether other residents agree or disagree with a second story addition or if the area should be zoned for second story additions, was not the application before the ZA as the project is under with the permitted height limit of 25 feet. ZA Gregg explained the City Staff is charged with analyzing the project under the laws as they exist today and ensuring the application complies with those laws. If this were a house that did not encroach and met all the other development standards and built a second story across the entire home they would only require Building Permits, not a public hearing. Part of the Building Permit process is for the Applicant to submit a soils study. This is a requirement for every development in San Clemente due to our soil concerns.

ZA addressed concerns regarding Variances. ZA defined a Variance as an exception to a development standard that deviates from City Code. San Clemente Zoning Ordinance allows for Minor Exception Permits which is defined differently than a Variance. A Minor Exception Permit has very narrow parameters. In regards to the Quade project, the Minor Exception Permit is for a side yard setback that typically requires 6 feet but when the house was built in 1964 there was not precise technology like GIS to making sure the house was built exactly to those standards. City Council has recognized that older homes

may not be built exactly to standards and they would allow for minor variations from the standards so homeowners don't have to tear down half of their house if they encroach by an inch. The Minor Exception Permit allows for an encroachment up to 2 feet on a side yard. Variances need to show specific findings in order to be approved. Variances are approved by the Planning Commission. ZA Gregg clarified that the application is not a variance.

ZA Gregg addressed concerns about view impact. The City does not protect private views, the City protects public views. Some homeowner's associations prohibit within their CC&Rs homes from adding a second story. ZA Gregg asked Staff if the Quade property was part of a homeowners association.

Contract Planner Coury stated the property is not in a homeowner association.

ZA Gregg went over what happened in the Shorecliff's community. ZA Gregg clarified that at the time Shorecliff's had active CC&Rs that did restrict properties from going more than two stories. The CC&Rs lapsed and there was a ballot measure to keep the CC&Rs intact. ZA Gregg asked Staff if this area had any CC&Rs.

Contract Planner Coury said he was not aware of any CC&Rs.

ZA Gregg stated again the City does not protect private views and City Staff is charged with allowing every homeowner to develop within their property rights. Height is not something that is in question for this meeting.

ZA Gregg went over the public hearing process. The members of the public that were present at the ZA Public Hearing were participating in the public hearing process by attending the meeting and making comments and concerns to the ZA. Applications are reviewed to ensure they meet all standards. When review is complete, a Notice of Public Hearing is generated followed by a Staff Report with necessary information to show how the proposed project does or does not comply with the law. The Public can then come to the Public Hearing Meeting, send a letter or email to voice opinions. ZA Gregg said the City encourages the Public to submit comments.

ZA Gregg said the City takes the findings very seriously and Staff is charged with showing how the project can or cannot make the findings. The height is not apart of the application because it is below the maximum height allowed. ZA commented that in reviewing the plans she appreciated that most of the openings were put toward the back of the house which would maintain privacy on the side of the encroachment.

ZA Gregg addressed concerns stated about mansionization. ZA said mansionization is a concern in the City of San Clemente. A couple of years ago the City Council approved an ordinance to help incentivize property owners to

not "mansionize" their home. The approved Ordinance allowed for a Minor Architectural Permit to expand houses up to a certain size and be able to go through a minor process. Prior to this Ordinance the City found that it was less expensive for owners to tear down their house and build a new one rather than going through a longer public hearing process or require homeowners to replace portions of their home to comply with the development standards. Minor Architectural Permits were implemented to keep the houses smaller.

ZA Gregg asked Staff what the encroachment on the garage was and if it was a side entry garage.

Contract Planner Coury said garage encroachment is 5 feet 4 inches and it is a side entry garage.

ZA Gregg said because it's a side entry garage the existing driveway appears to provide a long enough apron to ensure that a car can park there and not overhang into the public right-of-way.

ZA Gregg stated that there is a 10 calendar day appeal period and if the Public would like more information regarding the appeal process they could go to the lobby and a Planning Staff will provide them additional information.

Action: The Zoning Administrator approved Minor Architectural Permit 17-370, Minor Exception Permit 16-371, Quade Residence Addition, subject to Resolutions ZA 17-008 with attached Conditions of Approval.

B. 329 W Paseo De Cristobal – Minor Architectural Permit 16-387– McMahon Residence (Coury)

Public Hearing to consider a request to allow a 567 square foot addition to a legal nonconforming two-story residence. The project is located in the Residential-Low Density Zoning district and Coastal Overlay (RL-CZ) at 329 W Paseo Cristobal. The legal description is Lot 36, Block 18 of Tract 822 and Assessor's Parcel Number is 692-272-21.

Contract Planner Kirt Coury summarized the Staff Report.

ZA Gregg asked if Applicants wished to make comments.

Jack Garland, the Applicants' architect, said the project would be a great improvement to the house and the neighborhood aesthetically. They are tailoring the inside of the house to the Applicants' needs. In addition, they are lowering the existing roof elements that are exceeding the height limit standards with the exception of the turret which is the main architectural feature of the structure.

Applicant, Mr. McMahon stated they are not changing the footprint of the home

Mrs. McMahon expressed they would like to have the project approved quickly.

ZA Gregg opened the public hearing.

No one from the public wished to speak so ZA Gregg closed the public hearing.

ZA Gregg asked Staff to clarify the encroachment into the garage and clarify on the plans.

Contract Planner Coury stated the side yard, which is on the south side of the garage encroaches. The plans show a 5 foot setback were the requirement is 6 feet. Also, on the northeast corner of the garage there is an encroachment identified at approximately 12 feet where 18 feet is required.

ZA Gregg asked if the new addition would be built with the required 6 foot setback.

Contract Planner Coury said the new addition would be built the required 6 foot setback.

ZA Gregg asked Staff if the garage itself resulted in a 12 feet setback but the driveway apron is an 18 feet apron.

Contract Planner Coury replied yes.

ZA Gregg pointed out there is a substantially large right-of-way and the sidewalk that appears to be adjacent to the curb and gutter.

Contract Planner Coury said ZA was correct.

ZA Gregg stated City standard for driveway apron is 18 feet which means the Applicants' driveway meets the requirements. In addition, the project meets the requirements of the Coastal Bluff standards which is beyond the setback requirement of 25 feet. Based on the findings, the 18 foot driveway length, and that the addition does not expanding the footprint of the home, I can support the proposed project.

Action: The Zoning Administrator approved Minor Cultural Architectural Permit 16-387, McMahon Residence, subject to Resolution ZA 17-009 with attached Conditions of Approval.

5. **NEW BUSINESS**

None

6. **OLD BUSINESS**

None


ADJOURNMENT

The meeting adjourned at 3:51 p.m. to the next Regular Zoning Administrator meeting of April 5, 2017 at 3:00p.m., at the Community Development Department, Conference Room A, located at 910 Calle Negocio, Suite 100, San Clemente, California.

Respectfully submitted,

SAN CLEMENTE ZONING ADMINISTRATOR

Amber Gregg



April 3, 2017

Notice of Appeal

City of San Clemente

Appellant's Name: Dave Buettner

Appellant's Address: 304 Avenida Arlena, San Clemente CA 92672

Appellant's Phone Number: 949-388-3994

Decision Being Appealed: Resolution No. ZA 17-008, MAP 16-370/MEP 16-371, Quade Residence

Decision Made By: Amber Gregg, City Planner/Acting Zoning Commissioner

Date of Decision: March 22, 2017

Basis of Appeal: Outlined below

Subject: Minor Architectural Permit 16-730/Minor Exception Permit 16-371, Quade Residence, a request to consider a 1,176 square foot second-story addition to a nonconforming residence that continues a five foot, eight inch side yard setback where six feet is required.

Location: 404 South La Esperanza

Appeal points specific to the Staff Report

On March 22, 2017 at the public hearing, the San Clemente Zoning Administrator approved Resolution No. ZA 17-008 and two permits, # 16-370 and 16-371 based on information presented in the "Staff Report" prepared by Mr. Kirt Coury. Statements in the staff report on which this decision was based are incorrect, inaccurate, and misleading. Moreover many of these statements were simply banal verbiage without supporting facts and data. Because the report was riddled with inaccuracies, an erroneous decision to proceed was made.

We are therefore appealing this decision, ask that it be overturned and all work on this project be halted,

Background Section:

Zoning Ordinance Section 17.16.090.C.18.b unnumbered sub-bullets:

First bullet states the proposal will not be detrimental to the general public and adjacent properties.

Appeal points:

1. Allowance of these will absolutely have detrimental impact to the adjacent properties. House value reductions as well as adverse massing impact will occur with this proposed second story addition.

2. The residents living below and behind in the home located at 304 Avenida Arlena now get a small amount of privacy from trees and shrubbery even though the Quade residence at 404 S. La Esperanza is up a hill but looks directly down into their yard. With a second story, all privacy will be eradicated since no amount of shrubbery will shield the residents from anyone looking down into their yard. This severe invasion of privacy should and must be stopped by the City of San Clemente as it is in direct violation of the privacy rights afforded residents per the city's General Plan.

Second bullet states the proposed addition does not have adverse massing impact. It also states that it will preserve the one-story roof element as a focal point closest to the street in character with the neighborhood mostly developed with one-story residences.

Appeal points:

1. A second story addition will add an additional 49 percent square foot expansion to this residence. An almost 50 percent increase absolutely creates an adverse massing impact. A new maximum height of almost 25 feet towers over not only the adjacent properties on La Esperanza but also creates a 37 foot high monstrosity over the home at 304 Avenida Arlena. What criteria, other than completely subjective, does the city use to make this claim? As one of many examples, according to Jacoby (Jacoby, Sam, Drawing Architecture and the Urban. Chichester, West Sussex: Wiley. p. 52), "Because it has a direct relation to the visual impact a building makes, massing is one of the most important architectural design considerations." At the back of the house, this gigantic monolith violates all rules of architecture, good taste and common sense. This huge second story mass will be an eyesore to all affected
2. How can a second story addition preserve a one-story roof element as a focal point? All of the houses in this neighborhood that do not back up to a slope are one story. How can the city make such an erroneous claim? Where is the formal evaluation tool the city used to make this claim? This proposed addition completely changes the neighborhood's existing skyline.
3. Once again the home located at 304 Avenida Arlena will suffer a severe invasion of privacy enhanced even more by the fact that the proposed second story is being placed at the rear of the existing house.

Attachment 1, Resolution No. ZA 17-008

Section 1, paragraph 3 states "The project will not result in a cumulative impact from successive projects of the same type in the same place, over time.

Appeal points:

1. We the appellants completely disagree. This precedent will encourage successive projects where second story additions become common to the detriment of the residents of San Clemente. What criteria does the city use to make such a claim? There is major precedence

in San Clemente for "McMansion" expansion and uncontrolled square footage/second story additions absolutely detrimental to neighboring properties. The Shorecliffs neighborhood expansion is a direct parallel to this project. If this project is allowed to move forward there is absolutely no doubt that others will follow rendering the city's subjective decision that the project will not result in a cumulative impact from successive projects completely moot. This statement made by the city is totally inaccurate.

Section 2A, Item 3 states "The project meets setback standards"

Appeal points:

1. This statement completely contradicts the entire purpose of passing these proposed exemptions. If the project is compliant, why are exemptions required? Also, during the public hearing it was discovered that the proposed exception to the side yard setback is not, in fact, five feet, eight inches but some other yet to be determined number? When questioned as to what the actual values are we were told by Amber Gregg, Interim City Planner/Acting Zoning Administrator, that the city would use whatever values are in the proposed architectural plans. This error in the requested permits as well as the city's inability to provide actual values, which would be used to determine the exceptions, renders this complete exception/permit request invalid. How can the city just pass the exception/permit without knowing the actual numbers? This is simply not competent.

Section 2C, Item 3 states "The project modifies the roofline, articulation, and materials to provide variation and interest. This will improve the look of the structure and neighborhood".

Appeal points:

1. This is a completely subjective claim. Where is the specific criterion the city uses to make such a claim? Changing the skyline has a major detrimental impact to the value of neighboring properties. How does this improve the neighborhood?

Section 2D, Item 1 states "This preserves the one-story roof element"

Appeal points:

1. This proposed addition adds a second story. How far the second story is from the front property line makes absolutely no difference, it's still a second story. In fact, the only remaining single story element of this entire project is the garage which in its current location violates the current city building code.

Section 2D, Item 2 states "The project maintains a one-story roofline in the front of the residence with the second-story addition toward the rear of the property in a neighborhood with one-story and two-story residences".

Appeal points:

1. This statement is grossly misleading. The other two-story residences in the area all face out over a hillside with little impact. This proposal directly impacts homes behind the residence

at 404 S. La Esperanza. Again, the only remaining single story element of this proposed addition will be the garage which is already in violation of city building code. And the rear part of the property will now tower 37 feet over the home located at 304 Avenida Arlena creating a severe invasion of privacy for the residents.

Section 2D, Item 3 states "The scale and mass of the proposed project would be comparable to residences in the neighborhood".

Appeal points:

1. This proposed addition would dwarf the other homes in the neighborhood in square footage, height, visual impact and completely change the character of the neighborhood. How can the city make such blatant claims with no formal criteria?

Section 2D, Item 4 states "Design features include a large second story setback on the west side of the building".

Appeal points:

1. Well, is it a LARGE second story or a second story that preserves the one-story element? This statement contradicts all of the city's assumptions. We feel it is absolutely a LARGE second story which destroys property values, creates major privacy invasions and decreases the character of the neighborhood.

Section E, Items 1, 2 and 3

Appeal points:

1. We disagree with all three of the subjective claims made by the city in this section. It definitely changes the neighborhood character as we've outlined above.
2. It absolutely does not improve the appearance of the neighborhood. Nothing could be worse for neighbors behind the house than having to look uphill and see this massive structure towering over their property. This is a factually incorrect statement.
3. It violates code, we don't even know the actual values of the code violations. Why have a code if it is not enforced?

Section 3 Item A

Appeal points:

1. The city is unable to provide the actual values and has passed these exception/permits anyway. How is this allowed to occur? To quote Amber Gregg, Interim City Planner/Acting Zoning Administrator, "we'll just follow whatever the plans show". So the resolution was passed without even knowing the true exception values. Boggles the mind doesn't it?

Section 3 Item B

Appeal points:

1. Let it be again noted that the city completely contradicts itself. Refer to Section 2D, Item 4.

Section 3 Item C

Appeal points:

1. Once again, the city provides no criteria to make this statement. Contradictions and subjective decisions are blatantly obvious.

Homeowners detrimentally affected by the city's approval of this resolution and permits:

David Buettner
Ann Buettner
Keith Howington
Susan Howington
Pat Lamont
Gregory Lynch
Cheryl Lynch
Bob Goad
Ann Goad
Tom Whitten
Jan Whitten
Bill Eagleson
Cheryl Eagleson
Ski Pieczentkowski
Sue Pieczentkowski
Raleigh Myhren
Jeanie Myhren
Barbara Wiedemann
Kay Wiedemann
Bob Costello
Liz Costello

4/24/2017

To: San Clemente City Council Members

My name is Erik Quade, I grew up in San Clemente, attended Ole Hanson Elementary, Shorecliffs Jr/High and San Clemente High School and grew up on La Esperanza. I love San Clemente and was blessed with the opportunity to not only bring my family back to my hometown of San Clemente, but to purchase a home on the exact same street that I was born and raised on.

I have most likely lived on La Esperanza longer than most of the residents on the street. I grew up playing in the Avenida Arlena cul-de-sac, riding my bike up and down the hills of La Esperanza and Salvador. I probably know more about La Esperanza than anyone else.

We purchased 404 S. La Esperanza September 2015 with the hopes of making this older home into our dream home. My parents live next door and have lived in this home for 40+ years. We want to have a place to be able to care for them as they get into their golden years and look forward to having the space for our families. We just want a safe, quiet place to raise our growing family.

My kids will be growing up next door to their grandparents and there is nothing more priceless than family.

We want nothing more than to enhance the neighborhood and add property value to our beautiful street. We live on a very special street and we will always do everything possible to preserve its original charm and beauty. Our house was built in 1963 and it needs some love and attention.

Throughout our beautiful neighborhood, we have many two-story homes. In fact, directly across the street from our house is a 3 story house, just 39' feet away from our property. (See Exhibit 1 & 2)

The addition of our proposed second story will **only add 8 feet, 3 inches to the existing height of the house**. Our new height is 23 feet, which is 2 feet under the city limit of 25 feet for our neighborhood.

Both of our next-door neighbors are in support of us moving forward with the plans that have been approved by the Planning Commission. (Exhibit 3)

During the Planning Department open forum several discussions emerged. One was the idea that we were going to "McMansion" the neighborhood and this is far from true. If you look at the existing homes nearby, most of them were built in the 1970's, the average size home is 3448 sq feet, (please see Exhibit 4). We have 6,000+ and 7,000+ sq foot homes in our neighborhood already. We are proposing to have a total of 3549 sq feet, which is within 100 sq feet of the average home sq footage within the neighborhood.

Please only take into consideration what's at hand which is that our plans have already been approved by the City Planning Commission. We are only short by 2 inches on each side of the property. We all know that lasers were not in use in 1963, only hand tape measures. Our garage setback has been in compliance for the last 54 years. This is due to the fact that we have a wrap around driveway (please see Exhibit 5).

We have followed the letter of law and abided by all San Clemente requirements to its fullest over the last 20 months to gain approval for this project. We look forward to raising our family on the street that I hold so dear to my heart.

Please allow us to enhance this once beautiful home back to its original state and make it the home of our dreams for our growing family. I started my life on this street; I want to spend the rest of my life there.

We respectfully request the City Council's approval of the Planning Commission's previous approval to move forward with our plans.

Thank you.

Erik Quade

EXHIBITS:

EXHIBIT 1:

Existing 2 and 3 Story homes nearby 404 S. La Esperanza, highlighted in Yellow



EXHIBIT 2:

3 Story house across the street from 404 S. La Esperanza

Property Search

Search By: Address Contains 400 **SEARCH**

Search Results

Parcel #690-044-01

Parcel Info | Restriction Details | Land Use | **Building** | Legal Desc | Inspect

Units: 0
Stories: 3
Bedrooms: 3
Bathrooms: 4
Year Built: 1966

Parcel Number

- 679-022-02
- 060-192-22
- 060-031-21
- 060-041-02
- 060-033-04
- 060-182-04

Property Search

Search By: Address Contains 400 **SEARCH**

Search Results

Parcel #690-044-01

Parcel Info | Restriction Details | Land Use | **Building** | Legal Desc | Inspect

Address: 400 Avenida Arlena 🌐
City/State/Zip: San Clemente, CA, 92672
Property Type: PARCEL
APN: 690-044-01
Subdivision:
Tract:
Block:
Lot: 15
Sect-Twp-Rng: 0-0-0
Lot Size (SF): 17000

Parcel Number

- 679-022-02
- 060-192-22
- 060-031-21
- 060-041-02
- 060-033-04
- 060-182-04
- 679-201-03
- 680-561-52
- 679-191-49
- CaltransROW
- 680-652-30
- 690-044-01**
- 060-052-30
- 060-182-04

Exhibit 3:

Support from both neighbors directly next door at 402 S. La Esperanza and 406 S. La Esperanza.



Exhibit 4:

Homes in Neighborhood	Square Footage
304 Avenida Arlena	2320
400 Avenida Arlena - Two Story	3092
403 E. Avenida Cordoba	3443
401 Avenida Arlena	2333
405 E. Avenida Cordoba	3490
405 Avenida Arlena	2459
307 Avenida Arlena - Two Story	2863
305 Avenida Arlena	2583
419 S. La Esperanza	2130
314 S. La Esperanza - Two Story	3800
426 S. La Esperanza - Two Story (1981)	3286
1202 Avenida Buena Suerte - Two Story (1975)	4100
1204 Avenida Buena Suerte - Two Story (1977)	7143
1196 Avenida Buena Suerte - Two Story (2003)	3600
416 S. La Esperanza - Two Story	2700
427 S. La Esperanza - added second Story	2952
303 E. Avenida Cordoba - Two Story (1972)	3756
311 E. Avenida Cordoba - Two Story (1992)	4618
301 E. Avenida Cordoba - (1964)	5000
325 E. Avenida Cordoba - Two Story	2100
409 Avenida Arlena - (1972)	3224
413 Avenida Arlena - (1972)	2662
427 Avenida Arlena	2505
429 Avenida Arlena	2374
431 Avenida Arlena	2988

433 Avenida Arlena - 1974	4880
437 Avenida Arlena - 2005	4210
300 Avenida Arlena	2943
411 E. Avenida Cordoba	3459
424 S La Esperanza - Two Story	3114
601 Vista Valinda - Two Story	6690
1200 Vista Cayenta	3550

AVERAGE SIZE OF SURROUNDING NEIGHBORHOOD 3448.97

**Proposed total new SQ footage of 404 S. La
Esperanza 3549**

**Differential of sq footage compared to neighborhood
average 100.03**

Exhibit 5:

404 S. La Esperanza has a wraparound driveway, which will not change with the approved plans.

With the existing configuration, there is no chance of vehicles parked outside of the garage being able to overhang into the sidewalk.



