



CITY COUNCIL AGENDA REPORT

MEETING DATE: 03/01/04

ITEM NO:

SUBJECT: APPEAL OF MINOR CONDITIONAL USE PERMIT/MINOR DESIGN REVIEW ZA-03-94
440 EAST 19TH STREET, COSTA MESA

FROM: DEVELOPMENT SERVICES DEPARTMENT – PLANNING DIVISION

PRESENTATION BY: WENDY SHIH, ASSOCIATE PLANNER

FOR FURTHER INFORMATION CONTACT: WENDY SHIH, ASSOCIATE PLANNER 714-754-5136

RECOMMENDED ACTION

Conduct public hearing and either uphold, reverse, or modify Planning Commission's decision.

BACKGROUND

On December 19, 2003, the Zoning Administrator approved Minor Conditional Use Permit/Minor Design Review ZA-03-94 for an office/library and full bathroom above a detached, two-car garage (to replace the existing garage). A minor modification was also approved for a 1 ft. encroachment into the rear setback (5 ft. required; 4 ft. proposed) for second floor projection to provide architectural interest on the (rear) elevation facing the alley. Morris Berger, the property owner and resident to the left (west), appealed the approval based on his concerns with privacy impacts on his property due to the second floor addition. At their meeting of January 26, 2004, by a vote of 5 to 0, Planning Commission approved the minor conditional use permit/minor design review. Council Member Chris Steel appealed Planning Commission's approval of ZA-03-94 due to his concerns with privacy issues and placement of the staircase and windows.

DISCUSSION

The Planning Commission found that the project meets the intent of the residential design guidelines, which is to ensure that scale and massing of residential construction is compatible with the neighborhood. The proposed structure incorporates projections, offsets, articulation and variation in roof orientation for an interesting building mass. The proposed 2nd floor is only 500 sq. ft., which would have been well under the 80% 2nd to 1st floor ratio requirement if it were attached to the main residence (2,030 sq. ft.).

The proposed size, design, and location of the structure help to preserve open space on the property, and open air for adjoining properties, since the addition is detached from the main residence and located in the back corner of the lot. Although views into adjoining properties cannot be entirely eliminated, as with any 2-story construction, the proposal takes into consideration window/balcony locations and other site features to minimize privacy impacts. The proposed structure is set back 28 ft. from Mr. Berger's property, and is separated from that property by a row of mature trees that minimize views into Mr. Berger's backyard. The property owner/applicant, Mr. Hartzell, indicated that the mature trees might be replaced in the future when they reach the end of their life span. However, Mr. Hartzell has consulted with his landscape architect regarding appropriate, mature trees to plant along that side of the property to minimize privacy impacts on Mr. Berger's property. The Planning Commission also added a condition to require the second floor door to the office/library be frosted glass or opaque material, since that is the area where Mr. Berger's backyard may be viewed. The neighbors to the right (east) and rear (north) have reviewed the plans and submitted letters in support of the construction.

A minor conditional use permit is required for a detached accessory structure that includes a toilet, bathtub, shower, or any combination thereof. The proposed office/library above the detached garage contains a bathroom with toilet, sink, and bathtub. It is Mr. Hartzell's intent to use this space as his office/library. Planning Commission agreed with staff that the structure's design, with an exterior staircase accessed from the interior of the yard and no enclosed access from the first to second floor, makes it more difficult to convert the structure into a separate dwelling unit. The property owner/applicant has also agreed, and a condition has been included, for a recorded land use restriction to provide notice to future owners and lenders that the office may not be converted to a dwelling unit.

FISCAL REVIEW

Fiscal review is not required.

LEGAL REVIEW

Legal review is not required.

ENVIRONMENTAL REVIEW

Pursuant to Section 15303 (New Construction) of the California Environmental Quality Act (CEQA) Guidelines, this project is exempt from CEQA.

ALTERNATIVES

Should City Council deny Minor Design Review/Minor Conditional Use Permit ZA-03-94, the applicant may not construct the office/library above the garage as designed. A similar project may not be submitted for 6 months.

CONCLUSION

The Planning Commission found that the project meets or exceeds all applicable residential development standards and the intent of the design guidelines. Although, while most second story additions, impact the privacy of neighboring properties, this second floor addition has been designed to minimize such impacts.


WENDY SHIH
Associate Planner


DONALD D. LAMM
Deputy City Mgr. – Dev. Svs. Director

- Attachments:
- Zoning/Location Map Plans
 - Draft City Council Resolution
 - Exhibit "A" – Draft Findings
 - Exhibit "B" – Draft Conditions of Approval
 - Appeal Application (CC)
 - Minutes of Planning Commission meeting of January 26, 2004
 - Planning Division Staff Report
 - PC Supplemental Memo with Photos by Applicant
 - Planning Commission Resolution
 - Appeal Application (PC)
 - Zoning Administrator Approval letter
 - Correspondence From Neighbors and applicant

File Name: 030104ZA0394

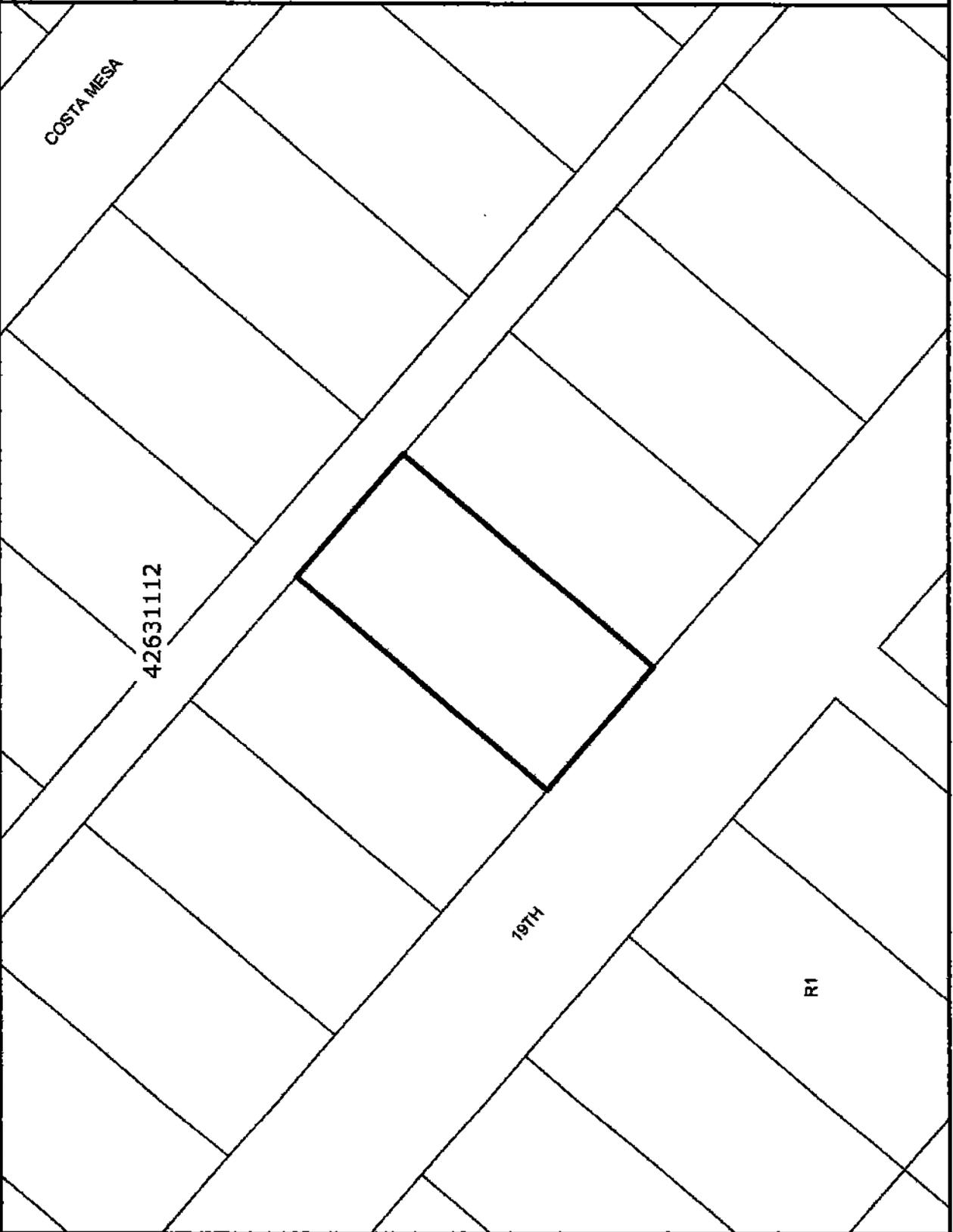
Date: 2/29/04

Time: 11:45 am

- Distribution:
- | | |
|-----------------------------|-----------------------------|
| City Manager | Andrew Hartzell |
| Acting City Attorney | 440 E. 19 th St. |
| Sr. Deputy City Attorney | Costa Mesa, CA 92627 |
| Public Services Director | |
| City Clerk (2) | Barbara Beck |
| Staff (4) | 443 Flower St. |
| File (2) | Costa Mesa, CA 92627 |
| Morris Berger | |
| 436 E. 19 th St. | |
| Costa Mesa, CA 92627 | |

ZONING/LOCATION MAP

440 East 19th Street

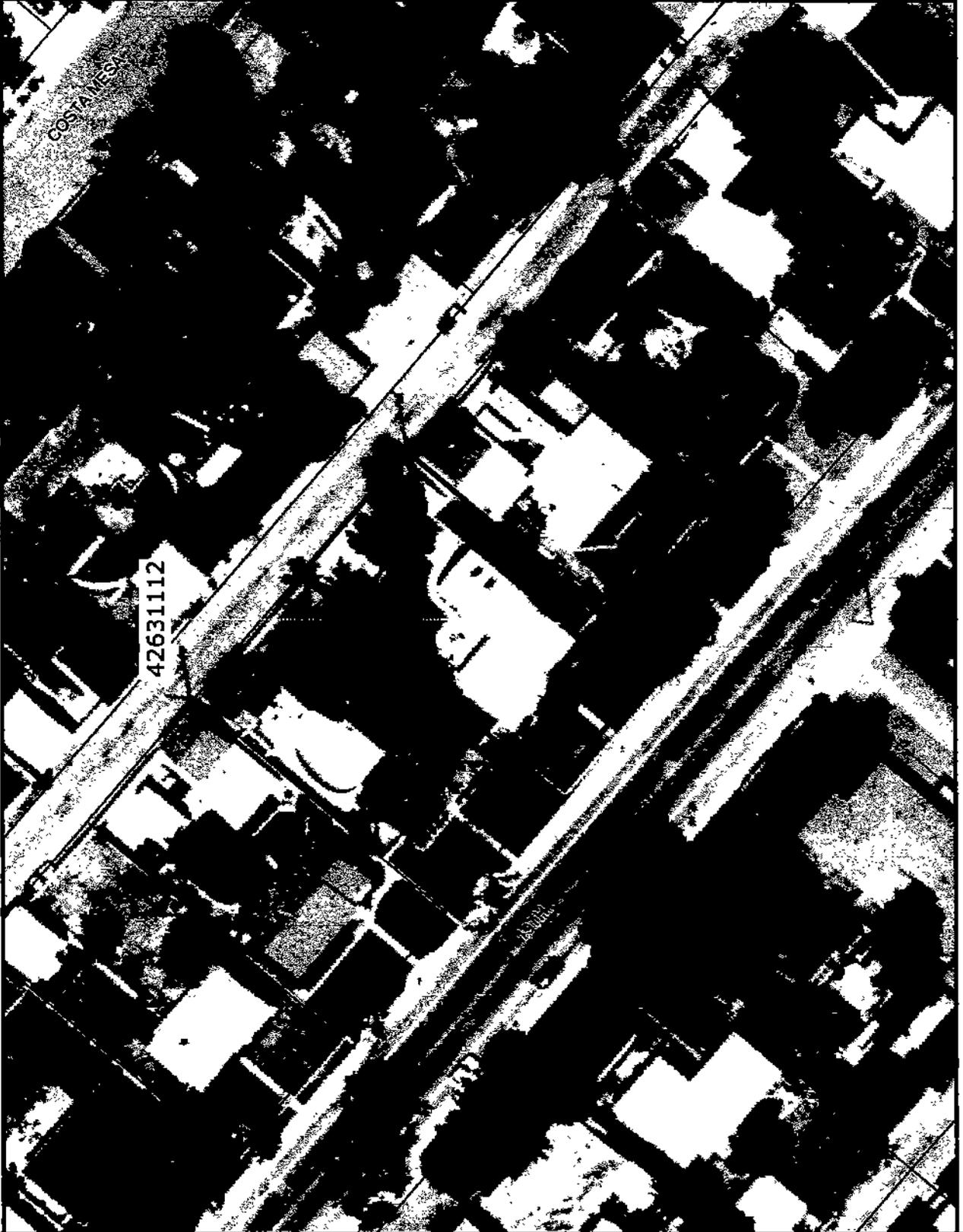


Legend

- Identified Features
- Selected Features
- Street Names
- Parcel Lines
- Zoning
- Other
- Administrative & Professional
- Local Business
- Local Business & School
- General Business
- Commercial Limited
- Institutional & Recreational
- Institutional & Recreational - School
- General Industrial
- Industrial Park
- OCFD
- Off Street Parking
- Planned Development
- Commercial

AERIAL PHOTOGRAPH

440 East 19th Street



Legend

- Identified Features
- Street Names
- Parcel Lines
- Ortho Photography
- Parcels

SITE GENERAL NOTES:

1. ALL ROOF PARTS SHALL BE INSTALLED PER MANUFACTURER'S INSTRUCTIONS. CALL OUT FASTENERS TO RESIST WIND LOAD OF NOT LESS THAN 80 M.P.H.
2. THE DISCHARGE POINT FOR EXHAUST AIR SHALL BE AT LEAST 3 FEET ABOVE THE ROOF SURFACE AND BE LOCATED IN AN UNOCCUPIED AREA.
3. PLUMBING VENTS SHALL BE CONSOLIDATED AND LOCATED IN UNOCCUPIED ROOF AREAS OTHER THAN ROOF DECK WHERE POSSIBLE.
4. A CERTIFIED ENGINEERING GEOTECHNICAL WILL INSPECT AND APPROVE ALL EXISTING AND EXISTING FOUNDATION AND FOUNDATION WORK. FOUNDATION WORK SHALL BE APPROVED BY THE ENGINEER AND APPROVED BY THE CITY ENGINEER. FOUNDATION WORK SHALL BE APPROVED BY THE CITY ENGINEER AND APPROVED BY THE CITY ENGINEER.
5. EXISTING SEWER LATERAL TO BE CHANGED AND A CELESTIAL INSTALLATION TO COMPLY WITH CITY STANDARDS IF ANY OF THE FOLLOWING CONDITIONS OCCUR. THIS WILL BE DETERMINED BY THE ENGINEER:
 - A. ALTERATION TO THE BUILDING SEWER IS DONE.
 - B. ADDITIONAL PLUMBING FIXTURES REQUIRE INCREASE IN SIZE OF THE BUILDING SEWER LINE.
 - C. WHEN SIZE OF HOME PREVIOUS UNITS ARE ADDED TO AN EXISTING SEWER LINE.
 - D. WHEN IT IS FOUND THAT THE BUILDING SEWER IS INSTALLED IN AN ILLEGAL OR UNSANITARY MANNER.
 - E. IF THE AREA OF ADDITION IS GREATER THAN BOX OF THIS EXISTING AREA.
 - F. IF AREA OF STRUCTURAL REMOVAL + ADDITION IS GREATER THAN EXISTING AREA.
6. FIELD INSPECTION TO REVIEW AND APPROVE UNDERGROUND SERVICE REQUIREMENT PRIOR TO CONCRETE PLACEMENT.
7. SEE UTILITY PLANS FOR LIGHT SWITCHES, OUTLETS, HOSES, SINKS, TUBS, AND OTHER UTILITY ITEMS.
8. SINKS, TUBS, AND OTHER UTILITY ITEMS IS REQUIRED FOR METER LOCATION.
9. ALL UTILITIES ARE TO BE UNDER GROUND TO THE NEAREST UTILITY POLE.
10. VERIFY OR PROVIDE CONCRETE ENCASED GROUNDING ELECTRODE AND BONDING BUS BY AT LEAST 2" OF FOOTING IN DIRECT CONTACT WITH THE EARTH, CONSISTING OF AT LEAST 20 FT. OF #4 REBAR, PER NEC SECTION 250-51.
11. SITE SOIL SHALL BE TESTED FOR SULFATE CONTENT AND CONCRETE SHALL BE ADJUSTED ACCORDINGLY. CONCRETE MIX FOR FOUNDATION SHALL BE 1" MIN. AND 4" MAX. WATER CEMENT RATIO FOR HIGH SULFATE CONTENT.
12. PRIOR TO THE BUILDING CONTRACTOR REQUESTING A FOUNDATION INSPECTION, THE SOILS ENGINEER SHALL NOTIFY THE BUILDING OFFICIAL BY WRITING THAT (1) THE BUILDING AND FOUNDATION IS BEING INSPECTED, (2) THE SOILS ENGINEER HAS REVIEWED THE FOUNDATION DESIGN AND (3) THE UTILITY RECORDS HAVE BEEN PREVIOUSLY RECORDED AND (4) THE FOUNDATION EXPLANATIONS COMPLY WITH THE INTENT OF THE SOILS REPORT IF APPLICABLE.

PLUMBING NOTES:

1. PLUMBING VENTS SHALL BE CONSOLIDATED AND LOCATED ON THE ROOF AND RESIST WIND LOADS. THE FOUNDATION SHALL BE COMPLETELY SURROUNDED BY PERMANENT INSULATION.
2. WATER PIPES SHALL BE ISOLATED FROM FRAMING BY RESISTENT BRACKETS.
3. NEW WATER COVERS SHALL USE NO MORE THAN 1/8" GALVANNEE PER INCH OF DIAMETER. WATER COVERS SHALL BE SET AND TESTED BY THE CITY ENGINEER.
4. PROVIDE MINIMUM 1" DIA. MAIN WATER SUPPLY LINE FOR NEW WATER SERVICE.
5. IN SHOWER AND TUB SHOWER CONNECTIONS, CONTROL VALVES, WATER HEATER SHOULD BE STAMPED WITH 3/8" DIA. X 3" LAG BOLT AT EACH END OF 1-1/2" BY 18 GAUGE STRIPS TO THE STRUCTURE TO RESIST SEISMIC LOADS. STRIPS SHALL BE WITHIN THE UPPER AND LOWER 1/3 OF HEIGHT W/ LOWER STRIP 4" MIN. ABOVE THE CONCRETE SLAB. STRIPS SHOULD HAVE TEMPERATURE AND PRESSURE RELEASE VALVE DISCONNECTING TO APPROVED LOCATIONS.
6. ALL HOSE BIBS AND LAWN SPRINKLER SYSTEMS SHALL HAVE APPROVED BACKFLOW PREVENTION DEVICES.
7. MAXIMUM FLOW RATE STANDARDS SET BY THE CALIFORNIA ENERGY EFFICIENCY ACT SHALL BE MAINTAINED.
8. WATER COVERS SHALL BE 1.8 GPM
9. WATER COVERS SHALL BE 2.2 GPM
10. WATER COVERS SHALL BE 2.2 GPM
11. SINK FAUCETS TO BE 1/2" NIP (MEDIUM) JOINT.
12. TUBS AND SHOWER NOT APPROVED WALL ADJACENT TO SHOWER ENCLOSURE AND WINDOWS IF ALL IS LESS THAN 5" ABOVE TUB OR SHOWER FLOOR. (WATER RESISTANT GYPSUM BOARD IS NOT PERMITTED FOR TILE BACKING AT SHOWER.) MAXIMUM FLOW RATE FOR SHOWER SHALL BE 2.2 GPM.
13. JOINT ON USE NON SLIP WELDED JOINT.
14. ALL COPPER PLUMBING LAY OUT BELOW SLAB SHALL BE ABOVE THE VAPOR BARRIER IN CLEAN SAND AND WRAPPED IN PLASTIC TO PREVENT CONTACT WITH SOIL OR REINFORCING STEEL.

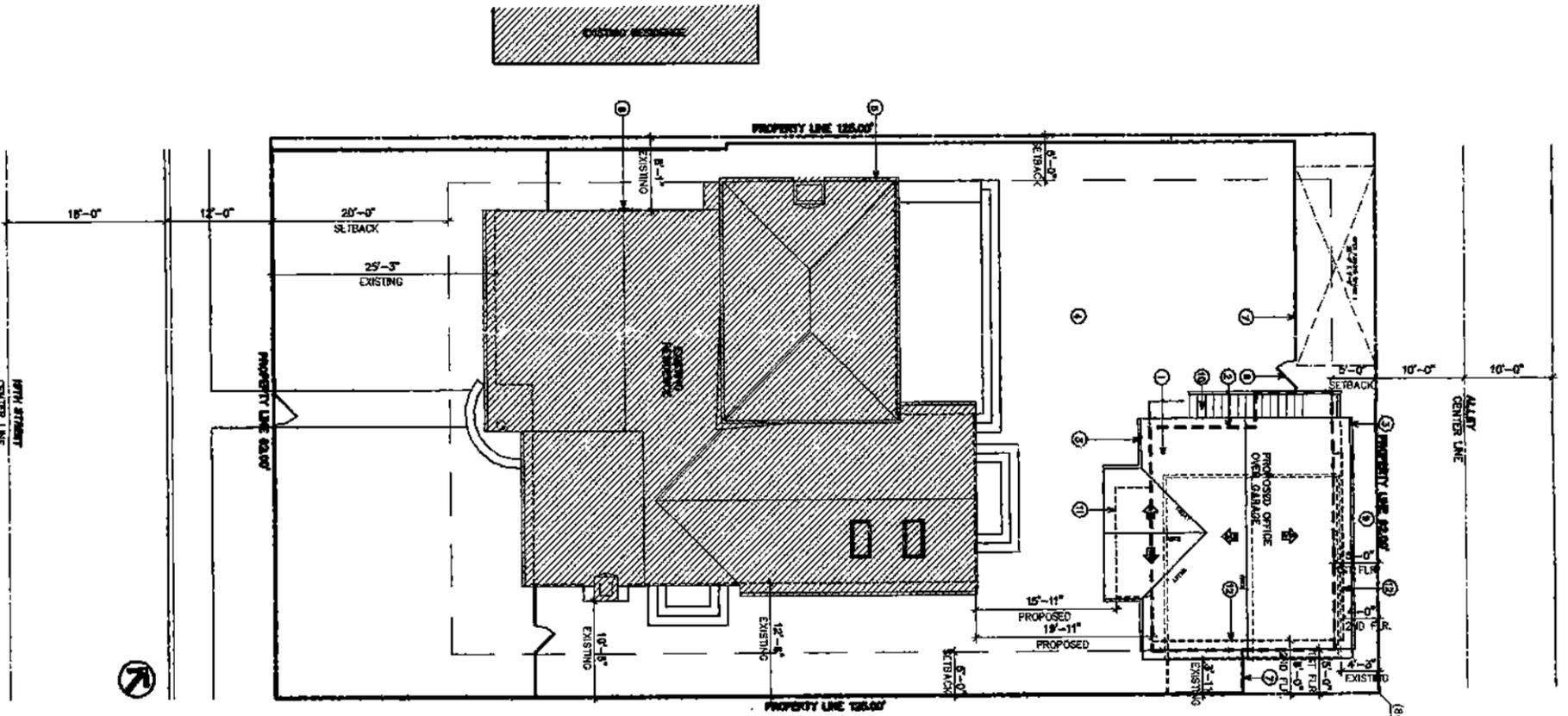
GRADING NOTES:

1. HANDSCAPE & ORNAMENT SHOWN IS FOR ILLUSTRATIVE PURPOSES ONLY. THE FOLLOWING CONDITIONS MUST BE SATISFIED:
 1. MAINTAIN 5" SEPARATION BETWEEN INTERIOR AND EXTERIOR SLABS.
 2. CONCRETE ANGLES MUST SLOPE MIN. 1% AWAY FROM BUILDING AND DRAIN TO STREET.
 3. PLANTING AREAS MUST SLOPE MIN. 2% AWAY FROM BUILDING AND DRAIN TO STREET.
 4. WHEN PLANTING AREAS ARE ADJACENT TO EXTERIOR WALLS, THE MINIMUM DISTANCE FROM TOP OF THRESHOLD TO EXTERIOR LANDING IS ONE INCH AT OUT SWING PATIO DOORS. OTHERWISE DOORS MUST SWING IN.
 5. FINISH GRADING MUST MEET PER LANDSCAPE PLANS AS LONG AS ALL ABOVE CONDITIONS ARE MET.

RETAINING WALL NOTES:

1. WHERE EVER THEY OCCUR, ALL RETAINING WALLS SHALL BE WATERPROOFED WITH A MINIMUM OF 2" OF POLYETHYLENE SHEETING WITH A 10 MIL PROTECTIVE COAT OF SAND OR GRAVEL. SHEETING SHALL BE PROTECTED WITH "MESH" FILTER MESH, AND CONNECTED TO SUBSURFACE DRAINAGE SYSTEM.

6



OWNER:
 HARTZELL
 440 E. 19TH STREET
 COSTA MESA, CA 92627
 (949) 771-1488

PROJECT DESCRIPTION:
 LOT 18, BLOCK 511
 TRACT 1224
 PROJECT NO. 1224-11-12

ARCHITECT:
 THOMAS T. BURGER III, ARCHITECT
 20331 IRVINE AVE., SUITE 7
 SANTA ANA HEIGHTS, CA 92707
 (714) 950-0700

STRUCTURAL ENGINEER:
 HENRY L. LUTHE, STRUCTURAL ENGINEER
 20331 IRVINE AVE., SUITE 7
 SANTA ANA HEIGHTS, CA 92707
 (714) 950-0700

DATE: 12/19/03

AREA TABLE:

AREA	EXISTING (SQ. FT.)	PROPOSED (SQ. FT.)	TOTAL (SQ. FT.)
FIRST FLOOR	2,000	0	2,000
PROPOSED OFFICE OVER GARAGE	2,000	800	2,800
OVERALL	2,000	800	2,800
OVERALL	2,000	1,000	3,000

NOTE:
 ALL SURFACE WATER SHALL DRAIN AWAY FROM STRUCTURES, AWAY FROM DRIVEWAYS, AND AWAY FROM THE STREET OR DRIVEWAY. THE FOLLOWING ARE THE MINIMUM REQUIREMENTS FOR THE PROPOSED OFFICE OVER GARAGE: A. 25' AWAY FROM STRUCTURES WITHIN 5 FEET OF STRUCTURE. B. 1% FOR ASPHALT AND LANDSCAPED AREAS.

- SITE / ROOF NOTES:**
1. 3/4" ASPHALT COMPOSITION SHINGLES.
 2. LINE OF BUILDING FOOTPRINT.
 3. 1/2" SAND-CORNER GUTTER & DOWNSPOUT.
 4. 1/2" SAND-CORNER GUTTER & DOWNSPOUT.
 5. PROVIDE UNDERGROUND UTILITIES TO GARAGE/OFFICE.
 6. 8 FT. TALL WOOD FENCE.
 7. 8 FT. HIGH WOOD FENCE.
 8. FINISH GRADING MUST MEET PER LANDSCAPE PLANS AS LONG AS ALL ABOVE CONDITIONS ARE MET.
 9. FINISH GRADING MUST MEET PER LANDSCAPE PLANS AS LONG AS ALL ABOVE CONDITIONS ARE MET.
 10. EXTENSION STAIR TO OFFICE.
 11. LINE OF 2ND FLOOR BALCONY.
 12. LINE OF 2ND FLOOR.

Approval in Concept
 SUBJECT TO CONDITIONS
 CITY OF COSTA MESA
 PLANNING DEPT.
 DATE 12/19/03
 DIRECTOR OF PLANNING

SHEET NO. 110
 A1.0 SITE / ROOF PLAN
 A2.1 FIRST FLOOR
 A3.0 EXTERIOR ELEVATIONS
SITE / ROOF PLAN

BURKER ASSOC ARCHITECTURE
 20331 IRVINE AVE.
 SUITE 7
 SANTA ANA HEIGHTS
 CALIFORNIA 92707
 PH: (714) 950-0700
 FAX: (714) 950-0772
 www.burkerassoc.com

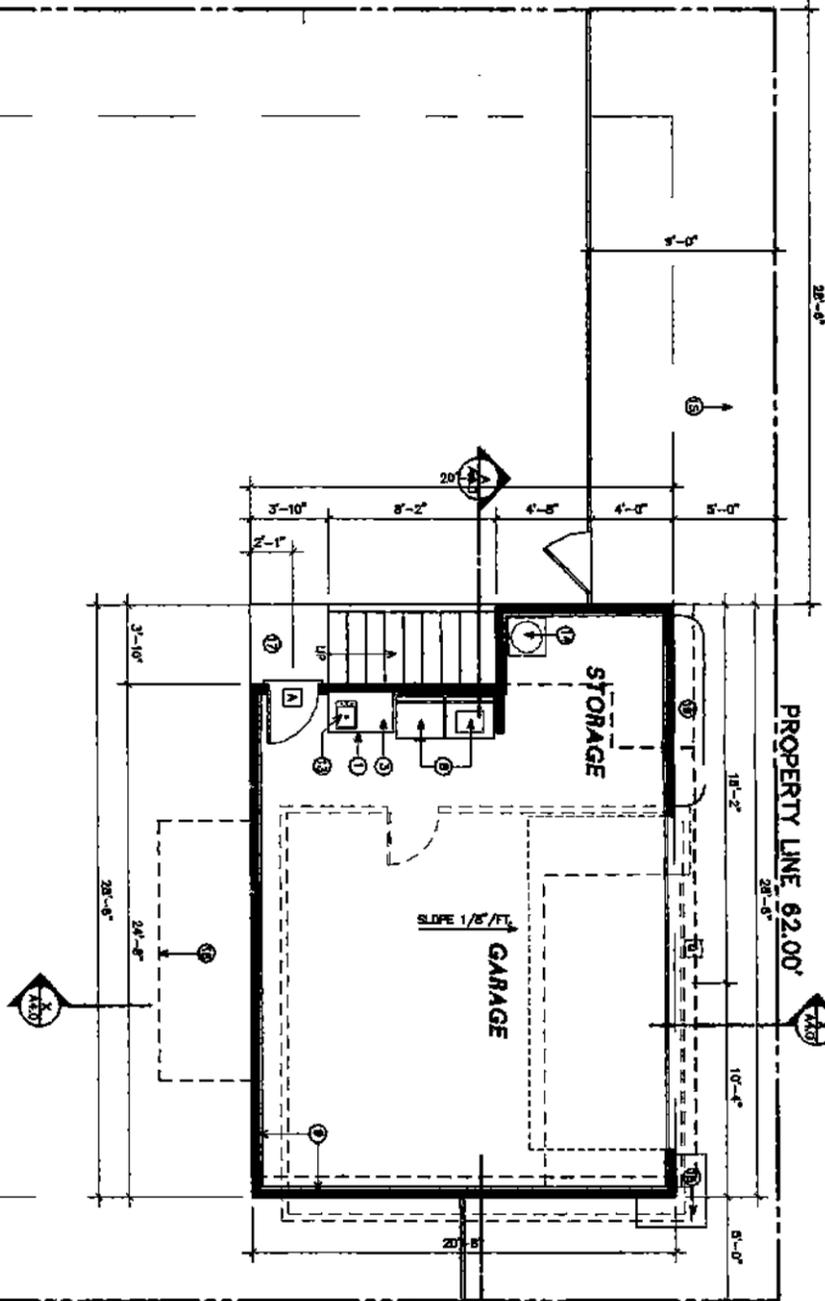
HARTZELL ADDITION
440 E. 19TH STREET
COSTA MESA, CA

REGISTERED ARCHITECT
 THOMAS T. BURGER III
 No. 15902
 State of California

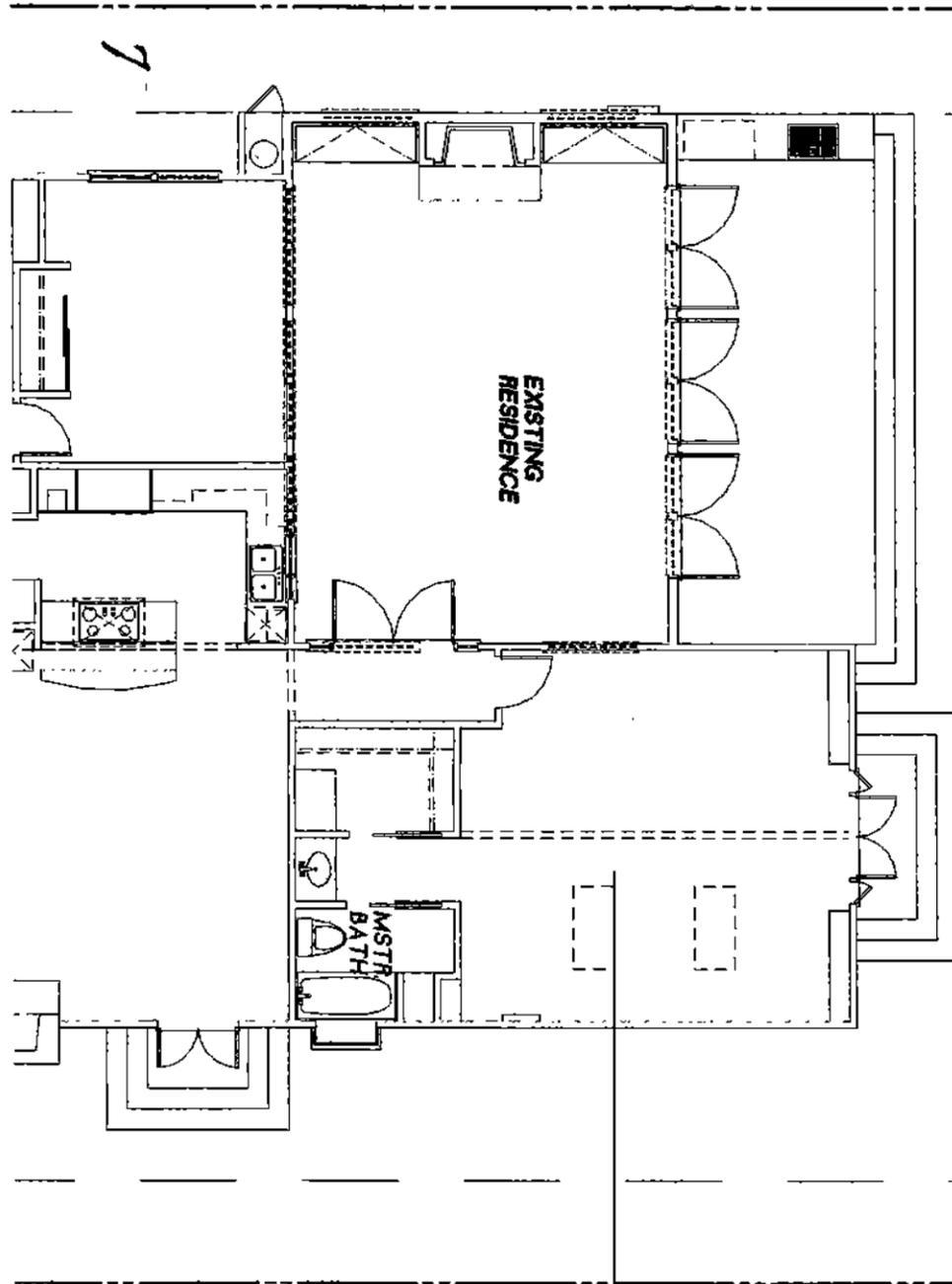
A1.0
 SHEET

ALLEY

PROPERTY LINE 62.00'



PROPERTY LINE 125.00'



PROPERTY LINE 125.00'

WALL LEGEND:
 --- EXISTING WALL
 - - - DEAD WALL
 = = = NEW WALL

KEY TO INTERIOR ELEVATIONS

- FLOOR PLAN KEY NOTES
- 36" HIGH CANNETTI GRANITE SLAB COUNTERTOP TO BE SELECTED BY OWNER.
 - 36" HIGH CANNETTI GRANITE SLAB COUNTERTOP TO BE SELECTED BY OWNER.
 - 36" HIGH CANNETTI GRANITE SLAB COUNTERTOP TO BE SELECTED BY OWNER.
 - 36" HIGH CANNETTI GRANITE SLAB COUNTERTOP TO BE SELECTED BY OWNER.
 - 1 1/2" DIA. LOW VOLUME WATER CLOSET.
 - 32 X 72 TUB SHOWER W/ STONE SURROUND.
 - WASHER AND DRYER TO BE PROVIDED BY OWNER.
 - PROVIDE 4" DIA. VENT TO OUTSIDE.
 - TYPE 'X' GYPSUM BOARD ON ALL WALL AND CEILING.
 - TYPE 'X' GYPSUM BOARD ON DECK.
 - TEXT-TEK WEATHER WEAR ELASTOMERIC DECK COATING OVER FLYWOOD SHEATHING SLOPE 1/4" / FT.
 - CONCRETE FLOORING AT PERIMETER TO BE SELECTED BY OWNER.
 - 40 GAL. GAS WATER HEATER TO BE SELECTED BY OWNER.
 - PROVIDE SENSING STRAP WITH 3/8" DIA. X 3" LAG BOLT AT EACH END OF 1 1/2" BY 16 GAGE STRAP TO THE STRUCTURE TO RESIST SEISMIC LOADS. STRAPS SHALL BE WITHIN THE UPPER AND LOWER 1/3 OF HEIGHT W/ LOWER STRAP 2" FROM THE CONTROLS.
 - TYPE 'X' GYPSUM BOARD ON STRIKE.
 - CONCRETE LANDING PER LANDSCAPE PLANS (UNDER SEPARATE PERMIT).
 - PLANTING AREA.
 - CONCRETE LANDING PER LANDSCAPE PLANS (UNDER SEPARATE PERMIT).
 - LINE OF BALCONY ABOVE.
 - 2'-4" WIDE X 4'-0" HIGH OPENING FOR 6" GLASS BLOCK.

- WINDOW SCHEDULE
- | NO. | TYPE | GLASS | REMARKS |
|-----|---------|-------|---------|
| 1 | 6" x 6" | 6-10 | 6-10 |
| 2 | 6" x 6" | 6-10 | 6-10 |
| 3 | 6" x 6" | 6-10 | 6-10 |
| 4 | 6" x 6" | 6-10 | 6-10 |
| 5 | 6" x 6" | 6-10 | 6-10 |
| 6 | 6" x 6" | 6-10 | 6-10 |
| 7 | 6" x 6" | 6-10 | 6-10 |
| 8 | 6" x 6" | 6-10 | 6-10 |
| 9 | 6" x 6" | 6-10 | 6-10 |
| 10 | 6" x 6" | 6-10 | 6-10 |
| 11 | 6" x 6" | 6-10 | 6-10 |
| 12 | 6" x 6" | 6-10 | 6-10 |
| 13 | 6" x 6" | 6-10 | 6-10 |
| 14 | 6" x 6" | 6-10 | 6-10 |
| 15 | 6" x 6" | 6-10 | 6-10 |
| 16 | 6" x 6" | 6-10 | 6-10 |
| 17 | 6" x 6" | 6-10 | 6-10 |
| 18 | 6" x 6" | 6-10 | 6-10 |
| 19 | 6" x 6" | 6-10 | 6-10 |
| 20 | 6" x 6" | 6-10 | 6-10 |

- DOOR SCHEDULE
- | NO. | TYPE | FINISH | REMARKS |
|-----|---------|--------|---------|
| 1 | 6" x 6" | 6-10 | 6-10 |
| 2 | 6" x 6" | 6-10 | 6-10 |
| 3 | 6" x 6" | 6-10 | 6-10 |
| 4 | 6" x 6" | 6-10 | 6-10 |
| 5 | 6" x 6" | 6-10 | 6-10 |
| 6 | 6" x 6" | 6-10 | 6-10 |
| 7 | 6" x 6" | 6-10 | 6-10 |
| 8 | 6" x 6" | 6-10 | 6-10 |
| 9 | 6" x 6" | 6-10 | 6-10 |
| 10 | 6" x 6" | 6-10 | 6-10 |
| 11 | 6" x 6" | 6-10 | 6-10 |
| 12 | 6" x 6" | 6-10 | 6-10 |
| 13 | 6" x 6" | 6-10 | 6-10 |
| 14 | 6" x 6" | 6-10 | 6-10 |
| 15 | 6" x 6" | 6-10 | 6-10 |
| 16 | 6" x 6" | 6-10 | 6-10 |
| 17 | 6" x 6" | 6-10 | 6-10 |
| 18 | 6" x 6" | 6-10 | 6-10 |
| 19 | 6" x 6" | 6-10 | 6-10 |
| 20 | 6" x 6" | 6-10 | 6-10 |
- THIS WINDOW SCHEDULE IS A GUIDELINE FOR ESTIMATING. FIELD VERIFY ALL OPENINGS BEFORE ORDERING WINDOWS. REFER TO EXTERIOR ELEVATIONS FOR WINDOW OPERATIONS. ALL WINDOW OPERATIONS TO BE FACTORY PAINTED OR PRIME BEFORE INSTALLATION. ALL WINDOWS TO BE TEMPERED. ALL WINDOWS TO HAVE COPPER FLASHING ABOVE OPENING.



ARCHITECTURE
 20333 IRVINE AVE.
 SUITE 7
 SANTA ANA HEIGHTS
 CALIFORNIA 92707
 PH: (714) 950-0700
 FAX: (714) 950-0772
 www.burcherassoc.com

HARTZELL ADDITION
440 E. 19TH STREET
COSTA MESA, CA

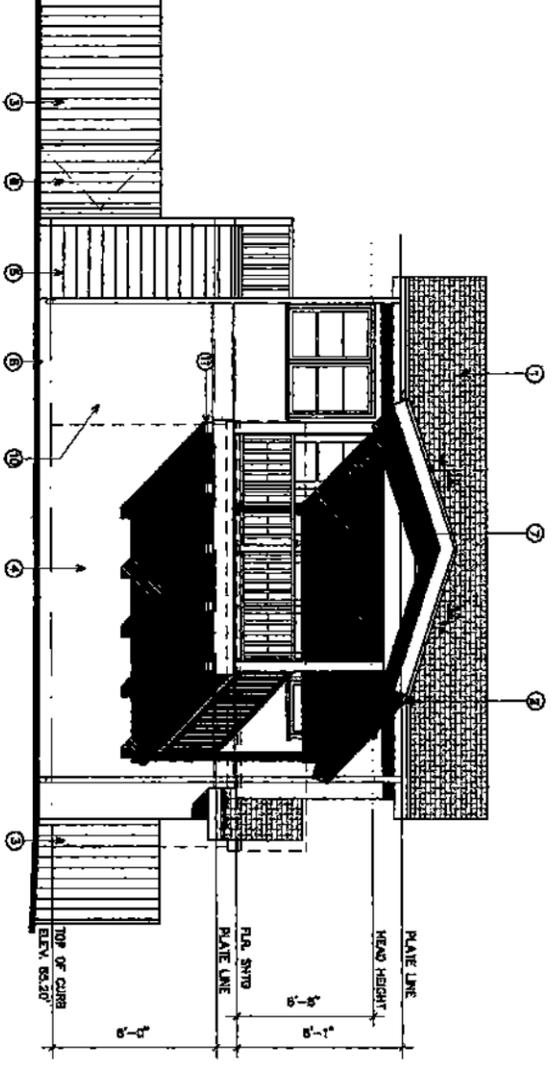


DATE: NOVEMBER 1, 2003
 SCALE: 1/8" = 1'-0"
 DRAWN BY: TJB
 JOB NO.: 20003

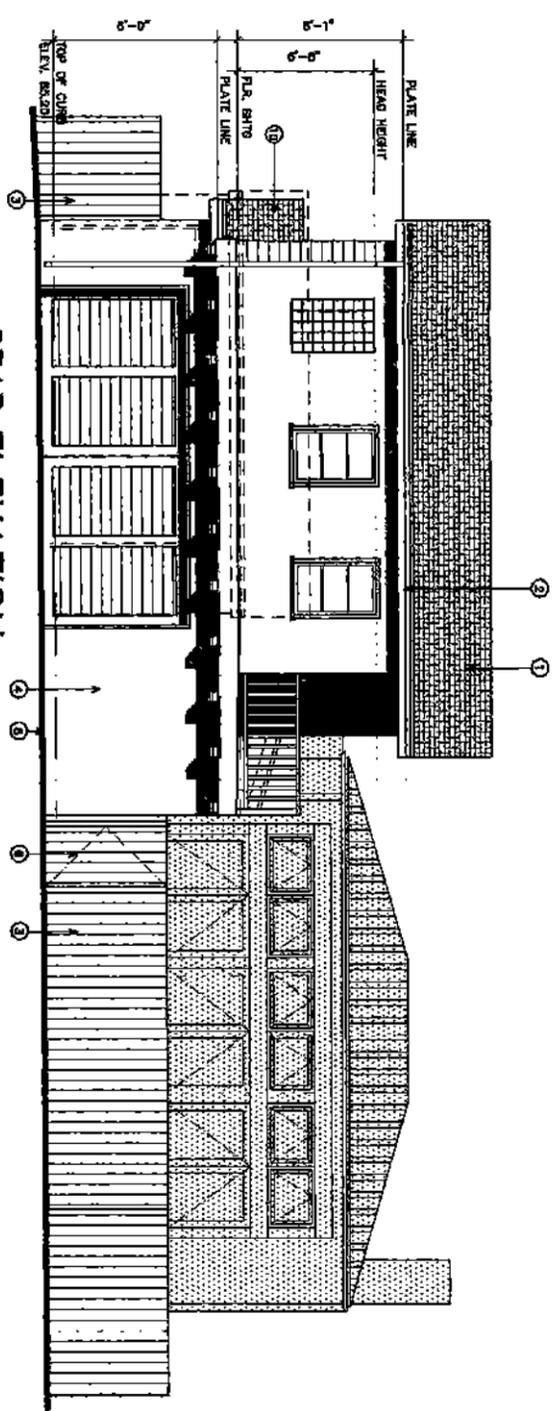
1ST FLOOR PLAN

SHEET
A2.1

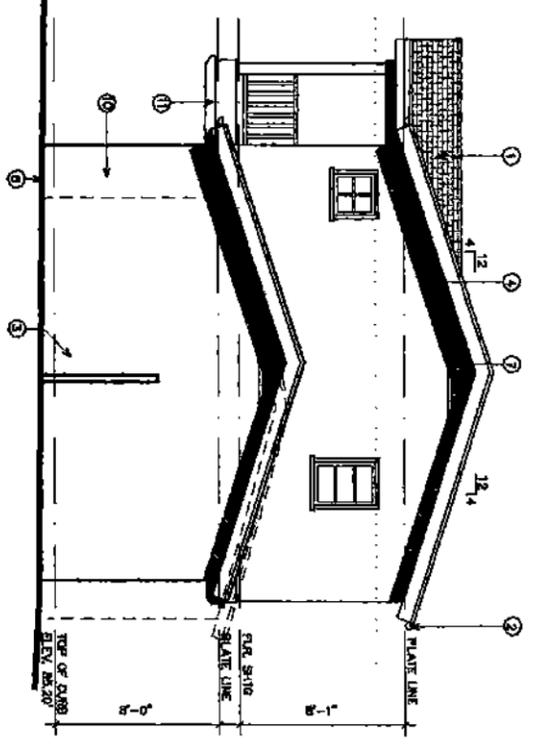
FRONT ELEVATION



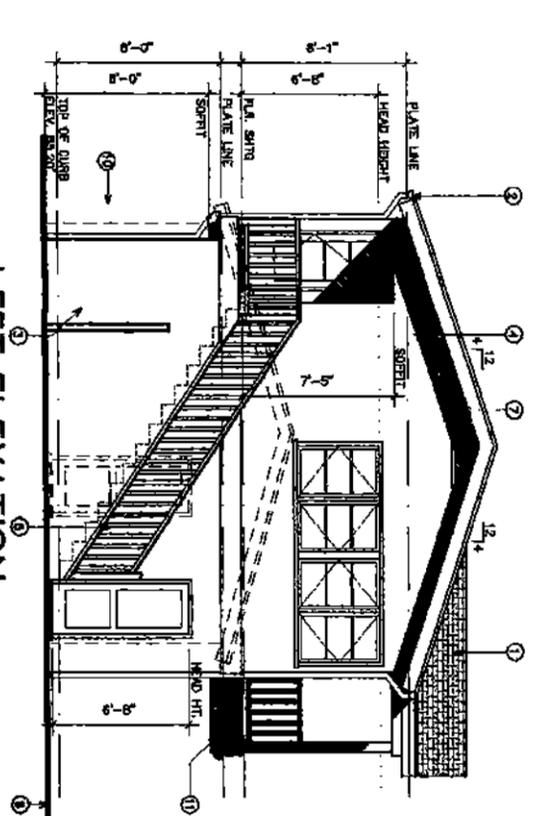
REAR ELEVATION



RIGHT ELEVATION



LEFT ELEVATION



- ELEVATION KEY NOTES:**
1. CLASS "2" ASPHALT/FLY ASH COMPAGNION SHINGLES
 2. 4" HALF-INCH ROUND COPPER DUTCH & DOWNSPOUT.
 3. EXISTING 6 FT. TALL WOOD FENCE TO BE REPLACED.
 4. SMOOTH TRIMMELED STUDIOS.
 5. EXTERIOR STAIR TO OFFICE.
 6. VERTICAL LATHWORK AT TIC VENT.
 7. VERTICAL LATHWORK AT TIC VENT.
 8. LINE OF NATURAL GRADE.
 9. SHADED AREA INDICATED ENGINEER TO REMAIN.
 10. LINE OF EXISTING GARAGE TO BE DEMOLISHED.
 11. 6x6 WOOD CORNER.

9

EXTERIOR ELEVATIONS



ARCHITECTURE
 20331 IRVINE AVE.
 SUITE 7
 SANTA ANA HEIGHTS
 CALIFORNIA 92707
 PH: (714) 850-0700
 FAX: (714) 850-0772
 www.burgerandassoc.com

HARTZELL ADDITION
 440 E. 19TH STREET
 COSTA MESA, CA



DATE: DECEMBER 1, 2003
 SCALE: 1/4"=1'-0"
 DRAWN BY: TTB / DDP

SHEET
A3.0

RESOLUTION NO. 04-

**A RESOLUTION OF THE CITY COUNCIL OF THE CITY OF
COSTA MESA APPROVING MINOR CONDITIONAL USE
PERMIT/MINOR DESIGN REVIEW ZA-03-94**

THE CITY COUNCIL OF THE CITY OF COSTA MESA HEREBY RESOLVES AS FOLLOWS:

WHEREAS, an application was filed by property owner Andrew Hartzell, with respect to the real property located at 440 E. 19th Street, requesting approval of a minor conditional use permit/minor design review for the construction of a detached, two-car garage with an office/library and full bathroom upstairs, in the R1 (single-family residential) zone; and

WHEREAS, on December 19, 2003, the Zoning Administrator approved Minor Conditional Use Permit/Minor Design Review ZA-03-94; and

WHEREAS, an appeal application was filed on December 26, 2003; and
WHEREAS, a duly noticed public hearing was held by the Planning Commission on January 26, 2004.

WHEREAS, the Planning Commission approved the minor conditional use permit/minor design review on January 26, 2004; and

WHEREAS, the item was appealed to the City Council on February 2, 2004, and a duly noticed public hearing was held by the City Council on March 1, 2004.

NOW, THEREFORE, BE IT RESOLVED that, based on the evidence in the record and the findings contained in Exhibit "A", the City Council of the City of Costa Mesa hereby **APPROVES** Minor Conditional Use Permit/Minor Design Review ZA-03-94 with respect to the property described above.

BE IT FURTHER RESOLVED that the Costa Mesa City Council does hereby find and determine that adoption of this Resolution is expressly predicated upon the activity as described in the Staff Report for Minor Conditional Use Permit/Minor Design Review ZA-03-94 and upon applicant's compliance with each and all of the conditions contained in Exhibit "B". Any approval granted by this resolution shall be subject to review, modification or revocation if there is a material change that

occurs in the operation, or if the applicant fails to comply with any of the conditions of approval.

PASSED AND ADOPTED this 1st day of March, 2004.

Mayor of the City of Costa Mesa

ATTEST:

APPROVED AS TO FORM:

Deputy City Clerk of the City of
Costa Mesa

Acting City Attorney

STATE OF CALIFORNIA)
COUNTY OF ORANGE)ss
CITY OF COSTA MESA)

I, Julie Folcik, Deputy City Clerk and ex-officio Clerk of the City Council of the City of Costa Mesa, do hereby certify that the foregoing Resolution was duly and regularly passed and adopted by the said City Council at a regular meeting thereof held on the 1st day of March 2004.

Deputy City Clerk and ex-officio Clerk City
of the Council of the City of Costa Mesa

RESOLUTION NO. 04-

**A RESOLUTION OF THE CITY COUNCIL OF THE CITY OF
COSTA MESA DENYING MINOR CONDITIONAL USE
PERMIT/MINOR DESIGN REVIEW ZA-03-94**

THE CITY COUNCIL OF THE CITY OF COSTA MESA HEREBY RESOLVES AS FOLLOWS:

WHEREAS, an application was filed by property owner Andrew Hartzell, with respect to the real property located at 440 E. 19th Street, requesting approval of a minor conditional use permit/minor design review for the construction of a detached, two-car garage with an office/library and full bathroom upstairs, in the R1 (single-family residential) zone; and

WHEREAS, on December 19, 2003, the Zoning Administrator approved Minor Conditional Use Permit/Minor Design Review ZA-03-94; and

WHEREAS, an appeal application was filed on December 26, 2003; and
WHEREAS, a duly noticed public hearing was held by the Planning Commission on January 26, 2004.

WHEREAS, the Planning Commission approved the minor conditional use permit/minor design review on January 26, 2004; and

WHEREAS, the item was appealed to the City Council on February 2, 2004, and a duly noticed public hearing was held by the City Council on March 1, 2004

NOW, THEREFORE, BE IT RESOLVED that, based on the evidence in the record and the findings contained in Exhibit "A", the City Council of the City of Costa Mesa hereby **DENIES** Minor Conditional Use Permit/Minor Design Review ZA-03-94 with respect to the property described above.

PASSED AND ADOPTED this 1st day of March, 2004.

Mayor of the City of Costa Mesa

ATTEST:

APPROVED AS TO FORM:

Deputy City Clerk of the City
of Costa Mesa

Acting City Attorney

STATE OF CALIFORNIA)
COUNTY OF ORANGE)ss
CITY OF COSTA MESA)

I, Julie Folcik, Deputy City Clerk and ex-officio Clerk of the City Council of the City of Costa Mesa, do hereby certify that the foregoing Resolution was duly and regularly passed and adopted by the said City Council at a regular meeting thereof held on the 1st day of March 2004.

Deputy City Clerk and ex-officio Clerk City
of the Council of the City of Costa Mesa

EXHIBIT "A"**FINDINGS**

1. The information presented substantially complies with Section 13-29(e), 13-29(g)(2), and 13-29(g)(14) of the Costa Mesa Municipal Code in that:
 - a. The proposed development and use, subject to conditions, is compatible and harmonious with uses on-site as well as those on the surrounding properties. With exception of the rear setback encroachment for architectural interest, the project meets or exceeds all residential development standards and the intent of the design guidelines.
 - b. Safety and compatibility of the design of the buildings, parking areas, landscaping, luminaries, and other site features including functional aspects of the site development such as automobile and pedestrian circulation have been considered.
 - c. The project is consistent with the General Plan.
 - d. The planning application is for a project-specific case and does not establish a precedent for future development.
 - e. The proposed development/use, subject to conditions, is substantially compatible with developments in the same general area. Granting the minor conditional use permit will not be detrimental to the health, safety and general welfare of the public or other properties or improvements within the immediate vicinity. Granting the minor conditional use permit will not allow a use, density or intensity which is not in accordance with the general plan designation for the property.
 - f. The information presented substantially complies with Costa Mesa Municipal Code Section 13-29(g)(14) in that the project complies with the City of Costa mesa Zoning Code and meets the purpose and intent of the Residential Design Guidelines, which are intended to promote design excellence in new residential construction, with consideration being given to compatibility with the established residential community. This minor design review includes site planning, preservation of overall open space, landscaping, appearance, mass and scale of structures, location of windows, varied roof forms and roof plane breaks, and any other applicable design features. Although the second floor to first floor ratio exceeds 80% and the second-story right side does not have an average of 10 ft. setback, it incorporates an eyebrow roof to break up the elevation. Also, the second-story portion at 6 ft. side setback is only approximately 22 ft. in length and overlooks the garage on the adjacent property so visual impact is not anticipated. The size and location of the proposed structure is such that it would not appear obtrusive or out of character with the established

neighborhood.

2. The project has been reviewed for compliance with the California Environmental Quality Act (CEQA), the CEQA Guidelines, and the City environmental procedures, and has been found to be exempt from CEQA.
3. The project is exempt from Chapter XII, Article 3 Transportation System Management, of Title 13 of the Costa Mesa Municipal Code.

EXHIBIT "B"**CONDITIONS OF APPROVAL**

- Plng. 1. A land use restriction (stating that the proposed addition may not be converted to a separate dwelling unit) executed by and between the applicant and the City of Costa Mesa shall be recorded prior to the issuance of building permits. Applicant shall submit to the Planning Division a copy of the legal description for the property, and either a lot book report or current title report identifying the current legal property owner so that the document may be prepared.
2. Street address shall be displayed on the fascia adjacent to the main entrance or front door in a manner visible from the public street. Numerals shall be a minimum 6" in height with not less than ½" stroke and shall contrast sharply with the background. Street Address shall also be displayed on the north elevation (facing the alley) of the proposed structure.
3. All new and existing construction shall be architecturally compatible with regard to building materials, style, colors, etc. Plans submitted for plan check shall indicate how this will be accomplished.
4. The conditions of approval and ordinance or code provisions of minor design review ZA-03-94 shall be blueprinted on the face of the site plan as part of the plan check submittal package.
5. The applicant shall contact the Planning Division to arrange for a Planning inspection of the site prior to the release of occupancy/utilities. This inspection is to confirm that the conditions of approval and code requirements have been satisfied.
- Eng. 6. Maintain the public right-of-way in a "wet-down" condition to prevent excessive dust and promptly remove any spillage from the public right-of-way by sweeping or sprinkling.
- Plng. 7. The door leading from the second floor to the outside stairwell shall be of frosted glass, or opaque material.

CODE REQUIREMENTS

The following list of federal, state and local laws applicable to the project has been compiled by staff for the applicant's reference. Any reference to "City" pertains to the City of Costa Mesa.

- Plng. 1. Approval of the Zoning Action is valid for one (1) year and will expire at the end of that period unless building permits are obtained or the applicant applies for and is granted an extension of time.
2. All contractors and subcontractors must have valid business licenses to do business in the City of Costa Mesa. Final inspections will not be granted until all such licenses have been obtained.
- Bldg. 3. Comply with the requirements of the California Code of Regulations, Title 24, also known as the California Building Standards Code, as amended by the City of Costa Mesa.
4. Submit grading and drainage plan for this project.
5. Prior to or concurrent with the submittal of plans for grading/building/plan check/submittal of final subdivision map for engineering plan check, the applicant shall prepare and submit documentation for compliance with the State Water Resources Control Board (SWRCB) Water Quality Order 99-08-DWQ; National Pollutant Discharge Elimination System (NPDES) Permit No. CAS000002 for Storm Water Discharges Associated with Construction Activity (General Permit); the California Regional Water Quality Control Board (RWQCB) Santa Ana Region Order No. R8-2002-0010 and NPDES Permit No. CAS618030; and, the City of Costa Mesa Ordinance No. 97-20 for compliance with NPDES Permit for the City of Costa Mesa. Such documentation shall include a Storm Water Pollution Prevention Plan if over 1 acre (if over 5 acres if submitted prior to March 10, 2003) and a Water Quality Management Plan (WQMP) identifying and detailing the implementation of the applicable Best Management Practices (BMPs).
- Eng. 6. At the time of development submit for approval an off-site plan to the Engineering Division and grading plan to the Building Division that shows sewer, water, existing parkway improvements and the limits of work on the site, both prepared by a civil engineer or architect. Construction access approval must be obtained prior to building or engineering permits being issued by the City of Costa Mesa. Pay offsite plan check fee to the Engineering Division. An approved offsite plan and fee shall be required prior to engineering/utility permits being issued by the City.
7. A construction access permit and deposit of \$350 for street sweeping will be required by the Engineering Division prior to the start of any on- or off-site work.
8. Remove existing wood fence from public right-of-way.

SPECIAL DISTRICT REQUIREMENTS

The requirements of the following special districts are hereby forwarded to the applicant:

- Sani. 1. Applicant shall pay all applicable sanitary district fixture fee charges (714) 754-5307.
- School 2. Pay applicable Newport Mesa Unified School District fees to the Building Division prior to issuance of building permits.

FEE: \$ 0

COSTA MESA, CALIFORNIA
P.O. BOX 1200
COSTA MESA, CALIFORNIA 92626

APPLICATION FOR APPEAL OR REHEARING

RECEIVED
CITY CLERK
04 FEB - 2 PM 12:44
CITY OF COSTA MESA
BY

Applicant Name: Chris M. Steel, Council Member

Address: 77 Fair Drive, Costa Mesa, CA 92626

Phone: (949) 548-8663

Representing: Morris and Agneta Berger

Decision upon which appeal or rehearing is requested: (Give number of rezone, zone exception, ordinance, etc., if applicable, and the date of the decision, if known.) 1A-03-94 for 440 E. 19th Street, Costa Mesa, CA 92627, January 26, 2004.

Decision by: Planning Commission

Reason(s) for requesting appeal or rehearing:

I object to the plan for the following reasons:

1. This proposed 2nd story detached alley garage construction by Mr. Andrew Hartzell, 440 E. 19th Street, would be an invasion of privacy that is excessive and not characteristic of the neighborhood standard. The proposed west facing windows, westside open staircase, westside landing and balcony, with the current screening provides a direct line of sight into the yard and pool area at 436 E. 19th Street.
2. The proposed west windows, west open staircase, west landing and south windows, south french doors and south balcony, are in a direct line of sight into the yard, pool area and into their teenage daughter's bedrooms. Planned removal of the cypress trees by Mr. Hartzell would expose the entire yard and home at 436 E. 19th Street.
3. The Planning Commission did not provide sufficient justification as to why Mr. Hartzell could not find an alternative location for his staircase.
4. Mr. Hartzell indicated at the Planning Commission meeting that he would remove some of the current cypress screening for further construction. However, the initial review by the Zoning Administrator indicated that the trees would remain and acknowledged their value as a privacy screen. During the Planning Commission meeting, two Commissioners indicated reservations regarding the privacy impact. One Commissioner indicated that he would not approve the plan without the cypress screening.
5. The Planning Commission, by their admission, had developed "no privacy standards" to apply in this situation. Some members appeared to rely only on anecdotal and personal preferences to make a decision.
6. The impact on privacy and character of the residential neighborhood in the future could be more injurious if this essentially separate residential structure is constructed as is. It would be difficult to enforce a land use restriction or control future use of the structure. The question at the Planning Commission meeting as to how this would be enforced was ignored.

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SCHEDULED FOR THE CITY COUNCIL/PLANNING COMMISSION MEETING OF:

March 1, 2004

7. It is unjust to provide limitations on land use, thereby acknowledging the potential for abuse without considering the impact on the privacy of neighbors and providing similar limitations.
8. The quality of life in the neighborhood would suffer if this precedent setting construction continues. Properties like this under the "guard towers" would be less desirable. Mansions and overbuilding will hurt more Costa Mesa homeowners than it helps. Many communities recognize this danger and adopt standards that promote growth and preserve a standard of quality of individual homeowners.

I request that the construction if approved, be approved with these conditions:

1. That the cypress tree (screen) be maintained, replaced if necessary and extended from its present position to the back of the property. That the screen not be removed until a substitute screen or barrier is in place by the owner or the neighbor.
2. That in addition to the opaque door, the windows on the west-facing wall are raised to above eye level. Additional sunlight could be obtained from roof skylights and or gable windows.

Date: February 2, 2004

Signature: Chris M. Steel

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SCHEDULED FOR THE CITY COUNCIL/PLANNING COMMISSION MEETING OF:

Excerpt from the minutes to the Planning Commission meeting of January 26, 2004

APPEAL OF ZONING
APPLICATION ZA-03-94

Hartzell

The Chair opened the public hearing for consideration of an Appeal of Zoning Application ZA-03-94 for Andrew K. Hartzell, for a minor design review and minor conditional use permit to construct an office with a full bathroom above a new detached garage, located at 440 E. 19th Street in an R1 zone. Environmental determination: exempt.

Associate Planner Wendy Shih reviewed the information in the staff report and gave a visual presentation of the site characteristics. She said staff recommended that Planning Commission uphold the Zoning Administrator's approval, by adoption of Planning Commission resolution, subject to conditions. Ms. Shih noted 2 letters were received from neighbors in proximity to the project, who are in favor of the project.

The appellant, Morris Berger, 436 East 19th Street, Costa Mesa, submitted photographs of his back yard showing the project site in the background. He believed the proposed building would have a direct view into his yard, and would be a nuisance and liability to him. He pointed out the Cypress trees, which he said were now somewhat of a buffer. He showed photographs of the adjacent alleyway both north and south, where all the homes had single-story garages. He maintained that the neighborhood itself does have 2-story additions, but second story garages are not yet the "norm." He said he did not want to impede Mr. Hartzell in improving his property, or from adding a second story onto his garage if that's his choice, but he felt the Commission should try to mitigate the exposure. He would rather see the stairway within the structure, or relocated to another side; minimize the exposure from the balcony; and minimize the windows. He said all of these elements could remain but they should be reduced.

Mr. Berger also said that Mr. Hartzell indicated he may be removing the Cypress trees, which would further impact him. Mr. Hartzell has made no provisions for replacing them with anything as mature, or extending them further toward the alley, which would break up the "line of sight."

Commissioner Foley asked Mr. Berger if extending the landscaping screen to the end of the fence line would satisfy his concerns about the view into his property. He said yes, if he can be sure that they will still be there 10 years from now. Commissioner Foley explained to him that there is no way to build anything on this site without having a view into his back yard, or unless he does some kind of landscape screening on his own property.

Commissioner Bever asked Mr. Berger if there was anything precluding him from putting in a landscape barrier to ensure his own privacy. He said if Mr. Berger takes responsibility for maintaining that visual barrier, then he can ensure that it will always be there. Mr. Berger said he did not plan to replace the fence and although the pictures don't show it, he has done extensive landscaping.

The Chair said that even though there is a statement in the Zoning Administrator's letter to Mr. Hartzell stating that the Cypress trees will remain, there is no condition of approval regarding these trees, and he asked if that would hold up. Sr. Deputy City Attorney Marianne Milligan recommended that a condition be added. Mr. Valentine stated that the comment in the letter was simply reflective of what staff understood the situation to be and there was no intent to make that a condition of approval.

After confirming the 20-foot alley width, Vice Chair Perkins confirmed that the windows Mr. Berger wanted to be minimized were not actually in the photographs because the Cypress trees covered them. Ms. Shih offered that there were pictures showing another view taken from the top of the garage into Mr. Berger's rear yard. Mr. Berger stated that the windows in question wrap around the northeast corner, and there is a glass entry door, landing, and stairway that are all in his direct "line-of-sight." Vice Chair Perkins confirmed with Mr. Berger that he had conversations with Mr. Hartzell concerning locating the stairwell within the building structure.

There was discussion between Commissioner Foley, Mr. Lee, and Mr. Valentine about recent landscape requirements concerning another residence on the eastside.

Commissioner Bever said he has reservations about the landscape screening because he believed, that traditionally, for those seeking privacy, it has been incumbent upon them to provide some kind of a barrier. For instance, one can provide screening on his window to keep neighbors from looking in. The need for privacy varies from neighbor-to-neighbor and providing for privacy is incumbent upon those would desire additional privacy.

In response to a question from Vice Chair Perkins regarding the average setback on second-story additions, Mr. Valentine stated that the required setback from the rear property line for a second story would be 20 feet; side property line, a minimum of 5 feet; the guidelines revised in October of last year, provide for an average second-story setback of 10 feet.

The applicant, Andrew Hartzell, 440 East 19th Street, Costa Mesa, felt that he was proposing a very modest second-story addition relative to what the code would allow. He said he understands he could build something much larger, but did not do so in order to minimize impacts on the neighbors and at the same time, provide for his needs. He said he has addressed the issues and completely satisfied two of the three surrounding neighbors, but is not yet there with the Bergers. He said he placed the second-story addition as far away from the appellant's property as he could, and it would be virtually impossible to design something any farther away from their common property boundary. He said the final design attempted to balance his needs with the concerns of the neighbors. The design was intended to integrate the second-floor library with the main house by placing windows so they would look down into his own backyard and the stairway is designed to work into the middle of the backyard so it flows from the main house.

Mr. Hartzell said photographs are on record with the Commission showing other 2-story homes in the neighborhood with similar features. He said he also intended to continue screening the side of the yard, which is his preference. However, he did not believe a condition that screening be maintained for all time, is the right approach. He said he strongly objected to this idea. He said it is very difficult to deal with future circumstances and it diminishes future flexibility and constitutes a taking of the land. Further, he said a plant is a living organism and subject to disease, irrigation, and the elements, and he will have to adjust to the circumstances as they come up. He said he wished he could have successfully gotten all three of the adjoining neighbors fully satisfied on the design and privacy issues. He said he would continue to work with the Bergers because he wants to be sensitive to their needs, and to resolve the issues.

In response to Chair Garlich regarding a condition for the door, Mr. Hartzell said he was amenable to making the door to the second-story library opaque, which he understands to be frosted glass, or a solid door.

In response to a question from Commissioner Foley regarding the legality of a condition of approval requiring trees or landscaping in between the two properties, Ms. Milligan said she disagreed with that assessment—that the Commission has the right and it is within their jurisdiction to impose those types of conditions as it has done on numerous occasions. Commissioner Foley questioned maintenance for those trees and landscaping; she said under Title 20, the City requires property

owners, even on private residential properties, to maintain and remove dead trees, for example. Ms. Milligan said that was correct, but that refers only to landscaping visible from the public right-of-way.

There was discussion between Commissioner Foley, staff, Mr. Hartzell, regarding what is involved in relocating the stairway internally.

In response to a question from Vice Chair Perkins regarding plans to remove the trees, Mr. Hartzell said it is his hope that the first three trees will be removed for a wall with a fireplace.

Terry Shaw, 420 Bernard Street, Costa Mesa, voiced his concerns about the windows on the left side and placing them so they don't overlook the neighbor's yard and maybe they could use frosted glass on the lower portions and also on the French doors on the balcony.

Beth Refakas, 320 Magnolia Street, Costa Mesa, said the windows should be raised. She discussed parking, floor area ratio, open space, and opaquing the French doors to ensure privacy. She objected to the stairway and she felt the trees should be under a condition of approval as a privacy buffer.

Barbara Beck, 443 Flower Street, Costa Mesa, opposed the project because it increases the density in her R1 neighborhood. She said in her opinion, even though a land use restriction could be placed on this project, and she is sure that this homeowner has no intention of renting out that space. She said land use restrictions are not enforceable.

The Chair requested that Ms. Milligan respond to Ms. Beck's comment about land use restrictions being unenforceable. Ms. Milligan said she disagreed with Ms. Beck's assessment and that land use restrictions are legal documents and are enforceable in a court of law. Ms. Beck commented that she finds LUR's rely on neighbors spying on neighbors and reporting illegal uses. She said you still have to live with these people so you don't really want to report them to the authorities when they are your neighbors.

Kate Kaylor, 446 East 19th Street, Costa Mesa, said she and her husband live on the other side of the site and they have no objections to the addition; that it is very nice and a good addition to the neighborhood. She said he has been a very courteous and thoughtful neighbor to work with. She realizes his balcony will look directly into their backyard.

There was discussion between Commissioner Foley and staff regarding photographs showing Ms. Kaylor's property.

No one else wished to speak and the Chair closed the public hearing.

MOTION:
ZA-03-94
Upheld Zoning Administrator's
Decision

A motion was made by Vice Chair Perkins, seconded by Commissioner Bever and carried 5-0 to uphold Zoning Administrator's approval, by adoption of Planning Commission Resolution PC-04-09, based on information and analysis contained in the Planning Division staff report and findings in exhibit "A", subject to conditions in exhibit "B", with the following addition:

Condition of Approval

7. The door leading from the second floor to the outside stairwell shall be of frosted glass, or opaque material.

Vice Chair Perkins said he visited this project and felt it was a good project with great screening. He felt the windows look directly on to the buffering Cypress trees; the stairway door is set far enough back, and Mr. Hartzell's willingness to opaque the door reasonably diminishes previous concerns. He said he would like to see this project happen and agrees with Commissioner Bever's points about privacy.

Chairman Garlich said he also supports the project. The location, setbacks, and efforts that have been made to take privacy into consideration, are fully compliant with what is required in this City. He pointed out there have been similar kinds of 2nd story garage additions, and his personal view is that a requirement for landscape screening in perpetuity is excessive. He felt it should be stated that under the code, Mr. Hartzell could have added on to the first story of his house and could have added a second-story onto that, which would have been compliant with the setback requirements passed in October. It would have had a much more severe impact on his neighbors, but he has chosen not to do that. He has done his best to be considerate of his neighbors and has satisfied code.

Commissioner Foley wished to add a condition of approval to maintain trees sufficient to provide the same screening that the present trees provide at the time of approval of this application. The maker of the motion declined the request. Vice Chair Perkins said he did not think there was that much of an invasion of privacy, but if it is, the appellant can add sufficient screening. Commissioner Foley said she would still support the motion because there is no way that a second story could be built on this property anywhere without it having some view into some-

one's backyard. Even on properties that don't have alley access this occurs, and she gave examples in her own neighborhood. She believed that the landscape screening provides mitigation because this second-story is being located on the detached garage of the property and looks at the back of the lot going forward. This creates a unique situation with respect to requiring landscaping, and she might not have supported this motion if she hadn't viewed the property with all the Cypress trees and hedging that clearly provide a nice screening to the residential neighbors.

Commissioner Bever said he supported the motion. He said the Commission and staff have spent quite a bit of time reviewing privacy issues. He said he also believes it is entirely unrealistic for a neighbor to have an expectation that there would be zero visibility into any neighboring properties in the case of the second story addition, or a new 2-story house. For this reason, he expressed a desire to agendaize for a study session, a review and reevaluation of the Residential Design Guidelines in respect to privacy issues because the current language is vague and it opens up issues that consume a great deal of Planning Commission and staff time.

Commissioner DeMaio said he also supported the motion and finds that it is a good project with minimal intrusion. However, if those trees weren't there, he would probably reconsider.

The Chair explained the appeal process.



PLANNING COMMISSION AGENDA REPORT

U.I.1.

MEETING DATE: JANUARY 26, 2004

ITEM NUMBER:

SUBJECT: APPEAL OF MINOR CONDITIONAL USE PERMIT/MINOR DESIGN REVIEW ZA-03-94
440 EAST 19TH STREET

DATE: JANUARY 15, 2004

FOR FURTHER INFORMATION CONTACT: WENDY SHIH, ASSOCIATE PLANNER (714) 754-5136

DESCRIPTION

Appeal of Zoning Administrator's approval of a minor conditional use permit/minor design review for the construction of a detached, two-car garage (to replace existing) with an office/library and full bathroom upstairs.

APPELLANT

A neighboring resident, Morris Berger, filed the appeal request.

APPLICANT

Andrew Hartzell is the property owner and applicant for this project.

RECOMMENDATION

Uphold Zoning Administrator's approval of the request.

Handwritten signature of Wendy Shih in black ink.

WENDY SHIH
Associate Planner

Handwritten signature of Perry L. Valentine in black ink.

PERRY L. VALANTINE
Asst. Development Services Director

PLANNING APPLICATION SUMMARY

Location: 440 E. 19th St. Application: ZA-03-94

Request: MCUP and MDR for an office with full bathroom above a new detached garage at the rear of the property.

SUBJECT PROPERTY:

SURROUNDING PROPERTY:

Zone: <u>R1</u>	North: <u>R1</u>
General Plan: <u>Low Density Residential</u>	South: <u>R1</u>
Lot Dimensions: <u>62 ft. x 125 ft.</u>	East: <u>R1</u>
Lot Area: <u>7,750 sq. ft.</u>	West: <u>R1</u>
Existing Development: <u>Single story, single-family residence with a detached 2-car garage.</u>	

DEVELOPMENT STANDARD COMPARISON

<u>Development Standard</u>	<u>Required/Allowed</u>	<u>Proposed/Provided</u>
Lot Size:		
Lot Width	50 ft.	62 ft.
Lot Area	6,000 sq. ft.	7,750 sq. ft.
Density:		
Zone	1 du/6,000 sq. ft.	1/7,750 sq. ft.
General Plan	1 du/5,445 sq. ft.	1/7,750 sq. ft.
Building Coverage:		
Buildings	NA	33% (2,544 sq. ft.)
Paving	NA	4% (341 sq. ft.)
Open Space	40% (3,100 sq. ft.)	63% (4,865 sq. ft.)
TOTAL	100%	100%
2 nd to 1 st Floor Ratio (accessory structure):	80%*	97% (500 sq.ft./514 sq. ft.)
Building Height (accessory structure):	2-stories/27 ft. (max.)	2 stories/22 ft.
Setbacks (accessory structure):		
Front (to main residence)	10 ft.	16 ft.
Side (left/right)	5 ft./5 ft.	28 ft./ 5ft.
Rear (alley)	5 ft.	4 ft. **
2 nd Floor Average Side Setback:	10 ft. average *	6 ft. average
Parking:		
Covered	2	2
Open	1	1
TOTAL	3	3
Driveway Width:	10 ft.	28 ft.

NA = Not Applicable or No Requirement

CEQA Status Categorical Exemption: Class 3

Final Action Zoning Administrator

* Residential design guidelines.

** Minor Modification MM-03-57 approved for 1 ft. encroachment.

BACKGROUND

The property is developed with a single-story, single-family residence and a detached garage at the rear with alley access. On December 19, 2003, the Zoning Administrator approved a minor conditional use permit/minor design review for an office/library and full bathroom above a detached, two-car garage (to replace existing). A minor modification was also approved for a 1 ft. encroachment into the rear setback (5 ft. required; 4 ft. proposed) for second floor projection to provide architectural interest on the (rear) elevation facing the alley.

Morris Berger, a neighboring resident to the left (west), appealed the approval on December 26, 2003. He feels that the proposed design, including the exterior staircase, would have direct line of sight into his backyard and create an intrusion of privacy on his property.

ANALYSIS

A minor design review is required for any 2-story construction in the R-1 (Single Family Residence) zone to ensure proper design consideration and compatibility with surrounding properties.

The Zoning Administrator found the proposed construction would be substantially compatible and harmonious with the neighborhood, and the scale and massing of the proposed construction would not be obtrusive from the street or other properties. It is staff's opinion that the proposal meets the purpose and intent of the Residential Design Guidelines. Although the 2nd floor exceeds 80% of the 1st floor (500 sq.ft./514 sq. ft. = 97%) and does not provide a 10 ft. average side setback on the right (east) side (6 ft. proposed), it incorporates projections, offsets, articulation and variation in roof orientation for an interesting building mass. The proposed 2nd floor is only 500 sq. ft., which would have been well under the 80% 2nd to 1st floor ratio requirement if it were attached to the main residence (2,030 sq. ft.). The 2nd floor elevation at 6 ft. right side setback is only about 22 ft. in length, overlooking the neighbor's garage, and incorporates a horizontal plane break with the 1st floor eave projection.

The proposed size, design, and location of the structure help to preserve open space on the site and open air for the adjoining properties since it is detached from the main residence and located in the back corner of the lot. It would not overshadow the adjoining dwelling units or backyards. Although views into adjoining properties cannot be eliminated entirely, as with any 2-story construction, the proposal takes into consideration window/balcony locations and other site features to minimize privacy impacts. The proposed structure is set back 28 ft. (10 ft. average for second story required per Design Guidelines) from the appellant's property and is separated from that property by a row of mature trees, which will remain to minimize views into Mr. Berger's backyard. The property owner/appli-

cant, Mr. Hartzell, indicated that the existing trees may be replaced in the future as they reach the end of their life span. However, he has been consulting with his landscape architect regarding appropriate, mature trees to plant along that side of the property to minimize privacy impacts on Mr. Berger's property. The neighbor to the right (east) has reviewed the plans and submitted a letter to support the construction.

A minor conditional use permit is required for a detached accessory structure that includes a toilet, bathtub, shower, or any combination thereof. The proposed office/library above the detached garage contains a bathroom with toilet, sink and bathtub. It is Mr. Hartzell's intent to use this space as his office/library. It is staff's opinion that the design of the structure with an exterior staircase accessed from the interior of the property and no enclosed access from first to second floor make it more difficult to convert the structure into a separate dwelling unit. The staircase is designed to be accessed through the backyard, from the main dwelling unit. The property owner/applicant has also agreed, and a condition has been included, to require a land use restriction be recorded against the property to provide notice that the structure may not be converted to a separate dwelling unit.

ALTERNATIVES

Should Planning Commission deny Minor Design Review ZA-03-94, the applicant may not construct the office/library above the garage as designed. A similar project may not be submitted for 6 months.

ENVIRONMENTAL DETERMINATION

This project is exempt from the requirements of the California Environmental Quality Act.

CONCLUSION

It is staff's opinion that the construction would be substantially compatible and harmonious with the neighborhood. Based on the above analysis, the proposed structure would not appear obtrusive in the neighborhood nor would it create substantial privacy impacts into neighboring properties. A land use restriction will also be recorded to ensure that the property remains a single-family residence.

Attachments: Draft resolution including exhibits "A" and "B"
 Appeal Application Form
 Description/Justification Form
 Zoning/Location map
 Aerial Photograph
 Plans
 Zoning Administrator's approval letter

cc: Deputy City Manager-Dev. Svs. Director
Assistant City Attorney
City Engineer
Fire Protection Analyst
Staff (4)
File (2)

Andrew Hartzell
440 E. 19th St.
Costa Mesa, CA 92627

Morris Berger
436 E. 19th St.
Costa Mesa, CA 92627

Barbara Beck
443 Flower Street
Costa Mesa, CA 92627

U1.1a.

City of Costa Mesa

Interoffice Memorandum

To: PLANNING COMMISSION
From: WENDY SHIH, ASSOCIATE PLANNER 
Date: January 21, 2004
Subject: **MINOR DESIGN REVIEW/MINOR CONDITIONAL USE PERMIT ZA-03-94**
440 EAST 19TH STREET
****SUPPLEMENTAL MEMO****
PLANNING COMMISSION MEETING OF JANUARY 26, 2004

Attached are photographs of the subject site and existing, 2-story structures in the area. They were submitted by the applicant during the January 20, 2004, Planning Commission study session.

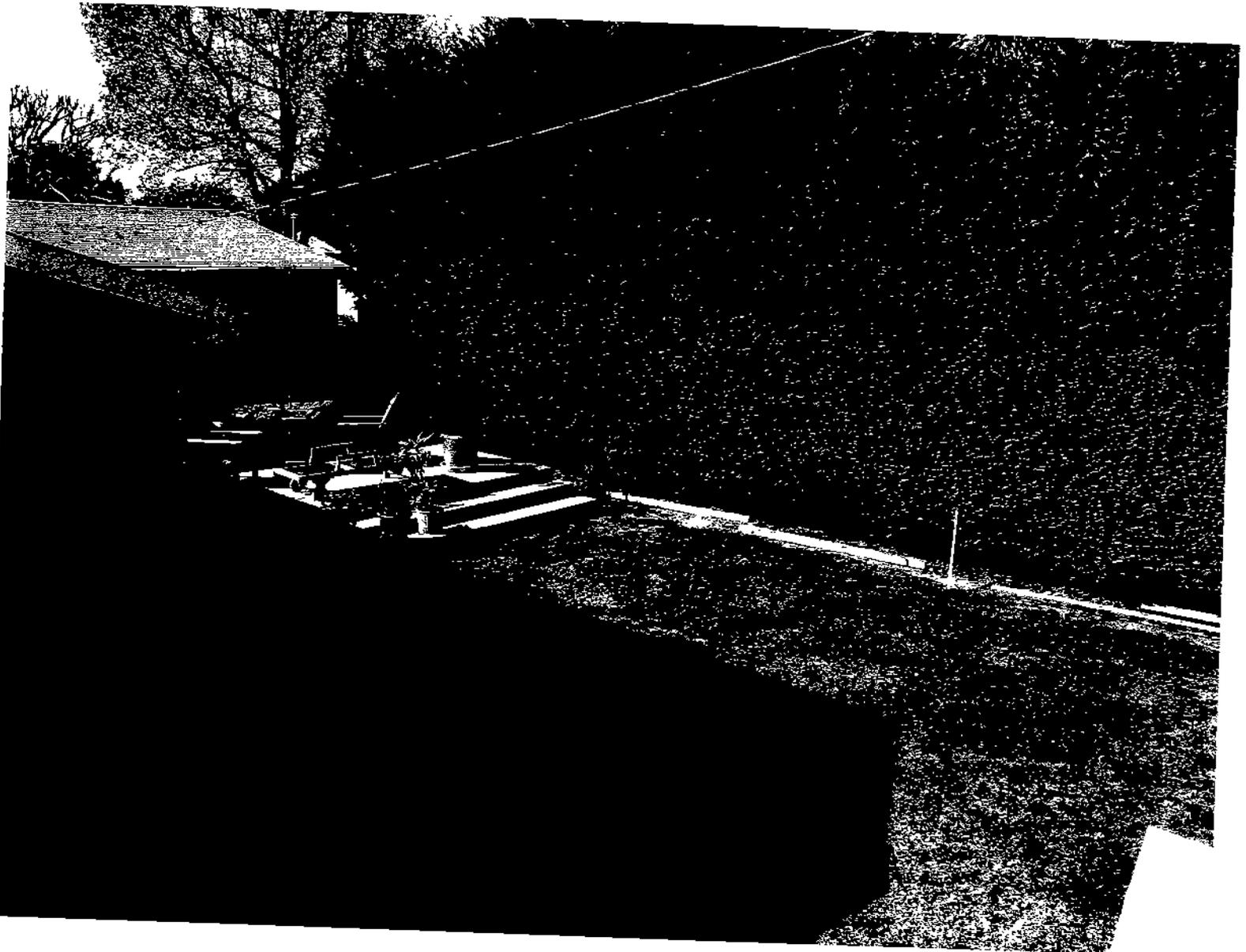
Attachment: Photographs

cc: Assistant Development Services Director
Sr. Deputy City Attorney
City Engineer
Fire Protection Analyst
Staff (4)
File (2)

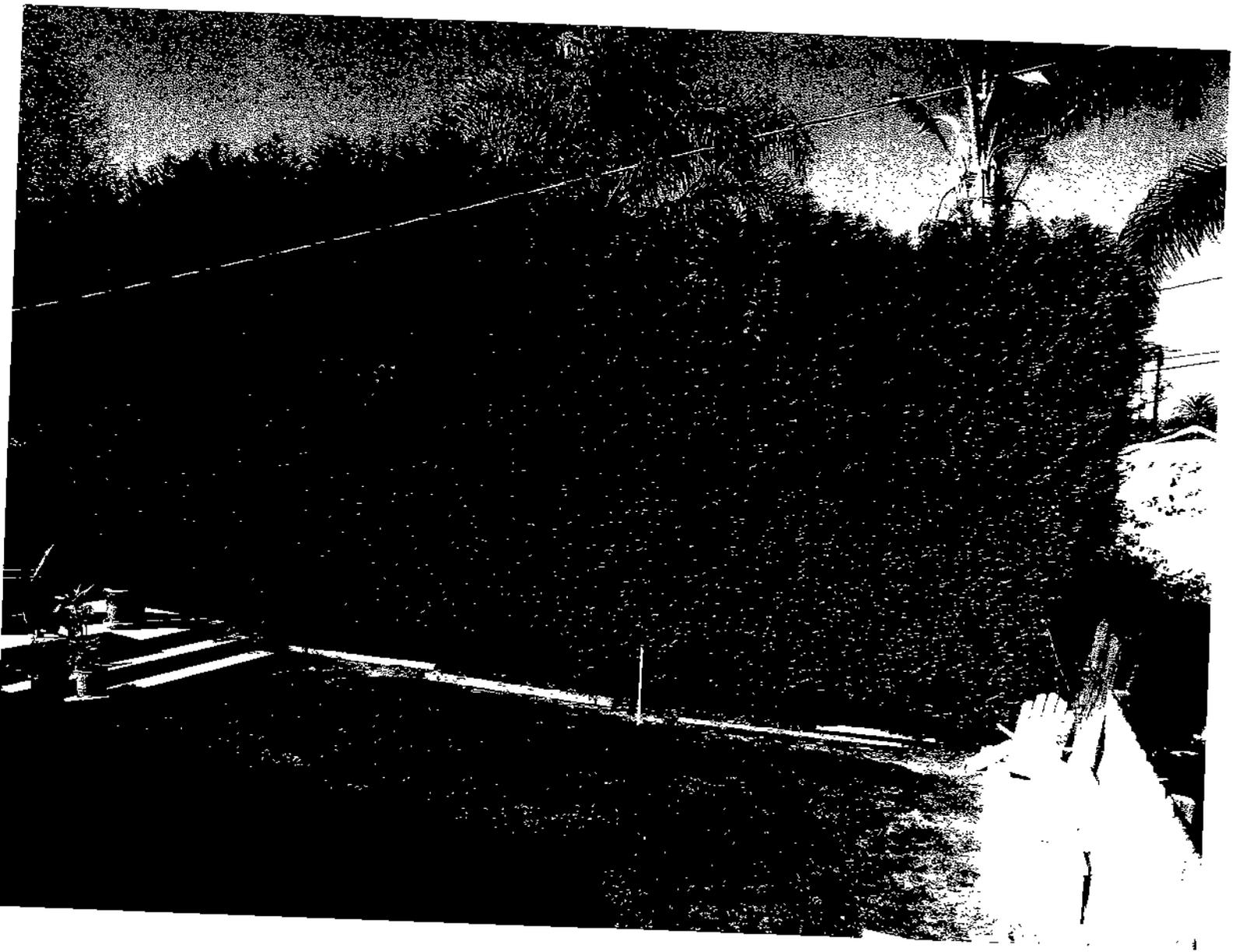
Andrew Hartzell
440 E. 19th St.
Costa Mesa, CA 92627

Morris Berger
436 E. 19th St.
Costa Mesa, CA 92627

Barbara Beck
443 Flower St.
Costa Mesa, CA 92627



**Backyard View of 440 E. 19th Street
as Seen From Roof of Garage**



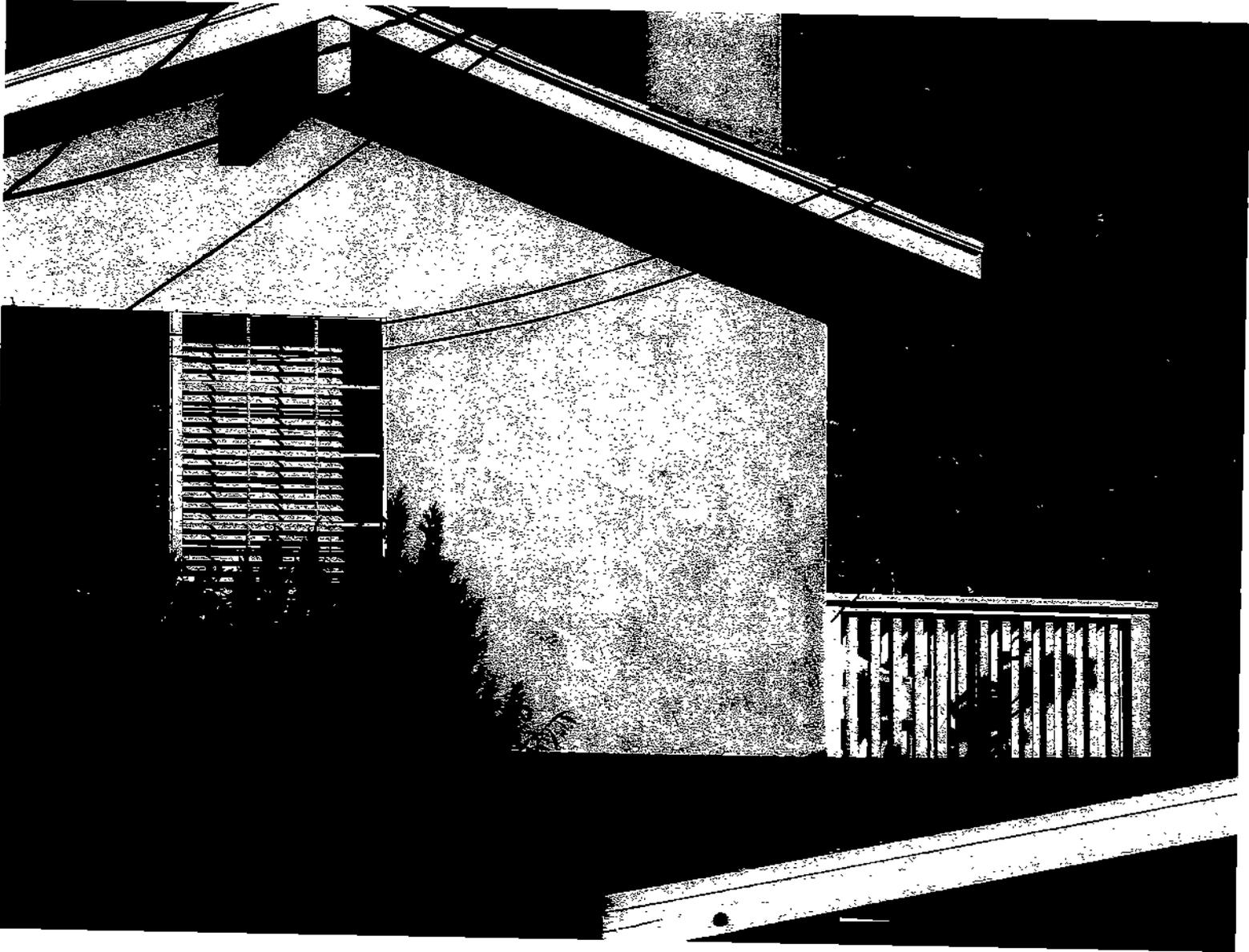
**Backyard View of 440 E. 19th Street
as Seen From Roof of Garage**



**Backyard View of 440 E. 19th Street
as Seen From Roof of Garage**



**Second Story on 400 Block of Costa Mesa Street
Looking into 440 E. 19th Street Lot**



**Second Story on 400 Block of Costa Mesa Street
as Seen From 440 E. 19th Street**

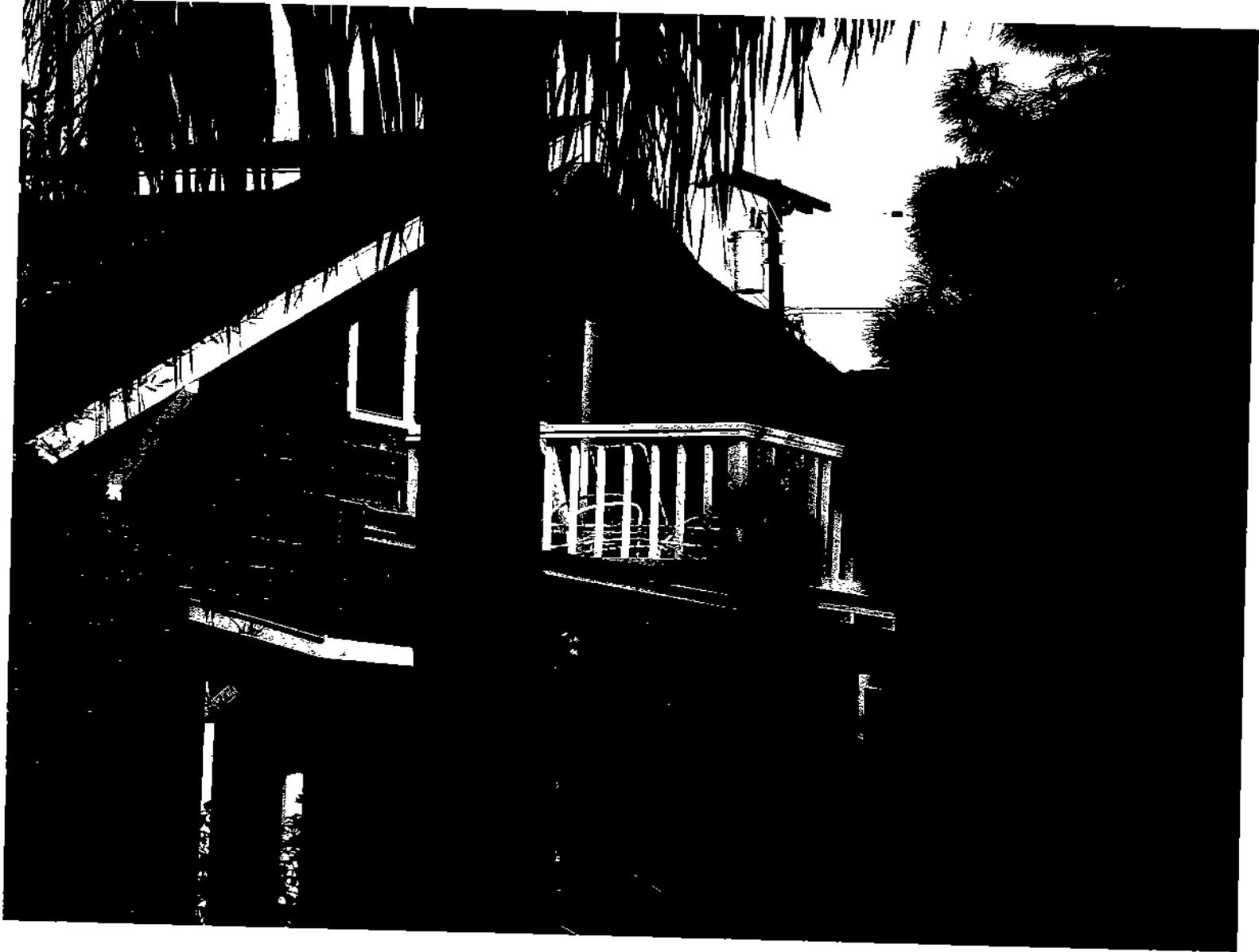


**Second Story on 400 Block of Costa Mesa Street
as Seen From 440 E. 19th Street**

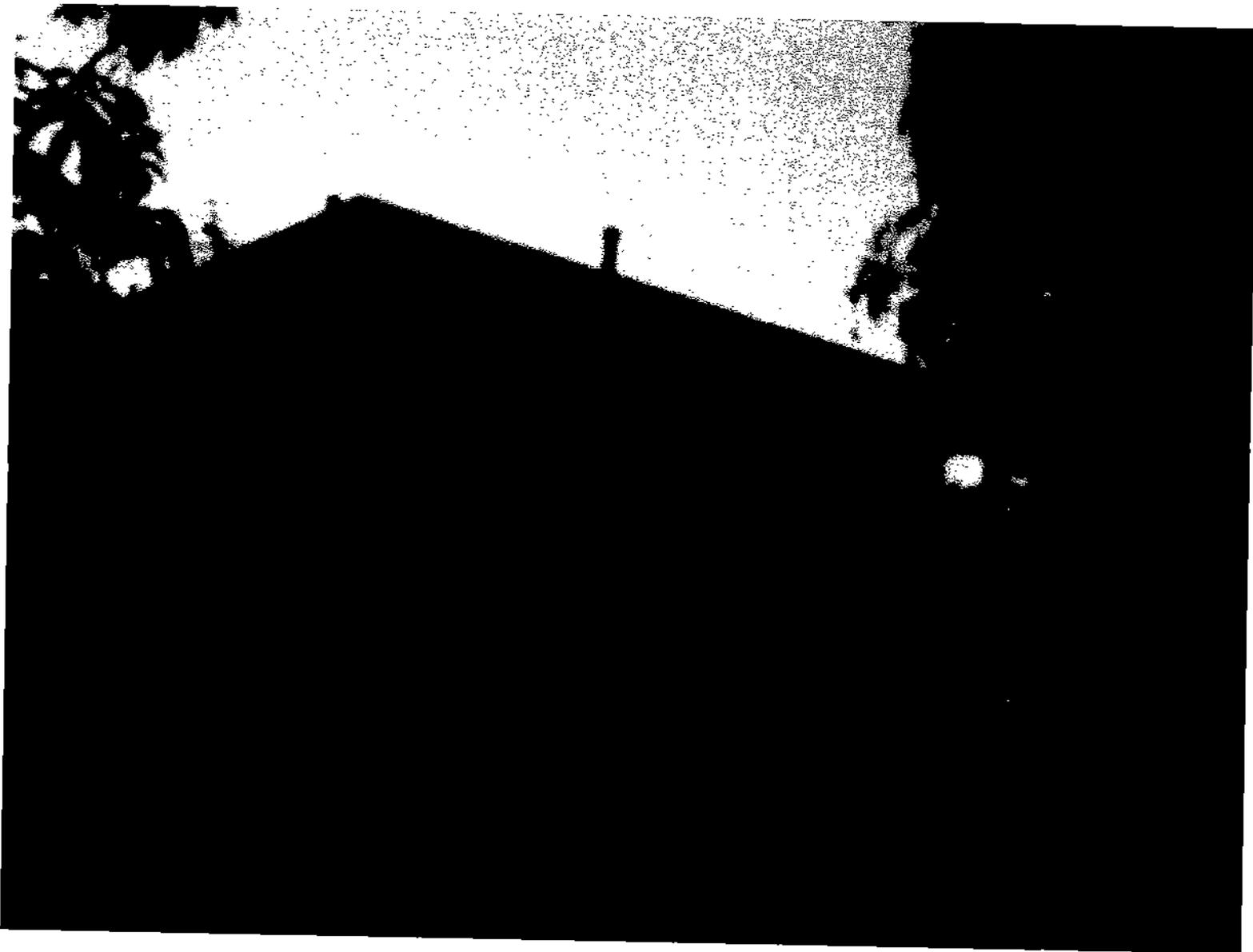


200 Block of Magnolia

39



200 Block of Magnolia



300 Block of Magnolia

41



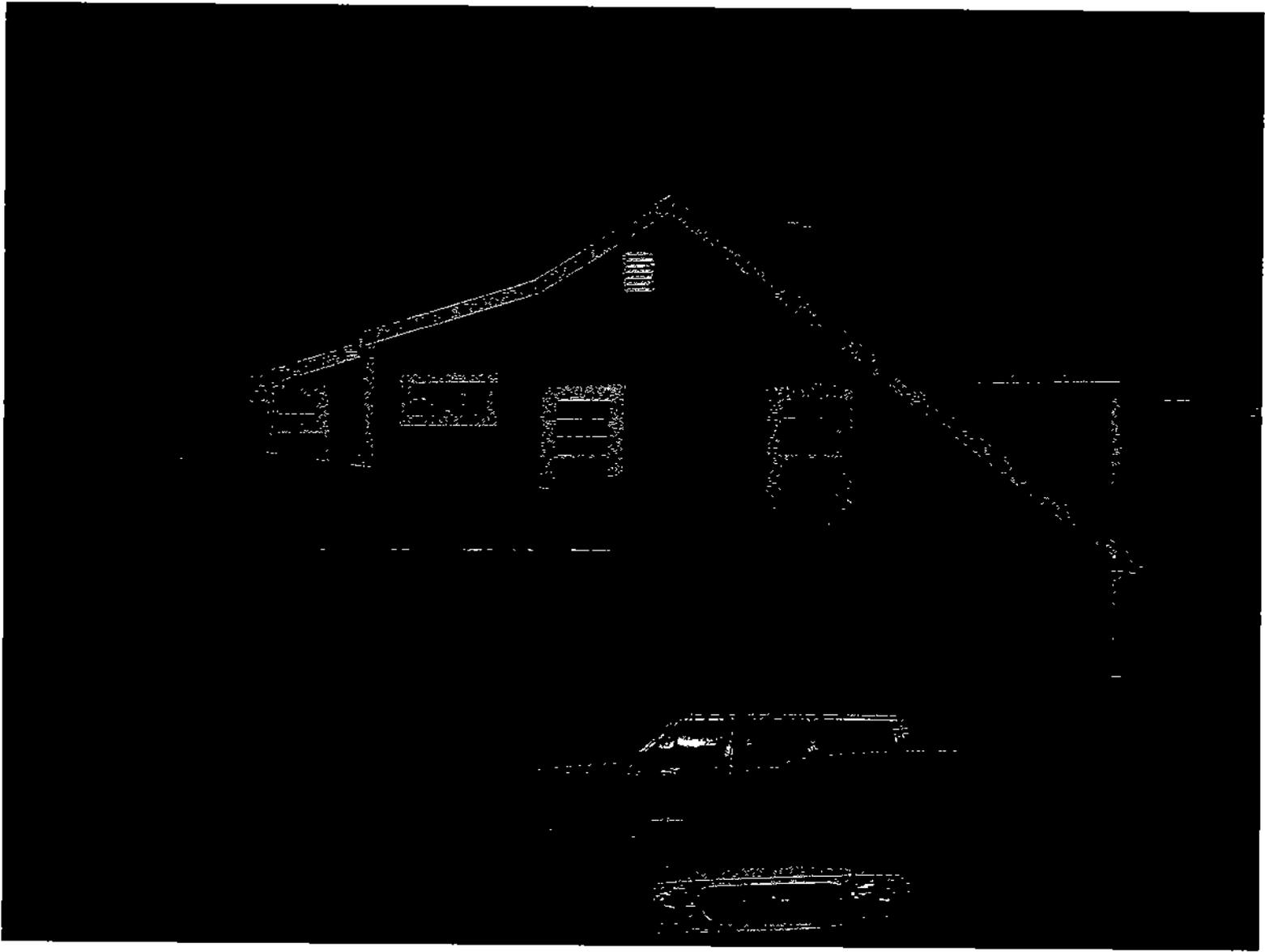
400 Block of Magnolia

42



400 Block of Magnolia

43,



300 Block of Broadway



RESOLUTION NO. PC-04-09

**A RESOLUTION OF THE PLANNING COMMISSION OF THE CITY
OF COSTA MESA APPROVING MINOR CONDITIONAL USE
PERMIT/MINOR DESIGN REVIEW ZA-03-94.**

THE PLANNING COMMISSION OF THE CITY OF COSTA MESA HEREBY RESOLVES AS FOLLOWS:

WHEREAS, an application was filed by property owner Andrew Hartzell, with respect to the real property located at 440 E. 19th Street, requesting approval of a minor conditional use permit/minor design review for the construction of a detached, two-car garage with an office/library and full bathroom upstairs, in the R1 zone; and

WHEREAS, on December 19, 2003, the Zoning Administrator approved Minor Design Review ZA-03-94; and

WHEREAS, an appeal application was filed on December 26, 2003; and

WHEREAS, Planning Commission held a duly noticed public hearing on January 26, 2004.

BE IT RESOLVED that, based on the evidence in the record and the findings contained in exhibit "A", and subject to the conditions contained in exhibit "B", the Planning Commission hereby **APPROVES** Minor Conditional Use Permit/Minor Design Review ZA-03-94 with respect to the property described above.

BE IT FURTHER RESOLVED that the Costa Mesa Planning Commission does hereby find and determine that adoption of this Resolution is expressly predicated upon the activity as described in the Staff Report for Minor Conditional Use Permit/Minor Design Review ZA-03-94 and upon applicant's compliance with each and all of the conditions contained in Exhibit "B". Any approval granted by this resolution shall be subject to review, modification or revocation if there is a material change that occurs in the operation, or if the applicant fails to comply with any of the conditions of approval.

PASSED AND ADOPTED this 26th day of January, 2004.

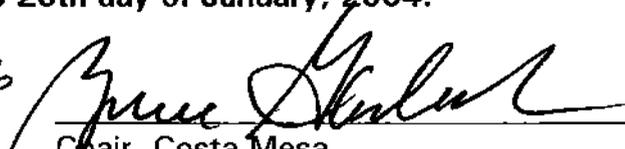
46 
Chair, Costa Mesa
Planning Commission

EXHIBIT "A"**FINDINGS**

1. The information presented substantially complies with Section 13-29(e), 13-29(g)(2), and 13-29(g)(14) of the Costa Mesa Municipal Code in that:
 - a. The proposed development and use, subject to conditions, is compatible and harmonious with uses on-site as well as those on the surrounding properties. With exception of the rear setback encroachment for architectural interest, the project meets or exceeds all residential development standards and the intent of the design guidelines.
 - b. Safety and compatibility of the design of the buildings, parking areas, landscaping, luminaries, and other site features including functional aspects of the site development such as automobile and pedestrian circulation have been considered.
 - c. The project is consistent with the General Plan.
 - d. The planning application is for a project-specific case and does not establish a precedent for future development.
 - e. The proposed development/use, subject to conditions, is substantially compatible with developments in the same general area. Granting the minor conditional use permit will not be detrimental to the health, safety and general welfare of the public or other properties or improvements within the immediate vicinity. Granting the minor conditional use permit will not allow a use, density or intensity which is not in accordance with the general plan designation for the property.
 - f. The information presented substantially complies with Costa Mesa Municipal Code Section 13-29(g)(14) in that the project complies with the City of Costa mesa Zoning Code and meets the purpose and intent of the Residential Design Guidelines, which are intended to promote design excellence in new residential construction, with consideration being given to compatibility with the established residential community. This minor design review includes site planning, preservation of overall open space, landscaping, appearance, mass and scale of structures, location of windows, varied roof forms and roof plane breaks, and any other applicable design features. Although the second floor to first floor ratio exceeds 80% and the second-story right side does not have an average of 10 ft. setback, it incorporates an eyebrow roof to break up the elevation. Also, the second-story portion at 6 ft. side setback is only approximately 22 ft. in length and overlooks the garage on the adjacent property so visual impact is not anticipated. The size and location of the proposed structure is such that it would not appear obtrusive or out of character with the established neighborhood.

2. The project has been reviewed for compliance with the California Environmental Quality Act (CEQA), the CEQA Guidelines, and the City environmental procedures, and has been found to be exempt from CEQA.
3. The project is exempt from Chapter XII, Article 3 Transportation System Management, of Title 13 of the Costa Mesa Municipal Code.

EXHIBIT "B"**CONDITIONS OF APPROVAL**

- Plng. 1. A land use restriction (stating that the proposed addition may not be converted to a separate dwelling unit) executed by and between the applicant and the City of Costa Mesa shall be recorded prior to the issuance of building permits. Applicant shall submit to the Planning Division a copy of the legal description for the property, and either a lot book report or current title report identifying the current legal property owner so that the document may be prepared.
2. Street address shall be displayed on the fascia adjacent to the main entrance or front door in a manner visible from the public street. Numerals shall be a minimum 6" in height with not less than ½" stroke and shall contrast sharply with the background. Street Address shall also be displayed on the north elevation (facing the alley) of the proposed structure.
3. All new and existing construction shall be architecturally compatible with regard to building materials, style, colors, etc. Plans submitted for plan check shall indicate how this will be accomplished.
4. The conditions of approval and ordinance or code provisions of minor design review ZA-03-94 shall be blueprinted on the face of the site plan as part of the plan check submittal package.
5. The applicant shall contact the Planning Division to arrange for a Planning inspection of the site prior to the release of occupancy/utilities. This inspection is to confirm that the conditions of approval and code requirements have been satisfied.
- Eng. 6. Maintain the public right-of-way in a "wet-down" condition to prevent excessive dust and promptly remove any spillage from the public right-of-way by sweeping or sprinkling.
7. The door leading from the second floor to the outside stairwell shall be of frosted glass, or opaque material.

CITY OF COSTA MESA
P.O. BOX 1200
COSTA MESA, CALIFORNIA 92626
APPLICATION FOR APPEAL OR REHEARING

FEE: \$ 305

Applicant Name Morris Berger
Address 436 E 19TH ST.
Phone (949) 650-7623 Representing _____

Decision upon which appeal or rehearing is requested: (Give number of rezone, zone exception, ordinance, etc., if applicable, and the date of the decision, if known.) ZA-03-94 (12-19-03)

Decision by: ZONING ADMINISTRATOR

Reason(s) for requesting appeal or rehearing:
The Berger Family is requesting that the Costa Mesa Planning Commission hear our appeal to amend the conditional use permit granted Mr. Andrew Hartzell at 440 E. 19th St. Costa Mesa, CA on December 19, 2003 for the following reasons:

1. It proposes an unreasonable invasion of our privacy and an unnecessary direct line of sight from into our yard from a second story ~~posed staircase, landing, glass-paned door and a large expanse glass windows~~ producing a crow's nest effect overlooking directly into our yard.
2. It is not clear from our discussion with the Zoning Administrator how the outside staircase is justified to limit conversion of the garage to a rental unit. It is also not clear that from the neighborhood standard that a twenty five foot set back should be applied to everyone's second story view into adjacent backyards, thereby creating an apartment house complex effect.
3. Mr. Hartzell indicated to us that the current partial barrier of cypress trees would be removed due to their condition and additional room construction to his home and would have to be replaced by mature new growth. The permit is deceptive in not acknowledging Mr. Hartzell's avowed intention to replace and maintain tree barrier along the entire rear yard property line.
4. We contacted the Planning Division by mail, email, telephone and visited the Residential Information website, prior to the deadline for the decision. However while we were advised to wait for the appeal process, we were not told that it would cost \$305.00. As we did not have the opportunity to approach the Zoning administrator or any Commissioners interested in our situation, we request that we be reimbursed for this fee.

Date: 12/20/03 Thank you for consideration of this request.
Signature: [Signature]

The Bergers, For Office Use Only — Do Not Write Below This Line
SCHEDULED FOR THE CITY COUNCIL/PLANNING COMMISSION MEETING OF:

RECEIVED
CITY OF COSTA MESA
DEVELOPMENT SERVICES DEPARTMENT

JANUARY 26, 2004

DEC. 26 2003



CITY OF COSTA MESA

P.O. BOX 1200 • 77 FAIR DRIVE • CALIFORNIA 92628-1200

DEVELOPMENT SERVICES DEPARTMENT

December 19, 2003

Andrew K. Hartzell
440 E. 19th St.
Costa Mesa, CA 92627

RE: MINOR CONDITIONAL USE PERMIT/MINOR DESIGN REVIEW ZA-03-94
440 EAST 19TH STREET, COSTA MESA

Dear Mr. Hartzell:

The review of minor conditional use permit and minor design review for the above-referenced project has been completed. The application has been approved, based on the following project description and findings, subject to the conditions set forth below:

PROJECT DESCRIPTION

The subject site is located approximately mid block between Tustin Avenue and Irvine Avenue, on the north side of East 19th Street. The property is developed with a single-story, single-family residence and a detached garage at the rear of the property with alley access. The property owner/applicant proposes to demolish the detached garage and construct a new one in its place with an office/library and full bathroom upstairs.

A minor modification (MM-03-57) is approved for a 1 ft. encroachment into the rear setback (5 ft. required; 4 ft. proposed) for 2nd floor projection to provide architectural interest on the (rear) elevation facing the alley.

ANALYSIS

A minor design review is required for any 2-story construction in the R1 (Single Family Residence) zone to ensure proper design consideration and compatibility with surrounding properties.

With exception of the rear setback, all other development standards are complied with. It is staff's opinion that the proposal also meets the purpose and intent of

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the Residential Design Guidelines. Although the 2nd floor exceeds 80% of the 1st floor (500 sq. ft./514 sq ft. = 97%) and does not provide a 10 ft. average side setback (6 ft. proposed), it incorporates projections, offsets, articulation and variation in roof orientation for an interesting building mass. The proposed 2nd floor is only 500 sq.ft., which would have been well under the 80% 2nd to 1st floor ratio requirement if it were attached to the main residence (2,030 sq.ft.). The 2nd floor elevation at 6 ft. right side setback is only about 22 ft. in length, overlooking the neighbor's garage, and incorporates a horizontal plane break with the 1st floor eave projection.

The proposed size, design, and location of the structure help to preserve open space on the site and open air for the adjoining properties since it is detached from the main residence and located in the back corner of the lot. It would not overshadow the adjoining dwelling units or backyards. Although views into adjoining properties cannot be eliminated entirely, as with any 2-story construction, the proposal takes into consideration window/balcony locations and other site features to minimize privacy impacts. The proposed structure sits 28 ft. away from the left side property line and is separated from the adjacent property by a row of mature trees, which will remain to minimize views into the neighbor's property. The 2nd floor is set back 6 ft. from the right side property line, but the number and size of windows are limited and overlooks the neighbor's garage. That neighbor has also reviewed the plans and submitted a letter to support the construction.

A minor conditional use permit is required for an incidental residential use that includes a toilet, bathtub, shower, or any combination thereof. The proposed office/library above the detached garage contains a bathroom with toilet, sink and bathtub. It is the property owner/applicant's intent to use this space as his office/library. He has agreed, and a condition has been included, to require a land use restriction be recorded against the property to provide notice that the structure may not be converted to a separate dwelling unit.

FINDINGS

1. The information presented substantially complies with Section 13-29(e), 13-29(g)(2), and 13-29(g)(14) of the Costa Mesa Municipal Code in that:
 - a. The proposed development and use, subject to conditions, is compatible and harmonious with uses on-site as well as those on the surrounding properties. With exception of the rear setback encroachment for architectural interest, the project meets or exceeds all residential development standards and the intent of the design guidelines.
 - b. Safety and compatibility of the design of the buildings, parking areas, landscaping, luminaries, and other site features including functional

aspects of the site development such as automobile and pedestrian circulation have been considered.

- c. The project is consistent with the General Plan.
 - d. The planning application is for a project-specific case and does not establish a precedent for future development.
 - e. The proposed development/use, subject to conditions, is substantially compatible with developments in the same general area. Granting the minor conditional use permit will not be detrimental to the health, safety and general welfare of the public or other properties or improvements within the immediate vicinity. Granting the minor conditional use permit will not allow a use, density or intensity which is not in accordance with the general plan designation for the property.
 - f. The information presented substantially complies with Costa Mesa Municipal Code Section 13-29(g)(14) in that the project complies with the City of Costa mesa Zoning Code and meets the purpose and intent of the Residential Design Guidelines, which are intended to promote design excellence in new residential construction, with consideration being given to compatibility with the established residential community. This minor design review includes site planning, preservation of overall open space, landscaping, appearance, mass and scale of structures, location of windows, varied roof forms and roof plane breaks, and any other applicable design features. Although the second floor to first floor ratio exceeds 80% and the second-story right side does not have an average of 10 ft. setback, it incorporates an eyebrow roof to break up the elevation. Also, the second-story portion at 6 ft. side setback is only approximately 22 ft. in length and overlooks the garage on the adjacent property so visual impact is not anticipated. The size and location of the proposed structure is such that it would not appear obtrusive or out of character with the established neighborhood.
2. The project has been reviewed for compliance with the California Environmental Quality Act (CEQA), the CEQA Guidelines, and the City environmental procedures, and has been found to be exempt from CEQA.
 3. The project is exempt from Chapter XII, Article 3 Transportation System Management, of Title 13 of the Costa Mesa Municipal Code.

CONDITIONS OF APPROVAL

- Plng. 1. A land use restriction (stating that the proposed addition may not be

- converted to a separate dwelling unit) executed by and between the applicant and the City of Costa Mesa shall be recorded prior to the issuance of building permits. Applicant shall submit to the Planning Division a copy of the legal description for the property, and either a lot book report or current title report identifying the current legal property owner so that the document may be prepared.
2. Street address shall be displayed on the fascia adjacent to the main entrance or front door in a manner visible from the public street. Numerals shall be a minimum 6" in height with not less than 1/2" stroke and shall contrast sharply with the background.
 3. All new and existing construction shall be architecturally compatible with regard to building materials, style, colors, etc. Plans submitted for plan check shall indicate how this will be accomplished.
 4. The conditions of approval and ordinance or code provisions of minor design review ZA-03-94 shall be blueprinted on the face of the site plan as part of the plan check submittal package.
 5. The applicant shall contact the Planning Division to arrange for a Planning inspection of the site prior to the release of occupancy/utilities. This inspection is to confirm that the conditions of approval and code requirements have been satisfied.
- Eng. 6. Maintain the public right-of-way in a "wet-down" condition to prevent excessive dust and promptly remove any spillage from the public right-of-way by sweeping or sprinkling.

CODE REQUIREMENTS

The following list of federal, state and local laws applicable to the project has been compiled by staff for the applicant's reference. Any reference to "City" pertains to the City of Costa Mesa.

- Plng. 1. Approval of the Zoning Action is valid for one (1) year and will expire at the end of that period unless building permits are obtained or the applicant applies for and is granted an extension of time.
2. All contractors and subcontractors must have valid business licenses to do business in the City of Costa Mesa. Final inspections will not be granted until all such licenses have been obtained.
- Bldg. 3. Comply with the requirements of the California Code of Regulations, Title 24, also known as the California Building Standards Code, as amended by the City of Costa Mesa.
4. Submit grading and drainage plan for this project.
5. Prior to or concurrent with the submittal of plans for grading/building/plan check/submittal of final subdivision map for engineering plan check, the applicant shall prepare and submit documentation for compliance with the State Water Resources Control Board (SWRCB) Water Quality

Order 99-08-DWQ; National Pollutant Discharge Elimination System (NPDES) Permit No. CAS000002 for Storm Water Discharges Associated with Construction Activity (General Permit); the California Regional Water Quality Control Board (RWQCB) Santa Ana Region Order No. R8-2002-0010 and NPDES Permit No. CAS618030; and, the City of Costa Mesa Ordinance No. 97-20 for compliance with NPDES Permit for the City of Costa Mesa. Such documentation shall include a Storm Water Pollution Prevention Plan if over 1 acre (if over 5 acres if submitted prior to March 10, 2003) and a Water Quality Management Plan (WQMP) identifying and detailing the implementation of the applicable Best Management Practices (BMPs).

- Eng. 6. At the time of development submit for approval an off-site plan to the Engineering Division and grading plan to the Building Division that shows sewer, water, existing parkway improvements and the limits of work on the site, both prepared by a civil engineer or architect. Construction access approval must be obtained prior to building or engineering permits being issued by the City of Costa Mesa. Pay offsite plan check fee to the Engineering Division. An approved offsite plan and fee shall be required prior to engineering/utility permits being issued by the City.
7. A construction access permit and deposit of \$350 for street sweeping will be required by the Engineering Division prior to the start of any on- or off-site work.
8. Remove existing wood fence from public right-of-way.

SPECIAL DISTRICT REQUIREMENTS

The requirements of the following special districts are hereby forwarded to the applicant:

- Sani. 1. Applicant shall pay all applicable sanitary district fixture fee charges (714) 754-5307.
- School 2. Pay applicable Newport Mesa Unified School District fees to the Building Division prior to issuance of building permits.

Upon receipt of this letter, your project has been approved, subject to the above-listed conditions. A copy of the conceptually-approved site plan is enclosed. The decision will become final at 5 p.m. on December 26, 2003, unless appealed by an affected party or a member of the Planning Commission or City Council, including filing of the necessary application and payment of the appropriate fee.

If you have any questions regarding this letter, please feel free to contact the project planner, Wendy Shih at 714-754-5136 between the hours of 1 p.m. and 5 p.m., Monday through Friday.

Sincerely,



PERRY VALANTINE
Zoning Administrator

Enclosure: Conceptually-approved plans

cc: Engineering/Development Services
Fire Protection Analyst
Water District
Building Division

Morris Berger
436 E. 19th Street
Costa Mesa, CA 92627

Barbara Beck
443 Flower Street
Costa Mesa, CA 92627

PLANNING APPLICATION SUMMARY

Location: 440 E. 19th St. Application: ZA-03-94

Request: MCUP and MDR for an office with full bathroom above a new detached garage at the rear of the property.

SUBJECT PROPERTY:

SURROUNDING PROPERTY:

Zone:	<u>R1</u>	North:	<u>R1</u>
General Plan:	<u>Low Density Residential</u>	South:	<u>R1</u>
Lot Dimensions:	<u>62 ft. x 125 ft.</u>	East:	<u>R1</u>
Lot Area:	<u>7,750 sq.ft.</u>	West:	<u>R1</u>
Existing Development:	<u>Single story, single family residence with a detached 2-car garage.</u>		

DEVELOPMENT STANDARD COMPARISON

Development Standard Required/Allowed Proposed/Provided

Lot Size:		
Lot Width	50 ft.	62 ft.
Lot Area	6,000 sq.ft.	7,750 sq.ft.
Density:		
Zone	1 du/6,000 sq.ft.	1/7,750 sq.ft.
General Plan	1 du/5,445 sq.ft.	1/7,750 sq.ft.
Building Coverage:		
Buildings	NA	33% (2,544 sq.ft.)
Paving	NA	4% (341 sq.ft.)
Open Space	40% (3,100 sq.ft.)	63% (4,865 sq.ft.)
TOTAL	100%	100%
2 nd to 1 st Floor Ratio (accessory structure):	80% *	97% (500 sq.ft./514 sq.ft.)
Building Height (accessory structure):	2 stories/27 ft. (max.)	2 stories/22 ft.
Setbacks (accessory structure):		
Front (to main residence)	10 ft.	16 ft.
Side (left/right)	5 ft./5 ft.	28 ft./ 5ft.
Rear (alley)	5 ft.	4 ft. **
2 nd Floor Average Side Setback:	10 ft. average *	6 ft. average
Parking:		
Covered	2	2
Open	1	1
TOTAL	3	3
Driveway Width:	10 ft.	28 ft.

NA = Not Applicable or No Requirement

CEQA Status Categorical Exemption: Class 3

Final Action Zoning Administrator

* Residential design guidelines.

** Minor Modification MM-03-57 approved for 1 ft. encroachment.

1) I am proposing an addition to my home consisting of a library/home "office" workspace and bath. In order to preserve open space and expand my house in a way which is harmonious with the character of the neighborhood, I am proposing to add this space as a second story above my garage, which is a detached garage with alley access, approximately 50 years old. The garage currently contains a washer and dryer, as well as an adjacent sink. I am proposing to replace the existing sink in the new garage.

This project will require demolishing the existing garage and rebuilding the garage to accommodate the library/home office above it. The dimensions are as follows:

- Existing Garage: 400 sq. feet
- New Garage: 514 sq. feet
- Library/Office: 477 sq. feet

2.A) My house is a relatively small three bedroom/two bathroom cottage structure typical of the homes built in this area of the Eastside in the mid 1950's. The house (excluding the garage) is roughly 1,500 square feet and sits on a 7,750 sq. foot lot.

Although I need more space in my house, I have strived from the outset to be sensitive to the potential impacts of expansion on my neighbors and on the character of the neighborhood. Rather than expand in a "big-box" style remodel, I have tried to keep the additional remodel space to a minimum, while still achieving my fundamental requirements.

I have been working with architect Tom Burger of Burger and Associates to design this remodel. Working with Burger and Associates and in consultation with my immediate neighbors to either side, I have designed this addition: (i) to respect the privacy interests of my neighbors, (ii) to be harmonious and compatible with the existing character of the neighborhood, and (iii) to deter any subsequent purchaser of my home from converting this addition into some sort of rental space. Because I believe that I have accomplished all three of these objectives, I am requesting approval from the City of my Minor Conditional Use Permit application and Minor Design Review application.

I am an attorney and writer, and as such I have a need for a room at home wherein I can comfortably read, research and write. One of the primary reasons why I moved to Costa Mesa and purchased a house in this neighborhood was to enjoy the relatively larger yards found here. I want to retain this important character of the neighborhood and home while also allowing this house to be functional for my needs.

Discussions with various architects led to the conclusion that the library/office could not be constructed as a second floor to the existing house without incurring substantial costs in demolishing and rebuilding substantial portions of the support walls and related support structure of the house. I do not wish to undertake such a drastic change to the existing house.

I have elected not to physically connect the detached garage to the house via a hallway in order to prevent chopping up and reducing the open space provided by the rear and side yards. I believe that this approach will enable this remodel to best maintain the existing

character of the neighborhood. However, I also have designed the addition to ensure that any subsequent purchaser of my home will not want to convert this space into a rental studio apartment. To this end, I have designed the addition to have substantial window areas and glass doors on the south and west walls, looking down into my backyard and directly into my master bedroom. In addition, I am currently in the process of adding a pair of large french doors and a bedroom patio to the north facing wall of my master bedroom (these plans were recently approved by the City). Accordingly, the main library windows will be positioned to look down into my backyard, into the master bedroom (through the large french doors) and into the master bedroom patio – a design feature which should deter any subsequent homeowner from wanting a third party occupying the second floor library.

Also, I am willing to execute a Declaration of Land Use Restriction on my property to specifically prohibit the use of this room as a rental unit, and to prohibit such use by any subsequent purchaser of the property.

My architect and I have also designed the second floor library so as to concentrate the visual horizon into my backyard – as opposed to that of my neighbors. The bathroom window on the east wall is necessary for proper ventilation, but it looks onto the roof of the neighbors' garage. The other window on the east wall will provide architectural relief and character, but is elevated so as to protect the privacy of the neighbors. Moreover, I have discussed these elements with those neighbors (Jack and Kate Kaylor), and they fully support my proposal. I am including a letter of support from them. The Kaylor's house and yard are the closest to the second floor addition, and as such they are the most affected by the proposed addition.

The neighbors' house and yard to the west are screened off from view (even with a second story addition) by a row of cypress trees in my backyard. It is my desire and intent to maintain such vegetation screening along the side yard, which will protect the privacy of those neighbors. I am enclosing a copy of preliminary landscaping plans from my landscape architect which show the current existence of this screening vegetation. In fact, I intend to extend screening vegetation further back to the rear corner of the yard, provided that the City Council approves the changes to the governing ordinances (as I understand it intends to do this year) which would then not require this fourth parking space in the rear corner of my lot. By placing the second story to the opposite side of the yard and maintaining (and even augmenting) effective vegetation screening along the side yard, my design will also respect the privacy of my neighbors to the west.

Also, I am requesting the City's permission to include a bathroom (including a shower/bathtub) as part of the second floor library. In order to make the library/office a practical work area, a toilet and sink within easy walking distance is essential. Furthermore, the existing two bathrooms in the house are very small and not well-positioned for expansion. Neither can accommodate a soaking tub – a feature that I would like to add to my home. The library/office affords the opportunity to add that feature to my home.

I am also requesting approval of a sink in the garage to facilitate the use of the washer/dryer space designed in the garage. Currently, the garage has a sink next to the washer

and dryer. I have found a sink next to the washer/dryer and garage work area to be invaluable both for soaking clothes and for clean-up after work in the yard and the garage.

As I have carefully and thoughtfully designed the library/study addition: (i) to maximally ensure that it is always used by the resident of the primary dwelling as part of the house, (ii) to deter any future resident from using the addition as anything other than part of the main house, and (iii) to ensure that the privacy of my immediate neighbors is protected and respected, I respectfully request that the Zoning Administrator approve my plan and designs as submitted to the City.

JACK & KATE KAYLOR
446 E. 19th Street
Costa Mesa, CA 92627

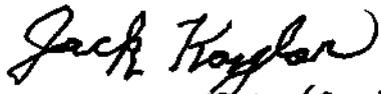
City of Costa Mesa
Development Services Department
77 Fair Drive
Costa Mesa, CA 92628
Attn: Zoning Administrator

Dear Zoning Administrator and Members of the Design Review Committee:

We write to support the application of Mr. Andrew Hartzell for a Minor Conditional Use Permit and Minor Design Review approval for his second floor garage addition for a library/office and bathroom.

We own and reside in the house to the immediate east of Mr. Hartzell, and it is our garage and back yard which is the nearest to the proposed second story addition. We have reviewed the building and architectural plans with Mr. Hartzell and fully support his request for this City approval, without reservation. We have initialed a copy of his plans as further evidence of our support for his request for the minor conditional use permit and design review approval.

Sincerely,


Jack and Kate Kaylor (mittie m.)

SHIH, WENDY

From: barbara [beachbarbara@speakeasy.net]
Sent: Tuesday, December 16, 2003 6:01 PM
To: wshih@ci.costa-mesa.ca.us
Subject: ZA-03-94 Read NOW...Decision date 12/18/03

Dear Wendy Shih, Please make a hard-copy of this email and enter it into the correct file. Thank you. Barbara Beck

To Whom it May Concern: We are opposed to ZA-03-94 as proposed by Andrew K. Hartzell located at 440 E. 19th Street. To some this is an "office," but in the future this detached building with full bath will become one more alley-access rental unit without additional parking in our already dense R-1 neighborhood. There will probably be a "Land Use Restriction" prohibiting a rental unit, but these Land Use Restrictions are impossible to enforce without depending on neighbors to report against neighbors, which is unconstitutional. This structure will also be another two-story building towering over and shadowing the neighbors' private back yard open space. For these reasons please deny ZA-03-94. Please send a notice of the decision to me at 443 Flower Street, Costa Mesa, CA 92627. Thank you. Sincerely, Barbara J. Beck. (949) 548-6393

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December 10, 2003

Ms. Wendy Shih
City of Costa Mesa
Planning Division
77 Fair Drive
P.O. Box 1200
Costa Mesa, CA 92626

Dear Ms Shih:

I spoke on the phone to Willa this afternoon regarding notification we received concerning a zoning application ZA-03-94 for Andrew K Hartzell, our next door neighbor at 440 E. 19th St. We have spoken to Mr. Hartzell and reviewed his plans. The plans we reviewed had several design elements that we are concerned about. They include:

1. Access to the second floor was an open staircase, landing and French door all permitting direct line of site into our yard.
2. At least six feet of French windows wrapping around the northwest corner of the second floor permitting direct line of site into our yard.
3. Glass doors with access to a balcony that will have direct line of site into our yard.

Mr Hartzell also plans to remove an established trees providing partial privacy along the fence to add another room to the rear of his home. We are generally supportive with Mr. Hartzell's desire to improve his property. However, we object to the impact the above elements would have on our home. We have noticed that the majority of second story additions in our neighborhood tend to minimize the number of windows and their size, stairs and other elements that impact adjacent neighbors. We suggested to Mr. Hartzell that the stairs be made internal to his new garage/office and visibility into our yard be minimized.

We would look forward to discussing this further with your office.

Sincerely,

Morris and Agneta Berger
436 E. 19th St.
Costa Mesa, CA 92627

RECEIVED
CITY OF COSTA MESA
DEVELOPMENT SERVICES DEPARTMENT

DEC 15 2003

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SHIH, WENDY

From: BOUWENS-KILLEEN, WILLA
Sent: Wednesday, December 10, 2003 10:11 AM
To: SHIH, WENDY
Subject: ZA-03-94

Got a call from the neighbor, Morris Berger, @436 East 19th Street regarding the subject property. He adjoins the side of the property away from the new structure. Although on other side of the property from their property, he has concerns with the stairway, landing, balcony, and windows that could allow people to overlook their property. Second story construction in the neighborhood has the windows placed away from the adjoining neighbors and he feels that their privacy will be impacted. He would like the applicant to consider making changes to allow greater privacy. He would like to be notified of the decision. He will also call and set up an appointment to discuss this with you in person. Willa

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[Click here and type return address and phone and fax numbers]

Company Name Here

Fax

To: Wendy Shih	From: Morris Berger
Fax: 714.754.4856	Pages: 6
Phone: 949.650.7623	Date: 1/23/2004
Re: ZA-03-94	CC: [Click here and type name]

Urgent **For Review** **Please Comment** **Please Reply** **Please Recycle**

• **Comments:** Dear Ms. Shih:

Please distribute to Planning Commission members prior to meeting on January 26, 2004. I will bring better copies of photos to meeting.

Thank you,

Morris Berger

bb

January 21, 2004

Ms. Wendy Shih
C/o Planning Commission
City of Costa Mesa
77 Fair Drive
P.O. Box 1200
Costa Mesa, CA 92626

Dear Ms. Shih:

Please distribute this letter and pictures to the Planning Commission prior to the meeting on Monday, January 26, 2004.

Thank you for sending the information regarding our appeal. I have not had much experience with local government and was not prepared for the Study Session I attended on Tuesday night. I have enclosed scanned enlargements from pictures I took of: 1. Present Hartzell garage view into our backyard and 2. Present partially screened view of our pool area from Hartzell property in background

I would like to thank many of the Planning Commission for insightful comments regarding possible ways to protect our privacy. As you can see in figure 1, the present Hartzell garage without landing and five feet farther away from proposed new two story structure REALLY Imposes upon our yard. Much of our yard including part of the pool area would be exposed with the existing cypress screen.

I request that the Planning Commission consider requiring Mr. Hartzell to reduce some of the direct line of sight exposure into our yard as well as providing assurance that a privacy screen will be maintained and elongated. As Mr. Hartzell is tearing down and starting over there were options that involve designing the structure with an internal staircase or putting the stairs on another outside wall. Mr. Hartzell already occupies one residence with a community standard for windows and visibility. It is unfair to us to allow a neighbor to build essentially a second separate structure with all the amenities of a second residence and not mitigate the effect on neighbors. It is not clear to me that Mr. Hartzell or the new owner for that matter will be prevented from establishing a completely separate residence in the future. A new State Law allows this for family members.

I understand the balance between encouraging home improvements and protecting the quality of a neighborhood can involve complex issues. I am a native Californian, who grew up a few miles away in a 1950's style tract house that went through its share of room additions to accommodate our family of four. I am concerned that building standards that just emphasize "architectural interest" and destroy the sense of privacy of backyards are not in anyone's best interests. They impact adjacent property values and

encourage manisonization. For example I have enclosed a snapshot of 453 Costa Mesa (across our alley). This large two story addition dominates it neighbors backyard despite its interesting roof lines.

Thank you for your consideration of our concerns.

Morris Berger
436 E. 19th St.
Costa Mesa, CA 92627



CITY OF COSTA MESA

P.O. BOX 1200 • 77 FAIR DRIVE • CALIFORNIA 92628-1200

DEVELOPMENT SERVICES DEPARTMENT

PHOTOS ARE NOT REPRODUCIBLE