



# **PLANNING COMMISSION**

## **AGENDA REPORT**

MEETING DATE: JUNE 12, 2006

*V.I. 1a.*  
ITEM NUMBER:

**SUBJECT: APPLICANT'S APPEAL OF ZONING ADMINISTRATOR'S DECISION**  
**1913 SANTA ANA AVENUE**

**DATE: JUNE 1, 2006**

**FOR FURTHER INFORMATION CONTACT: WILLA BOUWENS-KILLEEN, AICP**  
**PRINCIPAL PLANNER**  
**(714)754-5153**

---

### **RECOMMENDATION**

Conduct a public hearing and either uphold, reverse, or modify the Zoning Administrator's decision by adoption of Planning Commission resolution.

### **BACKGROUND**

In April 2006, the applicant submitted building plans to expand and remodel an existing, non-conforming single-family residence at the subject address (B06-00598). The single-family home is non-conforming because the left side (south) wall is approximately 3 feet from the left side property line. Additionally, the applicant proposed incorporating the existing detached garage, with its approximately 1-foot right side setback from the north property line, into the expanded residence; current Code requires 5-foot setbacks for both sides of the property. The building plans depict retaining a majority of the existing house, which would be remodeled.

On March 21, 2006, the applicant obtained a permit to demolish the interior drywall of the residence (B06-00409). As the applicant proceeded with the work, he found additional damage and began demolition in excess of that allowed by the permit. The Building inspector informed the applicant he needed an additional demolition permit; consequently, the applicant obtained an amended demolition permit (B06-00599) on April 20, 2006, allowing him to further demolish the residence, including the roof and exterior walls except for the nonconforming walls. However, it was Planning staff's understanding the demolition would still be limited to the extent shown on the submitted building plans. (A copy of the plan showing demolished versus retained walls is attached.)

On May 26, 2006, City staff visited the site and found the majority of the house had been demolished. All that remains is the slab, any underlying footings, the framing of the left side wall, and the original stuccoed right side wall of the garage. Since Planning's approval of the second demolition permit was based on the applicant's submitted building plans, the Zoning Administrator found that what was demolished far exceeded what was shown on the submitted building plans, voiding the nonconformity of the building. A letter was sent to the applicant on May 30, 2006, informing the

applicant of the Zoning Administrator's finding. Because the applicant felt he had done everything required by the City, he filed an appeal of the Zoning Administrator's decision on June 1, 2006.

### ANALYSIS

The intent of both the General Plan (objective LU-2A.4) and the Zoning Code is to ensure that non-conforming uses and developments are, over time, replaced by conforming developments. Therefore, the Code allows some alterations to nonconforming structures, but does not allow almost complete demolition. The applicant verbally stated that there was extensive termite damage that required removal of the walls; however, he is unable to supply staff with a termite report to confirm this.

Denial of the applicant's request will not keep the applicant from building another single-family residence on the property, it will only require he rebuild in compliance with current Code standards (5-foot side setbacks provided on both sides of the residence). Additionally, because the amount of demolition far exceeds that shown on the submitted building plans, the Building Division will require new drawings, regardless of Planning Commission's decision.

### ADDITIONAL DISCUSSION

Due to the confusion that has resulted from demolition of nonconforming residences (212 Ogle Street and this project), Planning staff will further review our procedures and nonconforming use provisions of Title 13 and will formulate a method to more clearly direct future applicants in similar situations.

### ALTERNATIVES

Planning Commission has the following alternatives:

1. Uphold Zoning Administrator's decision denying the applicant's request. This would require the applicant to redesign the site to comply with current Code requirements.
2. Reverse the Zoning Administrator's decision. This would allow the applicant to rebuild the nonconforming residence to its original configuration, without reduced side setbacks.
3. Modify the Zoning Administrator's decision to achieve a compromise between the two parties.

### CONCLUSION

The plans submitted by the applicant, depicted retention of the majority of the residence. Planning staff based their approval of the modified demolition permit on these plans. Allowing the applicant to rebuild the residence at the nonconforming configuration is, in Staff's opinion, inconsistent with both the General Plan and the Zoning Code, which strive for the replacement of old nonconforming projects with conforming development.

*W Bouwens-Killeen*

WILLA BOUWENS-KILLEEN, AICP  
Principal Planner

*R. Michael Robinson*

R. MICHAEL ROBINSON, AICP  
Assj. Development Services Director

Attachments:      Planning Commission Resolution  
                         Applicant's Application for Appeal  
                         Zoning Administrator's Decision Letter  
                         Location Map  
                         Zoning Map  
                         Plans

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

Shiva Ashari  
3419 Via Lido  
Newport Beach, CA 92663

Mr. and Mrs. Amburgey  
1919 Santa Ana Avenue  
Costa Mesa, CA 92627

File: 061206Appeal1913SantaAna	Date: 060106	Time: 11:00 a.m.
--------------------------------	--------------	------------------

**RESOLUTION NO. PC-06-**

**A RESOLUTION OF THE PLANNING COMMISSION OF  
THE CITY OF COSTA MESA UPHOLDING THE ZONING  
ADMINISTRATOR'S DENIAL TO REBUILD A  
NONCONFORMING RESIDENCE**

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

WHEREAS, a request to rebuild a nonconforming residence at 1913 Santa  
Ana Avenue was denied by the Zoning Administrator on May 30, 2006; and

WHEREAS, the property owner appealed the Zoning Administrator's decision  
on June 1, 2006; and

WHEREAS, the Planning Commission considered this matter at their meeting  
of June 12, 2006.

BE IT RESOLVED that, based on the evidence in the record and the findings  
contained in Exhibit "A", the Planning Commission **UPHOLDS** the Zoning  
Administrator's denial of the applicant's request to rebuild the residence at its  
nonconforming configuration.

**PASSED AND ADOPTED this 12<sup>th</sup> day of June, 2006.**

---

Bill Perkins, Chair,  
Costa Mesa Planning Commission



## EXHIBIT "A"

### **FINDING**

- A. Denial of the rebuilding of the residence to its previous, nonconforming configuration is consistent with the goals and objectives of the General Plan and the intent and requirements of the Zoning Code.

JUN 01 2006

APPLICATION FOR REVIEW, APPEAL OR REHEARING

Applicant Name SHEVA ACHARI

Address 1913 SANTA ANA AV C.M. CA 92627

Phone 714-420-6986 Representing \*

REQUEST FOR:  REVIEW\*\*  APPEAL  REHEARING

Decision of which review, appeal or rehearing is requested: (give number of rezone, zone exception, ordinance, etc., if applicable, and the date of the decision, if known.)

Decision by: \_\_\_\_\_ Reasons for requesting review, appeal or rehearing: \_\_\_\_\_

THE SAID WORK WAS PERFORMED BASED ON A PERMIT

NO BOB-00599. NOTHING ILLEGAL WAS PERFORMED

WHICH WAS NOT COVERED UNDER THE PERMITS PULLED.

ADDITIONAL PERMITS NO: BOB-00409

BOB-00598

A COPY OF BOB-00599 IS ATTACHED

Date: 6/1/06 Signature: [Signature]

For office use only - do not write below this line

SCHEDULED FOR THE CITY COUNCIL/PLANNING COMMISSION MEETING OF:  
If review, appeal or rehearing is for person or body other than City Council/Planning Commission, date of hearing of review, appeal or rehearing:

12 June 06

\* If you are serving as the agent for another person, please identify the person you represent and provide proof of agency.

\*\* Review may be requested only by City Council or City Council Member  
Costa Mesa/Forms1/Application for Review-Appeal-Rehearing



CITY OF COSTA MESA  
**BUILDING DIVISION**  
 DEVELOPMENT SERVICES DEPARTMENT  
 PERMIT

**PERMIT NUMBER**  
**B06-00599**

(714) 754-5273 • Fax (714) 754-4856 • www.ci.costa-mesa.ca.gov **BUILDING PERMIT**

77 FAIR DRIVE, COSTA MESA, CA 92626

Job Address: **1913 SANTA ANA AV** Status: ISSUED  
 Suite: Applied: 04/20/2006  
 Vicinity: Issued: 04/20/2006  
 Primary Occ: R-3 Dwellings/ Cong Res <10 Type of Construction: V-N  
 Parcel Number: 42628111 Zoning:

Applicant: **ASHARI, ALLEN** Phone: 714-420-6986 ISSUED BY: \_\_\_\_\_  
 Address: 1913 SANTA ANA AVE Zip: 92627  
 COSTA MESA, CA

Owner: **ASHARI, SHIVA** Phone: 714-420-6986  
 Address: 1913 SANTA ANA AVE Zip: 92627  
 COSTA MESA, CA

Contractor: **OWNER-BUILDER** Phone:  
 Address: License: 000000  
 Zip:

Arch : Eng:  
 Address: Address:  
 Phone: Phone:  
 Zip: License: License:

**SCOPE OF PERMIT**

TEAR OFF EXISTING ROOF REMOVE EXTERIOR WALLS EXCEPT THE NON CONFORMING WALL AS DESCRIBED BY PLANNING. REMOVE STUCCO, AND TRENCH S.F.D.'S PERIMETER TO EXPLORE SEWER AND WATER LINE LOCATION.

PLANNING:  
 THE NORTHERNLY WALL OF THE EXISTING, DETACHED GARAGE IS AT A NONCONFORMING SETBACK FROM THE NORTHERNLY/RIGHT SIDE PROPERTY LINE (5 FEET REQUIRED; APPROXIMATELY 1'10" EXISTING). THIS WALL MUST BE MAINTAINED IN EXISTING CONDITION. ANY CHANGES TO THIS WALL, INCLUDING TERMITE, DRY ROT, OR OTHER TYPE OF DAMAGE, WILL REQUIRE COMPLIANCE WITH CURRENT CODE STANDARDS, I.E., RECONSTRUCTION OF THE WALL AT A 5-FOOT SETBACK FROM SIDE PROPERTY LINE.

**FEE SUMMARY**

Plan Check:	\$0.00	Calc Valuation:	\$1,500.00
Permit:	\$54.00	Claim Valuation:	\$1,500.00
SMIP Res:	\$0.50		
SMIP Com:	\$0.00		
Other:	\$0.00		
Inspection:	\$0.00		
<b>Total:</b>	<b>\$54.50</b>		

**PLANNING & ZONING**

**SETBACKS**

<b>MAIN STRUCTURE</b>	Front	0-0	Rear	0-0	Left	0-0	Right	0-0
<b>ACCESSORY</b>	Front	0-0	Rear	0-0	Left	0-0	Right	0-0
<b>PARKING</b>	Existing:	0	Required:	0	Processed:	0		

8

**NOTICE:** The work authorized by this permit shall comply with all applicable handicap access requirements under California statutes and related regulations. (Ord. No. 92-26, § 1, 12-21-82)

**EXPIRATION:** This permit shall automatically expire and become void if work is not commenced within 180 days, or if work is suspended or abandoned for a period of 180 days.

**INSPECTIONS:** In order for the work authorized under this permit to be considered legal, such work must comply with all applicable codes, and all required inspections and final approval must be obtained. Failure to obtain inspections and final approval will result in the expiration of this permit.

**FOR INSPECTIONS CALL: (714) 754-5826**



# CITY OF COSTA MESA

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

DEVELOPMENT SERVICES DEPARTMENT

May 30, 2006

**CERTIFIED MAIL**

Mr. Allen Ashari  
3419 Via Lido  
Newport Beach, CA 92663

**RE: BUILDING PERMIT B06-00598**  
**1913 SANTA ANA AVENUE, COSTA MESA**

Dear Mr. Ashari:

In April 2006, you submitted building plans to remodel an existing, non-conforming single-family residence at the subject address. The single-family home is non-conforming because the left side (south) wall is approximately 3 feet from the left side property line and because you wanted to incorporate the existing detached garage, with its approximately 1-foot right side setback from the north property line, into the expanded residence; Current Code requires 5-foot setbacks for both sides of your property. The building plans depicted retaining a majority of the existing house, which would then be remodeled.

Several City staff visited the site last week and found that the majority of the house has been demolished. All that remains is the slab, any underlying footings, the framing of the left side wall, and the original stuccoed right side wall of the garage. Planning's approval of demolition permit B06-00599 was based on the building plans you submitted under B06-00598, which showed the retention of the majority of the exterior house walls. The attached photographs depict what City staff found at your property. What you have demolished is far in excess of what the building plans you submitted depicted as being removed.

The intent of the Zoning Code is to ensure that non-conforming uses and developments are, over time, replaced by conforming developments. Therefore, the Code allows some alterations to nonconforming structures, but does not allow for almost total demolition of a project. Therefore, it is my determination as Zoning Administrator that the amount of building that has been demolished voids the nonconformity provision of the property and any new construction on the property must comply with all applicable codes, including the required 5-foot side setbacks. Since the building plans you submitted do not reflect the amount of demolition that has occurred on the property, and since you must now comply with current Code requirements, your old plan check

9

Mr. Ashari  
May 30, 2006  
Page 2

(B06-00598) will be voided and new building plans will need to be submitted as a brand new plan check.

This decision will become final at 5 p.m., seven (7) days from the date of this letter. If you wish to appeal this decision, your next step would be to file the necessary form (available at City Hall) and pay the applicable fees (\$700.00) by 5 p.m. on June 6, 2006, for consideration by Planning Commission.

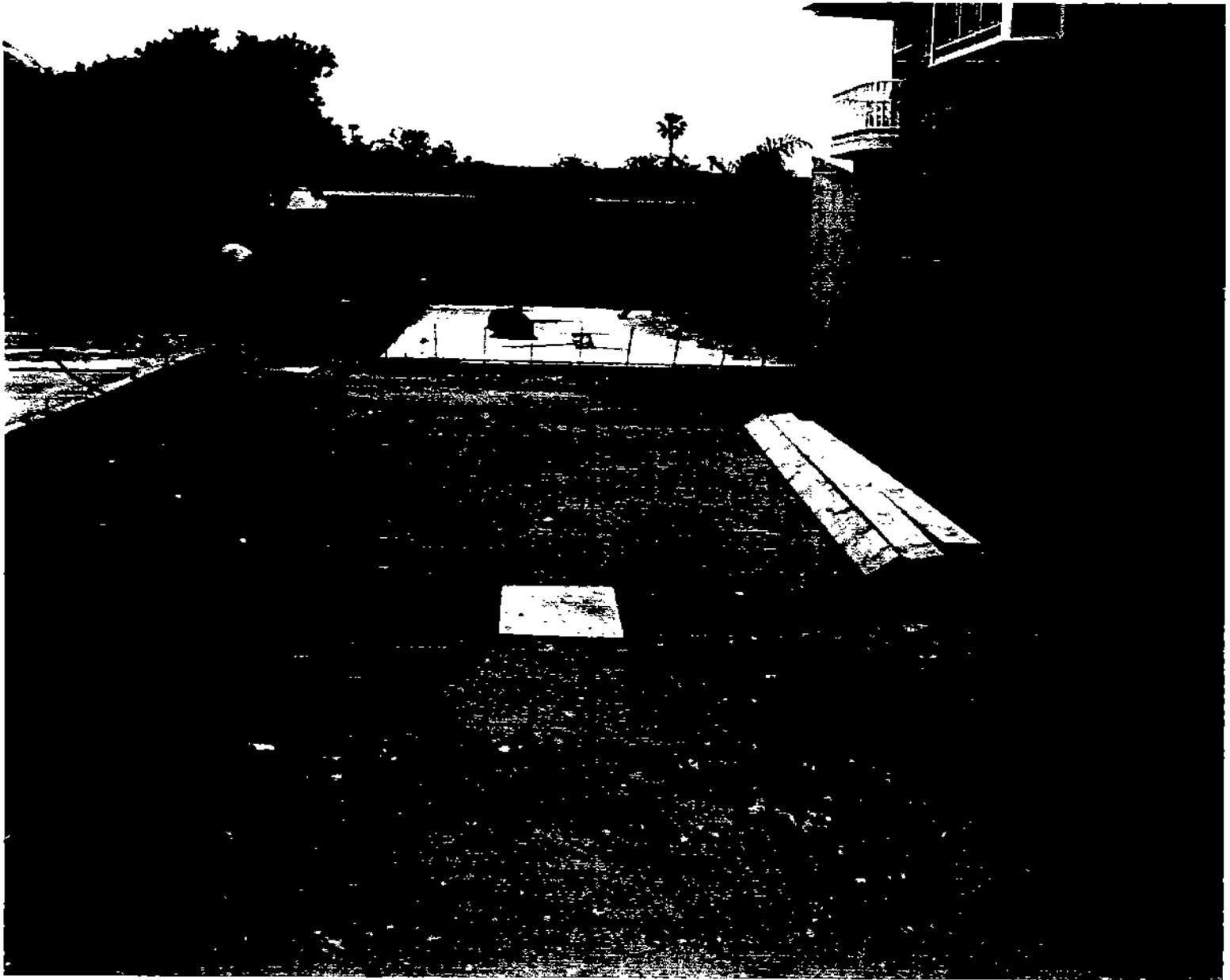
If you have any questions or concerns, please call me or Willa Bouwens-Killeen at (714) 754-5245.

Sincerely,

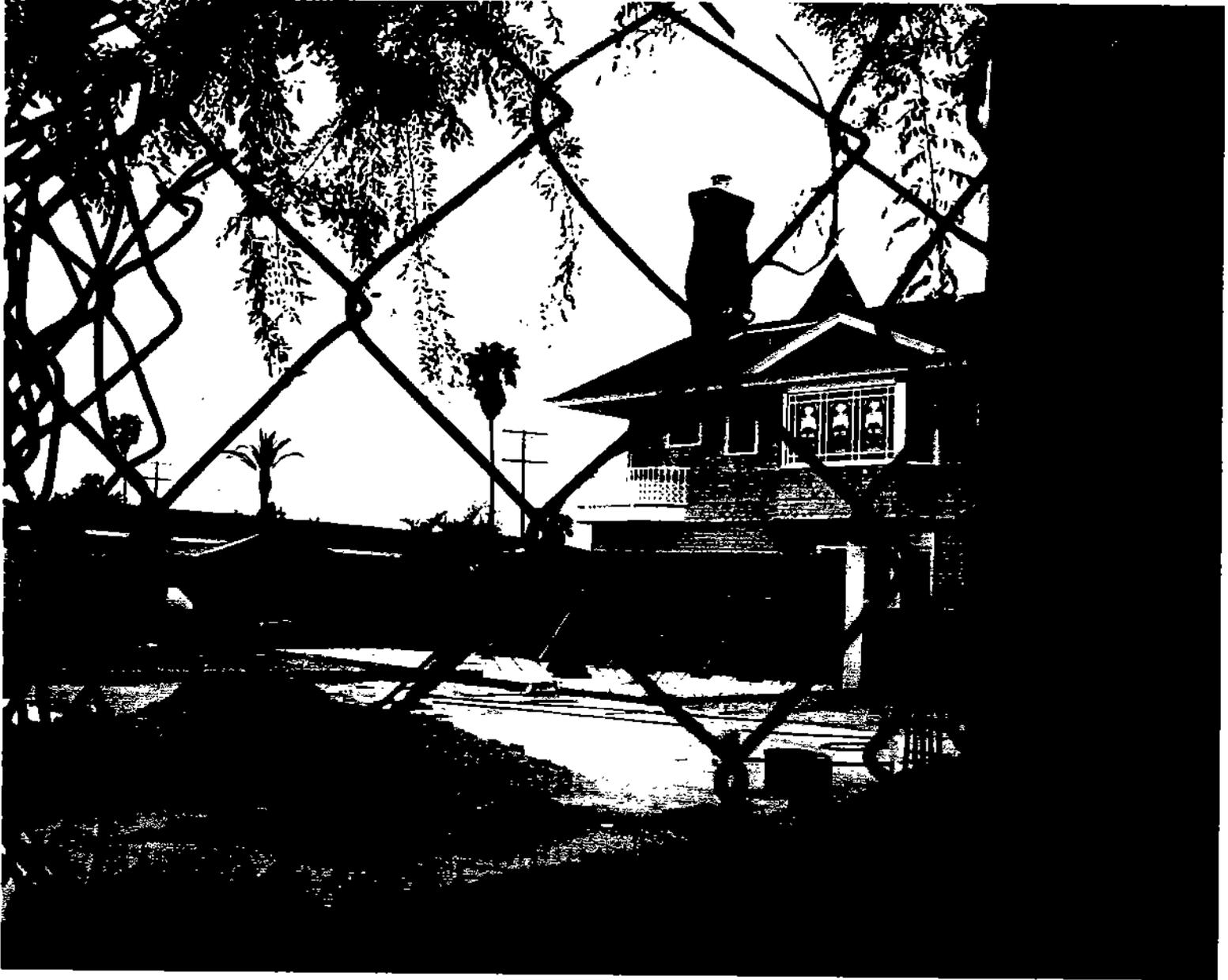
A handwritten signature in black ink, appearing to read "R. Michael Robinson", with a long horizontal line extending to the right.

R. MICHAEL ROBINSON  
Zoning Administrator

cc: Martha Ford, Plan Check Engineer  
Rebecca Robbins, Assistant Planner



1913 Santa Ana ave  
5-26-06



1913 Santa Ana ave  
5-26-06



1913 Santa Ana ave  
5-26-06



1913 Santa Ana ave  
5-26-06



1913 Santa Ana ave  
5-26-06



1913 Santa Ana ave  
5-26-06



1913 Santa Ana ave  
5-26-06

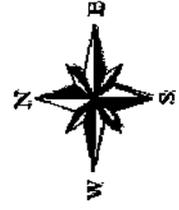
# 1913 Santa Ana Avenue

## Location Map



### Legend

- Identified Features
- Selected Features
- Parcel Addresses
- Street Names
- Ortho Photography
- Parcels



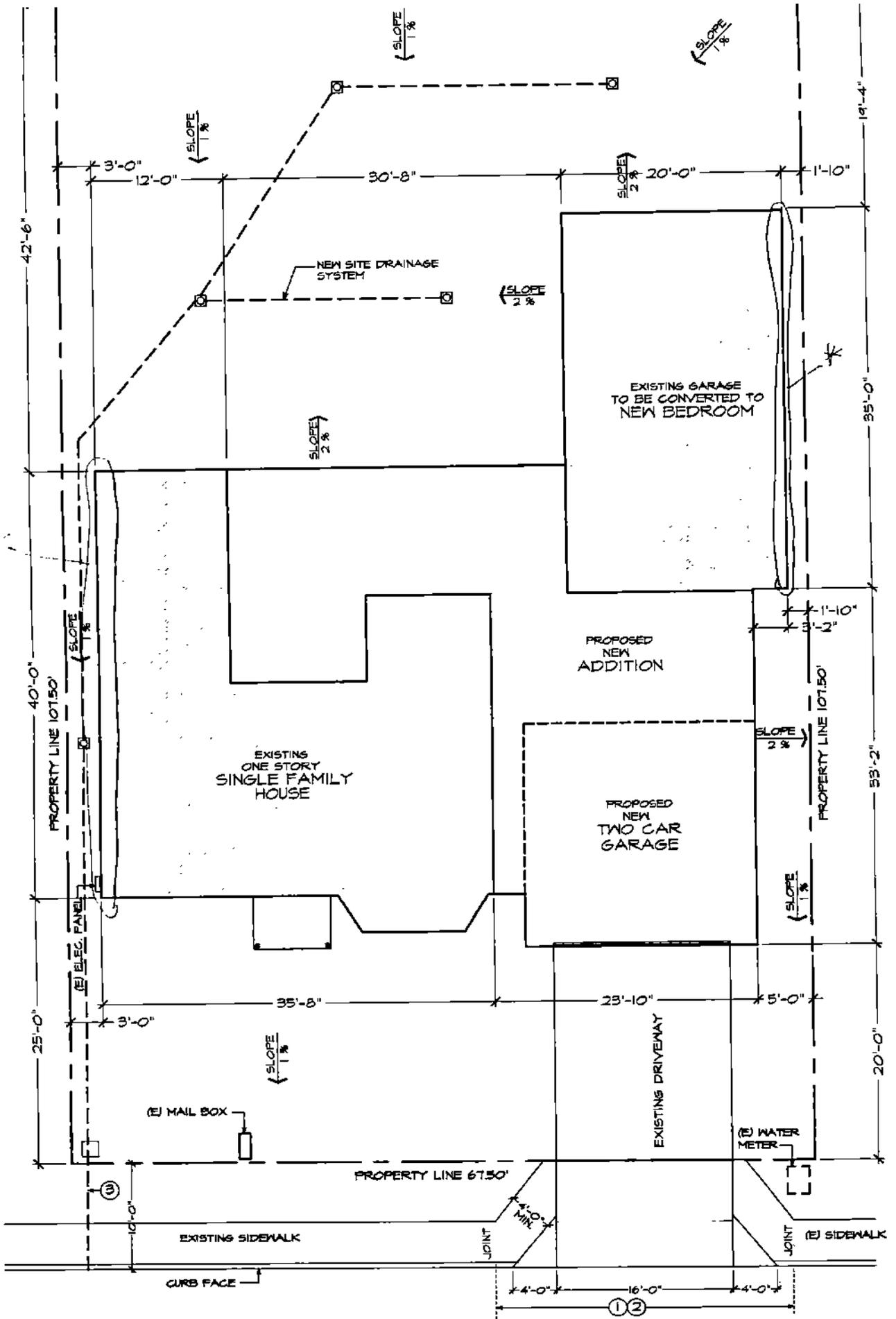
Powered by GeoSmart.net

Powered By GeoSmart.net

Printed: 6/1/2006 11:40:50 AM



913 SANTA ANNA AVE.

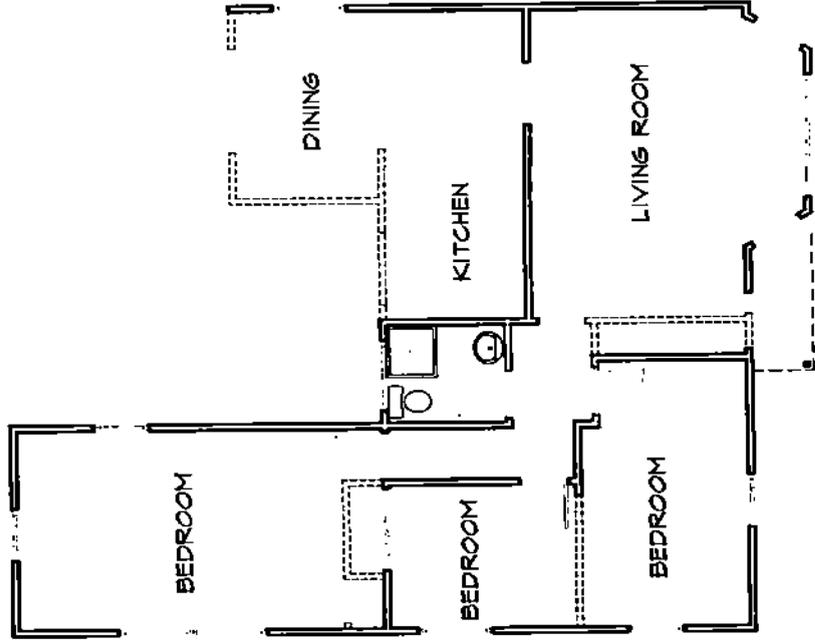
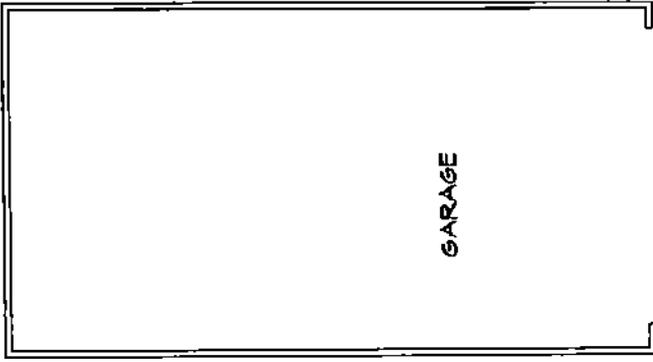


SANTA ANNA AVE.



**SITE PLAN** SCALE: 1/8"=1'-0"

\* ONLY (E) WALLS REMAINING  
20



 EXISTING WALLS TO REMAIN  
 EXISTING WALLS TO BE REMOVED

**DEMO PLAN**  
 SCALE: 1/8" = 1'-0"  
*913 SANTA ANA AVE.*