

Agenda Report

TO: CITY COUNCIL

DATE: SEPTEMBER 20, 2004

FROM: CITY MANAGER

SUBJECT: CALL FOR REVIEW OF MODIFICATION TO CONDITIONAL USE PERMIT #4012, 485 SOUTH GRAND AVENUE.

RECOMMENDATION

It is recommended that the City Council:

1. Acknowledge that this action is categorically exempt from CEQA; and
2. Uphold the decision of the Board of Zoning Appeals to deny the modification to Conditional Use Permit #4012 application to allow the previously approved 7'-2" setback to be reduced to 5'-4 1/2", and where the proposed gross floor area in the Hillside Overlay district would exceed 4,000 square feet.

EXECUTIVE SUMMARY

The applicant proposes to modify Conditional Use Permit #4012 to allow further encroachment into the required side yard of the property. That application included a Conditional Use Permit because the total second floor addition exceeded 500 square feet and a Variance to allow a portion of the second floor addition, located over an existing porte-cochere, to maintain the existing 7'-2" setback from the north side property line where 9'-1" is required. The original request had been for 5' but was modified and approved with a 7'-2" setback.

During construction it was discovered by the City that the addition had in fact been built 5'-4 1/2" from the property line. At the Board of Zoning Appeals hearing the property owner stated that during construction she decided that the addition should extend north an additional two feet, and that she forgot about the Variance. The property owner has chosen to seek modification of the original Conditional Use Permit rather than modify the construction to meet the originally approved setback variance.

Staff has reviewed the request but is unable to make the necessary findings for the modification. The property does not exhibit any physical characteristics unique to the neighborhood that make compliance with the Zoning Code unreasonable or a hardship.

The property has minimal slope and is roughly rectangular in shape. Staff is recommending denial of the application.

The current application was denied by the Zoning Hearing Officer on April 21, 2004. After being called for review by the City Council on May 14, 2004, the Board of Zoning Appeals voted 3-2 to sustain the Zoning Hearing Officer's decision to deny the application. Those who voted in favor of upholding the Zoning Hearing Officer's decision determined that the findings for approving the Conditional Use Permit and Variance can not be made because the property does not exhibit any physical characteristics that make compliance with the Zoning Code an unreasonable hardship. They expressed concerns that approval of the modification would set a precedent that would allow other projects to be modified when they did not meet their original approval. Those opposed determined that because this case was a modification to an earlier approved CUP, the earlier findings should apply. However, the original findings centered on matching the setback of the existing porte-cochere and staff has determined those findings are not relevant to the current application. Three speakers in favor were the property owner, the architect, and a neighboring resident. One letter of opposition was received from the property owners of 465 South Grand Avenue, just north of the 'flag-lot' driveway that is adjacent to the property in question.

BACKGROUND

The applicant, Christopher V. Ward, A.I.A., on behalf of the property owners, Jack and Smooch Reynolds, filed an application to modify Conditional Use Permit #4012. The original application approved in March 2002, included a Conditional Use Permit and Variance that allowed the construction of a 789 square foot second floor addition, and a 469 square foot first floor addition to the existing two-story residence. The original Variance was required because a portion of the second floor addition over the porte-cochere would maintain the existing 7'-2" setback from the north side property line where 9'-1" is required. A Conditional Use Permit was required because the second-floor addition exceeded 500 square feet and total gross floor area exceeded 4,000 square feet in the Hillside Overlay district. Staff supported the original Variance and Conditional Use Permit.

The applicant submitted an application to modify the original Variance request to allow an additional 38 square foot second-floor addition over the existing porte-cochere such that the previously approved 7'-2" setback would be reduced to 5'-4 ½". This modification request has come about as a result of the addition not being constructed in conformance with the original approval and approved plans. Because the house would continue to exceed 4,000 square feet a Conditional Use Permit was also required. The proposed gross floor area would be increased to 6,362 square feet.

In the time since the original application was approved a Variance (CUP#4188, approved July 2003) was granted to the applicant for a detached garage along the opposite side yard in front of the house. The applicant notes that this approval allowed the construction of the detached garage such that the side setback from the garage to the south property line would be five feet, similar to the current proposal. However, staff has determined that the previous approval is not the same as this request. Staff notes

that both the north and south property lines are adjacent to the driveways for flag-lots. However, the approved garage is a single-story detached accessory structure, and as allowed by the Zoning Code cannot include living space or exceed one story in height. Detached garages by right can be built to the property line if they are more than 100 feet from the street property line. The garage variance was supported because a portion of it met that requirement.

In relating the required findings for a Variance, staff must establish that there are unique, exceptional, or extraordinary circumstances that are applicable to the project site that do not apply generally to other sites in the same zoning district that would warrant the proposed Code deviation. Also, approval of a Variance must show that granting the application is necessary for the preservation and enjoyment of a substantial property right.

In this instance, allowing second floor living space to encroach further into the side yard setback is not consistent with the original approval and staff has not been able to make the findings for this modification.

Staff determined that the Variance, and therefore the Conditional Use Permit, could not be approved for the following reasons:

- No unique or extraordinary circumstance is evidenced as to why the new construction cannot comply with the previously approved Conditional Use Permit #4012).
- The original approval granted the applicant a variance based on the existing setback of the porte-cochere.
- The circumstances that have led to this request are a self-imposed hardship (construction not in compliance with the approved building plans) and have no bearing on this application.
- The approval of a side-yard Variance for a detached garage does not have any bearing on the current proposal as it includes two stories and habitable space. The Variance was granted because the garage is an accessory structure, which does not have required setbacks under some circumstances and is limited to one story. The adjacent property is heavily landscaped at the property line and therefore there is minimal impact on the adjacent property.
- The Zoning Code does not allow buildings to increase an existing non-conforming standard, in this case reducing a non-conforming side yard setback.

At the Board of Zoning Appeals hearing the property owner stated that during construction she decided that the addition should extend north an additional two feet, and that she forgot about the Variance. Further, the owner appeared to imply that because various inspections for the foundation, plumbing, and electrical had occurred prior the Zoning Inspection that discovered the error, the City had essentially 'approved' the construction.

However, the fact that the City did not catch the construction error earlier cannot justify the approval of the Variance. Whether or not a Variance is involved, it is the applicant's responsibility to have revised buildings plans approved by the City. No evidence has been discovered that this was done.

The City processes many 'after the fact' permits. In every case, staff must treat these requests as new construction that must comply with the current City regulations. If the regulations are not met the structure must be altered to comply or removed. That fact that the construction is almost complete cannot factor into the analysis of the Variance request. In this case, the findings simply cannot be made to approve the Variance.

No additional information has been presented to cause Staff to alter its recommendation for denial, and as such, staff continues to recommend denial of this Conditional Use Permit. Therefore, staff has determined, and both the Zoning Hearing Officer and the Board of Zoning Appeals have upheld, that the findings necessary for approving the Variance and Conditional Use Permit cannot be made.

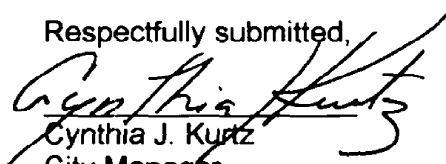
ENVIRONMENTAL DETERMINATION

This project has been determined to be Categorically Exempt (Class 1) from environmental review pursuant to the guidelines of the California Environmental Quality Act, CEQA Guidelines, Section 15301, Existing Facilities.

FISCAL IMPACT

Additional Code Enforcement monitoring will be required to ensure that the addition is altered to comply with the approved Conditional Use Permit and building plans.

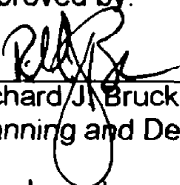
Respectfully submitted,


Cynthia J. Kurtz
City Manager

Prepared by:

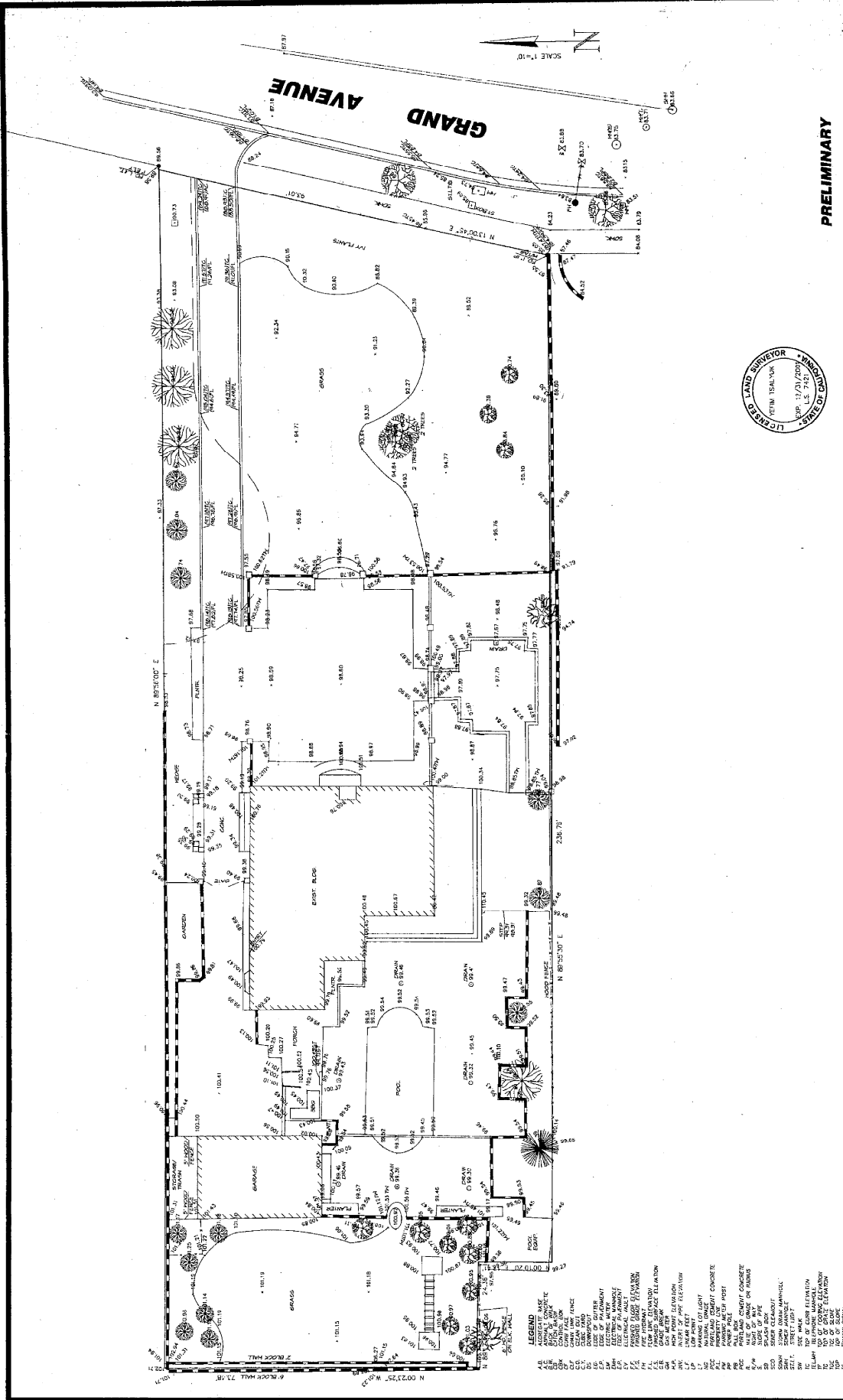

David Sinclair
Associate Planner

Approved by:

JRP 
Richard J. Bruckner, Director
Planning and Development Department

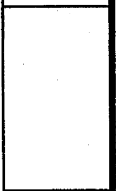
Attachments:

- A. Proposed Construction Plans
- B. Decision Letter and Findings of Fact, Board of Zoning Appeals



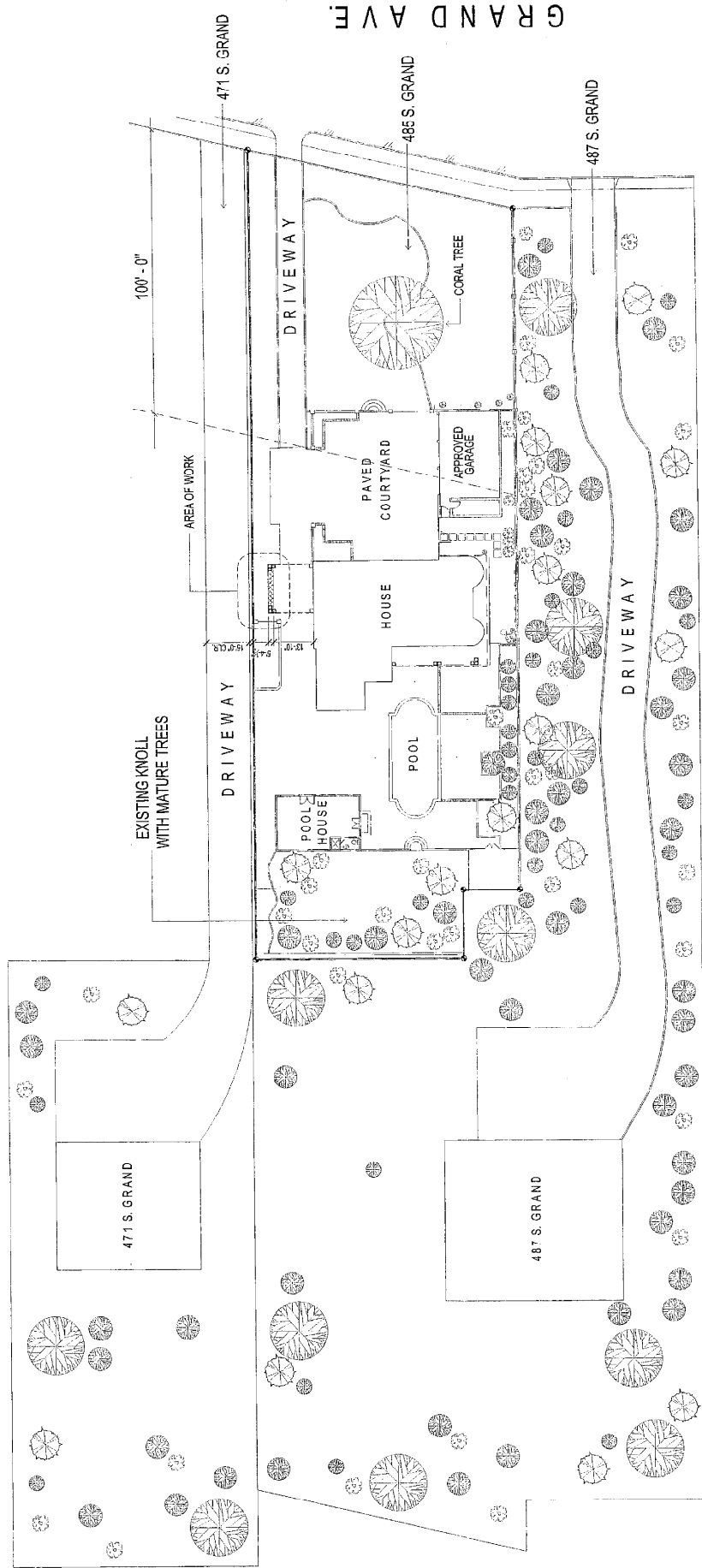
PRELIMINARY
TOPOGRAPHIC SURVEY
485 S. GRAND AVE.
PASADENA, CA

PREPARED BY:
ITF ENGINEERING
 P.O. BOX 50756
 IRVINE, CA 92619-0756
 (800)717-9483



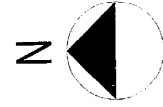
BENCH MARK
 RM 45 SHERMAN E
 SLY OF SUBJECT PROPERTY.
 CSD VERT. CONTROL.

- LEGEND**
- 1. ALL CONCRETE
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INDICATES AREA ADDED

485 S GRAND & ADJACENT PROPERTIES



CHRISTOPHER V WARD AIA ARCHITECTS

GRAND AVE

471 S. GRAND

EXISTING KNOLL WITH MATURE TREES

100'-0"

AREA OF WORK

DRIVEWAY

DRIVEWAY

HOUSE

PAVED COURTYARD

POOL

POOL HOUSE

APPROVED GARAGE

CORAL TREE

487 S. GRAND

DRIVEWAY

487 S. GRAND

485 S. GRAND

471 S. GRAND

13'-0"

5'-0"

15'-0"

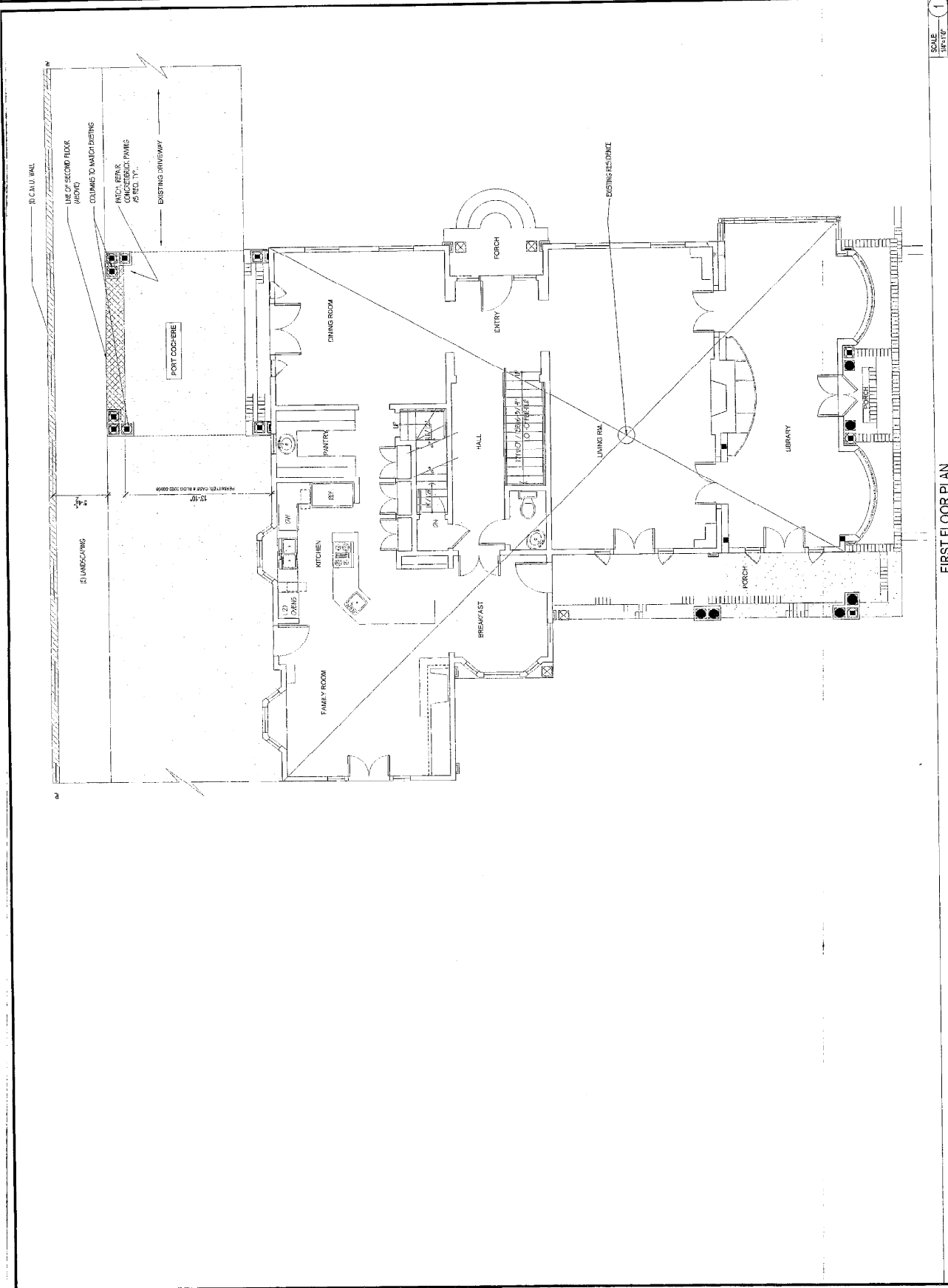
CWA

Christopher V. Wang, AIA
8660 Melrose Ave., Suite 230
Los Angeles, CA 90068
323.056.8590 323.843.8875

REYNOLDS RESIDENCE
Addition and Remodel
485 South Grand Avenue
Pasadena, California 91105

NO.	DATE	DESCRIPTION	BY	CHK.
1				
2				
3				
4				

DESIGNER	ASB/CRB/AB
DATE	
PROJECT	
SCALE	
NO.	
FIRST FLOOR PLAN	
A2.0	



FIRST FLOOR PLAN

SCALE
1" = 1'-0"

CWA

Christopher V. West, AIA
8000 Wilshire Ave. Suite 200
Los Angeles, CA 90048
323.856.8800 323.856.5815

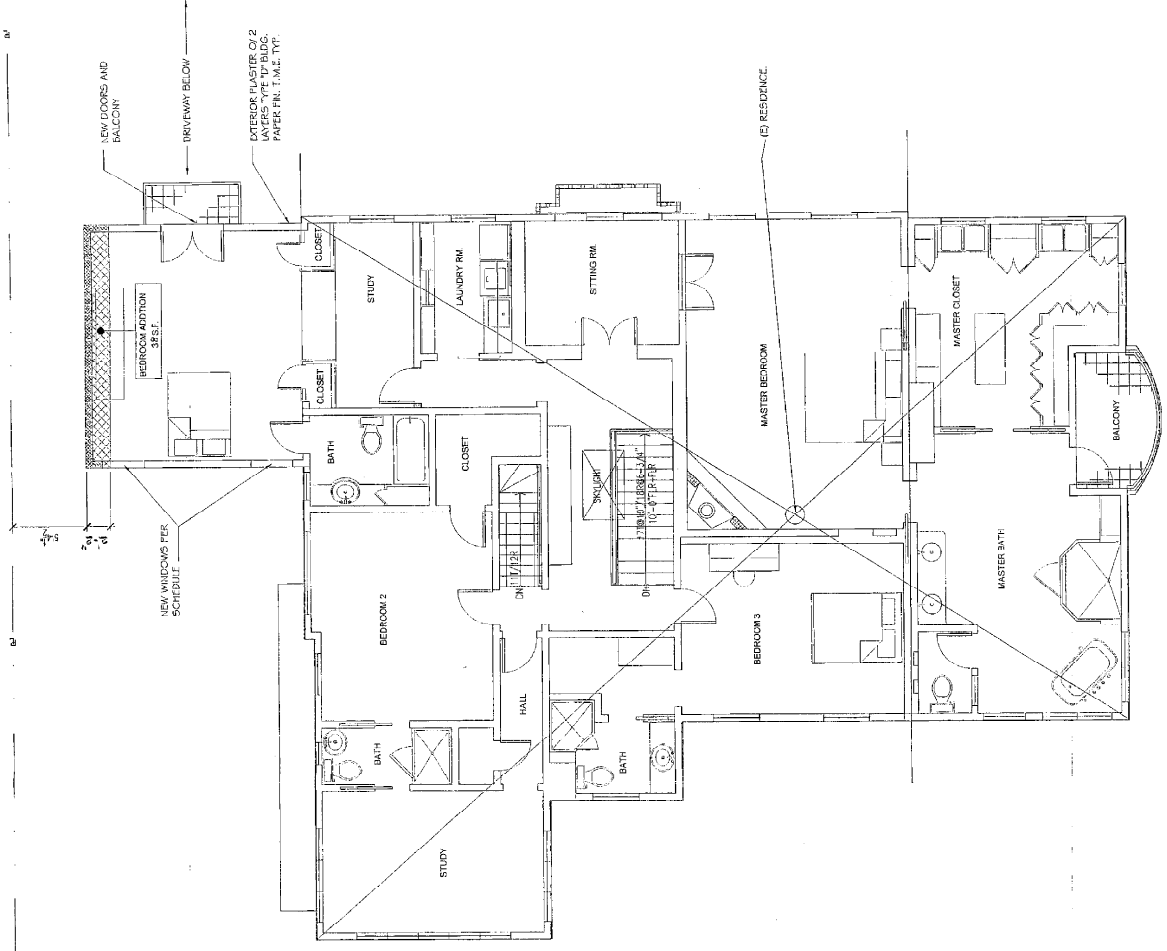
REYNOLDS RESIDENCE
Addition and Remodel
485 South Grand Avenue
Pasadena, California 91105

NO.	DESCRIPTION	DATE
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SECOND FLOOR PLAN

A3.0



SCALE: 1/4"=1'-0" (1)

SECOND FLOOR PLAN

CWA

Christopher V. Ward, AIA
8100 Melrose Ave. Suite 203
Los Angeles, CA 90046
323.668.8980 323.668.8985

REYNOLDS RESIDENCE
Addition and Remodel
485 South Grand Avenue
Pasadena, California 91105

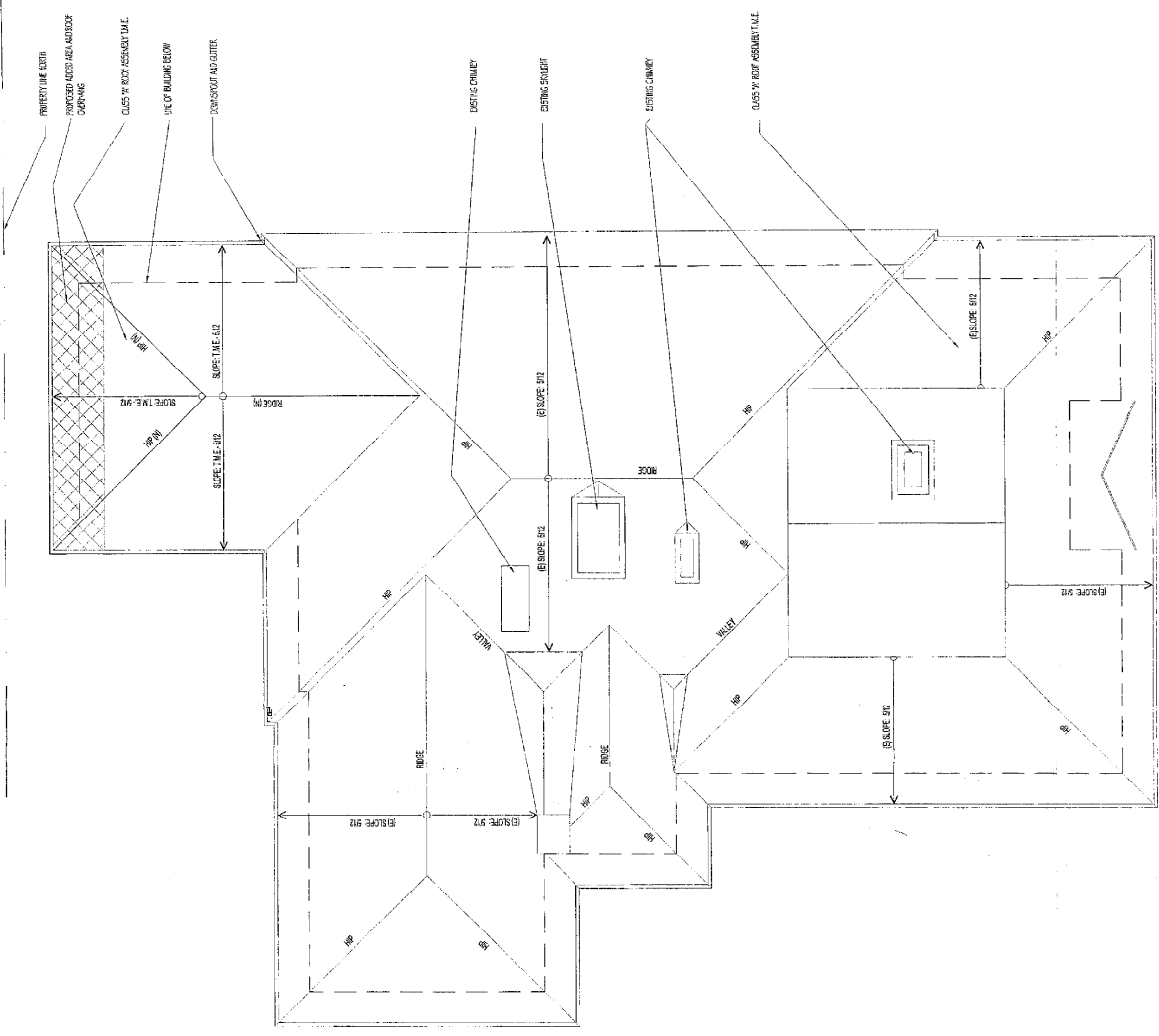
NO.	DESCRIPTION	DATE
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CHECKED	AS
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PROJECT	
DATE	

ROOF PLAN
PLAN

A4.0

1
SCALE 1/8"=1'-0"



CWA

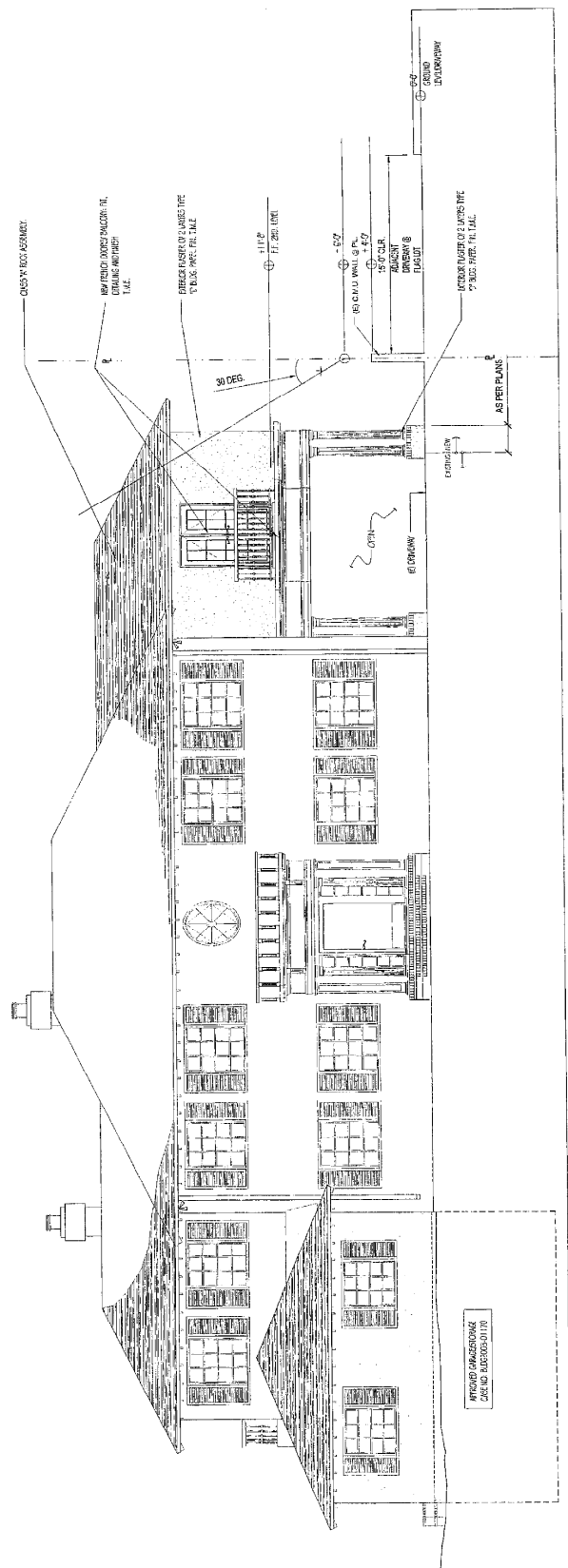
Christopher V. Ward, AIA
Architects
6905 Wilshire Ave. Suite 233
Los Angeles, CA 90048
323.452.8890 323.665.8675

REYNOLDS RESIDENCE
Addition and Remodel
485 South Grand Avenue
Pasadena, California 91105

DATE	
NO.	
BY	
CHKD	
APP'D	
SCALE	
TITLE	

DATE: 08/10/09
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BY: AU
CHKD:
APP'D:
SCALE:
TITLE: ELEVATION/
SETBACK DIAGRAM

A5.0



ATTORNEY GENERAL
CASE NO. 2009-00178

1
SCALE
AS SHOWN

GRAND AVENUE ELEVATION



PLANNING & DEVELOPMENT DEPARTMENT
PLANNING DIVISION

CORRECTED LETTER

July 22, 2004

Christopher V. Ward, AIA
8060 Melrose Avenue, Suite 230
Los Angeles, CA 90046

**RE: Modification to Conditional Use Permit #4012
485 south Grand Avenue
Council District #6**

Dear Mr. Ward:

Your application for a **Modification to Conditional Use Permit at 485 South Grand Avenue**, was considered by the **Board of Zoning Appeals** on **July 21, 2004**.

MODIFICATION TO CONDITIONAL USE PERMIT - To allow the construction of a 38 square foot second-floor addition over a porte-cochere such that the house will exceed 4,000 square feet.

Variance: To allow the addition to have a 5'-1" setback where 9'-1" is required.

After careful consideration of this application, and with full knowledge of the property and vicinity, the Board of Zoning Appeals made the findings as shown on Attachment A to this letter.

Based upon the findings, the Board of Zoning Appeals decided to **uphold** the decision of the Zoning Hearing Officer and **deny** the application.

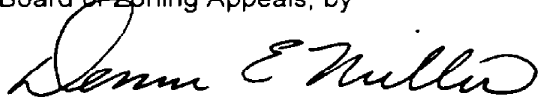
You are hereby notified that the decision of the Board of Zoning Appeals is not subject to further appeal. This decision becomes effective on the eleventh day from the date of the decision. The effective date for this case is **August 3, 2004**. However, prior to the effective date, a member of the City Council may stay the decision and request that it be called for review to the City Council.

Projects, which are denied, are statutorily exempt from the California Environmental Quality Act. Please note that the time within which judicial review of this action must be sought is governed by Section 1094.6 of the California Code of Civil Procedure.

Appeal of the Modification to Conditional Use Permit #4012
Page 2

For further information regarding this case, please contact **David Sinclair** at **(626) 744-6766**.

Board of Zoning Appeals, by



DENVER E. MILLER
Zoning Administrator

DEM:ds:cb

Enclosures: Attachment A, Attachment B

xc: City Clerk, City Council, Building Division, Public Works,
Power Division, Water Division, Design and Historic
Preservation, Hearing Officer, Code Enforcement-Ellen
Clark, Case File, Decision Letter File, Planning
Commission (9).

ATTACHMENT "A"
ZONING ADMINISTRATOR FINDINGS OF FACT
FOR MODIFICATION TO CONDITIONAL USE PERMIT #4012

Conditional Use Permit – Hillside Home Exceeding 4,000 Square Feet.

1. *The location of the conditional use permit is not in accordance with the special purposes of Title 17 of the Pasadena Municipal Code and the purposes of the RS-2 HD district in which the proposed project is located. Specifically, the proposal does not comply with the intent of the development standards as specified in Section 17.48 (Hillside Development Standards) and 17.20 (Single-Family Residential) of the Zoning Code. Although the proposed addition will be below the allowed square footage of the subject site, the location of the addition is located entirely within the required side yard setback. No unique or extraordinary circumstance exist that permit staff to recommend approval.*

Variance – To Locate Addition in the Required Side Setback.

2. *There are no exceptional or extraordinary circumstances or conditions applicable to the development site that do not apply generally to sites in the same zoning district. In this case, the circumstances that have resulted in this Variance request are a self-imposed hardship, not in response to unique conditions of the property. The Zoning Code does not allow buildings to increase an existing non-conforming standard, in this case reducing a non-conforming side yard setback. The proposed addition would result in second-floor living space located 5'-4 ½" into the required 9'-1" side yard setback, where the existing non-conforming setback is 7'-2". No unique or extraordinary circumstance is evidenced as to why the new construction cannot comply with the previously approved Conditional Use Permit (CUP#4012).*