



NEGATIVE DECLARATION

ENTITLEMENTS DIVISION
(619) 446-5460

Project No. 113555
SCH No. N/A

SUBJECT: LIBERATORE RESIDENCE: NEIGHBORHOOD DEVELOPMENT USE PERMIT, SITE DEVELOPMENT PERMIT, AND VARIANCE to construct a two-story, detached, approximately 1,340-square-foot structure, which would be comprised of an approximately 688-square-foot guest quarters over an approximately 652-square-foot, two-car garage. The 6,237-square-foot project site is currently developed with a single-family residence, which would remain. The site is located at 3371 Valemont Street in the RS-1-7 zone of the Peninsula Community Plan and Local Coastal Program Land Use Plan, the Coastal Height Limit Overlay Zone, and the Airport Approach Overlay Zone. (APN: 531-211-0300). Applicant: Frederico Liberatore, Owner.

UPDATE: **May 19, 2006. Minor revisions to this document have been made when compared to the draft Negative Declaration. The changes do not affect the environmental analysis or conclusions of this document. All revisions are shown in a ~~strikethrough~~ and/or underline format.**

I. PROJECT DESCRIPTION:

See attached Initial Study

II. ENVIRONMENTAL SETTING:

See attached Initial Study

III. DETERMINATION:

The City of San Diego conducted an Initial Study which determined that the proposed project will not have a significant environmental effect and the preparation of an Environmental Impact Report will not be required.

IV. DOCUMENTATION:

The attached Initial Study documents the reasons to support the above Determination.

V. MITIGATION, MONITORING AND REPORTING PROGRAM:

None required.

VI. PUBLIC REVIEW DISTRIBUTION

Draft copies or notice of the **Negative Declaration** were distributed to:

City of San Diego

Councilmember Faulconer, District 2
Development Services Department
 Environmental Analysis Section
 LDR Permit Planning Section
 Development Project Management Division
City Planning and Community Investment Department
 Long-Range
Library Department (81)
Peninsula Community Service Center (389)
City Attorney Office, Civil Division, MS 59

Other Organizations and Interested Individuals

Peninsula Community Planning Board (390)
Peninsula Chamber of Commerce (391)
Point Loma Nazarene College (392)
Richard J. Lareau (395)
U.S. Fish & Wildlife Service (23)
California Dept. of Fish & Game (32)
Frederico Liberatore, Applicant
Skip Shaputric, Agent

VII. RESULTS OF PUBLIC REVIEW

- (X) No comments were received during the public input period.
- () Comments were received but did not address the draft Negative Declaration finding or the accuracy/completeness of the Initial Study. No response is necessary. The letters are attached.
- () Comments addressing the findings of the draft Negative Declaration and/or accuracy or completeness of the Initial Study were received during the public input period. The letters and responses follow.

Copies of the draft Negative Declaration and any Initial Study material are available in the office of the ~~Land Development Review~~ Entitlements Division for review, or for purchase at the cost of reproduction.



Martha Blake, AICP
Senior Planner

April 18, 2008

Date of Draft Report

May 19, 2008

Date of Final Report

Analyst: SHEARER – NGUYEN

City of San Diego
Development Services Department
Entitlements Division
1222 First Avenue, Mail Station 501
San Diego, CA 92101
(619) 446-6460

INITIAL STUDY
Project No. 113555
SCH No. N/A

SUBJECT: LIBERATORE RESIDENCE: NEIGHBORHOOD DEVELOPMENT USE PERMIT, SITE DEVELOPMENT PERMIT, AND VARIANCE to construct a two-story, detached, approximately 1,340-square-foot structure, which would be comprised of an approximately 688-square-foot guest quarters over an approximately 652-square-foot, two-car garage. The 6,237-square-foot project site is currently developed with a single-family residence, which would remain. The site is located at 3371 Valemont Street in the RS-1-7 zone of the Peninsula Community Plan and Local Coastal Program Land Use Plan, the Coastal Height Limit Overlay Zone, and the Airport Approach Overlay Zone. (APN: 531-211-0300). Applicant: Frederico Liberatore, Owner.

UPDATE: May 19, 2006. Minor revisions to this document have been made when compared to the draft Negative Declaration. The changes do not affect the environmental analysis or conclusions of this document. All revisions are shown in a ~~striketrough~~ and/or underline format.

I. PURPOSE AND MAIN FEATURES:

The proposal is a Neighborhood ~~Development Use~~ Use Permit, Site Development Permit, and Variance to construct to construct a two-story, detached, approximately 1,341-square-foot structure, which would be comprised of an approximately 688-square-foot guest quarters over a 652-square-foot, two-car garage. The 6,237-square-foot project site is currently developed with a single-family residence, which would remain. The 652-square-foot first floor would be comprised of a two-car garage and storage area. The 688-square-foot second floor would be comprised of the guest quarters, including a bedroom, bathroom, and sitting room, with a patio. The proposed project would extend Valemont Street as a driveway to the site at the north east side of the property to provide vehicle access to the garage and the north side of the property. The elevation plans indicate the use of stucco and Hardiplan

horizontal siding, a metal chimney flue, fiberglass shingle roofing, and vinyl windows. Grading proposed would be approximately 540 cubic yards of soils, with the garage (first floor) set into the existing slope under the second floor guest quarters.. The structure would not exceed the 30-foot height limit. The project's landscaping has been reviewed by City Landscape staff and would comply with all applicable City of San Diego landscape ordinances and standards. Drainage would be directed into a gutter system or public-right-of-way designated to carry surface runoff which has been reviewed and accepted by City staff.

II. ENVIRONMENTAL SETTING:

The proposed development is located within the Peninsula Community Planning Area. The project site is located on the south side of Valemont Street, east of Bangor Street, west of Akron Street, and north of an unnamed alley. Access to the property is currently only from the unnamed alley, with a one-car garage and two-car driveway located at the southern front of the single-family residence. The lot is roughly rectangular with a gradient from the southern portion (186 feet above mean sea level (AMSL)) of the property down to the north (150 feet AMSL). An approximately 3-foot high retaining wall is located adjacent to the southeast residence. The property is zoned RS-1-7 and is situated in a neighborhood setting of residential uses. (See Figures 1 & 2).

III. ENVIRONMENTAL ANALYSIS: See attached Initial Study Checklist.

IV. DISCUSSION:

The project files and reports referred to below are available for public review on the Fifth Floor of the Development Services Department, Land Development Review Division, 1222 First Avenue, San Diego, 92101.

Biological Resources

During the Initial Study review of the proposed project, City Staff determined that the project site might contain sensitive vegetation, and that there was a potential for impacts to that vegetation should the project be implemented. Therefore, a Biological Resource Survey was required to be submitted to the City's Environmental Analysis Section of the Entitlements Division of the Development Services Department.

A survey and a biological letter report was prepared by Klein-Edwards, dated September 25, 2007, in order to identify potential biological impacts of the proposed project. The project site is not within nor is it adjacent to the Multi-Habitat Planning Area (MHPA). The site consists of disturbed lands (Tier IV) per the City's Biological Guidelines and is not considered sensitive. The entire site is currently disturbed through past development. A single-family residence, garage and associated landscape exist currently occupy the site.

North of the project site is a small canyon, which supports a tall and dense mixture of landscape-associated exotic, non-native trees, shrubs, herbs, and grasses. A total of twenty plant species were identified within the project area, all but two of which are non-native species. The two native species are two shrubs: one shrub is Laurel Sumac (*Malosma laurina*) and the other is a Lemonade Berry (*Rhus integrifolia*). These shrubs would be considered isolated and would therefore not constitute a native habitat type, and no mitigation is required for impacts to these shrubs as a result of the proposed project.

Additionally the project site and surrounding areas were surveyed for wildlife species. Fourteen species of vertebrate wildlife were observed, none of which are considered to be sensitive species. Four species of hawks are known to occur in the project area during the breeding season, and specific efforts were made to observe or determine the presence of any such species, as well as to identify the potential for them to build a nest and raise young in the vicinity of the project site. No potential nest sites were identified within one-quarter mile of the property, and based on the types of trees and location of trees nearby, it is unlikely that raptors would nest in close proximity to the proposed project site.

The project would not result in direct or indirect impacts to any sensitive habitat or species. Due to the disturbed nature of the property and the lack of significant biological resources, there would be no significant impacts to biological resources and no mitigation is required.

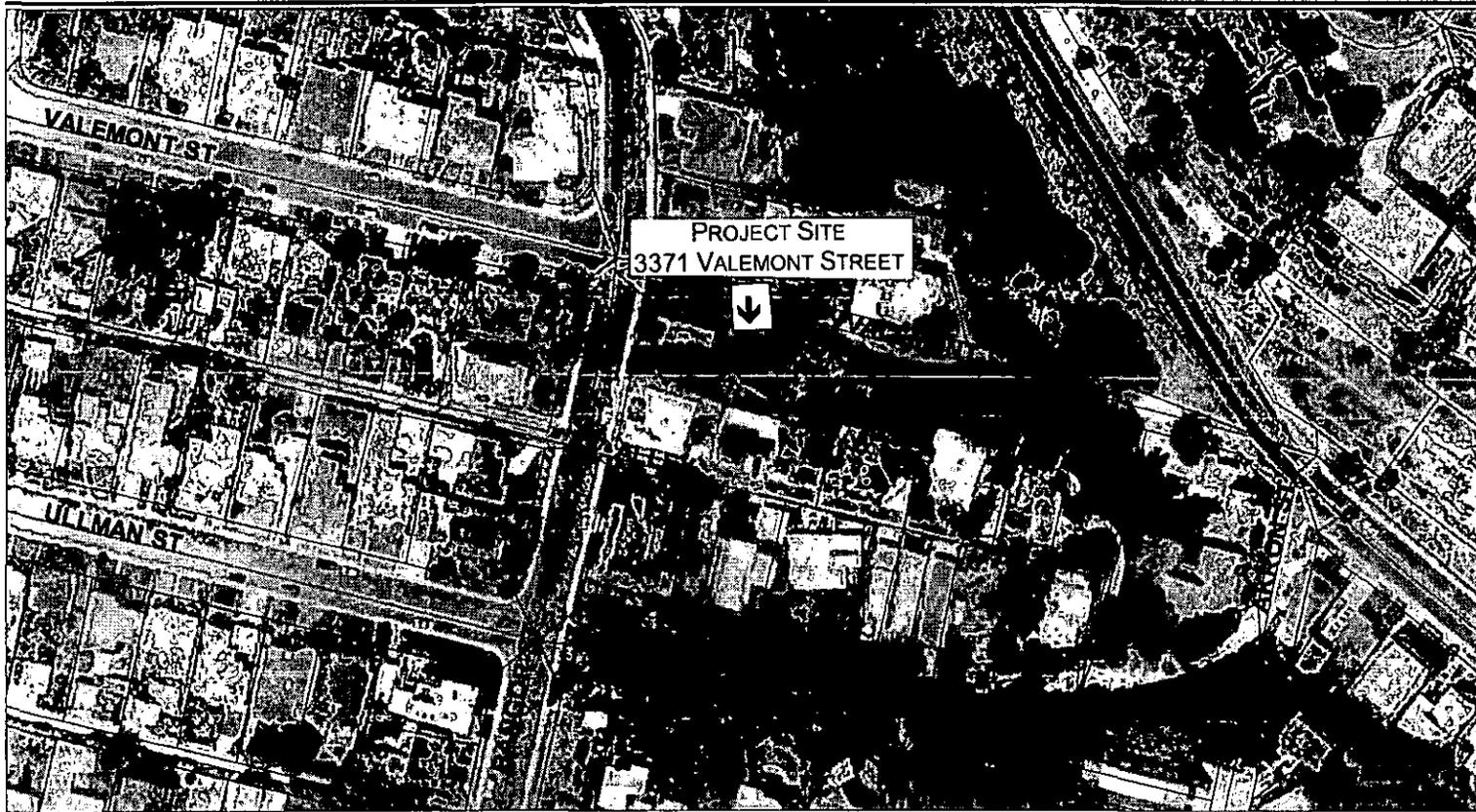
V. RECOMMENDATION:

On the basis of this initial evaluation:

- The proposed project would not have a significant effect on the environment, and a NEGATIVE DECLARATION SHOULD BE PREPARED.
- Although the proposed project could have a significant effect on the environment, there will not be a significant effect in this case because the mitigation measures described in Section IV above have been added to the project. A MITIGATED NEGATIVE DECLARATION should be prepared.
- The proposed project MAY have a significant effect on the environment, and an ENVIRONMENTAL IMPACT REPORT should be required.

Project Analyst: SHEARER - NGUYEN

Attachments: Figure 1: Location Map
 Figure 2: Site Plan
 Figures 3: Elevations
 Initial Study Checklist



Scale Is Approximate



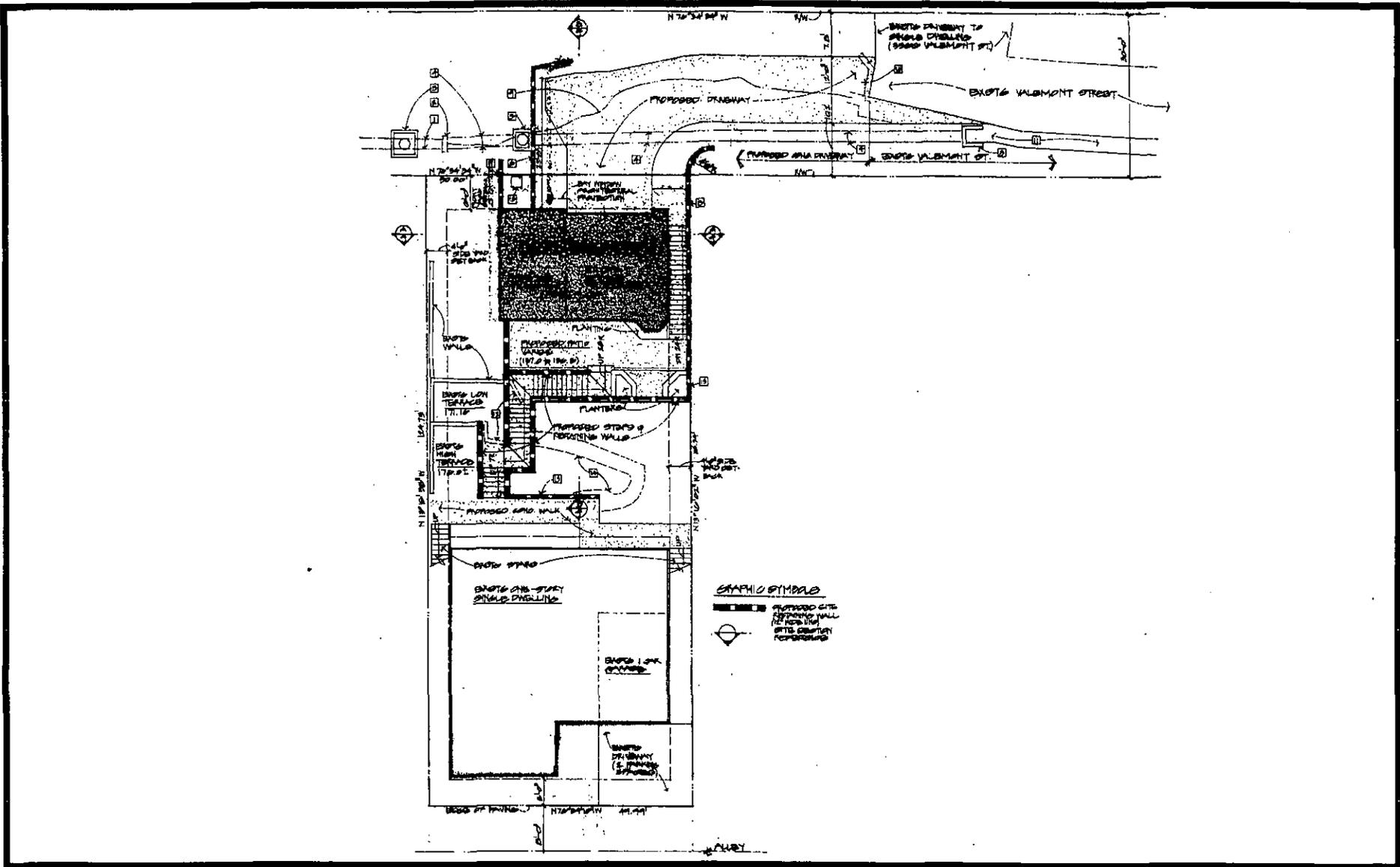
Location Map

Liberatore Residence / Project No. 113555

City of San Diego – Development Services Department

FIGURE

No. 1



Site Plan

Liberatore Residence / Project No. 113555

City of San Diego – Development Services Department

FIGURE
No. 2

INITIAL STUDY CHECKLIST

Date: April 9, 2007

Project No.: 113555

Name of Project: LIBERATORE RESIDENCE

III. ENVIRONMENTAL ANALYSIS:

The purpose of the Initial Study is to identify the potential for significant environmental impacts which could be associated with a project pursuant to Section 15063 of the State CEQA Guidelines. In addition, the Initial Study provides the lead agency with information which forms the basis for deciding whether to prepare an Environmental Impact Report, Negative Declaration or Mitigated Negative Declaration. This Checklist provides a means to facilitate early environmental assessment. However, subsequent to this preliminary review, *modifications to the project may mitigate adverse impacts. All answers of "yes" and "maybe" indicate that there is a potential for significant environmental impacts and these determinations are explained in Section IV of the Initial Study.*

Yes Maybe No

I. AESTHETICS / NEIGHBORHOOD CHARACTER – Will the proposal result in:

- | | | | |
|---------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------|---|---|----------|
| <p>A. The obstruction of any vista or scenic view from a public viewing area?
 <u>No public views and/or scenic corridors designated per the plan exist on the site. Therefore, the project would not result in the obstruction of any designated vista or scenic view. All setbacks and height limits would be observed.</u></p> | — | — | <u>X</u> |
| <p>B. The creation of a negative aesthetic site or project?
 <u>The proposed construction of a two-story detached structure at an existing residence would be compatible with the surrounding</u></p> | — | — | <u>X</u> |

	<u>Yes</u>	<u>Maybe</u>	<u>No</u>
<p><u>single-family development and is allowed by the community plan and zoning designation. No such impacts are anticipated. See I-A and I-C.</u></p>			
<p>C. Project bulk, scale, materials, or style which would be incompatible with surrounding development? <u>The design of the proposed detached structure (including guest quarters and a garage) would be compatible with the architectural style of the local setting. The project would not exceed any City height, setback, size or grading standards. Building materials proposed are compatible with surrounding development.</u></p>	—	—	X
<p>D. Substantial alteration to the existing character of the area? <u>The proposed construction of the detached guest quarters and garage addition to an existing single-family residence would be located adjacent to similar development and would not substantially alter the existing character of the area (refer to I-C above).</u></p>	—	—	X
<p>E. The loss of any distinctive or landmark tree(s), or a stand of mature trees? <u>No distinctive or landmark trees would be removed.</u></p>	—	—	X
<p>F. Substantial change in topography or ground surface relief features? <u>No substantial changes in topography or ground relief features are proposed.</u></p>	—	—	X
<p>G. The loss, covering or modification of any unique geologic or physical features such as a natural canyon, sandstone bluff, rock outcrop, or hillside with a slope in excess of 25 percent? <u>The project site does not contain any unique geologic or physical features.</u></p>	—	—	X

	<u>Yes</u>	<u>Maybe</u>	<u>No</u>
H. Substantial light or glare? <u>The construction of the detached guest quarters and garage addition to an existing single-family residence would not be expected to cause substantial light or glare. All lighting would be required to comply with all current lighting regulations. No substantial sources of light would be generated during project construction, as construction activities would occur during daylight hours.</u>	—	—	<u>X</u>
I. Substantial shading of other properties? <u>The construction of the detached garage and guest quarters would not be expected to cause substantial light or glare. Proposed lighting would comply with all current street lighting standards in accordance with the City of San Diego Street Design Manual, satisfactory to the City Engineer. No substantial sources of light would be generated during project construction, as construction activities would occur during daylight hours.</u>	—	—	<u>X</u>
II. AGRICULTURE RESOURCES / NATURAL RESOURCES / MINERAL RESOURCES – Would the proposal result in:			
A. The loss of availability of a known mineral resource (e.g., sand or gravel) that would be of value to the region and the residents of the state? <u>There are no such resources located on the project site and the project site.</u>	—	—	<u>X</u>
B. The conversion of agricultural land to nonagricultural use or impairment of the agricultural productivity of agricultural land? <u>Agricultural land is not present on site or in the general site vicinity. Refer to II-A.</u>	—	—	<u>X</u>
III. AIR QUALITY – Would the proposal:			
A. Conflict with or obstruct implementation of the applicable air quality plan?	—	—	<u>X</u>

The proposed detached garage and guest quarters addition is compatible with underlying zoning and community plan designation and would not negatively impact air quality.

B.	Violate any air quality standard or contribute substantially to an existing or projected air quality violation? <u>Refer to III-A.</u>	—	—	<u>X</u>
C.	Expose sensitive receptors to substantial pollutant concentrations? <u>Refer to III-A.</u>	—	—	<u>X</u>
D.	Create objectionable odors affecting a substantial number of people? <u>The proposed detached garage and guest quarters would not be associated with the creation of such odors. Refer to III-A.</u>	—	—	<u>X</u>
E.	Exceed 100 pounds per day of Particulate Matter 10 (dust)? <u>Approximately 540 cubic yards of grading is proposed.</u>	—	—	<u>X</u>
F.	Alter air movement in the area of the project? <u>The proposed detached garage and guest quarters would not have the bulk and scale required to cause such impacts.</u>	—	—	<u>X</u>
G.	Cause a substantial alteration in moisture, or temperature, or any change in climate, either locally or regionally? <u>Refer to III-F.</u>	—	—	<u>X</u>
IV.	BIOLOGY – Would the proposal result in:			
A.	A reduction in the number of any unique, rare, endangered, sensitive, or fully protected species of plants or animals? <u>No such impact would result to sensitive biological resources. See Initial Study discussion.</u>	—	—	<u>X</u>

	<u>Yes</u>	<u>Maybe</u>	<u>No</u>
B. A substantial change in the diversity of any species of animals or plants? <u>No such change in the diversity of any species of animals or plants would occur. See Initial Study discussion.</u>	—	—	<u>X</u>
C. Introduction of invasive species of plants into the area? <u>No invasive plant species would be introduced as part of the proposed project.</u>	—	—	<u>X</u>
D. Interference with the movement of any resident or migratory fish or wildlife species or with established native resident or migratory wildlife corridors? <u>No wildlife corridors are on or near the site.</u>	—	—	<u>X</u>
E. An impact to a sensitive habitat, including, but not limited to streamside vegetation, aquatic, riparian, oak woodland, coastal sage scrub or chaparral? <u>Site runoff would be directed into a gutter system or public-right-of-way designated to carry surface runoff which has been reviewed and accepted by City staff.</u>	—	—	<u>X</u>
F. An impact on City, State, or federally regulated wetlands (including, but not limited to, coastal salt marsh, vernal pool, lagoon, coastal, etc.) through direct removal, filling, hydrological interruption or other means? <u>No such resources exist on site.</u>	—	—	<u>X</u>
G. Conflict with the provisions of the City's Multiple Species Conservation Program Subarea Plan or other approved local, regional or state habitat conservation plan? <u>The project site is designated for single-family development and is not located within or adjacent to the Multi-Habitat Planning Area (MHPA). Therefore, the proposed project would not conflict with the Multiple Species Conservation Program (MSCP). Please see IV-A.</u>	—	—	<u>X</u>

	<u>Yes</u>	<u>Maybe</u>	<u>No</u>
V. ENERGY – Would the proposal:			
A. Result in the use of excessive amounts of fuel or energy (e.g. natural gas)? <u>Excessive amounts of fuel would not be required during construction of the project. The project would not result in the use of excessive amounts of fuel, energy, or power. Standard residential consumption is expected.</u>	–	–	<u>X</u>
B. Result in the use of excessive amounts of power? <u>Refer to V-A.</u>	–	–	<u>X</u>
VI. GEOLOGY/SOILS – Would the proposal:			
A. Expose people or property to geologic hazards such as earthquakes, landslides, mudslides, ground failure, or similar hazards? <u>The project site is assigned a geologic risk category 53 according to the City of San Diego Safety Seismic Study Maps, and the addition of a garage and guest quarters to an existing residence would not result in any new exposures to such risks.</u>	–	–	<u>X</u>
B. Result in a substantial increase in wind or water erosion of soils, either on or off the site? <u>No such impacts would be anticipated with the proposed residential development. The site would be landscaped in accordance with City requirements and all storm water requirements would be met. Please see VI-A.</u>	–	–	<u>X</u>
C. Be located on a geologic unit or soil that is unstable or that would become unstable as a result of the project, and potentially result in on- or off-site landslide, lateral spreading, subsidence, liquefaction or collapse? <u>Proposed project would not be located on such a geologic unit or soil type. Please see VI-A.</u>	–	–	<u>X</u>

VII. HISTORICAL RESOURCES – Would the proposal result in:

- | | | | |
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| <p>A. Alteration of or the destruction of a prehistoric or historic archaeological site?
 <u>According to the City of San Diego reference materials, the project site is located within an area having a high sensitivity level for archaeological resources, however the site is not located within any identified sites, nor are any expected to occur within the project boundaries. The site is developed, and the proposed addition would not result in impacts to any undisturbed soils. Therefore, no impact would result from the proposed project.</u></p> | <p>—</p> | <p>—</p> | <p><u>X</u></p> |
| <p>B. Adverse physical or aesthetic effects to a prehistoric or historic building, structure, object, or site?
 <u>No historic buildings or structures exist onsite. The project site is an developed with a single-family residence and associated improvements.</u></p> | <p>—</p> | <p>—</p> | <p><u>X</u></p> |
| <p>C. Adverse physical or aesthetic effects to an architecturally significant building, structure, or object?
 <u>Refer to VII-A and -B.</u></p> | <p>—</p> | <p>—</p> | <p><u>X</u></p> |
| <p>D. Any impact to existing religious or sacred uses within the potential impact area?
 <u>No such uses exist on site.</u></p> | <p>—</p> | <p>—</p> | <p><u>X</u></p> |
| <p>E. The disturbance of any human remains, including those interred outside of formal cemeteries?
 <u>Refer to VII-A and -B.</u></p> | <p>—</p> | <p>—</p> | <p><u>X</u></p> |

VIII. HUMAN HEALTH / PUBLIC SAFETY / HAZARDOUS MATERIALS: Would the proposal:

- | | | | |
|-----------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------|----------|----------|-----------------|
| <p>A. Create any known health hazard (excluding mental health)?
 <u>The addition of a garage and guest quarters to an existing single-family residence in a single-family neighborhood would not be associated with such impacts.</u></p> | <p>—</p> | <p>—</p> | <p><u>X</u></p> |
|-----------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------|----------|----------|-----------------|

	<u>Yes</u>	<u>Maybe</u>	<u>No</u>
B. Expose people or the environment to a significant hazard through the routine transport, use or disposal of hazardous materials? <u>Refer to VIII-A.</u>	—	—	<u>X</u>
C. Create a future risk of an explosion or the release of hazardous substances (including but not limited to gas, oil, pesticides, chemicals, radiation, or explosives)? <u>Refer to VIII-A.</u>	—	—	<u>X</u>
D. Impair implementation of, or physically interfere with an adopted emergency response plan or emergency evacuation plan? <u>The proposed project is consistent with adopted land use plans and would not interfere with emergency response and/or evacuation plans.</u> <u>Please see VIII-A.</u>	—	—	<u>X</u>
E. Be located on a site which is included on a list of hazardous materials sites compiled pursuant to Government Code Section 65962.5 and, as a result, create a significant hazard to the public or environment? <u>Proposed project site is not located on a site which is included on a list of hazardous materials sites.</u>	—	—	<u>X</u>
F. Create a significant hazard to the public or the environment through reasonably foreseeable upset and accident conditions involving the release of hazardous materials into the environment? <u>Refer to VIII-A.</u>	—	—	<u>X</u>
IX. HYDROLOGY/WATER QUALITY – Would the proposal result in:			
A. An increase in pollutant discharges, including down stream sedimentation, to receiving waters during or following construction? Consider water quality parameters such as temperature dissolved oxygen, turbidity and other typical storm water pollutants. <u>The project would be required to comply with all storm water quality standards during and</u>	—	—	<u>X</u>

	<u>Yes</u>	<u>Maybe</u>	<u>No</u>
<u>after construction and appropriate Best Management Practices (BMPs) must be utilized.</u>			
B. An increase in impervious surfaces and associated increased runoff? <u>No significant increase in impervious surfaces would occur. However, BMPs would be utilized to treat all site runoff. Please see IX-A.</u>	—	—	<u>X</u>
C. Substantial alteration to on- and off-site drainage patterns due to changes in runoff flow rates or volumes? <u>The proposed project would not substantially increase flow rates or volumes and thus, would not adversely affect on- and off-site drainage patterns. Please see IX-A.</u>	—	—	<u>X</u>
D. Discharge of identified pollutants to an already impaired water body (as listed on the Clean Water Act Section 303(b) list)? <u>The project site is not tributary to any body of water listed on the State Water Resources Board 303(d) impaired water body list.</u>	—	—	<u>X</u>
E. A potentially significant adverse impact on ground water quality? <u>No such impact would occur. No areas of ponded water would be created. Please see IX-A.</u>	—	—	<u>X</u>
F. Cause or contribute to an exceedance of applicable surface or groundwater receiving water quality objectives or degradation of beneficial uses? <u>Refer to IX-A. The project would not make a considerable contribution to water quality degradation.</u>	—	—	<u>X</u>
X. LAND USE – Would the proposal result in:			
A. A land use which is inconsistent with the adopted community plan land use designation for the site or conflict with any applicable land use plan, policy or regulation of an agency with jurisdiction over a project?	—	—	<u>X</u>

The construction of the addition to the single-family residence would be built on a site which is designated for single-family development by the community plan and zone designation in an area developed with single-family residences

- | | | | | |
|----|------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------|---|---|----------|
| B. | A conflict with the goals, objectives and recommendations of the community plan in which it is located?
<u>Please see X-A.</u> | — | — | <u>X</u> |
| C. | A conflict with adopted environmental plans, including applicable habitat conservation plans adopted for the purpose of avoiding or mitigating an environmental effect for the area?
<u>Please see X-A. The project would not conflict with City's Multiple Species Conservation Plan (MSCP) and is not located within or adjacent to the Multi-habitat Planning Area (MHPA).</u> | — | — | <u>X</u> |
| D. | Physically divide an established community?
<u>The project site is located in a developed urban community and surrounded by residential development. The project would not physically divide an established community.</u> | — | — | <u>X</u> |
| E. | Land uses which are not compatible with aircraft accident potential as defined by an adopted Airport Comprehensive Land Use Plan (ACLUP)?
<u>The project site is located within the Airport Approach Overlay Zone, and therefore the project was required to be submitted to the Federal Aviation Administration and the Airport Authority for review. The aeronautical study conducted by the FAA determined that the proposed project would not be a hazard to air navigation. Additionally, the project is the addition to an existing single-family residence and is consistent with the existing land use.</u> | — | — | <u>X</u> |

	<u>Yes</u>	<u>Maybe</u>	<u>No</u>
XI. NOISE – Would the proposal result in:			
A. A significant increase in the existing ambient noise levels? <u>The project consists of the construction of the addition of a garage and guest quarters to a single-family residence and would not result in an increase to the existing ambient noise levels.</u>	–	–	<u>X</u>
B. Exposure of people to noise levels which exceed the City's adopted noise ordinance? <u>The proposed project would not expose people to noise levels which exceed the City's adopted noise standards.</u>	–	–	<u>X</u>
C. Exposure of people to current or future transportation noise levels which exceed standards established in the Transportation Element of the General Plan or an adopted airport Comprehensive Land Use Plan? <u>Please see XI-B.</u>	–	–	<u>X</u>
XII. PALEONTOLOGICAL RESOURCES: Would the proposal impact a unique paleontological resource or site or unique geologic feature? <u>Approximately 540 cubic yards would be graded on-site. No impacts to unique paleontological resources or geologic features would result from the proposed project.</u>	–	–	<u>X</u>
XIII. POPULATION AND HOUSING – Would the proposal:			
A. Induce substantial population growth in an area, either directly (for example, by proposing new homes and businesses) or indirectly (for example, through extension of roads or other infrastructure)? <u>The project is the addition of a garage and guest quarters to an existing single-family residence.</u>	–	–	<u>X</u>
B. Displace substantial numbers of existing housing, necessitating the construction of replacement housing elsewhere? <u>No such displacement would occur. See XIII-A.</u>	–	–	<u>X</u>

	<u>Yes</u>	<u>Maybe</u>	<u>No</u>
C. Alter the planned location, distribution, density or growth rate of the population of an area? <u>The proposed project would be consistent with applicable land use plans, as well as land use and zoning designations. See XIII-A.</u>	—	—	<u>X</u>
XIV. PUBLIC SERVICES – Would the project result in substantial adverse physical impacts associated with the provision of new or physically altered governmental facilities, need for new or physically altered governmental facilities, the construction of which could cause significant environmental impacts, in order to maintain acceptable service ratios, response times or other performance objectives for any of the public services:			
A. Fire protection? <u>The project would not affect existing levels of public services.</u>	—	—	<u>X</u>
B. Police protection? <u>Refer to XIV-A.</u>	—	—	<u>X</u>
C. Schools? <u>Refer to XIV-A.</u>	—	—	<u>X</u>
D. Parks or other recreational facilities? <u>Refer to XIV-A.</u>	—	—	<u>X</u>
E. Maintenance of public facilities, including roads? <u>Refer to XIV-A.</u>	—	—	<u>X</u>
XV. RECREATIONAL RESOURCES – Would the proposal result in:			
A. Would the project increase the use of existing neighborhood and regional parks or other recreational facilities such that substantial physical deterioration of the facility would occur or be accelerated? <u>The project would not adversely affect the availability of and/or need for new or expanded recreational resources. See XIII-A.</u>	—	—	<u>X</u>
B. Does the project include recreational facilities or require the construction or expansion of			

	<u>Yes</u>	<u>Maybe</u>	<u>No</u>
recreational facilities which might have an adverse physical effect on the environment? <u>Proposed project would not require recreational facilities to be constructed, See XV-A above.</u>	—	—	<u>X</u>
XVI. TRANSPORTATION/CIRCULATION – Would the proposal result in:			
A. Traffic generation in excess of specific/community plan allocation? <u>The additions to a single family residence are consistent with the community plan designation and would not result in significant traffic generation. See XIII-A.</u>	—	—	<u>X</u>
B. An increase in projected traffic which is substantial in relation to the existing traffic load and capacity of the street system? <u>Please see XVI-A.</u>	—	—	<u>X</u>
C. An increased demand for off-site parking? <u>All required parking would be provided on site.</u>	—	—	<u>X</u>
D. Effects on existing parking? <u>No such effects would occur. See XVI-C.</u>	—	—	<u>X</u>
E. Substantial impact upon existing or planned transportation systems? <u>Project implementation would not affect existing transit service in the project vicinity.</u>	—	—	<u>X</u>
F. Alterations to present circulation movements including effects on existing public access to beaches, parks, or other open space areas? <u>Project implementation would not affect existing circulation in the project vicinity.</u>	—	—	<u>X</u>
G. Increase in traffic hazards for motor vehicles, bicyclists or pedestrians due to a proposed, non-standard design feature (e.g., poor sight distance or driveway onto an access-restricted roadway)? <u>Implementation of the proposed project would not increase traffic hazards. The project would comply</u>	—	—	<u>X</u>

XIX. MANDATORY FINDINGS OF SIGNIFICANCE:

- | | |
|--------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------|------------------|
| <p>A. Does the project have the potential to degrade the quality of the environment, substantially reduce the habitat of a fish or wildlife species, cause a fish or wildlife population to drop below self sustaining levels, threaten to eliminate a plant or animal community, reduce the number or restrict the range of a rare or endangered plant or animal, or eliminate important examples of the major periods of California history or prehistory?
<u>No such impacts would be caused by the proposed project.</u></p> | <p>— — X</p> |
| <p>B. Does the project have the potential to achieve short-term, to the disadvantage of long-term, environmental goals? (A short-term impact on the environment is one which occurs in a relatively brief, definitive period of time while long-term impacts would endure well into the future.)
<u>The project would not result in an impact to long term environmental goals.</u></p> | <p>— — X</p> |
| <p>C. Does the project have impacts which are individually limited, but cumulatively considerable? (A project may impact on two or more separate resources where the impact on each resource is relatively small, but where the effect of the total of those impacts on the environment is significant.)
<u>The proposed project would not have a considerable incremental contribution to any cumulative impacts.</u></p> | <p>— — X</p> |
| <p>D. Does the project have environmental effects which would cause substantial adverse effects on human beings, either directly or indirectly?
<u>The proposed project would not be associated with such impacts.</u></p> | <p>— — X</p> |

INITIAL STUDY CHECKLIST

REFERENCES

I. Aesthetics / Neighborhood Character

City of San Diego Progress Guide and General Plan.

Community Plan.

Local Coastal Plan.

II. Agricultural Resources / Natural Resources / Mineral Resources

City of San Diego Progress Guide and General Plan.

U.S. Department of Agriculture, Soil Survey - San Diego Area, California, Part I and II, 1973.

California Department of Conservation - Division of Mines and Geology, Mineral Land Classification.

Division of Mines and Geology, Special Report 153 - Significant Resources Maps.

Site Specific Report:

III. Air

California Clean Air Act Guidelines (Indirect Source Control Programs) 1990.

Regional Air Quality Strategies (RAQS) - APCD.

Site Specific Report:

IV. Biology

City of San Diego, Multiple Species Conservation Program (MSCP), Subarea Plan, 1997

City of San Diego, MSCP, "Vegetation Communities with Sensitive Species and Vernal Pools" maps, 1996.

- City of San Diego, MSCP, "Multiple Habitat Planning Area" maps, 1997.
- Community Plan - Resource Element.
- California Department of Fish and Game, California Natural Diversity Database, "State and Federally-listed Endangered, Threatened, and Rare Plants of California," January 2001.
- California Department of Fish & Game, California Natural Diversity Database, "State and Federally-listed Endangered and Threatened Animals of California," January 2001.
- City of San Diego Land Development Code Biology Guidelines.
- Site Specific Report:
Klein-Edwards Professional Services, Liberatore/Valemont Street Guest Quarters and Related Project Improvements, September 25, 2007.
- V. Energy**
-
- VI. Geology/Soils**
- City of San Diego Seismic Safety Study.
- U.S. Department of Agriculture Soil Survey - San Diego Area, California, Part I and II, December 1973 and Part III, 1975.
- Site Specific Report:
- VII. Historical Resources**
- City of San Diego Historical Resources Guidelines.
- City of San Diego Archaeology Library.
- Historical Resources Board List.
- Community Historical Survey:

— Site Specific Report:

VIII. Human Health / Public Safety / Hazardous Materials

San Diego County Hazardous Materials Environmental Assessment Listing, 2004.

San Diego County Hazardous Materials Management Division

FAA Determination

— State Assessment and Mitigation, Unauthorized Release Listing, Public Use Authorized 1995.

— Airport Comprehensive Land Use Plan.

— Site Specific Report:

IX. Hydrology/Water Quality

— Flood Insurance Rate Map (FIRM).

Federal Emergency Management Agency (FEMA), National Flood Insurance Program - Flood Boundary and Floodway Map.

Clean Water Act Section 303(b) list, dated July 2002, http://www.swrcb.ca.gov/tmdl/303d_lists.html.

— Site Specific Report:

X. Land Use

City of San Diego Progress Guide and General Plan.

Community Plan.

Airport Comprehensive Land Use Plan

City of San Diego Zoning Maps

— FAA Determination

XI. Noise

Community Plan

San Diego International Airport - Lindbergh Field CNEL Maps.

— Brown Field Airport Master Plan CNEL Maps.

— Montgomery Field CNEL Maps.

San Diego Association of Governments - San Diego Regional Average Weekday Traffic Volumes.

San Diego Metropolitan Area Average Weekday Traffic Volume Maps, SANDAG.

— City of San Diego Progress Guide and General Plan.

— Site Specific Report:

XII. Paleontological Resources

City of San Diego Paleontological Guidelines.

Demere, Thomas A., and Stephen L. Walsh, "Paleontological Resources City of San Diego," Department of Paleontology San Diego Natural History Museum, 1996.

Kennedy, Michael P., and Gary L. Peterson, "Geology of the San Diego Metropolitan Area, California. Del Mar, La Jolla, Point Loma, La Mesa, Poway, and SW 1/4 Escondido 7 1/2 Minute Quadrangles," California Division of Mines and Geology Bulletin 200, Sacramento, 1975.

— Kennedy, Michael P., and Siang S. Tan, "Geology of National City, Imperial Beach and Otay Mesa Quadrangles, Southern San Diego Metropolitan Area, California," Map Sheet 29, 1977.

— Site Specific Report:

XIII. Population / Housing

City of San Diego Progress Guide and General Plan.

Community Plan.

Series 8 Population Forecasts, SANDAG.

Other:

XIV. Public Services

City of San Diego Progress Guide and General Plan.

Community Plan.

XV. Recreational Resources

City of San Diego Progress Guide and General Plan.

Community Plan.

Department of Park and Recreation

City of San Diego - San Diego Regional Bicycling Map

Additional Resources:

XVI. Transportation / Circulation

City of San Diego Progress Guide and General Plan.

Community Plan.

San Diego Metropolitan Area Average Weekday Traffic Volume Maps, SANDAG.

San Diego Region Weekday Traffic Volumes, SANDAG.

Site Specific Report:

XVII. Utilities

XVIII. Water Conservation

— Sunset Magazine, New Western Garden Book. Rev. ed. Menlo Park, CA: Sunset Magazine.

000925

335
03/10

RECEIVED



City of San Diego
Development Services
1222 First Ave. 3rd Floor
San Diego, CA 92101
(619) 446-5210

CITY CLERK'S OFFICE
NOV 14 11:37 AM '07

**Development Permit/
Environmental Determination
Appeal Application**

FORM
DS-3031
MARCH 2007

See Information Bulletin 505, "Development Permits Appeal Procedure," for information on the appeal procedure.

1. Type of Appeal:

- Process Two Decision - Appeal to Planning Commission
- Process Three Decision - Appeal to Planning Commission
- Process Four Decision - Appeal to City Council
- Environmental Determination - Appeal to City Council
- Appeal of a Hearing Officer Decision to revoke a permit

2. Appellant Please check one Applicant Officially recognized Planning Committee "Interested Person" (Per M.C. Sec. 113.0103)

Name: William A. Ladd & Anita Busquets 619-222-3305 home
Address: 3366 Valemont Street City: San Diego State: CA Zip Code: 92106 Telephone: 619-417-3366 cell

3. Applicant Name (As shown on the Permit/Approval being appealed). Complete if different from appellant.

Skip Shapatnic

4. Project Information

Permit/Environmental Determination & Permit/Document No.: <u>Project number 113555</u>	Date of Decision/Determination: <u>11/6/2008</u>	City Project Manager: <u>Laila Iskandar</u>
-------------------------------------------------------------------------------------------	-----------------------------------------------------	------------------------------------------------

Decision (describe the permit/approval decision):

The project was deadlocked for weeks in the Planning Commission, so they re-voted simply to send it to the City Council for a decision, as they knew it would be appealed. Approval was for NUP, SDP, variance.

5. Grounds for Appeal (Please check all that apply)

- Factual Error (Process Three and Four decisions only)
- Conflict with other matters (Process Three and Four decisions only)
- Findings Not Supported (Process Three and Four decisions only)
- New Information (Process Three and Four decisions only)
- City-wide Significance (Process Four decisions only)

Description of Grounds for Appeal (Please relate your description to the allowable reasons for appeal as more fully described in Chapter 11, Article 2, Division 5 of the San Diego Municipal Code. Attach additional sheets if necessary.)

The first variance finding cannot be made - Mr. Liberatore's lot does not have special circumstances or conditions peculiar to his lot that do not apply to the lots in the neighborhood.

The second variance finding cannot be made - denying the variance will not deny Mr. Liberatore reasonable use of his property. The existing home is reasonable use; There is no requirement that he be allowed a guest house.

The third variance finding cannot be made. -- The construction of the driveway and retaining walls in a narrow finger canyon, for which the variance would be required, will be detrimental to the stability of adjacent properties (public health, safety and welfare).

The Peninsula Community Planning Board voted overwhelmingly against approval of the project on two separate occasions with two very differently composed boards:

May 17, 2007 (7 opposed-2-0) and September 20, 2007 (8 opposed-2-1)

The Chair and Vice Chair of the San Diego City Planning Commission are convinced that findings cannot be made for a variance.

6. Appellant's Signature: I certify under penalty of perjury that the foregoing, including all names and addresses, is true and correct.

Signature: William A. Ladd Date: 11/12/08
Anita J. Busquets

Note: Faxed appeals are not accepted. Appeal fees are non-refundable.

000927

335
03/10

REQUEST FOR COUNCIL ACTION CITY OF SAN DIEGO				CERTIFICATE NUMBER (FOR AUDITOR'S USE ONLY)		
TO: CITY COUNCIL		FROM (ORIGINATING DEPARTMENT): Development Services Department		DATE: 12/03/2008		
SUBJECT: LIBERATORE RESIDENCE/ PROJECT NO. 113555						
PRIMARY CONTACT (NAME, PHONE): Laila Iskandar, 619-446-5297				SECONDARY CONTACT (NAME, PHONE):		
COMPLETE FOR ACCOUNTING PURPOSES						
FUND						
DEPT.						
ORGANIZATION						
OBJECT ACCOUNT						
JOB ORDER						
C.I.P. NUMBER						
AMOUNT	0.00	0.00	0.00	0.00	0.00	0.00
FUND						
DEPT.						
ORGANIZATION						
OBJECT ACCOUNT						
JOB ORDER						
C.I.P. NUMBER						
AMOUNT	0.00	0.00	0.00	0.00	0.00	0.00
COST SUMMARY (IF APPLICABLE): None – deposit account paid by applicant						
ROUTING AND APPROVALS						
CONTRIBUTORS/REVIEWERS:		APPROVING AUTHORITY		APPROVAL SIGNATURE		DATE SIGNED
		ORIG DEPT.		Westlake, Mike		2/11/2009
		CFO				
		DEPUTY CHIEF				
		COO		Goldstone, Jay		2/23/2009
		CITY ATTORNEY				
		COUNCIL PRESIDENTS OFFICE				
PREPARATION OF:	<input checked="" type="checkbox"/> RESOLUTIONS	<input type="checkbox"/> ORDINANCE(S)	<input type="checkbox"/> AGREEMENT(S)	<input type="checkbox"/> DEED(S)		
This is an appeal of the Planning Commission's decision to approve Neighborhood Use Permit No. 381871, Site Development Permit No. 470555, Variance No. 470554, and the Certification of Negative Declaration No. 113555 for the construction of a new Guest-Quarters over a partially underground garage on a 5,836 square-foot lot with an existing single family residence, and to allow for a deviation from the regulations of the Municipal Code.						
STAFF RECOMMENDATIONS: DENY the appeal and APPROVE Neighborhood Use Permit No. 381871, Site Development Permit No. 470555, Variance No. 470554, and the Certify Negative Declaration No. 113555.						
SPECIAL CONDITIONS (REFER TO A.R. 3.20 FOR INFORMATION ON COMPLETING THIS SECTION)						
COUNCIL DISTRICT(S):		2				

000928

COMMUNITY AREA(S):	Peninsula
ENVIRONMENTAL IMPACT:	Negative Declaration No. 113555 has been prepared for this project pursuant to the California Environmental Quality Act (CEQA). The City of San Diego has conducted an Initial Study and determined that the proposed project will not have a significant environmental effect and the preparation of an Environmental Impact Report is not required.
CITY CLERK INSTRUCTIONS:	

000929

EXECUTIVE SUMMARY SHEET

DATE REPORT ISSUED: August 21, 2008 REPORT NO.: PC-08-106
ATTENTION: Council President and City Council
ORIGINATING DEPARTMENT: Development Services Department
SUBJECT: Liberatore Residence, Project No. 113555
COUNCIL DISTRICT(S): Two
STAFF CONTACT: Laila Iskandar, 619-446-5297, liskandar@sanidiego.gov

REQUESTED ACTION:

Appeal of the Planning Commission's Decision to approve a Neighborhood Use Permit, Site Development Permit, and Variance to allow the construction of a new Guest-Quarter over a partially underground garage on a lot with an existing single family residence at 3371 Valemont Street within the Peninsula Community Planning Area.

STAFF RECOMMENDATION:

DENY the appeal and APPROVE Neighborhood Use Permit No. 381871, Site Development Permit No. 470555, and Variance No. 470554, and CERTIFY Negative Declaration No. 113555.

EXECUTIVE SUMMARY:

The proposed project is located at 3371 Valemont Street, in the RS-1-7 Zone (single family residence), within the Roseville Heights neighborhood of the Peninsula Community Plan and Local Coastal Program Land Use Plan. The issue before the City Council is an appeal of the Planning Commission's decision to allow for the construction of a new Guest-Quarter over a partially underground garage on a 5,836 square-foot lot with an existing single family residence, and to allow for a driveway deviation from the regulations of the Municipal Code.

The site is currently developed with a 1,567-square-foot one-story single dwelling unit that was constructed in 1954, which would remain. Access to the property is currently only from the Valemont/Ullman alley, with a one-car garage and a 15-foot long driveway located at the southern front of the single-family residence. The lot is rectangular with a steep gradient from the southern portion of the property down to the north with an elevation change of 41 feet. The site does not include any sensitive biological resources.

The proposed project would extend the Valemont Street public right-of-way as a private driveway to access the site at the north end of the property. This driveway would provide vehicle access to the proposed garage at the north side of the property.

A Neighborhood Use Permit is required for the construction of a two-story, detached, guest-quarters and a garage. A Site Development Permit is required to allow for construction of a private driveway in the public right-of-way where the applicant is not the record owner of the property where the driveway is proposed. A Variance is required to permit a street access which does not conform with the applicable development regulations that prohibit access from a street for properties with access to an alley and less than 150 feet of total frontage. The intent of the regulation is to reduce the rate at which cars pull in and out of driveways, thereby reducing pedestrian and vehicular interaction. The intent is also to increase on-street parking spaces.

000930

An appeal of the Planning Commission's decision was filed asserting "Findings Not Supported" and variance findings for the proposed project cannot be made (Attachment 12). Staff has provided a response to each issue in the City Council Report and continues to support the project.

FISCAL CONSIDERATIONS: None with this action. All costs associated with the processing of this project are paid from a deposit account maintained by the applicant.

PREVIOUS COUNCIL and/or COMMITTEE ACTION: None. This action is an appeal of a Process Four Planning Commission decision to approve the project.

COMMUNITY PARTICIPATION AND PUBLIC OUTREACH EFFORTS:

- On November 6, 2008, the Planning Commission voted 4-1-2 to approve the project.
- On September 20th, 2007, after debate, the Peninsula Community Planning Group voted 8-1-3 to deny the project. Board members denied the project primarily on the basis the requested variance had no benefits to the public. In addition, some members needed more information and had some legal concerns.

KEY STAKEHOLDERS & PROJECTED IMPACTS (if applicable):

Federico Liberatore, Owner
Skip Shaputnic, Architect

Kelly Broughton
Director, Development Services Department

ATTACHMENTS: 1- Report to City Council
2- Report to Planning Commission

NOTICE OF DETERMINATION

ATTACHMENT 10

000931

TO: X Recorder/County Clerk
P.O. Box 1750, MS A33
1600 Pacific Hwy, Room 260
San Diego, CA 92101-2422

FROM: City of San Diego
Development Services Department
1222 First Avenue, MS 501
San Diego, CA 92101

 Office of Planning and Research
1400 Tenth Street, Room 121
Sacramento, CA 95814

PROJECT NUMBER: 113555

STATE CLEARINGHOUSE NUMBER: N/A

PERMIT APPLICANT: Fredrico Liberatore, 3371 Valemont Street, San Diego, CA, 92106, (619) 544-5284

PROJECT TITLE: LIBERATORE RESIDENCE

PROJECT LOCATION: The project site located at 3371 Valemont, within City and County of San Diego.

PROJECT DESCRIPTION: NEIGHBORHOOD DEVELOPMENT PERMIT, SITE DEVELOPMENT PERMIT, AND VARIANCE to construct a two-story, detached, approximately 1,340-square-foot structure, which would be comprised of an approximately 688-square-foot guest quarters over an approximately 652-square-foot, two-car garage. The 6,237-square-foot project site is currently developed with a single-family residence, which would remain. The site is located at 3371 Valemont Street in the RS-1-7 zone of the Peninsula Community Plan and Local Coastal Program Land Use Plan, the Coastal Height Limit Overlay Zone, and the Airport Approach Overlay Zone. (APN: 531-211-0300).

This is to advise that the City of San Diego City Council, on _____, approved the above described project and made the following determinations:

- 1. The project in its approved form will, X will not, have a significant effect on the environment.
- 2. An Environmental Impact Report was prepared for this project and certified pursuant to the provisions of CEQA.
- X A Negative Declaration was prepared for this project pursuant to the provisions of CEQA.
- An addendum to Mitigated Negative Declaration was prepared for this project pursuant to the provisions of CEQA.

Record of project approval may be examined at the address above.

- 3. Mitigation measures were, X were not, made a condition of the approval of the project.
- 4. (EIR only) Findings were, were not, made pursuant to CEQA Guidelines Section 15091.
- 5. (EIR only) A Statement of Overriding Considerations was, was not, adopted for this project.

It is hereby certified that the final environmental report, including comments and responses, is available to the general public at the office of the Entitlements Division, Fifth Floor, City Operations Building, 1222 First Avenue, San Diego, CA 92101.

ANALYST: Shearer-Nguyen

TELEPHONE: (619) 446-5369

FILED BY:

Signature

Title



DEPARTMENT OF FISH AND GAME

http://www.dfg.ca.gov
Environmental Review and Permitting
1416 Ninth Street, Suite 1260
Sacramento, California 95814



000933 CEQA Filing Fee No Effect Determination Form

Applicant Name: Frederico Liberatore

Date Submitted: 4/21/2008

Applicant Address: 3371 Valemont Street, Point Loma, CA 92106

Project Name: Liberatore Residence

CEQA Lead Agency: City of San Diego

CEQA Document Type: (ND, MND, EIR) Negative Declaration

SCH Number and/or local agency ID number: Project No. 113555

Project Location: 3371 Valemont Street, Point Loma

Brief Project Description: Neighborhood Development Permit, Site Development Permit, and Variance to construct a two-story, detached, approximately 1,340-square-foot structure, which would be comprised of an approximately 688-square-foot guest quarters over an approximately 652-square-foot, two-car garage. The 6,237-square-foot project site is currently developed with a single-family residence, which would remain.

Determination: Based on a review of the Project as proposed, the Department of Fish and Game has determined that for purposes of the assessment of CEQA filing fees [F&G Code 711.4(c)] the project has no potential effect on fish, wildlife and habitat and the project as described does not require payment of a CEQA filing fee. This determination does not in any way imply that the project is exempt from CEQA and does not determine the significance of any potential project effects evaluated pursuant to CEQA.

Please retain this original determination for your records; you are required to file a copy of this determination with the County Clerk after your project is approved and at the time of filing of the CEQA lead agency's Notice of Determination (NOD). If you do not file a copy of this determination with the County Clerk at the time of filing of the NOD, the appropriate CEQA filing fee will be due and payable.

Without a valid No Effect Determination Form or proof of fee payment, the project will not be operative, vested, or final and any local permits issued for the project will be invalid, pursuant to Fish and Game Code Section 711.4(c)(3).

DFG Approval By: [Signature] Leslee Newton-Reed Date: 5-7-2008

Title: Environmental Scientist

000935

PLANNING COMMISSION OF THE CITY OF SAN DIEGO
MINUTES OF REGULAR SCHEDULED MEETING OF
NOVEMBER 6, 2008
IN CITY COUNCIL CHAMBERS - 12TH FLOOR
CITY ADMINISTRATION BUILDING

Item: 7

CHRONOLOGY OF THE MEETING:

Chairperson Schultz called the meeting to order at 9:11 am. Chairperson Schultz adjourned the meeting at 5:10 pm.

ATTENDANCE DURING THE MEETING:

Chairperson Barry Schultz – present (left at 2:00pm returned at 3:19pm)
Vice-Chairperson - Eric Naslund –present
Commissioner Robert Griswold – present
Commissioner Gil Ontai –present
Commissioner Dennis Otsuji - present
Commissioner Mike Smiley – not present
Commissioner Tim Golba - present

Staff

Keith Bauerle, City Attorney - present
Christine Rothman, Planning Department – present
Mike Westlake, Development Services Department - present
Brenda Clark, Legislative Recorder - present
Elisa Contreras, Recorder – present

6-0-0. Commissioner Smiley not present.

MOTION BY COMMISSIONER ONTAI TO APPROVE THE MINUTES OF OCTOBER 16, 2008. Second by Commissioner Golba. Passed by a vote of 6-0-0 with Commissioner Smiley not present.

✓ ITEM-7: *Continued from September 4, 2008, trailed from September 25, 2008, October 2, 2008, October 9, 2008, October 16, 2008 and October 23, 2008:*

LIBERATORE RESIDENCE – PROJECT NO. 113555

City Council District: 2; Plan Area: Peninsula

Staff: Laila Iskandar

Speaker slips submitted oppose to project by Matt Peterson, Federico Liberatore, Skip Shaputnic.

Speaker slips submitted oppose to project by Matthew DeVol.

Reconsideration Motion:

MOTION TO RECONSIDER ORIGINAL MOTION OF OCTOBER 9, 2008 BY COMMISSIONER GRISWOLD. Second by Commissioner Golba. Passed by a vote of 5-0-0 with Commissioner Otsuji recusing and Commissioner Smiley not present.

COMMISSION ACTION:

MOTION BY COMMISSIONER GOLBA TO CERTIFY NEGATIVE DECLARATION NO. 113555; AND

APPROVE NEIGHBORHOOD USE PERMIT NO. 381871; AND APPROVE SITE DEVELOPMENT PERMIT NO. 470555; AND APPROVE VARIANCE NO. 470554 AS PRESENTED IN REPORT PC-08-106. Second by Commissioner Griswold. Passed by a vote of 4-1-0 with Commissioner Schultz voting NAY. Commissioner Otsuji recusing. Commissioner Smiley not present. Resolution No. 4478-PC

Commissioner Naslund voting Aye but with the understanding that he cannot make findings 1 & 2.

ITEM-8: *Appeal of the Development Services Staff hearing of August 20, 2008:*

***GOETTGE RESIDENCE-PROJECT NO. 129022**

City Council District: 2; Plan Area: Ocean Beach

Staff: Laila Iskandar

Speaker slips submitted in favor of project by David Goettge, Jack K. Jaynes.

PETERSON & PRICE

A PROFESSIONAL CORPORATION

LAWYERS

655 West Broadway, Suite 1600
San Diego, CA 92101-8494
Telephone (619) 234-0361
Fax (619) 234-4786

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EDWARD F. WHITTIER
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MATTHEW A. PETERSON
LARRY N. MURNANE
CHRISTOPHER J. CONNOLLY
ELOISE H. FEINSTEIN
AMY M. STRIDER
CHRISTOPHER R. MORDY

www.petersonprice.com

File No.

7339.001

February 17, 2009

Council President Ben Hueso
& Members of the City Council
202 "C" Street, 10th Floor
San Diego, CA 92101

Re: Tuesday March 10, 2009
Liberatore Guest Quarters
Project No. 113555

Dear Council President Ben Hueso & Members of the City Council:

We represent Fred Liberatore with regard to the above referenced matter. Fred purchased his home at 3371 Valemont/Ullman Vacated alley in 1998 (See Tab 1, Photograph). Since that time, his parents' health has declined. In June of 2007, he moved his parents from New York out to San Diego to live with him. Fred simply wants to build a guest quarters so that he can live next to his parents and take care of them as they reach the twilight of their years.

This request was before the Planning Commission for months and months. Because of the lack of a Quorum and a "short" Planning Commission, the project was delayed a very long time. Finally, on November 6, 2008 the Planning Commission broke the deadlock and voted to approve the project. A neighbor who lives below has appealed the approval.

The appeal states that, 1) there are no special or unique circumstances, 2) denial would not affect our client's reasonable use of the property, and, 3) the 3rd Variance finding cannot be made.

1. Special and Unique Circumstances

There are special and unique circumstances which are applicable to this particular lot which do not generally apply to the land or premises in the neighborhood. While there is no definition of "neighborhood", we have utilized the 300-foot mailing radius as a focus.

Only 2 of the 36 homes sites within the 300-foot mailing radius have such a constrained development area (See Tab 2). As one proceeds down the vacated alley, our client has the most constrained and the smallest development pad area of any of the lots along the Alley. Directly next to our client's lot there is a "somewhat" constrained pad and development area. But as you move further down the vacated alley, all of the remaining homes have larger, flat development pad areas. Therefore, on the vacated alley itself (if that were to be called the "neighborhood") only 2 lots are so constrained. If you look within the rest of the 300-foot radius and beyond, virtually all of the other homes have much larger development pad areas, most of which have both dedicated improved alley access and improved street access.

Our client's home is very small. This is because of the topographic constraints and the small development pad area. The home is only 1,567 square feet with an attached one (1) car garage.

Our client's property fronts on a vacated alley which is substandard. The alley that provides access to our client's one (1) car garage was vacated by the City in 1913 (See Tab 3). Additionally, our client's lot does not have any improved public street access. This makes it unique and different from other properties within the surrounding neighborhood.

Of the eleven homes that are along Valemont/Ullman Alley, our client's home is the only one that does not have either a two-car garage or off-street parking that would legally accommodate two vehicles. The eleven other homes on Valemont/Ullman Alley all have wider and in some cases longer driveways compared to our client's driveway (See Tab 4, Photograph of other homes). Our client's driveway is only 15 feet long, and the width of the driveway is only 12 feet (See Tab 5). This short narrow driveway provides limited vehicular access to the attached one-car garage. As such, our client's home is unique in that it only has a one-car garage.

The subject site also has a substandard driveway that is not long enough to comply with the Municipal Code to accommodate legal vehicular parking. This makes our client's property non-conforming as it relates to required off-street parking.

As mentioned in your staff report, the subject property drops off significantly in the back. With the proposed small extension of Valemont Street below, our client's guest quarters would have direct vehicular access to a dedicated public street below (See Tab 6). With implementation of the guest quarters and attached two-car garage, our client's home and lot will be brought into conformance with the Municipal Code required off-street parking both for the house and for the detached guest quarters.

Finally, the only feasible way to develop the lower portion of our client's site is by way of Valemont Street below. Even if our client's existing home were demolished, because of the steep gradient, it would be impossible to extend a driveway from the vacated alley down the steep slope to the buildable area below. No driveway could feasibly be constructed from the vacated alley down the 41-foot slope to accommodate either construction or vehicular access to a guest quarters.

There are special and unique circumstances which are peculiar to our client's property and home, which do not apply generally to the others land or premises in the neighborhood.

2. Reasonable Use

With regard to the concept of the applicant being deprived of reasonable use, he purchased the home in 1998. Since purchasing his home, his parents' health has declined and he has moved his parents from New York to live with him in San Diego. The existing home is only 1,567 sq. ft. As you can imagine, our client would like to remain as close to his parents as possible, to care for and visit them daily and still have some independence. This would be accomplished with the requested detached guest quarters.

We believe that a reasonable use of the property would include the ability of the owner to access and use the lower portion of his lot. The lower portion of the lot along Valemont Street is actually designated as the "Front yard". The request is for a very modest 688 sq. ft. guest quarters tucked into the lower slope. Even with the guest quarters, the floor area ratio will be nearly 540 sq. ft. less than what is allowed by the underlying zone. Finally, given the topographic and other constraints mentioned above in section 1, it is reasonable to tuck into the slope a guest quarters at the lower portion of the lot with access to the public street.

3. Public Health, Safety, and Welfare

The appellant has not presented any evidence or indication that the project would in any way adversely affect the public health, safety, or welfare.

Purpose and Intent of Required Alley Access/ Limitation of curb cuts

San Diego Municipal Code section 142.0560(J)(8)(c) states in part, "...For properties with access to an alley and less than 150 feet of total frontage, a driveway is not permitted, ...".

The purpose and intent behind restricting the number of curb cuts and the requirement for alley access was to protect and retain as much on street parking as possible. There is no on-street public parking on the unimproved portion of Valemont Public Street below. The public street is only being used as a private driveway for 2 homes, one of which belongs to the appellant! (See Tab 6) Our client's requested curb cut and driveway will not reduce or eliminate any on-street parking and there will be no vehicular conflicts with pedestrians at this location.

If you were to drive along Bangor Street, you will note that there are many cars parked on the residential streets in the surrounding area. This is likely because are people are not utilizing their garages for vehicular parking and/or certain homes in the area do not have enough required off-street parking. With the addition of the required off-street parking for this project, more on-street parking will be available for use by the general public on the streets above.

In conclusion, we believe the purpose and intent of the Municipal Code is not being adversely affected with this request. In fact, the purpose and intent of the Code will be satisfied by granting the variance to correct a current non-conforming situation.

Minimum Variance that would permit reasonable use of the land or premises

The request before you is the minimum variance that will permit the reasonable use of the land. To require that our clients demolish their existing small 1,567 square foot home, in effort to provide a driveway down a steep slope (which will not be feasible) would not be reasonable. Further, to perpetuate the nonconforming parking status of the home only exacerbates the existing on-street parking situation in the area.

Finally, the only way for our clients to actually construct anything within the lower developable portion of their property is to gain access from the dedicated public street below (Valemont Street). We do not believe that it is reasonable to require that our clients utilize a tall crane to lower construction materials down to the bottom portion of the site to construct a guest quarters. We also do not think it is reasonable to require that our client park in the substandard driveway, and then have to walk down a steep slope with stairs every night to go to bed.

4. Right of Way Encroachment

The opponents' have asserted that the extension of the Valemont Street below would not accomplish a public purpose or need. Let's face it, they don't want the public or our client to use the public street. While we understand that the two neighbors below do not want the public street utilized for public access, the public street is not for the Busquets' and the DeVols'/Goulding's sole and exclusive private use (See Tab 7). Our client has legal abutter's rights to use the public street. Further, the general public will have full access upon and across the proposed small extension of Valemont Street. It will provide the police and fire department with necessary emergency vehicular access for medical and firefighting needs. Because of the Encroachment Removal and Maintenance Agreement, the City will have no liability.

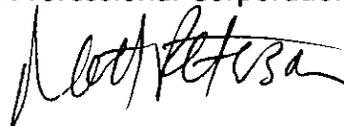
The two neighbors below did not process a Site Development Permit when they put their own private driveways within the public street. They merely requested and recorded an Encroachment Removal and Maintenance Agreement. Our client is not asking for anything more than what the two neighbors below already have.

We would respectfully request that the City Council deny the appeal and affirm the decision of the Planning Commission. This will allow our client to care for his parents and have some semblance of independent living.

Thank you for your courtesy.

Sincerely,

PETERSON & PRICE
A Professional Corporation



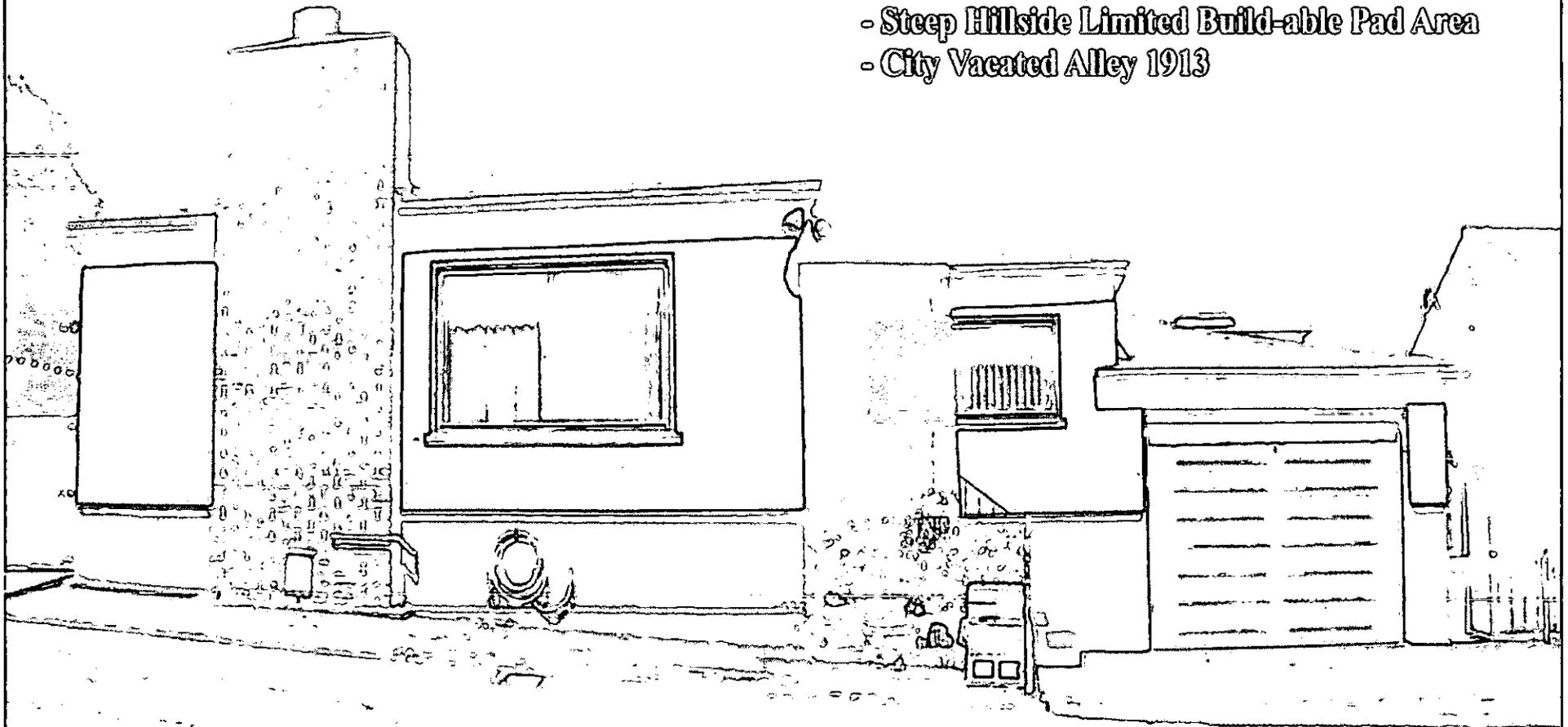
Matthew A. Peterson

cc: Mayor Jerry Sanders
City Attorney Jan Goldsmith
City Clerk Elizabeth Maland
Laila Iskander, Planner, DSD
Fred Liberatore
Skip Shaputnic



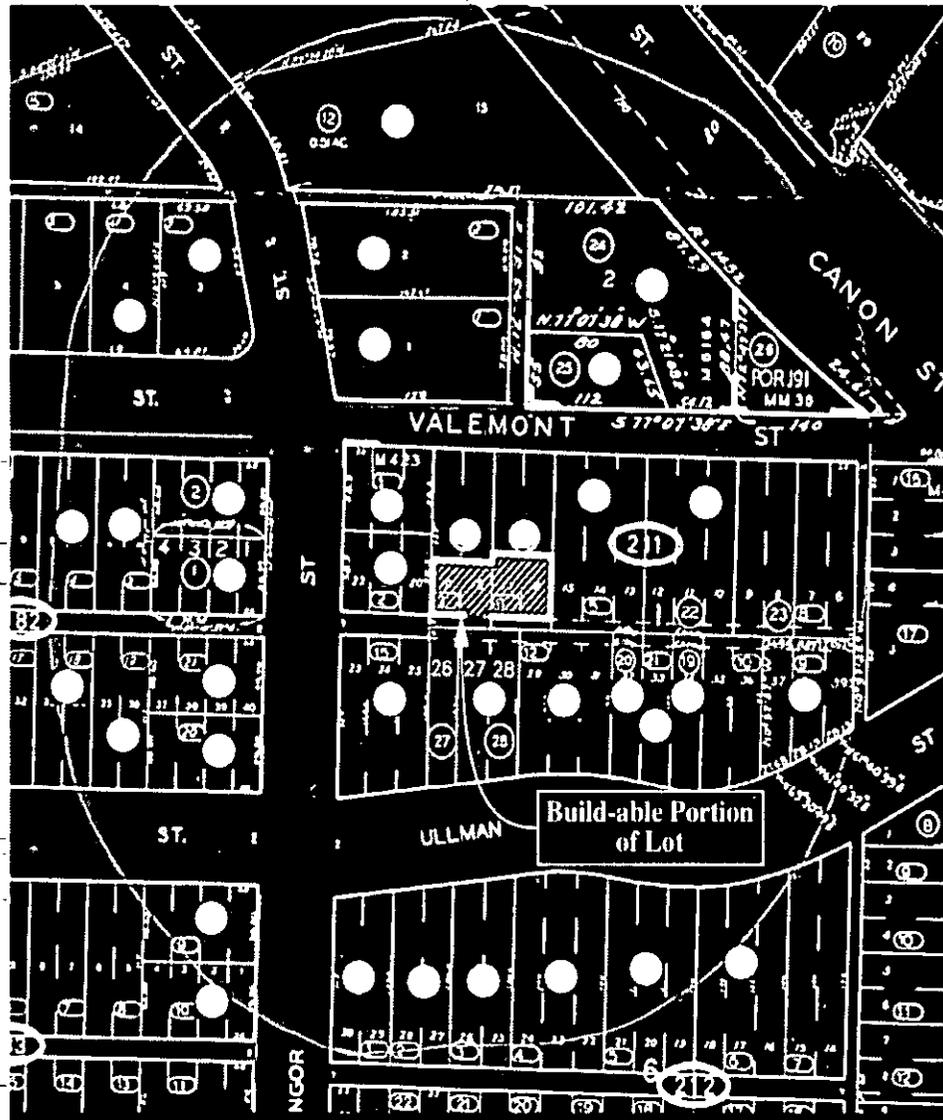
Existing Residence
3371 Valemont/ Ulman Vacated alley
San Diego, CA 92106

- One Car Garage
- Steep Hillside Limited Build-able Pad Area
- City Vacated Alley 1913



Vacated Alley

2

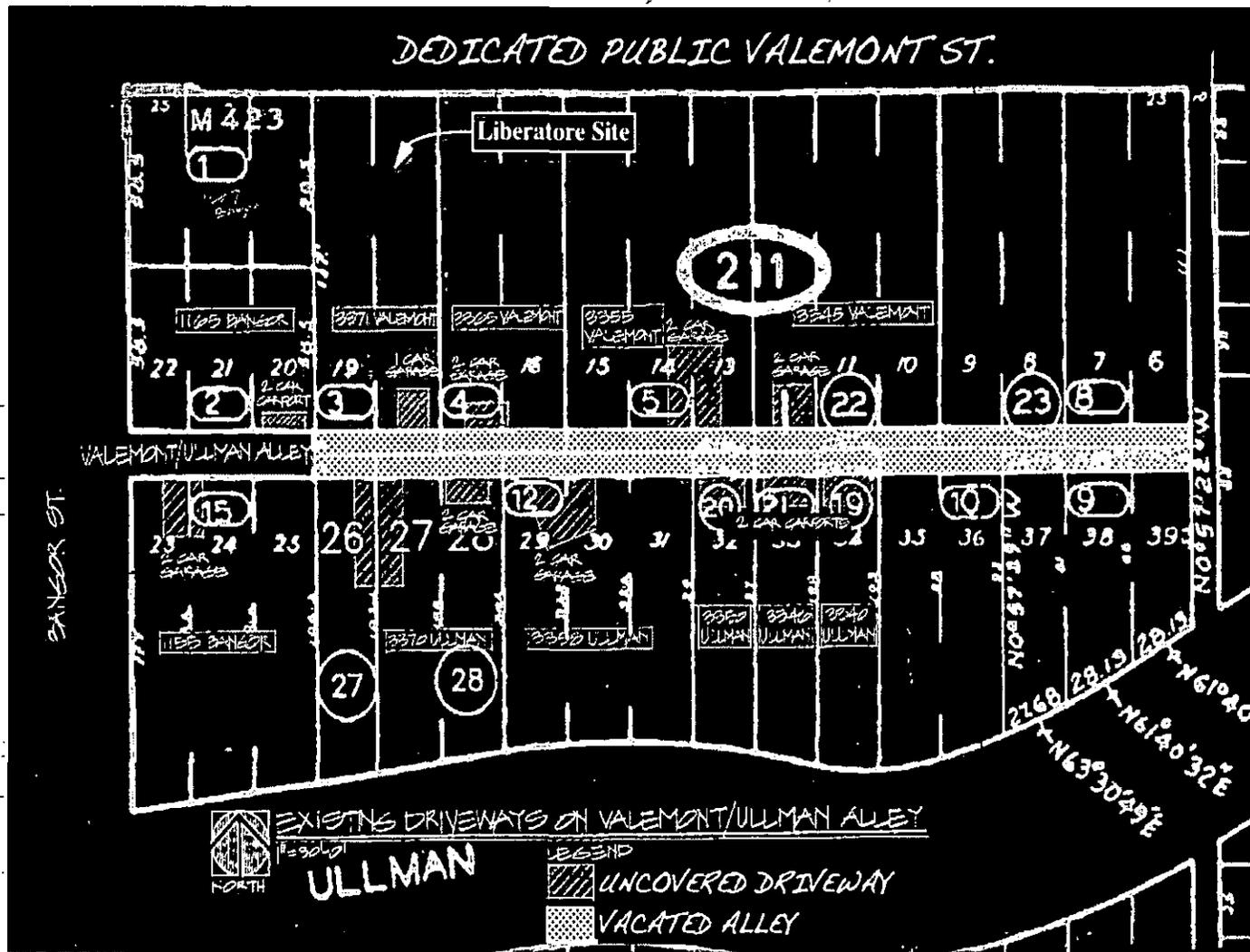


**2 out of 36 Homes with such limited
Development Pad Area**



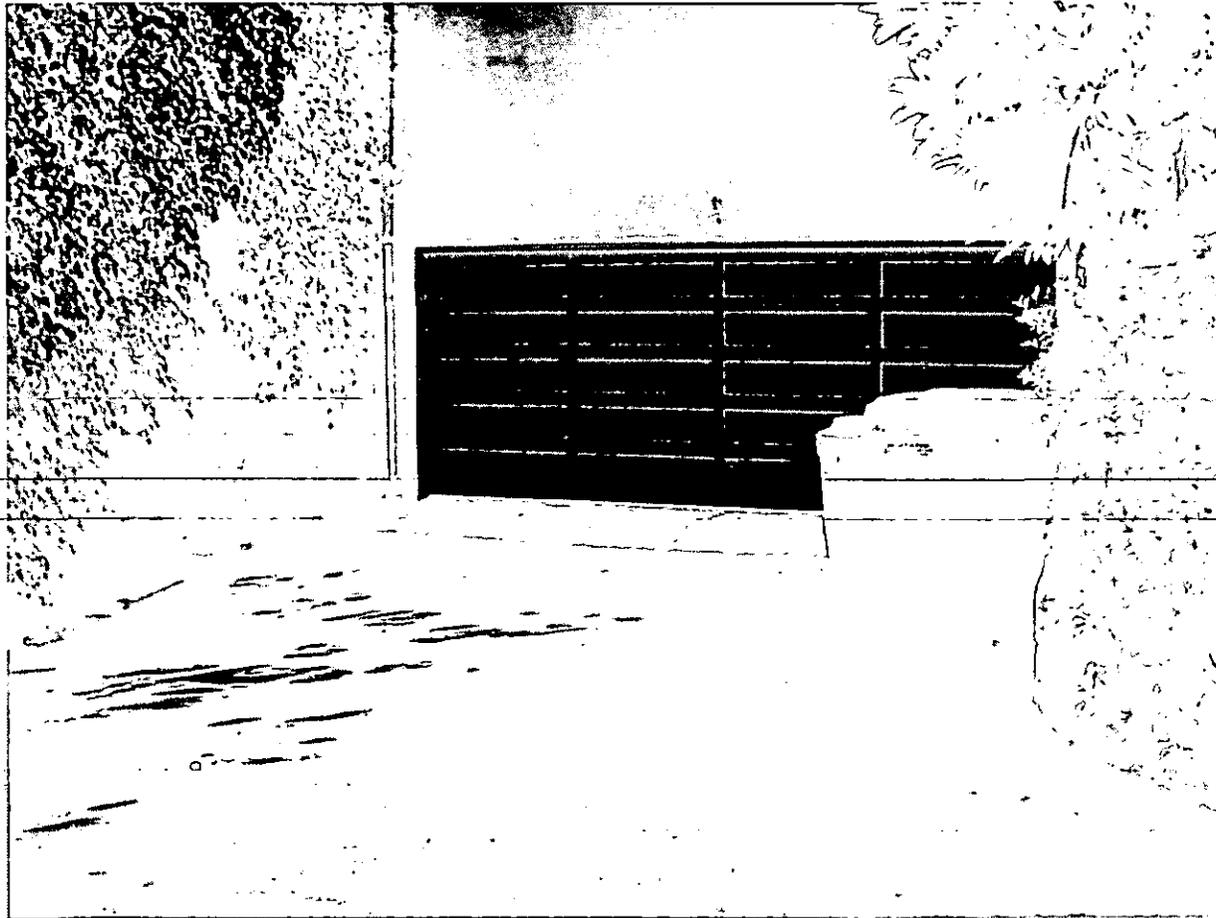
Build-able Portion of Lots

3



**Substandard Parking 1 car Garage
11 other Homes have space for 2 cars**

4



1155 Bangor
2 Car Garage

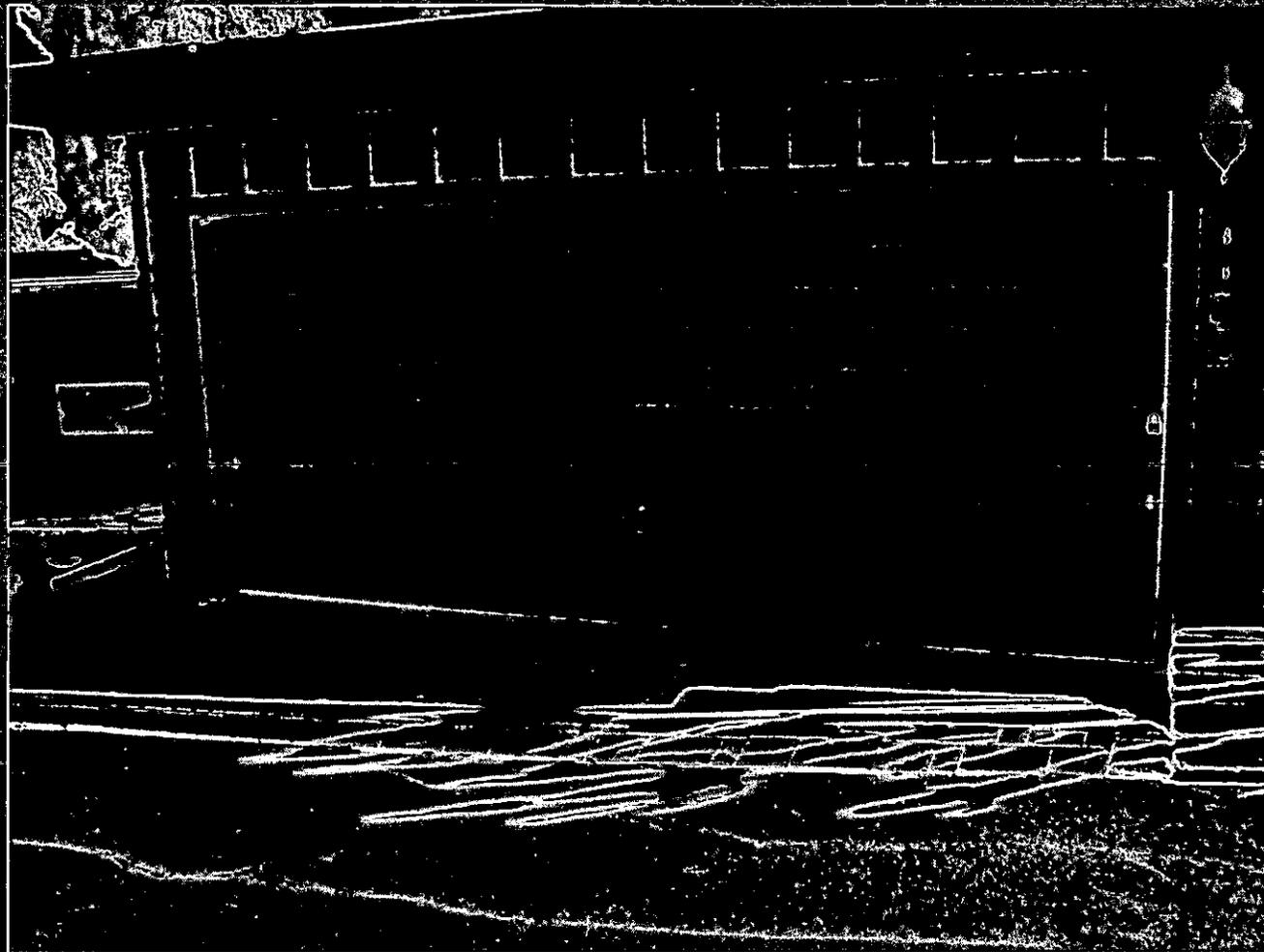
9



3370 Ullman Off Street

38' Deep Driveway

10



3370 Ullman
2 Car Garage
11



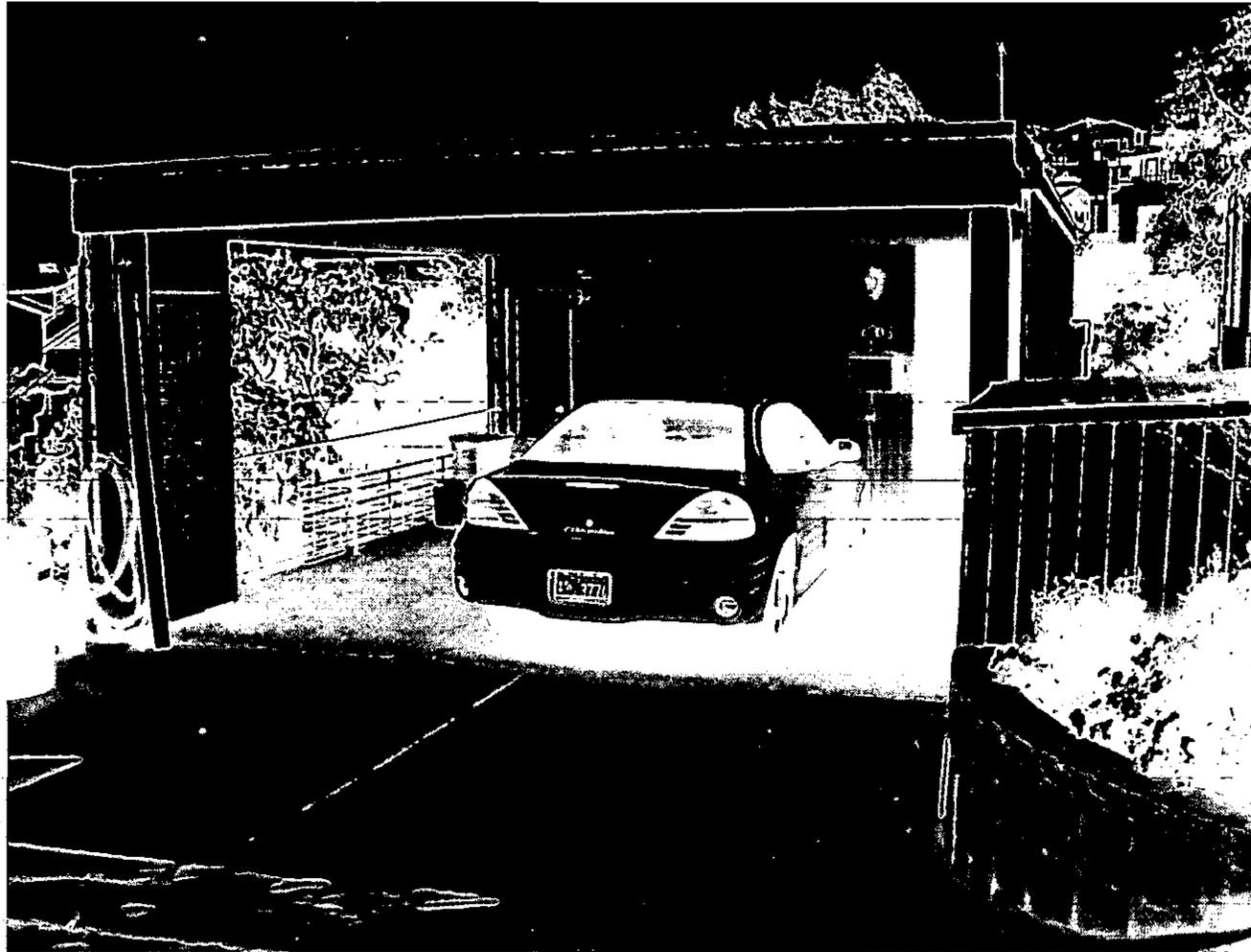
3358 Ullman
2 Car Garage
12



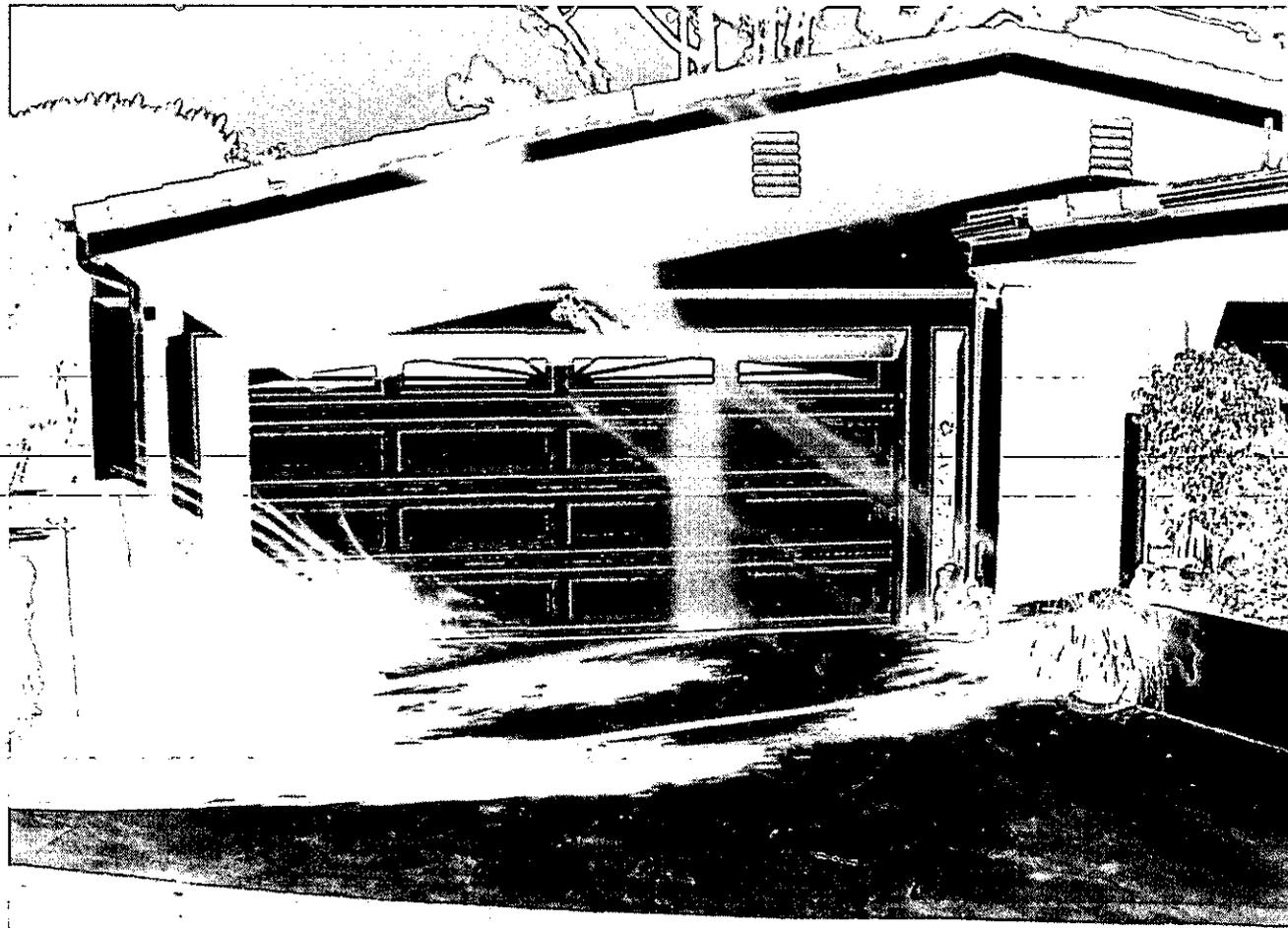
3350 Ullman
2 Car Carport
13



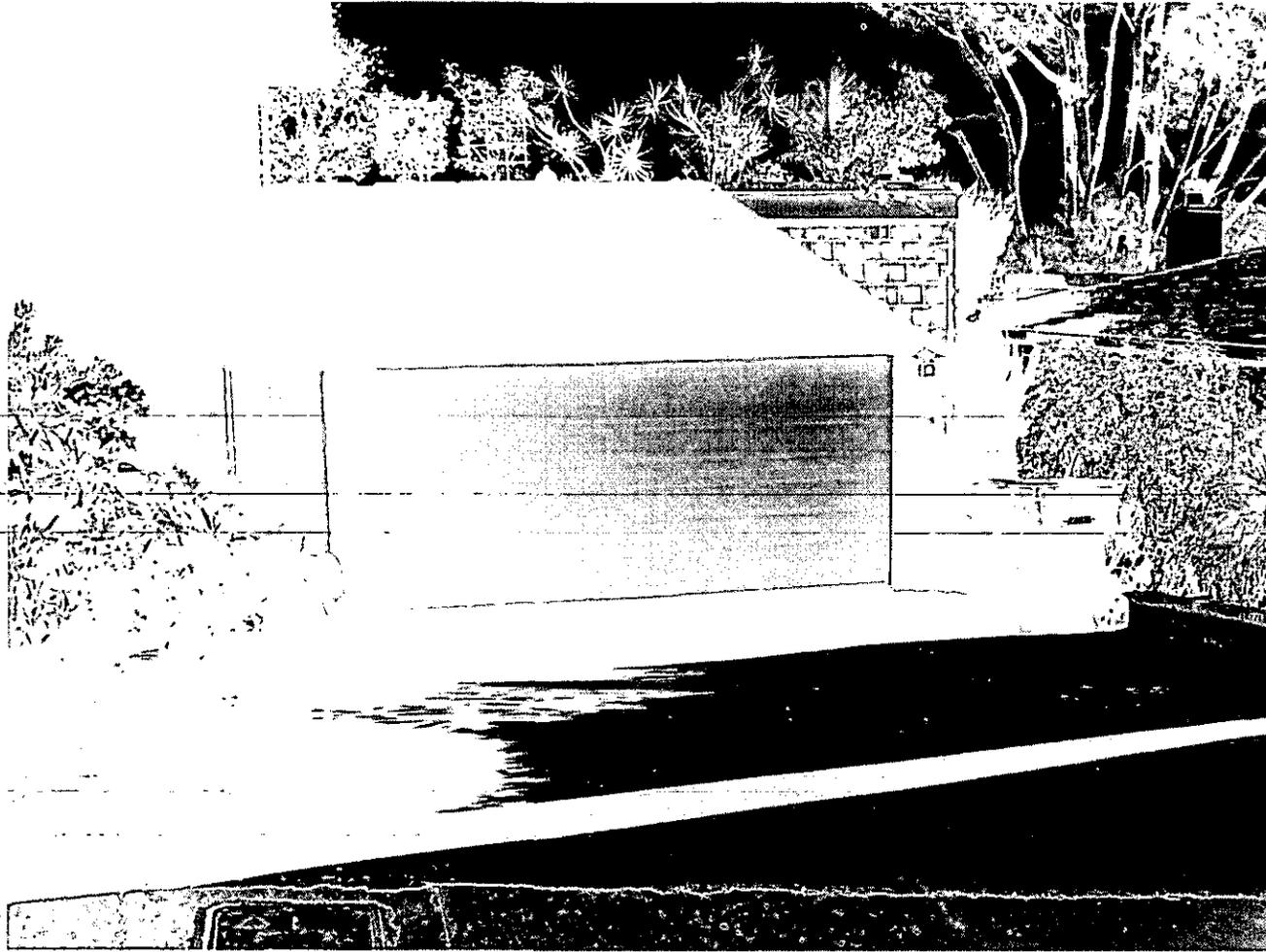
3346 Ullman
2 Car Carport
14



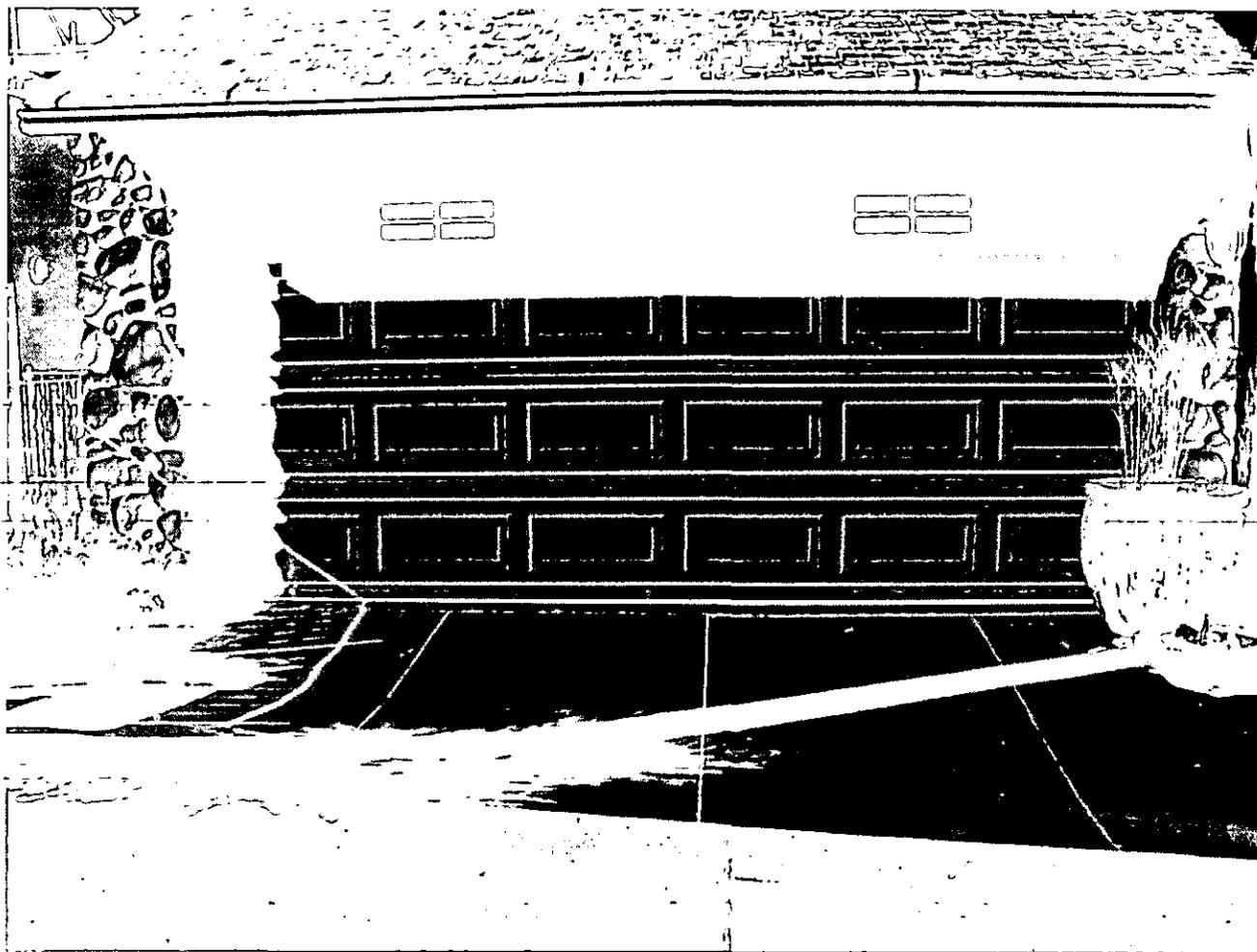
3340 Ullman
2 Car Carport
15



3345 Valemont
2 Car Garage
16



3355 Valemont
2 Car Garage & 29' deep Driveway
17



3365 Valemont

2 Car Garage

18

5



**Applicant's Home: Existing One Car
Garage & Substandard Driveway**

6



Proposed Extension of Public Street

7



Private Use of Public Street @ R. O. W.