



CITY COUNCIL AGENDA REPORT

DATE: 09/13/2009

AGENDA OF: 12/8/09

DEPARTMENT: Planning

SUBJECT: 101 Manor Place 09-065 APN 004-283-32
Appeal of the Planning Commission's Denial of Special Use Permit,
Design Permit, Variance, Conditional Driveway Permit, and Conditional
Fence Permit to Construct a Second Dwelling as an Addition to an Existing
Residence to Create a Duplex on a Corner Lot. (PL)

RECOMMENDATION: Consider the appeal of the applicant and adopt one of the following resolutions:

1) Resolution denying the appeal, thereby upholding the Planning Commission's decision to deny Special Use Permit, Design Permit, Variance, Conditional Driveway Permit, and Conditional Fence Permit;

or

2) Resolution upholding the appeal of the applicant and approving Special Use Permit, Design Permit, Variance, Conditional Driveway Permit, and Conditional Fence Permit with conditions, thereby overturning the Planning Commission's decision.

Staff recommended that the Planning Commission approve the application.

BACKGROUND: The applicant is proposing to create a duplex by constructing a second dwelling as an addition to an existing residence within a single-family residential neighborhood. The subject property is an approximately 8,600 square foot corner lot located at the intersection of Manor Place and Manor Avenue South. The existing two-story dwelling is approximately 1,900 square feet and the proposed second unit is two stories and 2,300 square feet. Each dwelling would have three bedrooms and an attached garage. The applicant also proposes to make minor modifications to the existing residence, including facade enhancements to unify the appearance of the duplex.

Section 24.10.330(2)(h) of the City of Santa Cruz Zoning Ordinance allows duplexes on corner lots with a minimum area of 7,500 square feet in single-family residential (R-1-5) zones with approval of a Special Use Permit and Design Permit. The applicant is also requesting a Variance to allow the unit to be constructed as an addition to an existing residence rather than within an "entirely new structure" as required by the Zoning Ordinance for duplexes in single-family

zones. In addition, the proposed project requires approval of a Conditional Driveway Permit to allow a stand-alone driveway in the rear yard, as well as a Conditional Fence Permit to allow an eight-foot high wall in the rear yard and a six-foot high wall in the exterior side yard.

At its July 2, 2009 hearing, staff recommended that the Planning Commission approve the proposed project, except the portion of the Conditional Fence Permit application that would allow for a six-foot high wall in the exterior side yard. The Planning Commission heard extensive testimony from neighbors opposing the project. The neighbors indicated that the existing single-family dwelling is currently being used as a vacation rental and is not owner-occupied. They expressed concerns that the proposed dwelling would intensify adverse impacts to the neighborhood if used as a second vacation rental. The neighbors also felt that the proposed duplex would be out of scale and character with surrounding residences. Concern was also raised that the proposed stand-alone driveway not be usable due to a bulb-out at the dead-end of Manor Avenue South.

In addition, the neighbors stated that an existing residence across the street from the project site is a duplex, which would preclude the creation of a duplex at the project site. The Zoning Ordinance states that “duplexes will not be approved on properties within five hundred feet of existing duplexes or approved duplex locations.” However, staff determined that the residence in question does not have a permitted or legal nonconforming second unit. In fact, a land use agreement was recorded in 1987 limiting dwelling on that property to use as a single-family residence.

The Planning Commission ultimately denied the application on a 5-2 vote based on findings that the proposed duplex design was out of scale with surrounding residences and that the parking layout was poorly designed. The Commission did not support the Special Use and Design Permits due to neighborhood compatibility issues. Further, the Commission denied the requested Variance on the basis that there was no hardship related to the physical characteristics of the property. Further, the Conditional Fence Permit request was also denied based on its visual incompatibility with the character of the neighborhood.

The applicant filed an appeal of the Planning Commission’s decision to deny the project on July 13, 2009. The appellant’s letter indicates that the proposed duplex is compatible in scale and floor area to residences in the surrounding neighborhood, that the proposed stand-alone driveway would not be obstructed by the bulb-out at the dead-end of Manor Avenue South, and that a variance was previously granted in the recent past to another applicant for a similar project in the same neighborhood (303 Bay Street). The appellant is requesting that the City Council consider the appeal, reverse the Planning Commission’s denial, and follow the recommendation contained in the original staff report. Minutes from the Planning Commission meeting and the appeal letter are attached to this report.

DISCUSSION: Project Site and Surroundings: The project site is a level corner lot located at the corner of Manor Avenue and Manor Place South west of West Cliff Drive in a single-family residential neighborhood. The property abuts the Gateway School property and is otherwise surrounded by one- and two-story residences of varying scales and mixed architectural styles. The existing single-family dwelling is currently being used as a vacation rental called “Wharf View Place.” There are no specific zoning requirements or prohibitions for vacation rentals, but these uses are required to pay transient occupancy taxes. The Finance Department indicated that the property owner is current on transient occupancy tax payments for the rental.

Site Layout and Floor Plans: The lot is currently developed with a 1,892 square foot one-story single-family dwelling with an attached two car garage. The front of the existing residence faces the front yard of the lot along Manor Place. The structure meets the minimum required front, rear, interior side yard, and exterior side yard setbacks. The applicant proposes to construct a new exterior stair along the westerly side of the residence adjacent to the exterior side yard to provide access to an existing enclosed deck area. The floor plan of the existing dwelling would otherwise remain unchanged.

The existing residence has an approximately 61 foot rear yard setback. The applicant proposes to develop a significant portion of the existing rear yard with a new 2,302 square foot, two-story residence. The proposed residence would be attached to the existing residence with a common wall but would function as a separate dwelling unit. The proposed building meets all of the required setbacks of the R-1-5 zone district, except that a small portion of the garage encroaches into the required 20 foot setback from the exterior side property line. Staff included a project condition requiring the garage to be modified to meet this setback requirement.

Architectural Design: Section 24.08.430 of the Zoning Ordinance establishes specific findings for Design Permits which provide criteria for evaluating design proposals. The exterior design and appearance of new structures must be compatible with structures in the surrounding neighborhood that have “established architectural character worthy of preservation.” Staff finds that the proposed second unit design is compatible with both the existing single-family dwelling and adjacent residences in terms of its overall proportions, roof pitch, exterior finish materials, and roof pitch. The maximum height of the duplex is almost 23 feet (measured to the midpoint of the roof), which is significantly below the 30-foot height maximum in the R-1-5 zone district.

The proposed new unit addition would substantially modify the appearance of the project site as viewed from Manor Place and Manor Avenue South. However, variations in the wall plane along Manor Avenue South articulate and minimize the overall building mass. The existing two-story residence features a relatively simple design with a hipped roof, stucco finish, and limited architectural enhancements. The proposed exterior design incorporates similar architectural details on both the existing and proposed units to enhance the existing structure and integrate the appearance of both dwellings. Design elements include a new board and batten finish, ornamental stucco posts, and decorative window muntins. The proposed features will enhance the appearance of the existing residence. The applicant proposes to restucco the existing dwelling to unify the appearance of the duplex.

Staff finds that the exterior design of the duplex features a high level of articulation. Section 24.08.430 of the Zoning Ordinance requires that the design of the site plan maintain a “balance of scale, form and proportion, using design components, which are harmonious.” Overall, the new unit has been designed to retain the overall scale, form, and proportion of the existing residence because it incorporates a similar roof, second floor balcony design with a wrought iron railing and decorative columns, and window proportions. However, staff included a condition of approval requiring the removal of the proposed exterior stair along the east elevation of the existing residence as it detracts from the main entrance to the residence on Manor Place.

Duplex Requirements and Variance Request: Within the R-1-5 zone district, duplexes are subject to approval of a Special Use Permit and a Design Permit. Duplex projects must conform to the requirements of Section 24.10.330(h) of the Zoning Ordinance, which establishes limitations for

duplexes on corner lots of at least 7,500 square feet. The proposed project conforms to the requirements that the duplex be located in an area characterized by mixed residential uses and on a property at least 500 feet from any other duplex location. The Ordinance requires that each unit have direct access to at least 1,000 square feet of usable open space. The site plan provides approximately 1,400 square feet of usable open space for the existing residence and 1,200 square feet for the new unit, excluding the driveway and walkway areas. Further, the proposed project conforms to the requirement that the units be designed so that each faces on one of the streets forming the intersection. The Ordinance requires that there be a differential of at least 20-percent in the total floor area of the individual units. The proposal complies with this requirement as the new unit exceeds the living area of the existing unit by approximately 22-percent.

Section 24.10.330(2) of the Zoning Ordinance requires that duplexes be permitted in entirely new structures only. In order to build a duplex in compliance with this requirement, the applicant would be required to demolish the existing residence and construct an entirely new structure containing two separate dwelling units. From an environmental standpoint, demolition of an existing structurally sound building constructed in 1972 would be inappropriate. The intent of the Ordinance requiring duplexes to be permitted in entirely new structures is to ensure a unified exterior appearance and functional site plan. The applicant has designed the site plan to integrate the architectural style of the two dwellings such that each unit will have similar proportions, design elements, and exterior materials. In addition, staff finds that the site plan functions in terms of its ability to provide each unit with adequate street presence, off-street parking, and usable open space.

Because the Zoning Ordinance states that duplexes shall be permitted in entirely new structures only, the applicant is requesting approval of a Variance to allow a second unit to be constructed as an addition rather than a new structure. A similar Variance application was approved to create a duplex by adding an attached unit to an existing single-family residence on an approximately 9,200 square foot, rectangular, corner lot in the R-1-5 zone district at the corner of Bay Street and Laguna Street. According to Section 24.08.100 of the Zoning Ordinance, the purpose of the Variance application is to allow variation from zoning standards where by reason of “extraordinary situation or condition” of a piece of property, the “literal enforcement” of such standards would “involve practical difficulties or would cause undue hardship, which are unnecessary to carry out the intent and purpose” of the Zoning Ordinance.

By requiring the applicant to demolish a structurally sound residence, which constitutes the existing condition of an already developed lot, the City’s ability to carry out the intent of the Zoning Ordinance and General Plan would be impaired. Goal H4 of the General Plan Housing Element states that the City shall seek to “conserve and improve the existing housing stock throughout the City.” Further, Section 24.15.010 of the Zoning Ordinance seeks to “promote the environmental sustainability of natural resources...by efficiently redirecting the use of recyclable materials away from landfills.” Requiring the applicant to demolish the existing structure to construct a new duplex building would cause undue hardship and conflict with the purpose of the Zoning Ordinance as established in Chapter 24.15 in which the City establishes its intent to reduce energy and material consumption through efficient construction methods. The preservation of an existing usable structure reflects the most efficient possible means of “construction.”

Off-Street Parking and Conditional Driveway Permit Request: The existing residence has three bedrooms and requires a minimum of two off-street parking spaces, one of which must be

covered. The existing attached two-car garage meets this parking requirement and will be retained. The proposed new residence will have three bedrooms. The required covered parking space will be provided in an attached one-car garage off Manor Avenue South. The Zoning Ordinance does not allow required off-street parking to be located within the required exterior side yard. Because proposed driveway cannot accommodate a 16-foot deep compact parking space outside of the required eight-foot exterior side yard setback, the applicant proposes to install another stand-alone to provide the second required parking space.

Section 24.08.2300 of the Zoning Ordinance allows the installation of stand-alone driveways that do not lead to covered parking that are “necessary to provide a private parking area for residential lots” in cases of unusual or special circumstances related to the property, subject to approval of a Conditional Driveway Permit at a public hearing. The applicant is requesting approval of a Conditional Driveway Permit to install a new stand-alone driveway paved with turf blocks and accessed off an existing curb cut located at the dead end of Manor Avenue South. While it would be possible to modify the site plan to fit a compact uncovered parking space in the proposed driveway for the second unit, due to the shape of the property which narrows at the front end, the private open space for the existing dwelling would be minimized if the attached garage for the new unit were to be shifted toward the interior side property line. In addition, access from the existing residence to the rear yard would be obstructed and therefore need to be relocated.

Because the rear of the lot features ample space to accommodate the proposed driveway and an existing curb cut, staff supports the proposed location of the stand-alone driveway. The proposed driveway is appropriate for the site layout and lot configuration and allows the applicant to meet the off-street parking requirements for the new residence. Further, the driveway is located at the end of a dead-end street and therefore its use would not interfere with pedestrian or vehicle traffic. The City Engineer visited the site and determined that the proposed stand-alone driveway would have adequate backup distance to be functional.

Conditional Fence Permit: In March 1972, a Variance (V-72-10) was issued for the subject property to allow a five foot, six inch fence within the exterior side yard setback along Manor Avenue South. The maximum height for fences located within front or exterior side yards is typically three feet, six inches. At that time, the Zoning Ordinance did not contain provisions for Conditional Fence Permits. The purpose of the five foot, six inch high fence was to enclose the private open space contained within the rear and side yards of the property.

The applicant is requesting approval of a Conditional Fence Permit to install a new six foot high wall in the required eight-foot exterior side yard setback to separate the yard areas for the existing and proposed units. The proposed wall would step up to eight feet in height beyond the exterior side yard setback. With the proposed project, the exterior side yard will effectively become the front yard of the new unit. Therefore, staff recommends that the height increase allowed by Variance V-72-10 no longer be valid for the proposed project. To create an attractive street presence of the new residence facing Manor Avenue South, the maximum height of any fence along this frontage should be limited to three foot, six inch consistent with current zoning regulations for fences in front and exterior side yards. In addition, with the proposed new driveways along Manor Avenue South, the lower fence height is necessary to ensure the safety of vehicles and pedestrians. Therefore, staff recommends denial of this part of the Conditional Fence Permit request. Staff has included a project condition requiring the removal of the existing

five foot, six inch high fence to improve the street presence of the duplex as viewed from Manor Avenue South.

The applicant is also requesting approval of an eight-foot high wall within the required 20-foot rear yard setback to separate the private open space areas of the two units. Staff supports this request as this wall will not be highly visible from the public street or create any safety hazards. The eight-foot high wall is reasonably necessary because it will provide the residents of the duplex to have a higher degree of privacy than would be afforded by a six-foot high wall, which is the maximum allowable fence height in the required rear yard.

As conditioned and with approval of the requested Special Use Permit, Design Permit, Variance, and Conditional Driveway Permit, the project meets the regulations established for the construction of duplexes on corner lots in the R-1-5 zone district. Staff feels that the proposed duplex would blend in well with the surrounding neighborhood in terms of its overall proportions, roofline, scale, and architectural design. Further, it will enhance and modernize an existing residence and provide an additional long-term housing opportunity within the community. Therefore, staff recommends that the City Council reverse the Planning Commission's decision, acknowledge the environmental determination, and approve the Special Use Permit, Design Permit, Variance, Conditional Driveway Permit, and the part of the Conditional Fence Permit request that allows for an eight-foot high fence in the required rear yard, based on the attached findings and subject to the conditions of approval listed in Exhibit "A." Because the Planning Commission's decision differed from staff's recommendation, a resolution denying the permit applications is also attached in the event the City Council concurs with the Planning Commission's decision.

FISCAL IMPACT: None

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Submitted by:
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Planning Director

Approved by:
Richard C. Wilson
City Manager

ATTACHMENTS:

Draft Resolution for project approval

Draft Resolution for project denial

Exhibit A: Conditions of Approval

Attachment 1: Appeal Letter, dated July 13, 2009, by John McKelvey, Architect

Attachment 2: Action Minutes of the July 2, 2009 Planning Commission Meeting

RESOLUTION NO. NS-

RESOLUTION OF THE CITY COUNCIL OF THE CITY OF SANTA CRUZ
ACKNOWLEDGING THE CATEGORICAL EXEMPTION AND APPROVING SPECIAL
USE PERMIT, DESIGN PERMIT, VARIANCE, CONDITIONAL DRIVEWAY PERMIT,
AND CONDITIONAL FENCE PERMIT AT 101 MANOR PLACE THUS UPHOLDING
THE APPEAL AND OVERTURNING THE PLANNING COMMISSION'S
DECISION (APPLICATION NO. 09-065)

WHEREAS, on April 29, 2009 Patricia Wood, owner and applicant, submitted an application for a Special Use Permit, Design Permit, Variance, Conditional Driveway Permit, and Conditional Fence Permit to construct a second dwelling as an addition to an existing residence to create a duplex at 101 Manor Place (APN 004-283-32) in the R-1-5 zone district; and

WHEREAS, the project site and its development is governed by the standards and guidelines contained in City of Santa Cruz Municipal Code Title 24, the Zoning Ordinance, and the City of Santa Cruz General Plan; and

WHEREAS, an environmental determination of a Categorical Exemption Class 3 (New Construction) for the project has been considered: and

WHEREAS, on July 2, 2009 the Planning Commission conducted a public hearing and after receiving public testimony voted five to two to deny the application based on certain findings; and

WHEREAS, on July 13, 2009 the applicant submitted an appeal of the Planning Commission's decision; and

WHEREAS, on September 22, 2009 the City Council conducted a public hearing to consider the appeal and made the following findings:

With respect to the Environmental Determination

The decision-making body has considered the Categorical Exemption together with comments received during the public review process and finds, on the basis of the whole record before it, that there is no substantial evidence that the project will have a significant effect on the environment, and that the Class 3 New Construction Categorical Exemption reflects the City's independent judgment and analysis.

With respect to the Special Use Permit, Section 24.08.050

- 1. The proposed structure or use conforms to the requirements and the intent of this title, and of the General Plan, relevant area plans, and the Coastal Land Use Plan, where appropriate.**

The proposed structure and duplex use conforms to the General Plan goal of conserving and improving the existing housing stock throughout the City (Housing Element Goal H4). By constructing a second unit as an addition instead of demolishing an existing

residential unit, the proposed use supports the intent of the Zoning Ordinance to promote environmental sustainability of natural resources through materially efficient construction methods as established in Section 24.15.010. The proposed use is further consistent with the Zoning Ordinance in that duplexes are permitted uses on corner lots with a minimum lot area of 7,500 square feet in the R-1-5 zone district with approval of a Special Use Permit and Design Permit. The project site is not located within any area plan boundaries. The property is located with Coastal Exclusion Zone B, which excludes residential development of one to four units from coastal review.

- 2. Any additional conditions stipulated as necessary in the public interest have been imposed.**

Standard project conditions have been included to ensure that the proposed duplex does not adversely affect the surrounding neighborhood. In addition, a project condition has been included requiring the existing 5'-6" high fence to be removed from the exterior side yard setback to enhance the street presence of the proposed duplex as viewed from Manor Avenue South.

- 3. The use or structure will not constitute a nuisance or be detrimental to the public welfare of the community.**

The proposed use will not constitute a nuisance or be detrimental to the public welfare of the community in that it provides an infill dwelling unit within an existing single-family residential neighborhood. The duplex conforms to the density requirements of the R-1-5 zone district and will provide a residential use on a property surrounded by residential uses. As proposed, the site plan meets the required off-street parking for two three-bedroom dwelling units and the two new proposed driveways along Manor Avenue South have been designed to meet City standards and vision clearance requirements. In addition, Manor Avenue South is a dead-end street so the proposed driveways will not interfere with traffic circulation in the neighborhood. Therefore, the proposed project should not adversely impact traffic or parking conditions in the surrounding streets.

- 4. That all thrift store uses shall include a management plan that identifies collection facilities for donated items, operating hours for donation facilities which discourage unsupervised dropoffs, adequate storage areas for sorting the materials, and provides a plan to properly dispose of unusable items in a timely, secure, and orderly fashion and maintains premises in a clean and attractive condition.**

This finding is not applicable to this project.

With respect to the Design Permit, Section 24.08.430

- 5. The site plan shall be consistent with physical development policies of the General Plan, any required or optional element of the General Plan, any area plan or specific plan or other city policy for physical development. If located in the Coastal Zone, a site plan shall also be consistent with policies of the Local Coastal Program.**

The site plan is consistent with physical development policies of the General Plan in that the proposed project provides an infill housing unit that intensifies the existing land use in a manner that is compatible with existing neighborhood (Community Design Policy 1.1). The proposed duplex will enhance neighborhood diversity and its exterior appearance will “reinforce the desirable elements of neighborhood character or quality.” Based on a letter prepared by a biological consultant, the proposed project should not adversely impact monarch butterfly habitat and therefore the project supports the City’s policy of protecting sensitive species and habitats as identified in Map EQ-9 of the General Plan. The project site is not located within any area plan or specific plan area boundaries. Although the property lies within the Coastal Zone, the project qualifies for a Coastal Permit exclusion in accordance with Section 28.08.230.2(B)(1) of the Zoning Ordinance.

6. **The exterior design and appearance of buildings and structures and the design of the site plan shall be compatible with design and appearance of other existing buildings and structures in neighborhoods which have established architectural character worthy of preservation.**

As conditioned, the proposed duplex has been designed to be compatible with the appearance of other two-story residences in the neighborhood in terms of its overall style, scale, proportions, and exterior finish materials. The applicant proposes to modernize the existing dwelling that was constructed in 1972 by providing new exterior finish materials and architectural detailing, including a new layer of stucco, board and batten on the upper floor street elevations, and new muntins on the windows. These details will be incorporated into the new unit to unify the appearance of the duplex. The project will improve the appearance of an existing residence with limited architectural enhancements and create a new dwelling that has a high level of articulation, thereby enhancing the character of the neighborhood.

7. **Design of the site plan shall respect design principles in terms of maintaining a balance of scale, form and proportion, using design components, which are harmonious, materials and colors that blend with elements of the site plan and surrounding areas. Location of structures should take into account maintenance of view; rooftop mechanical equipment shall be incorporated into roof design or screened from adjacent properties. Utility installations such as trash enclosures, storage units, traffic-control devices, transformer vaults and electrical meters shall be accessible and screened.**

As conditioned, the proposed home design meets the height and setback limitations for the R-1-5 zone district and therefore maintains a similar scale to other residences within the surrounding neighborhood. The proposed garage design for the new dwelling will need to be modified slightly to provide a 20-foot setback from the exterior side property line as required by Section 24.10.330(h)(6) of the Zoning Ordinance. At approximately 23 feet, the residence is well below the 30-foot maximum allowed in the R-1-5 zone district. The architectural style of the residence is compatible with other homes in the coastal area and the surrounding neighborhood in terms of its roof pitch, proportions, window treatment, and exterior finishes.

Staff has required minor modifications to the site plan and architectural design that will ensure that the design elements and proportions along the façade are harmonious. The proposed exterior stair on the east side of the existing residence will either be removed or modified so that its appearance is compatible with the design elements and proportions of the entire elevation. In addition, staff has included a condition requiring the removal of the existing 5'-6" high fence along the Manor Avenue South frontage as well as the proposed six-foot high wall within the exterior side yard to preserve the visual quality of the duplex along the Manor Avenue South frontage. The second story has been designed to maintain views for neighboring properties because it meets the minimum height and setback requirements established for the R-1-5 zone district. All utility installations will be required to be undergrounded and/or screened.

8. **Where a site plan abuts, or is in close proximity to, uses other than that proposed, the plan shall take into account its effect on other land uses. Where a nonresidential use abuts or is in close proximity to a residential use, the effect of the site plan should maintain the residential quality of adjacent or nearby areas.**

The project site is surrounded by residential uses to the north, east and west. The property abuts the Gateway School property to the south along its rear property line. The proposed project will add an additional dwelling unit to an existing residential property and therefore will preserve the residential quality of the area without negatively affecting the adjacent school use.

9. **The orientation and location of buildings, structures, open spaces and other features of the site plan shall be such as to maintain natural resources including significant trees and shrubs to the extent feasible, maintain a compatible relationship to and preserve solar access of adjacent properties, and minimize alteration of natural land forms, building profiles, location, and orientation must relate to natural land forms.**

There are no significant trees and shrubs at the project site. The existing front yard landscaping will be retained, and the applicant will be required to submit a landscape plan for the exterior side yard. The site plan provides approximately 1,400 square feet of usable open space for the existing dwelling and 1,200 square feet for the new unit. Because the proposed duplex is surrounded by landscaping, meets all setback requirements of the R-1-5 zone district, and is seven feet below the maximum height allowance in the R-1-5 zone district, it will preserve the solar access of adjacent properties. The project will not require the alteration of natural land forms as the site is a level lot in a fully urbanized area.

10. **The site plan shall be situated and designed to protect views along the ocean and of scenic coastal areas. Where appropriate and feasible, the site plan shall restore and enhance visual quality of visually degraded areas.**

The project site is not located directly adjacent to the coast and therefore will not affect public views along the ocean or of scenic coastal areas. The proposed project will improve the appearance of the existing residence by enhancing the façade with board and

batten and adding detailing on the existing windows, thereby enhancing the visual quality of the neighborhood.

- 11. The site plan shall minimize the effect of traffic conditions on abutting streets through careful layout of the site with respect to location, dimensions of vehicular and pedestrian entrances, exit drives and walkways; through the adequate provision of off-street parking and loading facilities; through an adequate circulation pattern within the boundaries of the development; and through the surfacing and lighting of off-street parking facilities.**

The proposed project provides the minimum number of required off-street parking spaces for each dwelling unit. Although two new driveways will be created along the Manor Avenue South property frontage, the street dead ends directly adjacent to the property and therefore the new driveways will not affect traffic circulation in the neighborhood. Staff has included a condition of approval requiring the existing 5'-6" high fence along the Manor Avenue South frontage to be removed. If the applicant wishes to replace the fence, the new fence cannot be higher than three feet, six inches to ensure that visibility is maintained at the driveways. Both frontages of the property currently have sidewalks for pedestrians. Because the project provides adequate off-street parking with vehicle access on private property, it should not adversely affect traffic conditions on abutting streets.

- 12. The site plan shall encourage alternatives to travel by automobile where appropriate, through the provision of facilities for pedestrians and bicyclists, including covered parking for bicycles and motorcycles where appropriate. Public transit stops and facilities shall be accommodated as appropriate, and other incentive provisions considered which encourage non-auto travel.**

The site plan encourages pedestrian travel because both property frontages provide sidewalks. As conditioned, the project will ensure pedestrian and bicycle safety because fencing adjacent to the new driveways along the exterior side yard will be limited to a height of three feet, six inches to maintain visibility. Both dwelling units have adequate space for bicycle storage in their attached garages.

- 13. The site shall provide open space and landscaping which complement buildings and structures. Open space should be useful to residents, employees, or other visitors to the site. Landscaping shall be used to separate and/or screen service and storage areas, separate and/or screen parking areas from other areas, break up expanses of paved area, and define open space for usability and privacy.**

The project site provides approximately 1,400 square feet of usable open space in the rear yard for the existing dwelling and 1,200 square feet for the new unit within the rear and exterior side yards of the property. The existing landscaping in the front yard facing Manor Place will be retained and the applicant will be required to submit a landscape plan for the exterior side yard along Manor Avenue South.

- 14. The site plan shall reasonably protect against external and internal noise, vibration and other factors which may tend to make the environment less desirable. The site plan should respect the need for privacy of adjacent residents.**

The proposed project will require issuance of a building permit. The building design will be required to comply with all applicable regulations of the Building Code regarding external and internal noise, vibration, and other factors affecting the immediate environment. The site plan has been designed to protect the privacy of adjacent residences by maintaining the minimum required setbacks along the interior side and rear property lines. The side yard of the new unit provides a 22-foot interior side yard setback from the adjacent residential property, and the rear yard abuts the Gateway School basketball courts. Therefore, the proposed duplex will not have any privacy impacts.

- 15. Signs shall complement the site plan and avoid dominating the site and/or existing buildings on the site or overwhelming the buildings or structures to which they are attached. Multiple signs on a given site should be of a consistent theme.**

There is no signage proposed as with this application and therefore this finding is not applicable.

- 16. Building and structures shall be so designed and oriented to make use of natural elements such as solar radiation, wind, and landscaping for heating, cooling and ventilation.**

Both the existing residence and the new dwelling unit have been designed to make use of solar radiation and wind for natural heating and cooling by providing operable windows on all elevations. The landscaped yard areas provide adequate space for trees and vegetation that can be used to provide natural cooling through shading.

- 17. The site plan shall incorporate water-conservation features where possible, including in the design of types of landscaping and in the design of water-using fixtures. In addition, water restricting showerheads and faucets shall be used, as well as water-saving toilets utilizing less than three gallons per flush.**

The Inspections Section of the Planning and Community Development Department will verify that the buildings incorporate water conservation features such as low-flow water fixtures through the building permit process. The project is not required to comply with the City's Water-Efficient Landscaping Ordinance.

- 18. In all projects in Industrial (I) Zones, building design shall include measures for reusing heat generated by machinery, computers and artificial lighting.**

This parcel is not located in an Industrial Zone and therefore this finding is not applicable.

- 19. In all projects in Industrial (I) Zones, all buildings and structures shall be so designed and oriented to make use of natural lighting wherever possible.**

This parcel is not located in an Industrial Zone and therefore this finding is not applicable.

- 20. Heating systems for hot tubs and swimming pools shall be solar when possible but in all cases energy efficient.**

There is no new swimming pool or hot tub proposed with this application and therefore this finding is not applicable.

- 21. Enhance the West Cliff Drive streetscape with appropriate building mass, modulation, articulation, coloring and landscaping that is compatible with and would not diminish the visual prominence of the public open space.**

The project site is not located along West Cliff Drive and therefore this finding is not applicable.

With respect to the Variance, Section 24.08.130

- 22. That a hardship peculiar to the property, not created by any act of the owner, exists.**

The subject property meets the Zoning Ordinance requirements to provide a duplex unit within the R-1-5 zone district in that it is a corner lot, provides the 7,500 square foot minimum lot area, is located at least 500 feet from any existing legal or approved duplex location, and is large enough to adequately meet the open space, setback, and area requirements for duplex units. Because the existing lot coverage is 16 percent, the property is currently underutilized with respect to its development potential and it is one of relatively few single-family residential lots within the City that can meet the requirements for a duplex. Thus, the proposed development of a duplex at the project site is appropriate.

The applicant is requesting a Variance from Section 24.10.330(h)(2) of the Zoning Ordinance, which only allow for duplexes in entirely new structures. Because the property is already developed with an existing single-family dwelling and the lot is an ideal location for a duplex based on the zoning regulations, this requirement creates a hardship peculiar to this particular property that was not created by any act of the owner. When the owner purchased the property, it was already developed with the existing single-family dwelling. Therefore, the special circumstances of this property are that it is developed with an existing moderately sized home yet meets all of the criteria to build a duplex with the exception of the fact that a second unit is proposed as an addition rather than a new structure. However, Section 24.08.100 of the Zoning Ordinance states that variations from the literal enforcement of its requirements are allowed in cases where because of the extraordinary situation or condition of a property, these requirements would “involve practical difficulties or would cause undue hardship, which are unnecessary to carry out the intent and purpose” of the Zoning Ordinance. In this case, to develop the subject property with a duplex with literal enforcement of the provision that duplexes only be allowed in new structures, the applicant would be required to demolish an existing

structurally sound dwelling constructed in 1972 in order to build a new structure to contain two separate dwellings. This would prevent the owner from developing the property in accordance with the “intent and purpose” of Section 24.15 of the Zoning Ordinance which seeks to promote the environmental sustainability of natural resources through green building and efficient construction methods.

- 23. That such variance is necessary for the preservation and enjoyment of substantial property rights possessed by other properties in the same district and in the same vicinity; and that a variance, if granted, would not constitute a special privilege of the recipient not enjoyed by his neighbors.**

The Variance is necessary for the property owner to enjoy the same property rights possessed by other similar properties within the R-1-5 zone district and the vicinity that are corner lots with at least 7,500 square feet of lot area and located at least 500 feet from any other legal or approved duplex. The granting of this Variance will not constitute a special privilege in that duplex applications would be considered for any lot meeting the requirements of Section 24.10.330(h) of the Zoning Ordinance. Further, any developed lot within the R-1-5 zone district or the vicinity would be encouraged to preserve existing structurally sound buildings, consistent with the City’s green building program and the purpose of Section 24.15.010 of the Zoning Ordinance. By requiring the applicant to demolish an existing viable dwelling unit in order to develop a lot suited for a duplex, the City would be authorizing a demolition in conflict with the Green Building Ordinance adopted in 2005.

- 24. That the authorizing of such variance will not be of substantial detriment to adjacent property, and will not materially impair the purpose and intent of this title or the public interest, nor adversely affect the General Plan.**

Approval of the requested Variance to create a duplex by constructing an addition to an existing dwelling unit rather than building an entirely new structure will not adversely impact adjacent properties. Whether the duplex was constructed as an entirely new structure or an addition, the net effect of the project would be the creation of two dwellings on an existing R-1-5 zoned lot that allows for such development with approval of a Special Use Permit and Design Permit. By approving the Variance, the City will further the purpose and intent of the Zoning Ordinance and the public interest by creating an infill housing unit and preserving the material resources that would be needed to replace the existing dwelling with a new structure. The Variance will not adversely affect the General Plan. Rather, it supports the General Plan policies improving the existing housing stock to enhance neighborhood quality (Community Design Policy 4.4).

With respect to the Conditional Driveway Permit, Section 24.08.2300

- 25. The issuance of such a permit is reasonably necessary for the preservation of valuable property rights or full use and enjoyment of the property.**

The Conditional Driveway Permit is necessary to ensure the full use and enjoyment of the property. Based on the proposed site configuration, it would be difficult to meet the

required off-street parking for the new dwelling unit without significantly reducing the private usable open space of the existing dwelling and obstructing its access door to the rear yard. In order to provide a duplex and fully utilize the large 7,727 square foot pie-shaped lot, the applicant must meet the requirements of Section 24.10.330(h), which require that the units maintain at least 1,000 square feet of open space “directly accessible” to each unit and that the units each face on one of the streets. Given these constraints combined with the configuration of the existing residence, a Conditional Driveway Permit is necessary to locate an additional parking space at the rear of the property at the lot’s widest point.

26. The driveway will not create a safety hazard for pedestrians or vehicular traffic.

The proposed stand-alone driveway will be located at the rear of the subject property at the dead-end of Manor Avenue South. Because there will be few pedestrians or vehicles in this area due to the lack of continuity of the street, the proposed driveway will not create a safety hazard for pedestrians or vehicular traffic. In addition, a project condition will require the existing 5’-6” inch high fence along Manor Avenue South to be removed and any replacement fence to be no higher than 3’-6” to ensure visibility is not obstructed between the driveway and roadway for vehicles and/or pedestrians.

27. The appearance of the driveway is compatible with the design and appearance of the existing residence and site plan, including existing landscaping, trees, natural land forms, and other features of the site.

The proposed stand-alone driveway has been designed to integrate with the existing residence and site plan in that it will utilize an existing curb cut at the rear of the property. Further, the applicant proposes to pave the one-car driveway with turf blocks to ensure that it blends into the landscaping at the rear of the site to soften the appearance of the driveway and minimize impervious surfaces.

28. The driveway is a planned site feature which avoids dominating the site or overwhelming adjacent properties and structures.

The existing curb cut is approximately 15 feet wide. The driveway will accommodate one compact uncovered parking space with dimensions of 7.5 feet by 16 feet. Because the driveway will be located at the rear of the project site adjacent to an existing six-foot high wooden fence, it will not overwhelm adjacent properties or structures. Because the driveway will be paved with turf blocks, it will have the appearance of a planned site features that blends in with the landscaping along the Manor Avenue South frontage.

29. The driveway will be constructed using four inches of concrete or other material approved by the zoning administrator or planning commission.

The proposed driveway will be constructed with turf blocks to minimize impervious surfaces at the project site and will be inspected by the Public Works Department to ensure proper installation.

With respect to the Conditional Fence Permit, Section 24.08.630

- 30. The issuance of such a permit is reasonably necessary, by reason of unusual or special circumstances or conditions relating to the property, for the preservation of valuable property rights or full use and enjoyment of the property;**

The Conditional Fence Permit to allow the proposed eight-foot high wall in the rear yard is necessary to ensure the full use and enjoyment of open space on the subject property. Due to the close proximity of the two dwellings on the property, the proposed wall is necessary to provide a higher degree of privacy and noise protection that a six-foot high fence would allow.

- 31. The fence will not create a safety hazard for pedestrians or vehicular traffic;**

The proposed eight-foot high fence in the required rear yard will not create a safety hazard for pedestrians or vehicular traffic because it will be set back approximately 58 feet from the sidewalk and is not located adjacent to any streets or pathways.

- 32. The appearance of the fence is compatible with the design and appearance of existing buildings and structures within the neighborhood;**

The proposed eight-foot high wall will be constructed of decorative “Allan block” and will be compatible with the existing buildings and structures within the neighborhood. It will be set back approximately 58 feet from the exterior side property line and therefore will not be highly visible from the public right-of-way.

- 33. The fence or hedge is a planned architectural feature which avoids dominating the site or overwhelming the adjacent properties and structures;**

The proposed eight-foot high fence is a planned architectural feature in that it will be constructed of decorative “Allan block” that will also be used to create decorative planters adjacent to the wall. The wall will be located in the rear yard of the property, approximately 58 feet from the public right-of-way and 22 feet from the adjacent residential property to the west. The entire wall is only 20 feet long and therefore it will not dominate the site or overwhelm adjacent properties and structures.

- 34. The orientation and location of the fence or hedge is in proper relation to the physical characteristics of the site and the surrounding neighborhood and does not impede reasonable solar access of any adjacent property; and**

The proposed eight-foot high wall aligns with the western wall of the proposed new dwelling unit and has been placed to create a separation between the usable yards of each duplex unit. It will not be visible from the surrounding neighborhood and will not impede solar access to the adjacent neighbor to the west due to its 22-foot setback from the western side property line. The proposed fence will not affect solar access to the neighboring school property to the south as there is already an existing six-foot fence along the rear property line.

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35. The fence will be of sound construction and located so as not to create a safety hazard.

The applicant will be required to obtain a building permit for the eight-foot wall in the rear yard. Because the proposed wall is not located adjacent to the sidewalk or street, it will not create a safety hazard for vehicles or pedestrians.

NOW, THEREFORE, BE IT RESOLVED by the City Council of the City of Santa Cruz that it hereby acknowledges the Categorical Exemption and approves the Special Use Permit, Design Permit, Variance, Conditional Driveway Permit, and Conditional Fence Permit subject to the Findings listed above and the Conditions of Approval listed in Exhibit "A," attached hereto and made a part hereof thus upholding the appeal and overturning the Planning Commission's decision.

PASSED AND ADOPTED this 8^h day of December, 2009, by the following vote:

AYES:

NOES:

ABSENT:

DISQUALIFIED:

APPROVED: _____

Mayor

ATTEST: _____

City Clerk

RESOLUTION NO. NS-

RESOLUTION OF THE CITY COUNCIL OF THE CITY OF SANTA CRUZ DENYING SPECIAL USE PERMIT, DESIGN PERMIT, VARIANCE, CONDITIONAL DRIVEWAY PERMIT, AND CONDITIONAL FENCE PERMIT AT 101 MANOR PLACE THUS DENYING THE APPEAL AND UPHOLDING THE PLANNING COMMISSION'S DECISION (APPLICATION NO. 09-065)

WHEREAS, on April 29, 2009 Patricia Wood, owner and applicant, submitted an application for a Special Use Permit, Design Permit, Variance, Conditional Driveway Permit, and Conditional Fence Permit to construct a second dwelling as an addition to an existing residence to create a duplex at 101 Manor Place (APN 004-283-32) in the R-1-5 zone district; and

WHEREAS, the project site and its development is governed by the standards and guidelines contained in City of Santa Cruz Municipal Code Title 24, the Zoning Ordinance, and the City of Santa Cruz General Plan; and

WHEREAS, an environmental determination of a Categorical Exemption Class 3 (New Construction) for the project has been considered: and

WHEREAS, on July 2, 2009 the Planning Commission conducted a public hearing and after receiving public testimony voted five to two to deny the application based on certain findings; and

WHEREAS, on July 13, 2009 the applicant submitted an appeal of the Planning Commission's decision; and

WHEREAS, on September 22, 2009 the City Council conducted a public hearing to consider the appeal and made the following findings:

With respect to the Special Use Permit, Section 24.08.050

- 1. The proposed structure does not conform to the requirements and the intent of this title, and of the General Plan, relevant area plans, and the Coastal Land Use Plan, where appropriate.**

The proposed structure does not support the General Plan goal of creating infill development that is compatible with the character and quality of the existing neighborhood.

- 2. The structure will constitute a nuisance and be detrimental to the public welfare of the community.**

The proposed structure would constitute a nuisance and be detrimental to the public welfare of the community because it would be out of character and scale with other residences within the existing neighborhood. The proposed parking layout is poorly configured because vehicle access to and from the stand-alone driveway would be difficult due to the bulb-out at the dead-end of Manor Avenue South. In addition, the

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proposed duplex is too large with respect to other dwellings in the single-family neighborhood.

With respect to the Design Permit, Section 24.08.430

- 3. The site plan is not consistent with physical development policies of the General Plan.**

The site plan is not consistent with the physical development policies of the General Plan in that the duplex design is incompatible with the character of the existing neighborhood.

- 4. The exterior design and appearance of buildings and structures and the design of the site plan is not compatible with design and appearance of other existing buildings and structures in neighborhoods which have established architectural character worthy of preservation.**

The proposed duplex is not compatible with the scale and proportions of other dwellings within the surrounding neighborhood.

- 5. Design of the site plan does not respect design principles in terms of maintaining a balance of scale, form and proportion, using design components, which are harmonious, materials and colors that blend with elements of the site plan and surrounding areas.**

The scale and proportion of the proposed duplex does not blend in with the surrounding area due to the overall size of the structure.

- 6. The site plan shall does not minimize the effect of traffic conditions on abutting streets through careful layout of the site with respect to location, dimensions of vehicular and pedestrian entrances, exit drives and walkways; through the adequate provision of off-street parking and loading facilities; through an adequate circulation pattern within the boundaries of the development; and through the surfacing and lighting of off-street parking facilities.**

The proposed parking layout is not well configured to accommodate vehicular circulation along Manor Avenue South or functional off-street parking for the duplex. Vehicle access to and from the stand-alone driveway is limited due to the bulb-out at the dead-end of Manor Avenue South and therefore that this off-street parking space would not be readily usable.

With respect to the Variance, Section 24.08.130

- 7. That a hardship peculiar to the property, not created by any act of the owner, does not exist.**

The applicant requested a Variance from Section 24.10.330(h)(2) of the Zoning Ordinance, which only allows for duplexes in entirely new structures, in order to create a duplex as an addition to an existing residence. There is no hardship peculiar to the

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physical characteristics of the property exists and therefore the requested Variance can not be granted.

With respect to the Conditional Driveway Permit, Section 24.08.2300

- 8. The appearance of the driveway is compatible with the design and appearance of the existing residence and site plan, including existing landscaping, trees, natural land forms, and other features of the site.**

The location of the proposed stand-alone driveway is inappropriate with respect to other features of the site plan, including the existing bulb-out at the dead-end of Manor Avenue South. The proposed driveway would be difficult due to the existing bulb-out and therefore that the proposed stand-alone driveway is incompatible with the design of the site plan.

With respect to the Conditional Fence Permit, Section 24.08.630

- 9. The issuance of such a permit is reasonably necessary, by reason of unusual or special circumstances or conditions relating to the property, for the preservation of valuable property rights or full use and enjoyment of the property.**

Because the mandatory findings for the Special Use Permit, Design Permit, Variance, and Conditional Driveway Permit can not be made, the Conditional Fence Permit application is automatically denied as the requested six-foot high wall within the exterior side yard and eight-foot high wall within the rear yard are integral features of the proposed site plan.

NOW, THEREFORE, BE IT RESOLVED by the City Council of the City of Santa Cruz that it hereby denies the Special Use Permit, Design Permit, Variance, Conditional Driveway Permit, and Conditional Fence Permit subject to the Findings listed above thus denying the appeal and upholding the Planning Commission’s decision.

PASSED AND ADOPTED this 8th day of December, 2009, by the following vote:

AYES:

NOES:

ABSENT:

DISQUALIFIED:

APPROVED: _____
Mayor

ATTEST: _____
City Clerk

RESOLUTION NO. NS-

EXHIBIT "A"

CONDITIONS OF APPROVAL FOR THE PROJECT ON PROPERTY AT

101 Manor Place – Application #09-065

Special Use Permit and Design Permit to construct a second dwelling unit on a corner lot; Variance to allow a duplex as an addition to an existing residence rather than a new structure; Conditional Driveway Permit to allow a one-car stand-alone driveway; and Conditional Fence Permit to allow a six-foot high fence in an exterior side yard and an eight-foot high fence in a rear yard.

1. If one or more of the following conditions is not met with respect to all its terms, then this approval may be revoked.
2. All plans for future construction which are not covered by this review shall be submitted to the City Planning and Community Development Department for review and approval.
3. This permit shall be exercised within three (3) years of the date of final approval or it shall become null and void.
4. The use shall meet the standards and shall be developed within limits established by Chapter 24.14 of the Santa Cruz Municipal Code as to the emission of noise, odor, smoke, dust, vibration, wastes, fumes or any public nuisance arising or occurring incidental to its establishment or operation.
5. The applicant shall be responsible for the completeness and accuracy of all forms and supporting material submitted in connection with any application. Any errors or discrepancies found therein may result in the revocation of any approval or permits issued in connection therewith.
6. All final working drawings shall be submitted to the Zoning Administrator for review and approval in conjunction with building permit application.
7. The development of the site shall be in substantial accordance with the approved plans submitted on April 28, 2009, prepared by Anderson McKelvey Architecture & Planning, and on file in the Department of Planning and Community Development of the City of Santa Cruz. All aspects of construction must be completed prior to occupancy. Major modifications to plans or exceptions to completion may be granted only by the City authority which approved the project.
8. All requirements of the Building, Fire, Public Works and Water Departments shall be completed prior to occupancy and continuously maintained thereafter.
9. Adequate provisions shall be made to supply water to each of the premises covered by this application. The design of water facilities shall be to standards of the Water Department, and plans therefore must be submitted to the Water Department Director for review and approval prior to the issuance of a building permit. The applicant shall be subject to the fees and requirements described in the "New Water Service Information Form" dated 5/6/2009.

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EXHIBIT A

10. Landscape and irrigation plans for the exterior side yards (along Manor Avenue South) shall be submitted at the time of the building permit application and will be reviewed by both the Planning Department and Water Department. The landscape and irrigation plans shall comply with all requirements of the City's landscape water conservation ordinance prior to issuance of the building permit.
11. Turf grass shall be limited to no more than 25-percent of the total landscape area. Turf varieties shall be water-conserving species, such as tall and hard fescues. Turf shall not be placed in areas less than eight feet wide, or on slopes greater than ten-percent.
12. All landscaping shall be installed prior to final utility release or issuance of occupancy permits.
13. Subsequent to occupancy of the premises, all landscaping shall be permanently maintained.
14. All trees shall be a minimum 15-gallon size.
15. All utilities and transformer boxes shall be placed underground unless otherwise specified.
16. A drainage plan shall be submitted in conjunction with application for building permits.
17. During all grading and subsurface excavations (including utility-line trenching), construction will be halted if significant archaeological resources are discovered. For the purpose of this permit, significant archaeological resources shall include the remains of previous Indian living areas or human burials. In the instance of Indian living areas, these objects shall be recorded and mapped prior to further excavation on that portion of the site. In the event human burials are discovered during excavation, work shall be halted and the County Coroner, the Northwest Indian Cemetery Protective Association (NICPA), and other appropriate authorities shall be notified. Mitigation measures developed by the applicant and authorized archaeologists shall be subject to the approval of the Planning Department.
18. The plan for erosion control approved as part of this application shall be submitted and all work installed by November 1.
19. Runoff from buildings shall be conveyed utilizing best management practices (BMPs) for storm water pollution prevention. BMPs for single-family dwellings include, but are not limited to, the following:
 - Discharge into landscaping where there is sufficient slope away from buildings.
 - Piped into drywells/percolation pits.
20. Any tree marked for preservation which is subsequently removed shall be replaced by two (2) specimen trees of a variety and at locations specified by the Zoning Administrator. All such trees shall be replaced prior to occupancy of the premises.

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21. Grading shall be done during periods of dry weather and protective measures shall be incorporated during grading to prevent siltation from any grading project halted due to rain. No earth-moving activities shall occur between November 1 and April 1.
22. Prior to site grading or any disturbance all trees and/or tree stands indicated for preservation or approved plans shall be protected through fencing or other approved barricade. Such fencing shall protect vegetation during construction and shall be installed to the satisfaction of the Director of Planning and Community Development.
23. All new mechanical equipment and appurtenances, including gas and water meters, electrical boxes, roof vents, air conditioners, antennas, etc. visible from the public way and from adjacent properties, shall be screened with material compatible with the materials of the building and shall be subject to the approval of the Zoning Administrator.
24. Final colors shall be approved by the Zoning Administrator prior to application for building permits.
25. Prior to the issuance of a building permit, the applicant shall pay the Park and Recreation Facility Tax pursuant to Chapter 5.72 of the City of Santa Cruz Municipal Code based on the final building permit plans.
26. The deck shall be subject to the requirements of Chapter 7 of the California Building Code.
27. The common wall shall be subject to the requirements of Chapters 7 and 12 of the California Building Code.
28. Plans submitted for building permits shall demonstrate compliance with the following requirements of the Fire Department:
 - Install automatic fire sprinkler system in both residences;
 - Install interconnected smoke detectors per the California Building Code and California Fire Code;
 - Select roofing material that is Class "B" or better; and
 - Provide minimum four-inch high address numerals in a contrasting color that are clearly visible from the street to identify the residence.
29. Prior to issuance of a building permit, the applicant shall incorporate the following modifications into the plans, subject to review and approval by the Zoning Administrator:
 - Remove the existing 5'-6" fence within the exterior side yard setback. The maximum height of any fence or fence-like structure within the exterior side yard setback shall be 3'-6";
 - Remove the proposed six-foot high wall within the exterior side yard setback;
 - Modify the garage design of the new unit to meet the required twenty-foot exterior side yard setback; and

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EXHIBIT A

- Modify the east elevation of the existing dwelling unit to remove the proposed exterior stair and add appropriate fenestration and/or architectural detailing to articulate that section of the exterior elevation.
30. This permit authorizes a wall located within the rear yard with a maximum height of eight-feet according to plans submitted for this application. The applicant shall obtain a building permit for the proposed eight-foot high wall in the rear yard.
31. The property owner agrees as a condition and in consideration of the approval of this discretionary development permit that it will, pursuant to agreement and/or statutory provisions as applicable, including but not limited to Government code Section 66474.9, defend, indemnify and hold harmless the City of Santa Cruz or its agents, officers and employees from any claim, action or proceeding against the City or its agents, officers or employees to attack, set aside, void or annul this approval, which action is brought within the time period provided for under law, including but not limited to, Government Code Section 66499.37, as applicable. The property owner will reimburse the City for any court costs and attorney's fees, which the City may be required by a court to pay as a result of such action. City may, at its sole discretion, participate in the defense of such action; but such participation shall not relieve applicant of his obligations under this condition. An agreement to this effect shall be recorded upon demand of the City Attorney or concurrent with the issuance of building permits, use of the property, filing of the final map, whichever occurs first and as applicable. The City shall promptly notify the property owner of any such claim, action or proceeding and the City shall cooperate fully in the defense thereof. If the City fails to promptly notify the property owner of any such claim, action or proceeding or fails to cooperate fully in the defense thereof, the property owner shall not thereafter be responsible to defend, indemnify or hold the City harmless.

Anderson McKelvey Architects
536 Soquel Avenue
Santa Cruz, CA 95062
Tel: 831.457.8348 Fax: 831.423.2724

Ms. Lorrie Brewer
City Clerk
City of Santa Cruz
809 Center Street
Santa Cruz, CA 95060

LETTER OF APPEAL
101 Manor Place-Application #09-065

July 13, 2009

Ms. Brewer,

I write to appeal the denial of the above-referenced Application by the Planning Commission as decided during the Commission hearing on July 2, 2009.

The client and myself both believe that the Commission erred in their findings, particularly as regards Sections 24.08.050, 24.08.430, and 24.08.130. We further believe that the conclusions reached by the Commission members voting "No" directly contradicted the conclusions reached in the Staff Report produced by The Planning Department, which recommending approval of all but one minor conditional request contained in the application

Section 24.08.050

According to the Findings for Denial dated July 2, 2009, the Planning Commission found that "...the proposed structure does not support the General Plan goal of creating infill development that is compatible with the character and quality of the existing neighborhood." The Commission considered only whether the proposed development was compatible with adjacent single-family dwellings, and disregarded nearby duplex developments that have been recently approved with the same requested variance.

It cannot be denied that the project would provide an additional infill dwelling unit, and as many of the single family dwellings in the immediate vicinity are similar in size to the combined size of both units in the proposed structure, the determination that the structure is incompatible is unfounded.

The Findings also state that the Commission found that "...the proposed structure would constitute a nuisance and be detrimental to the public welfare of the community because it would be out of character and scale with other residences within the existing neighborhood...In addition, the Commission finds that the proposed duplex is too large with respect to other dwellings in the single-family neighborhood." Again, the analysis compared only the adjacent single-family dwellings, and failed to consider other duplexes in the neighborhood, whether built as all-new construction or as a remodel to an existing structure.

In fact, the subject parcel, at more than 8,300 square feet, is larger than the required 7,500 square-foot minimum for corner-lot duplex development, and is located on a dead-end street immediately adjacent to the Gateway/Oblates Church property, which is developed with buildings of much larger scale and character, though not of residential use.

Further, the Commission found that "...the proposed parking layout is poorly configured because vehicle access to and from the stand-alone driveway would be difficult due to the bulb-out at the dead-end of Manor Avenue South." In this finding, the Commission contradicts the findings of both the City Zoning Administrator and Aaron Becker with the City Public Works Department, who held an on-site meeting to assess this precise issue, and who decided jointly that no such difficulty would occur.

Section 24.08.430

According to the Findings for Denial dated July 2, 2009, the Planning Commission found that "...the site plan is not consistent with the physical development policies of the General Plan in that the duplex design is incompatible with the character of the existing neighborhood." As previously stated, the Commission considered only whether the proposed development was compatible with adjacent single-family dwellings, and disregarded nearby duplex developments that have been recently approved with the same requested variance.

Similarly, the Planning Commission found that "...the proposed duplex is not compatible with the scale and proportions of other dwellings within the surrounding neighborhood." As previously stated, many of the existing single-family homes are comparable in floor area to the combined area of both dwellings to be contained within the proposed duplex. Further, as recognized in the Staff Report recommendation, the proposed duplex makes use of architectural materials and forms used throughout the neighborhood and extends them to the existing structure to enhance the architectural integrity of the project.

The Findings for denial reiterate the Commission's misgivings regarding the proposed parking layout under this section, and have been addressed above.

Section 24.08.130

Importantly, the Findings for Denial dated July 2, 2009, indicate that the Planning Commission found that "...no hardship peculiar to the physical characteristics of the

property exists and therefore the requested Variance can not be granted.” While the existence of a “...hardship peculiar to the physical characteristics of the property...” can be debated, the fact that such a variance has been granted in the recent past to another applicant for a similar project in the same neighborhood, combined with the contradiction between the Section in question and the City’s more recently adopted Green Building Ordinance, and the denial of continued occupancy during construction, make it difficult to argue that no hardship is being imposed on the applicant by the denial of the Variance request.

Section 24.08.2320

The Findings for denial reiterate the Commission’s misgivings regarding the proposed parking layout under this section, and have been addressed above.

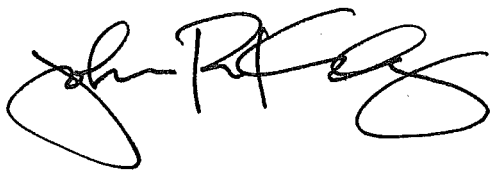
Section 24.08.630

The Findings for denial state that denial under this section was automatic and predicated on the denial of the other parts of the application, which we believe violated the sections enumerated above.

Summary

We ask that the Council re-consider the above denial of the Application, and as the proposal complies with all applicable Zoning Ordinance regulations and General Plan policies, with the exception of the requested variance and conditional permits, the Council follow the recommendations contained in the Staff Report and overturn the denial, approving the application as proposed.

Regards,

A handwritten signature in black ink, appearing to read "John McKelvey". The signature is stylized with large, sweeping loops and a long horizontal stroke at the end.

John McKelvey, Architect
Anderson McKelvey Architects
E-Mail john@andmck.com

EXHIBIT "A"

FINDINGS FOR DENIAL OF THE PROJECT ON PROPERTY AT

101 Manor Place – Application #09-065

Special Use Permit and Design Permit to construct a second dwelling unit on a corner lot; Variance to allow a duplex as an addition to an existing residence rather than a new structure; Conditional Driveway Permit to allow a one-car stand-alone driveway; and Conditional Fence Permit to allow a six-foot high fence in an exterior side yard and an eight-foot high fence in a rear yard.

Based on Findings 1 through 8 below, the Planning Commission denied the applicant's request for a Special Use Permit, Design Permit, Variance, Conditional Driveway Permit, and Conditional Fence Permit at a public hearing held on July 2, 2009 on a 5-2 vote.

Special Use Permit, Section 24.08.050

1. **The proposed structure does not conform to the requirements and the intent of this title, and of the General Plan, relevant area plans, and the Coastal Land Use Plan, where appropriate.**

The Planning Commission finds that the proposed structure does not support the General Plan goal of creating infill development that is compatible with the character and quality of the existing neighborhood.

2. **The structure will constitute a nuisance and be detrimental to the public welfare of the community.**

The Planning Commission finds that the proposed structure would constitute a nuisance and be detrimental to the public welfare of the community because it would be out of character and scale with other residences within the existing neighborhood. The Commission finds that the proposed parking layout is poorly configured because vehicle access to and from the stand-alone driveway would be difficult due to the bulb-out at the dead-end of Manor Avenue South. In addition, the Commission finds that the proposed duplex is too large with respect to other dwellings in the single-family neighborhood.

FINDINGS FOR DENIAL

PC Meeting of July 2, 2009

SUBJECT: 101 Manor Place – 09-065

Page 2

Design Permit Findings, Section 24.08.430

3. **The site plan is not consistent with physical development policies of the General Plan.**

The Planning Commission finds that the site plan is not consistent with the physical development policies of the General Plan in that the duplex design is incompatible with the character of the existing neighborhood.

4. **The exterior design and appearance of buildings and structures and the design of the site plan is not compatible with design and appearance of other existing buildings and structures in neighborhoods which have established architectural character worthy of preservation.**

The Planning Commission finds that the proposed duplex is not compatible with the scale and proportions of other dwellings within the surrounding neighborhood.

5. **Design of the site plan does not respect design principles in terms of maintaining a balance of scale, form and proportion, using design components, which are harmonious, materials and colors that blend with elements of the site plan and surrounding areas.**

The Planning Commission finds that the scale and proportion of the proposed duplex does not blend in with the surrounding area due to the overall size of the structure.

6. **The site plan shall does not minimize the effect of traffic conditions on abutting streets through careful layout of the site with respect to location, dimensions of vehicular and pedestrian entrances, exit drives and walkways; through the adequate provision of off-street parking and loading facilities; through an adequate circulation pattern within the boundaries of the development; and through the surfacing and lighting of off-street parking facilities.**

The Planning Commission finds that the proposed parking layout is not well configured to accommodate vehicular circulation along Manor Avenue South or functional off-street parking for the duplex. The Commission finds that vehicle access to and from the stand-alone driveway is limited due to the bulb-out at the dead-end of Manor Avenue South and therefore that this off-street parking space would not be readily usable.

FINDINGS FOR DENIAL

PC Meeting of July 2, 2009

SUBJECT: 101 Manor Place – 09-065

Page 3

Variance, Section 24.08.130

7. **That a hardship peculiar to the property, not created by any act of the owner, does not exist.**

The applicant requested a Variance from Section 24.10.330(h)(2) of the Zoning Ordinance, which only allows for duplexes in entirely new structures, in order to create a duplex as an addition to an existing residence. The Planning Commission finds that no hardship peculiar to the physical characteristics of the property exists and therefore the requested Variance can not be granted.

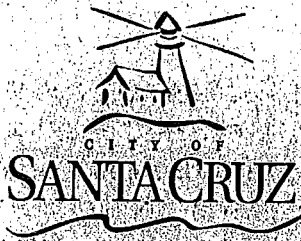
Conditional Driveway Permit, Section 24.08.2320

8. **The appearance of the driveway is compatible with the design and appearance of the existing residence and site plan, including existing landscaping, trees, natural land forms, and other features of the site.**

The Planning Commission finds that the location of the proposed stand-alone driveway is inappropriate with respect to other features of the site plan, including the existing bulb-out at the dead-end of Manor Avenue South. The Commission finds that ingress and egress into the proposed driveway would be difficult due to the existing bulb-out and therefore that the proposed stand-alone driveway is incompatible with the design of the site plan.

Conditional Fence Permit, Section 24.08.630

Because the mandatory findings for the Special Use Permit, Design Permit, Variance, and Conditional Driveway Permit can not be made, the Conditional Fence Permit application is automatically denied as the requested six-foot high wall within the exterior side yard and eight-foot high wall within the rear yard are integral features of the proposed site plan.



Dept. of Planning & Community Development

CITY HALL - 809 CENTER STREET, ROOM 206
SANTA CRUZ, CA 95060
(831) 420-5110

NOTICE OF ACTION

On July 2, 2009, the Planning Commission acted upon the subject application as follows:

Project Address: 101 Manor Place, Santa Cruz, CA Case No: 09-065

Description of Project: Special Use Permit and Design Permit to construct a second dwelling unit on a corner lot. Variance to allow a duplex as an addition to an existing residence; Conditional Driveway Permit and Conditional Penes Permit.

Applicant: Patricia Wood
5010 Wood Toothill Rd.
Pleasanton CA 94588

Rep: John McKelvey
Anderson McKelvey Architects
536 Soquel Ave.
Santa Cruz CA 95062

- GRANTED REQUEST FOR EXTENSION OF TIME to _____
- RECOMMENDED _____ to the City Council.
- REFERRED the application to the _____
- CONTINUED the hearing to _____
- DENIED the proposal for the following reason(s): See attached Findings for Denial.
- ACCEPTED WITHDRAWAL OF APPLICATION AS REQUESTED BY APPLICANT.


Signature/Title Eric Marlatt, Principal Planner

Either denial or approval of a permit may be appealed. See reverse for information regarding appeals.

If you have any questions, please contact the Department of Planning and Community Development, Room 206, City Hall Annex, 809 Center Street, or call **(831) 420-5110** during normal business hours.

The public hearing was closed.

Commissioners asked questions and made comments in regard to the following:

- Whether house across the street is a duplex or not
- Whether an Accessory Dwelling Unit might be a better fit; restrictions regarding ADUs
- Parking issues
- Occupancy restrictions; vacation rentals in regards to the Zoning Ordinance
- Problems inherent with the existing 2-inch water line which serves street
- Size of new development; whether it's compatible with neighborhood

ACTION: Commissioner Daly moved, and Commissioner Warner seconded, that the Design and Special Use Permits be DENIED. The motion was approved by a vote of 5/2, Chair Quartararo and Commissioners Daly, Kasparowitz, Tustin and Warner voting in favor, and Commissioners Schultz and Foster opposed.