



Planning Commission Staff Report

Date: February 9, 2011

Case No.: 6.520 VAR

Type: Variance

Location: 1191 Paseo El Mirador

APN: 507-131-004-3

Applicant: Matthew Peterson & Mark Miller

General Plan: VLDR (Very Low Density Residential; 2.1 to 4.0 du/ac)

Zone: R-1-C (Single Family Residential)

From: Craig A. Ewing, AICP, Director of Planning Services

Project Planner: Ken Lyon, Associate Planner

PROJECT DESCRIPTION:

The proposal is a request by Matthew Peterson and Mark Miller, owners, for a Variance to Section 92.01.03 (R-1-C development standards) of the Palm Springs Zoning Code (PSZC) to reduce the required side yard setback from ten (10) feet to five (5) feet for the property located at 1191 Paseo El Mirador, in order to construct an attached two-car garage. The existing garage was converted to living space without building permits by previous owners and the property has been cited with a building code violation.

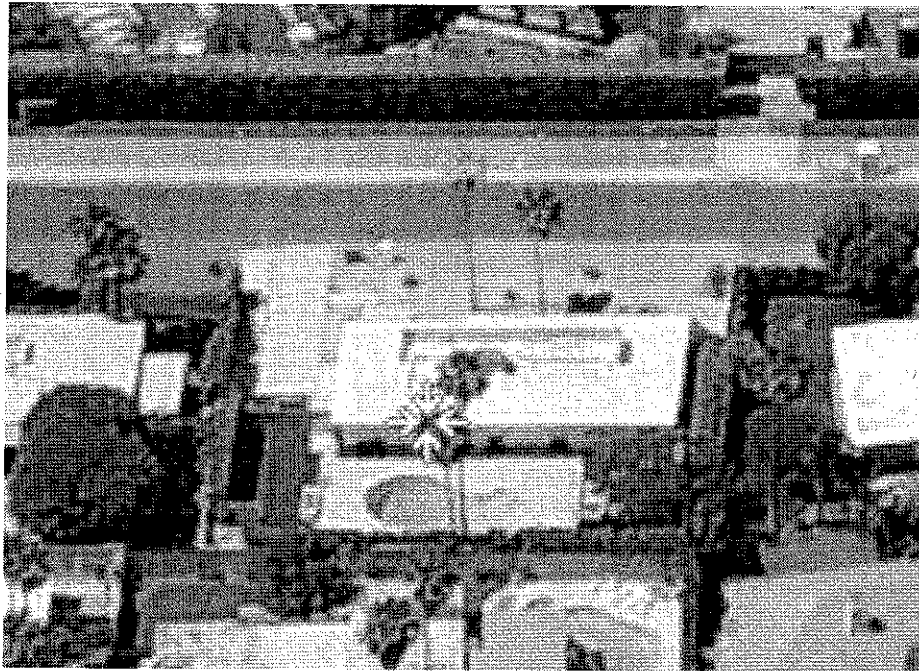
RECOMMENDATION:

That the Planning Commission denies Case 6.520 VAR, to reduce the required side yard setback from ten feet to five feet for the property located at 1191 Paseo El Mirador.

BACKGROUND AND SETTING:

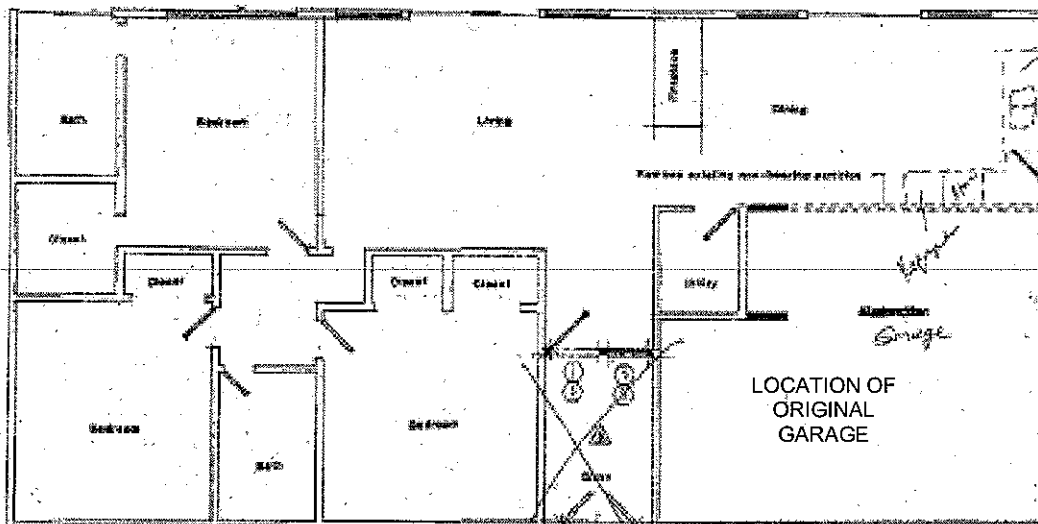
The site is an interior lot of approximately 10,000 square feet located on the south side of Paseo El Mirador, between Pasatiempo Road and Linda Vista Road in the R-1-C

zone. The residence, constructed in 1957, was originally permitted for slightly more than 1,400 square feet (noted as a 6 room frame and stucco house with composition roof and two-car garage on the original permit). The applicant currently lists the home at approximately 1,942 square feet (various City databases list it at 1,478 square feet and 1,557 square feet).



AERIAL VIEW OF 1191 PASEO EL MIRADOR

The home was subject to code enforcement action in 2005 for an illegal garage conversion. Building permit plans to correct the condition were filed, but the incomplete application expired and the building permit was not issued. Based on the current floor plan, staff has concluded that the area of the current kitchen and media room was the location of the original garage.



FLOOR PLAN SHOWING PROBABLE LOCATION OF ORIGINAL GARAGE, (NOW A MEDIA ROOM)

The subject site is surrounded by single-family residences. The surrounding Land Uses are shown in the table below:

Table 1: General Plan, Zone and Surrounding Land Uses

	General Plan	Zone	Land Use
North	Very Low Density Residential	R-1-C	Single-Family Residence
South	Very Low Density Residential	R-1-C	Single-Family Residence
East	Very Low Density Residential	R-1-C	Single-Family Residence
West	Very Low Density Residential	R-1-C	Single-Family Residence

The existing house is situated on the lot such that there is insufficient space to construct a conventional two-car garage or carport without encroaching into the required side yard setbacks¹. Staff has worked with the applicant to consider various alternative designs for the code-required two-car covered parking that would fit within the setbacks, including (1) a tandem covered parking scheme, and (2) the option of returning the illegally converted living space back to a garage². The applicant has chosen not to pursue these alternative solutions.

ANALYSIS:

Section 106.1 of the California Code of Regulations, Title 24 (California Building Standards Code) requires a permit to be obtained from the Building Official, prior to erection, construction, enlargement, alteration, repair, movement, conversion, removal, or demolition of any structure or building. There are various permits for modifications to the subject property on file at the City, but no such permit for the conversion of the garage to living space.

Section 93.06.00(D)(29a) of the Zoning Code requires single family residences to have two covered parking spaces within a garage or carport. Section 93.06.00 (E)(18) requires such spaces to be 10 feet by 20 feet in dimension. Section 93.06.00 (A)(6) allows tandem parking to be approved by the Director of Planning and Section 93.06.00 (A)(10) allows the Director to reduce the width of parking space by no more than six (6) inches.

¹ The existing house is roughly 16 feet from the west side yard setback line. Staff evaluated a possible alternative Administrative Minor Modification approach, however even with approval of a 6 inch reduction in width for a residential parking space allowed by the code and approval of an AMM for a 20% reduction in side yard setbacks, the required 2-car covered parking does not fit into the available space on the west side of the house.

² Although the applicant inquired about constructing only a single covered parking space in the area west of the existing house, there is no mechanism in the Zoning Code to allow the Director or the Planning Commission to reduce covered parking for single family homes by 50%.

Project Description:

The applicant proposes to construct a new two-car attached garage, enclosed laundry room and covered outdoor patio on the west side of the existing residence. The project proposes a flat-roofed structure, roughly 12 feet in height, which is roughly 3.5 feet taller than the existing house. The proposed garage is roughly 21 feet by 21 feet. The proposed laundry room is located behind the garage and is roughly 15 feet by 6 feet. The covered patio is behind the laundry and is roughly 14 feet by 15 feet. To construct the garage, the side yard setback is proposed to be reduced from the required ten (10) feet to five (5) feet. The design proposes an eave projection at the roof of roughly 2.5 feet that encroaches further into the reduced side yard. The fascia of the proposed eave projection would be 2.5 feet from the side yard property line.

General Plan:

The neighborhood in which the site is located has a Very Low Density Residential General Plan designation (2.1 – 4.0 du/ac). The purpose of this land use designation is to accommodate various types of low-density residential development, including traditional-single family homes. The existing use, a single family residence, is consistent with the General Plan.

Zoning:

The subject property is located within the R-1-C (Single Family Residential) Zone. The development standards for this zone are compared to the subject property in Table 2 below:

Table 2: R-1-C Development Standards and Conditions with proposed 2-car garage.

	R-1-C Standard	Subject Property & proposed design:
Lot width	100 feet	100 feet (conforms)
Lot depth	100 feet	100 feet (conforms)
Lot area	10,000 square feet	10,000 square feet (conforms)
Lot coverage	35%	25% (conforms)
Front yard setback	25 feet	Roughly 26 feet (conforms)
Side yard setback	10 feet	5 feet (2.5 feet to fascia of roof projection.) Does not conform
Rear yard setback	15 feet	Roughly 32 feet (conforms)
Building Envelope	Buildings shall not exceed one (1) story & 12 feet in height at the minimum setback.	Roughly 12 feet in height, 2.5 feet from side yard property line to fascia of eave projection. Does not conform

The existing home conforms to the development standards of the zone; however the proposed 2-car garage addition does not conform.

REQUIRED FINDINGS:

The Palm Springs Zoning Code Section 94.06.00("Variance") notes the following:

B. Conditions Necessary to Granting a Variance. The commission, before it may grant a variance, shall make a finding that in the evidence presented, all four (4) of the following conditions as set forth in state law exist in reference to the property being considered.

- 1) Because of the special circumstances applicable to the subject property, including size, shape, topography, location or surroundings, the strict application of the Zoning Code would deprive subject property of privileges enjoyed by other properties in the vicinity and under identical zone classification.*

The subject property is a legal conforming lot. Its size and shape are conforming to the minimum requirements of the zone. There are no unique topographical features on the site or its surroundings. Therefore there are no special circumstances that exist on the subject property that deprive the property privileges enjoyed by other properties in the vicinity and under the identical zone classification.

- 2) Any variance granted shall be subject to such conditions as will assure that the adjustment thereby authorized shall not constitute a grant of special privilege inconsistent with the limitations upon other properties in the vicinity and zone in which subject property is situated.*

The subject parcel is located in a zone of similar lots of similar size and with similar single family structures built at approximately the same time period as the subject parcel. Building permits on record at the City show the original home was permitted with an attached two car garage. Previous owners converted the garage to livable space without a building permit. Allowing reduced setbacks from ten feet to five feet for the construction of a new 2-car garage on this parcel would grant a special privilege of smaller side yard setbacks not granted to other properties in the vicinity and in the R-1-C zone.

- 3) The granting of the variance will not be materially detrimental to the public health, safety, convenience, or welfare or injurious to property and improvements in the same vicinity and zone in which subject property is situated.*

The requested variance reduces the west side yard setback by 50%, from ten feet to five feet. The design submitted proposes roof overhangs that project into the (reduced) side yard setback by 2.5 feet, further reducing the overall clear setback to 2.5 feet. In addition, the garage is proposed at roughly 12 feet in height. A tall hedge exists between this and the adjoining parcel thereby reducing the access for emergency services for the rear of the property.

- 4) The granting of such variance will not adversely affect the general plan of the city.*

The proposed variance would not adversely affect the General Plan of the City.

CONCLUSION:

All four of the findings in support of the requested variance must be made to grant a variance. Staff cannot recommend three findings; and therefore is recommending that the Planning Commission denies Case 6.520 – VAR, requesting reduction of the side yard setback from ten feet to five feet for the construction of a two-car garage at 1191 Paseo El Mirador. If the Planning Commission denies the variance request, the applicant could take one of the following actions in order to remedy the current building code violation:

1. Convert the living space back to a garage.
2. Consider an alternative design to meet the zoning code requirement for 2-car covered parking that conforms to the development standards of the zone (may require director approval of a tandem parking solution).
3. Appeal the decision of the Planning Commission to the City Council.

ENVIRONMENTAL DETERMINATION:

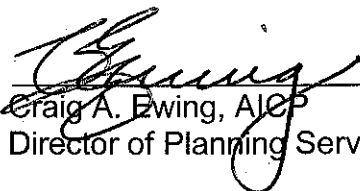
Pursuant to the California Environmental Quality Act (CEQA) Guidelines, the project has been determined to be Categorically exempt per Section 15305 (Minor Alteration in Land Use Limitation).

NOTIFICATION:

A notice was mailed to all property owners within a four hundred foot radius in accordance with state law. As of the writing of this report, no correspondence has been received.



Ken Lyon
Associate Planner



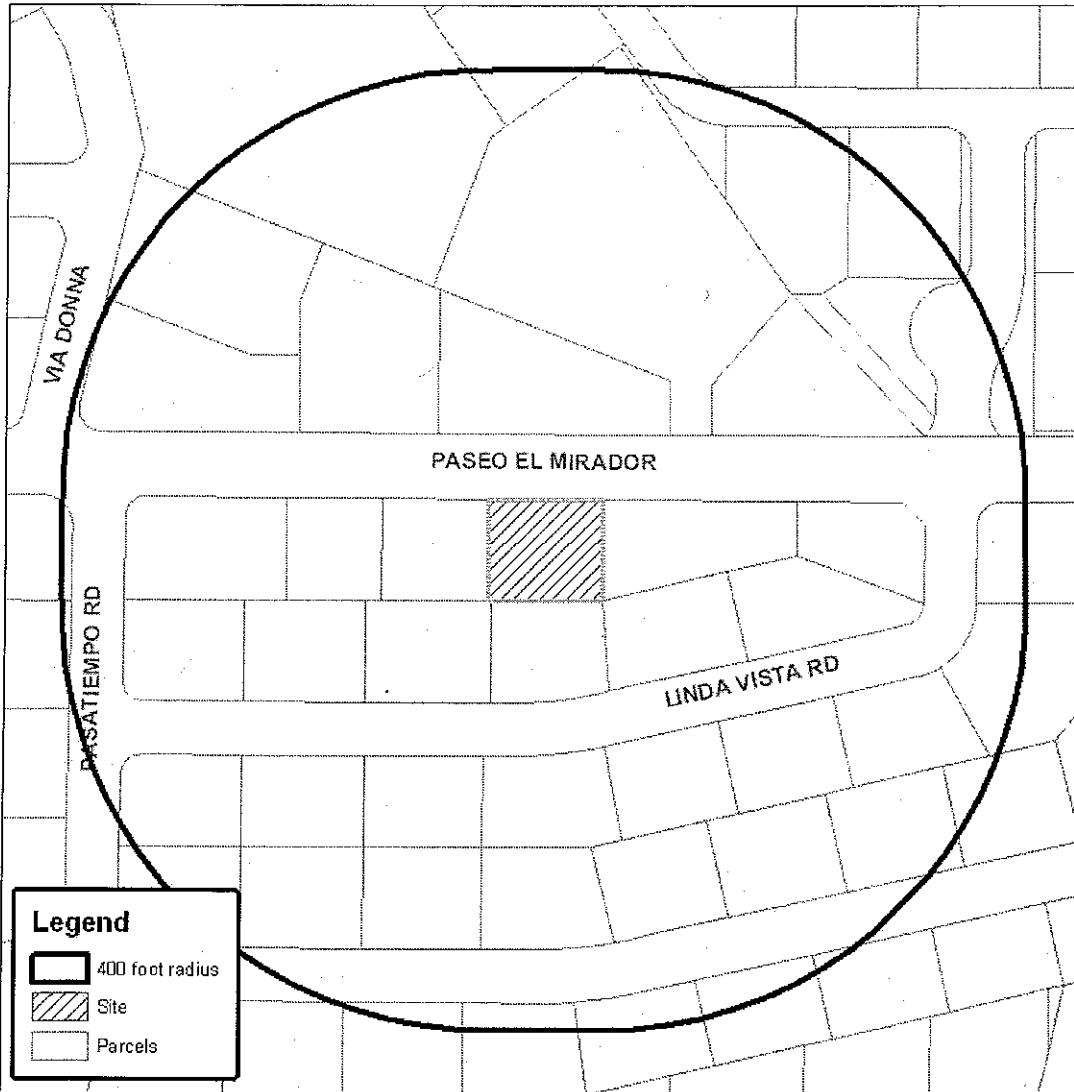
Craig A. Ewing, AICP
Director of Planning Services

Attachments:

- Vicinity Map
- Draft Resolution
- Site plan/floor plans/elevations
- Letter of support from adjacent neighbor



Department of Planning Services Vicinity Map



CITY OF PALM SPRINGS

CASE NO: 6.520 VAR

APPLICANT: Matthew Peterson &
Mark Miller

DESCRIPTION: A variance application to reduce the minimum side yard setback from 10 feet to 5 feet to allow construction of a 2-car garage at a single family residence at 1191 Paseo El Mirador, Zone R-1-C.

RESOLUTION NO.

A RESOLUTION OF THE PLANNING COMMISSION OF THE CITY OF PALM SPRINGS, CALIFORNIA DENYING VARIANCE APPLICATION, CASE 6.520, A REQUEST TO REDUCE THE MINIMUM SIDE YARD SETBACK FROM 10 FEET TO 5 FEET FOR CONSTRUCTION OF AN ATTACHED TWO CAR GARAGE AT AN EXISTING SINGLE FAMILY RESIDENCE LOCATED AT 1180 PASEO EL MIRADOR, (SECTION 11)

WHEREAS, Matthew Peterson, ("Applicant") has filed an application with the City pursuant to Section 94.06.00 (variance) of the Palm Springs Zoning Code (PSZC) for a variance to reduce the side yard setbacks from 10 feet to 5 feet for the construction of a proposed attached two car garage at an existing single family residence located at 1191 Paseo El Mirador, Zone R-1-C, Section 11; and

WHEREAS, notice of public hearing of the Planning Commission of the City of Palm Springs to consider Variance Case 6.520 was given in accordance with applicable law; and

WHEREAS, on February 9, 2011, a public hearing on Variance Case 6.520 was held by the Planning Commission in accordance with applicable law; and

WHEREAS, the proposed variance is categorically exempt from the provisions of the California Environmental Quality Act (CEQA) pursuant to Section 15305 (Minor Alterations to Land Use Limitations) of the California Environmental Quality Act (CEQA).; and

WHEREAS, the Planning Commission has carefully reviewed and considered all of the evidence presented in connection with the hearing on the project, including, but not limited to, the staff report, and all written and oral testimony presented.

THE PLANNING COMMISSION HEREBY FINDS AS FOLLOWS:

Section 1: The Planning Commission finds that this Variance request is Categorically Exempt from environmental review pursuant to Section 15305 (Minor Alterations to Land Use Limitations) of the California Environmental Quality Act (CEQA).

Section 2: Pursuant to the procedure set forth in Section 94.06.00 (*Variance*) of the Zoning Code, the Planning Commission may grant variances only upon making affirmative findings for all four (4) variance findings outlined in State Law. The Planning Commission finds as follows:

1. *Because of the special circumstances applicable to the subject property, including size, shape, topography, location or surroundings, the strict application of the Zoning Code would deprive subject property of privileges enjoyed by other properties in the vicinity and under identical zone classification.*

The subject property is a legal conforming lot. Its size and shape are conforming to the minimum requirements of the zone. There are no unique topographical features on the site or surrounding it. Therefore there are no special circumstances that exist on the subject property that deprive the property privileges granted to other properties in the vicinity and under the identical zone classification.

2. *Any variance granted shall be subject to such conditions as will assure that the adjustment thereby authorized shall not constitute a grant of special privilege inconsistent with the limitations upon other properties in the vicinity and zone in which subject property is situated.*

The subject parcel is located in a zone of similar lots of similar size and with similar single family structures built at approximately the same time period as the subject parcel. Building permits on record at the City show the original home was permitted with an attached two car garage. Previous owners converted the garage to livable space without a building permit. Allowing reduced setbacks from ten feet to five feet for the construction of a new 2-car garage on this parcel would grant a special privilege of smaller side yard setbacks not enjoyed by other properties in the vicinity and in the R-1-C zone.

3. *The granting of the variance will not be materially detrimental to the public health, safety, convenience, or welfare or injurious to property and improvements in the same vicinity and zone in which subject property is situated.*

The requested variance reduces the west side yard setback by 50%, from ten feet to five feet. The design submitted proposes roof overhangs that project into the (reduced) side yard setback by 2.5 feet, further reducing the overall clear setback to 2.5 feet. In addition, the garage is proposed at roughly 12 feet in height. A tall hedge exists between this and the adjoining parcel thereby reducing access for emergency services to the rear of the property.

4. *The granting of such variance will not adversely affect the general plan of the city.*

The proposed variance would not adversely affect the General Plan of the City.

NOW, THEREFORE, BE IT RESOLVED that, based upon the foregoing, the Planning Commission hereby denies Case 6.520 VAR.

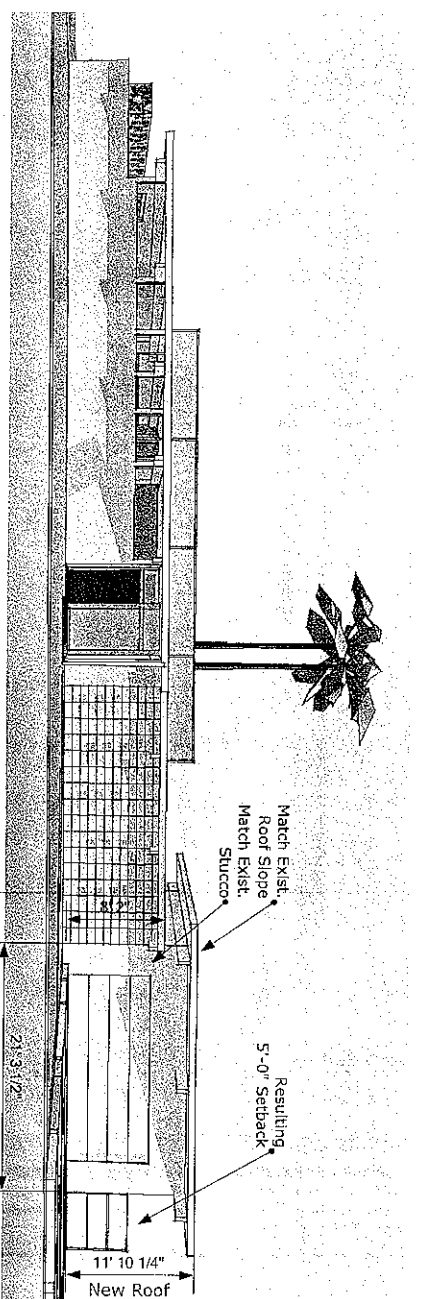
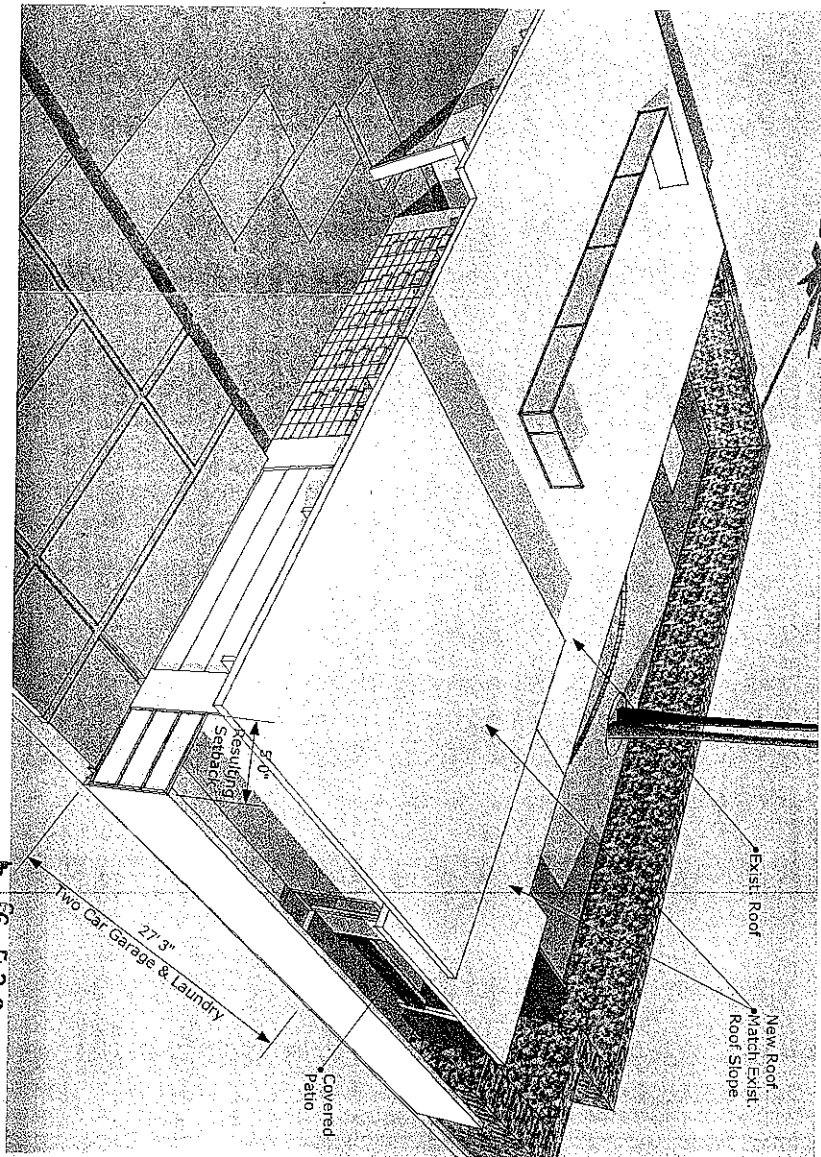
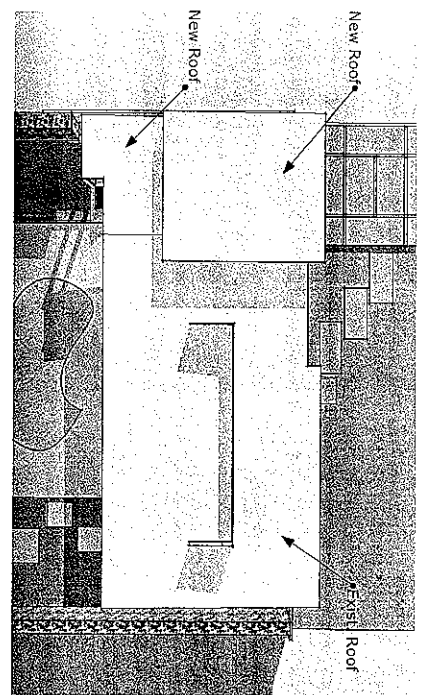
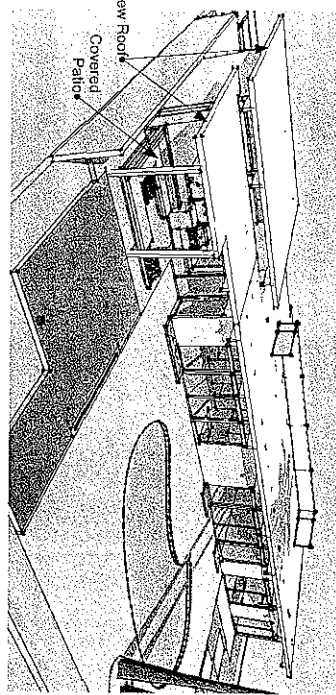
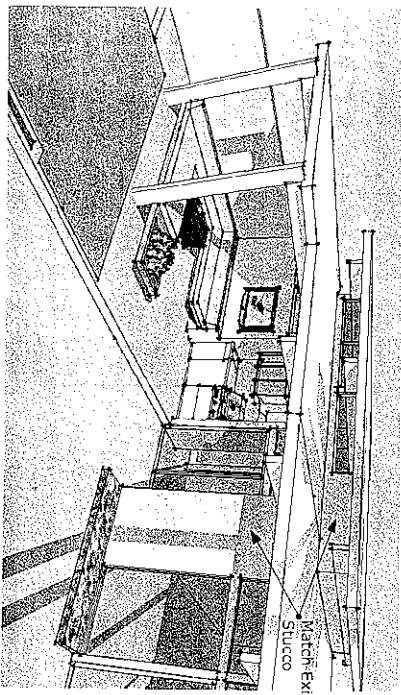
ADOPTED this 9th day of February, 2011.

AYES:
NOES:
ABSENT:
ABSTAIN:

ATTEST:

CITY OF PALM SPRINGS, CALIFORNIA

Craig A. Ewing, AICP
Director of Planning Services



1190 Paseo El Mirador
 Palm Springs, California
 November 5, 2009

Proposed Garage Addition & 5'-0" Side Yard Encroachment

John Walsh, Architect AIA, CDS Palm Springs, California 760-325-6100

To Whom It May Concern,

We, the undersigned, have seen the attached plan for a carport construction at 1191 East Paseo el Mirador, Palm Springs, CA, and declare that we have no objections to the construction of this carport as per the attached plan.

1. Suzanne Fenwick

2. Jan Henry Fenwick

Address: 1173 E. Paseo El Mirador, Palm Springs

Dated: Jan 4, '06

RECEIVED

APR _ 1 2010

PLANNING SERVICES
DEPARTMENT