

**COUNTY OF SAN MATEO
PLANNING AND BUILDING DEPARTMENT**

DATE: August 11, 2010

TO: Planning Commission

FROM: Planning Staff

SUBJECT: Consideration of a Variance, pursuant to Section 6530 of the San Mateo County Zoning Regulations to allow a 12-foot front yard setback (where 20 feet is required) on Parcel B of the associated Minor Subdivision. The parcel is located at 21 Bishop Lane in the unincorporated Weekend Acres area of San Mateo County.

County File Number: PLN 2010-00221 (Shahidi)

PROPOSAL

The applicant is requesting a variance to reduce the front yard setback to 12 feet (where 20 feet is required) on Parcel B of the associated Minor Subdivision (PLN 2008-00066). The Minor Subdivision alternative proposal outlined a creek protection area on Parcel B requiring construction of a future residence to maintain a 15-foot setback from the top of bank. The creek protection area created an awkward footprint where the maximum length of the west residential wall could not exceed 29 feet, and the maximum length of the east wall could not exceed 8 feet. The variance is requested in light of the proposed creek protection area to allow for a larger and more functional building envelope for a future residence.

RECOMMENDATION

If the Minor Subdivision alternative proposal is approved, then staff recommends approval of the Variance, County File Number PLN 2010-00221, by making the findings in Attachment A.

If the Minor Subdivision alternative proposal is denied, then staff recommends denial of the Variance, County File Number PLN 2010-00221, by making the findings in Attachment B.

BACKGROUND

Report Prepared By: Melissa Ross, Project Planner, Telephone 650/599-1559

Applicant: Paulo Hernandez

Owner: Ramin Shahidi

Location: 21 Bishop Lane, Menlo Park

APN: Identified as "Parcel B" on the associated Minor Subdivision Tentative Map. New parcel number to be assigned to Parcel B if Minor Subdivision is approved and the parcel map recorded.

Size: 5,022.5 sq. ft. (excluding flag lot pole); 7,482 sq. ft. (including flag lot pole)

Existing Zoning: R-1/S-7 (Single-Family Residential/Minimum 5,000 sq. ft. parcel)

General Plan Designation: Medium Density Residential (6.1-8.7 density units/acre)

Parcel Legality: Original subdivision recorded in Volume 10, Page 38 of the County Parcel Maps on May 9, 1921. Subsequently, a portion of this subdivision, including the subject parcel, was realigned to allow for roadway construction of Bishop Lane, which predates the County's authority over the subdivision (July 20, 1945). The realignment of the parcel was deeded but not recorded. A parcel, as defined in the Subdivision Regulations, is legal if the parcel has been developed with a "principal use" for which a valid building permit was issued. Building Permit Number A4764 was issued on January 27, 1940, for the construction of one of the dwellings on the realigned parcel. The other dwelling was constructed in 1928, prior to 1934; the year the County began issuing building permits.

Existing Land Use: Two existing legal residences (parcel not subdivided).

Water Supply: Existing service to both residences provided by California Water Service Company

Sewage Disposal: Existing service to both residences provided by West Bay Sanitary District

Flood Zone: FEMA Flood Insurance Rate Map Zone C (Area of Minimal Flooding); Panel No. 060311-0265B, Effective Date July 5, 1984.

Environmental Evaluation: See discussion in Section B, below.

Setting: The subject property is located approximately 0.9 mile east from Alpine Road and 0.62 mile north of Interstate 280. The parcel has an average slope of approximately 12 percent with natural vegetation and two existing legal single-family residences. The rear property line is the centerline of San Francisquito Creek. Two significant size oak trees dominate the front portion of the parcel.

DISCUSSION

A. KEY ISSUES

1. Conformance with the General Plan

Policies 1.24 (*Protect Vegetative Resources*), 1.25 (*Protect Water Resources*), 1.26 (*Protect Fish and Wildlife Resources*), and 1.27 (*Regulate Development to Protect Sensitive Habitats*) ensures that development will minimize the removal of vegetative resources, maintain adequate stream flows and water quality, and minimize the

disruption of fish and wildlife and their habitat. As part of the associated Minor Subdivision, the existing house, which extends over the top of the bank of San Francisquito Creek, will be demolished in order to remove the encroachment. The creek protection area, resulting from the Minor Subdivision, reduced the building footprint to approximately 830 sq. ft. and created an awkward shape. The variance request will allow for a more functional building envelope for a future residence while ensuring the creek protection is maintained, in compliance with these General Plan policies.

2. Conformance with Zoning Regulations

If granted, the variance will reduce the front yard setback to 12 feet where 20 feet is the minimum otherwise required in the S-7 Combining District. Findings from Section 6534.1 of the Zoning Regulations must be made in order to grant the variance. Staff has determined that these findings can be made and that granting the proposed variance is therefore appropriate.

- a. **The parcel's location, size, shape, topography and/or other physical conditions vary substantially from those of other parcels in the same zoning district or vicinity.**

Once the Minor Subdivision is recorded, Parcel B will contain a creek protection area that reduces the building footprint to approximately 830 sq. ft. and creates an awkward footprint shape that varies substantially from other parcels in the vicinity. While a couple of other creek protection areas are present in the same zoning district, they do not reduce the building envelope to the extent of the reduction on the subject property. Granting the variance here will allow for a functional building envelope for construction of a future single-family residence more consistent with other properties in the vicinity.

- b. **Without the variance, the landowner would be denied the rights and privileges that are enjoyed by other landowners in the same zoning district or vicinity.**

Without the variance, the landowner would theoretically be able to construct a single-family residence in compliance with the development standards. However, the shape of a future residence would be significantly constrained by the building footprint that limits the maximum length of the westernmost wall to 29 feet and the easternmost wall to 8 feet in length resulting in a residence of limited utility and appeal and not in keeping with other structures in the vicinity. The variance will allow for a single-family residence to be designed in a similar fashion as those found within the existing neighborhood.

- c. **The variance does not grant the landowner a special privilege which is inconsistent with the restrictions placed on other parcels in the same zoning district or vicinity.**

If approved, the variance will allow relief from the front yard setback requirements for construction of a single-family residence which is allowed by zoning. The future residence will be held to the same Combining District Development Standards as other similarly zoned parcels (with exception to the front yard setback for which the variance is requested).

- d. **The variance authorizes only uses or activities which are permitted by the zoning district.**

As the parcel is zoned for a single-family residence, the variance grants relief from the front yard setback for such a residence.

- e. **The variance is consistent with the objectives of the General Plan and the Zoning Regulations.**

The variance is consistent with the objective of the General Plan and Zoning Regulations in that protection of the creek is maintained while allowing for residential development of the land.

B. ENVIRONMENTAL REVIEW

County Counsel has determined that the Mitigated Negative Declaration is adequate and inclusive of the proposed variance. Recirculation of the Mitigated Negative Declaration is not required in that no new avoidable significant effects are identified and no new mitigation measures or revisions are required (CEQA Sections 15073.5(b)(1) and (2)) and that the variance is a measure or condition of the project added after circulation of the Mitigated Negative Declaration which is not required by CEQA (CEQA Section 15073.5(c)(3)) and that the variance, on its own, can qualify for a CEQA Exemption (Section 15305, Class 5; Minor Alterations in Land Use Limitations).

C. REVIEWING AGENCIES

Building Inspection Section
Department of Public Works
Department of Public Works Utilities – Flood Control – Watershed Protection Section
Geotechnical Section
Cal-Fire
San Francisquito Creek JPA

ATTACHMENTS

- A. Recommended Findings of Approval
- B. Recommended Findings of Denial
- C. Site Plan

MAR:pac – MARU0519_WPU.DOC

County of San Mateo
Planning and Building Department

RECOMMENDED FINDINGS AND CONDITIONS OF APPROVAL

Permit or Project File Number: PLN 2010-00221

Hearing Date: August 11, 2010

Prepared By: Melissa Ross, Project Planner

For Adoption By: Planning Commission

RECOMMENDED FINDINGS

For the Variance, Find:

1. That the parcel's location, size, shape, topography and/or other physical conditions vary substantially from those of other parcels in the same zoning district or vicinity because the parcel is encumbered by a creek protection area that has reduced the available building footprint.
2. That without the variance, the landowner would be denied the rights and privileges that are enjoyed by other landowners in the same zoning district or vicinity. The variance will allow for a residence to be designed in a similar fashion as those found within the existing neighborhood.
3. That the variance does not grant the landowner a special privilege which is inconsistent with the restrictions placed on other parcels in the same zoning district or vicinity. Future development will be held to the same development standards as other similarly zoned parcels (with exception to the front yard setback for which the variance is requested).
4. The variance authorizes only uses or activities which are permitted by the zoning district. Future development includes a single-family residence which is allowed in the R-1 district.
5. The variance is consistent with the objectives of the General Plan and the Zoning Regulations in that protection of the creek is maintained while allowing for development of the land.

RECOMMENDED CONDITIONS OF APPROVAL

Current Planning Section

1. The following conditions of approval are in addition to the Minor Subdivision conditions of approval for PLN 2008-00066.

2. This approval applies only to the proposal, documents and plans described in this report and submitted to and approved by the Planning Commission on August 11, 2010. Minor revisions or modifications may be approved by the Community Development Director if they are consistent with the intent of and in substantial conformance with this approval.
3. If after two (2) years from the date of approval, the applicants have not obtained the necessary building permit and made substantial progress toward completing the proposed development, the variance will expire. The variance may be extended beyond one year if the applicant requests an extension in writing and submits payment of applicable extension fees at least sixty (60) calendar days before the expiration date.
4. The applicant shall submit to the Current Planning Section, to be recorded concurrently with the Parcel Map, one site plan sheet depicting Parcel B and the approved building envelope.

MAR:pac – MARU0519_WPU.DOC

County of San Mateo
Planning and Building Department

RECOMMENDED FINDINGS OF DENIAL

Permit or Project File Number: PLN 2010-00221

Hearing Date: August 11, 2010

Prepared By: Melissa Ross, Project Planner

For Adoption By: Planning Commission

RECOMMENDED FINDINGS

For the Variance Find:

1. That the parcel's location, size, shape, topography and/or other physical conditions do not vary substantially from those of other parcels in the same zoning district or vicinity.
2. That without the variance, the landowner is not denied the rights and privileges that are enjoyed by other landowners in the same zoning district or vicinity.
3. That the variance does grant the landowner a special privilege which is inconsistent with the restrictions placed on other parcels in the same zoning district or vicinity.
4. The variance authorizes only uses or activities which are permitted by the zoning district.
5. The variance is not consistent with the objectives of the General Plan and the Zoning

MAR:pac – MARU0519_WPU.DOC

TENTATIVE MAP TWO (2) LOT SUBDIVISION

ALL THAT CERTAIN AREA, SHOWN AS BEING SUBDIVIDED AS PARCELS A AND B, IS MORE OR LESS THE SAME AS SHOWN ON RECORD MAPS AND PLATS, SAN MATEO COUNTY, CALIFORNIA, AND THE RECORD MAPS AND PLATS ARE ON FILE IN THE OFFICE OF THE COUNTY CLERK, SAN MATEO COUNTY, CALIFORNIA. THE SAID COUNTY RECORDS, STATE OF CALIFORNIA, AND THE SAID COUNTY RECORDS, STATE OF CALIFORNIA, ARE ON FILE IN THE OFFICE OF THE COUNTY CLERK, SAN MATEO COUNTY, CALIFORNIA.

CITY OF MELBO PARK
COUNTY OF SAN MATEO
STATE OF CALIFORNIA
APRIL 2010

SCALE: 1"=10'
SMP ENGINEERS
CIVIL ENGINEERS

1514 CARRIS LANE
LOS ALTOS, CA 94024

1514 CARRIS LANE
LOS ALTOS, CA 94024

LOT AREA TABLE

PARCEL	AREA (SQ. FT.)	AREA (SQ. FT.)	AREA (SQ. FT.)
PARCEL A	3,022.3	0.175	
PARCEL B (WITH DRIVEWAY)	7,482	0.172	
TOTAL (EXCLUDING LOT)	10,504.3	0.347	
DRIVEWAY PORTION OF PARCEL B	1,479	0.034	
PARCEL B (WITHOUT DRIVEWAY)	5,984	0.137	

BOUNDARY ENVELOPE AREA TABLE

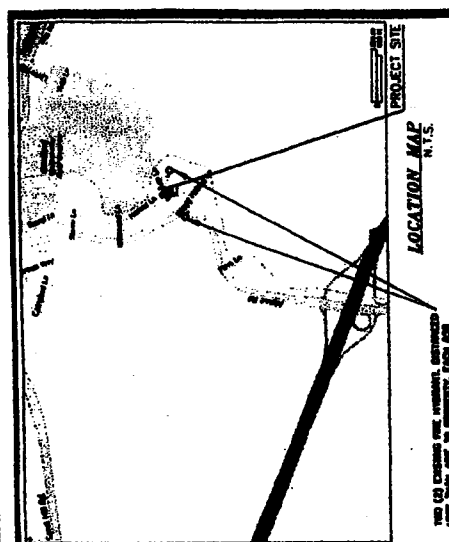
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THIS (2) LOT SUBDIVISION, SHOWN AS PARCELS A AND B, IS MORE OR LESS THE SAME AS SHOWN ON RECORD MAPS AND PLATS, SAN MATEO COUNTY, CALIFORNIA, AND THE RECORD MAPS AND PLATS ARE ON FILE IN THE OFFICE OF THE COUNTY CLERK, SAN MATEO COUNTY, CALIFORNIA.

OWNER AND DEVELOPER:
RAMIN SHAHIDI
580 PARK AVE. LOS ALTOS CA 94022

CIVIL ENGINEER:
SMP ENGINEERS
1514 CARRIS LANE
LOS ALTOS, CA 94024

EXISTING USE: RESIDENTIAL
PROPOSED USE: RESIDENTIAL

EXISTING ZONING: R1/2-7
PROPOSED ZONING: R1/2-7

EXISTING BALANCE OF CO. BALANCES ON PARCELS A AND PARCELS B ARE TO BE MAINTAINED.

GENERAL NOTES:
1. OWNER AND DEVELOPER:
RAMIN SHAHIDI
580 PARK AVE. LOS ALTOS CA 94022

CIVIL ENGINEER:
SMP ENGINEERS
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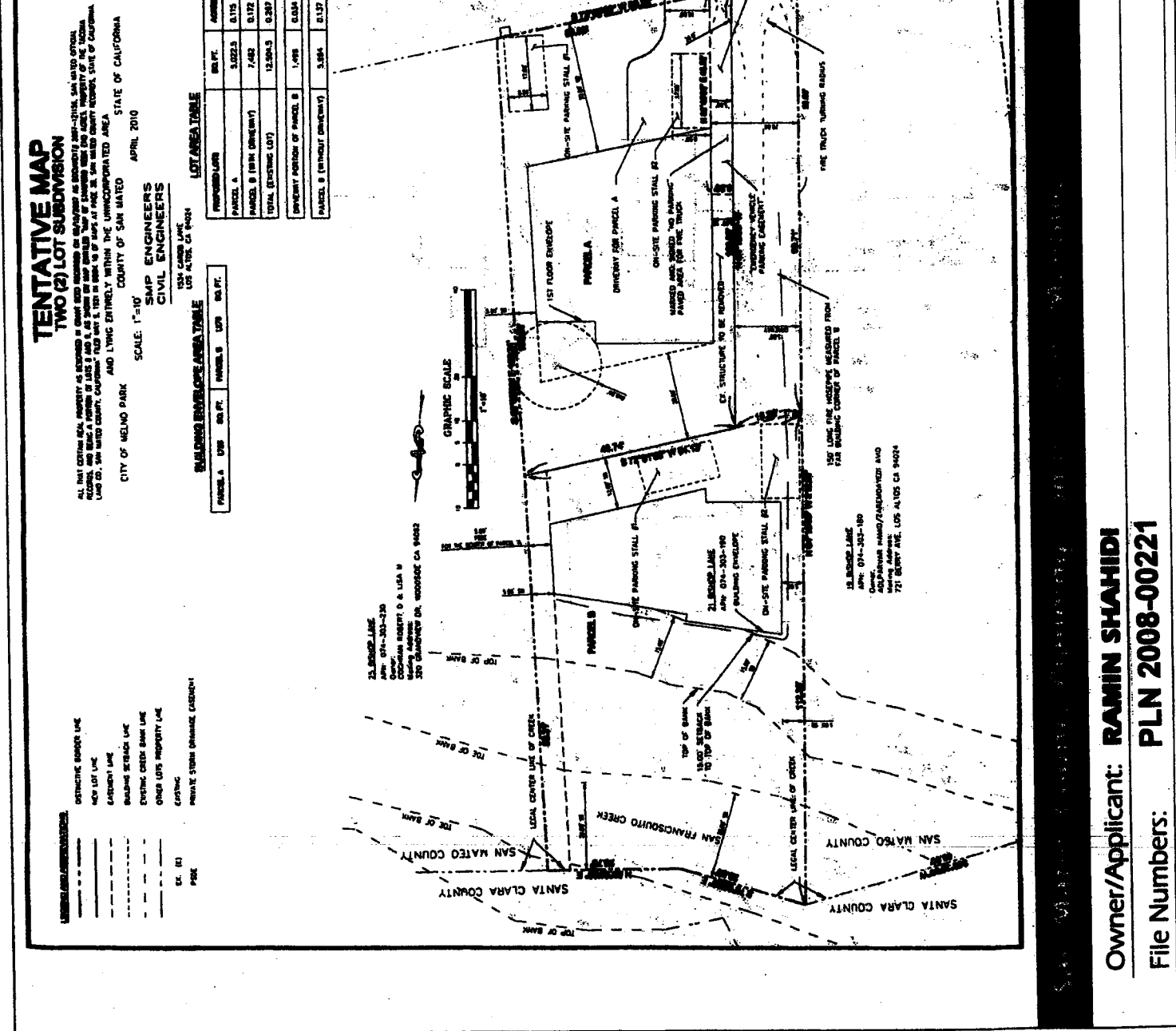
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580 PARK AVE. LOS ALTOS CA 94022

CIVIL ENGINEER:
SMP ENGINEERS
1514 CARRIS LANE
LOS ALTOS, CA 94024

EXISTING USE: RESIDENTIAL
PROPOSED USE: RESIDENTIAL

EXISTING ZONING: R1/2-7
PROPOSED ZONING: R1/2-7



Attachment: C

Owner/Applicant: RAMIN SHAHIDI

File Numbers: PLN 2008-00221

Application for Appeal

RECEIVED

County Administration Center • 455 County Center, 2nd Floor
Redwood City • CA • 94063 • Mail Drop PLN 122
Phone: 650 • 363 • 4161 Fax: 650 • 363 • 4849

- To the Planning Commission
- To the Board of Supervisors

AUG 20 2010

San Mateo County
Planning Division

Name: Dr. Ramin Shahidi

Address: 502 Palm Avenue

Phone, W: 650-823-3002H:

Zip: Los Altos, CA
94022

Permit Numbers involved:

PLN 2008-00666
~~PLN 2010-00221~~ PLN 2010-00221

I have read and understood the attached information regarding appeal process and alternatives.

- yes
- no

I hereby appeal the decision of the:

- Staff or Planning Director
- Zoning Hearing Officer
- Design Review Committee
- Planning Commission

Appellant's Signature: [Signature]

Date: 8-10-10

made on August 11 2010, to approve/deny the above-listed permit applications.

Planning staff will prepare a report based on your appeal. In order to facilitate this, your precise objections are needed. For example: Do you wish the decision reversed? If so, why? Do you object to certain conditions of approval? If so, then which conditions and why?

please refer to attachment 1.

RECEIVED

AUG 20 2010

**San Mateo County
Planning Division**

PLN 2008-00066
PLN 2010-00221
21 Bishop Lane, Weekend Acres
074-303-190

Application for Appeal

ATTACHMENT 1

3. BASIS FOR APPEAL (Continued from previous page)

The purpose of this appeal is to request reversal of the Planning Commission decision made on August 11, 2010 to deny Dr. Ramin Shahidi the requested Minor Subdivision – PLN2008-00066 and related Variance PLN2010-00221.

PLN2008-00066 – MINOR SUBDIVISION:

Proposed Subdivision Revisions:

- Increase the original proposed 12' driveway to 15'
- Include a 5' wide and 50' deep emergency fire-access easement on "Parcel A" – 50' from Bishop Lane
- Include a 5' setback on the rear 50' segment of "Parcel A" – Such 5' setback shall be paved to allow for vehicular access if necessary

The aforementioned revisions are graphically illustrated on the attached revised minor subdivision map (Attachment 2). These revisions create a minor subdivision that includes a collective 20' wide access substantially complying with County requirements and greatly exceeding any driveway access in the Bishop Lane neighborhood.

SECTION 7096 FINDINGS REQUIRED

That there are ~~SPECIAL CIRCUMSTANCES OR CONDITIONS AFFECTING~~ **the property**

The nature and character of existing neighborhood roadway and driveway systems is THE special circumstance and condition that supports the justification for an exception to the 20-foot driveway requirement:

- a. Bishop Lane is a dead end narrow private road ONLY 13-feet wide at its entrance;
- b. **Majority, if not all, existing private driveways on Bishop Lane range in size from 10-12 feet in width;**
- c. In 1988, the County Board adopted Resolution No. 50893, in response to the residents of Bishop Lane, directing the Public Works Director to allow Bishop Lane to remain in its existing condition (13-foot private road).

A subdivision that includes a 20-foot wide driveway would:

- a. Exceed the width of Bishop Lane itself by seven (7) feet;
- b. Exceed all existing private driveways by a range of five to eight feet;
- c. Contradict the intentions of the residents and Board Resolution No. 50893, which directed County Public Works Director to retain existing 13-foot width of Bishop Lane;
- d. Reduce the frontage and size of proposed subdivision Parcel A – Inconsistent with required minimum standards for Zoning District;
- e. Require shifting of proposed residence for Parcel A and need to remove existing heritage coast live oak – In violation of County Ordinances;

PLN 2008-00066
PLN 2010-00221
21 Bishop Lane, Weekend Acres
074-303-190

Application for Appeal

ATTACHMENT 1

A subdivision that includes a private driveway greater than 13 feet would be highly un-necessary and inconsistent with historic efforts by neighborhood and County of San Mateo to maintain the existing character of Weekend Acres. Further, there can be shown no significant or legitimate 'public interest' in the matter here involving a minor subdivision on a small private lane.

OR that exception is necessary for the preservation and enjoyment of substantial property rights of the owner/subdivider

- a. The property, as improved, is not built to the capacity allowed by the Medium Density Residential land use designation – The proposed minor subdivision would allow the substantial property rights allowed by the Medium Density Residential development standards.
- b. Furthermore, due to stringent loan qualifications, if the minor subdivision is not granted, Dr. Shahidi will not be able to obtain the construction loan financing necessary for improving the two parcels.
- c. Importantly, there is clear and recent **precedence** for granting this exception. Among others, the county recently granted similar exceptions for properties located at 264 Sequoia Trail and 901 Berkeley Avenue where the driveway requirements were reduced to merely 10 feet and 18 feet wide respectively. Thus, Dr. Shahidi would be not be granted any special privileges because a survey indicates that other properties have been granted development rights currently being denied to the applicant.
- d. Lastly, this minor subdivision would not have a detrimental effect to the neighborhood or any Committee; nor would it materially impair the public interest or adversely impact the General Plan.

PLN2010-00221 – VARIANCE:

The subject minor subdivision proposes a 15-foot creek setback from the top-of-bank (top retaining wall) and approximate 30-foot setback from the lower retaining wall. In order to accomplish such a set-back a variance is requested regarding the required 20-foot front setback of Parcel B – A proposed reduction of setback to 12 feet. Without the proposed variance, a creek setback cannot be accomplished nor creation of a feasible building envelope for Parcel B.

CONCLUSION

In light of the above evidence, the findings for an exception are supported by substantial evidence. It would therefore appear an arbitrary and capricious government action denying substantive due process to deny Dr. Shahidi his flag lot access and minor subdivision. For the above reasons, the decision should be reversed.