

### **City of Santa Barbara** Community Development

### Memorandum

DATE: Wednesday, December 15, 2021

TO: Building & Fire Code Board of Appeals

FROM: Timo Rodriguez

SUBJECT: Staff Report for Appeal regarding ENF2017-01224 - 931 CALLE CORTITA

On October 17, 2017 a complaint was filed with Building & Safety for work without permits for a major interior and exterior remodel. The work described reconfiguration of the existing footprint, including new electrical wiring, skylights, doors, windows, drywall, and construction of a new exterior stairway to a 2nd story deck on the side of house built in the setback and on neighbor's property.

On November 2, 2017, September 1, 2021, and September 16, 2021 City Inspectors, inspected the subject property. An Amended Notice of Violation was published on October 28, 2021. (See Exhibit 1)

See page 6 of Exhibit 2 for additional pictures of deck.

The original Permit No. 1483 issued on January 28, 1963, identifies a new 1005 sq. ft. residence and a detached carport. (See Exhibit 3)

The City of Santa Barbara has no records for the deck that was constructed at the property located at 931 Calle Cortita. Additionally, the City of Santa Barbara has no record of a signed easement to allow construction over the property line, which it appears to be built. (See Exhibit 4 showing the only known easement between 931 Calle Cortita and 937 Calle Cortita for installation, maintenance, repair and replacement of a sewer line and for a walkway.)

Exhibit 5 is showing a survey from February 20, 2007 for the adjacent property 937 Calle Cortita. Page 2 of 3 establishes property lines between 931 Calle Cortita and 937 Calle Cortita.

Exhibit 6 shows the City of Santa Barbara's mapping software site plan of 931 Calle Cortita. The yellow line represents the property lines. The black rectangle represents the the location of the deck.

#### **SUMMARY**

No permits have been obtained for the deck which appears to be encroaching onto the adjacent property. The property owner is required to obtain a building permit to permit the deck, including providing a survey showing property lines to establish required setbacks, which may result in reconstruction of a portion of the deck, or for demolition of the deck within 30 days of the Building & Fire Appeals Board decision and the work must be complete within 90 days of permit issuance.

### **EXHIBIT 1**



### Amended Notice of Violation

City of Santa Barbara
Building & Safety

October 28, 2021

Stewart, James H. Trust 8/1/91 Trustee(s): James H. Stewart & Sherry McTigue 1437 E. Lewis Street Boise, ID 83712

Subject Property: 931 Calle Cortita, Santa Barbara, CA 93109

Parcel Number: 041-157-017

Record Number: ENF2017-01224

Dear James H. Stewart,

Due to a concern filed with the Building & Safety Division, an inspection at the Subject Property was performed on 11/20/2017, 9/1/2021, and 9/16/2021. As a result of our investigation, the city inspectors found the Property to be in violation of the Santa Barbara Municipal Code as follows:

### Santa Barbara Municipal Code Violations:

- 22.04.010 Adoption of California Codes by Reference.
- 30.140.090 Encroachments into Setbacks and Open Yards.
- 22.69.020 Neighborhood Preservation Single Family Residential Unit Design Review.

#### **Violation Findings During Investigation:**

- 1. A new sliding glass door was installed without approval or permits. (See Exhibits 1, 2, 3, 4, 5, and 6)
- 2. The deck was built on adjacent property without approval or permits. (See Exhibits 7 and 8)
- 3. A new fence was constructed without approval or permits. (See Exhibit 8)
- 4. The existing carport has man door leading to platform to the roof. Platform is more than 10 feet from grade and does not have rails with guards. (See Exhibit 8)

**Building Code Violation Section:** 2019 California Residential Code § R105.1 Permits Required as adopted by Santa Barbara Municipal Code 22.04.010. Any owner, or authorized agent who intends to construct, enlarge, alter, repair, move, demolish, or change the occupancy of a building or structure, or to erect, install, enlarge, alter, repair, remove, convert or replace any electrical, gas mechanical or plumbing system, the installation of which is regulated by this code, or to cause any such work to be done, shall first make application to the building official and obtain the required permit.

**Building Code Violation Section:** 2015 International Property Maintenance Code § 108.1.4 Unlawful Structure as adopted by Santa Barbara Municipal Code 22.04.010. An unlawful structure is one found in whole or in part to be occupied by more persons than are permitted under this code, or was erected, altered or occupied contrary to law.

**Building Code Violation Section:** 2019 California Residential Code § R310.2.5 Replacement Windows as adopted by Santa Barbara Municipal Code 22.04.010. Replacement windows installed in buildings meeting the scope of this code shall be exempt from the maximum sill height requirements of <u>Section R310.2.2</u> and the requirements of <u>Section R310.2.1</u>, provided that the replacement window meets the following conditions:

- 1. The replacement window is the manufacturer's largest standard size window that will fit within the existing frame or existing rough opening. The replacement window is of the same operating style as the existing window or a style that provides for an equal or greater window opening area than the existing window.
- The replacement window is not part of a change of occupancy.

**Building Code Violation Section:** 2015 International Property Maintenance Code § 304.1.1 Unsafe conditions as adopted by Santa Barbara Municipal Code 22.04.010. The following conditions shall be determined as unsafe and shall be repaired or replaced to comply with the International Building Code or the International Existing Building Code as required for existing buildings:

12. Exterior stairs, decks, porches, balconies and all similar appurtenances attached thereto, including guards and handrails, are not structurally sound, not properly anchored or that are anchored with connections not capable of supporting all nominal loads and resisting all load effects; or

**Building Code Violation Section:** 2015 International Property Maintenance Code § 304.10 Stairways, decks, porches and balconies as adopted by Santa Barbara Municipal Code 22.04.010. Every exterior stairway, deck, porch and balcony, and all appurtenances attached thereto, shall be maintained structurally sound, in good repair, with proper anchorage and capable of supporting the imposed loads.

Building Code Violation Section: 2015 International Property Maintenance Code § 307.1 General as adopted by Santa Barbara Municipal Code 22.04.010. Every exterior and interior flight of stairs having more than four risers shall have a handrail on one side of the stair and every open portion of a stair, landing, balcony, porch, deck, ramp or other walking surface that is more than 30 inches (762 mm) above the floor or grade below shall have guards. Handrails shall be not less than 30 inches (762 mm) in height or more than 42 inches (1067 mm) in height measured vertically above the nosing of the tread or above the finished floor of the landing or walking surfaces. Guards shall be not less than 30 inches (762 mm) in height above the floor of the landing, balcony, porch, deck, or ramp or other walking surface.

Exception: Guards shall not be required where exempted by the adopted building code.

**Building Code Violation Section:** 2019 California Building Code § 503.4 Existing Structural Elements Carrying Lateral Load as adopted by Santa Barbara Municipal Code 22.04.010. Except as permitted by Section 503.13, where the alteration increases design lateral loads, results in a prohibited structural irregularity as defined in ASCE 7, or decreases the capacity of any existing lateral load-carrying structural element, the structure of the altered building or structure shall meet the requirements of Sections 1609 and 1613 of the California Building Code. Reduced seismic forces shall be permitted.

Santa Barbara Municipal Code Violations: § 30.140.090 Encroachments into Setbacks and Open Yards.

A. Applicability. Required setback and open yard areas shall be open, unenclosed, and unobstructed by structures from the ground upward, except as provided in this section. The provisions of this section do not apply to Development Along Mission Creek, pursuant to Section 30.140.050, Street Widening Setbacks, pursuant to Section 30.140.190, or public utility easements which are to remain unobstructed.

Santa Barbara Municipal Code Violations: § 22.69.020 Neighborhood Preservation - Single Family Residential Unit Design Review.

- A. APPROVAL REQUIRED BEFORE ISSUANCE OF PERMIT. No building permit, grading permit, vegetation removal permit, or subdivision grading plan, the application for which is subject to the review of the Single Family Design Board pursuant to this chapter, shall be issued without the approval of the Board or the City Council, on appeal.
- B. BUILDING PERMITS SPECIAL DESIGN DISTRICTS.
  - 2. Hillside Design District. Applications for building permits to construct, alter, or add to the exterior of any lot developed with either a single-unit residence, or a single-unit residence in combination with an Additional Dwelling Unit (Section 28.93.030.E), an Additional Residential Unit (Section 30.295.020.B.2), or an accessory structure on a lot or lots within the Hillside Design District identified in Section 22.68.060 shall be referred to the Single Family Design Board for design review in accordance with the requirements of this chapter and the approved Single Family Design Board Guidelines if either:
    - a. The average slope of the lot or the building site is 20% or more as calculated pursuant to Section 28.15.080 or 30.15.030 of this code; or
    - b. The application involves the replacement of an existing roof covering with a roof covering of different materials or colors.

#### HOW TO REMEDY THE VIOLATION(S): Take the following steps to remediate all findings during inspection:

- Consult with the Planning and Zoning Department to verify alterations do not trigger design review of any kind. Contact Planning and Zoning Department by email at <u>PlanningCounter@SantaBarbaraCA.gov</u> or by phone at (805) 564-5578.
- 2. When approved by the Planning and Zoning Department to proceed, prepare and submit a complete application for the building permit(s) that are required to legalize the violations found during an inspection. Applications for a building permit can be made online at <a href="mailto:santaBarbaraCA.gov/OnlineBuildingPermits.">SantaBarbaraCA.gov/OnlineBuildingPermits.</a> Be aware that permit issuance must be obtained by the dates prescribed in this Notice. If permit(s) are not obtained within the prescribed time frames, further legal action may be necessary.

### **DEADLINE FOR ABATEMENT: MONDAY, MARCH 28, 2022**



**EXHIBIT 1** 



**EXHIBIT 2** 



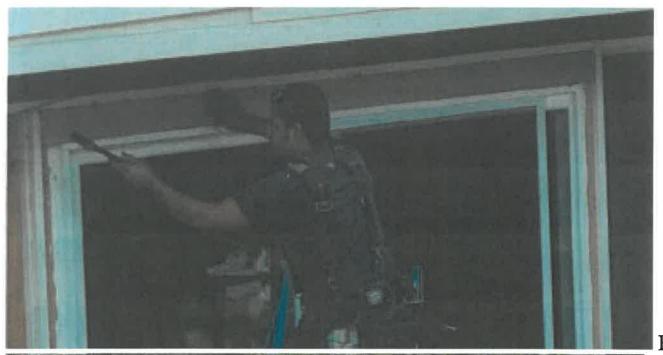
**EXHIBIT 3** 



**EXHIBIT 4** 



**EXHIBIT 5** 



**EXHIBIT 6** 



**EXHIBIT 7** 



**EXHIBIT 8** 

The Building Official has determined that the violations on the Property must be abated in an expeditious manner.

 Work must be completed and all violations abated on or before the Abatement Due Date for each violation above.

If the date(s) is not met, further legal action may be necessary.

This Notice of Violation identifies the concerns of the Building & Safety Division of the City of Santa Barbara. Other departments or divisions of this City and other governmental agencies may have additional concerns or requirements.

#### **Tax Implications**

Pursuant of California Revenue and Taxation Code sections 17274 and 24436.5, the City may forward information regarding you and any other owners of the above-referenced property to the State Franchise Tax Board for violation of State and City laws related to the health, safety, and building if the above listed property constitutes substandard housing. This action will prevent you, any other owners, or subsequent owners from deducting interest, taxes, depreciation, or amortization for the above-referenced property on the state income taxes. In order to prevent this, you must immediately comply with all State and City laws to abate all violations.

#### **Appeal Rights**

Any party aggrieved by this decision of the City's Chief Building Official including but not limited to decisions or determinations made relative to the application and interpretations of the technical codes, and the refusal, suspension, voiding, or revocation of a license or permit, may appeal such decision to the Building and Fire Code Board of Appeals by obtaining an appeal form on the internet at <a href="http://www.santabarbaraca.gov/services/planning/forms/building.asp">http://www.santabarbaraca.gov/services/planning/forms/building.asp</a> or from the City Building & Safety office. You are required to submit the appeal form within ten (10) days from the date of this notice in order for your appeal to be heard by the Building and Fire Code Board of Appeals. The completed appeal form must be delivered, by hand or postage mail, to the City's Building & Safety office located at 630 Garden St., Santa Barbara, CA 93101. The completed appeal form may also be emailed to <a href="mailto:CDBuildingCode@SantaBarbaraCa.gov">CDBuildingCode@SantaBarbaraCa.gov</a>

For information regarding the appeals process, please refer to Santa Barbara Municipal Code Section 22.04.020 or contact the Community Development Department at (805) 564-5502. For information on the Building and Fire Code Board of Appeals, please visit the following website <a href="http://www.santabarbaraca.gov/gov/brdcomm/ac/bfcba/default.asp">http://www.santabarbaraca.gov/gov/brdcomm/ac/bfcba/default.asp</a>

#### **Contact Information**

Our office phone number is (805) 564-5485. Our offices are closed every other Friday. Please call (805) 564-5485 to find out the Friday we will be closed. Inspector office hours are 7:30-8:30 a.m. and 3:00-4:00 p.m. Monday through Friday except for Thursday afternoon and our "off" Friday. You may also contact our office for plan submittal and permit issuance requirements at (805) 564-5485 between the hours of 7:30 and 4:30 p.m., Monday through Friday. The Community Development public counters are located at 630 Garden Street. Additional information is available online at <a href="www.SantaBarbaraCa.gov">www.SantaBarbaraCa.gov</a>.

Sincerely,

Timo Rodriguez

Timo Rodriguez

Building Inspector/Certified Code Enforcement Officer CITY OF SANTA BARBARA, Community Development

(805) 897-2529 | Cell: (805) 729-5214

tjrodriguez@santabarbaraca.gov

CC: City of Santa Barbara Street File

CC: Trustee, Sherry McTigue, at sherryamctique@gmail.com





CASE INFORMATION										
CASE #	CASE # ENF2017-01224									
INVESTIGATION	ON DATE	9/16/20	21		DATE ASSIG	NED	9/22/2021			
LOCATION	93	1 Calle Co	ortita		WEATHER		Sunny			
ORIGINAL CO	MPLAINT	-	•				nd fence without permits. Also			
	new sliding glass doors have been installed without permits. A fence has been									
					•	•	permits. The property owner of			
		-			Cortita states	portion	ns of the Deck and Fence have			
		been bu	ilt on the	ir property.						
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□ REPORTIN	IG PARTY	□ with	IESS 🛛	NEIGHBOR	☐ OTHER		NONYMOUS			
NAME	Sherry Sch		PHONE		EMAIL					
	37 Calle Co									
STATEMENT	The prope	rty at 931	Calle Cor	tita has built	a deck and fo	ence wi	thout permits. Also new			
	sliding glas	s doors h	nave been	installed wit	thout permits	. A fend	ce has been built on deck that			
	is 6 over fe	et on gra	de, witho	out permits.	The property	owner o	of adjacent property at 937			
	Calle Cortita states portions of the Deck and Fence have been built on their property.									
	Owner pro	vided a s	urvey pla	n by a Licens	ed Surveyor,	that pro	ovided the property line			
	locations a	nd site m	nap of the	properties 9	31 and 937 C	alle Cor	tita. Sherry Schmandt states			
	there is a v	walking e	asement l	between the	two properti	es that	931 Calle Cortita has built on.			
	Sherry stat	ted that a	packet o	f photos was	sent by her o	of the al	lleged non permitted Deck,			
	fence and	sliding gla	ass doors.	931 propert	y was measu	red to b	e 19 foot 6 ½ inches from			
	portions o	f the decl	k and fend	e line.						
2222425	T: -			0 /22 /222						
PREPARED BY:	Tim Dunn	1	DATE:	9/23/2021			Page   1			



CALIFORNIA -											
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The Last Inspection must have bee	en conducted at least 3:	30 prior to referral date.									
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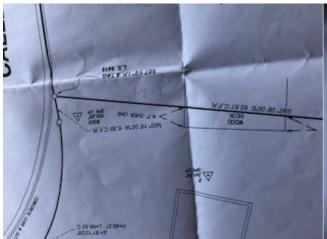


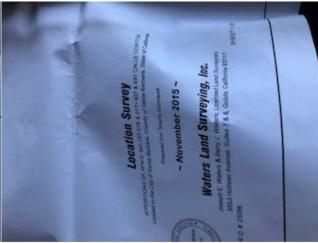
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	taken for	m the publi	n the public street									
LIST AND EXPLAIN ALL PROPERTY CODE VIOLATIONS OBSERVED												
I could not find any permits for a Deck, a fence built on the deck nor any sliding glass door permits in the												
file.												
I would presu	me the de	ck, fence on	the de	ck and sliding	glass doors	were in	stalled without permits.					
			ADD	DITIONAL STA	ATEMENTS							
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PREPARED BY:	Tim Dun	ın	DATE:	9/23/2021			Page   3					

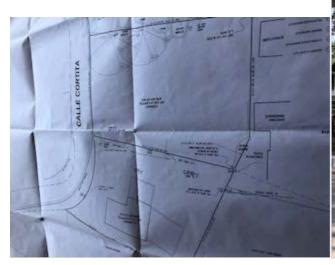
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Land Surveyor	rs plan										
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PREPARED BY:	Tim Dunn	DATE:	9/23/2021			Page   4					











Street photo of electrical pole +- 6 to 7 feet from property line

PREPARED BY:	Tim Dunn	DATE:	9/23/2021	Page   5





Photo of property 937 distance to proposed property Photo of back side of deck and fence Line

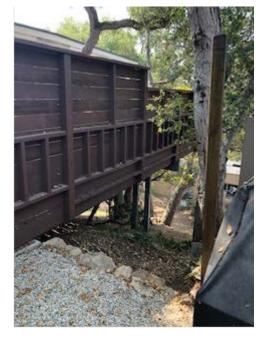


Photo of fence built on deck on alleged neighbor's property

PREPARED BY:	Tim Dunn	DATE:	9/23/2021	Page   6

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I agree to comply v building.	rith all City Ordinance	s and State	Laws regula	ting	ДРР	ROVA	ıs
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58-1320234

# EXHIBIT 4

for 935

#### PARCEL ONE:

Lot 20 in Block G" of Map No. 1 of the Santa Barbara Fellowship Tract, in the City of Santa Barbara, County of Santa Barbara, State of California, according to the map thereof recorded in Map Book 15 at pages 1 to 4, inclusive in the Office of the County Recorder of said County.

RESERVING therefrom an easement for the installation, maintenance, repair and replacement of a sever line for the use and benefit of Lot 21 of Block "of of said Santa Barbara Fellowship Tract in, on, over and under the Westerly 10 feet, measured at right angles to the westerly line of said Lot 20 above described.

#### PARCEL TWO:

An Easement for a walkway for the use and benefit of Farcel One above described in, on, under, over and across the Southerly 10 feet, measured at right angles to the Southerly line of lot 21 of Block "o" of said Santa Berbara Fellowship Tract.

for 931 Calle Carita use



J.E. WATERS P.L.S. 3804 B.J. WATERS P.L.S. 6419 5553 Hollister Ave., Suite 7 Goleta, California 93117 805-967-4416 / FAX 967-3536

February 20, 2007

CITY OF SANTA BARBARA/PUBLIC WOPRKS-BUILDING DEPT.

Attn: Permitting Staff 630 Garden Street Santa Barbara, CA 93101

RE:

APN: 041-157-016

937 Calle Cortia Santa Barbara, CA

### MEMO:

This memo is notification to the parties concerned that the AS BUILT wall locations comply with the required setbacks and in no instance encroach into said setbacks. The above stated project was field verified (Feb.9, 2007).

Rv

Toph E. Waters, PLS 3804

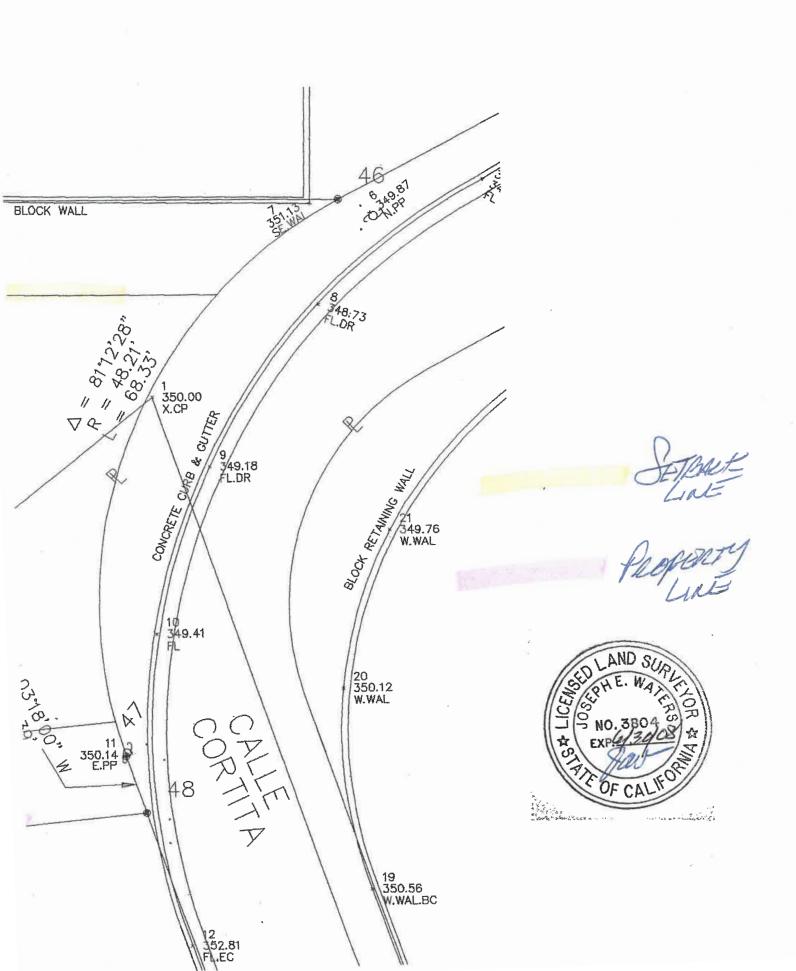
WLS, Inc. WO: 25056

CC

Sheryl Schmandt

937 Calle Cortia Santa Barbara, CA 93109

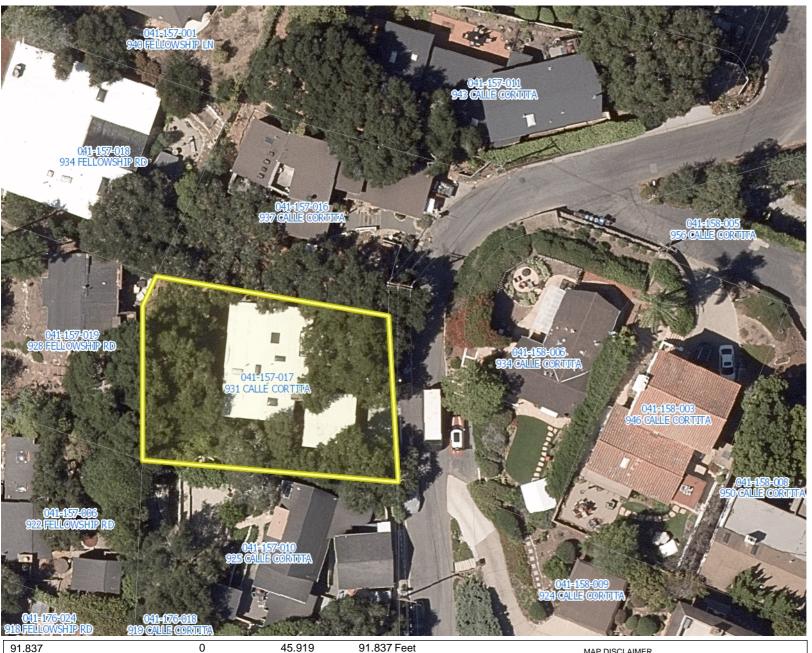
AND SUPPLIED OF CALFOR





### City of Santa Barbara - MAPS

# **EXHIBIT 6**





### Legend

City Limits

Assessor's Parcels - City

2020 Aerial Imagery

Red: Band\_1

Green: Band 2

Blue: Band\_3

World Street Map

1:551



WGS\_1984\_Web\_Mercator\_Auxiliary\_Sphere

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Notes

Enter Map Description