



AGENDA

CAPITOLA PLANNING COMMISSION

Thursday, February 5, 2015 – 7:00 PM

Chairperson Linda Smith
Commissioners Ron Graves
 Gayle Ortiz
 Ed Newman
 TJ Welch

1. ROLL CALL AND PLEDGE OF ALLEGIANCE

2. ORAL COMMUNICATIONS

A. Additions and Deletions to Agenda

B. Public Comments

Short communications from the public concerning matters not on the Agenda. All speakers are requested to print their name on the sign-in sheet located at the podium so that their name may be accurately recorded in the Minutes.

C. Commission Comments

D. Staff Comments

3. APPROVAL OF THE MINUTES

A. Approval of the Draft January 15, 2015 Planning Commission minutes

4. CONSENT CALENDAR

All matters listed under "Consent Calendar" are considered by the Planning Commission to be routine and will be enacted by one motion in the form listed below. There will be no separate discussion on these items prior to the time the Planning Commission votes on the action unless members of the public or the Planning Commission request specific items to be discussed for separate review. Items pulled for separate discussion will be considered in the order listed on the Agenda.

5. PUBLIC HEARINGS

Public Hearings are intended to provide an opportunity for public discussion of each item listed as a Public Hearing. The following procedure is as follows: 1) Staff Presentation; 2) Public Discussion; 3) Planning Commission Comments; 4) Close public portion of the Hearing; 5) Planning Commission Discussion; and 6) Decision.

A. 4555 Opal Street #14-179 APN: 034-061-17 & 18

Fence Permit application with request for a height exception up to 7 feet along the rear and side property line and a Major Revocable Encroachment Permit for a 3 foot concrete wall in the right-of-way at 4555 Opal Street, located in the R-1(Single Family Residential) Zoning District.

This project is in the Coastal Zone but does not require a Coastal Development Permit.

Environmental Determination: Categorical Exemption

Property Owner: Mark Williams, filed: 12/16/14

Representative: Prime Landscape Services

6. **DIRECTOR'S REPORT**
7. **COMMISSION COMMUNICATIONS**
8. **ADJOURNMENT**

Adjourn to the next Planning Commission on Thursday, March 5, 2015 at 7:00 PM, in the City Hall Council Chambers, 420 Capitola Avenue, Capitola, California.

APPEALS: The following decisions of the Planning Commission can be appealed to the City Council within the (10) calendar days following the date of the Commission action: Conditional Use Permit, Variance, and Coastal Permit. The decision of the Planning Commission pertaining to an Architectural and Site Review can be appealed to the City Council within the (10) working days following the date of the Commission action. If the tenth day falls on a weekend or holiday, the appeal period is extended to the next business day.

All appeals must be in writing, setting forth the nature of the action and the basis upon which the action is considered to be in error, and addressed to the City Council in care of the City Clerk. An appeal must be accompanied by a one hundred forty two dollar (\$142.00) filing fee, unless the item involves a Coastal Permit that is appealable to the Coastal Commission, in which case there is no fee. If you challenge a decision of the Planning Commission in court, you may be limited to raising only those issues you or someone else raised at the public hearing described in this agenda, or in written correspondence delivered to the City at, or prior to, the public hearing.

Notice regarding Planning Commission meetings: The Planning Commission meets regularly on the 1st Thursday of each month at 7:00 p.m. in the City Hall Council Chambers located at 420 Capitola Avenue, Capitola.

Agenda and Agenda Packet Materials: The Planning Commission Agenda and complete Agenda Packet are available on the Internet at the City's website: www.cityofcapitola.org. Agendas are also available at the Capitola Branch Library, 2005 Wharf Road, Capitola, on the Monday prior to the Thursday meeting. Need more information? Contact the Community Development Department at (831) 475-7300.

Agenda Materials Distributed after Distribution of the Agenda Packet: Materials that are a public record under Government Code § 54957.5(A) and that relate to an agenda item of a regular meeting of the Planning Commission that are distributed to a majority of all the members of the Planning Commission more than 72 hours prior to that meeting shall be available for public inspection at City Hall located at 420 Capitola Avenue, Capitola, during normal business hours.

Americans with Disabilities Act: Disability-related aids or services are available to enable persons with a disability to participate in this meeting consistent with the Federal Americans with Disabilities Act of 1990. Assisted listening devices are available for individuals with hearing impairments at the meeting in the City Council Chambers. Should you require special accommodations to participate in the meeting due to a disability, please contact the Community Development Department at least 24 hours in advance of the meeting at (831) 475-7300. In an effort to accommodate individuals with environmental sensitivities, attendees are requested to refrain from wearing perfumes and other scented products.

Televised Meetings: Planning Commission meetings are cablecast "Live" on Charter Communications Cable TV Channel 8 and are recorded to be replayed on the following Monday and Friday at 1:00 p.m. on Charter Channel 71 and Comcast Channel 25. Meetings can also be viewed from the City's website: www.cityofcapitola.org.



**DRAFT MINUTES
CAPITOLA PLANNING COMMISSION MEETING
THURSDAY, JANUARY 15, 2014
7 P.M. – CAPITOLA CITY COUNCIL CHAMBERS**

Chairperson Ortiz called the Regular Meeting of the Capitola Planning Commission to order at 7 p.m.

1. ROLL CALL AND PLEDGE OF ALLEGIANCE

Commissioners: Ron Graves, Ed Newman, Gayle Ortiz, Linda Smith and TJ Welch

2. NEW BUSINESS

A. Oath of Office

New and reappointed commissioners were sworn in.

B. Election of Chair and Vice Chair

Commissioner Newman nominated Commissioner Smith as chair and Commissioner Welch as vice chair, seconded by Commissioner Graves.

The motion carried by the following vote: Aye: Commissioners Graves, Newman, Ortiz, Smith and Welch. No: None. Abstain: None.

Chairperson Smith offered an overview of her approach to handling the Planning Commission meetings, noting full details of all items are available through the website or staff, and the agenda and packet are available to the public at the meeting. She explained the consent agenda and how to pull an item for a hearing, asked for respect for all speakers, and noted comments should be addressed to the Commission.

C. Committee Appointments

1. Traffic and Parking Commission
2. Arts and Cultural Commission

A motion to retain current appointments of Commissioner Graves to the Traffic and Parking Commission and Commissioner Smith to the Arts and Cultural Commission was made by Commissioner Welch and seconded by Commissioner Newman.

The motion carried by the following vote: Aye: Commissioners Graves, Newman, Ortiz, and Welch and Chairperson Smith. No: None. Abstain: None.

3. ORAL COMMUNICATIONS

- A. Additions and Deletions to Agenda - None
- B. Public Comments - None
- C. Commission Comments

Commissioner Graves noted that coastal conditions were added to the packet for item 4B. He thanked staff for following up on the 41st Avenue cinema window concerns and the business for addressing them. He also noted CVS has done a much improved job on signage as well. He asked staff to follow up on sign violations by Liberty Tax at the intersection of Capitola Road and 42nd Avenue and was told a code complaint letter has already gone out.

Commissioner Newman said he is pleased to return to the Commission. His time on the General Plan Advisory Committee underscored the City's high approval rating as it currently exists and he said he will use that as a guiding principal to review applications, especially those proposing major changes.

Chairperson Smith said she attended an informative Dec. 18 groundwater stakeholder group meeting and she encouraged fellow commissioners to attend future community engagement events.

D. Staff Comments

Community Development Director Rich Grunow welcomed back reappointed commissioners and returning Commissioner Newman.

3. APPROVAL OF MINUTES

A. December 4, 2014, Draft Planning Commission Minutes

A motion to approve the Dec. 4, 2014, meeting minutes was made by Commissioner Graves and seconded by Commissioner Ortiz.

The motion carried by the following vote: Aye: Commissioners Graves, Ortiz, and Welch and Chairperson Smith. No: None. Abstain: Commissioner Newman

4. CONSENT CALENDAR

A. 904 Sir Francis Avenue #14-173 APN: 036-222-07

Request for a one-year time extension to a previously approved Design Permit and Coastal Development Permit for a 2nd story residential addition located in the R-1 (Single-Family Residential) Zoning District.

This project is in the Coastal Zone and requires a Coastal Development Permit, which is not appealable to the California Coastal Commission.

Environmental Determination: Categorical Exemption

Property Owner: Lisa Maffia, filed 12/1/14

Representative: Chuck Burket

This item was pulled for a public hearing by Commissioner Graves and heard following the remaining consent agenda.

Assistant Planner Ryan Safty presented the staff report and the history of extensions.

Commissioner Graves quoted a letter from the applicant referring to minor revisions and said he pulled the item for clarification of those revisions. Staff responded they are a slight shift of square footage from the entry atrium to the back on the second story. Chairperson Smith agreed that moving square footage should probably be reviewed or highlighted within the report.

Director Grunow explained that interior changes traditionally do not trigger Commission review, and these changes appeared minor, so staff did not bring it forward.

Designer Chuck Burket spoke on behalf of the applicant and explained that by lowering the ceiling of the two-story entry atrium he was able to transfer about 40 to 50 square feet to a laundry and master bath on the upper floor. He confirmed it does not create new windows facing neighbors.

Commissioner Newman noted that the original approved hours of construction for Saturdays in condition #8 exceed the current hours allowed within the municipal code and asked that the conditions reflect the current code.

A motion to approve project application #14-173 for an extension to Permit #06-061 with the following findings was made by Commissioner Graves and seconded by Commissioner Newman:

CONDITIONS

1. The project approval consists of a remodeled first floor with a total of 1,526 square feet, a second story addition of 1,046 square feet and a 365 square foot garage for a total of 2,937 square feet.
2. The Planning Commission must approve any significant modifications to the size or exterior appearance of the structure.
3. A note shall be placed on the final building plans indicating that the utilities shall be underground to the nearest utility pole in accordance with Public Works Department requirements.
4. Curb and gutter that is currently deteriorated or is damaged during construction shall be repaired or replaced, as determined by and to the satisfaction of the Public Works Director.
5. If any trees, large shrubs or significant landscaping are to be removed as a result of the project, the applicant shall provide a supplemental landscape plan to be submitted with the building permit application. The plan shall include the quantity, or specific number of plants for each plant type, their container size, special planting requirements and spacing between plants, subject to the approval of the Director of Planning.
6. Affordable housing in-lieu fees shall be paid as required to assure compliance with the City of Capitola Affordable (Inclusionary) Housing Ordinance. Any appropriate fees shall be paid prior to building permit issuance.
7. Prior to granting of final occupancy, compliance with all conditions of approval shall be demonstrated to the satisfaction of the Community Development Director.
8. Construction hours shall be limited to Monday through Friday ~~7:30 am~~ 8:00 am to 9 pm., Saturday 9 a.m. to 4 p.m., and prohibited on Sundays.

FINDINGS

- A. A substantial change of circumstances has not occurred since Planning Commission approval of the permit on December 7, 2006. An additional one-year extension of the permit to January 15, 2016, would not be detrimental to the purpose of the certified local coastal program and zoning ordinance.**

The Planning Commission finds that neither the physical characteristics of the lot nor the zoning ordinance has changed since approval of the permit on December 7, 2006. Therefore, one-year extension (to January 15, 2016) of said permit is appropriate.

The motion carried by the following vote: Aye: Commissioners Graves, Newman, Ortiz, Smith and Welch. No: None. Abstain: None.

B. 200 Monterey Avenue #2 #14-166 APN: 035-261-07

Conditional Use Permit for the sale of alcohol at Taqueria Baja Restaurant located in the CV (Central Village) Zoning District.

This project requires a Coastal Development Permit which is appealable to the California Coastal Commission after all possible appeals are exhausted through the City.

Environmental Determination: Categorical Exemption

Property Owner: Barbara Reding

Representative: Tom Lindemann, filed 11/10/14

Commissioner Graves commented that there are residential units adjacent to the applicant property, and he felt the staff report lacked that information. Commissioner Ortiz disagreed.

A motion to approve project application #14-166 for a Conditional Use Permit with the following conditions and findings was made by Commissioner Ortiz and seconded by Commissioner Welch:

CONDITIONS

1. The project approval consists of a Conditional Use Permit to allow beer and wine sales at the existing Taqueria Baja Restaurant located at 200 Monterey Avenue Suite #2. No modifications to the exterior or interior of the building are proposed. Parking requirements are not affected by this application.
2. A copy of the approved Department of Alcoholic Beverage Control Permit must be filed with the Community Development Department prior to initiating beer and wine sales.
3. No live or amplified entertainment is approved within this permit (14-166). An Entertainment Permit is required for any entertainment that is audible outside of the structure. An Entertainment Permit may be applied for through the Capitola Police Department. No loitering
4. Patrons shall not be allowed to leave with open alcoholic beverage containers.
5. Applicant shall maintain a place free from litter and graffiti.
6. Permits are non-transferrable.
7. The applicant shall receive permission from ABC prior to January 15, 2017. The conditional use permit will expire in the case where the conditional use permit has not been used within two years after the date of granting thereof. Any interruption or cessation beyond the control of the property owner shall not result in the termination of such right or privilege. A permit shall be deemed to have been "used" when actual substantial, continuous activity has taken place upon the land pursuant to the permit.
8. The application shall be reviewed by the Planning Commission upon evidence of non-compliance with conditions of approval or applicable municipal code provisions.

FINDINGS**A. The application, subject to the conditions imposed, will secure the purposes of the Zoning Ordinance and General Plan.**

Community Development Department Staff and the Planning Commission have reviewed the application and determined that the proposed sale of business may be granted a conditional use permit for the sale of alcohol within the CV Zoning District. The use meets the intent and purpose of the Central Village Zoning District. Conditions of approval have been included to ensure that the use is consistent with the Zoning Ordinance and General Plan.

B. The application will maintain the character and integrity of the neighborhood.

Community Development Department Staff and the Planning Commission have reviewed the proposed use and determined that the use complies with the applicable provisions of the Zoning Ordinance and maintain the character and integrity of this area of the City. This area of the City is a mix of commercial and residential uses. Conditions of approval have been included to carry out these objectives.

C. This project is categorically exempt under Section 15301 of the California Environmental Quality Act and is not subject to Section 753.5 of Title 14 of the California Code of Regulations.

The proposed project involves an existing restaurant with the additional use of beer and wine sales. No adverse environmental impacts were discovered during project review by either the Planning Department Staff or the Planning Commission.

COASTAL FINDINGS

D. Findings Required. A coastal permit shall be granted only upon adoption of specific written factual findings supporting the conclusion that the proposed development conforms to the certified Local Coastal Program, including, but not limited to:

- The proposed development conforms to the City's certified Local Coastal Plan (LCP). The specific, factual findings, as per CMC Section 17.46.090 (D) are as follows:

(D) (2) Require Project-Specific Findings. In determining any requirement for public access, including the type of access and character of use, the city shall evaluate and document in written findings the factors identified in subsections (D) (2) (a) through (e), to the extent applicable. The findings shall explain the basis for the conclusions and decisions of the city and shall be supported by substantial evidence in the record. If an access dedication is required as a condition of approval, the findings shall explain how the adverse effects which have been identified will be alleviated or mitigated by the dedication. As used in this section, "cumulative effect" means the effect of the individual project in combination with the effects of past projects, other current projects, and probable future projects, including development allowed under applicable planning and zoning.

(D) (2) (a) Project Effects on Demand for Access and Recreation. Identification of existing and open public access and coastal recreation areas and facilities in the regional and local vicinity of the development. Analysis of the project's effects upon existing public access and recreation opportunities. Analysis of the project's cumulative effects upon the use and capacity of the identified access and recreation opportunities, including public tidelands and beach resources, and upon the capacity of major coastal roads from subdivision, intensification or cumulative build-out. Projection for the anticipated demand and need for increased coastal access and

recreation opportunities for the public. Analysis of the contribution of the project's cumulative effects to any such projected increase. Description of the physical characteristics of the site and its proximity to the sea, tideland viewing points, upland recreation areas, and trail linkages to tidelands or recreation areas. Analysis of the importance and potential of the site, because of its location or other characteristics, for creating, preserving or enhancing public access to tidelands or public recreation opportunities;

- The proposed project is located at 200 Monterey Avenue. The business is not located in an area with coastal access. The alcohol permit will not have an effect on public trails or beach access.

(D) (2) (b) Shoreline Processes. Description of the existing shoreline conditions, including beach profile, accessibility and usability of the beach, history of erosion or accretion, character and sources of sand, wave and sand movement, presence of shoreline protective structures, location of the line of mean high tide during the season when the beach is at its narrowest (generally during the late winter) and the proximity of that line to existing structures, and any other factors which substantially characterize or affect the shoreline processes at the site. Identification of anticipated changes to shoreline processes at the site. Identification of anticipated changes to shoreline processes and beach profile unrelated to the proposed development. Description and analysis of any reasonably likely changes, attributable to the primary and cumulative effects of the project, to: wave and sand movement affecting beaches in the vicinity of the project; the profile of the beach; the character, extent, accessibility and usability of the beach; and any other factors which characterize or affect beaches in the vicinity. Analysis of the effect of any identified changes of the project, alone or in combination with other anticipated changes, will have upon the ability of the public to use public tidelands and shoreline recreation areas;

- The proposed project is located at 200 Monterey Avenue. No portion of the project is located along the shoreline or beach.

(D) (2) (c) Historic Public Use. Evidence of use of the site by members of the general public for a continuous five-year period (such use may be seasonal). Evidence of the type and character of use made by the public (vertical, lateral, blufftop, etc., and for passive and/or active recreational use, etc.). Identification of any agency (or person) who has maintained and/or improved the area subject to historic public use and the nature of the maintenance performed and improvements made. Identification of the record owner of the area historically used by the public and any attempts by the owner to prohibit public use of the area, including the success or failure of those attempts. Description of the potential for adverse impact on public use of the area from the proposed development (including but not limited to, creation of physical or psychological impediments to public use);

- There is no history of public use on the subject lot.

(D) (2) (d) Physical Obstructions. Description of any physical aspects of the development which block or impede the ability of the public to get to or along the tidelands, public recreation areas, or other public coastal resources or to see the shoreline;

- The project will not block or impede the ability of the public to get to or along the

tidelands, public recreation areas, or views to the shoreline.

(D) (2) (e) Other Adverse Impacts on Access and Recreation. Description of the development's physical proximity and relationship to the shoreline and any public recreation area. Analysis of the extent of which buildings, walls, signs, streets or other aspects of the development, individually or cumulatively, are likely to diminish the public's use of tidelands or lands committed to public recreation. Description of any alteration of the aesthetic, visual or recreational value of public use areas, and of any diminution of the quality or amount of recreational use of public lands which may be attributable to the individual or cumulative effects of the development.

- The proposed project is located on private property that will not impact access and recreation. The project does not diminish the public's use of tidelands or lands committed to public recreation nor alter the aesthetic, visual or recreational value of public use areas.

(D) (3) (a – c) Required Findings for Public Access Exceptions. Any determination that one of the exceptions of subsection (F) (2) applies to a development shall be supported by written findings of fact, analysis and conclusions which address all of the following:

a. The type of access potentially applicable to the site involved (vertical, lateral, bluff top, etc.) and its location in relation to the fragile coastal resource to be protected, the agricultural use, the public safety concern, or the military facility which is the basis for the exception, as applicable;

b. Unavailability of any mitigating measures to manage the type, character, intensity, hours, season or location of such use so that agricultural resources, fragile coastal resources, public safety, or military security, as applicable, are protected;

c. Ability of the public, through another reasonable means, to reach the same area of public tidelands as would be made accessible by an access way on the subject land.

- The project is not requesting a Public Access Exception, therefore these findings do not apply.

(D) (4) (a – f) Findings for Management Plan Conditions. Written findings in support of a condition requiring a management plan for regulating the time and manner or character of public access use must address the following factors, as applicable:

a. Identification and protection of specific habitat values including the reasons supporting the conclusions that such values must be protected by limiting the hours, seasons, or character of public use;

- The project is located in an existing commercial building. There are no sensitive habitat areas on the property.

b. Topographic constraints of the development site;

- The project is located on a flat lot.

c. Recreational needs of the public;

- The project does not impact recreational needs of the public.

d. Rights of privacy of the landowner which could not be mitigated by setting the project back from the access way or otherwise conditioning the development;

e. The requirements of the possible accepting agency, if an offer of dedication is the mechanism for securing public access;

f. Feasibility of adequate setbacks, fencing, landscaping, and other methods as part of a management plan to regulate public use.

(D) (5) Project complies with public access requirements, including submittal of appropriate legal documents to ensure the right of public access whenever, and as, required by the certified land use plan and Section 17.46.010 (coastal access requirements);

- No legal documents to ensure public access rights are required for the proposed project

(D) (6) Project complies with visitor-serving and recreational use policies;

SEC. 30222

The use of private lands suitable for visitor-serving commercial recreational facilities designed to enhance public opportunities for coastal recreation shall have priority over private residential, general industrial, or general commercial development, but not over agriculture or coastal-dependent industry.

- The project involves a commercial use within an existing commercial lot of record.

SEC. 30223

Upland areas necessary to support coastal recreational uses shall be reserved for such uses, where feasible.

- The project involves a commercial use within an existing commercial lot of record.

c) Visitor-serving facilities that cannot be feasibly located in existing developed areas shall be located in existing isolated developments or at selected points of attraction for visitors.

- The project involves a commercial use within an existing commercial lot of record.

(D) (7) Project complies with applicable standards and requirements for provision of public and private parking, pedestrian access, alternate means of transportation and/or traffic improvements;

- The project involves a commercial use within an existing commercial lot of record. The project complies with applicable standards and requirements for provision for parking, pedestrian access, alternate means of transportation and/or traffic improvements.

(D) (8) Review of project design, site plan, signing, lighting, landscaping, etc., by the city's architectural and site review committee, and compliance with adopted design guidelines and standards, and review committee recommendations;

- The project complies with the design guidelines and standards established by the Municipal Code.

(D) (9) Project complies with LCP policies regarding protection of public landmarks, protection or provision of public views; and shall not block or detract from public views to and along Capitola's shoreline;

- The project will not negatively impact public landmarks and/or public views. The project will not block or detract from public views to and along Capitola's shoreline.

(D) (10) Demonstrated availability and adequacy of water and sewer services;

- The project is located on a legal lot of record with available water and sewer services.

(D) (11) Provisions of minimum water flow rates and fire response times;

- The project is located within close proximity of the Central Fire District. Water is available at the location.

(D) (12) Project complies with water and energy conservation standards;

- The project is a commercial use within an existing commercial lot of record. The GHG emissions for the project are projected at less than significant impact. All water fixtures must comply with the low-flow standards of the Soquel Creek Water District.

(D) (13) Provision of park dedication, school impact, and other fees as may be required;

- The project will be required to pay appropriate fees prior to building permit issuance.

(D) (14) Project complies with coastal housing policies, and applicable ordinances including condominium conversion and mobile home ordinances;

- The project does not involve a condo conversion or mobile homes.

(D) (15) Project complies with natural resource, habitat, and archaeological protection policies;

- The project involves a commercial use within an existing commercial building. There are no impacts to natural resource, habitat, and archaeological resources.

(D) (16) Project complies with Monarch butterfly habitat protection policies;

- The project is outside of any identified sensitive habitats, specifically areas where Monarch Butterflies have been encountered, identified and documented.

(D) (17) Project provides drainage and erosion and control measures to protect marine, stream, and wetland water quality from urban runoff and erosion;

- There are no modifications to drainage on the site proposed within the application. The footprint of the building is not being modified.

(D) (18) Geologic/engineering reports have been prepared by qualified professional for projects in seismic areas, geologically unstable areas, or coastal bluffs, and project complies with hazard protection policies including provision of appropriate setbacks and mitigation measures;

- There are no structures proposed therefore geological engineering reports are not required.

(D) (19) All other geological, flood and fire hazards are accounted for and mitigated in the project design;

- All geological, flood, and fire hazards are accounted for and mitigated in the project design.

(D) (20) Project complies with shoreline structure policies;

- The proposed project is not located along a shoreline.

(D) (21) The uses proposed are consistent with the permitted or conditional uses of the zoning district in which the project is located;

- This use is an allowed use consistent with the Central Village zoning district.

(D) (22) Conformance to requirements of all other city ordinances, zoning requirements, and project review procedures;

- The project conforms to the requirements of all city ordinances, zoning requirements and project development review and development procedures.

(D) (23) Project complies with the Capitola parking permit program as follows:

- There is not increase in intensity of use and therefore no impact on parking.

The motion carried by the following vote: Aye: Commissioners Graves, Newman, Ortiz, Smith and Welch. No: None. Abstain: None.

- C. 1200 41st Avenue Suite C #14-181 APN: 034-101-38**
Conditional Use Permit for a Restaurant (Asian Bakery) with onsite consumption of food located in the CC (Community Commercial) Zoning District.
This project does not require a Coastal Development Permit.
Environmental Determination: Categorical Exemption
Property Owner: Begonia Plaza, LLC
Representative: Karen Huan, filed 12/18/14

A motion to approve project application #14-181 for a Conditional Use Permit with the following conditions and findings was made by Commissioner Ortiz and seconded by Commissioner Welch:

CONDITIONS

1. The project approval consists of a Conditional Use Permit for an Asian Bakery at 1200 41st Avenue Suite C. The interior space will be renovated to include a bakery counter, seating area, and kitchen preparation area. No modifications to the exterior of the building are proposed.
2. No live or amplified entertainment is approved within permit #14-181. An Entertainment Permit is required for any entertainment that is audible outside of the structure. An Entertainment Permit may be applied for through the Capitola Police Department.
3. Prior to issuance of building permit, all Planning fees associated with permit #14-181 shall be paid in full.
4. Prior to issuance of a Certificate of Occupancy, the applicant shall apply for a business license from the City.
5. This permit shall expire 24 months from the date of issuance. The applicant shall have an approved building permit and construction underway before this date to prevent permit expiration. Applications for extension may be submitted by the applicant prior to expiration pursuant to Municipal Code section 17.81.160.
6. The application shall be reviewed by the Planning Commission upon evidence of non-compliance with conditions of approval or applicable municipal code provisions.

FINDINGS**A. The application, subject to the conditions imposed, will secure the purposes of the Zoning Ordinance and General Plan.**

Community Development Department Staff and the Planning Commission have reviewed the application and determined that the proposed restaurant may be granted a conditional use permit within the CC Zoning District. The use meets the intent and purpose of the Community Commercial Zoning District. Conditions of approval have been included to ensure that the use is consistent with the Zoning Ordinance and General Plan.

B. The application will maintain the character and integrity of the neighborhood.

Community Development Department Staff and the Planning Commission have reviewed the proposed use and determined that the use complies with the applicable provisions of the Zoning Ordinance and maintain the character and integrity of this area of the City. The restaurant is located in a commercial plaza. Conditions of approval have been included to carry out these objectives.

C. This project is categorically exempt under Section 15301 of the California Environmental Quality Act and is not subject to Section 753.5 of Title 14 of the California Code of Regulations.

The proposed project involves a restaurant within an existing commercial plaza. No adverse environmental impacts were discovered during project review by either the Planning Department Staff or the Planning Commission.

The motion carried by the following vote: Aye: Commissioners Graves, Newman, Ortiz, Smith and Welch. No: None. Abstain: None.

6. DIRECTOR'S REPORT

Director Grunow announced Brian Van Son has been promoted from building inspector to building official.

He also noted that a discussion on wireless equipment and federal impact on the local decision-making process will be held in Watsonville on Jan. 28.

The League of Cities is holding a Planning Commissioner Academy March 4-6 in Newport Beach. Any interested commissioners should contact him, but it does conflict with that month's Planning Commission meeting.

Capitola will be hosting a state historical preservation training Aug. 21.

Staff hopes to present zoning ordinance issues and options to the commission in March. The desire is to include these discussions in regular meetings and schedule second monthly meetings only if necessary.

Work on the General Plan Housing Element is underway and a public workshop will be held in March.

7. COMMISSION COMMUNICATIONS

Commissioner Ortiz asked if staff had heard of efforts to create a free wifi zone in the City and was told it had not.

Commissioner Graves expressed frustration that projects such as the senior housing on 38th Avenue are not undertaken by the applicant but put on the market at an increased land value. Director Grunow noted the City is precluded from regulating development time or changes in ownership by the state.

8. ADJOURNMENT

Chairperson Smith adjourned the meeting at 7:42 p.m. to the regular meeting of the Planning Commission to be held on Thursday, Feb. 5, 2015, at 7 p.m. in the City Hall Council Chambers, 420 Capitola Avenue, Capitola, California.

Approved by the Planning Commission on Feb. 5, 2015.

Linda Fridy, Minute Clerk



STAFF REPORT

TO: PLANNING COMMISSION

FROM: COMMUNITY DEVELOPMENT DEPARTMENT

DATE: February 5th, 2015

SUBJECT: **4555 Opal Street #14-179 APN: 034-061-17 & 18**
 Fence Permit application with request for a height exception up to 7 feet along the rear and side property line and a Major Revocable Encroachment Permit for a 3 foot concrete wall in the right-of-way of 4555 Opal Street, located in the R-1(Single Family Residential) Zoning District.
 This project is in the Coastal Zone but does not require a Coastal Development Permit.
 Environmental Determination: Categorical Exemption
 Property Owner: Mark Williams, filed: 12/16/14
 Representative: Prime Landscape Services

APPLICANT PROPOSAL

The applicant constructed a solid 7 foot high fence along the rear and side property lines. The applicant is requesting an exception to the 6 foot height limit for a solid fence located on the side and rear property lines. In addition, the applicant has applied for a Major Revocable Encroachment Permit for a 3 foot high concrete wall to extend from the front yard into the right-of-way at 4555 Opal Street.

BACKGROUND

On December 9th, 2014, the Community Development Department received a code complaint regarding illegal rear-yard fence construction at 4555 Opal Street. That day, Community Development Department staff visited the site, confirmed the violation, and placed a "stop work order" for unpermitted work on the property.

City staff informed the applicant of the violations and necessary permits for the fence. On December 16th, 2014, the owner applied for a fence permit height exception. On December 19th, 2014, the applicant applied for a major revocable encroachment permit for the cement wall. Both permits require Planning Commission approval.

DISCUSSION

The site is located along Opal Street, just east of the Opal Street and 45th Avenue intersection. The immediate surrounding uses are residential. The neighbors directly adjacent are zoned R-1 (Single Family Residential), and west of 45th Avenue is a Planned Development consisting of multi-family residential units.

Fence

Municipal Code 17.54.020-2:

On that part of the property back of the front line of any building or capital building now on the premises, to a maximum height of eight feet; provided, that the top two feet of the fence be made of lattice or other open material.

The height limit for rear and side yard fences is 6 feet of solid fencing, with an additional 2 feet of lattice allowed on top.

Height Exception

Municipal Code 17.54.020-B:

Alternative locations, height, and material for fences shall be approved by the planning commission

The neighboring properties to the north of 4555 Opal Street contain second story windows that view into the applicant's rear yard. Due to the desire for additional privacy, the applicant is requesting an exception to the fence height limit to build a solid 7 foot high fence along the rear and side of the property. This exception requires Planning Commission approval; however, an Architectural and Site Review hearing is not required.

The subject property currently contains a 7 foot high fence along the rear and side yards. The new fence is constructed with 1" by 8" rough redwood fence boards that are angled and slightly overlap. The fence posts are 4"x4" pressure treated fir. (Attachment A).

The illegally constructed rear and side yard fence at 4555 Opal Street stands nearly 1 foot taller than the surrounding fences. (Attachment B) Planning Staff has concerns regarding the negative impacts this request could have on adjacent property owners. The new fence height creates an inconsistent look that is visible to adjacent property owners. If approved, the exception could trigger requests by surrounding neighbors for over-height fences.

Landscape Plan

The applicant is proposing a number of site and landscape improvements. The two items that require Planning Commission review are the fence height exception and encroachment permit for the concrete wall. The applicant has also proposed a circular rock and concrete art feature behind the concrete wall and a new driveway and walkway using 10" grey concrete strips.

The applicant is proposing a storage shed to be located in the rear yard adjacent to the existing hot tub area in the northwestern corner of the property. The storage shed is allowed in the rear and side setback area because the shed is less than 80 square feet and not taller than 8 feet. (§17.15.140.E).

Concrete Wall

The applicant is proposing a new 2 – 3 foot concrete wall that extends from the front yard into the street right-of-way. The area of the wall is behind the curb of the road and in an area that is currently landscaped. The wall does not impact circulation on the street or parking.

Revocable Encroachment Permit

Chapter 12.56 of the Capitola Municipal code outlines the regulations for privately installed improvements on public property or easements. The code defines a *private improvements area* as "that portion of any public street right-of-way in the city which is neither street system area nor shoulder parking area".

Pursuant to §12.56.060, the City may issue permits to allow certain improvements to be installed and maintained by abutting private property owners, within the private improvements area. Minor permits may be issued by the Public Works Director for mailboxes, fences, walkways, driveways, and landscaping that comply with specific standards. Major Permits, for improvements beyond those listed under the discretion of the Public Works Director, require approval by the Planning Commission. The 3 foot high cement wall proposed in the front yard right-of-way requires a Major Revocable Encroachment Permit.

The Planning Commission must evaluate the following considerations when deciding whether or not to issue a major permit:

1. The expense and difficulty that will be entailed in removing the improvement in the event of street widening;

Staff analysis: Within the revocable/hold harmless agreement, the owner must agree that the removal of the structure, when so ordered by the city, shall be at the permittee's expense and not the expense of the city. Condition #4 addresses this.

2. Whether the proposed improvements are in conformity with the size, scale, and aesthetics of the surrounding neighborhood;

Staff Analysis: The cement wall will aesthetically match the rest of the front yard proposal.

3. Preservation of views; and

Staff analysis: Views are not impacted by the 3 foot cement wall.

4. Whether granting the permit would tend to result in the granting of a special privilege, in the sense that granting this permit would tend to preclude granting similar permits to neighboring property. If the benefit to the applicant and community is determined to exceed the detriment to the community, the permit shall be approved. The planning commission may, by providing reasonable notice to neighboring property owners, develop standards or criteria applicable to the entire block within which the property is located.

Staff analysis: The wall is proposed in the area between the front yard and the curb and gutter of the street. Circulation and parking on Opal Street will not be impacted by the proposed wall. Staff does not anticipate negative impacts from the wall on the neighborhood.

PUBLIC INPUT

Staff received a phone call from a resident whom requested to remain anonymous. The resident was concerned with the impact the fence height has on the adjacent properties.

The applicant approached each of the adjacent neighbors to sign a petition in support of the fence. The list of signatures and a letter of support are included as Attachment C.

CEQA REVIEW

Section 15303-E of the CEQA Guidelines exempts accessory structures including garages, carports, patios, swimming pools and fences. This project involves construction of a fence and cement wall subject to R-1 (Single Family Residential) zoning code section 17.15. No adverse environmental impacts were discovered during review of the proposed project

RECOMMENDATION

Staff recommends the Planning Commission **deny** the fence height exception and **approve** the major revocable encroachment permit for project application #14-179 based on the following Conditions and Findings for Approval.

CONDITIONS

1. The application is for a height exception for a solid fence that was built 7 feet high and major revocable encroachment permit for a future 3 foot tall cement wall. The major revocable encroachment permit was approved by the Planning Commission on February 5th, 2015. The height exception for the solid fence was denied.
2. The application was submitted in response to a code violation for the installed 7 foot high solid fence. The height exception was denied, therefore the applicant must bring the fence into compliance with the 6 foot height regulation. The applicant must bring the fence into compliance by March 5th, 2015.

3. All construction and site improvements shall be completed according to the approved plans, as conditioned by the Planning Commission. The site shall be surveyed prior to installation of the concrete wall to identify the front property line. Only the rock wall is allowed to encroach into city right of way. The decorative circular wall element with rocks must be built within the property owner's property.
4. Other than the cement wall, there shall be no additional permanent structures located within the right of way without the issuance of a major revocable permit by the Planning Commission.
5. Prior to any work in the public right-of-way, the applicant shall complete the paperwork for a revocable encroachment permit with the Public Works Department. A revocable encroachment permit shall be recorded prior to installation of the cement wall.
6. At time of submittal for a public works encroachment permit review, the Conditions of Approval must be printed in full on the cover sheet of the construction plans.
7. At the time of submittal for building permit review, Public Works Standard Detail Storm Water Best Management Practices (STRM-BMP) shall be printed in full and incorporated as a sheet into the construction plans. All construction shall be done in accordance with Public Works Standard Detail Storm Water Best Management Practices (STRM-BMP).
8. Prior to making any changes to approved plans, modifications must be specifically requested and submitted in writing to the Community Development Department. Any significant changes shall require Planning Commission approval.
9. Prior to issuance of public works encroachment permit, all Planning fees associated with permit #-14-179 shall be paid in full.
10. During construction, any construction activity shall be subject to a construction noise curfew, except when otherwise specified in the building permit issued by the City. Construction noise shall be prohibited between the hours of nine p.m. and seven-thirty a.m. on weekdays. Construction noise shall be prohibited on weekends with the exception of Saturday work between nine a.m. and four p.m. or emergency work approved by the building official. §9.12.010B
11. This permit shall expire 24 months from the date of issuance. The applicant shall have an approved building permit and construction underway before this date to prevent permit expiration. Applications for extension may be submitted by the applicant prior to expiration pursuant to Municipal Code section 17.81.160.
12. The planning and infrastructure review and approval are transferable with the title to the underlying property so that an approved project may be conveyed or assigned by the applicant to others without losing the approval. The permit cannot be transferred off the site on which the approval was granted.

FINDINGS

- A. **The application, subject to the conditions imposed, will secure the purposes of the Zoning Ordinance, General Plan, and Local Coastal Plan.**
Community Development Department Staff, and the Planning Commission have reviewed the project. The project secures the purposes of the R-1 (Single Family Residence) Zoning District. A height exception for a fence has been denied and the major revocable encroachment permit for a cement wall has been granted by the Planning Commission to carry out the objectives of the Zoning Ordinance, General Plan and Local Coastal Plan.

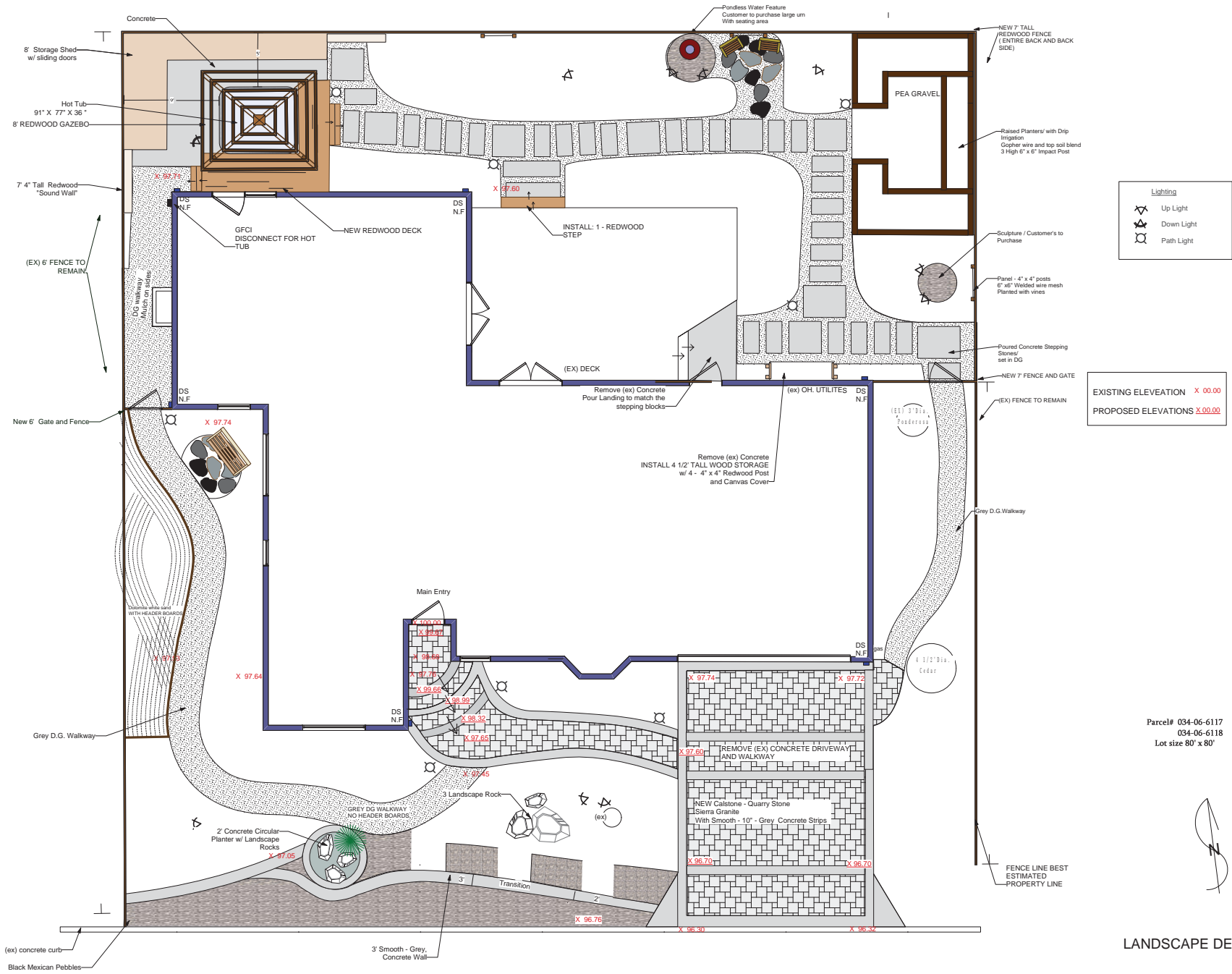
- B. **The application will maintain the character and integrity of the neighborhood.**
Community Development Department Staff and the Planning Commission have reviewed the project. The project is located along Opal Street in the R-1(Single Family Residential) zoning district, just east of the Opal Street and 45th Avenue intersection. As recommended with the denial of the fence height exception, the project fits within the integrity of the neighborhood. The proposed 7 foot high fence will not match the surrounding neighbors and will not maintain the character of the neighborhood.
- C. **This project is categorically exempt under Section 15301 of the California Environmental Quality Act and is not subject to Section 753.5 of Title 14 of the California Code of Regulations.**
This project involves construction of a new fence and cement wall in the R-1 zoning district. Section 15303 of the CEQA Guidelines exempts the construction of a fence in a residential zone.

ATTACHMENTS

- A. Project Plans
- B. Photos of neighboring residences

**Report Prepared By:
Ryan Safty
Assistant Planner**

THIS PAGE INTENTIONALLY LEFT BLANK



REVISIONS

May 19, 2014
May 29, 2014
June 4, 2014
June 10, 2014
July 9, 2014
July 14, 2014
Dec. 11, 2014

3635 N. Main Street
 Soquel, CA 95073-2532
 831-476-5999 Fax: 831-476-0363
 www.primelandscape.com
 John David
 jd@primelandscape.com 800.894.944
 Licensed State of California License # 973
 10/10/2012 10:00 AM 10/10/2012 10:00 AM



Mark Williams & Anthony Antaran
 4555 Opal St.
 Capitola, CA. 95010

DESIGNED BY
 Donna Gallagher

D
 1/4"

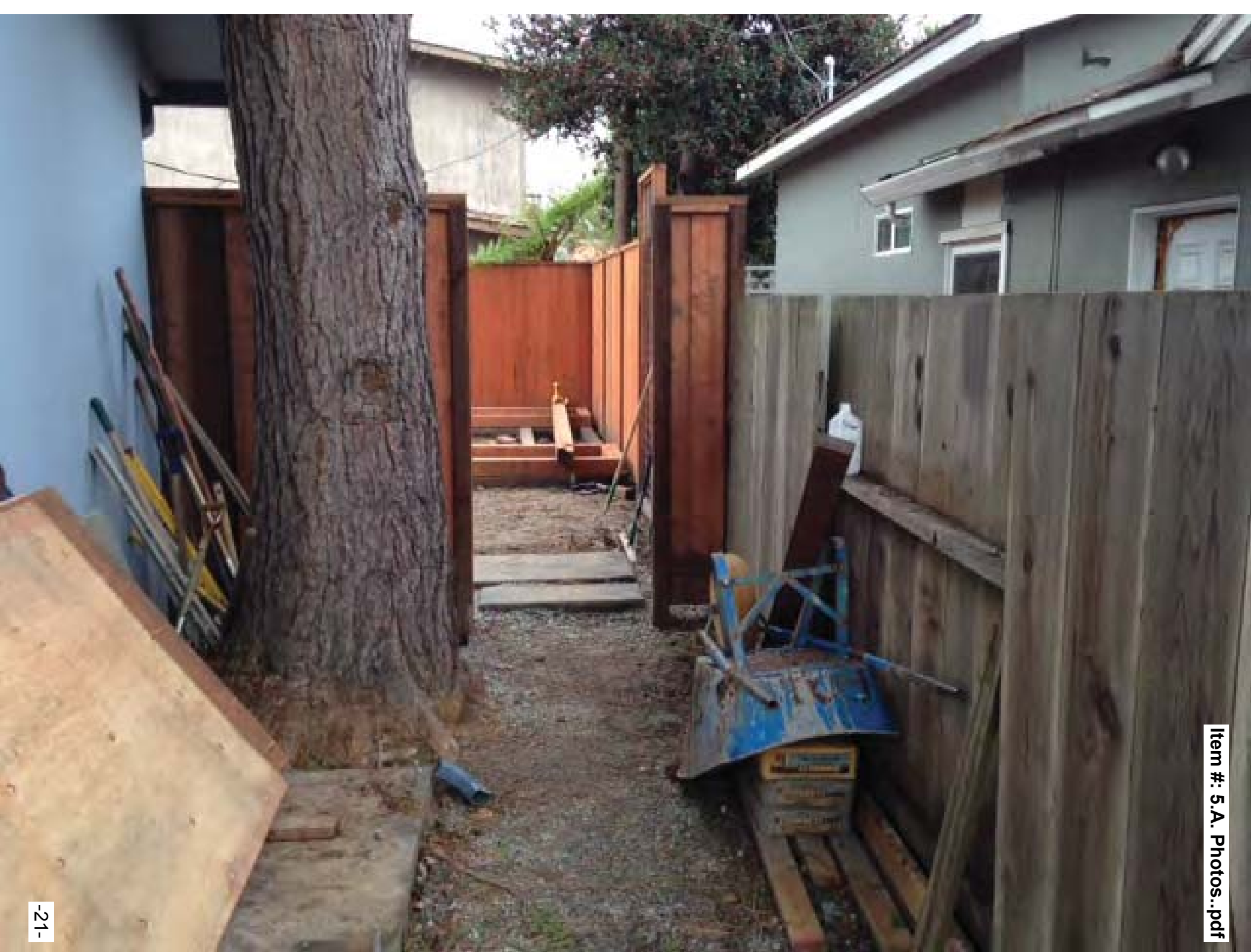
Parcel# 034-06-6117
 034-06-6118
 Lot size 80' x 80'

SHEET

Item #: 5.A. 4555 Opal Site Plan..pdf

LANDSCAPE DESIGN

THIS PAGE INTENTIONALLY LEFT BLANK







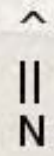
THIS PAGE INTENTIONALLY LEFT BLANK

47th Ave

44th Ave

40th Ave

Item #: 5.A. Applicants Submittal of Neighbors Support..pdf



Jewel St

Jewel St

Jewel St

45th Ave

45th Ave

1
4
3
0

4530

4550

4570

1
4
0
0

4555

4575

Opal St

Opal St

December 2014

We the undersigned are neighbors of Mark Williams and can see his new back yard fence from where we live. The fence is fine and we have no objections to its design or appearance.

Erin Heath

Britt Long

Chase Lee Nicole S. Kinder

Robert

(Paw Wood) (KISANT)

John Kull

Bernie Small

Janice

(4570 JEWEL)

McCa

Ray Thomas

4550 EMBERT.

Wall Kinder
(1435 45th)

Maude Espard

Ammy

4550 opal st Nicole Young blood

December 2014

We the undersigned are neighbors of Mark Williams and can see his new back yard fence from where we live. The fence is fine and we have no objects to its design or appearance.

B Lombos

Jim Blum

Debbie Rose

(1400 45th)

Thank,
I have heard some
reviews about the
process! Thank you so
much for doing that.
I know it gives you too
so much more privacy too.
As you know, I can not
only an abstract answer,

but have spent every
minute away from
my home in Oregon. While
due to a debilitating
condition,

Hope to meet with
you soon & thank you
in person -

Best regards,
Thany