



A G E N D A
CITY OF SEASIDE
PLANNING COMMISSION

VIRTUAL ONLY
MEETING
Wednesday, April 14, 2021
7:00 PM

This meeting is compliant with Governor Newsom's Executive Order N-29-20 which allows local legislative bodies to hold public meetings electronically only, without a physical location for public participation, accessible only telephonically or otherwise electronically (video conferencing) to all members of the public seeking to observe and address the local legislative body, in order to avoid public gatherings, and until further notice.

REMOTE PUBLIC COMMENTS To make a public comment, the following options are available:

- Before the Meeting via Email: Written comments can be emailed to CityClerk@ci.seaside.ca.us Include the following subject line: "Public Comment Item # (insert the agenda item number relevant to your comment). Written comments must be received by 5:00 p.m. on the day of the meeting. All submitted comments will be provided to the City Council or the Board for consideration, compiled as part of the record, and may be read into the record.
- During the Meeting via Oral Comments: When the Chair calls for public comment, attendees can queue to speak with the "Raise Hand" feature. On the Zoom application, click the "Raise Hand" button. On the phone, press *9. The Secretary to the Board will call speaker names and unmute speaker microphones. You will have up to 2 minutes to provide your comments, with time set by the discretion of the Mayor. Please note, if you chose to make comments orally, your written comments will not be read but will be included in the final record.

In an effort to ensure the virtual process closely follows our normal process, public comment will be accepted in writing during the meeting, but may not be read into the record during the meeting, but will be included as part of the final administrative record. Please do not plan to use the chat or Q&A features to put a comment on record. These resources are for tech support only

1. CALL TO ORDER

A. VIRTUAL MEETING INFORMATION

THIS MEETING CAN BE WATCHED VIA THE CITY OF SEASIDE YOU TUBE CHANNEL: [HTTPS://BIT.LY/SEASIDEYOUTUBE](https://bit.ly/seasideyoutube)
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[HTTPS://US02WEB.ZOOM.US/J/83424069963](https://us02web.zoom.us/j/83424069963)
CALL IN PHONE NUMBER: (669) 900-9128
WEBINAR ID: 825 9694 8197

RECOMMENDATION:

2. ROLL CALL - ESTABLISHMENT OF QUORUM

3. PLANNING COMMISSION

John Owens	Chair
Michael Spalletta	Vice Chair
Keith Dodson	Commissioner
Arlington La Mica	Commissioner
Dave Evans	Commissioner
William Silva	Commissioner
Danny Huynh	Commissioner

4. REVIEW OF AGENDA

If there are any items that arose after the 72-hour posting deadline, this is the point in the meeting where a vote may be taken to add the item to the agenda. (A 2/3-majority vote is required).

5. PUBLIC COMMENT

Members of the public wishing to address the Board on matters within the jurisdiction of the City of Seaside, but not on this agenda, may do so during the Public Comment period for up to two (2) minutes. Public Comments on specific agenda items are heard under that item. For the public record, please state your name.

6. APPROVAL OF MINUTES

A.

Approval of February 24, 2021 Minutes

B. Approval of March 10, 2021 Minutes

7. BUSINESS ITEMS

- A. BOARD OF ARCHITECTURAL REVIEW APPLICATION NO. BAR-21-01 AND USE PERMIT APPLICATION NO. UP-21-01. CHAD BROWN, APPLICANT, AND DMITRY KISSELEV, PROPERTY OWNER, ARE REQUESTING APPROVAL OF TWO DISCRETIONARY PERMITS: BOARD OF ARCHITECTURAL REVIEW FOR A PROPOSED 1,358 SQUARE FOOT (SF), TWO STORY SINGLE-FAMILY RESIDENCE ON A 2,500SF LOT; AND A USE PERMIT FOR A PROPOSED EXTERIOR STAIRWAY LEADING TO A ROOFTOP DECK ATOP THE SECOND STORY. THE PROJECT SITE IS LOCATED ON A VACANT LOT IN THE 1000 BLOCK OF HAMILTON AVENUE (APN: 012-274-019), BETWEEN 1064 AND 1084 HAMILTON AVENUE, IN THE MEDIUM DENSITY RESIDENTIAL (RM) ZONING DISTRICT. THE PROJECT IS CATEGORICALLY EXEMPT CLASS 3, SECTION 15303(A), FROM THE CALIFORNIA ENVIRONMENTAL QUALITY ACT (CEQA) GUIDELINES.**

RECOMMENDATION: The purpose of this item is to review a proposed single-family project in accordance with Seaside Municipal Code (SMC) sections:
17.62.030.B.2: all new single family construction is subject to Board of Architectural Review Approval. Architectural considerations include the character, quality, and scale of the design, architectural relationship with the site and other structures, building materials, colors, fencing,

exterior lighting; and

17.12.050, Table 2-3 – Residential Zone Development Standards, footnote 6 specifies: Exterior stairways that would lead to a second floor or roof deck are permitted with the issuance of a Use Permit.

- B. SEASIDE MUNICIPAL CODE AMENDMENT: INTRODUCTION OF AN AMENDED ORDINANCE FOR REVIEW AND RECOMMENDATION TO THE CITY COUNCIL, AMENDING SEASIDE MUNICIPAL CODE SECTION 17.14.030, TABLE 2-4 – ALLOWED LAND USES AND PERMIT REQUIREMENTS FOR COMMERCIAL ZONES FOR CANNABIS USES. PROPOSED AMENDMENTS INCLUDE: ADDING CANNABIS RETAIL AND CANNABIS MICROBUSINESS USES, SPECIFYING THE REQUIRED PERMIT TYPES BASED ON ZONING, REFERENCING THE SPECIFIC USE REGULATIONS OF TITLE 19: COMMERCIAL CANNABIS ACTIVITIES, AND ADDING USE-SPECIFIC FOOTNOTES. THE PROPOSED CHANGES TO THE MUNICIPAL CODE WILL NOT RESULT IN DIRECT OR INDIRECT CHANGES TO THE ENVIRONMENT AND DO NOT MEET THE DEFINITION OF A PROJECT UNDER CEQA (14 CCR 15378(B)).**

RECOMMENDATION: The purpose of this item is for the Planning Commission to recommend the proposed staff generated ordinance amendments to Title 17: Zoning Ordinance Code, Seaside Municipal Code Section 17.14.030, Table 2-4 – *Allowed Land Uses And Permit Requirements for Commercial Zones* regarding Cannabis Uses through the Resolution and Exhibit A to be provided to the City Council for consideration at the First Reading of the proposed ordinance amendments.

- C. BOARD OF ARCHITECTURAL REVIEW APPLICATION NO. BAR-21-03. ERIC WENDT, APPLICANT AND PROPERTY OWNER, IS REQUESTING ARCHITECTURAL REVIEW APPROVAL FOR THE CONSTRUCTION OF A ~113 SQUARE FOOT SECOND STORY DECK LOCATED AT THE REAR OF THE EXISTING TWO-STORY SINGLE FAMILY RESIDENCE LOCATED AT 4456 OCEAN HEIGHTS (APN: 031-242-009) IN THE SINGLE-FAMILY RESIDENTIAL (RS-8) ZONING DISTRICT. THE PROJECT IS CATEGORICALLY EXEMPT CLASS 3, SECTION 15301(E), FROM THE CALIFORNIA ENVIRONMENTAL QUALITY ACT (CEQA) GUIDELINES.**

RECOMMENDATION: In accordance with Seaside Municipal Code (SMC) 17.62.030.B.2 Architectural Review approval is required for the construction of all second-story elements, including decks, for single-family residential projects.

Staff recommends approval of BAR-20-03 for the proposed 113 sf deck, subject to Attachment 1: Conditions of Approval, and Attachment 2: Project Plans.

- D. FENCE EXCEPTION APPLICATION NO. FE-21-02. CHARLES MANDURRAGO, APPLICANT, AND MITSUGU MORI, PROPERTY OWNER, ARE REQUESTING A FENCE EXCEPTION OF 3'-0" TO ALLOW FOR THE ADDITION OF A METAL PICKET FENCE TO THE EXISTING 8'-0" CONCRETE MASONRY UNIT (CMU) WALL, FOR A TOTAL FENCE HEIGHT OF 11'-0", LOCATED ALONG THE WEST SIDE PROPERTY LINE OF 1177 SAN PABLO AVE (SEASIDE GARDEN CENTER), LOCATED IN THE CMX (COMMERCIAL MIXED USE) ZONING DISTRICT (APN: 012-051-011). THE PROJECT IS CATEGORICALLY EXEMPT CLASS 1, SECTION 15301(A), FROM THE CALIFORNIA ENVIRONMENTAL QUALITY ACT (CEQA) GUIDELINES.**

RECOMMENDATION: In accordance with Section 17.30.020.F of the Seaside Municipal Code the applicant/property owner is requesting approval of a fence exception to allow for the addition of 3'-0" metal picket fence to the existing 8'-0" CMU wall, resulting in a final height of 11'-0". The new fence height will be 3'-0" higher than permitted by code, without approval of fence exception. The proposed fence addition would be located along west side property line between the rear parking lot of the Dollar Store and the side property line of Hanna Gardens, 1177 San Pablo Avenue (APN# 012-051-011). The increased fence height is proposed due to an increase in thefts from existing commercial business located on site, Seaside Garden Center.

Overall, the proposed fence height exception would provide additional protection and security to the existing commercial business and has been designed to match the existing entry gate and fence. Based on the analysis provided below, staff recommends approval of Fence Exception Application No. FE-21-02 subject to Attachment 1: Draft Resolution and Conditions of Approval and Attachment 2: Project Plans.

E. FENCE EXCEPTION APPLICATION NO. FE-21-01. CAROLINE STAVE-VIEMEISTER, APPLICANT AND PROPERTY OWNER, IS REQUESTING A FENCE EXCEPTION TO ALLOW FOR THE CONSTRUCTION OF A 5'-2" TALL FENCE ALONG THE FRONT PROPERTY LINE (1'-2" ABOVE THE PERMITTED FRONT YARD FENCE HEIGHT) AT 1289 DARWIN STREET, LOCATED IN THE RS-12 (SINGLE FAMILY RESIDENTIAL) ZONING DISTRICT (APN: 012-291-010). THE PROJECT IS CATEGORICALLY EXEMPT CLASS 1, SECTION 15301(A), FROM THE CALIFORNIA ENVIRONMENTAL QUALITY ACT (CEQA) GUIDELINES.

RECOMMENDATION: In accordance with Section 17.30.020.F of the Seaside Municipal Code the applicant/property owner is requesting approval of a fence exception to allow for the construction of a 5'-2" tall fence along the front yard property line, which exceeds the maximum height limit by 1'-2", for a single family dwelling located at 1809 Havana Street in the Single Family Residential (RS-12) Zoning District (APN# 012-291-010).

Overall, the proposed fence height exception is consistent with other fences in the neighborhood and would not detract from the aesthetics. Based on the analysis provided below, staff recommends approval of Fence Exception Application No. FE-21-01 subject to Attachment 1: Draft Resolution and Conditions of Approval, and Attachment 2: Project Plans.

8. REPORTS FROM COMMISSIONERS

9. REPORTS FROM STAFF

10. ADJOURNMENT

Next Regularly Scheduled Meeting:

Seaside City Hall

The City of Seaside is committed to providing accessible facilities and accommodating people with disabilities in all of its services programs and activities. If special considerations are needed by any person to fully participate in this meeting, contact the City Clerk at 899-6707 no fewer than two business days prior to the meeting to allow reasonable arrangements. Agendas are posted at:
<http://www.ci.seaside.ca.us/129/City-Council-Committee-Agendas>

Agenda-related writings or documents provided during public meetings are available for public inspection during the meeting or from the office of the City Clerk. This agenda is posted in compliance with California Government Code Section 54954.2(a) or Section 54956.



MINUTES
CITY OF SEASIDE
PLANNING COMMISSION

VIRTUAL ONLY
SPECIAL MEETING
Wednesday, February 24, 2021
7:00 PM

1. CALL TO ORDER

Commissioner Owens called meeting to order at 7:00 PM.

A. Virtual Meeting Information

2. ROLL CALL – ESTABLISHMENT OF QUORUM

3. PLANNING COMMISSION

PRESENT: Evans, La Mica, Huynh, Silva, Spalletta, Owens
ABSENT: Dodson

4. REVIEW OF AGENDA

No changes

5. PUBLIC COMMENT

None

6. APPROVAL OF MINUTES

A. December 16, 2020

ACTION: Approved

On motion by Commissioner Evans and Seconded by Commissioner Dodson, and approved by the following vote, the Planning Commission approved the Minutes of December 16, 2020:

AYES Evans, La Mica, Huynh, Silva, Spalletta, Owens
NOES: None
ABSENT: Dodson

B. January 13, 2021

ACTION: Approved

On motion by Commissioner La Mica and Seconded by Commissioner Huynh, and approved by the following vote, the Planning Commission approved the Minutes of January 13, 2021:

AYES Evans, La Mica, Huynh, Silva
NOES: None
ABSTAIN: Owens, Spalletta

ABSENT: Dodson

7. BUSINESS ITEMS

- A. BOARD OF ARCHITECTURAL REVIEW APPLICATION NO. BAR-20-12.** ENRIQUE ECKHAUS, APPLICANT, AND ROBERT MORALES, OWNER, ARE REQUESTING APPROVAL FOR A RESIDENTIAL REMODEL AND ADDITION TO AN EXISTING SINGLE-STORY SINGLE FAMILY RESIDENCE LOCATED AT 1180 PLACER STREET IN THE SINGLE-FAMILY RESIDENTIAL (RS-12) ZONING DISTRICT. THE PROJECT IS SEEKING TO ADD A 401 SF LIVING ROOM TO THE FIRST FLOOR AND ADD A 665 SECOND STORY, CONSISTING OF 3 BEDROOMS, ONE BATHROOM, AND WHICH WILL INCLUDE 118 SF (73 + 45) OF BALCONIES.

ACTION: Approved

Associate Planner Morrison presented the details for the Board of Architectural Review application for a second story addition, including balconies, and a residential remodel of an existing single-story single-family residence located at 1180 Placer Street. She detailed the location, site plan, property line projections, materials and other elements of the project. Ms. Morrison noted that a public comment had been submitted via email, since publication of the Staff Report, from the site neighbor at 1192 Placer Street voicing their opposition of the project. Ms. Morrison acknowledged that the application is consistent with the allowed architectural projections into setbacks. Staff recommended approval of BAR-20-12 for the proposed second story addition and residential remodel.

Chair Owens opened the floor for the property owner to speak. Robert Morales spoke on the item.

Staff answered questions from the Commission.

The Commission discussed the materials, impact of second story on adjacent properties, shading and general design of the project.

PUBLIC COMMENTS: Enrique Eckhaus, applicant, made a public comment.

On motion by Commissioner Silva and Seconded by Commissioner La Mica, and approved by the following vote, the Planning Commission approved BAR-20-12 an application requesting to construct a second story addition, including balconies, and a residential remodel of an existing single-story single-family residence located at 1180 Placer street.

AYES: Evans, La Mica, Huynh, Silva, Spalletta, Owens

NOES: None

ABSENT: Dodson

B. APPROVE THE PLANNING COMMISSION ANNUAL 2021 WORK PLAN FOR ADOPTION BY THE CITY COUNCIL.

ACTION: Approved

Associate Planner Rocha presented the proposed Annual Work Plan Updates to the Commission.

The Commission discussed and asked questions as the presentation was made by Associate Planner Rocha.

PUBLIC COMMENTS: Alex Miller, Chair of Neighborhood Improvement Commission, made a public comment.

On motion by Commissioner La Mica and Seconded by Commissioner Spalletta, and approved by the following vote, the Planning Commission approved the 2021-2022 Annual Work Plan.

AYES: Evans, Dodson, La Mica, Huynh, Silva, Spalletta

NOES: None

ABSENT: Dodson

8. REPORTS FROM COMMISSIONERS

A.

Commissioner Silva raised concerns regarding electric go-karts being drive on City Streets. Inquired if there was any City response

Commissioner Evans spoke on the subject, noted that he is waiting on a response from the City Attorney regarding their legality.

Chair Owens made a comment on the subject as well, was informed that they were legal under the CC.

B.

Commissioner Silva raised concerns regarding electric go-karts being drive on City Streets. Inquired if there was any City response

Commissioner Evans spoke on the subject, noted that he is waiting on a response from the City Attorney regarding their legality.

Chair Owens made a comment on the subject as well, was informed that they were legal under the CC.

Commissioner Silva repeated his concerns raised at the last public hearing regarding homeless encampments, especially along Cal-Trans, which are getting worse.

Commissioner Owens spoke on the subject.

C.

Chair Owens asked for an update on the Ascent and Campus Town Projects.

Community Development Director Stearns gave an update on the projects.

9. REPORTS FROM STAFF

A.

City Clerk Milton updated Commissioners regarding items presented at the last City Council meeting: updates on economic development project, quarterly financial report.

B.

City Clerk Milton informed the Commissioners that there will be a discussion on Accessory Dwelling Units at the next meeting, and that on March 18, 2021 will have a Graffiti Abatement Ordinance + Food Truck Ordinance discussion.

C.

City Clerk Milton and Community Development Director gave updates on vaccine roll out in Monterey County. Call 211 for vaccine registry assistance.

10. ADJOURNMENT

Having no further business, the meeting was adjourned at 8:42 pm.

Respectfully submitted,

Dominique Davis, City Clerk

John Owens, Chair



MINUTES
CITY OF SEASIDE
PLANNING COMMISSION

VIRTUAL ONLY
MEETING
Wednesday, March 10, 2021
7:00 PM

1. CALL TO ORDER

Commissioner Owens called meeting to order at 7:00 PM.

A. Virtual Meeting Information

2. ROLL CALL – ESTABLISHMENT OF QUORUM

3. PLANNING COMMISSION

PRESENT: Evans, La Mica, Silva, Owens, Hyunh (joined meeting at 7:30 p.m.)
ABSENT: Dodson (excused), Spalletta

4. REVIEW OF AGENDA

No changes

5. PUBLIC COMMENT

None

6. APPROVAL OF MINUTES

None

7. BUSINESS ITEMS

Due to a conflict, Commissioner La Mica needs be recused from BAR-21-02; resulted in a lack of quorum.

On motion by Commissioner Silva and Seconded by Commissioner La Mica, the Planning Commission approved to switch the order of Item A and Item; Item B will be heard first.

AYES: Evans, La Mica, Silva, Owens

NOES: None

ABSENT: Dodson (excused), Hyunh, Spalletta

- A.** (Item B on the Agenda and Agenda Packet) VARIANCE APPLICATION NO. VAR-21-01: CHAD BROWN, APPLICANT, AND DMITRY KISSELEV, PROPERTY OWNER, ARE REQUESTING A VARIANCE TO THE FOLLOWING RESIDENTIAL ZONE DEVELOPMENT STANDARDS (SEASIDE MUNICIPAL CODE (SMC) SECTION 17.12.050, TABLE 2-3) AS ASSOCIATED WITH THE POTENTIAL CONSTRUCTION OF A NEW TWO-STORY SINGLE-FAMILY RESIDENCE ON A 2,500 SQUARE FOOT(SF) LOT LOCATED IN THE 1000 BLOCK OF HAMILTON AVENUE (APN: 012-274-019), BETWEEN 1064 AND

1084 HAMILTON AVENUE, IN THE MEDIUM DENSITY RESIDENTIAL (RM) ZONING DISTRICT: 1. REDUCED SIDE YARD SETBACKS FROM 5' TO 3'; AND 2. A GREATER FLOOR AREA RATIO ALLOWANCE: FROM 45% (1,125 SF) TO 54% (1,358 SF) FOR A 233 SF INCREASE; AND 3. REDUCED PARKING REQUIREMENTS FROM TWO SPACES, WITH AT LEAST ONE WITHIN A GARAGE, TO ONE PARKING SPACE WITHIN A GARAGE.

ACTION: Approved

Associate Planner Rocha presented the details for the Variance application for reduced side yard setback, increase FAR and reduced parking requirements. She detailed the location, site plan, setbacks, property line projections, and variances requested. Staff answered questions from the Commission.

Chair Owens opened the floor for the property owner and applicant to comment. Chad Brown spoke on the item and was available to answer questions.

Commissioner Evans asked questions of Mr. Brown to which Mr. Brown replied.

The Commission discussed the project. Discussed moving the house back 5 additional feet from the front property line to allow for additional parking within the front yard driveway.

PUBLIC COMMENTS: None.

On motion by Commissioner Silva and Seconded by Commissioner La Mica, and approved by the following vote, the Planning Commission approved VAR-21-01 as presented and conditioned, with the added condition that the house be setback an additional 5' from the front property line.

AYES: Evans, La Mica, Huynh, Silva, Owens

NOES: None

ABSENT: Dodson (excused), Spalletta

Commissioner La Mica recused, quorum is maintained.

- B.** (Item A on Agenda and Agenda Packet) BOARD OF ARCHITECTURAL REVIEW APPLICATION NO. BAR-21-02. SEASIDE AMERICAN LEGION POST# 591, PROPERTY OWNER, AND RA SMITH, APPLICANT, ARE REQUESTING TO DEMOLISH THE EXISTING 5,391 SQUARE FOOT AMERICAN LEGION BUILDING AND TO CONSTRUCT A NEW 2,652 SQUARE FOOT AMERICAN LEGION BUILDING. THE PROJECT SITE IS LOCATED AT 1000 PLAYA AVENUE (APN# 012-524-004 AND 011-524-009) IN THE REGIONAL COMMERCIAL (CRG) ZONING DISTRICT.

ACTION: Approved

Associate Planner Morrison presented the details for the Board of Architectural Review application for the new American Legion building. She detailed the location, site plan, property line projections, materials and other elements of the project. Ms. Morrison noted that no public comment had been submitted regarding this project. Ms. Morrison acknowledged that the application is consistent with development standards. Staff recommended approval of BAR-21-02 for the new American Legion building.

The Commissioners asked questions of Associate Planner Morrison.

Chair Owens opened the floor for the applicant to comment. James Smith, applicant, spoke on the item and was available to answer questions.

PUBLIC COMMENTS: None.

On motion by Commissioner Silva and Seconded by Commissioner Evans, and approved by the following vote, the Planning Commission approved BAR-21-02 as presented and conditioned, with the added condition that the applicant work with staff to select a more appropriate tree than the arbutus for the Del Monte Avenue frontage.

AYES: Evans, Dodson, Huynh, Silva, Owens

NOES: None

ABSENT: Dodson (excused), La Mica (recused), Spalletta

8. REPORTS FROM COMMISSIONERS

A.

Commissioner Hyunh asked about the work being done at corner of Del Monte and Canyon Del Rey.

Commissioner Evans and Owens confirmed that this was a waste water lift station being installed.

B.

Chair Owens asked about the Costco gas station entry, there is gate where he thought an entry/exit should be. Chair Owens also noted that In and Out is not following their Use Permit requirement drive-thru lineups, Use Permit noted the creation of lanes which do not appear to have been installed. Knows that there were concerns regarding traffic jams along Del Monte Boulevard.

Community Development Director Stearns noted that she and staff would follow up on the issues.

C.

Commissioner Silva asked for an update the City's stance on electric go-karts, which he had mentioned at the previous Planning Commission meeting. Also asked about the accident which occurred at the McDonalds drive-thru.

Community Development Director Stearns noted that she did not have an update on the go-karts at this time, but stated she would follow up on the issue. Director Stearns noted that Code Enforcement is working with McDonalds to fix the protective barrier at the drive-thru.

Chair Owens notes that the area behind Home Depot is becoming a visual blight with all of the cars and vans being parked back there, and trash accumulating. Parking lot is already over capacity during weekend. Inquired if Code Enforcement could go out there and clean up.

9. REPORTS FROM STAFF

A.

VA in Marina is giving COVID vaccine to any veteran, call 650-496-2535 between 8:00 a.m.-6:00 p.m.

B.

Associate Planner Morrison noted that the March 24, 2021 meeting will be canceled, and polled the Commissioners on their availability for a Special Meeting on April 14, 2021. Commissioners confirmed their availability for a Special Meeting on April 14, 2021.

10. ADJOURNMENT

Having no further business, the meeting was adjourned at 8:30 pm.

Respectfully submitted,

Dominique Davis, City Clerk

John Owens, Chair



CITY OF SEASIDE STAFF REPORT

Item No.: 7.A.

TO: Planning Commission

BY: Beth Rocha, Associate Planner

DATE: April 14, 2021

SUBJECT: BOARD OF ARCHITECTURAL REVIEW APPLICATION NO. BAR-21-01 AND USE PERMIT APPLICATION NO. UP-21-01. CHAD BROWN, APPLICANT, AND DMITRY KISSELEV, PROPERTY OWNER, ARE REQUESTING APPROVAL OF TWO DISCRETIONARY PERMITS: BOARD OF ARCHITECTURAL REVIEW FOR A PROPOSED 1,358 SQUARE FOOT (SF), TWO STORY SINGLE-FAMILY RESIDENCE ON A 2,500SF LOT; AND A USE PERMIT FOR A PROPOSED EXTERIOR STAIRWAY LEADING TO A ROOFTOP DECK ATOP THE SECOND STORY. THE PROJECT SITE IS LOCATED ON A VACANT LOT IN THE 1000 BLOCK OF HAMILTON AVENUE (APN: 012-274-019), BETWEEN 1064 AND 1084 HAMILTON AVENUE, IN THE MEDIUM DENSITY RESIDENTIAL (RM) ZONING DISTRICT. THE PROJECT IS CATEGORICALLY EXEMPT CLASS 3, SECTION 15303(A), FROM THE CALIFORNIA ENVIRONMENTAL QUALITY ACT (CEQA) GUIDELINES.

PURPOSE & RECOMMENDATION

The purpose of this item is to review a proposed single-family project in accordance with Seaside Municipal Code (SMC) sections:

17.62.030.B.2: all new single family construction is subject to Board of Architectural Review Approval. Architectural considerations include the character, quality, and scale of the design, architectural relationship with the site and other structures, building materials, colors, fencing, exterior lighting; and

17.12.050, Table 2-3 – Residential Zone Development Standards, footnote 6 specifies: Exterior stairways that would lead to a second floor or roof deck are permitted with the issuance of a Use Permit.

BACKGROUND

On March 10, 2021 the Planning Commission unanimously approved Variance application VAR-21-01 for the following, as associated with a potential 1,358sf two story single-family residence on a 2,500sf lot (25'w x 100'd):

1. Reduced side yard setbacks: from 5' to 3' (SMC 17.12.050, Table 2-3 Residential Zone Development Standards) and a 15" architectural projection (eave) into the requested reduced side setback (SMC 17.30.100.e Table 3-5 *Allowed Architectural Projections Into Setbacks*); and

2. Increased floor area ratio: from 45% (1,125sf) to 54% (1,358sf) (SMC 17.12.050, Table 2-3 *Residential Zone Development Standards*); and
3. Reduced parking requirements: from two spaces, with at least one within a garage, to one parking space within a garage (SMC 17.34.040 Table 3-8 *Parking Requirements by Land Use*).

Additionally, the commission added a condition of approval, requiring the structure observe a 20' front setback.

PROJECT SITE AND IMMEDIATE SURROUNDINGS

The 2,500sf (25'w x 100'd) site is located on the 1000 block of Hamilton Avenue (APN: 012-274-019) between 1064 and 1084 Hamilton Avenue in the Medium Density Residential (RM) Zone. The abutting properties both have driveways and/or parking areas that provide a buffer of approximately 29' and 12' between the existing residences and the subject site's property lines, respectively. The project site is immediately adjacent to single-story residential properties on Hamilton Avenue and a three story, multi-family residential structure to the rear, across the alley and fronting on Trinity Avenue. This block of Hamilton is a mix of two and single-story multi-family and single-family residential buildings (see Attachment 3: Photos).

NEIGHBORHOOD CHARACTERISTICS:

The majority of the lots on this block of Hamilton Avenue have lot widths greater than 70' and are primarily developed with a mix of single family and multifamily residences, ranging in height from 1-story to 3-stories. Additionally, three nearby contiguous parcels of 2,500sf each (1087, 1089, and 1091 Hamilton Ave.) were each developed with single-family homes observing 3' side setbacks for 75% of the building length, with a FAR of 37%, and single car garages in 1998 when SMC 17.66.040 *Design Flexibility of Substandard Lots* was in effect.

STAFF ANALYSIS

BAR 21-01

The project is for a new 1,358 square foot (sf), two story, single-family residence on a 2,500sf lot, with decks off the second story living area and a 644sf roof deck atop the second story. The project complies with all applicable requirements of the Seaside Municipal Code and is consistent with lot coverage, FAR, height and setbacks, with the exception of the following elements that were previously approved through a variance:

1. Reduced side yard setbacks: from 5' to 3' (SMC 17.12.050, Table 2-3 Residential Zone Development Standards) and a 15" architectural projection (eave) into the requested reduced side setback (SMC 17.30.100.e Table 3-5 *Allowed Architectural Projections Into Setbacks*); and
2. Increased floor area ratio: from 45% (1,125sf) to 54% (1,358sf) (SMC 17.12.050, Table 2-3 *Residential Zone Development Standards*); and
3. Reduced parking requirements: from two spaces, with at least one within a garage, to one parking space within a garage (SMC 17.34.040 Table 3-8 *Parking Requirements by Land Use*).

Section 17.62.030.E. of the SMC outlines the following review considerations be evaluated by the Board of Architectural Review:

- 1. Architectural considerations.** *Architectural considerations, including the character, quality, and scale of the design, architectural relationship with the site and other structures, building materials, colors, fencing, and exterior lighting.*
- 2. Landscape considerations.** *Landscape considerations, including the color, coverage, location, size, texture, and type of plant materials, provisions for irrigation, maintenance, and the protection of landscaped areas, and similar elements. The Board of Architectural Review shall encourage the planting of native and/or drought-tolerant landscaping in compliance with Section [17.30.040](#) (Landscaping Standards).*
- 3. Lighting considerations.** *Proposed outdoor lighting, including the proposed placement of fixtures, type of fixtures, and illumination levels (typically for commercial and multifamily projects).*

Architectural design: The proposed residence is a contemporary-modern design of two stories (1st: 683sf, 2nd: 675sf), with two balconies located off the living area of the second floor (164.11sf), a patio cover off the rear with an opening to accommodate a spiral staircase that provides access to the roof deck (644sf) atop the second floor living area. All balconies and decks would have metal framed clear glass "railings," which would further reduce the massing and scale of the structure. The proposed design and materials will be of high quality and contribute to a clean and sleek appearance. The scale of the structure is proportional to the reduced lot size, and would have a tiered appearance that is further enhanced by the balcony elements, patio structure, and roof deck. The design and materials would result in a structure that is not box-like in design or appearance.

The proposed materials and colors are as follows, they have been designed to match the paint and materials of the existing single story residence, see Exhibit A: Project Plans, p.7:

1. Siding -Hardie Panel "Summer White"
2. Siding - Hardie Horizontal Panels "Rafter Brown"
3. Windows, Doors, and Sliding Doors - Pella Wood Windows and Doors, aluminum cladding exterior

Landscape considerations: The applicant will plant three trees. A condition of approval has been added, requiring that consultation and approval of a species be conducted by planning staff.

Lighting considerations: The proposed exterior light fixtures will be shielded to prevent uplighting.

FINDINGS

1. The proposed use is allowed within the applicable zone, staking and flagging was erected at least 14 days prior to the date of this hearing, and the project complies with all other applicable provisions of the Zoning Ordinance.

Evidence: *In accordance with the SMC 17.12.050, Table 2-3, Residential Zone Development Standards, the proposed project adheres to all development regulations, with the exception of the following regulations that were approved in the variance application: Reduced side yard setbacks: from 5' to 3' (SMC 17.12.050, Table 2-3 Residential Zone Development Standards) and a 15" architectural projection (eave) into the requested reduced side setback (SMC 17.30.100.e Table 3-5 Allowed Architectural Projections Into Setbacks); and*

Increased floor area ratio: from 45% (1,125sf) to 54% (1,358sf) (SMC 17.12.050, Table 2-3 Residential Zone Development Standards); and

Reduced parking requirements: from two spaces, with at least one within a garage, to one parking space within a garage (SMC 17.34.040 Table 3-8 Parking Requirements by Land Use).

2. In compliance with Section 17.62.030.E.1 of the SMC, the proposed residence, decks and roof decks are consistent in quality, scale, and architectural relationship with the site and other structures.

Evidence: *The proposed residence is designed to be consistent in quality, scale, and architectural relationship with the site and there are no significant visual or privacy impacts to the adjacent properties, which are single-story to the immediate left and right of the subject site and three stories to the rear.*

Single-Family Residential Design Guidelines

The following Single-Family Residential Design Guidelines support the proposed single-family residence:

"Architectural elements should be designed to eliminate the appearance of box-like buildings," (II.A.iii.) and, "Avoid box-like appearance through variation in the roofline and building elevations" (III.C.iv.):

Evidence: *The neighborhood has a variety of architectural styles, housing types, and colors. The project plans for the new single-family residence has a variety of architectural design elements such as façade articulation, cantilevered elements, offsetting planes, and material variations.*

The project would be consistent with the following General Plan Goals and Policies:

- **Land Use Element**

1. Goal LU-3: Revitalize existing residential areas.
 - Policy LU-3.2: Improve physical appearance of residential neighborhoods
2. Goal LU-4 – Ensure that new development compliments existing land uses and enhances the character of the community and its neighbors
 - Policy LU-4.1 – Require that all new development is compatible with surrounding uses, the site, and available infrastructure.

- **Urban Design Element**

1. Goal UD-3: Provide and maintain a streetscape system that protects views and enhances the visual quality and continuity within the community.
 - Policy UD-3.1: Protect private views of significant natural features, such as the Monterey Bay, Roberts Lake, the Pacific Ocean, the surrounding mountains, and other important viewsheds.

Evidence: *The project proposal is compatible with the overall design and scale of surrounding residential land uses. The proposed two-story single-family residence, with deck and roof deck elements will not detract from the character of the neighborhood. The proposed property improvements will help to improve the physical appearance and character of the residential neighborhood.*

STAFF ANALYSIS

UP-21-01

The proposed spiral stairway is located towards the rear of the property, observing a distance of approximately 18' from the rear property line and approximately 5' from the side property line. The stairway is the only means of access to the 644sf roof deck atop the second story, as internal access from the home is not provided to that roof deck. Additionally, the stairway is placed within an opening of the cantilevered deck located off the second story, which also serves as a patio cover for the back yard and further obscures the structure from the adjacent properties.

SMC section 17.62.070.F outlines the following findings that are necessary for approval by the review authority, including evidence in support of the findings:

1. The proposed use is allowed within the applicable zone and complies with all other applicable provisions of this Zoning Ordinance and the Municipal Code.

Evidence: *The proposed exterior spiral stairway is allowed in the zone with Use Permit approval. The stairway complies with all setbacks and height limits of the zone.*

2. The proposed use is consistent with the General Plan and any applicable specific plan.

Evidence: *The Seaside General Plan Land Use Designation for the project site is Medium Density Residential. This land use classification is intended for detached single-family residential units, which also includes accessory structures.*

3. The project would be consistent with the following General Plan Goals and Policies:

Land Use Element

Goal LU-3: Revitalize existing residential areas

Policy LU-3.2: Improve physical appearance of residential neighborhoods

Goal LU-4 – Ensure that new development compliments existing land uses and enhances the character of the community and its neighbors.

Policy LU-4.1 – Require that all new development is compatible with surrounding uses, the site, and available infrastructure.

Urban Design Element

Goal UD-3: Provide and maintain a streetscape system that protects views and enhances the visual quality and continuity within the community.

Policy UD-3.1: Protect private views of significant natural features, such as the Monterey Bay, Roberts Lake, the Pacific Ocean, the surrounding mountains, and other important viewsheds.

Evidence: *The project proposal is compatible with the overall design and scale of surrounding*

residential land uses. The placement of an exterior spiral stairway to access the roof deck atop the second story will not detract from the character of the neighborhood. The proposed property improvements would help to improve the physical appearance and character of the residential neighborhood.

4. The design, location, size, and operating characteristics of the proposed activity are compatible with the existing and planned future land uses in the vicinity.

Evidence: The exterior spiral stairway is an accessory use to the main dwelling and, therefore, does not alter the operating characteristics of the dwelling or enjoyment of the other properties in the neighborhood.

5. The site is physically suitable for the type, density and intensity of use being proposed, including access, utilities, and the absence of physical constraints.

Evidence: The site is an substandard lot of 2,500sf in the RM (Medium Density Residential) zoning district. Access to the roof deck atop the second story would be provided from an exterior spiral stairway. Extension of public utilities is not required for the proposed project. The completion of the deck will not alter the location of existing utilities.

6. Granting the permit would not be detrimental to the public interest, health, safety, convenience, or welfare, or materially injurious to persons, property, or improvements in the vicinity and zone district in which the property is located.

Evidence: The proposed project is located in the RM zone and is compatible with the existing and planned future single-family and multi-family residential land uses in the vicinity and would not create significant noise or privacy impacts that may be objectionable or detrimental to other permitted uses in the vicinity or adverse to the public interest, health, safety, convenience, or welfare of the City.

ENVIRONMENTAL REVIEW

The project is Categorically Exempt Class 3, Section 15303(a), from the California Environmental Quality Act (CEQA) guidelines.

Evidence: The proposed project is for one single-family residence in the Medium Density Residential Zone, which permits residential primary and accessory uses and the new residence and the exterior spiral stairway and roof decks would not have any impact on the environment or materially affect the use of the single-family dwelling.

RECOMMENDATION

Staff recommends approval of BAR-21-01 for the proposed 1,358sf, two story single-family residence on a 2,500sf lot and approval of UP-21-01 for the proposed exterior spiral staircase that provides access to a 644sf roof deck atop the second story of the residence subject to Attachment 1: Resolution and Exhibit A: Project Plans.

ATTACHMENTS

1. Attachment 1: Draft Resolution
 2. Exhibit A to Attachment 1
 3. Attachment 2: Photos
-

**RESOLUTION NO. 20-XX
BAR-21-01 and UP 21-01**

**A RESOLUTION OF THE PLANNING COMMISSION OF THE CITY OF
SEASIDE**

APPROVING ARCHITECTURAL REVIEW APPLICATION No. BAR-21-01 AND USE PERMIT No. UP-21-01 FOR A NEW 1,358SF, TWO STORY SINGLE-FAMILY RESIDENCE ON A 2,500SF LOT AND A PROPOSED EXTERIOR SPIRAL STAIRCASE THAT PROVIDES ACCESS TO A 644SF ROOF DECK ATOP THE SECOND STORY, RESPECTIVELY. THE PROJECT IS LOCATED ON A VACANT LOT IN THE 1000 BLOCK OF HAMILTON AVENUE (APN: 012-274-019), BETWEEN 1064 AND 1084 HAMILTON AVENUE, IN THE MEDIUM DENSITY RESIDENTIAL (RM) ZONING DISTRICT AND IS SUBJECT TO ATTACHMENT 1: RESOLUTION AND EXHIBIT A: PROJECT PLANS.

WHEREAS, Chad Brown, applicant, and Dmitry Kisselev, property owner, have applied for Board of Architectural Review permit No. 20-01 and Use Permit No. UP-21-01 requesting to:

Construct a new 1,358sf, two story single-family residence on a 2,500sf lot and an exterior spiral staircase that provides access to a 644sf roof deck atop the second story; and

WHEREAS, the proposed project requires discretionary approval, and it is the responsibility of the Planning Commission to consider and weigh the merits of the application and public input in relation to the policies, standards and intent of the Seaside General Plan and Seaside Municipal Code; and

WHEREAS, the Seaside Planning Commission considered oral comments and written information concerning the proposed Architectural Review application and Use Permit application at a duly noticed special meeting held on April 14, 2021; and

WHEREAS, the project and both applications are Categorically Exempt Class 3, Section 15303(a), from the California Environmental Quality Act (CEQA) guidelines.

Evidence: *The proposed project is for one single-family residence in the Medium Density Residential Zone, which permits residential primary and accessory uses and the new residence and the exterior*

spiral stairway and roof decks would not have any impact on the environment or materially affect the use of the single-family dwelling.

NOW, THEREFORE, BE IT RESOLVED, that the Seaside Planning Commission adopts the following findings in support of and in approval of Board of Architectural Review application No. BAR-21-01 and UP-21-01:

BAR-21-01:

1. The proposed use is allowed within the applicable zone, staking and flagging was erected at least 14 days prior to the date of this hearing, and the project complies with all other applicable provisions of the Zoning Ordinance.

Evidence: *In accordance with the SMC 17.12.050, Table 2-3, Residential Zone Development Standards, the proposed project adheres to all development regulations, with the exception of the following regulations that were approved in the variance application:*

Reduced side yard setbacks: from 5' to 3' (SMC 17.12.050, Table 2-3 Residential Zone Development Standards) and a 15" architectural projection (eave) into the requested reduced side setback (SMC 17.30.100.e Table 3-5 Allowed Architectural Projections Into Setbacks); and

Increased floor area ratio: from 45% (1,125sf) to 54% (1,358sf) (SMC 17.12.050, Table 2-3 Residential Zone Development Standards); and

Reduced parking requirements: from two spaces, with at least one within a garage, to one parking space within a garage (SMC 17.34.040 Table 3-8 Parking Requirements by Land Use).

2. In compliance with Section 17.62.030.E.1 of the SMC, the proposed residence, decks and roof decks are consistent in quality, scale, and architectural relationship with the site and other structures.

Evidence: *The proposed residence is designed to be consistent in quality, scale, and architectural relationship with the site and there are no significant visual or privacy impacts to the adjacent properties, which are single-story to the immediate left and right of the subject site and three stories to the rear.*

Single-Family Residential Design Guidelines

The following Single-Family Residential Design Guidelines support the proposed single-family residence:

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appearance of box-like buildings,” (II.A.iii.) and, “Avoid box-like appearance through variation in the roofline and building elevations” (III.C.iv.):

Evidence: *The neighborhood has a variety of architectural styles, housing types, and colors. The project plans for the new single-family residence has a variety of architectural design elements such as façade articulation, cantilevered elements, offsetting planes, and material variations.*

The project would be consistent with the following General Plan Goals and Policies:

- **Land Use Element**

- Goal LU-3: Revitalize existing residential areas
- Policy LU-3.2: Improve physical appearance of residential neighborhoods
- Goal LU-4 – Ensure that new development compliments existing land uses and enhances the character of the community and its neighbors
- Policy LU-4.1 – Require that all new development is compatible with surrounding uses, the site, and available infrastructure.

- **Urban Design Element**

- Goal UD-3: Provide and maintain a streetscape system that protects views and enhances the visual quality and continuity within the community.
- Policy UD-3.1: Protect private views of significant natural features, such as the Monterey Bay, Roberts Lake, the Pacific Ocean, the surrounding mountains, and other important viewsheds.

Evidence: *The project proposal is compatible with the overall design and scale of surrounding residential land uses. The proposed two-story single-family residence, with deck and roof deck elements will not detract from the character of the neighborhood. The proposed property improvements will help to improve the physical appearance and character of the residential neighborhood.*

UP-21-01:

1. The proposed use is allowed within the applicable zone and complies with all other applicable provisions of this Zoning Ordinance and the Municipal Code.

Evidence: *The proposed exterior spiral stairway is allowed in the zone with Use Permit approval. The stairway complies with all setbacks and height limits of the zone.*

2. The proposed use is consistent with the General Plan and any applicable specific plan.

Evidence: *The Seaside General Plan Land Use Designation for the project site is Medium Density Residential. This land use classification is intended for detached single-family residential units, which also includes accessory structures.*

3. The project would be consistent with the following General Plan Goals and Policies:

Land Use Element

Goal LU-3: Revitalize existing residential areas

Policy LU-3.2: Improve physical appearance of residential neighborhoods

Goal LU-4 – Ensure that new development compliments existing land uses and enhances the character of the community and its neighbors.

Policy LU-4.1 – Require that all new development is compatible with surrounding uses, the site, and available infrastructure.

Urban Design Element

Goal UD-3: Provide and maintain a streetscape system that protects views and enhances the visual quality and continuity within the community.

Policy UD-3.1: Protect private views of significant natural features, such as the Monterey Bay, Roberts Lake, the Pacific Ocean, the surrounding mountains, and other important viewsheds.

Evidence: *The project proposal is compatible with the overall design and scale of surrounding residential land uses. The placement of an exterior spiral stairway to access the roof deck atop the second story will not detract from the character of the neighborhood. The proposed property improvements would help to improve the physical appearance and character of the residential neighborhood.*

4. The design, location, size, and operating characteristics of the proposed activity are compatible with the existing and planned future land uses in the vicinity.

Evidence: *The exterior spiral stairway is an accessory use to the main dwelling and, therefore, does not alter the operating characteristics of the dwelling or enjoyment of the other properties in the neighborhood.*

5. The site is physically suitable for the type, density and intensity of use being proposed, including access, utilities, and the absence of physical constraints.

Evidence: *The site is an substandard lot of 2,500sf in the RM (Medium Density Residential) zoning district. Access to the roof deck atop the second story would be provided from an exterior spiral stairway. Extension of public utilities is not required for the proposed project. The completion of the deck will not alter the location of existing utilities.*

6. Granting the permit would not be detrimental to the public interest, health, safety, convenience, or welfare, or materially injurious to persons, property, or improvements in the vicinity and zone district in which the property is located.

Evidence: *The proposed project is located in the RM zone and is compatible with the existing and planned future single-family and multi-family residential land uses in the vicinity and would not create significant noise or privacy impacts that may be objectionable or detrimental to other permitted uses in the vicinity or adverse to the public interest, health, safety, convenience, or welfare of the City.*

NOW, THEREFORE, BE IT FURTHER RESOLVED, that the Planning Commission approves Board of Architectural Review application No. BAR-21-01 and UP-21-01 subject to the following terms and conditions:

Standard:

1. Except as modified by required conditions of approval, plans submitted for a building permit shall substantially conform to the plans identified as "Dmitry Kisselev, APN: 012-274-019-000, HAMILTON AVE, SEASIDE" dated 3.15.21.
2. Board of Architectural Review and Use Permit approval shall not be valid until the applicant has signed and accepted these conditions of approval. Failure to sign the conditions and return them to the Planning Division within fifteen (15) days from the date of approval will result in the Board of Architectural Review approval becoming null and void.
3. Board of Architectural Review approval shall be valid for a period of one (1) year from the date of approval of this project in accordance with S.M.C.S. 17.64.080. Project approval will become null and

void if a building permit is not exercised within one (1) year from date of approval.

4. Proposed changes to the approved application(s) must receive approval from the Board of Architectural Review, unless approved by the Director as outlined in Seaside Zoning Code Section 17.64.090.C.
5. The applicant agrees as a condition and in consideration of the approval of this discretionary permit that it will defend, indemnify and hold harmless the City of Seaside or its agents, officers and employees from any claim, action or proceeding against the City or its agents, officers or employees to attack, set aside, void or annul this approval. The applicant will reimburse the City for any court costs and attorney's fees, which the City may be required by a court to pay as a result of such action. City may, at its sole discretion, participate in the defense of such action; but such participation shall not relieve applicant of his obligations under this condition. The City shall promptly notify the applicant of any such claim, action, or proceeding, and the City shall cooperate fully in the defense thereof.
6. Any proposed future development shall comply with the requirements of the Fire, Health, Planning, Code Enforcement, Building and Public Works Departments.
7. Any work within the public right-of-way must conform to current engineering standards and shall require an encroachment permit from the Public Works Department.
8. All storm water runoff shall be contained and disposed of on site and the storm water retention system shall be reviewed and approved by the Public Works Department.
9. The proposed project shall comply with the applicable requirements of the Monterey Peninsula Water Management District for the installation of new water fixtures and landscape irrigation equipment.
10. The issuance of building permits involving the installation of new water shall be subject to the availability of an adequate supply of water and sewer capacity to serve the project.

11. Water conservation fixtures shall be provided in the proposed project.

Planning:

1. The applicant and owner shall submit tree species options to the Planning Department for consideration and a decision on what will be planted on site, as well as best irrigation methods for tree establishment. Three trees are required to be planted on site.

Public Works:

The Public Works Department, Engineering Division, has completed a review of plans of the above project. The following Required Action shall be listed on the first sheet and/or delineated within your building plans.

REQUIRED ACTION

1. Proposed project must implement storm water best management practices (BMPs) during construction.(SMC 8.46)
 - a. Complete and submit a Storm water Compliance Tracking Form, with building permit application.
 - b. A project specific Erosion and Sediment Control Plan (ESCP) is required of the applicant as part of building permit application.
2. Post-development peak storm water runoff rates shall not exceed predevelopment rate. A pro rata share of the cost of offsite erosion sediment, and flood control improvements and/or for maintenance to the principal drainage way may be required by the city engineer to handle the increase peak runoff and/or sediment generated by the project. (SMC 15.32.170)
 - a. As part of building permit application, develop civil grading and drainage plans to clearly show direction of storm water drainage from new or redeveloped impervious surfaces.
 - b. Drainage shall not be directed to adjacent properties.
 - c. Site plans to clearly show direction of storm water drainage from new or redeveloped impervious surfaces.
 - d. Drainage shall not be directed to adjacent properties.
 - e. Site plan to clearly denote site coverage type (ie landscaping, building, concrete,)
 - f. Site plan to include table summarizing existing impervious surface square footage, proposed new impervious surface, redeveloped impervious surface and total impervious surface.
 - g. Proposed site plans to show location of new and existing downspouts.

- h. Downspouts and/or overflow from cisterns or rain barrels to be directed to permeable surface.
- 3. Applicant shall pay sign relocation fee for relocation of school crossing sign.
 - a. Sign will be relocated by the city west to align approximately with the northwest corner of the lot.
- 4. Prior to final inspection, any curb, gutter and sidewalk damaged during construction shall be replaced by a licensed concrete contractor in conformance with the most current applicable engineering standards, and upon the prior issuance of an Encroachment Permit from the Public Work Department.

Fire:

- 1. Fire Sprinklers Required – The residence shall be protected with an automatic fire sprinkler system in compliance with the National Fire Protection Association Standard 13D. Plans for the fire sprinkler system must be submitted and approved by the Seaside Fire Department prior to installation. Rough-in inspections must be completed prior to requesting a framing inspection from the Building Department.
- 2. A fire alarm water flow switch is required on all residential fire sprinkler systems and shall be located so that it is audible to the occupants of the residence. The flow switch shall be wired to the kitchen refrigerator circuit.
- 3. It is the responsibility of the applicant to check with the local water service company (Cal Am) to insure the proper water meter size is provided for both the domestic and fire sprinkler flows. Generally, a 1 inch meter is required.
- 4. An indicating type valve shall be installed in a location where it shuts off both the fire sprinkler and the domestic system. The indicating valve shall be installed above grade and shall be a ball-type valve only. A separate valve just for the fire sprinkler system is not required.
- 5. All underground piping is to be flushed prior to the connection of any fire sprinkler piping.
- 6. Separate fire sprinkler plans need to be delivered to Seaside Fire Department,, located at 1635 Broadway Avenue. A minimum of (3) sets of plans are required. If the applicant requires (2) sets of

approved plans, then (4) sets need to be delivered to the Fire Department. Applicant needs to submit to the Fire Department for prior approval.

PASSED AND ADOPTED at the special meeting of the Planning Commission of the City of Seaside, State of California, on the 14th day of April 2021, by the following vote:

AYES:

NOES:

ABSENT:

ABSTAIN:

John Owens, Chairperson

ATTEST:

Planning Commission Secretary

RESOLUTION No. 20-XX
ARCHITECTURAL REVIEW APPLICATION NO. BAR-21-01
and
USE PERMIT 21-01

These permits are hereby accepted upon the express terms and conditions hereof, and shall have no force or effect unless and until agreed to, in writing, by the applicant and property owner(s).

The undersigned hereby acknowledge the approved terms and conditions and agree to fully conform to, and comply with, said terms and conditions within the time frames approved by the City of Seaside Planning Commission.

Applicant's
Date

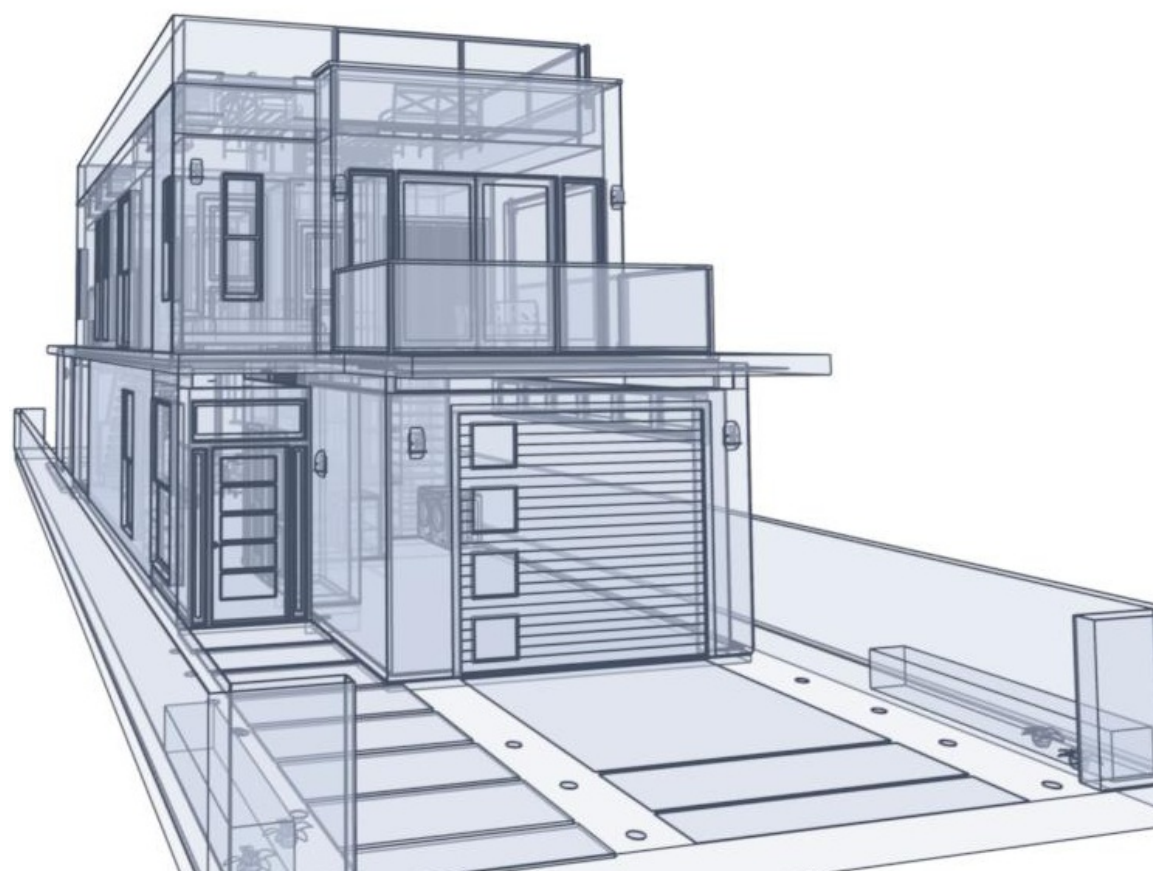
Signature

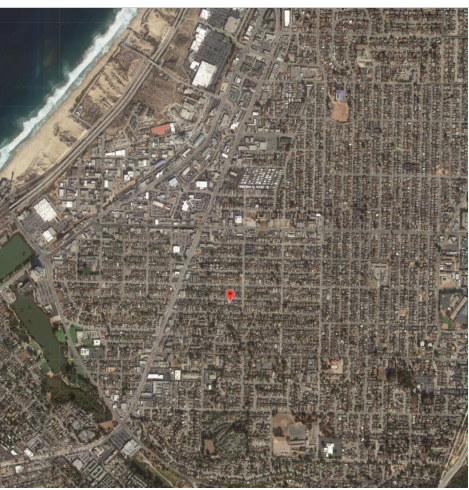
Property Owner's Signature *(if different from above)*
Date

DMITRY KISSELEV

APN: 012-274-019-000

HAMILTON AVE , SEASIDE



GENERAL NOTES	APPLICABLE CODES	PROJECT DATA	PROJECT TEAM	SHEET INDEX
1. CONTRACTOR LICENSE: THE CONTRACTOR(S) PERFORMING THE WORK DESCRIBED BY THESE PLANS AND SPECIFICATIONS SHALL BE PROPERLY AND CURRENTLY LICENSED DURING THE EXECUTION OF THE PROJECT AND SHALL NOT PERFORM WORK OUTSIDE THE LEGAL SCOPE OF ANY LICENSE. 2. SCOPE: THE CONTRACTOR SHALL PROVIDE AND PAY FOR ALL LABOR, MATERIALS, TOOLS, EQUIPMENT AND MACHINERY, TRANSPORTATION, WATER, HEAT, ELECTRICAL, TELEPHONE, AND ANY OTHER RELATED ITEMS NECESSARY FOR THE PROPER EXECUTION AND TIMELY COMPLETION OF THE WORK. 3. QUALITY CONTROL: IT IS THE EXPRESS INTENTION OF THESE PLANS AND SPECIFICATIONS TO REQUIRE A HIGH STANDARD OF WORK. IF, AT THE OPTION OF THE CONTRACTOR, ANY PORTION OF THE DOCUMENTATION HEREIN IS INCONSISTENT WITH THIS, THE OWNER AND THE DESIGNER SHALL BE NOTIFIED PRIOR TO EXECUTING THE WORK AND ALLOWED REVISION TIME IF FELT NECESSARY. 4. WARRANTY: THE CONTRACTOR WARRANTS TO THE OWNER THAT ALL MATERIALS AND EQUIPMENT FURNISHED UNDER THIS CONTRACT WILL BE NEW UNLESS OTHERWISE SPECIFIED, AND THAT ALL WORK WILL BE OF GOOD QUALITY, FREE FROM FAULTS AND DEFECTS, AND IN CONFORMANCE WITH THE CONTRACT DRAWINGS AND SPECIFICATIONS. 5. PERMITS: UNLESS OTHERWISE INSTRUCTED, THE OWNER SHALL PAY ALL PERMIT FEES INCLUDING UTILITIES. THE CONTRACTOR SHALL SECURE THE BUILDING PERMIT AND ANY OTHER PERMITS PRIOR TO STARTING THE WORK AND COMPLY WITH ALL INSPECTION REQUIREMENTS THROUGH FINAL SIGN-OFF. 6. LEGAL/NOTICE/SCOPE COMPLIANCE: THE CONTRACTOR SHALL GIVE ALL NOTICES AND COMPLY WITH ALL LAWS, ORDINANCES, BUILDING CODES, RULES, REGULATIONS AND OTHER LAWFUL ORDERS OF ANY PUBLIC AUTHORITY BEARING ON THE PERFORMANCE OF WORK. THE CONTRACTOR SHALL PROMPTLY NOTIFY THE DESIGNER IN WRITING IF THE DRAWINGS AND/OR SPECIFICATIONS ARE AT VARIANCE WITH ANY SUCH REQUIREMENTS. 7. 2019 UBC: ADDITIONAL DESIGN RESPONSIBILITIES: THE CONTRACTOR SHALL BE SOLELY RESPONSIBLE FOR ALL CONSTRUCTION MEANS, METHODS, TECHNIQUES, SEQUENCES AND PROCEDURES SELECTED TO EXECUTE THE WORK. THE CONTRACTOR SHALL COORDINATE ALL PORTIONS OF WORK WITHIN THE SCOPE OF THE CONTRACT. 8. JOB SITE SAFETY: THE CONTRACTOR SHALL BE RESPONSIBLE FOR INITIATING, MAINTAINING AND PROPERLY SUPERVISING ADEQUATE INDUSTRY STANDARD SAFETY PRECAUTIONS AND PROGRAMS IN CONNECTION WITH THIS WORK. 9. INDURANCE: LIABILITY INSURANCE SHALL BE MAINTAINED BY THE CONTRACTOR TO PROTECT AGAINST CLAIMS UNDER WORKMAN'S COMPENSATION ACTS. DAMAGES DUE TO BODILY INJURY INCLUDING DEATH, AND FOR ANY PROPERTY DAMAGES ARISING OUT OF OR RESULTING FROM THE CONTRACTOR'S OPERATIONS UNDER THE CONTRACT. THE INSURANCE SHALL BE FOR LIABILITY LIMITS SATISFACTORY TO THE OWNER. THE OWNER HAS THE RIGHT TO REQUIRE CONTRACTUAL LIABILITY INSURANCE APPLICABLE TO THE CONTRACTOR'S OBLIGATIONS. CERTIFICATES OF SUCH INSURANCE SHALL BE FILED WITH THE OWNER PRIOR TO THE COMMENCEMENT OF WORK. 10. DISSEMINATION: THE CONTRACTOR WHO AGREES TO PERFORM THIS WORK ALSO AGREES TO PROMPTLY AND FULLY WARN THE OWNER AND DESIGNER FROM AND AGAINST ALL CLAIMS/DAMAGES/COSTS/AND EXPENSES, INCLUDING ATTORNEY'S FEES AND LITIGATION COSTS, ARISING OUT OF RESULTING FROM THE PERFORMANCE OF THE WORK. 11. CLEANING UP: THE CONTRACTOR SHALL KEEP THE PREMISES AND SITE FREE FROM ACCUMULATION OF WASTE MATERIALS DURING CONSTRUCTION BY PERIODIC CLEAN UP AND OFF-SITE DEBRIS REMOVAL. FINAL CLEANUP AND DEBRIS DISPOSITION SHALL BE TO THE SATISFACTION OF THE OWNER. 12. EXISTING CONDITIONS: CONTRACTOR SHALL VISIT THE SITE AND VERIFY ALL EXISTING CONDITIONS PRIOR TO ANY WORK AND NOTIFY THE DESIGNER OF ANY DISCREPANCIES BETWEEN THESE DRAWINGS/CONDITION AND EXISTING AFFECTING THE WORK AND NATURE OF SPECIFIED MATERIALS AND/OR SCOPE OF DESIGN. 13. CONSTRUCTION NOTES: ALL NOTES, DIMENSIONS, ETC. INDICATE NEW MATERIALS OR CONSTRUCTION UNLESS OTHERWISE NOTED. 14. BUILDING CODES: PROJECT SHALL COMPLY WITH THE 2019 CALIFORNIA BUILDING, PLUMBING, MECHANICAL, ELECTRICAL, FIRE AND ENERGY CODES. 15. OWNER SHALL SCHEDULE THE MANDATORY PRE-CONSTRUCTION SITE INSPECTION USING THE PERMIT BETWEEN OCT 11 AND APRIL 15.	ALL CODES REFERENCED ARE TO BE USED AS AMENDED BY THE STATE OF CALIFORNIA AND LOCAL JURISDICTION. PROJECT SHALL COMPLY WITH THE: 2019 CALIFORNIA BUILDING CODE 2019 CALIFORNIA PLUMBING CODE 2019 CALIFORNIA MECHANICAL CODE 2019 CALIFORNIA FIRE CODE 2019 CALIFORNIA ELECTRICAL CODE 2019 CALIFORNIA ENERGY CODE 2019 ACCESS COMPLIANCE 2019 CAL GREEN 2019 RESIDENTIAL CODE CITY OF MONTEREY AMENDMENTS AND STATE REGULATORY REQUIREMENTS UTILITIES: GAS ELEC. SEWER WATER PG&E PG&E MRWPCA DOMESTIC - CALAM	A.P.N.:012-274-019-000 ZONING:RM BLDG USE:RESIDENTIAL OCC. GROUPR3-U1 CONST. TYPEV-B CLIMATE ZONE:4 BLDG. CODE:2019 CBC FIRE SPRINKLERS:YES SITE COVERAGE LOT AREA:2,500 SQ FT ALLOWED SITE COVERAGE:1,625 SQ FT RESIDENCE:1,270 SQ FT PATIO: PROPOSED SITE COVERAGE:1,263 SQ FT ALLOWED F.A.R.:1,125 SQ FT PROPOSED F.A.R.:1,358 SQ FT BUILDING HEIGHT: MAX ALLOWED :24' 24' PARKING : PERMEABLE :1,416 SQ FT NON- PERMEABLE :997 SQ FT	DESIGNER MONTEREY DESIGN CENTER 201 CANNERY ROW SUITE 1 MONTEREY, CA, 93940 831- 392- 7788 CONTACT: CHAD BROWN STRUCTURAL ENGINEER STRUCTURES INC FREMONT SEASIDE, CA 93955 831-393-4460 CONTACT: WILL COKER CIVIL/SURVEY/SOILS & GEOTECH ENGINEER LAND SET SURVEYORS 520 CRAZY HORSE CANYON RD #B SALINAS, CA 93907 831-443-6970 TITLE 24 ENGINEER/MECHANICAL ENGINEER MONTEREY ENERGY GROUP 26465 CARMEL RANCHO BLVD #8 CARMEL BY THE SEA, CA 93923 831-372-8328	A.01 TITLE PAGE A.02 SITE PLAN A.03 FIRST FLOOR PLAN A.04 SECOND FLOOR PLAN A.05 ELEVATIONS NORTH & SOUTH A.06 ELEVATIONS EAST & WEST A.07 MATERIALS
ABBREVIATIONS	VICINITY MAP	SCOPE OF WORK		
ALT. Alternate BLKG Blocking BM Beam CONT. Continuous CONC. Concrete D.F. Douglas Fur DCKG Decking DIA. Diameter IE Existing EA. Edge Nailing E.N. Etcetera ETC. Exterior EXT. Exterior FLR Floor FNDN Foundation F.N. Face Nail FRMG Framing FTG Footing GA. Gauge GALV. Galvanized HDR Header HGR Hanger JSTS Joists JNI New O.C. On Center OPNG Opening PLYWD Plywood P.T. Pressure Treated RDWD Redwood RFR Rafter REQ'D Required RET. Retaining SHTHG Sheathing SIM. Similar T & B Top and Bottom T & G Tongue and groove TYP. Typical T.N. Toe Nail U.O.N. Unless Otherwise Noted		NEW 1270 SQ FT RESIDENCE NEW 280 SQ FT GARAGE NEW GRAY WATER SYSTEM NEW SOLAR PANELS NEW ROOF DECK EXTERIOR STAIRCASE GRADING & DRAINAGE NEW 200 AMP ELECTRICAL PANEL		

DRWG
REV: 4

MONTEREY
DESIGN
CENTER

DMITRI KISSELEV
012-274-019-000
HAMILTON AVE. SEASIDE

TITLE SHEET

DESIGNER:
NAJAT ABDELA

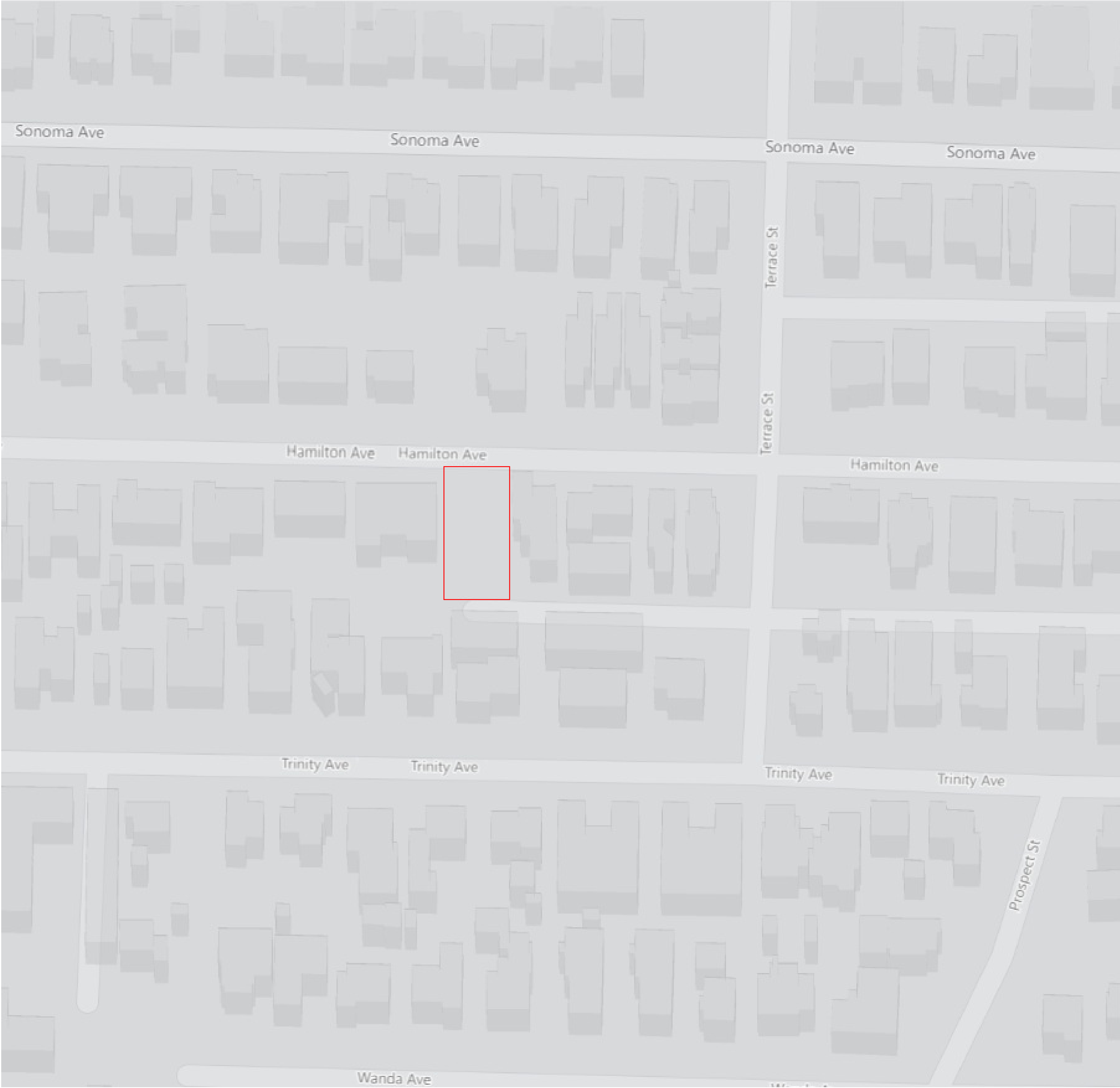
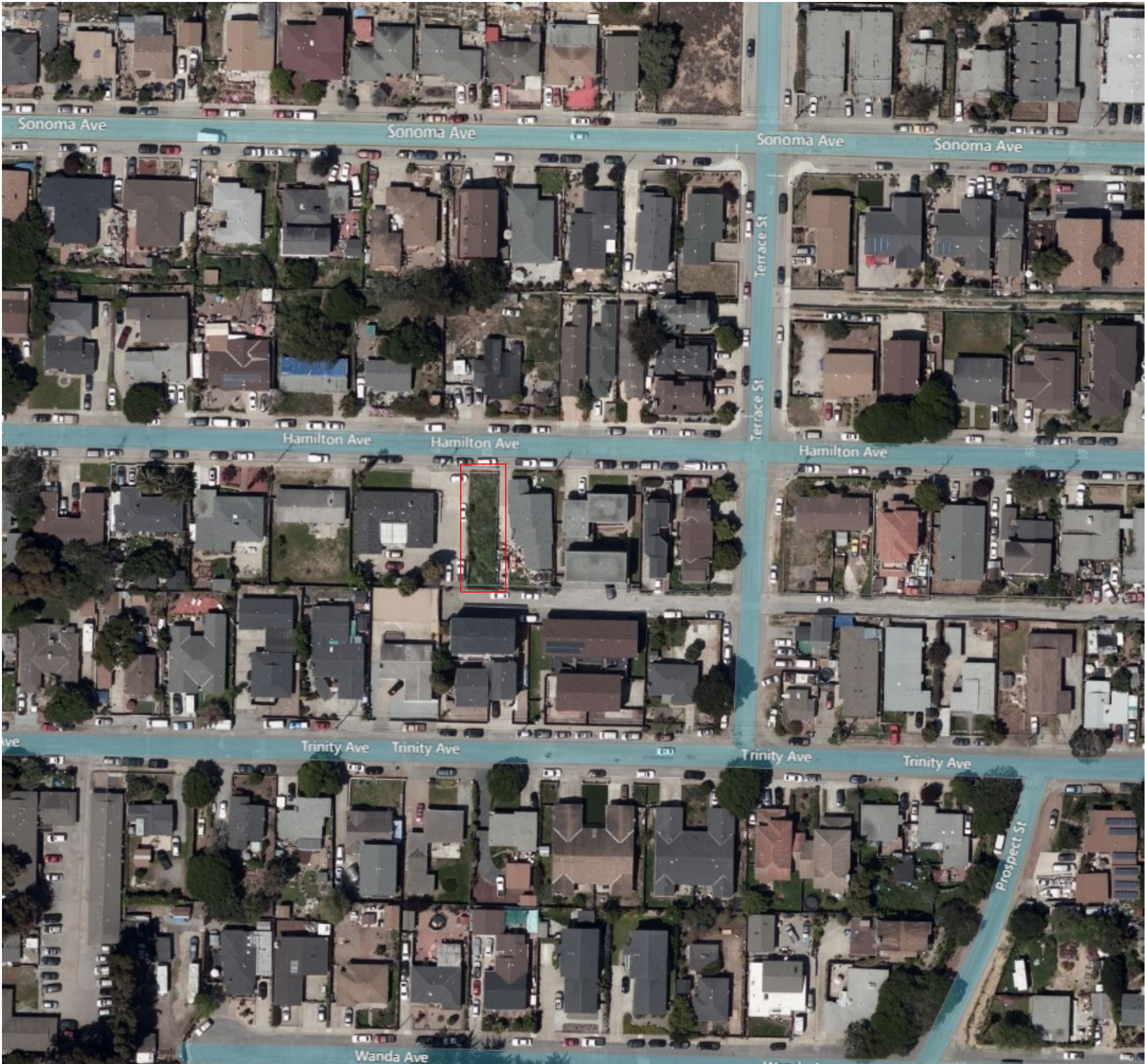
DATE:
3.15.21

A.01

DRWG

DMITRY KISSELEV

APN: 012-274-019-000
HAMILTON AVE , SEASIDE



DRWG
REV: 4



MONTEREY
DESIGN
CENTER

DIMITRI KISSELEV
012-274-019-000
HAMILTON AVE. SEASIDE

DATE:
3.15.21

SITE PLAN

DESIGNER:
NAJAT ABDELA

A.02

APN: 012-274-019-000
HAMILTON AVE , SEASIDE



SETBACK : SB
PROPERTY LINE: PL
EXTERIOR LIGHTING: EL

1ST FLOOR PROPOSED
FLOOR PLAN

1/4"-1' SCALE

DIMITRI KISSELEV
012-274-019-000
HAMILTON AVE. SEASIDE

MONTEREY
DESIGN
CENTER

FIRST FLOOR
PROPOSED

DATE: 3.15.21

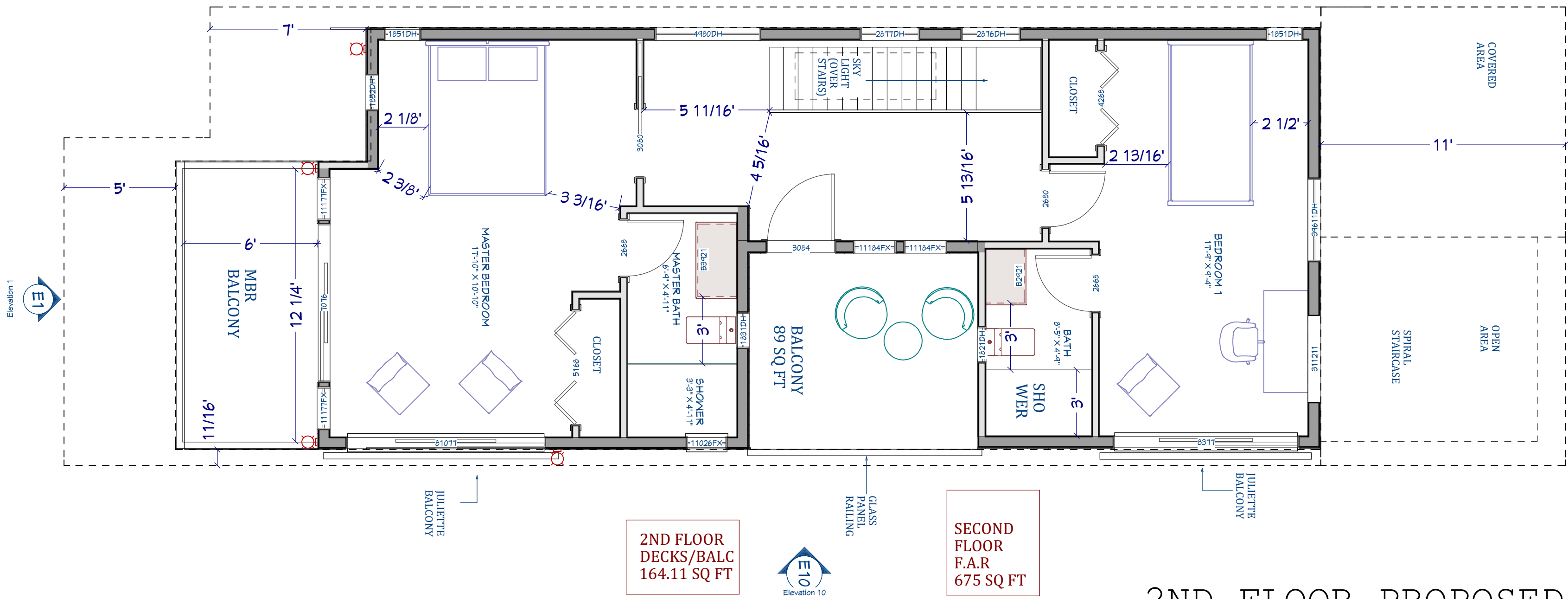
A.03

DESIGNER:
NAJAT ABDELA

DMITRY KISSELEV

APN: 012-274-019-000

HAMILTON AVE , SEASIDE



2ND FLOOR PROPOSED
FLOOR PLAN
1/4"-1' SCALE

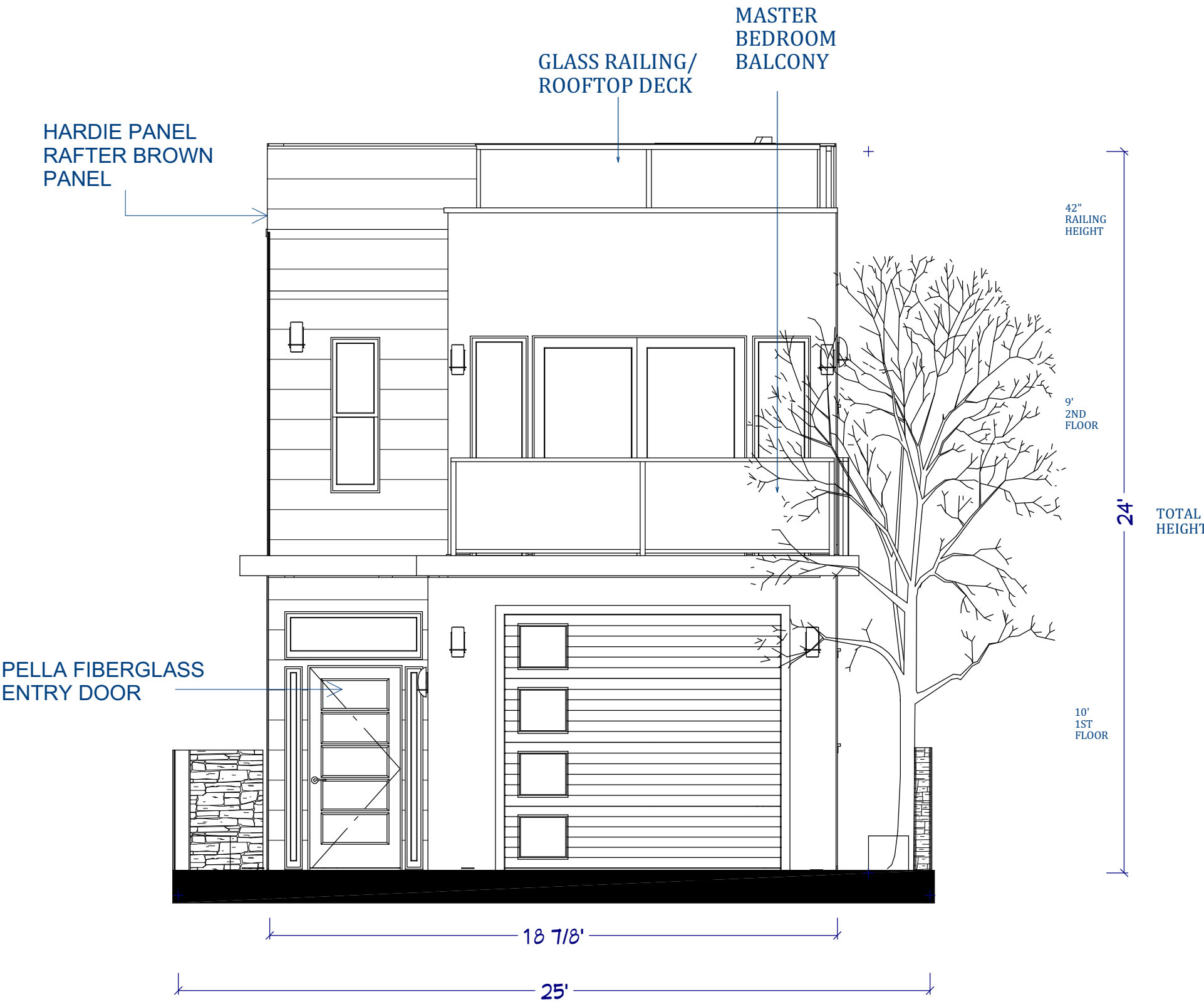


ROOF DECK PROPOSED
FLOOR PLAN
1/8"-1' SCALE

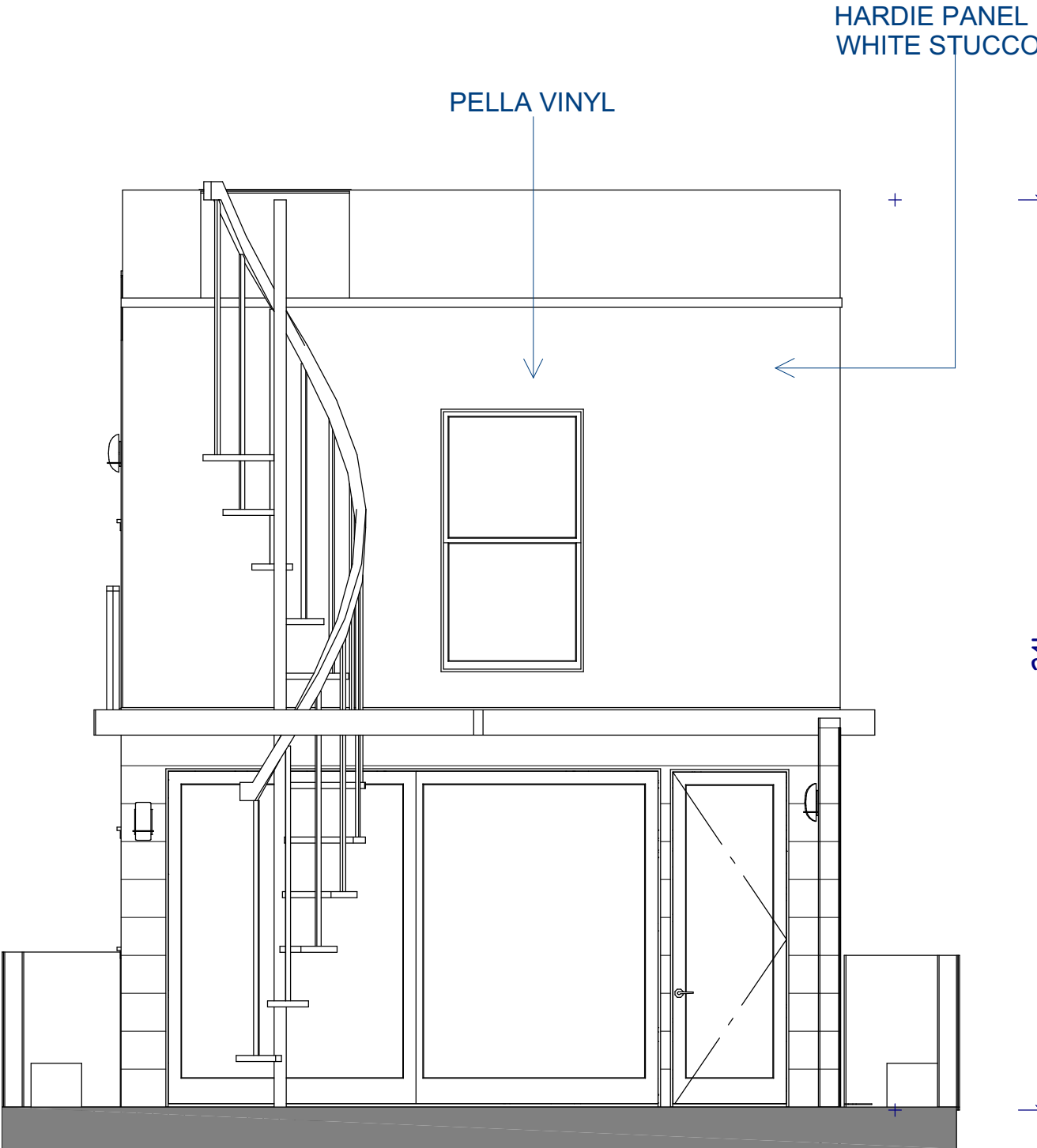


DMITRY KISSELEV

APN: 012-274-019-000
HAMILTON AVE , SEASIDE



ELEVATION NORTH
1/4"-1' SCALE



ELEVATION SOUTH
1/4"-1' SCALE



DIMITRI KISSELEV
012-274-019-000
HAMILTON AVE. SEASIDE

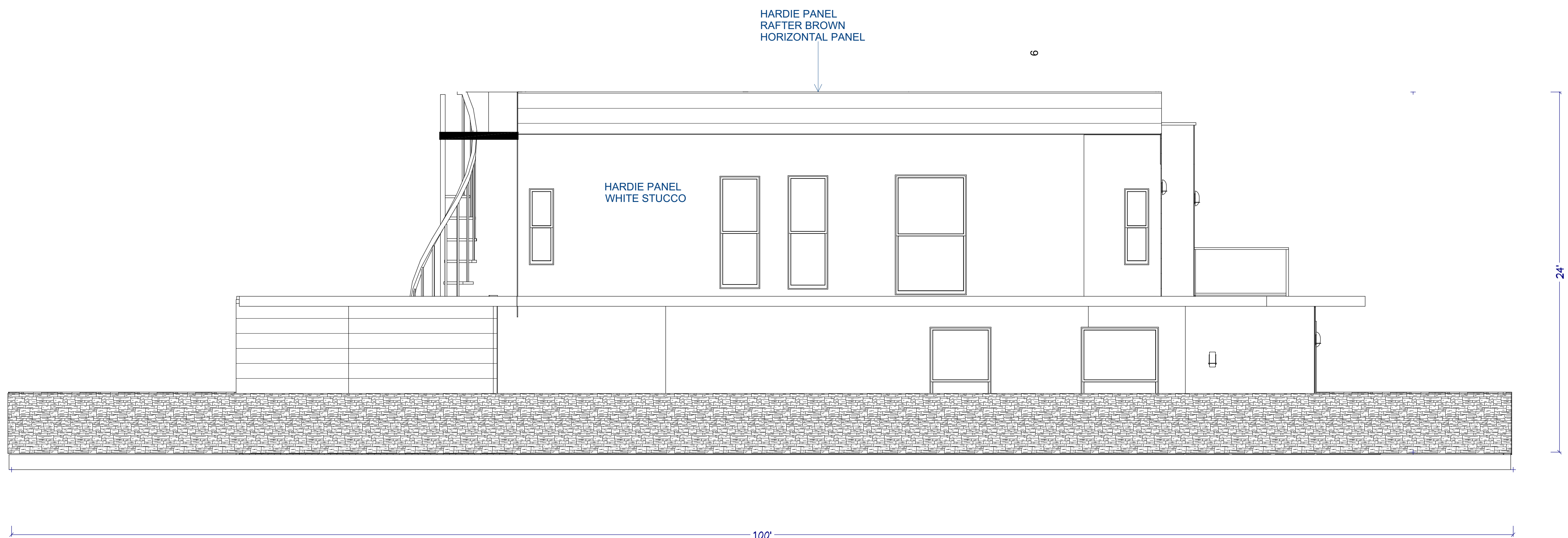
DATE:
3.15.21

ELEV. NORTH & SOUTH
PROPOSED
DESIGNER:
NAJAT ABDELA

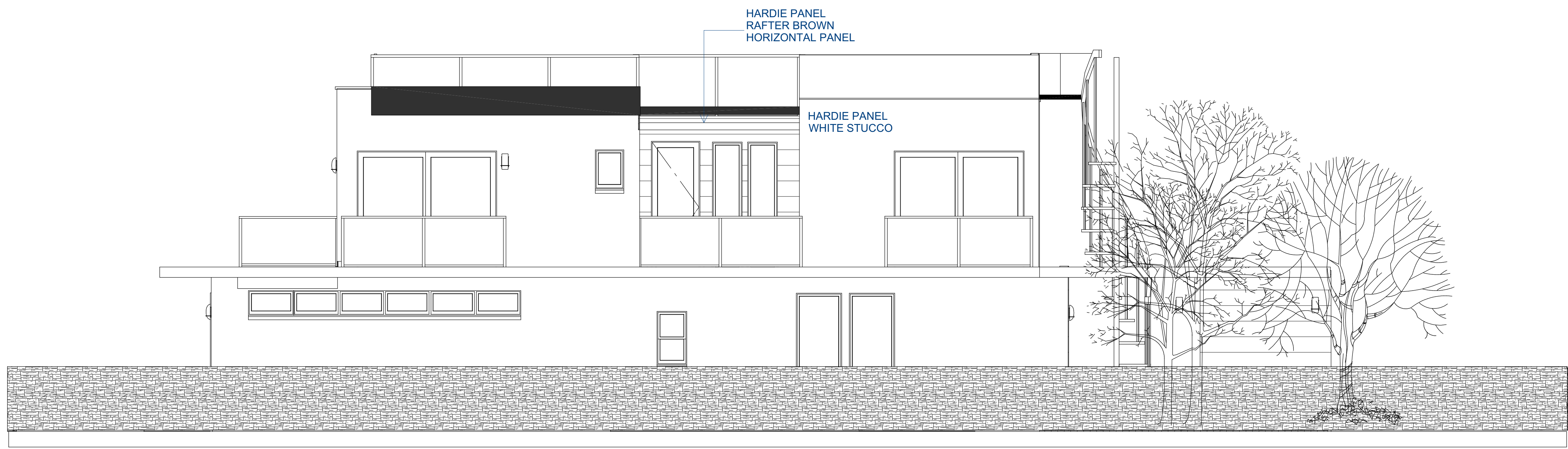
A.05
Dkt

DRWG
REV: 4
MONTEREY
DESIGN
CENTER

DMITRY KISSELEV
APN: 012-274-019-000
HAMILTON AVE , SEASIDE



ELEVATION EAST
1/4"=1' SCALE



ELEVATION WEST
1/4"=1' SCALE

DRWG
REV: 4



MONTEREY
DESIGN
CENTER

DIMITRI KISSELEV
012-274-019-000
HAMILTON AVE. SEASIDE

DATE:
3.15.21

ELEV. EAST & WEST
PROPOSED
DESIGNER:
NAJAT ABDELA

A.06

DK

DMITRY KISSELEV

APN: 012-274-019-000

HAMILTON AVE , SEASIDE



FIBERGLASS
ENTRY DOOR

DARK SKY
EXTERIOR DOWN LIGHT



PELLA WOOD
WINDOWS
& DOORS.
ALUMINUM CLADDING EXTERIOR
VINYL COLOR



PELLA SLIDING
PATIO DOOR
ALUMINUM CLADDING EXTERIOR
VINYL COLOR



HARDIE PANEL
WHITE STUCCO
'SUMMER WHITE'



HARDIE PANEL
'RAFTER BROWN'
HORIZONTAL PANELS



Area between subject site (vacant lot) and home to the right is approximately 29' wide.



Area between subject site and home to the left is approximately 12' wide.
Three story multifamily structure to the rear with 5 alley-accessed parking spaces.



Surrounding multi-story, multifamily housing.



Photo illustrating slight grade change.



CITY OF SEASIDE STAFF REPORT

Item No.: 7.B.

TO: Planning Commission

BY: Beth Rocha, Associate Planner

DATE: April 14, 2021

SUBJECT: **SEASIDE MUNICIPAL CODE AMENDMENT: INTRODUCTION OF AN AMENDED ORDINANCE FOR REVIEW AND RECOMMENDATION TO THE CITY COUNCIL, AMENDING SEASIDE MUNICIPAL CODE SECTION 17.14.030, TABLE 2-4 – ALLOWED LAND USES AND PERMIT REQUIREMENTS FOR COMMERCIAL ZONES FOR CANNABIS USES. PROPOSED AMENDMENTS INCLUDE: ADDING CANNABIS RETAIL AND CANNABIS MICROBUSINESS USES, SPECIFYING THE REQUIRED PERMIT TYPES BASED ON ZONING, REFERENCING THE SPECIFIC USE REGULATIONS OF TITLE 19: COMMERCIAL CANNABIS ACTIVITIES, AND ADDING USE-SPECIFIC FOOTNOTES. THE PROPOSED CHANGES TO THE MUNICIPAL CODE WILL NOT RESULT IN DIRECT OR INDIRECT CHANGES TO THE ENVIRONMENT AND DO NOT MEET THE DEFINITION OF A PROJECT UNDER CEQA (14 CCR 15378(B)).**

PURPOSE & RECOMMENDATION

The purpose of this item is for the Planning Commission to recommend the proposed staff generated ordinance amendments to Title 17: Zoning Ordinance Code, Seaside Municipal Code Section 17.14.030, Table 2-4 – *Allowed Land Uses And Permit Requirements for Commercial Zones* regarding Cannabis Uses through the Resolution and Exhibit A to be provided to the City Council for consideration at the First Reading of the proposed ordinance amendments.

BACKGROUND

On March 18 and April 1, 2021 the City Council twice voted 3-2 on the first and second readings for the following item: Introduction/Adoption of an ordinance of the City Council of the City Seaside amending sections of Seaside Municipal Code Title 19: Commercial Cannabis Activities to expand the total number of dispensaries allowed, adding new definitions and text amendments (See Attachment 2, Staff Report and Draft Amendments – effective May 1, 2021).

One of the eight proposed changes was adding the following definition:

“Microbusiness” means a licensee that engages in the cultivation of cannabis on an area less than 10,000 square feet and to act as a licensed distributor, Level 1 manufacturer (Type 6), and retailer, as specified in an application. In order to hold a microbusiness license, a licensee must engage in at least three (3) of the four (4) listed commercial cannabis activities. (With the passage of the Adult Use Marijuana Act, the microbusiness license was created in 2016).

In order to hold a microbusiness license, a licensee must engage in at least three (3) of the four (4) listed commercial cannabis activities.

1. Cultivation: Less than 10,000 square feet
2. Manufacturing: Level 1, Type 6: Non-volatile, extraction, infusion, packaging, and/or labeling
3. Distribution: Type 11 Distributor or Type 12 Distributor Transport-only
4. Retail: Type 10 retail sales from a physical location or Type 9 retail non-storefront

The intent behind the Microbusiness use is to encourage craft cannabis and to give small operators a chance to succeed in the cannabis economy. The microbusiness license fees are significantly lower than obtaining multiple commercial cannabis licenses for the various uses. (See Attachment 3, Article: Can Microbusinesses Save Craft Cannabis in California? How the Microbusiness License Gives Small Operations a Competitive Edge).

Current Cannabis Businesses in Seaside (retail):

Higher Level of Care – 1440 Canyon Del Rey Blvd. (in the West Broadway Urban Village (WBUV) – Our Downtown)
Rare Earth – 575 Broadway/Obama Ave. (WBUV - Our Downtown)
Urbn Leaf – 680 Broadway Ave. (WBUV - Our Downtown)
The Reef – 1900 Fremont Blvd. (CC - Community Commercial)
Plantacea – 1717 Fremont Blvd . (CRG – Regional Commercial)
Perfect Union – 840 Broadway/Obama Ave. (CMX- Commercial Mixed Use)

Current Cannabis Businesses in Seaside (non-retail):

Calfire Clones – 1625 Santa Barbara St. (CA - Automotive Commercial)
Coastal Refinement Solutions – 1636 Del Monte Blvd. (CMX- Commercial Mixed Use)
Coastal Research Inc. – 1400 Canyon Del Rey Blvd. (WBUV - Our Downtown)
HG Logistics – 755 Broadway/Obama Ave. (WBUV - Our Downtown)
Kali Gold Extracts – 307 Roberts Ave. (CH - Heavy Commercial)

PROPOSED AMENDMENTS

The following amendments are proposed to Seaside Municipal Code section 17.14.030, Table 2-4: Allowed Land Uses and Permit Requirements for Commercial Zones:

1. Add “Cannabis Microbusiness” to the use table and the requirement of a Minor Use Permit (MUP) for the establishment of the use.
 2. Add “Cannabis Retail” to the use table and add the requirement of a Conditional Use Permit (CUP) for the establishment of the use.
 3. Add a reference to SMC Title 19 for all cannabis uses in the Specific Use Regulations column.
 4. Add the following footnotes to the use table to specifically address exceptions/regulations:
7. A Minor Use Permit for a Cannabis Microbusiness shall not result in a new Cannabis Retail business.

An existing Cannabis Retail business to be licensed as a Cannabis Microbusiness shall require a Conditional Use Permit in accordance with Seaside Municipal Code Title 19.

8. In the West Broadway Urban Village, a Cannabis Microbusiness without a retail component requires a Minor Use Permit

9. A Cannabis Retail business requires a Conditional Use Permit in accordance with Seaside Municipal Code Title 19.

10. In the West Broadway Urban Village, a Cannabis Retail business requires a Conditional Use Permit in accordance with Seaside Municipal Code Title 19.

FINDINGS

1. The proposed amendments would not be detrimental to the public interest, health, safety, convenience, or welfare of the City.

Evidence: *The proposed text amendments clarify existing cannabis business types permitted in the city and provides references to the specific regulations in Title 19; and add one new type of cannabis use: microbusinesses, as well as allowing for that use in the CRG zone; and lists a Conditional Use Permit as the new permit type required for cannabis retail businesses, changing from a Use Permit, as approved by the City Council. Furthermore it is the intent of the City of Seaside to support new business models in the community that are consistent with the General Plan, attract a diverse and balanced mix of business types that will generate a stable, long-term stream of revenue to the city, and support uses that will attract visitors from outside of the city.*

2. The proposed amendments to 17.14.030, Table 2-4 are consistent with the General Plan.

Evidence: *The proposed changes to the permitting requirements for Cannabis uses (17.14.030, Table 2-4), are consistent with the General Plan.*

The Commercial Mixed-Use (CMX) zone implements and is consistent with the Mixed Use land use designation in the General Plan, which aims to promote pedestrian and transit oriented activity centers in the community with a mix of residential, commercial, office and civic uses.

The Community Commercial (CC) zone implements and is consistent with the Community Commercial land use designation of the General Plan, which is intended for retail and service oriented business activities primarily serving the local community or neighborhood. Uses may include restaurants, supermarkets, health clubs, retail goods and services, personal services, offices, and neighborhood-oriented retail uses.

The Regional Commercial (CRG) zone implements and is consistent with the Regional Commercial (RGC) land use designation of the General Plan, which is applied to areas of the City that are appropriate for large-scale commercial development with retail, entertainment, and/or service uses, or business parks of a scale and function to serve a regional market. Permitted land uses may include hotels, "big-box" retail, movie theaters, and business parks in the North Seaside area only. Regional Commercial uses are defined as large scale 1.0:1 FAR commercial development with retail, entertainment, and or service uses of a scale and function to serve a regional market. Includes hotels, auto sales, auto repair, auto repair related uses, "big box" retail, and movie theaters.

3. The exemption from the California Environmental Quality Act (CEQA) has been established.

Evidence: *In accordance with the California Environmental Quality Act (CEQA) Guidelines the proposed changes to the municipal code will not result in direct or indirect changes to the environment and do not meet the definition of a project under CEQA (14 CCR 15378(b)).*

ATTACHMENTS

1. Attachment 1: Draft Resolution
2. Exhibit A to Attachment 1: Proposed Amendments
3. Attachment 2: Title 19 Staff Report and Amendments (Council Approved)
4. Attachment 3: Cannabis Microbusiness Article

DRAFT RESOLUTION 20-XX

A RESOLUTION OF THE PLANNING COMMISSION OF THE CITY OF SEASIDE

RECOMMENDING THAT THE CITY COUNCIL AMEND SEASIDE MUNICIPAL CODE SECTION 17.14.030, TABLE 2-4 – ALLOWED LAND USES AND PERMIT REQUIREMENTS FOR COMMERCIAL ZONES REGARDING CANNABIS USES: ADDING CANNABIS RETAIL AND CANNABIS MICROBUSINESSES, SPECIFYING THE REQUIRED PERMIT TYPES BASED ON ZONING, AND ADDING USE-SPECIFIC FOOTNOTES.

WHEREAS, it is the responsibility of the Planning Commission to consider and weigh the merits of text amendments and provide a recommendation to the City Council on the proposed text amendments; and

WHEREAS, the Seaside Planning Commission considered oral comments and written information at a duly noticed special meeting held on April 14, 2021 and adopted a resolution recommending the City Council adopt an Ordinance to approve the proposed text amendments as outlined below, as included in Exhibit A:

Exhibit A: Seaside Municipal Code section 17.14.030, Table 2-4: Allowed Land Uses and Permit Requirements for Commercial Zones:

1. Add "Cannabis Microbusiness" to the use table and the requirement of a Minor Use Permit (MUP) for the establishment of the use.
2. Add "Cannabis Retail" to the use table and add the requirement of a Conditional Use Permit (CUP) for the establishment of the use.
3. Add a reference to SMC Title 19 for all cannabis uses in the Specific Use Regulations column.
4. Add the following footnotes to the use table to specifically address exceptions/regulations:
 7. A Minor Use Permit for a Cannabis Microbusiness shall not result in a new Cannabis Retail business. An existing Cannabis Retail business to be licensed as a Cannabis Microbusiness shall require a Conditional Use Permit in accordance with Seaside Municipal Code Title 19.
 8. In the West Broadway Urban Village, a Cannabis Microbusiness without a retail component requires a Minor Use Permit.
 9. A Cannabis Retail business requires a Conditional Use Permit in accordance with Seaside Municipal Code Title 19.
 10. In the West Broadway Urban Village, a Cannabis Retail business requires a Conditional Use Permit in accordance with Seaside Municipal Code Title 19.

NOW, THEREFORE, BE IT RESOLVED, the Planning Commission hereby finds and determines:

1. The proposed amendments would not be detrimental to the public interest, health, safety, convenience, or welfare of the City.

Evidence: The proposed text amendments clarify existing cannabis business types permitted in the city and provides references to the specific regulations in Title 19; and add one new type of cannabis use: microbusinesses, as well as allowing for that use in the CRG zone; and lists a Conditional Use Permit as the new permit type required for cannabis retail businesses, changing from a Use Permit, as approved by the City Council. Furthermore it is the intent of the City of Seaside to support new business models in the community that are consistent with the General Plan, attract a diverse and balanced mix of business types that will generate a stable, long-term stream of revenue to the city, and support uses that will attract visitors from outside of the city.

2. The proposed amendments to 17.14.030, Table 2-4 are consistent with the General Plan.

Evidence: The proposed changes to the permitting requirements for Cannabis uses (17.14.030, Table 2-4), are consistent with the General Plan.

The Commercial Mixed-Use (CMX) zone implements and is consistent with the Mixed Use land use designation in the General Plan, which aims to promote pedestrian and transit oriented activity centers in the community with a mix of residential, commercial, office and civic uses.

The Community Commercial (CC) zone implements and is consistent with the Community Commercial land use designation of the General Plan, which is intended for retail and service oriented business activities primarily serving the local community or neighborhood. Uses may include restaurants, supermarkets, health clubs, retail goods and services, personal services, offices, and neighborhood-oriented retail uses.

The Regional Commercial (CRG) zone implements and is consistent with the Regional Commercial (RGC) land use designation of the General Plan, which is applied to areas of the City that are appropriate for large-scale commercial development with retail, entertainment, and/or service uses, or

business parks of a scale and function to serve a regional market. Permitted land uses may include hotels, "big-box" retail, movie theaters, and business parks in the North Seaside area only. Regional Commercial uses are defined as large scale 1.0:1 FAR commercial development with retail, entertainment, and or service uses of a scale and function to serve a regional market. Includes hotels, auto sales, auto repair, auto repair related uses, "big box" retail, and movie theaters.

3. The exemption from the California Environmental Quality Act (CEQA) has been established.

Evidence: In accordance with the California Environmental Quality Act (CEQA) Guidelines the proposed changes to the municipal code will not result in direct or indirect changes to the environment and do not meet the definition of a project under CEQA (14 CCR 15378(b)).

NOW, THEREFORE, BE IT FURTHER RESOLVED, that the Planning Commission recommends to the City Council adopts an Ordinance to amend seaside municipal code section 17.14.030, table 2-4 – *Allowed Land Uses And Permit Requirements For Commercial Zones* regarding cannabis uses: adding cannabis retail and cannabis microbusinesses, specifying the required permit types based on zoning, and adding use-specific footnotes.

PASSED AND ADOPTED at the special meeting of the Planning Commission of the City of Seaside, State of California, on the 14th day of April 2021, by the following vote:

AYES:

NOES:

ABSENT:

ABSTAIN:

John Owens, Chairperson

ATTEST:

Dominique L. Davis, City Clerk

EXHIBIT A

TABLE 2-4 – Allowed Land Uses and Permit Requirements for Commercial Zones

P Permitted Use, Zoning Clearance required MUP Minor Use Permit required (see Section 17.62.070) UP Use Permit required (see Section 17.62.070) – Use not allowed LAND USE ⁽¹⁾	CMX – Commercial Mixed Use					
	CC – Community Commercial					
	CRG – Regional Commercial					
	CA – Automotive Regional Commercial					
	CH – Heavy Commercial					
	PERMIT REQUIRED BY ZONE					Specific Use Regs
	CMX	CC	CRG	CA	CH	

INDUSTRY, MANUFACTURING & PROCESSING, WHOLESALING

Artisan/craft product manufacturing	UP	UP	–	–	P	<u>All Cannabis uses: SMC Title 19</u>
Cannabis cultivation	MUP*	–	–	–	–	
Cannabis manufacturing	MUP	MUP	–	–	MUP	
Cannabis related processing	MUP	MUP	–	–	MUP	
Cannabis research and development	MUP	MUP	–	–	MUP	
Cannabis testing	P	P	–	P	P	

<u>Cannabis Microbusinesses⁷</u>	<u>MUP</u>	<u>MUP</u>	<u>MUP</u>	<u>MUP</u>	<u>MUP</u>	<u>WBUV⁸</u>
<u>Cannabis Retail⁹</u>	<u>CUP</u>	<u>CUP</u>	<u>CUP</u>	<u>CUP</u>	<u>CUP</u>	<u>WBUV¹⁰</u>

⁷ A Minor Use Permit for a Cannabis Microbusiness shall not result in a new Cannabis Retail business. An existing Cannabis Retail business to be reclassified as a Cannabis Microbusiness shall require a new Conditional Use Permit in accordance with Seaside Municipal Code Title 19.

⁸ In the West Broadway Urban Village, a Cannabis Microbusiness requires a Minor Use Permit.

⁹ Cannabis Retail businesses require a Conditional Use Permit in accordance with Seaside Municipal Code Title 19.

¹⁰ In the West Broadway Urban Village, a Cannabis Retail business requires a Conditional Use Permit in accordance with Seaside Municipal Code Title 19.

ORDINANCE NO. XXXX

AN ORDINANCE OF THE CITY COUNCIL OF THE CITY OF SEASIDE

**AMENDING SEASIDE MUNICIPAL CODE TITLE 19 COMMERCIAL
CANNABIS ACTIVITIES TO INCREASE THE NUMBER OF TOTAL
DISPENSARIES AND OTHER TEXT AMENDMENTS, (FIRST READING -
ROLL CALL VOTE)**

**THE CITY COUNCIL OF THE CITY OF SEASIDE DOES ORDAIN AS
FOLLOWS:**

SECTION 1. GENERAL PURPOSE AND FINDINGS.

The purpose of this Ordinance is to consider the following text amendments to the Seaside Municipal Code:

Proposed text amendments to Seaside Municipal Code Title 19, to increase the number of dispensaries and to harmonize the Title with state law.

FINDINGS

WHEREAS State law has made changes to the way cannabis activities may be carried out; and

WHEREAS, cannabis activities since inception of Title 19 have provided a much needed source of income to the City with a minimum of issues; and

WHEREAS, changing the permit system to a conditional use permit allows the City more flexibility to determine future cannabis locations and to monitor and regulate transfers of the cannabis operations.

SECTION 2. ENVIRONMENTAL COMPLIANCE

The proposed changes to the Municipal Code will not result in direct or indirect changes to the environment and do not meet the definition of a project under CEQA. (14 CCR 15378(b)).

SECTION 3. PROPOSED TEXT AMENDMENT

This ordinance incorporates the attached text amendments to Seaside Municipal Code Title 19 as reflected on the attached Exhibit A. The new language is shown in underline and removed language is shown in strikeout.

SECTION 4. EFFECTIVE DATE

This Ordinance shall become effective thirty (30) days after its final passage and adoption at a duly noticed public hearing for the second reading of the proposed text amendments.

INTRODUCED AND PASSED TO PRINT at a regular meeting of the City Council of the City of Seaside, State of California, on the ____ day of March, 2021.

PASSED AND ADOPTED at a regular meeting of the City Council of the City of Seaside, State of California, on the __ day of _____, 2021, by the following vote:

AYES: COUNCIL MEMBERS:
NOES: COUNCIL MEMBERS:
ABSENT: COUNCIL MEMBERS:
ABSTAIN: COUNCIL MEMBERS:

Ian N. Oglesby, Mayor

ATTEST:

Dominique L. Davis, City Clerk

Title 19

COMMERCIAL CANNABIS ACTIVITIES

Chapters:

- 19.01 Definitions**
- 19.02 Cannabis Dispensaries and Operating Standards**
- 19.03 Commercial Cannabis Cultivation and Operating Standards**
- 19.04 Commercial Cannabis Testing, Manufacturing, and Research and Development Operating Standards**
- 19.05 Cannabis Transport and Distribution**
- 19.06 Public Hearing**
- 19.07 Ranking and Allocation Procedure and Criteria**
- 19.08 Selection Criteria**
- 19.09 Enforcement**
- 19.10 Appeals Procedure**
- 19.11 Severability**

Chapter 19.01

DEFINITIONS

Sections:

19.01.010 Definitions.

19.01.010 Definitions.

The following words or phrases, whenever used in this title, shall be given the following definitions:

“Adult cannabis” or “adult cannabis product” means a product containing cannabis, including, but not limited to, concentrates and extractions, intended to be sold for use by adults in California pursuant to the Adult Use of Marijuana Act of 2016 (Proposition 64), found at Section 11362.1 of the Health and Safety Code. For the purposes of this title, “adult cannabis” does not include “industrial hemp” as defined by Section 81000 of the Food and Agricultural Code or Section 11018.5 of the Health and Safety Code.

“Bureau” means the Bureau of Medical Marijuana Regulation within the California Department of Consumer Affairs.

“Cannabinoid” or “phytocannabinoid” means a chemical compound that is unique to and derived from cannabis.

“Cannabis concentrate” means manufactured cannabis that has undergone a process to concentrate the cannabinoid active ingredient, thereby increasing the product’s potency.

“Canopy” means all areas occupied by any portion of a cannabis plant, inclusive of all vertical planes, whether contiguous or noncontiguous on any one site.

“Certificate of accreditation” means a certificate issued by an accrediting body to a licensed testing laboratory, entity, or site to be registered in the state.

“Commercial cannabis activity” means the cultivation, possession, manufacture, processing, storing, laboratory testing, labeling, transporting, distribution, on-site consumption or sale of medical or adult cannabis or a medical or adult cannabis product.

“Cultivation” means any activity involving the planting, growing, harvesting, drying, curing, grading, or trimming of medical or adult cannabis. Within the definition of “cultivation,” specific license types correspond to state cultivator license types set forth in California Business and Professions Code Section 19332(g).

“Delivery” means the commercial transfer of medical or adult cannabis, or medical or adult cannabis products from a dispensary, up to an amount allowed by the Bureau, to a primary caregiver, qualified patient or adult as defined in Section 11362.7 of the California Health and Safety Code, or a testing laboratory.

“Dispensary” means a facility where medical cannabis, medical cannabis products, adult cannabis, adult cannabis products or devices for the use of medical or adult cannabis or medical or adult cannabis products are offered, either individually or in any combination, for retail sale, including an establishment that delivers medical cannabis and medical cannabis products as part of a retail sale.

“Distribution” means the procurement, sale, and transport of medical or adult cannabis and medical or adult cannabis products between entities licensed pursuant to this chapter.

“Edible cannabis product” means manufactured cannabis that is intended to be used, in whole or in part, for human consumption, including, but not limited to, chewing gum. An edible cannabis product is not considered food as defined by Section 109935 of the California Health and Safety Code or a drug as defined by Section 109925 of the California Health and Safety Code.

“Greenhouse” means a fully enclosed permanent structure with climate control, such as heating and ventilation capabilities and supplemental artificial lighting, and that uses a combination of natural and supplemental artificial lighting for cultivation.

“Identification card” has the same definition as in Section 11362.7 of the California Health and Safety Code, as it may be amended.

“Licensee” means a person issued a state license under Chapter 3.5 (commencing with Section 19300) of the California Business and Professions Code to engage in a commercial medical or adult cannabis activity.

“Licensing authority” means the state agency responsible for the issuance, renewal, or reinstatement of a license for commercial medical or adult cannabis activities, or the state agency authorized to take disciplinary action against the license.

“Manufactured cannabis” or “cannabis product” means raw cannabis that has undergone a process whereby the raw agricultural product has been transformed into a concentrate, an edible product, or a topical product.

“Manufacturing site” means a location that produces, prepares, propagates, or compounds manufactured medical or adult cannabis or medical or adult cannabis products, directly or indirectly, by extraction methods, independently by means of chemical synthesis, or by a combination of extraction and chemical synthesis, and is owned and operated by a licensee for these activities.

“Medical cannabis” or “medical cannabis product” means a product containing cannabis, including, but not limited to, concentrates and extractions, intended to be sold for use by medical cannabis patients in California pursuant to the Compassionate Use Act of 1996 (Proposition 215), found at Section 11362.5 of the Health and Safety Code. For the purposes of this title, “medical cannabis” does not include “industrial hemp” as defined by Section 81000 of the Food and Agricultural Code or Section 11018.5 of the Health and Safety Code.

“Microbusiness” means a licensee that engages in the cultivation of cannabis on an area less than 10,000 square feet and to act as a licensed distributor, Level 1 manufacturer (Type 6), and retailer, as specified in an application. In order to hold a microbusiness license, a licensee must engage in at least three (3) of the four (4) listed commercial cannabis activities.

“Nursery” means a licensee that produces only clones, immature plants, seeds, and other agricultural products used specifically for the planting, propagation, and cultivation of medical or adult cannabis.

“Permittee” means a person issued a commercial cannabis permit under Chapter 19.02 SMC.

“Person” means an individual, firm, partnership, joint venture, association, corporation, limited liability company, estate, trust, business trust, receiver, syndicate, or any other group or combination acting as a unit and includes the plural as well as the singular number.

“Primary caregiver” has the same definition as in Section 11362.7 of the California Health and Safety Code, as it may be amended.

“Public park” means an area created, established, designated, or maintained by a special district, a county, the state, or the federal government for public play, recreation, or enjoyment or for the protection of natural resources and features at the site.

“Qualified patient” has the same definition as in Section 11362.7 of the California Health and Safety Code, as it may be amended.

“State” means the state of California.

“State license,” “license,” or “registration” means a state license issued pursuant to California Business and Professions Code Sections 19300, et seq.

“Testing laboratory” means a facility, entity, or site in the state that offers or performs tests of medical cannabis or medical cannabis products and that is both of the following:

1. Accredited by an accrediting body that is independent from all other persons involved in the medical cannabis industry in the state; and
2. Registered with the California State Department of Public Health.

“Transport” means the transfer of medical cannabis or medical cannabis products from the permitted business location of one licensee to the permitted business location of another licensee, for the purposes of conducting commercial medical cannabis activity authorized pursuant to the California Business and Professions Code Sections 19300, et seq. (Ord. 1047 § 2, 2018; Ord. 1043, 2017)

Chapter 19.02

CANNABIS DISPENSARIES AND OPERATING STANDARDS

Sections:

- 19.02.010 Cannabis dispensaries.
- 19.02.020 Eligibility requirement.
- 19.02.030 Operation plan.
- 19.02.040 Dispensing.
- 19.02.050 Members and employees of medical dispensaries.
- 19.02.060 Adult dispensaries.
- 19.02.070 Security.
- 19.02.080 Signage.
- 19.02.090 Delivery.
- 19.02.100 Neighborhood compatibility.
- 19.02.110 Consumption of cannabis, tobacco, or alcohol.
- 19.02.120 Regulatory fees, seller's permit.

19.02.010 Cannabis dispensaries.

A. The city manager shall issue valid conditional use permits for operation of adult or medical cannabis operations in such numbers as authorized by the city council. – The total number of conditional use permits shall not exceed six valid dispensaries of each type within the West Broadway Urban Village and a total of three dispensaries of each type City-wide not located in the West Broadway Urban Village. Initially that number shall be no more than six valid dispensaries of each type.

B. Whenever possible, adult and medical cannabis dispensaries shall be located paired with and operated adjacent to a dispensary of the other type. An adult dispensary shall be collocated with a medical dispensary when possible.

C. No cannabis dispensary of any type shall be located within six hundred feet of any public or private school providing instruction in any grade kindergarten through 12, but not including any home schooling, and shall be located in a commercial or industrial zone as approved in SMC Title 17.

D. Dispensaries not located in the West Broadway Urban Village Specific Plan ~~or immediately adjacent parcels~~ shall not be located within ~~one thousand~~ 700 feet of another dispensary located outside the West Broadway Urban Village Specific Plan unless adjacent to a collocated dispensary of the opposite type as set forth in subsection B of this section. Those located in the West Broadway Urban Village Specific Plan shall not be located within ~~five hundred~~ 400 feet of another dispensary located within the West Broadway Urban Village Specific Plan unless adjacent to a collocated dispensary of the opposite type as set forth in subsection B of this section. (Ord. 1047 § 2, 2018; Ord. 1043, 2017)

E. No cannabis dispensary use permit of any type shall be allowed on more than one assessor's parcel number (APN), unless such APN is directly adjacent to the primary APN. APN's separated by public streets shall require a separate conditional use permit.

19.02.020 Eligibility requirement.

A. No person shall own any interest or maintain any position, including employee, with a dispensary other than that of a member convicted of any of the following crimes within the time limit specified:

1. Homicide, at any point in the past.
2. Any serious felony listed in Penal Code Section 1192.7(c) or 667.5(c) within the past ten years.
3. Penal Code Sections 243 through 247, except for 243(a), which essentially include various forms of assault and battery within the past ten years.

4. Health and Safety Code violations of Section 11357(d) or (e), or 11361, or Article 1, 3, 5, 6 or 7 of Chapter 6 of Division 10 relating to certain possession of concentrated cannabis or sale on school grounds within the past ten years.

5. Health and Safety Code violation of Sections 11358, 11359, and 11360 relating to illegal cultivation, importation, or sale of marijuana plants within the past three years.

B. Such other information deemed necessary including background investigation and a Live Scan background check of the applicant, for the city manager to determine compliance with the city's municipal code.

C. All applicants shall pay a dispensary permit application fee, a permit fee, and all inspection fees that may be required as part of the application process, as specified by resolution in the city's master fee schedule.

D. Each applicant for a dispensary permit application shall submit notarized, written authorization from the property owner(s) that a commercial cannabis business may be operated at the proposed site, and clearance from the city planning department showing that the location proposed is legally authorized in the zoning ordinance.

E. The name and address of managers or responsible agents of the commercial cannabis business shall be supplied, which shall be updated not less frequently than annually or upon any change of manager or responsible agent at any time. (Ord. 1047 § 2, 2018; Ord. 1043, 2017)

19.02.030 Operation plan.

A. All applicants must provide a plan of operations that will describe how the dispensary will operate consistent with state law and the provisions of this chapter including but not limited to implementation of controls to ensure medical or adult cannabis will be dispensed only to qualified adults, and qualified patients and primary caregivers as appropriate. Dispensaries shall comply with Health and Safety Code Sections 11362.7 et seq. and any other state laws that may be adopted concerning medical or adult cannabis, California's Medical Marijuana Regulation and Safety Act, the Adult Use of Marijuana Act, the Attorney General's Guidelines for the Security and Non-Diversion of Marijuana Grown for Medical Use, and any other applicable city laws or regulations, and shall pay all applicable state or local taxes. Dispensaries shall also comply with the operating standards set forth in this section. Operation Plans are unique to the operator of the dispensary and are therefore not transferable, except as otherwise set forth in this chapter.

B. Medical dispensaries may consist only of members. Medical dispensaries may only obtain medical cannabis from, and supply medical cannabis to, their members.

C. No person other than a member may cultivate medical cannabis on behalf of a dispensary.

D. The scale of cultivation by or on behalf of a medical dispensary shall be proportional to its member load as defined by the state of California.

E. Medical cannabis dispensaries may not admit any person as a member without first verifying his or her status as a qualified patient or primary caregiver as defined by state law, and shall immediately cancel the membership of any person who diverts medical cannabis for nonmedical use or in any manner not permitted by this chapter or state law.

F. Physicians' recommendations shall be verified by the medical dispensary prior to granting membership and at least every twelve months thereafter, and a physical or digital record shall be kept of such verification. No medical cannabis may be dispensed except to a member and pursuant to a recommendation that is no more than twelve months old, unless the recommendation expressly states that it has a longer term or does not expire.

G. Non-diversion. Medical dispensaries shall take all practicable steps necessary to prevent and deter diversion of medical cannabis to nonmembers. Dispensaries must limit access to medical cannabis, medical cannabis products and edibles to authorized personnel only, and must maintain an inventory management system that accounts for all medical cannabis, medical cannabis products and edibles.

H. Adult dispensaries must comply with all aspects of the Adult Use of Marijuana Act and must receive a license from the state prior to start of operations, and shall maintain license throughout operations. (Ord. 1047 § 2, 2018; Ord. 1043, 2017)

19.02.040 Dispensing.

A. A medical dispensary may not dispense to any person who is not a member, and may not dispense to anyone without first verifying membership.

B. A medical dispensary may not provide more medical cannabis to an individual than is necessary for that person's personal medical use and pursuant to any physician's directive.

C. A medical dispensary may not distribute free samples for promotional purposes outside of the dispensary premises.

D. No medical dispensary shall dispense medical marijuana from more than one location in the city of Seaside.

E. No owner of a medical dispensary in the city shall open a second dispensary in the city; except that medical dispensaries and collocated or adjacent adult dispensaries may have the same ownership. (Ord. 1047 § 2, 2018; Ord. 1043, 2017)

19.02.050 Members and employees of medical dispensaries.

A. All employees and volunteers of medical dispensaries must be at least eighteen years of age and qualified to be in the facility.

B. Medical dispensaries may not admit any person under eighteen years of age to membership without written authorization of a parent or legal guardian. Any member under eighteen years of age shall be accompanied by a parent or legal guardian at all times that such person is at the dispensary. This requirement may not be transferred to any other adult orally or in writing.

C. All owners and operators of a medical dispensary must hold a valid and current use permit and cannabis development/operating agreement from the city of Seaside as required by provisions of this chapter. (Ord. 1047 § 2, 2018; Ord. 1043, 2017)

19.02.060 Adult dispensaries.

All adult dispensary facilities shall comply with all state and local laws and regulations, including SMC Title 17 and this title.

A. No adult dispensary may dispense to any person not twenty-one years of age or older.

B. No adult dispensary may distribute free samples for promotional purposes outside of the interior of the dispensary premises.

C. No adult dispensary shall dispense cannabis from more than one location in the city of Seaside, except that, subject to state requirements, it may have a collocated or adjacent medical and adult location as set forth in SMC 19.02.010.

D. No owner of any adult dispensary in the city shall own or possess any ownership interest in a second adult dispensary in the city, except the owner of an adult dispensary may also own or possess an ownership interest in a collocated or adjacent medical dispensary as set forth in SMC 19.02.010.

E. All adult dispensaries shall hold a valid and current use permit and cannabis development/operating agreement from the city of Seaside as required by provisions of this chapter. (Ord. 1047 § 2, 2018; Ord. 1043, 2017)

19.02.070 Security.

A security plan, as a separate document, outlining the proposed security arrangements to deter and prevent unauthorized entrance into areas containing medical or adult cannabis or medical or adult cannabis products, and theft of medical or adult cannabis or medical or adult cannabis products at the dispensary, in accordance with minimum security measures required by state law and the requirements herein, shall be created by the applicant and

approved by the city prior to commencement of any operations at any dispensary. The security plan shall be reviewed and approved by the police department and the office of the city manager and shall be exempt from disclosure as a public record pursuant to Government Code Section 6255(a).

A. Dispensaries shall provide adequate security and lighting on site to ensure the safety of persons and protection of the premises from theft and other crimes at all times. Exterior lighting shall be of sufficient intensity to illuminate all areas of the parking lot or adjacent areas, if any. Such lighting shall comply with the provisions of SMC 17.30.070.

B. Dispensaries must maintain adequate security guards and surveillance camera coverage of their entire grounds to an extent sufficient to ensure the safety of persons and deter crime. Surveillance cameras must be maintained in good condition, and use a format approved by the city manager or his/her designee, which results in adequate quality, color rendition and resolution to allow the ready identification of any individual on the premises. The surveillance cameras shall be operated twenty-four hours per day, seven days per week whether the facility is open or not. The areas to be covered by the security cameras include, but are not limited to, dispensing areas, storage areas, cultivation areas, all doors, parking lots, anyplace where new product is delivered and any other area determined by the city manager or his/her designee to be appropriate. Surveillance footage must be retained for a period of ninety days and made available to the Seaside police department at any time promptly upon request without the necessity of a warrant or subpoena.

C. Dispensaries must be equipped with an alarm system that is operated and monitored by a security company licensed by and in good standing with the California Department of Consumer Affairs. Alarms shall be maintained and in good working condition at all times and able to be manually triggered by employees.

D. In order to prevent unauthorized entry during nonbusiness hours, a dispensary shall either secure all points of entry with bars, retractable, folding or sliding metal gates, or metal roll-up or accordion doors, none of which may be visible from the exterior, or provide at least one security guard at all times during those hours.

E. Any security guards employed by dispensaries shall be licensed and possess a valid Department of Consumer Affairs "Security Guard Card" at all times. Security personnel may not be armed while on duty.

F. All medical or adult cannabis, medical or adult cannabis products and edibles, except for small amounts used for display purposes and samples for immediate sale, shall be securely stored in a locked area at all times, and all access to such areas shall be locked and under the control of staff at all times.

G. Dispensaries shall make transactions with payment methods other than cash when feasible. All cash received, except that needed for retail customer transactions, shall be kept in a secure receptacle such as a drop safe or similar type of safe.

H. Dispensaries shall notify the Seaside police department and any licensing authority within twenty-four hours after discovering any of the following:

1. Significant discrepancies identified during inventory;
2. Diversion, theft, loss, or any criminal activity involving the dispensary or any agent or employee of the dispensary;
3. The loss or unauthorized alteration of records related to medical or adult cannabis, registered qualifying patients, primary caregivers, or dispensary employees or agents; or
4. Any other breach of security. (Ord. 1047 § 2, 2018; Ord. 1043, 2017)

19.02.080 Signage.

Signs shall be posted at dispensaries as set forth following:

A. Signs shall be posted as appropriate at the entrance to any dispensary that includes the following language. The required text shall be of sufficient size to be easily read from a distance of five feet and illuminated at night.

FOR MEDICAL:

This Dispensary only provides Medical Cannabis to its members 18 years or older who must have a legally recognized California Medical Cannabis Identification Card or a verifiable, written recommendation from a physician for Medical Cannabis.

FOR ADULT:

This Dispensary only provides Cannabis to adults 21 years age or older who qualify under the Adult Use of Marijuana Act and applicable state law. No person under the age of 21 may enter or loiter within 50 feet of this facility. Providing cannabis products to those under 21 is illegal and shall be prosecuted to the fullest extent of the law.

B. A sign shall be posted in a conspicuous location inside the dispensary advising:

FOR MEDICAL:

This Dispensary is registered in accordance with the laws of the City of Seaside. The sale of marijuana and the diversion of marijuana for non-medical purposes are violations of State law. The use of marijuana may impair a person's ability to drive a motor vehicle or operate heavy machinery.

FOR ADULT:

This Dispensary is registered in accordance with the laws of the City of Seaside. The sale of marijuana and the diversion of marijuana to persons under the age of 21 are violations of State law. The use of marijuana may impair a person's ability to drive a motor vehicle or operate heavy machinery.

C. No cannabis products or graphics describing cannabis shall be visible from the exterior of the property.

D. Signage for a dispensary shall comply with Chapter 17.40 SMC. (Ord. 1047 § 2, 2018; Ord. 1043, 2017)

19.02.090 Delivery.

If the dispensary operations are proposed to include delivery, all employees of a dispensary delivering medical or adult cannabis or medical or adult cannabis products shall carry a copy of the documentation listed below when making deliveries. This information shall be provided upon request to law enforcement officers and to employees of state and local agencies enforcing this chapter or other local laws and regulations. ~~Deliveries from dispensaries are not permitted in jurisdictions that prohibit such deliveries.~~

A. A copy of the dispensary's current permits, licenses, and entitlements authorizing them to provide delivery services, including permission to delivery in jurisdictions other than the city if that is the intent of the delivery;

B. The employee's government-issued identification;

C. A copy of the delivery request; and

D. Chain of custody records for all goods being delivered. (Ord. 1047 § 2, 2018; Ord. 1043, 2017)

19.02.100 Neighborhood compatibility.

A. Dispensaries shall be operated in a manner that ensures neighborhood compatibility, and the owner of such facility shall take all steps necessary to ensure that customers, vendors, or others visiting the facility do not create neighborhood disturbances or nuisances.

B. Dispensaries shall provide the police department and all residents and property owners within one hundred feet with the current name, phone number, secondary phone number and e-mail address of an on-site responsible staff person to whom notice of any operating problems associated with the establishment may be reported. This information shall be updated as necessary to keep it current. Dispensaries shall encourage neighbors to call this person to try to solve any operating problems. Such calls may be anonymous and need not include an identity of the caller or number.

C. All dispensaries shall have an on-site manager responsible for overall operation at all times they are open, and shall provide the police department with contact information for all such persons, including telephone number, street address and e-mail address. Dispensaries shall also provide the police department with the current name and phone numbers of at least one twenty-four-hour on-call manager. This information shall be updated as necessary to keep it current.

D. Dispensaries shall take all reasonable steps to discourage and correct objectionable conditions that constitute a public or private nuisance in parking areas, sidewalks, alleys and areas surrounding the premises and adjacent properties. Such conditions include, but are not limited to: smoking; creating a noise disturbance; drinking; loitering; littering; urinating or defecating, and production of graffiti.

E. Dispensary will be of an architectural and visual quality and character which harmonizes with, and enhances, the surrounding area, and the design will avoid unduly large or obtrusive signs, unlandscaped parking areas, unduly bright or garish lighting, or design features which encourage loitering as determined by the zoning administrator.

F. Dispensaries will ensure that adequate litter receptacles will be provided and maintained where appropriate.

G. Where the dispensary or delivery-only dispensary is in proximity to residential uses, it will be limited in hours of operation, and designed and operated so as to avoid disruption of residents' sleep.

H. No cannabis or cannabis odors shall be detectable by sight or smell outside of a permitted facility.

I. Dispensaries shall ensure all graffiti is removed from property and parking lots under their control within twenty-four hours of its appearance.

J. Dispensaries shall operate only between the hours of nine a.m. and ten p.m. (Ord. 1047 § 2, 2018; Ord. 1043, 2017)

19.02.110 Consumption of cannabis, tobacco, or alcohol.

A. Smoking of cannabis is prohibited at dispensaries, including areas in and around the facility, except as noted herein.

B. Sale, smoking, or consumption of tobacco products is prohibited at dispensaries.

C. Sale, possession, or consumption of alcoholic beverages at dispensaries is prohibited, and dispensaries shall prohibit any person in possession of an alcoholic beverage from entering or remaining on the premises.

D. This section does not prohibit the testing of medical or adult cannabis products by staff of a dispensary or the use of tinctures or topical medical cannabis products that do not have intoxicating effects. (Ord. 1047 § 2, 2018; Ord. 1043, 2017)

19.02.120 Regulatory fees, seller's permit.

In addition to any other required conditions and mitigation measures approved by the city or state, all of the following conditions shall apply to all permits for a medical or adult cannabis dispensary:

A. The cannabis dispensary shall allow access to dispensary facilities and records if requested by the city, its officers, or agents, and shall pay for an annual inspection and submit to other inspections from the city or its officers to verify compliance with all relevant rules, regulations, and conditions.

B. The applicant, owner, and all permittees agree to submit to, and pay for, inspections of the operations and relevant records or documents necessary to determine compliance with this chapter from any enforcement officer of the city or their designee.

C. Any person operating a medical or adult cannabis dispensary shall obtain a valid and fully executed commercial medical or adult cannabis permit pursuant to this chapter of the Seaside Municipal Code prior to commencing operations, and must maintain such permit in good standing at all times in order to continue operations.

D. Upon implementation of state regulations pursuant to California Business and Professions Code Section 19320, a valid license from the state shall be required to operate any commercial medical cannabis activity.

E. The owner shall post or cause to be posted on site a copy of the use permit, the cannabis development/operating agreement, and all required city, county and state permits and licenses required to operate the dispensary. Such posting shall be in a central location, visible to the patrons, at the operating site, and in all vehicles that deliver or transport marijuana.

F. The owner shall be responsible for ensuring that all commercial medical cannabis activities at the site operate in good standing with all permits and licenses required by the Seaside Municipal Code and state law. Failure to take appropriate action to evict or otherwise remove permittees and persons conducting commercial medical cannabis activities at the site who do not maintain permits or licenses in good standing with the city or state shall be grounds for the suspension or revocation of the required development/operating agreement, and may constitute grounds for cancellation of the required development/operating agreement pursuant to Chapter 17.80 SMC.

G. Dispensaries shall comply with all physical accessibility requirements of the Americans with Disabilities Act. (Ord. 1047 § 2, 2018; Ord. 1043, 2017)

Chapter 19.03

COMMERCIAL CANNABIS CULTIVATION AND OPERATING STANDARDS

Sections:

19.03.010 Commercial cannabis cultivation and operating standards.

19.03.010 Commercial cannabis cultivation and operating standards.

A. It is hereby declared to be unlawful and a public nuisance for any person or persons owning in whole or in part, leasing, occupying, or having charge or possession of any legal parcel or premises within any zoning district in the city of Seaside to undertake any cannabis operation regulated by SMC Title 17 and this title except as provided therein.

B. No medical or adult cannabis at the premises or location shall be visible by the public from any public or other private property outside the interior of the facility.

C. No medical or adult cannabis shall be dispensed from a cultivation site and such cultivation sites shall not be open to the public. In no case shall a building intended for residential use be used for the cultivation of cannabis. The maximum size of any areas of cultivation shall not exceed any restrictions outlined in state law.

D. Security measures sufficient to restrict access to cultivation sites to only those persons allowed and intended to be there, and to deter trespass and theft of medical or adult cannabis or medical or adult cannabis products shall be provided and maintained. If on-site security is utilized, security shall be licensed and possess a valid Department of Consumer Affairs "Security Guard Card" at all times.

E. Pesticides and fertilizers shall be properly labeled and stored to avoid contamination through erosion, leakage, or inadvertent damage from rodents, pests, or wildlife.

F. Water conservation measures, water capture systems, or grey water systems shall be incorporated in medical cannabis cultivation operations in order to minimize use of water where feasible.

G. A minor use permit for medical cannabis cultivation shall not be granted by the city unless all of the following findings are made based on substantial evidence:

1. The cultivation, as proposed, will comply with all of the requirements of the state and city, and any additional conditions of license for the cultivation of medical or adult cannabis.
2. The cultivation, as approved and conditioned, will not result in significant unavoidable impacts on the environment.
3. The cultivation includes adequate measures that minimize use of water for cannabis cultivation at the site.
4. The cultivation includes adequate measures to address the projected energy demand for cannabis cultivation at the site.
5. The cultivation includes adequate quality control measures to ensure cannabis cultivated at the site meets industry standards.
6. The cultivation includes adequate measures that address the federal enforcement priorities for cannabis activities including restricting access to minors, and ensuring that cannabis and cannabis products are not supplied to unlicensed and unpermitted persons within the state and not distributed out of state.
7. The applicant, property owner, and permittees agree to submit to, and pay for, inspections of the operations and relevant records or documents necessary to determine compliance with this chapter from any enforcement officer of the city of Seaside or their designee.

8. Any person cultivating cannabis shall obtain a valid and fully executed commercial cannabis permit pursuant to Chapter 5.04 SMC prior to commencing operations and must maintain such permit in good standing in order to continue operations.

9. The owner shall be responsible for ensuring that all commercial cannabis activities at the site operate in good standing with all permits and licenses required by state law. Failure to take appropriate action to evict or otherwise remove permittees and persons conducting commercial cannabis activities at the site who do not maintain permits or licenses in good standing with the city, county or state may be grounds for seeking the suspension or revocation of a use permit pursuant to Chapter 17.80 SMC. (Ord. 1047 § 2, 2018; Ord. 1043, 2017)

Chapter 19.04

COMMERCIAL CANNABIS TESTING, MANUFACTURING, AND RESEARCH AND DEVELOPMENT OPERATING STANDARDS

Sections:

19.04.010 Commercial cannabis testing, manufacturing, and research and development operating standards.

19.04.010 Commercial cannabis testing, manufacturing, and research and development operating standards.

A. It is hereby declared to be unlawful and a public nuisance for any person or persons owning, in whole or in part, leasing, occupying, or having charge or possession of any legal parcel or premises within any zoning district in the city of Seaside to test, manufacture cannabis products, or to engage in research and development of cannabis except as provided for in this chapter.

B. No cannabis or cannabis products at the premises or location where any action governed by this chapter takes place shall be visible to anyone outside the facility on public or other private property, nor shall medical cannabis or any product containing medical cannabis be visible from the exterior of any premises.

C. No medical or adult marijuana shall be dispensed from a testing, manufacturing or research and development site and such sites shall not be open to the public. Security measures sufficient to restrict access to only those admitted to the site and to deter trespass and theft of medical or adult cannabis or medical or adult cannabis products shall be provided and maintained. If on-site security is utilized, security shall be licensed and possess a valid Department of Consumer Affairs "Security Guard Card" at all times.

D. Hazardous materials shall be properly labeled and stored to avoid contamination through erosion, leakage, or inadvertent damage from rodents, pests, or wildlife.

E. A minor use permit for testing, manufacturing and research and development of cannabis and cannabis products shall not be granted by the city unless all of the following findings are made based on substantial evidence:

1. The activity, as proposed, will comply with all of the requirements of the state and city, and any additional conditions of license for the testing, manufacturing, or research and development of cannabis or cannabis products, including approval of a cannabis development/operating agreement by and between the city and owner.
2. The use, as approved and conditioned, will not result in significant unavoidable impacts on the environment.
3. The use includes adequate measures that minimize use of water at the site.
4. Any cultivation includes adequate quality control measures to ensure cannabis cultivated at the site meets industry standards.
5. The use shall include adequate measures that address the federal enforcement priorities for cannabis activities including restricting access to minors, and ensuring that cannabis and cannabis products are not supplied to unlicensed and unpermitted persons within the state and not distributed out of state.
6. The applicant, owner, and permittees agree to submit to, and pay for, inspections of the operations and relevant records or documents necessary to determine compliance with this chapter from any enforcement officer of the city of Seaside or their designee.
7. Any person testing, manufacturing or performing research and development operations using cannabis shall obtain a valid and fully executed commercial cannabis development/operating agreement prior to commencing operations and must maintain such agreement in good standing in order to continue operations.

8. The owner shall be responsible for ensuring that all commercial cannabis activities at the site operate in good standing with all permits and licenses required by state law. Failure to take appropriate action to evict or otherwise remove permittees and persons conducting commercial cannabis activities at the site who do not maintain permits or licenses in good standing with the city, county or state may be grounds to commence an action to suspend or revoke the minor use permit pursuant to Chapter 17.80 SMC, or to revoke the required cannabis development/operating agreement. (Ord. 1047 § 2, 2018; Ord. 1043, 2017)

Chapter 19.05

CANNABIS TRANSPORT AND DISTRIBUTION

Sections:

19.05.010 Cannabis transport and distribution.

19.05.010 Cannabis transport and distribution.

Cannabis transportation and distribution facilities shall comply with all of the following requirements:

A. Cannabis transportation and distribution facilities shall be located only in zoning districts that specifically provide for this use and where a minor use permit allowing this use to be carried out on the property has been issued.

B. Cannabis and cannabis products shall only be transported between permitted and licensed commercial cannabis operations.

C. Prior to transporting cannabis or cannabis products, the transporter shall complete an electronic shipping manifest. The shipping manifest shall include unique identifier information from the cultivation source as required by city.

D. A physical copy of the shipping manifest shall be maintained during transportation and shall be made available upon request to law enforcement or any agents of the state or city charged with enforcement of this chapter.

E. All cannabis uses that require transport licenses under SB94 but that are not transport and distribution only businesses shall receive a license for transport from the state of California.

F. Distribution facilities shall maintain appropriate records of transactions and shipping manifests. An organized and clean method of storing and transporting cannabis and cannabis products shall be provided to maintain a clear chain of custody.

G. Security measures sufficient to restrict access to only those allowed on the site or in transportation vehicles and to deter trespass and theft of cannabis or cannabis products shall be provided and maintained. Security measures at distribution facilities shall include, but are not limited to, the following:

1. Prevention of individuals from loitering on the premises of the distribution facility if they are not engaging in activity expressly related to the operations of the distribution facility at the time;
2. All cannabis and cannabis products shall be stored in a secured and locked safe room, safe, or vault, and in such a manner as to prevent diversion, theft, and loss;
3. Appropriate security cameras shall be established on site and approved by the city; and
4. Measures that provide for on-site security personnel meeting the requirements and standards contained within SMC 19.02.070 along with approval from the chief of police.

H. The owner shall be responsible for ensuring that all commercial cannabis activities at the site operate in accordance with all required permits and licenses required by the city and state. Failure to take appropriate action to evict or otherwise remove permittees and persons conducting commercial medical cannabis activities at the site who do not maintain permits or licenses in good standing with the city, county or state shall be grounds for the modification or revocation of the required cannabis development/operating agreement in accordance with this chapter.

I. The transportation and distribution facilities and activities shall be maintained in accordance with the operating plans approved by the city. (Ord. 1047 § 2, 2018; Ord. 1043, 2017)

Chapter 19.06
PUBLIC HEARING

Sections:

19.06.010 Public hearing.
19.06.010 Public hearing.

Applications for dispensaries shall be subject to a noticed public hearing regarding the application in the same manner as provided in SMC 17.78.020. The city manager or designee shall be the investigating official referred to in SMC 17.78.020 to whom the application shall be referred. In recommending the granting or denying of such permit and in granting or denying the same, the city manager shall give particular consideration to the capacity, capitalization, and complaint history of the applicant and any other factors that in the city manager's discretion he/she deems necessary to maintain the peace, order and welfare of the public. (Ord. 1047 § 2, 2018; Ord. 1043, 2017)

Chapter 19.07

RANKING AND ALLOCATION PROCEDURE AND CRITERIA

Sections:

19.07.010 Ranking and allocation procedure and criteria.

19.07.010 Ranking and allocation procedure and criteria.

In the event that multiple applications are submitted for any cannabis activity that is restricted in number, the city manager or designee shall use the following criteria for recommending to the city council which applicant shall receive approval to operate:

A. Businesses seeking a license to operate a dispensary or cultivation operation must submit the following for evaluation:

1. Business Plan. Applicants shall submit a business plan to the city that outlines an operational and financial plan. The business plan should include the names and resumes of key staff, operations plan, financial plan, sales projections and market study. Applicants are encouraged to provide a specific, written plan for how their operation will benefit the community.

2. Security Plan. All applicants shall submit a security plan outlining how the business expects to address security issues at their location.

3. Property Owner Approval. Applicants shall submit proof of approval of the owner of the real property together with a use permit indicating the use is appropriate at this property, and a cannabis development/operating agreement applicable where the proposed dispensary will be located if approved. Applicants are not required to have a signed lease, but a letter from the property owner indicating that:

a. The property owner is aware of and approves the use being proposed.

b. The property owner will lease the property to the cannabis business owner for the related use upon approval of application.

c. The property owner understands that conditional use permits for cannabis activities ~~run with the land, may be revoked if the conditions attached to the permit are violated; however~~ additionally, a required development/operating agreement that sets forth conditions of operation does not run with the land and can be required to be renewed annually.

4. Live Scan. All principal employees of any cannabis related use must submit fingerprints for a background investigation through Live Scan and submit the results with their application.

~~5. Cannabis Knowledge Test. All principal employees of the cannabis related use must take a cannabis knowledge test. This test will be administered by the city and will measure the applicant's knowledge of state regulations regarding cannabis laws, and general knowledge of the cannabis business. (Ord. 1047 § 2, 2018; Ord. 1043, 2017)~~

Chapter 19.08

SELECTION CRITERIA

Sections:

19.08.010 Selection criteria.

19.08.010 Selection criteria.

A. General Eligibility Review. In the event that an applicant is unable to meet the following minimum eligibility criteria, their application shall be denied. Applicants will be evaluated on the following:

1. Live Scan Fingerprint Results. Applicant must not have any criminal convictions that would result in ineligibility as defined in SMC 19.02.020.
2. Application must be complete to be evaluated. Incomplete applications will be denied but may be resubmitted. New application fees must be paid for resubmittal.
3. Proposed location of business and proof of property owner's approval of use must be supplied.
4. Applicant must agree to enter into a cannabis development/operating agreement with the city which is subject to annual review and approval which shall be discretionary with the city.

~~B. Application Evaluation. The city shall adopt by Resolution criteria for the evaluation of applications. The criteria may include but not limited to, business location, business plan, local enterprise, community benefit, neighborhood compatibility, security plan and safety plan. Only those applications scoring above the standards set by resolution will be allowed to proceed with the use permit and development/operating agreement. Initial Ranking. The city shall open an application period of not less than thirty days to allow prospective permittees to submit applications. Applicants will be evaluated on the following criteria:~~

- ~~1. Location of Business. Locations north of Gigling Road, within the Broadway Urban Village plan area and/or within two thousand five hundred feet of Highway 1 will receive ten points. Locations outside these areas will receive one point.~~
- ~~2. Business Plan. A business plan that demonstrates prior successful business operations (which need not be cannabis business related) at a similar scale of annual revenue for at least two years and/or capitalization sufficient to insure at least one year of operation will receive five points as a base, with one additional point for every two hundred fifty thousand dollars of projected annual revenue. Annual projected revenue should be derived from a market study that includes trade area analysis, actual sales of local similar businesses and should be based on a reasonably sized market area. Revenues and capitalization submitted will be reviewed for reasonableness and scores may be adjusted to meet a reasonableness test. A business plan without such demonstration will receive one point.~~
- ~~3. Local Enterprise. Applicants will receive two points for each principal employee that can demonstrate residency in the city of Seaside. A maximum of six points may be awarded in this category.~~
- ~~4. Community Benefit. Community benefit may include commitment to employing Seaside residents, commitment to working with Seaside located businesses (including capital), commitment to sponsoring nonprofits and/or other similar specific commitments within the Seaside community. A maximum of eight points will be awarded, with one point for every Seaside resident employee or specified annual commitment of the applicant's choice to any nonprofit within the community.~~
- ~~5. Neighborhood Compatibility. Applicants which demonstrate neighborhood support with a majority of property owners within two hundred fifty feet will receive three points. Applicants that demonstrate neighborhood support from a majority of tenants, residents and businesses within two hundred fifty feet will receive two points. Applicants which do not demonstrate neighborhood support with a majority of property owners and tenants, residents and businesses within two hundred fifty feet will receive zero points.~~

~~6. Security Plan. The Seaside police department will review the security plan and classify the plan as inadequate, adequate or exemplary. Plans classified as inadequate will not be permitted to proceed. Plans classified as adequate will receive ten points. Plans classified as exemplary will receive twenty points. An adequate plan must demonstrate that all requirements in SMC 19.02.070 as well as any additional requirements that may be required by the State of California Bureau of Cannabis Control have been met. Exemplary plans must demonstrate all requirements for an adequate plan plus additional measures as determined by the chief of police or designee.~~

~~7. Safety Plan. The Seaside police department will review the applicant's safety plan and classify the plan as inadequate, adequate or exemplary. Plans classified as inadequate will not be permitted to proceed. Plans classified as adequate will receive ten points. Plans classified as exemplary will receive twenty points. Adequate plans will meet all requirements of the State of California Bureau of Cannabis Control for reducing harm and avoiding underage access. Exemplary plans must demonstrate all requirements for an adequate plan plus additional measures as determined by the chief of police or designee.~~

~~8. From the initial ranking, up to twice as many qualified applicants as there are available licenses will be eligible for final testing and ranking as determined by the aggregate scores of the initial ranking.~~

C. Final Ranking. The qualified applicants after the initial ranking will be further rated on the following matters:

~~1. Cannabis Knowledge Test. All principal employees of the cannabis related use must take a cannabis knowledge test to demonstrate knowledge of state and local compliance standards.~~

~~2. The top applicants equal to the number of licenses available will be eligible to apply for a use permit and development/operating agreement to engage in a commercial cannabis business. Qualified applicants from the initial ranking may amend and combine their applications to optimize their scores. If following the opportunity to optimize scores, two or more applicants are tied, both applicants will proceed to the next step.~~

D. Use Permit. Only Applicants who score above the points required by resolution will be allowed to proceed with a conditional use permit Applicants shall complete phases 1 through 3 prior to applying for a use permit and development/operating agreement.

~~1. At the next available planning commission meeting, allowing time for staff review, a public hearing for each top application shall be held to consider the application for a use permit for the proposed business location.~~

~~2. Members of the public, adjacent property owners and other interested parties will be given the opportunity to present concerns or support, and provide additional consideration for potential permit conditions.~~

~~3. Planning commission will make a recommendation to city council, including any conditions requested for final decision on awarding use permits and the development/operating agreement.~~

~~4. At the next available city council meeting, planning commission and staff recommendations will be presented at a public hearing before the city council for a final decision.~~

~~5. If an available permit is not filled for any reason and a business that qualified under phases 1 through 3 but was not selected to move forward in the process requests consideration for phase 4, consideration shall be granted in order of ranking.~~

E. State cannabis licenses and local cannabis development/operating agreements are annual in nature and may be revoked at any time for cause, subject to the appeals process outlined in Chapter 19.10 SMC for failure to comply with all state laws and requirements and local ordinances and requirements, or for failure to comply with conditions in the development/operating agreement. Cannabis development/operating agreements may automatically renew as long as the business has complied with all state and local ordinances and with conditions of approval, including the timely payment of all fees and taxes, in the sole discretion of the city. (Ord. 1047 § 2, 2018; Ord. 1043, 2017)

F. Transfer of Use Permits and Development/Operating Agreements. Use Permits and Development/Operating Agreements for cannabis activities do not automatically transfer. New owners of existing operations will be required to apply to the City for transfer of such development/operating agreement and otherwise meet the

requirements set forth in Section 19.02, including but not limited to, business operations plan, contact information, community benefits and security plan. The City Council may review such transfer applications in its discretion.

Chapter 19.09

ENFORCEMENT

Sections:

19.09.010 Enforcement.

19.09.010 Enforcement.

Violations of this title shall constitute a misdemeanor and a public nuisance and may be enforced pursuant to the provisions of the Seaside Municipal Code or any other appropriate law or ordinance.

A. It shall be unlawful for any person to violate any provision, or to fail to comply with any of the requirements, of this title. Any person violating any of the provisions or failing to comply with any of the mandatory requirements of this title shall be guilty of a misdemeanor. No proof of knowledge, intent, or other mental state is required to establish a violation.

B. Any condition caused or allowed to exist in violation of any of the provisions of this title shall be deemed a public nuisance and shall, at the discretion of city, create a cause of action for penalty pursuant to the Seaside Municipal Code.

C. Each and every violation of this title, and each and every day such violation may occur, shall constitute a separate violation and shall be subject to all remedies and enforcement measures authorized by the city of Seaside or otherwise authorized by law. Additionally, as a public nuisance, any violation of this title shall be subject to injunctive relief, disgorgement of any payment to the city of Seaside of any and all monies unlawfully obtained, costs of abatement, costs of restoration, costs of investigation, attorney fees, and any other relief or remedy available at law or equity. The city of Seaside may also pursue any and all remedies and actions available and applicable under state and local laws for any violations committed by the commercial medical or adult cannabis activity or persons related thereto, or associated with, the commercial medical or adult cannabis activity. (Ord. 1047 § 2, 2018; Ord. 1043, 2017)

Chapter 19.10

APPEALS PROCEDURE

Sections:

- 19.10.010 Procedure to challenge intent to suspend or revoke the development/operating agreement.
19.10.020 Hearing of matter.

19.10.010 Procedure to challenge intent to suspend or revoke the development/operating agreement.

If the city manager or his/her designee determines that grounds for suspension or revocation of the cannabis development/operating agreement exist pursuant to Chapter 19.09 SMC, the city manager or his/her designee shall issue a written notice of intention to revoke or suspend the development/operating agreement, along with such information as required herein. The notice of intention shall be served on the property owner, as reported on the latest equalized assessment roll, and shall also be served on permittees operating a commercial cannabis activity on the property. The notice of intention shall be served by either personal delivery or by certified U.S. Mail, postage prepaid, return receipt requested. The notice of intention shall identify the property owner, permittees, name of business and location of the property, the intended action to be taken, the grounds for the action, the action necessary to abate the violation, the time limit for abatement compliance, and the right to challenge this intended action to a hearing officer. The notice of intention shall notify the owner and permittees of the opportunity to request a hearing before a hearing officer to present evidence as to why the development/operating agreement should not be suspended or revoked and shall notify them of the ten-day deadline to submit a written request for a hearing.

The owner and permittees shall have ten calendar days from the service of the notice of intention to submit a written request for a hearing before a hearing officer selected by the city manager. Failure to submit the written request for a hearing shall be deemed a waiver of the right to challenge the suspension or revocation of the development/operating agreement and a failure to exhaust administrative remedies. If the hearing is not timely requested, the city manager or his/her designee may suspend or revoke the use permit in accordance with the notice of intention.

Upon receipt of a timely written request for a hearing, the city manager or his/her designee shall appoint a hearing officer and set a date for a hearing to be held within sixty days of receipt of the request, unless an immediate threat to the public health, safety and welfare necessitates an earlier hearing date. Notice of the hearing, including the time, date, and location of the hearing, shall be served on the owner and permittees, such service to be accomplished by either personal delivery or by certified U.S. Mail, postage prepaid, return receipt requested. (Ord. 1047 § 2, 2018; Ord. 1043, 2017)

19.10.020 Hearing of matter.

The appointed hearing officer is authorized to conduct a hearing, receive evidence, administer oaths, rule on questions of law and the admissibility of evidence, prepare a record of the proceedings, and render decisions on the suspension or revocation of the use permit.

In any proceeding before a hearing officer, oral testimony offered as evidence shall be taken only on oath or affirmation, and the hearing officer, his/her clerk, or other designee shall have the power to administer oaths and affirmations and to certify to official acts.

All parties to the hearing shall have the opportunity to testify, introduce exhibits, call and examine witnesses, and cross-examine opposing witnesses on any matter relevant to the issues. The matter shall be informal and not proceed according to the rules of evidence. Determination of the true facts shall be the guiding principle in the hearing of the matter.

Within thirty calendar days after the close of the hearing, the hearing officer shall issue a written decision, including a statement of the basis for the decision and findings of facts. The hearing officer's written decision shall constitute the final administrative decision of the city of Seaside.

In the event a civil action is initiated to obtain enforcement of the decision of the hearing officer, and judgment is entered to enforce the decision, the person against whom the order of enforcement has been entered shall be liable to pay the city's total costs of enforcement, including reasonable attorney fees and costs of the hearing.

If neither owner nor any permittee nor their authorized representatives appear at the noticed hearing, such failure to appear shall constitute an abandonment of the hearing request and a failure to exhaust administrative remedies. (Ord. 1047 § 2, 2018; Ord. 1043, 2017)

Chapter 19.11

SEVERABILITY

Sections:

19.11.010 Severability.

19.11.010 Severability.

If any word, phrase, sentence, part, section, subsection, or other portion of this chapter, or any application thereof to any person or circumstance, is declared void, unconstitutional, or invalid for any reason, then such word, phrase, sentence, part, section, subsection, or other portion, or the prescribed application thereof, shall be severable, and the remaining provisions of this chapter, and all applications thereof, not having been declared void, unconstitutional or invalid, shall remain in full force and effect. The city council hereby declares that it would have passed this title, and each section, subsection, sentence, clause and phrase thereof, irrespective of the fact that any one or more sections, subsections, sentences, clauses or phrases had been declared invalid or unconstitutional. (Ord. 1067 § 3, 2019; Ord. 1047 § 2, 2018; Ord. 1043, 2017)

Californians know craft. Whether you're touring micro-breweries in San Diego or local wineries in Sonoma Country, or visiting the countless artisanal bakeries, ice cream shops or distillers in metro areas like Los Angeles and San Francisco, you'll see (and taste) the unique qualities and extreme care that Californian business owners put into their products. For decades, the tenets of craft production – focus on quality, sustainability, and local variation – have also been at the core of California's cannabis industry. Small-size cultivators, and their retailers and distributors, have made local strains legendary for quality, potency and variation.

With the emergence of the legal adult-use industry in 2018, many cannabis business owners and advocates worried that a deluge of "corporate cannabis" entities would run amuck, eventually dominating the industry and driving craft operations underground.

In an effort to help smaller operations compete in the legal adult-use cannabis landscape, the passage of the [Adult Use Marijuana Act](#) (SB94 or AUMA) included the creation of a new license category: Type 12 – Microbusiness. This innovation has been heralded as a way for small businesses to compete against larger entities and maintain California's proud craft industry – allowing cottage cannabis operations to enjoy the same acclaim as the state's many microbreweries and boutique wineries.

Creating a Path to Vertical Integration

In California's newly regulated market, all cannabis operations must apply for various license-types to operate legally. The application process for each license is extremely detailed, labor intensive, and requires significant up-front investment (for details, see our [on-going series about applying for California licenses](#).) Additionally, when California legislators created a single regulatory framework for both medicinal and adult-use cannabis (Medicinal and Adult-Use Cannabis Regulation and Safety Act or "[MAUCRSA](#)"), one of the many significant changes was the removal of restrictions on an operation's ability to hold several licenses.

With different license types in hand, a business can vertically integrate, expanding operations into more stages of production and benefitting from the ensuring operational and cost advantages. With MAUCRSA in place, a cannabis business owner/operator may hold any combination of cultivator, distributor, manufacturer and retailer licenses.

Now that the vertical integration is possible a major remaining roadblock is the fees required to gain the numerous licenses. For example, a medium-size, vertically integrated business might have the following licenses:

Cultivator – Medium Mixed-Light Tier 1: \$2,885 + \$25,970 (Application fee + Annual license fee)

Manufacturer – Tier 3: \$1,000 + \$15,000

Distributor – Tier 3: \$1,000 + \$36,000

Retailer – Tier 3: \$1,000 + \$36,000

In this instance, the application and license fees alone could cost an operation \$118,855. Which ostensibly leaves vertical integration available to only the largest cannabis operations.

How the Microbusiness License Works

The Microbusiness license creates a way for smaller operations to vertically integrate without the same initial investment. As a Microbusiness licensee, an operation can “bundle” several licenses into a single application, assuming each activity meets regulatory requirements.

Microbusiness Activities:

Cultivation: Less than 10,000 square feet

Manufacturing: Level 1, Type 6: Non-volatile, extraction, infusion, packaging, and/or labeling

Distribution: Type 11 Distributor or Type 12 Distributor Transport-only

Retail: Type 10 retail sales from a physical location or Type 9 retail non-storefront

Note: Cannot also act as a Testing Lab

Microbusiness Requirements:

Must engage in at least 3 of the 4 possible activities

Must indicate desired activities on the application and supply the appropriate information for those activities

Must comply with all requirements for each activity the licensee engages in

Microbusiness Annual License Fees:

The fees for the Microbusiness license represent a significantly discounted rate, compared to applying for each individually. The total cost for the Microbusiness annual licenses are as follows:

Estimated revenue up to \$0.5 million: \$5,000

Estimated revenue greater than \$0.5 million to \$1.5 million: \$15,000

Estimated revenue greater than \$1.5 million to \$4.5 million: \$42,000

Estimated revenue greater than \$4.5 million: \$120,000

The Benefits and Drawbacks of Vertical Integration

As demonstrated by the fee structure, the Microbusiness license gives “smaller” operations a leg-up when seeking a vertically integrated operation. The potential advantages of [vertical integration](#) are almost too many to discuss here, but a brief overview includes:

Reduced transportation and transaction costs

Reduced overhead and management costs

Optimized supply chain performance and diagnostics

Opportunity for superior quality control

Ability to focus/specialize products and services

Vertical integration can be a double-edged sword. Potential issues and concerns related to vertical integration can also be numerous. General business issues include:

Operations limited by economies of scale

Requires significant capital investment to establish operations

Reduced flexibility

Requires complex operational structure

Other concerns specific to the California cannabis industry include:

The distinct elements of the cannabis sales cycle – cultivation, manufacturing, distribution and retail – all require specialized skills. Taking on more cannabis activities requires a multi-talented and structured organization. This is especially relevant for a microbusiness that conducts distribution. As the distributor, they are centrally responsible for collecting and paying the cannabis cultivation tax, excise tax and other fees. Failure to comply with these regulations can result in major fines or the revocation of the license. (For complete details on cannabis taxes and fees, [see ELLO's comprehensive guide here.](#))

Having all aspects of the sales cycle in-house can prove disastrous if one element fails. For example, a bad harvest, or declining retail sales, could put the entire business into a hole. The [Bureau of Cannabis Control's](#) regulations specifically state that if one license is revoked, all activities will be suspended, making regulatory compliance a necessity.

On-site consumption is integral to the “craft beer and winery” model. Current state regulations allow for a retailer to get a license for on-site consumption, but the same regulation bans the sales of alcohol or tobacco at the same location, which could limit public interest and revenue. An additional hurdle is thrown up by local regulations as many cities and counties in California have been slow to allow on-site cannabis consumption.

An operator with a Microbusiness license is necessarily limited in long-term growth. Restrictions on cultivation square footage place a cap on output, which could be exceeded by demand. Expanding operations can require a new license category and reworking the entire organization.

Will Microbusinesses Save Craft Cannabis?

That remains to be seen. We are less than two months into the legal market and progress has been steady, but slow. Rules and regulations are still being shaped at the local and state level, and many cannabis operations are still formulating license applications, or are waiting for approval.

Despite roadblocks, ELLO is happy to report that several of our clients have successfully received Microbusiness licenses and are thriving in the adult-use market. It will take hard work, optimal planning, and educated consumers ... but we feel that California is well on its way to being a global destination for craft cannabis.

If you're hoping to create a vertically integrated Microbusiness, or you're looking for experienced guidance to shape a dynamic business, please reach out to the [advisors at ELLO for a consultation.](#)

ABOUT THE AUTHOR(S)

[Kris Lenz](#)



CITY OF SEASIDE STAFF REPORT

Item No.: 7.C.

TO: Planning Commission

BY: Dana Morrison

DATE: April 14, 2021

SUBJECT: BOARD OF ARCHITECTURAL REVIEW APPLICATION NO. BAR-21-03. ERIC WENDT, APPLICANT AND PROPERTY OWNER, IS REQUESTING ARCHITECTURAL REVIEW APPROVAL FOR THE CONSTRUCTION OF A ~113 SQUARE FOOT SECOND STORY DECK LOCATED AT THE REAR OF THE EXISTING TWO-STORY SINGLE FAMILY RESIDENCE LOCATED AT 4456 OCEAN HEIGHTS (APN: 031-242-009) IN THE SINGLE-FAMILY RESIDENTIAL (RS-8) ZONING DISTRICT. THE PROJECT IS CATEGORICALLY EXEMPT CLASS 3, SECTION 15301(E), FROM THE CALIFORNIA ENVIRONMENTAL QUALITY ACT (CEQA) GUIDELINES.

PURPOSE & RECOMMENDATION

In accordance with Seaside Municipal Code (SMC) 17.62.030.B.2 Architectural Review approval is required for the construction of all second-story elements, including decks, for single-family residential projects.

Staff recommends approval of BAR-20-03 for the proposed 113 sf deck, subject to Attachment 1: Conditions of Approval, and Attachment 2: Project Plans.

BACKGROUND

Eric Wendt, applicant and property owner purchased the subject property in 2016. The subject property is developed with a 3,205 sf two-story single-family residence, with a 420 square foot garage. The lot is 6,012 sf and the existing conditions comply with both lot coverage and floor area ratio regulations.

SITE LOCATION AND DESCRIPTION

The 6,012 sf site is located on the west side of Ocean Heights Court and is located within the Seaside Highlands Home Owners Association (HOA). The subject property has two-story houses to the west (downhill) separated by a large green belt, and 2-story houses to the north and south (both of which already contain 2nd story deck elements on the rear frontages), to the east are additional two-story single family residences. A Location Map and Site + Area Photographs are provided as Attachment 3 and Attachment 4, respectively.

PROJECT DESCRIPTION

BAR-21-03: Second-story deck

The property is subject to a Home Owners Association which has specific requirement for the design and look of the proposed deck. The new 113 sf deck will be designed to meet the HOA requirements and match the look and design of the balconies on the neighboring properties. The deck will consist of the following:

- Railing and Slats: consist of high powder coated metal guard, painted flat black (per HOA).
- Floor of Balcony/Deck + Tiles: painted to match the HOA approved color – Sherwin Williams tan (color that the matches the house).
- Beams: The beams (legs) of the balcony will be painted white to match the existing design of the neighbors' balconies to the north and south.

The setbacks from the property lines to the 113 sf deck are as follows:

Proposed Side yard setback: 10"

Required setback: 5'

Proposed Rear Yard setback: 15'-6"

Required setback: 15'

PUBLIC COMMENTS

At the time of the creation of this Staff Report one comment has been received from the property owners of 4467 Ocean Heights Court, Wendy and Mike Gravel, who stated that they had no objection to the proposed application to construct a second-story deck 4456 Ocean Heights Court.

STAFF ANALYSIS

FINDINGS

Section 17.62.030.E and F. of the SMC outlines review considerations be evaluated by the Board of Architectural Review, the following of which are applicable to this project:

E. Architectural considerations. Architectural considerations, including the character, quality, and scale of the design, architectural relationship with the site and other structures, building materials, colors, fencing, trash enclosure and walkway

improvements, exterior lighting and signs, and the screening of exterior appurtenances.

F. Conditions of approval. In making its decisions, the Board of Architectural Review may impose the conditions, as it deems reasonable and necessary to protect the best interests of the surrounding area, as well as to further the public health, safety, and general welfare of the community.

1. The proposed use is allowed within the applicable zone and complies with all other applicable provisions of the Zoning Ordinance and the Municipal Code.

Evidence: *In accordance with the SMC 17.12.050, Table 2-3, Residential Zone Development Standards, the proposed project adheres to all setbacks and development regulations. Project has a 10' setback to the side property line and 15'-6" setback to the rear property.*

1. In compliance with Section 17.62.030.E.1 of the SMC, the additions and decks are consistent in quality, scale, and architectural relationship with the site and other structures.

Evidence: *The proposed 113 sf deck has been designed to be consistent in quality, scale, and architectural relationship with the site and HOA; there are no significant visual impacts to the adjacent properties caused by the proposed deck addition. With any 2nd story deck element there are privacy impacts to the adjacent properties. The proposed deck could result in increased noise and disturbance to neighbors located to the south and north of the subject property. However, both of these houses already have 2nd-story deck elements on their rear frontages and approval of this project give the homeowners of 4456 Ocean Heights Court the same use of the rear yard as the neighboring properties. Furthermore, the proposed decks is outside of the required setbacks for the RS-8 Zoning District. As such, it is staffs determination that the new proposed 113 sf deck would not result in significant increased privacy impacts to site neighbors.*

Single-Family Residential Design Guidelines

The project proposes to approve the construction of a 113 sf second story deck. The existing deck is not viewable from the Ocean Heights Court. The deck can be viewed from portions of Buna Loop which is a road located slightly downgrade and west of the subject property. However, many of the house along Ocean Heights already have 2nd story deck elements and there is a large green belt (~100 feet) separating the houses along the east side Buna Loop and the houses on the west side of Ocean Heights Court. The proposed deck is consistent with the setbacks required by the Zoning Code. The following Single-Family Residential Design Guidelines support this proposed modification:

“Architectural elements should be designed to eliminate the appearance of box-like buildings,” (II.A.iii.) and, “Avoid box-like appearance through variation in the roofline and building elevations” (III.C.iv.)

Evidence: *The neighborhood has a fairly standard architectural style, with differing floor plans and colors; all dictated by the existing Seaside Highlands HOA. A number of the existing houses in the HOA already have 2nd story deck/balcony elements along either their front or rear frontages. The plans for the new 113 sf second story deck have been designed to respect the existing residential patterns (proposed materials are consistent with the HOA) and scale in the neighborhood. Furthermore, the project is consistent with the required setbacks from the side and rear property lines.*

Evidence: *The proposed 113 sf second story deck would not impact the view shed of the adjacent properties. Properties on the east side of Ocean Heights Court will not be able to see the deck as the existing house blocks the view, while those on Buna Loop are downgrade of the project site and separate by a large green belt. Additionally, appropriate distance would be maintained on all sides of the project site to provide privacy to adjacent residences; the existing houses to the north and south already have 2nd story deck elements on their rear frontages. While the deck is viewable from the public right of way along Buna Loop; it is not out of place as there are a number of houses along Ocean Heights Court, and in the overall HOA development, which contain second story deck features.*

ENVIRONMENTAL REVIEW

The project is exempt from the California Environmental Quality Act (CEQA) pursuant to **Class 3, Section 15301(E)**. Class 3 consists of projects that involve negligible or no expansion of an existing use and specific to this project: additions to existing structures that will not result in an increase or more than 50% of the floor area of the structures before the addition.

Evidence: *The site is developed with a 3,205 sf two-story single-family residence and the proposed project consists the approval of a new 113 sf second-story deck*

ATTACHMENTS

1. Attachment 1 - Conditions of Approval BAR
 2. Attachment 2_Project Plans
 3. Attachment 3_Location Map
 4. Attachment 4_Aerial and Site + Area Photos
-

Conditions of Approval
File No. BAR-21-03
April 14, 2021

Standard:

1. Except as modified by required conditions of approval, plans submitted for a building permit shall substantially conform to the project plans identified as "4456 Ocean Heights" received February 22, 2021.
2. Board of Architectural Review approval shall not be valid until the applicant has signed and accepted these conditions of approval. Failure to sign the conditions and return them to the Planning Division within fifteen (15) days from the date of approval will result in the Board of Architectural Review approval becoming null and void.
3. Board of Architectural Review approval shall be valid for a period of one (1) year from the date of approval of this project in accordance with S.M.C.S. 17.64.080. Project approval will become null and void if a building permit is not exercised within one (1) year from date of approval.
4. Proposed changes to the approved application(s) must receive approval from the Board of Architectural Review, unless approved by the Director as outlined in Seaside Zoning Code Section 17.64.090.C.
5. The applicant agrees as a condition and in consideration of the approval of this discretionary permit that it will defend, indemnify and hold harmless the City of Seaside or its agents, officers and employees from any claim, action or proceeding against the City or its agents, officers or employees to attack, set aside, void or annul this approval. The applicant will reimburse the City for any court costs and attorney's fees, which the City may be required by a court to pay as a result of such action. City may, at its sole discretion, participate in the defense of such action; but such participation shall not relieve applicant of his obligations under this condition. The City shall promptly notify the applicant of any such claim, action, or proceeding, and the City shall cooperate fully in the defense thereof.
6. Any proposed future development shall comply with the requirements of the Fire, Health, Planning, Code Enforcement, Building and Public Works Departments.

BOARD OF ARCHITECTURAL REVIEW APPLICATION NO. BAR-21-03

This permit is hereby accepted upon the express terms and conditions hereof, and shall have no force or effect unless and until agreed to, in writing, by the applicant and property owner(s).

The undersigned hereby acknowledge the approved terms and conditions and agree to fully conform to, and comply with, said terms and conditions within the time frames approved by the City of Seaside Board of Architectural Review.

Applicant's Signature

Date

Property Owner's Signature

Date

WENDT' RESIDENCE
NEW DECK AND FRENCH DOORS
4456 OCEAN HEIGHTS COURT
SEASIDE, CALIFORNIA

**BUILDING DESIGN
& CONSULTING**

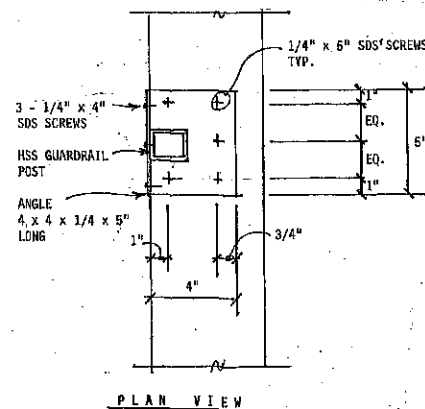
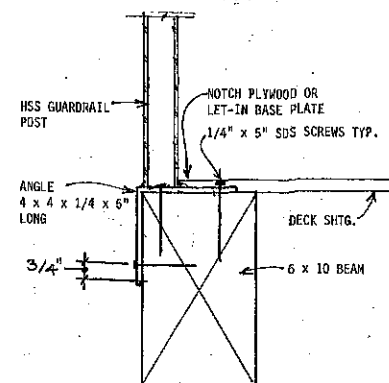
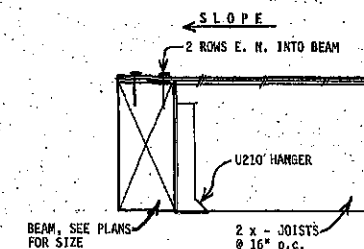
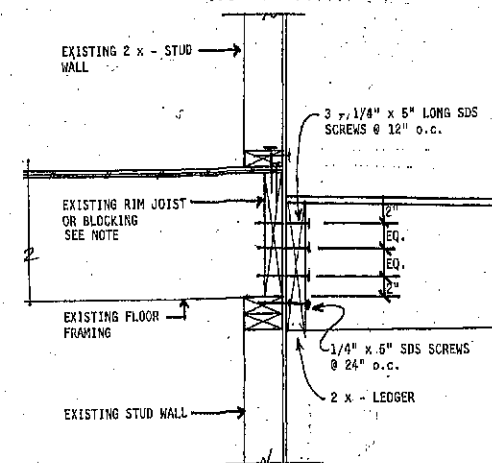
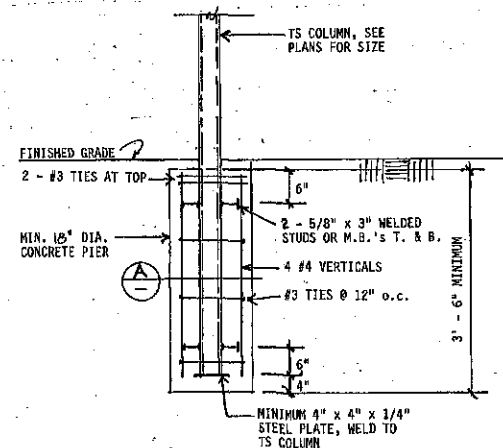
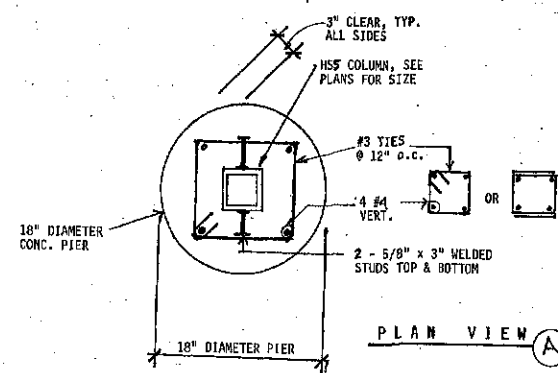
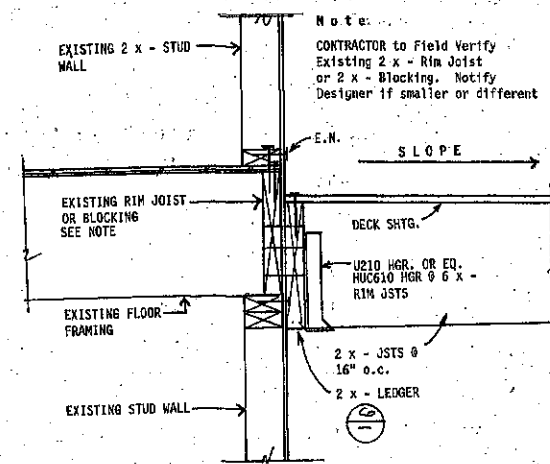
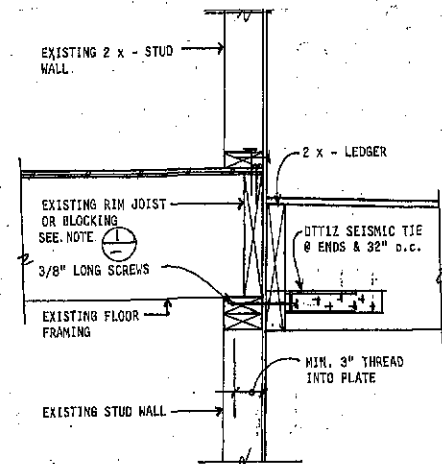
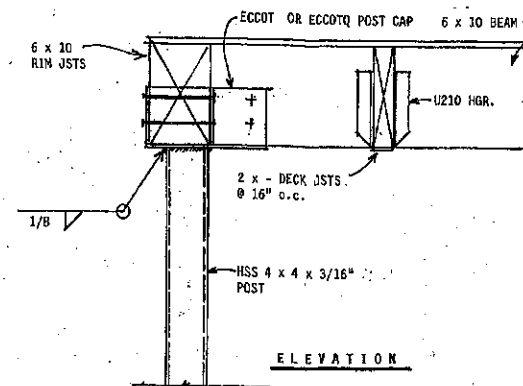
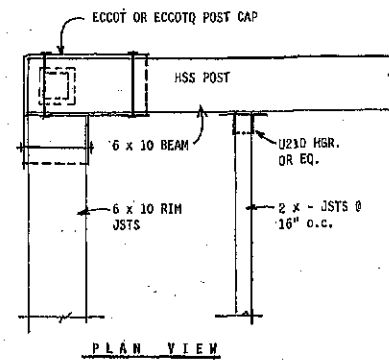
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2150 GARDEN RD., SUITE B5 / MONTEREY, CA 95040
(831) 546-5596
FAX 546-5588


 Warren A. Davis
 Dream by

**VENDT RESIDENCE
LEW DECK AND FRENCH DOORS
456 OCEAN HEIGHTS COURT
SEASIDE, CALIFORNIA
PN: 031-242-009-000**

Date 2-5-21
Scale
Drawn
Job 61-2020
Sheet
A3
Of Sheets



DECK FRAMING NOTES:

1. **DECK SHEATHING:** Deck sheathing shall be 3/4" CDX plywood, T. & G. Nail with 10d at 6" o.c. all supported edges and 10d at 10" o.c. all intermediate bearing. P.I. 32/16. Keep minimum 1/16" clear between all panel edges. All sheathing shall be glued to framing with subfloor adhesive. Nail floor sheathing to all blocking, rim joists, etc. with 10d at 4" o.c. at all shear walls U.O.N. on plans or details.
2. **DECK FRAMING:** Waterproof deck shall be framed with 2 x 12 joists at 16" o.c. Rim joists a minimum of 1 1/2" for foot drainage. CONTRACTOR shall install flashing and waterproof surface as specified by manufacturer.

NOTES:

1. **SITE CONDITIONS:** Contractor shall field verify all existing conditions and frame. Notify DESIGNER of any discrepancies prior to proceeding with work. All new work and finishes to match existing U.O.N. or specified.
2. **SHORING:** All required shoring shall be the sole responsibility of the CONTRACTOR. The CONTRACTOR shall provide all necessary bracing as required until all work is complete.
3. **CONCRETE:** All concrete shall be regular weight and develop a minimum compressive strength of 2500 psi at age 28 days.
4. **REINFORCING:** All reinforcing shall be A.S.T.M. Grade 40.
5. **FOUNDATION:** All new footings shall bear on firm, native undisturbed sandy soil and have a minimum bearing capacity of 1500 psf. Soil Type 4 of Table 1806.2 of the 2016 C.B.C. The CONTRACTOR shall verify that existing soil conditions are as assumed. Notify the ENGINEER if existing soil is different prior to laying any steel or pouring any concrete.
6. **LUMBER:** All lumber shall conform to the rules of a recognized grading agency and Tables 4D through 4F of the N.D.S. All beams shall be D.F. No. 1 or better.
Parallam Beams [PB] shall be 2.2E Parallam PL.
All joist shall be D.F. No. 1 or better.
All lumber within 8' of earth, exposed to the weather, in contact with earth, concrete or concrete block shall be pressure-treated [P.T.].
All framing lumber shall have a MAXIMUM MOISTURE CONTENT OF 19% at the time of installation or incorporating the lumber into the structure.
7. **BOLTS:** All bolts shall conform to A.S.T.M. A307.
8. **STEEL:** All misc. steel shall conform to A.S.T.M. A36.
9. **HARDWARE:** All framing hardware shall be by Simpson Company or Equal.
10. **NAILING:** All nails shall be common wire nails and all nailing shall conform to Table 2304.10.1 of the C. B. C.
11. **EXISTING FRAMING:** CONTRACTOR shall inspect all existing accessible framing. Any damaged framing shall be replaced with an equal size and grade member.
12. **CORROSION PROTECTION:** ALL exposed metal, bolts and nails shall be galvanized or protected by an approved equal.
All steel, such as A.B.'s, washers and nails and all framing hardware such as hangers, post caps and post bases, in contact with pressure-treated lumber shall be stainless steel or NOT DIP GALVANIZED with a minimum coating of 99.9, 9.90 oz. per sq. ft.

REVISIONS	BY

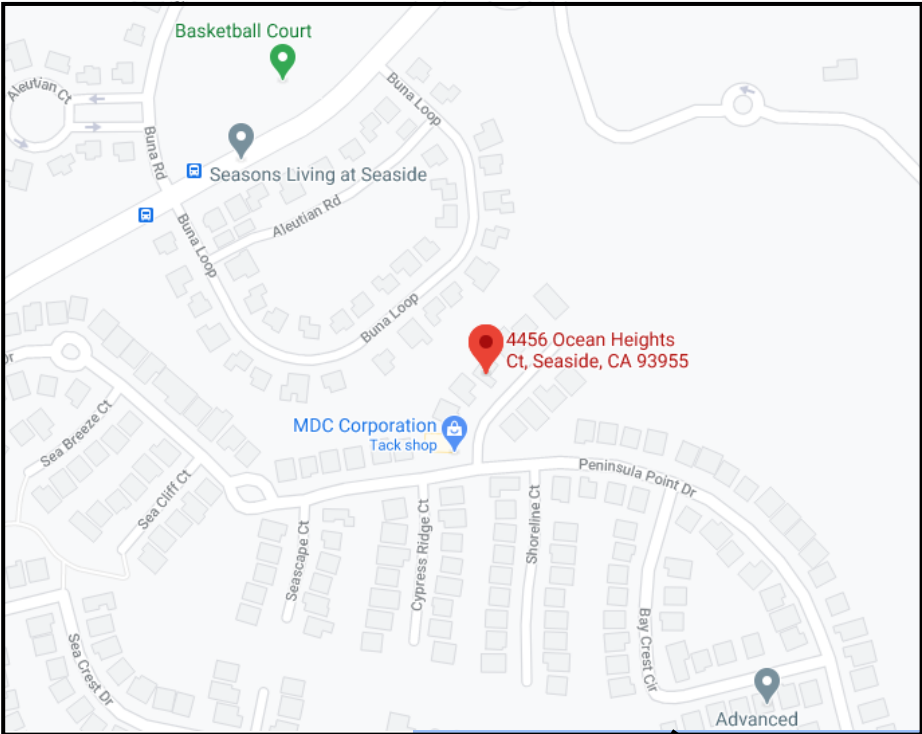
ALEX OTT
CONSULTING ENGINEER
603 PALM AVE.
SEASIDE, CALIFORNIA 92553
857-264-9009 PHONE | 857-264-2297 FAX



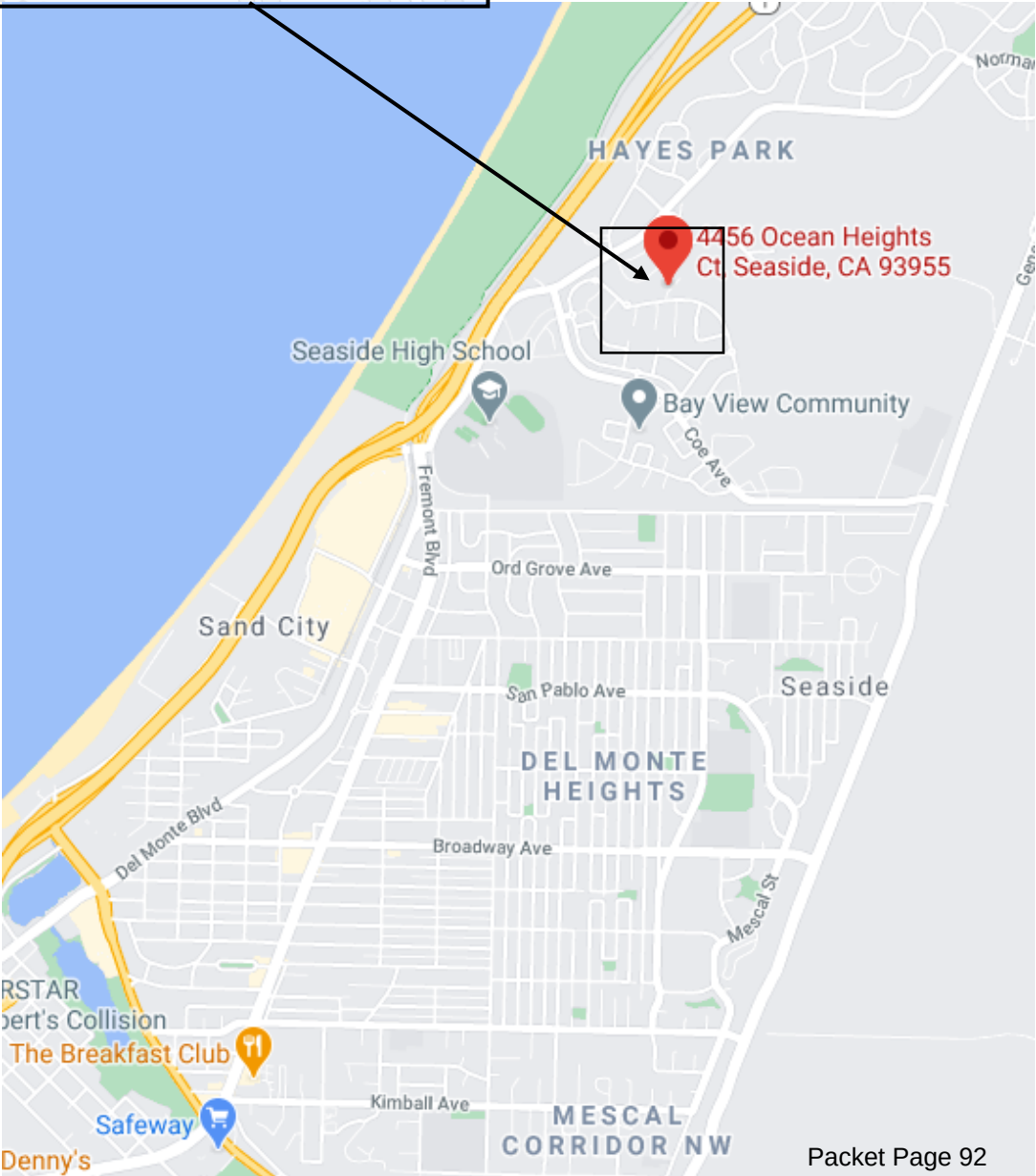
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WENDT RESIDENCE
NEW DECK AND FRENCH DOORS
4456 OCEAN HEIGHTS COURT
SEASIDE, CALIFORNIA
APN: 031-242-009-000

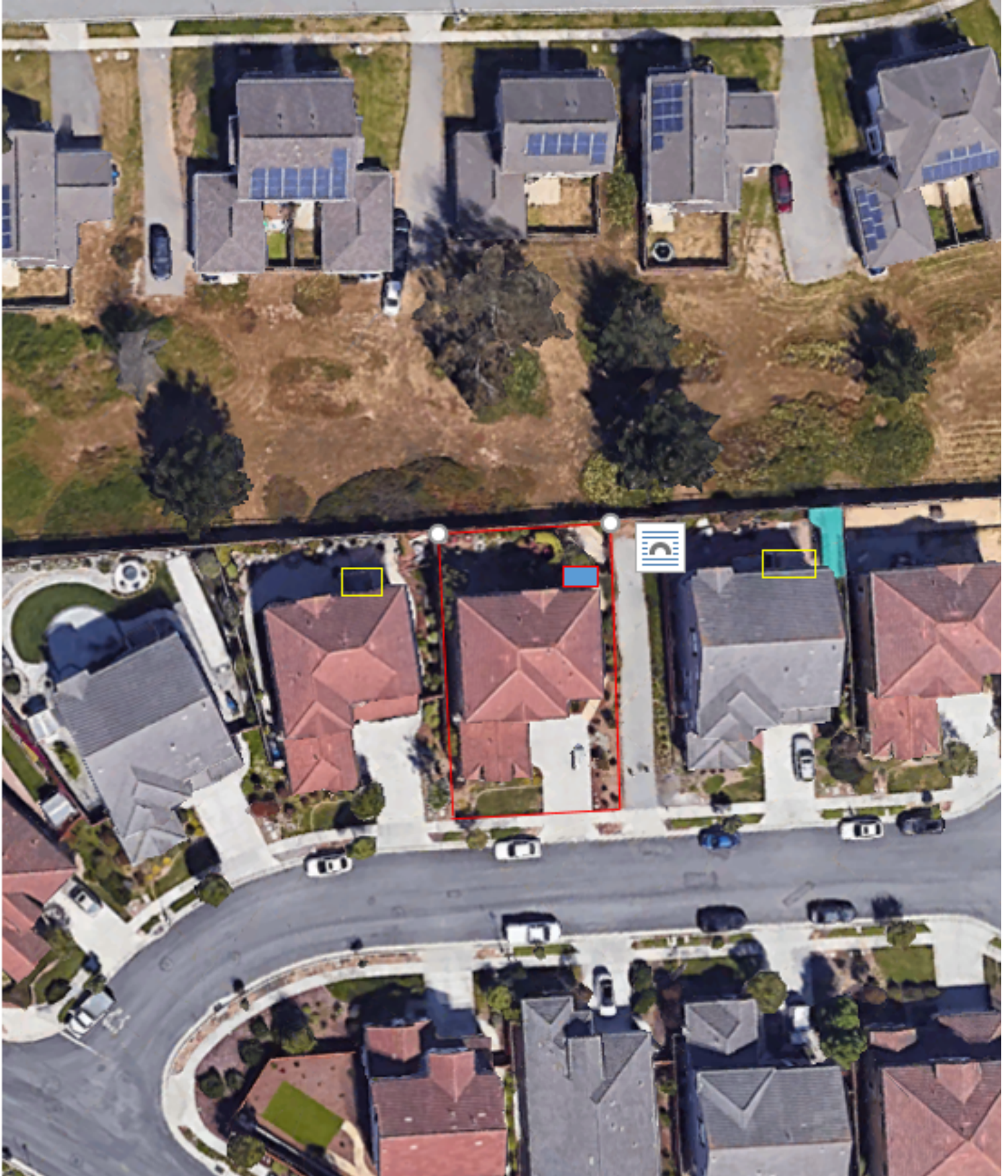
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Drawn	
Job	61.2020
Sheet	S1
	Sheets



Attachment 3: Location Map



Attachment 4 – Aerial and Site + Area Photos:



Property lines = —

Proposed deck: —

Existing decks: —



View from Buna Loop looking east towards project site, showing the existing deck of the northern property neighbor (yellow) and location of the proposed deck (red).



View from Buna Loop looking east towards project site, showing the existing deck of the southern property neighbor (yellow).



View from Ocean Heights Court, project site is the property on the left. 4456 and the neighbor to the north (right side of photo) are separated by an existing 18' public ROW.



View from public ROW between 4456 and 4460 Ocean Heights Court looking south. Neighbors existing deck is visible (yellow) and the proposed location of the new deck is marked in red.



View from public ROW between 4456 and 4460 Ocean Heights Court looking north. Neighbors existing deck is visible (yellow).



Property to north with (e) front balcony.



Property to the south.



CITY OF SEASIDE STAFF REPORT

Item No.: 7.D.

TO: Planning Commission

BY: Dana Morrison

DATE: April 14, 2021

SUBJECT: **FENCE EXCEPTION APPLICATION NO. FE-21-02. CHARLES MANDURRAGO, APPLICANT, AND MITSUGU MORI, PROPERTY OWNER, ARE REQUESTING A FENCE EXCEPTION OF 3'-0" TO ALLOW FOR THE ADDITION OF A METAL PICKET FENCE TO THE EXISTING 8'-0" CONCRETE MASONRY UNIT (CMU) WALL, FOR A TOTAL FENCE HEIGHT OF 11'-0", LOCATED ALONG THE WEST SIDE PROPERTY LINE OF 1177 SAN PABLO AVE (SEASIDE GARDEN CENTER), LOCATED IN THE CMX (COMMERCIAL MIXED USE) ZONING DISTRICT (APN: 012-051-011). THE PROJECT IS CATEGORICALLY EXEMPT CLASS 1, SECTION 15301(A), FROM THE CALIFORNIA ENVIRONMENTAL QUALITY ACT (CEQA) GUIDELINES.**

PURPOSE & RECOMMENDATION

In accordance with Section 17.30.020.F of the Seaside Municipal Code the applicant/property owner is requesting approval of a fence exception to allow for the addition of 3'-0" metal picket fence to the existing 8'-0" CMU wall, resulting in a final height of 11'-0". The new fence height will be 3'-0" higher than permitted by code, without approval of fence exception. The proposed fence addition would be located along west side property line between the rear parking lot of the Dollar Store and the side property line of Hanna Gardens, 1177 San Pablo Avenue (APN# 012-051-011). The increased fence height is proposed due to an increase in thefts from existing commercial business located on site, Seaside Garden Center.

Overall, the proposed fence height exception would provide additional protection and security to the existing commercial business and has been designed to match the existing entry gate and fence. Based on the analysis provided below, staff recommends approval of Fence Exception Application No. FE-21-02 subject to Attachment 1: Draft Resolution and Conditions of Approval and Attachment 2: Project Plans.

BACKGROUND

The property owner purchased the property in 2005.

According to the applicant, it is for the following reasons that he has applied for a fence exception:

1. The current fence height allows for thieves to climb over the existing CMU wall.
2. In the past 2 months there have been a number of break-ins resulting in the theft of thousands of dollars' worth of goods and materials from the existing commercial business. The Seaside Police Department confirmed that at least one break-in has been reported in 2021; during said incident thousands of dollars' worth of merchandise was stolen.
3. Proposed fence height increase will make it harder for thieves to climb the wall and access the site.

Earlier in 2021, in an attempt to curtail the frequent thefts the property owner added razor wire to the top of the existing CMU wall. This was flagged by Code Enforcement and the razor wire has since been removed. This application is attempt to help prevent future vandalism from occurring.

SITE LOCATION AND DESCRIPTION

The project site is approximately 43,561 square feet in area and is developed with a 2,854 square foot commercial structure (Seaside Garden Center). 1177 San Pablo Avenues is located in CMX, Commercial Mixed Use District. Adjacent land uses consist of a multi-family development to the east, a mix of commercial and multi-family to the south, and commercial to the north and west. A Location Map is provided as Attachment 3 and Site + Area Photos are provided as Attachment 4.

PROJECT DESCRIPTION:

In an attempt to provide additional security for the existing commercial business, the owners of 1177 San Pablo Avenue are proposing to increase the fence height of the existing CMU wall located along the western property line.

Proposed Fence: The property owner intends to install a 3'-0" tall metal picket fence (powder coated black) consisting of 2" square powered mounts and 1/2" powder coated pickets. The picket fence will match the existing entry gate and fence located along the southern frontage which faces San Pablo. The picket fence would be located on top of the existing 8'-0" CMU wall located along the length of the entire side property line; barring the initial ~ 8' linear starting from the front property line. In total, 300 linear

feet of CMU wall is proposed to have the 3'-0" tall picket fence added on top. The CMU wall does step up at one point along the western frontage, a Condition of Approval has been added requiring that at no point should the CMU/fence combination exceed 11'-0"; if the CMU wall steps up, then the picket fence shall be reduced in height so that at no point the overall height exceeds 11'-0".

While the applicant is requesting an exception, overall the project will effectively provide for additional security without detracting the overall aesthetic of the surrounding neighborhood.

CEQA

This project is Categorical Exempt from the California Environmental Quality Act pursuant to Section 15303(e): New Construction of Small Structures. Class 3 categorical exemptions consist of the construction of small structures including fences.

Evidence: Approval of the proposed fence exception would result in the approval of an 11'-0" high fence/CMU wall (consisting of a 3'-0" high picket fence on top of an existing 8'-0" CMU wall) at 1177 San Pablo Avenue. A fence consists of a minor improvement that is categorically exempt from CEQA.

STAFF ANALYSIS AND FINDINGS

Fence exception rules are listed under SMC Section 17.30.020.F.1 and 2. The process mandates that where a physical hardship exists because of unique or unusual topographic conditions or structure location, the commission may approve a fence exception subject to the following findings:

- A general safety hazard to City residents and/or the general public would not be created.
- A traffic-related safety hazard would not be created.
- The fence or wall will not impair visibility at an intersection or traffic safety visibility area.
- The fence or wall will not obstruct vision from an adjoining driveway.
- The fence or wall is compatible with the surrounding neighborhood

Physical Hardship

A physical hardship (e.g. irregular lot size, slope, building placement, utilities) exists when there are conditions that would preclude the property owner from the reasonable use of their property if the fence exception is not granted. The existing site conditions have created a hardship in the form of loss of revenue. Due to the existing height of the CMU wall (8'-0") it appears to be easily scalable. According the Seaside Police Department at least one break-in has been reported in 2021 which resulted in the loss of the thousands of dollars' worth of merchandising. According to the applicant, there

has actually been a number of break-ins to the Seaside Garden Center. The proposed fence height increase is intended to provide increased security and hopefully prevent thieves from being able to easily scale the wall and access the property in future.

Neighborhood Compatibility

The proposed property is located in unique area which straddles a point where commercial and residential abut each other. Many businesses along Fremont Blvd do not have fencing. However, a number of businesses along San Pablo, Echo and La Salle have similar surrounding uses. Photos of fence types that can be found at commercial sites in the surrounding area are provided as part of Attachment 4: Site and Area Photos. The proposed picket fence design can be seen at 1 other commercial site along Echo, and 1 business on La Salle has a wood fence. However, most businesses in the area have fences which consist of chain link (with or without) privacy slats. Overall, the proposed fence is of good quality and design, as such it is more aesthetically pleasing than fences found at other commercial businesses in the surrounding neighborhood. While the proposed fence is taller than any of the existing fences located in the neighborhood the existing commercial business is unique, in that business has much of its mechanizing located outside. The proposed fence height exception would provide additional protection and security to the Seaside Garden Center, utilizing an attractive fence addition.

Public Comment

At the time of the creation of this staff report no public comments have been received. The Building and Fire Department were routed a copy of the proposed Fence Exception. The Fire Department had no comments, however the Building Department recommended approval.

Zoning Ordinance Consistency

In accordance with Section 17.30.020.F.2, the following findings shall be considered for a fence exception:

1. A general safety hazard to City residents and/or the general public would not be created.

Evidence: *The proposed fence exception would not result in a general safety hazard to the general public, or adjacent property owners. The proposed 11'-0" fence for the western side yard provides additional security and theft prevention for the existing commercial business. The proposed project was reviewed by both the City of Seaside Fire Department and the Building Department; the Fire Department had no comments or conditions, the Building Department was supportive of the proposed project.*

2. A traffic-related safety hazard would not be created.

Evidence: *The proposed street side fence does not pose a traffic-related safety hazard due to its location at the side of the property. The proposed 3'-0" addition is predominantly transparent, as it is a picket fence with spacing between pickets), and does not decrease visibility any further than the existing 8' CMU wall does.*

3. The fence will not impair visibility at an intersection or traffic safety visibility area.

Evidence: *The proposed fence increase is proposed to be located along the side property line and is not located at an intersection or in a traffic safety visibility area.*

4. The fence or wall will not obstruct vision from an adjoining driveway.

Evidence: *The proposed fence will not obstruct vision from the Dollar Tree driveway as the proposed 3'-0" picket fence addition is a predominantly transparent and does not decrease visibility any further than the existing 8' CMU wall does. Furthermore the proposed picket addition does not occur until the CMU wall does, which is 8' back from the front property line.*

5. The fence is compatible with the surrounding neighborhood.

Evidence: *The fence design would be an improvement to a neighborhood which contains a wide variety of fence types (chain link, wood, metal). Furthermore, the proposed fence height will provide added security to the existing commercial businesses and provide further loss prevention. The proposed black picket fencing is consistent with the entry gate and front yard fence of the Seaside Garden Center, and is also consistent with the fence designs of other commercial businesses located within Seaside.*

RECOMMENDATION

Overall, the proposed fence height exception would provide additional protection and security to the existing commercial business and has been designed to match the existing entry gate and fence. Based on the analysis provided below, staff recommends approval of Fence Exception Application No. FE-21-02 subject to Attachment 1: Draft Resolution and Conditions of Approval and Attachment 2: Project Plans.

ATTACHMENTS

1. Attachment 1_Resolution and COAs
2. Attachment 2_Project Plans
3. Attachment 3_Location Map
4. Attachment 4_Site + Area Photos

**PLANNING COMMISSION
RESOLUTION NO. 21-XX**

A RESOLUTION OF THE PLANNING COMMISSION OF THE CITY OF SEASIDE, STATE OF CALIFORNIA, APPROVING FENCE EXCEPTION APPLICATION NO. FE21-02 TO ALLOW FOR THE ADDITION OF A 3'-0" METAL PICKET FENCE TO AN EXISTING 8'-0" CMU WALL (RESULTING IN A TOTAL HEIGHT OF 11'-0") ALONG THE SIDE PROPERTY LINE OF 1177 SAN PABLO AVE - SEASIDE GARDEN CENTER (APN # 012-051-011).

WHEREAS, Charles Mandurrango, applicant, and Mitsugu Mori, owner, have applied for approval of a Fence Exception permit to allow for the creation of an 11'-0" fence to be located along the side property line of 1177 San Pablo Avenue. The project proposes to add a 3'-0" metal picket fence to the existing 8'-0" CMU wall, along 300 linear feet of the western side property line, for added security of the existing commercial business, Seaside Garden Center. The resulting increase in fence height exceeds the maximum height requirements of Zoning Code Section 17.30.020.B.2 within the side setback by 3'-0" and would result in an 11'-0" CMU/fence; and

WHEREAS, it is the responsibility of the Planning Commission to consider and weigh the merits of the application and public input in relation to the policies, standards and intent of the Seaside General Plan and Seaside Municipal Code in relation to the proposed Fence Exception; and

WHEREAS, the Planning Commission considered written information concerning the proposed exception at a duly noticed Special Meeting public hearing held on April 14, 2021; and

WHEREAS, the project is exempt from environmental review subject to Class 3, Section 15303(e): New Construction of Small Structures:

Evidence: Approval of the proposed fence exception would result in the approval of as 11'-0" foot high CMU wall (8'-0") topped with a metal picket fence (3'-0"), at 1177 San Pablo Avenue. A fence consists of a minor improvement that is categorically exempt from CEQA.

NOW, THEREFORE, BE IT RESOLVED, that the Planning Commission adopts the following findings for approval of Fence Exemption Application No. FE-21-02:

Finding No. 1

Physical hardships exist based upon unique or unusual topographic conditions or structure location.

Evidence: The existing site conditions have created a hardship in form of loss of revenue. Due to the existing height of the CMU wall (8'-0") it appears to be easily scalable by thieves. According the Seaside Police Department at least one break-in has been reported in 2021 which resulted in the loss of the thousands of dollars' worth of merchandising. According to the applicant, there has actually been a number of break-ins to the Seaside Garden Center. The proposed fence height increase is intended to provide increased security and hopefully prevent thieves from being able to easily scale the wall and access the property.

Finding No. 2

A general safety hazard to City residents and/or the general public would not be created

Evidence: The proposed fence exception would not result in a general safety hazard to the general public, or adjacent property owners. The proposed 11'-0" fence for the western side yard provides additional security and theft prevention for the existing commercial business. The proposed project was reviewed by both the City of Seaside Fire Department and the Building Department; the Fire Department had no comments or conditions, the Building Department was supportive of the proposed project.

Finding No. 3

A traffic-related safety hazard would not be created.

Evidence: The proposed street side fence does not pose a traffic-related safety hazard due to its location at the side of the property. The proposed 3'-0" addition is predominantly transparent, as it is a picket fence with spacing between pickets), and does not decrease visibility any further than the existing 8' CMU wall does.

Finding No. 4

The fence will not impair visibility at an intersection or traffic safety visibility area.

Evidence: The proposed fence increase is proposed to be located along the side property line and is not located at an intersection or in a traffic safety visibility area.

Finding No. 5

The fence or wall will not obstruct vision from an adjoining driveway.

Evidence: The proposed fence will not obstruct vision from the Dollar Tree driveway as the proposed 3'-0" picket fence addition is a predominantly transparent and does not decrease visibility any further than the existing 8' CMU wall does. Furthermore the

proposed picket addition does not occur until the CMU wall does, which is 8' back from the front side property line.

Finding No. 6

The fence is compatible with the surrounding neighborhood.

Evidence: *The fence design would be an improvement to a neighborhood which contains a wide variety of fence types (chain link, wood, metal). Furthermore, the proposed fence height will provide added security to the existing commercial businesses and provide further loss prevention. The proposed black picket fencing is consistent with the entry gate and front yard fence of the Seaside Garden Center, and is also consistent with the fence designs of other commercial businesses located within Seaside.*

BE IT FURTHER RESOLVED, the Planning Commission hereby grants Fence Exception Application No. FE20-02 subject to the following terms and agreements:

Planning:

1. Except as modified by required conditions of approval, plans submitted for a building permit shall substantially conform to the plans identified as Attachment 2- Project Plans.
2. At no point along the fence will the CMU/fence combination exceed 11'-0" in height; if the CMU wall sets up the picket fence must be reduced in height.

Public Works

1. An Encroachment Permit will be required prior to the initiation of any work within the public right-of-way.

Standard:

1. The Fence Exception approval is subject to revocation procedures contained in S.M.C. Section 17.69.060 in the event any of the terms of this approval are violated or if the uses onsite are conducted or carried out in a manner so as to adversely affect the health, welfare or safety of persons residing or working in the neighborhood.
2. The applicant agrees as a condition and in consideration of the approval of this discretionary permit that it will defend, indemnify and hold harmless the City of Seaside or its agents, officers and employees from any claim, action or proceeding against the City or its agents, officers or employees to attack, set aside, void or annul this approval. The applicant will reimburse the City for any court costs and attorney's fees, which the City may be required by a court to pay as a result of such action. City may, at its sole discretion, participate in the defense of such action; but such participation shall not relieve applicant of his obligations under this condition. The City shall promptly notify the applicant of any such claim, action, or proceeding, and the City shall cooperate fully in the defense thereof.

3. The permit shall have no force or effect unless and until accepted, and the terms thereof agreed to, in writing, by the applicant and property owner within 15 days from the date of its approval.
4. Project approval will become null and void if a building permit is not obtained within one (1) year from the date of approval to begin construction on the project.
5. For purposes of assuring compliance, the applicant, agents, representatives or their assignees agree not to deny or impede access to the subject property by City employees in the performance of their duties.

NOW BE IT FURTHER RESOLVED, the Planning Commission hereby approves Fence Exception Application No. FE-21-02, on the 14th day of April 2021, by the following vote.

AYES:

NOES:

ABSENT:

ABSTAIN:

John Owens, Chairperson

ATTEST:

Planning Commission Secretary

PROJECT INFORMATION

ADDRESS: 1177 SAN PABLO AVE

PROJECT DESCRIPTION: EXISTING CMU BOUNDARY WALL EXTENSION PROPOSAL

ZONING: CMX

A.P.N.: 012-051-011

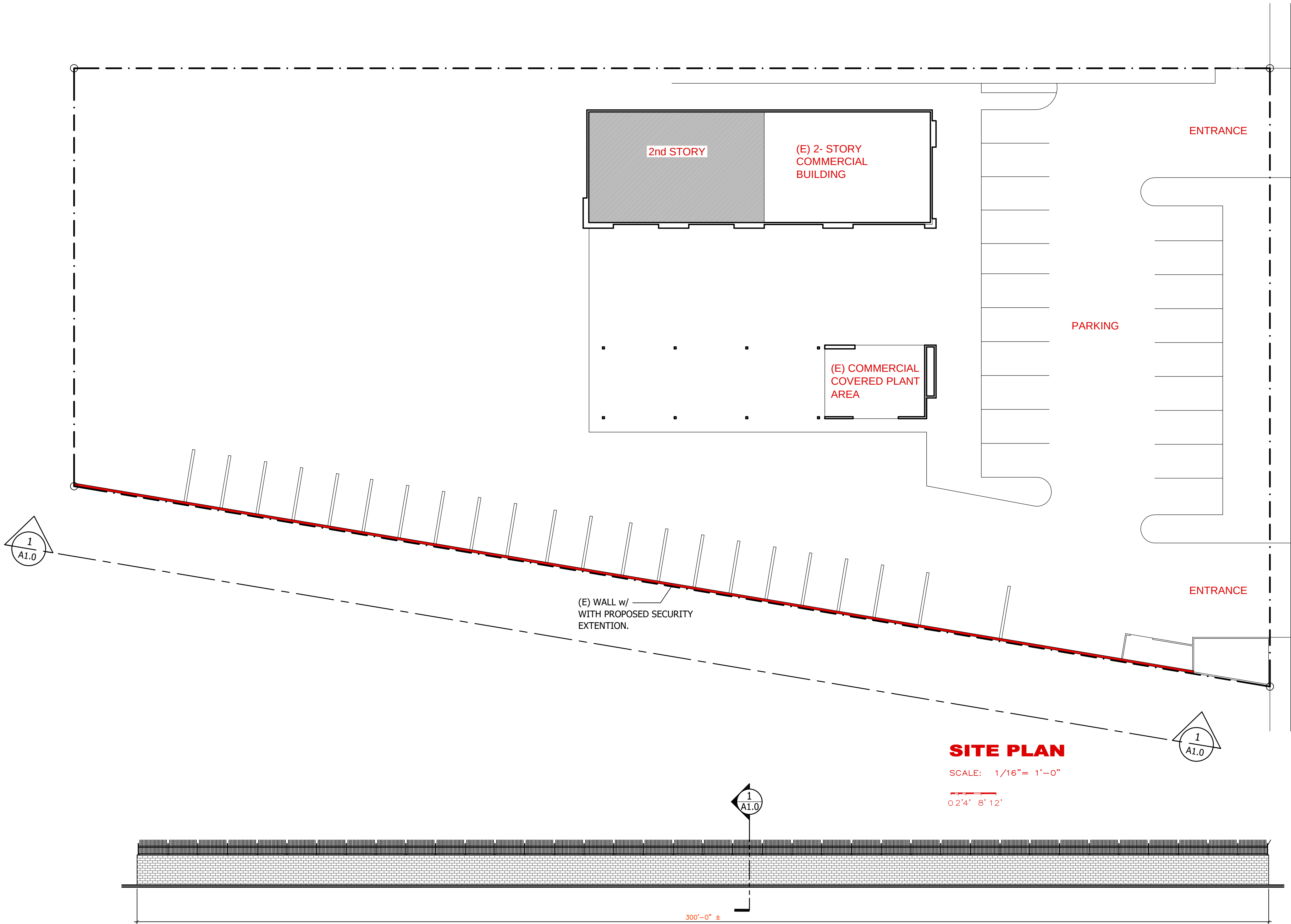
OCCUPANCY GROUP: (M + B)

TYPE OF CONSTRUCTION: VN

FLOOR AREA	
<u>EXISTING</u>	
<u>BUILDING #1</u>	2,777.00 S.F.
<u>2nd FLOOR OFFICE</u>	1,425.00 S.F.
<u>BUILDING #2</u>	<u>UNCOVERED</u>
	1,137.00 S.F.
	<u>COVERED</u>
	509.00 S.F.
<u>TOTAL:</u>	5,848.00 S.F.

OWNER: MITSUGU MORI
1394 ORD GROVE AVE.
SEASIDE, CA. 93955

DESIGNER: CHARLES MANDURRAGO
MANDURRAGO & ASSOCIATES
P.O. BOX 1504
CARMEL, CA. 93921



WEST WALL ELEVATION #1

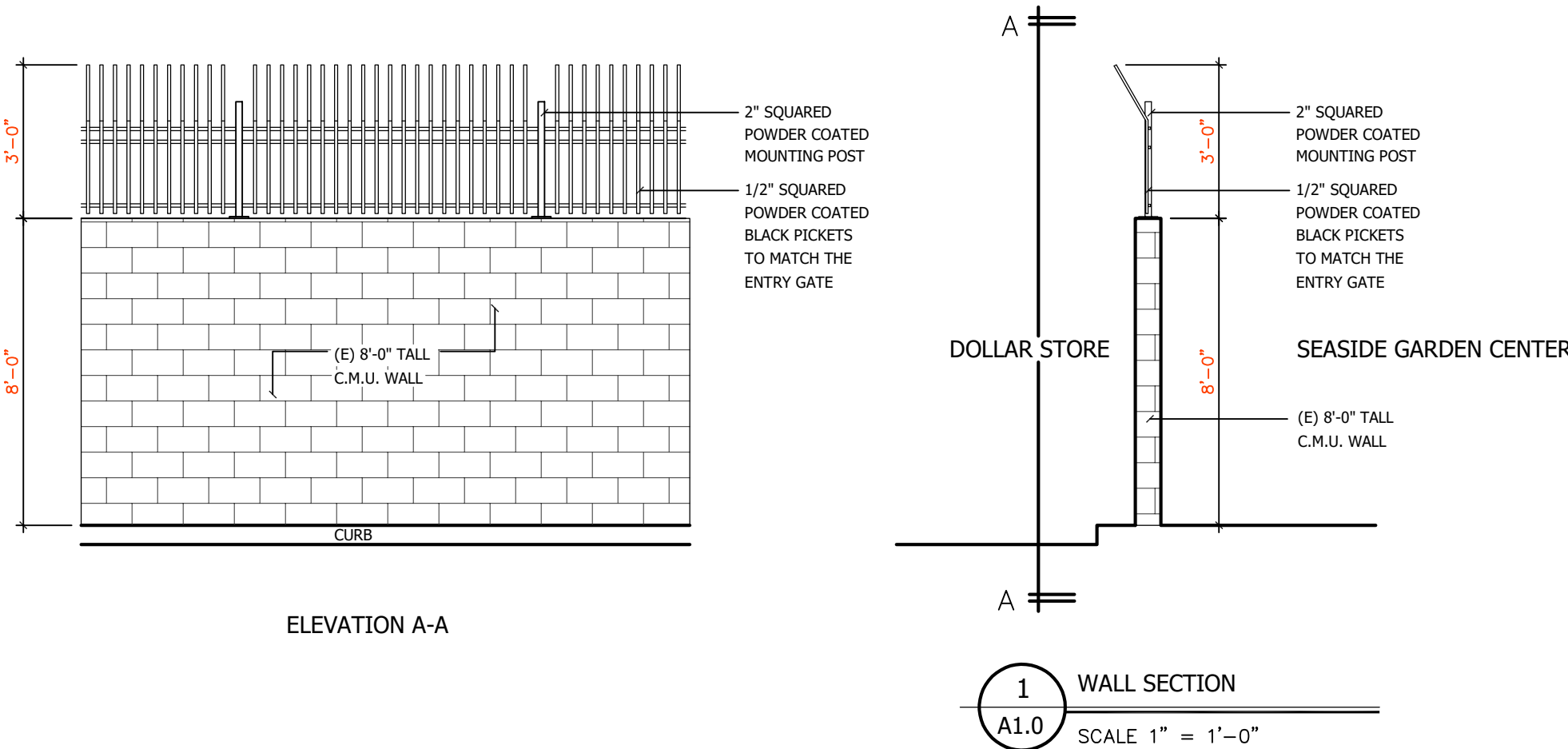
SCALE: 1/16" = 1'-0"



EXISTING PICTURE "A"



EXISTING PICTURE "B"



MANDURRAGO
&
ASSOCIATES



P.O. BOX 1504 CARMEL, CA. 93921
PHONE: 831 935-0709
EMAIL: CHARLES@MANDURRAGO.NET

DRAWN BY: MANDURRAGO

DRAWING DATE: 2-22-21

REVISIONS:



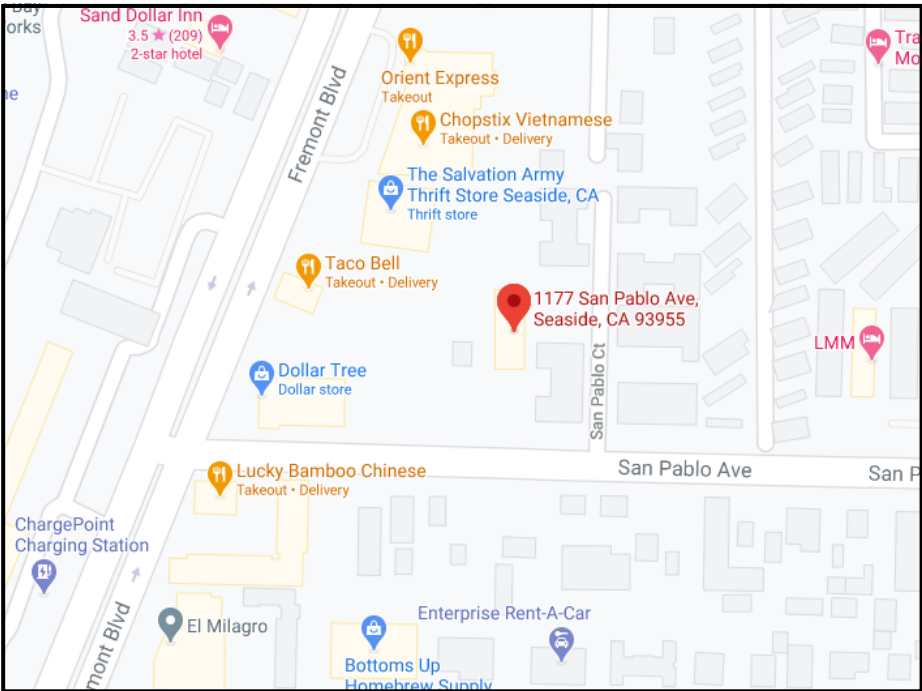
PROJECT:
HANNA GARDENS
(E) WALL
EXTENSION PROPOSAL

1177 SAN PABLO AVE.
SEASIDE, CA. 93955
APN: 012-051-011

OWNER:
MORI MITSUGU
1394 ORD GROVE AVE.
SEASIDE, CA. 93955

SHEET NUMBER:

A1.0



Attachment 3: Location Map



Attachment 4: Site and Area Photos



View of existing CMU wall from Goodwill along Fremont looking east.



View of existing CMU wall from Dollar Tree parking lot looking east.



View of CMU wall looking along western property line (north)



View of front entry gate.



View of fence along front property line, picket fence located on top will match.

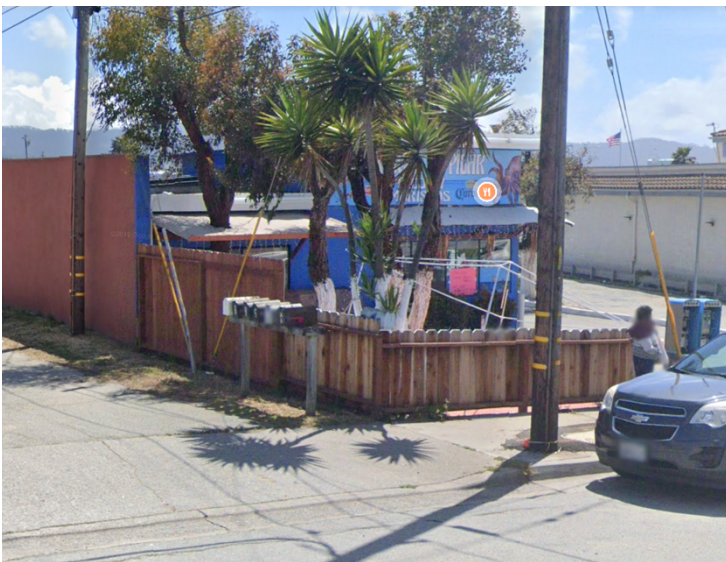
Neighborhood Fences



Properties across street on San Pablo Avenue (south side)



Goodwill and Taco Bell along Fremont Boulevard



Property on La Salle Avenue
(north side)



Property along Echo Avenue



Property along Echo Avenue (north side)



Property along Echo Avenue (north side)



CITY OF SEASIDE STAFF REPORT

Item No.: 7.E.

TO: Planning Commission

BY: Dana Morrison

DATE: April 14, 2021

SUBJECT: FENCE EXCEPTION APPLICATION NO. FE-21-01. CAROLINE STAVE-VIEMEISTER, APPLICANT AND PROPERTY OWNER, IS REQUESTING A FENCE EXCEPTION TO ALLOW FOR THE CONSTRUCTION OF A 5'-2" TALL FENCE ALONG THE FRONT PROPERTY LINE (1'-2" ABOVE THE PERMITTED FRONT YARD FENCE HEIGHT) AT 1289 DARWIN STREET, LOCATED IN THE RS-12 (SINGLE FAMILY RESIDENTIAL) ZONING DISTRICT (APN: 012-291-010). THE PROJECT IS CATEGORICALLY EXEMPT CLASS 1, SECTION 15301(A), FROM THE CALIFORNIA ENVIRONMENTAL QUALITY ACT (CEQA) GUIDELINES.

PURPOSE & RECOMMENDATION

In accordance with Section 17.30.020.F of the Seaside Municipal Code the applicant/property owner is requesting approval of a fence exception to allow for the construction of a 5'-2" tall fence along the front yard property line, which exceeds the maximum height limit by 1'-2", for a single family dwelling located at 1809 Havana Street in the Single Family Residential (RS-12) Zoning District (APN# 012-291-010).

Overall, the proposed fence height exception is consistent with other fences in the neighborhood and would not detract from the aesthetics. Based on the analysis provided below, staff recommends approval of Fence Exception Application No. FE-21-01 subject to Attachment 1: Draft Resolution and Conditions of Approval, and Attachment 2: Project Plans.

BACKGROUND

The house was constructed in 1962 and was purchased by the current property owner in 2020.

According to the applicant/property owner, the fence height increase is proposed to increase security of the front yard and provide additional privacy. The existing fence height is only 3', and is easily scalable by both people and the owners' dogs. Both the existing residents are elderly females and the additional height would help to provide peace of mind. Furthermore the increased will make the front more usable for the dogs which also live at the residence.

SITE LOCATION AND DESCRIPTION

The project site is approximately 3,650 square feet in area and is developed with a 1,003 square foot single story residence. Adjacent land uses consist of single-family residential dwellings to the north, south, east and west. This section of Darwin Street is dead end, with only 6 houses served by the roadway; Durant Park is located on the eastern side of the dead end section of Darwin. A Location Map and Site + Area Photos are provided as Attachment 3 and Attachment 4, respectively.

PROJECT DESCRIPTION:

As part of their continued property improvements the owners of 1289 Darwin Street are seeking to add 2'-2" of redwood lattice and an entry gate to the existing fence bounding the front yard setback of the residence.

The existing redwood is 3' in height. The fence is located directly along the front property and also follows along the side property lines (within the front yard setback). The existing fence design consists of 12" wide vertical wood pickets (made of redwood) with a 1/4" picket spacing (see Attachment 2: Project Plans).

Proposed Fence Exception: The property owner is requesting to add 2'-2" of redwood lattice to the existing 3' fence. This will result in a total fence height of 5'-2", 1'-2" above the 4' height permitted for residential properties. The lattice would be added to the 32' linear section of the fence along the front property line (east), as well as to the 18'-7" and 11'-6" linear portions of fence located along the side property lines (north and south). The project also involves the addition of a 6' gate (already installed), along the northern side property line. The gate starts at ~12' from the front property line and is attached to the front portion of the garage. A photo of the existing gate is provided as part of Attachment 2: Project Plans.

CEQA

This project is Categorically Exempt from the California Environmental Quality Act pursuant to Section 15303(e): New Construction of Small Structures. Class 3 categorical exemptions consist of the construction of small structures including fences.

Evidence: Approval of the proposed fence exception would result in the approval of as 5'-2" high redwood fence with redwood lattice top at 1289 Darwin Street. A fence

consists of a minor improvement that is categorically exempt from CEQA.

PUBLIC COMMENTS

At the time of the creation of this Staff Report, one public comment has been submitted regarding the project. A neighbor residing at 1289 Luzern Street wrote regarding their support of the proposed fence project.

STAFF ANALYSIS AND FINDINGS

Fence exception rules are listed under SMC Section 17.30.020.F.1 and 2. The process mandates that where a physical hardship exists because of unique or unusual topographic conditions or structure location, the commission may approve a fence exception subject to the following findings:

- A general safety hazard to City residents and/or the general public would not be created.
- A traffic-related safety hazard would not be created.
- The fence or wall will not impair visibility at an intersection or traffic safety visibility area.
- The fence or wall will not obstruct vision from an adjoining driveway.
- The fence or wall is compatible with the surrounding neighborhood

Physical Hardship

The existing fence along the front yard property line is only 3' in height (1' lower than code allows. The applicant is requesting to add an additional 2'-2" (consisting of lattice redwood) to increase the overall height to 5'-2" (1'-2" above the height which code allows. The request is being made to increase the privacy and safety of the front yard. The applicant owns dogs and the existing 3' fence is easy to jump and the proposed height addition to the fence will make the front yard more secure. The increased height will also allow for more privacy when the residents are utilizing the front yard.

Neighborhood Compatibility

The following objective information concerning the topic of neighborhood compatibility illustrates the conditions of fences along Darwin Street with respect to nonconforming fences, design compatibility, and conforming fences. A survey of 25 homes along Darwin Street resulted in the following information regarding fences:

Homes with **nonconforming fence material** (chain link, SMC 17.30.020.E. Prohibited Materials): 0 (0%).

Homes with **nonconforming fence height** (17.30.020.B.1, Table 3-1): 7 (28%).

Homes with **conforming fence height and materials**: 13 (52%)

Homes without a fence: 5 (20%).

Considering the data above, in addition to the fact that it appears only a few homes have recently re/constructed fences, the proposed fence modification constitutes a neighborhood improvement that provides a responsible safety measure feature for the residents and pets, that does not compromise visibility from the street to the front of the home.

Zoning Ordinance Consistency

In accordance with Section 17.30.020.F.2, the following findings shall be considered for a fence exception:

1. A general safety hazard to City residents and/or the general public would not be created.

Evidence: *The proposed fence exception would not result in a safety hazard to the general public, adjacent property owners, and the occupants residing in the subject residence. The proposed 5'-2" fence for the front and side yards provides additional privacy and added safety for the home's residents and their dogs. The proposed addition consists of lattice and would not impair the visibility of the driveways servicing the neighboring properties. The proposed fence is consistent with the existing front yard fence non-conforming heights which can be found on other properties along Darwin Street (28% of the homes surveyed have non-conforming fence heights). The proposed fence would not create a safety hazard to the general public.*

2. A traffic-related safety hazard would not be created.

Evidence: *The proposed front yard fence height increase does not pose a traffic-related safety hazard due to its location along a dead end street. The entire 2'-2" fence addition is proposed to consist of lattice which will allow for visibility along the driveways for the two neighboring properties. Furthermore, the project site is not located at an intersection of traffic safety visibility area.*

3. The fence will not impair visibility at an intersection or traffic safety visibility area.

Evidence: *The proposed front yard fence addition is not located at an intersection or traffic safety visibility area.*

4. The fence or wall will not obstruct vision from an adjoining driveway.

Evidence: *The proposed fence height addition will consist of redwood lattice and is not a solid fence addition; 50% of the view will still be open. As such the proposed fence height addition will not obstruct the vision from the two neighboring driveways*

to the north and south of the project site. The driveway to the north of the project site is ~18' from the fence and would not be impacted by the height increase. The property to the south has a driveway right up against the southern property line where a fence height increase is proposed. However, as mentioned earlier, the fence addition will consist of lattice and will still permit visibility from the driveway. In addition, the existing fence on the southern neighbor's property is already 5'-6" in height and directly abuts their driveway but does not appear to impact the visibility from said driveway. Furthermore, this is a dead end street with only 3 houses located past the project site, as such traffic along this section of Darwin is very limited.

5. The fence is compatible with the surrounding neighborhood.

Evidence: *The fence design would be an improvement to a neighborhood which contains a wide variety of fence types: from solid (no transparency), to non-conforming height, to no fencing at all. The proposed height, while above the 4' height limit is consistent with the height of other front yard fences in the surrounding neighborhood. The redwood lattice proposed can also be found in other fences located in the area and is compatible with the general aesthetics of the neighborhood.*

RECOMMENDATION

Overall, the proposed fence height exception is consistent with other fences in the neighborhood and would not detract from the aesthetics. Based on the analysis provided below, staff recommends approval of Fence Exception Application No. FE-21-01 subject to Attachment 1: Draft Resolution and Conditions of Approval, and Attachment 2: Project Plans.

ATTACHMENTS

1. Attachment 1_Resolution and COAs
 2. Attachment 2_Project Plans
 3. Attachment 3_Location Map
 4. Attachment 4_Site and Area Photos
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**PLANNING COMMISSION
RESOLUTION NO. 21-XX**

A RESOLUTION OF THE PLANNING COMMISSION OF THE CITY OF SEASIDE, STATE OF CALIFORNIA, APPROVING FENCE EXCEPTION APPLICATION NO. FE21-01 TO ALLOW FOR A 5'-2" TALL FENCE ALONG THE FRONT AND SIDE YARD PROPERTY LINES LOCATED AT 1289 DARWIN STREET (APN # 012-291-010).

WHEREAS, Caroline Stave-Viemeister, property owner and applicant, has applied for approval of a Fence Exception permit to allow for a 5'-2" tall fence to be located along the front and side property lines, thereby exceeding the maximum height requirements of Zoning Code Section 17.30.020.B.1 within the street side setback by 1'-2"; and

WHEREAS, it is the responsibility of the Planning Commission to consider and weigh the merits of the application and public input in relation to the policies, standards and intent of the Seaside General Plan and Seaside Municipal Code in relation to the proposed Fence Exception; and

WHEREAS, the Planning Commission considered written information concerning the proposed exception at a duly noticed Special Meeting public hearing held on April 14, 2021; and

WHEREAS, the project is exempt from environmental review subject to Class 3, Section 15303(e): New Construction of Small Structures:

Evidence: Approval of the proposed fence exception would result in the approval of as 5'-2" foot high redwood fence, topped with redwood lattice, at 1289 Darwin Street. A fence consists of a minor improvement that is categorically exempt from CEQA.

NOW, THEREFORE, BE IT RESOLVED, that the Planning Commission adopts the following findings for approval of Fence Exemption Application No. FE20-01:

Finding No. 1

Physical hardships exist based upon unique or unusual topographic conditions or structure location.

Evidence: The existing fence along the front yard property line is only 3' in height (1' lower than code allows. The applicant is requesting to add an additional 2'-2" (consisting of lattice redwood) to increase the overall height to 5'-2" (1'-2" above the height which code allows. The request is being made to increase the privacy and safety

of the front yard. The applicant owns dogs and the existing 3' fence is easy to jump and the proposed height addition to the fence will make the front yard more secure. The increased height will also allow for more privacy when the residents are utilizing the front yard. 28% of 25 homes survey along Darwin Street have non-conforming fence heights. Considering this, in addition to the fact that it appears only a few homes have recently re/constructed fences, the proposed fence modification constitutes a neighborhood improvement that provides a responsible safety measure feature for the residents and pets, that does not compromise visibility from the street to the front of the home.

Finding No. 2

A general safety hazard to City residents and/or the general public would not be created

Evidence: The proposed fence exception would not result in a safety hazard to the general public, adjacent property owners, and the occupants residing in the subject residence. The proposed 5'-2" fence for the front and side yards provides additional privacy and added safety for the home's residents and their dogs. The proposed addition consists of lattice and would not impair the visibility of the driveways servicing the neighboring properties. The proposed fence is consistent with the existing front yard fence non-conforming heights which can be found on other properties along Darwin Street (28% of the homes surveyed have non-conforming fence heights). The proposed fence would not create a safety hazard to the general public.

Finding No. 3

A traffic-related safety hazard would not be created.

Evidence: The proposed front yard fence height increase does not pose a traffic-related safety hazard due to its location along a dead end street. The entire 2'-2" fence addition is proposed to consist of lattice which will allow for visibility along the driveways for the two neighboring properties. Furthermore, the project site is not located at an intersection of traffic safety visibility area.

Finding No. 4

The fence will not impair visibility at an intersection or traffic safety visibility area.

Evidence: The proposed front yard fence addition is not located at an intersection or traffic safety visibility area.

Finding No. 5

The fence or wall will not obstruct vision from an adjoining driveway.

Evidence: The proposed fence height addition will consist of redwood lattice and is not a solid fence addition; 50% of the view (on the addition) will still be open. As such the proposed fence height addition will not obstruct the vision from the two neighboring driveways to the north and south of the project site. The driveway to the north of the project site is ~18' from the fence and would not be impacted by the height increase. The property to the south has a driveway right up against the southern property line where a fence height increase is proposed. However, as mentioned earlier, the fence addition will consist of lattice and will still permit visibility from the driveway. In addition, the existing fence on the southern neighbor's property is already 5'-6" in height and directly abuts their driveway but does not appear to impact the visibility from said driveway. Furthermore, this is a dead end street with only 3 houses located past the project site, as such traffic along this section of Darwin is very limited.

Finding No. 6

The fence is compatible with the surrounding neighborhood.

Evidence: The fence design would be an improvement to a neighborhood which contains a wide variety of fence types: from solid (no transparency), to non-conforming height, to no fencing at all. The proposed height, while above the 4' height limit is consistent with the height of other front yard fences in the surrounding neighborhood. The redwood lattice proposed can also be found in other fences located in the area and is compatible with the general aesthetics of the neighborhood.

BE IT FURTHER RESOLVED, the Planning Commission hereby grants Fence Exception Application No. FE20-01 subject to the following terms and agreements:

Planning:

1. Except as modified by required conditions of approval, plans submitted for a building permit shall substantially conform to the plans identified as Attachment 2- Project Plans

Public Works

1. An Encroachment Permit will be required prior to the initiation of any work within the public right-of-way.

Standard:

1. The Fence Exception approval is subject to revocation procedures contained in S.M.C. Section 17.69.060 in the event any of the terms of this approval are violated or if the uses onsite are conducted or carried out in a manner so

as to adversely affect the health, welfare or safety of persons residing or working in the neighborhood.

2. The applicant agrees as a condition and in consideration of the approval of this discretionary permit that it will defend, indemnify and hold harmless the City of Seaside or its agents, officers and employees from any claim, action or proceeding against the City or its agents, officers or employees to attack, set aside, void or annul this approval. The applicant will reimburse the City for any court costs and attorney's fees, which the City may be required by a court to pay as a result of such action. City may, at its sole discretion, participate in the defense of such action; but such participation shall not relieve applicant of his obligations under this condition. The City shall promptly notify the applicant of any such claim, action, or proceeding, and the City shall cooperate fully in the defense thereof.
3. The permit shall have no force or effect unless and until accepted, and the terms thereof agreed to, in writing, by the applicant and property owner within 15 days from the date of its approval.
4. Project approval will become null and void if a building permit is not obtained within one (1) year from the date of approval to begin construction on the project.
5. For purposes of assuring compliance, the applicant, agents, representatives or their assignees agree not to deny or impede access to the subject property by City employees in the performance of their duties.

NOW BE IT FURTHER RESOLVED, the Planning Commission hereby approves Fence Exception Application No. FE20-01, on the 14th day of April 2021, by the following vote.

AYES:

NOES:

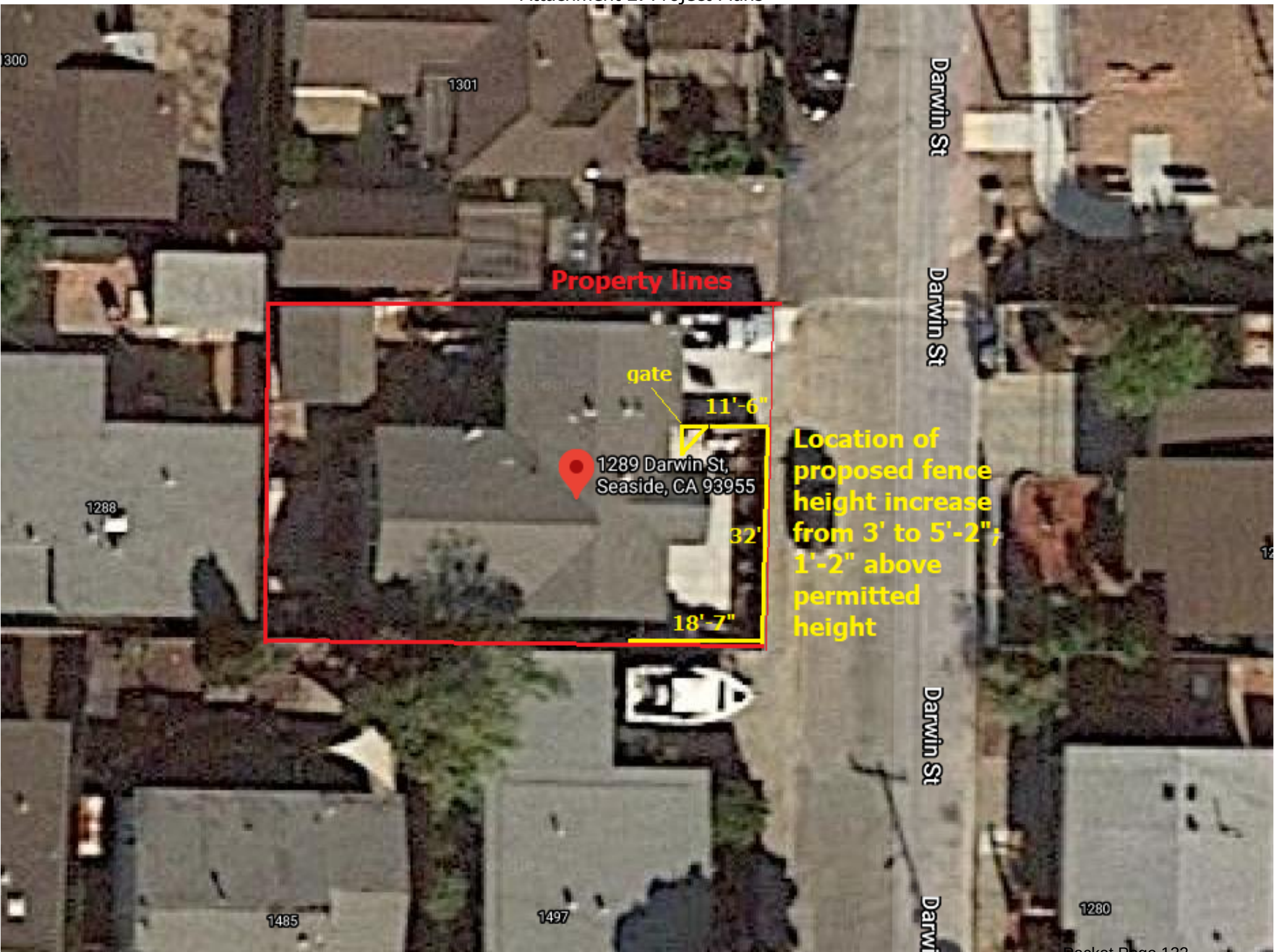
ABSENT:

ABSTAIN:

John Owens, Chairperson

ATTEST:

Planning Commission Secretary





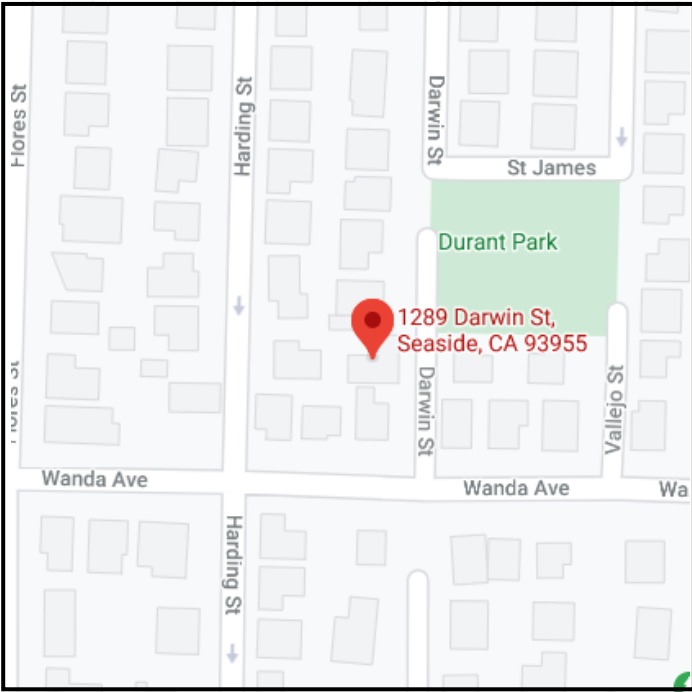
Existing Fence

Proposed Fence

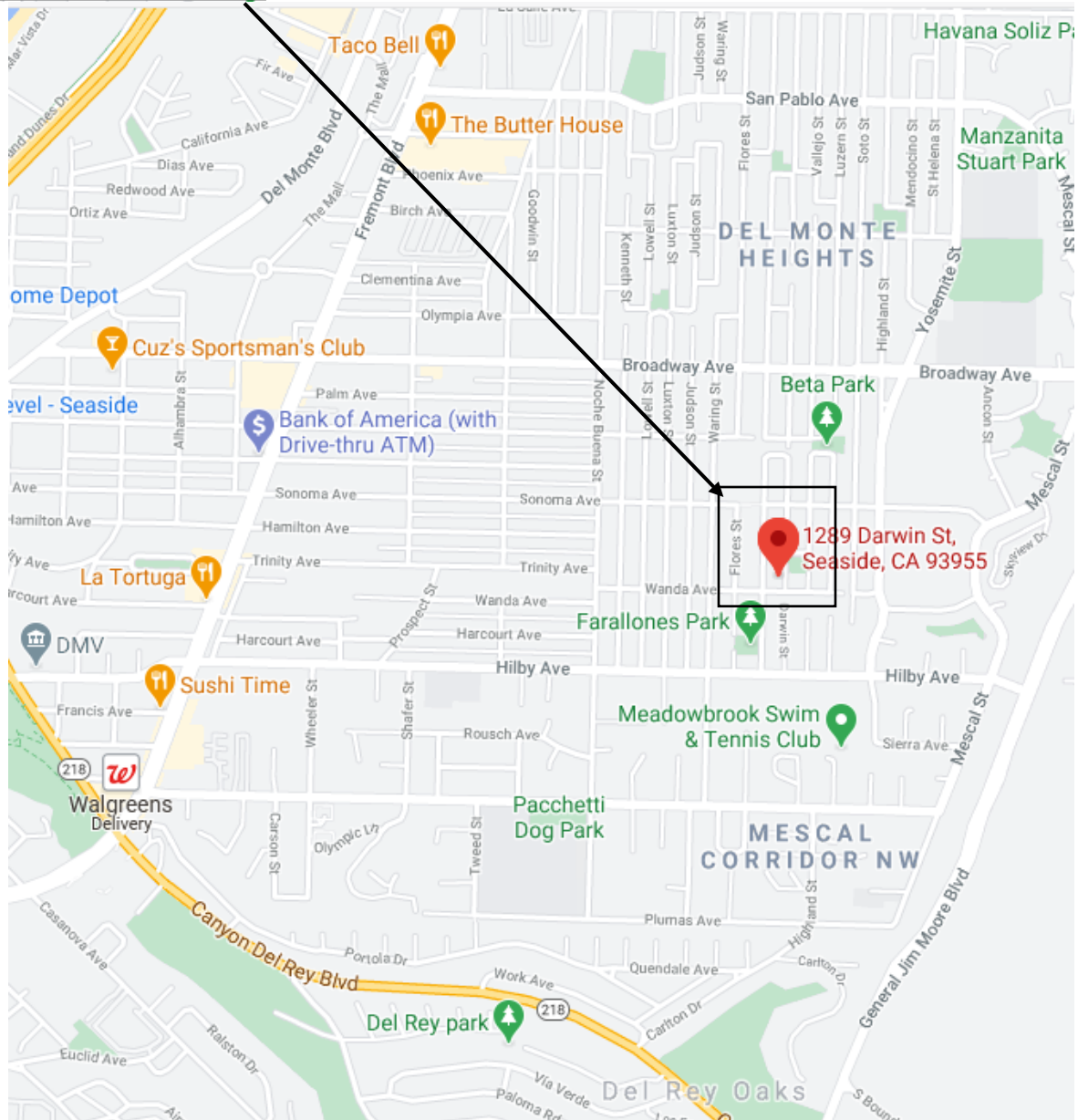




Existing gate, already installed. Redwood lattice would go as high as the top of the vertical redwood beam.



Attachment 3: Location Map



Attachment 4: Site and Area Photos



Aerial Photo



Existing site conditions.



View from subject property looking north.



View from subject property looking south, neighbor's fence is 5'-6" in height.



View of Darwin Street dead end with Durant park located at right.



View of front yard fence of neighboring property to the north (at dead end of Darwin).



View of front yard fence of neighboring property immediately to the north.

Neighborhood Photos of fences along Darwin Street



