



PLANNING COMMISSION AGENDA

Regular Meeting

7:00 P.M. on Tuesday, November 13, 2018

Hoyer Hall, Clayton Community Library, 6125 Clayton Road, Clayton, California

1. CALL TO ORDER, ROLL CALL, PLEDGE TO THE FLAG

2. ADMINISTRATIVE

2.a. Review of agenda items.

2.b. Declaration of Conflict of Interest.

2.c. Commissioner William Gall to report at the City Council meeting of November 20, 2018 (alternate Commissioner Peter Cloven).

3. PUBLIC COMMENT

4. MINUTES

Approval of the minutes for the August 14, 2018 Planning Commission meeting.

5. PUBLIC HEARINGS

5.a. **SPR-04-18, Site Plan Review Permit, Aaron Kalt, 199 Mountaire Parkway, APN: 119-381-004.** A request for approval of a Site Plan Review Permit to allow a previously-constructed retaining wall located in the City's right-of-way. The location of the retaining wall extends from the front right corner of the subject property into the City's right-of-way, running parallel with the exterior side property line, to the rear corner where it turns 90 degrees and continues along the rear property line. The retaining wall measures a maximum of approximately 41 inches in height and 88 feet in length. Pursuant to California Environmental Quality Act (CEQA) Guideline Section 15303(e) – New Construction or Conversion of Small Structures, the project is categorically exempt from CEQA.

Staff Recommendation: Staff recommends that the Planning Commission receive and consider the staff report and all information provided and submitted to date, receive and consider any public testimony, and if determined to be appropriate, conditionally approve the Site Plan Review Permit (SPR-04-18) to allow a previously-constructed retaining wall located in the City's right-of-way at 199 Mountaire Parkway.

6. OLD BUSINESS

None.

7. NEW BUSINESS

None.

8. COMMUNICATIONS

8.a. Staff.

8.b. Commission.

9. ADJOURNMENT

9.a. The next regularly-scheduled meeting of the Planning Commission will be held on **Tuesday, November 27, 2018.**

Most Planning Commission decisions are appealable to the City Council within ten (10) calendar days of the decision. Please contact Community Development Department staff for further information immediately following the decision. If the decision is appealed, the City Council will hold a public hearing and make a final decision. If you challenge a final decision of the City in court, you may be limited to raising only those issues you or someone else raised at the public hearing(s), either in oral testimony at the hearing(s) or in written correspondence delivered to the Community Development Department at or prior to the public hearing(s). Further, any court challenge must be made within 90 days of the final decision on the noticed matter. If you have a physical impairment that requires special accommodations to participate, please contact the Community Development Department at least 72 hours in advance of the meeting at 925-673-7300. An affirmative vote of the Planning Commission is required for approval. A tie vote (e.g., 2-2) is considered a denial. Therefore, applicants may wish to request a continuance to a later Commission meeting if only four Planning Commissioners are present.

Any writing or documents provided to the majority of the Planning Commission after distribution of the agenda packet regarding any item on this agenda will be made available for public inspection in the Community Development Department located at 6000 Heritage Trail during normal business hours.

Minutes
Clayton Planning Commission Meeting
Tuesday, August 14, 2018

1. CALL TO ORDER, ROLL CALL, PLEDGE TO THE FLAG

Chair Carl Wolfe called the meeting to order at 7:00 p.m. at Hoyer Hall, 6125 Clayton Road, Clayton, California.

Present: Chair Carl Wolfe
 Vice Chair Bassam Altwal
 Commissioner A. J. Chippero
 Commissioner Peter Cloven
 Commissioner William Gall

Absent: None

Staff: Community Development Director Mindy Gentry
 Assistant Planner Milan Sikela, Jr.

2. ADMINISTRATIVE

2.a. Selection of Chair and Vice Chair.

Commissioner Cloven moved and Commissioner Chippero seconded a motion to select Vice Chair Altwal as Chair. The motion passed 5-0.

Chair Altwal moved and Commissioner Chippero seconded a motion to select Commissioner Cloven as Vice Chair. The motion passed 5-0.

2.b. Review of agenda items.

2.c. Declaration of Conflict of Interest.

2.d. Commissioner Cloven to report at the City Council meeting of August 21, 2018.

3. PUBLIC COMMENT

John Kranci, 3001 Coyote Circle, indicated he was opposed to allowing parole homes in Clayton and asked that, even though the Parolee Housing Ordinance was being reviewed by the City Council, would the Planning Commission be revisiting the Parolee Homes Ordinance.

Chair Altwal responded that the Planning Commission had already made a recommendation to the City Council regarding the Parolee Housing Ordinance and would not be revisiting the item.

Marci Longchamps, 3001 Coyote Circle, indicated she was concerned with the support the City Council expressed and amendments the City Council provided for the Parolee Housing Ordinance at the introduction and first reading of the Parolee Housing Ordinance at the City Council meeting of July 17, 2018 and indicated she was strongly opposed to allowing parolee homes in Clayton.

Vice Chair Cloven responded that he wished to acknowledge the strong opinion and public involvement regarding the Parolee Housing Ordinance and confirmed that the Parolee Housing Ordinance would not come back before the Planning Commission for further review.

Chair Atlwal indicated that the City Council makes its own decision regarding the Planning Commission's recommendation.

Commissioner Gall indicated that the Planning Commission is a consultative body to the City Council and the City Council does not have to follow the Planning Commission's recommendation.

Commissioner Wolfe indicated that the City Council also has a public comment period at their meetings.

Jim Gamble, 202 Prospector Place, expressed concerns that the scope of the proposed High Street Townhomes project is growing in structural height, number of units, and potential slope impacts and had the following questions:

- How many times can the proposal be changed? Director Gentry indicated that the proposal can be changed as many time as the developer wishes to change it.
- Is the High Street Townhomes project scheduled to be reviewed by the Planning Commission? Director Gentry indicated that the project is still being reviewed at the staff level and is not currently scheduled to be reviewed by the Planning Commission.
- What is the timeline for Planning Commission review of the project? Director Gentry indicated that, at this time, staff is reviewing additional information and, once the project is formally scheduled for a public hearing before the Planning Commission, the project will be noticed accordingly.

4. MINUTES

4.a. Approval of the minutes for the June 26, 2018 Planning Commission meeting.

Commissioner Wolfe moved and Vice Chair Cloven seconded a motion to approve the minutes, as submitted. The motion passed 5-0.

5. PUBLIC HEARINGS

5.a. **SPR-03-18, CDD-04-18, Site Plan Review Permit and Reasonable Accommodation Request, Jeff Daley, 229 El Pueblo Place, APN: 119-600-006.** A request for approval of a Site Plan Review Permit to allow the construction of a rear yard deck, with an accessible ramp, measuring approximately 770 square feet in area and a total of 12.83 feet in height, and a Reasonable Accommodation request to allow an accessible ramp to project into the required ten-foot interior right (north) side setback on an existing split-level two-story single-family residence.

Assistant Planner Sikela presented the staff report.

Commissioner Wolfe had the following questions:

- Will the deck encroach into the side yard setback? Assistant Planner Sikela indicated that only the ramp will encroach into the side yard setback and the transitional segment between the ramp and deck would encroach but then the deck will taper away from the side property line in order to be more compliant with the required ten-foot side yard setback.
- Is the design of the project before us tonight the design that the Planning Commission will make a decision on? Assistant Planner Sikela responded "Yes."
- Will the footings on the deck be skirted or visible? Assistant Planner Sikela indicated that, based on applicant input, the footings would be skirted.
- Excellent presentation that answered many of my questions. Assistant Planner Sikela thanked Commissioner Wolfe for his compliment.

Vice Chair Cloven asked, if the stone dust path leading from the sidewalk to the ramp is an impermanent, permeable surface that can be re-located, then why are we including a condition requiring an encroachment permit for any work done in the City's right-of-way? Assistant Planner responded that staff always proposes the condition requiring an encroachment permit as part of any construction-related project in order to protect the City's right-of-way through the encroachment permit process which is overseen by the City Engineer.

Commissioner Gall had the following questions and comment:

- How tall is the fence of the north (right) side of the subject property? Assistant Planner Sikela indicated that staff did not measure the fence height but the fence appeared to be a standard good neighbor fence that would be approximately six feet in height.
- Does the ramp and deck exceed the north (right) side fence height? Assistant Planner Sikela indicated that the ramp does not exceed the fence height but the rear portion of the deck would be higher than the fence since the fence follows the downward slope that exists in both the subject property and neighboring property.
- What is the required rear setback for the subject property? Assistant Planner Sikela responded that the required rear setback is 15 feet.
- Did the neighbors contact staff? Assistant Planner Sikela indicated that staff has been contacted by the neighbors who came to City Hall to review the project information.
- It is good that we are requiring trees along the north (right) side fence in order to provide additional screening. Assistant Planner Sikela indicated that there is a stand of thick trees along the rear property line of the subject property and staff's intent was to have the screening provided by newly-planted trees, which would wrap around and run along the fence on the north (right) side property line.

Commissioner Chippero had the following questions:

- The additional trees being required to be planted along the north (right) side property line are 15-gallon in size? Director Gentry indicated that was correct.
- Are there a specific number of trees that would have to be planted? Director Gentry indicated, once the applicant decides what types of trees they would like to plant, staff can require larger trees such as 24-inch box if there is a shortfall of screening caused by the number or size of the newly-planted trees.

Vice Chair Cloven asked what is the height of the rear fence on the subject property? Assistant Planner Sikela indicated that staff did not measure the fence height but the fence appeared to be a standard good neighbor fence that would be approximately six feet in height.

Chair Altwal indicated that his occupation involves accessibility issues and had the following question and comments:

- Is the subject residence being used for a business? Assistant Planner Sikela indicated he was not aware of a business being operated from the subject residence but he would defer to the applicant to provide that information.
- The minimum area requirement for the landing for the ramp is five feet, not four feet.
- The minimum height of the safety railing can be up to 38 inches in height.
- For safety reasons, a wheel guide should be included on the outer edge of the ramp and deck.

Director Gentry indicated that all of the construction-related thresholds and dimensions will be reviewed for compliance with Americans with Disabilities Act (ADA) and Title 24 requirements by the Contra Costa County Conservation and Development Department once a building permit is applied for to construct the project.

The public hearing was opened.

Jeff Daley, the applicant, described the topography of the subject property as related to the existing fencing, proposed ramp, and proposed deck as well as providing the following comments:

- We want to extend the ramp and deck as far as possible in order to allow my brother, Larry Brennan, the maximum amount of space to increase his enjoyment of the subject property.
- As staff indicated, there are existing trees on the rear and we are in support of planting additional trees along the north (right) side property line in order to address privacy impacts.

Chair Altwal had the following questions:

- Is topography of the rear yard of the neighboring property to the north similar to the topography of the rear yard of the subject property? The applicant answered "Yes."
- If you are standing on the northwest (right rear) corner of the deck, how much of the neighboring property's back yard can you see? The applicant said that you can see the rear portion of the neighboring property's back yard from the northwest (right rear) corner of the deck.

Commissioner Wolfe asked why is deck being proposed at 770 square feet in area? The applicant responded that, due to the steep downslope in the rear yard, the rear yard is completely unusable for my brother so, as a result, we wanted to maximize my brother's enjoyment and use of the rear yard by having a large deck.

The applicant explained his understanding of the ADA requirements and State-mandated reasonable accommodation procedures and how these requirements and procedures related to land use activities, zoning activities, discretionary review processes, and confidentiality for the person with disability.

The applicant's brother, Larry Brennan, indicated the following:

- The goal of the reasonable accommodation request is provide a person with a disability to have equal enjoyment of both the inside and outside of the subject residence.
- To answer your question about a business being operated from the subject residence, I work online for a company in Boston, where I am from, but no clients come to the subject residence.
- I spend the majority of my day in my room and do not have access to water or other kitchen facilities.
- The construction of the ramp on the north (right) side of the subject property would allow me to have access to the kitchen and other living areas of the subject residence as well as spend time with my family.
- We have looked at every alternative and to have a ramp around the south (left) side of the subject residence would be problematic since, given the split-level design of the subject residence, the living areas of the residence are at a higher elevation than the southern (left) exterior areas of the subject property.

Katy Daley, the applicant's wife, indicated the following:

- The person with disability, Larry Brennan, is my brother.
- Mr. Brennan has been president and chair of the Spinal Cord Injury Association.
- Discussing these intimate details around Mr. Brennan's injury has been very painful.
- Our neighbors talk about privacy for the property, yet Mr. Brennan's life details have been exposed in a public forum as part of this process.
- Regarding privacy, from the windows of our home, we can see neighboring properties around us, which allows occupants of these neighboring properties to look into the windows of our home, and is an impact upon our privacy.
- A person with a disability being able to access their home and have use of their yard is a greater necessity than the aesthetic concerns involved with the construction of a deck.
- Regarding aesthetics, we are designing a beautiful ramp and deck that will be integrated with the subject residence.
- Until you live with a disability, you have no idea what it is like.
- This is a matter of family and community values and we encourage the Planning Commission to approve our reasonable recommendation request.

Robert Brennan, father of Mr. Brennan, indicated he was available to answer questions but did not have any comments at this time.

Cheryl Johnson, 233 El Pueblo Place, read aloud an email the prospective buyer of her residence sent to her, discussed some observations of how the project appears from her property, and indicated the following:

- I live next door (and north of) the subject property.
- I am a teacher at Diablo View Middle School.
- As a teacher, I accommodate students with disabilities.

- We have to find the best way to accommodate a person with disabilities.
- At Diablo View Middle School, we try to make sure that the accommodation does not adversely affect the students around them to the degree that these students cannot learn.
- My heart goes out to the applicant's family and their confidentiality preferences.
- I have concerns that the proposed location of the ramp will expose Mr. Brennan to the elements.
- I think the applicant should take a look at other design alternatives in order to provide Mr. Brennan with a better route for accessibility purposes as well as to minimize visual impacts to surrounding properties.
- In my review of guidelines provided on the HUD.gov website, the guidelines indicated that, in most cases, ADA requirements do not apply to residential housing but, rather, apply to places of public accommodations such as restaurants, retail stores, libraries, and as well as commercial facilities such as office buildings, warehouses, and factories.
- I am opposed to the project as currently proposed.

Betty Lou Moglen indicated that she is in support of Planning Commission approval of the project.

Mr. Brennan explained his understanding of ADA-related construction thresholds and dimensions and indicated that an access ramp leading to the front door would create a larger visual impact for the entire neighborhood.

The public hearing was closed.

Chair Wolfe indicated the following:

- I think there are better design alternatives.
- I am concerned that the applicant's family spoke to the neighbors about the project, and those neighbors appear to have been in support of the project, and then the neighbors complained about the project.
- Construction of the deck would improve accessibility to and enjoyment of the rear yard given the steep downward slope in the rear yard.
- I am in support of conditional approval of the project.

Commissioner Chippero indicated that he can appreciate the level of difficulty involved with amending the ramp and deck design to be more compliant with setback requirements.

Director Gentry indicated that this project came before the City because we received a complaint regarding the construction of the deck not being permitted.

Assistant Planner Sikela indicated that he spoke with the Contra Costa County Conservation and Development Department and County staff confirmed that they would review the deck for compliance with all applicable ADA and California Building Code regulations.

Vice Chair Cloven indicated the following:

- I support the planting of trees to provide additional screening for the project.
- I support conditional approval of the project.

Chair Altwal reiterated his level of expertise as related to structural compliance for accessibility purposes and discussed various possible minor dimensional changes to bring the project in greater compliance with applicable setback requirements, specifically reducing the encroachment of the deck into the north (right) side setback so that, instead of being five feet four inches from the north (right) side property line, it would be nine feet one inch from the north (side) property line. He added that, according to applicable accessibility regulations, the improvements related to the reasonable accommodation would have to be removed and the residence returned to pre-existing conditions if Mr. Brennan moves out of the subject residence.

Commissioner Wolfe indicated that he is very pleased with the balance that has been struck as part of the compromise and is in support of conditional approval of the project.

Assistant Planner Sikela confirmed staff's understanding that conditions will be added by the Planning Commission as follows:

- The accessible ramp shall be a maximum of three feet in width;
- The deck shall be reduced in area so that the line of the north (right) side of the deck is consistent with the north (right) side of the ramp; and
- Skirting shall be constructed around the outside edge of the deck from finished grade to the deck floor.

The Planning Commission concurred that staff was correct in its understanding of the conditions that will be added.

The public hearing was re-opened.

Chair Altwal asked if the people in opposition to the project were satisfied with the outcome of the Planning Commission's modifications.

Ms. Johnson indicated she still has concerns with the height of the deck.

The public hearing was closed.

Commissioner Wolfe moved and Vice Chair Cloven seconded a motion to approve Site Plan Review Permit (SPR-03-18) to allow the construction of a rear yard deck, with an accessible ramp, on an existing split-level two-story single-family residence and a Reasonable Accommodation request (CDD-04-18) to allow an accessible ramp to extend into the required ten-foot interior north (right) side setback at 229 El Pueblo Place (APN: 119-600-006) with the findings and conditions recommended by staff and the conditions amended and added by the Planning Commission. The motion passed 5-0.

6. OLD BUSINESS

None.

7. NEW BUSINESS

None.

8. COMMUNICATIONS

8.a. Staff.

8.b. Commission.

9. ADJOURNMENT

9.a. The meeting was adjourned at 9:15 p.m. to the regularly-scheduled meeting of the Planning Commission on August 28, 2018.


Submitted by
Mindy Gentry
Community Development Director

Approved by
Bassam Altwal
Chair

**PLANNING COMMISSION
STAFF REPORT**

Meeting Date: November 13, 2018

Item Number: 5.a.

From: Milan J. Sikela, Jr. 
Assistant Planner

Subject: Public Hearing to consider a Site Plan Review Permit to allow a previously-constructed retaining wall (SPR-04-18)

Applicant: Aaron Kalt

REQUEST

Aaron Kalt is requesting a public hearing for the consideration of a Site Plan Review Permit to allow a previously-constructed retaining wall, which is located in the City's right-of-way.

PROJECT INFORMATION

Location: 199 Mountaire Parkway (**Attachment A**)
APN: 119-381-004

General Plan Designation: Low Density – Single Family Residential (1.1 to 3.0 units per acre).

Zoning: Single Family Residential R-10 District (10,000 square-foot minimum lot area).

Environmental Review: Pursuant to California Environmental Quality Act (CEQA) Guideline 15303(e) – New Construction or Conversion of Small Structures, the project is categorically exempt from CEQA.

Public Notice: On November 2, 2018, a public hearing notice was posted at the notice boards and mailed to property owners within 300 feet of the project site.

Authority: Section 17.44.020 of the Clayton Municipal Code (CMC) authorizes the Planning Commission to approve a Site Plan Review Permit in accordance with the standards of review in CMC Section 17.44.040.

BACKGROUND

In 2017, the property owner (applicant) had a retaining wall and fence constructed within the City's right-of-way, which were both in violation of the CMC due to the location and size of the structures. Staff became aware of the situation as a code enforcement case (CEO-41-17) and the specific code violations entailed: 1) unauthorized encroachment into the public right-of-way; 2) the exterior side yard fence exceeding 30 inches in height not being setback five feet from the exterior side lot line; 3) no Site Plan Review Permit had been approved, and 4) no building permit had been issued.

As staff worked with the applicant through the code enforcement process to rectify the various violations of the CMC, it became apparent there was a larger Citywide non-compliance issue with regard to the locations of existing fences within the exterior side yard setback of properties throughout the community. The regulations at the time required exterior side yard fences exceeding 30 inches in height to be located a minimum of five feet from exterior side property lines (maximum 30-inch fence heights were allowed between the exterior side property line and the required five-foot setback). Staff observed and documented a patchwork of exterior side yard fences in Clayton where the fences were located varying distances from the exterior side property lines and in many instances the fences being placed less than the required five-foot setback for exterior side yard fences.

One of the observations was that, if the exterior side yard fence was actually located in compliance with the five-foot exterior side yard setback, this remnant five-foot strip of land, coupled with the "typical" five feet of public right-of-way directly behind the sidewalk, can create a large unimproved, un-landscaped area that tends to be inconsistently maintained by the property owner. As with most cities, this City does not maintain landscaping planted within public rights-of-way adjoining residential properties and neighborhood streets, and the care of these remnant areas is left up to or is the responsibility of the adjacent property owner. Minimizing these unsightly areas between exterior side yard fences and the exterior side property line and allowing exterior side yard fences to be located on the exterior side property line or at the public right-of-way line would result in: 1) reducing these unsightly areas; 2) reducing the number of noncompliant exterior side yard fences; and 3) allowing property owners to enjoy the full breadth of their property.

As a result of these observations, staff sought policy direction from the City Council regarding this issue. At the City Council meeting on October 3, 2017, the City Council directed staff to draft an Ordinance to amend the Clayton Municipal Code to address this issue. At its meeting on October 24, 2017, the Planning Commission reviewed and recommended City Council approval of the draft Ordinance which, subsequently, the City Council adopted at its meeting on November 21, 2017. These amended (and now adopted) regulations now allow exterior side yard fences up to a maximum of six feet in height to be located on the exterior side property line or at the public right-of-way line (or seven feet in height with approval of an Administrative Use Permit).

DISCUSSION

Retaining Wall

The applicant has constructed a retaining wall in the City's right-of-way. The retaining wall extends from the front right corner of the subject property into the City's right-of-way, running parallel with the exterior side property line, to the rear corner of the property where it turns 90 degrees and exits the right-of-way, returning to private property areas as it runs along the rear property line. The retaining wall measures a maximum of approximately 41 inches in height, 88 feet in length, and is located three feet into the right-of-way. The retaining wall utilizes masonry block facing with earth stone colors. Please see **Attachment B** for the site plan, **Attachment C** for the cross sections, and **Attachment D** for photographs.

Since the retaining wall is located in the City's right-of-way, the encroachment component has been reviewed by the City Council, City Engineer, and City Attorney. The City Council provided staff with the direction that the subject encroachment into the public right-of-way can occur; however, all future encroachments will be denied. Staff review of the encroachment component has resulted in requiring the applicant to enter into an Encroachment Agreement with the City, which requires an insurance policy covering the improvements within the public right-of-way and naming the City of Clayton as additional insured. This would address, but not be limited to, protecting the City from liability issues since the wall is located with the City right-of-way. A condition of approval has been included that, prior to building permit issuance, the applicant shall submit the required insurance paperwork naming the City of Clayton as additional insured and executed Encroachment Agreement, with review and approval by the City Attorney.

Fence

As part of the project, but not part of the Site Plan Review Permit, there is a fence also running parallel to and inside of the exterior side property line. The Clayton Municipal Code requires that a fence and retaining wall shall be a minimum of three feet apart in order for the fence and retaining wall to not be considered as one structure. The fence extends approximately 70 feet in length along the exterior side property line. From the time the City commenced code enforcement on the project, the applicant has relocated the fence inside the exterior side property line, three feet from the retaining wall and outside of the right-of-way, thereby allowing the fence to not be considered as part of the same structure as the retaining wall. The fence is constructed with wood and is seven feet in height. The Clayton Municipal Code allows fences in rear setbacks or side setbacks to be a maximum of seven feet in height with approval of an Administrative Use Permit. Staff has included a condition that, prior to final inspection of the project by City staff, the applicant shall submit an application for and receive approval of an Administrative Use Permit from City staff.

Setback Analysis

As mentioned above, the retaining wall does not comply with the requirement to be located on private property and, instead, is located approximately three feet (2.7 feet) outside of the exterior side property line and into the City's right-of-way. The fence is compliant with applicable setbacks by being located three feet from the retaining wall and approximately one foot inside the exterior side property line of the subject property.

Residential Floor Area Analysis

Section 17.78.030.D.3 of the CMC excludes, in part, decks (or other structures) where at least one of the longest dimensions is unenclosed. Since both the retaining wall and fence are unenclosed, both structures would qualify for exclusion from the City's residential floor area requirements.

CONCLUSION

Staff has reviewed the design aspects of the proposed plans relative to the standards for Site Plan Review Permits and development standards for the zoning district and has determined that the project, as conditioned, is in conformance with the Clayton Municipal Code. The proposed findings of approval listed below specifically address those standards.

RECOMMENDATION

Staff recommends that the Planning Commission receive and consider the staff report and all information provided and submitted to date, receive and consider any public testimony and, if determined to be appropriate, conditionally approve the Site Plan Review Permit (SPR-04-18) to allow a previously-constructed retaining wall, which is located in the City's right-of-way at 199 Mountaire Parkway (APN: 119-381-004).

PROPOSED FINDINGS OF APPROVAL

Based upon the evidence set forth in the staff report, which includes relevant information from the project application, as well as testimony at the public hearing, the Planning Commission makes the following findings that Site Plan Review Permit (SPR-04-18), as conditioned:

1. Is consistent with the General Plan designation and policies.

The project is consistent with the General Plan designation and policies since the project consists of construction of a retaining wall which is an allowed use within the Single Family Low Density designation.

2. Meets the standards and requirements of the Zoning Ordinance.

The project meets the standards and requirements of the Zoning Ordinance as it is not exceeding the building footprint area or floor area requirements. The location of the retaining wall in the City's right-of-way will be addressed through submittal of insurance paperwork naming the City of Clayton as additional insured. Lastly, the project will be constructed in compliance with the Site Plan Review Permit requirements, findings, and conditions of approval.

3. Preserves the general safety of the community regarding seismic, landslide, flooding, fire, and traffic hazards.

The project preserves the general safety of the community regarding seismic, landslide, flooding, fire, and traffic hazards since the project will be constructed in compliance with the Clayton Municipal Code, California Building Standards Code, and other agency regulations where applicable.

4. Maintains solar rights of adjacent properties.

The project will not block adjacent properties from direct sunlight from any angle of the ecliptic.

5. Reasonably maintains the privacy of adjacent property owners and/or occupants.

The project reasonably maintains the privacy of adjacent property owners and/or occupants since the retaining wall is only 41 inches in height and, therefore, will not result in any decrease of privacy for the adjacent property owners and/or occupants. Additionally, the retaining wall is located near the exterior side property line where no other private properties are located and, therefore, will not impact the privacy of adjacent property owners and/or occupants.

6. Reasonably maintains the existing views of adjacent property owners and/or occupants.

The project reasonably maintains the existing views of adjacent property owners and/or occupants since the retaining wall is a maximum of 41 inches in height and is located near the exterior side property line where no other private properties are located and, therefore, will not block existing views of adjacent property owners and/or occupants.

7. Is complementary, although not identical, with adjacent existing structures in terms of materials, colors, size, and bulk.

The project is complementary, although not identical, with adjacent existing structures in terms of materials, colors, size, and bulk since the retaining wall has been designed with earth tones that architecturally complement the surrounding residences and the natural setting of Clayton.

8. Is in accordance with the design standards for manufactured homes per Section 17.36.078 of the Clayton Municipal Code.

The project is not a manufactured home; therefore, this finding is not applicable.

The above-stated findings assume acceptance and approval of the proposed conditions of approval listed below.

PROPOSED CONDITIONS OF APPROVAL

These conditions of approval apply to the Aaron Kalt Site Plan (Fenceline Survey) and Cross Sections, date stamped October 26, 2018.

1. The applicant shall indemnify, protect, defend, and hold harmless the City and its elected and appointed officials, officers, employees, and agents from and against any and all liabilities, claims, actions, causes, proceedings, suits, damages, judgments, liens, levies, costs, and expenses of whatever nature, including, but not limited to, attorney's fees, costs, and disbursements arising out of or in any way relating to the issuance of

this entitlement, any actions taken by the City relating to this entitlement, and any environmental review conducted under the California Environmental Quality Act for this entitlement and related actions.

2. Prior to building permit issuance of the project by the City, the applicant shall enter into an Encroachment Agreement with the City of Clayton, subject to review and approval by the City Attorney.
3. Prior to final inspection of the project by the City, the applicant submit an application for and receive approval of an Administrative Use Permit for Fences from City staff.
4. The project shall be constructed in accordance with the approved plans, submitted by the applicant, date stamped October 26, 2018 and as conditionally approved by the Clayton Planning Commission on November 13, 2018.
5. Any major changes to the project shall require Planning Commission review and approval. Any minor changes to the project shall be subject to City staff review and approval.
6. No permits or approvals, whether discretionary or mandatory, shall be considered if the applicant is not current on fees, reimbursement payments, and any other payments that are due.
7. An encroachment permit shall be required for all work in the public right-of-way.

ADVISORY NOTES

Advisory notes are provided to inform the applicant of: (a) Clayton Municipal Code requirements; and (b) requirements imposed by other agencies. The advisory notes state requirements that may be in addition to the conditions of approval.

1. The applicant shall comply with all applicable State, County, and City codes, regulations and adopted standards as well as pay all associated fees and charges.
2. This Site Plan Review Permit shall be used, exercised, or established within twelve months after the granting of the Permit, or a time extension must be obtained from the Planning Commission, otherwise the Permit shall be null and void (Clayton Municipal Code Sections 17.64.010-17.64.030).
3. All construction and other work shall occur only between 7:00 a.m. and 5:00 p.m. Monday through Friday. Any such work beyond these hours and days is strictly prohibited unless specifically authorized in writing by the City Engineer (Clayton Municipal Code Section 15.01.101).
4. The applicant shall obtain the necessary building permits from the Contra Costa County Building Inspection Department. All construction shall conform to the California Building Standards Code.
5. Additional requirements may be imposed by the Contra Costa County Fire Protection District. Before proceeding with the project, it is advisable to check with the Fire District located at 4005 Port Chicago Highway, Suite 250, Concord, 925-941-3300.
6. If the project site is located within an area subject to covenants, conditions, and restrictions (CC&Rs) administered by a homeowners' association (HOA), additional requirements and/or approvals may be required by the HOA. Before proceeding with the project, it is advisable to check with the HOA to ensure any applicable requirements are met.

ATTACHMENTS

- A. Vicinity Map
- B. Aaron Kalt Site Plan (Fenceline Survey), date stamped October 26, 2018
- C. Aaron Kalt Cross Sections, date stamped October 26, 2018
- D. Pictures taken by staff on November 9, 2018

ATTACHMENT A



VICINITY MAP



Aaron Kalt
Site Plan Review Permit SPR-04-18
199 Mountaire Parkway
APN: 119-381-004



(Not to Scale)

Attachment B

FENCELINE SURVEY 199 MOUNTAIRE PKWY CITY OF CLAYTON COUNTY OF CONTRA COSTA STATE OF CALIFORNIA

BASIS OF BEARINGS
BEARINGS ARE BASED ON THE MONUMENT LINE OF MT. WILSON WAY AS SHOWN ON THE MAP OF SUB 4014 (177 M 35) TAKEN AS NORTH 34°30'00" EAST BETWEEN FOUND MONUMENTS



LEGEND

- EXISTING BOUNDARY
- R/W BOUNDARY
- ADJACENT PROPERTY LINE
- CONCRETE
- BUILDING LINE
- RETAINING WALL
- FENCE LINE
- PAVEMENT
- CONCRETE
- FOUND MONUMENT

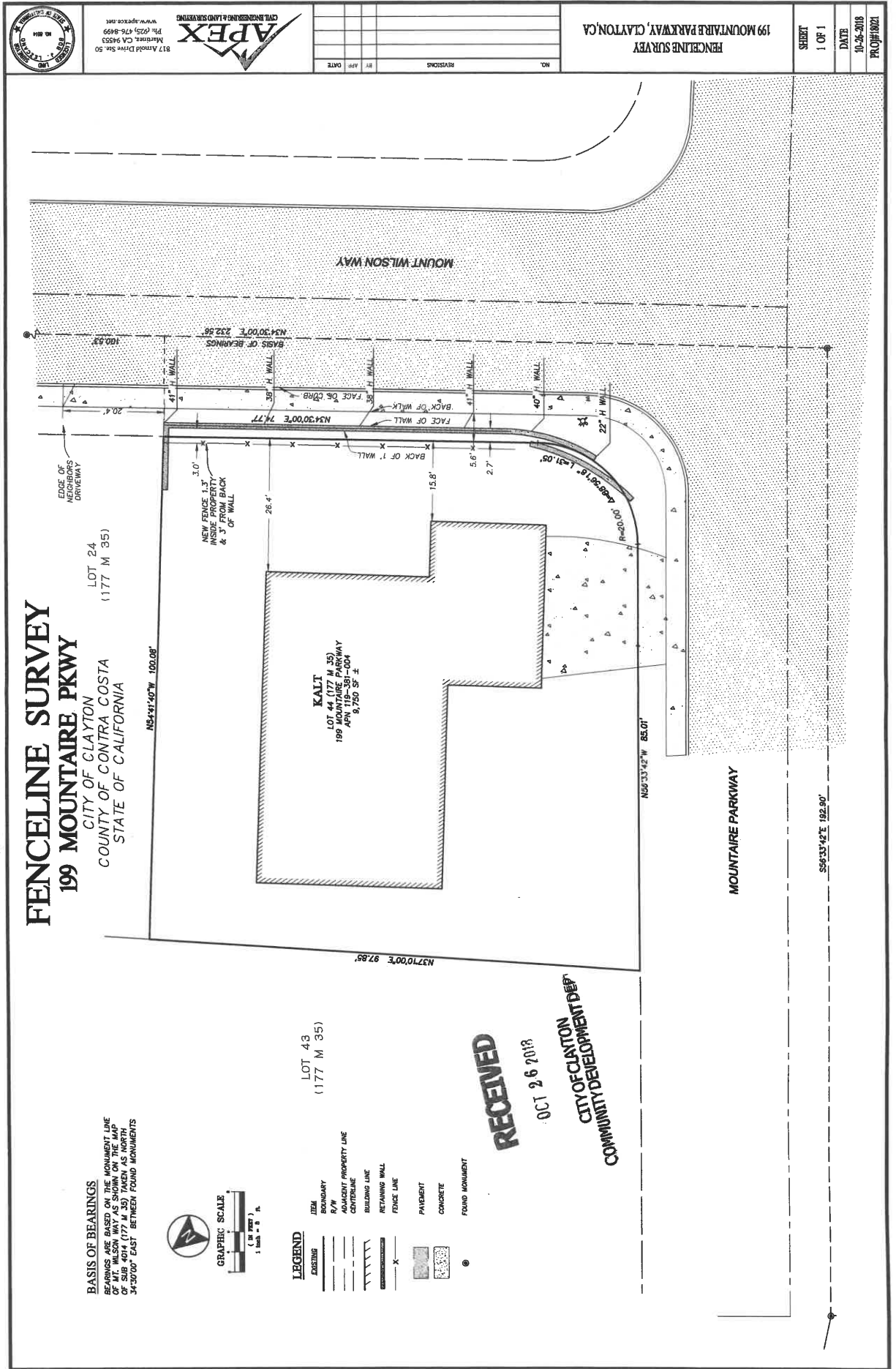
LOT 43
(177 M 35)

KALT
LOT 44 (177 M 35)
199 MOUNTAIRE PARKWAY
APN 115-381-004
9,750 SF ±

RECEIVED

OCT 26 2013

CITY OF CLAYTON
COMMUNITY DEVELOPMENT DEPT



APFX
817 Arnold Drive Ste. 50
Martinez, CA 94553
PH: (925) 476-8499
WWW.APFX.COM

ENGINEERING & LAND SURVEYING

NO.	REVISIONS	BY	APP	DATE

FENCELINE SURVEY
199 MOUNTAIRE PARKWAY, CLAYTON, CA

PROJ# 1801
DWG# 26-210
SHEET
1 OF 1
DATE

ATTACHMENT C

FRONT VIEW AT END OF RETAINING WALL

PROPERTY LINE

BACK OF SIDEWALK

SLOPE

RETAINING WALL

22"

8 FEET

BURIED RETAINING WALL (APPROX.)

RECEIVED

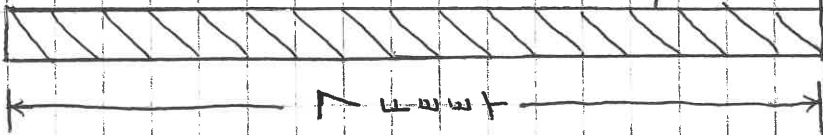
OCT 26 2018

CITY OF CLAYTON
COMMUNITY DEVELOPMENT DEPT

FRONT VIEW AT END OF FENCE

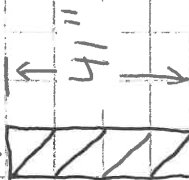
PROPERTY LINE

FENCE



BACK OF SIDEWALK

RETAINING WALL



3 FEET

4 FEET

3 FEET

RECEIVED

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COMMUNITY DEVELOPMENT DEPT

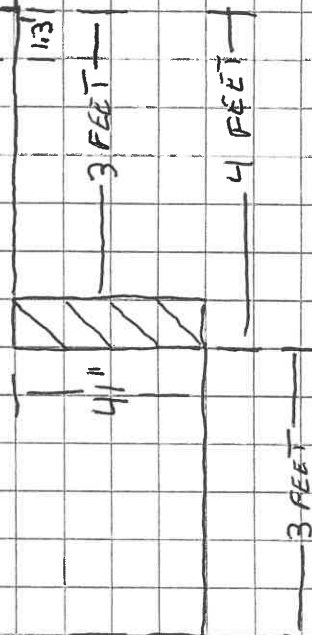
BACIL VIEW AT START OF FENCE LOOKING TOWARDS MOUNTAINE PARKWAY

PROPERTY LINE

FENCE



BACK OF SIDE WALK



RECEIVED

OCT 26 2018

CITY OF CLAYTON
COMMUNITY DEVELOPMENT DEPT

ATTACHMENT D



D-1



D-2



D-3



D-4