



Staff Report to the Zoning Administrator

Application Number: **05-0691**

Applicant: Daniela Bryan
Owner: Daniela Bryan
APN: 040-511-03

Agenda Date: 1/6/05
Agenda Item #: **2**
Time: **After** 10:00 a.m.

Project Description: Proposal to recognize the construction of an 8-foot tall fence within the required front, street side, side and rear yard setbacks and an approximately 6-foot tall electric gate.

Location: Property located on the south side of Fairway Drive, just before the intersection with Coyote Canyon (4492 Fairway Drive).

Supervisorial District: First District (District Supervisor: Janet Beautz)

Permits Required: Residential Development Permit

Staff Recommendation:

- Approval of Application 05-0691, based on the attached findings and conditions.
- Certification that the proposal is exempt from further Environmental Review under the California Environmental Quality Act.

Exhibits

- | | | | |
|----|--|----|---------------------------|
| A. | Project plans | E. | Assessor's parcel map |
| B. | Findings | F. | Zoning map |
| C. | Conditions | G. | Comments & Correspondence |
| D. | Categorical Exemption (CEQA determination) | | |

Parcel Information

Parcel Size:	1.1 acres
Existing Land Use - Parcel:	Residential
Existing Land Use - Surrounding:	Residential
Project Access:	Fairway Drive
Planning Area:	Soquel
Land Use Designation:	R-R (Rural Residential)

Zone District: RA (Residential Agriculture)
Coastal Zone: Inside Outside
Appealable to Calif. Coastal Comm. Yes No

Environmental Information

Geologic Hazards: Not mapped/no physical evidence on site
Soils: No soils report required
Fire Hazard: Not a mapped constraint
Slopes: 2-5%
Env. Sen. Habitat: Not mapped/no physical evidence on site
Grading: No grading proposed
Tree Removal: No trees proposed to be removed
Scenic: Not a mapped resource
Drainage: Existing drainage adequate
Archeology: Not mapped/no physical evidence on site

Services Information

Urban/Rural Services Line: Inside Outside
Water Supply: Soquel Creek Water District
Sewage Disposal: Septic
Fire District: Central Fire Protection District
Drainage District: Zone 5

History

Minor Land Division 99-0288 created the subject parcel as well as three other lots and an open space preserve. Building Permit 51686H allowed the construction of a single-family dwelling on the subject parcel which was finalized in 2004. The current proposal is to recognize an eight-foot tall fence, which is located about one foot in from the property line on all sides of the parcel except for the last 15 feet of the corridor access, and a six-foot tall electric fence.

Project Setting

The subject parcel is a corridor access lot accessed from Fairway Drive via a 140-foot long driveway. A six-foot tall electric gate, which swings towards the house, is located 40 feet from Fairway Drive. On either side of the corridor access are single-family dwellings. To the west and south of the parcel is the almost nine acre Fairway Drive Coastal Terrace Prairie managed by the Land Trust of Santa Cruz County, and to the east is the Coyote Canyon right-of-way. The parcel is mostly level with about 5% slopes at the back of the property.

Zoning & General Plan Consistency

The subject property is a 1.1 acres lot, located in the RA (Residential Agriculture) zone district, a designation which allows residential uses. The fence is ancillary to the existing single-family

dwelling which is a principal permitted use within the zone district. The project is consistent with the site's (R-R) Rural Residential General Plan designation.

Analysis

The fence is made of six-inch by six-inch wire fencing supported by eight-foot tall green metal rods for most of its length. Additional rigidity is provided by eight-foot tall wooden posts of approximately six inches in diameter which are located at the beginning of the fence and at each point where the fence turns to follow the property line. The fence stops on either side of the access corridor about 15 feet before Fairway Drive.

According to the homeowner, deer consumed the landscaping which was required as a condition of Minor Land Division 99-0288. To protect the property from deer, the homeowner constructed the eight-foot tall fence. The University of California, Davis Integrated Pest Management website corroborates that eight-foot tall fencing is sufficient to deter deer (Exhibit 'G'). Although the gate is less than eight feet tall, it appears to effectively deter deer as the homeowner asserts that deer intrusions have stopped.

The visual impact of the eight-foot tall fence is reduced due to its wire mesh construction, The greatest visual impact is along the corridor access which is lined on both sides with the fence, creating a double layer of wire mesh when viewed from either side. To reduce the visual impact of the fence on the neighborhood, staff recommends either removing the portion of the fence that extends from the gate towards Fairway Drive, or reducing that portion to three feet in height. Staff also recommends that the landscaping required as a part of Minor Land Division 99-0288 be re-installed since the property is now secure from deer.

Conclusion

As proposed and conditioned, the project is consistent with all applicable codes and policies of the Zoning Ordinance and General Plan/LCP. Please see Exhibit "B" ("Findings") for a complete listing of findings and evidence related to the above discussion.

Staff Recommendation

- **APPROVAL** of Application Number **05-0691**, based on the attached findings and conditions.
- Certification that the proposal is exempt from further Environmental Review under the California Environmental Quality Act.

Supplementary reports and information referred to in this report are on file and available for viewing at the Santa Cruz County Planning Department, and are hereby made a part of the administrative record for the proposed project.

The County Code and General Plan, as well as hearing agendas and additional information are available online at: www.co.santa-cruz.ca.us

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Report Prepared By: Annette Olson
Santa Cruz County Planning Department
701 Ocean Street, 4th Floor
Santa Cruz CA 95060
Phone Number: (831) 454-3134
E-mail: annette.olson@co.santa-cruz.ca.us

Development Permit Findings

1. That the proposed location of the project and the conditions under which it would be operated or maintained will not be detrimental to the health, safety, or welfare of persons residing or working in the neighborhood or the general public, and will not result in inefficient or wasteful use of energy, and will not be materially injurious to properties or improvements in the vicinity.

This finding can be made, in that the project is located in an area designated for residential uses and is not encumbered by physical constraints to development. Construction will comply with prevailing building technology, the Uniform Building Code, and the County Building ordinance to insure the optimum in safety and the conservation of energy and resources. The fence does not deprive adjacent properties or the neighborhood of light, air, or open space, in that the structure's wire mesh construction does not limit access to light, air, and open space in the neighborhood.

2. That the proposed location of the project and the conditions under which it would be operated or maintained will be consistent with all pertinent County ordinances and the purpose of the zone district in which the site is located.

This finding can be made, in that the location of the fencing and the conditions under which it would be operated or maintained is consistent with the purpose of the R-1-1 AC (Single-family residential - 1 acre) zone district in that the primary use of the property will be residential, and a fence is a normal ancillary use in the zone district. Specific regulations for fencing are contained in section 13.10.525. This proposal complies with the requirements and intents of that section, in that:

- The fence is situated on the property in a manner that allows adequate sight distance for vehicles traveling along the roadway as well as entering and exiting the property, in that the fence is constructed of wire mesh and therefore does not obstruct the line of sight. In addition, a condition of approval is to either remove all of the existing fencing between the gate and Fairway Drive, or reduce the height of this portion of the fence to three feet in height.
- The location of the fence on the property and the wire mesh design of the fence do not allow the concealment of persons with criminal intent.
- The location and design of the fence will be compatible with the visual character of the surrounding neighborhood in that the fence is constructed of wire mesh which will have minimal visual impact on the neighborhood. In addition, a condition of approval is to either remove all fencing between the gate and Fairway Drive, or reduce the height of this portion of the fence to three feet in height to lessen the fence's visual impact on the neighborhood.

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3. That the proposed use is consistent with all elements of the County General Plan and with any specific plan which has been adopted for the area.

This finding can be made, in that the fence is ancillary to the property's primary residential use which is consistent with the use and density requirements specified for the Rural Residential (R-R) land use designation in the County General Plan.

A specific plan has not been adopted for this portion of the County.

4. That the proposed use will not overload utilities and will not generate more than the acceptable level of traffic on the streets in the Vicinity.

This finding can be made, in that the fence is constructed on a lot developed with a single-family dwelling. No change in the level of traffic is anticipated as a result of the fence. The expected level of traffic is anticipated to remain at only one peak trip per day (1 peak trip per dwelling unit).

5. That the proposed project will complement and harmonize with the existing and proposed land uses in the vicinity and will be compatible with the physical design aspects, land use intensities, and dwelling unit densities of the neighborhood.

This finding can be made, in that the structure is located in a mixed neighborhood containing a variety of architectural styles, and the fence is constructed of wire mesh and therefore has little visual impact on the physical design aspects of the neighborhood. This project will not change the land use intensity or density of the neighborhood.

Conditions of Approval

Exhibit A: One sheet by Michael Podolsky, Architect, dated 4/15/04.

- I. This permit recognizes the construction of an eight-foot tall fence and an approximately six-foot tall electric gate. Prior to exercising any rights granted by this permit including, without limitation, any construction or site disturbance, the applicant/owner shall:
- A. Sign, date, and return to the Planning Department one copy of the approval to indicate acceptance and agreement with the conditions thereof.
 - B. Obtain an Electrical Permit from the Santa Cruz County Building Official
 - C. Obtain an Encroachment Permit from the Department of Public Works for all off-site work performed in the County road right-of-way.
 - D. Gate to 8 feet (approved by ZPA)
- II. Prior to issuance of the Building Permit the applicant/owner shall:

- A. Submit final architectural plans for review and approval by the Planning Department (if required). The final plans shall be in substantial compliance with the plans marked Exhibit "A" on file with the Planning Department. The final plans (if required) shall include, but not be limited to, the following:

**(Construction must comply with the following conditions,
even if no Building Permit is required)**

- 1. The portion of the fence between the gate and Fairway Drive must be ~~shown as removed or~~ reduced to ~~three~~ ^{six} feet in height or less.
 - 2. Details showing compliance with fire department requirements, including all requirements of the Urban Wildland Intermix Code, if applicable.
- B. Submit one copy of the approved Discretionary Permit with the Conditions of Approval attached. The Conditions of Approval shall be recorded prior to submittal, if applicable.
 - C. Meet all requirements and pay any applicable plan check fee of the Fire Protection District.
 - D. All construction shall be performed according to the approved plans and to the satisfaction of the County Building Official.
 - E. Pursuant to Sections 16.40.040 and 16.42.100 of the County Code, if at any time during site preparation, excavation, or other ground disturbance associated with this development, any artifact or other evidence of an historic archaeological resource or a Native American cultural site is discovered, the responsible persons shall immediately cease and desist from all further site excavation and notify the

Sheriff-Coroner if the discovery contains human remains, or the Planning Director if the discovery contains no human remains. The procedures established in Sections 16.40.040 and 16.42.100, shall be observed.

III. Operational Conditions

- A. In the event that future County inspections of the subject property disclose noncompliance with any Conditions of this approval or any violation of the County Code, the owner shall pay to the County the full cost of such County inspections, including any follow-up inspections and/or necessary enforcement actions, up to and including permit revocation.
- B. The fence must be located entirely on the subject parcel. Should the fence be found to be located on an adjacent parcel, it shall be the responsibility of the owner of the subject parcel to relocate the fence so that it is entirely on the subject parcel.
- C. Comply with Condition II.F.3. and II.F.3.e. of Minor Land Division 99-0288:
 1. Condition II.F.3. of MLD 99-0288: A final Landscape Plan for each site shall be prepared specifying the species, their size, and irrigation plans and meet the following criteria:
 2. Condition II.F.3.e. of MLD 99-0288: The lots shall be landscaped only with species compatible with the preservation of the adjacent native grasslands. This requirement includes developing a compatible irrigation scheme. The final landscape plan shall be reviewed and approved by Environmental Planning, at the owner's expense, prior to building permit approval. This requirement shall be recorded on the deed by instrument of a declaration of acknowledgement. Management of the biotic reserve shall include site verification of compliance with this condition. Non-compliance shall be reported to the County Planning Department for corrective action. The cost of enforcement shall be borne by the property owner in non-compliance.

IV. As a condition of this development approval, the holder of this development approval ("Development Approval Holder"), is required to defend, indemnify, and hold harmless the COUNTY, its officers, employees, and agents, from and against any claim (including attorneys' fees), against the COUNTY, its officers, employees, and agents to attack, set aside, void, or annul this development approval of the COUNTY or any subsequent amendment of this development approval which is requested by the Development Approval Holder.

- A. COUNTY shall promptly notify the Development Approval Holder of any claim, action, or proceeding against which the COUNTY seeks to be defended, indemnified, or held harmless. COUNTY shall cooperate fully in such defense. If COUNTY fails to notify the Development Approval Holder within sixty (60) days

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of any such claim, action, or proceeding, or fails to cooperate fully in the defense thereof, the Development Approval Holder shall not thereafter be responsible to defend, indemnify, or hold harmless the COUNTY if such failure to notify or cooperate was significantly prejudicial to the Development Approval Holder.

- B. Nothing contained herein shall prohibit the COUNTY from participating in the defense of any claim, action, or proceeding if both of the following occur:
1. COUNTY bears its own attorney's fees and costs; and
 2. COUNTY defends the action in good faith
- C. Settlement. The Development Approval Holder shall not be required to pay or perform any settlement unless such Development Approval Holder has approved the settlement. When representing the County, the Development Approval Holder shall not enter into any stipulation or settlement modifying or affecting the interpretation or validity of any of the terms or conditions of the development approval without the prior written consent of the County.
- D. Successors Bound. "Development Approval Holder" shall include the applicant and the successor'(s) in interest, transferee(s), and assign(s) of the applicant.

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Minor variations to this permit which do not affect the overall concept or density may be approved by the Planning Director at the request of the applicant or staff in accordance with Chapter 18.10 of the County Code.

Please note: This permit expires ~~two~~ years from the effective date unless you obtain the required permits and commence construction.

9 months

Approval Date: _____

Effective Date: _____

Expiration Date: _____

Don Bussey
Deputy Zoning Administrator

Annette Olson
Project Planner

Appeals: Any property owner, or other person aggrieved, or any other person whose interests are adversely affected by any act or determination of the Zoning Administrator, may appeal the act or determination to the Planning Commission in accordance with chapter 18.10 of the Santa Cruz County Code.

**CALIFORNIA ENVIRONMENTAL QUALITY ACT
NOTICE OF EXEMPTION**

The Santa Cruz County Planning Department has reviewed the project described below and has determined that it is exempt from the provisions of CEQA as specified in Sections 15061 - 15332 of CEQA for the reason(s) which have been specified in this document.

Application Number: 05-0691
Assessor Parcel Number: 040-5 11-03
Project Location: 4492 Fairway Dr.

Project Description: Proposal to recognize the construction of an 8-foot fence⁴⁵ within the required front, street side, side and rear yards

Person or Agency Proposing Project: Daniela Bryan

Contact Phone Number: (831) 477-7724

- A. The proposed activity is not a project under CEQA Guidelines Section 15378.
- B. The proposed activity is not subject to CEQA as specified under CEQA Guidelines Section 15060(c).
- C. **Ministerial Project** involving only the use of fixed standards or objective measurements without personal judgment.
- D. **Statutory Exemption** other than a Ministerial Project (CEQA Guidelines Section 15260 to 15285).

Specify type:

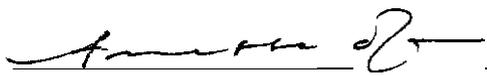
E. **Categorical Exemption**

Specify type: Class 1 - Existing Facility (Section 15301)

F. Reasons why the project is exempt:

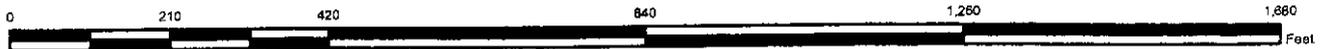
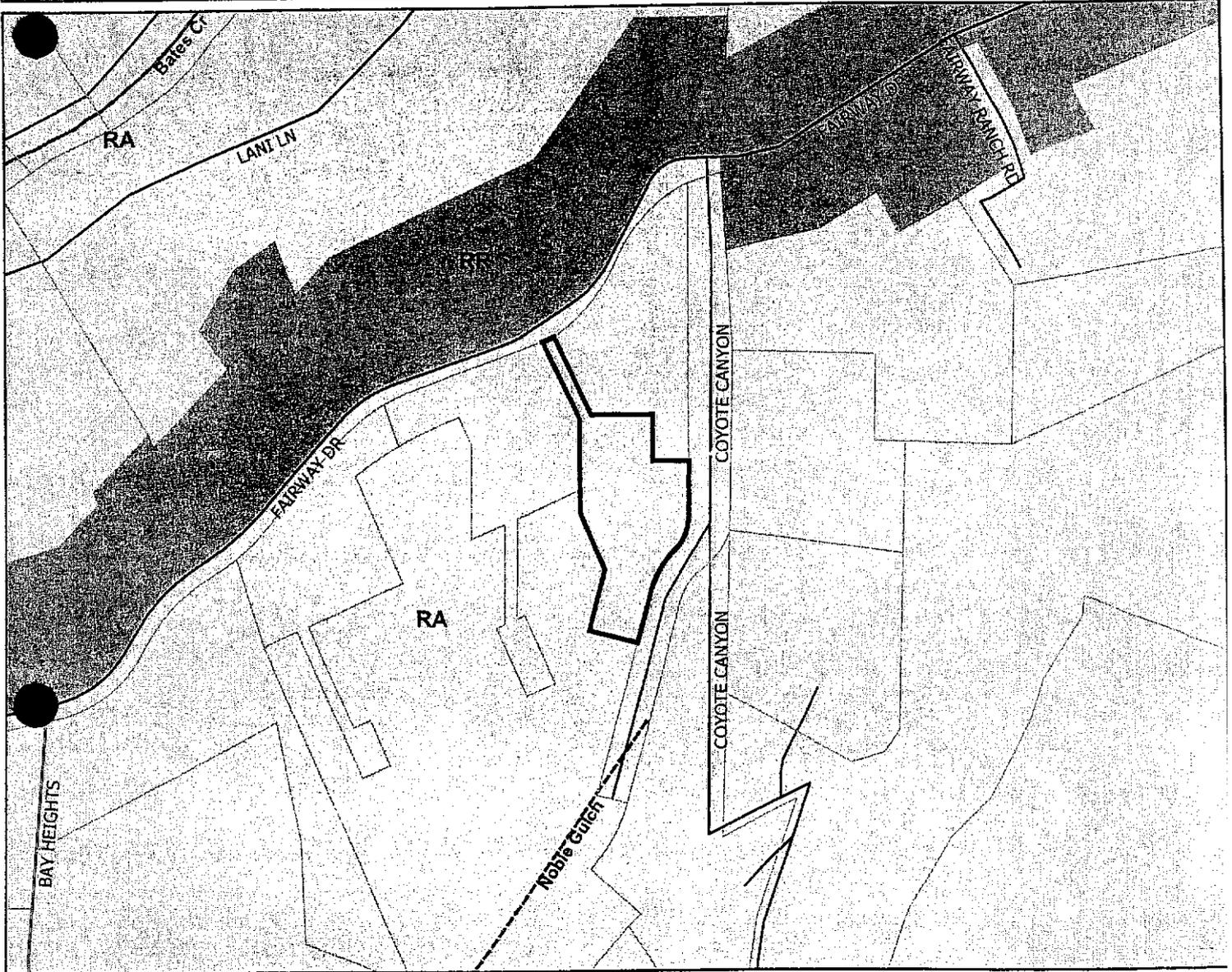
Accessory structure (fence)

In addition, none of the conditions described in Section 15300.2 apply to this project.


Annette Olson, Project Planner

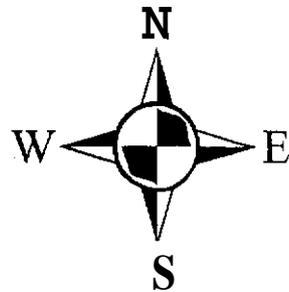
Date: 12-6-05

Zoning Map



Legend

-  APN 040-511-03
-  Assessors Parcels
-  Streets
-  INTERMITTENT STREAM
-  PERENNIAL STREAM
-  AGRICULTURE RESIDENTIAL (RA)
-  RESIDENTIAL-RURAL (RR)



Map Created by
County of Santa Cruz
Planning Department
October 2005

Daniela S. Bryan
4492 Fairway Drive
Soquel, CA 95073

October 27, 2005

Ms. Annette Olson
Santa Cruz County
Planning Department
701 Ocean Street, 4th Floor
Santa Cruz, CA 95060

Dear **Ms.** Olson,

As you know, I have recently finished construction of my new home, located at 4492 Fairway Drive, APN 040-511-03.

In order to obtain my letter of occupancy, the County required me to have landscaping in place and in order to comply, I spent a considerable amount of money on landscaping and irrigation. Shortly after planting almost exclusively native, drought-tolerant and supposedly deer-proof plants, deer ate almost everything down to the ground.

Deer fencing was installed around the entire property to mitigate the deer intrusion problem. Based on experience from my previous property and based on research about the jumping capabilities of deer, the fence I chose is 8 feet tall. Deer easily jump over anything lower.

I specifically chose a fence that is almost invisible, due to its wire mesh construction, in order to make it pleasing to the eye and to not obstruct traffic and views.

My next door neighbor was **so** pleased with me putting in a tall fence (that would keep deer away from his plants as well) it prompted him to pay for half of the fence along our joint property line. My other direct neighbor also supported me putting in a tall fence.

In addition, the fence serves to keep my dog, a large retriever from roaming the neighborhood, in particular the nature preserve owned and managed by the Land Trust adjacent to my property.

I have also been told by the fourth property owner of the original land division that by me putting in a fence, public access to the nature preserve has been drastically reduced, which assists the original goals of the Land Trust to protect the preserve. I take seriously my fiduciary responsibility to keep dogs and people off of the Prairie in order to preserve the native grasses.

It is my sincere hope that the County will approve of my request to keep the 8-foot fence intact. Besides the fact that it is unobtrusive, it helps support the preservation efforts of the Land Trust.

With kind regards,

A handwritten signature in cursive script that reads "Daniela Bryan". The signature is written in black ink and is positioned above the printed name.

Daniela Bryan

Fencing

Properly built and maintained fencing is the most effective method for preventing deer damage. Deer normally will not jump a 6-foot fence, but if chased or threatened, they can clear an 8-foot fence on level ground. Because of this ability, a 7- or 8-foot fence is recommended, especially in the Sierra Nevada mountain areas where larger deer are found. On sloping ground, you may need to build fences 10 or 11 feet high to guard against deer jumping down slope.

The kind of fence you build depends on the cost, terrain, and your needs. Both high-tensile wire and woven mesh, full-height fences are effective. Deer will crawl under or through a fence if they can. so make **sure** you secure the fence close to the ground and repair any breaks. **An** extra strand of wire stretched along the ground of a conventional fence will help prevent deer from crawling under the fence. Stake the wire or mesh firmly to the ground in any depressions between posts, or fill the depressions with materials that will not deteriorate or wash away. If you need to economize, you can stretch two or more strands of 9- or 10-gauge smooth wire spaced 4 to 6 inches apart above a 6-foot mesh fence to make it higher. There is no advantage to using barbed wire for these top strands. In order for the wire to remain tight, the vertical stays on mesh fences should be no more than 6 to 8 feet apart. High-tensile wire fences are **less** expensive and can be very effective, although their construction requires special techniques. For more information on these types of fences, contact an agricultural fencing contractor or supplier.

Remember, a good deer fence is built to work in both directions. If an animal gets in, it needs to be able to get out without difficulty. A removable section in an uphill corner on sloping ground or a corner farthest from human activity if on level ground can be very helpful in allowing deer to be driven out of the fenced area.

Gates. The height of any gates should be equal to that of the fence. Keep weight to a minimum: a wire mesh gate made with a light wooden frame is often satisfactory. If you use factory-made aluminum gates, you can bolt on metal extensions and stretch mesh wire over them to add height. It is advisable to sink a wooden base or concrete apron in the ground below the gate to make a uniform sill so that deer won't work their way under the gate.

C O U N T Y O F S A N T A R U Z
D I S C R E T I O N A R Y A P P L I C A T I O N C O M M E N T S

Project Planner: Annette Olson
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Date: December 5, 2005
Time: 14:19:46
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Code Compliance Completeness Comments

LATEST COMMENTS HAVE **NOT YET** BEEN SENT TO PLANNER FOR THIS AGENCY

===== REVIEW ON OCTOBER 27, 2005 BY RUTH C OWEN =====

COMMENT

===== UPDATED ON OCTOBER 27, 2005 BY RUTH C OWEN =====

COMMENT

On August 5, 2005, this office received a complaint. "Over height side-yard fence without permit. Fence is over six-feet tall and may be as high as nine feet." I have not been to the property nor issued a Notice of Violation. The application description and photos, however, describe the scope of the alleged violation. On December 13, 2005. I will check for compliance.

Code Compliance Miscellaneous Comments

LATEST COMMENTS HAVE **NOT YET** BEEN SENT TO PLANNER FOR THIS AGENCY

===== REVIEW ON OCTOBER 27, 2005 BY RUTH C OWEN =====

Refer to the completeness comment screen.

COUNTY OF SANTA CRUZ

Inter-Office Correspondence

DATE: November 4, 2005

TO: Tom Burns, Planning Director
Annette Olson, Planner ✓
Dave Laughlin, Enforcement Planning

FROM: Supervisor Jan Beautz JB

RE: COMMENTS ON APP. 05-0691, APN 040-511-03,
4492 FAIRWAY DRIVE, OVER-HEIGHT FENCE

Please consider the following areas of concern in your evaluation of the above application to recognize the construction of an 8 foot fence within the front yard setback.

County Code Section 13.10.525(c) states that fences above 3 feet in height adjacent to roadways and above 6 feet in height within a side or rear yard require discretionary approval. The property owner has constructed this 8 foot fence along all property lines. Further, the eastern side yard location of this fence abuts Coyote Canyon roadway. Therefore, all portions of this fence require permit approval. The current text description for this discretionary application only describes the portion of fence located within the front yard setback. Will the text description for this application be amended to accurately reflect all elements of this fence governed by the discretionary permit process so that neighbors will be fully noticed regarding the scope of this project?

While the gate for this fenced driveway has been set back 40 feet from Fairway Drive in conformance with setback requirements, the 8 foot high fence is only set back 15 feet. This results in a 35 foot front yard encroachment by this 8 foot high fence on either side of the flag driveway prior to vehicles reaching the gate. This portion of fence does not enclose or protect any property but it is within the required front yard setback. What is the purpose of this portion of over-height fence and can this purpose be met with a 3 foot fence?

This 8 foot high deer, wire fence was originally brought to Enforcement's attention by neighborhood complaint. From the photographs provided, it is clear that new single family

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homes are located in close proximity to this fence on either side of the long, fenced, flag driveway for this parcel. The 35 foot front yard setback section, in particular, warrants careful evaluation as its location results in an alteration of the neighbors' front yard viewsheds. Additionally, should vegetation fill in this section of fence, safe line of sight may be obstructed for neighbors exiting their properties as well as vehicles traveling through this curved section of Fairway Drive.

The site plan for this application states the fence observes a one foot setback from all property lines. Further, a "lateral slip for fire engine" label is printed on the northern driveway hammerhead adjacent to the garage and parking area. This site plan appears to show the 8 foot fence blocking the final foot of this required emergency vehicle turnaround. Is this actually the case?

The submitted plans and pictures show an electric entrance gate set back 40 feet from the Fairway Drive right of way. The plans give no indication as to which direction this gate swings when opening. While the photo shows the gate opening away from the roadway, is this gate capable of also swinging towards Fairway Drive? If so, a significant distance will be taken for gate movement, thus restricting available parking depth for vehicles operating the gate. Will the gate configuration be conditioned to provide adequate parking space within the property to allow all types of vehicles to operate the gate without encroaching into the Fairway Drive right of way?

JKB:ted

3379A1