



STAFF REPORT SAN CLEMENTE PLANNING COMMISSION

Date: February 18, 2015

PLANNER: Amber Gregg, Associate Planner *AG*

SUBJECT: Conditional Use Permit 14-389/Architectural Permit 14-478 – Capistrano Shores Transformers and Fence, a request to consider new accessory structures, seven new transformers, and the design of the proposed enclosure, temporary chain link fencing, located in the Capistrano Shores Mobile Homes Park leased portion of the railroad right-of-way.

Variance 14-474/Conditional Use Permit 14-475 – Capistrano Shores Wall and Landscaping a request to consider a variance for a decorative block wall in excess of six feet in height between the railroad tracks and the Capistrano Shores Mobile Homes Park with 9' 9" accent columns at the main entrance, along with a Conditional Use Permit to allow accessory structures, landscaping, and utility improvements in an open space zone. Both applications are located at 1880 N. El Camino Real within the Open Space zoning district and Coastal Zone Overlay (OS2-S2-CZ).

BACKGROUND

On February 4, 2015, the Planning Commission reviewed two agenda items concerning the Capistrano Shores Mobile Home Park. The requests included: to located seven transformers on the east side of the existing fence line and enclosed them with temporary fencing, and the construction of a permanent, decorative, wall eight feet in height, and other accessory and landscaping improvements.

At the meeting, the Planning Commission did not support the Variance request and directed staff to draft a resolution for denial. The Planning Commission also had several edits to the supported Resolutions, and requested the comments be incorporated in the documents. The items were continued to the following meeting of February 18, 2014. A copy of the previous staff report is provided under Attachment 4.

The revised Resolutions approving Conditional Use Permit 14-389, Architectural Permit 14-478, and Conditional Use Permit 14-474 are provided under Attachments 1 and 2 respectively. Attachment 3 is the Resolution for denial of the requested Variance.

RECOMMENDATION

STAFF RECOMMENDS THAT the Planning Commission:

1. Approve Conditional Use Permit 14-389 and Architectural Permit 14-478, Capistrano Shores Transformers and Temporary Fencing, and
2. Approve Conditional Use Permit 14-475, Capistrano Shores Permanent Decorative Wall and Landscaping, and
3. Consider denial of Variance 14-474, Capistrano Shores request for a wall in excess of eight feet in height,

Subject to the attached Resolutions and Conditions of Approval.

Attachments:

1. Resolution No. 15-002, Capistrano Shores Transformers and Temporary Fencing
Exhibit A - Conditions of Approval
2. Resolution No. 15-003, Capistrano Shores Permanent Wall and Landscaping
Exhibit A - Conditions of Approval
3. Resolution No. 15-006, Denial of a request to construct a wall in excess of six feet in height.
4. Staff Report from February 4, 2015
5. Location Map

RESOLUTION NO. PC 15-002

**A RESOLUTION OF THE PLANNING COMMISSION OF THE CITY OF
SAN CLEMENTE, CALIFORNIA, APPROVING CONDITIONAL USE
PERMIT 14-389, AND ARCHITECTURAL PERMIT 14-478,
CAPISTRANO SHORES A REQUEST TO PERMIT TRANSFORMERS,
AND TEMPORARY FENCING, AT 1880 NORTH EL CAMINO REAL**

WHEREAS, on October 2, 2014, an application was submitted and completed on December 11, 2014, by Eric Anderson and Eric Wills, 1880 N. El Camino Real, CA 92672, a request to consider seven new transformers, enclosed by temporary chain link fencing, located in the Capistrano Shores Mobile Homes Park leased portion of the railroad right-of-way. The project is located at 1880 N. El Camino Real within the Open Space zoning district and Coastal Zone Overlay (OS2-S2-CZ), the legal description being a strip of land 27.55 feet wide in the City of San Clemente, County of Orange, State of California, being a portion of Section 32, Township 8 South, Range 7 west, and Assessor's Parcel Number 691-432-02; and

WHEREAS, the Planning Division completed an environmental assessment for the project in accordance with the California Environmental Quality Act (CEQA), and recommends that the Planning Commission determine this project categorically exempt from CEQA as a Class 3 exemption pursuant to CEQA Guidelines Section 15303, because the project involves the construction of accessory structures; and

WHEREAS, on October 9, 2014, the Development Management Team considered the application and provided conditions of approval to ensure the project was compliant with applicable codes; and

WHEREAS, on December 10, 2014, the Design Review Subcommittee considered the application; and

WHEREAS, on February 4, 2015, the Planning Commission held a duly noticed public hearing on the subject application, and considered evidence presented by City staff, the applicant, and other interested parties and continued the item to make modifications to the resolution.

WHEREAS, on February 18, 2015, the Planning Commission held a duly noticed public hearing on the subject application, and considered evidence presented by City staff, the applicant, and other interested parties.

NOW, THEREFORE, the Planning Commission of the City of San Clemente hereby resolves as follows:

Section 1: This project is categorically exempt from CEQA as a Class 3 exemption pursuant to CEQA Guidelines Section 15303, because the project involves the construction of accessory structures.

Section 2: In regard to Conditional Use Permit No. 14-389, the Planning Commission finds as follows:

- A. The proposed use is permitted within the Open Space zone pursuant to the approval of a Conditional Use Permit and complies with all the applicable provisions of this title in that the proposed project complies with the height requirements of the fence as well as the requirement to screen transformers from the public right-of-way. The project is in conformance with the San Clemente General Plan in that the fencing being installed is temporary and will be replaced with a permanent decorative wall within a specific time period per the Conditions of Approval attached under Exhibit A. The project complies with the purpose and intent of the zone in which the use is being proposed in that the transformers, temporary fencing and subsequent permanent decorative wall are accessory buildings/structures and the final construction of the permanent decorative wall will be designed in the General Plan required Spanish Colonial Revival style and will screen the parking lot and transformers as required by the Zoning Ordinance and the General Plan.
- B. The site is suitable for the type and intensity of the use that is proposed in that the project will not add intensity or density to the site as it is an existing development. The installation of the transformers will bring the existing 90 space mobile home park into conformance with building and safety code requirements in regard to increasing the number of transformers as required by code. The temporary fencing will provide a temporary barrier between the Capistrano Shores Community and screen the transformers until the required permanent decorative wall is installed in the near future.
- C. The proposed use will not be detrimental to the public health, safety or welfare, or materially injurious to properties and improvements in the vicinity in that the new transformers will improve the safety of the residence by bringing the infrastructure of the mobile home park into conformance with the building and safety codes. The temporary fencing which will be replaced by a permanent decorative wall will enhance the safety of the residences and visitors of the mobile home park as it will be a permanent and secure barrier between the community and railroad right-of-way.
- D. The proposed use will not negatively impact surrounding land uses in that the project consists of accessory structures and utilities on the project site. Adjacent uses include the railroad right-of-way and Pacific Coast Highway and the project is not anticipate to negatively impact those uses.

Section 3: In regard to Architectural Permit No. 14-478, the Planning Commission finds as follows:

- A. The architectural treatment of the project complies with the San Clemente General Planning in that the non-compliant chain-link fence, existing and temporary, is conditioned to be replaced, and guaranteed to be constructed by conditioned

financial assurance, by a permanent decorative block wall that will be of Spanish Colonial Revival architectural style as required by the General Plan for development in gateways areas, and will comply with the City's Design Guidelines which discourages aluminum fencing and encourages walls with smooth white stucco finishes.

- B. The architectural treatment of the project complies with this title as it will screen the proposed above ground transformers from the view of the public right-of-way by installing temporary fencing that matches the existing, which is required to be replaced by a permanent wall that complies with the General Plan and City's Design Guidelines.
- C. The architectural treatment of the project complies with the architectural guidelines in the City's Design Guidelines as the project is conditioned to replace the existing and temporary aluminum fencing which is discouraged by the Design Guidelines with a decorative Spanish Colonial Revival wall that will be treated with the smooth white stucco finish as encouraged by the guidelines.
- D. The general appearance of the proposal is in keeping with the character of the neighborhood in that the temporary fencing "pop-out" fencing will match the existing chain-link and green mesh fencing. The permanent wall (conditioned to replace the temporary fencing) once constructed will enhance the surrounding Spanish Colonial Revival style developments and support the adjacent Architectural Overlay district which also requires Spanish Colonial Revival architectural style.
- E. The proposal is not detrimental to the orderly and harmonious development of the City in that the Capistrano Shores Mobile Home Park is an existing community and the proposed project is for the installation of new accessory buildings/structures that will support the existing use.

Section 4: The Planning Commission hereby approves CUP 14-389 and AP 14-478, Capistrano Shores Mobile Home Park new transformers and temporary fencing, subject to the above Findings, and the Conditions of Approval attached hereto as Exhibit A.

PASSED AND ADOPTED at a regular meeting of the Planning Commission of the City of San Clemente on February 18, 2015.

Chair

TO WIT:

I HEREBY CERTIFY that the foregoing resolution was duly adopted at a regular meeting of the Planning Commission of the City of San Clemente on February 18, 2015, and carried by the following roll call vote:

AYES:	COMMISSIONERS:
NOES:	COMMISSIONERS:
ABSTAIN:	COMMISSIONERS:
ABSENT:	COMMISSIONERS:

Secretary of the Planning Commission

EXHIBIT A

**CONDITIONS OF APPROVAL
CUP 14-389, and AP 14-478
Capistrano Shores New Transformers
And Temporary Fencing**

1. The applicant or the property owner or other holder of the right to the development entitlement(s) or permit(s) approved by the City for the project, if different from the applicant (herein, collectively, the "Indemnitor") shall indemnify, defend, and hold harmless the City of San Clemente and its elected city council, its appointed boards, commissions, and committees, and its officials, employees, and agents (herein, collectively, the "Indemnitees") from and against any and all claims, liabilities, losses, fines, penalties, and expenses, including without limitation litigation expenses and attorney's fees, arising out of either (i) the City's approval of the project, including without limitation any judicial or administrative proceeding initiated or maintained by any person or entity challenging the validity or enforceability of any City permit or approval relating to the project, any condition of approval imposed by City on such permit or approval, and any finding or determination made and any other action taken by any of the Indemnitees in conjunction with such permit or approval, including without limitation any action taken pursuant to the California Environmental Quality Act ("CEQA"), or (ii) the acts, omissions, or operations of the Indemnitor and the directors, officers, members, partners, employees, agents, contractors, and subcontractors of each person or entity comprising the Indemnitor with respect to the ownership, planning, design, construction, and maintenance of the project and the property for which the project is being approved. The City shall notify the Indemnitor of any claim, lawsuit, or other judicial or administrative proceeding (herein, an "Action") within the scope of this indemnity obligation and request that the Indemnitor defend such Action with legal counsel reasonably satisfactory to the City. If the Indemnitor fails to so defend the Action, the City shall have the right but not the obligation to do so and, if it does, the Indemnitor shall promptly pay the City's full cost thereof. Notwithstanding the foregoing, the indemnity obligation under clause (ii) of the first sentence of this condition shall not apply to the extent the claim arises out of the willful misconduct or the sole active negligence of the City. *[Citation – City Attorney Legal Directive/City Council Approval June 1, 2010]* (PIng.)_____
2. Thirty (30) days after project approval, the owner or designee shall submit written consent to all of these imposed conditions of approval to the Community Development Director or designee. *[Citation – City Attorney Legal Directive/City Council Approval June 1, 2010]* (PIng.)_____
3. CUP 14-389, and AP 14-478 shall become null and void if the use is not commenced within three (3) years from the date of the approval thereof. Since the use requires the issuance of a building permit, the use shall not be deemed to have commenced until the date that the building permit is issued for the development. *[Citation - Section 17.12.150.A.1 of the SCMC]* (PIng.)_____

4. A use shall be deemed to have lapsed, and CUP 14-389 and AP 14-478 shall be deemed to have expired, when a building permit has been issued and construction has not been completed and the building permit has expired in accordance with applicable sections of the California Building Code, as amended. *[Citation - Section 17.12.150.C.1 of the SCMC]* (PIng.)_____
5. The owner or designee shall have the right to request an extension of CUP 14-389, and AP 14-478 if said request is made and filed with the Planning Division prior to the expiration date as set forth herein. The request shall be subject to review and approval by the final decision making authority that ultimately approved or conditionally approved the original application. *[Citation - Section 17.12.160 of the SCMC]* (PIng.)_____
6. Signage is not part of this review. Any signage for this proposed development shall require the owner or designee to submit for review and obtain approval of a Sign Permit or Master Sign Program in accordance with the City's Sign Ordinance. *[Citation - Section 17.16.240.D & 17.16.250.D of the SCMC]* (PIng.)_____
7. Prior to the issuance of building permits, the owner or designee shall include within the first four pages of the working drawings a list of all conditions of approval imposed by the final approval for the project. *[Citation - City Quality Insurance Program]* (PIng.)_____ (Bldg.)_____
8. Prior to issuance of final inspection sign-off, the project shall be developed in conformance with the site plan, elevations, details, and any other applicable submittals approved by the Planning Commission on February 18, 2015, subject to the Conditions of Approval, or subsequent approval by the City Planner or designee.

Any deviation from the approved site plan, elevations, details, or other approved submittal shall require that the owner or designee submit modified plans and any other applicable materials as required by the City for review and obtain the approval of the City Planner or designee. If the City Planner or designee determines that the deviation is significant, the owner or designee shall be required to apply for review and obtain the approval of the Planning Commission.
■ (PIng.)_____
9. The perimeter chain link fence shall be for temporary purposes only as stated by the applicant. Prior to the issuance of building permit to install the transformers, the applicant shall establish an irrevocable line of credit or cash deposit to construct and landscape a permanent decorative wall to replace the existing perimeter chain link fence, which will span the length of the Capistrano Shores Mobile Home Park.
■■ (PIng.) _____

10. The amount of the irrevocable line of credit or cash deposit shall be established by the City Engineer and shall include: the cost of the City's request for proposals, design, construction plans, City permits, permits from all required outside agencies (including but not limited to California Coastal Commission, OCTA, Metrolink, and BNS&F), train operation mitigation requirements, cost to construct, landscape and irrigate the wall under prevailing wages, and any other costs associated with the design or construction of the wall. If there are remaining funds after the wall has received final inspection sign-off from all required agencies, the remaining funds shall be returned to the depositor. ■■ (PIng.)_____
11. Construction of the permanent decorative wall shall commence within one year after permit issuance of the new transformers from the City of San Clemente. ■■ (PIng.) _____
12. Should construction of the permanent decorative wall not commence within one year of permit issuance for the transforms, the City shall collect the line of credit, or cash deposit, to construct the wall per City and California Coastal Commission approvals. ■■ (PIng.)_____
13. The applicant can request an extension of the one year requirement to construct the permanent decorative wall from the Community Development Director or designee for six months at a time, if it is deemed by the Community Development Director or designee that the applicant is making substantial progress in obtaining the approvals from all outside agencies, and the City of San Clemente. ■■ (PIng.)_____
14. Prior to issuance of building permit for the transformers, the applicant shall enter into a written agreement with the City of San Clemente, to the satisfaction of the City Attorney, permitting the City the right to construct the permanent decorative wall in the event that the applicant fails to construct the wall per these conditions of approval, the agreement shall grant unlimited access to the Capistrano Shores Mobile Home Park property and OCTA leased area, and right to enter all properties associated with the Capistrano Shores Mobile Home Park required for construction, for the duration required to design and construct the wall. The written agreement shall also give the City the same said rights to the property if for any reason the wall can not be constructed and the City has to enter the property to relocate the transformers and reconstruct the fence line. ■■ (PIng.)_____
15. Maintenance of the wall including landscaping shall be the requirement of the Capistrano Shores Mobile Home Park and must be maintained in good keeping. ■■ (PIng.)_____
16. The final permanent decorative wall design, design of the accessory structures, and any subsequent improvements associated with this application, shall be reviewed and approved by the Design Review Subcommittee as well as the City Planner or designee in the form of a Staff Waiver of an Architectural Permit prior to building permit issuance. ■■ (PIng.)_____

17. The wall shall be in the Spanish Colonial Revival style and the stucco shall be applied with a 'steel, hand trowel' (no machine application), and shall be a smooth Mission finish with slight undulations (applied during brown coat) and bull-nosed corners and edges, including archways (applied during lathe), with limited control/expansion joints to be preapproved by the City Planner or designee. *[Citation – City of San Clemente Design Guidelines, November 1991]*
(PIng.)_____
18. If roof tiles are used as part of the design the tiles shall be two-piece clay tile roofing with booster tiles on the edges and ridges and random mortar packing. The mortar shall be packed on 100 percent of the tiles in the first two rows of tiles and along any rake and ridgeline, and shall be packed on 25 percent of the tiles on the remaining field. Mortar packing shall serve as bird stops at the roof edges. The volume of mortar pack to achieve the appropriate thickness shall be equivalent to a 6 inch diameter sphere of mortar applied to each tile. *[Citation – City of San Clemente Design Guidelines, November 1991]*
PIng.)_____
19. The east side of the wall, facing the railroad tracks, shall provide landscaping in the form of vines or other plant material to help soften the look of the wall and deter vandalism. The landscape plan shall be approved by the City prior to building permit issuance for the wall. The applicant shall include other types of architectural details as approved by the Design Review Subcommittee and the City Planner or designee to provide architectural interest as well as help deter vandalism of the wall. The wall shall be setback to accommodate for the area required to incorporate said landscaping or architectural projections. ■■ (PIng.)_____
20. Prior to permit issuance of the transformers, the applicant shall demonstrate to the satisfaction of the City Planner or designee that approval by the California Coastal Commission has been obtained. ■ (PIng.)_____
21. Prior to permit issuance of the permanent decorative perimeter wall, accessory structures, and any other improvements associated with these applications, the applicant shall demonstrate to the satisfaction of the City Planner or designee that approval by the California Coastal Commission has been obtained. ■ (PIng.)_____
22. The property owner or designee shall maintain all landscaped areas as approved on the final landscape plans in an orderly, attractive and healthy condition. This shall include proper pruning, mowing of turf areas, weeding, removal of litter, fertilization, replacement of plants when necessary, and the regular application of appropriate quantities of water to all landscaped areas. The property owner or designee shall maintain all irrigation systems as approved on the final landscape plans in proper operating condition. Waterline breaks, head/emitter ruptures, overspray or runoff conditions and other irrigation system failures shall be repaired immediately. *[Citation - Section 17.68.060.A&B of the of the SCMC]*
(PIng.)_____

- 23. The applicant shall maintain canopy trees in a manner that they provide coverage and encourages the canopy to grow to provide shade. The applicant shall avoid pruning the trees to the point where they do not grow into a canopy tree. ■■ (PIng.)_____
- 24. In the event that the transformers are located on the east side of the existing fence line, and if for any reason the permanent wall can not be constructed, the applicant shall relocated the transformers to the west side of the original fence line and return the fence to its original condition at their own cost. If the applicant does not comply with this requirement, the City shall have the right to access the established line of credit or cash deposit created for the permanent wall installation and shall relocate the transformers and reconstruct the fence line to the original condition. ■■ (PIng.)_____
- 25. The temporary fencing shall not have barbed wire fencing as it is prohibited in all zones pursuant to Section 1724.090 of the Zoning Ordinance. ■■ (PIng.)_____
- 26. Prior to the issuance of any permits, the applicant shall obtain the approval of the City Engineer of an Administrative Encroachment Permit, for any improvements within the City's property or easement(s) that exist within the proposed project area. *[Citation – Section 12.20 of the SCMC]* ■■ (Eng.)_____

Building

- 27. Separate Building Permit(s) required. Plans to construct new structures, add or alter the existing structure configuration(s), change in use, add or alter structural, mechanical, electrical or plumbing features of the project must be reviewed and approved through a separate building plan check / permit process. (Bldg.)_____ *[S.C.M.C – Title 8 – Chapter 8.16- Fire Code, Title 15 Building Construction - Chapters 15.08, 15.12, 15.16, 15.20]*
- 28. Project has not been reviewed for Building Code compliance. Prior to issuance of building permits, code compliance will be reviewed during building plan check. *[S.C.M.C – Title 8 – Chapter 8.16- Fire Code, Title 15 Building Construction - Chapters 15.08, 15.12, 15.16, 15.20]* (Bldg.)_____
- 29. Building permits shall not be issued unless the project complies with all applicable codes, ordinances, and statutes including, but not limited to, the Zoning Ordinance, Grading Code, Security Ordinance, Transportation Demand Ordinance, Water Quality Ordinance, Title 24 and Title 25 of the California Code of Regulations as adopted by the City including, but not limited to the California Administrative, Building, Electrical, Plumbing, Mechanical, Energy, Green, and Fire Codes.*[S.C.M.C – Title 8 – Chapter 8.16 – Fire Code, Title 15 Building and Construction Chapters 15.08, 15.12, 15.16, 15.20, 15.21, Title 16 Subdivisions, Title 17 Zoning]* (Bldg.)_____

All Conditions of Approval are standard, unless indicated as follows:

- Denotes modified standard Condition of Approval
- Denotes project specific Condition of Approval

RESOLUTION NO. PC 15-003

A RESOLUTION OF THE PLANNING COMMISSION OF THE CITY OF SAN CLEMENTE, CALIFORNIA, APPROVING CONDITIONAL USE PERMIT 14-475, CAPISTRANO SHORES A REQUEST TO CONSTRUCT A SIX FOOT WALL AND OTHER ACCESSORY IMPROVEMENTS, AT 1880 NORTH EL CAMINO REAL

WHEREAS, on November 20, 2014, an application was submitted by Eric Anderson and Eric Wills, 1880 N. El Camino Real, CA 92672, a request to consider an eight foot tall decorative block wall between the railroad tracks and the Capistrano Shores Mobile Homes Park with 9'9" accent columns at the main entrance, along with accessory structures, landscaping, hardscape, and utility improvements, located in the Capistrano Shores Mobile Homes Park leased portion of the railroad right-of-way. The project is located at 1880 N. El Camino Real within the Open Space zoning district and Coastal Zone Overlay (OS2-S2-CZ), the legal description being a strip of land 27.55 feet wide in the City of San Clemente, County of Orange, State of California, being a portion of Section 32, Township 8 South, Range 7 west, and Assessor's Parcel Number 691-432-02; and

WHEREAS, the Planning Division completed an environmental assessment for the project in accordance with the California Environmental Quality Act (CEQA), and recommends that the Planning Commission determine this project categorically exempt from CEQA as a Class 3 exemption pursuant to CEQA Guidelines Section 15303, because the project involves the construction of accessory structures; and

WHEREAS, on December 11, 2014, the Development Management Team considered the application and provided conditions of approval to ensure the project was compliant with applicable codes; and

WHEREAS, on February 4, 2015, the Planning Commission held a duly noticed public hearing on the subject application, and considered evidence presented by City staff, the applicant, and other interested parties and continued the item to make modifications to the resolution.

WHEREAS, on February 18, 2015, the Planning Commission held a duly noticed public hearing on the subject application, and considered evidence presented by City staff, the applicant, and other interested parties.

NOW, THEREFORE, the Planning Commission of the City of San Clemente hereby resolves as follows:

Section 1: This project is categorically exempt from CEQA as a Class 3 exemption pursuant to CEQA Guidelines Section 15303 because the project involves the construction of accessory structures.

Section 2: In regard to Conditional Use Permit No. 14-475, the Planning Commission finds as follows:

- A. The proposed use is permitted within the Open Space zone pursuant to the approval of a Conditional Use Permit and complies with all the applicable provisions of this title. The project is in conformance with the San Clemente General Plan in that the wall will be a decorative in the Spanish Colonial Revival architectural style which will screen the parking and above ground transforms located in the Capistrano Shores Mobile Home Park as well as provide high quality architecture in a prominent gateway to the City; both required by the General Plan.
- B. The site is suitable for the type and intensity of the use that is proposed in that the project will not add intensity or density to the site as it is an existing development. The construction of the wall, accessory buildings/structures, and landscaping is suitable for the type and intensity of the existing use.
- C. The proposed use will not be detrimental to the public health, safety or welfare, or materially injurious to properties and improvements in the vicinity in that the new wall will enhance the safety of the residences and visitors of the mobile home park as it will be a permanent and secure barrier between the community and railroad right-of-way.
- D. The proposed use will not negatively impact surrounding land uses in that the project consists of accessory structures/buildings that will improve the safety and aesthetics of the project site. Adjacent uses include the railroad right-of-way and Pacific Coast Highway and the project is not anticipate to negatively impact those uses.

Section 3: The Planning Commission hereby approves CUP 14-475, Capistrano Shores Mobile Home Park permanent decorative wall and landscaping improvements, subject to the above Findings, and the Conditions of Approval attached hereto as Exhibit A.

PASSED AND ADOPTED at a regular meeting of the Planning Commission of the City of San Clemente on February 18, 2015.

Chair

TO WIT:

I HEREBY CERTIFY that the foregoing resolution was duly adopted at a regular meeting of the Planning Commission of the City of San Clemente on February 18, 2015, and carried by the following roll call vote:

AYES:	COMMISSIONERS:
NOES:	COMMISSIONERS:
ABSTAIN:	COMMISSIONERS:
ABSENT:	COMMISSIONERS:

Secretary of the Planning Commission

EXHIBIT A

**CONDITIONS OF APPROVAL FOR CUP 14-475
Capistrano Shores Permanent Wall and Accessory Improvements**

1. The applicant or the property owner or other holder of the right to the development entitlement(s) or permit(s) approved by the City for the project, if different from the applicant (herein, collectively, the "Indemnitor") shall indemnify, defend, and hold harmless the City of San Clemente and its elected city council, its appointed boards, commissions, and committees, and its officials, employees, and agents (herein, collectively, the "Indemnitees") from and against any and all claims, liabilities, losses, fines, penalties, and expenses, including without limitation litigation expenses and attorney's fees, arising out of either (i) the City's approval of the project, including without limitation any judicial or administrative proceeding initiated or maintained by any person or entity challenging the validity or enforceability of any City permit or approval relating to the project, any condition of approval imposed by City on such permit or approval, and any finding or determination made and any other action taken by any of the Indemnitees in conjunction with such permit or approval, including without limitation any action taken pursuant to the California Environmental Quality Act ("CEQA"), or (ii) the acts, omissions, or operations of the Indemnitor and the directors, officers, members, partners, employees, agents, contractors, and subcontractors of each person or entity comprising the Indemnitor with respect to the ownership, planning, design, construction, and maintenance of the project and the property for which the project is being approved. The City shall notify the Indemnitor of any claim, lawsuit, or other judicial or administrative proceeding (herein, an "Action") within the scope of this indemnity obligation and request that the Indemnitor defend such Action with legal counsel reasonably satisfactory to the City. If the Indemnitor fails to so defend the Action, the City shall have the right but not the obligation to do so and, if it does, the Indemnitor shall promptly pay the City's full cost thereof. Notwithstanding the foregoing, the indemnity obligation under clause (ii) of the first sentence of this condition shall not apply to the extent the claim arises out of the willful misconduct or the sole active negligence of the City. *[Citation – City Attorney Legal Directive/City Council Approval June 1, 2010]* (PIng.)_____
2. Thirty (30) days after project approval, the owner or designee shall submit written consent to all of these imposed conditions of approval to the Community Development Director or designee. *[Citation – City Attorney Legal Directive/City Council Approval June 1, 2010]* (PIng.)_____
3. VAR 14-474 and CUP 14-475 shall become null and void if the use is not commenced within three (3) years from the date of the approval thereof. Since the use requires the issuance of a building permit, the use shall not be deemed to have commenced until the date that the building permit is issued for the development. *[Citation - Section 17.12.150.A.1 of the SCMC]* (PIng.)_____

4. A use shall be deemed to have lapsed, and CUP 14-475, shall be deemed to have expired, when a building permit has been issued and construction has not been completed and the building permit has expired in accordance with applicable sections of the California Building Code, as amended. *[Citation - Section 17.12.150.C.1 of the SCMC]* (PIng.)_____

5. The owner or designee shall have the right to request an extension of CUP 14-475, if said request is made and filed with the Planning Division prior to the expiration date as set forth herein. The request shall be subject to review and approval by the final decision making authority that ultimately approved or conditionally approved the original application. *[Citation - Section 17.12.160 of the SCMC]* (PIng.)_____

6. Signage is not part of this review. Any signage for this proposed development shall require the owner or designee to submit for review and obtain approval of a Sign Permit or Master Sign Program in accordance with the City's Sign Ordinance. *[Citation - Section 17.16.240.D& 17.16.250.D of the SCMC]* (PIng.)_____

7. Prior to the issuance of building permits, the owner or designee shall include within the first four pages of the working drawings a list of all conditions of approval imposed by the final approval for the project. *[Citation - City Quality Insurance Program]* (PIng.)_____(Bldg.)_____

8. Prior to issuance of final inspection sign off, the project shall be develop in conformance with the site plan, elevations, details, and any other applicable submittals approved by the Planning Commission on February 18, 2015, subject to the Conditions of Approval, or subsequent approval by the City Planner or designee.

Any deviation from the approved site plan, elevations, details, or other approved submittal shall require that the owner or designee submit modified plans and any other applicable materials as required by the City for review and obtain the approval of the City Planner or designee. If the City Planner or designee determines that the deviation is significant, the owner or designee shall be required to apply for review and obtain the approval of the Planning Commission.

■ (PIng.)_____

9. Maintenance of the wall including landscaping shall be the requirement of the Capistrano Shores Mobile Home Park and must be maintained in good keeping.

■■ (PIng.)_____

10. The final permanent decorative wall design, design of the accessory structures, and any subsequent improvements associated with this application, shall be reviewed and approved by the Design Review Subcommittee as well as the City Planner or designee in the form of a Staff Waiver of an Architectural Permit prior to building permit issuance.

■■ (PIng.)_____

11. The wall shall be in the Spanish Colonial Revival Style and the stucco shall be applied with a 'steel, hand trowel' (no machine application), and shall be a smooth Mission finish with slight undulations (applied during brown coat) and bull-nosed corners and edges, including archways (applied during lathe), with limited control/expansion joints to be preapproved by the City Planner or designee. *[Citation – City of San Clemente Design Guidelines, November 1991]*
(PIng.)_____
12. If roof tiles are used as part of the design the tiles shall be two-piece clay tile roofing with booster tiles on the edges and ridges and random mortar packing. The mortar shall be packed on 100 percent of the tiles in the first two rows of tiles and along any rake and ridgeline, and shall be packed on 25 percent of the tiles on the remaining field. Mortar packing shall serve as bird stops at the roof edges. The volume of mortar pack to achieve the appropriate thickness shall be equivalent to a 6 inch diameter sphere of mortar applied to each tile. *[Citation – City of San Clemente Design Guidelines, November 1991]*
PIng.)_____
13. The east side of the wall, facing the railroad tracks, shall provide landscaping in the form of vines or other plant material to help soften the look of the wall and deter vandalism. The landscape plan shall be approved by the City prior to building permit issuance for the wall. If landscaping is prohibited by the Orange County Transit Authority (OCTA) on the east side of the wall, the applicant shall include architectural details as approved by the Design Review Subcommittee and the City Planner or designee to provide architectural interest as well as help deter vandalism of the wall. The wall shall be setback to accommodate for the area required to incorporate said landscaping or architectural projections.
■■ (PIng.)_____
14. Prior to permit issuance of the permanent decorative perimeter wall, accessory structures, and any other improvements associated with these applications, the applicant shall demonstrate to the satisfaction of the City Planner or designee that approval by the California Coastal Commission has been obtained. ■ (PIng.)_____
15. The property owner or designee shall maintain all landscaped areas as approved on the final landscape plans in an orderly, attractive and healthy condition. This shall include proper pruning, mowing of turf areas, weeding, removal of litter; fertilization, replacement of plants when necessary, and the regular application of appropriate quantities of water to all landscaped areas. The property owner or designee shall maintain all irrigation systems as approved on the final landscape plans in proper operating condition. Waterline breaks, head/emitter ruptures, overspray or runoff conditions and other irrigation system failures shall be repaired immediately. *[Citation - Section 17.68.060.A&B of the of the SMC]*
(PIng.)_____
16. The applicant shall maintain canopy trees in a manner that they provide coverage and encourages the canopy to grow to provide shade. The applicant shall avoid pruning the trees to the point where they do not grow into a canopy tree.
■■ (PIng.)_____

17. Should for any reason the width of the planter area adjacent to the permanent decorative wall need to be widened to ensure the vitality of the landscaping and trees, the plans shall be modified to the satisfaction of the City Planner or designee. ■■ (PIng.)_____

Fees and Plan Check Deposit

18. Prior to the issuance of any permits, in the event that Grading Permits are required, plan check fees shall be submitted for the Engineering Department plan check of soils reports and grading plans. *[Citation – Fee Resolution No. 08-81 and Section 15.36 of the SCMC]* (Eng.)_____
19. Prior to issuance of the building permit, the owner shall pay all applicable development fees, which may include, but are not limited to, City Attorney review, development, water and sewer connection, parks, drainage, grading, RCFPP, transportation corridor, etc. *[Citation – Fee Resolution No. 08-81& S.C.M.C. Title 15, Building and Construction, Sections 15.52, 15.56, 15.60, 15.64, 15.68, 15.72]* (Eng.)_____

Reports –Soils and Geologic, Hydrology

20. Prior to the issuance of any permits, in the event that Grading Permits are required, the owner or designee shall submit for review, and shall obtain the approval of the City Engineer or designee for, a soils and geologic report prepared by a registered geologist and/or geotechnical engineer which conforms to City standards and all other applicable codes, ordinances and regulations. *[Citation – Section 15.36 of the SCMC]* (Eng.)_____
21. Prior to the issuance of any permits, in the event that Grading Permits are required, the City Engineer shall determine that development of the site shall conform to general recommendations presented in the geotechnical studies, including specifications for site preparation, treatment of cut and fill, soils engineering, and surface and subsurface drainage. *[Citation – Section 15.36 of the SCMC]* (Eng.)_____

Grading

22. Prior to the issuance of any permits, in the event that Grading Permits are required, the owner or designee shall submit for review, and obtain the approval of the City Engineer, a precise grading plan, prepared by a registered civil engineer, showing all applicable frontage improvements and onsite improvements, including but not limited to, grading, building pad grades, storm drains, sewer system, retaining walls, water system, etc., as required by the City Grading Manual and Ordinance. *[Citation – Section 15.36 of the SCMC]* (Eng.)_____

Improvement Plans

23. Prior to issuance of any permits, in the event that Grading Permits are required, the owner or designee shall submit for review, and shall obtain the approval of the City Engineer or designee for improvement plans, prepared by a registered civil engineer. The owner or his designee shall be responsible for the construction of all required frontage and onsite improvements as approved by the City Engineer including but not limited to the following: *[Citation – Section 15.36, 12.08.010, and 12.24.050 of the SCMC]* ■ (Eng.)_____

A. Construction details for how the public City utilities, such as the sewer main that crosses under the proposed wall, will be protected and not surcharged with additional loads. Since the method of protection has not been reviewed and approved at this time, the ultimate design shall be approved by the Public Works Director/City Engineer. Design methods for adequate protection may include, but not be limited to sleeving the existing pipe(s).

B. An Engineering Department Encroachment Permit shall in place prior to the commencement of any work in the public right-of-way.

24. Prior to the issuance of any permits, the applicant shall obtain the approval of the City Engineer of an Administrative Encroachment Permit, for any improvements within the City’s property or easement(s) that exist within the proposed project area. *[Citation – Section 12.20 of the SCMC]* ■■ (Eng.)_____

NPDES

25. Prior to issuance of any permit, the owner shall demonstrate to the satisfaction of the City Engineer that the project meets all requirements of the Orange County National Pollutant Discharge Elimination System (NPDES) Storm Drain Program, and Federal, State, County and City guidelines and regulations, in order to control pollutant run-off. The owner shall submit for review, and shall obtain approval of the City Engineer plans for regulation and control of pollutant run-off by using Best Management Practices (BMP's). *[Citation – Section 13.40 of the SCMC]* (Eng.)_____

26. Prior to issuance of any permit, the owner or designee shall submit for review a project binder containing the following documents: *[Citation – Section 13.40 of the SCMC]* ■ ■ (Eng.)_____

A. If the project is greater than 1 acre, a Notice of Intent (NOI) for coverage under the General Construction Storm Water Permit must be filed with the State Water Resources Control Board (<http://www.waterboards.ca.gov/stormwtr/construction.html>) and a copy of the NOI, a WDID number and a copy of the Storm Water Pollution Prevention Plan (SWPPP) must be filed with the City;

- B. If the site is determined to be a "Priority Project" (as defined by the Orange County's MS4 Permit for the South Orange County Model WQMP, http://www.waterboards.ca.gov/sandiego/water_issues/programs/stormwater/) a final Water Quality Management Plan (WQMP) must be approved by the City prior to issuance of any permits. The final WQMP shall be recorded with the Orange County Recorder's Office and filed with the City prior to Certificate of Occupancy or finalization of permits. Site design plans shall incorporate all necessary WQMP requirements, including but not limited to covered trash enclosures.
- C. Since a portion of the proposed project is located on City property, prior to the issuance of any permits for work in this area, the applicant and the City shall enter into a recorded agreement for maintenance for any WQMP features or any other improvements on City property. Any such agreement shall be to the satisfaction of the City Attorney. Unless approved otherwise by the City Manager, the Agreement shall place all maintenance responsibilities on the project applicant.
27. Prior to release of financial security, the owner or designee shall have completed the stenciling of all catch basins and/or storm drain inlets with labels 3" high in black letters, on either the top of the curb or the curb face adjacent to the inlet "NO DUMPING - DRAINS TO OCEAN". These markers shall be maintained in good condition by the Property Owner. *[Citation – Section 13.40 of the SCMC]*

(Eng.)_____

Financial Security

28. Prior to issuance of any permits, the owner shall provide separate improvement surety, bonds, or irrevocable letters of credit, as determined by the City Engineer for 100% of each estimated improvement cost, as prepared by a registered civil engineer as approved by City Attorney/City Engineer, for the following: grading improvements; frontage improvements; sidewalks; sewer lines; water lines; onsite storm drains; and erosion control. In addition, the owner shall provide separate labor and material surety for 100% of the above estimated improvement costs, as determined by the City Engineer or designee. *[Citation – Section 15.36 of the SCMC]*

(Eng.)_____

Landscape Plans

29. Prior to issuance of grading and/or building permits, the owner or designee shall submit for review and approval by the Community Development Director and Director of Public Works or designees, a detailed landscape and irrigation plan prepared by a registered landscape architect, and in compliance with all pertinent requirements. (BP&R.)_____
30. All landscape irrigation systems shall be designed using the City's reclaimed water standards. In the event reclaimed water is not available at the time the system is put into operation, the system may be connected to the potable water system. When reclaimed water is available, the system shall be converted to reclaimed

service. The owner or designee shall install reclaimed water service lines to the meter locations for future connection when reclaimed water is available.

(BP&R.)_____

31. Prior to final inspection sign-off, the owner or designee shall submit a letter, signed by a registered landscape architect, to the Community Development Director or designee, stating that all materials for all landscaped areas have been installed in accordance with the approved plans, and shall demonstrate to the satisfaction of the Community Development Director or designee, in consultation with the Public Works Director or designee, that all landscaped areas have been landscaped per the approved landscape plans. (BP&R.)_____

Building

32. Separate Building Permit(s) required. Plans to construct new structures, add or alter the existing structure configuration(s), change in use, add or alter structural, mechanical, electrical or plumbing features of the project must be reviewed and approved through a separate building plan check / permit process. (Bldg.)_____ *[S.C.M.C – Title 8 – Chapter 8.16- Fire Code, Title 15 Building Construction - Chapters 15.08, 15.12, 15.16, 15.20]*
33. Project has not been reviewed for Building Code compliance. Prior to issuance of building permits, code compliance will be reviewed during building plan check. *[S.C.M.C – Title 8 – Chapter 8.16- Fire Code, Title 15 Building Construction - Chapters 15.08, 15.12, 15.16, 15.20]* (Bldg.)_____
34. Building permits shall not be issued unless the project complies with all applicable codes, ordinances, and statutes including, but not limited to, the Zoning Ordinance, Grading Code, Security Ordinance, Transportation Demand Ordinance, Water Quality Ordinance, Title 24 and Title 25 of the California Code of Regulations as adopted by the City including, but not limited to the California Administrative, Building, Electrical, Plumbing, Mechanical, Energy, Green, and Fire Codes.*[S.C.M.C – Title 8 – Chapter 8.16 – Fire Code, Title 15 Building and Construction Chapters 15.08, 15.12, 15.16, 15.20, 15.21, Title 16 Subdivisions, Title 17 Zoning]* (Bldg.)_____
35. Prior to the Building Division's approval of the framing inspection, the owner or designee shall submit evidence to the satisfaction of the City Building Official or designee that a registered civil engineer that is licensed to do surveying or land surveyor has certified that the height of all structures are in conformance to the approved plans. *S.C.M.C – Title 15 – Chapter 15.08, Title 17- Chapter 17.24* (Bldg.)_____

All Conditions of Approval are standard, unless indicated as follows:

- Denotes modified standard Condition of Approval
- ■ Denotes project specific Condition of Approval

RESOLUTION NO. PC 15-006

**A RESOLUTION OF THE PLANNING COMMISSION OF THE
CITY OF SAN CLEMENTE, CALIFORNIA, DENYING VARIANCE 14-474
CAPISTRANO SHORES A REQUEST TO CONSTRUCT A WALL
EXCEEDING SIX FEET IN HEIGHT, AT
1880 NORTH EL CAMINO REAL**

WHEREAS, on November 20, 2014, an application was submitted by Eric Anderson and Eric Wills, 1880 N. El Camino Real, CA 92672, a request to consider an eight foot tall decorative block wall between the railroad tracks and the Capistrano Shores Mobile Homes Park with 9'9" accent columns at the main entrance, along with accessory structures, landscaping, hardscape, and utility improvements, located in the Capistrano Shores Mobile Homes Park leased portion of the railroad right-of-way. The project is located at 1880 N. El Camino Real within the Open Space zoning district and Coastal Zone Overlay (OS2-S2-CZ), the legal description being a strip of land 27.55 feet wide in the City of San Clemente, County of Orange, State of California, being a portion of Section 32, Township 8 South, Range 7 west, and Assessor's Parcel Number 691-432-02; and

WHEREAS, pursuant to California Environmental Quality Act (CEQA) Section 15270, CEQA does not apply to projects which a public agency rejects or disapproves; and

WHEREAS, on December 11, 2014, the Development Management Team considered the application and provided conditions of approval to ensure the project was compliant with applicable codes; and

WHEREAS, on February 4, 2015, the Planning Commission held a duly noticed public hearing on the subject application, and considered evidence presented by City staff, the applicant, and other interested parties and found that they could support the Conditional Use Permit, but could not support the Variance and continued the item to the next regularly scheduled Planning Commission meeting of February 18, 2015 so staff could prepare a resolution of denial for the Variance; and

WHEREAS, on February 18, 2015, the Planning Commission held a duly noticed public hearing on the subject application, and considered evidence presented by City staff, the applicant, and other interested parties.

NOW, THEREFORE, the Planning Commission of the City of San Clemente hereby resolves as follows:

Section 1: In regard to Variance No. 14-474, a request for walls in excess of six feet in height, the Planning Commission finds as follows:

- A. Although the geographic location of the existing Capistrano Shores development is unique for residential uses, it does not warrant an increase in permitted height of the wall. The proximity of residences to the railroad tracks is not unique for San Clemente as the Lossan Railroad Corridor separates 99% of the entire City from the ocean.

- B. The variance is not necessary for the preservation of a substantial property right as there are no other six foot tall garden walls along the San Clemente coastline in any zoning district.
- C. Granting the variance might set a precedent for other property owners adjacent to the railroad tracks to wish to erect a wall over six feet in height. This would be detrimental as it could lead to the elimination of coastal views enjoyed by the community.
- D. The granting of the variance would not be detrimental to the health and safety of the community but it would be materially injurious as it would reduce the views of the ocean enjoyed by visitors and residents as they travel along the subject property.
- E. The granting of the variance is not consistent with the General Plan as it will further impede ocean views on an Open Space zoned property and does not comply with requirements of the Zoning Ordinance which restricts garden walls to six feet in height.

Section 2: The Planning Commission hereby denies VAR 14-474, Capistrano Shores Mobile Home Park request for a wall in excess of six feet in height, subject to the above Findings, and the Conditions of Approval attached hereto as Exhibit A.

PASSED AND ADOPTED at a regular meeting of the Planning Commission of the City of San Clemente on February 18, 2015.

Chair

TO WIT:

I **HEREBY CERTIFY** that the foregoing resolution was duly adopted at a regular meeting of the Planning Commission of the City of San Clemente on February 18, 2015, and carried by the following roll call vote:

AYES:	COMMISSIONERS:
NOES:	COMMISSIONERS:
ABSTAIN:	COMMISSIONERS:
ABSENT:	COMMISSIONERS:

Secretary of the Planning Commission



STAFF REPORT SAN CLEMENTE PLANNING COMMISSION

Date: February 4, 2015

PLANNER: Amber Gregg, Associate Planner

SUBJECT: **Conditional Use Permit 14-389/Architectural Permit 14-478 – Capistrano Shores Transformers and Fence**, a request to consider new accessory structures, seven new transformers, and the design of the proposed enclosure, temporary chain link fencing, located in the Capistrano Shores Mobile Homes Park leased portion of the railroad right-of-way.

Variance 14-474/Conditional Use Permit 14-475 – Capistrano Shores Wall and Landscaping a request to consider a variance for a decorative block wall in excess of six feet in height between the railroad tracks and the Capistrano Shores Mobile Homes Park with 9' 9" accent columns at the main entrance, along with a Conditional Use Permit to allow accessory structures, landscaping, and utility improvements in an open space zone. Both applications are located at 1880 N. El Camino Real within the Open Space zoning district and Coastal Zone Overlay (OS2-S2-CZ).

REQUIRED FINDINGS

Prior to approval of the proposed project, the following findings shall be made. The draft Resolutions (Attachments 1 and 2) and analysis section of this report provide an assessment of the project's compliance with all required findings.

Conditional Use Permit

- A. The proposed use is permitted within the subject zone pursuant to the approval of a Conditional Use Permit and complies with all the applicable provisions of this title, the San Clemente General Plan and the purpose and intent of the zone in which the use is being proposed.
- B. The site is suitable for the type and intensity of use that is proposed.
- C. The proposed use will not be detrimental to the public health, safety or welfare, or materially injurious to properties and improvements in the vicinity.
- D. The proposed use will not negatively impact surrounding land uses.

Architectural Permit

- A. The architectural treatment of the project complies with the San Clemente General Plan.
- B. The architectural treatment of the project complies with any applicable specific plan and this title in areas including, but not limited to, height, setback color, etc.
- C. The architectural treatment of the project complies with the architectural guidelines in the City's Design Guidelines.
- D. The general appearance of the proposal is in keeping with the character of the neighborhood.
- E. The proposal is not detrimental to the orderly and harmonious development of the City.

Variance

- A. Due to special circumstances applicable to the subject property including size, shape, topography, location or surroundings, the strict application of the Zoning Ordinance is found to deprive the subject property of privileges enjoyed by other properties in the vicinity under identical zone classifications.
- B. The granting of the variance is necessary for the preservation of a substantial property right possessed by other property in the same vicinity and zone and otherwise denied the subject property.
- C. The required conditions of approval assure that the adjustment authorized will not constitute a grant of special privileges which are inconsistent with the limitations placed upon other properties in the vicinity subject to the same zoning regulations.
- D. The granting of the variance will not be detrimental to the public health, safety or welfare, or materially injurious to properties or improvements in the vicinity.
- E. The granting of a variance is consistent with the General Plan and the intent of this title.

BACKGROUND

Capistrano Shores Inc., owner of the Capistrano Shores Mobile Home Park (Park), desires to complete utility upgrades and aesthetic enhancements. The Park currently has three electrical transformers serving the 90 space park; seven transformers are needed to adequately provide service for electrical needs. On September 5, 2014, the Park received approval from the City to remove the three existing transformers and install seven new

transformers within the existing fence line. During that process, Capistrano Shores Inc. established a new land lease with the Orange County Transit Authority (OCTA) to encroach seven feet farther into the railroad right-of-way.

With the lease executed, Capistrano Shores Inc. proposes to locate the new transformers into the newly leased right-of-way. On October 2, 2014, Eric Anderson of Capistrano Shores Inc., submitted an application for seven transformers to be located in the newly leased area with "pop-out" fencing that would extend from the existing fence line and around the transformers to enclose the structures. The fencing is proposed to match the existing fence which is five feet in height, covered with green mesh, and has one-foot of barbed wire running along the top. However, the temporary fencing shall not have barbed wire as it is prohibited by the Zoning Ordinance in all zones.

This application was reviewed by the Design Review Subcommittee on December 10, 2014 (the staff report and minutes are provided under Attachment 4) and they could not support the request as the "pop-out" fencing was not identified as temporary nor was there information guaranteeing that the fence would in fact be temporary and for how long it would be needed. Additional information on Design Review Subcommittees review will be provided later in this report.

On November 20, 2014 a separate application was filled by Mr. Anderson on behalf of Capistrano Shores Inc., requesting a new wall eight-feet in height with pilasters, landscape area, trash and transformer enclosures, and entry monument.

The applicant has requested to take the two applications concurrently for the Planning Commission's review, and due to time constraints associated with placing the transformers, informed staff that this was the last possible Planning Commission date they could attend and still meet their deadlines.

Although there are two separate applications, 1) seven transformers and temporary "pop-out" fencing, and 2) the permanent decorative wall, accessory structures, and landscaping improvements, due to their interdependence Staff has prepared one staff report to provide a comprehensive analysis of the projects.

Development Management Team Meeting

The project was reviewed by the Development Management Team (DMT) on October 9 2014 and December 11, 2014, where they reviewed the applicant's requests and recommended Conditions of Approval to ensure compliance with applicable codes and State requirements. The recommended conditions are shown in Exhibit A of Attachments 1 and 2.

Noticing

Public notices were distributed and posted per City and State requirements. No public comments have been received to date.

PROJECT DESCRIPTION

The projects comprise of two phases: 1) the first phase includes the installation of the new transformers and the temporary chain link fencing that will enclose them, 2) the second phase will include the construction of the decorative perimeter wall, entry monument, accessory structures, and landscaping.

Phase One

Phase one includes seven new chain-link fence projections into the railroad right-of-way creating box-like “pop-outs” in the straight fence line when viewed from El Camino Real. See Exhibit 1 and 2 for additional information. Each projection will extend approximately seven feet from the existing fence line and be approximately 13 feet long. The existing fence provides a barrier between the development and the railroad tracks, and also helps screen the parking of the mobile home park.

Exhibit 1 –Plan of single new accessory building and fence enclosure

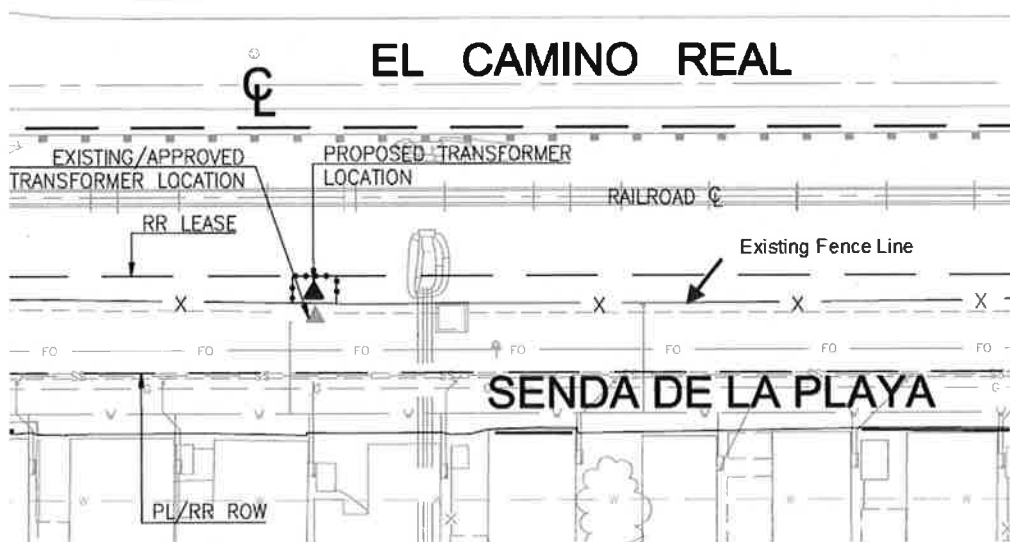
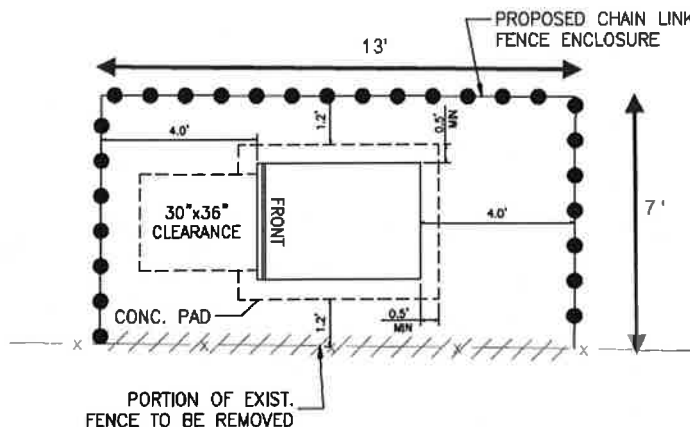


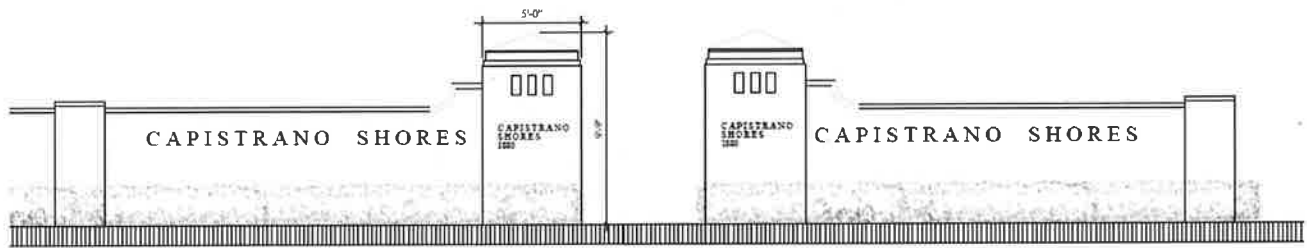
Exhibit 2 – Detail of Electrical Transformer and Fence



Phase Two

The second phase includes the construction of an eight foot tall decorative smooth white stucco wall spanning the length of the Park; approximately 3,615 feet according to the City’s GIS. At the main entrance the applicant is proposing to have two entry monuments flanking the drive aisle. See Exhibit 3 for detail. Although signage is shown on the plans it is not apart of this application and will be reviewed at a later date.

Exhibit 3: Preliminary Design of Entry Monuments



The applicant also proposes 16 trash enclosures, decorative lighting along the drive aisle, and landscaping on the interior side of the wall and at the main entry. Decorative hardscape is also proposed, interlocking pavers will be installed at the main entry, crossings in front of all trash enclosures, and a pedestrian walkway on the side of the drive aisle will also be created out of pavers. For additional information please refer to the plans. The permanent decorative wall is conditioned to commence within one year of receiving building permits for the transformers.

Architecture

The applicant has submitted a preliminary design for the permanent decorative wall provided under Attachment 6. The elevations include an eight-foot tall smooth white stucco wall with decorative cap, columns and vines. At the main entry, the applicant proposes two 9’9” accent columns. The entry columns propose a two-piece red tile cap. Due to the applicant’s time constraints, the Design Review Subcommittee has not had the opportunity to review or comment on the design. Per the applicant’s project narrative (provided under Attachment 5) the wall will have a Spanish Colonial Revival style.

To ensure the architectural style requirement is met, staff has placed several conditions of approval on the project which insure architectural quality, and set review and approval requirements. These condition include but are not limited to:

- *The final permanent decorative wall design, design of the accessory structures, and any subsequent improvements associated with this application, shall be reviewed and approved by the Design Review Subcommittee as well as the City Planner or designee in the form of a Staff Waiver of an Architectural Permit prior to building permit issuance. ■■ (Plng.)_____*

- *The wall shall be in the Spanish Colonial Revival style and the stucco shall be applied with a 'steel, hand trowel' (no machine application), and shall be a smooth Mission finish with slight undulations (applied during brown coat) and bull-nosed corners and edges, including archways (applied during lathe), with limited control/expansion joints to be approved by the City Planner or designee. (PIng.)_____*
- *If roof tiles are used as part of the design the tiles shall be two-piece clay tile roofing with booster tiles on the edges and ridges and random mortar packing. The mortar shall be packed on 100 percent of the tiles in the first two rows of tiles and along any rake and ridgeline, and shall be packed on 25 percent of the tiles on the remaining field. Mortar packing shall serve as bird stops at the roof edges. The volume of mortar pack to achieve the appropriate thickness shall be equivalent to a 6 inch diameter sphere of mortar applied to each tile. (PIng.)_____*

Landscaping

The project currently proposes landscaping on the Park side of the wall and not on the east, or railroad, side of the wall which faces the public right-of-way. The reason for that is the applicant's lease agreement with OCTA states that landscaping is not permitted on the railroad side of the wall. Staff and public officials are currently working with OCTA to discuss leniency on the landscape restriction to allow for vines on the east side of the wall. The vines will help soften the visual appearance of the ¾ of a mile long wall, as well as deter vandalism.

If landscaping is not permitted by OCTA, staff recommends the wall include architectural details to help soften the appearance and deter vandalism. Staff has placed the following condition on the project concerning the issue:

- *The east side of the wall, facing the railroad tracks, shall provide landscaping in the form of vines or other plant material to help soften the look of the wall and deter vandalism. The landscape plan shall be approved by the City prior to building permit issuance for the wall. If landscaping is prohibited by the Orange County Transit Authority (OCTA) on the east side of the wall, the applicant shall include architectural details as approved by the Design Review Subcommittee and the City Planner or designee to provide architectural interest as well as help deter vandalism of the wall. The wall shall be setback to accommodate for the area required to incorporate said landscaping or architectural projections. ■■ (PIng.)_____*

On the interior of the park the applicant is proposing a landscape planter area, approximately three feet wide, along the entire length of the permanent decorative wall. The planter area will include contiguous plantings of ground cover and trees. The trees along the wall are particularly important as they will grow tall and will add greenery to the railroad side of the wall as the canopies fill in. The applicant is currently working with City's Landscape Architect to finalize a drought tolerant plant palette and appropriate tree species that will provide canopy but not impact the view corridor from the new Marblehead Coastal trails.

PROJECT ANALYSIS

Conditional Use Permit

Per Zoning Ordinance Section 17.44.020, a Conditional Use Permit (CUP) is required for the development of accessory structures in an Open Space zone. The CUP is required for the temporary fencing, and the permanent decorative wall and accessory structures.

The applicant has noted that the “pop-out” fencing will be a temporary solution to enclose the transformers and provide a contiguous barrier between the Park and the railroad right-of-way until they can construct the permanent decorative wall. In a good faith effort, the City can approve the temporary fencing on a limited short term basis as long as there is a guarantee that a permanent decorative wall will be constructed in the near future. If the City does not have a guarantee that the wall will be constructed then approval of the temporary fencing, transformers, and other accessory structures can not be supported as it would not be consistent with the General Plan’s Goals and Policies.

To ensure the fencing is indeed temporary, as the applicant has stated, and that the wall is constructed in a timely manner, staff has included the following conditions of approval for the projects:

- *The perimeter chain link fence shall be for temporary purposes only as stated by the applicant. Prior to the issuance of building permit to install the transformers, the applicant shall establish an irrevocable line of credit or cash deposit to construct and landscape a permanent decorative wall to replace the existing perimeter chain link fence, which will span the length of the Capistrano Shores Mobile Home Park.*
■ (PIng.)_____
- *Construction of the permanent decorative wall shall commence one year after permit issuance of the new transformers.*
■ (PIng.)_____
- *Should construction of the permanent decorative wall not commence within one year of permit issuance for the transforms, the City shall collect the line of credit, or cash deposit, to construct the wall per City and California Coastal Commission approvals.*
■ (PIng.)_____
- *The applicant can request an extension of the one year requirement to construct the permanent decorative wall from the Community Development Director or designee for six months at a time, if it is deemed by the Community Development Director or designee that the applicant is making substantial progress in obtaining the approvals from all outside agencies, and the City of San Clemente.*
■ (PIng.)_____

The inclusion of these conditions ensures that for any reason should the applicant not be able to fulfill the requirement to construct the permanent decorative wall, the City can construct the wall on their behalf, ensuring the final development is consistent the goals and policies of the General Plan.

Architectural Permit

The temporary fencing, if it were to become a permanent fence, does not comply with the required findings of an Architectural Permit as it is not in keeping with the Goals and Policies of the General Plan which require Spanish Colonial Revival architectural style for gateway projects. Nor is it consistent with the City's Design Guidelines which discourages aluminum fencing, and the Zoning Ordinance which prohibits barbed wire fencing. However, with the proposed conditions ensuring the fencing is truly temporary, a permanent decorative wall in the required Spanish Colonial Revival style would be consistent with General Plan, Design Guidelines, and the findings of the Architectural Permit.

Staff believes that the preliminary Spanish Colonial Revival design submitted by the applicant for the permanent decorative wall is a good start, and with the requirement that the final design be reviewed and approved by the Design Review Subcommittee and City Planner or designee, the permanent wall will meet the City's General Plan and Design Guidelines.

Variance

The project requires a variance because the maximum permitted height for a wall is six feet. The applicant is proposing a wall eight feet in height with decorative columns at the entrance that reach 9' 9".

Per the Zoning Ordinance Section 17.16.080, the purpose for the variance process is *"to provide relief from development standards in special circumstances. For a variance to be granted, special circumstances related to a property must exist which deprive the property owner of development privileges enjoyed by other property owners in the vicinity and same zone; the deprivation of these privileges must result in a hardship for the property owner."*

The project site is unique to the City as it is the only community that resides on the west side of the railroad tracks. Bound between the ocean and the railroad right-of-way the mobile home units are approximately 70 feet from the railroad tracks. The applicant and OCTA would like to see safety improved in this area and believe the proposed wall will help accomplish that. In addition, the wall will provide sound mitigation for the residents from the trains. The LOSSAN railroad corridor is a main connection between metropolitan Los Angeles, Orange, and San Diego Counties, and is one of the business corridors in the U.S. Traffic volume for this stretch of the corridor has increased in recent years to an average of 50 trains per day. The aesthetics will also be enhanced by the replacement of the chain link and barbwire fence with a Spanish Colonial Revival style decorative block wall.

Staff believes the findings for the variance can be made because the project's unique coastal location and proximity to the railroad tracks. The granting of the variance will improve the safety barrier between the Capistrano Shores Mobile Home Park and the railroad, as well as mitigate noise generated by the increased train trip volume. The variance for the wall will be in keeping with the General Plan as it will develop an attractive Spanish Colonial Revival style wall at a gateway location into the City.

Design Review Subcommittee

On December 10, 2014 the Design Review Subcommittee (DRSC) reviewed the application for “pop-out” fencing and transformers. The decorative permanent wall was submitted a month and a half after the fencing application and was not submitted in time to take concurrently for DRSC review. At the time of the meeting, the application did not state that the fencing would be temporary. However, at the meeting the applicant stated that it was their intent for the fencing to be temporary.

The DRSC concurred that they could not recommend approval of the temporary fencing without a guarantee that the entire length of the fence would be removed within a stipulated time period. To ensure the completion of the wall, DRSC concurred that financial security would need to be obtained for construction costs and landscaping. The DRSC then provided guidance, at the request of the applicant, on desirable design elements for the wall. For the complete DRSC report and minutes please refer to Attachment 4.

GENERAL PLAN CONSISTENCY

Per the General Plan, the proposed project is located in the North Beach/North El Camino Real Focus Area, which is an important gateway into the City. The following are pertinent policies identified in the General Plan applicable to this area and gateways in general.

NORTH BEACH/NORTH EL CAMINO REAL FOCUS AREA

POLICIES:

LU-10.03. ***Gateways.*** We enhance and maintain attractive gateways and informational signage signifying arrival to the North Beach/North El Camino Real area at the following locations along North El Camino Real: 1) the northern entrance to North Beach, 2) the historic entryways to Max Berg Plaza Park at El Portal, and 3) the southern entryway to the area at Avenida Palizada.

LU-10.06. ***Quality Development.*** We require that site, building and landscape development be of high quality design and materials and that promote pedestrian activity, in accordance with the Urban Design Element, North Beach Specific Plan and Zoning Ordinance.

UD-2.02. ***Spanish Village by the Sea Design Identity.*** We require new gateway area development to include appropriate entry design elements (e.g., Spanish Colonial Revival and Spanish architecture, landscaping, signage, lighting, streetscape furniture).

UD-2.06. ***Parking.*** Where practical, we limit the visibility of surface parking lots and parking spaces within gateway areas by requiring them to be located behind or to the side of buildings. Where this is not practical, we ensure that street-facing parking spaces and parking lots are visually screened with landscaping and/or architectural treatments.

UD-2.10. **Visual Screening.** We require visual screening of blank walls, trash dumpsters, and parking facilities through a variety of landscaping and architectural design treatments, and signage associated with such features must be attractively designed and placed, consistent with sign regulations. Where possible, we require the screening of utilities infrastructure. Unsightly properties and buildings should be visually screened in an attractive manner.

UD-2.12. **Gateways on Highways.** We work with Caltrans and other agencies to ensure aesthetics are an integral consideration in the design, implementation and maintenance of all highway facilities and rights-of-way, with special emphasis on gateway areas.

UD-3.08. **Transitional Areas.** We require development in transitional areas, where one type of land use (e.g., industrial) transitions to another (e.g., residential) to protect residents' quality of life through such measures as landscaping, high-quality walls or fencing, or setbacks.

In addition, the City's Design Guidelines provide general guidelines for all architecture subject to discretionary review. For building and garden walls the following materials are encouraged:

- White, off-white or light earth tone cement plaster/stucco finishes.
- Concrete finishes of off-white or light earth tone integral color.
- Whitewash brick or adobe.

Based on the above, expanding the chain link fence into the railroad right-of-way is not consistent with General Plan goals and policies for the area, or the Design Guidelines. However, as conditioned, the chain link fence would be temporary, and a permanent, decorative, Spanish Colonial Revival style wall would comply. With the proposed Conditions of Approval incorporated into the projects, Staff can facilitate a Spanish Colonial Revival style permanent wall is properly designed and constructed.

ENVIRONMENTAL REVIEW/COMPLIANCE (CEQA):

The Planning Division completed an environmental assessment for the project in accordance with the California Environmental Quality Act (CEQA), and recommends that the Planning Commission determine this project categorically exempt from CEQA as a Class 3 exemption pursuant to CEQA Guidelines Section 15303, because the project involves the construction of accessory structures.

CALIFORNIA COASTAL COMMISSION REVIEW

The proposed projects are not exempt and require California Coastal Commission approval.

ALTERNATIVES; IMPLICATIONS OF ALTERNATIVES

1. The Planning Commission can concur with staff and approve the proposed projects.

This action would result in the approval of one or both of the proposed projects, subject to the fulfilment of the Conditions of Approval, and would allow the applicant the ability to move forward to obtain the other necessary agency permits including but not limited to the Californian Coastal Commission.

2. The Planning Commission can, at its discretion, add, modify or delete provisions of the proposed projects or conditions.

This action would result in any modifications being incorporated into the design of the projects and may be included in the conditions of approval. An example of this may include changes to the Conditions of Approval or the requirement that the final design of the permanent decorative perimeter wall be reviewed and approved by the Planning Commission.

3. The Planning Commission can deny one or both of the proposed projects.

An example could be denial of the application to place the transformers in the proposed location with temporary fencing, and approval of the wall and landscaping. This would require the applicant to construct the wall prior to placing the transformers in the desired area.

The applicant could appeal the Commission's decision to the City Council.

RECOMMENDATION

STAFF RECOMMENDS THAT the Planning Commission approve Conditional Use Permit 14-389 and Architectural Permit 14-478, Capistrano Shores Transformers and Temporary Fencing and Variance 14-474 and Conditional Use Permit 14-475 – Capistrano Shores Permanent Decorative Wall and Landscaping, subject to the attached Resolutions and Conditions of Approval.

Attachments:

1. Resolution No. 15-002, Capistrano Shores Transformers and Temporary Fencing
Exhibit A - Conditions of Approval
2. Resolution No. 15-003, Capistrano Shores Permanent Wall and Landscaping
Exhibit A - Conditions of Approval
3. Location Map
4. DRSC Report and Minutes
5. Project Narrative submitted by applicant
6. Preliminary Colored Elevations
7. Letter from applicant with financial proposal for transformer relocation

Plans



LOCATION MAP

Capistrano Shores Mobile Home Park
1880 N. El Camino Real

