




STAFF REPORT SAN CLEMENTE ZONING ADMINISTRATOR

Meeting Date: April 19, 2017

PLANNER: Liane Schuller, Contract Planner 

SUBJECT: Minor Exception Permit (MEP) 17-004, Shah Residence, a request to maintain less than 45 percent of the front setback area as permeable surface at an existing single family residence.

LOCATION: 21 Chapital

ZONING: Residential Medium-Low Density (RML) zone of the Rancho San Clemente Specific Plan

BACKGROUND:

- The subject site is a gore-shaped lot located in a curve of Chapital street within the Rancho San Clemente Specific Plan. The property is improved with an existing single-family residence and two-car garage.
- The applicant proposes to maintain the front yard as it currently exists, which is comprised of 31 percent (215 square feet) of permeable landscaped surface, where 45 percent (315 square feet) is required. The impermeable surface in the front yard setback consists of a two-vehicle wide driveway, two concrete walkways, and a concrete pad between the driveway and the adjacent home at 23 Chapital. The remaining area is landscaped with palm trees, low shrubbery, and grass.
- Zoning Ordinance Section 17.68.050.A.1 allows single-family residential lots with lot width forty feet or less to provide less than 45 percent of the front yard setback area as permeable and landscaped, subject to the approval of a Minor Exception Permit.
- The applicant is not proposing any additions to the home. This issue is before the Zoning Administrator due to Code Compliance action stemming from a neighbor complaint about the concrete pad, which widens the driveway. Based on staff's research it appears that the site has existed in it's current condition for a number of years. No permits were required when the concrete pad was installed.
- As noted above, the project site is a gore-shaped lot, and while most of the landscaping is not located in the front yard setback, the back yard fencing is set back quite a distance from the front property line, thereby providing approximately 550 square feet of additional landscape area visible from the street. The home therefore generally appears to have more landscaping than the surrounding homes.
- Staff supports the request because it meets the required findings for a MEP for the following reasons:
 - a. The requested MEP will not interfere with the purpose or standards of the Residential Low-Medium zone in that the improvements in the front yard setback

- are existing and there is still substantial landscaping located along the property's street frontage. All of this landscaping is visible from the public right-of-way, and the site appears to have the same or more landscaping than surrounding homes.
- b. The neighboring properties will not be adversely affected as a result of the approval or conditional approval of the MEP, in that it will maintain the character and look of the residence and the surrounding neighborhood. Overall the project site has the same or more landscaping as other surrounding homes, and the concrete pad between the existing driveway on this site and the adjacent site at 23 Chapital facilitates access to and maintenance of existing underground utility equipment located between the two properties.
 - c. The approval or conditional approval of the MEP will not be detrimental to the health, safety or welfare of the general public, in that continuing the less than 45 percent permeable surface in the front yard is consistent with other homes in the neighborhood and, with the additional contiguous landscaping in front of the fence separating the front and back yards, there is more landscaping visible from the public right-of-way as compared to other homes in the neighborhood.
 - d. The subject site is unique with respect to location and configuration in that the location of the property in a street curve results in a gore-shaped lot with less than typical street frontage available for landscape within the front setback. Special circumstances apply in that the narrow frontage and required driveway limit the area available for landscape within the front setback, while the shape of the site allows greater than typical landscape area to be provided behind the front yard setback, visible from the public right-of-way and meeting the intent of the City's landscape standards (SCMC Section 17.68.010) to enhance the property's appearance, to reduce heat and glare, to minimize impacts of soil erosion and visual pollution, and to promote water conservation.
- The project is categorically exempt from CEQA as a Class 1 exemption pursuant to CEQA Guidelines Section 15301(a), because the project involves minor exterior alterations to a residential property containing an existing single-family residence. The Class 1 exemption specifically exempts from further CEQA review the operation, repair, maintenance, permitting, leasing, licensing, or minor alteration of existing public or private structures, facilities, mechanical equipment, or topographical features, involving negligible or no expansion of use beyond that existing at the time of the lead agency's determination. The types of "existing facilities" itemized are not intended to be all-inclusive of the types of projects which might fall within Class 1. The key consideration is whether the project involves negligible or no expansion of an existing use. Here, the project involves maintaining an existing landscape condition with no changes proposed. Thus, the project qualifies for the Class 1 exemption.
 - To date, staff has not received public comments on this application.

RECOMMENDATION

Based on the information in the staff report and subject to the required Findings and Conditions of Approval, staff recommends that the Zoning Administrator:

1. Determine the project is Categorical Exempt from the requirements of the California Environmental Quality Act pursuant to CEQA Guidelines Section 15301(a), because the project involves minor exterior alterations to a residential property containing an existing single-family residence, and
2. Approve MEP 17-004, Shah Residence Landscape, subject to the attached Resolution ZA 17-012 and conditions of approval.

Attachments:

1. Resolution ZA 17-012
2. Vicinity Map
3. Photos

Plans

RESOLUTION NO. ZA 17-012

A RESOLUTION OF THE ZONING ADMINISTRATOR OF THE CITY OF SAN CLEMENTE, CALIFORNIA, APPROVING MINOR EXCEPTION PERMIT 17-004, SHAH RESIDENCE, A REQUEST TO ALLOW LESS THAN 45 PERCENT OF THE FRONT YARD SETBACK OF A SINGLE FAMILY RESIDENCE TO HAVE A PERMEABLE LANDSCAPED SURFACE, LOCATED AT 21 CHAPITAL

WHEREAS, on January 6, 2017, an application was submitted and on March 17, 2017, deemed complete, by Rahmat Shah, 21 Chapital, San Clemente, CA, 92672, for Minor Exception Permit (MEP) 17-004 to allow less than 45 percent of the front yard setback of a single-family residence to have a permeable landscaped surface in the Residential Medium-Low Density zone of the Rancho San Clemente Specific Plan, the legal description being Lot 11, of Tract 14986, APN 688-251-09; and

WHEREAS, the Planning Division completed an initial environmental assessment of the above matter in accordance with California Environmental Quality Act (CEQA) and recommends that the Zoning Administrator determine this project categorically exempt from CEQA as a Class 1 exemption pursuant to CEQA Guidelines Section 15301(e) because it involves maintaining the existing landscaping in a front yard setback that will not have an adverse impact on the environment; and

WHEREAS, on April 19, 2017, the Zoning Administrator held a duly noticed public hearing on the subject application and considered evidence presented by the City staff, the applicant, and other interested parties.

NOW, THEREFORE, the Zoning Administrator of the City of San Clemente hereby resolves as follows:

Section 1: Based upon its review of the entire record, including the Staff Report, any public comments or testimony presented, and the facts outlined below, the Zoning Administrator hereby finds and determines that the proposed project is categorically exempt from CEQA as a Class 1 exemption pursuant to CEQA Guidelines Section 15301(a) because it maintains existing landscaping conditions which do not have an adverse impact on the environment.

The Class 1 exemption specifically exempts from further CEQA review the operation, repair, maintenance, permitting, leasing, licensing, or minor alteration of existing public or private structures, facilities, mechanical equipment, or topographical features, involving negligible or no expansion of use beyond that existing at the time of the lead agency's determination. The types of "existing facilities" itemized below are not intended to be all-inclusive of the types of projects which might fall within Class 1. The key consideration is whether the project involves negligible or no expansion of an existing use. Here, the project involves maintaining an existing landscape condition with no changes proposed. Thus, the project qualifies for the Class 1 exemption.

Section 2: With regard to MEP 17-004, the Zoning Administrator finds as follows:

- A. The requested encroachment will not interfere with the purpose or intent of the zone or the standards of the zone in which the property is located in that the improvements in the front yard setback are existing and there is still substantial landscaping located along the property's street frontage. All of this landscaping is visible from the public right-of-way, and the site appears to have the same or more landscaping than surrounding homes.
- B. Neighboring properties will not be adversely affected as a result of the conditional approval of the Minor Exception Permit in that it will maintain the character and look of the residence and the neighborhood as overall the project site has the same, or more, landscaping as other homes, and the driveway orientation which has existed for years is the same as other homes in the neighborhood.
- C. The front yard setback of the proposed project are in character with development in the neighborhood in that continuing the less than 45 percent permeable surface in the front yard is consistent with other homes in the neighborhood, and with the additional contiguous landscaping in front of the fence separating the front and back yards, there is more landscaping visible onsite as compared to other homes in the neighborhood.
- D. The subject site is unique with respect to location and configuration in that the location of the property in a street curve results in a gore-shaped lot with less than typical street frontage available for landscape within the front setback. Special circumstances apply in that the narrow frontage and required driveway limit the area available for landscape within the front setback, while the shape of the site allows greater than typical landscape area to be provided behind the front yard setback, visible from the public right-of-way and meeting the intent of the City's landscape standards (SCMC Section 17.68.010) to enhance the property's appearance, to reduce heat and glare, to minimize impacts of soil erosion and visual pollution, and to promote water conservation.

Section 3: The Zoning Administrator of the City of San Clemente hereby approves Minor Exception Permit 17-004, Shah Residence, subject to the above Findings and the Conditions of Approval attached hereto as Exhibit A.

PASSED AND ADOPTED at a regular meeting of the Zoning Administrator of the City of San Clemente on April 19, 2017.

SAN CLEMENTE ZONING ADMINISTRATOR

William King, Zoning Administrator

EXHIBIT A

**CONDITIONS OF APPROVAL
MEP 17-004, Shah Residence**

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. The owner or designee shall have the right to request an extension of MEP17-003, 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 in compliance with section 17.12.160 of the Zoning Ordinance. *[Citation - Section 17.12.160 of the SCMC]* (PInG.)_____

- 4. The concrete area located within the front yard setback and between the properties at 21 and 23 Chapital shall not used for the parking of motor vehicles. ■■ (PIng.) _____

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

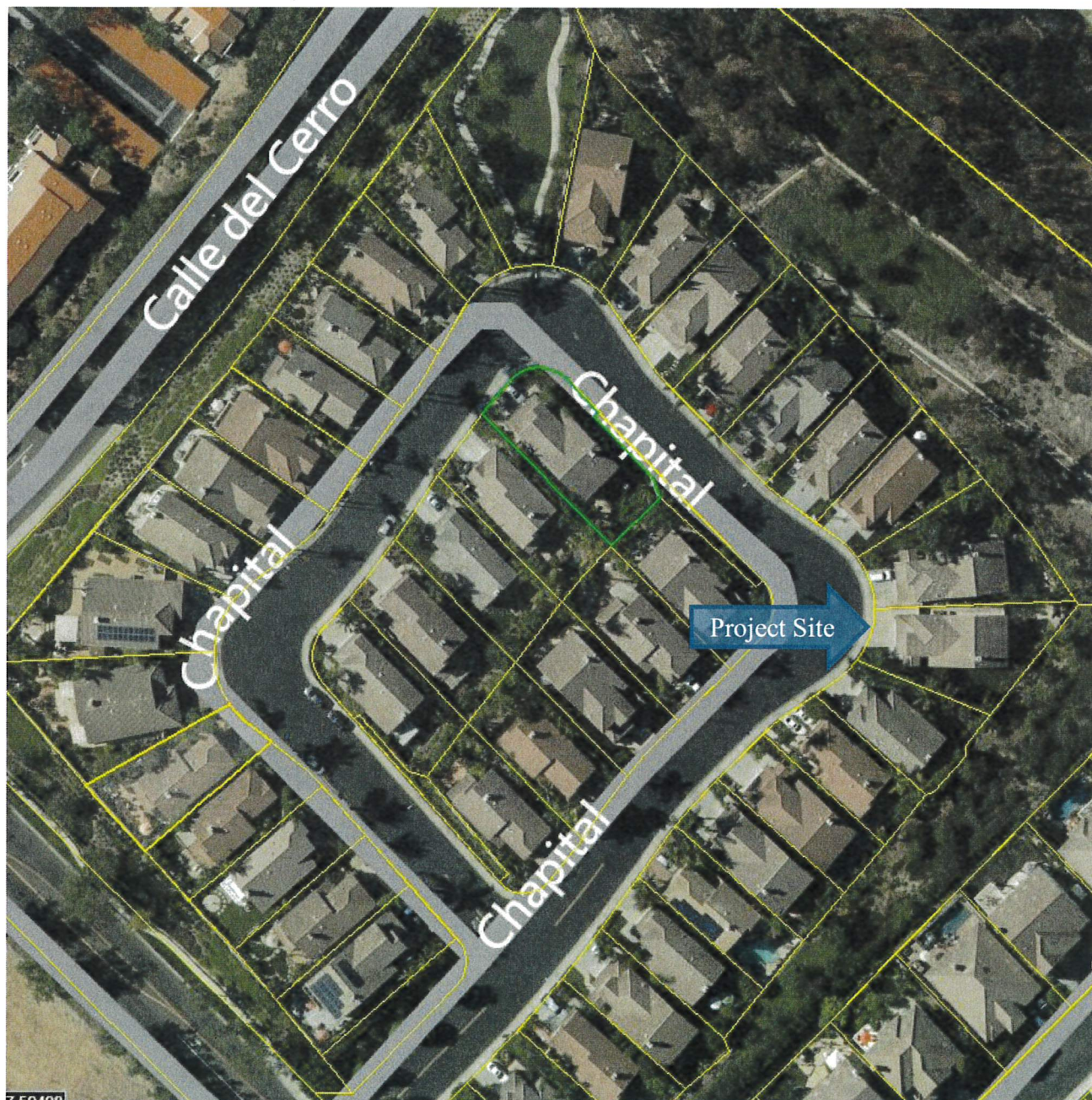
- Denotes modified standard Condition of Approval
- Denotes a project specific Condition of Approval




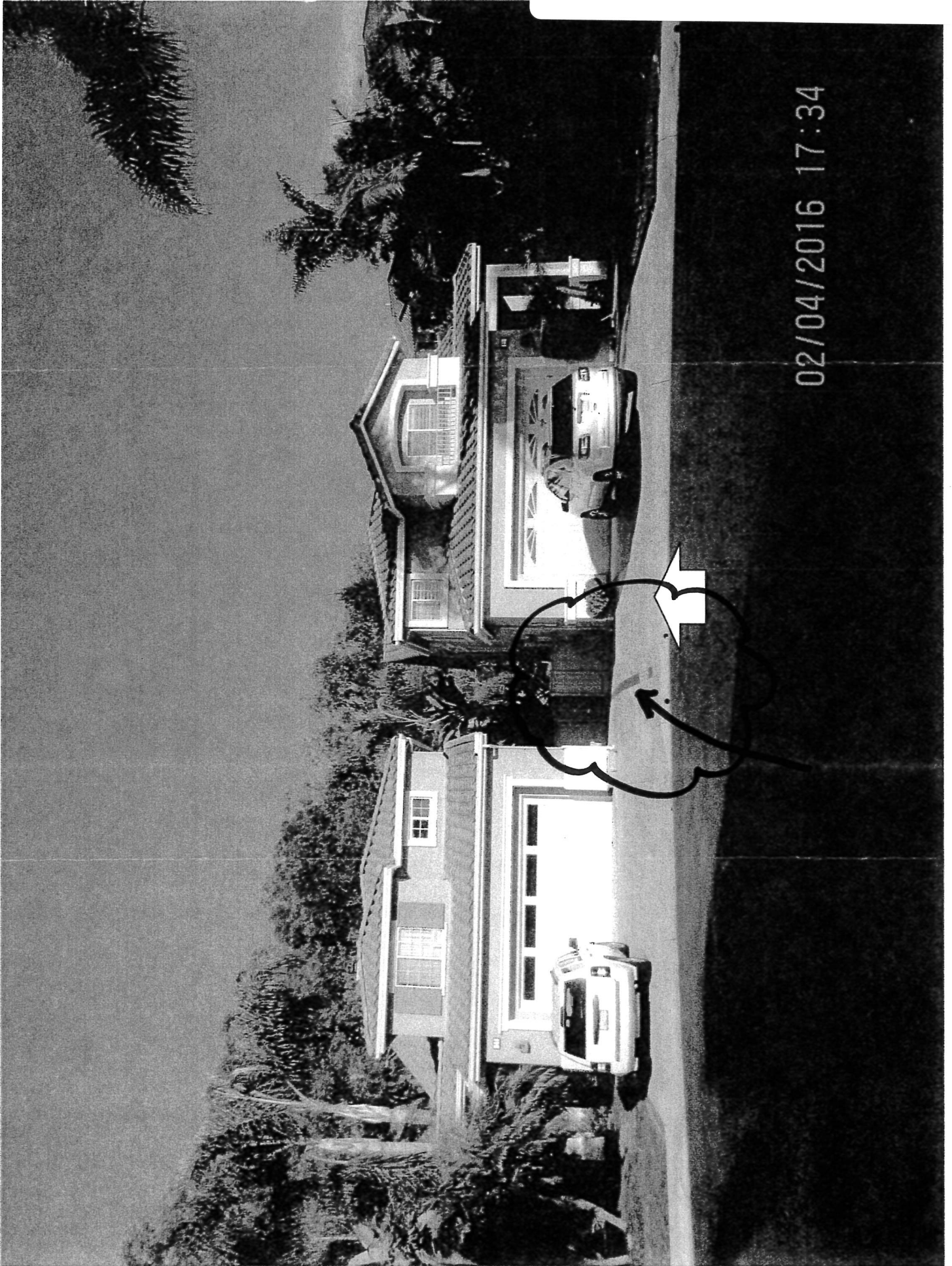
LOCATION MAP

ATTACHMENT 2

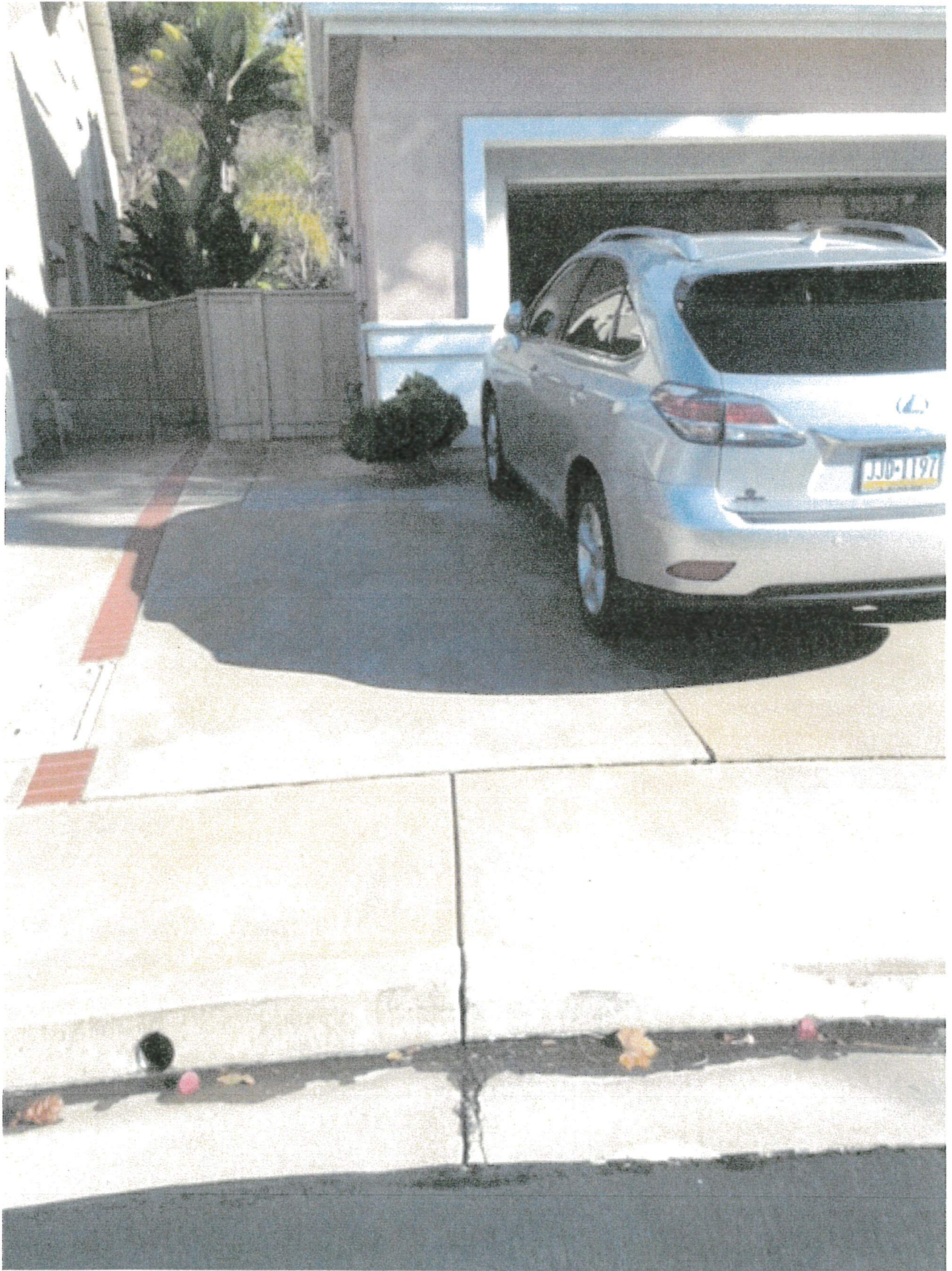
MEP 17-003, Shah Residence
21 Chapital



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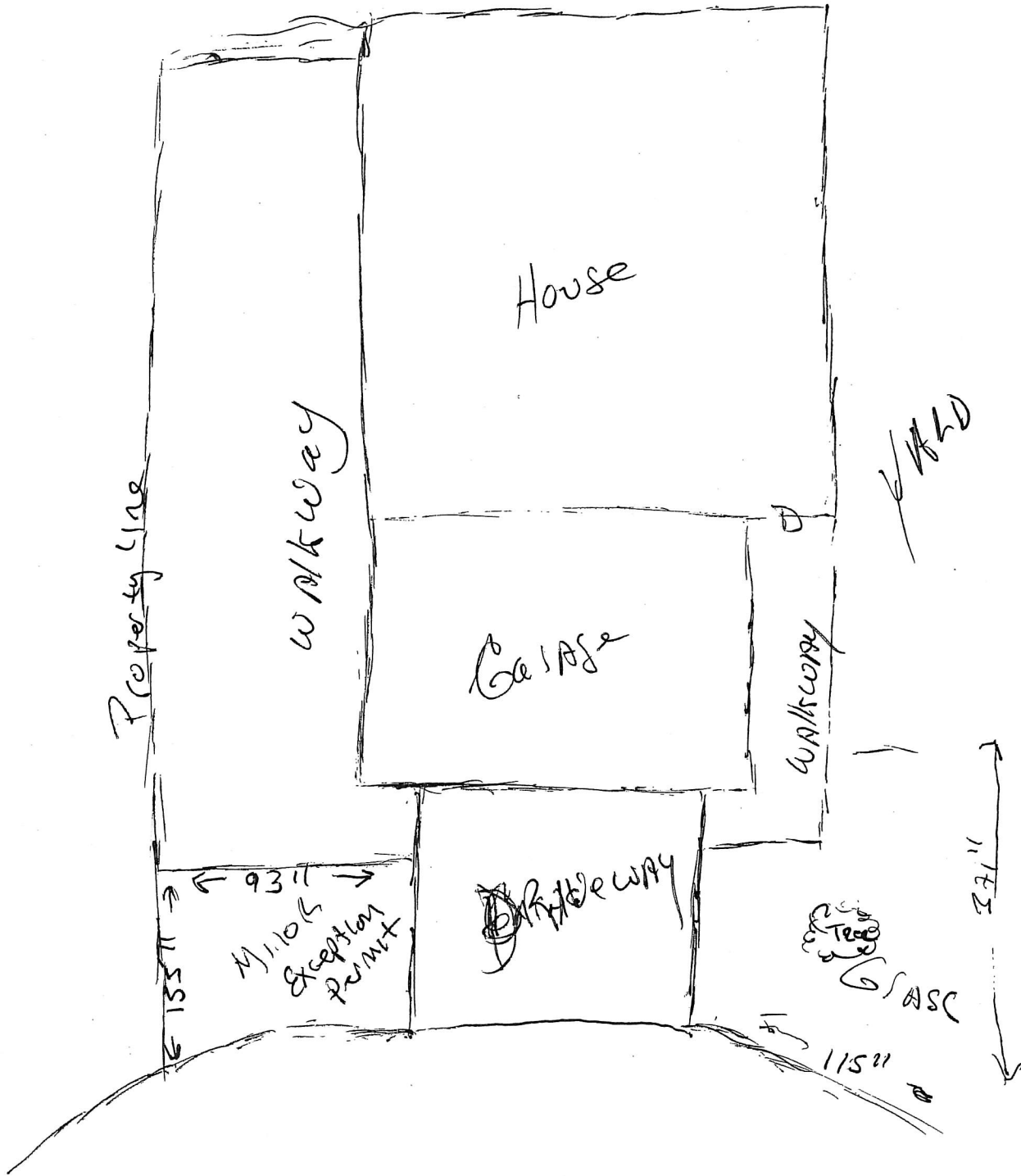




KAHNAT STAFF

21 CAPITAL

PARCEL # 688-251-09



Minor Exception Permit
Site Plan