

## MONTEREY COUNTY PLANNING COMMISSION

<b>Meeting:</b> August 14, 2013 Time: 9:00 A.M.	<b>Agenda Item No.:</b> 1
<b>Project Description:</b> Consider an appeal of the Zoning Administrator's denial of a Variance to the maximum six foot (6') fence height and encroachment into the rear yard setback to allow a ten foot (10') tall chain link fence to be constructed six inches from the rear property line.	
<b>Project Location:</b> 10603 Axtell Street, Castroville,	<b>APN:</b> 030-011-013-000 & 030-011-014-000
<b>Planning File Number:</b> PLN130379	<b>Owner:</b> Sea Garden LP <b>Agent:</b> Paul Tran, CHISPA
<b>Planning Area:</b> North County Area Plan/Castroville Community Plan	<b>Flagged and staked:</b> No
<b>Zoning Designation:</b> Castroville Community Plan - High Density Residential	
<b>CEQA Action:</b> Categorically Exempt per Section 15305 (a) – Minor Variance	
<b>Department:</b> RMA - Planning Department	

### RECOMMENDATION:

Staff recommends that the Planning Commission adopt a resolution (**Exhibit C**) to:

- 1) Find the project Exempt per CEQA Section 15305(a); and
- 2) Deny the Appeal for a Variance to allow a ten foot (10') tall chain link fence; and
- 3) Approve a Variance to allow an 8 foot (8') tall fence along the north property line consisting of a six foot (6') tall redwood fence with a two foot (2') lattice extension, based on the findings and evidence and subject to the conditions of approval (**Exhibit C**).

### PROJECT OVERVIEW:

This Appeal is a continuing attempt to address the concerns of neighbors of the Sea Gardens Apartment Complex currently under construction in Castroville. The four neighbors to the north live on Blevins Way. The construction of the actual buildings resulted in vocal concern being expressed by neighbors about their privacy and security. After several meetings between the project proponent, representatives of the County and the neighbors, a compromise was reached that the applicant would construct a ten foot (10') tall chain link fence and install additional landscaping along the northern property line. The height of the proposed chain link fence required a variance.

The application for a variance was denied by the Zoning Administrator because a chain link fence is not consistent with the Castroville Design Guidelines in this particular application and other options such as enhanced landscaping and a different fence design could successfully achieve the desired level of screening and safety.

The applicant, as the appellant, filed a timely appeal requesting that the Planning Commission approve either:

1. Alternative A – An eight foot tall wood fence along the north property line, abutting the four residential properties (approximately 400 linear feet), consisting of a six foot tall redwood fence with a two foot lattice extension along the top. See Exhibit I.

2. Alternative B – A six foot redwood fence along the north property line with louvers on the northern side of four decks on the second floor of Building B. (This would not require approval of a variance.)

Staff recommends that the Planning Commission approve Alternative A as this design is consistent with the Castroville Design Guidelines, and will provide some degree of screening and separation between the apartments and the adjacent single family residences.

**OTHER AGENCY INVOLVEMENT:** The following agencies and departments reviewed this project:

None

The project was not referred to the North County Non-Coastal Land Use Advisory Committee.

Note: The decision of the Planning Commission on this Appeal is final and no further appeals are available pursuant to Section 21.80.040.B.



/S/John Ford


---

John Ford, Senior Planner  
(831) 755-5158, fordjh@co.monterey.ca.us  
08/07/2013

cc: Front Counter Copy; Planning Commission; Wanda Hickman, Planning Services Manager; John Ford, Project Planner; Sea Garden LP, Owner; Paul Tran, Agent; The Open Monterey Project; LandWatch; Planning File PLN130379

Attachments: Exhibit A Project Data Sheet  
Exhibit B Project Discussion  
Exhibit C Draft Resolution, including:  
• Conditions of Approval  
• Site Plan  
Exhibit D Vicinity Map  
Exhibit E Notice of Appeal  
Exhibit F Resolution of the Zoning Administrator  
Exhibit G Staff Report to the Zoning Administrator  
Exhibit H Letter from Mark Miller  
Exhibit I Fence Location

This report was reviewed by Laura Lawrence, Planning Manager.



## EXHIBIT A

### Project Information for PLN130379

**Application Name:** Sea Garden Lp  
**Location:** 10603 Axtell St, Castroville  
**Applicable Plan:** North County  
**Primary APN:** 030-011-013-000  
**Advisory Committee:** North County-Coastal Advisory Committee|North County Non-Coastal Advisory Committee  
**Coastal Zone:**  
**Permit Type:** Variance  
**Final Action Deadline (884):** 7/29/2013  
**Environmental Status:** Exempt  
**Zoning:**  
**Land Use Designation:**

---

#### Project Site Data:

<b>Lot Size:</b> 4.814	<b>Coverage Allowed:</b> 60
<b>Existing Structures (sf):</b> 31243	<b>Coverage Proposed:</b> 41.5
<b>Proposed Structures (sf):</b> 0	<b>Height Allowed:</b> 35'
<b>Total Sq. Ft.:</b> 182168	<b>Height Proposed:</b> 24
<b>Special Setbacks on Parcel:</b>	<b>FAR Allowed:</b> N/A
	<b>FAR Proposed:</b> N/A

---

#### Resource Zones and Reports:

<b>Seismic Hazard Zone:</b> VI	<b>Soils Report #:</b> N/A
<b>Erosion Hazard Zone:</b> Moderate Low	<b>Biological Report #:</b> N/A
<b>Fire Hazard Zone:</b>	<b>Forest Management Rpt. #:</b> N/A
<b>Flood Hazard Zone:</b> X (shaded) A	<b>Geologic Report #:</b> N/A
<b>Archaeological Sensitivity:</b> high	<b>Archaeological Report #:</b> N/A
<b>Visual Sensitivity:</b>	<b>Traffic Report #:</b> N/A

---

#### Other Information:

<b>Water Source:</b> PUBLIC	<b>Grading (cubic yds.):</b> 0
<b>Water Purveyor:</b> CASTROVILLE CSD	<b>Sewage Disposal (method):</b> SEWER
<b>Fire District:</b> North County FPD	<b>Sewer District Name:</b> CASTROVILLE CSD
<b>Tree Removal:</b> 0	

## EXHIBIT B

### PROJECT DISCUSSION:

#### Background:

The applicant's request for a variance to construct a 10-foot tall fence six inches from the rear property line emanates from discussions between the applicant, adjoining neighbors and the County related to the neighbor's concerns regarding loss of privacy and the security of their property being adjacent to an apartment complex. The apartment complex was approved by the Planning Commission in 2009 (PLN080039). At that time no concern was expressed about the interface between the single family residences to the north and the apartment complex. The apartment complex is currently under construction and as the buildings have been erected the neighbors have expressed concern for their privacy and security.

The applicant, the neighbors and representatives from the County have met on several occasions to determine if there is a solution to the concerns expressed. After several meetings, and discussion of several different options, installation of a 10-foot tall chain link fence six inches from the existing subdivision fence was proposed. The height and materials were intended to address the neighbors concern for their safety. Landscaping was proposed in the form of fast growing vines (potato vine) on the chain link fence with supplemental planting of tall shrubs (Prunus Caroliniana) capable of creating a visual barrier between the apartments and the single family residences. The landscaping was the primary means by which the privacy issues would be addressed.

The Zoning Ordinance allows fences up to six feet in height within setback areas. The construction of a 10-foot tall fence required a variance to exceed this height. Normally variances can only be approved in very unusual circumstances and not grant a special privilege to the applicant. This request raises an interesting land use question related to whether the interface between single family residences and a multifamily apartment complex is a special circumstance requiring a variance for fence height. Secondly, there are design concepts that would equally resolve the security and privacy concerns.

Monterey County has not had to struggle with interfaces between different land uses because most of the development has been outside of suburban areas. The 2010 General Plan places and emphasis on growth in Community Areas and these types of interfaces will become increasingly common. There are circumstances when a fence or wall height should be increased to address noise considerations or due to other unique circumstances when there are potentially incompatible land uses.

The most appropriate design element for addressing land use interfaces is the use of horizontal space. In this particular case, the two story apartments are located ten feet from the property line. With this building setback, a fence would need to exceed a height of fifteen feet to provide privacy to the single family residences rear yards from the second floor balconies and windows of the apartments.

#### Zoning Administrator Action

The Zoning Administrator considered the request for a 10-foot tall chain link fence at two public hearings. Ultimately the Zoning Administrator found that there were no grounds to grant a variance for an increase in fence height because the variance would not accomplish the desired

effect of providing screening. Other project design (landscaping) features would be more effective in achieving the desired level of screening. The Zoning Administrator also found that the Castroville Community Plan requires that fencing materials in Residential areas be consistent with the materials used in the residential development. Chain link fencing is not consistent with the materials used as part of the Sea Gardens project. The Zoning Administrator found that a solid six foot tall redwood fence to provide an acceptable level of security for the existing single family residences.

### Appeal

1. **Ten Foot Tall Chain link Fence** – The Zoning Administrator action was to deny this design as inconsistent with the Castroville Community Plan and as unnecessary to achieve the desired result. The appellant is not taking issue with this action, but in an effort to continue to work with the neighbors has submitted alternative proposals which are more in keeping with the residential design and consistent with the Castroville Community Plan. If the Planning Commission decides that one of the applicant's alternative designs is acceptable, then the appeal to the Zoning Administrator denial should be denied. The effect of this would clearly state that the Planning Commission Action does not allow the ten foot tall chain link fence. The Planning Commission can then take action on an alternative design.
2. **Appellant's Alternative Design Proposals** – The two alternative design proposals submitted by the applicant involve construction of a redwood fence.

- **Alternative A** -- Alternative A would place a two foot lattice extension on top of a 6-foot tall redwood fence resulting in an 8-foot tall fence along the north property line abutting the four residences (approximately 400 feet). This will provide some additional visual screening of the apartment complex, and will provide some additional privacy from apartment residents on the first floor. This would still be a fence in excess of 6-feet in height and thus requires a variance. As discussed above, this would not provide complete screening from the second floor windows or balconies to the existing residences. It would provide a higher visual barrier, which addresses some of the neighbor's concerns. The applicant has not submitted a formal design for the fence. It is anticipated that the fence would be of high quality materials with 8-foot tall posts.
- **Alternative B** – This involves a six foot tall redwood fence and modifications to several second floor balconies. This option does not require a variance. If this is the Planning Commission's preferred option, then the Appeal should be denied.

3. **Consistency with Castroville Community Plan** – A wood fence is a design element that is consistent with the Castroville Community Plan for this particular location. The following policies are included in section 6.3.2 of the Castroville Community Plan:

- *The design of fences and walls should be architecturally compatible with and of the same architectural style as the primary structure.*
- *The design of fences and walls should create a visual openness with a decreasing level of opaqueness as the height of the fence or wall increases.*

A redwood fence is consistent with the architectural style of the multifamily residential structures. The placement of a lattice extension along the top of the fence also is consistent the concept of a decreasing level of opaqueness as the height of the fence or wall increases.

4. **Variance Findings** – One of the dangers of variance applications submitted to address concerns expressed by one neighbor because they do like what is adjacent to them. These are not physical constraints associated with the site. The Castroville Community Plan places single family residences adjacent to high density residential, so this is not a unique circumstance. The Plan does encourage design features to protect the privacy of the single family residences. Ideally the apartment project would have been designed to use angles and horizontal setbacks to create a better interface between the single family residences and the apartment buildings. But the Sea Gardens site is constrained and the desired density needs to be balanced with space for circulation and other onsite amenities. Development of infill properties sometimes results in circumstances that are unusual such as the construction to two story apartment buildings located ten feet from the property line of adjacent single family residences.

#### Public Comment

A letter has been received from Mark Miller, one of the neighbors affected by this action, in support of the eight foot fence (**Exhibit H**).

#### Recommendation

Based upon the facts that the site has an interface with single family residences, that the design did not take privacy of the existing residences into consideration, and that alternative site design could have mitigated these factors, staff recommends that the Planning Commission approve a variance for an eight foot tall fence consisting of a six foot tall redwood fence with a two foot lattice extension.

**EXHIBIT C  
DRAFT RESOLUTION**

**Before the Planning Commission in and for the  
County of Monterey, State of California**

In the matter of the application of:  
**SEA GARDEN LP (PLN130379)**

**RESOLUTION NO. ----**

Resolution by the Monterey County Hearing Body:

- 1) Find the project Exempt per CEQA Section 15305(a); and
- 2) Deny the Appeal for a Variance to allow a ten foot (10') tall chain link fence; and
- 3) Approve a Variance to allow an 8 foot (8') tall fence along the north property line consisting of a six foot (6') tall redwood fence with a two foot (2') lattice extension, based on the findings and evidence and subject to the conditions of approval (**Exhibit C**).

[PLN130379, Sea Garden LP, 10603 Axtell Street, Castroville, CA 95012, North County Area Plan/Castroville Community Plan (APN: 030-011-013-000 & 030-011-014-000)]

**The Sea Garden LP application (PLN130379) came on for public hearing before the Monterey County Planning Commission on August 14, 2013. Having considered all the written and documentary evidence, the administrative record, the staff report, oral testimony, and other evidence presented, the Planning Commission finds and decides as follows:**

**FINDINGS**

1. **FINDING:** **PROJECT DESCRIPTION** – The application denied by the Zoning Administrator was to allow a ten foot tall chain link fence. The Zoning Administrator denied that application, and this appeal does not seek approval of a ten foot tall chain link fence. The appeal is granted for a Variance to the maximum six foot (6') fence height and encroachment into the rear yard setback to allow an eight foot (8') redwood fence consisting of a six foot (6') tall redwood fence with a two foot (2') lattice extension constructed six inches from the rear property line.  
**EVIDENCE:** The application, project plans, and related support materials submitted by the project applicant to the Monterey County RMA - Planning Department for the proposed development found in Project File PLN130379.

2. **FINDING:** **CONSISTENCY** – The Project, as conditioned, is consistent with the applicable plans and policies which designate this area as appropriate for development.
- EVIDENCE:**
- a) During the course of review of this application, the project has been reviewed for consistency with the text, policies, and regulations in:
    - the 2010 Monterey County General Plan;
    - North County Area Plan;
    - Monterey County Zoning Ordinance (Title 21);
    - Castroville Community Plan

No conflicts were found to exist. No communications were received during the course of review of the project indicating any inconsistencies with the text, policies, and regulations in these documents.
  - b) The property is located at 10603 Axtell Street, Castroville, CA 95012 (Assessor’s Parcel Number 030-011-013-000 & 030-011-014-000), North County Area Plan/Castroville Community Plan. The parcel is zoned Castroville Community Plan - High Density Residential, which allows the existing apartment complex on the subject property.
  - c) The project planner conducted a site inspection on May 2, 2013 to verify that the project on the subject parcel conforms to the plans listed above.
  - d) The Apartment Complex on the subject site (Sea Garden) was approved by the Planning Commission on January 28, 2009 (PLN080039). The project was an infill development and approved consistent with the Castroville Community Plan. The project was approved in compliance with the setbacks for the zoning district (10’). There are existing single family residences to the north of the subject site and it is desirable to provide some type of screening between the existing residences and the new apartments. This proposal would construct a an eight foot (8’) redwood fence consisting of a six foot tall redwood fence with a two foot (2’) lattice extension six inches from the property line. This fence would be supplemented by landscaping including shrubs to provide a visual screen between the single family residences and the apartment complex.
  - e) The project was not referred to the North County Non-Coastal Land Use Advisory Agency.
  - f) The application, project plans, and related support materials submitted by the project applicant to the Monterey County RMA - Planning Department for the proposed development found in Project File PLN130379.
3. **FINDING:** **SITE SUITABILITY** – The site is physically suitable for the use proposed.
- EVIDENCE:**
- a) The project has been reviewed for site suitability by the following departments and agencies: RMA - Planning Department. There has been no indication from these departments/agencies that the site is not suitable for the proposed development. Conditions recommended have been incorporated.
  - b) All potential impacts that could potentially be associated with this project have been addressed in as part of PLN080039.
  - c) Staff conducted a site on May 2, 2013 to verify that the site is suitable



for this use.

- d) The application, project plans, and related support materials submitted by the project applicant to the Monterey County RMA - Planning Department for the proposed development found in Project File PLN130379.

4. **FINDING:** **HEALTH AND SAFETY** - The establishment, maintenance, or operation of the project applied for will not under the circumstances of this particular case be detrimental to the health, safety, peace, morals, comfort, and general welfare of persons residing or working in the neighborhood of such proposed use, or be detrimental or injurious to property and improvements in the neighborhood or to the general welfare of the County.

- EVIDENCE:**
- a) The project was reviewed by the RMA - Planning Department. The respective agency finds that the project will not have an adverse effect on the health, safety, and welfare of persons either residing or working in the neighborhood.
  - b) The proposed project is an eight foot (8') redwood fence consisting of a six foot (6') tall redwood fence with a two foot (2') lattice extension designed to address concerns by the neighbors related to the proximity of the apartments. The fence is intended to promote the health, safety and well being of adjacent residences.
  - c) Staff conducted a site inspection on May 2, 2013 to verify that the site is suitable for this use.
  - d) The application, project plans, and related support materials submitted by the project applicant to the Monterey County RMA - Planning Department for the proposed development found in Project File PLN130379.

5. **FINDING:** **NO VIOLATIONS** - The subject property is in compliance with all rules and regulations pertaining to zoning uses, subdivision, and any other applicable provisions of the County's zoning ordinance. No violations exist on the property.

- EVIDENCE:**
- a) Staff reviewed Monterey County RMA - Planning Department and Building Services Department records and is not aware of any violations existing on subject property.
  - b) Staff conducted a site inspection on May 2, 2013 and researched County records to assess if any violation exists on the subject property.
  - c) There are no known violations on the subject parcel.
  - d) The application, plans and supporting materials submitted by the project applicant to the Monterey County Planning Department for the proposed development are found in Project File PLN130379.

6. **FINDING:** **VARIANCE** – Variances shall only be granted based upon the following Findings:

- 1. That because of special circumstances applicable to the subject property, including the size, shape, topography, location or surroundings, the strict application of development standards in the Monterey County Codes is found to deprive the subject property of privileges enjoyed by other properties in the vicinity under and

- under identical zoning classification;
- 2. That the variance shall not constitute a grant of privileges inconsistent with the limitations upon other properties in the vicinity and zone in which such property is situated;
- 3. A Variance shall not be granted for a use or activity which is not otherwise expressly authorized by the zone regulation governing the parcel of property.

- EVIDENCE:**
- a) The property has a zoning designation of Castroville Community Plan – High Density Residential.
  - b) The Sea Gardens Project was approved under the design guidelines adopted for the Castroville Community Plan which calls for a mix of housing types. The subject site has existing single family residences to the north and the residents of those homes desire a security fence between the apartments and their residences. The construction of an eight foot tall wood fence would provide an increased level of screening to account for the interface between the apartments and the single family residents
  - c) The request for the eight foot high fence is not a special privilege being requested by the applicant; it is an accommodation to the concerns of the adjacent neighbors who are requesting that something be done to address their concerns. This fence with extended height accomplishes that objective.
  - d) The fence is an accessory to the apartment complex which is an allowed use in the High Density Residential zone. This variance would not authorize any use not otherwise permitted in the High Density Zoning District of the Castroville Community Plan.
  - e) The project planner conducted a site inspection on May 2, 2013 to verify the circumstances related to the property.
  - f) The application, plans and supporting materials submitted by the project applicant to the Monterey County Planning Department for the proposed development are found in Project File PLN130379.

7. **FINDING:** **CEQA (Exempt):** - The project is categorically exempt from environmental review and no unusual circumstances were identified to exist for the proposed project.

- EVIDENCE:**
- a) California Environmental Quality Act (CEQA) Guidelines Section 15305(a) categorically exempts minor variances.
  - b) This is a minor variance to allow a fence within the rear yard setback to exceed a height of 6 feet.
  - c) No adverse environmental effects were identified during staff review of the development application during a site visit on May 2, 2013.
  - d) None of the exceptions under CEQA Guidelines Section 15300.2 apply to this project.
  - e) Staff conducted a site on May 2, 2013 to verify that the site is suitable for this use.
  - f) The application, project plans, and related support materials submitted by the project applicant to the Monterey County RMA - Planning Department for the proposed development found in Project File PLN130379.

8. **FINDING:** **APPEALABILITY** - The Planning Commission is the final appeal authority on this and their decision is final. No additional appeal opportunities are available.
- EVIDENCE:** a) Section 21.80.040.B of the Monterey County Zoning Ordinance states that the proposed project is not appealable beyond the Planning Commission.

### **DECISION**

**NOW, THEREFORE**, based on the above findings and evidence, the Planning Commission does hereby:

- 1) Find the project Exempt per CEQA Section 15305(a); and
- 2) Deny the Appeal for a Variance to allow a ten foot (10') tall chain link fence; and
- 3) Approve a Variance to allow an 8 foot (8') tall fence along the north property line consisting of a six foot (6') tall redwood fence with a two foot (2') lattice extension, in general conformance with the attached sketch, based on the findings and evidence and subject to the attached conditions of approval (**Exhibit C**);

**PASSED AND ADOPTED** this 14th day of August, 2013

\_\_\_\_\_  
Mike Novo, Secretary, Planning Commission

COPY OF THIS DECISION MAILED TO APPLICANT ON DATE

THIS APPLICATION IS NOT APPEALABLE TO THE BOARD OF SUPERVISORS.

This decision, if this is the final administrative decision, is subject to judicial review pursuant to California Code of Civil Procedure Sections 1094.5 and 1094.6. Any Petition for Writ of Mandate must be filed with the Court no later than the 90th day following the date on which this decision becomes final.

#### NOTES

1. You will need a building permit and must comply with the Monterey County Building Ordinance in every respect.

Additionally, the Zoning Ordinance provides that no building permit shall be issued, nor any use conducted, otherwise than in accordance with the conditions and terms of the permit granted or until ten days after the mailing of notice of the granting of the permit by the appropriate authority, or after granting of the permit by the Board of Supervisors in the event of appeal.

Do not start any construction or occupy any building until you have obtained the necessary permits and use clearances from the Monterey County Planning Department and Building Services Department office in Salinas.

2. This permit expires 3 years after the above date of granting thereof unless construction or use is started within this period.

# Monterey County Planning Department

## DRAFT Condition of Approval Implementation Plan/Mitigation Monitoring Reporting Plan

PLN130379

### 1. PD001 - SPECIFIC USES ONLY

**Responsible Department:** Planning Department

**Condition/Mitigation Monitoring Measure:** This Variance (PLN130379 allows a Variance to the maximum six foot (6') fence height and encroachment into the rear yard setback to allow a eight foot (8') tall wood fence (consisting of a six foot (6') redwood fence with a two foot (2') lattice extension) to be constructed six inches from the rear property line. The property is located at 10603 Axtell Street, Castroville, CA 95012 (Assessor's Parcel Number 030-011-013-000 & 030-011-014-000), North County Area Plan/Castroville Community Plan. This permit was approved in accordance with County ordinances and land use regulations subject to the terms and conditions described in the project file. Neither the uses nor the construction allowed by this permit shall commence unless and until all of the conditions of this permit are met to the satisfaction of the Director of the RMA - Planning Department. Any use or construction not in substantial conformance with the terms and conditions of this permit is a violation of County regulations and may result in modification or revocation of this permit and subsequent legal action. No use or construction other than that specified by this permit is allowed unless additional permits are approved by the appropriate authorities. To the extent that the County has delegated any condition compliance or mitigation monitoring to the Monterey County Water Resources Agency, the Water Resources Agency shall provide all information requested by the County and the County shall bear ultimate responsibility to ensure that conditions and mitigation measures are properly fulfilled. (RMA - Planning Department)

**Compliance or Monitoring Action to be Performed:** The Owner/Applicant shall adhere to conditions and uses specified in the permit on an ongoing basis unless otherwise stated.

### 2. PD002 - NOTICE PERMIT APPROVAL

**Responsible Department:** Planning Department

**Condition/Mitigation Monitoring Measure:** The applicant shall record a Permit Approval Notice. This notice shall state:  
"A Variance (Resolution Number \*\*\*) was approved by the Planning Commission for Assessor's Parcel Number 030-011-013-000, 030-011-014-000 on June 13, 2013. The permit was granted subject to 5 conditions of approval which run with the land. A copy of the permit is on file with the Monterey County RMA - Planning Department."  
Proof of recordation of this notice shall be furnished to the Director of the RMA - Planning Department prior to issuance of building permits or commencement of the use. (RMA - Planning Department)

**Compliance or Monitoring Action to be Performed:** Prior to the issuance of grading and building permits or commencement of use, the Owner/Applicant shall provide proof of recordation of this notice to the RMA - Planning Department.

### 3. PD004 - INDEMNIFICATION AGREEMENT

**Responsible Department:** Planning Department

**Condition/Mitigation Monitoring Measure:** The property owner agrees as a condition and in consideration of approval of this discretionary development permit that it will, pursuant to agreement and/or statutory provisions as applicable, including but not limited to Government Code Section 66474.9, defend, indemnify and hold harmless the County of Monterey or its agents, officers and employees from any claim, action or proceeding against the County or its agents, officers or employees to attack, set aside, void or annul this approval, which action is brought within the time period provided for under law, including but not limited to, Government Code Section 66499.37, as applicable. The property owner will reimburse the County for any court costs and attorney's fees which the County may be required by a court to pay as a result of such action. The County may, at its sole discretion, participate in the defense of such action; but such participation shall not relieve applicant of his/her/its obligations under this condition. An agreement to this effect shall be recorded upon demand of County Counsel or concurrent with the issuance of building permits, use of property, filing of the final map, recordation of the certificates of compliance whichever occurs first and as applicable. The County shall promptly notify the property owner of any such claim, action or proceeding and the County shall cooperate fully in the defense thereof. If the County fails to promptly notify the property owner of any such claim, action or proceeding or fails to cooperate fully in the defense thereof, the property owner shall not thereafter be responsible to defend, indemnify or hold the County harmless.  
(RMA - Planning Department)

**Compliance or Monitoring Action to be Performed:** Upon demand of County Counsel or concurrent with the issuance of building permits, use of the property, recording of the final/parcel map, whichever occurs first and as applicable, the Owner/Applicant shall submit a signed and notarized Indemnification Agreement to the Director of RMA-Planning Department for review and signature by the County.

Proof of recordation of the Indemnification Agreement, as outlined, shall be submitted to the RMA-Planning Department.

### 4. PSPD - 001 Landscaping

**Responsible Department:** Planning Department

**Condition/Mitigation Monitoring Measure:** The applicant shall install landscaping along the 8-foot tall wood fence to include screening shrubs (*Prunus Caroliniana* or equivalent) at critical locations to provide additional screening from second story windows and balconies.

**Compliance or Monitoring Action to be Performed:** The applicant shall prepare a landscape plan and submit it to the RMA Planning Department for review and approval and the approved landscape plan shall be implemented prior to issuance of an occupancy permit for the Sea Garden apartment complex (PLN080039).

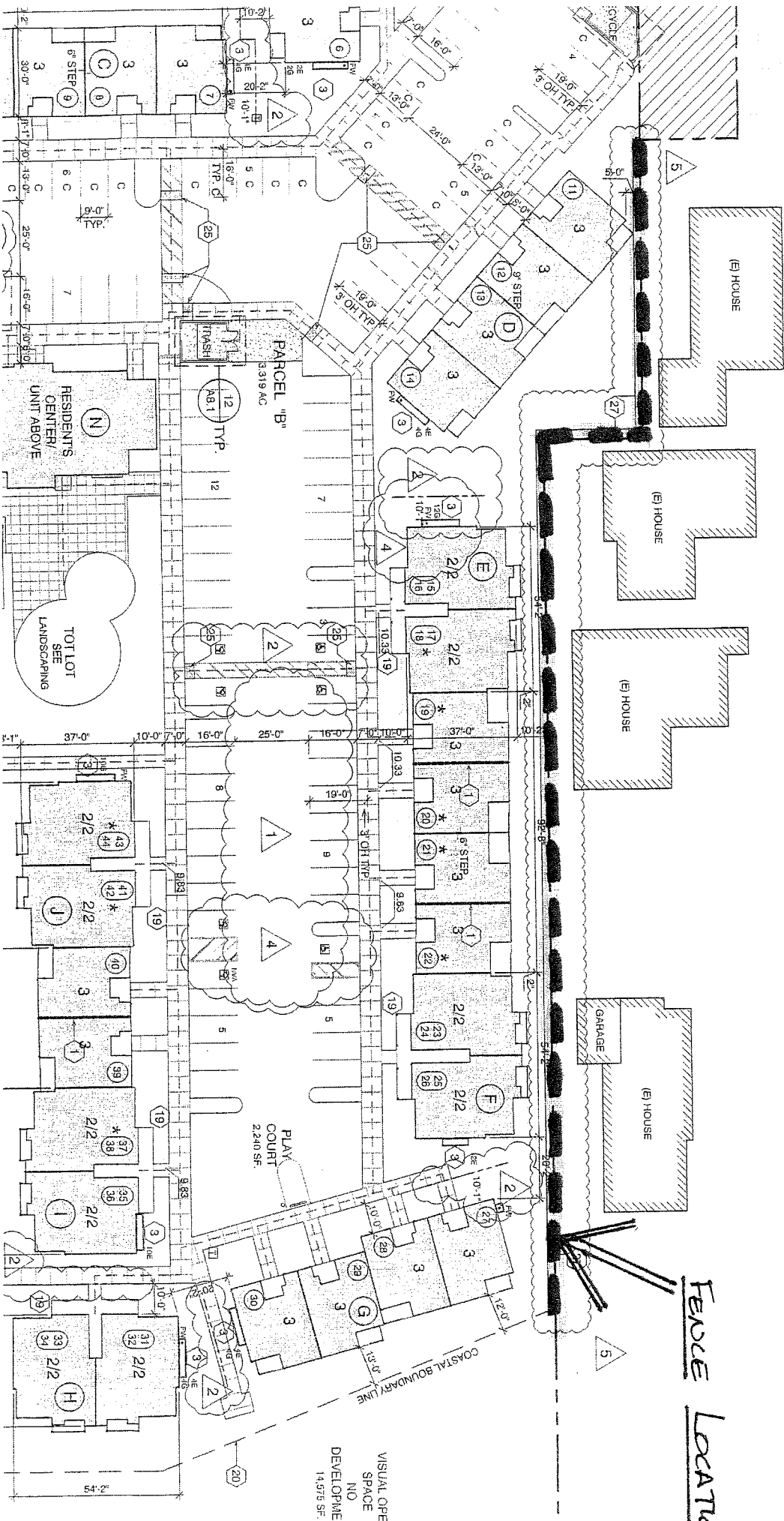
### 5. PSPD 002 FENCE DESIGN

**Responsible Department:** Planning Department

**Condition/Mitigation Monitoring Measure:** The fence shall be constructed of redwood materials and shall be supported by posts that are 8-feet tall above grade. The fence boards shall be of a design or thickness that they are secure and durable. The lattice extension shall be set in a frame and the design shall be integral to the design of the fence.

**Compliance or Monitoring Action to be Performed:** Prior to installation of the fence, the design shall be submitted for review and approval of the Planning Department.

# FENCE Location



14 BUILDING NUMBERS (1-10) PAINTED ON 24" x 24" SIGN WITH REFLECTING PAINT. VERIFY WITH FIRE DEPARTMENT FOR LOCATION & HEIGHT.

15 CONCRETE WALK SHALL PROVIDE MINIMUM 48" CLEAR ACCESSIBLE WIDTH. SEE DETAIL 5/A.3

16 KNOX BOX - SEE GENERAL NOTE 3. MORE MAY BE REQUIRED.

FENCE Location



NAD\_1983\_StatePlane\_California\_IV\_FIPS\_0404\_Feet  
© Latitude Geographics Group Ltd.

This map is a user generated static output from an Internet mapping site and is for reference only. Data layers that appear on this map may or may not be accurate, current, or otherwise reliable.

THIS MAP IS NOT TO BE USED FOR NAVIGATION

1 : 5,915



**Legend**

- Parcels
- Roads
  - Freeway
  - Other Principal Arterial
  - Minor Arterial
  - Major Collector
  - Minor Collector
  - Local
- Railroad Lines
- Incorporated Cities (Fill)
  - CARMEL BY-THE-SEA
  - DEL REY OAKS
  - GONZALES
  - GREENFIELD
  - KING CITY
  - MARINA
  - MONTEREY
  - PACIFIC GROVE
  - SALINAS
  - SAND CITY
  - SEASIDE
  - SOLEAD
- Incorporated Cities (Bound)
- County Boundary2
- MONTEREY CO
- OTHER

**Notes**



July 11, 2013

Mike Novo, Secretary of the Monterey County Planning Commission  
Monterey County Resource Management Agency  
Planning Department  
186 W. Alisal Street, 2<sup>nd</sup> Floor  
Salinas, CA 93901

**RE: Notice of Appeal; Sea Garden Apartments PLN130379**

Dear Mr. Novo:

This will serve as a formal appeal of the Monterey County Zoning Administrator's decision to deny the above-referenced variance application. This appeal to the Monterey County Planning Commission is made pursuant to Title 21, section 21.80.040.b. As an alternative, we provide the following design modifications:

**ALTERNATIVE A**

A six foot redwood fence (along the northern property line) with two feet of lattice for a total height of eight feet.

**ALTERNATIVE B**

A six foot redwood fence (along the northern property line) with louvers on the northern side of four decks on the second floor of Building B.

Respectfully submitted,

Paul Tran  
Project Manager



**Before the Zoning Administrator in and for the  
County of Monterey, State of California**

Exhibit F  
Page 1 of 7 Pages

In the matter of the application of:  
**SEA GARDEN LP (PLN130379)**  
**RESOLUTION NO. 13-027**

Resolution by the Monterey County Zoning  
Administrator:

1. Finding the Project Exempt per CEQA Section 15305(a); and
2. Denying a Variance to the maximum six foot (6') fence height and encroachment into the rear yard setback to allow a ten (10) foot tall chain link fence to be constructed six inches from the rear property line

[PLN130379, Sea Garden LP, 10603 Axtell Street, Castroville, CA 95012, North County Area Plan/Castroville Community Plan (APN: 030-011-013-000 & 030-011-014-000)]

**The Sea Garden LP application (PLN130379) came on for public hearing before the Monterey County Zoning Administrator on June 13, 2013 and June 27, 2013. Having considered all the written and documentary evidence, the administrative record, the staff report, oral testimony, and other evidence presented, the Zoning Administrator finds and decides as follows:**

**FINDINGS**

1.       **FINDING:**       **PROJECT DESCRIPTION** – The proposed project is a Variance to the maximum six foot (6') fence height and encroachment into the rear yard setback to allow a ten (10) foot tall chain link fence to be constructed six inches from the rear property line.  
  
          **EVIDENCE:**       The application, project plans, and related support materials submitted by the project applicant to the Monterey County RMA - Planning Department for the proposed development found in Project File PLN130379.
  
2.       **FINDING:**       **CONSISTENCY** – The Project, as conditioned, is not consistent with the applicable plans and policies which designate this area as appropriate for development.  
  
          **EVIDENCE:**    a) The project has been reviewed for consistency with the text, policies, and regulations in:
  1. The 2010 Monterey County General Plan;
  2. North County Area Plan;
  3. Monterey County Zoning Ordinance (Title 21); and
  4. Castroville Community PlanConflicts were found to exist with the Inland Zoning Ordinance (Title 21), and the Castroville Community Plan. The Zoning Ordinance limits maximum fence heights of 6 feet and the Castroville Community Plan requires fence materials to be architecturally consistent with the building materials and colors. A

10 foot tall vinyl coated chain link fence is not consistent with the building material and colors for the Sea Gardens Apartments or the height limitations of the Zoning Ordinance.

- b) The property is located at 10603 Axtell Street, Castroville, CA 95012 (Assessor's Parcel Number 030-011-013-000 & 030-011-014-000), North County Area Plan/Castroville Community Plan. The parcel is zoned Castroville Community Plan - High Density Residential, which allows the existing apartment complex on the subject property.
- c) The project planner conducted a site May 2, 2013 to verify that the project on the subject parcel conforms to the plans listed above.
- d) The Apartment Complex on the subject site (Sea Garden) was approved by the Planning Commission on January 28, 2009 (PLN080039). The project was an infill development and approved consistent with the Castroville Community Plan. The project was approved in compliance with the setbacks for the zoning district (10 feet). There are existing single family residences to the north of the subject site and it is desirable to provide some type of screening between the existing residences and the new apartments. This proposal, if approved, would construct a 10 foot tall black vinyl coated chain link fence six inches from the property line. This chain link fence would not provide screening between the second story apartments and the single family residences because even a 10 foot tall fence can not provide screening in this situation. A solid fence with a 6 foot height can be constructed to accomplish the desired property boundary delineation. The project already proposes significant landscaping and additional landscaping would be more effective in providing the desired visual separation between the apartments and single family residences. This can be accomplished without approval of a variance for a 10 foot tall fence.
- e) The project was not referred to the Castroville Citizens Advisory Committee for review because the committee does not have a quorum.
- f) The application, project plans, and related support materials submitted by the project applicant to the Monterey County RMA - Planning Department for the proposed development found in Project File PLN130379.

3. **FINDING:** **SITE SUITABILITY** – The site is physically not suitable for the use proposed.
- EVIDENCE:**
- a) The project has been reviewed for site suitability by the following departments and agencies: RMA - Planning Department. It is typically not good land use practice to install increasingly higher fences to address aesthetic concerns which are better addressed through landscaping.
  - b) All potential impacts that could potentially be associated with this project have been addressed in as part of PLN080039.
  - c) Staff conducted a site inspection on May 2, 2013 to verify that the site is suitable for this use.
  - d) The application, project plans, and related support materials submitted by the project applicant to the Monterey County RMA - Planning Department for the proposed development found in Project File PLN130379.

4. **FINDING:** **HEALTH AND SAFETY** - The establishment, maintenance, or operation of the project applied for will not under the circumstances of this particular case be detrimental to the health, safety, peace, morals, comfort, and general welfare of persons residing or working in the neighborhood of such proposed use, or be detrimental or injurious to property and improvements in the neighborhood or to the general welfare of the County.
- EVIDENCE:**
- a) The project was reviewed by the RMA - Planning Department. The respective agency finds that the project will not have an adverse effect on the health, safety, and welfare of persons either residing or working in the neighborhood.
  - b) The proposed project is a 10' tall chain link fence designed to address concerns by the neighbors related to the proximity of the apartments. A 10' tall fence is not necessary to protect the health, safety and well being of the adjacent residences. A fence constructed within the allowances of the Zoning Ordinance can be constructed on the property boundary.
  - c) Staff conducted a site inspection on May 2, 2013 to verify that the site is suitable for this use.
  - d) The application, project plans, and related support materials submitted by the project applicant to the Monterey County RMA - Planning Department for the proposed development found in Project File PLN130379.
5. **FINDING:** **NO VIOLATIONS** - The subject property is in compliance with all rules and regulations pertaining to zoning uses, subdivision, and any other applicable provisions of the County's zoning ordinance. No violations exist on the property.
- EVIDENCE:**
- a) Staff reviewed Monterey County RMA - Planning Department and Building Services Department records and is not aware of any violations existing on subject property.
  - b) Staff conducted a site inspection on May 2, 2013 and researched County records to assess if any violation exists on the subject property.
  - c) There are no known violations on the subject parcel.
  - d) The application, plans and supporting materials submitted by the project applicant to the Monterey County Planning Department for the proposed development are found in Project File PLN130379.
6. **FINDING:** **VARIANCE** – Variances shall only be granted based upon the following Findings:
- a. That because of special circumstances applicable to the subject property, including the size, shape, topography, location or surroundings, the strict application of development standards in the Monterey County Codes is found to deprive the subject property of privileges enjoyed by other properties in the vicinity under and under identical zoning classification;
  - b. That the variance shall not constitute a grant of privileges inconsistent with the limitations upon other properties in the vicinity and zone in which such property is situated;

c. A Variance shall not be granted for a use of a property which is not otherwise expressly authorized by the zone regulation governing the parcel of property.

- EVIDENCE:**
- a) The property has a zoning designation of Castroville Community Plan – High Density Residential.
  - b) The Sea Gardens Project was approved under the design guidelines adopted for the Castroville Community Plan which calls for a mix of housing types. The subject site has existing single family residences to the north and the residents of those homes desire a security fence and visual screen between the apartments and their residences. A typical six foot tall fence is sufficient to provide the desired level of security. Landscaping is far more effective in achieving a visual barrier than a 10' tall fence; therefore the fence will not accomplish its intended purpose and is not necessary to maintain privileges for the neighboring property owners available to other property owners in similar circumstances.
  - c) The request for the 10 foot high fence would constitute the granting of a special privilege as demonstrated at the June 13, 2013 hearing when other neighbors also requested that a 10 foot tall fence be constructed around their yards. This would set an undesirable precedent for future interfaces between medium density residential and high density residential developments.
  - d) The Zoning Administrator considered the item on June 13, 2013. After hearing public testimony the Zoning Administrator continued the item in order to conduct a site visit. A site visit was conducted on June 19, 2013. Upon review of the County code and after considering all information presented the Zoning Administrator found that a Variance to allow a 10 foot tall chain link fence is not the appropriate way to provide privacy. Landscaping or an alteration of the existing fencing would more adequately address the situation. The use of a variance is an inappropriate entitlement to address the situation/circumstance.
  - e) The project planner conducted a site inspection on May 2, 2013 to verify the circumstances related to the property.
  - f) The application, plans and supporting materials submitted by the project applicant to the Monterey County Planning Department for the proposed development are found in Project File PLN130379.

7. **FINDING:** **CEQA (Exempt):** - The project is categorically exempt from environmental review and no unusual circumstances were identified to exist for the proposed project.

- EVIDENCE:**
- a) California Environmental Quality Act (CEQA) Guidelines Section 15305(a) categorically exempts minor variances.
  - b) This is a minor variance to allow a fence within the rear yard setback to exceed a height of 6 feet.
  - c) No adverse environmental effects were identified during staff review of the development application during a site visit on May 2, 2013.
  - d) None of the exceptions under CEQA Guidelines Section 15300.2 apply to this project.
  - e) Staff conducted a site inspection on May 2, 2013 to verify that the site is suitable for this use.
  - f) The application, project plans, and related support materials submitted

by the project applicant to the Monterey County RMA - Planning Department for the proposed development found in Project File PLN130379.

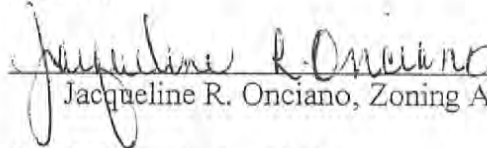
8. **FINDING:** **APPEALABILITY** - The decision on this project may be appealed to the Board of Supervisors.
- EVIDENCE:** a) Section 21.80 of the Monterey County Zoning Ordinance states that the proposed project is appealable to the Board of Supervisors.

### DECISION

**NOW, THEREFORE**, based on the above findings and evidence, the Zoning Administrator does hereby:

1. Find the project Exempt per CEQA Section 15305(a); and
2. Deny PLN130379, based on the findings and evidence and subject to the conditions of approval (**Exhibit B**);

**PASSED AND ADOPTED** this 27th day of June, 2013

  
\_\_\_\_\_  
Jacqueline R. Onciano, Zoning Administrator

COPY OF THIS DECISION MAILED TO APPLICANT ON JULY 5, 2013.

THIS APPLICATION IS APPEALABLE TO THE BOARD OF SUPERVISORS.

IF ANYONE WISHES TO APPEAL THIS DECISION, AN APPEAL FORM MUST BE COMPLETED AND SUBMITTED TO THE CLERK TO THE BOARD ALONG WITH THE APPROPRIATE FILING FEE ON OR BEFORE JULY 15, 2013.

Exhibit F  
Page 5 of 7 Pages

PROJECT NO. CHISPA SEA GARDEN APARTMENTS  
 1800 AVENUE 18, SUITE 100  
 DOWNEY, CA 90241

DEVELOPER: CHISPA SEA GARDEN APARTMENTS  
 1800 AVENUE 18, SUITE 100  
 DOWNEY, CA 90241

THE PAUL DAVIS PARTNERS ARCHITECTS & P.L.L.C.  
 1800 AVENUE 18, SUITE 100  
 DOWNEY, CA 90241

**PROJECT INFORMATION**  
 PROJECT LOCATION: AVENUE 18 AND STREET 18  
 PROJECT DESCRIPTION: MULTIFAMILY APARTMENTS  
 CITY: DOWNEY, CA  
 COUNTY: SHERMAN COUNTY

**DEVELOPMENT ANALYSIS**  
 SITE AREA: 3,201 AC  
 BALANCE: 2,144 SF  
 TOTAL FLOOR AREA: 1,100 SF  
 BALANCE: 1,100 SF  
 TOTAL GARAGE FLOOR AREA: 1,100 SF  
 BALANCE: 1,100 SF

**PARKING RECD**  
 LOTS: 100  
 SPACES: 100  
 GARAGES: 100

**GENERAL NOTES**  
 1. PROVIDE THE FOLLOWING INFORMATION TO THE CITY OF DOWNEY:  
 a. A COPY OF THIS PLAN SET.  
 b. A COPY OF THE CIVIL ENGINEER'S MAP.  
 c. A COPY OF THE ARCHITECT'S REPORT.  
 d. A COPY OF THE CIVIL ENGINEER'S REPORT.  
 e. A COPY OF THE ARCHITECT'S REPORT.

**LEGEND**  
 1. 20' SETBACK FROM STREET  
 2. 10' SETBACK FROM STREET  
 3. 5' SETBACK FROM STREET  
 4. 0' SETBACK FROM STREET  
 5. 10' SETBACK FROM STREET  
 6. 5' SETBACK FROM STREET  
 7. 0' SETBACK FROM STREET  
 8. 10' SETBACK FROM STREET  
 9. 5' SETBACK FROM STREET  
 10. 0' SETBACK FROM STREET

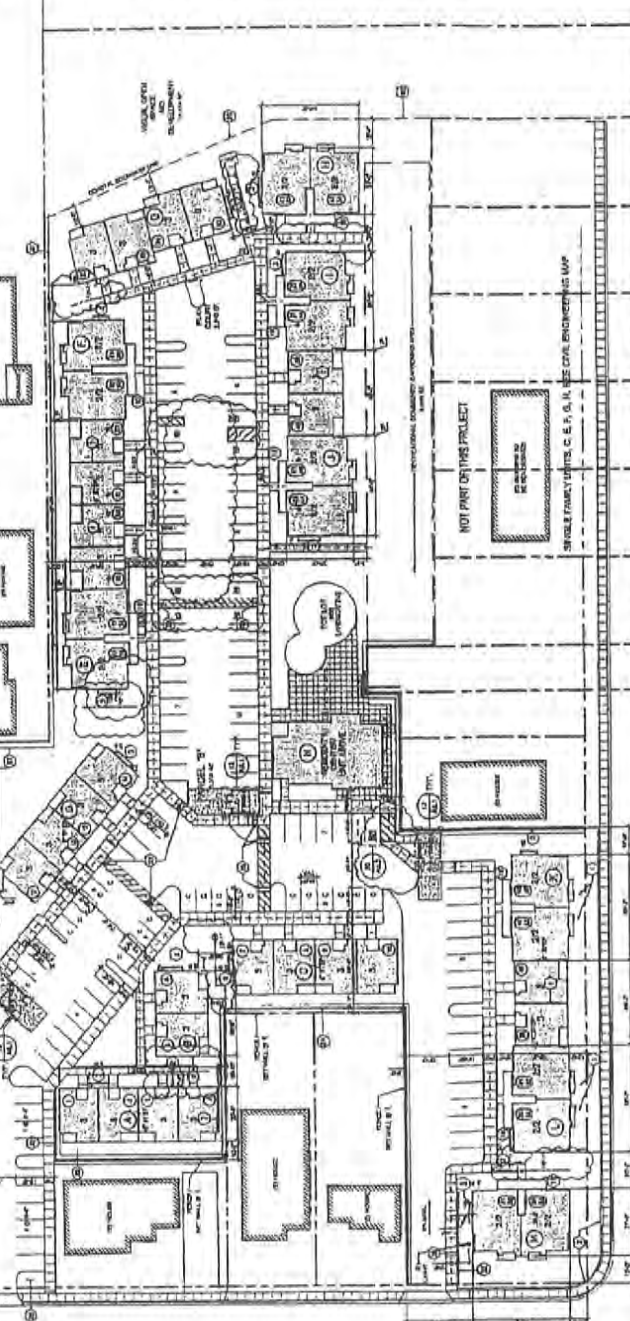


- SHEET NOTES**
1. SEE THE CIVIL ENGINEER'S MAP FOR THE LOCATION OF THE PROJECT.
  2. THE CIVIL ENGINEER'S MAP IS A REQUIREMENT OF THE CITY OF DOWNEY.
  3. THE ARCHITECT'S REPORT IS A REQUIREMENT OF THE CITY OF DOWNEY.
  4. THE CIVIL ENGINEER'S REPORT IS A REQUIREMENT OF THE CITY OF DOWNEY.
  5. THE ARCHITECT'S REPORT IS A REQUIREMENT OF THE CITY OF DOWNEY.
  6. THE CIVIL ENGINEER'S REPORT IS A REQUIREMENT OF THE CITY OF DOWNEY.
  7. THE ARCHITECT'S REPORT IS A REQUIREMENT OF THE CITY OF DOWNEY.
  8. THE CIVIL ENGINEER'S REPORT IS A REQUIREMENT OF THE CITY OF DOWNEY.
  9. THE ARCHITECT'S REPORT IS A REQUIREMENT OF THE CITY OF DOWNEY.
  10. THE CIVIL ENGINEER'S REPORT IS A REQUIREMENT OF THE CITY OF DOWNEY.

**REVISION TO PLANS:**

1. REVISION TO PLANS: SEE THE CIVIL ENGINEER'S MAP FOR THE LOCATION OF THE PROJECT.
2. REVISION TO PLANS: SEE THE ARCHITECT'S REPORT FOR THE LOCATION OF THE PROJECT.
3. REVISION TO PLANS: SEE THE CIVIL ENGINEER'S REPORT FOR THE LOCATION OF THE PROJECT.
4. REVISION TO PLANS: SEE THE ARCHITECT'S REPORT FOR THE LOCATION OF THE PROJECT.
5. REVISION TO PLANS: SEE THE CIVIL ENGINEER'S REPORT FOR THE LOCATION OF THE PROJECT.
6. REVISION TO PLANS: SEE THE ARCHITECT'S REPORT FOR THE LOCATION OF THE PROJECT.
7. REVISION TO PLANS: SEE THE CIVIL ENGINEER'S REPORT FOR THE LOCATION OF THE PROJECT.
8. REVISION TO PLANS: SEE THE ARCHITECT'S REPORT FOR THE LOCATION OF THE PROJECT.
9. REVISION TO PLANS: SEE THE CIVIL ENGINEER'S REPORT FOR THE LOCATION OF THE PROJECT.
10. REVISION TO PLANS: SEE THE ARCHITECT'S REPORT FOR THE LOCATION OF THE PROJECT.

NO.	DATE	DESCRIPTION
1	11/15/11	ISSUED FOR PERMITS
2	11/15/11	ISSUED FOR PERMITS
3	11/15/11	ISSUED FOR PERMITS
4	11/15/11	ISSUED FOR PERMITS
5	11/15/11	ISSUED FOR PERMITS
6	11/15/11	ISSUED FOR PERMITS
7	11/15/11	ISSUED FOR PERMITS
8	11/15/11	ISSUED FOR PERMITS
9	11/15/11	ISSUED FOR PERMITS
10	11/15/11	ISSUED FOR PERMITS



**REVISION TO PLANS:**

1. REVISION TO PLANS: SEE THE CIVIL ENGINEER'S MAP FOR THE LOCATION OF THE PROJECT.
2. REVISION TO PLANS: SEE THE ARCHITECT'S REPORT FOR THE LOCATION OF THE PROJECT.
3. REVISION TO PLANS: SEE THE CIVIL ENGINEER'S REPORT FOR THE LOCATION OF THE PROJECT.
4. REVISION TO PLANS: SEE THE ARCHITECT'S REPORT FOR THE LOCATION OF THE PROJECT.
5. REVISION TO PLANS: SEE THE CIVIL ENGINEER'S REPORT FOR THE LOCATION OF THE PROJECT.
6. REVISION TO PLANS: SEE THE ARCHITECT'S REPORT FOR THE LOCATION OF THE PROJECT.
7. REVISION TO PLANS: SEE THE CIVIL ENGINEER'S REPORT FOR THE LOCATION OF THE PROJECT.
8. REVISION TO PLANS: SEE THE ARCHITECT'S REPORT FOR THE LOCATION OF THE PROJECT.
9. REVISION TO PLANS: SEE THE CIVIL ENGINEER'S REPORT FOR THE LOCATION OF THE PROJECT.
10. REVISION TO PLANS: SEE THE ARCHITECT'S REPORT FOR THE LOCATION OF THE PROJECT.

SHEET NO. SITE PLAN  
 A11  
 THE CONTRACTOR SHALL



**MONTEREY COUNTY ZONING ADMINISTRATOR**

Exhibit G

Page 1 of 12 Pages

<b>Meeting:</b> June 13, 2013 Time: 1:00 P.M	<b>Agenda Item No.:</b> 4
<b>Project Description:</b> Consider a Variance to the maximum six foot (6') fence height and encroachment into the rear yard setback to allow a ten (10) foot tall chain link fence to be constructed six inches from the rear property line,	
<b>Project Location:</b> 10603 Axtell Street, Castroville, CA 95012	<b>APN:</b> 030-011-013-000 & 030-011-014-000
<b>Planning File Number:</b> PLN130379	<b>Owner:</b> Sea Garden LP <b>Agent:</b> Paul Tran, CHISPA
<b>Planning Area:</b> North County Area Plan/Castroville Community Plan	<b>Flagged and staked:</b> No
<b>Zoning Designation:</b> Castroville Community Plan - High Density Residential	
<b>CEQA Action:</b> Categorically Exempt per Section 15305 (a) – Minor Variance	
<b>Department:</b> RMA - Planning Department	

**RECOMMENDATION:**

Staff recommends that the Zoning Administrator adopt a resolution (**Exhibit B**) to:

- 1) Find the project Exempt per CEQA Section 15305(a); and
- 2) Approve PLN130379, based on the findings and evidence and subject to the conditions of approval (**Exhibit B**);

**PROJECT DISCUSSION:**

The applicant's request for a variance to construct a ten foot tall fence six inches from the rear property line emanates from discussions between the applicant, adjoining neighbors and the County related to the neighbor's concerns regarding the security of their property being adjacent to an apartment complex. The apartment complex was approved by the Planning Commission in 2009 (PLN080039). At that time no concern was expressed about the interface between the single family residences to the north and the apartment complex. The apartment complex is currently under construction and as the buildings have been erected the neighbors have concern for their privacy and security.

The applicant, the neighbors and representatives from the County have met on several occasions to determine if there is a solution to the concerns expressed. The agreed upon solution is to construct a 10 foot tall chain link fence six inches from the existing fences constructed as part of the subdivision. Landscaping will be installed in the form of fast growing vines (potato vine) on the fence itself and tall shrubs (*Prunus Caroliniana*) capable of creating a visual barrier between the apartments and the single family residences.

The Zoning Ordinance allows fences up to six feet in height within setback areas. The construction of a 10 foot tall fence would require a variance to exceed this height. Normally variances can only be approved in vary unusual circumstances and not grant a special privilege to the applicant. In this case the unusual circumstance is the interface between the single family residences and the apartments and that the applicant is requesting this variance for the benefit of the neighbors who are requesting that something be done to address their concerns.




**OTHER AGENCY INVOLVEMENT:** The following agencies and departments reviewed this project:

None

Exhibit 6  
Page 2 of 12 Pages

The project was not referred to the Castroville Advisory Committee because their membership is not currently meeting.

Note: The decision on this project is appealable to the Board of Supervisors.


/s/ John Ford 

---

John Ford, Senior Planner  
(831) 755-5158, fordjh@co.monterey.ca.us  
(06/06/2013)

cc: Front Counter Copy; Zoning Administrator; Wanda Hickman, Planning Services Manager; John Ford, Project Planner; Sea Garden LP, Owner; Paul Tran, Agent; The Open Monterey Project; LandWatch; Planning File PLN130379

Attachments: Exhibit A Project Data Sheet  
Exhibit B Draft Resolution, including:  
• Conditions of Approval  
• Site Plan.  
Exhibit C Vicinity Map

This report was reviewed by Wanda Hickman. 

<b>Project Information for PLN130379</b>
--

**Project Information:**

Project Name: SEA GARDEN LP	
Location: 10603 AXTELL STREET CASTROVILLE	
Permit Type: Variance	
Environmental Status: Exempt	Final Action Deadline (884):
Existing Structures (sf): 31243	Coverage Allowed: 60
Proposed Structures (sf): 0	Coverage Proposed: 41.5
Total Sq. Ft.: 182168	Height Allowed: 35'
Tree Removal: 0	Height Proposed: 24
Water Source: PUBLIC	FAR Allowed: N/A
Water Purveyor: CASTROVILLE COMMUNITY SVCS D	FAR Proposed: N/A
Sewage Disposal (method): SEWER	Lot Size: 4.814
Sewer District:	Grading (cubic yds.): 0

**Parcel Information:**

Primary APN: 030-011-013-000	Seismic Hazard Zone:
Applicable Plan:	Erosion Hazard Zone:
Advisory Committee:	Fire Hazard Zone:
Zoning:	Flood Hazard Zone:
Land Use Designation:	Archaeological Sensitivity:
Coastal Zone:	Viewshed:
Fire District:	Special Setbacks on Parcel:

**Reports on Project Parcel:**

Soils Report #:  
 Biological Report #:  
 Geologic Report #:  
 Forest Management Rpt. #:  
 Archaeological Report #:  
 Traffic Report #:

**EXHIBIT B  
DRAFT RESOLUTION**

Exhibit 9  
Page 4 of 12 Pages

**Before the Zoning Administrator in and for the  
County of Monterey, State of California**

In the matter of the application of:  
**SEA GARDEN LP (PLN130379)**  
**RESOLUTION NO. ----**

Resolution by the Monterey County Hearing Body:

1. Finding the Exempt per CEQA Section 15305(a); and
2. Approving a Variance to the maximum six foot (6') fence height and encroachment into the rear yard setback to allow a ten (10) foot tall chain link fence to be constructed six inches from the rear property line

[PLN130379, Sea Garden LP, 10603 Axtell Street, Castroville, CA 95012, North County Area Plan/Castroville Community Plan (APN: 030-011-013-000 & 030-011-014-000)]

**The Sea Garden LP application (PLN130379) came on for public hearing before the Monterey County Zoning Administrator on June 13, 2013. Having considered all the written and documentary evidence, the administrative record, the staff report, oral testimony, and other evidence presented, the Zoning Administrator finds and decides as follows:**

**FINDINGS**

1.       **FINDING:**       **PROJECT DESCRIPTION** – The proposed project is a Variance to the maximum six foot (6') fence height and encroachment into the rear yard setback to allow a ten (10) foot tall chain link fence to be constructed six inches from the rear property line.  
**EVIDENCE:**       The application, project plans, and related support materials submitted by the project applicant to the Monterey County RMA - Planning Department for the proposed development found in Project File PLN130379.
  
2.       **FINDING:**       **CONSISTENCY** – The Project, as conditioned, is consistent with the applicable plans and policies which designate this area as appropriate for development.  
**EVIDENCE:**       a) During the course of review of this application, the project has been reviewed for consistency with the text, policies, and regulations in:
  - the 2010 Monterey County General Plan;
  - North County Area Plan;
  - Monterey County Zoning Ordinance (Title 21);
  - Castroville Community Plan

No conflicts were found to exist. No communications were received during the course of review of the project indicating any inconsistencies with the text, policies, and regulations in these documents.

- b) The property is located at 10603 Axtell Street, Castroville, CA 95012 (Assessor's Parcel Number 030-011-013-000 & 030-011-014-000), North County Area Plan/Castroville Community Plan. The parcel is zoned Castroville Community Plan - High Density Residential, which allows the existing apartment complex on the subject property.
- c) The project planner conducted a site May 2, 2013 on May 2, 2013\* to verify that the project on the subject parcel conforms to the plans listed above.
- d) The Apartment Complex on the subject site (Sea Garden) was approved by the Planning Commission on January 28, 2009 (PLN080039). The project was an infill development and approved consistent with the Castroville Community Plan. The project was approved in compliance with the setbacks for the zoning district (10'). There are existing single family residences to the north of the subject site and it is desirable to provide some type of screening between the existing residences and the new apartments. This proposal would construct a 10' high black vinyl coated chain link fence six inches from the property line. This chain link fence would be supplemented by landscaping including shrubs and vines to provide a visual screen between the single family residences and the apartment complex.
- e) The project was not referred to the Castroville Citizens Advisory Committee for review because the committee does not have a quorum.
- f) The application, project plans, and related support materials submitted by the project applicant to the Monterey County RMA - Planning Department for the proposed development found in Project File PLN130379.

3. **FINDING:** **SITE SUITABILITY** – The site is physically suitable for the use proposed.

- EVIDENCE:**
- a) The project has been reviewed for site suitability by the following departments and agencies: RMA - Planning Department. There has been no indication from these departments/agencies that the site is not suitable for the proposed development. Conditions recommended have been incorporated.
  - b) All potential impacts that could potentially be associated with this project have been addressed in as part of PLN080039.
  - c) Staff conducted a site on May 2, 2013 to verify that the site is suitable for this use.
  - d) The application, project plans, and related support materials submitted by the project applicant to the Monterey County RMA - Planning Department for the proposed development found in Project File PLN130379.

4. **FINDING:** **HEALTH AND SAFETY** - The establishment, maintenance, or operation of the project applied for will not under the circumstances of this particular case be detrimental to the health, safety, peace, morals, comfort, and general welfare of persons residing or working in the

neighborhood of such proposed use, or be detrimental or injurious to property and improvements in the neighborhood or to the general welfare of the County.

- EVIDENCE:**
- a) The project was reviewed by the RMA - Planning Department. The respective agency finds that the project will not have an adverse effect on the health, safety, and welfare of persons either residing or working in the neighborhood.
  - b) The proposed project is a 10' tall chain link fence designed to address concerns by the neighbors related to the proximity of the apartments. The fence is intended to promote the health, safety and well being of adjacent residences.
  - c) Staff conducted a site on May 2, 2013 to verify that the site is suitable for this use.
  - d) The application, project plans, and related support materials submitted by the project applicant to the Monterey County RMA - Planning Department for the proposed development found in Project File PLN130379.

5. **FINDING:** **NO VIOLATIONS** - The subject property is in compliance with all rules and regulations pertaining to zoning uses, subdivision, and any other applicable provisions of the County's zoning ordinance. No violations exist on the property.

- EVIDENCE:**
- a) Staff reviewed Monterey County RMA - Planning Department and Building Services Department records and is not aware of any violations existing on subject property.
  - b) Staff conducted a site on May 2, 2013 and researched County records to assess if any violation exists on the subject property.
  - c) There are no known violations on the subject parcel.
  - d) The application, plans and supporting materials submitted by the project applicant to the Monterey County Planning Department for the proposed development are found in Project File PLN130379.

6. **FINDING:** **VARIANCE** – Variances shall only be granted based upon the following Findings:

- 1. That because of special circumstances applicable to the subject property, including the size, shape, topography, location or surroundings, the strict application of development standards in the Monterey County Codes is found to deprive the subject property of privileges enjoyed by other properties in the vicinity under and under identical zoning classification;
- 2. That the variance shall not constitute a grant of privileges inconsistent with the limitations upon other properties in the vicinity and zone in which such property is situated;
- 3. A Variance shall not be granted for a use or activity which is not otherwise expressly authorized by the zone regulation governing the parcel of property.

- EVIDENCE:**
- a) The property has a zoning designation of Castroville Community Plan – High Density Residential.
  - b) The Sea Gardens Project was approved under the design guidelines adopted for the Castroville Community Plan which calls for a mix of

Exhibit 9

housing types. The subject site has existing single family residences to the north and the residents of those homes desire a security fence between the apartments and their residences. A typical six foot tall wooden fence was not viewed by the residents as sufficient to provide the desired level of security because a six foot high fence can easily be climbed and wooden fences can be broken and pieces removed providing access to the rear of the residences. A ten foot tall chain link fence is more difficult to climb over and is not easily penetrated providing a high level of security consistent with the wishes of the neighbors.

- c) The request for the 10 foot high fence is not a special privilege being requested by the applicant, it is an accommodation to the concerns of the adjacent neighbors who are requesting that something be done to address their concerns. This fence with extended height accomplishes that objective.
- d) The fence is an accessory to the apartment complex which is an allowed use in the High Density Residential zone. This variance would not authorize any use not otherwise permitted in the High Density Zoning District of the Castroville Community Plan.
- e) The project planner conducted a site inspection on May 2, 2013 to verify the circumstances related to the property.
- f) The application, plans and supporting materials submitted by the project applicant to the Monterey County Planning Department for the proposed development are found in Project File PLN130379.

7. **FINDING:**

**CEQA (Exempt):** - The project is categorically exempt from environmental review and no unusual circumstances were identified to exist for the proposed project.

**EVIDENCE:**

- a) California Environmental Quality Act (CEQA) Guidelines Section 15305(a) categorically exempts minor variances.
- b) This is a minor variance to allow at fence within the rear yard setback to exceed a height of 6 feet.
- c) No adverse environmental effects were identified during staff review of the development application during a site visit on May 2, 2013.
- d) None of the exceptions under CEQA Guidelines Section 15300.2 apply to this project.
- e) Staff conducted a site on May 2, 2013 to verify that the site is suitable for this use.
- f) The application, project plans, and related support materials submitted by the project applicant to the Monterey County RMA - Planning Department for the proposed development found in Project File PLN130379.

8. **FINDING:**

**APPEALABILITY** - The decision on this project may be appealed to the Board of Supervisors.

**EVIDENCE:**

- a) Section 21.80 of the Monterey County Zoning Ordinance states that the proposed project is appealable to the Board of Supervisors.

**DECISION**

Exhibit 9

Page 7 of 12 Pages

**NOW, THEREFORE**, based on the above findings and evidence, the Zoning Administrator does hereby:

1. Find the project Exempt per CEQA Section 15305(a); and
2. Approve PLN130379, based on the findings and evidence and subject to the conditions of approval (**Exhibit B**);

**PASSED AND ADOPTED** this 13th day of June, 2013

\_\_\_\_\_  
Jacqueline Onciano, Zoning Administrator

COPY OF THIS DECISION MAILED TO APPLICANT ON DATE

THIS APPLICATION IS APPEALABLE TO THE BOARD OF SUPERVISORS.

IF ANYONE WISHES TO APPEAL THIS DECISION, AN APPEAL FORM MUST BE COMPLETED AND SUBMITTED TO THE CLERK TO THE BOARD ALONG WITH THE APPROPRIATE FILING FEE ON OR BEFORE [DATE]

This decision, if this is the final administrative decision, is subject to judicial review pursuant to California Code of Civil Procedure Sections 1094.5 and 1094.6. Any Petition for Writ of Mandate must be filed with the Court no later than the 90th day following the date on which this decision becomes final.

NOTES

1. You will need a building permit and must comply with the Monterey County Building Ordinance in every respect.

Additionally, the Zoning Ordinance provides that no building permit shall be issued, nor any use conducted, otherwise than in accordance with the conditions and terms of the permit granted or until ten days after the mailing of notice of the granting of the permit by the appropriate authority, or after granting of the permit by the Board of Supervisors in the event of appeal.

Do not start any construction or occupy any building until you have obtained the necessary permits and use clearances from the Monterey County Planning Department and Building Services Department office in Salinas.

2. This permit expires 3 years after the above date of granting thereof unless construction or use is started within this period.

Form Rev. 01-31-2013

Exhibit G  
Page 8 of 12 Pages

# Monterey County Planning Department

## DRAFT Condition of Approval Implementation Plan/Mitigation Monitoring Reporting Plan

PLN130379

### 1. PD001 - SPECIFIC USES ONLY

**Responsible Department:** Planning Department

**Condition/Mitigation Monitoring Measure:** This Variance (PLN130379 allows a Variance to the maximum six foot (6') fence height and encroachment into the rear yard setback to allow a ten (10) foot tall chain link fence to be constructed six inches from the rear property line. The property is located at 10603 Axtell Street, Castroville, CA 95012 (Assessor's Parcel Number 030-011-013-000 & 030-011-014-000), North County Area Plan/Castroville Community Plan. This permit was approved in accordance with County ordinances and land use regulations subject to the terms and conditions described in the project file. Neither the uses nor the construction allowed by this permit shall commence unless and until all of the conditions of this permit are met to the satisfaction of the Director of the RMA - Planning Department. Any use or construction not in substantial conformance with the terms and conditions of this permit is a violation of County regulations and may result in modification or revocation of this permit and subsequent legal action. No use or construction other than that specified by this permit is allowed unless additional permits are approved by the appropriate authorities. To the extent that the County has delegated any condition compliance or mitigation monitoring to the Monterey County Water Resources Agency, the Water Resources Agency shall provide all information requested by the County and the County shall bear ultimate responsibility to ensure that conditions and mitigation measures are properly fulfilled. (RMA - Planning Department)

**Compliance or Monitoring Action to be Performed:** The Owner/Applicant shall adhere to conditions and uses specified in the permit on an ongoing basis unless otherwise stated.

### 2. PD002 - NOTICE PERMIT APPROVAL

**Responsible Department:** Planning Department

**Condition/Mitigation Monitoring Measure:** The applicant shall record a Permit Approval Notice. This notice shall state:  
"A Variance (Resolution Number \*\*\*) was approved by the Zoning Administrator for Assessor's Parcel Number 030-011-013-000, 030-011-014-000 on June 13, 2013. The permit was granted subject to 4 conditions of approval which run with the land. A copy of the permit is on file with the Monterey County RMA - Planning Department."  
Proof of recordation of this notice shall be furnished to the Director of the RMA - Planning Department prior to issuance of building permits or commencement of the use. (RMA - Planning Department)

**Compliance or Monitoring Action to be Performed:** Prior to the issuance of grading and building permits or commencement of use, the Owner/Applicant shall provide proof of recordation of this notice to the RMA - Planning Department.

Exhibit 9  
Page 9 of 12 Pages



### 3. PD004 - INDEMNIFICATION AGREEMENT

**Responsible Department:** Planning Department

**Condition/Mitigation Monitoring Measure:** The property owner agrees as a condition and in consideration of approval of this discretionary development permit that it will, pursuant to agreement and/or statutory provisions as applicable, including but not limited to Government Code Section 66474.9, defend, indemnify and hold harmless the County of Monterey or its agents, officers and employees from any claim, action or proceeding against the County or its agents, officers or employees to attack, set aside, void or annul this approval, which action is brought within the time period provided for under law, including but not limited to, Government Code Section 66499.37, as applicable. The property owner will reimburse the County for any court costs and attorney's fees which the County may be required by a court to pay as a result of such action. The County may, at its sole discretion, participate in the defense of such action; but such participation shall not relieve applicant of his/her/its obligations under this condition. An agreement to this effect shall be recorded upon demand of County Counsel or concurrent with the issuance of building permits, use of property, filing of the final map, recordation of the certificates of compliance whichever occurs first and as applicable. The County shall promptly notify the property owner of any such claim, action or proceeding and the County shall cooperate fully in the defense thereof. If the County fails to promptly notify the property owner of any such claim, action or proceeding or fails to cooperate fully in the defense thereof, the property owner shall not thereafter be responsible to defend, indemnify or hold the County harmless.  
(RMA - Planning Department)

**Compliance or Monitoring Action to be Performed:** Upon demand of County Counsel or concurrent with the issuance of building permits, use of the property, recording of the final/parcel map, whichever occurs first and as applicable, the Owner/Applicant shall submit a signed and notarized Indemnification Agreement to the Director of RMA-Planning Department for review and signature by the County.

Proof of recordation of the Indemnification Agreement, as outlined, shall be submitted to the RMA-Planning Department.

### 4. PSPD - 001 Landscaping

**Responsible Department:** Planning Department

**Condition/Mitigation Monitoring Measure:** The applicant shall install landscaping along the 10 foot tall chain link fence as follows:

1. Vines (potato vine or equivalent) shall be planted along the base of the chainlink fence such that the vines shall be capable of covering the fence.
2. Shrubs (Prunus Caroliniana or equivalent) shall be placed along the fence line with such a spacing that the shrubs can grow to maintain a solid hedge with a minimum height of 20 feet.

**Compliance or Monitoring Action to be Performed:** The applicant shall prepare a landscape plan and submit it to the RMA Planning Department for review and approval and the approved landscape plan shall be implemented prior to issuance of an occupancy permit for the Sea Garden apartment complex (PLN080039).

Exhibit 9  
Page 10 of 12 Pages





**Novo, Mike x5192**

---

**From:** Gowin, Henry M. on behalf of 100-District 2 (831) 755-5022  
**Sent:** Wednesday, August 07, 2013 11:47 AM  
**To:** Novo, Mike x5192  
**Subject:** FW: Sea Garden Fence Variance PLN130379

Exhibit H  
Page 1 of 1 Pages

For the Sea Gardens Apartments file at the Planning Commission appeal.

---

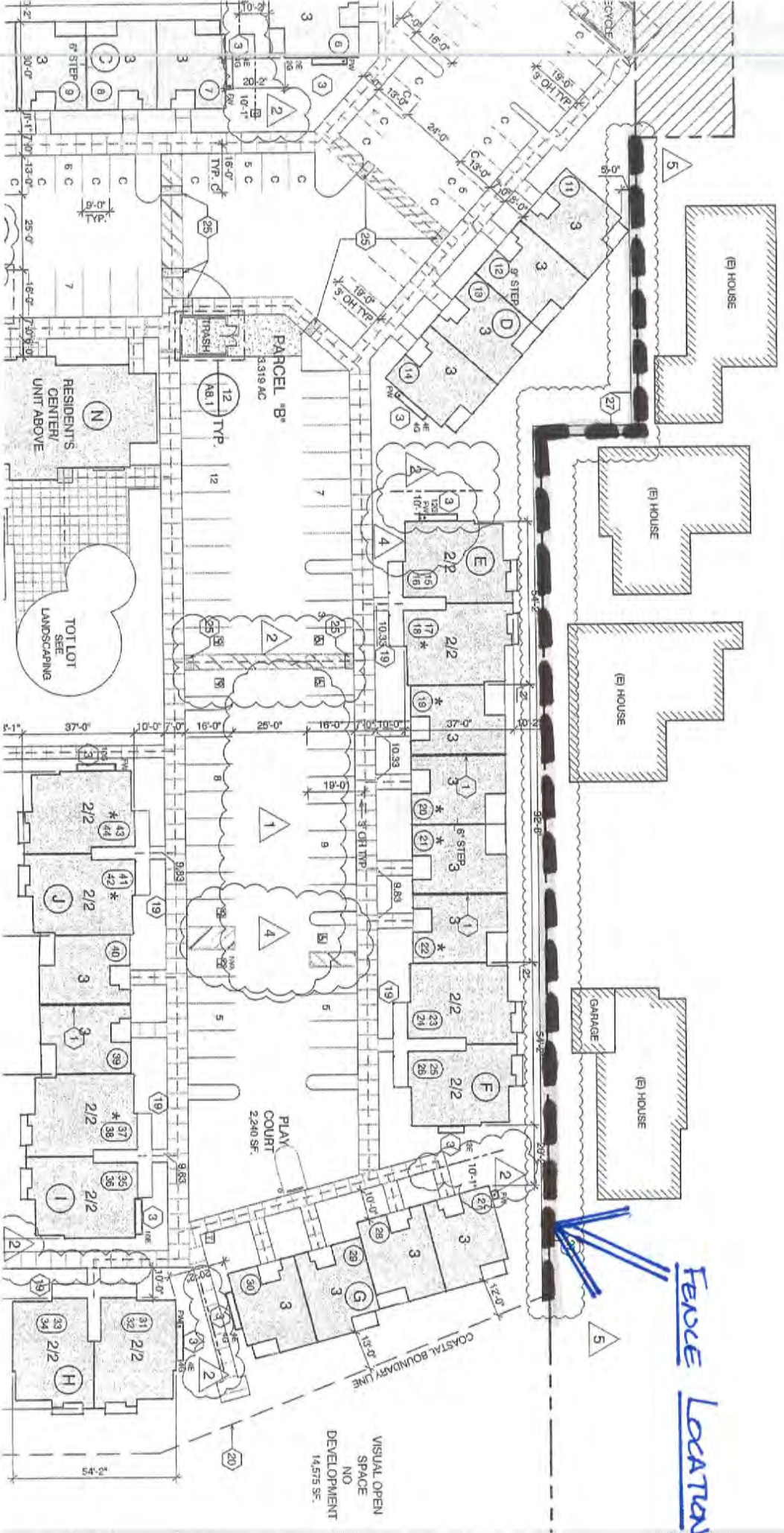
**From:** [Wildgoosekiller@aol.com](mailto:Wildgoosekiller@aol.com) [mailto:[Wildgoosekiller@aol.com](mailto:Wildgoosekiller@aol.com)]  
**Sent:** Wednesday, August 07, 2013 11:45 AM  
**To:** [ptran@chispahousing.org](mailto:ptran@chispahousing.org)  
**Cc:** [wildgoosekiller@aol.com](mailto:wildgoosekiller@aol.com); Gowin, Henry M.; 100-District 2 (831) 755-5022; Padilla, Cosme; Rochester, Don  
**Subject:** Re: Sea Garden Fence Variance PLN130379

Hi, thanks for keeping me in the loop. I will be working in Sacramento so I will not be able to attend the Aug. 14 meeting at 9:00 am. I would like to voice my opinion on the subject. I think having a 6' fence with 2' lattice does not have an effective durability aspect, but something is better than nothing. I want to address the louvers being installed upstairs I think in everyone's best interest neighbors and renters that this must be part of the resolution because of privacy concerns that we have stated about people looking into my daughter's room and mine as well as my neighbors bathroom. I wish and hope for someone to do the right thing for once without having to twist someone's arm. If any reasonable person was in the same conditions they would want the same thing. Unfortunately people that make these decisions don't live here and have to deal with it. The advisor that came out here and denied the variance was biased in her ruling. This is a special circumstance and new construction. She was only concerned about setting a new precedence, it should be precedence for new construction. Like I mentioned above if her daughter's privacy was compromised I am certain her ruling would be different. I want this to be part of the record for the meeting on Aug. 14, 2013 in my absence. This kind of construction should not be allowed with proper notification to adjacent property owners in writing to the owners residence, which was not the case in this instance. This was passed in 2008 by another Contractor Don Chapin Co. Inc. and no notification was given to us home owner's directly affected by this construction which is wrong. So please help us to resolve this issue collectively. Look at the issue from our point of view and put yourselves in our shoes the answer is easy.

Thank You,  
Mark J. Miller  
10750 Blevins Way  
Castroville, Ca. 95012  
831-214-2152

# FENCE LOCATION

- (14) BUILDING NUMBER (1-10) PAINTED ON 24" x 24" SIGN WITH REFLECTING PAINT. VERIFY WITH FIRE DEPARTMENT FOR LOCATION & HEIGHT.
- (15) CONCRETE WALK SHALL PROVIDE MINIMUM 48" CLEAR ACCESSIBLE WIDTH. SEE DETAIL S/A&I
- (16) KNOX BOX - SEE GENERAL NOTE 3. MORE MAY BE REQUIRED.



# FENCE LOCATION

VISUAL OPEN SPACE NO DEVELOPMENT 14,575 SF.