



time, with thoroughness of the previous project, the City did follow  
Zoning Code and this must not have been exempt from City Zoning  
requirements. At any rate, there were requirements for the fencing  
design and lighting - as conditions on the 2009 project.  
Additionally the 2009 project required planning for screening. How  
does that fit with the current project?  
The approval of the 2009 was given a Neg Dec based on those  
mitigation conditions.  
RTW - the current lighting does not meet permit requirements for use  
you going to show that fence not listed as well?  
And - the City is not meeting statement requirements on, both, the  
public parking lot and across the street at its police fire  
station. When is the walkway meant to be, the fire truck and  
police cars and the waste collection carts in both lots? When was  
the last time any cart was cleared? What is the department  
doing walkway that runs into the street. These issues are a  
violation of Cal Water Code, the Regional Water Quality  
Control Plan and the City of Santa Rosa Stormwater NPDES Permit. You  
are in violation.  
You are concerning towards regulatory hell on many fronts. Get real -  
follow zoning code - and mitigate (as per the original 2009 permit -  
which is referenced in your approval request).  
We are not saying NO FENCE allowed. We do ask for consideration and  
some flexibility in mitigating issues.  
And that BLACK Corrugated fence is a heat sink and it is ugly.  
Presumably the F wall fence could be clad with 1" F Cedar or  
referred (to not be so offensive and blend in with the neighborhood -  
as is noted in the 2009 permit and in Zoning code. Cheaper and faster  
than court or regulatory hell (on many fronts).  
Alan Levine for Coast Action Group  
On 2024-06-11 9:43 pm, alex@cityofsr.com wrote:  
The project is scheduled as a concept item on the July 20, 2024,  
Design Review Board agenda, which should be posted by Friday.  
Will adjacent property owners be notified for this meeting?  
Please Show me where it says City properties are exempt from Zoning  
Code and Public Resources Code?  
This required a Neg Dec. Previously.  
Alan  
On 2024-06-11 11:50 am, Kirk, Lisa wrote:  
Dear Mr. Levine,  
Thank you for your email, and your interest in this matter.  
Briefly, the building permit was issued because a fence greater  
than 7'  
feet in height requires a building permit pursuant to Section 195.1  
of the  
2022 California Building Code, which can be found here [1]. You  
are correct that the permit only pertains to one of the two  
parcels comprising the project. Thank you for bringing this to my  
attention. A second permit will be prepared to address the  
second  
parcels.  
With regard to Design Review, and pursuant to Zoning Code Chapter  
20-10, Purpose and Effect of Zoning Code [2], Section 20-10.05(B),  
the provisions of the Zoning Code do not apply to public projects  
of the  
City except to the minimum extent required by law. While an  
entitlement (Design Review) permit is not required for this  
project,  
that section of the code does require conceptual design review by  
the  
Design Review Board. As such, the project is scheduled as a concept  
item on the July 20, 2024 Design Review Board agenda, which should  
be  
posted by Friday.  
In response to your other questions, there are no mitigation  
measures  
regarding heat being radiated by fencing. Lighting will be made  
compliant with Zoning Code Sections 20-30.080, Outdoor Lighting [3],  
which requires light fixtures to be directed downward and away from  
adjacent properties and public rights-of-way, so that no on-site  
light fixture directly illuminates an off-site area.  
I fully concerning potential tree removal, the removal by the City  
of  
non-heritage trees situated on City owned or controlled parcels does  
not require a permit pursuant to City Code Section 17-24.03(A)(4).  
I hope you find this response helpful.  
Sincerely,  
Lisa  
Lisa Kirk (she/her/hers) Assistant Chief/Building Official  
Planning & Economic Development 300 Santa Rosa Avenue, Room 11  
Santa  
Rosa, CA 95404  
Hours: Monday - Thursday, 8:30 AM - 5:30 PM  
Tel: (707) 543-3248 | lkirk@cityofsr.com  
[1]  
[2]  
[3]  
We are hiring - join the team with a purpose and make an impact!  
We offer incredible opportunities, dynamic work and excellent  
benefits.  
Come find your passion, visit SRCity.org/jobs [4]  
Original Message  
From: alex@cityofsr.com  
Sent: Sunday, June 9, 2024 8:36 AM  
To: Kirk, Lisa <lkirk@cityofsr.com>;  
Cc: alex@cityofsr.com; Fleming, Victoria <VFleming@cityofsr.com>;  
Bogart,  
Natalie <NBogart@cityofsr.com>; MacDonald, Diana  
<DMacDonald@cityofsr.com>; Skeggs, Jeff <JSkeggs@cityofsr.com>;  
Rogers, Chen <CRogers@cityofsr.com>; Slapp, Mark  
<MSlapp@cityofsr.com>;  
Alvarez, Eddie <EAlvarez@cityofsr.com>; CMOOffice  
<CMO@cityofsr.com>;  
deVries, John <JdeVries@cityofsr.com>;  
Subject: Permit Issues [EXTERNAL] Zoning Process Issues  
Public Department Parking lot issues  
Dear Mr. Kirk  
I am asking you to justify your approval of the attached permit  
Permit  
Number: R24-2886  
Issued Date: 05/29/2024 - for and F fence for the police parking  
lot.  
The permit allows for a perimeter F fence. According to  
City  
Code and Zoning requirements such installing is a special  
circumstance  
that requires a design review process. Additionally, such design  
review process requires public or neighbor noticing or that  
concerned parties can participate in the planning process.  
City Zoning and fencing requirements call for a design review  
process  
and a Minor Use Permit. The Permit is not consistent with current  
Zoning and Fencing requirements.  
There are other issues as well, including:  
The project will require tree removal. In the City of Santa Rosa  
removal of a class of diameter tree requires permitting and  
noticing.  
The project scope is inclusive of two parcels (995 Sonoma and 125  
Brookwood) - the perimeter of the police parking lot. The permit  
is  
for one parcel only. That means the current permit is incorrect in  
scope.  
Notifies to notify the neighbors or concerned at the lack of process,  
consideration, and issues that are related to this fencing project.  
Noticing and design review are requirements that are put in place  
to  
deal with these issues.  
Issues of Concern:  
Scope of project and what the fence looks like. The project really  
has not been described.  
Color of the fence. It is said the fence will be of solid  
corrugated  
material and colored black. The color matters visual considerations  
and  
material considerations, a solid black fence is a heat sink.  
Vegetation.  
Can not survive next to a black fence (on western peninsula). What  
is  
the mitigation for this issue?  
The removal and fence installation will change right time visual  
impacts from current lighting. Current lighting does not meet Code  
requirements to be dispersed/diffused. Thus, there is current light  
dispersion to neighbor receptors. Currently the existing trees  
filter  
the dispersed light. The project will change that light filtration  
then, alteration of lighting must be mitigated.  
The mitigating properties of the existing trees come with some  
issues.  
The existing trees were planted circa 2010 during the last fencing  
and  
parking lot project. The planting of the tree type and location  
right  
on the property line is an issue in that the trees have grown to be  
large and have not been managed (pruned back) to not invade  
neighboring properties and cause nuisance to adjoining properties.  
This is an issue that needs discussion and management.  
I am interested in your response and am attaching historic and  
current  
permits for your review and to illustrate the issues.

300000 Alan Levine for Coast Action Group  
300000  
300000 On 2024-06-06 7:22 pm, alexine@mac.com wrote:  
300000  
300000 Hi John  
300000  
300000  
300000 I did get copies of the permits (as other paperwork or e-mails  
300000 have  
300000  
300000 arrived from my PRA request)  
300000  
300000  
300000 There are other issues  
300000  
300000  
300000 Apparently there are two lots that adjoin and are used as one  
300000 parking  
300000  
300000 lot and one perimeter fence - 125 Brookwood and 950 Seneca Ave.  
300000 Yes  
300000  
300000 currently have a permit for fencing on one of the lots - 950  
300000 Seneca  
300000  
300000 Ave. And that permit is incomplete and incorrectly stated and not  
300000 consistent with your words and e-mails.  
300000  
300000  
300000 Summary:  
300000  
300000  
300000 125 Brookwood Parcel 0921082 - General Construction  
300000 Permit/Permit  
300000 to  
300000 Perform Work # BO 9-3435) - issued 1/19/2010 and for both lots  
300000 to  
300000 permit only considered that one parcel. A 6' fence was constructed.  
300000  
300000  
300000  
300000 950 Seneca Parcel 9-211-45 - General Construction Permit (Permit  
300000 to  
300000 Perform Work #B24-2886) - issued 5/29/24 for the construction of  
300000 a  
300000 fence - on this lot only. Not both lots. Why?  
300000  
300000 Why did your e-mail and say it was to be a 6' fence?  
300000  
300000 Permit B24-2886 does not permit additional fencing on the 125  
300000 Brookwood Parcel. It is limited to parcel 9-211-45  
300000  
300000 Read the permits (which do not meet legal standards)  
300000  
300000  
300000 Read further more (as stated in previous e-mails) Permit B24-2886 fails  
300000 to  
300000 consider constraints and requirements under Zoning General  
300000 Construction Guidelines, or PD Zoning Constraints, and zoning  
300000 requirements for design review, nor do the general construction  
300000 permits allow of mandated noticing and review processes.  
300000  
300000  
300000 In short this process is wrong and will not stand up to legal  
300000 oversight.  
300000  
300000 This can be fixed with a redraft in the permitting process and some  
300000 consideration.  
300000  
300000 So...how are we doing on the draft but?  
300000  
300000  
300000 Alan  
300000  
300000  
300000  
300000  
300000  
300000  
300000 On 2024-06-04 10:51 am, alexine@mac.com wrote:  
300000  
300000 Hello John  
300000  
300000  
300000 May indeed have a permit. However, if you do have a permit there  
300000 are  
300000 number of problems:  
300000  
300000  
300000 Any such permit was obtained without legally mandated process  
300000 (such  
300000 as noticing the neighbors, providing a project description and  
300000 plan  
300000 for a review process - where the public is invited. In addition,  
300000 said permit may or may not be consistent with applicable zoning.  
300000  
300000 However, there is no way to tell.  
300000  
300000  
300000 Please mail me a copy, or e-mail me a copy of said "permit". I  
300000 would  
300000 like to have a look at it.  
300000  
300000 Actually - this request is made under the Public Records Act. I  
300000 require a copy of said permit under the Public Records Act  
300000 including  
300000 other documents appertaining to said "permit", if there are  
300000 electronic  
300000 versions of said "permit" - please direct me as to how I might  
300000 view  
300000 such permit.  
300000  
300000  
300000 Notice: I have been informed of the existence of a permit that I  
300000 had  
300000 not previously been informed of. At this time I have no idea of  
300000 the  
300000 contents or process in origination of said "permit". Nor, have  
300000 I  
300000 been informed of the content, description of proposed activity  
300000 and/or  
300000 controls that this permit is subject to. Said permit may have  
300000 been  
300000 assumed to be ministerial by the City of Santa Rosa. However it  
300000 may  
300000 not be consistent with Zoning Requirements, noticing, and public  
300000 review under both City Code and Public Resources Code. Under  
300000 California Resource Code Coast Action Group has 180 days from  
300000 this  
300000 date to take action and seek legal remedy. If the project  
300000 commences  
300000 prior to resolution of issues, or the appropriate noticing and  
300000 permitting procedures is put in place, Coast Action Group has the  
300000 legal right to seek a restraining order.  
300000  
300000  
300000 Sincerely, Alan Levine for Coast Action Group  
300000  
300000  
300000  
300000  
300000  
300000  
300000  
300000 On 2024-06-04 9:51 am, Chagan, John wrote:  
300000  
300000 Alan,  
300000  
300000 I encourage you to come to the meeting on the June 11th. We







**CERTIFIED FOR PARTIAL PUBLICATION\***

IN THE COURT OF APPEAL OF THE STATE OF CALIFORNIA

FIRST APPELLATE DISTRICT

DIVISION FOUR

PAUL KATZEFF,

Plaintiff and Appellant,

v.

CALIFORNIA DEPARTMENT OF  
FORESTRY AND FIRE PROTECTION  
et al.,

Defendants and Respondents;

GREG KULJIAN and ED POWERS,

Real Parties in Interest.

A122642

(Mendocino County Super. Ct.  
No. SCTMCVG 08-51346)

In this case, we are called upon to decide whether the California Department of Forestry and Fire Protection (CDF) properly granted an exemption allowing the harvesting of less than three acres of timber without environmental review, when one of the mitigation measures to two prior timber harvesting plans for the same property was that the trees in question remain in place to protect a neighboring property from excessive wind. The trial court decided CDF properly granted the exemption, and entered judgment on the pleadings in plaintiff Paul Katzeff's action for violations of the California Environmental Quality Act (CEQA) (Pub. Res. Code,<sup>1</sup> § 21000 et seq.),

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\* Pursuant to California Rules of Court, rules 8.1105(b) and 8.1110, this opinion is certified for publication with the exception of parts II.D.-E.

<sup>1</sup> All undesignated statutory references are to the Public Resources Code. Rule references cited as the Forest Practice Rules in text and as FP Rules parenthetically are to title 14 of the California Code of Regulations.

violations of the Z'Berg-Nejedly Forest Practice Act of 1973 (§ 4511 et seq.) (the FPA), and nuisance. We reverse.

## I. BACKGROUND

This action was brought against CDF, Gregg Kuljian, and Ed Powers (collectively respondents) in April 2008, seeking to set aside CDF's approval of an exemption allowing the conversion of less than three acres of timber on Kuljian's property. According to the first amended complaint and petition for writ of mandate (the complaint),<sup>2</sup> plaintiff and Kuljian own adjoining parcels of property. In 1988, CDF approved a Timber Harvest Plan (THP) on Kuljian's land (the property) (the 1988 THP).<sup>3</sup> CDF concluded that the THP as proposed would allow wind to be funneled and accelerated, creating a threat of damage to Katzeff's property and home. Accordingly, as one of the conditions of approval, CDF required that " 'no trees . . . be removed from within 200 feet of [Katzeff's home] unless prior approval is obtained from [Katzeff].' "

CDF approved another THP for the same location 10 years later, in 1998 (the 1998 THP). Noting the apparent effectiveness of the wind buffer, CDF again required the landowner to refrain from cutting down trees within 200 feet of Katzeff's house.

Some years later, Powers sold the property to Kuljian. Kuljian could not afford to pay the purchase price, and so as a condition of the sale, he agreed to seek a "conversion exemption" pursuant to section 4584, subdivision (g), and to give Powers the right to log and sell the timber.<sup>4</sup> In the application for the conversion exemption, Kuljian stated he

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<sup>2</sup> Because this case comes to us after the trial court granted a motion for judgment on the pleadings, we accept as true all material facts of the complaint. (*Ludgate Ins. Co. v. Lockheed Martin Corp.* (2000) 82 Cal.App.4th 592, 602 (*Ludgate*)). At Power's request, the trial court also took judicial notice of the administrative record in the case, and Katzeff does not contend it was improper for the court to do so.

<sup>3</sup> At the time, Kuljian did not own the property. As we will discuss, the complaint alleges that he bought the property shortly before the complaint was filed in 2008.

<sup>4</sup> Section 4584, a portion of the FPA, provides in pertinent part: "Upon determining that the exemption is consistent with the purposes of this chapter, the board may exempt from this chapter, or portions thereof, a person engaged in forest

intended to convert the timberland to an orchard. In April 2008, CDF “accepted and thereby approved” the conversion exemption.

In his first cause of action, Katzeff alleged that the conversion exemption violated the FPA and CEQA in that it would destroy a mitigation previously deemed necessary. In his second cause of action, he alleged that Kuljian did not have a bona fide intent to convert the land to an orchard. The third cause of action alleged a claim for private nuisance.

Powers moved for judgment on the pleadings on the ground that the complaint did not state a cause of action. (Code Civ. Proc., § 438, subd. (c)(1)(B).) The trial court granted the motion and dismissed the action in its entirety. Katzeff appealed.<sup>5</sup>

## II. DISCUSSION

### A. Standard of Review

“ ‘Review of a judgment on the pleadings requires the appellate court to determine, de novo and as a matter of law, whether the complaint states a cause of action. [Citation.] For purposes of this review, we accept as true all material facts alleged in the complaint. [Citation.] . . . [¶] . . . ‘[W]e give the complaint a reasonable interpretation by reading it as a whole and all of its parts in their context. [Citations.] We are not concerned with a plaintiff’s possible inability to prove the claims made in the complaint, the allegations of which are accepted as true and liberally construed with a view toward attaining substantial justice. [Citations.]’ [Citation.]” (*Ludgate, supra*, 82 Cal.App.4th at p. 602.) “The grounds for the motion must appear on the face of the complaint, and in

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management whose activities are limited to any of the following: [¶] . . . [¶] (g)(1) The one-time conversion of less than three acres to a nontimber use. . . .”

<sup>5</sup> Katzeff’s notice of appeal was filed after the trial court made its order granting Power’s motion for judgment on the pleadings as to all causes of action, but before judgment had been entered. We will treat it as having been filed immediately after entry of judgment. (Cal. Rules of Court, rule 8.104(e)(2).) On appeal, CDF has filed a respondent’s brief addressing the first and second causes of action. Powers has joined CDF’s brief and made additional arguments addressing all three causes of action. Kuljian has filed a one-page brief in which he “generally adopts” the other respondents’ arguments.

any matters subject to judicial notice. (Code Civ. Proc., § 438, subd. (d).)” (*Shea Homes Limited Partnership v. County of Alameda* (2003) 110 Cal.App.4th 1246, 1254.)

## **B. Requirements of FPA and CEQA**

“Timber harvesting operations in this state must be conducted in accordance with the provisions of the Forest Practice Act. The [FPA] was intended to create and maintain a comprehensive system for regulating timber harvesting in order to achieve two goals: (1) to ensure that “[w]here feasible, the productivity of timberlands is restored, enhanced, and maintained”; and (2) to ensure that “[t]he goal of maximum sustained production of high-quality timber products is achieved while giving consideration to values relating to recreation, watershed, wildlife, range and forage, fisheries, . . . and aesthetic enjoyment.” (. . . § 4513.) . . .’ [Citation.] [¶] The [FPA] requires timber owners or operators on private land to submit a timber harvest plan specific to the site and planned logging activity to CDF for approval before harvesting. . . . [¶] CDF’s approval of timber operations is generally subject to CEQA, but under section 21080.5, the [FPA’s] regulatory scheme has been certified for exemption from CEQA’s requirements for preparation of an environmental impact report (EIR) before approval of a project. [Citation.] ‘Under the terms of section 21080.5, subdivision (c), that certification expressly exempts the timber harvesting plan process from the provisions of chapters 3 and 4 and section 21167 of CEQA. (§ 21080.5, subd. (c).) Chapters 3 and 4 deal, in large part, with the various requirements of an EIR at both the state level (chapter 3) and the local level (chapter 4). Section 21167 sets forth the time within which an action challenging a public agency’s decision under the provisions of CEQA must be filed.’ [Citation.]” (*Ebbetts Pass Forest Watch v. California Dept. of Forestry & Fire Protection* (2008) 43 Cal.4th 936, 942-943 (*Ebbetts Pass*)).

Division Five of the First Appellate District explained the relationship between the requirements of the FPA and CEQA in *Friends of the Old Trees v. Department of Forestry & Fire Protection* (1997) 52 Cal.App.4th 1383, 1388, as follows: “Under the [FPA] and its implementing regulations, hereafter Forestry Rules ([rule] 895 et seq.), . . . logging . . . [is] subject to the Department’s approval of a site specific THP. [Citations.]

The THP preparation and approval process is the functional equivalent of the preparation of an environmental impact report (EIR) contemplated by [CEQA]. [Citation.]” “[W]ith the exception of certain specific provisions of CEQA relating to the ‘procedural elements’ of the EIR process, ‘CEQA and its substantive criteria for the evaluation of a proposed project’s environmental impact apply to the timber harvesting industry, and are deemed part of the [FPA] and the Forestry Rules.’ [Citations.] The Supreme Court has . . . reiterated that timber harvesting is not exempt from adhering to the broad policy goals of CEQA. To the contrary, the court held ‘that in approving timber harvesting plans, the [administrative body] must conform not only to the detailed and exhaustive provisions of the [FPA], *but also to those provisions of CEQA from which it has not been specifically exempted by the Legislature.*’ [Citation.] [¶] Significantly, the [FPA] and the Forestry Rules establish a statutory and regulatory framework that, construed together with CEQA, confers on the Department the obligation to see that cumulative impacts and alternatives to the project, as well as other specified environmental information, be taken into consideration in evaluating THP’s.” (*Id.* at p. 1393.) Moreover, “CDF has not only the authority but also the duty to approve, disapprove, and impose mitigation measures on timber harvest plans . . .” (*Ebbetts Pass, supra*, 43 Cal.4th at p. 957.)

As explained in *Environmental Protection Information Center, Inc. v. Johnson* (1985) 170 Cal.App.3d 604, 609-610, a THP “is an informational document designed to serve as an ‘abbreviated’ environmental impact report, setting forth proposed measures to mitigate the logging operation’s potential adverse impact on the environment. CDF and public review of the THP prior to approval is intended to ensure that the adverse environmental effects are substantially lessened, particularly by the exploration of feasible less damaging alternatives to the proposed harvesting project. [¶] . . . [¶] Section 21080.5 [a part of CEQA], provides that the Secretary of the Resources Agency may certify a regulatory program of a state agency as exempt from the requirement of EIR preparation, if the program requires that a project be preceded by the preparation of a written project plan containing sufficient environmental impact information. To be certifiable, the agency’s regulatory program must be governed by rules and regulations

(1) which require that no project shall be approved if there are feasible alternatives or mitigation measures available which would substantially lessen any adverse impact on the environment (§ 21080.5, subd. (d)(2)(i)) . . . .”

### **C. Destruction of Mitigation Measure**

Katzeff’s first cause of action alleges that CDF violated both the FPA and CEQA by approving a conversion exemption that would destroy a mitigation it had previously deemed necessary under those statutory schemes. Katzeff argues that CDF’s actions constituted improper “piecemealing” of a project, and that an agency may not delete a mitigation required by CEQA without supplemental environmental review. Respondents take the position that the approval was a ministerial act not subject to CEQA and that it bore no relationship to the mitigation measures required by the 1988 and 1998 THP’s. They also argue that the THP’s have long since expired, and with them their mitigation requirements.

Several statutes and rules bear upon the parties’ arguments. Section 4581 forbids anyone to conduct timber operations unless a THP has been submitted to CDF.<sup>6</sup> Section 4590, subdivision (a) provides that a THP is effective for no more than three years, unless extended pursuant to specified procedures. Forest Practice Rules, rule 1039.1 provides that the “effective period of the plan” is “the 3-year period following the date the plan is determined to be in conformance or otherwise becomes effective pursuant to PRC 4582.7. Timber operations shall commence no earlier than the expected date of commencement stated in the plan,” except under certain conditions. The THP’s at issue here were approved in 1988 and 1998. There is no dispute that the right to conduct timber operations under these THP’s has expired.

Conversion exemptions are governed by section 4584 and Forest Practice Rules, rule 1104.1. As we have explained, section 4584 allows the State Board of Forestry and Fire Protection, upon determining that the exemption is consistent with the purposes of the FPA, to exempt from the FPA’s requirements anyone whose activities are limited to,

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<sup>6</sup> Section 4582 sets out the necessary contents of a THP.

among other things, “[t]he one-time conversion of less than three acres to a nontimber use.” (§ 4584, subd. (g)(1); see § 4521.3.) Rule 1104.1 establishes the requirements for such exemptions. Under rule 1104.1(a), the conversion exemption “is applicable to a conversion of timberland to a non-timber use only, of less than three acres in one contiguous ownership, whether or not it is a portion of a larger land parcel and shall not be part of a THP.” The notice of conversion exemption, which initiates the process, is required to contain certain material, including the names and addresses of the landowner, timber owner, and others; a legal description of the land at issue; certain maps; and a statement by the owner of the land to be converted certifying that the operation is a one-time conversion to nontimberland use, certifying that there is a bona fide intent to convert, specifying what the use will be after the conversion, and certifying that the landowner has not obtained a conversion exemption in the previous five years, unless a waiver had been granted. (FP Rules, rule 1104.1(a)(1).) As relevant here, timber operations conducted under rule 1104.1 are exempt from the conversion permit and THP requirements of the rules related to the conversion of timberland.

The presenting issue here is whether a conversion exemption that would destroy a mitigation required under now-expired THP’s may be approved without additional environmental review. The parties have drawn our attention to no case precisely on point, and our own research has disclosed none.

Katzeff contends this case is analogous to *Orinda Assn. v. Board of Supervisors* (1986) 182 Cal.App.3d 1145 (*Orinda*). There, a developer sought to build a project that included office, commercial, retail and theater space in downtown Orinda, on a site occupied by a historic theater and bank building that would have been demolished by the project as proposed. (*Id.* at pp. 1150-1153.) While environmental review of the project was proceeding under CEQA, the building inspection department issued an unconditional permit for demolition of the theater and bank building. Division Three of the First Appellate District concluded that this procedure violated CEQA because the “demolition was a phase of the overall Project; as such, it was subject to the same CEQA review as the rest of the Project, and the demolition permit could not be issued until the entire

CEQA process was completed and the overall Project lawfully approved.” (*Orinda*, at pp. 1145, 1171.) The court reasoned: “A public agency is not permitted to subdivide a single project into smaller individual subprojects in order to avoid the responsibility of considering the environmental impact of the project as a whole. ‘The requirements of CEQA, “cannot be avoided by chopping up proposed projects into bite-size pieces which, individually considered, might be found to have no significant effect on the environment or to be only ministerial.” [Citation.]’ [Citation].” (*Ibid.*) The court noted that the demolition of the building had been considered part of the project from the outset, and that “[m]ost important, both the Board and the Planning Commission imposed *conditions* on the demolition of the Theatre and Bank Building as part of their approval of the Project. . . . If demolition could be segregated from other development activities and made nonreviewable, the requirements of CEQA would be avoided altogether . . . .” (*Id.* at p. 1172.)

Several points in *Orinda* are significant here. First, *Orinda* states the well-established principle that a project cannot be divided into smaller parts that individually will not have a significant effect on the environment. Second, this rule is applicable even if one of the smaller parts might require only ministerial, rather than discretionary, approval. Third, where conditions are imposed on a project, those conditions—and the policies behind CEQA—cannot be avoided by applying for another approval apart from the larger project. (*Orinda, supra*, 182 Cal.App.3d at pp. 1171-1172.)

Here, respondents contend, issuance of the conversion exemption was a ministerial action that required no environmental review. Under *Orinda*, however, even if we accept the argument that the exemption was ministerial, an applicant cannot avoid environmental review of a portion of a larger project simply by securing a separate ministerial permit, particularly where the permit would undo the protective effects of conditions imposed on a project’s approval.

We recognize that *Orinda* is not precisely on point because the demolition permit there was issued while the overall project was under review, while here the conversion exemption took place years later. But if that distinction were dispositive, any mitigation

required by CEQA or the FPA could be nullified simply by the passage of time. As Katzeff points out, under this line of reasoning, the wind buffer mitigation could permissibly be destroyed virtually as soon as it became necessary—that is, after the landowner had completed operations under the THP—because the landowner could simply seek a conversion exemption as soon as the right to conduct timber operations under the THP had expired. The conflict between this result and the intent of CEQA is self-evident.<sup>7</sup> As noted in another context, “[e]xpiration of the [approval] was an abstract occurrence that had no effect on the project’s environmental impacts.” (*Moss v. County of Humboldt* (2008) 162 Cal.App.4th 1041, 1056.)

We see no principled distinction between a conversion exemption sought immediately after the right to harvest under a THP has expired, and one sought a decade later. Whether or not the legal right to harvest timber has expired, the environmental effects of the harvest are presumed to remain. The wind buffer was required in order to mitigate the effects of the timber harvest on Katzeff’s property, and respondents offer no basis for a conclusion that the mitigation expires as a matter of law once the time to complete the timber harvesting—the very action that creates the need for the mitigation—has expired.

*Lincoln Place Tenants Assn. v. City of Los Angeles* (2005) 130 Cal.App.4th 1491 (*Lincoln Place*) is also instructive on this question. The owners of an apartment complex built in 1951 sought to demolish the apartments and replace them with new structures.

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<sup>7</sup> In any case, it appears that removal of the trees now at issue was part of the original 1988 THP proposal. The official response of the director of forestry to significant environmental effects raised during the THP evaluation process stated that storm winds were predicted to be funneled and accelerated “as a result of this operation,” noted that Katzeff’s home was within 200 feet of the southeast boundary of the plan, and provided that no trees should be removed within 200 feet of his home without prior approval. Furthermore, a “Wind Impact Analysis” prepared by CDF in December 1987 indicated that Katzeff’s cabin and outbuildings were “near the southeast corner of the harvest area [and were] within striking distance of edge trees,” and suggested as a mitigation measure that a wind buffer strip be left on the southeast corner of the harvest area. This discussion implies cutting down the trees Powers now seeks to harvest in fact was part of the original project as contemplated.

(*Id.* at p. 1495.) As mitigation for the loss of the historical and architectural value of the apartments, the EIR recommended that before demolishing them, photographs should be taken of typical interiors and exteriors, drawings should be made of each type of unit and the site plan, and the structures should be offered for sale and removal to a new location. (*Id.* at p. 1498.) The city adopted the EIR. (*Id.* at p. 1500.) Afterward, however, the State Historical Resources Commission nominated the apartments for inclusion in the National Register, and while the nomination was pending, the owners applied for and obtained permits to demolish five of the structures on the property. (*Id.* at pp. 1500-1501.) The owners took the position that the demolition was not part of the building project, which was “ ‘an entitlement to build; . . . not an entitlement to demolish’ ”; therefore, according to the owners, they only had to comply with the conditions on the redevelopment project when they began building. The Court of Appeal rejected this distinction as “disingenuous at best,” noting that under CEQA a “ ‘project’ ” is “ ‘*the whole of an action*, which has a potential for resulting in’ a direct or indirect physical change in the environment,” and that “CEQA’s requirements ‘cannot be avoided by chopping up proposed projects into bite-size pieces which, individually considered, might be found to have no significant effect on the environment or to be only ministerial.’ ” (*Lincoln Place*, at p. 1507, fn. omitted.) Thus, on these facts, the court continued, “it cannot be argued CEQA does not apply to the . . . demolition on the ground demolition permits are ministerial acts.” (*Lincoln Place*, at p. 1507, fn. 22, citing § 21080, subd. (b)(1) and *Friends of Westwood, Inc. v. City of Los Angeles* (1987) 191 Cal.App.3d 259 [discussion of ministerial and discretionary acts].) The court noted that demolition of the existing apartments had always been part of the owners’ plan and that the city had incorporated the mitigation measures into the project as conditions of approval, and went on: “Having placed these conditions on the demolition segment of the redevelopment project, the city cannot simply ignore them. Mitigating conditions are not mere expressions of hope.” (*Lincoln Place*, *supra*, 130 Cal.App.4th at p. 1508.)

The court in *Lincoln Place* further noted that “[a]lthough the city cannot ignore the mitigating conditions it imposed on the . . . project it can modify or delete them. After a

project has been approved and while it is still being developed a mitigation measure or condition of approval may be changed or deleted if the measure has been found to be impractical or unworkable.” (*Lincoln Place, supra*, 130 Cal.App.4th at pp. 1508-1509.) For this, the court relied on *Napa Citizens for Honest Government v. Napa County Bd. of Supervisors* (2001) 91 Cal.App.4th 342, 358-359, which recognized that CEQA requires an agency to take steps to ensure that mitigation measures “ ‘will actually be implemented as a condition of development, and not merely adopted and then neglected or discarded.’ ” However, the court in *Napa Citizens* went on to conclude that nothing in the law required that “a mitigation measure, once adopted, is binding for all time.” (*Id.* at p. 359.) Rather, “when an earlier adopted mitigation measure has been deleted, the deference provided to governing bodies with respect to land use planning decisions must be tempered by *the presumption that the governing body adopted the mitigation measure in the first place only after due investigation and consideration.* We therefore hold that a governing body must state a legitimate reason for deleting an earlier adopted mitigation measure, and must support that statement of reason with substantial evidence.” (*Ibid.*, italics added; see also *Mani Brothers Real Estate Group v. City of Los Angeles* (2007) 153 Cal.App.4th 1385, 1388-1389, 1403 [no need for supplemental EIR rather than addendum to EIR where substantial evidence supported city’s conclusion mitigation measures no longer necessary].) Although the decision in *Napa Citizens* was made in the context of a land use plan, the court in *Lincoln Place* concluded that the rules adopted in *Napa Citizens* apply to all projects that come within CEQA. (*Lincoln Place, supra*, 130 Cal.App.4th at p. 1509.)

We likewise presume that CDF adopted the mitigation measure at issue only after due investigation and consideration. In fact, the administrative record indicates that this is the case. The wind impact analysis prepared in connection with the 1988 THP discusses the risk that, as a result of the project, storm winds would become “funneled and accelerated on the southeastern corner,” near Katzeff’s house, and would “deflect off the residual trees along the southern edge of the harvest area and will be directed to the corner.” The analysis reviews the literature on this phenomenon and the ways to

minimize its effects, and recommends a buffer strip as a mitigation measure, based on conversations with professors of silviculture at the University of California, Berkeley and at Humboldt State University.

Consistent with the reasoning of the cases we have discussed, we conclude that where a public agency has adopted a mitigation measure for a project, it may not authorize destruction or cancellation of the mitigation—whether or not the approval is ministerial—without reviewing the continuing need for the mitigation, stating a reason for its actions, and supporting it with substantial evidence. There may be good reasons for CDF to conclude that the wind buffer is no longer necessary to protect Katzeff’s house from the effects of the harvesting done pursuant to the 1988 and 1998 THP’s. While the passage of time may have eliminated the need for the mitigation, it does not on its own render the mitigation inoperative, and CDF must justify its decision to allow the buffer strip to be cut down.<sup>8</sup>

Accordingly, we conclude the trial court erred in dismissing the first cause of action.

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<sup>8</sup> As our discussion indicates, our conclusion here does not depend on whether the issuance of a conversion exemption is ministerial or discretionary. We note, however, that the rules applying to conversion exemptions direct that significant adverse impacts should be taken into account when addressing a proposed conversion. Forest Practice Rules, rule 1104.1(a)(1)(E)(2) requires the notice of conversion exemption to include a statement by the owner of the timber certifying that, among other things, “there is [a] ‘bona fide intent[,]’ as defined in CCR 1100(b), to convert.” Rule 1100(b) defines bona fide intent to mean “a present, sincere intention of the applicant to conform with and successfully execute the conversion plan, as determined by the Director in accordance with provisions of [rule] 1105.2.” Rule 1105.2 provides: “The Director shall determine the applicant’s bona fide intention to convert in light of the present and predicted economic ability of the applicant to carry out the proposed conversion; the environmental feasibility of the conversion, including, but not limited to, suitability of soils, slope, aspect, quality and quantity of water, and micro-climate; *adequacy and feasibility of possible measures for mitigation of significant adverse environmental impacts*; and other foreseeable factors necessary for successful conversion of the proposed land use.” (Italics added.)

#### **D. Bona Fide Intent to Convert**

In the second cause of action, Katzeff alleges that Kuljian did not have a present, bona fide intent to convert the land to an orchard, and that the planting of the orchard was not the purpose of the conversion. According to the complaint, Kuljian could not afford to pay the full purchase price for the property, and the real parties accordingly agreed that Kuljian would seek a conversion exemption for the land in question and Powers would retain the rights to the timber. The complaint also alleges that CDF failed to determine that Kuljian had a bona fide intent to convert the timberland under the criteria set forth in rule 1105.2, and that its approval of the conversion was not based on substantial evidence and was unlawful.

Forest Practice Rules, rule 1104.1, which governs conversion exemptions, requires that a registered professional forester submit to the director a notice of conversion exemption timber operations containing a statement by the owner of the timberland to be converted certifying, among other things, “that after considering the owner’s own economic ability to carry out the proposed conversion and the feasibility evaluation required by 14[ ]CCR 1104.1(a)(6) that there is [a] ‘bona fide intent[,]’ as defined in CCR 1100(b), to convert.” (FP Rules, rule 1104.1(a)(1)(E)(2).) Rule 1104.1(a)(6) requires the timberland owner, using the services of a registered professional forester, to provide information that the conversion is feasible, based on the extent of vegetation removal and site preparation required for the conversion, and the suitability of the soils, slope, aspect, and microclimate for the stated nontimber use. Rule 1100(b) defines “ ‘bona fide intent’ ” as “a present, sincere intention of the applicant to conform with and successfully execute the conversion plan, as determined by the Director in accordance with provisions of [rule] 1105.2.”

The administrative record shows that CDF received the notice of conversion exemption on March 21, 2008. The application included Kuljian’s certification that the project was a one-time conversion, that he had the economic means to carry it out and bona fide intent, specifying the use of the land after conversion, and certifying that Kuljian had not obtained such an exemption previously. (See FP Rules, rule

1104.1(a)(1)(E).) It also included a letter by registered professional forester Tom Kisliuk discussing the extent of the vegetation removal and site preparation required for the conversion, concluding that the soils, slope, aspect, and microclimate of the site were suitable for the proposed orchard, and supporting that conclusion with a discussion of the soil type, the slope, effects of weather, erosion hazards. (See *id.*, rule 1104.1(a)(6).) Kisliuk also certified that he had prepared a notice to be mailed by the landowner and that the notice was posted at least five days before the submission of the notice of conversion exemption, as required by rule 1104.1(a)(3);<sup>9</sup> included in the application was a sample of Kuljian’s letter to neighboring landowners (including Katzeff), informing them of his plans to seek the conversion exemption. CDF accepted the conversion exemption on April 9, 2008, which authorized Kisliuk to begin timber operations on the site.

On April 1, 2008, while CDF’s approval was pending, Katzeff wrote to Donald Morse of CDF and expressed his concerns about the effects of the loss of the wind buffer zone. On April 13, 2008, after the conversion exemption had been accepted, Katzeff sent an email message to Morse, informing him that logging had begun, again expressing his concern about increased wind as a result of the operation, and explaining that the site was an unsuitable spot for an orchard and that Kuljian had told him he had been “forced to agree to say that an orchard would be put on that location otherwise he would not be able to purchase the land.”

In light of the factual dispute raised by the administrative record, it was incumbent upon the director to determine whether Kuljian had a bona fide intent to convert the property as required under Forest Practice Rules, rules 1100(b) and 1105.2. (FP Rules, rule 1104.1(a)(1)(E)(2).) The record contains no such determination.

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<sup>9</sup> Forest Practice Rules, rule 1104.1(a)(3) requires the landowner, before submitting the exemption to CDF, to mail a letter to adjacent landowners notifying them of the intent to harvest timber. It also requires the registered professional forester or designee to post a neighborhood notification of conversion exemption timber operations at least five days before the postmark date of the submission of the notice of conversion exemption operations to the director. (*Ibid.*)

The trial court concluded and respondents contend that no such determination is required because the regulation states that the director “shall” approve the exemption when the notice of conversion exemption is “complete and accurate.” (FP Rules, rule 1104.1(a)(4)(A).) But the regulation also requires that the applicant certify that there is a “‘bona fide intent[,]’ as defined in CCR 1100(b), to convert . . .” (rule 1104.1(a)(1)(E)(2)), and rule 1100(b) defines “‘bona fide intent’ ” as “a present, sincere intention of the applicant to conform with and successfully execute the conversion plan, *as determined by the Director in accordance with provisions of [rule] 1105.2.*” (Italics added.) This is in keeping with the law authorizing the exemption. That statute provides that CDF will determine, on a case-by-case basis, whether the proposed one-time conversion of less than three acres “is consistent with the purposes of [the FPA].” (§ 4584, subd. (g)(1).)<sup>10</sup>

Katzeff alleged in his second cause of action that Kuljian did not have a present, bona fide intent to convert the land, and that CDF failed to determine he had such an intent according to the criteria set forth in Forest Practice Rules, rule 1105.2. Applying the principles we have discussed, we conclude these allegations are sufficient to state a cause of action.<sup>11</sup>

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<sup>10</sup> Section 4584 provides in pertinent part: “Upon determining that the exemption is consistent with the purposes of this chapter, [CDF] may exempt from this chapter, or portions thereof, *a person . . . whose activities are limited to . . . : [¶] . . . [¶] (g)(1) The one-time conversion of less than three acres to a nontimber use.*” (Italics added.) Our conclusion that CDF must determine bona fide intent on a case-by-case basis is based on this statute, on Forest Practice Rules, rule 1104.1, which relates to conversion *exemptions*, and the other rules referenced in rule 1104.1; it is not based on the statutes and rules that relate to timberland conversion permits (see § 4621 et seq.).

<sup>11</sup> Without ruling on any particular items of evidence that may be admissible at trial of this matter, we note that our Supreme Court has held that judicial review of a ministerial or informal administrative action is not confined to the administrative record if the facts are in dispute. (See *Western States Petroleum Assn. v. Superior Court* (1995) 9 Cal.4th 559, 575-576.)

**E. Nuisance**

Katzeff’s third cause of action alleges that the proposed logging operation will constitute a private nuisance that will injure him, and seeks a judicial determination as to whether the logging is lawful.

Government Code section 51115.5 provides in part: “(a) Notwithstanding any other provision of law, timber operations conducted within a timber production zone pursuant to the provisions of the [FPA] shall not constitute a nuisance, private or public. [¶] (b) This section is not applicable with respect to any timber operation which (1) endangers public health or public safety . . . .” This provision has been described as exempting timber operations in timberland production zones “(if conducted in compliance with the FPA) from being considered a public or private nuisance [citation].” (*Big Creek Lumber Co. v. County of San Mateo* (1995) 31 Cal.App.4th 418, 425, fn. 12.)

Powers argues that he and the Department acted properly in accordance with the FPA and the applicable Forest Practice Rules, and that therefore, under Government Code section 51115.5, he cannot be liable for nuisance in connection with his activities under the conversion exemption. We have already concluded that Katzeff has stated a cause of action as to whether the conversion exemption is lawful under the FPA. In the circumstances, we likewise conclude that he has stated a cause of action as to whether any such activities, if unlawful, would constitute a nuisance.

**III. DISPOSITION**

The judgment is reversed. The stay of timber operations heretofore imposed by writ of supersedeas shall remain in effect pending finality of this opinion.

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RIVERA, J.

We concur:

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RUVOLO, P.J.

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SEPULVEDA, J.

A122642

Trial Court:

Superior Court of Mendocino County

Trial Judge:

Honorable Richard J. Henderson

Attorney for Appellant:

Paul V. Carroll

Attorney for Respondent:

Edmund G. Brown, Jr.  
Attorney General  
Mary E. Hackenbracht  
Senior Assistant Attorney General  
Anita E. Ruud  
Deputy Attorney General

Attorney for Real Party in Interest:

Gregg Kuljian

Ryan F. Perkins

Ed Powers

Jared G. Carter  
Brian C. Carter  
Daniela M. Pavone  
Carter & Momsen, LLP

PUBLIC HEARING - REZONING/USE PERMIT AND TENTATIVE MAP - Matanzas Woods - 950 Sonoma Avenue - File No. 79-0149

PROJECT PLANNER:

Jerry Duggan

ULTIMATE PROJECT:

10-unit Planned Residential Unit Development

LOCATION:

950 Sonoma Avenue

ASSESSOR NUMBER:

9-211-85

GENERAL PLAN DESIGNATION:

Medium Density Residential

CURRENT ZONING/PROPOSED:

R-3-15-PD/R-3-15-PD

OWNER/APPLICANT:

William Abel

REPRESENTATIVE:

Lawry, Coker, DeSilva

REQUESTED ACTION:

Approve Use Permit and Tentative Map; Recommend approval of Rezoning

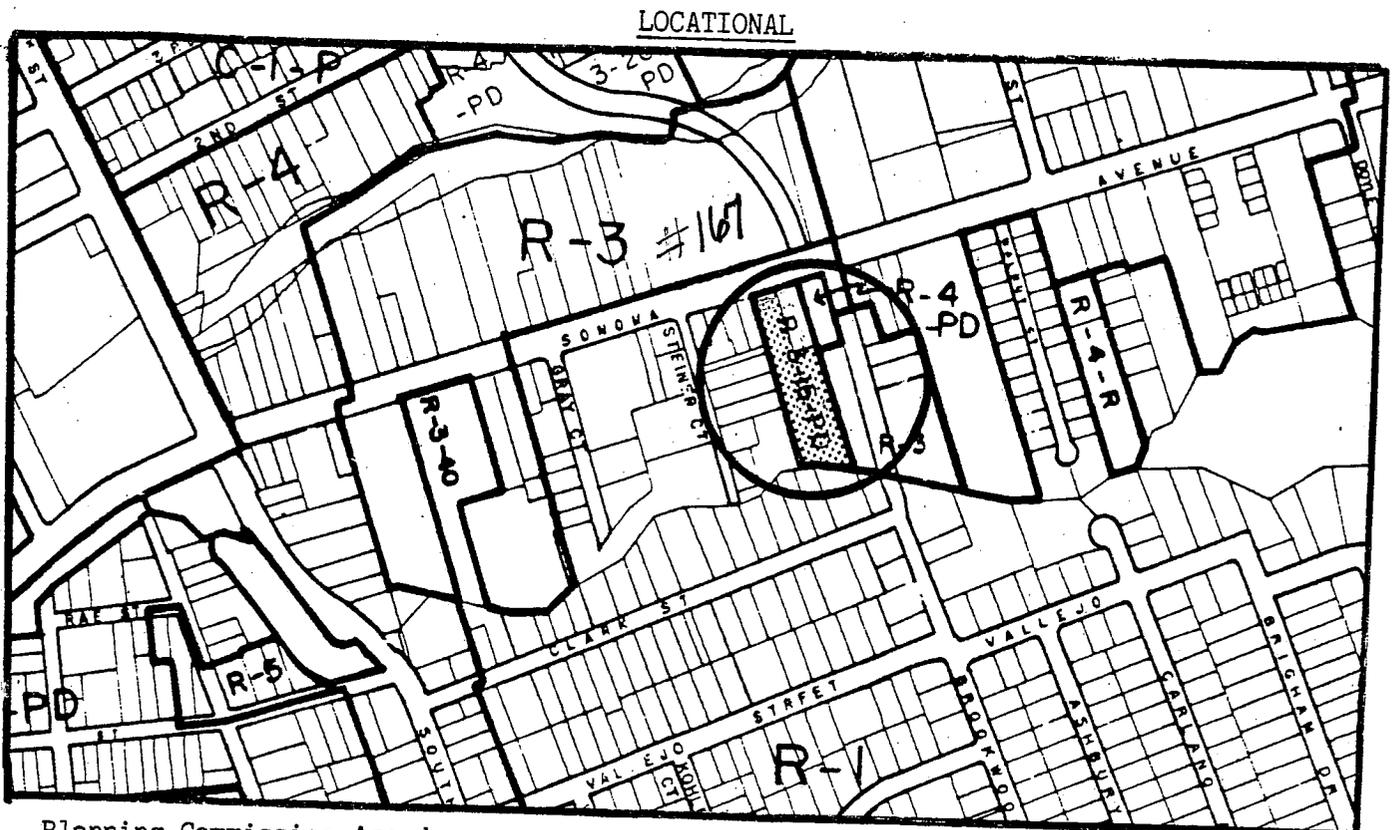
*Plans not implemented*

FURTHER ACTIONS REQUIRED:

Use Permit/Design Review

STAFF RECOMMENDATION:

Approval of Map; Recommend approval of Rezoning



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Parking lot by CUP under R-3.

DEVELOPMENT AND POLICY GUIDELINES

MATANZAS WOODS

A 1.17 Acre Planned Unit Development  
950 Sonoma Avenue, Santa Rosa, California  
Owner/Developer - William J. Abel

CITY OF SANTA ROSA  
P. O. Box 1678  
Santa Rosa, CA. 95402

NOV 10 1983

DEPARTMENT OF  
COMMUNITY DEVELOPMENT

I. OBJECTIVE

- A. It is the developer's intent to achieve rezoning of the subject property through the Planned Development (PD) Process in order to develop it under the combined guidelines of Residential (R-3) and Planned Unit Development (PD) Zoning and the criteria set forth in this document.
- B. Proposed Use: Townhouse Units.

II. GENERAL CRITERIA

- A. The proposed development will serve as a residential complex for the Santa Rosa community and, as such, shall be a visual as well as a functional entity. A "unifying" architectural theme should tie all structures together though the use of identical or similar materials and building character. Landscaping shall reinforce this concept of a unified development as well as providing a softening affect on parking areas. Appropriate parking requirements must be satisfied and proper consideration shall be given to pedestrian as well as vehicular traffic and movements.
- B. If phasing of the development is required, each phase must stand on its own and satisfy all parking requirements. More over, "temporary" walls, building elements, fencing, and site elements which subtract from a design completeness either aesthetically or functionally will not be permitted.
- C. The townhouse development shall have a "complexity" meaning comprised of many parts whereby environmental stimulation and challenge exist. Each subpart should be developed and clearly expressed so that the whole that results may be vivid, complex and rich. The structures as well as the surrounding grounds shall heighten the action of ordinary life into a more dramatic, memorable experience.

### III. SITE DESIGN

- A. Vehicular Access: Vehicular access to the site will be from Sonoma Avenue. A maximum of one drive will be required at the entry and this drive should be of the "throat" type with no adjacent parking for at least 50 feet from Sonoma Avenue south into the site in order to prevent vehicular backup onto the street where traffic is the greatest. As this drive proceeds south from Sonoma Avenue, it will turn west and east to form a "T" configuration, giving access to units adjacent to the creek.
- B. Parking: Upon completion of the development, the total parking to townhouse unit ratio shall be no less than 2.5 stalls per unit with 1.0 for occupants. Parking stalls and drive aisles shall comply with current City dimensional standards. Parking areas shall be broken into increments that relate functionally to the buildings they must directly serve.
- C. Equipment Areas: All areas used for mechanical equipment such as meters and transformers shall be screened from public view. Adequate enclosures for trash and garbage must be provided.
- D. Landscaping: Upon completion of the total development, not less than 10% of the site area shall be developed with landscaping. All landscaped areas shall be provided with a fully automatic irrigation system. The following criteria shall apply to site landscaping:
1. Wherever possible, major drive lanes shall be bounded with planting areas containing trees, shrubs and ground cover in order to minimize the effect of the paved areas.
  2. Court areas should include canopy-type trees that will provide shade during summer days.
  3. The planting scheme shall be such that it unifies the entire development. This may be achieved through a repetitive use of tree species and ground covers that are dispersed throughout the development.
- E. Utilities and Storm Drainage: All utilities shall be located underground. Sheet flow runs of storm drainage shall be kept away from areas of pedestrian travel in the parking areas and ponding of storm water is to be avoided. On-site storm drainage will be discharged by culverts or other suitable means into a storm drainage system constructed in compliance with Sonoma County Water Agency and the City of Santa Rosa Public Works Department. Both water and sanitary services are available along Sonoma Avenue at the north side of the site. It is assumed that other utilities such as gas, power and telephone are or will be made available. All utilities and their distribution shall be underground.

- F. Ownership and Maintenance of Common Areas: The developer will subdivide the development into a series of parcels or lots all or some of which will be sold to the user of that parcel or to a third party on a sale-lease back basis. Initial ownership will be vested in the developer and prior to starting construction, a maintenance program for all common areas within the development will be established and managed by the developer. By written agreement, all parcel owners will share in the maintenance costs on a prorated area basis. Upon completion of all stages of the development, the developer may transfer management of the maintenance program to another on-site owner or to a third party.
- G. On-Site Open Spaces: Open spaces comprised of access drives, parking areas, service drives and courts are intended for general use and constitute a common area which will be covered by easements insuring joint use by all users in the center.
- H. Miscellaneous : Adequate provisions shall be made for the following:
  - 1. Adequate exterior lighting.
  - 2. Each unit shall provide adequate storage and space for laundry facilities. If provided in the garage, the space shall not encroach into the area used for vehicular parking.
  - 3. Each unit shall be separated from adjacent units by two one-hour firewalls.
  - 4. The consumption of gas, electricity, cable T.V., and water within each dwelling unit shall be separately metered so that the unit owner can be individually billed for each utility. A shut-off valve for each utility shall be provided for each unit.

#### IV. BUILDING DESIGN

- A. In order to achieve a visual continuity of building design throughout the center, a unifying motif or theme must be employed that ties the structures together into one architectural statement. This can be achieved by employing the following elements:
  - 1. A uniform use of roofing tiles on all exposed roofs.
  - 2. Repetitive use of paving materials for vehicular and pedestrian traffic.
- B. While it is intended that a uniform architectural scheme be used throughout the center, minor thematic variations in design should be permitted to provide interest and variety. Typical examples would be in the use of compatible colors of exterior colors and variations in window treatments.

- C. In order to reduce the linear aspect of the buildings, variations in roof lines should be employed and, where possible, offsets in the building's principal facades should be considered.
- D. Signing: Principal signing shall consist of one low profile (maximum 6 feet off grade) sign at the entrance of the site at Sonoma Avenue and any other signs shall be to identify direction of traffic flow or parking restrictions only. All signs and signing programs shall be subject to Community Development Department review and approval.
- E. Building Heights: No buildings within the development will exceed 35 feet in height measured to the highest point on the roof.

ORDINANCE NO. 2361

AN ORDINANCE AMENDING APPENDIX B OF THE SANTA ROSA CITY CODE - RECLASSIFYING PROPERTY - (MATANZAS WOODS); LOCATED AT 950 SONOMA AVENUE (ASSESSOR'S PARCEL NUMBER (9-211-85); FILE NUMBER 79-0149

Section 1. The Council of the City of Santa Rosa, based on the evidence and records presented, that planned development ("PD") treatment is appropriate for the reclassification of the property identified in Section 2 due to subject property's physical configuration and its location adjacent to established development.

The Council further finds and determines that the reclassification of the subject property to the ~~R-3-10-PD~~ District is consistent with the Santa Rosa General Plan in that:

1. The zoning provides Multiple Family Residential Planned Unit Development land uses in conformance with the policies of the Land Use Element of the City's General Plan ; and
2. Adequate City services can be provided for the proposed development.

The Council has read, reviewed, and considered the approved and adopted Negative Declaration for this project and determines that this reclassification will not have a significant effect on the environment as shown by said Negative Declaration.

Section 2. All conditions required by law having been satisfied and all findings with relation thereto having been made, Appendix B of the Santa Rosa City Code is hereby amended by amending the "Zoning Map of the City of Santa Rosa", as described in Section 203, so as to change the classification of the hereinafter described property as follows:

Assessor's Parcel No. 9-211-85 is changed to the R-3-15-PD (Multiple Family Residential Planned Unit Development) District. The Preliminary Development Plan dated January 25, 1984 is on file in the Department of Community Development, is hereby approved and the same shall govern all development of the property. In addition to any other conditions that are deemed appropriate or necessary at the time a use permit or other development permit is applied for, any development approval for this property shall be expressly conditioned to require the applicant to fulfill all conditions and requirements of the Engineering Advisory Committee Report, dated February 15, 1984, as amended on March 2, 1984.

Section 3. This ordinance shall be in full force and effect on and after the 31st day following its adoption.

IN COUNCIL DULY PASSED this 1st day of May, 1984.

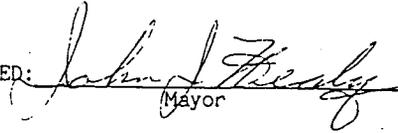
AYES: (5) Mayor Healy, Councilmen Barone, Born, Burkart and Jeffries

NOES: (0)

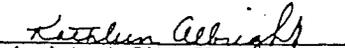
ABSENT: (0)

ABSTAIN: (0)

APPROVED:

  
Mayor

ATTEST:

  
Assistant City Clerk

APPROVED AS TO FORM  
CITY ATTORNEY

BY.....



ORDINANCE NO. 2041

AN ORDINANCE AMENDING APPENDIX B OF THE SANTA ROSA CITY CODE REZONING PROPERTY LOCATED AT 950 SONOMA AVENUE FILE NUMBER 79-0149

THE PEOPLE OF THE CITY OF SANTA ROSA DO ENACT AS FOLLOWS:

Section 1. All conditions required by law having been satisfied and all necessary findings with relation thereto having been made, Appendix B of the Santa Rosa City Code is hereby amended by amending the "Zoning Map of the City of Santa Rosa" as described in Section 203 so as to change the zoning of the hereinafter described property as follows:

Assessor Parcel Number 9-211-44 and 9-211-68 from the R-3(Multiple Family Residential) District, to the R-3-15-PD (Multiple Family Residential-Planned Unit Development Combining) District, the development plan is on file in the Department of Community Development and attached as Exhibit A.

Section 2. This ordinance shall be in full force and effect from and after its adoption and publication or as soon thereafter as all precedents of law have been satisfied.

IN COUNCIL DULY PASSED this 9th day of October, 1979.

AYES: (5) Mayor Healy, Councilmen Barone, Born, Guggiana and Wilhelm

NOES:

ABSENT:

APPROVED:

*John J. Healy*

ATTEST:

*Kathleen Albright*  
Assistant City Clerk

APPROVED AS TO FORM  
CITY ATTORNEY

BY \_\_\_\_\_

Check old  
APN book  
PD# 167

RESOLUTION NO. 17236

A RESOLUTION OF THE COUNCIL OF THE CITY OF SANTA ROSA FINDING AND DETERMINING THAT THE PROPOSED PUBLIC SAFETY BUILDING PARKING LOT NO. 2 IS CONSISTENT WITH THE CITY OF SANTA ROSA GENERAL PLAN - FILE NO. 84-0045

WHEREAS, the Planning Commission of the City of Santa Rosa reviewed the question of the consistency of the proposed Public Safety Building Parking Lot No. 2 with the City's General Plan at a public hearing held March 28, 1985; and

WHEREAS, the Planning Commission received presentations from the staff and others regarding the proposed Public Safety Building Parking Lot No. 2 and the City's General Plan and determined that the parking lot was consistent with the General Plan; and

WHEREAS, the Council has reviewed and considered the proposed Public Safety Building Parking Lot No. 2, the staff presentations, the Planning Commission findings, and the testimony and other evidence of all those wishing to be heard on the question of the proposed parking lot's consistency with the General Plan.

NOW, THEREFORE, based on the reports, records, testimony, and other evidence, the Council of the City of Santa Rosa determines that the proposed Public Safety Building Parking Lot No. 2 is consistent with the Santa Rosa General Plan, and this regard the Council finds as follows:

1. The General Plan allows Public Facility Land Uses throughout the planning area as shown on the General Plan Graphic. Public facility uses such as a parking lot are too small to be shown on the Land Use plan. Public facilities, by necessity and policy, can be placed in all zones and scattered throughout the community, according to the following Land Use Element language for Institution/Public or Semi-Public Facility:

"New facilities may be appropriate in any land use category based on need and environmental review."

2. The proposed Public Safety Building Parking Lot No. 2 is an accessory and similar public facility to the Public Safety Building which was previously found consistent with Density designation of the General Plan.
3. The General Plan acknowledges that additional public facilities will be needed to serve the planning area population in the year 2000. In this regard, the development of the site would not hinder the goals and objectives of the General Plan in that such public facilities will be needed to serve the population in the year 2000.
4. The update of the Land Use Graphic as a part of the amendment process in 1984 added substantial land to higher residential density categories so that the removal of 1.42 acres does not significantly reduce the total land available for residential development.
5. The development of the site as a parking lot for the Public Safety Building can be designed in a manner that would not significantly change the character of the area in that an appropriate combination of berming, landscaping and fencing can render the parking lot development of the site compatible with the character of the area.
6. Development of the site for a public facility use (parking lot), would not set a pattern for similar private uses along Sonoma Avenue in that such a public facility use is a one-of-a-kind accessory use to an existing Public Safety Building.
7. The development of a public safety building parking lot is be an appropriate use on Sonoma Avenue.

8. Unlike other single family lots that back onto medical offices and related parking (located on Sonoma Avenue), the lots adjacent to the subject site (fronting Steiner Court) are large and deep. In this regard, development of the site for a public safety building parking lot would have little effect on adjacent residential uses.
9. The site proposed as a public safety building parking lot is in a location that provides a logical separation between office uses to the east and residential uses to the west.

IN COUNCIL DULY PASSED this 9th day of April, 1985.

AYES: (4) Mayor Jeffries, Councilmen Berto, Burton and Healy

NOES: (0)

ABSENT: (1) Councilman Burkart

ABSTAIN: (0)

APPROVED: \_\_\_\_\_

Mayor

ATTEST: \_\_\_\_\_

Assistant City Clerk

APPROVED AS TO FORM

\_\_\_\_\_

City Attorney

CC4-9-R5

Res. 17236 P. 2/2

RESOLUTION NO. 5652

RESOLUTION OF THE PLANNING COMMISSION OF THE CITY OF SANTA ROSA  
GRANTING A ONE YEAR EXTENSION OF TIME FOR THE MATANZAS WOODS TENTATIVE  
MAP - 950 SONOMA AVENUE - FILE NO. 79-0149

WHEREAS, the Planning Commission of the City of Santa Rosa has considered the request to extend the period for filing of the final map for the Matanzas Woods Subdivision from October 13, 1983 to October 13, 1984; and

WHEREAS, conditions pertaining to the subject development have not changed to any appreciable degree.

NOW, THEREFORE, BE IT RESOLVED that the Planning Commission of the City of Santa Rosa hereby grants a one year extension of time for the filing of the final map for the Matanzas Woods Subdivision, subject to the following conditions:

1. Compliance with Planning Commission Resolution No. 4717 dated March 13, 1980, and Planning Commission Resolution No. 5173, dated October 8, 1981.

DULY AND REGULARLY ADOPTED by the Planning Commission of the City of Santa Rosa on the 10th day of November, 1983, by the following vote:

AYES: 7 (EVANS, BAMBER, BURTON, JONES, KATTE, LUCAS, ZENI)  
NOES: 0  
ABSENT: 0  
ABSTAIN: 0

ATTEST:

  
SECRETARY

APPROVED:

  
CHAIRMAN

RESOLUTION NO. 4540

RESOLUTION OF THE PLANNING COMMISSION OF THE CITY OF SANTA ROSA DENYING, WITHOUT PREJUDICE, AN APPLICATION FOR REZONING OF PROPERTY SITUATED AT 950 SONOMA AVENUE - MATANZAS WOODS - FILE NUMBER 79-0149

WHEREAS, after public hearing on the application for rezoning of property situated at 950 Sonoma Avenue from R-3 District to R-3-15 PD District, the Planning Commission determined that such rezoning is not required for public convenience, necessity, or general welfare for the following reasons:

1. That the proposed development plan is inadequate in provision of parking;
2. That the proposed circulation system is inadequate;
3. That the proposed use would create land use problems for the adjacent area.

NOW, THEREFORE, BE IT RESOLVED that the application for rezoning of property located at 950 Sonoma Avenue; more precisely described as Assessors Parcel Number 9-211-4 from R-3 District to R-3-15PD District be denied.

REGULARLY PASSED AND ADOPTED by the Planning Commission of the City of Santa Rosa on the 9th day of August, 1979, by the following vote:

AYES: (4) Andrews, Crownover, LaCornu, Cooper

NOES: (1) Peletz

ABSENT: (2) Holmes, Zeni

ABSTENTION: (0) None

APPROVED: WENDE COOPER  
Chairman

ATTEST: JAMES K. BURNS  
Secretary

I hereby certify that the foregoing resolution is a true and correct copy of a resolution duly and regularly adopted by the Planning Commission of the City of Santa Rosa at a regular meeting thereof held on August 9, 1979.

Michael K. Grogan



COAST ACTION GROUP  
126 Steiner Ct.  
Santa Rosa, CA 95404

July 12, 2024

City of Santa Rosa Planning Department  
100 Santa Rosa Ave STE 3,  
Santa Rosa, CA 95404

Documents – Sent via E-mail to: [SMurray@srcity.org](mailto:SMurray@srcity.org), [PLorence@srcity.org](mailto:PLorence@srcity.org),  
[Building@srcity.org](mailto:Building@srcity.org), [Planning@SRcity.org](mailto:Planning@SRcity.org),

Subject: Comments: Police Department Security Fence, 125 Brookwood Avenue & 950 Sonoma Avenue (Note: No Project number was present in noticing).

## **HISTORY**

In 2009 permits were issued for the construction of a parking lot for police and fire department employee vehicles. This project was subject to environmental determination of a Negative Declaration. The project was determined to have potential environmental effects - and due to mitigations in the project, the project was determined to be fully mitigated. Some of the determinations and mitigations on the project were related to visual and esthetic effects on the neighborhood. Some of the determinations and mitigations were specifically related to fencing. Please reference language in the 2009 permit and related Resolutions (attached and to be made part of the Administrative Record).

Findings and Mitigations from the 2009 Permit and Approval Process:

Resolution MNP09-023: The design and layout of the proposed development is of superior quality and is consistent with the General Plan, any applicable specific plan, applicable Zoning Code standards and requirements, the City's Design Guidelines, architectural criteria for special areas, and other applicable City requirements....The architectural design of the proposed development is compatible with the character of the surrounding neighborhood....The design of the proposed development will provide a desirable environment for its occupants, visiting public, and its neighbors through the appropriate use of materials, texture, and color and would remain aesthetically appealing and be appropriately maintained. Comply with all applicable federal, state, and local codes. Comply with the Mitigation Monitoring Report dated October 12, 2009 in the mitigated Negative Declaration.

## NOTICE OF PUBLIC REVIEW AND INTENT TO ADOPT AMITIGATED NEGATIVE DECLARATION – Initial Study and Mitigation Plan (2009)

This proposal would pave 0.287 of an acre for the parking area, retain existing trees and add landscaping to the site.

Implement NPDES permit requirements

Tree planting requirement (16 trees were required to be planted - with vegetation management)

Land Use Planning - indicates project is consistent with local zoning ordinance (including 6' fence height requirement) and the 2020 General Plan (which would include mitigation of light pollution with down lighting and controlling hazardous vegetation accumulation), and maintaining the character of the neighborhood.

Noise - Project developers should propose noise mitigation consistent with General Plan Noise and Area Plan Community Design Policies to reduce year 2010 exterior noise levels on proposed residential and school land uses to 60 Ld., or below, and on proposed playgrounds and neighborhood park land uses to 70 Ld.,'

Resolution 17236 :

“designed in a manner that would not significantly change the character of the area in that an appropriate combination of berming, landscaping, and fencing can render the parking lot development of the site compatible with the character of the area.”

THE ABOVE NOTED CRITERIA WERE APPLIED TO THE 2009 PROJECT AS A RESULT OF THE INITIAL STUDY, CEQA DETERMINATION , AND LIST OF MITIGATIONS.

### **CURRENT HISTORY**

In May 2024 Planning issued a permit for a 8' corrugated fence to be constructed. There was no noticing associated with this permit. There was no design review for this permit.

Later in June there was a meeting with the Police Chief and staff to discuss an amended project - which was subsequently noticed by Planning with a bill board at the entrance of parking lot – 950 Sonoma indicating a Design Review Board meeting to be held on July 18, 2024.

The current plan for the fence project is indicated to be 8' brown corrugated fence on 3 sides (with a gate on Sonoma Ave) and 6' brown corrugated fencing on the western perimeter. The discussion with the Police Chief and staff indicted the western perimeter fencing was to be inset 2' from the property line – while leaving in place the 6' chain link fencing on the western property line (except for two parcels on Steiner Ct that have no fencing).

## ISSUES

- 1) The project description is incomplete. Nowhere in the project description is it indicated there are to be two rows of fencing on the western perimeter.
- 2) The project should be better described with a site plan. A site plan was requested. No site plan has been made available.
- 3) If there are two rows of fencing 24” apart, how is vegetation in the narrow area to be managed? It was discussed that a gate for access and management would be placed at the end of the two fence lines. This will not work – as the trees currently on the west perimeter will make access in the 24” space impossible. You simply will not be able to get around the trees and other vegetation.
- 4) Currently, and in the future, the current tree growth, and other vegetation growth , (which has not been managed, and cannot be managed - due to lack access and failure to keep up with responsibility to manage) is an issue that needs to be addressed. This is causing nuisance and fire hazard – which is not consistent with State and Local vegetation and fire safe management guidelines.
- 5) Lighting in the parking lot area (recently installed) is not consistent with current Santa Rosa City Zoning Ordinance and General Plan. Lighting must comport with the zoning guidelines and environmental determinations of the 2009 plan.
- 6) Stormwater NPDES Permit Requirements are not being met on site.
- 7) Mitigation requirements included in the 2009 plan and related resolutions must be carried forward with this new project. (See discussion – below).

## PROJECT MUST FOLLOW CEQA

Consistency with Public Resources Code and current law must be applied – i.e this project must consider and honor the mitigations associated with the previous (2009) plan. It is a violation of CEQA (Guidelines and intent – including established law) to fail to honor and employ mitigations previously employed (in this case the 2009 project – study, resolutions, and mitigations).

Appeals Court Published finding:

"Consistent with the reasoning of the cases we have discussed, we conclude that where a public agency has adopted a mitigation measure for a project, it may not authorize destruction or cancellation of the mitigation—whether or not the approval is ministerial—without reviewing the continuing need for the mitigation, stating a reason for its actions, and supporting it with substantial evidence."

IN THE COURT OF APPEAL OF THE STATE OF CALIFORNIA, FIRST APPELLATE DISTRICT, DIVISION FOUR

A122642 (Mendocino County Super. Ct. No. SCTMCFG 08-51346)

We understand that a fence is needed. However, this project needs more consideration, review , and modification.

Alan Levine for Coast Action Group.

texture, and color and would remain aesthetically appealing and be appropriately maintained.

- The proposed project has been reviewed in compliance with the California Environmental Quality Act (CEQA) and an Initial Study/Mitigated Negative Declaration was posted at the County Clerk's Office from October 29, 2009 to November 18, 2009.

This entitlement would not be granted but for the applicability and validity of each and every one of the below conditions and that if any one or more of the below conditions is invalid, this entitlement would not have been granted without requiring other valid conditions for achieving the purposes and intents of such approval. The approval of the project is contingent upon compliance with all the conditions listed below. Use shall not commence until all conditions of approval have been complied with. Additional permits and fees are/may be required. **It is the responsibility of the applicant to pursue and demonstrate compliance.**

1. A building permit is required
2. Comply with all applicable federal, state, and local codes. Failure to comply may result in issuance of a citation and/or revocation of approval.
3. Comply with the latest adopted ordinances, resolutions, policies, and fees adopted by the City Council at the time of building permit review and approval.
4. Comply with the Mitigation Monitoring Report dated October 12, 2009 in the mitigated Negative Declaration.

This Mitigated Negative Declaration, Minor Conditional Use Permit and Design Review are hereby approved on this 19<sup>th</sup> day of November 2009 for the duration of use provided conditions are complied with and use has commenced within two years from approval date. The approval is subject to appeal within ten calendar days from the date of approval.



\_\_\_\_\_  
Joel Galbraith  
Zoning Administrator

**From:** [Kirk, Lou](#)  
**To:** [Murray, Susie](#); [Jones, Jessica](#)  
**Subject:** RE: [EXTERNAL] Re: Police Department Parking lot issues  
**Date:** Monday, June 3, 2024 2:17:32 PM  
**Attachments:** [image002.png](#)  
[image003.png](#)

---

Thank you so much!

~L

**Lou Kirk (he/him/his) | Assistant Chief Building Official**

Planning & Economic Development | 100 Santa Rosa Avenue, Room 3 | Santa Rosa, CA 95404

Hours: Monday - Thursday, 6:30 AM - 5:30 PM

Tel. (707) 543-3248 | [Lkirk@srcity.org](mailto:Lkirk@srcity.org)



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**From:** Murray, Susie <[SMurray@srcity.org](mailto:SMurray@srcity.org)>  
**Sent:** Monday, June 3, 2024 2:11 PM  
**To:** Jones, Jessica <[jjones@srcity.org](mailto:jjones@srcity.org)>; Kirk, Lou <[lkirk@srcity.org](mailto:lkirk@srcity.org)>  
**Subject:** RE: [EXTERNAL] Re: Police Department Parking lot issues

I am planning to attend and I have the background.

**Susie Murray | Supervising Planner | Staff Liaison to the Cultural Heritage Board**

Planning and Economic Development | 100 Santa Rosa Avenue, Room 3 | Santa Rosa, CA 95404

Tel. (707) 543-4348 | Fax (707) 543-3269 | [SMurray@srcity.org](mailto:SMurray@srcity.org)



---

**From:** Jones, Jessica <[jjones@srcity.org](mailto:jjones@srcity.org)>  
**Sent:** Monday, June 3, 2024 1:52 PM  
**To:** Kirk, Lou <[lkirk@srcity.org](mailto:lkirk@srcity.org)>; Murray, Susie <[SMurray@srcity.org](mailto:SMurray@srcity.org)>  
**Subject:** Re: [EXTERNAL] Re: Police Department Parking lot issues

Lou,

I believe that Susie has agreed to be at the meeting (Susie, as mentioned, the background has already been done, which I think I forwarded to you).

Jess

**Jessica Jones (she/her) | Deputy Director - Planning**

Planning and Economic Development Department | [100 Santa Rosa Avenue, Room 3 | Santa Rosa, CA 95404](#)

Tel. [\(707\) 543-3253](#) | Mobile [\(707\) 292-0963](#) | [jjones@srcity.org](mailto:jjones@srcity.org)

---

**From:** Kirk, Lou <[kirk@srcity.org](mailto:kirk@srcity.org)>

**Sent:** Monday, June 3, 2024 1:09:42 PM

**To:** Jones, Jessica <[jjones@srcity.org](mailto:jjones@srcity.org)>; Murray, Susie <[SMurray@srcity.org](mailto:SMurray@srcity.org)>

**Subject:** FW: [EXTERNAL] Re: Police Department Parking lot issues

Hi Jess and Susie,

I am following up on the below email. The Chief is looking for confirmation that Planning staff will be available.

Thank you!

~L

Lou Kirk (he/him/his) | Assistant Chief Building Official

Planning & Economic Development | 100 Santa Rosa Avenue, Room 3 | Santa Rosa, CA 95404

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Tel. (707) 543-3248 | [Lkirk@srcity.org](mailto:Lkirk@srcity.org)

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-----Original Message-----

From: Kirk, Lou

Sent: Monday, June 3, 2024 1:08 PM

To: Cregan, John <[JCregan@srcity.org](mailto:JCregan@srcity.org)>; Murray, Susie <[SMurray@srcity.org](mailto:SMurray@srcity.org)>

Cc: Lorence, Pamela <[PLorence@srcity.org](mailto:PLorence@srcity.org)>

Subject: RE: [EXTERNAL] Re: Police Department Parking lot issues

Hi Chief,

My understanding is that someone from Planning will be there, but I will try to confirm today.

I -- or someone -- will be back in touch ASAP.

~Lou

Lou Kirk (he/him/his) | Assistant Chief Building Official Planning & Economic Development | 100 Santa Rosa Avenue, Room 3 | Santa Rosa, CA 95404  
Hours: Monday - Thursday, 6:30 AM - 5:30 PM Tel. (707) 543-3248 | [Lkirk@srcity.org](mailto:Lkirk@srcity.org)

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-----Original Message-----

From: Cregan, John <[JCregan@srcity.org](mailto:JCregan@srcity.org)>  
Sent: Monday, June 3, 2024 12:53 PM  
To: Kirk, Lou <[Lkirk@srcity.org](mailto:Lkirk@srcity.org)>; Murray, Susie <[SMurray@srcity.org](mailto:SMurray@srcity.org)>  
Cc: Lorence, Pamela <[PLorence@srcity.org](mailto:PLorence@srcity.org)>  
Subject: FW: [EXTERNAL] Re: Police Department Parking lot issues

Just wanted to make sure that someone from Code Enforcement will be prepared to discuss the accurate zoning requirements at our community meeting for the fencing project next week. See below for one of the neighbors concerns.

John Cregan | Chief of Police  
Santa Rosa Police Department  
965 Sonoma Ave. | Santa Rosa, CA 95404  
Tel. (707) 543-4070 | Fax (707) 543-3557 | [jcregan@srcity.org](mailto:jcregan@srcity.org) Facebook | Twitter | Instagram | Nextdoor | CivicReady

-----Original Message-----

From: [alevine@mcn.org](mailto:alevine@mcn.org) <[alevine@mcn.org](mailto:alevine@mcn.org)>  
Sent: Monday, June 3, 2024 12:08 PM  
To: [coylaw@sonic.net](mailto:coylaw@sonic.net)  
Cc: Cregan, John <[JCregan@srcity.org](mailto:JCregan@srcity.org)>; Fleming, Victoria <[VFleming@srcity.org](mailto:VFleming@srcity.org)>; Rogers, Natalie <[NRogers@srcity.org](mailto:NRogers@srcity.org)>; MacDonald, Dianna <[dmacdonald@srcity.org](mailto:dmacdonald@srcity.org)>; Okrepkie, Jeff <[JOkrepkie@srcity.org](mailto:JOkrepkie@srcity.org)>; Rogers, Chris <[CRogers@srcity.org](mailto:CRogers@srcity.org)>; Stapp, Mark <[MStapp@srcity.org](mailto:MStapp@srcity.org)>; Alvarez, Eddie <[EAlvarez@srcity.org](mailto:EAlvarez@srcity.org)>; CMOOffice <[CMOffice@srcity.org](mailto:CMOffice@srcity.org)>; [davidc@sonic.net](mailto:davidc@sonic.net)  
Subject: [EXTERNAL] Re: Police Department Parking lot issues

Hello All

I have recently review Resolution 17236 (the resolution approving the parking lot) and updated my issues (updated DRAFT issues comments page - for your review).

Though we have been offered a meeting to "answer questions and address concerns" there is no (ZERO) consideration offered to potential modification of the proposed project (nor have the adjacent property owners seen the project or been afforded a project description).

This project is non-conforming to the Resolution and/or present zoning and related requirements under PD zoning.

Please review the language in the updated DRAFT (really notes for basis of project comments and/or Complaint).

I question the efficacy of such proposed meeting where the City is not available for modifying the project to meet the needs and concerns of all parties. There is a process. It starts with notice - inclusive of providing description of the project, then there project review and a comment period - with a staff report assessing conformity of the project with environmental and code issues along with consideration of comments to the file. What I am saying here is that the City is not following accepted process for projects - nor is the City assuring compliance with its own codes. (not to mention the legal jeopardy this failure of process puts the city in. One can ask why the City is allowing such a lame process to proceed when is is not the difficult to conform to planning disciplines?)

Finally - my cantankerous disposition is not solely related to the project. For years my complaint of Police Parking lot intrusion from un-managed trees into my yard - provoking much work, annoyance, and damage to my property has been a problem - which the Chief is quite aware of. I have been complaining for a long time. At this point, for me ( As, by law I am required to mitigate the issue - if the City does

not)- is to open my fence and trim your trees and drag all the debris and refuse into the police lot (probably have to throw it across the property line so as not tress pass). What a pain in the ass you have been - after my repeated requests to correct this nuisance.

Furthermore:Not having the project description denies me knowledge of other outcomes regarding the fencing project - i.e light intrusions and noise. Does the project include tree removal? If so their will be light intrusion. The current lighting is designed all wrong (it should be down lighting - so as not to be disbursed to off property receptors. At times there are noise issues as well - tailgating in the parking lot.

These issues, all of them, probably can be resolved - if appropriate process and consideration is applied.

We are not belligerent neighbors. We have been treated with a lack of consideration and we will defend the right to not have unnecessary intrusion into our lives perpetrated on us. That is what Planning Law is about.

Alan Levine, 126 Steiner Ct.

On 2024-06-03 10:57 am, Pat wrote:

> Chief Cregan and others:

>

> My property is 132 Steiner Court, on the southwest corner of the  
> existing parking lot fence line. I join in and incorporate by  
> reference all statements of Mr. Levine. Please be advised as follows:

>

> 1. I participated in the planning of the existing cyclone fence.  
> At that time it was found that my existing fence satisfied your  
> security concerns for my location and there was no need to add a fence  
> behind my existing fence. There have been no change of conditions that  
> warrant your proposed fence.

> 2. The proposed fence, as described to me, will turn my  
> backyard/deck area into a prison yard that will adversely affect my  
> property value. That is an inverse condemnation and I will sue to  
> recover my lost value. This should be considered in your budget.

> 3. The proposed fence at my property as described to me will do  
> nothing to increase the security of the parking lot. If there are  
> intruders you should first install a gate at the Sonoma Avenue  
> entrance and judge the results. The parking lot is now open to the  
> public through that entrance and it does nothing to install a fence  
> behind my existing fence, or incur the cost of doing so. (I gave some  
> free construction advice to the two nice men who visited me on how to  
> save some construction money. I do not know what happened to that.)

> 4. The proposed fence is not compatible with the surrounding area  
> as is required by prior ordinances.

> 5. Issues as outlined by Mr. Levine have been presented by him and  
> I join in that presentation.

> 6. No permission is granted to enter my property.

> 7. Please add my name and contact information to all  
> correspondence and communications regarding these issues.

>

> Related to the upkeep and maintenance of the property, be advised  
> that I have maintained a portion of the property adjacent to my  
> property personally and at my expense. Your failure to control  
> invasive ivy will kill all vegetation along Matanzas creek, including  
> some old and nice oak and redwood trees. This could be prevented by  
> investing a few hours of ivy removal every few years. I do not know  
> why you will not do this.

> It is my hope these issues can be resolved in a neighborly manner  
> and I am willing to work with you on all issues.

>

> Sincerely  
>  
> Patrick Coyle  
> 132 Steiner Court  
> Santa Rosa, CA 95404  
> [coylaw@sonic.net](mailto:coylaw@sonic.net)  
> 707 578 3797



300000 Tree removal and fence installation will change night time view  
300000 against from current lighting. Current lighting does not meet Code  
300000 requirements to be downward directed. Thus, there is current light  
300000 depression to neighbor receptors. Currently, the existing trees  
300000 filter  
300000 the depressed light. The project will change that light filtration  
300000  
300000 Thus, alteration of lighting must be mitigated.  
300000  
300000 The mitigating properties of the existing trees come with some  
300000 issues.  
300000 The existing trees were planted circa 2010 during the last fencing  
300000 and  
300000 parking lot project. The planting of the tree type and location  
300000 might  
300000 on the property line is an issue in that the trees have grown but  
300000 large and have not been managed (pruned back) to not invade  
300000 neighboring properties and cause nuisance to adjoining properties.  
300000 This is an issue that needs discussion and management.  
300000 I am interested in your response and am attaching historic and  
300000 current  
300000 permits for your review and to illustrate the issues(s)  
300000 Alan Levine for Coast Action Group  
300000 On 2024-06-06 7:22 pm, alvine@mac.org wrote:  
300000 Hello John  
300000 I did get copies of the permits (as other paperwork or e-mails  
300000 have.  
300000 arrived from my PRA request)  
300000 There are other issues  
300000 Apparently there are two lots that adjoin and are used in one  
300000 parking  
300000 lot and one perimeter fence - 123 Brookwood and 900 Serrano Ave.  
300000 Yes  
300000 currently have a permit for fencing on one of the lots - 950  
300000 Serrano  
300000 Area. And that permit is incomplete and incorrectly stated and not  
300000 consistent with your words and e-mails.  
300000 Summary  
300000 123 Brookwood Parcel 06821082 - General Construction  
300000 Permit/Permit  
300000 to  
300000 Perform Work # BO 9-3433) - issued 1/19/2010 used for both lots  
300000 though  
300000 permit only considered that one parcel. A 6' fence was constructed.  
300000 900 Serrano Parcel 8-21143 - General Construction Permit (Permit  
300000 to  
300000 Perform Work 0854-2868) - issued 5/29/24 for the construction of  
300000 an  
300000 F  
300000 fence - on this lot only. Not both lots. Why?  
300000 Why did you e-mail and say "it was for a fence?"  
300000 Permit 0854-2868 does not permit additional fencing on the 123  
300000 Brookwood Parcel. It is limited to parcel 9-1143.  
300000 Read the permits (which do not meet legal standards)  
300000 Further more (as noted in previous e-mails) Permit 0854-2868 fails  
300000 to  
300000 consider constraints and requirements under Zoning General  
300000 Construction Guidelines, or PD Zoning Constraints, and zoning  
300000 requirements for design review, use of the general construction  
300000 permits allow of mandated noticing and review processes.  
300000 In short this process is wrong and will not stand up to legal  
300000 scrutiny.  
300000 This case is dead with a tickle in the permitting process and some  
300000 consideration.  
300000 So, how are we doing on the dead lot?  
300000 Alan  
300000 On 2024-06-04 10:51 am, alvine@mac.org wrote:  
300000 Hello John  
300000 May I asked have a permit. However, if you do have a permit there  
300000 are  
300000 number of problems:  
300000 Any such permit was obtained without legally mandated process  
300000 such  
300000 as noticing the neighbors, providing a project description and  
300000 going  
300000 thru a review process - where the public is invited. In addition,  
300000 said permit may or may not be consistent with applicable zoning  
300000 However, there is no way to tell.  
300000 Please mail me a copy, or e-mail me a copy of said "permit". I  
300000 would  
300000 like to have a look at it.  
300000 Actually - this request is made under the Public Records Act. I  
300000 request a copy of said permit under the Public Records Act  
300000 including  
300000 other documents appurtenant to said "permit". If there are  
300000 electronic  
300000 versions of said "permit", please direct me to how I might  
300000 view  
300000 such permit.  
300000 Notice: I have been informed of the existence of a permit that I  
300000 had  
300000 not previously been informed of. At this time I have an idea of  
300000 the  
300000 contents or process in origination of said "permit". Not, have  
300000 I  
300000 been informed of the content, description of proposed activity  
300000 and/or  
300000 controls that this permit is subject to. Said permit may have  
300000 been  
300000 assumed to be maintained by the City of Santa Rosa. However it  
300000 may  
300000 not be consistent with Zoning Requirements, noticing, and public  
300000 review under both City Code and Public Resources Code. Under  
300000 California Resources Code Coast Action Group has 180 days from  
300000 the  
300000 date to take action and seek legal remedy. If the project  
300000 continues  
300000 prior to resolution of issues, or the appropriate noticing and  
300000 permitting procedures is put in place, Coast Action Group has the  
300000 legal right to seek a restraining order.  
300000 Ideally, Alan Levine for Coast Action Group  
300000 On 2024-06-04 9:51 am, Craig, John wrote:  
300000 Alan  
300000 I encourage you to come to the meeting on the June 11th. We  
300000 will  
300000 have a city planner here to explain that the parking lot is in  
300000 the  
300000 assessed property and the project does in fact have a city permit.  
300000 We  
300000 will have subject matter experts there to help explain the facts  
300000 and  
300000 hopefully this will clear some of the confusion on this issue.  
300000 John Craig (Chief of Police  
300000 Santa Rosa Police Department  
300000 897 Serrano Ave. Santa Rosa, CA 95404 Tel: (707) 543-4070 | Fax  
300000 (707) 543-3557 | [jpcraig@cityofsr.org](mailto:jpcraig@cityofsr.org) | Twitter  
300000 @jpcraig  
300000 |  
300000 Newsletter | [CivilReady](mailto:CivilReady)  
300000 ---Original Message---  
300000 From: [alvine@mac.org](mailto:alvine@mac.org)  
300000 Sent: Tuesday, June 4, 2024 9:26 AM  
300000 To: [craig@cityofsr.org](mailto:craig@cityofsr.org)  
300000 Cc: Craig, John <[Craig@cityofsr.org](mailto:Craig@cityofsr.org)>; Fleming, Victoria  
300000 <[VFleming@cityofsr.org](mailto:VFleming@cityofsr.org)>; Bagnac, Nadia <[Nabagnac@cityofsr.org](mailto:Nabagnac@cityofsr.org)>;  
300000 MacDonald, Dianne <[DianneMacDonald@cityofsr.org](mailto:DianneMacDonald@cityofsr.org)>; Okropnik, Jeff  
300000 <[JOkropnik@cityofsr.org](mailto:JOkropnik@cityofsr.org)>; Bagnac, Clara <[CBagnac@cityofsr.org](mailto:CBagnac@cityofsr.org)>;  
300000 Sharp,  
300000 Mark <[MSharp@cityofsr.org](mailto:MSharp@cityofsr.org)>; Adams, Eric <[ERAdams@cityofsr.org](mailto:ERAdams@cityofsr.org)>;  
300000 CMO/Office <[CMOOffice@cityofsr.org](mailto:CMOOffice@cityofsr.org)>; [devick@cityofsr.org](mailto:devick@cityofsr.org)  
300000 Subject: [EXTERNAL] Zoning Process Issues: Police Department  
300000 Parking  
300000 Hi Susan  
300000 Hello All  
300000 I am hoping to you all get another update to my notes  
300000 regarding  
300000 Zoning issues to City of Santa Rosa Zoning Code that have been  
300000 raised  
300000 and brought to light by this incident with the Police parking  
300000 lot.  
300000 Read for me language in the first couple of paragraphs. There  
300000 are  
300000 words that needs to be done.  
300000 I started thinking about this: "Why is there not a normal  
300000 permitting  
300000 process - with noticing and review - as a standard procedure  
300000 and  
300000 required by PD zoning) - that should be applied to this project  
300000 and  
300000 is not? Why is the City Council allowing continuation of  
300000 the  
300000 applicable planning process?" For you to understand this process  
300000 is  
300000 not consistent with City Code or Public Resources Code. Thus, I  
300000 am  
300000 challenging now - prior to the need of legal intervention.  
300000 You have my comments (as notes) filed for in this non-standard  
300000 process.  
300000 preserving my legal position.  
300000 I also want to remind you that you must (in a your legal duty  
300000 to)  
300000 preserve all notes, correspondence, e-mails, or other  
300000 communications  
300000 between departments on this issue - in the case this information  
300000 is  
300000 needed for future use.  
300000 Please fix this. There is no need for this issue to go so far  
300000 all  
300000 the  
300000 tracks.  
300000 Alan Levine for Coast Action Group  
300000 On 2024-06-03 12:07 pm, alvine@mac.org wrote:  
300000 Hello All  
300000 I have recently review Resolution 1726 (the resolution  
300000 approving  
300000 the parking lot) and updated my notes (updated DRAFT notes  
300000 comments page  
300000 for your review).  
300000 Though we have been offered a meeting to "review questions and  
300000 address concerns" (but is not ZERD) consideration offered to  
300000 potential modification of the proposed project (but have the  
300000 adjacent property owners meet the project or have attended a  
300000 public discussion).  
300000 This project is now conforming to the Resolution and/or present  
300000 zoning and related requirements under PD zoning.  
300000 Please review the language in the updated DRAFT (really notes  
300000 to  
300000 basis of project comments and/or Complaint).  
300000 I question the efficacy of such proposed meeting where the City  
300000 is  
300000 not available for modifying the project to meet the code (not to  
300000 overcome all parties. There is a process. It starts with  
300000 notice  
300000 inclusive of providing description of the project, then there  
300000 project review and a comment period - with a staff report  
300000 meeting  
300000 conformity of the project with environmental and code issues  
300000 being  
300000 done  
300000 with consideration of comments to the file. What I am saying  
300000 is  
300000 that the City is not following accepted process for projects  
300000 to  
300000 meet in the City meeting compliance with its own codes (not to  
300000 mention the legal jeopardy that failure of process puts the  
300000 city  
300000 in. One can ask why the City is allowing such a lame process to  
300000 proceed when it is not the difficult to conform to planning  
300000 (discipline?)  
300000 Finally - my catastrophic deposition is not solely related to  
300000 the  
300000 project. For your my complaint of Police Parking lot  
300000 intrusion  
300000 from an overgrown tree into my yard - providing much work,  
300000 annoyance, and damage to my property has been a problem - which  
300000 the  
300000 Chief is quite aware of. I have been complaining for a long  
300000 time.  
300000 At this point, for me (As, by law I am required to mitigate



From: [Alan Levine](#)  
To: [Mark Sabin](#)  
Subject: **Force Project - CEQA and Permit Issues for [EXTERNAL] Zoning Process Issues: Police Department Parking lot issues**  
Date: Tuesday, June 12, 2024, 2:24 PM  
Attachments: [Screenshot of CEQA Decision](#)

Dear Steve

Below - is the message I sent out earlier today on the issue of "Taking the Mitigation"

The eventual finding of the Appeals Court (the part of the decision is published) is this:

"Consistent with the reasoning of the cases we have discussed, we conclude that when a public agency has adopted a mitigation measure for a project, it may not withdraw, discontinue, or circumvent the mitigation—whether or not the approval is ministerial—without reviewing the continuing need for the mitigation, stating reasons for its actions, and supporting it with substantial evidence."

Read the whole case - it will change your thinking for the future.

Does not matter that it was a timber project. A project is a project. The 2009 parking lot project was a Neg. Dec. project with mitigations - that go with the ground.  
The claim of evidence supports my argument.

Keeping my attorney(s) on the side line.

Alan

Previous Message - below

Dear Lou

You and the planning Department have overlooked a CEQA issue that is attached to this parcel.

I will explain:

Planning claims exemption for City owned projects under this language:

"The provisions of this Zoning Code shall not apply to any public project of the City except to the minimum extent required by law."

This language is obscure as to its meaning. However, given the case that it states, "the zoning project is not exempt from CEQA - if CEQA is applicable.

And, contrary to anything you or anybody else is thinking - CEQA is applicable.

Why? The initial project (2009), upon which this proposed fencing project resides - and - the paper trail that was used for the (ministerial approval) that proposed fencing project related - was, in fact, a CEQA process. The 2009 Negative Declaration (fully mitigated) project for the parking lot had mitigations for fencing and lighting (that included design, screening, vegetation planting, etc.) that were imposed as conditions of the project - to protect the neighbors, as receptors, from visual blight and the continuity of the neighborhood.

By Law CEQA Guidelines and historic court precedent - those mitigations (2009) must be carried forward on any new project (whether of proposed parking lot forces) on that ground and associated with the 2009 project.

To not carry the mitigations forward (without substantial evidence and findings regarding that the mitigations are not needed or replaceable - is a violation of CEQA in the form of Taking the Mitigation.

See language below and read the attached appeals court decision.

"Consistent with the reasoning of the cases we have discussed, we conclude that when a public agency has adopted a mitigation measure for a project, it may not withdraw, discontinue, or circumvent the mitigation—whether or not the approval is ministerial—without reviewing the continuing need for the mitigation, stating reasons for its actions, and supporting it with substantial evidence."

If the City moves forward with an action not consistent with applied CEQA (Public Resource Code), it would be open to legal challenge - they will interrupt this project - until legal issues are resolved. This would be the wrong action to be taken by the City.

It is clear that more can be done to protect the integrity of the parking lot. However, this must be accomplished and mitigated to a practical extent - consistent with the law and protection of the neighboring properties.

This, you are aware. I hope you will proceed appropriately and consistent with the law.

Alan

My Attorney, Paul Carroll, was the attorney of record on this case. There are other supporting cases.

On 2024-06-12 10:58 am, [alanlevine@comcast.net](mailto:alanlevine@comcast.net) wrote:  
> Lou

> The concept (in CEQA) is called "Taking the Mitigation". It is an established concept in CEQA. The City approved the 2009 Project - with mitigation as conditions (language on how things to be - including fencing, screening, and lighting). Not only did the City rely on the 2009 plan for analysis of the parcel (which was summarily approved without process - review), the City has approved the established language, mitigation/conditions in the 2009 plan for the parking lot. These mitigation/conditions in the 2009 parking lot project must be carried forward (unless there is substantial evidence that they are no longer needed). This which project would need to occur as a CEQA based process - supported by the weight of evidence in file.

> Alan  
> On 2024-06-11 11:11 pm, [alanlevine@comcast.net](mailto:alanlevine@comcast.net) wrote:  
>> I am reconsidering something about CEQA and the project (rewording if the force was the first ever to require an EIR).  
>>  
>> With CEQA - mitigations imposed as conditions on previous projects  
>> the 2009 project was Neg. Dec. approval as required by CEQA -  
>> including fence requirements/conditions - fence requirements must be carried forward as mitigations on similar projects on the same ground  
>> (unless there is substantial evidence why this should not be the case)  
>> There is a case. Thus, the 2009 mitigation apply to this project (ministerial or not).  
>> This is typical court published law. And, the City will be held to that standard. I guess the appeals court decided that conditions were imposed for a reason and that any new project on the same ground or connected with the previous project, should impose those same conditions. I would say "Good Thinking." Wouldn't you?  
>> Consult the City Attorney (along for the ride may not be on this) - I am on one line the published law - if you request it.  
>> Alan Levine for Coast Action Group.  
>>  
>>  
>>

>> On 2024-06-11 10:59 pm, [alanlevine@comcast.net](mailto:alanlevine@comcast.net) wrote:  
>>> In Addition my question - asking for copy of the Zoning Code that says there is no any screening requirement? for the meeting on the 20th for "unofficial review" (what ever that is) - I make the following points:  
>>> The 2009 permit followed Zoning Code, it reviewed the project, considered the project, and the special needs of the project on how property owners. And (development) planning that linked the newly proposed fencing to the previous project (2009), and then, the conditions and findings of the previous project. It appears that Zoning Code and then that has not been exempt from City Zoning requirements. At any one, there were requirements for the fencing, design and lighting - as conditions in the 2009 project.  
>>> Additionally the 2009 project required planting for screening. How does that fit in to the current project?  
>>> The approval of the 2009 was given a Neg Dec based on those mitigations/conditions.

>>> BTW - the current lighting does not meet permit requirements (or are you going to show that down our front as well)  
>>> And - the City is not meeting government requirement on, both, the public parking lot and across the street at the police lot.  
>>> initial: Where is the walkway along for the fire trucks and public cars and the water collection sumps in both lots? When was the last time any sump were checked? Why is the fire department along walkways that runs into the street. These issues are a violation of Cal Water Code, the Regional Storm Water Quality Control Plan) and the City of Santa Rosa Stormwater NPDES Permit. You are in violation.  
>>> You are concerning towards regulatory hell on many fronts. Get real - follow zoning code - and mitigate (as per the original 2009 permit - which is referenced in my analysis on paper).  
>>> We are not using NO FENCE allowed. We do ask for consideration and some flexibility in mitigating issues.

>>> And that BEACON Computed fence is a hot wire and it is ugly.  
>>> Possibly the F and fence could be tied with it's F Chain as reduced (to not be an offense) and blend in with the neighborhood - as stated in the 2009 permit and in Zoning code. Cheaper and faster than court or regulatory hell (on many fronts).  
>>> Alan Levine for Coast Action Group  
>>>  
>>>

>>> On 2024-06-11 9:43 pm, [alanlevine@comcast.net](mailto:alanlevine@comcast.net) wrote:  
>>>> The project is scheduled as a concept item on the July 20, 2024, Design Review Board agenda, which should be passed by Friday.  
>>>> Will adjacent property owners be notified for this meeting?  
>>>>  
>>>> Please Show me where it says City properties are exempt from Zoning Code and Public Resources Code?  
>>>> This required a Neg Dec Previously.  
>>>> Alan  
>>>> On 2024-06-11 11:50 am, Kirk, Lou wrote:  
>>>>> Dear Mr. Levine,  
>>>>>  
>>>>> Thank you for your email, and your interest in this matter.  
>>>>> Briefly, the building permit was issued because a fence greater than 7'  
>>>>> feet in height requires a building permit pursuant to Section 05.1-00004f.  
>>>>> The 2022 California Building Code, which can be found here [1]. You are correct that the issued permit only pertains to one of the two parcels comprising this project. Thank you for bringing this to my

attention. A second permit will be prepared to address this  
average.  
With regard to Design Review, and pursuant to Zoning Code Chapter  
20-10 Purpose and Effect of Zoning Code (2) Sections 20-10.01(A)(3),  
the provisions of the Zoning Code do not apply to public projects  
of  
the City except to the minimum extent required by law. While an  
ordinance (Design Review) permit is not required for this  
project.  
the section of the code does require conceptual design review by  
Design Review Board. As such, the project is scheduled as a concept  
item on the July 20, 2024, Design Review Board agenda, which should  
be  
passed by Friday.  
In response to your other questions, there are no mitigation  
measures  
regarding heat being radiated by fencing. Lighting will be made  
compliant with Zoning Code Section 20-20.030, Outdoor Lighting (3),  
which requires light fixtures to be directed downward and away from  
adjacent properties and public right-of-way, so that no on-site  
light fixture directly illuminates an off-site area.  
Lastly, concerning potential tree removal, the removal by the City  
of  
non-hering trees situated on City owned or controlled plans does  
not require a permit pursuant to City Code Section 17-24.030(A)(4).  
[4]  
I hope you find this response helpful.  
Sincerely,  
Lisa  
Lisa Kirk (she/her) (Assistant Chief Building Official  
Planning & Economic Development 100 Santa Rosa Avenue, Room 1)  
Santa  
Rosa, CA 95404  
Hours: Monday - Thursday, 8:30 AM - 4:30 PM  
Tel: (707) 543-1248 | lkirk@city.org  
[3]  
We are hiring - join the team with a purpose and make an impact!  
We offer incredible opportunities, dynamic work and excellent  
benefits.  
Come find your passion, visit SRCCity.org/Job [5]  
-----Original Message-----  
From: dk@city.org <dk@city.org>  
Sent: Sunday, June 9, 2024 8:36 AM  
To: Kirk, Lisa <lkirk@city.org>;  
Cc: cec@city.org and Fleming, Victoria <VFleming@city.org>;  
Ragun, Chas <CRagun@city.org>; MacDonald, Diana  
<DMacDonald@city.org>; Oberg, Paul <POberg@city.org>;  
Ragun, Chas <CRagun@city.org>; Sloop, Mark  
<MSloop@city.org>;  
Alman, Eddie <EAlman@city.org>; CMO/Office  
<CMO@city.org>;  
dk@city.org, cc: Cramer, John <JCramer@city.org>;  
Subject: Re: Permit Issue Re: [EXTERNAL] Zoning Process Issue  
Public Department Parking lot issues  
Dear Mr. Kirk  
I am asking you to justify your approval of the attached permit  
Permit  
Number: B24-2886  
Issued Date: 05/29/2024 - for and F fence for the police parking  
lot.  
The permit allows for an perimeter F foot fence. According to  
City  
Code and Zoning requirements each installing in a special  
circumstance  
that requires a design review process. Additionally, such design  
review process requires public (or neighbor) notice so that  
concerned parties can participate in the planning process.  
City Zoning and fencing requirements call for a design review  
process  
and a Minor Use Permit. The Permit is not consistent with current  
Zoning and Fencing requirements.  
There are other issues as well - including:  
The project will require tree removal. In the City of Santa Rosa  
tree  
removal of a tree of diameter two requires permitting and  
noticing.  
The project scope is inclusive of two parcels (950 Sonoma and 123  
Brookwood) - the perimeter of the police parking lot. The permit  
is  
for one parcel only. That means the current permit is incorrect in  
scope.  
Neighbor to sign the notices or consented at the back of process  
consideration, and issues that are related to this fencing project.  
Noticing and design review are requirements that are put in place  
to  
deal with these issues.  
Issues of Concern  
Scope of project and what the fence looks like. The project really  
has not been described.  
Color of the fence. It is said the fence will be solid  
corrugated.  
material and colored black. The color raises visual considerations  
and  
has considerations. A solid black fence is a hard sell.  
Vegetation.  
Can not arrive next to a black fence (on western perimeter). What  
is  
the mitigation for this issue?  
Tree removal and fence installation will change night time visual  
impacts from current lighting. Current lighting does not meet Code  
requirements to be directed downward. Thus, there is current light  
dispersion to neighbor receptors. Currently the existing trees  
filter  
the dispersed light. The project will change that light filtration  
then, alteration of lighting must be mitigated.  
The mitigating properties of the existing trees come with some  
issues.  
The existing trees were planted circa 2010 during the last fencing  
and  
parking lot project. The planting of the tree type and location  
right  
on the property line is an issue in that the trees have grown to be  
large and have not been managed (pruned back) to not invade  
neighboring properties and cause nuisance to adjoining properties.  
This is an issue that needs discussion and management.  
I am interested in your response and an attached historic and  
current  
permits for your review and to illustrate the context(s).  
Alan Levin, for Coast Action Group  
On 2024-06-08 7:22 pm, alv@city.org wrote:  
Hi John,  
I did get copies of the permits into other paperwork or e-mails  
have  
arrived from my PRA request.  
There are other issues:  
Apparently there are two lots that adjoin and are used as one  
parking  
lot and one perimeter fence - 123 Brookwood and 950 Sonoma Ave.  
Yes  
currently have a permit for fencing on one of the lots - 950  
Sonoma  
Ave. And that permit is incomplete and incorrectly stated and not  
consistent with your words and e-mails.  
Permit Summary:  
123 Brookwood Parcel 06021982 - General Construction  
Permit/Permit  
to  
Perform Work # BO 9-3435 - issued 1/19/2010 need for both lots  
though  
permit only considered that one parcel. A fence was constructed.  
950 Sonoma Parcel 9-21143 - General Construction Permit (Permit  
to  
Perform Work #B24-2886) - issued 5/29/24 for the construction of  
a  
fence - on this lot only. Not both lots. Why?  
Why did your e-mail and say it was to be a F' fence?  
-----



000000 regarding  
000000  
0000000000 Zoning issues in City of Storm River Zoning Code that have be  
0000000000 need  
0000000000 and brought to light by this incident with the Police parking  
0000000000 lot.  
000000  
0000000000 Read the new language in the first couple of paragraphs. There  
0000000000 is  
0000000000  
0000000000 work that needs to be done.  
000000  
0000000000  
0000000000 I started thinking about this: "Why is there not a normal  
0000000000 permitting  
0000000000  
0000000000 process - with noticing and review - as a standard procedure  
0000000000 (and  
0000000000 required by PD zoning) - that should be applied to this project  
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0000000000 the tracks.  
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0000000000  
0000000000 Alan Levine for Client Action Group.  
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0000000000  
0000000000 On 2024-06-03 12:07 pm, alan@levine.org wrote:  
0000000000  
0000000000  
0000000000 Hello All  
0000000000  
0000000000  
0000000000 I have recently review Resolution 17256 (the resolution  
0000000000 approving  
0000000000  
0000000000 the parking lot) and updated my notes (highlight DRAFT issues  
0000000000  
0000000000 comments page  
0000000000 - for your review).  
0000000000  
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0000000000 Though we have been offered a meeting to "answer questions and  
0000000000  
0000000000 address concerns" there is no (ZERR) consultation offered in  
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0000000000 potential modification of the proposed project (see how the  
0000000000  
0000000000 adjacent property owners were not the project or been affiliated a  
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0000000000 project description).  
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0000000000 zoning and related requirements under PD zoning.  
0000000000  
0000000000 Please review the language in the updated DRAFT (early notes  
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0000000000 basis of project comments and/or Complaint).  
0000000000  
0000000000  
0000000000 I question the efficacy of such proposed meeting where the City  
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0000000000 not available for modifying the project to meet the needs and  
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0000000000 concerns of all parties. There is a process. It starts with  
0000000000 notice  
0000000000 - inclusive of providing description of the project, then there  
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0000000000 project review and a comment period - with a staff report  
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0000000000 with consideration of comments to the file. What I am saying  
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0000000000 is that the City is not following accepted process for projects  
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0000000000 are in the City meeting compliance with its own codes. (not to  
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0000000000 Finally - my contentious disposition is not solely related to  
0000000000 the  
0000000000 project. For years my complaint of Police Parking lot  
0000000000 expansion  
0000000000 from an overgrown trees into my yard - provoking much work.  
0000000000  
0000000000 annoyance, and damage to my property has been a problem - which  
0000000000 the  
0000000000 Chief is quite aware of. I have been complaining for a long  
0000000000 time.  
0000000000 At this point, for me (As, by law I am required to mitigate  
0000000000 the  
0000000000 issue - if the City does  
0000000000 not) - to open my fence and trim your trees and drag all the  
0000000000 debris and refuse into the police lot (probably have to throw  
0000000000 it  
0000000000 across the property line as no net trees panel). What a pain is  
0000000000 the  
0000000000 are you have been - after my repeated requests to correct this  
0000000000  
0000000000 nuisance.  
0000000000  
0000000000  
0000000000 Furthermore: Not having the project description denies me  
0000000000 knowledge  
0000000000  
0000000000 of other notices regarding the fencing project - is a right  
0000000000  
0000000000 opinions and notice. Does the project include tree removal?  
0000000000 If  
0000000000 so  
0000000000 there will be light intrusion. The current lighting is  
0000000000 designed  
0000000000  
0000000000 all wrong (it should be down lighting - so as not to be  
0000000000 directed  
0000000000  
0000000000 off property receptors. At times there are noise issues as  
0000000000 well  
0000000000  
0000000000 - in lighting in the parking lot.  
0000000000  
0000000000  
0000000000 These issues, all of them, probably can be resolved - if  
0000000000  
0000000000 appropriate process and consideration is applied.  
0000000000  
0000000000 We are not belligerent neighbors. We have been treated with a  
0000000000 lack  
0000000000

of consideration and we will defend the right to not have  
unnecessary intrusion into our lives perpetrated on us. That  
what Planning Law is about.  
Alvin Levine, 128 Siskier Ct.  
On 2024-06-03 10:37 am, Pat wrote:  
Chief Cogan and others  
My property is 132 Siskier Court, on the southeast corner  
of  
the existing parking lot fence line. I join in and incorporate  
by  
reference all statements of Mr. Levine. Please be advised as  
follows:  
1. I participated in the planning of the existing cyclone  
fence.  
As at that time it was found that my existing fence satisfied  
your  
security concerns for my location and there was no need to add  
a  
fence behind my existing fence. There have been no change of  
conditions that warrant your proposed fence.  
2. The proposed fence, as described to me, will turn my  
backyard deck area into a prison yard that will adversely  
affect  
my property value. That is an inverse condemnation and I will  
not  
recover my loss value. This should be considered in your  
budget.  
3. The proposed fence at my property as described to me  
will  
do nothing to increase the security of the parking lot. If  
there  
are intruders you should first install a gate at the Siskier  
Avenue  
entrance and judge the results. The parking lot is now open to  
the  
public through that entrance and it does nothing to install a  
fence behind my existing fence, or incur the cost of doing so.  
I  
gave some free construction advice to the two nice men who  
visited  
me on how to save some construction money. I do not know what  
happened to  
that.  
4. The proposed fence is not compatible with the  
surrounding  
area as is required by prior ordinances.  
5. Issues as outlined by Mr. Levine have been presented by  
him  
and I join in that presentation.  
6. No permission is granted to enter my property.  
7. Please add my name and contact information to all  
correspondence and communications regarding these issues.  
Related to the splashy and maintenance of the property, he  
advised that I have minimized a portion of the property  
adjacent  
to my property personally and at my expense. Your failure to  
control invasive ivy will kill all vegetation along Matanzas  
creek, including some old and nice oak and redwood trees. This  
could be prevented by mowing a few hours of ivy removal  
every  
few years. I do not know why you will not do this.  
It is my hope these issues can be resolved in a neighborhood  
manner and I am willing to work with you on all issues.

Sincerely  
Patrick Cogle  
132 Siskier Court  
Santa Rosa, CA 95404  
coglpw@comcast.net  
707 578 1397  
Links  
[1] <https://www.fishbase.org/species/0291>  
[2] <https://www.fishbase.org/species/0291>  
[3] <https://www.fishbase.org/species/0291>  
[4] <https://www.fishbase.org/species/0291>  
[5] <https://www.fishbase.org/species/0291>  
[6] <https://www.fishbase.org/species/0291>



including fence requirements (conditions) - these requirements must be  
correct forward as mitigations on similar projects on the same ground  
unless there is substantial evidence why this should not be the  
case. There is none. Thus, the 2009 mitigation apply to this  
project (material or not).  
This is an appeal court published law. And, the City will be held to  
that standard. If upon the appeal court decided that conditions were  
imposed for a reason and that any new project on the same ground or  
connected with the previous project, should impose those same  
conditions. I would say "Good Thinking". Wouldn't you?  
I cannot the City Attorney (though he or she may not be up on this).  
Last and you the published law - if you request it.  
Alan Levine for Court Action Group  
On 2024-06-11 10:39 pm, alvein@cityactiongroup.com wrote:  
In Addition my question - asking for copy of the Zoning Code that  
says the City is exempt from Zoning and asking for meeting in  
there is a 10 day waiting requirement? for the meeting on the 10th  
for "intermittent review" (what ever that is) - I make the following  
points:  
The 2009 permit followed Zoning Code, it received the permit,  
removed the project, and has special events on the project on law  
fencing was to be designed as to not adversely affect adjacent  
property owners. And furthermore, planning to build the newly  
proposed fencing to the previous project (2009), and thus, the  
conditions and findings of the previous project. It appears that  
time, with discontinuation of the previous project, the City did follow  
Zoning Code and that must not have been exempt from City Zoning  
requirements. At any rate, there were requirements for the fencing  
design and lighting - see conditions on the 2009 project.  
Additionally the 2009 project required planting for screening. How  
does that fit in with the current project?  
The approval of the 2009 was given a Neg Dec based on these  
mitigation/conditions.  
BYW - the current lighting does not meet permit requirements (or are  
you going to show that does not meet as well).  
And - the City is not meeting stormwater requirements on, both, the  
public parking lot and across the street at the police fire  
station. Where is the watershed runoff facility, the fire trucks and  
police cars and the water collection sumps in both lots? When was  
the last time any sumps were cleaned? What is the fire department  
doing with the water that runs into the street. These issues are a  
violation of CA Water Code, the Regional Storm Water Quality  
Control Plan and the City of Santa Rosa Stormwater NPDES Permit.  
You are in violation.  
You are continuing towards regulatory hell on many fronts. Get real  
- follow zoning code - and mitigate (as per the original 2009 permit  
- which is referenced in your analysis on permit).  
We are not saying NO FENCE allowed. We do ask for consideration and  
some flexibility in mitigating issues.  
And that BLACK Corrugated fence is a heat sink and it is ugly.  
Possibly the 4' tall fence could be clad with 1" x 4" Cedar or  
referred to be so - otherwise and blend in with the neighborhood -  
as stated in the 2009 permit and in Zoning code. Cheap and faster  
than cost or regulatory hell (on many fronts).  
Alan Levine for Court Action Group  
On 2024-06-11 9:43 pm, alvein@cityactiongroup.com wrote:  
The project is scheduled as a concept item on the July 20, 2024,  
Design Review Board agenda, which should be posted by Friday.  
Will adjacent property owners be notified for this meeting?  
Please share me what it was City properties are exempt from Zoning  
Code and Public Resource Code?  
This required a Neg Dec Previously.  
Alan  
On 2024-06-11 11:50 am, Kirk, Lou wrote:  
Thank you for your email, and your interest in this matter.  
Thank you for your email, and your interest in this matter.  
Briefly, the building permit was issued because a fence greater  
than 7  
feet in height requires a building permit pursuant to Section  
181.1 of  
the 2022 California Building Code, which can be found here [1].  
Yes.  
I am sorry that the tenant permit only pertains to one of the two  
parcels comprising the project. Thank you for bringing this to my  
attention. A second permit will be prepared to address this  
shortly.  
With regard to Design Review, and pursuant to Zoning Code Chapter  
20-10, Purpose and Effect of Zoning Code [2], Section  
20-10.01(C)(4),  
the provisions of the Zoning Code do not apply to public projects  
of all  
the City except to the minimum extent required by law. While an  
amendment (Design Review permit is not required for this  
project.  
The section of the code does require conceptual design review by  
the  
Design Review Board. As such, the project is scheduled as a  
concept  
item on the July 20, 2024, Design Review Board agenda, which  
should be  
posted by Friday.  
In response to your other questions, there are no mitigation  
conditions.  
Lighting being radiated by fencing. Lighting will be made  
compliant with Zoning Code Section 20-30.000, Outdoor Lighting  
[3],  
which requires light fixtures to be directed downward and away  
from  
adjacent properties and public right-of-way, so that no visible  
light fixture directly illuminates an off-site area.  
Lastly, concerning potential tree removal, the removal by the City  
non-heritage trees situated on City owned or controlled places  
does  
not require a permit pursuant to City Code Section  
17-24.01(A)(4).  
I hope you find this response helpful.  
Sincerely,  
Lou  
Lou Kirk (kirk@cityactiongroup.com) Assistant Chief Building Official  
Planning & Economic Development | 300 Santa Rosa Avenue, Room 3 |  
Santa Rosa, CA 95404  
Hours: Monday - Thursday, 6:30 AM - 5:30 PM  
Tel: (707) 543-3248 | lkirk@cityactiongroup.com  
[1]  
[2]  
[3]  
We are hiring - join the team with a purpose and make an impact!  
We offer incredible opportunities, dynamic work and excellent  
benefits.  
Come God your promise, visit SRCity.org/info [4]  
Original Message  
From: alvein@cityactiongroup.com <alvein@cityactiongroup.com>  
Sent: Sunday, June 9, 2024 9:36 AM  
To: Kirk, Lou <lkirk@cityactiongroup.com>  
Cc: ryan@cityactiongroup.com; Planning, Vanessa <VPlanning@cityactiongroup.com>  
Replies  
Nashley <Nashley@cityactiongroup.com>; MacDonald, Dennis  
<dennismacdonald@cityactiongroup.com>; Okunovic, Jeff <JOkunovic@cityactiongroup.com>;  
Kemper, Chris <CKemper@cityactiongroup.com>; Chiappi, Mark  
<MChiappi@cityactiongroup.com>  
Alvarez, Lida <LAlvarez@cityactiongroup.com>; ChMOilfield  
<ChMOilfield@cityactiongroup.com>; Cragin, John <JCragin@cityactiongroup.com>;  
Baldwin, Ray <RBaldwin@cityactiongroup.com> [EXTERNA] Zoning Process Issues  
Police Department Parking lot issues  
Dear Mr. Kirk,  
I am asking you to justify your approval of the attached permit  
Permit  
Number: B24-2386  
Issued Date: 05/29/2024 - for and F fence for the police parking  
lot.  
This permit allows for an perimeter F fence. According to  
City  
Code and Zoning requirements such installing to a special  
circumstance  
that requires a design review process. Additionally, such design  
review process requires public (or neighbor) meeting so that  
concerned parties can participate in the planning process.  
City Zoning and fencing requirements call for a design review  
process  
and a Minor Use Permit. The Permit is not consistent with current  
Zoning and Fencing requirements.  
There are other issues as well - including:  
The project will require tree removal. In the City of Santa Rosa  
removal of a class of diameter tree requires permitting and  
mitigation.  
The project scope is inclusive of two parcels (905 Sonoma and 123  
Brookwood) - the perimeter of the police parking lot. The permit  
for one parcel only. That means the current permit is incorrect  
respect to scope.  
Needless to say the neighbors or concerned at the lack of process,  
consideration, and issues that are related to this fencing  
project.  
Notifying and design review are requirements that are not in place  
deal with these issues.  
Issues of Concern:  
Scope of project and what the fence looks like. The project

000000 email  
000000 has not been described.  
000000  
000000 Color of the fence. It is said the fence will be solid  
000000 corrugated  
000000 material and colored black. The color raises visual considerations  
000000 and  
000000 least considerations. A solid black fence is a best risk.  
000000 mitigation  
000000 cannot serve next to a black fence (on western perimeter). What  
000000 is  
000000 the mitigation for this issue?  
000000  
000000 Tree removal and fence installation will change night time visual  
000000 aspects from current lighting. Current lighting does not meet  
000000 code  
000000 requirements to be downward directed. Thus, there is current  
000000 light  
000000 requirements to neighbor receptors. Currently the existing trees  
000000 filter  
000000 the downward light. The project will change that light  
000000 situation -  
000000 Thus, mitigation of lighting must be mitigated.  
000000  
000000 The mitigating properties of the existing trees come with some  
000000 issues  
000000  
000000 The existing trees were planted circa 2010 during the last fencing  
000000 and  
000000 parking lot project. The planting of the tree type and location  
000000 might  
000000 on the property line is an issue in that the trees have grown to  
000000 height and have not been managed (pruned back) to not invade  
000000 neighboring properties and cause nuisance to adjoining properties.  
000000 This is an issue that needs discussion and management  
000000  
000000 I am interested in your response and am attaching historic and  
000000 current  
000000 permits for your review and to illustrate the issues)  
000000  
000000 Alan Levine for Coast Action Group  
000000  
000000 On: 2024-06-06 7:22 pm, alvine@coastaction.org wrote:  
000000  
000000 Hi John  
000000  
000000  
000000 I did get copies of the permits (so other paperwork or e-mails  
000000 have  
000000 arrived from my PRA request).  
000000  
000000  
000000 There are other issues:  
000000  
000000  
000000 Apparently there are two lots that adjoin and are used as one  
000000 parking  
000000  
000000 lot and one perimeter fence - 123 Brookwood and 950 Sonoma Ave.  
000000 Yes  
000000 currently have a permit for fencing on one of the lots - 950  
000000 Sonoma  
000000 Ave. And that permit is incomplete and inaccurately stated and not  
000000  
000000 consistent with your words and e-mails.  
000000  
000000  
000000 Summary:  
000000  
000000  
000000 123 Brookwood Parcel 00922082 - General Construction  
000000 Permit/Permit  
000000  
000000 Perform Work # BO 9-3435) - issued 1/19/2010 and for both lots  
000000 through  
000000 permit only considered that one parcel. A 6' fence was  
000000 constructed.  
000000  
000000  
000000  
000000 950 Sonoma Parcel 9-211-85 - General Construction Permit (Permit  
000000 no  
000000  
000000 Perform Work 4824-2886) - issued 5/29/24 for the construction of  
000000 a  
000000 fence - on this lot only. Not both lots. Why?  
000000  
000000 Why did your e-mail and say it was to be a 6' fence?  
000000  
000000 Permit B24-2886 does not permit additional fencing on the 123  
000000  
000000 Brookwood Parcel. It is limited to parcel 9-211-85  
000000  
000000 Read the permits (which do not meet legal standards)  
000000  
000000  
000000 Further more (as stated in previous e-mails) Permit B24-2886  
000000 fails  
000000 to  
000000 consider constraints and requirements under Zoning General  
000000  
000000 Construction Guidelines, or PD Zoning Constraints, and zoning  
000000 requirements for design review, nor do the general construction  
000000  
000000 permits allow of mandated testing and review processes.  
000000  
000000  
000000 In short this process is wrong and will not stand up to legal  
000000  
000000 scrutiny.  
000000  
000000  
000000 This can be fixed with a review in the permitting process and some  
000000  
000000 considerations.  
000000  
000000  
000000 So...how are we doing on the dinner table?  
000000  
000000  
000000 Alan  
000000  
000000  
000000  
000000  
000000  
000000  
000000  
000000  
000000 On: 2024-06-04 10:51 am, alvine@coastaction.org wrote:  
000000  
000000 Hello John  
000000  
000000  
000000 May indeed have a permit. However, if you do have a permit there  
000000 are  
000000 number of problems:  
000000  
000000  
000000 Any such permit was obtained without legally mandated process  
000000 such  
000000 as notifying the neighbors, providing a proper description and  
000000 going  
000000 through a review process - where the public is invited. In  
000000 addition,  
000000 said permit may or may not be consistent with applicable zoning.  
000000  
000000 However, there is no way to tell.  
000000  
000000  
000000 Please mail me a copy, or e-mail me a copy of said "permit". I  
000000 would  
000000 like to have a look at it.  
000000  
000000 Actually - this request to make under the Public Records act. I  
000000 require a copy of said permit under the Public Records Act  
000000 including  
000000 other documents appurtenant to said "permit". If there are  
000000 electronic  
000000 versions of said "permit", please direct me as to how I might  
000000 view  
000000  
000000 such permit.  
000000  
000000  
000000 Notice: I have been informed of the existence of a permit that  
000000 I  
000000 had  
000000 not previously been informed of. At this time I have no idea of  
000000 the  
000000 contents or process in origination of said "permit". Nor, have  
000000 I  
000000 been informed of the content, description of proposed activity  
000000 and/or  
000000 how  
000000 controls that this permit is subject to. Said permit may have  
000000 been  
000000 assumed to be maintained by the City of Santa Rosa. However it  
000000 may  
000000  
000000

not be consistent with Zoning Requirements, noticing, and public  
review under both City Code and Public Resources Code. Under  
California Resource Code Coast Action Group has 180 days from  
the  
date to take action and seek legal remedy. If the project  
commences  
prior to resolution of issues, or the appropriate noticing and  
permitting procedure is put in place, Coast Action Group has  
the  
legal right to seek a restraining order.  
Sincerely, Alan Levine for Coast Action Group  
On 2024-06-04 9:51 am, Oregon, John wrote:  
Alan,  
I encourage you to come to the meeting on the June 11th. We  
will  
have a city planner here to explain that the parking lot is in  
fact  
owned properly and the project does in fact have a city permit.  
We  
will have subject matter experts there to help explain the  
facts  
and  
hopefully this will clear some of the confusion on this issue.  
John Oregon (Chief of Police  
Santa Rosa Police Department  
963 Sonoma Ave | Santa Rosa, CA 95404 Tel: (707) 543-4070  
Fax  
(707) 543-3557 (joregon@cityof.org Facebook | Twitter |  
Instagram  
Member | CivicReady  
Original Message  
From: alvine@cityof.org <alvine@cityof.org>  
Sent: Tuesday, June 4, 2024 9:26 AM  
To: aylee@sonic.net  
Cc: Oregon, John <Joregon@cityof.org>; Fleming, Victoria  
<VFleming@cityof.org>; Rugen, Natalie <NRugen@cityof.org>;  
MacDonald, Diana <dmacdonald@cityof.org>; Okropich, Jeff  
<JOkropich@cityof.org>; Rugen, Chris <CRugen@cityof.org>;  
Stapp,  
Mark <MStapp@cityof.org>; Ahrens, Eddie <EAhrens@cityof.org>;  
CMOOffice <CMOOffice@cityof.org>; darlak@sonic.net  
Subject: [EXTERNAL] Zoning Process Issue Police Department  
Parking  
Hi James  
I am reporting to you all yet another update to my notes -  
regarding  
Zoning issues in City of Santa Rosa Zoning Code that have been  
raised  
and brought to light by this incident with the Police parking  
lot.  
Read the new language in the first couple of paragraphs. There  
is  
work that needs to be done.  
I started thinking about this: "Why is there not a normal  
permitting  
process - with noticing and review - as a standard procedure  
and  
required by PD zoning) - that should be applied to this project  
- and  
- and? Why is the City Council allowing circumvention of  
the  
applicable planning process?" For your information this process  
is  
not consistent with City Code or Public Resources Code. Thus,  
I  
am  
challenging now - prior to the need of legal intervention.  
You have my comments (as notes) thus far in this non-standard  
process  
- preserving my legal position.  
I also want to remind you that you must (it is your legal duty  
tag  
preserve all notes, correspondence, e-mails, or other  
communications  
between departments on this issue - in the case this  
information  
is  
needed for future use.  
Please fix this. There is no need for this issue to go so far  
off  
the  
tracks.  
Alan Levine for Coast Action Group  
On 2024-06-03 12:07 pm, alvine@cityof.org wrote:  
Hi, All  
I have recently revised Resolution 1720 (the resolution  
of approving  
the parking lot) and updated my notes (updated DRAFT notes  
comments page  
- for your review).  
Through we have been offered a meeting to "answer questions and  
address concerns" there is no (ZERR) consideration offered to  
potential modification of the proposed project (we have the  
adjacent property owners with the project or been offered a  
project description).  
This project is non-conforming to the Resolution and/or

0000000000 present  
0000000000 zoning and related requirements under PD zoning.  
0000000000 Please review the language in the updated DRAFT (really notes  
0000000000 basis of project comments and/or Complaints).  
0000000000  
0000000000 I question the efficacy of such proposed meeting where the  
0000000000 City  
0000000000  
0000000000 not available for modifying the project to meet the needs and  
0000000000 concerns of all parties. There is a process. It starts with  
0000000000 notice  
0000000000 - inclusive of providing description of the project, then  
0000000000 - then  
0000000000 - project review and a comment period - with a staff report  
0000000000 assessing  
0000000000 conformity of the project with environmental and code issues  
0000000000 along  
0000000000 with consideration of comments to the file. What I am saying  
0000000000 here  
0000000000 is that the City is not following accepted process for  
0000000000 projects -  
0000000000  
0000000000 as is the City asserting compliance with its own codes. (not  
0000000000 to  
0000000000 maintain the legal propriety this failure of process puts the  
0000000000 city  
0000000000 in. One can ask why the City is allowing such a hasty process  
0000000000 to  
0000000000 proceed when it is not the difficult to conform to planning  
0000000000 discipline?  
0000000000  
0000000000 Finally - my contentious disposition is not solely related to  
0000000000 the  
0000000000 project. For years my complaint of Police Parking lot  
0000000000 maintenance  
0000000000 from un-managed trees into my yard - provoking much work,  
0000000000 annoyance, and damage to my property has been a problem -  
0000000000 which  
0000000000 the  
0000000000 Chief is quite aware of. I have been complaining for a long  
0000000000 time.  
0000000000 At this point, for me (As, by law I am required to mitigate,  
0000000000 the  
0000000000 issue - if the City does  
0000000000 not) - to open my fence and trim your trees and dig all the  
0000000000 debris and refuse into the police lot (probably have to shove  
0000000000 it  
0000000000 across the property line so so not trees pass). What a pain in  
0000000000 the  
0000000000 are you have been - when my repeated requests to correct this  
0000000000 maintenance  
0000000000  
0000000000 Furthermore, Not having the project description denies me  
0000000000 knowledge  
0000000000 of other concerns regarding the fencing project - i.e. light  
0000000000 emissions and noise. Does the project include tree removal?  
0000000000 If  
0000000000 there will be light intrusion. The current lighting is  
0000000000 designed  
0000000000 all wrong (it should be down lighting - so as not to be  
0000000000 disturbed  
0000000000  
0000000000 to off property receptors. At times there are noise issues as  
0000000000 well  
0000000000 - halting in the parking lot.  
0000000000  
0000000000 These issues, all of them, probably can be resolved - if  
0000000000 appropriate process and consideration is applied.  
0000000000 We are not belligerent neighbors. We have been treated with a  
0000000000 lack  
0000000000 of consideration and we will defend the right to live here  
0000000000  
0000000000 unnecessary intrusion into our lives perpetrated on us. That  
0000000000 is  
0000000000 what Planning Law is about.  
0000000000  
0000000000  
0000000000  
0000000000 Alan Levine, 126 Sunset Ct.  
0000000000  
0000000000  
0000000000  
0000000000 On 2024-06-03 10:37 am, Pat wrote:  
0000000000  
0000000000 Chief Oregon and others  
0000000000  
0000000000  
0000000000 My property is 112 Sunset Court, on the southwest corner  
0000000000 of  
0000000000 the existing parking lot fence line. I join in and  
0000000000 acquiesce  
0000000000 to  
0000000000 by  
0000000000 reference all statements of Mr. Levine. Please be advised as  
0000000000 follows:  
0000000000  
0000000000  
0000000000 1. I participated in the planning of the existing cyclone  
0000000000 fence.  
0000000000 At that time it was found that my existing fence satisfied  
0000000000 your  
0000000000 security concerns for my location and there was no need to  
0000000000 add a  
0000000000 fence behind my existing fence. There have been no change of  
0000000000 conditions that warrant your proposed fence.  
0000000000  
0000000000 2. The proposed fence, as described to me, will turn my  
0000000000 backyard/dish area into a prison yard that will adversely  
0000000000 affect  
0000000000 my property value. That is an inverse condemnation and I will  
0000000000 sue  
0000000000 to recover my lost value. This should be considered in your  
0000000000 budget.  
0000000000  
0000000000 3. The proposed fence at my property as described to me  
0000000000 will  
0000000000 do nothing to increase the security of the parking lot. If  
0000000000 that  
0000000000 are intended you should first install a gate at the Sonoma  
0000000000 Avenue.  
0000000000 entrance and judge the results. The parking lot is now open  
0000000000 to  
0000000000 the  
0000000000 public through that entrance and if does nothing to install a  
0000000000 fence behind my existing fence, or incur the cost of doing  
0000000000 so.  
0000000000 I  
0000000000 gave some free construction advice to the two nice men who  
0000000000 visited  
0000000000 me on how to save some construction money. I do not know  
0000000000 what  
0000000000 happened to  
0000000000 that.)  
0000000000  
0000000000 4. The proposed fence is not compatible with the  
0000000000 surrounding  
0000000000 area as is required by prior ordinances.  
0000000000  
0000000000 5. Issues as outlined by Mr. Levine have been presented  
0000000000 by  
0000000000 him  
0000000000 and I join in that presentation.  
0000000000  
0000000000 6. No permission is granted to enter my property.  
0000000000  
0000000000 7. Please add my name and contact information to all  
0000000000 correspondence and communications regarding these issues.  
0000000000  
0000000000









From: alex@cityofsan.org <alex@cityofsan.org>  
Date: Tuesday, June 4, 2024 8:26 AM  
To: alex@cityofsan.org  
Cc: Craig, Mike <Craig@cityofsan.org>; Fleming, Victoria  
-Yfianing@cityofsan.org; Rogers, Natalie <NRogers@cityofsan.org>  
McDonald, Dianne <dmacdonald@cityofsan.org>; Okropnik, Jeff  
-JOkropnik@cityofsan.org; Rogers, Chris <CRogers@cityofsan.org>  
Subject: [EXTERNAL] zoning issues: Police Department  
Parking  
Hi team  
Hello All  
I am reporting to you all just another update to my notes regarding zoning issues in City of Santa Rosa Zoning Code that have been brought to light by this incident with the Police parking lot.  
Read the new language in the first couple of paragraphs. These work that needs to be done.  
I started thinking about this "Why is there not a normal permitting process - with noticing and review - as a standard procedure required by PD zoning) - that should be applied to this project and  
Why is the City Council allowing circumvention of the applicable planning process?" For your information this process not consistent with City Code or Public Resource Code. Thus, challenging same - prior to the need of legal intervention.  
You have my comments on noted that far in this non-standard process - governing my legal position.  
I also want to remind you that you must (it is your legal duty to) preserve all notes, correspondence, e-mails, or other information between departments on this issue - in the case this information needed for future use.  
Please fix this. There is no need for this issue to go on for the tracks.  
Alan Levine for Coast Action Group  
On 2024-06-03 12:07 pm, alex@cityofsan.org wrote:  
Hello All  
I have recently review Resolution 17258 (the resolution approving the parking lot) and updated my notes (updated DRAFT notes comments page - for your review).  
Though we have been offered a meeting to "answer questions and address concerns" there is no CEQA consultation offered for potential modification of the proposed project (we have the adjacent property owners even the project or been offered a project description).  
This project is non-conforming to the Resolution and/or permit.  
Notice and related requirements under PD zoning.  
Please review the language in the updated DRAFT (final) notes based of project comments and/or Complaints.  
I question the efficacy of such proposed meeting when the City is not available for modifying the project to meet the needs and concerns of all parties. There is a process. It starts with notice - reflective of providing description of the project, then project review and a comment period - with a staff report meeting - consistency of the project with environmental and code issues - being with consideration of comments to the file. What I am saying here is that the City is not following accepted process for project.  
I am in the City ensuring compliance with its own codes. (not to mention the legal jeopardy this failure of process puts the city.  
One can ask why the City is allowing such a late process proceed when it is not the difficult to conform to planning (discretion?)  
Finally - my construction disposition is not solely related to project. For years my complaint of Police Parking lot intrusion.  
Does so-managed times like my yard - providing much work, amenities, and damage to my property has been a problem - which  
Chief is quite aware of. I have been complaining for a long time.  
At this point, for me I As, by law I am required to mitigate the of the City does work to its own city laws and state your town and stop all the debris and debris into the public lot (probably have to draw it across the property line or in next town past). What a pain in the  
are you have been - after my repeated requests to correct this nuisance.  
Furthermore/Not having the project description done in knowledge of other outcomes regarding the zoning project - i.e. light intrusion and noise. Does the project include any noise?  
I think with the light intrusion. The current lighting is designed all zoning (it should be street lighting - so as not to be directed  
to off property receptors. At times there are noise issues as well

