

CODE ENFORCEMENT COMMISSION

**STAFF REPORT
APPEAL OF PANEL DETERMINATION**

DATE: JULY 7, 2016
TO: CODE ENFORCEMENT COMMISSION
FROM: JON POLLARD – CODE COMPLIANCE MANAGER
SUBJECT: APPEAL OF PANEL DETERMINATION
CODE COMPLIANCE CASE NO. CTP2015-01190 AND CTP2015-01891
1470 S. MARENGO AVENUE, PASADENA, CA. 91106

RECOMMENDATION:

It is recommended that the Code Enforcement Commission affirm the determination of Panel No. 2 finding:

1. That Mark and Catherine Johnson were the current owners of the property when warning notices were issued on July 30, 2015, November 20, 2015, and November 24, 2015;
2. That Mark and Catherine Johnson were duly notified of the alleged violations of the Pasadena Municipal Code and properly informed of the hearing date;
3. That the Commission accepted into the administrative record Exhibit 1 (City's photographs labeled "1A"), Exhibit 2 (Staff Report), Exhibit 3 (Johnson's photographs marked "A-F".)
4. That Mark and Catherine Johnson appeared and testified on their behalf at the hearing of March 3, 2016 and identified City's photographic exhibit "1A" as their property;
5. That Code Compliance Manager Jon Pollard appeared and testified on behalf of the City that the conditions regarding parking vehicles on an unpaved surface, the impermissible storage of several large steel intermodal shipping containers, and the construction of a large concrete footing and masonry building block retaining wall without permits violate the Pasadena Municipal Code and;
6. That the conditions depicted in the City's photographs violated Sections 10.40.186, 17.78.060(A), 14.50.040(28), and 14.12.320 of the Pasadena Municipal Code as set forth in the staff report.

Staff further recommends that upon affirmation of the determination of Panel No. 2 that the full Commission:

1. Declare by Order of the Code Enforcement Commission that Mark and Catherine Johnson must take the following corrective action within ten (10) calendar days from the mailing date of the Order of the Code Enforcement Commission:
 - (1A) Discontinue parking vehicles on unpaved surfaces, and/or in any manner that is not fully consistent with the Pasadena Municipal Code
 - (2A) Remove the intermodal shipping containers from the site.
2. Declare by Order of the Code Enforcement Commission that Mark and Catherine Johnson must take the following corrective actions within forty-five (45) calendar days from the mailing date of the Order of the Code Enforcement Commission:
 - (1B) Obtain all required permits necessary for the construction of the concrete footing and masonry wall or;
 - (2B) Obtain all required permits necessary for the demolition of the concrete footing and masonry retaining wall, and reconstruction/regrading of the rear embankment.

CASE INFORMATION:

Date of Panel Hearing: March 3, 2016

Case Number: CTP2015-01190
CTP2015-01891

Code Compliance Staff: Jon Pollard – Code Compliance Manager

Property in Violation: 1470 S. Marengo Avenue
Pasadena, CA. 91106

Violative Conditions:

- (1) Construction of concrete footing and masonry retaining wall without building permit.
- (2) Parking vehicles in front yard on unpaved surface.
- (3) Placement of intermodal shipping containers in front yard in violation of Zoning Code.

Parcel Number: 5324-009-032

Land Use: Single family residential

Zoning: RS-4 (Single Family Residential)
RS-4HD (Single Family Residential Hillside)

Legal Description: See "Attachment H"

Current Property Owner of Record:	Mark and Catherine Johnson 1470 S. Marengo Avenue Pasadena, CA. 91106
Tenant Name/Address (if applicable)	Not applicable
Representative Name/Address	Not applicable
Initial Inspection Date:	July 14, 2015
Notice of Substandard Building:	N/A
Notice of Public Hearing Mailed:	April 21, 2016
Notice of Public Hearing Posted:	April 21, 2016

BACKGROUND:

Panel Hearing

On March 3, 2016, a public hearing was held before Panel No. 2 of the Code Enforcement Commission concerning violations of the Pasadena Municipal Code at 1470 S. Marengo Avenue. The Municipal Code violations pertained to: (1) the unpermitted construction of a concrete footing/retaining wall with an exposed wall height of approximately five feet, atop which was built a concrete masonry unit (CMU) block wall which is also approximately five feet high, and wherein the overall height of the exposed wall face is approximately 10 feet and, (2) the impermissible parking of vehicles on an unpaved surface in the front yard area of the site and, (3) the impermissible placement/keeping of three metal intermodal shipping containers that are approximately 8' wide, 8' 6" high and 20' long in the front yard setback area of the site.

After receiving testimony from City staff, and property owners' Mark and Catherine Johnson, Panel No. 2 determined that the construction of the concrete footing/retaining wall and CMU wall, the parking of vehicles on an unpaved surface in the front yard, and the placement/keeping of the intermodal shipping containers in the front setback area were each in violation of the Pasadena Municipal Code. The staff report produced for the March 3, 2016, Code Enforcement Commission hearing may be referenced herein as "Attachment J" and the Order as set forth by Panel No. 2 may be referenced herein as "Attachment I." A photograph of the unpermitted concrete footing/retaining wall and CMU wall may be referenced herein as "Attachment A", and a photograph of the impermissible vehicle parking and impermissible placement/keeping of shipping containers in the front setback area may be referenced herein as "Attachment B."

At the conclusion of the public hearing and after receiving testimony from City staff and Mark and Catherine Johnson, Panel No. 2 set forth a specific "Commission Corrective Action" as articulated within the Order which directed the Johnson's to: (1) Discontinue parking vehicles on unpaved surfaces, and/or in any manner that is not fully consistent with the Pasadena Municipal Code, (2) Remove the intermodal shipping containers from the site, (3) Obtain all required permits necessary for the construction of the concrete footing and masonry wall or, (4) Obtain all required permits necessary for the demolition of

the concrete footing and masonry wall, and reconstruction/grading of the rear embankment.

Property owners Mark and Catherine Johnson have appealed the Panel's determination.

APPEAL:

Appeal Submittal

As set forth in Pasadena Municipal Code Section 2.55.075(A), any interested party may appeal a panel determination to the full Commission by filing an "Application for Appeal of Panel Decision" within ten days of the mailing date of the Order. Property owners Mark and Catherine Johnson have filed a timely submittal of such application. That completed and returned appeal application may be referenced herein as "Attachment C."

Standard for Appeal

Section 2.55.075(B) of the Pasadena Municipal Code describes standards necessary for appeal and states: "The appeal application shall set forth previously unavailable new evidence¹ regarding the matter; or state specifically the manner in which the panel determination was not supported by the record, misinterpreted the municipal code, misapplied established city policy, or erred in some other respect."

Minimum Standard for Appeal Not Met

As noted above, the purpose of the appeal process is to allow an appellant opportunity to provide previously unavailable *new evidence*, describe how the *panel determination* was unsupported by record, how the *panel* misinterpreted the municipal code, how the *panel* misapplied established city policy, or how the *panel* erred in some other respect. It is not the purpose of the appeal process to provide a second opportunity for an appellant to restate previously provided information, or provide anecdotal or other non-evidentiary information.

The appellant's have not provided any new evidence, nor provided any information that describes how the panel erred in any respect. Notwithstanding the appellant's failure to meet the minimum evidentiary threshold, the appellant's have been afforded the appeal opportunity in an effort to ensure maximum opportunity to be heard.

¹ "Evidence" as required for decisions by a quasi-judicial hearing body such as the Code Enforcement Commission must be substantial and "reasonable in nature, credible, and of solid value; it must actually be "substantial" proof of the essentials which the law requires in the particular case." (*Estate of Teed*) 112 Cal. App. 2d 638. Accordingly, to meet this standard, the appellant must provide "substantial evidence" that allows the Commission to "bridge the analytical gap between the raw evidence and ultimate decision" (*Topanga Assn. for a Scenic Community v. County of Los Angeles*) (1974) Cal.3d 506. Hearsay evidence may be used for the purpose of supplementing or explaining other evidence but over timely objection shall not be sufficient in itself to support a finding unless it would be admissible over objection in civil cases. (Government Code, §11513(d)). Accordingly, for the purposes of appeal before the Code Enforcement Commission, the appellant must provide *new evidence*, not opinion, conjecture, or speculation.

APPELLANTS STATED BASIS FOR APPEAL

First Page – First Paragraph of Appellant's Appeal Document

Appellant's state:

- "...the Johnson's were given notice that the intermodal shipping containers, construction materials, and worker vehicles in their front yard were in violation of City code/rules."
- The Johnson's explained to code compliance staff "...that "two sheds" were being constructed..." whereupon City staff advised that "...a permit was required to construct the sheds."
- The Johnson's assert City staff said that a that permit for the sheds "...would allow the construction material, vehicles and containers in the front yard."
- "[T]he Johnson's obtained a permit to construct two 199 [sic]² square foot sheds and it was confirmed by the zoning officer at the Permit Center that this would allow the placement of the noted containers in Johnson's front yard."

Information for Commission Consideration:

At the March 3rd meeting before Panel No. 2, Code Compliance Manager Jon Pollard testified that on July 14, 2015, the Code Compliance Division received a complaint regarding a large shipping container in the front yard area of 1470 S. Marengo Avenue and that on July 29, 2015, Senior Code Compliance Officer Matthew Ramos conducted an inspection of the site and confirmed the presence of several steel intermodal shipping containers in the front yard of the property. Mr. Ramos also observed several vehicles parked on the unpaved surface of the front yard.

Mr. Pollard testified that on July 30, 2015, Mr. Ramos issued Warning Notice No. W11121 to Mark and Catherine Johnson and advised them to "[d]iscontinue parking vehicles on an unpaved surface [and] obtain a ZON permit for containers or have them removed."

During his testimony before Panel 2, Mr. Pollard stated that Mr. Ramos' information regarding issuance of a "ZON" permit (Zoning Permit) to allow continued placement of the shipping containers was not an acceptable corrective remedy as a Zoning Permit is intended to allow such things as accessory structures of *less than 120 square feet*, awnings, fences of up to six foot high, paving and landscaping, small retaining walls, temporary car wash uses, donation collection bins, and seasonal and other temporary sales uses. Panel No. 2 was further advised that a Zoning Permit would not allow placement of the metal intermodal shipping containers in the front yard area.

While a Zoning Permit is required for many items that are otherwise exempt from issuance of a building permit, construction or alteration of a building or an accessory structure larger than 120 square foot requires issuance of a "building permit." For reference, section

² The appellant's inaccurately indicate that the permit was for two "199-ft sheds." A photocopy of Zoning Permit No. "ZON2015-00186" may be referenced herein which reveals that the applicant submitted an application seeking a permit for sheds of 119 square feet each.

R105.1 of the California Residential Code sets forth work that requires a building permit and states:

"Any owner or authorized agent who intends to construct, enlarge, alter, repair, move, demolish or change the occupancy of a building or structure, or to erect, install, enlarge, alter, repair, remove, convert or replace any electrical, gas, mechanical or plumbing system, the installation of which is regulated by this code, or to cause any such work to be done, shall first make application to the building official and obtain the required permit."

Section 105.2 of the California Residential Code provides certain work exemptions from the building permit requirement and states:

Work exempt from permit. Permits shall not be required for the following. Exemption from permit requirements of this code shall not be deemed to grant authorization for any work to be done in any manner in violation of the provisions of this code or any other laws or ordinances of this jurisdiction. (1) One-story detached accessory structures used as tool and storage sheds, playhouses and similar uses, provide the floor area does not exceed 120 square feet (11.15m²).

On August 18, 2015, Mr. Ramos conducted a re-inspection of the site and observed that the shipping containers remained on-site, and noted that Zoning Permit ZON2015-00186 had been "...pulled on 8-14-15 for two 116 sq ft containers" [sic]³. On October 5, 2015, Mr. Ramos re-inspected the site and noted that the shipping containers and a large trailer were situated in the front yard area and partially visible from the street.

The Johnson's assert that the permit for the sheds would allow construction materials, vehicles and containers in the front yard. To first address storage of construction materials in the front yard; Zoning Code section 17.40.160(F)(1)(b) states:

Limitations on the use of setbacks. A required setback shall only be used in compliance with the following requirements (1) Storage. No required setback shall be used for the storage of: (b.) Building materials, except during on-site construction, in compliance with a valid *Building Permit*. (emphasis added.)

As previously noted, the Johnsons have not been issued a *building* permit, they have been issued a Zoning Permit. The Zoning Permit does not entitle the Johnson's to store building material on-site in the front yard setback area. While the Johnson's assert that the code compliance officer said "...a permit would allow the construction material, vehicles and containers in the front yard" such is not the case. The Zoning Permit does not authorize the storage of building material in the front yard setback, nor does it authorize the placement/keeping of shipping containers in the front yard setback.

³ It should be noted that ZON2015-00186 had been issued for work with the following description and setback, size and height requirements: "CONSTRUCT TWO 119 SQUARE FOOT STORAGE SHEDS. TO BE PLACED 100 FEET FROM FRONT PROPERTY LINE ALONG SIDE YARD SETBACK, AND TWO FEET FROM SIDE PROPERTY LINE. 15 FEET MAX HEIGHT AND 9 FOOT TOP PLATE." The metal shipping containers are approximately eight feet wide, 20 feet long, and eight and one-half feet high. Referring to the above referenced zoning permit as applicable to the metal shipping containers was erroneous and not applicable to the resolution of the code compliance matter involving the metal shipping containers. A photocopy of Zoning Permit No. ZON2015-00186 may be referenced herein as "Attachment D."

The Johnson's assert that a permit for the sheds "would allow vehicles...in the front yard." There is no nexus between the issuance of a Zoning Permit and/or a building permit and the ability to park a vehicle in the front yard of a residence. Persons may park a vehicle in the front yard of their residence so long as the manner in which the vehicle is parked does not violate the Pasadena Municipal Code. It should be noted that the appellants haven't been issued citations for parking vehicles *in the front yard*. The appellants have been issued citations for parking vehicles on an *unpaved surface* in the front yard in violation of Pasadena Municipal Code section 10.40.186 which states:

"No person, including the owner or tenant of property zoned residential, shall park any vehicle on the improved or unimproved portion of a front yard or setback, including the lawn thereof, in a residential zone, except on an improved driveway leading to covered parking."

The appellant's assertion that City staff stated that a permit would "...allow vehicles in the front yard" is a tangential statement that misconstrues the nature of the issue. To reiterate, the issue isn't that vehicles are parked in the front yard, the issue is that vehicles have been parked on an unimproved surface. Vehicles parked in the front yard must be on an improved driveway which leads to covered parking.

Regarding the appellants assertion that City staff stated that "...a permit...would also allow containers in the front yard." Issuance of a Zoning Permit does not allow placement of a shipping container or any other accessory structure in the front yard setback area of a residential site. The intermodal shipping containers are estimated to be 8 feet wide, 8 feet 6 inches high, and 20 feet long with an overall footprint of 160 square feet each. The City's Zoning Code considers the shipping containers to be "accessory structures" and defines an accessory structure as:

"Structure, Accessory, A structure that is subordinate to, and detached from the main structure, the use of which is incidental and subordinate to that of the main structure."

The three intermodal storage containers are located in the front yard setback area and the westernmost container is situated approximately 20 feet east of the front property line. (For reference, see "Attachment B" for a photograph depicting the placement of the three shipping containers.) The two other shipping containers are situated side by side generally parallel with the front-most container and there is a space approximately two feet wide separating each container. As the shipping containers are considered "accessory structures," placement of the containers must conform with the City's Zoning Code requirements and more specifically with section 17.50.250(D)(1) which sets forth restrictions on accessory structures and uses in front yard setback areas and states:

"Limitation on location." (1) An accessory structure shall not occupy a required front or corner side setback."

For further information regarding the keeping of construction materials in the front yard area of a residential site, the City's Zoning Administrator issued a "Zoning Administrator Interpretation" regarding temporary storage of materials in a front yard. A photocopy of the Zoning Administrator's Interpretation may be referenced herein as "Attachment E" and as set forth therein states that "...when a site has received a building permit the construction project would need to have an area to store the construction materials. This

may occur in the front or rear yard of the site and this would typically last longer than the maximum 45 days allowed under a TCUPS” (emphasis added.) The Zoning Administrator further noted that a temporary on-site construction yard may have lumber and other materials for necessary for construction, and a six-foot fence in the front yard to secure material, tools and equipment.

The Zoning Administrator’s Interpretation specifically applies to properties with *building* permits, and allows the keeping of a portable toilet, lumber and other materials for construction. The Interpretation does not allow the keeping of storage containers in the front yard setback area, and the placement and keeping of storage containers in the front setback area of a residence is clearly prohibited by the City’s Zoning Code.

First Page – Second Paragraph of Appellant’s Appeal Document

Appellant’s state:

- “Three months later, in October 2015, the Johnson’s received a notice that the containers were again in violation. The Johnsons called the code enforcement officer and informed him that a permit was on file to construct the sheds and was good for six months. The officer was not aware of the permit but searched the file while on the phone and found it. All seemed okay again, but it was strange that the officer was not aware of the existing permit.”

Information for Commission Consideration:

As noted above, issuance of a Zoning Permit does not allow placement, keeping or storage of intermodal shipping containers or other types of accessory structures in the front yard setback area of a residential site, nor does a Zoning Permit allow the keeping or storage of building material in the front yard setback area of a residential site.

First Page – Third Paragraph of Appellant’s Appeal Document

Appellant’s state:

- “A little while later the Johnsons receive notice the containers were still in violation of City codes/rule, and additionally, the construction of the sheds were also in violation.”

Information for Commission Consideration:

It is important to make clear that the City has never advised the Johnson’s that the “...construction of the sheds were also in violation.” The City has consistently maintained that Zoning Permit No. ZON2015-00186” was issued for the construction of two 119 square foot storage sheds located 100 feet rear of the front property line. During the Panel hearing of March 3, 2016, the Johnson’s testified that the concrete and CMU structure (as depicted in “Attachment A”) is the “shed” structure allowed by the above referenced Zoning Permit. As noted earlier in this report, a Zoning Permit cannot be issued for a large concrete footing/retaining wall and CMU wall as depicted in “Attachment A.” Such work could only be undertaken subsequent to issuance of both a grading permit and a building permit. Any assertion that a Zoning Permit allows construction of a structure as depicted in “Attachment A” is ill-informed and inaccurate.

First Page – Third Paragraph of Appellant's Appeal Document

Appellant's state:

- "The Johnsons contacted Jon Pollard...and told him the construction in the back was part of the building of the sheds but he just continued to respond that it was not in his opinion."

Information for Commission Consideration:

Code Compliance Manager Jon Pollard did in fact have a conversation with Mark Johnson regarding the construction of the large concrete footing/retaining wall and CMU wall, and Mr. Johnson did indeed assert that Zoning Permit No. ZON2015-00186 was issued for that work. Mr. Pollard firmly responded that the Zoning Permit was issued for the construction of two 119 square foot sheds, not for the construction of a concrete footing and masonry wall on a slope embankment. "Attachment A" is a photograph of the concrete footing/retaining wall and CMU wall which clearly shows that the appellant has excavated on the slope area at the rear of his property, removing material from the embankment and constructed a retaining wall⁴. A photocopy of Zoning Permit No. ZON2015-00186 may be referenced herein as "Attachment D."

As previously noted, the Zoning Permit application submitted by appellant Mark Johnson includes a site plan depicting the placement of the two 119 square foot storage sheds 100 feet to the rear of the front property line. The unpermitted concrete footing and masonry wall are located approximately 217 feet rear of the front property line. Similarly, the combined height of the footing and retaining wall is approximately 10 feet. A building permit is required for the construction of a structure of such height. Additionally, as part of the construction process, the appellant has cut/excavated into the existing embankment in violation of Pasadena Municipal Code section 14.05.060(A) which states:

"No person shall do, or cause or allow to be done, any of the following: grade, excavate or fill on any lands within HD districts and on a slope any portion of which is greater than 15 percent without first having obtained a grading permit pursuant to this chapter."

The rear portion of the site is located in the "HD" Hillside Development overlay zoning district. "Attachment F" is an illustration of the Zoning Map for the subject site and "Attachment G" depicts the subject site with an arrow depicting the area of the parcel located in the HD overlay district, and the location of the retaining walls denoted in red.

For reference, it should be noted that small retaining walls may be constructed without a building permit and California Residential Code Section R105.2 subsection 3 states that a building permit is not required for retaining walls that are not over 4 feet (1,219mm) in height measured from the bottom of the footing to the top of the wall, unless supporting a surcharge. This information is provided solely as reference to the building code exemption for small retaining walls, and is not applicable to the structure that has been built on the rear embankment of the appellant's lot.

⁴ Section 14.05.050(25) defines a "Retaining wall" and states: "'Retaining wall' means a wall designed to resist the lateral displacement of soil or other materials."

The existing concrete footing and masonry retaining wall are "L" shaped and the combined height of the exposed portion of the footing and wall are approximately 10 feet, well in excess of what may be constructed without a building permit. California Residential Code Section R105.2, subsection 3 does not apply to the subject property and does not exempt the existing wall structures from building permit requirements.

Second Page – First Paragraph of Appellant's Appeal Document

Appellant's state:

- "In the noted hearing, there were two primary issues, the intermodal shipping containers in the Johnson's front yard and the construction of the sheds in the backyard."

Information for Commission Consideration:

The appellants' assertion that the primary issues are the "shipping containers" and "construction of the sheds" is entirely inaccurate. As previously noted the City has issued no citations and taken no enforcement action relative to construction of the two 119 square foot storage sheds as approved by Zoning Permit No. ZON2015-00186.

Construction of the concrete footing/masonry retaining wall and CMU wall without building permits poses a serious safety issue which must be corrected without delay. The City is also concerned with the Johnson's illegal placement of intermodal shipping containers in the front yard setback area of their residence, and the parking of vehicles on areas other than a paved driveway leading to covered parking.

Second Page – Second Paragraph of Appellant's Appeal Document

Appellant's state:

- "Mr. Pollard indicated that with the permits the Johnsons have, the Johnsons can place intermodal shipping containers for storage/construction in their front yard; however the containers the Johnsons currently have are too big. When asked by the commissioners about an okay size, recollection is that Mr. Pollard said 10-feet in length."

Information for Commission Consideration:

The appellants write that [their] "...recollection is that Mr. Pollard said a container "...10-foot in length" is permissible in the front yard. The appellants' referenced recollection of the testimony is completely inaccurate. As noted earlier in this document, the City's Zoning Code considers intermodal shipping containers to be an "accessory structure" and the Zoning Code prohibits an accessory structure from being located in a front setback area. The aforementioned shipping containers are located in the front setback area and are thus in violation of the Pasadena Municipal Code. At no time, under any circumstances has Mr. Pollard told the Johnson's that they could place smaller containers in the front setback area.

Second Page – Second Paragraph of Appellant's Appeal Document

Appellant's state:

- "...it can be well observed that 40-foot intermodal shipping containers converted to construction site offices are located at construction sites in Pasadena. And many 20-foot containers are located at construction sites for storage of tools and materials. Also, tractors, materials, vehicles, etc. are also located on the grounds at many sites."

Information for Commission Consideration:

Temporary construction offices, temporary construction yards, and other temporary uses may be observed at construction sites where building permits have been issued, and such uses are regulated by section 17.61.040 of the City's Zoning Code. The Zoning Code, in limited instances and through issuance of a Temporary Use Permit approved by the Zoning Administrator, allows the temporary placement of structures, and section 17.61.040(7)(a)(1)(2) states:

"(a) A trailer or mobile home may be used as a temporary work site for employees of a business:

- (1) During construction of a subdivision or other development project when a valid Building Permit is in force, or
- (2) Upon demonstration by the applicant that the temporary work site is a short-term necessity, while a permanent work site is being obtained."

Similarly, section 17.61.040(8) of the Zoning Code regarding "Temporary Uses" allows through issuance of a Temporary Use Permit approved by the Zoning Administrator, "Similar temporary uses" and may allow placement and/or utilization of:

"Similar temporary uses which in the opinion of the Zoning Administrator, are compatible with the zoning district and surrounding land uses, and are necessary because of unusual or unique circumstances beyond the control of the applicant."

As noted throughout this this document, the Zoning Code does not permit the placement of an "accessory structure" (including intermodal shipping containers) in required front yard setback areas. However, the appellants (and others) may seek approval of a "Temporary Use Permit" for placement of the shipping containers outside the front yard setback area.

Second Page – Second Paragraph of Appellant's Appeal Document

Appellant's state:

- "The Johnsons believe the permit they have is sufficient to construct the concrete shed they are building for emergency supplies. The only restriction the permit indicates is that the sheds cannot be located within 100 feet of the front property line."

Information for Commission Consideration:

The appellant's assertion that the "...only restriction the permit indicates is that the sheds cannot be located within 100 feet of the front property line" is inaccurate. In fact the permit has the following approval/requirements:

- Construct two 119 square foot storage sheds.
- Placement 100 feet from front property line.
- Placement two feet from side property line.
- 15 foot maximum height.
- 9 foot top plate.

The Appellant's notion that the concrete footing/retaining wall and CMU wall as depicted in "Attachment A" herein is a "...concrete shed..." strains the limits of credulity. As the photograph clearly depicts, the appellant has cut into the existing slope at the rear of the property, constructed a concrete footing/retaining wall with an exposed face approximately five feet tall, and atop the footing/retaining wall has constructed a CMU wall that is also approximately five feet tall. To say that the structure is a "concrete shed" is inaccurate, misleading, and erroneous.

CONCLUSION:

Any person may appeal a panel determination to the full Commission, and Mark and Catherine Johnson have availed themselves of that opportunity. As noted in Pasadena Municipal Code Section 2.55.075(B), "[t]he appeal application shall set forth previously unavailable evidence regarding the matter; or state specifically the manner in which the panel determination was not supported by the record, misinterpreted the code, misapplied established city policy, or erred in some other respect."

The information contained in the appellants' appeal application, and this report reveals that the appellants:

- Have not provided any evidence which was previously unavailable.
- Have not specifically stated where the panel determination was not supported by the record.
- Have not specifically stated where the panel misinterpreted the Code.
- Have not specifically stated where the panel misapplied established City policy.
- Have not specifically stated where the panel erred in some other respect.

Finally, it is not the purpose of the appeal process to provide a second chance for an appellant to restate previously provided information, or provide additional anecdotal information.

Accordingly, staff recommends that the Code Enforcement Commission make the affirmation, determinations and declarations as set forth under "Recommendation" on Page 1 of this report.

Respectfully Submitted,



Jon A. Pollard
Code Compliance Manager

Attachments:

- Attachment A: Photograph of unpermitted grading and construction at rear of 1470 S. Marengo Avenue.
- Attachment B: Photograph of intermodal shipping containers stored in front yard area, and vehicles parked on unpaved area in front yard area of 1470 S. Marengo Avenue.
- Attachment C: Photocopy of appellant's "Application for Appeal of Panel Decision."
- Attachment D: Photocopy of Zoning Permit No. ZON2015-00186
- Attachment E: Photocopy of Zoning Administrator's Interpretation dated March 7, 2008 regarding temporary uses in front yards.
- Attachment F: Zoning Map
- Attachment G: Illustration of site depicting location of "HD" Hillside area and approximate location of unpermitted grading and construction of retaining wall and masonry wall.
- Attachment H: Legal description of subject property.
- Attachment I: Order of the Code Enforcement Commission
- Attachment J: Staff Report to Code Enforcement Commission – March 3, 2016