



PLANNING & COMMUNITY DEVELOPMENT DEPARTMENT

STAFF REPORT

DATE: March 21, 2018

TO: Hearing Officer

SUBJECT: Minor Variance #11876

LOCATION: 1299 Inverness Drive

APPLICANT: Outdoors and Beyond Inc.

ZONING DESIGNATION: RS-2-HD (Single-Family Residential, 0-2 units per acre, Hillside Development Overlay District)

GENERAL PLAN DESIGNATION: Low Density Residential

CASE PLANNER: Carlos Chacon

STAFF RECOMMENDATION: Adopt the Environmental Determination and the Specific Findings in Attachment A to **approve** Minor Variance #11876 with the conditions in Attachment B.

PROJECT PROPOSAL: Minor Variance: To allow the construction of a five-foot high fence, to be utilized as a pool enclosure, within the front yard setback, where the maximum allowed height is four feet.

ENVIRONMENTAL DETERMINATION: This project has been determined to be exempt from environmental review pursuant to the guidelines of the California Environmental Quality Act (Public Resources Code §21080(b)(9); Administrative Code, Title 14, Chapter 3, §15303(e), Class 3, New Construction or Conversion of Small Structures). There are no features that distinguish this project from others in the exempt class; therefore there are no unusual circumstances. This class exemption exempts from environmental review specifically accessory structures including garages, carports, patios, swimming pools, and fences.

BACKGROUND:

Site characteristics: The site is an irregular shaped lot measuring approximately 26,911 square feet, and currently developed with a 2,414 square foot one-story single-family residence.

Adjacent Uses: North – Single Family Residential
South – Single-Family Residential
East – Single-Family Residential
West – Single-Family Residential

Adjacent Zoning: North – RS-2-HD (Single-Family Residential , 0-2 units per acre, Hillside Development Overlay District)
South – RS-4-HD (Single-Family Residential , 0-4 units per acre, Hillside Development Overlay District)
East – RS-2-HD (Single-Family Residential , 0-2 units per acre, Hillside Development Overlay District)
West – RS-2-HD (Single-Family Residential , 0-2 units per acre, Hillside Development Overlay District)

Previous zoning cases on this property: None

PROJECT DESCRIPTION:

The applicant, Outdoors and Beyond Inc., has submitted a Minor Variance application to allow the construction of a five-foot high wrought iron fence within the front yard setback, where the maximum allowed height is four feet, to be utilized as a pool enclosure for a proposed swimming pool. A Minor Variance is required for a fence that exceeds the maximum allowable height in the front yard.

The subject site is an irregularly shaped lot characterized by a steep topography where most of the site is sloped. The slope ascends at the front property line towards a flat building pad area at the middle of the site, and then inclines again towards the rear of the lot. The lot is currently developed with a 2,414 square foot one-story single-family residence set back 41 feet from the front property line and sited on the flat building pad. A majority of the rear yard is occupied by a steep ascending slope; the residence is sited towards the rear of the site and is located adjacent to the toe of the slope. The flat building pad, and the residence, are approximately 19 feet above street level. The flat portion of the lot has limited visibility from the front property line and the right-of-way. The proposed five-foot high open fence would be placed on the flat portion of the site, set back from the front property line by at least 12 feet.

As a result of the existing steep slopes at the front and rear of the property and location of existing house and carport, the only available area on the site to build a pool is at the front of the residence. Therefore, the applicant is requesting a Minor Variance to allow the construction of a five-foot high wrought iron fence within the front yard setback, where the maximum allowed height is four feet, to be utilized as a pool enclosure which is part of the future pool improvement. A Minor Variance is required for a fence that exceeds the maximum allowable height in the front yard.

ANALYSIS:

The applicant is proposing to construct a five-foot high fence, to be utilized as a pool enclosure, within the front yard area. The Zoning Code requires that all fencing located between the front property line and the occupancy frontage have a maximum height of four feet and be at least 50 percent open. The proposed pool would be located between the residence and the front property line, behind the required 25-foot front yard setback required in the Hillside Development Overlay District for structures, including pools. The proposed fence must be five feet high to meet the minimum Building and Safety Code requirements for a pool enclosure. A Minor Variance is needed to deviate from the maximum height requirement for fences within the front yard setback

A Minor Variance application allows the City to review whether a deviation from the Zoning Code can be granted for a project. It may only be granted when, because of special circumstances applicable to the subject property, the strict application of the Zoning Ordinance denies the property owner privileges enjoyed by other property owners in the vicinity and under identical zoning districts, or creates an unnecessary and non-self-created hardship or unreasonable regulation which makes it obviously impractical to require compliance with the applicable development standards. A Minor Variance shall not be granted if the granting of the application would be detrimental or injurious to property or improvements in the vicinity of the subject site, or to the public health, safety, or general welfare.

The project site has extraordinary circumstances or conditions applicable to the subject site that do not apply generally to sites in the same zoning district. The subject property is characterized by steep slopes with a flat building pad near the center of the site. A majority of the rear yard is occupied by a steep ascending slope; the residence and garage are sited towards the rear of the flat building pad and are located adjacent to the toe of the slope. These site conditions leave only an area in front of the residence, on the flat building pad, for siting of a pool, which would require the fence to be built within the front yard at a height of five feet in order to meet safety code standards related to pool barriers.

The Minor Variance would not constitute a grant of special privilege as there are other properties in the vicinity and in the same zone district with fences that exceed four feet in height for pool barrier purposes located within the front yard due to similar topographical conditions.

The proposed five-foot high fence, to be utilized as a pool enclosure, will not be visible from the street due to the difference in elevation between Inverness Drive and the location of the fence and existing dense landscaping within the front yard. The fence, for the proposed future pool, is necessary for the preservation and enjoyment of a substantial property right. The ability to have a swimming pool for recreational purposes is a substantial property right of the property owner that many other owners in the surrounding neighborhood enjoy. Furthermore, the granting of the Minor Variance for the fence would not be detrimental or injurious to property or improvements in the vicinity of the subject site.

GENERAL PLAN CONSISTENCY:

The General Plan encourages residential development that is compatible and harmonious with the surrounding single-family neighborhood. The subject site is designated as Low Density Residential in the General Plan Land Use Element. The five-foot high open fence will be minimally visible from the street and would be consistent with the adopted General Plan policies, including Policy 21.3 (Residential Neighborhoods – Neighborhood Character), which encourages development to maintain elements of residential street that unify and enhance the character of the neighborhood. The property will continue to be used for single-family purposes, in compliance with the Low Density Residential General Plan land use designation.

ENVIRONMENTAL REVIEW:

This project has been determined to be exempt from environmental review pursuant to the guidelines of the California Environmental Quality Act (Public Resources Code §21080(b)(9); Administrative Code, Title 14, Chapter 3, §15303(e), Class 3, New Construction or Conversion of Small Structures). There are no features that distinguish this project from others in the exempt class; therefore there are no unusual circumstances. This class exemption exempts from environmental review specifically accessory structures including garages, carports, patios, swimming pools, and fences.

COMMENTS FROM OTHER DEPARTMENTS:

The Building and Safety Division, Design and Historic Preservation Section, Public Works Department, Transportation Department, and the Fire Department have reviewed the project. The Public Works Department has provided conditions, which are included in Attachment B.

CONCLUSION:

Staff finds that topography of the property, especially the sloped areas at the rear of the property, and location of existing improvements, creates an exceptional or extraordinary circumstance and condition applicable to the subject site which warrants the approval of the requested Minor Variance to allow a five-foot open fence between the front property line and the occupancy frontage for pool barrier purposes. Staff recommends approval of the Minor Variance, subject to the findings in Attachment A and recommended conditions of approval in Attachment B.

ATTACHMENTS:

- Attachment A: Minor Variance Findings
- Attachment B: Recommended Conditions of Approval

ATTACHMENT A
SPECIFIC FINDINGS FOR MINOR VARIANCE #11876

Minor Variance: To allow the construction of a five-foot high fence to be utilized as a pool enclosure within the front yard setback, where the maximum allowed height is four feet.

1. *There are exceptional or extraordinary circumstances or conditions applicable to the development site that do not apply generally to sites in the same zoning district.* The property is located in the Hillside District overlay, which allows the residences to be located with a minimum of 25 foot setback from the front property line. The subject property contains a very steep slope at the front of the property, resulting in the residence being located approximately 41 feet from the front property line, on the flatter portion of the property. Therefore, a pool can reasonably be accommodated in the front occupancy without encroaching into the front yard setback. The property also contains a steep slope to the rear of the property, deterring the development of a pool at the rear of the residence. Due to the slope limitations of the property the only viable location for the pool and the required five-foot tall fence for safety purposes, is between the residence and the front property line.
2. *Granting the application is necessary for the preservation and enjoyment of a substantial property right of the applicant, and to prevent unreasonable property loss or unnecessary hardship.* The proposed five-foot high fence, to be utilized as a pool enclosure, will not be visible from the street due to the difference in elevation between Inverness Drive and the location of the fence and existing dense landscaping within the front yard. The fence, for the proposed future pool, is necessary for the preservation and enjoyment of a substantial property right. The ability to have a swimming pool for recreational purposes is a substantial property right of the property owner that many other owners in the surrounding neighborhood enjoy.
3. *Granting the application will not be detrimental or injurious to property or improvements in the vicinity of the project site, or to the public health, safety, or general welfare.* The proposed five-foot high fence, to be utilized as a pool enclosure, will not be visible from the street due to the difference in elevation between Inverness Drive and the location of the fence and existing dense landscaping within the front yard. Therefore, the granting of the Minor Variance for the fence would not be detrimental or injurious to property or improvements in the vicinity of the subject site. The fence will also be required to meet all safety and building codes which will be reviewed through the plan check process.
4. *Granting the application is in conformance with the goals, policies, and objectives of the General Plan, and the purpose and intent of any applicable specific plan and the purposes of this Zoning Code, and would not constitute a grant of special privilege inconsistent with limitations on other properties in the vicinity and in the same zone district.* The subject site is designated as Low Density Residential in the General Plan Land Use Element. The use of the site would remain a single-family residence and the character of the single-family neighborhood would be maintained. The five-foot high open fence will be minimally visible from the street and would be consistent with the adopted General Plan policies, including Policy 21.3 (Residential Neighborhoods – Neighborhood Character), which encourages development to maintain elements of residential street that unify and enhance the character of the neighborhood. The proposed fence would not constitute a grant of special privilege inconsistent with limitations on other properties in the vicinity and in the same zone district.

5. *Cost to the applicant of strict compliance with a regulation is not the primary reason for the granting of the Variance.* The cost to the applicant of complying with the City's development standards has not been considered a factor throughout the review of this application.

ATTACHMENT B
RECOMMENDED CONDITIONS FOR MINOR VARIANCE #11876

The applicant or successor in interest shall meet the following conditions:

General

1. The site plan, roof plan, and elevations submitted for building permits shall substantially conform to plans submitted with this application stamped "Received at Hearing, March 21, 2018" except as modified herein.
2. This approval allows a five-foot high, minimum 50% open, fence to be constructed between the front property line and the occupancy frontage on the subject site as depicted in the plans submitted with this application stamped "Received at Hearing, March 21, 2018".
3. The right granted under this application must be enacted within 24 months from the effective date of approval. It shall expire and become void, unless an extension of time is approved in compliance with Section 17.64.040 C of the Zoning Code.
4. The applicant or successor in interest shall meet the applicable code requirements of all City Departments.
5. The final decision letter and conditions of approval shall be incorporated in the submitted building plans as part of the building plan check process.
6. The proposed project, Activity Number **PLN2017-00488**, is subject to the Inspection Program by the City. A Final Zoning Inspection is required for your project prior to the issuance of a Certificate of Occupancy or approval of the Final Building Inspection. Contact Carlos Chacon, Current Planning Section, at 626-744-7123 to schedule an inspection appointment time.

Building and Safety Division

7. The pool barrier enclosure shall comply with the governing edition of residential code and Pasadena Municipal Code.

Public Works Department

8. There is an existing sewer easement traversing the subject property. The sewer easement and all sewer facilities shall be shown on all of the construction drawings. No structure shall be built within the 12 feet wide sewer easement, projecting six (6) feet on each side from the sewer main alignment. Attached is Sewer Map No. 0964 for your reference.
9. A Public Works permit is required for all construction and occupancies in the public right-of-way. No construction staging or material storage is allowed in the public right-of-way. Please contact 626-744-4195 for the general process.
10. Past experience has indicated that projects such as this tend to damage the existing public and private street improvements with the heavy equipment and truck traffic that is necessary during construction. Additionally, the City has had difficulty in requiring developers to maintain a clean and safe site during the construction phase of development. Accordingly, the applicant shall place a \$1,000 deposit with the Department of Public Works prior to the

issuance of a building or grading permit. This deposit is subject to refund or additional billing, and is a guarantee that the applicant will keep the site clean and safe, and will make permanent repairs to the existing public and private street improvements that are damaged, including striping, slurry seal/resurfacing, curb, gutter, and sidewalk, either directly or indirectly, by the construction on this site. The deposit may be used for any charges resulting from damage to street trees and for City personnel to review traffic control plans and maintain traffic control. A processing fee will be charged against the deposit.

11. Prior to the start of construction or the issuance of any permits, the applicant shall submit a Construction Staging and Traffic Management Plan to the Department of Public Works for review and approval. The template for the Construction Staging and Traffic Management Plan can be obtained from the Department of Public Works webpage at: http://cityofpasadena.net/PublicWorks/Engineering_Division/ A deposit, based on the General Fee Schedule, is required for plan review and on –going monitoring during construction. This plan shall show the impact of the various construction stages on the public right-of-way including all street occupations, lane closures, detours, staging areas, and routes of construction vehicles entering and exiting the construction site. An occupancy permit shall be obtained from the department for the occupation of any traffic lane, parking lane, parkway, or any other public right-of-way. All lane closures shall be done in accordance with the Manual of Uniform Traffic Control Devices (MUTCD) and California Supplement. If the public right-of-way occupation requires a diagram that is not a part of the MUTCD or California Supplement, a separate traffic control plan must be submitted as part of the Construction Staging and Traffic Management Plan to the department for review and approval. No construction staging, material storage, or trailer in the public right-of-way.
12. In addition, prior to the start of construction or issuance of any permits, the applicant shall conduct a field meeting with an inspector from the Department of Public Works for review and approval of construction staging, parking, delivery and storage of materials, final sign-off procedure, and any of the specifics that will affect the public right-of-way. An appointment can be arranged by calling 626-744-4195.
13. In preparation for the New Year Rose Parade and Rose Bowl Game, the Department of Public Works will suspend all works within the public right-of-way during the holiday season in accordance to PMC 12.24.100 and City Policy.
14. In general, all public streets, sidewalks and parkways shall be free and clear of excavations and other construction related activities during the period of November through January of the following year. Specific dates will vary on an annual basis. Accordingly, contractors will be required to shut down construction operations which would impede traffic and pedestrian movements during these periods unless otherwise authorized by the City Engineer. Any existing excavations shall be backfilled, compacted and temporarily repaved before the beginning of the moratorium period.
15. The Holiday Moratorium Map, showing the appropriate shutdown period, and corresponding areas in the City, is available at the Department of Public Works Permit Counter (window #6), 175 N. Garfield Avenue, Pasadena, CA 91109, or at the following link: http://cityofpasadena.net/PublicWorks/Engineering_Division/ .
 1. All costs associated with these conditions shall be the applicant's responsibility.

Unless otherwise noted in this memo, all costs are based on the General Fee Schedule that is in effect at the time these conditions are met. A processing fee will be charged against all deposits.

In addition to the above conditions, the requirements of the following ordinances will apply to the proposed project:

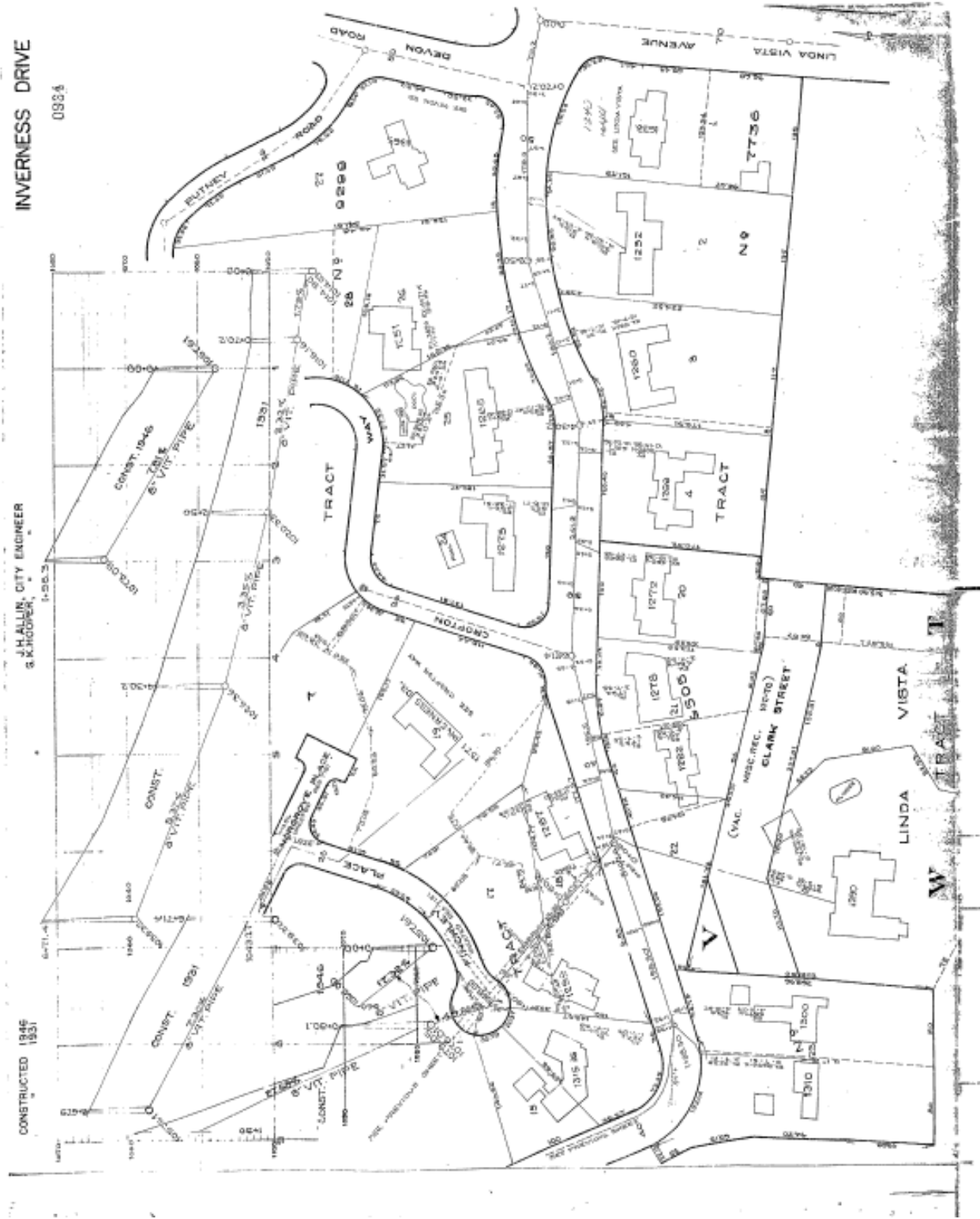
- Sidewalk Ordinance - Chapter 12.04 of the Pasadena Municipal Code (PMC)
In accordance with Section 12.04.035, entitled "Abandoned Driveways" of the PMC, the applicant shall close any unused drive approach with standard concrete curb, gutter and sidewalk. In addition, the applicant shall repair any existing or newly damaged curb, gutter and sidewalk along the subject frontage prior to the issuance of a Certificate of Occupancy in accordance with Section 12.04.031, entitled "Inspection required for Permit Clearance" of the PMC.

- Stormwater Management and Discharge Control Ordinance – Chapter 8.70 of the PMC
This project is subject to the requirements of the City's Storm Water and Urban Runoff Control Regulation Ordinance which implements the requirements of the Regional Water Quality Control Board's Standard Urban Storm Water Mitigation Plan (SUSMP). Prior to the issuance of any demolition, grading or construction permits for this project, the developer shall submit a detailed plan indicating the method of SUSMP compliance. Information on the SUSMP requirements can be obtained from the Permit Center's webpage at <http://cityofpasadena.net/PermitCenter/>

The resolution of the City Council of the City of Pasadena approving the amended stormwater and urban runoff pollution control regulations and repealing resolution No. 8151, can be found at the following link: http://ww2.cityofpasadena.net/councilagendas/2015%20Agendas/Aug_17_15/AR%2019%20RESOLUTION%20APPROVING%20AMENDED%20STORMWATER%20&%20URBAN%20RUNOFF%20POLLUTION.pdf

- Construction and Demolition Waste Ordinance, Chapter 8.62 of the PMC
The applicant shall submit the following plan and form which can be obtained from the Permit Center's webpage at http://cityofpasadena.net/PublicWorks/Engineering_Division/ and the Recycling Coordinator, (626) 744-7175, for approval prior to the request for a permit:
 - a. C & D Recycling & Waste Assessment Plan – Submit plan prior to issuance of the permit. A list of Construction and Demolition Recyclers is included on the waste management application plan form and it can also be obtained from the Recycling Coordinator.
 - b. Summary Report with documentation must be submitted prior to final inspection.

A security performance deposit of three percent of the total valuation of the project or \$30,000, whichever is less, is due prior to permit issuance. For Demolition Only projects, the security deposit is \$1 per square foot or \$30,000, whichever is less. This deposit is fully refundable upon compliance with Chapter 8.62 of the PMC. A non-refundable Administrative Review fee is also due prior to permit issuance and the amount is based upon the type of project.



INVERNESS DRIVE

0988A

J.H. ALLIN, CITY ENGINEER
S.K. KROONER