

BACKGROUND

A Zoning Administrator hearing for this project was scheduled for June 29, 2016. On June 28, 2016, Michael Rex Architects, applicant, on behalf of the property owners Larry and Terry Garnick, requested a continuance to a date uncertain because the property owners were unable to attend the hearing and the applicant required additional time to provide updated information and project plans to address several concerns raised by the neighbors at 30 Atwood Avenue (see **Exhibit E** for continuance request). On July 17, 2016, the applicant provided updated elevation and site plans to address the neighbors' concerns (see **Exhibit I** for updated drawings). The project is scheduled for the August 18, 2016 Zoning Administrator hearing.

SITE LOCATION

The project site of 26 Atwood Avenue is in the R-3 Multi-Family Residential Zoning District. The trapezoidal-shaped parcel is approximately 2,041 square feet and is a through-lot between Atwood Avenue and North Street. The property contains an existing three-level duplex and a two-car carport with roof deck above. The project site is improved with landscaping, walls, a trellis, and concrete patio and steps within the City right-of-way adjacent to Atwood Avenue. The parcel is located in the Old Town/Hurricane Gulch neighborhood with surrounding land uses consisting of a mixture of single and multi-family residential dwellings.

HISTORIC LANDMARKS BOARD REVIEW

According to the Marin County Assessor, the existing residential structure was constructed in approximately 1907 (approximately 109 years old). Pursuant to the City Council policy regarding properties older than 50 years, the Historic Landmarks Board (HLB) reviewed the project on June 9, 2016 to assess if the site and structure are historically significant. The HLB determined that the residential site and structure are not historically significant and therefore no recommendation is forwarded to the Zoning Administrator (see **Exhibit B** for HLB Review Memorandum).

DESCRIPTION

PROJECT

The applicant is requesting approval of an Administrative Design Review Permit and a recommendation for City Council approval of an Encroachment Agreement to allow major landscaping within the City right-of-way fronting Atwood Avenue. The project also entails the removal of a roof deck above the existing carport, and enclosing the carport making it a two-car garage. The project includes improvements to the interior of the structure; the interior improvements will not increase the building footprint (see **Exhibit C** for project plans). Major landscaping is proposed in front of the existing residence within the right-of-way along Atwood Avenue which will include: a landscape wall with maximum height of 39" wrapping around the courtyard, a 42" high stucco wall, and other related site improvements. Additionally, a new concrete courtyard will be constructed to provide improved access from Atwood Avenue to the entrance of the residence.

The applicant requests approval of a Variance for the roof eaves on the easterly elevation to encroach into the required minimum 3-foot side yard setback. The existing east building wall is one foot, two and half inches from the eastern property line which is an existing nonconformity. The project proposes to extend a roof eave eight and three-quarter inches out from the building wall. Pursuant to SMC 10.40.090.B.1.a, projections into minimum yards are permitted for eaves not exceeding 3-feet provided that at all times a minimum setback of 3 feet is provided. A Variance

is requested to extend a roof eave that will be entirely within the non-conforming building setback area.

ANALYSIS

GENERAL PLAN CONSISTENCY

The project site is located within the High Density Land Use designation—this density reflects the urban character to a greater extent than the Medium High Density Residential category. The area is intended to provide opportunities for residents to live within easy walking distance of commuter and shopping facilities. To approve the proposed project, the Zoning Administrator must determine that the project is consistent with the General Plan. The project is consistent with the General Plan by meeting the applicable policies and programs that support the proposed project.

Policy CD-1.3: Neighborhood Compatibility

The proposed landscaping improvements within the right-of-way are consistent with other encroachments within the immediate vicinity. Numerous residences along Atwood Avenue are developed up to the front property line. The existing residence is located along the front property line with existing landscaping and walls within the Atwood Avenue right-of-way.

Program CD-1.3.1: Zoning Ordinance (Size and Mass)

The size of the proposed landscaping improvements is generally consistent with landscaping encroachments in the immediate vicinity.

The request for a Variance would result in a reduced side-yard setback for the eaves along the eastern property line for aesthetic purposes.

ZONING ORDINANCE CONSISTENCY

The Project Summary Table below compares existing conditions to the proposed project and shows that the project's compliance with the Zoning Ordinance.

Project Summary Table – 26 Atwood Avenue				
Development Standard	Existing	Ordinance	Proposal	Compliance
Parcel Area	2,041 sq. ft.	5,000 sq. ft.	No change	Existing non-conforming
Land Use	Two-Family Residential (Duplex)	Multi-Family Residential	No change	Yes
Dwelling Units	2 dwelling units	1 dwelling unit per 1,500 sq. ft.	No change	Existing non-conforming
Building Setbacks				
Front	0'	0'	Roof eave to extend eight and three-quarter inches into existing non-conforming east side yard setback area	Variance requested to allow eave extension
Sides	1 ft. 2 ½ in. (East side) 3 ft. 10 ¾ in. (West side)	5 ft.		
Rear	5 ½ in.	15 ft. min.		
Height	22.75 ft.	32' max	19.75 ft.	Yes
Building Coverage	1,309 sq. ft. 64%	1,021 sq. ft. 50% max	No change	Existing non-conforming
Floor Area (FAR)	1,686.5 sq. ft. 0.83	1,633 sq. ft. 0.80 max	1,625.5 sq. ft. (Reduction by 61 sq. ft.) .80	Yes
Impervious Surface Area	1,888 sq. ft. 93%	4,780 sq. ft. 75%	No change	Existing non-conforming
Parking	2 spaces	4 spaces	No change	Existing non-conforming

ADMINISTRATIVE DESIGN REVIEW PERMIT FINDINGS

In order to approve the Administrative Design Review Permit for landscaping improvements within the public right-of-way, the Zoning Administrator must determine whether the project is in conformance with the following Design Review Permit Findings (SMC 10.54.050.D):

1. The proposed project is consistent with the General Plan, any applicable specific plans and this chapter.

The project is consistent with all applicable policies, standards, and regulations of the General Plan and Zoning Ordinance as described in the Staff Report.

2. The proposed architecture and site design complements the surrounding neighborhood and/or district by either: a) Maintaining the prevailing design character of the neighborhood and/or district or b) Introducing a distinctive and creative solution which takes advantage of the unique characteristics of the site and contributes to the design diversity of Sausalito.

The major landscaping maintains the prevailing neighborhood character in both materials and design.

3. The proposed project is consistent with the general scale of structures and buildings in the surrounding neighborhood and/or district.

The improvements within the City right-of-way for major landscaping will be of a similar mass, size, and scale as other residential structures within the immediate vicinity.

4. The proposed project has been located and designed to minimize obstruction of public views and primary views from private property.

The landscaping improvements and structure modifications have been thoughtfully designed to not affect public view corridors and private views from surrounding properties.

5. The proposed project will not result in a prominent building profile (silhouette) above a ridgeline.

The project is located on a through-lot between Atwood Avenue and North Street. The project does not result in a prominent building profile above a ridgeline.

6. The proposed landscaping provides appropriate visual relief, complements the buildings and structures on the site, and provides an attractive environment for the enjoyment of the public.

The project entails landscape improvements that exist within the City right-of-way. The proposed landscaping and related improvements are designed to provide appropriate visual relief to the building on site, and provides an attractive environment for the enjoyment of the public along Atwood Avenue.

7. The design and location of buildings provide adequate light and air for the project site, adjacent properties, and the general public.

The project is consistent with other residences within the immediate vicinity and will not result in significant light and air impacts. There will be no increase to the mass or size of the structure, as the project entails removal of a roof deck above the existing carport.

8. Exterior lighting, mechanical equipment, and chimneys are appropriately designed and located to minimize visual, noise and air quality impacts to adjacent properties and the general public.

The project does not propose any new mechanical equipment, aside from solar panels and landscape lighting. The project is subject to the standard condition of approval that all exterior lighting be shielded and downward facing.

9. The project provides a reasonable level of privacy to the site and adjacent properties, taking into consideration the density of the neighborhood, by appropriate landscaping, fencing, and window deck and patio configurations.

The existing conditions of the site and surrounding residences is dense and structures are within close proximity to one another. The project has been thoughtfully designed and will not create significant privacy impacts to adjacent properties.

10. Proposed entrances, exits, internal circulation, and parking spaces are configured to provide an

appropriate level of traffic safety and ease of movement.

The project will not affect circulation to, from, or within the site.

11. The proposed design preserves protected trees and significant natural features on the site to a reasonable extent and minimizes site degradation from construction activities and other potential impacts.

The project will not affect any trees and protects natural features of the site.

12. The project site is consistent with the guidelines for heightened review for projects which exceed 80% of the maximum allowed Floor Area Ratio and/or site coverage, as specified in subsection E (Heightened Design Review Findings).

The existing property is legal-nonconforming for exceeding the maximum Floor Area Ratio and site coverage. The project entails a reduction in floor area by 61 square feet for interior improvements within the existing duplex. The project is not subject to Heightened Design Review.

13. The project has been designed to ensure on-site structures do not crowd or overwhelm structures on neighboring properties. Design techniques to achieve this may include, but are not limited to: stepping upper levels back from the first level, incorporating facade articulations and divisions (such as building wall offsets), and using varying rooflines.

The existing condition of the site and surrounding residences is heavily dense and structures are within close proximity to one another. The landscaping in the right-of-way and structural improvements to the carport have been thoughtfully designed and will not overwhelm structures on neighboring properties. The landscape and carport design improves the appearance of the façade along Atwood Avenue.

Staff has reviewed all applicable Administrative Design Review Permit findings and has determined that the project is compliant (see draft Resolution in **Exhibit A**).

ENCROACHMENT AGREEMENT FINDINGS

Pursuant to Section 10.56.010, the purpose of the Encroachment Agreement is to provide “an opportunity to review permanent and/or semi-permanent encroachments onto public lands, easements, and rights-of-way of the City.” Encroachments include fences, walls, trellis work, garages, runway ramps, buildings, structures of any kind, or any other use of improvements, such as landscaping, for three or more years.

In order to recommend City Council approval of the Encroachment Agreement, the Zoning Administrator must determine that the proposed project is in conformance with the Encroachment Agreement findings listed in Section 10.56.060 of the Zoning Ordinance. In reviewing the project, the Zoning Administrator must determine whether the following findings can be achieved:

- A. The proposed encroachment is compatible with the surrounding area and will either improve or not significantly diminish visual or physical public enjoyment of the streetscape upon which the encroachment is proposed.

The encroachment related to the project within the Atwood Avenue public right-of-way has a neutral impact along the streetscape based on the following factors:

1. *The project involves the use of an existing area encroaching into the right-of-way. Removal of existing landscape, planters, walls, trellis, and patio will be removed and replaced with a modified design that will not increase impervious surface area.*
2. *The project does not impact adjacent properties in terms of light, air, and privacy.*
3. *The project does not impact the usability of the Atwood Avenue public right-of-way in terms of vehicular and pedestrian access.*
4. *The project is consistent with the extent of similar encroachments within the Atwood Avenue public right-of-way.*
5. *Public enjoyment of the area would not be diminished, as part of the right-of-way in question is not accessible.*

- B. The encroachment will not adversely affect the usability or enjoyment of adjoining parcels nor create or extend an undesirable land use precedent.

The project encroachments fronting Atwood Avenue do not impact the adjoining parcels nor set a new land use precedent due to the location, orientation, and topography of the site. The improvements would provide visual relief along Atwood Avenue. The proposed encroachment improvements are limited to the existing front yard area fronting Atwood Avenue. Improvements in this area will not create an undesirable land use precedent.

- C. The encroachment is necessary to the reasonable use and enjoyment of the property and the extent of the encroachment is justifiable.

The project utilizes the existing area that is used as the entryway to the upper-level unit of the duplex. An existing wood sided fence, trellis, planter, low concrete wall, wooden walkway, patio and steps that serve as the entryway will be removed. There is no record of Encroachment Agreements for the existing property. However, due to the size of the site and the configuration of the proposed residence, the project provides reasonable use of the right-of-way. The location of the improvements within the Atwood Avenue public right-of-way do not impact the public usability (i.e., vehicular and pedestrian access) of the street.

- D. The proposed encroachment will not adversely affect the public circulation nor create or constitute a hazard to public safety.

The encroachments, as conditioned, do not affect access and circulation on Atwood Avenue since the travel ways remain unchanged beyond the current conditions. Circulation would not be adversely effected as the existing right-of-way fronting 26 Atwood Avenue is not used for pedestrian access.

- E. The value of the proposed improvements will not prejudice a policy decision to terminate the encroachment nor preclude or make difficult the establishment or improvement of streets or pedestrian ways.

The value of the project improvements in the right-of-way do not preclude or make difficult the establishment or improvement of streets or pedestrian ways in the future.

Staff suggests that the findings can be made as described in the attached draft resolution (see **Exhibit A** for draft Resolution).

VARIANCE FINDINGS

In order to approve a Variance for relief from the required 3' side-yard setback, the Zoning Administrator must determine whether the project is in conformance with the following Variance Findings (SMC 10.68.050):

- A. There are exceptional or extraordinary circumstances or conditions applying to the property involved or to the intended use of the property, that do not apply generally to other property or uses in the same district.

There are a number of exceptional circumstances associated with the subject property: (1) The parcel size is 2,041 square feet, only less than half the 5,000 square foot minimum size required for parcels in the R-3 zoning district; (2) The lot depth is substantially less than most other lots within the same vicinity; (3) The parcel configuration is oddly shaped and tapers to the north and east. The subject property is a comparatively small, substandard parcel fronting on two public streets. Due to these cumulative factors, the Variance for an eave extension into the required side yard setback can be supported as these physical conditions of the subject parcel do not apply generally to other property in the same district.

- B. Owing to such exceptional or extraordinary circumstances the literal enforcement of the provisions of the Title would result in practical difficulty or unnecessary hardship.

Literal enforcement of the setback requirements would deny an improvement to the existing residence. Other properties in the surrounding area, such as the neighbor to the east at 30 Atwood Avenue, enjoy eave overhangs. Based on current conditions, eaves will alleviate rain water from directly hitting the walls of the residence of the subject parcel.

- C. Such Variance is necessary for the preservation of a substantial property right of the petitioner, possessed by other property in the same district.

Such a Variance is necessary for the preservation of a substantial property right possessed by properties in the surrounding area, such as the neighbor to the east at 30 Atwood Avenue, where eave overhangs exist.

- D. The granting of such Variance will not be materially detrimental to the public welfare or injurious to the property or improvement in the vicinity or in the district in which the subject property is located.

The project will not be detrimental to the public welfare, and will improve the appearance and architecture of the building, thereby enhancing the neighborhood and maintaining property values. There are no impacts to surrounding properties.

- E. The granting of the Variance will not constitute a grant of special privilege inconsistent with the limitations on other properties classified in the same zoning district.

There are exceptional circumstances related to the lot's size, depth, and configuration that warrant the granting of a Variance and does not grant a special privilege.

- F. The granting of such Variance will be in harmony with the general purpose and intent of this Title and the General Plan.

The granting of the Variance will not significantly exacerbate the physical separation between structures and maintains the character of the neighborhood as demonstrated on the project plans.

Staff suggests that the findings can be made as described in the attached draft resolution (see **Exhibit A** for draft Resolution).

PUBLIC NOTICE AND CORRESPONDENCE

On June 17, 2016, a public hearing notice was posted on the project site and mailed to all property owners and residents within 300 feet of the project site, as well as interested parties.

On August 5, 2016, a public hearing notice was posted on the project site and mailed to all property owners and residents within 300 feet of the project site, as well as interested parties.

On June 21, 2016, Staff received a letter from Fred and Carol Hoerner (see **Exhibit E**).

On June 29, 2016, Staff received an email from Michael Rex Architects, applicant (see **Exhibit E**).

On June 29, 2016, Staff received an email from Jonathan Leone (see **Exhibit G**).

On July 19, 2016, Staff received an email from Carol Hoerner (see **Exhibit H**).

On July 29, 2016, Staff received a letter from Michael Rex, applicant (see **Exhibit F**).

RECOMMENDATION

Staff recommends the Zoning Administrator approve the attached draft resolution (see **Exhibit A** for resolution) for an **Administrative Design Review Permit** and recommendation for City Council approval of an **Encroachment Agreement** to allow major landscaping within the City right-of-way, and approve the **Variance** request to allow encroachment into the side-yard setback for a roof overhang.

Alternatively, the Zoning Administrator may:

1. Deny the **Administrative Design Review Permit** and **Variance** and recommendation for City Council approval of an **Encroachment Agreement** and direct Staff to prepare a resolution with the specific findings for approval.
2. Continue the hearing for additional information and/or project revisions.

EXHIBITS

- A. Draft Resolution
- B. Vicinity Map
- C. Historic Landmarks Board 50-Year Review Memorandum, dated June 9, 2016
- D. Project Plans, date-stamped received June 16, 2016
- E. Letter from Fred and Carol Hoerner, date-stamped received June 21, 2016
- F. Email from Michael Rex Architects, dated June 29, 2016.
- G. Email from Jonathan Leone, dated June 29, 2016.
- H. Email from Carol Hoerner, dated July 19, 2016.

- I. Letter from Michael Rex, dated July 29, 2016
- J. Updated site elevations, updated site plan, and street illustrations, date-stamped received, July 17, 2016

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