



DATE: August 11, 2014

TO: Chairperson and Members of the Planning Commission

FROM: Development Services Department/Planning Division

SUBJECT: **CONSIDERATION OF VARIANCE (V14-00010) AND REGULAR COASTAL PERMIT (RC14-00009) FOR THE CONSTRUCTION OF FENCE ENCLOSURES AT 601 – 617 SOUTH COAST HIGHWAY AND AT PARKING LOT AT THE NORTHEAST CORNER OF MINNESOTA AVENUE AND TREMONT STREET – BAGBY BEER COMPANY – APPLICANT: JEFF BAGBY**

**RECOMMENDATION**

Staff recommends that the Planning Commission by motion:

- (1) Confirm issuance of a Class 3 Categorical Exemption per Section 15303 (e) (New Construction or Conversion of Small Structures) of the California Environmental Quality Act; and
- (2) Approve Variance (V14-00010) and Regular Coastal Permit (RC14-00009) by adopting Planning Commission Resolution No. 2014-P20.

**PROJECT DESCRIPTION**

The subject development proposal involves construction of fence enclosures on six parcels located within the Coastal Zone and the Townsite Neighborhood Planning Area. All parcels bear a general commercial Local Coastal Program (LCP) land use designation, consistent with the applicable (C-2) zoning on the property. Three of the six parcels - along the west side of South Coast Highway between Minnesota Avenue and Wisconsin Street - constitute the primary location for the Bagby Beer Company facilities, the other three parcels - at the northeast corner of Minnesota Avenue and Tremont Street - serve as additional parking area for the aforementioned business.

The applicant has been in the process of improving the South Coast Highway site with a restaurant/brewery and outdoor dining area/beer garden (ministerial action/revised building permit issued in June 2014) and has requested approval of a variance and coastal

development permit to construct a wood fence enclosure ranging in height from 4-8 feet in lieu of 42 inches in height within required setback areas. Permission to allow a six-foot high vinyl coated chain link fence to be erected along the perimeter of the parking lot site at Minnesota/Tremont within required setback areas, exceeding the permitted height of 42 inches along street frontages, is also being sought. The fence improvements at both locations are intended to address on-site site security issues and prevent graffiti and other forms of property vandalism.

The project is subject to the following Ordinances and City policies:

1. General Plan Land Use Element
2. 1986 Zoning Ordinance
3. Local Coastal Program (LCP)
4. California Environmental Quality Act (CEQA)

Variance (V14-00010) addresses the requested deviation from zoning ordinance fence height requirements. Processing of Regular Coastal permit (RC14-00009) is required due to the site's location within the Coastal Zone boundaries.

## **ANALYSIS**

### **KEY PLANNING ISSUES**

The proposed project has been analyzed for compliance with the General Plan, LCP and Zoning Ordinance and as conditioned, has been found to be consistent with applicable policies based on the following:

#### **1. General Plan/ LCP**

##### **A. Land Use Element**

###### **Goal 1.23: Architecture**

**Objective:** The architectural quality of all proposed projects shall enhance neighborhood and community values and City image.

**Policy A:** Architectural form, treatments, and materials shall serve to significantly improve on the visual image of the surrounding neighborhood.

Situated at the southwest corner of the South Coast Highway and Minnesota Street, the Bagby Beer Company structures will, upon completion of ongoing improvements, present to pedestrians and drivers along the property's street frontages an enhanced architectural image that would contribute to community property values via use of design details and quality materials.

The proposed horizontal wood slat fence design along Coast Highway will complement building details which feature new and recycled wood components on the renovated building façade and freestanding arbor. On balance, even though the proposed fence would encroach five feet within the street setback area, the building and fence improvements will enhance the appearance of the site and positively contribute to the street scene along the heavily traveled thoroughfare.

The proposed black vinyl coated chain link perimeter fence at the Minnesota/Tremont parking lot represents the least visually imposing fence enclosure design for the subject location. The fence will provide a secure enclosure for the storage of vehicles which would be allowed to remain, if necessary, on the property overnight, based on Bagby Beer Company customer needs. The chain link fence will be layered with landscaping along the right-of-way edge to enhance its appearance. The fence will be removed and replaced with permanent improvements in compliance with applicable standards, upon the site's redevelopment with permanent structures.

#### Goal 1.32: Coastal Zone

Objective: To provide for the conservation of the City's coastal resources and fulfill the requirements of the California Coastal Act of 1976.

Policy A: The City shall utilize the certified Local Coastal Plan for review of all proposed projects within the Coastal Zone. Specifically, the goals and policies of the Local Coastal Program Land Use Plan are the guiding policy review document.

*Adequate access to and along the coast shall be provided and maintained.*

Not applicable.

*The City shall maintain existing view corridors through public rights-of-way.*

The proposed fence enclosures would not impact existing view corridors to the Pacific Ocean through public rights-of-way.

*New development shall utilize optimum landscaping to accent and enhance desirable site characteristics and architectural features.*

Landscaping improvements will enhance existing site and fence design and will positively contribute to the property's and neighborhood values.

## **2. Zoning Compliance**

The project is subject to compliance with the 1986 Zoning Ordinance which allows the construction of fences on commercial zoned properties within the Coastal Zone. The applicant seeks approval of a variance to allow construction of fences up to a maximum of eight feet in height within required setback areas.

## **DISCUSSION**

Zoning ordinance standards permit limited intrusions of certain structures, including but not limited to architectural features, planting boxes, guard railings, stairways, balconies etc. (Section 1720 OZO) into required yards. More specifically the ordinance permits a two-foot setback encroachment of cited structures but requires a 30-inch clearance from the lot line (whichever is more restrictive). Furthermore, zoning regulations limit the height of planting boxes, masonry planters and guard rails - the items closely related to fences - to 42 inches.

The applicant proposes construction of fences along the South Coast Highway, Minnesota and Tremont Street frontages which encroach within setback areas and exceed the 42-inch height maximum.

	<b>S. Coast Highway setback</b>	<b>Minnesota Avenue setback</b>	<b>Tremont Street setback</b>
<b>Required setback</b>	45-ft. from centerline of SCH	10-ft.	5-ft.
<b>Proposed setback</b>	40- ft. from centerline of SCH	0-ft	0-ft.

Staff has evaluated the subject request and has determined that the proposed fence enclosures associated with the Bagby Beer Company site would be architecturally complementary to the proposed building improvements at 601–617 South Coast Highway and acceptable within the existing neighborhood context. More specifically staff finds that although the proposed wood fence at 601–617 South Coast Highway will encroach up to five feet within the required setback area, the proposed design and variation in height from eight feet (max) to four feet will provide adequate visual interest along the street right-of-way by virtue of scale change, visual access into the site, material/textural change and adjacent landscaping. Staff also finds that since fence enclosures in excess of 42 inches in height have been previously considered and approved as part of outdoor dining encroachment permits within street right-of-ways within the downtown and other areas of the City, approval of the proposed fence installation would be substantially consistent with privileges granted to other business owners within the City.

The proposed six-foot chain link fence along the Minnesota/Tremont parking lot area will be vinyl coated black, to minimize its visual impact. Landscaping along the site's perimeter and parkway areas will considerably improve the appearance of the existing vacant site. It is anticipated that upon redevelopment of the subject parking lot site at a future date, permanent site improvements including fences will be constructed in compliance with applicable zoning ordinance requirements and City policies in effect at that time. A condition has been included in the resolution of project approval to further emphasize that the variance portion allowing construction of the chain link design and associated setback encroachment is considered a temporary site improvement will be null and void upon the sites' redevelopment with permanent building structures.

## ENVIRONMENTAL DETERMINATION

The development proposal has been reviewed pursuant to the California Environmental Quality Act (CEQA) and has been found to be exempt as a Class 3, 15303 (e) "New Construction or Conversion of Small Structures" Categorical Exemption.

## PUBLIC NOTIFICATION

A legal notice was published in the North County Times and notices were sent to property owners of record within 300 feet and occupants within 100 feet of the subject property, individuals and or organizations requesting notification, the applicant, and other interested parties.

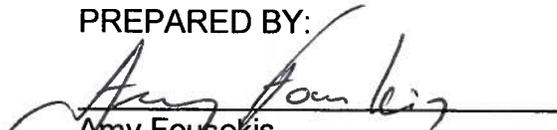
## SUMMARY

Variance (V14-00010) and Regular Coastal Permit (RC14-00009), as conditioned, is consistent with the land use policies of the General Plan and the policies of the Local Coastal Program. With the exception of the requested variance for fence height and siting, the project meets applicable development standards for the district in which it is situated. The project's scale, site design and architecture are complimentary to the surrounding neighborhood. Accordingly, staff recommends that the Planning Commission approve the proposal subject to the conditions contained in the attached resolution.

Staff recommends that the Planning Commission:

- Confirm issuance of a Class 3 Categorical Exemption per Section 15303 (e) (New Construction or Conversion of Small Structures) of the California Environmental Quality Act; and
- Approve Variance (V14-00010) and Regular Coastal Permit (RC14-00009) by adopting Planning Commission Resolution No. 2014-P20.

PREPARED BY:

  
Amy Fousekis  
Principal Planner

SUBMITTED BY:

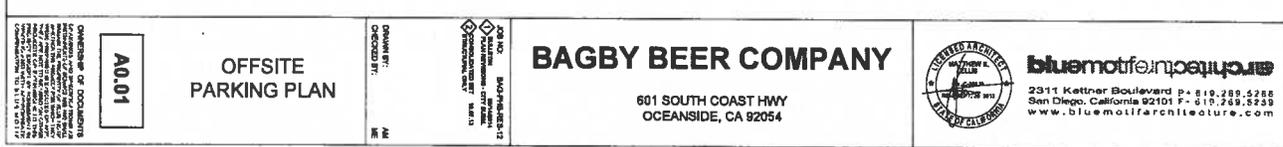
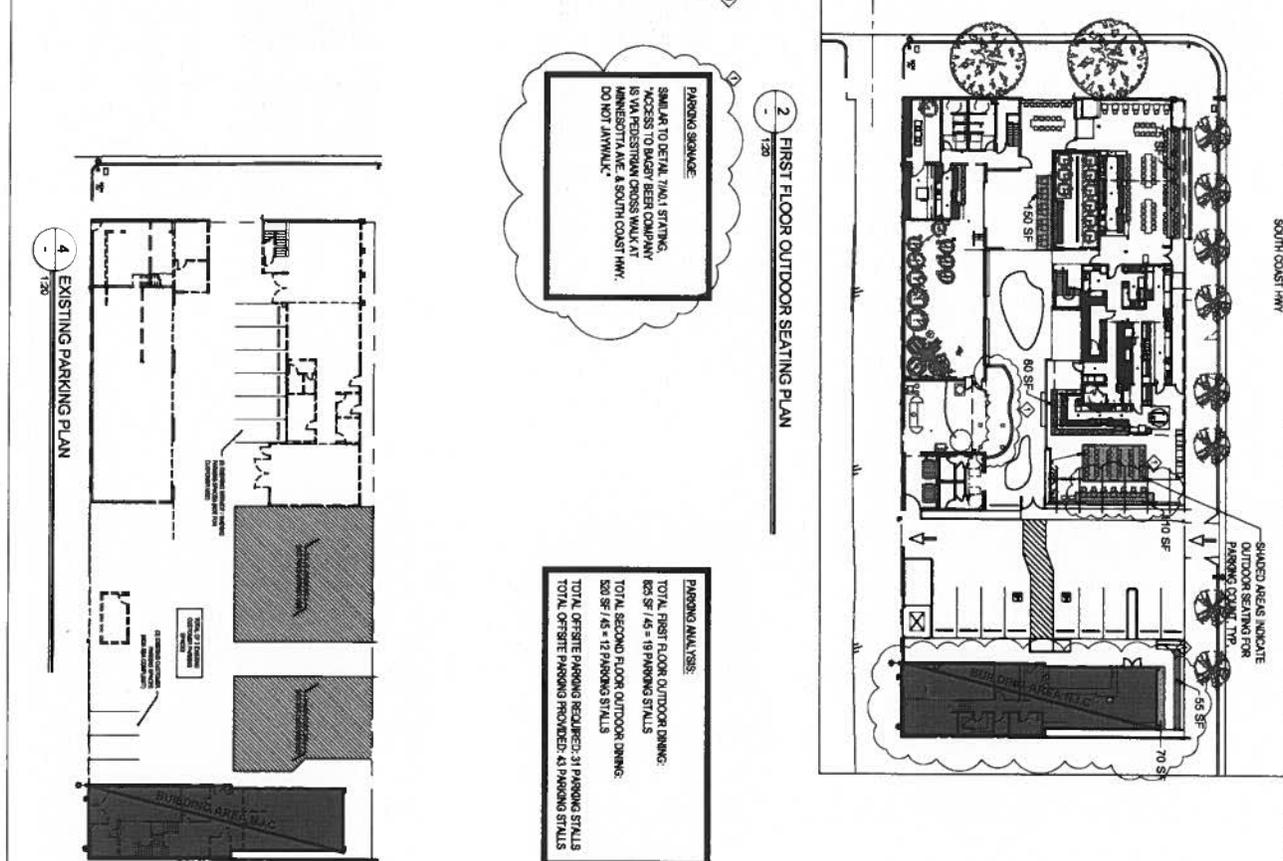
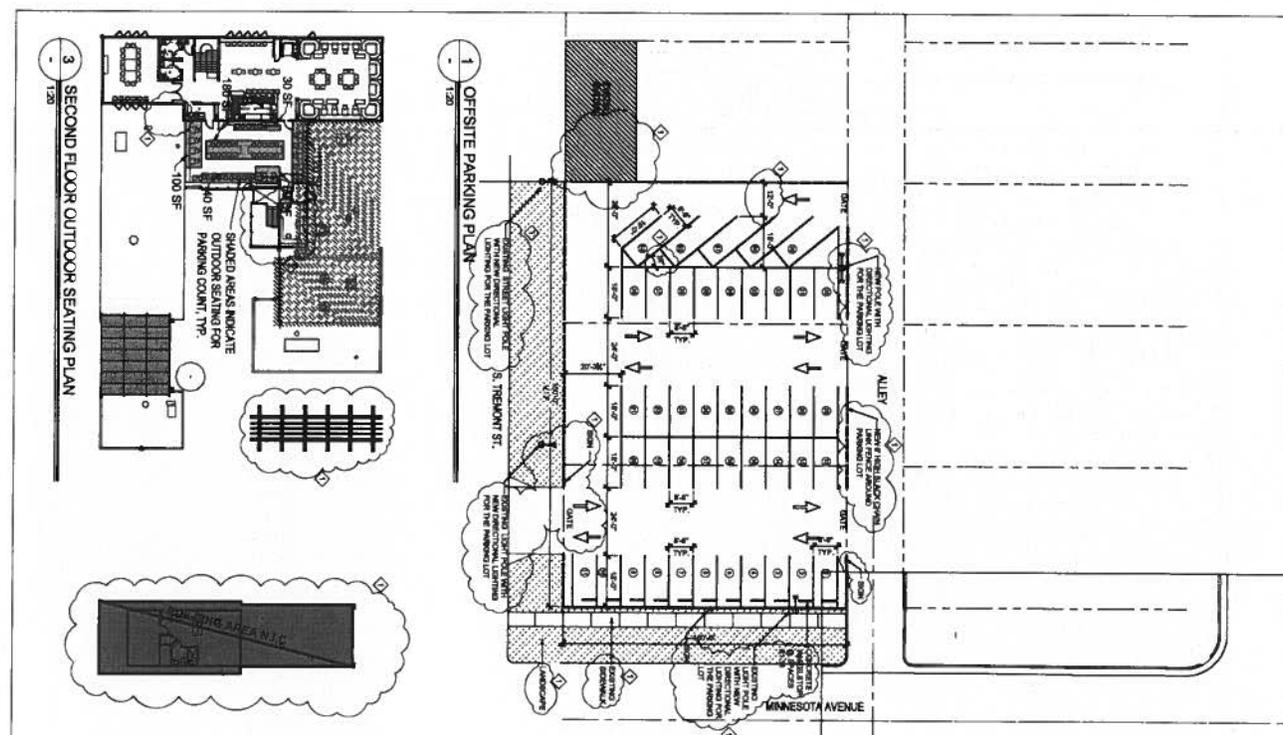
  
Marisa Lundstedt  
City Planner

ML/AF/fil

Attachments:

1. Plans
2. Planning Commission Resolution No. 2014-P20
3. Other Attachments (Application Page, Description and Justification, Legal Description, Notice of Exemption)





**P.C.H. STREETSCAPE**

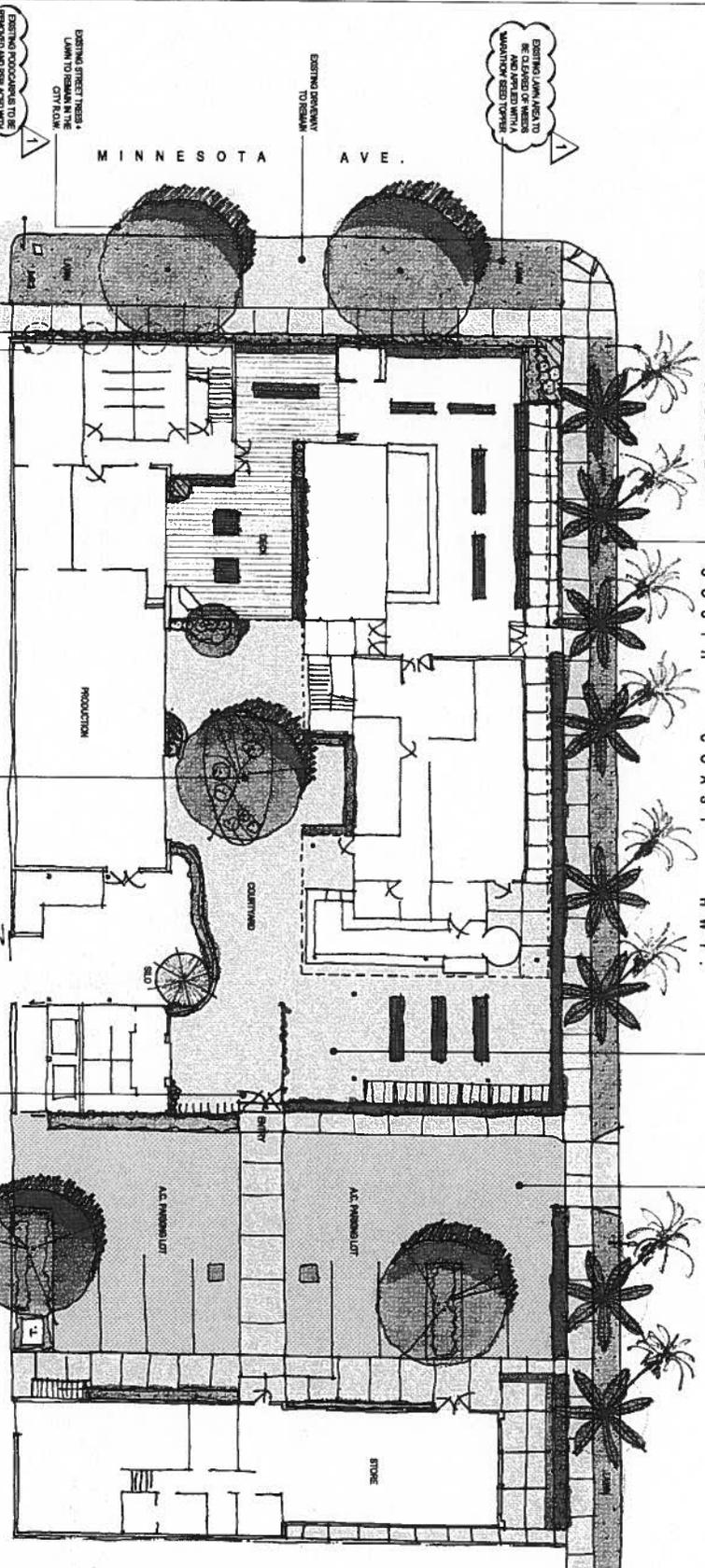
- EXISTING WESTERN REDWOOD TREES + LAMIN IN PLANTING AREAS TO REMAIN
- EXISTING WESTERN REDWOOD TREES + LAMIN IN PLANTING AREAS TO BE REPLACED WITH A MAINTENANCE SEED TREE
- EXISTING WESTERN REDWOOD TREES + LAMIN IN PLANTING AREAS TO BE REPLACED WITH A MAINTENANCE SEED TREE
- EXISTING WESTERN REDWOOD TREES + LAMIN IN PLANTING AREAS TO BE REPLACED WITH A MAINTENANCE SEED TREE

**OUTDOOR DINING / COURTYARD**

- PLANTING AREAS WITH NEW TREES, VINES + PERENNIALS TO PROVIDE A VISUAL ATTENUATION + FUNCTIONALLY APPLICABLE SPACE FOR DINING

**PARKING LOT LANDSCAPE**

- NEW TREES, VINES, ORNAMENTAL GRASSES, PERENNIALS + ARTIFICIAL TURF TO IMPROVE VISUAL APPEAL + PROVIDE VISUAL ATTENUATION + FUNCTIONALLY APPLICABLE SPACE FOR PARKING



**PLANT PALETTE:**

EXISTING TREES	PROPOSED TREES	EXISTING PERENNIALS	PROPOSED PERENNIALS
WESTERN REDWOOD	WESTERN REDWOOD	WESTERN REDWOOD	WESTERN REDWOOD
LAMIN	LAMIN	LAMIN	LAMIN
MAINTENANCE SEED TREE	MAINTENANCE SEED TREE	MAINTENANCE SEED TREE	MAINTENANCE SEED TREE

**CONCEPT NOTES:**

- ALL LANDSCAPE AREAS ARE TO BE SEPARATED BY A COMPLETELY AUTOMATED IRRIGATION SYSTEM WITH A CONTROL VALVE, LOW INSULATION RISERS AND UNDERGROUND PERFORATED PIPING. WATER SOURCE IS EXISTING.
- THE SYSTEM WILL BE PROGRAMMED AND ORIENTED TO MAXIMIZE THE EFFICIENCY OF THE SYSTEM AND LIMIT WATER CONSUMPTION. THE SYSTEM WILL BE DESIGNED TO RECEIVE A 2" LAYER OF LANDSCAPE BLEND AGRY SERVICE PRODUCTS OR EQUAL.
- PLANTING AREAS TO RECEIVE A 2" LAYER OF LANDSCAPE BLEND AGRY SERVICE PRODUCTS OR EQUAL.
- THE PROPERTY OWNER SHALL BE RESPONSIBLE FOR THE MAINTENANCE OF THE PROJECT LANDSCAPE AND IRRIGATION SYSTEMS INCLUDING THE FULFILLMENT OF OBLIGATIONS ALONG SOUTH COAST HIGHWAY AND MINNESOTA AVE.

**OWNER**  
 WILKINSON ENTERPRISES, LLC  
 1400 WILSON BLVD  
 SAN DIEGO, CA 92101  
 TEL: 619-594-3333

**ENVIRONS**  
 LANDSCAPE ARCHITECTURE  
 1400 WILSON BLVD  
 SAN DIEGO, CA 92101  
 TEL: 619-594-3333

**NOT FOR CONSTRUCTION**







1 PLANNING COMMISSION  
2 RESOLUTION NO. 2014-P20

3 A RESOLUTION OF THE PLANNING COMMISSION OF THE  
4 CITY OF OCEANSIDE, CALIFORNIA APPROVING A  
5 COASTAL DEVELOPMENT PERMIT AND VARIANCE ON  
6 CERTAIN REAL PROPERTY IN THE CITY OF OCEANSIDE

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7 APPLICATION NO: RC14-00009, V14-00010  
8 APPLICANT: Bagby Beer Company  
9 LOCATION: 601-617 South Coast Highway and the northeast corner of Minnesota  
10 Avenue and Tremont Street

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11 THE PLANNING COMMISSION OF THE CITY OF OCEANSIDE, CALIFORNIA DOES  
12 RESOLVE AS FOLLOWS:

13 WHEREAS, there was filed with this Commission a verified petition on the forms  
14 prescribed by the Commission requesting consideration of Regular Coast Permit (RC14-00009)  
15 and Variance (V14-00010) under the provisions of the City of Oceanside Local Coastal Program  
16 and Articles 19 of the Zoning Ordinance to permit the following:

17 construction of a wood fence enclosure ranging in height from four feet to eight feet (max)  
18 at 601-617 South Coast Hwy and a six-foot high black vinyl coated chain link fence on the  
19 vacant parking lot site located at the northeast corner of Minnesota Avenue and Tremont  
20 Street;

21 on certain real property described in the project description.

22 WHEREAS, the Planning Commission, after giving the required notice, did on the 11th  
23 day of August, 2014 conduct a duly advertised public hearing as prescribed by law to consider  
24 said application.

25 WHEREAS, pursuant to the California Environmental Quality Act of 1970, and State  
26 Guidelines thereto; this project has been found to be categorically exempt from CEQA as a Class 3  
27 project "New Construction or Conversion of Small Structures," per Article 19 Section 15303 (e);

28 WHEREAS, pursuant to Oceanside Zoning Ordinance §4603, this resolution becomes  
29 effective 10 days from its adoption in the absence of the filing of an appeal or call for review;

WHEREAS, the documents or other material which constitute the record of  
proceedings upon which the decision is based will be maintained by the City of Oceanside  
Planning Division, 300 North Coast Highway, Oceanside, California 92054.

1           WHEREAS, studies and investigations made by this Commission and in its behalf reveal  
2 the following facts:

3 FINDINGS:

4 For the Regular Coastal Permit:

- 5 1.       The proposed fence improvements, as conditioned, are consistent with the land use  
6 policies of the Local Coastal Program as implemented through the Zoning Ordinance.  
7 Specifically, the project, will not impact existing public views of the coastal zone area and  
8 the physical aspects of the project will complement existing development in the area.
- 9 2.       The proposed development, as conditioned, will not obstruct an existing, planned, or  
10 required public beach access and conforms to the public access and recreation policies of  
11 Chapter 3 of the Coastal Act. South Coast Highway and Minnesota Avenue are not thru  
12 streets to the coastline; therefore, the proposed development would not obstruct existing or  
13 planned public beach access ways.
- 14 3.       The project will not result in the loss of any on-street public parking spaces or take away  
15 from the existing parking fronting the project site. Additional off-street parking will be  
16 made available to serve business patrons, thus eliminating impacts to existing parking  
along the project's street frontage.

17 For the Variance:

- 18 1.       There are special circumstances warranting approval of a variance, based on safety issues.  
19 Strict application of the fence height and building setback requirements would deprive the  
20 applicant of this property of rights enjoyed by other property owners in the vicinity and in  
21 the same zone classification that accommodate fences with the appearance of similar bulk,  
22 scale, and mass in the neighborhood.
- 23 2.       The granting of the variance is consistent with the purposes of the Zoning Ordinance and  
24 will not constitute a special privilege to the property. Exceptions to the height and fence  
25 siting standards have been previously granted for outdoor dining facilities within the  
downtown and other areas of the City.
- 26 3.       The granting of this variance will not adversely affect any Specific Plan, Precise Plan, or  
27 General Plan standards adopted or being studied for the area. The project site is not  
28 subject to any of the aforementioned plans.
- 29

1 4. The granting of the variance will not be materially detrimental or injurious to the  
2 surrounding property nor to the general development pattern of the neighborhood.

3 NOW, THEREFORE, BE IT RESOLVED that the Planning Commission does hereby  
4 approve Regular Coastal Permit RC14-00009 and Variance V14-00010 subject to the following  
5 conditions:

6 **Planning:**

7 1. This Regular Coastal Permit (RC14-00009) and Variance (V14-00010) approval is  
8 limited to the fence enclosure improvements as shown on the plans and exhibits  
9 presented to the Planning Commission for review and approval. No deviation from  
10 these approved plans and exhibits shall occur without City Planner approval.

11 2. A request for changes in conditions of approval for Regular Coastal Permit (RC14-  
12 00009) and Variance (V14-00010) or a change to the approved plans that would affect a  
13 condition of approval shall be treated as a new application. The City Planner may  
14 waive the requirements for a new application if the changes requested are minor, do not  
15 involve substantial alterations or addition to the plan or the conditions of approval, and  
16 are consistent with the intent of the project's approval or otherwise found to be in  
substantial conformance.

17 3. Unless expressly waived, all current zoning standards and City ordinances and policies  
18 in effect at the time a business license is approved are required to be met by this project.  
19 The approval of this project constitutes the applicant's agreement with all statements in  
20 the Description and Justification and other materials and information submitted with  
21 this application, unless specifically waived by an adopted condition of approval.

22 4. This Regular Coastal Permit and Variance are subject to review by the Planning  
23 Commission if complaints are filed and verified as valid by the Code Enforcement  
24 Office concerning the violation of any of the conditions of approval or if the project  
25 does not conform with the information contained in or representations made in the  
26 application, any supporting material submitted to the City or during any hearing on the  
application.

27 5. The applicant, permittee or any successor-in-interest shall defend, indemnify and hold  
28 harmless the City of Oceanside, its agents, officers or employees from any claim, action  
29 or proceeding against the City, its agents, officers, or employees to attack, set aside,

1 void or annul an approval of the City, concerning Regular Coastal Permit (RC14-  
2 00009) or Variance (V14-00010). The City will promptly notify the applicant of any  
3 such claim, action or proceeding against the City and will cooperate fully in the defense.  
4 If the City fails to promptly notify the applicant of any such claim action or proceeding  
5 or fails to cooperate fully in the defense, the applicant shall not, thereafter, be  
6 responsible to defend, indemnify or hold harmless the City.

- 7 6. Failure to meet any conditions of approval for this development shall constitute a  
8 violation of the Regular Coastal Permit and Variance.
- 9 7. A covenant or other recordable document approved by the City Attorney shall be  
10 prepared by the applicant and recorded within 60 days from the date of project  
11 approval. The covenant shall provide that the property is subject to this resolution, and  
12 shall generally list the conditions of approval.
- 13 8. Prior to the transfer of ownership and/or operation of the site the owner shall provide a  
14 written copy of the applications, staff report and resolutions for the project to the new  
15 owner and or operator. This notification's provision shall run with the life of the project  
16 and shall be recorded as a covenant on the property.
- 17 9. The variance for the black vinyl coated chain link fence shall be null and void and the  
18 associated fence enclosure shall be removed upon redevelopment of the Minnesota  
19 Avenue and Tremont Street parking lot site with permanent building structures.

20 **Transportation/Traffic:**

- 21 10. The project shall provide a 24' wide drive aisle for two-way traffic along the western  
22 edge of the off-site parking lot to the satisfaction of the City Engineer prior to  
23 Certificate of Occupancy.
- 24 11. The project shall paint a one-way directional arrow along the northwestern edge of the  
25 off-site parking lot to prevent traffic from entering the diagonal parking area the wrong  
26 way. The arrow shall be painted to the satisfaction of the City Engineer prior to  
27 Certificate of Occupancy.

28 **Landscaping:**

- 29 12. All landscape areas shall be maintained per City of Oceanside requirements.
13. Existing landscaping on and adjacent to the site shall be protected in place and  
supplemented or replaced to the satisfaction of the City Engineer.

- 1 14. All trees, shrubs and groundcovers to be demolished/removed shall be replaced on-site  
2 at a ratio of 1:1.
- 3 15. All proposed trees, shrubs and groundcovers if damaged, as determined by the City of  
4 Oceanside Landscape Inspector, shall be replaced in kind. Brown trunk height lost in  
5 feet shall be equally replaced. Diameter lost in inches shall be equally replaced.
- 6 16. All shrubs shall be carefully chosen to provide vigorous growth for their location(s). A  
7 minimum of 5-gallon size containers shall be required.
- 8 17. Proposed replacement landscape species shall fit the site and meet climate changes  
9 indicative to their planting location. The selection of replacement plant material shall  
10 also be based on cultural, aesthetic, and maintenance considerations. In addition  
11 proposed replacement landscape species shall be low water users and shall meet all Fire  
12 Department requirements.
- 13 18. All replacement planting areas shall be prepared and implemented to the required depth  
14 with appropriate soil amendments, fertilizers, and appropriate supplements based upon a  
15 soils report from an agricultural suitability soil sample taken from the site.
- 16 19. Ground covers or bark mulch shall fill in between the shrubs to shield the soil from the  
17 sun, evapotranspiration and run-off. All the flower and shrub beds shall be mulched to  
18 a 3" depth to help conserve water, lower the soil temperature and reduce weed growth.
- 19 20. The shrubs shall be allowed to grow in their natural forms. All landscape  
20 improvements shall follow the City of Oceanside Guidelines.
- 21 21. Per the landscape concept plan (CLP) a note: The specific location(s), sizes, and  
22 quantities of all the plant material will be determined and indicated during the  
23 construction document phase of the project.
- 24 22. For the planting and placement of trees and their distances from hardscape and other  
25 utilities/structures the landscape plans shall follow the current City of Oceanside's Tree  
26 Planting Distances and Spacing Standards.
- 27 23. The existing automatic irrigation system shall be modified to provide coverage for all  
28 existing planting areas. Low volume equipment shall provide sufficient water for plant  
29 growth with a minimum water loss due to water run-off.
24. The existing modified irrigation system shall use high quality, automatic control valves,  
controllers and other necessary irrigation equipment. All components shall be of non-

1 corrosive material. All drip systems shall be adequately filtered and regulated per the  
2 manufacturer's recommended design parameters.

3 25. All irrigation improvements shall follow the City of Oceanside Guidelines and Water  
4 Conservation Ordinance.

5 26. Per the landscape concept plan (CLP) note: All landscape and irrigation improvements  
6 shall be installed prior to city granting occupancy release.

7 27. The City of Oceanside shall require a landscape inspection prior to the landscape  
8 portion of the certificate of occupancy sign-off.

9 PASSED AND ADOPTED Resolution No. 2014-P20 on August 11, 2014 by the  
10 following vote, to wit:

11 AYES:

12 NAYS:

13 ABSENT:

14 ABSTAIN:

15 \_\_\_\_\_  
16 Robert Neal, Chairperson  
17 Oceanside Planning Commission

18 ATTEST:

19 \_\_\_\_\_  
20 Marisa Lundstedt, Secretary

21 I, MARISA LUNDSTEDT, Secretary of the Oceanside Planning Commission, hereby certify  
22 that this is a true and correct copy of Resolution No. 2014-P20.

23 Dated: August 11, 2014  
24  
25  
26  
27  
28  
29



**Application for Discretionary Permit**

Development Services Department / Planning Division  
(760) 435-3520  
Oceanside Civic Center 300 North Coast Highway  
Oceanside, California 92054-2885

**STAFF USE ONLY**

ACCEPTED

BY

AF  
DHW

Please Print or Type All Information

HEARING

**PART I – APPLICANT INFORMATION**

1. APPLICANT JEFF BAGBY	2. STATUS OWNER
3. ADDRESS 1548 LA VINE LN VISTA, CA 92084	4. PHONE/FAX/E-mail JEFF@BAGBYBEER.COM
5. APPLICANT'S REPRESENTATIVE (or person to be contacted for information during processing)	
6. ADDRESS	7. PHONE/FAX/E-mail

GPA

MASTER/SP.PLAN

ZONE CH.

TENT. MAP

PAR. MAP

DEV. PL.

C.U.P.

VARIANCE

V 14-00010

COASTAL

RC 14-00009

O.H.P.A.C.

**PART II – PROPERTY DESCRIPTION**

8. LOCATION 601 SOUTH COAST HWY, OCEANSIDE CA 92054		
10. GENERAL PLAN	11. ZONING Gen Comm	12. LAND USE
14. LATITUDE 33.189225	15. LONGITUDE -117.374257	

9. SIZE

13. ASSESSOR'S PARCEL NUMBER 150-376-11-00 150-184-04-00  
150-376-03-00 150-184-05-00  
150-376-04-00 150-184-06-00

**PART III – PROJECT DESCRIPTION**

16. GENERAL PROJECT DESCRIPTION  
Variance to allow fence heights at South Coast Highway outdoor dining areas and bordering the parking lot at South Tremont and Minnesota Street to exceed 42".

17. PROPOSED GENERAL PLAN n/a	18. PROPOSED ZONING n/a	19. PROPOSED LAND USE n/a	20. NO. UNITS n/a	21. DENSITY n/a
22. BUILDING SIZE 11,000 SF	23. PARKING SPACES 52	24. % LANDSCAPE 30%	25. % LOT COVERAGE or FAR	

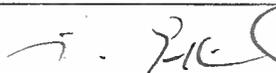
**PART IV – ATTACHMENTS**

<input checked="" type="checkbox"/> 26. DESCRIPTION/JUSTIFICATION	<input checked="" type="checkbox"/> 27. LEGAL DESCRIPTION	<input checked="" type="checkbox"/> 28. TITLE REPORT
<input checked="" type="checkbox"/> 29. NOTIFICATION MAP & LABELS	<input checked="" type="checkbox"/> 30. ENVIRONMENTAL INFO FORM	<input checked="" type="checkbox"/> 31. PLOT PLANS
<input checked="" type="checkbox"/> 32. FLOOR PLANS AND ELEVATIONS	<input checked="" type="checkbox"/> 33. CERTIFICATION OF POSTING	<input type="checkbox"/> 34. OTHER (See attachment for required reports)

**PART V – SIGNATURES**

SIGNATURES FROM ALL OWNERS OF THE SUBJECT PROPERTY ARE NECESSARY BEFORE THE APPLICATION CAN BE ACCEPTED. IN THE CASE OF PARTNERSHIPS OR CORPORATIONS, THE GENERAL PARTNER OR CORPORATION OFFICER SO AUTHORIZED MAY SIGN. (ATTACH ADDITIONAL PAGES AS NECESSARY).

35. APPLICANT OR REPRESENTATIVE (Print): Jeff Bagby	36. DATE 7/18/14	37. OWNER (Print): Siegmar Galleisky	38. DATE 7/18/14
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Sign:  Sign: 

• I DECLARE UNDER PENALTY OF PERJURY THAT THE ABOVE INFORMATION IS TRUE AND CORRECT. FURTHER, I UNDERSTANDING THAT SUBMITTING FALSE STATEMENTS OR INFORMATION IN THIS APPLICATION MAY CONSTITUTE FRAUD, PUNISHABLE IN CIVIL AND CRIMINAL PROCEEDINGS.  
• I HAVE READ AND AGREE TO ABIDE BY THE CITY OF OCEANSIDE DEVELOPMENT SERVICES DEPARTMENT AND ECONOMIC AND COMMUNITY DEVELOPMENT DEPARTMENT POLICY NO. 2011-01/POLICY AND PROCEDURE FOR DEVELOPMENT DEPOSIT ACCOUNT ADMINISTRATION.



**BEER COMPANY**  
oceanside | california

world-class beer  
simple food done well  
inviting hospitality

## Project Description and Variance Justification July 2014

The **Bagby Beer Company** is a family-owned and operated restaurant and brewery located at 601-617 South Coast Highway, at the southwest corner of Minnesota Street, and, in combination with the associated parking lot (located at the north east corner of Tremont and Minnesota) comprises a total of six parcels. The LLC that Bagby Beer Company represents, Whambo! Enterprises, signed a long-term lease at this facility in November of 2012; Bagby Beer Company intends to continue to build - and maintain - its business at this location in Oceanside for 30 more years. The Bagby team includes Jeff Bagby, an internationally lauded, award-winning craft brewer, his wife, Dande Bagby, and his father John. Jeff will lead the brewery and all of the beverage offerings while Dande will manage all Front and Back of House operations. John acts as the business manager.

The previous business that called this premise home was Continental Motors, BMW Oceanside, and SAAB Oceanside; this operation existed here for approximately 50 years. The former operators of the auto dealership, with whom the Bagbys have a tremendous working relationship, own the property itself, and are in full support of the Bagby Beer Company. Converting a 50-year old car dealership into a two-story restaurant and brewery has proven to be a significant effort. Construction was initiated in October of 2013 after nearly a year working through design and permitting phases; it is hoped the build out is fully complete by early August 2014.

The Bagbys are driven to deliver an outstanding operation, to include excellent products, gracious service, and thoughtful design; a business that will not only be a welcome addition to the Oceanside community and beyond, but one that both our neighbors and City Hall can be truly proud of.

The Bagby Beer Company is seeking a variance from the existing Planning Code for fence heights at outdoor dining areas along South Coast Highway, and along the southern and western borders of its parking lot. The following statements are in response to the requirements listed on the Application for Discretionary Permit:

Variances: Section 4105 of the Zoning Ordinance requires that proof be submitted in support of the following statements:

(a) That because of special circumstances or conditions applicable to the development site - including size, shape, topography, location or surroundings - strict application of the requirements of this ordinance deprive such property of privileges enjoyed by other property in the vicinity and under identical zoning classifications;

Response

See images of properties that currently have fences in excess of 42" either within 45' of the centerline of the roadway or within 10' of the property line. There are so many, in fact, that appear to exceed the 42" limitation, that to include all of them would be a burdensome process.

(b) That granting the application will not be detrimental or injurious to property or improvements in the vicinity of the development site, or to the public health, safety or general welfare;

Response

The addition of the new fences being constructed enhance the aesthetics of the development site and area, and will actually increase health and safety by deterring access to the property outside of business hours. Limiting fence height to 42" in these instances, rather, could contribute to creating an unsafe condition where would-be trespassers are able to gain access to the garden space or parking lot, could fall and hurt themselves, could steal items, and cause property damage.

Also, with an eye towards the long-term strategic plan for the Coast Highway Corridor, it can be anticipated that the currently adopted 45' setback in areas of commercial activity such as this may actually be reduced over time, in an effort to support and encourage additional outdoor dining and other social activities.

(c) That granting the application is consistent with the purposes of this ordinance and will not constitute a grant of special privilege inconsistent with limitations on other properties in the vicinity and in the same zoning district:

Response

The City of Oceanside's website Q&A section regarding Variances indicates [they] "are intended to resolve practical difficulties or physical hardships that may result from the size, shape or dimensions of a site or the location of existing structures thereon from geographic, topographic, or other physical conditions on the site or in the immediate vicinity".

1) The main building's eastern boundary falls just 6" west of the current fence line, well within the 45' setback. In order to build a fence to the height being sought for security and operational objectives, it would require the fence actually be placed well into the property by 5'. This would create a condition of open space between the fencing and the sidewalk, a gap that would likely measure 7'. This relocation of the fence would completely eliminate the eastern pathway along the property, and would severely restrict accessibility along this side of the main building. It would also interfere with the staff's ability to navigate this area, and minimize the ability to maneuver and provide adequate service.

2) The geographic layouts of each project area lend themselves to the full use of land adjacent to the roadway and/or property line, which establishes the basis for the 42" fence height limitation. The higher fence height being proposed through this application allows for both the full use of the property for outdoor dining and for parking, as well as an appropriate level of after-hours safety and security of the business. It enables the reasonable protection of the property, its equipment that cannot be relocated indoors at night, and the security of customer or employee automobiles. Conversely, the code-required 42" fence will allow (and perhaps encourage) access to these areas after hours; trespassers could become injured by easily gaining access and finding harm on the un-monitored premise after hours.

Further, fencing taller than the 42" limitation will help define clearly the property's boundaries as far as Alcoholic Beverage Control licensing is concerned.

## **LEGAL DESCRIPTION**

**The land referred to herein is situated in the State of California, County of San Diego, City of Oceanside and described as follows:**

Parcel 1:

Lots 1 and 2 in Block 45, Bryan's Addition, in the City of Oceanside, County of San Diego, State of California, according to Map thereof No. 219, filed in the Office of the County Recorder of San Diego County, March 10, 1887.

Parcel 2:

Lot 3 in Block 45 of Bryan's Addition, in the City of Oceanside, County of San Diego, State of California, according to Map thereof No. 219, filed in the Office of the County Recorder of San Diego County, March 10, 1887.

Parcel 3:

Lot 4 in Block 45 of Bryan's Addition, in the City of Oceanside, County of San Diego, State of California, according to Map thereof No. 219, filed in the Office of the County recorder of San Diego County, March 10, 1887.

Excepting therefrom said Lot 4, the Southeasterly 1 foot thereof.

Parcel 4:

Lot 5 in Block 45 of Bryan's Addition, excepting therefrom the Southeasterly 25 feet, and the Southeasterly 1 foot of Lot 4, in Block 45 of Bryan's Addition, in the City of Oceanside, County of San Diego, State of California, according to the Map thereof No. 219, filed in the Office of the County Recorder of San Diego County, March 10, 1887.

APN: 150-376-11-00, 150-376-03-00, and 150-376-04-00

(End of Legal Description)

File No.:

## **LEGAL DESCRIPTION**

**The land referred to herein is situated in the State of California, County of San Diego, City of Oceanside and described as follows:**

Lots 9, 10 and 11 in Block 32 of Bryan's Addition to Oceanside, in the City of Oceanside, County of San Diego, State of California, according to the Map thereof No. 219, filed in the Office of the County Recorder of San Diego County, March 10, 1887.

APN: 150-184-04-00, 150-184-05-00, and 150-184-06-00

(End of Legal Description)

File No.:



## NOTICE OF EXEMPTION

City of Oceanside, California

Post Date:  
Removal:  
(180 days)

1. **APPLICANT:** Mr. Jeff Bagby
2. **ADDRESS:** 601- 607 S. Coast Highway
3. **PHONE NUMBER:** (760) 470-7070
4. **LEAD AGENCY:** City of Oceanside
5. **PROJECT MGR.:** Amy Fousekis
6. **PROJECT TITLE:** RC14-00009, V14-00010 (Bagby Beer Co.)
7. **DESCRIPTION:** VARIANCE (V14-00010) and REGULAR COASTAL PERMIT (RC14-00009) involves construction of a wood fence enclosure ranging in height from 4-ft. to 8-ft. (max) at 601-617 S. Coast Hwy and a 6-ft. high black vinyl coated chain link fence on the vacant parking lot site located at the northeast corner of Minnesota Avenue and Tremont Street. Situated within the Coastal Zone's non-appealable area and the Townsite Neighborhood Planning Area, the subject property has a Local Coastal Program land use designation of General Commercial and a zoning designation of General Commercial (C-2).

**ADMINISTRATIVE DETERMINATION:** Planning Division staff has completed a preliminary review of this project in accordance with the City of Oceanside's Environmental Review Guidelines and the California Environmental Quality Act (CEQA), 1970. Based on this review, the Environmental Coordinator has determined that further environmental evaluation is not required because:

- [ x ] The project is categorically exempt as a Class 3, 15303 (e) for "New Construction or Conversion of Small Structures";
- [ ] "The activity is covered by the general rule that CEQA applies only to projects which have the potential for causing a significant effect on the environment. Where it can be seen with certainty that there is no possibility that the activity in question may have a significant effect on the environment, the activity is not subject to CEQA" (Section 15061(b)(3)); or,
- [ ] The project is statutorily exempt, Section , \_\_\_\_ ( Sections 15260-15277); or,
- [ ] The project does not constitute a "project" as defined by CEQA (Section 15378).

Date: August 11, 2014

Amy Fousekis, Principal Planner

cc:  [ x ] Project file  [ x ] Counter file  [ x ] Library Posting:  [ ] County Clerk \$50.00 Admin. Fee