



COUNTY OF LAKE
COMMUNITY DEVELOPMENT DEPARTMENT
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Item #1
2:00 PM
May 29, 2024

STAFF REPORT

TO: Zoning Administrator

FROM: Michelle Irace, Principal Planner
Prepared by Eric Porter, Associate Planner

DATE: May 29, 2024

SUBJECT: Consideration of proposed Minor Use Permit (MUP 24-02) and Categorical Exemption (CE 24-04) for an over height fence; applicant: Janet Attard; location: 5145 Davis Drive, Lakeport (APN: 008-045-32)

ATTACHMENTS:

1. Site Plan
2. Elevations
3. Draft Conditions of Approval
4. Agency Comments
5. Request for Hearing

EXECUTIVE SUMMARY

The applicant seeks approval for a 6' solid wood fence along a private access easement (Davis Drive) with a portion of the fence being in the front yard setback which requires a minor use permit for an over height fence. As submitted by the applicant, the proposed 6' tall fence would be comprised of solid wood with upright supports every 6' to 8'.

PROJECT DESCRIPTION

<u>Project Title:</u>	Attard Over height Fence
<u>Permit Numbers:</u>	MUP 24-02
<u>Applicant Name & Address:</u>	Janet Attard 5145 Davis Drive, Lakeport
<u>Property Owner:</u>	Same as applicant
<u>Project Location:</u>	5145 Davis Drive, Lakeport
<u>Assessor's Parcel Number:</u>	008-045-32
<u>Parcel Acreage:</u>	±9.35 acres
<u>General Plan Designation:</u>	Agriculture
<u>Zoning District(s):</u>	"APZ-FF-AA", Agricultural Preserve-Floodway Fringe-Airport Approach Combining District
<u>Flood Zone:</u>	"X," Between 1% and 0.2% annual flood risk within the project area. The remainder of the parcel lies within "AO," Area inundated by the Base Flood with flood depths of 1 to 3 feet, and 0.2% chance of annual flood hazard.
<u>Hazards:</u>	Flood Inundation Area (outside project area)

FIGURE 1 – VICINITY MAP



Source: Lake County GIS Mapping, 2024

FIGURE 2 – ZONING MAP OF SITE AND SURROUNDING AREA



Source: Lake County GIS Mapping, 2024

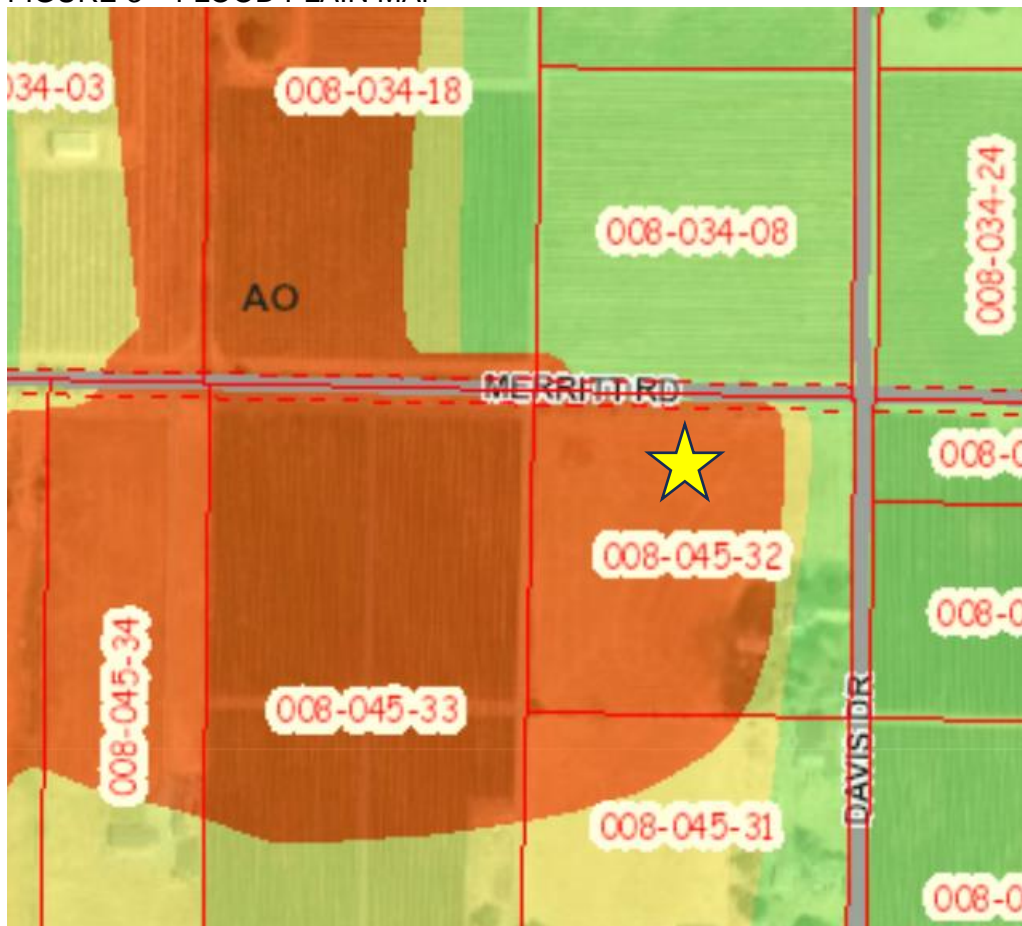
Existing features on site:

- Single-family dwelling with attached 2-car garage
- Shop and storage buildings
- Landscaping
- Swimming Pool
- Septic System
- Permitted Groundwater Well

Proposed features on site:

- 6' tall fence within the front yard setback along Davis Drive, a shared access easement

FIGURE 3 – FLOOD PLAIN MAP



Source: Lake County GIS Mapping, 2024

PROJECT SETTING

The subject site is located at 5145 Davis Drive, Lakeport. The ±9.35-acre site is developed with a single-family dwelling with an attached garage, a shop, storage buildings, introduced landscaping and a swimming pool. The subject lot is a corner lot that is accessed by Davis Drive, a shared public access easement. The existing driveway onto the lot only serves the existing residence.

Surrounding Zoning and Uses:

East, West and South: "APZ-FF-AA", Agricultural Preserve – Floodway Fringe (South and West); Airport Approach Combining District; most contain dwellings and agricultural uses. Lots vary in size from 8 to 20 acres.

East and North: "A-AA-AI" and "A-FF-AA-AI"; Agriculture – Airport Approach Combining – Agriculture Industry and Floodway Fringe. Mostly developed with dwellings and agricultural uses. Lots are generally about 10 acres in size.

PROJECT ANALYSIS

General Plan Conformity

The general plan designation for the subject site is Agriculture. The neighborhood is characterized by larger lots containing dwellings and agricultural uses. The applicant has stated that she needs privacy in her yard that is not possible with a 4' tall fence, which is allowed without having to obtain a minor use permit. The proposed 6' tall fence is consistent with a residential area.

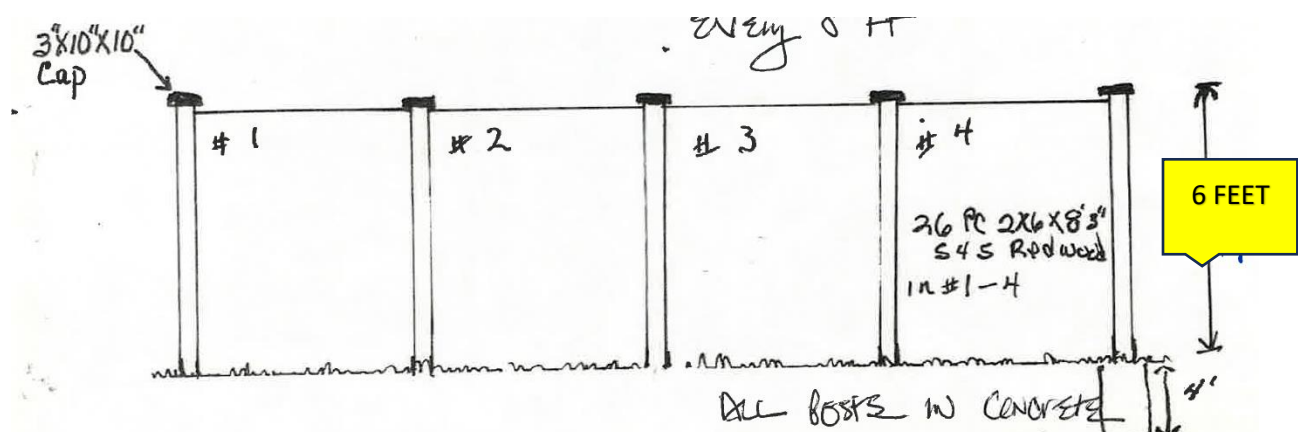
Lakeport Area Plan Conformity

The project is located within the Lakeport Planning Area. The neighborhood is characterized by larger lots containing dwellings and agricultural uses. The applicant has stated that she needs privacy in her yard that is not possible with a 4' tall fence, which is allowed without having to obtain a minor use permit. The proposed 6' tall fence is consistent with a residential area.

Zoning Ordinance Conformity

Article 4 – "APZ" Agricultural Preserve zoning district. The "APZ" zoning district allows lots to be fenced, however the allowable fence height in front yard setbacks is 4' unless there is an agricultural use on the site. In this case the lot is limited to being residential with no agricultural uses on the site. The applicant is requesting a solid wood 6' tall fence for privacy and security purposes. The fence would be installed along Davis Drive, a public access easement. Uses in the "APZ" zoning district are subject to applicable requirements within Article 41.

FIGURE 4 – ELEVATION OF PROPOSED FENCE IN FRONT YARD SETBACK



Article 36 – “FF” Floodway Fringe Combining District. Most of the project parcel is within an AO Flood plain, however the project site portion of the lot is outside this floodplain, so this section does not apply to this project.

Article 39. “AA” Airport Approach Combining District. The purpose of this combining district is to prevent new structures from potential damage from air flights and to protect travelers flying into Lampson Field. In this case a 6’ tall fence does not represent a potential hazard due to its relatively short height, well below the height of surrounding dwellings and trees.

Article 41 – Performance Standards: All discretionary projects in the “APZ” zoning district are required to undergo a review using the performance standards found in Article 41. The Planning Director may require pertinent information demonstrating that the proposed use will comply with all applicable performance standards prior to issuance of any discretionary approval. The following performance standards are analyzed for this project as follows.

41.4 Air quality: Requires all uses to comply with applicable local, state, and federal laws and regulations regarding contaminants and pollutants. Due to the minor nature of the construction activities associated with the request, the project has minimal potential to impact air quality, both during construction and during daily use. Minor residential construction improvements are exempt from CEQA review under Section 15061(b)(3).

41.6 Erosion Control: Limits the project area to the smallest practical area possible to minimize erosion; limits construction to the shortest time-frame possible; requires the preservation of natural features to the extent possible. The proposed fence will be built using upright 4” x 4” pressure-treated posts that will be sunk into concrete to a depth of four feet at 6’ to 8’ intervals over a 640’ long span. Fence construction is considered to be a minor residential development that is exempt from CEQA under a previously described section of CEQA. Staff estimates that construction of the fence would take between two and four weeks.

41.11 Noise: Construction is only permitted between 7:00 a.m. and 7:00 p.m. as stated in Article 41, performance standards for noise.

Article 42 – Development Standard Exceptions Article 42 provides for exceptions to the development standards of the base and combining zoning districts. These exceptions may also be assessed by the Planning Director prior to issuance of any discretionary approval. The following exceptions to the performance standards are analyzed for this project as follows.

42.11 Height exceptions for fences, walls, and hedges: (a) Fences, walls, and hedges not exceeding four (4) feet in height may be placed in the required front yard (setback) of an interior lot. Fences and walls in excess of three (3) feet in height but not higher than four (4) feet may occupy any required front yard of a corner lot, provided that the portion of the fence exceeding three (3) feet that is located within: 1) fifty (50) feet of the corner property line(s) or extended corner property line(s), or 2) from the edge of a prescriptive right of way, whichever provides the most unobstructed vision, is constructed of wire mesh, chain link or other material allowing unobstructed visibility. Fences, walls, and hedges exceeding four (4) feet but six (6) feet or less in height may be approved in the required front yard area upon first securing a minor use permit in each case if the Review Authority makes the following additional findings:

1. Approval will not result in obstruction of sight distance so as to create or increase any traffic safety hazard.

2. The design of the project provides for off-street, on-site parking of one (1) vehicle in tandem to any gated vehicle entrance.

Davis Drive is a private shared access easement. Height limitations on fencing do not typically apply to shared access easements even if they are named. In this case, the applicant is required to have the first 20' beginning at Merritt Road limited to a height of 4' for vehicle safety reasons.

ENVIRONMENTAL REVIEW

The Attard fence project is exempt from CEQA under section 15061(b)(3), which exempts residential fences from CEQA review. Further, CEQA section 15303(c) also exempts fences from CEQA review. Examples of this exemption include, but are not limited to:

- (e) Accessory (appurtenant) structures including garages, carports, patios, swimming pools, and fences.

The proposed fence consists of the installation of a 6' tall fence along the front yard of a single-family dwelling property. Construction of the fence is anticipated to take between two and four weeks, and would occur between 7:00 a.m. and 7:00 p.m., in compliance with the Lake County noise regulations. Once constructed, the fence will have no direct adverse impact on the site or its surrounding area.

ARTICLE 50.4, MINOR USE PERMIT FINDINGS FOR APPROVAL

The Review Authority shall only approve or conditionally approve a Minor Use Permit (LCZO Section 50.4, Minor Use Permits) if all of the following findings are made:

1. *That the establishment, maintenance, or operation of the use applied for will not under the circumstances of the particular case, be detrimental to the health, safety, morals, comfort and general welfare of the persons residing or working in the neighborhood of such proposed use or be detrimental to property and improvements in the neighborhood or the general welfare of the County.*

The project will consist of an over height fence along Davis Drive adjacent to the site. The primary potential concerns about over height fencing are line-of-site for vehicles, and to a lesser extent, compatibility with the neighborhood. Davis Drive provides access to 10 properties, however five of those properties are undeveloped and used for crop production. No trip increases are anticipated once construction of the fence is completed. The intersection of Davis Drive with Merritt Road might have some line-of-site issues due to the fence, therefore the last 10' of fencing must be reduced in height to prevent vehicle accidents; this is added as a condition of approval.

2. *That the site for the project is adequate in size, shape, location, and physical characteristics to accommodate the type of use and level of development proposed.*

The property is ±9.35 acres in size and large enough to accommodate the fence.

3. *That the streets, highways and pedestrian facilities are reasonably adequate to safely accommodate the specific proposed use.*

The proposed fence will be installed on a corner lot where line-of-site for vehicles could be impacted where Davis Drive intersects with Merritt Road; therefore, the last 20' length of fence closest to Merritt Drive must be kept to a height of no more than 4'.

4. *That there are adequate public or private services, including but not limited to fire protection, water supply, sewage disposal, and police protection to serve the project.*

All vital services already serve the site, including power, septic system, a private permitted groundwater well and public access easement (roads). The site is served by Lake County Sheriff's Department for law enforcement, and by Lakeport Fire Protection District for fire protection.

5. *That the project is in conformance with the applicable provisions and policies of this Code, the General Plan and any approved zoning or land use plan.*

The project is compliant with the General Plan and the Lakeport Area Plan. The project complies with the applicable portions of the zoning ordinance. Fences are a permitted use in the APZ zoning district, and there are no conflicts with any of the governing documents.

6. *That no violation of Chapters 5, 17, 21, 23 or 26 of the Lake County Code currently exists on the property, unless the purpose of the permit is to correct the violation, or the permit relates to a portion of the property which is sufficiently separate and apart from the portion of the property in violation so as not to be affected by the violation from a public health, safety or general welfare basis.*

No violations currently exist on the property.

Agency Comments. Staff received comments from several agencies on this project as follows:

Lake County Dept of Agriculture: No comments

Lake County Building Department: No permits required for fencing under 7' tall

Lake County Public Works Department: No comments

Lake County Special Districts: The parcel is outside the service area. No comments.

Lake County Surveyor: No comments

RECOMMENDATION

Staff recommends the Zoning Administrator take the following actions:

- A. Adopt Categorical Exemption (CE 24-04) under CEQA sections 15061(b)(3) and 15303(c) with the finding that the fence is exempted from CEQA evaluation under these CEQA sections.
- B. Approve Minor Use Permit (MUP 24-02) with the following findings:
 1. That the establishment, maintenance, or operation of the use applied for will not under the circumstances, be detrimental to the health, safety, morals, comfort and general welfare of the persons residing or working in the neighborhood of such proposed use or be detrimental to property and improvements in the neighborhood or the general welfare of the County.

2. The site is adequate in size, shape, locations, and physical characteristics to accommodate the type of use and level of development proposed.
3. The streets, highways and pedestrian facilities are reasonably adequate to safely accommodate the proposed use.
4. There are adequate services available to serve the project.
5. This project is consistent with the Lake County General Plan, Lakeport Area Plan, and Lake County Zoning Ordinance.
6. No violation of Chapter 5, 17, 21, 23 or 26 of the Lake County Code currently exists on this property.

Sample Motion:

Categorical Exemption (CE 24-04)

I hereby adopt Categorical Exemption (CE 24-04) under CEQA sections 15061(b)(3) and 15303(c), for Janet Attard for a property located at 5145 Davis Drive, Lakeport (APN 008-045-32) with the findings established in the staff report dated May 29, 2024.

Minor Use Permit (MUP 24-02)

I hereby approve Minor Use Permit (MUP 24-02) for Janet Attard for a property located at 5145 Davis Drive, Lakeport (APN 008-045-32) based on the findings and subject to the conditions included in the staff report dated May 29, 2024.

***NOTE:** The applicant or any interested person is reminded that the Zoning Ordinance provides for a seven (7) calendar day appeal period. If there is a disagreement with the Zoning Administrator's decision, an appeal to the Planning Commission may be filed. The appropriate forms and applicable fee must be submitted prior to 5:00 p.m. on or before the seventh day following the Zoning Administrator's decision on this matter.*