



PLANNING & COMMUNITY DEVELOPMENT DEPARTMENT

STAFF REPORT

DATE: September 19, 2018

TO: Hearing Officer

SUBJECT: Minor Variance #11881

LOCATION: 1415 El Mirador Drive

APPLICANT: Deven and Donald LeTendre

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

GENERAL PLAN DESIGNATION: Low Density Residential

CASE PLANNER: Kristen Johnston

STAFF RECOMMENDATION: Adopt the Environmental Determination and Specific Findings in Attachment A to **disapprove** Minor Variance #11881.

PROJECT PROPOSAL: Minor Variance: To allow a driveway gate and fence along the side (west) property line ranging in height from 6'0" to 7'4" within the front yard, where the maximum allowed height is four feet. A Minor Variance is required for a fence that exceeds the maximum allowable height.

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)(5); Administrative Code, Title 14, Chapter 3, §15270(a), Projects Which are Disapproved. This Statutory Exemption states that CEQA does not apply to projects which a public agency rejects or disapproves.

PROJECT DESCRIPTION:

The applicants, Deven and Donald LeTendre, have submitted a Minor Variance application to allow a driveway gate and fence along the side (west) property line ranging in height from 6'0" to

7'4" within the front yard, where the maximum allowed height is four feet. A Minor Variance is required for a fence that exceeds the maximum allowable height.

The subject site is located within the RS-2-HD (Single-Family Residential, Hillside Overlay District) zoning district and is a 38,640 square-foot flag lot, with frontage along El Mirador Drive and Afton Street. The site maintains vehicle access from El Mirador Drive. The subject site is developed with a one-story, single-family residence with an attached garage, swimming pool and spa, and other site improvements. The lot gradually slopes to the north, from El Mirador Drive to the building pad, with a descending slope to Afton Street.

PROJECT BACKGROUND:

On July 18, 2018, the Hearing Officer considered, at its regularly noticed hearing, Minor Variance #11881. The request was to allow the construction of a driveway gate and fence along the side (west) property line ranging in height from 6'0" to 7'4" within the front yard, where the maximum allowed height is four feet. Staff's recommendation to the Hearing Officer was to disapprove the application as Staff was not able to make the findings to support the request.

At the conclusion of the meeting, and after hearing public testimony, the Hearing Officer decided to continue the matter to the August 15, 2018 hearing to allow the applicant an opportunity to revise the plans and consider an alternative location for the fence.

On August 15, 2018, the Hearing Officer considered the Minor Variance #11881, continued from the July 18, 2018 hearing. The applicant requested that the Hearing Officer consider an alternative location, but failed to provide the Hearing Officer with a revised set of plans.

At the conclusion of the meeting, and after public testimony, the Hearing Officer continued the matter to the September 19, 2018 hearing to allow the applicant an opportunity to provide a revised set of plans as previously requested.

REVISED PLANS:

On September 7, 2018, the applicant submitted a revised site plan showing the driveway gate set back 40'5" from the front property line.

As previously indicated, Section 17.40.180 of the Zoning Code states that a wall or fence within the RS or RM-12 zoning district located within front yard (between the front property line and the occupancy frontage) shall have a maximum height of four feet and be at least 50 percent open. More specifically, Section 17.40.180, subsection (f) identifies wall and fence height for flag lots, allowing a maximum front yard wall or fence height of six feet, provided the front yard of the flag lot is abutting interior side or rear yards on all sides. However, the maximum height of walls and fences shall remain four feet in the portion of the pole that abuts an adjacent front yard. As proposed, the the 6'0" to 7'4" tall driveway gate and related fencing is still within the portion of the pole that abuts an adjacent front yard and is limited to a maximum height of four feet.

In order to comply with the Zoning Code, the driveway gate and side property line fence requires a 53-foot setback, from the front property line with a maximum height of six feet or less. Given the revised location of the driveway gate, staff is unable to make the required findings to support the requested Minor Variance. There are no exceptional or extraordinary circumstances or conditions applicable to the property that prohibits the fence from being relocated an additional

12'7" back from the front property line, and reduced to a 6'0" height measured from existing grade, to comply with the Zoning Code standards.

CONCLUSION:

Staff finds that the findings necessary for approving the Minor Variance request to allow a driveway gate 6'0" to 7'4" in height and a 6'0" side (west) property line fence to exceed the maximum four-foot height requirement, for fences located within the pole portion of a flag lot that abuts a front yard cannot be made. There are no exceptional or extraordinary circumstances or conditions applicable to the development of the site that would support the deviation from the fence height requirement in the proposed location, since the gate and fence can be revised to comply with the applicable development standards. The granting of this Minor Variance is not in conformance with the goals, policies, and objectives of the General Plan. Therefore, staff recommends that the Hearing Officer disapprove the application.

Attachments:

Attachment A: Minor Variance Findings

ATTACHMENT A
SPECIFIC FINDINGS FOR MINOR VARIANCE #11881

Minor Variance: To allow a driveway gate and side (west) property line fence ranging in height from 6'0" to 7'4", where the maximum allowed height is four feet.

1. *There are no exceptional or extraordinary circumstances or conditions applicable to the development site that do not apply generally to sites in the same zoning district.* The subject site is a flag lot, exceeding the minimum lot size and lot width requirements for properties in the RS-2-HD (Single-Family Residential, Hillside Overlay District) zoning district. The minimum lot size for RS-2-HD properties is 20,000 square feet with a minimum width of 100 feet. The subject lot is 38,640 square feet and 200 feet wide. There are similar flag lots of similar lot size and lot width, within the immediate neighborhood, that observe all the provisions of the Zoning Code, as they relate to fence height. As such, there is no exceptional or extraordinary circumstance applicable to this site that would allow the proposed deviation from the height requirement.

2. *Granting the application is not consistent with the General Plan and the purposes of Title 17 of the Municipal Code and will not constitute a grant of special privilege inconsistent with limitations on other properties in the vicinity and in the same zoning 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; therefore, the character of the single-family neighborhood would be maintained. However, the project is not consistent with the adopted General Plan policies, including Policy 21.3 (Residential Neighborhoods – Neighborhood Character), to maintain elements of residential street that unify and enhance the character of the neighborhood, including parkways, street trees, and compatible setbacks. The development standards for walls and fences of the Zoning Code were created to implement the General Plan policies by addressing additional details of site planning, project design, and the operation of land uses to ensure that proposed development produces an environment of desirable character. The proposed driveway gate 6'0 to 7'4" in height and a 6'0" side (west) property line fence, within the pole portion of the flag lot, would conflict with Policy 21.3 because it would be out of pedestrian scale and would impede the visual connection to the neighborhood from the public right-of-way and would be detrimental to the efforts in providing and maintaining features that unify and enhance the character of the neighborhood.