

APL 16-003

Electric Fence Appeal

December 19, 2016

City Council

City of San Leandro

- On August 16, 2016, the Appellant applied for a building permit to construct an 8' electric fence at 2371 Polvorosa Drive.

- The Zoning Enforcement Official (ZEO) determined the building permit could not be issued due to the fact that there are no Code provisions permitting the use of an electric fence.
- Appellant filed an appeal of the ZEO's decision to the Board of Zoning Adjustments on September 7, 2016.

- **The Board of Zoning Adjustments considered the appeal at their November 3, 2016 meeting and upheld the decision of the ZEO by a 7-0 decision, determining that electric fences are not a permitted use under the Zoning Code.**
- **The Appellant filed an appeal to the City Council on November 16, 2016.**

- **The decision before the Council is whether or not electric fences are permitted under the Zoning Code.**
- **Details or features pertaining to the Appellant's particular product or building permit are not pertinent to the decision before the Council.**

- San Leandro's Zoning Code operates under the principles of permissive zoning.
- Uses which are not identified in the Zoning Code are not permitted.

- State law enables local agencies to regulate electric fences but does not override local authority as written (Cal Civil Code 835).
- The Appellant has presented a different interpretation of State law from City staff.

Concerns with electric fences include:

- **Lack of code regulations to address design, location, and use**
- **Public safety concerns; no code provisions for emergency access & shut-off devices**
- **Concerns when placed in proximity to sensitive land uses, persons with medical conditions, disabilities, children**
- **Operation under wet conditions**
- **Community image**

The Zoning Enforcement Official determined that electric fences are not a permitted use under the Zoning Code.

The Board of Zoning Adjustments upheld the determination of the Zoning Enforcement Officer.

Staff recommends the City Council deny the appeal and uphold the determination made by the Board of Zoning Adjustments by adopting the recommended Resolution.

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