



## Legislation Text

---

**File #:** 19-435, **Version:** 1

---

**PLN19-0017;** Consideration of a Fence Modification to allow for a  $\pm 6$ -foot-tall redwood fence to encroach approximately 4-feet-6 inches into a required side yard to allow for an expanded enclosed side yard at 4021 Monterey Blvd. The subject property is zoned RS (Residential Single-Family) and is located on the northwest corner of Monterey Blvd. and Crespi Drive. The parcel is approximately 6,279 square feet in area and developed with a 1,505 square-foot, two story residence. Alameda County Assessor's Parcel Numbers 077-B1125-020-00 (4021 Monterey Blvd.) Nolan P. Quinabo & Victor Aguilar Jr. (applicants & property owners).

### **SUMMARY AND RECOMMENDATION**

The application is a request for a Fence Modification to allow for a  $\pm 6$  foot-tall redwood fence to encroach approximately 4 feet, 6 inches (the fence is assumed to be set back 3 feet from the property line) into the required side yard to allow for an expanded enclosure of the side yard at 4021 Monterey Blvd., located in the Floresta Gardens neighborhood. The City's Zoning Enforcement Official has deferred this application for consideration by the Board of Zoning Adjustments in accord with Zoning Code section 4-1682 C.4. The application was reviewed and processed by a third-party contract planning consultant in accord with the procedures outlined in the City's Administrative Code.

This item was previously heard by the Board of Zoning Adjustment at their June 6, 2019 public hearing. Following consideration of the staff report and public comments, the four Board members in attendance were unable to pass an affirmative vote of a majority of the Board. As a result, the hearing item was rescheduled and noticed for the following hearing date of August 1, 2019 in accord with procedures outlined in the San Leandro Administrative Code. No hearing was scheduled on July 4, 2019 due to the public holiday.

With the recommended Conditions of Approval, the proposed project meets the standards necessary to approve a Fence Modification in a manner compatible with adjacent residential properties in the immediate neighborhood. A Resolution to approve the requested Fence Modification has been prepared based on the proposal's compliance with the Standards for Approval outlined in this report.

### **ANALYSIS**

Portions of the fence located facing the Monterey Blvd. street frontage were appropriately constructed and comply with the required front yard fence setback. However, the  $\pm 6$  foot, 6 inch-tall fence measuring 42 feet in length located along the corner-side Crespi Dr. frontage was improperly constructed and does not comply with the Zoning Code's fence requirements. Following a notification by Code Enforcement, the applicant filed a request for a Fence Modification approval. In this instance, a modified fence could comply with the Zoning Code's criteria without the need for a Fence Modification by doing either of the following:

1. The fence could remain in place but be reduced to 4 feet, 2 inches in height; or

2. The fence could be relocated 5 feet 9 inches towards (closer to) the residence to comply with the setbacks while remaining at its current height of ±6 feet, 6 inches.

Zoning Code Section 4-1682 C.3, Fence Modification - Analysis of Standards for Approval, outlines four specific criteria necessary for approval of a Fence Modification. The requested Fence Modification has been analyzed in accord with the four criteria as follows:

1. **Sight Distance Hazards.** The subject property is a corner lot, located on the northwest corner of Monterey Blvd. and Crespi Drive. The fence is located within the required side street yard setback along Crespi Dr. The driveway for the residence Monterey Blvd. and is located on the eastern side of the residence and thus, presents no conflict with the existing front yard fence location. The City's Traffic Engineer reviewed the existing fence location (front and side yard fencing) and has determined that it is located outside the standard 15 foot vision triangle, necessary to safely accommodate driveway visibility for vehicles and pedestrians.
2. **Adjacent Properties.** Although the fencing, in its current location, exceeds the maximum height allowed by the Zoning Code, it does not create negative sight distance effects on adjacent properties.
3. **Aesthetics.** The existing fence is built of redwood and is comparable to other fences constructed throughout the Floresta Gardens neighborhood. The setback area along the Crespi Dr. frontage between the back of sidewalk and the fence shall be landscaped, thereby 'softening' the streetscape in this zone. The landscaping shall be drought tolerant plant materials from the city's approved landscape palette and shall include irrigation to maintain healthy plant growth at all times.
4. **Public Health, Safety, Welfare.** The location of the existing fence does not appear to pose any dangers to the public's health, safety or welfare. No site restrictions are created by its location / height and an ample landscaped foundation to the fence will be created by the property owner for public benefit.

The remaining area between the back of side walk and the fence is recommended to be landscaped with drought tolerant plantings, to include any necessary irrigation to maintain healthy plant growth at all times, and to "soften" this streetscape segment resulting from the fence's construction.

Therefore, with the recommended Conditions of Approval, staff finds the fencing meets the following standards to approve the Fence Modification:

1. The fence does not create any sight distance hazards;
2. The fence is not detrimental to adjacent properties;
3. The fence is compatible with neighborhood in terms of aesthetics; and
4. The fence is not detrimental to the public, health, safety or welfare.

Although the existing fence was not constructed in accord with the location and height criteria outlined in the San Leandro Zoning Code Section 4-1682, the fence complies with the approval criteria for a Fence Modification. Two alternative options for compliance are also presented above. As the proposal meets the four required criteria and is eligible for approval, a Resolution for the Board of

Zoning Adjustments to approve the requested Fence Modification has been prepared.

## **ENVIRONMENTAL REVIEW**

Fence Modifications are Categorically Exempt as per CEQA Guidelines, Section 15301(e)(2) - additions to existing structures provided that the addition will not result in an increase of more than 10,000 sq. ft.

## **PUBLIC OUTREACH**

This item received noticing for the June 6<sup>th</sup>, 2019 Board of Zoning Adjustments hearing, including a legal advertisement in the East Bay Times Daily Review newspaper, the posting of notices at City Hall and on the property, and a mailing notification to property owners adjacent to the subject property. A copy of public comments received prior to the filing of this report has been attached.

## **ATTACHMENTS**

Resolution 2019-007 and Recommended Conditions of Approval

Attachment A: Project Narrative, Existing Site Plan and Site Photos

Attachment B: Fences, Walls and Hedges-Info Graphic - 2.5 ft. setback

Attachment C: Fences, Walls and Hedges-Info Graphic - 7.5 ft. setback

Public Comments Received

PREPARED BY:

Allan Calder, AICP

Contract Planner