



**ITEM V-A: ADMINISTRATIVE PERMIT – 1424 RAMPART DRIVE – HARBAUGH FENCE – FILE# AP- 000065**

**REQUEST**

The applicant requests approval of an Administrative Permit for exceptions to the Zoning Ordinance fence setback regulations to allow a seven foot tall fence to be located three feet from the back of the sidewalk where a ten foot setback is required.

Applicant / Property Owner – Diane Harbaugh

**SUMMARY RECOMMENDATION**

The Planning & Redevelopment Department recommends that the Planning Commission take the following actions:

- A. Adopt the three findings of fact for denial of the Administrative Permit; and
- B. Deny the Administrative Permit, as recommended by staff.

An alternative action is available for the Commission's consideration.

**SUMMARY OF OUTSTANDING ISSUES**

The applicant relocated her side yard fence without receiving the proper clearance from the Planning Department. The City received a complaint and upon investigation found that the fence does not meet the setback and height requirements of the Zoning Ordinance. The applicant filed for the Administrative Permit after being informed of the violation.

The fence is located adjacent to a key lot and is within a public utility easement (PUE) where a City water main is located. Due to these circumstances, staff is recommending that the fence be relocated to its original location and required setback, which is ten feet from the back of the sidewalk. Staff supports the portion of the Administrative Permit that would allow the fence to remain at its existing height of seven feet 3 inches (7'3").

The applicant is not in agreement with Staff's recommendation to relocate the fence. The applicant would prefer to leave the fence in its current location, which is at three feet from the back of the sidewalk.

**BACKGROUND**

The subject property is located in a single-family residential neighborhood located in the Infill area at 1424 Rampart Drive, which is a corner lot adjacent to a key lot (Attachment 1). The applicant has requested an Administrative Permit to allow the fence to remain within the street side yard setback and to allow the fence to exceed six feet in height. The applicant is requesting these exceptions in order to provide additional usable back yard space and increased privacy. As mentioned above, the fence has already been relocated to three feet from the back of the sidewalk and is approximately seven feet tall. The Zoning Ordinance states that the maximum height of a fence within a required setback for a corner lot shall be three feet. The portion of the fence that is within the side yard setback exceeds the

maximum height requirement of three feet. The Zoning Ordinance allows for exceptions to this standard upon approval of an Administrative Permit. The applicant has applied for an Administrative Permit with intentions to keep the fence as it currently exists.

The applicant has stated the main reason she has requested that the fence remain in its current location is the need for additional backyard space. Additionally, the applicant believes her request is justified because she states that she has seen a number of fences in her neighborhood that are located within the required side yard setback. Staff has explained to the applicant that her situation is unique for a number of reasons. First, her property is adjacent to a key lot and the setback requirement for a street side corner lot adjacent to a key lot is ten feet. Second, following departmental review of the Administrative Permit request, the City's Environmental Utilities Department has determined that a six inch water main is located approximately six feet from the back of the sidewalk and because of this the fence must be relocated to the required setback of 10 feet.

In response to the applicant's statement that other fences in her neighborhood are located in the required side yard setback, Staff has researched Administrative Permit requests for fences going back to 2003. Staff was unable to find an approved Administrative Permit request for this same situation that exists at 1424 Rampart Drive. Staff visited the neighborhood as well and noticed that there are side yard fences that are closer than ten feet to the back of the sidewalk, however these fences are not located adjacent to a key lot and are not located over a City water main. Also, in some instances it is possible that fences have been relocated without receiving the proper permits and the Planning Department is unaware that they are out of compliance because complaints have not been submitted to the Planning Department. In the case of 1424 Rampart Drive, due to the side yard setback requirement and because there is a City water main within the PUE, Staff cannot support the request to keep the fence at its current location. However, staff can support the increased fence height as long as the fence is relocated to the proper setback.

## **EVALUATION**

Section 19.78.060.A of the City of Roseville Zoning Ordinance requires that three findings be made in order to approve an Administrative Permit. The three findings are listed below in ***bold italic text*** and are followed by an evaluation.

### ***1. The proposed use or development is consistent with the City of Roseville General Plan.***

The subject property has a General Plan land use designation of Low Density Residential (LDR 4.5). The Low Density Residential (LDR) land use designation is intended for detached single-family dwellings and associated accessory structures. Fences are permitted accessory structures to single-family residences. The General Plan relies on the Zoning Ordinance to regulate the placement of residential fences.

### ***2. The proposed use or development conforms with all applicable standards and requirements of the Zoning Ordinance.***

The subject property is zoned single family residential (R1). Fences are a permitted accessory structure for single-family dwellings in the R1 zone, subject to the standards established under the Zoning Ordinance.

The Zoning Ordinance permits a maximum six foot high fence anywhere within a parcel, provided it meets certain criteria (Chapter 19.22.030.C.6. Accessory Structures (Attachment 2)). The pertinent criteria state that the height of a fence must be lowered to three feet if it is located:

- *Within a residential clear vision triangle (defined as a triangular area created by the diagonal connection of two points measured twenty-five feet along the front, and seventy-five feet along the side of a property measured from the back of curb).*

The fence does not encroach into the clear vision triangle.

- *Within a required front setback;*

The fence is not located within a front yard setback.

- *Within five feet of the back of the sidewalk for a corner lot, or within ten feet of the back of the sidewalk of a street-side for a corner lot adjacent to a key lot.*

As discussed previously, the subject property is a corner lot adjacent to a key lot. A key lot is defined as a lot with a side lot line that abuts the rear lot line of any one or more adjoining lots (Attachment 8). In this instance, the subject lot shares its rear property line with the side property line of its neighbor. Therefore, the subject property, by definition is a corner lot adjacent to a key lot and is required to provide a minimum ten-foot setback from the back of the sidewalk along Augusta Way.

The ten foot setback requirement was created to ensure that someone backing out from a key lot adjacent to a corner lot would have enough visibility to exit the driveway safely. Staff has identified a safety concern for the neighboring lot at 1102 Augusta Way if the fence stays in its current state (Attachment 3). In its current state, given the height of the fence and the fence's close proximity to the sidewalk, visibility from the neighboring lot is restricted and a clear line of sight is obstructed. The height of the fence will not impede visibility for 1102 Augusta Way if it is moved back to the required setback. In most instances, the safety concern due to the reduced visibility would be lessened if the fence was relocated to at least five feet from the back of the sidewalk. However, the main concern in this situation is that a City water main is located approximately six feet from the back of the sidewalk.

Section 19.22.030.C.14 of the Zoning Ordinance provides that exceptions to the setback requirements may be authorized by approval of an Administrative Permit. There are instances within the City of Roseville where side yard fences have been allowed to be located as close as five feet from the property line, provided safety considerations can be met. In this case, while the proposed fence location will not encroach into the clear vision triangle, it does impede visibility for the neighbor to the west and the fence has been relocated over a City water main.

**3. *The location, size, design and operating characteristics of the use or development is compatible with and shall not adversely affect or be materially detrimental to the health safety, or welfare of persons residing or working in the area, or be detrimental or injurious to the public or private property or improvements.***

The Planning Department's evaluation of the proposed fence is separated into discussions of safety, neighborhood compatibility, and utilities as discussed below.

**Safety:** As identified above, a clear line of sight is compromised for the neighbor located at 1102 Augusta Way because of the location and height of the fence. The Zoning Ordinance clearly states that any fence located in a required setback must be reduced to three feet in height or relocated to the proper setback in order to refrain from restricting visibility. Given the safety concern associated with the placement of the fence staff cannot support this request.

**Neighborhood Compatibility:** The character of a residential neighborhood is largely defined by the visual presence of the homes and accessory structures such as fences. The City of Roseville

Zoning Ordinance has established development standards to ensure that the character of residential neighborhoods is maintained. The Planning Department's research of permit records indicates that the City has issued exceptions to fence height requirements for fences only on rare occasions, such as when a residence is located adjacent to a commercial use and screening is required to protect the residence from light, noise, or other impacts. Other exceptions have been approved where it was demonstrated that the fence does not impede safety or obstruct access to City utilities. In those situations, where an exception to setbacks was approved, the minimum setback has been five feet. In this instance, no other fences or walls greater than three feet exist in the required side yards of homes in the area. Also, there are no extenuating circumstances in this situation that would not apply to all corner lots adjacent to key lots and that would warrant approval of an exception to the setback criteria. As discussed above and shown in Attachment 3, the location of the fence is not compatible with the character of the neighborhood. The Planning Department's recommendation to relocate the fence to the required ten foot setback is consistent with the intent of the Zoning Ordinance to protect the character of residential neighborhoods.

Staff is supportive of the current height of the fence at seven feet three inches (7'3") only if the fence is relocated to the required setback. The height of the fence affects safety and neighborhood compatibility only when located too close to the back of the sidewalk, as is the current situation. As a fence is moved farther back from the back of the sidewalk, the height of the fence becomes less noticeable while at the same time increases visibility for a neighboring key lot. Additionally, corner lots have increased traffic volumes and a higher fence can provide the additional privacy and noise attenuation a homeowner desires.

The applicant provided photos of homes in the surrounding neighborhood where the fences are located in close proximity to the back of the sidewalk. The photos are close up shots of the fences and are not labeled by address so it is not possible to determine if the properties are adjacent to key lots. If the properties are not adjacent to a key lot then the required setback would only be five feet from the back of the sidewalk. As mentioned previously, Staff has researched Administrative Permits for fences that date back to 2003 and of the street names provided by the applicant there are no records of any Administrative Permits for properties on these streets.

**Utilities:** There is a 12.5-foot PUE along the side yard of the subject property. The City's Environmental Utilities Department has determined that a six inch water main is located approximately six feet from the back of the sidewalk. The water main that exists in this location is older which increases the chance that the City will need to gain access to the main in the future. Due to the type of main that exists in the PUE a backhoe would be needed in order to access the water main. Environmental Utilities Staff believes that the fence needs to be relocated to ten feet from the back of the sidewalk in order to fully gain access to the main if needed. It is the Environmental Utilities Department Policy that accessory structures do not encroach into the required setback when water mains are located in the PUE.

## **SUMMARY / CONCLUSION**

Based on the evaluation above, staff recommends that the Planning Commission deny the request to keep the fence in its existing location of three feet from the back of the sidewalk and instead direct the applicant to relocate the fence to ten feet from the back of the sidewalk. Additionally, Staff supports the increased fence height of seven feet three inches along the side yard and recommends the Planning Commission take both the recommended actions and the Alternative Action to approve the request for the increased height only.

## **ENVIRONMENTAL DETERMINATION**

This project is categorically exempt from the environmental review requirements of the California Environmental Quality Act (CEQA) pursuant to CEQA Guidelines Section 15303, which exempts new construction of small facilities and structures.

## **RECOMMENDATION**

The Planning & Redevelopment Department recommends that the Planning Commission take the following actions:

- A. Adopt the three findings of fact as cited below for the Administrative Permit – 1424 Rampart Drive – Harbaugh Fence – File # AP-000065:
  1. *The proposed use or development is consistent with the City of Roseville General Plan.*
  2. *The proposed use or development does not conform with all applicable standards and requirements of the Zoning Ordinance.*
  3. *The location, size, design and operating characteristics of the use or development is not compatible with and may adversely affect or be materially detrimental to the health safety, or welfare of persons residing or working in the area, or be detrimental or injurious to the public or private property or improvements.*
- B. Deny the Administrative Permit as requested by the applicant – 1424 Rampart Drive – Harbaugh Fence – File # AP-000065.

Staff recommends adopting an Alternative Action to:

- A. Adopt the three findings of fact as stated in the staff report for the Administrative Permit – 1424 Rampart Drive – Harbaugh Fence – File # AP-000065; and
- B. Approve the Administrative Permit for the increased fence height only – 1424 Rampart Drive – Harbaugh Fence – File # AP-000065.

## **CONDITIONS OF APPROVAL FOR ADMINISTRATIVE PERMIT #AP 04-69**

1. The project is approved as conditioned or modified below. (Planning & Redevelopment)
2. The fence shall be relocated within 45 days and shall be relocated to comply with the side yard setback of ten feet (10') from the back of sidewalk. (Planning & Redevelopment)

## **ATTACHMENTS**

1. Vicinity Map
2. Zoning Ordinance: Accessory Structures and Uses
3. Photo of Fence - from 1102 Augusta Way
4. Photo of Fence - from 1424 Rampart Way
5. Photo of Fence – Close Up
6. Photos Submitted by Applicant (#1)
7. Photos Submitted by Applicant (#2)
8. Zoning Ordinance Key Lot Definition

9. Response from Neighbor

**EXHIBIT**

A. Site Plan

**Note to Applicant and/or Developer:** Please contact the Planning & Redevelopment Department staff at (916) 774-5276 prior to the Commission meeting if you have any questions on any of the recommended conditions for your project. If you challenge the decision of the Commission in court, you may be limited to raising only those issues which you or someone else raised at the public hearing held for this project, or in written correspondence delivered to the Planning Director at, or prior to, the public hearing.