



**ITEM VI-A: ADMINISTRATIVE PERMIT – 530 PLEASANT STREET – THOMSON FENCE – 2006 PL-096 (FILE# AP 000119)**

**REQUEST**

The applicant requests approval of an Administrative Permit to allow a 6 foot tall residential fence to be located within three (3) feet of the property line where a 10 foot side yard setback is required.

Applicant / Property Owner – Jaci-Marie & Donn Thomson

**SUMMARY RECOMMENDATION**

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

- A. Adopt the three findings of fact for approval of the Administrative Permit; and
- B. Approve the Administrative Permit.

Two alternative actions are available for the Commission's consideration. Alternative 1 would be to angle the fence as shown in Exhibit B; and Alternative 2 would be to deny the fence exception as preferred by the adjacent neighbor.

**SUMMARY OF OUTSTANDING ISSUES**

In May of 2006 the property owners at 530 Pleasant St. began to build a fence in the side yard set back of their property. Prior to starting the project, the applicants contacted the Planning Department Permit Center to determine the proper location for the fence. Unfortunately, the applicants received incorrect information from the Permit Center and proceeded with the project unknowingly in violation of the Zoning Ordinance. The City received a complaint from an adjacent neighbor (312 Lomas Ave.) and upon investigation found that the fence does not meet the setback requirements of the Zoning Ordinance. The applicant filed for the Administrative Permit after being informed of the violation.

The neighbor opposes the fence on the grounds that it will impact the view from his porch and has requested a public hearing. A mutually acceptable alternative design was not able to be found so the request is being forwarded to the Planning Commission for review and action. The adjacent neighbor has expressed a willingness to consider an angled fence, but in absence of an agreement prefers no fence exception at all, see attached letter (Attachment 8).

**BACKGROUND**

The subject property is located in a single-family residential neighborhood located in the Infill area of Roseville at 530 Pleasant Street, which is a corner lot adjacent to a key lot (Attachment 1). The applicants have requested an Administrative Permit to allow the fence to be placed three (3) feet from the property line where a 10 foot side yard setback is required. The applicant is requesting this exception in order to provide additional usable back yard space due to the unusually small size of the property. The subject property is 2,394 square feet (50'x 48').

As mentioned above, the construction of the fence has already begun. Currently there are four posts in the ground without fencing material (Attachment 2). The fence will be six feet in height and will be 10 feet from the back of the curb and approximately three feet from the side property line (Exhibit A). The Zoning Ordinance states that the maximum height of a fence within a required setback is 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 complete construction of the fence in the proposed location.

As noted above, prior to beginning to construct the fence the applicants contacted the City of Roseville's Permit Center to determine the required setbacks. After a lengthy dialog, both in person and via email (Attachment 4), the applicants were informed that they could place a fence 10 feet from the curb. Unfortunately, the information they received from the City was incorrect. The Zoning Ordinance states that the side yard set back for a six foot fence on a corner lot adjacent to a key lot is 10 feet from the back of the sidewalk or, in the absence of a sidewalk, the right of way. The subject property's property line is approximately 7 feet from the curb. Based on the information from the Planning Department, the applicants began building the fence. The City received a complaint from the neighbor about the location of the fence. Upon notification of the complaint, the applicants contacted the Planning Department for resolution. They were informed of the mistake and that they would need an Administrative Permit.

## **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 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 6)). 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 or right of way for a corner lot, or within ten feet of the back of the sidewalk or right of way 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 5). 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 property line along Lomitas Ave. (Exhibit A). Additionally, the subject lot is substandard in size for the R1 zone reducing the available backyard area for the applicants.

The ten foot setback requirement was created to ensure that a clear line of sight exists to provide safe access and egress from the driveway of the adjacent key lot. The driveway for the neighboring property to the rear (312 Lomitas Ave.) is on the opposite side of the lot from the proposed fence and does not create a safety concern (Attachment 8).

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 in the side yard setback, provided safety considerations can be met. In this case, the proposed fence location will not encroach into the clear vision triangle and will not impede visibility for the driveway of the adjacent property.

**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 not compromised for driveway access from the neighbor's property because of the location of the fence. The proposed fence does not pose any safety concerns to adjacent properties or to cars approaching or leaving the intersection of Pleasant St. and Lomitas Ave.

**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 exceptions have been approved where it was demonstrated that the fence does not impede safety, obstruct access to City utilities, or impact neighbors of their enjoyment of their property. The neighbor believes the fence, in the current location, will obstruct the view of the neighborhood from the porch (Attachment 2). Staff believes that the proposed fence is compatible with the neighborhood in the proposed location because it will maintain a substantial front/side yard, and will only partially effect the view of the neighborhood from a portion of the porch.

**Utilities:** The right of way for Lomitas Ave extends 7 feet beyond the curb and is adjacent to the side yard of the subject property. There is also a PUE that extends 12 feet 6 inches from the curb, approximately 5 feet 6 inches into the subject property. The PUE is for overhead power lines, there are no underground utilities in the PUE. This project has been distributed to the City's Environmental Utilities Department and no concerns were identified. The proposed fence will not

impact any utilities in the current location. There are no plans now or in the future to widen Lomitas Ave. or to install sidewalks.

### **SUMMARY / CONCLUSION**

Based on the fact that the applicants relied on the City to guide the placement of their fence and that there are no safety concerns, staff recommends that the Planning Commission approve the request to keep the fence in its existing location of three feet from the side yard property line (10 feet from back of the curb). The existing lot size and home placement limits the private outdoor space available to the applicants.

An alternative design for the fence that placed an angle on the corner to lessen the impact to the neighbor was presented to the applicants and the neighbor (Exhibit B). The adjacent neighbor has expressed a willingness to consider an angled fence which would allow them to preserve their view of the neighborhood and also accommodate an increased rear yard area for the Thomsons. In absence of an agreement with the Thomsons, the neighbor prefers no fence exception at all, see attached letter (Attachment 8).

### **ENVIRONMENTAL DETERMINATION**

This project is categorically exempt from environmental review pursuant to Section 15305 of the California Environmental Quality Act (CEQA) Guidelines (Minor Alterations in Land Use Limitation) and Section 305 of the City of Roseville CEQA Implementing Procedures.

### **RECOMMENDATION**

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

- A. Adopt the three findings of fact as listed in the staff report for the Administrative Permit – 530 Pleasant Street – Thomson Fence – Project # 2006 PL-96 (File # AP-000113); and
- B. Approve the Administrative Permit as requested by the applicant – 530 Pleasant Street – Thomson Fence – Project # 2006 PL-96 (File # AP-000113).

### **ALTERNATIVE ACTION**

Should the Commission disagree with Staff's recommendation, the following alternative actions are provided for the Commission's consideration:

- A. Adopt the three findings of fact as listed in the staff report for the Administrative Permit – 530 Pleasant Street – Thomson Fence – Project # 2006 PL-96 (File # AP-000113); and
- B. Approve the alternative design for the Administrative Permit as shown in Exhibit B – 530 Pleasant Street – Thomson Fence – Project # 2006 PL-96 (File # AP-000113).

OR

- A. Adopt the three findings of fact in the negative - 530 Pleasant Street – Thomson Fence – Project # 2006 PL-96 (File # AP-000113); and
- B. Deny the Administrative Permit – 530 Pleasant Street – Thomson Fence – Project # 2006 PL-96 (File # AP-000113).

**CONDITIONS OF APPROVAL FOR ADMINISTRATIVE PERMIT #AP-000119**

1. The project is approved as shown in Exhibit A and as conditioned or modified below. (Planning & Redevelopment)
2. This permit shall be valid for a period of two (2) years from this date and shall expire on **August 10, 2008**. Prior to said expiration date, the applicant may apply for an extension of time, provided, however, that this approval shall be extended for no more than one year from **August 10, 2008**. (Planning & Redevelopment)
3. The design of the fence shall be constructed in such a fashion that the good neighbor side of the fence faces the adjacent property to the rear. (Planning & Redevelopment)

**ATTACHMENTS**

1. Vicinity Map
2. Photos of Fence
3. Aerial View showing Fence and Driveway
4. Email correspondence
5. Zoning Ordinance: Key Lot Definition
6. Zoning Ordinance: Accessory Structures and Uses
7. Request for Public Hearing from Neighbor
8. Letter from Adjacent Neighbor

**EXHIBITS**

- A. Site Plan
- B. Alternative 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.