



County of Fresno

DEPARTMENT OF PUBLIC WORKS AND PLANNING
STEVEN E. WHITE, DIRECTOR

Planning Commission Staff Report Agenda Item No. 7 December 10, 2020

SUBJECT: Amendment to Text Application No. 379

Amend various sections of the Fresno County Zoning Ordinance to provide new fencing requirements/restrictions in urban residential zone districts. Modifications include, but are not limited to, allowing increased fence heights and limiting the material utilized in their construction.

LOCATION: Countywide - County of Fresno

APPLICANT: County of Fresno

STAFF CONTACT: David Randall, Senior Planner
(559) 600-4052

Chris Motta, Principal Planner
(559) 600-4227

RECOMMENDATION:

- Consider and recommend that the Board of Supervisors approve Amendment to Text Application No. 379 to provide new fences requirements/restrictions in urban residential zone districts. Modifications include, but are not limited to, allowing increased fence heights and limiting the material utilized in their construction; and
- Direct the Secretary to prepare a Resolution forwarding the Commission's recommendation for approval to the Board of Supervisors.

EXHIBITS:

1. Proposed Amendment to key Zoning Ordinance Sections
2. Draft Ordinance with Exhibit 1

ENVIRONMENTAL ANALYSIS:

It has been determined, pursuant to Section 15061(b)(3) of the State of California Environmental Quality Act (CEQA) Guidelines that the proposed project will not have a significant effect on the environment and is not subject to CEQA.

PUBLIC NOTICE:

A notice of public hearing was published on November 30, 2020.

PROCEDURAL CONSIDERATIONS:

Adoption of a Zoning Ordinance Amendment is a legislative act requiring action by the Board of Supervisors. The Planning Commission's action is advisory to the Board. If adopted by the Board, the Amendment will become effective 30 days later.

In amending Section Sections 822.5.H.3 regarding the "R-1-A" and "R-1-AH" to incorporate revised fence standards the proposed changes will also affect the same corresponding changes to Sections 823 through 829 which includes the ("R-1-E" & "R-1-EH"), ("R-1-B"), ("R-1-C"), ("R-1"), ("R-2" AND "R-2-A"), ("R-3" & "R-3-A"), and ("R-4") Zone Districts; as they all refer to Section 822.5. H. 3 regarding "Permitted Fences and Walls"

BACKGROUND INFORMATION:

On August 4, 2020, the Board of Supervisors considered an item brought forward by County Staff to address fence violations in the urban residential zone districts; and subsequently adopted a minute order directing County Staff to initiate an amendment to the Fresno County Zoning Ordinance relating to urban residential fence standards. Draft language, based on language in the "R-R" Zone District standards, was provided in advance for comment to all cities within the County, relevant County Staff, as well as the Fig Garden Homeowners Association and Sunnyside Property Owners Association. The resulting text is shown in Exhibit 1.

ANALYSIS/DISCUSSION:

The scope of the proposed amendment is limited to Urban Residential Fence Standards. The intent is try and provide a means whereby fences in urban zone districts that normally limit the height of a fence to three(3) feet can be up to seven feet in height if designed and constructed to still provide light, ventilation and views and not create an aesthetic or safety concern. It also allows side and rear yard fences to be constructed up to seven feet in height with no special provisions.

There are a number of ways fences may be designed to provide light, ventilation, and views. The proposed provisions seek to avoid complex or subjective standards by limiting the increased fence heights to a narrow, relatively simple range of materials and design factors in the front yard setbacks. The proposal has been limited to the following five basic factors.

1. 70% percent of the vertical surface of fence and gate materials must be open to permit the transmission of light, air, and vision.
2. Fencing must be constructed of ether vertical steel tubing or wrought iron but may incorporate brick or block columns.

3. Gates shall not swing towards the public right-of-way.
4. When it restricts the main access to the residence, a minimum four (4) foot wide opening or gate shall be required.
5. Loked gates shall be equipped with a knox-box or similar emergency access system.

These provisions will allow construction by-right and do not require any discretionary approval or subjective determination. There are a host of common materials and practices that would not be permitted, such as chain link, or precast decorative concrete panels, and the like.

PUBLIC COMMENTS:

The City of Clovis recommended adding language to the amendment to specifically prohibit Chan Link Fencing Material, and noted that the proposed amendment is consistent with the State Fencing Ordinance.

The City of Kerman indicated that they had no comment, but also related that a similar amendment proposed was rejected by the governing body in Kerman.

The Sunnyside Property Owners Association sent the attached letter (Exhibit 3) they indicated “that wrought iron or tubular steel are preferable materials” but recommended limiting heights in front yards to six feet.

They concluded that they “believe the existing fence height restrictions are adequate and the variance procedure provides the flexibility to build taller fences when circumstances prove necessary.” They also indicated that “The proposed text amendment may allow greater flexibility for property owners and reduce compliance responsibilities for staff, but it fails to address the real problems related to safety, security and lack of code enforcement.”

The Fig Garden Homeowners Association did not submit written comments. However, in conversation with County Staff they indicated that they did not object to the proposed language of the text, as long as it did not permit fences in the public right-of-way.

CONCLUSION:

Staff recommends approval of the proposed Amendment to Text Application No. 379.

PLANNING COMMISSION MOTIONS:

Recommended Motion (Approval Action)

- Recommend that the Board of Supervisors approve Amendment to Text No. 379 as proposed in Exhibit 1 and as documented in the draft Ordinance (Exhibit 2); and
- Direct the Secretary to prepare a Resolution forwarding the Commission’s recommendation for approval to the Board of Supervisors.

EXHIBIT 1

AMENDMENT TO TEXT APPLICATION NO. 379

Sections 822.5 will be amended and added to as follows:

SECTION 822.5 "R-1-A" and "R-1-AH" SINGLE FAMILY RESIDENTIAL DISTRICTS,
H FENCES, HEDGES AND WALLS.

3. Permitted Fences, Hedges and Walls,

- a. Fences, hedges and walls, not greater than ~~six (6)~~ seven (7) feet in height, shall be permitted on or within all rear and side property lines on interior lots and on or to the rear of all front yard setback lines.
- b. No fence, wall or hedge over three (3) feet in height shall be permitted in any required front yard, or in the required side yard on the street side of a reversed corner lot. Except in the ("R-1-A" and "R-1-AH"), ("R-1-E" & "R-1-EH"), ("R-1-B"), ("R-1-C"), ("R-1"), ("R-2" AND "R-2-A"), ("R-3" & "R-3-A"), and ("R-4") Zone Districts, fences not greater than seven (7) feet in height shall be allowed in the required front yard when:
 - (1) Not located in a corner cut-off area, and
 - (2) The fence and gates have not less than 70 percent of the vertical surface open to permit the transmission of light, air, and vision; and is constructed of ether:
 - (a) Vertical steel tubing or wrought iron,
 - (b) May incorporate brick or block columns,
 - (c) Gates shall not swing towards the public right-of-way.
 - (3) When a fence restricts the main access to a residence, a minimum four (4) foot wide opening or gate shall be required.
 - (4) Locked gates shall be equipped with a knox-box or similar access system to permit emergency personnel access.
- c. Fences or structures over ~~six (6)~~ seven (7) feet in height to enclose tennis courts or other game areas shall be permitted to the rear of the required front yard subject to Director Review and Approval. The review shall include consideration of the effects of mass, noise, and lighting upon surrounding residences.

EXHIBIT 2

BEFORE THE BOARD OF SUPERVISORS

OF THE COUNTY OF FRESNO

STATE OF CALIFORNIA

ORDINANCE NO. _____

AN ORDINANCE AMENDING THE ZONING PROVISIONS OF THE
ORDINANCE CODE OF FRESNO COUNTY RELATED TO NEW FENCES
REQUIREMENTS/RESTRICTIONS IN URBAN RESIDENTIAL ZONE DISTRICTS.
INCLUDING, BUT NOT LIMITED TO, ALLOWING INCREASED FENCE HEIGHTS AND
LIMITING THE MATERIAL UTILIZED IN THEIR CONSTRUCTION BY AMENDING THE
TEXT OF SECTIONS 822.5.H.3.

The Board of Supervisors of the County of Fresno ordains as follows:

SECTION 1. The Ordinance Code of the County of Fresno is hereby amended
by amending and adding text to Sections 822.5.H.3 pertaining to Amendment to Text
No. 379 thereof to read as set forth in Exhibit "1" attached hereto and incorporated
herein by reference.

SECTION 2. This Ordinance shall take effect and be in force thirty (30) days
from and after its passage.

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1 THE FOREGOING was passed and adopted by the following vote of the Board of
2 Supervisors of the County of Fresno this _____ day of _____ 2021, to wit:

3 AYES:

4 NOES:

5 ABSENT:

6 ABSTAINED:

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BY _____
Steve Brandau, Chairman of the
Board of Supervisors of the County of Fresno

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ATTEST:
BERNICE E. SEIDEL
Clerk of the Board of Supervisors
County of Fresno, State of California

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BY _____
Deputy

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FILE # _____

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AGENDA # _____

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ORDINANCE # _____

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EXHIBIT 3

Sunnyside Property Owners Association
Serving Fresno's Secret Garden since 1945

Steven White, Director
Department of Public Works and Planning
County of Fresno
2220 Tulare Street, 6th Floor
Fresno, CA 93721

ATT: David Randall
RE: Urban Residential Fence Standards

Thank you for allowing us the opportunity to comment on the proposed amendments to the Fresno County Zoning Ordinance as it relates to urban residential fence standards.

We realize there are numerous oversize fences within the county and the board is looking at ways to provide greater flexibility to property owners. However, the county does have procedures in place to allow fences higher than three feet when findings can be met.

Variances provide the county and the property owner the flexibility to build higher fences in materials that do not impact neighborhood aesthetics. Those properties that front busy streets or at intersections where accidents have taken place would fit the parameters of extraordinary circumstances or conditions applicable to the property which do not apply generally to other properties in the vicinity having the identical zoning classification. Most importantly, the variance procedure allows neighborhood input.

Front yard fencing is an issue because the county continues to receive complaints regarding over height fencing in urban residential zoning districts and code enforcement activities related to fence violations have been suspended. Property owners are building fences over three feet without the required variance and neighbors are upset. Allowing fences up to seven feet in all residentially zoned districts, does not resolve the issue, it only serves to clear existing violations that cannot make the findings for a variance. To prevent over height fences from being built without the necessary variance, the county should consider requiring a permit for fences within the front yard setback. Contractors should be assessed penalties if fences are built without the required permit.

Staff is proposing incorporating the same property development standards that apply to Rural Residential parcels to all urban residentially zoned parcels, no matter the size. The minimum lot size of Rural Residential is 2 acres. If approved, fences up to seven feet will be allowed on single-family parcels as small as 6,000 square feet.

Perhaps, rather than changing the regulations for all residential properties, special permitting procedures could be adopted for those properties that front busy streets and intersections or for large parcels of at least 20,000 square feet with minimum linear frontage of 100 feet. We agree that wrought iron or tubular steel are preferable materials, but height should be limited to six feet within the front yard. Ready-made panels are available in this size, and should the property owner choose a decorative gate or brick or block columns those could be built to seven feet.

In closing, we believe the existing fence height restrictions are adequate and the variance procedure provides the flexibility to build taller fences when circumstances prove necessary.

Perhaps the underlying reason that so many oversize fences are built without the necessary permits has more to do with inadequate resources to fund planning, code enforcement, and most importantly additional sheriff's department deputies. The proposed text amendment may allow greater flexibility for property owners and reduce compliance responsibilities for staff, but it fails to address the real problems related to safety, security and lack of code enforcement.

Thank you for allowing us the opportunity to comment,

Sue Williams
Corresponding Secretary