

Cupertino, CA 95014
(408) 777-3308

**ACTION MINUTES OF THE REGULAR MEETING OF
THE DESIGN REVIEW COMMITTEE HELD ON August 3, 2017**

ROLL CALL

Committee Members present: Geoff Paulsen, Chairperson
David Fung, Commissioner

Committee Members absent: none

Staff present: Jeff Tsumura, Assistant Planner
Benjamin Fu, Assistant Director of Community Development

Staff absent: none

APPROVAL OF MINUTES:

June 2, 2016

Minutes of the June 2, 2016 Design Review Committee meeting were approved as written

ORAL COMMUNICATION:

None

POSTPONEMENTS/REMOVAL FROM CALENDAR:

None

WRITTEN COMMUNICATIONS:

None

CONSENT CALENDAR:

None

PUBLIC MEETING:

1. Application No.(s): EXC-2017-01
Applicant: Chittajallu residence
Location: 20984 Alves Drive APN: 326-31-004

Fence Exception to allow a six (6) foot wall within the required street side setback and a wall over three (3) feet in height within the front yard setback

Design Review Committee decision final unless appealed.

Staff Member Tsumura explained that the applicant has submitted an application for a Fence Exception to allow existing fences to remain that was constructed in the street and front setback areas. The applicant's landscape plans indicated that a 6' street side fence would be constructed outside the setback area and the columns in the front yard were to be 36". At inspection, it was discovered that the street fence is within the setback area and that the columns are 42" high. The Applicant has submitted a justification statement listing supporting reason that they should be allowed to keep the fence in its

current location. 1) The fence was constructed in the wrong place due to an error made by their contractor. Staff maintains that the contractor's error is not a sufficient reason to grant a fence exception, further, allowing the difference to remain will set a bad precedence in the neighborhood. 2) The original grading and drainage plan and the revised landscape plan show the sanitary cleanout in different feet away (2' when it is really 5') from the property line. Staff member Tsumura explained that in the original drawing the placement of the proposed fence and the property cleanout were not in conflict, so staff made no mention of it at the time of approval. 3) The original landscape plan shows the fence being constructed to the west and 5' of the property line of three property line trees. The fence was actually constructed to the east of the trees and within the setback area. Staff mentioned that the trees in question are not protected trees, and so could've been removed or relocated to avoid conflict with the wall.

Staff cannot support the applicant's rationale for the fence remaining as it is. He feels that other options were not investigated such as relocating the entire wall or just asking for an exception for portions of the fence where there is encroachment to the sanitary cleanout cover. Staff recommends denial of the Fence Exception.

Chair Paulsen asked for clarification of where the property line for the site was located. He asked the applicant if she has approached the contractor about fixing their error. She stated that she had not. The contractor hired to install the fence did not have a license and so she can't ask him to come back. She admitted that it was a mistake. She really doesn't want to remove the trees along the fence because they are mature trees. Staff member Tsumura pointed out that the trees are not protected trees.

Chair Paulsen opened the Public Comment period.

Janice Burriesci, a resident: She addressed the Committee regarding the turn onto Alves Drive from Stelling Road. She made mention of a young woman who was hit by a car while crossing Alves and died in the accident. There are a lot of people walking along Alves Drive. It is dangerous. She said that a low, setback fence would help with the visibility on the corner.

Kaye DeVries, a resident: Her concern was also site visibility. She recognized that the new home was very nice and that there is a need for privacy and noise reduction. However, she said, there is too much foot traffic and people cannot be seen by cars because of the high fence. There is a safety factor that must be considered. There have been 2 pedestrian deaths on Alves.

Chair Paulsen closed the Public Comment period.

Commissioner Fung clarified that the applicant was requesting to keep a 6' wall along Stelling Road. The issue with that wall was its placement and the issue with the wall in the front was the decorative features that exceed the height allowed for front yard fences. He clarified the traffic pattern on Stelling from/to Alves. And made mention of the flashing crossing lights which is an indication of mitigation efforts by the City to raise the awareness of pedestrians. His biggest concerns were how much the wall line encroaches into the required setback area. He asked Staff member Tsumura what the options were to move or breakup the wall line. He said that the wall could've been broken up to be in the setback area in front of the trees and clean up and have the rest of the wall be within the setback. He noted that this configuration would still require a Fence Exception application.

Chair Paulsen concurred with Staff recommendation. He does not like having walls against the sidewalk. He felt that the blocking off of the trees was a detriment to the whole neighborhood and any walkers along there. He also felt that the applicant should have taken more care with whom she hired to build the fence. He felt that the setback requirements needed to be adhered to. The safety aspect was also of great concern. He felt that the fence should be removed. He further suggested that if the applicant should choose to plant a hedge, it should be kept trimmed to allow for better visibility for the cars turning left onto Alves.

Commissioner Fung clarified that the 6' wall could be built on the property behind the 5 foot setback area. Staff member Tsumura also suggested that the wall could remain in its current location, but would

need to be lowered to 3' in order to be in conformance. Commissioner Fung said that he concurred with Chair Paulsen. He felt that the contractor issue was bad, but that the applicant could've worked with Staff earlier in the process and avoided this situation.

MOTION: Commissioner Fung moved to deny EXC-2017-01 per the draft resolution

APPROVE: Chair Paulsen

ABSENT: none

ABSTAIN: none

VOTE: 2-0-0

OLD BUSINESS:

None

NEW BUSINESS:

None

Respectfully submitted:

 /s/ Beth Ebben

Beth Ebben

Administrative Assistant