



**COMMUNITY DEVELOPMENT DEPARTMENT  
PLANNING DIVISION**

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**DESIGN REVIEW COMMITTEE STAFF REPORT**

Meeting: September 6, 2018

Subject

Fence Exception to consider allowing a manual driveway gate on a Planned Development (Light Industrial) property located at 10280 Imperial Avenue. (Application No.: EXC-2018-02; Applicant: Janice Yeh; Location: 10280 Imperial Avenue; APN: 357-19-054)

Recommended Action

That the Design Review Committee approve the Fence Exception (EXC-2018-02) in accordance with the draft resolution (Attachment 1).

Discussion

Application Summary:

The applicant, Janice Yeh of Adaptive Architecture, representing the property owner Cisco Rivera, is requesting a Fence Exception to allow for the construction of a manual driveway gate on a Planned Development (Light Industrial) property.

Project Data:

<b>General Plan Designation:</b>	Industrial/Residential		
<b>Special Area/Neighborhood:</b>	Monta Vista Planning Area		
<b>Zoning Designation:</b>	P(ML) – Planned Development (Light Industrial)		
<b>Lot Size:</b>	6,750 sq. ft.		
<b>Required Fence Setbacks:</b>	<b>Front</b>	<b>Side</b>	<b>Rear</b>
	None	None	None
<b>Vehicle Parking:</b>	<b>Allowed/Required</b>		<b>Proposed</b>
	8 parking stalls		8 parking stalls
<b>Project Consistency with:</b>			
General Plan:	Yes		
Zoning:	No, fence exception requested as described below		
<b>Environmental Assessment:</b>	Categorically Exempt		

Background:

Per Chapter 19.48, Fences, of the Cupertino Municipal Code (CMC), roadway and driveway gates may be approved through a fence exception where the gate is needed for demonstrated security and/or demonstrated safety reasons. CMC Chapter 19.12, Administration, requires that the Design Review Committee review and approve requests for exceptions to the development standards established by the Fence Ordinance.

Analysis:

Site Description:

The subject site is located in the Monta Vista Planning Area, south of Stevens Creek Boulevard and north of McClellan Road. The property was incorporated into the City of Cupertino and rezoned to Planned Light Industrial, P(ML), in 1984. The Planned Development zoning designation provides for greater flexibility of design and land use intensity due to existing legal non-conforming sites and/or structures.

Surrounding land uses include industrial and residential uses to the north and east and residential uses to the south and west (Figure 1). The site is immediately adjacent to an automotive repair shop to the north and a single-family residence to the south. As currently designed, the subject site does not provide a transition or buffer between the two distinct uses (Figure 2).

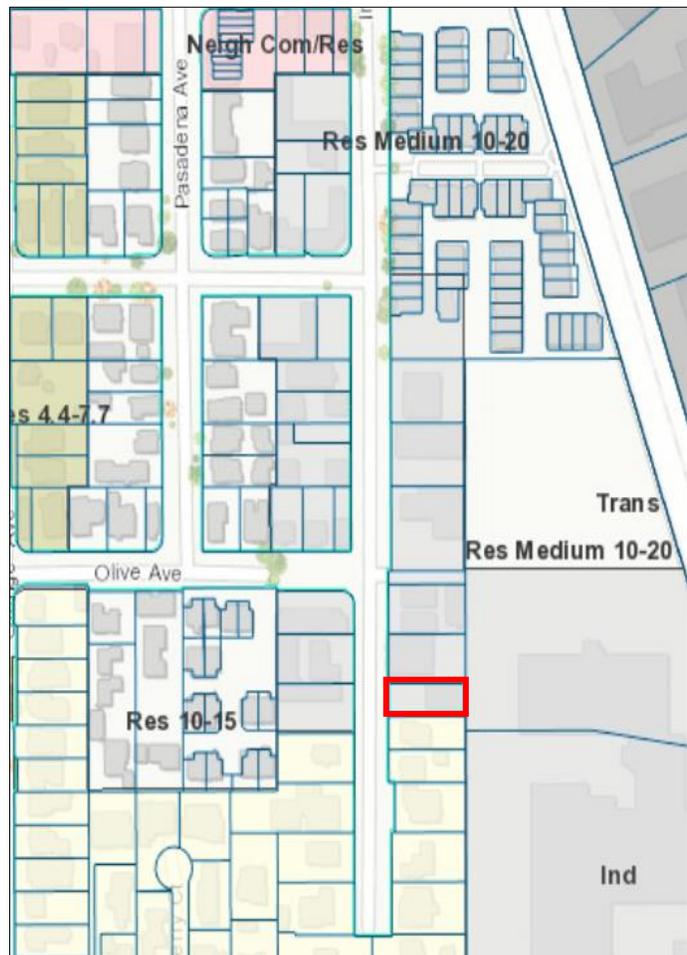


Figure 1. Surrounding Land Uses

*Security:*

The Santa Clara County Sheriff's Department confirmed that there has been a relatively small number of burglaries and thefts within the past five (5) years along Imperial Avenue surrounding the subject property. Since 2013, a total of five (5) burglaries and 11 thefts have been reported. Existing businesses within the focus area of the police report primarily consist of automotive service and repair stations. The proposed business for the subject property is Rebel Sun Productions, a video and audio equipment rental company, which can be a target for burglary. Rebel Sun Productions experienced a burglary in 2015 while operating in Mountain View. The burglary resulted in over \$70,000 worth of equipment loss and damages. Subsequently, a security gate was installed at the Mountain View property. No other burglaries have occurred at the property since the installation of the security gate.

*Design:*

The design review guidelines are regulated by the Fence Ordinance, which outlines that fences and walls separating industrial zones from residential zones shall be constructed to acoustically isolate part of or all noise, ensure visual privacy for adjoining residential dwelling units, and provide for sight visibility. The Fence Ordinance does not identify setback requirements for fences located in zones requiring design review. Additionally, there is no established setback pattern for existing fences or driveway gates within the Monta Vista Planning Area.

The applicant is proposing a six (6) foot redwood driveway gate to be set back ten (10) feet from the front property line (Figure 3). The front driveway gate will connect to the existing six (6) foot chain-link fence for the adjacent automotive repair shop and to the existing six (6) foot concrete masonry unit (CMU) wall along the property line shared with the single-family residence. Staff recommends that the proposed driveway gate be setback a minimum of ten (10) feet to provide a buffer between the existing industrial and residential uses. The applicant is also proposing to install a landscape planter within the front setback area adjacent to the single-family residence. The proposed fence setback and landscape buffer are consistent with the General Plan Policy LU-26.4 to incorporate building transitions, setbacks, and landscaping to provide a buffer for adjoining low-intensity residential uses. The scope of work also includes improvements to the parking lot layout in order to be consistent with the Cupertino Parking Ordinance.



Figure 2. Existing Site



Figure 3. Proposed Rendering

*Other Department/Agency Review:*

The City's Building Division and the Santa Clara County Sheriff's Office reviewed the project and indicated that the driveway gate complies with relevant and applicable codes.

The Santa Clara County Fire Department has reviewed the proposal, and added a condition of approval that an approved Knox padlock shall be installed for the manual driveway gate.

The Public Works Department has reviewed the proposal, and added a condition that the height of the existing CMU wall shall be reduced to three (3) feet within the fence setback to enhance visibility.

Environmental Assessment:

The use permit is categorically exempt from the California Environmental Quality Act (CEQA) per section 15303 (New Construction or Conversion of Small Structures) of the CEQA Guidelines.

Public Noticing and Outreach

The following table is a brief summary of the noticing done for this project:

<b>Notice of Public Hearing and Intent, Site Notice &amp; Legal Ad</b>	<b>Agenda</b>
<ul style="list-style-type: none"><li>▪ Site Signage (<i>14 days prior to the hearing</i>)</li><li>▪ Legal ad placed in newspaper (<i>at least 10 days prior to the hearing</i>)</li><li>▪ Seven (7) public hearing notices mailed to adjacent property owners (<i>10 days prior to the hearing</i>)</li></ul>	<ul style="list-style-type: none"><li>▪ Posted on the City’s official notice bulletin board (<i>one week prior to the hearing</i>)</li><li>▪ Posted on the City of Cupertino’s website (<i>one week prior to the hearing</i>)</li></ul>

No public comments have been received as of the date of production of this staff report.

Permit Streamlining Act

This project is subject to the Permit Streamlining Act (Government Code Section 65920 – 65964). The City has complied with the deadlines found in the Permit Streamlining Act.

***Project Received:*** May 14, 2018; ***Deemed Incomplete:*** June 13, 2018

***Project Received:*** July 11, 2018; ***Deemed Complete:*** August 9, 2018

The City has up to 60 days from the date of deeming the project complete (until October 9, 2018) to make a decision on the project.

Conclusion

Staff recommends approval of the Fence Exception as the driveway gate is needed for demonstrated security reasons. Furthermore, the proposed driveway gate and related site improvements will improve the design relationship between the existing industrial and residential uses. Together, the fence setback, reduction in the CMU wall, and the proposed landscaping will provide a buffer for adjoining low-intensity residential uses. Additionally, all of the findings for approval of the exception, consistent with Chapter 19.48, Fences, of the Cupertino Municipal Code, may be made as reflected in the Draft Resolution.

### Next Steps

The Design Review Committee's decision on this project is final unless an appeal is filed within 14 calendar days of the decision, on September 20, 2018. If appealed, the City Council will be the approval authority on the appeal.

If approved, the approval will expire on September 6, 2019, at which time the applicant may apply for a one-year extension.

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Prepared by: Erika Poveda, Assistant Planner

Reviewed and Approved by: Catarina Kidd, Senior Planner

### **ATTACHMENTS:**

1 – Draft Resolution

2 – Plan Set