

PLANNING & DEVELOPMENT SERVICES DEPARTMENT REPORT

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DATE: August 31, 2000

TO: Orange County Zoning Administrator

FROM: Planning and Development Services Department/Current Planning Services Division

SUBJECT: Public Hearing on Planning Application PA00-0054 for Use Permit

PROPOSAL: The applicant is requesting a Use Permit, as permitted by the Orange County Zoning Code, to construct a fence in the side and front setback area in excess of the standard permitted height. The applicant proposes to construct a 6 feet high brick and wrought iron fence and driveway gate along an exterior side property line (Barrett Lane) and the front property line along a private easement road. The Zoning Code standard height for a fence and gate in these setback areas of the property is 3 ½ feet.

LOCATION: In the North Tustin area at 12602 Barrett Lane, Santa Ana. Third Supervisorial District.

APPLICANT: Tony and Jaz Pinero

STAFF CONTACT: William V. Melton, Project Manager
Phone: (714) 834-2541 FAX: (714) 834-4652

SYNOPSIS: Current Planning Services Division recommends Zoning Administrator approval of PA00-0054 for Use Permit subject to the attached Findings and Conditions of Approval.

BACKGROUND:

The subject site is developed with a single-family dwelling. The front of the property (south property line) includes a 20 feet wide private access easement. Existing access to the site is from Barrett Lane located to the west of the site, which is one of the side property lines. The applicant proposes to install a new 6 feet high fence and driveway gate at the Barrett Lane property line; and, replace an existing wall with a new 6 feet high fence on the south property line. The fence along the Barrett Lane side property line is proposed to be setback 2 feet from the right-of-way line. The driveway gate is proposed to be setback 5 feet from the right-of-way line.

As currently proposed, the fence would be composed of solid brickwork on the bottom to a height 3 to 4 feet; and, open wrought iron at 2 to 3 feet in height on top. The total fence height would not exceed 6 feet. Brick pilasters measuring 18 to 24 inches square are located at the ends and corners of the fence with 8 to 12 feet separation along the fence run. The brick proportion of the fence and the pilasters are proposed to have a stucco finish with a color matching the primary exterior color of the house. A 30 feet wide driveway gate is also proposed. According to the applicant, the gate will be electrically operated

with a remote control. The applicant indicated to staff that the gate will be either a rolling or swing open type.

The proposed fence, gate and pilasters were originally submitted at a proposed height of 6 ½ feet. The application was later revised to the current requested height of 6 feet. It was the applicant's understanding that no building permit is required for fences or walls 6 feet or less in height. The site plan shows that the 6 feet high pilasters may have some type of cap or decoration on top that could increase the total height to over 6 feet thereby triggering the requirement for a building permit.

SURROUNDING LAND USE:

The subject site and all surrounding properties are zoned 100-E4 "Small Estates". The subject site and surrounding sites are developed with single family dwellings.

REFERRAL FOR COMMENT AND PUBLIC NOTICE:

A Notice of Hearing was mailed to all owners of record within 300 feet of the subject site. Additionally, a notice was posted at the site, at the 300 N. Flower Building and as required by established public hearing posting procedures. A copy of the planning application and a copy of the proposed site plan were distributed for review and comment to two County Divisions and the North Tustin Advisory Committee (NTAC).

As of the writing of this staff report, no comments raising substantial issues with the project have been received from other County divisions. The Traffic Review Section of the Subdivision and Grading Services Division recommend that the fence along Barrett Lane be located a minimum of 2 feet from the right-of-way line. NTAC conducted a public meeting on this proposal July 19, 2000. This meeting was continued to August 16, 2000 in order that the applicant could submit additional information requested by NTAC. At the meeting held August 16, 2000, NTAC recommended County approval.

Staff received one telephone call, prior to the first NTAC meeting, from an adjacent property owner whose property is accessed via the private access easement at the south of the subject property. The property owner expressed a concern that the proposed fence could restrict access to their property and other property owners that use this access easement. It is staff's understanding that the caller attended the July 19, 2000 NTAC meeting and that the fence and access concern had been satisfactorily resolved.

CEQA COMPLIANCE:

The proposed project is Categorically Exempt (Class 11, construction or placement of accessory structures) from the requirements of CEQA. Appendix A contains the required CEQA Finding.

DISCUSSION/ANALYSIS:

That portion of the proposed fence along private easement road on the south property line is a replacement of an existing 6 feet high fence. However, it is in a front setback area and exceeds the 3 ½ feet height standard. Since the County has no record of a discretionary permit approval for an over height fence at this location, a Use Permit is required for the proposed 6 feet high replacement fence. As mentioned, a concern raised by an adjacent property owner about the location of the fence in the front setback area has been resolved.

The fence proposed along Barrett Lane is new construction. The property line along Barrett Lane is a side property line and a 6 feet high fence in the side setback area is normally permitted outright without the need of a discretionary permit. However, the Zoning Code section for fences and walls, 7-9-137.5 (b), states in part: “Setback area bordering streets. (1) The maximum height shall be three and one-half (3 ½) feet within any required front setback area and six (6) feet within any rear or side setback area (through which no vehicular access is taken) adjoining a public street...” Since vehicular access is provided from the street to the subject property, a 6 feet high fence is not permitted outright along this side property line. With regards to fences and walls, it has been the County’s policy to treat a side yard where street access is taken as a front yard where only a 3 ½ feet high fence or wall is permitted outright.

The applicant’s proposal for a combination of solid wall and open wrought iron fence is less intrusive than would be a solid 6 feet high wall. The applicant’s proposal for a 6 feet high combination fence is typical of other estate lot zoning throughout similar areas of the County. Numerous properties along Barrett Lane have fences and wall that exceed the standard 3 ½ feet standard.

For safety reasons, Subdivision and Grading Services recommended that the fence along Barrett Lane be located a minimum of two (2) feet back from the right-of-way line. The reason being, there is an uncovered drainage ditch along this side of Barrett Lane. NTAC recommend that the fence along Barrett Lane be located five (5) feet back from the edge of pavement on Barrett Lane. The only portion of the proposal that is required by the Zoning Code to be located 5 feet or more from the property line (the right-of-way line) is the driveway gate. The applicant’s proposal shows both the gate and the fence at a minimum of 5 feet from the edge of pavement on Barrett Lane. A Condition of Approval requires the fence to be located 2 feet from the edge of right-of-way and the gate be located 5 feet from the edge of the right-of-way.

Staff supports the applicant’s fence proposal for a 6 feet high combination solid wall and open wrought iron fence with a minimum setback of 2 feet from the right-of-way line on Barrett Lane. The applicant indicated agreement with the setback recommended. While the proposed fence appears to address all concerns, staff notes that there are two special findings associated with fences and walls that the Zoning Administrator must make in association with project approval. These two findings are:

That the height and location of the fence or wall as proposed will not result in or create a traffic hazard.

That the location, size, design and other characteristics of the fence or wall will not create conditions or situations that may be objectionable, detrimental or incompatible with other permitted uses in the vicinity.

With the Conditions of Approval in Appendix B recommended by staff, the Zoning Administrator is able to make these fence and wall findings contained in Appendix A. Staff's recommendation is as follows.

RECOMMENDED ACTION:

Current Planning Services Division recommends the Zoning Administrator:

- a. Receive staff report and public testimony as appropriate; and,
- b. Approve Planning Application PA00-0054 for Use Permit subject to the attached Findings and Conditions of Approval.

Respectfully submitted

William Melton, Project Manager
CPSD/Site Planning Section

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APPENDICES:

- A. Recommended Findings
- B. Recommended Conditions of Approval

EXHIBITS:

1. Applicant's Letter of Explanation
2. Site Plans and site photos

APPEAL PROCEDURE:

Any interested person may appeal the decision of the Zoning Administrator on this permit to the Orange County Planning Commission within 15 calendar days of the decision upon submittal of required documents and a filing fee of \$245.00 filed at the Development Processing Center, 300 N. Flower St., Santa Ana.