

RESOLUTION NO. P- 19 -13

RESOLUTION OF THE PLANNING COMMISSION OF THE CITY OF FOSTER CITY RECOMMENDING CITY COUNCIL ADOPTION OF AMENDMENTS TO CHAPTER 17.52, FENCES, HEDGES AND WALLS, OF TITLE 17, ZONING, OF THE FOSTER CITY MUNICIPAL CODE -- CITYWIDE -- RZ-12-003 & RZ-13-002

CITY OF FOSTER CITY PLANNING COMMISSION

WHEREAS, John and Marguerite Igoe submitted an application for a zoning text amendment to allow gate arbors above a front yard fence; and

WHEREAS, a Planning Commission Study Session was held to review the proposal on February 7, 2013; and

WHEREAS, a Notice of Public Hearing was duly posted and published for consideration at the Planning Commission meeting of March 21, 2013, and, on said date, the Public Hearing was opened, held, and closed; and

WHEREAS, the Planning Commission by adoption of Resolution No. P-04-13 on March 21, 2013 recommended approval of the proposed amendments related to gate arbors; and

WHEREAS, as a result of code enforcement of regulations related to hedges, the City Council adopted Minute Order 1313 on April 1, 2013 directing staff to prepare a Resolution of Intention to initiate a review of the provisions of Chapter 17.52; and

WHEREAS, the City Council adopted Resolution No. 2013-22 on April 15, 2013 requesting that the Planning Commission review Foster City Municipal Code Chapter 17.52, including the height and location of fences, hedges and walls; and

WHEREAS, a Planning Commission Study Session was held to review Chapter 17.52 and provide direction to staff on June 18, 2013; and

WHEREAS, the proposal has been determined by the Community Development Director to be categorically exempt from the California Environmental Quality Act of 1970; and

WHEREAS, a Notice of Public Hearing was duly posted and published for consideration at the Planning Commission meeting of July 18, 2013, and, on said date, the Public Hearing was opened, held, and closed.

NOW, THEREFORE, BE IT RESOLVED that the Planning Commission, based on facts and analysis in the staff report, written and oral testimony, and exhibits presented, finds that:

1. The proposed amendments are consistent with the Foster City General Plan, specifically Land Use and Circulation Goal-A: Preserve and Quality of the City's Residential Neighborhoods, Land Use and Circulation Goal-B: Promote Proper Site Planning, Architectural Design and Property Maintenance, Land Use Policy 41: Code Enforcement and Property Maintenance.
2. The proposed code amendment is in the best interests of the City because the gate arbor provision will provide an attractive addition to front yard fences and will encourage property owners to make improvements to their properties, maintaining property values, and the proposed code amendment related to the height and location of fences, hedges and walls will improve the public safety along streets and sidewalks, preserve waterfront views and

ensure that front yards remain visually open to provide an attractive appearance for Foster City neighborhoods.

BE IT FURTHER RESOLVED that the Planning Commission of the City of Foster City hereby recommends that the City Council adopt the proposed amendments to Title 17, Zoning, of the Foster City Municipal Code (RZ-12-003 & RZ-13-002) as presented in the attached draft ordinance, Exhibit A, attached hereto and incorporated herein.

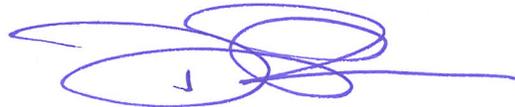
PASSED AND ADOPTED by the Planning Commission of the City of Foster City at a Regular Meeting thereof held on July 18, 2013 by the following vote:

AYES, COMMISSIONERS: Avram, Pattum, Werden and Chair Dyckman

NOES, COMMISSIONERS:

ABSTAIN, COMMISSIONERS:

ABSENT, COMMISSIONERS: Williams



DAN DYCKMAN, CHAIRMAN

ATTEST:



CURTIS BANKS, SECRETARY

EXHIBIT A

ORDINANCE NO. _____

AN ORDINANCE OF THE CITY OF FOSTER CITY APPROVING AMENDMENTS TO SECTION 17.52.010, REGULATIONS, OF CHAPTER 17.52, FENCES HEDGES AND WALLS, OF TITLE 17, ZONING, OF THE FOSTER CITY MUNICIPAL CODE – RZ-12-003

CITY OF FOSTER CITY

THE CITY COUNCIL OF THE CITY OF FOSTER CITY DOES ORDAIN as follows:

Section 1. Chapter 17.04.220, Fence, of Section 17.04, Definitions, of Title 17, Zoning, of the Foster City Municipal Code is hereby amended to read as follows:

17.04.220 Fence.

“Fence” means any structural device, forming a physical barrier by means of a hedge or wood, mesh, metal, chain, brick, stake, plastic or similar materials, erected as a deterrent to ingress and egress or as a support for vegetation. Fences shall include hedges except where hedges are specifically referenced.

Section 2. Chapter 17.04.235, Hedge, of Section 17.04, Definitions, of Title 17, Zoning, of the Foster City Municipal Code is hereby added to read as follows:

17.04.235 Hedge.

“Hedge” means a row of closely planted shrubs or low-growing trees, other than individual trees planted at least six feet apart, forming a visual and/or physical barrier.

Section 3. Chapter 17.52, Fences, Hedges and Walls, of Title 17, Zoning, of the Foster City Municipal Code is hereby amended to read as follows:

Sections:

- 17.52.010 Regulations.
- 17.52.020 Nonwaterfront properties.
- 17.52.030 Waterfront properties.
- 17.52.040 Commercial/industrial properties.
- 17.52.050 Architectural review process.

17.52.010 Regulations.

Fences, hedges and walls located in any district shall be subject to the following regulations:

A. Fences, hedges and walls, not exceeding forty inches in height, may occupy any yard area on the property.

B. The height of fences, hedges and walls shall be measured from the side which has the highest finished grade level at the base of the fences, hedges and walls.

C. Fences, walls and hedges, not exceeding six feet in height, may occupy any side or rear yard area with the following exceptions:

1. Such shall not extend into any front yard, except as provided in Sections 17.52.010.J, K, L or N.

2. To insure proper pedestrian and vehicular visibility at a corner lot intersection, no fence, hedge, wall or structure in the nature of a fence, exceeding forty inches in height shall be located within a twenty-five-foot triangle formed at the intersection of the two streets measured at the property line, as outlined in Exhibit A below:

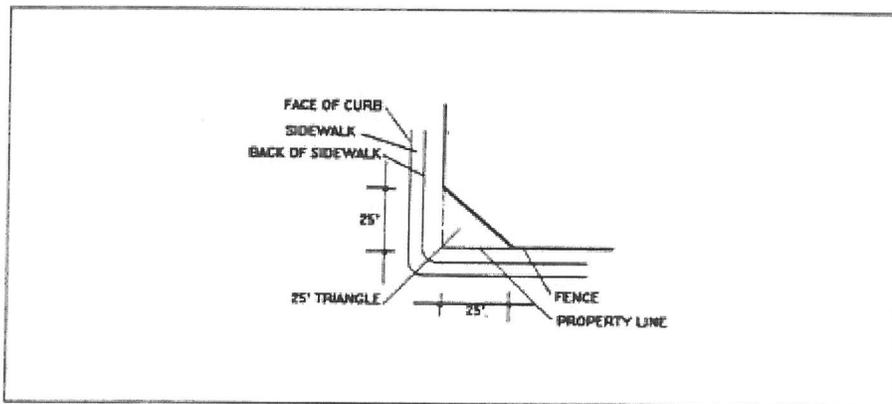


EXHIBIT A

3. In the case of a corner lot where the rear property line of such corner lot is adjacent to another lot's rear or side property line and there is no driveway on the adjacent lot within fifteen feet of the rear property line of the corner lot, such may be constructed along the side property line and up to the front property line, or up to the twenty-five foot triangle noted in subsection C of this section (See Exhibit B below), whichever distance is farthest from the intersection:

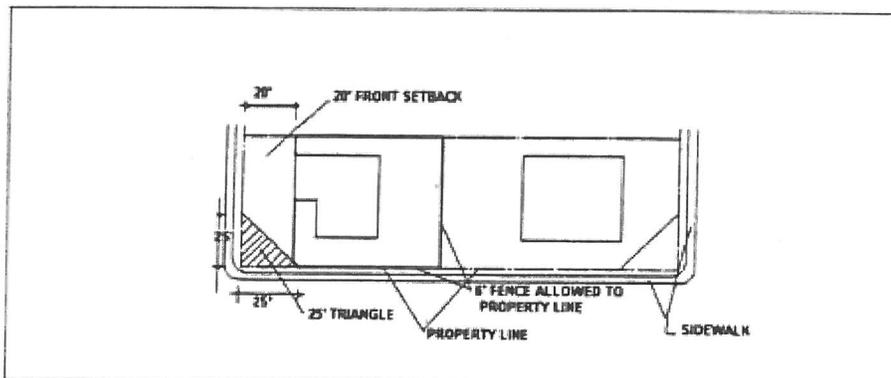


EXHIBIT B

4. In the case of a corner lot where the rear yard of such corner lot abuts a property that fronts the side street which is an arterial or collector street as identified in the Foster City general plan:

a. Such fence may not extend within five feet of the side property line along the side street (see Exhibit C below); and

b. To insure proper pedestrian and vehicular visibility to the adjoining property fronting the side street in those instances where a driveway on the adjoining property is located within fifteen feet of the rear property line of the corner lot, such fence shall not be located within a triangle formed by a ten-foot line along the rear property line and a twenty-foot line along the side property line. (see Exhibit C below.)

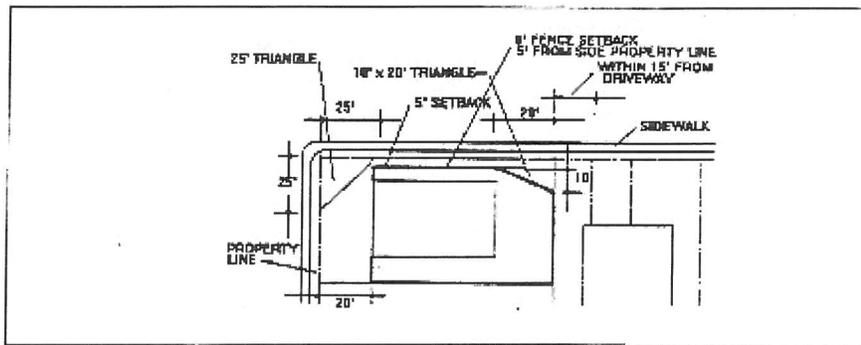


EXHIBIT C

5. In the case of a corner lot where the rear yard of such corner lot abuts a property that fronts the side street which is not an arterial or collector street as identified in the Foster City general plan, and where a driveway on the adjoining property is located within fifteen feet of the rear property line of the corner lot, such fence shall not be located within a triangle formed by a ten-foot line along the rear property line and a twenty-foot line along the side property line, in order to insure proper pedestrian and vehicular visibility to the adjoining property. (See Exhibit D below.)

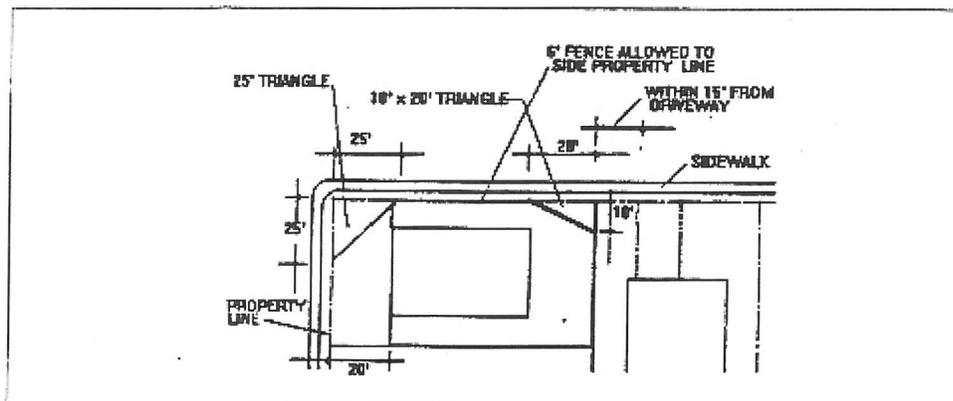


EXHIBIT D

D. Any fence or wall structure exceeding six feet in height, or any masonry or concrete wall structure exceeding three feet in height, will require a building permit.

E. Fences or wall structures exceeding six feet in height to enclose commercial or industrial uses, tennis courts, semipublic swimming pools, or similar recreation areas, or school play-yard areas, may be permitted, subject to obtaining a use permit therefor. Fences or wall structures over six feet may also be permitted within any building setback line, subject to the review and approvals established in this chapter for such district.

F. Materials for construction of permanent fences and walls along property lines shall be limited to the following: redwood, cedar, brick, slumpstone, stucco, plaster, cement, wrought iron, or similar materials as determined by the planning director. Additionally, clear tempered glass or clear Plexiglas shall be allowed on rear and side yards of waterfront properties only. Chain-link and redwood slat may be allowed for commercial, industrial or institutional uses, depending on location and design.

G. Materials for the construction of temporary fences and walls shall be limited to: plywood, chain-link and redwood slat, or other suitable materials as determined by the city depending upon site location.

H. Fence and wall colors shall be neutral, not bright, and compatible with the existing residence and neighborhood.

I. Fences and walls shall be designed to be compatible with the existing site and surrounding properties.

J. Single-family dwelling units shall be allowed a six-foot fence within the front yard area, if such fence is constructed of fifty percent open-air materials and set back a minimum of twenty feet from the front property line, subject to architectural review.

K. Front and front-side yard fence columns, decorative objects, and light fixtures which do not obstruct the line-of-sight for drivers of vehicles may exceed the established front height restriction as follows:

1) by one and one-half feet, including that over a fence gate that is at least five feet six inches in height an arbor may be attached not to exceed twenty square feet that is one hundred percent open on two sides and at least fifty percent open on two sides, subject to architectural review and being maintained in good repair;

or

2) an arbor up to seven feet six inches in height may be constructed over a front yard fence gate or opening not to exceed four feet in width and two feet in depth, not to exceed eight square feet, that is one hundred percent open on two sides and at least seventy-five percent open on two sides, subject to architectural review and being maintained in good repair.

L. In the R-1 (single-family residence) district, fences, hedges, and walls, not exceeding six feet in height may be permitted in the front yard area of a residential property, subject to architectural review, if all of the following conditions are met:

1. The front yard property line of the subject lot adjoins either the front yard property line of another lot or the side yard property line of another lot; and
2. The side property line of the subject property adjoins the street; and
3. Such fence maintains a minimum twenty-foot setback from the street at all times; and

4. Such fence's location does not obstruct pedestrian or vehicular access to the house and does not block the view of the house from the street; and

5. Such fence's location is not closer to the street than the house's primary front wall from which the fence is extended; and

6. Such fence is perpendicular to the front property line, except that location on the front property line is permitted where necessary to complete the enclosure of the side yard; and

7. The fence shall be placed far enough from the street such that the amount of landscaped area visible from the street is generally consistent with other lots located in the same block; and

8. A minimum two-foot wide landscape planter shall be maintained along the street-side of the fence and it shall be planted with plant materials or turf; and

9. Such fence's design, location and orientation shall be subject to review and approval by the community development director; and

10. All items stored or temporarily placed behind the fence shall be lower than the height of the fence.

M. Wood fences in R-1 (single-family residence) and R-2 (two-family residence) districts not exceeding seven feet in height may be permitted in any side and rear yard area if all of the following conditions are met:

1. All fence material above six feet in height consists of wood lattice with a weave that is approximately fifty percent open; and

2. The fence is located on a common property line between two houses in an R-1 or R-2 district; and

3. The fence is not located on a property line that adjoins a public right-of-way or other public property, including, but not limited to streets, public walkways, parks, schools, and open space areas; and

4. The fence is not located on a waterfront property.

N. Hedges located in front yards along side property lines may be up to six feet in height, provided they are at least ten feet from the front property line.

17.52.020 Nonwaterfront properties.

Hedges located in side and rear yards may be allowed to a height of ~~eight~~twelve feet, if neatly pruned and maintained in a healthy and vigorous condition.

17.52.030 Waterfront properties.

A. Pool fences along the waterfront are optional, but if constructed, are subject to the criteria contained in this chapter and architectural review.

B. Fences, hedges and walls shall be limited to a height and/or materials that do not significantly interfere with the view of the lagoon from adjacent properties.

C. Fences, hedges and walls shall be limited to forty inches in height within ten feet of the waterline.

D. Hedges located in side or rear yards, except as restricted by subsection C, above, may be allowed to a height of six feet, if neatly pruned and maintained in a healthy and vigorous condition.

17.52.040 Commercial/industrial properties.

The height, location and material of fences, hedges and walls shall be subject to review on a case-by-case basis depending on the following:

- A. Purpose and intent;
- B. Proximity to streets and adjacent properties;
- C. Visibility from street or public rights-of-way;
- D. Compatibility of design, colors and materials with the site and surrounding properties.

17.52.050 Architectural review process.

Construction of any new fence or wall that is facing any public right-of-way (except fences between the side wall of the house and the side property line that are set back behind the front wall of the house) or any new fence or wall on a waterfront property, including the replacement, rebuilding or remodeling of an existing fence or wall in these areas that exceeds twenty-five percent of the total fence area along one property frontage, shall be subject to architectural review, except where a use permit is otherwise required. The review of fences or walls that face public rights-of-way is required to ensure design quality, architectural compatibility and compliance with ordinances. In addition, the review of fences in the side or rear yards of waterfront properties is required in order to protect the waterfront views of adjacent properties. Such architectural review applications shall be subject to review and approval by the community development director. Decisions of the community development director may be appealed to the planning commission.

Section 4. Severability. If any section, subsection, sentence, clause or phrase of this Ordinance is for any reason held to be invalid, such decision shall not affect the validity of the remaining portions of this Ordinance. The City Council does hereby declare that it should have adopted the Ordinance and each section, subsection, sentence, clause or phrase thereof, irrespective of the fact that any one or more sections, subsections, sentences, clauses or phrases be declared invalid or unconstitutional.

Section 5. Taking Effect. This Ordinance shall take effect and be in force thirty (30) days from and after its adoption.

Section 6. Posting. Within fifteen (15) days after the adoption of this Ordinance, the City Clerk shall have it posted in three (3) public places designated by the City Council.

This Ordinance was introduced and read on the ___ day of ___, 2013, and passed and adopted on the ___ day of _____, 2013, by the following vote:

AYES:

NOES:

ABSENT:

ABSTAIN:

PAM FRISELLA, MAYOR

ATTEST:

DORIS L. PALMER, CITY CLERK