

## Planning Commission Staff Report

December 14, 2011  
Item 6.d.

**SUBJECT:** Appeal of P11-0731

**APPLICANT:** Robert Baker

**APPELLANT:** Carl Pretzel

**PURPOSE:** Appeal of the Zoning Administrator's approval of an Administrative Design Review application to construct an approximately 74-foot long fence between 3647 and 3633 Glacier Court North, varying in height from 72 inches to 83 inches.

**GENERAL PLAN:** Medium Density Residential

**ZONING:** R-1-6,500 (One-Family Residential) District

**LOCATION:** 3647 and 3633 Glacier Court North

**EXHIBITS:**

- A. Zoning Administrator's Approval Letter with Conditions of Approval
- B. Site Plan and Pictures of the Subject Fence
- C. Appeal by Carl Pretzel
- D. Minutes of the October 25, 2011, Zoning Administrator Hearing
- E. Email from Carl Pretzel Withdrawing as Co-Applicant
- F. Letters from Robert Baker submitted to the Zoning Administrator at the October 25, 2011, Zoning Administrator Hearing
- G. Pictures of the Fence Submitted by Carl Pretzel
- H. Location Map
- I. Notification Map

## **I. BACKGROUND**

The subject fence is located on the common property line shared by Mr. Robert Baker who resides at 3647 Glacier Court North and Mr. Carl Pretzel who resides at 3633 Glacier Court North. The fence was constructed without the benefit of City approval<sup>1</sup>. As a result of code enforcement action, Robert Baker and Carl Pretzel, co-owners of the fence, filed a joint application for an Administrative Design Review approval for the subject fence on August 31, 2011.

Notice of the overheight fence was sent to surrounding neighbors on August 31, 2011. Todd Deike, property owner of 3642 Carlsbad Way, requested a hearing on the subject fence.

On October 5, 2011, Mr. Pretzel notified staff via email that he withdrew his name as the co-applicant of the fence and that he wanted the fence to be cut back to the six-foot height (Please see Exhibit E).

On October 25, 2011, the Zoning Administrator held a hearing on the subject fence. The Zoning Administrator approved the fence subject to conditions. On November 4, 2011, Mr. Pretzel filed an appeal of the Zoning Administrator's decision. The appeal is currently before the Planning Commission for consideration.

## **II. SITE DESCRIPTION**

The subject sites, 3647 and 3633 Glacier Court North, are adjoining properties located on the east site of the street. The properties have a minor down slope from the rear to the front and are of a rectangular shape. Mr. Baker's residence at 3647 Glacier Court North is a one-story home with a pool in the rear yard. Mr. Pretzel's residence is a two-story home.

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<sup>1</sup> Section 18.84.090.G of the Pleasanton Municipal Code requires fences greater than six feet but not over eight feet in height may occupy a required side or rear yard upon approval by the zoning administrator.



Location Map

### III. PROJECT DESCRIPTION

The subject fence is located on the common property line between 3647 and 3633 Glacier Court North. The side property line fence starts approximately 25 feet from the front property line and continues along the side property line until it abuts the rear property line. The length of the fence is approximately 74 feet.

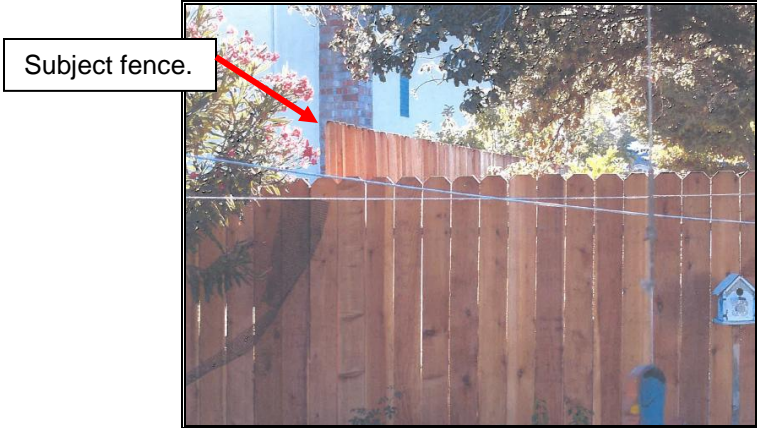
The fence consists of solid redwood boards. Because the properties have a gentle slope, the height of the fence varies from approximately 72 inches for the front half of the fence to approximately 83 inches for the rear half of the fence.



Picture of the fence from 3647 Glacier Court North (Mr. Baker's site)



Picture of the fence from 3633 Glacier Court North (Mr. Pretzel's site)



Picture of the fence from 3656 Carlsbad Way (Ms. Fink's site)

#### **IV. ZONING ADMINISTRATOR'S HEARING**

On October 25, 2011, the Zoning Administrator held a hearing. In addition to the fence owners, Mr. Todd Deike, who requested the hearing, and Ms. Dorothy Fink, a neighbor at 3656 Carlsbad Way, attended the hearing. A portion of Ms. Fink's rear property abuts the rear property of Mr. Baker.

At the hearing, Mr. Deike stated Mr. Pretzel had requested a hearing for his overheight fence, which was also constructed without prior approval and permit. The reason he requested this hearing was to ensure that Mr. Baker and Mr. Pretzel apply for and receive a permit for the overheight fence.

Mr. Pretzel stated that he agreed to share of the cost of the fence but did not discuss the height with Mr. Baker. Sometime after the fence was constructed and the joint overheight fence application was filed, Mr. Pretzel requested the fence height be reduced to six feet.

Mr. Baker indicated the design of the fence was agreed upon by both parties prior to construction. The cost of the fence was shared. He constructed the fence in August while Mr. Pretzel was present. Additionally, Mr. Pretzel had specific requests on how he wanted fence on his side to be constructed.

Ms. Fink stated that her rear yard fence is a five-foot high fence. As her property abuts Mr. Baker's property, she can see the overheight fence from her backyard, which she does not consider visually pleasing (see picture on the previous page).

After the public testimony, the Zoning Administrator stated that overheight fences between properties are common in residential neighborhoods. They provide the sought after privacy, but do not significantly affect the light and air of the subject properties. The subject fence meets all of the necessary yard requirements as outlined in the Pleasanton Zoning Ordinance. It provides a secured barrier for the existing pool located at 3647 Glacier Court North.

The Zoning Administrator stated that the design of the fencing is acceptable. In response to Ms. Fink's comments on the aesthetics of the fence when viewed from her property, the Zoning Administrator suggested using landscaping as a method of screening the fence. Ms. Fink indicated that she has trees in her backyard; thus, she did not wish to have additional trees be planted on her property. Mr. Baker accepted the Zoning Administrator's suggestion and agreed to plant evergreen trees on his property to screen the overheight fence when viewed from Ms. Fink's site.

In rendering a decision, the Zoning Administrator stated that she was able to make the required finding as stated in the Pleasanton Municipal Code, in that the proposed fence meets the development standards of the underlying zoning district; it provides the necessary privacy between residential properties; the solid redwood board design is a typical fence design seen in residential neighborhoods; and, the subject fence, as conditioned, would not detrimentally

affect the public health, safety, peace, comfort, or general welfare. The Zoning Administrator further stated that Mr. Pretzel initially supported the fence between him and Mr. Baker as Mr. Pretzel shared the cost of the fence. After the fence was constructed, Mr. Pretzel was again in support of the fence as he was the co-applicant of the Administrative Design Review Application for this overheight fence. The Zoning Administrator indicated that Mr. Pretzel's initial support of the fence from construction to submitting the application was also one of the reasons in rendering this decision.

A condition requiring the planting was included in the Zoning Administrator's approval.

A copy of the Zoning Administrator Hearing Minutes and the approval letter with conditions are attached as Exhibit D and Exhibit A, respectively.

## **DISCUSSION**

Mr. Pretzel stated in the appeal that the "Planning Dept. ignored my property rights. Did not properly apply General Plan in peace, comfort, general welfare, significant impact. Landscaping is inadequate & not credible."

The objectives of the zoning ordinance are to promote the public health, safety, peace, comfort, prosperity and general welfare. These objectives would be achieved through providing a precise guide for the physical development of the city and promoting the stability of existing land uses that conform to the general plan. The subject fence meets the development standards of the R-1-6,500 zoning district in terms of location and height. This fence is approximately 10 feet from the Pretzel residence. It does not impose a safety concern or significantly affect the light and air of the adjoining property. The subject fence provides the needed safety of the pool that is currently located on the Baker's site and the privacy desired by both property owners. Staff does not believe that the subject fence would cause adverse impacts in terms of peace, comfort, and general welfare.

The design of the fence is a solid redwood fence typically seen in residential neighborhoods. The properties are located in a R-1-6,500 zoning district and there isn't a fencing plan for the neighborhood. Even though the fence height varies by having a step near the middle of the fence length, this is not an atypical design for fences.

The subject fence intersects with the rear yard fence which is shared by Mr. Baker and Ms. Fink. With respect to Ms. Fink's visual concerns of the subject fence, landscaping was suggested during the hearing to screen the fence. Ms. Fink declined to have Mr. Baker plant trees on her property; however, she did not object to have Mr. Baker plant trees on his property near the southeast corner to help screen her view of the subject fence from her property. Condition No. 2 requires Mr. Baker to plant trees to help screen the view of the subject fence from Ms. Fink's site. Mr. Pretzel believes that reducing the subject fence height would be more effective to address Ms. Fink's visual concern than installing landscaping.

Staff does not believe that the subject fence creates significant visual or aesthetic impacts to Ms. Fink and staff does not believe that any additional landscaping is necessary other than what was already conditioned. Should the Planning Commission believe that additional trees/shrubs are needed, then the Commission should modify Condition No. 2 accordingly.

## **PUBLIC NOTICE**

Notices regarding the appeal were mailed to property owners and tenants within 1,000 feet of the subject property. No one contacted staff at the time this report was prepared.

## **ENVIRONMENTAL ASSESSMENT**

Projects of this nature are categorically exempt from the requirements of the California Environmental Quality Act (CEQA) pursuant to Section 15301 Class 3 – New Construction or Conversion of Small Structures. Therefore, no environmental document accompanies this report.

## **CONCLUSION**

The subject fence, as conditioned, would meet the objectives of the Zoning Ordinance. It is a solid redwood fence which is commonly seen in residential districts. The fence is located on an interior side property line; thus, it would not be in a plain view from the public right-of-way. Staff believes the condition requiring landscaping adequately addresses the rear neighbor's visual concern.

## **STAFF RECOMMENDATION**

Staff recommends that the Commission deny the appeal thereby upholding the Zoning Administrator's approval of Case P11-0731.

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