

# City of Burlingame

## Fence Exception

Item No. 8a  
Regular Action Item

**Address:** 1516 Highway Road

**Meeting Date:** November 25, 2019

**Request:** Application for Fence Exception to increase the fence height within the front setback to 6'-0" above grade.

**Applicants and Property Owners:** Yousef and Gina Shamieh

**APN:** 025-251-200

**Designer:** Bergez & Associates Design Studio

**Lot Area:** 9,182 SF

**General Plan:** Low Density residential

**Zoning:** R-1

**Environmental Review Status:** The project is Categorically Exempt from review pursuant to the California Environmental Quality Act (CEQA), per Article 19, Section: 15303 – new construction or conversion of small structures - (e) accessory (appurtenant) structures including garages, carports, patios, swimming pools and fences.

**Project Description:** The subject property is located at the north end of Highway Road, a street that runs parallel with El Camino Real and is separated from El Camino Real by a median strip. The lot contains a two-story house with a detached garage; an addition to the house and construction of a new detached garage was completed in June 2019.

Code Enforcement staff became aware of a fence height violation on the subject property while inspections were occurring towards the end of construction on the house and garage. The applicant is requesting a Fence Exception to allow and legalize an existing 6'-0" tall fence and driveway gate located within the front setback. For fences, the front setback area is the portion of the property between the building and the front property line. The R-1 District fence regulations state that the maximum overall height of a fence within the front setback is 5'-0". Staff would note that a fence is not required to be erected or maintained on any R-1 property.

The existing fence is a solid material (1x6 horizontal fence board) with an overall height of 6'-0", as measured from the highest adjacent grade. The applicant is proposing to plant a total of eight Saratoga Laurel trees (24-inch box size) and 17 Pittosporum shrubs (15-gallon size) between the fence and inner edge of sidewalk (see Fencing & Landscape Screening Plan).

In support of their Fence Exception request, the applicant has submitted a letter of explanation and photos (see attachments). The applicant is requesting the following application:

- Fence Exception for height for a 6'-0" tall solid fence within the front setback where 5'-0" is the maximum height allowed (CS 25.78.020 (a)).

### 1516 Highway Road

**Lot Area:** 9,182 SF

**Plan date stamped:** October 18, 2019

	PROPOSED	ALLOWED/REQUIRED
Fence Height		
Front:	6'-0" fence <sup>1</sup>	5'-0"

<sup>1</sup> Fence Exception for height for a 6'-0" tall fence within the front setback (5'-0" is the maximum height allowed) (CS 25.78.020 (a)).

**Staff Comments:** Planning staff would like to note that since this request for a Fence Exception is to legalize an existing fence, the application was placed directly on the action calendar. If the Commission feels there is a need for more discussion, this item may be placed on a future action calendar for a second review and/or public hearing with direction to the applicant.

**Required Findings for a Fence Exception:** In order to grant a Fence Exception, the Planning Commission must find the following conditions exist on the property (Code Section 25.78.050 (a-d)):

- (a) that there are exceptional circumstances;
- (b) that there is no public hazard;
- (c) that neighboring properties will not be materially damaged; and
- (d) that the regulations cause unnecessary hardship upon the petitioner.

**Suggested Findings for a Fence Exception:** That there are exceptional circumstances, in that the subject property is on a street that runs parallel with El Camino Real, a state highway under the jurisdiction of Caltrans, that the elevation of the subject property is lower than El Camino Real, and that the sidewalk in front of the subject property connects to a trail used by pedestrians; that there is no public hazard, in that the fence is not located within the public right-of-way and is not a structure that requires a Building Permit; that neighboring properties will not be materially damaged, in that the fence is not located along share property lines with adjacent properties; and that the regulations cause unnecessary hardship upon the petitioner, in that the regulations would not otherwise permit construction of a fence to provide privacy from vehicles traveling on El Camino Real, a major roadway, and pedestrians using the sidewalk leading to a walking trail north of the site. Therefore, for these reasons the project may be found to be compatible with the Fence Exception criteria.

**Planning Commission Action:** The Planning Commission should conduct a public hearing on the application, and consider public testimony and the analysis contained within the staff report. Action should include specific findings supporting the Planning Commission's decision, and should be affirmed by resolution of the Planning Commission. The reasons for any action should be stated clearly for the record. At the public hearing the following conditions should be considered:

- 1. that the project shall be built as shown on the plans submitted to the Planning Division on October 18, 2019; and
- 2. that if the fence is demolished or the envelope changed at a later date, the fence exception, as well as any other exceptions to the code granted here, will become void.

'Amelia Kolokihakaufisi  
Associate Planner

c. Yousef and Gina Shamieh, applicants and property owners

Attachments:

Application to the Planning Commission  
Fence Exception Application  
Letter of Explanation  
Planning Commission Resolution (Proposed)  
Notice of Public Hearing – Mailed November 15, 2019  
Area Map