

April 28, 2003

To: Sutter County Planning Commission

Re: Agenda Item #11: Public hearing on Variance #03-03 to allow a ten foot fence to be constructed within the rear yard and a portion of the side yard areas; AG (General Agricultural) District; 2600 Lincoln Road, Yuba City; A. P. #22-030-034; applicants/property owners - Bill & Cynthia Pettross (Location: District 4 - Commissioner Southard)

Current Proposal

A. Project Description:

The applicants request approval of a variance to allow for a ten foot fence to be constructed along the rear property line and along a portion of the side property lines on their one acre parcel. Zoning Code Section 1500-8022(c) allows for a six foot maximum height for fences within rear and side yard areas.

B. Environmental Consideration:

This project is considered categorically exempt pursuant to CEQA Guidelines, Section 15303, New Construction or Conversion of Small Structures.

Background

A. Property Description:

The subject property is one acre in size and located on Lincoln Road, approximately 1,800 feet (1/3 mile) west of George Washington Boulevard. The property is developed with a residence.

B. Surrounding Land Use, Zoning Districts and General Plan Designations:

	Use	Zoning	General Plan
Subject Property	Residence	AG	AG-20
North	Orchard, residences	AG	AG-20
East	Orchard	AG	AG-20
South	Orchard	AG	AG-20
West	Ag. building, residence, orchard	AG	AG-20

C. Previous Planning Commission Actions/Policies:

In 1976, the Planning Commission approved Tentative Parcel Map #247 which created the subject one acre parcel.

In 1995, the Planning Commission approved Variance #95-08, which allowed construction of a garage to attach the existing residence to an existing detached shop/garage that is located on the side property line, resulting in a 0 foot side yard setback. Staff had recommended denial of the variance. The applicants of this previous variance application were the same as the applicants of the current application.

Staff Comments

A. Environmental Health (EH):

No comments.

B. Public Works (PW)

No comments.

C. Building Inspection (B)

If approved, Building will require that fence plans including foundation design for the posts be submitted by a California licensed engineer.

D. Yuba City Fire Department (YCFD)

No comments.

E. Planning (P):

Section 1500-8412 of the Zoning Code specifies the standards that must be met in order to grant a variance, which are as follows:

1. That special circumstances apply to the property, including size, shape, topography, location or surroundings;

The applicant provided the following information in support of this finding:

The property contains the unique Victorian Dahling house situated in a 1 acre garden surrounded by orchards. A few years ago it was extensively restored, by us into its current pristine condition. We have expanded the garden area of the property and intend to finish it as part of this project. Under our ownership, the property has been used for numerous events, including garden events. The appearance of the fence is out of keeping with the rest of the house.

Staff Comment: In order for this finding to be met, a special “physical” circumstance with regard to the property’s size, shape, topography, location, or surroundings must be demonstrated. As stated previously, the parcel was created by a parcel map in 1976. The subject parcel is rectangular in shape, has relatively flat topography, is located along a County maintained road surrounded by parcels developed with agricultural uses, and is similar in size to many “homesite” parcels created in agricultural areas throughout the County. Based on these factors, staff does not believe any special circumstances related to the physical condition of the property exist. The information provided by the applicant focuses on the historical and restored condition of the residence. While staff acknowledges the attractive appearance of the restored residence, these reasons are not relative to the finding.

2. & 3. That the strict application of the Zoning Ordinance deprives the property of privileges enjoyed by other property in the vicinity and under identical zoning classification; and that the granting of the variance will not constitute a grant of special privileges inconsistent with the limitations upon other properties in the vicinity and district in which the property is located.

The applicant stated the following with regard to these findings:

N/A. The house is isolated in farm/orchard area.

Staff Comment: The requirement for a maximum six foot high fence will not deprive the property of privileges enjoyed by other property under identical zoning. The six foot height fence requirement applies to all zoning districts within the County. There are other “homesite” parcels in the vicinity of the subject parcel that are under the same requirement as the applicant. Granting of the variance would constitute a special privilege over other parcels in the vicinity of the applicant’s property. Approval of the variance would also set a precedent for approvals of

future requests for “homesite” parcels that are bordered by large, agricultural parcels. Staff therefore does not believe that these findings are met.

4. That the variance from the strict interpretation of this code represents the minimum deviation possible to enable reasonable development of the property.

The applicant noted the following with regard to this finding:

A 10’ height fence is needed:

1. For privacy and security. Currently a dirt road immediately on the other side of the fence is used by farmers riding tractors. Since the 6’ fence is shoulder height to them, they observe our children playing in the backyard, and watch us on the back porch, which because of the raised position of the house is clearly visible. We spend much time there in warm months. Also, they can easily see into the house.
2. There are currently many gaps in the fence which have allowed predatory animals to enter, including a pit bull and fighting rooster. We have lost most of our pets due to this. The height must assure these predators are kept out. Our (peaceful) rooster was almost killed this week. A coyote has been seen in the area.
3. A friend was robbed while parked outside our house. Because the house is large and well-known, it is a greater potential target for thieves.
4. Dust – Due to the dirt road immediately behind the fence, the farm machinery billows clouds of dust onto the back of the house, requiring the back porch to be hosed off twice a day, in season, to be useable. The fence company predicts the angle of dust spread will be less toward the house with a higher fence.
5. Appearance – A higher fence will be more in proportion with the house. It will be designed with the Italianate Victorian style of the house in mind. It will be stronger to support vines and resist wind.

Staff Comment: The applicant’s request for a ten foot high fence is four feet higher than the six foot maximum permitted by the Zoning Code. Staff does not believe this is the minimum deviation possible from the code to enable reasonable development of the property. With regard to the applicant’s #1-#5 items above, staff provides the following:

1. *The subject parcel is a homesite parcel located within an agricultural area. Typical farming operations, including farmers or agricultural workers on tractors, are to be expected. The adjacent parcel to the south, east, and west is not higher than the subject parcel, nor is it developed with a two story residence near the applicant’s rear property line which would allow persons to more easily look down into the applicant’s yard. Staff recognizes the fact that a person driving a tractor would likely be able to look over the applicant’s back fence. As stated previously, however, tractor operations are a typical*

farming task that occurs in an agricultural area. Staff believes that the planting of fast growing trees and/or shrubs along the rear property line would provide the applicant with additional privacy without the need for the variance in fence height.

2. *Staff believes that a new, solid six foot fence would be sufficient to keep neighboring animals out of the applicant's yard.*
3. *Staff does not believe that these statements are relative to this finding.*
4. *Due to farming operations, dust is an expected consequence of living in an agricultural area.*
5. *The Zoning Code considers a six foot high fence to be appropriate in scale to all residences, regardless of their size and height. Staff believes that a ten foot fence would appear out of character with the six foot fencing that is proposed to remain along the front 2/3 portion of the side property lines*

Conclusion

Staff does not believe the required variance findings are met and therefore recommends denial of Variance #03-03.

Recommended Findings

Based on the information contained in the agenda report and /or testimony received at the public hearing, the Commission finds:

- A. In accordance with the California Environmental Quality Act (CEQA), this project is categorically exempt pursuant to CEQA Guidelines, Section 15303, New Construction or Conversion of Small Structures.
- B. A special circumstance applicable to the property, including size, shape, topography, location or surroundings, has not been presented which warrants approval of the variance. The subject parcel is rectangular in shape, has relatively flat topography, is located along a County maintained road surrounded by a parcel developed with agricultural uses, and is similar in size to typical "homesite" parcels created in agricultural areas throughout the County.
- C. The strict application of the Zoning Ordinance does not deprive the applicant of the privileges enjoyed by other property in the vicinity and under identical zoning classification. The granting of the variance will constitute a grant of special privileges

inconsistent with the limitations upon other properties in the vicinity and district in which the property is located.

- D. The variance does not represent the minimum deviation possible to enable reasonable development of the property.

Recommended Action

Make the findings listed above and deny Variance #03-03.

Sincerely,

LISA WILSON
INTERIM PLANNING DIVISION CHIEF

Steve Geiger
Associate Planner

Attachments: Exhibit A - Study Sketch
Exhibit B - Site Plan
Exhibit C - Photos of property
Exhibit D - Elevation of proposed fencing

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