

PLANNING COMMISSION RESOLUTION 2025-XX

**A RESOLUTION OF THE PLANNING COMMISSION OF THE CITY OF HOLLISTER DENYING APPEAL 2025-1, AFFIRMING THE DETERMINATION OF STAFF, AND DIRECTING THE APPLICANT TO REVISE THE FENCE EXTENSION APPLICATION FOR LOT 91 (1981 CARRIAGE ROAD) TO DEMONSTRATE THE LOCATION OF THE STREET SIDE FENCE TO BE NO CLOSER THAN 10 FEET FROM THE WEST-MOST PROPERTY LINE
(ALAN LEON)
APN 052-390-0200**

WHEREAS, on September 25, 2024, The City of Hollister Code Enforcement Department identified a violation of City Municipal Code Chapter 17.16.050 for property located at 1381 Carriage Road. Code Enforcement followed up with the City of Hollister Engineering Division and identified no fence extension permits were approved for the site. Under Code Enforcement Compliance Order (24-2522), the applicant was instructed to submit a fence extension application as a corrective action, on or before October 25, 2024, to rectify the unpermitted fence extension; and

WHEREAS, on October 17, 2024, the property owner, Alan Leon, submitted a fence extension application (24-09) package to the Engineering Division. The submitted application requested for the legalization of the non-conforming street side fence fronting North Gonzalez Drive that was extended 10 feet into the Public Utility Easement unpermitted; and

WHEREAS, on October 28, 2024, the City of Hollister Engineering Division reiterated to the property owner that the extended fence was in violation of City's Municipal Code Section 17.16.050, which indicates fence extensions must adhere to the required setbacks for the Medium Density Residential/Performance Overlay (R3/PZ) Zoning District. The required setback for the property located at 1381 Carriage Road (APN 052-390-0200) is 10 feet fronting North Gonzales Drive and 15 feet fronting Carriage Road; and

WHEREAS, the applicant was informed they would need to revise their fence extension application (24-09) to relocate the unpermitted fence to be outside of the 10-foot Public Utility Easement (P.U.E.); the home was built in 2021 and had a side yard fence that abutted to the S/W corner of the home. The 1381 Carriage Road Plot Plan from when the home was built depicts the 10-foot P.U.E. on the property and no side yard thus complying with the required 10-foot setback. Thereafter, Mr. Leon conveyed to City staff the need to seek legal advice from an attorney; and

WHEREAS, on January 10, 2025, The City of Hollister attorney's, Jennifer P. Thompson and Mary Lerner, met with Mr. Leon's attorney, Jason Retterer, regarding Engineering's decision based on the City's Municipal Code. During this meeting the applicant's counsel requested an exception from the City Engineer relying on clause from City Municipal Code Table 17.16-1 which indicates, "An exception to allow a fence height up to six feet in the ten-foot setback on the street side of a corner lot may be allowed with an administrative approval from the City Engineer which does not create a safety hazard and is consistent with easements and rights-of-way."; and

WHEREAS, the City Engineer, Mark Falgout, was unable to grant an exception to this case as the P.U.E. within Lot 91 in Tract 341 is 10 feet. Granting an exception to the 10-foot setback would not be consistent with the established easement, hence proving the City Engineer's inability to provide the exception, and affirming that the clause from Municipal Code Table 17.16-1 is unapplicable; and

WHEREAS, on January 15, 2025, Mr. Leon was provided with a letter from the City Engineer indicating the inability to provide an exception through the administrative approval process. The letter to Mr. Leon provided instructions on how to proceed with requesting an appeal process as shown in Section 17.24.140 of the City's Municipal Code; and

WHEREAS, on January 29, 2025, in accordance with Section 17.24.140 *Appeals* of the Hollister Municipal Code, the Applicant filed a timely appeal of the City Engineer's determination with the Planning Division to request the Planning Commission overturn the determination and legalize the already extended street side fence 9.5-feet into a 10 foot Public Utility Easement; and

WHEREAS, in accordance with the procedures established in Section 17.24.140 of the Hollister Municipal Code, a staff report was prepared and presented to the Planning Commission; and

WHEREAS, the Planning Commission held a duly noticed public hearing on March 27, 2025, to consider the Applicant's request, review the City staff report, and receive written and oral testimony for and against the appeal; and

WHEREAS, after closing the public hearing, the Planning Commission deliberated and determined to deny the appeal in accordance with Section 17.24.140, and affirm the City Engineer's determination that the placement of a six-foot residential fence on the west-most property line of Lot 91 of the Mirabella II Subdivision within the P.U.E., and within the 10-foot street side setback, is inconsistent with the requirements of Section 17.16.050 of the Hollister Municipal Code and the adopted Engineering Design Standards.

NOW THEREFORE BE IT RESOLVED that the Planning Commission of the City of Hollister does hereby deny Appeal 2025-1, and affirm staff's determination regarding the placement of the fencing based on the following findings:

1. Pursuant to the plot plan for Lot 91 (1381 Carriage Road) of the Mirabella II Subdivision (Tract 341), the lot has a dedicated 10-foot Public Utility Easement located on the west-most property line (along North Gonzalez Drive). The City's residential fence guidelines were established based on the Municipal Code to protect Public Utility Easement in residential subdivisions. Public Utility Easements are an essential part of the development and were established to provide Utility providers access to maintain and expand their systems as regulated by the California Public Utility Commission (CPUC).
2. Pursuant to Section 17.16.050 of the Hollister Municipal Code, fences greater than 3 feet in height that are proposed to be placed within the 10-foot setback on a street side yard must first be approved by the Engineering Division to ensure that they are not in conflict with any easements, nor would they create any public safety hazards.
3. The Applicant has been made aware that the street side fence for Lot 91 of the Mirabella II subdivision must be in compliance with the Municipal Code, and the fence extension application (24-09) must be revised to reflect the requirements of the Municipal Code and Engineering Design Standards to satisfy the code compliance case (24-2522).
4. The Applicant has requested an exemption to legalize the street side fence at 1381 Carriage Road relying on the clause from Section 17.16.1 of The City's Municipal Code. The non-compliant street side fence also encompasses a concrete pony/retaining wall and outdoor bar shed along the west-most property line, which upon review of the P.U.E. has been determined to present a safety hazard and conflicts with the established 10 foot easement.

5. In accordance with Section 17.16.050 of the Hollister Municipal Code, an exception for the location of street side fences within the 10-foot street side setback may be approved by the Engineering Division, however, it has been determined that an exception from the City Engineer cannot be provided given the request to legalize the nonconforming fence is not consistent with the easements. Relocating the unpermitted street side fence out of the P.U.E as shown in the 1381 Carriage Road plot plan would eliminate conflicts with the easement and would provide utility providers with access to maintain and expand their systems as regulated by the CPUC.

BE IT FURTHER RESOLVED, that the Planning Commission directs the Applicant to revise their fence extension application (24-09) for Lot 91 of the Mirabella II Subdivision to address the comments provided by the City, and to demonstrate the location of the street side fence to be no closer than 10 feet from the west-most property line in order to rectify code compliance case (24-2522).

PASSED AND ADOPTED, at a special meeting of the City of Hollister Planning Commission held on March 27, 2025, by the following vote:

AYES:
NOES:
ABSTAIN:
ABSENT:

Chairperson of the Planning Commission
of the City of Hollister

ATTEST:

Eva Kelly, Secretary