



April 23, 2025

**Via E-Mail**

Chair Torres De Luna and Members of the Planning Commission  
City of Hollister, City Hall  
375 Fifth St.  
Hollister, CA 95023

**RE: Alan Leon Appeal of Denial of Fence Extension Permit (1381 Carriage Road)**

Dear Chair Torres De Luna and Planning Commissioners:

Our firm represents the appellant, Alan Leon (“Leon”), relating to his appeal of the Director of Public Works’ denial of Leon’s fence encroachment permit application. For the reasons set forth in the appeal that Leon filed, and the reasons set forth below, we respectfully request that the Commission grant Leon’s appeal.

When Leon purchased and took title to his corner lot in Mirabella II subdivision, the side yard fence that the home builder constructed between the house and Gonzalez Drive was already installed within the 10-foot-wide public utility easement (“PUE”) area. As you can see from Figure 2 in the Staff Report, the edge of the 10-foot-wide PUE is less than one inch (0.94 inches) from the corner of the house. However, the builder did not install the original fence in accordance with the plot plan shown in Figure 2. Had the Developer installed a fence outside of the 10-foot-wide PUE, the fence would have literally touched the corner of the house making it impossible for an owner to access the rear portion of the property from the side yard of the lot. Leon would not have paid a premium for this corner lot had a fence been installed outside of the 10-foot PUE. Presumably, during the final inspection of the lot, the City would have observed the fence within the PUE and had there been an issue with its location within the PUE, the City would have required the fence to be relocated outside of the PUE.

The Staff Report states that the fence extension must adhere to the required setbacks for the underlying zoning district. However, and as noted in the appeal, the City is authorized and empowered to grant exceptions. Rather than repeating the criteria for approving an exception, we refer the Commission to the Leon appeal.

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The City's primary concern with allowing the fence to remain within the PUE area is the possibility that the fence will obstruct or interfere with the installation of future utilities within this subdivision. However, it seems highly doubtful that future utilities will be installed in the PUE considering that the City and utility providers have already installed the utilities that serve this subdivision within the public right of way. Water, sewer, power, cable, telephone and all other utilities have been installed, and none have been installed within the PUE impacting the Leon property. Accordingly, the Planning Commission can find that allowing the fence encroachment "would be consistent with easement and rights-of-way" because this PUE is not being used, nor does it appear it will ever be used based on the current location of utility lines serving this subdivision.

Nonetheless and to address an unlikely scenario that the City or utility provider would need to install additional utilities within the PUE, Leon would accept a condition of approval that would require Leon to remove all or a portion of the fence at Leon's own cost and expense if a utility provider determined that the removal was necessary to install and maintain future utilities. Leon proposes the following condition of approval for the Planning Commission's consideration:

If the City or a utility needs to perform work within the PUE, neither the City nor utility company is responsible for replacing or repairing any portion of the fence that encroached into the easement. Leon would be responsible for the cost and expense to remove any portion of the fence that the City or utility provider determines must be removed to install, repair any utility within the PUE.

Finally, the people who are most affected by this fence extension are the Leon's immediate neighbors and other homeowners in this neighborhood. None of Leon's neighbors or other homeowners have objected to this fence. As the Commission can see from the photos of attached to the appeal, Leon's fence hardly creates an eyesore in this neighborhood and is a significant improvement over many of the fences and walls that have been installed in this neighborhood, including fences and walls that have also been extended into the PUE and are close to the sidewalk. As Leon points out in his appeal, there are many fences and walls within this neighborhood that encroach into the setback and PUE areas.

Leon reasonably believed that there was no restriction on his ability to extend his fence an additional 5.5 feet toward the sidewalk to increase the usability of his side yard based on an unused and abandoned PUE with no active utilities. Regrettably, he did not realize he needed a permit to extend the fence beyond the builder's original location or he would have submitted for the permit prior to spending \$20,000 +/- to install the fence. We believe that the Planning Commission can make the required findings to allow Leon to maintain his fence in this location and would accept the proposed condition of approval described above. If the Planning

Commission denies Leon's appeal, Leon requests that the Planning Commission allow Leon to relocate the fence to the location of the original builder installed Fence, which extended 4.5 feet into the PUE. If Leon is required to move it entirely outside the PUE boundary, the fence would be less than one inch from the corner of the house, which is impractical and unworkable.

Respectfully Submitted,

JRG Attorneys at Law



Jason S. Retterer

cc: Alan Leon  
William Via, Public Works Director  
Marco Martinez, Associate Engineer