



**STATEMENT OF OFFICIAL ACTION
FINDINGS AND DETERMINATION OF THE
ZONING ADMINISTRATOR**

PROJECT INFORMATION	
Zoning Administrator Meeting: May 12, 2020	Agenda Item: 3-B
Permit: 19ENT-0415 (FENCE WALL HEDGE MODIFICATION)	
Address: 407 Hill Street	
Applicant: Patrick Price	
Property Owner: Marie-Elizabeth Mali	
Case Planner: Ivan Lai, Assistant Planner	
REQUEST:	The applicant requests approval of a height modification for a 5'-7 1/2" to 7'-6" high fence and wall along the front (south) parcel line, a 7'-6" high wall along the interior side (west) parcel line, and a 7'-11 3/4" green screen fence on the alley side (east) parcel line within the front yard setback. The subject property is located in the Ocean Park Low Density Residential (OP2) zoning district. Pursuant to Santa Monica Municipal Code (SMMC) Section 9.21.050(A)(1)(2), fences and walls cannot exceed a maximum height of 42" within the required front yard setback as measured from the lowest finished grade adjacent to either side of the fence, wall, or hedge. Pursuant to SMMC Section 9.04.050(D), in the cases of fences, walls, or hedges that are parallel to and within 5 feet of a public sidewalk, grade shall be the elevation of the closest point on the sidewalk. SMMC Section 9.43.080(B) allows an applicant to request a modification to these height limitations in the front, side, and rear setbacks.
CEQA STATUS:	Categorically exempt from the provisions of the California Environmental Quality Act (CEQA) pursuant to Section 15303, Class 3 of the State Implementation Guidelines in that the project involves the approval of hedges, fence, and an arbor entrance feature located in the front setback of a single-unit residential property.

PROPERTY INFORMATION	
Zoning District:	Ocean Park Low Density Residential (OP2)
Parcel Area (SF) / Dimensions:	3,500 SF / 50' x 70'
Rent Control Status:	N/A
Relevant Prior Permits:	07FWHR1479

ZONING ADMINISTRATOR ACTION	
PARTIALLY APPROVED based on findings and subject to conditions.	August 3, 2020

Effective Date Of Action If Not Appealed:	August 3, 2020
Expiration Date: <small>(2.5 years pursuant to SMMC 9.37.090 + 2 years pursuant to the Eighteenth Supplement to the Executive Order of the Director of Emergency Services Declaring the Existence of a Local Emergency adopted on May 29, 2020)</small>	February 3, 2025
Length Of Any Possible Extension:	One year

FENCE, WALL, HEDGE HEIGHT MODIFICATION – FINDINGS

- (a) The subject fence, wall, or hedge will be compatible with other similar structures in the neighborhood and is required to mitigate impacts from adjacent land uses, the subject property's proximity to public rights-of-way, or safety concerns. The 3'-7" to 3'-11" high wall along the front parcel line parallel to Hill Street within the front yard setback is necessary to create a landing and stairs from sidewalk grade to access the existing front door of the single-unit dwelling which is currently approximately 4' higher than the sidewalk grade – a common condition found on other parcels along both sides of Hill Street.

As conditioned, the proposed wall along the interior (west) side parcel line shall not exceed 7'-6" high, measured from lowest adjacent sidewalk grade, and shall comply with the Hazardous Visual Obstruction (HVO) standards as described in SMMC Section 9.21.180. Both the wall and fence will still allow visibility of the single-unit dwelling while providing screening and security for the subject property along Hill Street. The wall and fence will also provide an adequate safety barrier between the grade differential of the raised front landing and the lower adjacent parcel while allowing for some visibility into the home for a safer neighborhood and will be compatible with the neighborhood due to its perpendicular orientation from Hill Street.

However, the proposed modification to allow the fence/guardrail atop the landing along the front (south) parcel line as proposed is not required to mitigate impacts from adjacent land uses, the subject property's proximity to public rights-of-way, or safety concerns. Pursuant to SMMC Section 9.21.050(A)(1)(d), a guardrail may exceed the maximum height limit for a fence or wall, but only to the minimum extent required for safety by the Building Code, and safety guardrails must be at least 50 percent visually transparent above the fence or wall height limit. The proposed fence/guardrail atop the landing as proposed does not meet the visual transparent requirement but if redesigned could meet this standard and would thereby be allowed by code and not necessitate a height modification. The proposed modification to allow a 7'-11 3/4" green screen fence parallel to the alley side parcel line within the front yard setback is also not necessary to mitigate impacts from adjacent land uses, proximity to public rights-of-way, or safety concerns. A compliant 42"-high fence would provide sufficient means for security, and the applicant has not demonstrated that an over-height fence is necessary in this location to mitigate any impacts from adjacent land uses. Therefore, findings to approve a 7'-11 3/4" green screen fence cannot be made, and the proposed green screen fence shall not be permitted to exceed 42" in height pursuant to SMMC Section 9.21.050(A)(1)(2).

- (b) The granting of such modification will not be detrimental or injurious to the property or improvements in the general vicinity and district in which the property is located in that the 3'-7" to 3'-11" high wall along the front parcel line parallel to Hill Street within the front yard setback will not negatively impact the subject

property or the adjacent properties and is necessary to create a landing and stairs from sidewalk grade to access the existing front door of the single-unit dwelling which is currently approximately 4' higher than the sidewalk grade – a common condition found on other parcels along both sides of Hill Street. The proposed wall along the interior (west) side parcel line will also not be detrimental or injurious to the property or improvements in the general vicinity and district in which the property is located in that, as conditioned, the fence shall comply with the Hazardous Visual Obstruction (HVO) standards as described in SMMC Section 9.21.180 and will allow visibility of the single-unit dwelling while providing screening and security for the subject property along Hill Street.

However, the proposed modification to allow the fence/guardrail atop the landing along the front (south) parcel line and the proposed modification to allow a 7'-11 3/4" green screen fence parallel to the side parcel line within the front yard setback will be detrimental or injurious to the property or improvements in the general vicinity and district in which the property is located in that code-compliant fences in these locations will still provide the necessary safety and security for the subject site, and height modifications are unnecessary and unwarranted.

- (c) The modification will not impair the integrity and character of the neighborhood in which the fence, wall, or hedge is located. The proposed 3'-7" to 3'-11" high wall along the front parcel line parallel to Hill Street within the front yard setback is necessary to create a landing and stairs from sidewalk grade to access the existing front door of the single-unit dwelling which is currently approximately 4' higher than the sidewalk grade – a common condition found on other parcels along both sides of Hill Street. The proposed wall along the interior (west) side parcel line, as conditioned, will comply with the Hazardous Visual Obstruction (HVO) standards as described in SMMC Section 9.21.180 and will be compatible with the neighborhood due to its perpendicular orientation from Hill Street.

However, the proposed modification to allow the fence/guardrail atop the landing along the front (south) parcel line and the proposed modification to allow a 7'-11 3/4" green screen fence parallel to the side parcel line within the front yard setback would create new fence structures that are not necessary and would therefore be incompatible with the neighborhood as there are no other approved fence height modifications within this block of Hill Street.

CONDITIONS OF APPROVAL

Standard Conditions

1. This determination shall not become effective for a period of fourteen days from the determination date or, if appealed, until a final determination has been made on the appeal.

2. This approval applies only for the proposed wall and fence/guardrail within the front yard setback, as measured from the lowest adjacent sidewalk grade, along the front parcel line. Specifically, as conditioned, the determination allows for the following:

- A 3'-7" to 3'-11" high wall for the front landing within the front yard setback. The proposed fence/guardrail atop the landing is not approved as proposed and shall be redesigned to be at least 50 percent visually transparent along the front (south) parcel line;
- A 7'-6" high wall along the interior side (west) parcel line within the front yard setback.

Pursuant to SMMC Section 9.04.050(D), the height of any fence, wall, or hedge shall be measured from the lowest finished grade adjacent to either side of the fence, wall, or hedge. The height shall be measured in a continuum at each point along the fence, wall, or hedge. In the case of fences, walls, or hedges that are parallel to and within 5 feet of a public sidewalk or other public way, grade shall be the elevation of the closest point on the sidewalk or public way. Minor amendments to the plans shall be subject to approval by the Zoning Administrator.

The proposed modification to allow the fence/guardrail atop the landing along the front (south) parcel line is denied as proposed, but if it is redesigned to be at least 50 percent visually transparent, it may exceed the height limit only to the maximum extent required for safety by the Building Code. The proposed modification to allow a 7'-11 3/4" green screen fence on the alley side (east) parcel line within the front yard setback is also denied. The green screen fence shall not exceed a maximum height of 42" within the required front yard setback as measured from the lowest finished grade adjacent to either side of the fence.

3. Except for allowances granted by this entitlement, the applicant shall comply with all other applicable provisions of Article 9 of the Santa Monica Municipal Code and all other pertinent ordinances and General Plan policies of the City of Santa Monica.
4. This approval shall expire fifty-four (54) months from the effective date, unless, in the case of a new development, a building permit has been obtained, or in the case of a change of use, a business license has been issued and the use is in operation prior to the expiration date. This approval shall also expire if the building permit expires or if the rights granted under this approval are not exercised within one year of the earliest to occur of the following: issuance of a Certificate of Occupancy or, if no Certificate of Occupancy is required, the last required final inspection for new construction. Upon the written request from the applicant, prior to expiration, the Zoning Administrator may extend this period up to an additional twelve (12) months. Applicant is on notice that extensions may

not be granted if development standards, the development process, or other requirements relevant to the project have changed since project approval.

5. Applicant is advised that projects in the California Coastal Zone may need approval of the California Coastal Commission prior to issuance of any building permits by the City of Santa Monica. Applicant is responsible for obtaining any such permits.
6. As required by California Government Code Section 66020, the project applicant is hereby notified that the 90-day period has begun as of the date of the approval of this application, in which the applicant may protest any fees, dedications, reservations, or other exactions imposed by the City as part of the approval or as a condition of approval of this development. The fees, dedications, reservations, or other exactions are described in the approved plans, conditions of approval, and/or adopted city fee schedule.
7. Applicant shall defend, indemnify, and hold harmless the City and its boards, commissions, agents, officers, and employees (collectively, "City") from any claims, actions, or proceedings (individually referenced as "Claim" and collectively referenced as "Claims") against the City to attack, set aside, void, or annul, the approval of this Fence Wall Hedge Modification concerning the Applicant's proposed project, or any Claims brought against the City due to the acts or omissions in any connected to the Applicant's project. City shall promptly notify the applicant of any Claim and shall cooperate fully in the defense. Nothing contained in this paragraph prohibits the City from participating in the defense of any Claims, if both of the following occur: (1) The City bears its own attorney's fees and costs. (2) The City defends the action in good faith. Applicant shall not be required to pay or perform any settlement unless the settlement is approved by the Applicant. In the event any such action is commenced to attack, set aside, void or annul all, or any, provisions of any approvals granted for the Project, or is commenced for any other reason against the City for the act or omissions relating to the Applicant's project, within fourteen (14) days following notice of such action from the City, the Applicant shall file with the City a performance bond or irrevocable letter of credit, or other form of security satisfactory to the City ("the Security") in a form satisfactory to the City, and in the amount of \$100,000 to ensure applicant's performance of its defense, indemnity and hold harmless obligations to City. The Security amount shall not limit the Applicant's obligations to the City hereunder. The failure of the Applicant to provide the Security shall be deemed an express acknowledgment and agreement by the Applicant that the City shall have the authority and right, without consent of the Applicant, to revoke the approvals granted hereunder.

Special Conditions

- 8. The fence along the west side parcel line within the front yard setback shall be reconfigured or maintained to comply with the 5'-0" x 5'-0" Hazardous Visual Obstruction (HVO) standards as described in SMMC Section 9.21.180.

APPLICANT NOTICE

- This decision of the Zoning Administrator may be appealed to the Planning Commission during a 14-calendar day appeal period following the decision date. Such an appeal may be made by filing an official appeal form with the City Planning Division, 1685 Main Street, Room 212, Santa Monica, CA 90401, accompanied by the required filing fee.
- Commencement of operations on the premises under this exemption shall constitute Permit Holder's acknowledgement and acceptance: 1) of all conditions contained herein; and 2) that failure to comply with any and all conditions shall constitute grounds for potential revocation of the exemption approval.

Jing Yeo

Jing Yeo, AICP
Zoning Administrator

08.03.2020

Date