

**PLANNING COMMISSION
STAFF REPORT**

Date: December 7, 2023

To: Reno City Planning Commission

Subject: Staff Report (For Possible Action): Case No. LDC24-00018 (Sutherland Family Fence) -- A request has been made for a major deviation to increase the allowable front yard fence height from four feet to six feet. The ±0.64 acre parcel is located on the northwest side of Marsh Avenue ±425 feet southwest of its intersection with Saint Lawrence Avenue. The site is zoned Single-Family Residential 5 units per acre (SF-5) and has a Master Plan land use designation of Single-Family Neighborhood (SF).

From: Jeff Foster, Associate Planner

Ward #: 1

Case No.: LDC24-00018 (Sutherland Family Fence)

Applicant: Kerry Sutherland

APN: 011-241-18

Request: **Major Deviation:** To increase the allowable front yard fence height from four feet to six feet.

Location: See Case Maps (**Exhibit A**)

Proposed Motion: Based upon compliance with the applicable findings, I move to approve the major deviation, subject to the conditions listed in the staff report.

Summary: The project site (843 Marsh Avenue) is a ±0.64 acre parcel located on the northwest side of Marsh Avenue ±425 feet southwest of its intersection with Saint Lawrence Avenue. The applicant has requested a major deviation that would increase the allowable front yard fence height by 50%, thereby allowing a fence (wall) up to six feet in height. Key project issues include: 1) compatibility with surrounding uses and 2) public safety. These issues are mitigated through project design, code compliance, and/or conditions of approval. Staff recommends approval, subject to the conditions listed in this staff report.

Background: According to Assessor's records, the existing single-family home was built in 1946. Bishop Gorman bought it in 1947 and since then the home has been the northern Nevada residence

of the bishop and was owned by the Catholic Diocese of Nevada and then the Catholic Diocese of Reno until the current owners purchased it in 2017. The home is located in the Newlands Historic District and is listed as a contributing property on the National Register of Historic Places registration form for the district. This designation is honorary and does not change property rights, nor does it add restrictions for owners who may want to make changes to property within the district. The applicant is proposing to build a wall with varying heights between three feet six inches and five feet four inches with columns at approximately six feet eight inches in height, with a brick void pattern that provides visibility and connects to the historical significance of the property (**Exhibit B**). The height of the proposed wall is due to the topography and slope of the property. Marsh Avenue is at a substantially lower elevation than the front yard and home (**Exhibit C**). As a result, the applicant has indicated that building a four-foot wall would not provide the safety or security they desire, nor would it proportionally fit with the design, scale and slope of their property (see comparative elevations with different wall heights in **Exhibit D**).

Discussion: Per RMC 18.04.809(d)(2), walls or fences four feet or less in height may be erected in the required front yard area in any zone.¹ Per RMC 18.04.809(d)(3), a six-foot fence may be built on front yards not providing primary access with a minimum five-foot setback from the sidewalk or planned sidewalk. This code provision is not applicable for the proposed wall as the subject property has two front yards and the wall is proposed in the front yard providing primary access. As currently designed, the applicant is proposing a wall that exceeds the standard four feet by up to another foot and four inches, which is a deviation of $\pm 33\%$. The Planning Commission may approve or deny major deviations of no more than 50% from quantifiable development standards per RMC 18.08.802(b)(1). To reserve the potential to build a wall taller than five feet four inches, the applicant is requesting the full 50% deviation.

Analysis:

Compatibility with Surrounding Uses: Surrounding land uses include single-family residences. The zoning and land uses surrounding the site are summarized in the table below.

Adjacent Properties		
	Zoning	Use
North	SF-5	Single-family residential
East	SF-5	Single-family residential
South	SF-5	Single-family residential
West	MF-30	Single-family residential

¹ Per RMC 18.04.809(d)(5), in residential zoning districts, fence posts may extend up to two feet higher than the fence itself if the posts are at least six feet apart.

While most of the homes in the area do not have front yard fences or fences taller than four feet, the request is not unprecedented. A sampling of front yard fences and walls taller than four feet is shown in **Exhibit E** with an aerial showing the locations of these nearby homes. Since the property slopes up from the street, the top of the proposed wall is at approximately the same level as the grade at the front of the house. Instead of being located on the property line, the proposed wall is set back from the sidewalk. Given the above, the proposed wall appears to be generally consistent and compatible with surrounding uses. Days and hours of construction are restricted to lessen construction impacts on surrounding residences (**Condition 5**).

Public Safety: No concerns were received from the Reno Police Department or the Reno Fire Department regarding this request. Though not as much as a chain link or wrought iron fence, unlike a solid wall or fence, the proposed brick void pattern provides some visibility. With the location of the home on a straight street and the proposed wall set back ± 18 feet from the street and sidewalk, there is sufficient room for a full-length vehicle to fit between the wall and the street, so sight distance and vision triangles are not issues (**Condition 6**). Missing and out-of-compliance sidewalk panels on both sides of the northernmost driveway entrance present a safety hazard and are required to be replaced (**Condition 7**).

Master Plan Conformance: The subject site has a Master Plan land use designation of Single-Family Neighborhood (SF) and is located in a Central Neighborhood per the Structure Plan Framework of the Reno Master Plan. As proposed, and with the recommended conditions, the project is in conformance with the SF Master Plan land use designation and the following applicable Master Plan goals and policies:

- 2.2C: Historic and Cultural Resources
- 7.6D: Crime Prevention Through Environmental Design
- N-CN.4: Renovations and Additions

Public and Stakeholder Engagement: Comments from City divisions and partner agencies were received and incorporated into the analysis as applicable (**Exhibit F**). The applicant presented to the Ward 1 Neighborhood Advisory Board (NAB) meeting on November 13, 2023. One NAB member submitted a comment in opposition. A courtesy notice was sent out to surrounding property owners; six support comments, three opposition comments, and one comment in opposition if it affected their property (it does not) were received (**Exhibit G**). Any future comments will be forwarded to the Planning Commission as they are received.

Recommended Conditions of Approval: All conditions shall be met to the satisfaction of Development Services Department staff, unless otherwise noted.

1. The project shall comply with all applicable City codes, plans, reports, materials, etc., as submitted. In the event of a conflict between said plans, reports, materials and City codes, City codes in effect at the time the application is submitted shall prevail.
2. The owner or developer shall apply for a building permit for the entire project within 18 months of the date of approval of the major deviation application and maintain the validity of that permit, or the major deviation approval shall be null and void.
3. Prior to the issuance of any building permit associated with this project, the applicant shall attach a copy of the final approval letter. The approval letter shall accompany a narrative provided by the applicant that describes how the requested permit addresses each of the approved conditions of approval.
4. The applicant, developer, builder, property owner, or business proprietor, as applicable, shall continuously maintain a copy of this approval letter on the project site during the construction of the project. The project approval letter shall be posted or made readily available upon demand by City staff.
5. Hours of construction shall be limited to between the hours of 7:00 a.m. and 6:00 p.m., Monday through Friday, and between 8:00 a.m. and 6:00 p.m. on Saturday. There shall be no construction on Sundays. A note to this effect shall be placed on the title sheet of the building permit plans. A sign with the approved construction hours shall be posted on site for the full duration of construction activity.
6. Prior to issuance of the building (fence) permit, the applicant shall demonstrate that the proposed wall is set back a minimum of 18 feet from the face of curb and outside of the public right-of-way, subject to the approval of the Administrator.
7. Prior to approval of the building (fence) permit, the applicant shall replace all missing concrete sidewalk panels along the property frontage and replace/repair the existing concrete sidewalk panels that are out of compliance with the Public Works Design Manual and Construction Standard Details. The applicant shall obtain an encroachment and excavation permit from the City of Reno Public Works Department prior to construction.

Findings:

General Review Criteria and Considerations: The decision-making body shall review all development applications for compliance with the applicable general review criteria stated below.

- 1) Consistency with the Reno Master Plan. The proposed development shall be consistent with the Reno Master Plan. The decision-making authority:
 - a. Shall weigh competing plan goals, policies, and strategies; and
 - b. May approve and application that provides a public benefit even if the development is contrary to some of the foals, policies, or strategies in the Reno Master Plan.
- 2) Compliance with Title 18. The proposed development shall comply with all applicable standards in this Title, unless the standard is lawfully modified or varied. Compliance with these standards is applied at the level of detail required for the subject submittal.
- 3) Mitigates Traffic Impacts. The project mitigates traffic impacts based on applicable standards of the City of Reno and the Regional Transportation Commission.
- 4) Provides Safe Environment. The project provides a safe environment for pedestrians and people on bicycles.
- 5) Rational Phasing Plan. If the application involves phases, each phase of the proposed development contains all of the required streets, utilities, landscaping, open space, and other improvements that are required to serve or otherwise accompany the completed phases of the project, and shall not depend on subsequent phases for those improvements.

Major Deviation: In addition to meeting the criteria in Section 18.08.304(e), *Approval Criteria Applicable to all Applications*, the following findings shall be made prior to granting a major deviation:

- 1) Granting the major deviation will not significantly impact nearby property;
- 2) Project changes enabled by the major deviation enhance the overall design of the project, operations of the project or the public benefits resulting from the project;
- 3) Granting of the major deviation does not constitute a special privilege inconsistent with the limitations upon other properties in the vicinity and land use district in which the property is located; and
- 4) Granting the major deviation will not be materially detrimental to the public health, safety, or welfare.

Attachments:

Exhibit A. Case Maps

Exhibit B. Proposed Wall

Exhibit C. Photos

Exhibit D. Comparative Elevations

Exhibit E. Front Yard Fences/Walls

Exhibit F. Agency Comments

Exhibit G. NAB and Public Comments