



County of Monterey

Board of Supervisors
Chambers
168 W. Alisal St., 1st Floor
Salinas, CA 93901

Board Report

File #: ZA 20-032, **Version:** 1

PLN190255 - SMITH & RADER

Public hearing to consider Design Approval for minor additions to an existing single family dwelling and a solid wood fence ranging in height from four (4) to six (6) feet on the property lines (Llano Street and Second Street).

Project Location: 99 Second Street, Spreckels (Assessor's Parcel Number 177-061-003-000), Greater Salinas Area Plan

Proposed CEQA action: Categorically Exempt per Section 15303 of the CEQA Guidelines

RECOMMENDATION:

It is recommended that the Zoning Administrator adopt a resolution to:

- 1) Find the project exempt per CEQA Section 15303 consisting of construction of accessory (appurtenant) structures; and
- 2) Approve Design Approval (PLN190255) for a fence, modified from DA180340, as follows:
 - a. Front property line along Second Street. Max 4-foot tall open wood fence to be consistent with the Spreckels Design Guidelines.
 - b. Front property line along Llano Street. Max 4-foot tall solid wood fence.
 - c. Side yard property line starting 4 feet tall from the sidewalk back to the setback line (20 feet) or the nearest structure whichever is less, then max 6-foot tall solid wood fence.

The attached draft resolution includes findings and evidence for consideration (**Exhibit A**).

PROJECT INFORMATION:

Property Owner: Smith, Michael A and Rader, Rosana

APN: 177-061-003-000

Parcel Size: 0.173 acre (7,536 sq. ft)

Zoning: HDR/5.1-HR-D" High Density Residential/5.1 acres per unit-Historic Resource-Design Control District

Plan Area: Greater Salinas Area Plan

Flagged and Staked: No

SUMMARY:

In November 2018, staff approved a solid fence over-the-counter at a height of 6 feet along Llano Street and Second Street and the shared property line (DA180340). When construction of the fence began, a neighbor (Takashima) complained about the fence along the shared property line, expressing concern with the height blocking views for access (safety).

Staff determined, after further review, that the Design Approval for a 6-foot fence along Second and Llano Street was mistakenly issued, as the height and design of the fence was not consistent with the Design Guidelines for Spreckels. Staff worked with the applicant (Smith/Rader) in an attempt to redesign the fence to conform with Spreckels Design Guidelines. While the property is located in a Historic District, the structure is not historic and does not contribute to the historic nature of the HR district.

After further review or the redesigned fence staff determined that, as approved and built, the fence does not fully conform to the Spreckels Design Guidelines. However, the error was not discovered until construction of the fence began in early 2019. Once it was brought to the attention of the County, the owners were notified of the error, and the original Design Approval (DA) was rescinded on May 31, 2019, pending revised plans for a new fence height and design.

Applicants submitted revised plans on July 2, 2019. Staff recommended the applicants taper the fence down to 4 feet and back between the houses. Applicants lowered the fence along Llano and Second Street, but did not agree to change to a more open fence design (vs solid fence) or lower the fence along the shared property line. They referenced other solid fences found throughout the community, and photos of neighboring fences show a mixture of different heights and designs throughout the town.

It is unfortunate the applicants were originally given an erroneous approval of a six foot high fence. Applicants then agreed to reduce the two street facing fences to 3 and 4 feet in height respectively. Applicants made at least three revisions; however, the fence on the shared property line remains too high and staff finds that it detracts from the visual continuity of the neighborhood. Although, there are several fences within the town of Spreckels that are not consistent, they could have been built prior to 1999, built without permits or erroneously granted permits.

Ultimately, staff initiated PLN190255 for the new fence. After going back-and-forth on this matter, the abutting neighbor requested a public hearing contending that the fence, as constructed along the shared property line, directly impacts their access and that it is not consistent with the Spreckels Design Guidelines. The project was presented to the Spreckels Neighborhood Design Review Committee (SNDR) and Historic Resource Review Board (HRRB). SNDR stated the existing fence is not acceptable and should be removed immediately because it is not an open pattern and is too tall. HRRB had a split (3-2) vote with a majority supporting a design as recommended above.

If the applicant is allowed to retain the fence in its existing condition, that would entail:

- a. Front property line along Second Street. 3-foot tall solid wood fence with a gate.
- b. Front property line along Llano Street. 4-foot tall solid wood fence beginning at the corner of Second and Llano to the side property line.
- c. Side (shared) 1property line starting at the edge of sidewalk, 4 feet and tapering up before the edge of structures to a 6-foot tall solid wood fence.

DISCUSSION:

Michael Smith and Rosana Rader own a single family home on a corner lot in Spreckels. In November 2018, they submitted a Design Approval (DA) application for a fence and remodel with minor exterior changes to the residence (DA180340). Staff approved this application over-the-counter as submitted, including a solid wood fence up to 6 feet between properties and along Llano Street and reducing the height to 3 feet on Second Street (front).

Applicants started on the remodel first, then began construction of fence around May 2019. When construction of the fence began, the abutting neighbor called to complain. Staff investigated the complaint and generally found that fences are allowed up to a 6-foot height limit and can be constructed at the property line. However, the property is located in a Historic District and has an HR overlay.

The town of Spreckels has guidelines for fence designs due to its historic nature, where even the newest homes which were constructed in 2008 are subject to those regulations. Policy S-2.1 of the Design Guidelines of the town of Spreckels, states, “New fences in front yards should not exceed four feet in height and should generally be constructed of wood slats in an open work pattern”. It was determined the structure is not historic and does not contribute to the historic nature of the HR district. Although the property is not considered a contributing parcel in the Historic town of Spreckels, it is zoned Historic Resources (HR) and Design Control (D) Zoning Districts and therefore, is subject to the Spreckels Design Guidelines. The fencing shall be consistent with the neighborhood character and fencing design standards provided under the above-mentioned guidelines.

In addition, the property is zoned HDR/5.1-HR-D, High Density Residential, 5.1 units per acre, Historic Resources, Design Control District. Setbacks for structures in this zoning district include: Front-20 feet, Side-5 feet, and Rear-10 feet, with a 35-foot height limit. Although, the house faces Second Street, it is located on a corner lot at Llano and Second Street. According to Section 21.62.040.M of Monterey County Code, “In case of a lot abutting upon two or more streets, the main structure and accessory structures shall not be erected so as to encroach upon the front setback required on any of the streets.” After further review, staff determined that there are two front setbacks in this case and the 4-foot height limit would apply to both Llano Street and Second Street.

Staff finds that there are a variety of fences within the Spreckels community. Photos of neighboring fences show a mixture of different heights and designs throughout the town. There are 3-foot high white fences with open slats surrounding the newer housing development as part of the design to tie in with the historic district. However, there are also a number 6-foot high solid fences around town (including some masonry walls). Some are very old fences, however, there are newer fences that have recently been constructed but staff could not find permits for those. Staff finds that fencing in front yards is generally at three to four feet high along property lines extending back to the point the fence aligns with the houses, then goes up to six feet.

Staff contacted the applicants to consider revisions, while keeping in contact with the neighbor who registered the complaint. After several discussions with applicants and a few site visits, staff recommended applicants revise the fence design to be more consistent with Spreckels Design Guidelines. Staff recommended they reduce the height of the fence on the neighboring property line to 4 feet closest to the sidewalk. Applicant revised the fence but not to staff’s recommendation. Instead of remaining at four feet until it meets the houses, the applicants created a gradual height increase toward the houses, and then indicated they were not willing to revise the fence further.

The neighbor wasn’t satisfied citing their main concern is the side yard fence height between them and the applicant. Staff informed the neighbor that the original DA was an over-the-counter approval, so it could not be appealed. After considering all of the information, staff determined that the fence, was not consistent with Spreckels guidelines and development regulations as it was approved. As such, that part of the DA was rescinded; however, the fence was built per the approved DA.

Staff initiated PLN190255 for the new fence in order for the public to get notification. There were at least three revisions before agreement and PLN190255 was created. The neighbor contacted staff again once the fence was constructed, as he believed it was not done according to the agreement. Staff finds that side yard fence height between neighbors was not adhered to.

Because of the controversy over fence design, the DA application for the design of the revised fence was referred to the Spreckels Neighborhood Design Review Committee (SNDR) on August 21, 2019. The SNDR stated they did not receive their package. However, fence had already been installed so they were able to visit

the site to review the conditions. SNDR Committee members confirmed seeing the fence and opened the meeting to the public for comments. The applicants claimed they did not receive notification of the SNDR meeting and were not present. Staff confirmed that the plans were sent to the SNDR in a timely manner, and that no return-mail was received.

Members of the SNDR stated the existing fence is not acceptable and should be removed immediately because it is not an open pattern and is too tall. All members agreed to continue the matter in order to see a revised consistent fence plan and have the owners attend the meeting. Staff stated that the revised plans showed the fencing that was already installed. The applicants were not going to make any further changes. SNDR stated that they felt the fence did not meet the Spreckels Design guidelines, and stated that it go to Historic Resources Review Board (HRRB).

On September 3, 2019, before returning to the SNDR, staff met with Supervisor Lopez and the project applicants. The history of the fence was discussed based on the memo submitted to the SNDR Committee, along with the recommendations from the SNDR Committee meeting. At the meeting it was discussed that:

- The materials of the existing fence could possibly be considered consistent with the neighborhood character. There are several fences in the Spreckels neighborhood that have solid wood fencing and heights up to six feet at the property lines.
- One of the issues Mr. Takashima had was a line of sight hazard from an alleyway on the other side of his property. He claimed cars could not see the street because of the 6 foot side fence.

RMA-Code Compliance was asked to visit the site to determine if the side fencing posed a safety hazard for cars or pedestrians with regard to the alleyway. On September 10, 2019, it was determined by staff that the fence did not create safety hazard impacts for cars or pedestrians exiting the alleyway or at least no more than when cars are parked in the adjacent neighbor's driveway (Mr. Takashima).

Staff ultimately approved the Design Approval for the revised design of the fence (PLN190255), despite the fence design not being lowered along the shared property line and not being open construction. The Design Approval was approved administratively, and the neighbors within 100 feet of the property, received a pending approval notice in the mail, giving them an opportunity to appeal the Design Approval to the Zoning Administrator. Ultimately, the aggrieved neighbor (Mr. Takashima) submitted a timely "appeal" of this matter on September 30, 2019.

The item was not rescheduled for the Spreckels Neighborhood Design Review Committee based on this interpretation of consistency. Prior to setting the project before the Zoning Administrator, the project was referred to the Historic Resources Review Board (HRRB) for a recommendation. On December 12, 2019, HRRB offered the following comments:

- Design Guidelines were created in 1999; and created as a community effort to maintain the historicity of the town of Spreckels. All new additions apply to these guidelines.
- The house has been deemed a non-contributing structure; confirmed by historian.
- Parcel has two front setbacks. The height of the fence on the two fronts are consistent; however, the solid fencing on both fronts are not consistent.

HRRB voted 3 to 2 that the project be revised so the proposed fence facing Second Street and Llano Street be at a maximum 4 feet tall and have an open pattern design consistent with the Spreckels Design Guidelines Policy S-2.1. The side yard fence within the front yard setback facing Llano Avenue remain a solid fence but tapered down to 4 feet in height from the sidewalk back to the setback line (20 feet) or the nearest structure (whichever

is less) in order for the fence design to not detract from adjacent uses or the historic character of the District and to maintain the visual continuity of the existing streetscape. There was an original motion by the dissenting votes to recommend approval with a condition to amend the design of the front fence (Second Street) with an open work pattern, leave the four foot high solid fence along Llano Avenue, and reduce the side fence between the properties to four feet back to the edge of the houses. However, further discussions about being a corner lot pursuant to Section 21.62.040, the HRRB concluded that Llano Street was also a front setback and should have the open pattern design as well.

Between meetings with Spreckels NDR and the HRRB, and unavailability between applicants and neighbors, staff had a tentative date to go to hearing in March. Then COVID hit. The appellant, Mr. Takashima, has been understanding of the turn of events and getting this matter to hearing.

CEQA

California Environmental Quality Act Section 15303 consists of a Class 3 Categorical Exemption for new construction or conversion of small structures. Subsection “e” specifically lists accessory (appurtenant) structures including fences. Section 15300.2 CEQA Guidelines lists exceptions where an exemption may not apply: location, cumulative impact, significant effect, scenic highways, hazardous waste. Staff finds that there are no exceptions in this case based on the information provided in this report.

Prepared by: Elizabeth Gonzales, Supervising Planner, x5102

Reviewed by: Brandon Swanson, RMA Services Manager

Approved by: John M. Dugan, RMA Deputy Director of Land Use and Community
Development and Acting Chief of Planning

The following attachments are on file with the RMA:

Exhibit A - Draft Resolution, including:

- Conditions of Approval
- Site & Elevation Plans
- Color Samples for Project

Exhibit B - Vicinity Map

Exhibit C - SNDR (LUAC) Minutes

Exhibit D - HRRB Draft Resolution

Exhibit E - Correspondences

cc: Front Counter Copy; Elizabeth Gonzales, Supervising Planner, Brandon Swanson, RMA Planning Services Manager; Michael Smith and Rosana Rader, Owners; Eddie Takashima, neighboring owner; The Open Monterey Project (Molly Erickson); Land Watch (Executive Director); Project File PLN190255