

## **PLANNING COMMISSION AGENDA REPORT**

**SUBJECT:** 1425 SYDNEY STREET (APPL-0248-2025) - REVIEW OF AN APPEAL OF THE DECISION OF THE COMMUNITY DEVELOPMENT DIRECTOR TO APPROVE FENCE HEIGHT EXCEPTION APPLICATION FNCE-0686-2024, GRANTING EXCEPTIONS FROM HEIGHT STANDARDS FOR FENCES AND HEDGES IN SIDE YARD SETB

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**APPELLANTS:** Craig and Allison Brandum

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### **RECOMMENDATION**

Adopt the Draft Resolution denying the appeal and upholding the decision of the Community Development Director approving the Fence Height Exception application FNCE-0686-2024

### **1.0 COMMISSION'S PURVIEW**

As provided by [Zoning Regulations Section 17.126.040 \(A\)](#), the Commission will consider an appeal of the decision of the Community Development Director.

### **2.0 SUMMARY**

Lacey and Jake Minnick filed a Fence Height Exception application (FNCE-0686-2024) for Director's Action to grant an exception from the standards limiting the height of fences, walls, and hedges, to allow taller fencing and hedge height at 1425 Sydney Street (see Exception Statement and Project Plans, Attachments B and C). Applicable standards are set out in [Zoning Regulations Section 17.70.070](#), and consideration of exceptions from those standards is authorized by [Zoning Regulations Section 17.70.070 \(H\)](#). On March 24, 2025, the application was approved by the Community Development Director, based on findings of consistency with the intent of standards for fences, walls, and hedges (see Decision Letter, Attachment D).

On April 2, 2025, Craig and Allison Brandum, owners and residents of the property at 1475 Sydney Street, adjacent at the east of the subject site, appealed the Director's decision (see Appeal Form, Attachment E), and provided additional narrative discussion of the reasons for the appeal, by email (see Appellant Email Correspondence, Attachment F). This appeal is now before the Planning Commission.

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In the discussion, the appellants raise concern with the height of hedges planted within the east side setback of the property. The appellants discuss the potential for the neighbors' hedges to cast shadow onto the lower portion of the appellants' windows, to limit views and sunlight, as experienced from their property, and for the exception to negatively affect the value of their property. The appellants note window coverings as an alternate means of achieving privacy between the adjacent properties. The design and height of fencing in the west setback (between 1425 and 1411 Sydney), which were included in the applicant's exception request, are not discussed in the Appeal Form or correspondence provided with the appeal filing.

### 3.0 BACKGROUND

#### Site and Setting

The subject property is a residential parcel on the south side of Sydney Street, between Augusta Street and Johnson Avenue, in a Low Density Residential (R-1) Zone. It is developed with a single-family dwelling and detached garage. Adjoining properties are also developed with single-family dwellings.

#### Exception Request

As shown in Project Plans (Attachment C), the Fence Height Exception application concerned fencing along the property's two side boundaries: the west side setback, and the east side setback.



Figure 1: 1425 Sydney St.

West side setback. In the west side setback (between 1425 and 1411 Sydney), fencing is erected on top of a short retaining wall about one to two feet in height (see Detail B, Fence and Wall Elevations, Sheet L3 of Project Plans). The fence depicted ranges between five and seven feet in height, with the total combined height of the fencing and the retaining wall ranging between seven and nine feet. [Zoning Regulations Section 17.70.070 \(F\)\(3\)](#) provides that the height of fences located on retaining walls shall not exceed six feet (measured from the “uphill side”), and the total combined height of a fence and retaining wall (measured from the “downhill side”) shall not exceed nine feet.

An exception to this standard was requested, to allow the height of the fence to reach up to seven feet, exceeding the six-foot fence height limit by one foot. This exception was found to be appropriate because the total combined height of the wall and fence, measured from the “low side,” does not exceed nine feet, consistent with the intent of this standard. Staff notes that neither the height of fencing in this setback (the “west” setback), nor the exception granted for the height of this fence is the subject of this appeal.

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East side setback. In the east side setback (between 1425 Sydney and the appellants' property at 1475 Sydney), a wood fence six feet in height is depicted, installed in front of a short retaining wall (see Detail A, Fence and Wall Height Elevations, Sheet L3). Also depicted is an area of additional hedge height, extending three feet above the fence (as measured from the "downhill side"). Standards for the height of fences, walls, and hedges provide a six-foot maximum height for a fence, wall, or hedge in any interior side setback ([Zoning Regulations § Section 17.70.070 \(C\)\(4\)](#)), and this standard applies to the fencing and hedges that have been installed and planted within this setback.



Figure 2: East side setback between 1475 Sydney (left) and 1425 Sydney (right)

An exception to the standard six-foot height limit was requested here, to allow the height of the hedges to exceed the limit by about three feet (the height of the fence itself conforms to the six-foot limit). The taller hedge height is desired in order to provide additional screening primarily between a bedroom window of the neighboring property and the living and dining area window of the subject property. Enhanced screening is also desired between the neighbors' bathroom window and the appellants' rear yard area.

Where grade level differs between properties, on either side of a retaining wall, the height of a boundary fence will be taller as measured from the "downhill" side than it will be as measured from the "uphill" side. As noted above, standards for the height of fences, walls, and hedges provide that, where a fence is erected or replaced on top of a retaining wall within a setback, fence height is limited to six feet, measured from the "uphill side," and the total combined height of the fence and the wall may not exceed nine feet in height.

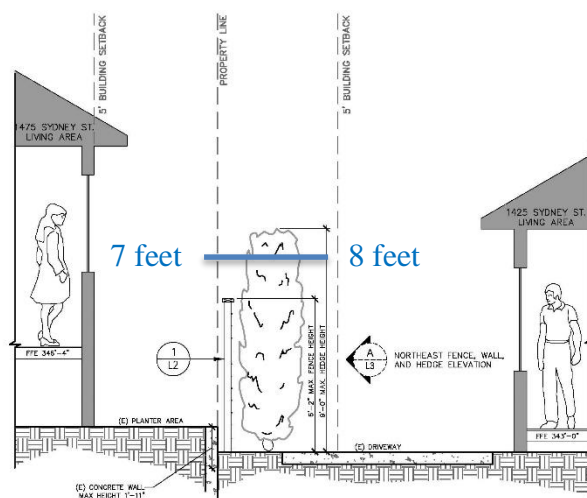


Figure 3: Living Area Sections; Perceived hedge height

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In support of their exception request, the applicants noted the difference in grade between adjacent properties, with the “uphill” property (1475 Sydney) situated about a foot higher in elevation and an unusually high floor height of the neighboring residence as factors that create an overlook situation impacting privacy between properties that could not be mitigated by fencing of standard height (see “Living Area Sections” on Sheet L2 of Project Plans, Attachment C, and Figures 2 and 3). Altering the form or position of windows is not considered to be feasible in this case, and it would be impractical to coordinate opening and closing various window coverings at appropriate times to provide enhanced privacy where needed between the properties.

The appellants contacted staff during review of the exception application to express concerns about loss of view and natural light on the side of their house, about limited opportunity for emergency egress to that side of the property, and about buildup of moisture and growth of mold in the planted areas adjacent to the boundary fencing. These concerns were taken into consideration by the Director, in reaching a decision on the application.

Director’s Action. On March 24, 2025, the Community Development Director approved the Fence Height Exception application, granting limited exceptions from the height standards set out in Zoning Regulations (see Decision Letter, Attachment D). At the west side, as requested, the exception approved allows the fence height to reach seven feet, with a combined fence and wall height not to exceed nine feet. At the east side, a maximum hedge height of nine feet was requested, but a height limit of only eight feet (as measured from the “downhill” side) was approved. Furthermore, the exception would allow additional hedge height only within a limited area of the setback, extending 40 feet from the front wall of the detached garage.

Figure 4 below depicts the boundary area between 1425 and 1475 Sydney, with the location of the bedroom and bathroom windows of 1475 Sydney and the living and dining area window of the subject property outlined in blue. Outlined in orange is the limited area (40 feet from the front of the 1425 Sydney garage) within which the exception for taller hedges was approved.

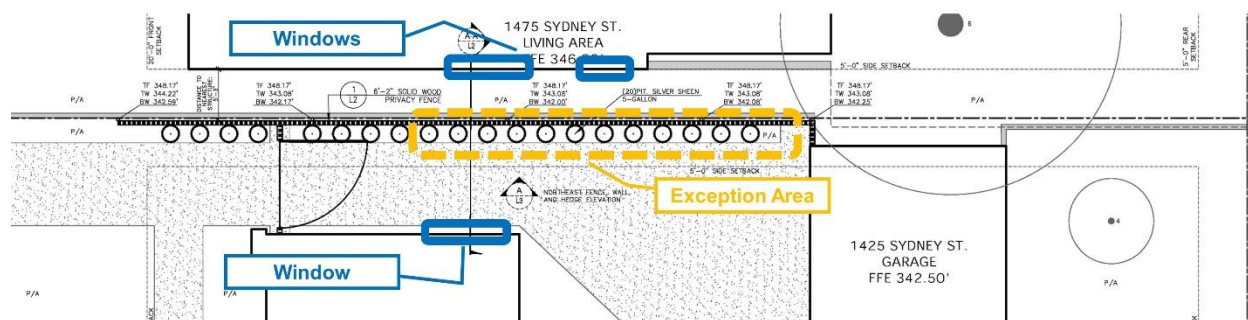


Figure 4: Site Plan showing limited exception area (orange) and window orientations (blue)



These limitations were imposed with the intent to balance the desire of the applicant for privacy against the provision of adequate light and air to the neighboring property. Hedges that are eight feet tall, measured from the downhill side, would be perceived as no more than seven feet tall from the neighboring property (see Figure 3, above), since that property sits about one foot higher (“uphill”). A vegetative screen, such as a hedge of this type, is dense enough to enhance privacy, but will provide filtered screening that, at the top of the plant, will still allow for partial passage of light and provide an aesthetically pleasing appearance, in contrast to the complete visual obstruction that would be presented by an artificial barrier, such as wood fencing. Limiting the extent of taller hedges is intended to focus the additional screening on the area between the private portions of each property, while maintaining solar exposure to the front half of the adjacent house wall unaffected (see Figure 5).

#### 4.0 APPEAL EVALUATION

The concerns raised in the Appeal Form filed by the appellant, and accompanying email correspondence (see Attachments E and F) focus on the effects of shade cast by the existing fencing and potential effects of shading from an additional foot of permitted hedge height (as experienced from their property), a decrease of natural light into their home, compromised views from the home, and the potential to reduce the value of the property due to those effects.

Setbacks help determine the pattern of building masses and open areas within neighborhoods, provide separation between combustible materials in neighboring buildings, and help provide landscape beauty, air circulation, views, and exposure to sunlight for both natural illumination and use of solar energy (see [Zoning Regulations § 17.70.170 \(A\)](#) (Setbacks-Purpose)). The appellants’ dwelling at 1475 Sydney is situated three feet from its western property line (adjacent to the subject property), which is two feet narrower than the current minimum (5-foot) side setback applicable to residential development in the R-1 Zone.



*Figure 5: Limited exception area (outlined in orange); majority of wall (i.e., in front of line) left unaffected*

Plant growth and soil condition. Privacy fencing at property boundaries is a common feature of residential development and shading of the setback area lying between fencing and adjacent building walls is unavoidable. This portion of a side setback is typically blocked from view of the street, offering little value for landscape beauty, and the viability of these areas for landscape plantings is inherently limited, given their shading and constrained width. The problems described by the appellants with respect to plant growth and soil conditions in this area are reported as conditions now existing, attributable to the location of this area immediately adjacent to boundary fencing. In staff's analysis, it isn't clear that the additional hedge height allowed under the Fence Height exception over limited portions of the fence line would significantly alter these existing conditions or hinder the appellant's use of this portion of their side setback for plantings that are suited for shaded locations.

Shade, natural light, and views. The appellants also raise concern with additional shading, decreased natural light, and compromised views that taller hedges might cause at the bedroom and bathroom windows on the southwest wall of their home. Staff notes that the hedge height allowed under the approved exception is eight feet from the "downhill side" (the subject property, at 1425 Sydney). Because of the differential in grade between the properties, the hedges, at that maximum height, would be perceived as seven feet in height from the appellants' property. The bedroom windows on this side of the home appear to be situated about 6 inches above the top of the fence line, indicating that hedges at the approved height may rise up to about 1 ½ feet above the bottom of the windows, as seen from inside the appellants' home.

Photos were provided in email correspondence from the appellant, visualizing with a tape measure the portion of views that may be occluded by the additional one foot of permitted hedge height that would be experienced from the appellants' property (see Attachment F, pp. 2-6). These show that the additional foot of hedge height would largely screen views of the backyard and deck area of the subject (applicants') property while preserving views of sky and vegetation beyond the property. Interference with natural light into these windows is likely to be minimal, occurring late in the afternoon when the sun has already dropped behind distant trees and rooflines of nearby structures. Furthermore, the upper portions of this species of hedge (*Pittosporum* "Silver Sheen"; see photo details in Attachment C, Sheet L2) present loosely-spaced branches and leaves, allowing for light and views through them, rather than a monolithic and opaque view screen.

Summary and recommended action. Given the circumstances discussed above, the decision of the Community Development Director to approve limited exceptions to height standards for fences, walls, and hedges represents a reasonable compromise that allows for adequate privacy between living and outdoor areas of adjacent properties while avoiding undue impacts to solar access and views, and in a manner consistent with the intent and purpose of the City's standards for fences, wall, hedges, and setbacks.

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Hedges at up to eight feet in height, as measured from the “downhill side” on the subject property, will be perceived from the neighboring property as seven feet in height, given the difference in grade between the properties. Such hedges will largely screen views into the backyard, living room, and dining room areas of the subject property while maintaining natural sunlight and wider views for the adjacent property. Restraining the height of hedges to six feet would serve no apparent purpose and would have no significant effect on the soil conditions, landscape viability, or types of plants or vegetation that would be appropriate for an area with limited direct sunlight in the adjacent side setback area of the appellants’ property.

As such, staff recommends that the Commission adopt a resolution denying the appeal and upholding the decision of the Director granting limited exception from standards for fences, walls, and hedges. A Draft Resolution for this purpose is provided as Attachment A to this report.

## **5.0 ENVIRONMENTAL REVIEW**

Consideration of an exception to fence and wall height standards is exempt from environmental review under the California Environmental Quality Act (CEQA) Guidelines Section 15303 (New construction or conversion of small structures).

## **6.0 ALTERNATIVES**

1. The Commission could decide to uphold the appeal and direct staff to prepare a resolution denying in part the Fence Height Exception application FNCE-0686-2024, regarding exceptions from standards for fences, walls, and hedges at 1425 Sydney Street, such that hedges in the east side setback of the subject property would remain subject to a six-foot height limit.
2. The Commission could continue consideration of the item to a future date, with relevant guidance to staff and the applicant. Continued consideration of the matter is unlikely to uncover additional considerations relevant to the action taken on the Fence Height Exception application that is the subject of this appeal.

## **7.0 ATTACHMENTS**

- A - Draft Planning Commission Resolution (APPL-0248-2025)
- B - Exception Statement (FNCE-0686-2024)
- C - Project Plans (FNCE-0686-2024)
- D - Decision Letter (FNCE-0686-2024)
- E - Appeal Form (APPL-0248-2025)
- F - Appellant Email Correspondence (Craig and Allison Brandum)