



## STAFF REPORT SAN CLEMENTE ZONING ADMINISTRATOR

Meeting Date: May 4, 2016

**PLANNER:** Christopher Wright, Associate Planner *cnw*

**SUBJECT:** Minor Exception Permit 16-052, Sutherland Fence, a request to consider a six-foot high wall within the front yard setback of a residence.

**LOCATION:** 420 Via Alegre

**ZONING/GP:** Zoning: Residential Low Density zone, Special Residential Overlay No. 12, and Coastal Zone Overlay (RL-12/CZ); General Plan: Residential Low Density and Coastal Zone Overlay (RL/CZ)

### **BACKGROUND:**

- The site is a 7,500 square foot interior lot in the Shorecliff's residential community. In 1976, a 1,823 square-foot, single-story residence was constructed.
- The applicant requests a Minor Exception Permit (MEP) to construct a six-foot high fence in the 20-foot front yard setback. The site is in Special Residential Overlay No. 12 where fences may have a maximum height of five feet by-right. The MEP is requested in response to a code enforcement case for constructing the fence without permits.
- Zoning Ordinance Section 17.24.90(C)(2) requires Zoning Administrator approval of a MEP to allow walls, fences, or shrubs in a front yard setback to be higher than five feet, up to a maximum of six feet.
- The fence has a wood frame with metal paneling. There is one-foot of decorative wood railing above five-foot high panels of corrugated, unfinished steel. Figure 1 below is an image of the fence.

### **Exhibit 1 – Image of fence**



- Staff's analysis of the proposed project has concluded that there is not justification to height requirements because:
  - The MEP is not requested or necessary for privacy reasons. The MEP allows a one-foot height increase for an open railing at the top of the fence that does not limit visibility of the front yard. Also, privacy may be provided by a five-foot fence and the sloped front yard that limit view of the front yard from the street.
  - The minor exception is not needed to prevent a health and safety issue, such as a pool or spa barrier required per the building code or to provide protection from vehicles between the home and street.
  - The minor exception does not improve the visual condition of the neighborhood for the reasons below.
- Staff does not support the MEP, as the project does not meet findings required for permit approval based on the following:
  - The six-foot fence is not in character with the immediate neighborhood. There are no six-foot high fences in the front yard of adjacent properties with common characteristics. These properties also have front yards that slope down to Via Alegre, and have street frontage that is curved and slopes downward from Via Arboleta to the cul-de-sac at the east end of Via Alegre street.
  - The increase in fence height a negative visual impact upon the street scene and adjacent properties. The fence is constructed at a higher grade than the sidewalk so the fence appears higher than the six feet proposed. This has massing impacts on the street scene and reduces visibility of the site.
- The public was notified of this hearing item as required by the Municipal Code. Staff received comments from one neighbor, provided as Attachment 6.

**RECOMMENDATION**

STAFF RECOMMENDS THAT the Zoning Administrator deny MEP 16-052, Sutherland Fence, subject to the attached Resolution.

**Attachments:**

1. Resolution ZA16-015
2. Location Map
3. Photographs of neighborhood with partially constructed fence
4. Photographs of neighborhood prior to fence construction
5. Applicant's correspondence
6. Public comment
7. Plans

# ATTACHMENT 1

## RESOLUTION NO. ZA 16-015

### A RESOLUTION OF THE ZONING ADMINISTRATOR OF THE CITY OF SAN CLEMENTE, CALIFORNIA, DENYING MINOR EXCEPTION PERMIT 16-052, SUTHERLAND FENCE; A REQUEST TO ALLOW A SIX-FOOT HIGH FENCE IN THE REQUIRED FRONT YARD SETBACK OF A SINGLE-FAMILY RESIDENCE LOCATED AT 402 VIA ALEGRE

**WHEREAS**, on February 3, 2016, a complete application was submitted by Daniel and Michele Sutherland, 420 Via Alegre, San Clemente, CA 92672, for Minor Exception Permit 16-052; a request to consider a height exception for a six-foot high fence in the required front yard setback of a single-family residence, where a five foot high fence is allowed. The subject site is located in the Residential Low Density zoning district, Coastal Overlay, and Special Residential Overlay No. 12 (RL/CZ/SR12) at 420 Via Alegre. The site's legal description is Lot 69 of Tract 4940 and Assessor's Parcel Number 691-031-01; and

**WHEREAS**, the City's Development Management Team reviewed the subject application on February 25, 2016, for consistency with the General Plan and compliance with the San Clemente Municipal Code; and

**WHEREAS**, the Planning Division completed an initial environmental assessment of the above matter in accordance with California Environmental Quality Act (CEQA) and determined this project is categorically exempt from CEQA as a Class 3 exemption pursuant to CEQA Guidelines Section 15303 because the project is construction of a minor structure accessory on a developed single-family residential site; and

**WHEREAS**, on May 4, 2016, the Zoning Administrator held a duly noticed public hearing on the subject application and considered evidence presented by the City staff, the applicant, and other interested parties.

**NOW THEREFORE**, the Zoning Administrator of the City of San Clemente hereby resolves as follows:

**Section 1:** This project is categorically exempt from CEQA as a Class 3 exemption per CEQA Guidelines Section 15303 because the project involves the construction of a minor accessory structure on a developed single-family residential site, and exceptions for Categorical Exemptions in CEQA Guidelines Section 15300.2 are inapplicable, given:

- A. The project is not located on a site that is environmentally sensitive so there are no impacts to environmental resources of hazardous or critical concern;
- B. The project is a minor accessory structure on a developed site with no cumulative, significant environmental impacts;

- C. There is not a reasonable possibility that the activity will have a significant effect on the environment due to unusual circumstances; and
- D. The project will not result in any damages to a scenic highway, since the site is not abutting or adjacent to a scenic highway; and
- E. The project will not occur on a site that is included on a hazardous waste site list; and
- F. The project site does not contain or abut designated historical resources.

**Section 3:** The Zoning Administrator of the City of San Clemente can not meet required findings for approval of MEP 16-052, for the reasons below.

- A. The neighboring properties will be adversely affected as a result of the conditional approval of the Minor Exception Permit in that the proposed fence is not in character with the neighborhood. There are no six-foot high fences in the front yard of adjacent properties with common characteristics. These properties also have front yards that slope down to Via Alegre, and have street frontage that is curved and slopes downward from Via Arboleta to the cul-de-sac at the east end of Via Alegre street.
- B. The height of the fence, wall or hedge will be unsightly or incompatible with the character of or uses in the neighborhood because:
  - 1. The minor exception is not in character with the neighborhood. The six-foot fence is not in character with the immediate neighborhood. There are no six-foot high fences in the front yard of adjacent properties with common characteristics. These properties also have front yards that slope down to Via Alegre, and have street frontage that is curved and slopes downward from Via Arboleta to the cul-de-sac at the east end of Via Alegre street.
  - 2. The minor exception has a negative visual impact upon the street scene and adjacent properties. The fence is constructed at a higher grade than the sidewalk so the fence appears higher than the six feet proposed. This has massing impacts on the street scene and reduces visibility of the site.
- C. The height of the fence, wall, or hedge will have negative visual impacts upon the street scene because:
  - 1. The minor exception is not in character with the neighborhood. The six-foot fence is not in character with the immediate neighborhood. There are no six-foot high fences in the front yard of adjacent properties with common characteristics. These properties also have front yards that slope down to Via Alegre, and have street frontage that is curved and slopes

downward from Via Arboleta to the cul-de-sac at the east end of Via Alegre street.

2. The minor exception has a negative visual impact upon the street scene and adjacent properties. The fence is constructed at a higher grade than the sidewalk so the fence appears higher than the six feet proposed. This has massing impacts on the street scene and reduces visibility of the site.

**Section 6:** The Zoning Administrator of the City of San Clemente hereby denies MEP 16-052, Sutherland Fence, subject to the above Findings.

**PASSED AND ADOPTED** at a regular meeting of the Zoning Administrator of the City of San Clemente on May 4, 2016.

SAN CLEMENTE ZONING ADMINISTRATOR

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James Pechous, City Planner



# LOCATION MAP

MEP 16-052  
Sutherland Fence  
420 Via Alegre



ATTACHMENT 3











PRE - FENCE



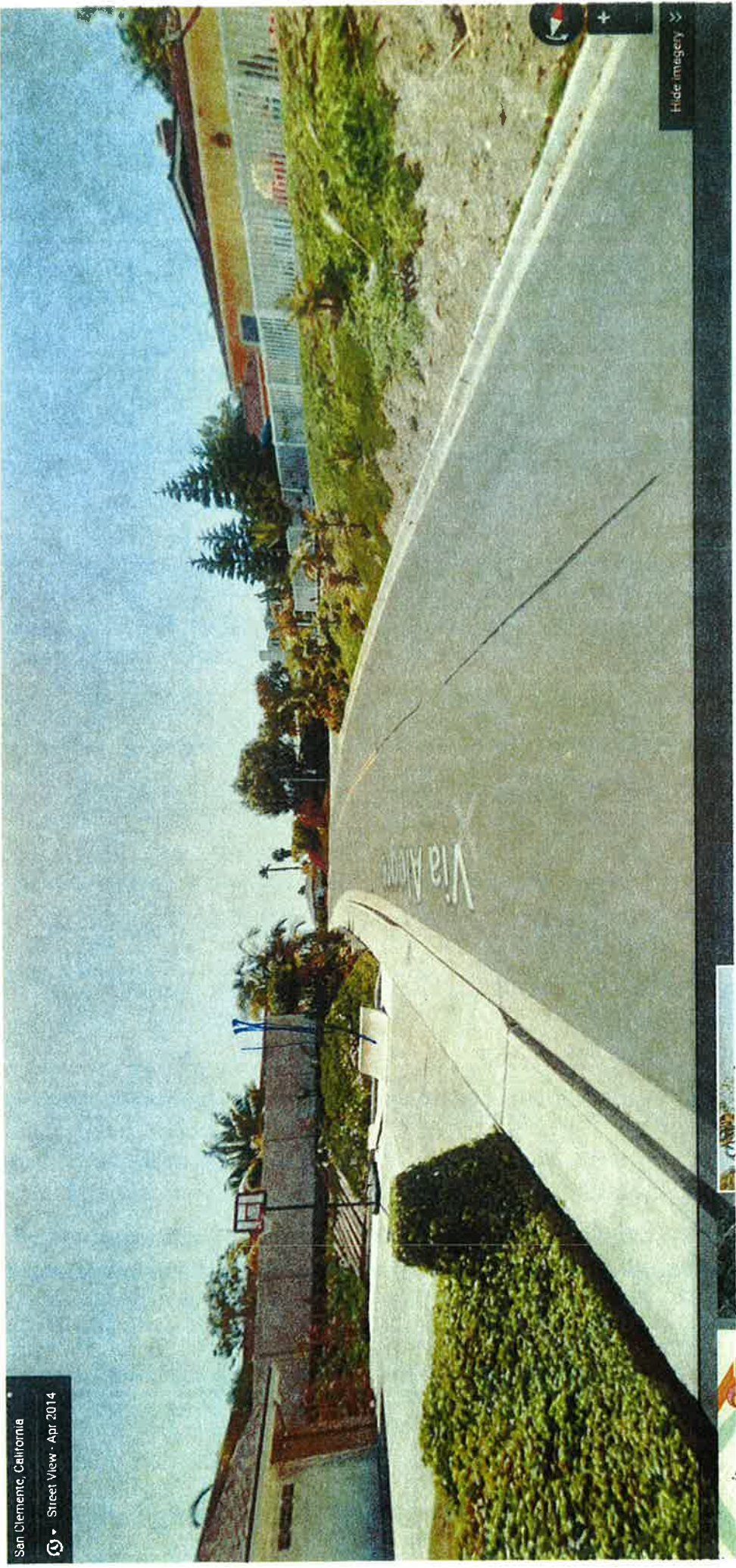
**Via Alegre**  
 San Clemente, California  
 Street View · Apr. 2014



pre-fence

San Clemente, California

Street View · Apr 2014



Hide imagery

+

Via Alegre  
San Clemente, California  
Street View - Apr. 2014



Add a photo

Google

420 Via Alegre  
San Clemente, CA 9272

February 1, 2016

City of San Clemente/Planning Division  
910 Calle Negocio, Suite 100  
San Clemente, Ca 92673

To whom it may concern:

We are hoping to create a courtyard in the front of our house. We bought the house two years ago and it has no fences. Therefore, we would like to add an enclosed, flat area in the front of our house like many in the Shorecliffs area enjoy. This courtyard would give us an area where our dog, cat and three children ages 13, 11 and 8 could experience greater privacy and safety. The enclosed area would help keep coyotes, rabbits and other varmints out. In addition, removing the lawn in the front will help us conserve the water we would normally use on a front lawn.

The fence is not out of character for the Shorecliffs area and I think it will improve the appearance of our house, especially with the added landscape we intend to add. However, we will infringe upon our 20 foot setback to build it. Therefore, we are requesting that the city planning department allow us a 9 foot special exemption.

Thank you for your consideration of this matter,



Dan Sutherland  
Homeowner

## ATTACHMENT 6

**From:** Clark Fielding  
**Sent:** Thursday, April 28, 2016 9:50 AM  
**To:** Wright, Christopher  
**Subject:** 420 Via Alegre - Minor Exception Permit 16-052 - Sutherland Fence

To Whom It May Concern,

I reside at and own 2703 Via Montezuma, San Clemente.

I am opposed to the industrial looking fence and skateboard halfpipe located in the front yard of 420 Via Alegre.

Aside from the height of the fence, the fence is architecturally out of character with the neighborhood, and the halfpipe should not be in the front yard.

The construction of the fence and halfpipe has been ongoing for many months, and the skating of the halfpipe is noisy.

I believe the fence and the halfpipe lower home values in the area.

I am not able to attend the hearing at 3:00 p.m. due to my work schedule in Newport Beach. As such, please note my objection in the file.

Should you have any questions or concerns, please contact me.

Sincerely,

Clark H. Fielding  
Senior Attorney