



AGENDA ITEM

ZONING ADMINISTRATOR

Item #: 2.1

8/10/2022

TO: Chris Cash, Zoning Administrator

THRU: Anna Pehoushek, Assistant Community Development Director

FROM: Vidal F. Márquez, Assistant Planner

1. SUBJECT

Public Hearing: Variance No. 2256-22 – Marina Landscape Inc., located at 3707 W. Garden Grove Boulevard

2. SUMMARY

The applicant requests approval to allow the installation of a wrought iron fence exceeding the maximum allowed height of 42 inches within the front yard setback area.

3. RECOMMENDED ACTION

Staff recommends approval of Variance No. 2256-22 subject to conditions of approval.

4. AUTHORIZATION GUIDELINES

Orange Municipal Code (OMC) 17.10.040 (D) authorize the Zoning Administrator to review and take action on applications concerning waivers of fence height requirements.

5. PUBLIC NOTICE

On July 29, 2022, the City sent a Public Hearing Notices to a total of 216 property owners/tenants within a 400-foot radius of the project site and persons specifically requesting notice. The project site has been posted at two locations with the notification on that same date.

6. ENVIRONMENTAL REVIEW

Statutory Exemption: The proposed project is statutorily exempt from the provisions of the California Environmental Quality Act per State CEQA Guidelines 15268(b), because CEQA does not apply to ministerial projects which a public agency issues a building permit. There is no environmental public review or notice required for a categorical exemption.

7. PROJECT BACKGROUND

<i>Applicant:</i>	Everfence Corporation on behalf of Marina Landscaping Inc.
<i>Property Owner</i>	Kornhauser Real Estate, LLC

<i>Property Location</i>	3707 W. Garden Grove Boulevard
<i>Existing General Plan</i>	Urban Mixed-Use (UMIX)
<i>Land Use Element Existing Zoning Classification</i>	Urban Mixed-Use (UMU)
<i>Old Towne</i>	Not Applicable
<i>Specific Plan/PC</i>	Not Applicable
<i>Site Size</i>	1.36 acres (approximately 59,503 square feet)
<i>Existing Conditions</i>	The site is a rectangular shaped property, located at the southwest intersection of Park Vine Street and West Garden Grove Boulevard. The property is currently developed with a two-story 11,934 square foot office building, 92 parking stalls and landscape planters. Existing public water facilities are identified in landscape planters.
<i>Surrounding Land Uses and Zoning</i>	Surrounding uses are Park City apartments zoned (R-4) to the west, duplex residences zoned Duplex Residential (R2-6) and, professional offices zoned Urban Mixed-Use (UMU) to the north and east and single-family residents in the City of Santa Ana to the south.
<i>Previous Applications/Entitlements</i>	None located.

8. PROJECT DESCRIPTION

The applicant requests to install a new six-foot wrought iron fence with three vehicular gates and pedestrian doors enclosing the perimeter of the property for the safety and accessibility of the facility's employees and visitors.

The project site is located in the southwest area of Orange and borders the cities of Santa Ana and Garden Grove, respectively. The site consists of a two-story professional office and parking lot with three vehicular access entrances. The primary entrance is off Garden Grove Boulevard, a four-lane Primary Arterial street, a secondary entry is off of Park Vine Street, a collector street and a third entry is to the east via a shared driveway with the adjacent 'Orange City Square' professional office property. The proposed fence and gates will be installed in existing landscape planters and drive aisles. The front yard area of the property is identified off Park Vine Street because the property line is the narrowest property line of the parcel. The UMU front yard setback standards indicate where the frontage of the block is partially within a residential district, the required front setback shall be the same as required for the residential district. In this case, the required front setback is twenty feet for the duplex residences zoned Duplex Residential (R2-6) to the north. Fences and walls are limited in height to 42 inches within the front yard setback. A portion of the proposed six-foot high wrought iron fence, approximately 96 linear feet, along Park Vine will be placed ten feet from the property line within an existing landscape planter. No other modifications are proposed to the building or site features.

9. APPLICATION(S) REQUESTED/REQUIRED FINDINGS

Variance: The applicant is requesting a Variance from Section 17.12.070.F.2 of the OMC to allow the construction of a fence exceeding the maximum allowed height of 42 inches within the front yard setback area.

Required Findings:

1. *Because of special circumstances applicable to subject property, including size, shape, topography, location or surroundings, the strict application of the zoning ordinance is found to deprive the subject property of privileges enjoyed by other properties in the vicinity and under identical zone classification.*
2. *The variance granted shall be subject to such conditions, which will assure that the authorized adjustment shall not constitute a grant of special privilege inconsistent with the limitations upon other properties in the vicinity and zone in which subject property is located.*

10. ANALYSIS AND STATEMENT OF THE ISSUES

Issue 1: Front Yard Setback

The installation of fences and walls are limited in height at 42 inches within the front yard setback in urban mixed-use zoning districts. Generally, the front yard setback is ten feet in the UMU zone, but when the frontage of a block is partially within a residential district, the front setback shall be the same as required for the residential district. The subject property frontage is a special circumstance because it abuts a residential duplex property to the north at 859-863 S. Park Vine Street. Therefore, the subject property's required front yard setback area will match the residential district with a 20-foot setback. This is a unique condition because most UMU properties do not share frontage with a residential district in the City. The applicant requests to install a taller portion of the perimeter fence, approximately 96 linear feet, ten feet from the property line in the front yard area due to safety and security of the parking lot and property (See Attachment 3 Applicant's Justification Letter). The applicant cannot place this section of the fence outside of the 20-foot setback or the fence will block existing parking stalls and drive aisles. In evaluating the request for the variance, staff finds that there are no impacts to adjacent neighboring properties due to the subject property's location and surroundings on an intersection and frontage with the residential district. The subject property is not able to install a fence past the 20-foot setback due to its frontage location and surroundings to the residential district and the strict application of the zoning ordinance would deprive the subject property of privileges enjoyed by other properties in the vicinity and under identical zone classification. Other UMU properties' front yards in the vicinity do not abut residential districts and are permitted to install fencing or walls to a height greater than 42-inches past a ten foot front yard setback. Also, the proposed fence creates a safety barrier between vehicle traffic on Garden Grove Boulevard and the fence type material does not create a conflict with existing walls or fencing types in the neighborhood.

The Variance is subject to standard conditions of approval to ensure that only the approved improvements are authorized. No special privileges are conferred in that granting of the Variance will confer no more rights to the subject property than exist for other properties in the vicinity. Other UMU properties have the right to install fences higher than 42 inches high past a ten-foot front yard setback area. Should this Variance be approved, the applicant may exceed the height of fencing as viewed

from the Park Vine Street right-of-way. Additionally, the property may now benefit from securing their site and limiting unauthorized access into their property.

Approval of this Variance would not result in creating a situation that will be detrimental to the public health, safety, and general welfare of persons residing near or working on the subject property, or in the vicinity. Staff believes that granting the requested Variance would allow for the subject property to receive the full use and enjoyment of their business without concern of unauthorized access onto the property and security. The installation of fencing under six feet in height does not require a building permit according to the Building Code, but Variance approval by the Zoning Administrator is required for the height in the front yard setback. Staff recommends that the Zoning Administrator approve the requested Variance with the following conditions and any additional conditions that he deems appropriate to impose.

11. ADVISORY BOARD RECOMMENDATIONS

The City's interdepartmental staff review committee (SRC) conducted a review of the project on August 11, 2021 and on March 9, 2022 recommended approval to the Zoning Administrator.

12. STAFF RECOMMENDATION AND CONDITIONS

Staff recommends approval of the project subject to the conditions listed below:

General:

1. All construction shall conform in substance and be maintained in general conformance with the project plans as approved by the Zoning Administrator.
2. Building permits shall be obtained for any construction work requiring permits, as required by the City of Orange, Department of Public Work's Building Services. Failure to obtain the required building permits will be cause for revocation of this approval.
3. The applicant agrees to indemnify, hold harmless, and defend the City, its officers, agents, and employees from any and all liability or claims that may be brought against the City arising out of its approval of this permit, save and except that caused by City's active negligence.
4. The applicant shall comply with all federal, state, and local laws, including all City regulations. Violation of any of those laws in connection with the use will be cause for revocation of this approval.
5. Variance No. 2256-22 shall become void if not vested within twenty-four months from the date of approval. Time extensions may be granted for up to one year, pursuant to OMC Section 17.08.060.
6. All structures shall comply with the requirements of Municipal Code – Chapter 15.52 Building Security Standards.
7. Plans submitted for Building Plan Review shall comply with the California Fire Code as amended by the City and as frequently amended and in effect at the time of application for Building Permit by the Orange Fire Department.

8. Key boxes and key switches (Knox devices) shall be provided as deemed necessary to ensure that immediate access for firefighting, rescue and other emergency purposes is possible. Contact Fire Prevention at (714) 288-2536.
 - a. At a minimum Knox devices shall be provided for the following locations:
 - i. Doors and pedestrian gates to other areas identified by the Fire Department.
 - ii. Vehicular gates on driver side approach.
9. The motorized gate on the west side of the building is required to provide full existing width clearance of 25 feet.
10. Prior to issuance of any building permits, show adequate spacing between the water main and the fence footings. Fence footings shall not be built on top of the water main.
11. The applicant shall furnish two keys, key cards, and/or remote operated keys to the Water Division for locked entrances in order to provide necessary access to public water system facilities within the locked area, unless otherwise approved by the Water Division.

13. ATTACHMENTS

Attachment 1 ZA Decision Letter

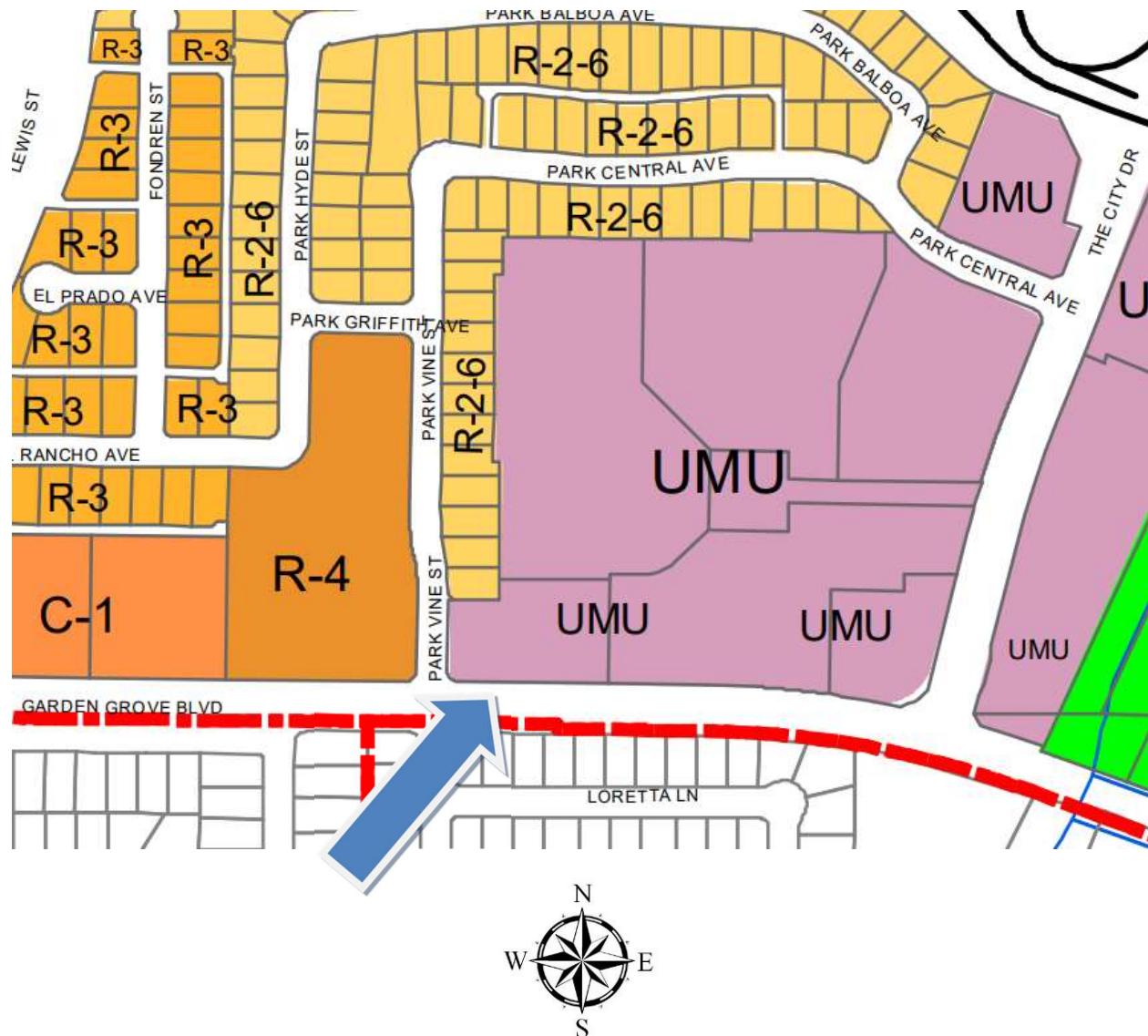
Attachment 2 Vicinity Map

Attachment 3 Applicant's Justification Letter

Attachment 4 Project Plans

Vicinity Map

3707 W. Garden Grove Boulevard
Variance No. 2256-22



CITY OF ORANGE
COMMUNITY DEVELOPMENT DEPARTMENT



CITY OF ORANGE

COMMUNITY DEVELOPMENT DEPARTMENT

www.cityoforange.org

ADMINISTRATION
(714) 744-7240
Fax: (714) 744-7222

PLANNING DIVISION
(714) 744-7220
Fax: (714) 744-7222

CODE ENFORCEMENT DIVISION
(714) 744-7244
Fax: (714) 744-7222

August 22, 2022

Everfence Corporation
Attn: Josh Myers
12309 Telegraph Road
Santa Fe Springs, CA 90670

RE: Variance No. 2256-22 – Marina Landscape Inc. fencing, located at 3707 W. Garden Grove Boulevard, APN: 231-261-11

Dear Mr. Myers,

Variance No. 2256-22 was referred to me as Zoning Administrator for review and appropriate action. You have requested approval of a Variance to allow the installation of a six-foot high wrought iron fence exceeding the maximum allowed height of 42 inches within the front yard setback area.

This letter serves as formal notice that your request was approved on August 10, 2022. The approval is based on the findings in the staff report, the plans submitted to the City and subject to the following Staff recommended conditions:

1. All construction shall conform in substance and be maintained in general conformance with the project plans as approved by the Zoning Administrator.
2. Building permits shall be obtained for any construction work requiring permits, as required by the City of Orange, Department of Public Work's Building Services. Failure to obtain the required building permits will be cause for revocation of this approval.
3. The applicant agrees to indemnify, hold harmless, and defend the City, its officers, agents, and employees from any and all liability or claims that may be brought against the City arising out of its approval of this permit, save and except that caused by City's active negligence.
4. The applicant shall comply with all federal, state, and local laws, including all City regulations. Violation of any of those laws in connection with the use will be cause for revocation of this approval.
5. All structures shall comply with the requirements of Municipal Code – Chapter 15.52 Building Security Standards.

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If you have any questions, please contact Vidal F. Márquez, Assistant Planner at (714) 744-7214.

Sincerely,

Chris Cash
Zoning Administrator