

**PLANNING COMMISSION  
STAFF REPORT**

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**Date:** February 5, 2020

**To:** Reno City Planning Commission

**Subject:** **6.3. Staff Report (For Possible Action): Case No. LDC20-00031 (Caliber Collision Electric Fence) - A request has been made for a variance to: 1) increase the allowable fence height from six to eight feet; and 2) construct a fence in the side and rear yards that is not located on lot lines. The ±0.80 acre site is located to the west of the intersection of Harvard Way and Yale Way within the Community Commercial (CC) zone. The site has a Master Plan land use designation of Suburban Mixed-Use (SMU).**

**From:** Sienna Reid, Senior Planner

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**Ward #:** 3

**Case No.:** LDC20-00031 (Caliber Collision Electric Fence)

**Applicant:** Electric Guard Dog, LLC

**APN:** 013-312-08

**Request:** A request has been made for a variance to: 1) increase the allowable fence height from six to eight feet; and 2) construct a fence in the side and rear yards that is not located on lot lines.

**Location:** The ±0.80 acre site is located to the west of the intersection of Harvard Way and Yale Way within the Community Commercial (CC) zone. The site has a Master Plan land use designation of Suburban Mixed-Use (SMU).

**Proposed Motion:** Based upon non-compliance with the applicable findings, I move to deny the variance as I am unable to make the following variance findings\_\_\_\_\_.

**Background:** The applicant is requesting a variance to allowed fence height and location for one ±0.80 acre parcel located to the west of the intersection of Harvard Way and Yale Way. To allow for the construction of an eight foot tall electrified fence that is located interior to existing perimeter fencing and walls, the applicant is requesting a variance to 1) increase the allowable fence height from six to eight feet, and 2) construct a fence in the side and rear yards that is not located on lot lines (**Exhibit A**).

As shown in the table below, land uses surrounding the site include an auto paint and body shop and fitness center to the east; vacant land to the south; and automobile and truck sales and auto

repair garages to the west and north. All properties surrounding the site have a Suburban Mixed-Use (SMU) Master Plan land use designation and are located in zoning districts that conform to the SMU Master Plan land use.

<b>AREA DESCRIPTION</b>			
	<b>LAND USE</b>	<b>MASTER PLAN DESIGNATION</b>	<b>ZONING</b>
<b>NORTH</b>	Automobile & Truck Sales, Auto Repair Garage	Suburban Mixed-Use	CC
<b>SOUTH</b>	Vacant land	Suburban Mixed-Use	MF30
<b>EAST</b>	Auto Paint and Body Shop, Fitness Center	Suburban Mixed-Use	CC
<b>WEST</b>	Automobile & Truck Sales, Auto Repair Garage	Suburban Mixed-Use	AC

**Analysis:** Per Reno Municipal Code (RMC), all variance findings (a) through (d) must be made in order to approve the request. Staff is unable to make variance finding (a). Should the Planning Commission approve the request, staff has prepared a list of recommended conditions, which are included at the end of the staff report. This staff report analyzes the project in relation to required variance findings.

**Finding a. The property is characterized by an extraordinary or exceptional situation or condition, such as exceptional narrowness, shallowness or shape, or it has exceptional topographic conditions at the time of enactment of the regulations;**

The ±0.80 acre property, for which the applicant has requested a variance, is a flat, quadrilateral parcel with no specific topographic constraints. The subject site has one front yard adjacent to Harvard Way, two side yards adjacent to the north and south property lines, and one rear yard adjacent to the west property line.

In the Community Commercial (CC) zoning district RMC 18.12.1401(a)(2) (General Standards for Fences and Walls) allows for the construction of walls or fences of six feet or less in height on lot lines except in the required front yard where fence height is limited to 4½ feet. While the required front yard is defined as the full width of a lot or site with a depth that is the distance between the front property line that abuts a street and the projection of a building or structure closest to the front property line, Administrative Interpretation No. ADM20-00003 clarifies that in nonresidential zoning districts, fences in excess of 4½ feet in height may be located

outside required setbacks consistent with RMC 18.08.203(d) (Accessory Buildings and Structures in Nonresidential Zoning Districts). Pursuant to this code section, accessory structures and buildings are allowed in accordance with bulk and dimensional standards for principal structures. In the CC zoning district, fences outside of required setbacks could not exceed the maximum building height of 65 feet. As shown in **Exhibit A**, a combination of chain link fencing and masonry walls that are six feet in height that meet RMC standards currently enclose the subject property.

Noting the project site does not present an exceptional situation or condition related to dimension, shape, or topography, and code compliant fencing and walls are present, staff is unable to make variance finding a.

**Finding b. The strict application of the regulation would result in peculiar and exceptional practical difficulties to, or exceptional and undue hardships upon, the owner of the property;**

Materials provided by the applicant indicate the body shop/collision repair business present on the site stores items that attract thieves because they can be stolen and sold on the black market. The applicant has further indicated that an electrified fence must be at least two feet taller than the perimeter fence it is located behind to create a sufficient deterrent. There are a variety of auto-oriented uses adjacent to the project site including auto repair garages, an auto paint/body shop, and automobile and truck sales. The auto paint and body shop to east of the project site (Champion Collision Center) utilizes fencing that complies with RMC standards through a combination of six-foot perimeter fencing placed outside of front yard setbacks and a secondary six-foot chain link fencing with arms carrying barbed wire located to the interior of the site. The automobile and truck sales use (Reno Buick GMC) located to the north and west of the site utilizes a combination of six-foot tall chain link fencing with arms carrying barbed wire above the chain link and six-foot tall open view tubular steel fencing in required front yard setbacks. This fencing does not comply with RMC standards applicable to the CC zoning district.

An analysis of police calls for the reporting area that contains the project site shows that the total number of police calls has increased since 2013 (**Exhibit B**). Call types showing the highest volume and increasing over the general 2013 to 2019 timeframe include alarm with police response, emergency medical, family disturbance, unwanted subject, and welfare check. Call types associated with theft or property crimes such as commercial burglary, robbery, prowler, suspicious person, trespass, stolen automobile, and destruction of property are lower in volume and have generally decreased over the 2013 to 2019 timeframe.

As the applicant has indicated, the requested variance is needed to deter crime from the project site, an analysis of police calls over the 2013 to 2019 time period was prepared for the site

(**Exhibit B**). This report shows that calls for service have decreased from a total of 8 calls in 2016 and 10 calls in 2017 to a total of three calls in 2018 and two calls in 2019. Call volumes in 2018 and 2019 are similar to those for the 2013 to 2015 time period. Call types for the 2013 to 2019 time period are shown in **Exhibit B** are included in the table below with the full name and abbreviation for ease of reference.

Call Type	2013	2014	2015	2016	2017	2018	2019	2013-2019 Total
Person Down Police (1DOWNP)	1	0	0	0	0	0	0	1
Abandoned Vehicle (ABVEH)	0	0	0	1	2	0	0	3
Alarm: Police Response (ALARMP)	0	0	0	3	2	2	0	7
Area Check (AREACK)	0	0	0	0	0	1	0	1
Burglary Commercial (BURGC)	0	0	0	1	0	0	0	1
Disturbance (DISTR)	0	1	0	0	0	0	0	1
Emergency Medical (EMS)	0	0	0	1	0	0	0	1
Follow Up (FLWUP)	0	0	0	2	1	0	0	3
Stolen Automobile (GTA)	0	0	0	0	1	0	0	1
Police Information (PINFO)	0	0	1	0	1	0	0	2
Parking Problem (PKGPRB)	0	0	1	0	0	0	0	1
Suspicious Person (SUSPC)	0	0	0	0	1	0	0	1
Suspicious Vehicle (SUSPV)	1	1	0	0	1	0	0	3
Unwanted Subject (UNWANT)	0	0	0	1	0	0	0	1
Welfare Check (WELFCK)	0	0	0	0	0	0	1	1
<b>Annual Totals</b>	<b>3</b>	<b>2</b>	<b>2</b>	<b>8</b>	<b>10</b>	<b>3</b>	<b>2</b>	<b>28</b>

Similar to calls in the broader reporting area, calls associated with theft or property crimes (commercial burglary, stolen automobile, suspicious person) have decreased in recent years.

Materials provided by the applicant indicate not all crimes are reported and that the property owner contacted Electric Guard Dog, LLC (the applicant) due to crime problems. While there has been a decreasing rate of call types associated with theft or property crimes for the subject site and the larger reporting area, nearby auto-oriented uses that have operable vehicles on-site as part of their regular business operations have perimeter or interior secondary fencing that exceeds six feet in height with arms carrying barbed wire. Should the Planning Commission approve the request, staff recommends **Condition No. 4** that allows for non-electrified perimeter fencing up to eight feet in overall height with conventional fence or wall materials utilized for the first six feet in height and the option to utilize arms carrying barbed wire on portions of the fence over six feet in height. Such fencing would be consistent with fencing utilized for nearby auto-oriented uses that have operable vehicles on-site as part of their regular business operations.

**Finding c. Granting of the variance will not be materially detrimental to the public health, safety, or welfare, or injurious to property or improvements in the vicinity; and**

As proposed, an eight-foot tall electrified secondary fence would be constructed interior to existing perimeter fencing and within required side and rear yard setbacks. The electrified fence is designed to shock individuals and animals that come into contact with the fence utilizing 7,000 volts of electricity powered by a 12-volt DC battery. Materials provided by the applicant state the system is 100% medically safe. Electric Guard Dog website information indicates electric fencing is safe because it sends a 7,000-volt pulse every 1.3 seconds that will shock a person off or away from a fence but is too short to be a cardiovascular threat. Impact of the voltage on animals is not discussed. Contact with the electric fence would most likely occur from individuals attempting to climb the existing perimeter fence/wall system and secondary electric fence, birds that attempt to land on the electric fence, or individuals and animals that come into contact with the fence from the interior of the project site.

Currently, RMC does not expressly allow or prohibit the use of electrified fencing. However, expressly allowed fencing with deterrents for security is limited to industrial zoning districts, public utilities, and detention/correctional facilities. Noting the body shop/collision repair business present on the site is located in the CC zoning district and is a commercial use with higher levels activity on-site and in the surrounding area than industrial uses and public utilities, staff recommends **Condition No. 4** that allows for non-electrified perimeter fencing up to eight feet in overall height with conventional fence or wall materials utilized for the first six feet in height and the option to utilize arms carrying barbed wire on portions of the fence over six feet in height should the Planning Commission approve the variance request. In addition, should the Planning Commission approve the variance request to allow for a secondary fence within required side and rear yards setbacks, **Condition No. 5** is recommended. **Condition No. 5** allows for an electrified secondary fence up to eight feet in height and requires a power disconnect that is accessible from the public right-of-way and uses a Knox keyed switch that is clearly labeled as a Fire Department shutoff to ensure fire fighter safety.

**Finding d. The proposed variance is consistent with the intent and purpose of this title.**

RMC 18.12.1401 (General Standards for Fences and Walls) allows for the construction of fences six feet in height in all zoning districts on side and rear lot lines and limits fence height to 4½ feet in required front yard areas. RMC further specifies the following circumstances in which a fence height exceeding six feet is allowed:

- Where residential uses abut an arterial, expressway, or freeway.

- Within industrial zones and to enclose public utilities arms carrying barbed wire are permitted above a conventional six-foot fence provided the fence height does not exceed nine feet.

The fence height exceptions listed above allow for increased fence height to separate residences from high-volume roadways where odors, noise, and emissions are present, and to secure public utilities and uses in industrial zoning districts where outdoor storage is permitted. Should the Planning Commission approve the request, **Condition No. 4** allows for non-electrified perimeter fencing up to eight feet in height with arms carrying barbed wire for portions of the fence over six feet in height consistent with fencing allowed in industrial zones.

Master Plan: The project site is located within an Outer Neighborhood per the Structure Plan Framework of the Master Plan and has a Suburban Mixed-Use Master Plan land use designation. As proposed and with recommended conditions, the project appears to be in conformance with the following applicable Master Plan goals and policies:

- 2.1A: Growth Tiers - Support the efficient use of existing public facilities and services by prioritizing development, infrastructure improvements, and public investments in listed locations based on priority order (Identified Priority 3 – Areas within existing City limits and have infrastructure and services in place).
- N-G.16: Neighborhood Services – Neighborhood or community services located within a neighborhood should generally follow the guidelines for neighborhood centers.
- CNC-G.13: Parking Location and Screening – Place surface parking behind or to the side or rear of buildings to the extent feasible. Where surface parking is located along the street edge, incorporate screening and/or landscaping as required to minimize visibility from the public right-of-way.

General Code Compliance: As proposed and with recommended conditions of approval, the project is not consistent with the standards contained in RMC. The applicant is requesting a variance to increase fence height above allowed height for most zoning districts and a variance to construct a secondary fence that is not located on side or rear lot lines.

Agency Comments (Exhibit B): Comments received from the City of Reno Police and Fire Departments are discussed the findings analysis section of this report. City of Reno Code Enforcement and Environmental Control Divisions also reviewed the request noted no comments at this time.

Public Input: At the time this staff report was prepared; no comments had been received from the public regarding this request.

Neighborhood Advisory Board (NAB): This project was reviewed by the Ward 3 NAB on January 7, 2020. NAB members did not express any concerns and no comment forms have been received. Should NAB comment forms be received they will be forwarded to the Planning Commission.

**Legal Requirements:**

RMC 18.06.408                      Variance

**Findings:**

Variance:

- (1) In order to approve a variance, the recommending or deciding body shall make the following findings:
  - a. The property is characterized by an extraordinary or exceptional situation or condition, such as exceptional narrowness, shallowness or shape, or it has exceptional topographic conditions at the time of enactment of the regulations;
  - b. The strict application of the regulation would result in peculiar and exceptional practical difficulties to, or exceptional and undue hardships upon, the owner of the property;
  - c. Granting of the variance will not be materially detrimental to the public health, safety, or welfare, or injurious to property or improvements in the vicinity; and
  - d. The proposed variance is consistent with the intent and purpose of this title.

**Recommended Conditions of Approval:**

Should the Planning Commission approve the variance request, the following conditions are recommended:

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 applicant shall apply for all building permits for the project within 12 months from the date of final approval, and continuously maintain the validity of those permits, or this approval shall be null and void.
3. Prior to the issuance of any building permit, 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. Prior to the issuance of any building permit associated with a perimeter fence or wall, the applicant shall have plans approved that demonstrate any proposed fence is designed to be constructed with non-electrified, conventional fence or wall materials for the first six feet in height. The fence shall be limited to a maximum of eight feet in overall height and may include non-electrified arms carrying barbed wire on portions of the fence over six feet in height.
5. Prior to the issuance of any building permit for a secondary electrified fence, the applicant shall have plans approved that demonstrate the secondary electrified fence does not exceed a maximum overall height of eight feet and is designed with a power disconnect is accessible from the public right-of-way and utilizes a Knox keyed switch clearly labeled as a Fire Department shutoff.

**Attachments:**

- Display Maps (PDF)
- Exhibit A - Site Plan & Fence Details (PDF)
- Exhibit B - Agency Comments (PDF)