

Location: Citywide	
Proposal:	To amend the Oakland Planning Code to prohibit the use of barbed wire and razor wire on fences or buildings in the commercial and S-1, S-2, S-3, and S-15 zoning districts; establish allowed heights for fences in these districts; and relocate fence regulations within the Planning Code for greater clarity.
Applicant:	City Planning Commission
Planning Permits Required:	Zoning Text Amendment
General Plan:	Various
Zoning:	All commercial zones and certain special zones: C-5 Neighborhood Commercial Zone, C-10 Local Retail Commercial Zone, C-20 Shopping Center Commercial Zone, C-25 Office Commercial Zone, C-27 Village Commercial Zone, C-28 Commercial Shopping District Zone, C-30 District Thoroughfare Commercial Zone, C-31 Special Retail Commercial Zone, C-35 District Shopping Commercial Zone, C-36 Gateway Boulevard Service Commercial Zone, C-40 Community Thoroughfare Commercial Zone, C-45 Community Shopping Commercial Zone, C-51 Central Business Service Commercial Zone, C-52 Old Oakland Commercial Zone, C-55 Central Core Commercial Zone, C-60 City Service Commercial Zone, S-1 Medical Center Zone, S-2 Civic Center Zone, S-3 Research Center Zone, and S-15 Transit Oriented Development Zone
Environmental Determination:	Exempt Section 15061(b)(3), State CEQA Guidelines; "General Rule," no possibility of significant effect on the environment.
Historic Status:	N/A
Service Delivery District:	all
City Council District:	all
Last Date for Consideration:	N/A
Action to be taken:	Recommendation to the City Council based on staff report.
Finality of decision:	<i>Recommendation to the City Council.</i>
For further information:	Contact case planner Heather Coleman at (510)238-6417 or hcoleman@oaklandnet.com .

SUMMARY

The proposed project is a text amendment to the Oakland Planning Code to establish certain standards for fences located in commercial zones. Specifically, the proposed amendment would prohibit the use of barbed wire and razor wire on fences and buildings in all commercial zones throughout the city, as well as in the S-1, S-2, S-3, and S-15 zones. The prohibition on barbed and razor wire is one component of a larger effort to improve Oakland’s commercial districts by addressing unsightly exterior security devices that negatively impact the vitality of the districts and the city’s identity. The proposed text amendment also involves some reorganization of fence regulations in the Planning Code for greater clarity and ease of use. Staff requests that the Planning Commission consider the proposed text amendment and forward a supporting recommendation to the Oakland City Council.

BACKGROUND

Exterior Security Devices and Commercial Revitalization

Oakland's commercial areas have been the subject of revitalization efforts through the City's Neighborhood and Commercial Revitalization and Blight Abatement programs. These programs include business attraction and retention, a grant program for commercial façade improvements, and clean-up and enforcement activities for blighted and undermaintained properties. Through these efforts and private investment, many commercial districts have seen improvements. However, in many of Oakland's commercial areas, the presence of exterior security devices such as roll-down metal doors, sliding security gates, window bars, and barbed and razor wire fencing detract from the areas. Certain types of exterior security devices can be detrimental to a commercial district by increasing the perception of an unsafe or "war zone" area, degrading the appearance of and property values in the neighborhood, discouraging potential customers and businesses, and hindering economic development.

On March 25, 2003, staff from the Building Services Division presented an informational report to the Community and Economic Development Committee and subsequently to the full City Council outlining a proposed program to encourage effective and appropriate security devices for commercial businesses. The City Council directed staff to return with an ordinance prohibiting barbed and razor wire fencing. The Council also directed staff to propose an educational outreach program to encourage businesses to use more attractive security devices, review the effectiveness of alternate types of security installations, and look at what funding assistance might be available from the City. This staff report focuses on the proposed prohibition on barbed and razor wire in commercial zones; the other components of the program will be addressed in greater detail by Building Services Division staff in a report to the City Council in July, 2003.

Fence Regulations in the Oakland Planning Code

Currently, fence height limits are located in the Oakland Planning Code in a table that lists all exceptions to normally required setbacks (Section 17.108.130). This is a rather obscure location for the fence height limits. In addition, tying fence height limits to setbacks occasionally leads to illogical height limits because of the varying setback requirements among the zones. As described under "Project Description," staff proposes moving the fence regulations to a new section of the Planning Code to provide greater clarity and logic.

Another problem is that the existing fence regulations do not differentiate between residential, commercial and industrial zones. Consequently, the 42-inch (three-and-a-half foot) height limit for fences located within required front setbacks and street-facing side setbacks, though intended to apply to residential properties, technically applies in certain commercial and industrial locations where there is a required front or street-facing side setback. For example, the M-10 Special Manufacturing Zone and M-20 Light Manufacturing zone have, respectively, 10-foot and five-foot required front setbacks and therefore, any fence located in these front yards is subject to the 42-inch limit. Such a low maximum fence height in an industrial zone is impractical. While only two commercial zones have a standard required front setback, in all 15 commercial zones a front setback is required in situations where a portion of the block face is in a residential zone. On corner lots in commercial zones, a setback is required on the street-facing side if a lot to the rear is located in a residential zone. In a few situations, then, commercial properties would be subject to the 42-inch height limit for fences. Planning staff recommends distinguishing the fence height limits for residential properties from the limits for commercial properties and allowing a greater height in commercial districts.

The 42-inch height limit in front and street-facing side yards was adopted in November, 2001 as one of a host of changes in the standards for one- and two-unit residential facilities. Prior to the November, 2001

text amendments, the maximum fence height in street-fronting setbacks was six feet. In required rear and interior side setbacks, an eight-foot height limit was retained. The reduced height in street-fronting yards was intended to apply to residential properties and avoid fortress-like fences in residential areas. Another standard that was adopted in November 2001 was a prohibition on barbed wire and razor wire fencing on lots containing residential facilities. While there is then precedent for regulating fencing materials in the Oakland Planning Code, there are currently no restrictions on fencing materials on commercial properties.

The Zoning Update process was intended to make the Planning Code consistent with the 1998 updated Land Use and Transportation Element of the Oakland General Plan, and would also overhaul the structure and organization of the code for greater understandability. Due to direction from decision makers and recent budget limitations, the approach to the Zoning Update process is likely to be modified to use the existing code as a base and make minor improvements to its structure where the opportunity is presented. The fence regulations are an opportunity to improve the clarity of the existing Planning Code.

PROJECT DESCRIPTION AND RATIONALE

The proposed project is a zoning text amendment that would establish standards for fences in all the commercial zones, as well as the S-1, S-2, S-3, and S-15 zones, which function as base zones and allow many similar land uses to the commercial zones. The amendment would prohibit the use of barbed or razor wire in or attached to fences or buildings where visible from the public street or sidewalk. It will also establish an eight-foot height limit for fences located within 10 feet of a property line adjacent to a street or to a residentially zoned property. Fences up to ten feet will be allowed in these locations upon the granting of a conditional use permit. In other areas of a commercially zoned lot, 10 feet is the proposed maximum fence height.

The proposed height standards for commercial zones are intended to: 1) be generally consistent with fence height limits that applied to commercial zones prior to inadvertent adoption of the reduced 42-inch limit for street-facing yards in November, 2001; 2) be consistent with an existing eight-foot height limit for fences in required rear setbacks adjacent to residentially zoned lots in order to avoid fences that are inappropriately tall in this location; and 3) allow sufficient height so that fences are difficult to climb in order to compensate for the restriction on barbed and razor wire. Staff is not proposing transparency standards for fences in commercial zones because during a windshield survey of affected areas, we observed that most of the existing fences in the commercial corridors were of semi-transparent materials such as chain-link or wrought iron. In addition, there may be cases where a more opaque fence is desirable in order to screen parking or open storage or in order to continue a line of building frontages.

The proposed text amendment would relocate fence heights from the "exceptions to setbacks" table in the Oakland Planning Code, and place them in a new section that consolidates all standards for fences at the end of Chapter 17.108. It would change the title of Chapter 17.108 to include fences so that any person consulting the zoning code could find fence height regulations simply by looking at the table of contents.

The standards for fences in residential zones will simply be relocated to the new section and will *not* be substantively altered by the proposed text amendment. (Fence regulations for residential zones may be reviewed in upcoming months along with the evaluation of all the residential standards adopted in 2001.) Fence standards for residential and commercial zones will be distinguished from one another in the new code section. No restrictions on the height or materials of fences in industrial zones is proposed except where they abut residentially zoned lots, consistent with existing requirements. These changes are minor modifications to the Planning Code designed to clarify the fence regulations and make them easier to locate.

While reviewing fence regulations, staff also noticed that there was a need to add fences to the list of projects that can be reviewed under the Small Project Design Review procedure. In certain districts, such as the C-20, C-28, and C-31 commercial districts, design review is required for any exterior changes to any sign, building, or other facility. While the Planning Department does not often see design review applications for fences, the design review requirement technically applies to any facility. We wanted to ensure that where design review was required, applicants for new or modified fences would not be subject to the high fees and the longer review time associated with the Regular Design Review process. Small Project Design Review is a streamlined process that provides for staff level design review but limits the time and cost to applicants for minor projects such as signs and storefront window changes. Fences are proposed to be added to the list of small projects that qualify for this streamlined process.

The proposed modifications to the fence regulations for commercial zones are one component of a three-part program designed to address exterior security devices in Oakland's commercial areas. The other components of the program are education and community outreach on security alternatives and potential financial assistance to commercial property owners.

GENERAL PLAN ANALYSIS

The proposed project is consistent with the 1998 Land Use and Transportation Element (LUTE) of the Oakland General Plan. The LUTE contains policies and objectives for the neighborhood and downtown commercial areas, and for reducing property blight. In particular, the goals for neighborhood areas include Objective N1: "Provide for healthy, vital, and accessible commercial areas that meet local consumer needs in the neighborhoods," and Policy 9.3: "The City should strive to maintain a positive and safe public image." Objectives for the downtown include eliminating blight caused by underutilized properties (Objective D6) and fostering a positive business climate (Policy D4.2).

The LUTE also includes policies on permitting and enforcement that are relevant to the proposed prohibition on razor wire. Specifically, Objective N11 states:

Develop and implement regulations, permitting procedures, and enforcement procedures that allow an open, fair, timely, and fully informed process which involves public participation. These regulations and procedures should be created with the intent of maintaining or establishing high quality living and a thriving business environment, while reducing barriers to development.

The proposed fence regulations have been created with the intent of creating a thriving business environment in Oakland's commercial areas. As described under "Key Impacts," several public meetings have been held to get input on regulation of exterior security devices and additional outreach will occur prior to implementation of the proposed restriction on barbed and razor wire.

ZONING ANALYSIS

The Oakland Planning Code provides for amendments to the code in Chapter 17.144. Pursuant to Section 17.144.020, the City Council cannot change the text of the zoning regulations until it has received a recommendation or findings from the City Planning Commission on the proposed action. Staff is requesting that the Planning Commission consider the proposed text amendment and make a recommendation supporting the amendment to the City Council.

As discussed under the "Background" and "Project Description" sections of this report, the proposed text amendment will prohibit the use of barbed wire and razor wire attached to fences or buildings in commercial and certain special zones, and establish fence height limits in these areas. The proposed text

amendments will also relocate fencing standards to a new section at the end of Chapter 17.108 and distinguish between the standards for residential, commercial, and industrial zones. These latter changes are minor modifications to the Planning Code designed to clarify the fence regulations and make them easier to locate.

The proposed restriction on the use of barbed wire and razor wire and the height standards for fences will apply to all 15 of Oakland's commercial zones. These are the C-5, C-10, C-20, C-25, C-27, C-28, C-30, C-31, C-36, C-40, C-45, C-51, C-52, C-55, and C-60 zones. The new fence regulations will also apply to the S-1, S-2, S-3, and S-15 zones. Most of these commercial and special zones are located along transportation corridors or in the downtown, but there are also a few small commercially zoned areas where there are existing businesses within otherwise predominantly residential areas.

ENVIRONMENTAL DETERMINATION

The proposed text amendment prohibiting barbed and razor wire is exempt from the California Environmental Quality Act (CEQA) under the "General Rule" that CEQA applies only to projects which have the potential for causing a significant effect on the environment. Section 15061(b)(3) of the State CEQA Guidelines states that where there is no possibility that the activity in question may have a significant effect on the environment, the activity is not subject to CEQA. The proposed text amendment would simply influence the type of materials that may be used in fencing in commercial districts, and there is no potential for the proposed text amendment to cause a significant effect on the environment.

KEY ISSUES AND IMPACTS

Commercial corridor improvement and problems with barbed and razor wire

The exterior installation of certain types of security devices such as barbed and razor wire can be detrimental to a neighborhood. Impacts include:

- increasing the perception of an unsafe or "war zone" area;
- degrading the appearance of and property values in the neighborhood;
- discouraging potential customers and businesses; and,
- hindering economic development.

These devices are especially predominant in certain commercial corridors targeted for revitalization, such as East 12th Street, International Boulevard, and San Pablo Avenue. The elimination of barbed and razor wire fencing, and the introduction of more attractive security measures, will begin to change the perception that many of Oakland's commercial corridors are dangerous and blighted. This changed perception should, over time, encourage other businesses to invest in Oakland and residents to shop here.

Property security needs

Commercial property owners have a need to secure their properties from theft and vandalism and the greatest concern regarding the restriction on barbed and razor wire is likely to be security. In public meetings, property owners expressed concern that they could be exposed to tenant suits or claims of liability if they eliminate existing security devices from their buildings and the replacement security measures are found to be less effective. However, the Commercial Security Division of the Oakland Police Department indicates that integrated, well-designed alternate security measures will be as effective

as the barbed and razor wire or other exterior devices that they replace. These alternate measures have the added benefit of being more attractive, thus enhancing the areas potential for economic growth.

A more attractive alternative to barbed and razor wire fencing is wrought iron or steel fences, which can include pointed and/or curved rails at the top to discourage climbing. In a windshield survey of affected commercial corridors, staff observed the most security fencing around auto repair establishments and lots with open storage of building materials or other items. Encouragingly, not all these businesses had adopted razor wire. There were many auto repair lots where the owners had installed wrought iron fences, which seems to suggest that the iron fences are providing sufficient security for the businesses. Iron and steel fences are more expensive than chain link topped with razor wire. However, in many of the commercial corridors where barbed and razor wire predominate, matching grants are available for commercial façade improvements through the Neighborhood and Commercial Revitalization program (See Attachment C). The cost to individual property owners to switching to more appropriate fencing materials or alternative security devices can be offset through this incentive program.

Relation to other codes and fence regulations

The Oakland Building Code requires a building permit for any fence over six feet. In the field, staff observed very few security fences that were lower than six feet. The requirement for a building permit will facilitate implementation of the new materials restrictions because applicants for new fences will have to speak to both the Building and Planning Departments before constructing a fence.

Public Outreach

Several public meetings and hearings have been held to get input on regulation of exterior security devices and additional outreach will occur prior to implementation of the proposed restriction on barbed and razor wire.

On December 2, 2002, the City held a community meeting to get input on the concept of a program that would encourage businesses to install appropriate interior security devices and discourage exterior installations. Representatives from business districts, installation contractors, realtors, property managers, insurance companies, Oakland Police Department (OPD), architects, the Chamber of Commerce and merchants were invited. Participants raised concerns about economic hardship for businesses that have installed exterior devices and would be expected to remove them. Some expressed concerns about loss of insurance coverage if their businesses are repeatedly vandalized. Others believe the high crime rate is real, security devices are necessary, and the City should provide financial assistance to install them.

On December 17, 2002, staff held a workshop with representatives from the Oakland Police Department (OPD) Commercial Security Unit and various companies that install commercial security devices. The purpose of the workshop was to determine how effective each of the various security devices deterred crime and the benefits of interior versus exterior installations. The findings from the workshop were that: 1) installation of window bars and scissor grills are just as effective as exterior applications; 2) adequate lighting, the type of business, amount of display windows, and types of merchandise are additional factors that discourage or encourage crime; 3) burglar alarms are always recommended; and 4) barbed and razor wire fencing are far less effective than non-climbable fencing. It was recognized that to maximize the benefits to costs for security devices, an assessment should be performed for each business by a security professional.

In March, 2003, staff presented informational reports to the Community and Economic Development Committee and the full City Council in public hearing forums. The Council directed staff to return with an ordinance prohibiting barbed and razor wire in commercial corridors.

If the proposed ordinance is approved by the Oakland City Council, staff from several city departments will perform outreach through December, 2003 to the business community. The proposed ordinance would take effect in January, 2004 and enforcement would begin at that time.

CONCLUSION AND RECOMMENDATIONS

The proposed prohibition on barbed and razor wire will help improve the appearance and vitality of Oakland's commercial corridors and contribute to a positive identity for the city. The proposed relocation of fence standards to a different section in the Oakland Planning Code will provide greater clarity and ease of use.

Therefore, staff recommends that the Planning Commission:

1. Affirm staff's environmental determination.
2. Recommend adoption of the proposed text amendment to the Oakland Planning Code to the Oakland City Council.

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Approved for forwarding to the
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LESLIE GOULD

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ATTACHMENTS:

- A. Proposed ordinance
- B. Council Agenda Report, March 25, 2003
- C. Map of Neighborhood and Commercial Revitalization (NCR) target areas

APPROVED BY: City Planning Commission: _____(date)_____ (vote)
City Council: _____(date)_____ (vote)

