



CITY OF CARSON PLANNING COMMISSION STAFF REPORT

PUBLIC HEARING: February 26, 2012

SUBJECT: Zone Text Amendment No. 14-13

APPLICANT: City of Carson

REQUEST: To consider a zone text amendment to Section 9182.41, Nonconformity Requiring Capital Expenditure to Conform, applicable to industrial zoned properties to allow retention of up to 50 per cent of an existing legal, nonconforming block wall subject to a determination of compatibility with the existing and anticipated development within the surrounding area pursuant to Section 9172.23 (Site Plan and Design Review).

PROPERTY INVOLVED: Citywide

COMMISSION ACTION

Concurred with staff

Did not concur with staff

Other

COMMISSIONERS' VOTE

AYE	NO		AYE	NO	
		Chairman Faletogo			Goolsby
		Vice-Chair Verrett			Gordon
		Brimmer			Saenz
		Diaz			Schaefer

Item No. 11C

I. Introduction/Background

This zone text amendment is a result of City Council direction to consider some flexibility in the zoning code to allow portions of existing non-conforming block walls to remain subject to acceptable standards. This direction to evaluate existing requirements for legal, nonconforming walls occurred as a result Anvil Steel's variance request for their property located on 16629 S. Main Street. Anvil Steel sought to keep the entire 280 foot long and 10 foot high non-conforming wall in its existing location. The wall was considered non-conforming since it encroached within the 10 foot wide landscape setback requirement. On June 12, 2012, the Planning Commission denied the applicant's variance request finding that the property could provide the necessary setback and no special circumstances existed to support a variance. The applicant appealed the Planning Commission's decision to the City Council. On August 7, 2012, the City Council upheld the Planning Commission's decision.

While the City Council found that a variance could not be supported, there was consideration and concern related to the expense of removing and replacing the block wall in compliance with existing code requirements. In response to City Council direction, staff has conducted research and prepared a draft ordinance for Planning Commission's consideration to allow retention of a portion of existing legal, nonconforming walls in industrial zones subject to development plan approval pursuant to Section 9172.23 of the Carson Municipal Code.

II. Discussion/Analysis

The Carson Municipal Code includes requirements related to setbacks from a public street and the location, design and height of fences, walls and hedges. The following excerpts pertain to industrial zones:

9146.23 Front Yard.

Each lot shall have a front yard with a required depth of twenty-five (25) feet or twenty-five (25) percent of the lot depth, whichever is less, except that a variable front yard in which all portions are at least ten (10) feet in depth and some portion is at least twenty (20) feet in depth is permitted if, to the satisfaction of the Director, all portions of the yard where the setback is twenty (20) feet or less are landscaped and mounded earthforms are included in the landscaping.

For any building (but not for an unoccupiable structure whether detached or attached to a building) over fifty (50) feet in height, the required front yard setback shall be increased by one (1) foot for each two (2) feet of height above fifty (50) feet.

Any portion of a required front yard which is not utilized for parking shall be landscaped. A required front yard shall not be otherwise occupied except as provided in CMC 9146.29.



9146.24 Side Yards.

Where the side of a lot abuts a street, there shall be a side yard with a width of at least ten (10) feet. For any building (but not for an unoccupiable structure whether detached or attached to a building) over fifty (50) feet in height, the required side yard setback shall be increased by one (1) foot for each two (2) feet of height above fifty (50) feet.

9146.3 Fences, Walls and Hedges.

In a required front yard area and any abutting future right-of-way area, such wall may not exceed three and one-half (3-1/2) feet in height, except fencing material of any type may extend above the three and one-half (3-1/2) foot solid masonry portion to a height not exceeding eight (8) feet, provided such extended portion does not impair vision by obscuring more than ten (10) percent of the area in the vertical plane.

There are certain industrial properties that have existing fences or walls that encroach within the required front yard or side yard setback area. These fences and walls are considered legal, nonconforming. The term legal, nonconforming means that at the time the buildings or structures were constructed, they were done so in accordance with the then existing zoning district and laws. Hence, the structures are legal. Subsequently, the zoning law changed. Under the provisions of the revised zoning status, the buildings or structure would not have been permitted. Therefore, such building or structure no longer conforms to present zoning requirements.

All existing legal non-conforming walls and fences that do not meet current zoning requirements have had an amortization period of 3 years which has already expired. In some circumstances, properties are not able to provide the required setback and the walls or fences are allowed to retain the legal, nonconforming privilege. For properties able to provide the required setbacks, all existing non-conforming block walls, including the Anvil Steel's wall, are subject to abatement if there is a determination that the property can be brought into compliance.

Staff evaluated a number of industrial properties identified with legal, nonconforming walls or fences. In many cases, the walls or fences were deemed to retain a legal, nonconforming status since buildings, parking, fire lanes or other necessary site improvements prevented the property from providing the required setback. There were a number of properties that were determined to have legal, nonconforming fences or walls subject to immediate compliance. These fences and walls varied in terms of construction materials. Staff believes that wood, metal and chain link fences and walls should be removed and the property brought into compliance. In cases where good quality brick, stone or concrete block walls are legal, nonconforming, there may be justification to allow for portions of these walls to remain when there is a determination that such walls coordinate with the architectural character of the



building to which it is associated and that the wall is compatible with the surrounding area.

The objective of this zone text amendment is to allow some flexibility for existing legal non-conforming walls to be eligible to retain some legal non-conforming privilege. Staff recommends that any determination to retain such walls be subject to a development plan approval pursuant to CMC Section 9172.23 (Site Plan and Design Review). This ordinance amendment would apply to industrial properties with legal non-conforming block walls that have filed for a Design Overlay Review (DOR) application to make improvements to the site and/or the buildings and meet all the following requirements:

- The wall is good condition and well maintained;
- The wall is constructed of brick, stone or concrete block and determined to coordinate with the building to which it is associated and compatible with the existing or anticipated character of the area.
- The wall is 31/2 feet or higher;
- The wall is adjacent to a street or located within the required front yard or side yard;
- The length of existing wall is 100 feet or greater;
- Physical conditions of the site or the operation make it difficult to meet the setback requirements as determined by the planning division.

If all the above requirements are not met, the wall is still considered legal non-conforming and subject to abatement and must meet the front yard or side yard setback requirement.

If all the above requirements are met, the non-conforming privilege may be extended until such time that entire property is redeveloped. The Planning Commission may as a condition of approval require upgrades to the wall and subject property to ensure that the site meets acceptable design criteria to justify the retention of a portion of the legal, nonconforming wall. Furthermore, the following standards shall apply to the property:

- Minimum of 50 percent of the wall length shall meet the required setback and provide at least 10 feet of landscape area from the property line;
- The remaining portion of wall may be permitted to remain in the existing location subject to a finding that the design of the wall is adequate;
- Modifications may be required to bring the wall more nearly into compliance with the applicable standards for industrial zones and to address compatibility with the surrounding area.
- Landscaping for the front yard or side yard setback shall be provided and designed in a way to provide an attractive appearance and to screen any section of wall that is located close to the street or subject to potential graffiti.



The landscaping shall be designed to complement the entire site design. Large shrubs (minimum 15 gallon) shall be used as appropriate to provide the desired results for the landscaping. Enhanced landscaping should not necessarily be limited to increased numbers or sizes of plants. Hardscape, pedestrian accommodations, ornamental fencing, public art, special monumentation at street corners, or other amenities may also be considered.

Staff believes this ordinance amendment meets City Council's objective to allow some flexibility for legal non-conforming walls. Anvil Steel will be the first project to request consideration to retain a portion of the existing legal, nonconforming block wall. The Anvil Steel wall meets all the above requirements and will be conditioned to provide the enhanced landscaping requirements. In addition, they will move 50 percent of the wall, approximately 140 feet, to meet the 10 foot side setback requirement. The remainder of the wall will stay in its existing location. Staff has identified several other properties that could benefit from the ordinance.

III. Conclusion

Currently, all block walls that do not meet existing standards are considered legal non-conforming and may be subject to abatement. This zone text amendment provides some flexibility to applicants that are making significant improvements to their sites by allowing the opportunity to extend the non-conforming privilege of an existing brick, stone or concrete block wall.

IV. Environmental Review

The proposed Ordinance is not subject to the California Environmental Quality Act (CEQA) pursuant to Section 15322, In-fill Development Project, as well as a determination pursuant to Section 15061(b)(3) since the project has no potential to cause a significant effect on the environment.

V. Recommendation

That the Planning Commission:

WAIVE further reading and RECOMMEND APPROVAL of Resolution No. 13- entitled, "A RESOLUTION OF THE PLANNING COMMISSION OF THE CITY OF CARSON RECOMMENDING APPROVAL TO THE CITY COUNCIL OF AN ORDINANCE TO AMEND SECTION 9182.41, NONCONFORMITY REQUIRING CAPITAL EXPENDITURE, OF THE CARSON MUNICIPAL CODE APPLICABLE TO INDUSTRIAL ZONED PROPERTIES TO ALLOW RETENTION OF UP TO 50 PER CENT OF AN EXISTING LEGAL, NONCONFORMING BLOCK WALL SUBJECT TO A DETERMINATION OF COMPATIBILITY WITH THE EXISTING



AND ANTICIPATED DEVELOPMENT WITHIN THE
SURROUNDING AREA PURSUANT TO SECTION 9172.23
(SITE PLAN AND DESIGN REVIEW)."

VI. Exhibits

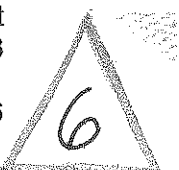
1. Draft Resolution
2. Planning Commission Staff Report, June 12, 2012
3. City Council Staff Report, August 7, 2012

Prepared by: _____

Saied Naaseh, Associate Planner

Approved by: _____

Sheri Repp-Loadsman, Planning Officer



CITY OF CARSON

PLANNING COMMISSION

RESOLUTION NO. 13-_____

A RESOLUTION OF THE PLANNING COMMISSION OF THE CITY OF CARSON RECOMMENDING APPROVAL TO THE CITY COUNCIL OF AN ORDINANCE TO AMEND SECTION 9182.41, NONCONFORMITY REQUIRING CAPITAL EXPENDITURE, OF THE CARSON MUNICIPAL CODE APPLICABLE TO INDUSTRIAL ZONED PROPERTIES TO ALLOW RETENTION OF UP TO 50 PERCENT OF AN EXISTING LEGAL, NONCONFORMING BLOCK WALL SUBJECT TO A DETERMINATION OF COMPATIBILITY WITH THE EXISTING AND ANTICIPATED DEVELOPMENT WITHIN THE SURROUNDING AREA PURSUANT TO SECTION 9172.23 (SITE PLAN AND DESIGN REVIEW).

THE PLANNING COMMISSION OF THE CITY OF CARSON, CALIFORNIA, HEREBY FINDS, RESOLVES AND ORDERS AS FOLLOWS:

Section 1. The Planning Commission is recommending approval of an ordinance as described in Exhibit "A" attached hereto to the Carson City Council. The proposed ordinance modifies Section 9182.41, nonconformity requiring capital expenditure, of the Carson Municipal Code applicable to industrial zoned properties to allow retention of up to 50 percent of an existing legal, nonconforming block wall subject to a determination of compatibility with the existing and anticipated development within the surrounding area pursuant to Section 9172.23 (Site Plan and Design Review). A public hearing was duly held on February 26, 2013, at 6:30 P.M. at City Hall, Council Chambers, and 701 East Carson Street, Carson, California. A notice of time, place and purpose of the aforesaid meeting was duly given.

Section 2. Evidence, both written and oral, was duly presented to and considered by the Planning Commission at the aforesaid meeting.

Section 3. The Planning Commission finds that:

- a) Existing legal non-conforming walls that encroach on the required front and side setbacks are considered detract from the aesthetics of the community.
- b) All existing legal non-conforming walls and fences that do not meet current zoning requirements have had an amortization period of 3 years which has already expired.
- c) In some circumstances, properties are not able to provide the required setback and the walls or fences are allowed to retain the legal, nonconforming privilege.
- d) For properties able to provide the required setbacks, all existing non-conforming block walls are subject to abatement if there is a determination that the property can be brought into compliance.



- e) In many cases, the walls or fences were deemed to retain a legal, nonconforming status since buildings, parking, fire lanes or other necessary site improvements prevented the property from providing the required setback.
- f) Some fences and walls with varied construction materials such as wood, metal and chain link fences and walls should be removed and the property brought into compliance.
- g) Walls with good quality brick, stone or concrete block that are legal, nonconforming may be justified to remain when there is a determination that such walls coordinate with the architectural character of the building to which it is associated and that the wall is compatible with the surrounding area.
- h) The proposed ordinance is consistent with the City of Carson Municipal Code and General Plan.

Section 4. The Planning Commission finds that the proposed code amendment is exempt from the provisions of the California Environmental Quality Act (CEQA), pursuant to Section 15322, In-fill Development Project, as well as a determination pursuant to Section 15061(b)(3) since the project has no potential to cause a significant effect on the environment.

Section 5 The Secretary shall certify to the adoption of the Resolution and shall transmit copies of the same to the applicant.

Section 6. This action shall become final and effective fifteen days after the adoption of this Resolution unless within such time an appeal is filed with the City Clerk in accordance with the provisions of the Carson Zoning Ordinance.

PASSED, APPROVED AND ADOPTED THIS 26th DAY OF FEBRUARY 26, 2013

ATTEST:

CHAIRMAN

SECRETARY



EXHIBIT "A"

DRAFT ORDINANCE NO. 13-_____

AN ORDINANCE OF THE CITY OF CARSON,
CALIFORNIA, AMENDING SECTION 9182.41,
NONCONFORMITY REQUIRING CAPITAL
EXPENDITURE, OF THE CARSON MUNICIPAL CODE TO
ALLOW RETENTION OF UP TO 50 PERCENT OF AN
EXISTING LEGAL, NONCONFORMING BLOCK WALL IN
INDUSTRIAL ZONES

WHEREAS, this amendment to the Carson Municipal Code modifies Section 9182.41, nonconformity requiring capital expenditure, of the Carson Municipal Code applicable to industrial zoned properties to allow retention of up to 50 percent of an existing legal, nonconforming block wall subject to a determination of compatibility with the existing and anticipated development within the surrounding area pursuant to Section 9172.23 (Site Plan and Design Review);

WHEREAS, existing legal non-conforming walls that encroach on the required front and side setbacks are considered detract from the aesthetics of the community;

WHEREAS, all existing legal non-conforming walls and fences that do not meet current zoning requirements have had an amortization period of 3 years which has already expired;

WHEREAS, in some circumstances, properties are not able to provide the required setback and the walls or fences are allowed to retain the legal, nonconforming privilege;

WHEREAS, for properties able to provide the required setbacks, all existing non-conforming block walls are subject to abatement if there is a determination that the property can be brought into compliance;

WHEREAS, in many cases, the walls or fences were deemed to retain a legal, nonconforming status since buildings, parking, fire lanes or other necessary site improvements prevented the property from providing the required setback;

WHEREAS, some fences and walls with varied construction materials such as wood, metal and chain link fences and walls should be removed and the property brought into compliance;

WHEREAS, walls with good quality brick, stone or concrete block that are legal, nonconforming may be justified to remain when there is a determination that such walls



coordinate with the architectural character of the building to which it is associated and that the wall is compatible with the surrounding area; and

WHEREAS, the proposed ordinance is consistent with the City of Carson Municipal Code and General Plan.

NOW THEREFORE, the City Council of the City of Carson, California, does hereby ordain as follows:

Section 1. That the City Council, exercising their independent judgment, finds that the proposed code amendment is exempt from the provisions of the California Environmental Quality Act (CEQA), pursuant to Section 15322, In-fill Development Project, as well as a determination pursuant to Section 15061(b)(3) since the project has no potential to cause a significant effect on the environment.

Section 2. Section 9182.41 entitled "Nonconformity Requiring Capital Expenditure" of the Carson Municipal Code is hereby amended as to Subsection "A" thereunder to read as follows, with all other subsections of Section 9182.41 remaining unmodified and in full force and effect:

"9182.41 Nonconformity Requiring Capital Expenditure to Conform.

Lawfully established site development, improvements, buildings and/or structures which become nonconforming with respect to site development regulations, and which cannot be made conforming without incurring a capital expenditure or loss, either shall be made conforming or allowed to continue as indicated in the following table, unless otherwise provided in this Chapter. Any site development which is not listed herein, or for which there is no specified time period for conformance, shall conform within six (6) months from the effective date of the regulation or ordinance which results in the nonconformity (i.e., date of nonconformance).

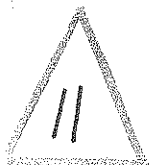
Nonconformity		Requirement
A.	Building height, yard area, open space and/or encroachment therein. Wall, fence or hedge of excess height. Storage space.	Existing conditions allowed to continue indefinitely.
B.	Wall, fence (other than of excess height), screen enclosure or building enclosure.	Shall be provided in a conforming manner within 3 years from date of nonconformance, except:
		1. If Director finds an existing enclosure is available for transportable material or equipment, it shall conform within 60 days.
		2. When a wall is required along a zoning boundary, said wall shall be provided by a property owner if such property owner, or his predecessor in interest, was the applicant for the zone change which created the nonconformity, or, in other cases, by the abutting property owner who first makes other improvements on his property



		<p>requiring a building permit with a valuation as determined by the Building Official of more than \$5,000.</p>
		<p>3. If a block wall is in an industrial zone and meets all the following requirements:</p> <ul style="list-style-type: none"> -The wall is good condition and well maintained; -The wall is constructed of brick, stone or concrete block and determined to coordinate with the building to which it is associated and compatible with the existing or anticipated character of the area. -The wall is 3 1/2 feet or higher; -The wall is adjacent to a street or located within the required front yard or side yard; -The length of existing wall is 100 feet or greater; -Physical conditions of the site or the operation make it difficult to meet the setback requirements as determined by the planning division. -A DOR application has been filed concurrently to make significant improvements to the site and/or the buildings; <p>If all requirements above are met, the following shall apply:</p> <ul style="list-style-type: none"> -Minimum of 50 percent of the wall length shall meet the required setback and provide at least at least 10 feet of landscaped area from the property line and the remaining portion of wall may be permitted remain in the existing location subject to a finding that the design of the wall is adequate; - Modifications may be required to bring the wall more nearly into compliance with the applicable standards for industrial zones and to address compatibility with the surrounding area; -Landscaping for the front yard or side yard setback shall be provided and designed in a way to provide an attractive appearance and to screen any section of wall that is located close to the street or subject to potential graffiti. The landscaping shall be designed to complement the entire site design. Large shrubs (minimum 15 gallon) shall be used as appropriate to provide the desired results for the landscaping. Enhanced landscaping should not necessarily be limited to increased numbers or sizes of plants. Hardscape, pedestrian accommodations, ornamental fencing, public art, special monumentation at street corners, or other amenities may also be considered."

Section 4. If any section, subsection, sentence, clause, phrase, or portion of this ordinance is for any reason held to be invalid or unconstitutional by the decision of any court of competent jurisdiction, such decision shall not affect the validity of the remaining portions of this ordinance. The City Council hereby declares that it would have adopted this ordinance and each section, subsection, sentence, clause, phrase, or portion thereof, irrespective of the fact that anyone or more sections, subsections, clauses, phrases or portions be declared invalid or unconstitutional.

Section 5. The City Clerk shall certify to the passage of this ordinance and cause it to be posted in three conspicuous places in the city of Carson, and it shall take effect on the thirty-first (31) day after it is approved by the Mayor.



PASSED, APPROVED, and ADOPTED this ____ day of _____, 2013.

Mayor, Jim Dear

ATTEST:

Donesia Gause, City Clerk
City of Carson, California

APPROVED AS TO FORM:

William W. Wynder, City Attorney



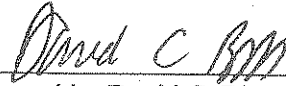


City of Carson Report to Mayor and City Council

August 7, 2012
Special Orders of the Day

SUBJECT: PUBLIC HEARING TO CONSIDER RESOLUTION NO. 12-081, AN APPEAL OF A PLANNING COMMISSION DECISION TO DENY VARIANCE NO. 528-12 TO REDUCE THE LANDSCAPE SETBACK REQUIREMENT ALONG 168TH STREET FROM 10 FEET TO TWO FEET FOR A PROPERTY LOCATED AT 16619 AND 16629 S. MAIN STREET (APN 6126-003 005 AND 6126-003-020)


Submitted by Clifford W. Graves
Economic Development General Manager


Approved by David C. Biggs
City Manager

I. SUMMARY

On June 12, 2012, the Planning Commission adopted Resolution No. 12-2436 denying Variance No. 528-12, a request to reduce the required 10-foot setback to a two-foot setback for an existing non-conforming wall located at 16619 and 16629 S. Main Street (Exhibit Nos. 1, 2 and 3).

II. RECOMMENDATION

TAKE the following actions:

1. OPEN the Public Hearing, TAKE public testimony, and CLOSE the Public Hearing.
2. WAIVE further reading and ADOPT Resolution No. 12-081, "A RESOLUTION OF THE CITY COUNCIL OF THE CITY OF CARSON, CALIFORNIA, AFFIRMING THE DECISION OF THE PLANNING COMMISSION DENYING VARIANCE NO. 528-12 AND DENYING THE APPEAL."

III. ALTERNATIVES

1. Refer this matter back to Planning Commission for further consideration, such as a major modification to permit the project to be built in two phases.
2. TAKE another action the City Council deems appropriate.

IV. BACKGROUND

On December 14, 2010, the Planning Commission approved Modification No. 1 to Design Overlay Review (DOR) No. 733-00 to allow the construction of a new 11,784-square-foot storage shed canopy. Condition of Approval No. 30 was added to require the existing 10-foot high non-conforming wall along 168th Street to be demolished and replaced with a new wall with a conforming 10-foot setback (Exhibit Nos. 4 and 5). The existing wall is considered non-conforming and subject to immediate abatement since it is only set back two feet from the property

August 7, 2012

line. Carson Municipal Code (CMC) Section 9146.24 (Exhibit No. 6) requires a 10-foot setback for a solid wall which is designed to screen the outdoor operations. At that meeting, the applicant accepted the conditions of approval, including demolishing the existing wall and constructing a new wall.

On April 12, 2011, the Planning Commission approved the applicant's request for modifications to a number of conditions of approval. The applicant contended that certain conditions were cost-prohibitive and would result in an inability to move forward with the project. However, the applicant did not request an amendment to Condition of Approval No. 30.

On February 7, 2012, the applicant filed Variance 528-12 to request a deviation from CMC Section 9146.24 (Exhibit No. 7). The applicant contended that walls for other properties in the area enjoy a setback of less than 10 feet; therefore, it would not be fair to apply the 10-foot setback to the subject property. The applicant noted that the cost of demolition and construction of a new wall was the primary reason for requesting a variance.

On June 12, 2012, after considerable deliberation, the Planning Commission denied the applicant's variance request due to lack of findings to support a reduction in the required setback. The Planning Commission considered that the applicant had submitted plans which clearly showed the property could be developed with the required 10-foot setback. The Planning Commission suggested the applicant file a modification to DOR No. 733-00 to allow for a phased development plan. The first phase would be construction of the 11,784-square-foot storage shed canopy, and the second phase would be demolition and construction of the wall and the associated landscaping. The intent of the phased plan would be to provide an extended time period to achieve compliance with the setback requirements.

On June 27, 2012, the applicant filed an appeal with the City Clerk requesting that the City Council reverse the Planning Commission's decision (Exhibit No. 8). The applicant states that after discussions with his consultants, the cost of building the project in two phases becomes cost-prohibitive.

The Planning Commission based its decision on the following main principles, and a complete list of findings is included in the resolution:

1. Section 9172.22 of the Carson Municipal Code states, "A variance from the terms of this Chapter shall be granted only when, because of special circumstances applicable to the property, including size, shape, topography, location or surroundings, the strict application of this Chapter deprives such property of privileges enjoyed by other properties in the vicinity and under identical zoning classification." The site is rectangular shaped, fairly flat, and 1.5 acres in size. The applicant owns the adjacent parcel, which is just under

one acre. The subject property is similar in size to other properties in the immediate area. It is a corner lot in an industrial area.

There are no special circumstances applicable to the subject property, including size, shape, topography, location or surroundings. In fact, the applicant has submitted and received approval from the Planning Division and Building and Safety Division for plans that include a new wall with a 10-foot landscape setback from 168th Street. Therefore, the approved plans demonstrate that it is possible to construct a wall with the required 10-foot setback; and there are no hardships or special circumstances applicable to this property, such as size, shape, topography, location or surroundings.

The applicant's letter dated February 6, 2012, (Exhibit No. 7) makes no reference to the special circumstances applicable to this property. Instead, it states that it would be unfair to apply the current 10-foot setback requirement to his project because there are other neighboring properties, such as 16801 S. Main Street, that have a two-foot setback along 168th Street. The variance procedure is intended to only examine the special circumstances that are applicable to the subject property. The Planning Commission provided the applicant several opportunities to state the special circumstances that apply to his property that do not apply to other properties and why the strict application of this requirement deprives such property of privileges enjoyed by other properties in the vicinity. The applicant did not provide a direct response to the Commission's repeated requests.

2. On February 25, 2006, DOR No. 914-05 was approved for 16801 S. Main Street, which is to the south and directly across the street from the subject property. The approved project was never constructed; however, the approved plans show a 10-foot landscape setback along 168th Street (Exhibit No. 9). Therefore, while the neighboring property currently has a landscape setback of less than 10 feet, staff and the Planning Commission have been consistent in applying the current 10-foot landscape setback requirement for adjacent properties. Similarly, since Anvil Steel requested approval of Modification No. 1 for DOR No. 733-00 to construct a new structure, the required 10-foot setback was applied to the project.
3. On April 5, 2012, staff proposed a solution to the applicant that would allow him to move forward with the entire project but give him additional time to demolish and construct the new wall with the 10-foot landscape setback. This solution was proposed in response to applicant's statements that he did not have the funds to complete the wall at that time. The applicant declined this solution. Pursuant to this proposal, the City would issue a building permit provided the applicant submits a letter to the City that the wall will be relocated to provide a 10-foot landscape setback. If the relocation of the wall

and addition of landscaping are not completed by the time the applicant requests a certificate of occupancy, a bond would have to be posted equal to the amount of the improvements and an additional six to 12 months would be given for completion of the wall and landscaping.

4. The most recent variance request for a reduction in the required landscape setback was related to the property located at 1209 E. Carson Street. The property was proposed to be used by Rick's Lube and Tune. The property owner contended that there were other commercially zoned properties that only provided 5 feet of landscape setback and that his property should have the same standard. The Planning Commission and the City Council on appeal determined that there were no special circumstances applicable to the subject property that would warrant the granting of a variance. Specifically, the City Council determined that installation of landscaping along the street would not be detrimental to the proposed use and would allow for adequate parking and circulation on the property. Furthermore, approval of the variance request would be a special privilege not enjoyed by other properties in the area and under the same zoning designation. The subject request for a variance for the property located at 16619 S. Main Street is substantially the same circumstance as the variance request for 1209 E. Carson Street. As such, there are no grounds that would warrant the granting of the requested variance.

While staff is sensitive to the applicant's current economic hardships to remove the existing non-conforming wall and construct a new conforming wall, it is evident that there are no special circumstances applicable to the subject property that would warrant the granting of a variance. Furthermore, staff, the Planning Commission, and the City Council have been consistent in applying the zoning code landscape setback requirements as discussed above.

V. FISCAL IMPACT

None.

VI. EXHIBITS

1. Planning Commission Staff Report dated June 12, 2012. (pgs. 6-60)
2. Planning Commission Resolution No. 12-2436. (pgs. 61-63)
3. Excerpt of Planning Commission Minutes dated June 12, 2012. (pgs. 64-67)
4. 168th Street Existing Wall Picture. (pg. 68)
5. Approved Site Plan, 16619 S. Main Street. (pg. 69)
6. Carson Municipal Code Section 9146.24. (pg. 70)
7. Applicant's Variance Request Letter Dated February 6, 2012. (pg. 71)
8. Appeal Request dated June 27, 2012. (pgs. 72-74)
9. Approved Site Plan, 16801 S. Main Street. (pgs. 75-76)
10. Draft Resolution No. 12-081. (pgs. 77-80)

Prepared by: Saied Naaseh, Associate Planner

TO: Rev03-08-12

Reviewed by:

City Clerk	City Treasurer
Administrative Services	Development Services
Economic Development	Public Services

Action taken by City Council	
Date _____	Action _____



CITY OF CARSON

PLANNING COMMISSION STAFF REPORT

PUBLIC HEARING: June 12, 2012

SUBJECT: Variance No. 528-12

APPLICANT: Paul Schifino, Anvil Steel President
137 West 168th Street
Carson, CA 90248

REQUEST: A variance request from Carson Municipal Code (CMC) Section 9146.24 for reduction of the required 10-foot setback to 2 feet along 168th Street for a site located in the MH (Manufacturing, Heavy) zoning district

PROPERTY INVOLVED: 16619 and 16629 S. Main Street

COMMISSION ACTION

- Concurred with staff
- Did not concur with staff
- Other

COMMISSIONERS' VOTE

AYE	NO		AYE	NO	
		Chairman Faletogo			Saenz
		Vice-Chair Gordon			Schaefer
		Brimmer			Verrett
		Diaz			Williams
		Goolsby			

I. Introduction

The applicant, Paul Schifino, is requesting approval of Variance (VAR) No. 528-12 to reduce the required landscape setback along 168th Street from 10 feet to 2 feet as required by Carson Municipal Code (CMC) Section 9146.24 for a site located at 16619 and 16629 Main Street (Exhibit No. 2).

The applicant contends other properties in the area enjoy the privilege of having a wall within the required 10-foot setback. The applicant further states the setback requirement would be unfair for this property given the existing conditions for other industrial properties in the vicinity (Exhibit No. 3).

II. Background

This existing 10-foot high perimeter wall was originally constructed to provide security and screen visibility of the previous scrap yard use (Prime Environmental). In 2000, the applicant purchased the subject property for purposes of expanding the Anvil Steel operations. On January 30, 2001, the Planning Commission recommended approval of Design Overlay Review No. 733-00 to the Redevelopment Agency for refurbishment of the site including the perimeter wall (Exhibit No. 4). However, the refurbishment of the wall was never completed and was mainly left neglected for several years.

On December 14, 2010, the Planning Commission approved Modification No. 1 for construction of a new 11,784-square-foot storage shed canopy and completion of the unfinished work related to DOR No. 733-00, (Exhibit No. 5). Approval of modification No. 1 included a condition of approval to demolish the existing wall and construct a new wall along 168th Street with a 10-foot landscape setback. Subsequently, on April 12, 2011, Planning Commission approved Modification No. 2 which modified certain conditions of approval at the request of the applicant (Exhibit No. 6). The applicant's main contention with these conditions of approval was the added cost to the project. Staff recommended deletion of two conditions of approval to prepare a sewer area study and installation of the street lights. However, staff recommended keeping the conditions of approval for street trees and undergrounding of utilities. The Planning Commission approved the project as recommended by staff and deleted the condition of approval related to undergrounding of utilities but did not change the landscaping requirements.

III. Analysis

Section 9172.22 of the Carson Municipal Code states a variance from the terms of this Chapter shall be granted only when, because of special circumstances applicable to the property, including size, shape, topography, location or surroundings, the strict application of this Chapter deprives such property of



privileges enjoyed by other properties in the vicinity and under identical zoning classification. The site is rectangular-shaped, fairly flat, and 1.5 acres in size and the applicant owns the adjacent parcel which is just under one acre. The subject property is similar in size to other properties in the immediate area. It is a corner lot in an industrial area. It is staff's opinion that setbacks for other properties in the surrounding area do not justify a reduction in the required 10-foot setback for this property.

There are no special circumstances applicable to the subject property, including size, shape, topography, location or surroundings. In fact, the applicant has submitted and received approval from the Planning Division for construction drawings that include construction of the new wall with a 10-foot landscape setback from the 168th Street. Therefore, this approval demonstrates that it is possible to construct a wall with the required 10-foot setback and there are no hardships or special circumstances applicable to this property such as size, shape, topography, location or surroundings.

The applicant's letter dated February 6, 2012, makes no references to the special circumstances applicable to this property (Exhibit No. 3). Instead, it states that it would be unfair to apply the current 10-foot setback requirement to his project because there are other neighboring properties such as 16801 S. Main Street that have a 2-foot setback along 168th Street. The variance procedure is intended to only examine the special circumstances that are applicable to the subject property.

Furthermore, on February 25, 2006, DOR 914-05 was approved for 16801 S. Main Street which is to the south and directly across the street from the subject property. The structure approved by DOR No. 914-05 was never constructed; however, the approved plans show a 10-foot landscape setback along 168th Street (Exhibit No. 7). Therefore, while the neighboring property currently has landscape setback of less than 10 feet, staff and the Planning Commission have been consistent in applying the current 10-foot landscape setback requirement for adjacent properties. Since Anvil Steel requested approval of Modification No. 1 for DOR No. 733-00 to add and construct a new structure, the required setback was applied to the project.

Staff realizes that compliance with this requirement may place a financial burden on the applicant. Therefore, on April 5, 2012, staff proposed a solution to the applicant that would allow them to move forward with the entire project but give them additional time to demolish and construct the new wall with the 10-foot landscape setback.

Pursuant to this proposal, the city would issue the building permit provided the applicant submits a letter to the city that the wall will be relocated to provide a 10-foot landscape setback. If the relocation of the wall and addition of landscaping are not completed by the time the applicant requests a certificate of occupancy, a bond will have to be posted equal to the amount of the improvements and an additional 6-12 months will be given for completion of the wall and landscaping. However, since the applicant submitted construction plans with the required setback, staff has issued the building permit. The applicant has indicated that he will start the construction of the project immediately if the Variance is approved. Otherwise, he would either not build



the project or wait until the economy has improved and build the entire project including the wall with the required setback.

The most recent variance request for a reduction in the required landscape setback was related to property located at 1209 E. Carson Street. The property was proposed to be used by Rick's Lube and Tune. The property owner contended that there were other commercially zoned properties that only provided 5 feet of landscape setback and that his property should have the same standard. The Planning Commission and the City Council on appeal determined that there were no unusual circumstances that would warrant the granting of a variance. Specifically, the City Council determined that installation of landscaping along the street would not be detrimental to the proposed use and would allow for adequate parking and circulation on the property. Furthermore, approval of the variance request would be a special privilege not enjoyed by other properties in the area and under the same zoning designation.

The subject request for a variance for the property located at 16619 S. Broadway is substantially the same circumstance as the variance request for 1209 E. Carson Street. As such, there are no grounds that would warrant the granting of the requested variance.

IV. Environmental Review

Pursuant to Section 15303 – New Construction (Class 3) of the California Environmental Quality Act (CEQA), a variance request is exempt from the provisions of CEQA. Furthermore, pursuant to Section 15061(b)(4) of the CEQA Guidelines, a project is exempt if it is denied.

V. Recommendation

That the Planning Commission:

- DENY Variance No. 528-12; and
- WAIVE further reading and ADOPT Resolution No. 12-____, entitled "A RESOLUTION OF THE PLANNING COMMISSION OF THE CITY OF CARSON DENYING VARIANCE NO. 528-12 FOR THE PROPERTY LOCATED AT 16619 AND 16629 S. MAIN STREET."


VI. Exhibits

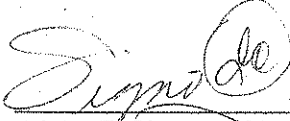
1. Draft Resolution
2. Site Map
3. Variance Justification Letter Dated February 6, 2012

Planning Commission Staff Report
VAR No. 528-12
June 12, 2012



4. January 30, 2001, Planning Commission Staff Report, Resolution, Conditions of Approval, and Minutes
5. December 14, 2010, Planning Commission Staff Report, Resolution, Conditions of Approval, and Minutes
6. April 12, 2011, Planning Commission Staff Report, Resolution, Conditions of Approval, and Minutes
7. DOR 914-05, 16801 S. Main Street, Site Plan
8. Site Plan

Prepared by: 
Saied Naaseh, Associate Planner

Reviewed by: 
John F. Signo, AICP, Senior Planner

Approved by: 
Sheri Repp, Planning Officer

