

CHARLES URTUZUASTEGUI
LAWYER

RECEIVED BY
R.P. 6-12-17
DEVELOPMENT SERVICES
CITY OF SAN LUIS

255 EAST SANTA CLARA STREET
SUITE 300
ARCADIA, CA 91006
☎ (626) 445-1212 ☎ (626) 294-2899
✉ CUPASADENA@AOL.COM

June 6, 2017

City of San Luis
Planning and Zoning Department
Building Safety Division
1090 Union Street
P. O. Box 3750
San Luis, AZ 85349

Re: Application for Variance for Fence
Project Address: 538 North 2nd Avenue, San Luis, AZ 85349
Project Name: C & F Parking Lot Fence

Dear Sir or Madam:

This letter constitutes an application for a variance for the purpose of installing a six (6) foot tall chain link fence around the perimeter of the C & F Parking Lot. My understanding is that applicable city ordinances approve a three (3) foot fence for the premises where the parking lot is located and that one must apply for a variance from the city requesting permission to install a taller fence.

- a) There exist special circumstances or conditions regarding the land or building referred to in the application, which do not apply to other properties in the zoning district.

Jofco owns and operates a parking lot at the address above mentioned. It is staffed 24 hours a day, seven days a week, 365 days a year – around the clock. Earlier this year after darkness had set in; there were two instances where cars were driven off the lot without exiting through the exit booth. In both instances, the vehicles were reported stolen and security cameras captured the vehicles being driven off the parking lot, over the sidewalk and the curb and onto 1st Avenue. One of the vehicles was found abandoned in Somerton the next day. Fencing is necessary for the security of the vehicles in the parking lot in order to prevent the unauthorized removal of vehicles from the parking lot.

- b) The above special circumstances or conditions are preexisting and are not created or self-imposed by the owner.

Page Two – Request for Variance

Neither Jofco nor its employees played any part in the theft of the vehicles. The drivers of the vehicles entered the parking lot, paid the fee and properly parked within the parking lot. During the night, on two different dates, a vehicle was driven off the parking lot without leaving through the exit lane, but instead crossed the sidewalk and driven directly onto the streets along the perimeter of the parking lot. This could not have happened if the parking lot had been fenced.

- c) The variance is necessary for the preservation of substantial property rights. Without a variance the property cannot be used for purposes otherwise used in this zoning district.

The zoning ordinance allows a three (3) foot fence in this district. Jofco is asking for a variance allowing a six (6) foot chain link (cyclone) fence for the protection of the hundreds of pedestrians that traverse the parking lot every day. A three (3) foot chain fence chain link fence is not safe for the parking lot because some pedestrians will look at the short fence as a challenge to try to jump over thereby risking possible injury to themselves. Every school day, there are hundreds of students crossing the parking lot going to and from school. They run and rough house with their fellow students in the parking lot and a three foot fence will provide a challenge to them to show off their athletic ability by attempting to hurdle over the fence. Someone will eventually get hurt, and this puts the parking lot at risk of a lawsuit. In addition, this lot is open 24 hours a day every day and there are customers entering and leaving the parking lot at all hours of the day or night. Whether out of laziness or bravado, since some customers return to the parking lot in an inebriated state, a three foot fence is just low enough for some intoxicated person to throw caution to the wind and to try to jump or hurdle the fence. This prospect could lead to injury and a claim against the parking lot for personal injury.

These events are reasonably foreseeable and lead to the conclusion that a three foot chain link fence is not tall enough to discourage or prevent this type of conduct by school children and adults. A six foot chain link fence offers more security and safety for school children, adults and the public in general who venture onto the parking lot. A variance approving a six foot chain link fence would also protect the City of San Luis from claims based upon the dangerous condition created by the installation of shorter fence.

- d) The authorizing of the variance would not be materially detrimental to persons residing or working in the vicinity, to adjacent property, or to the neighborhood or the public welfare.

Our only neighbor in our same block, the Barkley Company, presently has a six foot chain link fence surrounding the perimeter of its property which covers approximately two-thirds (2/3) of the block. Aesthetically, a six foot chain link


Page Three – Request for Variance

fence would complement the pre-existing Barkley fencing better because the appearance and the height of the chain link fencing are the same. I have enclosed some color photographs showing the view of the 1st Street side of the Barkley property and the C & F Parking lot. For that reason, the requested variance would not be materially detrimental to the public or to persons working or residing in the vicinity or to the public welfare.

Jofco requests that the City approve the variance requested as the more reasonable alternative to a three (3) foot fence, mainly for reasons of public safety given the hundreds of pedestrians that pass through the Jofco parking lot every day.

Very truly yours,

LAW OFFICES OF CHARLES URTUZUASTEGUI



Charles Urtuzuastegui

CU: bm

I, Linda Speakman, approve of the content of this Request for Variance for fence and I join in requesting approval for this application for variance for fence.



Linda speakman

Barkley Yard occupies rest of Block



Barkley LychoNE 6' Fence



First Street / Urbuzastegui looking North

