



CITY OF FAIRFAX

Department of Community Development & Planning

Special Use Permit SU-16050012

PUBLIC HEARING DATE

July 5, 2016

APPLICANT

Tam T. Duong

AGENT

N/A

PARCEL DATA

Tax Map ID
57-2-(02)-063

Street Addresses
3617 Chain Bridge Road

Zoning District
R-2 Residential District



APPLICATION SUMMARY

Request by Tam T. Duong, property owner, pursuant to City Code Sections 110-37(a)(6) and 110-369, for special exceptions to City Code Sections 110-37(a)(1)(a) to allow construction of a six-foot-tall fence and two nine-foot-tall gates in the front yard where maximum fence height of four feet is permitted in the R-2 Residential District on the property located at 3617 Chain Bridge Road and more particularly described as Tax Map Parcel 57-2-(02)-063.

STAFF RECOMMENDATION:

Based on analysis of the criteria contained in City Code Sections 110-37 and 110-369, staff recommends that the Board of Zoning Appeals deny Special Exception request to allow a fence height of six feet and gate height of nine feet in the front yard. Should the Board of Zoning Appeals choose to approve the applicant's request staff provides the following development conditions:

1. The applicant shall ensure construction at a minimum distance of 25 feet from the edge of the inside of the walkway along the Chain Bridge Road frontage.
2. The applicant shall obtain a building permit and/or zoning review and approval prior to construction of any fence/gate exceeding four-feet in height.
3. The applicant shall ensure the gates swing toward the house and not toward Chain Bridge Road.

BACKGROUND INFORMATION

The 1.084-acre subject property is located on the east side of Chain Bridge Road at the intersection with Warwick Avenue. Recently the property was improved with a 4,411 square-foot two-story brick residential structure with masonry columns and a semi-circular asphalt drive that is 18 feet wide where it intersects with Chain Bridge Road.

To the north, adjacent to this lot, is commercially zoned C-2 Retail Commercial property developed with several office buildings and parking area. Property to the east is zoned R-2 Residential and has been subdivided into two lots for single family detached development. The property to the south is also zoned R-2 Residential, and is a comparable one acre size lot with a 2,350 square foot colonial home. Across the street is property zoned C-1L Office Limited that is developed with several low density office buildings and parking area.

The subject property measures 150 feet where it fronts onto Chain Bridge Road. In 1973 a four foot wide asphalt public walkway was constructed across the subject property. There is a grass strip, that varies in width, between the asphalt walkway and the front property line. The asphalt walkway connects to the north to a concrete sidewalk, which is in front of the Fairfax Crossroads office complex, and to the south to the adjacent residential property. Set back approximately 15 feet from the inner edge of the walkway are two rows of trees, five evergreen trees approximately 30 feet tall and ten evergreen trees approximately four feet in height. There are several shrubs and trees located on either side of the central row of evergreen trees.



Aerial photo of subject site and surrounding residential and commercial properties.

REQUEST

The applicant requests a special exception to the fence regulations of City Code Section 110-37(a)(6) to allow construction of a six-foot-tall iron rail fence and two nine-foot-tall iron rail gates, where a maximum fence height of four feet is allowed. There is an existing asphalt public walkway that is setback a varying distance from and generally parallel to, the front property line. A future 10' wide public access easement may be acquired for this walkway and would be dimensioned to allow a three-foot wide landscape strip along the inner edge (behind) the walkway. The fence, as proposed by the applicant, is setback two feet from the inner edge of the asphalt walkway.

The proposed six foot tall fence design includes a two foot tall brick base, topped by a four foot tall iron rail fence. The fence design also includes each minor brick pier being one and a half feet wide. The total six-foot height of the fence is measured from the ground to the peak of the fence rails and top of the minor brick piers. The minor brick piers are spaced 10.25 feet apart.

The proposed gates (one at each end of the asphalt drive) are designed with two major brick piers, each two feet wide and 9 feet tall, measured from ground to top of piers, with nine-foot-tall double-swing iron gates. The gates are inset an additional 20 feet into the property from the proposed fence line for a total distance of 22 feet from walkway which will allow space for a vehicle to stand (while waiting for gates to open) without blocking the street or walkway. The applicant has provided a drawing found in Attachment 3 for reference.

Installation of the fence, as proposed, will not necessitate the removal of any existing vegetation in the front. However, the applicant has shown on his attached drawing that he proposes to supplement existing vegetation by adding 18 Sweet bay Magnolia trees inside the fence to enhance the front yard appearance.

The applicant's statement of support indicates that unauthorized vehicles frequently use the driveway as a turn around to avoid traffic congestion on Chain Bridge Road. The fence and gates are also proposed to prevent unauthorized pedestrians from trespassing onto the front yard. The applicant has stated that the proposed fence and gate heights are expected to discourage people from climbing over as may occur with a lower height fence.

Pursuant to City Code Section 110-37(a)(1)(a) fences not exceeding four feet in height are allowed anywhere in the front yard. The Board of Zoning Appeals may approve special exception requests to exceed the maximum permitted height provided the criteria of City Code Sections 110-37(a)(6) and 110-369 are satisfied.



View of the subject property from Warwick Ave.



View of subject property from Chain Bridge Road traveling north (left) and south (right).



Area where proposed fence is to be located (above). Water meter in middle of area (below).



ANALYSIS OF CRITERIA

The staff recommendation for this application is based on analysis of the following criteria for Special Exception review as specified in City Code Section 110-37(a)(6) and 110-369(6):

- a. Unusual site topography, and the relation of the proposed fence to that topography;

The property is relatively flat with no topographical change that justifies the proposed increased fence height. Construction of a fence by-right as allowed by City Code would accomplish the same objective of deterring unauthorized vehicles from having access to this property.

Staff does not support the applicant's proposal to construct the proposed six-foot-tall fence and nine-foot-tall gate in the front yard because there is no unusual topography to support the request and a four-foot-tall fence and gate would accomplish the same objective by deterring unauthorized vehicles from using the private driveway as a public road.



Fenced properties south and across Chain Bridge Road.

- b. Unusual lot configuration (e.g., placement of the house on the lot, heavy traffic volume, existence of a vacant lot);

The rectangular-shaped subject property fronts onto Chain Bridge Road which carries heavy volumes of regional through traffic, especially during rush hours. South of this property along Chain Bridge Road other residential properties have four-foot-tall white or brown picket fences or black iron fences meeting the zoning ordinance requirement of a four-foot fence in the front yard. The subject house is located 103.5 feet back from Chain Bridge Road. Placement of a four-foot tall fence with landscaping and gates at four feet will provide a visual and functional barrier from unauthorized use of the driveway and property.

Staff believes a four-foot-tall fence with matching gate would provide a sufficient deterrent to vehicles and pedestrian trespassing.

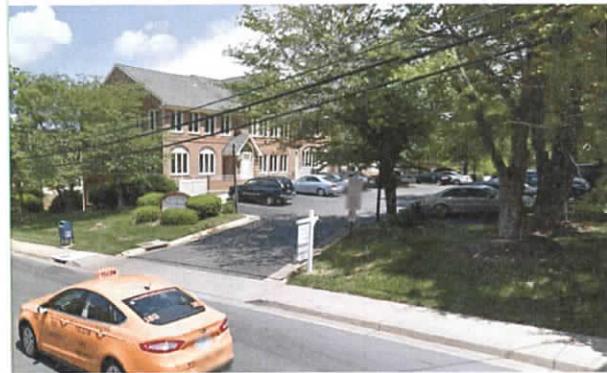


Iron fence south along Chain Bridge Road and on Center Street.

- c. The presence of neighboring properties that contain uses other than single-family residences;

Adjacent to this property, to the north and west across Chain Bridge Road, are commercially zoned properties developed with office buildings. Adjacent to the south and east are residentially-zoned property. To the north is a six-foot-tall board-on-board screening fence separating the commercial property from this residential property. The property to the west is a four lane public arterial roadway. A by-right four-foot-tall fence and gate would achieve additional separation from the roadway.

Staff believes a four-foot-tall fence and/or gate will provide sufficient separation of the uses and does not support the applicant's request for a six-foot-tall fence and nine-foot-tall gate in the front yard.



Adjacent commercial properties: 3617 Chain Bridge Road (left) and Fairfax Crossroads (right)



Board-on-board screening fence.

- d. Fence design (e.g., opacity, materials), and variations of fence materials.

The residential structure consists of brick with masonry columns. The commercial property to the north is constructed with brick and the commercial property to the west has vinyl siding. The proposed fence design with brick base and iron rail fence with brick piers will be compatible in material and design to the subject property and nearby commercial structures. A by-right fence of similar materials would be consistent with materials of nearby structures and would discourage pedestrian and vehicular trespassing. Other residential properties in the neighborhood have provided four-foot tall wooden fences painted white or brown or iron fences along the frontage to create a boundary between the private property and from the roadway.

Staff supports the applicant's proposed fence materials and design as compatible with the newly constructed residence. However, a fence constructed of wood painted white or brown or black iron would be more in keeping with the neighborhood character.



Neighboring residential Chain Bridge Road property. View looking north and south.

Section 110-369 (6) (a-d):

- a) The site for the proposed use is adequate in size and shape, and the proposed use will not negatively affect adjacent property or the surrounding area.

The subject property is on a 1.084-acre (38,634 square-foot) lot which meets the R-2 District minimum standard for lot size and width. Consequently, the subject site is adequate in size and shape for the existing residential use. The house is setback 103.5 feet from the property line along Chain Bridge Road. The applicant's proposal to construct a six-foot and nine-foot tall fence at the property line parallel to Chain Bridge Road is intended to create a barrier along Chain Bridge Road.

Staff believes the subject site is adequate in size and shape for the existing residential use and to accommodate a four-foot-tall fence adjacent to Chain Bridge Road. Supplemental vegetation around a four-foot-tall fence could deter pedestrians from approaching the property. However, as proposed, the fence will be in significant contrast to the existing streetscape and community character.

The applicant's proposal will result in a change in view from the properties that sit directly across Chain Bridge Road and will separate the existing property away from Chain Bridge Road. These impacts could be mitigated by the applicant constructing a four-foot-tall fence that is consistent with fencing on adjacent properties. Alternatively, the applicant could construct a six-foot-tall gate only (no fence between) setback a minimum distance of 22 feet from the edge of the inside of the walkway that would not impact the adjacent properties. Future widening of Chain Bridge Road and a future easement for the asphalt walkway could conflict with the fence and gate as currently proposed. The gate would be setback from Chain Bridge Road and therefore would not be highly visible from the roadway and would not change the character of the neighborhood.

The subject property is adjacent to other residential properties along Chain Bridge Road with fences in the front yards. The property immediately to the south does not have any fence. The immediate residential properties across the street have a topographical elevation and have white picket fences four-feet in height. (See previous photos) The applicant's proposal will result in a change in the existing character of both the subject property and nearby properties. The result of creating the barrier of the brick and iron six-foot-tall fence and nine-foot-tall gate along Chain Bridge Road will not be consistent with the character of the properties along Chain Bridge Road. The applicant's proposal could be made less contrasting to the existing neighborhood character by constructing a four-foot tall fence and placing a gate inside the property and away from Chain Bridge Road.

Staff does not support the applicant's request to construct the proposed six-foot-tall fence and nine-foot-tall gate.

b) The Special Exception will not be inconsistent with the objectives specified in the Comprehensive Plan.

The *Comprehensive Plan* encourages the upgrading of the City's existing housing stock and preservation of existing neighborhood character. The applicants' proposal for a six-foot-tall fence and nine-foot-tall gate located two feet inside the existing sidewalk along Chain Bridge Road will not be consistent with the existing streetscape within the neighborhood. The proposed fence is intended to contribute substantially to separating the property from unauthorized vehicular and pedestrian use. A four-foot-tall fence combined with landscaping, including shrubs and trees, could preserve the neighborhood character and discourage unauthorized use of the subject property. The existing front yard fences along Chain Bridge Road are four feet tall and either wood painted white or brown or black iron.

The intent of the City's regulations regarding fencing and fence height limitations is to allow residential property owners the ability to have a private property boundary while preserving the scenic views within neighborhoods.

Staff does not support the applicant's request because it is not consistent with the existing neighborhood character.

c) The applicants have demonstrated that the requirements of this chapter are unreasonable or impractical due to unusual building design, lot shape or mature vegetation; or there are practical siting constraints where original placement of the dwelling on the lot prohibits reasonable improvements that meet existing requirements.

The applicant has the opportunity to construct a four-foot-tall fence within the front yard along Chain Bridge Road. However, the applicant's request for relief is based on the need to gate out drivers using the driveway and to discourage unauthorized pedestrians. The applicant's request proposes to include 18 Sweet bay

Magnolia trees along the proposed fence and to retain existing vegetation after the construction of the fence to help minimize the visual impact of the fence along Chain Bridge Road.

Staff does not support the applicant's proposal because the applicant has not demonstrated that construction of a four-foot tall fence and gate in the front yard is unreasonable or impractical.

d) The proposed structural modifications meet sound residential design objectives to:

1. Minimize loss of privacy on neighboring properties.

It is not anticipated that the proposed fence would create any loss of privacy on neighboring properties. The proposed fence is intended to increase security and provide privacy for occupants of the subject property.

Based on staff's analysis the proposed fence would not result in a loss of privacy to adjoining properties.

2. Maximize image of quality residential development to the street frontage.

The proposed fence design includes a brick base and brick piers with iron fence and nine-foot-tall iron gates and is consistent with the scale of the newly constructed single-family residence. Preservation of existing hedges and trees and the installation of supplemental plantings will provide a vegetative screening which could provide a softening of the impact of the tall fence.

Staff's believes the proposed fence design is consistent with the character of the subject property and that the barrier effect of the proposed applicants' fence will negatively affect the subject property's image as quality residential development to the street frontage.

3. Maximize window area from living rooms, dining rooms, kitchens, dens and family rooms facing the street, within the context of the original building design.

Not Applicable.

4. Avoid reduction of light and air to neighboring properties.

It is not anticipated that the proposed open rail design of the fence and gate would reduce light and air to neighboring properties.

Based on staff's analysis the proposed open rail design of the fence and gate will not reduce light and air to neighboring properties.

5. Minimize development of front yard as driveways.

Not Applicable.

CONCLUSION

The Special Exception request that proposes construction of a six-foot-tall fence and nine-foot-tall gate in the front yard of the subject property (along Chair Bridge Road), fails to satisfy the review criteria contained in City Code Section 110-37 and 110-369 because:

1. The property does not have an unusual site topography;
2. The lot is not of an unusual configuration;
3. The proposal does not address any issues identified with adjacent non-residential private properties;
4. Fence design (e.g., opacity, materials), and variations of fence materials are possible.
 - 1) The size and shape of the subject property is adequate for the existing residential structure and a four-foot-tall fence and/or gate of same height in the front yard;
 - 2) The applicant's request is not consistent with the objectives of the Comprehensive Plan of preserving the existing neighborhood character;
 - 3) There are no unusual building design, lot shape or mature vegetation constraints preventing the construction of a fence by-right in the front yard;
 - 4) The proposed six-foot-tall fence and nine-foot-tall gate in the front yard does not meet sound residential design objectives because it could create a barrier affect impacting the quality of residential development and street frontage along Chain Bridge Road.

RECOMMENDATION

In consideration of the criteria for a special exception staff hereby recommends denial of the applicants' request.

Should the Board of Zoning Appeals choose to approve the applicant's request staff provides the following development conditions:

1. The applicant shall ensure construction at a minimum distance of 25 feet from the edge of the inside of the walkway along the Chain Bridge Road frontage.
2. The applicant shall obtain a building permit and/or zoning review and approval prior to construction of any fence/gate exceeding four-feet in height.
3. The applicant shall ensure the gates swing toward the house and not toward Chain Bridge Road.

PREPARED BY:

Lisa Feibelman

Lisa G. Feibelman, AICP, LEED Green Associate
Deputy Zoning Administrator

July 1, 2016
DATE

REVIEWED AND APPROVED:

Michelle D. Coleman

Michelle D. Coleman
Zoning Administrator

7-1-16
DATE

REVIEWED AND APPROVED:

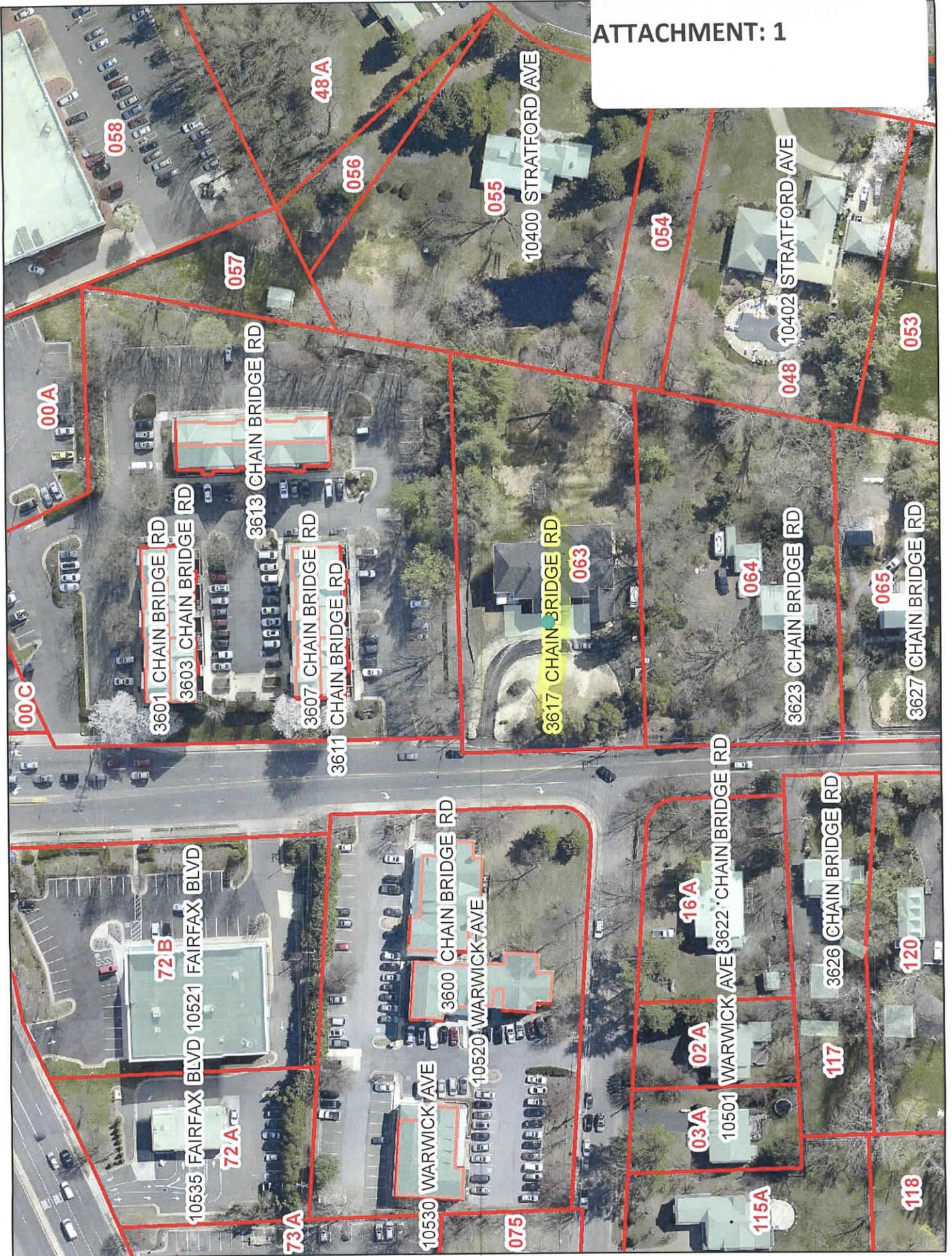
Brooke Hardin, AICP
Director, Community Development & Planning

DATE

ATTACHMENTS

1. Location Map
2. Application with Statement of Support
3. Plat and Plans
4. Sample Resolution
5. Sample Motions

ATTACHMENT: 1



Tam T. Duong
3617 Chain Bridge Rd
Fairfax, VA 22030

RECEIVED

Fairfax April 26, 2016

To: City of Fairfax
Zoning office

MAY 03 2016

Community Dev & Planning

Dear Sir/Madam,

Since 4 feet high fence is not secure enough for my family, I would like to submit an application for permission to build a fence of 7 feet high and 2 gates of 9 feet high each on either side of the driveway in front of my house at 3617 Chain Bridge Rd.

It's has been over 3 years since I started to build my house where I have a dream for my family to live for a long time, we encounter numerous time people treat my driveway like a public road, i.e., cars and delivery trucks used my driveway to turn around to avoid a clear left turn onto Chain Bridge Rd from Warwick Ave or to turn around to make a right turn onto Warwick Ave from Chain Bridge Rd instead of a left turn during the non-permitted time of a day. During evening time and especially weekend, people wandering in front of my house as if there is a bus stop. These incidents occur so frequent that we do not feel well every time my sons, one is eight and the other is ten years old some time with their friends and cousins of the same age playing outside. Even though we have to stop the thing we are doing to take turn to be outside with them, unfortunate thing will happen if there is people intentionally do harm to our kids.

Even though of the safety issue for our family, we gave it a hard thought over 2 years with a lot of serious consideration about the safety and welfare of our neighbor as well as safety for travelers on roads in front of our house. The proposed fence will consist of 11 Brick posts and in between posts are iron rails with 2 gates for both ends of the half circular driveway will enhance the look of the property and it's adjacent. The fence will be 2 feet inside the front boundary and run from one end to the other end of the front of the property so it won't compromise the safety of people walk by or any one working near the property. Since the frontage of the property is straight line along the road so there is no blocking view of the road ahead of a driver and the height of the gate would be visible enough to discourage drivers who intend to make a turn onto the driveway to turn around or using the driveway to make the left turn during heavy traffic time therefore it would help less clog for traffic, minimize accidents and less head ace for law abiding drivers.

We beg for your consideration.

Sincerely,



Tam Tue Duong

Tam T. Duong
3617 Chain Bridge Rd
Fairfax, VA 22030

RECEIVED

MAY 03 2016

Fairfax May 2, 2016

Community Dev & Planning

To: City of Fairfax
Office of Zoning

Dear Sir/Madam,

The proposed fence and gates is well inside my property at 3617 Chain Bridge Rd and it will run from one end to the other of the property frontage where it's 90 degree with the side of the lot so the property is adequate in size and shape for the proposed fence and gates. Since fence and 2 gates line up on the straight line in the front of the property, they will not negatively affect adjacent properties or the surrounding area.

The proposed fence and gates is consistent with the objectives specified in the comprehensive plan. Beside the safety for my children, the height of a four feet high fence is not comparable nor it's symmetrical with the height and the design of my home and the height of surrounding trees. Since the proposed fence and gates are located at the front of the property, they do not effect the privacy on neighboring properties.

Material used to build the proposed fence and gates are on the high end with color that match with my home design so they will help bring the image of quality to the street frontage.

The proposed fence and gates will maximize window area from all rooms in my house which face the street.

Since the proposed fence and gates is far from all the neighboring properties, they will not reduce the light and air to these properties.

With fence and gates in place, the supposed movement of vehicles will be clearer, extra driveway on the front yard is not needed.

Sincerely,



Tam T. Duong

RECEIVED

MAY 03 2016

Community Dev & Planning

Application No. SE-16050012

LAND USE APPLICATION
CITY OF FAIRFAX

I/We TAM T. DUONG by TAM T. DUONG
(name of applicant) (authorized agent's name and relationship to applicant)

a ~~corporation~~ / general partnership / limited partnership / sole proprietorship / individual (circle one) which is the
property owner / contract purchaser / lessee (circle one)

of 3617 CHAIN BRIDGE RD, FAIRFAX, VA 22030 / Tax Map# 57202063
(address and tax map # of subject property)

hereby apply for a Special Use Permit / Special Exception / Variance (circle one) pursuant to
Section 110-37(a)(6) of the City Code to allow (describe request) TO ERRECT 7 FOOT

FENCE WITH 9 FOOT POST FOR 9' GATE
City Code References: 110-369 (6) (a-d) 110-37 (a) (6)

[Signature] OWNER
(signature of applicant or authorized agent) (title or relationship)

Address 3617 CHAIN BRIDGE RD VA 22030 Phone: 703 909 0278

THE FOLLOWING MUST BE COMPLETED BY THE PROPERTY OWNER

I/We TAM T. DUONG by TAM T. DUONG hereby certify that the applicant
named above has the authority vested by me to make this application.

[Signature] OWNER
(signature of owner or authorized agent) (title or relationship)

Address 3617 CHAIN BRIDGE RD, FAIRFAX, VA 22030 Phone: 703 628 8988

FOR OFFICE USE ONLY

Proposal filed: May 3, 2016
Fee Paid: 500.00
Previous Cases: N/A

Received by: Ann Feeherzy
Receipt No. 37795

Current status of business license and fees:
Treasurer: Taxes (PP&RE) have been paid to-date. Received 5-13-16
Commissioner of Revenue: Property owner has ~~not~~ met the filing requirements of this office. Linda Keightley 5-13-16
Property owner has ^{now} met the filing requirements Linda Keightley 5-13-16

**AFFIDAVIT
CITY OF FAIRFAX**

I, TAM T. DUONG, by TAM T. DUONG do hereby make oath or affirmation that
(name of applicant or agent)

I am an applicant in Application Number _____ and that to the best of my knowledge and belief, the following information is true:

1. (a) That the following is a list of names and addresses of all applicants, title owners, contract purchasers, and lessees of the property described in the application, and if any of the foregoing is a trustee, each beneficiary having an interest in such land, and all attorneys, real estate brokers, architects, engineers, planners, surveyors, and all other agents who have acted on behalf of any of the foregoing with respect to the application (attach additional pages if necessary):

Name	Address	Relationship
<u>TAM T. DUONG</u>	<u>3617 CHOW BRIDGE RD FAIRFAX, VA 22030</u>	<u>SELF</u>

(b) That the following is a list of the stockholders of all corporations of the foregoing who own ten (10) percent or more of any class of stock issued by said corporation, and where such corporation has ten (10) or less stockholders, a listing of all the stockholders (attach additional pages if necessary):

Corporation Name: _____

Name	Address	Relationship

(c) That the following is a list of all partners, both general and limited, in any partnership of the foregoing (attach additional pages if necessary):

Partnership Name: _____

Name	Address	Relationship

2. That no member of the City Council, Planning Commission, BZA, or BAR has any interest in the outcome of the decision. EXCEPT AS FOLLOWS: (If none, so state.)

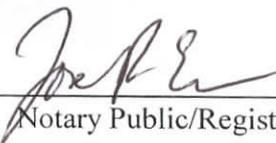
3. That within five (5) years prior to the filing of this application, no member of the City Council, Planning Commission, BZA, or BAR or any member of his or her immediate household and family, either directly or by way of a corporation or a partnership in which anyone of them is an officer, director, employee, agent, attorney, or investor has received any gift or political contribution in excess of \$100 from any person or entity listed in paragraph one. EXCEPT AS FOLLOWS: (If none, so state.)

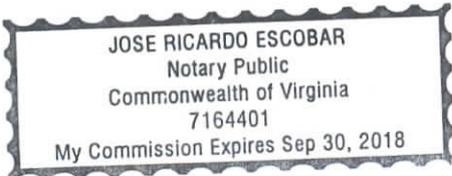
WITNESS the following signature: X  _____
Applicant or Agent

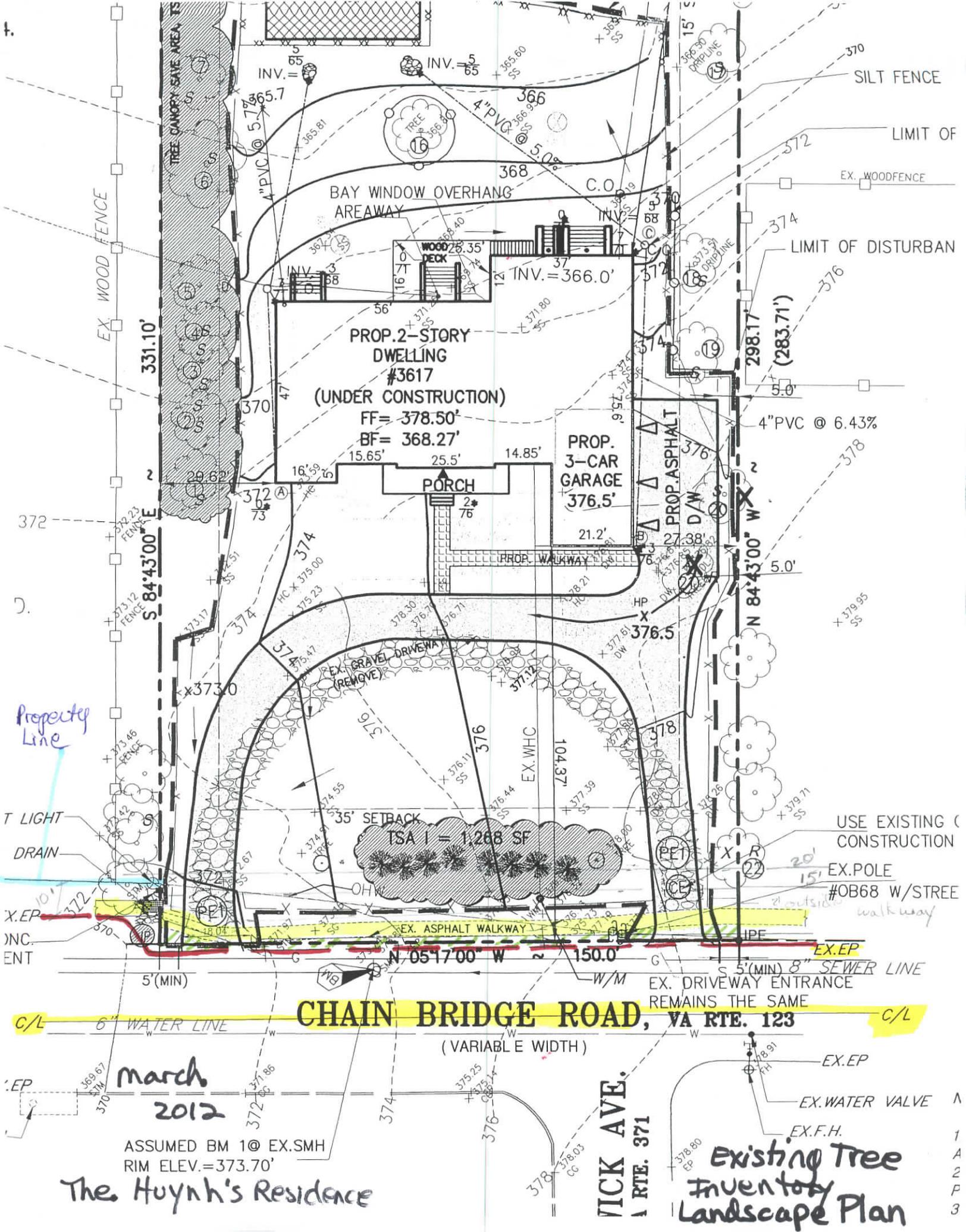
ALL APPLICANTS MUST SIGN AND HAVE THEIR SIGNATURES NOTARIZED.

The above affidavit was subscribed and confirmed by oath or affirmation before me on this 29th day of February, 2016, in the State of Virginia.

My commission expires: 9/30/2018

 /7164401
Notary Public/Registration #





PROP. 2-STORY DWELLING #3617 (UNDER CONSTRUCTION)
 FF= 378.50'
 BF= 368.27'

PROP. 3-CAR GARAGE 376.5'

TSA I = 1,268 SF

CHAIN BRIDGE ROAD, VA RTE. 123
 (VARIABLE WIDTH)

WICK AVE. RTE. 371

march 2012

ASSUMED BM 1 @ EX.SMH
 RIM ELEV.=373.70'

The Huynh's Residence

Existing Tree Inventory Landscape Plan

Property Line

USE EXISTING (CONSTRUCTION)
 EX. POLE #OB68 W/STREET
walkway

ENT

1
 A
 2
 P
 3

RECEIVED

MAY 27 2016

Community Dev & Planning

WARRICK A

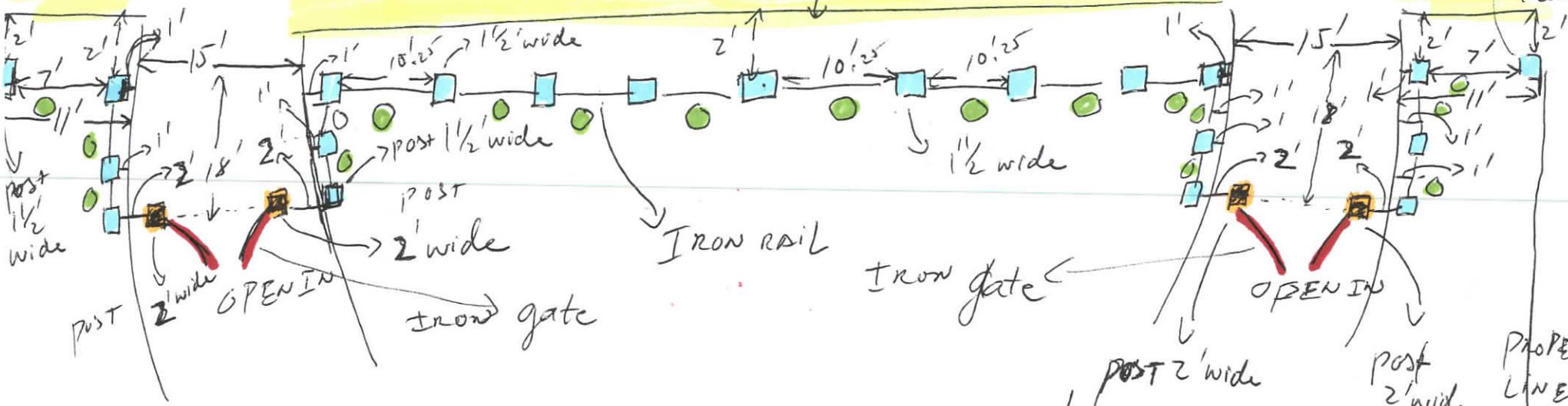
YELLOW LINE CENTER LINE CHAIN BRIDGE RD

WHITE LINE

147" ↑ 12' 25"

5.83 ↓ 70" ↓ 18' 08"

4' SIDE WALK



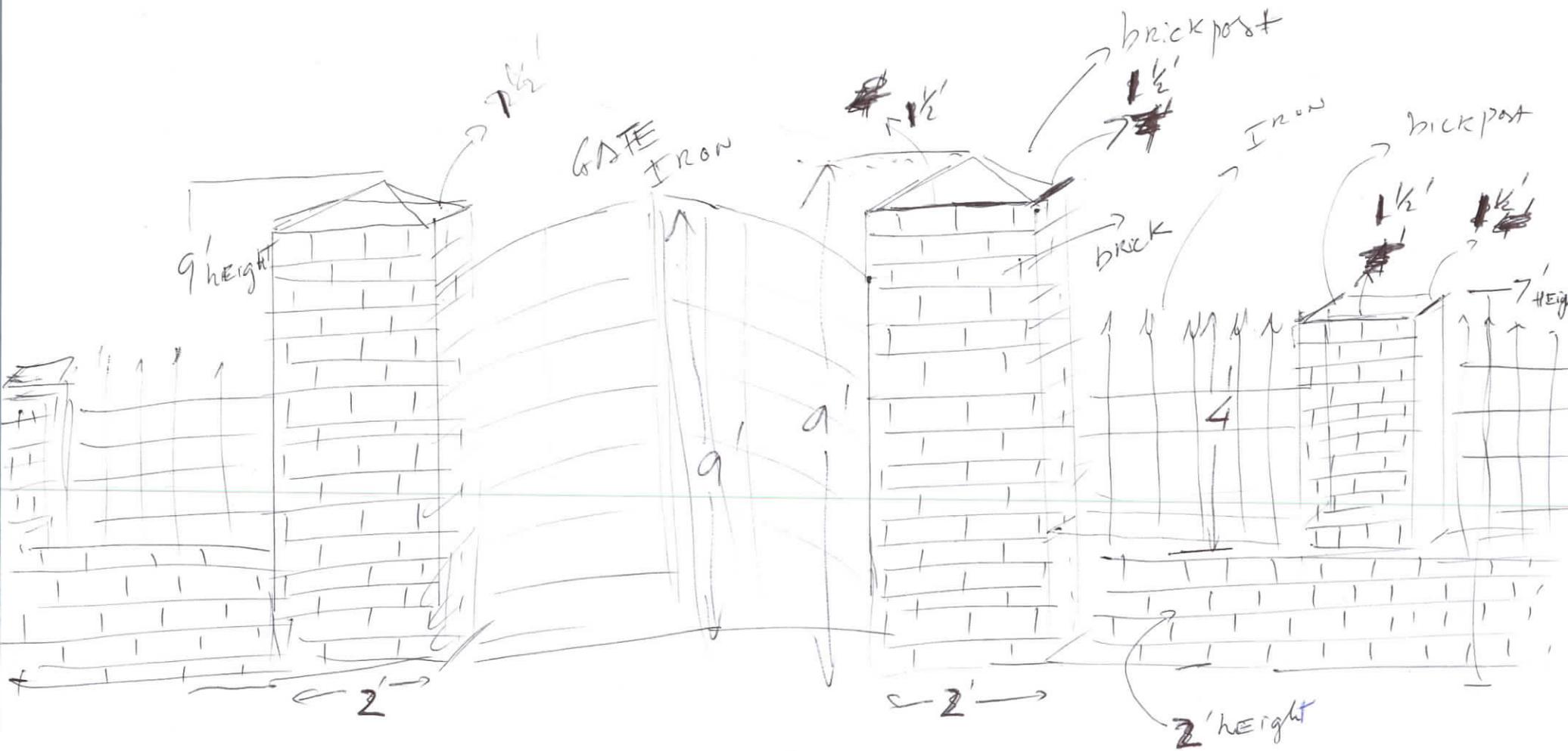
3617 CHAIN BRIDGE RD
FAIRFAX, VA 22030

TAM T. DUNG

[Signature]

→ property line

- : posts supporting the gate will be 2' wide EACH
- : posts will be 1 1/2' wide
- : 18 trees (SWEET BAY MAGNOLIA)



04/26/2016

[Signature]

TAM T. DUONG

RECEIVED

MAY 27 2016

Community Dev & Planning

ATTACHMENT 4
Resolution for Approval
(As proposed by the applicant)

PROPOSED RESOLUTION NO. 2016 - _____

RESOLUTION TO APPROVE THE REQUEST OF TAM T. DUONG, OWNER, PURSUANT TO CITY CODE SECTIONS 110-37(a)(6) and 110-369, FOR A SPECIAL EXCEPTION TO CITY CODE SECTION 110-37(a)(1)(a) TO ALLOW CONSTRUCTION OF A SIX-FOOT-TALL FENCE AND NINE-FOOT-TALL GATE IN THE FRONT YARD WHERE MAXIMUM FENCE HEIGHT OF FOUR FEET IS PERMITTED IN THE R-2 RESIDENTIAL DISTRICT ON THE PROPERTY LOCATED AT 3617 CHAIN BRIDGE ROAD AND MORE PARTICULARLY DESCRIBED AT TAX MAP PARCEL 57-2-(02)-063

WHEREAS, Tam T. Duong, has submitted Application No. SE-16050012 requesting a Special Exception from City Code Section 110-537(a)(6);

WHEREAS, the Board of Zoning Appeals has carefully considered the application, the recommendation of the staff, and the testimony received at the public hearing; and

WHEREAS, the Board of Zoning Appeals has determined that the proposed Special Exception is appropriate because the proposal does meet the requisites established by City Code Sections 110-37(a)(1)(a) and 110-369 for the following reasons:

Provided by the Board of Zoning Appeals.

Adopted this fifth day of July, 2016.

Attest:

Board of Zoning Appeals Secretary

PROPOSED RESOLUTION NO. 2016 - _____

RESOLUTION TO DENY THE REQUEST OF TAM T. DUONG, OWNER, PURSUANT TO CITY CODE SECTION 110-37(a)(6) and 110-369, FOR A SPECIAL EXCEPTION TO CITY CODE SECTION 110-37(a)(1)(a) TO ALLOW CONSTRUCTION OF A SIX-FOOT-TALL FENCE AND NINE-FOOT-TALL GATE IN THE FRONT YARD WHERE MAXIMUM FENCE HEIGHT OF FOUR FEET IS PERMITTED IN THE R-2 RESIDENTIAL DISTRICT ON THE PROPERTY LOCATED AT 3617 CHAIN BRIDGE ROAD AND MORE PARTICULARLY DESCRIBED AT TAX MAP PARCEL 57-2-(02)-063.

WHEREAS, Tam T. Duong, has submitted Application No. SE-16050012 requesting a Special Exception from City Code Section 110-37(a)(1)(a) and 110-369;

WHEREAS, the Board of Zoning Appeals has carefully considered the application, the recommendation of the staff, and the testimony received at the public hearing; and

WHEREAS, the Board of Zoning Appeals has determined that the proposed Special Exception to allow construction of a six-foot-tall fence and nine-foot-tall gate in the front yard where maximum fence height of four feet is permitted in the R-2 Residential District does not meet the requisites established by City Code Sections 110-37(a)(6) and 110-369 for the following reasons:

1. The property does not have an unusual site topography;
2. The lot is not of an unusual configuration;
3. The proposal does not address any issues identified with adjacent non-residential private properties;
4. Fence design (e.g., opacity, materials), and variations of fence materials are possible.
 - 1) The size and shape of the subject property is adequate for the existing residential structure and a four-foot-tall fence and/or gate of same height in the front yard;
 - 2) The applicant's request is not consistent with the objectives of the Comprehensive Plan of preserving the existing neighborhood character;
 - 3) There are no unusual building design, lot shape or mature vegetation constraints preventing the construction of a fence by-right in the front yard;

- 4) The proposed six-foot-tall fence and nine-foot-tall gate in the front yard does not meet sound residential design objectives because it could create a barrier affect impacting the quality of residential development and street frontage along Chain Bridge Road.

NOW, THEREFORE, BE IT RESOLVED by the Board of Zoning Appeals of the City of Fairfax on this fifth day of July, 2016, that Application No. SE-16050012 be and hereby is DENIED.

Adopted this fifth day of July, 2016.

Attest:

Board of Zoning Appeals Secretary

**SAMPLE MOTION
FOR APPROVAL WITH CONDITIONS
(AS REQUESTED BY APPLICANT)**

I MOVE THAT THE BOARD OF ZONING APPEALS ADOPT THE ATTACHED RESOLUTION TO APPROVE THE REQUEST OF TAM T. DUONG, OWNER, FOR A SPECIAL EXCEPTION TO CITY CODE SECTIONS 110-37(a)(6) AND 110-369 TO ALLOW CONSTRUCTION OF A SIX-FOOT-TALL FENCE AND NINE-FOOT-TALL GATE IN THE FRONT YARD WHERE MAXIMUM FENCE HEIGHT OF FOUR FEET IS PERMITTED IN THE R-2 RESIDENTIAL DISTRICT ON THE PROPERTY LOCATED AT 3617 CHAIN BRIDGE ROAD AND MORE PARTICULARLY DESCRIBED AT TAX MAP PARCEL 57-2-(02)-063, SUBJECT TO THE FOLLOWING CONDITIONS:

(BZA TO PROVIDE CONDITIONS)

**SAMPLE MOTION
TO DENY
(STAFF RECOMMENDATION)**

I MOVE THAT THE BOARD OF ZONING APPEALS ADOPT THE ATTACHED RESOLUTION TO APPROVE THE REQUEST OF TAM T. DUONG, OWNER, FOR A SPECIAL EXCEPTION TO CITY CODE SECTIONS 110-37(a)(6) AND 110-369 TO ALLOW CONSTRUCTION OF A SIX-FOOT-TALL FENCE AND NINE-FOOT-TALL GATE IN THE FRONT YARD WHERE MAXIMUM FENCE HEIGHT OF FOUR FEET IS PERMITTED IN THE R-2 RESIDENTIAL DISTRICT ON THE PROPERTY LOCATED AT 3617 CHAIN BRIDGE ROAD AND MORE PARTICULARLY DESCRIBED AT TAX MAP PARCEL 57-2-(02)-063.

The vote on the motion to adopt the resolution was recorded as follows:

	<u>Vote</u>
BZA member John O'Brien Clarke, Jr.	_____
BZA member Ellen Brouwer	_____
BZA member Edward C Calabria	_____
BZA member Robert Matthews	_____
BZA member Gary Perryman	_____