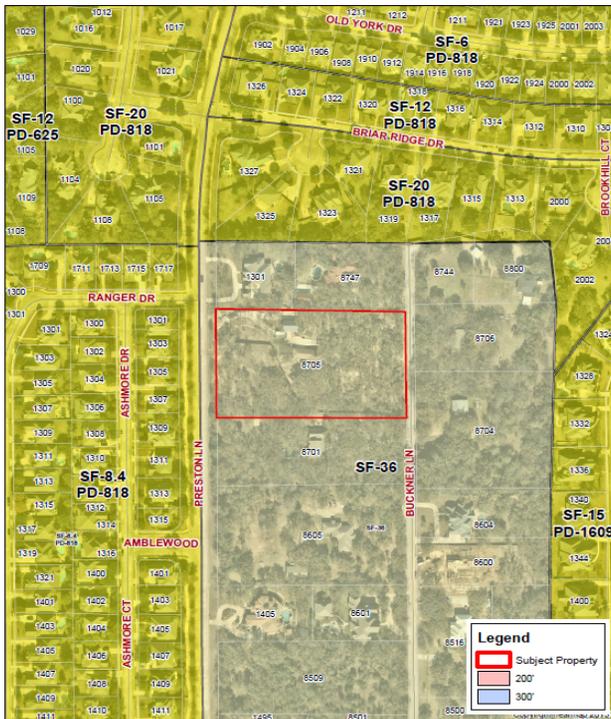


Item H-1

Consider a recommendation for two (2) variances to the Unified Development Code, the first being Section 8.11, Fencing Requirements in Residential Zoning Districts, to allow a six-foot (6') and eight-foot (8') privacy fence, approximately one hundred forty-five feet linear feet (145') total, on the north and south property lines, in front of the primary structure; and the second variance being UDC, Section 5.07, Driveways, Residential Driveway Approaches, to allow one (1) additional residential driveway to be constructed onto Preston Road, in addition to the current driveway that accesses Buckner Lane, located on 3.0-acres, on the west side of Buckner Lane, being Lot 1, Block 1, Mabel Matthews Addition, at 8705 Buckner Lane, and zoned SF-36 (Single Family Residential – 36,000 square-foot lot size minimum). Davis Tyson, owner. (UDC-19-0003).

Item H-1
Zoning Map



H-1 Maps

Item H-1
Aerial View



H-1 Chronology Leading up to Fence Variance:

1. Home was built and improvements recorded with Tarrant County Appraisal District: _____ **1985**
2. **Applicant is issued deed to the home and recorded with TAD:** _____ **February 8, 2018**
3. Fence Application submitted (Did not include front fencing): _____ **February 20, 2018**
4. Fence Application denied due to driveway approach and gate on Preston Rd.
NOT ALLOWED PER UDC TO HAVE DRIVEWAY ACCESS ON A THOROUGHFARE AND RESIDENTIAL STREET _____ **Denied 03/08/2018**
5. Second Fence Application Submitted. **Application included the renderings of the combination 6' and 8', board on board privacy fence, shown on the north and south property lines. *Item #4 on the fence application states fencing in front of the structure must be open fencing and no more than 5' in height.*** _____ **March 20, 2018**
6. Staff contacts the applicant and was told what was permitted. Per our Trakit notes, applicant states he was going to keep the existing fence along his street frontage off Preston Road, and therefore, is not changing out the existing fence on the west side of the house. Staff explained that the proposed fencing, along with the proposed future gate, could not be approved as shown on the plans. _____ **Denied (March 28, 2018)**

H-1 Chronology of Fence Application:

7. Sometime between March 28, 2018 and January 15, 2019, the applicant had a cedar, board on board, combination 6' and 8' privacy fence, constructed on the north and south property lines in the front of his home in spite of a denied application. _____ **03/28/18 – 01/15/19**
8. On January 24, 2019, upon further review, the Director of Public Services rescinded the denial of the permit application dated March 28, 2018. Can't deny the west fencing based on the applicant's future wishes for a driveway approach. Staff contacted the applicant and asked him to complete a new application for file. _____ **January 24, 2019**
9. On January 25, 2019, staff had seen current photos of the applicant's fencing, specifically the north and south fencing in front of the main structure. The fencing appeared to be combination 6' and 8', board on board privacy fencing. This was the same rendition as mentioned in Chronology #5. The applicant arrived at Town Hall to complete the application and turned in the rendition of what was submitted in Chronology #5. He was told the application would have to be denied based on the material and size of the fencing in front of the main structure. Applicant completed the variance application on this date. _____ **January 25, 2019**

H-1 Applicant Fencing



H-1 Applicant's Fence



H-1 (Chronology of Driveway Approach Variance)

1. Applicant makes a visit to Town Hall to speak with an engineer about pouring a driveway approach and tying into city sewer. E-mail sent to engineering. _____ **February 8, 2018**
2. Applicant e-mailed staff explaining the need for an additional driveway off Preston Rd. E-mails explains the 2nd driveway will be used to put a 45' (5th) wheel Trailer on the property. Can't access on Buckner _____ **February 23, 2018**
3. DRC meeting is held on March 1, 2018. The matter with the driveway is discussed amongst staff. The UDC allows for a waiver by DRC to be considered on a case by case basis. Consensus is to **not allow** the driveway as it is a "self-created" hardship (UDC/Section 5.07(A.1). Applicant was told about the DRC decision. _____ **March 1, 2018**
4. Applicant e-mailed staff and said not to discuss the matter in the March 8, 2018, DRC meeting, he would apply for a variance. _____ **March 7, 2019**
5. The applicant did not immediately apply for a variance. He attended a DRC meeting prior to July 2018. During this time the applicant was told the driveway would have to go through a variance process/**denied by DRC.** **No variance app. in 2018**

H-1 (Chronology of Driveway Approach Variance)

1. During the time period from July 2018 through January 2019, the applicant began constructing the proposed driveway (flatwork). Flatwork does not require a permit _____ **07/2018- 01/2019**
2. The applicant attended a DRC meeting on July 26, 2019. The applicant gave the proposal of cutting the curb at Preston Road, selling off a portion of his land, and building an add-on to his existing home. Similar responses were given in reference to the driveway- (need a variance) _____ **July 26, 2018**
3. DRC had a minimum of (3) meetings with discussion about the driveway and allowing access onto Preston Rd. with the new driveway. In addition, phone calls, and e-mails were exchanged, explaining a variance would have to be recommended for approval by P&Z, and City Council would render the final decision; and/or replat the property, or possibly rezone. _____ **Information**
4. In January 2019, a masonry wall was being constructed on the applicant's property which would encompass the electronic gate, allowing access onto Preston Rd. _____ **January 2019**
5. On January 15, 2019, the applicant submitted the variance application for the driveway. _____ **January 15, 2019**
6. Staff informed the applicant they would run both the fence and driveway variance in the same application.

Preston Lane

Flatwork Continued despite being denied by DRC for a driveway approach



H-1 Proposed Driveway Approach and Fencing



In this aerial photo, you can see the construction has continued on the flatwork, approaching the right of way at Preston Rd.

Within 10 days, construction begins on the screening wall which will house the gate for access onto Preston Rd. All construction continuing after being denied by DRC back in March 2018.

Variance application submitted on 01/15/19

1/15/2019

IMG_2235.jpg



Item H-1 Analysis

Section 2.07 A(2) of the UDC states that when considering a UDC variance request, City Council shall consider the following factors:

1. That there are special circumstances or conditions affecting the land involved such that the strict application of the provisions of this Code would deprive the applicant of the reasonable use of his land.
2. That the granting of the variance will not be detrimental to the public health, safety or welfare, or injurious to other properties in the area.
3. That the granting of the variance will not have the effect of preventing the orderly subdivision of other lands in the area in accordance with the provisions of this Code.
4. That the granting of the variance will not constitute a violation of any other valid ordinance of the City of Keller.
5. That strict compliance with the regulations, and/or that the purpose of the regulations will be served to a greater extent by the alternative proposal.

Item H-1 Professional Analysis

There are no special circumstances or conditions affecting the land in such a way that provisions of the code would deprive the applicant of the reasonable use of the land. Staff has seen the open space associated with the lots off Buckner Lane and as stated with the UDC for SF-36 zoning, encourage more open space and characteristics of semi-rural atmosphere. The fencing is not comparable to the surrounding properties.

In regards to the driveway approach onto Preston Road, due diligence on the applicant's part should have been done to determine if a large trailer would be able to access the property off Buckner Lane. Widening the access gate, trimming trees, and creating a wider driveway approach off Buckner could have been a possible solution. **Staff could not locate another property in Keller that is not a corner lot, and has access to (2) public roadways, one being a thoroughfare and the other a residential street.**

Staff forwards this UDC variance to City Council for their consideration with the following condition:

To allow a variance to exceed the maximum five feet (5') in height. The applicant wishes for the board on board, cedar, privacy fence to be a combination of six foot (6') and eight foot (8') in height in front of the primary structure.

To allow a variance to construct a secondary residential driveway to access Preston Road, a three lane collector, in addition to the current residential driveway which accesses Buckner Lane.

Item H-1 Board Results

The Planning and Zoning Commission took action on this agenda item on February 11, 2019 and recommended approval by a vote of (6-1).

Item H-1 Alternatives

- City Council has the following options when considering a UDC variance application:
- Approve as submitted (with proposed conditions and variances)
- Approve with modifications or additional conditions
- Table the agenda item to a specific date with clarification of intent and purpose
- Deny

City of **KELLER**



Questions?

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