



Legislation Details (With Text)

**File #:** 19-143      **Version:** 1

**Type:** New Business      **Status:** Agenda Ready

**File created:** 4/3/2019      **In control:** Planning & Zoning Commission

**On agenda:** 4/8/2019      **Final action:**

**Title:** Consider a request for a variance to the Unified Development Code, Section 8.11 (C), Fencing Requirements in Residential Zoning Districts, to allow an existing fence to remain both iron and cedar material for privacy purposes, located on 0.882-acre lot, on the east side of Betty Lane, being Lot 7, Block A, Timberview Estates Addition, at 1109 Betty Lane (Account# 03153479), and zoned Single Family Residential – 36,000 square-foot lot size minimum (SF-36). Polaris LLC, applicant/developer. Don and Lisa Tice, owners. (UDC-19-0005)

**Attachments:** 1. 040819\_TiceFenceUDC-19-0005\_Attachment(A), 2. 040819\_TiceFenceUDC-19-0005\_Attachment(B), 3. 040819\_TiceFenceUDC-19-0005\_Attachment(C), 4. 040819\_TiceFenceUDC-19-0005\_Maps

Date	Ver.	Action By	Action	Result
4/8/2019	1	Planning & Zoning Commission	table	Pass

**To:** Planning and Zoning Commission

**From:** JP Ducay

**Subject:**

Consider a request for a variance to the Unified Development Code, Section 8.11 (C), Fencing Requirements in Residential Zoning Districts, to allow an existing fence to remain both iron and cedar material for privacy purposes, located on 0.882-acre lot, on the east side of Betty Lane, being Lot 7, Block A, Timberview Estates Addition, at 1109 Betty Lane (Account# 03153479), and zoned Single Family Residential - 36,000 square-foot lot size minimum (SF-36). Polaris LLC, applicant/developer. Don and Lisa Tice, Owners. (UDC-19-0005)

**Background:**

The property was originally platted and approved by the City of Keller in 1973. (See Attachment A, Final Plat)

In 2018, a fence permit was submitted by the Owners proposing to construct a six-foot iron fence along the sides of the property. This application was approved by staff the following day.

Upon the completion of the fence a final fence inspection was conducted. The inspector failed the final fence inspection because the existing fence did not match the plans that were submitted and approved. Instead of just being a wrought iron fence, the Owners added wood slats. The approved plans called for the iron fence to remain open with no wood or alternative material used as slats. (See Attachment B, Application, and C, Pictures)

After failing the fence final inspection, the applicant applied for a UDC Variance Request. This Request seeks permission to allow the existing fence to remain both iron and cedar material for privacy purposes.

**UDC Code:**

Section 8.11 (C), Fencing Requirements in Residential Zoning Districts, states that, “Fences shall be constructed of wood, ornamental metal, tubular steel, masonry, or live material.”

**Variance Request:**

- 1) A variance request to allow the existing fence to remain a mix of wrought-iron and cedar in lieu of a single material.

**Citizen Input:**

A UDC variance application does not require a public hearing, so no public hearing notifications were sent out to the surrounding property owners for this request. There has been no response from the public to this application. The public will have an opportunity to speak during the “Persons To Be Heard” agenda item.

**Summary:**

Section 2.07(A.2) of the UDC, lists criteria for approval of a variance.

- a. 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.
- b. 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.
- c. 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.
- d. That the granting of the variance will not constitute a violation of any other valid ordinance of the City of Keller.
- e. 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.

**Staff Analysis:**

This request meets all standards set by the UDC with the exception of the requested variance for combining the use of two materials. The UDC permits the use of either iron or wood materials; however, limits fence materials to only one. The Owner’s intentions for utilizing both materials was for privacy purposes.

**Alternatives:**

The Planning and Zoning Commission has the following options when considering a UDC variance request:

- Recommend approval as submitted (with requested variances).
- Recommend approval with modified or additional condition(s).
- Tabling the agenda item to a specific date with clarification of intent and purpose

- Recommend denial.

**City Council Action:**

If the Planning and Zoning Commission takes action and makes a recommendation on this agenda item, then this UDC Variance application will be scheduled for City Council action on May 7, 2019.