



## Legislation Details (With Text)

**File #:** 19-763B **Version:** 1  
**Type:** Ordinance **Status:** Passed  
**File created:** 8/8/2019 **In control:** City Council  
**On agenda:** 9/3/2019 **Final action:** 9/3/2019  
**Title:** Pass the ordinance approving a major change to the University Heights Unit 2 PUD in order to grant deviations at the subject property located at 1740 Rutgers Ct., Naperville - PZC 19-1-069

**Sponsors:**

**Indexes:**

**Code sections:**

**Attachments:** 1. 1740 N. Rutgers - Ordinance, 2. Exhibit A - Legal Description, 3. Exhibit B - Site Plan, 4. Exhibit C - Standards, 5. Application, 6. 8.7.19 PZC Minutes, 7. Location Map

Date	Ver.	Action By	Action	Result
9/3/2019	1	City Council	passed	Pass

### CITY COUNCIL AGENDA ITEM

#### **ACTION REQUESTED:**

Pass the ordinance approving a major change to the University Heights Unit 2 PUD in order to grant deviations at the subject property located at 1740 Rutgers Ct., Naperville - PZC 19-1-069

**DEPARTMENT:** Transportation, Engineering and Development

**SUBMITTED BY:** Erin Venard

#### **BOARD/COMMISSION REVIEW:**

The Planning and Zoning Commission considered this matter on August 7, 2019 and made a motion to deny the request; this motion failed (2 in favor; 5 against. Accordingly, PZC 19-1-069 was recommended for approval by the PZC.

#### **BACKGROUND:**

The petitioner, Tiffany Jasionowski, requests approval of a major change to the University Heights Unit 2 PUD in order to permit a deviation to reduce the corner side yard setback for an existing above ground swimming pool.

Located at the southeast corner of Rutgers Court and Auburn Avenue, the subject property has a common address of 1740 N. Rutgers Court. The subject property is 9,555 square feet in size, is zoned R1B PUD (Medium Density Single-Family Residence District) is currently improved with a single-family residence. The property is a corner lot with Rutgers Court functioning as the front property line and Auburn Avenue as the corner side property line.

The subject property was recorded in 1979 as Lot 478 in University Heights Subdivision Unit 2 with a 20' platted building line along the front and corner side property lines. Ordinance #79-133 approved the planned unit development and reduced setbacks for the subdivision. One of the variances

granted as part of the PUD is a minimum corner side yard setback of 10'.

**DISCUSSION:**

In March of 2019, the petitioner applied for a building permit to construct an above ground swimming pool. The permit application depicted the proposed pool sited in compliance with the 10' corner side yard setback and the 20' platted setback; the permit was approved. During the required permit inspection, staff discovered that the pool was not in the location shown on the application and did not meet the required setbacks. The petitioner was advised to either relocate the pool to a compliant location or request a deviation.

The pool was installed approximately 5.9' from the corner side yard property line along Auburn Avenue. The pool encroaches approximately 4.1' into the required 10' corner side setback and 14.1' into the required 20' platted setback. The proposed pool is located within the existing fence line and does not interfere with any sight lines. The petitioner's responses to the standards for granting a deviation are attached.

Per the petitioner, relocating the pool would require considerable expense as the electric has already been installed in the current location. Staff finds there is no hardship that would require the pool to be sited in its current location; however, staff understands that it would be difficult to relocate the pool after it has been installed. The petitioner will be subject to fines including double the cost of inspection fees and administrative fees in accordance with Section 114.4 Violation Penalties of Title 5 (Building Code).

***Planning and Zoning Commission Action***

The Planning and Zoning Commission opened the public hearing to consider PZC 19-1-069 on August 7, 2019. Tiffany Jasionowski spoke as the petitioner. No one from the public provided testimony. PZC discussed the role of the homeowner and contractor in the installation and the permitting process. Ms. Jasionowski stated she applied for the permit and assumed the contractor would install the pool in the correct location.

PZC closed the public hearing and made a motion to deny PZC 19-1-069; this motion failed (2 in favor of denial; 5 against). Accordingly, PZC 19-1-069 was recommended for approval by the PZC. Chairman Hanson and Commissioners Losurdo, Margulies, Morin and Van Someren cast the dissenting votes, finding that the pool did not interfere with sightlines or easements.

***Key Takeaways***

- The petitioner requests a major change to the PUD to permit a deviation to the corner side yard setback to permit an existing pool to remain in place.

**FISCAL IMPACT:**

N/A