



## Legislation Details (With Text)

**File #:** 20-871      **Version:** 1

**Type:** Public Hearing      **Status:** Agenda Ready

**File created:** 7/31/2020      **In control:** Planning and Zoning Commission

**On agenda:** 8/5/2020      **Final action:** 8/5/2020

**Title:** Conduct the public hearing to consider a variance from section 6-2-12:1.4 in order to permit an 8' tall privacy fence along the rear of the townhome building located at 4040-4044 Ashwood Park Court (Ashwood Park North Townhomes-Lot 3) - PZC 20-1-055

**Sponsors:**

**Indexes:**

**Code sections:**

**Attachments:** 1. APTH Application, 2. Location Map, 3. Legal Description, 4. Disclosure of Beneficiaries, 5. Fence Site Plan, 6. Fence Design, 7. Variance Standards, 8. Board and Owners Letters of Support

Date	Ver.	Action By	Action	Result
8/5/2020	1	Planning and Zoning Commission	approved	Fail

### PLANNING AND ZONING COMMISSION AGENDA ITEM

#### **ACTION REQUESTED:**

Conduct the public hearing to consider a variance from section 6-2-12:1.4 in order to permit an 8' tall privacy fence along the rear of the townhome building located at 4040-4044 Ashwood Park Court (Ashwood Park North Townhomes-Lot 3) - PZC 20-1-055

**DEPARTMENT:** Transportation, Engineering and Development

**SUBMITTED BY:** Scott Williams, AICP

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

Official notice for the public hearing for PZC 20-1-055 was published in the Daily Herald on July 20, 2020.

#### **BACKGROUND:**

The property is zoned R3A (Medium Density Multiple-Family Residence District) with a conditional use for the Ashwood Park North - Townhomes PUD, and is located at the southwest corner of 248<sup>th</sup> Avenue and 103<sup>rd</sup> Street. Lot 3 of this development is 20,645 square feet, contains three townhome units in one building, and abuts 248<sup>th</sup> Avenue at the rear per the PUD.

#### **DISCUSSION:**

The owner of one of the units and petitioner, Steve Dano of Crestview Builders, is requesting approval of a variance to allow an 8' tall privacy fence in the eastern rear yard of Lot 3. Section 6-2-12:1.4 (General Zoning Provisions: Fences) of the Municipal Code restricts residential fences to a maximum permitted height of 6' in the rear or interior side yard. The proposed height exceeds the maximum allowance; therefore, requiring a variance from the Municipal Code. The two other owner-occupied units and the Ashwood Park North Townhomes Board have provided authorization and

letters of support for the request.

In most residential settings, a 6' privacy fence provides sufficient screening between residential uses. In this instance, the subject property backs up to a busy 248<sup>th</sup> Avenue with an Average Daily Traffic count of 13,300 vehicles. The petitioner and owners have raised privacy and noise concerns with the adjacent street and multi-purpose path. Accordingly, the petitioner has indicated that a taller, privacy-style fence placed along the public sidewalk located on the subject property mitigates these potential issues.

Staff has conducted a review of the proposal and raises no concern with the fencing given the proximity of the adjacent 248<sup>th</sup> Avenue right-of-way to the raised decks. Uniquely, the eastern property line of Lot 3 extends to just a few feet short of the 248<sup>th</sup> Avenue curb whereas most private property lines are located one foot from the sidewalk (non-street side). Therefore, the required rear yard setback incorporates an area which is typically located in the public right-of-way. This subdivision platting has created a situation with the raised decks constructed closer to a public sidewalk located in an easement on private property. Staff estimates the closest deck as being under 10' away from the sidewalk.

Staff also finds that the privacy fencing will extend for just the width of the townhome building because it is located closest to 248<sup>th</sup> Avenue, and the proposal will not replace the entire subdivision fencing or impact existing landscaping. The petitioner's responses to the Standards for Granting a Variance are included in the Development Petition. Staff is in general agreement with the petitioner's Findings and recommends adoption by the Planning and Zoning Commission.

### **Key Takeaways**

- The petitioner requests a variance from Section 6-2-12:1.4 to allow for 8' tall privacy fence located on Lot 3 of the subject property.
- Staff supports the requested variance given the proximity of the 248<sup>th</sup> Avenue and the associated public sidewalk located on private property.