

Planning and Zoning Commercial Pre-Application Meeting May 8, 2024

Note: These are PRELIMINARY inquiries, many of which do not move forward. Public participation is welcomed at both the Planning & Zoning Board meetings and the City Commission meetings where variances and development agreements must be approved.

1194 N. Peninsula: The applicant is requesting a city wide LDR Text Amendment to measure fence height from the property where the fence is being installed rather than the neighbor's property and a variance to construct a fence that includes some sections higher than 6 feet on a new home construction property. The applicant stated that the existing home to the north of the property has a much higher grade than the neighbor to the south and that the 1194 Peninsula grade is naturally higher than both neighbors.

LDR Text Amendment: The applicant stated that in a new build, it is difficult to establish a grade level height off the neighboring property. The text amendment would also increase fence height from 6 to 7 feet. The applicant also stated that a taller person isn't awarded the same privacy as a 5' person. The applicant's attorney asked what the process is to request a text amendment. What departments does it have to go through? Can this be done in one application or 2?

Planning:

- A text amendment is assigned to a planner.
- The staff would make a recommendation and the applicant has the opportunity to present its case.
- Planning makes a recommendation and places it on a Planning & Zoning Board agenda. The Board will vote on the request and will decide with or without conditions. The P&Z Board does not have to agree with the staff recommendation. A text amendment then goes to the City Commission for 2 readings and final disposition.
- The applicant asked if planning works with people to initiate LDR amendments. Planning replied that they receive direction from the Commission or City Manager. Rarely does a text amendment come from Planning.
- The city attorney will determine if this can be presented in one application.
- At this point planning can't make a recommendation. Further information and a completed application is needed. There are criteria that must be met.

Variance Request:

The applicant's attorney stated that one neighbor's property has inconsistent topography and the other has a high slope. This creates a hardship, and the stormwater code also creates a hardship. It's a special circumstance with a 100-year-old home next to new construction. The applicant is requesting a 7' section of fencing. A level fence can't be created due to slopes.

Planning:

- Break it down into specifics. Define the section where you are requesting a 7' fence height.
- Have they researched case law regarding privacy?
- Current regulations are very clear.

- Planning asked the applicant if they meet the criteria for a variance. The applicant's attorney replied that they want the same rights as other property owners in terms of privacy and security. The property owner did not create the hardship, there is no detriment to public welfare and a fence isn't a special privilege.

Engineering:

- The applicant asked, "What's the rationale and logic of not being able to raise property so that no steps into the house are needed?" Engineering replied that we have to follow stormwater codes.
- The applicant's attorney stated that they would need another LDR text amendment regarding retaining walls.

City Attorney:

- The applicant will probably need 3 separate text amendments, but we will need to see what the amendments are.

Next Steps: Staff told the applicant to submit his applications for approval, and they will respond. They added they can't guarantee what the P&Z Board will do, but a letter should also be submitted to the Board, along with photos and a survey. All must be submitted at least 30 days prior to a P&Z meeting. Letters also have to be sent to adjoining property owners apprising them of what the property owner wants. Staff will review to make sure the applications are complete. The first possible P&Z meeting is in July.