

PLANNING AND ZONING COMMISSION RECOMMENDATION

On May 24, 2011, a public hearing was held before the Planning and Zoning Commission regarding the request described below. All members of the Commission were present except Mr. Mark Walsh.

High Point University

Text Amendment Case 11-05

A request by High Point University to amend Section 9-4-13(c)(1) of the Development Ordinance regarding a principal use on a zone lot and Section 9-4-14(f) regarding fence height on residential zoned property.

Mr. Loveland presented the request and recommended approval as outlined in the staff report.

Speaking in favor of the request was the applicant's representative, Mr. Ron Guerra of 833 Montlieu Avenue in High Point. Mr. Guerra stated that the intent of the request is to allow High Point University to create a corridor, using their decorative signature fencing, around the North College Drive and North Centennial Street intersections with Montlieu Avenue. He explained that the fencing would be approximately 7½ feet high, aesthetically pleasing, provide a noise barrier, prevent cars from running into property that may hop the curve, and create security for nearby property owners. He concluded that the allowance of higher fence height would be limited to colleges and universities.

The Commission discussed at length the proposed amendment. Key points of discussion were the fact that a change to the Ordinance would be for the entire City, this amendment would permit vacant lots to be fenced in and whether the University could use landscaping instead of fencing to identify its boundary.

The Planning & Zoning Commission recommended *approval* of Text Amendment Case 11-05, by a vote of 5-2. Members Cynthia Davis and Keith McInnis were the dissenting votes. Member Davis stated that if the provision allowing the fencing of vacant lots was omitted then the text amendment would be easier to support.

**CITY OF HIGH POINT
PLANNING AND DEVELOPMENT DEPARTMENT**

**STAFF REPORT
TEXT AMENDMENT CASE 11-05
May 28, 2011**

Request	
Applicant: High Point University	Affected Ordinance Sections: Amendment will make changes to Section 9-4-13 (c)(1), entitled <i>Principal Use Required on Same Zone Lot</i> , and Section 9-4-14 (f)(3), entitled <i>Exceptions</i> , which relates to the height of fences.
Proposal: A request to allow fences to be constructed on vacant residential zoned lots and to permit a college or university to erect a fence on residentially zoned property contiguous to its campus up to a height of 8 feet.	

Background

High Point University desires to erect 8-foot high decorative fencing on properties that are located across streets adjacent to campus and which are located in a residential zoning district. Their objectives of the fencing off campus are to enhance overall security and safety along major adjacent roadways and to enhance aesthetics. The Development Ordinance allows for a fence up to 6 feet in height on residential properties abutting a thoroughfare or collector street. They propose constructing some portions of the fence on vacant property, which is also not permitted by the Ordinance.

Details of Proposal

This proposal would alter two sections of the Development Ordinance. The Ordinance currently considers a fence an accessory structure and prohibits it from being placed on vacant property. Under the University's proposal that provision would be revised, allowing non-opaque fencing on property without an established principal use. As fence height is regulated by use, not by zoning districts, the provision to allow fencing on vacant properties would establish criteria for regulating fence height on such lots.

This proposed amendment would also change the section regulating fence height by creating an exception for fences erected by a college or university on residential zoned property. This exception would allow a college or university to place a fence up to 8-feet in height located on residential zoned property if certain criteria are met. Such a fence would need to be placed in proximity to campus, and located either on property owned by the college or university or within a fence easement. Furthermore the fence could not be located in the front yard of a lot with an existing house unless the property is owned by the college or university.

Analysis

The Development Ordinance currently allows a property owner to fence a vacant lot if it adjoins their improved property (as they comprise one zone lot). This amendment would allow the construction of a fence on vacant lots that are not contiguous with developed lots under similar ownership. Furthermore, this amendment does not limit the benefit of fencing vacant property to colleges or universities, but would allow fencing on vacant property located anywhere in the city. The Planning and Development Department has not identified any potential adverse impacts in allowing vacant property to be fenced so long as the fence is not opaque. It should be noted that requests to fence vacant property have been rare in the past.

The University has stated a desire to erect their decorative fence in locations close to campus such that it would visually compliment the fencing on the nearby campus. The proposed text amendment limits the placement of off-campus 8-foot fences to locations in close proximity to campus.

The proposed amendment would also prevent an 8-foot high fence from being placed across the front yard of a lot containing an existing dwelling unless the college or university owns that lot, as it is undesirable to place a fence of such a height in front of a residence – particularly one that is not occupied by persons associated with that college or university.

Recommendation

Staff recommends approval.

Staff is supportive of this proposed amendment, in that it is reasonable to allow non-opaque fencing on property without an established principal use. In addition, the increased fence height allowed on property close to campus is reasonable given that the identical height is allowed on campus.

Required Action

Planning and Zoning Commission:

Upon making its recommendation, the Planning and Zoning Commission must place in the official record a statement of consistency with the City's Land Use Plan, and any other officially adopted plan that may be applicable. This may be done by adopting the staff's findings as written in this report, by adopting the staff's findings with additions or changes as agreed upon by the Commission, or, if the Commission is in disagreement with staff's findings, by adoption of its own statement.

City Council:

Upon rendering its decision in this case, the High Point City Council also must place in the official record a statement of consistency with the City's Land Use Plan. This may be done by

adopting the staff's findings as written in this report, by adopting the staff's findings with additions or changes as agreed upon by the Council, or, if the Council is in disagreement with staff's findings, by adoption of its own statement.

In addition, the City Council must, prior to adopting or rejecting any zoning amendment, explain why it considers the action taken to be reasonable and in the public interest. In this case, staff suggests that the approval of the applicant's request is reasonable and in the public interest because: 1) it permits the construction of fencing on otherwise vacant property; and 2) it would allow a college or university to erect fencing on residential zoned property at a height of up to 8-feet if such properties are in close proximity to the campus. The City Council may adopt this statement, it may add to or change this statement, or, if the Council is in disagreement with the above statement it will need to formulate its own reasonableness / public interest statement.

Report Preparation

This report was prepared by Planning and Development Department staff member Douglas Loveland, AICP, and reviewed by Robert L. Robbins, AICP and G. Lee Burnette, AICP, Director.

TEXT AMENDMENT 11-05

PROPOSED AMENDMENT TO THE CITY OF HIGH POINT

DEVELOPMENT ORDINANCE

(An amendment affecting Section 9-4-13 (c)(1) and Section 9-4-14 (f)(3) concerning the placement of fences on property without an established principal use, and fencing erected by a college or university on residentially zoned property.)

SECTION 1.

Section 9-4-13 (c) (1), entitled *Principal Use Required on Same Zone Lot*, shall be amended as follows:

(1) Principal Use Required on Same Zone Lot: All accessory buildings and structures, **except fences as stated below**, shall be located on the same zone lot as the principal use to which they are incidental.

A non-opaque fence shall be permitted on a property where no principal use has been established. For purposes of this provision, a non-opaque fence shall be defined as having openings between the materials used in its construction totaling at least 25% of the fence length. For property located in residential zoning districts the height of a fence shall be in accordance with the requirements of Section 9-4-14 (f)(1) (Residential Uses). For property located in nonresidential zoning districts the height of a fence shall be in accordance with the requirements of Section 9-4-14 (f)(2) (Nonresidential Uses).

SECTION 2.

Section 9-4-14 (f) (3), entitled *Exceptions*, shall be amended as follows:

(3) Exceptions:

- a.** Fence height limitations do not apply to fences built in conjunction with electric or gas substations; municipal solid waste disposal facilities; water or sewage treatment plants or facilities; municipal water storage facilities; public correctional and mental institutions; military facilities; or hazardous or radioactive waste storage or disposal facilities.

b. Colleges or Universities may erect fences not to exceed eight (8) feet in height on residential zoned property provided that:

- 1. The property or properties are contiguous to and within 350 feet of a campus area of the college or university that is at least 10 acres in size; and**
- 2. If the property is owned by the college or university, a fence may be located on any part of the property; or**
- 3. If the property is not owned by the college or university, a fence easement must be obtained from the property owner, and no fence shall be erected between the street right-of-way and the front of an existing dwelling unit.**