

TO: Planning Commission  
FROM: Peter Gansen, Planning & Zoning Administrator  
RE: Staff Report for Application C-24-04  
DATE: September 10, 2024 Regular Meeting

---



Subdivision Application C-24-04  
Applicant: CITY OF BREEZY POINT  
Property Address: 8319 COUNTY ROAD 11  
Legal Description: LOT 32, 33, 60 & 61 13TH ADDITION TO BREEZY POINT ESTATES  
Parcel ID: 10161063, 10161036, 10161064 & 10161035  
Zoned: P Public

- Applicant has filed the appropriate application for a Conditional Use request.
- Applicant has paid the appropriate fee for the application.
- Public notice of the Hearing was published in the legal newspaper and all property owners within 350' were mailed a notice of hearing.
- Public notice was not given to the DNR via email.

Conditional Use Request:

- To construct a fence exceeding 72 inches in height.

Summary of the property

LOT 32, 33, 60 & 61 13TH ADDITION TO BREEZY POINT ESTATES is located north east of City Hall in an undeveloped plat adjacent to North Pinewood Drive and North Birchwood Drive.

The property and adjacent properties were platted as residential lots in 1964.

The zoning classification for the property is Public. Much of the adjacent properties are also owned by the City of Breezy Point. The public zoning district is a common zoning designation for most City owned properties. This zoning district exists to allow many uses related to municipal services related to city operations. Example of these include parks and recreation areas, open space, municipal wastewater facilities and cemeteries.

There are two lots 59 & 58 adjacent to the project that are owned by a private party and zoned R-3. These lots are also currently undeveloped.

Due to the scope of the project area and survey requirement for all conditional use permits, lot 59 the closest lot bordering the City's property was re-surveyed to verify the property boundaries.

The public zoning classification requires a conditional use permit for any fence exceeding 72 inches in height in all zoning districts within the City of Breezy Point.

This conditional use permit request only pertains to fence height. The garden portion of the project is general permitted use shared by most properties in the City.

This means the Commission only needs to look at the design of the fence with regard to the height of the fence.

The applicant met with the Zoning Administrator for a preapplication meeting to present their plans.

The site topography, access and lot configuration appear to be suitable for the proposed use and is consistent with the comprehensive land use plan, which encourages development in areas within this zoning classification.

The property is zoned public and the request is an allowed use with a conditional use permit under the Land Use Ordinance Section §153.064.

Based on the information presented at this time staff recommends approval with no conditions.

#### Findings:

Upon review of a Conditional Use application the commission needs to consider the findings as required in Section §153.119 (E). In review the commission should state whether or not the finding is acceptable towards granting the CUP, if applicable.

The following findings must be met:

**(a) The use or development is an appropriate conditional use in the land use zone.**

The property is zoned public and the request is appropriate under Section §153.064.

**(b) The use or development with conditions conforms to the Comprehensive Land Use Plan.**

Fences are allowed by Chapter 153.

**(c) The use with conditions is compatible with the existing neighborhood.**

The proposed use of the property is similar to the surrounding area, which includes city park area and recreational use amenities associated with park areas.

**(d) The use with conditions would not be injurious to the public health, safety, welfare, decency, order, comfort, convenience, appearance or prosperity of the city.**

(2) The following must be considered:

**(a) The conditional use should not be injurious to the use and enjoyment of other property in the immediate vicinity for the purpose permitted on that property, nor substantially diminish or impair property values in the immediate vicinity;**

**(b) The conditional use will not impede the normal and orderly development and improvement of surrounding vacant property for uses predominant in the area;**

**(c) The conditional use will not create excessive additional requirements at public cost for public facilities and services, and will not be detrimental to the economic welfare of the community;**

The use is proposing addition to public infrastructure at a cost to the public approved by the City Council.

**(d) The conditional use will have vehicular approaches to the property which are so designed as not to create traffic congestion or an interference with traffic on surrounding public thoroughfares;**

The proposed use is proposing to use the existing city road facilities.

**(e) Adequate measures have been taken to provide sufficient off-street parking and loading space to serve the proposed use;**

The proposed use is proposing to use the existing city parking lot.

**(f) Adequate measures have been taken or will be taken to prevent or control offensive odor, fumes, dust, noise and vibration, so none of these will constitute a nuisance and to control lights and signs in such a manner that no disturbance to neighboring properties will result;**

The proposed use is in keeping with the park like character of the neighborhood.

**(g) The conditional use will not result in the destruction, loss or damage of a natural, scenic or historical feature of major significance; and**

No scenic or historical feature has been documented.

**(h) The conditional use will promote the prevention and control of pollution of the ground and surface waters including sedimentation and control of nutrients.**

No significant source of stormwater modification has been noted in regards the fence.

The following are recommended conditions.

- 1) Fence shall not exceed a maximum of eight feet.**