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## Planning & Zoning Commission Meeting

**DEPARTMENT:** Development Services

**FROM:** JP Duca, Senior Planner

**MEETING:** November 14, 2023

**SUBJECT:**

Burleson Retail Summercrest at 700 Wilshire Blvd (Case 23-252): Hold a public hearing and consider approval of a resolution for a variance to Chapter 36, fencing and screening regulations, allowing for an alternative transitional screening material. (*Staff Presenter: JP Duca, Senior Planner*)

**SUMMARY:**

On September 5, 2023, an application was submitted by Anna Carrillo with Carrillo Engineering, LLC. requesting a variance to allow for an eight foot wooden fence to accommodate the transitional screening requirement in lieu of an eight foot masonry screening wall. Per the fencing and screening regulations, transitional screening shall be required between zoning districts and land uses within the city. In this particular case, when non-residential uses abut residential uses, transitional screening shall be required to separate these districts along the entire property line of the higher intensity district. It is incumbent upon the developer of the more intensively zoned property to screen their property from the less intensive zoning district.

The subject property is zoned GR, General Retail with an associated Commercial Site Plan (23-006) currently in the DAC review process. The site plan is proposing to develop four retail/restaurant tenant spaces on two lots with a drive-thru on each. The subject site immediately abuts five single-family lots zoned SF-7 along the north-west property boundary. It is incumbent upon the developer to screen their property from the residential district along the entire property line. The fencing and screening regulations require that transitional screening shall be eight feet in height and constructed of solid masonry or reinforced concrete. Alternative designs and materials may be proposed and approved provided the screening meets the intent of Transitional Screening section. The applicant is requesting approval to construct an eight foot wooden fence. The DAC denied the alternative fencing proposal during the CSP review process. The applicant has appealed this determination for City Council consideration. Upon recommendation from the Planning and Zoning Commission, the City Council may grant temporary or permanent waivers to transitional screening.

The applicant's justification for approval in granting this variance has been attached as Exhibit 5.

**Planning Analysis**

*Section 36-14 (Transitional screening) of the fencing and screening regulations contains the following requirements:*

(a) When NS, GR, C, CC, I districts or nonresidential uses abuts a MH, MHP, MF1, MF2, 2F, SFA, SFE, SFR, SF7, SF10, SF16 district or residential uses, transitional screening shall be required for separating these districts or uses along the entire property line of the higher intensity district or use except where visibility triangles or easements are required.

(b) When MH, MHP, MF1, MF2 district or multiple family or mobile home uses abuts a 2F, SFA, SFE, SFR, SF7, SF10, SF16 district or single-family uses, transitional screening shall be required for separating these districts or uses along the entire property line of the higher intensity district or use except where visibility triangles or easements are required.

(c) For the purpose of this section, "abut" or "adjacency" is defined as sharing a common property line except for private alleys, public alleys and private access easements.

(d) Shall be located within and along the outer perimeter of a lot or boundary line and entirely on private property. No part of any screening device shall be located in public right-of-way or encroach within the visibility triangle.

(e) Shall be eight feet in height.

(f) Shall serve the purpose of providing a visual barrier between properties.

(g) Shall be incumbent upon the developer of the more intensively zoned property to screen his property from a less intensive zoning district.

(h) The screening wall shall be of consistent color, design and material all through the development.

(i) Shall be constructed of solid masonry or reinforced concrete. All others designs and materials will have to be approved by the development assistance committee provided the screening meets the intent of this section.

(j) If the development assistance committee approves this requirement to be better met by an irrigated, pruned and maintained living screen, the same maybe substituted.

(k) Upon recommendation from the planning and zoning commission, the city council may grant a temporary or permanent waiver until such a time as the screening wall or fence maybe deemed necessary, if this requirement is impractical for immediate construction.

### Approval Standards in Granting a Variance.

(Chapter 36-Fencing and Screening Regulations, Section 36-4(b) – Administrative variance):

Consideration
There are <b>special circumstances existing on the property</b> on which the application is made related to size, shape, area, topography, surrounding conditions, and location that do not apply generally to other property in the same area and the same zoning district.

That a <b>variance is necessary to permit the applicant the same rights in the use of his property that are presently enjoyed</b> , under the ordinance, by other properties in the vicinity and zone, but which rights are denied to the property on which the application is made.
That the granting of the variance on the specific property <b>will not adversely affect the land use pattern</b> as outlined by the land use plan and <b>will not adversely affect any other feature of the comprehensive plan</b> of the city.
That the variance, if granted, <b>will not be materially detrimental to the public welfare</b> of the use, enjoyment, or value of property within the vicinity.

**OPTIONS:**

- 1) Recommend approval of the resolution for the requested transitional screening variance with or without conditions; or
- 2) Recommend denial of the resolution for the requested transitional screening variance.

**RECOMMENDATION:**

The Development Assistance Committee does not support this variance request as it may result in detrimental impacts to the adjacent residential homes. The location of the drive-thru's and dumpster enclosure in proximity to the residential property will likely result in an excessive nuisance of noise if not adequately screened. Staff acknowledges the screening will be located within a ten foot utility easement and future easement accessibility should be considered.

According to the applicant, given the presence of an existing utility easement and overhead electric line, the proposed wooden fence would be less obtrusive than a masonry fence which would require wider columns at close intervals. It is our opinion that the wooden fence satisfies the intent of the ordinance by providing adequate screening from the development to the residential lots and is a significant improvement from the existing condition which consists of a combination of chain link and older wooden fence depending on the lot.

**PUBLIC NOTIFICATION:**

Notice was mailed to surrounding property owners within 300 feet of the acreage proposed for this zone change and published in the newspaper in accordance with City ordinances and State law. Staff has received one letter from an owner within 300' of the subject property with concerns regarding drainage, privacy and noise impact.

**FISCAL IMPACT:**

None.

**STAFF CONTACT:**

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