Agenda Item: Zoning Motion 2021-1, UDO Text Amendment to allow a six-foot fence in the front yard setback along major thoroughfares with proper setbacks and vegetative screening.

DATE: June 9, 2021
FROM: Robert Will, Senior Planner

Background/Issue:

Staff was directed by the Board of Commissioners to look at the possibility to allow fences higher than 4 feet in the front yard setback along major roadway corridors in the Town to give residents some relief from traffic noise and increased privacy.

Comments Raised at the Public Hearing(s):
After holding the public hearing and discussions with staff members a number of concerns and issues were raised including:

- The 15-foot setback is too large, should be a maximum of 10 feet
- A materials list should be provided
- Different types of landscaping to be allowed
- Speed limit and number of lanes of thoroughfares should be considered
- The number of applicable roads should be further limited
- Additional setback for gates in driveways
- The possibility of using the Flexible Design Standards process for a change in fence height was discussed.

- Staff has looked into using the Flexible Design Standards and it would require the owners in the development to go through a change in zoning conditions and would be similar to the rezoning process.

Planning Board Recommendation:
After lengthy discussion the Planning Board voted to recommend DENIAL of the proposed text amendment. The vote was 5-2.
Some of the concerns expressed by the Planning Board include:

- The potential degradation of aesthetics of the proposed corridor.
- Changing the text of the UDO should not be done to benefit a few properties.
- Wanted a process that would give more control for the Town and at the same time rectify the property owners issue.

Staff Recommendation:
Based on issues brought up at the public hearing staff is recommending a few changes to the text:

- Reduction of the fence setback from the right-of-way from 15 feet to 8 feet (the size of a planting strip).
Staff recommends the following Revised Text Amendment:

155.601.21 Fences and Walls in Residential Districts and Developments

A. Within the single-family residential districts (R-20, R-15, R-12, R-9, R-MH, R-VS, CrC), no wall or fence may exceed four feet (4’) in height in any required front setback, or no more than six feet (6’) in height within any required side or rear yard, **with the following exception:**

1. Fences or walls may be up to 6 feet in height in the required front setback if the following criteria are met:
   a. the front yard is adjacent to a section of Pineville-Matthews Rd./Matthews Township Pkwy/Matthews Mint Hill Rd. right(s)-of way that is 4 or more lanes of traffic;
   b. the fence or wall must be setback at least 8 feet from the right-of-way;
   c. the fence or wall must be constructed of wood or brick;
   d. driveway gates must be set back 20 feet from the right-of-way;
   e. evergreen shrubs need to be placed an average of every five feet of fence or wall frontage except in front of gates. Evergreen shrubs must be at least 24 inches tall at installation; and
   f. a permit shall be required from the Planning Department in order to determine compliance with this exception.
STATEMENT OF CONSISTENCY WITH LOCAL ADOPTED GROWTH POLICIES
Board of Commissioners Action on Zoning-Related Issues

ZONING APPLICATION # ____________________________
ZONING MOTION # 2021-1_________________________
ADMINISTRATIVE AMENDMENT _______________________________

The Board of Commissioners adopts the checked statement below:

A) __X___ The requested zoning action, as most currently amended, is recommended for approval, and has been found to be CONSISTENT with the Matthews Land Use Plan (or other document(s)), as follows:

CONSISTENT: The text amendment is consistent with the land use plan because it will allow an increase in privacy and safety for residents with front yards along the Highway 51 four-lane corridor.

REASONABLE: The text amendment is reasonable in that it provides an option for property owners along a busy, four-lane thoroughfare for a six-foot fence in the front yard setback with proper vegetative screening.

OR

B) _____ The requested zoning action, as most currently amended, is not approved, and has been found to be INCONSISTENT with the Matthews Land Use Plan (or other document(s)), as follows:

INCONSISTENT: The text amendment is inconsistent with the Land Use Plan because it selectively gives the right to have a six-foot fence in the front yard setback on certain properties and not others.

NOT REASONABLE: The text amendment is not reasonable because it only applies to one thoroughfare corridor.

(In each case, the Statement must explain why the Board deems the action reasonable and in the public interest (more than one sentence). Reasons given for a zoning request being “consistent” or “not consistent” are not subject to judicial review.)

Date: June 14, 2021