

Case Number:	BOA-23-10300223
Applicant:	Highland Homes
Owner:	Multiple Owners
Council District:	4
Location:	10003-10143 Harr Knoll and 10102-10330, 10362 Mitra Way
Legal Description:	Lots 1-23, Block 12, NCB 18088 and Lots 25-42, Block 7, NCB 18088
Zoning:	“MPCD MLOD-2 MLR-2 AHOD” Master Planned Community Lackland Military Lighting Overlay Military Lighting Region 2 Airport Hazard Overlay District
Case Manager:	Vincent Trevino, Senior Planner

Request

A request for a 2' special exception from the maximum 6' fence height, as described in Section 35-514, to allow an 8' fence on rear and side yard of multiple lots.

Executive Summary

The subject properties are located south of Loop 410, between University Way and South Zarzamora Street. The applicant is requesting an exception to allow an 8' fence on the rear and side yard of multiple lots. The applicant constructed 8' fences, however, per the UDC the maximum height for fences is 6' in the rear and side yards for permitted uses in Single-Family. Building permits were approved with no fence height annotated, which caused the erroneous issuance of permits allowing an 8' fence.

Code Enforcement History

There is not relevant code enforcement history for the subject property.

Permit History

There are multiple building permits on multiple lots for new residential construction.

Zoning History

The subject property was annexed on January 05, 2003, and zoned “MI-1” Mixed Industrial District. The property was rezoned by Ordinance 2007-12-06-1278, dated December 6, 2007, to “FBZD” Form Based Zone District. The property was rezoned by Ordinance 2016-01-28-0055, dated January 28, 2016, to “MPCD” Master Planned Community District.

Subject Property Zoning/Land Use

Existing Zoning	Existing Use
“MPCD MLOD-2 MLR-2 AHOD” Master Planned Community Lackland Military Lighting Overlay Military Lighting Region 2 Airport Hazard Overlay District	Single Family Dwelling

Surrounding Zoning/Land Use

Orientation	Existing Zoning District(s)	Existing Use
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North	“MPCD MLOD-2 MLR-2 AHOD” Master Planned Community Lackland Military Lighting Overlay Military Lighting Region 2 Airport Hazard Overlay District	Single Family Dwelling
South	“MPCD MLOD-2 MLR-2 AHOD” Master Planned Community Lackland Military Lighting Overlay Military Lighting Region 2 Airport Hazard Overlay District	Single Family Dwelling and Vacant Lot
East	“MPCD MLOD-2 MLR-2 AHOD” Master Planned Community Lackland Military Lighting Overlay Military Lighting Region 2 Airport Hazard Overlay District	Single Family Dwelling
West	“MPCD MLOD-2 MLR-2 AHOD” Master Planned Community Lackland Military Lighting Overlay Military Lighting Region 2 Airport Hazard Overlay District	Single Family Dwelling

Comprehensive Plan Consistency/Neighborhood Association

The subject property is in the Heritage South Sector Plan and is designated as “General Urban Tier” in the future land use component of the plan. The subject property is not located within the boundary of a registered Neighborhood Association.

Street Classification

Harr Knoll is classified as a Local Road.

Mitra Way is classified as a Local Road.

Criteria for Review – Fence Height Special Exception

According to Section 35-482(h) of the UDC, in order for a variance to be granted, the applicant must demonstrate all of the following:

A. The special exception will be in harmony with the spirit and purpose of the chapter

The UDC states the Board of Adjustment can grant a special exception for a fence height modification. The fence height being requested is an 8’ fence on rear and side yard of multiple lots. If granted, staff finds the request would not be in harmony with the spirit and purpose of the ordinance as no similar fences exist in the area.

B. The public welfare and convenience will be substantially served.

In this case, the fence height criteria protect residential property owners awhile still promoting a sense of community. The privacy fence will not contribute to the public welfare and convenience as the privacy height will be exceeded by 2’.

C. The neighboring property will not be substantially injured by such proposed use.

Privacy fences above the 6’ maximum in the rear yard and side yard of multiple lots were not observed in the vicinity of the subject site, therefore the additional height could likely substantially injure other properties in the neighborhood.

D. The special exception will not alter the essential character of the district and location in which the property for which the special exception is sought.

The additional height in fence along the rear and side of multiple lots will alter the essential character of the district, as other houses in the area are within the maximum rear and side yard fence height standards.

E. The special exception will not weaken the general purpose of the district or the regulations herein established for the specific district.

The current zoning permits the use of a single-family home. The requested special exception may weaken the general purpose of the district, as it does not permit privacy fences in the rear or side yard over 6'. The requested special exception will weaken the general purpose of the district.

Alternative to Applicant's Request

The alternative to the applicant's request is to conform to the Fence Height in Section 35-514.

Staff Recommendation – Special Exception Fence Height

Staff recommends Denial in BOA-23-10300223 based on the following findings of fact:

1. The additional fence height goes against the established heights in the UDC; and
2. It will alter the essential character of the district as no other 8' fences were observed.