Proposed Zoning Amendment

The ZOR (Zoning Ordinance Review) Committee recently reviewed several proposed zoning amendments regarding fences and walls, accessory structures and lighting of recreational facilities in residential districts, all of which were recommended to the Council by the Planning Commission. These amendments were adopted by the Council on April 9, 2012.

One of the new amendments allowed fences in front setbacks to be eight (8) feet high on Estate and Residence-A lots with a minimum road frontage of at least one hundred (100) feet; *the current height limit is four (4) feet*. This new height limit was to be allowed with the provision that the upper four (4) feet of such fence be at least fifty (50) percent open (such as with the case of wrought iron, for example). Columns and entry gates were also allowed, under this amendment, to be up to eight (8) feet in height.

Since the adoption of this amendment staff and ZOR have reconsidered this ordinance and have come to the conclusion that it would affect far many more lots throughout the City than was the initial intension of the committee; thereby subjecting much of the residential community to the possibility of higher fences along pedestrian sidewalks in areas where the majority of lots are at least 100 feet wide.

Therefore, the ZOR is recommending that the previously-approved amendment be revised in order to allow the eight (8) foot high fences on Estate lots only, and not to allow them on Residence-A lots. All Estate and Residence-A lots that have at least one hundred (100) feet of road frontage will still benefit from the previous amendment to allow the taller entry gates and columns, as adopted.

It is the opinion of ZOR that this revision will better capture the initial intent of the previously-recommended fence ordinance; revised language to Article XIX is recommended as follows:

"ORDINANCE NO. _____

AN ORDINANCE AMENDING ARTICLE XIX, CHAPTER 129 OF THE MOUNTAIN BROOK CITY CODE

BE IT ORDAINED by the City Council of the City of Mountain Brook, Alabama, that Article XIX, Chapter 129 (Zoning) is hereby amended as follows:

Section 1. Amendatory provision. Sec. 129-315. - Fences and walls in residential districts is hereby amended to read as follows:

Sec. 129-315. - Fences and walls in residential districts.

(a) *Front Yards*. Except as further provided in this section and as provided in Section 129-335 of this chapter, no fence or wall located in the front setback of any parcel in any residential district may exceed four (4) feet in height. No fence or wall located between the required front setback line and the existing front building line of any parcel in any residential district may exceed eight (8) feet in height.

(b) *Side and Rear Yards*. All fences or walls within required side or rear setbacks shall not exceed eight (8) ft in height.

(c) *Estate ~~and Residence-A~~ District.* For ~~lots in the~~ Estate **lots** ~~and Residence-A zoning District,~~ fences and walls located in the front setback may exceed four (4) feet in height, up to a maximum of eight (8) feet in height as follows:

(1) *Fences and walls.* Any portion of the fence or wall that exceeds four (4) feet in height must be at least fifty (50) percent open.

(2) *Columns.* Columns may be eight (8) feet in height notwithstanding (1) above, but shall be included for the purposes of determining the percentage of open portions of any such fence or wall. Columns may be no more than three (3) feet in width.

(3) *Entry Gates.* Entry gates and supporting columns are permitted under the same requirements as (1) and (2) above.

(d) *Residence-A District.* For Residence-A lots containing a minimum width at the front property line of one hundred (100) feet:

(1) *Columns.* Columns may be eight (8) feet in height and may be no more than three (3) feet in width.

(2) *Entry Gates.* Entry gates and supporting columns are permitted under the same requirements as (c) (1) and (2) above.

(e) *Fence Design and Materials*

(1) The finished side of a fence or wall shall always face the exterior (concrete block, unfinished concrete or modular concrete block must not be left unfinished, but must be finished with stucco, brick or other similar material). Support members, when located on one side of wooden privacy fences, shall be on the interior side.

(2) Chain-link fencing shall not be permitted forward of any front building line, or within the required front setback, whichever is greater.

At the aforesaid time and place, all interested parties will be heard in relation to the changes proposed by said ordinance."