

## PUBLIC HEARINGS

CITY COUNCIL  
July 23, 2002

To: Mayor and City Councilmember  
From: George J. Rodericks, City Manager  
Originated by: Kathy Adrian, City Clerk

**SUBJECT:** Consideration of Conditional Use and Variance Application No. 0498 – Location: 19081 Cerro Villa Drive; Applicants: Richard and Pamela Kluth

### **BACKGROUND**

The applicants are requesting a conditional use permit for construction of a freestanding patio cover and a variance to allow the patio cover to encroach into the side yard setback by 4 feet.

The applicants are also requesting a variance to permit fencing over 42” in height in the front yard setback area.

### **AUTHORITY**

**Conditional Use Permits.** Because of their unusual characteristics, conditional uses require special consideration so that they may be located properly with respect to the objectives of the zoning regulations and with respect to their effects on surrounding properties. In order to achieve these purposes, the City Council is empowered to grant and to deny applications for use permits for such conditional uses in such zones as are prescribed in the zone regulations and to impose reasonable conditions upon the granting of conditional use permits.

The Villa Park Municipal Code requires a Conditional Use Permit for any accessory building or structure that is usual and customary or incidental to a principal use permitted in residential zones.

The public hearing process allows for a review of the exterior elevations of a proposed addition in order to assess its impact on adjacent properties.

**Variations.** The Zoning Code authorizes the City Council to approve, conditionally approve, or disapprove variance applications. Variations from the terms and regulations of the Zoning Code are to be granted when, because of special circumstances applicable to the property, a strict application of the terms and regulations of the Zoning Code deprives such property of privileges enjoyed by other property in the vicinity and under identical zoning classifications.

### **FINDINGS**

The subject property is located at 19081 Cerro Villa Drive and is in the 100-E4-20,000 Small Estate zoning district. It is an irregularly-shaped lot with a front property line of 335.33 feet and a rear property line of approximately 306 feet. The lot area is 48,028 square feet and is improved with a 2-story, single-family residence of 6,460 square feet. Surrounding uses are residential.

Staff has visited the site for purposes of viewing the property as it relates to this request.

A Conditional Use Permit is required for all detached structures. The applicants are requesting a Conditional Use Permit to allow the construction of a 224 square foot patio cover. The patio cover is proposed as a 16' by 14' slat-roof structure not exceeding 10 feet in height. The patio cover complies with all lot coverage, gross floor area and building height requirements for detached structures.

A variance is required for all structures encroaching into a required setback and for fences exceeding the maximum allowable height. The proposed patio structure encroaches 4 feet into the required 10 foot side yard setback. This is a reduction in the setback of 40%. The applicant is proposing the structure in this location to maintain a 10-foot distance between the structure and the pool. The Uniform Building Code recommends that the structure be located at a distance equal to the depth of the pool.

In addition, the applicant is proposing a 2-foot wrought-iron extension to the existing 4-foot block wall along the front of the property bringing the total height of the fence to 6 feet. The applicant is also proposing 5-foot wrought-iron fences running north and south along the front of the property. Structures, to include fences, are limited to a height of 3.5 feet within the first 20 feet of the property.

The slope and topography of the property creates limited yard area for the applicant. The applicant selected the current location to limit view impact on their property and neighboring properties as well as maintain adequate distance between the structure and pool. If there is sufficient justification for not moving the patio cover east by 4 feet, staff recommendation is approval.

**CEQA Compliance:** This project is exempt from requirements of CEQA by Sections 15303 Class 3: New Construction or Conversion of Small Structures.

### **FISCAL IMPACT**

None.

### **RECOMMENDATION**

It is recommended that the City Council conduct a Public Hearing and, if appropriate, adopt Resolution No. 2002-2630 approving Conditional Use and Variance Permit #0498 for a freestanding patio cover encroaching into the side yard setback area, and wrought-iron fencing exceeding the 42" height requirement in the front yard setback, with conditions; 19081 Cerro Villa Drive – Applicants: Richard and Pamela Kluth.

### **CONDITIONS OF APPROVAL**

1. The structures shall be in accordance with the approved plans on file with the City Clerk. Any significant deviation from the approved plans will require subsequent approval by the City Council through a separate Public Hearing. All work will be suspended on the project until such approvals are obtained.
2. No temporary toilet facilities are permitted in front setback areas.
3. The maximum height of the patio structure shall be 10 feet.
4. The patio structure shall be the same distance away from the pool as the pool is deep.
5. The maximum height of the block wall/wrought-iron combination fencing in the front yard setback shall not exceed 6 feet along the front of the property.
6. The maximum height of the wrought-iron fencing in the front yard setback shall not exceed 5 feet.
7. Building permits and approvals must be obtained prior to commencement of construction. There may be additional details and approvals required by the City Building Official or City Engineer.
8. The conditional use and variance permit shall lapse and become void one year following the date of approval unless prior to the expiration of one year, a building permit is issued and construction is commenced and diligently pursued toward completion on the site.
9. The conditional use and variance permit may be renewed for an additional period of one year, provided that prior to the expiration of one year from the date when it or the renewal of same became effective, an application for renewal is filed.