

# City of Lee's Summit

## Development Services Department

June 12, 2026

TO: Board of Zoning Adjustments  
FROM: Hector Soto, Jr., Planning Manager  
RE: **PUBLIC HEARING – Application #PL2026-128 – Variance to Unified Development Ordinance (UDO) Article 6, Section 6.1350.D, Fence Height Regulations – 501 NE Missouri Rd; KVC Foundation, Inc., applicant**

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### Recommendation

The Development Services Department recommends **APPROVAL** of a variance to the 4' fence height maximum in the front yard in a residential zoning district, to allow a 6' fence height in the front yard.

The Development Services Department recommends **APPROVAL** of a variance to the 6' fence height maximum in the rear yard in a residential zoning district, to allow an 8' fence height in the rear yard.

### Request

**Variance Requested:** a non-use variance to the fence height regulations in a residential zoning district.

### Site Characteristics

**Location:** 501 NE Missouri Rd

**Zoning:** PMIX (Planned Mixed Use)

**Property Owner:** KVC Foundation, Inc.

**Surrounding Zoning and Uses:**

**North:** I-470

**South:** R-1 (Single-family Residential) – Single-family residential

**West:** CP-2 (Planned Community Commercial) – Office

**East:** R-1 – Church

### Background

- October 2, 1990 – The City Council approved a final development plan (Appl. #1990-081) for construction of a 9,280 sq. ft. church on the subject property.
- July 17, 2003 – The City Council approved a preliminary development plan (Appl. #2003-093) for a 4,800 sq. ft. addition to the existing church by Ordinance No. 5565.
- December 16, 2010 – The City Council approved a rezoning (Appl. #2010-066) from R-1 to PMIX and conceptual development plan (Appl. #2010-067) for independent and assisted living multi-family residential on the subject property. The RP-4 (Planned Apartment Residential) development standards were established as the governing standards for the PMIX as part of the rezoning approval.

It should be noted that approval of a conceptual development plan is not binding and grants no entitlements for the depicted multi-family residential land use on the subject property. The granting of entitlements for the depicted land use requires approval of a preliminary development under separate application via a public hearing process.

## Ordinance Requirement

**Fence Height Regulations.** The Unified Development Ordinance limits fence height in residential zoning districts to no greater than 4' in the front yard and no greater than 6' in the side and rear yards (UDO Article 6, Section 6.1350.D).

**Existing Conditions.** The subject property currently has no perimeter fencing along the front of the property along NE Missouri Rd. The subject property has no fencing along the two side property lines, but does have well-established tree lines along the side property lines where there is an abutting office development to the west and a church to the east. There is some fencing along the rear of the property where residents of the abutting single-family residential subdivision have installed some chain link fencing and some wooden privacy fencing along their back yards.

The subject property was originally developed with a church in 1990 under the R-1 (Single-family Residential) zoning classification it held at that time. Certain public and semi-public non-residential land uses (e.g., churches, schools, public parks, government buildings/facilities, etc.) are allowed by right in residential zoning districts. This was true under the governing zoning/development code in effect in 1990 known as Ordinance No. 715, and continues to be true under the current governing zoning/development code known as the UDO. The subject property is currently in the process of being repurposed from a church to a school. A school is a land use permitted by right under the subject property's PMIX zoning.



*Figure 1 – Aerial photo of existing site.*

**Request.** The applicant requests a variance of 2' to allow 6'-tall fencing (vs. 4'-tall fencing) along the front property line and to allow 8'-tall fencing (vs. 6'-tall fencing) along the rear property line.

The proposed fencing will be black, open, decorative steel fencing. No fencing is proposed along the two side property lines where there are existing tree lines.



*Figure 2 – Representative image of the proposed decorative steel fence.*

## **Analysis of Variance**

With respect to all variances, the following is an evaluation of the criteria set forth in the Unified Development Ordinance Article 2, Sec. 2.530.B.3.:

*Criteria #1 – The granting of the variance will not adversely affect the rights of adjacent landowners or residents.*

Granting the variance to allow an additional 2' of fence height is not expected to adversely affect the rights of adjacent property owners. There are no adjacent property owners across the site's NE Missouri Rd frontage where the proposed 6'-tall is proposed to be installed. Across NE Missouri Rd is I-470.

The proposed 8'-tall fence along the rear of the property backs up to the Cambridge Heights single-family residential subdivision. With an open, decorative design, the requested 2' of additional fence height for the proposed steel fence will not block views for abutting residents when compared to other common, opaque fence options such as wooden or vinyl panel privacy fences that may have a negative aesthetic impact on adjacent property residents.

*Criteria #2 – The granting the variance will not be opposed to the general spirit and intent of this Ordinance.*

The intent of fence height limitations is to create a balance between aesthetics and the desire to maintain privacy, safety, separation and demarcation of changes in landownership between uses

and structures. Granting the requested variance will not be opposed to the spirit and intent of the ordinance. The proposed increased fence heights are intended to provide additional safety and security for the property's use as a school. Understanding that aesthetics may be of concern to abutting residents, the applicant will use a decorative, open, fence design that effectively addresses their need for additional security.

*Criteria #3 – The variance desired will not adversely affect the public health, safety or general welfare.*

Granting a variance to allow the additional fence heights will not increase a risk in the health, safety, morals and general welfare.

*Criteria #4 – The variance requested arises from a condition that is unique to the property in question, is not ordinarily found in the same zoning district, and is not created by an action or actions of the landowner or the applicant.*

The variance request arises from a conflict between the safety and security needs of a non-residential land use (a school in this case) versus the fence height allowances of the residential zoning district in which the school is located. As previously mentioned, certain non-residential land uses are equally allowed by right in residential and commercial zoning districts. In some cases where non-residential land uses are located in residential zoning districts, there is a disproportionate burden imposed on the non-residential land use by zoning regulations specifically written to address residential properties.

*Criteria #5 – Substantial justice will be done.*

Substantial justice would be done by granting the requested variance to the fence height regulations. The governing UDO residential standards have a disproportionate impact on the ability of the school to adequately address its operational safety and security needs. Were the school located on commercially-zoned property, construction of an 8'-tall fence would only require approval and issuance of a building permit. Schools in Lee's Summit with commercial or industrial zoning that could construct fences up to 8' in height by right include: Lee's Summit Elementary, Lee's Summit High School, and Summit Christian Academy.

## **Analysis of Non-Use Variance**

With respect to a non-use variance, the following is an evaluation of the criteria set forth in the Unified Development Ordinance Article 2, Sec. 2.530.B.2.:

*Criteria #1 – Whether practical difficulties exist that would make it impossible to carry out the strict letter of the Ordinance.*

It is not impossible for the applicant to comply with the residential zoning district fence height limitations of 4' in the front yard and 6' in the rear yard. However, fences of this height would not allow the school to adequately address its operation safety and security needs.

In making such recommendation, the Staff has analyzed the following considerations set forth in the Unified Development Ordinance Article 2, Sec. 2.530.B.2.:

*Consideration #1 – How substantial the variation is, in relation to the requirement.*

The applicant requests a 2' variance to both the front yard and rear yard allowances for fence height. A 6'-tall fence is proposed in the front yard versus 4'; an 8'-tall fence is proposed in the rear yard versus 6'.

*Consideration #2 – If the variance is allowed, the effect of increased population density, if any, on available public facilities and services.*

Approval of the variance to allow an additional 2' of fence height will not increase population and will have no effect on the available public facilities.

*Consideration #3 – Whether a substantial change will be produced in the character of the neighborhood or a substantial detriment to adjoining properties is created.*

Granting the variance is not expected to produce a substantial change in the character of the neighborhood or a substantial detriment to adjoining properties. To offset the potential negative impacts of taller fencing along the front and rear of the subject property, the applicant will install open, decorative, steel fencing that will provide physical separation between the adjacent land uses, but will not create a solid, visual barrier between the adjacent land uses. The open design of the decorative fencing will not inhibit sightlines and maintains a greater degree of human scale, due to its opacity, compared to solid, opaque fencing.

*Consideration #4 – Whether the difficulty can be obviated by some method, feasible for the applicant to pursue, other than a variance.*

As previously mentioned, the applicant could install 4' fencing along the front of the site and 6' fencing along the rear of the site, but it would compromise the operational safety and security needs of the school. The only other alternate method for the applicant to feasibly pursue is to rezone the subject property to a commercial zoning district, such as CP-1 (Planned Neighborhood Commercial) or CP-2 (Planned Community Commercial) where they would be allowed to install 8' fencing by right. However, rezoning the subject property to commercial introduces potential long-term land use compatibility concerns for the abutting residential subdivision. Commercial zoning allows land uses such as retail, sit-down restaurants, drive-through restaurants, car washes, etc., that may or may not be desired by adjacent residents.

*Consideration #5 – Whether, in view of the manner in which the difficulty arose and considering all of the above factors, the interests of justice will be served by allowing the variance.*

The variance request arises from a conflict between the safety and security needs of a non-residential land use (a school in this case) versus the fence height allowances of the residential zoning district in which the school is located. As previously mentioned, certain non-residential land uses are equally allowed by right in residential and commercial zoning districts. In some cases where non-residential land uses are located in residential zoning districts, there is a disproportionate burden imposed on the non-residential land use by zoning regulations specifically written to address residential properties.

*Consideration #6 – Conditions of the land in question, and not conditions personal to the landowner. Evidence of the applicant's personal financial hardship unrelated to any economic impact upon the land shall not be considered.*

The variance request does not stem from conditions of the land itself, but rather the incongruity of the strict application of residential zoning district regulations on non-residential land uses that are allowed by right in said residential zoning district.

Attachments:

1. Board of Zoning Adjustment Application and Variance Criteria – 7 pages
2. Fence Location Sketch
3. Fence Specification and Detail – 3 pages
4. Location Map