

River Heights City

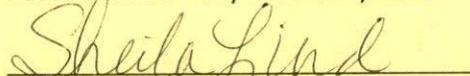
River Heights City PLANNING COMMISSION AGENDA

Tuesday, January 24, 2023

Notice is hereby given that the River Heights Planning Commission will hold its regular meeting beginning at **6:30 p.m.**, anchored from the River Heights City Office Building at 520 S 500 E. Attendance can be in person or through Zoom.

- 6:30 p.m. Pledge of Allegiance
- 6:32 p.m. Adoption of Previous Minutes and Agenda
- 6:35 p.m. Public Comment on Land Use
- 6:40 p.m. City Attorney Instruction
- 6:50 p.m. Discuss Code Changes
- 7:20 p.m. Discuss Definition of Commercial Vehicle
- 7:30 p.m. Revisit Fence Ordinance Discussion
- 7:45 p.m. Adjourn

Posted this 20th day of January 2023



Sheila Lind, Recorder

To join the Zoom meeting:
<https://us02web.zoom.us/j/87032006409>

Attachments for this meeting and previous meeting minutes can be found on the State's Public Notice Website (pmn.utah.gov)

In compliance with the American Disabilities Act, individuals needing special accommodations (including auxiliary communicative aids and services) during this meeting should notify Sheila Lind, (435) 770-2061 at least 24 hours before the meeting.

River Heights City

River Heights City Planning Commission
Minutes of the Meeting
January 24, 2023

Present: Commission members: Noel Cooley, Chairman
Heather Lehnig
Lance Pitcher
Cindy Schaub
Troy Wakefield

Councilmember Blake Wright
Recorder Sheila Lind
Tech Staff Councilmember Chris Milbank

Others Present: Ken Sorenson, Attorney Jon Jenkins

Motions Made During the Meeting

Motion #1

Commissioner Pitcher moved to “approve the minutes of the January 10, 2023, Commission Meeting with corrections, as well as the evenings agenda.” Commissioner Wakefield seconded the motion, which carried with Cooley, Lehnig, Pitcher, Schaub, and Wakefield in favor. No one opposed.

Proceedings of the Meeting

The River Heights City Planning Commission met at 6:30 p.m. in the Ervin R. Crosbie Council Chambers on January 24, 2023.

Pledge of Allegiance

Adoption of Prior Minutes and Agenda: Minutes for the January 10, 2023, Planning Commission Meeting were reviewed.

Commissioner Pitcher moved to “approve the minutes of the January 10, 2023, Commission Meeting with corrections, as well as the evenings agenda.” Commissioner Wakefield seconded the motion, which carried with Cooley, Lehnig, Pitcher, Schaub, and Wakefield in favor. No one opposed.

Public Comment on Land Use: Ken Sorensen apologized for his comments at the last meeting about illegal apartments. He didn’t know the code had changed. He thanked everyone for their efforts in the city and supported them in upholding the law.

City attorney Instructions: Attorney Jenkins gave instructions on the process for Conditional Use Permits (CUP). He pointed out that conditional uses are spelled out in the city’s ordinance and the state statute. He reminded them that when the commission is granting a CUP, they are acting in

45 an administrative function, not legislative. When the commission grants or denies a CUP, it is easy for
46 a person to appeal and win. He advised them to grant or deny them narrowly, not through their own
47 judgement, but based on code. Cities should not be allowing a quasi-zone change. That's not what
48 CUPs are for. He asked, is there a use that is spelled out in the city's zoning regulations, that could be
49 allowed with enough stipulations so as not to cause problems. He quoted 10-9a-507 of the Utah
50 Code: "A land use authority shall approve a conditional use if reasonable conditions are proposed, or
51 can be imposed, to mitigate the reasonably anticipated detrimental effects of the proposed use in
52 accordance with applicable standards." He suggested they ask themselves, what is the zone where
53 the application is based? They don't want to offend the zone and should not take a use from another
54 zone and try to fit it into the current zone. It is inadvisable to grant CUPs as a way of being liberal
55 within a zone. He said to define a zone and use CUPs sparingly. River Heights has been somewhat
56 generous in granting CUPs. First, look at what the proposed use is, and then ask yourself, can I
57 reasonably articulate that this is a use that would be generally allowed in the current zone? What are
58 they really asking to do? Does it fit? Am I stretching to make it fit? Secondly, when they approve or
59 deny a CUP, make a good record of the facts to address to show why they are doing this. The
60 lengthier record they create, the better chance the city has for it to be upheld by a judge if it gets
61 challenged. An aggrieved party to a CUP can challenge the granting of it. If the CUP is denied, the
62 applicant could appeal. In either case the city should have a detailed record of their decision.

63 Attorney Jenkins observed at the last hearing there were a lot of well-meaning neighbors
64 showing passionate compassion. He said state law says public hearings are to gather facts from
65 interested parties or neighbors. Their role is not to listen to public clammer. Their role is to gather
66 identifiable facts, which can be relied upon when making a decision.

67 He encouraged them to read through Utah State Code 10-9a-507. He quoted 2c of the
68 section: "If the reasonably anticipated detrimental effects of a proposed conditional use cannot be
69 substantially mitigated by the proposal or the imposition of reasonable conditions to achieve
70 compliance with applicable standards, the land use authority may deny the conditional use."

71 Commissioner Cooley asked what the difference was between a home office business versus a
72 commercial home office. Attorney Jenkins envisioned a home office as a limited use, such as; doing
73 work from a computer and perhaps occasionally having a client come to the home. He explained an
74 industrial use example as having employees come park at the home to do some type of work at that
75 location. He felt this was beyond the scope of the city code, and it would be difficult to grant a CUP
76 for this. He advised them to review the uses listed in the city code.

77 Commissioner Cooley asked about a resident using their home as a business office for a
78 commercial business, but all their equipment was stored in an industrial area. Attorney Jenkins felt it
79 would be allowed because no one would be coming to the home. In this case, if a CUP was granted,
80 the Commission would make a number of stipulations, with lengthy detail and clarity and what was
81 and wasn't allowed.

82 Commissioner Schaub brought up some other CUPs in town for commercial businesses where
83 they only do office work in their homes. Attorney Jenkins suggested being generous with the
84 conditions, such as no commercial vehicles at the home. You are mitigating the impact of the
85 neighborhood. He heard from JV Lawn Care at the revocation meeting that they had upwards of 9 or
86 10 employees and many more vehicles than the allowed amount.

87 Commissioner Cooley asks if another entity, outside of River Heights, grants allowance for
88 certain things that will affect River Heights, would they have the authority to restrict what had been

90 allowed by a private entity. Attorney Jenkins suggested not giving this much weight because it's not
91 within the jurisdiction to control it. Rather than allow a business because they have permission to
92 park in Logan, it can be turned around to not allow any cars to park in River Heights. It shouldn't be
93 an affirmative condition to grant a CUP because River Heights has no control on whether it will
94 always be allowed. Logan City could one day take away their right to park there.

95 Commissioner Cooley read from 10-14-2:A. "All parking in residential zones shall be on the
96 same lot or parcel with the main building." He asked if this would prohibit any parking on the streets.
97 Attorney Jenkins noted that was quite restrictive. He suggested other restrictions possibly based on:
98 no outdoor signage, can't store merchandise, onsite employment limited to immediate family, don't
99 alter the character of the dwelling or neighborhood, can't occupy more than 25% of the main floor or
100 50% of the garage, don't generate business related to additional traffic, limit to no more than 3
101 vehicles per hour, don't cause a demand for excessive services more than a residential use, fully
102 enclosed within the structure, no storage facility, etc.

103 Commissioner Cooley brought up 10-14-2:G about storage of commercial vehicles in
104 residential zones is prohibited. Attorney Jenkins cautioned about granting a CUP that already violates
105 several different rules in the city's code.

106 Attorney Jenkins felt the commission handled the last hearing well. He suggested they filter
107 out the clammer and work to glean facts.

108 Commissioner Cooley thanked Attorney Jenkins for his time and advice.

109 Discuss Code Changes: Commissioner Cooley reviewed the code changes dated January 24,
110 2023, making a few adjustments along the way.

111 Commissioner Cooley stated the County said some cities file their CUPs and others don't.
112 Most of the ones filed deal with the property. Thus, they agreed to strike this requirement from the
113 city code.

114 Councilmember Wright discussed boundary line adjustments. The present code requires
115 property owners file a boundary adjustments application, which would come before the commission.
116 Many boundary adjustments are minor and don't really need to go through this process. Often they
117 go straight to the county to file it without permission from the city. He suggested a simple boundary
118 adjustment between neighbors wouldn't need to come to the city. He asked the commissioners to
119 look over 10-21-4 to review the process, which he felt was a little overboard. They could bring their
120 suggestions next time they discuss it.

121 Commissioner Cooley read from 10-15-7:E about the clearance of street trees. Logan City sent
122 an email asking them to change it from 10' to 14' to clear their garbage trucks. Commissioner Pitcher
123 said the Department of Transportation requirement is 12'6". Commissioner Lehnig was willing to
124 support 12'6." Mr. Pitcher pointed out that the can is raised 3 feet when it dumps so maybe they
125 should go 14.' Mr. Cooley pointed out they will be changing haulers in the next year so maybe they
126 could wait. Someone suggested they consult with the city's tree board. Commissioner Milbank, of
127 the tree board, and said he would support 12'6."

128 Discuss Definition of Commercial Vehicle: Commissioner Cooley reminded that the council
129 didn't like their definition of commercial vehicle in their last changes. Commissioner Pitcher
130 discussed his handouts. He remembered they wanted more of a gross vehicle weight because the
131 size was vague. They discussed the definitions in the Utah State Code and the Department of
132 Transportation. They decided to use the same definition they submitted to the council last time, with
133 the addition of, "Has a gross vehicle weight rating or gross combination weight of 10,000 lbs. or

133 more, whichever is greater” and require that the vehicle must be registered by the Department of
134 Transportation.

135 Revisit Fence Ordinance Discussion: Commissioner Cooley asked if the commissioners wanted
136 to discuss anything they found. Commissioner Lehnig noted that River Heights Blvd had backyards
137 that come down to the street.

138 Commissioner Cooley found 86-87 lots with backyards adjacent to the street. Nine of them
139 had a sidewalk only and no fence, two had sidewalk only with a four-foot fence, ten with curb only,
140 three with six-foot fences next to the sidewalk, nine have six-foot fences varying distances from the
141 road, and 15 or so with four-foot fences along the road. Because of all the diversity in lots and
142 improvements, he contemplated how to determine fence locations. The city had already agreed to
143 14-foot setbacks in new subdivisions. He explained the standards he came up with and the formula,
144 which included a minimum of eight feet from the road. He proposed putting the bottom portion of
145 his formula in the code. He wasn't advocating it, just giving it as an idea.

146 Councilmember Wright felt they should consider a future right-of-way if a future 50-foot right-
147 of-way wasn't already in place. He wasn't sure how to address it.

148 Commissioner Cooley said he would clean up a few mistakes on his formulas and address it
149 later.

150 In regards to Councilmember Glover's concerns about site triangles near driveways on corner
151 lots, Commissioner Cooley explained his graph and suggested a 25' site triangle along driveways. The
152 commission agreed. He will come up with a place in the code to interject this.

153 They discussed each of the general revisions recommended by Councilmember Glover and
154 agreed to add the following: 10-12-3:D: Fire hydrants shall not have access blocked. Front access
155 shall be totally open and unrestricted, " and E: On a drainage or irrigation easement, an owner may
156 fence the owner's property, but the water flow cannot be interrupted and must allow full access to
157 the holder of the easement for the purpose of the easement. This may require gates to access the
158 property with both foot traffic and equipment required to maintain the ditch or pipe. It is the
159 responsibility of the property owner to contact those who own the easements to get approval of the
160 fence, gate, etc.

161 Commissioner Cooley stated the only thing on the February 14 agenda would be the public
162 hearing on the JV Lawn Care Conditional Use Permit. On February 28 he planned for them to discuss
163 code revisions again and then hold a hearing for the changes on March 14.

164 Commissioner Cooley reminded the Commissioners to review the information given to them
165 by the city attorney, in preparation for the upcoming CUP public hearing.

166 The meeting adjourned at 8:45 p.m.

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Noel Cooley, Commission Chair



Sheila Lind, Recorder

Code Change Discussion
January 24, 2023

5-2-1: DEFINITIONS

KENNEL: Land or buildings used in the keeping of no more than four (4) dogs over four (4) months old. Yard or space for the confinement and control of animals to be completely fenced in. [taken from 5-2-4:4]

10-2-1: DEFINITIONS

AFFECTED ENTITY: Cache County, Logan City, Providence City, Cache County School District, Cache County Sheriff, ProLog Irrigation, public utility companies (gas, electricity, water and sewer), property owners, property owners associations, and any other special district defined in state code.

10-2-1: DEFINITIONS

Match 2-1
KENNEL: Land or buildings used in the keeping of ^{leave} ~~three (3)~~ ^{but} or no more than four (4) dogs over four (4) months old. Yard or space for the confinement and control of animals to be completely fenced in. [taken from 5-2-4:4]

10-20-2: CONDITIONAL USE PERMITS

D. Issuance of Approved Conditional Use Permit: Upon approval of the application for a conditional use permit, the zoning administrator shall prepare the permit, a written decision with findings supporting the issuance of the permit, and the conditions of the permit, if any. The permit shall be signed and notarized by the applicant ~~and must be recorded against the property and tax identification number with the county recorder.~~ *and notarized*

10-21: BOUNDARY LINE ADJUSTMENTS

Discuss changes to coincide with Cache County procedure.

10-15-7:E LANDSCAPING

Fwd: Commercial Vehicle

From: Lance Pitcher (lancepitcher@comcast.net)

To: kdjp16@yahoo.com

Date: Tuesday, January 24, 2023 at 02:10 PM MST

Lance Pitcher

Begin forwarded message:

From: Lance Pitcher <lancepitcher@comcast.net>
Date: January 23, 2023 at 6:01:07 PM MST
To: Noel Cooley <nhcooley@comcast.net>
Subject: Re: Commercial Vehicle

Got it! let me see what I can put together.

Lance Pitcher

On Jan 23, 2023, at 4:29 PM, Noel Cooley <nhcooley@comcast.net> wrote:

Lance,

Here is the definition that was presented to city council

10-2-1: DEFINITIONS COMMERCIAL VEHICLE: A motor vehicle constructed for the conveyance of goods or merchandise, or for the conveyance of materials used in any trade, business, industry or work whatsoever, other than a motor vehicle for the conveyance of passengers, and includes any motor vehicle that is designed primarily for the carriage of persons, but which has been fitted or adapted for the conveyance of the goods, merchandise or materials referred to, and is in fact used for that purpose. *

Here is what we put in the off street parking paragraph B. The council did not like it.

~~B. It shall be unlawful to park any commercial vehicle greater than 30 feet in length on any public street. Temporary parking is allowed for service vehicles for construction, repair and other uses that are commonly not considered to be permanent in nature.~~

So we need to address both of these as the off street parking paragraph was what the council got hung up on. So take a look at that and see how you would suggest we revise it. They were not so opposed to the definition but were not entirely happy with it either.

Noel

What is considered a commercial vehicle?

A commercial vehicle is used for commercial or business purposes. Commercial motor vehicles (CMV) may transport goods or paying passengers. A commercial vehicle is often designated "commercial" when it is titled or registered to a company. This may include company cars, fleet vehicles, or other vehicles used for business purposes.

The Federal Motor Carrier Safety Administration (FMCSA), which oversees and regulates commercial vehicles, has a narrower definition. The agency defines a CMV as "any self-propelled or towed motor vehicle used on a highway in interstate commerce to transport passengers or property when the vehicle:

- * • Has a gross vehicle weight rating or gross combination weight rating of 4,537 kg (10,001 lb) or more, whichever is greater. *registered by the DOT.*
- Is designed or used to transport between 9 and 15 passengers (including the driver) for compensation.
- Is designed or used to transport 16 or more passengers.
- Is designed for or used in transporting hazardous materials per the Hazardous Materials Transportation Act.

<< Previous Section (72-9-101) Download Options PDF | RTF Next Section (72-9-103) >>
| XML

Index Utah Code
Title 72 Transportation Code
Chapter 9 Motor Carrier Safety Act
Part 1 General Provisions
Section 102 Definitions. (Effective 5/5/2021)

Effective 5/5/2021

72-9-102. Definitions.

As used in this chapter:

- (1) (a) "Commercial vehicle" includes:
 - (i) an interstate commercial vehicle; and
 - (ii) an intrastate commercial vehicle.
- (b) "Commercial vehicle" does not include the following vehicles for purposes of this chapter:
 - (i) equipment owned and operated by the United States Department of Defense when driven by any active duty military personnel and members of the reserves and national guard on active duty including personnel on full-time national guard duty, personnel on part-time training, and national guard military technicians and civilians who are required to wear military uniforms and are subject to the code of military justice;
 - (ii) firefighting and emergency vehicles, operated by emergency personnel, not including commercial tow trucks;
 - (iii) recreational vehicles that are driven solely as family or personal conveyances for noncommercial purposes; or
 - (iv) vehicles owned by the state or a local government.
- (2) "Interstate commercial vehicle" means a self-propelled or towed motor vehicle used on a highway in interstate commerce to transport passengers or property if the vehicle:
 - (a) has a gross vehicle weight rating or gross combination weight rating of 10,001 or more pounds;
 - (b) is designed or used to transport more than eight passengers, including the driver, for compensation;

- (c) is designed or used to transport more than 15 passengers, including the driver, and is not used to transport passengers for compensation; or
- (d) (i) is used to transport materials designated as hazardous in accordance with 49 U.S.C. Sec. 5103; and
- (ii) is required to be placarded in accordance with regulations under 49 C.F.R., Subtitle B, Chapter I, Subchapter C.
- (3) "Intrastate commercial vehicle" means a motor vehicle, vehicle, trailer, or semitrailer used or maintained for business, compensation, or profit to transport passengers or property on a highway only within the boundaries of this state if the commercial vehicle:
- (a) (i) has a manufacturer's gross vehicle weight rating or gross combination weight rating of 26,000 or more pounds and is operated by an individual who is 18 years old or older; or
- (ii) has a manufacturer's gross vehicle weight rating or gross combination weight rating of 16,001 or more pounds and is operated by an individual who is under 18 years old;
- (b) (i) is designed to transport more than 15 passengers, including the driver; or
- (ii) is designed to transport more than 12 passengers, including the driver, and has a manufacturer's gross vehicle weight rating or gross combination weight rating of 13,000 or more pounds; or
- (c) is used in the transportation of hazardous materials and is required to be placarded in accordance with 49 C.F.R. Part 172, Subpart F.
- (4) "Motor carrier" means a person engaged in or transacting the business of transporting passengers, freight, merchandise, or other property by a commercial vehicle on a highway within this state and includes a tow truck business.
- (5) "Owner" as pertaining to a vehicle, vessel, or outboard motor, means the same as that term is defined in Section 41-1a-102.
- (6) "Property owner" means the owner or lessee of real property.
- (7) "State impound yard" means the same as that term is defined in Section 41-1a-102.
- (8) "Tow truck" means a motor vehicle constructed, designed, altered, or equipped primarily for the purpose of towing or removing damaged, disabled, abandoned, seized, or impounded vehicles from a highway or other place by means of a crane, hoist, tow bar, tow line, dolly, tilt bed, or other means.
- (9) "Tow truck motor carrier" means a motor carrier that is engaged in or transacting business for tow truck services.
- (10) "Tow truck operator" means an individual that performs operations related to a tow truck service as an employee or as an independent contractor on behalf of a tow truck motor carrier.
- (11) "Tow truck service" means the functions and any ancillary operations associated with recovering, removing, and towing a vehicle and its load from a highway or other place by means of a tow truck.
- (12) "Transportation" means the actual movement of property or passengers by motor vehicle, including loading, unloading, and any ancillary service provided by the motor carrier in connection with movement by motor vehicle, which is performed by or on behalf of the motor carrier, its employees or agents, or under the

Proposed Fence setback for 6' privacy fences

Property FenceLine Situation	Fence Setback Required Feet	Distance from property line
Road Only	8.0	3.0
Rd/Sidewalk	8.0	7.0
Rd/Curb	10.5	3.5
Rd/Curb/Sidwalk	12.5	7.5
Rd/curb/Parkstip/sidewalk	14.0	13.0
Rd/Curb/Gutter	10.5	5.5
Rd/Curb/ Gutter /Sidewalk/Parkstrip	14.0	9.5
Rd/Curb/Gutter/Parkstip/Sidewalk	14.5	13.5

Formula Calculation

If any of the existing situation exist use the following formulas to determine the fence set back from the edge of the road. Use a value of zero (0.0) if a characteristic does not exist. Minimum distance required is eight (8) feet.

Required Fence Setback (RSB)
Sidewalk (S)
Curb ©
Curb/Gutter (CG)
Park Strip (P)
Present RequiredSet Back (SB)

Standard RH Widths	Feet
Sidewalk	4.0
Curb	2.0
Curb/Gutter	2.5
Park Strip	4.0
Present Requided Set Ba	14.5
Property line from sidew	1.0

$$RSB=SB-S-CG-P$$

if curb only

$$RSB=SB-S-C-P$$

examples:

1. If only sidewalk is present:: $14.5 - 0.0 - 2.5 - 4.0 = 8.0$ from edge of road
using standard widths

2. If only curb and sidewalk: $14.5 - 0.0 - 0.0 - 4.0 = 10.5$ feet from edge of road.
using standard widths



Sheila Lind <office@riverheights.org>

FW: Fence Ordinance

1 message

Noel Cooley <nhcooley@comcast.net>
To: Sheila Lind <office@riverheights.org>

Thu, Dec 8, 2022 at 12:09 PM

Here is copy of Tyson's email

Noel

From: Tyson Glover <tyson Glover@riverheights.org>
Sent: Friday, November 18, 2022 1:30 PM
To: Blake Wright <blakewright@riverheights.org>; nhcooley@comcast.net
Cc: Jason Thompson <jasonthompson@riverheights.org>; Janet Mathews <janetmathews@riverheights.org>; Sharlie Gallup <sharliegallup@riverheights.org>; Chris Milbank <chrismilbank@riverheights.org>
Subject: Fence Ordinance

All,

Just following up with some of the fence ordinance recommendations that I'd like P&Z to review. This is not meant to be an email discussion, just letting you all know a few points I'd like Blake and Noel to consider moving forward. Valerie Merrell has been reaching out about her situation with the fence ordinance, which brings up a few concerns I originally had when it was most recently changed. Valerie would like to further discuss the ordinance at a future P&Z meeting. Blake or Noel, please let her know what date would work best for P&Z, or let me know and I can forward that to her. Here is her contact information:

p: 801-678-2761

e: valeriedafne@gmail.com

My main concerns with the current fence ordinance are:

1. Sight triangles near driveways on corner lots.
2. The 14.5' setback from the edge of asphalt pavement for 6' privacy fences.

#1

A good example of #1 is a fence installed in Saddlerock at 947 E 480 S. I'm friends with the landowner and have been told that it was approved by Blake and the previous Mayor prior to installation. I recommend we discuss including driveway approaches into 10-13-15, "Clear View of Intersecting Streets". Figure 10-12-3 shows the 70% transparency fencing allowed on the property line, but does not mention anything for the solid 6' fencing that is offset 14.5' from the pavement as shown:

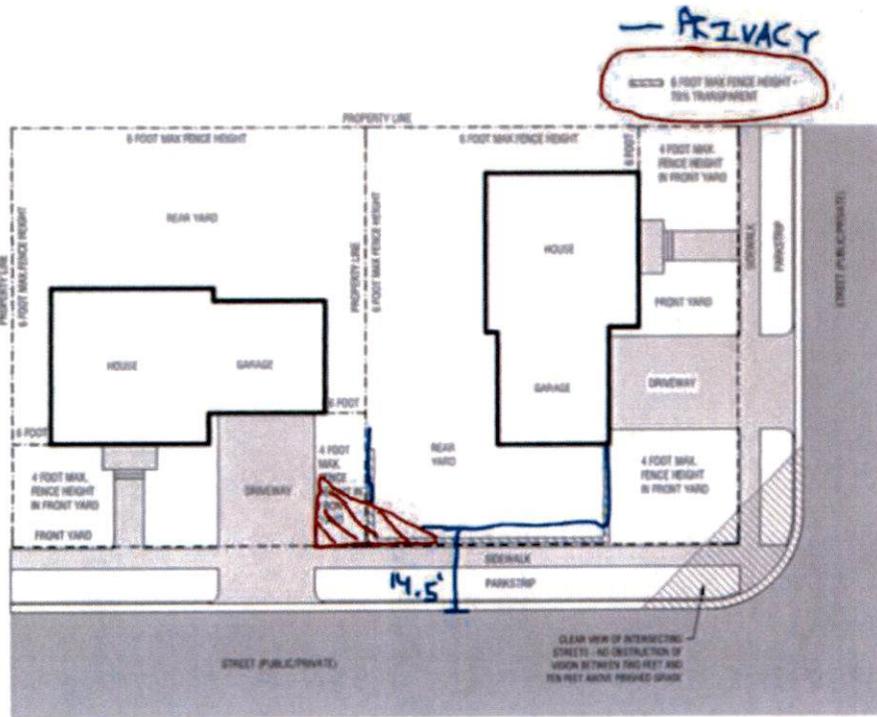


Figure 10-12-3 Corner Lot Fencing Requirements

(1-2019, 4-11-2019) (4-2019, 8-13-19)

I expect that our intent is to not allow any solid fencing within site triangles by drive approaches (Red hatch area), and that we might want to update our figure to reflect that. Here is an as- built fence that is in compliance with the current code, and has a solid 6' fence installed adjacent to a driveway:



Proposed language could read, "Obstruction of vision within ten feet of intersection of a private drive with a city right-of-way will not be permitted. Trunks of trees, open-work fences at least 70 percent transparent, light or telephone poles or

other small vertical protrusions not more than ## inches in diameter shall be permitted within the clear-view area." We need to preserve the sight triangle to allow drivers time to react to children or other pedestrians leaving the driveway.

#2

This one has a direct impact on Valerie Merrell (02-024-0037) and others who have a rear/side yard on a street where we don't have a full right of way cross section installed (curb, parkstrip & sidewalk). The issue is that the 14.5' setback distance required in 10-12-3 A(4)-b rewards landowners who's fences will be installed along streets that are fully developed, and requires greater offsets beyond the property line for those who do not. For example, I was able to meet the ordinance by constructing my 6' privacy fence roughly 2' behind my side yard property line. The Merrell's and others in their situation who want to build a similar fence are required to install their fence more or less 10' past their property line (Circle #1). Others appear to be able to install the fence within our right of way, outside of their property (Circle #2:



I'd be curious if a better reference could be used that provides greater consistency. We might consider using, "Where there is no existing curb & gutter or park-strip on a rear or side yard on a street, a 6' solid fence may be installed #' behind the existing back of sidewalk, but not within the right of way in the event the property line is setback further than the sidewalk offset. In general, it makes little sense to me how a homeowner can build a 6', 70% transparent fence on their property line in this situation, but are required to install it 10' farther back if they want it to be a privacy fence.

General Revisions

Lastly, there are a couple edits and additions that I think should be brought up.

10-12-3: D & E, bump others down

I would recommend a discussion to add the following:

too difficult
D
main be E
so where
else in code

- 1. Property markers shall be identifiable and located prior to the construction of a fence.
- 2. Fire hydrants shall not have access blocked. No fence shall be constructed closer than three feet on any side or to the rear of a fire hydrant. Front access shall be totally open and unrestricted.
- 3. On a drainage or irrigation easement, an owner may fence the owner's property, but the water flow cannot be interrupted and must allow full access to the holder of the easement for the purpose of the easement. This may require gates to access the property with both foot traffic and equipment required to maintain the ditch or pipe. It is the responsibility of the property owner to contact those who own the easements and get approval of the fence, gate, etc.
- 4. Any fence that fully encloses a yard may require access to read the utility meters and for utility access.
- 5. No person shall build or maintain a fence that, by its construction, presents a hazard to any person or domestic animal.

civil issues
overreaching
" in code already
not enforceable

- A fence may be constructed on the property line between the adjacent property owners as long as they agree in writing to a common fence. Otherwise, all elements of the fence shall be on the proposed fence builder's property.
- All fences and walls shall be constructed with the finished (smooth) side facing outward from the property and facing the public right-of-way, common open space, or other public places. The posts and support beams shall be on the inside (or shall be designed as a part of finished surface).
- Chain-link fences must have barbed ends pointing down.
- Nothing in this chapter shall prevent the continued use and maintenance of a fence if such fence was lawfully erected in conformity with the provisions of previous ordinances and used on the date of enactment of the ordinance from which this chapter is derived.
- A retaining wall is considered part of a fence and is subject to height restrictions. Retaining walls which include footings over 48 inches (four feet) in height, require a building permit and engineering.

I would recommend removing the following:

1. 10-12-3 E. This is the most economical type of fence. Consider allowing it if used as a privacy fence with vertical slats or if it has a colored vinyl coating that prevents rust.



Hope that gets the discussion rolling,

Tyson Glover

City Council



CELL: 435.237.2030

