



Oregon

Theodore R. Kubongoski, Governor

Department of Land Conservation and Development

635 Capitol Street, Suite 150

Salem, OR 97301-2540

(503) 373-0050

Fax (503) 378-5518

www.lcd.state.or.us



NOTICE OF ADOPTED AMENDMENT

05/21/2009

TO: Subscribers to Notice of Adopted Plan
or Land Use Regulation Amendments

FROM: Plan Amendment Program Specialist

SUBJECT: City of Grants Pass Plan Amendment
DLCD File Number 005-08

The Department of Land Conservation and Development (DLCD) received the attached notice of adoption. Due to the size of amended material submitted, a complete copy has not been attached. A Copy of the adopted plan amendment is available for review at the DLCD office in Salem and the local government office.

Appeal Procedures*

DLCD ACKNOWLEDGMENT or DEADLINE TO APPEAL: Tuesday, June 02, 2009

This amendment was submitted to DLCD for review prior to adoption. Pursuant to ORS 197.830(2)(b) only persons who participated in the local government proceedings leading to adoption of the amendment are eligible to appeal this decision to the Land Use Board of Appeals (LUBA).

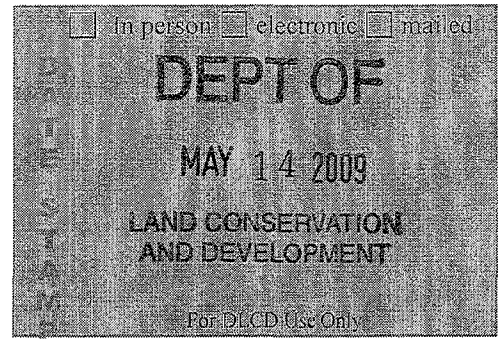
If you wish to appeal, you must file a notice of intent to appeal with the Land Use Board of Appeals (LUBA) no later than 21 days from the date the decision was mailed to you by the local government. If you have questions, check with the local government to determine the appeal deadline. Copies of the notice of intent to appeal must be served upon the local government and others who received written notice of the final decision from the local government. The notice of intent to appeal must be served and filed in the form and manner prescribed by LUBA, (OAR Chapter 661, Division 10). Please call LUBA at 503-373-1265, if you have questions about appeal procedures.

***NOTE:** THE APPEAL DEADLINE IS BASED UPON THE DATE THE DECISION WAS MAILED BY LOCAL GOVERNMENT. A DECISION MAY HAVE BEEN MAILED TO YOU ON A DIFFERENT DATE THAT IT WAS MAILED TO DLCD. AS A RESULT, YOUR APPEAL DEADLINE MAY BE EARLIER THAN THE ABOVE DATE SPECIFIED.

Cc: Jared Voice, City of Grants Pass
Gloria Gardiner, DLCD Urban Planning Specialist

<paa> N

Notice of Adoption



**THIS FORM MUST BE MAILED TO DLCD
 WITHIN 5 WORKING DAYS AFTER THE FINAL DECISION
 PER ORS 197.610, OAR CHAPTER 660 - DIVISION 18**

Jurisdiction: *City of Grants Pass* Local file number: *08-40500004*
 Date of Adoption: *4/15/09 (Ordinance) / 5/6/09 (Findings of Fact)* Date Mailed: *5/12/2009*
 Was a Notice of Proposed Amendment (Form 1) mailed to DLCD? **Select one** Date: *8/8/2008*
 Comprehensive Plan Text Amendment Comprehensive Plan Map Amendment
 Land Use Regulation Amendment Zoning Map Amendment
 New Land Use Regulation Other:

Summarize the adopted amendment. Do not use technical terms. Do not write "See Attached".
Amendments to Development Code fencing standards.

Does the Adoption differ from proposal? Please select one
Yes - original proposal referenced requirements for sound walls. Amended proposal does not reference sound wall standards.

Plan Map Changed from: _____ to: _____
 Zone Map Changed from: _____ to: _____
 Location: _____ Acres Involved: _____
 Specify Density: Previous: _____ New: _____

Applicable statewide planning goals:
 1 2 3 4 5 6 7 8 9 10 11 12 13 14 15 16 17 18 19

Was an Exception Adopted? YES NO

Did DLCD receive a Notice of Proposed Amendment...

45-days prior to first evidentiary hearing? Yes No
 If no, do the statewide planning goals apply? Yes No
 If no, did Emergency Circumstances require immediate adoption? Yes No

DLCD file No. 005-08 (17071)

Please list all affected State or Federal Agencies, Local Governments or Special Districts:

Josephine County

Local Contact: Jared Voice

Phone: (541)474-6355 Extension: 6317

Address: 101 NW "A" Street

Fax Number: 541-476-9218

City: Grants Pass

Zip: 97526

E-mail Address: jvoice@grantspassoregon.gov

ADOPTION SUBMITTAL REQUIREMENTS

This form **must be mailed** to DLCD **within 5 working days after the final decision**
per ORS 197.610, OAR Chapter 660 - Division 18.

1. Send this Form and TWO Complete Copies (documents and maps) of the Adopted Amendment to:

ATTENTION: PLAN AMENDMENT SPECIALIST
DEPARTMENT OF LAND CONSERVATION AND DEVELOPMENT
635 CAPITOL STREET NE, SUITE 150
SALEM, OREGON 97301-2540
2. Electronic Submittals: At least **one** hard copy must be sent by mail or in person, but you may also submit an electronic copy, by either email or FTP. You may connect to this address to FTP proposals and adoptions: webserver.lcd.state.or.us. To obtain our Username and password for FTP, call Mara Ulloa at 503-373-0050 extension 238, or by emailing mara.ulloa@state.or.us.
3. Please Note: Adopted materials must be sent to DLCD not later than **FIVE (5) working days** following the date of the final decision on the amendment.
4. Submittal of this Notice of Adoption must include the text of the amendment plus adopted findings and supplementary information.
5. The deadline to appeal will not be extended if you submit this notice of adoption within five working days of the final decision. Appeals to LUBA may be filed within **TWENTY-ONE (21) days** of the date, the Notice of Adoption is sent to DLCD.
6. In addition to sending the Notice of Adoption to DLCD, you must notify persons who participated in the local hearing and requested notice of the final decision.
7. **Need More Copies?** You can now access these forms online at <http://www.lcd.state.or.us/>. Please print on **8-1/2x11 green paper only**. You may also call the DLCD Office at (503) 373-0050; or Fax your request to: (503) 378-5518; or Email your request to mara.ulloa@state.or.us - ATTENTION: PLAN AMENDMENT SPECIALIST.

ORDINANCE NO. 5486

AN ORDINANCE ADOPTING A TEXT AMENDMENT TO THE DEVELOPMENT CODE FENCING STANDARDS.

WHEREAS:

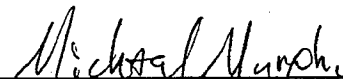
1. The Comprehensive Plan of the City of Grants Pass was adopted December 15, 1982. The Development Code of the City of Grants Pass was adopted August 17, 1983; and
2. The ordinance amends Section 23.037 (Fencing) of the Development Code; and
3. The proposal is consistent with the goals and policies of the Comprehensive Plan; and
4. The applicable criteria from the Development Code are satisfied, and the proposed amendment is recommended by the Planning Commission to the City Council.

NOW, THEREFORE, THE CITY OF GRANTS PASS HEREBY ORDAINS:

Section 1: The amendment to Development Code Section 23.037, as set forth in Exhibit "A", is hereby adopted.

ADOPTED by the Council of the City of Grants Pass, Oregon, in regular session this 15th day of April 2009.

SUBMITTED to and Approved by the Mayor of the City of Grants Pass, Oregon, this 17th day of April 2009.



Michael Murphy, Mayor

ATTEST:



Finance Director

Date submitted to Mayor: 4-16-09

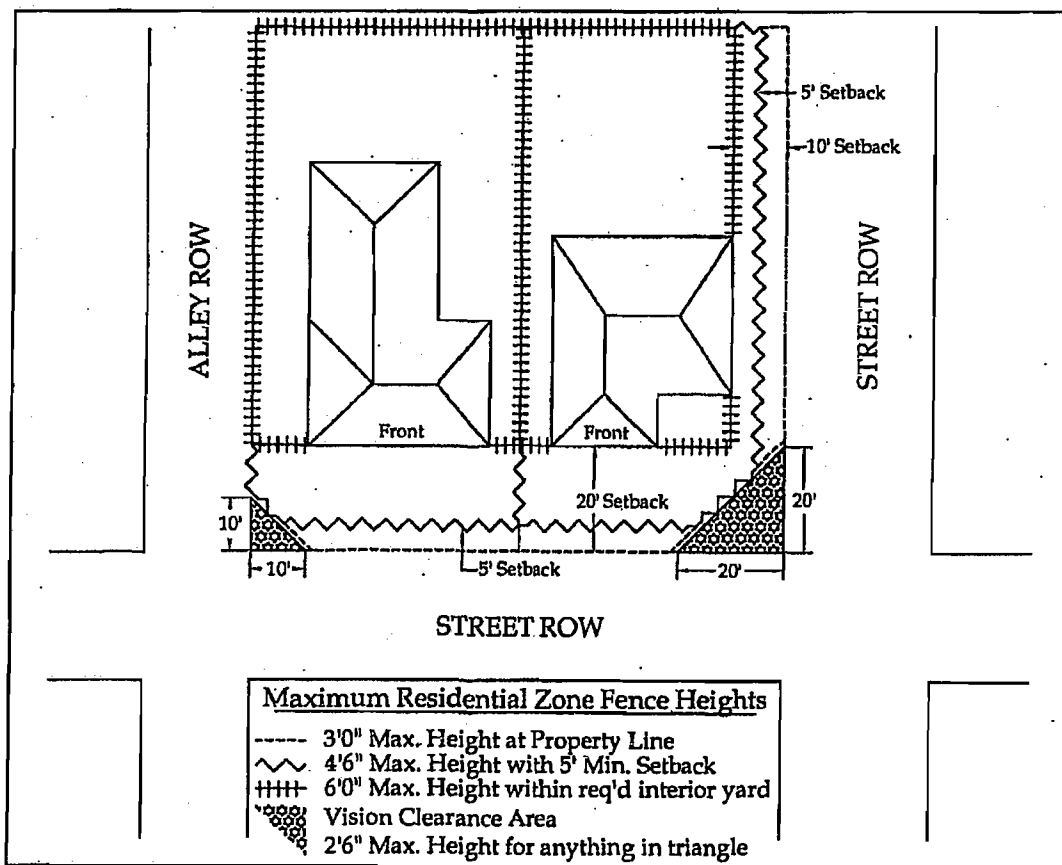
Approved as to Form, Paul Nolte, Interim City Attorney 

EXHIBIT A

23.037 Fencing

- (1) Fences in residential zones shall be subject to the following:
 - (a) Maximum height within required front and exterior yards: 3 feet. However, a fence up to 4.5 feet in height may be placed a minimum of five feet from the front or exterior side/rear property line. (See Figure 23-8)
 - (b) Maximum height within required interior yards: 6 feet (See Figure 23-8)
 - (c) Requirements for fencing in all zones shall also apply. See Section 23.037 (4)

Figure 23-8. Residential Zone Fencing Requirements



NOTE: Property owners are strongly encouraged to hire a licensed surveyor to locate property lines prior to the construction of a fence.

- (2) Fences in commercial zones shall be subject to the following:
- (a) Any fence over 3 feet high shall be located behind any required landscaped front or exterior side/rear yard.
 - (b) Maximum height within required interior yards: 8 feet
 - (c) Razor wire, barbed wire, and chain link fencing shall not be used between a building face and public right-of-way. Treatments such as decorative wrought iron should be used instead. See Section 20.490 (2).
 - (d) Requirements for fencing in all zones shall also apply. See Section 23.037 (4)
- (3) Fences in industrial zones shall be subject to the following:
- (a) Any fence over 3 feet high shall be located behind any required landscaped front or exterior side/rear yard.
 - (b) Maximum height in interior yards: 8 feet
 - (c) Depending on use and location, razor wire, barbed wire and chain link fencing may not be permitted between a building face and public right-of-way. Refer to Section 20.220 of this Code for applicability of Commercial Design Standards to industrial zones. See Section 20.490 (2)
 - (d) Requirements for fencing in all zones shall also apply. See Section 23.037 (4)
- (4) In addition, the following provisions shall apply to fences in all zones:
- (a) A fence meeting required building setbacks shall not exceed the maximum height for structures in that zone.
 - (b) Where permitted, a fence over 6 feet high requires a building permit as required by the applicable Building Code.

- (c) A fence with a height of up to 6 feet is permitted along a property line abutting an alley and within the alley setback, unless such a fence creates a visual obstruction.
 - (d) No fencing shall conflict with the requirements of the clear vision area for streets and driveways. Fencing within a vision clearance area shall not create a visual obstruction as defined in Article 30 of this Code.
 - (e) Fencing within the public right-of-way is not permitted without a valid Encroachment Permit issued by the City Engineer.
 - (f) In cases where Code provisions conflict, structures required as part of a zone buffer shall be subject to the applicable provision within Section 23.034 rather than the conflicting provision within this section.
 - (g) Every fence shall be maintained in a condition of reasonable repair and not be allowed to become or remain in a condition of disrepair including noticeable leaning or missing sections, broken supports, non-uniform height, and growing or noxious vegetation.
 - (h) Link fencing less than seven feet in height shall be constructed in such a manner that no barbed ends shall be at the top.
 - (i) Barbed wire and razor wire fences are prohibited in the following locations: at less than six feet above grade, within required zone buffer setbacks, and within the public right-of-way.
 - (j) Electric fences are prohibited.
 - (k) A fence height may be measured from the grade of either side of the fence, at the applicant's option, unless the fence is a retaining wall. A retaining wall for an area filled with soil, rocks or any other material used to raise the property is considered a fence. Its height shall be measured from the lower of the two finish grades.
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CITY OF GRANTS PASS COMMUNITY DEVELOPMENT DEPARTMENT

**FENCING STANDARDS
DEVELOPMENT CODE TEXT AMENDMENT
CITY COUNCIL FINDINGS OF FACT-TYPE IV**

Procedure Type:	Type IV: Planning Commission Recommendation and City Council Decision
Project Number:	08-40500004
Project Type:	Development Code Text Amendment
Applicant:	City of Grants Pass
Planner Assigned:	Jared Voice
Application Received:	August 8, 2008
Application Complete:	August 8, 2008
Date of Planning Commission Staff Report:	October 1, 2008 <i>Revised November 5, 2008</i>
Date of Planning Commission Hearing:	October 8, 2008 <i>Continued to November 12, 2008</i>
Planning Commission Findings of Fact:	November 12, 2008
Date of City Council Staff Report:	November 21, 2008
Date of City Council Hearing:	March 18, 2009 <i>Continued to April 15, 2009</i>
City Council Findings of Fact:	May 6, 2009

I. PROPOSAL:

A Development Code Text Amendment to Section 23.037, Fencing.

II. AUTHORITY AND CRITERIA:

Section 4.102 of the City of Grants Pass Development Code provides that the Director or City Council may initiate a text amendment. The amendment was initiated by the Director.

Sections 2.060, 7.040 and 7.050 authorize the Urban Area Planning Commission to make a recommendation to the City Council and authorize the City Council to make a final decision on a land use matter requiring a Type IV procedure, in accordance with procedures of Section 2.060.

The text of the Development Code may be recommended for amendment and amended provided the criteria in Section 4.103 of the Development Code are met.

III. APPEAL PROCEDURE:

The City Council's final decision may be appealed to the State Land Use Board of Appeals (LUBA) as provided in state statutes. A notice of intent to appeal must be filed with LUBA within 21 days of the Council's written decision.

IV. PROCEDURE:

- A. An application for a Development Code Text Amendment was submitted on August 8, 2008. The application was deemed complete on August 8, 2008, and processed in accordance with Section 2.060 of the Development Code, and Sections III and V of the 1998 Intergovernmental Agreement.
- B. Notice of the proposed amendment was mailed to the Oregon Department of Land Conservation and Development (DLCD) on August 8, 2008, in accordance with ORS 197.610 and OAR Chapter 660-Division 18.
- C. Notice of the proposed amendment was mailed to Josephine County on August 8, 2008, in accordance with the 1998 Intergovernmental Agreement.
- D. Notice of the October 8, 2008, Planning Commission hearing was mailed to potentially interested parties on September 17, 2008.
- E. Public notice of the October 8, 2008, Planning Commission hearing was published in the newspaper on October 1, 2008, in accordance with Sections 2.053 and 2.063 of the Development Code.
- F. A public hearing was held by the Planning Commission on October 8, 2008, to consider the proposal and make a recommendation to City Council. The Planning Commission continued the hearing to a date uncertain.
- G. Notice of the November 12, 2008, Planning Commission hearing was mailed to potentially interested parties on October 22, 2008.
- H. Public notice of the November 12, 2008, Planning Commission hearing was published in the newspaper on November 5, 2008, in accordance with Sections 2.053 and 2.063 of the Development Code.
- I. A public hearing was held by the Planning Commission on November 12, 2008, to consider the proposal and make a recommendation to City Council. The Planning Commission recommended that City Council approve the proposal.
- J. Notice of the December 3, 2008, City Council hearing was mailed to potentially interested parties on November 13, 2008.
- K. Public notice of the December 3, 2008, City Council hearing was published in the newspaper on November 28, 2008, in accordance with Sections 2.053 and 2.063 of the Development Code.
- L. At their December 3, 2008, meeting, the City Council continued the public hearing to consider the proposal to a date certain, February 4, 2009.
- M. The hearing scheduled for February 4, 2009, was removed from the agenda.
- N. Notice of the March 18, 2009, City Council hearing was mailed to potentially interested parties on February 26, 2009.
- O. City Council held a public workshop regarding the proposal on March 9, 2009.

- P. Public notice of the March 18, 2009, City Council hearing was published in the newspaper on March 11, 2009, in accordance with Sections 2.053 and 2.063 of the Development Code.
- Q. At their March 18, 2009, meeting, the City Council continued the public hearing to consider the proposal to a date certain, April 15, 2009.
- R. A public hearing was held on April 15, 2009, to consider the proposal.

V. SUMMARY OF EVIDENCE:

- A. The basic facts and criteria regarding this application are contained in the City Council staff report and its exhibits, which are attached as Exhibit "A" and incorporated herein.
- B. The minutes of the public hearing held by the City Council on April 15, 2009, which are attached as Exhibit "B", summarize the oral testimony presented and are hereby adopted and incorporated herein.
- C. The PowerPoint presentation given by staff at the April 15, 2009, public hearing is attached as Exhibit "C" and incorporated herein.

VI. GENERAL FINDINGS- BACKGROUND AND DISCUSSION:

The proposed amendment is intended to accomplish the following:

- 1) Re-organize existing standards into *Residential, Commercial, Industrial, and All Zones* categories, to eliminate confusion as to the applicability of each standard.
- 2) Clarify existing residential fencing standards by adding a diagram showing where various fence heights are permitted in relation to required setbacks.
- 3) Eliminate the requirement for a hedge to be planted along a 4.5-foot fence that is set back 5 feet from the front property line. This standard has been difficult for staff to explain and for the public to understand. With the standard in place, a fence built in accordance with the height and setback requirements of the Code would still not be in full compliance without the installation of a hedge. Additionally, front and exterior yard landscaping standards apply, so trees, shrubs and living groundcover are required, even without the hedge requirement.
- 4) Cross-reference existing fencing standards contained in Development Code Article 20 (Commercial Design Standards) that are not referenced in Section 23.037.
- 5) Allow a 6-foot fence to be constructed along a property line abutting an alley. The existing standards would limit a fence along an alley to a height of 3 feet.
- 6) Clarify vision clearance requirements by referencing the existing definition of "visual obstruction" contained in Development Code Article 30.
- 7) Specify that fencing within the public right-of-way is not permitted without a City-issued Encroachment Permit.

- 8) Prohibit barbed and razor wire fencing within zone buffer setbacks and the public right-of-way. (Existing standards prohibit barbed wire at less than 6 feet above grade.)
- 9) Clarify zone buffer allowances for fencing

The proposal carries out Outcome D, Work Task 2 of the City Council's work plan under the City Council Growth Management Goal:

Goal 1. Growth Management: While prospering and growing, we keep the sense of hometown, protect our natural resources and enhance our community improvements.

Outcome D. Other Activities to Manage Growth

- **Workplan Element:** Review and revise sections of the various codes.
- **Timing: Ongoing.** As code issues are identified issues arise through the Council, Urban Area Planning Commission and Staff, the Staff will continue to prepare revisions to the ordinances. These may be individual amendments, or a group of amendments as part of a larger housekeeping amendment.

Additional background and discussion is provided in the Planning Commission's Findings of Fact.

VII. FINDINGS OF FACT- CONFORMANCE WITH APPLICABLE CRITERIA:

The text of the Development Code may be recommended for amendment and amended provided that all of the following criteria of Section 4.103 of the Development Code are met.

CRITERION 1: The proposed amendment is consistent with the purpose of the subject section and article.

City Council Response: Satisfied. The proposal amends Section 23.037, Fencing. The "Purpose and Concept" statement for Article 23 is stated below, with applicable language in bold font.

- (1) *Trees, shrubs and living ground-cover provide shade and shelter, aiding in energy conservation and moderating local climate in developed areas. Plant materials eliminate pollutants from the air we breath, and maintain physical health and mental equilibrium by fulfilling an instinctive need for contact with the natural environment. Major gateways to the City and key travel routes through the City and urbanizing area give a lasting impression to the visitor for good or ill, an impression critical to our tourist economy. The knowledgeable use of plant materials by experienced professionals can achieve these extraordinary benefits at very little cost.*
- (2) *In these terms, landscaping is a significant factor in maintaining the livability and economic viability of the community. **The purpose of this Article is***

to provide standards for Landscaping and Buffering within the Grants Pass Urban Growth Boundary Area.

Fencing is used to buffer properties from adjacent uses and right-of-way. The proposed amendment is consistent with the purpose statement of Article 23 because it retains standards for fencing within the UGB.

CRITERION 2: The proposed amendment is consistent with other provisions of this code.

City Council Response: Satisfied. The proposed amendment is internally consistent with other provisions of the Code. One objective of the amendment is to cross-reference other sections of the Code that contain language related to fencing that are not currently referenced within the fencing section (23.037).

CRITERION 3: The proposed amendment is consistent with the goals and policies of the Comprehensive Plan, and most effectively carries out those goals and policies of all alternatives considered.

City Council Response: Satisfied. See below.

Comprehensive Plan Consistency

The proposed amendment is consistent with the goals and policies of the Comprehensive Plan. Applicable goals and policies are:

Element 7. Recreation, Parks , and Open Space

Policy 7.4. Community appearance is a major concern and should be a subject of a major effort in the area....

City Council Response: Satisfied. The proposed fencing standard amendments are consistent with this policy. One purpose of having fencing standards within the Development Code is to ensure a desirable aesthetic appearance.

Element 13. Land Use.

13.4.3. The Development Code procedures shall act to streamline the land development process and eliminate unnecessary delays, and shall contain standards and procedures for land use actions that are clear, objective, and nonarbitrary.

City Council Response: Satisfied. The proposed amendment will help to clarify several existing standards, and each new standard proposed is clear, objective and non-arbitrary.

Most Effective Alternative

The alternative to approving the proposal is to retain the existing fencing standards within the Development Code. The proposed amendment more effectively carries out the goals and policies stated above than the existing standards.

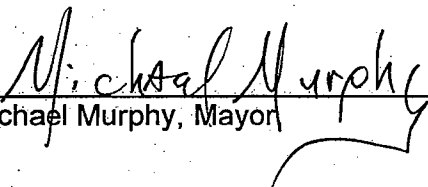
CRITERION 4: The proposed amendment is consistent with the functions, capacities, and performance standards of transportation facilities identified in the Master Transportation Plan.

City Council Response: Satisfied. Fencing does not generally affect the functions, capacities or performance standards of the Master Transportation Plan. The proposal will clarify standards relating to vision clearance and fencing within the public right-of-way, to ensure that the construction of fencing will not create adverse effects on the transportation system.

VIII. DECISION AND SUMMARY:

The City Council found the applicable criteria were satisfied and **APPROVED** the Development Code text amendment. The vote was 8-0-0, with Councilors Berger, Cummings, Kangas, Michelin, Pell, Renfro, Townes and Warren in favor, and none opposed.

IX. ADOPTED BY THE GRANTS PASS CITY COUNCIL this 6th day of May 2009.



Michael Murphy, Mayor

cap/jv

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CITY OF GRANTS PASS COMMUNITY DEVELOPMENT DEPARTMENT

**FENCING STANDARDS
DEVELOPMENT CODE TEXT AMENDMENT
CITY COUNCIL STAFF REPORT-TYPE IV**

Procedure Type:	Type IV: Planning Commission Recommendation and City Council Decision
Project Number:	08-40500004
Project Type:	Development Code Text Amendment
Applicant:	City of Grants Pass
Planner Assigned:	Jared Voice
Application Received:	August 8, 2008
Application Complete:	August 8, 2008
Date of Planning Commission Staff Report:	October 1, 2008 <i>Revised November 5, 2008</i>
Date of Planning Commission Hearing:	October 8, 2008 <i>Continued to November 12, 2008</i>
Planning Commission Findings of Fact:	November 12, 2008
Date of City Council Staff Report:	November 21, 2008
Date of City Council Hearing:	March 18, 2009 <i>Continued to April 15, 2009</i>

I. PROPOSAL:

A Development Code Text Amendment to Section 23.037, Fencing.

II. AUTHORITY AND CRITERIA:

The authority and criteria are provided in the Planning Commission's Findings of Fact.

III. APPEAL PROCEDURE:

The City Council's final decision may be appealed to the State Land Use Board of Appeals (LUBA) as provided in state statutes. A notice of intent to appeal must be filed with LUBA within 21 days of the Council's written decision.

IV. BACKGROUND AND DISCUSSION:

Detailed background and discussion is provided in the Planning Commission's Findings of Fact.

V. CONFORMANCE WITH APPLICABLE CRITERIA:

Detailed findings of conformance with applicable criteria are provided in the Planning Commission's Findings of Fact.

VI. RECOMMENDATION:

The Urban Area Planning Commission finds the applicable criteria are satisfied and **RECOMMENDS ADOPTION** of the proposed amendments to Development Code Section 23.037, Fencing.

VII. CITY COUNCIL ACTION:

- A. Positive Action:
 - 1. approve the proposal recommended by the Planning Commission.
 - 2. approve the proposal recommended by the Planning Commission with modifications (list):

- B. Negative Action: Deny the request and make no amendment for the following reasons (list):

- C. Postponement: Continue item
 - 1. indefinitely.
 - 2. to a time certain.

NOTE: *This is a legislative decision. State law does not require that a decision be made on the application within 120 days.*

VIII. INDEX TO EXHIBITS:

- 1. City Council Motion for Continuance to April 15, 2009
- 2. March 9, 2009 Fencing Code City Council Workshop Minutes
- 3. March 9, 2009 Fencing Code Staff Power Point Presentation
- 4. Planning Commission's Findings of Fact and the Attached Record:
 - A. November 5, 2008 Planning Commission Staff Report & Exhibits:
 - 1. Proposed Text Amendment to Section 23.037
 - 2. Existing Section 23.037
 - 3. Section 24.160- Residential Noise Standards
 - 4. Minutes from October 8, 2008 Planning Commission Hearing
 - 5. October 8, 2008 Power Point Presentation
 - B. November 12, 2008 Planning Commission Hearing Minutes
 - C. November 12, 2008 Staff Power Point Presentation
 - D. October 1, 2008 Planning Commission Staff Report & Exhibits:
 - 1. Proposed Text Amendment to Section 23.037
 - 2. Existing Section 23.037

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Fencing Amendment Continuance

City Council Meeting
March 18, 2009
7:00 p.m.
City Council Chambers

The Council of the City of Grants Pass met in regular session on the above date with Mayor Murphy presiding. The following Councilors were present: Cummings, Kangas, Renfro, Pell, Warren, and Michelon. Absent: Berger and Townes. Also present and representing the City were City Manager Frasher, City Attorney Sniffen, Assistant City Manager Samson, Finance Director Reeves, Public Safety Director Henner, Community Development Director Huber, Parks and Community Services Director Seybold, Public Works Director Haugen, and Human Resource Coordinator Lange.

Mayor Murphy opened the meeting. The invocation was given by Parks and Community Services Director Seybold followed by the flag salute.

PRESENTATION: Certificate of appreciation for assistance at a fire:

Mayor Murphy stated, we will begin this evening's meeting with a certificate of appreciation I guess.

Director Henner stated, I will call Lang Johnson our Fire Rescue Deputy Chief forward to do that presentation.

Deputy Chief Johnson stated, good evening Councilors and Mayor. I would like to take a few minutes to acknowledge the heroic actions of one of our citizens, Calvin Wilhelm. (He calls Mr. Wilhelm to the podium.) During the early morning hours of January 17, Mr. Wilhelm was alerted to a fire in his neighbor's apartment by the sound of the smoke alarm. He quickly went to his neighbor's apartment. He found heavy smoke coming from the door and heard the pleas and cries for help from his neighbor. With little due regard to his personal safety and at great personal risk, Mr. Wilhelm entered the apartment and pulled his semi-conscious neighbor out, effectively saving his life. But he did not stop there. He then re-entered the apartment and attempted to put the fire out with the fire extinguisher before fire crews arrived. I believe this action not only saved the apartment complex but also saved the lives of his many fellow neighbors. Mr. Wilhelm's actions go above and beyond, and I thank him for his courage to take the action when many in his place would not have. I'd like to give him a certificate at this time.

Mr. Wilhelm showed his appreciation for the award.

City Council Meeting
March 18, 2009

EXHIBIT 1
to CC Staff Report

1. PUBLIC HEARING:

a. Appeal of the Urban Area Planning Commission's decision to approve Westlake Village MHP Site Plan Review.

Mayor Murphy stated, this is for the appeal of the Urban Area Planning Commission's decision to approve Westlake Village. I believe we have been asked to have a continuance on this and we need a motion to continue it until April 1.

Councilor Kangas stated, I will make a motion to continue it until April 1. Councilor Renfro seconded the motion.

Councilor Michelon stated, I am questioning the date. That happens to be the same date as our UGB deliberation and I am wondering if it is putting a squeeze on things. I do not know how long this appeal is going to take but I just question bunching up too much on April 1.

Councilor Cummings stated, I think that there is the issue in regards to the 120 days and they were doing some sort of extension of that period time in that, so if we go any longer it may not comply within 120 days.

Director Huber stated, I agree, that is correct. We have to be sensitive to the 120 days. I do not have the exact date but I can go up and get the file if you like, if that is important. But they have been granting two-week continuances every time, so this would be a four-week continuance. But they have only agreed to two weeks.

Councilor Townes asked, so both times this has been continued -- both times at their request correct?

Mayor Murphy stated, we have a second from Councilor Renfro. Seeing no further discussion, he calls for the vote.

MOTION

It was moved by Councilor Kangas and seconded by Councilor Renfro to continue until April 1, 2009. The vote resulted as follows: "AYES": Kangas, Renfro, Pell, Warren, Townes, Michelon and Cummings. "NAYS": None. Absent: Berger.

Having received a favorable vote, Mayor Murphy declared the motion to have duly passed.

b. Ordinance adopting a text amendment to the Development Code fencing standards.

Mayor Murphy stated, next we have an ordinance adopting a text amendment to the Development Code fencing standards. We have a request that this be continued also to April 1.

Councilor Kangas asked, before I make a motion, that is not time sensitive so could we make that for the next meeting Director Huber? Ok, then I'll make a motion we continue to April 15.

Councilor Michelon seconded the motion.

Councilor Warren stated, I think we were supposed to get more information on that and I don't know that I have seen any. Councilor Cummings brought up some issues about different elevations and so forth.

Councilor Cummings stated, I was going to add to his comment. Basically what was stated is that there is some more work that needs to be done. There is some issues to fix so we are going to go in and fix it and they are going to look at a more comprehensive look at it later. So let's fix the part that is broken right now until they are ready, so they do not have any other problems.

MOTION

It was moved by Councilor Kangas and seconded by Councilor Michelon to continue until April 15, 2009. The vote resulted as follows: "AYES": Kangas, Renfro, Pell, Warren, Townes, Michelon and Cummings. "NAYS": None. Absent: Berger.

Having received a favorable vote, Mayor Murphy declared the motion to have duly passed.

c. Proposal amending the Development Code to address the federal Religious Land Use and Institutionalized Persons Act (RLUIPA) and associated case law.

Mayor Murphy stated, this is the Development Code amendment, I do not even know how to say this, I do not know how to say this acronym. We have been asked to continue it until April 15 also.

Councilor Kangas stated, I will make the motion to continue it until April 15.

Councilor Warren second.

Mayor Murphy stated we have a first and a second, seeing no further discussion he calls for the vote.

~~It was moved by Councilor Cummings and seconded by Councilor Kangas to approve the Liquor Licenses. The vote resulted as follows: "AYES": Kangas, Renfro, Pell, Warren, Townes, Michelon and Cummings. "NAYS": None. Absent: Berger.~~

~~Having received a favorable vote, Mayor Murphy declared the motion to have duly passed.~~

~~8. EXECUTIVE SESSION 192.660 (2): None~~

9. ADJOURN -

There being no further business to come before the Council, Mayor Murphy adjourned the meeting at 9:47 p.m.

The ordinances, resolutions and motions contained herein and the accompanying votes have been verified by:


Finance Director

These minutes were prepared by contracted minute taker Wendy Hain and Michael Hain.

Fence Code Workshop

City Council Workshop
March 9, 2009
11:30 a.m.
Council Chambers

The Council of the City of Grants Pass met in regular workshop session with Mayor Murphy presiding. The following Councilors were present: Cummings, Berger, Kangas, Renfro, Pell, Warren, and Townes. Absent: Michelon. Councilor Berger left the meeting early, at approximately 1:00 pm. Also present and representing the City were City Manager Frasher, City Attorney Sniffen, Assistant City Manager Samson, Finance Director Reeves, Community Development Director Huber, Public Safety Director Henner, Public Superintendant Canady, Parks and Community Services Director Seybold, Human Resource Director Lange, Fire Chief Landis, Tourism Coordinator Walters, Land Acquisition Specialist Corsi, Administrative Coordinator Buckley, Administrative Coordinator Van Deroef, Associate Planner Voice, Grant Writer Barnes, Administration Department Support Technician Anderson and Economic Development Coordinator Dahl. Citizens Stacey Kellenbeck, Trever Yarrish, Len Holzinger, Ed Bowers, Karen Zimmer, Harold Haugen, Charles Wolfmeuller, Penny Mueller, Arden McConnell, John Hoskinson, and Jim Moore of the *Daily Courier* were also present.

Mayor Murphy opened the meeting. Good Morning, welcome to the workshop for March 9th. Before I read a statement that we all believe represents a very positive step forward for the City, I acknowledge that I may have misinterpreted the intentions of Councilor Warren, who desired to use caution in moving forward with the hiring of an investigator. Now for the Statement of Understanding, March 9th, 2009: Councilor Ward Warren has withdrawn his allegations that City Manager David Frasher may have violated the City Charter. The City Manager has withdrawn his contention that Councilor Ward Warren and Councilor Rob Pell have created a hostile work environment. Mayor Mike Murphy acknowledges these matters presented a valid concern and that a failure to resolve them properly would expose the City to liability. Mayor Murphy and all City Council members along with the City Manager worked collaboratively to resolve all of these issues following a 2 day Goals Setting workshop held on March 6-7, 2009. All parties are glad to have a final resolution of these matters for the best interest of the City. At this point, I'm signing this statement and so will the members of the Council, and as we're doing that we can get on with the schedule.

~~1. INTERVIEWS FOR THE BIKEWAYS/WALKWAYS COMMITTEE:~~

~~Mayor Murphy stated, we have interviews for Bikeways/Walkways interviews which Lynn will bring forward here.~~

Kevin Higgins stated, I think just that I would work toward trying to help our community tie-in with the rest of the valley and look toward whatever collaborative efforts can be made. I am impressed by what's been done already, and I would really only be hoping to build on those efforts that have already been made, and following the Master Plan and continuing in moving that forward in a positive way. That would be all I would say. I would be happy to help if I can.

Mayor Murphy thanked Mr. Higgins for coming in for the interview. He thank Administrative Coordinator Lynn Van Deroef for handling the applicants for the interviews.

Councilor Townes asked, how many? I mean, what is the total capacity of the bike committee, how many -- what are the numbers?

Assistant City Manager Samson replied, the numbers? There are 8 people; 4 appointed by the Council and 4 appointed by the County Commissioners.

Mayor Murphy recognized former Mayor Len Holzinger at the podium and stated, I didn't even know you had a bike (laughter).

Len Holzinger stated, well I do. I will tell you that many years ago when ODOT was redoing 6th and 7th Streets they wanted to take all the parking off the west side of 6th Street and make a bike lane. Councilor Ward Warren and I got together, we worked with ODOT, I went down 4th Street and got signatures from every property owner to allow a bike path on 4th Street, taking parking off of the west side. It has been successful. In the downtown area there are no bicycles on the streets, even though people don't seem to read the signs on the crosswalks. And I think we have a good community, we have a good network for bicyclists, and I think that you need to look at these applications very carefully. Thank you.

2. FENCING CODE TEXT AMENDMENT:

Mayor Murphy stated, now we have a presentation on the fencing amendment.

Community Development Director Huber stated, on these proposed text amendments to the fencing standards in our Development Code, you will be seeing this Wednesday night. We wanted to have a chance to talk to you about it before Wednesday. A little bit of background, why are we even proposing this? Well, first of all, we do see these as housekeeping measures and hopefully they are going to clean up the Code and make it a little simpler to use. One of the complaints that we often get is the standard for fencing along alleyways because an alleyway is considered an

exterior yard, like a street, it's subject to the fencing requirements that people face when they are along the street and one of the things is you can't have a 6 foot fence along an alley, you can only have a 3 foot fence so we would like to fix that. We have gotten a lot of complaints over the years that it's just a tough... Some of the standards are hard to understand, there are some ambiguities and we would like to clean that up and make it a little bit more user friendly. Then also, there are some specific things, between two sections of the Code, the vision clearance area, essentially that's an area where you have an intersection, two streets, a street and an alley, driveway, street and things like that, and then also some zone buffering requirements, so again we think these are kind of housekeeping measures but they will have some real benefit particularly to people who are using this and subject to its provisions. So we're proposing to amend the fencing standards that are found in Article 23.037 of the Code. The standards generally regulate a couple of things, not that much, but height and set backs, where they can be placed, and then the materials, what they are made out of so not a whole lot on that, just a little bit. And then they vary depending on the zone area and the zoning that you have, and then the use of your property. So a couple of key components, I already talked about the one. We would allow, we would propose to have 6-foot fences along a property line that abuts an alley, within the alley setback. Again, right now it says it can be a 3-foot fence. It doesn't make a whole lot of sense as the alleys don't get a whole lot of traffic, so we think 6 feet is fine. Also, we're doing housekeeping measures, in that we put all the fencing standard in one section or one Article. Currently they are spread between Article 23 and Article 20, and that is a little tricky to use so we'd like to consolidate that. And then also there's something about barbed wire and razor wire fencing within a zone buffer. Zone buffers occur either at the street or at an interior property line and generally they involve trying to provide additional buffering when you have a more intensive use, either across the street or right next to a lesser intensive use. Probably the most extreme example might be a side lot line with industrial on one side and residential on the other. We don't have a lot of those, but there are a few like that. So we do have standards so that's what a zone buffer is about. So what we are saying is that barbed wire and razor wire fencing within a zone buffer setback and anything in a public right of way cannot occur any lower than 6 feet in height. Right now, the Code covers barbed wire but doesn't talk about razor wire. And then just some other things, again, just trying to reorganize and to make it a little bit more user friendly; by that pretty much residential standards, commercial standards, industrial standards, again clarifying the vision clearance standards with the zone buffer allowances and, again, that concept of lesser intensive use across the street or next to a more intensive use. And then, it's already like this but we want to make absolutely certain that it's stated so that when people don't understand, we actually can point to the section of the Code that says fencing within a right of way is not allowed unless you get an encroachment permit. So there are situations in which we do allow fences in rights of way, but only with an encroachment permit. Then finally, encourage property owners to hire a licensed surveyor prior to fence construction. That's one of the biggest things, people don't really know where their property lines are but yet

they build a fence.

What we want to do is add this graphic to the Code, it's not in there right now, and what it shows -- okay let's just take this right here, this is a street right of way and right at the street you can have a 3 foot fence, if you go back 5 feet you can have a 4-½ foot fence, and then if you go back, your front yard is set back, in a residential zone that would be a 20 foot set back, you could have a 6 foot fence. This is what I was talking about earlier; allowing a 6-foot fence along a property line that fronts an alley, and right now it's a 3-foot requirement. And then a rear yard, an interior yard, nothing would change there. And then we'd also show these little vision clearance areas. This would be an intersection of a street in an alley right of way you can see that triangular area, that's a vision clearance area. You can't build anything higher than 2-½ feet. The concept is that if you're sitting in your car you can see over it. When you're at the intersection of two streets you can see it's different it's a little bit bigger, 20 x 20, and then there's the hypotenuse of that triangle, so that area within there is considered a vision clearance area. So, the Planning Commission did recommend that you approve this and they recommended a couple other things as well. They voted to initiate a text amendment so, first of all, there would be a permit for a fence. If you actually want to install one, you have to come in and get some sort of a permit. We don't have that right now and it's not in this current proposal but the Planning Commission does have the authority to initiate text amendments so we will be bringing something forward to you in the future. Also, problems with fences that are built out of compliance -- this is some of the reasoning about why they are thinking that -- when fences are built out of compliance with the Code, they turn into Code Enforcement issues, other communities do this so we're not, we wouldn't be alone in putting a fence permit in your Code, and then it would insure that people know what the standards are when they come in ask for a permit to get a fence. These are just a couple pictures, I'm sure you've seen other examples, this one in the upper left hand corner, actually sought a variance. The problem is it's with a 20-foot front yard set back and they sought a variance, and they were denied, so they cut it down to meet the height. These are a couple of fences that you can see are right along the edge of a sidewalk or set back a little bit, but not meeting the 20-foot, this one down in the lower right hand corner is kind of unusual because it's a mixture of fences that don't meet the Code that are trying to meet the Code, and then about the 3-foot high fence that does meet the Code. So we understand that throughout the community there a lot of fences that don't meet our standards and, again, they turn into Code Enforcement issues and one solution recommended by our Planning Commission is to require that they get a permit. So that is what you'll be seeing on Wednesday night.

Councilor Cummings asked, in the past there has been an issue on sloping types of lots where there was a 4-foot retaining wall and the inability to put a fence on top of that, so is that addressed in this?

Director Huber stated, no. As we said up front, this is the, I think we used the term "the low hanging fruit" text amendment. This is a pretty simple one, so no, we didn't deal with that.

Councilor Cummings stated, I'm just wondering why it's been an ongoing issue. It probably isn't now because there's nothing being built, but when you do have a sloping situation and somebody puts in a 4-foot retaining wall and suddenly it's an unsafe issue on the other side... anyway.

Director Huber stated, what triggered this is the 3-foot fence along the alleys. We looked at it and then it was the whole question, do we do a comprehensive review of our fence code or something that addresses the immediate problem. The parallel is with the sign code, we started doing more comprehensive and then people said "why did you add so much," so we want to keep it narrow. If you want us to go further, we're happy to do that.

Councilor Renfro stated, my question is on the fees for the fences. Have you arrived at a fee yet for that?

Director Huber asked, you mean a fee based permit? Well currently we don't have fence permits so there is no fee associated it. If we instituted a fence permit, we would charge a fee.

Councilor Renfro asked, do you know what that would be, offhand?. Would you also require it for replacing a fence?

Director Huber replied, well we really haven't done much work on it. I imagine we would, or at least some reduced fee. Yes, I'm sure we would want to review, make sure it's being done correctly.

Councilor Warren stated, and basically that's one of the questions I was going to ask, and I definitely would want to know what that fee is before moving forward with it, personally. And then my other question is what about a situation where you have a different level, like say a next door neighbor is up higher or whatever, on the side of the lot can you put a higher fence or is it still limited to 6-foot?

Director Huber stated, I think that was what Councilor Cummings was getting to, that when you have different grades, you have retaining walls separating different heights.

Councilor Warren stated, so what was the answer?

Director Huber stated, well the question was "Are you doing anything about that?" And the answer

is no. But the issue is, you are subject to the fence provisions and it says that when the wall is used to raise the grade, you measure and you have different grades -- so grade, wall, grade, you measure from the lower of the two grades and that's been the problem. Because then if you have a 3-foot -- say you have a 4-foot high wall, you only get a 2-foot high fence. And that's been the issue.

Councilor Warren stated and I mean it's kind of the same but I'm basically not talking about a block wall or a retaining wall, I'm just talking about a fence.

Director Huber stated, well then you just site the fence on the property line. Then again, the issue is what happens when you have a variable grade and where do you measure, from the upper or the lower.

Councilor Berger stated, I don't have any problem with this, Director Huber, that looks really reasonable. I'm just going to recite the thing that I have before, and I know it's not being addressed, but we do have a conflict when a back yard abuts a street because then we end up with a, what really could be a 6-foot fence but now it's abutting a street and the back yard is this big, so they end up with a little bitty -- this happens all the time out in Redwood -- you have a 3-foot fence sitting on an arterial and you can drive right down the street and you can look right into people's bedrooms. That's true, on Redwood Avenue. So anyway, if we ever do get around to a comprehensive review... I think what you have told me is it's a matter of how they plat it out, you know, plat out that subdivision. If they're trying to squeeze out as many houses as possible this doesn't seem to be a consideration, but I really do kind of feel badly for the people that end up living in these places because they just have no privacy in their own bedrooms.

Director Huber stated, this certainly doesn't address all situations, and you've given some examples, but our Code does say... We try to prevent or discourage lots with double frontage and it's exactly for that reason. Certainly, corner lots are hard to avoid but, you know, lots with streets in the back yard and in the front yard ...they're hard.

Councilor Pell asked, if we were contemplating a fee, would that be a flat fee or per foot?

Director Huber stated, I don't know. We really haven't thought about it much.

Councilor Pell stated, and then is there anything in our existing... Is there any thing that's been worked on so far that talks about, because I know that some towns are really critical as far as the inside out on the fence, meaning the good side facing your neighbor. I mean, it always amazes me that my neighborhood could put up a fence on one side and there was really any discussion as

to who got the good side, you know.

Director Huber stated, I'm in the same boat as you are in my yard. Here is an example where they split the difference, assuming that's the good side -- well half faces the backyard and half faces the street side. So no, again, that would be more of the comprehensive approach in terms of do we want to get in to aesthetics and materials, other than barbed wire and concertina wire. Do we really want to get into, should chain links be permitted in front yards, there are all kinds of questions you could ask. But no, we have not addressed that issue.

Councilor Pell stated, to me that should be absolutely part of the discussion if somebody wants to put up a fence, because the bottom line is they could put up a double sided fence that looks just as good in your neighbor's yard as it does in your own yard. So if they actually had a sensitivity for what they preferred as far as the appearance goes, they should assume that their neighbor would have a sensitivity as well. So I would think that the good side should be towards your neighbor and then they would have the option of having two good sides if they want.

Councilor Cummings stated, you mentioned on one of the previous slides that an action would necessitate the City doing an inspection on an alleyway or a fence in some location.

Director Huber stated, well they do anyway -- if it's the final inspection for the home.

Councilor Cummings stated, another thing that was stated on one of the slides is that a surveyor should, you know, you recommend a property owner get a hold of a surveyor. But I guess what I'm saying is if property lines and pins really haven't been actually located and the City goes out and inspects it, I think a situation where you're putting yourself into jeopardy approving something without verification of property lines or pins. So I have a problem with the fact that you're going to make an inspection and, if indeed, those pins aren't located. So you might look at that, if you're going to do inspections, you want those property lines to be located because once you endorsed it or said it's all right, I think it's a liability issue on the City.

Councilor Kangas stated, I remember on the Planning Commission wasting a lot of time, like Councilor Cummings talked about on that sloping issue. And that's not going to be addresses at all in this?

Director Huber stated, we understand the issues of the fence ordinance. Again, what triggered this was the fencing along the alley. And then we also thought this issue of the barbed wire and the concertina wire should be fixed, that was a pretty obvious one. So this is not a detailed overview of the fence regulations.

Councilor Townes stated, I guess what I'm getting at is there has been about three if not four pretty important issues brought up, are we... I realize what brought this forward was about three issues, are we at the point that we should consider fixing all the fence issues at one time? And I hate to go back through the process again. Or should we just say, okay we're going to fix these three issues at this point? Or should we be thinking about fixing all these other issues that we're currently talking about? I do realize that some of these, like the walls, are covered by Code, but it's a Code that a lot of people aren't friendly with.

Director Huber stated, I would recommend that you finish this. Again, just some of the changes we're doing that don't look very big, just the structural changes to the Code, I think will make it an easier Code for citizens to use and for us to apply. So that has value in it. Why don't you think about it for a couple of days and if you want to initiate something additional on Wednesday night, I think you ought to do this though, they are relatively easy fixes and I think they're going to be very useful fixes.

Councilor Townes stated, I guess I would have to ask the Council how they feel about it. I've heard how Director Huber feels about it. Do we want to fix a short amount of problems now, which is fine with me, I just want know how everybody else feels.

Councilor Renfro stated, I would be in favor of going ahead and taking care of what he has presented tonight, bearing in mind that we do have other concerns, and in time we can get some of those taken care of.

Councilor Cummings stated, I'd probably be the dissenting vote because I think that the other part of that, that has been a constant and ongoing issue is with the retaining wall on top of it in sloped areas. And it's been one that there have been lots of violations, that I could point out to you in the public, and it creates unsafe situation. If somebody puts a retaining wall and somebody doesn't fence their yard. It's a safety issue of somebody falling off a 4-foot wall. Whether it's animals, people, or what have you. I just think it's something that's broken also in this and it's been identified. I think the ones that you're doing are maybe it would make sense to finish this up and when the City has an opportunity to get back to the other part of it, because, once again, what's been built it's not really happening now, so there's other fish to fry probably. But I would like to put it on a priority list that we're getting it at some point in time.

Councilor Kangas stated, I'd be a dissenting vote too because I think that we wasted so much time on the Planning Commission on those sloping issues that Councilor Cummings talked about, I think they could be included fairly reasonable on this one here and maybe delay it a little bit.

City Manager Frasher stated one thing that you might think about is there are some notice requirements on these and so I think part of the reason it might be more efficient for you to strike at the issues that you have before you, and I'd like to offer too, to talk to Councilor Cummings about that liability question you had earlier. And from this information that we're getting from Council we can then, I can talk to Director Huber about when we might schedule some of the additional amendments that you would like to see, including the idea of the permitting. Because when you just look at these pictures and you look at the various inconsistencies that we see there, not to mention the ones you all know of in your own neighborhoods, I mean, I don't want one more for us to write a permit on but, on the other hand, if we can prevent a Code violation through a permit process where we do a review, at least people will knowingly be in compliance or, if they're not, they will know why they're not. I'm trying to design out the Code Enforcement demand because we do have these issues. So I think, to the extent you could have the permit, you prevent people from violating the Code in the first place and then we don't have to send people out and deal with it that way.

Councilor Pell stated, I think that Councilor Cummings' point is a good one, especially when it comes down to the safety aspect. You know, I think more of -- as far as visual, a retaining wall with a fence on top of it -- but yes, if you've got toddlers or whatever, you know, you want to have a fence if there's a retaining wall there. But I also hear that, I guess as Director Huber defined it, these were the easy things to pick out. He called them the "low hanging fruit." But I understand it would be very easy to move forward with those quickly and it probably makes sense to do that and maybe get back to the rest of it at some time certain. I would just like to add one thing to what the City Manager just said, and I would agree, that the permit idea is good in that it's going to, hopefully, lower the workload on Code Enforcement. I would just add to that, that I think we should announce, first of all, hopefully the newspaper would report it, but because we can't control that, hopefully we can announce it in one or two of our newsletters maybe three or four months apart, that there is now a Fence Code and I think word of mouth would get out there. It would be in people's consciousness a little bit. You know, if we got the word out, like I say, in the newsletter that there's a fence code then we might be more likely to have people seek the permit that they need, if we announced it. Otherwise, it is a moot point -- if nobody knows that you need a permit.

Councilor Cummings stated, again, I wouldn't hold it up because, basically, what you'll end up doing is waiting for the amendments and have more things possibly be in violation or issues to deal with, so I would say approve what you've got now and then try to revise the other parts that look broken.

Councilor Townes stated, so -- and I hate to say I might not understand it -- is there a fee

included in this or not at this point. I didn't think there was, but the way we were talking it was almost as if the Urban Area Planning Commission recommended a fee but didn't put it in as part of it.

Director Huber stated, no as part of the public hearing, remember in these legislative hearings they are an advisory body, they initiated a text amendment. So we're going to keep this one moving and we're going to go back and do that one.

Councilor Townes stated, okay, very good, thank you.

Mayor Murphy asked if there were any further questions. Seeing none, he recognizes Director Huber will be doing the presentation for the next item on the agenda.

3. RLUIPA TEXT AMENDMENT:

Director Huber stated this is the Religious Land Use and Institutional Persons Act (RLUIPA). This is a good one. There is a lot of meat in this one, lots to talk about. One thing I want you to know, you've talked about over the weekend, for example, about your desire to do policy, to implement policy, this is filled with policy implications and it's clearly your choice. Basically it comes down to a broad question of preserving industrial lands for industrial uses or allowing more uses, widening the range of uses that can go into the industrial zones. There is a good article that we put in your packet, it came out of last month's issue, this is called *Planning Magazine*, it's put out by the American Planning Association, and it's called Blue Collar, Green Collar. If you get a chance, I know you have a lot to read but it's worth reading. It just talks about, first of all, you're not an unusual community, every community is facing this issue of keeping their industrial lands pure versus allowing other uses. But it does talk about some of the implications of when you water down your industrial uses, how hard it is to recruit industrial companies and then once they get there, the fear that they're going to be subject to nuisance complaints and those kinds of things. So it's a good article to read. Also before getting started, our Comprehensive Plan, the economic element did say that we are short about 409 acres for industrial uses and, typically, industrial uses are the hardest -- industrial zones are the hardest places to site. We don't always have great access to the highway or railroad or whatever. Also, we like them, but we like them kind of out of sight and away from things; away from residential zones, and so they're hard to site. So we are going to talk about all those kinds of things. What is this thing, and why initiate it? In the last couple of years we have gotten some inquiries about using industrial lands for churches. We've actually had people come in and ask for that. In fact, Council approved a zone change of the old Grange Coop based on that. It wasn't turned into a church but it was one of their arguments. Then we've also, a customer came in and raised this issue about RLUIPA problems and saying

Fencing Standards Development Code Text Amendment

March 9, 2009 City Council Workshop
Presented By: James E. Huber

Background

- Why amend fencing requirements?
 - Frequent customer requests to construct 6-foot fences along alleys.
 - Numerous existing 6-foot fences constructed along alleys throughout city in violation of Code.
 - Complaints that existing standards are difficult to understand.
 - Ambiguity in existing vision clearance and zone buffer requirements.
- Proposed amendments are essentially "low-hanging fruit", intended to improve user-friendliness and effectiveness of the Development Code fencing standards.

Proposal

- An ordinance amending the fencing standards of Development Code Section 23.037
- Standards regulate fencing characteristics such as height, setbacks and materials.
- Regulations vary depending on zone and land use.

Key Components:

- **PROPOSED:** Allow 6-foot fence along property line abutting an alley and within alley setback.
 - Existing standards limit a fence along an alley to a height of 3 feet (except within the CBD.) A 6-foot fence is subject to a minimum 10-foot alley setback.
- **PROPOSED:** Ensure all fencing requirements can be found in one section of the Development Code.
 - Existing fencing standards, contained in Development Code Section 23.037, do not reference commercial design fencing requirements, contained in Development Code Article 20.

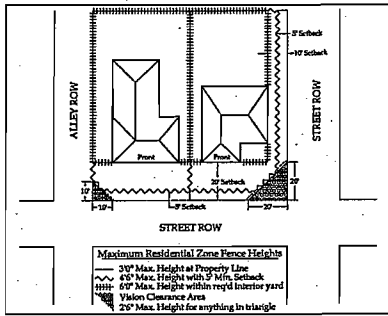
Key Components:

- **PROPOSED:** Prohibit barbed wire AND razor wire fencing within zone buffer setbacks and the public right-of-way, and at lower than 6 feet above grade.
 - Existing standards prohibit barbed wire fences (do not cover razor wire fences) only at less than 6 feet above grade.

Additional Components:

- Re-organization of standards into zoning categories, to enhance user-friendliness.
- Clarify vision clearance requirements and zone buffer allowances (i.e., fencing for an industrial zone adjacent to a residential zone.)
- Specify that fencing within right-of-way is not allowed without Encroachment Permit.
- Encourage property owners to hire a licensed surveyor to locate property lines prior to fence construction.

Figure 23-8. Residential Zone Fencing Requirements



Conclusion & Recommendation

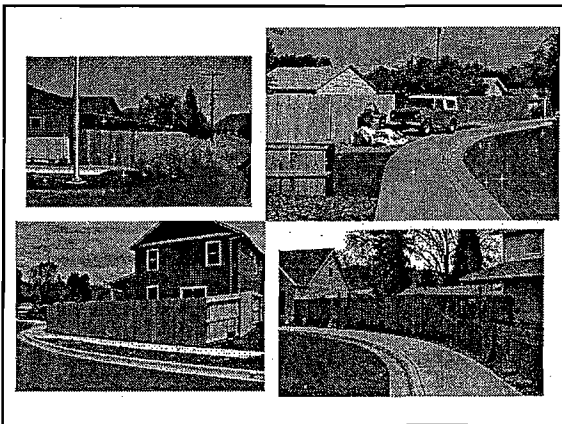
- The Urban Area Planning Commission recommended that City Council approve the proposed Development Code text amendment.

Planning Commission Initiation of Separate Text Amendment

- The Planning Commission approved a motion initiating a separate Development Code text amendment to require permits prior to fence installation.
- A requirement for fence permits is not included under the current proposal but will be considered in the future.

Fence Permit

- Currently, no permits required for construction of fencing
- Generally, fencing built out of compliance (common throughout the city) becomes a Code Enforcement issue
- Many communities require a permit (generally low-fee and over-the-counter) prior to fencing installation
- Permit ensures that fence installer / homeowner is aware of regulations prior to installation



Questions?

CITY OF GRANTS PASS COMMUNITY DEVELOPMENT DEPARTMENT

**FENCING STANDARDS
DEVELOPMENT CODE TEXT AMENDMENT
PLANNING COMMISSION FINDINGS OF FACT-TYPE IV**

Procedure Type:	Type IV: Planning Commission Recommendation and City Council Decision
Project Number:	08-40500004
Project Type:	Development Code Text Amendment
Applicant:	City of Grants Pass
Planner Assigned:	Jared Voice
Application Received:	August 8, 2008
Application Complete:	August 8, 2008
Date of Planning Commission Staff Report:	October 1, 2008 <i>Revised November 5, 2008</i>
Date of Planning Commission Hearing:	October 8, 2008 <i>Continued to November 12, 2008</i>
Planning Commission Findings of Fact:	November 12, 2008

I. PROPOSAL:

A Development Code Text Amendment to Section 23.037, Fencing.

II. AUTHORITY AND CRITERIA:

Section 4.102 of the City of Grants Pass Development Code provides that the Director or City Council may initiate a text amendment. The amendment was initiated by the Director.

Sections 2.060, 7.040 and 7.050 authorize the Urban Area Planning Commission to make a recommendation to the City Council and authorize the City Council to make a final decision on a land use matter requiring a Type IV procedure, in accordance with procedures of Section 2.060.

The text of the Development Code may be recommended for amendment and amended provided the criteria in Section 4.103 of the Development Code are met.

III. APPEAL PROCEDURE:

The City Council's final decision may be appealed to the State Land Use Board of Appeals (LUBA) as provided in state statutes. A notice of intent to appeal must be filed with LUBA within 21 days of the Council's written decision.

IV. PROCEDURE:

- A.** An application for a Development Code Text Amendment was submitted on August 8, 2008. The application was deemed complete on August 8, 2008, and processed in accordance with Section 2.060 of the Development Code, and Sections III and V of the 1998 Intergovernmental Agreement.
- B.** Notice of the proposed amendment was mailed to the Oregon Department of Land Conservation and Development (DLCD) on August 8, 2008, in accordance with ORS 197.610 and OAR Chapter 660-Division 18.
- C.** Notice of the proposed amendment was mailed to Josephine County on August 8, 2008, in accordance with the 1998 Intergovernmental Agreement.
- D.** Notice of the October 8, 2008, Planning Commission hearing was mailed to potentially interested parties on September 17, 2008.
- E.** Public notice of the October 8, 2008, Planning Commission hearing was published in the newspaper on October 1, 2008, in accordance with Sections 2.053 and 2.063 of the Development Code.
- F.** A public hearing was held by the Planning Commission on October 8, 2008, to consider the proposal and make a recommendation to City Council. The Planning Commission continued the hearing to a date uncertain.
- G.** Notice of the November 12, 2008, Planning Commission hearing was mailed to potentially interested parties on October 22, 2008.
- H.** Public notice of the November 12, 2008, Planning Commission hearing was published in the newspaper on November 5, 2008, in accordance with Sections 2.053 and 2.063 of the Development Code.
- I.** A public hearing was held by the Planning Commission on November 12, 2008, to consider the proposal and make a recommendation to City Council.

V. SUMMARY OF EVIDENCE:

- A.** The basic facts and criteria regarding this application are contained in the November 5, 2008, staff report and its exhibits, which are attached as Exhibit "A" and incorporated herein.
- B.** The minutes of the public hearing held by the Urban Area Planning Commission on November 12, 2008, which are attached as Exhibit "B", summarize the oral testimony presented and are hereby adopted and incorporated herein.
- C.** The PowerPoint presentation given by staff at the November 12, 2008, Planning Commission hearing is attached as Exhibit "C" and incorporated herein.
- D.** The October 1, 2008, staff report and its exhibits are attached as Exhibit "D" and incorporated herein.

VI. GENERAL FINDINGS- BACKGROUND AND DISCUSSION:

The proposed amendment is intended to accomplish the following:

- 1) Re-organize existing standards into *Residential, Commercial, Industrial* and *All Zones* categories, to eliminate confusion as to the applicability of each standard.
- 2) Clarify existing residential fencing standards by adding a diagram showing where various fence heights are permitted in relation to required setbacks.
- 3) Eliminate the requirement for a hedge to be planted along a 4.5-foot fence that is set back 5 feet from the front property line. This standard has been difficult for staff to explain and for the public to understand. With the standard in place, a fence built in accordance with the height and setback requirements of the Code would still not be in full compliance without the installation of a hedge. Additionally, front and exterior yard landscaping standards apply, so trees, shrubs and living groundcover are required, even without the hedge requirement.
- 4) Cross-reference existing fencing standards contained in Development Code Article 20 (Commercial Design Standards) that are not referenced in Section 23.037.
- 5) Allow a 6-foot fence to be constructed along a property line abutting an alley. The existing standards would limit a fence along an alley to a height of 3 feet.
- 6) Clarify vision clearance requirements by referencing the existing definition of "visual obstruction" contained in Development Code Article 30.
- 7) Specify that fencing within the public right-of-way is not permitted without a City-issued Encroachment Permit.
- 8) Prohibit barbed and razor wire fencing within zone buffer setbacks and the public right-of-way. (Existing standards prohibit barbed wire at less than 6 feet above grade.)
- 9) Clarify zone buffer allowances for fencing.

NOTE: The original proposal included a reference to Development Code Section 24.162, *New Development Along Highways and Arterial Streets* (a subsection of 24.160, *Residential Noise Standards*.) This reference was intended to eliminate a perceived conflict between the fencing standards and exterior sound attenuation requirements. Per Section 24.162 (3), "*Exterior sound attenuation will be accomplished by the construction of a masonry wall, earth berm or fence between the dwelling unit(s) and the noise source. The wall, berm or fence shall have a solid, continuous surface without any openings or holes. The barrier shall be continuous along the entire property line and shall be of sufficient height to intercept the roadway noise between the highest point of a noise source (truck exhaust stack) and the dwelling units.*"

At the October 8, 2008 Planning Commission hearing, Commissioners voiced concern that property owners could potentially erect a 6-foot (or taller) fence along a front / exterior property line and call the fence a "sound wall."

Additionally, there was confusion as to whether an actual conflict exists between the fencing standards and sound attenuation requirements.

Due to the following facts, it has been determined that a structure built for the purpose of exterior sound attenuation is subject exclusively to the provisions of Section 24.160 and not the fencing standards. Therefore, no conflict exists and a reference to Section 24.160 within the fencing standards is not necessary:

- Sound attenuation structures may be constructed exclusively for the purpose of achieving the residential noise standards established in Section 24.161.
- Sound attenuation structures may be required by the review body as a condition of approval for a new residential development (e.g., subdivision, partition, multi-family site plan, or new single family / duplex) abutting a highway or arterial street. There is no allowance within the Development Code for existing residential development to erect such a structure. Providing a reference to Section 24.162 within the fencing standards, which apply to both new and existing development, may cause more confusion than clarity.
- Although the Code allows “the construction of a masonry wall, earth berm or fence” to achieve the residential noise standards, it also requires that such a structure have “a solid, continuous surface without any openings or holes.” Therefore, it is unlikely that a conventional wood or chain link fence could be construed as a structure suitable for achieving exterior sound attenuation.
- Section 24.162 clearly requires that “*the barrier shall be continuous along the entire property line and shall be of sufficient height to intercept the roadway noise...*” The standard clearly allows (in fact requires) a structure built for the purpose of exterior sound attenuation to exceed the height standards set forth for fencing, when the additional height is necessary to achieve the residential noise standards.

The proposal carries out Outcome D, Work Task 2 of the City Council’s work plan under the City Council Growth Management Goal:

Goal 1. Growth Management: While prospering and growing, we keep the sense of hometown, protect our natural resources and enhance our community improvements.

Outcome D. Other Activities to Manage Growth

- **Workplan Element:** Review and revise sections of the various codes.
- **Timing: Ongoing.** As code issues are identified issues arise through the Council, Urban Area Planning Commission and Staff, the Staff will continue to prepare revisions to the ordinances. These may be individual amendments, or a group of amendments as part of a larger housekeeping amendment.

VII. CONFORMANCE WITH APPLICABLE CRITERIA:

The text of the Development Code may be recommended for amendment and amended provided that all of the following criteria of Section 4.103 of the Development Code are met.

CRITERION 1: The proposed amendment is consistent with the purpose of the subject section and article.

Planning Commission Response: Satisfied. The proposal amends Section 23.037, Fencing. The "Purpose and Concept" statement for Article 23 is stated below, with applicable language in bold font.

- (1) *Trees, shrubs and living ground-cover provide shade and shelter, aiding in energy conservation and moderating local climate in developed areas. Plant materials eliminate pollutants from the air we breath, and maintain physical health and mental equilibrium by fulfilling an instinctive need for contact with the natural environment. Major gateways to the City and key travel routes through the City and urbanizing area give a lasting impression to the visitor for good or ill, an impression critical to our tourist economy. The knowledgeable use of plant materials by experienced professionals can achieve these extraordinary benefits at very little cost.*
- (2) *In these terms, landscaping is a significant factor in maintaining the livability and economic viability of the community. **The purpose of this Article is to provide standards for Landscaping and Buffering within the Grants Pass Urban Growth Boundary Area.***

Fencing is used to buffer properties from adjacent uses and right-of-way. The proposed amendment is consistent with the purpose statement of Article 23 because it retains standards for fencing within the UGB.

CRITERION 2: The proposed amendment is consistent with other provisions of this code.

Planning Commission Response: Satisfied. The proposed amendment is internally consistent with other provisions of the Code. One objective of the amendment is to cross-reference other sections of the Code that contain language related to fencing that are not currently referenced within the fencing section (23.037).

CRITERION 3: The proposed amendment is consistent with the goals and policies of the Comprehensive Plan, and most effectively carries out those goals and policies of all alternatives considered.

Planning Commission Response: Satisfied. See below

Comprehensive Plan Consistency

The proposed amendment is consistent with the goals and policies of the Comprehensive Plan. Applicable goals and policies are:

Element 7. Recreation, Parks , and Open Space

Policy 7.4. Community appearance is a major concern and should be a subject of a major effort in the area....

Planning Commission Response: Satisfied. The proposed fencing standard amendments are consistent with this policy. One purpose of having fencing standards within the Development Code is to ensure a desirable aesthetic appearance.

Element 13. Land Use.

13.4.3. The Development Code procedures shall act to streamline the land development process and eliminate unnecessary delays, and shall contain standards and procedures for land use actions that are clear, objective, and nonarbitrary.

Planning Commission Response: Satisfied. The proposed amendment will help to clarify several existing standards, and each new standard proposed is clear, objective and non-arbitrary.

Most Effective Alternative

The alternative to approving the proposal is to retain the existing fencing standards within the Development Code. The proposed amendment more effectively carries out the goals and policies stated above than the existing standards.

CRITERION 4: The proposed amendment is consistent with the functions, capacities, and performance standards of transportation facilities identified in the Master Transportation Plan.

Planning Commission Response: Satisfied. Fencing does not generally affect the functions, capacities or performance standards of the Master Transportation Plan. The proposal will clarify standards relating to vision clearance and fencing within the public right-of-way, to ensure that the construction of fencing will not create adverse effects on the transportation system.

VIII. RECOMMENDATION:

The Planning Commission found that the applicable criteria are satisfied and recommended that the proposed amendments to Development Code Section 23.037, Fencing, be forwarded to City Council for adoption. The vote was 7-0-0, with Commissioners Berlant, Sackett, Arthur, Wickham, Kellenbeck, Fowler and Fitzgerald in favor, and none opposed. Commissioner Fedosky was absent.

**IX. FINDINGS APPROVED BY THE URBAN AREA PLANNING COMMISSION this 12th
Day of November 2008.**



Commissioner Gary Berlant, Chairperson

jh/cap/jv

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CITY OF GRANTS PASS COMMUNITY DEVELOPMENT DEPARTMENT

**FENCING STANDARDS
DEVELOPMENT CODE TEXT AMENDMENT
REVISED PLANNING COMMISSION STAFF REPORT-TYPE IV**

Procedure Type:	Type IV: Planning Commission Recommendation and City Council Decision
Project Number:	08-40500004
Project Type:	Development Code Text Amendment
Applicant:	City of Grants Pass
Planner Assigned:	Jared Voice
Application Received:	August 8, 2008
Application Complete:	August 8, 2008
Date of Planning Commission Staff Report:	October 1, 2008 <i>Revised November 5, 2008</i>
Date of Planning Commission Hearing:	October 8, 2008 <i>Continued to November 12, 2008</i>

I. PROPOSAL:

A Development Code Text Amendment to Section 23.037, Fencing.

See Exhibit 1 for text of proposed amendment

See Exhibit 2 for existing Development Code Section 23.037

II. AUTHORITY AND CRITERIA:

Section 4.102 of the City of Grants Pass Development Code provides that the Director or City Council may initiate a text amendment. The amendment was initiated by the Director.

Sections 2.060, 7.040 and 7.050 authorize the Urban Area Planning Commission to make a recommendation to the City Council and authorize the City Council to make a final decision on a land use matter requiring a Type IV procedure, in accordance with procedures of Section 2.060.

The text of the Development Code may be recommended for amendment and amended provided the criteria in Section 4.103 of the Development Code are met.

III. APPEAL PROCEDURE:

The City Council's final decision may be appealed to the State Land Use Board of Appeals (LUBA) as provided in state statutes. A notice of intent to appeal must be filed with LUBA within 21 days of the Council's written decision.

IV. BACKGROUND AND DISCUSSION:

The proposed amendment is intended to accomplish the following:

- 1) Re-organize existing standards into *Residential, Commercial, Industrial and All Zones* categories, to eliminate confusion as to the applicability of each standard.
- 2) Clarify existing residential fencing standards by adding a diagram showing where various fence heights are permitted in relation to required setbacks.
- 3) Eliminate the requirement for a hedge to be planted along a 4.5-foot fence that is set back 5 feet from the front property line. This standard has been difficult for staff to explain and for the public to understand. With the standard in place, a fence built in accordance with the height and setback requirements of the Code would still not be in full compliance without the installation of a hedge. Additionally, front and exterior yard landscaping standards apply, so trees, shrubs and living groundcover are required, even without the hedge requirement.
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- 6) Clarify vision clearance requirements by referencing the existing definition of "visual obstruction" contained in Development Code Article 30.
- 7) Specify that fencing within the public right-of-way is not permitted without a City-issued Encroachment Permit.
- 8) Prohibit barbed and razor wire fencing within zone buffer setbacks and the public right-of-way. (Existing standards prohibit barbed wire at less than 6 feet above grade.)
- 9) Clarify zone buffer allowances for fencing.

NOTE: The original proposal included a reference to Development Code Section 24.162, *New Development Along Highways and Arterial Streets* (a subsection of 24.160, *Residential Noise Standards*, applicable portions of which are attached as **Exhibit 3**.) This reference was intended to eliminate a perceived conflict between the fencing standards and exterior sound attenuation requirements. Per Section 24.162 (3), "*Exterior sound attenuation will be accomplished by the construction of a masonry wall, earth berm or fence between the dwelling unit(s) and the noise source. The wall, berm or fence shall have a solid, continuous surface without any openings or holes. The barrier shall be continuous along the entire property line and shall be of sufficient height to intercept the roadway noise between the highest point of a noise source (truck exhaust stack) and the dwelling units.*"

At the October 8, 2008, Planning Commission hearing (**Exhibit 4**), Commissioners voiced concern that property owners could potentially erect a 6-

foot (or taller) fence along a front / exterior property line and call the fence a "sound wall." Additionally, there was confusion as to whether an actual conflict exists between the fencing standards and sound attenuation requirements.

Due to the following facts, it has been determined that a structure built for the purpose of exterior sound attenuation is subject exclusively to the provisions of Section 24.160 and not the fencing standards. Therefore, no conflict exists and a reference to Section 24.160 within the fencing standards is not necessary:

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- Although the Code allows "the construction of a masonry wall, earth berm or fence" to achieve the residential noise standards, it also requires that such a structure have "a solid, continuous surface without any openings or holes." Therefore, it is unlikely that a conventional wood or chain link fence could be construed as a structure suitable for achieving exterior sound attenuation.
- Section 24.162 clearly requires that "*the barrier shall be continuous along the entire property line and shall be of sufficient height to intercept the roadway noise...*" The standard clearly allows (in fact requires) a structure built for the purpose of exterior sound attenuation to exceed the height standards set forth for fencing, when the additional height is necessary to achieve the residential noise standards.

The proposal carries out Outcome D, Work Task 2 of the City Council's work plan under the City Council Growth Management Goal:

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Outcome D. Other Activities to Manage Growth

- **Workplan Element:** Review and revise sections of the various codes.
- **Timing: Ongoing.** As code issues are identified issues arise through the Council, Urban Area Planning Commission and Staff, the Staff will continue to prepare revisions to the ordinances. These may be individual amendments, or a group of amendments as part of a larger housekeeping amendment.

V. CONFORMANCE WITH APPLICABLE CRITERIA:

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Staff Response: Satisfied. The proposal amends Section 23.037, Fencing. The "Purpose and Concept" statement for Article 23 is stated below, with applicable language in bold font.

- (1) *Trees, shrubs and living ground-cover provide shade and shelter, aiding in energy conservation and moderating local climate in developed areas. Plant materials eliminate pollutants from the air we breath, and maintain physical health and mental equilibrium by fulfilling an instinctive need for contact with the natural environment. Major gateways to the City and key travel routes through the City and urbanizing area give a lasting impression to the visitor for good or ill, an impression critical to our tourist economy. The knowledgeable use of plant materials by experienced professionals can achieve these extraordinary benefits at very little cost.*
- (2) *In these terms, landscaping is a significant factor in maintaining the livability and economic viability of the community. **The purpose of this Article is to provide standards for Landscaping and Buffering within the Grants Pass Urban Growth Boundary Area.***

Fencing is used to buffer properties from adjacent uses and right-of-way. The proposed amendment is consistent with the purpose statement of Article 23 because it retains standards for fencing within the UGB.

CRITERION 2: The proposed amendment is consistent with other provisions of this code.

Staff Response: Satisfied. The proposed amendment is internally consistent with other provisions of the Code. One objective of the amendment is to cross-reference other sections of the Code that contain language related to fencing that are not currently referenced within the fencing section (23.037).

CRITERION 3: The proposed amendment is consistent with the goals and policies of the Comprehensive Plan, and most effectively carries out those goals and policies of all alternatives considered.

Staff Response: Satisfied. See below

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Staff Response: Satisfied. The proposed amendment will help to clarify several existing standards, and each new standard proposed is clear, objective and non-arbitrary.

Most Effective Alternative

The alternative to approving the proposal is to retain the existing fencing standards within the Development Code. The proposed amendment more effectively carries out the goals and policies stated above than the existing standards:

CRITERION 4: The proposed amendment is consistent with the functions, capacities, and performance standards of transportation facilities identified in the Master Transportation Plan.

Staff Response: Satisfied. Fencing does not generally affect the functions, capacities or performance standards of the Master Transportation Plan. The proposal will clarify standards relating to vision clearance and fencing within the public right-of-way, to ensure that the construction of fencing will not create adverse effects on the transportation system.

VI. RECOMMENDATION:

- Staff recommends the Planning Commission **RECOMMEND APPROVAL** of the proposed amendments to City Council, as presented in Exhibit 1.

VII. PLANNING COMMISSION ACTION:

- A. Positive Action: Recommend that City Council approve the request:
 - 1. as submitted
 - 2. with the revisions as modified by the Planning Commission (list):
- B. Negative Action: Recommend that City Council deny the request for the following reasons (list):
- C. Postponement: Continue item
 - 1. indefinitely.
 - 2. to a time certain.

NOTE: *The application is a legislative amendment and is not subject to the 120-day limit.*

VIII. INDEX TO EXHIBITS:

- 1. Proposed Text Amendment to Section 23.037
- 2. Existing Section 23.037
- 3. Section 24.160- Residential Noise Standards
- 4. Minutes from October 8, 2008 Planning Commission Hearing
- 5. October 8, 2008 Power Point Presentation

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23.037 Fencing

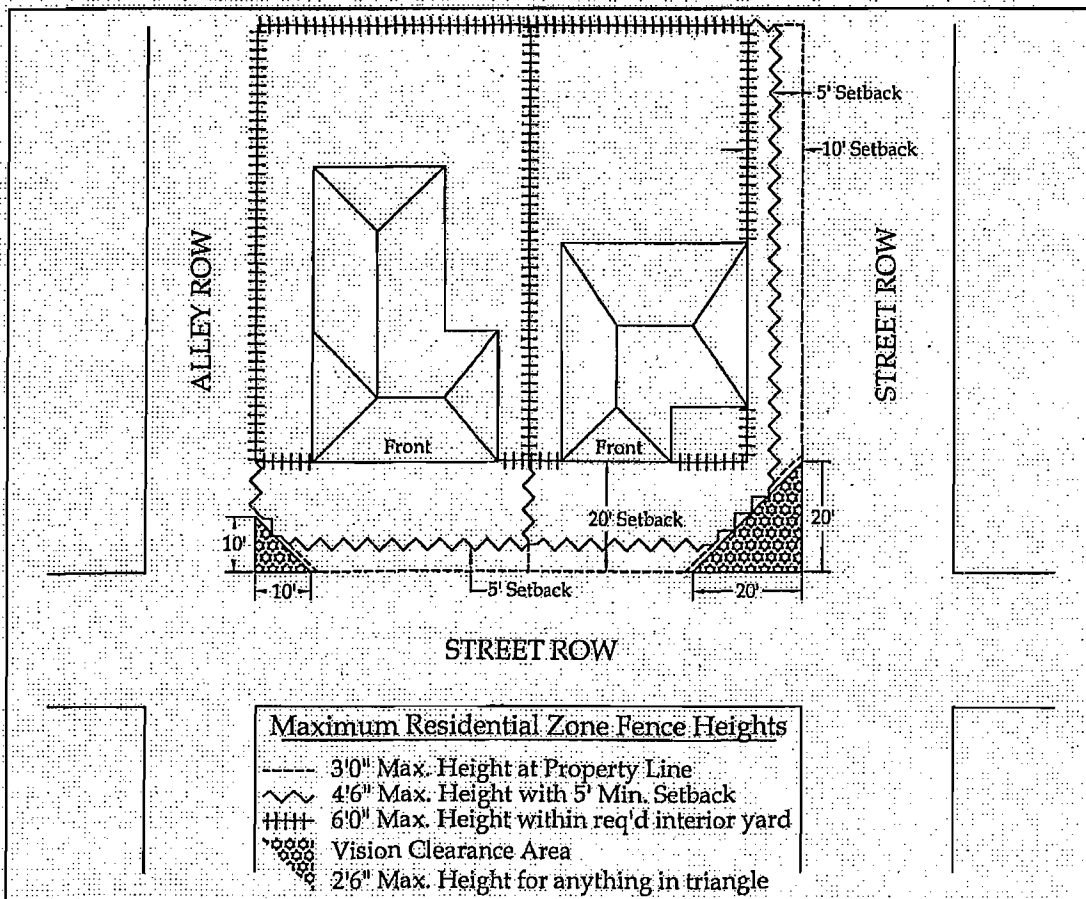
(1) Fences in residential zones shall be subject to the following:

(a) Maximum height within required front and exterior yards: 3 feet. However, a fence up to 4.5 feet in height may be placed a minimum of five feet from the front or exterior side/rear property line. (~~See Figure 23-8) provided a continuous hedge is placed between the fence and the property line. The hedge shall, at a minimum, consist of one-gallon or larger hedge plants with a minimum space of four feet, and shall achieve a minimum height of three feet in two years.~~

(b) Maximum height within required interior yards: 6 feet (See Figure 23-8)

(c) Requirements for fencing in all zones shall also apply. See Section 23.037 (4)

Figure 23-8. Residential Zone Fencing Requirements



NOTE: Property owners are strongly encouraged to hire a licensed surveyor to locate property lines prior to the construction of a fence.

(2) Fences in commercial zones shall be subject to the following:

- (a) Any fence over 3 feet high shall be located behind any required landscaped front or exterior side/rear yard.
- (b) Maximum height within required interior yards:
8 feet

(c) Razor wire, barbed wire, and chain link fencing shall not be used between a building face and public right-of-way. Treatments such as decorative wrought iron should be used instead. See Section 20.490 (2)

(d) Requirements for fencing in all zones shall also apply. See Section 23.037 (4)

(3) Fences in industrial zones shall be subject to the following:

- (a) Any fence over 3 feet high shall be located behind any required landscaped front or exterior side/rear yard.
- (b) Maximum height in interior yards: 8 feet

(c) Depending on use and location, razor wire, barbed wire and chain link fencing may not be permitted between a building face and public right-of-way. Refer to Section 20.220 of this Code for applicability of Commercial Design Standards to industrial zones. See Section 20.490 (2)

(d) Requirements for fencing in all zones shall also apply. See Section 23.037 (4)

(4) In addition, the following provisions shall apply to fences in all zones:

- (a) A fence meeting required building setbacks shall not exceed the maximum height for structures in that zone.
- (b) Where permitted, a fence over 6 feet high requires a building permit as required by the applicable Building Code.

- (c) A fence with a height of up to 6 feet is permitted along a property line abutting an alley and within the alley setback, unless such a fence creates a visual obstruction.
- (d) No fencing shall conflict with the requirements of the clear vision area for streets and driveways. Fencing within a vision clearance area shall not create a visual obstruction as defined in Article 30 of this Code.
- (e) Fencing within the public right-of-way is not permitted without a valid Encroachment Permit issued by the City Engineer.
- (f) In cases where Code provisions conflict, structures required as part of a zone buffer, or structures required to accomplish exterior sound attenuation, shall be subject to the applicable provision within Section 23.034 (for zone buffers) or Section 24.162 (for exterior sound attenuation) rather than the conflicting provision within this section. Fences required as part of a zone buffer, Section 23.034, may exceed the maximum height for structures in that zone.
- (g) Every fence shall be maintained in a condition of reasonable repair and not be allowed to become or remain in a condition of disrepair including noticeable leaning or missing sections, broken supports, non-uniform height, and growing or noxious vegetation.
- (h) Link fencing less than seven feet in height shall be constructed in such a manner that no barbed ends shall be at the top.
- (i) Barbed wire and razor wire fences are prohibited in the following locations: at less than six feet above grade, within required zone buffer setbacks, and within the public right-of-way.
- (j) Electric fences are prohibited.
- (k) A fence height may be measured from the grade of either side of the fence, at the applicant's option, unless the fence is a retaining wall. A retaining wall for an area filled with soil, rocks or any other material used to raise the

property is considered a fence. Its height shall be measured from the lower of the two finish grades.

ⁱ Revised 10-20-94

ⁱⁱ Revised 5-30-97

Existing Standards

23.037 Fencing

- (1) Fences in residential zones shall not exceed three feet in height in exterior yards and six feet in height in interior yards. However, a fence up to four and a one-half feet high may be placed a minimum of five feet from the front or exterior side/rear property line provided a continuous hedge is placed between the fence and the property line. The hedge shall, at a minimum, consist of one-gallon or larger hedge plants with a minimum space of four feet, and shall achieve a minimum height of three feet in two years.
- (2) In commercial and industrial zones, any fence over three feet high shall be located behind any required landscaped front or exterior/rear side yard. Any fence in an interior side or rear yard shall not exceed eight feet in height.
- (3) Fences required as part of a zone buffer, Section 23.034, may exceed the maximum height for structures in that zone.
- (4) A fence meeting required building setbacks may not exceed the maximum height for structures in that zone.
- (5) Where permitted, a fence over six feet high requires a building permit as required by the applicable Building Code.
- (6) No fencing shall conflict with the requirements of the clear vision area for streets and driveways.
- (7) Every fence shall be maintained in a condition of reasonable repair and not be allowed to become or remain in a condition of disrepair including noticeable leaning, or missing sections, broken supports, non-uniform height, and growing or noxious vegetation.
- (8) Link fencing less than seven feet in height shall be constructed in such a manner that no barbed ends shall be at the top.
- (9) Barbed wire fences are prohibited at less than six feet above grade.
- (10) Electric fences are prohibited.

- (11) A fence height may be measured from the grade of either side of the fence, at the applicant's option, unless the fence is a retaining wall. A retaining wall for an area filled with soil, rocks or any other material used to raise the property is considered a fence. Its height shall be measured from the lower of the two finish grades.

24.150 Sound Measurement Procedures

The procedures for measurement of sound for the purpose of enforcing this Article are found in the Sound Measurements Procedures Manual, publications NPCS-1, Department of Environmental Quality. Measurements shall be taken by a qualified City employee or private acoustical specialist approved by the Director. Fees for sound measurement by City employees shall be determined by the Director.

24.160 Residential Noise Standards

³24.161 Maximum Permissible Exterior Sound Levels

Allowable Statistical Noise Levels in Any One Hour		
	7am to 10pm	10pm to 7am
L50	55 dBA	50 dBA
L10	60 dBA	55 dBA
L1	75 dBA	60 dBA

Notes: L50 is the level that may be exceeded 50% of the time; cumulative 30 minutes/hour.

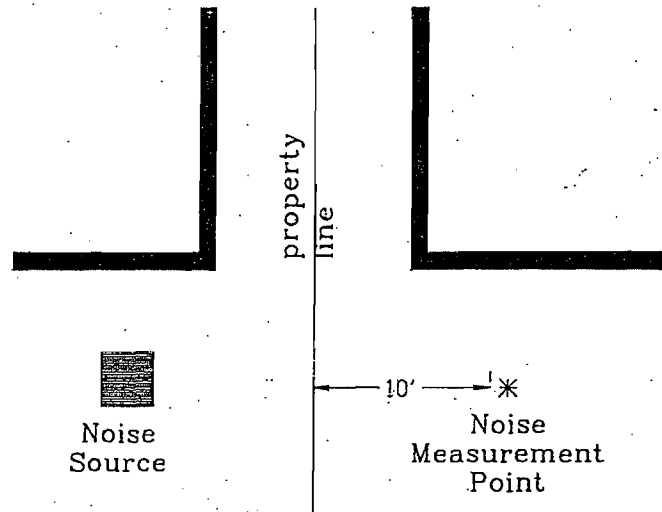
L10 is the level that may be exceeded 10% of the time; cumulative 6 minutes/hour.

L1 is the level that may be exceeded 1% of the time; cumulative 36 seconds/hour.

dBa means A-weighted decibels (decibels measured at the frequency where the human ear is most sensitive.

Source: OAR Chapter 340 Division 35.

*Measured on the lot with the noise sensitive use ten feet from the property line of the noise producing lot. See Concept Sketch 24-1.



Concept Sketch 24-1

24.162 New Development Along Highways and Arterial Streets

- (1) Highways and arterial streets are defined and depicted in the Roadway and Traffic Safety Management Plan for the Grants Pass UGB.
- (2) Developments abutting highways and arterial streets will achieve the exterior noise standards established in Section 24.160. Sound levels will be measured 25 feet from the proposed dwelling unit(s) on the side(s) of the dwelling unit(s) that are adjacent to the noise source.
- (3) Exterior sound attenuation will be accomplished by the construction of a masonry wall, earth berm or fence between the dwelling unit(s) and the noise source. The wall, berm or fence shall have a solid, continuous surface without any openings or holes. The barrier shall be continuous along the entire property line and shall be of sufficient height to intercept the roadway noise between the highest point of a noise source (truck exhaust stack) and the dwelling units.
- ⁴(4) The reduction in sound levels resulting from a barrier wall, berm or fence shall be determined by recommendations in the NOISE GUIDEBOOK⁵, U.S. Department of Housing and Urban Development.

URBAN AREA PLANNING COMMISSION

October 8, 2008

7:00 p.m.

Council Chambers

1. ROLL CALL

The Urban Area Planning Commission met in regular session on the above date with Chair Berlant presiding. Commissioners Arthur, Kellenbeck, Wickham, Fitzgerald, Sackett and Fowler were present. Absent: Fedosky. Also present and representing the City were Community Development Director Huber, Senior Planner Angeli-Paladino, Associate Planner Glover, Associate Planner Lindberg, Assistant Planner Hartley, Associate Planner Voice and Code Analyst Schauer.

~~2. ITEMS FROM PUBLIC~~

~~David True, 233 Rogue River Highway, Grants Pass, Oregon stated he represents Mr. Paul Brewer and Westlake Village, LLC. Later this evening your agenda contains an item relating to accepting findings of fact on a matter that you heard at the last Urban Area Planning Commission meeting on the 24th regarding an appeal of a Director's decision regarding a lot line adjustment for Westlake Village. His understanding is that your procedures preclude his client or himself from making any comments at the time this item comes before you for your action therefore this is his only opportunity to inform you that in our opinion the motion to reverse the Director's decision, and he quotes from the Urban Area Planning Commission minutes from that last meeting, "to approve application 08-30200008 with conditions as noted in Exhibit 7, 8 and 9 with added conditions of no further development and enter into a private street easement from the neighbor to the south" has not been accurately represented in the findings of fact provided to you in your materials tonight. A number of additional conditions were added to the findings that were not contained in Exhibits 7, 8 or 9. As applicants we did not have any opportunity to review the findings until they had been provided to you as Commissioners. He received an email copy late Thursday afternoon, October 2nd. Upon review a number of additional conditions were put into the findings by staff that were not covered in Exhibits 7, 8 and 9. Were you to accept the findings tonight, they would contain conditions with which the applicant strongly disagrees. Given that these conditions were added after your action at the last Urban Area Planning Commission meeting, his client would be deprived of his opportunity for due process were you to approve these findings this week. As a quasi-judicial body, it's your obligation to only take action on~~

Commissioner Arthur stated requiring it in Hillcrest. Commissioner Kellenbeck stated requiring a deferred development agreement with no cash security in Hillcrest.

Commissioner Wickham stated in the event that the City may need it some day. Right now it's not needed. It probably will never be needed so we're just asking for a deferred development agreement with no cash deposit in the event that we don't know what we're talking about tonight.

MOTION

Commissioner Kellenbeck moved and Commissioner Wickham seconded a motion to approve **08-20100023: Gilbert Park Professional Center Major Site Plan Review and Architectural Discretionary Review** with conditions as noted in the staff report and amended above. The vote was as follows: "AYES": Berlant, Sackett, Arthur, Fowler, Kellenbeck and Wickham. "NAYS": None. Abstain: Fitzgerald. Absent: Fedosky.

Having received a favorable vote, Chair Berlant declared the motion to have duly passed.

- f. **08-40500004: Development Code Text Amendment - Fencing**
Proposal: A Development Code text amendment to Section 23.037 regarding the fencing standards
Planner: Jared Voice

Chair Berlant stated this hearing is to consider **08-40500004: Development Code Text Amendment - Fencing**. Is there anyone present who wishes to challenge the authority of the Commission to hear this matter? Seeing none, do any Commissioners wish to abstain from participating in this hearing or declare a potential conflict of interest? You all are aware of the criteria being used. The Commissioners did all read this. Do any of you have any particular areas of concern or questions about the proposed text amendment?

Commissioner Sackett stated he has one question about the height of the fencing on a sidewalk. If you have a sidewalk and you're by a street and a sidewalk, it's only supposed to be like 3 feet or something like that. What if it's a backyard? In our neighborhood we've got some backyards that are right on the street and they make them put a 3-foot where you want a little more privacy in the back of your house. Can that be changed? The people who have these hours have no choice and here it is a backyard and now some of them put kind of a curtain up trying to make it look like a 6-foot fence and it should be a little more privacy in the back because they're facing the cul-de-sac on the front and the back of it right down by Hubbard Lane. It seems like there ought to be a provision. Is there a provision to allow a fence like that if it's a backyard? Associate Planner Voice replied currently the Development Code considers any yard facing a

street as either a front yard or an exterior side rear yard. The requirements are the same. We don't have a definition that defines the way a house faces the street. Whether it's a backyard or a front yard or a side yard the requirements are the same currently and there is no part of this proposal to address that issue.

Commissioner Sackett stated what would a person have to do then, try to get a variance or something to put a fence in their back yard? If they didn't have the houses the way they set it in the cul-de-sac, it's right along Hubbard Lane where he's at and there are about four of them and some of them put up things and it seems like they should be able to put up a 6-foot fence. He doesn't know whether that fits into this plan or not. It's just something that he noticed. Associate Planner Voice stated it's not part of this amendment. One option would be to get a variance. Another option would be to consider the way the lot is laid out when designing the house to the lot so that the rear of the house isn't facing the street.

Commissioner Fitzgerald stated those houses are a product of no access off of arterials and collectors; they end up being that way because they can't take the access off the other way so therefore it becomes the back instead of the front so we're stuck.

Commissioner Sackett stated he realizes that but it just seems like they ought to be able to put a 6-foot fence along the sidewalk there to have a little more privacy in their backyard.

Commissioner Fitzgerald stated if people don't buy the lots that's the alternative because the marketplace will decide. If they don't want to have that lot and they don't buy those lots, an alternative will be made to create something that will change the subdivision plan. But the fact is right now it's driven by the fact that you can't have access.

Commissioner Kellenbeck stated that's basically what she was going to say. The developer had a choice and that would be placing the house to set the house back far enough that the people could have a backyard and still have a 6-foot fence per the code. But most of the time those are little lots and that's pretty hard to do.

Commissioner Wickham stated it's going to look like little Cambodia, Commissioner Sackett, sorry. He had two questions that maybe Associate Planner Voice could clarify 'clarify' in 7 and 8. It says the proposed amendment is intended to accomplish the following. Associate Planner Voice replied if you look at the actual proposal for the code language, on number 7 it says clarify requirements for fencing within the public right-of-way. Currently the fencing section of the

code doesn't specifically give you a protocol for what happens if a fence goes into the public right-of-way. Generally it's not a permitted type of thing; a fence has to be put on private property however there are provisions for structures in the right-of-way requiring an encroachment permit. We just wanted to put that into this fencing section so it's clear that if a fence is going to go into the public right-of-way, it has to get an encroachment permit first. It's not necessarily implying that that's always going to be allowed but that's the process.

Commissioner Wickham stated so what you're looking for is an encroachment permit and not a code violation.

Associate Planner Voice stated number 8 says clarify zone buffer and sound attenuation allowances. There is a strange existing standard within the fencing section. The existing standard says that fence is required as part of a zone buffer, Section 23.034, and may exceed the maximum height for structures in that zone. It seems to imply that you could have a fence exceeding 35 feet if it's part of a zone buffer. He doesn't believe that's what is intended by that standard. In looking at that, it looks like what was intended is to address fences and walls that can be required on an arterial street. When a development occurs along an arterial street a sound wall can sometimes be required which would be taller than the normal 3-foot fence that would be behind a sidewalk. We just want to specify that in those situations, refer to the other code provisions that apply and specify that those trump the fencing standard.

Commissioner Wickham stated going back to Commissioner Sackett's question regarding properties, could they just call it a sound wall instead of a fence? Associate Planner Voice replied if it was a situation where a sound would be needed, potentially yes.

Commissioner Fitzgerald stated would it have to be a condition of approval? Associate Planner Voice replied it would have to be looked at as part of the development.

Commissioner Fitzgerald stated a person couldn't go and say they're building this 15-foot fence out here and it's not really a fence, it's a sound wall. Wouldn't they have to have that as a condition of approval for that particular subdivision or that lot or something? Associate Planner Voice replied yes. It wouldn't be a case by case, lot by lot thing.

Commissioner Wickham stated but these aren't conditions that go before a review body. It's kind of a Director's decision isn't it, typically a fence permit or a situations dealing with fences? Associate Planner Voice replied there is no permit for a fence. There are requirements but no

permitting requirements at this point. That's something you might look at in the future: The sound wall would have to be reviewed and approved as part of a development proposal.

Commissioner Wickham stated with a subdivision. Associate Planner Voice replied a subdivision or a...

Commissioner Wickham stated just to be an individual lot. What if he came in, okay he doesn't need a permit to build a fence so you drive by Hubbard Lane one day and he has an 8-foot concrete wall out there and you stop and say hey, you can't build an 8-foot fence and he says it's not a fence, it's a sound wall, he got tired of listening to these people drive down the road and the stuff coming in. Where's your permit? Well he doesn't have to have a permit because it's part of the fence code. He was just curious. Associate Planner Voice stated there are specific standards for what a sound wall consists of. It's not just a 6-foot wooden fence or chain link fence.

Senior Planner Angeli Paladino stated 24.162 of the Development Code talks about new development along highways and arterials. It says exterior sound attenuation will be accomplished by the construction of a masonry wall, earth berm or fence between the dwelling unit and the noise source. The wall, berm or fence shall have a solid continuous surface without any openings or holes.

Commissioner Wickham stated what he's saying is that this wouldn't be part of the development. This was developed say eight years ago and he's a lot owner and tired of listening to traffic because he was stupid enough to buy a house that had frontage in the front and frontage in the back and all he can put up is some Cambodian curtain to try and get a little privacy. He finds this little catch hole, this little loophole in this code and he goes out and builds an 8-foot masonry wall and guess what, ninny, ninny, nee, nee, he just built a sound wall.

Commissioner Sackett stated he moves that we accept the Development Code text amendment - fencing regarding the fencing standards as presented in this presentation. The motion died for lack of a second.

Commissioner Kellenbeck stated she's reading this like Commissioner Wickham is right. The way it's reading, unless you want specifically interpret 24.162's heading which is new development along highways and arterial streets, otherwise it specifically requires that if you abut a highway or arterial street you will achieve the exterior noise standards established in this section. If you measure your sound level and it exceeds the standard, five o'clock on Redwood

Avenue, you shall build a wall and that wall is no longer a fence. Associate Planner Voice started you may be correct. He doesn't know how to handle that as part of this amendment. This is an existing standard that you're talking about and we're dealing with fences. We are referencing that standard but the intent is only to say that that standard trumps the fencing standard. It's more of a clarification.

Commissioner Kellenbeck stated this is a huge improvement from what we had before but you're wrong in saying that this is an existing standard because by giving those zone buffers and noise attenuation sections the ability to trump the fence section, what developers have always heard when it comes to their fence or whatever it is that's going to be there is that you cannot put a tall fence or a wall right there because you have to meet the fence standards with your zone buffers and your noise attenuation. Mayberry Meadows is an example of that. There is a sound wall but it's not on the property line. It had to be set back 10 feet because it was 6 feet tall on an exterior yard. That was because it was subject to the fence code so now you're saying that wall could have actually been 10 feet further into the highway. Associate Planner Voice stated that's true.

Commissioner Kellenbeck stated that's fine but it's still a clarification and an improvement on other sections and if that's your intention then great. She just doesn't want to make a motion tonight that is not your intention. Associate Planner Voice stated his intention in knowing what he knows now would be to amend that specific standard so that we retain how it's being applied currently and not change it.

Commissioner Fitzgerald stated on that same subdivision there are people that are back up to Redwood Highway who would love to build a fence and the other thing is the fact that there is a huge difference between the elevation inside the fence and the elevation outside the fence. So if you were to do 6 foot from the inside, you'd add 2 or 3 feet to that fence but if you measure from the outside it's already 6 feet so in this case they can go there and build an 8, 10 foot wall because they would say this is not a fence, it's a sound wall for the highway. And they have a highway on the other side. That's what he's saying. There is a highway on the other side.

Commissioner Wickham stated can we possibly simplify it by taking any reference to a wall out of the fence ordinance? Really let's stick with fencing in the fence ordinance. Let's take this wall and stick it where it really does some good.

Commissioner Kellenbeck stated she'd prefer to see this actually just not be rushed through tonight, to go back and make sure it says what you mean for it to say and bring it back to us so that we're not making a hasty decision at eleven o'clock at night.

Commissioner Fitzgerald stated he would make a motion that we would continue this until staff can figure out exactly what they want to do about sound walls and how it affects those so it doesn't have someone coming and doing what Commissioner Wickham just pointed out.

Associate Planner Voice stated if you look at section (f) on page 390 and simply reword it to say in cases where code provisions conflict, structure as required as part of a zone buffer rather than the conflicting provision within this section shall apply. He's okay with a continuance as well if you'd rather have us look at it more closely. If the concern is for sound walls, we can just remove the language that deals with sound walls.

Commissioner Arthur stated she thinks she understood your comments about the backyard but she would like to know that there is something in here that definitely makes sure that the situation doesn't happen that happened on Redwood Avenue where we made them cut off the fence path height after they had built it along the street.

MOTION

Commissioner Fitzgerald moved and Commissioner Kellenbeck seconded a motion to continue. The motion passed unanimously.

- ~~g. **08-4050003: Comprehensive Plan Text Amendment - Urban Forestry Framework Plan**
Proposal: To adopt the revised Urban Forestry Framework Plan which, contains six documents
Planner: Tom Schauer~~

~~Chair Berlant stated we have in front of us **08-4050003: Comprehensive Plan Text Amendment - Urban Forestry Framework Plan**. We already received a couple of weeks ago the document that detailed the changes that were in response to our meeting.~~

~~Chair Berlant stated is there anyone present who wishes to challenge the authority of the Commission to hear this matter? Seeing none, do any Commissioners wish to abstain from participating in this hearing or declare a potential conflict of interest? Seeing none, do any Commissioners wish to disclose discussions, contacts, or other ex parte information they have received regarding this matter. Seeing none, in this hearing the decision of the Commission must be based on the criteria which are set forth in the Development Code.~~

Chair Berlant asked does anybody in the audience wish to speak in favor of or in opposition to the plan? Seeing none he turned it back to the Commission for discussion and decision.

Does anybody have any questions for Code Analyst Schauer about the plan or issues or clarifications of the clarification? [The Commission had no questions]

Commissioner Kellenbeck stated she will once again go on record saying she really appreciated the format in which the revisions were handled, the back and forth of the Commissioners' concerns and how they were addressed and looked at and whether or not they were changed. It made it very clear and easy. With that, the applicable criteria have been satisfied as have the Commissioners' concerns.

MOTION

Commissioner Kellenbeck moved and Commissioner Fitzgerald seconded a motion to forward **08-4050003: Comprehensive Plan Text Amendment - Urban Forestry Framework Plan** as currently written to the City Council with a recommendation for adoption. The motion passed unanimously.

5. CITIZEN INVOLVEMENT COMMITTEE

a. Items from the Public (None)

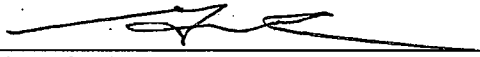
6. ITEMS FROM STAFF (None)

7. ITEMS FROM COMMISSIONERS

Commissioner Wickham stated he's going to speak out because he was the only one tonight who voted against Home Depot and he wants everybody to know why he voted against Home Depot. It's because of the double standard. He'll say it again, somebody walks in here with a bucket load of money, they can get whatever they want and they can make things happen whether they're a good plan or not. This location is a horrible location. This is his opinion. It should have been taken to another section of the community where it could better facilitate and expansion, used as a catalyst to grow other commercial developments away from the downtown area where we already have problems. The proposal that they had with this is to merely fix what's already broken only to add to it by twice as much. It's not fixing anything. That's why he voted against it. It's just bad planning and we'll all find out some day down the road.

8. ADJOURNMENT

There being no further business to come before the Commission, Chair Berlant adjourned the meeting at 11:07 p.m.



Gary Berlant, Chair
Urban Area Planning Commission

10/22/08

Date

These minutes were prepared by contract minute taker, Connie Murray

Fencing Standards Development Code Text Amendment

October 8, 2008 UAPC Meeting
Presented By: Jared Voice

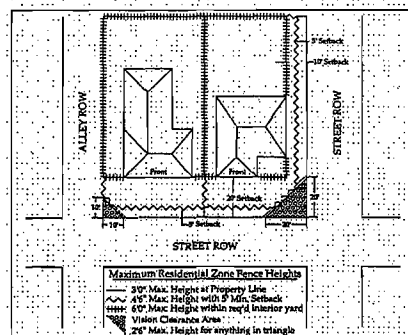
Proposal summary:

- Allow a 6-foot fence to be constructed along a property line abutting an alley.
 - Existing standards limit a fence along an alley to a height of 3 feet.
- Clarify vision clearance requirements by referencing the existing definition of "visual obstruction" contained in Development Code Article 30.
- Clarify requirements for fencing located within the public right-of-way.

Proposal summary (cont'd):

- Re-organization of existing standards into *Residential, Commercial, Industrial* and *All Zones* categories
- Eliminate requirement for a hedge to be planted along a 4.5-foot fence that is set back 5 feet from front property line
- Clarification of existing residential fencing standards with diagram:

Figure 23-8. Residential Zone Fencing Requirements



Proposal summary (cont'd):

- Cross-reference existing fencing standards contained in Development Code Article 20 that are not referenced in Section 23.037
- Clarify zone buffer and sound attenuation allowances.
- Prohibit barbed wire AND razor wire fencing within zone buffer setbacks, the public right-of-way, and lower than 6 feet above grade.

Criteria for Approval

- Criteria for approval of Development Code text amendment are located in Section 4.103
- Detailed responses to each of the criteria are located in the staff report
- Staff finds all of the criteria to be satisfied

Conclusion & Recommendation

- Planning Commission recommend that City Council approve the proposed Development Code text amendment.

Questions?

**CITY OF GRANTS PASS
URBAN AREA PLANNING COMMISSION
November 12, 2008**

**7:00 P.M. MEETING
City Council Chambers**

COMMISSIONERS:

Gary Berlant (Chair), Stacey Kellenbeck, Perry Wickham, Gerard Fitzgerald
Loree Arthur (Vice Chair), Darin Fowler, David Fedosky, Richard Sackett

1. ROLL CALL

The Urban Area Planning Commission met in regular session on the above date with Chair Berlant presiding. Present: Commissioners Arthur, Kellenbeck, Wickham, Fitzgerald, Sackett, and Fowler. Absent: Fedosky. Also present and representing the City was Principal Planner Angeli Paladino, Associate Planner Lora Glover, and Associate Planner Jared Voice.

2. ITEMS FROM PUBLIC:

Chair Berlant invites anyone in the audience to address the Planning Commission on any matter that is not part of the regular agenda to come forward at this time. Seeing none, Chair Berlant moved on to the next order of business.

3. CONSENT AGENDA:

a. MINUTES:

i. October 22, 2008 Pgs. 1-44

Corrections noted by Commissioner Arthur: In the motion on the bottom of page 2 it said we were continuing something until November 11 but it was November 12, it was tonight. On page 43 second paragraph about 5-6 lines down it says "and justifiable" when it should say "unjustifiable". On page 86 in one of the findings it says "we approve the requested tentative subdivision" about halfway down the page, and I don't think that was a tentative subdivision. It was a site plan that we approved. This correction is verified with Principal Planner Angeli Paladino.

Correction noted by Commissioner Fitzgerald: On page 30 in the second paragraph it says "predicament where his business is imperil" should read "his business is in peril"

Commissioner Wickham asks if Westlake is not opposing any of their conditions this week. Principal Planner Angeli Paladino states no, the property line adjustment is finally settled.

the 10 foot line. She sees it as a blend of the building setback requirements being 20 feet because of the zone, and the fence being 6 foot fence is required at the 10 foot building mark for the buffer requirements, and also that the State itself has made a distinction between manufactured housing parks and residential subdivisions and it is all over the ORS sections related to manufactured housing parks that they need a little help being facilitated. I think this is probably where we get to some of these lenient standards, is that the State has mandated we give them a little bit of assistance.

Commissioner Sackett states he is not against them putting up a 6 foot fence at the 10 foot line, he just states that has a conflict.

Chair Berlant states there is a motion and a second. He asks if there needs to be further discussion. Seeing none, he takes the vote.

MOTION

Commissioner Kellenbeck moves to recommend approval based on the criteria and responses found in the staff report and conditions attached with the following changes: To amend condition A1 as proposed by staff on exhibit 13, part of the Powerpoint presentation; to delete condition C3 regarding fire hydrant inspections; add condition A9f, standard drawings for half street improvements; condition C26, obtain a permit from ODOT; add condition C27, install half street improvements or a DDA, switching to the DDA that was provided with the dollar amount of \$47,000.00 range, not the one that was contained in the packet; revise condition A9e(vi) to add the word "new" after "reflect all"; revise condition A9e(x) to say "retrofit" means a new RP device; add all of the exhibits as mentioned in the minutes; and amending prior motion to allow a 6 foot fence at the 10 foot setback.

"AYES": Berlant, Arthur, Fitzgerald, Kellenbeck, and Fowler. "NAYS": Sackett and Wickham. Absent: Fedosky. The motion passes.

ii. 08-40500004: Development Code Text Amendment – Fencing

Proposal: A Development Code text amendment to Section 23.037 regarding the fencing standards

Planner: Jared Voice *Pgs. 165-190*

Chair Berlant notes this is a legislative matter and does not require announcing about challenge of jurisdiction.

Associate Planner Voice states they are back to look at the fencing standards again. This is the second time through. It went through on the first meeting in October and was continued to a time uncertain. So they have re-notified. He brings up the Powerpoint display, stating he is going to skip through some of it and get to the reason why they are back discussing this topic. The only

modification we made since the last time this was in front of you was to deal with the sound wall, supposed conflict. The original proposal to the fence standards included a reference to Development Code Section 24.162 which has to do with residential sound requirements. That was intended to eliminate a perceived conflict between the fence standards and structures built for sound attenuation. This is a little cut out from that section: "Exterior sound attenuation will be accomplished by construction of a masonry wall, earth berm, or fence..." That word fence was really the thing that was jumping out at us at first. "...between the dwelling unit and the noise source. The wall, berm, or fence shall have a solid, continuous surface without any openings or holes. The barrier shall be continuous along the entire property line..." There was some confusion last time whether or not the requirement was for it to be at the property line or to meet the fencing standards and be set back. "...and shall be of sufficient height to intercept the roadway noise."

Since the last hearing, we have determined that structures built exclusively to the provisions of 24.160, not the fencing standards, and then there are some little leaders into that. Sound attenuation structures may be required by the review body as a condition of approval for new residential development abutting a highway or arterial, exclusively for the purpose of meeting the residential noise standards. These structures aren't allowed for existing residential development, whereas, the fencing standards apply to both new and existing development. The requirement for sound attenuation structures is that they "shall have a solid, continuous surface, without any openings or holes." I guess a conventional fence you would see, which would be a wooden or chain link fence, probably wouldn't meet that standard. Also "shall be continuous along the entire property line and shall be of sufficient height to intercept the roadway noise." It is fairly clear within the sound attenuation requirements what the standard is, that those are subject to their own standards as opposed to the fencing standards, and that those structures aren't necessarily considered a fence. There were a couple other issues that were discussed. We didn't make any modifications to this proposal but I wanted to walk through this a little bit, give some food for thought; especially related back to that last hearing. We heard some discussion about fencing along exterior rear property lines for through lots. That would be lots with a front yard facing the street and a back yard facing the street. Also, the issues of fencing constructed in violation of Development Code standards and then often have to come back before you for a variance. Like I said, these issues aren't addressed under this proposal but we can discuss this and if the Planning Commission would like to initiate a text amendment to the Development Code, they have the authority to do that. To address additional issues: First of all, with exterior property line fencing that is required in exterior yards – that would be anything facing the street, is subject to the 3 foot or 4-1/2 foot height standard. The 4-1/2 feet would apply if it is set back 5 feet regardless of the orientation of the home. So whether that street facing right of way is a backyard

or side yard, that standard would apply. He shows some examples of through lots, basically the back of the house is facing the street and a 3 foot fence has been constructed. Staff is not recommending that 6 foot fencing be permitted within required exterior rear yards. Some other considerations that try to address the issue -- I am not trying to push this, but just giving things to think about. The existing Development Code basically limits through lots only to times when they are necessary to allow access to lots or access is restricted on the front, like where the faces an arterial or collector street. Something that can be considered with greater scrutiny of subdivision plans where there are through lots proposed because there is that Code section. Also right now there are no minimum depth standards for residential lots. Something that could be considered when a residential lot has a front and a rear yard facing the street would be to have a minimum depth of 100 feet or something, so that you have enough for them to fit the unit and not have it smashed up 10 feet against the back of the lot. Along with that, potentially would be an increase in building setback requirement for the exterior rear yard as well. Right now, if you have a 20 foot front yard, your exterior rear yard requirement would be 10 feet. Potentially there could be a standard that would require a 20 foot building setback with a 10 foot setback with a 6 foot fence, which is exactly what you just approved for the mobile home park. That would give you a little extra space without having to build a 6 foot fence right along the back of the sidewalk. He shows some comparison photos of imaginary Redwood Avenue improvements with a 6 foot fence right up to the back of the sidewalk or on the right side showing a sidewalk where the fence is set back approximately 10 feet with the landscaping installed.

Commissioner Wickham states that in all fairness [in the picture] that sidewalk was up against the curb, on the right hand side.

Associate Planner Voice states he believes this was on Lincoln Road and I believe that there actually is a planter strip there. I didn't take a photo of the entire street width there, but I am almost certain that is the case. Some other considerations -- most people think of a single family home as having a front street-facing yard and then a private back yard. Within some of the higher density subdivisions that are being approved now, especially in the Redwood area, and when they are located along collector and arterial streets, the traditional private backyard may not always be possible when you have those two street frontages; especially when you have 5000 sq. ft lots that are developed with building footprints that cover half the lot. I think this was discussed with the Planning Commission last time. Another option would be to design buildings that open up to the street rather than turn their back on them, so it would sort of have two front yards. One example, over on Lincoln, not a perfect example because the rear is not actually a street, but very easily it could all be a street as it is an easement -- as you can see from the photo. The access on one side with the 20 foot setback and landscaping and then what really could be

he rear look just like front yard spacing; the opposite side. He shows other examples of rear access units that have the front facing the street rather than the sort of look of a back.

Associate Planner Voice states the other issue that was brought up was fencing construction in violation of standards. Currently we don't require permits for fencing. There are standards in the code and it is every property owner and fence installer's obligation to build according to the standards, but we don't require them to come and get a permit. Generally, when fencing is built out of compliance it becomes a codes enforcement issue and it is a little bit difficult to handle. Many communities do require a permit and usually those are really low fee, over-the-counter type of permits prior to allowing the fence to be installed. The permit insures the fence installer or home owner is aware of the regulations before they build the fence and get code enforcement and have to come in and need a variance. Again, this is not something that is being proposed now but something to consider. If you are interested in initiating something like that, you have that authority.

Associate Planner Voice states, now jumping back to the current proposal, criteria are in the development code. We have responses to those in the Staff Report. Staff finds those to be satisfied and recommends approval. Within you packet we have included proposed findings of fact. If you are in agreement with the proposal, since we have already been through it once, those can be approved and signed tonight. It is strictly up to you. If you are not in agreement, then we can bring findings of fact back to the next meeting; however that will not be until the first meeting in December. I just wanted to point that out. He asks if they have any questions.

Commissioner Wickham has one question, going back to where Planner Voice stated something about a height sufficient enough to block the roadside noise.

Associate Planner Voice says that is back in the sound attenuation structures, existing Development Code language [points out where the information is located in packet].

Commissioner Wickham states that we might want to limit "sufficient". If I had a lot that was below the road and I could use 14 feet height to block the noise from the road, and that kind of exceeds safe wall height. I think we have a maximum of 12 feet or something like that.

Associate Planner Voice states there are no proposed changes to the sound attenuation requirements with this amendment. In looking at this, staff would definitely be interested at some point in pursuing some amendments to that section. It actually references something that was in effect prior to the master transportation plan. I forget what it was, the street management plan or

something like that. It also would allow sound attenuation walls along all highways and arterials within the city. We are not sure City Council and Planning Commission would like to have sound walls along all arterials in the city. I think A Street is considered an arterial and Highland Avenue, and some things like that. If you have a sound wall constructed, you kind of get the look of a freeway. So if you are interested in us looking closer into that section...

Principal Planner Angeli Paladino states that this is a public hearing and there are some people still here who may want to talk so she would like to get back to the text of the amendment. Then once over with the hearing, get back to a discussion about all the other "what ifs."

Chair Berlant asks if there are any further questions for Planner Voice. Seeing none, he asks if there are any present who would like to speak in favor of the amendment. Seeing none, he asks if anyone would like to speak in opposition. Seeing no interest, he closes the public hearing portion of the meeting and turns it over to the Commissioners for deliberation and decision.

Commissioner Kellenbeck states she feels staff appropriately addressed concerns from the previous meeting and the staff report looks sound. She is in favor of recommending approval but would be open to discussion.

Commissioner Arthur has a question about one section. She may have missed it before but on page 172, she likes the note at the top stating, "Homeowners are strongly encouraged to hire a licensed surveyor to locate property lines prior to the construction of a fence." But down at 3D, under industrial zone fences, it says "fencing may not be permitted between a building face and public right of way." This is chain link, barbed wire, razor wire -- 3c on page 172. Somehow I just cannot reconcile this with things like that last one we approved, last month or the month before -- the storage facility at Agness and F Street -- I mean any number of things, the fence you are allowing chain link, I think, and you want it between the face of the building and the right of way. Where else could it be? We've even had exceptions on height on that -- if I recall, on quite a number of times when they've gotten higher than 8 feet for security purposes.

Associate Planner Voice addresses that as referencing section 20.220 of the code, which is the commercial design standards and the applicability of those within industrial zones is a little bit confusing and would have taken quite a bit of space within the section to try to explain that, which is why it is referencing the standards. I can read that from the code or if you have that, you can read through that. It doesn't always apply in industrial zones, it depends on the location -- "...primarily do not apply to industrial uses in the I or IP zone but do apply to trade service and recreation uses which may be allowed in either the I or IP zone, such as restaurants, athletic

clubs, and professional office buildings.” If you have got a mini-storage or an industrial use in an I zone, it wouldn’t apply. It is more intended to address some of the other more commercial type uses that are allowed in those zones. Again, this is not a new standard but it is something that is buried within a different section of the code and we are trying to bring it out in the fencing section so there is not confusion.

[In audible] reads text which states, “May or may not be required,” check the other Code section to see which applies.

I don’t think there was a formal motion. I think Commissioner Kellenbeck said she would be inclined to recommend...

Commissioner Kellenbeck motions for approval.

Chair Berlant asks for further discussion. Seeing none, vote is taken.

MOTION

Commissioner Kellenbeck moves to recommend approval to the City Council of Development Code text amendment to Section 23.037 regarding the fencing standards as stated in the staff report. Commissioner Fitzgerald seconds the motion. The vote was as follows: “AYES”: Berlant, Arthur, Sackett, Wickham, Kellenbeck, Fowler, Fitzgerald. “NAYS”: None. Absent: Fedosky.

Having received a favorable vote, Chair Berlant declares the motion to have duly passed.

5. FINDINGS OF FACT:

i. 08-40500004: Development Code Text Amendment – Fencing

Proposal: A Development Code text amendment to Section 23.037 regarding the fencing standards

Planner: Jared Voice *Pgs. 191-198*

As noted in the public hearing presentation, information regarding Findings of Fact are noted in the packet. No further information is presented at this meeting.

Chair Berlant requests a motion regarding the issue of whether or not the Findings of Fact adequately reflect the decision just made.

MOTION

Commissioner Kellenbeck moves to approve the Findings of Fact as written in the packet. Commissioner Fitzgerald seconds the motion. The vote was as follows: “AYES”: Berlant, Arthur, Sackett, Wickham, Kellenbeck, Fowler, Fitzgerald. “NAYS”: None. Absent: Fedosky.

Having received a favorable vote, Chair Berlant declares the motion to have duly passed.

6. CITIZEN INVOLVEMENT COMMITTEE:

a. Items from the Public: None.

7. ITEMS FROM STAFF:

Principal Planner Angeli Paladino states that Director Huber would like to give a presentation about overturning decisions. Prior to that she has a quick question for the commissioners about when they will get back to talking about fencing because Planner Voice needs to leave.

Commissioner Kellenbeck did not like the idea of requiring a mandatory lot length for through lots but did think there was some merit to the idea of increasing the mandatory setback on through lots. She feels that has a lot of good flexible potential for homeowners, developers, staff – everybody to be able work together on what works best in each situation. There was some other stuff, but I thought we were going to go back to the overhead so I will get back to you.

Principal Planner Angeli Paladino states she can get the overhead presentation back on display, it would just be a moment.

No one has further comments, so they move on to the next topic.

a. Discussion about overturning decisions:

Community Development Director states he would like to discuss how to proceed when staff recommends denial of an application and the planning commission approves the application, what to do. We had a couple of cases recently in which that is exactly what happened. Staff had recommended denial of the application and there were no conditions of approval associated with the application. If you'll remember, the choices we have are *approve*, *approve with conditions*, or *deny*. There is not a *deny with conditions*. So if you get a staff report that recommends denial, you are not going to see conditions with that. You approve the application, you instruct the staff to work with the applicant in development of conditions of approval, and then you close the hearing. The instructions also were to bring the findings forward in two weeks' time with the conditions of approval within the findings. The problem with that is it did not afford the applicant or anyone in the audience time to address the conditions as part of the hearing process. I think the next action that occurred was you actually signed the Findings of Fact and essentially

Commissioner Fitzgerald has a personal note, that his son is leaving Friday, in the Marines, going to Afghanistan. So he would covet their prayers on that.

Commissioner Kellenbeck thanks Community Development Director Huber and the other staff for having patience through a rough night.

Commissioner Wickham states his son left Sunday for Iraq, 2nd tour, and he is 6'6" so he is a moving target. Also he does want to bring up one thing about the street improvements decided tonight. He feels the applicant left tonight with a real sweet deal – for 187 feet of street frontage if he even chooses to build it, when in reality he had 522 feet. I don't know how you can not say he didn't. I just felt maybe it wasn't prepared well enough – maybe I'm out of line, but I don't think anybody else caught on to the fact that the 202, which is the larger parcel was reduced to the smaller parcel, down to no street frontage, and subsequently left 1401 to become the larger parcel and it was actually frontage. What better opportunity – I realize it's harder economic times, but going from \$327,000.00 on something... Wow! To actual construction costs more along the lines of about \$75,000.00 - \$78,000.00 to have the whole thing done – and once and for all secured, along with the sidewalk and the curb and the gutters and the entrance and all that. I think we missed it, unless I missed it – but I don't think I did. You guys did.

9. ADJOURNMENT

There being no further business to come before the Commission, Chair Berlant adjourned the meeting at 10:05 p.m.



Gary Berlant, Chair
Urban Area Planning Commission

12/10/08

Date

AS AMENDED ON THE RECORD

These minutes were prepared by contract minute taker, Wendy Hain.

Fencing Standards Development Code Text Amendment

November 12, 2008 UAPC Meeting
Presented By: Jared Voice

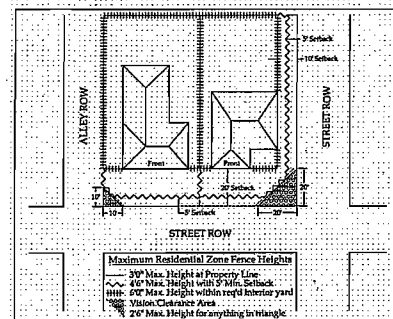
Proposal summary:

- Allow a 6-foot fence to be constructed along a property line abutting an alley.
 - Existing standards limit a fence along an alley to a height of 3 feet.
- Clarify vision clearance requirements by referencing the existing definition of "visual obstruction" contained in Development Code Article 30.
- Clarify requirements for fencing located within the public right-of-way.
 - Encroachment Permit required

Proposal summary (cont'd):

- Re-organization of existing standards into *Residential, Commercial, Industrial* and *All Zones* categories
- Eliminate requirement for a hedge to be planted along a 4.5-foot fence that is set back 5 feet from front property line
- Clarification of existing residential fencing standards with diagram:

Figure 23-8. Residential Zone Fencing Requirements



Proposal summary (cont'd):

- Cross-reference existing fencing standards contained in Development Code Article 20 that are not referenced in Section 23.037
- Prohibit barbed wire AND razor wire fencing within zone buffer setbacks, the public right-of-way, and lower than 6 feet above grade.
- Clarify zone buffer allowances

Proposal Modification:

- Original proposal included a reference to Development Code Section 24.162
 - Intended to eliminate perceived conflict between fencing standards and sound attenuation requirements
 - Section 24.162 (3): "*Exterior sound attenuation will be accomplished by the construction of a masonry wall, earth berm or **fence** between the dwelling unit(s) and the noise source. The wall, berm or fence shall have a solid, continuous surface without any openings or holes. The barrier shall be continuous **along the entire property line** and shall be of **sufficient height to intercept the roadway noise...***"

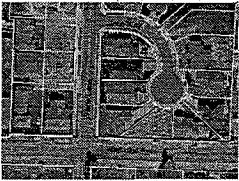
Proposal Modification (cont'd):

- Structures built for purpose of sound attenuation are subject exclusively to the provisions of Section 24.160, not the fencing standards. Said structures:
 - May be required by the review body as a condition of approval for new residential development abutting a highway or arterial, exclusively for the purpose of meeting residential noise standards.
 - No allowance for existing residential development to erect such a structure.
 - Fencing standards apply to both new and existing development
 - Shall have "a solid, continuous surface without any openings or holes."
 - "Shall be continuous along the entire property line and shall be of sufficient height to intercept the roadway noise..."

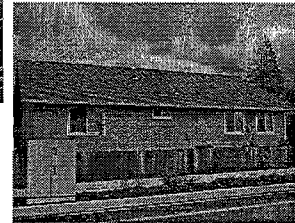
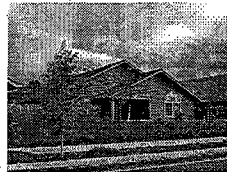
Additional UAPC Issues:

- The following are additional issues discussed by the UAPC during the October 8th hearing:
 - 1) Fencing along exterior rear property lines for through-lots
 - 2) Fencing constructed in violation of Development Code standards
- These issues are not addressed under the current proposal, but the Planning Commission may initiate a Development Code text amendment under Section 4.102.

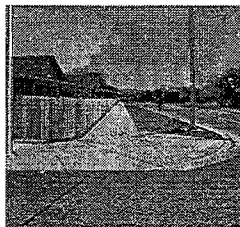
(1) Exterior Rear Property Line Fencing



- Fencing within required exterior yards (facing a street) is subject to the 3 / 4.5 foot height standard, regardless of the orientation of the home

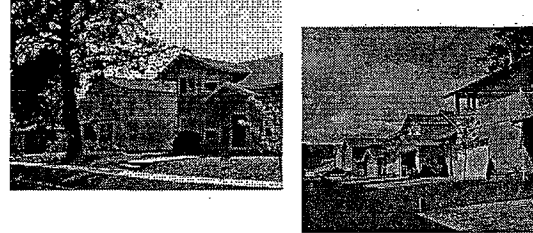


- It is not recommended that 6-foot fencing be permitted within required exterior rear yards.
- Other considerations:
 - Greater scrutiny of proposed through-lots (see Development Code Section 17.513)
 - Minimum depth standard for through-lots
 - Increased building setback requirement for exterior rear yards
 - 20' building setback; 10' setback for 6' fence.



Other considerations (cont'd):

- Most people think of the typical single-family home as having a "front" street-facing yard and a private "back" yard.
- However, within some high-density subdivisions developed along collector and arterial streets, a traditional private "back yard" may not be possible.
 - Especially when 5,000 s.f. lots are developed with building footprints of 2,500 s.f.+ (or duplexes)
- Buildings can be designed to "open up" to, rather than turn their back on, the public street. (think two front yards)



(2) Fencing Constructed In Violation of Standards

- Currently, no permits required for construction of fencing
- Generally, fencing built out of compliance becomes a Code Enforcement issue
- Many communities require a permit (generally low-fee and over-the-counter) prior to fencing installation
- Permit ensures that fence installer / homeowner is aware of regulations prior to installation

Criteria for Approval

- Criteria for approval of Development Code text amendment are located in Section 4.103
- Detailed responses to each of the criteria are located in the staff report
- Staff finds all of the criteria to be satisfied

Conclusion & Recommendation

- Planning Commission recommend that City Council approve the proposed Development Code text amendment.
- Proposed Findings of Fact are included in the packet. If the Planning Commission is in agreement with the proposal, Findings may be approved and signed tonight.
- If the Planning Commission is not in agreement with the proposal, revised Findings of Fact will be prepared for review at the next meeting.

Questions?

4.103 Criteria for Amendment

The text of this Code may be recommended for amendment and amended provided that all the following criteria are met:

- (1) The proposed amendment is consistent with the purpose of the subject section and article.
- (2) The proposed amendment is consistent with other provisions of this Code.
- (3) The proposed amendment is consistent with the goals and policies of the Comprehensive Plan, and most effectively carries out those goals and policies of all alternatives considered.
- (4) The proposed amendment is consistent with the functions, capacities and performance standards of transportation facilities identified in the Master Transportation Plan.

CITY OF GRANTS PASS COMMUNITY DEVELOPMENT DEPARTMENT.

**FENCING STANDARDS
DEVELOPMENT CODE TEXT AMENDMENT
PLANNING COMMISSION STAFF REPORT-TYPE IV**

Procedure Type:	Type IV: Planning Commission Recommendation and City Council Decision
Project Number:	08-40500004
Project Type:	Development Code Text Amendment
Applicant:	City of Grants Pass
Planner Assigned:	Jared Voice
Application Received:	August 8, 2008
Application Complete:	August 8, 2008
Date of Planning Commission Staff Report:	October 1, 2008
Date of Planning Commission Hearing:	October 8, 2008

I. PROPOSAL:

A Development Code Text Amendment to Section 23.037, Fencing.

See Exhibit 1 for text of proposed amendment

II. AUTHORITY AND CRITERIA:

Section 4.102 of the City of Grants Pass Development Code provides that the Director or City Council may initiate a text amendment. The amendment was initiated by the Director.

Sections 2.060, 7.040 and 7.050 authorize the Urban Area Planning Commission to make a recommendation to the City Council and authorize the City Council to make a final decision on a land use matter requiring a Type IV procedure, in accordance with procedures of Section 2.060.

The text of the Development Code may be recommended for amendment and amended provided the criteria in Section 4.103 of the Development Code are met.

III. APPEAL PROCEDURE:

The City Council's final decision may be appealed to the State Land Use Board of Appeals (LUBA) as provided in state statutes. A notice of intent to appeal must be filed with LUBA within 21 days of the Council's written decision.

IV. BACKGROUND AND DISCUSSION:

The proposed amendment is intended to accomplish the following:

- 1) Re-organize existing standards into *Residential, Commercial, Industrial* and *All Zones* categories, to eliminate confusion as to the applicability of each standard.
- 2) Clarify existing residential fencing standards by adding a diagram showing where various fence heights are permitted in relation to required setbacks.
- 3) Eliminate the requirement for a hedge to be planted along a 4.5-foot fence that is set back 5 feet from the front property line.
- 4) Cross-reference existing fencing standards contained in Development Code Article 20 (Commercial Design Standards) that are not referenced in Section 23.037.
- 5) Allow a 6-foot fence to be constructed along a property line abutting an alley. The existing standards would limit a fence along an alley to a height of 3 feet.
- 6) Clarify vision clearance requirements by referencing the existing definition of "visual obstruction" contained in Development Code Article 30.
- 7) Clarify requirements for fencing within the public right-of-way.
- 8) Clarify zone buffer and sound attenuation allowances.
- 9) Prohibit barbed and razor wire fencing within zone buffer setbacks and the public right-of-way. (Existing standards prohibit barbed wire at less than 6 feet above grade.)

The proposal carries out Outcome D, Work Task 2 of the City Council's work plan under the City Council Growth Management Goal:

Goal 1. Growth Management: While prospering and growing, we keep the sense of hometown, protect our natural resources and enhance our community improvements.

Outcome D. Other Activities to Manage Growth

- **Workplan Element:** Review and revise sections of the various codes.
- **Timing: Ongoing.** As code issues are identified issues arise through the Council, Urban Area Planning Commission and Staff, the Staff will continue to prepare revisions to the ordinances. These may be individual amendments, or a group of amendments as part of a larger housekeeping amendment.

V. CONFORMANCE WITH APPLICABLE CRITERIA:

The text of the Development Code may be recommended for amendment and amended provided that all of the following criteria of Section 4.103 of the Development Code are met.

CRITERION 1: The proposed amendment is consistent with the purpose of the subject section and article.

Staff Response: Satisfied. The proposal amends Section 23.037, Fencing. The "Purpose and Concept" statement for Article 23 is stated below, with applicable language in bold font.

- (1) *Trees, shrubs and living ground-cover provide shade and shelter, aiding in energy conservation and moderating local climate in developed areas. Plant materials eliminate pollutants from the air we breath, and maintain physical health and mental equilibrium by fulfilling an instinctive need for contact with the natural environment. Major gateways to the City and key travel routes through the City and urbanizing area give a lasting impression to the visitor for good or ill, an impression critical to our tourist economy. The knowledgeable use of plant materials by experienced professionals can achieve these extraordinary benefits at very little cost.*
- (2) *In these terms, landscaping is a significant factor in maintaining the livability and economic viability of the community. **The purpose of this Article is to provide standards for Landscaping and Buffering within the Grants Pass Urban Growth Boundary Area.***

Fencing is used to buffer properties from adjacent uses and right-of-way. The proposed amendment is consistent with the purpose statement of Article 23 because it retains standards for fencing within the UGB.

CRITERION 2: The proposed amendment is consistent with other provisions of this code.

Staff Response: Satisfied. The proposed amendment is internally consistent with other provisions of the Code. One objective of the amendment is to cross-reference other sections of the Code that contain language related to fencing that are not currently referenced within the fencing section (23.037).

CRITERION 3: The proposed amendment is consistent with the goals and policies of the Comprehensive Plan, and most effectively carries out those goals and policies of all alternatives considered.

Staff Response: Satisfied. See below

Comprehensive Plan Consistency

The proposed amendment is consistent with the goals and policies of the Comprehensive Plan. Applicable goals and policies are:

Element 7. Recreation, Parks , and Open Space

Policy 7.4. Community appearance is a major concern and should be a subject of a major effort in the area....

Staff Response: Satisfied. The proposed fencing standard amendments are consistent with this policy. One purpose of having fencing standards within the Development Code is to ensure a desirable aesthetic appearance.

Element 13. Land Use.

13.4.3. The Development Code procedures shall act to streamline the land development process and eliminate unnecessary delays, and shall contain standards and procedures for land use actions that are clear, objective, and nonarbitrary.

Staff Response: Satisfied. The proposed amendment will help to clarify several existing standards, and each new standard proposed is clear, objective and non-arbitrary.

Most Effective Alternative

The alternative to approving the proposal is to retain the existing fencing standards within the Development Code. The proposed amendment more effectively carries out the goals and policies stated above than the existing standards.

CRITERION 4: The proposed amendment is consistent with the functions, capacities, and performance standards of transportation facilities identified in the Master Transportation Plan.

Staff Response: Satisfied. Fencing does not generally affect the functions, capacities or performance standards of the Master Transportation Plan. The proposal will clarify standards relating to vision clearance and fencing within the public right-of-way, to ensure that the construction of fencing will not create adverse effects on the transportation system.

VI. RECOMMENDATION:

- Staff recommends the Planning Commission **RECOMMEND APPROVAL** of the proposed amendments to City Council, as presented in Exhibit 1.

VII. PLANNING COMMISSION ACTION:

- A. Positive Action: Recommend that City Council approve the request:
 - 1. as submitted
 - 2. with the revisions as modified by the Planning Commission (list):
- B. Negative Action: Recommend that City Council deny the request for the following reasons (list):
- C. Postponement: Continue item
 - 1. indefinitely.
 - 2. to a time certain.

NOTE: *The application is a legislative amendment and is not subject to the 120-day limit.*

VIII. INDEX TO EXHIBITS:

- 1. Proposed Text Amendment to Section 23.037
- 2. Existing Section 23.037

cap/jv

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Fencing

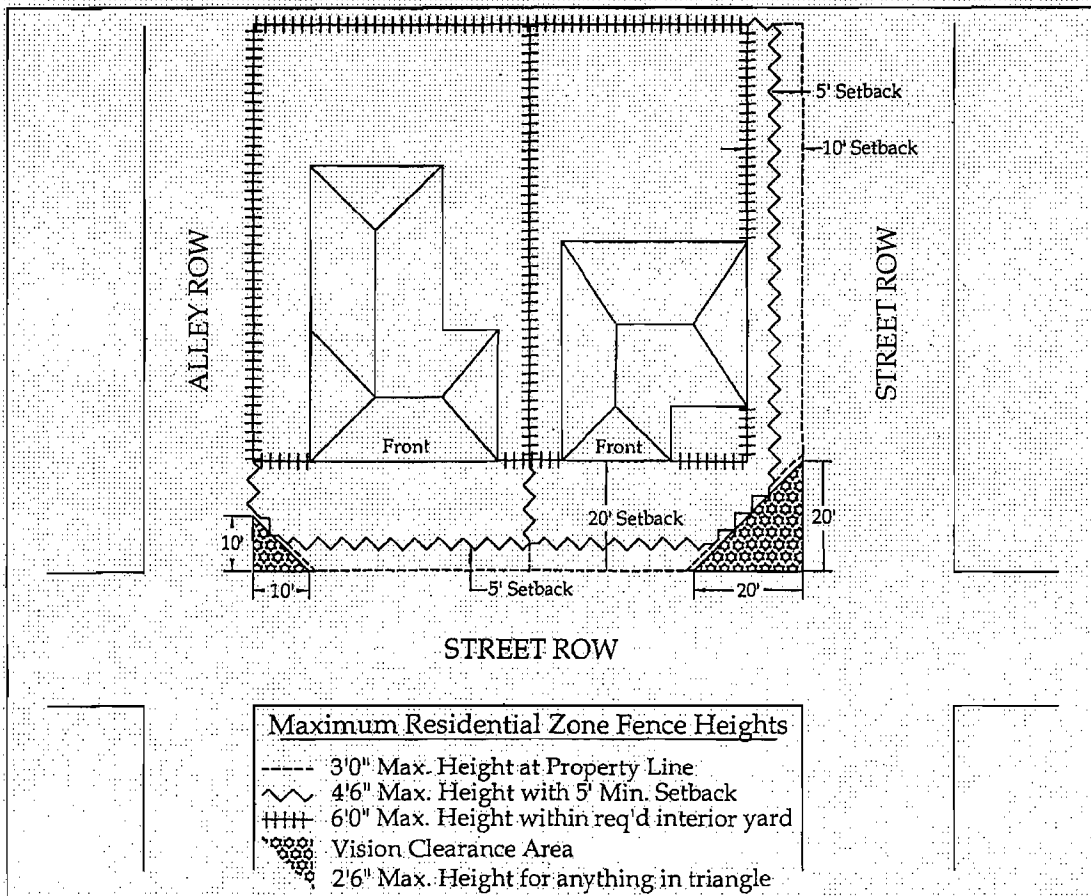
(1) Fences in residential zones shall be subject to the following:

(a) Maximum height within required front and exterior yards: 3 feet. However, a fence up to 4.5 feet in height may be placed a minimum of five feet from the front or exterior side/rear property line. (See Figure 23-8) ~~provided a continuous hedge is placed between the fence and the property line. The hedge shall, at a minimum, consist of one-gallon or larger hedge plants with a minimum space of four feet, and shall achieve a minimum height of three feet in two years.~~

(b) Maximum height within required interior yards: 6 feet (See Figure 23-8)

(c) Requirements for fencing in all zones shall also apply. See Section 23.037 (4)

Figure 23-8. Residential Zone Fencing Requirements



NOTE: Property owners are strongly encouraged to hire a licensed surveyor to locate property lines prior to the construction of a fence.

(2) Fences in commercial zones shall be subject to the following:

(a) Any fence over 3 feet high shall be located behind any required landscaped front or exterior side/rear yard.

(b) Maximum height within required interior yards: 8 feet

(c) Razor wire, barbed wire, and chain link fencing shall not be used between a building face and public right-of-way. Treatments such as decorative wrought iron should be used instead. See Section 20.490 (2)

(d) Requirements for fencing in all zones shall also apply. See Section 23.037 (4)

(3) Fences in industrial zones shall be subject to the following:

(a) Any fence over 3 feet high shall be located behind any required landscaped front or exterior side/rear yard.

(b) Maximum height in interior yards: 8 feet

(c) Depending on use and location, razor wire, barbed wire and chain link fencing may not be permitted between a building face and public right-of-way. Refer to Section 20.220 of this Code for applicability of Commercial Design Standards to industrial zones. See Section 20.490 (2)

(d) Requirements for fencing in all zones shall also apply. See Section 23.037 (4)

(4) In addition, the following provisions shall apply to fences in all zones:

(a) A fence meeting required building setbacks shall not exceed the maximum height for structures in that zone.

(b) Where permitted, a fence over 6 feet high requires a building permit as required by the applicable Building Code.

(c) A fence with a height of up to 6 feet is permitted along a property line abutting an alley and within the alley setback, unless such a fence creates a visual obstruction.

(d) No fencing shall conflict with the requirements of the clear vision area for streets and driveways. Fencing within a vision clearance area shall not create a visual obstruction as defined in Article 30 of this Code.

(e) Fencing within the public right-of-way is not permitted without a valid Encroachment Permit issued by the City Engineer.

(f) In cases where Code provisions conflict, structures required as part of a zone buffer, or structures required to accomplish exterior sound attenuation, shall be subject to the applicable provision within Section 23.034 (for zone buffers) or Section 24.162 (for exterior sound attenuation) rather than the conflicting provision within this section. ~~Fences required as part of a zone buffer, Section 23.034, may exceed the maximum height for structures in that zone.~~

(g) Every fence shall be maintained in a condition of reasonable repair and not be allowed to become or remain in a condition of disrepair including noticeable leaning or missing sections, broken supports, non-uniform height, and growing or noxious vegetation.

(h) Link fencing less than seven feet in height shall be constructed in such a manner that no barbed ends shall be at the top.

(i) Barbed wire and razor wire fences are prohibited in the following locations: at less than six feet above grade, within required zone buffer setbacks, and within the public right-of-way.

(j) Electric fences are prohibited.

(k) A fence height may be measured from the grade of either side of the fence, at the applicant's option, unless the fence is a retaining wall. A retaining wall for an area filled with soil, rocks or any other material used to raise the

property is considered a fence. Its height shall be measured from the lower of the two finish grades.

ⁱ Revised 10-20-94

ⁱⁱ Revised 5-30-97

Existing Standards

23.037 Fencing

- (1) Fences in residential zones shall not exceed three feet in height in exterior yards and six feet in height in interior yards. However, a fence up to four and a one-half feet high may be placed a minimum of five feet from the front or exterior side/rear property line provided a continuous hedge is placed between the fence and the property line. The hedge shall, at a minimum, consist of one-gallon or larger hedge plants with a minimum space of four feet, and shall achieve a minimum height of three feet in two years.
- (2) In commercial and industrial zones, any fence over three feet high shall be located behind any required landscaped front or exterior/rear side yard. Any fence in an interior side or rear yard shall not exceed eight feet in height.
- (3) Fences required as part of a zone buffer, Section 23.034, may exceed the maximum height for structures in that zone.
- (4) A fence meeting required building setbacks may not exceed the maximum height for structures in that zone.
- (5) Where permitted, a fence over six feet high requires a building permit as required by the applicable Building Code.
- (6) No fencing shall conflict with the requirements of the clear vision area for streets and driveways.
- (7) Every fence shall be maintained in a condition of reasonable repair and not be allowed to become or remain in a condition of disrepair including noticeable leaning, or missing sections, broken supports, non-uniform height, and growing or noxious vegetation.
- (8) Link fencing less than seven feet in height shall be constructed in such a manner that no barbed ends shall be at the top.
- (9) Barbed wire fences are prohibited at less than six feet above grade.
- (10) Electric fences are prohibited.

- (11) A fence height may be measured from the grade of either side of the fence, at the applicant's option, unless the fence is a retaining wall. A retaining wall for an area filled with soil, rocks or any other material used to raise the property is considered a fence. Its height shall be measured from the lower of the two finish grades.

City Council Meeting
April 15, 2009
6:00 p.m.
City Council Chambers

The Council of the City of Grants Pass met in regular session on the above date with Mayor Murphy presiding. The following Councilors were present: Cummings, Kangas, Renfro, Pell, Warren, Berger, Townes and Michelon. Absent: None. Councilor Berger left the meeting early, at 10 pm. Also present and representing the City were City Manager Frasher, Interim City Attorney Nolte, Assistant City Manager Samson, Finance Director Reeves, Public Safety Director Henner, Community Development Director Huber, Parks and Community Services Director Seybold, Public Works Director Haugen, and Human Resource Coordinator Lange.

Mayor Murphy opened the meeting. The invocation was given by Parks and Community Services Director Seybold, followed by the flag salute.

PROCLAMATIONS:

Mayor Murphy stated, we will begin this evening with three proclamations. City Manager Frasher please begin.

Josephine County Libraries Day

City Manager Frasher stated, the first proclamation is Josephine County Libraries Day 2009 and I will read the proclamation:

"Whereas our Public Library makes a difference in the lives of Josephine County residents today more than ever, and whereas libraries play a quality role in supporting the quality of life in their communities, whereas in 2007, citizens banded together to form Josephine Community Libraries in order to open and operate the libraries in Josephine County for generations to come. Whereas Josephine County Libraries opened the Grants Pass Branch in December 2008 after an 18 month closure and hopes to open the branches in the Illinois Valley, Williams, and Wolf Creek in 2009, therefore, Michael Murphy, Mayor of the City of Grants Pass, Oregon, on behalf of the City Council proclaims April 16, 2009, Josephine County Libraries Day. We encourage all residents to visit the library this week to take advantage of the wonderful resources available and to thank the librarians, the library workers and numerous volunteers for making information accessible to all who walk through the library doors."

Mayor Murphy stated, I believe the Library Director, Russell Long, is present to receive this. The

MOTION

It was moved by Councilor Kangas and seconded by Councilor Townes to continue the item until May 6, 2009. The vote resulted as follows: "AYES": Berger, Kangas, Renfro, Cummings, Townes, Pell, Michelon, and Warren. "NAYS": None. Absent: None.

Having received a favorable vote, Mayor Murphy declared the motion to have duly passed.

Councilor Townes stated, since everybody is here, the dog park, park, and Staff, let's don't forget the other half of this and let's go forward with this. My plate is pretty full so hopefully yours isn't and let's get this dog park going. I'm assuming... Are there any problems from Staff on pursuing this? Do we need to make a motion to pursue this or is just a thumbs up good enough?

Director Seybold stated, obviously we'll have to contact the Oregon Youth Authority to be sure that the use will be allowable. It's kind of the chicken and the egg, they did not want to take any action unless it was permissible by the City of Grants Pass. So based on the discussion tonight, I will talk to the City Manager and I'm presume that we will draft a letter to the Oregon Youth Authority specifically requesting permission to develop the site. And I presume that that would end up in some kind of contractual agreement so both parties knew what was involved and what each party had responsibility for.

b. An Ordinance adopting a text amendment to the Development Code fencing standards.

Mayor Murphy stated, now we have another land use hearing. Do we need to restate the disclaimers? Okay, we have a Staff report.

Principal Planner Angeli-Paladino stated, the text amendment before you is for a revision to our fencing standards. It's kind of a clean-up of our Code currently. For a little bit of background, I know this issue did come before the Council during a workshop in March. Really, what we're trying to do is to try and make our existing fencing regulations a little more customer friendly, easier to explain, easier for customers to understand and implement. We do get frequent questions from customers about constructing 6 foot fences along alleys. Currently a 6 foot fence constructed on the property line in an alley is not permitted. We have heard complaints that existing standards are difficult to understand and there is ambiguity in existing vision clearance and zone buffer requirements. Again, this is just to kind of make this more user friendly and help clean-up some of those things and make it more affective. Again, the proposal is to amend Section 23.037 of the Development Code. Currently those standards basically look at fencing

regulations such as height, setbacks, type of materials that can be used. Other regulations also vary depending on the zone and the land use. They are kind of all mixed in together so we are trying to separate those out by zone and make it more clear. The key components this evening for the amendment is to propose and allow a 6 foot fence along the property line abutting an alley and within the alley setback. Currently the existing standard limits a fence along an alley to 3 feet and doesn't allow for a lot of privacy along an alley. There is an exception within the Central Business District, but right now a 6 foot fence is subject to a minimum 10 foot alley setback. So if you want a 6 foot fence right now, you have to set that back 10 feet from your property line on the alley.

Also what's proposed is to ensure that all fencing requirements can be found in one section of the Code. Article 20 is our Commercial Architectural Standards, and we do have some fencing regulations mixed into that different section. We'd like to bring those all into Section 23 and make it clear for everybody to find in one spot.

Also, the third provision would be to talk about including prohibiting razor wire fencing within the zone buffer setbacks in the public right of way. Right now it just talks about barbed wire, it doesn't talk about razor wire. Maybe one could conclude that it means razor wire but it doesn't say that, so we want to make sure that that's clear.

Some additional components are reorganizing the standards into the zoning categories. If you can see that in your packet, it's itemized through residential, commercial, and Industrial. That just enhances the user friendliness in the Article. Also we want to clarify the vision clearance requirements and the zone buffer allowances. Specifically, something like for fencing between industrial zones adjacent to a residential zone. We're also specifying that fencing within the right of way is not allowed without an encroachment permit. We also want to encourage property owners to hire a licensed surveyor to locate their property lines prior to installing fencing. A lot of times people will come in and ask at the counter, "What are the regulations?" We provide the regulations and we always try to clarify, "Make sure you know where your property line is." If the street improvements aren't in or if they can't find their property pins, it's really hard for people to identify where their property line is, so we want to encourage people to hire somebody that can locate that for them.

Also, this is a new diagram that we'd like to include in the Code. This is just to help clarify visually for people what the regulations are. This just identifies those specific regulations for the size, the height and type of fence, and where you can put those on the property. The Planning Commission did initiate a separate text amendment. They do have the authority to do that. That would have Staff look at requirement permits prior to fence installation. Right now, we do not have any fence permits. Basically, people are told the regulations if they ask and they are basically on their honor to meet those regulations. We don't actually issue anything over the counter that says, "You're approved to do this." So currently this not part of the amendment

before you this evening. Staff will be working on making that adjustment and bringing that to you in the future. And these are some of the issues that were compiled from the March workshop that you had raised: One being height measurements for fences on top of retaining walls, exterior rear yard fencing for through-lots. There are a lot of issues with that on major streets that have properties that have frontage on two streets. The good neighbor fencing, making sure that the sides of the fencing and how it looks on both sides is compatible and neighborly. And then, issues that are not addressed with the current amendment but that can be considered with a future fence permit amendment.

In conclusion, Staff has looked at the Development Code text amendment requirements, the criteria in Section 4.103. The Planning Commission has also looked at those and finds that those are satisfied. Those detailed findings are in your packet. The Urban Area Planning Commission found those to be satisfied and recommends that City Council approve the amendments. I'd be happy to answer any questions.

Councilor Kangas stated, Principal Planner Angeli-Paladino, I believe in the workshop we talked about, in the future, making it more detailed and you mentioned this.

Principal Planner Angeli-Paladino asked, a little more comprehensive?

Councilor Kangas stated, yes, can you give us a time? Because it seemed like when I was on the Planning Commission we were always dealing with slopes and... Can you give a time of how long it will be before you will come back to us?

Principal Planner Angeli-Paladino stated, I guess I would ask for direction from Council on how soon you would like to have that. I mean, we can put that at the top of the list if you'd like, with direction.

Councilor Kangas asked, how much time do you think you could come up with a comprehensive plan on the slopes and stuff like you mentioned there?

Principal Planner Angeli-Paladino stated, probably the biggest issue is going to be dealing with how we're going to do the permits. In terms of the slopes and measurements, let me go to that section. We can probably do those fairly pretty easily, the first three.

Councilor Kangas asked, how about 60 days, would that be enough time – or 90 days, what do you need?

Principal Planner Angeli-Paladino stated, just remember we do need to bring this before the Planning Commission first, so we would need at least 90 days to get it to the Planning Commission. We do also need to provide 45 days' notice to the State as well.

Councilor Kangas stated, so we could see it some time this year?

Principal Planner Angeli-Paladino answered yes.

Councilor Kangas stated, okay, Thank you.

Councilor Townes stated, the only thing that bothers me on this whole thing is the word "encourage" -- to find your property corners." I just want to make sure that people that are -- if you're made aware that you're putting a fence up and you might not be putting in the right place, to me, that's encouraging you to do something, or you could say, "You really should get a surveyor." Which could be a huge expense. So I'm just a little concerned about that one word, but it's just, I don't know how you guys approach it, it's really a Staff approach I guess and an interpretation.

Principal Planner Angeli-Paladino stated, we just like to make people aware, to be... You know, recognize that if they don't know where their property lines are, they should find those before they set out and spend money on a fence.

Councilor Cummings stated, I would think that would... Councilor Townes, that would come if the City had a permit system where they were out inspecting, then I would think that you would need the pins to be identified or the property locations because as soon as the City approves it, there might be some liability to the City, so that might be something that's a later deal.

Councilor Pell stated, I'd like to agree with one of the points that Councilor Kangas brought up and it goes back to what Councilor Cummings had spoken about during the workshop on this, which is that other than, I mean the actual -- we'll say a pressing safety issue with regards to the fencing -- other than the vision clearances, would be the fences on top of the retaining walls. To me, you've got the clearances provision and you've got the fences on top of the retaining walls as the two, what I would look at as the most pressing issues with regards to why we would even do this. So I would definitely agree with Councilor Kangas that, as soon that is possible, I would like to see this back in front of us.

Mayor Murphy asked if there are any more questions for Principal Planner Angeli-Paladino before

opening it to the public. Seeing none, he thanks Principal Planner Angeli-Paladino for her presentation and calls for public comments.

Mr. Holger Sommer, 2000 Hugo Road, Merlin. I don't understand why the City Council can't wait until the Planning Commission has done it's job and recommends the whole package to you for which you can approve and then pass on for acknowledgement to the State. Specifically, I know of several issues which are in the new annexed areas, primarily with the roads which are still maintained by the County which have no specific area of road right of way. No curb where you can put your measuring tape on and measure from which your property starts. That is a big problem. I know of at least two current Adverse Possession lawsuits where fences are put in place -- in Oregon, if they are in place for 10 years, you own the land. And those situations occur when people put their fences on other people's property not knowing where their property boundary is. So I urge you to have the concise package ready for fencing within the City because you're going to see more and more of those if you start continuing annexing roads which have not been brought up to date to City standards. It doesn't make sense that Staff is working on something and then Planning Commission is working on another thing. I think that should be something which is... You know, you all are the City and you are supposed to come up with the regulations that satisfies every detail which are questionable in the City. So what I would suggest is you postpone your decision from today, get the Planning Commission to put it's recommendations through, consolidate everything into a final decision for the City Council, which then is forwarded to DLCD for acknowledgment. Thank you.

Ed Bowers, 1104 Luzon, Grants Pass. I think the Staff has done a remarkably good job but I agree with Holger, that it should go back to the Planning Commission to get it finished. Get it into a package and bring it back to the City Council. I have an experience right now with a neighbor that has a problem with where a fence line is and, believe me, it would be really nice to have very clear direction so that there are not problems, especially with the annexed areas. My particular property is in an area that the fence has been there for 40 years so it makes it difficult. It sounds so simple on a fence program until you get a couple of neighbors that don't agree. Thank you.

Arthur Ogden, SE Ashley Place, Grants Pass. I own a property, I tried to build a fence on it and when I built the fence, the people next door complained that they did a survey and I was on their property. But unfortunately my property was built with 2 different survey lines. One part from one end of the street was surveyed and there was 3 feet of difference between one survey and the other survey. So if you guys started making everybody do surveys, which surveyor do you go by? How would you know which one was right? So I'm sitting here with 3 feet and we were arguing over 3 feet, so I split it in the middle and that's what we did. Thank you.

Mayor Murphy asked if there was anyone else who wished to comment. Seeing none, we'll return it to the Council -- with my observation that I don't see anything in this ordinance that... It moves the process forward and acknowledges that there is work yet to be done. But I don't see that this gets in the way. This just takes us one step and we know we want to take two steps. So, taking one step might be the thing to do now.

Councilor Renfro stated, I would be in favor of going ahead and adopting this ordinance and get that part of it behind us and then continue on with other things later on. This gets some immediate things taken care of that have been hanging out there.

Councilor Cummings stated, I'd like to note that we had that same discussion in our workshop when we looked at this. The Urban Area Planning Commission has approved it. We recognized the other items that we had to deal with, we felt like if we left this hanging out there that there could be other issues. We're fixing problems, you know it would be nice to do it all but that time will come. I would support it also.

Councilor Berger moved that ordinance be adopted by the 1st reading, title only. Councilor Kangas seconded the motion.

ORDINANCE NO. 5486

Councilor Berger moved that the ordinance be adopted by title only, first reading. The motion was seconded by Councilor Kangas. The vote resulted as follows: "AYES": Kangas, Berger, Renfro, Cummings, Pell, Townes, Michelin and Warren. "NAYS": None. Abstain: None. Absent: None. The motion has passed. The ordinance is read.

Councilor Renfro moved that the ordinance be read by title only, second reading. The motion is seconded by Councilor Cummings. The vote resulted as follows: Kangas, Berger, Renfro, Cummings, Pell, Michelin, Townes and Warren. "NAYS": None. Abstain: None. Absent: None. The motion has passed. The ordinance is read.

Mayor Murphy asked if the ordinance should be adopted, signified by roll call vote as follows: Councilor Kangas - yes; Councilor Renfro - yes; Councilor Cummings - yes; Councilor Berger - yes. Councilor Pell - yes; Councilor Townes - yes; Councilor Michelin - yes; and Councilor Warren - yes.

Mayor Murphy stated the vote is unanimous and the ordinance is adopted.

~~2. COUNCIL ACTION~~

MOTION

It was moved by Councilor Renfro and seconded by Councilor Cummings that the minutes be approved as written and the vote resulted as follows: "AYES": Kangas, Renfro, Cummings, Townes, Pell, Michelon, and Warren. "NAYS": None. Absent: Berger.

Having received a favorable vote, Mayor Murphy declared the motion to have duly passed.

5h. Motion to approve Liquor Licenses.

MOTION

It was moved by Councilor Renfro and seconded by Councilor Cummings that the minutes be approved as written and the vote resulted as follows: "AYES": Kangas, Renfro, Cummings, Townes, Pell, Michelon, and Warren. "NAYS": None. Absent: Berger.

Having received a favorable vote, Mayor Murphy declared the motion to have duly passed.

5i. Resolution regarding intergovernmental agreement with ODOT for stimulus.

RESOLUTION NO. 5499

It was moved by Councilor Renfro and seconded by Councilor Cummings that Resolution No. 5499 be adopted and the vote resulted as follows: "AYES": Renfro, Kangas, Pell, Cummings, Townes, Warren, and Michelon. "NAYS": None. Absent: Berger.

Having received a favorable vote, Mayor Murphy declared Resolution 5499 is adopted.

6. EXECUTIVE SESSION 192.660 (2): None

7. ADJOURN -

There being no further business to come before the Council, Mayor Murphy adjourned the meeting at 10:40 p.m.

The ordinances, resolutions and motions contained herein and the accompanying votes have been verified by:


Finance Director

These minutes were prepared by contracted minute taker Wendy Hain.

Fencing Standards Development Code Text Amendment

April 15, 2009 City Council Hearing
Presented By: Carla Angeli Paladino

Background

- Why amend fencing requirements?
 - Frequent customer requests to construct 6-foot fences along alleys.
 - Numerous existing 6-foot fences constructed along alleys throughout city in violation of Code.
 - Complaints that existing standards are difficult to understand.
 - Ambiguity in existing vision clearance and zone buffer requirements.
- Proposed amendments are intended to improve user-friendliness and effectiveness of the Development Code fencing standards.

Proposal

- An ordinance amending the fencing standards of Development Code Section 23.037
- Standards regulate fencing characteristics such as height, setbacks, and materials.
- Regulations vary depending on zone and land use.

Key Components:

- **PROPOSED:** Allow 6-foot fence along property line abutting an alley and within alley setback.
 - Existing standards limit a fence along an alley to a height of 3 feet (except within the CBD.) A 6-foot fence is subject to a minimum 10-foot alley setback.
- **PROPOSED:** Ensure all fencing requirements can be found in one section of the Development Code.
 - Existing fencing standards, contained in Development Code Section 23.037, do not reference commercial design fencing requirements, contained in Development Code Article 20.

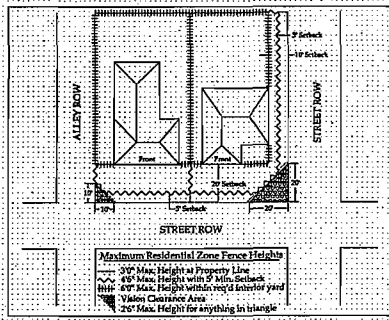
Key Components: cont'd.

- **PROPOSED:** Prohibit barbed wire **AND** razor wire fencing within zone buffer setbacks and the public right-of-way, and at lower than 6 feet above grade.
 - Existing standards prohibit barbed wire fences (do not cover razor wire fences) only at less than 6 feet above grade.

Additional Components:

- Re-organization of standards into zoning categories, to enhance user-friendliness.
- Clarify vision clearance requirements and zone buffer allowances (i.e., fencing for an industrial zone adjacent to a residential zone.)
- Specify that fencing within right-of-way is not allowed without Encroachment Permit.
- Encourage property owners to hire a licensed surveyor to locate property lines prior to fence construction.

Figure 23-8. Residential Zone Fencing Requirements



Planning Commission Initiation of Separate Text Amendment

- The Planning Commission approved a motion initiating a separate Development Code text amendment to evaluate requiring permits prior to fence installation.
- This is not part of the current proposal and will be considered under a future text amendment

Additional Issues Raised at March City Council Workshop

- Height measurements for fences on top of retaining walls
- Exterior rear yard fencing for through-lots
- "Good neighbor" fencing
- Issues are not addressed with current amendment but can be considered with future fence permit amendment

Conclusion & Recommendation

- Criteria for approval of Development Code text amendment are located in Section 4.103
- Detailed responses to each of the criteria are located in the Planning Commission's Findings of Fact
- The Urban Area Planning Commission found all of the criteria to be satisfied and recommended that City Council approve the proposed Development Code text amendment.

Questions?

ORDINANCE NO. 5486

AN ORDINANCE ADOPTING A TEXT AMENDMENT TO THE DEVELOPMENT CODE FENCING STANDARDS.

WHEREAS:

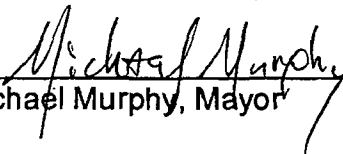
1. The Comprehensive Plan of the City of Grants Pass was adopted December 15, 1982. The Development Code of the City of Grants Pass was adopted August 17, 1983; and
2. The ordinance amends Section 23.037 (Fencing) of the Development Code; and
3. The proposal is consistent with the goals and policies of the Comprehensive Plan; and
4. The applicable criteria from the Development Code are satisfied, and the proposed amendment is recommended by the Planning Commission to the City Council.

NOW, THEREFORE, THE CITY OF GRANTS PASS HEREBY ORDAINS:

Section 1: The amendment to Development Code Section 23.037, as set forth in Exhibit "A", is hereby adopted.

ADOPTED by the Council of the City of Grants Pass, Oregon, in regular session this 15th day of April 2009.

SUBMITTED to and Approved by the Mayor of the City of Grants Pass, Oregon, this 17th day of April 2009.



Michael Murphy, Mayor

ATTEST:



Finance Director

Date submitted to Mayor: 4-16-09

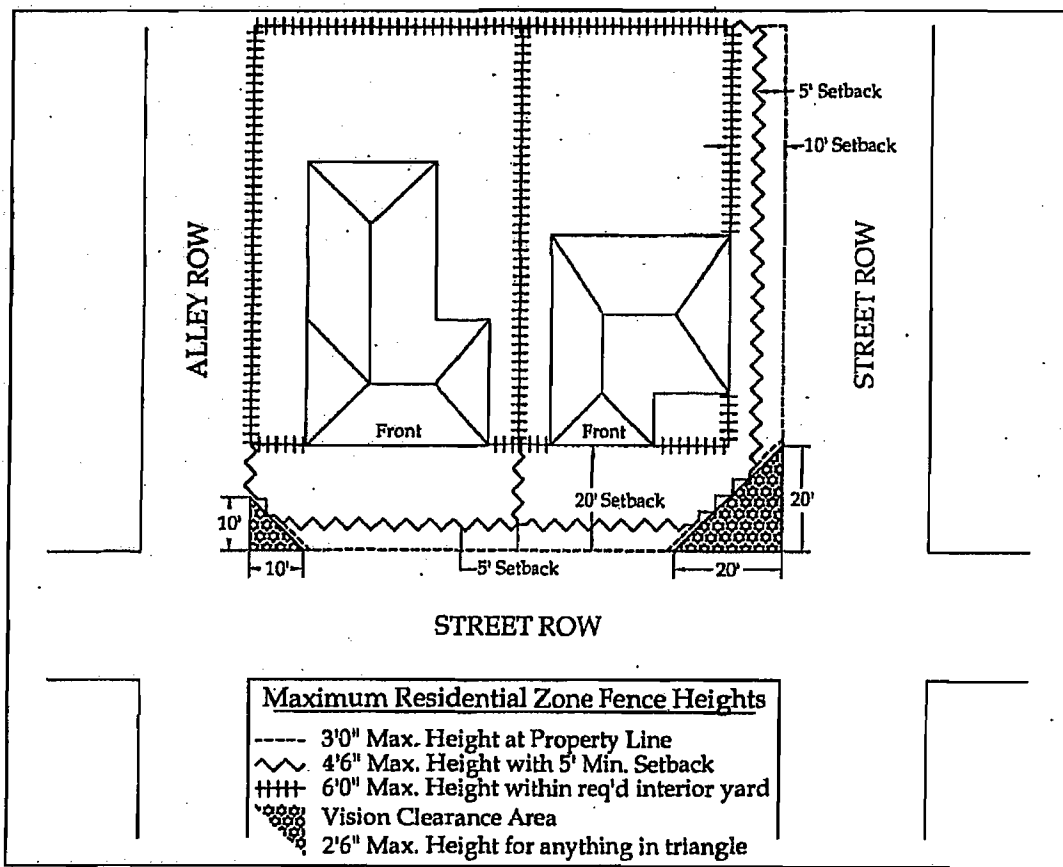
Approved as to Form, Paul Nolte, Interim City Attorney 

EXHIBIT A

23.037 Fencing

- (1) Fences in residential zones shall be subject to the following:
- (a) Maximum height within required front and exterior yards: 3 feet. However, a fence up to 4.5 feet in height may be placed a minimum of five feet from the front or exterior side/rear property line. (See Figure 23-8)
 - (b) Maximum height within required interior yards: 6 feet (See Figure 23-8)
 - (c) Requirements for fencing in all zones shall also apply. See Section 23.037 (4)

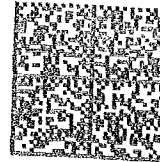
Figure 23-8. Residential Zone Fencing Requirements



NOTE: Property owners are strongly encouraged to hire a licensed surveyor to locate property lines prior to the construction of a fence.

- (2) Fences in commercial zones shall be subject to the following:
- (a) Any fence over 3 feet high shall be located behind any required landscaped front or exterior side/rear yard.
 - (b) Maximum height within required interior yards: 8 feet
 - (c) Razor wire, barbed wire, and chain link fencing shall not be used between a building face and public right-of-way. Treatments such as decorative wrought iron should be used instead. See Section 20.490 (2).
 - (d) Requirements for fencing in all zones shall also apply. See Section 23.037 (4)
- (3) Fences in industrial zones shall be subject to the following:
- (a) Any fence over 3 feet high shall be located behind any required landscaped front or exterior side/rear yard.
 - (b) Maximum height in interior yards: 8 feet
 - (c) Depending on use and location, razor wire, barbed wire and chain link fencing may not be permitted between a building face and public right-of-way. Refer to Section 20.220 of this Code for applicability of Commercial Design Standards to industrial zones. See Section 20.490 (2)
 - (d) Requirements for fencing in all zones shall also apply. See Section 23.037 (4)
- (4) In addition, the following provisions shall apply to fences in all zones:
- (a) A fence meeting required building setbacks shall not exceed the maximum height for structures in that zone.
 - (b) Where permitted, a fence over 6 feet high requires a building permit as required by the applicable Building Code.

- (c) A fence with a height of up to 6 feet is permitted along a property line abutting an alley and within the alley setback, unless such a fence creates a visual obstruction.
 - (d) No fencing shall conflict with the requirements of the clear vision area for streets and driveways. Fencing within a vision clearance area shall not create a visual obstruction as defined in Article 30 of this Code.
 - (e) Fencing within the public right-of-way is not permitted without a valid Encroachment Permit issued by the City Engineer.
 - (f) In cases where Code provisions conflict, structures required as part of a zone buffer shall be subject to the applicable provision within Section 23.034 rather than the conflicting provision within this section.
 - (g) Every fence shall be maintained in a condition of reasonable repair and not be allowed to become or remain in a condition of disrepair including noticeable leaning or missing sections, broken supports, non-uniform height, and growing or noxious vegetation.
 - (h) Link fencing less than seven feet in height shall be constructed in such a manner that no barbed ends shall be at the top.
 - (i) Barbed wire and razor wire fences are prohibited in the following locations: at less than six feet above grade, within required zone buffer setbacks, and within the public right-of-way.
 - (j) Electric fences are prohibited.
 - (k) A fence height may be measured from the grade of either side of the fence, at the applicant's option, unless the fence is a retaining wall. A retaining wall for an area filled with soil, rocks or any other material used to raise the property is considered a fence. Its height shall be measured from the lower of the two finish grades.
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City of Grants Pass

101 Northwest A Street
Grants Pass, OR 97526

TO: Attn: Plan Amendment Specialist
Department of Land Conservation + Development
635 Capitol Street NE, Suite 150
Salem, Oregon 97301-2540

PRIORITY