
CASE NO. BOA-2025-00005; VARIANCE REQUEST TO CONSTRUCT A SIX-FOOT-TALL FENCE IN FRONT OF THE HOME
APPLICANTS: NASSIB AND ANDREA ASALI
ZONING ADMINISTRATOR: CAITLYN MARS

LOCATION: The site is located at 1593 S. Uinta Way, Denver CO 80231. The property is zoned RR-B (Rural-Residential B) and located within Election District 4.

Vicinity Map - (site is indicated by highlighted box and arrow)



ADJACENT SUBDIVISIONS, ZONING, AND LAND USES:

- **Northwest:**
 - Zoned R-3 (Residential/Single Family); lot size approximately 41,425.56 sq. ft. (minimum required 12,500 sq. ft.)
 - Zoned R-1-A (Residential/Single Family); lot size approximately 65,340 sq. ft. (minimum required 40,000 sq. ft.)
- **North (across Uinta Way):** Zoned R-3 (Residential/Single Family), rezoned in 1962; minimum lot size 12,500 sq. ft.
- **Southeast:** Zoned R-PSF (Residential/Single Family) in 1990, Mountainview Acres subdivision (two lots)
- **Northeast:** Zoned R-PSF (Residential/Single Family) in 1990, Mountain Meadows subdivision; fully developed with minimum lot size 13,440 sq. ft.
- **West:** Highline Canal

PROPOSAL:

The applicants, Nassib and Andrea Asali, residents of unincorporated Arapahoe County, are requesting a variance from LDC § 4-1.5.C.2, of the Fence Regulations. The relevant code section states:

Except as otherwise provided in this Section, fences erected in front of any building on a zone lot shall not exceed three feet in height.

The applicants seek the variance to construct a six-foot wrought iron fence across the front of the property and in front of the home at their residence of 1593 S. Uinta Way.

BACKGROUND:

The property in question is 2.41 acres (104,979.6 sq. ft.) in size and is zoned RR-B. It was originally designated Residential-Agricultural (R-A) in 1961 and was reclassified as RR-B in August 2019, when the Land Development Code was reorganized and several zoning districts were renamed. The RR-B district is primarily intended to preserve existing low-density residential development, with gross densities of at least one dwelling unit per 2.41 acres. The principal permitted uses within the RR-B zone district include single-family detached residential dwellings, along with accessory uses and structures appropriate to semi-rural densities, such as the keeping of a limited number of animals, accessory buildings, and private stables. Additionally, limited non-commercial agricultural uses are permitted.

The existing home on the property was constructed in 1981, with a Certificate of Occupancy issued in 1982. The current owners of the property purchased it in 2020.

LDC Table 4-1.1 Agricultural and Residential District Dimensional Standards

The minimum front setback for a primary structure in the RR-B zone is 50 feet, with side and rear setbacks of at least 25 feet. The front setback requirements for a six-foot-tall fence or any accessory structure are determined by the location of the primary structure - in this case, the home - on the property. The home is set back approximately 100 feet from the front lot line.

In 2024, a permit was issued for the construction of a fence along the rear and south side of the property. In 2025, an additional permit was granted to extend the fence along the north side property line. In both cases, the fence was proposed to terminate parallel to the home, in compliance with LDC § 4-1.5.C.2, of the Fence Regulations.

DISCUSSION

Staff review of this application has included an analysis of the proposal against the Land Development Code, as well as the Comprehensive Plan, and further considered, an analysis of referral comments.

Land Development Code and Comprehensive Plan

The following approval criteria are identified in the Land Development Code for any variance application. Additionally, per code, the applicant is required to clearly demonstrate a hardship.

Analysis of approval criteria:

1. The strict application of these Regulations would result in practical difficulties or unnecessary hardships inconsistent with the general purpose and intent of the Regulations.

The front yard fence height restriction is intended to ensure traffic and neighborhood safety, as well as preserve visual quality and community cohesion. While these standards are generally applicable, unique property conditions may warrant site-specific evaluation and potential relief through the variance process.

In their letter, the applicants state that strict enforcement of the three-foot fence height restriction would cause significant and undue hardship:

- The home is set back 100 feet, making the large front yard an important part of their usable outdoor space. Having the space unsecure is a concern for the family and any potential future pets.
- Deer frequently enter the yard, damaging plants and posing potential health risks.
- A six-foot fence, constructed at the 100-foot setback, would block yard use, garage access, and require removing mature trees.
- The applicants advise they have experienced theft on their property in the past. They note that the construction of the six-foot rear and side yard fences have successfully prevented further intrusions, but express that a three-foot fence along the front property line would not be a meaningful deterrent for further intrusions.

The County understands the concerns raised by the applicant to be personal to them and not specific to the application of the Land Development Code. The “strict application” of fence location requirement is not presented as a basis for the variance request. Rather, specific attributes of the applicant’s use of the property are the basis for their request. Staff does not find the application of the fence location requirement results in either practical difficulties or unnecessary hardships. In other words, the application of the LDC does not cause the problems complained of by the applicant.

2. Any variance shall not grant special privileges inconsistent with the limitations upon other properties in the vicinity and zoning district in which the subject property is located.

Although the applicant’s lot is zoned differently from surrounding properties (see attached map), several nearby lots have similar depths, with homes built at similar or even greater distances from Uinta Way than the applicant’s home. None of these adjacent properties have six-foot-tall fences located in front of the homes. Staff find that granting the requested variance would effectively grant special privilege not extended to other properties in the area. All properties in the vicinity are subject to the same fence setback requirements, and approval of this variance would be inconsistent with those limitations.

3. Because of special, applicable circumstances, including size, shape, topography, or location, the strict application of these Regulations will deprive the subject property of privileges enjoyed by other properties in the vicinity and under identical zone classification; or that there are exceptional circumstances or conditions applicable to the property involved or to the intended use or development of the property that do not apply generally to other property in the same zone or neighborhood.

The applicant’s property does not exhibit special or exceptional circumstances related to size, shape, topography, or location that would justify a variance such as the one being requested. Similar properties within the neighborhood share comparable characteristics. Therefore, strict application of the regulations would not deprive the property of rights enjoyed by others, and no unique conditions exist that distinguish this property from others nearby.

4. That the condition or situation for which the variance is sought is not of so general a nature that the formulation of regulations would be necessary to insure consistent application of the regulations.

The regulations in question apply uniformly to the subject property as well as all other residentially zoned properties within the County. The circumstances described by the applicant, including lot size and setback configurations, are similar to those of other properties in the area that have not previously been granted exceptions. Consequently, granting this variance could result in inconsistent application of the fence regulations and compromise the intent of maintaining uniform standards. Staff find that the situation does not warrant a deviation from the established code requirements through a variance.

5. That the granting of a variance will not be substantially detrimental to the public good and will not substantially impair the intent and purpose of these Regulations.

Staff have evaluated the potential impact of granting the requested variance and find that it would likely not be substantially detrimental to the public good but do have concerns about it impairing the intent and purpose of the Regulations.

In this case, the proposed fence would not obstruct public rights-of-way, interfere with traffic or pedestrian visibility, or otherwise compromise public safety. With that said, granting this variance would set a precedent for similar requests in the area. This could incrementally erode the regulatory standards set forth in the Fence Regulations.

6. That the granting of a variance will not be contrary to the objectives of the Arapahoe County Comprehensive Plan.

The Comprehensive Plan designates this area for single family residential. Given that no change in land use is proposed, this request does not conflict with the Comprehensive Plan's objectives.

Referral Comments

Comments received as a result of the referral process are as follows:

Public Works and Development

1. Planning Division: *Planning indicated it was unable to identify a hardship experienced by the applicant from the application of the Code and speculated the fence request was for unrelated purposes.*
2. Engineering Division: *Initial site plan indicated that two entrances and gates would be constructed. Engineering advised that t*
3. Building Division: *No Response.*
4. Mapping Section: *Mapping has nothing to review.*

Public Health Department: *No documented septic system identified for this site that would be impacted by fence construction.*

South Metro Fire Department: *SMFR indicated that if approved, they require gates for access in the event an emergency response to the property is required in the future.*

Arapahoe County Sheriff's Office: *No issues with this variance.*

STAFF FINDINGS:

Staff have visited the site, reviewed the plans and supporting documentation, referral comments, as well as citizen input in response to this application. Based upon review of applicable policies and goals in the Land Development Code and analysis of referral comments, our findings include:

1. While the applicant cited several reasonable concerns - such as a deep front setback, deer intrusion, and security of property - staff finds these do not constitute a unique or undue hardship under the Land Development Code, as similar conditions exist on other properties in the area and are not cause by the application of the Code itself.
2. The property does not exhibit unique physical characteristics (size, shape, topography, or location) that would warrant relief. Comparable properties comply with the same regulations without variances.
3. Nearby lots of similar size and setbacks do not have six-foot fences in front yards. Granting this request would provide a special privilege inconsistent with what is allowed for neighboring properties.
4. The situation is not so unique as to justify a variance, nor so widespread as to suggest the need for a code amendment. Approval could undermine consistent enforcement.

5. While the proposal would not harm public safety or obstruct visibility, approving it could weaken the purpose of the Fence Regulations.

Attachments

Staff Report

Fence Regulations

Zoning Map

Pictures and Sign Posting

2024 Fence Permit Site Plan

2025 Fence Permit Site Plan

Neighbor Notifications Map

Fire Department Response

Regular plant maintenance shall be performed to maintain plant health, support plant growth, and achieve design and aesthetic goals.

- d. Grounds Keeping
All landscaped areas shall be kept clean and free of invasive plant species.
- e. All water quality facility maintenance shall be in conformance with the applicable operations and maintenance manual.

12. Qualifications and Certifications

- a. The landscape plan shall be prepared by a Colorado-licensed landscape architect.
- b. The irrigation system plan shall be completed by a Certified Irrigation Designer (CID) and installed by a Qualified Water Efficient Landscaper (QWEL)-certified professional.
- c. The irrigation audit shall be conducted by a third-party Certified Landscape Irrigation Auditor (CLIA).
- d. The consulting arborist shall be certified by the International Society of Arboriculture.

13. Landscape Installation and Inspections

- a. The landscape architect of record shall inspect and certify that the landscape area has been constructed as depicted on the approved landscape plan.
- b. Prior to the issuance of a certificate of occupancy, the landscape architect of record shall submit a Certification of Landscape Installation to the County Planning Division.
- c. A third-party certified landscape irrigation auditor shall conduct an audit and submit a report to the Planning Division prior to the certificate of occupancy.
- d. If the Developer has not completed all the installation of the landscaping and irrigation and wishes to obtain a temporary certificate of occupancy, a landscape agreement and collateral (check or letter of credit) must be provided to the County Planning Division.
- e. Upon installation of the landscaping required by the approved landscape plan and inspection by the landscape architect of record to confirm compliance with said plan, and the irrigation audit has been submitted and approved, the County shall release the collateral provided by the developer

4-1.5. Fence Regulations

A. GENERAL PROVISIONS

- 1. No person, firm or corporation shall erect, construct, enlarge, alter or move any fence in the County without first obtaining a fence permit from the PWD Building Division, pursuant to this Section.
- 2. No fence permit shall be issued by the PWD Building Division unless the applicant for such permit demonstrates compliance with the provisions of this Section.
- 3. Fees for fence permits issued pursuant to this Section shall be set by the Board of County Commissioners to cover the costs of inspections and administration of this Section, and may be amended as necessary by the Board. Fees shall be paid by the applicant prior to the issuance of the fence permit.
- 4. The purpose of this Section is to promote the health, safety and welfare of the public, to protect the economic and aesthetic value of Arapahoe County, and to prevent traffic hazards and the creation of nuisances. The intent of this Section is to regulate only those fences of whatever class, which are physically located or intended to serve as a

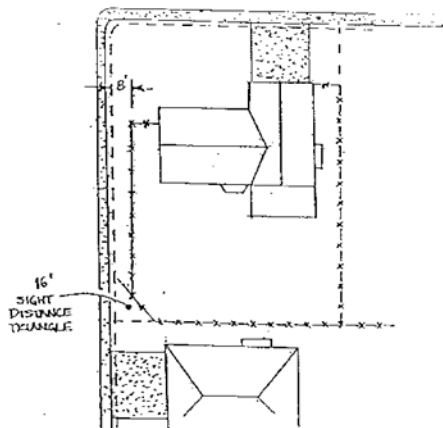
boundary between adjoining properties or as a barrier or enclosure of greater than 15 percent of the area of a particular zone lot.

B. CLASSES OF FENCES AND WALLS

1. Class 1 - MASONRY. Any fence or wall composed of stone, brick, concrete, gypsum, hollow clay tile, concrete block, pre-cast concrete units or tile or similar building units or materials or combination of these materials laid up unit by unit and set in mortar, or pre-cast and set in place.
2. Class 2 - ORNAMENTAL IRON. Any wrought iron or metal fence, of primarily open design, consisting of straight or curved metal bars or pieces, including metal vertical picket fences.
3. Class 3 - CHAIN LINK. A fence of primarily open design consisting of an interlocking pattern of wire or metal of at least one-eighth inch in diameter supported by vertical and/or horizontal bars or posts of at least one and one half inches in diameter.
4. Class 4 - WOOD PICKET. A fence that is more than 50 percent open, as viewed from outside the fence, and is constructed with wooden supports and fence materials. This type of fence includes fences with vertical pieces of wood, with or without pointed ends, as the primary fencing material (i.e., "picket fence"), as well as fences with horizontal wooden bars or rails as the primary fencing material (i.e., "split rail fence").
5. Class 5 - SOLID. A fence that is less than 50 percent open as viewed from outside the fence.
6. Class 6 - HEDGE. A wall consisting of living bushes, trees, plants or plant materials, but not including grass or weeds.

C. REQUIREMENTS OF FENCES

1. These requirements apply to all fences in unincorporated Arapahoe County enclosing any lot or greater than 15 percent of a lot in any zone district.
2. Except as otherwise provided in this Section, fences erected in front of any building on a zone lot shall not exceed three feet in height.
3. Side and rear yard fences may be of any class, as defined in Section 4-1.5.B herein, but shall not exceed a height of six feet excluding hedges; provided that a side yard fence shall not extend past the lot's front building line or the adjacent neighbor's front building line, whichever is closest to the rear lot line, unless a 16 foot minimum sight distance triangle is provided and that the fence is a minimum setback of eight feet from the side (corner) property line as illustrated below:



4. Except as otherwise provided in the Definitions Section, side and rear yard fences may be of any class, as defined in Section 4-1.5.B but shall not exceed a height of six feet excluding hedges; provided that a side yard fence shall not extend past the lot's front building line or the adjacent neighbor's front building line, whichever is closest to the lot's rear lot line.
5. Except as otherwise provided in this Section, rear yards and side yards siding onto a major collector or arterial street may have a masonry wall not exceeding eight feet in height under the following conditions:
 - a. The wall must not be located within the public right-of-way and easements that are dedicated to Arapahoe County;
 - b. The wall must be designed by a structural engineer licensed in Colorado for all applicable loads. The wall must be built in conformance to the wall construction plans approved by the Building Division;
 - c. The same height, design, colors and materials must be used for the entire frontage of the subdivision.
 - d. No barbed wire or electrically charged fence shall be erected or maintained, except on land zoned A-E, A-1, RR-A, RR-B, PUD where stables are a legal use, B-3, B-4, I-1 or I-2, in portions of PUDs where industrial uses are allowed, and/or in conjunction with a jail or correctional facility. On land zoned B-3, B-4, I-1 or I-2, or portions of PUDs where industrial uses are allowed, the fence must be of chain link construction, and the barbed or electrically charged portion of the fence must be at least six feet six inches above the finished grade outside the fence. Any electrically charged fence in any zone district shall be clearly and conspicuously posted to warn those outside the fence that it is electrically charged, and shall be maintained by its owner.
 - e. On corner lots, no fence or retaining wall shall be erected or maintained which obstructs the vision of automobile traffic on the adjacent streets or driveways.
 - f. Retaining walls exceeding a height of four feet from the finished grade on the low side of the wall shall be designed by a licensed structural engineer, and plans submitted for a fence permit shall show the seal of such engineer. Retaining walls within 30 feet sight triangles cannot exceed three feet in height.
 - g. Every fence in the County, including but not limited to those fences for which no permits are required, shall be maintained in good structural condition at all times. The PWD Director, or their designees, or the Zoning Administrator, or their designee, shall inspect and have the authority to order the repair or removal of a fence which constitutes a nuisance or hazard to safety or health or public welfare by reason of inadequate maintenance, dilapidation, obsolescence or abandonment, or which shall constitute a hazard or zoning violation for any other reason.
 - h. Fences on land zoned A-E, A-1, or RR-A are excluded from the requirements of this Section, except for Sections 4-1.5.C.4 and 4-1.5.C.5.e, as long as such land is used for agricultural purposes and proper maintenance is exercised by its owner.
 - i. Fences in B-3, B-4, I-1 or I-2 districts may be up to eight feet tall, provided that the fence must be of Class 3 construction.
 - j. Fences surrounding tennis courts may be up to 12 feet tall.

- k. When the provisions of this Section conflict with the special fence provisions for particular uses found in other Sections of these Regulations, such special provisions shall control.
- l. Sound barrier walls, when constructed adjacent to major arterial roadways, shall be designed in accordance with CDOT.

D. CORNER LOTS

On any corner lot on which a front and side yard is required, no wall, fence, sign, structure or any obstructive plant growth having a height in excess of three feet above the elevation of the lowest point on the crown of the adjacent roadway shall be maintained in a triangle formed by measuring from the point of intersection of the front and exterior lot lines a distance of 30 feet along said front and side lot lines, connecting the points so established to form a single triangle on the area of the lot adjacent to the street intersection. However, all structures shall set back no less than 25 feet from each lot line abutting a street unless an approved P.U.D. Plan permits a lesser setback.

4-1.6. Lighting

A. INTENT

The purpose of the outdoor illumination standards are to:

- 1. Provide adequate lighting for safety and security;
- 2. Reduce light pollution, light trespass, glare, sky glow impacts, and offensive light sources;
- 3. Prevent inappropriate, poorly designed or installed outdoor lighting;
- 4. Encourage quality lighting design, light fixture shielding, uniform light intensities, maximum lighting levels within and on property lines, and lighting controls;
- 5. Promote efficient and cost effective lighting and to conserve energy; and
- 6. Provide an environmentally sensitive nighttime environment that protects significant wildlife habitat.

B. APPLICABILITY

The lighting standards contained in this Chapter shall apply to all exterior lighting, including illumination from outdoor signs and any interior lighting from buildings or structures that affect the outdoor environment, unless otherwise excepted or exempted herein. All uses that require Arapahoe County approval of a General Development Plan, Specific Development Plan, Administrative Site Plan, or Use by Special Review shall conform to these lighting standards.

1. Conformance at the Time of Building Permit Application

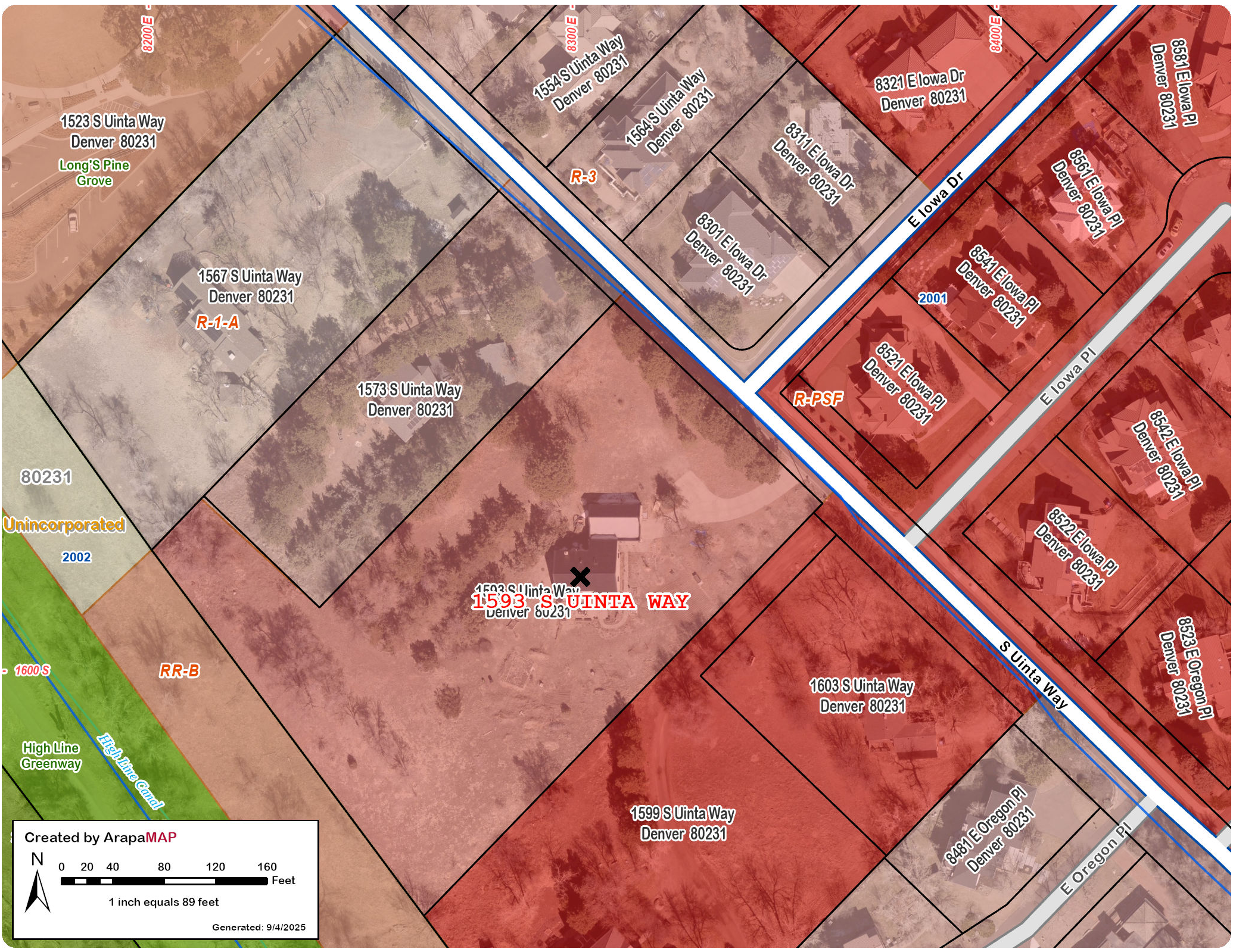
These requirements shall be met prior to a final inspection for any building permit for new development or any redevelopment in accordance with the appropriate process requirements for the application.

2. Replacement of Fixtures

If an existing non-standard light fixture is removed, it shall only be replaced with a conforming light fixture, or fully shielded, and mounted and in compliance with Illuminating Engineers Society of North America (IESNA) standards for full cut-off.

3. Replacement of Lamps

To the extent that compliance with this section can be achieved by replacement of a lamp within a light fixture, such lamp shall be replaced after failure of the lamp.



1523 S Uinta Way
Denver 80231

Long's Pine
Grove

1567 S Uinta Way
Denver 80231

R-1-A

1573 S Uinta Way
Denver 80231

80231

Unincorporated

2002

RR-B

High Line
Greenway

High Line Canal

Created by ArapaMAP



0 20 40 80 120 160
Feet

1 inch equals 89 feet

Generated: 9/4/2025

1554 S Uinta Way
Denver 80231

R-3

1564 S Uinta Way
Denver 80231

8311 Elowa Dr
Denver 80231

8301 Elowa Dr
Denver 80231

8321 Elowa Dr
Denver 80231

2001

R-PSF

8521 Elowa Pl
Denver 80231

8541 Elowa Pl
Denver 80231

8561 Elowa Pl
Denver 80231

8561 Elowa Pl
Denver 80231

8542 Elowa Pl
Denver 80231

8522 Elowa Pl
Denver 80231

8523 El Oregon Pl
Denver 80231

1603 S Uinta Way
Denver 80231

1599 S Uinta Way
Denver 80231

8481 E Oregon Pl
Denver 80231

E Oregon Pl

E Iowa Dr

E Iowa Pl

S Uinta Way

A photograph of a residential street scene. In the foreground, a paved road with a manhole cover is visible. A concrete curb separates the road from a grassy area. A utility pole stands in the middle ground, with a white sign attached to it. The sign is titled "NOTICE OF ZONING VARIANCE" and "CASE NO. BAZ205-0005". It contains text about the process for obtaining a variance, including a public hearing date of August 28, 2025, at 7:00 PM. The background is filled with large, mature pine trees and a white house with a dark roof. The sky is blue with some clouds. A red date stamp "28 Aug 2025" is in the bottom right corner.

NOTICE OF ZONING VARIANCE
CASE NO. BOA-2025-00005

NOTICE IS HEREBY GIVEN THAT THE PROPERTY UPON WHICH THIS SIGN IS POSTED
SHALL BE CONSIDERED FOR A VARIANCE IN ZONE CATEGORY (RR-B)
IN FRONT SETBACK REQUIREMENTS. ADDITIONAL INFORMATION
MAY BE OBTAINED FROM THE RECORDING SECRETARY TO THE ARAPAHOE COUNTY
BOARD OF ADJUSTMENT AT 720-874-6711. SUCH HEARING IS TO BE HELD ON 11
DAY OF SEPTEMBER, 2025 AT 1:00 PM IN THE ARAPAHOE LIMA
BOARD ROOM AT CENTENNIAL, COLORADO, OR AS SOON THEREAFTER AS POSSIBLE.
DATE OF POSTING: 8-27-2025
NAME OF APPLICANT: ASALI

28 Aug 2025



28 Aug 2025



28 Aug 2025



28 Aug 2025



28 Aug 2025



28 Aug 2025



28 Aug 2025

A photograph of a residential street with a large pine tree in the foreground. A white sign is posted on the tree trunk, reading "NOTICE OF ZONING VIOLATION" and "CASE NO. 2021-000000". The sign also mentions "ZONING DISTRICT 10" and "RESIDENTIAL SINGLE-FAMILY". A white house is visible in the background on the right. The date "28 Aug 2025" is overlaid in red text at the bottom right.



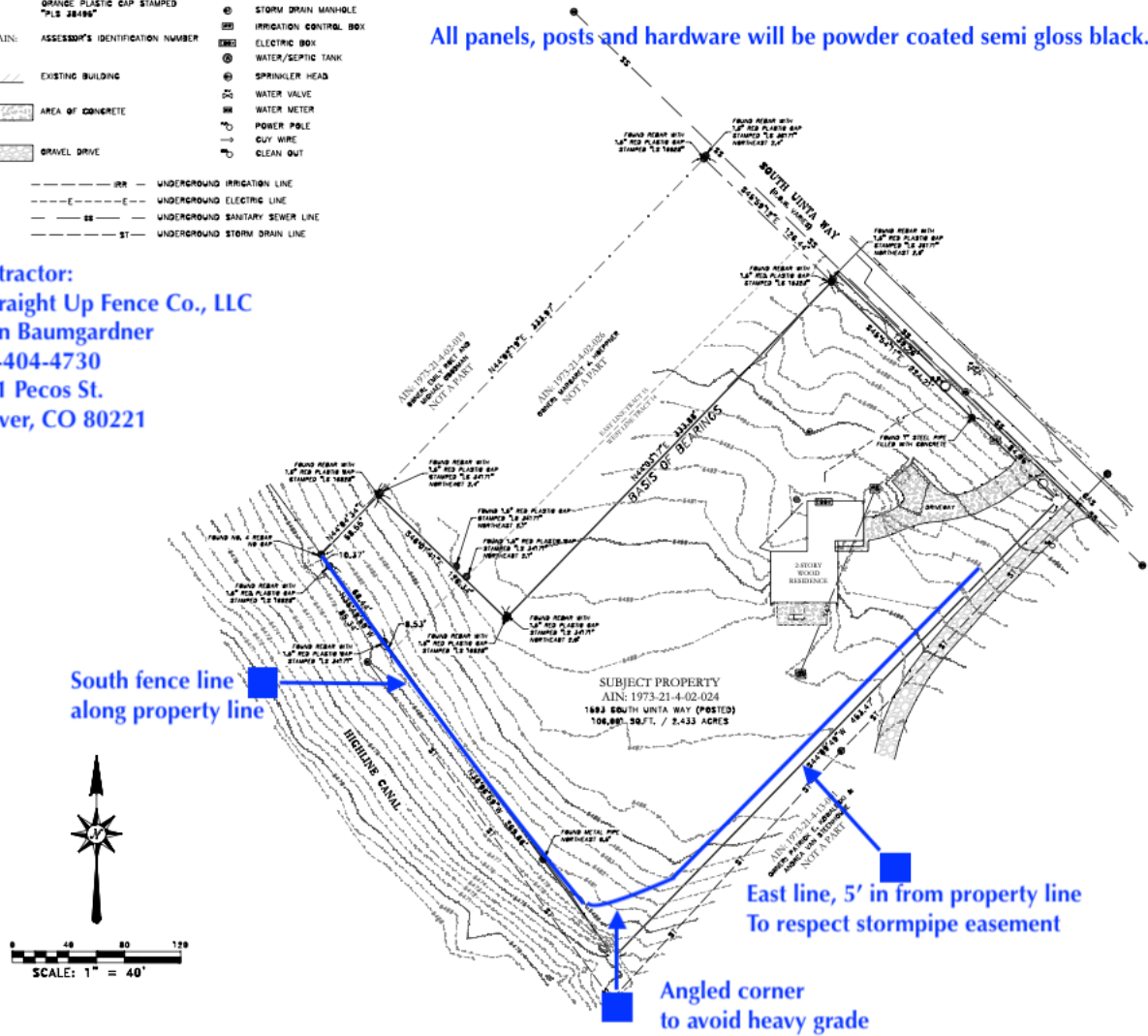
28 Aug 2025

LEGEND	
●	FOUND MONUMENT, AS NOTED
○	SET NUMBER & REBAR WITH ORANGE PLASTIC CAP STAMPED "PLS 28496"
AIN:	ASSESSOR'S IDENTIFICATION NUMBER
	EXISTING BUILDING
	AREA OF CONCRETE
	GRAVEL DRIVE
—IR—	UNDERGROUND IRRIGATION LINE
—E—	UNDERGROUND ELECTRIC LINE
—SS—	UNDERGROUND SANITARY SEWER LINE
—ST—	UNDERGROUND STORM DRAIN LINE
⊞	WATER METER
⊞	SANITARY SEWER MANHOLE
⊞	STORM DRAIN MANHOLE
⊞	IRRIGATION CONTROL BOX
⊞	ELECTRIC BOX
⊞	WATER/SEPTIC TANK
⊞	SPRINKLER HEAD
⊞	WATER VALVE
⊞	WATER METER
⊞	POWER POLE
⊞	GUY WIRE
⊞	CLEAN OUT

Project Information: Install a 6' tall, Ameristar Montage Majestic, prefab fence system.

All panels, posts and hardware will be powder coated semi gloss black.

Contractor:
A Straight Up Fence Co., LLC
Brian Baumgardner
720-404-4730
5271 Pecos St.
Denver, CO 80221



LEGEND

- FOUND MONUMENT, AS NOTED
- SET NUMBER 5 REBAR WITH ORANGE PLASTIC CAP STAMPED "PLS 38495"
- AIN: ASSESSOR'S IDENTIFICATION NUMBER
- EXISTING BUILDING
- AREA OF CONCRETE
- GRAVEL DRIVE
- WATER METER
- SANITARY SEWER MANHOLE
- STORM DRAIN MANHOLE
- IRRIGATION CONTROL BOX
- ELECTRIC BOX
- WATER/SEPTIC TANK
- SPRINKLER HEAD
- WATER VALVE
- WATER METER
- POWER POLE
- GUY WIRE
- CLEAN OUT
- IRR UNDERGROUND IRRIGATION LINE
- E UNDERGROUND ELECTRIC LINE
- SS UNDERGROUND SANITARY SEWER LINE
- ST UNDERGROUND STORM DRAIN LINE

Project information: Install a 6' tall, Ameristar Montage Majestic, prefab fence system
All panels, posts and hardware will be powder coated semi gloss black.

Contractor:
A Straight Up Fence Co, LLC
Brian Baumgardner
720-404-4730
5271 Pecos St
Denver CO, 80221

NW corner where project starts

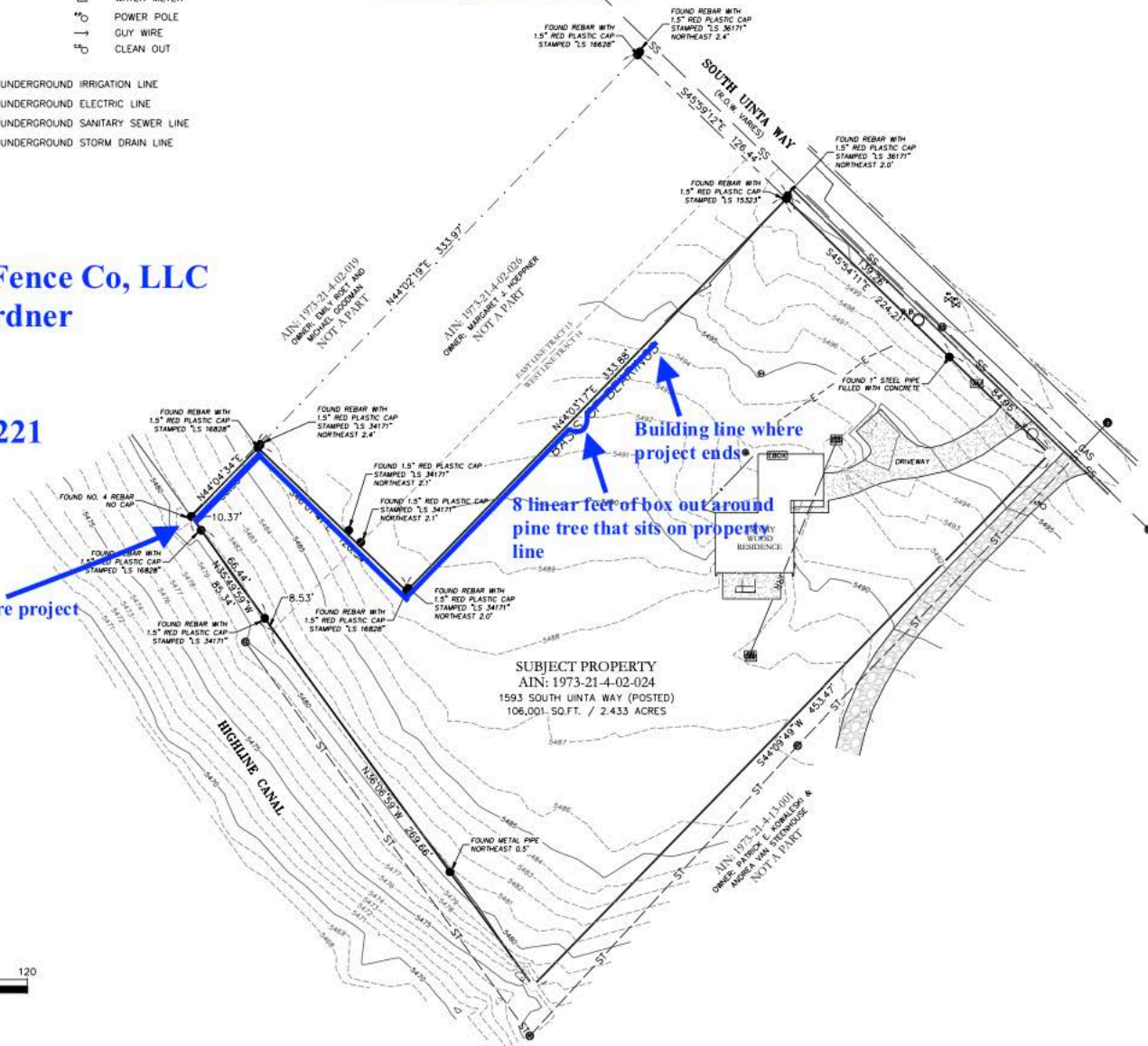
Building line where project ends

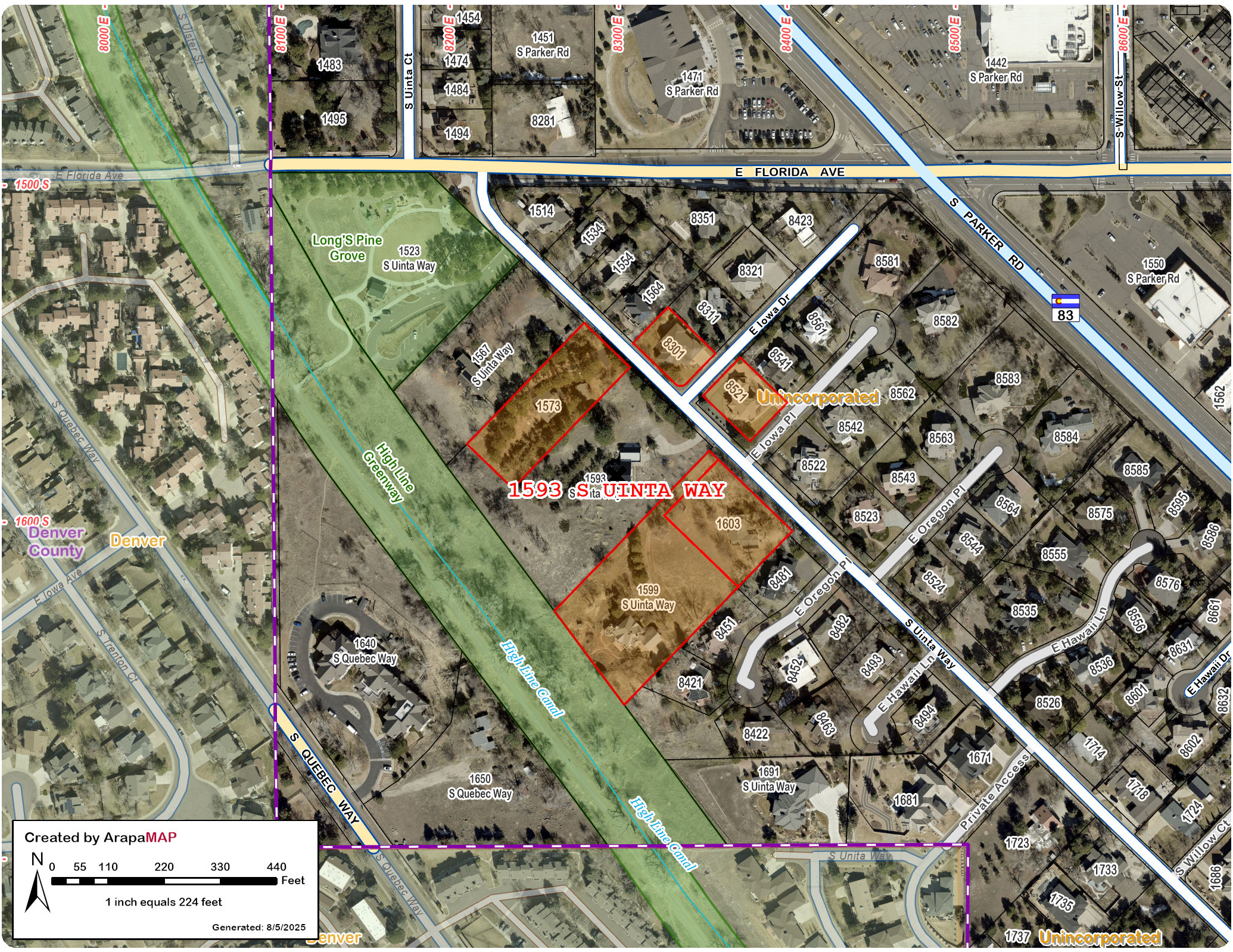
8 linear feet of box out around pine tree that sits on property line

SUBJECT PROPERTY
 AIN: 1973-21-4-02-024
 1593 SOUTH UNTA WAY (POSTED)
 106,001 SQ.FT. / 2.433 ACRES



0 40 80 120
 SCALE: 1" = 40'





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Generated: 8/5/2025

SOUTH METRO FIRE RESCUE

FIRE MARSHAL'S OFFICE



Caitlyn Mars, Zoning & Weed Control Manager
Arapahoe County Public Works
6924 S. Lima St, Centennial CO 80112
720-874-6713
CMars2@arapahoegov.com

Project Name: 1593 S Uinta Way Variance
Project File #: **BOA-2025-00005**
S Metro Review # REFOTH25-00182

Review date: August 19, 2025

Plan reviewer: Jeff Sceili
720-989-2244
Jeff.Sceili@Southmetro.org

Project Summary: Variance request to install 6 foot tall fence 25 feet from property line

Code Reference: 2021 Fire Code Edition, 2021 Building Code Edition

South Metro Fire Rescue (SMFR) has reviewed the above project and has conditionally approved the plans based on the following comments that must be resolved prior issuance of any permits. Applicants and Contractors are encouraged to contact SMFR regarding the applicable permit requirements for the proposed project.

COMMENTS:

1. **Gates shall be installed by permit from SMFR.**

July 23, 2025

To the Members of the Arapahoe County Board of Adjustment:

We, Nass and Andrea Asali, are the residents of 1593 South Uinta Way in unincorporated Arapahoe County and respectfully request a variance from Section 4-1.5.C.2. of the Land Development Code to allow continuation of our existing six-foot fence beyond the front building line to enclose a portion of our front yard.

Overview of Request and Context

Our property is uniquely situated with a front building line approximately 100 feet from the street – a setback far greater than is typical in our neighborhood. We have already installed a six-foot fence around the side and rear yard, consistent with existing permits and County Code. We now seek to extend the six-foot fence approximately 75 feet toward the street on both sides, stopping 24 feet from the front property line, with a connecting segment and gates parallel to the frontage. The proposed fence would remain 26 feet from the roadway and will fully comply with the County's 16-foot minimum sight triangle and 8-foot setback standards under Section 4-1.5.C.3. A copy of the site plan with the location of the fence is included with this letter.

Basis for Variance – Meeting the Required Criteria

We respectfully submit that our request satisfies all six criteria required for a variance under Section 13-1004 of the Land Development Code:

1. Unnecessary Hardship Due to Strict Application

Strict enforcement of the three-foot height restriction for fences would create significant and unnecessary hardship for our family. As property owners, we face challenges not typical for most homeowners in the area due to the unique characteristics of our lot, the specific risks we face, and the way we use and care for our property.

Our home is set back an atypical 100 feet from the street. This expansive and exposed front yard effectively functions as part of our usable outdoor space, where our children play, and where we have implemented South Metro Fire District's fire mitigation recommendations by removing dead trees and planting low-fuel vegetation. These efforts represent substantial investment in both safety and aesthetics. However, this progress is being actively undermined by a frequent and growing problem: deer intrusion. Deer regularly enter the front yard from adjacent properties and have caused extensive damage to our plantings. Their presence also creates a health concern due to the risk of Chronic Wasting Disease (CWD), which may be transmissible to humans through environmental exposure. A three-foot fence would not deter deer and would fail to protect our family, property, and investments.

Additionally, we have experienced theft of equipment from our property in the past. The back and sides of our lot are now secured with a six-foot fence, which has successfully prevented further intrusions. Extending a three-foot fence across the front would offer no meaningful barrier to would-be thieves, leaving a large portion of our property – nearly 22,000 square feet – vulnerable.

The hardship is further compounded by the impracticality of locating a six-foot fence at the 100-foot building line, which would force us to abandon use of the front yard altogether. Doing so would not only sever our visual and functional connection to this space but would also present operational difficulties: our garage is located near the building line, and there is not sufficient room to back a vehicle out of the garage without encroaching into the fence line. Moreover, this alternative alignment would require removal of mature trees, resulting in further loss of privacy and environmental degradation, and contradicting the very landscaping goals the fence is meant to protect.

Finally, if we are ever to keep domestic animals, such as dogs, a six-foot enclosure is essential for both their containment and for the safety of pedestrians and cyclists on Uinta Way. A lower fence would be inadequate for this purpose and would create additional hardship in terms of how we safely use our property.

In sum, the combination of security threats, topographical exposure, wildlife hazards, functional use of the yard, and the ineffectiveness of a three-foot fence uniquely burdens our property in ways not contemplated by the general regulation. These hardships are not self-imposed and are inconsistent with the intent of the Code to support the health, safety, and enjoyment of residential properties.

2. No Special Privilege

Granting this variance would not result in special privilege. Several neighboring properties on Uinta Way, including the residence directly across the street, already have six-foot fencing parallel to the road. The requested variance simply affords us the same reasonable opportunity to secure and enjoy our property.

3. Exceptional Property Characteristics

Our property presents exceptional characteristics that are not typical in the neighborhood. The front setback of 100 feet is nearly double that of surrounding properties, which generally have frontages of 50 feet or less. The lot's significant slope toward the street leaves both our front and portions of our backyard visible and exposed. Without a variance, we are deprived of the same privacy and security other similarly zoned properties enjoy.

4. Not a General Condition

The variance we seek arises from the unique combination of our property's size, slope, and unusual setback. It is not a general condition requiring a broader amendment to the regulations. The request is site-specific and tailored to the distinctive challenges of our lot.

5. No Detriment to Public Good or Purpose of Code

The proposed fence location does not present any safety hazards or negative impacts to neighboring properties or the public. In fact, it improves safety by deterring theft and minimizing potential wildlife-related hazards. The fence will remain well outside the required sight distance triangle and setback from the street, preserving visibility and aesthetics. The design is in harmony with the purpose of the fence code: to protect public health, safety, and property value.

6. Consistent with Comprehensive Plan Objectives

The requested variance is consistent with the goals and objectives of the Arapahoe County Comprehensive Plan, which encourages development and property improvements that enhance residential character, promote safety, and preserve neighborhood aesthetics.

The proposed fence will be constructed of high-quality, durable materials consistent with County-approved fence classes and in harmony with other fencing in the neighborhood. The fence will be well-maintained and visually cohesive, reflecting the architectural character of nearby homes and reinforcing the attractive, established residential feel of the area. It will not appear out of scale or out of place, particularly because multiple neighboring homes along our stretch of Uinta Way, including the property directly across the street, already have six-foot fences parallel to the road. This continuity contributes to a uniform and orderly streetscape.

The proposed placement of the fence – set 24 feet back from the front property line and 26 feet from the edge of the street – further aligns with Comprehensive Plan goals by balancing privacy and security needs with openness and visibility. This generous setback, which exceeds the County's required minimums for sight distance and traffic safety, ensures that the fence will not disrupt sight lines or dominate the streetscape. Instead, it will complement the front yard's natural slope and landscaping, acting as a subtle boundary that protects the yard without creating a visual barrier.

Additionally, by enclosing the front yard, the fence will allow us to fully utilize and enhance this large and prominently visible portion of our lot. We intend to continue improving our fire-mitigated landscape with safe, attractive, and sustainable plantings. The fence thus supports the Comprehensive Plan's objectives of environmental responsibility, community investment, and neighborhood beautification.

In all, the proposed fence location and design are not only compatible with surrounding development patterns but will actively improve the functionality, security, and appearance of our property in a way that advances the values and vision expressed in the Comprehensive Plan.

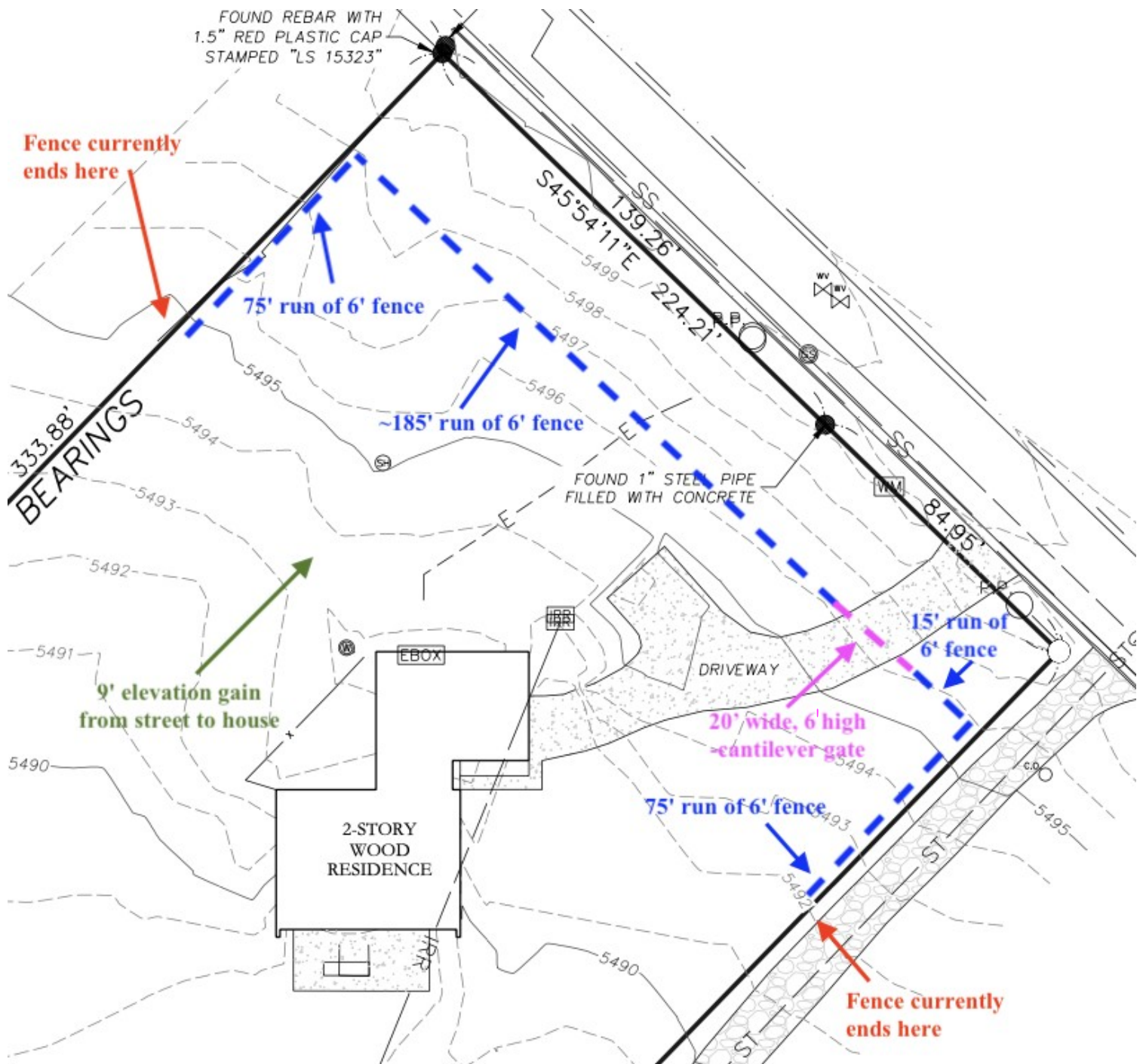
Conclusion

The variance we seek is modest, measured, and grounded in both the letter and spirit of the County's regulations. The proposed fence design enhances safety, privacy, and usability of our property while avoiding any adverse impact to neighbors or the community. We are committed to compliance with all permitting and inspection requirements and to maintaining a fence that is both functional and aesthetically appropriate.

We appreciate your time and consideration of this application.

Sincerely,
Nass and Andrea Asali
1593 S Uinta Way
Denver, CO 80231

- Front line of 6' fence would be 24 feet back from the frontage line, and therefore 26 feet back from Uinta Way
- Gate is also located 24 feet back from the front property line / 26 feet back from Uinta Way to avoid traffic stacking and maintain generous sight triangle



Fence specifications:

Height: 72" above grade

Steel Pickets: .625"sq x 18ga

Picket Spacing: 4" on center

Steel Rails: .9375" x 1.25" x 14ga

Steel Posts: 2"sq x 16ga

Powder Coating: Semi Gloss Black

Project Information:

Install a 6' tall, Ameristar Montage Majestic, pre-fabricated fence system.

The fence will be built as follows:

POSTS

2" square tube posts set 24" deep in concrete on 8' centers.

PANELS

Ameristar Montage Majestic fence panels will bolt to the posts using manufacturer's universal brackets.

POWDER COATING

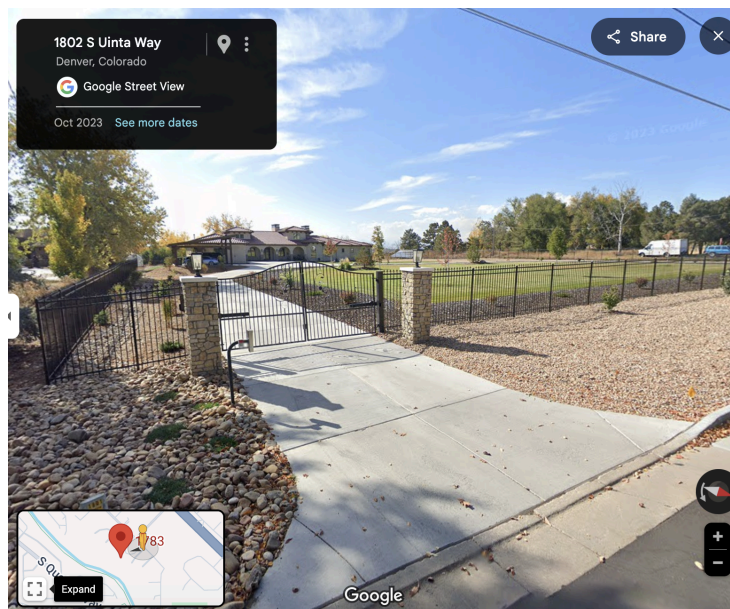
All panels, posts and hardware will be powder coated semi gloss black.



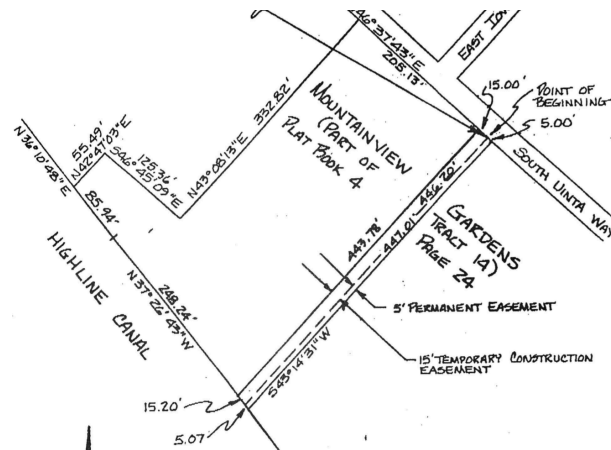
Style: Majestic

**ADDENDUM TO VARIANCE REQUEST TO CONSTRUCT A
SIX-FOOT-TALL FENCE IN FRONT OF THE HOME
CASE NO. BOA-2025-00005
9/11/2025**

I. No Special Privileges. Nearby lots of similar size and setbacks **do** have 6' fences in their front yards. A 6' iron fence has already been installed near the front line of the property at 1783 S Uinta Way. The fence is located about 15 feet back from the street. The house and its front building line are located over 100 feet back from the street.



II. Unnecessary Hardship Due to Drainage Easement. In 1991, a permanent easement over our property was granted to Arapahoe County for drainage purposes. The permanent easement grants the County access to 5 feet of our land for the entire 453 foot length of the Southeast border, from the Highline Canal to Uinta Way.



A black metal fence runs along a grassy area, with a house and trees in the background. The fence is made of vertical bars and is topped with a horizontal rail. The grass is green and yellow, and the house is a two-story building with a brown roof. There are trees and bushes in the background.

At the Canal end of this fence line, County drainage works have rendered the terrain too steep and unstable for fence installation. Consequently, we installed our fence 10-15 feet in from our true property line over this area.



In respect of the easement, we have unintentionally created a wide, low-traffic, permanent path leading directly from the Canal to the street. This path is currently used by deer to travel up to the front of our property where, through the unfenced portion, they access and damage the rest of our property.



Our adjacent neighbor is also subject to this easement. If our neighbor was to also fence their back property line, minus the area of their property subject to the easement, this wide pathway will still exist.

Essentially, our compliance with this easement requires us to permanently maintain an open path, from the Highline Canal to the front of our property, that is easily used by

large animals. Strict application of fence regulations would therefore cause unnecessary hardship for our property.

III. Exceptional Conditions Due to Intended Use of Property: Agriculture. Our family is actively involved in local urban farming organizations. As we complete fire mitigation of our property, we are beginning to convert our property into a hobby farm. We have dedicated, and hope to continue to dedicate, a large amount of time, energy, and money to our garden.

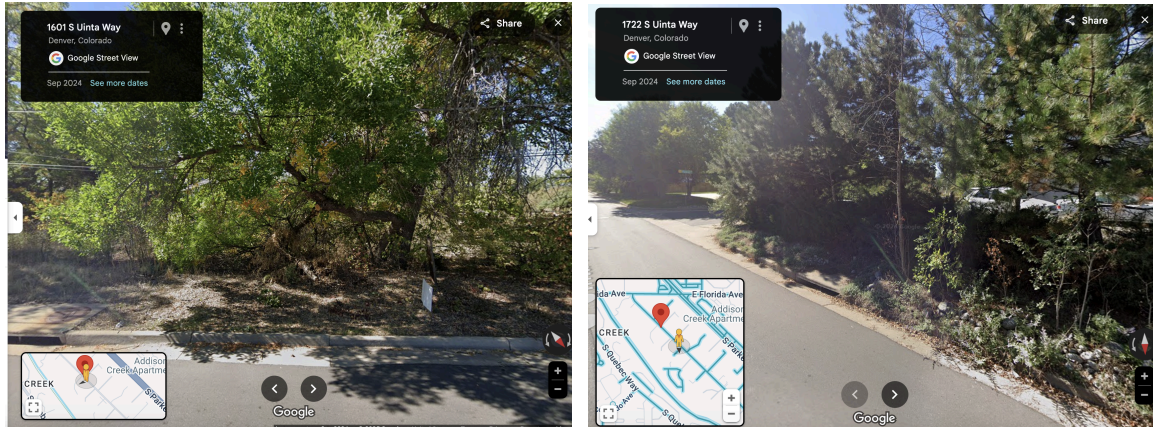
However, our initial efforts are being disrupted by deer. Several young fruit trees and bushes have already been killed by deer browsing. We have lost countless tender young vegetable plants to deer browsing and trampling. Deer have left piles of feces in areas where we are growing food. Deer feces pose a risk of E. coli, among other diseases.

It is widely known that deer cause a significant amount of damage to crops and threaten the economic and productive success of farmers. A 3' fence would not sufficiently protect plantings from being accessed by deer, but a 6' fence would. Our intention to use our property for agricultural purposes presents an exceptional condition that should be considered when assessing our variance request.

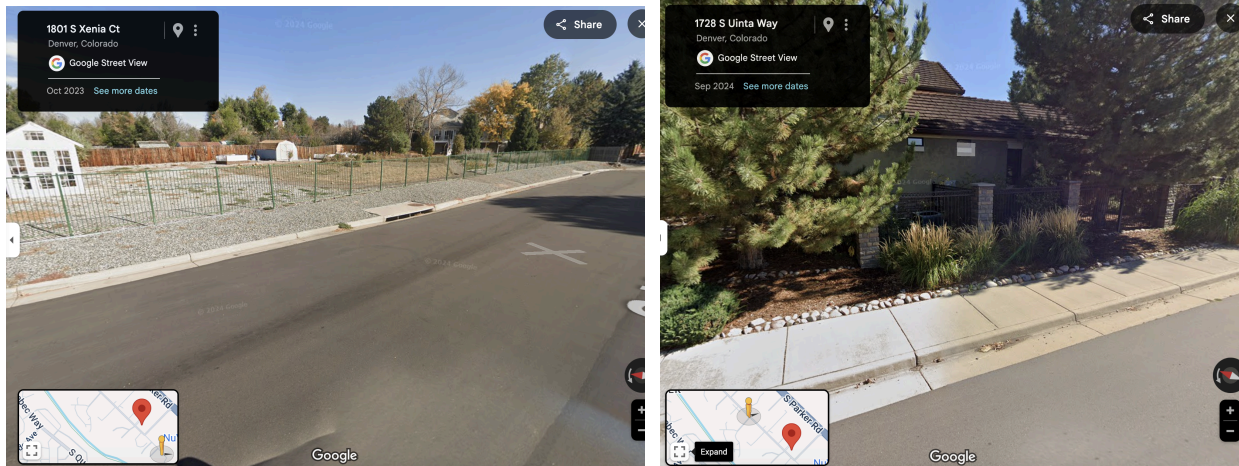
IV. No Uniform Standards. We disagree that “granting this variance could result in inconsistent application of the fence regulations and compromise the intent of maintaining uniform standards.”

In reality, there is no uniform standard being maintained. There is a wide variety of fencing styles along the street from Florida to Xenia Court: 6' metal fences, 6' wooden fences, masonry walls, 3.5' split rail fences of different colors, and the use of landscape screens instead of fence.

Just like these neighbors using landscape screens, shown below, we want to create a barrier between our property and the street. However, we would like our barrier to be fire-safe and attractive.



Many, but certainly not all, of the 6' metal fences we see along Uinta Way are bordering side property lines, as in the examples below. Our proposed fence project would aesthetically complement what is already present in our neighborhood.



V. Confusion in County Report. The report prepared by County staff for review of this variance application states the following:

“The circumstances described by the applicant, including lot size and setback configurations, are similar to those of other properties in the area that have not previously been granted exceptions.”

On 9/10/2025, we contacted County staff asking for information on exactly which properties and applications for exceptions this quote refers to. County staff replied: “Based on the records I am seeing, we have not had any front setback fence variance requests in the area.”

We are confused as to why the County would state that other properties “have not previously been granted exceptions,” when no one apparently has applied for any.

Addendum Summary

- ➔ At least one neighboring lot on Uinta Way, of similar size/setbacks, already has a six-foot metal fence installed, more than 100 feet in front of their front building line. Therefore this requested variance would not grant any special privileges to the applicants;
- ➔ Strict application of the code would present unnecessary hardship, due to a drainage easement on our property;
- ➔ The intended use of our property presents special conditions which should be taken into account when evaluating the variance;
- ➔ The diversity of fencing styles in our neighborhood means that installing a 6' fence near the roadway would not disrupt any uniform standards.

The proposed fence project has also been assessed to have no negative impact on public rights-of-way, traffic or pedestrian visibility, or otherwise compromise public safety.