MEMO

TO: Planning Commission
FROM: Kim H. Young, City Clerk
       Anna Krstulic, Zoning Counsel

RE: Revisions to Section 15-297(c)(1) (R-1 Site Design Standards – Fences)

At the July 27, 2020 meeting, the Commission considered applications for fence replacements that raised questions about the proper interpretation of the regulations in Section 15-297(c)(1), particularly with regard to legal nonconforming fences and fences on corner lots. The Commission asked staff to review fences and corner lots and provide information about the property line and right-of-way ("ROW") for discussion at the next meeting.

Attached are the following:

1. Figure 15-438-6 diagram of current requirements for corner lots
2. Map of Shawnee Mission Parkway between Mission Road and Belinder Avenue and locations of existing fences
3. 2014 redline showing revisions to Section 15-297(c)(1)
4. Current redline showing recommended revisions to Section 15-297

Corner Lots Generally

Most corner lots have a ROW of approximately 10-12 feet and City-owned trees in the ROW. Corner lots have two ROWs versus interior lots. See Figure 15-438-6.

A review of fences on corner lots in Ward 4, staff noted 58% of the fences do not meet the current code. The majority of these fences are installed out of the ROW on the property line.

Fences Along Shawnee Mission Parkway

The Parkway is a State highway. The trees along the Parkway are private trees, not City-owned trees. Staff reviewed surveys from the State when the highway was widened and realigned and spoke with Bill Haverkamp, P.S. Chief at the KDOT Bureau of Right-of-Way. Mr. Haverkamp stated that the ROW ends at the back of the 5-foot sidewalk. Thus, the property line is at the edge of the sidewalk. While reviewing the parcels on JOCO AIMS, the property lines appear to be within the street. Public Works Director Bill Stogsdill said that the State likely did not replat the properties when the highway was realigned.

There are 24 residential properties on the Parkway between Mission Road and Belinder Avenue, 10 of which currently have legal nonconforming fences. The location of these fences...
vary from about 1 foot to 6 feet from the sidewalk edge, with the majority being 2 or more feet back. Only 2 of the 10 abut the sidewalk: 5323 Aberdeen and 5316 Fairway Road. These 2 properties are the closest to the Fairway Shops.

Staff believe that a tunnel appearance along the Parkway is unlikely for the following reasons:

1. The number of legal, non-conforming fences represent a minority of homes; and
2. Many parcel configurations will not allow a new fence to be constructed next to the sidewalk.

Section 15-297(c)(1)c. requires a minimum 12-foot setback from the street-side property line for corner lots. Strict enforcement of this regulation for replacement of existing nonconforming fences will impact properties and, for some, significantly alter landscaping and useable backyard space.

The Commission noted safety as the concern and reasoning for the setback. Staff conferred with Deputy Chief J.P. Thurlo regarding pedestrian/vehicular accidents along the Parkway. He stated that in his 23 years at Fairway, he does not recall any pedestrian incident along the sidewalk, but there have been a few incidents of vehicles that left the roadway and crashed into walls and fences. Thus, it appears that fences and walls stop errant vehicles.

Visibility is also a safety concern and the reason that corner lot fences are required to be setback. The City has not received any complaints regarding the location of existing fences along the Parkway impacting visibility for drivers. Instead, the City has received complaints from both pedestrians and drivers regarding shrubbery planted next to the sidewalk that encroaches. The City sent letters to the property owners informing them to trim vegetation back from the sidewalk.

The consensus among staff is that the legal nonconforming fences on corner lots along the Parkway should be allowed to be replaced in the same location as long as the degree of nonconformity does not increase (i.e., height, materials and design) for the following reasons:

1. Tunnel effect is improbable due to configuration of existing houses, lots, driveways, trees;
2. No data to support that pedestrians are more at risk walking along the Parkway;
3. Data to support that fences and walls have stopped errant vehicles; and
4. Impact on the few property owners with legal, nonconforming fences to landscaping, sprinkler systems, loss of useable yard, etc.

**2014 Revisions to Section 15-297(c)(1)**

2014 revisions rearranged certain subsections by moving the height requirement from subsection c. to a new subsection b. This change affected the subsection references in subsection h. "(concerning height, materials and design)" with which replacement of legal, nonconforming fences must comply. No revisions, however, were made to subsection h. The proper references should be to those subsections that address height, materials and design (currently, b., e. and f., but see redline showing recommended revisions if the Commission concurs with staff recommendations).
Staff Recommendation

Staff recommends that fences/walls on corner lots should be allowed at the property lines, but outside of the ROW.

Legal, nonconforming fences on corner lots should be allowed to be replaced in the existing locations with no increase to the nonconformity. If a legal, nonconforming fence encroaches into the ROW, staff recommends that the permitting process for any replacement should include a requirement for the property owner to sign a statement acknowledging the encroachment and the property owner’s responsibility for any damage to the fence resulting from work within the ROW.

Staff further recommends elimination of the exception in Section 15-297(c)(1)d. for fences that result in less than 600 square feet of yard because that exception rarely applies, and it is unnecessary because Subsection (d) allows for exceptions to the site design standards.

Finally, staff recommends eliminating the maintenance requirements for decorative fences in Section 15-297(c)(2)g. because this is addressed in the Property Maintenance Code.

Procedure

Amendment of the zoning regulations requires consideration and recommendation of the Commission following a public hearing pursuant to State law (K.S.A. 12-749, 12-757) and Section 15-233 of the City Code, in accordance with the following procedures:

1. Commission or Governing Body initiates proposal to supplement, change or revise existing general zoning regulations;
2. Commission considers proposed amendment and sets public hearing;
3. City Clerk publishes notice 20 days before the date of the public hearing providing the time and place and describing the proposed amendment in general terms along with a statement that the proposed amendment is available at the City Clerk’s office;
4. Commission holds public hearing, and then submits recommendations to Governing Body;
5. Governing Body may: (i) adopt by ordinance, (ii) override by 2/3 vote (i.e., 6 votes), or (iii) return recommendation to Commission with statement specifying basis for failure to approve/disapprove. In the event of (iii):
   • Commission must consider at next regular Commission meeting, and either resubmit original recommendation or submit new and amended recommendation to Governing Body;
   • Governing Body may, by simple majority: (a) adopt, (b) amend and adopt the recommendation by ordinance, or (c) take no action.
2014 Redline Version of Changes

C. Fences and Walls. A building permit shall be required for construction, alteration, replacement, repair or relocation of a fence or wall on any residential lot. The proposed fence or wall shall meet all standards of the building code and demonstrate that the following additional standards are met:

1. Generally. Unless otherwise specified, fences or walls:
   a. Shall not be located in front of the front building lines of the principal building or any adjacent dwelling units.
   b. Shall not exceed six (6) feet high.
   bc. In the case of a corner lot, shall not be located closer to the street-side property line(s) than the street-side building line(s) of any adjacent dwelling unit; provided, in no event shall any fence or wall be located any closer than twelve (12) feet to any street-side property line. [See Part 15.4.4.5.03]

Exception: In the event the principal building and lot are situated in such a manner that a fence or wall subject to this corner lot requirement would yield an area smaller than six hundred (600) square feet, or alternatively, can yield an area over six hundred (600) square feet but only with an area less than twenty-five (25) feet in any single dimension (length or width of the yard), the Planning Commission may approve an exception may be granted subject to the following:
   (1) The exception may only be granted for a fence or wall on one street-side yard.
      When applicable, the Board of Commission shall make a determination on which street-side yard provides the least disruption to the predominant streetscape. In making this determination, the Board of Commission shall take into account the predominant frontage of the existing property as well as the frontage of adjacent properties;
   (2) The fence or wall within the exception area shall not exceed four feet in height;
   (3) The fence or wall shall be constructed out of a material compatible with the style of the principal building, and limited to the following types of materials: wood, brick, stone or wrought iron;
   (4) The exception shall not cause an adverse impact on the surrounding properties; and
   (5) The Board of Commission may specify additional location or other restrictions to the extent that it protects the appearance and function of the public streetscape, and minimizes the impact on adjacent properties.

When site plan approval by the Planning Commission is required, the Planning Commission may grant this exception in lieu of the Board of Zoning Appeals, provided the applicable provisions of Section 15.4.4.5.03 are otherwise met.

e. Shall not exceed six (6) feet in height, provided that fences and walls or any combination thereof directly facing a street shall not exceed five (5) feet in height. An exception to these requirements may be made by the Chief of Police or his authorized representative, who, in the interest of public safety, shall have the power to approve height exceptions up to six (6) feet in height for such a fence or wall facing a street. Any applicant receiving such approval by the Chief of Police or his authorized representative shall notify the City upon completion of the fence or wall so that the City can confirm construction in compliance with the requirements of the Planning Commission.

d. Shall be structurally stable and shall not incorporate the use of any type of wire such as barbed wire, chicken wire or wire which is electrically charged.

e. Any support or framing members shall have those members on the fence side facing the owner’s property.

f. Shall be located to permit proper maintenance on all sides of the fence or wall. If the owner's existing fence or wall and the erection of the proposed fence or wall would not inhibit the growth of vegetation and would not allow sufficient space between the existing fence or wall and the proposed fence or wall for proper maintenance, the existing fence or wall must be removed. If an existing fence or wall is owned by an abutting property owner and is on or near the property line, the proposed fence or wall must be
erected close enough to the abutting owner's fence or wall so as to inhibit the growth of vegetation or, in the alternative, provide sufficient space between the existing fence or wall and the proposed fence or wall for proper maintenance.

g. Any legal nonconforming fence or wall which does not meet the current standards of this section may be repaired, replaced and maintained at its present location; provided, however, that any repair or replacement shall not increase the degree of the nonconformity; and further provided, where fifty percent (50%) or more of the existing fence or wall is repaired or replaced, such fence or wall shall comply with subsections c, d and e above (concerning height, materials and design). No property shall be allowed multiple permits over any eighteen (18) month period when the effect would be to circumvent this latter provision.
House - 60' wide lot = 6' side set back. 6'x3 = 18' setback from curb

Fence code In the case of a corner lot, shall not be located closer to the street-side property line(s) than the street-side building line(s) of any adjacent dwelling unit; provided, in no event shall any fence or wall be located any closer than twelve feet (12') to any street-side property line. [See Subdivision VII of this division, Figure 15-438-6]

New homes are being built closer to the street than adjacent homes which places the allowed fence location within the rear building envelope.

In some locations non-conforming fences exist on adjacent properties.
Redline Markup of Proposed Revisions

Sec. 15-297 - Site design standards.

(a) **Lot design.**

(1) **Intent.** The intent of the lot design standards is to:
   
   a. Reinforce the existing scale and patterns of neighborhoods, including appropriate transitions to adjacent neighborhoods.
   
   b. Promote the character of the neighborhood through the design and relationship of lots to streetscapes.
   
   c. Preserve and strengthen the generous tree canopy throughout neighborhoods.
   
   d. Minimize the impacts of development on prevailing grades and associated runoff through landscape design.

(2) **Greenspace requirement.** The following greenspace requirements provide environmental and aesthetic benefits through landscape design.

   a. All lots up to ten thousand (10,000) square feet, the following shall apply:
      
      1. At least sixty percent (60%) of a lot shall be permeable and uncovered surface.
      
      2. At least sixty percent (60%) of the lot in front of the front building line shall be permeable and uncovered surface.

   b. Lots greater than ten thousand (10,000) square feet but less than thirty thousand (30,000) square feet, the following shall apply:
      
      1. The first ten thousand (10,000) square feet: At least sixty percent (60%) of a lot shall be permeable and uncovered surface;
      
      2. The first ten thousand (10,000) square feet: At least sixty percent (60%) of a lot in front of the front building line shall be permeable and uncovered surface;
      
      3. Remaining square footage less than thirty thousand (30,000) square feet: At least seventy-five percent (75%) of a lot shall be permeable and uncovered surface.

   Example: 11,600 square foot lot
   
   10,000 square feet x 60% = 6,000 square feet
   1,600 square feet x 75% = 1,200 square feet
   
   6,000 + 1,200 = 7,200 square feet of greenspace required

   c. Lots greater than thirty thousand (30,000) square feet, the following shall apply:
      
      1. The first ten thousand (10,000) square feet: At least sixty percent (60%) of a lot shall be permeable and uncovered surface;
      
      2. The first ten thousand (10,000) square feet: At least sixty percent (60%) of a lot in front of the front building line shall be permeable and uncovered surface;
      
      3. The square footage greater than ten thousand (10,000) but less than thirty thousand (30,000) square feet: At least seventy-five percent (75%) of a lot shall be permeable and uncovered surface.
      
      4. The square footage greater than thirty thousand (30,000): One hundred percent (100%) shall be permeable and uncovered surface.
d. Exclusions. Permeable or uncovered surfaces recessed within the perimeter of the building footprint or any permeable surface less than four feet (4') in any dimension shall not count towards this requirement.

e. Large shade trees. Large shade trees shall be maintained or established between the front building line and street through the following:

1. All lots shall have at least one (1) large shade tree for every forty feet (40') of street frontage, or fraction thereof. Existing large shade trees, including any large shade trees in the right-of-way, may be counted towards this requirement.

2. Removal of an existing large shade tree that results in less than one (1) per forty feet (40') of street frontage shall require replacement of two (2) new large shade trees for each one (1) tree removed.

3. Large shade trees shall be planted between the front building line and the street.

4. Large shade trees species shall be selected from the "Great Trees for the Kansas City Region" guide and the "Large Trees for the Landscape" list.

5. Any new trees required to be planted shall be at least three (3) inch caliper.

f. Foundation planting. All buildings shall maintain a foundation planting bed at least four feet (4') deep along at least fifty percent (50%) of the building frontage. This planting bed shall be planted with ornamental living materials that complement the design of the site and building. [See Subdivision VII of this division, Figure 4-2-17]

g. [Remaining surfaces]. All of the remaining minimum permeable and uncovered surfaces on residential lots shall be planted with vegetation.

(3) Curb cuts and driveways. The following driveway standards preserve the streetscape, maintain greenspace along the frontages and integrate driveways into the natural terrain and landscape, by keeping them as narrow as practical closer to the streetscape.

a. Single curb cut. Each lot shall be entitled to a single curb cut that corresponds to a driveway to the dwelling unit's garage or alternative enclosed vehicle parking space. No such curb cut and driveway shall exceed twenty percent (20%) of the lot frontage up to twenty (20) feet, except:

1. Lots less than eighty feet (80') in lot frontage may have curb cuts up to a maximum of sixteen (16) feet in width.

2. An additional three feet (3') may be permitted at the curb cut on each side of the driveway.

3. Within twenty feet (20') forward of the front building line, the driveway width may be expanded to twenty feet (20') to accommodate garage entrances or parking.

4. There is no limit to the driveway width behind the front building line, other than by application of the overall lot greenspace requirement. [See Subdivision VII of this division, Figure 15-438-18]

b. Multiple curb cuts. Lots with a lot width of eighty feet (80') or more may be allowed two (2) curb cuts, subject to the following:
1. The driveways corresponding to the two (2) curb cuts must interconnect in an arc or similar fashion, and at least one (1) curb cut must correspond to a driveway to the dwelling unit's garage or alternative enclosed vehicle parking space. A connecting arc driveway is not subject to the lot frontage width limits below; provided, it is no wider than the two (2) connecting driveway portions.

2. No single curb cut and driveway shall exceed ten percent (10%) of the lot frontage up to twelve feet (12'), except:
   (a) An additional three feet (3') may be permitted as the curb cut on each side of the driveway.
   (b) Within twenty feet (20') curb-ward of the front building line, the driveway width may be expanded to twenty feet (20') to accommodate garage entrances or parking.
   (c) There is no limit to the driveway width beyond the front building line, other than by application of the overall lot greenspace requirement.

3. There must be at least thirty-six (36) linear feet between the two (2) curb cuts. (Measured along the street curb.)
   c. Location. No driveway or curb cut shall be located within two feet (2') of any side yard property line, except in the case of a side yard curb cut entrance for a corner lot, or a shared driveway serving two (2) properties. Driveway width and paved parking areas shall be limited in size by the greenspace requirement in Subsection (a)(2).
   d. Materials. Any construction or replacement of driveways shall be with a hard surface material. Gravel, crushed rock or other similar material is not considered hard surfaced material. Curb and driveway materials in the public right-of-way shall also be subject to any applicable right-of-way material requirement. Landscape strips or any landscape islands within driveways that are less than eight feet (8') in any dimension are prohibited.
   e. Nonconforming. Any legal nonconforming driveway or curb cut not complying with the above standards may be maintained, repaired or replaced without any modification other than adherence to any applicable right-of-way material requirement; provided, all driveways and curb cuts shall be brought into compliance in the event of a new dwelling unit, or when determined necessary, in the Building Inspector/Code Enforcement Officer's sole discretion, in the event of a substantial addition or remodel.
   f. KDOT. In the event any driveway or curb cut is associated with any KDOT project or is otherwise subject to KDOT right-of-way regulation, any conflicting KDOT requirement shall supersede the standards set forth hereinabove.

(b) Building design. The following building standards apply to all principal buildings and any accessory building that exceeds one hundred twenty (120) square feet in area.

(1) Intent. The intent of the building design standards is to:
   a. Reinforce the existing scale and patterns of buildings within neighborhoods, including appropriate transitions to areas adjacent to neighborhoods.
   b. Promote the character of the neighborhood through the design and relationship of buildings to streetscapes,
   c. Ensure quality design and the longevity of investments in neighborhoods.
   d. Manage the relationship of adjacent buildings to maintain privacy and promote compatible building scale and transitions.
   e. Enhance the quality, aesthetic character, and visual interest within neighborhoods by breaking down larger masses, incorporating human scale details and ornamentation, and encouraging the integrity of various architectural styles found within neighborhoods.
(2) Building entrances. The following standards break up the scale and mass of front facades and
create human-scale details that relate buildings to the neighborhood streetscape:

a. All principal buildings shall have a primary entrance or a primary entrance feature that
faces the street.

b. Any front facade that exceeds a one and one-half (1½) stories shall be articulated by one
of the following unenclosed primary entrance features [See Subdivision VII of this division,
Figure 15-438-1]:

1. A single-story covered front porch at least seven feet (7') deep with a total area of at least
seventy (70) square feet;

2. A stoop rising at least two feet (2') above the finished grade with enhanced architectural
elements, such as decorative railings, decorative door moldings, or transom windows, or

3. A single-story covered portico projecting from the front facade at least three feet (3') with a total
covered area of at least twenty-four (24) square feet.

c. Unenclosed primary entrance features meeting the minimum requirements of this section
may encroach up to seven feet (7') into the front setback with a maximum of one hundred
forty (140) square feet within the front setback.

d. Exception: Encroachments of unenclosed primary entrance features up to ten feet (10') into
the front setback with a maximum of two hundred (200) square feet within the front setback
may be approved by the Planning Commission upon a determination of the following:

1. The encroachment results in a setback, building lines, or other structural
encroachment similar to that of the immediately adjacent property;

2. The encroachment is architecturally compatible with and integrated into the principal
building;

3. The encroachment does not adversely impact any other required residential site
design guideline; and

4. The encroachment does not have a detrimental impact on adjacent property.

e. In no case may any portion of the primary entrance feature, as provided in Subsection c. or
d. above, be closer than thirty feet (30') to the front property line.

(3) Garages. The following standards shall minimize car-oriented building features and maintain a
human-scale relationship between buildings and the neighborhood streetscape.

a. Overhead garage doors shall not be more than eight feet (8') in front of the threshold of the
primary entrance of the principal building. Provided, in the event the garage doors face a
direction different than that of the primary entrance of the principal building (e.g., a side-
facing garage), this requirement shall apply to the foremost front portion of the garage
structure.

b. No more than forty percent (40%) of the linear width of the front facade may be occupied
by front-facing overhead garage doors. [See Subdivision VII of this division, Figure 15-438-
2]

c. All dwelling units shall maintain at least one (1) fully enclosed vehicle parking space.
Conversion of an attached or detached garage to a different use shall require provision of an
alternative fully enclosed vehicle parking space.

(4) Building massing: The following building massing standards shall apply in addition to the
setbacks and heights standards to break up the building massing in relation to adjacent lots:

a. Side setback lines:

1. Wall planes at or within one and one-half (1.5) times the side setback line shall be
limited to eight-hundred (800) square feet;
2. Wall planes at one and one-half (1.5) or up to two (2) times the side setback line shall be limited to one thousand two hundred (1,200) square feet.

3. Wall planes at two (2) times or more the side setback line shall not be limited, other than the general height, building footprint and design standards. [See Subdivision VII of this division, Figure 15-438-19]

b. Rear setback lines:

1. Wall planes at or within fifteen feet (15') of the rear setback line shall be limited to eight-hundred (800) square feet. [See Subdivision VII of this division, Figure 15-438-20]

c. Projections: Chimneys, bays, eaves and other massing elements that are integral to the design and style of a structure may project into the required setback and building massing standards subject to the following:

1. Projections may be between two feet (2') and four feet (4'), but never more than fifty percent (50%) of the required setback. However, window wells designed for egress may be four feet (4') deep and extend into the required setback in all cases.

2. Projections shall be limited to no more than two hundred (200) square feet. [See Subdivision VII of this division, Figure 15-438-21]

(5) Building facades: The following design standards shall be used to organize the composition of facades consistent with the architectural style of the home and provide details that relate buildings to the neighborhood streetscapes and adjacent sites.

a. No facades shall exceed more than six hundred (600) square feet without architectural relief. Architectural relief shall be:

1. A structural building element that breaks up a wall plane by creating a projection or recession of at least eighteen inches (18") that occurs cumulatively over at least twenty-five percent (25%) of the facade. Examples include dormers projecting from a roof, projecting primary entrance features, or projections or recessions in the facade building line. [See Subdivision VII of this division, Figure 15-438-3]; or

2. Architectural details and ornamentation characteristic of a particular style that establish patterns and proportions on the overall facade. Examples include material changes, vertical or horizontal moldings, columns or trim or similar details and ornamentation that may be essential to any particular chosen architectural style.

b. All facades shall have window or door openings covering at least fifteen percent (15%) of the facade above grade. The shape, style, and placement of windows and doors shall not be inconsistent with the architectural style of the home. In the event of an addition to an existing structure, this requirement may apply to the least restrictive of: (1) the entire facade facing the same direction (e.g., front, rear or either side facade), including both the addition and the existing structure; or (2) only the facade of the addition being built and not any part of the existing structure that is not being modified as part of the construction project. See Subdivision VII of this division, Figure 4-2-4:

1. Windows shall have a vertical or square proportion, although groups of windows may be joined in a horizontal proportion;

2. Windows shall be stacked for two-story facades with lower windows aligning with upper windows, and have a hierarchy with lower windows being larger than upper windows;

3. In the event of an addition to an existing structure, this requirement may apply to the least restrictive of: (1) the entire facade facing the same direction (e.g., front, rear or either side facade), including both the addition and the existing structure; or (2) only the facade of the addition being built and not any part of the existing structure that is
not being modified as part of the construction project. [See Subdivision VII of this division, Figure 15-438-4]

(6) **Building materials.** The following building material standards shall be used to create quality designs consistent with the architectural style of the home and prioritize natural materials that age and weather well.

a. **Acceptable materials**—The following exterior surface materials are acceptable on all facades:
   1. Brick;
   2. Stone;
   3. Stucco;
   4. Wood shingles;
   5. Wood siding;
   6. Wood paneling;
   7. Glass blocks;
   8. Vinyl siding;
   9. Horizontal aluminum siding;
   10. Fiber cement siding designed to look like wood siding or shingles (e.g., Hardie board);
   11. Engineered wood siding (EWS), including strand and fiber wood products meeting ANSI 135.6 standards for hardboard, designed to look like wood lap siding or shingles and installed in accordance with the manufacturer's specifications. (e.g., SmartSide, CatawbA or TruWood).

Additional building materials may be approved by the Planning Commission.

b. **Provisional materials.** The following provisional exterior surface materials may be approved by the Planning Commission, subject to the special provisions listed:
   1. Exterior insulation finishing system (EIFS) shall require certification by an independent third party, paid for by the owner, certifying that the material was installed according to manufacturer's specifications.

c. **Prohibited materials.** In addition to those materials prohibited by the City's building code, the following materials are prohibited on all facades:
   1. Corrugated metal siding;
   2. Sheet panel materials including particle board, plywood, oriented strand board (OSB) or engineered wood, i.e. 4-foot by 8-foot panel material;
   3. Concrete masonry units, such as cinder block or split-faced block.

d. Windows, doors, and louvers shall be wood, vinyl, or metal and glass.

e. Siding material shall extend below the top of the exterior of the foundation or curtain wall or the joint between the siding and enclosure wall shall be flashed according to the City's building code.

f. **Material allocation.** Allowed materials shall be allocated according to the following:
   1. All new buildings shall be limited to two (2) base materials and up to three (3) accent materials.
2. Additions to existing buildings having one (1) base material at the time of adoption of these zoning regulations shall continue the use of the same base material on the addition, provided that any building with a brick or stone base material may use a second base material.

3. Accent materials shall be limited to no more than twenty percent (20%) of any single facade.

4. The architectural style and all materials shall be consistent and compatible on all facades.

5. Base material changes shall only occur horizontally at architectural elements or vertically at internal corners. [See Subdivision VII of this division, Figure 15-415-5]

6. Any building lawfully existing at the time of adoption of these zoning regulations may continue the use of the building materials existing on the structure at that time whether through maintenance, siding replacement, or additions. Any new structure must conform with the provisions of this section.

(7) Roofs.

a. Acceptable primary materials. The following primary roofing materials are the types of materials that are acceptable:

1. Composite shingles;
2. Wood shake shingles;
3. Clay or concrete tile;
4. Natural slate;
5. Glass, acceptable only for greenhouses or solarium; or
6. Rolled composition or membrane roofing may be used on slopes of 4:12 or less at the discretion of the Building Official/Codes Administrator.

Additional primary roofing materials may be approved by the Planning Commission.

b. Prohibited materials. In addition to those materials prohibited by the City’s building code, the following roofing materials are prohibited:

1. Corrugated metal roofs.

c. Only one (1) roof material for each structure shall be visible from any area along the property line, but may include any accent materials up to twenty percent (20%) of the overall roof area. Accent materials may be approved by the Planning Commission in excess of twenty percent (20%) of the overall roof area where a degree of harmony will prevail between the architectural quality and the accent materials proposed. In addition to the acceptable roofing materials in Subsection b. above, copper and other standing seam metal roofing materials are acceptable for any accent material.

d. The type of roofing material used on all building additions shall be consistent with the material on the existing roof.

(8) Accessory buildings. Any accessory building greater than one-hundred twenty (120) square feet shall use materials, massing, and roof pitches that are consistent with the architectural style of the principle building.

(c) Fences and walls. A building permit shall be required for construction, alteration, replacement, repair or relocation of a fence or wall on any residential lot. The proposed fence or wall shall meet all standards of the building code and demonstrate that the following additional standards are met:

1. Generally. Unless otherwise specified, fences or walls:
a. **On lots other than corner lots,** shall not be located in front of the front building lines of the principal building or any adjacent dwelling units.

b. Shall not exceed six feet (6') high.

c. In the case of a corner lot, may **shall not be located** on or closer to the street-side property line(s) than the street-side building line(s) of any adjacent dwelling unit(s), provided, in no event shall any fence or wall be located in the right-of-way any closer than twelve feet (12') to any street-side property line. [See Section 15-438 subdivision VII of this division, Figure 15-438-6]

d. **Exception:** In the event the principal building and lot are situated in such a manner that a fence or wall subject to this corner lot requirement would yield an area smaller than six hundred (600) square feet, or alternatively, can yield an area over six hundred (600) square feet, but only with an area less than twenty five feet (25') in any single dimension (length or width of the yard), the Planning Commission may approve an exception subject to the following:

1. The exception may only be granted for a fence or wall on one (1) street-side yard. When applicable, the Commission shall make a determination on which street-side yard provides the least disruption to the predominant streetcape. In making this determination, the Commission shall take into account the predominant frontage of the existing property as well as the frontage of adjacent properties;

2. The fence or wall within the exception area shall not exceed four feet (4') in height;

3. The fence or wall shall be constructed out of a material compatible with the style of the principal building and limited to the following types of materials: wood, brick, stone or wrought iron;

4. The exception shall not cause an adverse impact on the surrounding properties; and

5. The Commission may specify an additional location or other restrictions to the extent that it protects the appearance and function of the public streetcape, and minimizes the impact on adjacent properties.

g. Shall be structurally stable and shall not incorporate the use of any type of wire such as barbed wire, chicken wire or wire which is electrically charged.

h. Any support or framing members shall have those members on the fence side facing the owner's property.

i. Shall be located to permit proper maintenance on all sides of the fence or wall. If the owner's existing fence or wall and the erection of the proposed fence or wall would not inhibit the growth of vegetation and would not allow sufficient space between the existing fence or wall and the proposed fence or wall for proper maintenance, the existing fence or wall must be removed. If an existing fence or wall is owned by an abutting property owner and is on or near the property line, the proposed fence or wall must be erected close enough to the abutting owner's fence or wall so as to inhibit the growth of vegetation or, in the alternative, provide sufficient space between the existing fence or wall and the proposed fence or wall for proper maintenance.

j. **Any legal nonconforming fence or wall that does not meet the current standards of this section may be repaired, replaced and maintained at its present location; provided, however, that any repair or replacement shall not increase the degree of the nonconformity; and further provided, where fifty percent (50%) or more of the existing fence or wall is repaired or replaced, such fence or wall shall comply with Subsections ge.**

ge. Any legal nonconforming fence or wall that does not meet the current standards of this section may be repaired, replaced and maintained at its present location; provided, however, that any repair or replacement shall not increase the degree of the nonconformity; and further provided, where fifty percent (50%) or more of the existing fence or wall is repaired or replaced, such fence or wall shall comply with Subsections ge.

d. and e. above (concerning height, materials and design). No property shall be allowed multiple permits over any eighteen (18) month period when the effect would be to circumvent this latter provision.

(2) **Decorative fences.** Decorative fences:
a. Shall extend no further than twelve feet (12') in front of the front building line of the principal building and shall in no case be closer than twenty-five feet (25') to any public right-of-way. Further, such fence may only be located in front of the primary entrance to the principal building and shall not extend beyond either side of the principal building.

b. Shall not exceed three feet (3') in height.

c. Shall be compatible with the style of the principal building, and limited to the following types of materials: wood, brick, stone or wrought iron.

d. Shall have a surface area with a minimum of fifty percent (50%) open area allowing an unobstructed view through the fence.

e. Shall not connect with any other fence on the property.

f. Shall not create an area that is completely enclosed without an un-gated opening to the yard that is at least three feet (3') in width.

g. Shall be maintained in good condition so that:
   
   1. Painted portions of the fence are not chipped or peeling;
   
   2. Broken elements of the fence are promptly repaired or replaced; and
   
   3. The area at the base of the fence is kept free of debris and neatly trimmed.

(d) Exceptions: Through the site plan process, the Planning Commission may grant exceptions to the site design standards in this section, based upon the following criteria:

(1) The exception will equally or better serve the intent statements for this section and the particular standards being altered;

(2) The exception meets any specific exception criteria identified in the standards, but shall not be granted to allow something that is specifically prohibited in the regulations;

(3) Any lot design exception is consistent with sound planning, urban design and engineering practices when considering the site and its context within the neighborhood.

(4) Any building design exception is consistent with the common characteristics of the architectural style applied to the overall design of the building.

(5) The requested exception coordinates quality design of the building and site—primarily considering the integrity of the architectural style, the energy performance of the site and building orientation, and the relationship of the internal function of the building to the site, streetscape and adjacent property.