



CITY OF FAIRFAX

Department of Community Development & Planning

Special Exception SE-16110006

PUBLIC HEARING DATE

December 6, 2016

APPLICANT

Deborah and Mark Williams, Owners

AGENT

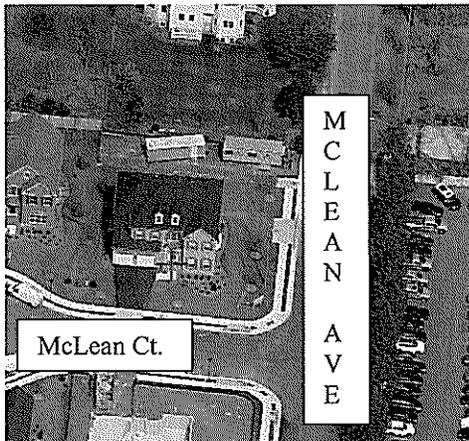
N/A

PARCEL DATA

Tax Map ID
57-1-(37)-006

Street Addresses
10600 McLean Court

Zoning District
RH Residential High



APPLICATION SUMMARY

Request by Deborah and Mark Williams, property owners, pursuant to City Code Sections 110-4.7.7 and 110-6.17.7, for a special exception to City Code Section 110-4.7.3.A.3 to allow an existing seven-foot-tall fence to remain in the street side yard and to allow construction of a new seven-foot-tall fence in the street side yard where a maximum fence height of four feet is permitted on a corner lot in the RH Residential District on the property located at 10600 McLean Court and more particularly described as Tax Map Parcel 57-1-(37)-006.

STAFF RECOMMENDATION

Based on analysis of the criteria contained in City Code Sections 110-4.7.7 and 110-6.17.7., staff recommends that the Board of Zoning Appeals approve the Special Exception request, as modified by staff, and subject to the following development conditions:

1. The applicant shall remove or modify the existing seven-foot-tall fence, along the rear property line that borders the street side yard, to comply with the current fence regulations.
2. The applicant shall install, at the top of the existing slope along the house sidewall that faces McLean Avenue, a five-foot-tall fence that extends not more than six feet from the sidewall and then angles to run parallel to the street right-of-way line.
3. The applicant shall ensure that the materials as proposed are used for fencing on the subject site.
4. The applicant shall ensure that where any fence on the subject site is placed across the existing 20-foot-wide public storm sewer easement the fence shall provide a clearance of at least one foot from bottom of the fence to ground to allow unimpeded natural drainage of water toward McLean Avenue, and shall provide that only loose wire is placed in the opening as may be needed for security purposes and does not obstruct the flow of water draining towards McLean Avenue.

City Hall ♦ 10455 Armstrong Street ♦ Room 207

Fairfax ♦ Virginia ♦ 22030

703-385-7820 ♦ (FAX) 703-385-7824

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BACKGROUND INFORMATION

The 0.272-acre (11,848 square feet) subject property was developed in 2014 as part of the McLean Estates subdivision development which is zoned RM Residential Medium. The subject property is a corner lot that measures 70.64 feet along McLean Court (front yard) and 111.52 feet along McLean Avenue (street side yard). The property also measures 123.02 feet along the interior side yard, and 95 feet along the rear property line. The property is also currently encumbered by a 20-foot-wide public storm sewer easement that runs across the rear yard parallel to the rear property line. Staff has advised the applicant that, pursuant to the deed of easement recorded with development of the subdivision, no use or improvements can be made in the easement without specific written authorization from the City, and that no use can be made of the easement which interferes in any way with the natural drainage.

The applicant has constructed a seven-foot-tall privacy fence along the rear property line that runs to the McLean Avenue right-of-way line. Staff advised the applicant that only the portion of the existing fence located directly behind the house, in the rear yard, is allowed at a height greater than four feet (allowed up to seven feet in height). The portion of the existing fence in the street side yard measures to seven feet in height where the maximum height allowed is four feet.

The colonial-style home consists of 2,881 square foot of living space including a buried basement with areaway access to the rear yard and an emergency egress window that faces McLean Avenue. The exterior finish is brick and vinyl siding. The house is setback a distance of 29.1 feet from McLean Avenue where the required setback is 25 feet from the right-of-way. The property slopes downward towards McLean Avenue with about a two-foot change in elevation and there are six deciduous trees, newly installed by the applicant, along the property's McLean Avenue frontage.

To the north of the subject site is a single family lot (3600 McLean Avenue) that consists of 0.503 acres (21,910 square feet). The approximately 5,722 square foot colonial home was constructed in 2009 in the Fairfax Acres subdivision. To the east, across McLean Avenue, is property zoned CR Commercial Retail and developed with an automobile dealership (DARCARS). The dealership's vehicle storage area provides a vegetative buffer of mature evergreen trees and screening fence along its McLean Avenue frontage.



Aerial photo of subject site and surrounding residential and commercial properties.

REQUEST

The applicant requests special exception relief from the fence regulations of City Code Section 110-4.7.7 to allow 1) the existing seven-foot-tall cedar wood board-on-board fence at the rear of the property to remain and 2) to allow construction of an additional seven-foot-tall cedar wood board-on-board fence in the street side yard (parallel to McLean Avenue) where a maximum fence height of four feet is allowed.

The existing seven-foot-tall fence proposed to remain is along the rear property line and extends into the side street yard. The applicant proposes to construct the new fence in the street side yard between the house and the concrete public walkway along McLean Avenue. The proposed fence would be attached to the house wall between the bay window and the emergency egress window (about two-thirds distance from the front edge of the house) and project 12 feet from the house wall (towards McLean Avenue), have a 90-degree angle and then run parallel to McLean Avenue and terminate at the 3rd post of the existing seven-foot-tall board-on-board fence. Installation of the proposed fence will not necessitate any tree removal along the property's McLean Avenue frontage. The proposed fence would be constructed of similar materials and design to the existing rear yard fence.

Pursuant to City Code Section 110-4.7.3.A.3 fences not exceeding four feet in height are allowed anywhere in the front yard of a corner lot between a right-of-way line and the nearest wall of the principal structure. The Board of Zoning Appeals may approve special exception requests to exceed the maximum permitted height provided the criteria of City Code Sections 110-4.7.7 and 110-6.17 are satisfied.



Views of the subject property from corner of McLean Court and McLean Avenue



View of street side yard, proposed for new fence between wall of structure and right-of-way

View of rear property line and existing fence

ANALYSIS OF CRITERIA

The staff recommendation for this application is based on analysis of the following criteria for special exception review as specified in City Code Section 110-4.7.7.A for maximum height of fences and the general review criteria contained in Section 110-6.17.7.

City Code Section 110-4.7.7.A.

1. Unusual site topography, and the relation of the proposed fence to that topography;

The subject property is relatively flat with the exception of its moderate slope towards McLean Avenue where there is an elevation change of about two feet. Consequently, the property's topography in the rear yard and along the rear property line does not support any need for the existing fence in the street side yard to remain at seven feet in height and exceed the maximum allowed height of four feet.

Based on staff's analysis the applicant has not demonstrated there is a condition of unusual site topography that would support allowing the existing seven-foot-tall fence to remain in the street side yard. Staff recommends that the applicant either remove or modify this portion of the existing fence in order to comply with the current Code.

The applicant's request for special exception relief would allow placement of a fence that exceeds the maximum allowed height in order screen from public view the visibility of the emergency egress window (on the house side facing McLean Avenue) and the areaway (facing into the rear yard). In the street side yard, a by-right four-foot-tall fence would establish a physical property boundary between the subject site and the public right-of-way, including sidewalk and street. The two-foot change in elevation from the house wall down to the street right-of-way means that when viewed from the street a four-foot-tall fence at the top of the slope could have substantially the same screening effect as the seven-foot-tall fence 12 feet from the public right-of-way as proposed by the applicant.

Based on staff's analysis the higher elevation of the house, compared to the street, is more beneficial to placement of a by-right fence (up to 4.8' in height with approval of an Administrative Adjustment) at the top of the slope to achieve screening of the emergency egress window from public view. Consequently, staff recommends approval of a special exception to allow construction of five-foot-tall fence at the top of the slope, and no closer than six feet from the house for adequate clearance to the window well, that would have the same screening effect as the seven-foot-tall fence the applicant proposes to construct 12 feet from the McLean Avenue right-of-way.

2. Unusual lot configuration (e.g., placement of the house on the lot, heavy traffic volume, existence of a vacant lot);

The subject property is a corner lot at the intersection of McLean Avenue and McLean Court. The lot is rectangular in shape and is similar in size and shape to other lots within the McLean Estate subdivision. The vertical relationship between the house and McLean Avenue is not an adverse circumstance of house placement and is generally consistent with City standards for single-family detached development. However, the design of the house such that the emergency egress window is clearly visible to the public could be considered a potential infringement on privacy and security for an owner of the property.

Staff's analysis found that of the two corner houses in the McLean Estates subdivision only the subject site has an emergency egress window into the street side yard. This is a design condition that may cause concern for home/property security which could

be alleviated by a fence that is taller than four feet. Staff recommends approval of a special exception to allow a five-foot-tall fence placed no closer than six feet from the house sidewall.

3. The presence of neighboring properties that contain uses other than single-family residences;

The DARCARS auto dealership is located on the east side of McLean Avenue opposite the subject property. The dealership's vehicle storage area fronts onto McLean Avenue and is bordered along the street frontage by a chain link fence (woven with metal slats) as well as a line of mature evergreen trees. Installation of a by-right six-foot-tall fence from the rear wall of the house to the rear property line would further screen visibility of the dealership from the rear yard of the subject property. Allowing the seven-foot-tall fence in the street side yard and 17 feet from the street, as proposed by the applicant, is not expected to offer any additional benefit to screening views of the dealership from the subject site's rear yard.

Staff's review of the special exception request found that the street side yard of the subject site is opposite a commercial use (vehicle storage area for dealership) on the east side of McLean Avenue. The vehicles in this storage area are currently screened as required by the applicable regulations to minimize any change to the residential character along this portion of McLean Avenue. Staff's conclusion is that the proposed seven-foot-tall fence setback 17 feet from the right-of-way would not contribute to visual screening from the rear yard or to the residential character along this portion of McLean Avenue and could begin to create the "canyon-affect" along the street.



Auto dealership (DARCARS) screening fence and trees opposite subject site.

4. Fence design (e.g., opacity, materials), and variations of fence materials.

The existing seven-foot-tall cedar board-on-board fence at the rear property line was constructed with 6 x 6 posts set in concrete. The proposed fence in the street side yard will be comprised of the same materials to match the existing fence along the rear property line. The applicant's fence design is consistent with the fence materials used on the property at 10601 McLean Court which is on the opposite corner from the subject site. This combination of materials is compatible with fences on other residential properties along McLean Avenue.

Staff believes the fence design and material are compatible with the neighborhood and supports the existing and proposed fence materials.

City Code Section 110-6.17.7.A.

1. Ensure the same general level of land use compatibility as the otherwise applicable standards;

The applicable standard for fencing is a maximum height of four feet in the front and street side yards and seven feet in and around the rear yard. The applicant's proposal to allow the existing fence to remain as is and to install an additional seven-foot-tall fence that exceeds the maximum fence height allowed in the street side yard and place the taller fence 17 feet from the property line where a 25-foot building restriction line applies is not generally compatible with character of residential fencing. However, a five-foot-tall fence placed six feet from the house sidewall would be the minimal relief necessary to ensure the same general level of land use compatibility as the otherwise applicable standard for residential fencing.

Staff recommends that the applicant modify or remove the portion of existing fence along the rear property line that borders the street side yard to comply with the applicable fence regulations. Staff also recommends approval of a special exception to allow a five-foot-tall fence placed not more than six feet from the sidewall of the house.

2. Not materially and adversely affect adjacent land uses and the physical character of uses in the immediate vicinity of the proposed development because of inadequate transitioning, screening, setbacks and other land use considerations;

The subject site is developed as, and is immediately adjacent to, single-family detached residential property. The City's regulations do not include any requirement for screening between single-family detached residential properties. However, the regulations place limits on the extent of privacy screening such that a seven-foot-tall privacy screen (fence) is only allowed in and around rear yards. Consequently, the applicant's request for a seven-foot-tall fence in the street side yard conflicts with the City's standard and with the physical character of similar residential uses in the immediate vicinity with by-right fences.

Based on staff's analysis the applicant's request for special exception relief to allow fencing that exceeds the maximum permitted height by more than one foot in the street side yard could materially and adversely affect the character of the surrounding residential uses and establish a non-compliant physical character for residential fencing along McLean Avenue.



Property at 10602 McLean Court with six-foot-tall fence as allowed by-right.

3. Be generally consistent with the purposes and intent of this chapter and the adopted *Comprehensive Plan*;

The *Comprehensive Plan* encourages the preservation of neighborhood character. The McLean Estates neighborhood is in the RH Residential High district which is characterized by a 25-foot-wide front and street side yard that, as defined, is required to be open and unoccupied. The ability to place a four-foot-tall fence anywhere in the front and street side yards preserves the open/unoccupied yard feature for this type of single-family detached residential character. The applicant's proposal for construction of a seven-foot-tall fence that would sit 17 feet from the McLean Avenue right-of-way removes half of the street side yard from view to an extent that is not consistent with the character of the subdivision or the RH district.

Based on staff's analysis the applicant's requests are not consistent with the purpose and intent of the fence regulations and the adopted Comprehensive Plan goal for preservation of neighborhood character. Staff recommends the applicant either remove or bring into compliance the existing fence along the rear property line. Staff also recommends approval of a five-foot-tall fence located not more than six feet from the house sidewall as generally consistent with the fence regulations and the adopted Comprehensive Plan, and providing the minimum relief necessary to the City's standard.

4. Be based on the physical constraints and land use specifics, rather than on economic hardship of the applicant.

The physical constraint relevant to the request for relief from City's standard for fence placement is the location of the emergency egress window. Placement of the egress window on the rear wall or the other side wall would have eliminated any security concerns because of its visibility from the public right-of-way.

Based on staff's review the applicant's request for special exception relief to the fence regulations is based on the physical constraint created by the placement of the emergency egress window. However, staff believes the recommended five-foot-tall fence constructed not more than six feet from the house sidewall would provide relief that is applicable to the physical constraint.

CONCLUSION

Based on the review of City Code Sections 110-4.7.7 and 110-6.17 as pertain to application SE16110006, staff concludes that the Special Exception request to allow an existing seven-foot-tall fence to remain in the street side yard and for the construction of an additional seven-foot-tall fence where the maximum fence height allowed is four feet in the street side yard partially satisfies the review criteria as follows:

1. The subject site is characterized by a change in topography along the McLean Avenue frontage, although not in the rear yard;
2. The placement of the emergency egress window facing toward McLean Avenue creates a special design configuration of the house;
3. The fence design (e.g., opacity, materials) is compatible with others in the neighborhood;
4. The proposal as modified by staff's recommendation does have the same general level of land use compatibility as the four-foot-tall fence that could be placed anywhere in the street side yard;
5. The proposal as modified by staff's recommendation will not materially and adversely affect adjacent single-family residential land uses and the physical character of these uses in the immediate vicinity of the proposed development;

- 6. The proposal as modified by staff is generally consistent with the purposes and intent of this chapter and the *Comprehensive Plan* because it is the minimum relief necessary to enhance security of the emergency egress window and continues to support a residential neighborhood character; and
- 7. The physical constraint created by the location of the emergency egress window facing McLean Avenue is the basis for the applicant's request, rather than an economic hardship of the applicant.

RECOMMENDATION

In consideration of the conformance of this proposal with the applicable standards of the fence regulations contained in City Code Section 110-4.7.3 and the criteria for special exception relief contained in City Code Sections 110-4.7.7 and 110-6.17.7 staff recommends that the Board of Zoning Appeals approve the special exception request as modified by staff and with the following conditions:

- 1. The applicant shall remove or modify the existing seven-foot-tall fence, along the rear property line that borders the street side yard, to comply with the current fence regulations.
- 2. The applicant shall install, at the top of the existing slope along the house sidewall that faces McLean Avenue, a five-foot-tall fence that extends not more than six feet from the sidewall and then angles to run parallel to the street right-of-way line.
- 3. The applicant shall ensure that the materials as proposed are used for fencing on the subject site.
- 4. The applicant shall ensure that where any fence on the subject site is placed across the existing 20-foot-wide public storm sewer easement the fence shall provide a clearance of at least one foot from bottom of the fence to ground to allow unimpeded natural drainage of water toward McLean Avenue, and shall provide that only loose wire is placed in the opening as may be needed for security purposes and does not obstruct the flow of water draining towards McLean Avenue.

PREPARED BY:

Lisa G. Feibelman
 Lisa G. Feibelman, AICP, LEED Green Associate
 Deputy Zoning Administrator

December 2, 2016
 DATE

REVIEWED AND APPROVED:

Michelle D. Coleman
 Michelle D. Coleman
 Zoning Administrator

12-2-16
 DATE

REVIEWED AND APPROVED:

 Brooke Hardin, AICP

 DATE

Director, Community Development & Planning

ATTACHMENTS

1. Location Map
2. Application with Statement of Support
3. Plat, Plans and Public Storm Drainage Easement
4. Sample Resolution
5. Sample Motions

ATTACHMENT: 1



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OCT 19 2016

ATTACHMENT: 2

Community Dev & Planning

Application No. SE-16110006

**SPECIAL USE, SPECIAL EXCEPTION AND VARIANCE
CITY OF FAIRFAX**

I/We Deborah Mark Williams by self
(name of applicant) (authorized agent's name and relationship to applicant)

a corporation / general partnership / limited partnership / sole proprietorship / individual (circle one) which is the
property owner / contract purchaser / lessee (circle one)

of 10600 McLean Court, Fairfax VA / Tax Map# 22030
(address)

Application for a Special Use Permit / Special Exception / Variance (circle one) pursuant to

Section 4.7.3 of the City Code to allow (describe request) retention of existing
7' fence and extend 7' fence into 2nd arc front yard

City Code References: _____

I certify that I have read and understand my application to comply with Zoning Ordinance Section 6.2.3.C Application Requirements, which states:

1. An application shall be sufficient for processing when it contains all of the information necessary to decide whether or not the development as proposed will comply with the applicable requirements of this chapter.
2. The burden of demonstrating that an application complies with applicable review and approval criteria is on the applicant. The burden is not on the city or other parties to show that the standards or criteria have not been met.
3. Each application is unique and, therefore, more or less information may be required according to the needs of the particular case. Information needs tend to vary substantially from application to application and to change over time as result of code amendments and review procedure changes. Staff has the flexibility to specify submission requirements for each application and to waive requirements that are irrelevant to specific situations. The applicant shall rely on the review official as to whether more or less information should be submitted."

Deborah Williams
(signature of applicant or authorized agent)

OWNERS
(title or relationship)

Address 10600 McLean Court
Fairfax, Virginia

Phone: (817) 609-3401
(817) 637-3296

Email: willimt1@gmail.com

THE FOLLOWING MUST BE COMPLETED BY THE PROPERTY OWNER

I/We Applicant: Mark Williams by W/K hereby certify that the applicant named above has the authority vested by me to make this application.

Mark Williams Robert P. Williams OWNERS
(signature of owner or authorized agent) (title or relationship)

Address 10600 McLean Court Phone: (817) 609 3401
Fairfax, VA 22030

FOR OFFICE USE ONLY

Proposal filed: 10/19/16 Received by: LF
Fee Paid: 525⁰⁰ Receipt No. 38066

Previous Cases: _____

Current status of business license and fees:
Treasurer: Property owner has no delinquent taxes Robert Williams 11-4-16
Commissioner of Revenue: Property owner has met the Comptroller's requirements
of this office. dated 11-4-16

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OCT 19 2016

Community Dev & Planning

AFFIDAVIT
CITY OF FAIRFAX

I, Deborah - Mark Williams, by N/A do hereby make oath or affirmation that
(name of applicant or agent)

I am an applicant in Application Number _____ and that to the best of my knowledge and belief, the following information is true:

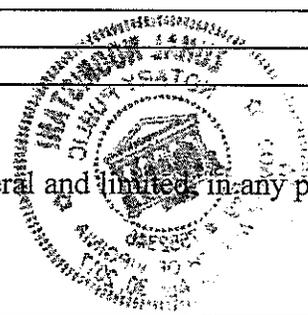
1. (a) That the following is a list of names and addresses of all applicants, title owners, contract purchasers, and lessees of the property described in the application, and if any of the foregoing is a trustee, each beneficiary having an interest in such land, and all attorneys, real estate brokers, architects, engineers, planners, surveyors, and all other agents who have acted on behalf of any of the foregoing with respect to the application (attach additional pages if necessary):

Name	Address	Relationship
<u>Mark Williams</u>	<u>10600 McLean Court</u>	<u>Owner</u>
<u>Deborah Williams</u>	<u>10600 McLean Court</u>	<u>Owner</u>

(b) That the following is a list of the stockholders of all corporations of the foregoing who own ten (10) percent or more of any class of stock issued by said corporation, and where such corporation has ten (10) or less stockholders, a listing of all the stockholders (attach additional pages if necessary):

Corporation Name: N/A

Name	Address	Relationship



(c) That the following is a list of all partners, both general and limited, in any partnership of the foregoing (attach additional pages if necessary):

Partnership Name: N/A

Name	Address	Relationship

2. That neither the Mayor nor any member of the City Council, Planning Commission, BZA, or BAR has any interest in the outcome of the decision. EXCEPT AS FOLLOWS: (If none, so state.)

None

3. That within five (5) years prior to the filing of this application, neither the Mayor nor any member of the City Council, Mayor, Planning Commission, BZA, or BAR or any member of his or her immediate household and family, either directly or by way of a corporation or a partnership in which anyone of them is an officer, director, employee, agent, attorney, or investor has received any gift or political contribution in excess of \$100 from any person or entity listed in paragraph one. EXCEPT AS FOLLOWS: (If none, so state.)

None

WITNESS the following signature:

[Handwritten Signature]
Applicant or Agent

ALL APPLICANTS MUST SIGN AND HAVE THEIR SIGNATURES NOTARIZED.

The above affidavit was subscribed and confirmed by oath or affirmation before me on this 15th day of October, 2016, in the State of Virginia

My commission expires: April 30th 2017

[Handwritten Signature]
Notary Public/Registration #



16 October 2016

Deborah and Mark Williams
10600 McLean Court
Fairfax, VA 22030

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Dear City of Fairfax Staff and Board of Zoning Appeals:

Community Dev & Planning

A. We are applying to the Board of Zoning Appeals (BZA) for two reasons:

1. Retain existing fence which divides the property line between 10600 McLean Court and 3600 McLean Ave.
2. Extend the fence and enclose a portion of our secondary front yard for security and privacy
 - a. See draft design and attached supporting presentation

B. Background:

We purchased the home, Lot 6 in McLean Estates, in February 2015. We originally had a contract with our builder (Rosewood Building and Development, LLC) to build a 6-foot fence in exchange for allowing the builder to retain two large construction trailers on our property while the builder completed construction and build-out of the remaining 5 units of McLean Estates.

When Deborah and I entered into the contract, we were unaware of the City Code restricting height to four feet and the builder never mentioned the restriction to us. After closing, and in further discussions with the builder, we learned of the City's Code and the requirement for a special exception for a fence greater than four feet in a secondary front yard. We were assured by the builder that we could appeal to the City and be granted an exception for our agreed-upon design.

In early 2015, the builder put us in contact with Lisa Feibleman and Michelle Coleman. Lisa and Michelle informed us of the procedures to take to have our request heard. They also mentioned that the City Code was changing and it may be beneficial to wait to have our case heard because the decision to approve the special exception may not have to go before the board. That is, in special exception cases where it made common sense, the Zoning Administrator may be able to approve without having to pay to go before the BZA. So we waited to build our fence in our secondary front yard.

In the meantime, we entered into negotiations with our rear-facing neighbors, Kim and Simon Chu (3400 McLean Ave), concerning a fence to divide our two adjoining properties. The Chu's maintain a vegetable garden on their side adjoining property line. We agreed to get several estimates and share the cost of seven-foot fence, which is a natural extension of the existing fence line along the back yards of 10602 and 10604 McLean Court and ties in to the natural fauna – a 14-foot tall tree – at the end of the fence line on McLean Ave. We contracted with Builders Fence. Total cost was \$3600.00.

Note: we had four independent estimates and none of the contractors were aware that the four-foot restriction applied to the property line between our two homes. The existing fence is constructed of the highest quality cedar, the posts are 6x6" pressure-treated lumber, and each post is set in concrete.

C. Considerations for a Special Exception to retain existing fence: We respectfully request that the staff and BZA consider our request to retain the existing fence due to the following facts:

1. The Existing Fence is generally consistent with the purposes and intent of the City's comprehensive plan
 - a. The existing fence is a natural extension of the fence line which extends along the rear property lines of 10602 and 10604 McLean Court .
 - b. The existing fence blends with the existing natural fauna at the end of the fence line along McLean Ave. The existing bush / shrub at the end of the fence line rises to a height of over 14 feet.

- c. The fence is made of quality material and professionally installed (Cedar, board on board construction, 6x6 posts set in concrete).
- d. The total cost (\$3600.00) was shared equally between 10600 McLean Court and 3400 McLean Ave
- e. Other examples of fences greater than four feet within the neighborhood.
 - i. Six-foot fence at 3618 McLean Ave
 - ii. Six-foot fence at corner lot of 10600 Orchard St
 - iii. Six-foot fences on corner lot of Harvey Drive and Meredith
 - iv. Six-foot fence on corner of Hill Street and Warwick Ave
- 2. The owners of both lots, and the construction company were unaware of the City's code as it applies to our two adjoining corner lots and the line separating the two properties. Our back yards.
- 3. The existing fence does not impede the view of traffic in either direction on McLean Avenue.
- 4. The existence of the fence is in keeping with the same general level of land use.
- 5. The quality material and construction enhances the physical character of adjacent land.
- 6. The fence would look absurd if reduced to four feet as proposed in the notice of violation.
- 7. Petition signed in support of this request by all members of McLean Estate HOA and Adjoining properties

D. Considerations for a Special Exception to extend a seven-foot fence along and enclose a portion of our secondary front yard. We respectfully request that the staff and BZA consider our request to extend a seven-foot fence along our secondary front yard to:

- 1. Provide for the safety and security of our property and family by enclosing the walkout basement access and the basement's bedroom access facing McLean Ave.
 - a. In accordance with existing City Code, a 7 foot fence attached to the corner of our home along McLean Ave would not enclose the access to our basement's bedroom and would unnecessarily confine the space we use as our back yard.
- 2. Allow for privacy for our family and neighbors due to unusual topography and elevation of our lot.
 - a. Lot 6 of McLean Estates sits on an elevated slope approximately 5 feet above street level.
 - i. Therefore, due to the unusual elevation, a four foot fence would not provide for adequate privacy or security.
 - b. We are requesting to install a 7-foot high fence along a portion of our secondary front yard.
 - i. The request requires a 12-foot offset from the corner of the house to attach orthogonally to the third 6x6" post of the existing fence.
- 3. The existing fence and the proposed extension do not / would not impeded traffic visibility along McLean Ave nor does it obscure traffic sight lines at the intersection of McLean Ave and McLean Court.
- 4. Petition signed in support of this request by all members of McLean Estate HOA and Adjoining properties.

E. Please reference the attached supporting documents and thank you for your consideration in this matter.

Sincerely,



Deborah and Mark Williams
 10600 McLean Court
 Fairfax, VA 22030

**Amendment to Application submitted on 19 October 2016
ICO 10600 McLean Court**

Considerations are reformatted in accordance with Chapter 110, Article 6.

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Community Dev & Planning

¶6.17.7 Approval Criteria.

With regard to the Special Exception request to Retain Existing Fence.

- A. [Would...] granting the special exception:
1. Ensure the same general level of Land use compatibility as otherwise applicable standards?
 - a. Yes.
 - i. The general level of land use will not change. It will remain Residential.
 2. [...] materially and adversely affect adjacent land uses and the physical character of uses in the immediate vicinity of the proposed development because of inadequate transitioning, screening, setbacks and other land uses?
 - a. No.
 - i. The existing fence is a natural extension of the fence line which extends along the rear property lines of 10602 and 10604 McLean Court.
 - ii. The existing fence blends with the existing natural fauna at the end of the fence line along McLean Ave. The existing bush / shrub at the end of the fence line rises to a height of over 14 feet.
 - iii. The existing fence does not impede the view of traffic in either direction on McLean Avenue.
 3. Be generally consistent with the purposes and intent of this chapter and the comprehensive plan?
 - a. Yes.
 - i. The fence is made of quality material and professionally installed (Cedar, board on board construction, 6x6 posts set in concrete).
 - ii. The existing fence blends with the existing natural fauna at the end of the fence line along McLean Ave. The existing bush / shrub at the end of the fence line rises to a height of over 14 feet.
 - iii. The existing fence is a natural extension of the fence line which extends along the rear property lines of 10602 and 10604 McLean Court.
 - iv. The Fence has the 100% approval of our Homeowner's Association Architectural Review Committee and adjacent properties. See Signed petition.
 4. [...]based on the physical constraints and land uses specifics, rather than on economic hardship of the applicant?
 - a. Yes.
 - i. The site elevation and unsightly industrial lot across the street from the property are the primary reasons for the request and not based on economic hardship.

B. Has the applicant made any special efforts to promote compatibility with neighboring properties, such as the installation of additional walls, fences, landscaping or screening, beyond that otherwise required, or other site design trade-offs

 1. The owners of both lots, and the construction company were unaware of the City's code as it applies to our two adjoining corner lots and the line separating the two properties. Our back yards.

2. The homeowners worked with its Homeowners Association, neighbors and contractors to design and install a beautiful, natural extension to an existing fence line along 10602 and 10604 McLean Court properties.
3. The homeowners provided signatures from neighboring property owners and a 100% HOA approval recommendation to retain the fence as constructed.
4. Other examples of fences greater than four feet within the neighborhood:
 - a. Six-foot fence at 3618 McLean Ave
 - b. Six-foot fence at corner lot of 10600 Orchard St
 - c. Six-foot fences on corner lot of Harvey Drive and Meredith
 - d. Six-foot fence on corner of Hill Street and Warwick Ave
5. The existing six-foot fence installed by the builder on Lot 1 of McLean Estates should not be considered in this request.
 - a. The fence was erected prior to the sale of the property and done so without the consent or desire of the current property owners.
 - i. At the time, we were litigating with the builder concerning our original design, cost and placement of our agreed-upon design.
 - ii. We believe the builder erected the fence to avoid fulfilling their original agreed-upon contractual arrangement with us.
 1. Had we continued the litigation, Lot 1's Fence would have been their "Exhibit A"
 2. We later dropped the suit and settled out of court.
 - b. The fence was poorly constructed and was repaired by the owners within three months of closing.
 - i. We have asked the property owners of Lot 1 to share their opinions of the fence built by the builder and the measures taken to correct installation defects.
 - ii. Additionally, we have asked them to be present when we meet with the BZA.

With regard to the Special Exception request to Extend a seven-foot fence and enclose a portion of our secondary front yard

- A. [Would...] granting the special exception:
 1. Ensure the same general level of Land use compatibility as otherwise applicable standards?
 - a. Yes.
 - i. The general level of land use will not change. It will remain Residential.
 2. [...] materially and adversely affect adjacent land uses and the physical character of uses in the immediate vicinity of the proposed development because of inadequate transitioning, screening, setbacks and other land uses?
 - a. No.
 - i. Lot 6 of McLean Estates sits on an elevated slope approximately 5 feet above street level and due to the unusual elevation, a four-foot fence would not provide for adequate privacy or security.
 - ii. We are requesting to install a 7-foot high fence along a portion of our secondary front yard.
 1. The request requires a 12-foot deviation from code offset from the northeast corner of the house to attach orthogonally to the third 6x6" post of the existing fence.
 3. Be generally consistent with the purposes and intent of this chapter and the comprehensive plan?

- a. Yes.
 - i. Lot 6 of McLean Estates sits on an elevated slope approximately 5 feet above street level.
 - ii. The fence extension will provide for the safety and security of our property and family by enclosing the walkout basement access and the basement's bedroom access facing McLean Ave.
 - iii. The fence would occupy only a small portion of the secondary front yard
 - iv. The fence would be made of the same quality materials and installed by the same company,
 - v. The proposed Fence would not impede the view of traffic in either direction on McLean Avenue or restrict visual approaches orthogonal to the Stop Sign at McLean Court.
- 4. [...]based on the physical constraints and land uses specifics, rather than on economic hardship of the applicant?
 - a. Yes.
 - i. The site elevation and unsightly industrial lot across the street from the property are the primary reasons for the request and not based on economic hardship.
- B. Has the applicant made any special efforts to promote compatibility with neighboring properties, such as the installation of additional walls, fences, landscaping or screening, beyond that otherwise required, or other site design trade-offs
 - 1. The builders have planted several trees along McLean Avenue but they do not provide security for unfettered access to the properties basement.
 - 2. The trees also do not obscure the unsightly industrial fence and property across McLean Ave. The industrial property has frequent truck and commercial vehicles which park along the property and offload their cars.
 - 3. The proposed extension would not impeded traffic visibility along McLean Ave nor does it obscure traffic sight lines at the intersection of McLean Ave and McLean Court.
 - 4. The homeowners have coordinated with their HOA membership, Architectural Review Committee, and provided a signed petition in support of this request.

RECEIVED

OCT 19 2016

Community Dev & Planning

Request for Special Exceptions

In Case of 10600 McLean Court
CE-16070013

(U) Summary

- Retain existing 7-foot Fence
- Extend 7-foot fence along portion of secondary front yard
 - Offset by 12' from side of house to:
 - Enclose Basement walkout and Bedroom Access
 - Obscure unsightly industrial parking lot across the street
 - Secure property from busy street and curb-side parking used by multiple residents

Existing Fence



Fence Tie-in to existing Fauna



End of Existing Fence



View from 3400 McLean Ave

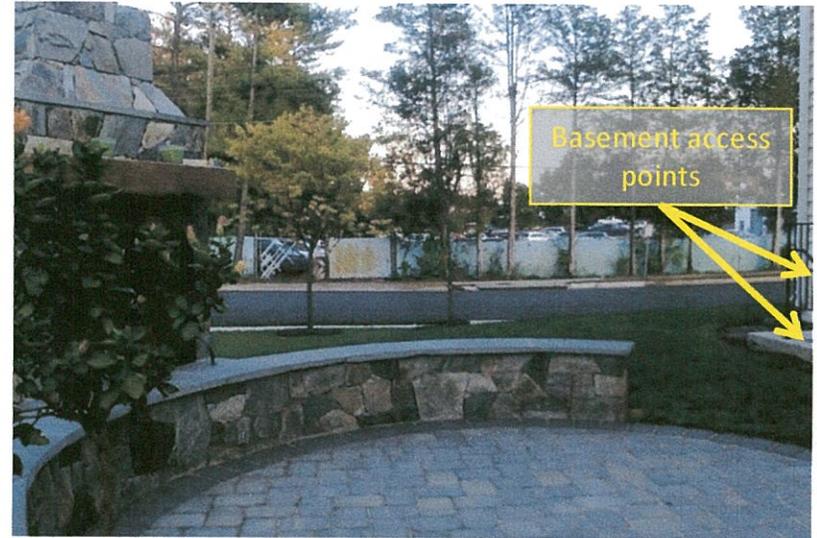


Extension of existing fence line

Various Views (Existing Sight Lines)



View from deck to McLean Ave



View of McLean Ave from patio



View from Stop Sign on McLean Ct



View Southbound on McLean Ave

Other Fairchester Woods Properties



Harvey and Meredith Dr



Harvey and Meredith Dr



3616 McLean Ave



3616 McLean Ave

Other Fairchester Woods Properties



Hill and Warwick



Hill and Warwick

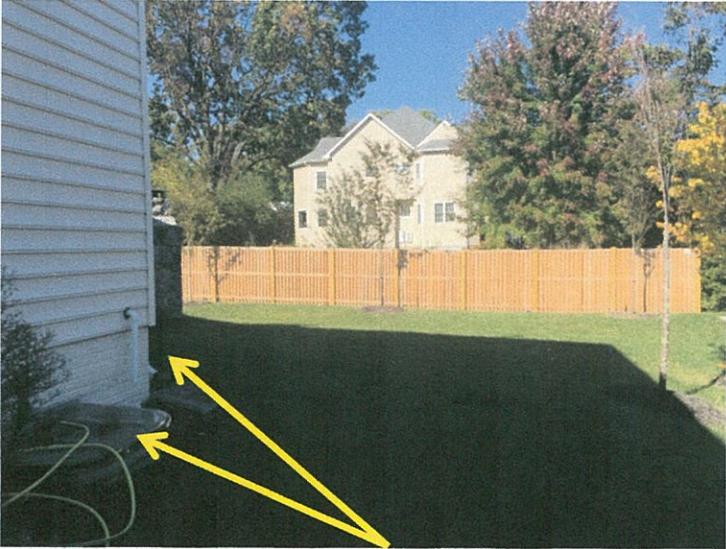


Orchard & McLean Ave



Orchard & McLean Ave

Proposed Fence



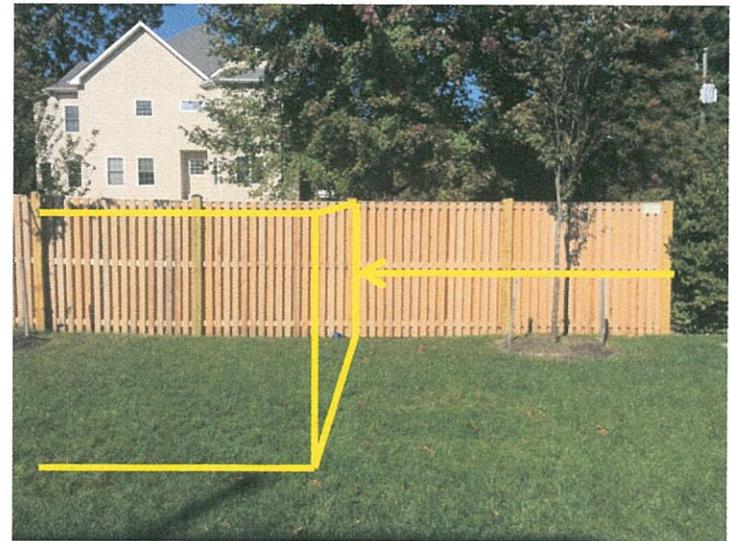
Access to basement to be enclosed



City Code reduction to 4 feet

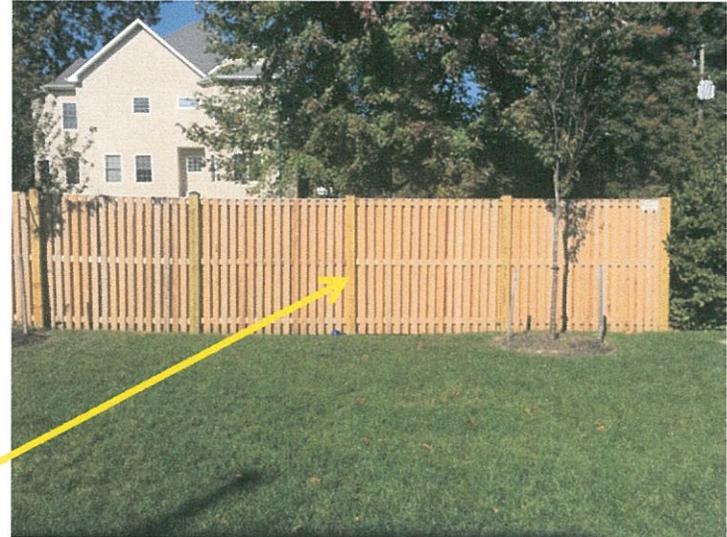


Elevation from McLean Ave



Proposed tie-in point

Proposed Fence



Proposed tie-in point

- Maintain height of existing fence
- Enclose portion of secondary front yard to provide privacy
- Restrict access to basement from McLean Ave (Security)
- Retains high-quality materials and construction

Signed Petition

Printed Name	Address	Signature	Yes or No on Measure 1	Yes or No to Measure 2
Mark Williams	10600 McLean Ct, Fairfax, VA 22030	<i>[Signature]</i>	Yes	Yes
Deborah Williams	10600 McLean Ct, Fairfax, VA 22030	<i>[Signature]</i>	Yes	Yes
Cejun Liu	10601 McLean Ct, Fairfax, VA 22030	<i>[Signature]</i>	Yes	Yes
Kathy Liu	10601 McLean Ct, Fairfax, VA 22030	<i>[Signature]</i>	Yes	Yes
Matt Forrest	10602 McLean Ct, Fairfax, VA 22030	<i>[Signature]</i>	YES	YES
Melissa Forrest	10602 McLean Ct, Fairfax, VA 22030	<i>[Signature]</i>	YES	YES
Spencer Roberts	10603 McLean Ct, Fairfax, VA 22030	<i>[Signature]</i>	YES	YES
Riana Roberts	10603 McLean Ct, Fairfax, VA 22030	<i>[Signature]</i>	YES	YES
Amir Eftekhari	10604 McLean Ct, Fairfax, VA 22030	<i>[Signature]</i>	YES!	YES!
Luma Elaker	10604 McLean Ct, Fairfax, VA 22030	<i>[Signature]</i>	Yes	Yes
Tony Smith	10605 McLean Ct, Fairfax, VA 22030	<i>[Signature]</i>	Yes	Yes
Jan Smith	10605 McLean Ct, Fairfax, VA 22030	<i>[Signature]</i>	Yes	Yes
Simon Chu	3400 McLean Ave, Fairfax, VA 22030	<i>[Signature]</i>	Yes	Yes
Kim Chu	3400 McLean Ave, Fairfax, VA 22030	<i>[Signature]</i>	Yes	Yes
Fatin Elhajj	3603 McLean Avenue, VA 22030	<i>[Signature]</i>	Yes	Yes
Misty Cantor	3603 McLean Avenue, VA 22030	<i>[Signature]</i>	Yes	Yes
Priyanka Bajaj	3521 McLean Ave, Fairfax, VA 22030	<i>[Signature]</i>	Yes	Yes

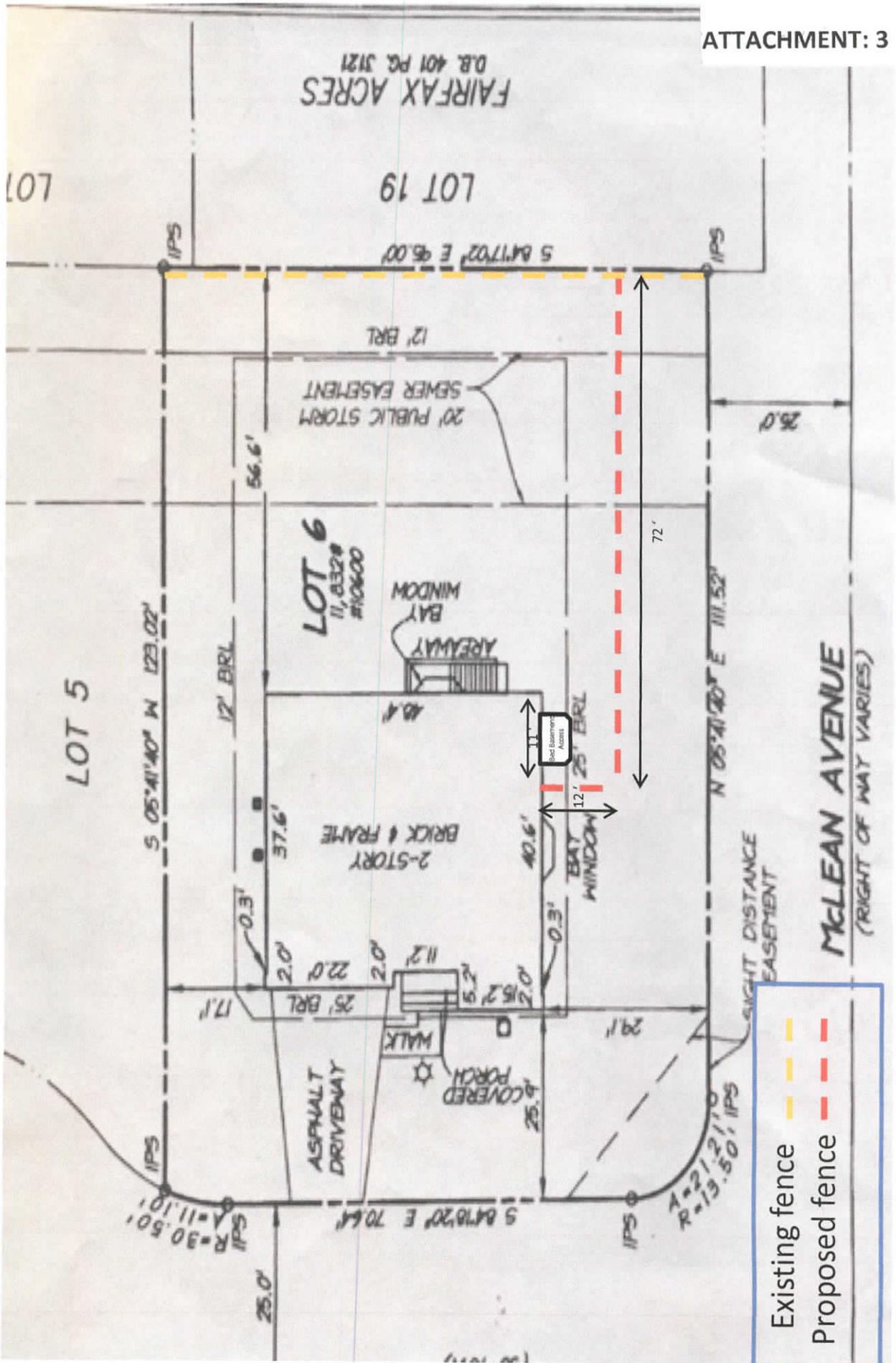
Measure 1: Retain current height of existing fence between 10600 McLean Court and 3400 McLean Ave
 Measure 2: Extend similar structure in Secondary Front Yard of 10600 McLean Court as depicted below

- Unanimous consent for both measure from McLean Estates HOA membership and adjoining properties

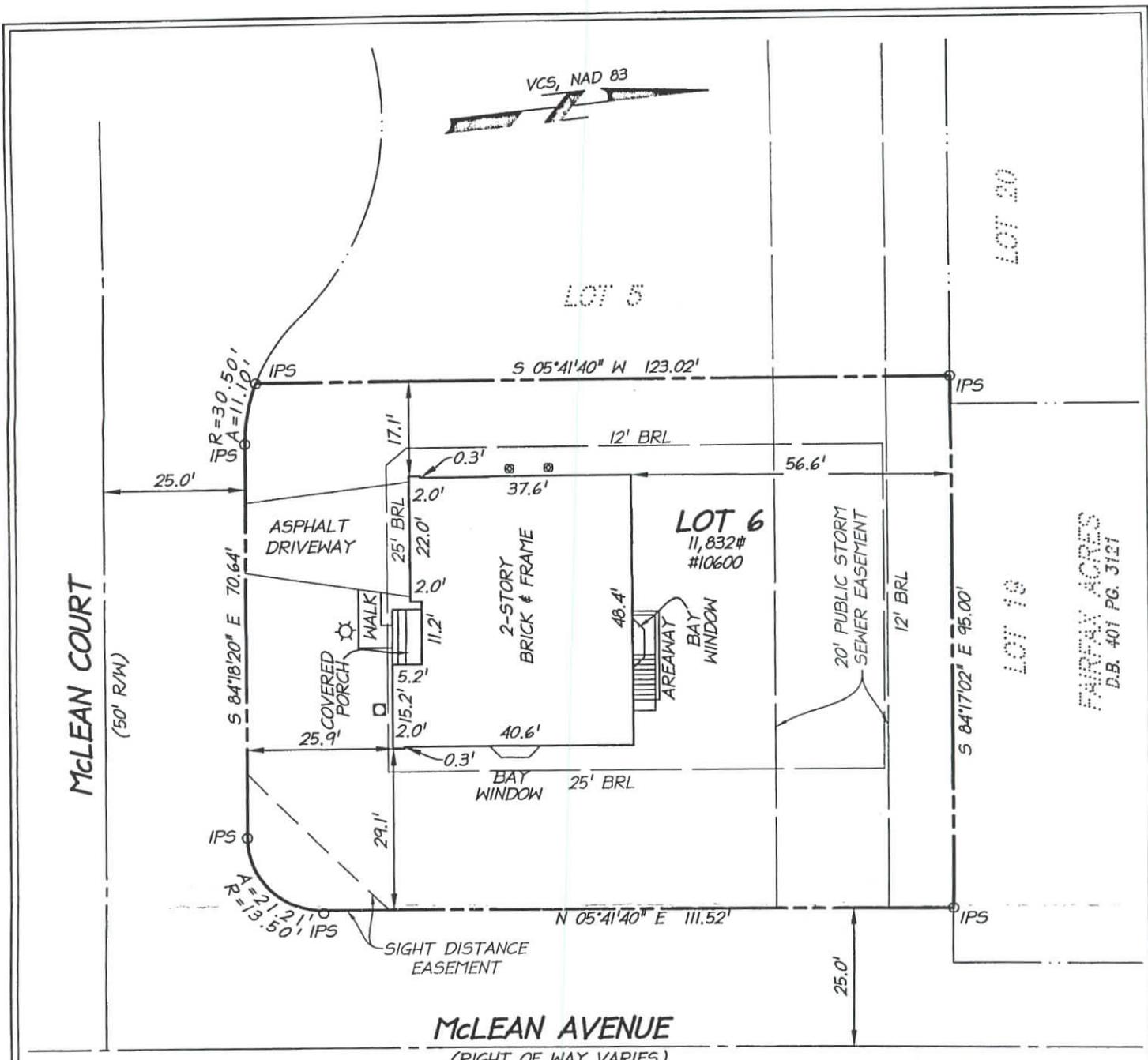
Proposed Fence (Conceptual)



Proposed Fence (Expanded)



P:\NPY 2013\108-1-0 MCLEAN ESTATES\SURVEY\HLS\WC LOT 6.dwg



LEGEND

- IPS IRON PIPE SET
- ☼ LIGHT POLE
- CLEANOUT
- ⊗ AIR CONDITIONER

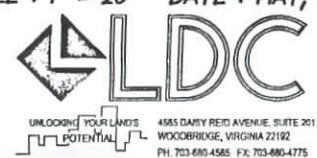
NOTES

1. NO TITLE REPORT FURNISHED.
2. THE IMPROVEMENTS SHOWN DO NOT LIE WITHIN A H.U.D. DESIGNATED AREA OF SPECIAL FLOOD HAZARD.
3. THE BUILDING DIMENSIONS AND PROPERTY TIES SHOWN ON THIS SURVEY ARE NOT INTENDED TO BE USED IN RE-ESTABLISHING LOT CORNERS OR DETERMINING THE LOCATION OF FUTURE CONSTRUCTION OF EXTERIOR IMPROVEMENTS.
4. ALL EASEMENTS SHOWN HEREON ARE RECORDED IN DEED BOOK 23407 AT PAGE 987 UNLESS OTHERWISE NOTED.
5. TOP OF WALL ELEVATION: 368.54
6. WALLCHECK : 05-22-2014
7. FINAL : 11-05-2014



LOCATION APPROVED
Nancy Hammer
 ZONING ADMINISTRATOR
 DATE: 1/20/15

FINAL HOUSE LOCATION SURVEY
LOT 6
MCLEAN ESTATES
 DEED BOOK 23407 PAGE 987
 CITY OF FAIRFAX, VIRGINIA
 SCALE : 1" = 20' DATE : MAY, 2014



2. The Owner, its successors and assigns, agrees to cut and trim all plants in order to maintain the height limit. The City shall have the right (but not the obligation) to enter the property in order to maintain the height limit if the Owner fails to do so at any time. The cost of such work shall be reimbursed to the City by the Owner, its successors and assigns, upon demand.

3. The Owner reserves the right to make any use of the property that will not be inconsistent with the easements.

PRIVATE STORM SEWER EASEMENT

THIS DEED FURTHER WITNESSETH, that for and in consideration of the sum of Ten Dollars (\$10.00), cash in hand paid, the receipt and sufficiency of which are hereby acknowledged, the Owner, with the consent and approval of First Trustee, First Lender, Second Trustee, and Second Lender, does grant and convey unto the HOA, its successors and assigns, over a portion of Lot 1 and a portion of Lot 5, a Private Storm Sewer Easement for the purpose of constructing, operating, maintaining, adding to or altering present or future storm drainage and detention facilities, sewers and appurtenances for the collection of storm drainage and its detention and transmission through and across portions of the Property, said easement being more particularly bounded and delineated on Lot 1 as "Private Storm Sewer Esm't (Hereby Granted)" and on Lot 5 as "Prop. 10' Private Storm Esm't (Hereby Dedicated)" on the Plat attached hereto and made a part hereof. The easements are subject to the following terms and conditions:

1. All stormwater management and appurtenant facilities which are installed in the easements and rights-of-way shall be and remain the collective property of the HOA, its successors and assigns.

2. The HOA shall have full and free use of the said easements and rights-of-way for the purposes named and shall have all rights and privileges reasonably necessary to the enjoyment and exercise of the easement and right-of-way including the right of reasonable access to and from the right-of-way and the right to use adjoining land where necessary; provided, however, that this right to use adjoining land shall be exercised only during periods of actual surveying, construction, reconstruction or maintenance; and further, this right shall not be construed to allow any party to erect any building or structure of a permanent nature on such adjoining land.

3. The HOA shall have the right to trim, cut and remove trees, shrubbery, fences or other obstructions or facilities in or near the easement being conveyed deemed by it to interfere with the proper construction, operation and maintenance of said drainage facilities; provided, however that the HOA at its own expense shall restore, as nearly as possible, the premises to their original condition, such restoration to include the backfilling of trenches, the replacement of shrubbery, the resodding and the reseeding of lawns and open space areas, but not the replacement of structures, trees or other obstructions.

4. No use or improvements shall be made in the easement without specific written authorization from the HOA and that no use shall be made of the easement, which shall interfere in any way with the natural drainage.

COVENANTS RUNNING WITH THE LAND

The Owner agrees that the agreements and covenants stated in this Deed are not covenants personal to the Owner but are covenants running with the land which are and shall be binding upon the Owner, and its successors and assigns.