



LAND USE APPLICATION SUMMARY

Property Location: 10 38th Street W (20 38th Street W)
Project Name: Quality Coaches Fence
Prepared By: Mei-Ling Smith, Senior City Planner, (612) 673-5342
Applicant: Mark Brandow, Quality Coaches
Project Contact: James T. Hanvik
Request: To increase the height and change the configuration of an existing barbed wire fence.

Required Applications:

Expansion of a Legal Nonconforming Use	To increase the height and change the configuration of an existing barbed wire fence.
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SITE DATA

Existing Zoning	C2 Neighborhood Corridor Commercial District
Lot Area	15,092 square feet / 0.35 acres
Ward(s)	8
Neighborhood(s)	Kingfield Neighborhood Association
Designated Future Land Use	Mixed Use
Land Use Features	Community Corridor (38th St W) Neighborhood Commercial Node (38th St & Nicollet Ave)
Small Area Plan(s)	<u>Nicollet Avenue: The Revitalization of Minneapolis Main Street (2000)</u>

Date Application Deemed Complete	July 28, 2016	Date Extension Letter Sent	Not applicable
End of 60-Day Decision Period	September 26, 2016	End of 120-Day Decision Period	Not applicable

BACKGROUND

SITE DESCRIPTION AND PRESENT USE. The subject property contains a one-story, brick commercial building that was constructed in 1927 and is located near the northwest corner of the intersection of 38th Street W and Nicollet Avenue. The building entrance faces 38th Street W. The west side of the property abuts a residential alley, and there is an on-site surface parking lot to the rear of the building. According to the materials submitted by the applicant, the property has been used as an auto repair and restoration business since 1985.

SURROUNDING PROPERTIES AND NEIGHBORHOOD. The subject site is located within the 38th Street and Nicollet Avenue Neighborhood Commercial Node, which contains both C1 Neighborhood Commercial District and C2 Neighborhood Corridor Commercial District zoning. Both 38th Street W and Nicollet Avenue are designated Community Corridors in this location. The properties to the north, east, and south of the subject site contain commercial uses and belong to commercial zoning districts, while the properties to the west (across the alley) are low-density residential properties with R1A Single-Family District zoning. A four-story apartment building is also located directly to the south of the site. The general vicinity contains a mix of commercial uses and residential densities.

PROJECT DESCRIPTION. There is an existing chain link fence with a mesh covering surrounding the surface parking area to the rear of the building. There is currently one-foot, four-inch tall barbed wire fencing along the top of the chain link fence. While barbed wire is considered a hazardous and prohibited material outside of industrial districts, the barbed wire portion of the fence on the subject site is considered legally nonconforming, as it was installed prior to the adoption of the current zoning ordinance in 1999.

The applicant recently installed looped razor wire along the barbed wire portion of the fence. Razor wire is also considered hazardous and prohibited, and is not a legally nonconforming use on this property, so the property owner was instructed to remove the razor wire by City inspectors. The applicant is now proposing to increase the height of the barbed wire fencing on top of the eight-foot tall chain link fence, which would result in a six-inch increase in height for the barbed wire portion (1'-4" to 1'-10"). The overall fence height would increase from nine feet, four inches (9'-4") to nine feet, ten inches (9'-10"). In addition, the applicant is proposing to alter the shape of the barbed wire portion into a cantilevered shape, so that the barbed wire would be angled toward the parking lot. The applicant has stated that the razor wire – or, alternatively, taller barbed wire fencing – is necessary to prevent vandalism.

An expansion of a nonconforming use application is required to increase the height of the existing barbed wire fence and also to change its configuration from a flat profile in line with the chain link fence to a cantilevered angle.

PUBLIC COMMENTS. Staff has not received comments from the neighborhood group or from the public as of the printing of this report. Any correspondence received prior to the public meeting will be forwarded on to the Planning Commission for consideration.

ANALYSIS

EXPANSION OF A NONCONFORMING USE

The Department of Community Planning and Economic Development has analyzed the application to increase the height and change the configuration of an existing barbed wire fence, based on the following findings:

1. *A rezoning of the property would be inappropriate.*

Barbed wire fencing is allowed only in industrial zoning districts, provided that the barbed wire is located at the top of a fence and is at least six-and-a-half feet above the ground. In addition, the barbed wire fence must be located at least 100 feet from any residence or office residence districts.

The subject site is located in designated Neighborhood Commercial Node and abuts low-density residential properties. There are no industrially zoned properties in the general vicinity. Rezoning this property to an industrial zoning classification would not be appropriate, given the City policies that support commercial uses in this location. Rezoning the property to allow for the barbed wire fence also would not result in a conforming barbed wire fence, as a residential zoning district abuts the subject site and therefore the fence would not meet the 100-foot spacing requirement.

2. *The enlargement, expansion, relocation, structural alteration or intensification will be compatible with adjacent property and the neighborhood.*

The enlargement and structural alteration of the fence, as proposed by the applicant, would not be compatible with adjacent properties or with the general neighborhood. The area surrounding the site contains exclusively commercial and residential uses. Wood, metal, and brick are permitted fencing materials in commercial and residential areas of the city, while barbed wire fencing is deemed hazardous and is therefore allowed only in industrial districts. Increasing the height of the legally nonconforming barbed wire fence would not be compatible with surrounding residential and commercial uses.

3. *The enlargement, expansion, relocation, structural alteration or intensification will not result in significant increases of adverse, off-site impacts such as traffic, noise, dust, odors, and parking congestion.*

The enlargement and structural alteration of the fence would not result in significant increases of adverse, off-site impacts such as traffic, noise, dust, odors, and parking congestion.

4. *The enlargement, expansion, relocation, structural alteration or intensification, because of improvements to the property, will improve the appearance or stability of the neighborhood.*

The applicant's proposal to alter the configuration and increase the height of the existing barbed wire fence would not lead to an improvement in the appearance or stability of the neighborhood. The proposed fencing would be visible from Nicollet Avenue as well as from the residential properties to the north and west of the site. The fencing would face a residential alley that serves as the only separation between the subject property and the single-family homes to the west. The taller barbed wire fencing in a cantilevered configuration would have an industrial character and is incompatible with a mixed use and residential area.

5. *In districts in which residential uses are allowed, the enlargement, expansion, relocation, structural alteration or intensification will not result in the creation or presence of more dwelling units on the subject property than is allowed by the regulations of the district in which the property is located.*

The property does not currently contain any dwelling units, and the proposed fence changes would not result in the creation of any new dwelling units on the property.

6. *The enlargement, expansion, relocation, structural alteration or intensification will not be located in the Floodway District.*

The site is not located in the Floodway District.

RECOMMENDATIONS

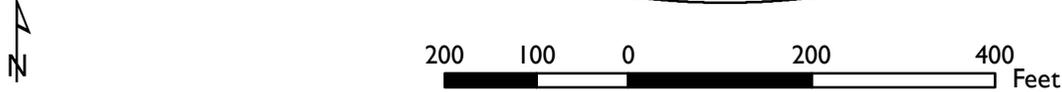
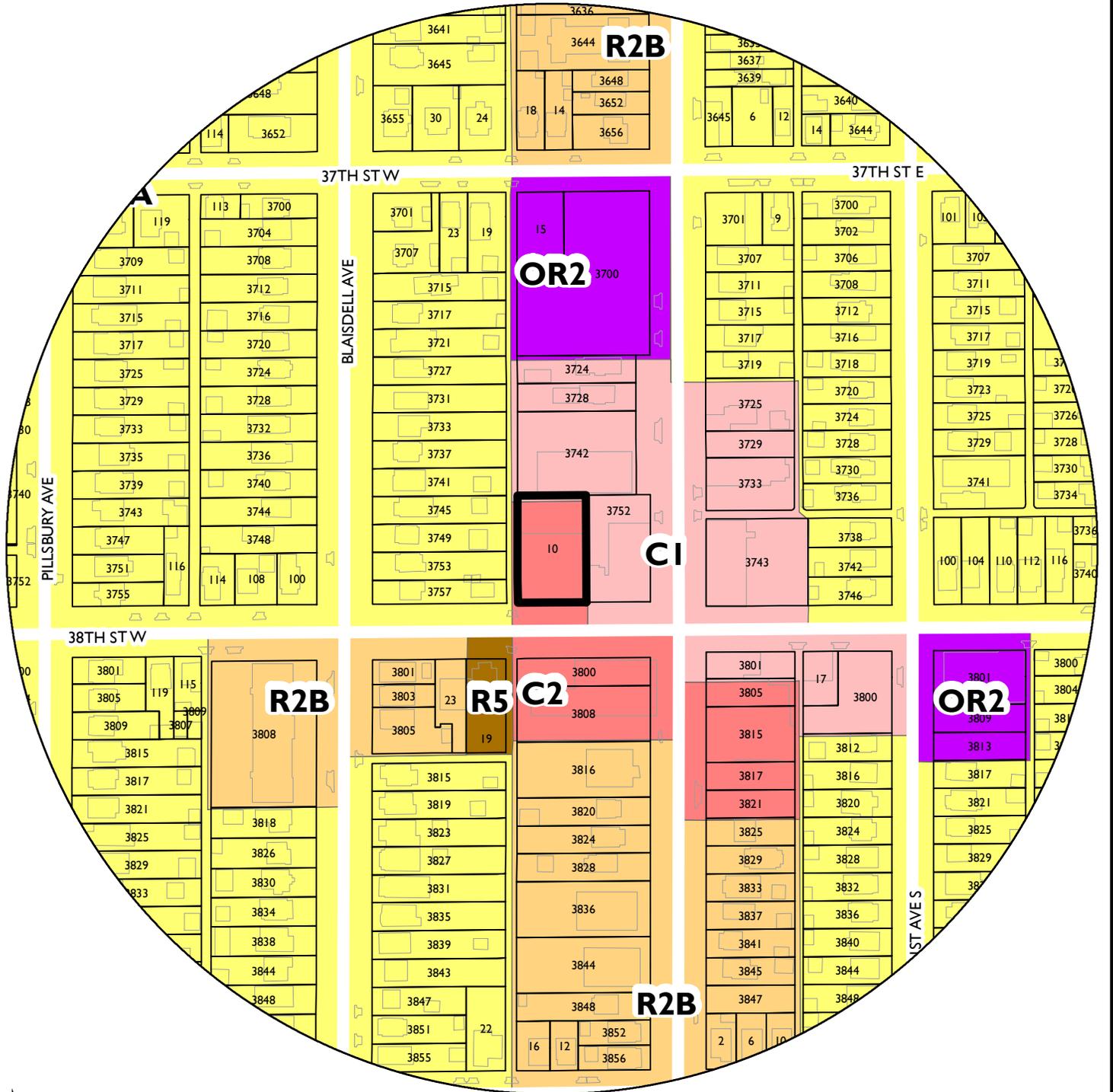
The Department of Community Planning and Economic Development recommends that the City Planning Commission adopt staff findings for the application by James T. Hanvik, on behalf of Mark Brandow of Quality Coaches, for the property located at 10 38th Street W:

A. Expansion of a Nonconforming Use.

Recommended motion: **Deny** the application for an expansion of a nonconforming use to increase the height and change the configuration of an existing barbed wire fence.

ATTACHMENTS

1. Zoning map
2. Oblique aerial photo
3. Written description and findings submitted by applicant
4. Site plan
5. Fence elevation
6. Photos



PROPERTY ADDRESS
10 38th St W

FILE NUMBER
BZZ-7754



Nicolllet Ave

W 38th St

THE 1 STORE

Cocina Latina Restaurant

MARK BRANDOW
QUALITY COACHES
20 W 38TH STREET
MINNEAPOLIS, MN 55409
612-824-4155
MarkB@Quality-Coaches.com

We are applying for an **enhanced barb wire installation** if we must remove the razor wire that is in place and has proved effective against vandals. Barbed wire is grandfathered in by prior ordinance. We are proposing a 2-3' high cantilevered expansion of the currently approved ordinance to enhance our current fence and protect against vandalism to our property and our customers' cars.

Vandals cut off a catalyst on a late modern BMW which cost over a thousand dollars to repair. On a later date, I discovered they had cut up the exhaust system on a 1974 Jensen Healey coupe. The exhaust was in so many pieces, but no catalyst was found so the car was inoperative with a cut up exhaust system in too many pieces to be usable. I sold the car with the exhaust system missing which meant it was inoperative for a collector car sale.

In the month of April, the vandals were active in my neighborhood having cut off a catalytic converter from a VW Passat during the dark of night from a resident's car while parked in the driveway in the alley off Blaisdell just out my back door. They are still active.

Email received from Kingfield neighborhood message board, Saturday, April 16, 2016 7:05 p.m.,
"Please forward this warning to our neighbors! My neighbor Clyde is contacting police right now. He believes the catalytic converter on his vehicle was removed last night between 1 and 5 a.m. He wants everyone to be careful when parking vehicles. His was parked in his driveway adjacent to the alley between Blaisdell and Nicollet Avenues. The repair will run him about \$2K (thankfully, he's only responsible for the deductible, but that's still a lot of money). So be wary, cognizant and smart! A battery powered reciprocating saw is all one needs to steal a catalytic converter and they can fetch \$500 at any local metal recycling place."

The confusion is in the lack of consistency of terminology—Julie Casey on 11/2/15 told me to remove the barbed wire as per MCO 385.20—that ordinance permits barbed wire on commercial property—Julie Casey later said to disregard that instruction. Then Steve Weckman told me on 1/29/16 that the barbed wire on the fence must be removed. Joe Giant informed me the razor wire was the problem as per Ord. 335.430 and the Barbed wire was "grandfathered in."

The final notice from Mr. Weckman dated 5/26/16 said the barbed wire was grandfathered in since it pre-dated my ownership, but said the barbed (did you mean razor wire here?) wire portion must be removed. I want to increase the barbed wire height since it was "grandfathered in," by the code referenced by Julie Casey—Ord.385.20.

Who is in charge? I need to fortify my perimeter to keep vandals out, otherwise the cars in my parking lot will be damaged by them. Should we protect the vandals at the expense of the property owner? I think not.

Respectfully,
Mark Brandow, Owner, Quality Coaches

QUALITY COACHES
20 W 38TH STREET
MINNEAPOLIS, MN 55409
(612) 824-4155

Dear city staff, planning dept, city council members, and inspectors,

As my wife and I have planned for our future, the occupancy of our building by Quality Coaches was thought to be a given. If vandals can cause the customer cars in the back lot to be damaged, the garage will have to move to an industrial quadrant where the parking lot can be adequately fortified to keep the vultures out! The razor wire was installed only after vandals had cut out a catalytic converter on a customer's BMW.

As Julie Casey commented, "barbed wire or razor wire, it's all the same". But it is not; razor wire looks more impassable, less likely to be tried in attempts to enter. Borton Volvo had a similar problem in the 1960's when they had their business in my building! Kjell Bergh validated their experience, which eventually required an off-duty police officer, then a trained guard dog to keep vandals out!

I have tried to think of another suitable tenant for the building, but it would take serious investment, and a dedicated business to move in with the back lot an open target for vandals! Since the installation of the razor wire, I have had no problems, and no one has been hurt! Therefore, the content of the ordinance is invalid- no one is getting hurt!

If I must remove the razor wire to comply, then I request an additional three feet of barbed wire installed at compound angles to improve on what had been "grand-fathered" in by your suggestion . Going back to the same old stuff would not suffice!

Sincerely,
Mark Brandow
Managing Partner
MG Building Partnership

From: j.hanvik@att.net
To: [Smith, Mei-Ling C.](#)
Cc: [Mark Brandow](#); [Brook Lemm-Tabor](#)
Subject: Following Up
Date: Thursday, July 28, 2016 2:14:47 PM
Attachments: [doc00926520160728130139.pdf](#)

Mei-Ling, I have seen Mark's response and I'm sending along the previously-provided drawing with the handwritten dimensions added. Mark's explanation, I think, responds well to your inquiry and you've correctly focused on the issue: i.e., this is a very minor change (a mere six inches additional in height) and does have an element of aesthetics. Leaving the old barbed wire in place would not create a problem for the city even though it has seen better days. The new wire would, as stated in the application, look much better and would also serve the purpose of effective security much better. Thanks, and I hope this does the job.

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On Thursday, July 28, 2016 2:01 PM, "scan@hanviklaw.com" <scan@hanviklaw.com> wrote:

FS-3640MFP
[00:c0:ee:9b:74:0a]

REQUIRED FINDINGS

EXPANSION OR ALTERATION OF NONCONFORMING USES AND STRUCTURES

1. A rezoning of the property would be inappropriate. **NO COMMENT**

2. The enlargement, expansion, relocation or intensification will be compatible with adjacent property and the neighborhood. **NEIGHBORS HAVE NOTICED LESS ACTIVITY IN REAR OF BUILDING WITH ADDED SECURITY.**

3. The enlargement, expansion, relocation or intensification will not result in significant increases of adverse off-site impacts such as traffic, noise, dust, odors and parking congestion. **NO TRAFFIC PASSES CLOSE FENCING EXCEPT CARS USING THE ALLEY ACCESS FOR PRIVATE RESIDENCES.**

4. The enlargement, expansion, relocation or intensification, because of improvements to the property, will improve the appearance or stability of the neighborhood. **YES, VANDALISM IS DIMINISHED KEEPING VANDALS AWAY**

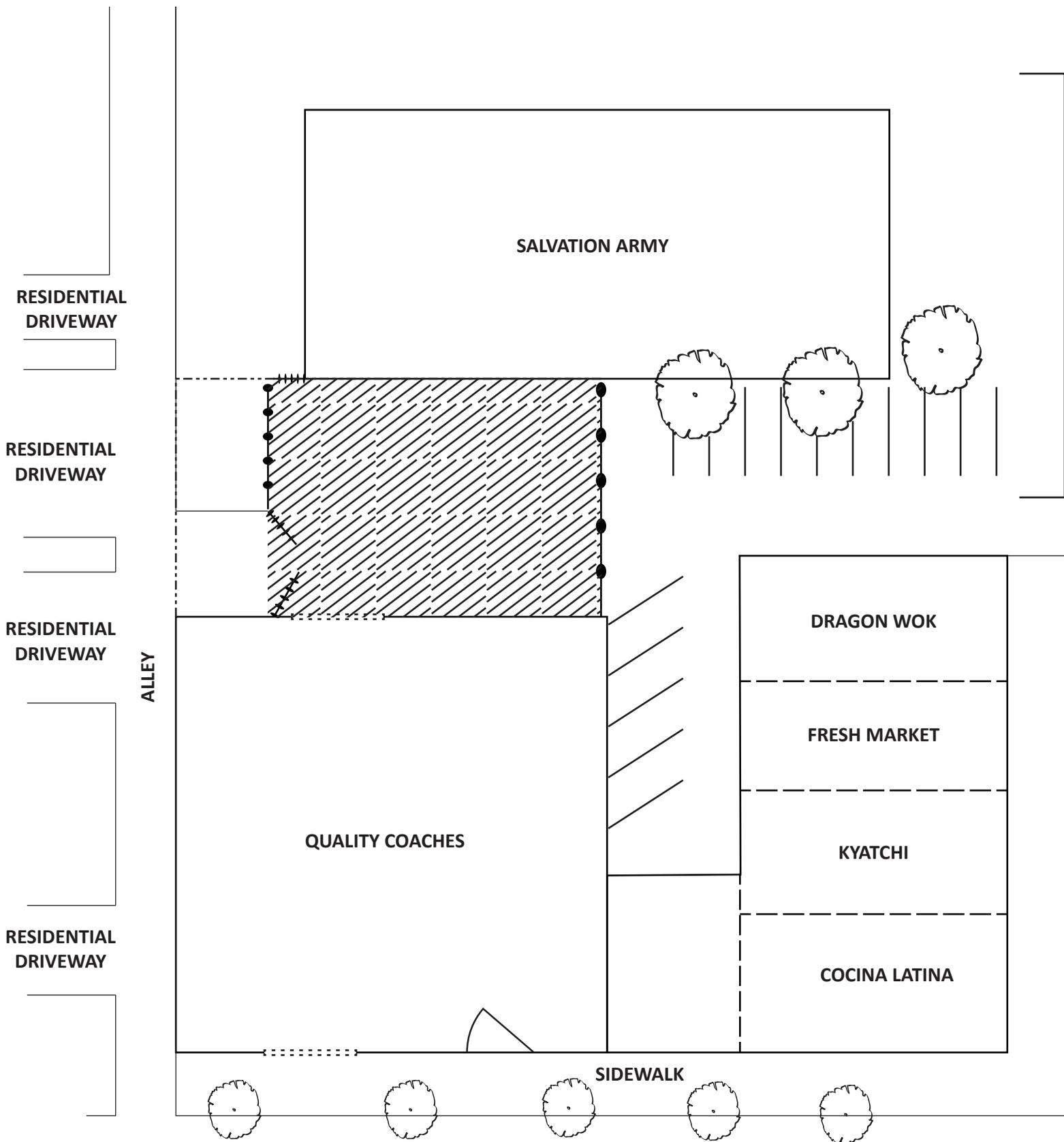
5. In districts in which residential uses are allowed, the enlargement, expansion, relocation or intensification will not result in the creation or presence of more dwelling units or rooming units on the subject property than is allowed by the regulations of the district in which the property is located. **NO APPLICABLE**

6. The enlargement, expansion, relocation or intensification will not be located in the floodway district. **NOT IN FLOODWAY.**

STATEMENT REGARDING REZONING

The applicant has chosen not to pursue the rezoning request process because that would (1) probably not be successful and (2) is probably not necessary. In fact, such a request would be for light industrial, which, if granted, could have other consequences. The applicant believes that the request for the enhancement of “grandfathered in” improvements already in place should be granted (indeed, should almost be a “rubber stamp” process) and should satisfy everyone who may have an interest in the process. The enumerated reasons:

- The razor wire already in place would be removed.
- The proposed improved barbed wire would improve the aesthetics of the barbed wire in place and is agreed to be compliant.
- The proposed improvement would be effective for securing the business’s customers’ property without “overkill.”

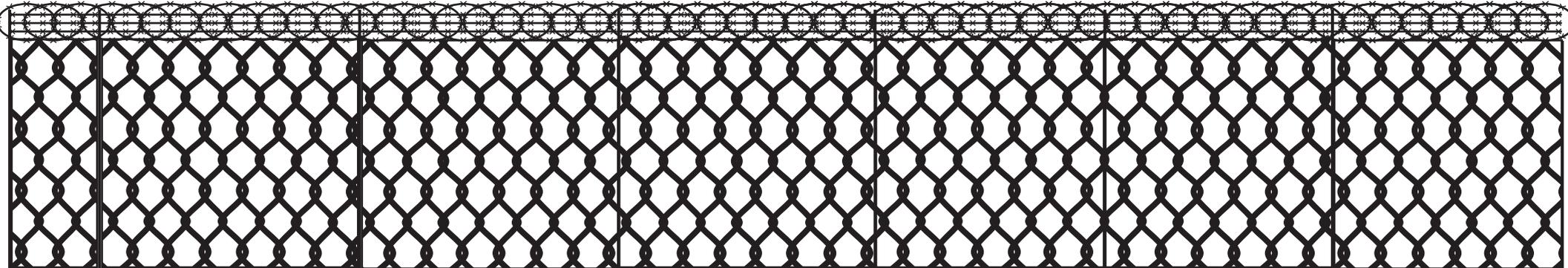


38TH STREET

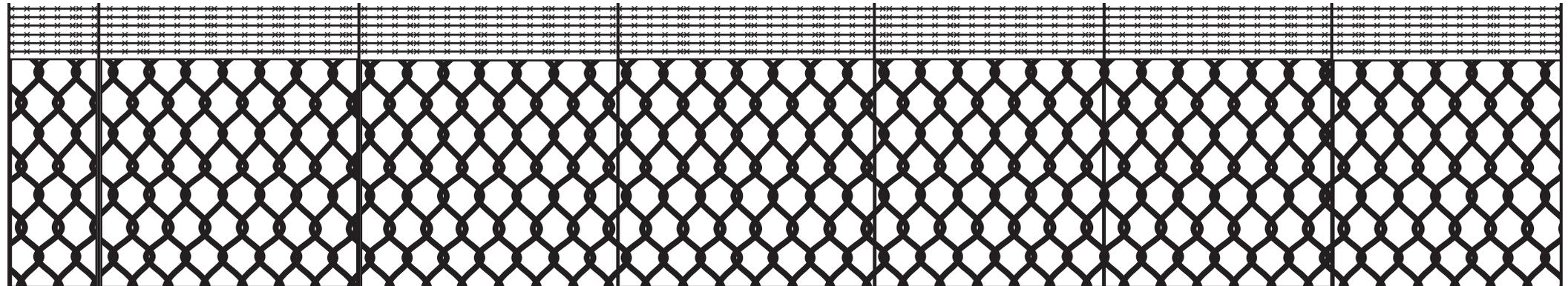


LEGEND	SCALE: 1" = 30'
<p>----- Property Line</p> <p>..... Fence</p>	<p>N</p>

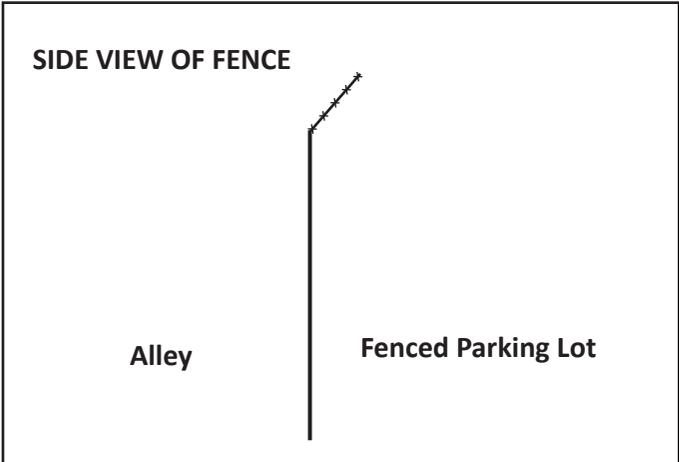
EXISTING FENCE



PROPOSED FENCE

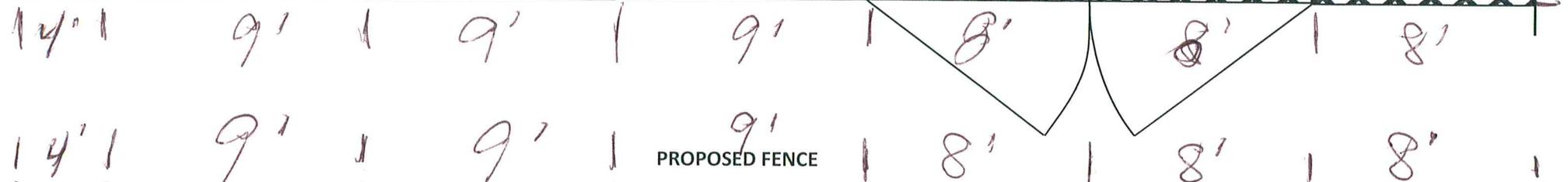
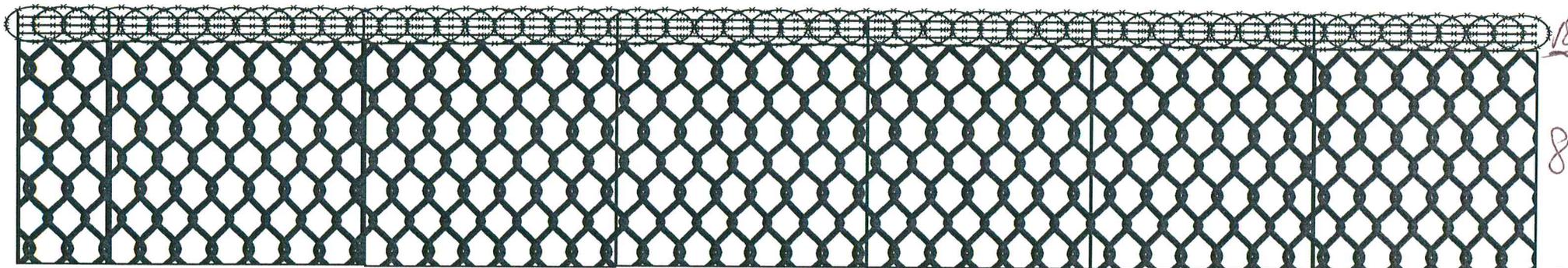


SIDE VIEW OF FENCE

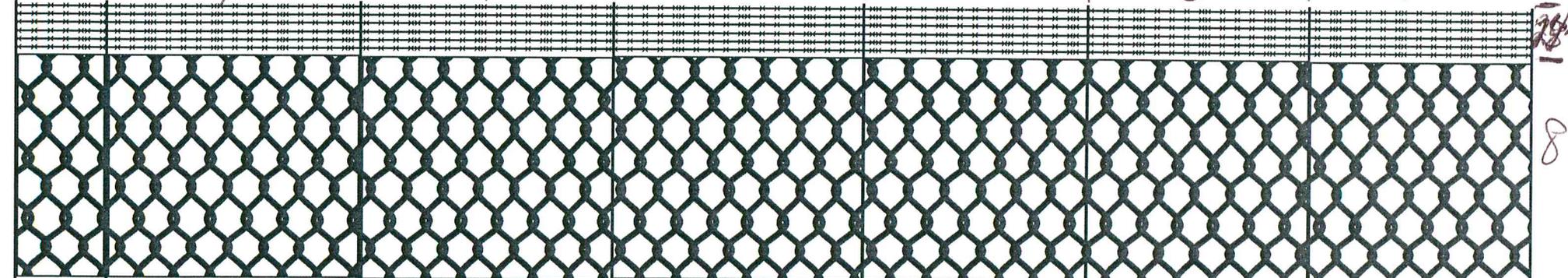


LEGEND	SCALE: 1" = 5'
 Barbed Wire	 Wire Fence
 Razor Wire	

EXISTING FENCE



PROPOSED FENCE



SIDE VIEW OF FENCE



Alley

Fenced Parking Lot

LEGEND

SCALE: 1" = 5'



Barbed Wire



Razor Wire



Wire Fence







WANT
LINE
OUT
➔

