



## DEVELOPMENT SERVICES

### RULE INTERPRETATION DETERMINATION

**Determination #:** 2023-006

**Title:** Fences Abutting Residential Uses

**Drafted by:** Plan Review Division

**Rule in Question:** Section 35-514(d) Fencing Requirements for Uses Adjoining Single-Family Residential Uses

**Department Action:** This RID is for clarification purposes.

A blue ink signature of Michael Shannon, PE, CBO.

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Michael Shannon, PE, CBO  
Development Services Director

12/21/23

\_\_\_\_\_  
Date

**Effective Date of Determination:** Effective Immediately

*Please note RIDs often result in direct or related UDC amendments to codify the clarification addressed within the RID. RIDs can also be superseded by subsequent RIDs or UDC amendments. The Development Services Department will remove RIDs from the website when they are no longer valid.*

### **Staff Analysis:**

This RID is a customer and staff clarification effort to address when non-residential uses are required to erect a fence when adjacent to existing single-family residential uses.

UDC Section 35-314(d) reads as follows:

*All property zoned for nonresidential or multi-family residential uses including residential districts with conditional uses or specific use authorizations for nonresidential uses, excluding property located within the mixed-use district "MXD" or infill development zone "IDZ," shall erect and maintain solid screen (opaque) fencing along the property boundaries adjacent to an existing single-family residential use.*

*Exception: Where there is an existing compliant fence on the single-family property boundary, the nonresidential or multi-family residential developer may submit a signed agreement from all adjacent property owners to maintain the existing single-family fence.*

The UDC defines adjacent as follows:

*Adjacent. Two (2) properties, lots or parcels are "adjacent" where they abut, or where they are nearby and are separated by a dissimilar type of manmade or geologic feature including but not limited to a roadway or street, right-of-way, or railroad line, or any stream, river, canal, lake, or other body of water. Adjacent may or may not imply contact but always implies absence of anything of the same kind in between; to physically touch or border upon, or to share a common property line or border. Includes properties or uses that are separated by a drive, street, or other public-dedicated right-of-way.*

Currently, a non-residential use is required to erect a fence if the adjacent lot is an existing single-family residential use. This requirement was added to the UDC in 2001. At that time, the definition of ‘adjacent’ was already in the code in reference to IDZ standards. Based on the existing definition of ‘adjacent’ and the requirements of 35-514(d), a non-residential use would be required to erect a fence even if the adjacent single-family residential use was on the other side of a river or lake. Clarification is needed to meet the original intent of the code requirement.

### **Staff Position and Interpretation:**

UDC Section 35-314(d) is intended to provide screening for the single-family uses from non-residential developments. The current definition of ‘adjacent’ requires a screening fence to be installed even if the adjoining uses are separated by a large geological feature that would inherently provide the required screening.

Staff proposes that UDC Section 35-314(d) specifies that non-residential uses shall erect a fence along the property boundaries abutting an existing single-family residential use or those portions of the property that are within 100 feet of the single-family residential use if separated by a geological feature including but not limited to a drainage right-of-way, or railroad line, or any stream, river, canal, lake or other body of water.

### **Future UDC Amendments:**

To codify this interpretation, staff suggests the following UDC amendment.

*Section 35-514(d) Fencing Requirements for Uses ~~Adjoining~~ Abutting Single-Family Residential Uses.*

*All property zoned for nonresidential or multi-family residential uses including residential districts with conditional uses or specific use authorizations for nonresidential uses, excluding property located within the mixed-use district "MXD" or infill development zone "IDZ," shall erect and maintain solid screen (opaque) fencing along the property boundaries ~~adjacent to~~ abutting an existing single-family residential use or adjacent to an*

existing single-family residential use separated by less than 100 feet by a geological feature including but not limited to a drainage right-of-way, or railroad line, or any stream, river, canal, lake or other body of water.