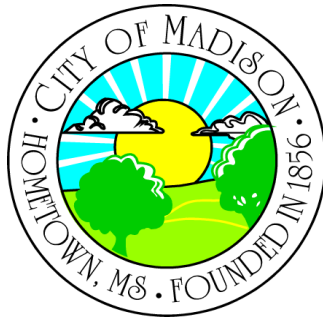


**FENCE
ORDINANCE

OF

THE CITY OF MADISON
Madison, Mississippi**



Effective October 21, 2008

**AN ORDINANCE REGULATING AND CONTROLLING
THE SIZE, LOCATION, CHARACTER, APPEARANCE,
PURPOSE, CONTENT AND OTHER PERTINENT
FEATURES OF ALL EXTERIOR FENCES IN
THE CITY OF MADISON, MISSISSIPPI**

WHEREAS, it has been found and determined by the Mayor and Board of Aldermen of the City of Madison that the public interest requires the regulation of the size, location, character, appearance, purpose and content of all “FENCES” in the City so as to improve and maintain the appearance and character of the community and in order to protect the health, safety, morals and to promote the public welfare; and

WHEREAS, fences along public corridors tend to be poorly maintained; and

WHEREAS, lack of maintenance by homeowners and homeowner associations has resulted in a reduced visual aesthetic; and

WHEREAS, it has been found and determined that it would promote the welfare of Madison and its environs if a comprehensive and continuous program of community beautification and improvement be undertaken; and

WHEREAS, it has become necessary in the public interest to regulate the sizes, location, character, content, appearance and other pertinent features of all “FENCES” in the City of Madison.

NOW, THEREFORE, BE IT ORDAINED BY THE MAYOR AND BOARD OF ALDERMEN OF THE CITY OF MADISON AS FOLLOWS:

ARTICLE I. SCOPE OF ARTICLE

This article shall govern the erection of fences and walls within the city, as the public welfare requires it.

ARTICLE II. DEFINITIONS

201. DEFINITIONS OF THE FOLLOWING TERMS

A. Rules for words and phrases:

For the purpose of this Ordinance, words used in the present tense include the future tense; words in the singular number include the plural number and words in the plural number include the singular; the word “shall” is MANDATORY and not directory; the word “may”

is PERMISSIVE. Any term not defined in this Section shall be construed to be used in this Ordinance as by the latest edition of WEBSTER'S UNABRIDGED DICTIONARY.

B. Definitions:

1. Fence - Any structure which encloses, partitions or divides any yard or property.
2. Interior Lot - Front of lot is adjacent to one (1) street and is contiguous to adjacent lots on two (2) sides and the rear property lines. (*Illustration 1*)
3. Corner Lot - A lot adjacent to two (2) or more intersecting streets. (*Illustration 2*)
4. Double Frontage Lot - A lot with frontage on two (2) non-intersecting streets. (*Illustration 3*)
5. City Right-of-Way - An approximate ten foot (10') area measured from the face of the curb towards the house. This area is City property.
6. Easement - A right to the use of a designated area of land for utilities such as electricity, gas, telephone, cable TV, sewage, drainage, etc.

ARTICLE III. GENERAL PROVISIONS

- A. The maximum height of any fence shall be six feet, with the following exceptions:
 1. Tennis court fences may be a maximum of ten feet in height;
 2. Subdivisions Entrance Features (SEF) may exceed six feet in height to a maximum of 35 feet when specifically approved by the Mayor and Board of Aldermen;
 3. Fences attached to subdivision entrance features may be a maximum of eight feet in height; and
 4. Fences on property zoned commercial may exceed six feet in height when specifically approved by the Mayor and Board of Aldermen.

Any proposals for fences in excess of six feet in height, when submitted to the Mayor and Board of Aldermen for approval, must be accompanied by appropriate documentation justifying such additional height.
- B. Fences over 30 inches in height are not permitted within the required front yards of lots, as specified in the zoning ordinance, with the exception of subdivision entrance features and attached fences/walls and lots over 2 acres.
- C. No fence shall be placed within 25 feet of any street corner, the corner being defined as the intersection of the right-of-way lines of the two streets.
- D. Solid fences (excluding exterior fences installed by developer) which are substantially opaque and serve as visual barriers shall be composed of masonry, durable wood or combination of durable wood and masonry.
- E. No fence shall impede or divert the flow of water through any drainage easement unless by adequate investigation by the city engineer, it can be determined that the fence will not adversely impact any property owner and will contribute to an improvement in the overall drainage system.
- F. All fences and walls shall be maintained in a structurally sound condition and in good repair. Fences and walls shall be free from loose or rotting materials and shall have braces and supports attached or fastened in accordance with common building practices.
- G. All fences constructed after the effective date of this ordinance, which are parallel to and/or face the street and are constructed completely or partially of wood, shall have the smooth side, the side without the support bracing, of the fence facing toward the street.

ARTICLE IV. DOUBLE FRONTAGE LOTS

Due to the exceptional nature of double frontage lots, fences with frontage on a street to which access to such lot is not permitted will be subject to the following provisions:

- A. Such fences shall **not be** constructed of wood, plastic, chain link or wire.
- B. An appropriate planting screen is required as shown on the attached Illustrations 4 through 7. The planting screen shall be in place within six months from the time the fence permit is issued.
- C. A berm with appropriate evergreen planting as shown on Illustration 7 may be used if approved by the Mayor and Board of Aldermen.
- D. Only fences as shown on Illustrations 4 through 6 shall be allowed, and then only if the following requirements are met:
 - 1. Within any 80-foot section of fence, no more than 50 percent or 40 feet of the fence shall be on the property line or any line parallel to and less than 15 feet from the property line. (See Illustrations 4A & 4B.)
 - 2. The remaining 50 percent or more of the 80-foot section of fence must be set back six feet to 10 feet with evergreen planting inserted to break up the stockade appearance. (See Illustrations 4A & 4B.)
 - 3. The entire fence may be built 10 feet or more from the property line with evergreen screening to break up the continuous appearance effect.
 - 4. A fence may be built oblique to the property line or a serpentine fence with evergreen planting may be built to break up the solid appearance, if approved by the Mayor and Board of Aldermen.

ARTICLE V. SUBDIVISION ENTRANCE FEATURES (SEF)

501. Features

A subdivision entrance feature (SEF) shall be defined as a cohesively designed element(s) to a subdivision, intended to create a unique, identifying entrance area. The SEF shall be located within a common open space area or landscape easement, adjacent to a street on the perimeter of the subdivision, and be composed of at least two of the following components: enclosed structures or gatehouse, wall/fence, landscaping, pedestrian gates, signs and associated decorative items such as lights and finials.

502. Minimum Setback

SEF shall be setback a minimum of 15 feet from the curb of the perimeter arterial street. On a corner lot no structure, planting, sign or object of natural growth which obstructs visibility shall be placed or permitted to remain within a triangle formed by connecting the three points which are the intersection of the extension of the adjacent rights-of-way and the points 50 feet from the intersection, along each right-of-way line. A structure, planting, sign or object of natural growth, excluding trees, between the heights of 24 inches to 96 inches shall be deemed as obstructing visibility. This measurement shall be made from the top-of-curb.

503. Maximum Permitted Height

The maximum permitted height of a SEF is thirty-five feet above the surrounding grade, at a set back of 15 feet from the perimeter street right-of-way. A SEF height up to 35 feet is

permitted, provided that the setback increases two feet for every one foot of SEF height over ten feet. An adjoining fence height of up to eight feet is permitted, provided that the fence is attached to the SEF and transitions to a height of six feet after a maximum linear span of 25 feet. Fence columns may exceed the actual fence height, provided there is a minimum distance between columns of six feet. Lights, finials and similar decorative appurtenances may extend above the top of the SEF.

504. Landscaping

A minimum ten-foot wide landscape area shall be provided between the fence and sidewalk, or the street right-of-way if no sidewalk is required.

505. Required Materials

SEF shall be substantially opaque, shall serve as visual barriers and shall be composed of masonry or a combination of natural stone, real stucco and masonry. Other elements such as wrought iron may be used in the fence composition but only as a secondary accent material.

ARTICLE VI. MULTIFAMILY, COMMERCIAL, INSTITUTIONAL OR SUBDIVISION DEVELOPMENTS

Fences proposed for multifamily, commercial, institutional or subdivision developments must satisfy the requirements of the Mayor and Board of Aldermen and the intent of this article. Developers will be required through subdivision or project development contracts to erect certain fences for buffering purposes.

ARTICLE VII. CONFLICT WITH OTHER PROVISIONS

- A. This article is not intended to interfere with, abrogate or annul any other ordinance, rule or regulation, statute or other provision of law. Where any provision of this article imposes restrictions different from those imposed by any other provision of this article, or by any other ordinance, rule or regulation or the provision of law, whichever provisions are more restrictive or impose higher standards shall control.
- B. This article is not intended to abrogate any easement, covenant, or any other private agreement or restriction, provided that where the provisions of this article are more restrictive or imposes higher standards or regulations than such easement, covenant or other private agreement or restrictions, the requirements of this article shall govern.

ARTICLE VIII. NONCONFORMING FENCES

Any fence erected lawfully prior to the effective date of this ordinance, may be maintained in its present condition. However, no fence may be substantially altered except in conformity with the provisions of this article. This article shall not be construed as abating any action now pending under, or by virtue of, prior existing regulations, or as discontinuing, abating, modifying or altering any penalty accruing or about to accrue, or as affecting the liability of any person, or as waiving any right of the city under any section or provision existing on the effective date of this

ordinance, or as vacating or annulling any rights obtained by any person by lawful action of the city except as shall be expressly provided for in this article.

ARTICLE IX. ENFORCEMENT

901. Enforcing Officer

It shall be the duty of the building official to administer and enforce the provisions of this article. The building official shall have the power to make inspections necessary to carry out his duties.

902. Building Permits

A. It shall be unlawful to commence the erection of a fence until the building official has issued a building permit for such work. Applications for fence permits will be available at city hall and the building and permits office.

B. In applying to the building official for a fence permit, the applicant shall submit a dimensional sketch or scale plan indicating the shape, size, height and location on the lot of any fence to be erected, altered or moved and of any other buildings on the lot and all drainage from, onto or through the lot. If the proposed fence complies with the provisions of this article and other ordinances of the city, the building official shall issue a building permit for such activity. If the application is refused, the building official shall state the refusal in writing and the cause.

903. Violation and Penalty

Any person violating any provisions of this article shall be deemed guilty of a misdemeanor and, upon conviction, shall be punished as provided in Article XI §1105. Each day's continuance of a violation shall be considered a separate offense. The owner of any premises, or part thereof, where anything in violation of this article shall be placed, or shall exist, and any person who may have knowingly assisted in the commission of any such violation, shall be guilty of a separate offense. Persons in violation of this article may also be subject to injunctive proceedings.

ARTICLE X. MAINTENANCE OF FENCES AND LANDSCAPING DOUBLE FRONTAGE LOTS

1001. Fence Material; Condition

All such fences shall at all times be maintained and kept in good repair by the lot owner of such double frontage lot.

1002. Grass, Shrubs, Trees; Condition; Height of Grass

All shrubs, trees and other landscaping located between the curb line or paved edge of the roadway and the property line on such double frontage lots and all grass or planted surfaces shall be maintained at all times by the subdivisions' home owners association. All grass, weeds and noxious growths shall be mowed, cut or clipped, as frequently as necessary to ensure that weeds, grass, and noxious growths do not exceed a height of nine inches. Cuttings and clippings and other debris shall not be allowed to accumulate. Mulch shall be replaced regularly in order to maintain a fresh appearance.

1003. Maintenance of Shrubbery

All trees, shrubs, grasses and other landscaping as required by this article on double frontage lots shall be properly maintained to remain in a healthy growth state. Any dead growth shall be removed and replaced by such trees, shrubs, grasses and other landscaping as complies with this article and which is substantially identical with such previous landscaping material or with other landscaping material as approved by the Mayor and Board of Aldermen. All planting shall be irrigated and the irrigation system shall meet minimum industry standards for this type of installation.

1004. Enforcement

It shall be the duty of the city code enforcement officer to administer and enforce the provisions of this article.

1005. Penalty

Any person violating any provision of this article shall be deemed guilty of a misdemeanor and, upon conviction, shall be fined not more than \$500.00. Each day's continuance of a violation shall be considered a separate offense. The owner of any premises, or a part thereof, where anything in violation of this article be placed, or shall exist, and any person who may have knowingly assisted in the commission of any such violation or shall have permitted such violation to occur shall be guilty of a separate offense. Persons in violation of this article shall also be subject to injunctive proceedings to enforce compliance therewith.

1006. Conflict with Other Ordinances

In case of conflict between other provisions of this article or between this article and any existing or future ordinance of the city, the most restrictive shall apply.

1007. Nonconforming Fences and Landscaping

Any fences or landscaping on double frontage lots which do not conform to the provisions of this article, but which were erected or planted in compliance with previous articles shall be regarded as nonconforming fences and landscaping. The location, size, material and other structural characteristics of such nonconforming fences and landscaping shall be governed by the provisions of Section 10-2600 of the City of Madison Zoning Ordinance. The maintenance standards and requirements imposed on such nonconforming fences and landscaping pursuant to previous articles applicable prior to the passage of this article may be continued for a period of one year from the passage of this article, provided such nonconforming fences and landscaping are not determined to be an imminent threat to the safety or health of the community. Any nonconforming fences or landscaping which are found to contain maintenance deficiencies in violation of this section shall be brought into compliance within one year from the passage of this article. If the owner of the lot on which such nonconforming fences or landscaping exists fails to correct such maintenance deficiencies within one year from the passage of this article, the city code enforcement officer shall cause such maintenance and corrective action to be taken with the costs and expenses to be assessed against the lot owner as a special assessment as provided in the foregoing sections of this article.

INTERIOR LOT

Authorized Fence Locations

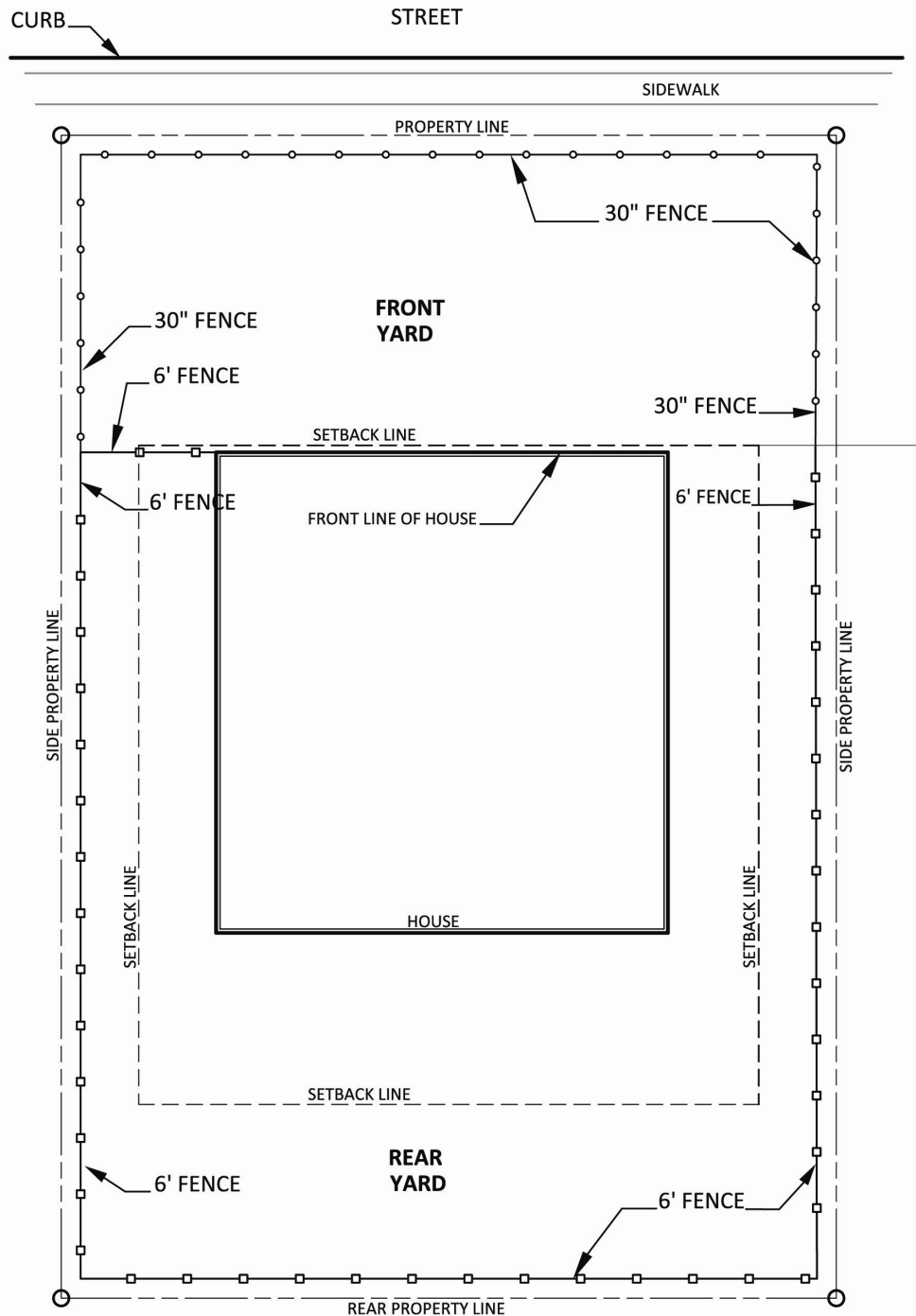


Illustration 1

CORNER LOT

Authorized Fence Locations

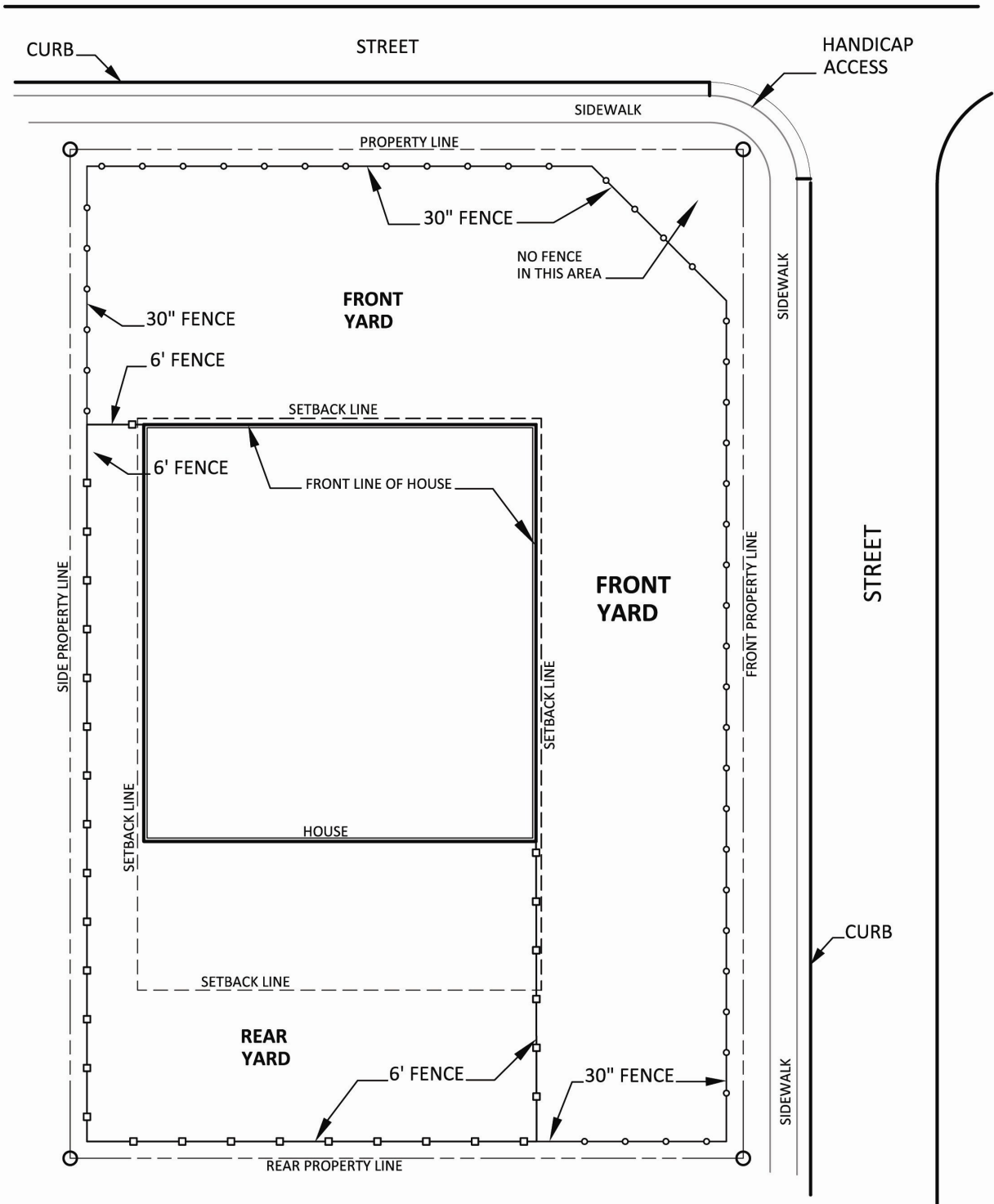


Illustration 2

DOUBLE FRONTAGE LOT

Authorized Fence Locations

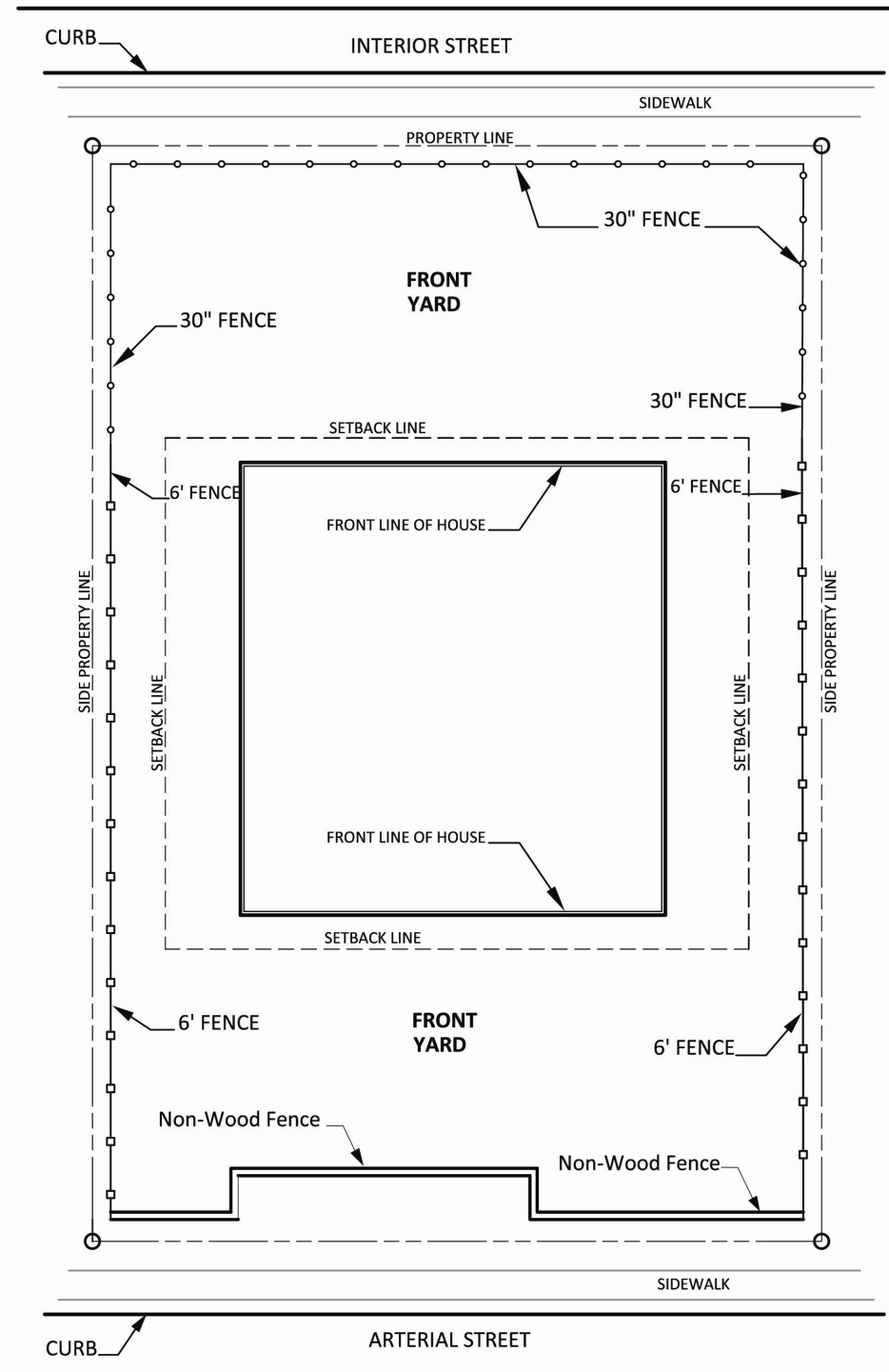


Illustration 3

DOUBLE FRONTAGE LOT FENCES

Examples of Fence Locations and Configurations

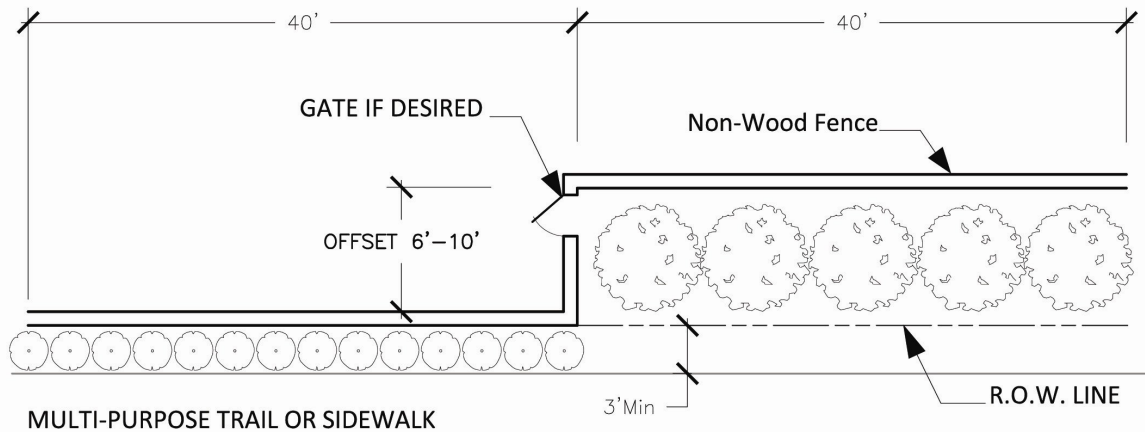


Illustration 4A

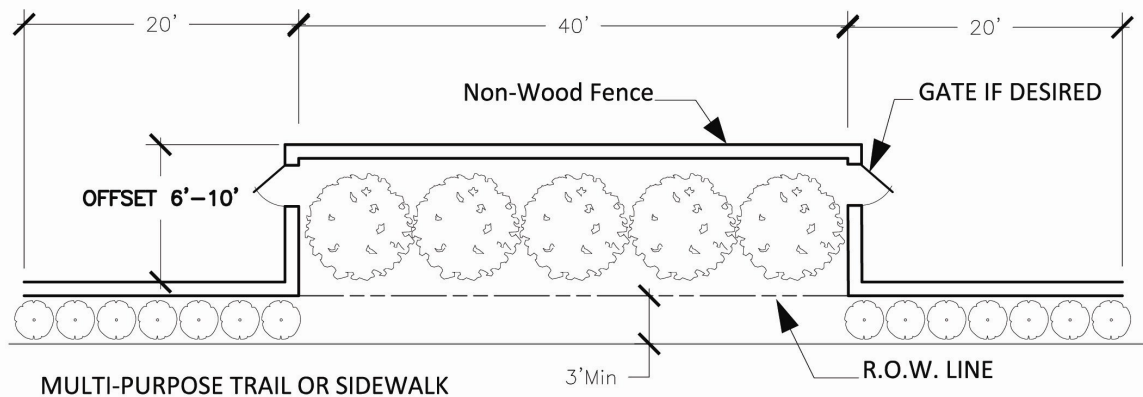
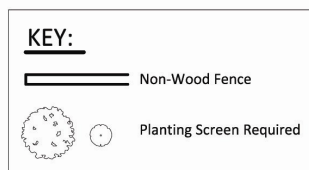


Illustration 4B



Illustrations 4A & 4B

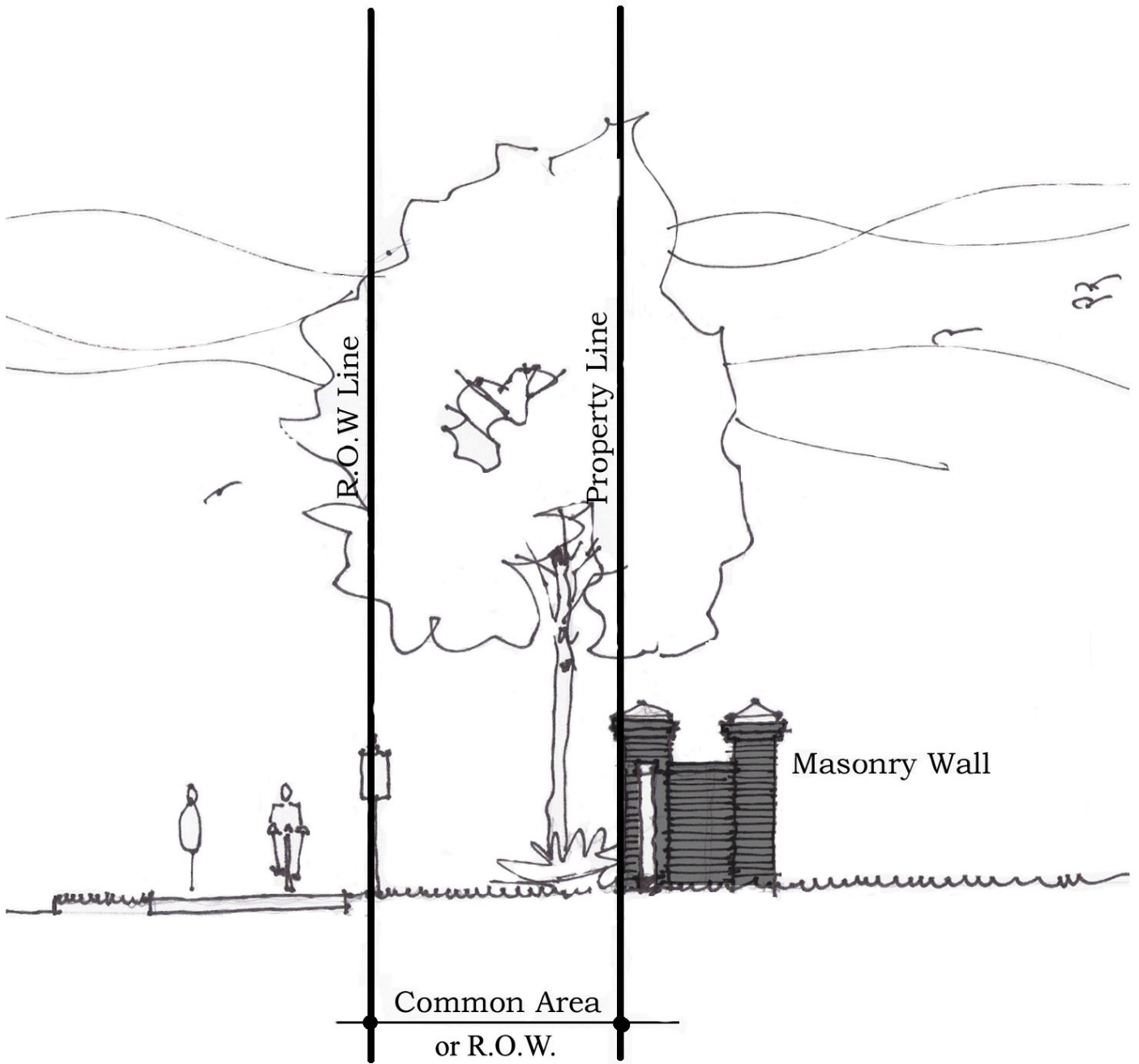


Illustration 5

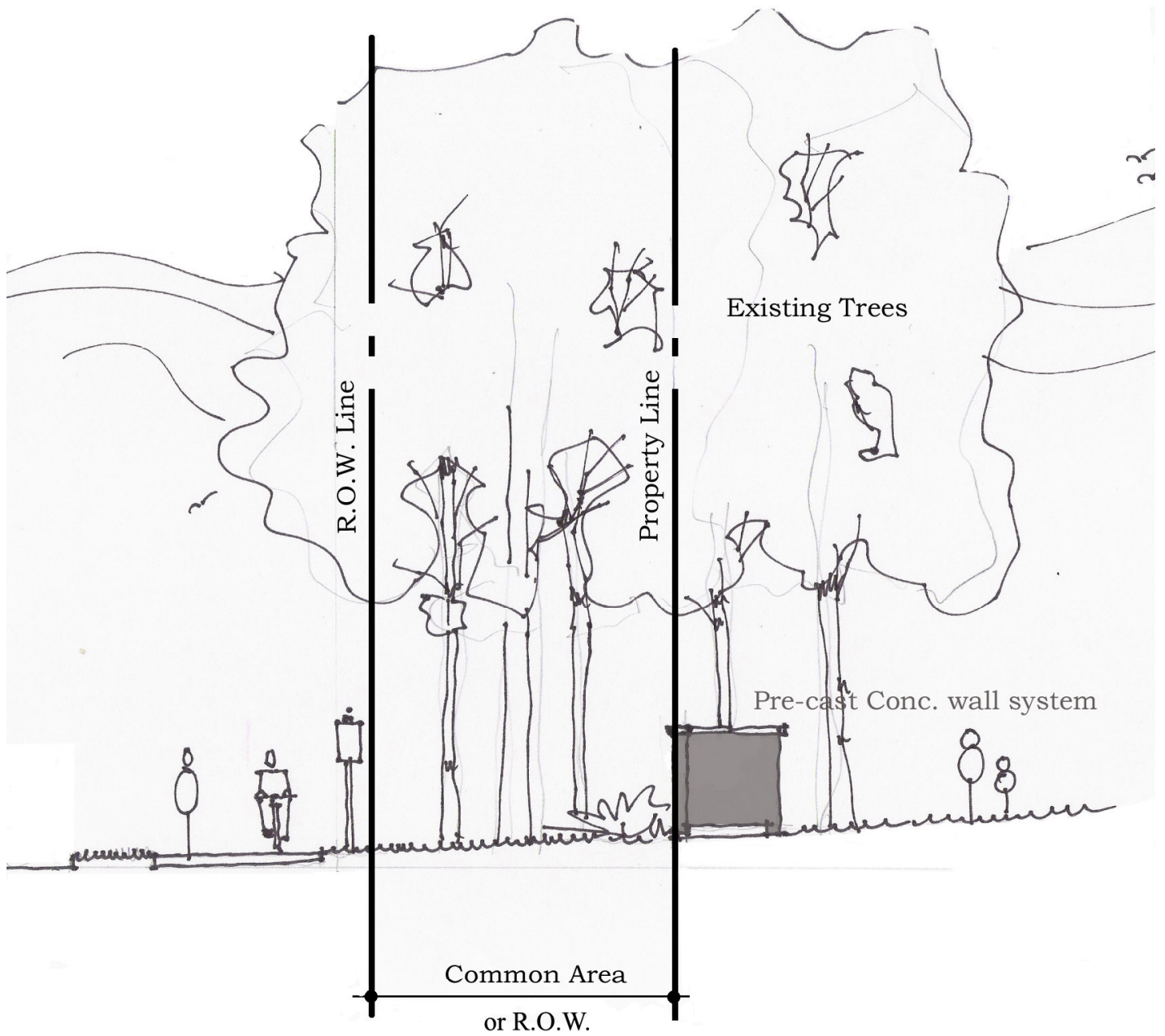


Illustration 6

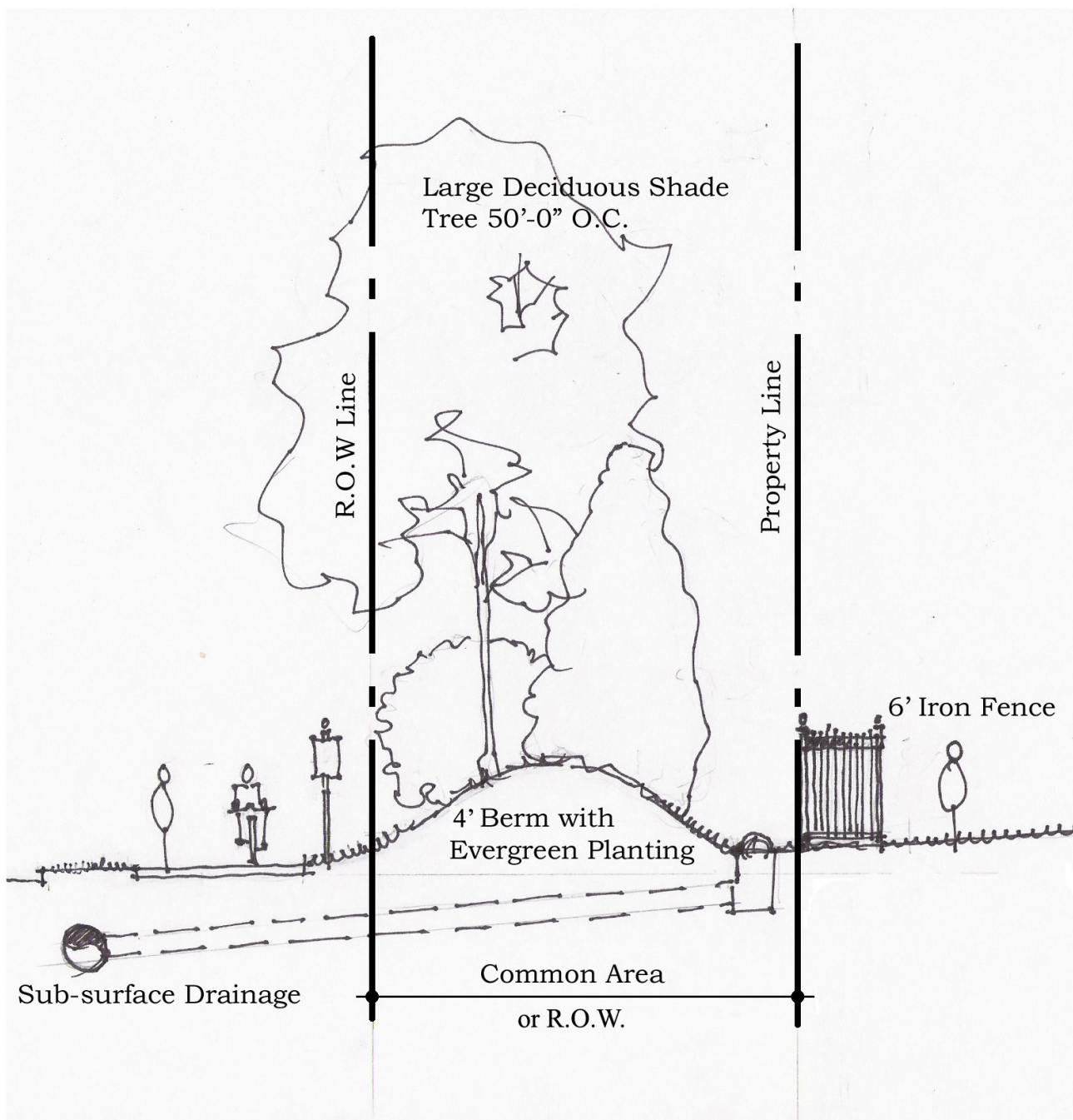


Illustration 7