

Flying W Ranch Fence Appeal

An appeal of the decision of the City Planning Commission to deny the appeal and uphold the administrative approval of a site plan for construction of a 10-foot fence with a 10-foot non-front setback for an accessory structure per City Code Section 7.3.105.A



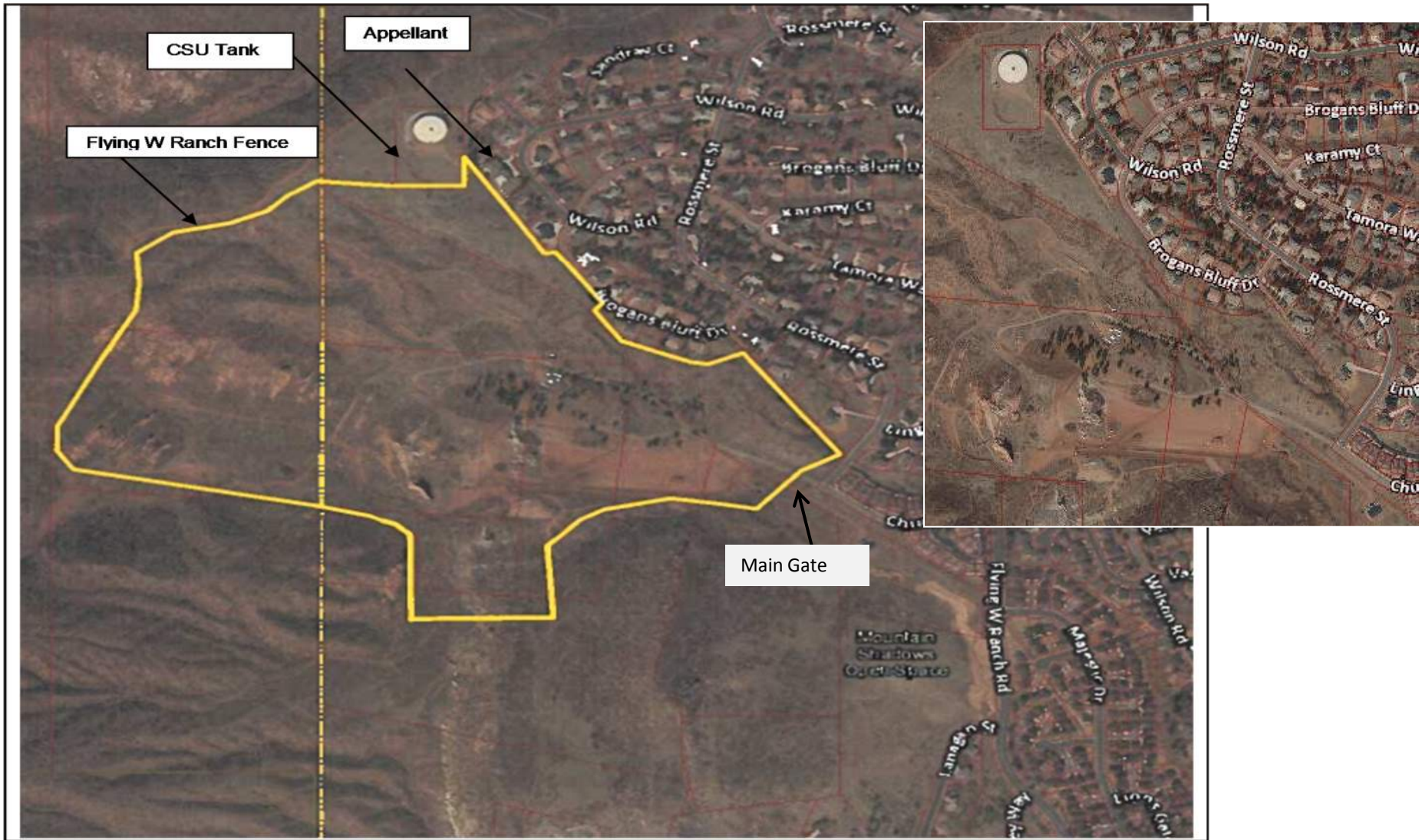
CPC AP 19-00069

City Council Hearing

August 13, 2019

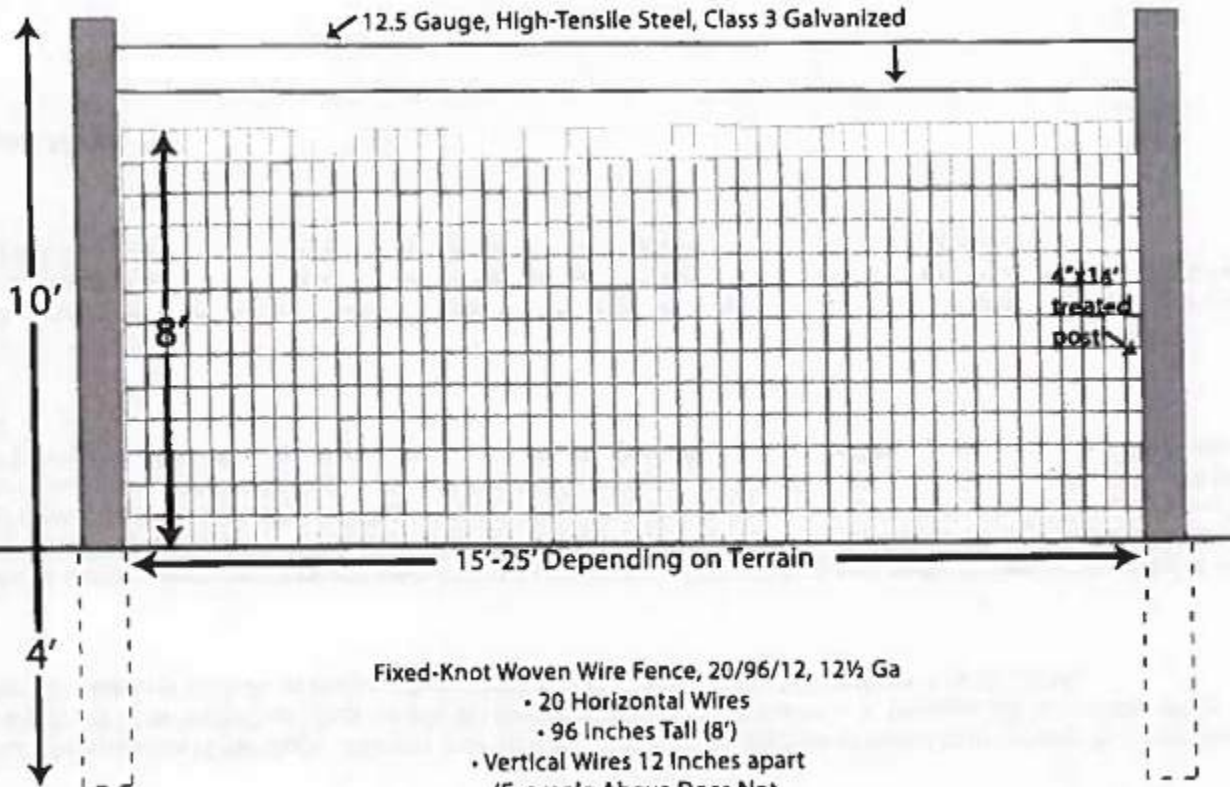
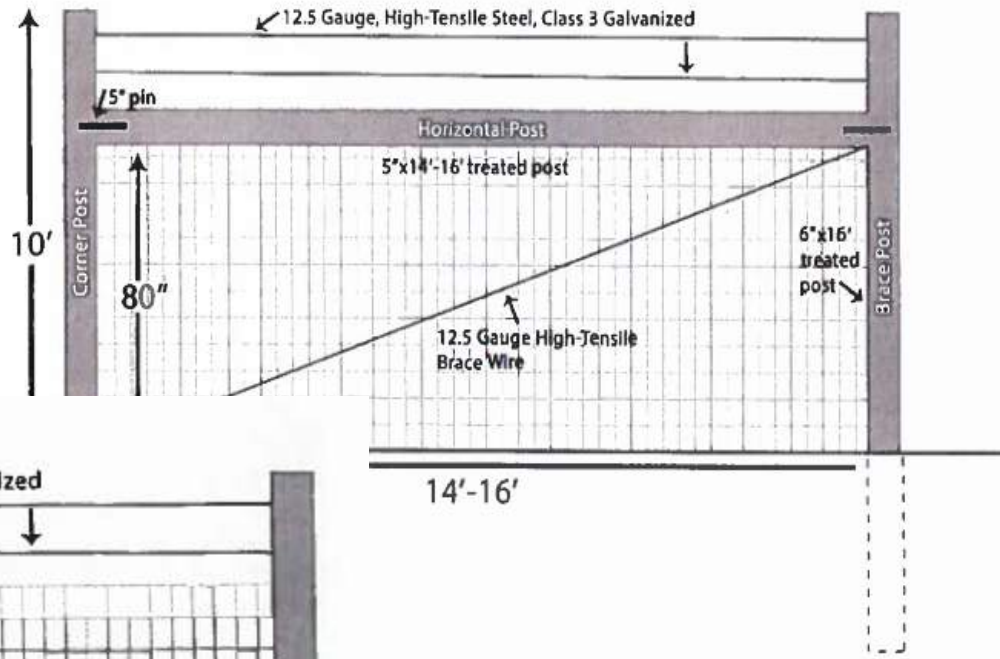
Meggan Herington, AICP

Vicinity Map



Fence Profile

Corner and Brace Assembly



Fixed-Knot Woven Wire Fence, 20/96/12, 12½ Ga

- 20 Horizontal Wires
- 96 Inches Tall (8')
- Vertical Wires 12 Inches apart

(Example Above Does Not Reflect Actual Woven Wire Fence)

Background



- Complaint filed in April for construction without a building permit
- Met with the Ranch to determine setbacks and submittal requirements
- Majority of the fence is internal to the property –
 - except for the most adjacent length along Mountain Shadows from the water tank on the north to the main Ranch gate on the south
- Discussed options for fence placement

Background



- Staff required a non-traditional site plan
 - Surveyed boundary drawing adjacent to existing residential with 10-foot setback
 - Aerial photo for entire length of fence and approximate location internal to the Ranch
- The building permit submitted on May 15
- Permit and site plan approved on May 28
- Appeal to CPC filed on May 30
- CPC hearing held on June 20
- CPC decision appealed to Council on July 1 with a request to postpone to August 13

Appeal Concerns



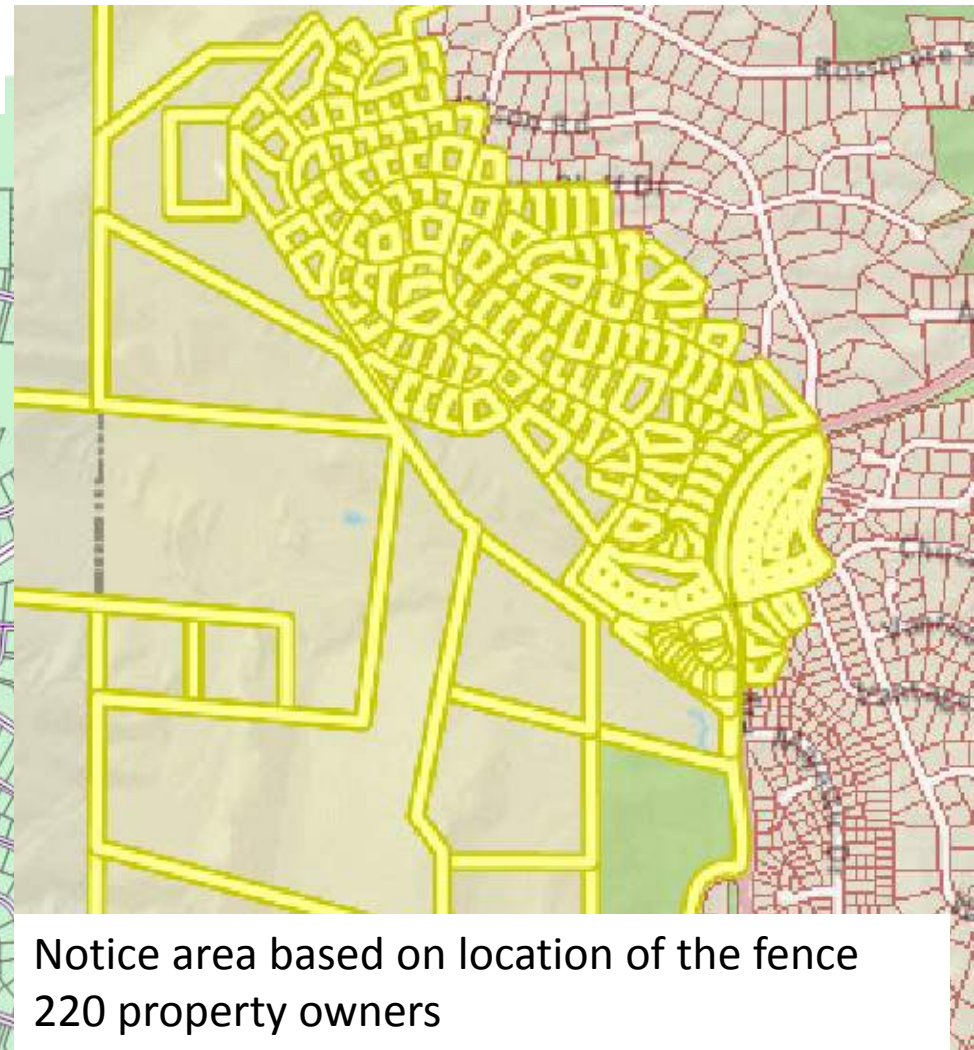
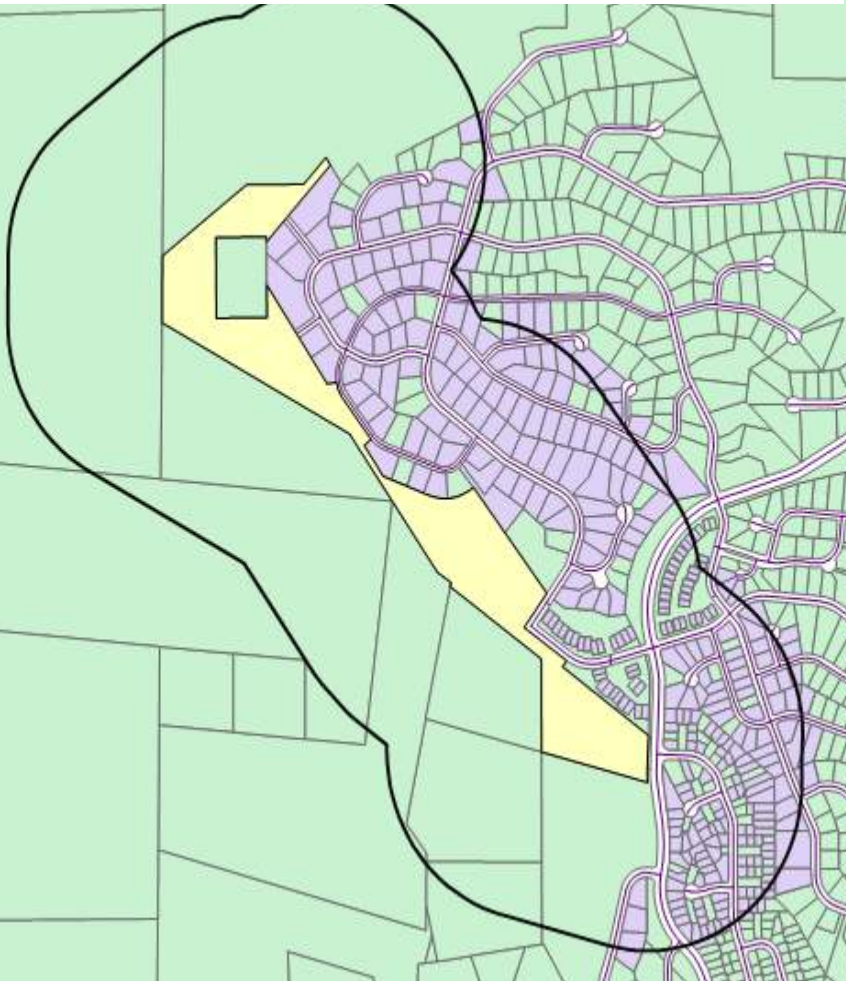
- Erroneous Notification
- Erroneous assignment of front, side and rear setbacks
- Incomplete site plan
- Non-conformance with the Hillside Overlay

Appeal Concerns

Erroneous neighborhood notification



Notice sent to 385 property owners within 1000 feet of the most adjacent parcels



Notice area based on location of the fence
220 property owners

Appeal Concerns

Erroneous assignment of setbacks



7.3.105.A.1 -

a. Accessory structures are not allowed in the front yard setback. The structure/use shall maintain the minimum side yard setbacks for the zone in which it is located

d. Accessory structures/uses that are greater than one hundred twenty (120) square feet in gross floor area located in the rear yard setback must maintain the following setback from any property line within the rear yard area:

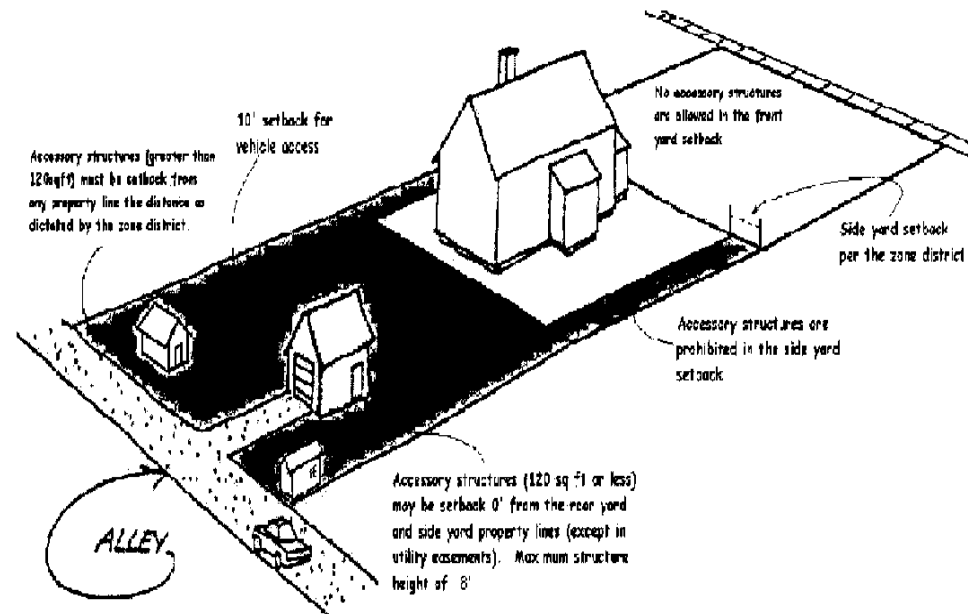
A, R estate, R-1 9000 → 10 feet

How Does Code Apply To The Ranch?



What is the front? Where is the front yard setback?
Where does the 10 foot non-front setback apply?

How do we apply a suburban city zoning code to a large agricultural property?



How Does Code Apply To The Ranch?

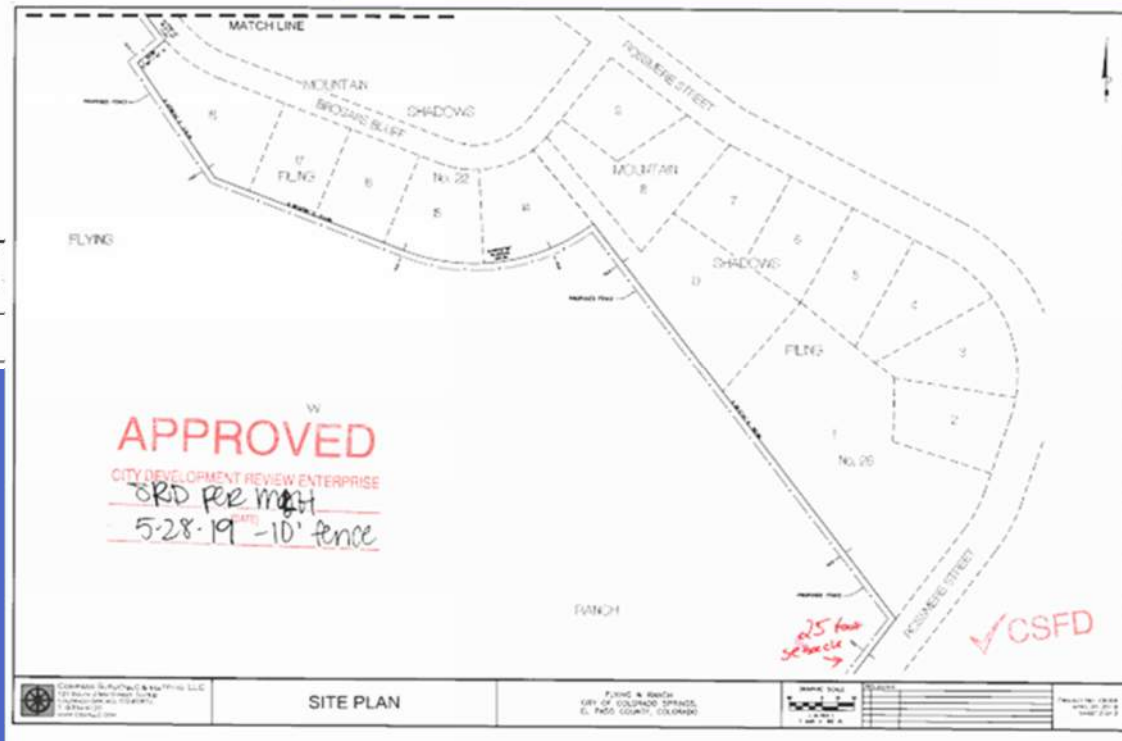
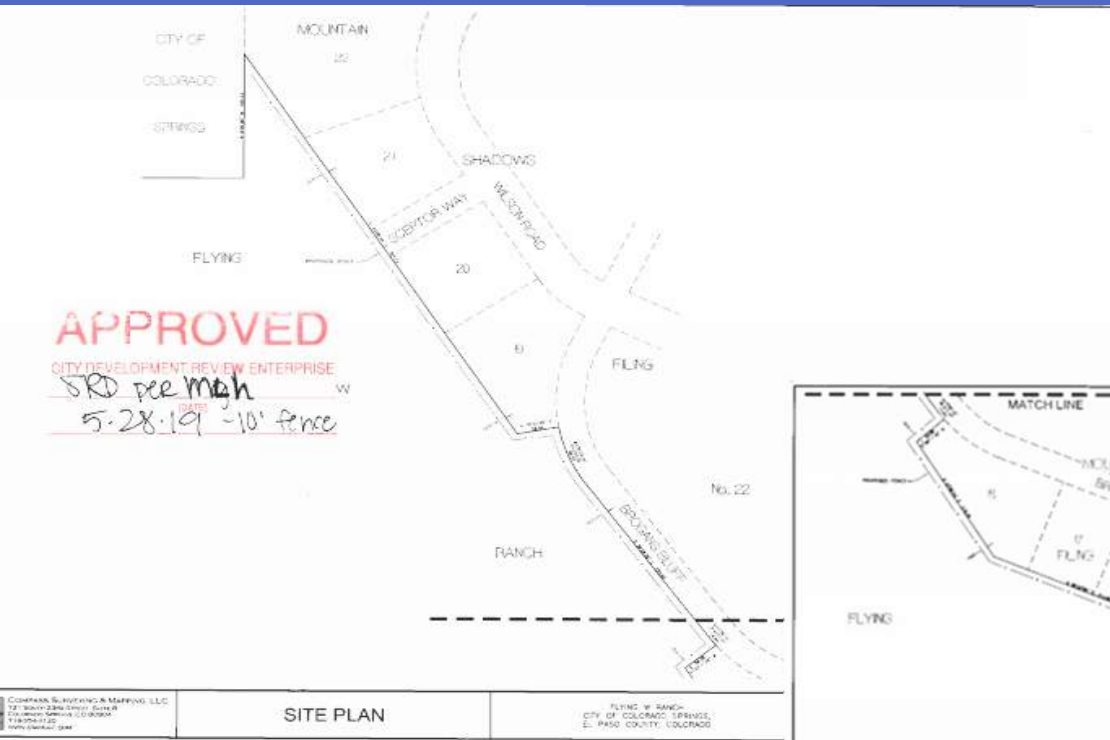


How Does Code Apply To The Ranch?



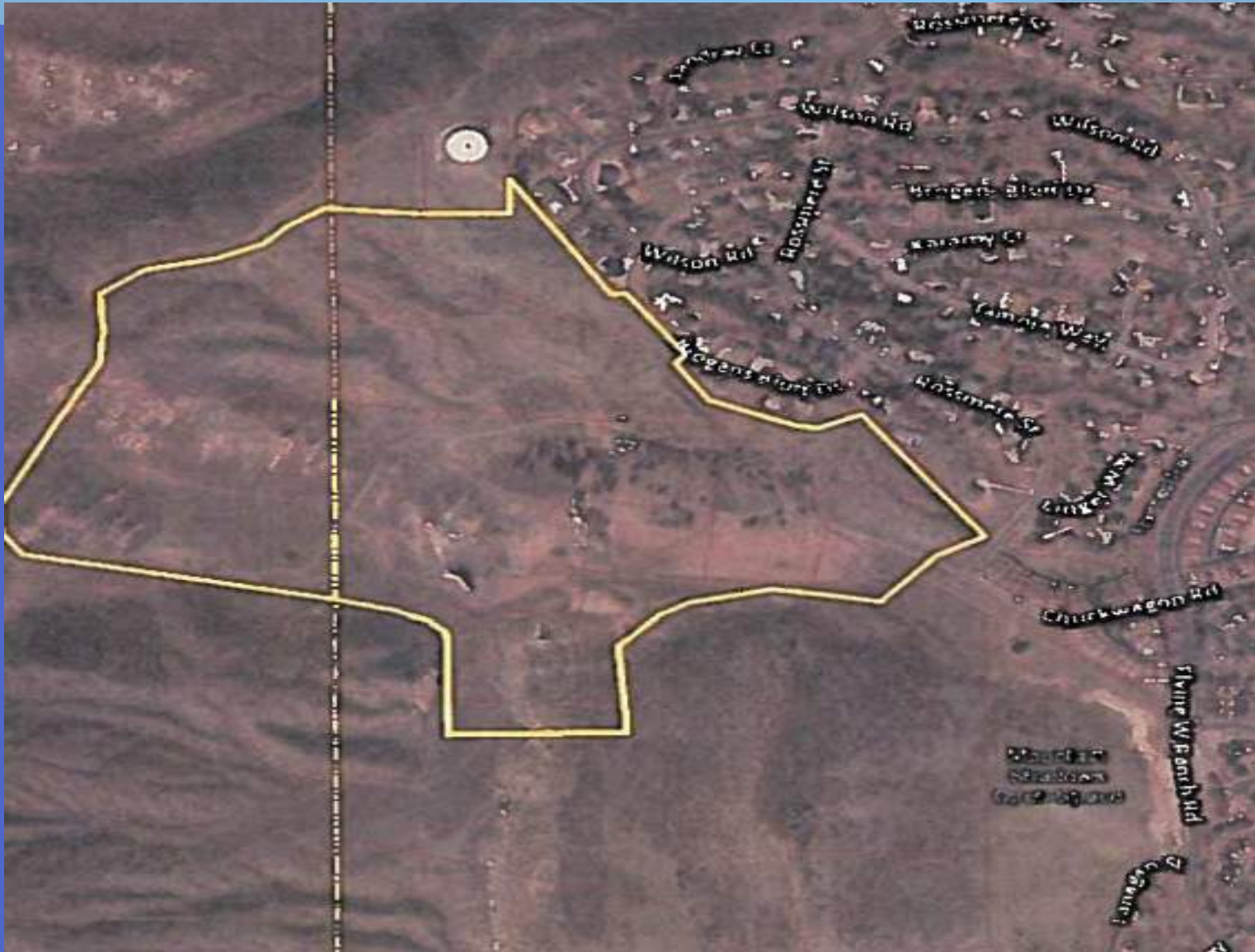
Appeal Concerns

Incomplete site plan



Appeal Concerns

Incomplete site plan



Appeal Concerns

Nonconformance with hillside



- Staff finds that the site plan is in conformance with the Overlay
 - Nothing in the Code or guidelines dictates different setbacks or materials for a fence.
 - No topography required - would not change the setbacks
 - No Grading and Erosion Control Plan required per State
 - Not a common plan for development – agricultural fence

7.3.505.H.5. Lots Created Prior To June 6, 1996: It is recognized it may not be possible for lots platted prior to the adoption of the hillside standards enacted with ordinance 96-80 to be developed in full compliance with all of the standards and guidelines of this Code. The Manager will consider this factor when reviewing building permit requests for lots platted prior to June 6, 1996.

Ranch developed in the 1950's and pre- HS Overlay

Staff Recommendation



According to City Code Section 7.5.906.A.4.b, a successful appeal must be found to meet the following criteria:

- (1) It was against the express language of this zoning ordinance, or
- (2) It was against the express intent of this zoning ordinance, or
- (3) It is unreasonable, or
- (4) It is erroneous, or
- (5) It is clearly contrary to law.

Staff recommended denial of the appeal to City Planning Commission

CPC Recommendation



6 citizens spoke in favor of the appeal, 1 in opposition of the appeal

- Overall placement of the fence is an issue
- Fence is too close to backyards. Should be setback 100 feet, not 10 feet
- Negative impact to mountain views in Mountain Shadows
- Depreciation of surrounding property values
- Why does the fence need to be 10 feet tall
- Where will all of the animals go, negative impact to neighborhood

City Planning Commission agreed that the setbacks were applied appropriately and recommended denial of the appeal

- CPC acknowledged the difficulty in applying the setbacks to this ranch property
- CPC acknowledged that all of the written correspondence in opposition was received

Motion by Satchell-Smith, seconded by Raughton, to deny the appeal

The motion passed by a vote of 6:0:2: 2 excused and Commissioner Hente recused

Recommended Motion



AR R 19-00118 – APPEAL OF AN ADMINISTRATIVE SITE PLAN APPROVAL

Deny the appeal, thereby upholding the administrative approval of the site plan for construction of a 10-foot fence with a 10-foot setback addressed as 2830 Brogans Bluff Drive, based upon the finding that the site plan complies with the development standards for accessory structures in City Code Section 7.3.105.A.1, as well as the finding that the appeal criteria in Section 7.5.906.A.4 are not met.

Questions?

