



**Staff Report Presented to the Planning Commission**

**REQUEST:** The applicant is seeking a variance to allow an eight-foot security fence for site security and to match the existing fence. The subject property is a pre-existing public facility in the Recreation Commercial (RC) zone. Fences and walls located less than five feet from a street property line shall not exceed a maximum height of three and one-half feet when constructed with solid materials (i.e. wood fence) or four feet when constructed with open material (i.e. chain-link fence) [SHMC 17.52.050(A)(1)]. Fences and walls located more than five feet from the street property line shall not exceed a maximum height of seven feet [17.52.050(A)(2)]. Interior side and rear yards. Fences and walls located at a property line not abutting a street shall not exceed a maximum height of seven feet [17.52.050(B)]. Barbed wire. Barbed Wire may be used in the City Limits [17.52.050(C)].

Per Ordinance Bill No. 12 for 2013 (Ordinance No. 1318) and Ordinance Bill No. 13 for 2013 (Ordinance No. 1319), adopted June 13, 2023, the subject property was rezoned to Public Facility (PF) Zone.

**APPLICANT &**

**PROPERTY OWNER:** The City of Sweet Home

**FILE NUMBER:** VR23-02

**PROPERTY LOCATION:** 1500 47<sup>th</sup> Avenue, Sweet Home, OR 97386; Identified on the Linn County Assessor’s Map as 13S01E28D Tax Lot 213.

**REVIEW AND**

**DESIGN CRITERIA:** Sweet Home Municipal Code Section(s) 17.52.050 and 17.106

**HEARING DATE & TIME:** July 6, 2023 at 6:30PM

**HEARING LOCATION:** City Hall Council Chamber at 3225 Main Street, Sweet Home, Oregon 97386

**STAFF CONTACT:**

Angela Clegg, Associate Planner  
 Phone: (541) 367-8113; Email: aclegg@sweethomeor.gov

**REPORT DATE:** June 29, 2023

**I. PROJECT AND PROPERTY DESCRIPTION**

**ZONING AND COMPREHENSIVE PLAN DESIGNATIONS:**

Property	Zoning Designation	Comprehensive Plan Designation
Subject Property	Recreation Commercial (RC)	Public Facility
Property North	Recreation Commercial (RC)	Mixed Use Employment

Property East	Industrial (I) Residential Low Density (R-1)	Mixed Use Employment
Property South	Commercial Highway (C-2)	Highway Commercial
Property West	Recreation Commercial Residential High Density(R-3)	Mixed Use Employment Residential High Density

**Floodplain:** Based on a review of the FEMA flood insurance rate map; Panel 41043C0916G, dated September 29, 2010, the subject property is not in the Special Flood Hazard Area.

**Wetlands:** The subject property does not wetlands/waterways on the properties that are depicted on the Sweet Home Local Wetlands Inventory and the National Wetlands Inventory Map: SSR-21A.

The subject property is in the Natural Resource Zone.

**Access:** The subject property has access from 47<sup>th</sup> Avenue.

**Water and Sewer Services:** The subject property has access to City water and sewer services in 47<sup>th</sup> Avenue.

**TIMELINES AND HEARING NOTICE:**

Application Received: May 18, 2023

Application Deemed Complete: May 22, 2023

Notice Distribution to Neighboring Property Owners Within 100 feet and Service Agencies: May 22, 2023

Notice Published in New Era Newspaper: May 22, 2023

Date of Planning Commission Hearing: July 6, 2023

120-Day Processing Deadlines: September 19, 2023

**II. COMMENTS**

**CEDD Engineering:** CEDD Engineering has no concerns with this request.

**Public Works Division:** No comments as of the mailing of this notice.

**Building Division:** No comments as of the mailing of this notice.

**Sweet Home Fire District:** No comments as of the mailing of this notice.

**Ruth Price ODOT Rail Crossing:** ODOT Rail Crossing does not have any concerns/comments.

**Public Comments:** No comments as of the mailing of this notice.

### III. REVIEW AND DESIGN CRITERIA

The review and decision criteria for a variance are listed below in bold. Findings and analysis are provided under each review and decision criterion.

The Planning Commission may allow a Variance from a requirement or standard of this Development Code after a public hearing conducted in accordance with the Type III review procedures provided that the applicant provides evidence that the following circumstances substantially exist:

- A. The variance is necessary because the subject Development Code provision does not account for special or unique physical circumstances of the subject site, existing development patterns, or adjacent land uses. A legal lot determination may be sufficient evidence of a hardship for purposes of approving a variance. [17.106.060(A)]**

Applicant's Comments: The variance is necessary to provide adequate site security for the Water Treatment Plant (WTP). The Water Treatment Plant is a critical infrastructure facility and is also an attractive target for vandalism and malicious acts. The existing fence is of robust construction (7' cyclone and 1' barbed wire for a total of 8') but only protects a small portion of the site. Extension of the fence to protect the property & facility entrances has been identified as a needed security improvement in the Risk and Resiliency Assessment, which the City's Engineer of Record (West Yost Associates) developed in accordance with the America's Water Infrastructure Act of 2018 (aka AWIA).

The immediate project is to install fencing along the southern property line to protect the entrance. In the future we intend to install additional fencing to protect the northern portion of the property and we will ensure the access easement on the southeast corner of the property which benefits adjacent lot 300 will be excluded from the fenced area. To provide a consistent level of security across the premises without some sections being weaker than others, the new fence extensions need to match the existing fence materials.

Staff Findings: The subject property is in the Public Facility (PF) zone (adopted June 13, 2023). Fences and walls located more than five feet from the street property line shall not exceed a maximum height of seven feet [SHMC 17.52.050(A)(2)]. Barbed Wire may be used in the City Limits [SHMC 17.52.050(C)].

There is an existing 8-foot fence with 7 feet of cyclone fencing and 1 foot of barbed wire. The applicant is requesting the variance to be consistent in height and materials with the existing security fence.

- B. Such variance is necessary for the preservation and enjoyment of a substantial property right of the applicant possessed by the owners of other properties in the same vicinity or district. An economic hardship shall not be the basis for a variance request.**

Applicant's Comments: The variance is necessary to enjoy the right of a secure premises and fulfill the City's obligation to protect critical public infrastructure. Other properties in the vicinity enjoy a level of security and safety typical of residential developments, however the Water Treatment Plant is a more attractive target for vandalism and malicious acts (higher risk of an incident) and carries greater consequences if the site is tampered with (higher impact of an incident). Therefore, to provide an equivalent level of enjoyment of the right to security, greater security measures are required.

Staff Findings: Per the applicant's comments, the fence height is necessary for the security and safety of the Water Treatment Plant. The request shall allow the applicant to have a fence consistent, in height and materials, with the existing security fence on the property.

**C. The authorization of such variance will not be materially detrimental to the public welfare or injurious to property in the vicinity or district in which the property is located, or otherwise conflict with the objectives of any City plan or policy.**

Applicant's Comments: The variance will have no impact to neighboring properties. The variance will improve public welfare by providing improved security to the Water Treatment Plant and is consistent with the recommended improvements of the City's AWIA Risk and Resiliency Assessment.

Staff Findings: Staff finds that the variance will not be materially detrimental to the public welfare or injurious to the property in the vicinity or district in which the property is located. The variance does not conflict with the objectives of any City plan or policy.

**D. The need for the variance is not self-imposed by the applicant or property owner (for example, the variance request does not arise as a result of a property line adjustment or land division approval previously granted to the applicant).**

Applicant's Comments: No. National incidents have demonstrated the need for improved security and risk mitigation to protect public drinking water facilities. The AWIA act required the City to conduct a Risk and Resiliency Assessment to evaluate each component of our drinking water system and this project was identified as a needed facility improvement.

Staff Findings: Per the applicant's comments the request for a variance to the fence height was identified as a needed facility improvement after an evaluation in accordance with the AWIA act.

**E. The variance requested is the minimum variance which would alleviate the identified hardship.**

Applicant's Comments: To provide for a consistent level of security for the premises without some sections being weaker than others, the new fence materials and construction need to match the existing fence.

Staff Findings: Staff finds that the variance to the fence height is the minimum that would alleviate the identified hardship identified in the evaluation of the site.

**F. All applicable building code requirements and engineering design standards shall be met.**

Applicant's Comments: The fence will be constructed of industry standard cyclone fence with barbed wire and will be professionally installed.

Staff Findings: The applicant shall comply with the standards in Sweet Home Municipal Code 17.52 Fencing and Screening.

#### **IV. STAFF RECOMMENDATION**

Staff finds the applicant has met the criteria listed above in Section III. Staff has not recommended any Conditions of Approval.

## V. PLANNING COMMISSION ACTION

The Planning Commission will hold a public hearing at which it may either approve or deny the application. If the application is denied, the action must be based on the applicable review and decision criteria.

Appeal Period: Staff recommends that the Planning Commission's decision on this matter be subject to a 12-day appeal period from the date that the decision is mailed.

Order: After the Planning Commission makes a decision, staff recommends that the Planning Commission direct staff to prepare an Order that is signed by the Chairperson of the Planning Commission. The Order shall memorialize the decision and provide the official list of conditions (if any) that apply to the approval; if the application is approved.

### Motion:

After opening of the public hearing and receiving testimony, the Planning Commission's options include the following:

1. Move to approve application VR23-02 and thereby permit the variance for the subject lot located at 1500 47<sup>th</sup> Avenue, Sweet Home, OR 97386; Identified on the Linn County Assessor's Map as 13S01E28D Tax Lot 213; adopting the Findings of Fact listed in Section III of the staff report, the setting of a 12-day appeal period from the date of the mailing of the decision, and hereby direct Staff to prepare an order to be signed by the Chair to memorialize this decision.
2. Move to deny application VR23-02 and thereby deny the request for a variance for the subject lot located at 1500 47<sup>th</sup> Avenue, Sweet Home, OR 97386; Identified on the Linn County Assessor's Map as 13S01E28D Tax Lot 213; adopting the following Finding of Fact (specify), the setting of a 12-day appeal period from the date of the mailing of the decision, and hereby direct Staff to prepare an Order to be signed by the Chair to memorialize this decision.
3. Move to continue the public hearing to a date and time certain (specify); or
4. Other

## VI. ATTACHMENTS

- A. Subject Property Map
- B. Site Plan
- C. Application VR23-02 submitted May 18, 2023
- D. Appendix M with Narrative

The full record is available for review at the City of Sweet Home Community and Economic Development Department Office located at City Hall, 3225 Main Street, Sweet Home, Oregon 97386. Regular business hours are between 7:00 AM and 5:00 PM, Monday through Friday, excluding holidays.





Subject Property Map  
VR23-02

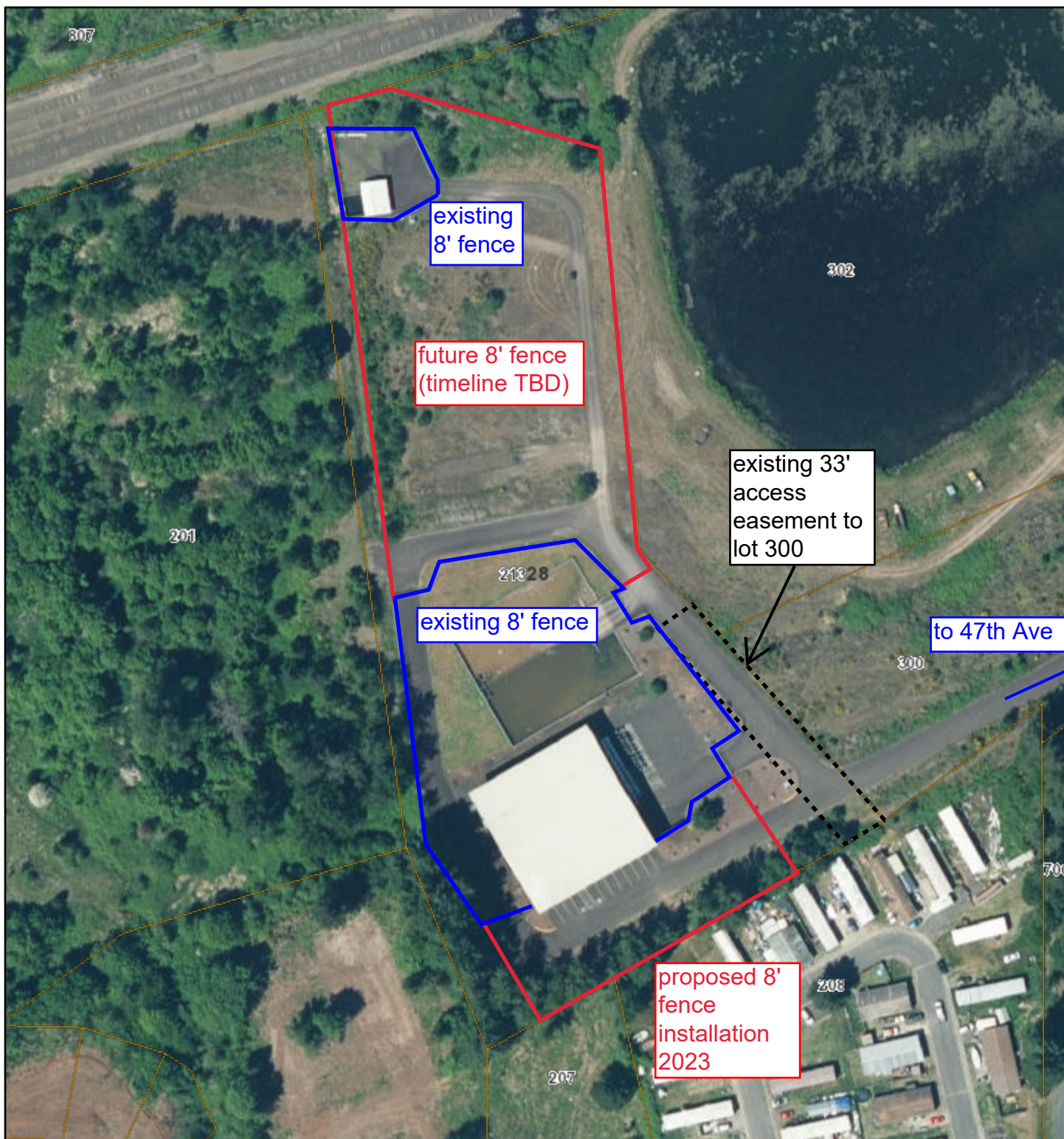
Date: 5/22/23



1 inch = 355 feet



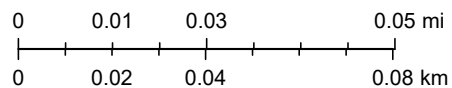
# ArcGIS Web Map



7/14/2022, 11:47:38 AM

1:2,257

-  Cities
-  Highways
-  Roads
-  Sections
-  Tax Lots



Subject property: 1500 47th Ave  
 Taxlot: 13S01E28D-213  
 5.86 acres  
 Use: Public (WTP)



City of Sweet Home
Community and Economic Development Department- Planning Program
3225 Main Street, Sweet Home, OR 97386 541-367-8113

Land Use Application

- Adjustment
Annexation
Comprehensive Plan Map Amendment
Conditional Use
Home Occupation
Interpretations
Nonconforming Uses
Partition
Property Line Adjustment
Site Development Review
Subdivisions and Planned Developments
Text Amendments
Variance
Zone Map Amendment

Date Received:
Date Complete:
File Number: VB23-02
Application Fee:
Receipt #:
Planning Commission Hearing Date:
City Council Hearing Date:

Within 30 days following the filing of this application, the Planning Department will make a determination of completeness regarding the application. If deemed complete, the application will be processed.

Applicant's Name:
City of Sweet Home (contact: Steven Haney)

Applicant's Phone Number:
541-730-1845

Applicant's Address:
3225 Main St

Applicant's Email Address:
shaney@sweethomeor.gov

Property A

Owner's Name:
City of Sweet Home

Property B

Owner's Name:

Owner's Address:
3225 Main St

Owner's Address:

Owner's Phone Number:
541-730-1845

Owner's Phone Number:

Owner's Email:
shaney@sweethomeor.gov

Owner's Email:

Property Address:
1500 47th Ave

Property Address:

Assessor's Map and Tax Lot:
13S-01E-28D-213

Assessor's Map and Tax Lot:

Property Size Before: 5.86 acres
Property Size After:

Property Size Before:
Property Size After:

Zoning Classification: RC
Comprehensive Plan: Public

Zoning Classification:
Comprehensive Plan:

Nature of Applicant's Request

Narrative describing the proposed land use action: Brief description on this form and attach extra sheets if needed.
Requesting variance to permit 8' tall security fence for site security and to match existing fence onsite. Please see attached narrative.

I certify that the statements contained on this application, along with the submitted materials, are in all respects true and are correct to the best of my knowledge and belief.

Applicant's Signature:

Date: 5/18/2023

Property Owner's Signature:

Date: 5/18/2023

Property Owner's Signature:

Date: 5-18-23

Property Owner's Signature:

Date:





**City of Sweet Home**  
Community and Economic Development Department- Planning Program  
3225 Main Street, Sweet Home, OR 97386 541-367-8113

**APPENDIX M**

**VARIANCE**

The development standards in this Development Code protect the public health, safety and welfare by establishing standard setbacks, maximum building heights and other development standards that apply to various uses. For lands or uses with unique characteristics the intent and purpose of the development standards may be maintained while allowing for a variance to requirements. A Variance may be approved for those requests resulting in greater than a 10% change in a quantifiable standard. [SHMC 17.106.010]

Variance applications shall be reviewed in accordance with the Type III review procedures specified in Chapter 17.126. [SHMC 17.106.030]

An application for a Variance shall be filed with The City and accompanied by the appropriate fee. Notice shall be subject to the provisions in Chapter 17.126. [SHMC 17.106.030]

**SHMC 17.106.040 SUBMITTAL REQUIREMENTS**

*The applicant is required to submit a summary for each of the following applicable criteria and submit the summary as a narrative with the Land Use Application. (Attach extra sheets, if needed)*

The applicant shall prepare and submit an application, site plan, and other supplemental information as may be required by City staff to indicate the intent of the development. The application shall include a statement explaining the proposal and providing analysis of the proposal relative to the approval criteria. The site plan shall show pertinent information to scale to facilitate the review of the proposed development.

- A. The following general information shall be shown on the site plan:
  - Vicinity map showing all streets, property lines and other pertinent data to locate the proposal.
  - North arrow and scale of drawing.
  - Tax map and tax lot number or tax account of the subject property.
  - Dimensions and size in square feet or acres of the subject property.
  - Location of all existing easements and City utilities (water, sanitary sewer, storm drainage) within the property.
  - Existing use of the property, including location of existing structures with dimensions of the structures and distances from property lines. It shall be noted whether the existing structures are to remain or be removed from the property.
  - A site plan or other information clearly indicating the proposed variance, including dimensions if applicable.

B. Do any of the criteria in SHMC 17.106.050 apply?  Yes  No  
If the applicant answered yes, the proposal does not qualify for a variance.

C. Is the variance necessary? Does the subject Development Code provision not account for special or unique physical circumstances of the subject site, existing development patterns, or adjacent land uses? Explain:

Please see attached narrative for responses to Questions C through H.

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D. Is such variance necessary for the preservation and enjoyment of a substantial property right of the applicant possessed by the owners of other properties in the same vicinity or district? Explain:

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E. Will the authorization of such variance be materially detrimental to the public welfare or injurious to property in the vicinity or district in which the property is located, or otherwise conflict with the objectives of any City plan or policy? Explain:

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F. Is the need for the variance self-imposed by the applicant or property owner? Explain:

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G. Is the variance requested the minimum variance which would alleviate the identified hardship? Explain:

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H. Are all applicable building code requirements and engineering design standards met? Explain:

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**C. Is the variance necessary? Does the subject Development Code provision not account for special or unique physical circumstances of the subject site, existing development patterns, or adjacent land uses? Explain:**

The variance is necessary to provide adequate site security for the Water Treatment Plant. The WTP is a critical infrastructure facility and is also an attractive target for vandalism and malicious acts. The existing fence is of robust construction (7' cyclone and 1' barbed wire for a total of 8') but only protects a small portion of the site. Extension of the fence to protect the property & facility entrances has been identified as a needed security improvement in the Risk and Resiliency Assessment, which the City's Engineer of Record (West Yost Associates) developed in accordance with the America's Water Infrastructure Act of 2018 (aka AWIA).

The immediate project is to install fencing along the southern property line to protect the entrance. In the future we intend to install additional fencing to protect the northern portion of the property and we will ensure the access easement on the southeast corner of the property which benefits adjacent lot 300 will be excluded from the fenced area. To provide a consistent level of security across the premises without some sections being weaker than others, the new fence extensions need to match the existing fence materials.

**D. Is such variance necessary for the preservation and enjoyment of a substantial property right of the applicant possessed by the owners of other properties in the same vicinity or district? Explain:**

The variance is necessary to enjoy the right of a secure premises and fulfill the City's obligation to protect critical public infrastructure. Other properties in the vicinity enjoy a level of security and safety typical of residential developments, however the WTP is a more attractive target for vandalism and malicious acts (higher risk of an incident) and carries greater consequences if the site is tampered with (higher impact of an incident). Therefore to provide an equivalent level of enjoyment of the right to security, greater security measures are required.

**E. Will the authorization of such variance be materially detrimental to the public welfare or injurious to property in the vicinity or district in which the property is located, or otherwise conflict with the objectives of any City plan or policy? Explain:**

The variance will have no impact to neighboring properties. The variance will improve public welfare by providing improved security to the Water Treatment Plant and is consistent with the recommended improvements of the City's AWIA Risk and Resiliency Assessment.

**F. Is the need for the variance self-imposed by the applicant or property owner? Explain:**

No. National incidents have demonstrated the need for improved security and risk mitigation to protect public drinking water facilities. The AWIA act required the City to conduct a Risk and Resiliency Assessment to evaluate each component of our drinking water system and this project was identified as a needed facility improvement.



**G. Is the variance requested the minimum variance which would alleviate the identified hardship? Explain:**

Yes. To provide for a consistent level of security for the premises without some sections being weaker than others, the new fence materials and construction need to match the existing fence.

**H. Are all applicable building code requirements and engineering design standards met? Explain:**

Yes. The fence will be constructed of industry standard cyclone fence with barbed wire and will be professionally installed.