

CITY OF GUELPH

PROPERTY DEMARCATION POLICY

Main Code: FACILITIES

Date: July 2 & 15, 1996 COUN

Sub-Code: PARKS

Revised: Aug 1996

Subject: Demarcation of Property Lines Page 1 of 1
(Living fences)

POLICY:

The Recreation and Parks Department will co-operate with the demarcation of common property lines between existing public City parks and private property as per the City of Guelph Property Demarcation Policy approved by City Council on July 2 & 15, 1996.

PROCEDURE:

(A) **THAT** application for property demarcation will only be considered upon receipt of a petition for the same signed by 100% of the owners of the abutting lands to be demarcated, or where there is an existing fence on each side of a property to be demarcated should be considered without consent of those neighbours who have already fenced their property.

(B) **THAT** the living fence and concrete property markers shall be installed as per the City of Guelph Property Demarcation Policy (See attached excerpts regarding parkland). The installation costs of the living fence and property markers shall be paid on a 50/50 basis between the City and the private land owners.

(C) **THAT** the City shall not pay for any other styles of fence as per By-law (1996) -15199. (See attached).

(D) **THAT** any living fencing carried out under this policy be on a first come basis, insofar as current budget allotments will permit.

(E) This policy is not retroactive.



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July 25, 1996

Mr. G.W. Stahlmann
Director of Community Services

Dear Sir:

At a meeting of Guelph City Council held July 15th, 1996 the following resolution was passed:

"THAT the policy of fencing natural heritage features using a living fence as contained in the City of Guelph Property Demarcation Policy, adopted by Council July 2nd, 1996 be approved;

AND THAT the City reserves the right to chain link fence natural heritage features if the living fence is not protecting the natural heritage features to the satisfaction of the City;

AND THAT future subdivision agreements provide for the demarcation of natural heritage features using a living fence and include a provision that the City has the right to chain link fence such features in the future if deemed necessary by the City;

AND THAT the City of Guelph Demarcation Policy be amended as above."

Yours very truly

Charlene Lavigne
Deputy City Clerk



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Telephone: (519) 837-5603 Fax: (519) 763-1269

July 25, 1996

Mr. G.W. Stahlmann
Director of Community Services

Dear Sir:

At a meeting of Guelph City Council held July 2nd, 1996 the following resolution was passed:

"THAT the attached report prepared by Derek G. Graham Limited regarding the City of Guelph Property Demarcation Policy, be approved, except for the fencing of the natural heritage features, as set out in paragraph 5 of this clause;

AND THAT the approved policy is not retroactive to previous development agreements signed by the City, except on a case by case basis approved by City Council;

AND THAT the proposed draft by-law to apportion the cost of division fences in certain defined areas of the City of Guelph be approved;

AND THAT the Community Services Department shall develop a landscape plan outlining property demarcation markers and a living fence, with the residents backing onto the Torrance Creek Wetland and Hales-Barton Neighbourhood Association for the property boundaries surrounding the Torrance Creek Wetland that the City is responsible for demarcating;



THE CITY OF GUELPH

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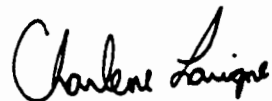
July 25, 1996

Mr. G.W. Stahlmann

RE: Demarcation Policy

AND THAT the matter of the fencing of natural heritage features be deferred, and that staff be directed to investigate the fencing of natural heritage features and report back to the Planning, Works and Environment Committee at the meeting scheduled for July 8th, 1996."

Yours very truly



Charlene Lavigne
Deputy City Clerk

*jms



THE CORPORATION OF THE CITY OF GUELPH

By-law Number (1996)-15199

A By-law to apportion the cost of division fences in certain defined areas of the City of Guelph.

WHEREAS Section 210, Paragraph 27 of The Municipal Act, R.S.O. 1990, Chap. M.45 allows municipalities to pass a by-law for determining how the cost of division fences shall be apportioned, and such by-law may be restricted in its application to such defined areas of the municipality as are set out in the by-law;

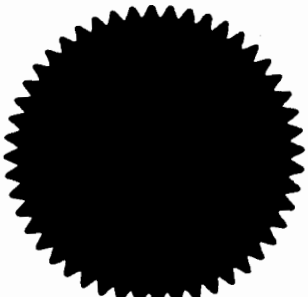
AND WHEREAS Section 26 of The Line Fences Act, R.S.O. 1990, Chap. L.17 states that the Line Fences Act does not apply to land where the land is in an area that is subject to a by-law passed under Section 210, Paragraph 27 of The Municipal Act;

AND WHEREAS the City of Guelph has adopted a comprehensive fencing policy in respect of fences on land owned by, or land abutting land owned by, the Corporation of the City of Guelph;

NOW THEREFORE THE CORPORATION OF THE CITY OF GUELPH ENACTS AS FOLLOWS:

- 1. The Line Fences Act shall not apply to any fence constructed or to be constructed to mark a boundary between land which is owned by the Corporation of the City of Guelph and zoned P1, P2, P3 or P4 in accordance with City of Guelph By-law (1995)-14864, the Zoning By-law, and any amendments thereto, and an abutting property, and the Corporation of the City of Guelph shall not be required to pay any portion of the cost of any such fence.**

PASSED this Sixteenth day of July, 1996.



Joe Young

JOE YOUNG - MAYOR

V. Charlene Lavigne

V. CHARLENE LAVIGNE - DEPUTY CITY CLERK

THE CORPORATION OF THE CITY OF GUELPH

COMPREHENSIVE PROPERTY DEMARCATION POLICIES:

PART 1: INTRODUCTION

STUDY AREA:

This Comprehensive Review of Fencing Policy reflects only those lands within the corporate boundaries of the City of Guelph over which the City of Guelph has jurisdiction by virtue of the various statute powers with which it has been entrusted. This will involve principally policy provisions for fencing wetlands, storm water management facilities [SWM], natural areas, greenways, and parklands between the privately and publicly held lands.

PURPOSE:

A review of the current fence installation requirements adjacent to public lands, under the jurisdiction of the City of Guelph, was initiated from the Planning, Works and Environment Committee in 1995 with the intent of developing a policy that would be the basis for a city wide property demarcation policy. The result is to be a policy that will define the property demarcation requirements between private and City owned lands within the City of Guelph. Property demarcation between the private landowner and the City can be by agreement or subject to the City of Guelph's Fence Viewers decisions as set out under the Line Fences Act R.S.O. 1990, Chap. L. 17. The City also has fencing standards set out in the Comprehensive Zoning By-law (1995) -14864 and the City of Guelph's Swimming Pool By-Law Number (1994)-14660.

Recent residential development activities immediate to the Torrence Creek Wetland, the existing fencing criteria and development concerns initiated this comprehensive review. The goal is to develop a comprehensive property demarcation policy that addresses the concerns identified by site analysis and through public consultation, to define requirements and to propose options/recommendations for public/ private land boundaries in accordance with statutory requirements.

OBJECTIVES:

The Comprehensive Review of Fencing Policy has the following components:

1. Research, review and analyse existing public policies as they pertain to the fencing of public properties, with particular focus on public open space (parks), storm water management areas [SWM], greenways, wetlands and other environmentally significant areas ; and

2. Work and consult with staff representatives of the City of Guelph's Works, Planning and Business Development, and Community Services Departments, the Grand River Conservation Authority [GRCA], the Ministry of Natural Resources, the Ministry of Environment and Energy, and other public agencies; and

3. Develop, advertise and facilitate an information gathering process that will include appropriate opportunity for public input; and

4. Facilitate a public meeting that will communicate the draft policy to the concerned public for its review and comments prior to establishing a final policy; and

5. Develop a comprehensive policy(ies) for demarcation of all City owned lands, including those mentioned in Objective 1. This will include presentations to the Planning, Works and Environment Committee and Guelph City Council.

PUBLIC CONSULTATION:

Residents, community groups, Ministries, agencies and developers play an integral role in the development of the Comprehensive Property Demarcation Policies. To ensure that community groups, residents, Ministries, agencies and developers were involved, notices were sent out to those attending Planning, Works & Environment Committee meetings regarding fencing, to developers in the City and all neighbourhood associations.

The first notice was a request for comments regarding fencing in the City of Guelph, [See Appendix "B"]. This notice was mailed to those listed in Appendix "C", as well as advertised in the local paper, the Daily Mercury, on February 10, 1996. These comments have been reviewed, collated and summarized and then incorporated into this document.

All commenters were then specifically invited and provided an advanced copy of the draft, along with those informed via a notice published on March 23, 1996 in the Daily Mercury, to a public meeting to discuss the draft document and their comments were reflected in the version for the review of the Council of the Corporation of the City of Guelph. Those in attendance at the public meeting were provided with a copy of the final version.

COMMENTS RECEIVED:

In the comments received, singularly and in groups, concerns expressed over fencing of the natural areas appeared to be in the majority.

The comments indicated :

[a] the residents never knew a fence would be constructed, and it was not evident on title that a fence would be constructed in a portion of the Hales-Barton Subdivision to demarcate the lands owned by the City of Guelph. Although any property owner has the right to fence at any time, including a

municipality, City staff indicated that one of the subdivision agreements did not clearly indicate that the City would be fencing its common property line. There was opposition to the proposed fence and its aesthetic appeal to the residents backing onto the natural areas.

[b] that there was a preference toward educational programs, binding easements, property demarcation markers and community monitoring of wetlands rather than physical fencing,

[c] the residents would assume the responsibility for the stewardship of a fence alternative and would "manage" the wetlands. Certain residents are concerned that weeds from the wetlands are transplanting themselves naturally into back yards so they wish to have access to control weeds,

[d] the concerns regarding the choice of chain link fencing. It is felt that this is unsightly and not aesthetically pleasing. A more liberal use of landscaping to delineate boundaries is preferred.

[e] the community recognizes that wetland preservation is a priority and a common goal but would like the City of Guelph to try alternative solutions to the chain link fence such as conservation easements.

[f] the new stormwater management areas can be demarcated by using living fences which creates a more naturalized feature.

[g] that as the fencing of parklands ages and deteriorates it be replaced with living fences and property demarcation.

[h] the policy should create an aesthetically pleasing community and particularly an aesthetically pleasing interface between public and private lands.

[i] that if the only answer to the situation is to fence every potential amenity with steel wire, then we have failed as a community to provide a safe, healthy and sustainable urban ecosystem for present and future residents.

[j] the fence materials, other than for a safety fence, would not have to be stipulated in the policy, but could be included in a guidebook or an environmental manual, prepared by City staff for use by new or existing homeowners and developers.

DEFINITIONS:

Area of Natural and Scientific Interest (ANSIs):

means areas of land and water containing natural landscapes or features which have been identified as having values related to natural heritage protection, scientific study or education
(see City of Guelph - Official Plan 1994 Section 7)

Development:

- means:
- a) the construction, erection, or placing of one or more buildings or structures on lands;
 - b) activities such as site grading, excavation, removal of topsoil or peat and the placing or dumping of fill;
 - c) drainage works, except for the maintenance of existing Municipal and Agricultural Drains; and
 - d) various forms of intensification
(see City of Guelph - Official Plan 1994 Section 7)

Living Fence:

means a primarily native, low maintenance, non-invasive plant material that will successfully co-exist with other plants. It is imperative that the plant material will not result in a monoculture or threaten the existing ecosystem in the wetlands.

Natural Area:

means an area which has been identified by the City as an area of natural significance which is to be enhanced by limiting public access, including natural areas identified in the Official Plan and Naturalization in the City of Guelph Parks - Policy.

Natural Regeneration:

means an area where the mowing of turf grass and pesticide applications are reduced significantly, or discontinued altogether and where a seed source is in close proximity and when human disturbance is minimized and the seed sources are able to move in, a natural succession of plant materials can occur, to the point where a woodlot may be established { see Naturalization in the City of Guelph Parks}.

Property Demarcation Marker (PDM):

means a 4 inch (10 cm) square concrete marker 6 feet (1.8 m) long installed vertically 3 feet (0.9 m) into the ground. This PDM is to be used in any number of situations including indicating the relative position of a boundary and, serving as a public notice indicator of the use/restriction of publicly owned lands. The PDM is to be placed generally every 100 feet (30m) or 3 lots, whichever is less. {See Appendix "A"}

Significant:

means in regard to natural features and functions, ecologically important to the natural environment in terms of amount, content, representation, or effect, thereby contributing to the quality and integrity of an identifiable ecological region or natural heritage system.
{see City of Guelph - Official Plan 1994 Section 7}

LEGAL SYNOPSIS REGARDING THE RIGHT TO FENCE:

* Each situation requires an individual legal assessment. The synopsis is intended to be a general information scenario.

Section 3 of the Line Fences Act, R.S.O. 1990, c. L.17, gives every landowner the statutory right to construct and maintain a fence which marks the boundary between the owner's land and adjoining lands. There are, however, certain provisos.

For clarity, Section 23 confirms that the Act applies to all lands owned by a municipality (the City of Guelph) or a conservation authority such as the Grand River Conservation Authority (GRCA) or a local board, (The Board of Light and Heat Commissioners of the City of Guelph, operating as Guelph Hydro). This Act also includes a provision for a municipality or conservation authority to enter into agreements with owners of adjoining lands regarding the construction, reconstruction and maintenance of fences, which may be registered on title and enforced, Section 23(3).

Agreements like these are often entered into as part of a subdivision or development agreement. The developer/owner of lands under an application for a Plan of Subdivision or Condominium may pay up to 100% of the initial cost of construction of the fence where it is adjacent to lands deemed by the City to require fencing. Maintenance after the usual guarantee period is usually assumed by the City or the GRCA. However, maintenance of the fences could be set out in the agreement to be the responsibility of the abutting private landowner wholly or as a percentage of total costs. The Line Fences Act provides that, if it is set out in an agreement, the costs of maintaining the fences or a share of the cost could be passed onto the private owners that abut either City owned or GRCA owned lands.

If the City is the owner of a former rail line, in its total width, it is the City's responsibility to continue maintaining the fence. [Line Fences Act Section 20(1)(c)]

Municipalities also have the option of passing a By-law on their own for determining the costs of division fences and how they are to be apportioned. The authority for this is under the Municipal Act, R.S.O. 1990, Chap. M.45, S.210 par 27. If the municipality passes the By-law, it supercedes the jurisdiction of the Line Fences Act and the appointed Fence Viewers. The By-law could be made applicable to defined areas of the City, eg. residentially, industrially or commercially zoned lands. Among other things, the municipality could set out in the By-law the rules for apportioning costs of constructing and maintaining fences rather than being restricted by a benefit analysis under S.8(2) of the Line Fences Act. A benefit analysis under the Line Fences Act could find that the fence was solely for the benefit of the City so the City would be totally responsible for the maintenance of the fence. As opposed to this the City could structure its by-law to require adjacent property owners abutting City or publicly owned lands to pay either all or part of the costs of fencing even though the fencing may be totally or partially for the benefit of City or public owned lands.

The Line Fences Act does not define what a fence is. Thus, abutting owners can agree between themselves as to what constitutes a fence and who is to maintain it. The owner and the City can agree that a "living fence" can be "the fence". In other cases, the PDM along the boundary can be sufficient to constitute the agreed fence. This agreement can form a portion of the subdivision agreement rather than be a separate agreement. The wording should follow the format of Form 15

under the Line Fences Act and indicate that it is an agreement under Section 23(3) of the Line Fences Act. If this is done then owners in the future cannot require the City to install or pay for any part of the costs of a fence or maintaining any future fence.

If a living fence is planted exactly on the boundary it will gradually grow in width depending upon the variety of the plant material. In theory, the living fence would grow equally on the City lands and on the private lands. If the City agreed to be responsible for maintaining the plant material along the boundary line, the City should also have an easement to enter onto the private lands for maintenance purposes. If the living fence is entirely on City lands the easement would not be required. If the City requires the private owner to maintain the living fence on the border, then the subdivision agreement should require the developer to add a covenant to all deeds for the lots involved for the maintenance of the living fence under the Conservation Land Act..

LEGAL LIABILITY:

If there are lands owned by the City for which it has been determined by Council's direction that the public is to be denied access, entry can be prohibited by notice [see Trespass to Property Act, R.S.O. 1990, Chap. T.21 S.3(1)]. There are two methods of giving notice prohibiting anyone from coming onto the premises for any purposes. Either is acceptable. The first is placing "No Trespassing" sign posts at each ordinary point of access to the premises. These signs must be clearly visible in daylight under normal conditions. The second method is by a marking system. The markers are to be red circles, 4 inches (10cm) in diameter. These red-dotted markers must be placed so that they are clearly visible in daylight under normal conditions from the approach to each ordinary point of access to the premises, (see Trespass to Property Act, R.S.O. 1990, Chap. 21(5) and (7)). Posting the premises is helpful to advise residents of unaccessible areas but is not a complete answer to absolve the City of liability.

Under the Occupiers Liability Act, R.S.O. Chap. 2, (3), the occupiers of premises such as the City of Guelph owe a duty to take such care as is reasonable to see that persons entering on the premises are reasonably safe while on the premises. There is an exception for this duty of care for risks willingly assumed by the person entering the premises. But this should not be relied upon as it would only apply in limited circumstances. For certain types of lands, the person is deemed to have willingly assumed the risks on entering the premises where entry is prohibited under the Trespass of Property Act. This exception does not apply however for City owned premises. So, the posting of "No Trespassing" signs or red markers is not an automatic "out" to escape the liability, but, it indicates an attempt to warn. If it can be shown that the person went by or ignored the "No Trespassing" signs or markers and went on the premises irregardless of the signs or markers he or she may have assumed the risks associated with being on the premises and no liability to the City would occur. It would be impossible for this to apply to toddlers, so methods have to be employed to prevent them from getting onto the premises that could pose a danger to them.

It may be possible to design the SWM retention areas without fencing so as to be as safe as traditionally link wire fenced areas. This could be accomplished by a combination of making the retention areas shallower and the planting of impenetrable shrubbery.

ADVERSE POSSESSION (SQUATTERS' RIGHTS)

One of the reasons for erecting PDMs on the boundary between two different owners is to prevent encroachment. City owned lands that back onto a residential/commercial/industrial development can be subject to encroachment as composters, sheds, doghouses, and debris migrate to beyond the rear of a property and commonly encroach onto public lands after a period of time. If this is not stopped and the abutting owners have been in possession of the lands for a period of over ten years to the open and notorious exclusion of the City (and without any agreement) then, under the Limitations Act, the City could face claims against its lands through adverse possession. A fence protects the private owners from trespassers who are using the public lands randomly entering their land. It is not possible to acquire Squatters' Rights to any portion of public roads in the City.

IDENTIFIED WETLAND/ENVIRONMENTALLY SENSITIVE/PROVINCIALY SIGNIFICANT AREAS

GRAND RIVER CONSERVATION AUTHORITY

The Grand River Conservation Authority (GRCA) generally insists that a developer fence the property line abutting its lands. The Authority as an entity in law, as a landowner and an agent of the Crown can lose land by adverse possession under the Limitations Act. It normally requests a 5 foot (1.5m) high continuous chain link fence and does not allow gates to be installed as part of a subdivision agreement as a condition of approval. (See the Planning Act R.S.O. 1990, Chap. P.13, Sec 51(26).

The GRCA maintains the policy that "Good Fences Make Good Neighbours", which was originally expressed by poet Robert Frost. It has generally insisted on the fencing of lands adjacent to GRCA lands due to the encroachment possibilities and/or its past experience. The GRCA staff could not find any written policy adopted by the Authority that would substantiate any support for this requirement. We could not find any statutory requirement for its common request as of the date of this report.

The GRCA staff feels that a boundary fence addresses both the legal ownership and the environmental management of public lands. The GRCA staff indicated there were examples of areas that have not been fenced and areas that have been fenced. The staff of the Authority indicated that there are areas that have not been fenced and have been encroached upon. In some instances it has had to register an encroachment on title and in other cases it has had adjacent owners claiming possessory title to the lands they or their predecessors have encroached upon. Although it could police its boundaries for encroachments by continuous site visits, the GRCA does not have the staff nor the resources to provide for continuous monitoring of its multitude of boundaries. Thus, it is the unwritten policy of the Authority that lands abutting GRCA lands are to be fenced in most areas, particularly where there is a potential for any encroachment and there is another party other than the Authority who may be made responsible for the costs involved in erecting the fence demarcating the boundary.

SCHOOL BOARDS

The Wellington County Board of Education generally prefers that a 5 foot (1.5m) chain link fence be installed adjacent to school board lands, except where those lands abut a public park.

PART 2: CURRENT FENCING POLICY

CURRENT ASSESSMENT OF FENCING REQUIREMENTS FOR LAND USE CHANGES:

Currently, as provided for under the Planning Act, when a Site Plan, a Draft Plan of Subdivision/Condominium, a Consent Application, a Zone change or other Land Use Planning requests are submitted for approval, all are forwarded to various City Departments.

If it is determined that storm water management facilities (SWM), wetlands, parklands, walkways, greenways, etc. exist, the present policy is strict and without apparent recourse. The area(s) must be fenced with a chain link fence as outlined in the City's Specifications for Security and Chain Link Fences. This is a condition of approval and is apparently to be included in all agreements for development. The inclusion of this condition on all documents is intended to help eliminate confusion by the developer, real estate agents, lawyers and potential homeowners and any other parties to the lands under consideration for all time.

This strategy appears to be in concert with a resolution of City Council dated December 4, 1995 which states:

"THAT it be the policy of the City of Guelph that when a fence is to be erected by the City of Guelph with respect to wetlands or other sensitive area, that a clause be included in all formal documents advising of such."

The implementation of this policy will prevent the misunderstandings that have occurred from happening again and will ensure that the potential property owners have access to all relevant information regarding property adjacent to wetlands, SWM facilities, greenways, etc..

CURRENT STORM WATER MANAGEMENT [SWM] FENCING POLICY

[including wet ponds, dry ponds, drainage channels, etc.]

Existing Policy:

The City requires a 6 foot (1.8m) black vinyl chain link fence with 2 inch (50mm) fabric and galvanized posts and galvanized rails around the entire storm water management facility.

PROPERTY DEMARCATION POLICY - June 18, 1996

Procedure:

The City requires the owner/developer on all new developments to construct the specified fence at the owner/developer's cost. Only vehicle access gates are provided for maintenance of the facility.

PROS

developer pays all costs for installation of fence = no tax dollars

provides security to local neighbourhood children from entering into area with the potential for City liability lessened

clearly defines public/private property ownership/encroachment

allows for steeper slopes in design of SWM facility, thereby requiring less land consumption in development of facility

chain link fence life span is approximately 20-25 years, thereby minimizing the present maintenance costs for City taxpayers

CONS

additional expense in the construction of new developments to the developer

a high chain link fence can be aesthetically displeasing to local residents

facility does not blend in with natural setting of development

creates an unfriendly barrier to community

CURRENT PARKLAND POLICY

[including active and passive park areas - eg. Oak Street, Centennial, Hugh Guthrie Parks]

Policy: The City requires a 5 feet (1.5m) black vinyl chain link fence with 2 inch (50mm) fabric, with galvanized posts and galvanized rails around the entire park area where it abuts private property.

Procedure: The developer is required for all new developments to construct the specified fence at the developer's costs.

Pedestrian gates may be installed by the homeowner to City specifications. Residents must seek approval from the Director of Community Services for gate installation and all costs associated with the gate and maintenance will be the responsibility of the property owner.

In older parks where there is no fencing, the City will fund the installation of chain link fences, to City specifications, with the local residents on a 50%/50% cost split basis.

The residents forward a request for the fence installation to the Director of Community Services. Funding will be then requested through the City's operating budget and needs approval by City Council. Any fencing carried out under this policy is on a "first come" basis insofar as the current budget will permit.

PROS

developer pays all costs for installation of fence = no tax dollars

provides security to adjacent residents from Park users entering onto private property

allows access from private residents onto parkland through private gates

allows City to lock gates from private owners' lands if they are dumping debris, or abusing the park

clearly defines public/private property ownership/encroachment

provides security to homeowners from local wildlife entering onto private property

chain link fence life span is approximately 20-25 years, thereby minimizing the present maintenance costs for City taxpayers

CONS

additional expense in the construction of new developments to the developer

a high chain link fence can be aesthetically unpleasing to local residents

stops neighbouring residents from an easy way to access parkland

an effort has to be made to walk around the fence
creates an unfriendly barrier to community

CURRENT FENCING POLICY FOR ARTERIAL AND MAJOR COLLECTOR ROADS

Policy: The City requires a 5 feet [1.5m] black vinyl chain link fence with 2 inch [50mm] fabric, galvanized posts and galvanized rails along all rear lots abutting an arterial or major road.

Procedure: The City requires the developer of all new developments to construct the specified fence at the developer's costs.
Pedestrian gates are not allowed from abutting private properties.

PROS

developer pays all costs for installation of fence = no tax dollars

CONS

additional expense in the construction of new developments to the developer

PROPERTY DEMARCATION POLICY - June 18, 1996

provides security to adjacent residents from access to roads - safety

a high chain link fence can be aesthetically displeasing to local residents

clearly defines public/private property ownership/encroachment

every boundary looks the same

provides security to homeowners from road refuse entering the property

expensive to repair

chain link fence life span is approximately 20-25 years, thereby minimizing the present maintenance costs for City taxpayers

CURRENT FENCING POLICY FOR PUBLIC WALKWAYS

Policy: The City requires a 5 feet [1.5m] black vinyl chain link fence with 2 inch [50mm] fabric, galvanized posts and galvanized rails along both sides of the public walkway property where it abuts private properties. The walkway fence is to terminate 2 feet [.6m] from the intersecting walkway.

Procedure: The developer of any new development is required to construct the specified fence at the developer's costs.
Pedestrian gates are not allowed from abutting private properties.

PROS

developer pays all costs for installation of fence = no tax dollars

provides security to adjacent residents from walkway users entering onto private property

no gates are allowed in order that walkway users are not hit by opening gates while passing by

clearly defines public/private property ownership/ encroachment

chain link fence life span is approximately 20-25 years, thereby minimizing the present maintenance costs for City taxpayers

CONS

additional expense in the construction of new developments to the developer

a high chain link fence can be aesthetically displeasing to local residents

every boundary looks the same

allows for double-fencing possibilities

CURRENT FENCING POLICY FOR NATURALIZATION AREAS WITHIN PARKLAND

[including woodlots, meadows, natural regeneration areas,
eg. Preservation, Stephanie Drive, Waterview Heights Parks]

Policy: The City currently requires a 5 feet [1.5m] black vinyl chain link fence with 2 inch [50mm] fabric, galvanized posts and galvanized rails around the entire park area where it abuts private property.

Procedure: The developer of all new developments is required to construct the specified fence at the developer's costs.
Pedestrian gates are not permitted along property lines where they are adjacent to the natural feature.

PROS

developer pays all costs for installation of fence = no tax dollars

protects the natural feature by limiting access to the area

provides security to home owners from local wildlife entering onto private lands

clearly defines public/private property ownership/encroachment

chain link fence life span is approximately 20-25 years, thereby minimizing the present maintenance costs for City taxpayers

CONS

additional expense in the construction of new developments to the developer

a high chain link fence can be aesthetically displeasing to local residents

facility does not blend in with natural setting of development

creates an unfriendly barrier to community

CURRENT WETLAND, ANSI'S AND NATURAL HERITAGE FENCING POLICY

[including City owned woodlots, meadows, natural regeneration areas eg. Torrence Creek Wetland but does not include wetlands and natural areas owned by GRCA, MNR]

Policy: The City currently requires a 5 feet [1.5m] black vinyl chain link fence with 2 inch [50mm] fabric, galvanized posts and galvanized rails around the entire wetland, ANSI, Natural Heritage feature where it abuts private property.

PROPERTY DEMARCATION POLICY - June 18, 1996

Procedure: The developer of all new developments is required to construct the specified fence at the developer's costs.
Pedestrian gates are not permitted along property lines where they are adjacent to the natural features.

PROS

CONS

developer pays all costs for installation of fence = no tax dollars

additional expense in the construction of new developments to the developer

protects the natural feature by limiting access to the area

a high chain link fence can be aesthetically displeasing to local residents

provides security to home owners from local wildlife entering onto private lands

facility does not blend in with natural setting of development

clearly defines public/private property ownership/encroachment

creates an unfriendly barrier to community

chain link fence life span is approximately 20-25 years, thereby minimizing the present maintenance costs for City taxpayers

PART 3: RECOMMENDATIONS:

In order for development to occur, for the various City Departments to comment on development applications/agreements and for individuals to purchase homes knowing how boundaries are to be demarcated, a common policy should be implemented.

To that end, we would recommend, with respect, Council consider:

Recommendation #1: Arterial and Major Roads:

Policy: That developments backing onto major collector roads should be required to be fenced with 5 feet [1.5 m] black vinyl chain link fence with 2 inch [50mm] fabric using black galvanized posts and rails.

Procedure:

[a] This policy should be included in the agreement with a security posted.

[b] The developer may provide an alternative to a chain link fence if the boundary is demarcated and access to the roadway from the development is restricted. Examples such as pressure treated wood or brick fencing or a wide landscaped buffer strip could be considered if consistency can be provided adjacent to the arterial or major road.

PROS

CONS

developer pays all costs for installation of fence = no tax dollars

additional expense in the construction of new developments to the developer

provides security and safety to adjacent residents from access to roads

a high chain link fence can be aesthetically unpleasing to residents

clearly defines public/private property ownership/encroachment

provides security to homeowners from road refuse entering the property

chain link fence life span is approximately 20-25 years, thereby minimizing the present maintenance costs for City taxpayers

Recommendation #2: Public Walkways:

Policy: Walkways in developments are to be fenced with a 5 feet [1.5m] black vinyl chain link fence with 2 inch [50mm] fabric, black galvanized rails and posts along both sides of the public walkway where walkways abut private property. Walkway fence is to terminate 2 feet [600mm] before the intersection of the front of the walkway and the streetline.

Procedure:

[a] This policy should be included in the agreement with a security posted

[b] The City requires the developer of all new developments to construct the specified fence at the developer's costs.

[c] pedestrian gates are not allowed from abutting private properties.

PROS

CONS

developer pays all costs for installation

additional expense in the construction of new

of fence = no tax dollars

developments to the developer

provides security to adjacent residents from walkway users entering onto private property

a high chain link fence can be aesthetically displeasing to local residents

no gates are allowed in order that walkway users are not hit by opening gates while passing by

clearly defines public/private property ownership/encroachment

chain link fence life span is approximately 20-25 years, thereby minimizing the present maintenance costs for City taxpayers

Recommendation #3: Storm Water Management Facilities And Water Conveyance Systems [SWM]:

Policy: The City should encourage developers to design SWM that are in accordance with "Storm Water Management Design Principles" and so do not have to be fenced.

Procedure:

- [a] The City will require the developer of all new developments to provide a representative plan illustrating all the positions of the SWMs and PDMs and a landscape plan identifying the proposed living fence, and to implement these items at the developer's expense.
- [b] No fencing will be required on new SWM facilities that meet the SWM design principles.
- [c] New SWM facilities will require PDMs at each change in direction of the common property line and at intervals of 100 feet [30m] or 3 lots, whichever is less. In addition, living fences with substantially sized plant material at planting with no breaks in the planting.
- [d] The SWM facility should be signed to indicate the purpose, dangers and restrictions.
- [e] As funding and site conditions permit, the City will implement SWM facility retrofits in accordance with the "Storm Water Management Facilities Design Principals".
- [f] Old SWM facilities that cannot be retrofitted to meet the "Storm Water Management Facilities Design Principals" will be fenced with 6 foot [1.8m] black vinyl chain link fence

with 2 inch [50mm] fabric, black galvanized posts and rails around the entire facility, as normal maintenance requires.

[g] Inlets and outlets are to have a gate/grid installed for safety purposes.

[h] The City will require the the following clause to be included in all Draft Plan Approvals and Subdivision Agreements:

" The Developer shall include an advisory clause in all offers of purchase and sale or lease for any lot or block within the Lands stating that:

1. Pursuant to the City's Fencing Policy and City of Guelph By-Law (1996) - *****, the City shall not be required to install, or pay for all or any portion of the installation of, a boundary fence between land owned by the City and zoned P.1,P.2, P.3 or P.4 in accordance with the City of Guelph Zoning By-Law, By-Law (1995)-14864, and any amendments thereto, and any abutting property, and
2. No person shall deface or remove any concrete property demarcation marker installed on any boundary line or part of a boundary line."

PROS

developer pays all costs for installation of PDMs and living fences

PDMs identify public/private property ownership to prevent encroachment

alternative method of property line demarcation is more aesthetically

pleasing for the neighbourhood

alternative method of property line delineation fosters stewardship programs

community awareness programs promote community involvement and community pride

provides additional open space

CONS

additional expense in the construction of new developments to the developer

property line not as clearly indicated as if using chain link fencing

if people want fencing in the future, the City may have to pay half under the Line Fences Act

potential for City liability if accessed and harm occurs

additional land consumption

Recommendation #4: Greenways, Parklands, Natural Heritage Features, Wetlands, ANSIs, and Parkland Naturalization Sites:

Policy: That greenways, parklands, natural heritage features, wetlands, ANSIs, and parkland naturalization sites will be demarcated with PDMs and living hedges. PDMs will be required for each change in direction of the property line and at intervals of 100 feet [30 m] or 3 lots whichever is less. Also, living fences will be required on City property along the abutting property lines, including commercial, industrial, institutional and residential properties.

Procedure:

[a] The City will require the developer of all new developments to provide a representative plan illustrating all the positions of the PDMs and a landscape plan identifying the proposed living fence to the satisfaction of the City and to implement these items at the developer's expense.

[b] The demarcation of the areas in this section should be indicated by PDMs every 100 feet [30m] or 3 lots, whichever is less and at every change in direction of the property line.

[c] These areas should be identified with a posting indicating the feature and rules for protecting and maintaining the area. This signage should be located at any point where public access can occur. The City is to approve all proposed signage.

[d] Property owners via neighbourhood associations should be encouraged to maintain the area adjacent to the greenways and have regard to the maintenance level of the area.

[e] Living fences may have sporadic small breaks in them if approved by the City in the representative plan.

[f] Industrial properties will be required to have a black vinyl chain link fence with black galvanized posts and rails of a maximum of 10 feet [3 m] in accordance with the City's Zoning By-law (1994)-14864.

[g] The City will require the the following clause to be included in all Draft Plan Approvals and Subdivision Agreements:

* The Developer shall include an advisory clause in all offers of purchase and sale or lease for any lot or block within the Lands stating that:

1. Pursuant to the City's Fencing Policy and City of Guelph By-Law (1996) - ***** , the City shall not be required to install, or pay for all or any portion of the installation of, a boundary fence between land owned by the City and zoned

P.1, P.2, P.3 or P.4 in accordance with the City of Guelph Zoning By-Law, By-Law (1995)-14864, and any amendments thereto, and any abutting property, and

2. No person shall deface or remove any concrete property demarcation marker installed on any boundary line or part of a boundary line."

PROS

developer pays all costs for installation of property line identification markers and living fences

identifies public/private property limit

an alternative method of property line demarcation which appears to be more aesthetically pleasing for neighbourhood that enables stewardship programs

more natural in appearance

CONS

additional expense in the construction of new developments to the developer

property line not as clearly indicated as if using chain link fencing - possibility of encroachment

if people want fencing in the future, the City may have to pay half under the Line Fences Act

Recommendation #5: Communication

[a] Establish and maintain a direct method of communication between the neighbourhood groups and the City. This should encourage the neighbourhood groups to take an active role in the maintenance and policing of the naturalization areas, greenways and storm water management ponds in their area.

[b] The City should arrange spring clean-ups in association with the neighbourhood associations. Contact will be made with a representative of the neighbourhood association to organize a neighbourhood clean-up. This will initiate interaction between the residents and the City. During these events the City should provide educational information to the residents of the area. An appropriate time to hold these events would be during days such as Arbour Day(May 1) and Earth Day (April 22), and World Environment Day (June 5)..

[c] The City should have a representative attend one neighbourhood association meeting per year for each neighbourhood and provide a brief presentation on the City owned land in its neighbourhood, what the residents can do to protect/ enhance it and provide the associations

with material that may be of interest such as listings of plant materials that are appropriate to plant on the property lines. This would also be an opportunity to identify and reinforce the purpose of the PDM and why it is so important that they are not tampered with. This meeting should be arranged by the City through the neighbourhood associations.

[d] The City should have any educational materials regarding property demarcation available at City Hall and other locations such as the Chamber of Commerce Office, the Guelph and District Homebuilders Association, and through the Guelph Field Naturalists .

[e] Signage of natural features should be posted in order that the residents are aware of the facility and its purpose in the ecosystem.

PROS

alternative methods of property line delineation are more aesthetically pleasing

alternative methods of property line delineation foster stewardship programs

community awareness programs promote community involvement and community pride

promotion of unfenced areas can encourage residents to initiate neighbourhood responsibility for areas, which could mean less City maintenance

CONS

if people want fencing in the future, the City may have to pay half under the Line Fences Act

time involved for City Staff to promote resident stewardship

difficult to motivate people

Recommendation #6: General

[a] The PDMs should be in place at the same time the various boundaries abutting the SWM, greenways, parkland etc. are being monumented by the Ontario Land Surveyor.

CONCLUSIONS:

It is important that the City adopts alternatives to the existing fencing policy which generally requires a chain link fence to be installed between all public and private land.

Fencing alternatives provide the City with an aesthetically pleasing environment that will improve the overall attractiveness of the City.

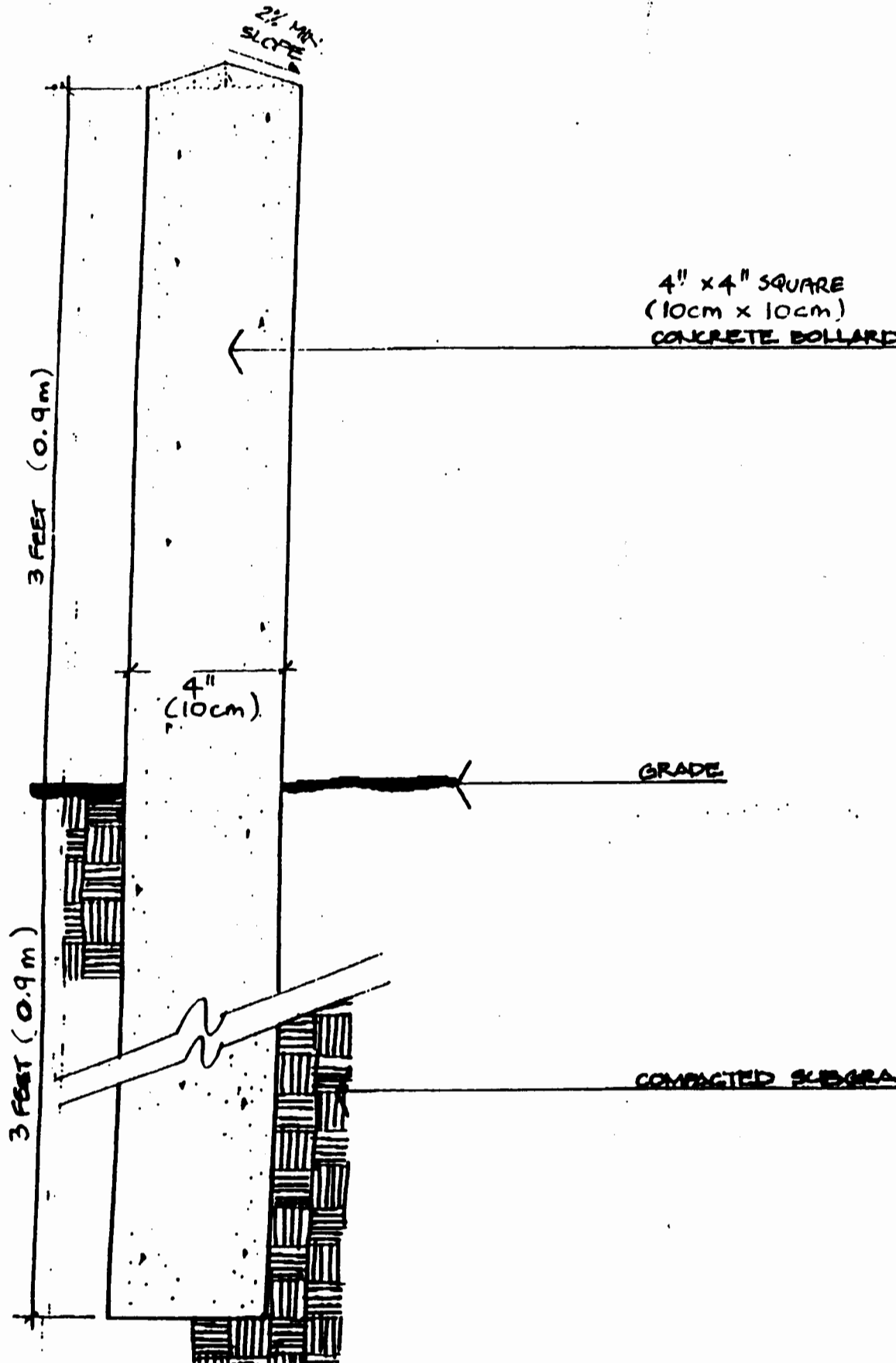
The estimate for cost for an " Instant Living Fence " with PDMs is dependant upon many diverse factors including the size of the planting materials and the design criteria and the land use adjacent thereto. The estimate per foot [or per metre] would likely be in the range of approximately \$10 to \$12 [or \$13 to \$16].

The estimate per foot [or per metre] for link wire fencing can range in the area of approximately \$13 to \$16 [or \$45 to \$53].

Innovative techniques such as living fencing will be much more environmentally friendly and enhance the natural habitat of Guelph for its residents.

APPENDIX "A"

PROPERTY DEMARCATION MARKER STANDARD SPECIFICATIONS



APPENDIX "B"

Miscellaneous Notices



INVITATION FOR PUBLIC SUBMISSIONS

FENCING POLICY REVIEW FOR THE CITY OF GUELPH

The City of Guelph is currently developing a comprehensive public fencing policy. This will include policy provisions for fencing of wetlands, storm water management facilities, natural areas, greenways, parklands, etc.

Written comments regarding the City of Guelph's comprehensive public fencing policy are welcomed and should be submitted on or before: **Monday, February 19, 1996.**

Further information and written submissions should be directed to:

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APPENDIX "D"

NATIVE PLANT MATERIAL

DECIDUOUS TREES

American Hornbeam	<i>Carpinus caroliniana</i>	Paper Canoe Birch	<i>Betula papyrifera</i>
American Beech	<i>Fagus grandifolia</i>	Pussy Willow	<i>Salix Caprea</i>
American Mountain-Ash	<i>Sorbus americana</i>	Red Elm	<i>Ulmus rubra</i>
Balsam Poplar	<i>Populus balsamifera</i>	Red Maple	<i>Acer rubrum</i>
Basswood	<i>Tilia americana</i>	Red Oak	<i>Quercus rubra</i>
Black Ash	<i>Fraxinus nigra</i>	Serviceberry	<i>Amelanchier canadensis</i>
Black Cherry	<i>Prunus serotina</i>	Shagbark Hickory	<i>Carya ovata</i>
Black Walnut	<i>Juglans Nigra</i>	Silver Maple	<i>Acer saccharinum</i>
Blue Beech	<i>Carpinus caroliniana</i>	Speckled Alder	<i>Alnus rugosa</i>
Bur Oak	<i>Quercus macrocarpa</i>	Sugar Maple	<i>Acer saccharum</i>
Butternut	<i>Juglans cinerea</i>	Trembling Aspen	<i>Populus tremuloides</i>
Downy Serviceberry	<i>Amelanchier arborea</i>	White Ash	<i>Fraxinus americana</i>
Hackberry	<i>Celtis occidentalis</i>	Yellow Birch	<i>Betula alleghaniensis</i>
Large-tooth Aspen	<i>Populus grandidentata</i>	White Elm	<i>Ulmus americana</i>

CONIFERS

Balsam Fir	<i>Abies balsamea</i>	Eastern White Cedar	<i>Thu a occidentalis</i>
Black Spruce	<i>Picea mariana</i>	Jack Pine	<i>Pinus banksiana</i>
Common Juniper	<i>Juniperus communis</i>	Red Pine	<i>Pinus resinosa</i>
Eastern Larch	<i>Larix laricina</i>	White Pine	<i>Pinus strobus</i>
Eastern Hemlock	<i>Tsuga canadensis</i>	White Spruce	<i>Picea glauca</i>

SHRUBS

Alternate Leaf Dogwood	<i>Cornus alternifolia</i>
American Elder	<i>Sambucus canadensis</i>
American Hazel	<i>Corylus americana</i>
Arrowwood	<i>Viburnum dentatum</i>
Chokecherry	<i>Prunus virginiana</i>
Grey Dogwood	<i>Cornus racemosa</i>
Highbush Cranberry	<i>Viburnum trilobum</i>
Nannyberry	<i>Viburnum lentago</i>
Pin Cherry	<i>Prunus pennsylvanica</i>
Red Osier Dogwood	<i>Cornus sericea</i>
Staghorn Sumac	<i>Rhus typhina</i>

GROUNDCOVERS & VINES

Common Yarrow	<i>Achillea millefolium</i>
Ground Ivy	<i>Glechoma hederacea</i>
St. John's Wort	<i>Hypericum perforatum</i>
Virginia Creeper	<i>Parthenocissus quinquefolia</i>
Wild Grape	<i>Vitis species</i>

References:

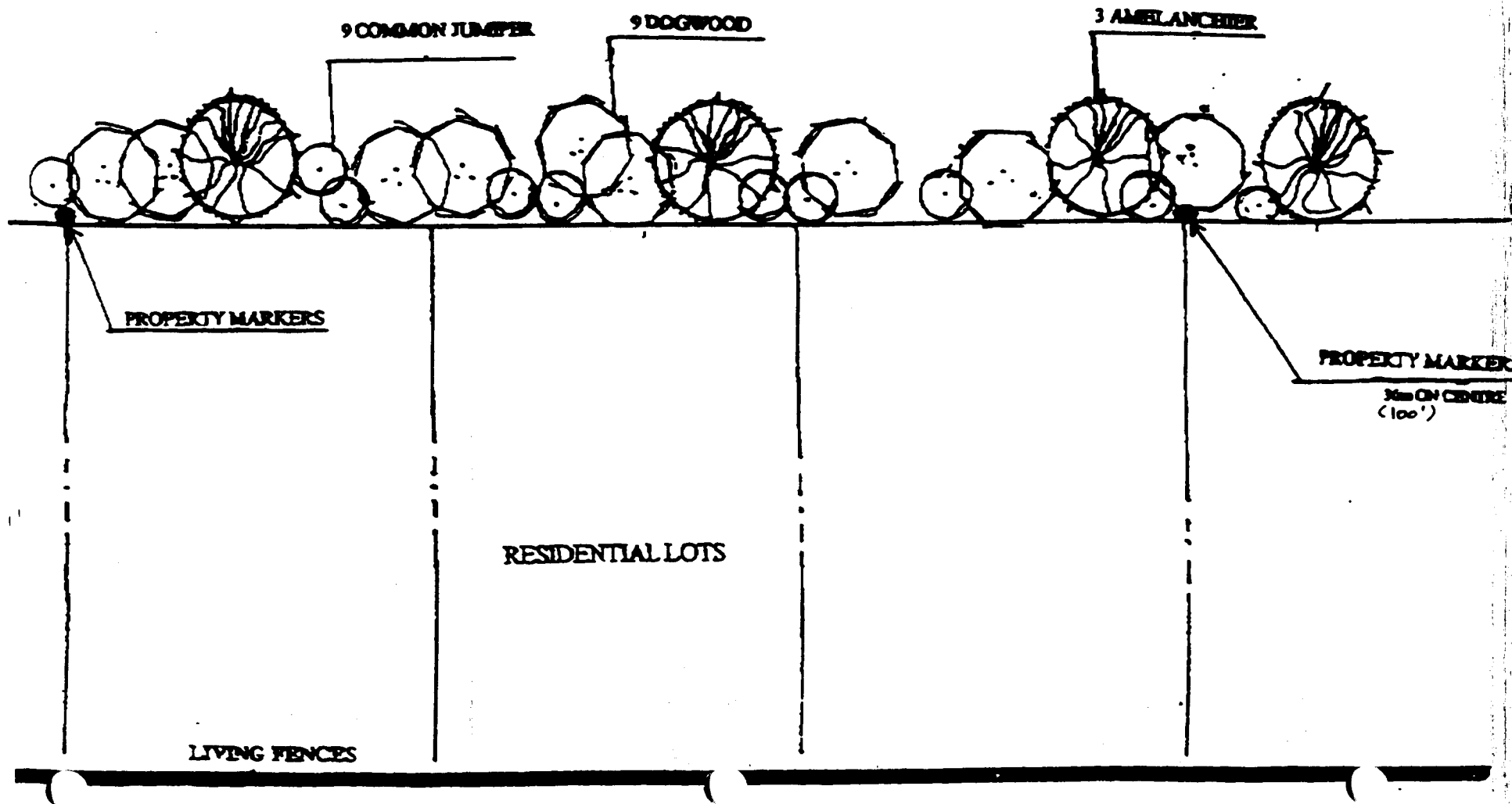
Naturalization, City of Guelph, Rec. & Parks Department, October 1991, rev. Feb. 1993.

Native Trees of Ontario for the Landscape, Department of Horticultural Science, University of Guelph, May 1981.

The Audubon Society Field Guide to North American Trees - Eastern Region, New York, 1989.

PROPERTY DEMARCATION POLICY - June 18, 1996

EXISTING NATURALIZED AREA



APPENDIX "E" APPROXIMATE COST ESTIMATES *

(*Please note the following cost estimates are approximate only and may vary with the particular site, time of year, design criteria, adjacent uses as well as the size and variety of plant material)

Cost Estimate **

Planting Scheme #1

Includes:	3 Balsam Fir	@ \$ 200 each
	9 Arrowwood	@ \$ 20 each
	9 Sumac	@ \$ 15 each
	9 Boston Ivy	@ \$ 15 each

Total	\$1200
-------	--------

Planting Scheme #2

Includes:	3 Amelanchier	@ \$ 150 each
	9 Dogwood	@ \$ 25 each
	9 Common juniper	@ \$ 25 each

Total	\$ 1050
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(** For a typical 100 foot [30m] Section which includes one PDM {see Appendix "A"} @ \$150/per which, dependant upon City's final specifications may vary)