



Staff Report

PLANNING DIVISION
DEPARTMENT *of* COMMUNITY *and* NEIGHBORHOODS

To: Salt Lake City Historic Landmark Commission
From: Aaron Barlow, Principal Planner, aaron.barlow@slcgov.com or 385-386-2764
Date: October 14, 2021
Re: PLNHLC2021-00439 – Special Exception for Additional Fence Height at 522 East 6th Avenue
PLNHLC2021-00441– Minor Alteration for a New Fence at 522 East 6th Avenue

Special Exception & Minor Alteration

PROPERTY ADDRESS: 522 East 6th Avenue
PARCEL ID: 09-31-432-004
HISTORIC DISTRICT: Avenues Local Historic District
ZONING DISTRICTS: SR-1A – Special Development Patter Residential District
H – Historic Preservation Overlay District – Avenues Local Historic District
COUNCIL DISTRICT: District 3, Chris Wharton
MASTER PLAN: Avenues Community Master Plan

Request:

Judee Shoup, the property owner of 522 E 6th Ave, is requesting Special Exception approval by the Historic Landmarks Commission to install an overheight solid wood fence along the west lot line. The fence would be five feet tall in the front yard and 8.5 feet tall at its highest point in the side and rear yards. The property is located within the Avenues Local and National Historic Districts.

Recommendation:

Based on the analysis and findings, Planning Staff recommends that the Historic Landmark Commission approve the request as proposed.

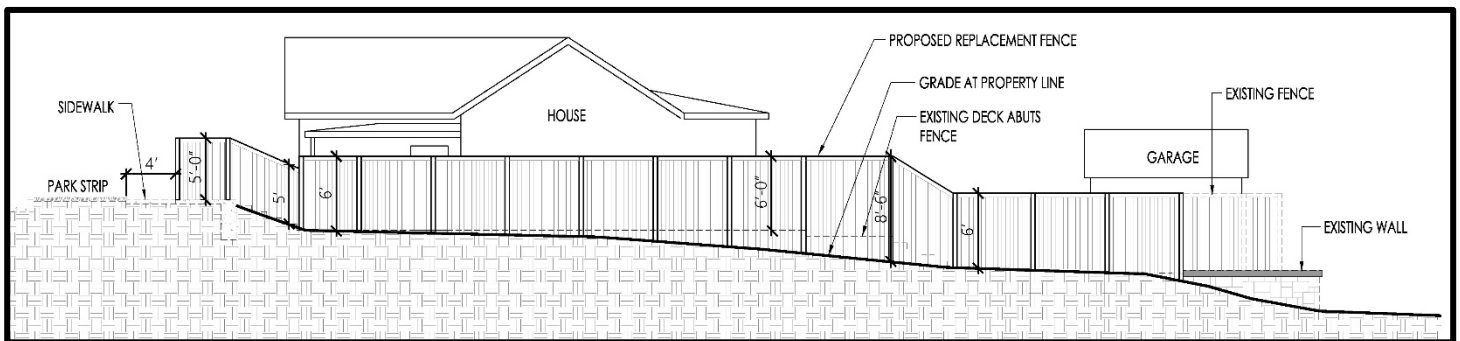
ATTACHMENTS:

- A. Vicinity Map & Historic District Map
- B. Historical Survey Information
- C. Property & Vicinity Photos
- D. Information Submitted by Applicant
- E. Analysis of Relevant Zoning Standards
- F. Analysis of Minor Alteration Standards
- G. Historic Design Guidelines
- H. Analysis of Special Exception Standards
- I. Public Process & Comments

Request Description:

Judee Shoup is requesting Special Exception approval to replace the existing fence that runs along the west lot line of her property (located at approximately 522 East 6th Avenue) and replace it with a fence that would sit at a uniform elevation above the existing deck. Because the ground underneath the deck slopes downward toward the back of the property, the proposed fence would vary in height. The fence would end up 8.5 feet high at its tallest point, at the rear-most part of the deck where it's furthest from the ground due to the slope. Any fence behind the front façade of a house taller than six feet in height—measured from the ground—requires Special Exception approval.

In addition to replacing the existing six-foot fence, Ms. Shoup has proposed a five-foot solid wood fence in the front yard along the same west lot line from the sidewalk to the front of the house. In front yards, between the front façade of the primary residence and the front property line, fences taller than four feet also require special exception approval. Full-sized elevation drawings are included with [Attachment D](#).



Elevation drawing of proposed fence; note the change in fence height as the ground slopes downward

Applicable Review Processes and Standards

Review Processes: Minor Alteration and Special Exception

A Certificate of Appropriateness is required for all construction projects on a property within a local historic district (see [21A.34.020.F](#)), including this Minor Alteration request. This proposal also requires Special Exception approval because the maximum height for fences in the front yard area is four feet, and in the interior side and rear yards, the maximum height is six feet. Due to its complexity, Staff has referred this request to the Landmarks Commission for review (see [21A.52.040.A.5.b](#))

Key Considerations:

Planning Staff identified the Key Considerations listed below through the analysis of this project:

1. Neighborhood Character
2. Justification for Additional Screening
3. Fence Height Special Exception Text Amendment (PLNPCM2020-00511)

Consideration 1 - Neighborhood Character

A significant number of the Minor Alteration and Special Exception Standards relating to this request refer to the character of the “neighborhood” (or, in some cases, “environment”). For example, Minor Alteration Standard 8 requires that projects must be “compatible with the size, scale, color, material, and character of the property, neighborhood or environment.” Additionally, the specific Special Exception standards for additional fence height require that an over-height fence will not have any “negative impacts upon the established character of the affected neighborhood and streetscape.”

To better understand the neighborhood’s character, Staff reviewed relevant adopted surveys and design guidelines regarding the Avenues Local Historic District and surveyed properties within the vicinity of the subject property on the block and along 6th Avenue. Upon review, Staff found conflicting information about the character of fences in the neighborhood. The Historic Preservation Guidelines for the Avenues District describe yards with “...retaining walls, commonly of natural stone or plain cement...topped with cast-iron fences.” The preservation guidelines for site features more-generally describes yards within historic districts around the city “...with a low fence, often in wood picket form or decorative wrought and/or cast iron, which helps to maintain the visual continuity between the house and the street.”

However, upon surveying the vicinity of the subject property, Staff found several examples of fences that do not meet that description. While properties with retaining walls and low fences are present in the neighborhood, several

examples of properties with tall fences and walled-in front yards are also present. On the east side of the subject property, the existing fence sits much higher than six feet. The house two properties to the west has a six-foot fence and hedge walling in the front yard. Further down the street, 474 E 6th Ave has a tall hedge walling in the front yard, and 464 has a solid wood fence (that appears to be approximately five feet high) in the front yard. Finally, the fence along the east side-yard lot line of the subject property is significantly higher than 6 feet (see [Attachment C](#) for photos).

Surveys and Adopted guidelines accurately describe a significant portion of the Avenues Local Historic District having tall retaining walls and low, transparent fences. However, in this case, the immediate neighborhood of the subject property contains examples of properties with walled-in front yards and tall side-yard fences.

Consideration 2 – Justification for Additional Screening

The applicant has stated that the fence is needed to screen views of the property to the west. According to the applicant, the subject property has become unmarketable to potential tenants because of trash, weeds, and other property maintenance issues on the adjacent property. The specific Special Exception standards for additional fence height allow additional height “in cases where it is determined that a negative impact occurs because of levels of noise, pollution, light or other encroachments on the rights to privacy, safety, security and aesthetics” ([21A.52.030.A.3.e](#)).

Determining if issues on the adjacent property are enough of a negative impact on the subject property can be a fraught process since personal standards regarding property maintenance are often subjective. While the City does have specific standards regulating property maintenance (see [Section 9.16 of City Code](#)), no enforcement cases are currently open on the property. If the applicant has concerns about the aesthetics of the adjacent yard, they can work with the Civil Enforcement Division to bring it into compliance with adopted City standards. Screening views of a property that isn’t maintained at a level that meets personal preferences does not meet the criteria for additional fence height.

However, the Commission should note that entrances and windows on the rear and side façade of the house on the subject property are relatively close to the adjacent house’s windows and doors. In Staff’s opinion, the request for additional height to protect the privacy, safety, and security of future occupants meets the intent of the relevant Special Exception standards.

Consideration 3 – Fence Height Special Exception Text Amendment (PLNPCM2020-00511)

This Special Exception petition is vested, and the Historic Landmark Commission should make a decision based on the current zoning ordinance. Still, it should be noted that on September 21, 2021, that the City Council approved a fence height text amendment (PLNPCM2020-00511) that removes the Special Exception process for over-height fences, walls, and hedges. The ordinance defines instances where a taller fence may be appropriate and approved by right. The proposed amendment would limit fence, wall, and hedge height to 4 feet in a front yard and 6 feet in a side or rear yard, except for a few specific instances. The Planning Commission and Historic Landmark Commission would still have the authority to approve excess fence height for land use applications already required to go before them. The intent of the amendment is to provide “uniformity and clear expectations to the public for when an over height fence, wall, or hedge is appropriate” and promote consistent development patterns. As stated above, the Special Exception petition is vested under the current zoning ordinance and should be reviewed accordingly. Any future application would be subject to the updated standards of approval.

Discussion:

Staff was initially skeptical of the applicant’s request to install the over-height fence in the front and side yards of the subject property (522 East 6th Avenue). However, after surveying the property and the surrounding neighborhood (especially 6th Avenue), it became apparent that over-height fences in front and side yards were not an uncommon feature of this section of the Avenues Historic District. Seeing that the proposed fence is not entirely out of character with the immediate context, Planning Staff believes that the applicant’s proposal would not necessarily negatively impact the surrounding neighborhood. Given the proximity of the subject house’s entryways and windows to its neighbor’s, the additional fence height would provide privacy for occupants of both properties. The applicant’s proposal meets all relevant standards, and Planning Staff recommends that the Historic Landmarks Commission Approve this request.

Next Steps:

Approval of the Special Exception and Minor Alteration Request (Staff’s Recommendation)

If the Historic Landmarks Commission finds that the Special Exception request and associated Minor Alteration request for additional fence height comply with the standards in section 21A.52.030 and 21A.34.020.G of the zoning ordinance, then the Historic Landmarks Commission can approve the requests, and the applicant would be granted

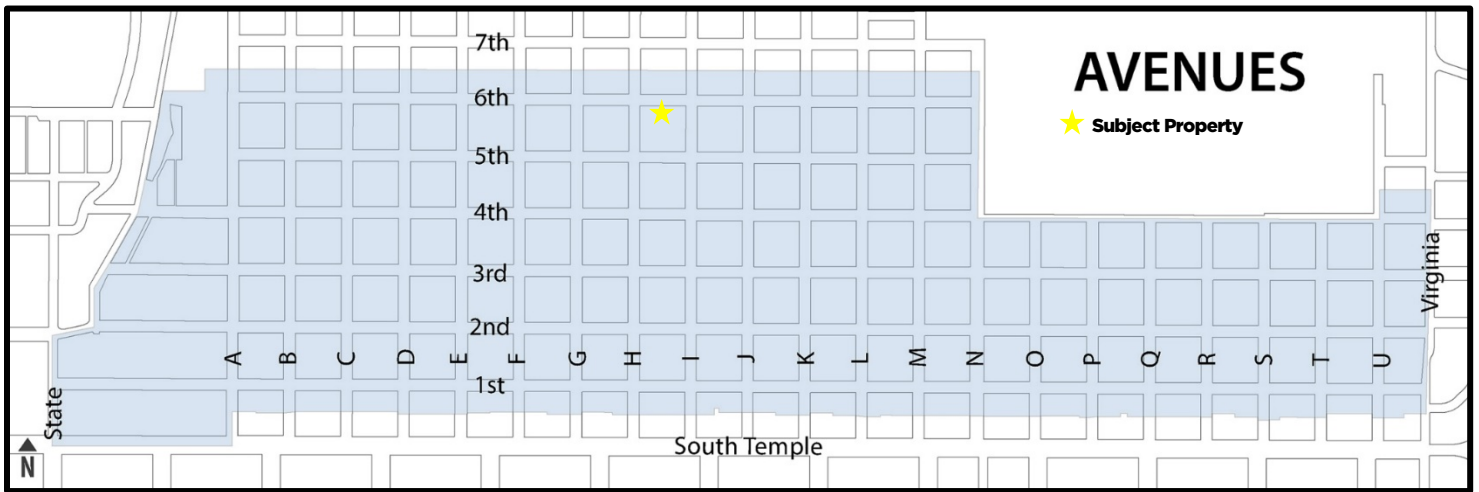
the additional fence height as proposed in the submitted plans. The applicant would need to apply for a building permit for the fence construction.

Denial of the Special Exception and CoA Request

If the Historic Landmarks Commission does not find that the Special Exception request and the associated Minor Alteration request for additional fence height comply with the standards in section 21A.52.030 and 21A.34.020.G of the zoning ordinance, then the Commission shall deny the requests. The Commission must specify which criteria are not met and list them in their motion.

If the request is denied, the owner and/or owner's representative will still be able to make appropriate repairs to the existing fence, but the fence would not be able to be modified or increased in height as proposed. Any denied Special Exception application must wait a minimum of 12 months to resubmit a similar request.

ATTACHMENT A - VICINITY MAP & HISTORIC DISTRICT MAP



ATTACHMENT B - HISTORICAL SURVEY INFORMATION



Photo of subject property from 1979 Survey of the Avenues

ATTACHMENT C - PROPERTY AND VICINITY PHOTOS



View of subject property from street



View of retaining wall and park strip in front of subject property



View of Sidewalk in front of subject property looking east



Subject property's existing front deck



Front deck in front yard



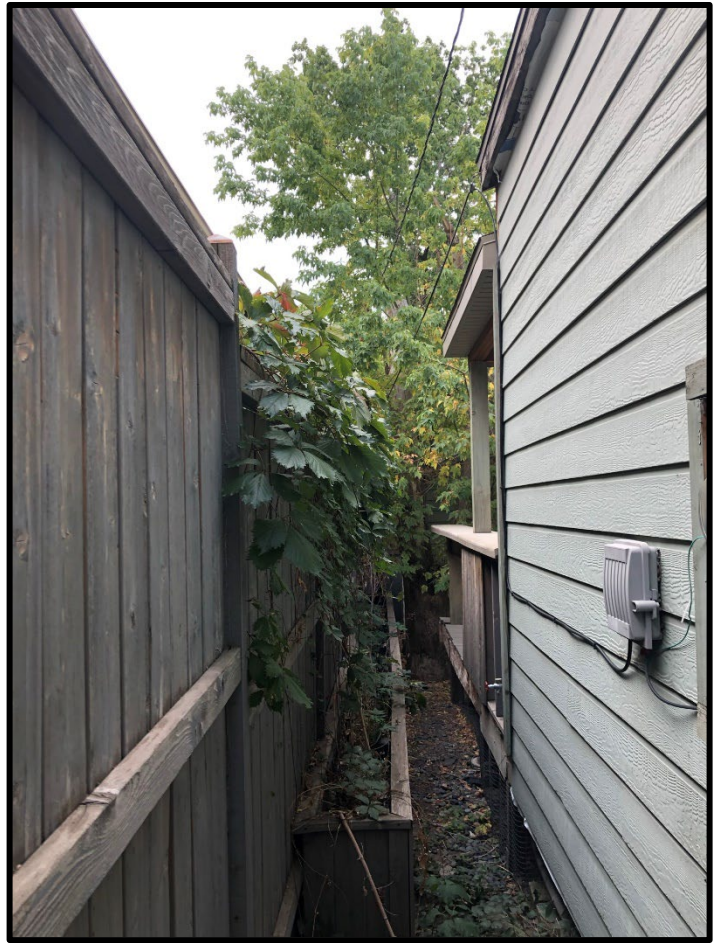
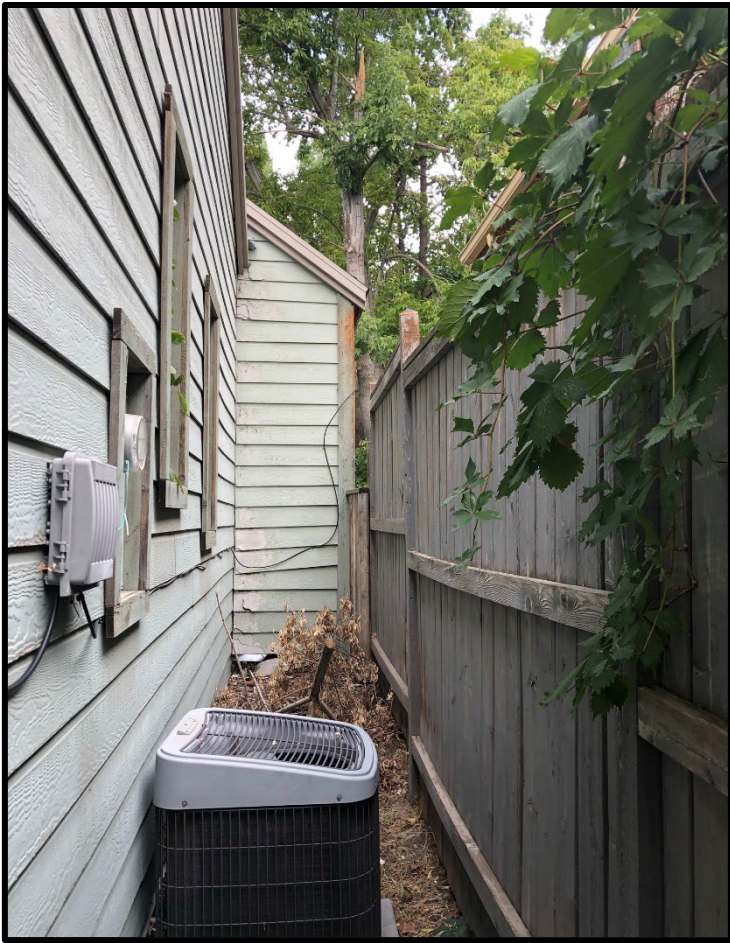
Front deck looking into neighbor's side yard



Rear deck looking into neighbor's side yard



Gate into rear yard from rear



East Fence, note the height



Entryways into subject property and adjacent property to the west, note proximity



Rear yard of subject property



Rear yard of adjacent property to the west



Front yard of adjacent property to the west



Location of proposed 5-foot fence in front yard, which would go to the sidewalk



Front yard fence and hedge at 508 E 6th Ave, two houses west of subject property



Front yard fence and hedge at 508 E 6th Ave, two houses west of subject property



Front yard fence and hedge at 486 E 5th Ave



Front yard fence at 464 E 6th Ave




Front yard hedge at 474 E 6th Ave

ATTACHMENT D – INFORMATION SUBMITTED BY APPLICANT

Judee Shoup

Re: 522 E. 6th Avenue, Salt Lake City, Utah 84103



Brief description of request:

Our request is for the purpose of privacy. Along the western edge of our property there is a fence running north to south. At this time the existing fence needs to be replaced due to a tree having fallen on it during recent severe winter weather and rendered the posts unstable. Also, we are in need of including all of our property within the fence as a recent survey has shown that our property extends farther to the south (about three feet more) and also farther to the west (about one foot more at some points.) Since the fence is in need of being replaced we would like to request that we be allowed to add additional height to the fence on the west side. We would like to have a six feet fence from the level of the existing deck surrounding the house. This deck was present when we purchased the house in 2016. It is well constructed and solid and serves the purpose of bringing the grade to the level of the home's entrance doors. (The land slopes downward from north to south.) Also, the house itself sits below the level of the street and sidewalk about three feet. We also would like the fence to run all the way to the sidewalk with the additional height, but for the part from the boundary wall to the sidewalk we request only that the height be five feet. There is no driveway near to this fence. In the accompanying photos you will see that our front door faces the property of the neighbor and all along that western side the windows of the neighbor are directly in our line of sight and vice versa. I would imagine that the neighbor would also appreciate the privacy. The fence will be made of six inch cedar wood and will be sturdy and of good quality. I have included photos of the lot next to us on the west and also next to us on the south. Also included is our recorded survey by Bush and Gudgell, Inc. Included in an email from slc.gov was language stating that we could be granted a special exception from the standards under 21A.40. The special exceptions authorized at 21A.52.030 3(e) and 3(f) refer to "exceeding the allowable height limits, in cases where it is determined that a negative impact occurs because of levels of noise, pollution, light or other encroachments on the rights to privacy, safety, security and aesthetics. And the allowable special exception would be in keeping within the character of the neighborhood and urban design of the city." As this property is in an historic district we reference 21A.06.050 as giving the authority and jurisdiction to the Historic Landmark Commission to approve this request. We are thus requesting the special exception, as it is determined that there is a negative impact to us because of encroachments on the rights to privacy and also a negative impact due to aesthetics. We respectfully request that you grant the special exception to us for this property and that we be issued a certificate of appropriateness.

Thank you,
Judee Shoup

ATTACHMENT E - ANALYSIS OF RELEVANT ZONING STANDARDS

21A.40.120 – Regulation of Fences, Walls, and Hedges

Standard	Analysis	Finding
<p>Location: All fences, walls, or hedges shall be erected entirely within the property lines of the property they are intended to serve.</p>	<p>The proposed fence is located wholly with the subject property. Please note: property lines on the location map in Attachment A are for reference only.</p>	<p>Complies</p>
<p>Allowed Materials: chain-link, wood, brick, masonry, stone, tubular steel, wrought iron, vinyl, composite/recycled materials or other manufactured material or combination of materials commonly used for fencing.</p> <p>Prohibited Materials: Scrap materials such as scrap lumber and scrap metal; materials not typically used or designed/manufactured for fences such as metal roofing panel, corrugated or sheet metal, tarps, or plywood</p>	<p>The new fence is proposed to be constructed out of wood.</p>	<p>Complies</p>
<p>Max Height: 4' between front lot line & building façade* 6' in all rear yards & interior side yards* *Measured from finished grade</p> <p>Special Exception approval required for additional height</p>	<p>The new fence is proposed to be 5 feet tall within the area between the front lot line and the front façade of the house and 8.5 feet tall (at its highest point) in the side yard. Special Exception approval is required for height beyond 4 feet in the front yard and 6 feet in the side yard.</p>	<p>Does not Comply, Special Exception Requested</p>

ATTACHMENT F – ANALYSIS OF MINOR ALTERATION STANDARDS

H Historic Preservation Overlay District – Standards for a Certificate of Appropriateness for Alteration of a Landmark Site (21A.34.020.G)

When considering a Certificate of Appropriateness applicant for alteration of a Landmark Site, the Historic Landmark Commission shall find that the project substantially complies with all of the general standards that pertain to the application and that the decision is in the best interest of the City. The proposal is reviewed in relation to those that pertain in the following table.

The relevant historic design guidelines for this design review is the Preservation Handbook for Historic Residential Properties & Districts in Salt Lake City, Chapter 1 Site Features. The Design Objectives and related design guidelines are referenced in the following review, where they relate to the corresponding Historic Design Standards for Alteration of a Contributing Structure (21A.34.020.G). They can be accessed via the links below. Design Guidelines as they relate to the Design Standards are identified in Attachment F to this report.

<http://www.slcgov.com/historic-preservation/historic-preservation-residential-design-guidelines>

<http://www.slcdocs.com/historicpreservation/GuideRes/Ch1.pdf>

Standard	Analysis	Finding
1. A property shall be used for its historic purpose or be used for a purpose that requires minimal change to the defining characteristics of the building and its site and environment;	The use of the property will not change with the proposal. This standard is met.	Complies
2. The historic character of a property shall be retained and preserved. The removal of historic materials or alteration of features and spaces that characterize a property shall be avoided;	Documented surveys and nominations do not list the fence in question as a defining feature of the property. Raising the height of a non-historic fence will not change the inherent historic character of the property. The applicant does not plan to remove any historic materials or alter any features that characterize the property.	Complies
3. All sites, structures and objects shall be recognized as products of their own time. Alterations that have no historical basis and which seek to create a false sense of history or architecture are not allowed;	The applicant is not attempting to create a false sense of history. The proposal to raise the height of the existing fence would not result in historical conjecture.	Complies
4. Alterations or additions that have acquired historic significance in their own right shall be retained and preserved;	The proposed alterations are to a non-historic fence, not an alteration or addition to historic features on the site.	Complies
5. Distinctive features, finishes and construction techniques or examples of craftsmanship that characterize a historic property shall be preserved;	The applicant does not propose modifying, replacing, or removing any documented features that characterize the historic nature of the property.	Complies
6. Deteriorated architectural features shall be repaired rather than replaced wherever feasible. In the event replacement is necessary, the new material should match the material being replaced in composition, design, texture and other visual qualities. Repair or replacement of missing architectural features should be based on accurate duplications of features, substantiated by historic, physical or pictorial evidence rather than on conjectural designs or the availability of different architectural elements from other structures or objects;	The applicant does not intend to replace any documented architectural features because of damage or deterioration.	Complies
7. Chemical or physical treatments, such as sandblasting, that cause damage to historic materials shall not be used. The surface cleaning of structures, if appropriate, shall be undertaken using the gentlest means possible;	There are no chemical or physical treatments associated with this proposal.	Does Not Apply

<p>8. Contemporary design for alterations and additions to existing properties shall not be discouraged when such alterations and additions do not destroy significant cultural, historical, architectural or archaeological material, and such design is compatible with the size, scale, color, material and character of the property, neighborhood or environment;</p>	<p>The existing fence and the proposed fence both are contemporary in design. A non-historic fence that does not negatively impact the district's character is permissible under this standard. Staff's survey of the neighborhood found several examples of fences taller than 6 feet in the front yard or side yard (see Attachment C). The proposed fence would likely not negatively impact the character of the surrounding neighborhood. See Key Consideration 1 for additional discussion on this subject.</p>	<p>Complies</p>
<p>9. Additions or alterations to structures and objects shall be done in such a manner that if such additions or alterations were to be removed in the future, the essential form and integrity of the structure would be unimpaired. The new work shall be differentiated from the old and shall be compatible in massing, size, scale and architectural features to protect the historic integrity of the property and its environment;</p>	<p>The existing fence is structurally separate from the house. Removing or replacing the fence in the future will not impair the form or integrity of the primary structure. As discussed in standard 8, the taller fence is compatible with the environment of the subject property since there are already several examples of similar fences in the neighborhood and along 6th Avenue.</p>	<p>Complies</p>
<p>10. Certain building materials are prohibited including the following: Aluminum, asbestos, or vinyl cladding when applied directly to an original or historic material.</p>	<p>This proposal does not include replacing siding or any listed materials, so this standard does not apply.</p>	<p>Does Not Apply</p>
<p>11. Any new sign and any change in the appearance of any existing sign located on a landmark site or within the H historic preservation overlay district, which is visible from any public way or open space shall be consistent with the historic character of the landmark site or H historic preservation overlay district and shall comply with the standards outlined in chapter 21A.46 of this title.</p>	<p>There is no sign associated with this proposal. This standard does not apply.</p>	<p>Does Not Apply</p>

ATTACHMENT G – APPLICABLE HISTORIC DESIGN GUIDELINES

A Preservation Handbook for Historic Residential Properties & Districts in Salt Lake City, Chapter 1 – Site Features and Chapter 13 - The Avenues, are the relevant historic design guidelines for this review and are identified here as they relate to the corresponding Historic Design Standards for alteration to a contributing structure including new construction of an accessory structure in the Avenues Historic District (21A.34.020.G).

<http://www.slcdocs.com/historicpreservation/GuideRes/Ch1.pdf>
<http://www.slcdocs.com/historicpreservation/GuideRes/Ch13.pdf>

Applicable Design Guidelines	Corresponding Standards for a Certificate of Appropriateness
<p>Site Features: Historic Fences</p> <p>There is often a demarcation of the front yard with a low fence, often in wood picket form or decorative wrought and/or cast iron, which helps to maintain the visual continuity between the house and the street. Where a fence is higher and/or less “transparent” it will disrupt this relationship.</p> <p>Originally, painted wood picket fences were used to enclose many front yards. The vertical slats were set apart, with spaces between, and the overall height of the fence was generally less than three feet. This combination of low height and semi-transparency helped to both identify individual sites and property, while retaining the visual relationship between gardens and the streetscape. Wrought iron and wire fences were also used in early domestic landscapes. Early cast iron and wrought iron frequently add decorative detail and a sense of maturity to the design character of a neighborhood.</p> <p>Historic photographs portray fence heights at a much lower level than we are used to seeing today. Consider using a lower fence height to enclose a front yard, in keeping with historic patterns and to retain a sense of continuity along the street frontage.</p> <p>Avenues: Fences & Retaining Walls</p> <p>In many sections of the Avenues, yards are bounded by retaining walls, commonly of natural stone or plain cement facing. Because many yards have natural slopes, retaining walls have always been features of the district. Walls or terraced yards are often used to create level building sites. Historically, these walls were often topped with cast iron fences. The repetition of masonry retaining walls and fences throughout the district lends a sense of continuity and character to the streetscape that should be continued. See Chapter 1 of PART II of these design guidelines on Site Features for specific guidelines on Fences and Retaining Walls.</p>	<p>Standards, 2, 8 & 9</p>

ATTACHMENT H - ANALYSIS OF SPECIAL EXCEPTION STANDARDS

Section 21A.06.050(C) of the zoning ordinance authorizes the Historic Landmark Commission to review and approve certain Special Exceptions for properties located within an H Historic Preservation Overlay District.

21A.52.020 Definition

A “Special Exception” is an activity or use incidental to or in addition to the principal use(s) permitted in a zoning district or an adjustment to a fixed dimension standard permitted as exceptions to the requirements of this title of less potential impact than a conditional use but which requires a careful review of such factors as location, design, configuration and/or impacts to determine the desirability of authorizing its establishment on any given site.

21a.52.060: General Standards and Considerations for Special Exceptions:

Standard	Finding	Rationale
<p>A. Compliance with Zoning Ordinance and District Purposes: The proposed use and development will be in harmony with the general and specific purposes for which this title was enacted and for which the regulations of the district were established.</p>	<p>Complies</p>	<p>The purpose of the H historic preservation overlay district is to (21A.34.020.A):</p> <ol style="list-style-type: none"> 1. Provide the means to protect and preserve areas of the City and individual structures and sites having historic, architectural, or cultural significance; 2. Encourage new development, redevelopment and the subdivision of lots in historic districts that is compatible with the character of existing development of historic districts or individual landmarks; 3. Abate the destruction and demolition of historic structures; 4. Implement adopted plans of the City related to historic preservation; 5. Foster civic pride in the history of Salt Lake City; 6. Protect and enhance the attraction of the City’s historic landmarks and districts for tourists and visitors; 7. Foster economic development consistent with historic preservation; and 8. Encourage social, economic, and environmental sustainability. <p>The purpose of the SR-1A Special Development Pattern Residential District is to maintain the unique character of older predominantly single-family and two-family dwelling neighborhoods that display a variety of yards, lot sizes, and bulk characteristics. Uses are intended to be compatible with the existing scale and intensity of the neighborhood. The standards for the district are intended to provide for safe and comfortable places to live and play, promote sustainable and compatible development patterns, and to preserve the existing character of the neighborhood. (21A.24.080.A)</p> <p>Installing the proposed fence will provide a safe and comfortable place for occupants of the subject property. There are several examples of walled-in front yards within the immediate vicinity (see Attachment C for examples). The proposed 5-foot-tall fence that would sit within the property’s front yard would not be much different from existing development along 6th Avenue and in the neighborhood. The proposed over-height fence in the side yard complies with this standard since there is already a fence taller than 8 feet on the east side of the property.</p>
<p>B. No Substantial Impairment of Property Value: The proposed use and development will not substantially diminish or impair the value of the property within the neighborhood in which it is located.</p>	<p>Complies</p>	<p>Staff has not received any information or evidence indicating that the proposal would substantially diminish or impair property values within the neighborhood.</p>

<p>C. No Undue Adverse Impact: The proposed use and development will not have a material adverse effect upon the character of the area or the public health, safety, and general welfare.</p>	<p>Complies</p>	<p>A fence that is over 4 feet tall already walls in the front yard of the impacted neighbor to the west of the subject property. The proposed fence by the applicant will have a much smaller impact than that existing fence. Additionally, there are a handful of properties with fences taller than 4 feet within the neighborhood and along 6th Avenue. The proposed fence would not have a material adverse impact on the neighborhood's character. No impacts are expected on the public health, safety, and general welfare.</p>
<p>D. Compatible with Surrounding Development: The proposed Special Exception will be constructed, arranged, and operated so as to be compatible with the use and development of neighboring property in accordance with the applicable district regulations.</p>	<p>Complies</p>	<p>There are several examples of walled-in front yards in the vicinity of the subject property and along 6th Avenue with fences or hedges higher than 4 feet. The east lot line of the subject property already has a fence taller than 8 feet and adding a fence of similar scale on the other side is compatible with existing development</p> <p>See Attachment C for photos of the fence on the east property line and properties with walled-in front yards.</p>
<p>E. No Destruction Of Significant Features: The proposed use and development will not result in the destruction, loss, or damage of natural, scenic, or historic features of significant importance.</p>	<p>Complies</p>	<p>The existing fence the applicant intends to replace is not a historical feature of the property, and replacing it would not result in the destruction, loss, or damage of any historical or significant features on the property. This standard is met.</p>
<p>F. No Material Pollution of Environment: The proposed use and development will not cause material air, water, soil or noise pollution, or other types of pollution.</p>	<p>Complies</p>	<p>There is no foreseen material pollution of the environment.</p>
<p>G. Compliance with Standards: The proposed use and development complies with all additional standards imposed on it pursuant to this chapter.</p>	<p>Complies</p>	<p>See analysis on next page of Special Exception Standards for Additional Fence Height.</p>

21a.52.030.A.3: Special Exception Standards for Additional Fence Height:

Standard	Finding	Rationale
<p>3. Additional height for fences, walls, or similar structures may be granted to exceed the height limits established for fences and walls in chapter 21A.40 of this title if it is determined that there will be no negative impacts upon the established character of the affected neighborhood and streetscape, maintenance of public and private view, and matters of public safety. Approval of fences, walls, and other similar structures may be granted under the following circumstances subject to compliance with other applicable requirements:</p>	<p>Complies</p>	<p>Windows and entryways on both houses along the subject property's west property line appear to be very close to one another. Privacy is likely limited for the occupants of the neighboring property since the deck on the subject property sits 2-3 feet above grade. For occupants of the subject property, windows from the adjacent house look directly into the rear yard and the rear entryway of the house. Additional fence height along this property line would likely enhance privacy for occupants of both properties.</p> <p>As stated earlier in this report, the proposed fence is not out of character, give the height of the existing front and side yard fences within the vicinity of the subject property. No public or private views will be significantly affected by the applicant's proposal.</p>
<p>a. Exceeding the allowable height limits; provided, that the fence, wall, or structure is constructed of wrought iron, tubular steel, or other similar material, and that the open, special, and nonstructural area of the fence, wall, or other similar structure constitutes at least eighty percent (80%) of its total area;</p>	<p>Does not Apply</p>	<p>No wrought iron, tubular steel, or other similar material is proposed with this request.</p>
<p>b. Exceeding the allowable height limits on any corner lot; unless the City's traffic engineer determines that permitting the additional height would cause an unsafe traffic condition;</p>	<p>Does not Apply</p>	<p>The subject property is not a corner lot.</p>
<p>c. Incorporation of ornamental features or architectural embellishments which extend above the allowable height limits;</p>	<p>Does not Apply</p>	<p>No ornamental features are proposed as part of the proposed fence.</p>
<p>d. Exceeding the allowable height limits, when erected around schools and approved recreational uses which require special height considerations;</p>	<p>Does not Apply</p>	<p>The proposed fence is not for a school or approved recreational use.</p>
<p>e. Exceeding the allowable height limits, in cases where it is determined that a negative impact occurs because of levels of noise, pollution, light, or other encroachments on the rights to privacy, safety, security, and aesthetics;</p>	<p>Complies</p>	<p>There is no indication of negative impacts from noise, pollution or light, or on the safety and security of occupants of the subject property. Given the proximity of the houses along the subject property line, additional fence height would provide additional privacy for occupants of the two properties.</p> <p>The applicant has also indicated that another purpose of the proposed over-height fence is to screen the view of trash and weeds on the adjacent property, which she says has deterred potential tenants of the subject property.</p> <p>Determining if the adjacent property has had a negative aesthetic impact on occupants of the subject property can be tricky since personal property maintenance standards are often subjective. However, there are currently no property maintenance cases open on the adjacent property. If the applicant does have concerns about trash and weeds, they can work with the Civil Enforcement Division to bring it into compliance with adopted City standards.</p> <p>Staff has provided photos of the adjacent property with Attachment C of this report to assist the Commission in considering this standard.</p>

<p>f. Keeping within the character of the neighborhood and urban design of the City;</p>	<p>Complies</p>	<p>As discussed earlier in this report, there are several examples of walled-in front yards in the vicinity of the subject property and along 6th Avenue with fences or hedges higher than 4 feet. Additionally, the east lot line of the subject property already has a fence taller than 8 feet, and adding a fence of similar scale on the other side would be compatible with existing development</p> <p>See Attachment C for photos of the fence on the east property line and properties with walled-in front yards.</p>
<p>g. Avoiding a walled-in effect in the front yard of any property in a residential district where the clear character of the neighborhood in front yard areas is one of open spaces from property to property; or</p>	<p>Complies</p>	<p>Front yards with open spaces from property to property is not the “clear character” of the neighborhood or 6th Avenue. There are several properties with tall fences or hedges that wall-in their front yards (see Attachment C for examples). The proposed 5-foot fence along the west lot line of the subject property’s front yard is not out of character from the surrounding neighborhood.</p>
<p>h. Posing a safety hazard when there is a driveway on the petitioner’s property or neighbor’s property adjacent to the proposed fence, wall or similar structure.</p>	<p>Does not Apply</p>	<p>There are no existing driveways on either side of the subject fence.</p>

ATTACHMENT I - PUBLIC PROCESS & COMMENTS

Notice of Special Exception Application:

- Notice of the Special Exception application was mailed to adjacent property owners on August 4, 2021.
- Staff did not receive any comments from adjacent property owners within or following the required 12-day commenting period.

Notice of the public hearing for the proposal included:

- Public hearing notice mailed on October 21, 2021
- Public notice posted on City and State websites and Planning Division listserv on October 21, 2021
- Public hearing notice sign posted on the property October 25, 2021

Public Input:

As of the publication of this Staff Report, Staff has not received any public comments or questions regarding the requests. If Staff receives any future comments on the proposal, they will be included in the public record and forwarded to the Commission.