

# PLANNING COMMISSION STAFF REPORT



Planning and Zoning Division  
Department of Community and  
Economic Development

## Lay Over Height Fence Special Exception PLNPCM2012-00615 1351 West Arapahoe Date : January 9, 2013

**Applicant:** Ron Lay

**Staff:** Anna Anglin  
anna.anglin@slcgov.com

**Tax ID:**  
15-10-228-003-0000

**Current Zone:**  
Single Family Residential R-  
1/5000

**Master Plan Designation:**  
Low Density Residential

**Council District:**  
Council District 2  
Kyle LaMalfa

**Community Council:**  
Poplar Grove  
Andrew Johnston

**Lot Size:**  
6,534 square feet

**Current Use:**  
Single Family Home

**Applicable Land Use  
Regulations:**

- 21A.24.070:  
R-1/5,000 Single Family  
Residential
- 21A.52 Special  
Exceptions
- 21A.40.120: Regulation  
of fences, walls and  
hedges

**Attachments:**

- A. Site Plan & Elevation  
Drawings.
- B. Photographs

### ***Request***

Ron Lay is requesting a Special Exception for a fence that exceeds the six foot height limit for his property located at approximately 1351 West Arapahoe in an R-1/5000 (Single Family Residential) zoning district. The purpose for the request is to add privacy along the east and west sides of the house.

### ***Recommendation***

Based on the findings listed in the staff report, it is the Planning Staff's opinion that overall the project generally does not meet the applicable standards for a special exception for additional fence height and therefore, recommends that the Planning Commission deny the request.

### ***Motions***

**Denial:** Based on the findings listed in the staff report, testimony and plans presented, I move that the Planning Commission deny petition PLNPCM2012-00615 a request for a special exception to allow an over height fence, located at approximately 1351 West Arapahoe.

**Approval:** Based on the testimony, plans presented and the following findings, I move that the Planning Commission approve petition PLNPCM2012-00615 a request for a special exception to allow an over height fence, located at approximately 1351 West Arapahoe.

# Vicinity Map



Salt Lake City  
Community and Economic Development Dept.  
Planning Division

## ***Background***

### **Project Description**

This is a request by Ron Lay for a special exception to allow an over height fence which will exceed the six (6) foot height limit in residential zoning districts by two (2) feet. The property is located at approximately 1351 West Arapahoe Avenue. The use of the property is single family residential. The over height fence is proposed to be constructed along the east and west sides of the house. The portions of the fence facing the street and parallel to the front façade of the home would stay within the maximum height requirement of the zoning district.

Currently a chain link fence borders the property on the east and west side of the lot where the applicant is proposing to build the fence. The proposed fence will be solid for the first six (6) feet in height and then made of cedar lattice for two additional feet. The applicant is proposing to have the poles extend an additional foot over the fence to accommodate decorative embellishments.

The purpose of the proposed fence is to increase the privacy for two proposed patios on the east and west side of the house. Patios less than two feet in height are allowed in any required yard in Salt Lake City. In addition, the fence on the west side of the house will be three (3) feet away from the property line where there is an existing chain link fence. This creates a situation where two fences would be separated by three (3) feet. The property is located in the R-1/5000 Single Family Residential Zoning District.

## ***Public Notice, Meetings, and Comments***

### **Public Comments**

The neighbors on the west side of the fence called in a concern during the comment period of the Notice of Application which was between September 12, 2012 and September 24, 2012. The neighbor stated that the over height fence could potentially cause their home to have a boxed in effect. In addition, the neighbor feared that the fence could potentially interfere with their garden by blocking the sunlight.

### ***Notification***

- Required notices mailed on December 26, 2012
- Sign posted on property on December 26, 2012
- Agenda posted on the Planning Division and State Website on December 26, 2012
- Agenda sent to Planning Division Listserve on December 26, 2012

### **City Division Comments**

There were no comments received by any of the other divisions in the City. The petition was not routed because the proposed fence did not need to be reviewed by other departments.

## ***Analysis and Findings***

Section 21A.52.060 of the Salt Lake City Zoning Ordinance states, “No application for a special exception shall be approved unless the Planning Commission or the Planning Director determines that the proposed special exception is appropriate in the location proposed based upon its consideration of the general standards set forth below and, where applicable, the specific conditions for certain special exceptions.”

**Standard A. Compliance With 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.**

*Analysis:* The purpose statement of the R-1/5000 residential districts does not address fences directly. However, it is inherent to residential property boundaries to be demarked by fences. The zoning ordinance addresses this by providing standards for fences in residential zoning districts. The purpose statement for the R-1/5000 zoning district is to:

Provide for conventional single-family residential neighborhoods on lots not less than five thousand (5,000) square feet in size. This district is appropriate in areas of the city as identified in the applicable community master plan. 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.

The height restrictions for fences found in section 21A.40.120E(2)(b) of the Salt Lake Zoning Ordinance states “Fences, walls or hedges may be erected in any required corner side yard (extending to a point in line with the front facade of the principal structure), side yard or rear yard to a height not to exceed six feet (6).” The height of the fence should be measured from the established grade. The applicant is allowed by the zoning ordinance to have a six foot tall solid fence in the required side yards behind the front façade of the house in residential districts. The material allowed to be used for fencing is governed by section 21A.40.120D(1). The proposed cedar boards and lattice work are allowed in Salt Lake City. The purpose of the fence regulations as stated in ordinance section 21A.40.12A is “to achieve a balance between the private concerns for privacy and site design and the public concerns for enhancement of the community appearance, and to ensure the provision of adequate light, air and public safety.”

No evidence has been submitted to indicate that there is an increase need for privacy above what would be provided by a six (6) foot tall fence. The proposed fence will be erected beside the existing chain link fence on the east side, and approximately three feet away from the existing chain link fence on the west side. Having two fences side by side with a gap in between creates an opportunity for a nuisance to occur because these areas are difficult to access and maintain. Due to the potential nuisance the gap between the two fences may create; it may cause problems with maintaining the existing character of the neighborhood. In addition, with the proposed fence being three feet away from the property line, it has the potential of creating an issue establishing where the boundaries are for the property in the future.

*Findings:* Staff finds that the height of the proposed fence would be incompatible with the ordinance and district purposes and the proposal does not meet this standard.

**Standard 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.**

*Analysis:* The double fencing that would be created by the proposed fence would cause an unusable gap between the two properties which may cause maintenance issues and has the potential to become a nuisance. A single nuisance may not impair property value within the neighborhood, but if more fences such as the one proposed were to be built, it could become a common development pattern and have an impact on the neighborhoods property value.

*Findings:* Staff finds the proposed fence has the potential to cause some impairment to the value of property in the area and does not meet this standard.

**Standard 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.**

*Analysis:* The neighbor to the west is concerned with the over height fence creating “a boxed in affect” for his property and creating a shadow on their garden. According to the drawings submitted, the proposed fence is to be setback three feet from the property line that he and his neighbor to the west share in common. The purpose of the three foot setback is to remedy any “boxed in affect” that could potentially create any impairment on the neighbor’s property. In addition, the over height fence would be located along the side of the existing house approximately ten feet and would not cast anymore of a shadow on their property than the house does. Furthermore, the portion of the fence that exceeds six feet in height would be latticed and open and would allow a certain amount of sunlight to pass through it. However, the three foot setback creates a space that is difficult to maintain and a situation where property lines and building setbacks may be confused in the future.

*Findings:* Staff finds the proposed fence may potentially have an adverse impact on the character of the area and does not meet this standard.

**Standard 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.**

*Analysis:* The property where the fence is proposed is located in a residential area. Most of the homes in the area have chain link fencing around their properties. The wood fencing material is allowed by the zoning ordinance and would be complimentary to the surrounding properties if the fence was six feet in height. There does not appear to be other properties in the neighborhood that have eight (8) foot tall fences similar to what is being proposed. The fence would stand out in the neighborhood because of its height and would not be compatible with the surrounding area.

*Findings:* Staff finds that the over height fence would not be compatible with the surrounding area and does not meet this standard.

**Standard 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.**

*Analysis:* There is no foreseen destruction of any significant features.

*Findings:* Staff finds the proposed fence meets this requirement.

**Standard 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.**

*Analysis:* There is no foreseen material pollution of the environment.

*Findings:* Staff finds the proposed fence meets this requirement.

**Standard G. Compliance with Standards:** The proposed use and development complies with all additional standards imposed on it pursuant to Section 21A.52.100 of this Chapter. In addition to the general special exception standards, the fence must meet a minimum of one of the following standards:

- 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, spatial and nonstructural area of the fence, wall or other similar structure constitutes at least eighty percent (80%) of its total area;**

*Analysis:* The proposed fence will be a privacy fence; it is proposed to be constructed with six foot solid cedar fencing and two feet of lattice material. The lattice that is above the allowed height of the zoning district would need to maintain a minimum of 80% openness to allow sunlight in.

*Findings:* The proposed fence would meet this standard with the condition that 80% of the latticed fence remains open.

- b. **Not exceeding the allowable height limits within thirty feet (30') of the intersection of front property lines on any corner lot; unless the city's traffic engineer determines that permitting the additional height would not cause an unsafe traffic condition;**

*Analysis:* The proposed fence will not be located in any line of sight areas.

*Findings:* The proposed fence meets this standard

- c. **Incorporation of ornamental features or architectural embellishments which extend above the allowable height limits;**

*Analysis:* The proposed fence will have decorative and ornamental details to it on the posts and with the lattice work along the top of the proposed fence.

*Findings:* The proposed fence meets this standard

- d. **Exceeding the allowable height limits, when erected around schools and approved recreational uses which require special height considerations;**

*Analysis:* The proposed fence will not be located around a school or recreational area.

*Findings:* This standard does not apply

- 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;**

*Analysis:* The proposed fence will not be located in an area where there are any noise or light nuisances. No evidence has been submitted that indicates the property owner has rights to privacy, safety, security, or aesthetics that are above and beyond the rights of other property owners in the zoning district.

**Findings:** There is no evidence indicating that there is a negative impact caused by any encroachment on the subject property that would be mitigated by a fence that exceeds the allowed height. The proposal does not comply with this standard.

**f. Keeping within the character of the neighborhood and urban design of the city;**

**Analysis:** The proposed fence would be the only over height fence in the nearby area. The zoning ordinance states that balancing privacy issues and community appearance is one of the purposes of regulating fence height. In this case, there is no evidence of conflict between privacy and community appearance that warrants additional fence height. The character of the neighborhood, at least as it pertains to fences, is one that includes a mix of fence heights, depending on the location of the fence on the property. However, no evidence has been presented that the character of the neighborhood includes eight foot fences.

**Findings:** The proposed fence does not meet this standard.

**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;**

**Analysis:** The proposed fence will not be located in the front yard of the property.

**Findings:** The proposed fence meets this standard

**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.**

**Analysis:** The proposed fence will not be located near a driveway.

**Findings:** The proposed fence meets this standard

**ATTACHMENT A**  
**Site Plan & Elevation Drawings**



SALT LAKE CITY ZONING APPROVAL

Scope of work: Fencing

Address: 1351 W. Arapahoe

Zone: R-1/5000

25' BACKS FROM PROPERTY LINES

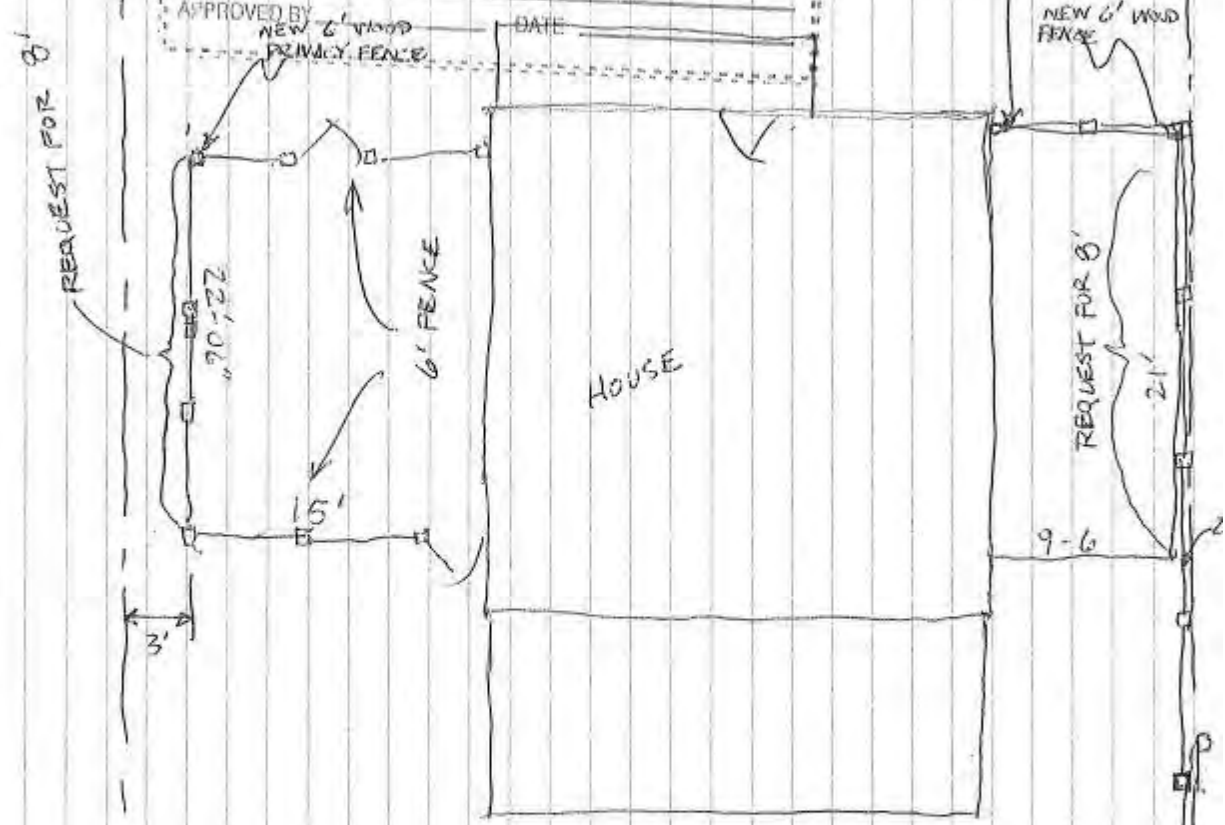
Front \_\_\_\_\_ Sides \_\_\_\_\_ Back \_\_\_\_\_ Height: 6' max

Conditions/Comments \_\_\_\_\_

APPROVED BY \_\_\_\_\_ DATE \_\_\_\_\_

NEW 6' WOOD FENCE

PRIMACY FENCE



A  
NORTH

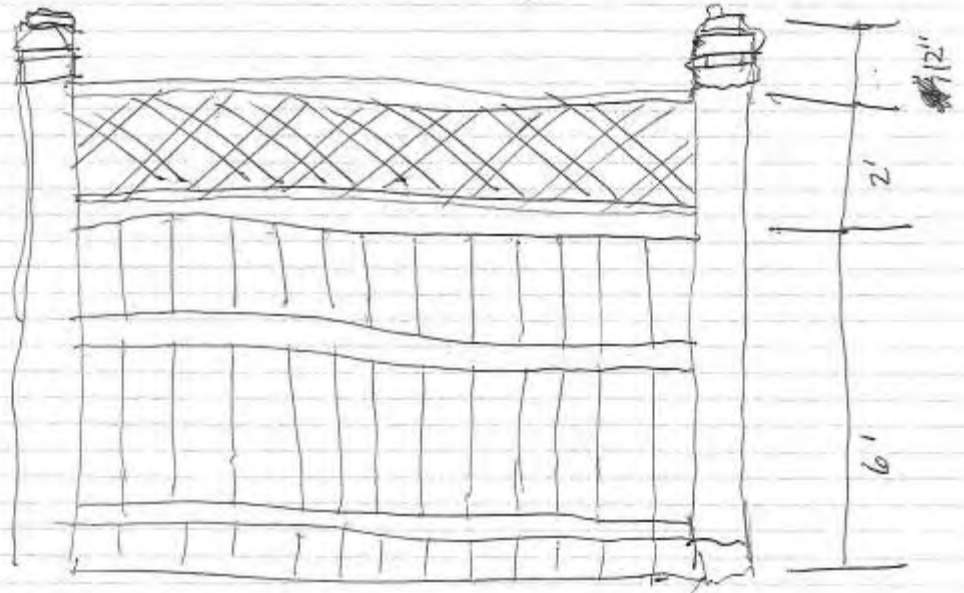
□ = 2 FT

WOOD FENCE:

6x6 POSTS (CEDAR) SUNK 2 FT INTO GROUND w/ 3 1/2" LONGS OF CONCRETE - w/ CARVED TOPS NO MORE THAN 12" ABOVE FENCE

2x4 ROUGH SAWN CEDAR RAILS (7/SECTION)

1x6x6 CEDAR FENCING w 2 FT LATTICE ABOVE



**ATTACHMENT B**  
**Photographs**

## West Side of House



# East Side of House



## Front and Rear of House

