

**PLANNING COMMISSION STAFF REPORT
ADMINISTRATIVE ITEM**



Planning Division
Department of Community
and Economic Development

**Gosdis Over Height Fence
Special Exception PLNPCM2013-00003
857 W Simondi Ave
February 27th, 2013**

Applicant: Sherry Gosdis

Staff: Daniel Echeverria
daniel.echeverria@slcgov.com

Tax ID:
08-35-258-007-0000

Current Zone:
R-1/7,000 Single Family
Residential

Master Plan Designation:
Northwest Master Plan, Low
Density Residential

Council District:
Council District 2
Kyle LaMalfa

Community Council:
Fairpark

Lot Size:
0.08 acres

Current Use:
Single Family Home

Applicable Land Use

Regulations:

- 21A.24.060:
R-1/7,000 Single Family
Residential
- 21A.52 Special
Exceptions
- 21A.40.120: Regulation
of fences, walls and
hedges

Attachments:

- A. Site Plan
- B. Photographs

Request

Sherry Gosdis is requesting a Special Exception for a fence that exceeds the four foot height limit for fences in the front yard by two feet. The property is located at approximately 857 W Simondi Ave in an R-1/7,000 Single Family Residential zoning district. The purpose of the additional fence height is to increase the privacy of the front yard and isolate the property from activities and conditions on an abutting residential property to the west.

Recommendation

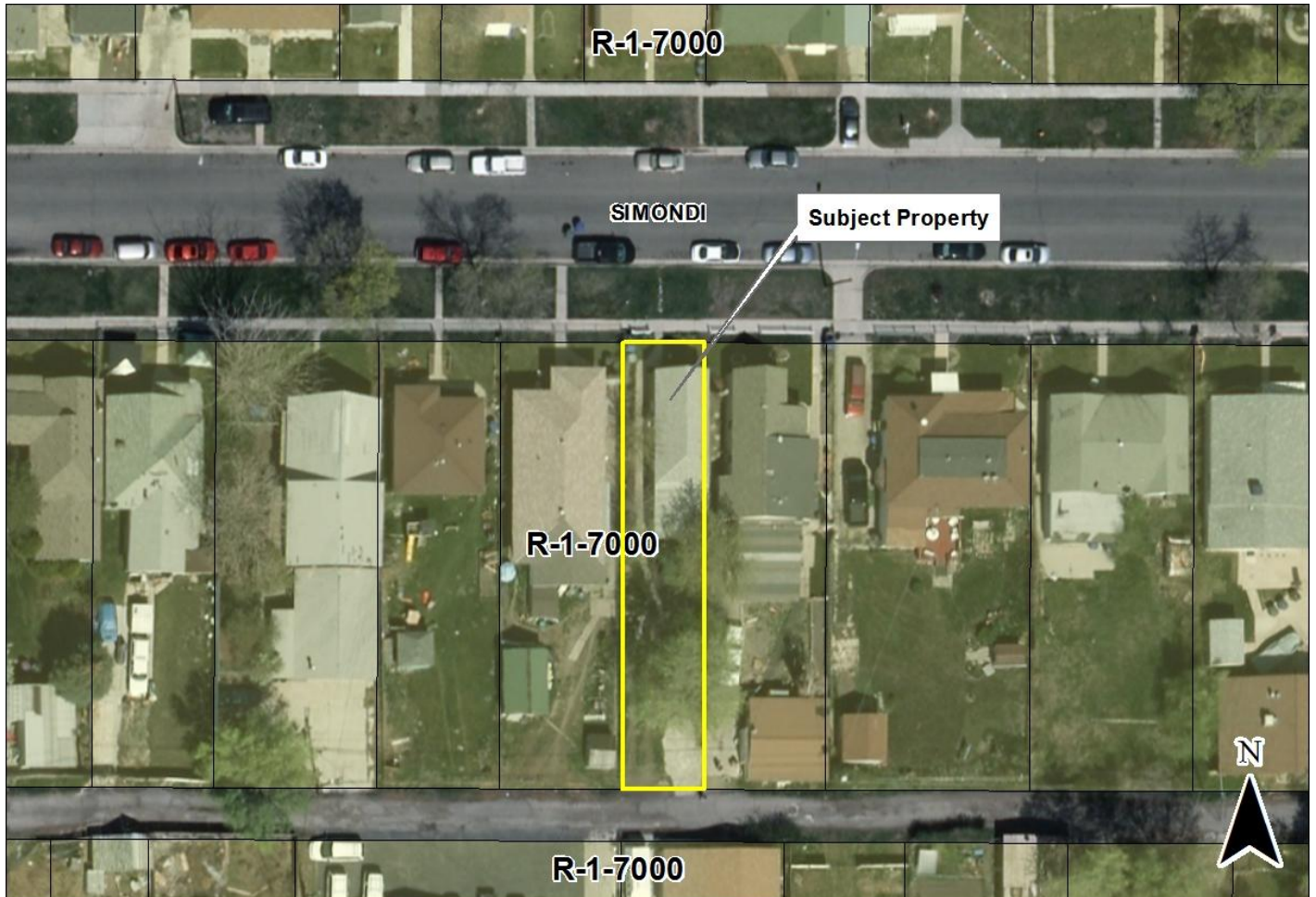
Based on the findings listed in the staff report, it is the Planning Staff's opinion that overall the project generally does not meet the applicable standards for a special exception for additional fence height and therefore recommends that the Planning Commission deny the request.

Potential Motions

Denial: Based on the findings listed in the staff report, testimony and plans presented, I move that the Planning Commission deny petition PLNPCM2013-00003, a request for a special exception to allow an over height fence located at approximately 857 W Simondi Ave.

Approval: Based on the testimony, plans presented and the following findings, I move that the Planning Commission approve petition PLNPCM2013-00003, a request for a special exception to allow an over height fence located at approximately 857 W Simondi Ave.

VICINITY MAP



Background

Project Description

This is a request by Sherry Gosdis for a special exception to allow an over height fence which exceeds the four (4) foot height limit for fences in the front yard of residential zoning districts by two (2) feet. The property is located at approximately 857 W Simondi Ave. The use of the property is single family residential. The property owner put up the fence without the necessary City approvals and is currently under enforcement for the over height portions of the fence. The over height portions of the fence are located in front of the home along the west side property line as well as along the front property line on the north. The purpose of the additional fence height is to increase the privacy of the front yard and isolate the property from activities and conditions on an abutting property to the west.

Project Details

Regulation	Zone Regulation	Proposal	Complies
Front Yard Fence Height	4 feet	6 feet	No; Special Exception requested

Public Notice, Meetings, and Comments

Public Comments

Staff received four phone calls about the requested additional fence height as of the publication of this staff report. All callers expressed disapproval of the request.

Notification

Notice of the public hearing for the proposal includes:

- Public hearing notice mailed on February 14th.
- Public hearing notice posted on property on February 13th.
- Public hearing notice posted on City and State websites on February 14th.
- Public hearing notice emailed to the Planning Division list serve on February 14th.

City Division Comments

The petition was not routed to other City divisions as the relevant issues are planning related and not specific to other divisions.

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-1/7,000 Single-family Residential zoning district does not address fences directly. However, it is inherent of 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-1/7000 zoning district is as follows:

The purpose of the R-1/7,000 single-family residential district is to provide for conventional single-family residential neighborhoods with lots not less than seven thousand (7,000) 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 purpose of the fence regulations as stated in ordinance section 21A.40.120.A 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.”

As to the compliance with the above purposes, building a fence that exceeds the height limits in the front of the property would create a walled-in effect and establish a greater level of privacy than is generally expected for a

front yard in a single-family residential neighborhood in Salt Lake City. No evidence has been submitted to indicate that there is a pressing public safety need for the establishment of a higher fence. The applicant has suggested that there is an issue with large dogs being located in abutting front yard areas; however, the existence of dogs in a yard area is not an unexpected feature of residential neighborhoods and a higher fence would violate the balance between privacy and community appearance. A tall fence in the front yard potentially creates a hiding place for intruders and may interfere with the maintenance and perception of public safety, violating the purposes of the fence regulations. Furthermore, with regard to the residential zoning district purposes, the excess fence height is not compatible with the development pattern and character of the neighborhood, which is one of low or no fences in the front yard area.

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 fence height is an unusual feature in this neighborhood and is not consistent with the character of the neighborhood or the existing development pattern. The fence has the potential to impair the value of abutting properties by diminishing views of the street and yard, as well as views of homes from the street. A single nuisance may not impair the general property values 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 a negative impact on property values in the neighborhood.

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 neighborhood character of the area does not include tall fences in the front yard area, and rather is one of low or no fences in the front yard area of homes in the neighborhood. The installation of a tall fence in the front yard creates potential issues related to public safety by reducing the views of the street and yard area. Visibility of neighborhood activity is an important component of crime prevention in neighborhoods and this fence would reduce that visibility for not only this home but for neighboring properties.

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 fence is located on a residential property. The front yards in the surrounding residential neighborhood have either no fences or fences under four feet in height that meet the current fence regulations for residential properties. The wood fencing material is allowed by the zoning ordinance and would be complimentary to the surrounding properties if the fence was four feet or less in height. There do not appear to be other properties in the neighborhood that have six (6) foot tall fences in the front yard area similar to what is

being proposed. The fence would stand out in the neighborhood because of its height and therefore 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 fence meets this standard.

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 fence meets this standard.

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 comply with the following applicable standards for additional fence height:

- 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 installed fence is not composed of the referenced materials and the over height portion does not maintain an openness of 80% of its total area.

Findings: The fence does not meet this standard.

- 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 fence is not located in any line of sight areas.

Findings: The fence meets this standard.

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

Analysis: The over height portion of the fence is a solid, structural component of the fence and does not constitute an ornamental feature or architectural embellishment.

Findings: The fence does not meet this standard.

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

Analysis: The fence is not 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 fence is not located in an area where there are any significant 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. The disrepair of the abutting home and the existence of dogs in the yard of the neighbor may constitute an annoyance or inconvenience, but does not rise to the level of creating a significant negative impact upon the rights to privacy, safety, security, or aesthetics. A situation involving debris or junk around an abutting home can be addressed through zoning enforcement action and limits on noise in residential areas are addressed by other City ordinances.

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 fence is 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 is one of low or no fences in the front yard area. No evidence has been presented that the character of the neighborhood includes six foot fences in the front yard.

Findings: The 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 fence is located within the front yard of the property in a neighborhood which has a clear character of open spaces in the front yard areas. The additional height creates a walled-in effect that is not compatible with the neighborhood development pattern, which as previously

discussed has a number of potential negative impacts to the safety and character of the neighborhood.

Findings: The fence does not meet 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 fence is not located near a driveway.

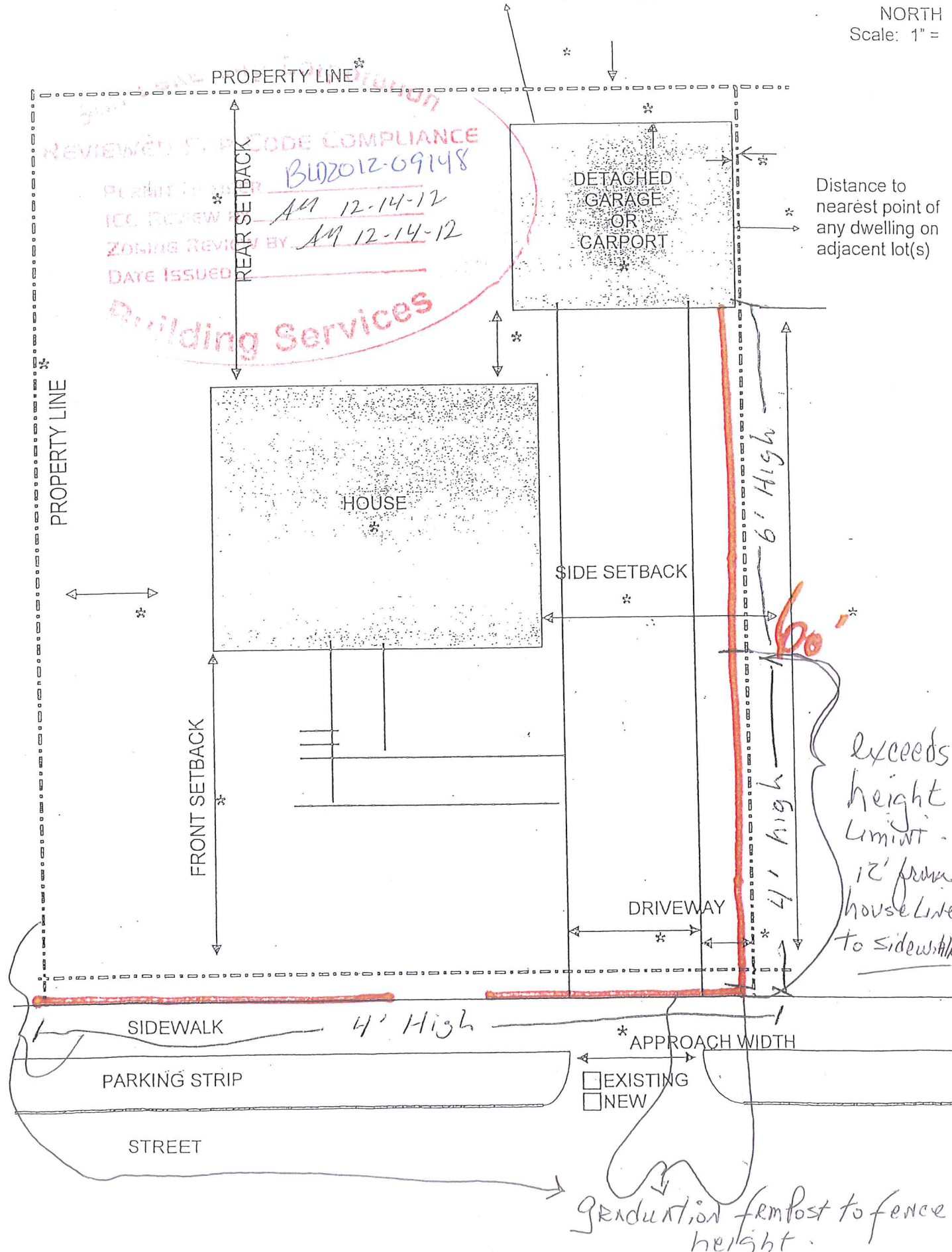
Findings: The fence meets this standard.

ATTACHMENT A
Site Plan

BASIC SITE PLAN EXAMPLE

* Indicate dimensions where noted

Distance to nearest point of any dwelling on adjacent lot(s)



ATTACHMENT B
Photographs



View of the front of the fence



View of the west end of the fence



View of the east end of the fence



West view along Simondi Ave



East view along Simondi Ave