



Staff Report

PLANNING DIVISION
DEPARTMENT of COMMUNITY and NEIGHBORHOODS

To: Salt Lake City Planning Commission

From: Mayara Lima, Principal Planner
(801) 535-7118 or mayara.lima@slcgov.com

Date: July 22, 2020

Re: PLNPCM2020-00341 - Overheight fence and walls at 1263 E 4th Avenue

Special Exception

PROPERTY ADDRESS: 1263 E 4th Avenue
PARCEL ID: 09-33-305-016
MASTER PLAN: Avenues Master Plan
ZONING DISTRICT: R-1/5,000 Single-Family Residential

REQUEST: Thomas Fast, property owner, is requesting approval to install fence, walls and gates that are 6 to 8 feet tall on the property at approximately 1263 E 4th Avenue. The proposed wall, fence and gates will be located on the west and south boundaries of the property. Walls and fences are permitted up to 4 feet in the front yard and up to 6 feet in the corner yard but additional height may be approved through a Special Exception.

RECOMMENDATION: Based on the information in the staff report, Planning Staff recommends that the Planning Commission deny the request for the overheight fence, walls and gates.

ATTACHMENTS:

- A. [Vicinity and Zoning Map](#)
- B. [Site Photographs](#)
- C. [Application Materials](#)
- D. [Analysis of Standards](#)
- E. [Public Process and Comments](#)

PROJECT DESCRIPTION: The applicant is proposing to install a fence with concrete corner posts along the south (front yard) and west (corner yard) boundaries lines of his property at 1263 E 4th Avenue. The proposal also includes concrete walls with gates on the southeast corner of the property, next to the driveway accessing 4th Avenue. The perimeter fence and concrete walls proposed would be 6 feet in height. The pedestrian and vehicular gates would range from 6 to 8 feet and the concrete corner posts would be 8 feet in height. The fence and gates would be made of wrought iron and would provide some transparency.

In residential zoning district, fences and walls are allowed up to 4 feet in height between the front property line and front facade of the building where the primary entrance is located. Fences and walls up to 6 feet are allowed in all other required yards. Given that this is a corner property, the front yard where fences and walls are limited to 4 feet is located adjacent to the south property line. The area

Virginia Street

09-33-305-016
FAST, THOMAS, JT
FAST, ELLA F, JT
1263 E FOURTH AVE

6' Rod Iron Fence

6' Wall

H6' W9' Gate

6' Post

H6' W14' Gate

175' From Walk

6' Wall

Stairs

4th Avenue

SET BACK IN TBC

Diagram illustrating a driveway entrance design featuring a rod iron fence and gate. The fence is 6' high and spans 17' from the road. The gate is 8' high and 17' wide. The design includes corner posts, entrance posts, and a side gate.

Labels in the diagram include:

- Corner Posts
- Fence Span
- Rod Iron Fence
- Rod Iron Gate
- Driveway Entrance
- Side Gate
- 6' Height
- 8' Entrance Post
- 17' from Road

2

Additional height for fences and walls may be requested through the Special Exception process. The planning director or planning commission may approve taller fencing if:

- *it is found that the extra height is necessary for the security of the property in question AND*
- *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 views, and matters of public safety.*

In this instance, the applicant is requesting additional wall and fence height for the security and enjoyment of his children as indicated in [Attachment C](#).

KEY CONSIDERATIONS:

Consideration 1: Specific special exceptions standards for additional fence height

The zoning ordinance establishes specific standards for special exceptions related to additional height for fences, walls or similar structures. The main premises of allowing additional fence and wall height are for security purposes and when the excess height does not negatively impact the character and public safety of the neighborhood.

The applicant claims that the taller fence is necessary for the security of his children. However, no evidence was provided to support the idea that only a taller fence could accomplish this private need. The applicant's claim also does not justify the request for tall solid walls. This neighborhood is found to have a clear character of openness in the front yards and the proposal does not follow this pattern. Thus, the proposed fence, walls and gates are not in line with the main premises of this special approval process specific for fence height.



Figure 3 – Google street view of 4th Avenue shows that the consistent openness in the front yards.

Additionally, the proposal is found to not comply with many of the additional requirements outlined in the code and further discussed in [Attachment D](#). Those include the allowance of the additional height as long as transparency is provided and that the height be for ornamental features only. These requirements have allowed in the past, property owners to create the physical boundaries from private and public spaces that they desired (although shorter than what is being proposed now) while including design elements that were visually appealing to them but did not follow the strict language of the code.

Staff recognizes that corner lots are more complex because of its two yards adjacent to public streets. However, the ordinance only limits the yards operating as the front of the homes to short fences up to 4 feet. Elsewhere on the property, 6-foot fences are allowed, which in most cases is sufficient to

provide privacy and delineate boundaries. Most properties in residential neighborhoods in the city follow this pattern of fence height established by city code.

In this neighborhood in particular, many of the properties have taller fences on the sides and rears of the lots, and shorter fences or no fence at all in lot frontages. In some instances, corner properties have 5 to 6-foot fences in small portions of the front yards to delineate back or side yards. The front facades of the homes, and the access to the primary doors are however, consistently unobstructed by tall fencing and clearly visible from the public way. This is an important part of the visual character of the neighborhood, which the proposal does not follow.



Figure 4 – Example of corner property with open front yard and 6' fence on the side.



Figure 5 – Some corner properties have some 6' fence in the front yard but maintain openness in front of the homes.

Consideration 2: General standards for special exceptions

Applications for special exceptions must also comply with general standards, which are intended to help determine whether a proposal is appropriate for its location and context. This proposal for additional fence and wall height is not shown to comply with 4 of the 6 general standards. This will be discussed further in [Attachment D](#). These include compliance with district purpose, compliance with standards, compatibility with surrounding development and no creation of adverse impact.

The subject property is located in a R-1/5,000 Single-Family Residential district. The purpose of the district is to *provide for conventional single-family residential neighborhoods where uses are intended to be compatible with the existing scale and intensity of the neighborhood*. The ordinance states that *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*. A walk-through the neighborhood clearly shows that the character of this neighborhood is of open front yards, where there is a soft transition between public and private spaces along the streets.

Residential fences are restricted to 4 feet in height in front yards and 6 feet in height in all other required yards. Taller fences, and especially taller walls, along streets block views and tend to create a sharp distinction between private and public spaces, which not only damage the character of the neighborhood, but also negatively affect the perception of safety in the area. For pedestrians, tall walls create a walled-in effect and diminish the walkability of the area.

The subject property is surrounded by similar single-family uses. The residential character of this area is not anticipated to change in the future as it is designated as very low density residential in the Avenues Master Plan. Given the history and expected future of the neighborhood, it is important to encourage the maintenance of a safe and comfortable place to live and play. The proposed overheight fence and walls generally do not promote this goal.

Consideration 3: Referral to Planning Commission

Section 21A.52.040(5)(b) of the city code states that *“The planning director or the planning director's designee may refer any application to the planning commission due to the complexity of the application, the significance in change to the property or the surrounding area.”* This proposal is being forwarded to the planning commission for a decision because it is not shown to comply with many of the applicable standards and due to complexity of its lot configuration. Applying fence height standards to interior lot is more straight-forward in the sense that only one side of the lot typically affects the streetscape. For corner lots, at least two of its sides could have urban design impacts.

DISCUSSION:

The proposal does not meet many of the specific and general standards for a fence height special exception. The proposed fence, walls and gates are not being requested due to negative impacts caused by incompatible adjacent uses or other noxious conditions. It is also not requested with the intent to provide some flexibility for ornamental features. The request is motivated by a private owner seeking to create a walled off portion of the front yard which will produce negative impacts on the character of the neighborhood and streetscape as it is an uncommon design feature. If approved, the proposal would greatly differ from the low-scale residential feel in the area by creating a walled-in effect for pedestrians, changing the perception of openness and safety on the corner of 4th Avenue and Virginia Street, and potentially promoting similar requests from adjacent property owners.

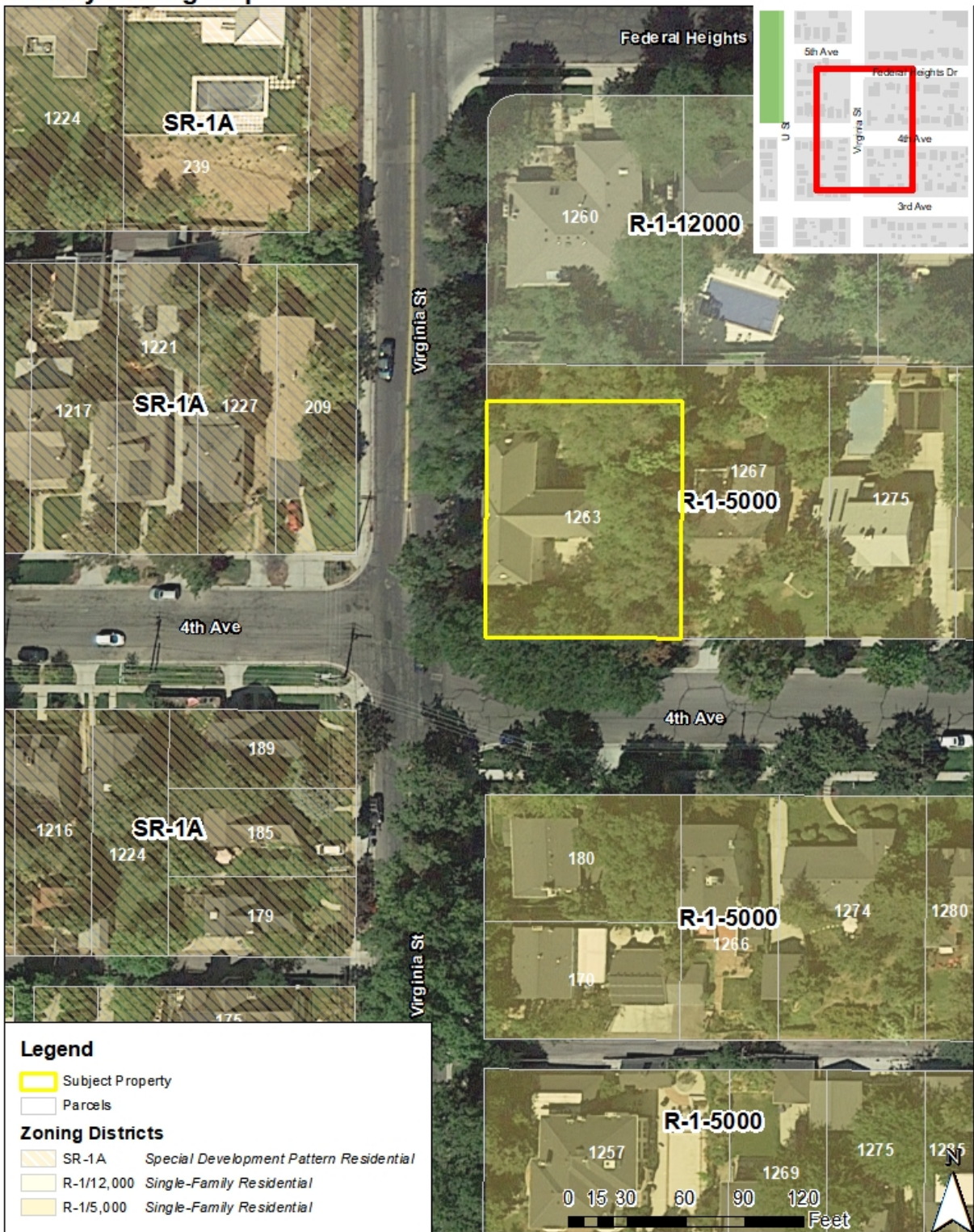
NEXT STEPS:

If the request is denied, the applicant would not be allowed to install the proposed fence and walls as designed. The applicant could install a fence that complies with zoning standards or propose an alternative design in a new special exception application.

If the request is approved, the applicant would be able to obtain a building permit for the proposed fence and walls.

ATTACHMENT A: Vicinity and Zoning Map

Vicinity Zoning Map



Salt Lake City Planning Division, 7/15/2020

ATTACHMENT B: Site Photographs



Figure 6 – View of the subject property from 4th Avenue



Figure 7 – View of the subject property from Virginia Street



Figure 8 – View of the two street sides of the subject property from the corner of 4th Avenue and Virginia Street



Figures 9 and 10 – The property directly across 4th Avenue is also a corner lot and has a short fence on both streets. Photo on the left shows the front of the property facing Virginia Street.

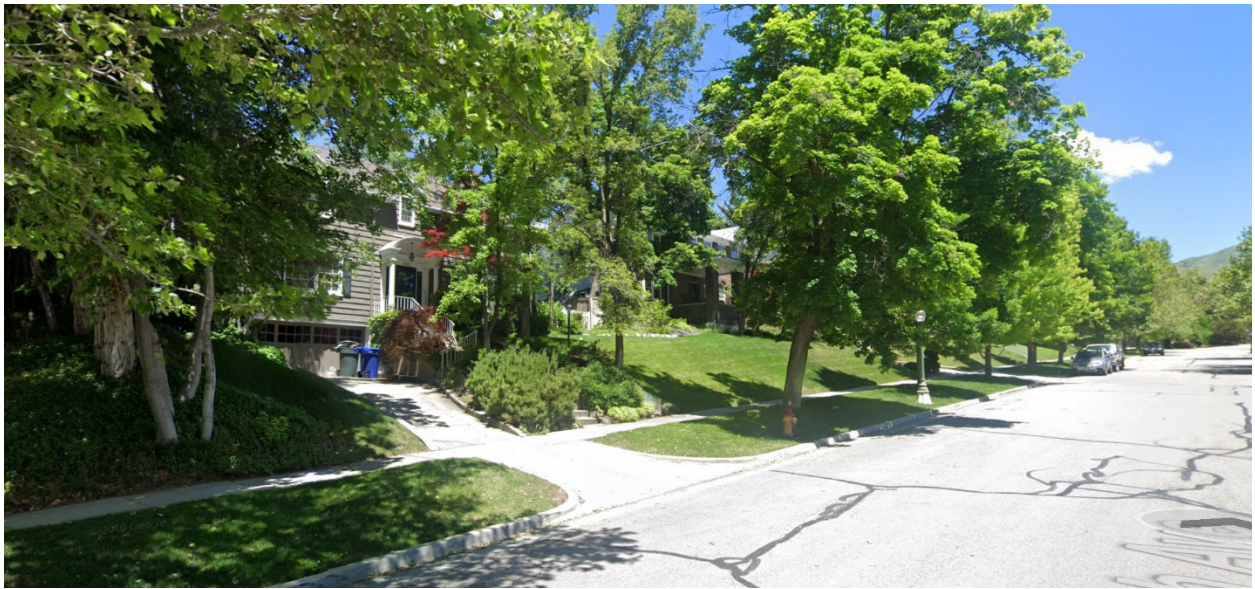


Figure 11 – Google street view of the properties directly to the east



Figure 12 – Google street view of the properties on the south side on 4th Avenue



Figure 14 – Google street view of Virginia Street

ATTACHMENT C: Application Materials

I need to apply for two exemptions as part of this building permit (BLD2020-04259):

1. The first is I need the rod iron fence (see through) in the front of the house to be 6'. This is a safety issue. I am building the fence to allow my two toddlers to wander freely around the yard. It is a very public yard on the corner of a busy street (Virginia Ave). I can't have someone reaching over the fence and yanking the kids out, hence the height. There are multiple other fences of the same height and design on the same street, including one 500ft up Virginia Ave with a height of 8'.
2. The electric gates need to be within a foot of the sidewalk. They will slide horizontally, not swing open, so they will not interfere with the sidewalk. There is not enough space on the small lot to do anything else. In the case of both fences there is plenty of room for a car to pull in while waiting for gates to open.

The fence will be rod iron and be located on the property line. Gates will match (images included in application).

Retaining & Back Yard Wall

1263 E 4th Ave

999 Cover Page & Index

001 Site Plan

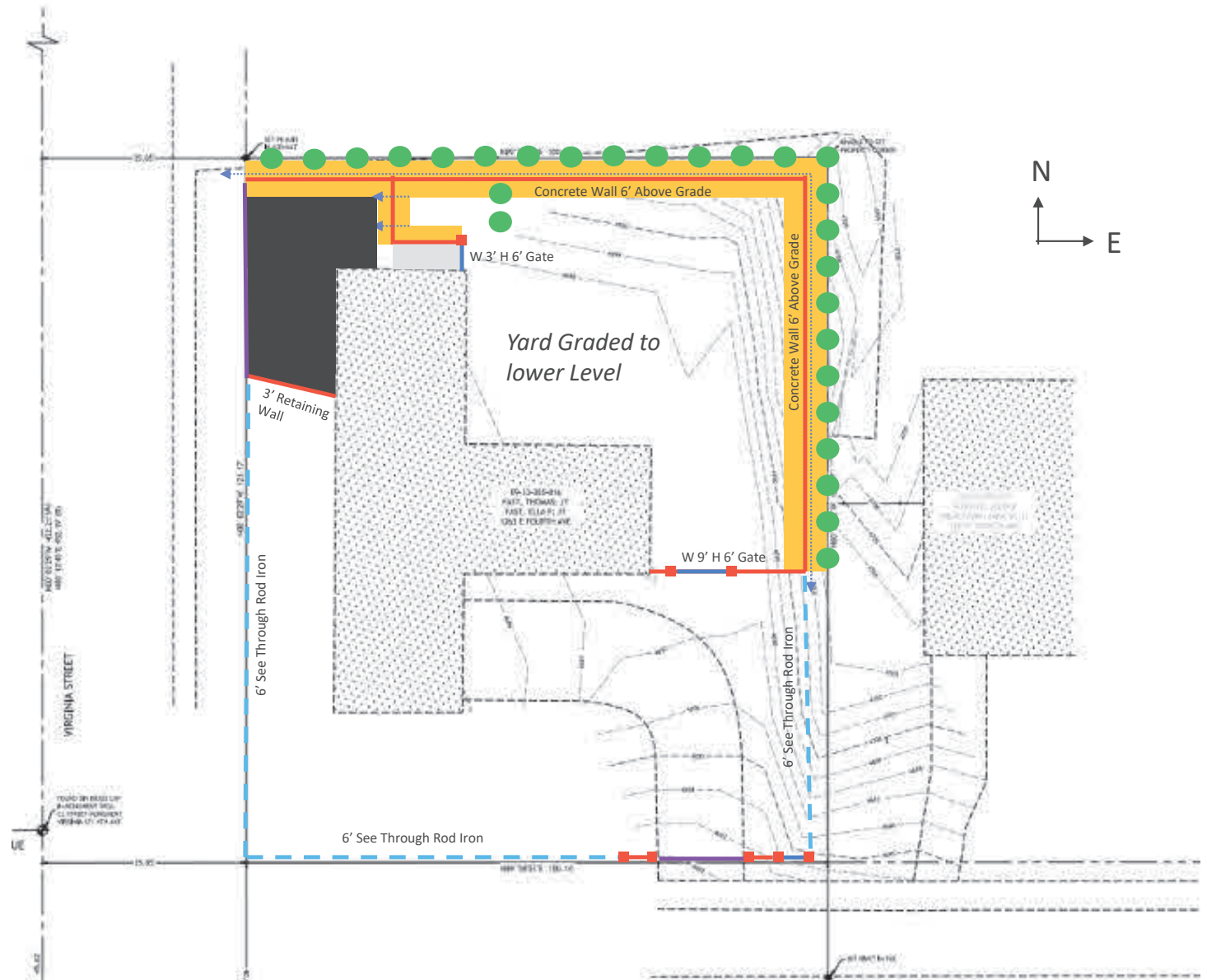
002 Designs

000 Structural Notes

100 Schedules & Details

001 Site Plan

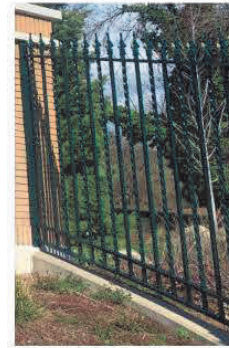
- Wall / Retaining Wall
- Manual Gate
- Footer
- - - Drain
- Concrete
- Privacy Shrubs/Trees
- Electric Sliding Gate
- - - Iron Fence



D002 Designs



Capped, concrete retaining walls



Cash Iron Rod Fence

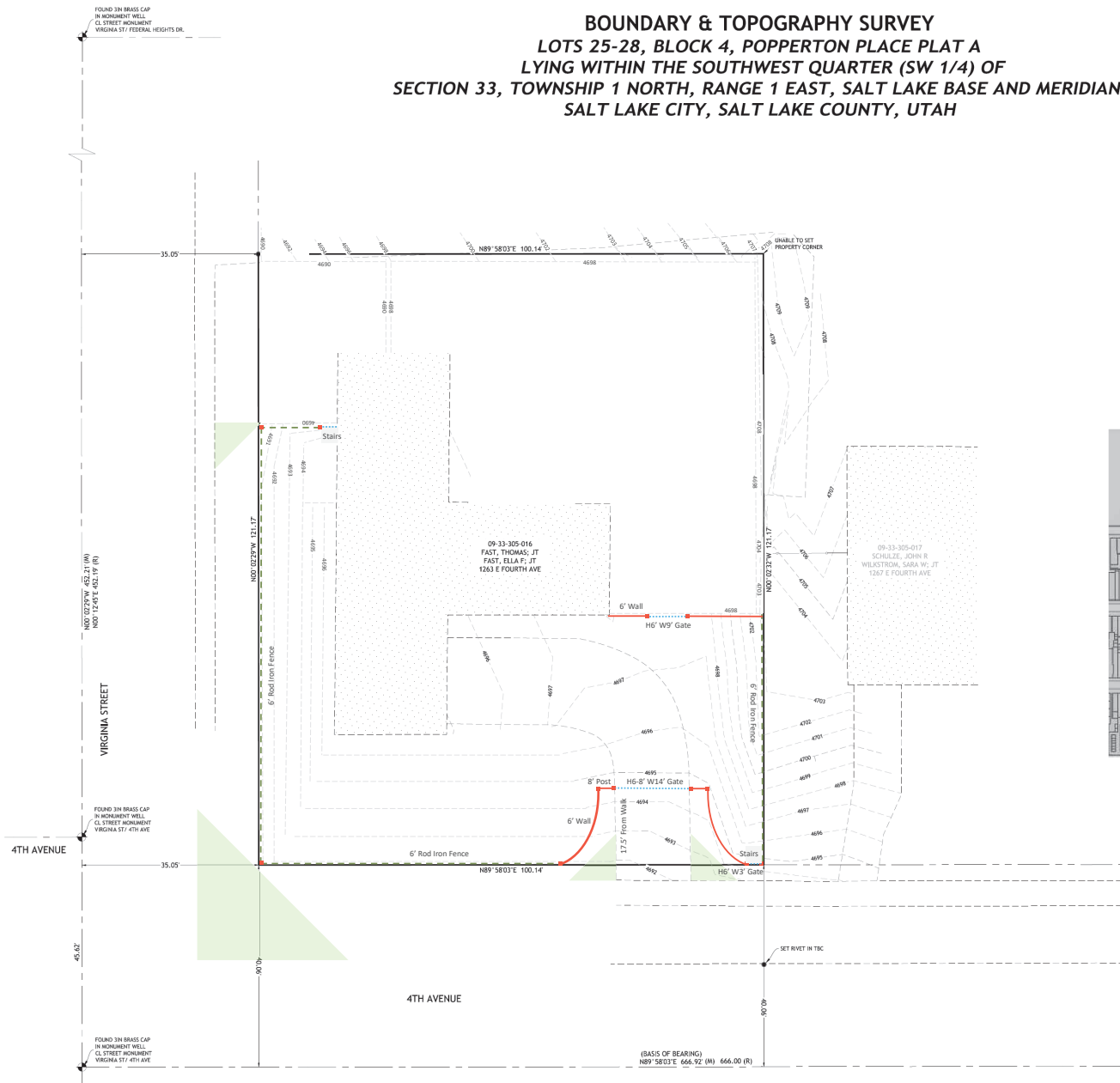


In-line Sliding Gates



Ornamental Posts

BOUNDARY & TOPOGRAPHY SURVEY
LOTS 25-28, BLOCK 4, POPPERTON PLACE PLAT A
LYING WITHIN THE SOUTHWEST QUARTER (SW 1/4) OF
SECTION 33, TOWNSHIP 1 NORTH, RANGE 1 EAST, SALT LAKE BASE AND MERIDIAN,
SALT LAKE CITY, SALT LAKE COUNTY, UTAH



LEGEND	
	BOUNDARY LINE
	LOT LINE
	SECTION LINE
	CENTERLINE / MONUMENT LINE
	ADJACENT PROPERTY LINE
	SURVEY TIE LINE
	RIGHT OF WAY LINE
	EASEMENT LINE
	EXISTING CONCRETE & ASPHALT
	EXISTING BUILDING
	FENCE LINE
	SECTION CORNER (FOUND)
	SECTION CORNER (NOT FOUND)
	ROAD MONUMENT
	PROPERTY MARKER (SET OR FOUND AS NOTED)
	EXISTING GROUND CONTOUR
	UTILITY POLE
	(M) MEASURED
	(R) RECORD



VICINITY MAP
NOT TO SCALE

RECORD LEGAL DESCRIPTION

THE SOUTH 121 FEET OF LOTS 25 THRU 28, BLOCK 4 POPPERTON PLACE PLAT A, ACCORDING TO THE OFFICIAL PLAT THEREOF ON FILE AND OF RECORD IN THE SALT LAKE COUNTY RECORDER'S OFFICE.

NARRATIVE
EDM PARTNERS, LLC WAS RETAINED BY THOMAS FAST TO PERFORM A BOUNDARY SURVEY ON A PARCEL IN SALT LAKE CITY, SALT LAKE COUNTY PARCEL 09-33-305-016. THE SURVEY WAS COMPLETED TO CONFIRM THE LOCATION OF THE EAST PROPERTY LINE ON SAID OWNERS PROPERTY AND TO HELP DESIGN A RETAINING WALL ALONG SAID EAST PROPERTY LINE. I USED POPPERTON PLACE PLAT A AND CITY ATLAS PLAT #38 AS REFERENCES IN THIS SURVEY.

BASIS OF BEARING:
NORTH 89°58'03\"/>



2815 East 3300 South, Salt Lake City, UT 84109
(801) 305-4670 www.edmpartners.com



SCALE: 1\"/>

0 5 10 20 30
DEVELOPER:

NOTES:

BOUNDARY & TOPOGRAPHY SURVEY
LOTS 25-28, BLOCK 4, POPPERTON PLACE PLAT A
LYING WITHIN THE SOUTHWEST QUARTER (SW 1/4) OF
SECTION 33, TOWNSHIP 1 NORTH, RANGE 1 EAST, SALT LAKE
BASE AND MERIDIAN, SALT LAKE CITY, SALT LAKE COUNTY, UTAH



PARCEL

09-33-305-016

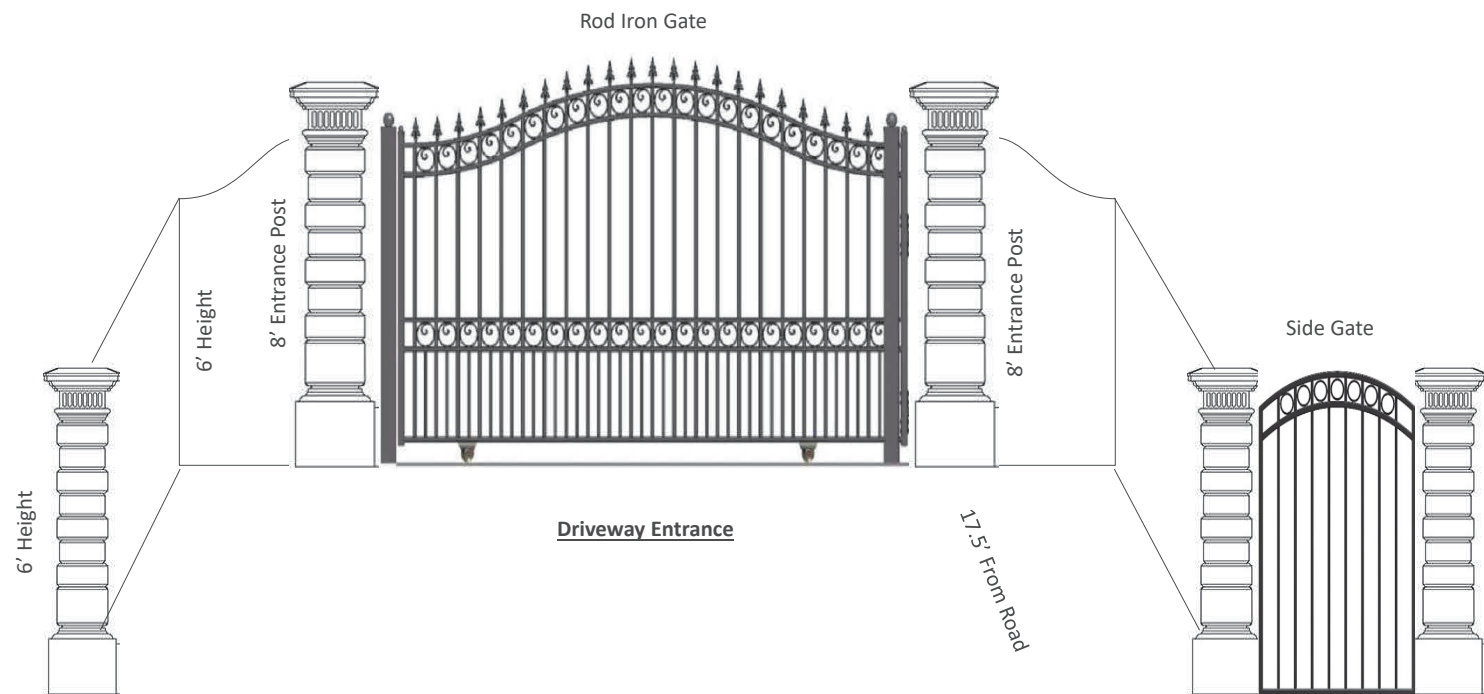
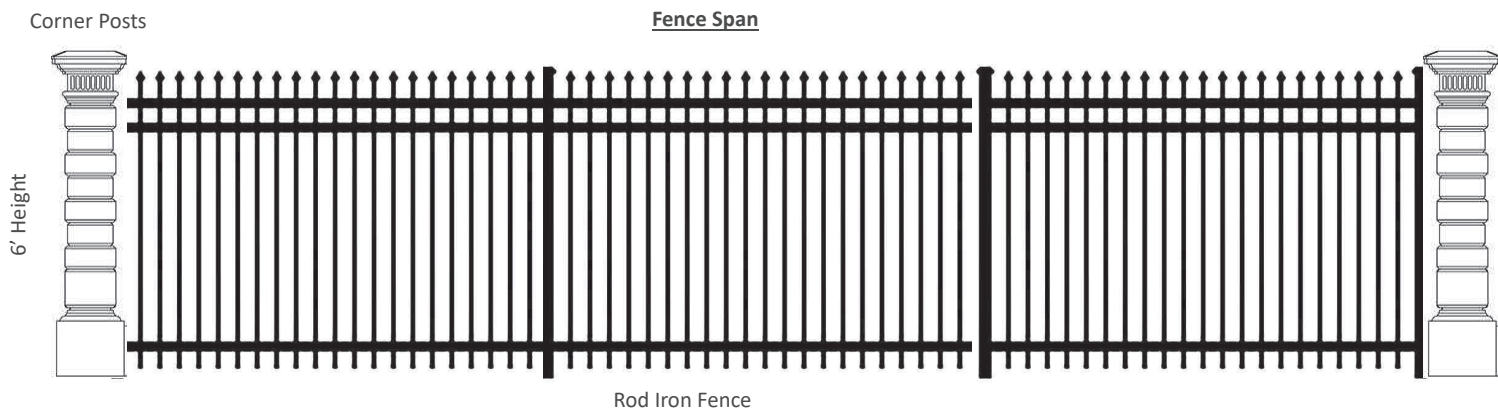
BOUNDARY/TOPO SURVEY

PROJECT:
DRAWN BY: JRB
REVIEWED BY: TEJ
REVISIONS:
No. DATE REMARKS

DATE: APRIL 2020

SHEET NUMBER:

1 of 1



ATTACHMENT D: Analysis of Standards

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

E.8. Special Exception Approval Standards: The planning commission or historic landmark commission may approve taller fencing *if it is found that the extra height is necessary for the security of the property* in question as defined in chapter 21A.52 of this title.

Analysis: The applicant claims that the higher fence is necessary for the security of his children but did not provide any evidence to substantiate the claim.

Finding: Due to the lack of evidence provided, the extra height is not found to be essential for the security of the property.

21A.52.030 Special Exceptions Authorized

A.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 views, and matters of public safety.*

Analysis: All the surrounding uses are single-family dwellings that have no fencing or short fencing in the front of the homes. Tall fences, and especially tall walls, are not typical of this area and pose concerns regarding the public-private interface established in Salt Lake City's residential neighborhoods. The proposed fence, walls and gates would not block views, but could negatively impact the perception of public safety in the area.

Finding: Because the fence, walls and gates are proposed in the front yard along the entire frontage of the property, it would have a large impact on the streetscape and character of the neighborhood.

Approval of fences, walls and other similar structures may be granted under the following circumstances subject to compliance with other applicable requirements:

Criteria	Finding	Rationale
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.	Partially complies	While the proposed wrought iron fence and gates would comply with this standard, the concrete walls and corner posts would not.
b. 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 cause an unsafe traffic condition.	Complies	The site plan submitted shows that the proposed fence and corner posts will not be within the 30' sight distance triangle.
c. Incorporation of ornamental features or architectural embellishments which	Does not comply	Although some elements could be considered ornamental features, the

extend above the allowable height limits.		structures itself would extend above the allowable height limits.
d. Exceeding the allowable height limits, when erected around schools and approved recreational uses which require special height considerations.	Does not comply	The subject property is surrounded by single-family dwellings that operate in a similar manner as the existing home on the property. Thus, there are no adjacent uses considered incompatible and that would justify mitigation measures such as a higher fence or wall.
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	Does not comply	The applicant claims that the fence is necessary for the safety of his children. However, no evidence was provided to indicate noxious or dangerous conditions around the property. Staff requested that the applicant provide additional that demonstrated how the request complied with standards but did not receive additional information.
f. Keeping within the character of the neighborhood and urban design of the city.	Does not comply	Tall fences, and especially tall walls, are not typical in front of homes in the area nor in Salt Lake City's residential neighborhoods. While some fencing may be found, those are either shorter in the front of the homes or located on the side of corner lots.
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.	Does not comply	The proposed tall walls would create a walled-in effect because it blocks the continuity between the public street and private front yards, and it is uncharacteristic for the neighborhood. Likewise, the proposed wrought iron fence spans the width of the front yard at a height not found in other front yards in the neighborhood. This could result a similar walled-in effect even though it allows for visual connections.
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.	Complies	The site plan submitted shows that the proposed fence and walls will not be within the 10' sight distance triangle required adjacent to driveways and that the gate will be setback 17'5" from the sidewalk as required by ordinance.

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

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.

Criteria	Finding	Rationale
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.	Does not comply	The purpose statement for fence regulations recognizes a balance between the private concerns for privacy, security and definition of boundaries and the visual impact on the streetscape and public safety. In this case, the proposed fence, walls and gates would certainly buffer and secure the private property, but it would also create a negative impact on the public realm. The proposed fence and walls will be very visible from the street and will not be in harmony with the typical streetscape of low-density residential districts and the surrounding residential neighborhood. The tall fence and solid walls would negatively impact the perception of safety for pedestrians and would create a sharp difference between private and public instead of promoting the soft transition that shorter fences along street facing yards are intended to do.
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.	Complies	The proposed fence, walls and gates may negatively impact the visual appeal and safety perception in the neighborhood. However, there is no evidence that it will have a substantial impact on property values.
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.	Does not comply	The proposed fence, walls and gates will have a material adverse effect upon the character of the area, because it would depart from the typical and reduce the streetscape visual appeal created by the consistent openness of front yard areas. It would also create a walled-in effect for pedestrians and negatively affect the safety perception in the neighborhood.
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.	Does not comply	The proposal is not compatible with surrounding uses and development on neighboring properties, nor in accordance with the purpose of the R-1/5,000 zoning district. Although there are some fences in the neighborhood that are visible from the street, the character of the area is of open front yards. Taller fences may be found on corner and sides yards of other properties, which are permitted by zoning regulations. While the proposed fence along the corner side yard portion of the lot is compatible with surrounding development, the tall concrete corner posts, as well fence, walls

		and gates proposed in the front yard, are not.
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.	Complies	The proposed fence, walls and gates will not result in the destruction of a significant natural, scenic or historic feature.
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.	Complies	There is no evidence that the proposed fence, walls and gates will result in any material pollution.
G. Compliance with Standards: The proposed use and development complies with all additional standards imposed on it pursuant to this chapter.	Does not comply	As discussed above, the proposal does not comply with many of the specific standards for additional fence and wall height.

ATTACHMENT E: Public Process and Comments

The following is a list of public meetings that have been held, and other public input opportunities, related to this project:

Public Notices:

- Notice of application sent to adjacent property owners and tenants on May 29, 2020. No comments were received.

Public Hearing Notice:

- Public hearing notice mailed on July 10, 2020.
- Public hearing notice posted on City and State websites on July 10, 2020.
- Sign posted on the property on July 10, 2020.

Public Comments:

- At the time of the publication of this staff report, no public comments were received. Any comments received prior to the hearing will be forwarded to the Planning Commission.