



DESIGN REVIEW COMMITTEE

AGENDA ITEM

AGENDA DATE: OCTOBER 7, 2015
TO: Chair McCormack and Members of the Design Review Committee
THRU: Leslie Aranda Roseberry, Planning Manager
FROM: Marissa Moshier, Associate Planner - Historic Preservation
SUBJECT: DRC No. 4818-15 – Maloney Fence

SUMMARY

The applicant proposes to construct a vinyl fence at a property containing a non-contributing detached duplex in the Old Towne Historic District. Staff denied the request for approval of the vinyl fence, and the applicant choose to appeal the staff determination to the DRC under the process described in the Old Towne Design Standards.

RECOMMENDED ACTION – FINAL DETERMINATION

Staff recommends that the DRC deny the proposed project. As a result of the denial, the applicant will be required to remove the vinyl fence. The applicant may either eliminate the fence in the front and street side yards or may submit a request to staff for a fence in an approved compatible material for review and approval.

BACKGROUND INFORMATION

Applicant/Owner: Lyn and Geoff Maloney
Property Location: 194 S. Pine Street and 729 E. Almond Avenue
General Plan Designation: Low Density Residential
Zoning Classification: R-1-6
Existing Development: Detached duplex in 2,358 SF
Property Size: 5,280 SF
Associated Applications: None
Previous DRC Review: None

PUBLIC NOTICE

No Public Notice was required for this project.

ENVIRONMENTAL REVIEW

Statutory Exemption: The proposed project is statutorily exempt from the provisions of the California Environmental Quality Act (CEQA) per State CEQA Guidelines 15270 (Projects Which Are Disapproved) because the project cannot be approved as being in conformance with the applicable design standards for the Old Towne Historic District. There is no environmental public review required for a Statutory Exemption.

PROJECT DESCRIPTION

The applicant proposes to construct a vinyl fence in the front and street side yards at a non-contributing detached duplex in the Old Towne Historic District. The fence is 39 ½ inches in height to the top of the posts and is constructed with white vinyl pickets and posts. The applicant had partially constructed the fence when staff initiated a code enforcement case and requested that the property owner stop work and submit a proposal for the new fence. Because the City's Code Enforcement Division acts on a complaint-based system, staff acts on complaints related to vinyl fences when they are received from the public and any instances where staff observes vinyl fences in the process of being constructed.

New fences in the Old Towne Historic District are reviewed and may be approved by Planning Division staff if they are in conformance with the Old Towne Design Standards. Staff reviewed the new vinyl fence and denied the request based on the incompatibility of the fence material with the streetscape character of the Historic District. Under the Old Towne Design Standards, the applicant may appeal a staff determination to the Design Review Committee. On August 26, 2015, the applicant submitted an application for DRC review of the vinyl fence.

EXISTING SITE

The existing site is developed with a detached duplex consisting of two, two-story buildings. The buildings were constructed in 1994 and are non-contributors to the Old Towne Historic District. The property is located at the northwest intersection of S. Pine Street and E. Almond Avenue.

EXISTING AREA CONTEXT

The property is located in a residential quadrant of the Old Towne Historic District. Surrounding properties to the north, south and west are zoned R-1-6 and are developed with single and multi-family dwellings. Immanuel Lutheran Church and School, zoned Public Institution (Specific Plan), is located across Pine Street to the east.

EVALUATION CRITERIA

Orange Municipal Code (OMC) Section 17.10.070 establishes the general criteria the DRC should use when reviewing the project. This section states the following:

The project shall have an internally consistent, integrated design theme, which is reflected in the following elements:

1. **Architectural Features.**
 - a. The architectural features shall reflect a similar design style or period.
 - b. Creative building elements and identifying features should be used to create a high quality project with visual interest and an architectural style.
2. **Landscape.**
 - a. The type, size and location of landscape materials shall support the project's overall design concept.
 - b. Landscaping shall not obstruct visibility of required addressing, nor shall it obstruct the vision of motorists or pedestrians in proximity to the site.
 - c. Landscape areas shall be provided in and around parking lots to break up the appearance of large expanses of hardscape.
3. **Signage.** All signage shall be compatible with the building(s) design, scale, colors, materials and lighting.
4. **Secondary Functional and Accessory Features.** Trash receptacles, storage and loading areas, transformers and mechanical equipment shall be screened in a manner, which is architecturally compatible with the principal building(s).

ANALYSIS/STATEMENT OF THE ISSUES

Issue 1: Compatibility of Vinyl Fence

The applicant is requesting approval of the fence due to long-term maintenance and safety concerns with a comparable wood fence (See Attachment 3: Applicant Letter and Supplemental Information). The applicant researched fence types and purchased and began construction on the vinyl fence, because they believed it was the best investment for the property.

The Old Towne Design Standards include the following requirements for fences in residential areas:

- a) Fences must be constructed and maintained in a vertical position.
- b) The top edge of a fence must be along a line that is either horizontal, or substantially parallel to grade.
- c) Fences and walls located within the front yard setback area shall not exceed 42" in height. Fences and walls located in side and rear yards shall not exceed six feet in height. Where there is a difference in grade between adjacent properties, the maximum fence height shall be six feet as measured from the high grade side and eight feet as measured from the low grade side.
- d) The color, texture, pattern and dimensions of masonry columns and bases, and the color, width, type and elevation of mortar joints in a fence column or base must match

- the masonry and mortar joints of the main building as nearly as practicable. All exposed brick in a fence column or base must be fired brick as defined by the American Standard Testing Materials Designation.
- e) Wrought iron and metal fences must be compatible with the style and period of the main building. If a wrought iron or metal fence is painted or colored, the color must complement the color of the main building.
 - f) Wooden fences must have structural posts at least four inches in diameter (nominal size). The side of a wooden fence facing a public street must be the finished side. Wooden fences may be painted or stained a color that is complementary to the main building.

Based on the above requirements, staff considers compatible fencing materials in the Historic District to consist of wood or wrought iron/metal with the option of masonry columns and bases, depending on the style of the house. Therefore, the Old Towne Design Standards do not permit new vinyl fences on any residential properties in the Historic District.

The Old Towne Design Standards recommend the use of in-kind traditional building materials for new construction in the Historic District. The Design Standards address substitutes for traditional building materials as follows:

Material substitutes will be considered during project review (fiber-glass columns, tin cornices, etc.); however, traditional detailing and intent shall be maintained. Any improvements, restoration or new construction shall duplicate traditional original details and materials as accurately as possible. See Appendix B for policy on use of alternate materials (Old Towne Design Standards, Complete, p. 13).

Appendix B – Use of Appropriate Materials

New Infill Development

Use of in-kind materials on new infill development is encouraged, but not required. Use of alternate materials may be used where such elements and materials convey the appearance of like features on existing resources on the property. The materials used for new infill development (whether occurring on vacant or developed property) shall be compatible with those materials that are original to historic structures in Old Towne.

Staff does not consider vinyl fencing to be compatible with the character of the Historic District. Although the form of the vinyl fence is similar to wood fences that routinely are approved in the Historic District, the smooth texture and gloss finish of the vinyl material and the construction details are clearly different from traditional picket fences. Given the visible differences in the vinyl material from traditional wood fences, the proposed alternate material does not adequately “convey the appearance of like features,” as required by the Design Standards.

The property is a non-contributor to the Historic District. However, the complete streetscape, including fences, walls, walkways, and landscaping, is important to the character of the Historic District. Both historic and non-historic properties contribute to the streetscape, and maintaining the compatibility of non-contributing properties is key to preserving the significance of the Historic

District. Because this is a corner property with a long street-facing side yard, the vinyl material is particularly visible in the streetscape and is not compatible with the design and materials of traditional fencing in the Historic District. Staff recommends that the Design Review Committee finds that the proposed alternate fence material is not compatible with the Historic District and is not in conformance with the Design Standards.

ADVISORY BOARD RECOMMENDATION

None.

STAFF RECOMMENDATION AND REQUIRED FINDINGS

The courts define a “Finding” as a conclusion which describes the method of analysis decision makers utilize to make the final decision. A decision making body “makes a Finding,” or draws a conclusion, through identifying evidence in the record (i.e., testimony, reports, environmental documents, etc.) and should not contain unsupported statements. The statements which support the Findings bridge the gap between the raw data and the ultimate decision, thereby showing the rational decision making process that took place. The “Findings” are, in essence, the ultimate conclusions which must be reached in order to approve (or recommend approval of) a project. The same holds true if denying a project; the decision making body must detail why it cannot make the Findings.

The Findings are applied as appropriate to each project. Based on the following Findings and statements in support of such Findings, staff recommends the DRC deny the project.

1. *In the Old Towne Historic District, the proposed work conforms to the prescriptive standards and design criteria referenced and/or recommended by the DRC or other reviewing body for the project (OMC 17.10.070.G.1).*

The proposed vinyl fence does not conform with the Old Towne Design Standards. The Design Standards recommend in-kind traditional materials for new construction in the Historic District. Although alternate materials may be approved, the materials must adequately convey a similar appearance to traditional materials. The texture, sheen, and construction details of the vinyl fence are substantially different from wood picket fences that were used historically. The proposed alternate material does not sufficiently replicate the traditional detailing and materials of wood fences. The alternate material does not adequately convey the appearance of like features on comparable properties, as required by the Design Standards. As such, the request for a vinyl fence is not in conformance with the Design Standards.

This finding cannot be met.

2. *In any National Register Historic District, the proposed work complies with the Secretary of the Interior’s standards and guidelines (OMC 17.10.07.G.2).*

Projects found not to be in conformance with the Old Towne Design Standards generally are considered not to be in conformance with the *Secretary of the Interior’s Standards for the Treatment of Historic Properties (Secretary’s Standards)*. The proposed alternate

material is not compatible with the historic streetscape character of the Historic District. The use of vinyl at street-facing property lines is not compatible with the traditional front yard fencing that is used in the Historic District.

This finding cannot be met.

3. *The project design upholds community aesthetics through the use of an internally consistent, integrated design theme and is consistent with all adopted specific plans, applicable design standards, and their required findings (OMC 17.10.07.G.3).*

The proposed vinyl fence does not conform to the Old Towne Design Standards or the *Secretary's Standards*, which are the applicable design standards for the Historic District, as described above.

This finding cannot be met.

4. *For infill residential development, as specified in the City of Orange Infill Residential Design Guidelines, the new structure(s) or addition are compatible with the scale, massing, orientation, and articulation of the surrounding development and will preserve or enhance existing neighborhood character (OMC 17.10.07.G.4).*

As the City of Orange Infill Residential Design Guidelines do not apply to projects located within the Old Towne Historic District, this finding does not apply.

ATTACHMENTS

1. Vicinity Map
2. Site Photographs
3. Applicant Letter and Supplemental Information
4. Survey Form for 194 S. Pine Street and 729 E. Almond Avenue
5. Material Sample (to be provided at DRC meeting)
6. Plans (date stamped August 26, 2015)

cc: Lyn and Geoff Maloney
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