

LEGISLATIVE #

160408

**BEFORE THE CITY COMMISSION
CITY OF GAINESVILLE, FLORIDA**

IN THE MATTER OF a Certificate of Appropriateness for the installation of an aluminum fence on a property that is located at 301 NW 2nd Street in the Pleasant Street Historic District.

PETITION HP-16-89; LEGISTAR NO. 160408

ORDER

Statement of the Petition

Petition HP-16-89, filed by property owner Carl Nelson (“Petitioner”), seeks an after-the-fact Certificate of Appropriateness (“COA”) for the installation of an aluminum fence on property located at 301 NW 2nd Street in the Pleasant Street Historic District. On August 31, 2016, the Petitioner was issued a Notice of Violation for installing a 60-inch high aluminum fence on his property without applying for or receiving a COA in accordance with the City of Gainesville Land Development Code. The Petitioner then applied for a COA, and on October 4, 2016, the Historic Preservation Board held a quasi-judicial hearing for Petition HP-16-89 and voted to approve the petition with the following two conditions: 1) the installed fence shall be altered to make it measure a height of no more than 40 inches, and 2) the Petitioner shall apply to the City for a COA for any future additions or alterations to the fence, including any installation of gates. Pursuant to Section 30-112(d)(7) of the Land Development Code, Petitioner has appealed the Historic Preservation Board’s decision to the City Commission. Accordingly, on December 1, 2016, the City Commission held a *de novo* quasi-judicial hearing for Petition HP-16-89 whereby it could affirm, amend, or reverse the decision of the Historic Preservation Board.

Decision Criteria

In accordance with Subsection 30-112(d)(6)a. of the Land Development Code, the City Commission’s decision in this matter shall be guided by the Secretary of the Interior’s Standards for Rehabilitation and Guidelines for Rehabilitating Historic Buildings and certain visual compatibility standards outlined in Subsection 30-112(d)(6)a. Certain pertinent guidelines include:

- Fences and walls extending in to the front yard beyond the front wall of the house or with a highly-visible side or rear yard must meet the following conditions for staff approval:
 - Constructed of wrought iron, masonry, wood or stucco.
 - No greater than 48 inches tall if mostly open (i.e., 50% or more transparent).
 - No greater than 36 inches tall if mostly closed (i.e., 50% or more opaque).
 - Align with adjacent fences, if appropriate, in terms of height (where permissible) and materials.

Findings of Fact

Based upon the evidence presented at the quasi-judicial hearing and included within the entire record of this proceeding, the following findings of fact are made:

1. The subject property consists of approximately 0.07 acres located at 301 NW 2nd Street in the Pleasant Street Historic District.
2. The property is located on the corner of NW 2nd Street and NW 3rd Avenue and has a small walkway to the front porch, which faces west on NW 2nd Street, and a driveway to the north of the house.
3. The Petitioner has installed a 60-inch high black aluminum fence, with slender, tapered pickets and square posts situated every 4-5 feet on center. The fence is “mostly open” in that it is 50% or more transparent. A segment of fence runs along the north side of the driveway, a second segment runs between the driveway and the front walkway on NW 2nd Street, and a third segment continues south of the walkway, wraps the corner to NW 3rd Avenue and continues to the midpoint of the property, where it abuts a tree. The fence has no gates, and is directly adjacent to the existing sidewalk on both streets.
4. In the Pleasant Street Historic District, front yard fences on residences are typically low, often under 40-inches, and generally white-painted wood picket fences. The neighbor to the north has an approximately 40-inch white picket wood fence.

Discussion

City staff and the Historic Preservation Board both found that aluminum may serve as an appropriate substitute material for historic wrought iron in this case because of the subject fence’s design and detailing. Because aluminum is not a typical fencing material in the Pleasant Street Historic District, both staff and the Historic Preservation Board recommended that the height of the existing fence on the subject property be reduced to a height of 40 inches in order to align with the neighboring fence and provide greater compatibility. However, the City Commission finds that the fence, which is mostly open or 50% or more transparent, will meet the applicable design guidelines and be sufficiently compatible with the neighboring properties and the Pleasant Street Historic District if it is reduced to a height of 48 inches.

Order

AMENDED. Based upon the competent, substantial evidence received and included within the record, the City Commission, by a vote of 6-1, amends the Historic Preservation Board’s decision regarding Petition HP-16-89 and grants the Petitioner a COA with the following two conditions: 1) the installed fence shall be altered to make it measure a height of no more than 48 inches, and 2) the Petitioner shall apply to the City for a COA for any future additions or alterations to the fence, including any installation of gates.

Entered this 15th day of December, 2016.

LAUREN POE
MAYOR

Attest:

Approved as to form and legality:

KURT M. LANNON
CLERK OF THE COMMISSION

NICOLLE M. SHALLEY
CITY ATTORNEY