City of Portland, Oregon
Bureau of Development Services
Land Use Services
FROM CONCEPT TO CONSTRUCTION

Dan Saltzman, Commissioner
Paul L. Scarlett, Director
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Fax: (503) 823-5630
TTY: (503) 823-6868
www.portlandoregon.gov/bds

Date: February 4, 2013
To: Interested Person
From: Kathleen Stokes, Land Use Services
503-823-7843 / Kathleen.Stokes@portlandoregon.gov

NOTICE OF A TYPE II PROPOSAL IN YOUR NEIGHBORHOOD

Development has been proposed in your neighborhood that requires a land use review. The proposal, review process, and information on how to respond to this notice are described below. Copies of the site plan, elevation drawings and zoning map are attached. I am the staff person handling the case. Please call me if you have questions regarding this proposal. Please contact the applicant if you have questions regarding any future development on the site.

Because we must publish our decision within 28 days, **we need to receive your written comments by 5 p.m. on February 25, 2013**. Please mail or deliver your comments to the address at the bottom of the page, and include the Case File Number, LU 12-169341 AD, in your letter. It also is helpful to address your letter to me, Kathleen Stokes.

CASE FILE NUMBER: LU 12-169341 AD

Applicant: Michael Lewallen
Michael Lewallen Architecture
820 N River St #203
Portland, OR 97227

Owner: Kenneth D Smith
5005 NE Rodney Ave
Portland, OR 97211-2609

Site Address: 5005 NE RODNEY AVE

Legal Description: BLOCK 22 E 72' OF LOT 10, WALNUT PK
Tax Account No.: R877305390
State ID No.: 1N1E22AA 15400
Quarter Section: 2530

Neighborhood: Humboldt, Brian Murtagh at 503-962-9194.
Business District: North-Northeast Business Assoc, Joice Taylor at 503-445-1321.
District Coalition: NE Coalition of Neighborhoods, Shoshana Cohen at 503-388-5004.
Zoning: R2.5a (R2500, Single-dwelling Attached Residential, with an Alternative Design Density Overlay)
Case Type: Adjustment Review
Procedure: Type II, administrative decision with appeal to Adjustment Committee.

Proposal: The property owner has a steel picket fence that is 6 feet above grade level in the front of the house and a wood fence in the front on the south side of the house. Both of these fences are within the 10-foot building setback from the front property line that abuts the NE Rodney Avenue street frontage. The Portland Zoning Code limits the height of fences that are located with the front building setback to 3.5 feet above grade level. Exceptions to this regulation are approved through Adjustment Reviews, when all of the relevant approval criteria are met or if the criteria can be met through conditions of approval. Therefore, the applicant is

requesting approval of an Adjustment to Code Section 33.110.255 C, to allow the steel fence to be 6 feet tall, at a distance of 5 feet from the front property line, and to allow the 3-foot, 7-inch tall wood fence that is located on portions of the front property line and the south side property line, on top of a 2-foot, 2-inch tall masonry wall. The overall height of the fence and wall in this southeast corner of the property is 5 feet 9 inches.

The purpose for limits on fence heights is to promote the positive benefits of fences without negatively impacting the community or endangering public or vehicle safety. Fences can create a sense of privacy, protect children and pets, provide separation from busy streets, and enhance the appearance of property by providing attractive landscape materials. The negative effects of fences can include the creation of street walls that inhibit police and community surveillance, decrease the sense of community, hinder emergency access, hinder the safe movement of pedestrians and vehicles, and create an unattractive appearance. The standards are intended to promote the positive aspects of fences and to limit the negative ones.

Relevant Approval Criteria: To be approved, this proposal must comply with the approval criteria of 33.805.040 A.-F., Adjustments, cited below.

A. Granting the adjustment will equally or better meet the purpose of the regulation to be modified; and

B. If in a residential zone, the proposal will not significantly detract from the livability or appearance of the residential area, or if in a OS, C, E, or I zone, the proposal will be consistent with the classifications of the adjacent streets and the desired character of the area; and

C. If more than one adjustment is being requested, the cumulative effect of the adjustments results in a project which is still consistent with the overall purpose of the zone; and

D. City-designated scenic resources and historic resources are preserved; and

E. Any impacts resulting from the adjustment are mitigated to the extent practical; and.

F. If in an environmental zone, the proposal has as few significant detrimental environmental impacts on the resource and resource values as is practicable.

Zoning Code Section *33.700.080* states that Land Use Review applications are reviewed under the regulations in effect at the time the application was submitted, provided that the application is complete at the time of submittal, or complete within 180 days. This application was submitted on August 7, 2012 and determined to be complete on January 31, 2013.

DECISION MAKING PROCESS

The Bureau of Development Services will make a decision on this proposal.
We will consider your comments, and

- Approve the proposal.
- Approve the proposal with conditions.
- Deny the proposal.

The neighborhood association listed on the first page of this notice may take a position on this application. They may also schedule an open meeting prior to making their recommendation to the Bureau of Development Services. Please contact the person listed as the neighborhood contact to determine the time and date of this meeting.

ORS 227.178 states the City must issue a final decision on Land Use Review applications within 120-days of the application being deemed complete. The 120-day review period may be extended at the request of the applicant.

The file and all evidence on this case are available for your review by appointment only. Please call the Request Line at our office, 1900 SW Fourth Avenue, Suite 5000, phone 503-823-7617, to schedule an appointment. I can provide some information over the phone. Copies of all information in the file can be obtained for a fee equal to the cost of services. Additional information about the City of Portland, city bureaus, and a digital copy of the Portland Zoning Code is available on the internet at www.portlandonline.com.

APPEAL PROCESS

If you disagree with the Bureau of Development Services administrative decision, you can appeal the decision to the Adjustment Committee. This review body will hold a public hearing for the appeal. When the decision is mailed, the criteria used to make the decision and information on how to file an appeal will be included. If you do not send any comments, you can still appeal the decision. There is a 14-day deadline to file an appeal beginning on the day the decision is mailed. The reason for the appeal must be specifically defined in order for the review body to respond to the appeal. If an appeal is filed, you will be notified of the time and location of the appeal hearing.

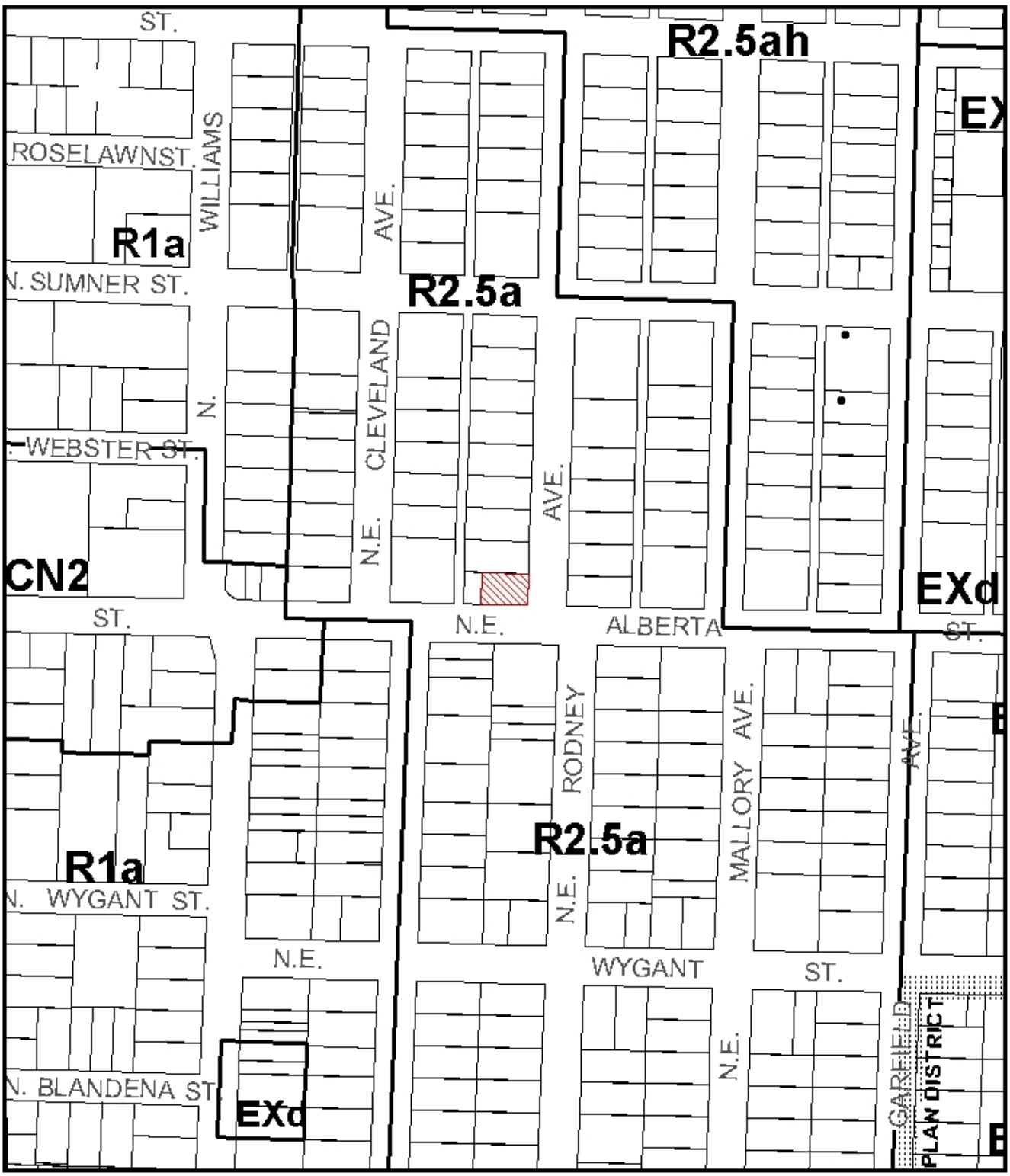
There is a fee charged for appeals. Recognized neighborhood associations may qualify for an appeal fee waiver.

APPEAL OF THE FINAL CITY DECISION

After an appeal hearing, the review body decision may be appealed to the Oregon Land Use Board of Appeals (LUBA) at 550 Capitol St. NE, Suite 235, Salem, OR 97301. The phone number for LUBA is 1-503-373-1265. Issues that may provide the basis for an appeal to LUBA must be raised prior to the comment deadline or prior to the conclusion of the hearing if a local appeal is requested. If you do not raise an issue with enough specificity to give the Bureau of Development Services an opportunity to respond to it, that may also preclude an appeal to LUBA on that issue.

The Bureau of Development Services is committed to providing equal access to information and hearings. Please notify us no less than five business days prior to the event if you need special accommodations. Call 503-823-7300 (TTY 503-823-6868).

Enclosures:
Zoning Map
Site Plan
Elevation Drawings



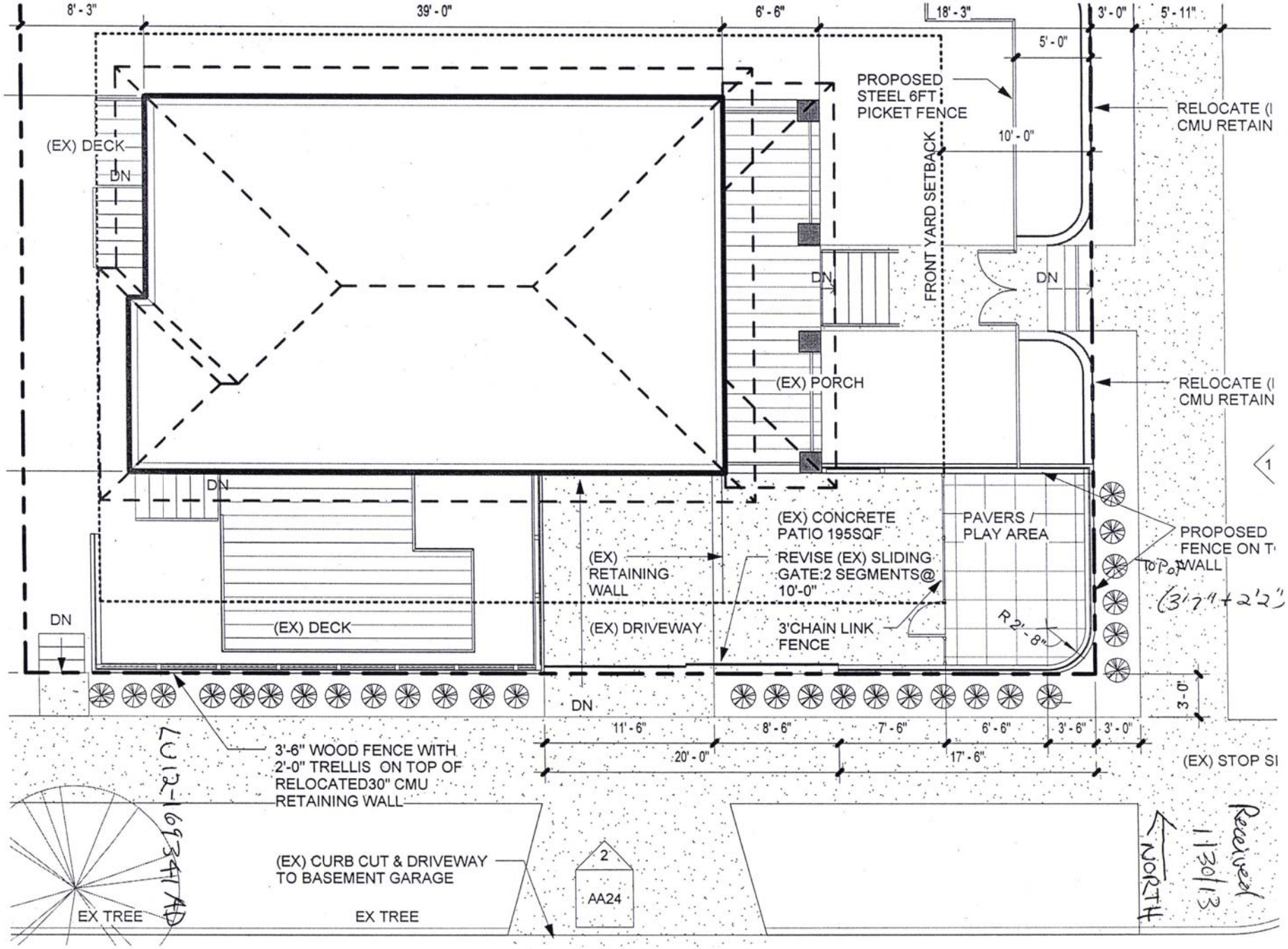
ZONING

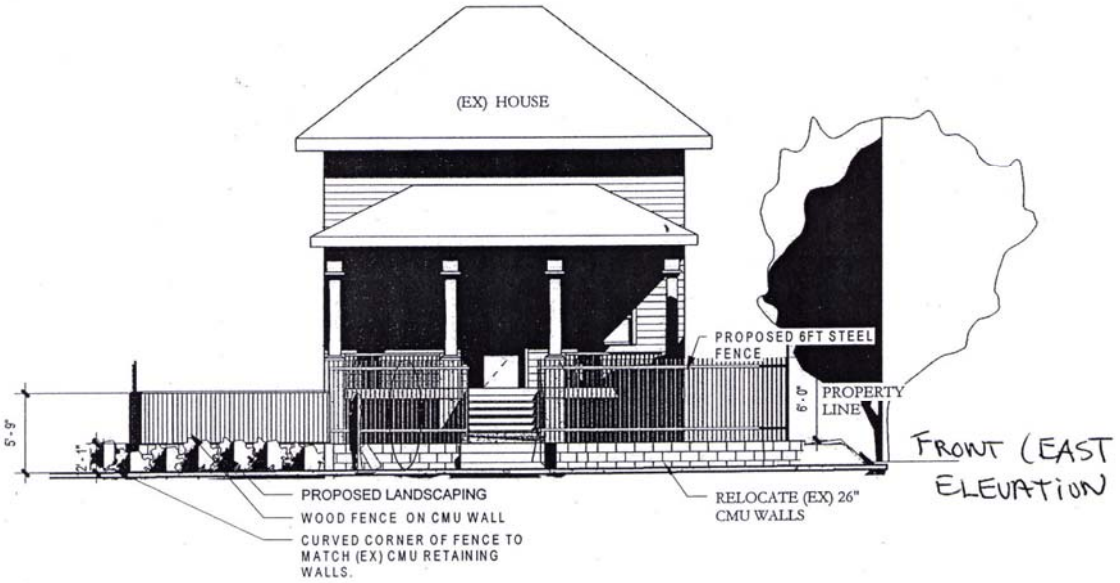
Site

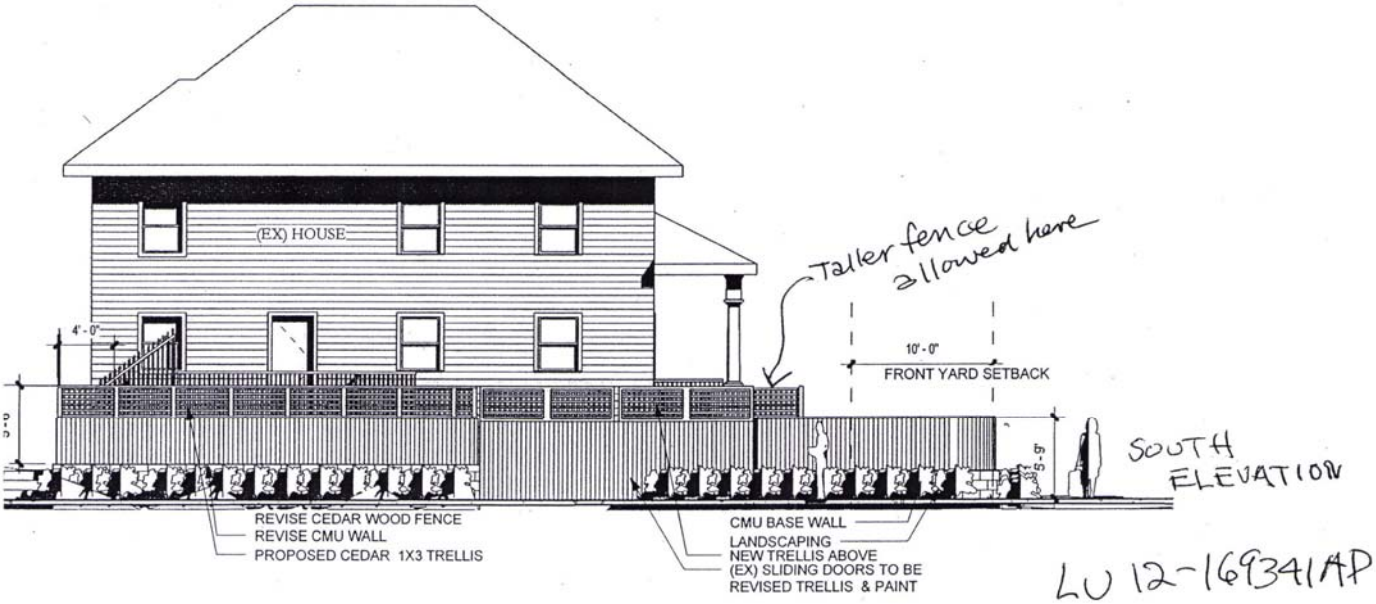
Historic Landmark

NORTH

File No.	LU 12-169341 AD
1/4 Section	2530
Scale	1 inch = 200 feet
State_Id	1N1E22AA 15400
Exhibit	B (Aug 10,2012)


8' - 3"
39' - 0"
6' - 6"
18' - 3"
3' - 0"
5' - 11"
5' - 0"
10' - 0"
PROPOSED STEEL 6FT PICKET FENCE
FRONT YARD SETBACK
RELOCATE (I CMU RETAIN
RELOCATE (I CMU RETAIN
(EX) DECK
DN
(EX) PORCH
(EX) CONCRETE PATIO 195SQF
PAVERS / PLAY AREA
(EX) RETAINING WALL
REVISE (EX) SLIDING GATE:2 SEGMENTS@ 10'-0"
PROPOSED FENCE ON T
TOP OF WALL
(3'7" + 2'2")
(EX) DECK
(EX) DRIVEWAY
3'CHAIN LINK FENCE
R2'-8"
3'-0"
11' - 6"
8' - 6"
7' - 6"
6' - 6"
3' - 6"
3' - 0"
20' - 0"
17' - 6"
(EX) STOP SI
3'-6" WOOD FENCE WITH 2'-0" TRELLIS ON TOP OF RELOCATED30" CMU RETAINING WALL
(EX) CURB CUT & DRIVEWAY TO BASEMENT GARAGE
2
AA24
EX TREE
EX TREE
NORTH
LU12-169341AD
Received 1/30/13





LU 12-169341AP