



Staff Report

PLANNING DIVISION

DEPARTMENT *of* COMMUNITY *and* NEIGHBORHOODS

To: Salt Lake City Planning Commission

From: Caitlyn Tubbs, Principal Planner, caitlyn.tubbs@slcgov.com or 385-315-8115

Date: August 11, 2021

Re: Ward Appeal (PLNAPP2021-00560)

Appeal of Special Exception Decision

PROPERTY ADDRESS: 179 West Paxton Avenue

PARCEL ID: 15-12-476-002-0000

MASTER PLAN: Central Community

ZONING DISTRICT: RMF-35

REQUEST: Jeremiah Taylor, representing the property owner Clint Ward, is appealing a decision issued by staff denying a Special Exception request for an over height fence at approximately 179 West Paxton Avenue (PLNPCM2021-00276).

Staff issued a decision to deny this request on May 20, 2021 because Staff's analysis showed that the request didn't meet the applicable standards of review.

The applicant has appealed the decision to the Commission. The Planning Commission must review this request, based on applicable procedures and standards of approval of a special exception for additional fence height. The Commission cannot simply give deference to the original Staff decision. A public hearing must be held prior to the Commission's final decision on the matter.

RECOMMENDATION: Based on the findings listed in the staff report, along with those in the findings and order document dated May 20, 2021, including additional information from the applicant, planning staff recommends that the Planning Commission deny the the special exception for an over height fence at 179 W. Paxton Avenue.

ATTACHMENTS:

- A. [Vicinity Map](#)
- B. [Site Photos](#)
- C. [Original Application Materials \(PLNPCM2021-00276\)](#)
- D. [Staff Decision Packet](#)
- E. [Appellant's Submittal Materials](#)
- F. [Special Exception Standards](#)
- G. [Public Process & Comments](#)

PROJECT DESCRIPTION: The property owner, Clint Ward, has constructed an eight foot tall wooden fence in his side and rear yards where fences are permitted by ordinance to be no taller than six feet (6') in the side and rear yards and four feet (4') between the front plane of the home and the front property line. He has also asked for approval to construct a four foot tall wooden fence in his front yard to complete the fence around the perimeter of his property. The proposed four foot tall fence in the homeowner's front yard is permissible by right in the underlying zoning district.

This property has an active civil enforcement case regarding the fencing which has been open since September 16, 2020.

KEY ISSUES OF THE SPECIAL EXCEPTION:

The key issues listed below have been identified through analysis of the project and public input. The first items are specifically related to the special exception application while those that directly pertain to the appeal application are found beginning at the bottom of page 3.

Issue 1: Elevation to a Planning Commission Hearing

Section 21A.52.120A of the Salt Lake City zoning ordinance states that:

“Any party aggrieved by a decision of the planning director may appeal the decision to the planning commission pursuant to the provisions in [chapter 21A.16](#) of this title.”

Chapter 21A.16, Appeals of Administrative Decisions, specifies what parties are eligible to appeal, the procedure to do so, and other details about the process.

The appellant met the appeal standards and consequently, this application has been elevated to the Planning Commission for a public hearing. As stated previously, this is an appeal of an administration decision of a special exception. Therefore, the standard of review for the appeal shall be 'de novo'. The Planning Commission shall review the matter appealed anew, based upon applicable procedures and standards for approval of a special exception for overheight fences.

Issue 2: Purpose of Regulating Fence Height

Section 21A.40.120 of the Salt Lake City zoning ordinance states the general purpose of fence regulations and stipulates height requirements.

“Fences, walls and hedges serve properties by providing privacy and security, defining private space and enhancing the design of individual sites. Fences also affect the public by impacting the visual image of the streetscape and the overall character of neighborhoods. The purpose of these regulations 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.”

Staff's opinion:

Although the applicant is entitled to providing privacy and security, the request doesn't provide a balance between privacy, security, community appearance and adequate light, air for the adjacent property, and would negatively impact that adjacent property. This would be especially impactful as an overheight solid side yard fence exists and the proposed front yard fence would add to this.. A walled in or “fortress effect” would be created to the detriment of the neighbors and neighborhood. Further analysis of the standards is found in this report and staff stands by the original findings of May 20th, 2021.

Issue 2: Special Exception for Overheight fences

The zoning ordinance (21A.40.120 E.8) states that a special exception can be an option:

“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.”

A special exception would allow an adjustment of a fixed dimension, in this case height, as an exception to determine desirability at the site. The ordinance goes further to stipulate criteria for which additional height can be granted.

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

Staff found that the following criteria (21A.52.030 A.3.) to exceed height were not met with the original request. New information submitted by the applicant’s attorney does not demonstrate that these criteria have been satisfactorily met.

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;

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;

f. Keeping within the character of the neighborhood and urban design of the city;

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;

Staffs opinion: Staff has taken into account new information from the applicant but has reached the same findings that the standards for additional height in this proposal are not met. For further discussion of these standards and how they apply to the homeowner’s request please refer to Attachment F. Staff has also included graphics on the following page to indicate the fence heights allowed in residential zones per Salt Lake City’s ordinances as well as the homeowner’s requested fencing height.



Figure 1: Homeowner's Photo of Front Yard with Allowed and Requested Heights Indicated.



Figure 2: Homeowner's Photo of Rear Yard with Allowed and Requested Heights Indicated.

Issue 2: Ward Appeal Claims and Issues

Staff denied the homeowner's original Special Exception request for the overheight fence after finding that the request did not meet the applicable standards of approval. The homeowner's attorney, the Appellant, asserts staff's interpretation of the ordinance and decision was incorrect and that the homeowner's request meets the applicable standards of approval. To assist the Planning Commission in reviewing this request, the planning division addresses claims made by the Appellant. Staff addresses the standards, the original findings, appeal claims, evidence and provides the responses below. The entire appeal application can be reviewed in Attachment E.

Staff finds that the following criteria (21A.52.030 A.3.) to exceed height were not met with the original information considered or new information submitted. Staff's reasoning is discussed below.

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;

Staffs Response: Evidence has not been provided that the fence is not obstructing as noted above. This standard has not been met.

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;

The original application states the purpose of the overheight fence is for "excessive noise". The burden is on the applicant to prove with facts that excessive noise is an issue they are trying to mitigate. The applicant only provided anecdotal evidence that noise in the neighborhood is perceived to be excessive to him.

The Appellant has submitted additional evidence related to noise. However, the evidence can reasonably be considered urban noise that one would expect near a Trax station or other urban development. If the Special Exception standard was intended to authorize overheight fences near Trax stations then the ordinance would be specific to allowing overheight fences adjacent to transportation uses.

Another appeal claim was that the fence was needed because of "encroachment on the right to privacy, safety, security and aesthetics." The applicant does cite the fact that there is a Trax station, pedestrians and potential crime in a city neighborhood but the new information did not produce evidence that his property, located in a residential zoning district, warrants an overheight fence.

Staffs Response: New information has been provided but doesn't show encroachments on the rights of the property owner that grant fence height beyond the standard regulations on the subject property. This standard in staff's opinion continues to not be met.

f. Keeping within the character of the neighborhood and urban design of the city;

The original application did not provide evidence that the fence "is in keeping with the character of the neighborhood or the urban design of the city." Staff originally found that this standard was not met. The built environment is what the code is referring to when analyzing this standard rather than the character of the individuals that traverse the neighborhood as cited by the applicant's appeal. The fence photographs provided, which are more pertinent to the discussion of character show some fences at heights that are assumed in most instances to be meeting the

standards of the ordinance, not overheight. A few examples show fences that are certainly noncompliant, particularly in the front yard. Noncompliant examples on other properties do not justify the applicant exceeding the height requirements on the subject property which could serve to further degrade the urban design of the city or neighborhood.

Staffs Response: This standard in staff's opinion continues to not be met.

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;

The applicant and his attorney do not demonstrate that the proposal is not creating a walled in effect but focuses on what appear to be noncompliant fence photos and some compliant fence photos but where the fences are transparent in quality.

The 4 foot section of fence proposed along the sidewalk meets standards, portions of the proposed front yard fence that extend approximately 10 feet from the sidewalk to the building face and measure at (5'7") create a walled in effect. The side and rear yard fences are 8 foot walls and are creating an indisputable walled in effect and negatively affect the neighboring property with regard to light and air circulation as well as drainage and snowmelt concerns.

Staffs Response: Staff has evaluated new information but finds that the standard has not been met.

PLANNING COMMISSION NEXT STEPS:

Uphold Staff Denial

If the Planning Commission finds that the decision issued by Staff on May 20, 2021 was issued correctly the Planning Commission should uphold Staff's decision to not approve the requested special exception for Mr. Ward's over height fence.

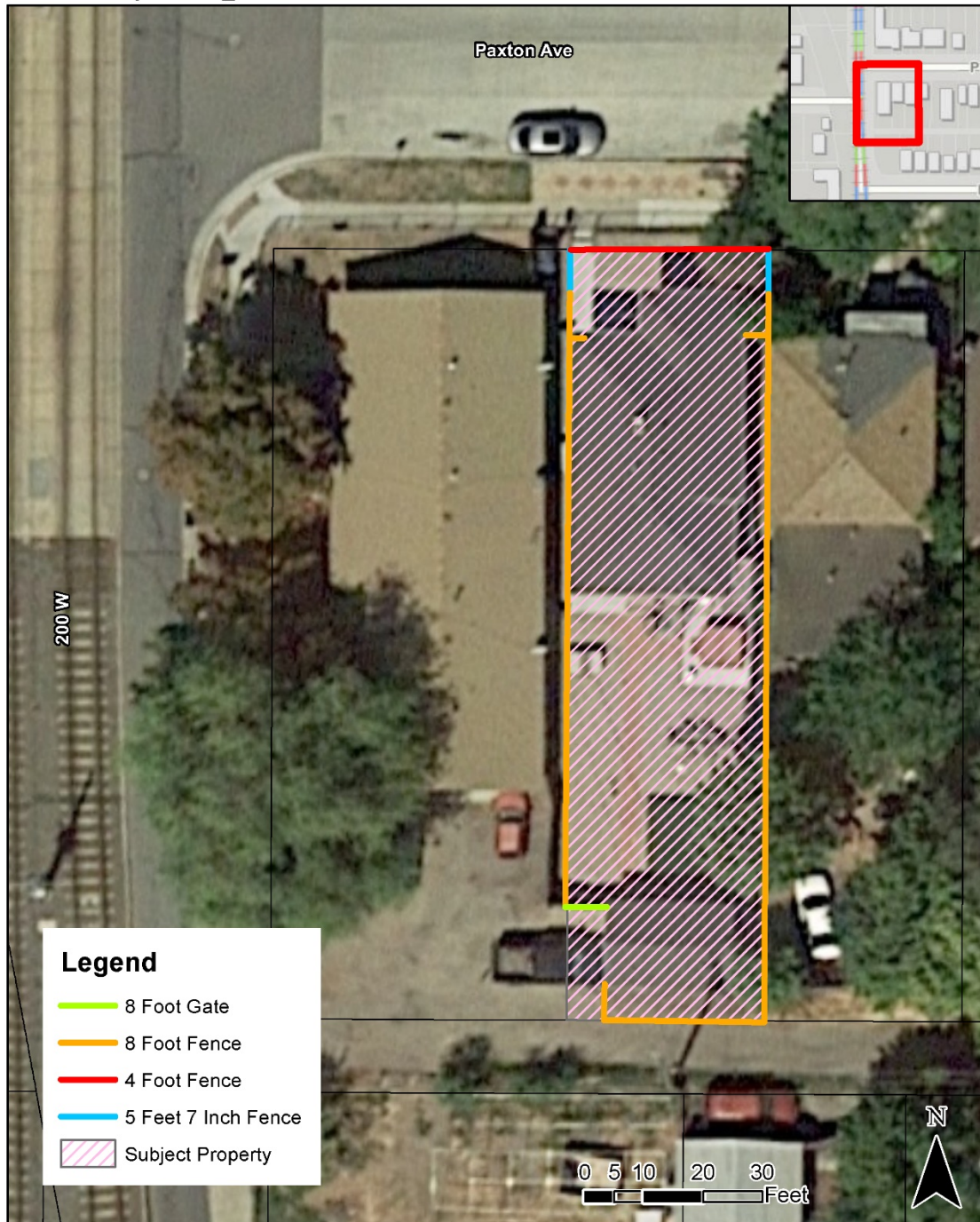
Overturn Staff Denial

If the Planning Commission finds that the decision issued by Staff on May 20, 2021 was issued incorrectly the Planning Commission should overturn Staff's decision and find in favor of the Appellant. If Staff's decision is overturned an updated Findings and Order will be issued allowing the homeowner to move forward with the construction of the remaining areas of fence.

Any decision by the Planning Commission may be appealed to the Appeals Hearing Officer within 10 days of the date of that decision.

ATTACHMENT A – VICINITY MAP

Vicinity Map - 179 West Paxton Avenue



Salt Lake City Planning Division 4/13/2021

ATTACHMENT B – SITE PHOTOS



Figure 3: View of front of property from Paxton Avenue.



Figure 4: View of western front of property from Paxton Avenue.



Figure 5: View of rear of property from 200 West.

**ATTACHMENT C – ORIGINAL APPLICATION
MATERIALS (PLNPCM2021-00276)**

March 25th, 2020

DEPARTMENT of COMMUNITY and NEIGHBORHOODS
SALT LAKE CITY CORPORATION

451 South State Street // Room 406
Salt Lake City, UT 84114-5480
P.O. Box 145480

To whom it may concern:

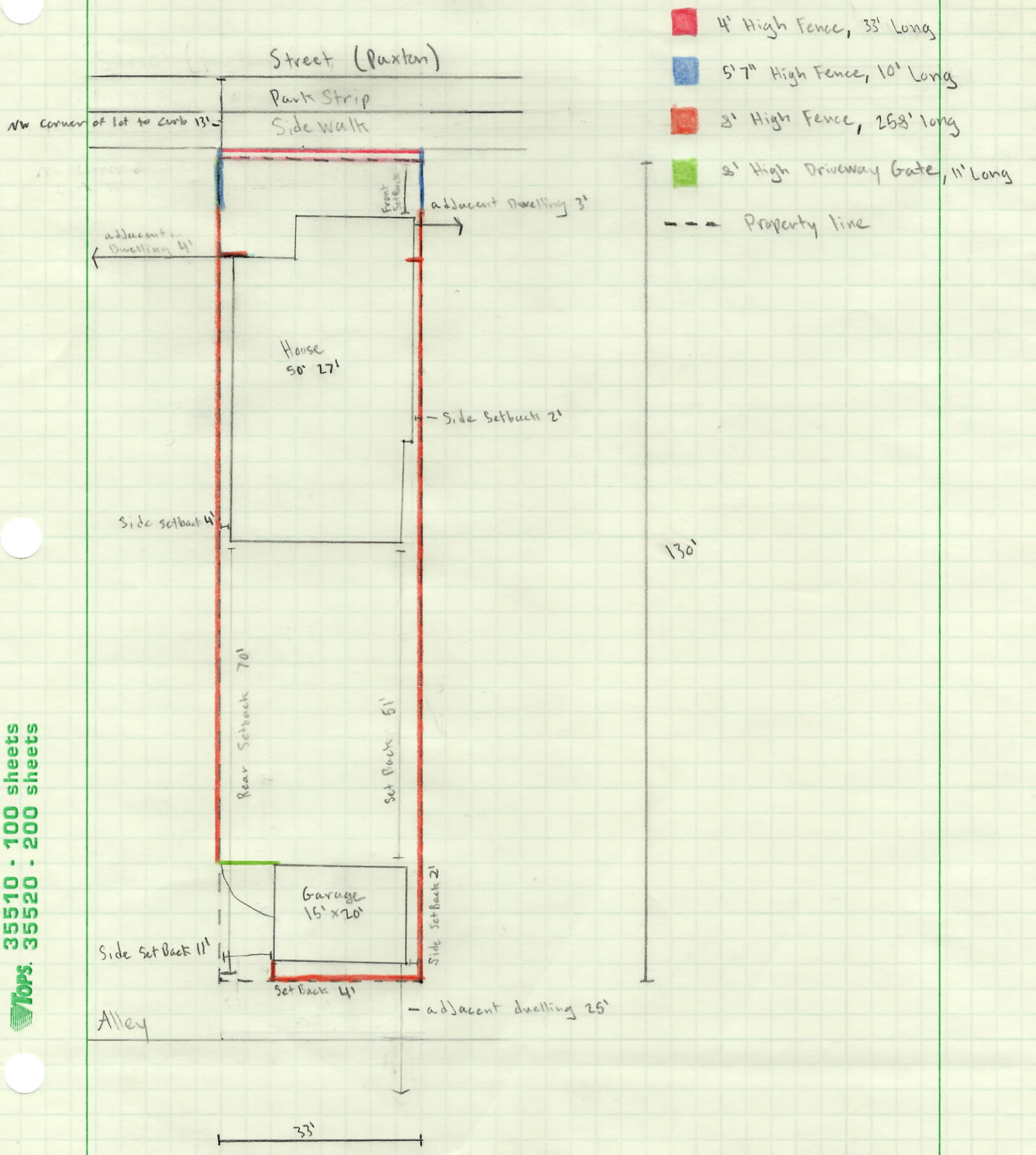
A privacy fence with two gates has been constructed at 179 W. Paxton Ave. in Salt Lake City, UT. The fence runs North to South on the West property line spanning 120' beginning at the North West corner of the lot at the North property line. A 6' wide gate in the front yard spans from the fence to the North West corner of the house, separating the side yard and front yard. A 11' wide gate in the back-yard spans from the fence at 120' to the North West corner of the detached garage, separating the back-yard from the alley running East to West in-between Paxton Ave. and Lucy Ave. The fence and gates range from 5'6" tall in the front-yard, to 8' tall on the side-yard and back-yard (see site plan for detailed height information).

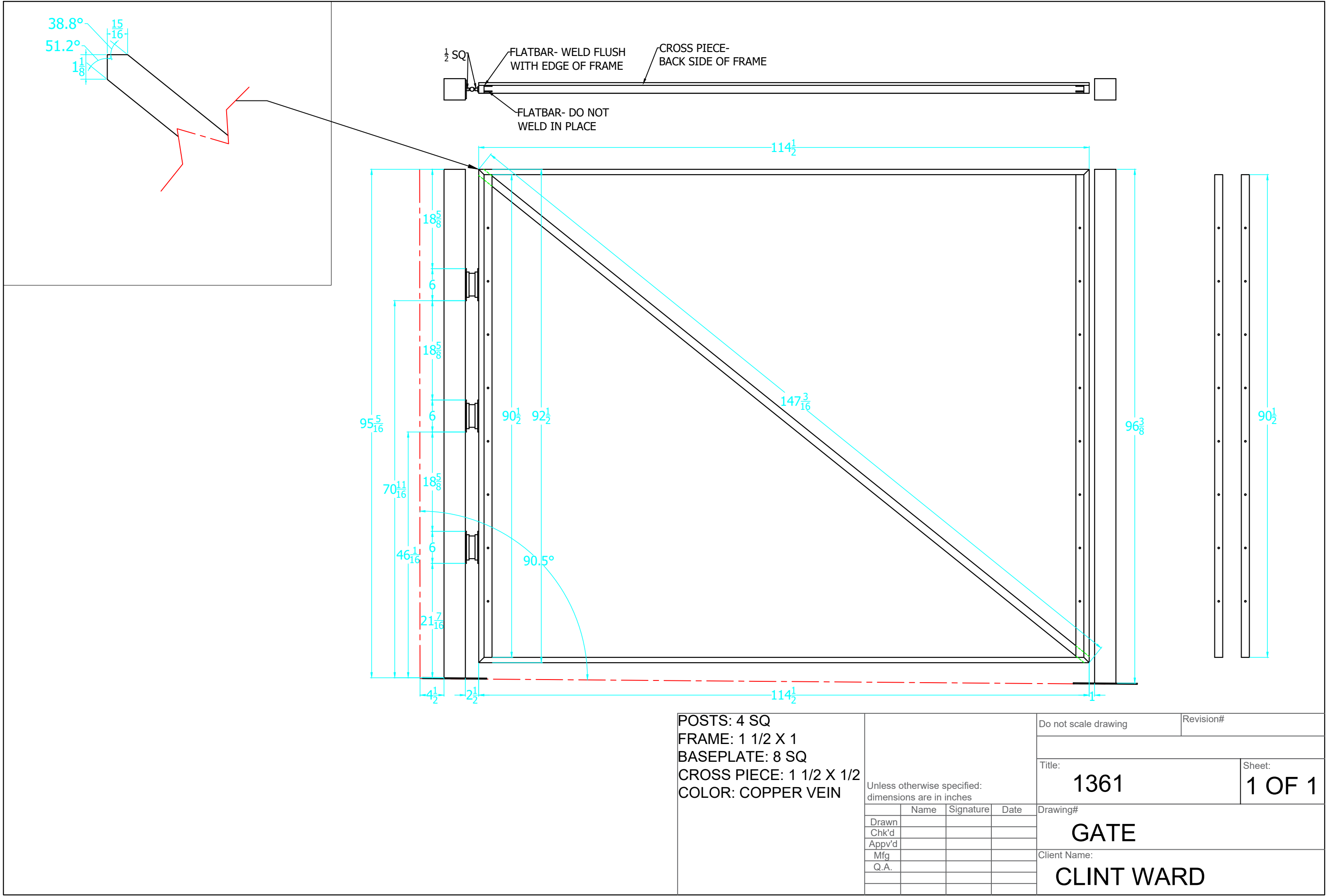
In addition to the already constructed fence, I'd like to finish the fencing project by replacing the existing fencing on the North, and East property line and a new run on the South property line (see site plan). This purposed fencing would be constructed with the same materials as the fence that's already been constructed. Height and materials are detailed in the site plan, photos, and materials list.

I'm asking that a special exception be granted for the additional height of the already constructed and additional purposed fencing based on excessive noise and the encroachment of rights to privacy, safety, security, and aesthetics. The property in question is located adjacent to the 13th South, Ball Park Trax stop. Living next to the Trax train generates many challenges such as excess noise, increased foot traffic, increased homeless population that live in the area, and crime. The increased foot traffic results in many people walking through the neighborhood and alley that runs in-between Paxton and Lucy Avenue at 200 W. While owning this property I've had my back yard and car burglarized, regularly witnessed homeless people and others defecating and shooting up drugs on my property and in the alley that runs behind it, and had my property vandalized with spray paint multiple times. Excess noise, foot traffic, homeless encampments, and crime is cause for the need of additional fence height to achieve privacy, safety, security, and aesthetics and allows me and guests to safely and comfortably use the property in privacy. A 6' fence is not adequate to achieve these rights in this particular location of Salt lake City.



Scale 1" = 20'





POSTS: 4 SQ
FRAME: 1 1/2 X 1
BASEPLATE: 8 SQ
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Drawn	Name	Signature	Date		
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Appv'd					
Mfg					
Q.A.					



Cedar plank fence run North to South on West property line



Cedar plank fence run North to South on West property line & gate.



Powder coated steel gate frame with cedar planks run East to West at South West corner of fence on west property line.



South West View from Paxton Ave of front yard fence and gate.



WIDE South View from Paxton Ave of front yard.



North East view of back yard fence and gate

March 8th, 2020

DEPARTMENT of COMMUNITY and NEIGHBORHOODS
SALT LAKE CITY CORPORATION

451 South State Street // Room 406
Salt Lake City, UT 84114-5480
P.O. Box 145480

To whom it may concern:

The fence and gate constructed at 179 W Paxton has been built out of the following materials. The additional fencing purposed would be constructed out of the following materials as well. See Photographs.PDF for material examples:

- Privacy Fence: (8' & 5'6" high)
 - Pressure treated wood posts set in concrete
 - Cedar Planks
 - Nails
- Vehicle Gate:
 - Powder coated steel gate posts
 - Powder coated steel gate frame
 - Cedar Planks
 - Stainless steel hardware
- Pedestrian Gate:
 - Adjustable steel frame
 - Powder coated steel pull handle
 - Pressure treated wood frame
 - Cedar Planks
 - Nails
 - Screws
- Front Yard fence (4' high)
 - Galvanized posts
 - Cedar Planks
 - Screws

ATTACHMENT D – STAFF DECISION PACKET

CASE #PLNPCM2021-00276
PLANNING COMMISSION
FINDINGS AND ORDER



This is a request made by Clint Ward, the property owner of the home located at 179 West Paxton Avenue, for additional fencing height around the perimeter of the property ranging from four feet seven inches (4'7") to eight feet (8') in height. The subject property is located in the RMF-35 zoning district. The Zoning Ordinance (21A.52: "Special Exceptions") requires special exception approval to construct a fence exceeding the maximum fencing height.

STANDARDS OF REVIEW

Section 21A.52.060 - General Standards and Considerations for Special Exceptions:

- 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.
- 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.
- 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.
- 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.
- 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.
- 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.
- G. Compliance with Standards: The proposed use and development complies with all additional standards imposed on it pursuant to this chapter.

21A.52.030: SPECIAL EXCEPTIONS AUTHORIZED:

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

FINDINGS:

1. City Staff finds the request does not meet the standards of approval as follows:

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;

- o The existing fence is made of solid wood and is completely sight-obscuring.

Exceeding the allowable height limits on any corner lot; unless the city's traffic engineer determines that permitting the additional height would cause an unsafe traffic condition;

- The existing fence is not on a corner lot.

Incorporation of ornamental features or architectural embellishments which extend above the allowable height limits;

- The request is not for ornamental features or embellishments at the top of the fence, it is for a solid sight-obscuring wooden fence.

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

- The subject property is a single-family home, not a school or an approved recreational use.

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;

- The Applicant states the proposed fence is necessary to secure his property and limit the amount of noise pollution on the property. Other homes in the same neighborhood are subject to the same noises as the subject property and have not installed 8' privacy fences.

Keeping within the character of the neighborhood and urban design of the city;

- The fence on the subject property is the tallest fence on a single-family property in the nearby area.

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; or

- The proposed fence entirely walls off the subject property.

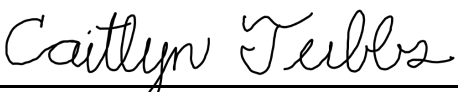
2. Notice of the application was mailed to all abutting property owners on April 14, 2021.
3. The appeal period for the project will expire on Tuesday June 1, 2021.

ORDER:

The special exception for the requested over height fence at 179 West Paxton Avenue is denied. Any aggrieved party may appeal this administrative decision within ten (10) days to the Planning Commission pursuant to Section 21A.52.120 of the Salt Lake City Zoning Ordinance.

FAILURE OF THE APPLICANT TO ABIDE BY THE CONDITIONS OF THIS ORDER SHALL CAUSE IT TO BECOME NULL AND VOID, WHICH IS IN EFFECT THE SAME AS IT HAVING BEEN DENIED.

Dated in Salt Lake City, UT, this 20th day of May, 2021.



Caitlyn Tubbs, AICP
Principal Planner

INDEX

000 Index.pdf
001 Application.pdf
002 Project Description.pdf
003 Site Plan.pdf
004 Driveway Gate Drawing.pdf
005 Photographs.pdf
006 Material List.pdf

March 25th, 2020

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SALT LAKE CITY CORPORATION

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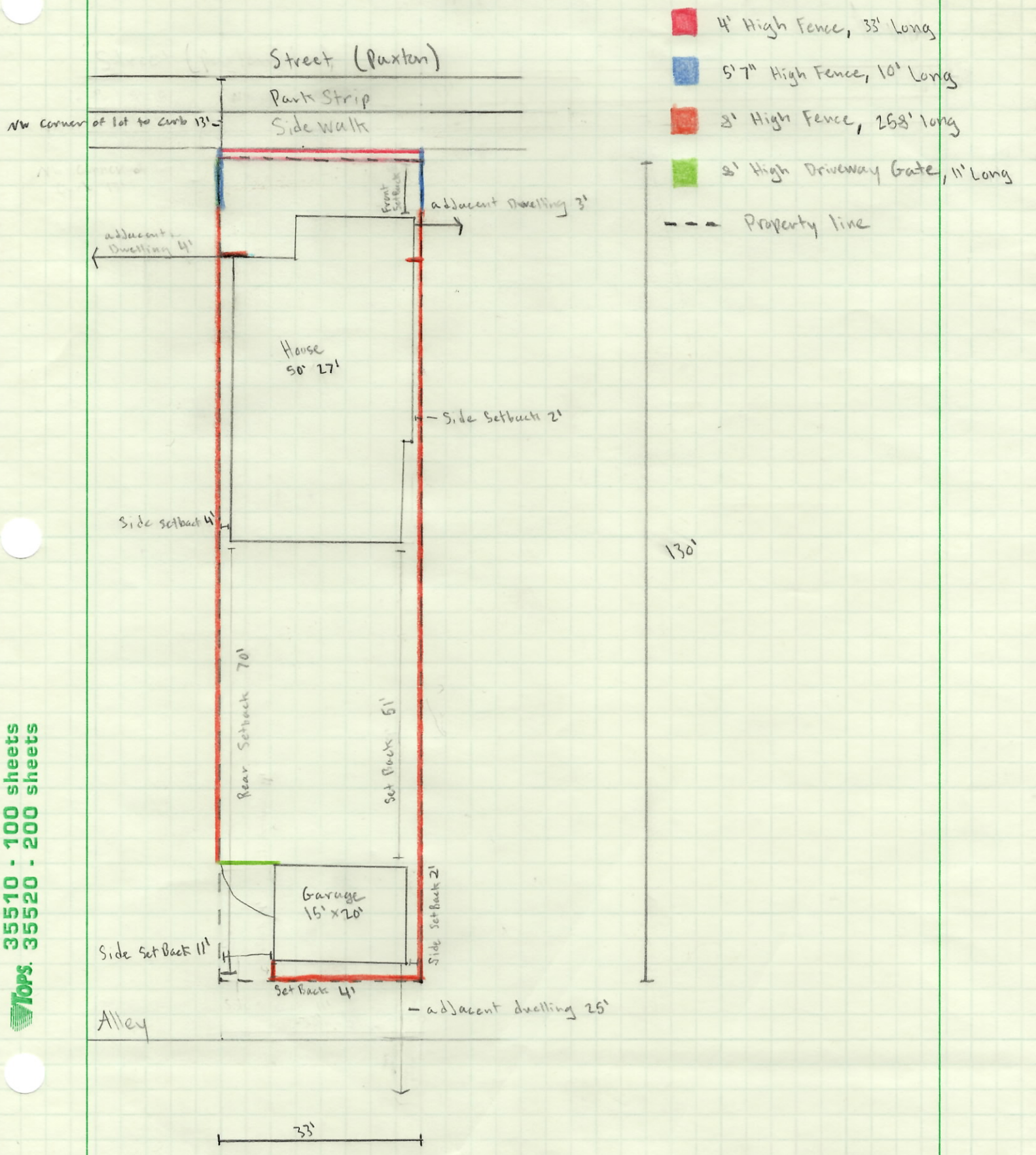
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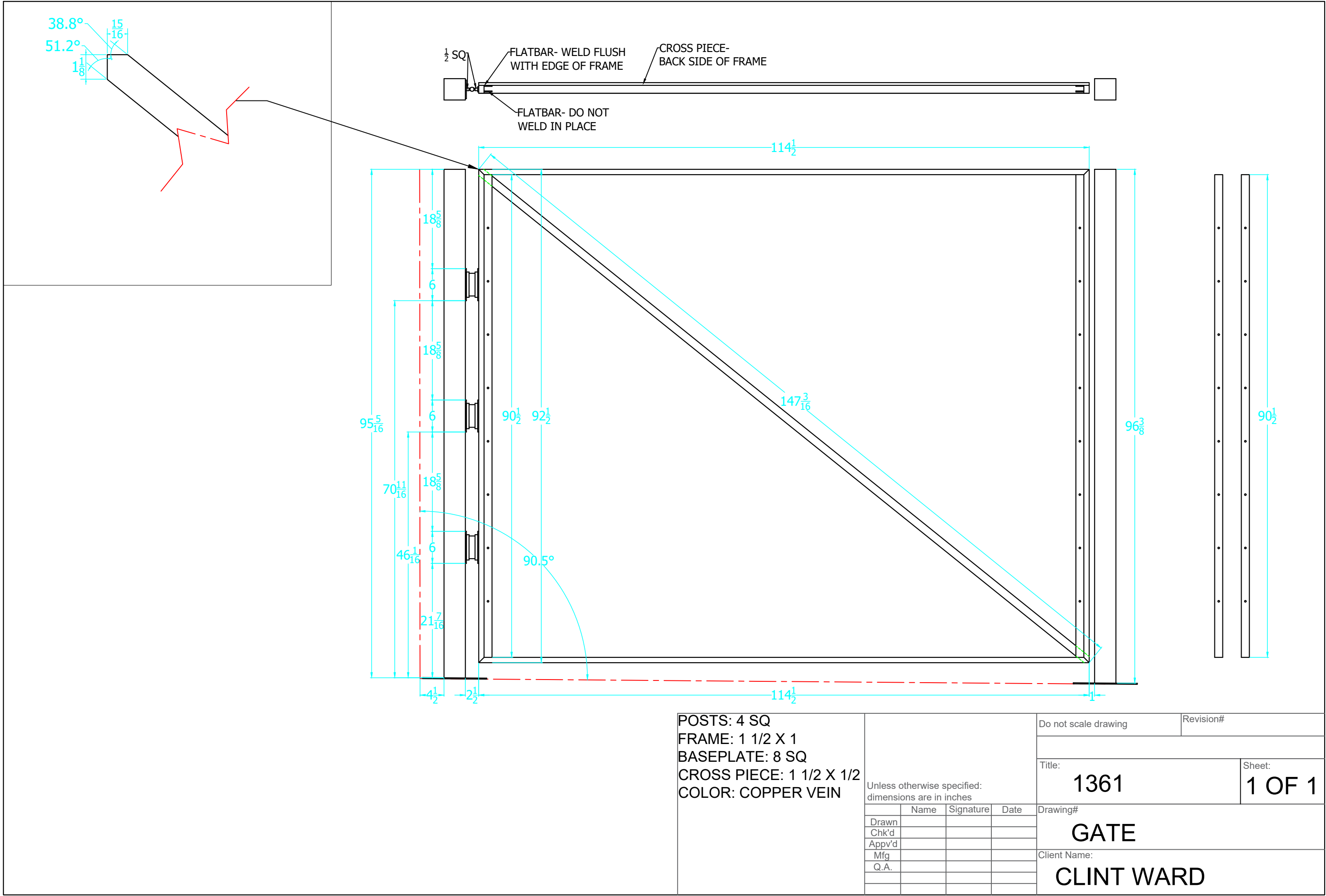
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CROSS PIECE: 1 1/2 X 1/2
COLOR: COPPER VEIN

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Appv'd							
Mfg							
Q.A.							



Cedar plank fence run North to South on West property line



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 - Nails
 - Screws
- Front Yard fence (4' high)
 - Galvanized posts
 - Cedar Planks
 - Screws

**ATTACHMENT E – APPELLANT’S SUBMITTAL
MATERIALS**



Appeal of a Decision

OFFICE USE ONLY

Petition #:	Received By:	Date Received:
Appealed decision made by:		
<input type="checkbox"/> Planning Commission	<input type="checkbox"/> Administrative Decision	<input type="checkbox"/> Historic Landmark Commission
Appeal will be forwarded to:		
<input type="checkbox"/> Planning Commission	<input type="checkbox"/> Appeal Hearing Officer	<input type="checkbox"/> Historic Landmark Commission
Petition Name and # Being Appealed:		

PLEASE PROVIDE THE FOLLOWING INFORMATION

Decision Appealed: PLNPCM2021-00276	
Address of Subject Property: 179 W. Paxton Avenue	
Name of Appellant: Clint Ward	Phone: 801-739-5888 (attorney)
Address of Appellant: 179 W. Paxton Avenue	
E-mail of Appellant: jerry@crooktaylorlaw.com (attorney)	Cell/Fax:
Name of Property Owner (if different from appellant):	
E-mail of Property Owner:	Phone:
Appellant's Interest in Subject Property:	

AVAILABLE CONSULTATION

Please email zoning@slcgov.com if you have any questions regarding the requirements of this application.

APPEAL PERIODS

- An appeal shall be submitted within ten (10) days of the decision.
- Applicant of an HLC decision being appealed can submit within thirty (30) days of a decision.

REQUIRED FEE

- Filing fees must be submitted within the required appeal period. Noticing fees will be assessed after application is submitted
- Filing fee of \$265, plus additional fees for required public notices and multiple hearings.

SIGNATURE

If applicable, a notarized statement of consent authorizing applicant to act as an agent will be required.

Signature of Owner or Agent: Jeremiah Taylor	Date: 5/31/2021
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SUBMITTAL REQUIREMENT



A written description of the alleged error and the reason for this appeal.

WHERE TO FILE THE COMPLETE APPLICATION

Apply online through the [Citizen Access Portal](#). There is a [step-by-step guide](#) to learn how to submit online.

INCOMPLETE APPLICATIONS WILL NOT BE ACCEPTED

JT I acknowledge that Salt Lake City requires the items above to be submitted before my application can be processed. I understand that Planning will not accept my application unless all of the following items are included in the submittal package.

Additional Guidelines for Those Appealing a Planning Commission or Landmarks Commission Decision

A person who challenges a decision by the Planning Commission or the Landmarks Commission bears the burden of showing that the decision made by the commission was in error.

The hearing officer, according to state statute, must assume that the decision is correct and only reverse it if it is illegal or not supported by substantial evidence in the record.

“Substantial evidence” means information that is relevant to the decision and credible. Substantial evidence does not include public clamor and emotion. It involves facts and not mere speculation. A witness with particular expertise can provide substantial evidence, but conjecture and public opinion alone are not substantial evidence.

The “record” includes information, including the application by the person seeking approval, the staff report, the minutes of the meeting, and any information submitted to the commission by members of the public, the applicant or others, before the decision was made. It does not include facts or opinion, even expert opinion, expressed after the decision is made or which was not available to the commission at the time the decision was made.

A decision is “illegal” if it is contrary to local ordinance, state statute or case law, or federal law. An applicant is entitled to approval if the application complies with the law, so a person challenging a denial should show that the application complied with the law; a person challenging an approval should show that the application did not conform to the relevant law. Issues of legality are not restricted to the record of the decision, but the facts supporting or opposing the decision are limited to those in the record.

With regard to the factual information and evidence that supports a decision, the person bringing the appeal, according to a long line of decisions handed down by the Utah State Supreme Court and the Court of Appeals, has a burden to “marshal the evidence” and then to demonstrate that the evidence which has been marshaled is not sufficient to support the decision.

The appellant is therefore to:

1. Identify the alleged facts which are the basis for the decision, and any information available to the commission when the decision is made that supports the decision. Spell it out. For example, your statement might begin with: “The following information and evidence may have been relied upon by the Commission to support their decision . . .”
2. Show why that basis, including facts and opinion expressed to the commission is either irrelevant or not credible. Your next statement might begin with: “The information and evidence which may have been relied upon cannot sustain the decision because . . .”

If the evidence supporting the decision is not marshaled and responded to, the hearing officer cannot grant your appeal. It may be wise to seek the advice of an attorney experienced in local land use regulation to assist you.



Phone: 801-326-1943

CROOK & TAYLOR LAW

www.crooktaylorlaw.com

May 31, 2021

Sent via email and uploaded to the Salt Lake City Citizen Access Portal

Salt Lake City Planning Commission
451 S State St,
Salt Lake City, UT 84111
zoning@slcgov.com

Re: Appeal of Findings and Order, Case #PLNPCM2021-00276

Dear Salt Lake City Planning Commission:

This law firm represents Clint Ward with respect to this matter. Please accept this letter as Clint Ward's appeal of the Planning Director's Findings and Order, Case #PLNPCM2021-00276.

Mr. Ward applied for a special exception under Salt Lake City Ordinance 21A.52.030, seeking from the Planning Director approval for an eight-foot fence on his property at 179 West Paxton Avenue. The special exception ordinance authorizes fences to exceed allowable height limits where "a negative impact occurs because of levels of noise, pollution, light or other encroachments on the rights to privacy, safety, security and aesthetics." 21A.52.030(A)(3)(e).

Mr. Ward applied for the heightened fence to address many of the issues listed in the ordinance. A copy of his application is attached as Exhibit A.

Mr. Ward's application was denied for the following reasons:

1. "The Applicant states the proposed fence is necessary to secure his property and limit the amount of noise pollution on the property. Other homes in the same neighborhood are subject to the same noises as the subject property and have not installed 8' privacy fences;"
2. "The fence on the subject property is the tallest fence on a single-family property in the nearby area;" and

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D. Scott Crook
scott@crooktaylorlaw.com

Jeremiah R. Taylor
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Christopher S. Feuz
chris@crooktaylorlaw.com

Bountiful Office
450 South 400 East, Suite 100
Bountiful, UT 84010

3. "The proposed fence entirely walls off the subject property."

(See Findings and Order, attached as Exhibit B.)

Mr. Ward hereby asserts that for the below reasons, the denial of his application did not follow the standards set forth in 21A.52.030 and was therefore in error.

A. The adjacent area and position of Mr. Ward's property negatively impact security, safety, and privacy.

Section 21A.52.030 is titled "Special Exceptions Authorized," and sets forth the standards that authorize certain, specific exceptions to normal land use requirements. One of those special exceptions is for a fence that is taller than the maximum allowed height.

A taller fence is allowed when "a negative impact occurs because of levels of noise, pollution, light or other encroachments on the rights to privacy, safety, security and aesthetics." 21A.52.030(A)(3)(e).

The Planning Director did not consider whether the above-listed factors create a negative impact on Mr. Ward's property. Instead, the Planning Director assumed that because other properties in the same neighborhood do not have 8-foot fences, Mr. Ward's property is not negatively impacted by the above-listed factors.

This is an erroneous deduction. It assumes that if other properties in the same neighborhood are not negatively impacted by security, privacy, noise, or other concerns, Mr. Ward's property must not be negatively impacted either. It assumes that if other properties have not taken certain measures to address the listed negative impacts, Mr. Ward is not allowed to do so. It assumes that the negative impact on Mr. Ward's property is the same as the negative impact on other surrounding properties. All of these assumptions are misplaced and incorrect.

The applicable standard that allows a taller fence is whether there is a negative impact on the property in question. The existence of the special exception ordinance itself, which specifically allows a heightened fence to address the issues listed in the ordinance, shows that a taller fence helps to address the negative impact.

Even though the negative impact to Mr. Ward's property in and of itself is sufficient to satisfy the special exception standard, comparison of Mr. Ward's property to surrounding properties also supports allowance of the exception. Mr. Ward's property is situated differently than neighboring properties because *both the front of his house and the back of his house* are exposed to the negative impacts addressed by the ordinance and this letter.

Specifically, both the front and back of Mr. Ward's house are exposed to the frequent presence of homeless individuals; UTA TRAX Trains; the numerous individuals who ride the

TRAX Trains; and the foot traffic, crime, drug use, and other negative factors of the adjacent area.

Attached to this letter are several images showing the negative impacts of the adjacent environment upon Mr. Ward's property.

- Exhibit C is an aerial view of Mr. Ward's property and shows that both the front of his house and the back of his house through an alley are exposed to the happenings of 200 West.
- Exhibit D shows graffiti on Mr. Ward's shed and on the neighbor's house in the alley adjacent to Mr. Ward's backyard. This is one example of many instances of vandalism that Mr. Ward has experienced.
- Exhibit E shows people loitering in the alley. One or more of these individuals made threats of bodily harm when they were asked to leave. This is one example of many.
- Exhibit F shows discarded needles around Mr. Ward's property, particularly in the alley, which assumedly were used to inject drugs. Mr. Ward has observed drug use around his property on multiple occasions.
- Exhibit G shows a dumpster in the alley adjacent to Mr. Ward's property. In addition to the unsightly garbage, homeless people frequently dig through the dumpster.
- Exhibit H shows instances where homeless individuals defecated in the alley by Mr. Ward's property, which is a frequent occurrence.
- Exhibit I shows two examples of the constant foot traffic by Mr. Ward's property.
- Exhibit J shows examples of drivers who drove onto the train tracks right by Mr. Ward's property, presumably because they were intoxicated.
- Exhibit K shows two homeless men stealing a generator close to Mr. Ward's property.
- Exhibit L shows two instances where packages were stolen from Mr. Ward's front porch.
- Exhibit M shows instances of illegal dumping in the alley behind Mr. Ward's property.
- Exhibit N shows an individual who appears to be using drugs in front of Mr. Ward's property.
- Exhibit O shows an individual who appears to be passed out in front of Mr. Ward's property and the police officer who responded to the report.
- Exhibit P shows two individuals passed out in a vehicle close to Mr. Ward's house.
- The link below shows a video of a drug exchange in front of Mr. Ward's property.
https://drive.google.com/open?id=1nCWQhAoq1qcftlap0vVTb0I80UcSB0GR&authuser=jerry%40crooktaylorlaw.com&usp=drive_fs
- The link below shows video footage of a homeless lady cutting a chain link fence to gain access to the neighbor's backyard across the street. (See also letter from neighbor attached as Exhibit S.)
https://drive.google.com/open?id=1n6rXApv8swwgcM4BlPdQQ8tzMeb185Xv&authuser=jerry%40crooktaylorlaw.com&usp=drive_fs

In addition to the above images and video recordings, Mr. Ward and his neighbors have experienced intrusion onto their properties. Previously, an old, unsightly, 6-foot wooden fence surrounded Mr. Ward's property. Someone broke into Mr. Ward's backyard, broke into his vehicle that was parked in the backyard behind the six-foot fence, and stole a firearm out of Mr. Ward's vehicle. Mr. Ward reported the theft to the police. (SLCPD: 18-1628). The person who broke into Mr. Ward's yard clearly knew the vehicle was there. The requested heightened fence adds another layer of security to Mr. Ward's property relative to the storage of his vehicles. As can be seen in the image attached as Exhibit T, Mr. Ward is able to maintain two vehicles out of sight behind the eight-foot fence.

Exhibit R is an email from one of Mr. Ward's neighbors, who details many of the privacy and security problems that she has experienced in the area, including intrusion and theft. Exhibit S is a letter from another of Mr. Ward's neighbors, who describes the vandalism and intrusion he has witnessed and experienced, including a homeless lady cutting a hole in his chain-link fence to access his property. Both of these neighbors have experienced first-hand the problems associated with the adjacent environment, and both support the construction of Mr. Ward's fence to help minimize those problems.

The images, video recordings, and experiences above are examples, but by no means an exhaustive list, of the negative factors adjacent to both the front and back of Mr. Ward's property that affect his security, safety, and privacy. The exhibits to this letter help demonstrate the bold and blatant nature of the crime that occurs next to Mr. Ward's property on a regular basis.

The proposed fence helps to insulate Mr. Ward's property from these crimes and negative impacts. Mr. Ward is 5 feet 5 inches tall and could see over the previously-existing six-foot fence on his property by standing on his tip toes. He could see the majority of the back of his house when standing some distance from the six-foot fence. He could easily climb the six-foot fence. He could easily put his hands on the top of the fence and hop up long enough to see his entire backyard. And, by standing on an object no more than ten inches tall, Mr. Ward could easily see his entire backyard.

Mr. Ward, as well as most people, cannot look over or climb over an eight-foot fence. The additional two feet of height prevents people from seeing into Mr. Ward's backyard from the alley. It also deters people from climbing up and/or jumping down from the fence. The heightened fence thereby keeps Mr. Ward's property secure from the view and potential trespass of the consistent stream of people who loiter, make noise, use drugs, steal, break and enter, and create other nuisances and commit other crimes adjacent to his property. The proposed fence also protects Mr. Ward's view from the dumpster garbage and individuals who frequent the areas around his property.

Mr. Ward should be allowed to protect his property, and a heightened fence is an effective yet reasonable and minimal way to do so. The existence and wording of the special exception ordinance itself acknowledges that a heightened fence can help minimize the impact of safety and privacy concerns. For these reasons, Mr. Ward respectfully requests that

the Planning Commission grant him a special exception to maintain and finish the fence as proposed so as to increase the needed safety and privacy of his property.

B. The adjacent area and position of Mr. Ward's property subject it to negative impacts from noise and light.

The existence and wording of the ordinance also acknowledges that a heightened fence can help minimize the negative impact of noise and light on a property. Attached as Exhibit Q is a series of images that show the proximity of Mr. Ward's property to the TRAX tracks and the 13th South, Ball Park TRAX stop. The trains constantly run throughout the day and evening and create considerable noise. Mr. Ward's property is exposed to this noise from both the trains coming and the trains going, from both the front of this house and the back of his house through the alley.

Recordings of the train noise in both the morning and the evening, from both the outside and inside of Mr. Ward's fence, demonstrate the considerable and annoying noise generated by the trains, as well as the reduction in noise created by Mr. Ward's fence. Those recordings can be heard by accessing the following hyperlinks:

- Outside 8:55 am
https://drive.google.com/open?id=1oEeEGffjV2oMsmByya4QR2l3xz4V-1RR&authuser=jerry%40crooktaylorlaw.com&usp=drive_fs
- Outside 1:49 pm
https://drive.google.com/open?id=1o1q2Br5o57os4bD1DiezteNT2kL2E-5j&authuser=jerry%40crooktaylorlaw.com&usp=drive_fs
- Inside 8:23 am
https://drive.google.com/open?id=1oFpmbFvhsZHeF30778AShNP8oqPLR86h&authuser=jerry%40crooktaylorlaw.com&usp=drive_fs
- Inside 2:02 pm
https://drive.google.com/open?id=1o53t-p8ZpsFLVu1QPrAQ3Yy5SXNLxNEZ&authuser=jerry%40crooktaylorlaw.com&usp=drive_fs

The additional two feet of height blocks those sound waves from the train that would pass over Mr. Ward's six-foot fence. The heightened fence makes it that much more difficult for the sound waves and light from the trains to reach Mr. Ward's house. Mr. Ward's backyard and his house are more quiet with the eight-foot fence than they were with the six-foot fence. To address the noise problems faced by both the front and back of Mr. Ward's property, Mr. Ward respectfully requests that the Planning Commission grant a special exception for the proposed fence.

C. Mr. Ward's fence is consistent with the character of the surrounding area.

In analyzing whether the fence is consistent with the “character of the neighborhood and urban design of the city,” the Planning Director stated that the fence is the tallest in the nearby area. The subject ordinance allows for a taller fence because it is a “special exception” to the rule. Because an eight-foot fence is not the rule in the surrounding area, one would not expect to see other eight-foot fences on the neighboring properties. The absence of other eight-foot fences does not preclude an exception to the rule. Such an interpretation would make the ordinance meaningless. Indeed, allowance of an exception is the purpose of the statute. An exception is appropriate in this case for the reasons explained above. Therefore, even if Mr. Ward's fence is the tallest fence in the surrounding area, that does not preclude the special exception.

Furthermore, the fact that there might not be other eight-foot fences on the neighboring properties does not mean Mr. Ward's fence is not “consistent with the character of the neighborhood and urban design of the city.” Many properties in Mr. Ward's neighborhood have fences. Exhibit V shows images of several of these. The fences in the neighborhood exist in many and diverse sizes, colors, aesthetics, and types. The properties in the neighborhood also vary in color, type, landscaping, upkeep, aesthetics, and other areas. In other words, the neighborhood does not have much consistency in character, and Mr. Ward's fence therefore does not stand out as inconsistent with the already diverse properties in the neighborhood. Furthermore, Mr. Ward's fence does not detract from the overall aesthetics and quality of the area, but instead adds to them. (See before and after pictures attached as Exhibit U.)

In addition, as demonstrated by several images in the Exhibits, Mr. Ward's property is very close to the properties on either side of him. Much of the fence runs the length of Mr. Ward's side yards in between his property and the neighboring properties. Therefore, because the side fences are in between the properties, much of the fence cannot even be seen from the street, meaning that the fence does not stand out from or detract from the surrounding environment.

Finally, and perhaps most significantly, the overall character of the surrounding area is becoming more and more one of crime, vandalism, noise, and nuisance. Reversal of this trend, and strengthening the character of the neighborhood to be one of more security and peace, is far more important than other considerations of the neighborhood's character.

For these reasons, the Planning Commission should respectfully conclude that the fence is consistent with the character and urban design of the city and grant the exception. Even if the fence is not consistent with the character of the neighborhood, the Planning Commission should respectfully prioritize the security, privacy, and noise concerns and grant the exception.

D. Any “walled-in” effect is consistent with the surrounding area.

In denying Mr. Ward’s request, the Planning Director stated that, “The proposed fence entirely walls off the subject property.” The ordinance, however, states that a “walled-in effect” need be avoided only “where the clear character of the neighborhood in front yard areas is one of open spaces from property to property.” Mr. Ward’s neighborhood has several residences that have fences around the front yard, as demonstrated by examples in the attached Exhibit V. As can be seen, the character of the neighborhood is not one of open spaces in the front yard or elsewhere. Any walled-in effect of Mr. Ward’s property is therefore not a factor that should be used in denying his request.

Mr. Ward respectfully requests that the exception for the entire fence be granted. To the extent an exception for the entire proposed fence is not granted, Mr. Ward requests an exception for the 8-foot portion of the fence that runs along the sides and back of the property.

Sincerely,
CROOK & TAYLOR LAW PLLC

A handwritten signature in black ink, appearing to read 'Jeremiah R. Taylor', written in a cursive style.

Jeremiah R. Taylor

Exhibit A - Application

March 25th, 2020

DEPARTMENT of COMMUNITY and NEIGHBORHOODS
SALT LAKE CITY CORPORATION

451 South State Street // Room 406
Salt Lake City, UT 84114-5480
P.O. Box 145480

To whom it may concern:

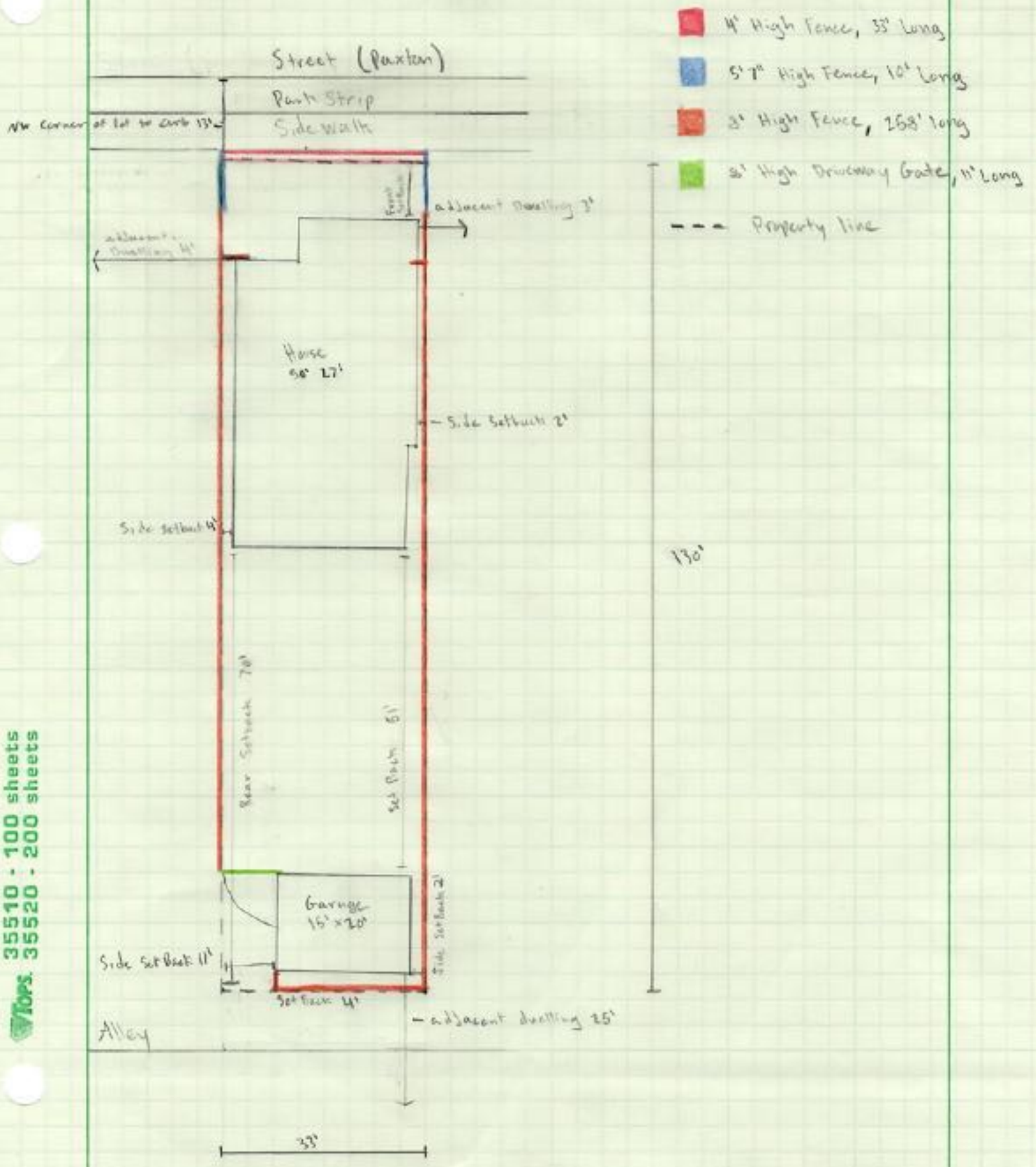
A privacy fence with two gates has been constructed at 179 W. Paxton Ave. in Salt Lake City, UT. The fence runs North to South on the West property line spanning 120' beginning at the North West corner of the lot at the North property line. A 6' wide gate in the front yard spans from the fence to the North West corner of the house, separating the side yard and front yard. A 11' wide gate in the back-yard spans from the fence at 120' to the North West corner of the detached garage, separating the back-yard from the alley running East to West in-between Paxton Ave. and Lucy Ave. The fence and gates range from 5'6" tall in the front-yard, to 8' tall on the side-yard and back-yard (see site plan for detailed height information).

In addition to the already constructed fence, I'd like to finish the fencing project by replacing the existing fencing on the North, and East property line and a new run on the South property line (see site plan). This purposed fencing would be constructed with the same materials as the fence that's already been constructed. Height and materials are detailed in the site plan, photos, and materials list.

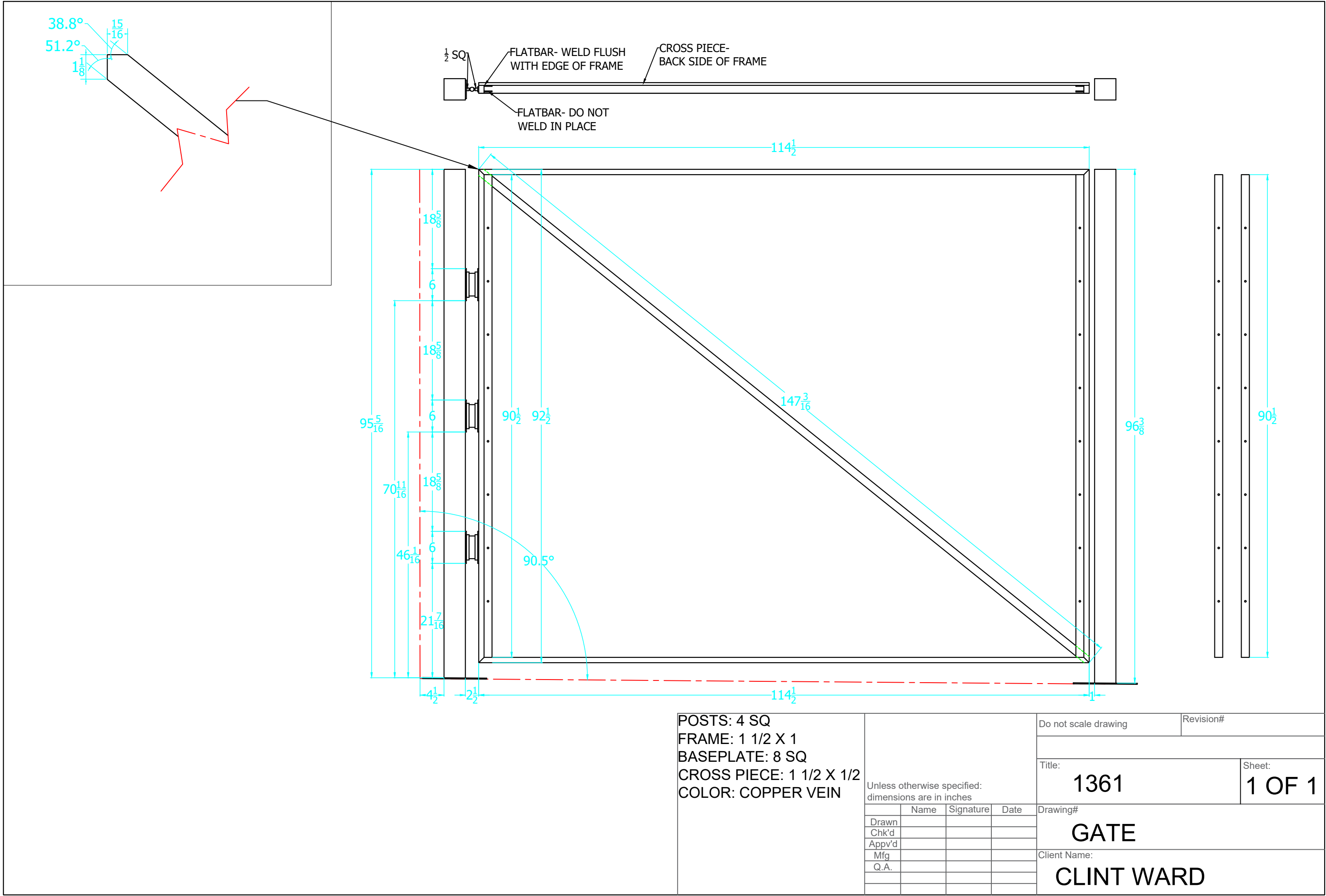
I'm asking that a special exception be granted for the additional height of the already constructed and additional purposed fencing based on excessive noise and the encroachment of rights to privacy, safety, security, and aesthetics. The property in question is located adjacent to the 13th South, Ball Park Trax stop. Living next to the Trax train generates many challenges such as excess noise, increased foot traffic, increased homeless population that live in the area, and crime. The increased foot traffic results in many people walking through the neighborhood and alley that runs in-between Paxton and Lucy Avenue at 200 W. While owning this property I've had my back yard and car burglarized, regularly witnessed homeless people and others defecating and shooting up drugs on my property and in the alley that runs behind it, and had my property vandalized with spray paint multiple times. Excess noise, foot traffic, homeless encampments, and crime is cause for the need of additional fence height to achieve privacy, safety, security, and aesthetics and allows me and guests to safely and comfortably use the property in privacy. A 6' fence is not adequate to achieve these rights in this particular location of Salt lake City.



Scale 1" = 20'



35510 - 100 sheets
35520 - 200 sheets



POSTS: 4 SQ
FRAME: 1 1/2 X 1
BASEPLATE: 8 SQ
CROSS PIECE: 1 1/2 X 1/2
COLOR: COPPER VEIN

Unless otherwise specified: dimensions are in inches				Do not scale drawing		Revision#	
				Title: <div>1361</div>		Sheet: <div>1 OF 1</div>	
	Name	Signature	Date	Drawing# <div>GATE</div>			
Drawn							
Chk'd				Client Name: <div>CLINT WARD</div>			
Appv'd							
Mfg							
Q.A.							



Cedar plank fence run North to South on West property line



Cedar plank fence run North to South on West property line & gate.



Powder coated steel gate frame with cedar planks run East to West at South West corner of fence on west property line.



South West View from Paxton Ave of front yard fence and gate.



WIDE South View from Paxton Ave of front yard.



North East view of back yard fence and gate

March 8th, 2020

DEPARTMENT of COMMUNITY and NEIGHBORHOODS
SALT LAKE CITY CORPORATION

451 South State Street // Room 406
Salt Lake City, UT 84114-5480
P.O. Box 145480

To whom it may concern:

The fence and gate constructed at 179 W Paxton has been built out of the following materials. The additional fencing purposed would be constructed out of the following materials as well. See Photographs.PDF for material examples:

- Privacy Fence: (8' & 5'6" high)
 - Pressure treated wood posts set in concrete
 - Cedar Planks
 - Nails
- Vehicle Gate:
 - Powder coated steel gate posts
 - Powder coated steel gate frame
 - Cedar Planks
 - Stainless steel hardware
- Pedestrian Gate:
 - Adjustable steel frame
 - Powder coated steel pull handle
 - Pressure treated wood frame
 - Cedar Planks
 - Nails
 - Screws
- Front Yard fence (4' high)
 - Galvanized posts
 - Cedar Planks
 - Screws

Exhibit B - Findings and Order

CASE #PLNPCM2021-00276
PLANNING COMMISSION
FINDINGS AND ORDER



This is a request made by Clint Ward, the property owner of the home located at 179 West Paxton Avenue, for additional fencing height around the perimeter of the property ranging from four feet seven inches (4'7") to eight feet (8') in height. The subject property is located in the RMF-35 zoning district. The Zoning Ordinance (21A.52: "Special Exceptions") requires special exception approval to construct a fence exceeding the maximum fencing height.

STANDARDS OF REVIEW

Section 21A.52.060 - General Standards and Considerations for Special Exceptions:

- 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.
- 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.
- 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.
- 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.
- 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.
- 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.
- G. Compliance with Standards: The proposed use and development complies with all additional standards imposed on it pursuant to this chapter.

21A.52.030: SPECIAL EXCEPTIONS AUTHORIZED:

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

FINDINGS:

1. City Staff finds the request does not meet the standards of approval as follows:

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;

- o The existing fence is made of solid wood and is completely sight-obscuring.

Exceeding the allowable height limits on any corner lot; unless the city's traffic engineer determines that permitting the additional height would cause an unsafe traffic condition;

- The existing fence is not on a corner lot.

Incorporation of ornamental features or architectural embellishments which extend above the allowable height limits;

- The request is not for ornamental features or embellishments at the top of the fence, it is for a solid sight-obscuring wooden fence.

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

- The subject property is a single-family home, not a school or an approved recreational use.

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;

- The Applicant states the proposed fence is necessary to secure his property and limit the amount of noise pollution on the property. Other homes in the same neighborhood are subject to the same noises as the subject property and have not installed 8' privacy fences.

Keeping within the character of the neighborhood and urban design of the city;

- The fence on the subject property is the tallest fence on a single-family property in the nearby area.

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; or

- The proposed fence entirely walls off the subject property.

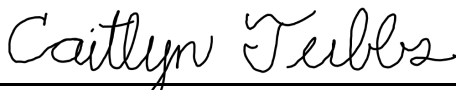
2. Notice of the application was mailed to all abutting property owners on April 14, 2021.
3. The appeal period for the project will expire on Tuesday June 1, 2021.

ORDER:

The special exception for the requested over height fence at 179 West Paxton Avenue is denied. Any aggrieved party may appeal this administrative decision within ten (10) days to the Planning Commission pursuant to Section 21A.52.120 of the Salt Lake City Zoning Ordinance.

FAILURE OF THE APPLICANT TO ABIDE BY THE CONDITIONS OF THIS ORDER SHALL CAUSE IT TO BECOME NULL AND VOID, WHICH IS IN EFFECT THE SAME AS IT HAVING BEEN DENIED.

Dated in Salt Lake City, UT, this 20th day of May, 2021.



Caitlyn Tubbs, AICP
Principal Planner

Exhibit C - Aerial View

Front →

← Alley

Paton Ave

200 W

200



Exhibit D - Graffiti







Exhibit E - Loitering





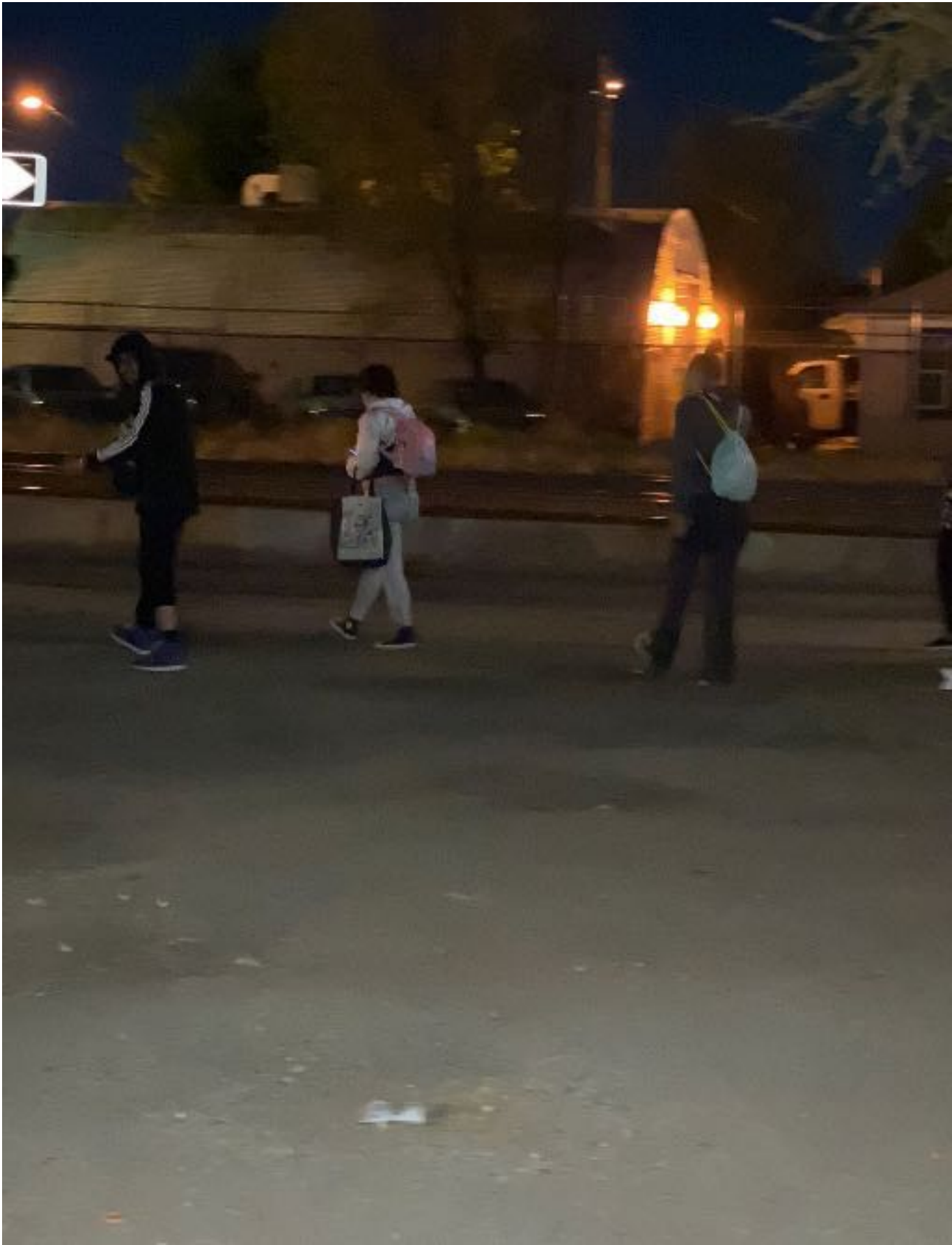




Exhibit F - Needles















Exhibit G - Dumpster



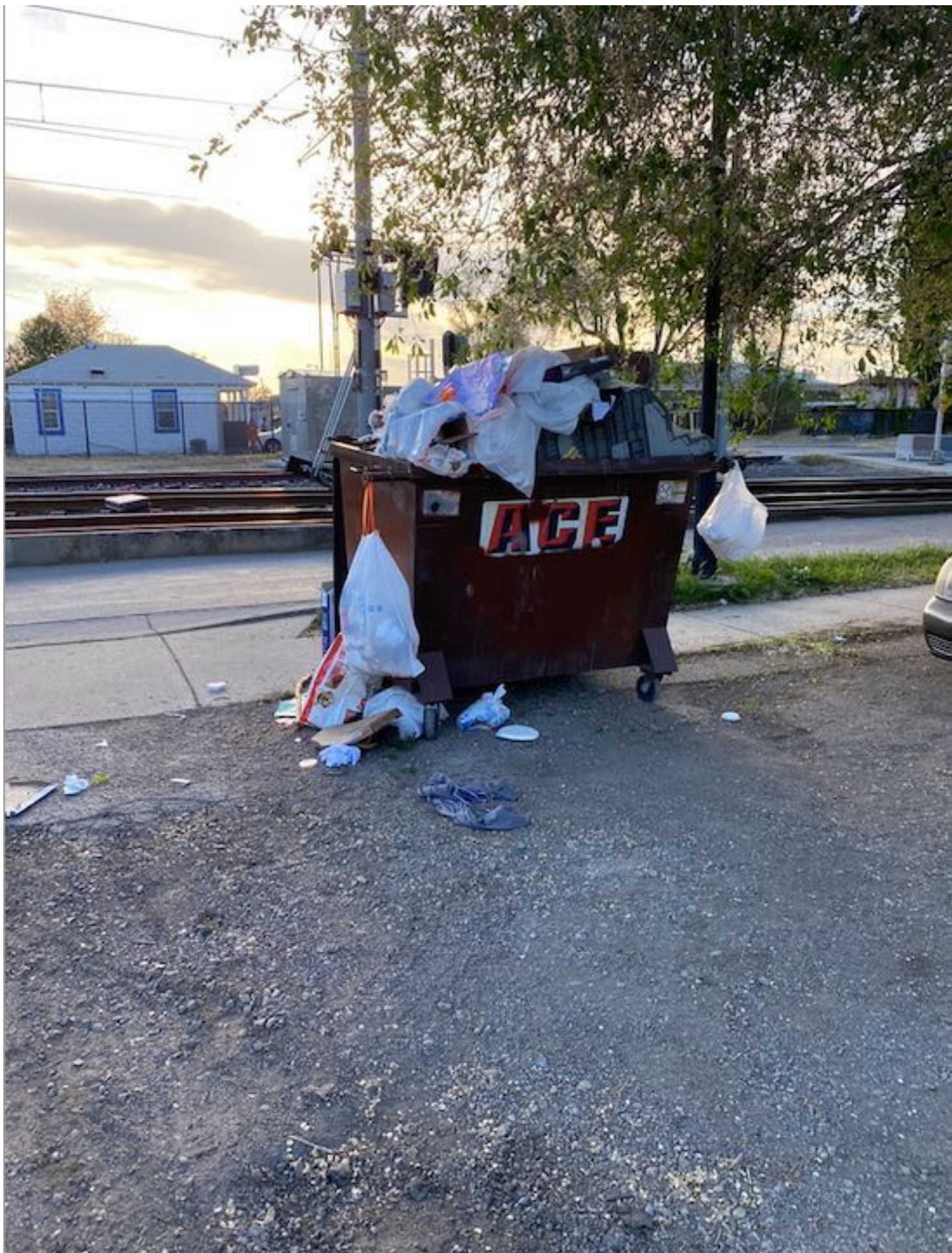


Exhibit H - Homeless Defecation









Exhibit I - Foot Traffic from Alley





Exhibit J - Vehicles on Rails









Exhibit K - Stolen Generator







Exhibit L - Stolen Packages



00:04

00:04

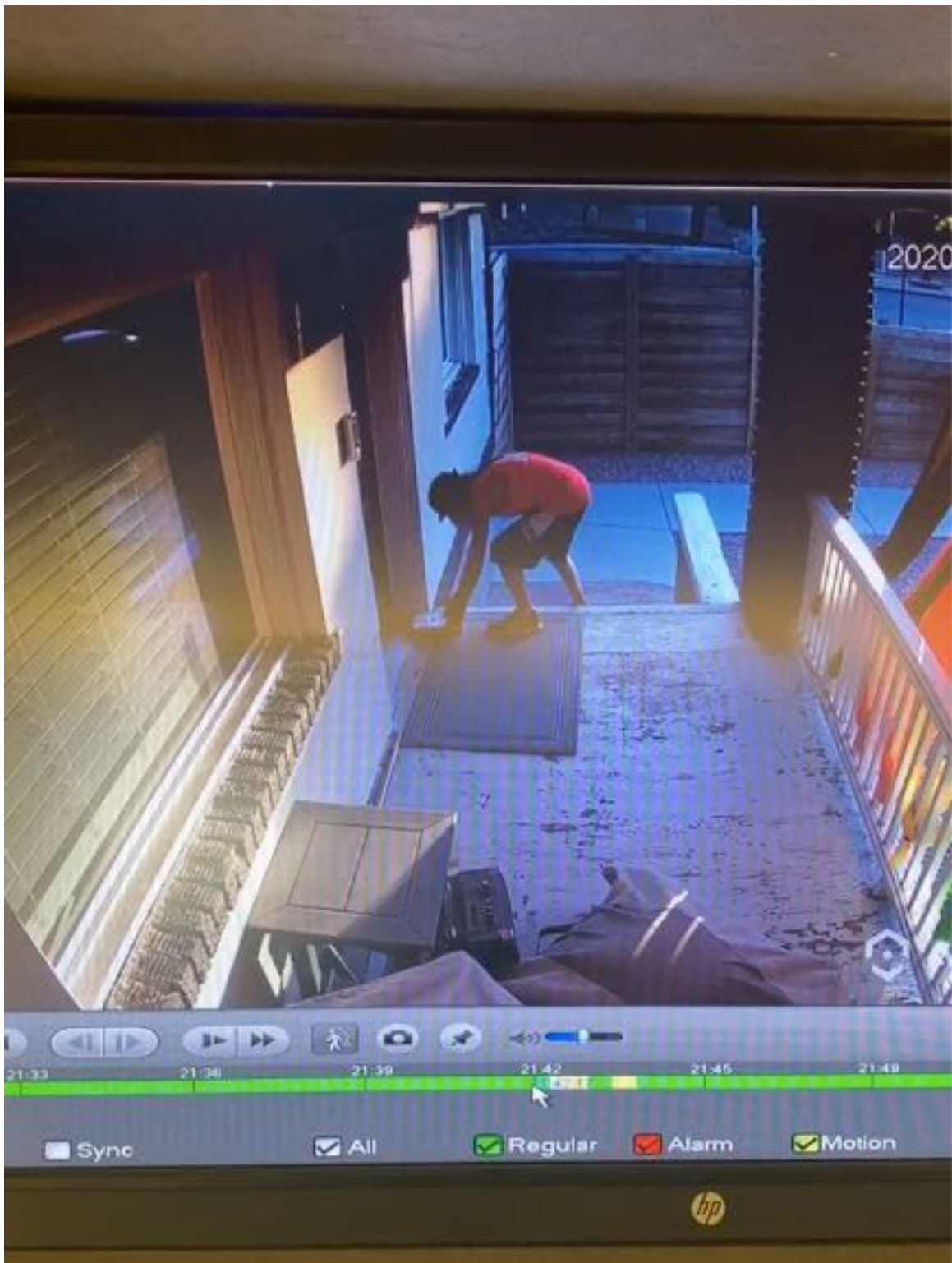


Exhibit M - Illegal Dumping



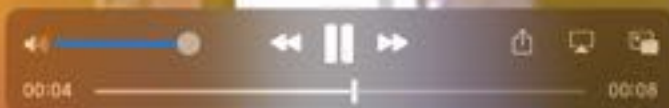




Exhibit N - Drug Use

IMG_1745.MOV



Exhibit O - Passed Out

10/16

2020-09-12 00:15:05

CAM 10

AMCREST

NVR-CAM 10



12:23



Live View



NVR-CAM 10



10/16



12:20



Live View



NVR-CAM 10



10/16



12:15



Live View



NVR-CAM 10



10/16



Exhibit P - Two Passed Out



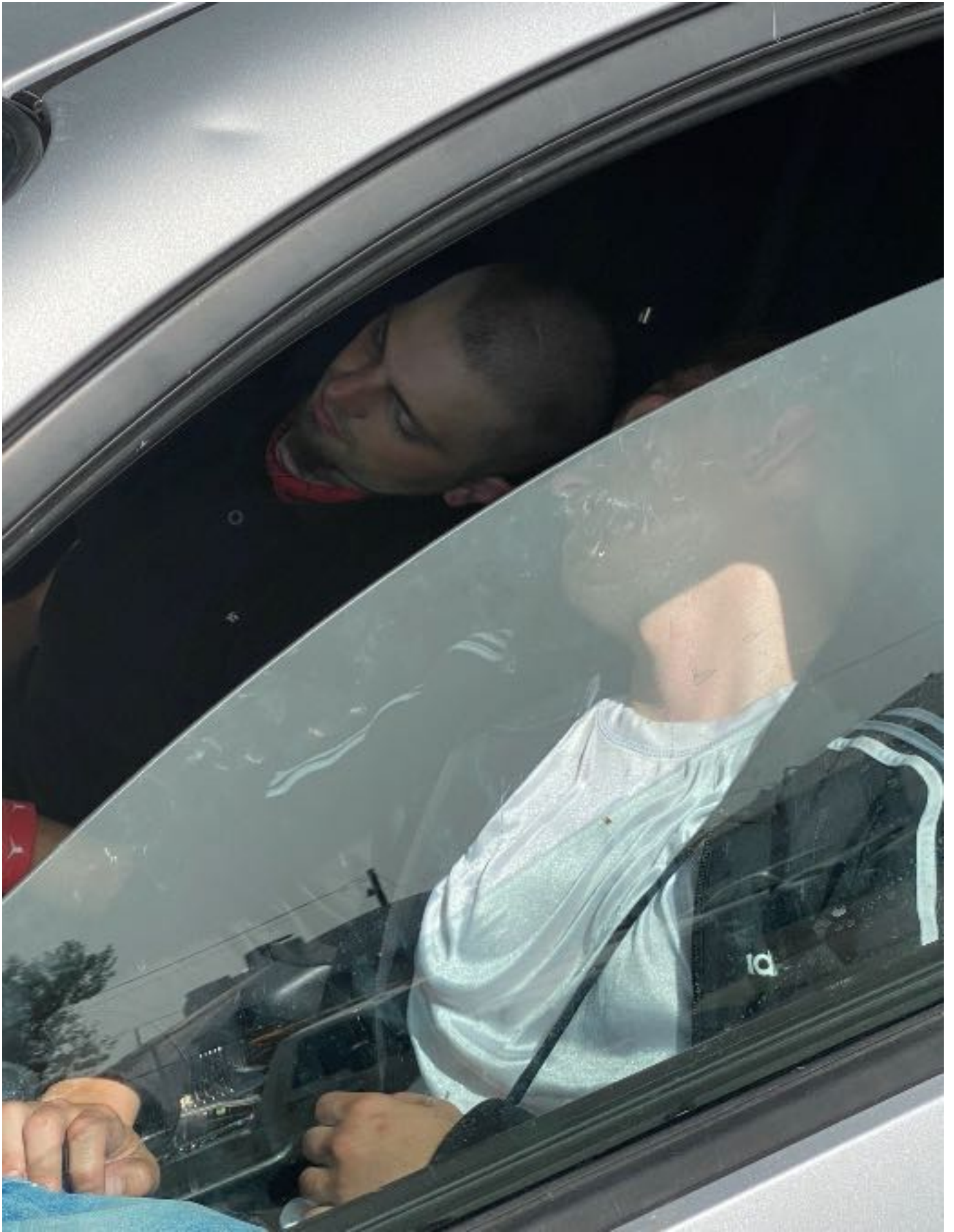






Exhibit Q - Proximity to TRAX



Paton Ave

200 W

200





Paxton Ave











Exhibit R - Email from Neighbor

From: **Mycal Whitlock** <mycal@friendship-manor.com>
Date: Fri, May 28, 2021 at 4:10 PM
Subject: Ballpark Neighborhood
To: Mycal Whitlock <airmikee99@yahoo.com>, <Clintzward@gmail.com>

To Whom it May Concern,

My name is Mycal Whitlock. I have lived in the Ballpark neighborhood on Paxton Avenue for 9 years now, and while I love the area and my neighbors, it has some unique challenges that I have never experienced in the Salt Lake valley.

Being a one minute walk from the Ballpark TRAX Station, and a couple blocks away from Adult Probation & Parole, and now being halfway between two of the new homeless resource centers brings a steady stream of interesting and strange people to the neighborhood.

I have had people walk into my backyard and then run away after they find me there. Someone once stole a bicycle from my backyard, then returned it and stole a hoola hoop right in front of me. Someone has tried to break into the house, tearing open a screen and trying to wedge open a window, while I was home. I've had someone break padlocks off shed doors. I've seen countless people using the alley behind the house as a bathroom, and very few of them have even cared when I yelled at them to stop. I've heard far scarier tales from neighbors.

Other neighborhoods I've lived in do not experience the same foot traffic that we experience, and residents living there may not have a need for larger fences that offer more privacy and difficulty to climb. But those of us living in this neighborhood should be able to protect ourselves and our property from those that would do us harm.

Thank you,

Mycal Whitlock

Exhibit S - Letter from Neighbor

5/27/2021

Dear Department of Community and Neighborhoods Salt Lake City Corporation Members,

I am reaching out regarding Clint Ward's appeal (Petition PLNPCM2021-00276 (179 W. Paxton) and asking the department to consider and approve his appeal.

While the fence adds curb appeal, I believe, as Mr. Ward's neighbor, that its true merit is security. Bordered by the 7-11 on West Temple, which harbors a tremendous amount of suspect activity, the poorly lit Freeman retention pond, the Trax stop, and the Volunteers of America Center, our neighborhood sees a high amount of foot traffic. Unfortunately, much of it is disruptive and prone to committing vandalism. When coupled with a light police presence and bereft of adequate street lighting on the midsection and west end of Paxton Ave, this creates a conducive environment for drug use, public indecency, and the aforementioned vandalism.

My fence has had holes cut in it (picture attached). Transients (when not "sleeping" on our parking strips—I've had to make my fair share of wellness check calls) frequently check doors and windows. Mr. Ward's fence gives transients one less reason to stop on Paxton on the way to and from the VOA Center or to sleep at the abandoned Mrs. Field's facility. Our neighborhood is slowly transitioning to more owner-occupied homes, and with that comes inevitable improvements and the "hardening" of homes.

As Salt Lake City residents, we know that crime-fighting resources are understandably stretched thin. As such, I encourage you to allow homeowners to take additional measures to protect their property and personal security. Societal shifts have emboldened much of the unhoused populace to menace, lurk, and endanger. I hope that the city sees fit to allow residents an additional layer of security and peace of mind.

Please consider my support of Mr. Ward in granting permission to maintain his fencing.

Best regards,

Paul Garcia

182 W. Paxton Ave

414-207-7481



Exhibit T - Cars behind fence



Exhibit U - Before and After













































Exhibit V - Front yard fences









Paxton Ave









ATTACHMENT F – SPECIAL EXCEPTION STANDARDS

21A.52.060 – SPECIAL EXCEPTIONS GENERAL STANDARDS

STANDARD	ANALYSIS	FINDING
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.	The underlying zone encourages uses which are compatible with the existing development pattern. While the proposed fence is out of scale with the fences on the surrounding properties the use itself is consistent with the existing development pattern in that the subject property is a single family residence in a moderate density neighborhood.	Complies
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.	While the fence is not in keeping with the existing character of the neighborhood it is not anticipated to impact property values in the surrounding area.	Complies
C. No Undue Adverse Impact: The proposed use and development will not have a material adverse impact upon the character of the area or the public health, safety and general welfare.	The subject property is an existing single family home which is in keeping with the land uses in the surrounding area, however, no other property in the subject neighborhood has a fence as tall as the one requested and partially constructed by the homeowner.	Does not comply
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.	The subject property is an existing single family home which is in keeping with the land uses in the surrounding area, however, no other property in the subject neighborhood has a fence as tall as the one requested and partially constructed by the homeowner.	Does not comply
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.	The installation of the fence is not anticipated to cause any effect whatsoever on any natural, scenic or historic features.	Complies
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.	The proposed fence will not cause any material air, water, soil, noise, or other pollution outside of what is already generated (and anticipated) by the existing single family home.	Complies

G. Compliance with Standards: The proposed use and development complies with all additional standards imposed on it pursuant to this chapter.	The proposed fence does not comply with all of the additional standards listed below.	Does not comply
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21A.52.030(A)(3)– OVER HEIGHT FENCE STANDARDS: 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. Approval of fences, walls and other similar structures may be granted under the following circumstances subject to compliance with other applicable requirements:

STANDARDS	FINDING	COMPLIES ?
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;	The fence, both existing and proposed, is a solid sight-obscuring wooden fence and is not a minimum of 80% open structure.	Does not comply
b. Exceeding the allowable height limits on any corner lot; unless the city's traffic engineer determines that permitting the additional height would cause an unsafe traffic condition;	The subject property is an interior lot; this clause does not apply.	Not Applicable
c. Incorporation of ornamental features or architectural embellishments which extend above the allowable height limits;	The Applicant did not request the special exception to allow for the incorporation of ornamental features or embellishments on top of the fence.	Not Applicable
d. Exceeding the allowable height limits, when erected around schools and approved recreational uses which require special height considerations;	The subject property is a single family home and is not the site of a school or approved recreational use.	Not Applicable
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	The subject property is located in an existing neighborhood subject to the same safety and noise conditions. Other homes in this neighborhood have not installed 8' tall privacy fences as security measures. The Applicant's submittal materials from March 26, 2021 stated a general safety concern however no	Does not comply

aesthetics;	photographs or other documentation of safety concerns were included.	
f. Keeping within the character of the neighborhood and urban design of the city;	Other homes in the surrounding neighborhood have not installed privacy fences to the same height as the fence on Mr. Ward's property. The majority of properties have privacy fences at 6 feet in height or lower.	Does not comply
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, or;	A few homes in the surrounding neighborhood have fenced front yards but these fences are chain link or aluminum and do not obscure the view into the properties' front yards. The proposed wooden fence at Mr. Ward's property would obscure the view and create a walled-off effect that is not already present in the existing neighborhood.	Does not comply
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.	There is an existing parking area for the fourplex to the west of the subject property which is adjacent to the 8' portion of the homeowner's fence in the rear yard, however, this does not obstruct view from the driveway. The homeowner's garage opens directly onto this parking area where the alley runs by it; the fence does not obscure view from this garage either.	Not Applicable

ATTACHMENT G – PUBLIC PROCESS & COMMENTS

Notice of the public hearing for the proposal included:

- Early notification mailed April 14, 2021.
- Early notification period expired April 26, 2021.
- Decision issued May 20, 2021.

Public Input:

- Staff received email from Mr. Leo Paul Garcia in support of the homeowner's special exception request (April 25, 2021).
- Staff received phone call from Mr. Gianni Ellefsen in opposition to the homeowner's request. He indicated he is the owner of the fourplex and is concerned about the tenants' views from the eastern windows as well as drainage from snowmelt (April 28, 2021).