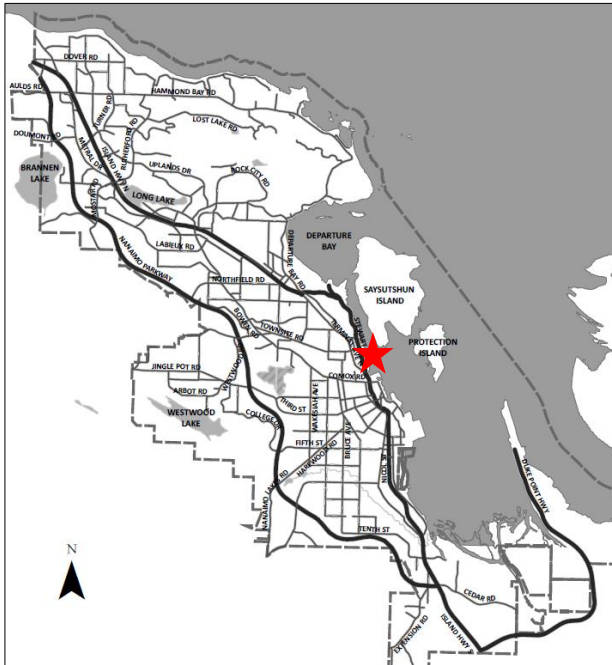


DATE OF MEETING | November 20, 2023

AUTHORED BY | CALEB HORN, PLANNER, CURRENT PLANNING

**SUBJECT** | **DEVELOPMENT PERMIT APPLICATION NO. DP1303 – 30 MT  
BENSON STREET**



**Proposal:**

To allow an overheight privacy wall and retaining wall



**Zoning:**

R8 – Medium Density Residential

**City Plan Land Use Designation:**

Suburban Neighbourhood

**Development Permit Areas:**

DPA8 – Form & Character

**Lot Area:**

1,618m<sup>2</sup>



## **OVERVIEW**

### **Purpose of Report**

To present for Council's consideration a development permit amendment application for overheight walls at 30 Mt Benson Street.

### **Recommendation**

That Council issue Development Permit No. DP1303 for an overheight privacy wall and retaining wall at 30 Mt Benson Street with variances as outlined in the "Proposed Variances" section of the Staff Report dated 2023-NOV-20.

## **BACKGROUND**

A development permit application, DP1303, was received from Don Saywell Developments Ltd., on behalf of D Robinson Holdings Ltd., to amend the previously issued Development Permit No. DP1181, with variances to the provisions of the "City of Nanaimo Zoning Bylaw 2011 No. 4500" (the "Zoning Bylaw") in order to increase the maximum allowable height for a fence in the side yard setback at 30 Mt Benson Street.

Development Permit No. DP1181 was approved on 2020-SEP-30 for an external renovation to an existing multi-family residential building and included the redevelopment of the perimeter landscaping. The applicant has substantially completed the building renovations and much of the landscaping. During construction, a fence was removed and replaced with an overheight privacy wall which requires an amendment to DP1181 and a height variance.

### **Subject Property and Site Context**

The subject property is located in the Newcastle Neighbourhood at the intersection of Mt Benson Street and Newcastle Avenue, directly across from the Waterfront Walkway. Neighbouring uses include single residential dwellings to the north and west, and an eight-storey multi-family residential building across Mt Benson Street to the south. A development permit for a 17-unit residential project, DP1234, was approved in 2022 for the property at 345 Newcastle Avenue to the north.

## **DISCUSSION**

### **Proposed Development**

A privacy wall has been constructed to enclose a private ground-level patio on the north side of the building that was originally proposed to be fenced. Given the grade change onsite, the privacy wall has been constructed on top of a retaining wall on the north property line. Additional terraced retaining walls face Newcastle Avenue to the east. The wall consists of a stucco material that matches the cladding of the building, and a window facing Newcastle Avenue has been installed to provide transparency and mitigate a blank wall. A gated pedestrian connection between the patio and the street shown in DP1181 has not been constructed due to security concerns; however, alternate access is provided via a private staircase that connects the patio with the parking lot to the rear.

## Proposed Variance

### *Maximum Allowable Fence Height*

The Zoning Bylaw considers an exterior privacy wall as a fence, and fence height is measured as the combined height of a fence and any underlying retaining wall. The maximum allowable fence height in the side yard in the R8 zone is 2.4m. The combined retaining wall and privacy wall height at its highest point is 4.0m, a requested variance of 1.6m.

In order to mitigate the visual impact of the wall, the applicant will be providing additional landscaping in the terraced retaining wall facing Newcastle Avenue. The wall provides privacy for residents, and the design complements the existing development. The adjacent property owner to the north has indicated they are supportive of the height variance.

Staff support the proposed variance.

### **SUMMARY POINTS**

- Development Permit Application No. DP1303 proposes to amend previously issued DP1181 and permit an overheight privacy wall and retaining wall.
- A variance is requested to increase the maximum permitted fence and retaining wall height in a side yard setback from 2.4m to 4.0m.
- Staff support the proposed variance.

### **ATTACHMENTS**

ATTACHMENT A: Permit Terms and Conditions  
ATTACHMENT B: Subject Property Map  
ATTACHMENT C: Site Plan  
ATTACHMENT D: Elevations  
ATTACHMENT E: Context Photos

#### **Submitted by:**

Lainya Rowett  
Manager, Current Planning

#### **Concurrence by:**

Jeremy Holm  
Director, Planning & Development

# ATTACHMENT A

## PERMIT TERMS & CONDITIONS

### TERMS OF PERMIT

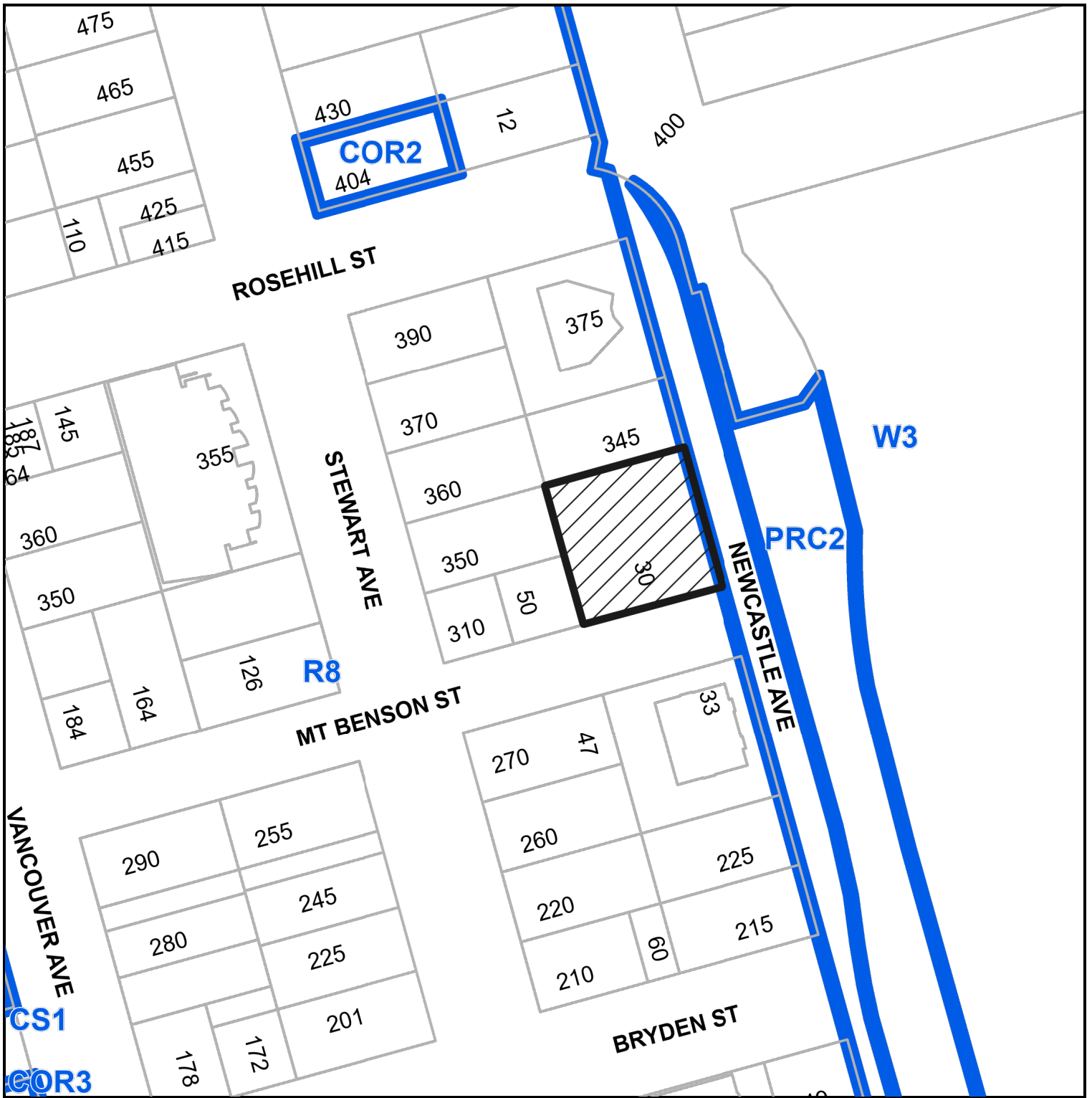
The “City of Nanaimo Bylaw 2011 No. 4500” is varied as follows:

1. *Section 6.10 Fence Height* – to increase the maximum permitted combined fence and retaining wall height within the side yard setback from 2.4m to 4.0m, as proposed.

### CONDITIONS OF PERMIT

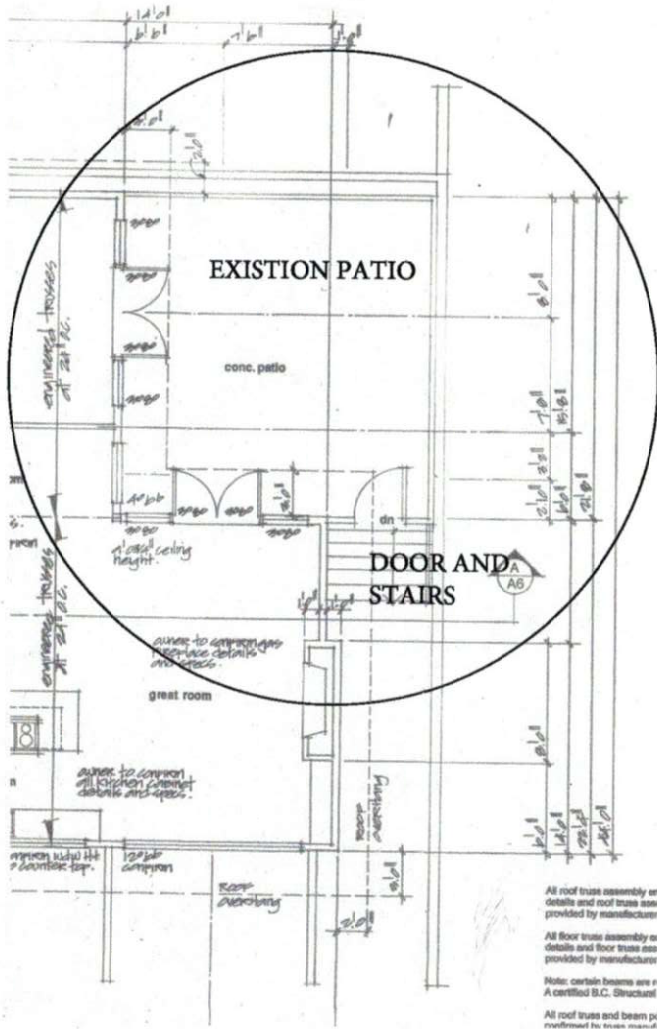
1. The subject property shall be developed in substantial compliance with the Site Plan prepared by D Robinson Holdings Ltd., received 2023-AUG-29, as shown on Attachment C.
2. The subject property shall be developed in substantial compliance with the Elevations prepared by D Robinson Holdings Ltd., received 2023-AUG-29, as shown on Attachment D.

ATTACHMENT B  
SUBJECT PROPERTY MAP

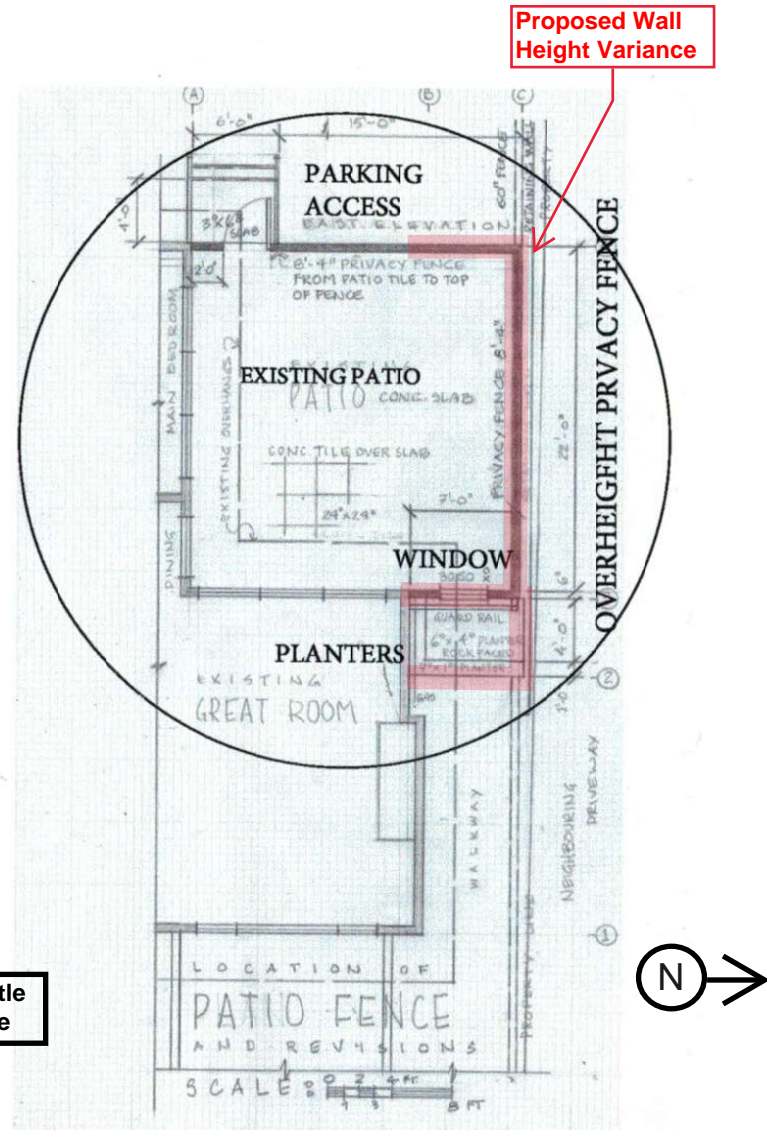


 30 Mt Benson Street

# ATTACHMENT C SITE PLAN

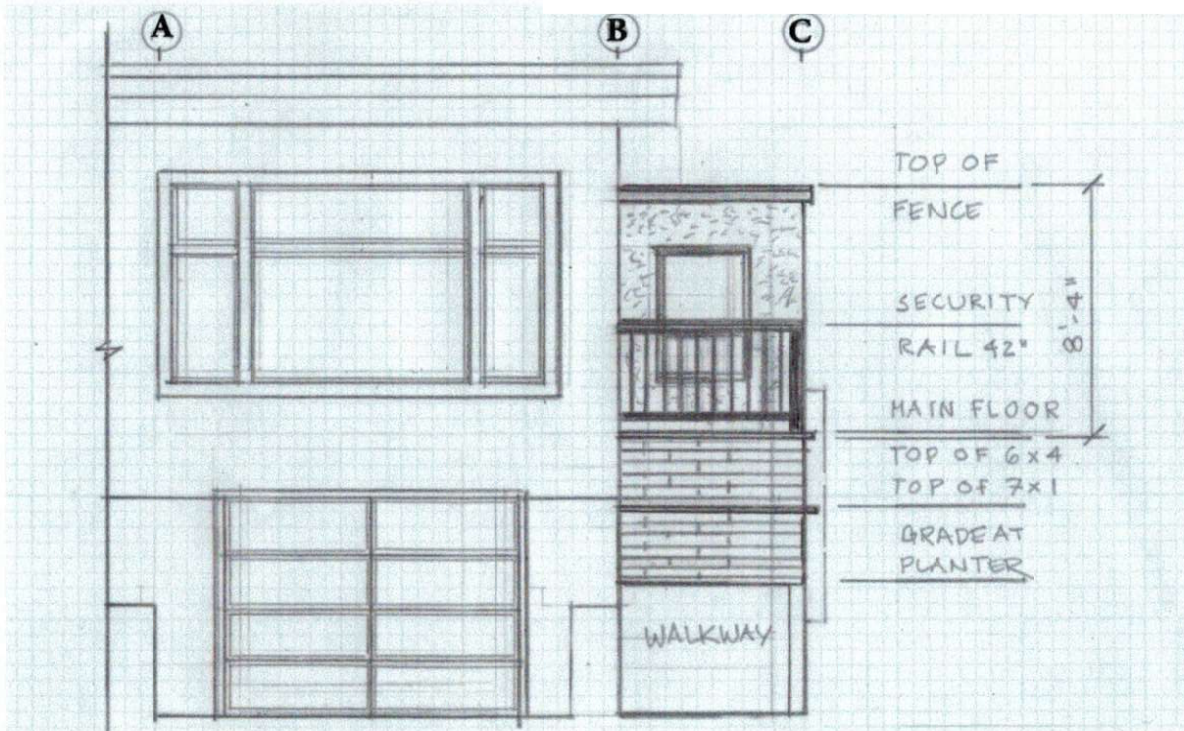


PATIO AREA LOCATION ON PERMIT DRAWINGS



REVISIONS - PATIO PRIVACY FENCE WALL AND PLANTER INSTALLATION C/W SECURITY GUARD

RECEIVED  
DP1303  
2023-AUG-29  
Current Planning



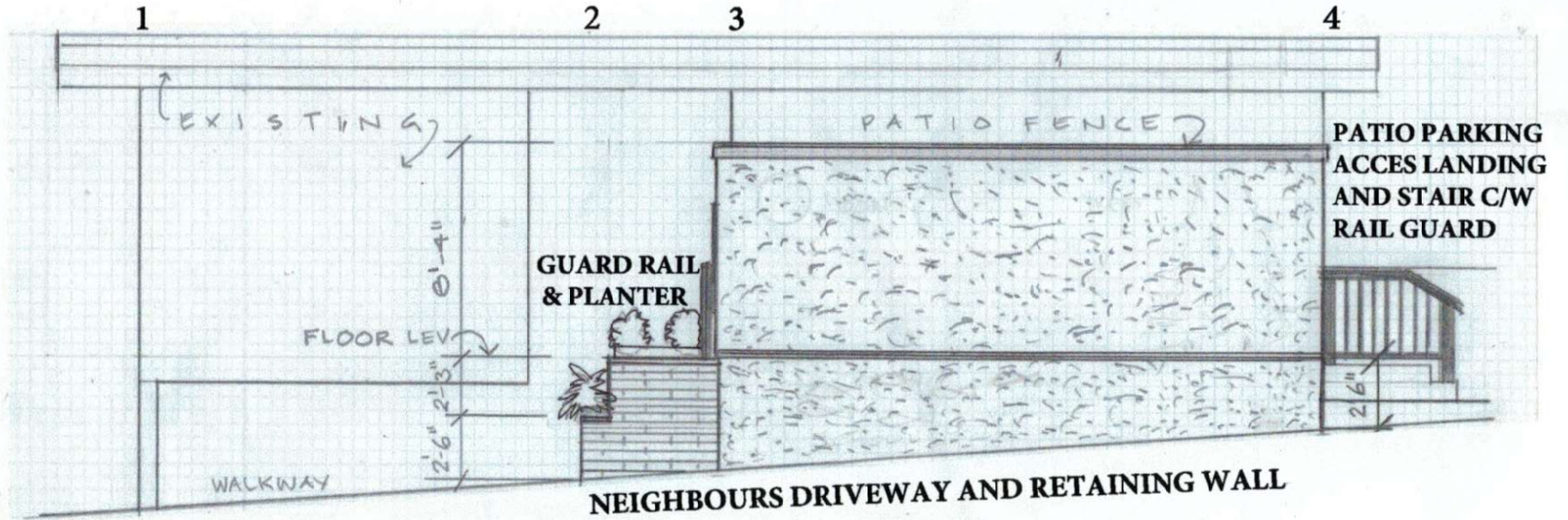
**333 NEWCASTLE AVENUE  
EAST ELEVATION NORTH CORNER  
AREA OF REVISION TO PERMIT**

**WALKWAY LANDSCAPE AS BUILT**

- \* REMOVED PLANNED STAIRS AND PATIO DOORWAY
- \* BUILT PRIVACY FENCE WALL 8FT 4IN ABOVE PATIO FLOOR LEVEL
- \* INSTALL 36X60 WINDOW C/W 42 in. SECURITY RAIL
- \* INSTALLED ROCK FACED TIERED PLANTER
- \* ALL FINISHES MATCH PERMIT REQUIREMENTS

LOCATION OF NEIGHBOUR IMPACT OF  
OVERSIGHT PRIVACY FENCE IS ALONG  
WALL C NEAR PROPERTY LINES AND  
NEIGHBOURING DRIVEWAY.

**EAST ELEVATION**



**333 NEWCASTLE NORTH ELEVATION ALONG PATIO PRIVACY FENCE WALL C**

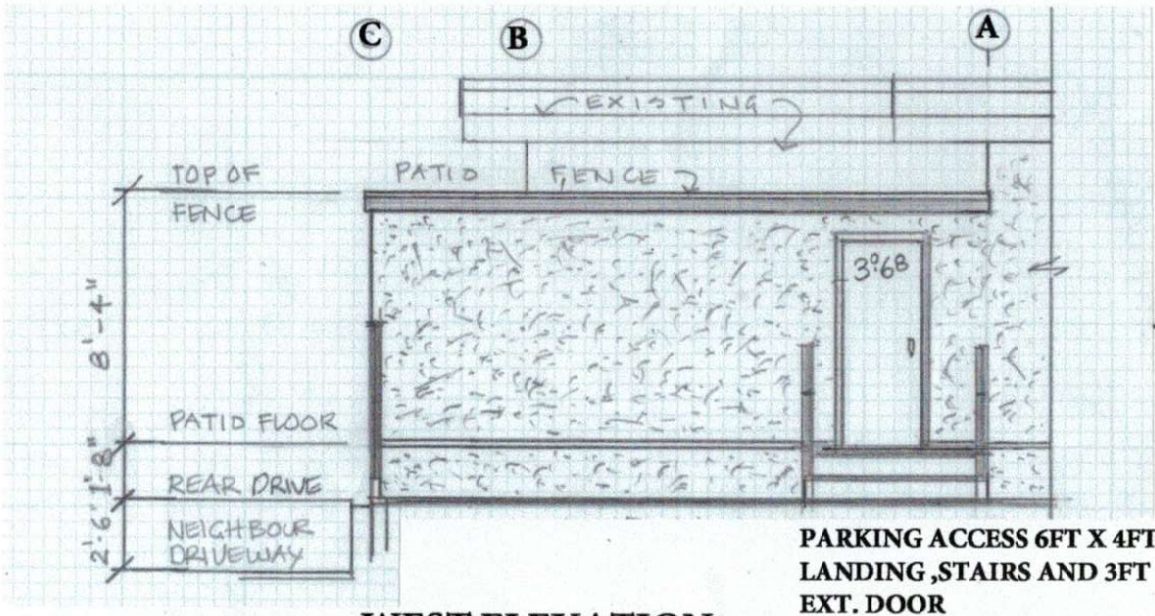


**NORTH SIDE PRIOR TO BUILDING PERMIT**



**NORTH SIDE PRIVACY FENCE CONSTRUCTION  
NORTH ELVATION**

**RECEIVED**  
**DP1303**  
**2023-AUG-29**  
Current Planning



**WEST ELEVATION**

**RECEIVED**  
**DP1303**  
**2023-AUG-29**  
Current Planning

**ATTACHMENT E  
CONTEXT PHOTOS**

333 NEWCASTLE AVE. AS BUILT IMAGES



NORTH CORNER AT NEIGHBOURS DRIVEWAY



PATIO PRIVACY FENCE WALL NORTH SIDE AS BUILT  
SECURITY GUARD RAIL TO MATCH POWDER COATED  
RAILINGS TO BE INSTALLED AT WINDOW EXT. FACE



REVISION - DOOR & STAIRS REMOVED ADDED  
3FT X 5FT WINDOW WITH 6FT X 4FT AND 1FT X 7FT  
TWO LEVEL STONE FACED PLANTER



WESTERN ELEVATION PATIO ACCESS LANDING

**AS BUILT IMAGES**

**RECEIVED**  
**DP1303**  
**2023-AUG-29**  
Current Planning