



**City of Portland, Oregon**  
**Bureau of Development Services**  
**Land Use Services**

FROM CONCEPT TO CONSTRUCTION

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**Date:** March 2, 2015  
**To:** Interested Person  
**From:** Sheila Frugoli, Land Use Services  
503-823-7817 / [Sheila.Frugoli@portlandoregon.gov](mailto:Sheila.Frugoli@portlandoregon.gov)

## **NOTICE OF A TYPE II DECISION ON A PROPOSAL IN YOUR NEIGHBORHOOD**

The Bureau of Development Services has **approved** a proposal in your neighborhood. The mailed copy of this document is only a summary of the decision. The reasons for the decision, including the written response to the approval criteria and to public comments received on this application, are included in the version located on the BDS website <http://www.portlandonline.com/bds/index.cfm?c=46429>. Click on the District Coalition then scroll to the relevant Neighborhood, and case number. If you disagree with the decision, you can appeal. Information on how to do so is included at the end of this decision.

### **CASE FILE NUMBER: LU 15-104193 AD**

#### **GENERAL INFORMATION**

**Applicant:** Bill Raglione, Contractor  
Raglione Construction / 5714 NW 57th Ave / Portland OR 97210

**Owner:** Marly Roncken  
2623 NW Northrup St / Portland OR 97210-2842

**Site Address:** 2623 NW NORTHRUP ST

**Legal Description:** BLOCK 26 LOT 6, GOLDSMITHS ADD  
**Tax Account No.:** R331304690  
**State ID No.:** 1N1E32AA 06000  
**Quarter Section:** 2926  
**Neighborhood:** Northwest District, contact John Bradley at 503-313-7574.  
**Business District:** None  
**District Coalition:** Neighbors West/Northwest, contact Mark Sieber at 503-823-4212.  
**Zoning:** R5, Single-Dwelling Residential 5,000 zone.  
**Case Type:** AD, Adjustment Review  
**Procedure:** Type II, an administrative decision with appeal to the Adjustment Committee.

**Proposal:** The applicant is requesting an Adjustment to increase the allowed fence height within the front building setback area from 3.5 to 7.5 feet for a new fence and gate. The front setback area is the first 10 feet from the front property line. Fences may be as tall as 8 feet along other side and rear property lines. The proposed fence will be located at the east property line, constructed on a concrete edge or retaining wall. The fence height, from ground level, is at its tallest point 7.5 feet. The proposed fence panels will be less than 7 feet in height.

#### **Relevant Approval Criteria:**

In order to be approved, this proposal must comply with the approval criteria of Title 33. The relevant approval criteria are 33.805.040.A-F, Adjustments.

## ANALYSIS

**Site and Vicinity:** The subject site is located near the terminus of NW Northrup Street. A public stairway provides a connection from Northrup to NW Cornell Road, which is elevated above. This segment of NW Northrup cuts through a hill side. The homes, on the street on the south side of the street, are elevated above the right-of-way. The properties on the north side, including the subject site are sloped down from the street. There are retaining and concrete walls, dense landscaping and fencing in the front setback areas of many of the nearby homes. The eastern abutting lot has an approximate 8-foot tall lattice-style fence that runs along a portion of the front and side property lines. The subject property and other nearby homes reflect the architectural period of the early 1900s.

**Zoning:** The site and surrounding properties are located in an R5, Single-Dwelling Residential 5,000 zone. The regulations of the Single-Dwelling zones are intended to create, maintain and promote single-dwelling neighborhoods. The development standards work together to preserve the character of neighborhoods, and promote desirable residential areas by addressing aesthetically pleasing environments, safety, privacy, energy conservation, and recreational opportunities. The site development standards allow for flexibility of development while maintaining compatibility within the City's various neighborhoods.

**Land Use History:** City records indicate there are no prior land use reviews for this site.

**Agency Review:** A "Notice of Proposal in Your Neighborhood" was mailed **January 27, 2015**. The Bureau of Transportation Engineering responded with the following comments:

Portland Transportation/Development Review (PBOT) has reviewed the application for its potential impacts regarding the public right-of-way, traffic impacts and conformance with adopted policies, street designations, Title 33, Title 17, and for potential impacts upon transportation services.

The applicant is requesting an adjustment to increase the allowed fence height within the front building setback area from 3.5-ft to 7.5-ft. The site has a 16-ft wide pedestrian corridor which exceeds the standards of the City's Pedestrian Design Guide. As such, PBOT does not object to the increase in fence height in the front setback as the existing width of the pedestrian corridor will afford adequate queuing space/sight distance between the backing driver and the driver/pedestrian on NW Northrup. (Exhibit E.1)

**Neighborhood Review:** No written responses have been received from either the Neighborhood Association or notified property owners in response to the Notice of Proposal.

## ZONING CODE APPROVAL CRITERIA

Adjustment requests will be approved if the review body finds that the applicant has shown that approval criteria A. through F. below have been met.

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

**Findings:** The purpose statement regarding fences is as follows:

### **33.110.255 Fences**

*Purpose: The fence standards promote the positive benefits of fences without negatively impacting the community or endangering the 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. These standards are intended to promote the positive aspects of fences and to limit the negative ones.*

The applicant is requesting an Adjustment to increase the fence height allowance from 3.5 feet to 7.5 feet for a portion of a new fence that will follow the east property line and be located within the required 10-foot front setback area. The proposed fence will consist of 5.5 foot-wide decorative wood panels attached to cedar posts. The fence will be constructed on a retaining wall. The proposed fence complies with Zoning Code height restrictions, except for a 10-foot length that is located within the front setback area.

This request responds to the purpose of the fence regulations as follows:

**Provide privacy and protect children and pets from busy streets:** Most of the proposed fence will be located outside of the required fence setback area. The proposed fence will provide privacy and enclosure for the residents of the home. The applicant submitted a letter from the eastern abutting property owners that states support for the fence and the privacy it will afford. Staff doubts that the street is busy with vehicle traffic but given the public stairway that is located at the terminus of the street, there may be numerous pedestrians who use this connection between the Hillside Neighborhood and the Northwest District.

**Safety and Surveillance:** The Bureau of Transportation (PBOT) staff determined that the fence would not impact to the public transportation system. The street facing windows and front door will not be obstructed by the fence. Therefore, surveillance opportunities of pedestrians and vehicles on NW Northrup will not be significantly reduced.

**Sense of Community:** There is an existing tall fence that runs along the east property line. The proposed new fence will not create a “fortress-like” feeling. The proposed fence will not stand out or create a barrier between the subject residence and the neighborhood.

**Appearance:** The proposed fence is comprised of decorative vertical boards attached to capped wooden posts. The submitted plans illustrate a fence that will to be well-constructed and attractive.

For the reasons stated above, this approval criterion is met.

- B.** If in a residential zone, the proposal will not significantly detract from the livability or appearance of the residential area, or if in an 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

**Findings:** As stated under criterion A, the portion of the fence located within the front setback area will not significantly detract from the appearance and character of NW Northrup Street, a designated local traffic street. This criterion is met.

- 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

**Findings:** Only one adjustment is requested. This criterion is not applicable.

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

**Findings:** There are no such resources present on the site; this criterion is not applicable.

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

**Findings:** There are no significant impacts that would result from granting the requested adjustment. Therefore no mitigation is needed. This criterion is met.

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

**Findings:** The site is not within an environmental zone; this criterion is not applicable

## DEVELOPMENT STANDARDS

Unless specifically required in the approval criteria listed above, this proposal does not have to meet the development standards in order to be approved during this review process. The plans submitted for a building or zoning permit must demonstrate that all development standards of Title 33 can be met, or have received an Adjustment or Modification via a land use review prior to the approval of a building or zoning permit.

## CONCLUSIONS

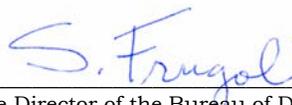
The fence does not mask the scale of the house or dominate the streetscape. The approval criteria are met for the fence and therefore this request should be approved.

## ADMINISTRATIVE DECISION

Approval of an Adjustment to increase the allowed fence height within a front setback area from 3.5 to 7.5 feet, per the approved plans, Exhibits C.1 and C.2, signed and dated February 26, 2015, subject to the following condition:

- A. As part of the building permit application submittal, each of the 4 required site plans and any additional drawings must reflect the information and design approved by this land use review as indicated in Exhibits C.1 and C.2. The sheets on which this information appears must be labeled, "Proposal and design as approved in Case File # LU 15-104193 AD."

**Staff Planner: Sheila Frugoli**

**Decision rendered by:**  **on February 26, 2015**  
By authority of the Director of the Bureau of Development Services

**Decision mailed: March 2, 2015**

**About this Decision.** This land use decision is **not a permit** for development. A Final Plat must be completed and recorded before the proposed lots can be sold or developed. Permits may be required prior to any work. Contact the Development Services Center at 503-823-7310 for information about permits.

**Procedural Information.** The application for this land use review was submitted on January 13, 2015, and was determined to be complete on **January 22, 2015**.

*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. Therefore this application was reviewed against the Zoning Code in effect on January 13, 2015.

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 waived or extended at the request of the applicant. In this case, the applicant did not waive or extend the 120-day review period.

**Some of the information contained in this report was provided by the applicant.**

As required by Section 33.800.060 of the Portland Zoning Code, the burden of proof is on the applicant to show that the approval criteria are met. The Bureau of Development Services has independently reviewed the information submitted by the applicant and has included this information only where the Bureau of Development Services has determined the information satisfactorily demonstrates compliance with the applicable approval criteria. This report is the decision of the Bureau of Development Services with input from other City and public agencies.

**Conditions of Approval.** If approved, this project may be subject to a number of specific conditions, listed above. Compliance with the applicable conditions of approval must be documented in all related permit applications. Plans and drawings submitted during the permitting process must illustrate how applicable conditions of approval are met. Any project elements that are specifically required by conditions of approval must be shown on the plans, and labeled as such.

These conditions of approval run with the land, unless modified by future land use reviews. As used in the conditions, the term “applicant” includes the applicant for this land use review, any person undertaking development pursuant to this land use review, the proprietor of the use or development approved by this land use review, and the current owner and future owners of the property subject to this land use review.

**Appealing this decision.** This decision may be appealed to the Adjustment Committee, which will hold a public hearing. Appeals must be filed **by 4:30 PM on March 16, 2015** at 1900 SW Fourth Ave. Appeals can be filed at the Development Services Center Monday through Wednesday and Fridays between 8:00 am to 3:00 pm and on Thursdays between 8:00 am to 12:00 pm. After 3:00 pm Monday through Wednesday and Fridays, and after 12:00 pm on Thursdays, appeals must be submitted at the reception desk on the 5<sup>th</sup> floor. **An appeal fee of \$250 will be charged.** The appeal fee will be refunded if the appellant prevails. There is no fee for ONI recognized organizations appealing a land use decision for property within the organization’s boundaries. The vote to appeal must be in accordance with the organization’s bylaws. Assistance in filing the appeal and information on fee waivers is available from BDS in the Development Services Center. Please see the appeal form for additional information.

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](http://www.portlandonline.com).

**Attending the hearing.** If this decision is appealed, a hearing will be scheduled, and you will be notified of the date and time of the hearing. The decision of the Adjustment Committee is final; any further appeal must be made to the Oregon Land Use Board of Appeals (LUBA) within 21 days of the date of mailing the decision, pursuant to ORS 197.620 and 197.830. Contact LUBA at 775 Summer St NE, Suite 330, Salem, Oregon 97301-1283, or phone 1-503-373-1265 for further information.

Failure to raise an issue by the close of the record at or following the final hearing on this case, in person or by letter, may preclude an appeal to the Land Use Board of Appeals (LUBA) on that issue. Also, if you do not raise an issue with enough specificity to give the Adjustment Committee an opportunity to respond to it, that also may preclude an appeal to LUBA on that issue.

**Recording the final decision.**

If this Land Use Review is approved, the final decision must be recorded with the Multnomah County Recorder.

A few days prior to the last day to appeal, the City will mail instructions to the applicant for recording the documents associated with their final land use decision.

- *Unless appealed,* The final decision may be recorded on or after **March 17, 2015 – (the day following the last day to appeal).**
- A building or zoning permit will be issued only after the final decision is recorded.

The applicant, builder, or a representative may record the final decision as follows:

- By Mail: Send the two recording sheets (sent in separate mailing) and the final Land Use Review decision with a check made payable to the Multnomah County Recorder to:

Multnomah County Recorder, P.O. Box 5007, Portland OR 97208. The recording fee is identified on the recording sheet. Please include a self-addressed, stamped envelope.

- In Person: Bring the two recording sheets (sent in separate mailing) and the final Land Use Review decision with a check made payable to the Multnomah County Recorder to the County Recorder's office located at 501 SE Hawthorne Boulevard, #158, Portland OR 97214. The recording fee is identified on the recording sheet.

For further information on recording, please call the County Recorder at 503-988-3034. For further information on your recording documents please call the Bureau of Development Services Land Use Services Division at 503-823-0625.

**Expiration of this approval.** An approval expires three years from the date the final decision is rendered unless:

- A building permit has been issued, or
- The approved activity has begun, or
- In situations involving only the creation of lots, the land division has been recorded.

**Applying for your permits.** A building permit, occupancy permit, or development permit may be required before carrying out an approved project. At the time they apply for a permit, permittees must demonstrate compliance with:

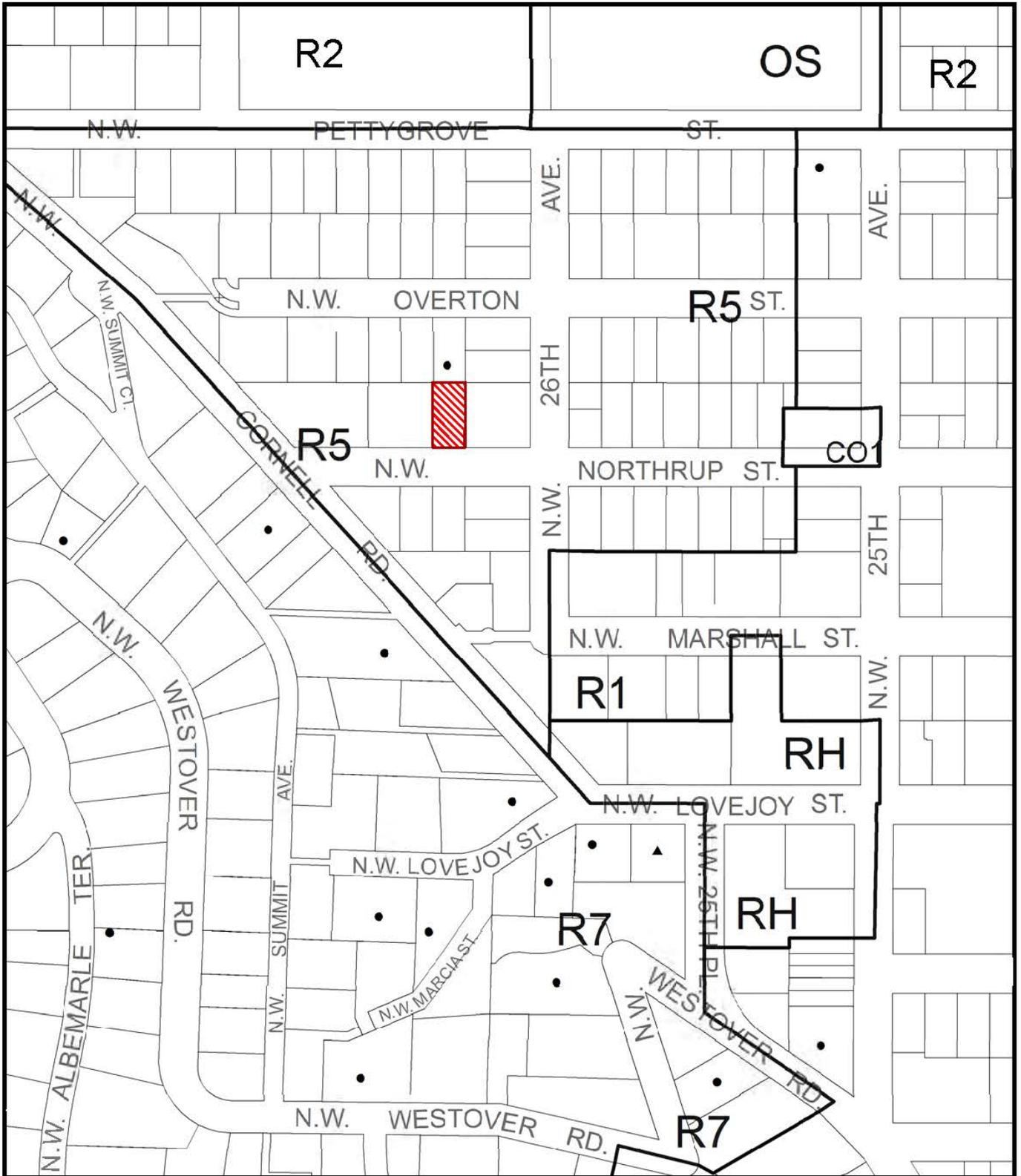
- All conditions imposed herein;
- All applicable development standards, unless specifically exempted as part of this land use review;
- All requirements of the building code; and
- All provisions of the Municipal Code of the City of Portland, and all other applicable ordinances, provisions and regulations of the City.

#### **EXHIBITS**

NOT ATTACHED UNLESS INDICATED

- A. Applicant's Statement
  - 1. Narrative
  - 2. Letter of Support from Eastern Abutting Neighbors
- B. Zoning Map (attached)
- C. Plans/Drawings:
  - 1. Site Plan (attached)
  - 2. East Fence Elevation (attached)
  - 3. South Fence Elevation
  - 4. Fence Specifications/Rear Elevation
  - 5. Interior East and West Fence Elevations
  - 6. Survey – Existing Development
  - 7. Photos of Fence under Construction
- D. Notification information:
  - 1. Mailing list
  - 2. Mailed notice
- E. Agency Responses:
  - 1. Bureau of Transportation Engineering and Development Review
- F. Correspondence: NONE
- G. Other:
  - 1. Original LU Application

**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).**



# ZONING



Site

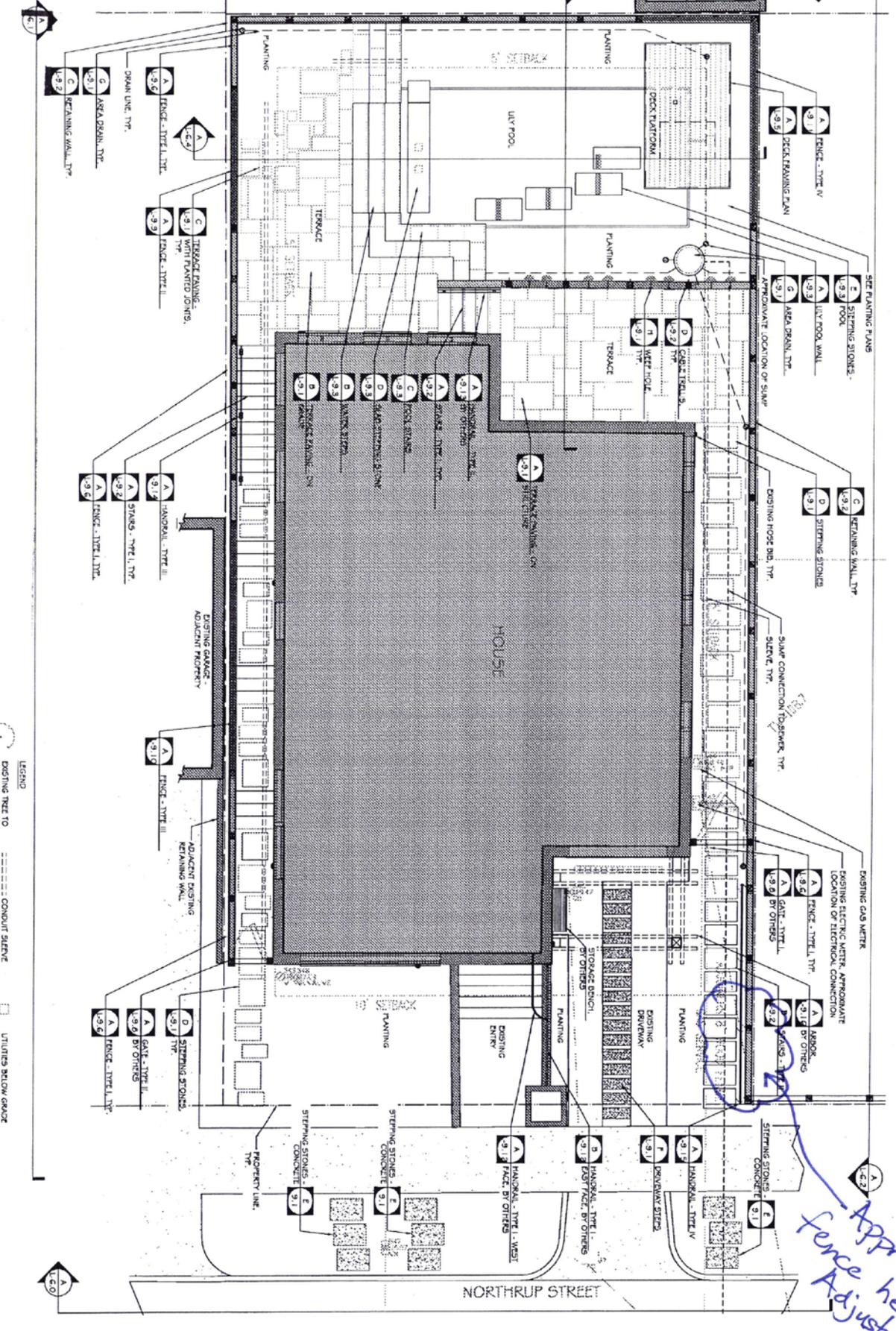


Historic Landmark



File No. LU 15-104193 AD  
 1/4 Section 2926  
 Scale 1 inch = 200 feet  
 State\_Id 1N1E32AA 6000  
 Exhibit B (Jan 14, 2015)

**Planner**  
 City of Portland - Bureau of Development Services  
 Approved\*  
 Planner: *S. Frings*  
 Date: *2-26-15*  
 Subject to all conditions of approval. Additional zoning requirements may apply.



*Approved fence height adjustment*

Sheet #	Title	Date	Revisions
L-3.0	MATERIALS PLAN	07.01.2014	

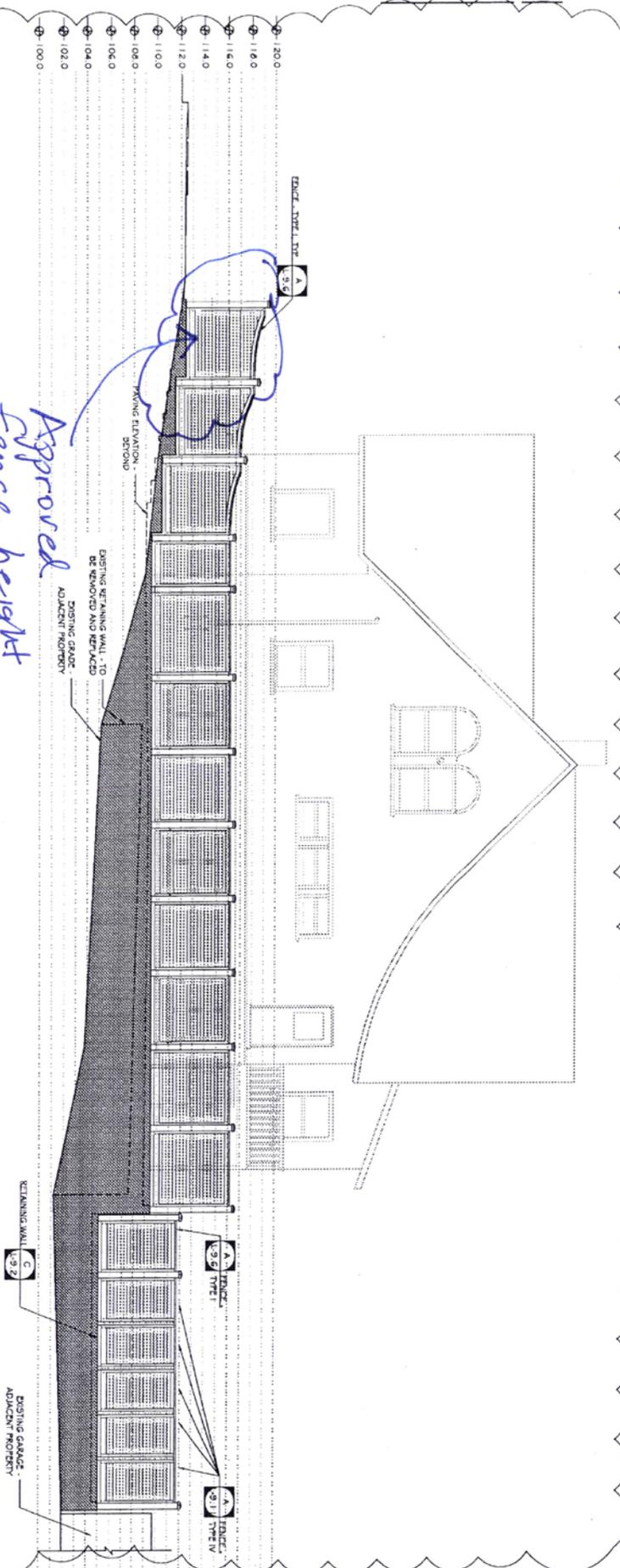
**RONCKEN SUTHERLAND**  
 2623 NW NORTHROP STREET  
 PORTLAND, OR 97210



LU 15-104193 AD EXH. C-1

**A** ELEVATION - EAST FACE  
1/8" = 1'-0"

*Approved  
Fence height  
Adjustment.*



**Planner** **\*Approved\***  
 \* This approval of Portland - Bureau of Development Services  
 conditions of approval. **Subject to all**  
 Planner **2-26-15** Date  
 \* This approval applies only for the reviews requested and is subject to all  
 conditions of approval. **Additional zoning requirements may apply.**

Sheet #	Title	Date	Revisions
L-6.2	ELEVATION - EAST FACE		
Project #	Date	Scale	
Drawn By	Checked By	Cal File	

**RONCKEN SUTHERLAND**  
 2623 NW NORTHROP STREET  
 PORTLAND, OR 97210

