



**STAFF REPORT
ACTION REQUIRED**

Request for a Fence Exemption – 225 Strathallan Wood

Date:	October 17, 2016
To:	North York Community Council
From:	Pat Burke, District Manager Municipal Licensing & Standards, North District
Wards:	Ward 16 – Eglinton-Lawrence
Reference Number:	IBMS No. 16-228488

SUMMARY

This staff report concerns a matter for which the North York Community Council has delegated authority from City Council to make a final decision.

The purpose of this report is to advise Community Council concerning an application by the property owner for a site-specific Fence Exemption, pursuant to Section 447-5.C of Toronto Municipal Code, Chapter 447- Fences. The property owner is seeking Community Council's permission to maintain the constructed wooden fences as part of the swimming pool enclosure in lieu of complying with the requirements for swimming pool enclosures stipulated in the City of Toronto Municipal Code Chapter 447.

RECOMMENDATIONS

Municipal Licensing & Standards recommends that the North York Community Council:

1. Refuse to grant the application for an exemption permit, by the property owner of 225 Strathallan Wood for the constructed wooden fences in lieu of complying with the requirements for swimming pool enclosures stipulated in City of Toronto Municipal Code Chapter 447. Direct that second un-appealable Notice of Violation be issued under City of Toronto Municipal Code, Chapter 447, Fences.

OR

2. Grant the application for a fence enclosure exemption, without conditions, thereby allowing the swimming pool enclosure to be maintained, as constructed and permit the wooden fences, as installed. Direct and require that the installation be maintained in good repair without alteration. Direct and require that at such time as replacement of the fence enclosure is required that such installation will comply with Municipal Code Chapter 447, or its successor by-law.

OR

3. Grant the application for a fence exemption permit, subject to any conditions as imposed by the North York Community Council. One condition to be considered is:

That the property owner/applicant files amended drawings detailing the final as built swimming pool enclosure fencing/conditions and have the amended drawings approved as part of the permit under File # 13-136051.

Financial Impact

There is no financial impact anticipated in this report.

DECISION HISTORY

No previous decision history.

ISSUE BACKGROUND

The subject property is a single family detached dwelling situated three blocks east of Bathurst Street and nine blocks south of Lawrence Avenue West, in Ward 16 (*Attachment # 1*).

On March 21, 2013, a permit was issued under File # 13-136051 to permit the installation of a swimming pool enclosure in compliance with Chapter 447(*Attachment # 2*). This permit approved a swimming pool enclosure that was maximum 2 metres in height and a 1.2 metre minimum height.

The Municipal Licensing and Standards Division confirmed that the rear yard fences utilized horizontal fence boards as part of a swimming pool enclosure and had other infractions of the swimming pool enclosure standards. The property owners at 223 and 227 Strathallan Wood have free-standing vertical-board fences on their properties abutting the offending horizontal-board fences on 225 Strathallan Wood's property. MLS Staff issued a Notice of Violation dated September 14, 2016 which has since been complied with – except for the horizontal board fence profile issue – the subject of this exemption application.

On September 19, 2016, the property owner applied for a fence exemption, outlining a proposal in which the constructed wood fences would form part of the swimming pool enclosure. These wood fences at the East, West and South elevations have horizontal boards on the pool side of the subject property, and on the abutting side of the neighboring properties at 223 and 227 Strathallan Wood and 428 Lytton Boulevard, which is not permitted. As required by Section 447-5(C), Municipal Licensing & Standards has responded to the fence enclosure exemption application by preparing this report for North York Community Council's consideration, and, the City Clerk has sent all requisite notifications of the date that the North York Community Council will consider the application.

Municipal Licensing Standards' review of the swimming pool fence enclosure installation has determined that it does not comply with Toronto Municipal Code, Chapter 447-Fences, as detailed in the following chart:

GENERAL LOCATION	SPECIFIC LOCATION	DEFICIENCY	BY-LAW SECTION & REQUIREMENT*
East, West and South Elevations	Rear Yard on the Property including the fences abutting the neighbouring properties at 223 and 227 Strathallan Wood and 428 Lytton Boulevard	Swimming pool enclosure is constructed with horizontal elements. Namely, the wooden boards are to be installed in a vertical manner. The constructed wooden fences at the East, West and South elevations of the rear yard, on the pool side as well as the neighbor-sides, comprise boards erected in a horizontal manner which would require an exemption.	Section 447-3E.(2)(b) A wood fence used in a swimming pool enclosure shall be constructed in a good, workmanlike manner as follows: [1] Vertical boards shall be not less than 19 millimetre by 89 millimetre lumber and shall be spaced not more than 38 millimetres apart where horizontal rails are spaced less than 1.2 metres apart and not more than 100 millimetres apart where horizontal rails are spaced at least 1.2 metres apart; and [2] Vertical boards shall be attached to horizontal rails that are not less than 38 millimetre by 89 millimetre lumber and that are supported on substantial posts with a minimum dimension of 89 millimetres spaced not more than 2.4 metres apart and embedded to a minimum depth of 900 millimetres below grade.

COMMENTS

The property owner is proposing that in lieu of complying with the deficiencies noted in the chart above that are contrary to the by-law and the issued permit under file # 13-136051,

that the existing horizontal board rear-yard fence profile [on the pool side and on the neighbor-side] at the East, West and South elevations be permitted to remain as is, instead. As the by-law does not permit horizontal board fence profiles, these conditions require an exemption from the regulations to be maintained, as built. (*Attachments # 3,4, 5 and 6*)

Horizontal elements forming part of any swimming pool enclosure create the potential for toe-holds and other conditions thereby making the swimming pool fence/enclosure easier to facilitate climbing. These conditions could compromise the minimum level of safety that the prescribed by-law regulations intend to establish/maintain. The intent of the swimming pool enclosure provisions in the by-law is to establish a certain level of safety or protection from an unauthorized breach of the enclosure. Any non-compliant enclosure [which makes potential access to the swimming pool area easier] can only be deemed to not meet this intended minimum level of safety.

The property owner seeks the exemption as they feel the fence design is an integral aspect of the design of the backyard. The applicants have also submitted letters of support from the affected neighbors at 223, 227 Strathallan Wood and 428 Lytton Boulevard. In each case, the affected owners support the application for the exemption and are completely satisfied with the fencing arrangements between their properties and the subject property.

We recommend that the entire swimming pool enclosure be installed so as to comply with all provisions of the City of Toronto's Municipal Code, Chapter 447- Fences.

CONTACT

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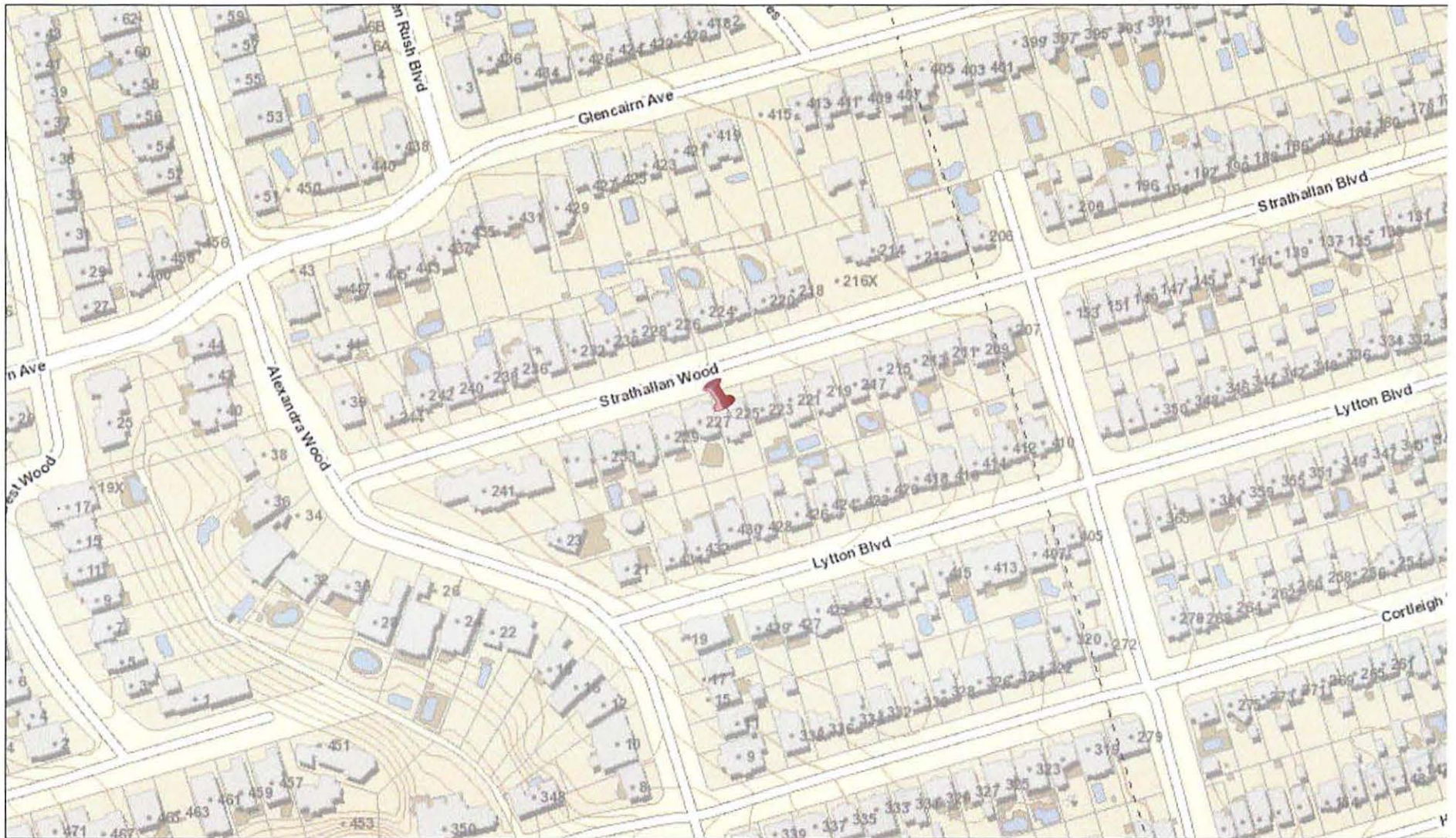
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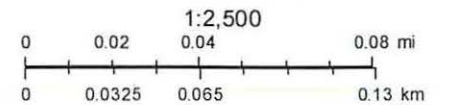
Pat Burke, North District Manager
Municipal Licensing & Standards Division

ATTACHMENTS

- Attachment 1 – Areal map of 225 Strathallan
- Attachment 2 – Permit Drawing for File # 13-136051
- Attachment 3 – Photo # 1 Showing the Horizontal Fence Profile
- Attachment 4 – Photo # 2 Showing the Horizontal Boards used in Gate
- Attachment 5 – Photo # 3 Showing the Fences at East Elevation
- Attachment 6 – Photo # 4 Showing the Fences at West Elevation

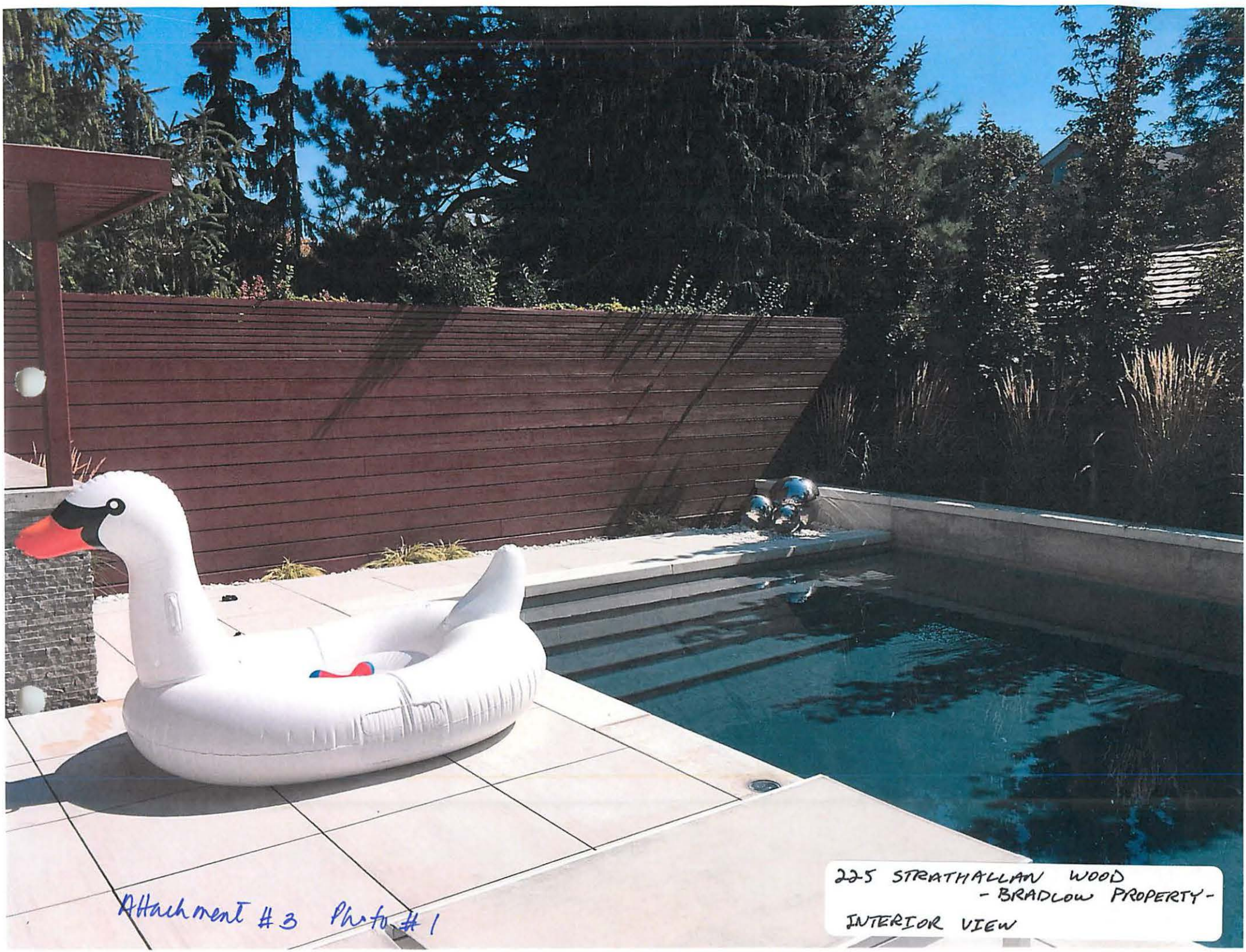


October 14, 2016



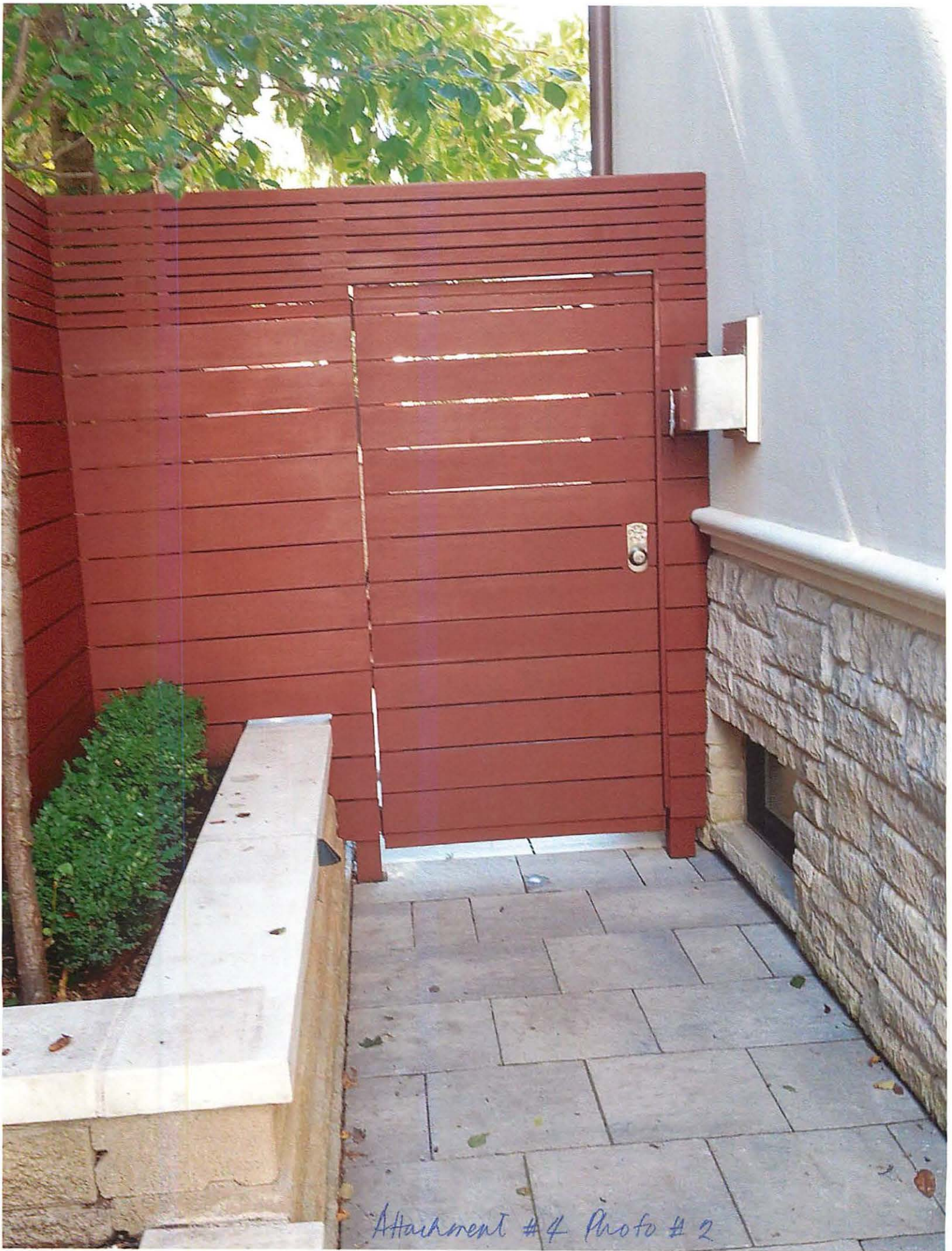
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Attachment #1 - Aerial Map of 225 Strathallan Wood



Attachment #3 Photo #1

225 STRATHALLAN WOOD
- BRADLOW PROPERTY -
INTERIOR VIEW

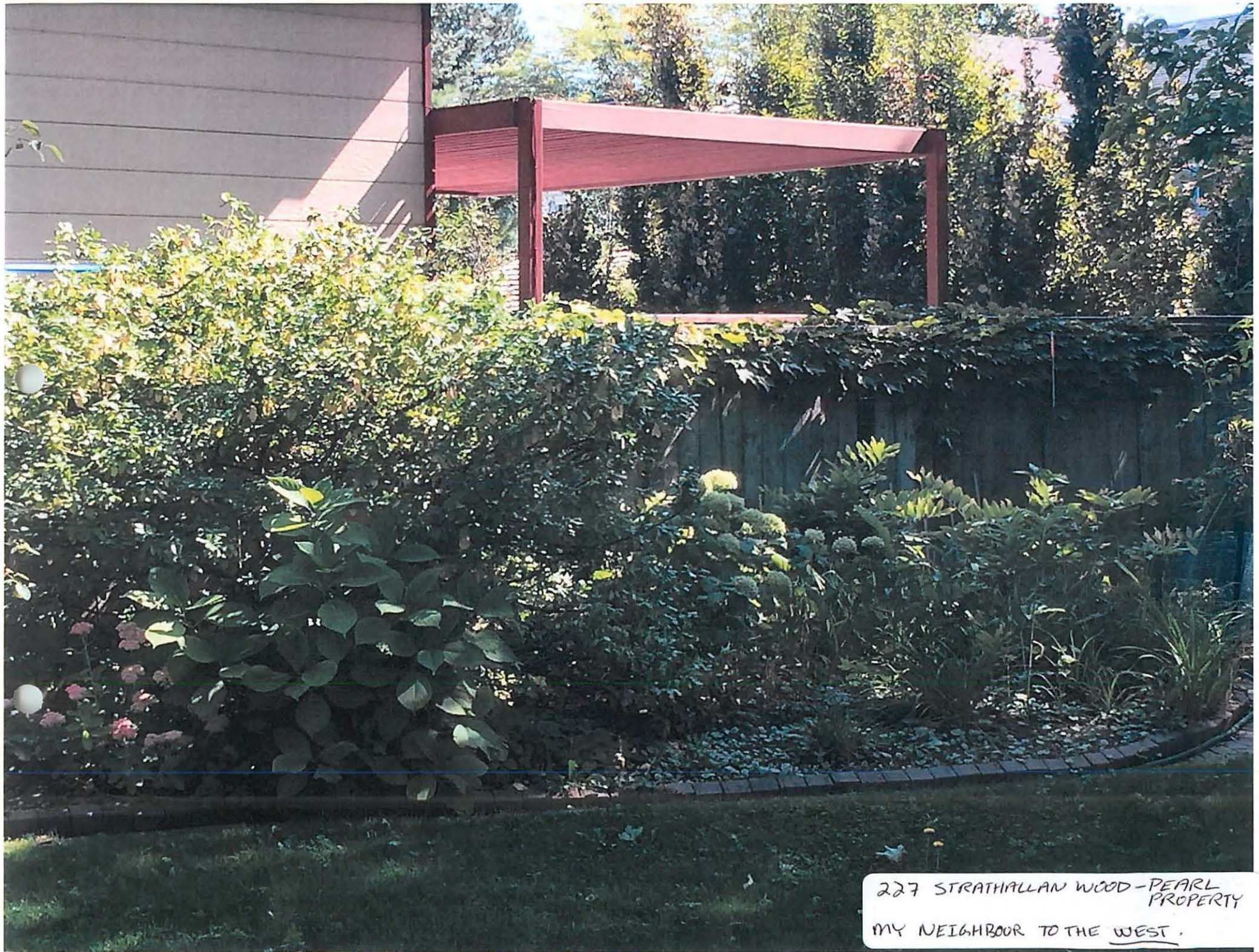


Attachment #4 Photo # 2



223 STRATHALLANWOOD
-GOLDMAN PROPERTY
MY NEIGHBOUR TO THE EAST.

Attachment #5 - Photo #3



227 STRATHALLAN WOOD - PEARL
PROPERTY
MY NEIGHBOUR TO THE WEST.

Attachment # 6 - Photo # 4