

November 26, 2020

**Subject Property:**  
4041 Lakeside Rd

Lot 23, Block 209, District Lot 190, Similkameen Division Yale  
District, Plan 466

**Application:**  
**Development Variance Permit PL2020-8868**

The applicant is currently finishing the construction of a single family dwelling on the subject property. Due to the unique location and grading on the subject property and adjacent lots, in order to complete the finished grade and finalize the parking and landscaping, retaining walls are required along the north and south side yards.

## Subject Property



The applicants are requesting a variance to the height of a retaining wall along the northern property line as follows:

1. Zoning Bylaw No. 2017-08, Section 5.6.2.1: to increase the maximum height of a retaining wall within a required yard from 1.2m to 3.66m above building grade.

### Information:

You can find the staff report to Council and Development Variance Permit PL2020-8868 on the City's website at [www.penticton.ca/latestannouncements](http://www.penticton.ca/latestannouncements). Select the Public Notice category.

Please contact the Planning Department at [planning@penticton.ca](mailto:planning@penticton.ca) or (250) 490-2501 with any questions.

### Council Consideration:

Council will consider the Development Variance Permit at its Regular Council Meeting scheduled for **1:00 pm, Tuesday, December 8, 2020.**

**In response to COVID-19, Regular Council meetings will remain closed to the public.** All meetings will be live streamed via the City's website at: [www.penticton.ca/city-hall/city-council/council-meetings](http://www.penticton.ca/city-hall/city-council/council-meetings). Select the 'Watch Live' button.

**Public Comments:**

Any person whose interest may be affected by the proposed Development Variance Permit, may submit a petition or written comments by mail or email no later than **9:30 am, Tuesday, December 8, 2020** to:

Attention: Corporate Officer, City of Penticton

171 Main Street, Penticton, B.C. V2A 5A9

Email: [corpadmin@penticton.ca](mailto:corpadmin@penticton.ca)

No letter, report or representation from the public will be received by Council after the conclusion of the December 8, 2020 Council Meeting.

**Please note** that all correspondence submitted to the City of Penticton in response to this Notice must include your name and address and will form part of the public record and will be published in a meeting agenda when this matter is before the Council or a Committee of Council. The City considers the author's name and address relevant to Council's consideration of this matter and will disclose this personal information. The author's phone number and email address is not relevant and should not be included in the correspondence if the author does not wish this personal information disclosed.

Audrey Tanguay  
Planning Manager

**Date:** December 8, 2020  
**To:** Donny van Dyk, Chief Administrative Officer  
**From:** Nicole Capewell, Planner 1  
**Address:** 4041 Lakeside Road  
**Subject:** Development Variance Permit PL2020-8868

File No: RMS/4041 Lakeside Rd

## Staff Recommendation

THAT Council approve "Development Variance Permit PL2020-8868" for Lot 23 Block 209 District Lot 190 Similkameen Division Yale District 466, located at 4041 Lakeside Road, a permit to vary Zoning Bylaw No 2017-08, Section 5.6.2.1 to increase the maximum height of a retaining wall within a required yard from 1.2m to 3.66m above building grade.

AND THAT Council direct staff to issue the permit.

## Strategic Priority Objective

**Community Vitality:** The City of Penticton will attract, promote and support sustainable growth and development congruent with the community's vision for the future.

## Proposal

The applicant is currently finishing the construction of a single family dwelling on the subject property. Due to the unique location and grading on the subject property and adjacent lots, in order to complete the finished grade and finalize the parking and landscaping, retaining walls are required along the north and south side yards (Attachment 'A'). The applicants are requesting a variance to the height of a retaining wall along the northern property line as follows:

1. Zoning Bylaw No. 2017-08, Section 5.6.2.1: to increase the maximum height of a retaining wall within a required yard from 1.2m to 3.66m above building grade.

The applicant has requested a maximum height of 3.66m (12 ft.), although the wall may be lower once the final grades are finished on the subject property and the neighbouring property to the north.



Figure 1 - Property Location Map

## Background

The subject property is located on the west side of Lakeside Road, adjacent to Skaha Lake (Figure 1). The property is zoned R1 (Large Lot Residential) and designated by the City's Official Community Plan (OCP) as Detached Residential. Photos of the site are included as Attachment 'D'. The subject property is approximately 245.0m<sup>2</sup> (2,637t<sup>2</sup>) in area. The lots drop sharply from Lakeside Road to Skaha Lake and are quite narrow at 9.1m in width. The lots are also affected by a City sewer easement that runs through the lower portion of the lots and are also affected by the riparian assessment area – a setback area from Skaha Lake where no building is permitted.

Despite these constraints, proposals for development have been coming forward on these lots given the current real estate market and desirability to live along the lakefront. Several neighbouring houses are currently under construction, which have all required at least one variance to allow for construction, as indicated in the table below.

Property	Variances	Date of Approval
4037 Lakeside Road	<ol style="list-style-type: none"> <li>1. Reduce front yard setback from 6.0m to 3.0m</li> <li>2. Reduce north interior side yard setback from 1.5m to 0.9m</li> <li>3. Increase retaining wall height from 1.2m to 4.3m</li> <li>4. Reduce distance of driveway from a property line from 0.5m to 0.0m</li> </ol>	November 5, 2019 DVP PL2019-8594
4039 Lakeside Road	<ol style="list-style-type: none"> <li>1. Reduce front yard setback from 6.0m to 3.0m</li> <li>2. Reduce south interior side yard setback from 1.5m to 0.9m</li> <li>3. Increase retaining wall height from 1.2m to 2.0m</li> <li>4. Reduce distance of driveway from a property line from 0.5m to 0.2m</li> </ol>	December 19, 2017 DVP PL2017-8103
	<ol style="list-style-type: none"> <li>5. Increase % of roof appurtenance over the maximum permitted height from 10% to 12.9%</li> <li>6. Reduce required parking from 2 spaces to 1 space</li> <li>7. Increase maximum building height from 10.5m to 11.2m</li> </ol>	November 5, 2019 DVP PL2019-8596
4041 Lakeside Road <b>*Subject Property</b>	<ol style="list-style-type: none"> <li>1. Reduce interior side yard from 1.5m to 1.0m</li> </ol>	December 18, 2018 DVP PL2018-8406
	<ol style="list-style-type: none"> <li>2. <b>Increase retaining wall height from 1.2m to 3.66m</b></li> </ol>	<b>Current request</b> <b>DVP PL2020-8868</b>
4043 Lakeside Road	<ol style="list-style-type: none"> <li>1. Reduce front yard setback from 6.0m to 3.0m</li> </ol>	November 20, 2018 DVP PL2018-8369



	2. Reduce interior side yard setback from 1.5m to 1.0m	
4045 Lakeside Road	1. Reduce front yard setback from 6.0m to 3.0m 2. Reduce interior side yard setback from 1.5m to 1.2m	March 20, 2018 DVP PL2018-8165
4047 Lakeside Road	1. Reduce front yard setback from 6.0m to 3.0m 2. Reduce interior side yard setback from 1.5m to 0.9m 3. Increase retaining wall height from 1.2m to 3.0m 4. To allow stairways to project into a required interior side yard	March 21, 2017 DVP PL2017-7830
4049 Lakeside Road	No development proposed	
4051 Lakeside Road	No development proposed	

As indicated in the table above, the subject property at 4041 Lakeside Road is currently the only property under development with only a single variance required to complete the construction. The development was able to successfully meet all other provisions of the Zoning Bylaw. However, as the development neared the end of construction, which includes finalizing grades, landscaping, stairs and parking, it has become clear that a retaining wall is now required to achieve the required grades, as described within the applicant's Letter of Intent (Attachment 'C'). Due to the grades on the property to the north (address) not being completed at this time, the property owner at 4041 Lakeside Road has been unable to finish their construction. In order to finalize their site, they have requested an increase in the permitted height of a retaining wall, so that they can finalize grades on the property.

### Technical Review

The subject application was reviewed by the City's Technical Planning Committee (TPC). Comments provided to the applicant included requirements for subsequent building permits including BC Building Code and Building Bylaw requirements for the retaining wall, should the variance be approved and construction of the wall proceed.

### Analysis

When considering a variance to a City bylaw, staff encourage Council to be mindful as to whether approval of the variance would cause a negative impact on neighbouring properties and if the variance request is reasonable. The proposed variance and staff's analysis are as follows:

1. Section 5.6.2.1: to increase the maximum height of a retaining wall within a required yard from 1.2m to 3.66m above building grade.
  - The requested variance is due to a hardship on the lot.
    - The applicants have requested a variance for the subject property to allow an increased retaining wall height due to the grades on the neighbouring property being unfinished.

- Without the grades of the property to the north being finalized (and completed), the subject property cannot finish their site grading, which includes required items such as parking and stairways on the property. Given that the grades to the north are not completed yet, the final height of the proposed retaining wall is not known.
- As the properties are very narrow in width, there isn't space or room available for the applicant to adjust the grade in an effort to minimize the height of the retaining wall.
- While the applicant has identified a maximum retaining wall height of 3.66m (12 ft.), it is possible after finishing the grade on the subject property, and on the neighbouring property, that the exposed height of the wall would be less. This will not be known until the end of both projects, so the applicant is requesting the maximum possible retaining wall height that they would need.

The subject property is one of many narrow lots along this section of Lakeside Road that are extremely challenged by existing constraints, such as slope, terrain, width of lots, and riparian areas. An additional challenge that these lots face is that each property is at a different stage of construction, and being built by different property owners and contractors. Staff consider that this requested variance is required in order for the subject property to complete its final grading and completion of the project. Without the variance for an increased retaining wall height, the applicant will likely not be able to finish the grading on their property, and may not achieve their parking requirements, or complete construction of items including the stairs and final landscaping, as outlined in the Letter of Intent (Attachment 'C').

For the reasons listed above, staff consider that the variance requested is both reasonable and required. The subject property has been able to progress the development with only one prior variance required in comparison to other adjacent lots. Staff are recommending that Council support the application and direct staff to issue the permit.

#### **Alternate recommendations**

Council may consider that the proposed variance will negatively affect the neighbours and that the site should be reviewed further to eliminate the need for the increased retaining wall height. Staff do not recommend denial of the variance, as it would require a redesign of a building that is nearing completion.

1. THAT Council deny 'Development Variance Permit PL2020-8868'.

#### **Attachments**

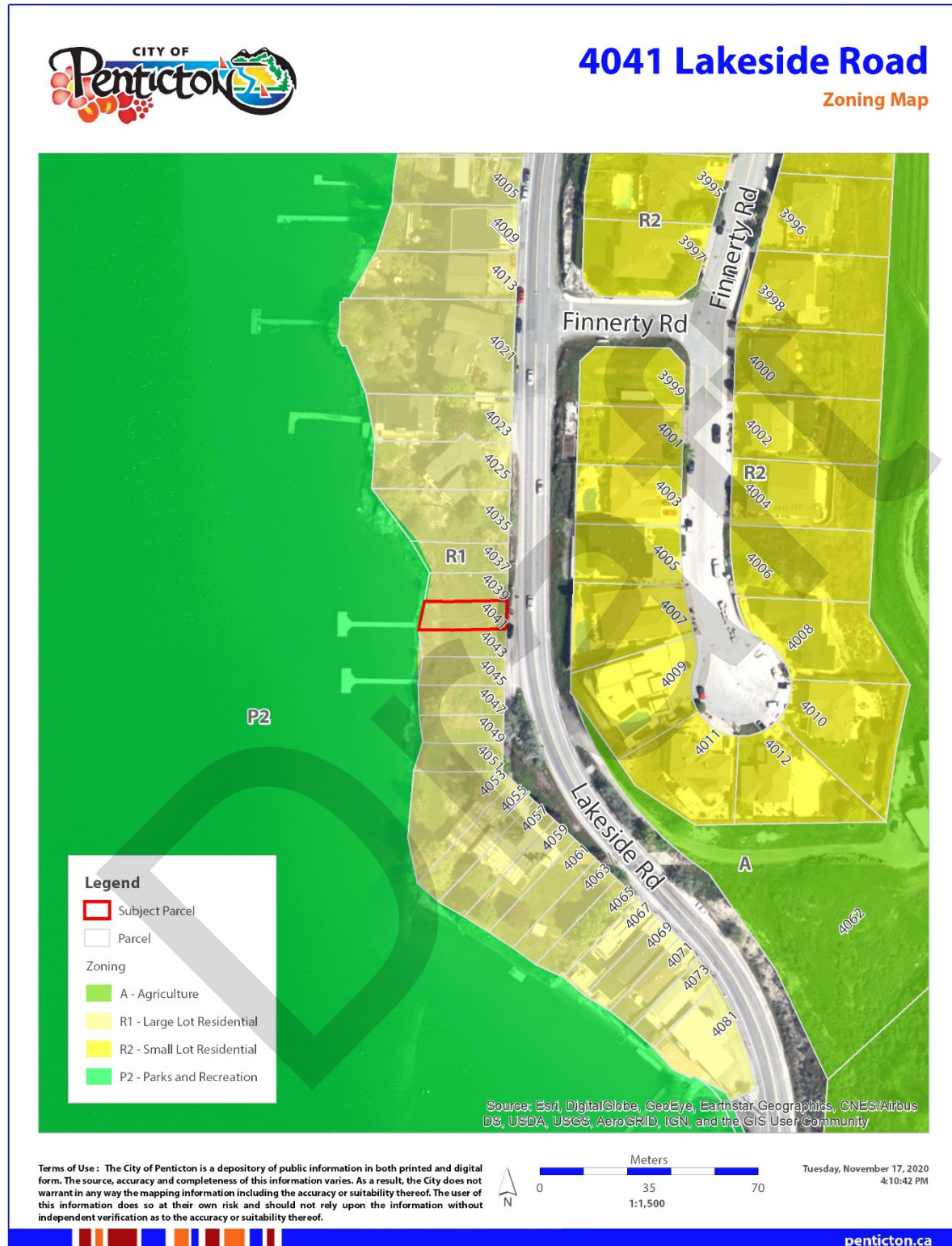
Attachment A – Zoning Map  
 Attachment B – Official Community Plan Map  
 Attachment C – Letter of Intent  
 Attachment D – Photos of Property  
 Attachment E – Draft Development Variance Permit PL2020-8868

Respectfully submitted,

Nicole Capewell  
 Planner 1

Director  <i>BL</i>	Chief Administrative Officer
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# Attachment A – Zoning Map





# 4041 Lakeside Road

Official Community Plan Map



**Legend**

- Subject Parcel
- Parcel

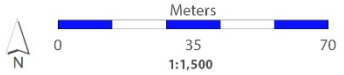
**Official Community Plan**

Future Land Use

- Detached Residential
- Agriculture

Source: Esri, DigitalGlobe, GeoEye, Earthstar Geographics, CNES/Airbus DS, USDA, USGS, AeroGRID, IGN, and the GIS User Community

**Terms of Use:** The City of Penticton is a depository of public information in both printed and digital form. The source, accuracy and completeness of this information varies. As a result, the City does not warrant in any way the mapping information including the accuracy or suitability thereof. The user of this information does so at their own risk and should not rely upon the information without independent verification as to the accuracy or suitability thereof.



Tuesday, November 17, 2020  
4:11:07 PM



penticton.ca



## Attachment C – Letter of Intent



October 05, 2020

4041 Lakeside Road – Filkow Residence

### ***Letter of Intent***

Thank you for considering my submission for Development Variance Permit for our client's property at 4041 Lakeside Road.

This letter of intent is referring to a request to construct a retaining wall to support the driveway area to provide parking as per the original proposed plan approved for permit June 27, 2019. This is needed to properly support the backfilling needed for proper access to this dwelling.

The wall proposed will exceed the height allowance permitted in bylaw and will be between 6' and 12' exposed to the neighbour at 4039 Lakeside Road. The wall will be at driveway grade on the 4041 side of the property. The property to the north (4039 Lakeside Road) proposed and received permission from City of Penticton to construct a driveway at road elevation, an entry slab and lower slab to access stairs along south side of property designed to start 6' below the elevation of the road and continue to go down to the side stairs proposed.

This design set below the road to access the stairs on the south side cause our retaining wall to exceed the height allowable for a retaining wall. Our wall will be exposed 6' at the slab elevation of 4039 Lakeside Road and extend to 12' exposed as the stairs for 4039 Lakeside Road go down in a west direction.

The stairs on 4041 Lakeside Road were originally proposed to be concrete at grade however in order to work with the grade at 4039 Lakeside we will build steel stairs that will attach to the retaining wall at the driveway and continue down to grade on the lowest level to provide access for the dwelling unit.

This wall is necessary in order to provide parking for the dwelling units as approved at 4041 Lakeside Road, access to the lower level dwelling unit and is also required to prevent spill of fill onto the property at 4039 Lakeside Road.

The wall will not be an eyesore as it is exposed below the street level only and strictly functions as retaining for parking and dwelling access.

Thank you for your consideration.

Sincerely,

Attachment D – Photos of Property



*Looking East towards construction from Skaha Lake (towards Lakeside Road)*



*Photo taken from Lakeside Road looking west toward subject property*





*Photo taken from subject property displaying significant grade challenges on site*



## Development Variance Permit

**Permit Number: DVP PL2020-8868**

Owner Name  
Owner Address

### Conditions of Permit

1. This permit is issued subject to compliance with all of the bylaws of the City, except as specifically varied or supplemented by this Permit.
2. This permit applies to:
  - Legal: Lot 23 Block 209 District Lot 190 Similkameen Division Yale District Plan 466
  - Civic: 4041 Lakeside Road
  - PID: 012-323-195
3. This permit has been issued in accordance with Section 498 of the *Local Government Act*, to vary the following sections of Zoning Bylaw 2017-08 to allow for the construction of a retaining wall, as shown in the plans attached in Schedule 'A':
  - a. Section 5.6.2.1: to increase the maximum height of a retaining wall from 1.2m to 3.66m above building grade.

### General Conditions

4. In accordance with Section 501 of the *Local Government Act*, the lands subject to this permit shall be developed in general accordance with this permit and the plans attached as Schedule 'A'.
5. In accordance with Section 504 of the *Local Government Act*, if the holder of this permit does not commence the development authorized by this permit within 2 years of the date of this permit, this permit shall lapse.
6. **This permit is not a building permit. In order to proceed with this development, the holder of this permit must hold a valid building permit issued by the Building Inspection Department.**
7. This permit does not constitute any other municipal, provincial or federal approval. The holder of this permit is responsible to obtain any additional municipal, federal, or provincial approvals prior to commencing the development authorized by this permit.
8. This permit does not include off-site infrastructure costs that may be required at the building permit stage, such as Development Cost Charges (DCC's), road improvements and electrical servicing. There may be substantial infrastructure and servicing costs payable at a later date. For more information on servicing and infrastructure requirements please contact the Development Engineering Department at (250) 490-2501. For more information on electrical servicing costs, please contact the Electric Utility at (250) 490-2535.

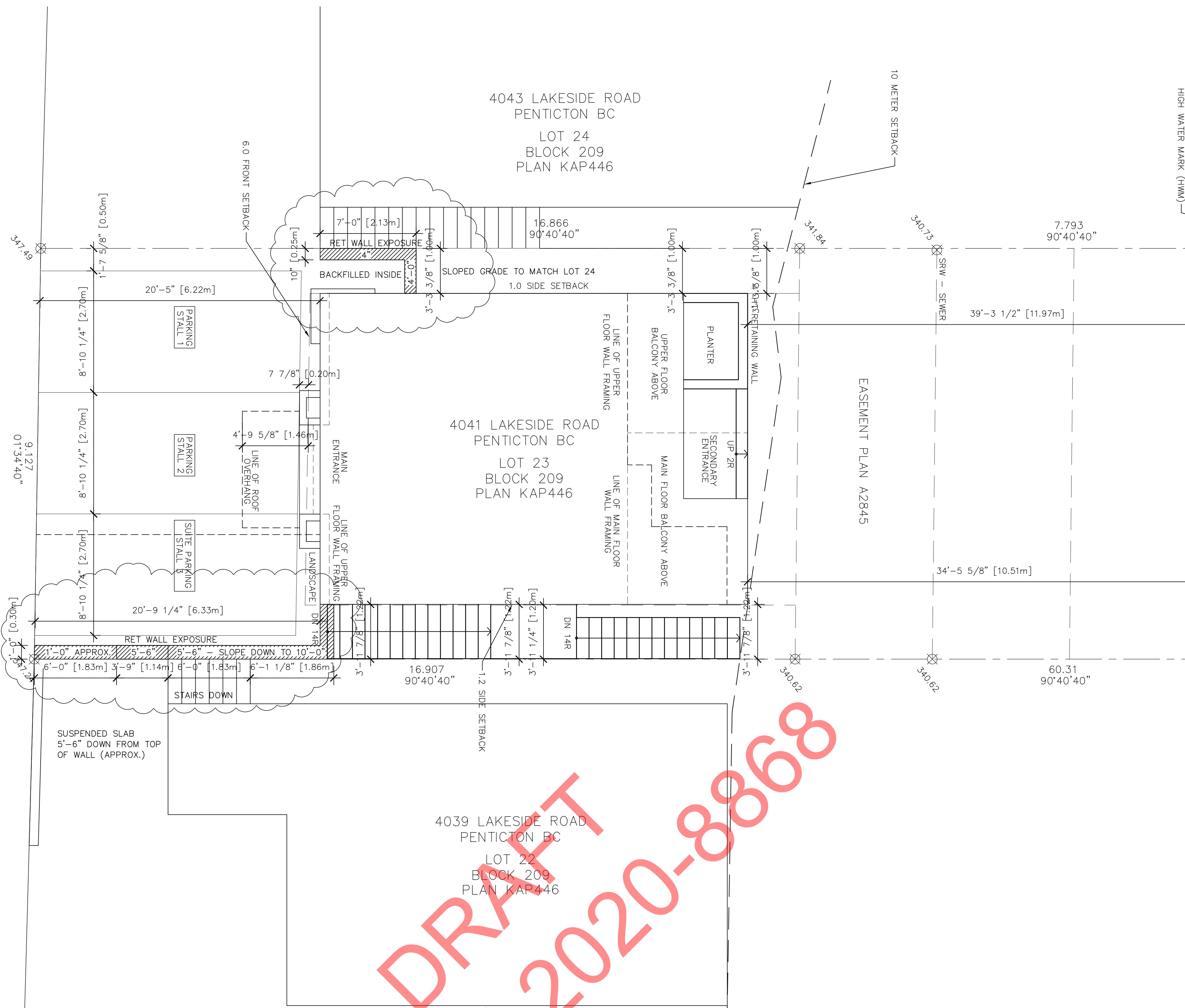
Authorized by City Council, the \_\_\_\_ day of \_\_\_\_\_, 2020.

Issued this \_\_\_\_ day of \_\_\_\_\_, 2020.

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Angela Collison  
Corporate Officer

DRAFT  
DVP PL2020-8868



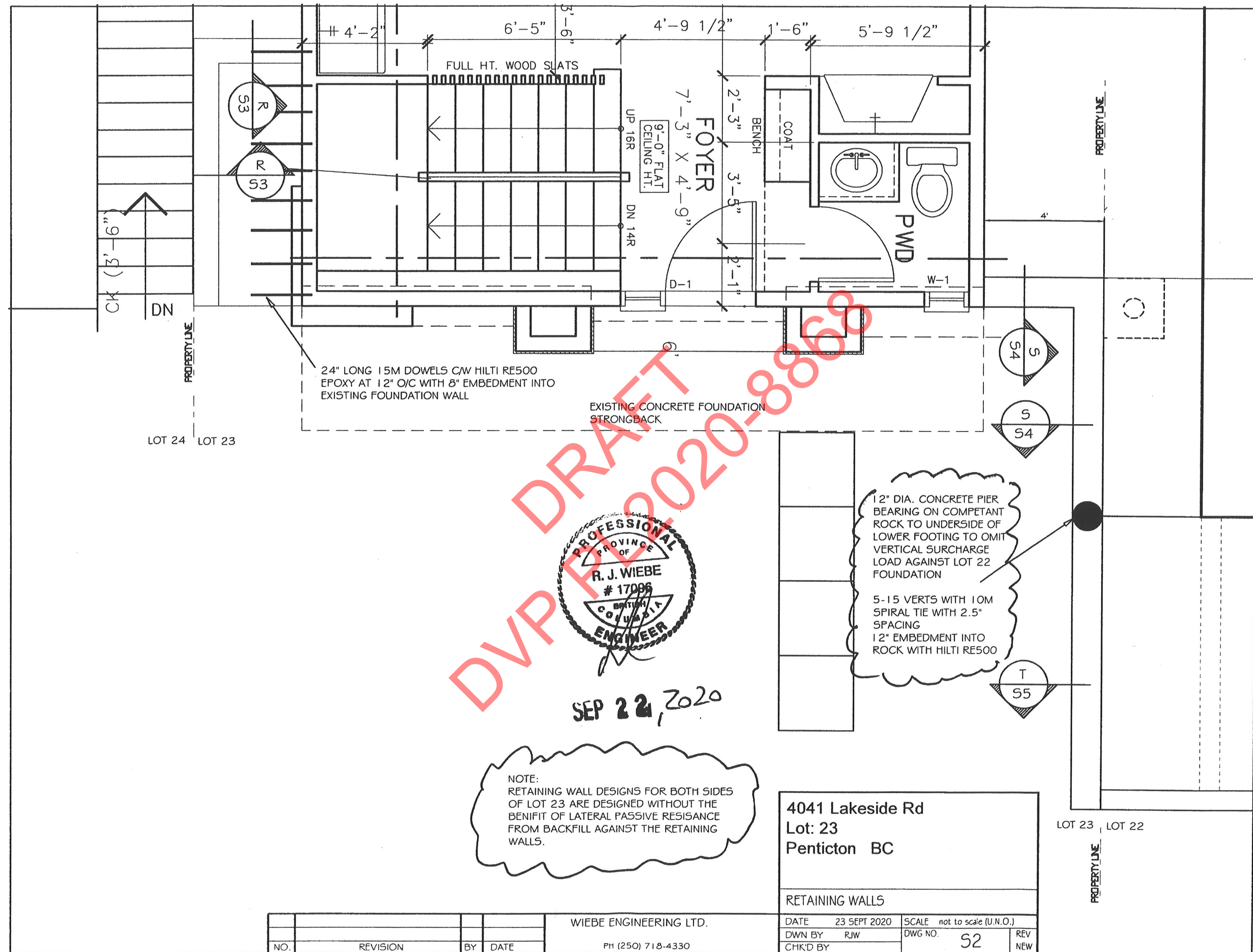
CONTRACTORS AND SUB-CONTRACTORS ARE RESPONSIBLE FOR CHECKING DETAILS AND DIMENSIONS AND ALL ASPECTS OF THESE DRAWINGS. IF THERE ARE ANY DISCREPANCIES THEY MUST BE REPORTED TO ALL ELEMENTS BEFORE CONSTRUCTION. ALL ELEMENTS IS NOT RESPONSIBLE FOR ANY CHANGES TO THE

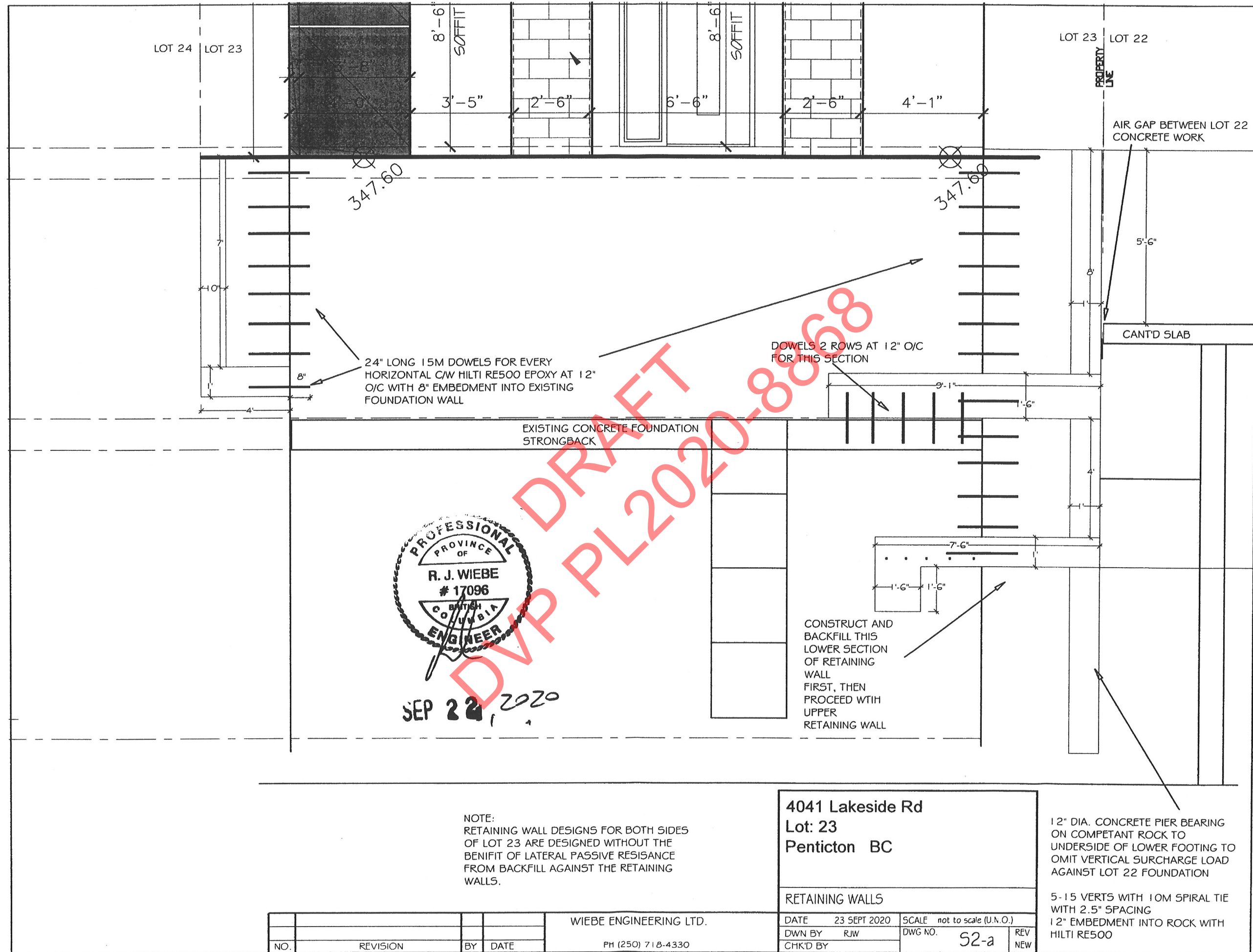
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MUST COMPLY WITH THE BC BUILDING CODE.  
THE CONTRACTORS MUST BE RESPONSIBLE FOR  
KNOWING THE CODE AND COMPLYING WITH IT.  
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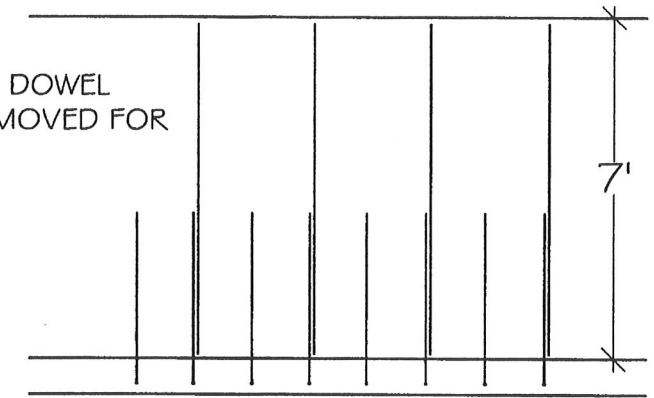




GEOTECHNICAL ENGINEER  
TO ENSURE BACKFILL  
MATERIAL WILL NOT  
PRODUCE MORE THAN 54  
P.C.F. EQUIVALENT FLUID  
PRESSURE or LATERAL  
EARTH PRESSURE AT REST  
 $K = .43$  AND AN ALLOWABLE  
SOIL BEARING CAPACITY OF  
3000 PSF

ADD DRAIN HOLES AT  
BOTTOM OF RETAINING  
WALL TO ENSURE THERE IS  
NO POSSIBILITY OF  
TRAPPED WATER PRESSURE

VERTS IN WALL EVERY OTHER DOWEL  
(ALL OTHER REINFORCING REMOVED FOR  
CLARITY)



RETAINING WALL DETAILS

25 MPa CONCRETE  
STRENGTH

15M GRID AT 12" O/C

2" DRAIN HOLES AT 48" O/C

~~15M TRANSVERSE AT 6" O/C~~

15M DOWELS AT 6" O/C

~~15M AT 12" O/C~~

ROUGHEN  
SURFACE

A circular professional seal for R. J. Wiebe, a Professional Engineer in the Province of British Columbia. The seal features a rope-like border. Inside the border, the word "PROFESSIONAL" is at the top, "PROVINCE OF" is in the middle, and "BRITISH COLUMBIA" is at the bottom. The name "R. J. WIEBE" and the number "# 17096" are prominently displayed in the center. A large, stylized signature is written across the seal.

SEP 22 2020

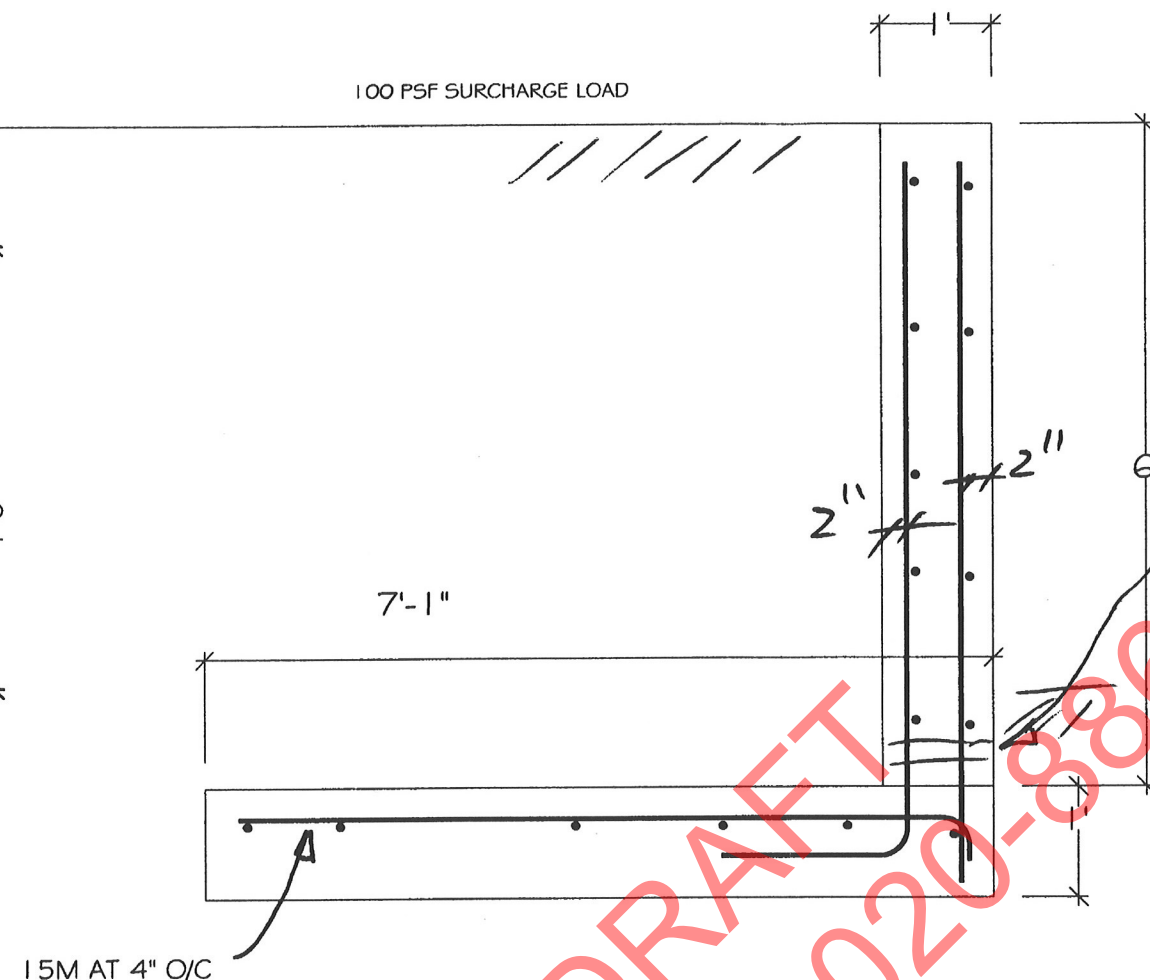
4041 Lakeside Rd  
Lot: 23  
Penticton BC

RETAINING WALL

DATE	22 SEPT 2020	SCALE	not to scale (U.N.O.)
DWN BY	RJW	DWG NO.	53
CHK'D BY			

Wiebe Engineering Ltd.  
PH (250) 718-4330



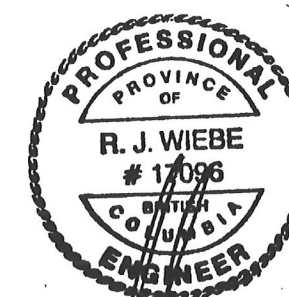


# NOTES:

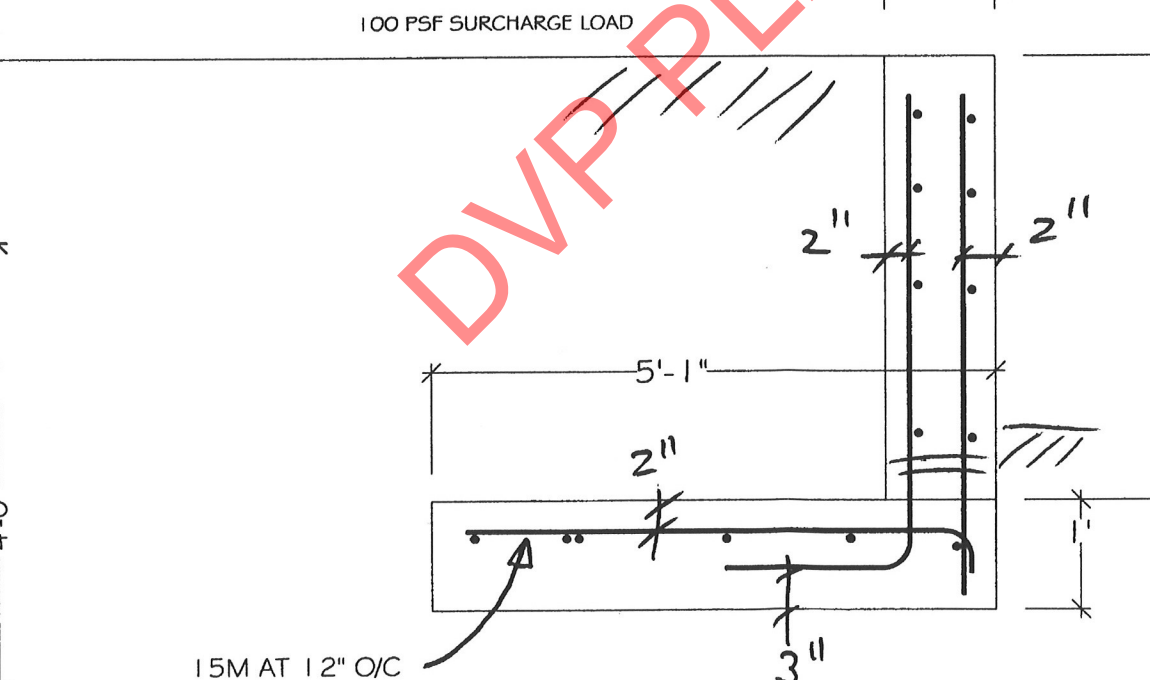
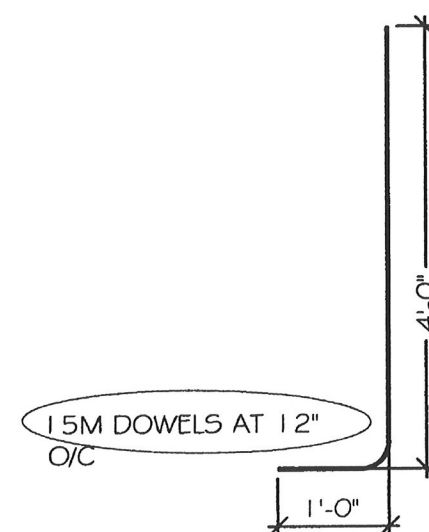
GEOTECHNICAL ENGINEER TO ENSURE BACKFILL MATERIAL WILL NOT PRODUCE MORE THAN 54 P.C.F. EQUIVALENT FLUID PRESSURE or LATERAL EARTH PRESSURE AT REST  $K = .43$  AND AN ALLOWABLE SOIL BEARING CAPACITY OF 3000 PSF

ADD DRAIN HOLES AT BOTTOM OF RETAINING WALL TO ENSURE THERE IS NO POSSIBILITY OF TRAPPED WATER PRESSURE

RETAINING WALL DETAILS  
25 MPa CONCRETE STRENGTH



SEP 22 2020



4041 Lakeside Rd  
Lot: 23  
Penticton BC

RETAINING WALL

NO.	REVISION	BY	DATE

Wiebe Engineering Ltd.  
PH (250) 718-4330

DATE	22 SEPT 2020	SCALE	not to scale (U.N.O.)
DWN BY	RJW	DWG NO.	55
CHK'D BY		REV	NEW