

May 20, 2021

**Subject Property:**

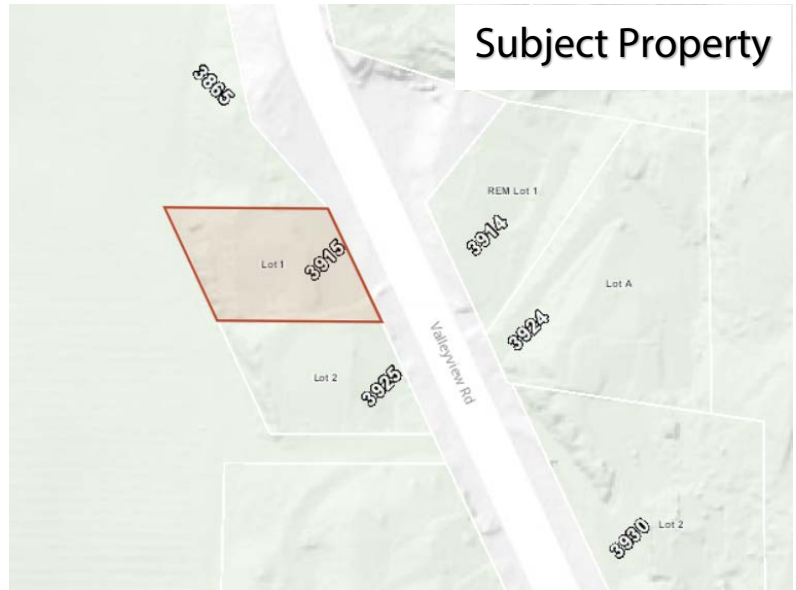
3915 Valleyview Road

Lot 1, District Lot 190, Similkameen Division Yale  
District, Plan 14851

**Application:**

**Development Variance Permit PL2021-9005**

The applicant is proposing to construct a retaining wall over a portion of their property. A previous retaining wall has recently begun to fail, and the applicant requires a variance to reconstruct a new retaining wall at a maximum of 3.048m (10 ft.) in height.



In order to proceed with the building permit, the applicant requires a variance to Section 5.6.2.1 of Zoning Bylaw 2017-08 to increase the height of a retaining wall within a setback from 1.2m (4 ft.) to 3.048m (10 ft.).

**Information:**

You can find the staff report to Council and Development Variance Permit PL2021-9005 on the City's website at [www.penticton.ca/publicnotice](http://www.penticton.ca/publicnotice).

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, June 1, 2021** at Penticton City Hall, 171 Main St.

**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, June 1, 2021** 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 June 1, 2021 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:** June 1, 2021  
**To:** Donny van Dyk, Chief Administrative Officer  
**From:** Nicole Capewell, Planner II  
**Address:** 3915 Valleyview Road  
**Subject:** Development Variance Permit PL2021-9005

File No: RMS/3915 Valleyview Road

## Staff Recommendation

THAT Council approve "Development Variance Permit PL2021-9005", for Lot 1 District Lot 190 Similkameen Division Yale District Plan 14851, located at 3915 Valleyview Road, a permit to vary Section 5.6.2.1 of Zoning Bylaw No. 2017-08, to increase the maximum height of a retaining wall within a required yard from 1.2m to 3.048m (10 ft.);

AND THAT Council direct staff to issue "Development Variance Permit PL2021-9005".

## Strategic Priority Objective

**Community Vitality:** The City of Penticton, guided by the Official Community Plan, will promote the economic wellbeing and vitality of the community.

## Proposal

The applicant is proposing to construct a retaining wall over a portion of their property. A previous retaining wall has recently begun to fail, and the applicant requires a variance to reconstruct a new retaining wall at a maximum of 3.048m (10 ft.) in height. In order to proceed with the building permit, the applicant requires a variance to Section 5.6.2.1 of the Zoning Bylaw to increase the height of a retaining wall within a setback from 1.2m (4 ft.) to 3.048m (10 ft.).

## Background

The subject property is located on the west side of Valleyview Road, just south of the intersection of Spruce Road with Valleyview Road (Figure 1). The property currently contains a single-family house, constructed in the late 1980s. The previous retaining wall was likely



Figure 1 - Property Location Map

constructed at the same time as the single family home, and appears to have been constructed with wood (Attachment 'C'). The property owner recently completed landscaping works on the property, which stressed the existing retaining wall, leading to its removal from the property. The wood retaining wall was aging and appeared to be in poor condition. The proposed retaining wall would be concrete, and would exceed the height and length of the previous retaining wall, requiring a variance for its construction.

The subject property is designated as Agriculture by the City's Official Community Plan (OCP), and is located within the Agricultural Land Reserve (ALR). The subject property is currently zoned Agriculture, however it is less than 0.4 ha in size, and as such is subject to the setbacks of the RC (Country Residential) zone. Surrounding lots are primarily larger agriculture properties with active farming, however there are several smaller rural residential properties along Valleyview Road that are similar in size and scale to the subject property.

The proposed retaining wall is 1 ft. from the northern property line, and will run east to west along the corner of the house, before turning 90° and running north to south along the width of the house (Figure 2). The retaining wall would vary between 4 ft. to a maximum of 10 ft. along the northern property line. The required side yard setback along the northern property line is 4.0m, making it very difficult for the property owner to resolve the grade issues without a variance.

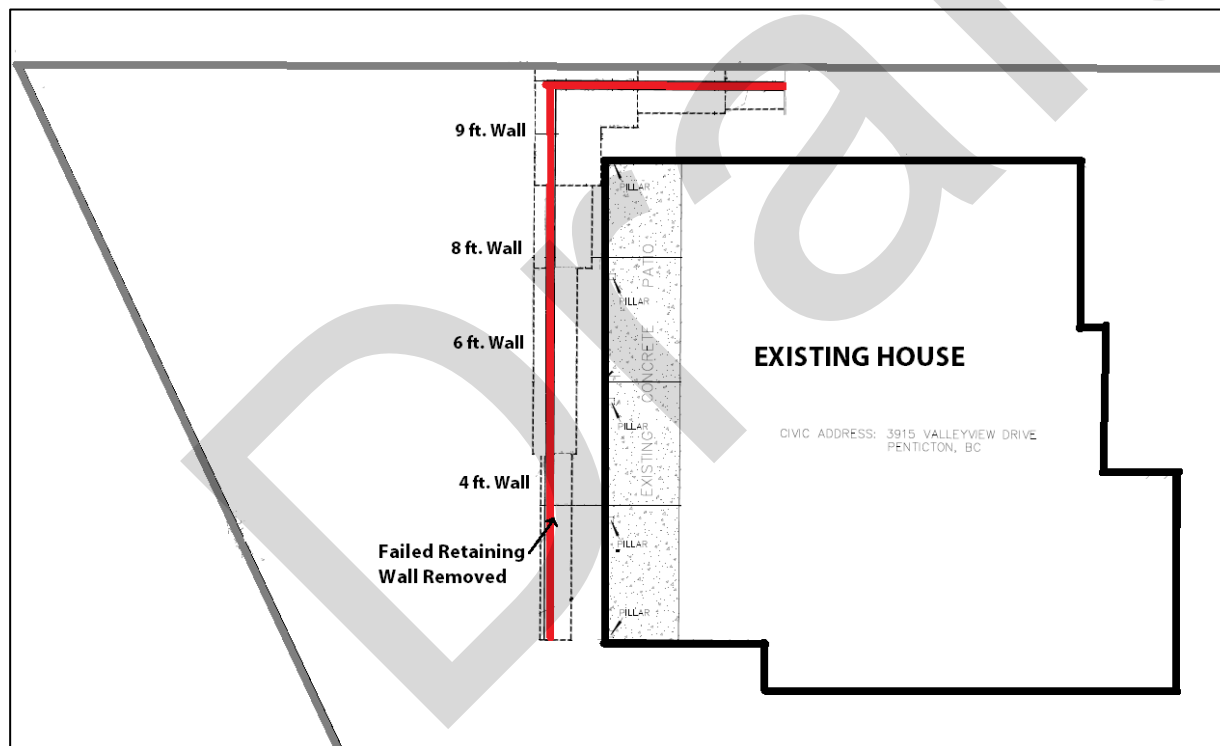


Figure 2 - Location of Retaining Wall in Red

## Technical Review

The application was reviewed by the City's Technical Planning Committee. Staff worked with the applicant to ensure the plans submitted clearly showed the retaining wall heights and location. Requirements for building permit stages were identified to the applicant. Should Council support the variance request, the

applicant will be required to attain a building permit prior to any further works occurring on the retaining wall.

The subject property is located within an Environmental Assessment Area, identified by the City's Official Community Plan. The applicant has engaged a Qualified Environmental Professional, who has provided an assessment report indicating the proposed works can proceed without negative impacts to environmental features in the area. Staff have accepted and issued an Environmental Development Permit for the proposed works on the property (May 2021).

## Analysis

### *Support Variance*

When considering a variance to a City bylaw, staff encourages Council to consider if approval of the variance would cause a negative impact on neighbouring properties and if the variance request is reasonable. The applicant is requesting a variance to construct a 3.058m (10 ft.) high retaining wall within a required yard setback. Staff have reviewed the application and are supporting the variance based on the following:

*1. Section 5.6.2.1: to increase the maximum height of a retaining wall within a setback from 1.2m to 3.048m (10 ft.)*

- The request for the increased height of the retaining wall is to accommodate a significant grade change at the rear of the property. Using the City Parcel Viewer elevation data, it is estimated that the grade drops approximately 7m between the rear of the house and the rear property line (Figure 3).
- The retaining wall is not being constructed to create a flat lot for new construction. This retaining wall is required to retain the grade around the existing home.
- The property directly adjacent to the subject property, and most impacted by the retaining wall is a large 10 acre agriculture property that is actively farmed. The single family home on the neighbouring property is located over 100m from the proposed retaining wall. Staff anticipate the impacts on the agricultural property to be minimal, however the owner and/or occupants will receive a public notification of the variance, providing them an opportunity to share any concerns with Council.
- The required setback distance and the location of the house would make it very difficult, if not impossible, for the retaining wall to meet the Zoning Bylaw, and also deal with the grading issues.
- The new retaining wall replace an aging, failing wall in approximately the same location.



*Figure 3 - Contours on Subject Property*

Given the above items, staff consider that the variance request is appropriate and reasonable, and is not anticipated to unreasonably affect the adjacent area. Further, without the variance to increase the height,

the property owner will likely have further geotechnical issues with retaining the grade around their existing house. As such, staff are recommending that Council support the variance requested and direct staff to issue the permit.

#### **Attachments**

Attachment A – Zoning Map

Attachment B – Official Community Plan Map

Attachment C – Photos of Property (applicant provided)

Attachment D – Letter of Intent

Attachment E – Draft Development Variance Permit PL2021-9005

Respectfully submitted,

Nicole Capewell

Planner II

#### **Concurrence**

|                                     |                                 |
|-------------------------------------|---------------------------------|
| Director of<br>Development Services | Chief Administrative<br>Officer |
|-------------------------------------|---------------------------------|

# Attachment A – Zoning Map





Attachment C – Photos of Property (applicant provided)



*Photo of original wood retaining wall*



*Photo of current condition on property*



*Photo of current condition on property*

----- Forwarded message -----

From: Reg Bennett <[REDACTED]>  
3915 Valleyview Road, Penticton  
Date: Fri, Apr 16, 2021 at 11:54 AM  
Subject: Letter of Intent,  
To: <[planning@penticton.ca](mailto:planning@penticton.ca)>

Dear council,

I am wanting to build a retaining wall on my property at 3915 Valleyview Road, Penticton, B.C. Ron Zelmer, superintendent of Greyback, is supervising it. He built the house at this location for me 33 years ago. The retaining wall will require a variance as it is within the North setback. The wall is 4 feet high at the South end and 10 feet high at the North end. The length is 50 feet. It is a concrete wall with a concrete cap that connects it to an existing concrete deck.

Kelly Davies, an engineer, has designed the wall. His email address is [REDACTED], His office is in Penticton. Steve Buzikievich a surveyor from Penticton has surveyed the project. His email is [REDACTED]. Karen Grainger RPBio has prepared an environmental report. She is from Penticton and her email is [REDACTED].

There will be no impact on my neighbours except for the property owned by Chris Harp. His property borders the North side of my property, and that is where the retaining wall, and its footing is going to be placed within my property, but bordering his. It will not extend into his property. I have explained this to Chris Harp. I will plant grass to cover any impact made to the ground cover after the area is backfilled and smoothed over. I will also fix any damage done to Chris's property as I have been crossing his property to construct my wall.

The concrete retaining wall is fireproof, and will add an additional fire protection to my house, and the surrounding properties should any fire get started. I will add a black steel, powder coated railing on top of the wall to make the wall attractive and safe. People traveling up Valleyview Road will not see the retaining wall as my house is located on the West side of Valleyview Road facing Skaha Lake, and the wall is on the Lake side of my house facing West, overlooking Skaha Lake. There is an existing vineyard that borders my West side of my property.

I hope this letter answers any concerns you might have.

REG BENNETT  
3915 Valleyview Road,

Penticton, B.C.

phone [REDACTED]

email [REDACTED]



## Development Variance Permit

**Permit Number: DVP PL 2021-9005**

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 1 District Lot 190 Similkameen Division Yale District Plan 14851
  - Civic: 3915 Valleyview Road
  - PID: 004-710-266
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 within a setback from 1.2m to 3.048 m (10 ft.).

### 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.

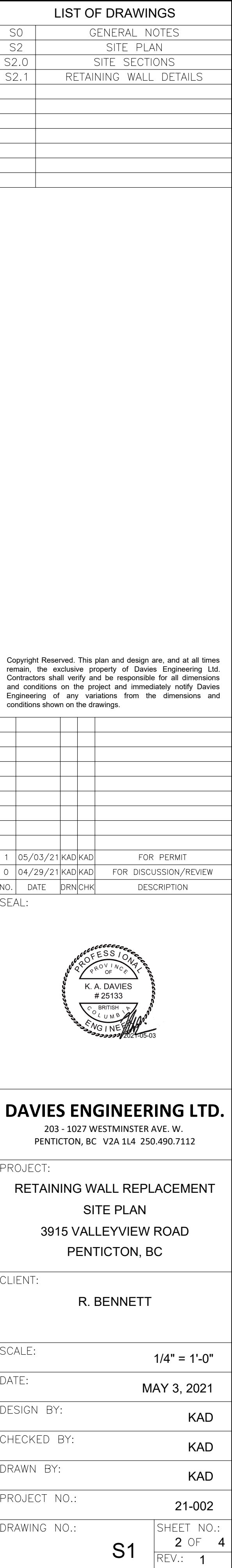
Authorized by City Council, the \_\_\_\_ day of June, 2021.

Issued this \_\_\_\_ day of \_\_\_\_\_, 2021.

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Angela Collison  
Corporate Officer

DVP PL2021-9005  
DRAFT

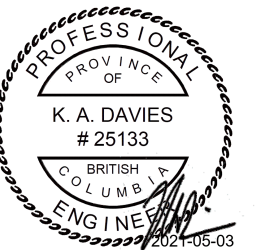


| LIST OF DRAWINGS |                        |
|------------------|------------------------|
| S0               | GENERAL NOTES          |
| S2               | SITE PLAN              |
| S2.0             | SITE SECTIONS          |
| S2.1             | RETAINING WALL DETAILS |
|                  |                        |
|                  |                        |
|                  |                        |
|                  |                        |
|                  |                        |

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|     |          |     |     |                       |
|-----|----------|-----|-----|-----------------------|
| 1   | 05/03/21 | KAD | KAD | FOR PERMIT            |
| 0   | 04/29/21 | KAD | KAD | FOR DISCUSSION/REVIEW |
| NO. | DATE     | DRN | CHK | DESCRIPTION           |

SEAL:



**DAVIES ENGINEERING LTD.**

203 - 1027 WESTMINSTER AVE. W.  
VICTORIA, BC V2A 1L4 250.490.7112

PROJECT:

RETAINING WALL REPLACEMENT  
SITE PLAN  
3915 VALLEYVIEW ROAD  
PENTICTON, BC

CLIENT:

R. BENNETT

SCALE:  $1/4" = 1'-0"$

DATE: MAY 3, 2021

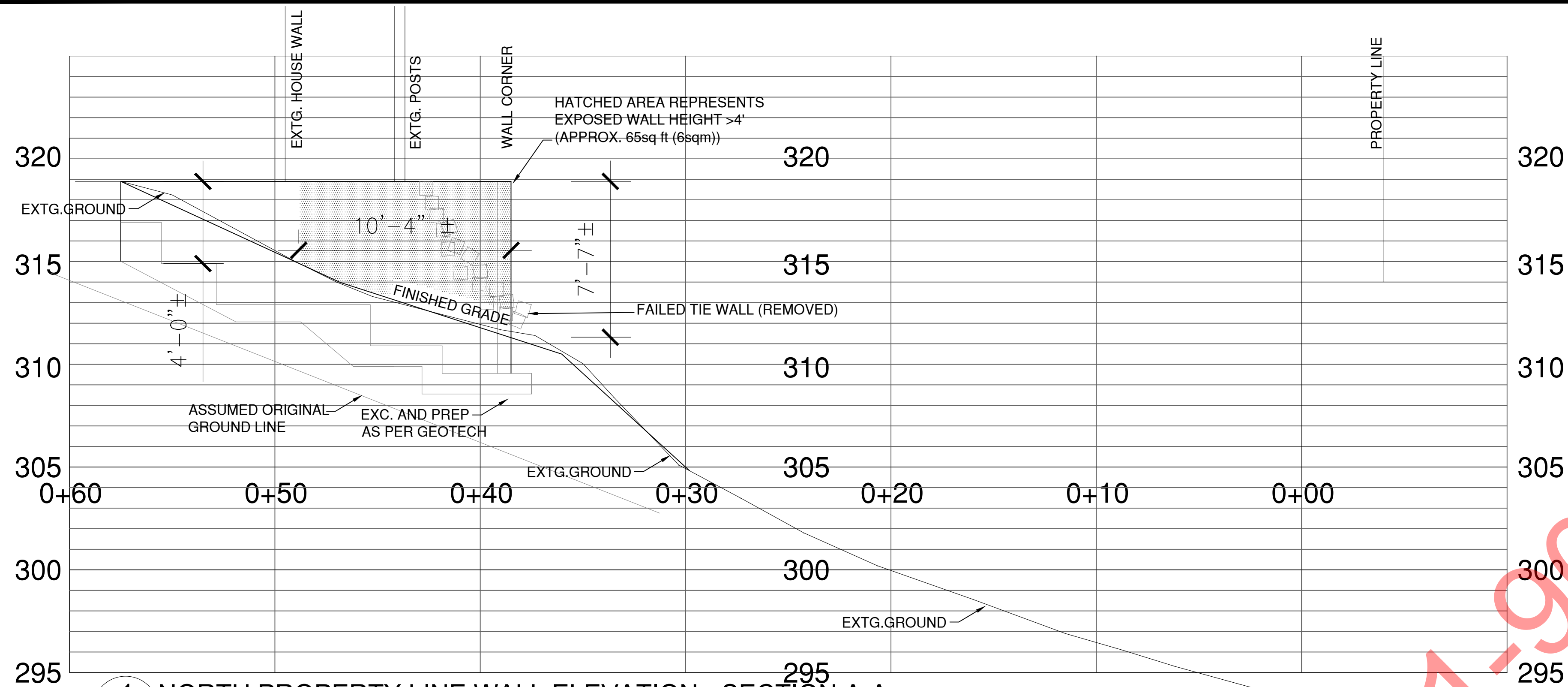
DESIGN BY: KAD

CHECKED BY: KAD

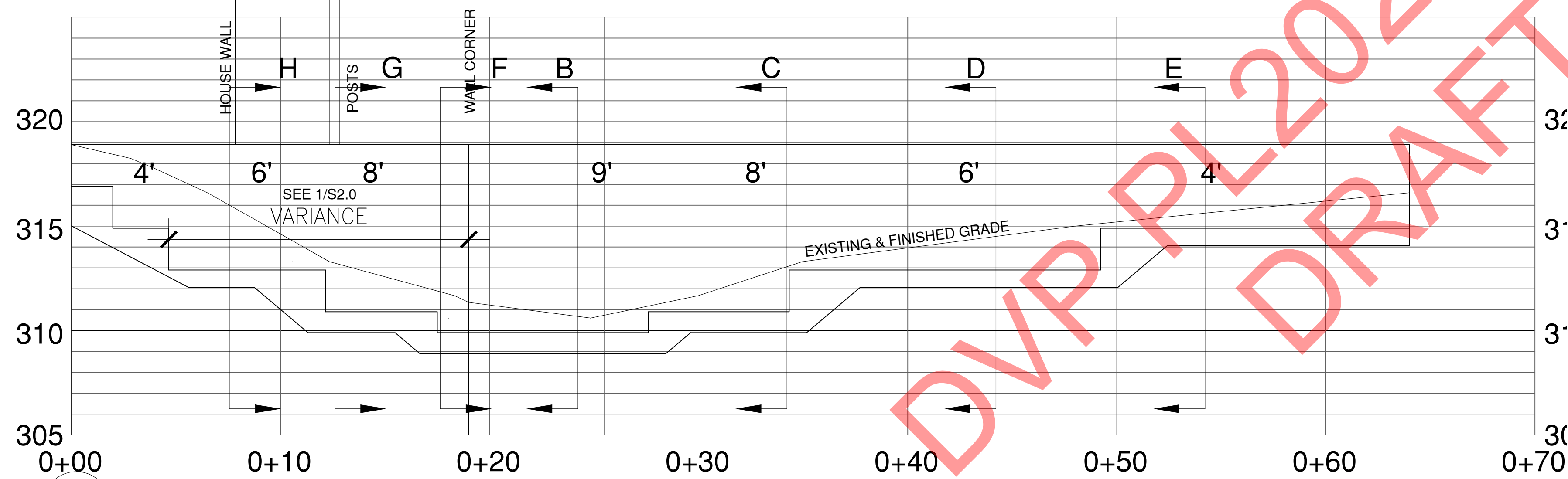
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| PROJECT NO.: | 21-002 |
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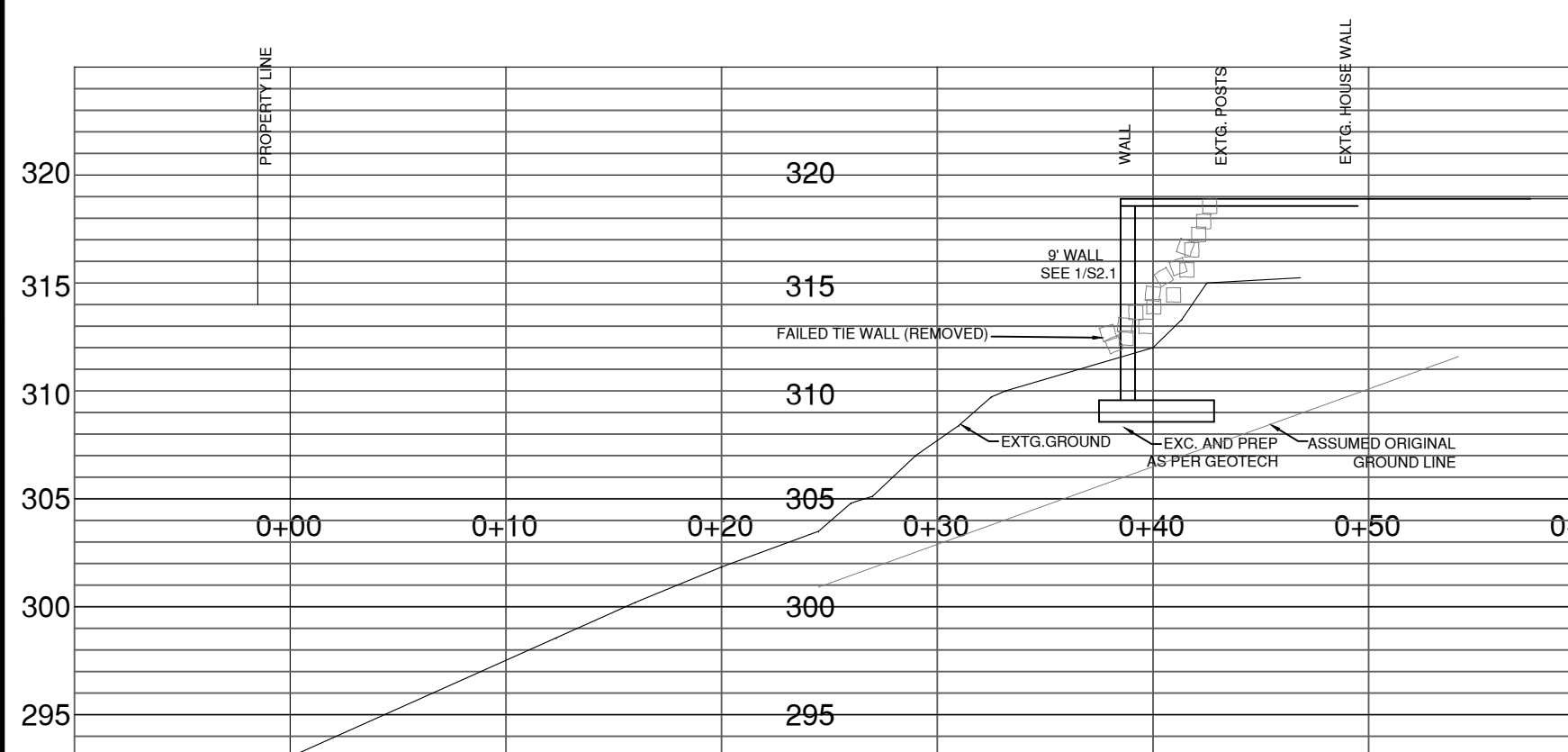
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| DRAWING NO.:<br><br><b>S1</b> | SHEET NO.:<br><b>2 OF 4</b> |
|                               | REV.: <b>1</b>              |



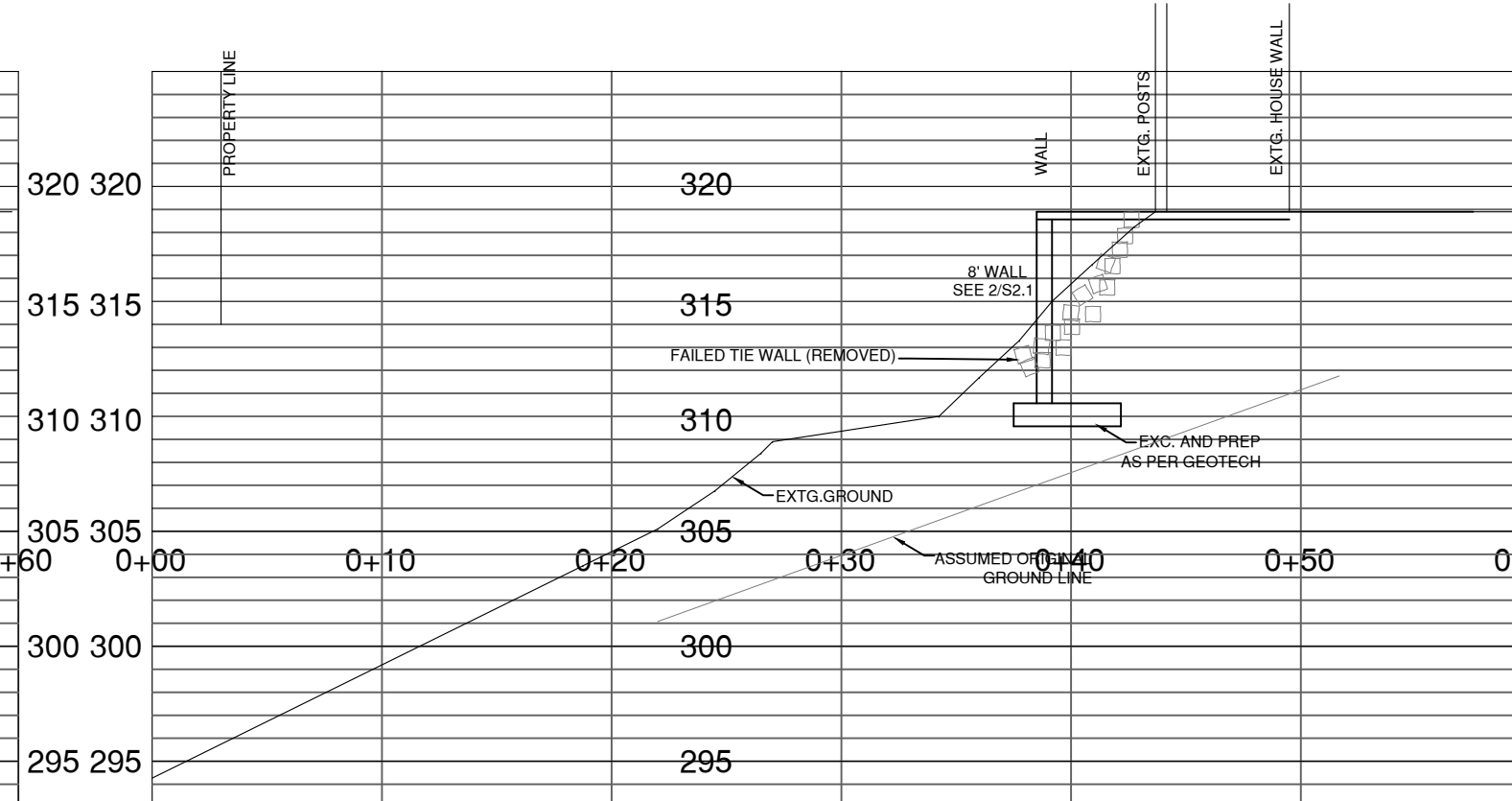
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S2.0 SCALE: 1/4" = 1'-0"



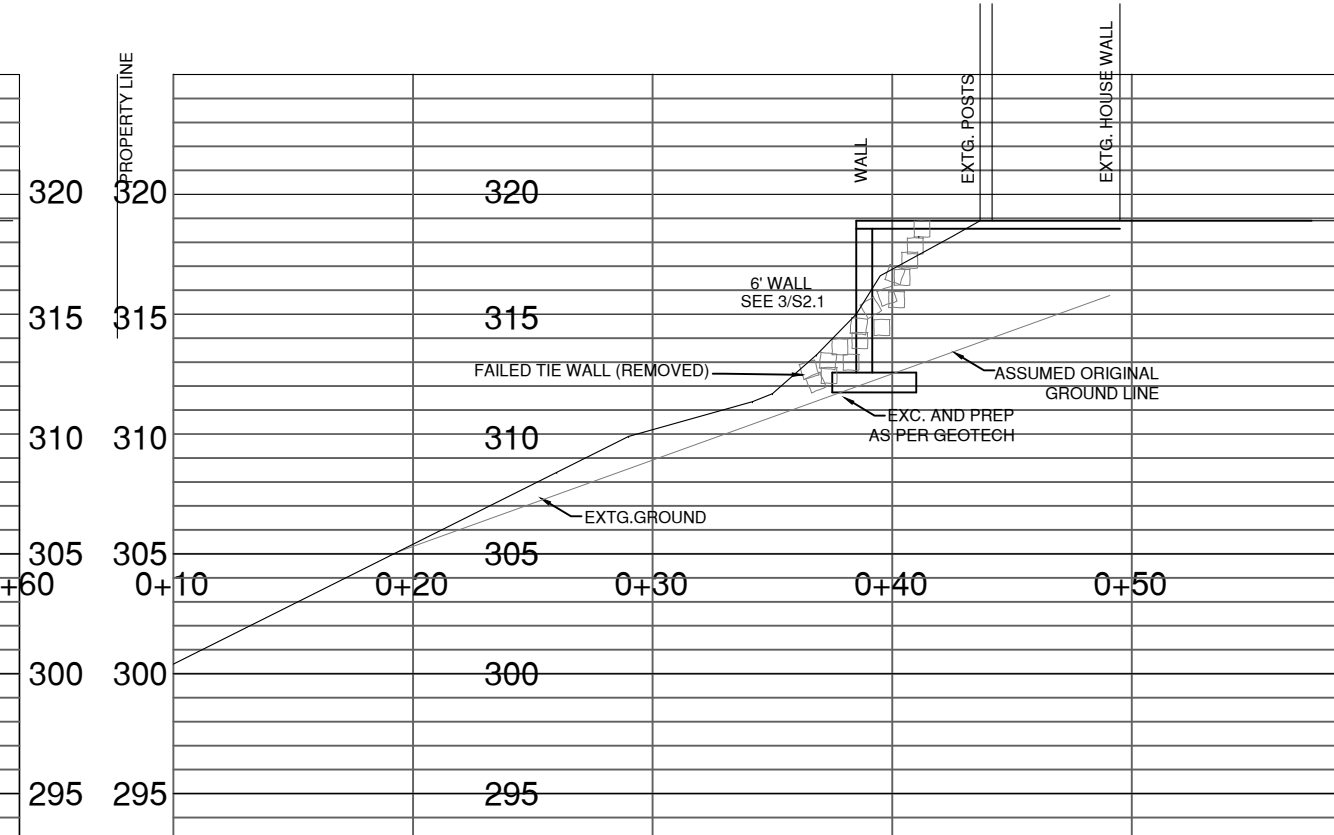
2 WALL PROFILE  
S2.0 SCALE: 1/4" = 1'-0"



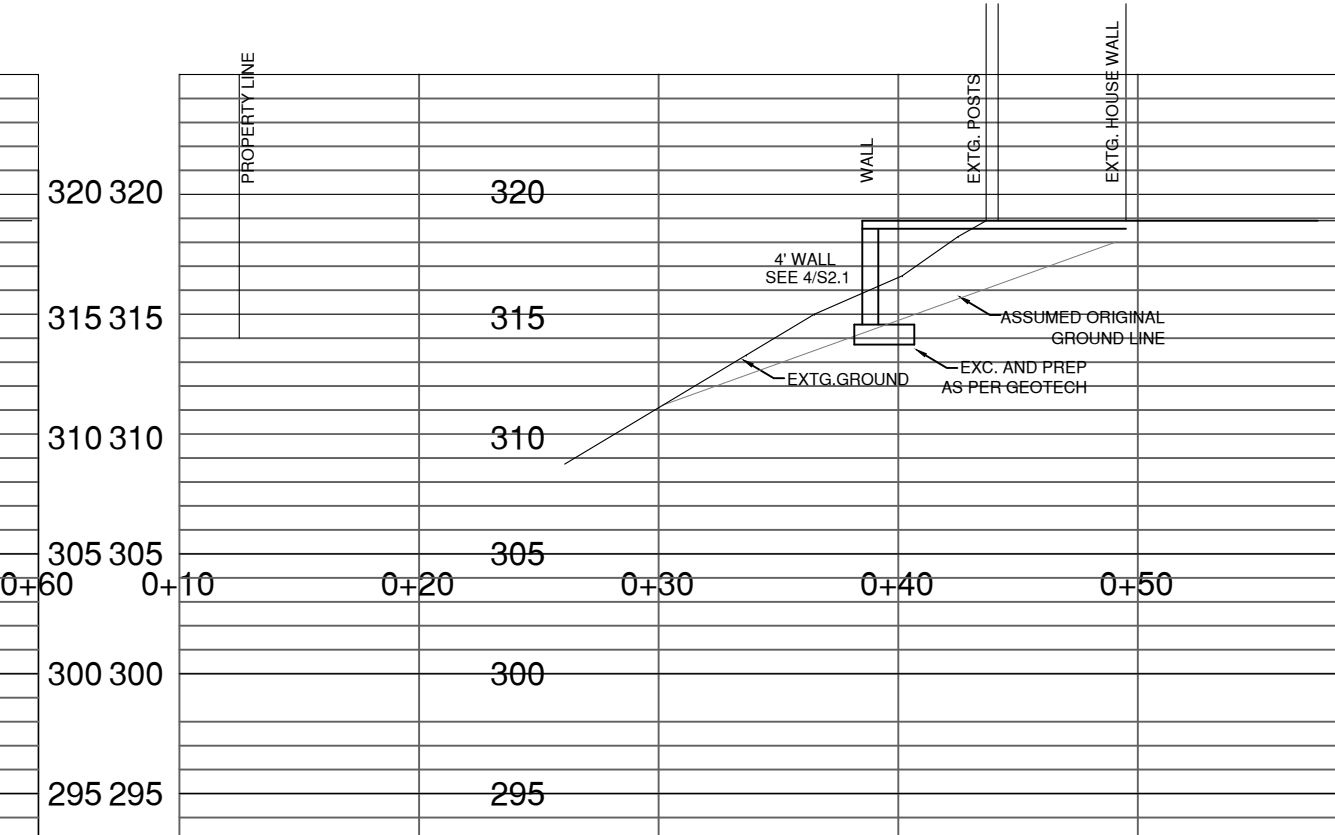
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S2.0 SCALE: 1/8" = 1'-0"



4 SITE SECTION C-C  
S2.0 SCALE: 1/8" = 1'-0"



5 SITE SECTION D-D  
S2.0 SCALE: 1/8" = 1'-0"



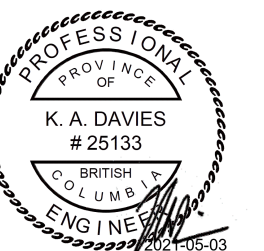
6 SITE SECTION E-E  
S2.0 SCALE: 1/8" = 1'-0"

| LIST OF DRAWINGS |                        |
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| 0   | 04/29/21 | KAD/KAD | FOR DISCUSSION/REVIEW |
| NO. | DATE     | DRN/CHK | DESCRIPTION           |

SEAL:



**DAVIES ENGINEERING LTD.**  
203 - 1027 WESTMINSTER AVE. W.  
PENTICTON, BC V2A 1L4 250.490.7112

PROJECT:  
**RETAINING WALL REPLACEMENT**  
**SITE SECTIONS**  
**3915 VALLEYVIEW ROAD**  
**PENTICTON, BC**

CLIENT:  
**R. BENNETT**

SCALE: **AS SHOWN**

DATE: **MAY 3, 2021**

DESIGN BY: **KAD**

CHECKED BY: **KAD**

DRAWN BY: **KAD**

PROJECT NO.: **21-002**

DRAWING NO.: **S2.0**  
SHEET NO.: **3 OF 4**  
REV.: **1**