

March 3, 2022

Address & Legal Description:

2703 Hawthorn Drive

Lot 15, District Lot 2710, Similkameen Division Yale
District, Plan EPP69185

Subject & Proposal

Development Variance Permit PL2022-9262

The applicant is proposing to construct two retaining walls on the subject property in preparation for constructing a new home. The lower retaining wall will add onto an existing retaining wall at the rear of the property, increasing the retaining wall height from 1.5m to 3.41m (11 feet). A second retaining wall will be set inside the new retaining wall and have a height of 2.4m (8 feet). The proposed 3.41m (11 foot) retaining wall exceeds two sections of the Zoning Bylaw which set the maximum retaining wall height within a required yard at 1.2m (4 feet) and outside a required yard at 2.4m (8 feet). As such, the applicant has applied to vary the following sections of Zoning Bylaw 2021-01:

- Section 5.4.2.1 and Section 5.4.2.2: To increase the maximum height of a retaining wall to 3.41m above approved grade.

Information:

You can find the staff report to Council and Development Variance Permit PL2022-9262 on the City's website at www.penticton.ca/publicnotice.

Please contact the Planning Department at 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, March 15, 2022** at Penticton City Hall, 171 Main St.

All meetings will be live streamed via the City's website at: 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, March 15, 2022**, to:

Attention: Corporate Officer, City of Penticton
171 Main Street, Penticton, B.C. V2A 5A9
Email: corpadmin@penticton.ca

Please ensure the following is included in your correspondence:

Subject: DVP PL2022-9262; 2703 Hawthorn Dr.

No letter, report or representation from the public will be received by Council after the conclusion of the March 15, 2022 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: March 15, 2022
To: Donny van Dyk, Chief Administrative Officer
From: Steven Collyer, Planner II
Address: 2703 Hawthorn Drive
Subject: Development Variance Permit PL2022-9262

File No: RMS/2703 Hawthorn Dr

Staff Recommendation

THAT Council approve "Development Variance Permit PL2022-9262" for Lot 15 District Lot 2710 Similkameen Division Yale District Plan EPP69185, located at 2703 Hawthorn Drive, a permit to vary Section 5.4.2.1 and Section 5.4.2.2 of Zoning Bylaw 2021-01 to increase the maximum height of a retaining wall to 3.41m above approved grade.

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 two retaining walls on the subject property in preparation for constructing a new home. The lower retaining wall will add onto an existing retaining wall, increasing the retaining wall height to 3.41m (11 feet). A second retaining wall will be set inside the new retaining wall and have a height of 2.4m (8 feet). The proposed 3.41m (11 foot) retaining wall exceeds two sections of the Zoning Bylaw which set the maximum height within a required yard at 1.2m (4 feet) and outside a required yard at 2.4m (8 feet). As such, this Development Variance Permit application has come forward for approval of the increased retaining wall height.

Background

The subject property is located on the west side of Hawthorn Drive in the new Panorama Ridge subdivision (Figure 1). The property is located in a residential area with surrounding lots



Figure 1 - Property location map

currently being built-out with single detached homes. The subject property is set above an existing residential subdivision along Evergreen Drive to the west.

The Panorama Ridge subdivision is being developed in two phases. The subject property is part of Phase 1, which was approved in 2016. As part of subdivision approval, a 1.5m retaining wall was built in the rear yards of five lots along the west side of Hawthorn Drive. The wall was engineered so that additional height could be added in the future, subject to the specifications required on each lot when they developed. In the case of the subject property, the plans show a single detached home and a swimming pool. In order to create a level area for a swimming pool, the applicant is proposing to increase the height of the existing wall from 1.5m to 3.41m and to build a second retaining wall above this wall with a height of 2.4m, creating a terraced finish. The applicant has submitted a letter of intent which describes the proposed works (Attachment 'C') and the geotechnical engineer has reviewed the proposed design within the geotechnical covenant area (Attachment 'D') with no concerns.

Technical Review

This application was reviewed by the Technical Planning Committee. The retaining wall requires a building permit prior to construction, to ensure long term structural stability. Building permit requirements have been provided to the applicant and will be addressed as part of the building permit process. The applicant has already engaged a geotechnical engineer to advise on the future construction of the retaining wall (Attachment 'D').

Analysis

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 to increase the height of a proposed retaining wall on the subject property from 1.2m within a required yard and 2.4m outside a required yard to 3.41m (Figure 2).

Staff have reviewed the application and are recommending approval based on the following:

1. The retaining walls are located in areas on the lot with minimal visual impact to surrounding neighbours.

The subject property and adjacent lots on the west side of Hawthorn Drive slope down to the west. The retaining walls are located in the rear yards, and approximately 10m along the north side property line and 3m along the south side property line. The maximum 3.41m height would be visible along the rear property line, with the retaining wall height reduced along the side property lines where the grade rises up towards the building pad. To the west is the established residential subdivision along Evergreen Drive. These homes are approximately 8m below the base of the existing 1.5m retaining wall to be added onto. In addition, there is a forested slope buffer behind these homes which helps reduce the visual impact from the proposed 3.41m retaining wall (Attachment 'C').

2. The maximum retaining wall height is 3.41m, however a large portion of the lower wall will be less than 3m in height.

As shown on the development variance permit plan (Attachment 'E'), and visualized in the image below (Figure 2), the maximum 3.41m retaining wall height will be near the centre of the lot. As the retaining wall gets closer to the side property lines, the height lowers to less than 3m (Figure 2).

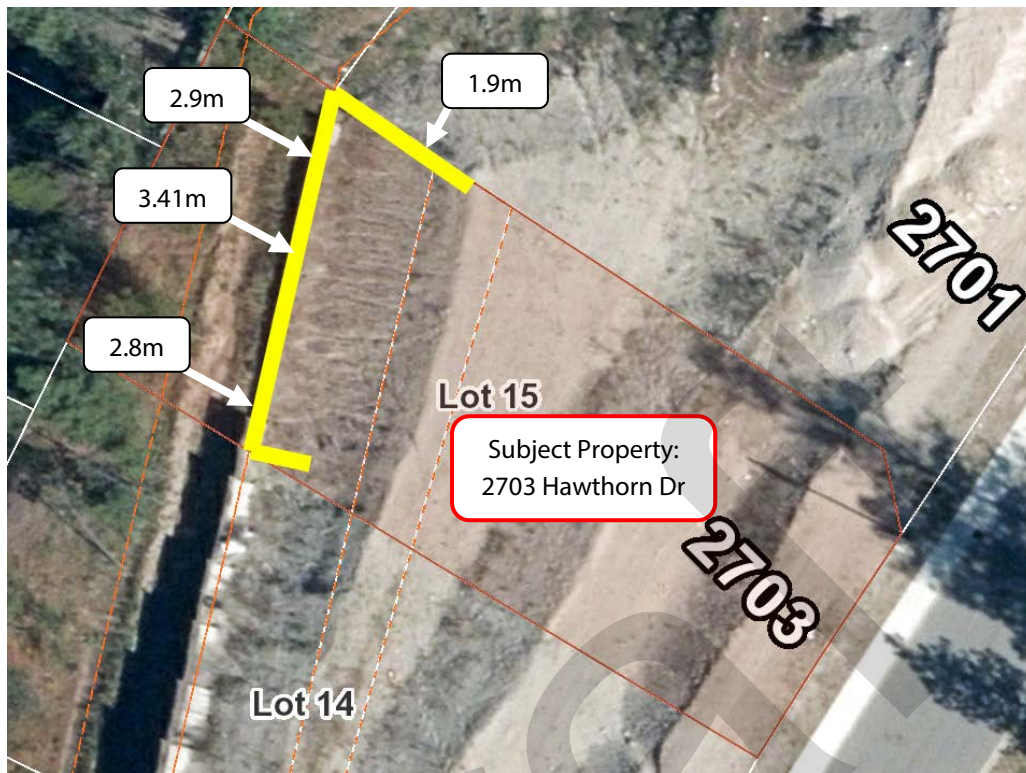


Figure 2 - Proposed lower retaining wall (yellow) with exposed height labelled. Not pictured: the second retaining wall proposed to the east of this lower wall, which will meet Zoning Bylaw regulations.

3. The retaining wall design is terraced to help mitigate impacts of increased height.

The applicant has submitted a plan showing two retaining walls on the property, separated by at least 7m (23 feet). This design is considered to have less impact than one retaining wall built to the total height (5.8m). In addition, the higher retaining wall ranges from 7.5m (24ft 6in) to 12.5m (41ft) away from the rear property line, which provides additional setback from the neighbours on Evergreen Drive to the west.

4. A geotechnical engineer has reviewed the design of the proposed retaining walls within this geotechnical covenant area on the subject property.

The applicant has provided a letter from the geotechnical engineer on this proposal (Attachment 'D'). Staff requested confirmation that a geotechnical engineer reviewed the proposed retaining wall design prior to DVP consideration, as the works are occurring within a geotechnical covenant area which was established at the time of subdivision. The geotechnical engineer confirmed that the proposed retaining wall is safe to build from a geotechnical perspective, in part because the existing 1.5m retaining wall was designed to be added onto in the future, supporting heights up to 8.25m. A building permit will be required for the proposed retaining walls, should Council ultimately approve the request for 3.41m height.

Staff consider the request to increase the height of a proposed retaining wall on the subject property from 1.2m within a required yard and 2.4m outside a required yard to 3.41m is reasonable in this instance. As such, staff are recommending that Council approve the Development Variance Permit and that Council direct staff to issue the permit.

Alternate Recommendation

Council may consider the requested variance unreasonable in this instance, and require the applicant to revise their plans in order to design a retaining wall which meets the Zoning Bylaw regulations.

1. THAT Council deny “Development Variance Permit PL2022-9262”.

Attachments

Attachment A – Zoning Map

Attachment B – Photo of Property

Attachment C – Letter of Intent

Attachment D – Letter from Geotechnical Engineer

Attachment E – Draft Development Variance Permit PL2022-9262

Respectfully submitted,

Steven Collyer, RPP, MCIP
Planner II

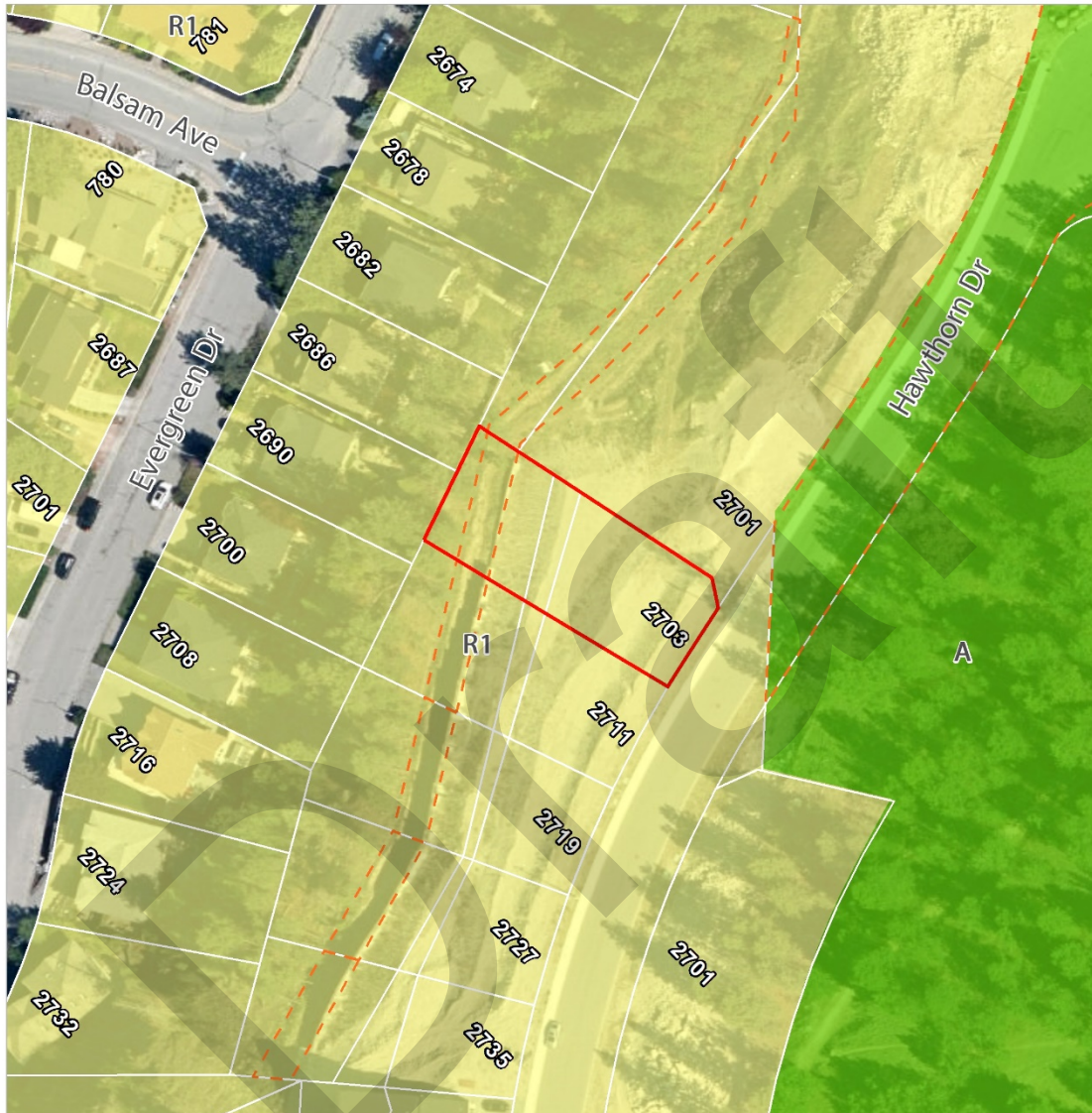
Concurrence

Director of Development Services	Chief Administrative Officer
-------------------------------------	---------------------------------



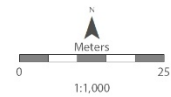
2703 Hawthorn Drive

Zoning Map



Legend

- Subject Parcel
- Zoning Bylaw R1 - Large Lot Residential
- A - Agriculture



Terms of Use: The City of Penticton is a repository of public information in both printed and digital form. This means, 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.

February 11, 2022 11:40:40 AM

penticton.ca

Attachment B – Photo of Property





January 25, 2022

Ecora File No.: 213207

City of Penticton
171 Main Street
Penticton, BC V2A 5A9

Attention: Planning Department

Reference: Development Variance Permit for 2703 Hawthorne Drive for Retaining Wall height

Ecora Engineering and Resource Group Ltd. (Ecora) was requested to submit a Development Variance Permit for a retaining wall. The subject property is a single family lot (Lot 15) located in Phase 1 of the Panorama Estates development located east of Evergreen Drive. This is a large 1078m² lot and is down sloping from Hawthorne Drive to the west. The lower part of the lot is forested and has "No Disturb and No Build Covenant" areas that includes a wildlife corridor. The Covenant provides for works in these areas when authorized by a geotechnical engineer, except for the wildlife corridor.

At the time of subdivision in 2018, a "possible future retaining wall" of 6 – 7 m high was approved in this area, but a wall of 1.5m was actually built on Lot 15. In 2021, the City's Zoning Bylaw was amended to limit retaining walls to a height of 2.4m and not more than 1.2m high within a yard setback.

Extensive geotechnical work has been carried out for the building of a new house on the lot. It is now proposed that 2 retaining walls be constructed, a lower wall of 3.4m, and a second wall of 2.4m that is stepped back to support a deck and pool adjacent to the house. The second wall is compliant with the Zoning Bylaw. See attached Plan.

This application is for the following Zoning Bylaw variances:

5.4.2 Retaining Walls

- .1 No retaining wall in a required yard shall exceed 1.2m – varied to allow a wall to be located in part of the north side yard. This wall is for the lower wall to turn the corner, starting at 2.9m in height at the bottom and stepping up the slope to meet grade for a distance of about 10m; and
- .2 No retaining wall outside of required yards shall exceed 2.4m – varied to allow a wall of 3.4m.

Ecora Engineering & Resource Group Ltd.
201 - 284 Main Street, Penticton, BC V2A 5B2
| P: 250.492.2227 | F: 250.492.2135
www.ecora.ca

Points in favour of this application:

- At the subdivision stage, grade challenges were identified, but the proposal for 2 stepped walls provides for a significantly reduced impact than the original scheme for a 6 – 7m wall;
- The proposed lower wall is located considerably down slope of neighbouring homes on Hawthorne Drive and should have no visual impact;
- The lots to the west fronting on Evergreen Drive are at least 6 m below the lower wall and there is a forested slope to visually screen the wall; and
- The lot to the north is currently in the development stage and the proposed wall in the side yard is in the lower area of the future lot and should not negatively impact future house construction.

We trust this report/proposal meets your present requirements. If you have any questions or comments, please contact the undersigned.

Sincerely

Ecora Engineering & Resource Group Ltd.



Donna Butler, MCIP, RPP
Senior Planner
Direct Line: 250 492 2227 x1070
Email: donna.butler@ecora.ca



February 23, 2022

Ecora File No.: 213207

City of Penticton
171 Main Street
Penticton, BC V2A 5A9

Attention: Steven Collyer, Planner II
Planning Department

Reference: Development Variance Permit for 2703 Hawthorne Drive

Further to the Development Variance Permit (DVP) application for a retaining wall of 3.4 m at 2703 Hawthorne Drive, Penticton, Ecora Engineering & Resource Group Ltd. (Ecora) is writing to respond to the February 11, 2022 TPC Outcome Letter. The City of Penticton (CoP) staff have requested additional information on the following:

- Geotechnical Covenant: The location of the retaining wall is designated as a "No Disturb" area in the geotechnical covenant that that was registered on the title at the time of subdivision of Panorama Estates Phase 1. The "Geotechnical Assessment Proposed Residential Subdivision 2740 Evergreen Drive" (IFU, Rev 2) dated May 2017 by Ecora state that "Revisions to No Build Covenants areas are subject to lot-specific geotechnical assessment undertaken by a Qualified Professional Geotechnical Engineer"
- Retaining Wall Design: At the time of subdivision, a retaining wall up to 11 lock-blocks high (approximately a maximum height of 8.25 m) was designed. The existing lock-block wall was constructed based on the long term design and the possibility of increasing the height of the retaining wall in future (see attached Drawing 15-224-A-003). The proposed 3.4 m retaining wall can be safely constructed from a geotechnical perspective. At the time of issuing a building permit, detailed design drawing and BC Building Code Schedules will be submitted

We trust this letter meets your present requirements. If you have any questions or comments, please contact the undersigned.

Sincerely

Ecora Engineering & Resource Group Ltd.

A handwritten signature in black ink, appearing to read "Brittany Linnett".

Brittany Linnett, P. Eng.
Geotechnical Engineer
Direct Line: 250.492.2227 x1059
Email: Brittany.Linnett@ecora.ca

Ecora Engineering & Resource Group Ltd.
201 - 284 Main Street, Penticton, BC V2A 5B2
| P: 250.492.2227 | F: 250.492.2135
www.ecora.ca

Development Variance Permit

Permit Number: DVP PL2022-9262

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 15 District Lot 2710 Similkameen Division Yale District Plan EPP69185
 - Civic: 2703 Hawthorn Drive
 - PID: 030-187-672
3. This permit has been issued in accordance with Section 498 of the *Local Government Act*, to vary the following sections of Zoning Bylaw 2021-01 to allow for the construction of a retaining wall, as shown in the plans attached in Schedule 'A':
 - a. Section 5.4.2.1: to increase the maximum height of a retaining wall within any required yards from 1.2m to 3.41m above approved grade.
 - b. Section 5.4.2.2: to increase the maximum height of a retaining wall outside any required yards from 2.4m to 3.41m above approved 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,

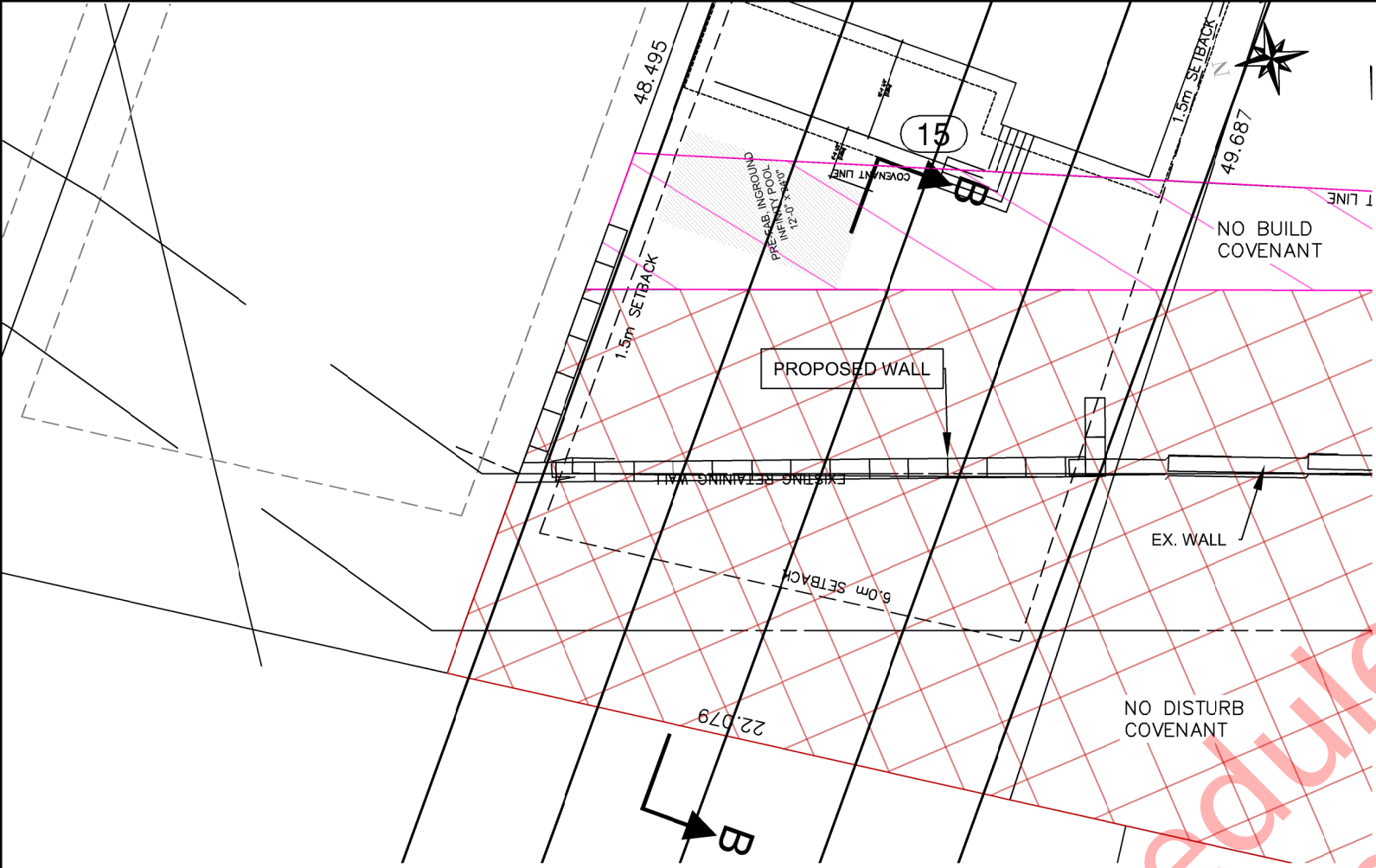
please contact the Electric Utility at (250) 490-2535.

Authorized by City Council, the ____ day of _____, 2022.

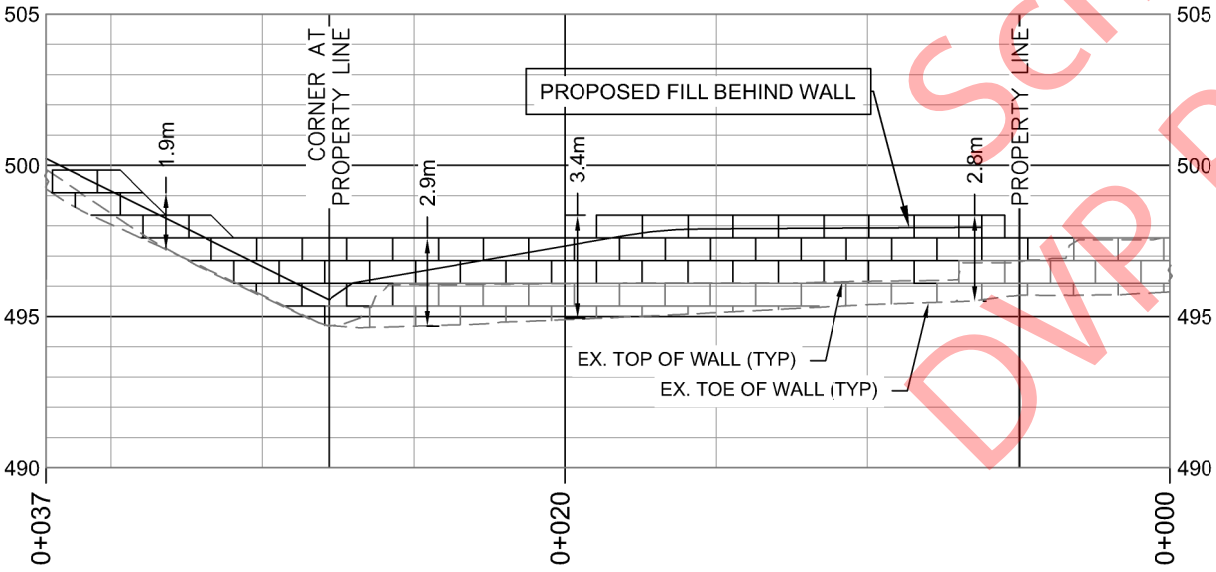
Issued this ____ day of _____, 2022.

Angela Collison
Corporate Officer

DRAFT

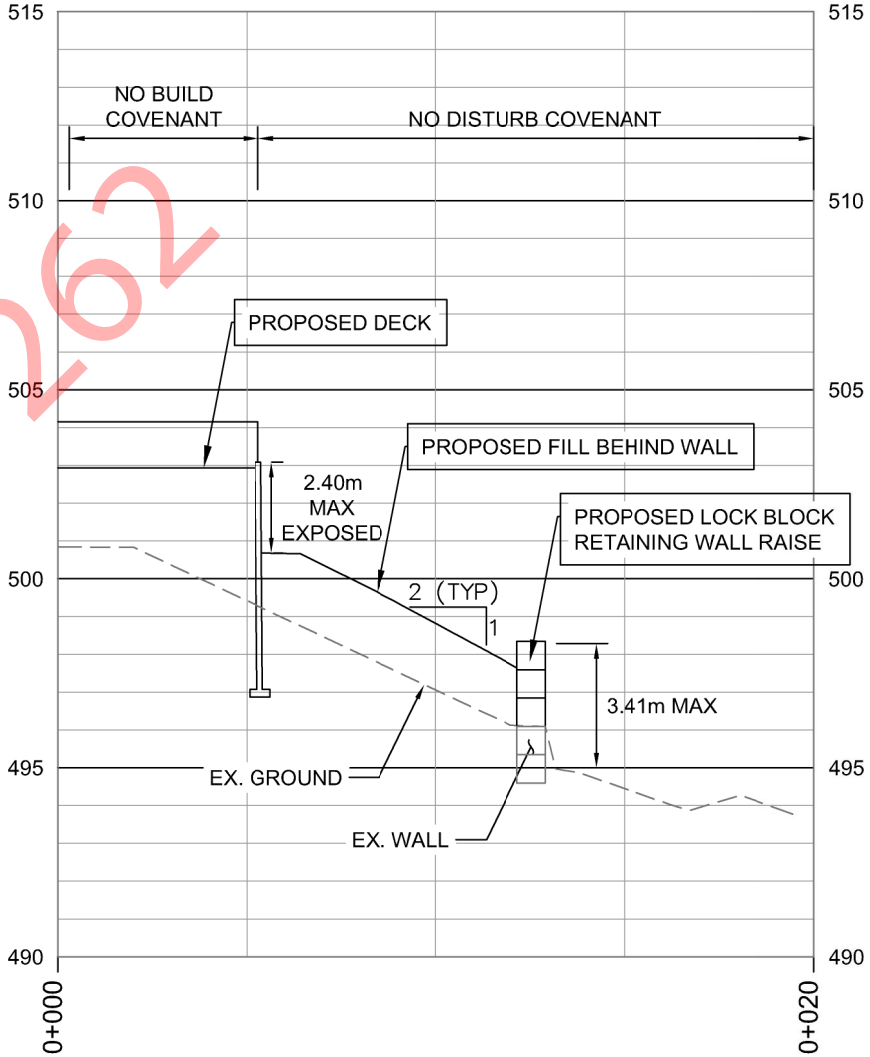


PLAN VIEW
SCALE: 1:250



WALL ELEVATION
SCALE: 1:250

NOTES:
-GEOTECH COVENANTS REFER TO ECORA'S "GEOTECHNICAL ASSESSMENT
PROPOSED RESIDENTIAL SUBDIVISION 2740 EVERGREEN DRIVE, PENTICTON, B.C."
PE-15-224-PAN REV 2, DATED MAY 15, 2017
-LOCKBLOCK WALL FROM ECORA'S "2740 EVERGREEN DRIVE RETAINING WALL
DETAILS" DRAWING NO. 15-224-A-D003, D004 REV 12 RECORD DRAWINGS



SECTION B
SCALE: 1:200

A	DVP PL 2022-9262	GMW	VARIANCE APPLICATION	BL
NO.	DATE	DRN	REVISION	CH'KD

		DESIGN: BL
		DRAWN: GMW
		CHECKED: BL
		DATE: JAN 18, 2022
		SCALE: AS SHOWN
PERMIT	SEAL	

2703 HAWTHORNE DRIVE - PANORAMA

NEW RESIDENCE (LOT 15)

RETAINING WALL DETAILS

#201-284 MAIN STREET
PENTICTON, B.C.
V2A 5B2
PHONE: 250-492-2227
www.ecora.ca

Page 3 of 3

Rev. No A

213207-C2.0