



March 22, 2018

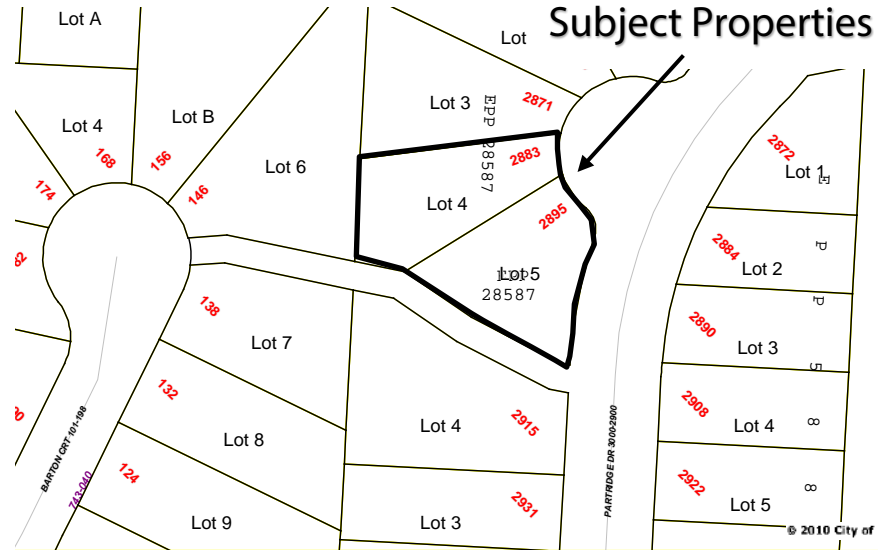
**Subject Properties:**

2883 Partridge Drive  
*Lot 4, District Lot 2710, Similkameen  
 Division Yale District, Plan EPP28587*

2895 Partridge Drive  
*Lot 5, District Lot 2710, Similkameen  
 Division Yale District, Plan EPP28587*

**Application:**

Development Variance Permit PL2018-8139



To create level building sites, the applicant is proposing to construct a 'locked block' retaining wall to run along the public walkway from Partridge Drive and increase in height to the protected natural area where the wall will run along the natural area through both subject properties. See illustration on page 2. The applicant is requesting a variance to the following section of Zoning Bylaw 2017-08:

Section 5.6.2.1: Increase the maximum height of a retaining wall in a required yard from 1.2m to 4.5m.

**Information:**

The staff report to Council and Development Variance Permit PL2018-8139 will be available for public inspection from **Friday, March 23, 2018 to Tuesday, April 3, 2018** at the following locations during hours of operation:

- Penticton City Hall, 171 Main Street
- Penticton Library, 785 Main Street
- Penticton Community Centre, 325 Power Street

You can also find this information on the City's website at [www.penticton.ca/publicnotice](http://www.penticton.ca/publicnotice).

Please contact the Planning Department at (250) 490-2501 with any questions.

**Council Consideration:**

Council will consider this application at its Regular Council Meeting scheduled for **6:00 pm, Tuesday, April 3, 2018** in Council Chambers at Penticton City Hall, 171 Main Street.

**Public Comments:**

You may appear in person, or by agent, the evening of the Council meeting, or submit a petition or written comments by mail or email no later than **9:30 am, Tuesday, April 3, 2018** to:

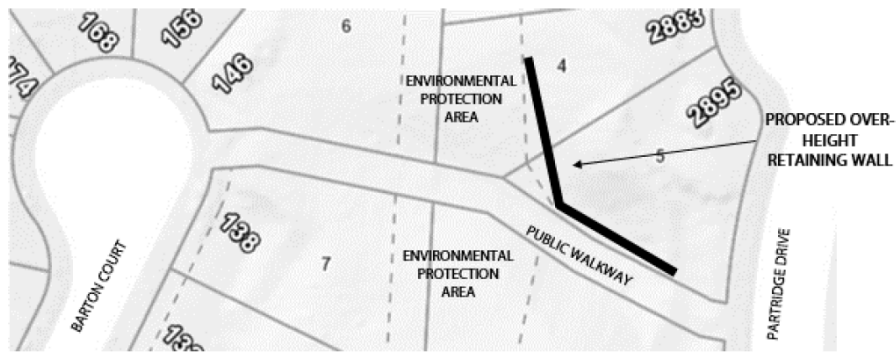
Attention: Corporate Officer, City of Penticton  
171 Main Street, Penticton, B.C. V2A 5A9  
Email: [publichearings@penticton.ca](mailto:publichearings@penticton.ca).

No letter, report or representation from the public will be received by Council after the conclusion of the April 3, 2018 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.

Blake Laven, RPP, MCIP  
Manager of Planning

Illustration



**Date:** April 3, 2018  
**To:** Peter Weeber, Chief Administrative Officer  
**From:** Blake Laven, Planning Manager  
**Property:** 2883 and 2895 Partridge Drive  
**Subject:** "Development Variance Permit 2018-8139"

**File No:** DVP PL2018-008

## Staff Recommendation

THAT Council approve "Development Variance Permit PL2018-8139", a permit to increase the permitted height of a retaining wall in a required yard from a maximum height of 1.2m to a maximum height of 4.5m for Lots 4 and 5 of District Lot 2710, Similkameen Divisions Yale District, Plan EPP28587, located at 2883 and 2895 Partridge Drive.

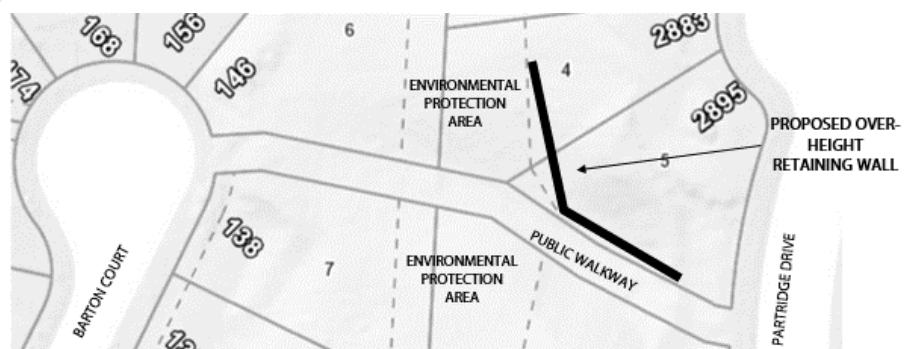
AND THAT staff are directed to issue "Development Variance Permit PL2018-8139".

## Background

The subject properties are two large single family lots located in the upper Pineview area of the city. The property slopes steeply from Partridge Drive into a natural area at the back of the lot. The natural area is part of the Environmental Protection Development Permit Area and no building is permitted or proposed to take place on this portion of the lot. There is a public walk way that runs through the natural area connecting Partridge Drive to the Barton Court cul-de-sac below. One of the two subject lots (2895 Partridge) is located adjacent to the walkway, with the other lot (2883 Partridge) located adjacent to the north.

The developer who owns the lands is requesting to construct a 'locked block' retaining wall to create a "level building site". The wall is intended to run along the public walkway from Partridge Drive and gain in height to the protected natural area where the wall will run along the natural area through both subject properties (see figure below).

Given the steep slope of the lot, the wall is required to be 4.5m (15 feet) at its highest. The City's zoning bylaw does not permit an accessory structure to be over 4.5m in height, nor does the bylaw allow for a retaining wall higher than 1.2m in a required yard. The proposed wall does not meet the bylaw regulation



as there is a section of the wall over 1.2m in the required side yard. As such a variance to the bylaw is being requested.

In 2014, City Council approved a similar variance request for the lot immediately across the public walkway from the subject lots. Images of the constructed wall are included as part of Attachment B of this report. Approval of the subject variance will result in a similar situation on both sides of the walkway.

## **Proposal**

The applicants are requesting a development variance permit to vary Section 5.6.2.1 of Zoning Bylaw 2017-08 to increase the maximum height of a retaining wall in a required yard from 1.2m to 4.5m.

## **Financial implication**

N/A

## **Technical Review**

The subject application has been forwarded to the City's Technical Planning Committee. No major issues were identified from that Committee. Prior to construction of the wall, if approved by Council, a building permit will be required. As part of the variance permit application a report prepared by a Geotechnical Engineer has been submitted, ensuring the technical feasibility of the wall.

## **Analysis**

### *Approve*

When considering a variance to a City bylaw, staff encourages Council to consider whether there is a significant site constraint that exists on the property that makes following the bylaw difficult or impossible, whether approval of the variance would cause a negative impact on neighbouring properties, or if the variance request is reasonable.

In this case, the applicant has stated that to create a usable building footprint the retaining structure is required. The severe topography of the property combined with the reduced usable area of the property due to the Environmental Protection Area, significantly restrict the usable area of the lot and constructing the retaining wall in accordance with the zoning bylaw would further decrease the usable area. The zoning bylaw does allow for retaining walls to be built up to 4.5m, just not at the property line. To comply with the bylaw a retaining wall would have to be built at a maximum height of 1.2m at the property line and then a second wall making up the difference in height constructed parallel to the first wall. This creates logistical challenges.

The intent of the bylaw is so that lower properties are not negatively affected by having to view large retaining walls. The bylaw requires stepping of the wall to reduce the effect of one large wall face. In this case, there will not be any negatively affected persons as the neighbour across the walkway has a similar wall and the properties to the west are buffered by the natural area.

Furthermore, the construction of the wall effectively creates a buffer between the residential development and the natural area. The natural area is intended as a wildlife corridor and has seen encroachment in the past. The erection of the wall will ensure a clear delineation between the residential building site and the protected natural area.

Considering the points above, staff consider that the requested variance is reasonable and recommend that Council support the application and direct staff to issue the permit.

*Deny or Refer*

Council may feel that the variance is not justified and that the wall should be terraced as required by the Zoning Bylaw. If that is the case, Council should deny the variance. Alternatively, Council may support the variance to the height, but place some restrictions / qualifications on the design of the wall such as a specified material (textured stone or other).

**Alternate recommendations**

Alternative 1: THAT Council support "DVP PL2018-8139" with the condition that the wall be constructed from a textured material.

Alternative 2: THAT "DVP PL 2018-8139" be denied.

**Attachments**

- Attachment A – Subject property location map
- Attachment B – Images of subject property
- Attachment C – Draft DVP

Respectfully submitted,

Blake Laven, RPP, MCIP  
Planning Manager

**Approvals**

Acting Director  <i>BJ</i>	City Manager
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Attachment 'A'  
Subject Property Location Map



Attachment B  
Images of Subject Property

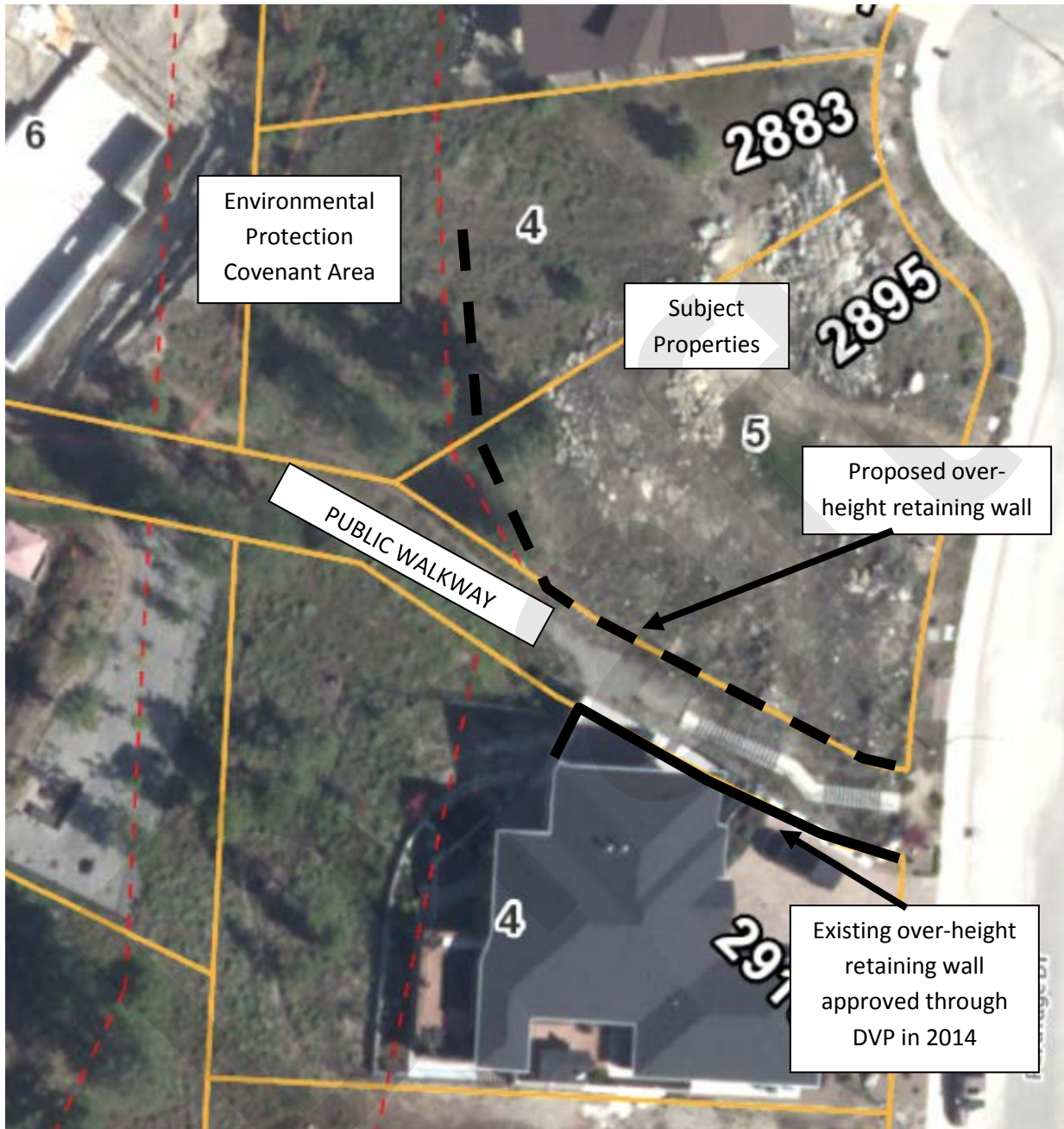




Figure 1: Image of public walkway looking west with existing over-height retaining wall on left. Similar wall is proposed on right.

Attachment 'C'  
Draft "Development Variance Permit PL2018-8139



City of Penticton  
171 Main St. Penticton B.C. V2A 5A9  
www.penticton.ca ask@penticton.ca

## Development Variance Permit

**Permit Number: DVP PL2018-8139**

Name  
Address  
Contact

### 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: Lots 4 and 5, District Lot 2710, Similkameen Division Yale District, Plan EPP28587  
Civic: 2883 and 2895 Partridge Drive  
PID: 029-669-359 and 029-669-367
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:
  - i. Section 5.6.2.1 to increase the maximum height of a retaining wall in a yard from 1.2m to 4.5m

### 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.
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 \_\_\_\_\_, 2018

Development Variance Permit PL2018-8139  
Issued this \_\_\_\_\_ day of \_\_\_\_\_, 2018

\_\_\_\_\_  
Dana Schmidt,  
Corporate Officer

Draft

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