

May 24, 2018

Subject Property:

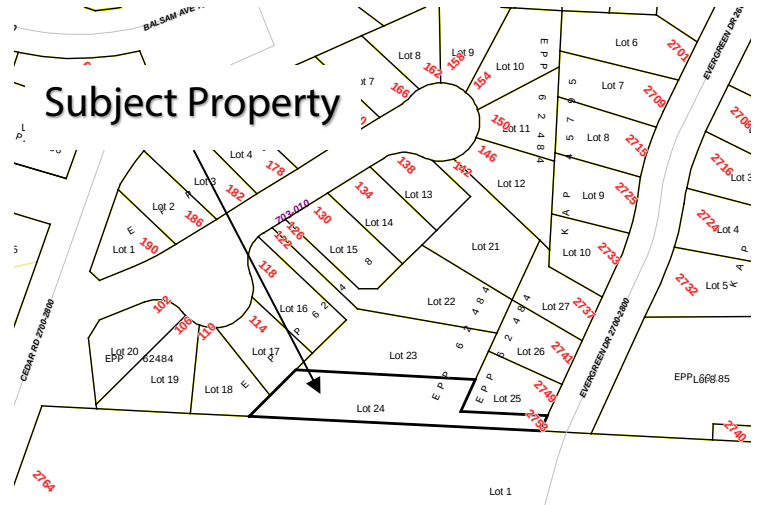
2753 Evergreen Drive

Lot 24, District Lot 2710, Similkameen Division Yale
District, Plan EPP62484

Application:

Development Variance Permit PL2018-8216

An approximate 8.5m tall retaining wall constructed on the south property line of 2753 Evergreen Drive exceeds the height requirement as specified in Zoning Bylaw 2017-08. To correct this, the applicant is proposing to lower the height of the retaining wall to 4.5m at the property line, step it back 1.2m and then continue the height of the wall. Please refer to page 2 for an illustration.



The following variance to Zoning Bylaw 2017-08 is being considered:

Section 5.6.2.1: To increase the maximum height of a retaining wall within a required yard from 1.2m to 4.5m.

Information:

The staff report to Council and Development Variance Permit PL2018-8216 will be available for public inspection from **Friday, May 25, 2018 to Tuesday, June 5, 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.

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, June 5, 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, June 5, 2018** to:

Attention: Corporate Officer, City of Penticton

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

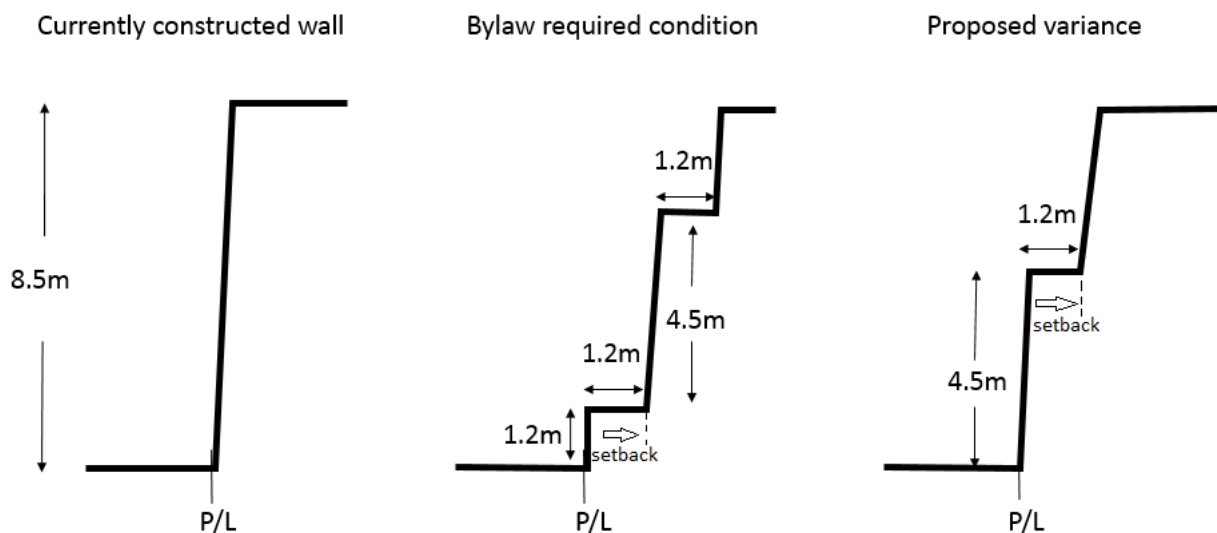
Email: publichearings@penticton.ca.

No letter, report or representation from the public will be received by Council after the conclusion of the June 5, 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: June 5, 2018
To: Peter Weeber, Chief Administrative Officer
From: Randy Houle, Planner I
Address: 2753 Evergreen Drive
Subject: Development Variance Permit PL2018-8216

File No: 2018 PRJ-086

Staff Recommendation

THAT Council support "Development Variance Permit PL2018-8216" for Lot 24 District Lot 2710 Similkameen Division Yale District Plan EPP62484, located at 2753 Evergreen Drive, a permit to increase the maximum height of a retaining wall within a required yard from 1.2m to 4.5m.

Background

The subject property (Attachment A) is zoned R1 (Large Lot Residential) and designated by the City's Official Community Plan as LR (Low Density Residential). Photos of the site as they exist today are included as Attachment D. The property is part of the Avery Heights subdivision, approved in 2015 and currently under construction. The surrounding properties are zoned R1 (Large Lot Residential). The property is on the outside edge of the larger subdivision and is adjacent to a large single-family lot (2764 Cedar Road) that is intended for future subdivision, as shown on the Cedar Road Area Plan (Attachment E).

Prior to the redevelopment of the lands as part of the Avery Heights Subdivision, the topography of the land in this area featured a steeply sloped grade, with rock outcropping as shown in the images in Attachment D. This necessitated the need for significant regrading to create residential lots and usable driveways. Because of the challenging topography, significant retaining walls are used throughout the subdivision. Most of the retaining walls were approved through the subdivision process, however, some were to be dealt with through the building permit process, on a site by site basis, as the house designs were developed. That is the case with the subject property where the post subdivision grade did not work with the house design envisioned for the lot.

The owner of the subject property hired a consultant to design and a qualified contractor to install a large (8.5m at its highest point) retaining wall along the south property line of the property, which is shared with 2764 Cedar Road. The wall was intended to create the desired buildable lot.

A retaining wall over 1.2m in height requires a building permit prior to construction. The subject wall was unfortunately constructed without issuance of a City permit or the City being aware that the wall was under construction until after it was completed.

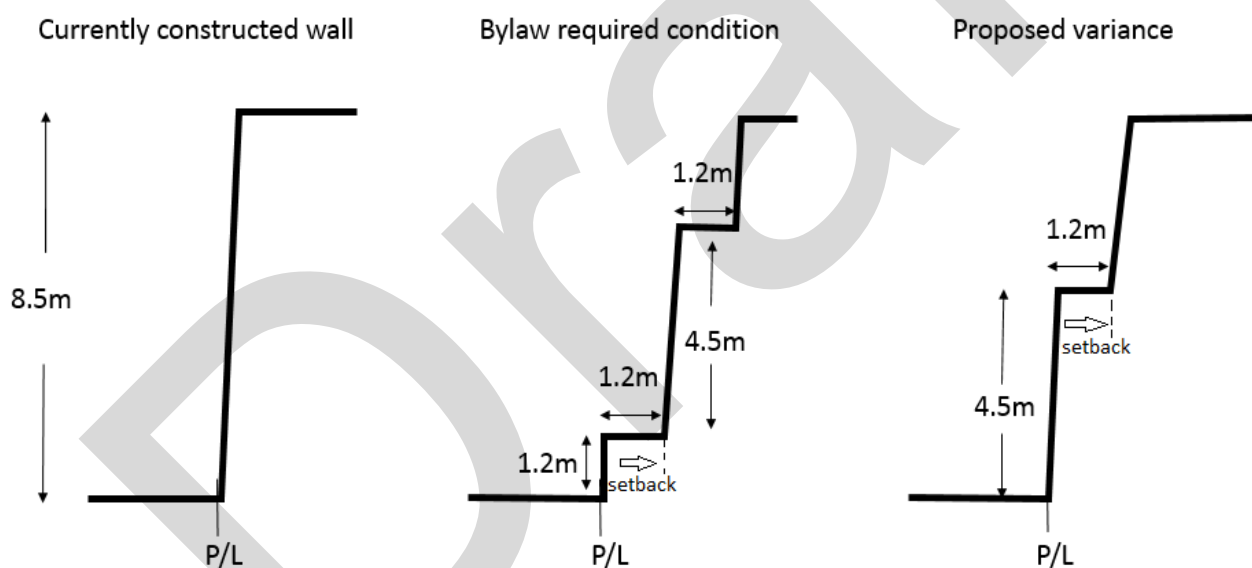
Section 5.6.2.1 of the City's Zoning Bylaw states that retaining walls that are located within any required yards must not exceed a height of 1.2m. The Zoning Bylaw also restricts the total height of a retaining wall elsewhere on the lot (outside of any required yards) to 4.5m. On December 19 2017, Council approved a variance on the subject property and the majority of lots in Avery Place, which increased the maximum allowable height of a retaining wall within a setback from 1.2m to 2.5m. Council has recently supported increases in retaining wall heights in other areas, most notably along Partridge Drive where a variance to increase a wall to 4.5m in a yard was approved.

Proposal

The property owner is proposing to lower the height of the subject retaining wall to 4.5m at the property line, step it back 1.2m, and then continue the height of the wall. To do so, the applicant is requesting a Development Variance Permit to vary the following section of 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 4.5m.

The following graphic shows the height of the wall that has been constructed compared to the bylaw requirements, in addition to the height of the variance that is being proposed.



Financial implication

N/A

Technical Review

This application was forwarded to the City's Technical Planning Committee (TPC) and reviewed by the Engineering and Public Works Departments. The City has received as-built drawings from the applicant's Engineering firm for the constructed wall and have no concerns with structural integrity.

Analysis

Support Development Variance Permit PL2018-8216

When considering a variance to a City bylaw, staff encourages Council to be mindful of any constraints on the property that makes following the bylaw difficult or impossible; whether approval of the variance would cause a negative impact on neighbouring properties and if the variance request is reasonable.

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

The 1.2m (4ft) maximum allowable height of a retaining wall in a setback is intended to negate the visual impacts that a retaining wall could have on neighbouring properties. Staff feel that the height of the current wall at 8.5m (28ft) is significant and approval to allow the wall to remain would have a negative impact on the neighbour to the south. In discussions with staff, the property owner has agreed to propose a variance to Council which would lower the height of the wall to 4.5m within the setback, step it back 1.2m outside of the setback, and then construct it to its ultimate height. The retaining wall is constructed of an attractive Allan Block material instead of a cast-in-place wall and this was intended to make the wall more attractive to the neighbouring property.

Furthermore, as the neighbouring property redevelops, it will likely be raised up as lots are created, further reducing the overall height of the wall and impact. As it stands now, the wall is set well back from the residential house on the property. The Cedar Road Area Plan that was created for this area in 2009 (Attachment E) identifies three single-family lots that would back onto the property where the retaining wall is located. The Cedar Road Area Plan identifies the eventual redevelopment of the adjacent parcels of land, provides guidance in terms of its future subdivision potential and identifies the land as a future growth area for the City. Construction of this development depends on the timing and needs of the property owners.

Staff consider this an acceptable compromise and keeping with the general intent of the zoning bylaw wall terracing provisions.

Support an amended DVP PL2018-8216 to allow the full height to remain OR Deny Development Variance Permit PL2018-8216

Council may consider that the wall is already constructed and that there would be a significant hardship to alter the wall to step it back as envisioned in the variance request. Council may feel that even if the wall is reconstructed in accordance with the terracing provisions of the bylaw, there wouldn't be much of an improvement to the experience from the neighbouring property. If that is the case, Council may wish to support the wall as it currently exists (8.5m in height) and approve a revised variance allowing the wall to remain as is. If this is the case, staff would recommend that the property owner allow the neighbouring property to fill against the wall when that property redevelops. This will be a significant savings at the time of subdivision for the neighbouring property owner, the layout of which would confirm to the Cedar Road Area Plan.

Alternatively, Council may feel while the impact on the neighbours may be significant, the wall should have been built under the bylaws. If that is the case, Council should deny the variance request outright. This would mean that the property owner would have to lower the wall to the recently approved 2.5m height

and then rebuild the wall stepped back 1.2m to its ultimate height. This would be a significant cost to the property owner.

Alternate Recommendations

1. THAT Council support “Development Variance Permit PL2018-8216” for Lot 24 District Lot 2710 Similkameen Division Yale District Plan EPP62484, located at 2753 Evergreen Drive, a permit to increase the maximum height of a retaining wall within a required yard from 1.2m to 8.5m and Section 10.1.2.4.ii increasing the maximum height of an accessory structure from 4.5m to 8.5m, with the condition that when 2764 Cedar Road redevelops that they may fill against the wall.
2. THAT Council deny “Development Variance Permit PL2018-8216.”
3. THAT DVP PL2018-8216 be referred back to staff to work with the applicant as directed by Council.

Attachments

Attachment A: Subject Property Location Map
Attachment B: Zoning Map
Attachment C: OCP Map
Attachment D: Photos of Subject Property
Attachment E: Cedar Road Area Plan
Attachment F: Site Plan
Attachment G: Retaining Wall Location
Attachment H: Retaining Wall Section and Design
Attachment I: Development Variance Permit PL2018-8216

Respectfully submitted,

Randy Houle
Planner I

Approvals

DDS	CAO
	PW

Attachment B – Zoning Map

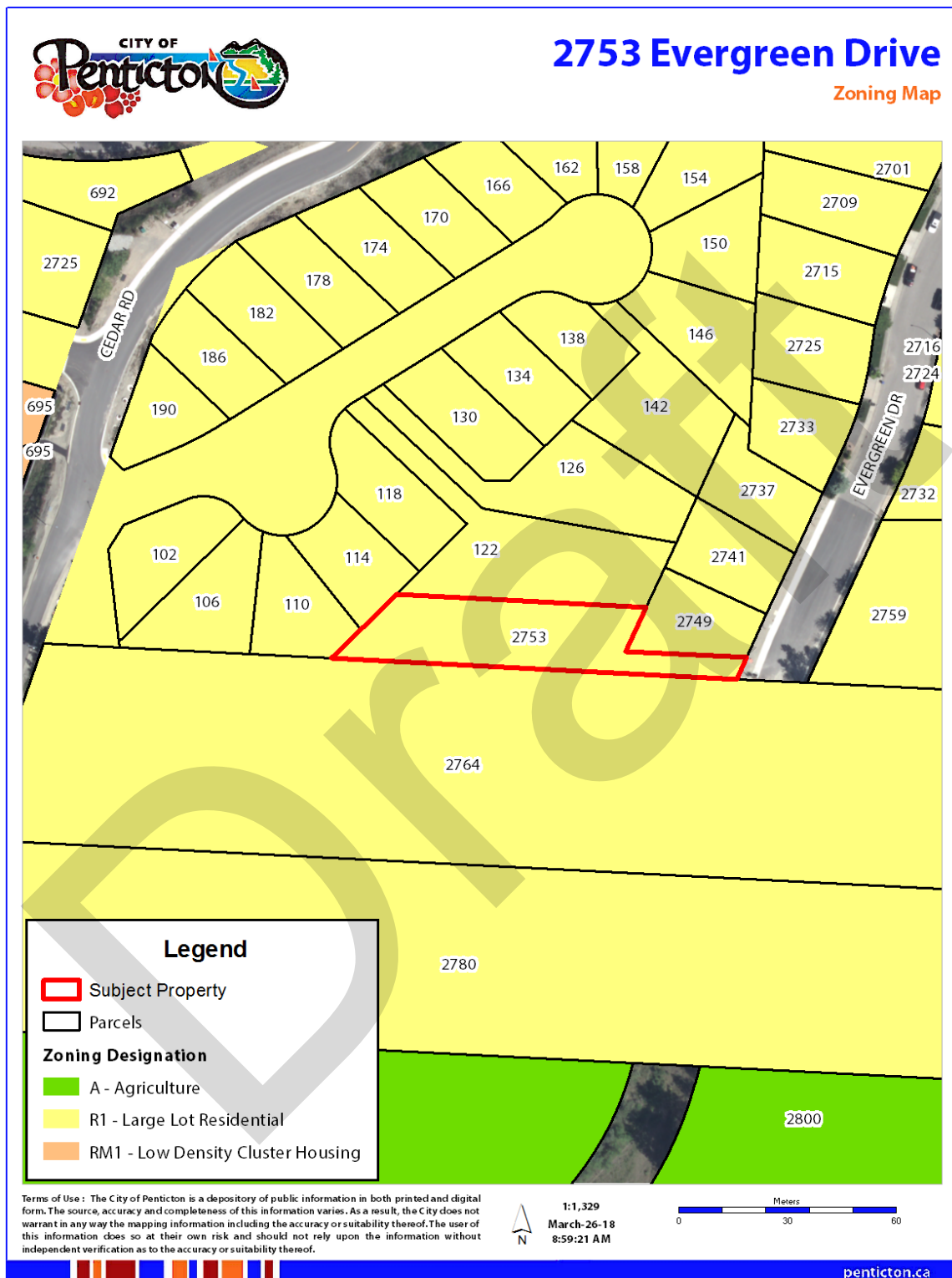


Figure 2: Zoning Map

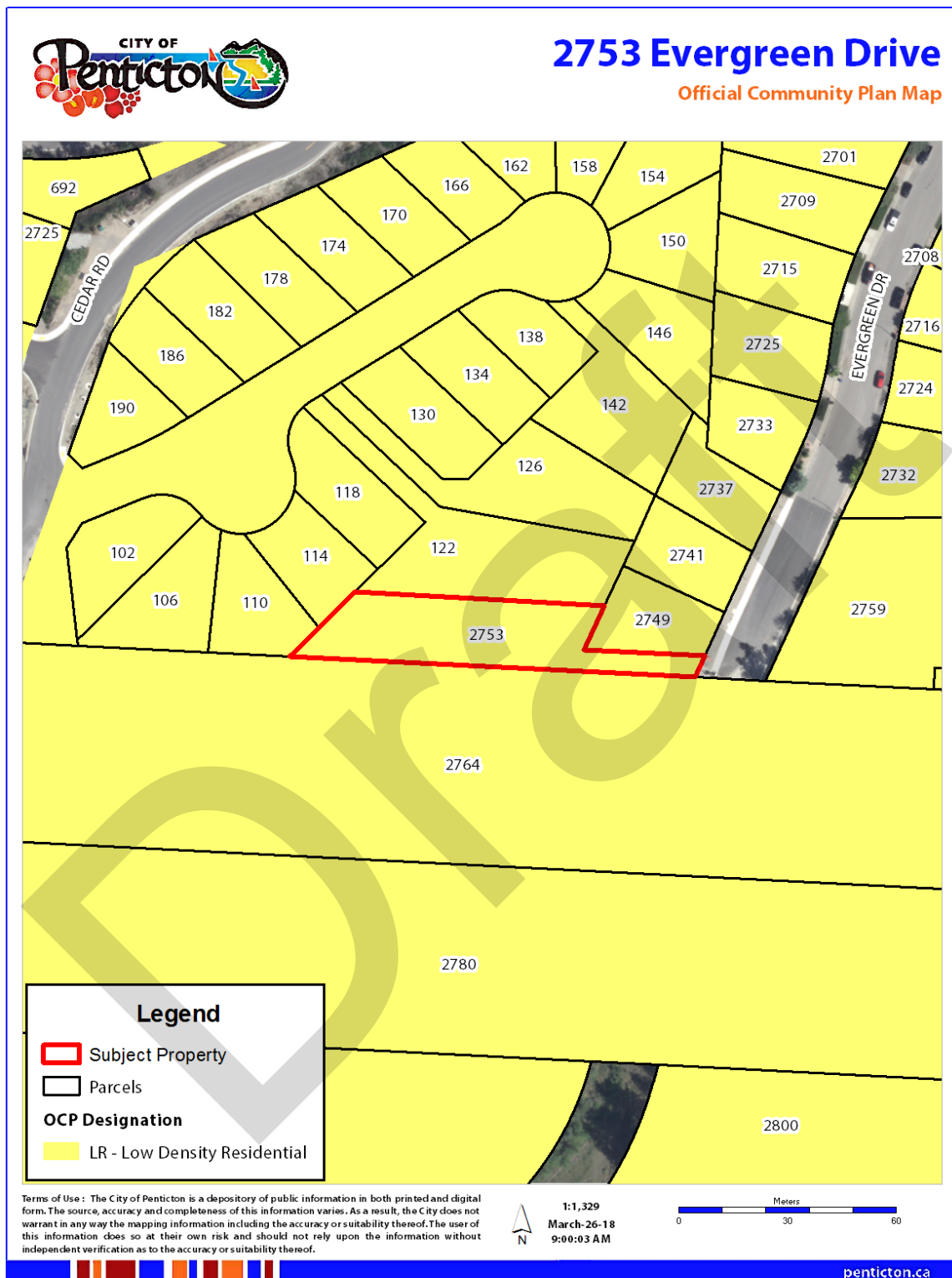


Figure 3: OCP Map

Attachment D – Photos of Subject Property



Figure 4: West Elevation



Figure 5: South Elevation looking east



Figure 6: South Elevation looking west



Figure 7: East Elevation



Figure 8: East Elevation showing potential building site



Figure 9: West Elevation showing driveway access to Evergreen Drive



Figure 10: Aerial image of subject property showing the grade of the lot prior to development



Figure 11: Image of hillside where the retaining wall now exist (pre-development)

Attachment E – Cedar Road Area Plan (2009)

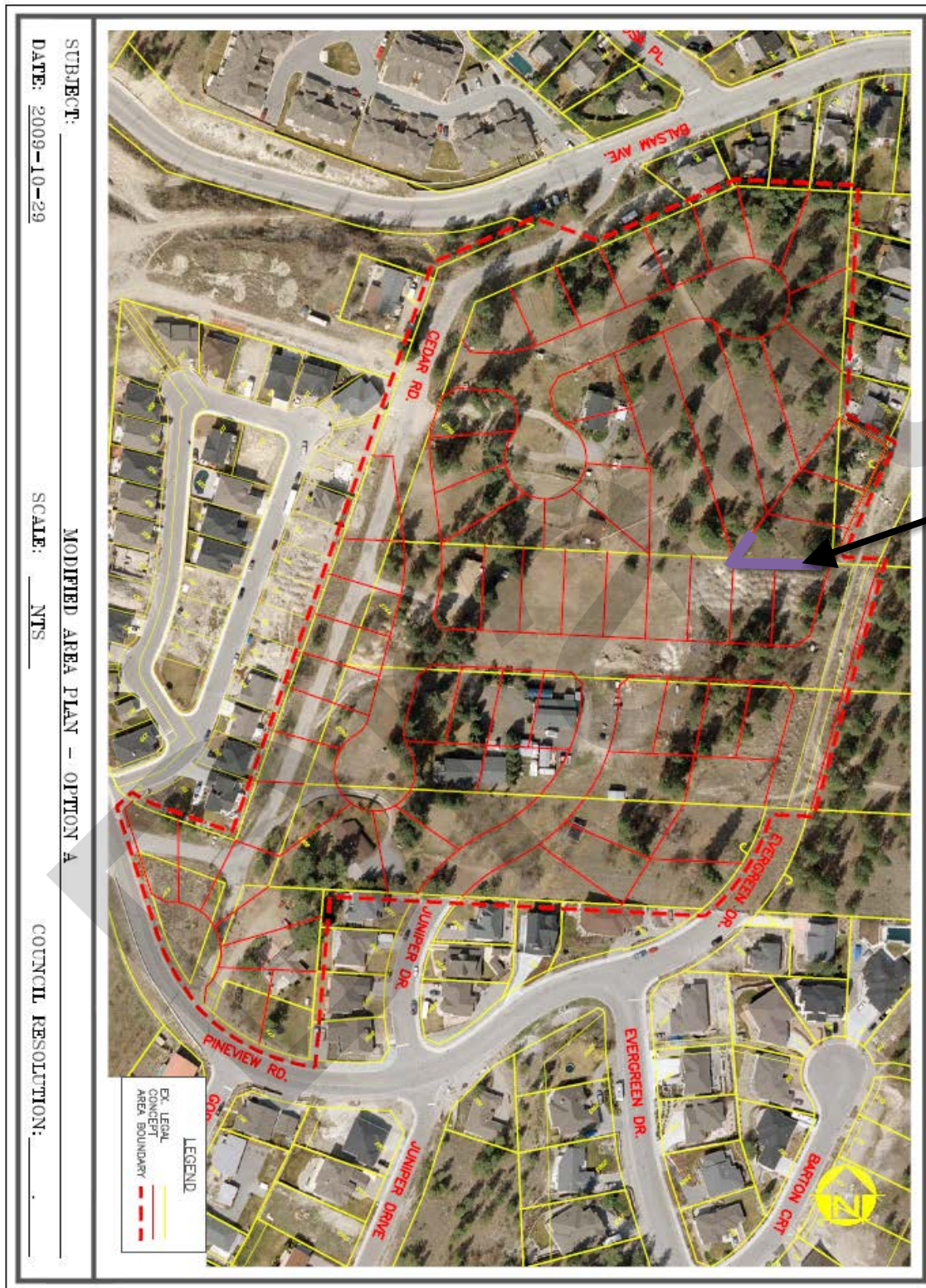


Figure 10: Cedar Road Area Plan

Attachment F – Site Plan

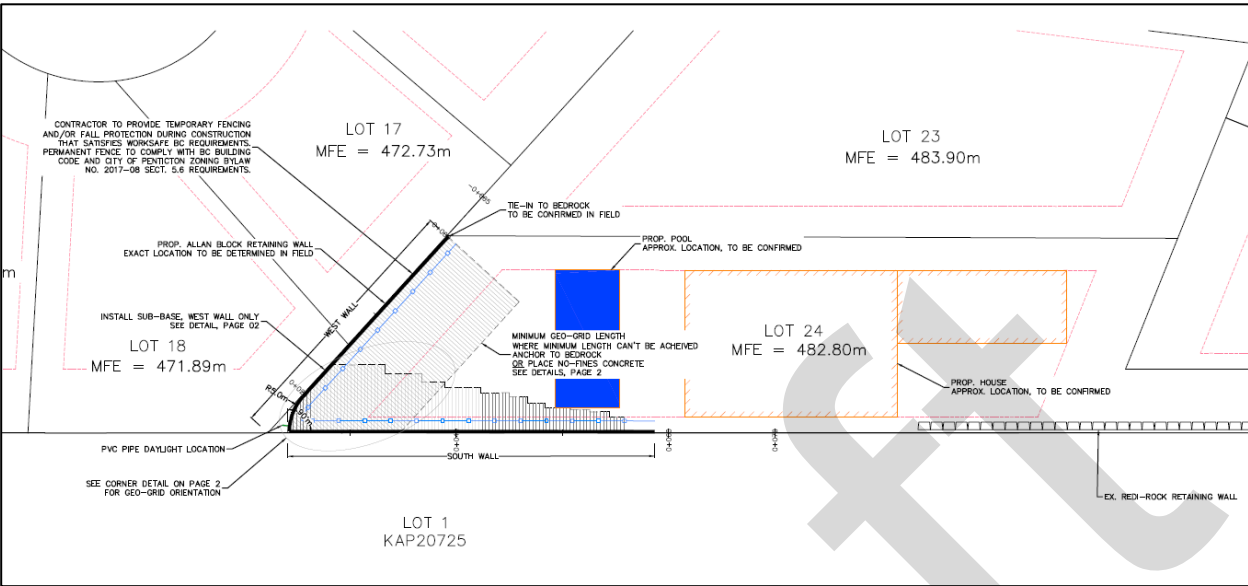


Figure 10: Site Plan

Attachment G- Retaining Wall Location

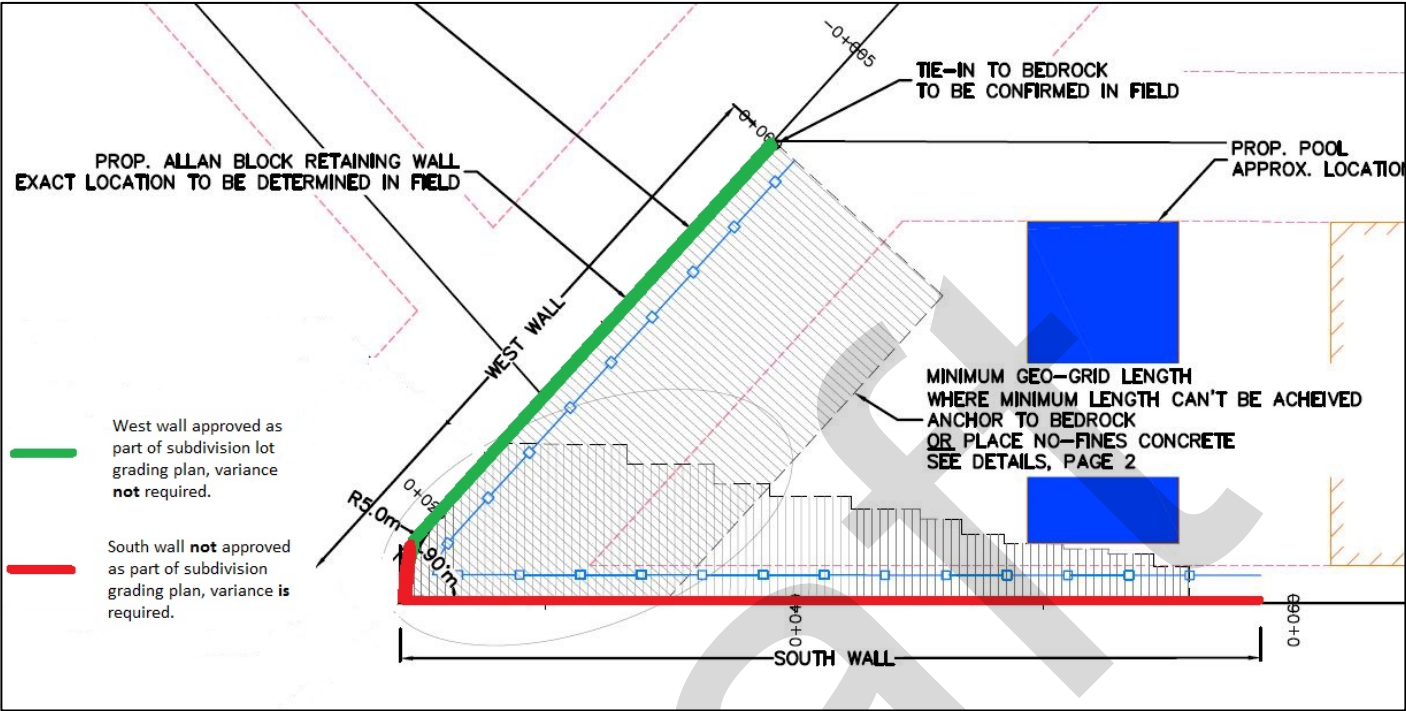


Figure 11: Retaining Wall Location

Attachment H- Retaining Wall Section and Design

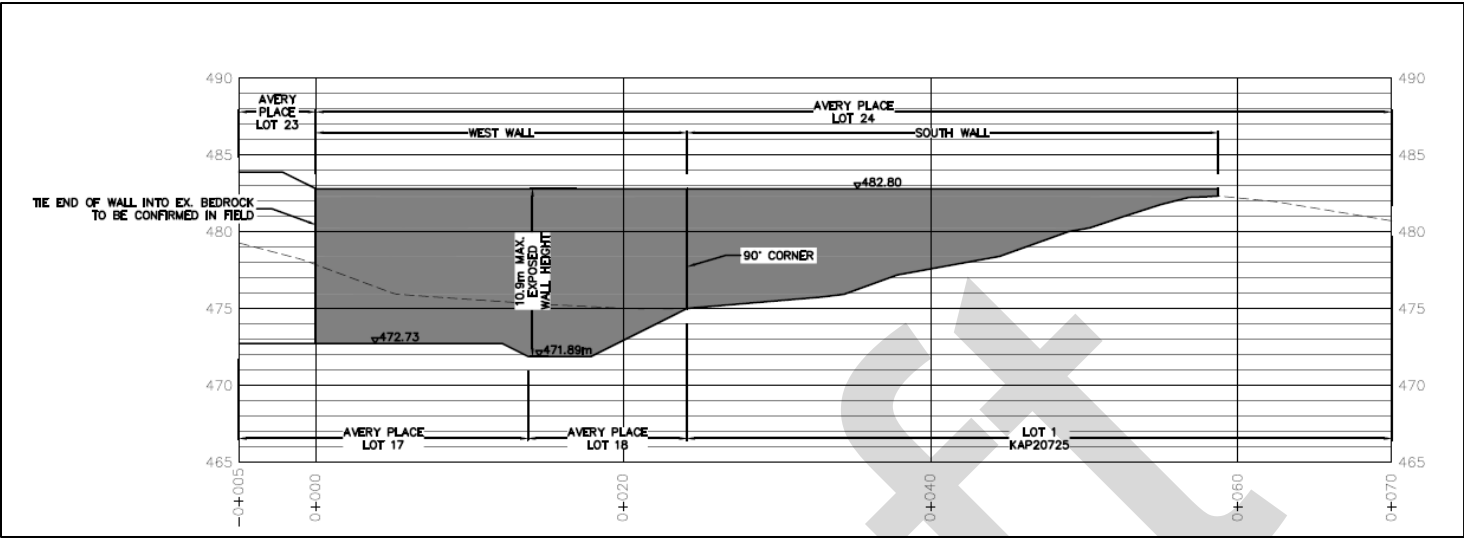


Figure 12: Cross Section

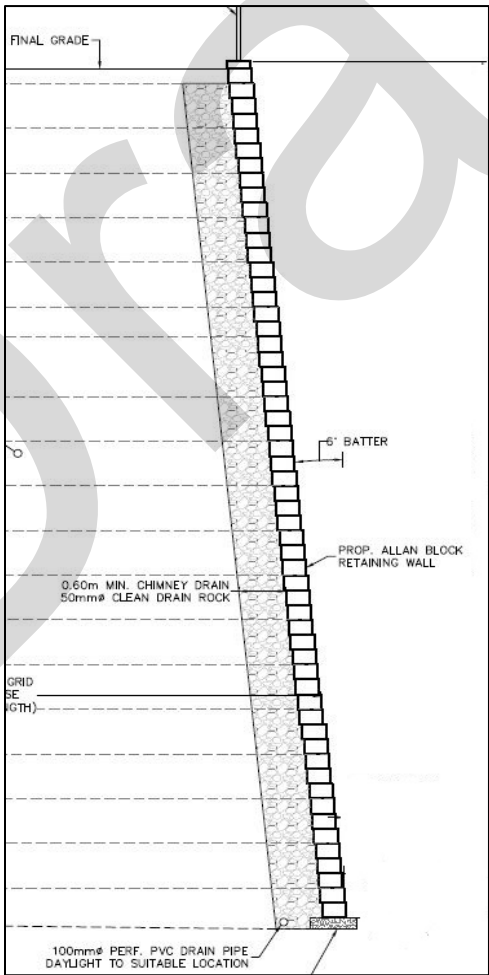


Figure 13: Retaining Wall Design



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

Development Variance Permit

Permit Number: DVP PL2018-8216

Name:

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 24 District Lot 2710 Similkameen Division Yale District Plan EPP62484
Civic: 2753 Evergreen Drive
PID: 029-904-919
3. This permit has been issued in accordance with Section 498 of the *Local Government Act*, to vary the following section of Zoning Bylaw 2017-08 to allow for the construction of a retaining wall.
 - Section 5.6.2.1: to increase the maximum height of a retaining wall within a required 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 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 22 day of May, 2018

Issued this ____ day of _____, 2018

Dana Schmidt,
Corporate Officer

Draft