

May 24, 2018

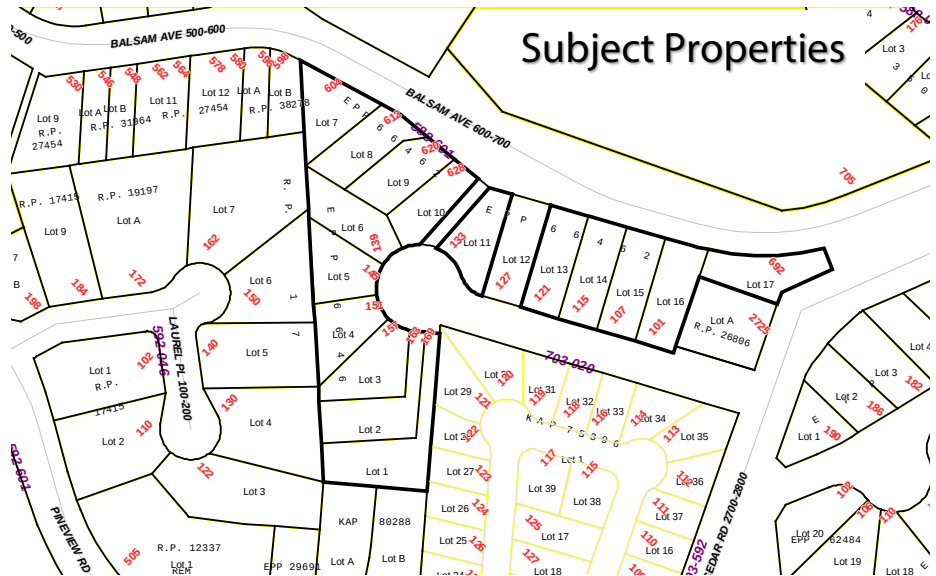
Subject Properties:

604, 612, 620, 628 and 692 Balsam Ave
and 101, 107, 115, 121, 133, 139, 145,
151, 157, 163, 169 Timberstone Pl

Lots 1-11 and 13-17, District Lot 2710,
Similkameen Division Yale District, Plan
EPP66462

Application:

Development Variance Permit
PL2018-8225



The developer of the subdivision is proposing to erect retaining walls at the backs of the properties listed above to provide more stable building footprints and small level back yards for the eventual residents of the houses. In order to do so, an application has been made to vary the following section of Zoning Bylaw 2017-08:

Section 5.6.2.2 increasing the maximum height of a retaining wall in a required yard from 1.2m to 3.0m on all of the identified properties

Information:

The staff report to Council and Development Variance Permit PL2018-8225 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

Date: June 5, 2018 **File No:** DVP PL2018-8225
To: Peter Weeber, Chief Administrative Officer
From: Blake Laven, Planning Manager
Address: 604, 612, 620, 628 and 692 Balsam Avenue and 101, 107, 115, 121, 133, 139, 145, 151, 157, 163, 169 Timberstone Place.
Subject: "Development Variance Permit PL2018-8225"

Staff Recommendation

THAT Council approve "Development Variance Permit PL2018-8225", 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 3.0m for Lots 1-11 and 13-17 of Plan EPP66462, District Lot 2710, Similkameen Division Yale District located at 604, 612, 620, 628 and 692 Balsam Avenue and 101, 107, 115, 121, 133, 139, 145, 151, 157, 163, 169 Timberstone Place.

Background

The subject properties were all created through subdivision in 2016. The subdivision features single family and two-family lots. All of the single family lots are accessed via a newly constructed road, Timberstone Place, with the duplex lots accessed from Balsam Avenue. The majority of lots on the north side of Timberstone Place back onto Balsam Avenue and are steeply sloped.

When the lots were created through subdivision, the City was provided with a report by a geotechnical engineer stating that the lots were all safe to be constructed on. Shortly after development of the new subdivision, soil began sluffing off of the lots down onto Balsam Avenue. When the first house on the north side of Timberstone Place was constructed, sluffing around the deck footings became evident. It was originally thought that the once vegetation is established on the slope, that the sluffing will cease, but it is increasingly evident that retaining walls would assist with slope stability.

The developer of the subdivision is proposing to erect retaining walls at the backs of the properties on Timberstone Place to provide more stable building footprints and small level back yards for the eventual residents of the houses. The retaining walls are proposed to be a maximum 3.0m in height at their highest point. Retaining walls are permitted to be up to 4.5m in height, except within required yards. In any required yards, retaining walls are not allowed higher than 1.2m. The bylaw requires any walls to be higher than 1.2m to be terraced, reducing the visual impact of the walls from neighbouring properties.

In this case, part of the retaining walls are located in required yards between the subject lots and are in conflict with the bylaw. Because the walls are higher than what is permitted by the City's zoning bylaw a variance to the bylaw is required. The applicants have provided a detailed letter of rationale, which is attached to this report.

Proposal

The applicants are requesting development variance permit approval to vary Section 5.6.2.2 increasing the maximum height of a retaining wall in a required yard from 1.2m to 3.0m on all of the identified properties.

Financial implication

All costs associated with the development are the responsibility of the developer.

Ensuring a stable bank will ensure materials do not sluff onto Balsam Avenue and create maintenance issues for the City in the future, saving future street cleaning and sewer clean out.

Technical Review

This application was reviewed by the Technical Planning Committee. It was thought by the committee that the walls will improve a situation that is seeing materials sluff onto Balsam Place. Currently, the developer has been cleaning up materials that end up on Balsam Place, but if vegetation doesn't take on the bank, and materials continue to wash down onto Balsam on a regular basis during rain events, this will turn into a maintenance issue for the City. The walls will ensure that does not happen.

The walls will need to be constructed through building permit processes with geotechnical engineering oversight.

Analysis

Support "Development Variance Permit PL2018-8225"

The justification for limiting the height of retaining walls is to reduce the visual impact that a vertical wall will have from public areas and or neighbouring properties. The height of a wall is more impactful the closer to the property line it is. That is why the zoning bylaw requires walls that are close to property lines to be terraced.

In this case, the walls will be visible from Balsam Avenue, but will be set back quite a bit from the road. And the fact that the walls will all be constructed at the same time will ensure a consistent look to the retaining structures as opposed to individual property owners erecting their own walls at a later date. According to the letter of intent from the proponent, the walls will be poured in place concrete. The remainder of the slope will be vegetated.

Some of the walls will be visible from properties along Laurel Place. Those walls are considered to improve the slope stability for these properties as well. The majority of the walls along this area will only be 2.4m in height. They will, however, be visible from the Laurel Place properties. Most of the properties along Laurel Place have fencing erected along the interface between their own back yards and the new development. The retaining walls will be approximately 2 feet higher than most of the fencing.

The applicant has also indicated that consultation with residents along Laurel Place has taken place and that the residents welcome the retaining wall as it is felt it will help improve the stability of the slope with the new development going in.

The request is similar to approvals that Council has given in the immediate area. Specifically, Council approved blanket retaining wall heights of 2.5m for the Avery Place subdivision.

In staff's opinion, the walls will not have a negative impact on neighbouring properties and will improve the integrity of the slope from Timberstone Place to Balsam Avenue and the integrity of the slope between the Laurel Place properties and the new development lands. For the reasons listed above staff are recommending that Council support the variance permit request.

Deny or refer "Development Variance Permit PL2018-8225"

Council may feel that retaining walls in this location will detract from the look of this area from Balsam Place and that terracing the walls would create a more aesthetically pleasing look. If that is the case, Council should deny the permit request.

If Council hears from the Laurel Place residents that the retaining walls will create a negative impact on them, Council could require the terracing of walls along 139, 145, 151, 157, 163 and 169 Timberstone Place.

Alternate recommendations

THAT Council deny "Development Permit PL2018-8225".

THAT Council approve "Development Permit PL2018-8225" with the condition that the walls at 139, 145, 151, 157, 163 and 169 Timberstone Place be terraced.

Attachments

Attachment A – Property location map and zoning map

Attachment B – Images of subject property

Attachment C – Letter of intent from applicant

Attachment D – Draft permit

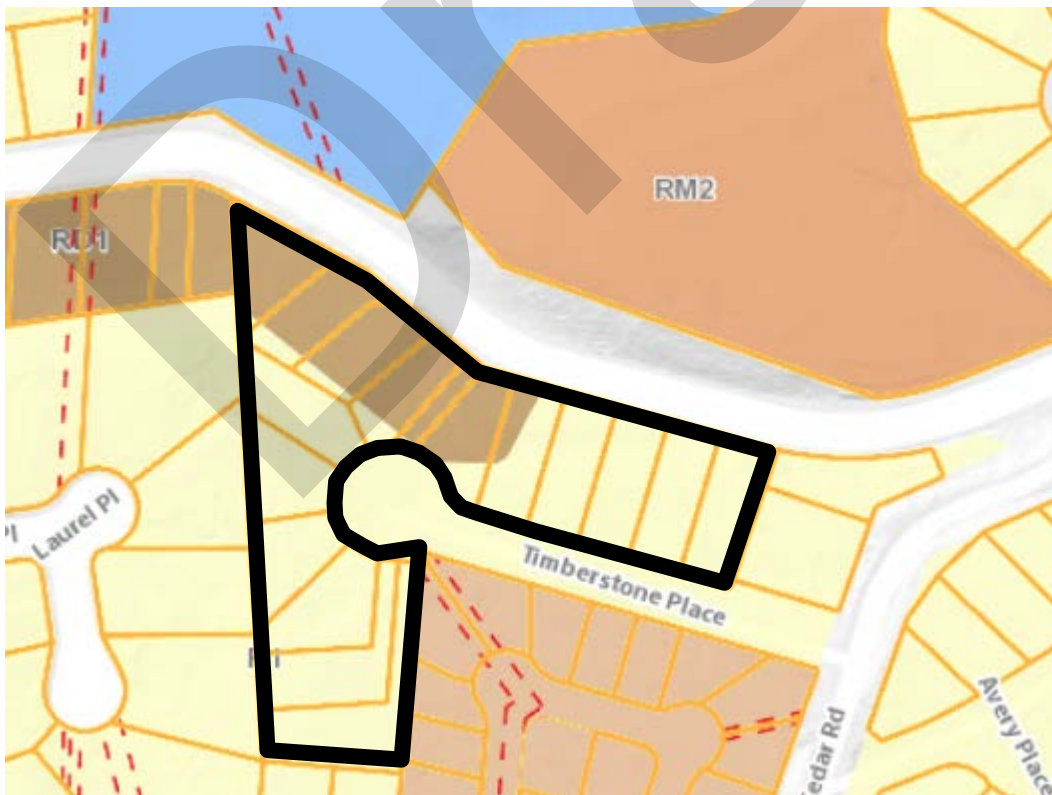
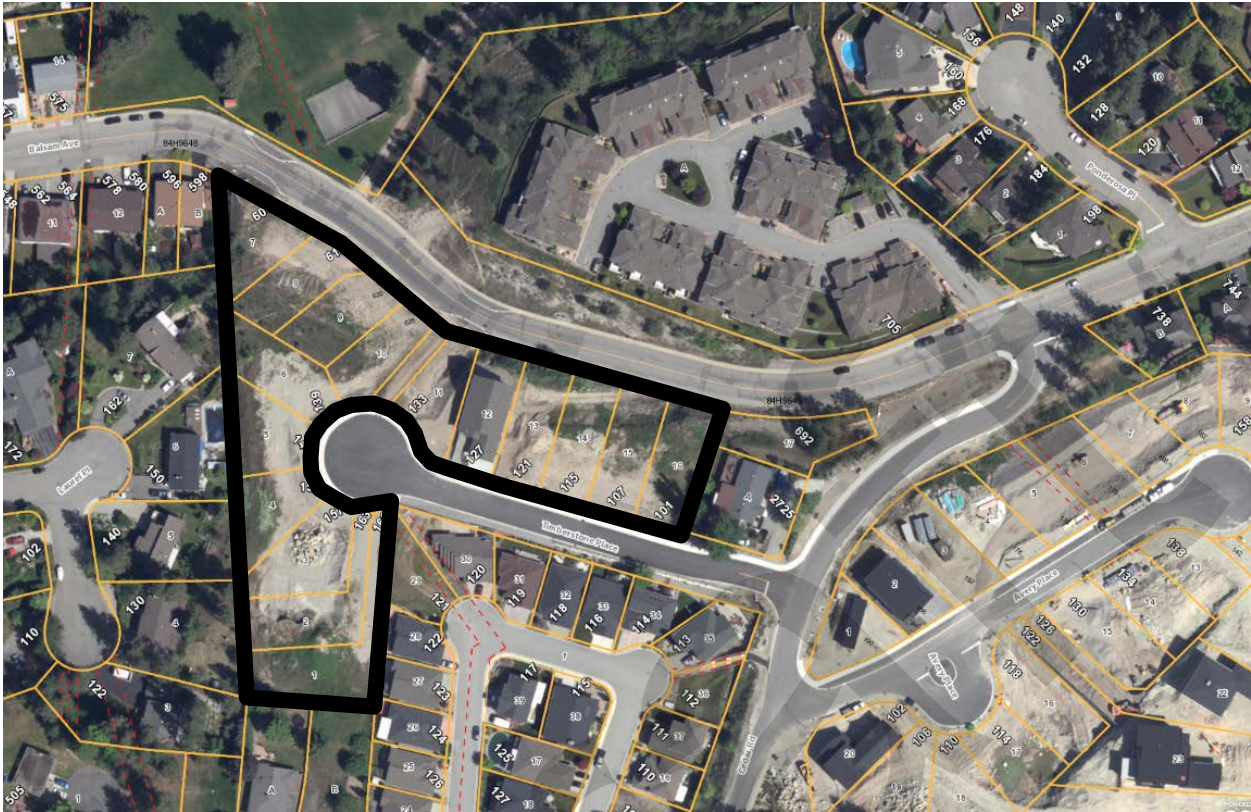
Respectfully submitted,

Blake Laven, MCIP, RPP
Planning Manager

Approvals

Director	Chief Administrative Officer
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Attachment A
Property Location Map and Zoning Map



Attachment B
Images of subject properties



Figure 1: Area along Balsam Avenue where retaining walls are proposed



Figure 2: Duplex lots along Balsam Avenue. Retaining walls proposed here will not be visible from the street



Figure 3: Properties along Timberstone Place looking down on Laurel Place



Figure 4: Properties along Timberstone Place looking down on Laurel Place

Attachment C
Letter of rationale from applicant

Letter of Intent for
Development Variance Permit
At Timberstone Ridge Subdivision

The purpose of this Development Variance Permit is to allow us to build concrete retaining walls in the rear yard of a number of our lots as indicated on the sketch provided.

After the construction of our show home at 127 Timberstone Pl (Formerly 2715 Cedar Rd) I was contacted by the city planning department, namely Darryl Haddrell, to express concerns about the slope at the rear of the house. We made some changes to the grade and had our geotech look it over but Darryl said the city would like to see the slope somewhat retained so as not to have a repeat of the show home.

We plan to construct retaining walls along the north side of the lots that border Balsam Ave. All of these walls will be within the rear setback so height is not an issue. The problem arises at the side setbacks as we'd like to have the walls extend from property line to property line across the rear of these lots. This will give us a small, relatively flat, rear yard space and also greatly reduce the slope from the rear of the homes down to Balsam Ave below.

On Lots 1-5 around the cul-de-sac, we would like to build the walls as close to the rear (west) property lines as possible to give a flat yard space. As these lots are odd shaped, we would have to build outside the rear setback lines. There is about a 20' height difference from our curb to the west property line below so if we install a 10' deep basement and an additional 10' retaining wall near the rear property line, we can have a level yard and also remove the slope that now runs down to the neighbouring properties. Those properties are all fenced so I don't believe our walls would be a visual problem and it would stop melting snow runoff and any rock etc from running down the slope if there were no walls. On our duplex lots (7-10) along Balsam, the opposite is true. We would need retaining walls at the rear (south side) of these lots to help retain the slope behind the buildings for the same reasons as above. Overall it would greatly improve slope stability for all lots and also benefit neighbouring properties. No walls would be over 10' in height in any situation. If a greater height needed to be retained we would place two walls but this is only a possibility on Lot 11 (133 Timberstone Pl) which would help stabilize the slope on our original show home as well.

Any retaining walls would have a maximum exposed height of 8' on the unretained side as we'd need 2' of fill for frost protection on that side of the wall so the visual impact would be no different than a house foundation wall and would act as a fence where the wall is placed close to the rear property line.

I believe the city would benefit from this as was suggested by Darryl last fall and would also make our homes more attractive with a small flat rear yard versus a slope.

I would be happy to meet on site to discuss or view with staff should that be deemed necessary as it's always easier to visualize in person.

Thanks,
Carl Buckendahl

Attachment D
Draft Permit



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

Development Variance Permit

Permit Number: PL2018-8225

Name
Address I
Address II

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 1-5 , 7-11 and 13-17 of Plan EPP66462, District Lot 2710, Similkameen Division Yale District
Civic: 604, 612, 620, 628 and 692 Balsam Avenue and 101, 107, 115, 121, 133, 145, 151, 157, 163, 169 Timberstone Place
PID: 030-107-105, 030-107-113, 030-107-121, 030-107-130, 030-107-148, 030-107-164, 030-107-172, 030-107-181, 030-107-199, 030-107-202, 030-107-229, 030-107-237, 030-107-245, 030-107-253, 030-107-261
3. This permit has been issued in accordance with Section 498 of the *Local Government Act*, to vary Section 5.6.2.2 of Zoning Bylaw 2017-08, increasing the maximum height of a retaining wall within a required yard from 1.2m to 3.0m.

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 PL
Issued this _____ day of _____, 2018

Dana Schmidt,
Corporate Officer

Draft

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