

July 26, 2018

Subject Property:

525 Vancouver Avenue

Lot 2, Block 4, District Lot 202, Similkameen Division Yale District,
Plan 479

Application:

Development Variance Permit PL2018-8277

The applicant is proposing to legitimize the already constructed retaining wall along the south portion of the property. 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 2.85m.

Information:

The staff report to Council and Development Variance Permit PL2018-8277 will be available for public inspection from **Friday, July 27, 2018, 2018 to Tuesday, August 7, 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, August 7, 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, August 7, 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 August 7, 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: August 7, 2018
To: Peter Weeber, Chief Administrative Officer
From: Randy Houle, Planner I
Address: 525 Vancouver Avenue
Subject: Development Variance Permit PL2018-8277

File No: 2018 PRJ-138

Staff Recommendation

THAT Council approve "Development Variance Permit PL2018-8277" for Lot 2 Block 4 District Lot 202 Similkameen Division Yale District Plan 479, located at 525 Vancouver Avenue, a permit to increase the maximum height of a retaining wall within a required yard from 1.2m to 2.85m;

AND THAT prior to issuance of "Development Variance Permit PL2018-8277," the following conditions are met:

- Landscape screening measures are put in place with underground irrigation as per Attachment G of this report.

AND THAT staff be directed to issue "Development Variance Permit PL2018-8277."

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 sites are included as Attachment D. The subject property is approximately 640m² (6,892ft²) in area with a single family dwelling currently under construction. The surrounding properties are primarily zoned R1 (Large Lot Residential), RD1 (Duplex Housing) and P2 (Parks and Recreation).

The property is located on Vancouver Hill, abutting the Esplanade. Vehicle access to the site is provided via easement through 567, 571, and 553 Vancouver Avenue. The property is part of a subdivision that occurred in the early 1900's (KAP479). Given the steepness and narrowness of these lots, retaining walls are often required to address slope stability issues and to create level yards or driveways.

As part of construction of the single family dwelling, a retaining wall was constructed along the south property line to provide a wider driveway for vehicle turn-around and to address storm water runoff into neighbouring properties. Although the wall was engineered, a retaining wall over 1.2m in height requires a building permit prior to construction. The subject wall was constructed without issuance of a City permit. Additionally, The City's zoning bylaw restricts the height of retaining walls to 1.2m within a required yard. In this case, the subject retaining wall is within the front yard setback.

Proposal

The applicant is proposing to legitimize the already constructed retaining wall along the south portion of the property. 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 2.85m.

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

Development Variance Permit

Support Variance

When considering a variance to a City bylaw, staff encourages Council to be mindful as to 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 2.85m.

- 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 as it currently stands, the retaining wall is likely to have a negative impact on neighbouring properties. In saying that, the developer has worked extensively with the neighbouring property owner and City staff to come up with a plan to reduce the negative visual impacts. This includes installing white stucco on the wall along with planting cedars with irrigation along the wall to the satisfaction of the adjacent neighbour.
- Given that the property owner has taken initiative to rectify the situation and the affected neighbour has given their approval of the proposed landscape screening plan (Attachment G), Staff feel that the retaining wall height request is reasonable, does not unreasonably impact the adjacent area and recommend that Council support the application.

Deny/Refer Variance

Council may consider that the proposed variance will negatively affect the neighborhood. If this is the case, Council should deny the variance.

Alternate Recommendations

1. THAT Council support DVP PL2018-8277 with conditions that Council feels are appropriate.
2. THAT DVP PL2018-8277 be referred back to staff to revise the application 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: Site Plan
Attachment F: Typical Retaining Wall Design
Attachment G: Proposed Landscape & Screening Plan
Attachment H: Letter of Intent
Attachment I: Letter of Support
Attachment J: Development Variance Permit PL2018-8277

Respectfully submitted,

Randy Houle
Planner I

Approvals

DDS	CAO
	

Attachment A – Subject Property Location Map



Figure 1: Subject Property Location Map

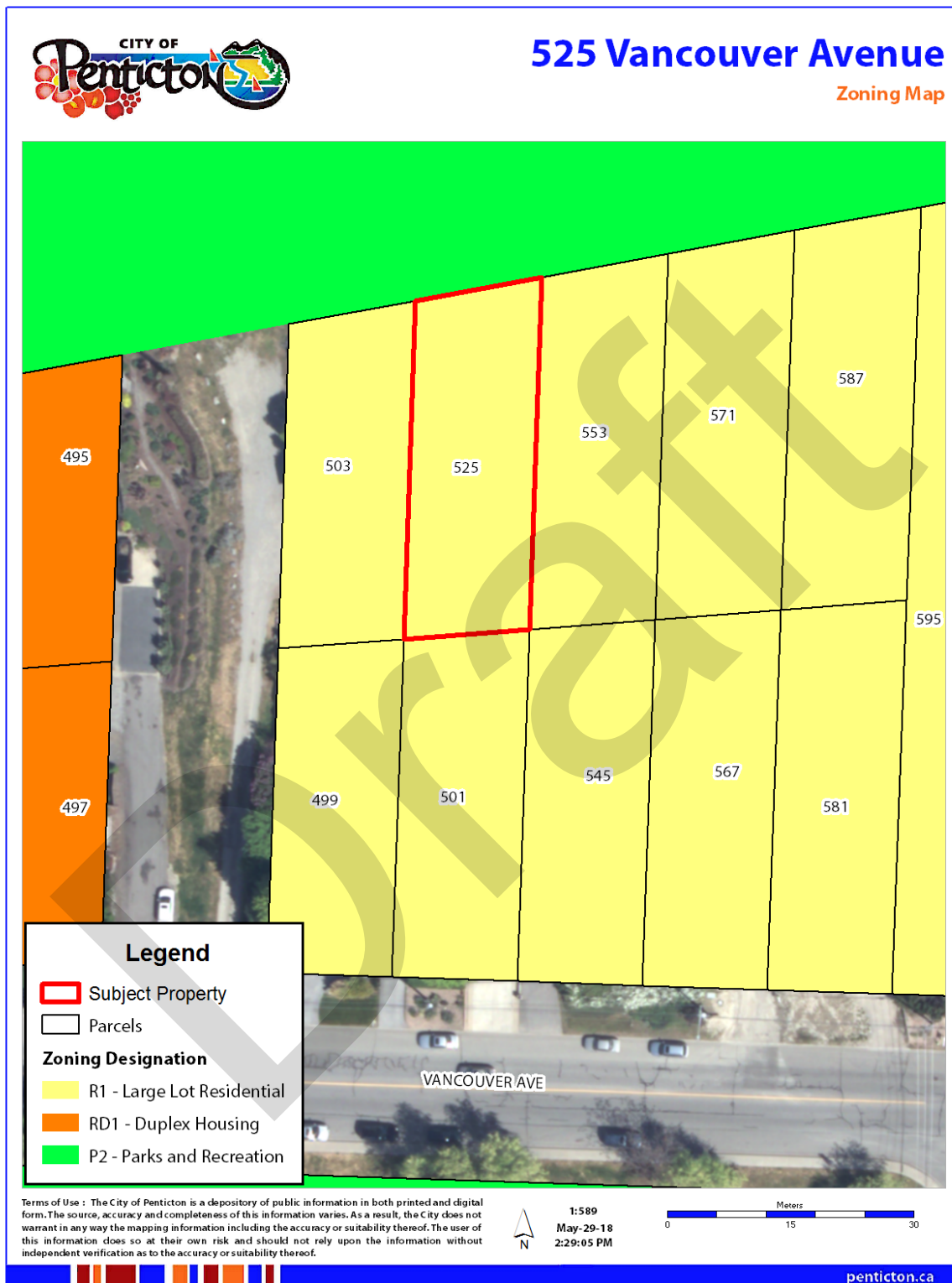


Figure 2: Zoning Map



Figure 3: OCP Map

Attachment D – Photos of Subject Property



Figure 4: South Elevation (from 501 Vancouver Avenue)



Figure 5: South Elevation (from 501 Vancouver Avenue)



Figure 6: West Elevation of proposed retaining wall



Figure 7: West Elevation showing proposed landscape area

Attachment E- Site Plan

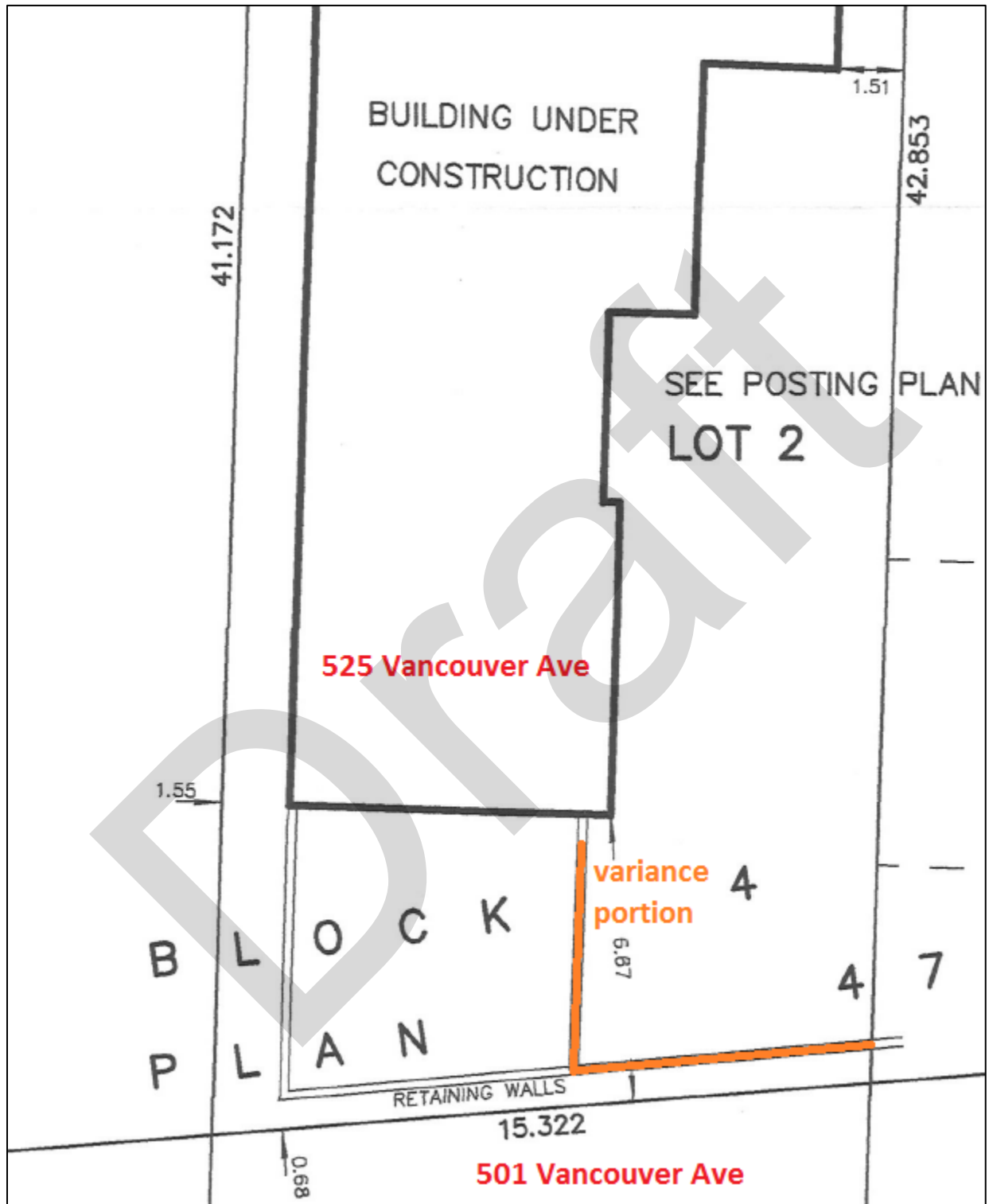


Figure 8: Site Plan

Attachment F- Typical Retaining Wall Design

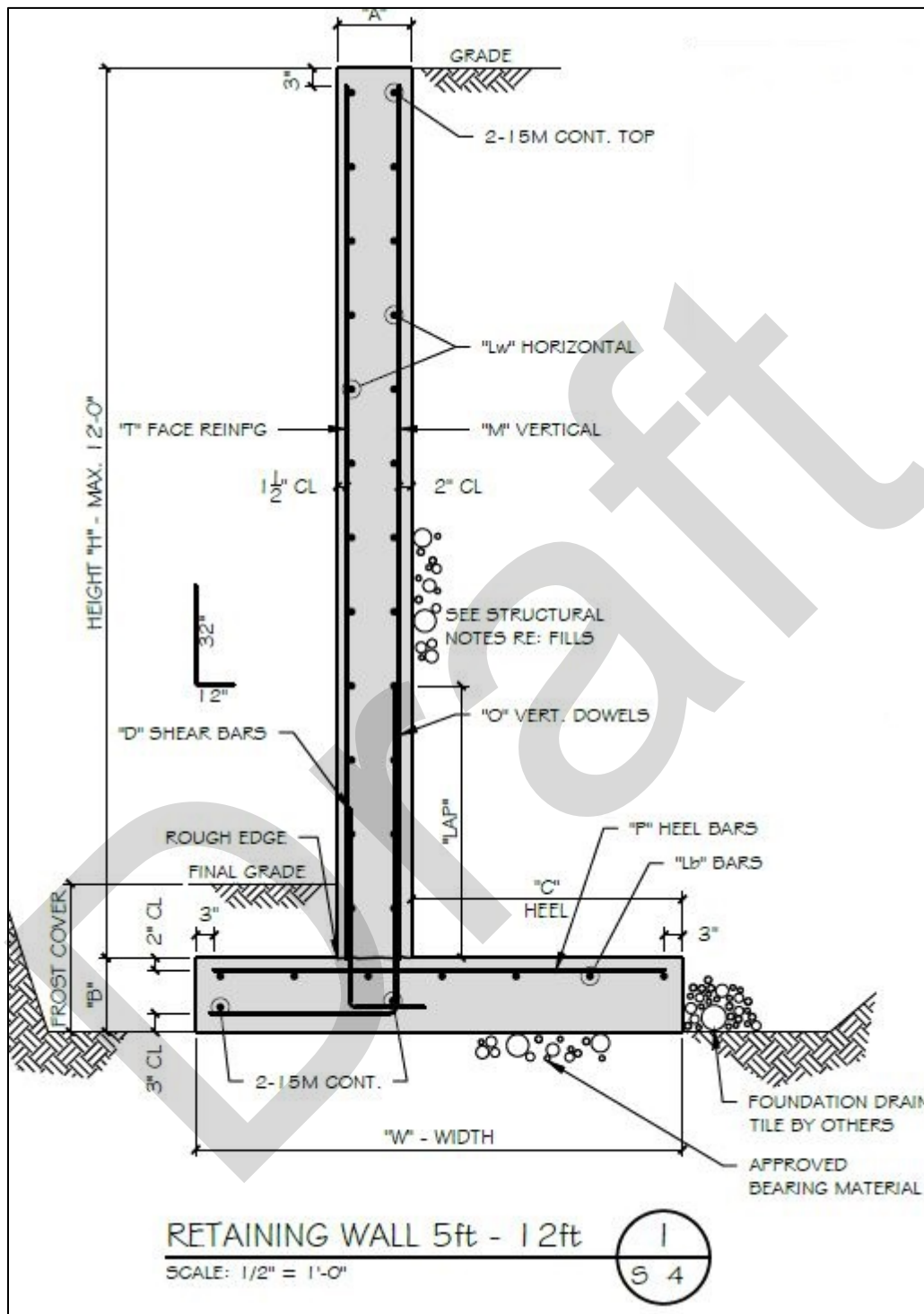


Figure 9: Typical Retaining Wall Design

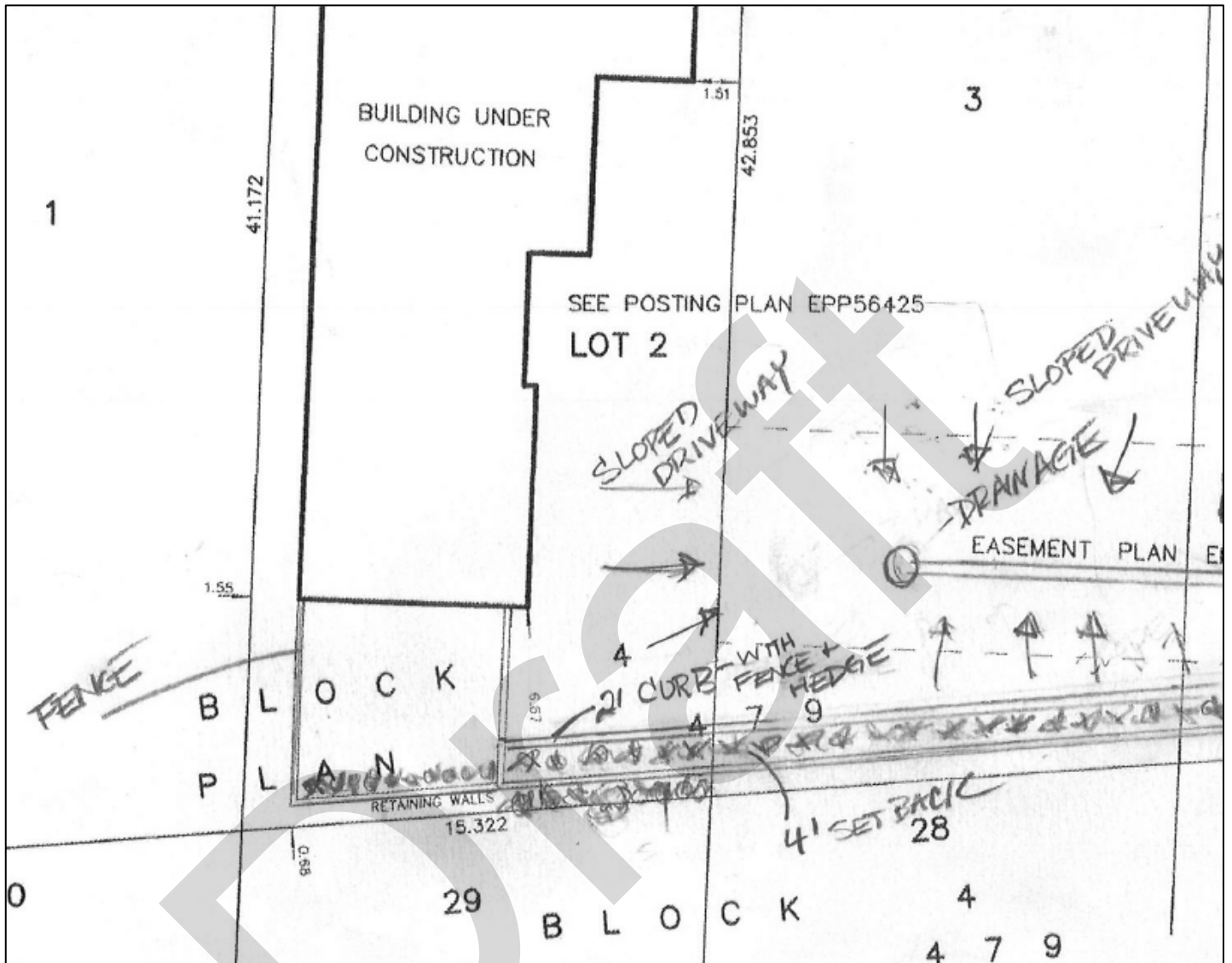


Figure 10: Landscape Plan

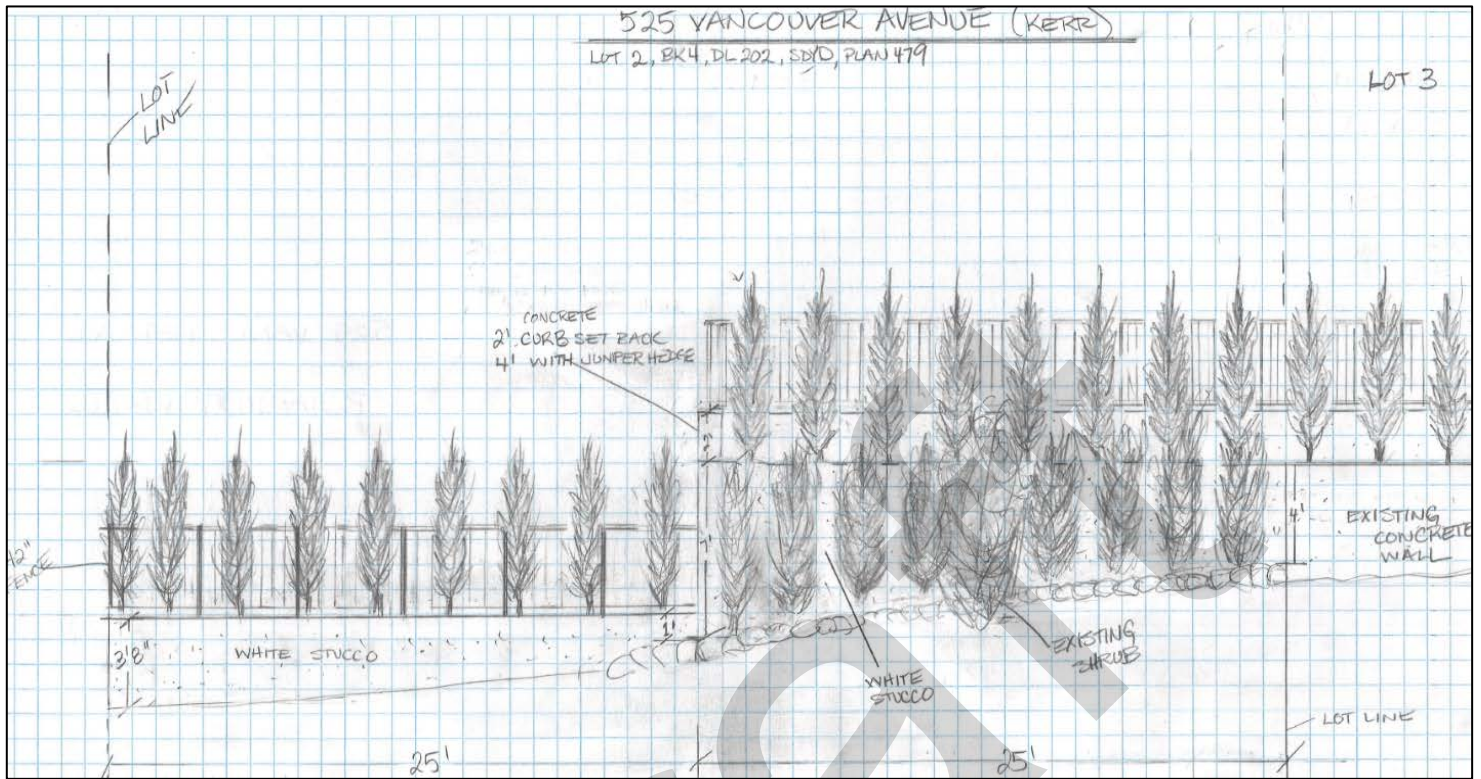


Figure 11: South Elevation showing landscape screening

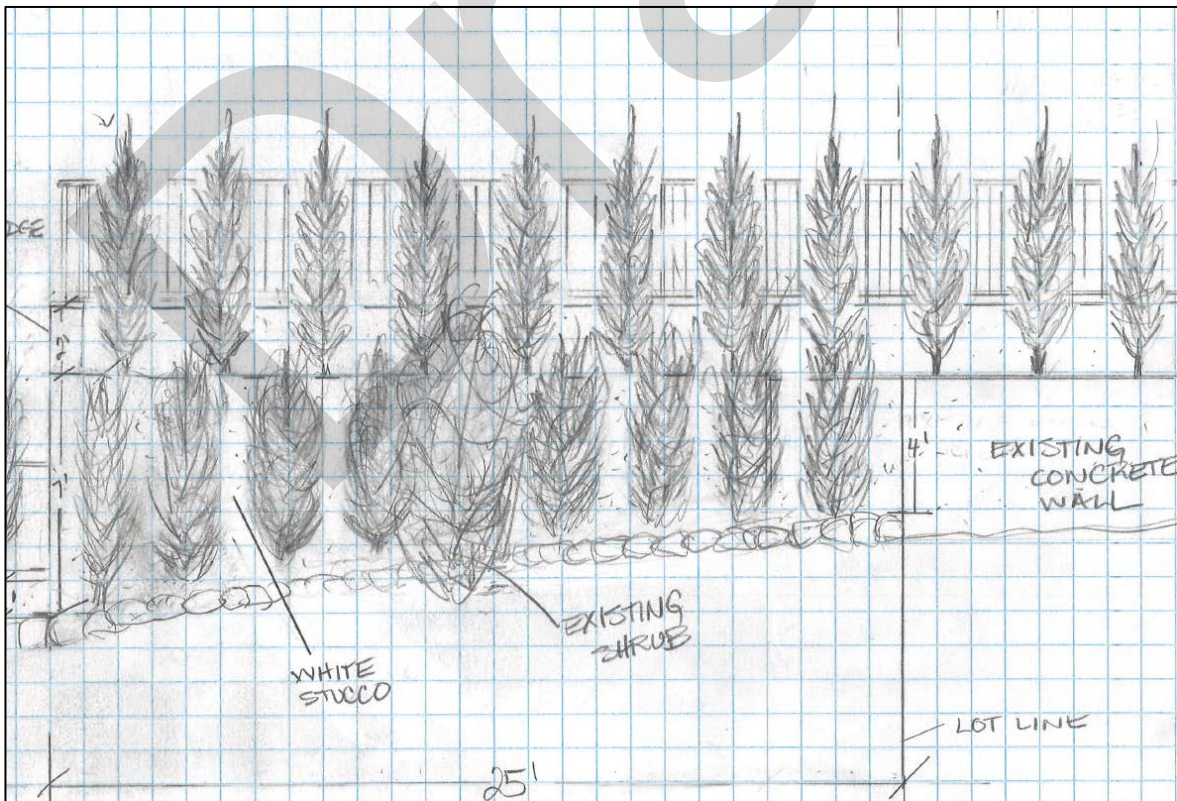


Figure 12: South Elevation showing landscape screening

Attachment H- Letter of Intent

Audrey Tanguay
Planning Department
City of Penticton

Dear Audrey,

It has been brought to our attention that our retaining wall on the South side of our 525 Vancouver Avenue lot exceeds the allotted height of 4 feet. It was our understanding that any retaining wall over 4 feet required engineering and a Geo Tech Schedule B, which we retained prior to the construction of the wall. We were unaware of any additional requirements or approvals required.

ROV consulting provided all the engineering & drawings required for our project including field progress reports. Rock Glen Consulting has provided the geotechnical Schedule B as well as numerous field reports of the excavation, footings, walls, drainage and structural materials.

All excavated materials were taken off site and structural material was brought in to replace what was removed.

The wall engineering required footings 6.6 feet wide, 6 inch centers on 15mm rebar both vertical and horizontal, wall 12 inches thick and tying into the house foundation.

The geo techs required that the footings were dug down to suitable material, backfilled and compacted with structural fill and having both internal and external drainage for the wall.

Here are some important points on why the wall was constructed and what has been done with the neighbor directly adjacent to the property to the south where the wall is constructed. Also included is a letter of support of the wall from the only neighbor affected by the wall. Joni agrees that there really wasn't any other feasible option.

1. The wall was constructed to maintain the original soil level of the lot. The wall on our side is exactly ground level. The natural soil level of the lot dropped off considerably to the south and west.
2. On the adjacent east side lot, an existing wall runs across the south side and stops at our property line. This was put in place to again maintain the soil lot level. Our wall is attached to this wall at the same height and continues another 24 feet before stepping down to a much lower wall that extends an additional 22 feet.

3. The height of the wall was dictated by the depth of the footings requirements by the geo tech and the natural slope of the property. In other words we were required to take out much more soil than we anticipated which increased the height of the wall. We shortened this portion of the wall by 10' from our original plans due to the depth of the footings and what of would be a much higher wall.
4. The neighbor to the south (Joni) had previously complained about soil and water erosion from both our lot and the lot to the east. Her concrete deck and lawn was getting covered in soil and water when it rained. The wall and drainage have rectified this issue.
5. Prior to building the wall we discussed options with the neighbor to the south to make the wall more attractive from her side. We decided that we would stucco the wall the same as the house so everything tied in. In preparation we damp proofed the inside of the wall to prevent any water seeping through and discoloring the stucco. We discussed putting in a hedge within our lot line again to make things more appealing. The lower wall that continues across the lot is going to have a landscaped courtyard. The final product will be very nice.
6. The lot itself is 50' x 160'. The set backs from the south lot line to the house are 19'6". There is only one corridor to drive past the neighbor's house into the garage. Without maintaining the original lot level with a wall two things will occur.

One is that it would be difficult to turn around after backing out of the garage without using a neighbor's driveway. This would result in backing down a long driveway onto Vancouver Avenue just below a corner creating a very dangerous situation.

The other issue is that we would have no place for visitors to park and would have to use Vancouver Avenue. This again creates a dangerous situation as cars parked along this part of the road block vision out of several driveways. Our side of Vancouver Ave does not have a sidewalk and is narrow with cars speeding at times down Vancouver hill. If visitors parked on the opposite side of the road there is a side walk and more room but are forced to cross a busy road without a cross walk.

The way we have constructed the wall is the proper way as the options are very limited. The lots in this are very challenging to build on and were put in place prior to today's regulations. What we didn't know was that there were additional requirements that should have been completed first. We took a proactive approach with the neighbor affected prior to knowing that other steps needed to be taken as our intentions were and are always good.

Both Jill and I appreciate your time on this matter.

Sincerely, Alan and Jill Kerr

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Figure 13: Letter of Intent

Attachment I- Letter of Support

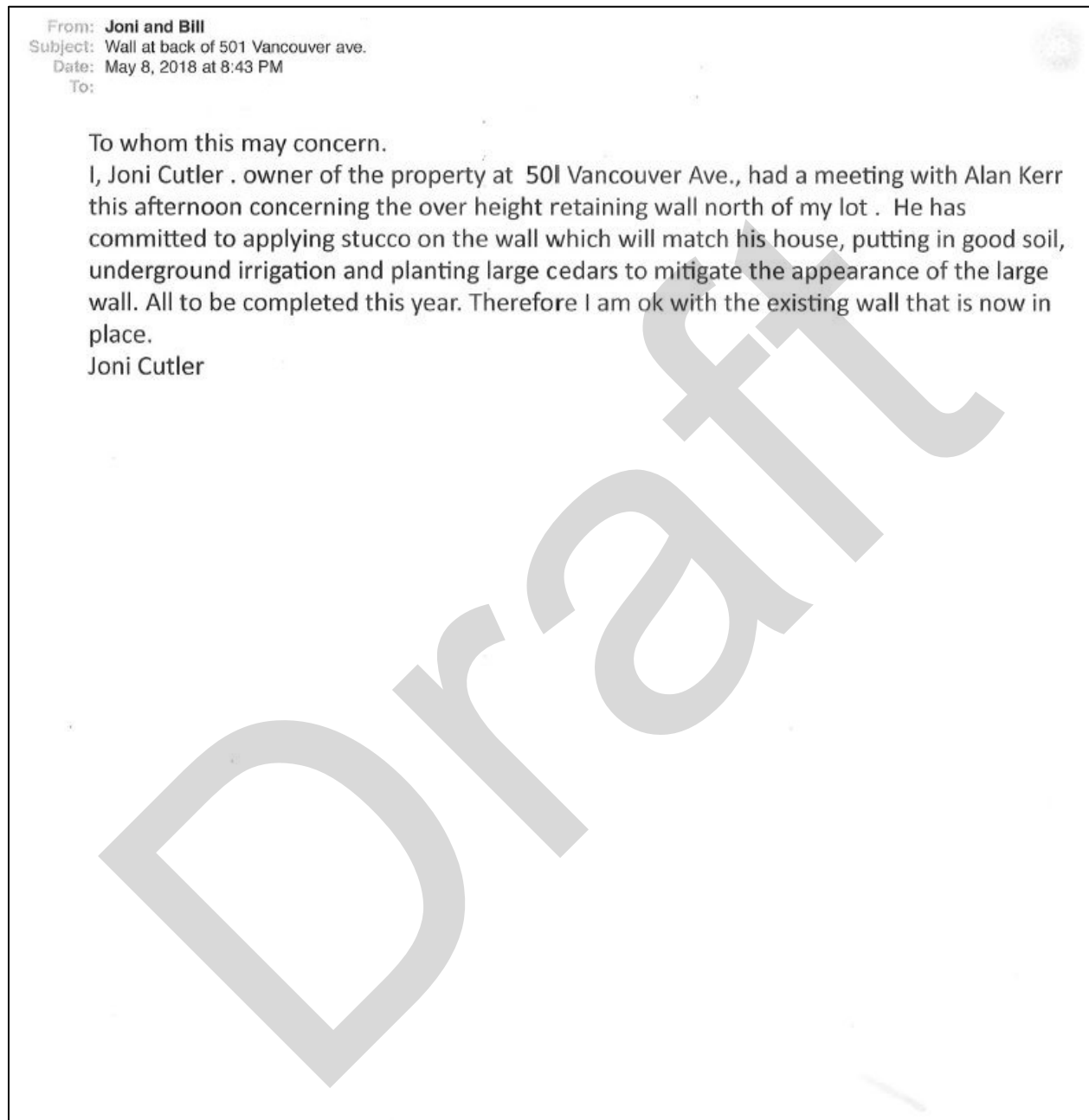


Figure 14: Letter of Support



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

Development Variance Permit

Permit Number: DVP PL2018-8277

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 2 Block 4 District Lot 202 Similkameen Division Yale District Plan 479
Civic: 525 Vancouver Avenue
PID: 012-302-805
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 2.85m.

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 7 day of August, 2018

Issued this ____ day of _____, 2018

Dana Schmidt,
Corporate Officer

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