

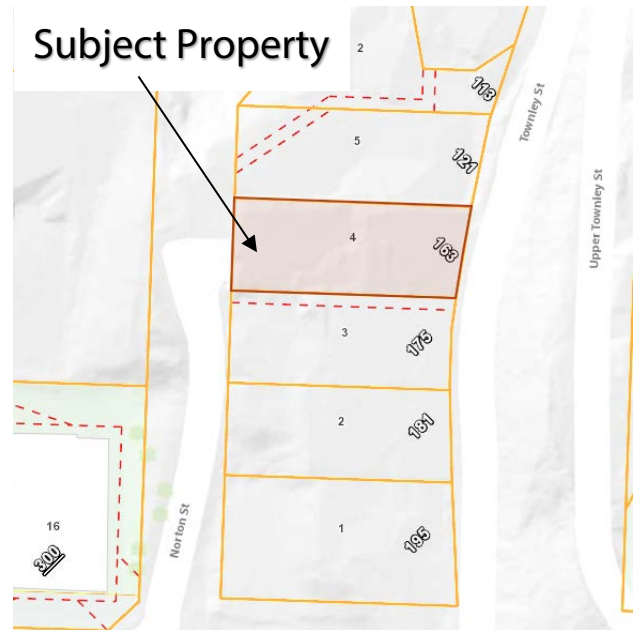
September 20, 2018

Subject Property:
163 Townley Street

Lot 4, District Lot 202, Similkameen Division Yale District Plan 6907

Application:
Development Variance Permit PL2018-8283

The applicant has constructed a retaining wall along a portion of the southern property line that is 9.1m (30 ft) in length with a height of 2.4m (8 ft). Connected to this wall, is another retaining wall that is 6.7m (22 ft) long with a height of 2.7m (9 ft). Please refer to Page 2 for an illustration of the retaining wall.



A variance has been requested to vary the following section of Zoning Bylaw 2017-08:

- Section 5.6.2.1: To increase the maximum height of a retaining wall within a required yard from 1.2m to 2.7m.

Information:

The staff report to Council and Development Variance Permit PL2018-8283 will be available for public inspection from **Friday, September 21, 2018 to Tuesday, October 2, 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, October 2, 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, October 2, 2018** to:

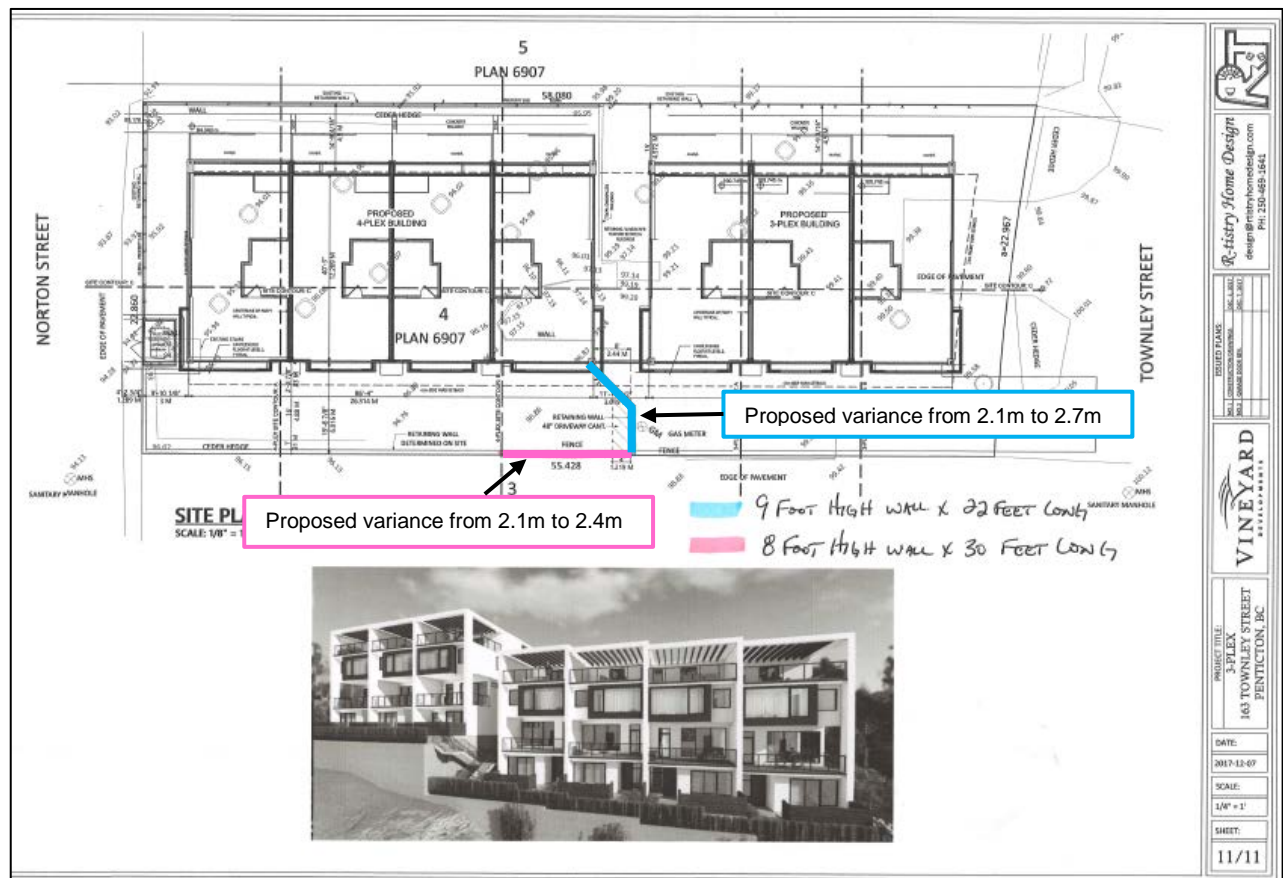
Attention: Corporate Officer, City of Penticton
171 Main Street, Penticton, B.C. V2A 5A9
Email: publichearings@penticton.ca.

No letter, report or representation from the public will be received by Council after the conclusion of the October 2, 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

Retaining Wall Illustration





Council Report

penticton.ca

Date: October 2, 2018
To: Peter Weeber, Chief Administrative Officer
From: Audrey Tanguay, Senior Planner
Address: 163 Townley Street
Subject: Development Variance Permit PL2018-8283

File No: 2018 PRJ-150

Staff Recommendation

THAT Council approve "Development Variance Permit PL2018-8283" for Lot 4, District Lot 202, Similkameen Division Yale District, Plan 6907, located at 163 Townley Street, a permit to increase the maximum height of a retaining wall within a required yard from 1.2m to 2.7m;

AND THAT staff be directed to issue "Development Variance Permit PL2018-8283."

Background

The subject property (Attachment 'A') is currently designated in the Official Community Plan 2002-20 (OCP) as MR (Medium Density Residential) and is also zoned RM3 (Medium Density Multiple Housing) in the City's Zoning Bylaw No. 2017-08. The site extends to 1,294m² (0.32 acre). The property is bordered by low density apartment to the north and south. All the properties along Townley Street are designated Medium Density Residential (MR) by the City's Official Community Plan.

A development permit was issued in March 2017 for the redevelopment of the site. The developer is presently constructing a strata, multi-family project comprising of two buildings; one three-unit building facing Townley Street and one four-unit building facing Norton Street. Each unit has an approximate floor area of 170 m² (1,839 ft²). In 2017, prior to issuance of any building permits, it was noted to the developer that any retaining wall over 1.2m in height requires a building permit prior to construction. The applicant has constructed the subject walls without issuance of a City permit or the City being aware that the wall was under construction until it was almost completed.

Proposal

The applicant has constructed a 2.4 m (8ft) retaining wall along a portion of the southern property line centrally located that is 9.1m (30 ft) in length with a height of 2.4m (8 ft). In addition, connected to this wall is another 2.7m (9ft) constructed retaining wall that is 6.7m (22 ft) in length. The City's zoning bylaw restricts the height of retaining walls to 1.2m within a required yard. Therefore, 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 2.7m.

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. As part of the building permit process, a geotechnical report addressing the sub soil conditions and drainage, along with engineered drawings will be required for the proposed retaining wall.

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 2.7m.

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. The proposed retaining wall is replacing an existing 30 years old wall that was on the property. The wall is required to allow for vehicular access off Norton Street. Given the lower elevation of the proposed lot on Norton Street, the wall will be hardly noticeable from the neighbouring property to the south and only affects the future owners of the subject property. The owners of the southern property have provided overall support of the construction of the wall. The walls are required to address slope stability issues and the variation in grade. The walls will allow access from Townley Street to the 3 units complex and access from Norton Street to the 4 units complex. Given the steep topography of the lot, it was expected that retaining walls would be required within the interior yard. The walls are higher than the 1.2m height permitted by the bylaw. The walls could not be stepped as per the Zoning Bylaw to allow the development to proceed as per the issued development permit. Staff feel that the retaining wall height request is sensible, does not unreasonably impact the adjacent area and recommend that Council support the application. If Council support the variance, a building permit will then be issued requesting approvals from a structural engineer that the retaining walls have been constructed safely as per the BC Building Code. .

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 PL2018-8283 with conditions that Council feels are appropriate.

2. THAT DVP PL2018-8283 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: Retaining Wall Design
- Attachment G: Letter of Intent
- Attachment H: Letter of Support
- Attachment I: Development Variance Permit PL2018-8283

Respectfully submitted,

Audrey Tanguay

Senior Planner

Approvals

DDS	CAO
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Attachment A – Subject Property Location Map



Figure 1: Subject Property Location Map

Attachment B – Zoning Map

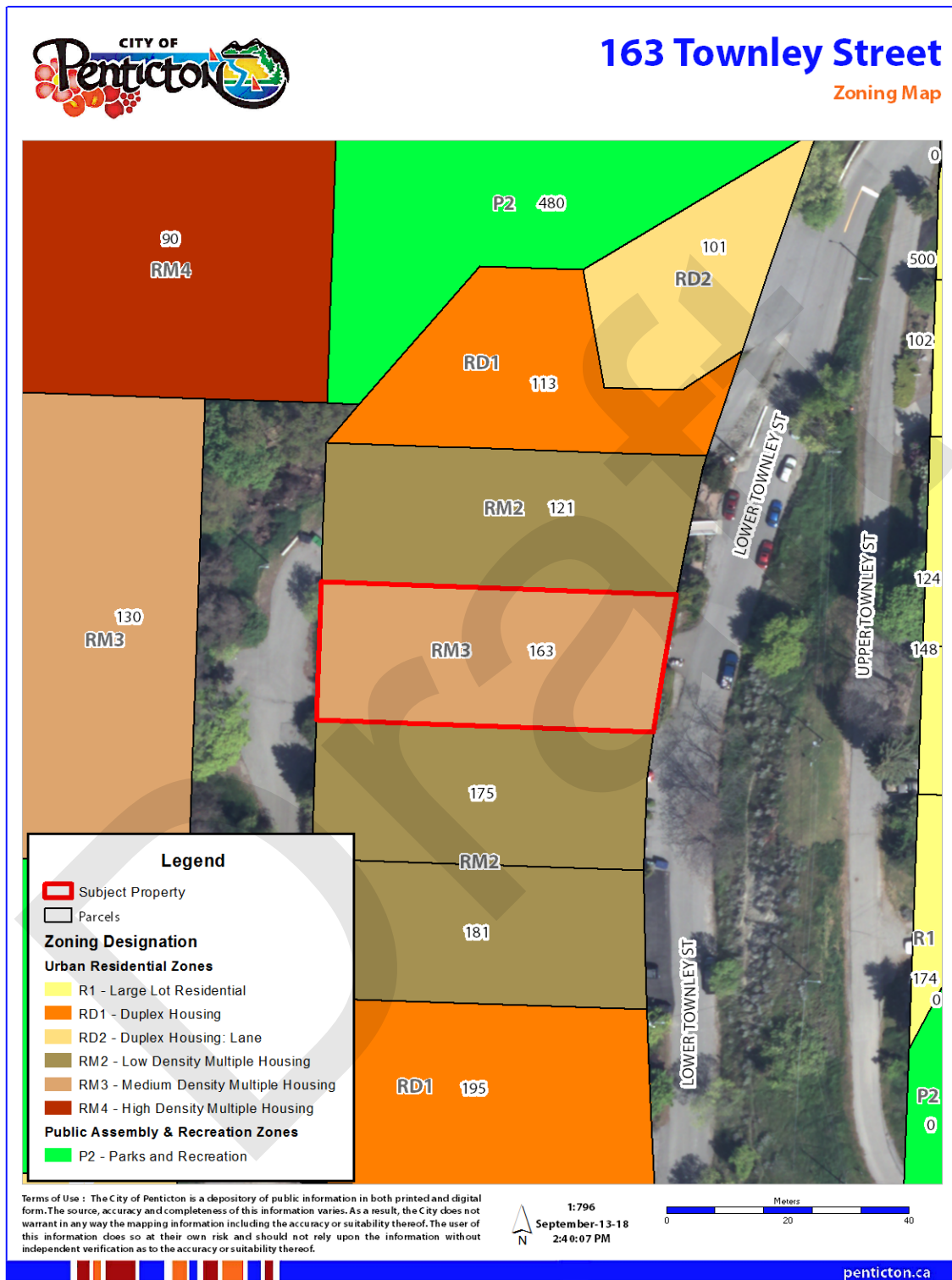


Figure 2: Zoning Map

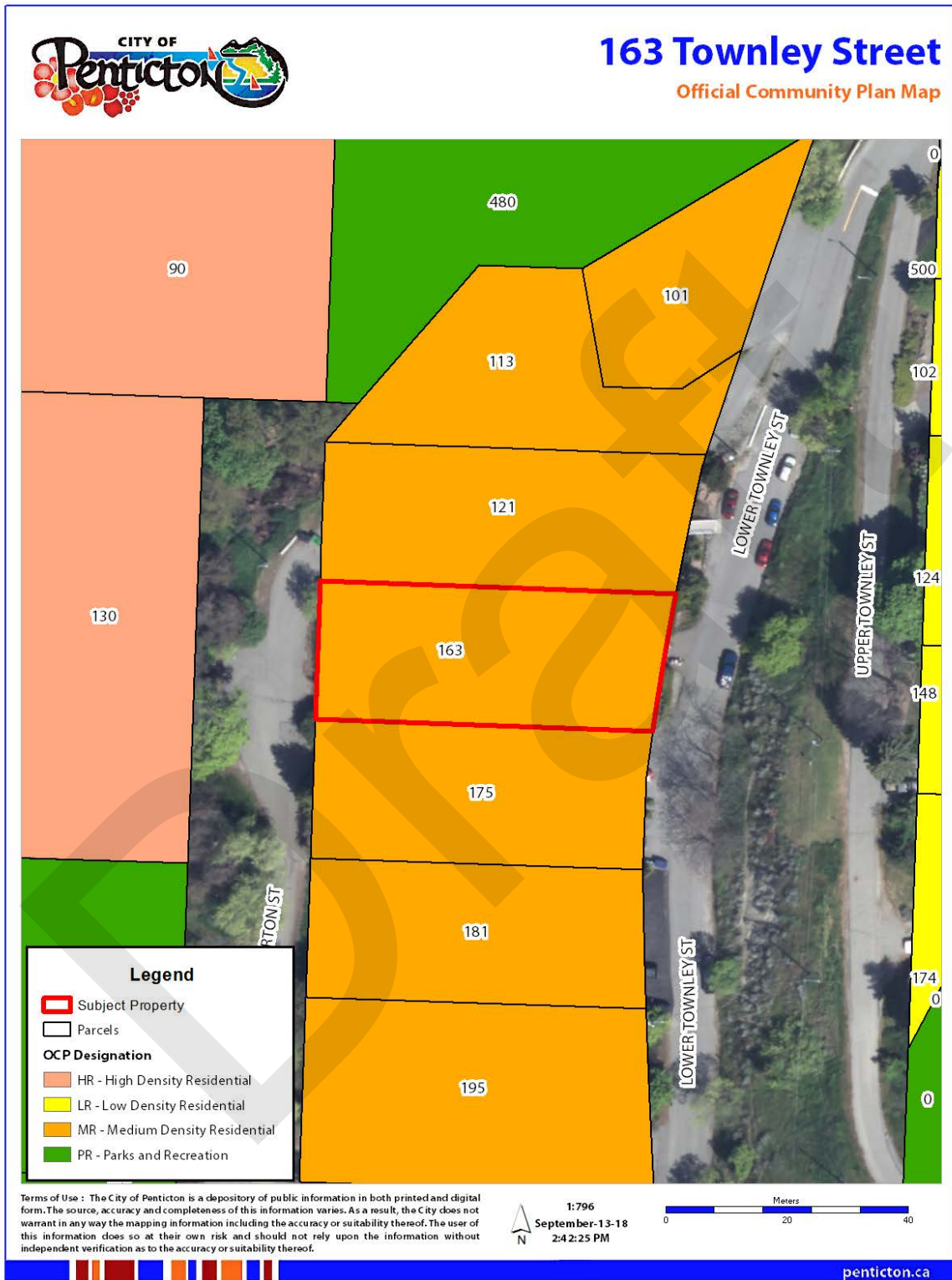


Figure 3: OCP Map

Attachment D – Photos of Subject Property



Figure 4: Looking East



Figure 5: Looking north along east property line



Figure 6: Looking north



Figure 7: Looking North



Figure 8: Looking North

Attachment E- Site Plan

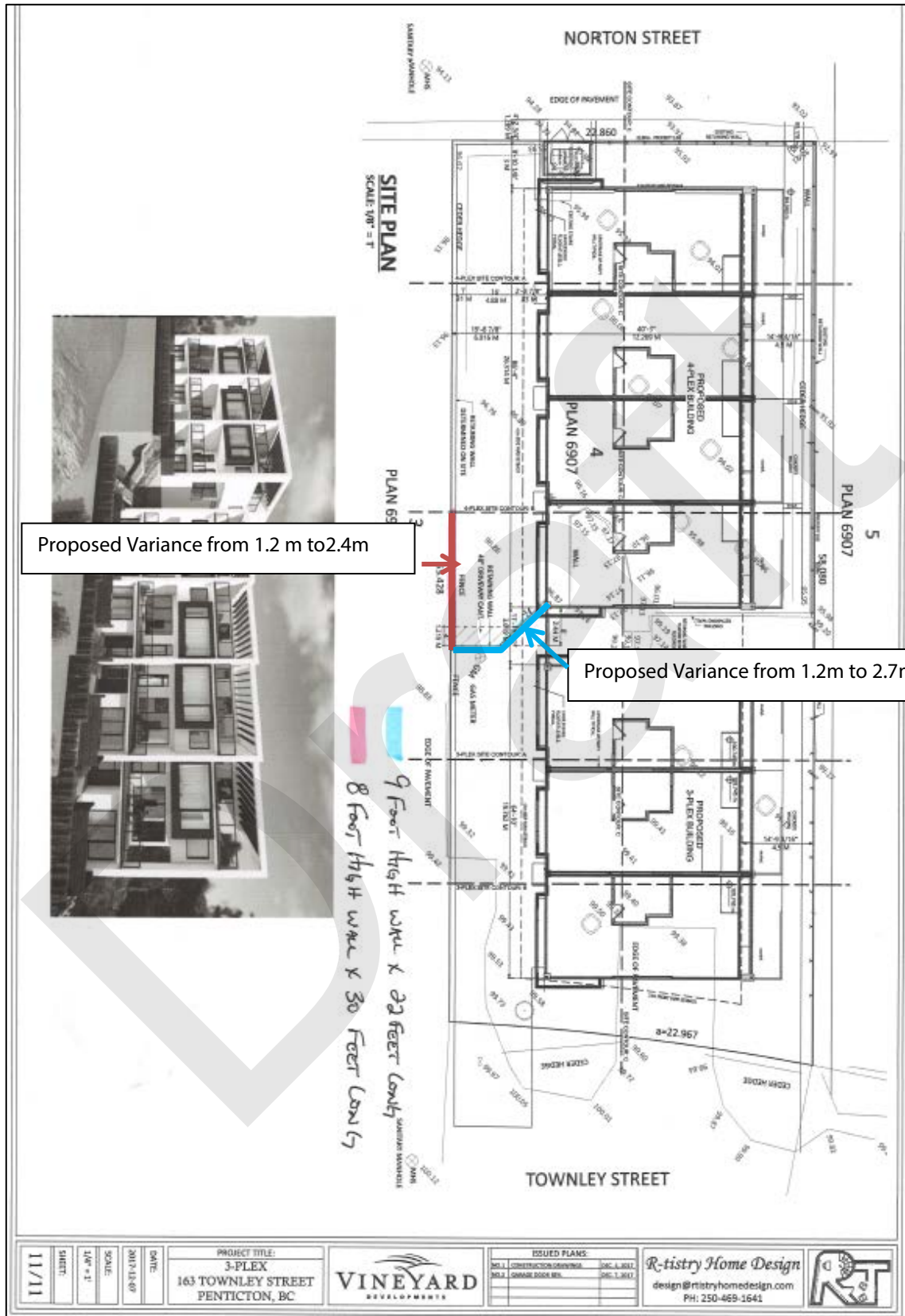


Figure 9: Site Plan with proposed retaining wall highlighted in green

Attachment F- Retaining Wall Design

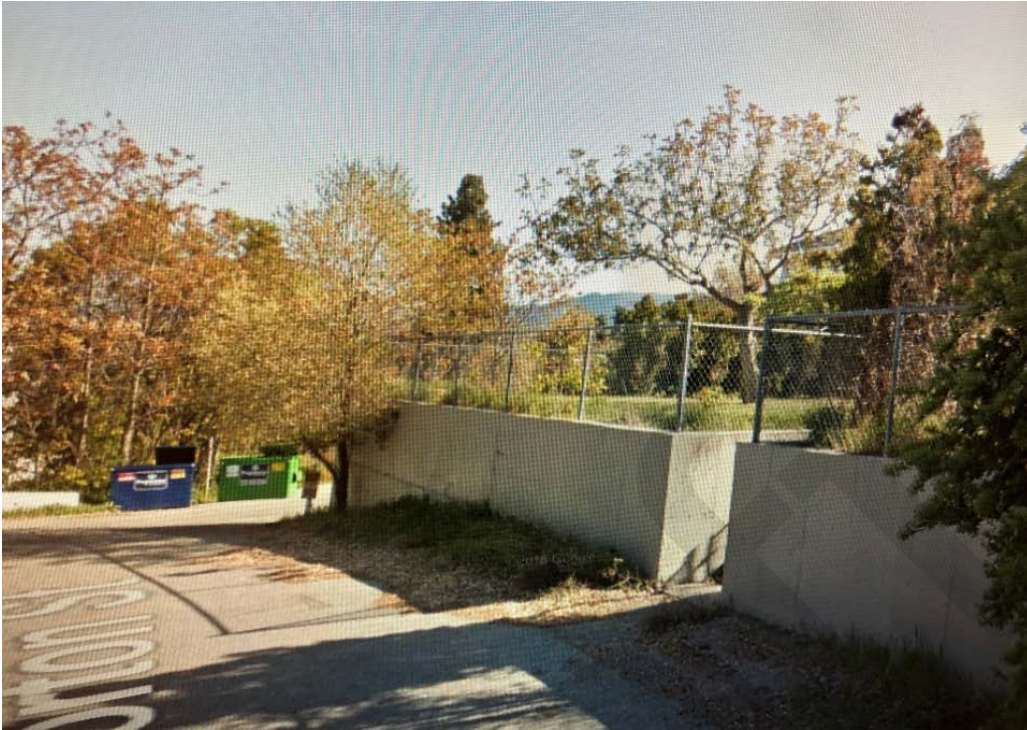


Figure 10: Original Retaining Wall

Draft

Attachment G- Letter of Intent

To : City of Penticton planning department

From : East 163 Developers Ltd / Vineyard Developments Ltd.

Date: August 20 2018

Subject : Variance request for over height walls along the South property line - 163 Townley street - 7 Unit Townhome development

To whom it may concern,

A retaining wall approximately 55 feet long that runs along the South property line was required to allow access to the four plex double garages off of Norton street.

Approximately 30 feet of the wall is 8 feet tall and remaining section is 9 feet tall. The wall was built out of ICF block, is 8 inches thick with weep holes every four feet to accommodate proper drainage and structural performance as per the engineers stamped design guidelines. The ICF block will be clad with the same stucco color as the townhome development.

Impact this wall has to the South neighbouring property as a result of our proposed variance:

- The Neighbouring property to the South can only view the top 6" of the new wall from their property.
- The new wall has been designed and stamped by a structural engineer which replaces a 30 year old cracked concrete retaining wall which was not engineered or stamped off by a professional. The new wall is 8" thick vs the original 4" thick cracked unfinished concrete retaining wall.
- The new wall will perform better under wet conditions due to a new drain and weeping tile system installed as per the engineers design guidelines.

We feel there is NO negative impact to to the Southern neighbouring property.

Impact to the Northern Neighbouring property:

- A 30 year old 6 foot high retaining wall was removed as a result of the new town homes which sat directly on top of the West property line. The original 6 foot high wall was cracked, stained and had an unfinished concrete surface. The original wall was viewed face on from neighbours entering into their property to the North. We feel the original wall which was torn down had a much higher impact to the North neighbours and their visitors.

Soft landscaping and greenery will be taking its place along the West property line.

- The new taller wall that was created along the Southern property line allows for lane access to the new fourplex garages has minimal impact on the North neighbor as the over height wall section starts more than 60 feet from the West property line where the original 6 foot wall sat.

-Although the new wall is taller than the original, the new wall is now only viewed from a side angle minimizing overall impact (not face on as the original wall was viewed from).

We feel the new wall has much is LESS impact (if any) to the Northern neighbouring property vs what was originally viewed from our neighbours entering into their property to the North.

What was done to minimize the negative impacts:

- The first unit off Townley on the high side of the property was dropped 3.5 feet from the road. Each unit on the three plex located on the high side of the property was stepped down 1 additional foot for a total of 5.5 feet to keep the new South retaining wall as low as possible.

-The first unit off Norton on the low side of the property was raised 2.5 feet from the road and each unit of the four plex located on the low side of the property was stepped up 1 additional foot for a total of 5.5 feet to aid in keeping the new South retaining wall as low as possible.

- A light stucco color will be used to further eliminate any impact on the neighbouring properties.

Benefit of the new retaining wall for the community of Penticton:

- Stronger curb appeal for all the neighbours and visitors to the area

Fresh new light colored stucco wall vs old, cracked, stained and unfinished concrete finish.

Remove old 6 foot retaining wall directly on West property line which had a much larger impact to all Neighbours.

New over height wall is now over 60 feet off property line to the West and viewed from the side only (not face on).

-Safer and much more structurally sound.

8" thick Engineered/stamped concrete wall vs 4" cracked concrete wall with no engineering or stamped.

New approved drainage system vs no drainage system.

Actual Noticeable impact:

-No noticeable impact as we feel the new wall is a welcomed improvement to the area.

Thank You

Figure 12: Letter of Intent

Attachment H – Letter of Support

----- Forwarded message -----

From: <allanswartz@vip.net>

Date: Wed, Sep 5, 2018 at 7:46 PM

Subject: Retaining wall 163 Townley Street

To: Craig Mohr <craig@vineyarddevelopments.com>, garry_46@telus.net

Dear Craig: Thank you for meeting with me last week to discuss the new concrete retaining wall between our properties and the progress of your town home project. At this point, we have absolutely no issues or concerns with the height or construction of your new retaining wall and look forward to the completion of the finish stucco coat and required safety/privacy fencing as per our discussion and your correspondence. We agree that the new wall is an overall improvement to the benefit of both our properties and appreciate your continuing communications with us throughout your construction process. Sincerely, Allan Swartz and Garry Depaoli

175 Townley Street

Figure 13: 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 PL2018-8283

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 4, District Lot 202, Similkameen Division Yale District Plan 6907
Civic: 163 Towley Street
PID: 010-049-258
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 2.7m.

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 t, 2018

Issued this ____ day of _____, 2018

Dana Schmidt,
Corporate Officer

Draft