

AND FURTHER THAT the applicant be required to complete the above noted conditions of Council's approval of the Development Variance Permit Application in order for the permits to be issued.

2.0 Purpose

To vary the height of a retaining wall on the subject property.

3.0 Community Planning

Permitting a variance after a building or structure is built is typically not supported; however, due to the grade of both the subject property and the adjacent property in relation to where the retaining wall was constructed, Community Planning is supportive of the variance.

The basement foundation of the adjacent property at 4334 Gallaghers Fairway South was constructed 0.88 metres lower than the site grading established at the time of subdivision. This has likely contributed to the need for an over height retaining wall between the two properties. The site elevation difference between the elevations at the top of foundation between the two adjacent properties is 5.49 metres. This variance is the only reasonable solution in dealing with the grade difference as there is not enough space along the side yard to achieve a more desirable stepped back retaining wall.

In fulfilment of Council Policy No. 367 respecting public consultation, the applicant undertook neighbour consultation by individually contacting the neighbours within a 50 metre radius. To date, staff has fielded one objection.

4.0 Proposal

4.1 Background

The City of Kelowna issued an Occupancy Permit for a Single Family Dwelling for the subject property on October 31, 2006. A building permit was issued for a Single Family Dwelling for the adjacent property on May 27, 2015, and the dwelling is currently under construction and nearing completion. The area where the retaining wall was constructed is the dividing line between two bareland strata subdivisions, one subdivision was created in 1998, the other in 2005.

An over-height retaining wall was constructed on the subject property without building permits in the Spring of 2016. The owner of the property made a Development Variance Permit application on June 21, 2016 when it was recognized there was no opportunity to achieve a stepped back retaining wall in this side yard area.

Should the development variance permit be approved by Council, the applicant will be required to apply for a building permit for the wall and provide supporting structural or geotechnical engineering documentation. It is staff's understanding that the wall was engineered and supervised throughout its construction. The applicant will also be required to lower the height of the retaining wall within the covenant area at the rear of the property, to a maximum height of 1.2 metres.

4.2 Project Description

The applicant has installed an over-height retaining wall on their property and is seeking a retaining wall height variance.

4.3 Site Context

The subject property is located in the Gallagher’s Canyon area and is designated as Single / Two Unit Residential. The surrounding properties are single family lots and zoned CD6 and CD6LP. The rear of the subject property is adjacent to the Gallagher’s Canyon Golf Course.

Specifically, adjacent land uses are as follows:

Orientation	Zoning	Land Use
North	CD6LP - Comprehensive Residential Golf Resort (Liquor Primary)	REC - Private Recreation
East	CD6LP - Comprehensive Residential Golf Resort (Liquor Primary)	S2RES - Single / Two Unit Residential
South	CD6 - Comprehensive Residential Golf Resort	S2RES - Single / Two Unit Residential
West	CD6 - Comprehensive Residential Golf Resort	S2RES - Single / Two Unit Residential

Subject Property Map: 4338 Gallaghers Fairway South



4.4 Zoning Analysis Table

Zoning Analysis Table		
CRITERIA	CD6 ZONE REQUIREMENTS	PROPOSAL
Development Regulations		
Maximum Retaining Wall Height	1.2 m	2.3 m ❶
❶ Indicates a requested variance to increase the maximum retaining wall height.		

5.0 Current Development Policies

5.1 Kelowna Official Community Plan (OCP)

Chapter 5: Development Process

Sensitive Infill.¹ Encourage new development or redevelopment in existing residential areas to be sensitive to or reflect the character of the neighbourhood with respect to building design, height and siting.

5.2 Rezoning Bylaw No. 8000

Section 7: Landscaping and Screening

Retaining walls on all residential lots, except those required as a condition of subdivision approval, must not exceed a height of 1.2 m measured from grade on the lower side, and must be constructed so that any retaining walls are spaced to provide at least a 1.2 m horizontal separation between them.²

6.0 Technical Comments

6.1 Building & Permitting Department

- Structural or Geotechnical Engineer required at time of Building Permit for the retaining wall.

6.2 FortisBC Inc - Electric

- There are FortisBC Inc (Electric) primary distribution facilities along Gallaghers Fairway South. The applicant is responsible for costs associated with any change to the subject property's existing service, if any, as well as the provision of appropriate land rights where required.

¹ City of Kelowna Official Community Plan, Policy 5.22.6 (Development Process Chapter).

² City of Kelowna Consolidated Zoning Bylaw No. 8000, Section 7.5.9 (Landscaping and Screening Chapter).

7.0 Application Chronology

Single Family Dwelling Occupancy Permit for Subject Property	October 31, 2006
Single Family Dwelling Building Permit Issuance for Adjacent Property	May 27, 2015
Date Public Notification was Completed:	June 20, 2016
Date of Application Received:	June 21, 2016

Report prepared by:

Kim Brunet, Planner I

Reviewed by: Terry Barton, Urban Planning Manager

Approved for Inclusion: Ryan Smith, Community Planning Department Manager

Attachments:

Draft DVP16-0164
Schedule "A": Site Plan
Context/Site Photos
Engineering Report from Interior Testing Services, dated April 19, 2016