

ADMINISTRATIVE REPORT



TO: Advisory Planning Commission
FROM: B. Newell, Chief Administrative Officer
DATE: September 16, 2020
RE: Development Variance Permit Application — Electoral Area “I”

Purpose: To accommodate a retaining wall, fence on a retaining wall, and a swimming pool/hot tub

Owners: MJVO Holdings, Inc. No. BC0727360 Agent: Jennifer and Mario Iorio Folio: I-01378.500

Civic: 120 5th Street, Kaleden Legal: Parcel A (See KT140320), Block 9, Plan 763, District Lot 105S, SDYD

OCP: Low Density Residential (LR) Zone: Residential Single Family One (RS1)

Variance Requests: [see below]

Proposed Development:

This application is seeking to vary several zoning regulations that apply to the subject property in order to install a retaining wall and a fence on a retaining wall along 5th Street and the lane, and to construct a swimming pool and hot tub in the front yard.

Specifically, it is being proposed to:

- reduce the front parcel line setback for an accessory structure from 7.5 metres to 1.37 metres;
- to increase the maximum combined height of a fence and retaining wall at the parcel line from 1.8 metres to 3.35 metres;
- to increase the maximum height of a retaining wall in a required front or side parcel line setback from 1.2 metres to 2.13 metres; and
- to reduce the minimum distance for a retaining wall from the corner of the site at the intersection of streets from 4.5 metres to 0.0 metres.

In support of this request, the applicant has stated, “the design works in the limited space of the property, yet takes into consideration the neighbouring house site lines as well as the roadway appearance. This proposal not only greatly improves the character of the home and property but the streetscape as well with the presence of architectural custom blockwalls, negative lighting and street art installations”.

Site Context:

The subject property is approximately 837 m² in area and is situated on the south side of 5th Street with a lane to the east. The property is currently developed with a single detached dwelling.

The surrounding pattern of development is characterised by low density residential and is in close proximity to Pioneer Park which abuts Skaha Lake.

Background:

The current boundaries of the subject property were created by a Plan of Subdivision which was registered as the plan of townsite of Kaleden on May 4, 1910, while available Regional District records indicate that a building permit for an addition to a single detached dwelling (2019).

Under the Electoral Area "I" Official Community Plan (OCP) Bylaw No. 2683, 2016, the subject property is currently designated Low Density Residential (LR).

Under the Electoral Area "I" Zoning Bylaw No. 2457, 2008, the property is currently zoned Residential Single Family One (RS1) which permits single detached dwellings as a principal use, and accessory buildings and structures, among other uses, as a secondary use. Accessory buildings and structures include swimming pools, retaining walls, and fences over 2.0 metres in height.

BC Assessment has classified the property as "Residential" (Class 01).

The proposal is within 4.5 metres of a road reserve, and the Ministry of Transportation and Infrastructure has issued a permit (Permit No. 202-03439) for the proposed setbacks.

Analysis:

In considering this proposal, Administration notes that there are no unique circumstances for the parcel that necessitate an over-height retaining wall and fence at this location and there are available alternatives to development that would meet the bylaw requirements or minimize the variances requested.

Retaining Wall

The Zoning Bylaw's retaining wall regulations are meant to mitigate the visual impact and prominence of such structures. Typically, retaining walls are required on hillsides for geotechnical stability or to create a level building site for development.

In this instance, the retaining wall is to accommodate a swimming pool area and provide a private and safe area within the front yard for this use. There are no site constraints that require a retaining wall within the sight triangle and there is room on the property to "step back" a retaining wall to provide a terraced retaining wall that meets the bylaw.

The location of the retaining wall along a front property line and at an intersection with a lane is considered to defeat the intent of the bylaw, as taller retaining walls are meant to be sited outside of setback areas (and outside of the sight triangle for a street intersection) to avoid large, imposing structures along the street and maintain visual permeability between public and private realms.

Conversely, Administration recognizes that the retaining wall within the "sight triangle" is limited to 1.0 m high and is located on a lane with low traffic. The retaining wall tapers in height away from the corner of 5th Street and the lane reducing the extent of the over-height portion of the wall as it progresses uphill.

Fence on a retaining wall

The Zoning Bylaw's fence height regulations are also meant to mitigate visual prominence of such structures. The positioning of a fence on top of a retaining wall, particularly at the property line, adds to the prominence of the structure.

In this instance, there is room elsewhere on the property to locate a fence for the purpose of enclosing the pool area and to provide privacy/security.

The placement of a fence on top of an over-height retaining wall is seen to exasperate the concerns expressed about the visual prominence of the structure and creating a barrier between the street and the parcel.

Further, there is no unique site circumstance requiring the fence to be located on top of the retaining wall or any mitigating site factors that make such a structure less imposing.

Conversely, the fencing consists of glass railing to provide visual permeability and allows for improved security of the pool area.

Swimming pool

The Zoning Bylaw's use of setback regulations is generally to provide physical separation between neighbouring properties in order to protect privacy and prevent the appearance of overcrowding. When a parcel is also adjacent a roadway, setbacks are further employed to maintain adequate sightlines for vehicle traffic movements and a consistent street rhythm of built form.

An in-ground swimming pool and hot tub is not seen to impact the sightlines of vehicular traffic and a swimming pool and hot tub being located partially within the front parcel line setback could be supportable on its own, given the low impact to adjoining properties and the street.

However, when paired with the proposed retaining wall and fencing described above, the overall impression is that of a site is being over-developed and in a manner that is not consistent with surrounding residential parcels which all provide open, landscaped front yards along 5th Street with low or no fencing.

Summary

For the various reasons outlined above, Administration does not support the requested variances and is recommending denial.

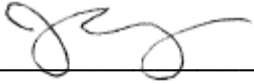
Administrative Recommendation:

THAT the APC recommends to the RDOS Board that the subject development application be denied.

Options:

1. THAT the APC recommends to the RDOS Board that the subject development application be approved.
2. THAT the APC recommends to the RDOS Board that the subject development application be approved with the following conditions:
 - i) *TBD*
3. That the APC recommends to the RDOS Board that the proposed development application be denied.

Respectfully submitted



JoAnn Peachey, Planner I

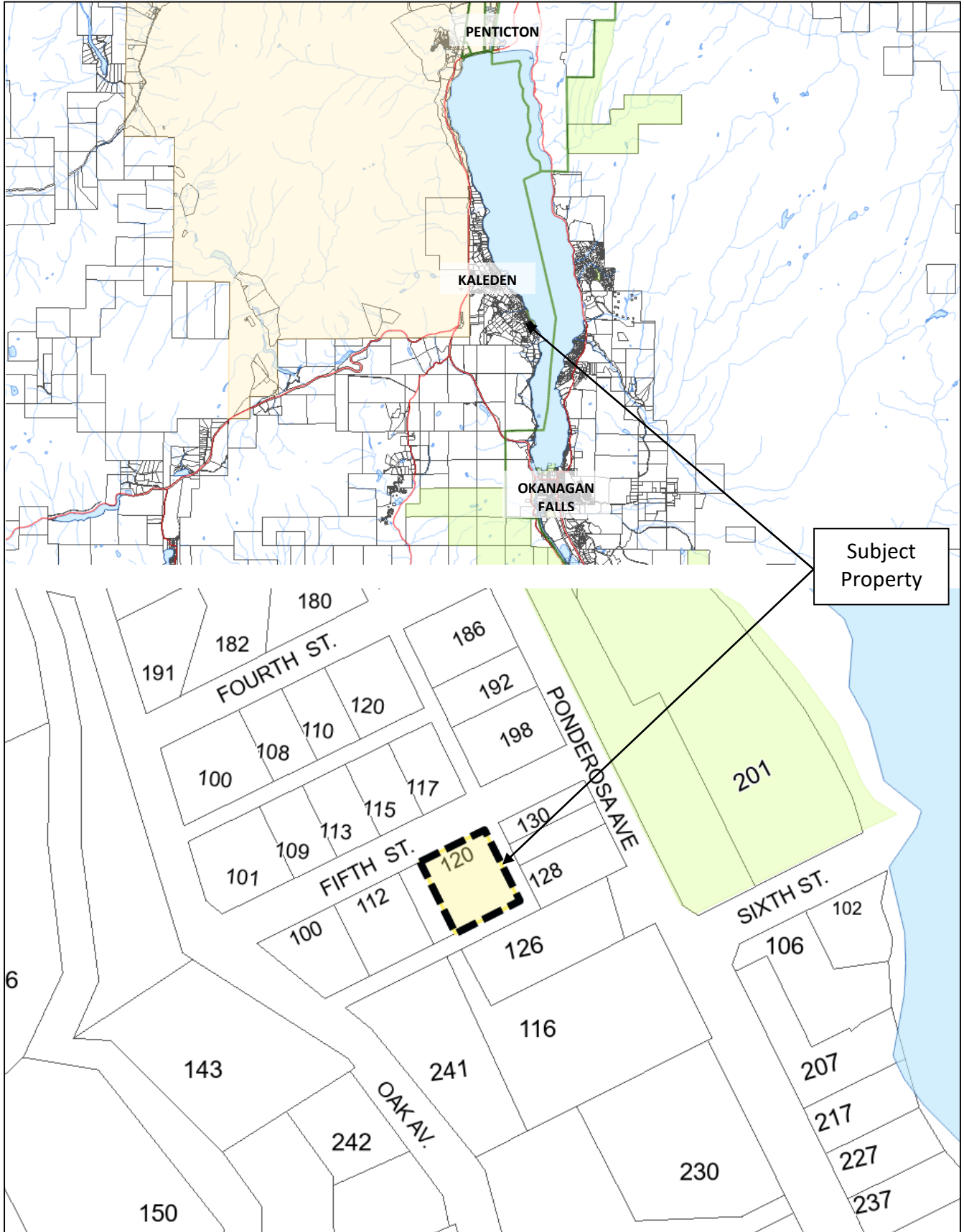
Endorsed by:



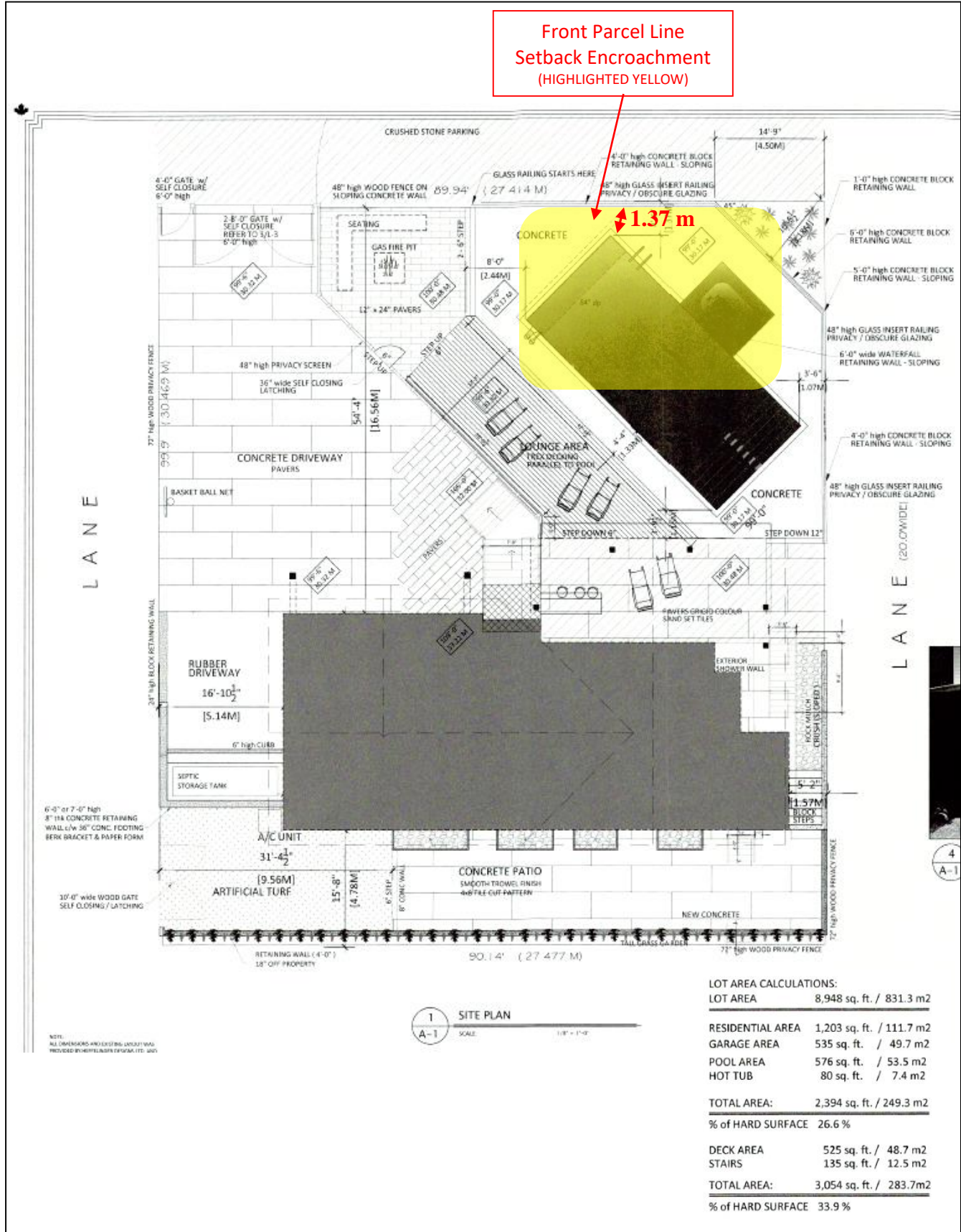
C. Garrish, Planning Manager

- Attachments:
- No. 1 – Context Maps
 - No. 2 – Applicant’s Site Plan
 - No. 3 – Applicant’s Site Plan
 - No. 4 – Applicant’s Retaining Wall/Fence Elevations
 - No. 5 – Applicant’s Retaining Wall/Fence Elevations
 - No. 6 – Applicant’s Rendering
 - No. 7 – Site Photo (Google Streetview)

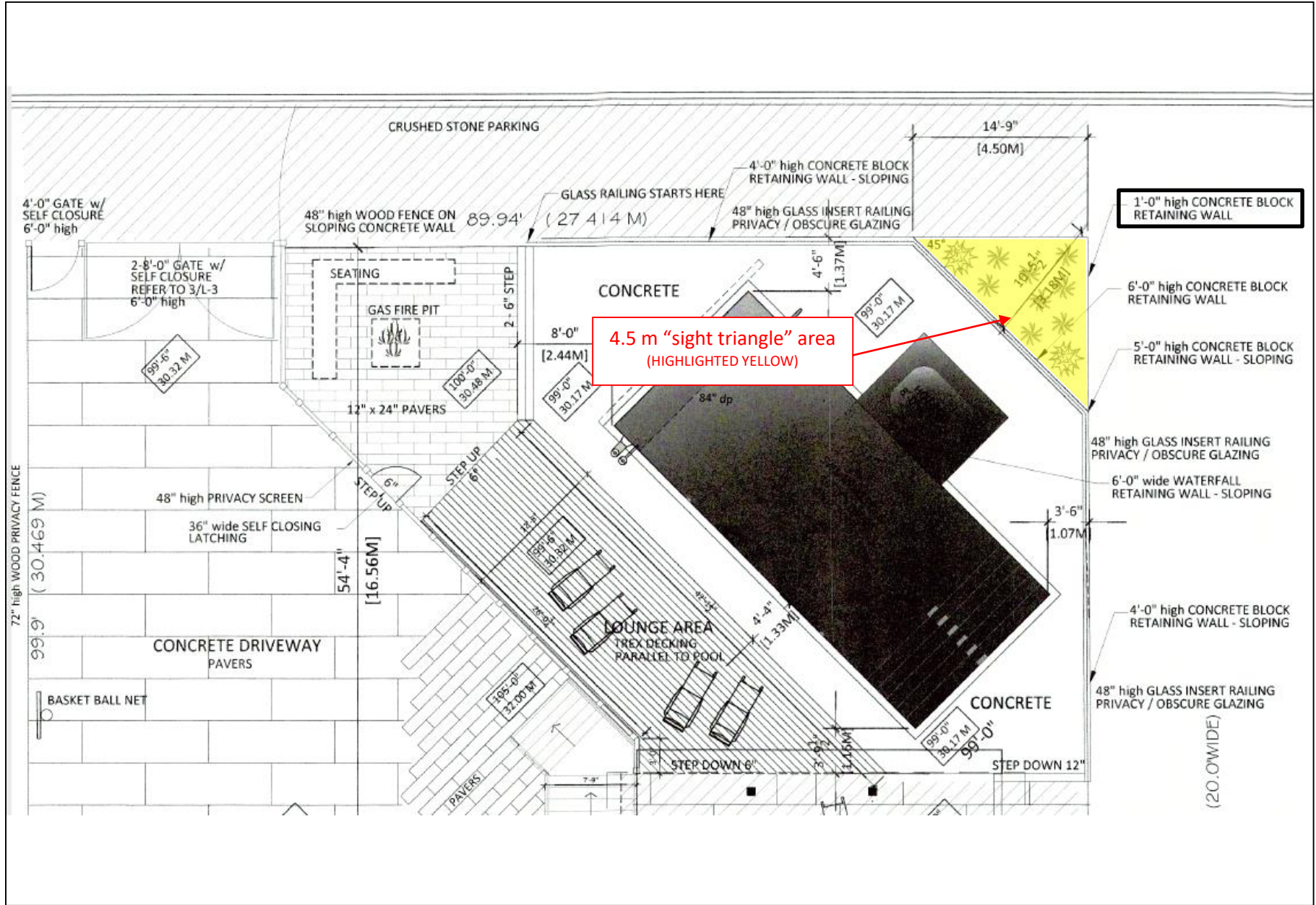
Attachment No. 1 – Context Maps



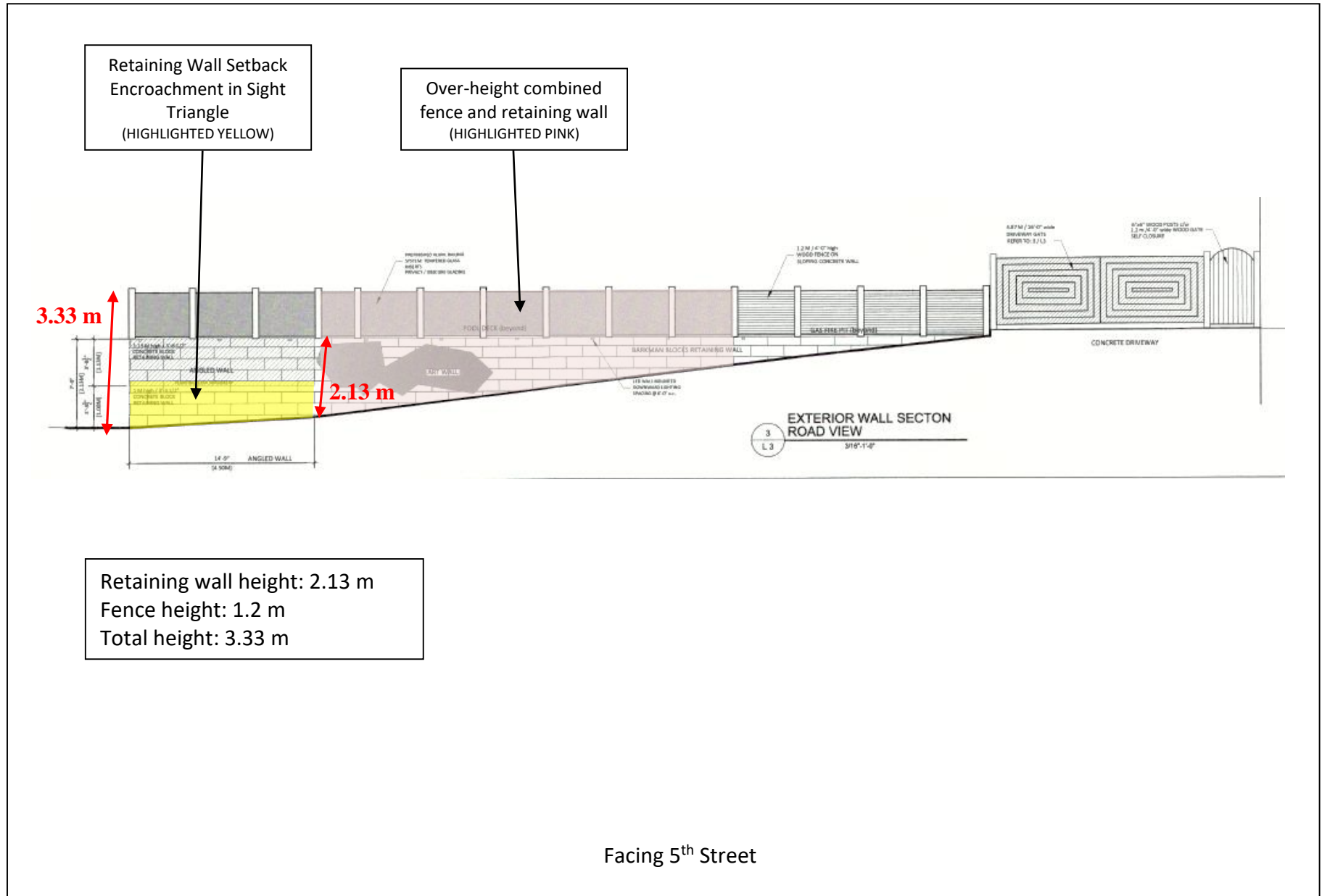
Attachment No. 2 – Applicant's Site Plan



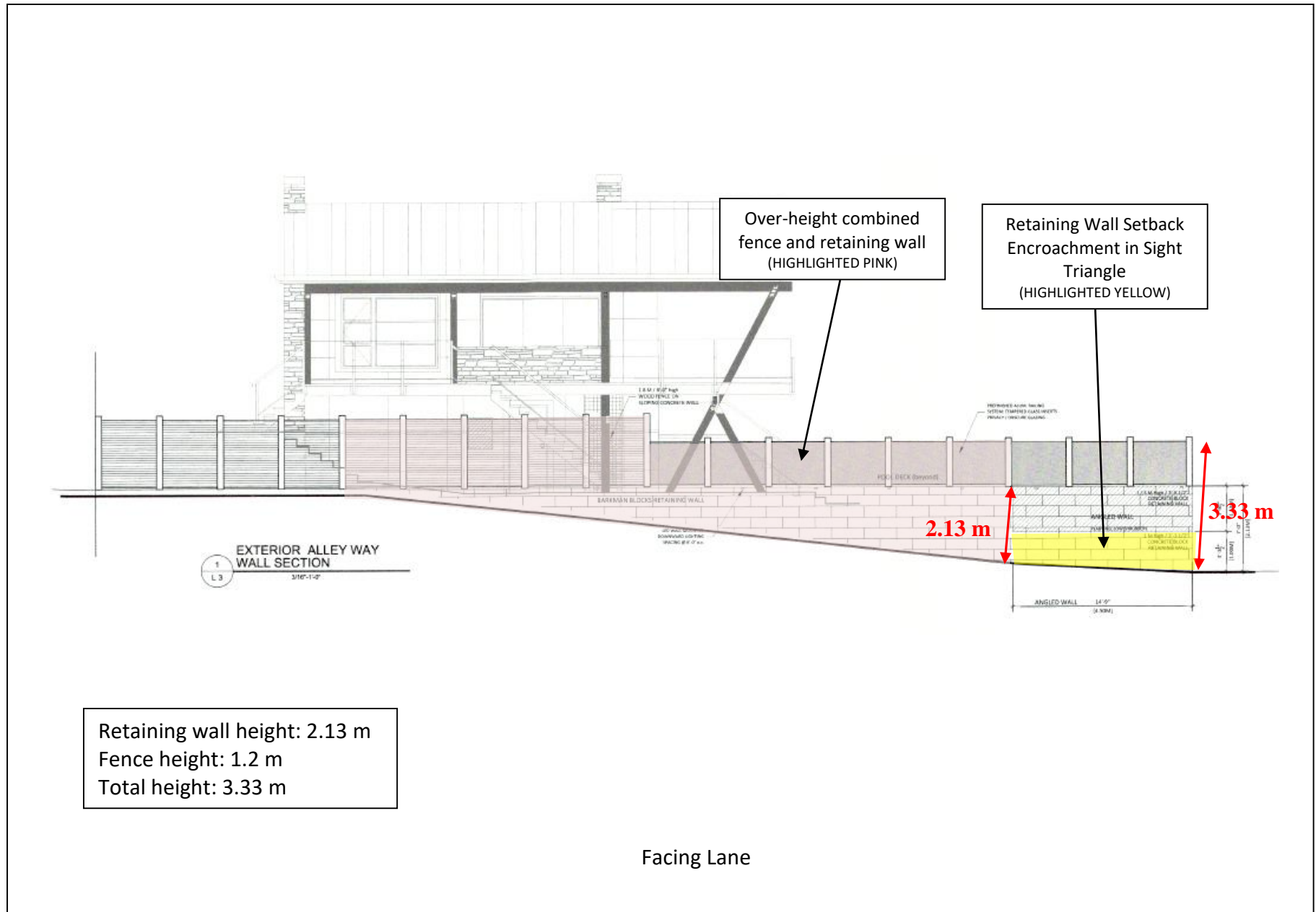
Attachment No. 3 – Applicant’s Site Plan



Attachment No. 4 – Applicant’s Retaining Wall/Fence Elevation



Attachment No. 5 – Applicant’s Retaining Wall/Fence Elevation



Retaining wall height: 2.13 m
 Fence height: 1.2 m
 Total height: 3.33 m

Facing Lane

Attachment No. 6 – Applicant’s Rendering



Attachment No. 7 –Site Photo (Google Streetview)

