

MEMORANDUM

DEVELOPMENT SERVICES DEPARTMENT



DATE: July 31, 2025
TO: Christopher Garrish, Senior Manager of Planning
FROM: Jerritt Cloney, Planner I
RE: Development Variance Permit (DVP) — Electoral Area “A”

FILE NO.: A2025.013-DVP

Owner: Fiona Duncan, Alistair Duncan, Jean-Anne Duncan

Agent: Norman Goddard

Folio: A-05931.500

Civic: 17212 87th Street

Legal: Lot 2, Plan EPP47704, DL 2450S 3460S, SDYD

Proposed Development:

This application is seeking a variance to the maximum height for retaining walls that applies to the subject property in order to undertake the construction of two auto courts, for a planned single detached dwelling and garage.

Specifically, it is being proposed to construct two retaining walls of 2.64 metres and 3.2 metres in height.

In support of this request, the applicant has stated, in part, that:

Autocourt North retaining wall: a 20m length o wall varying from 1.8m to 2.6m in height to support a proposed entry autocourt. This wall, which is situated behind the 30m ZOS line, is required to create a vehicle access area in front of the proposed garage. Please note that the garage is situated as far into the South bank as reasonably possible.

Lower level South ATV parking area retaining wall: a 10m length of 3.2m high wall and an 8m length of wall varying from 3.2m to 0.5m in height to create an ATV and orchard equipment parking area. The proposed retaining walls are required to address the existing South Bank slope.

Site Context:

The subject property is approximately 1.74 ha in area and is situated on the east side of 87th Street, approximately 2 km south from the boundary with the Town of Osoyoos. The property is understood to be currently undeveloped.

The surrounding pattern of development is generally characterised by Agricultural parcels to the south, and residential parcels to the east and west.

Background:

The current boundaries of the subject property were created by a Plan of Subdivision deposited with the Land Titles Office in Kamloops on August 13, 2015.

Available Regional District records indicate that building permit(s) have not previously been issued for this property, while BC Assessment has classified the property as “Residential” (Class 01).

Land Use Bylaws:

Under the Electoral Area “A” Official Community Plan (OCP) Bylaw No. 2905, 2021, the subject property is currently designated Agriculture (AG) and Small Holdings (SH) and is the subject of a Watercourse Development Permit (WDP) and Environmentally Sensitive Development Permit (ESDP) Area designations.

Under the Okanagan Valley Zoning Bylaw No. 2800, 2022, the property is currently zoned Agriculture One (AG1) and Small Holdings One (SH1), which both zoning designations permit the use of retaining walls, subject to those provisions specified in section 6.13 of the Zoning Bylaw.

Under Section 10.0 (Floodplain Regulations) of the Zoning Bylaw, the subject property is within the floodplain associated with Osoyoos Lake and no structural support for a habitable area, or fill required to support a habitable area, may be placed on land within a floodplain setback area under Section 10.2 of Zoning Bylaw.

Enforcement:

The property has been the subject to prior enforcement activity relating to works done in the WDP permit area, however this enforcement file has since been closed.

Further, there is no current enforcement action or enforcement related concerns with respect to the subject application

Delegated Authority:

Under Section 3.21 of the Regional District’s *Chief Administrative Officer Delegation Bylaw No. 3033, 2023*, “the CAO or their designate shall ... be delegated authority to issue a development variance permit under Section 498.1 of the *Local Government Act* ...”

Public Process:

In accordance with Section 2.4 of Schedule 4 (Application for a Development Variance Permit) of the Regional District’s Development Procedures Bylaw No. 2500, 2011, adjacent residents and property owners were notified of this DVP application on July 4, 2025, and provided 15 working days to submit comments electronically or in-person to the Regional District.

As of July 24, 2025, being 15 working days from the date of notification, approximately no representations have been received electronically or by submission at the Regional District office.

Delegated Authority:

Under Section 498.1(2) of the *Local Government Act*, a local government that has delegated authority to an officer or employee to issue a development variance permit (DVP) must include “criteria for determining whether a proposed variance is minor.”

Under Section 3.22 of the Regional District’s Chief Administrative Officer Delegation Bylaw No. 3033, 2023, staff are to consider if the variance would be “minor and would have no significant negative impact on the use of immediately adjacent or nearby properties” through the use of the following criteria:

1. *degree or scope of the variance relative to the regulation from which a variance is sought;*
2. *proximity of the building or structure to neighbouring properties; and*
3. *character of development in the vicinity of the subject property.*

With regard to the degree of the requested variance, it is considered that the greatest extent in heights for each of the proposed retaining walls (2.64 metres and 3.2 metres) represents 32% and 60% variances, respectively. While a 32% variance reflecting only an additional 0.64 metre in height could be considered minor, the other retaining wall represents a 1.2 metre variance which is not minor. With the two walls considered together, the proposed variance deemed to be not minor.

With regard to the proximity of the proposed retaining walls to the neighbouring properties, the closest property line is located to the south, which is approximately 48 metres to the south. However, it is also noted that the existing topography would likely result in the proposed retaining walls to not be visible from the south.

Of the properties that may have direct sightlines to the proposed retaining wall, the nearest parcel line from the west retaining wall is approximately 19 metres to the west, with the closest residential dwelling an additional 64 metres away. For the east retaining wall, the nearest parcel line is located approximately 125 metres to the east, while closest residential dwelling is an additional 7 metres to the east.

In addition to the distances between each of the proposed retaining walls and the closest property lines, neither retaining wall is situated in a parcel line setback area. For this reason, it is not anticipated the proposed variance would adversely impact adjacent properties through loss of privacy or overshadowing.

With regard to the final criteria and the character of development in the vicinity of the subject property, the use over oversized retaining walls is not common in this area. However, the surrounding area is recognized for its generally steep topography abutting Osoyoos lake, which is particularly pronounced on the subject parcel, relative to the surrounding parcels.

For these reasons, the proposed variance(s) are deemed to be minor, and consideration by staff of whether to issue a development variance permit (DVP) under delegation may proceed.

Analysis:

When considering a “minor” variance request, and in accordance with Section 498.1(2) of the *Local Government Act*, the Regional District Board requires that staff consider the following guidelines when deciding whether to issue a DVP:

1. *is the proposed variance consistent with the general purpose and intent of the zone;*
2. *is the proposed variance addressing a physical or legal constraint associated with the site (e.g. unusual parcel shape, topographical feature, statutory right-of-way, etc.);*
3. *is strict compliance with the zoning regulation unreasonable or un-necessary; and*
4. *Would the proposed variance unduly impact the character of the streetscape or surrounding neighbourhood.*

The Zoning Bylaw’s use of regulations to govern the placement of retaining walls are generally to encourage retaining walls be integrated into the terrain and respect the natural character of the site in order to achieve environmentally sound and liveable hillside neighbourhoods.

Further, retaining walls should be aesthetically well integrated into a hillside to enhance the desirability and marketability of hillside developments, allowing flexibility and innovation in design while recognizing the importance of preserving natural features and hillside character.

For these reasons, the use of large concrete block retaining walls in residential areas that create a negative visual impact are discouraged, whereas surface treatments that harmonize the natural texture and colours are encouraged.

In this instance, Administration recognizes that the topography of the site is significant and that this severely limits the ability to provide sufficient vehicle parking spaces for both residential and agricultural vehicles in close proximity to the site of the new single detached dwelling.

The proposed retaining walls will address this allowing for the creation of a level space for vehicles with minimum visual impact from adjacent streets due to changes in grade.

For instance, the proposed retaining walls will be constructed into the slope and *should* generally not be visible from 89th Street, while similar grade changes and presence of mature vegetation will mitigate the impact of the walls from 87th Street and 164th Street.

Similarly, due to the existing pattern of development in this area (e.g. larger parcels west of the site and smaller parcels immediately adjacent Osoyoos Lake) the retaining walls will be sited far from any adjacent dwellings and will not have a negative impact on residential amenity or use.

As a result of these considerations, little to no impacts are anticipated to be imposed on the surrounding streetscape or neighbourhood character.

Alternative:

Conversely, it is recognised that alternative design options could be available to the applicant, that could either reduce or eliminate the proposed variance altogether.

Specifically, the proposed retaining walls could be redesigned to consist of several, shorter retaining walls that could be further integrated into the existing terrain and achieve compliance with the zoning bylaw.

Summary:

For the reasons outlined above, it is recommended that the requested variances be approved.

Recommendation:

THAT Development Variance Permit No. A2025.013-DVP, to allow for the construction of two retaining walls at 17212 87th Street, be approved.

Respectfully submitted:

Jerritt Cloney

Jerritt Cloney, Planner I

Attachments:

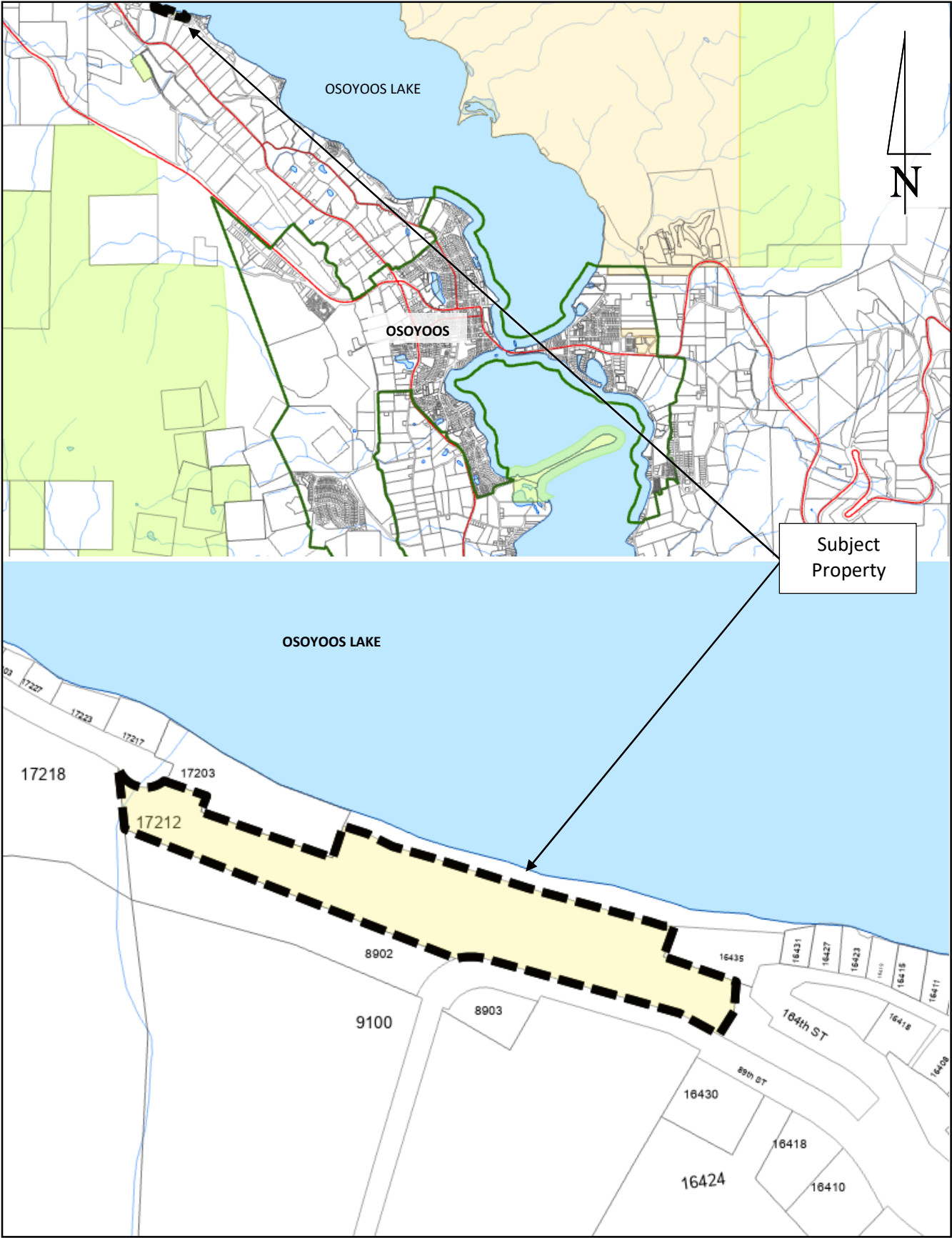
No. 1 — Context Maps

No. 2 — Applicant's Site Plan

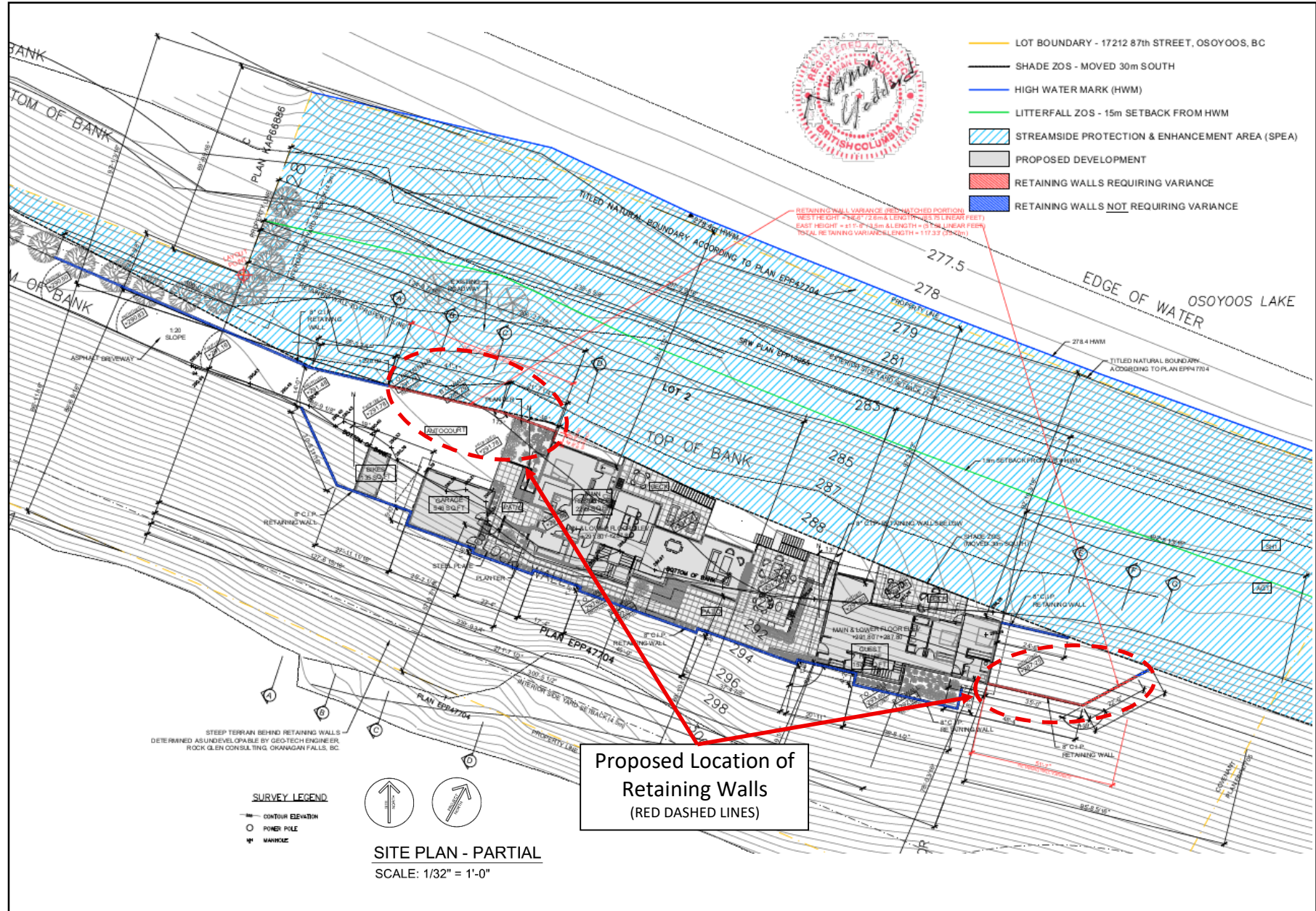
No. 3 — Retaining Wall Elevations

No. 4 — Aerial Photo

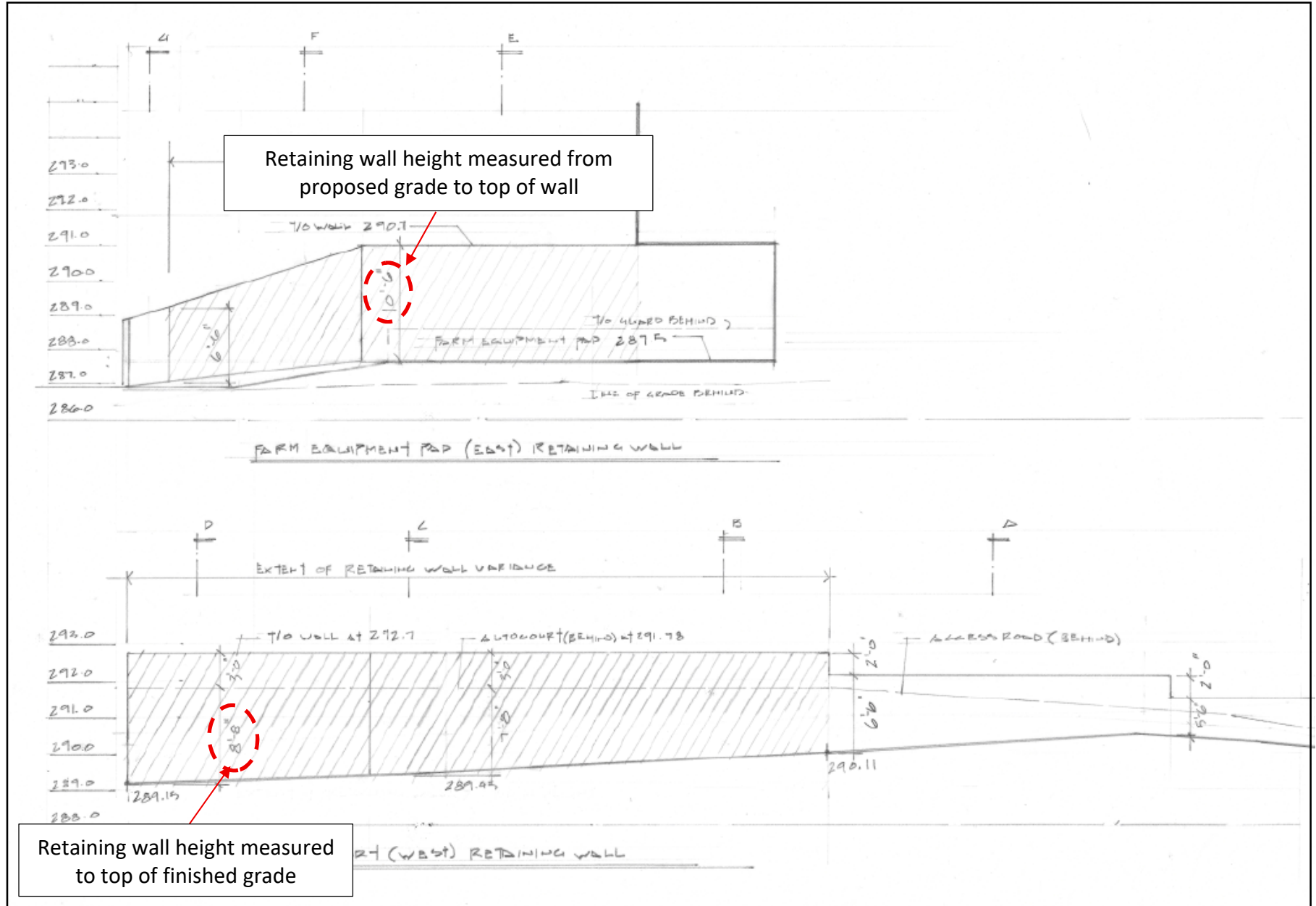
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Attachment No. 2 – Applicant's Site Plan



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Attachment No. 4 – Aerial Photo

