

DATE OF MEETING | September 21, 2021 |

AUTHORED BY | MATTHEW REMPEL, PLANNING ASSISTANT, CURRENT PLANNING |

**SUBJECT | DEVELOPMENT PERMIT APPLICATION NO. DP1227 – 20 BARSBY AVENUE |**

## **OVERVIEW**

### **Purpose of Report**

To present for Council’s consideration, a development permit amendment application for an over-height retaining wall at 20 Barsby Avenue.

### **Recommendation**

That Council issue Development Permit No. DP1227 at 20 Barsby Avenue with a variance to increase the maximum allowable fence height from 3.00m up to 3.85m for a retaining wall.

## **BACKGROUND**

A development permit application, DP1227, was received from Raymond de Beeld Architect Inc. on behalf of Riverstone Place Inc. to amend the previously issued DP1073 and vary the provisions of the “City of Nanaimo Zoning Bylaw 2011 No. 4500” (the “Zoning Bylaw”) in order to increase the maximum allowable height for a retaining wall.

Development Permit No. DP1073, approved by Council on 2018-JUL-09, permitted a six-storey multi-family residential building consisting of 90 dwelling units at 20 Barsby Avenue. A building permit was issued, and construction was completed earlier in 2021. Through construction, an additional terraced retaining wall was built onsite that was not anticipated or defined at the time of DP approval; therefore, the applicant has applied to amend the approved DP plans to permit an over-height retaining wall.

### **Subject Property and Site Context**

<i>Zoning</i>	R8 – Medium Density Residential
<i>Location</i>	The subject property is located on Barsby Avenue at the intersection of Mill Street and Prideaux Street.
<i>Total Area</i>	4,220m <sup>2</sup>
<i>Official Community Plan (OCP)</i>	Map 1 – Future Land Use Plans – Urban Node Map 3 – Development Permit Area No. 9 - Commercial, Industrial, Institutional, Multiple Family and Mixed Commercial/Residential development; and Development Permit Area No.1 – Watercourses
<i>Relevant Design Guidelines</i>	General Development Permit Area Design Guidelines

The subject property is located near Downtown Nanaimo, adjacent to the Millstone River. A public trail surrounds the subject property next to the river.

## **DISCUSSION**

### **Proposed Development**

The terraced retaining wall was constructed on the northeast side of the building, outside of the riparian area that was identified through the previously approved development permit. The retaining wall was constructed using segmental blocks consisting of two terraces that are structurally interdependent. As such, the height of the wall is measured from finished grade on the low side of wall to the highest part of the wall, resulting in an over height wall. The overall project is considered substantially in compliance with the approved form and character development permit, but requires an amendment to reflect the additional retaining wall and vary the maximum allowable retaining wall height.

To address the DPA guidelines, the applicant provided an environmental post-development report to comment on the riparian considerations associated with the newly constructed retaining wall. The Qualified Environmental Professional (QEP) report prepared by Aquaparian (2021- APR-22) concluded that the retaining wall:

- is located outside the provincial Streamside Protection and Enhancement Area and conforms with the previously approved aquatic setback variance for the development (0 meters from the top of bank of the Millstone River);
- is constructed within the allowable construction disturbance footprint and is positioned close to the building;
- does not appear to have resulted in a negative impact to the riparian function of the river; and
- the two tiers of wall support native plantings in accordance with the Vegetation Management Plan (2018-JUN-21) and Landscape Design (2019-JUN-28) for the project.

The post-development report was submitted to the Provincial Riparian Areas Protection Regulation (RAPR) notification system for review. On 2021-JUN-08, the Province accepted that the measures prescribed by the QEP were adhered to and no contraventions of the RAPR have been determined. As such, no further action is required under the RAPR at this time.

In addition, the terraced retaining wall was constructed in accordance with a Geotechnical recommendation to stabilize the slope and bank so that the landscape areas could be built up as needed. A report submitted by Lewkowich Engineering and Associates dated 2021-FEB-17 confirmed the multi-family residential building footings are not supported by the retaining wall.

### **Proposed Variance**

#### *Maximum Allowable Fence Height*

The Zoning Bylaw includes retaining walls in the measurement of fence height. The maximum height of a fence or retaining wall located outside of the setbacks is 3.00m. The retaining wall constructed onsite varies in height up to 3.85m; a variance of 0.85m.

The terraced retaining wall was added to create more functional planting beds, and the design and location of the wall address the geotechnical and environmental recommendations.

As a condition of this development permit, riparian vegetation planting density shall be increased to 1 plant/ 0.75m<sup>2</sup> for the restoration area as outlined in Vegetation Composition Site Plan. This will offset the area occupied by the retaining wall and achieve the intended amount of replanting as prescribed in the vegetation management plan previously approved under DP1073. The planting, as described above, will be required prior to any release of the riparian portion of the landscape bonding.

Staff support the proposed variance.

### **SUMMARY POINTS**

- Development Permit Application No. DP1227 proposes to amend previously approved DP1073 for an over-height retaining wall.
- A variance is requested to increase the maximum allowable fence height for a retaining wall from 3.00m up to 3.85m.
- Staff support the proposed variance.

### **ATTACHMENTS**

ATTACHMENT A: Permit Terms and Conditions  
ATTACHMENT B: Context Map  
ATTACHMENT C: Location Plan  
ATTACHMENT D: Site Plan  
ATTACHMENT E: Retaining Wall Section and Details  
ATTACHMENT F: Vegetation Composition Plan  
ATTACHMENT G: Aerial Photo

#### **Submitted by:**

Lainya Rowett  
Manager, Current Planning

#### **Concurrence by:**

Jeremy Holm  
Director, Development Approvals

Dale Lindsay  
General Manager, Development Services