



## COUNCIL REPORT

To: Paul Gipps, CAO

Date: June 28, 2022

From: Chris French, Planner I

File No: DVP 19-06

Subject: **DVP 19-06, Development Variance Permit, 3357 Hihannah View**

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### RECOMMENDATION

**THAT** Council authorize the issuance of a Development Variance Permit (DVP 19-06) for 3357 Hihannah View to vary Section 3.12.1 of Zoning Bylaw No. 0154 to increase the maximum permitted height of a retaining wall from 2.5m to 4.9m in accordance the draft permit.

### STRATEGIC AREA(S) OF FOCUS

Council's 2021-2022 Strategic Priorities – Economic Growth and Prosperity

### BACKGROUND

A Development Permit (DP) was issued in January 2016 that included the construction of a single-tier retaining wall with a maximum permitted height of 2.5m and the installation of landscaping along the southern parcel boundary of the property. Following the DP issuance, two building permits for a single detached dwelling and pool were submitted.

Through the review process for the swimming pool permit, it was discovered that the pool was already constructed and that the retaining wall that was approved under the DP was not constructed in accordance with the permits and was over height. The retaining wall was also found to be encroaching on the adjacent property to the south.

The applicant is requesting a Development Variance Permit to increase the permitted height of the previously constructed retaining wall on the property from 2.5m to 4.9m. Acquiring this permit would allow the owner of the property to complete the application process for a building permit and obtain the necessary approvals to fill the swimming pool.

Throughout the application process, the applicant has been working with the neighbouring property owners to address their concerns with the construction of the retaining wall. To the south, the wall was found to encroach on the adjacent property and an easement agreement was registered. The applicant also completed landscaping improvements on the adjacent property to the east to screen the wall to the satisfaction of the property owners there.

## Legislative Requirements

Section 498 of the *Local Government Act* gives Council the authority to issue a development variance permit that varies in respect of the land covered in the permit, the provisions of the Zoning Bylaw.

PROPERTY DETAILS				
Address		3357 Hihannah View		
PID		028-172-027		
Folio		36413691.499		
Lot Size		2169.12 m <sup>2</sup>		
Owner	Nicholas Klevering, Carol Johnman		Agent	Tony Franzen
Current Zoning	R1 – Single Detached Residential Zone		Proposed Zoning	N/A
Current OCP	Single Family Residential		Proposed OCP	N/A
Current Use	Single Family Residential		Proposed Use	N/A
Development Permit Areas		Hillside; Sensitive Terrestrial Ecosystem		
ADJACENT ZONING & LAND USES				
North	^	R4 – Medium Density Multiple Residential (Undeveloped)		
East	>	R1 – Single Detached Residential		
West	<	R1 – Single Detached Residential (Undeveloped)		
South	v	R1 – Single Detached Residential		

## NEIGHBOURHOOD MAP



## PROPERTY MAP





### Official Community Plan

In accordance with DP guidelines, a wall treatment and landscape plan to screen the wall on the southern property line was required with the original DP. After consultation with neighbours, a screening plan that involved the planting of 6 ft to 8 ft trees was provided to the City. The owner who constructed the retaining walls installed a planter box at the base of the retaining wall on the southern neighbouring property at 3374 Sundance Dr. This landscape plan can be found in *Attachment 2*. No additional landscaping is required.

### Technical Review

Multiple inspections of the retaining wall were completed by geotechnical engineers in 2019, 2020 and 2021<sup>1</sup>. These inspections confirmed that the retaining walls did not present any hazard to the public and that the walls are performing well.

### Encroachment on to Adjacent Property

In order to rectify the encroachment, an easement agreement was required with the adjacent property owners at 3353 Hihannah View as the wall was constructed over the property line. This easement plan was registered in April of 2021.

## **PUBLIC NOTIFICATION**

In accordance with the *Local Government Act*, 40 notices were mailed to property owners within 100m of the property and a sign was posted on the property. Letters of acceptance from the adjacent property owners have been received and are included in this report as *Attachment 3*.

## **CONCLUSION**

Staff recommend that Council approve the requested variance as the retaining wall has been deemed safe by geotechnical engineers, the adjacent neighbour, who is most impacted by the wall, is in support of the variance, an easement for the encroachment on the adjacent property has been registered, and the wall has been adequately screened with landscaping.

## **ALTERNATE MOTION**

**THAT** Council deny the issuance of a Development Variance Permit (DVP 19-06) for 3357 Hihannah View to vary Section 3.12.1 of Zoning Bylaw No. 0154 to increase the maximum permitted height of a retaining wall from 2.5m to 4.9m.

Should Council deny the issuance of this Development Variance Permit, the owner will need to remove the existing retaining wall and swimming pool.

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<sup>1</sup> Geotechnical Reports received from Interior Testing Services Ltd. (September 2019, June 2020, November 2021)

**REVIEWED BY**

Chris Oliver, Planning Supervisor

Brent Magnan, Director of Development Approvals

Shelley Schnitzler, Legislative Services Manager/Corporate Officer

**APPROVED FOR THE AGENDA BY**

Paul Gipps, CAO

Powerpoint: Yes ☒ No ☐

**Attachments:**

1. Draft Permit (DVP 19-06)
2. Landscape Plan
3. Letters of acceptance from adjacent property owners