

REQUEST FOR DECISION

TO: Council **MEETING DATE:** September 4, 2024
FROM: Ian Holl, Development Planning Manager
SUBJECT: Development Permit with Variance for 7071 Porpoise Drive
FILE NO: 3060-2024-04

RECOMMENDATION

That Development Variance Permit 2024-04 be approved and issued.

PURPOSE

The owners of the property have applied for a development variance permit (DVP) for a large retaining wall to be installed along the northern boundary of the property adjacent to the public beach access trail. The variance is required for a significant height increase for the wall system, as well as reduced property line setbacks. Additionally, the property owners applied for a development permit for the retaining wall and related works. Issuance of the development permit is delegated to the Director of Planning and Development.

OPTIONS

1. Defer the application pending additional information.
2. Deny the application.

DISCUSSION

Summary

Zoning Bylaw No. 580, 2022 limits retaining wall heights to 1.2 m for individual walls, and a terraced system of walls to a ratio of 2 horizontal to 1 vertical (2:1). Walls that are 1.2 m or higher need to comply with property line setbacks for accessory structures. The DVP is needed to consider an increase in height as well as encroaching within the 1.5 m setback. A separate Development Permit application (DP) is required to address the works themselves regardless of the outcome of the DVP application.

Legislative Context

Local governments have the authority to consider applications by owners to vary provisions of a bylaw as outlined in Division 9 (Development Variance Permits) of the *Local Government Act*. A local government may vary a land use regulation in accordance with applicable guidelines however, the level of density or use of the land may not be altered.

Background

Table 1 – Application Summary

Applicant	Hamilton Fine Homebuilding
Owner	Ken and Noreen Moss
Civic Address	7071 Porpoise Drive
Legal Address	LOT 20 DISTRICT LOT 6214 PLAN VAP13644, PID 008-530-327
Size of Properties	~1,750 m ²
OCP Designation	Low Density Residential
Zoning Designation	R1
DP Areas	Development Permit Area No. 2 (watercourse habitat and hazards), Development Permit Area No. 3 (marine foreshore), Development Permit Area No. 4 (rockfall hazards), Development Permit Area No. 5 (steep slopes)

ANALYSIS

Planning, Engineering, Building, and Parks staff have reviewed the application and worked with the applicants to address a number of issues given the proximity of the public beach access trail. The applicants have undertaken significant work to consider different options to address the slope stability issues on the property. While it would be possible to comply with the retaining wall heights in the zoning bylaw, such an approach would require substantially more intensive and extensive excavation on the property.

Based on the current proposal, staff have no outstanding concerns with the proposed variance request. There will still be further work on the Development Permit application. However, in general both the DVP and DP applications are aligning with the objectives and guidelines of the Development Permit Areas.

The applicant is seeking to increase the maximum height of retaining wall sections from 1.2 m to 3, 4, and almost 5 m along the public trail boundary. The wall returns into the property would also need to be varied from 1.2 m to 1.5 and 2 m for sections parallel to the waterfront. At least one section of the terraced wall system would also not meet the 2H:1V ratio in the zoning bylaw. The setback along the trail boundary also needs to be reduced down to 0 m though it should be noted that no proportion of the wall (e.g. footings) can cross the property line.

The Development Permit application would address a number of issues including:

- Assurance that the works will not use the District trail, nor negatively impact it without remediation.
- Establishment of tree protection zones.
- Establishment of measures to ensure that ground disturbance/excavation work doesn't cause material to spill over into the trail, riparian area, or marine foreshore.
- Landscape bond would be held for a minimum of 3 years to cover the work required to restore, monitor, and maintain the vegetation as per the qualified professional report.

POLICY AND BYLAW IMPLICATIONS

Overall, the proposed development is consistent with the OCP and Zoning Bylaws. A variance is required to address the Zoning Bylaw retaining wall height and setback issues.

SUSTAINABILITY PLAN IMPLICATIONS

None.

STRATEGIC PLAN IMPLICATIONS

None.

FINANCIAL IMPLICATIONS

None.

COMMUNICATIONS

Owners and occupiers within 100 m of the subject property were notified of the intention for Council to consider Development Variance Permit 2024-04 as required under Section 499 of the *Local Government Act* and Planning Procedures Bylaw No. 566, 2018.

No comments have been received to date.

Respectfully submitted,

Ian Holl, MCIP, RPP

Development Planning Manager

Attachments:

1 - Development Variance Permit 2024-04