

# REQUEST FOR DECISION

**TO:** Council **MEETING DATE:** September 4, 2024  
**FROM:** Ian Holl, Development Planning Manager  
**SUBJECT:** Development Permit with Variance for 6217 Highmoor Road  
**FILE NO:** 3060-2024-11

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## RECOMMENDATION

**That Development Variance Permit 2024-11 be approved and issued, subject to removal of retaining walls from the public road right of way and adjacent private property.**

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## PURPOSE

The owners of the property have applied for a development variance permit for individual wall height, combined walls height ratio and setback regulations for a series of small retaining walls that were constructed on the property. Portions of the walls were also encroaching onto adjacent private and public property. No development permit area applied to the property, but retaining walls that are 1.2 m or higher do require a building permit. All encroaching walls must be removed and relocated within the subject property boundaries.

## OPTIONS

1. Deny the application and direct enforcement and removal of non-conforming portions of the walls.
2. Defer the application pending additional information.

## DISCUSSION

### Summary

A Development Variance Permit application (DVP) is required to allow retaining walls that are over height (greater than 1.2 m for individual walls), do not meet the 2H:1V ratio for terraced walls, and/or do not comply with property line setbacks (for walls 1.2 m or higher).

### 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

<b>Applicant</b>	David Chen and Wen Yan Lu
<b>Owner</b>	David Chen and Wen Yan Lu
<b>Civic Address</b>	6217 Highmoor Road
<b>Legal Address</b>	LOT 2 DISTRICT LOT 1473 PLAN LMP18862, PID 018-953-832
<b>Size of Properties</b>	~919 m <sup>2</sup>
<b>OCP Designation</b>	Residential
<b>Zoning Designation</b>	R1
<b>DP Areas</b>	None

## ANALYSIS

A building permit application for a dwelling was completed, but the plans did not show any retaining walls of any kind. Retaining walls then appeared on the property and extended into the District public road right of way as well as onto neighbouring private property. In general, these retaining walls did not comply with zoning regulations, did not have a building permit where applicable, and encroached onto adjacent public and private land.

It was determined that the walls were not required to support the dwelling or resolve slope stability issues so there is a rationale for considering bylaw enforcement action rather than approving the variance.

If Council decided to deny the DVP application, then bylaw enforcement action could be directed that would require all the retaining walls to be removed and/or reconstructed to comply with zoning and building bylaw requirements, and regrading of the property.

Several wall sections are up to 1.5 m in height, and do not meet the 2 Horizontal:1 Vertical ratio for terraced walls. Walls that are 1.2 m in height or more must comply with property line setbacks. The DVP then contemplates allowing retaining walls up to 1.5 m in height, retaining walls that do not meet the 2H:1V ratio, and retaining walls with reduced setbacks down to 0.1 m in several locations.

If Council should approve this Development Variance Permit the owners would be required to remove the encroaching portions, apply for building permits as applicable, and a \$10,000 security deposit would be required to ensure compliance with the DVP.

If this DVP is denied by Council, the owners would be required to remove the encroaching portions, reduce the retaining walls to a height of 1.2 m or less, relocate all 1.2 m high walls to meet accessory building setbacks (1.5 m), and apply for building permits as applicable.

**POLICY AND BYLAW IMPLICATIONS**

Alongside the remedial work, a variance would be required to bring the development into compliance with the Zoning Bylaw. Building permits are also required for Building Bylaw compliance.

**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 2024-11 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 2024-11