
CITY OF KELOWNA
MEMORANDUM

Date: March 30, 2004
File No.: DVP04-0011

To: City Manager

From: Planning and Development Services Department

Subject:

APPLICATION NO. DVP04-0011 **OWNER:** Lisa Johnson

AT: 748 Cantina Court, Kelowna, BC **APPLICANT:** Sunshine Pools & Spas (Bill Heidt)

PURPOSE: TO VARY THE MAXIMUM PERMITTED HEIGHT FOR RETAINING WALLS TO ALLOW A RETAINING WALL TO BE IN HEIGHT 4.4 METRES WHERE ONLY 1.2 METRES IS PERMITTED.

EXISTING ZONE: RU1h- Large Lot Housing (Hillside)

REPORT PREPARED BY: KEIKO NITTEL

SEE ATTACHED FACT SHEET FOR COMPLETE APPLICATION DETAILS

1.0 **RECOMMENDATION**

THAT Council not authorize the issuance of Development Variance Permit No. DVP04-0011 for Lot 25, DL 1688S, SDYD, Plan KAP71342 located on Cantina Court, Kelowna, B.C.:

AND THAT a variance to the following section of Zoning Bylaw No. 8000 not be granted:

Section 7.5.8

- Vary the maximum permitted height of a retaining wall from 1.20 m permitted to allow a retaining wall that is 4.4 metres in height

2.0 **SUMMARY**

The applicant requires a development variance permit to legalize an existing 4.4 m retaining wall located on the subject property. The retaining wall was constructed to facilitate the construction of a swimming pool.

3.0 BACKGROUND

3.1 The Proposal

The subject property is located on Cantina Court in the South Ridge Development (Neighbourhood #2) in South West Mission. The property is located in an environmental development permit area due to the steep slopes located on the back portion of the lot which is protected by a restrictive covenant and delineated with a chain link fence. The applicant obtained a building permit to construct a swimming pool at the rear of the house. To facilitate the pool's construction, a 4.4 metres high retaining wall was required. The retaining wall is stepped down in three tiers. The retaining wall, however, was not approved as part of the original building permit application. As the maximum permitted height for retaining walls is 1.2 metres, a development variance permit is required to legalize the bottom two tiers of the retaining wall which are over-height. The retaining wall does not encroach into the no-build area established by the covenant. While tree cover in the covenanted area provides some screening, the retaining wall is visible from adjacent properties.

The application compares to the requirements the City of Kelowna Bylaw No. 8000 for RU2 zones as follows:

CRITERIA	PROPOSAL	REQUIREMENTS
Retaining Walls		
Height ❶	4.4m	1.2m

❶ The applicant is seeking a variance to allow a retaining wall to be 4.4 metres is height where only 1.2 metres is permitted.

3.2 Site Context

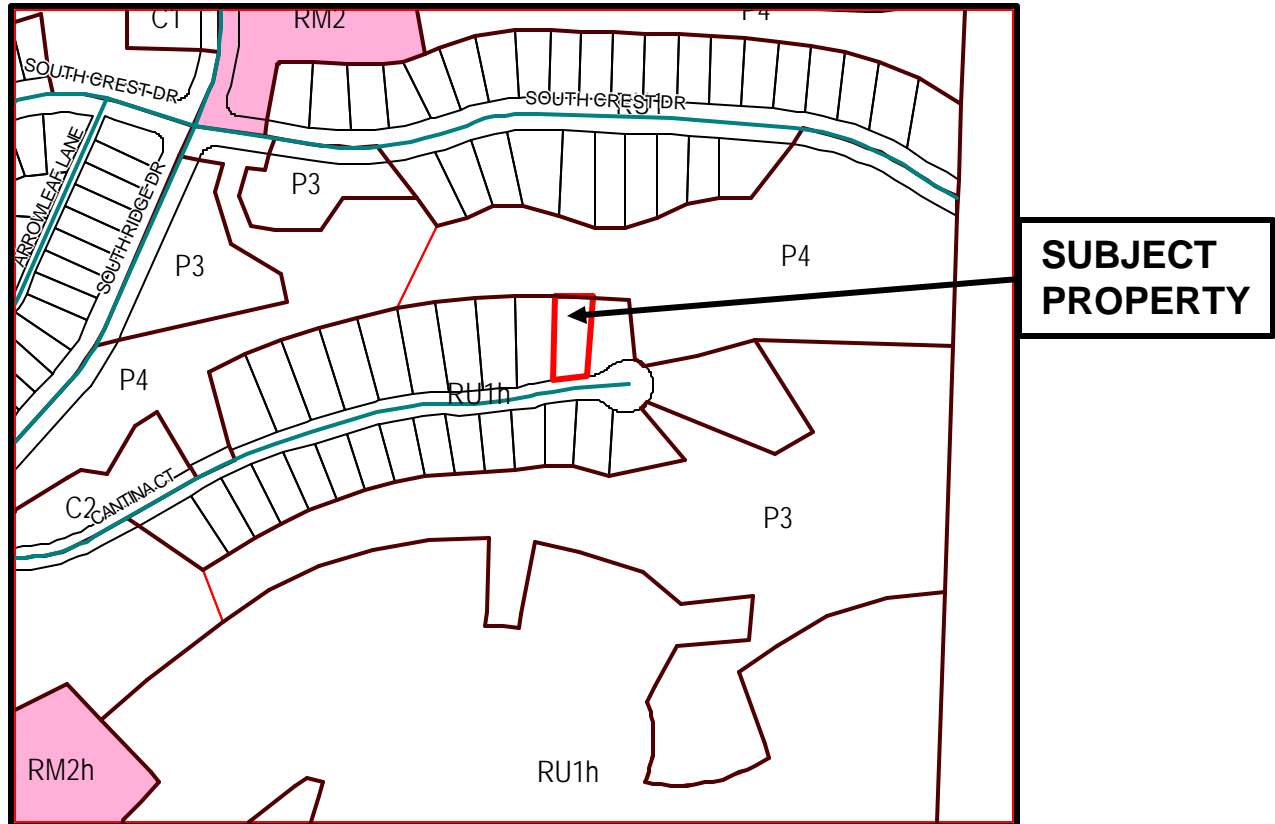
The subject property is located on the north side of Cantina Court.

Adjacent zones and uses are:

- North - P4- Utilities
- East - RU1h – Large Lot Housing (Hillside Area)
- South - RU1h – Large Lot Housing (Hillside Area)
- West - RU1h – Large Lot Housing (Hillside Area)

3.3 Location Map

Subject Property: 748 Cantina Drive



3.4 Existing Development Potential

The property is zoned RU1h – Large Lot Housing (Hillside Area). The purpose of this zone is to provide for single detached housing as a principal use, and compatible secondary uses, such as bed and breakfast homes, minor care centres and group homes, as well as home based businesses.

Secondary suites are allowed on lots with RU1s – Large Lot Housing with Secondary Suite zoning.

3.5 Current Development Policy

3.5.1 Official Community Plan

The City of Kelowna's Official Community Plan (OCP) objectives and policies outline a clear course of direction for hillside development. The intent to minimize the effects of development on the natural environment of hillside areas, defined as lands in their natural state that have a slope angle of 10% and greater for a minimum height of 6 metres while preserving areas with slopes of 30% and greater. Effects to be minimized may include cuts and fills, tree cutting, re-

grading and the visual impact in general of urban development of hillsides. Development should be directed to appropriate areas with slopes averaging less than 30%. Where it can be demonstrated that the proposed development will be sensitively integrated with the natural environment and will present no hazards to persons or property, development may be permitted on land with a natural slope that averages greater than 30%.

3.5.3 Kelowna Hillside Development Guidelines (2001)

Kelowna's guidelines for development on hillsides are to be used to supplement the existing Kelowna Zoning Bylaw and the City of Kelowna Subdivision, Development and Servicing Manual. The guidelines include the following suggestions:

- Areas with significant trees and vegetation are to be identified, protected and incorporated onto the overall subdivision plan where environmental concerns, soil stability and buffers between development cells will enhance neighbourhood character and sustainability.
- Retain trees, and, or other vegetation on ridgelines so that the ridgeline is seen predominantly as a continuous line of natural terrain or vegetation.
- When developing on exposed slope areas, it is important that development patterns do not dominate the hillside landscape. Curvilinear roads, irregular lot shapes, retention of vegetation, maximization of open space and significant landscaping should be incorporated in designs to reduce the visual impact of development in exposed slope areas.
- Scenic features such as rock outcrops, cliffs, unique vegetation, water bodies, wetlands and streams should be protected. Development around these features should complement the character of the feature rather than compete with it.
- The form and character of roads and structures are to complement the terrain and features associated with the surrounding hillsides, by balancing the need for cuts and fills in a way that will reduce overall visual impacts.

5.0 TECHNICAL COMMENTS

The application has been submitted to various technical agencies and City departments and the following comments or concerns were expressed:

5.1 Works and Utilities

The over-height wall needs to be designed by an Engineer. The existing foundation drainpipe and rock pit will be impacted by the pool and/or fill. The owner should provide confirmation of its location and address any impacts. The owner should confirm how the pool will be drained and back flushed. There is to be no erosion or impact on the Non Disturb Covenant area. A direct pipe discharge is not permitted onto the Non Disturb area.

5.2 Inspections

Pool permit and Development Permit Waiver were issued without revealing the height of the wall.

5.3 Parks Department

To minimize the visual impact of the retaining wall, Parks recommends planting the wall with an evergreen low-maintenance climber like English Ivy. Individual plants should be placed at 1.2m increments along the base of each of the walls. The property owner is responsible for watering and replacement of any plant material.

6.0 PLANNING AND DEVELOPMENT SERVICES DEPARTMENT

The Planning and Development Services Department is not supportive of the proposed variance. While a building permit application for the pool was issued, information with regards to an over height retaining wall was not submitted as part of the application. The construction of over height retaining walls was therefore not discovered by Inspection Services until the retaining walls and pool were completed. Inspection Services then requested the submission of an Engineers report on the retaining wall. At that time, the applicant was also instructed to apply for the development variance permit. As Staff is concerned with this pattern of development, support of variances required after construction are discouraged.

In addition, the proposed development is not consistent with the City's Hillside Development Guidelines which state that development should complement the character of the feature rather than compete with it. Though existing trees provide some cover, the retaining wall is visible from adjacent properties. The owner of the property, however, has advised of her intention to further mitigate the visual impact of development through the planting of climbers. A drip irrigation system has been installed to facilitate the landscaping. The adjacent neighbours have provided letters of support for the proposed variances. The applicant has also relocated the drainpipes from the base of the retaining and provided confirmation from an engineer that drainage will not impact the structural integrity of the wall. Should Council decide to support the variance, Staff recommend that the drainage of the pool via the street be a condition of approval as drainage down the slope may both impact the slope stability as well as result in runoff onto the parks space located at the base of the slope.

6.1 ALTERNATE RECOMMENDATION

THAT Council authorize the issuance of Development Variance Permit No. DVP03-0177 for Lot 25, DL 1688S, SDYD, Plan KAP71342 located on Cantina Drive, Kelowna, B.C. subject to the following;

1. The dimensions and siting of the building to be on the land be in general accordance with Schedule "A";
2. The exterior design and finish of the building to be on the land be in general accordance with Schedule "B";
3. The pool is not to be drained down the slope into the no build area. Pool water discharged must be drained into storm drain in accordance with the regulations of the City of Kelowna Wastewater Division;

AND THAT a variance to the following section of Zoning Bylaw No. 8000 be granted:

Section 7.5.8

- Vary the maximum permitted height of a retaining wall from 1.20 m permitted to allow a retaining wall that is 4.4 metres in height.

Andrew Bruce
Development Services Manager

Approved for inclusion

R.L. (Ron) Mattiussi, ACP, MCIP
Director of Planning & Corporate Services

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Attach.

1. **APPLICATION NO.:** DVP03-0177
2. **APPLICATION TYPE:** Development Variance Permit
3. **OWNER:** Lisa Johnson
· **ADDRESS** 748 Cantina Dr
· **CITY** Kelowna, BC
· **POSTAL CODE** V1W 4Y7
4. **APPLICANT/CONTACT PERSON:** Sunshine Pools & Spas (Tim Young)
· **ADDRESS** 1940 Kirschner Road
· **CITY** Kelowna, BC
· **POSTAL CODE** V1Y 4N6
· **TELEPHONE/FAX NO.:** 717-8681
5. **APPLICATION PROGRESS:**
Date of Application: February 6, 2004
Date Application Complete: March 29, 2004
Servicing Agreement Forwarded to Applicant: n/a
Servicing Agreement Concluded: n/a
Staff Report to APC: n/a
6. **LEGAL DESCRIPTION:** Lot 25, DL 1688S, SDYD, Plan KAP71342
7. **SITE LOCATION:** On the north side of Cantina Court
8. **CIVIC ADDRESS:** 748 Cantina Court
9. **AREA OF SUBJECT PROPERTY:** 909m²
10. **EXISTING ZONE CATEGORY:** RU1h- Large Lot Housing (Hillside)
11. **PURPOSE OF THE APPLICATION:** TO VARY THE MAXIMUM PERMITTED HEIGHT FOR RETAINING WALLS TO ALLOW A RETAINING WALL TO BE IN HEIGHT WHERE ONLY 4.4 METRES IS PERMITTED.
12. **MIN. OF TRANS./HIGHWAYS FILES NO.:** n/a
NOTE: IF LANDS ARE WITHIN 800 m OF A CONTROLLED ACCESS HIGHWAY
13. **DEVELOPMENT PERMIT MAP 13.2 IMPLICATIONS** n/a

ATTACHMENTS

(not attached to the electronic version of the report)

- Location of subject property
- Photographs
- Site Plan