

Memo



Date: February 8, 2010
To: City Manager
From: Community Sustainability Division
File No: DVP09-0166 **Applicant:** Allison MacMillan
At: 1509 Pinehurst Cr. **Owner:** Allison MacMillan,
Roland & Marilyn Oliynyk
Purpose: TO VARY THE HEIGHT OF PORTIONS OF A RETAINING WALL FROM 1.2M PERMITTED
TO A MAXIMUM OF 1.73M PROPOSED
Existing Zone: RU1 - Large Lot Housing
Report Prepared by: Birte Decloux

1.0 RECOMMENDATION:

THAT Council authorize the issuance of Development Variance Permit No. DVP09-0166 for Lot 13, Section 29, Township 26, Osoyoos Division Yale District, Plan 9247 located at Pinehurst Crescent, Kelowna, B.C.

AND THAT variances to the following sections of Zoning Bylaw No. 8000 be granted:

Section 7.5.9 - Fencing and Retaining Walls

To vary the height for sections of a retaining wall on the south property line from 1.2 m permitted to a maximum of 1.73m proposed (as shown on Schedule "A").

AND THAT a Building Permit application be submitted for the construction of the retaining walls.

2.0 SUMMARY:

The applicant is seeking to vary the permitted height of a rear yard retaining wall that has recently been constructed.

3.0 BACKGROUND:

In 2007, the applicant began work on a retaining wall with approval from the former Community Development and Real Estate Department, as the property to the rear of the subject property at 1179 Clifton Road is owned by the City of Kelowna, and would provide logical access to the rear of this parcel. The approval outlined the following requirements:

- keystone blocks to match those used by the City in the Clifton Road project;
- the wall to be terraced 4' on each of the 2 terraces with plantings;
- possible removal of trees along the northern property line of 1179 Clifton Road;

- after completion, the City may request the replacement of the trees at the applicants cost .

In September 2009, the Building Permit for a 1.2 m high wall was cancelled as it was meeting the requirements of the Zoning Bylaw (not exceeding 1.2 m) therefore did not trigger the need for a building permit. However, it was subsequently noted that the constructed wall was higher than permitted and in December of 2009 this variance application was submitted in order to legalize this non-conformity.

3.1 Site Context

The subject property is located on the south side of Pinehurst Crescent in the Glenmore sector of Kelowna. Adjacent zones and uses in all directions are RU1 - Large Lot Housing residential use.

3.2 Site Location Map

Subject Property: 1509 Pinehurst Crescent



4.0 TECHNICAL COMMENTS

The application has been submitted to various technical agencies and City departments, and the following relevant comments have been submitted:

4.1 Development Engineering Services

The increased height of a retaining wall between two private properties does not compromise the City of Kelowna servicing requirements and does not trigger any offsite upgrades.

The applicant should be required to provide the engineering design of the wall and the design must indicate how the drainage is being handled. It would appear that the drainage will be released onto adjoining properties.

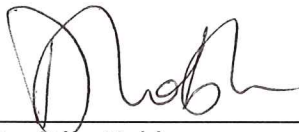
4.2 Building and Permitting

Building permit required. A geotechnical engineer's review may be required at time of building permit review. (Please note: a geotechnical report was submitted as part of the original DPW application).

5.0 LAND USE MANAGEMENT DEPARTMENT

The applicant has submitted letters of support from the adjacent neighbours, indicating no objection to the proposed variance. As there has been no expressed concern about the height of the retaining wall (from either a visual or technical perspective), this alleviates aesthetic and stability concerns that are typical of an over-height retaining wall.

As the wall has been constructed according to the specifications outlined in the Interior Testing Services report that addressed the geotechnical engineering recommendations, it is assumed that slope stability issues and bearing conditions have been adequately accommodated for. This will further be approved through the required Building Permit process pending favourable endorsement of the variance request.



Danielle Noble
Manager, Urban Land Use

Approved for inclusion:



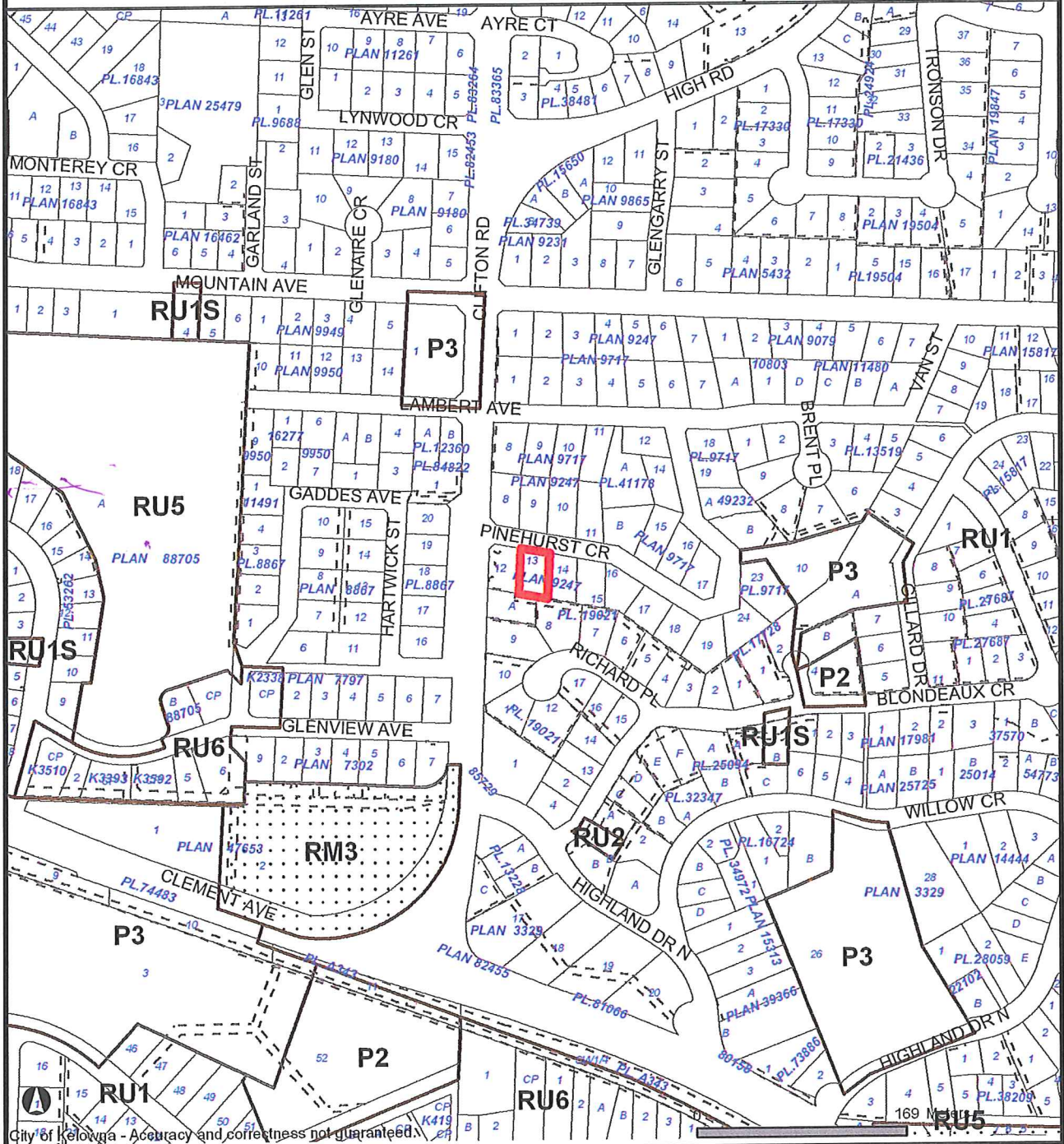
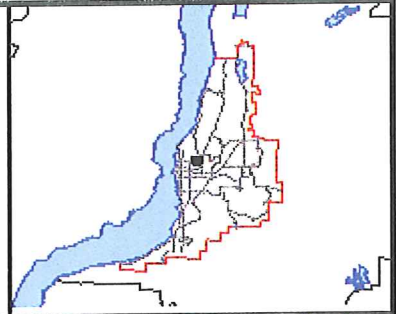
Shelley Gambacort
Director, Land Use Management

Attachments:
Subject Property Map
Site Plan
Letter of rationale

**Application
DVP09-0166**



Subject Property



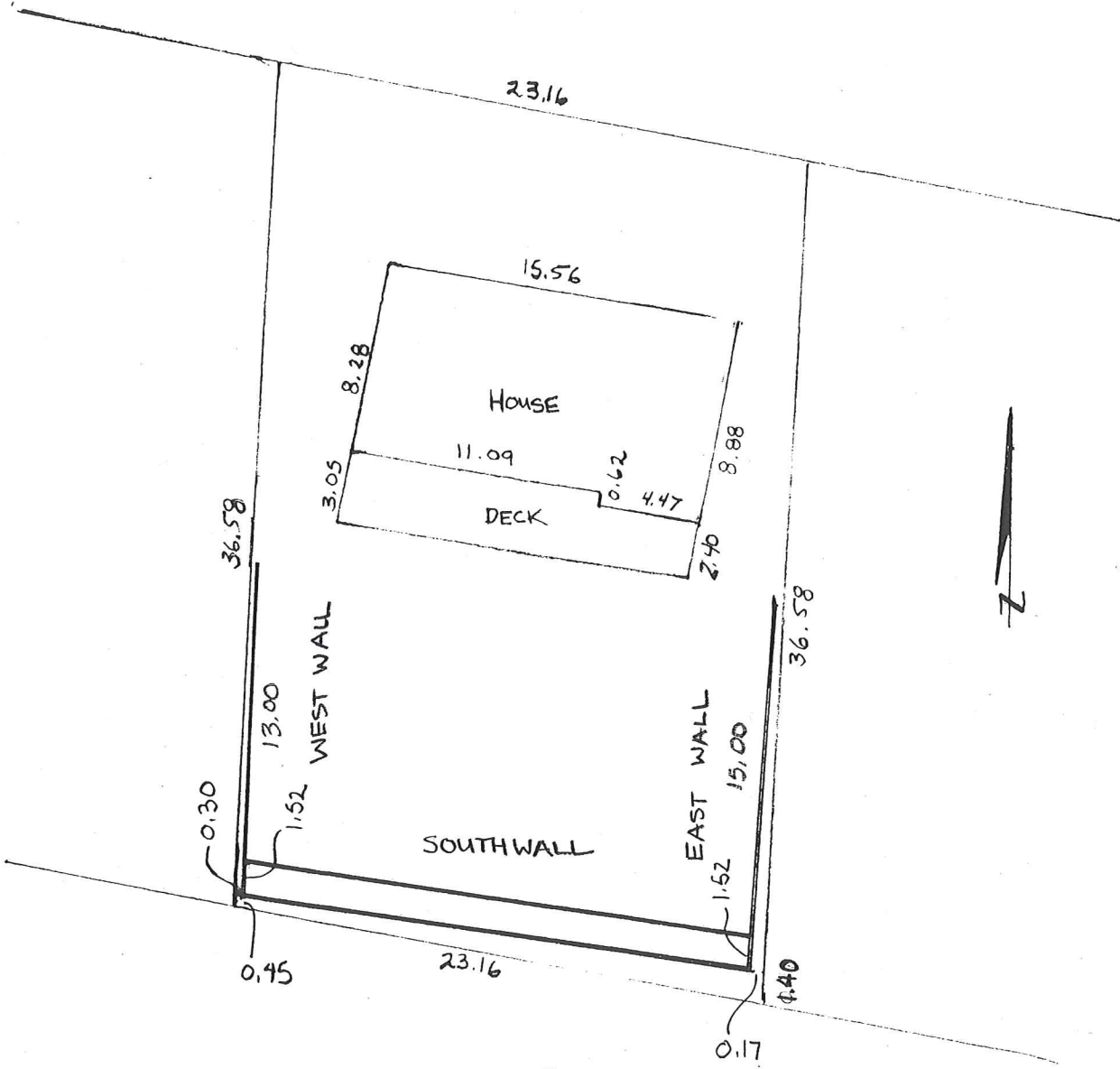
City of Kelowna - Accuracy and correctness not guaranteed.

Map: 847 x 913 m -- Scale 1:5,000

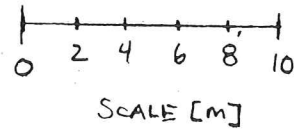
2009-12-22

Certain layers such as lots, zoning and dp areas are updated bi-weekly. This map is for general information only.
The City of Kelowna does not guarantee its accuracy. All information should be verified.

PINEHURST CRESCENT



RETAINING WALL - PLAN VIEW



DRAWING No. 3
Dec 13/2009

**1509 Pinehurst Crescent
Kelowna, BC, V1Y 4J1**

December 13, 2009

City of Kelowna
Planning and Development Services
1435 Water Street
Kelowna, BC V1Y 1J4

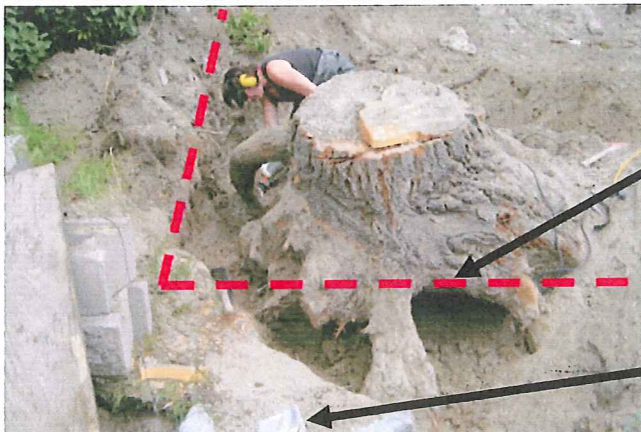
Attention: Harvey Spittal, Building Inspector:

Further to your letter dated September 21, 2009, a history of the development activities at the above reference property is included along with a Development Variance Permit application which will address the outstanding issues identified in your letter. The proposed development at the property consists of an over height retaining wall and city curb height reduction for driveway access.

Planning for the retaining wall construction was initiated in 2007. Prior to development, permission to access the City property located 1179 Clifton Road to facilitate the retaining wall construction was granted on August 15, 2008 (Appendix 1: City of Kelowna letter). The letter required the property owner to construct the wall of keystone blocks that match the blocks to be used by the City on the Clifton Road project and the wall height be limited to 1.2 m. The letter also granted permission to remove the trees located along the City property's north property line.

In addition to the access permission letter, a Development Permit Waiver (DPW) was obtained from the City (Appendix 2: DPW08-0432) on August 19, 2008. The details of the DPW required that the maximum wall height be limited to 1.2 m and the wall construction and geotechnical evaluation be completed as detailed in letter from Interior Testing Services Ltd. dated October 29, 2007.

Tree removal was initiated in April 2009 and construction of the retaining wall commenced shortly thereafter. As part of the tree removal, a small retaining wall constructed of earth and broken concrete approximately 0.6 m in height which was located on the 1179 Clifton Road property was removed. The broken concrete wall was located approximate 1.2 m from the property line. The picture below shows the removal of one of the trees located on the southwest corner of the 1509 Pinehurst property.



Approximate location
of 1509 Pinehurst
Crescent property
lines.

Remnants of the 1179
Clifton Road retaining
wall.

In order to address the over height wall, a Development Variance Permit application has been completed (Appendix 4: DVP Application).

The DVP application includes 2 parts:

- Application to build an over height retaining wall; and
- Application to cut down the city curbing located along a 3 m section of Pinehurst Crescent in order to facilitate the construction of a new driveway access.

As required by the DVP application, surrounding property owners within 30 m of the property were contacted to solicit their concerns, if any, regarding the proposed development. A summary of the information provided to each of the property owners along with the property owner contact information and comments regarding the proposed development are included in Appendix 5. As part of this survey, the City of Kelowna Real Estate Division was also contacted to obtain their opinion on whether the retaining wall impacted the City of Kelowna property 1179 Clifton Road. As noted in Appendix 5, all of the property owners expressed their approval of the proposed development and no concerns were raised.

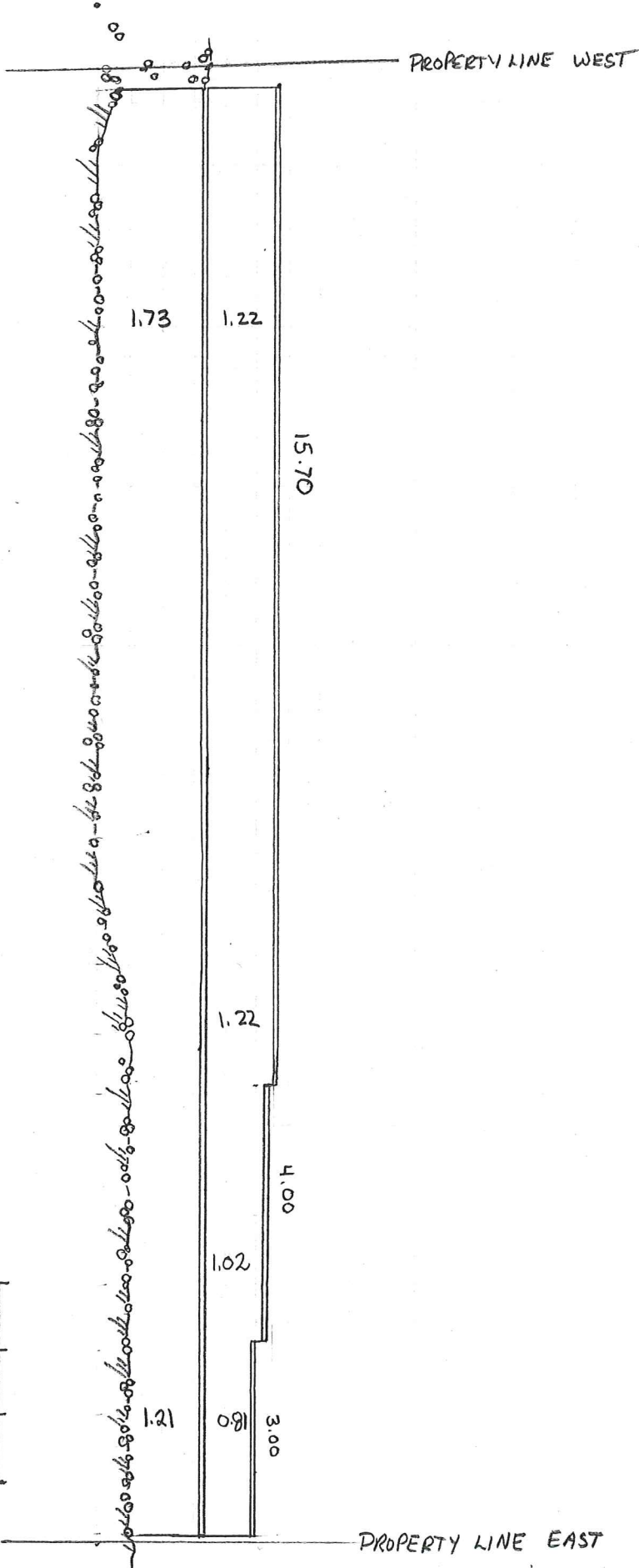
Should further clarification on the DVP application or site history be required, please do not hesitate to contact the undersigned.

Sincerely,

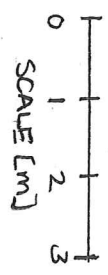


Allison M. MacMillan, P.Eng.

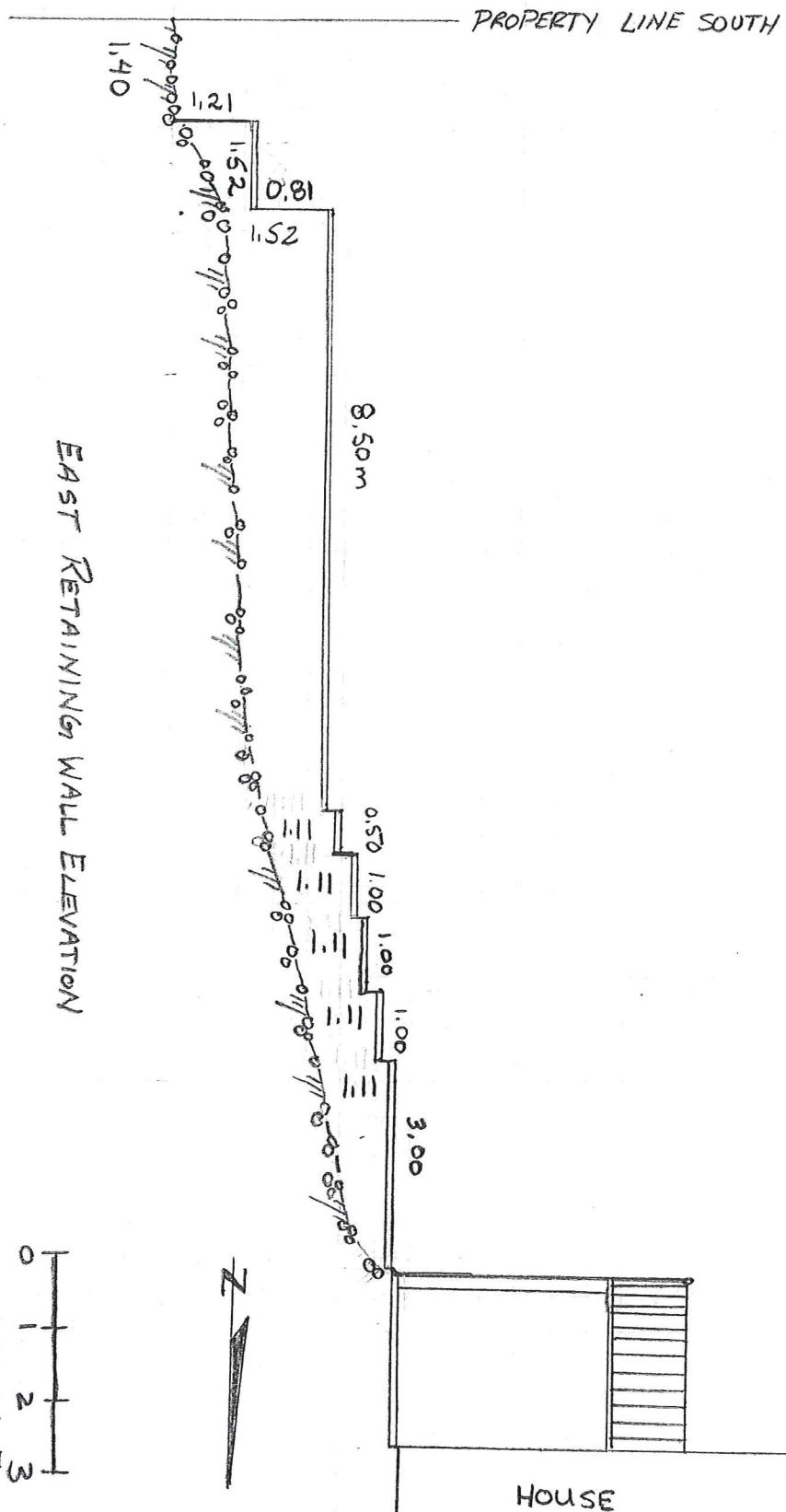


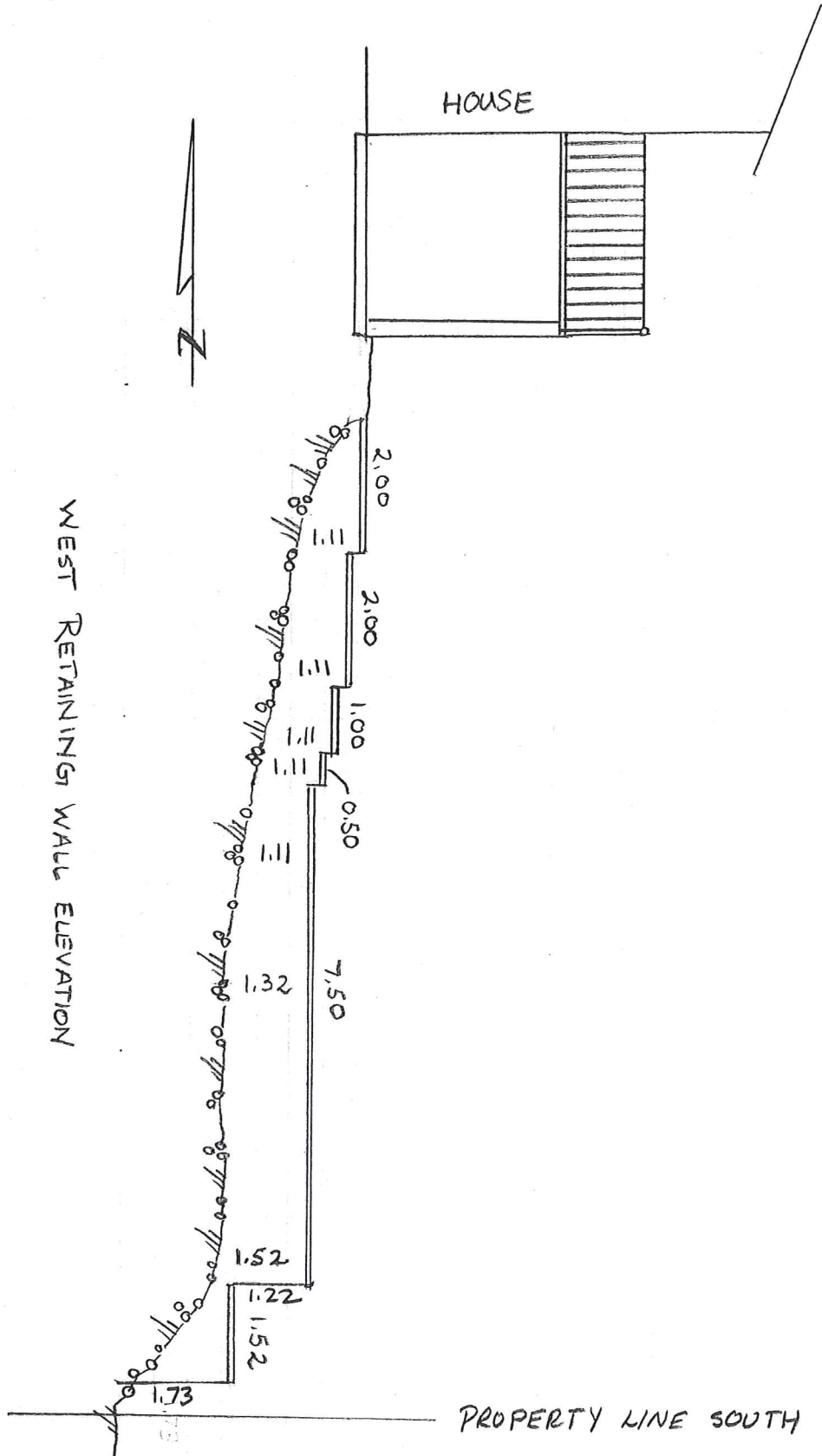


SOUTH RETAINING WALL ELEVATION

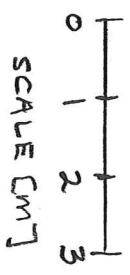


DRAWING NO 4.
Dec 13/2009





WEST RETAINING WALL ELEVATION

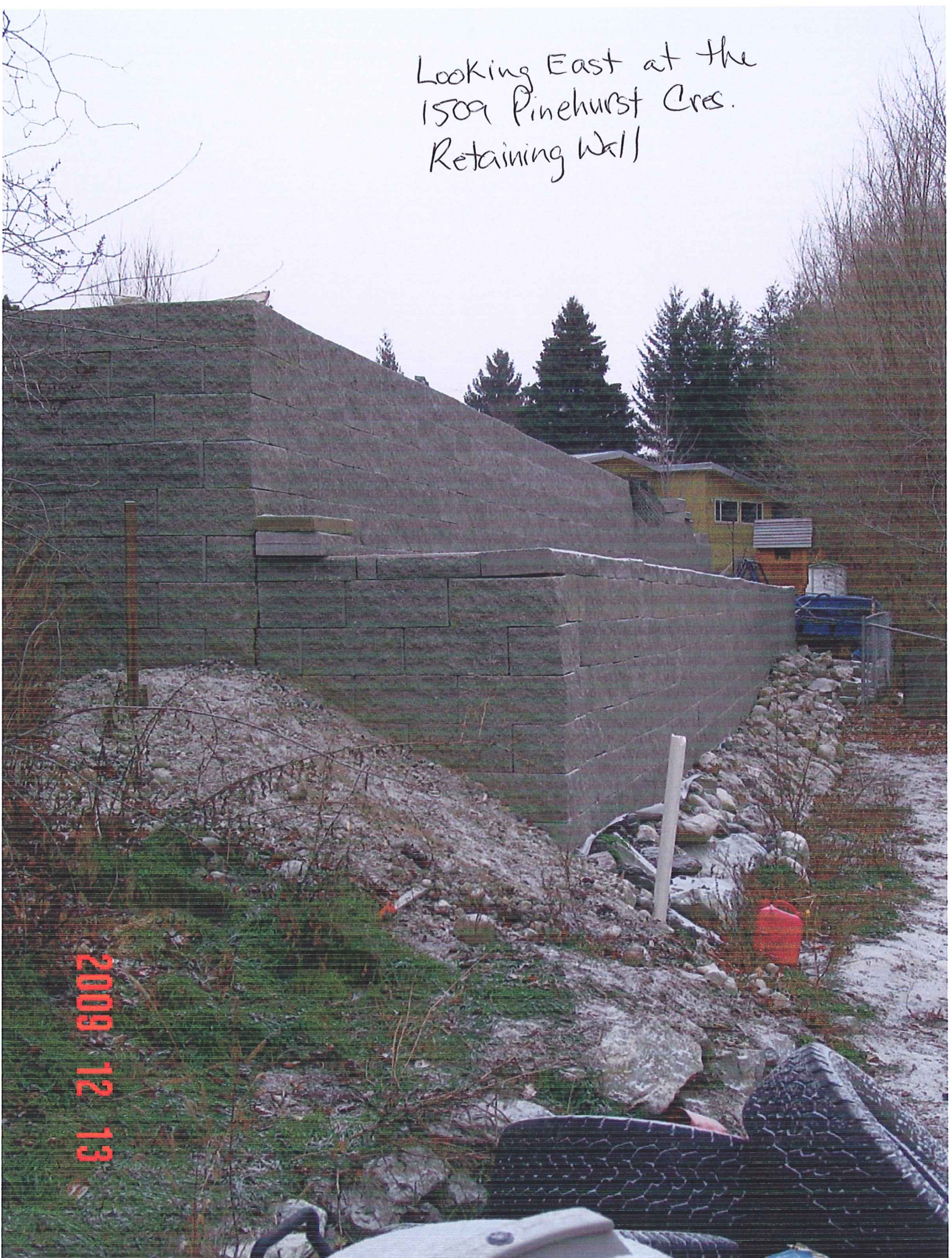


DRAWING No. 6
Dec 13/2005

SCHEDULE A
This forms part of development
Permit # DVP 09-0166

Looking East at the
1509 Pinehurst Cres.
Retaining Wall

2009 12 13





2009 12 19



2009 12 13

Looking West
at the
Cok Clifton Road
Retaining Wall

1509 Pinehurst Cres
Retaining Wall



1179
Clifton Road
Property

2009 12 13