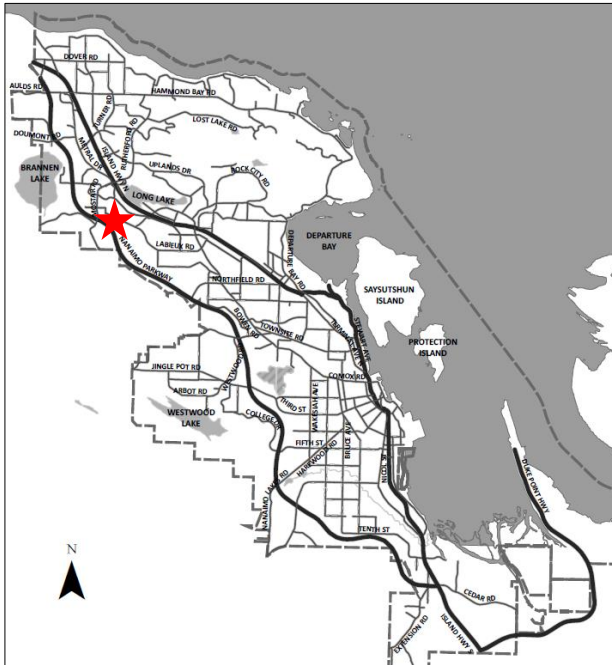


DATE OF MEETING | June 19, 2023

AUTHORED BY | KIRSTEN DAFOE, PLANNING ASSISTANT, CURRENT PLANNING

SUBJECT | DEVELOPMENT PERMIT APPLICATION NO. DP1304 – 4157  
VERTE PLACE



**Proposal:**

Amendment to DP1161 to include retaining wall height variances.

**Zoning:**

R6 – Low Density Residential

**City Plan Land Use Designation:**

Suburban Neighbourhood

**Development Permit Areas:**

DPA8 – Form and Character

**Lot Area:**

7,355m<sup>2</sup>



## **OVERVIEW**

### **Purpose of Report**

To present for Council’s consideration a development permit application for an amendment to DP1161 to include retaining wall height variances at 4157 Verte Place. |

### **Recommendation**

That Council issue Development Permit No. DP1304 for an amendment to DP1161 to allow an over-height retaining wall at 4157 Verte Place with the variances as outlined in the “Proposed Variances” section of the Staff Report dated 2023-JUN-19. |

## **BACKGROUND**

A development permit application, DP1304, was received from DGC Holdings Corp. to amend the previously issued DP1161 and vary the provisions of the “City of Nanaimo Zoning Bylaw 2011 No. 4500” (the “Zoning Bylaw”) in order to increase the maximum permitted fence height for a retaining wall.

Development Permit No. DP1161 was previously approved by Delegated Authority on 2020-JUL-16 for a three-storey multi-family building consisting of 27 dwelling units at 4157 Verte Place. At the time, the conceptual plans demonstrated that the tiered retaining wall along the north property line (abutting Jingle Pot Road) could comply with the height restrictions in the Zoning Bylaw, with the tiers being structurally independent from one another for the purposes of calculating the wall height. Subsequently, building permits for the building and retaining wall were issued and construction commenced. Through construction, it was determined that the tiered walls were not structurally independent and are considered a single retaining wall structure, which exceeds the maximum height permitted by the Zoning Bylaw. In addition, surveying of the retaining wall on the north side of the building, within the side yard setback, found that the retaining wall exceeds the maximum height permitted. Therefore, the applicant has applied to amend the approved development permit (DP) plans to permit an over-height retaining wall.

### **Subject Property and Site Context**

The subject property has frontages on both Verte Place and Jingle Pot Road, and has been graded to sit substantially lower than the elevation of Jingle Pot Road. The surrounding neighbourhood includes a mix of single residential dwellings and multiple family developments, while industrially zoned properties are located across Jingle Pot Road. |

## **DISCUSSION**

The tiered portion of the retaining wall was constructed on the north side of the building, abutting Jingle Pot Road. The retaining wall then continues along the east side yard as a single tier structure abutting a public walkway through the property.

The two-tiered retaining wall is cast-in-place concrete with two terraces that are backfilled to create vegetation planting beds, with a 1.8m wide landscape buffer between the wall tiers. A 1.02m high cedar fence was installed on the upper tier adjacent to the sidewalk on Jingle Pot

Road. The tiered wall is located within the required flanking side yard setback area and was constructed to a combined wall/fence height of 4.25m.

The side yard retaining wall supports a public walkway, including a concrete staircase. It is also cast-in-place concrete and is topped by a 1.02m high cedar fence. The retaining wall is located within the required side yard setback area and was constructed to a combined wall/fence height 3.79m.

### **Proposed Variances**

The maximum permitted fence height within the required flanking side yard is 1.8m. The applicant proposes to increase the maximum permitted combined wall/fence height to 4.25m. This is a variance of 2.45m.

The maximum permitted fence height within the required side yard is 2.4m. The applicant proposes to increase the maximum permitted combined wall/fence height to 3.79m. This is a variance of 1.39m.

The variances will allow the walls/fencing to remain as constructed, being structurally inter-dependent. No other changes are proposed to the walls, and the overall project is still considered substantially compliant with the approved form and character development permit (DP1161).

Staff support the proposed variances. |

### **SUMMARY POINTS**

- Development Permit Application No. DP1304 is for an amendment to DP1161 to allow an over-height retaining wall.
- Variances are requested to increase the maximum permitted fence height in the required side and flanking side yards. |

### **ATTACHMENTS**

ATTACHMENT A: Permit Terms and Conditions  
ATTACHMENT B: Subject Property Map  
ATTACHMENT C: Retaining Wall Survey Plan |

#### **Submitted by:**

Lainya Rowett  
Manager, Current Planning |

#### **Concurrence by:**

Jeremy Holm  
Director, Development Approvals

Dale Lindsay  
General Manager, Development Services  
/ Deputy CAO |

# ATTACHMENT A

## PERMIT TERMS AND CONDITIONS

### TERMS OF PERMIT

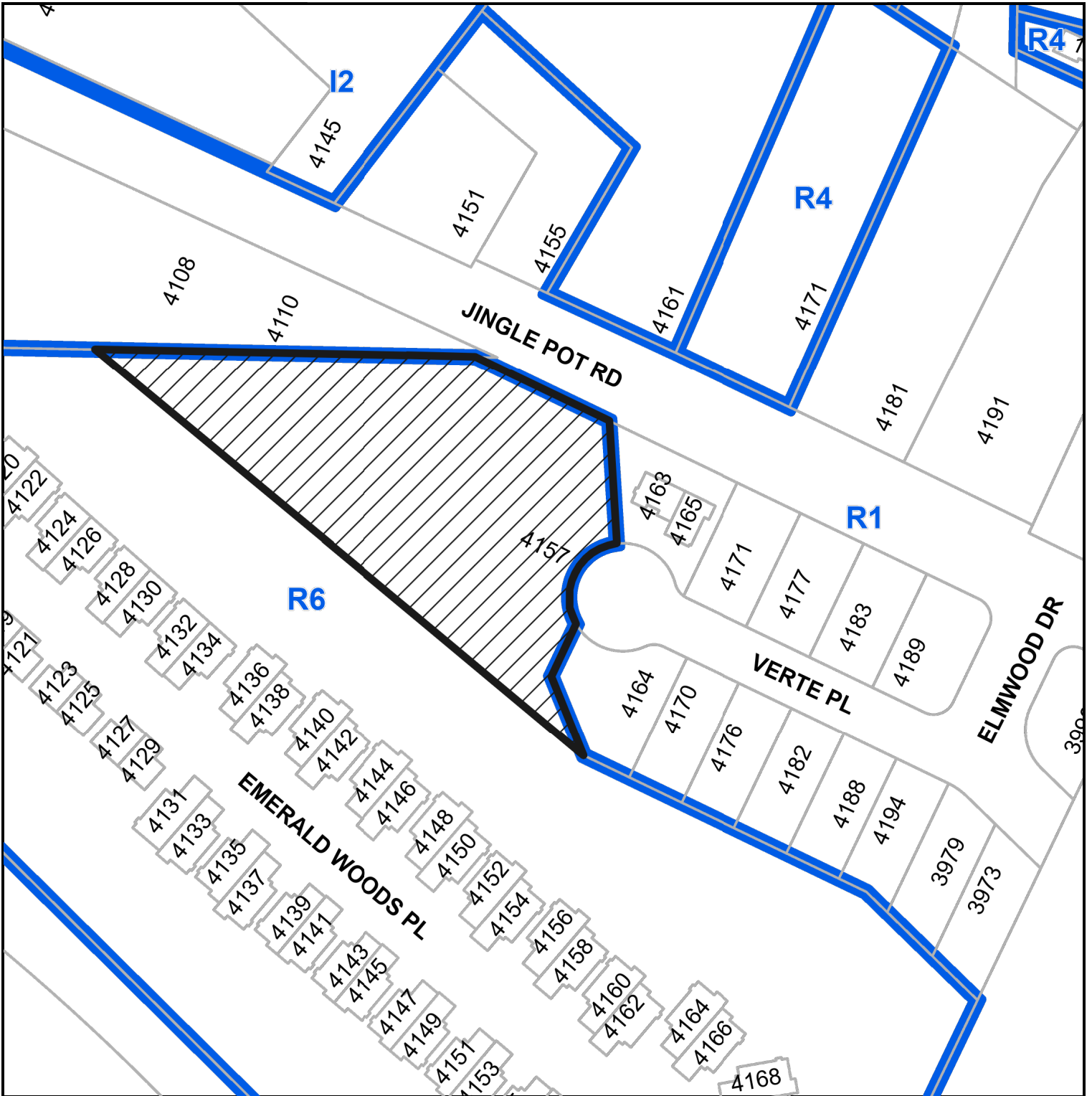
The “City of Nanaimo Zoning Bylaw 2011 No. 4500” is varied as follows:

1. *Section 6.10.2 Fence Height* – to increase the maximum allowable fence height in the flanking side yard from 1.8m to 4.25m for a tiered retaining wall and fence.
2. *Section 6.10.2 Fence Height* – to increase the maximum allowable fence height in the side yard from 2.4m to 3.79m for a retaining wall fence.

### CONDITIONS OF PERMIT

1. The retaining wall on the subject property is developed in accordance with the Retaining Wall Survey prepared by Williamson and Associates Professional Surveyors, dated 2023-APR-12 as shown on Attachment C.

# ATTACHMENT B SUBJECT PROPERTY MAP



 4157 Verte Place

# ATTACHMENT C RETAINING WALL SURVEY PLAN

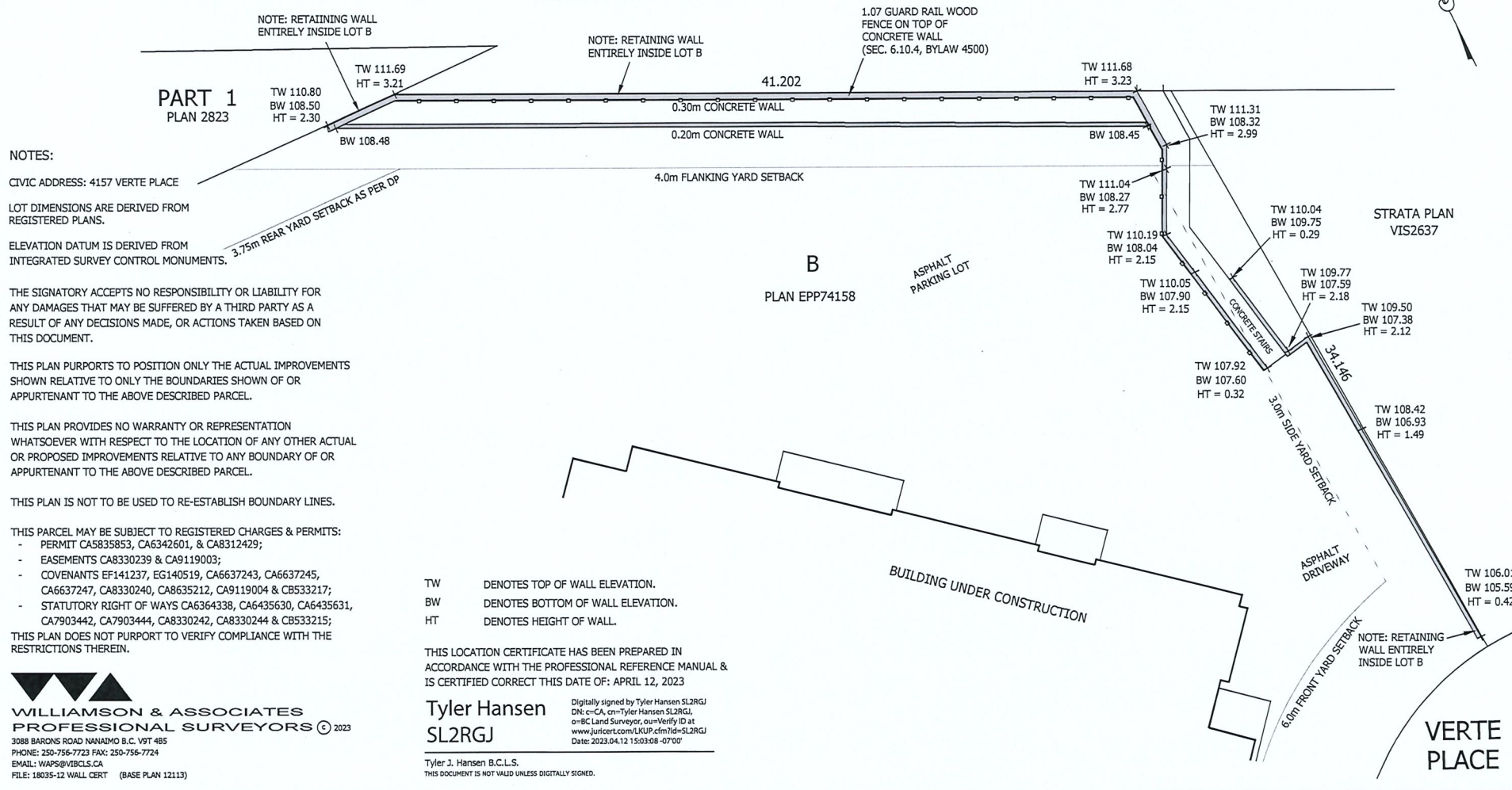
B.C. LAND SURVEYOR'S CERTIFICATE OF EXISTING WALL LOCATION ON:

**LOT B, SECTION 5, WELLINGTON DISTRICT, PLAN EPP74158**

BYLAW VARIANCE REQUESTS (BYLAW 4500)
FENCE HEIGHT IN FLANKING YARD SETBACK (SEC. 6.10.2, BYLAW 4500) - INCREASE HEIGHT FROM 1.8m TO 3.23m (±79%)
FENCE HEIGHT IN SIDE YARD SETBACK (SEC. 6.10.2, BYLAW 4500) - INCREASE HEIGHT FROM 2.4m TO 2.77m (±15%)



JINGLE POT ROAD



**NOTES:**

CIVIC ADDRESS: 4157 VERTE PLACE

LOT DIMENSIONS ARE DERIVED FROM REGISTERED PLANS.

ELEVATION DATUM IS DERIVED FROM INTEGRATED SURVEY CONTROL MONUMENTS.

3.75m REAR YARD SETBACK AS PER DP

THE SIGNATORY ACCEPTS NO RESPONSIBILITY OR LIABILITY FOR ANY DAMAGES THAT MAY BE SUFFERED BY A THIRD PARTY AS A RESULT OF ANY DECISIONS MADE, OR ACTIONS TAKEN BASED ON THIS DOCUMENT.

THIS PLAN PURPORTS TO POSITION ONLY THE ACTUAL IMPROVEMENTS SHOWN RELATIVE TO ONLY THE BOUNDARIES SHOWN OF OR APPURTENANT TO THE ABOVE DESCRIBED PARCEL.

THIS PLAN PROVIDES NO WARRANTY OR REPRESENTATION WHATSOEVER WITH RESPECT TO THE LOCATION OF ANY OTHER ACTUAL OR PROPOSED IMPROVEMENTS RELATIVE TO ANY BOUNDARY OF OR APPURTENANT TO THE ABOVE DESCRIBED PARCEL.

THIS PLAN IS NOT TO BE USED TO RE-ESTABLISH BOUNDARY LINES.

- THIS PARCEL MAY BE SUBJECT TO REGISTERED CHARGES & PERMITS:
- PERMIT CA5835853, CA6342601, & CA8312429;
  - EASEMENTS CA8330239 & CA9119003;
  - COVENANTS EF141237, EG140519, CA6637243, CA6637245, CA6637247, CA8330240, CA8635212, CA9119004 & CB533217;
  - STATUTORY RIGHT OF WAYS CA6364338, CA6435630, CA6435631, CA7903442, CA7903444, CA8330242, CA8330244 & CB533215;

THIS PLAN DOES NOT PURPORT TO VERIFY COMPLIANCE WITH THE RESTRICTIONS THEREIN.

TW DENOTES TOP OF WALL ELEVATION.  
 BW DENOTES BOTTOM OF WALL ELEVATION.  
 HT DENOTES HEIGHT OF WALL.

THIS LOCATION CERTIFICATE HAS BEEN PREPARED IN ACCORDANCE WITH THE PROFESSIONAL REFERENCE MANUAL & IS CERTIFIED CORRECT THIS DATE OF: APRIL 12, 2023

**Tyler Hansen**  
**SL2RGJ**

Digitally signed by Tyler Hansen SL2RGJ  
 DN: c=CA, cn=Tyler Hansen SL2RGJ,  
 o=BC Land Surveyor, ou=Verify ID at  
 www.juricert.com/LKUP.cfm?id=SL2RGJ  
 Date: 2023.04.12 15:03:08 -0700

Tyler J. Hansen B.C.L.S.  
 THIS DOCUMENT IS NOT VALID UNLESS DIGITALLY SIGNED.

**WILLIAMSON & ASSOCIATES**  
**PROFESSIONAL SURVEYORS** © 2023

3088 BARONS ROAD NANAIMO B.C. V9T 4B5  
 PHONE: 250-756-7723 FAX: 250-756-7724  
 EMAIL: WAPS@VBCLS.CA  
 FILE: 18035-12 WALL CERT (BASE PLAN 12113)

**RECEIVED**  
**DP1304**  
**2023-APR-14**  
 Current Planning