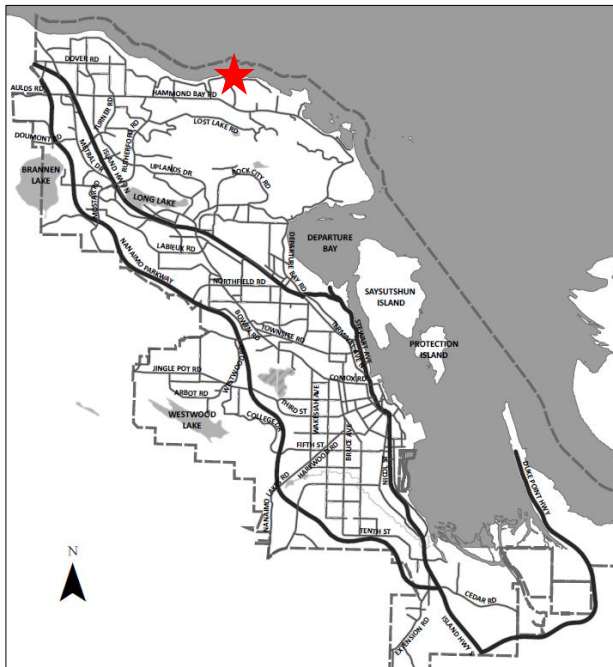


DATE OF MEETING | December 15, 2025

AUTHORED BY | VIDHI KYADA, PLANNING TECHNICIAN, CURRENT PLANNING

SUBJECT | **DEVELOPMENT VARIANCE PERMIT APPLICATION NO. DVP487 – 5100 FILLINGER CRESCENT**



Proposal:

Variance to allow an overheight combined retaining wall and fence

DVP

Zoning:

R5 – Three and Four Unit Residential

City Plan Land Use Designation:

Suburban Neighbourhood

Lot Area:

1,768m²



OVERVIEW

Purpose of Report

To present for Council's consideration a development variance permit application for a proposed overheight combined retaining wall and fence at 5100 Fillinger Crescent. |

Recommendation

That Council issue Development Variance Permit No. DVP487 for an overheight combined retaining wall and fence at 5100 Fillinger Crescent with a variance as outlined in the "Proposed Variance" section of the Staff Report dated 2025-DEC-15. |

BACKGROUND

A development variance permit application, DVP487, was received from Loretta Irish to vary the provisions of "City of Nanaimo Zoning Bylaw 2011 No. 4500" (the "Zoning Bylaw"), to increase the maximum allowable fence height to allow the construction of an overheight fence on the existing retaining wall within the flanking side yard setback at 5100 Fillinger Crescent.

Subject Property and Site Context

The subject property is a waterfront lot located west of Fillinger Waterfront Park 1 which is a road allowance that provides public parking and access to the waterfront, within the Rocky Point neighbourhood.

The surrounding neighbourhood includes low-density residential development, as well as the Frank J Ney Elementary School, and City parklands.

Statutory notification has taken place prior to Council's consideration of the variance. |

DISCUSSION

Proposed Development

The applicant is proposing to construct an overheight fence on the existing retaining wall along the east side of the existing dwelling and is located within the flanking side yard setback. The existing textured concrete retaining wall varies in height from 0.34m to 1.29m, which would only allow for a very low fence of 0.51m in height.

The adjacent road allowance and a public parking area is at a lower elevation than the subject property's side yard grading; however, the side yard remains visible from the public parking area. The requested variance is intended to increase privacy for the side yard.

Proposed Variance

Maximum Fence Height

The maximum permitted height of a retaining wall or fence (or combined retaining wall and fence) in the R5 zone within a flanking side yard setback is 1.8m. The proposed combined height of a retaining wall and fence varies from 2.17m to 3.15m, a requested maximum variance of 1.35m.

The City of Nanaimo's "Consideration of Variances Policy" outlines considerations for evaluating Development Variance Permit applications, such as land use justification, and potential aesthetic, functional or environmental impacts. The applicant has provided the following rationale demonstrating how they can address these considerations:

- The structure does not negatively impact neighbouring properties in terms of access to light, privacy, or enjoyment of their space.
- The proposed variance and design were posted in the property's front yard for two weeks, allowing beach access users to review and share support or concerns.
- A total of 57 letters of support were received, including one from the immediate neighboring property at 5040 Fillinger Crescent.

Staff support the proposed variance as no negative impact on the adjacent properties or to the beach access users are anticipated and letters of support from the neighbouring property to the east and by the beach access users were submitted in support of the application. Additionally, the proposal is not expected to impact existing trees. The fence design reflects a residential character and complements the neighbourhood, which further supports the proposal. |

SUMMARY POINTS

- Development Variance Permit Application No. DVP487 is for an overheight combined retaining wall and fence within the flanking side yard setback at 5100 Fillinger Crescent.
- No negative impacts to the adjacent property are anticipated and letters of support from the neighbouring properties as well as from the beach access users were submitted in support of the application.
- Staff support the proposed variance. |

ATTACHMENTS

ATTACHMENT A: Permit Terms and Conditions
ATTACHMENT B: Subject Property Map
ATTACHMENT C: Site Survey
ATTACHMENT D: Fence Elevation
ATTACHMENT E: Site Photo |

Submitted by:

Lainya Rowett
Manager, Current Planning |

Concurrence by:

Jeremy Holm
Director, Planning & Development |

ATTACHMENT A

PERMIT TERMS AND CONDITIONS

TERMS OF PERMIT

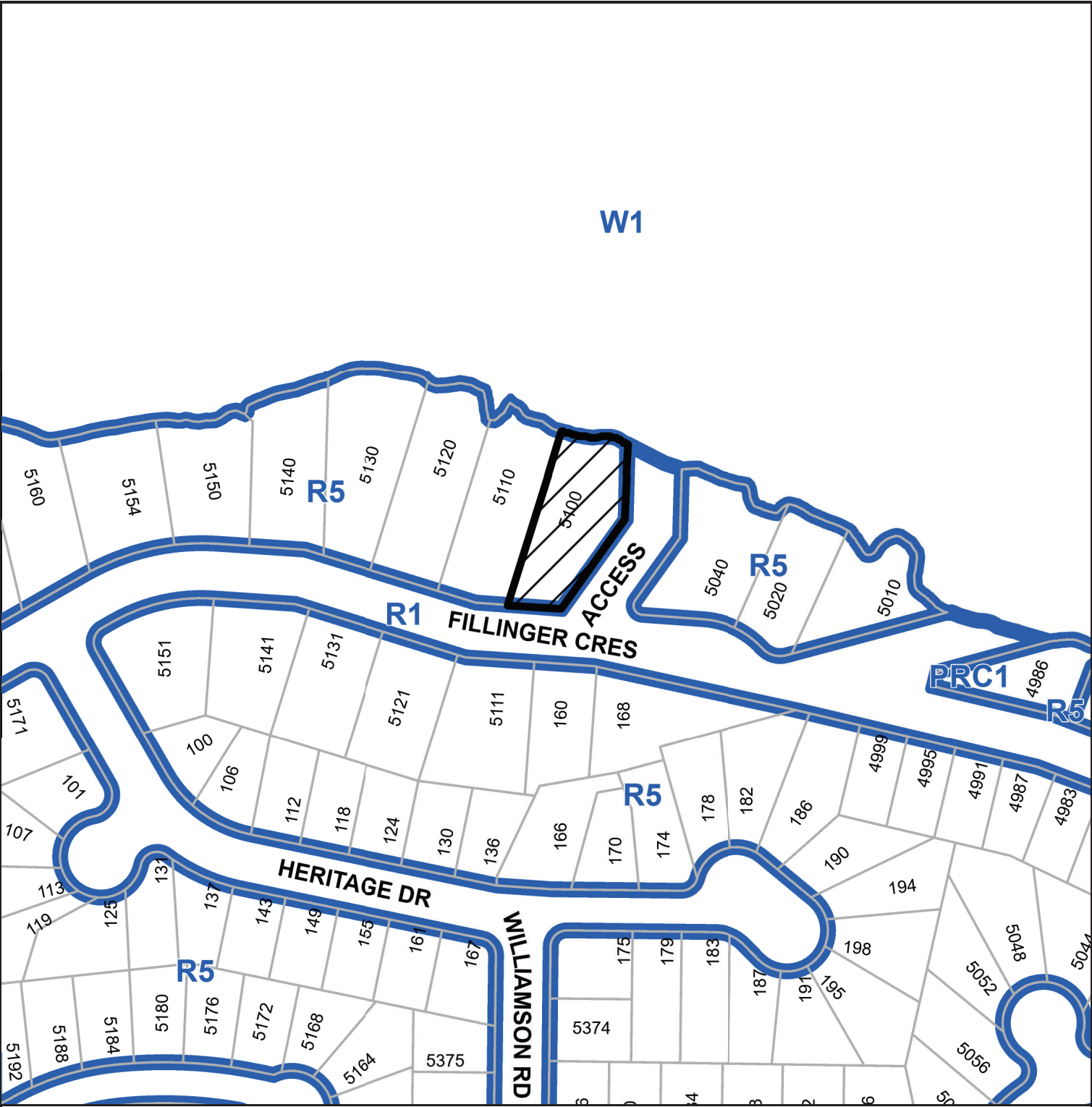
The “City of Nanaimo Bylaw Zoning 2011 No. 4500” is varied as follows:

1. *Section 6.10.2 Fence Height* – to increase the maximum allowable combined height for a retaining wall and fence within the flanking side yard setback from 1.8m to 3.15m, as proposed.

CONDITIONS OF PERMIT

1. The subject property shall be developed in accordance with the Site Survey, prepared by McElhanney, dated 2024-NOV-19, as shown in Attachment C.
2. The subject property shall be developed in accordance with the Proposed Fence Elevation, prepared by McElhanney, dated 2025-FEB-27, as shown in Attachment D.

ATTACHMENT B
SUBJECT PROPERTY MAP



5100 FILLINGER CRESCENT

ATTACHMENT C SITE SURVEY

NOTES

1. Parcel ID: 004-083-008
2. Distances are in metres and decimals thereof.
3. Parcel dimensions are derived from field survey and existing Land Title Office records, being Plan 16374.
4. This plan represents field surveys conducted on November 12th, 2024.
5. This document shall not be used to define property lines or property corners.
6. Offsets to property line from existing buildings are to the exterior finished surface.
7. Property Title Subject to:
Right of Way (H88687) City of Nanaimo
Restrictive Covenant (319177G)
8. Zoning is R5 (City of Nanaimo Zoning Bylaw 4500)
and the maximum fence height for a flanking side yard is 1.8m

LEGEND

PFH	Proposed Fence Height
WH	Wall Height
+0.00	Spot Elevation
⊕	Power Pole
⊙	Manhole Sanitary
⊙	Manhole Storm Drain
⊙	Fire Hydrant

Certified correct
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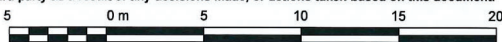
TYSON QUOCKSISTER, BCLS #901
This document is not valid unless digitally signed

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Original Drawing Size: (279mm x 432mm)

Elevations were derived from Geodetic Control Monument 79H9252, Elevation 17.355 and referenced to CGVD28 using HT2.0 geoid.

This plan is prepared solely for a limited contractual use between McElhanney Associates and our client.
This document shows the relative location of the surveyed structures and features with respect to the boundaries of the parcel described above. This document shall not be used to define property lines or property corners.
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.



SCALE 1:250

UNLESS OTHERWISE NOTED

REV	DATE	DESCRIPTION	DR	AP
0	Nov 19, 2024	Plan Issued	---	---

REVISIONS



McElhanney

Suite 1, 1351 Estevan Road,
Nanaimo BC V9S 3Y3
Tel.
250-716-3336

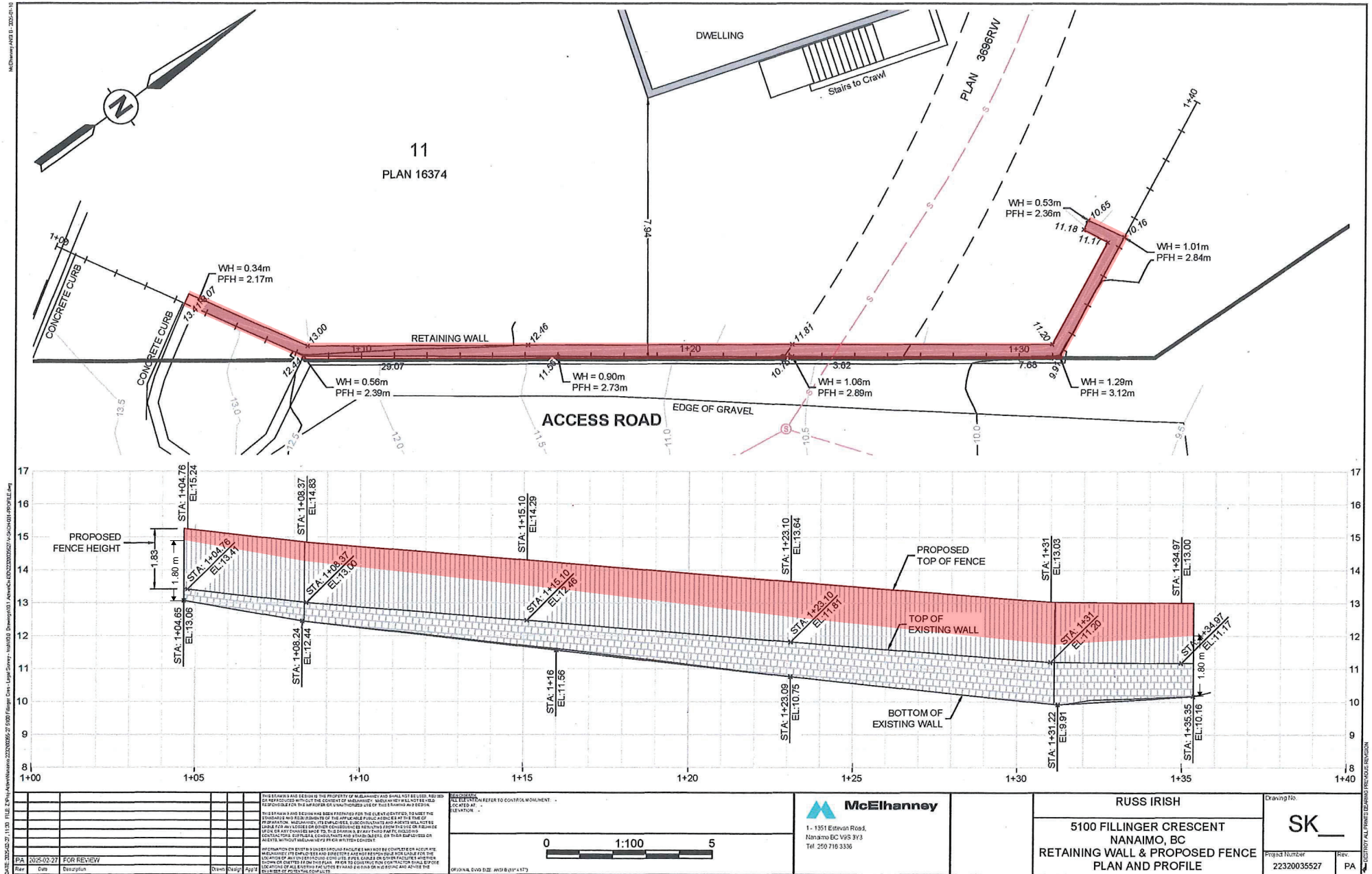
PLAN ID.: 22320035527-V-SKCH-001

RUSS IRISH

**SKETCH PLAN SHOWING RETAINING WALL
AND PROPOSED FENCE
5100 Fillinger Crescent
Nanaimo, BC**

RECEIVED
DVP487
2025-AUG-21
Current Planning

ATTACHMENT D FENCE ELEVATION



ATTACHMENT E
SITE PHOTO



RECEIVED
DVP487
2025-AUG-21
Current Planning