



# WHISTLER

## REPORT | ADMINISTRATIVE REPORT TO COUNCIL

**PRESENTED:** August 17, 2021

**REPORT:** 21-088

**FROM:** Resort Experience

**FILE:** DVP01206

**SUBJECT:** DVP01206 – 2974 HIGH POINT DR – BUILDING HEIGHT VARIANCE AND  
RETAINING WALL HEIGHT VARIANCE

### COMMENT/RECOMMENDATION FROM THE CHIEF ADMINISTRATIVE OFFICER

**That** the recommendation of the General Manager of Resort Experience be endorsed.

### RECOMMENDATION

**That** Council approve the issuance of Development Variance Permit DVP01206 for the proposed development located at 2974 High Point Drive to:

1. Vary the building height for a detached dwelling from 8.2 to 8.98 metres; and
2. Vary the height of a retaining wall located in a side setback area from 1.22 metres to 3.4 metres

all as shown on the Architectural Plans A0.00, A1.02 dated April 9, 2021 and A1.01, A2.05, A3.01, A3.02, A3.03, A4.01, A4.02, A4.03 dated March 10, 2021 prepared by Open Space Architecture attached as Appendix B to Administrative Report to Council No. 21-088.

### REFERENCES

Location: 2974 High Point Drive  
Legal: 028-878-019: Plan LMS4695 Lot 59 District Lot 7798 New Westminster District Group 1, Phase 4, Together With An Interest In The Common Property In Proportion To The Unit Entitlement Of The Strata Lot As Shown On Form 1 Or V, As Appropriate.  
Owner(s): 2974 High Point Drive Holdings Ltd  
Zoning: RTA11

Appendix A – Location Map

Appendix B – Architectural Plans

### PURPOSE OF REPORT

This report seeks Council's consideration to approve the issuance of Development Variance Permit DVP01206. DVP01206 proposes two separate variances to "Zoning and Parking Bylaw No. 303, 2015" for building height and for retaining wall height related to the development of a detached dwelling at 2974 High Point Drive.

Council has the authority to vary “Zoning and Parking Bylaw No. 303, 2015” through Section 498 of the Local Government Act.

## DISCUSSION

The subject land, 2974 High Point Drive, is a vacant lot located near the top of the Kadenwood neighbourhood with frontage on Trails End Lane. The lot is bisected by High Point Drive, which is where the lot will be accessed. A location map is attached as Appendix A.

The owner is proposing to construct a three storey detached dwelling on the lands and is seeking a building height variance and a retaining wall height variance for the proposed development. A Covenant registered as BB1493637 establishes a maximum second floor elevation to maintain sightlines and views from neighbouring properties. The proposal is to construct the dwelling to the maximum allowable second floor elevation of 886 metres established for this lot. In order to achieve the maximum allowable second floor elevation, a stepped retaining wall would be required along the northwest elevation of the proposed dwelling to maintain compliance with the 8.2 metre maximum building height permitted by the Zoning Bylaw. It is the owner’s position that the retaining wall will add unnecessary bulk to the home and is visually unappealing. Instead, it is the owner’s desire to eliminate the retaining wall and obtain a height variance for the proposed dwelling to permit a maximum building height of 8.98 metres. The height variance is required due to the lowering of finished grade by removing the retaining wall.

The owner feels this proposed approach will allow better use of the lower floor and provide an improved look for the building. Appendix B drawing A3.01 shows the proposal with or without use of the retaining wall. No additional basement exclusion areas are generated through this proposal.

A second variance is requested for the height of an existing rock stack retaining wall located in the side setback area of the property. The retaining wall is approximately 1.2 metres in height at the property line and increases in height to 3.4 metres at the tallest end. The retaining wall was built approximately ten years ago and is now covered with vegetation. A development variance permit was issued in 2012 (DVP01042) approving adjacent retaining walls, but not this portion of the wall.

The owner considers that removing the wall will unnecessarily disturb the site and wishes for it to remain in place. The variance is required due to the height of 3.4 metres, as the maximum height in a setback area is 1.22 metres. The retaining wall encroaches approximately 4.5 metres into a statutory right of way over the property for the Kadenwood gondola. Vail has approved the retaining wall to remain in this location, as the statutory right of way prohibits construction within the right of way area without their written consent.

The summary of requested variances is provided in the table below.

Variance Request	Zoning and Parking Bylaw No. 303, 2015 Regulation
1. Vary the building height from 8.2 metres to 8.98 metres. 2. Vary the height of an existing retaining wall in a setback area from 1.22 metres to 3.4 metres in height.	<u><b>Part 12 21.</b></u> <u><b>Height</b></u> (7) The maximum permitted height of a building is 8.2 metres.  <u><b>Part 5 7. Projections into Required Setback Areas</b></u> (1)The following features are permitted in setback areas: (e) retaining walls, provided that:

	<ul style="list-style-type: none"> <li>(i) no part of any retaining wall is greater than 1.22 metres in height above the adjacent level of finished ground;</li> <li>(ii) all retaining walls are setback at least 2 metres from any parcel line that abuts a highway;</li> <li>(iii) where there are two or more retaining walls within the same setback area, each retaining wall is separated from any other retaining wall by a horizontal distance of at least 1.22 metres; and,</li> <li>(iv) the maximum slope of finished ground between retaining walls is not more than 1:4 (1 rise:4 run), as shown in Figure 5-C" (Bylaw No. 2033</li> </ul>
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The requested variances are identified on the Architectural Plans attached as Appendix B.

## POLICY CONSIDERATIONS

### Development Variance Permit Criteria

Staff have established criteria for consideration of development variance permits. The proposed variances are considered to be consistent with these criteria as described in the table below.

Potential Positive Impacts	Comments
Complements a particular streetscape or neighbourhood.	<p>The dwelling's perceived building height from the street and surrounding neighbourhood will not change with or without the proposed building height variance.</p> <p>The existing retaining for which the height variance is proposed has been in place for 10+ years and is overgrown with trees and vegetation. Removing it is considered to cause unnecessary disturbance.</p>
Works with the topography on the site, reducing the need for major site preparation or earthwork.	The two proposed variances will reduce the amount of site disturbance, and will reduce the amount of concrete required for construction.
Maintains or enhances desirable site features, such as natural vegetation, trees and rock outcrops.	The two proposed variances enable more natural vegetation to be maintained.
Results in superior siting with respect to light access resulting in decreased energy requirements.	<p>The proposed building height variance will remove the need for a proposed retaining wall along the northwest elevation of the proposed building, thereby permitting more light access into the lowest level of the building.</p> <p>Siting the dwelling at the maximum second floor elevation of 886 metres allows the main floor of the dwelling to clear the adjacent fire truck turnaround and maximizes solar access to the main level of the dwelling.</p>
Results in superior siting with respect to privacy.	Tree coverage will be maintained in setback areas.
Enhances views from neighbouring buildings and sites.	It is considered that the two proposed variances will create a more visually appealing development from neighbouring buildings and sites.

Potential Negative Impacts	Comments
Is inconsistent with neighbourhood character.	The dwelling's perceived building height would not change with or without the proposed height variance. No change to neighbourhood character is anticipated.
Increases the appearance of building bulk from the street or surrounding neighbourhood.	The proposed building height variance will lessen overall bulk of the proposed development and the dwelling's perceived building height would not change.  The proposed retaining wall height variance is for a short 4.5 metre length of the existing retaining wall.
Requires extensive site preparation.	Not applicable
Substantially affects the use and enjoyment of adjacent lands (e.g. reduces light access, privacy, and views).	Not applicable.
Requires a frontage variance to permit greater gross floor area, with the exception of a parcel fronting a cul-de-sac.	Not applicable.
Requires a height variance to facilitate gross floor area exclusion.	The proposed building height variance will eliminate the need for a retaining wall along the northwest elevation of the proposed building resulting in less basement area that can be excluded from gross floor area calculations.
Results in unacceptable impacts on services (e.g. roads, utilities, snow clearing operations).	Not applicable.

### **Official Community Plan**

The recommended resolutions included within this Report are consistent with the goals, objectives and policies included within “OCP Bylaw No. 2199, 2018”.

### **Zoning and Parking Bylaw No. 303, 2015**

The property is zoned RTA11. The requested variances to “Zoning and Parking Bylaw No. 303, 2015” are described in the Discussion section of this report.

### **Legal Encumbrances**

As described in the Discussion section, Covenant BB1493637 is a Section 219 Covenant that applies to this property regulating density, maximum second floor elevations and other standards. This proposal is in compliance with Covenant BB1493637.

BT193156 is an agreement between the Province and Intrawest Corporation (now Vail Resorts, Inc.) to permit a right of way area through the subject property for a lift in respect of Whistler mountain ski operations. The retaining wall that is the subject of the proposed height variance encroaches into this right of way. Vail has approved the retaining wall to remain in this location, as the statutory right of way prohibits construction within the right of way area without their written consent. The municipality is not a party to the statutory right of way agreement.

### **BUDGET CONSIDERATIONS**

There are no atypical budget implications with this proposal. Development Variance Permit application fees provide for recovery of costs associated with processing this application.

## **COMMUNITY ENGAGEMENT AND CONSULTATION**

A sign describing DVP01206 is posted on the property.

Notices were sent to surrounding property owners in July, 2021. At the time of writing this report, no correspondence has been received from neighbours.

Any correspondence received following the preparation of this report will be presented to Council at the time of consideration of the issuance of DVP01206.

## **SUMMARY**

Development Variance Permit DVP01206 requests Council's consideration to vary building height and the height of a retaining wall in the side setback area at 2974 High Point Drive. This report recommends that Council approve the issuance of Development Variance Permit DVP01206.

Respectfully submitted,

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