

March 14, 2021

Mayor and Council
Village of Pemberton

Sent via email to: admin@pemberton.ca

RE: Development Variance Application for 7665 Cerulean Drive, Pemberton BC

Dear Mr. Mayor and Council,

I made a detailed submission to the October 31, 2020 Board of Variance meeting regarding this property, setting out my opposition to the requested variance, and also to the February 2, 2021 Pemberton Council meeting, providing a more general perspective on the use of massive retaining walls in the village of Pemberton. Because I believe this is an important issue for our community, I am writing to you again, focusing on the key issues.

I oppose the requested variance and request that the application for it be refused.

I have previously provided documentation and photos showing the size of the retaining wall and the impact it has on adjacent lots – it is simply not possible to “fix” the impact through a landscaping plan¹.

I have demonstrated that it is not necessary to completely remodel the slope of the lot, effectively converting it to a flat lot, in order to build, despite what some may believe. The slope of 7665 Cerulean Drive is not significantly different from that of the adjacent lots.

At the last council meeting, the planning department related to council how, in a different case, they were able to work with the owners and their architect to get to a solution that is within the current by-law. I believe this is how the process SHOULD work.... that **property owners and builders should seek to build within the existing by-laws and guidelines, and that exceptions should be as minimal and rare as possible**.

The owner of the property is himself a builder and, as such, should be aware of applicable zoning and building codes. To build such a structure without appropriate permits appears to me to be a startling disregard for the rules. In my opinion, enabling a culture where there is an expectation that “if I build it, they will have to approve it” is not acceptable practice or good governance.

¹ The proposed landscaping plan is for three one-gallon Virginia Creeper plants to screen a wall that is 4.3 metres high at its highest. Please refer to the photos on the next page.

Granting a major variance retroactively would seem to me to defeat the intent of the applicable bylaws and would set a poor precedent for future developments in Pemberton.

Furthermore, I believe there is a significant safety issue with the potential for people or objects to fall off the edge of the raised platform onto the adjacent properties or towards the walking trail below. I have not seen that this has been discussed at council yet.

I am concerned that there because we are a small community, people may be people are hesitant to speak out for fear of offending someone who may have skirted a rule in the past. There may have been prior occasions where the Building and Zoning bylaws have not been applied perfectly, but that is not a reason to contribute to the continuation of a poor building practice.

It may be that the best solution to the issues around hillside development in Pemberton includes some relaxation of the current by-laws concerning retaining walls in the form of a variance, but, again, variances should be as rare and as minor as possible. Massive walls, built right to the property line, should not be permitted.

I hope that this helps the Mayor and Council in deciding this important matter.

Sincerely,

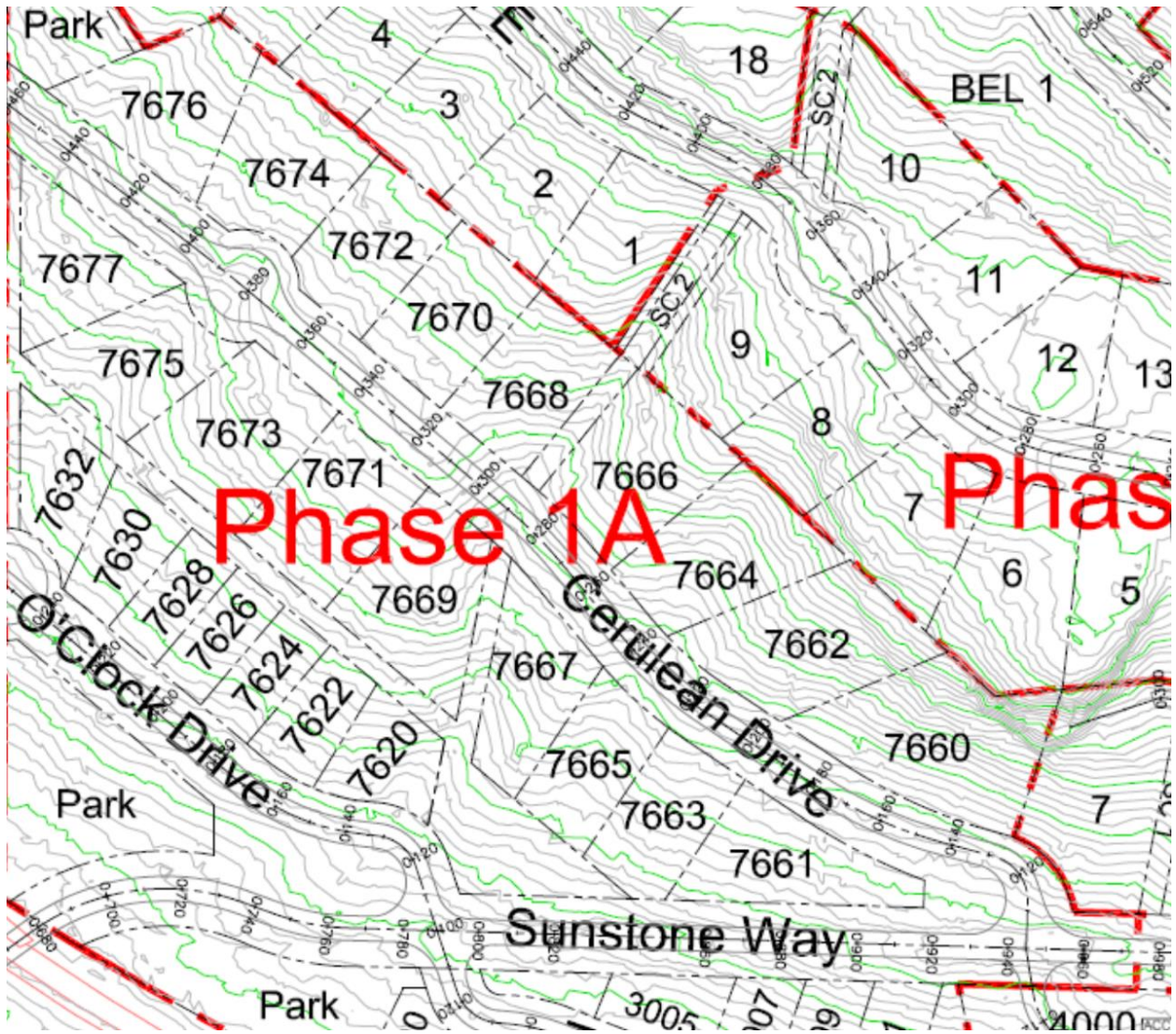
A large black rectangular redaction box covering the signature area.

Lee Edwards

A black rectangular redaction box covering contact information.

Photos: # 7665 taken from central area of # 7663. Note that the retaining wall obstructs the view of peak and valley in the background.





Mayor and Council
Village of Pemberton
Box 400, 7600 Prospect Street
Pemberton BC VON 2L0

March 13, 2021

Attention Mayor and Council,

Re: DVP 127-7665 Cerulean Dr.

Firstly, I would like to introduce myself Mark MacIver and partner Michaela Begerova, we are thrilled to become members of the Pemberton Community. We are quite intrigued by the forward thinking of the community. In particular we are excited about the Sustainable Design Guideline set out in the Sunstone Pemberton Design and Building Guidelines. We are a young couple setting out on an adventure of first time home ownership and first time home building for ourselves. Having built homes for others the majority of my career, it's thrilling to be planning a home of our own. We feel not only the Sea to Sky, but Pemberton in particular has an opportunity to be a world leader with climate change. Pemberton in its early phases of growing developments has a chance to be center stage by not only reducing building operational carbon, but also be a leader in reducing embodied carbon during the construction of its buildings. However, this cannot be achieved by members of the community making decisions on an individual benefit and not on a communal benefit.

We are writing today in objection of the retaining wall currently constructed at 7665 Cerulean Dr. We have recently taken ownership of the neighboring property 7663 Cerulean dr. The previous homeowner Lee Edwards has written a letter in which she describes how the visual impacts of this retaining wall directly affect the view from 7663 and the general impacts from the perspective of the development as a whole. In this letter we discuss objections that directly impact the shared property line between 7663 and 7665.

We would like to make it clear we are not objecting the use of retaining walls; we are objecting how the current retaining wall at lot 7665 was built and how it directly impacts our lot and the potentiality of our construction plan. Having worked on steep sloped lots in the past, I am aware of the need for retaining walls. And also aware of the codes and bylaws that support them, and the need for alternative design which needs to be well thought out prior to construction commencing. We respect the challenges of building on steep slopes. These projects do not come without thorough planning and analysis of site topography. The following numbered points are our comments for why the wall should be taken down, and reconstructed correctly:

1) SITE ALTERATION PERMIT

It should be noted in the background information section of the applicants letter and also noted in the background information of the report to council there was a Site Alteration Permit issued Dated July 31, 2019 for Lot 7665, and then a building permit was issued August 24, 2020, with structural fill starting June 2020. We are curious how the elevations on the topography were overlooked during this Site Alteration Permit phase. In our past experience site alteration permits in particular are a great opportunity to analyze the topography and to make amendments to the design of the home based on the topography. With proper planning in advance, quick decisions to build improper retaining walls can be avoided. It should also be noted the Design and Building Guidelines may allow exceptions for additional stories for topographically challenging lots. Perhaps this could have been reviewed during the Site Alteration Permit process. It is clear this DVP 127 could have been avoided if proper planning was sought in advance of construction.

2) POINT SOURCE DRAINAGE

In reference to the Memorandum from Kontur Engineering Dated Sept 18, 2020 Project NO K-191219-00 provided in the Application.

-Paragraph 4 states: *"a drainage pipe consisting of 100mm perforated PVC pipe was installed near the back of the geogrid out letting to the side of the wall."* This drainage pipe drains directly onto our lot 7663.

This contradicts Design and Building Guidelines page 7 of 9 under site works-paragraph 4: *"New construction and re-grading with in a lot must not interrupt the subdivision or cause point source discharge of water on adjacent lots."*

We do not see how this drain can be re-directed or removed without compromising the stability of the retaining wall. Unless we are mistaken with how the wall was constructed, the wall should be disassembled so the drain can be redirected appropriately. The drain should be removed entirely from the property of lot 7663, so it does not encroach.

3) ENCROACHMENTS OF FILL FROM TOE FILL OF RETAINING WALL

In reference to Doug Bush Survey File no J20168 that is submitted in the variance application, please review the marked up copy of Doug Bush Survey labeled ATTACHMENT 1. When reviewing the as built dimension of the retaining wall structure along the east shared property line between 7663 and 7665, one can see the additional fill that is encroaching on the property of 7663. Please also see photo attached showing property line and encroaching fill in ATTACHMENT 2.

Therefore the retaining wall should be disassembled and built correctly in accordance Bylaw NO 832, 2018.

4) ADDITIONAL FILL REQUIRED and ACCESS STAIR IN SET BACK

Please see attached photo labeled ATTACHMENT 3. It is unclear how the footing noted in photo will be backfilled to meet minimum 60cm frost protection. Also how the perimeter drainage will be installed without further allowing water to drain towards lot 7663.

ACCESS STAIR IN SET BACK In reference to the applicants drawing A3.2 North Elevation of the architectural drawings please see ATTACHMENT 4, which shows the stairs flanking the house. Based on Doug Bush survey File no (J20168) also attached in the DVP application, the proposed foundation is currently located at 1.53 m to the property line. If the stairs are built to code they will project 860mm +/- into the interior side setback.

Village of Pemberton zoning bylaw 832, 2018 4.13- projections into required setback and exception to the siting requirements a (iv): *"Stairs accessing a deck, porch, veranda may be located within a front, exterior side setback or rear, but shall not be located within any interior side setback."*

Therefore the retaining wall should be reconstructed and also the portion of the house along the east property line should be re-designed to avoid stairs utilizing the setback and or avoid an over height retaining wall.

5) TREE ROOT SUFFOCATION

Please Reference ATTACHMENT 5. The toe of the backfill material is currently surrounding two trees on our property, which has compromised the potential growth of these trees. The fill should be removed from around these trees. The current backfill heights around the tree vary from .5 to 1m. When the new wall is reconstructed these trees should be cautiously protected to ensure continual growth.

6) REDCUCTION OF BUILDING ENVELOPE FOR LOT 7665

Please reference the attached marked up copy of Doug Bush Survey ATTACHMENT 6. If the retaining wall were constructed to the current bylaw there would be a reduction to the rear of the building envelope area of +/-2m (not including geotechnical setback) and a reduction to the interior side setback on 7663 side of 1.5 to 1.8m (not including geotechnical setback). Alternate design such as angled deck supports to respect the geotechnical setback could work here. The interior side setback difference would involve re design of the home on the shared side between 7663 and 7665.

Therefore the retaining wall should be reconstructed and the foundation of the house re-designed to better suite the retaining wall and topography and respect the interior side set backs.

- 7) DESIGN INTENT IMPACT of LOT 7663: We are still working with our design and are modifying the previous homeowners plans. We feel the previous homeowner did a great job at working with existing topography. We are planning to add additional windows to the west elevation of the first floor windows (basement). We are planning to use a combination of pier foundations, regular concrete foundations with step footings and possibly some retaining walls. We do have a slightly less steep lot compared to 7665. Please see ATTACHMENT 7 GILBY Engineering Topography for comparison with the Applicants Topography. We will be using some retaining walls at the north setback to our property, and we may use some to the south to create a small garden area, however not to support the structure of our home or manipulate the land to raise the existing grades. With the retaining wall currently constructed will be forced to utilize large retaining walls and foundation design that does not compliment the terrain. This wall will cause direct hardships to our property.
- 8) ADDITIONAL OVER HEIGHT WALLS REQUIRED, further along in the construction process of lot 7665 there will be additional retaining walls required that exceed current bylaw NO 832 2018, please again reference ATTACHMENT 4 west elevation of A3.2. Currently there is backfill material retaining the bottom of the retaining wall, once removed will create a over height retaining wall. Therefore the retaining wall should be reconstructed and the foundation of the house re-designed to better suite the retaining wall and topography and respect the interior side set backs.
- 9) SIMILAR DEVELOPMENTS: There are several Hillside developments throughout Sea to Sky Corridor, most notably is the Crumpit Woods development in Squamish, where beautiful rock stack retaining walls are used through out. Please see attached photos ATTACHMENT 8 and 9. The wall photographed is a 21' high wall, with 6' vertical and 4' horizontal sections. This lot was an extremely steep narrow lot.
- 10) FOOTINGS NOT RESPECTING GEOTECHNICAL SETBACK: Please see photo ATTACHMENT 10 and screenshot ATTACHMENT 11. We have additional concerns for how this retaining wall was engineered. In particular where the house shares the east property line, the edge of formed footing is less than 3 feet from edge of retaining wall. The geotechnical drawing submitted with the application states a minimum 1 m geotechnical setback. On the eastern property line, footings are currently formed within this minimum setback. Therefore the wall and design of foundation along the eastern property line should be redesigned to meet the current bylaw.

In summary, the current retaining wall at lot 7665 causes hardships for how our home can be constructed and directly affects our free choice of design for our foundation and possible retaining walls should we choose to construct them on the property. This also impacts our opportunity to keep our embodied carbon reduced by having to create additional and possibly larger foundations or unneeded retaining walls. If the retaining wall remains as constructed this will lead to additional variances to support stairs and earth along the remainder of the east property line and will lead to easements being required and the involvement of lawyers. If the wall is corrected NOW before any concrete is poured, then we can avoid further variances being required for the portions of the wall that are not complete and avoid the unnecessary involvement of lawyers/easements.

We think the owners at 7665 have a beautiful lot with has great potential to further enhance the resale of all properties in the Sunstone Development. However, adjustment to the retaining wall will need to take place so that it does not impact the immediate neighbors flanking the property, who will face compounded hardships as a direct result of the current constructed retaining wall on Lot 7665.

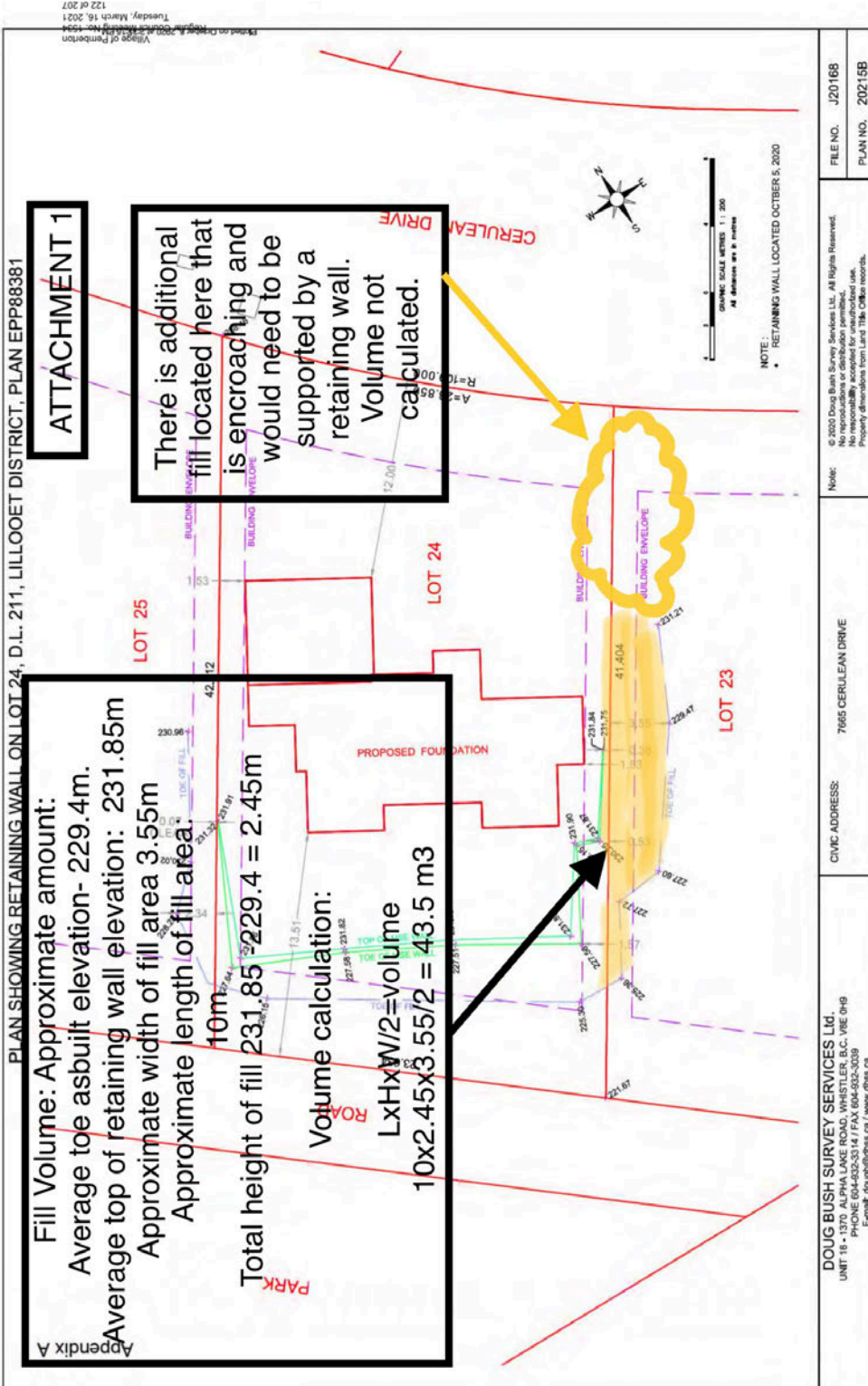
We would like to thank the fellow members of the Pemberton Community who have written in showing support, please note it is our lot that directly faces hardships based on the existing constructed retaining wall on lot 7665. Again, we believe there is a need for retaining walls on these lots, as long as they do not force neighbors into compounded hardships, and follow the bylaws and building codes. We trust the Mayor and Council will make the right decision and not allow the retaining wall to remain as constructed.

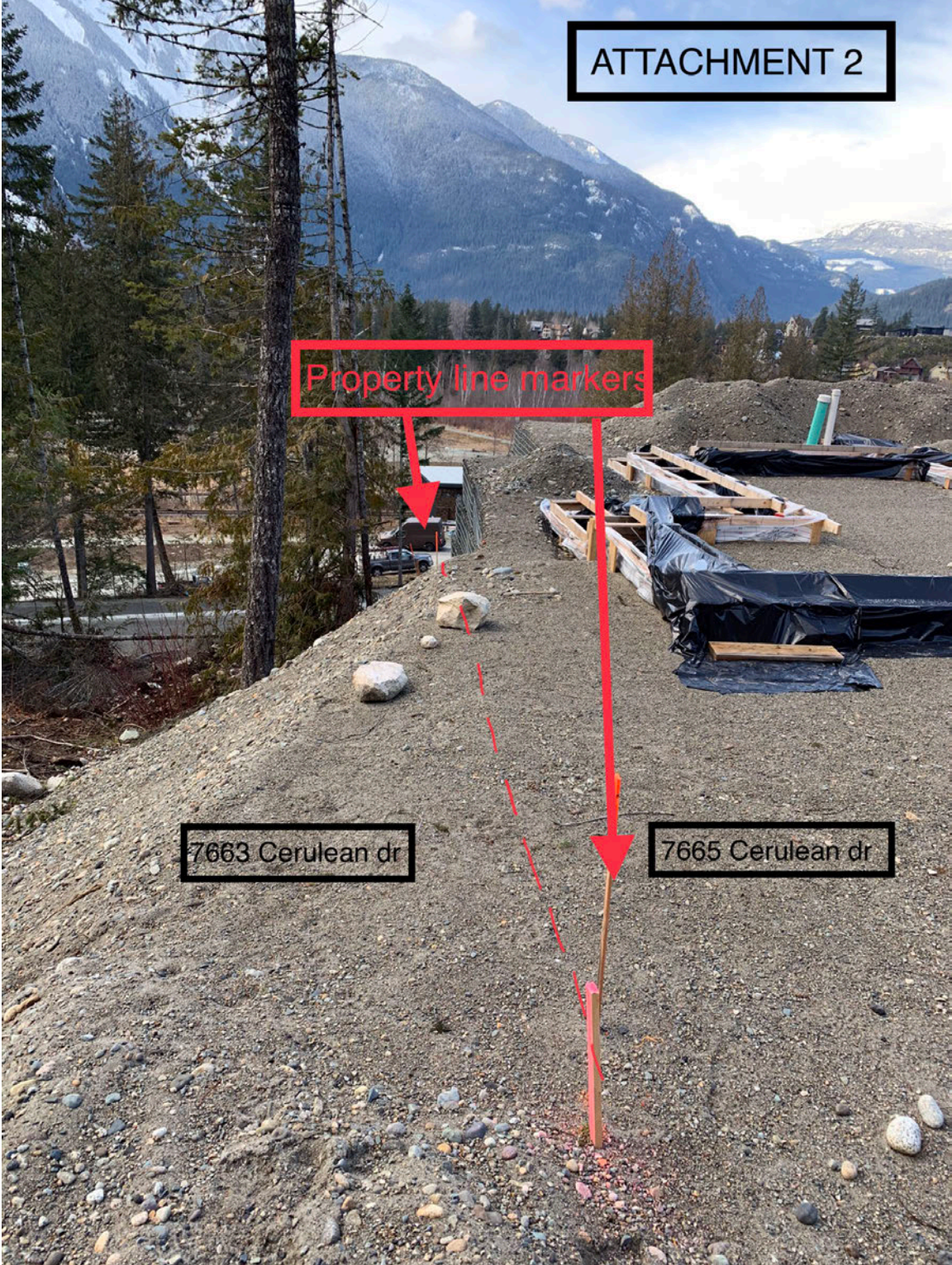
Thank you for taking the time to review our letter of concern,

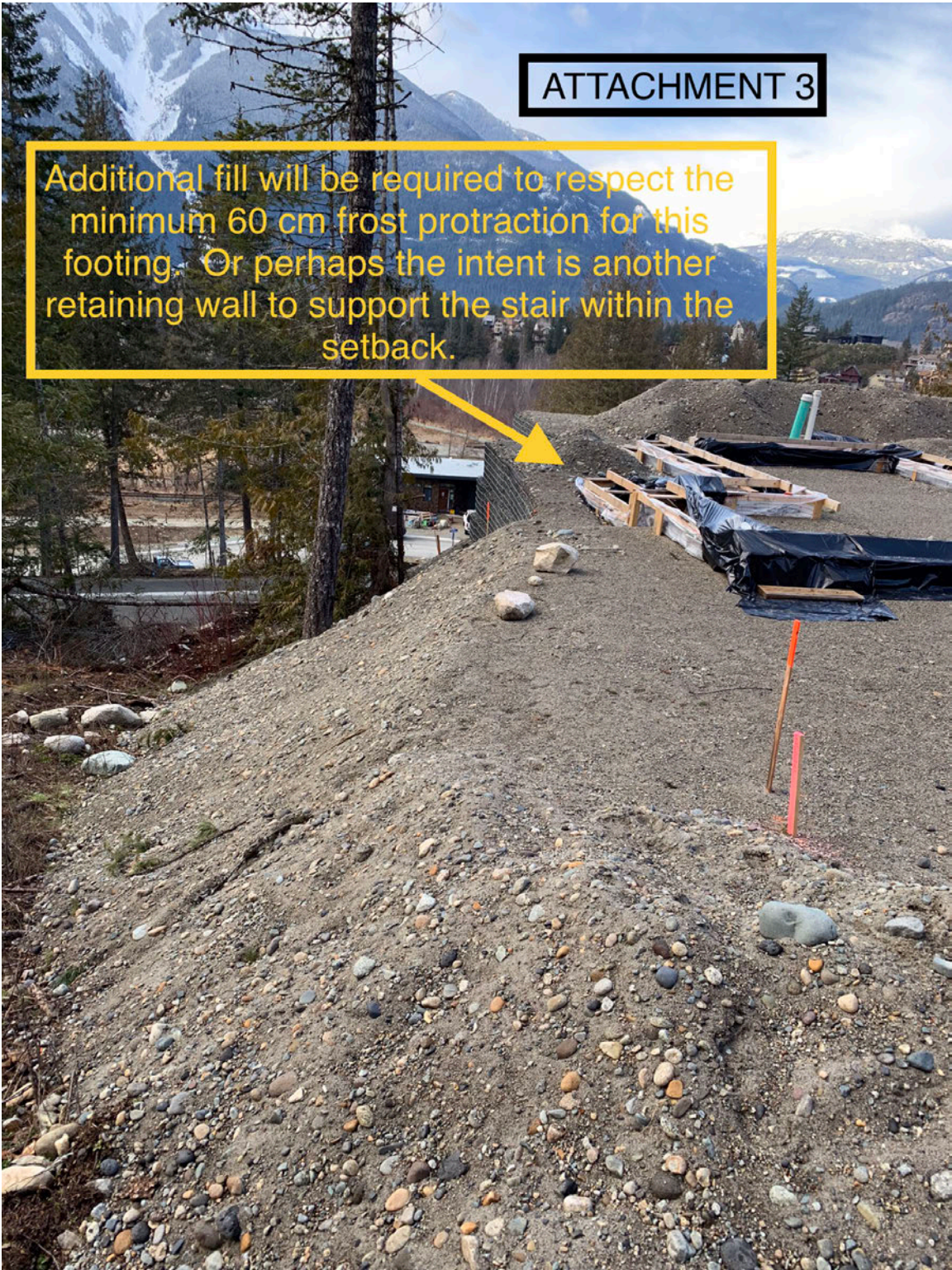
Sincerely,

Mark MacIver & Michaela Begerova
Owners: 7663 Cerulean Dr. Pemberton

Current mailing address: [REDACTED]. Whistler BC [REDACTED]
Contact #: [REDACTED]

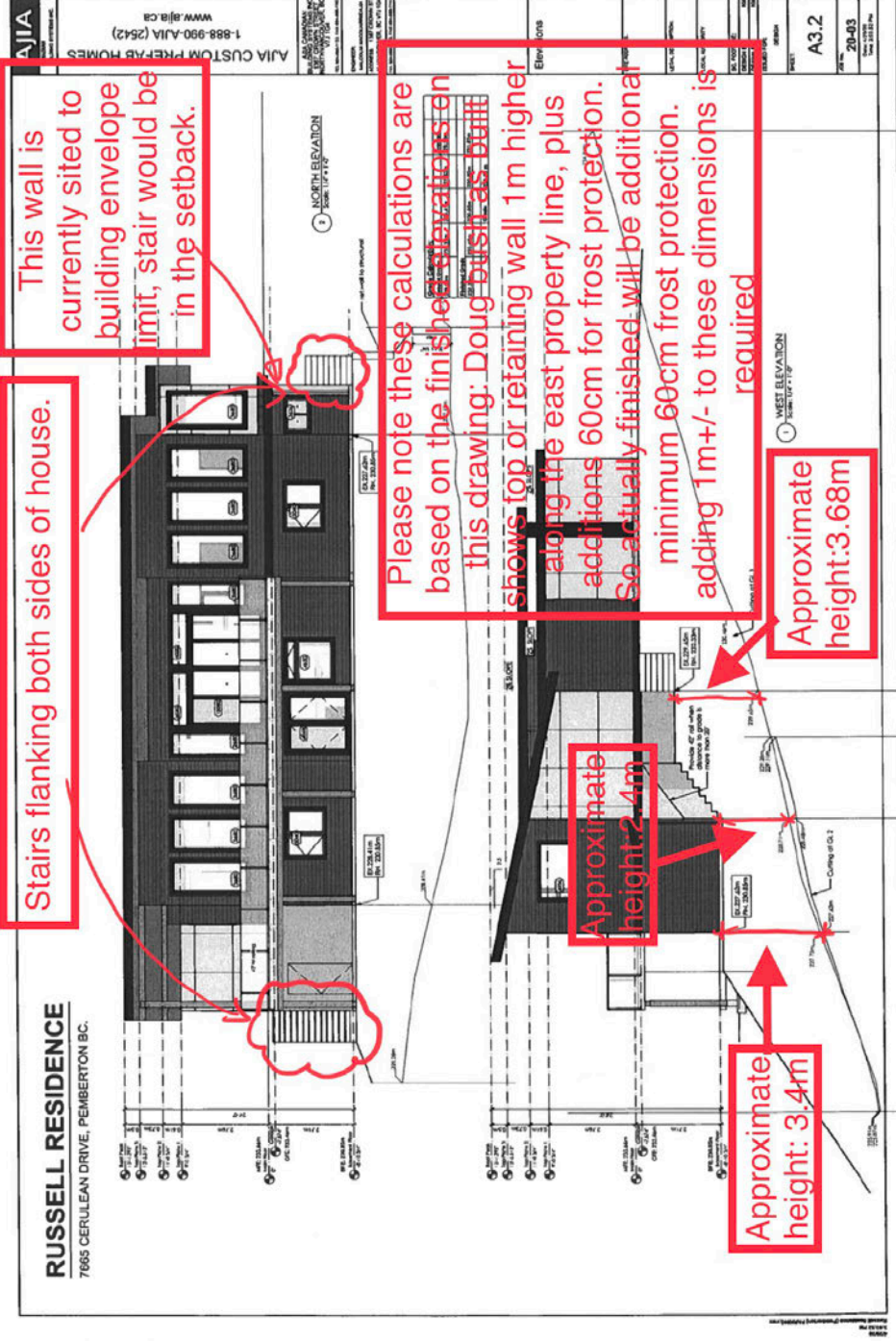






ATTACHMENT 4

RUSSELL RESIDENCE
7695 CERULEAN DRIVE, PEMBERTON BC.



Village of Pemberton
Regular Council Meeting No. 1534
Tuesday, March 16, 2021
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