



## COUNCIL REPORT

To: Paul Gipps, CAO

Date: August 23, 2022

From: Chris French, Planner I

File No: DP 22-10

Subject: **DP 22-10; Development Permit with Variance; 1386 Bear Creek Road**

### RECOMMENDATION

**THAT** Council authorize the issuance of a Hillside Development Permit (DP 22-10) with variances to the following sections of Zoning Bylaw No. 0154 in accordance with the Draft Permit:

- Section 10.4.6(a) to vary the permitted height of a single building wall face from 9.0m to 11.6m; and
- Section 4.3.4(b) to vary the permitted slope of a parking and loading area from 12.0% to a maximum of 19.16% (average 14.2%); and

**THAT** issuance of the Hillside Development Permit (DP 22-10) be withheld pending receipt of landscaping security in the amount of \$31,250 for works in accordance with the landscape plan.

### BACKGROUND

The subject property is located at 1386 Bear Creek Road in the West Kelowna Estates/Rose Valley area and zoned R1 – Single Detached Residential. The property slopes upward from the front parcel boundary on Bear Creek Road by approximately 10 metres and has been designated as a Hillside Development Permit Area. The property is currently vacant but is surrounded by R1 properties developed with single detached dwellings on all sides. The parcel was created through subdivision in 2020 (SUB 18-02).

PROPERTY DETAILS			
<b>Address</b>		1386 Bear Creek Road	
<b>PID</b>		031-034-021	
<b>Folio</b>		36415052.087	
<b>Lot Size</b>		811.2 m <sup>2</sup> (0.2 acres)	
<b>Owner</b>	Christopher & Crystal Sinclair	<b>Agent</b>	Christopher Sinclair
<b>Current Zoning</b>	R1 – Single Detached Residential	<b>Proposed Zoning</b>	N/A
<b>Current OCP</b>	Single Family Residential	<b>Proposed OCP</b>	N/A

<b>Current Use</b>	Vacant	<b>Proposed Use</b>	Single Family Residential
<b>Development Permit Areas</b>	Hillside,		
<b>Hazards</b>	N/A		
<b>Agricultural Land Reserve</b>	N/A		

#### ADJACENT ZONING & LAND USES

<b>North</b>	^	R1 – Single Detached Residential
<b>East</b>	>	R1 – Single Detached Residential
<b>West</b>	<	R1 – Single Detached Residential
<b>South</b>	v	R1 – Single Detached Residential

#### NEIGHBOURHOOD MAP



#### PROPERTY MAP



## Legislative Requirements

Council has the authority under Part 14, S.490 and S.498 of the *Local Government Act* to issue Development Permits and Variances. This development permit application is specific to a Hillside Development Permit with variances for the construction of a single detached dwelling with a secondary suite.

## Proposal

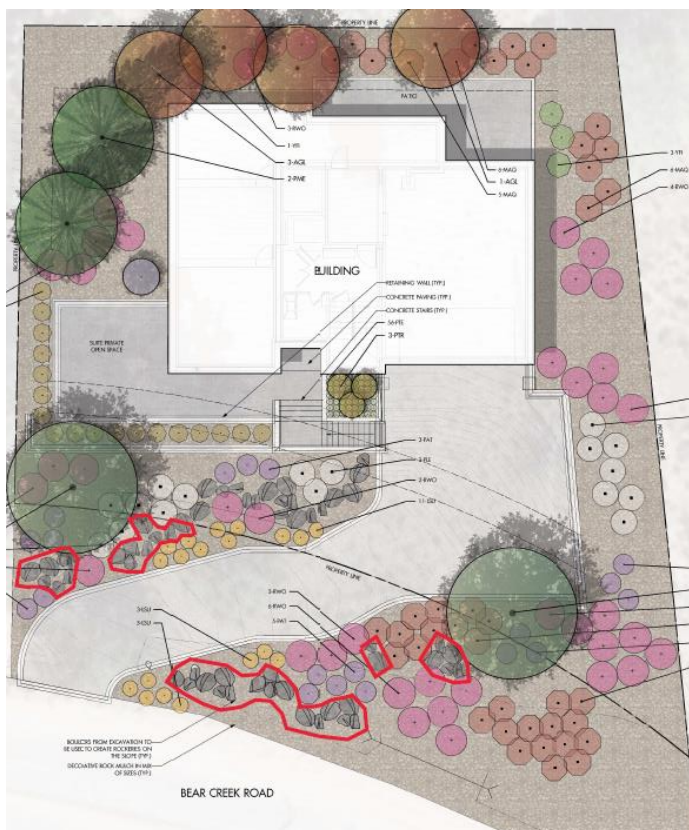
The applicant is proposing to develop the property with a 3 storey single-family home with a secondary suite as indicated in the draft permit in *Attachment 1*. The proposal includes two requested variances related to the height of the front wall of the home and the grade of the driveway. Parking for the secondary suite would be accommodated in tandem outside of the garage door at the front of the home.

## DISCUSSION

## Policy and Bylaw Review

## Official Community Plan No. 0100

The subject property is designated in the Official Community Plan as a Hillside Development Permit Area. The Hillside Development Permit Area is to ensure that development is safe from hazardous conditions and does not adversely affect the natural environment or surrounding people or property. A geotechnical report was submitted with the application that confirms that the proposed development is feasible provided that the recommendations for slope stability are implemented in the design and construction of the home. In addition, a landscaping plan has been submitted for site improvements for which the applicant will be required to submit a performance bond to the City in the amount of \$31,250.00 (125% of the preliminary cost estimate) as a condition of issuance for the Development Permit.



**Figure 1:** Landscaping improvements proposed by applicant



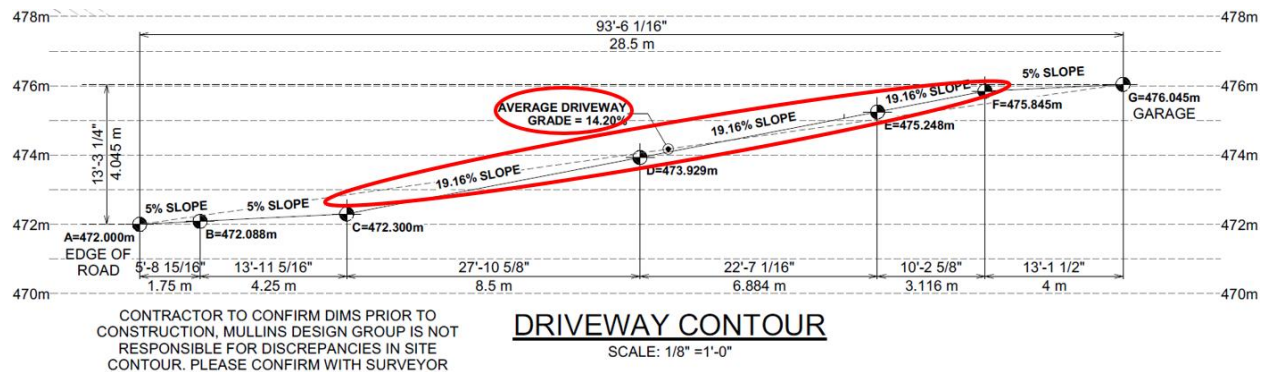
The subject property is zoned Single Detached Residential (R1) which permits single family homes with secondary suites. Based on the applicant's proposal, two sections of Zoning Bylaw No. 0154 would need to be varied. The following points outline these sections with a rationale for each requested variance. As reflected in each proposed variance, the applicant has requested these variances due to the overall challenge of working with the slope of the parcel.

The permitted height of a single building wall face has been removed from the updated Zoning Bylaw No. 0265 and there is a new permitted height (10m) and interpretation for the height of a dwelling. Staff therefore support this requested variance as the proposed development is in accordance with the height regulations of Zoning Bylaw No. 0265. The overall height of the dwelling would be taken from grade and setback 1.5 metres from the side as shown in the illustration below.



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for the proposed development is 14.2% but is up to 19.16% in some areas as shown in Figure 2. The applicant has requested this variance due to overall challenges with the slope and to ensure that the driveway is routed through a “Driveway Zone” prescribed by a covenant on the property. The covenant was registered at the time that this parcel was created through subdivision to ensure that adequate sightlines were provided for vehicles entering and leaving the property from Bear Creek Road.



**Figure 3:** Driveway contour the driveway requiring a variance to Section 4.3.4(b)

Staff support the requested variance as no concerns were raised from the Fire Department or Engineering Department during the development review process. The fire department confirmed that, in the event of a fire, an apparatus would be expected to park on the street. The distance from where the apparatus would park to the home is sufficient to address any fire emergency. The Engineering Department also confirmed that no issues would be expected for other emergency vehicles to access the property.

The remainder of the proposed single-family home and a secondary suite comply with Zoning Bylaw No. 0154 and the updated Zoning Bylaw No. 0265.

## PUBLIC NOTIFICATION

In accordance with the *Local Government Act*, 28 notices were mailed to property owners within 100m of the subject property and a sign was posted as required by the City's Development Applications Procedures Bylaw. At the time of writing this report, no submissions have been received.

## CONCLUSION

Staff recommend that Council approved the requested variance to Section 10.4.6(a) of Zoning Bylaw No. 0154 as it would conform to the new height regulations in Zoning Bylaw No. 0265. In addition, staff recommend that Council approve the requested variance to Section 4.3.4(b) as the Fire and Engineering Departments have identified no concerns with the access. The applicant has also designed the home in a particularly challenging Hillside Development Permit area to ensure site stability and follow land use restrictions that were implemented at the time of subdivision.

**Alternate Recommendation:**

**THAT** Council deny the issuance of a Development Permit with variances to the following sections of Zoning Bylaw No. 0154:

- Section 10.4.6(a) to vary the permitted height of a single building wall face from 9.0m to 11.6m; and
- Section 4.3.4(b) to vary the permitted slope of a parking and loading area from 12.0% to a maximum of 19.16% (average 14.2%).

Should Council pursue this recommendation, the applicant would either need to redesign the home to comply with the Zoning Bylaw No. 0154 or wait six months to reapply in accordance with the City's Development Applications Procedures Bylaw No. 0260.

**REVIEWED BY**

Brent Magnan, Director of Development Approvals

Corinne Boback, Legislative Services Manager

**APPROVED FOR THE AGENDA BY**

Paul Gipps, CAO

Powerpoint: Yes ☒ No ☐

Attachments:

1. Draft Permit (DP 22-10)