



COUNCIL REPORT
Development Services
For the November 26, 2019 Council Meeting

DATE: November 19, 2019
TO: Paul Gipps, CAO
FROM: Jayden Riley, Planner II
RE: Application: Development Variance Permit DVP 19-14
Legal: Lot 2, DL 2405, ODYD, Plan KAP 1598
Address: 3659 Apple Way Blvd.
Owner: 121458 BC LTD
Agent: Kevin Halchuk, KH Designs Inc.

RECOMMENDED MOTION:

THAT Council authorize the issuance of a Development Variance Permit (DVP 19-14) for 3659 Apple Way Boulevard to vary Zoning Bylaw No. 0154, S. 10.8.5 (g) to reduce the front parcel line setback from the private access easement from 6.0 m to 5.0 m, in accordance with the attached Permit (*Attachment 1*).

RATIONALE:

The recommended motion is based on the following:

- The proposed variance to reduce the minimum front setback from the garage to the private access easement will have very limited impact to road access, as the subject property is located at the terminus of the private lane.
- The angle of the garage to the private access easement is anticipated to provide additional space for off-street parking. The setback is measured as the shortest distance from the lane to the building and does not take into account the angle of the garage and driveway to the private access easement.
- Only a portion of the proposed driveway is under the required setback.

LEGISLATIVE REQUIREMENTS:

Section 498 of the *Local Government Act* gives Council the authority to issue a Development Variance Permit that varies, in respect of the land covered in the permit, the provisions of the Zoning Bylaw.

BACKGROUND:

The subject property is a steep sloped parcel that has remained vacant since it was subdivided in 2006¹. The applicant is proposing to develop a duplex on the subject property where the North

¹ The Zoning Bylaw in affect at this time, Bylaw No.871, required a minimum 4.5m front setback from the front parcel boundary.

West corner of each garage and furthestmost corner of the west unit encroach into the minimum 6 m setback from the private access easement. Due to the steep topography, the applicant is requesting the variance to allow for the construction of a proposed duplex with two-car garages for each unit to allow for sufficient off-street parking.

Location and Surrounding Uses

The subject property is located at 3659 Apple Way Blvd. in the South Boucherie neighbourhood. The parcel is surrounded by residential land uses to the north, east, and west, and Boucherie Road to the south – see context map (*Attachment 2*).

Proposal

The proposal is a request to vary the minimum setback from the private access easement from 6.0 m to 5.0 m to support the construction of a duplex with double garages.

POLICY, LEGISLATION AND BYLAW REVIEW:

Official Community Plan Bylaw No. 0100

The subject property falls within the City of West Kelowna’s *Single Family Residential Land Use Designation*, which is supportive of traditional single family housing, duplex opportunities and compact housing form for families.

The subject property is within a Hillside Development Permit (DP) area; however hillside hazards have been addressed though prior subdivision and development permit (DP 16-08). Further geotechnical work will be required at building permit.

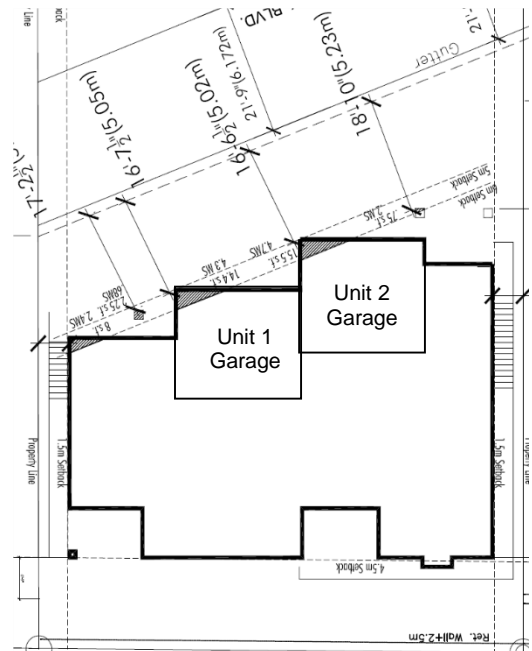


Figure 1: Site Plan

Zoning Bylaw No. 0154

The proposed duplex development conforms to the primary uses and regulations outlined in the Zoning Bylaw No. 0154 for the Duplex Residential Zone (R2), with the exception of the setback from the private access easement.



Figure 2: North-Facing Perspective

S.10.8.6(c)6. of the R2 Zone states that the regulations requiring a minimum distance between garages having vehicular entry from parcel boundaries or private access easement, and regulations requiring that the siting of a building or structure be determined in relation to the location of a private access easement, shall not apply to any parcel created by subdivision deposited in the Land Title Office before March 13, 2014, provided that the building permit authorizing the construction of the building

is issued before March 13, 2019. Therefore, had a building permit been issued prior to March 13, 2019, a development variance permit would not have been required in this situation.

TECHNICAL REVIEW:

Roads and Access

Apple Way Boulevard includes a laneway that provides access to the subject property via private access easement. The lane within the easement area is 6.2 m wide and allows for two-way traffic. There is also a statutory right of way located immediately to the north of the lane, opposite the proposed duplex, intended for pedestrian access. Being that the lane is 6.2 m wide, on-street parking is not available as it would restrict fire access. Reducing the private access easement may result in larger vehicles parking partially within the lane.

Setbacks are measured as the shortest distance from a structure to a front parcel line or private access easement. Due to the angle in which the setback is measured from the proposed duplex to the private access easement, overhanging of vehicles in the private lane is not anticipated to be significant. The subject property is also located at the terminus of the lane with only one additional parcel to the west that requires access via the private access easement. A total of 7 lots, all of which are zoned R2, are provided access by the private laneway.

Geotechnical Considerations

The subject property is steeply sloped, providing a shallow buildable area to the south of the laneway. As a condition of the 2006 subdivision, a geotechnical covenant was registered on the property, which is accompanied with a geotechnical report providing recommendations on site development. A development permit was approved in 2016 (DP 16-07) regarding the construction of a 2.5 m retaining wall along the southern property line of the subject and neighbouring properties, adjacent to Boucherie Rd. Due to the existing geotechnical covenant and the issuance of DP 16-07, the site is exempt from a Hillside DP. At the time of building permit, further geotechnical work will be required to confirm geotechnical feasibility of the specific building.

REFERRAL COMMENTS:

The application was considered by internal and external agencies. No concerns were highlighted.

PUBLIC NOTIFICATION:

In accordance with the *Local Government Act*, 19 notification letters were sent to all property owners and their tenants within 100 metres of the subject property (*Attachment 5*) and a notice of application sign has been placed on the subject property in accordance with the Development Applications Procedures Bylaw No. 0131. At the time of writing this report, no correspondence from the public had been received.

ALTERNATE MOTIONS:

1. **THAT** Council postpone consideration of the issuance of a Development Variance Permit (DVP 19-14) for 3659 Apple Way Blvd. to vary Zoning Bylaw No. 0154, S. 10.8.5 (g) to reduce the minimum setback from the private access easement from 6.0 m to 5.0 m.

Should Council postpone consideration of the requested variance, further Council direction to staff on required application details and/or amendments (i.e. wall height, texturing, etc.) is required.

2. **THAT** Council deny the issuance of a Development Variance Permit (DVP 19-14) for 3659 Apple Way Blvd. to vary Zoning Bylaw No. 0154, S. 10.8.5 (g) to reduce the minimum setback from the private access easement from 6.0 m to 5.0 m.

Should Council deny the requested variance, the file will be closed. As per the City's Development Applications Procedures Bylaw No. 0260, the applicant could re-apply for a similar proposal 6 months after initial Council consideration.

Powerpoint: Yes No

Attachments:

- 1) Development Variance Permit (DVP 19-14)
- 2) Context Map
- 3) Subject Property Map
- 4) Site Plan
- 5) Public Notification Area Map

REVIEWED AND APPROVED BY:

Bob Dargatz, Development Engineering Manager
Tracey Batten, Deputy CAO/Corporate Officer
Paul Gipps, CAO