



COUNCIL REPORT
Development Services
For the December 10, 2019 Council Meeting

DATE: December 4, 2019

TO: Paul Gipps, CAO

FROM: Carla Eaton, Planner III

RE: DVP 19-11, Horizon Drive
Legal: Lot A, DL 1117, ODYD, Plan 39701, Except Plans 40417, 40418, KAP48045, KAP51939, KAP55153, KAP56266 and KAP74459
Owner/Agent: 1167486 B. C. Ltd. / D.E. Pilling and Associates (David Mori)

RECOMMENDED MOTION:

THAT Council authorize a Development Variance Permit (DVP 19-11) for Lot A, DL 1117, ODYD Plan 39701, Except Plans 40417, 40418, KAP48045, KAP51939, KAP55153, KAP56266 and KAP74459 (Horizon Drive) in general accordance with the attached permit to vary Zoning Bylaw No. 0154:

- S.3.12.1 to increase the maximum retaining wall height from 2.5 m to 3.6 m; and
- S.10.4.5(g).5 to reduce the front parcel boundary setback:
 - i. from 4.5 m to 3.0 m for proposed Lots 1 – 4, 10, 12 – 17, 20, 22, 29 and 30; and
 - ii. for a garage or carport having vehicular entry from the front:
 - a. from 6.0 m to 4.45 m for proposed Lots 1 – 4, 12 – 17, 29 and 30; and
 - b. from 6.0 m to 3.45 m for proposed Lots 10, 20, and 22.

RATIONALE:

The recommended motion is based on the following:

Maximum Retaining Wall Height Variance

- There are limited options to address grading near the entrance to the site based on existing storm infrastructure, existing steep ravine and a snake crossing.
- The proposed variance to increase the maximum retaining wall height will ensure that the grading above the site entrance does not exceed slope maximums recommended by the geotechnical engineer and is in general accordance with the site grading plans reviewed with Development Permit 14-19.

Front Setback to Dwelling Variance

- Based on site constraints due to steep topography, environmental or infrastructure limits, and road alignment, certain lots within the proposed development have a greater challenge to their buildable area.

- The proposed front setback variance on specific lots will allow the design of site specific dwellings that either allow for larger dwellings on the site or to provide larger rear yard areas than what would otherwise be permitted with the standard setback and other site limitations.

Front Setback to a Garage with a Front Entry Variance

- The proposed variance to reduce the required front setback to a garage with a front entry will not impact road access as a minimum 6.0 m parking length is still being provided between the proposed garage and the road (back of curb).
- All required parking spaces (2 per dwelling) will be provided for within the identified two car garage areas, otherwise a separate parking variance would be required at time of future building permit.

Development Permit

- The proposal is in general conformance with Hillside and Sensitive Terrestrial Ecosystem Development Permit 14-19.
- The proposed development will respect the proposed Section 219 no build no disturb covenants for geotechnical and environmental conditions.

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:

Proposal

The applicant has applied for a Development Variance Permit (*Attachment 1*) to allow for the construction of an over height retaining wall and reduced front setbacks for a portion of a proposed bare land strata subdivision (Figure 1 – Preliminary Lot Layout showing the location of the proposed variances) with access from Westview Way.

The proposed subdivision has received a preliminary layout review (File: SUB 14-12) and the onsite works have been permitted under an approved Hillside and Sensitive Terrestrial Ecosystem Development Permit (File: DP 14-19).

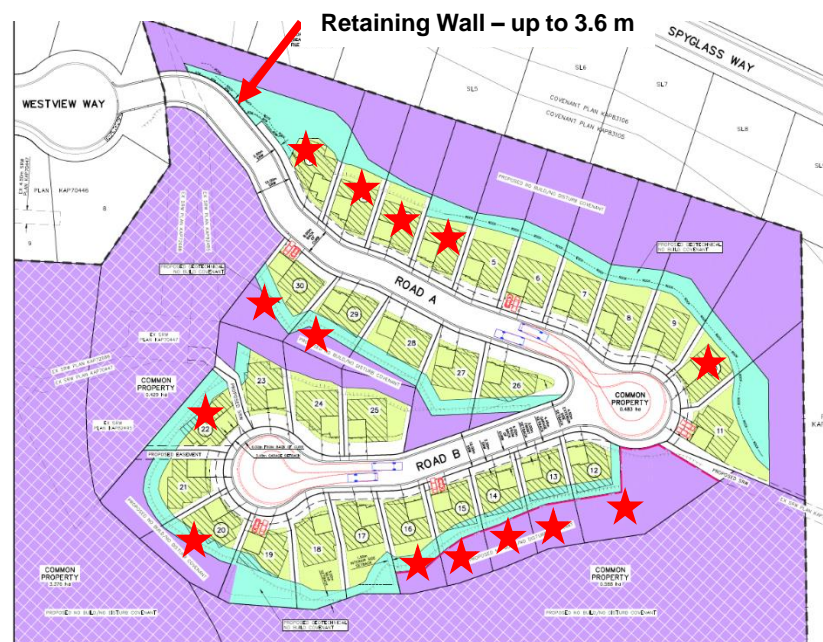


Figure 1: Preliminary Lot Layout with Variances (stars indicate lots with front setback variance requests)

Applicant Rationale

As part of this application, the applicant submitted a rationale letter for the proposed variances (*Attachment 2*) noting concerns with buildable area, useable yard space, and the need for an over height wall based on unforeseen rock conditions, existing site constraints, and geotechnical setbacks.

Location and Surrounding Uses

The subject lands are located to the east of Westview Way and Horizon Drive. The subject property is a vacant parcel (7.09 hectares). The west side of the property is zoned Large Parcel Single Detached Residential (R1L); and the east side of the property which is currently under subdivision construction is zoned Single Detached Residential (R1). Keefe Creek runs through the south portion of the property and an informal trail extends up from Horizon Drive into the property which will be secured through statutory right of way¹ through the subdivision process. Surrounding land uses include (*Attachment 3 & 4*):

- North and West - Single Detached Residential (R1);
- South - Compact Single Detached Residential (RC3) and Parks and Open Space (P1); and
- East – WFN I.R. No. 10 Multi Family Low Density and Single Family Low Density.

Policy and Bylaw Review

Official Community Plan Bylaw No. 100

The proposed development area is subject to the Hillside Development Permit guidelines of the Official Community Plan (OCP) which include considerations for hillside restoration, protection of natural vegetation and slope, visual and aesthetic impacts, and geotechnical safety. The technical review section below outlines how these considerations have been addressed through Development Permit 14-19.

Zoning Bylaw No. 154

With the exception of the variances requested below, the development proposal meets all relevant Zoning Bylaw regulations.

Maximum Retaining Wall Height:

Section 3.12.1 of the City of West Kelowna Zoning Bylaw No. 0154 specifies the maximum individual retaining wall height is 2.5 m. As shown in orange on Figure 1, the proposed over height retaining wall is located along the edge of Road A at the entrance to the development. Portions of the wall are anticipated at heights up to 3.6 m, with a graded 1.5:1 slope above the wall. The other side of Road A falls away into a steep ravine and existing storm water statutory right of way.

The original site grading plans had anticipated that this portion of the hill would consist of rock cuts at 0.25:1, which is not achievable under existing conditions. Without retention, the soil and loose rock material in this area will erode or fall down onto the road and additional cuts further up the hill to alter grade will only seek to create additional erosion potential and will not meet recommended hillside maximum slope (2:1) guidelines. As such, the applicant is requesting to increase the maximum retaining wall height for road function and to ensure that the slope above

¹ SRW will include portions of the trail for shared pedestrian/vehicle access.

Should Council choose to deny the proposed variance for maximum retaining wall height, the proposed road design or hillside grades may have to be altered potentially resulting in hillside conditions not in accordance with the Hillside Development Permit guidelines or a road design that affects safe access to the site.



Section 10.4.5(g).5 of the City of West Kelowna Zoning Bylaw No. 0154 specifies that the front setback for a dwelling is 4.5 m and for a garage with an entry facing the road is 6.0 m (Figure 2: orange dotted line). The garage setback is to allow adequate parking length for vehicles in front of the garage so that they do not impede vehicular or pedestrian traffic within the adjacent road.

3.45m GARAGE SETBACK

6.00m FROM BACK OF CURB

20

19

³ Proposed Lots 10, 20, and 22

garage setback will still allow a minimum 6.0 m parking area between the garage and back of curb (Figure 2: solid blue line) based on the curvature of Road A and B and a design that includes a boulevard with no sidewalks. The proposed variances do not include reducing the required on-site parking requirements⁴. As a condition of the variance, it is noted that for proposed lots that have varied the garage setback, all required parking shall be provided within the legal parcel boundary of each individual lot, otherwise a separate parking variance would be required at time of future building permit.

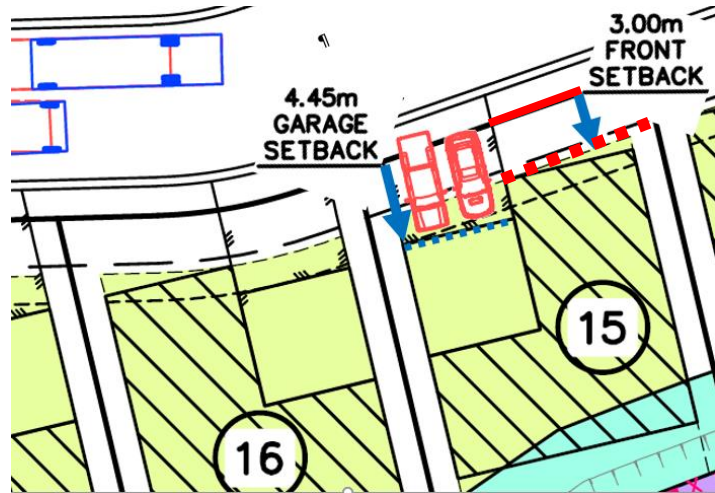


Figure 3: Garage Setback Variance and Parking

As noted previously, the applicant requested the variances to aid in siting dwellings on specific lots that are challenged with limited buildable area based on geotechnical setbacks or existing infrastructure/steep slopes. The goal is to limit further disturbance into the hillside and to allow for either a larger dwelling consistent with the rest of the lots or to provide additional rear yard area.

Should Council choose to deny the proposed variances to reduce the front setbacks to a dwelling or to a garage with front entry, the siting of the proposed dwellings would need to be altered to meet the required setback of 4.5 m and 6.0 m.

Technical Review

Geotechnical Review

As part of this application, a new Geotechnical Review was provided for the proposed over height retaining wall identifying safe construction methodology and required geogrid lengths for the Allan Block wall up to 3.6 m in height. Original site grading plans and geotechnical reports had identified rock cuts near the site entry (Road A) with a maximum 1.5:1 slope above. However, different soil materials were encountered during site construction that required retention to ensure that Road A would fit between the upper slope and a ravine below. The applicant started initial construction of the wall but stopped below 1.2 m pending consideration of the over height variance and the issuance of a building permit⁵. The minor changes to the grading plan and proposed retaining wall will be addressed as a minor amendment to Development Permit DP 14-19, as the change is in general conformance with the overall site design.

The proposed setback variances support the geotechnical and no disturb hillside areas identified by DP 14-19 as the proposed forward set of the dwellings on the more challenging lots will reduce the potential impact to steeper areas in the rear area of each lot. Additional geotechnical review

⁴ Zoning Bylaw No. 0154, Part 4, Table 4.1 requires 2 standard parking spaces per single family dwelling unit, and Table 4.2 notes size is 2.75 m x 6.0 m

⁵ Retaining walls over 1.2 m in height require a building permit and consideration under Hillside Development Permit guidelines.

will be required for each lot at time of future building permit to address specific dwelling design and site considerations.

Environmental Review

The proposed setback variances do not affect the proposed restoration and no disturb areas established by DP 14-19, which considered protection for areas with high environmental sensitivity on the site.

PUBLIC NOTIFICATION:

In accordance with the *Local Government Act*, 206 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 Application Procedures Bylaw No. 0260. At the time of writing this report, no submissions have been received from the public other than the letter of support from the adjacent neighbour to the north noted previously.

ALTERNATE MOTIONS(S):

- 1) THAT Council deny a Development Variance Permit (DVP 19-11) for Lot A, DL 1117, ODYD Plan 39701, Except Plans 40417, 40418, KAP48045, KAP51939, KAP55153, KAP56266 and KAP74459 (Horizon Drive) to vary Zoning Bylaw No.0154 to increase the maximum retaining wall height and reduce the minimum front parcel boundary setbacks.

This alternate motion would prevent the applicant from constructing the over height wall and would result in steeper than recommended slopes near the entrance to the site which may require additional geotechnical review through a Development Permit amendment process. Additionally, the denied setback variance would require the applicant to potentially construct smaller dwellings to fit within the standard setbacks and/or buildable areas should they wish to have more useable yard area on the affected lots. Should Council deny the proposal, the files will be closed. As per the City's Procedures Bylaw, the applicant could re-apply for a similar proposal six months after initial Council consideration.

REVIEWED AND APPROVED BY:

Brent Magnan, Planning Manager
Tracey Batten, Deputy CAO/Corporate Officer
Paul Gipps, CAO

Powerpoint: Yes ☒ No ☐

Attachments:

- 1) Draft DVP 19-11
- 2) Applicant Rationale Letter
- 3) Context Map
- 4) Subject Property Map
- 5) Notification Map