



## DEVELOPMENT SERVICES COUNCIL REPORT

To: Mayor and Council

Date: January 23, 2024

From: Paul Gipps, CAO

File No: DP 21-36

Subject: **DP 21-36 – Development Permit with Variances (2237 Shannon Lake Road**

Report Prepared By: Yvonne Mitchell, Planner III

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### **RECOMMENDATION** to Consider and Resolve:

**THAT** Council authorize the issuance of a Multiple Family and Intensive Residential, Hillside, and Sensitive Terrestrial Ecosystem Development Permit (DP 21-36) for an apartment development at 2237 Shannon Lake Road, subject to the conditions outlined in the attached Development Permit;

**AND THAT** Council authorize a variance to the City of West Kelowna Zoning Bylaw No. 0265 in accordance with the attached permit, as follows, that the:

- Maximum retaining wall height be increased from 2.5m to 4.0m;
- Maximum building height be increased from 10.0m to a maximum of 3 storeys to 16.69m to a maximum of 4 storeys;
- Minimum front parcel boundary setback be reduced from 4.5m to 0.0m;

**AND THAT** issuance of the Development Permit be withheld pending receipt of:

- Landscape Security in the amount of \$38,176.56;
- Remediation Security in the amount of \$54,798.38; and
- Registration of a no build no disturb covenant on the rear of the subject property;

**AND FURTHER THAT** if the Development Permit has not been issued within one year from the date of approval, the Permit with variances shall be deemed to have been refused and the file closed.

### **STRATEGIC AREA(S) OF FOCUS**

**Pursue Economic Growth and Prosperity** – We will work with stakeholders throughout the region to advocate for and support efforts aimed at helping West Kelowna businesses prosper. With a focus on the future, we will advance opportunities to expand our economy, increase employment, and develop the community in ways that contribute towards prosperity for all.

## BACKGROUND

The subject property is located at 2237 Shannon Lake Road in the Shannon Lake neighbourhood. The property is 1.52 acres and was created by subdivision from the larger parcel to the east (unaddressed Shannon Ridge Drive) in 2006. There is a bench in the southwestern corner of the site adjacent to Shannon Lake Road, the remainder of the site is forested with steep slopes, and a geotechnical covenant registered in 1998 covers the northeastern portion of the property. A site-specific text amendment to the R3 zone to allow apartments on the property was approved by Council in 2015. The property is currently undeveloped.

PROPERTY DETAILS			
<b>Address</b>	2237 Shannon Lake Road		
<b>PID</b>	026-594-331		
<b>Folio</b>	36414136.025		
<b>Lot Size</b>	1.52 acres (6151.23 sqm)		
<b>Owner</b>	Shannon Greens Development Ltd.	<b>Agent</b>	New Town Architecture & Engineering Inc.
<b>Current Zoning</b>	Low Density Multiple Residential Zone (R3)	<b>Proposed Zoning</b>	N/A
<b>Current OCP</b>	Medium Density Residential	<b>Proposed OCP</b>	N/A
<b>Current Use</b>	Vacant	<b>Proposed Use</b>	Apartment
<b>Development Permit Areas</b>	Multiple Family and Intensive Residential, Sensitive Terrestrial Ecosystem, and Hillside.		
<b>Hazards</b>	Sensitive Terrestrial, Hillside		
<b>Agricultural Land Reserve</b>	No		

ADJACENT ZONING & LAND USES			
<b>North</b>	^	Parks and Open Space (P1)	
<b>East</b>	>	Low Density Multiple Residential Zone (R3)	
<b>West</b>	<	Parks and Open Space (P1)	
<b>South</b>	v	Single Detached Residential Zone (R1)	

## NEIGHBOURHOOD MAP



## PROPERTY MAP



### Legislative Requirements

Council has the authority under s.490 of the *Local Government Act* to issue Development Permits, and the authority under s.498 of the *Local Government Act* to issue Development Variance Permits.

### Proposal

The applicant is proposing to construct a 4 storey apartment building with 37 units. Units are studio to 3 bedrooms, with private outdoor space in the form of balconies. The proposed building also includes underground parking, a gym, bike storage room, storage lockers, and a rooftop amenity space. Variances are required given the hillside and sensitive terrestrial characteristics of the site.

## DISCUSSION

### Policy and Bylaw Review

#### Official Community Plan Bylaw No. 0300

The subject property is designated Medium Density Residential in the Official Community Plan. The Medium Density Residential Land Use Designation calls for medium density development including townhouses and duplexes up to three storeys in height, and multi-unit housing up to four storeys in height.

#### *General Development Permit Guidelines*

The subject property is subject to the General Development Permit Guidelines. The proposal meets the Guidelines. Key highlights include:

- Environmental features such as mature stands or trees and existing native vegetation is protected (Guidelines s.4.2.5.7. and s.4.2.5.8.)
- Site development does not dramatically change the natural topography of the site, and grading requirements are resolved within the property boundary. Cut and fill will be minimized and blended to the existing terrain (Guideline 4.2.5.10)

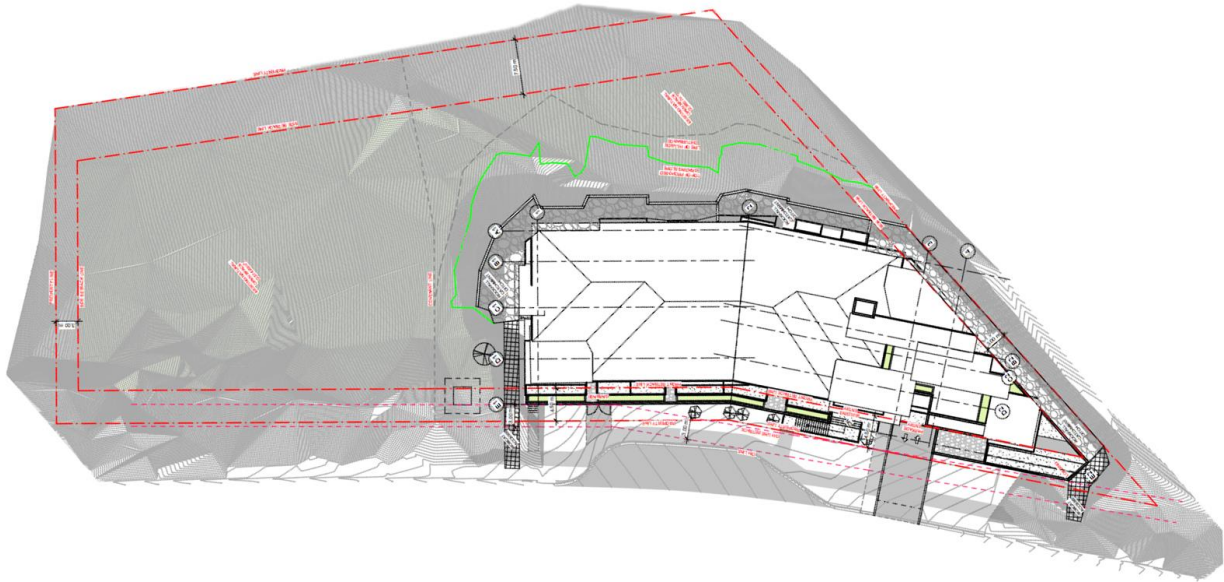


Figure 1 – Site Plan showing development concentrated on the site to protect the remaining trees and native vegetation. An existing geotechnical covenant exists on the left (north) side of the property, and a further covenant will be required on the remainder of the site not proposed to be developed. Changes to the grade are located behind the proposed building and any grading requirements (rock cuts, retaining walls etc.) will be located within the property boundaries.

#### *Multiple Family and Intensive Residential Development Permit Guidelines*

The subject property is subject to the Multiple Family and Intensive Residential Development Permit Guidelines. The proposal meets the Guidelines. Key highlights include:

- An enhanced focus on loading and visitor parking and universally accessible stalls at convenient locations (Guideline 4);
- Outdoor amenities (Guideline 9); and
- A variety and high quality of building materials (Guidelines 7 and 8).





Figure 2 – Rendering of proposed building showing entrance to underground parkade which includes all required loading, visitor, and accessible parking spaces in convenient locations (more info below), outdoor amenity (roof top patio) and a variety of high quality building materials.

### *Hillside Development Permit Guidelines*

The proposal is also subject to the Hillside Development Permit Guidelines. The purpose of these guidelines is to ensure that development is safe from hazardous conditions and does not adversely affect the natural environment or surrounding people or property. The proposal meets a majority of the Guidelines. Key highlights include:

- A geotechnical engineer will be involved in the construction of this project (Guideline 1);
- The proposal protects in perpetuity natural features (Guideline 2) - while significant site grading and rock cuts are required to build on this property the remainder of the site will be protected by a no build no disturb covenant;
- A geotechnical report prepared by a professional engineer has been provided for this development. The geotechnical report states “from a geotechnical perspective, the proposed development site is safe for intended use, provided that our recommendations and mitigation measures are followed during the design and construction of the project.” The geotechnical report includes recommendations for the proposed modifications to the site including mechanical stabilization of the rock face where necessary. These stabilization techniques (wire mesh) will be screened from Shannon Lake Road as they are located behind the building (See Figure 3) (Guideline 5); and
- Rockfall protection areas are not located on City rights-of-ways (Guideline 6).

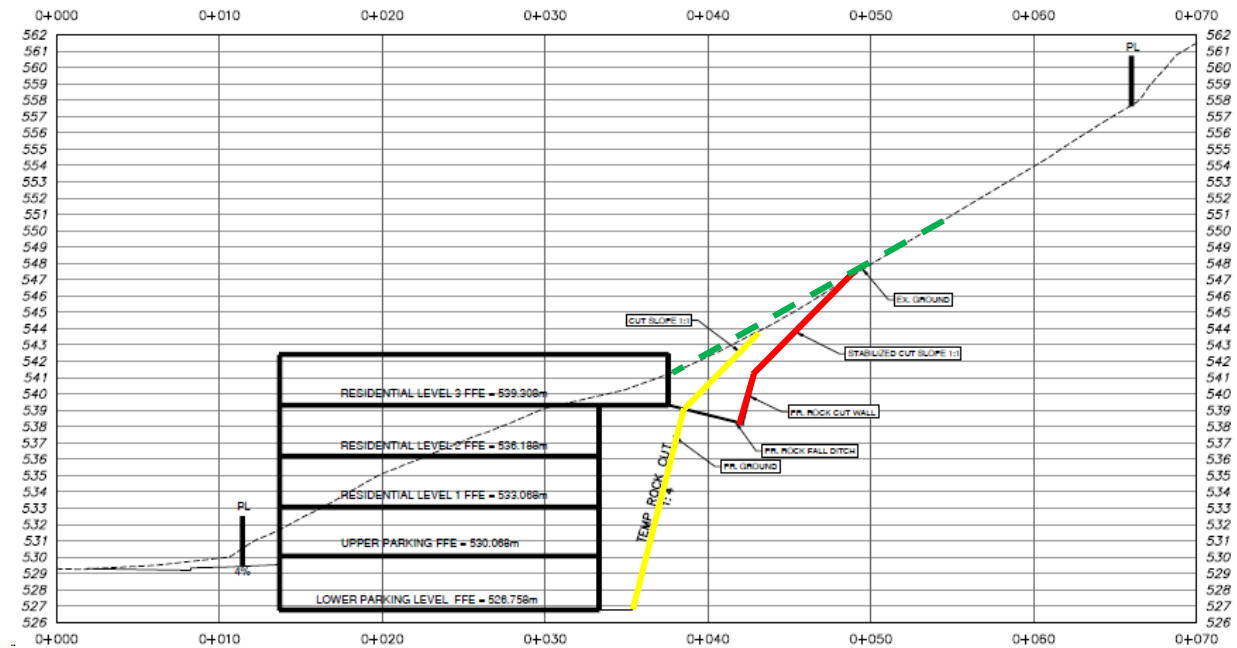


Figure 3 – Cross section of a portion of the building showing one of the proposed rock cuts (red line), temporary rock cut (yellow line) and existing ground (green dashed line) at the rear. Rock cut would require mechanical stabilization (wire mesh) as recommended in the geotechnical report.

### *Sensitive Terrestrial Ecosystem Development Permit Guidelines*

The subject property is within the Sensitive Terrestrial Ecosystem Development Permit Area. The purpose of these guidelines is to ensure that development does not adversely affect the natural environment. The proposal meets the Guidelines. Key highlights include:

- Site design and development is consistent with the provided environmental report (Guideline 2).
- An environmental report prepared by a registered professional biologist together with other professionals has been provided as part of the proposal (Guideline 9). Highlights of the report include:
  - The requirement to mark and fence off environmentally sensitive areas to prevent unnecessary encroachment during construction (Guideline 9c).
  - A plan for restoration of the site where the site has been disturbed or where invasive weeds have intruded (Guideline 9h) – The environmental report states there may be edge related impacts from the rock cuts that are challenging to predict. As such an additional restoration area and bonding has been provided for behind the building. In addition, an area that was historically disturbed within the existing covenant area (unvegetated area leading up to neighbouring property to the east) will be restored.
  - An environmental monitor is to be present during construction works (Guideline 9j).



Figure 4 – Proposed restoration areas, including a buffer adjacent to where rock cuts are proposed and an area that was historically disturbed.

Zoning Bylaw No. 0265

*Part 4 – Off-Street Parking and Loading Regulations*

The proposal meets all parking and loading space requirements in the Zoning Bylaw as outlined in the table below, including providing less small car spaces than is permitted and more long term bike parking. All required vehicle parking is provided in a two storey partially exposed underground parkade, bicycle parking is provided in a bike storage room in the first storey of residential.

Parking/Loading Regulation	Required/Permitted	Proposed
Standard Parking Spaces	Apartment <ul style="list-style-type: none"> <li>Bachelor/One Bedroom – 1.0 per unit = 19 spaces</li> <li>Two+ Bedroom – 1.5 per unit = 27 spaces</li> </ul> Total = 46 spaces	46 spaces
Accessible Spaces	21-100 required standard parking spaces = 2 spaces	2 spaces
Visitor Parking Spaces	10% of standard parking space requirement = 5 spaces	5 spaces
Small Car Spaces	Up to 30% of total number of required parking spaces = 16 spaces (max)	5 spaces (10%)
Long Term Bicycle Spaces	0.5 per unit = 19 spaces	38 spaces
Short Term Bicycle Spaces	Apartment – 0.1 per unit, minimum 2 spaces = 4 spaces	4 spaces
Loading Spaces	1 per apartment building with 10 or greater dwelling units = 1 space	1 space



The proposal conforms to all other regulations in Zoning Bylaw No. 0265 and the R4 Zone except for:

1. A variance to increase the maximum retaining wall height from 2.5m to 4.0m;
2. A variance to increase the maximum building height from 10.0m to a maximum of 3 storeys to 16.69m to a maximum of 4 storeys;
3. A variance to reduce the minimum front parcel boundary setback from 4.5m to 0.0m;

The variances are discussed in detail below.

## 1. Retaining Wall Height Variance

The development proposes a maximum retaining wall height of 4.0 m instead of 2.5 m. The intent of the retaining wall height regulation is to limit the visibility of large walls in developments and the manipulation of the natural topography of the site. The development includes three retaining walls. Two walls with a max height of 3.0m and one wall with a max height of 4.0m. The walls are located behind the proposed building and are required to develop the site as per the applicant's rationale in Attachment 2.

This variance is supported as the retaining walls are subtly integrated into the proposed development as per DP guidelines and assist in meeting other DP guidelines such as providing a rock catchment ditch to keep the development outside of potentially hazardous areas.

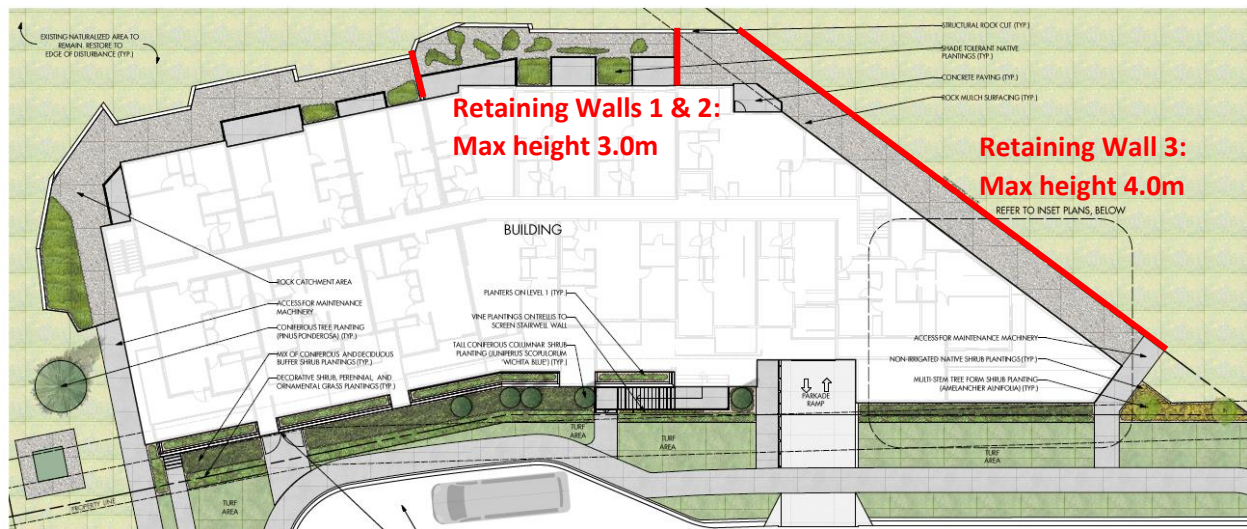


Figure 5 – Three proposed retaining walls located behind the proposed building.

## 2. Building Height Variance

The development proposes a maximum building height of 16.69m to four storeys instead of 10.0m to a maximum of 3 storeys. The maximum building height is focused on the front of the building with the height decreasing at the sides of the building and being within the bylaw requirements at the rear. The applicant has provided a rationale for this variance (Attachment 2).



The variance is supported as the increased height and number of stories is caused by the partially exposed parkade. Further undergrounding the parkade would result in additional site modification. The parkade has been screened using decorative wood slats and landscaping to meet DP guidelines, and height decreases towards the interior of the site. It is noted that the OCP designation for this property permits multi-unit housing up to 4 storeys. Currently, 4 storeys in the Zoning Bylaw means up to 15.0m in height. Staff are reviewing the Zoning Bylaw given adoption of the new OCP, and this regulation may change.

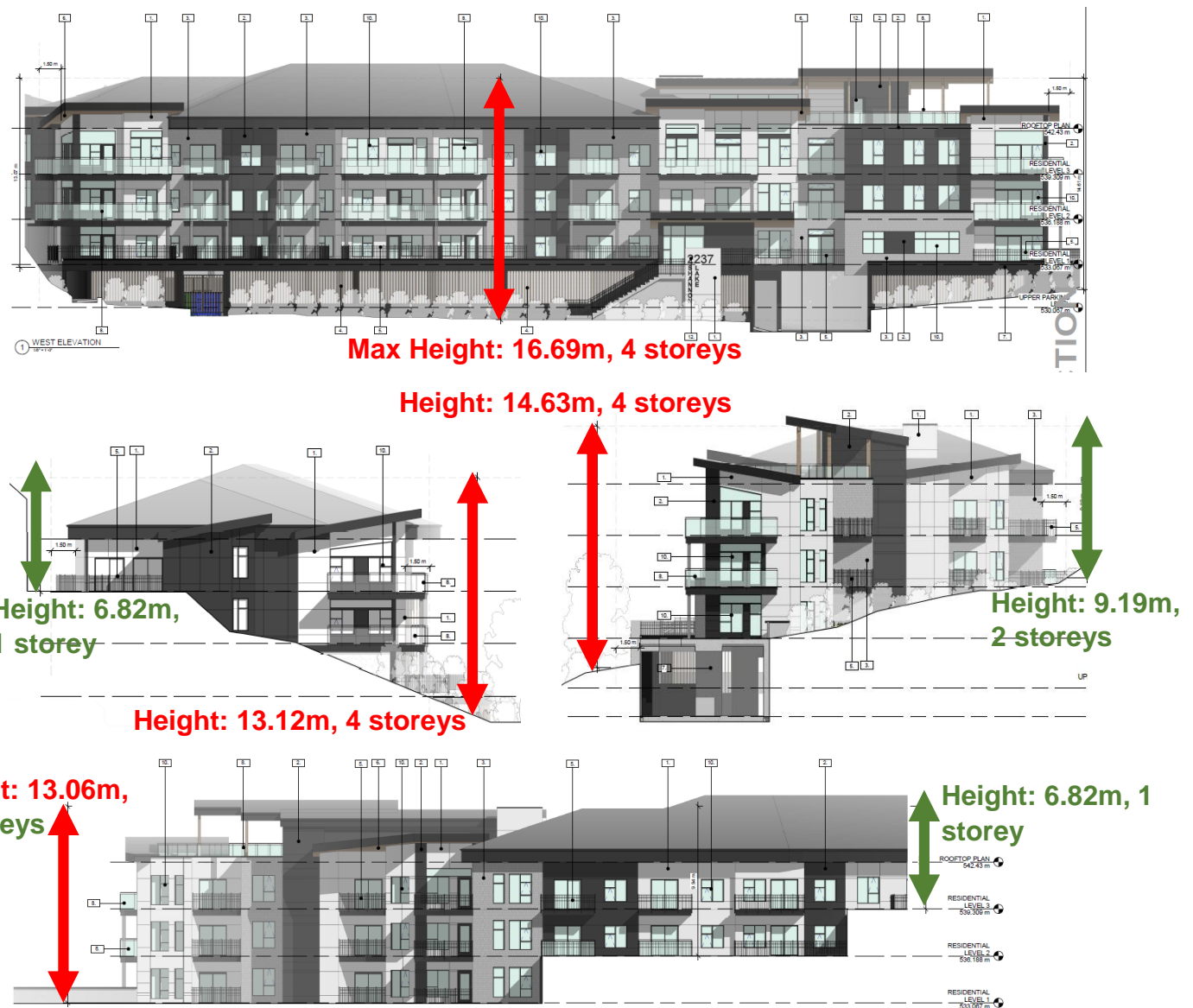


Figure 6 – Top: Front elevation; Middle Left: Side elevation north; Middle Right: Side elevation south; Bottom: Rear elevation.

### 3. Setback Variance

The development proposes a minimum front setback of 0.0m instead of 4.5m. The setback variance to 0.0m is triggered by the proposed stairs to the main entrance. The

partially exposed parkade is setback 2.29m except it is approx. 1.0m on the far right (south) and the rest of the building is setback further (See Figure 7). The applicant has provided a rationale for this variance (Attachment 2).

This variance is supported given the sensitive terrestrial and hillside features on the site. By locating the building as close as possible to the property line, as much as possible of the existing vegetation can be maintained. This reduced setback also limits encroachment into the steeper areas of the site and helps keep development outside of areas with potentially hazardous conditions. Despite the setback reduction the development also maintains more than a 4.5m setback from the travelled portion of Shannon Lake Road.

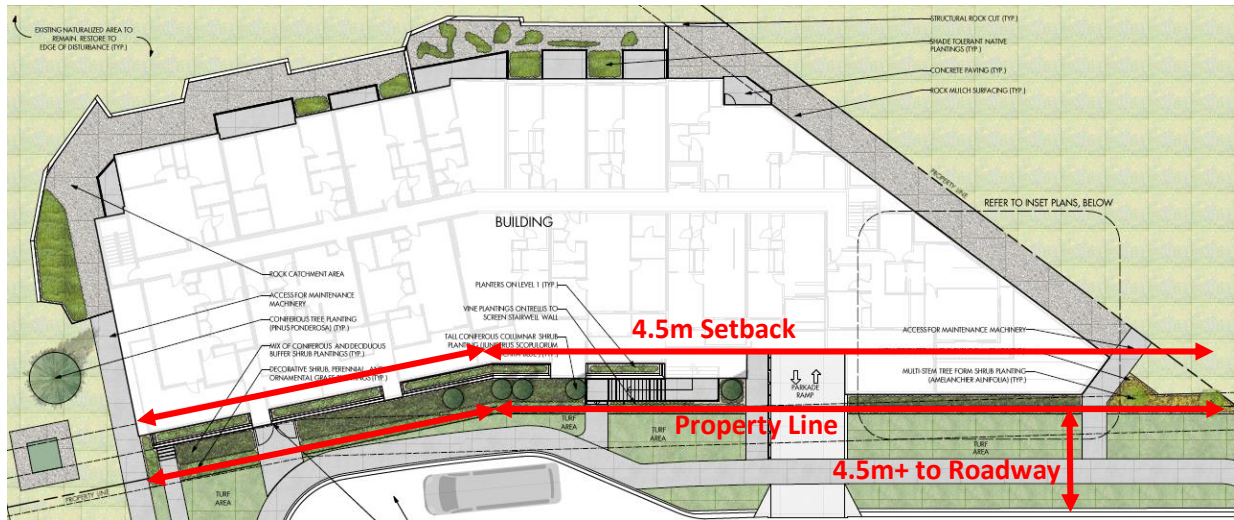


Figure 7 – Proposed front setback variance, largely triggered by stairs to apartment lobby.

## Public Notification

In accordance with the *Local Government Act*, notification letters were sent to all property owners and their tenants within 100 m of the subject property. No submissions were received at the time of writing this report. A Notice of Application sign was also installed on the property in accordance with the Development Applications Procedures Bylaw No.0260.

## Public Information Meeting

As per s.9 of the Development Applications Procedures Bylaw No. 0260 applicants are encouraged as a best practice to hold public information meetings prior to an application being consideration by Council. The applicant held an online public information meeting on Wednesday, October 18th, 2024, at 7pm. During the Q&A portion of the meeting 1 comment was received and three questions which are listed below. A report summarizing the meeting is provided in Attachment 3.

- Comment: “Thank you for the great presentation. No comments at this time.”
- Question: “How long do you anticipate construction to be until construction is completed?”

- Question: “Can you give us a comparison of the height and sight line of the townhomes being built compared to the Condo Building at 2120.”
- Question: “Will I get this recording?”

## **CONCLUSION**

The proposed apartment development adds additional housing units and housing options on a property that has remained historically vacant. Despite challenging site conditions, the applicant has provided a proposal that meets key hillside and sensitive terrestrial development permit guidelines. In addition, the development meets the form and character expectations for multiple family development outside of neighbourhood and urban centres. The variances proposed are largely caused by the hillside and sensitive terrestrial ecosystem considerations on the property. The applicant has worked with staff to minimize departure from the bylaw as much as possible. The remainder of the property, not already protected by a geotechnical covenant, will be encompassed by a no build no disturb covenant as a condition of issuance of this development permit.

**Alternate Recommendation** to Consider and Resolve:

### **Option 1:**

**THAT** Council deny the issuance of a Multiple Family and Intensive Residential, Hillside, and Sensitive Terrestrial Ecosystem Development Permit (DP 21-36) for an apartment development at 2237 Shannon Lake Road with variances;

**AND THAT** Council direct staff to close the file.

Should Council deny the proposed amendment bylaws, the application will be closed in accordance with the Development Applications Procedures Bylaw No. 0260. Council shall not reconsider an application of this nature for the property for a period of six months.

### **Option 2:**

**THAT** Council postpone the issuance of a Multiple Family and Intensive Residential, Hillside, and Sensitive Terrestrial Ecosystem Development Permit (DP 21-36) for an apartment development at 2237 Shannon Lake Road with variances.

Council may wish to postpone the issuance of the Development Permit and require the applicant to redesign components of the proposal in accordance with the City’s Zoning Bylaw. If the proposal were revised to avoid the variances, the Development Permit would require further consideration of Council.

**REVIEWED BY**

Chris Oliver, Planning Manager

Brent Magnan, Director of Development Approvals

Corinne Boback, Legislative Services Manager / Corporate Officer

Trevor Seibel, Deputy CAO

**APPROVED FOR THE AGENDA BY**

Paul Gipps, CAO

Powerpoint: Yes  No

Attachments:

1. Development Permit DP 21-36
2. Applicant's Variance Rationales
3. Applicant's Public Information Meeting Report