



COUNCIL REPORT  
Development Services  
For the September 17, 2019 Council Meeting

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DATE: September 10, 2019  
TO: Paul Gipps, CAO  
FROM: Levan King Cranston  
RE: Application: Development Variance Permit DVP 19-10  
Legal: Lot 129 Plan KAS1001 District Lot 487 ODYD  
Address: 159-4035 Gellatly Road S

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*File no: DVP 19-10*

**RECOMMENDED MOTION:**

**THAT** Council authorize a Development Variance Permit (DVP 19-10) for Lot 129 Plan KAS1001 District Lot 487 ODYD (159-4035 Gellatly Road S) to:

- Vary Zoning Bylaw No. 0154: S10.3.a.5(e) to increase the maximum parcel coverage from 40% to 48%; and to
- Vary Zoning Bylaw No. 0154: S10.3.a.5(g).2 to reduce the required rear yard setback from 3 m to 2 m.

**RATIONALE:**

The recommended motion is based on the following:

- The recommended motion would allow for the applicant to construct a deck similar in size to those on neighbouring properties.
- A reduced rear yard setback to 2 m will not impact any neighbours to the south as the subject property backs onto a common property area.
- The Strata Council supports the applicant's proposal to extend his deck.

**LEGISLATIVE REQUIREMENTS:**

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

## BACKGROUND:

### **Location and Surrounding Uses**

The 424.92 m<sup>2</sup> (0.105 acres) property is within the Goats Peak / Gellatly neighbourhood (Attachment 2). The subject property is zoned Compact Single Detached Residential (RC4) and is surrounded by similarly zoned RC4 zoned parcels. The subject property is located within the Canyon Ridge Strata Development, consistent building design unifies the character of the neighbourhood. The subject property is a middle lot that backs onto a common property area located to the south.

### **History**

During the original development of the Canyon Ridge Strata Development, the subject property was zoned RC1 (Westbank Centre Compact Residential) which allowed for up to 60% parcel coverage. In 2014, Zoning Bylaw No. 0154 was implemented and as a result, the subject property adopted the RC4 zone (Compact Single Detached Residential). Because of this, the maximum allowable parcel coverage was reduced from 60% to 40%, placing the subject property in non-conformance. As a result, any addition made to the property that would increase parcel coverage would now require a variance. In addition, the RC1 zone required a rear yard setback of 2 m where the RC4 zone requires 3 m. The existing decks throughout the Canyon Ridge Strata Development meet the 2 m required rear yard setback under the previous zoning.

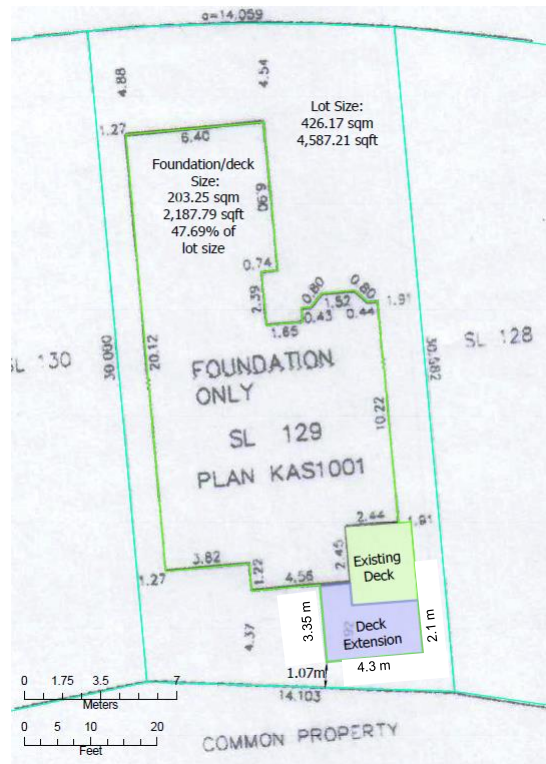


Figure 1: Site Plan

In June, 2019, the applicant began construction to extend his deck without a building permit. A stop work order halted the construction, the applicant was then informed that two variance applications would be required as the deck did not meet the requirements of the RC4 zone. The applicant then submitted a request to extend his deck at the May 2, 2019 Strata Council meeting where he received support from the Strata Council. Minutes from the Strata Council meeting are included in Attachment 6. The applicant has now applied to the City of West Kelowna for two variances with the intent of extending his deck.

### **Proposal**

The applicant has applied to vary Zoning Bylaw 0154: S10.3.a.5(e) to increase the maximum parcel coverage from 40% to 48%; and S10.3.a.5(g).2 to reduce the required rear yard setback from 3 m to 1.07 m. The proposed variances are for the purpose of extending the applicant's deck to achieve a deck size larger than what the applicant currently has. The existing deck is located on the second floor and is 2.88 m tall. As seen in Figure 1: *Site Plan*, the proposed development will extend the deck 2.1 m toward the rear yard and common property area. The deck's width will also be extended to 4.3 m creating more usable deck space than what currently exists.

## Applicant Rationale

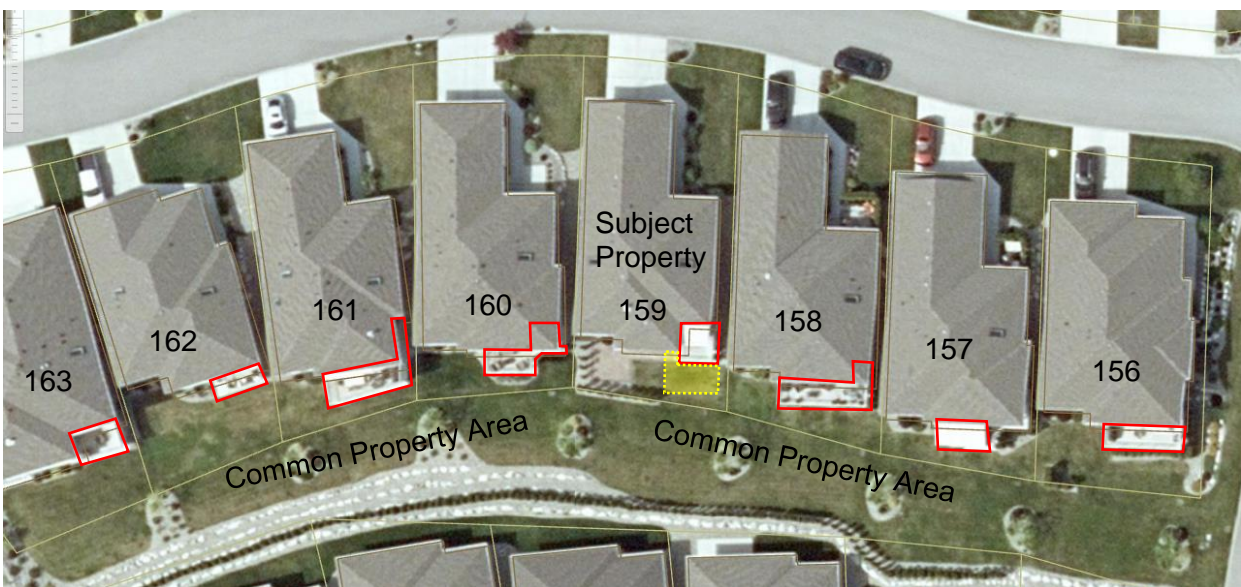
As part of this application, the applicant submitted a rationale letter (Attachment 5). To summarize, the applicant has noted that the neighbouring properties have larger decks than the applicant's. The letter also includes how neighbours to the east and west are in opposition of the proposed variances.

## DISCUSSION

It is noted that the neighbour's located to the east and west have decks much larger than the one that exists on the subject property. This variance may result in an alternative deck configuration than what exists in this neighbourhood. The proposed deck expands further toward the rear property line than other decks in the neighbourhood.

The applicant has provided staff with minutes from the May 2, 2019 Canyon Ridge Strata Council meeting indicating that the strata council is supportive of the proposed deck extension.

As seen in Figure 2: *Deck Configuration*, there are a wide variety of deck designs and configurations. Site images 1 - 4 show these decks in detail. The proposed deck, although it extends further in distance (3m from house), is not significantly larger than others which already exist in this strata (~2m from houses). Concerns have been voiced by neighbours that the approval of these variances will set a precedent for deck size and configuration. Staff have considered these concerns; however, the Canyon Ridge Strata Council is in support of the application, and there is a significant common space adjacent to the site. Should Council wish the applicant to consider an amended deck configuration, an alternate motion is available.



**Figure 2: Deck Configuration**

- Existing Decks
- Proposed Deck Extension











## POLICY, LEGISLATION AND BYLAW REVIEW:

### **Official Community Plan (OCP) Bylaw No. 0100**

The requested variances to increase the allowable parcel coverage and to reduce the rear yard setback does not compromise the intent of the Official Community Plan.

### **Zoning Bylaw No.0154**

Aside from the requested variances, the proposal is consistent with Zoning Bylaw No.0154.

## PUBLIC NOTIFICATION:

In accordance with the *Local Government Act*, 72 notification letters were sent to all property owners and their tenants within 100 metres of the subject property and a notice of application sign has been placed on the subject property in accordance with the Development Applications Procedures Bylaw No. 0260. At the time of writing this report, 15 letters from the public have been received. All letters were written in non-support of the proposed variance application. To summarize, the letters included concerns about the possibility of this variance setting a precedent in the neighbourhood for deck size and configuration. In addition, the public voiced concerns that the deck extension would lead to a loss of privacy for some neighbours and an overall change to the neighbourhood's character.

## ALTERNATIVE MOTION:

1. **THAT** Council authorize a Development Variance Permit (DVP 19-10) for Lot 129 Plan KAS1001 District Lot 487 ODYD (159 - 4035 Gellatly Road S) to:
  - Vary Zoning Bylaw No. 0154: S10.3.a.5(e) to increase the maximum parcel coverage from 40% to 48%; and to
  - Vary Zoning Bylaw No. 0154: S10.3.a.5(g).2 to reduce the required rear yard setback from 3 m to 1.07 m.

This alternative motion will allow the applicant to extend his deck to the desired size and configuration.

2. **THAT** Council postpone the decision for a Development Variance Permit (DVP 19-10) for Lot 129 Plan KAS1001 District Lot 487 ODYD (159 - 4035 Gellatly Road S) and that the proposed deck extension be redesigned to fit more sensitively with the existing character of the Canyon Ridge Strata Development.

This alternative motion postpones the decision until revised drawings are submitted to the satisfaction of the Development Services Department.

3. **THAT** Council deny a Development Variance Permit (DVP 19-10) for Lot 129 Plan KAS1001 District Lot 487 ODYD (159 - 4035 Gellatly Road S) to vary Zoning Bylaw No. 0154: S10.3.a.5(e) to increase the maximum parcel coverage from 40% to 47.69%.

**THAT** Council deny a Development Variance Permit (DVP 19-10) for Lot 129 Plan KAS1001 District Lot 487 ODYD (159 - 4035 Gellatly Road S) to vary Zoning Bylaw No. 0154: S10.3.a.5(g).2 to reduce the required rear yard setback from 3 m to 1.07 m.

This alternative motion would prevent the applicant from increasing the size of his deck.

**REVIEWED AND APPROVED BY:**

Brent Magnan, Planning Manager  
Shelley Schnitzler, Legislative Services Manager  
Paul Gipps, CAO

Powerpoint: Yes ☒ No ☐

**Attachments:**

- 1) Draft Permit (DVP 19-10)
- 2) Context Map
- 3) Subject Property Map
- 4) Site Plan
- 5) Applicant Rationale
- 6) Strata Council Minute
- 7) Public Notification