



## COUNCIL REPORT

To: Paul Gipps, CAO

Date: October 6, 2020

From: Jayden Riley, Planner II

File No: DP 20-09/TUP 20-03

Subject: **DP 20-09 / TUP 20-03; Development Permit with Variances and Temporary Use Permit; 3404 Sundance Drive**

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### RECOMMENDATION

**THAT** Council approve the issuance of a multiple family and intensive residential, hillside, and sensitive terrestrial ecosystem development permit with variances (File: DP 20-09) to accommodate a 35-unit townhome development, in accordance with the attached permit (*Attachment 9*); issuance of the permit is subject to:

- Submission of the Phase 1 landscape security in the amount of \$171,893.00;
- Discharge of the emergency access statutory right of way (LB373929); and

**THAT** Council approve the issuance of a temporary use permit (File: TUP 20-03) to allow on-site crushing/processing of material sourced from the site, in accordance with the attached permit (*Attachment 10*).

### STRATEGIC AREA(S) OF FOCUS

Economic Development and Prosperity (2020-2022 Strategic Priorities)

### BACKGROUND

This application is requesting a multiple family and intensive residential development permit to allow for the construction of a 35-unit townhouse development over five (5) phases with the following variances:

1. Reduce the minimum setback to the rear parcel boundary from 7.5 m to 6.27 m;
2. Reduce the required number of loading spaces from three (3) to one (1);
3. Increase the maximum building height (units 19-35) from 12.0 m to 13.23 m;
4. Increase the maximum number of storeys (units 19-35) from three (3) to four (4);
5. Increase the maximum height of a retaining wall from 2.5 m to 5.26 m.

Subject to Development Permit approval, the applicant is also requesting a Temporary Use Permit to allow for on-site processing/crushing of bedrock material to be used for the proposed townhouse development.

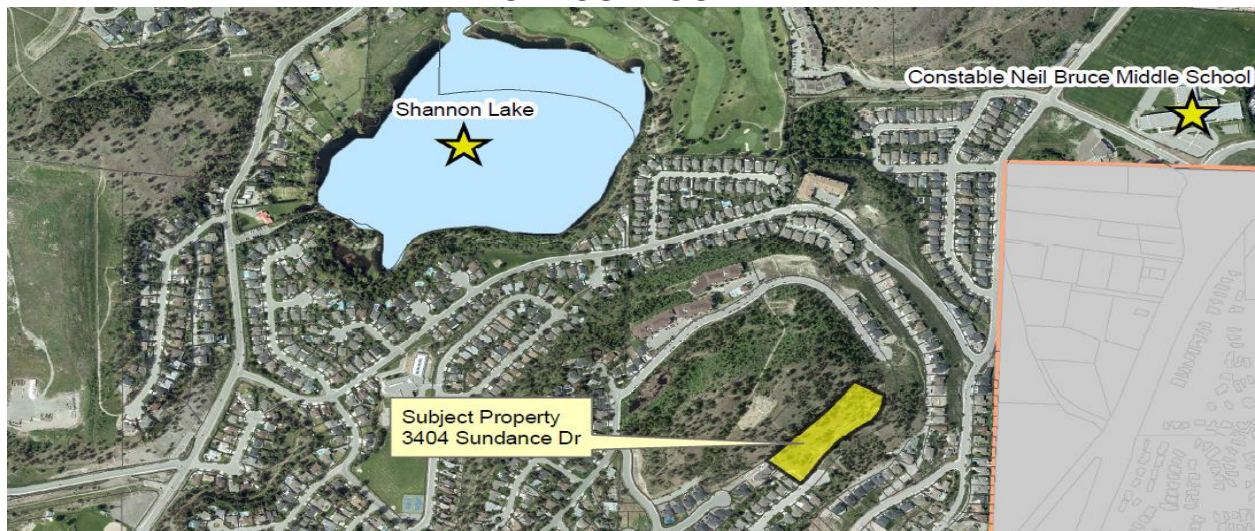
## PROPERTY DETAILS

<b>Address</b>	3404 Sundance Drive		
<b>PID</b>	Lot 38 DL 2044 ODYD KAP90501		
<b>Folio</b>	36413691.498		
<b>Lot Size</b>	3.41 acres (13,800 m <sup>2</sup> )		
<b>Owner</b>	Farkas Developments Inc.	<b>Agent</b>	Jordan Peterson, Stantec
<b>Current Zoning</b>	Medium Density Multiple Residential (R4)	<b>Proposed Zoning</b>	N/A
<b>Current OCP</b>	Low Density Multiple Family (LDMF)	<b>Proposed OCP</b>	N/A
<b>Current Use</b>	Vacant	<b>Proposed Use</b>	Crushing (temporary), Multi Family Development
<b>Development Permit Areas</b>	Hillside, Terrestrial, Form and Character		
<b>Hazards</b>	Hillside, Dust, Noise		
<b>Agricultural Land Reserve</b>	No		

## ADJACENT ZONING & LAND USES

<b>North</b>	^	P1 – Parks and Open Space
<b>East</b>	>	P1 – Parks and Open Space R4 – Medium Density Multiple Residential
<b>West</b>	<	R4 – Medium Density Multiple Residential R1 – Single Detached Residential
<b>South</b>	v	R1 – Single Detached Residential P1 – Parks and Open Space

## NEIGHBOURHOOD MAP



## PROPERTY MAP



## DISCUSSION

### Development Permit Proposal

This application is requesting a Multiple Family and Intensive Residential, Sensitive Terrestrial Ecosystem, and Hillside Development Permit with variances, to accommodate a 35-unit townhome development. The proposal consists of 10 individual buildings, constructed in two (2) tiers into the hillside. The lower tier consisting of units 1-18 and the upper tier consisting of units 19-35. Vehicular access to the lower level units is proposed from Sundance Drive in addition to a private lane located between the tiers (*Figure 1*), with vehicle access to the upper level units provided solely from the private lane. The townhome development is proposed to be constructed over five (5) phases – see phasing plan (*Figure 2, Attachment 1*).



Figure 1: site plan (DP 20-09)



Figure 2: phasing plan (DP 20-09)

The variances proposed with application include the following:

1. Reduce the minimum setback to the rear parcel boundary from 7.5 m to 6.27 m;
2. Reduce the required number of loading spaces from three (3) to one (1);
3. Increase the maximum building height (units 19-35) from 12.0 m to 13.23 m, to accommodate a rooftop patio;
4. Increase the maximum number of storeys (units 19-35) from three (3) to four (4), to accommodate an internal rooftop patio access;
5. Increase the maximum height of a retaining wall from 2.5 m to 5.26 m to support an access turnaround.

Applicant Rationale – Proposed Variances

The proposed variance to reduce the rear parcel setback is to accommodate the upper units (#19-35) and private lane. The upper units are set back varying distances from the rear parcel boundary, with the greatest variance being a reduction of the minimum rear setback distance from 7.5 m to 6.27 m – as such, the permit (*Attachment 9*) is specific to the site plan (*Figure 1, Attachment 1*).

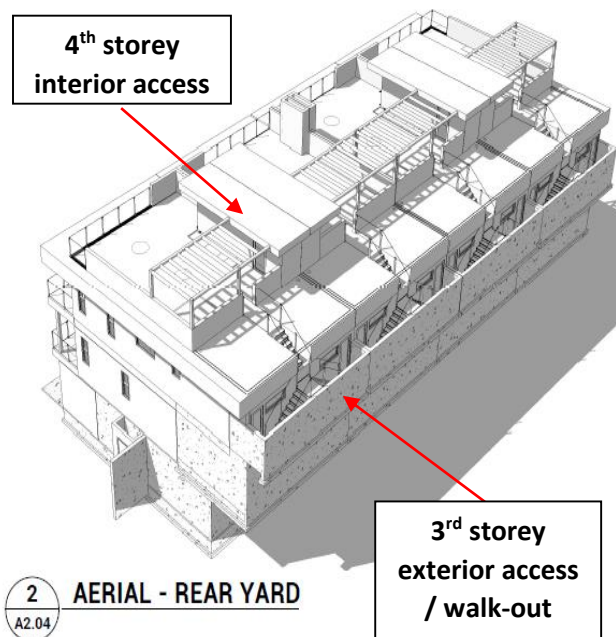


Figure 3: rooftop rendering of upper level building with internal and exterior stairs

The upper level units (19-35) are proposed to be built into the hillside with a walk-out at the third storey. The walk-out is accommodated by a retained exterior stairwell that leads up to a landing at an equal elevation to the private nature trail. The exterior stairs also provide access to the rooftop patio. Due to the natural grade of the site and applicant's desire to include a rooftop patio for the upper units, a variance to increase the maximum height of the upper units from 12.0 m to 13.23 m is being proposed. A variance to the maximum number of storeys from three (3) to four (4) is also being requested, as the internal rooftop access is considered a storey as per the City's Zoning Bylaw (*Attachment 2, Figure 3 and 4*).

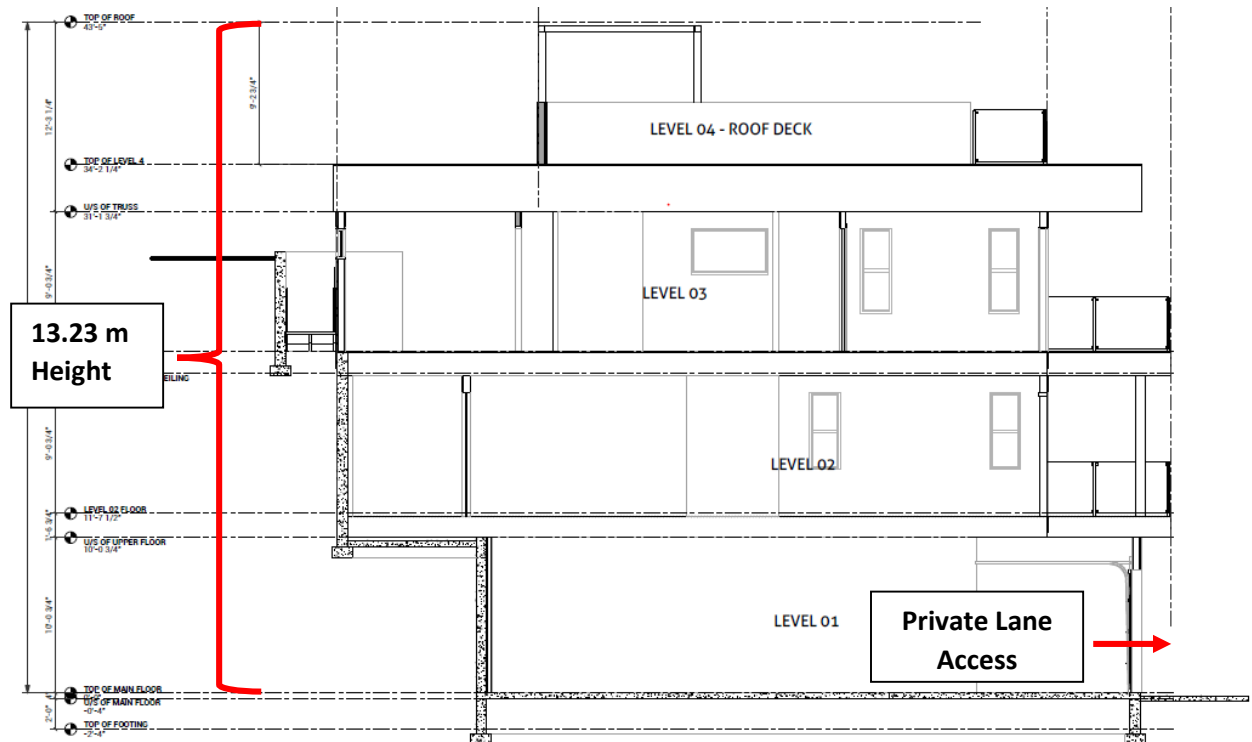


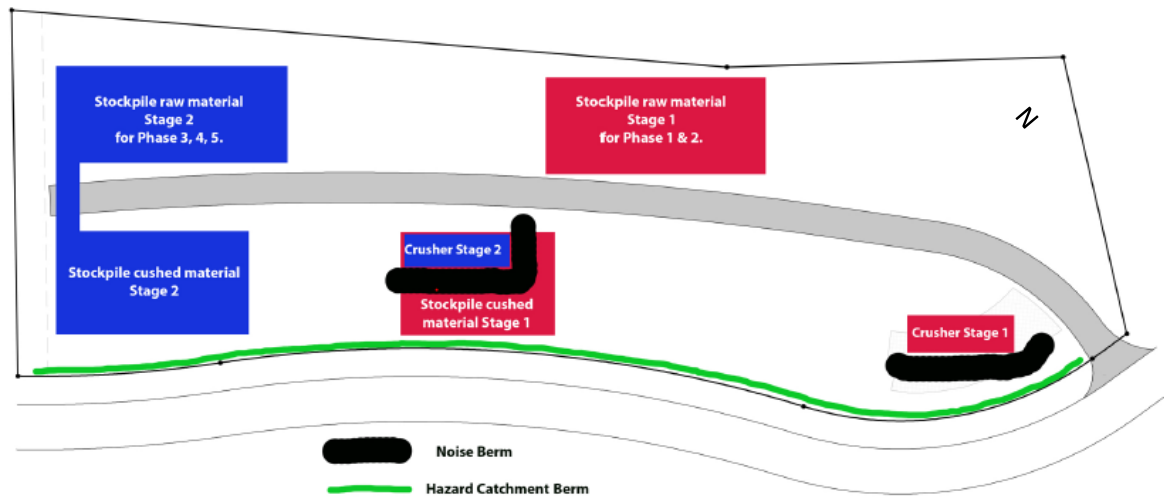
Figure 4: height variance elevation for upper units (19-35)

### Temporary Use Permit Proposal

This application is requesting a Temporary Use Permit to allow on-site processing/crushing of bedrock material excavated from the site to be re-used for structural fill, road gravel, trench backfill, and slope backfill to accommodate the townhome development. The temporary use is proposed to take place over two (2) 15-day phases, within a one (1) year period. Other elements of the proposed temporary use include:

- Equipment: Extec Jaw Crusher, wheel loaders (x2), excavator, water truck
- Hours of operation: Mon - Fri, 9:00 am - 5:00 pm
- Approximate volume of processed material: 15,000 m<sup>3</sup> (from a total of 35,000 m<sup>3</sup> of excavated material)
- Dust mitigation: water truck used during crushing activities
- Noise mitigation: crusher to be placed north of stockpile with berming to the east
- Site containment: hazard catchment berm located at the east property line

- Duration of activity: 2 phases, 15 days per phase (not including mobilization and de-mobilization), 4-5 months apart, 7,500 m<sup>3</sup> each phase



SITE PLAN SCALE 1:500 (1"=50'-0") LOT 38 - SUNDANCE DRIVE Temporary Use Permit - Crushing on Site Mapping, Stage 1 and Stage 2

Figure 5: TUP site plan

### Applicant Rationale – Proposed Temporary Use

The applicant has provided a Letter of Rationale (*Attachment 5*) which outlines the intent of the temporary use and the benefits it would have as opposed to processing the same volume of material off site. The letter states that processing material on site will reduce the number of truckloads required to transport material off site and the duration of overall earthwork activities. The applicant has stated that approximately 35,000 m<sup>3</sup> of material will be excavated from the site, with the potential to reduce this amount by 15,000 m<sup>3</sup> or 1,875 truckloads (round trips) with crushing, based on an 8 m<sup>3</sup> truckload. However, it is understood that the applicant will be using trucks and trailers with an 18 cubic meter capacity, which would be able to transport the same volume of material in less than half the stated truckloads.

### POLICY REVIEW

#### Official Community Plan Bylaw No. 0100

The subject property has a Land Use Designation of Low Density Multiple Family (LDMF), intended to accommodate semi-detached and attached townhouses. The purpose of the LDMF designation is to provide a broader range of housing opportunities in areas served by transit and in walking distance to community amenities, shops and services.

#### Development Permit Areas.

The proposed development is subject to three (3) of the City's DPAs: 1) Multiple Family and Intensive Residential, 2) Hillside, and 3) Sensitive Terrestrial Ecosystem.

1. Multiple Family and Intensive Residential DPA guidelines ensure that residential development is well designed, and appropriately integrated into the community

through use of good urban design principles. This includes strong design, amenity space contributions, and architectural focal points. The proposal is found to be in general accordance with these guidelines.

2. The Hillside DPA guidelines are applied to address steep slopes to ensure public safety and protection of environmentally sensitive areas. This includes addressing rock fall mitigation, location of roads and laneways, and setbacks to disturbance zones. As a result the applicant has submitted a geotechnical report that has identified site conditions, provided recommendations on site preparation and foundation design, site grading, blasting methods, rock slopes, drainage, pavement design and utility installation, and confirmed the development as proposed is safe for intended use. The recommendations of the geotechnical report and memo are included in the attached permit (*Attachment 9*). The proposal is found to be in general accordance with the DPA guidelines.
3. The Sensitive Terrestrial Ecosystem DPA guidelines are applied to all land as having environmental values. These guidelines ensure that development consider relevant provincial legislation, that site design is consistent with the environmental reporting, and to minimize disturbance to highly sensitive environmental areas. As part of this application, an environmental assessment was submitted identifying the subject area to contain Moderate (ESA 2) and Low (ESA 3) Environmentally Sensitive Areas. The majority of the proposal is stated to occur within the ESA 3 area with the ESA 2 area accounting for approximately 37% of the site. The development is anticipated to retain 16% of this higher value habitat, which is aligned with the objectives of the DPA guidelines. Furthermore, the recommendations of the Environmental Report, which consider tree clearing, restoration, trail construction, and control measures to be applied during construction activities have been carried forward as conditions of the attached permit (*Attachment 9*).

#### OCP - Form and Character Review

The proposed development contains a total of 35 townhouse units contained within 10 buildings: five (5) lower-level buildings (buildings 'A' to 'E', units 1-18) and five (5) upper-level building (buildings 'F' - 'J', units 19-35).

The lower level units (1-18) consists of one (1) 2-unit building and four (4) 4-unit buildings. They include garage access directly from Sundance Drive, intended to accommodate recreational vehicles, and access to a 1-car garage from the private lane – see *Figure 6*.

The upper-level units (19-35) consist of two (2) 4-unit buildings and three (3) 3-unit buildings. The upper-level units are accessed by the private lane and include 2-car garages located at grade, living space on the second and third storey, with a walk-out on the third storey to the nature trail and exterior access to a roof-top patio. There is also internal stair access to the roof top patio, resulting in a fourth storey. The rooftop patio is exclusive to the upper-level units (19-35) – see *Figure 3 and 7*.

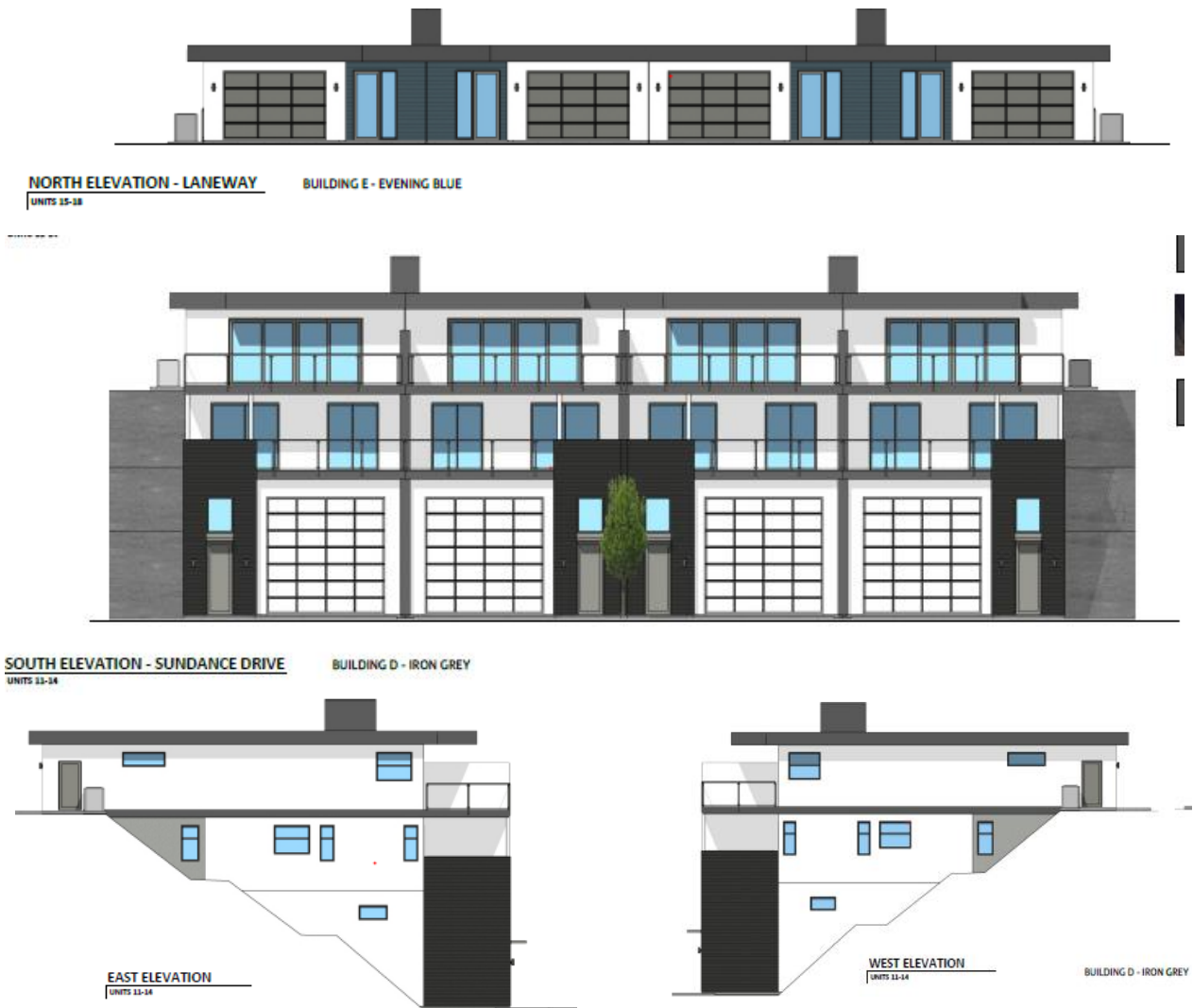


Figure 6: lower level, 4-unit building elevation

The 10 buildings are proposed to consist of white acrylic stucco, charcoal (vinyl) fascia trim, asphalt roofing, and hardi-plank lap siding. The proposal also include a unique colour scheme for each building, including colours such as Khaki Brown, Cobblestone, Evening Blue, Timber Bark and Evening Blue – see *Table 1*.

A landscape plan was also submitted with the application (*Attachment 3*), prepared by Stantec Consulting Inc.

Level	Units	Building	Style
Lower	1-2	A	Mountain Sage
Lower	3-6	B	Khaki Brown
Lower	7-10	C	Cobblestone
Lower	11-14	D	Iron Grey
Lower	15-18	E	Evening Blue
Upper	19-22	F	Navajo Beige
Upper	23-26	G	Monterey Taupe
Upper	27-29	H	Boothbay Blue
Upper	30-32	I	Deep Ocean
Upper	33-35	J	Timber Bark

Table 1: building colour scheme



It includes a variety of hardscapes (i.e. paving stone, broom finish concrete, gravel crush, and nature trail), trees, shrubs, courtyard plantings, and grass.

The majority of the landscaping is focused within the lower amenity area located at the private lane entrance and rear yards of the upper level units. At the Sundance Drive road frontage to the lower level units, adjacent to the driveways, are trees and shrubs and gravel crush surface. The proposal also includes a private trail at the southern property boundary and connectivity to the nature trail that runs parallel to the rear parcel boundary with access available to the trail from the third storey walk-out of the upper level units.



Figure 7: upper level 4-unit building elevation

Total landscape costs are estimated at \$249,955.00. This amount is proposed to be separated into five (5) phases and will be secured at 125% of the estimate at each phase. As per the phasing plan (*Figure 2, Attachment 1*), the majority of the landscaping will be

secured as a condition of initial permit issuance and as part Phase 1, with additional security provided with each subsequent phase at time of building permit.

#### Official Community Plan – Temporary Use Permits

The City's Official Community Plan provides the following policies to be considered for Temporary Use Permits:

- a. The use must be clearly temporary or seasonal in nature;
- b. The use should not create an unacceptable level of negative impact on surrounding permanent uses;
- c. An applicant must submit an outline detailing when and how the use in that location will be ended, the buildings to be used, the area of use, the hours of use, appearance, landscaping and buffering, and site rehabilitation. CWK may require security to ensure compliance;
- d. No temporary use permit for industrial uses will be considered for sites located within any of the Residential or Parks and Natural Areas Land Use Designations, nor will they be permitted in the Boucherie / Westbank Centre or Neighbourhood Centre Growth Management Designation.
- e. A temporary use permit may not exceed three years and may only be renewed as per the *Local Government Act*.

As evidenced above, the industrial nature of the proposed temporary use does not align with the policies of the Official Community Plan, as it is proposed within a residential land use designation; however, processing on site is anticipated to reduce traffic flows<sup>1</sup> by 40% and be completed in a total of 30 days.

The applicant will be required to obtain a development permit if the off-site deposit location is found to be subject to a development permit area (i.e. hillside, terrestrial, etc.) or if hillside development permit conditions are created (i.e. slopes over 20%).

#### Zoning Bylaw No. 0154

The subject property is zoned Medium Density Multiple Residential (R4). This zone accommodates townhouse development. There is a sufficient number of off-street spaces for the residential units with private garages provided with each unit. The development proposal also comprises sufficient visitor parking spaces; however, the application is requesting a reduction in the number of loading spaces from three (3) to (1) space. The potential negative impact regarding the proposed parking variance is anticipated to be negligible. A zoning analysis table is provided below (*Table 2*).

#### Zoning - Temporary Use

The proposed temporary use is best suited within the Gravel Extraction Zone (I4), which specifically permits "sand and gravel quarrying, extraction, crushing, sorting, or screening". While there is inevitable industrial type activities that occur on residential

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<sup>1</sup> Hauling route is proposed via Sundance Drive, Shannon Way, Shannon Lake Road, Old Okanagan Hwy, and Hwy 97, as per construction management plan (*Attachment 4*)

zoned land to grade a site in preparation of residential development, the processing of earth material on site requires a temporary use application.

Amenity Space Contribution

Multiple family development in the R4 zone requires a minimum amenity space contribution of 25 sq. m. per unit for units with more than 1 bedroom, as per S. 10.10.5(h).3. With 35 units, the total amenity space contribution required is 875 sq. m. The site plan shows amenity space at the lower level consisting of 371 sq. m., which is proposed to be landscaped and include tables, whereas the upper-level amenity area is to be primarily left natural but with the inclusion of nature trail; its total area encompasses 486 sq. m.

Zoning Regulations	Required (R4)	Proposed
Parcel Area	Min. 400 sq. m.	13,800 sq. m.
F.A.R.	Max. 1.0	0.54
Lot Coverage	Max. 50%	35.25%
Height	Max. 12 m / 3 storey	13.23 m
Front Parcel Setback	Min. 4.5 m	+ 4.5 m
Rear Parcel Setback	Min. 7.5 m	6.27 m
Interior Parcel Setback	Min. 4.5 m	+ 4.5 m
Amenity Space Contribution	Min. 875 sq. m.	945 sq. m.
Visitor Parking	7 spaces	7 spaces
Loading Spaces	3 spaces	1 space

Table 2: zoning analysis table

Additional area contained through the walking trail connections along the perimeter of the site bring the total amenity space to 945 m<sup>2</sup>.

TECHNICAL REVIEW

Statutory Right of Way Discharge Request:

The applicant will be required to discharge a Statutory Right of Way (Plan KAP90508, LB373929) located parallel to the rear parcel boundary. The Statutory Right of Way was initially registered for emergency access purposes; however, upon review, staff have determined there would be no issue caused by its discharge, required to accommodate site grading for the upper level buildings. The discharge of the Statutory Right of Way would be a condition of development permit issuance.

Servicing

A functional servicing report and civil drawings were provided with the application that concludes no off-site upgrades will be required, with the exception of the lane and driveway entrances and storm service size upgrade, due to the recent development of Sundance Drive. The applicant has been provided detailed advisory comments from the City’s Development Engineering Department as a result of the review of the application.

### Construction Management Plans

The applicant has provided a construction management plan (*Attachment 4*) for the proposed Development Permit (DP 20-09) and a work plan (*Attachment 6*) for the proposed Temporary Use Permit (TUP 20-03). These documents provide more detail on the activities, transportation route, staging area, site access, and the various control measures that will take place to mitigate dust and noise.

### REFERRAL COMMENTS

The development permit application was referred to various internal departments and external agencies. There were initial concerns with the rock wall height, which was later resolved through a redesign of the grading and upper level townhouse units, resulting in a third storey walk-out. Development Engineering and Fire Departments also made note of the turnaround being located greater than 90 m from the primary access road, which is requirement of the Works and Services Bylaw, however the turnaround was determined to be within a satisfactory location given its proximity to the terminus of the lane and primary access road.

The APC reviewed the TUP application on September 23, 2020 and provided their support for the application based on the following condition:

- That Council consider including a break between the two phases of crushing, as a condition of the permit.

### PUBLIC NOTIFICATION

A Notice of Application sign has been posted on site in accordance with the Development Applications Procedures Bylaw No. 0260. Additionally, a mail-out was sent to all property owners and their tenants within 100 meters of the subject property (59 letters total, *Attachment 8*) and an advertisement (TUP 20-03) was placed in the local newspaper, in accordance with the *Local Government Act*. At time of writing this report, no submissions have been received; however, two (2) letters of support were submitted with the application (*Attachment 7*).

### CONCLUSION

Staff recommend approval of the development permit and variances, as proposed, subject to the conditions of the attached permit (*Attachment 9*). The proposal is in general conformance with the DP guidelines and the associated variances are not anticipated to cause significant negative impacts to the future residents of the development or the adjacent property owners.

Regarding the TUP, it is understood that on-site crushing would reduce the number of truckloads to and from the site by approximately 40%, but would not eliminate them as the total volume proposed for excavation (35,000 m<sup>3</sup>) exceeds the crushing volume (15,000 m<sup>3</sup>) by 20,000 m<sup>3</sup>. Although crushing as a temporary use does not align with the guidelines of the Official Community Plan, the reduction in truckloads via crushing will be significant. Also, considering the inevitable noise and dust anticipated from general earthworks associated with the development, the additional noise and dust from crushing is expected to have less of an incremental impact than the reduction in truckloads through the neighborhood. Therefore, it is recommended that Council approve the proposed temporary use, subject to approval of the development permit proposal, and allow the phasing to take place without limitation or consideration of a mandatory break in between phases, such as suggested by the APC.

**Alternate Motion:**

**1. Postpone Consideration of Development Permit DP 20-09 and TUP 20-03**

**THAT** Council postpone consideration of Development Permit (DP 20-09) and Temporary Use Permit (TUP 20-03).

Council may wish to postpone the issuance of the Development Permit and/or the Temporary Use Permit and require the applicant to redesign components of the proposal in accordance with the City's Official Community Plan Development Permit Guidelines.

**2. Deny Consideration of Development Permit DP 20-09 and TUP 20-03**

**THAT** Council deny Development Permit (DP 20-09) and Temporary Use Permit (TUP 20-03)

Council may wish to deny the application and have the applicant redesign the proposal in accordance with the City's Official Community Plan Development Permit guidelines. If the proposal was revised, the Development Permit would require further consideration by Council.

**REVIEWED BY**

Brent Magnan, Planning Manager

Mark Koch, Director of Development Services

**APPROVED FOR THE AGENDA BY**

Paul Gipps, CAO

Powerpoint: Yes  No

Attachments:

1. Site plan, phasing plan (DP 20-09)
2. Architectural submission (elevations, material and colour schedule, renderings) (D 20-09)
3. Landscape submission (landscape plan, bonding letter) (20-09)
4. Construction Management Plan (DP 20-09)
5. Letter of Rationale (TUP 20-09)
6. Work Plan, Site Plan (TUP 20-03)
7. Letters of Support (DP 20-09, TUP 20-03)
8. Public Notification Map (DP 20-09, TUP 20-03)
9. Development Permit with Variances (DP 20-09)
10. Temporary Use Permit (TUP 20-03)