



COUNCIL REPORT

To: Paul Gipps, CAO

Date: May 11, 2021

From: Hailey Rilkoff, Planner II

File No: DVP 21-08

Subject: **DVP 21-08, Development Variance Permit, 1885 Diamond View Drive**

RECOMMENDATION

THAT Council authorize the issuance of a Development Variance Permit (DVP 21-08) for SL 59 DL 4662 ODYD Strata Plan KAS3123 Together with an Interest in the Common Property in Proportion to the Unit Entitlement of the Strata Lot as Shown on Form V (1885 Diamond View Drive) in general accordance with the attached permit to vary the following sections of Zoning Bylaw No. 0154:

- 10.4.5(g).1 to reduce the minimum private access easement setback from 4.5 m to 0.44 m and from 6.0 m to 2.64 m for a garage having vehicular entry from the front; and
- 10.4.5(g).4 to reduce the minimum exterior side parcel boundary setback from 4.5 m to 3.42 m; and

THAT Council deny variances to the following sections of Zoning Bylaw No. 0154:

- 10.4.5(f).1 to increase the height of a Single Detached Dwelling from 3 to 4 storeys; and
- 10.4.6(a) to increase the height of any single building wall from 3 storeys or 9 m to four storeys and 12.4 m for the proposed single detached dwelling.

STRATEGIC AREA(S) OF FOCUS

Economic Growth and Prosperity - Quality, innovative urban development. (Council's 2020-2022 Strategic Priorities).

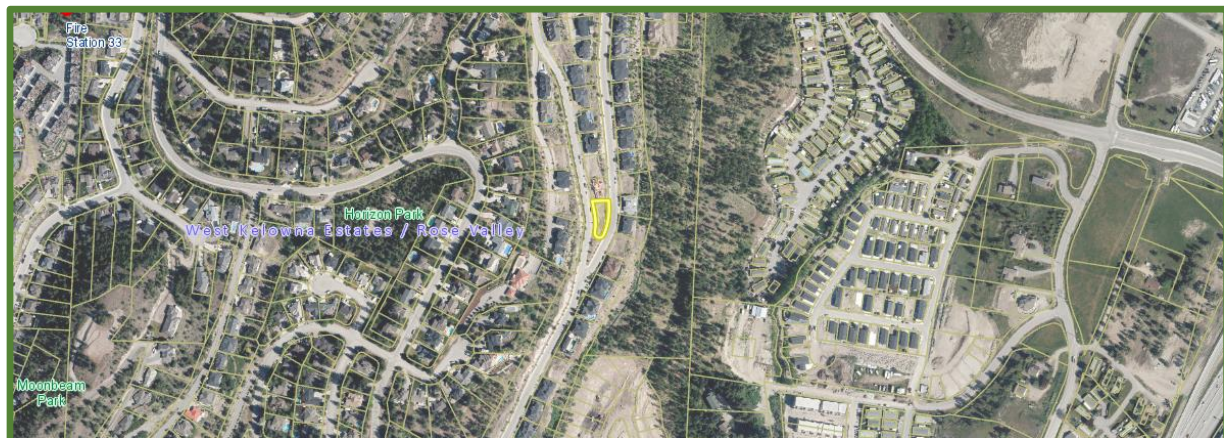
BACKGROUND

This application proposes variances to construct a four storey single detached dwelling on a vacant corner lot within Diamond View estates on Diamond View Drive and Scott Crescent. Of the four requested variances, two relate to the proposed building's height and two relate to setbacks from the roadways.

PROPERTY DETAILS			
Address	1885 Diamond View Drive		
PID	026-905-124		
Folio	36413406.559		
Lot Size	0.19 acres (777 m ²)		
Owner	Hardeep Kambo	Agent	Grant Trask
Current Zoning	R1 – Single Detached Residential	Proposed Zoning	-
Current OCP	SFR – Single Family Residential	Proposed OCP	-
Current Use	Vacant	Proposed Use	Residential
Development Permit Areas	Hillside		
Hazards	None		
Agricultural Land Reserve	No		

ADJACENT ZONING & LAND USES			
North	^	R1 - Single Detached Residential	
East	>	R1 - Single Detached Residential	
West	<	R1 - Single Detached Residential	
South	v	R1 - Single Detached Residential	

NEIGHBOURHOOD MAP



PROPERTY MAP



Background

The subject property is part of the Diamond View Estates strata, which was created through a subdivision that was registered in 2006 (SUB 03-5296). At the time of subdivision, a Development Permit (DP 06-30) was issued to address the Hillside and Sensitive Terrestrial Ecosystem Development Permit Area Guidelines for the bare land strata subdivision. Through the DP and Subdivision process, a no build/no disturb covenant was registered to protect and restore environmentally sensitive areas that were damaged during construction of the subdivision.

Proposal

The proposal is to vary Zoning Bylaw No. 0154 for the development of a single detached dwelling on the subject property (1885 Diamond View Drive). The proposal requests variances to increase the height of the dwelling as well as reduce the required setbacks from a private access easement and the exterior side parcel boundary. Specifically this application requests the following four variances:

1. Reduce the minimum private access easement setback from 4.5 m to 0.44 m and from 6.0 m to 2.64 m for a garage having vehicular entry from the front;
2. Reduce the minimum exterior side parcel boundary setback from 4.5 m to 3.42 m;
3. Increase the height of a Single Detached Dwelling from 3 to 4 storeys ; and
4. Increase the height of any single building wall from 3 storeys or 9 m to four storeys and 12.4 m for the proposed single detached dwelling.

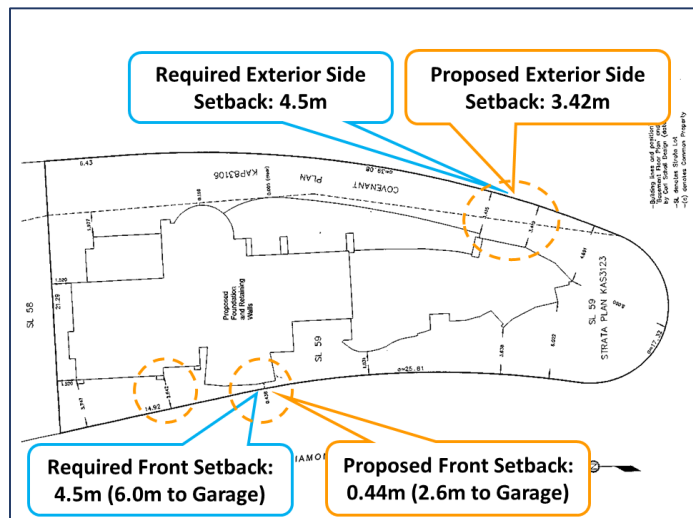


Figure 1 - Proposed Setback Variances

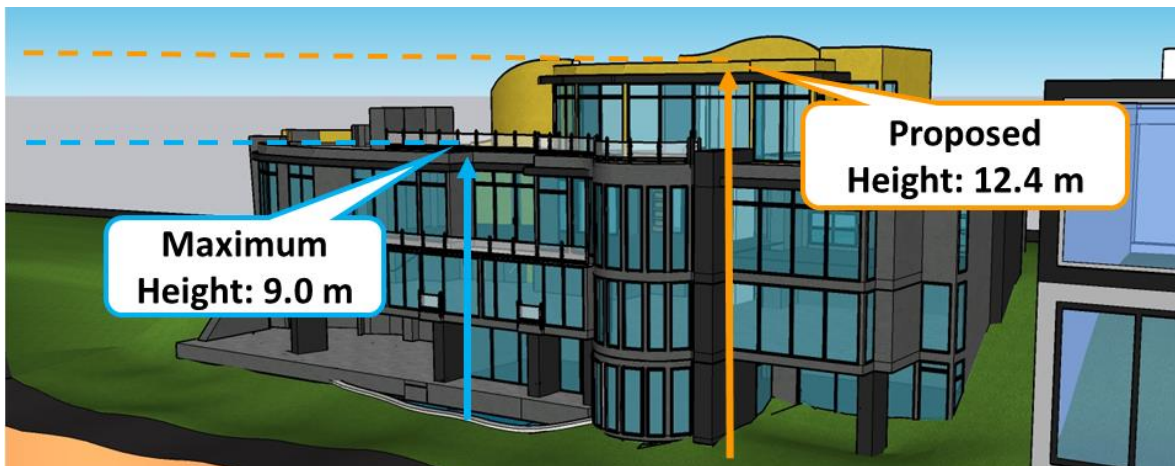


Figure 3 - Proposed 4 storey (12.4m) Single Detached Dwelling

Applicant Rationale

The applicant has provided a rationale summary for the proposed development (*Attachment 2*). The applicant feels the home will fit well in the Diamond View community and plans to install landscaping. The applicant outlines the restrictions to building area due to the lot depth and the no-build covenant along Scott Crescent.

The applicant has submitted letters of support for their proposal from 22 properties in the Diamond View Estates subdivision (*Figure 3*). The letters of support state that the residents of the properties have reviewed the proposed construction plans and that they support both the height of the house and the placement on the lot.

Policy and Bylaw Review

Official Community Plan Bylaw No. 100

The OCP's Residential objectives seek to ensure that housing development is appropriate and sensitive to the surrounding form and character of the area¹.

General guidelines for development in West Kelowna encourage visually integrating buildings into the natural hillside setting, and reducing the perceived massing of structures through various design considerations². These considerations include terracing of multi-story buildings down slopes, avoiding monolithic structures, and limiting building height to minimize visual impacts. The guidelines specifically address developments on steeper sites which encourages modulated and stepping buildings with the slope as much as possible³.



**Figure 2 - Yellow: Subject Property;
Blue: Letters of Support**

¹ OCP Section 3.3.1 Objective 2

² OC Section 4.3.1 General Guidelines 22.h and 22.j

³ OCP 4.3.1 General Guidelines 22.l

Zoning Bylaw No. 0154

Section 10.4.5(g) of the Zoning Bylaw regulates the required siting of buildings and structures from parcel boundaries for the R1 – Single Detached Residential Zone.

The proposed development of the single detached dwelling meets the maximum parcel coverage and the interior side yard setbacks. However, four variances have been identified in terms of overall building height, single building wall face height, private access easement setbacks and exterior side setback. The variances are outlined in Table 1 below.

Table 1 - Zoning Regulation Review

Height Regulations	R1 Zone Requirement	Proposed
Single Detached Dwelling	9.0 m or 3 storeys	4 storeys
Single Building Wall Face	3 storeys or 9 m	4 storeys and 12.4 m
Siting Regulations	R1 Zone Requirement	Proposed
Front	4.5 m (6.0 m to garage)	0.44m (2.64 m to garage)
Exterior Side	4.5 m (6.0 m to garage)	3.42 m
Interior Side	1.5 m	1.5 m

Most of the City's Residential Zones restrict residences in the form of single detached dwellings, townhouses and apartments to three storeys. Four storey residential development is only permitted within with City's R5 – Westbank Centre Multiple Residential Zone or for residential developments within the City's Commercial Zones.

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.

Public Notification

In accordance with the *Local Government Act*, 33 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. 0260. At the time of writing this report three (3) formal submissions have been received which outline concerns in regards to the height variances and the potential impacts of the development on their properties. The applicant has provided 22 letters of support as part of the application materials.

DISCUSSION

Setback Variances

At the time of subdivision, the property was zoned R1 under Zoning Bylaw 871, which did not require a 6.0 m setback for garages and did not require setbacks from private access easements. There was a “sunset clause” included in Zoning Bylaw No. 0154 for approved subdivisions prior to March 2014, if a Building Permit was issued by March 2019. While this proposal would have still required minimal setback variances if proposed earlier, they would not have been as significant. Many other properties along Diamond View Drive have benefitted from setbacks that are less than the required 6.0 m from a garage to the private access easement as Building Permits were issued before March of 2019.

The proposed variances to reduce the required setbacks from the private access easement at the front of the proposed single detached dwelling are not anticipated to result in significant negative impacts. Diamond View Drive is a Strata Road, therefore any future road improvements would be completed by the Strata that this property is within.

While the distance from the garage to the property line is reduced to 2.64 m, there is an additional distance of approximately 3.4 m between the back of curb on Diamond View Drive and the property boundary (*Figure 4*). The private access easement restricts the parking of vehicles within the easement area and the proposed three car garage provides the required on-site parking for the dwelling.

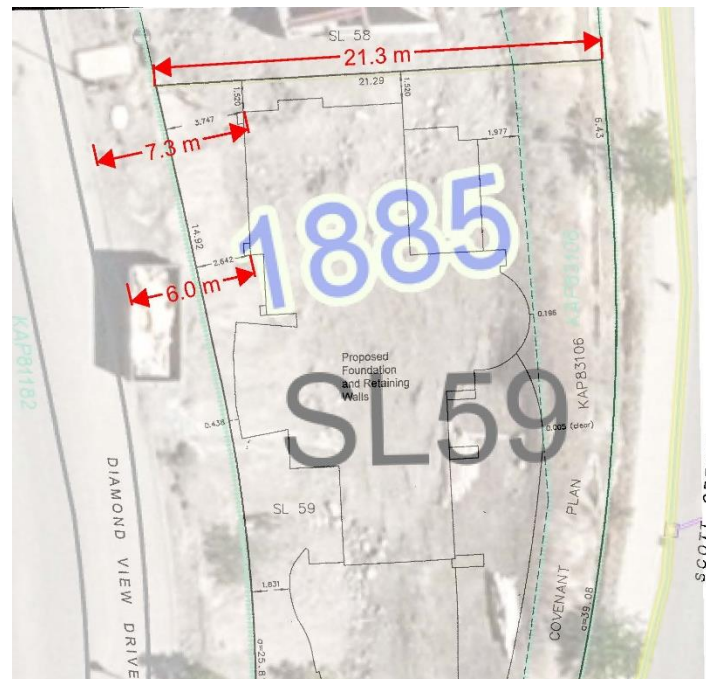


Figure 4 – Approximately 6.0 m from curb to building

The proposed site plan (Attachment 1, Schedule A) shows the proposed swimming pool retaining wall to be located within .005 m of the ecological no-build/no-disturb Covenant Area (LB014595). No disturbance is permitted within the covenant area in order to construct the proposed dwelling and pool under the terms of the covenant.

Height Variances

The proposed height variances are significant and have the potential to create negative impacts on surrounding property owners. Four storey structures are not permitted within the City's residential zones outside of Westbank Centre. Single detached, townhouse and apartment developments within neighbourhood areas are restricted to three storeys throughout the City.

The proposed dwelling's increased height will be further exaggerated by the steep bank below the dwelling and above Scott Crescent (*Figures 5 and 6*). The bank above Scott Crescent ranges in height from approximately 5 m to 8 m long the property's frontage.

As the proposed development is proposed with no significant setback from the top of the bank due to the narrow lot width, this will further amplify the buildings height from Scott Crescent below, resulting in potential impacts to adjacent residents. The approximate height between the Scott Crescent and the top of the proposed building before it steps back would be between 14 m and 17 m (*Figure 6*).

A number of the City's guidelines for hillside development are not met by this proposal including moderating the building mass on steeper sites and stepping of the building with the natural slope. Building height and mass have not been limited to minimize visual impacts, and the building could be designed to both meet the Zoning Bylaw's height regulations and the OCP's guidelines for development on hillsides.



Figure 5 - Existing Bank between Scott Crescent and proposed development

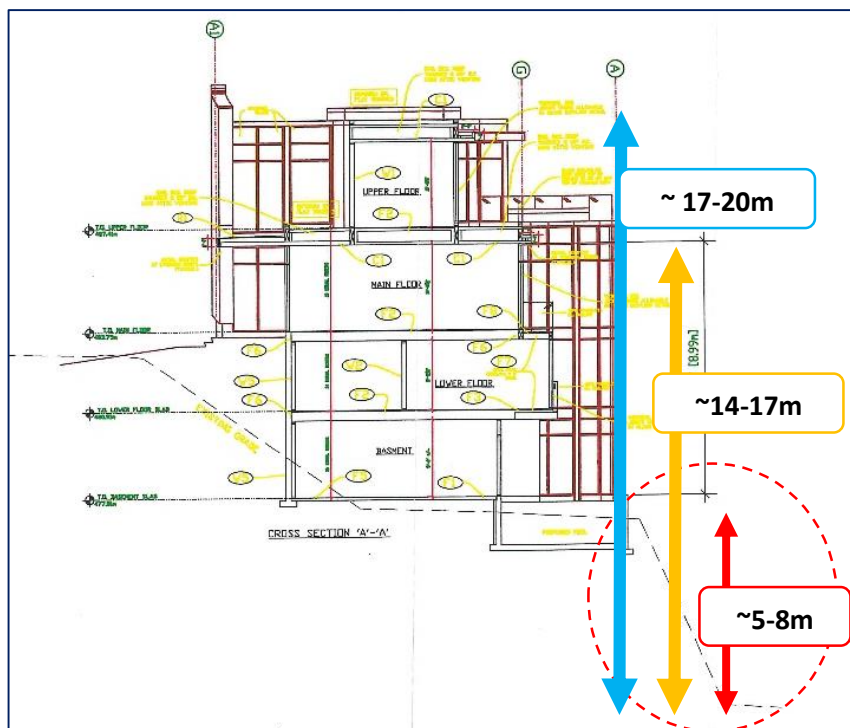


Figure 6 - Existing Bank between Scott Crescent and Proposed Development

Additional Considerations

The applicant provided a number of letters in support of the proposal from property owners on both Diamond View Drive and Scott Crescent. However, none of the properties directly below the proposed development which would be the most impacted by the proposed height variances have provided letters of support (see *Figure 3*).

CONCLUSION

It is not recommended that Council approve all of the applicants requested variances. In general, the proposed setback variances are supported based on the context of the lot and Zoning Bylaw history. The development will provide three parking spaces within the three car garage which mitigates the reduced driveway length between the building and property line to accommodate additional vehicles. In addition, the distance proposed from the building to the back of curb would be approximately 6 m.

However, the height variance requests have the potential to create negative impacts to adjacent properties and it is not recommended that Council approve the requested height variances. The proposed building does not substantially meet the City's Guidelines for Hillside development and could be redesigned to integrate more sensitively into the neighbourhood. The applicant will be required to redesign the dwelling to meet the City's height regulations within the Zoning Bylaw.

Alternate Motions:

Alternate Motion 1 – Deny the Application

THAT Council deny the issuance of a Development Variance Permit (DVP 21-08) for SL 59 DL 4662 ODYD Strata Plan KAS3123 Together with an Interest in the Common Property in Proportion to the Unit Entitlement of the Strata Lot as Shown on Form V (1885 Diamond View Drive).

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.

Alternate Motion 2 – Approve all Requested Variances

THAT Council authorize the issuance of a Development Variance Permit (DVP 21-08) for SL 59 DL 4662 ODYD Strata Plan KAS3123 Together with an Interest in the Common Property in Proportion to the Unit Entitlement of the Strata Lot as Shown on Form V (1885 Diamond View Drive) in general accordance with the attached permit to vary the following sections of Zoning Bylaw No. 0154:

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- 10.4.5(g).4 to reduce the minimum exterior side parcel boundary setback from 4.5 m to 3.42 m; and
- 10.4.6(a) to increase the height of any single building wall from 3 storeys or 9 m to four storeys and 12.4 m for the proposed single detached dwelling.

Should Council approve all of the requested variances, the Development Variance Permit will be updated to reflect Council's approval and the permit will be issued.

REVIEWED BY

Brent Magnan, Planning Manager

Mark Koch, Director of Development Services

Shelley Schnitzler, Legislative Services Manager/Corporate Officer

APPROVED FOR THE AGENDA BY

Paul Gipps, CAO

Powerpoint: Yes ☒ No ☐

Attachments:

1. Draft DVP 21-08
 - A. Site Plan, prepared by Runnals Denby BC Land Surveyors, dated April 30, 2020
2. Applicant's Proposal Summary
3. Building Elevations
4. Development Renderings
5. GIS Notification Map
6. Submissions Received up to May 6, 2021