

REPORT TO COUNCIL



Date: July 12, 2016

RIM No. 0940-50

To: City Manager

From: Community Planning Department (TY)

Application: DVP16-0049

Owner: Arthur & Una Mak

Address: 1800 Gallagher Road

Applicant: Una Mak

Subject: Development Variance Permit

Existing OCP Designation: PARK - Major Park / Open Space (Public)
REP - Resource Protection Area

Existing Zone: RR2 - Rural Residential 2

1.0 Recommendation

THAT Council authorizes the issuance of Development Variance Permit No. DVP16-0049 for Lot B Section 18 Township 27 ODYD Plan KAP46685, located at 1800 Gallagher Road, Kelowna, BC;

AND THAT a variance to the following section of Zoning Bylaw No. 8000 be granted, as shown on Schedule "A":

Section 12.2.6(b) RR2 - Rural Residential 2, Development Regulations

To vary the maximum allowable height of an accessory structure from 4.5 m permitted to 6.0 m proposed.

AND THAT Council's consideration of this Development Variance Permit be considered subsequent to compliance with Subdivision, Development and Servicing Bylaw No. 7900, Section 4.6 with respect to "the restriction of one (1) driveway access per road frontage" on the subject property;

AND THAT the applicant be required to complete the above noted condition of Council's approval of this Development Variance Permit Application in order for the permits to be issued;

AND THAT Council's consideration of this Development Variance Permit be considered subsequent to the issuance of a demolition permit with a bond amount of \$12,000 for the removal of the unpermitted storage structures on the subject parcel;

AND THAT the applicant will have 30 days from partial occupancy of the proposed structure to fulfil the demolition permit;

AND FURTHER THAT this Development Variance Permit is valid for two (2) years from the date of Council approval, with no opportunity to extend.

2.0 Purpose

To vary the maximum allowable height of an accessory structure on the subject property.

3.0 Community Planning

Community Planning supports the proposed variance to the height of an accessory structure on the subject parcel. The subject property is a rural residential parcel (RR2) with one single family dwelling. Three driveways and a number of un-permitted storage structures also exist on the property. The applicant is proposing to construct an accessory building which requires one variance to the maximum allowable height. As part of an approved Development Variance Permit allowing the accessory building, the non-compliant uses on the subject parcel will be required to comply with current City of Kelowna Bylaws.

4.0 Proposal

4.1 Background

The subject parcel currently has three vehicular driveways accessing Gallagher Road. Subdivision, Development and Servicing Bylaw No. 7900 limits a property to one driveway per road frontage. As such, this DVP will require the applicant to remove two of the driveways accessing Gallagher Road.

The second non-conforming use on the property are the six storage structures erected within the past ten years. These structures are not permitted within the City of Kelowna. The applicant will be moving all materials currently contained in these structures into the proposed accessory structure. As part of this DVP the applicant will be required to remove the storage structures within 30 days of receiving partial occupancy for the proposed accessory building. A Demolition Permit and bond in the amount of \$12,000 (\$2,000 per structure) is required to ensure the removal of the non-permitted structures. Upon fulfilment of the demolition permit, funds will be returned to the applicant.

4.2 Project Description

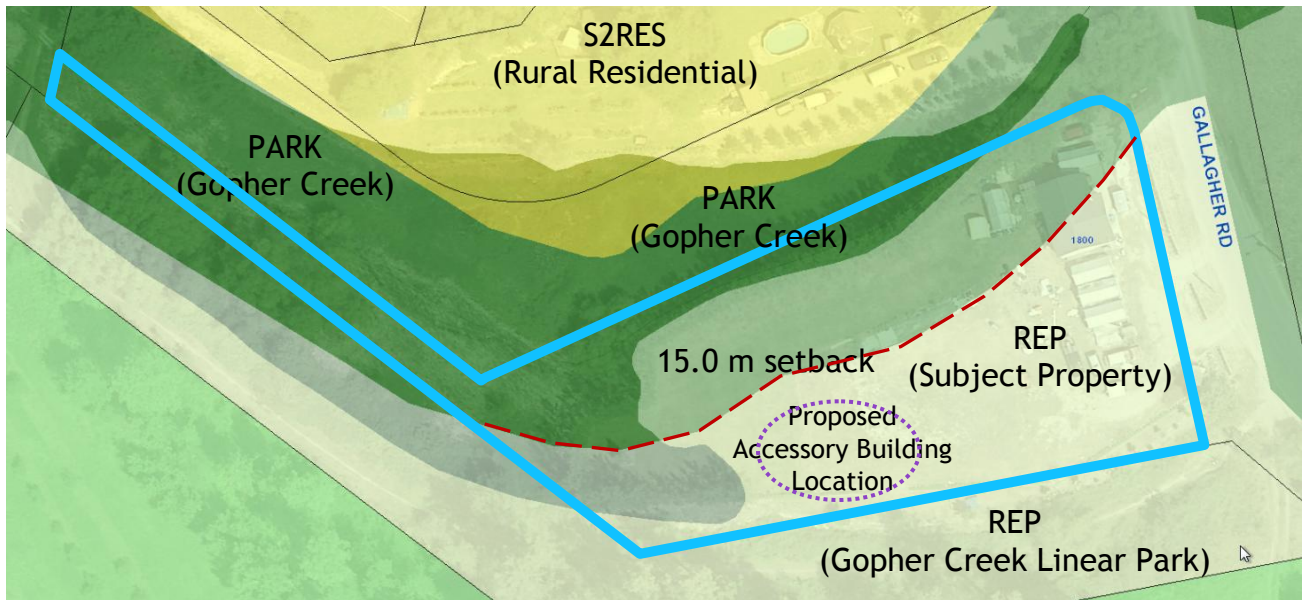
The applicant is proposing an accessory structure, 200 m² in size. The structure is designed with three garage doors, two garage doors accommodate regular size vehicles with the third door oversized, accommodating large vehicles such as semi-trailer trucks. The requested variance will allow the portion of the building with the oversized garage doors (approximately half of the structure), to be a total of 6.0 m in height, the remainder of the building meets the required height maximum of 4.5 m.

The structure is proposed with stucco exterior, and minimal windows. No water or sewer is proposed within the accessory building.

The subject parcel is adjacent to Gopher Creek, Gopher Creek linear park and Black Mountain Park. Approximately half of the parcel is within the riparian area setback of Gopher Creek as shown in Map 1. The location of the building is proposed on the southern side of the property, outside of this setback area.

The applicant will not be using the accessory structure for commercial purposes. Should this accessory building be used for a rural home based business which is permitted in Zoning Bylaw No. 8000, a number of restrictions are applied to the business including a maximum floor area use of 100 m² as well as prohibition of outdoor storage of home based business materials or equipment.

Map 1 Future Land Use: 1800 Gallagher Road



Map 2 Existing Conditions: 1800 Gallagher Road



4.3 Neighbourhood Consultation

The applicant completed neighbourhood consultation as per Council Policy No. 367, Public Notification & Consultation for Development Applications. Staff have not received any correspondence to date with regards to this application.

4.4 Site Context

The subject parcel is located on the west side of Gallagher Road, south of Joe Riche Road. The parcel is located adjacent to Black Mountain Park, Gopher Creek Linear Park and Gopher Creek. Future land use is Resource Protection Area and Park, and is zoned RR2 - Rural Residential 2. This property also straddles the Permanent Growth Boundary.

Specifically, adjacent land uses are as follows:

Orientation	Zoning	Future Land Use	Land Use
North	RR2	S2RES PARK	Rural Residential Gopher Creek
East	P3	PARK	Black Mountain Park
South	A1	REP	Gopher Creek Linear Park
West	A1	PARK REP	Gopher Creek Agricultural land

Map 3 Neighbourhood Context: 1800 Gallagher Road



4.5 Zoning Analysis Table

Zoning Analysis Table		
CRITERIA	RR2 ZONE REQUIREMENTS	PROPOSAL
Existing Lot/Subdivision Regulations		
Lot Area	4,000 m ²	5,164 m ²
Lot Width	36.0 m	55.5 m
Lot Depth	30.0 m	103.0 m
Development Regulations		
Site Coverage	20%	6 %
Site Coverage of accessory buildings	14%	4 %
Height (principal dwelling)	9.5 m	5.0 m
Height for accessory buildings	4.5 m	6.0 m ❶
Front Yard	6.0 m	+ 10.0 m
Side Yard (north)	3.0 m	+ 10.0 m
Side Yard (south)	3.0 m	3.0 m
Rear Yard	9.0 m	+ 10.0 m
❶ Indicates a requested variance to accessory building height.		

5.0 Current Development Policies

5.1 Kelowna Official Community Plan (OCP)

Although within a Natural Environment Development Permit Area, the proposed application meets the following exemptions:

Natural Environment¹ A Natural Environment Development Permit will not be required when: c) the proposed development will have no significant negative impacts to the environmentally sensitive areas identified on the property and/or the environmentally sensitive area is permanently protected.

Riparian Management Areas.² Require that all development meets or beats the requirements of the provincial Fish Protection Act (Riparian Areas Regulation). Projects must comply with Riparian Management Area Setbacks in Table 12.1 subject to section 12.3.

- Table 12.1 identifies the setback from Gopher Creek to be 15.0 m.
- The proposed accessory structure is proposed outside of this area (approx. 16.0 m from current Top of Bank).

6.0 Technical Comments

6.1 Building & Permitting Department

- A Structural Engineer will be required for the building permit at time of BP application.
- A Geotechnical report may be required to address the sub soil conditions and site drainage at time of BP application.
- Full Plan check for Building Code related issues will be done at time of BP applications. Please note that the plan check will review how Radon mitigation are being applied to this structure.
- The existing storage structures on the subject parcel are not permitted in Kelowna. The City of Kelowna does not permit these structures as the structural ability for wind and

¹ City of Kelowna Official Community Plan, Development Permit Exemptions (Natural Environment DP Chapter).

² City of Kelowna Official Community Plan, Policy 12.1 (Natural Environment DP Chapter).

snow is not proven to be sufficient. These will need to be removed as per BCBC and City of Kelowna Bylaws.

6.2 Development Engineering Department

- The existing three driveways on the subject property are in contravention of City Bylaw.
- Should the driveway access to Gallaher Road be reduced to one single driveway, maximum 6.0 m in width, Development Engineering notes the proposed variance does not effect the property.

7.0 Application Chronology

Date of Application Received:	March 7, 2016
Date of Site Visit:	April 20, 2016
Date Public Consultation Completed:	May 17, 2016

Report prepared by: Tracey Yuzik, Planner

Reviewed by: Todd Cashin, Subdivision, Suburban and Rural Planning Manager

Reviewed by: Ryan Smith, Community Planning Department Manager

Approved for Inclusion: Doug Gilchrist, Divisional Director, Community Planning & Real Estate

Attachments:

Draft Development Permit Variance DVP16-0049
Schedule "A" - Accessory Structure Site Plan & Architectural Plan
Development Engineering Memo