

# REPORT TO COUNCIL



**Date:** June 13, 2017

**RIM No.** 0940-00

**To:** City Manager

**From:** Community Planning Department (EW)

**Application:** DVP17-0044 DP17-043

**Owner:** Ca'Solare Developments Inc.,  
Inc.No. BCo882697

**Address:** 4760 Lakeshore Rd

**Applicant:** New Town Services Inc.

**Subject:** Development Variance Permit and Development Permit Application

Existing OCP Designation: MRL – Multiple Unit Residential (Medium Density)

Existing Zone: RM3 – Low Density Multiple Housing

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## 1.0 Recommendation

THAT Council NOT authorize the issuance of Development Variance Permit No. DVP17-0044 for Lot 1 Section 25 Township 28 SDYD Plan KAP86852, located at 4760 Lakeshore Rd, Kelowna, BC;

AND THAT Council NOT authorize the issuance of Development Permit No. DP17-0043, for Lot 1 Section 25 Township 28 SDYD Plan KAP86862, located at 4760 Lakeshore Rd, Kelowna, BC.

## 2.0 Purpose

To consider a Staff recommendation to NOT issue a Multiple Unit Residential Development Permit for the form and character of a proposed multi-family building, to NOT issue a Development Variance Permit to vary the number of storeys from 3 to 4 storeys, to NOT vary the height from a 10 m to 17.2 m, and to NOT vary the maximum height of retaining walls permitted in residential lots from 1.2m to 3.0m.

## 3.0 Community Planning

The subject property is zoned RM3 – Low Density Multiple Housing which permits a maximum of 3 storeys and an absolute height maximum of 10.0 metres. The applicant has chosen to proceed with an apartment building design based on a square footage that requires a variance in height to 4 storeys. The building is 4 storeys on the western elevation which is on the downward side of the sloping property. While the building complies with the maximum number of stories along the eastern elevation facing Lakeshore Road, its elevation remains over height at 11.62 metres. The applicant has stated in their rationale that topographic constraints warrant the proposed height variance as well as their desire for generous 12-foot floor-to-ceiling heights for each storey. However, Staff disagree with this rationale and suggest to Council that this location does not warrant granting additional height and that the slope of the property does not prevent a 3 storey building from being constructed in accordance with the Zoning Bylaw.

The subject property is located on a visually prominent corner in an urban/agricultural interface area with no other multi-family residential buildings in the vicinity. It is unlikely that any other future urban development will occur in the area as the surrounding properties are located in the Agricultural Land Reserve (ALR). The proposal to increase the height of the apartment building is out of context for the rural neighbourhood and detracts from good planning principles to provide sensitive transitions from urban to agricultural areas. Taking into consideration the proposed building mass, lack of hardship, and rural context, Staff do not support the development variance permit application and associated development permit.

Staff would support a 3-storey multi-family building to a maximum height of 10.0 metres that more sensitively integrates into the surrounding context.

An Alternate Recommendation for support has been included in Section 7.0 for Council's consideration.

#### **4.0 Proposal**

##### **4.1 Background**

An Official Community Plan (OCP) amendment and rezoning for the subject property was approved by Council in 2006. The OCP amendment changed the future land use designation from agricultural to low density multiple housing and the zoning amendment changed the zone from A1 – Agriculture 1 to RM3 – Low Density Multiple Housing. As a requirement of the rezoning, a restrictive covenant notifying that the property is adjacent to active agricultural properties and is subject to farming practices was registered on title. At that time a 26-unit condominium building was supported for the property but the Development Permit has since lapsed.

##### **4.2 Project Description**

The applicant is proposing a 4-storey apartment building with one-storey of underground parking. 33-units are proposed with bedroom configurations ranging from one-bedroom + den to three-bedrooms + den. However, the applicant has indicated that the final number of units may increase to 42 under the same building form and character as 14 surplus parking spaces as provided. Most of the units are situated to face north-west to capitalize on the lakefront view and have large outdoor living spaces. Vehicular access will be provided at the southern portion of Lakeshore Road with a single access point for the partially underground parade. Bicycle parking will be accommodated within the underground parade.

The proposed building aims to blend in with the unique configuration and topography of the site and includes a 15-metre setback from the neighbouring agricultural land to the north. The modern design utilizes a mixture of materials include cement board, metal flashing, and imitated wood slats. The applicant's design and variance rationale are found in Attachment "B".

##### **4.2.1 Proposed Variances**

The applicant is requesting two variances: one to the height of the proposed apartment building and a second for over-height retaining walls.

##### *Height Variance*

The requested height variance is to increase the height of the building from 3 storeys to 4 storeys and from 10.0 m to 17.2m.

### *Retaining Walls*

Two over height retaining walls are proposed to facilitate the development. The maximum height for retaining walls in residential zones is 1.2m. A 2.7m retaining wall is proposed to along the southwestern portion of the property to allow vehicular access to the underground parkade. The second 3.0m retaining wall located along Lakeshore Rd is to allow the ground level units a patio/landscaped area.

#### 4.2.2 Agricultural Interface Area

The 15-metre proposed buffer is generally consistent with the Agricultural Land Commission Landscape Buffer Specifications (Attachment "C"). Along the 242 m length of the property, the proposed 15-metre buffer consists of a row of coniferous trees and a row of deciduous trees.

The southwest corner of the buffer does not contain trees and is interrupted by the paved access to the underground parking structure, garbage and recycling, and utility line running along the northern portion of the property. The paved access and turning radius are requirements of the City.

The proposal does not include any further building setback from the 15-metre buffer, which is a recommendation from the Ministry of Agriculture's Guide to Edge Planning. For residential developments, the appropriate setback should be 30.0 metres.

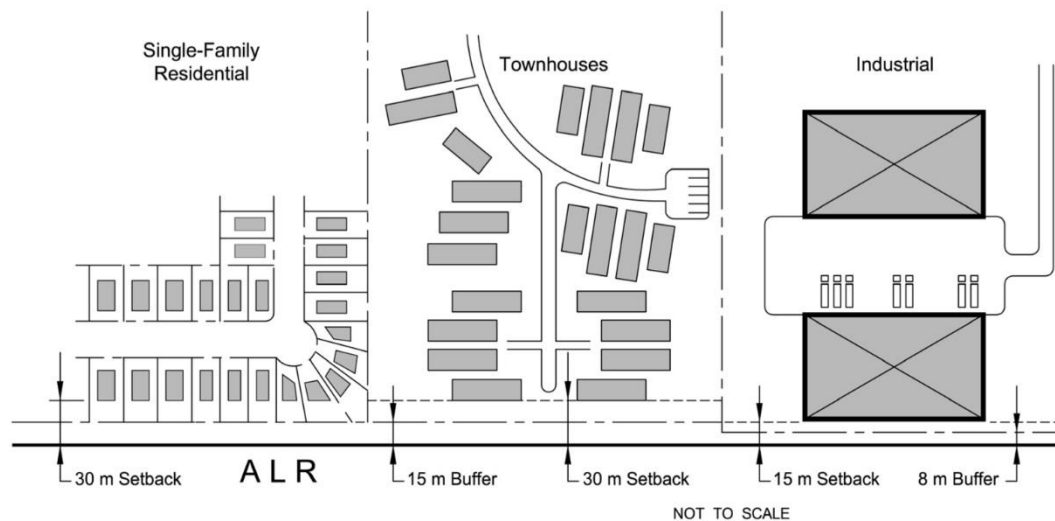


Figure 1 – Setbacks of buildings from ALR edge

#### 4.3 Site Context

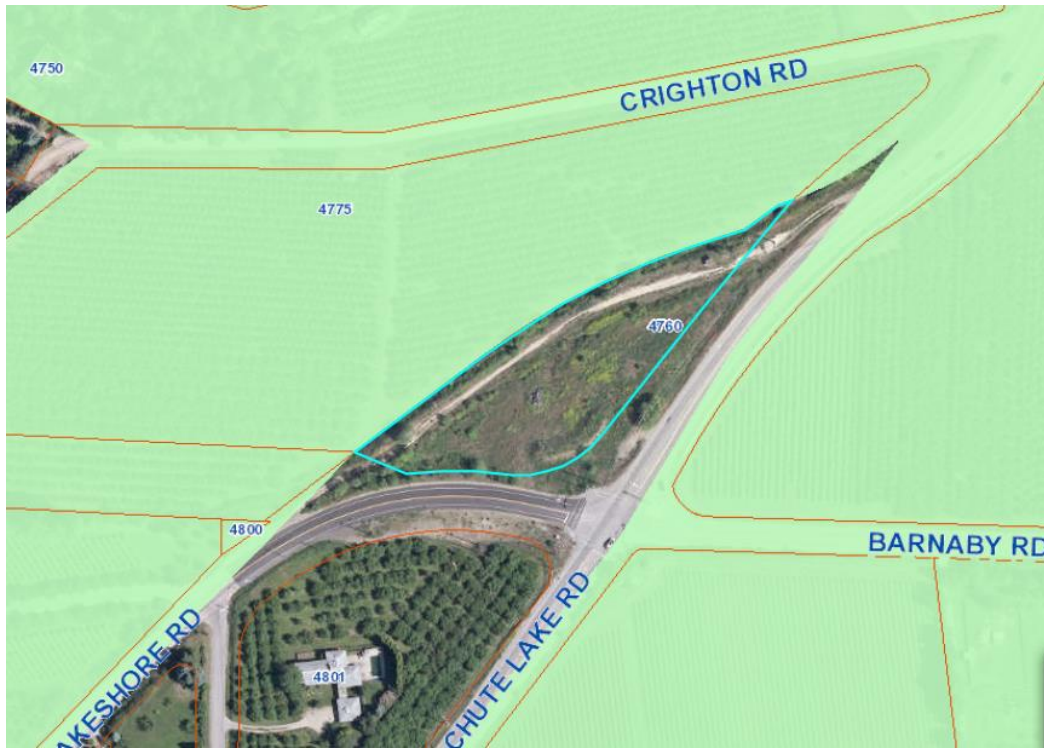
The 0.69 ha (1.71 acre) property lies within the North Okanagan Mission city sector outside the Permanent Growth Boundary at the northeast corner of Lakeshore Rd and Lakeshore Rd, west of Barnaby Rd.

The surrounding neighbourhood is predominately agricultural with neighbouring properties on three sides within the ALR. Specifically, adjacent land uses are as follows:

Orientation	Zoning	Land Use
North	A1 – Agriculture 1	Agriculture
East	A1 – Agriculture 1	Agriculture
South	A1 – Agriculture 1 RR2 – Rural Residential 2	Agriculture Residential/Agriculture
West	A1 – Agriculture 1	Agriculture

Subject Property Map: 4760 Lakeshore Rd



**ALR Interface Map:****4.4 Zoning Analysis Table**

Zoning Analysis Table		
CRITERIA	RM <sub>3</sub> ZONE REQUIREMENTS	PROPOSAL
Development Regulations		
Floor Area Ratio	0.75 0.8 (parking bonus)	0.8
Height	3 storeys/ 10 m	4 storeys/ 17.2m ●
Site Coverage (buildings)	40% 50% (private open space bonus)	43%
Site Coverage (buildings, driveways, and parking areas)	60%	53%
Front Yard	4.5 m	4.5 m
Rear Yard	7.5 m	15.0 m
Other Regulations		
Minimum Parking Requirements	55 spaces	69 spaces
Bicycle Parking	Class I: 17 Class II: 4	Class I: 55 Class II: 5
Private Open Space	882.5 m <sup>2</sup>	1752 m <sup>2</sup>
● Indicates a requested variance to height from 3 storeys to 4 storeys and 10m to 17.2m.		

## Current Development Policies

### 4.5 Kelowna Official Community Plan (OCP)

#### **Agricultural Land Use Policies**

Housing in Agricultural Areas.<sup>1</sup> Discourage residential development (both expansions and new developments) in areas isolated within agricultural environments (both ALR and non-ALR).

#### **Farm Protection Development Permit Areas<sup>2</sup>**

- On properties located adjacent to agricultural lands, design buildings to reduce impact from activities associated with farm operations. Design considerations include, but are not limited to maximizing the setback between agricultural land and buildings and structures, and reducing the number of doors, windows, and outdoor patios facing agricultural land;
- On agricultural and non-agricultural lands, establish and maintain a landscape buffer along the agricultural and/or property boundary, except where development is for a permitted farm use that will not encourage public attendance and does not concern additional residences (including secondary suites), in accordance with the following criteria:
  - Consistent with guidelines provided by Ministry of Agriculture “Guide to Edge Planning” and the ALC report “Landscape Buffer Specifications” or its replacement;
  - Incorporate landscaping that reinforces the character of agricultural lands. A majority of plant material selected should include low maintenance, indigenous vegetation;
  - 1.3.3 Preserve all healthy existing mature trees located within the buffer area;
  - Integrate double rows of trees, including coniferous trees, and dense vegetation into the buffer;
  - Install and maintain a continuous fence along the edge of agricultural land. A permeable fence which allows for the movement of wildlife (i.e. split rail) in combination with dense and continuous evergreen hedge is preferred. Impermeable fencing will not be permitted;
  - Utilize where appropriate, roads, topographic features, watercourses, ditching, no-build areas, vegetated and fenced barriers as buffers to preserve larger farm units and areas from the gradual encroachment of non-agricultural uses. Where appropriate use statutory covenants to ensure that buffers are established and maintained.
- Design any subdivision or urban development of land to reduce densities and the intensity of uses gradually towards the boundary of agricultural lands;

#### **Urban Design Development Permit Guidelines<sup>3</sup>**

- Design developments with multiple buildings such that there is a sense of architectural unity or cohesiveness.
- Mitigate the actual and perceived bulk of buildings by utilizing appropriate massing, including:

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<sup>1</sup> Policy 5.36 (Development Process Chapter)

<sup>2</sup> Policies 1.1, 1.3, & 1.5 (Chapter 15)

<sup>3</sup> Policies 2.7, 4.1, & 8.9 (Chapter 14)

- Architectural elements (e.g. balconies, bay windows, cantilevered floors, cupolas, dormers);
- Visually-interesting rooflines (e.g. variations in cornice lines and roof slopes);
- Step back upper floors to reduce visual impact;
- Detailing that creates a rhythm and visual interest along the line of the building;
- Wall projections and indentations, windows and siding treatments as well as varied material textures should be utilized to create visual interest and to articulate building facades;
- Building frontages that vary architectural treatment in regular intervals in order to maintain diverse and aesthetically appealing streets.
- Avoid large expanses of parking.

#### 4.6 Ministry of Agriculture's "Guide to Edge Planning"

##### **Buffer Design Elements<sup>4</sup>**

- Recommend a total minimum separation distance of 30 m (15 m of which is a vegetative buffer) between a housing unit and agricultural-urban boundary.
- The vegetative buffer must reach a finished height of at least 6 metres to screen effectively the farm operation from its urban neighbours.
- A mixed deciduous and coniferous planting with foliage from base to crown is required in order to ensure dust and spray drift is captured to the fullest extent possible.
- A 2-metre separation distance between the vegetative buffer and agriculture-urban boundary is desirable to improve function on the agricultural side i.e. less shading, more air circulation and greater manoeuvrability for farm equipment.

#### 5.0 **Technical Comments**

##### 5.1 Development Engineering Department

- See attached memorandum dated April 28, 2017: Attachment "A".

#### 6.0 **Application Chronology**

Date of Application Received: February 16, 2017

Date Public Consultation Completed: February 21, 2017

Agricultural Advisory Committee March 13, 2017

The above noted application was reviewed by the Agricultural Advisory Committee at the meeting held on March 13, 2017 and the following resolutions were passed:

1. **THAT** the Agricultural Advisory Committee recommends that Council support Development Variance Permit Application No. DVP17-0044 for the property located at 4760 Lakeshore Road to:
  - vary the number of storeys from 3 permitted to 4 proposed; and
  - vary the height from 10m permitted to 17.2m proposed.

**Carried**

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<sup>4</sup> Section 3.7.a

ANECDOTAL COMMENTS:

The Agricultural Advisory Committee commented that the subject property is outside the permanent growth boundary and there are concerns about the impact of additional people and traffic in the agricultural area. The Agricultural Advisory Committee was encouraged that there was a covenant on title that informed future owners that the property is adjacent to farming practices and that these would be occurring in the area, and also that the covenant be kept on title in perpetuity.

2. **THAT** the Agricultural Advisory Committee recommends that Council support Development Permit Application No. DP17-0043 for the property located at 4760 Lakeshore Road as it pertains to the proposed 15m buffer located along the northern parcel boundary abutting a cherry orchard.

**Defeated**

ANECDOTAL COMMENTS:

The Agricultural Advisory Committee expressed an overall concern with spray drifts with this type of buffer. The Committee noted that development is upslope of the orchard, and prevailing winds from the lake will likely carry sprays up and over the development, given this configuration.

**7.0 Alternate Recommendation**

THAT Council authorizes the issuance of Development Permit No. DP17-0043 for Lot 1 Section 25 Township 28 Similkameen Division Yale District Plan KAP86852, located at 4760 Lakeshore Rd, Kelowna, BC to allow the construction of a multi-family building subject to the following:

- a) The dimensions and siting of the building to be constructed on the land be in accordance with Schedule "A";
- b) The exterior design and finish of the building to be constructed on the land be in accordance with Schedule "B";
- c) Landscaping to be provided on the land be in accordance with Schedule "C";
- d) The applicant be required to post with the City a Landscape Performance Security deposit in the form of a "Letter of Credit" in the amount of 125% of the estimated value of the landscaping, as determined by a Registered Landscape Architect;

AND THAT Council authorizes Development Variance Permit No. DVP17-0044 to vary the following section of Zoning Bylaw No. 8000, as shown on Schedule "A":

**Section 7.5.9: Landscaping and Screening – Fencing and Retaining Wall Regulations**

To vary the height of retaining walls on residential lots from 1.2m maximum to 3.0m proposed.

**Section 13.9.6(c): RM3 – Low Density Multiple Housing Development Regulations**

To vary the maximum height from 3 storeys permitted to 4 storeys proposed and from 10m permitted to 17.2m proposed.

AND THAT Council's consideration of this Development Permit be considered subsequent to the outstanding conditions of approval as set out in Attachment "A" attached to the Report from the Community Planning Department dated June 13, 2017;



AND THAT Covenant No. LB166374, an affordable housing agreement, be discharged from title;<sup>5</sup>

AND THAT a Restrictive Covenant be registered on title for the establishment and maintenance of the 15m agricultural buffer in accordance with Schedule "C".

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

<b>Report prepared by:</b>	Emily Williamson, Planner
<b>Reviewed by:</b>	Terry Barton, Urban Planning Manager
<b>Approved for Inclusion:</b>	Ryan Smith, Community Planning Department Manager

**Attachments:**

Draft DP17-0043/ DVP17-0044

Schedule "A" – Design Drawings

Schedule "B" – Building Elevations & Material Legend

Schedule "C" – Landscape Plan

Attachment "A" – Development Engineering Memorandum dated April 28, 2017

Attachment "B" – Applicant's Rationale

Attachment "C" – ALC Landscape Buffer Specification Schedule A.3

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<sup>5</sup> In 2006 an OCP amendment/rezoning application required the developer to provide a portion of the development for affordable, special needs or rental housing. This policy has since been removed from the OCP.