



Request for Decision Development Variance Permit Application

File No: P 722 320
Reference: DVP 9-22
Date: May 4, 2022

Subject: DVP No. 9-22 (Wardner / Sawatsky)
Applicant: Cindy and James Sawatsky
Location: Wardner Avenue, Wardner
Legal: Strata Lot 7, District Lot 2374, Kootenay District, Strata Plan NES3720 together with an interest in the common property in proportion to the unit entitlement of the strata lot as shown on form V

Proposal: Application to vary the Steeples Zoning & Floodplain Management Bylaw to increase the maximum parcel coverage from 35% to 44.5% to allow for construction of a single family dwelling

Options:

1. THAT Development Variance Permit No. 9-22 (Wardner / Sawatsky) be granted.
2. THAT Development Variance Permit No. 9-22 (Wardner / Sawatsky) be refused.

Recommendation: Option #2

While there is a report from a geotechnical engineer stating that the proposal is safe for the intended use, the covenant was a requirement of subdivision due to concerns about development within this area. All neighboring properties have been able to construct a dwelling while meeting parcel coverage and staying outside of the covenant area. Approval of this application opens the potential for other owners to apply to build within the covenant area as well. Cumulative impacts of future development within the covenant area could lead to instability of that land.

Property Information:

OCP Designation: R-SF – Residential Low Density

OCP Objective:

- Maintain the rural and agricultural nature of the plan area by only considering new residential proposals if they are appropriately located and compatible with adjacent land uses so as not to compromise environmental and agricultural values.

Zone Designation: RR-1(A), Single Family Residential (small lot) Zone; minimum parcel area requirement is 400 m².

Parcel Area: 0.04 ha (0.107 ac)

Density: One single family dwelling or duplex is permitted per parcel.

ALR Status: Not within the ALR

**Property
Information
– cont'd:**

BC Assessment: Residential (Vacant)

Water / Sewer Services: Koocanusa and Osprey Landing Community Systems

Interface Fire Hazard Rating: Low, not within a fire protection area

Flood Hazard Rating: Subject property is 20 m from Lake Koocanusa. Floodplain regulations are applicable to development.

**Additional
Information:**

- See attached letter
- A building permit has been issued for the single family dwelling without the deck so the owners could start construction. If the development variance permit is approved the applicants will need to revise the existing building permit to include the deck.
- A geotechnical covenant is registered on the property. The covenant states that no building shall be constructed, no structure shall be erected, no construction of any nature and no changes by the hand of man shall be permitted within the covenant area. It also states that no trees, vegetation, or other natural growth shall be removed, no soil shall be disturbed and no fill shall be added to the covenant area.
- The submitted site plan indicates that deck is within the covenant area. The applicants have provided a site specific geotechnical report indicating that the proposed deck is safe for the intended use provided it is developed to the standards outlined in the report.
- If the development variance permit is approved then a covenant must be registered on title in favour of the RDEK restricting development or use of the covenant area except in accordance with the site specific report.

Consultation:

Advisory Commissions:

APC Area C: Support not recommended

Response(s) to Notice: 28 notices were mailed on April 4, 2022 to all property owners within 100 m. No notices were returned as undeliverable, six responses have been received expressing opposition, and one letter received in support of the proposal. Reasons for opposition include: the precedent this would set for future development in the area, compromising the integrity of the bank by developing within the covenant area, safety of the community, and protecting the environment and wildlife corridors. Letters state that all other property owners have recognized the nature of small lots in the area and been able to build accordingly. Parking is also a concern, with a larger building footprint there is less room available for parking on the lot. One letter has been received from the proponent in response to the Strata Council Written Submission.

**Documents
Attached:**

- Permit
- Location Map
- Land Use Map
- Proposal
- Letter from Applicant
- Letters of Opposition
- Letter of Support

**RDEK
Contact:**

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