

MEMORANDUM

DEVELOPMENT SERVICES DEPARTMENT



DATE: April 20, 2023 **FILE NO.:** E2023.012-DVP

TO: Christopher Garrish, Planning Manager

FROM: Shannon Duong, Planner II

RE: Development Variance Permit (DVP) — Electoral Area “E”

Owners: Raymond Affleck & Susan Chatwood **Agent:** Nicholas Hill, Ritchie Contracting and Design Ltd.

Folio: E-02296.037 **Civic:** 5 – 4650 North Naramata Rd

Legal: Strata Lot 8, District Lot 211, SDYD, Strata Plan EPS8308 Together with an Interest in the Common Property in Proportion to the Unit Entitlement of the Strata Lot as Shown on From V

Proposed Development:

This application is seeking a variance to Section 7.1.1(i) (minimum width of a common wall) that applies to the subject property in order to undertake the construction of a single detached dwelling. Specifically, it is being proposed to vary Section 7.1.1(i) such that the common wall between the building and the principal building may constitute 1.8 metres of the vertical and adjacent plane of the principal building.

In support of this request, the applicant has stated that “the proposed development is for a modest 2800 square foot single family home to be built. There are no planned secondary suites or accessory dwellings as part of this application, nor are there any planned for the future. In fact, by situation the house between the side yard and an ESA zone, we are effectively blocking future development on the lower half of the site, preserving it in its natural state”.

Site Context:

The subject property is approximately 1.03 ha in area and is situated on the east side of North Naramata Road, approximately 0.6 km north of the boundary of the City of Penticton. The property is understood to be vacant.

The surrounding pattern of development is generally characterised by similarly sized, currently undeveloped residential lots.

Background:

The current boundaries of the subject property were created by a Plan of Subdivision deposited with the Land Titles Office in Kamloops on October 6, 2022, while available Regional District records indicate that building permits have not previously been issued for this property.

Under the Electoral Area “E” Official Community Plan (OCP) Bylaw No. 2458, 2008, the subject property is currently designated Small Holdings (SH), and is the subject of an Environmentally Sensitive Development Permit (ESDP) Area designation.

Under the Okanagan Valley Zoning Bylaw No. 2800, 2022, the property is currently zoned Small Holdings Three (SH3) which permits “single detached dwelling” as a principal use.

BC Assessment has classified the property as “Residential” (Class 01).

Under Section 3.49 of the Regional District’s *Chief Administrative Officer Delegation Bylaw No. 2793, 2018*, “the CAO or his designate shall ... be delegated authority to issue a development variance permit under Section 498.1 of the *Local Government Act* ...”

Public Process:

In accordance with Section 2.4 of Schedule 4 (Application for a Development Variance Permit) of the Regional District’s Development Procedures Bylaw No. 2500, 2011, adjacent residents and property owners were notified of this DVP application on March 24, 2023, and provided 15 working days to submit comments electronically or in-person to the Regional District.

As of April 18, 2023, being 15 working days from the date of notification, no representations had been received electronically or by submission at the Regional District office.

Delegated Authority:

Under Section 498.1(2) of the *Local Government Act*, a local government that has delegated authority to an officer or employee to issue a development variance permit (DVP) must include “criteria for determining whether a proposed variance is minor.”

Under Section 3.49 of the Regional District’s Chief Administrative Officer Delegation Bylaw No. 2793, 2018, staff are to consider if the variance would be “minor and would have no significant negative impact on the use of immediately adjacent or nearby properties” through the use of the following criteria:

1. *degree or scope of the variance relative to the regulation from which a variance is sought;*
2. *proximity of the building or structure to neighbouring properties; and*
3. *character of development in the vicinity of the subject property.*

With regard to the scope of the requested variance it is considered that

With regard to the proximity of the proposed single detached dwelling to neighbouring properties, the nearest parcel lines is approximately is 4.5 metres to the north. The requested variance would not permit encroachment into any parcel line setbacks, nor would it facilitate an increase in building height. For this reason, the requested variance is seen minor and unlikely to adversely impact the use of adjacent properties through loss of privacy or overshadowing.

With regard to the final criteria and the character of development in the vicinity of the subject property, it is noted that the surrounding parcels have not yet been developed.

For these reasons, the proposed variance(s) are deemed to be minor, and consideration by staff of whether to issue a development variance permit (DVP) under delegation may proceed.

Analysis:

When considering a “minor” variance request, and in accordance with Section 498.1(2) of the *Local Government Act*, the Regional District Board requires that staff consider the following guidelines when deciding whether to issue a DVP:

1. *is the proposed variance consistent with the general purpose and intent of the zone;*
2. *is the proposed variance addressing a physical or legal constraint associated with the site (e.g. unusual parcel shape, topographical feature, statutory right-of-way, etc.);*
3. *is strict compliance with the zoning regulation unreasonable or un-necessary; and*
4. *Would the proposed variance unduly impact the character of the streetscape or surrounding neighbourhood.*

In this instance, it is noted that the intent of Section 7.1.1(i) is to ensure that features such as breezeways or unenclosed structures are not used to circumvent provisions which would ordinarily regulate the construction of accessory dwellings.

In reviewing the development plans provided with the application, there does not appear to be evidence that the variance to the common wall in question would facilitate the construction of an accessory dwelling on the property.

Additionally, the proposed variance is not being sought as a means of addressing a physical or legal constraint associated with the site; rather, the variance is being prompted as a result of a design choice.

In this regard, strict compliance with the zoning regulation is not seen to be unreasonable, and the option is available to the applicant to re-design the development to meet Section 7.1.1(i). Despite this, and as mentioned above, strict compliance with the zoning regulation is seen to be unnecessary considering that the proposal would not facilitate the construction of an accessory dwelling.

As it relates to the final guideline, the proposed variance is not seen to unduly impact the character of the streetscape or surrounding neighbourhood, particularly given that the variance would impact a portion of the property which would not be visible from the street.

Conversely, the purpose for seeking a variance is typically to address topographical, legal or other site constraints which would otherwise hinder a property owner from using the site for its intended purpose, as directed by the property’s applicable zoning. In this case, it is not evident that there are any constraints faced by the applicant in re-designing the development plans to meet the zoning provision.

Nonetheless, the variance is seen to be minor in nature and it is recommended that the requested variances be approved.

Recommendation:

THAT Development Variance Permit No. E2023.012-DVP, to allow for the construction of a single detached dwelling at 5-4650 North Naramata Road, be approved.

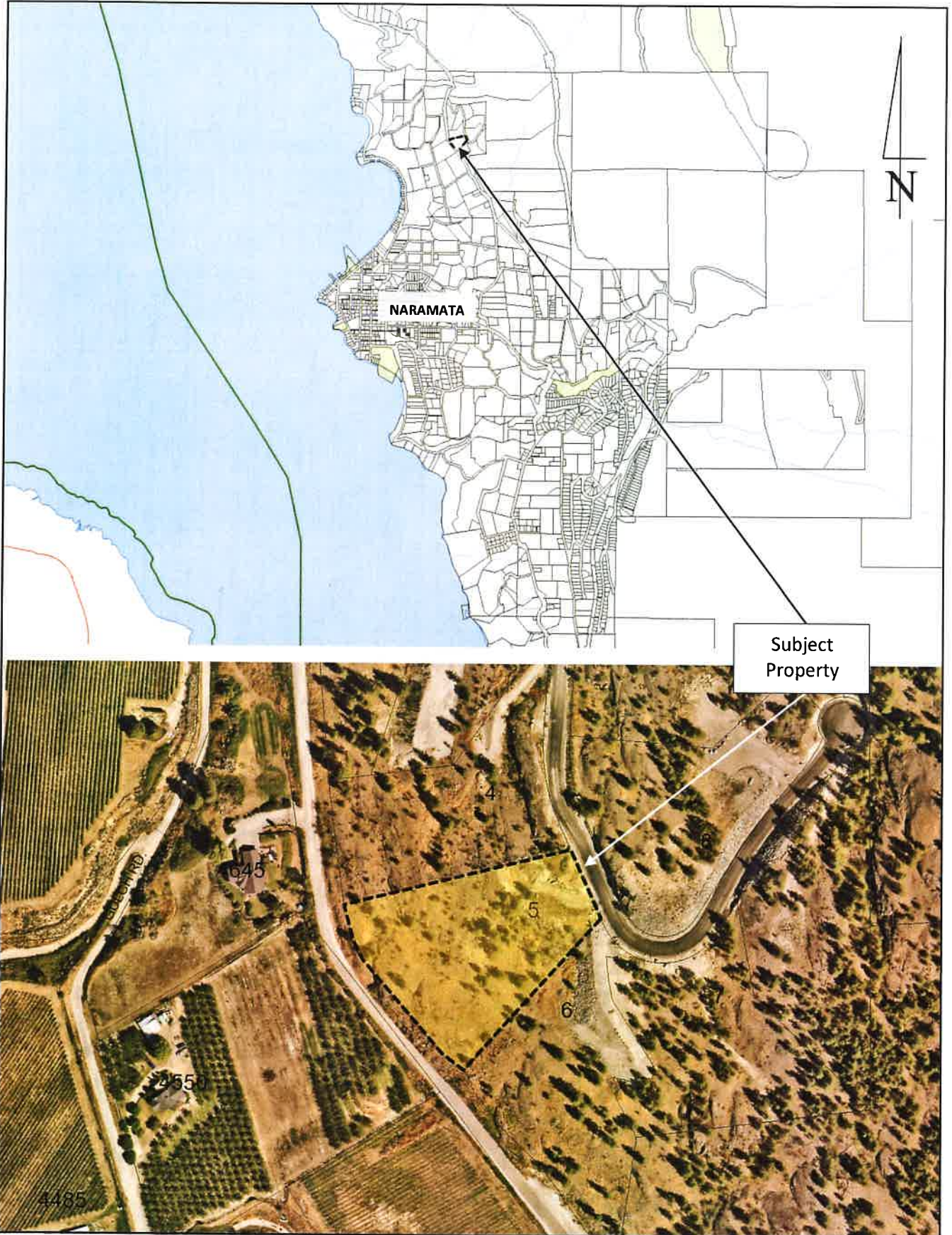
Respectfully submitted:



Shannon Duong, Planner II

Attachments: No. 1 — Context Maps
No. 2 — Building Render

Attachment No. 1 – Context Maps



Attachment No. 2 – Building Render

