

# ADMINISTRATIVE REPORT



**TO:** Board of Directors  
**FROM:** J. Zaffino, Chief Administrative Officer  
**DATE:** February 8, 2024  
**RE:** Development Variance Permit Application — Electoral Area “F” (F2023.042-DVP)

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## Administrative Recommendation:

**THAT Development Variance Permit No. F2023.042-DVP, to allow for the construction of an in-ground swimming pool at 2204 Forsyth Drive, be approved.**

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Legal: Lot 16, Plan KAP33471, District Lot 4947, ODYD Folio: F-07298.198

OCP: Small Holdings (SH) Zone: Small Holdings West Bench (SH5)

Variance Requests: to allow a swimming pool in the SH5 Zone.

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## Proposed Development:

This application is seeking a variance to the general regulation that applies to the subject property in order to undertake construction of an in-ground swimming pool.

Specifically, it is being proposed to vary the prohibition on siting a pool in the Small Holdings West Bench (SH5) Zone, by permitting a pool to be sited in the SH5 Zone.

The applicant has not provided a rationale for this application, but has submitted a geotechnical report prepared by Amber LeComte, P.Eng. of Ground FX Geotechnical Inc. concluding that:

*the subject property may be safely used for the construction of a new swimming pool without increasing the geohazard concerns on the subject property, or on adjacent and downstream properties.*

## Site Context:

The subject property is approximately 4,074 m<sup>2</sup> in area and is situated on the north side of Forsyth Drive, approximately 1.9 km west from the boundary with City of Penticton. The property is understood to be vacant.

The surrounding pattern of development is generally characterised by residential development.

## Background:

The current boundaries of the subject property were created by a Plan of Subdivision deposited with the Land Titles Office in Kamloops on August 31, 1982.

Available Regional District records indicate that building permits have not previously been issued for this property.

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

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## Official Community Plan

Under the Electoral Area “F” Official Community Plan (OCP) Bylaw No. 2790, 2018, the subject property is currently designated Small Holdings (SH), is the subject of an Environmentally Sensitive Development Permit (ESDP) Area designation, and includes lands that are subject to a Geotechnical Hazard designation.

## Zoning Bylaw

Under the Okanagan Valley Zoning Bylaw No. 2800, 2022, the property is currently zoned Small Holdings West Bench (SH5) which lists single detached dwelling as a permitted principal use and accessory building or structure as a permitted accessory use.

## Greater West Bench Geotechnical Review

On May 19, 2022 the Regional District Board adopted amendments to the Okanagan Valley Zoning Bylaw to, amongst other things, prohibit swimming pools in the Small Holdings West Bench (SH5) and Low Density Residential West Bench (RS5) zones.

These amendments were undertaken as a result of the Greater West Bench Geotechnical Review, which indicates that “development-induced trigger mechanisms such as broken pipes, leaking swimming pools and ornamental ponds, and uncontrolled concentration of precipitation runoff are also known to increase the likelihood of subsurface erosion and sinkhole development”.

The review also specifically indicates that swimming pools have a “potential impact on slope stability and sinkhole development due to introduction of water to soils by leaks and/or overland draining”.

The Greater West Bench Geotechnical Review indicates that the property is subject to Zone A “low geotechnical constraints” (i.e. low risk rating for landslide, sinkhole and collapsible compressible/soils).

## **Public Process:**

Adjacent property owners will have received notification of this application with written comments regarding the proposal being accepted, in accordance with Section 2.10 of Schedule ‘4’ of the Regional District’s Development Procedures Bylaw No. 2500, 2011, until 4:30 p.m. on November 22, 2023. All comments received are included as a separate item on the Board’s Agenda.

## **Analysis:**

In considering this proposal, Administration notes that the intent of regulations prohibiting swimming pools in the SH5 and RS5 zones is to protect people and property from geotechnical hazards.

In this case, the applicant has provided a geotechnical assessment from a registered professional engineer concluding that the land may be safely used for the proposed swimming pool without increasing risk of geotechnical hazards on-site or on adjacent properties.

The geotechnical assessment “identified only limited geohazards on the subject property” and found that “the swimming [pool] will be sited well above the expected failure surface of the slope below”.

The geotechnical assessment includes a Landslide Assessment Assurance Statement indicating that “the land may be used safely for the use intended” in accordance with Section 56 of the *Community Charter*.

## Alternative

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Conversely, the Greater Westbench Geotechnical Review identifies swimming pools as a potential cause of sinkhole formation and the introduction of this use into a hazard area may pose some degree of inherent risk.

Summary

In summary, the applicant has provided assurance from a qualified professional that the land may be safely used for a swimming pool without increased risk of geotechnical hazards.

For this reason, administration supports the requested variances and is recommending approval.

**Alternatives:**

1. That the Board deny Development Variance Permit No. F2023.042-DVP.

**Respectfully submitted**

Ben Kent  
Ben Kent, Planner II

**Endorsed by:**

  
C. Garrish, Senior Manager of Planning

Attachments: No. 1 – Site Photo (Google Streetview)  
No. 2 – Aerial Photo

Attachment No. 1 – Site Photo (Google Streetview)



