

# Report

Date July 17, 2024

File: 3060-20 19.27

Subject Development Permit Amendment with Variance at 3191/3253 Sherman Road  
(Application DP000172).

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## PURPOSE

To consider an amendment and variance to the development permit (DP000172) issued to the Community Land Trust Foundation of BC for the property located at 3191/3253 Sherman Road, to extend the permit expiry date and to vary the Zoning Bylaw to reduce the minimum rear yard setback for an institutional building from 8.0 metres to 3.08 metres.

## BACKGROUND

The 1.21 ha (2.99 ac) subject property is located within the Berkey's Corner Growth Center, designated Village Residential under the Official Community Plan and owned by North Cowichan (Attachments 1 & 2). Council approved a lease over part of this parcel to the Community Land Trust of BC for the preparation of a 92-unit (34 townhouses and 58 apartments) development funded under the BC Housing Community Housing Fund ("the housing project").

To prepare the subject property for the housing project, a Zoning Amendment was adopted in 2017 to rezone part of it to a Mixed-Use Residential (CD15) zone. The remainder of the property, presently leased by the Duncan Curling Club, is zoned Public Use (PU) (Attachment 3).

June 15, 2022, Council passed a resolution to invite the Community Land Trust of BC to submit a grant-in-aid and permissive tax exemption applications and committed to providing \$75,000 from the Affordable Housing Reserve Fund. These financial contributions enabled the Community Land Trust of BC to meet the BC Housing's funding criteria. Considered at the time to be the last financial hurdle for the housing project.

During the subdivision review process, changes were made to the *Environmental Management Act* and Contaminated Sites Regulation. This change imposed additional requirements to assess potentially contaminated sites prior to development occurring on the site. This unforeseen change caused the housing project to be put on hold until the required site investigations (Phase 1 and 2 Environmental Assessments and a Detailed Site Investigation) were completed to identify the presence and cause of any real or perceived site contamination. The results of the site investigations concluded that no contamination from human activities occurred on the site.

Lastly, the expiry of the previously authorized development variance permit (DVP00061) occurred during the site investigation process and is the reason for the report in front of Council today.

## Proposal

Further to the applicant's letter of rationale (Attachment 4), staff propose an amendment to the previously authorized development permit to address the expired setback variance and to extend the

permit until 2026 (Attachments 5 & 7). The proposal minimizes any delays to the permitting process and will provide the applicant sufficient time to complete the subdivision process and obtain a building permit.

## **DISCUSSION**

The proposal is subject to substantially the same municipal policies and bylaws as identified in the January 20, 2021, Report to Council (Attachment 6) and therefore, staff have elected not to reiterate these considerations below.

Furthermore, it is the opinion of staff that the original development permit DP000172 (Attachment 5) continues to substantially fulfill the intentions of the applicable development permit (DP) "A.1" guidelines.

## **Conclusion**

As the requested variance facilitates the development of the housing project, does not impact any existing residential properties, and is designed in compliance with DP guidelines, granting of the requested variance is recommended.

## **OPTIONS**

### **1. (Recommended Option)**

THAT Council authorize the issuance of Development Permit Amendment with Variance Application DP000172 to facilitate the construction of a 92-unit apartment and townhouse development at 3191 and 3253 Sherman Road (PID: 003-809-510 and PID: 003-806-471) and grant:

1. a two year extension to the permit, and
2. a variance to Section 79(2)(a) of Zoning Bylaw 1997, No. 2950 by reducing the minimum permitted rear yard setback for an institutional building abutting a residential parcel from 8.0 metres to 3.08.

2. THAT Council deny Development Permit Amendment with Variance Application DP000172.

## **IMPLICATIONS**

If the proposal is approved as recommended, the applicant would be required to obtain subdivision approval of the subject property and a building permit prior to construction occurring. The authorized development permit amendment with variance (DP000339) would be valid for 2 years from the date of issuance and would expire if the applicant does not substantially commence construction within that period.

Should Council deny the application (Option 2) the subdivision and housing project could not proceed as currently proposed. Redesigning the housing project or abandoning the subdivision will further impact the construction timeline and the overall viability of the housing project.

**RECOMMENDATION**

THAT Council authorize the issuance of Development Permit Amendment with Variance Application DP000172 to facilitate the construction of a 92-unit apartment and townhouse development at 3191 and 3253 Sherman Road (PID: 003-809-510 and PID: 003-806-471) and grant:

- (1) a two-year extension to the permit, and
- (2) a variance to Section 79(2)(a) of Zoning Bylaw 1997, No. 2950 by reducing the minimum permitted rear yard setback for an institutional building abutting a residential parcel from 8.0 metres to 3.08.

Report prepared by:



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Anthony Price  
Development Planner

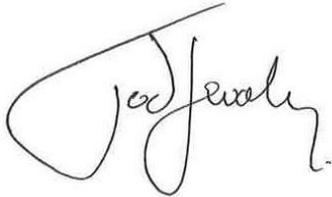
Report reviewed by:



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Amanda J. Young, RPP, MCIP  
Director, Planning and Building

**Approved to be forwarded to Council:**



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Ted Swabey  
Chief Administrative Officer

Attachments:

- (1) Location Map
- (2) Orthophoto
- (3) Zoning Map
- (4) Letter of Rationale 2024-06-10
- (5) Development Permit - DP000172
- (6) DVP00061 Report to Council
- (7) Draft Development Permit Amendment with Variance - DP000172