



REGULAR OPEN COUNCIL REPORT  
Development Services  
For the July 31, 2023 Council Meeting

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DATE: July 13, 2023 File No.

TO: Mayor and Council

FROM: Randy Houle, Director of Development Services

RE: 1380.31 Zoning Amendment Bylaw, Development Permit's with variances (591 Church Ave and 586 School Ave)

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**RATIONALE:**

This application is seeking a zoning amendment from RS1 (Residential Low Density One) to RH1 (Residential High Density One) to allow for the construction of a four-unit townhouse on each of 591 Church Avenue & 586 School Avenue, legally known as Lots 10 and 11, Block 16, DL 2450s, SDYD, Townsite of Oliver. The proponent is also seeking a Multiple Family Development Permit (with variances) to front and exterior side parcel line setbacks, number of parking spaces, retaining wall height and waiving of required works and services along the street frontages.

**OPTIONS:**

1. Council may choose to support the Staff recommendation.
2. Council may choose not to support the Staff recommendation.
3. Council may choose to refer back to Staff for additional information.

**RECOMMENDATION:**

That Zoning Amendment Bylaw 1380.31 be read a third time; and

That prior to adoption, the bylaw be forwarded to the Ministry of Transportation for approval; and

That prior to adoption of the bylaw, a no-build covenant be registered on the properties of 591 Church Avenue and 586 School Avenue, which is to remain on title until a new retaining wall is constructed on 591 Church Avenue to the satisfaction of the Town; and

That Council approve Development Permit (with variances) 2023-10 and Development Permit (with variances) 2023-14, subject to registration of the no-build covenant and adoption of the bylaw.

**BACKGROUND:**

**Site Context:**

The subject properties are zoned RS1 (Residential Low Density One) and designated by the OCP as HR (High Density Residential). The properties are 557.4m2 (6,000ft2) each in size and feature single-family dwellings with accessory buildings to be demolished. The properties are located in the downtown area comprised of smaller homes on larger lots that are identified for higher density.

**Proposal:**

The applicant is proposing to construct a four-unit townhouse on each of 591 Church Avenue and 586 School Avenue. Each townhouse unit is approximately 1,150ft2 in size with living space on the main floor and three bedrooms on the second floor. Each property includes five off-street parking spaces which are accessed from the rear lane.

A townhouse is not listed as a permitted use in the RS1 (Residential Low Density One) zone, thus a rezoning to RH1 (Residential High Density One) is required. Secondly, the subject properties are located within the Multiple Family Development Permit Area of the OCP and require approval for the design and to address landscaping requirements.



Property Location Map

Thirdly, the applicant is requesting a development variance permit to vary the following sections of Zoning Bylaw 1380 and Subdivision and Development Servicing Bylaw 1300:

*Zoning Bylaw 1380*

- Section 6.6.4: to increase the maximum height of a retaining wall within a required setback from 1.2m to 2.0m (for 591 Church Avenue only).
- Table 8.2.1: to decrease the required off-street vehicle parking spaces from 9 to 5.
- Section 12.1.7 (a) (i): to decrease the minimum front parcel line setback from 6.0m to 4.5m.
- Section 12.1.7 (a) (iv): to decrease the minimum exterior side parcel line setback from 6.0m to 4.0m.

*Subdivision and Development Servicing Bylaw 1300*

- Section 6: to waive the works and services required for the proposed development which includes curb, gutter, sidewalk, asphalt, storm, and lane upgrade.

**Development Statistics:**

The following table outlines the proposed development statistics associated with the application:

Item	RH1 Zone	591 Church Avenue	586 School Avenue
Minimum Setbacks:			
• front parcel line (street):	6.0m	4.5m (variance reqd)	4.5m (variance reqd)
• rear parcel line (lane):	6.0m	7.2m	7.2m
• interior parcel line (east):	2.4m	2.4m	2.4m
• exterior parcel line (Okanagan St):	6.0m	4.0m (variance reqd)	4.0m (variance reqd)
Maximum Lot Coverage	45%	45%	45%
Maximum Height	18.0m	7.01m	7.01m
Maximum Density	4 units	4 units	4 units
Maximum Floor Area Ratio	1.0	0.77	0.77
Minimum Amenity Area	30.0m <sup>2</sup> per unit	41m <sup>2</sup> per unit	41m <sup>2</sup> per unit
Minimum Parking Spaces	2 per unit + 0.2 per unit for visitor = 9 required	5 spaces (variance required)	5 spaces (variance required)
Maximum Retaining Wall Height	1.2m within setback	2.0m (variance reqd)	N/A

## **Analysis:**

### ***Zoning Amendment***

#### *Support Zoning Amendment Bylaw 1380.31*

Staff consider the zoning amendment to allow for the proposed developments represents the best use of the land for the following reasons:

- The proposal will convert two aging homes and underutilized lots into eight family-orientated dwelling units in the downtown area, close to schools and nearby services.
- The proposal is consistent with OCP policies that prioritize residential growth and infill within Town boundaries over the expansion of services or extension of boundaries.
- The proposal is consistent with OCP policies that speak to facilitating the residential densification of the Town Centre and adjacent neighbourhoods. The policies also encourage maximizing residential land use efficiency.

#### *Deny Zoning Amendment Bylaw 1380.31*

Council may consider that the proposal will negatively impact the neighbouring properties. If this the case, Council should deny third reading of the bylaw after hearing from the public.

### ***Development Permits (with variances)***

#### *Support Development Permit (with variances) 2023-10 & Development Permit (with variances) 2023-14*

The subject properties are located within the Multiple Family Development Permit Area. The objectives of this designation are to ensure that the siting, form, character and landscaping of new multiple family developments are compatible with the surrounding neighbourhood. The proposed developments meet the intent of the Multiple Family DP Area as highlighted below:



Okanagan Street Elevation of Townhouses

- The proposed townhouses feature architectural variation in terms of rooflines and material types including board and batten, stucco, and cultured brick. The two-storey townhouses will be similar in nature, providing a consistent look and feel in the neighbourhood.
- Multiple trees and shrubs will be planted along the street frontages of the subject properties combined with a private grass amenity area for each unit.
- Garbage and recycling areas will be located adjacent to the lane and not in close proximity to the street.
- A fence will be built along the east property lines, providing a buffer from neighbouring properties.

When considering a variance to a Town bylaw, staff encourages Council to be mindful as to whether approval of the variance would cause a negative impact on neighbouring properties and if the variance request is reasonable.

#### Zoning Bylaw 1380

*Section 6.6.4: to increase the maximum height of a retaining wall within a required setback from 1.2m to 2.0m (for 591 Church Avenue only).*

- The reason for limiting the height of retaining walls within a required setback is to mitigate the negative visual impacts on neighbouring properties. In this case, the proposed retaining wall faces inwards towards the subject property thus no impacts are anticipated. The proposed retaining wall will allow for future street upgrades to occur by levelling the town boulevard area above the wall. Without the wall, the street upgrades will not be able to occur.
- The preliminary drawing submitted by the designer indicates that there is only a small section of the wall that is taller than 1.2m, however a variance to 2.0m will allow for flexibility once a structural engineer is involved in creating a more detailed design.

*Table 8.2.1: to decrease the required off-street vehicle parking spaces from 9 to 5.*

- The previous proposal for 591 Church Avenue did not require a parking variance, however the increase in the number of bedrooms from two to three results in two parking spaces being required per unit plus an additional visitor space for a total of nine spaces required per property. The new retaining wall on 591 Church Avenue will create a level area above the wall thus allowing for additional vehicles to park parallel to Okanagan Street. For 586 School Avenue, the Okanagan Street frontage is presently wide enough to accommodate up to five on-street parking spaces. When Okanagan Street is upgraded in the future then it will be designed to accommodate on-street parking along the frontages of both properties.



Church Ave Elevation of Townhouses

- Staff consider that the benefits of increasing the number of bedrooms from two to three outweighs any negatives associated with the variance request as the units are now large enough to accommodate families. The reduction of parking is mitigated with the creation of on-street parking spaces due to the retaining wall construction.

*Section 12.1.7 (a) (i): to decrease the minimum front parcel line setback from 6.0m to 4.5m.*

- A two-storey building with a minimal setback variance request is unlikely to pose any negative visual impacts on the street. The 6.0m front setback requirement is envisioned more for a building that maximizes the 18.0m or six-storey height permitted in the RH1 zone. The drop in elevation from the street to the site and wider boulevard will also act as a further reduction in any negative visual impacts.

*Section 12.1.7 (a) (iv): to decrease the minimum exterior side parcel line setback from 6.0m to 4.0m:*

- A two-storey building with a minimal setback variance request is unlikely to pose any negative visual impacts on the street. The wider boulevard will act as a further reduction in any negative visual impacts.

## Subdivision and Development Servicing Bylaw 1300

*Section 6: to waive the works and services required for the proposed development which includes curb, gutter, sidewalk, asphalt, storm, and lane upgrade.*

The applicant has offered to build a new retaining wall on 591 Church Avenue to allow for temporary on-street parking stalls to be created along Okanagan Street and to allow for future frontage upgrades including sidewalk along Church Avenue. The offer is conditional on the applicant being waived of any responsibility for the future upgrades along both 591 Church Avenue and 586 School Avenue, such as paving of the lane, sidewalk along Church Avenue, asphalt, and storm upgrades. The offer is also contingent on Council approval of the rezoning and development permits (with variances).

A preliminary cost estimate of \$230,000 for the retaining wall has been prepared by the applicant's contractor and has been attached to this report. Staff have estimated that the frontage improvements along both properties (curb, gutter, paving, storm) plus new sidewalk along Church Avenue are a combined \$80,000. As a condition of the zoning amendment, it will be a requirement for the applicant to register a no-build covenant on both properties which will remain until the retaining wall is constructed to the satisfaction of the Town.

Staff note that any future upgrades of Okanagan Street and Church Avenue can not occur without a new retaining wall being built to raise the grade of the boulevard area. The cost of the new retaining wall, being paid for by the applicant, is almost three times the amount of the future frontage improvements. This, combined with the creation of eight new family-orientated dwelling units in the downtown area far outweighs the reduction in parking, setbacks, and waiving of frontage improvements. For this reason, Staff recommend that Council support the application.

*Deny Development Permit (with variances) 2023-10 & Development Permit (with variances) 2023-14*

Council may consider that the proposed variances will have a negative impact on the surrounding neighbourhood or that the form and character should be revised or more landscaping added.

*Financial:* Development cost charges will be applicable at a cost of \$29,584.00 for each townhouse.

**REFERRALS:**

The application was referred to various internal and external agencies with several items identified to be addressed during the building permit stage.

**PUBLIC PROCESS:**

Notice of the July 31, 2023 Public Hearing and Development Permit (with variances) was sent to residents within 100.0m of the subject properties. A public notice sign was installed on the subject properties and notice of the Public Hearing and Development Permit (with variances) was advertised in two editions of the local newspaper.

**COUNCIL REPORT/RESOLUTION HISTORY:**

At the July 10, 2023 Regular Open Council Meeting, the following resolution was passed:

It was MOVED and SECONDED

That Zoning Amendment Bylaw 1380.31 be read a first and second time and proceed to a Public Hearing; and

That the holding of the Public Hearing be scheduled for July 31, 2023; and

That Staff give notice of the Public Hearing in accordance with the requirements of the *Local Government Act*; and

That prior to adoption of the bylaw, a no-build covenant be registered on the properties of 591 Church Avenue and 586 School Avenue, which is to remain on title until a new retaining wall is constructed on 591 Church Avenue to the satisfaction of the Town; and

That Council consider Development Permit (with variances) 2023-10 and Development Permit (with variances) 2023-14 at the July 31, 2023 Regular Open Council Meeting.

CARRIED



At the April 24, 2023 Regular Open Council Meeting, the following resolution was passed:

It was MOVED and SECONDED

That Council refer back to for additional information and to bring the Zoning Amendment, Development Permit (with variances) – 591 Church Avenue to the May 8, 2023 Meeting to provide additional information. Road widths, boulevards in the area, necessity for boulevards, proposal for curb, gutter and drainage and accurate costing.

CARRIED