
MEETING TYPE: Special Council Meeting
MEETING DATE: September 12, 2023
AUTHOR: Trevor Empey, Planner
DEPARTMENT: Planning and Development
ITEM TITLE: Development Variance Permit & Development Permit | DVP2021-006 and DP2021-007C | 10370 Powley Court
DESCRIPTION: Development Variance Permit and Development Permit for a 5-unit townhouse development

QUESTION

Does Council support the proposed Development Variance Permit for the five-unit townhouse development, and does Council agree the proposed Development Permit complies with the Multi-Unit, Town Centre and Greenhouse Gas Reduction and Resource Conversation Guidelines?

OPTIONS

- A. THAT Development Variance Permit DVP2021-006 (Attachment A in the Report to Council dated September 12, 2023) for property at 10370 Powley Court (PID 030-757-827 and Roll No 11519.001) be approved; AND THAT Development Permit DP2021-007 Council (Attachment B in the Report to Council dated September 12, 2023) for property at 10370 Powley Court (PID 030-757-827 and Roll No 11519.001) be approved.
- B. THAT Development Variance Permit DVP2021-006 (Attachment A in the Report to Council dated September 12, 2023) for property at 10370 Powley Court (PID 030-757-827 and Roll No 11519.001) be denied; AND THAT Development Permit DP2021-007 Council (Attachment B in the Report to Council dated September 12, 2023) for property at 10370 Powley Court (PID 030-757-827 and Roll No 11519.001) be denied.
- C. THAT Development Variance Permit DVP2021-006 (Attachment A in the Report to Council dated September 12, 2023) for property at 10370 Powley Court (PID 030-757-827 and Roll No 11519.001) be referred back to staff pending receipt of additional information as identified by Council; AND THAT Development Permit DP2021-007 Council (Attachment B in the Report to Council dated September 12, 2023) for property at 10370 Powley Court (PID 030-757-827 and Roll No 11519.001) be referred back to staff pending receipt of additional information as identified by Council.

EXECUTIVE SUMMARY

Variances

Four variances are requested by the applicant to vary the front yard setback, landscape buffer, side yard setback and private open space requirements under Zoning Bylaw, 561 2007. The proposed variances are:

- 1. Level 5 landscape buffer reduction from 3.0m to 0.0m (north property boundary) and additional side yard (building) setback from 12.0m to 4.5m;
- 2. Level 3 landscape buffer side yard reduction from 3.0m to 0.0m (south property boundary);
- 3. Front yard setback (Powley Court) reduction from 4.5m to 3.0m; and
- 4. Private Open Space requirements of 25m² per unit reduced to 17.47m² for two units and 20.72m² for one unit.

The adjacent parcel north of the subject property is zoned A1 - Agricultural and located within the Agricultural Land Reserve (ALR). Based on discussions with the Ministry of Agriculture, it is unlikely that the adjacent parcel would be intensively farmed given its size and location. The parcel is currently an unmaintained vacant lot used for vehicle parking.

To increase the screening between the adjacent ALR parcel and the subject property, the applicant has proposed fencing and landscape treatments along the property boundary, and a private walkway for residences.

Along the southern portion of the subject property, the applicant proposes to provide an opaque barrier screening the subject property from the adjacent parcel to the south.

The subject property is relatively small which limits the potential for multi-unit development to occur. The proposed front yard variance would support numerous Official Community Plan (OCP) policies that focus on growth management, housing diversification and infill development. To support this variance, the applicant proposes landscape treatments which provide green space and screening from Powley Court.

The Zoning Bylaw requires 25m² of private open space per unit. The application requests a variance from 25m² private open space to 17.47m² for proposed units two and three and to 20.72m² for proposed unit four. Proposed units one and five would meet the private open space requirement. The subject property is located within walking distance to public parks and open space amenities.

Staff support the proposed variances as they would allow the development proposal to meet the associated OCP policies in relation to growth management, housing and infill development.

Council's approval of the proposed Zoning Bylaw variances is required to authorize the Development Permit. As of September 1, 2023, the District received correspondence from representatives of property owners along Powley Court in opposition to the proposed Development Variance Permit application.

Development Permit

This application proposes a two-storey townhouse development to create five residential units located along Powley Court and Bottom Wood Lake Road. This subject property is designated as High-Density Residential in the District's OCP and is within the Town Centre Development Permit Area (DPA), and Greenhouse Gas Reduction (GHG) DPAs. As this is a multi-dwelling proposal, the Multiple Unit DPA also has been applied in review of this application; many of Multiple Unit DPA policies overlap with those of the Town Centre DPA. The District's Zoning Bylaw, 561 2007 (Zoning Bylaw) assigns the subject property with RM-2 Low Density Multiple Unit Residential zoning.

The proposed development is in accordance with the Development Permit Area guidelines of the Official Community Plan.

BACKGROUND/HISTORY

Planning staff received this application on March 21, 2021. The application was updated in June 2022 as the subject property was sold. Staff have provided extensive feedback to the applicant regarding the proposed development. The applicant's letter of rationale in support of the proposed development is included as Attachment E.

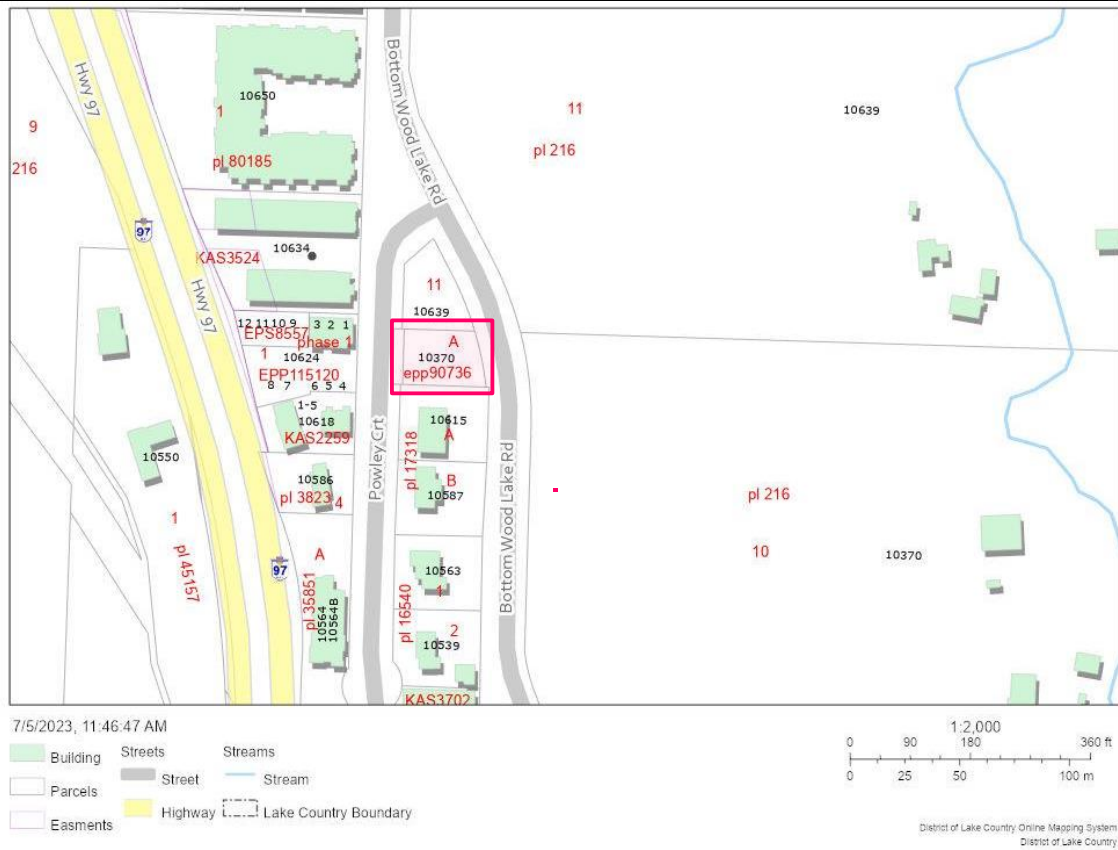
TABLE 1: SITE SUMMARY

PROPERTY INFORMATION			
Civic Address:	10370 Powley Court		
Roll Number:	11519001		
Legal Description:	PID: (PID 030-757-827) LOT A DISTRICT LOT 169&117 OSOYOOS DIV OF YALE LAND DISTRICT PLAN EPP90736		
Applicant:	EPro Consultants	Owner(s):	1369934 B.C. LTD., INC.NO. BC1369934
OCP Designation:	High-Density Residential		
Existing Zoning Designation:	RM-2 Low Density Row Housing		
Proposed Zoning:	No Change Proposed		
Land Use Contract:	N/A		
Covenant:	CA7435654 that allowed the delayed provision of frontage improvements from subdivision stage to development stage.		
ALR:	ALR to North and East of subject property		
Parcel Size:	900.0m ²		
DP Area(s):	Town Centre, GHG Reduction, Multiple-Unit		
Water Supply:	Municipal		
Sewer:	Municipal		
Site Context:	Zoning:	Use:	
<i>North:</i>	A1 – Agricultural	Vacant and not farmed	
<i>East:</i>	A1 – Agricultural	Farm	
<i>South:</i>	RM-2 Low Density Row Housing	Single dwelling	
<i>West:</i>	RM-4 Low Density Multiple Housing	Multi-family dwellings	

SITE CONTEXT

The subject property is urban in nature, located along Powley Court with additional frontage on Bottom Wood Lake Road. Powley Court is a higher-growth area of the community; single-detached properties in this area are transitioning to higher density residential uses including a mix of townhomes and apartment buildings. Access to the property is from Powley Court; no vehicular access is proposed to Bottom Wood Lake Road. Agricultural zoned land is adjacent (north and east) of the subject property.

Adjacent to this parcel to north and to the east are A1-zoned parcels located within the ALR. The small parcel north of the subject property is not farmed and in an unmaintained and vacant state. Bottom Wood Lake Road provides an active buffer between the ALR land to the east of the subject property. The subject property was excluded from the ALR circa 2013.



MAP 2: ORTHOPHOTO



MAP 3: OCP FUTURE LAND USE



MAP 4: DEVELOPMENT PERMIT AREAS

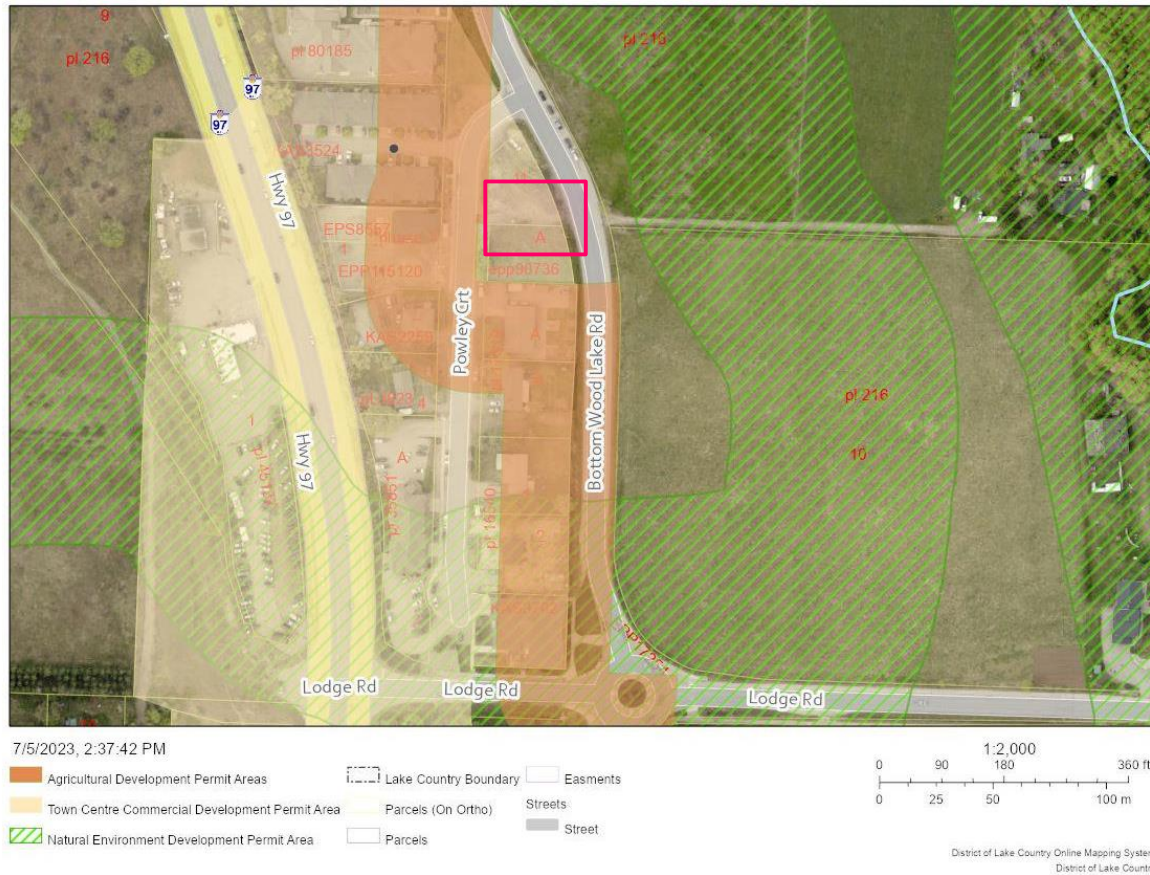


FIGURE 1: CONCEPTUAL SITE PLAN



A-1.0

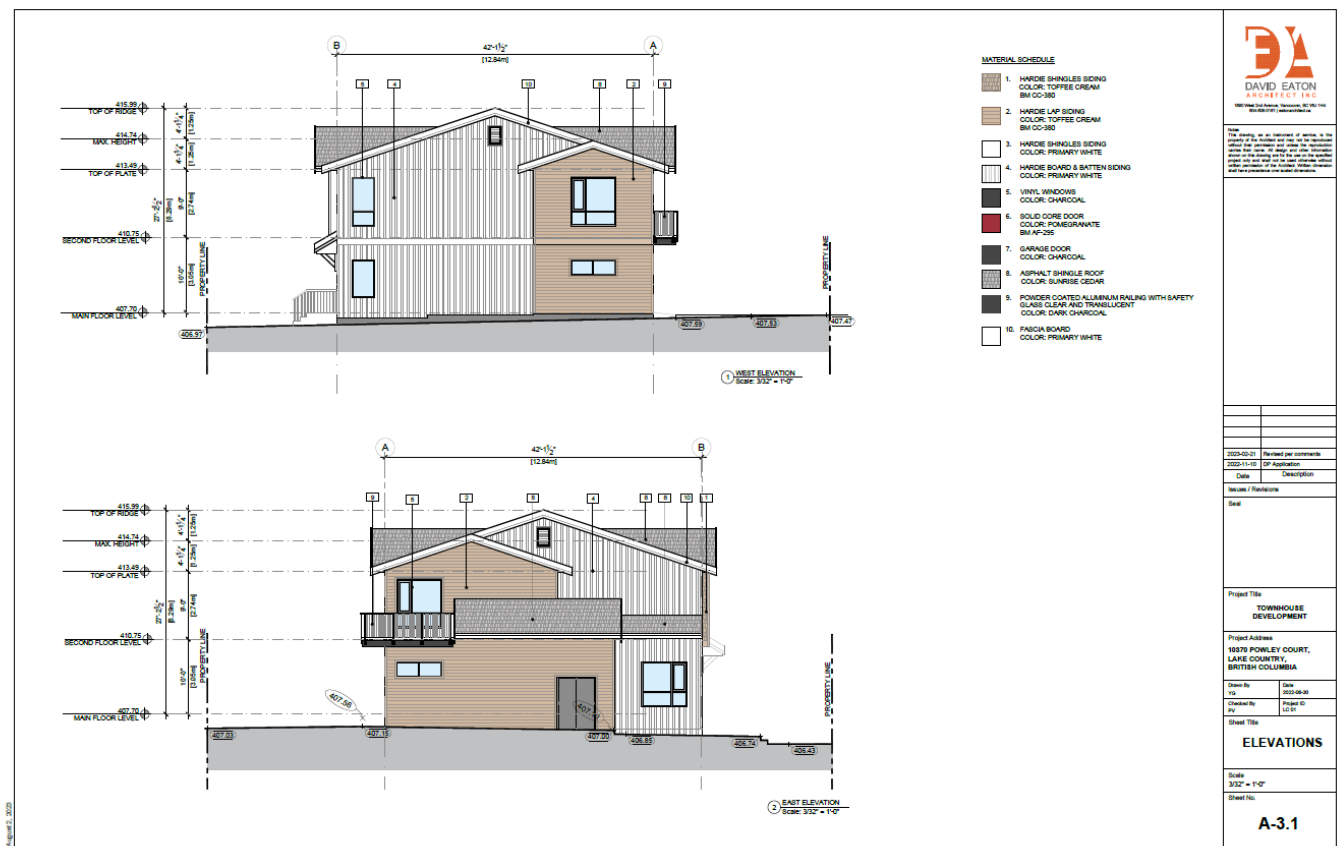


FIGURE 3: LANDSCAPE PLAN

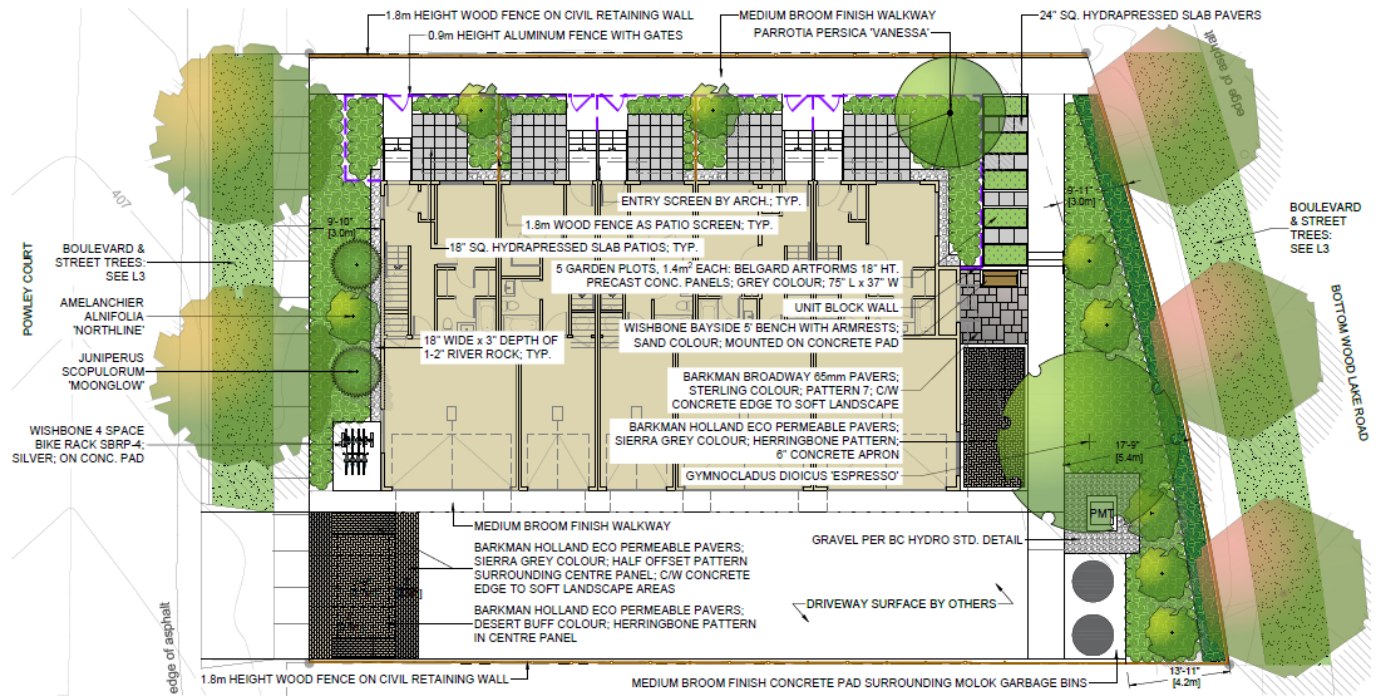


FIGURE 4: SITE PHOTOS

Subject Property:



Adjacent ALR:



TABLE 2: FILE CHRONOLOGY

Date	Event
2021-03-21	Application submission
2022-02-23	External referrals
2022-06-24	New property owner – Revised DP
2023-01-24	Internal Referrals Second Round
2023-02-23	Comprehensive Letter issued
2023-03-13	Discussions with applicant regarding Comprehensive Letter
2023-04-26	Comprehensive Letter response by applicant with updated materials
2023-07-04	Review of updates by Staff

DISCUSSION/ANALYSIS

Development Variance Permit

This application proposes four variances to Zoning Bylaw in relation to yard (building setback), landscape buffer, and private open space requirements. The following are requested variances by the applicant:

- Level 5 landscape buffer side yard reductions from 3.0m to 0.0m on the north property boundary and additional side yard setback from 12.0m to 4.5m (8.6.1(f))
- Level 3 landscape buffer side yard reduction from 3.0m to 0.0m on the south property boundary (8.6.1(c))
- Front yard setback (Powley Court) reduction from 4.5m to 3.0m (15.5.6(d))
- Private Open Space requirements of 25m² per unit reduce to 17.47m² for two units and 20.72m² for one unit (15.5.7.b)

Zoning Bylaw section 8.6, Level 3 side yard buffer requirements for RM-2 zoned parcels include a 3.0m vegetative buffer or an opaque barrier; however, as the subject property is directly abutting ALR, Zoning Bylaw section 8.6 (f) Level 5 landscape buffer requirements include a 3.0m vegetative buffer, and an opaque barrier and a 12.0m building setback from the inner edge of the buffer. For the north boundary of the subject property, the applicant proposes to include an opaque barrier (fence) of 1.8m in height along with a private pedestrian walkway for residents to access Powley Court and Bottom Wood Lake Road. Additional plantings are proposed to separate the pedestrian walkway from the outdoor patio spaces of individual units. For the south boundary of the subject property, a 6.1m drive aisle is proposed along with an opaque barrier (fence) of 1.8m in height all of which provide buffering and separation between adjacent parcels.

Staff evaluated the proposed variances in relation to the Official Community Plan's goals, objectives and guidelines outlined in the Agricultural, Housing, High-Density Residential and Growth sections of the OCP. This application proposes five residential units to be located within the Town Centre, providing infill development in an area that the OCP designates as high-density residential, and that is well-served by infrastructure and amenities which supports objectives and goals under the Growth and Housing and High-Density Residential sections of the OCP. Further, this application would provide a multiple dwelling building to replace the existing single-family dwelling currently on the subject property which supports diversification of housing options in the District.

OCP section 14 Agricultural, outlines objectives to support protection and enhancement of agricultural lands within the District including buffers between agricultural and non-agricultural zoned parcels. To support these goals and objectives, the proposed landscape plan (Figure 3) would provide vegetative plantings between the subject property and the adjacent agricultural lands and include a walkway and fencing that would act as a buffer. The Ministry of Agriculture recommended that landscape buffers be incorporated to protect the long-term viability of the adjacent A1 parcel; however, staff conversations with the Ministry of Agriculture noted that it is unlikely that the parcel would return to intensive agricultural production given its location and constraints.

The adjacent ALR property is hooked to a larger parcel east of Bottom Wood Lake Road. The subject property was similarly attached to a larger agricultural parcel; however, in 2019 the subject property was subdivided off 10370 Lodge Road.

As a result of this evaluation of the OCP, staff support the proposed landscaping variances as they are in accordance with the goals, objectives and guidelines of the OCP that focus on Growth, Housing, High-Density Residential development.

Staff also support the requested front yard setback from 4.5m to 3.0m along Powley Court. The applicant proposes to provide landscape treatments to provide screening along the Powley Court frontage to reduce the presence of the proposed residential building and to introduce vegetation along the streetscape.

The proposed development would include private open space, including outdoor patios and second floor balconies, for the use of future residents; however, the private open space does not comply with the associated Zoning Bylaw regulations. As such the application requests a variance from the required 25m² private open space to 17.47m² for proposed units two and three, and 20.72m² for proposed unit four. Proposed units one and five comply with the open space requirements of the Zoning Bylaw.

Staff support this variance to private open space requirements, as there are public parks and amenities (Winfield Creek Wildlife Preserve, Rail Trail, Swalwell Park) located within walking distance of the subject for the use of future residents.

For a detailed analysis of the Zoning Bylaw, see Attachment D.

As of September 1, 2023, the District received correspondence from representatives of property owners along Powley Court in opposition to the proposed Development Variance Permit application.

Development Permit Areas: Town Centre, Multiple Unit & Greenhouse Gas Reduction and Conservation

The Town Centre DPA focuses on development to provide consistent and high-quality architectural standards along with pedestrian-oriented development that creates a friendly, mixed-use downtown. Many of the goals, objectives and guidelines of the Town Centre DPA overlap with the Multiple Unit DPA.

The proposed development addresses the form and character and the traditional design styles of the Town Centre and Multiple Unit DPAs including varied rooflines, natural exterior elements, attractive windows and vertical orientation, and low-density scale. Further, the proposed development would include off-street parking in residential garages, small community gardens and private walkways for the use of residents that connect to both Bottom Wood Lake Road and Powley Court, all which meet the Multi-unit DPA guidelines. Staff also reviewed the proposed landscape plans for this development and note that the proposed features would generally enhance the character and aesthetic of the site through green space areas, screening and buffering along Powley Court and Bottom Wood Lake Rd while providing xeriscape and drought resistant plantings.

Staff note that the Town Center and Multi-Unit DPA guidelines indicate that developments should provide landscaping treatments to improve screening and site character. To address these guidelines, the applicant has provided opaque fencing along the north and south sides of the subject property (1.8m in height) to provide separation and privacy between neighbouring parcels. Additionally, along the north property line a 1.5m walkway and vegetative buffer are proposed to separate the development from the adjacent A1-zoned parcel. Along the south property line, the proposed development is separated from the neighbouring parcel by a 6.1m driveway.

Greenhouse Gas Reduction and Conservation DPA Guidelines were reviewed as part of this application. The applicant proposes to use materials, and colours in the building design that minimize heat absorption (e.g., light colours roof material). The applicant has noted that alternative energy sources are proposed be incorporated into the building (e.g., heat pumps for each unit) along with a well-sealed building envelope.

This application is in accordance with the applicable Town Centre, Multi-Unit DPA and Greenhouse Gas Reduction and Conservation Guidelines.

Development Permit Area checklists are included as Attachment C. For a detailed policy review please see Attachment D.

APPLICABLE LEGISLATION AND POLICIES

Local Government Act

Section 498 of the *Local Government Act* permits a local government to issue a Development Variance Permit that varies the local government's Zoning Bylaws, among other regulations.

Section 488 of the *Local Government Act* permit a local government to issue a Development Permit for various purposes.

Official Community Plan

The Official Community Plan of the District of Lake Country provides land use policy direction on how the District should develop over a 20-year period.

Section 21 of the OCP outlines goals, objectives and guidelines under specified Development Permit Areas. These policies are recommendations that should be followed however they are not regulations and should not be treated as such. Every guideline in the applicable DPAs may not be suitable for each site due to varying contexts.

Agricultural Plan

Concentrating development in the established neighbourhood nodes identified for increased residential density supports the goals of the Agricultural Plan. Vegetative buffers are outlined as a goal to support and protect and preserve the ALR.

Zoning Bylaw

The applicant has requested four variances to the Zoning Bylaw.

Development Application Procedures Bylaw

The Development Permit and Variance applications are proceeding to Council as the subject property is located within the Town Centre, Multiple Unit, and Greenhouse Gas Reduction and Resource Conservation DPAs.

Highway Bylaw (Driveway Access Permit)

Access Permit application A2021-058 is currently under review.

IMPACT ON INFRASTRUCTURE OR MUNICIPAL SERVICES

As per the Subdivision and Development Servicing Bylaw, the applicant is required to complete offsite works prior to the issuance of any building permit. Staff have communicated these requirements to the applicant for awareness through a Comprehensive Letter issued in February 2023. As the subject property fronts Powley Court to the west and Bottom Wood Lake Road to the east, improvements will be required on both frontages.

IMPACT ON STAFF CAPACITY AND FINANCIAL RESOURCES

Regular staff time has been used to process the application. No impacts beyond those normally associated with municipal business are expected to result from this development.

COMMENTS FROM EXTERNAL AGENCIES, COMMITTEES AND STAKEHOLDERS

A combined circulation was sent to external agencies for their review and comment. The following comments apply to were provided with respect to this application:

Agency	Comment
Ministry of Agriculture	<ul style="list-style-type: none"> • The property is relatively small and is adjacent to the ALR. • It is recommended that the landscaped buffer incorporate a suitable evergreen hedge to help minimize potential odour, dust and pesticide use concerns that may arise now or in the future. • Agriculture is a dynamic industry, and the adjacent farmland may be converted to more intensive production in the future. • Disclosure statements on the title notifying that the property is located near an agricultural area may also assist in raising awareness of the issues of noise, odour, dust and pesticide use that may result from being located near farms.
BC Hydro	<ul style="list-style-type: none"> • No objections.
Fortis BC Gas	<ul style="list-style-type: none"> • No objections or concerns.
Shaw	<ul style="list-style-type: none"> • Supportive of application. • Owner/developer recommended to contact Shaw at the design stage to make sure servicing of the new homes is design to city and Shaw standards.
BC Transit	<ul style="list-style-type: none"> • Supportive of this application as density supports more transit ridership. • Consider extending the pedestrian pathway indicated in the drawings provided north of the subject site, to create an environment that is more hospitable to those accessing transit in the area.

CONSULTATION AND COMMUNICATION

As per the *Local Government Act* and the Development Approval Procedures Bylaw Number 113,2021, the requested variances required public notification through public notice signs posted on both frontages of the subject property and mail letters to residents located within a 50m radius of the subject property.

ANALYSIS OF OPTIONS FOR CONSIDERATION

OPTION A: If council chooses Option A, the Development Variance Permit and the Development Permit would be approved. The developer would be able to proceed to the Building Permit process to authorize the proposed development.

OPTION B: If council chooses Option B, the Development Variance Permit and the Development Permit would be denied, and the file would be closed. Council would be required to provide reasons for denial of the Development Permit, and direction to the applicant regarding necessary amendments to meet the Development Permit Area guidelines. The applicant would be permitted to apply for new development applications.

OPTION C: If Council chooses Option C, staff will work with the applicant to obtain additional information as identified by Council. Council would consider the applications a future date.

Collaborators: *(each individual collaborator to add name and date reviewed)*

Name	Date Reviewed

Respectfully Submitted,
[Sponsor]

Report Approval Details

Document Title:	Request for Council Decision -DVP2021-006 DP2021-007C -10370 Powley Court.docx
Attachments:	- ATTACHMENT A.pdf - ATTACHMENT B.pdf - ATTACHMENT C.pdf - ATTACHMENT D.pdf - ATTACHMENT E.pdf
Final Approval Date:	Sep 7, 2023

This report and all of its attachments were approved and signed as outlined below:

Steven Gubbels, Manager of Development - Sep 5, 2023 - 12:19 PM

Matthew Salmon, Director of Engineering and Environmental Services - Sep 6, 2023 - 11:22 AM

Jared Kassel, Director of Planning & Development - Sep 6, 2023 - 2:03 PM

Reyna Seabrook, Director of Corporate Services - Sep 7, 2023 - 12:59 PM

No Signature - Task assigned to Tanya Garost, Chief Administrative Officer was completed by assistant Kelly McIntosh, Executive Coordinator

Tanya Garost, Chief Administrative Officer - Sep 7, 2023 - 1:04 PM

Trevor James, CFO, Director of Finance & Administration - Sep 7, 2023 - 4:26 PM