

# ADMINISTRATIVE REPORT



**TO:** Board of Directors  
**FROM:** J. Zaffino, Chief Administrative Officer  
**DATE:** January 18, 2024  
**RE:** Development Variance Permit Application — Electoral Area “D” (D2023.040-DVP)

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## Administrative Recommendation:

**THAT Development Variance Permit No. D2023.040-DVP, to allow for the construction of an accessory building on an existing detached deck at 2131 Beaverdell Road, be denied.**

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Legal: Lot 1, Plan KAP52917, District Lot 2710, SDYD Folio: D-06788.840

OCP: Large Holdings (LH) Zone: Large Holdings One Site Specific (LH1s)

Variance Request: to allow a deck on an accessory structure.

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## Proposed Development:

This application is seeking a variance to the accessory building regulations on the subject property in order to construct an accessory building.

Specifically, it is being proposed to vary the specific use regulation that prohibits the placement of a deck on an accessory structure by allowing an accessory building to be constructed on top of an existing detached deck.

In support of this request, the applicant has stated that:

*The proposed variance is to allow an accessory building to be built on an engineered steel post and beam structure which when completed would also create a deck off the front of the building. The steel beam deck has already been approved by the RDO. Construction of the deck has been completed.*

## Site Context:

The subject property is approximately 4 ha in area and is situated on the east side of Beaverdell Road, approximately 2 km east from the boundary with City of Penticton. The property is understood to contain one (1) singled detached dwelling, one accessory building and one accessory structure (a detached deck).

The surrounding pattern of development is generally characterised by similar 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 24, 1994, while available Regional District records

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indicate that a building permit for a single detached dwelling has previously been issued for this property. BC Assessment has classified the property as “Residential” (Class 01).

**Official Community Plan (OCP):**

Under the Electoral Area “D” Official Community Plan (OCP) Bylaw No. 2603, 2013, the subject property is currently designated Large Holdings (LH), and is the subject of Environmentally Sensitive Development Permit (ESDP) and Hillside Development Permit Area designations.

**Zoning Bylaw:**

Under the Okanagan Valley Zoning Bylaw No. 2800, 2022, the property is currently zoned Large Holdings One Site Specific Regulation (LH1s) which lists single detached dwelling as a permitted principal use and accessory dwelling and accessory building as permitted accessory uses.

The Zoning Bylaw further establishes that an accessory building in a Large Holdings zone is not permitted to include bathtubs, bedrooms, sleeping facilities, balconies, decks or wet bars.

Further, the use of a detached building for the short-term accommodation of the travelling public is defined as a “tourist cabin” use under the zoning bylaw and is also not permitted in the Large Holdings zones and is generally only permitted in the Tourist Commercial zones.

**Bylaw Enforcement:**

The property has been the subject of a Stop Work Notice “for constructing a deck without a building permit”. Regional District records indicate an active building permit to formalize the partially constructed deck.

The development plans submitted for this retroactive building permit application indicate that the deck is detached from the principal dwelling by approximately 2.49 metres and indicate that an accessory building is proposed to be constructed on top of the deck.

The present development variance permit is required to allow the accessory building to be placed on top of the existing deck, because accessory buildings in the Large Holdings zones are not permitted to include decks.

**Statutory Requirements:**

Under the *Local Government Act*, a development variance permit cannot not vary land use or density. The residential use of an accessory building contrary to the provisions of the zoning bylaw would require the issuance of a temporary use permit or the approval of a zoning bylaw amendment.

**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 15, 2023. All comments received are included as a separate item on the Board’s Agenda.

**Analysis:**

In considering this proposal, Administration notes that decks are generally associated with a residential use of a structure and for this reason, the electoral area zoning bylaws were amended in 2020 to provide greater clarity regarding the placement of decks.

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Namely, that decks are a prohibited addition on an accessory structure. The intent of this amendment was to forestall the conversion of accessory structures to unauthorized residential use.

In this instance, the applicant has submitted plans indicating a variety of potential uses for the accessory structure and deck, including “bedroom” (e.g. residential use) as well as “yoga studio”, which is a term not recognized by the zoning bylaw but is understood to indicate habitable space.

Accordingly, Administration is concerned that the proposed structure is intended to be used in a way not contemplated by the zoning bylaw (e.g. short-term tourist accommodation purposes, bunkhouse, etc.).

For these reasons, Administration is recommending against the variance to allow for an accessory building to be placed on the deck on the basis that the deck structure should be retained for the exclusive use by the principal residence.

Alternative

Conversely, other options are seen to be available to the applicant, such as constructing an “accessory dwelling” as defined by the zoning bylaw (this would require the inclusion of cooking facilities in the structure).

The development of an “accessory dwelling” is also permitted by the LH1s zoning that applies to the property, which allows parcels less than 8.0 ha in area to be entitled to one (1) secondary suite or accessory dwelling.

Similarly, the applicant could construct the “bedroom” or “yoga studio” as an addition to the existing principal dwelling, in which case a deck would be permitted. This would require the addition to share a common wall, roof and/or foundation with the principal structure.

Alternately, if the Board feels this proposal has merit, Administration recognizes that it is being proposed on a larger rural-residential parcel (e.g. one that is greater than 4.0 ha in area), is being situated generally within the building envelope of the principal dwelling and is unlikely to impact any adjacent properties.

Summary:

For the reasons outlined above, Administration does not support the requested variances and is recommending denial.

**Alternatives:**

1. That the Board approve Development Variance Permit No. D2023.040-DVP.

**Respectfully submitted**

Ben Kent

Ben Kent, Planner II

**Endorsed by:**

CG

C. Garrish, Senior Manager of Planning

Attachments: No. 1 – Aerial Photo  
No. 2 – Aerial Photo  
No. 3 – Site Photo

Attachment No. 1 – Aerial Photo



Attachment No. 2 – Site Photo



Subject deck structure