

STAFF REPORT TO COUNCIL

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DATE: September 13, 2018

TO: **MAYOR AND COUNCIL**

NAME AND TITLE: Ian Wells, General Manager of Planning and Development

SUBJECT: Development Variance Permit Application No. VP100520.

Applicant: L&M Engineering Ltd. for Clayton and Tania Sharko
Location: 2924 Austin Road East

ATTACHMENT(S):

- Location and Existing Zoning Map
- Land Use Contract Bylaw No. 3095, 1977
- Development Variance Permit No. VP100520
- Exhibit "A" to VP100520
- Letters of Support
- Conceptual Site Plan

RECOMMENDATION(S):

1. THAT Council APPROVE Development Variance Permit No. VP100520 to vary Schedule "A", Special Conditions 1 (a) of "Land Use Contract Bylaw No. 3095, 1977" (Land Title Office Document No. N17871) for the property legally described Lot 14, District Lot 4028, Cariboo District, Plan 24401 as follows:
 - a. Reduce the interior side yard setback from 9.1 metres (m) to 1.5 metres (m) for the construction of a 90 square metres (m²) accessory development, as shown on Exhibit "A" to VP100520

PURPOSE:

The applicant has applied to vary Land Use Contract Bylaw No. 3095, 1977 to facilitate the construction of a 90 m² detached garage at 2924 Austin Road East. Due to the configuration of the driveway, location of the septic field and significant slopes on the property, the only available area to construct the new detached garage is along the east property line. Therefore, the applicant has applied to vary the Land Use Contract to reduce the interior side yard setback from 9.1 m to 1.5 m to facilitate the construction of the proposed detached garage, as shown on Exhibit "A" to VP100520.

Background

Site Characteristics

Location	2924 Austin Road East
Current Use	Single detached housing
Site Area	0.7 ha
Zoning	AR3: Rural Residential

Official Community Plan

Future Land Use	Rural C and Rural Resource
Growth Management	Rural Area and Rural Resource
Significant Slopes	The north and west portions of the subject property have significant slopes

Surrounding Land Use Table

North	Undeveloped
South	Austin Road East
East	Rural Residential
West	Undeveloped

Relevant Applications

Development Variance Application No. VP100414: On May 11, 2015 Council denied the applicant's request to vary Land Use Contract Bylaw No. 3095, 1977 to reduce the interior side yard setback from 9.1 m to 2.4 m to facilitate the construction of a 94 m² detached garage.

POLICY/REGULATORY ANALYSIS:

Land Use Contracts

A land use contract is formed between the owner of a specific property and the municipality. This approach was commonly used through the 1970's as a means to negotiate the terms and conditions of subdivision and development within the City and the Regional District. The contract can describe the subject lands, the uses permitted, the regulations for siting of buildings, the use of parks, landscaping requirements, and many other development criteria. The presence of a land use contract on title takes precedence over zoning or subdivision regulations on that land.

Pursuant to s. 546 (2) of the *Local Government Act* a land use contract that is registered in a land title office may be amended (modified, varied or discharged), with the agreement of the local government and the owner of any parcel that is described in the bylaw as being covered by the amendment.

The Province of BC has adopted legislation to terminate all Land Use Contracts by June 30, 2024. Therefore, after 2024, Land Use Contracts will no longer be valid and the existing zoning regulations will be in force.

Land Use Contract Bylaw No. 3095, 1977

The subject parcel is one of eighty-two lots regulated by Land Use Contract Bylaw No. 3095, 1977. The Land Use contract takes precedence over the AR3: Rural Residential zone that would otherwise regulate the subject property. The Land Use Contract regulates the form and character of single family residential development in the Valleyview area. Regulations include minimum setbacks, maximum height, minimum floor area, and site coverage.

Please see the table below for a comparison of the development regulations of the AR3: Rural Residential zone, Land Use Contract Bylaw No. 3095, and the applicant's proposal.

Table 1. Development Setback Comparison

Development Regulations	AR3 Zone	Land Use Contract Bylaw No. 3075, 1977	Applicant's Proposal
Minimum rear yard	6.0 m	9.1	20.6 m
Minimum side yard	1.2 m	9.1	1.5 m
Minimum front yard	4.5 m	9.1	16.6 m

As indicated in Table 1. , the proposed 90m² detached garage complies with all the Zoning Bylaw Regulations and Land Use Contract Regulations, with the exception of the minimum 9.1 m development setback for the interior side yard on the east property line.

Administration supports this variance based on the following rationale:

- The proposed detached garage meets all AR3 Zoning regulations including height and site coverage;
- The proposed interior side yard setback (1.5 m) is greater than the current Zoning Bylaw requirement (1.2 m);

- The proposed front (16.6 m) and rear (20.6 m) yard setbacks exceed both the minimum setbacks of the Land Use Contract and Zoning Bylaw;
- Existing trees on the subject property will screen the proposed garage from the neighbour to the east (6703 Butte Place);
- There are still large front and rear setbacks, which maintain the form and character of the neighbourhood;
- Due to topographical constraints such as steeply sloped land and the location of the on-site septic system, the location of the proposed detached garage is the only suitable area for development;
- There is an established driveway that leads to the location of the proposed detached garage; and
- The applicant has obtained letters of support from 7 landowners supporting this application. (Please see attached correspondence.)

Administration supports the variance request to decrease the minimum interior side yard setback from 9.1 m to 1.5 m to permit a 90 m² detached garage.

OTHER CONSIDERATIONS:

Referrals

This application was referred to internal City divisions and external agencies with no outstanding concerns.

Notification to Adjacent Property Owners

As per the requirements set out in the *Local Government Act*, the City of Prince George will provide a delivery of notice to adjacent property owners whose interests may be affected by this variance.

ALTERNATIVES:

1. Approve the permit
2. Approve the permit as amended
3. Refuse the permit
4. Defer or otherwise deal with the permit

Administration recommends that Development Variance Permit No. VP100520 be approved.

SUMMARY AND CONCLUSION:

The applicant has applied to vary Land Use Contract Bylaw No. 3095, 1977 to facilitate the construction of a 90 m² detached garage at 2924 Austin Road East. Administration is in support of this application for the reasons outlined in this report.

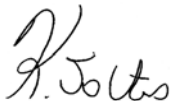
RESPECTFULLY SUBMITTED:



Ian Wells, General Manager of Planning and Development

PREPARED BY: Nicole Fraser, Planner

APPROVED:



Kathleen Soltis, City Manager
Meeting date: October 15, 2018