



# City of Port Moody

## Report/Recommendation to Council

Date: March 19, 2021  
Submitted by: Community Development Department – Development Planning Division  
Subject: Development Variance Permit – 1034 Gatensbury Road (CityState Consulting Group)

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### Purpose

To present for consideration a proposed Development Variance Permit for the property located at 1034 Gatensbury Road. The proposed variance would allow for subdivision and development within the Zoning Bylaw's streamside setbacks.

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### Recommended Resolution(s)

**THAT Council postpone consideration of the Development Variance Permit until: the Province has reviewed and approved the proposal through the Riparian Areas Notification System; the environmental concerns identified by staff are addressed; and the proposed environmental and geotechnical setbacks are reconciled as recommended in the report dated March 19, 2021 from the Community Development Department – Development Planning Division regarding Development Variance Permit – 1034 Gatensbury Road (CityState Consulting Group).**

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### Background

A subdivision application was received to subdivide the subject property located at 1034 Gatensbury Road (Location Map included as **Attachment 1**) into two RS1- Single Detached Residential lots. During the review process, it was determined that the application could not be considered without a Development Variance Permit as the streamside setbacks would need to be varied to allow for subdivision under current zoning. The application does not currently meet the streamside protection provisions as identified in section 5.4 of the Zoning Bylaw. The applicant also has not demonstrated that the proposal meets Provincial riparian area requirements. Even though staff have provided recommendations to the applicant to amend the proposal so the variance is minimized and the proposal more closely aligns with City regulations, the applicant has requested the application proceed to Council as submitted.

## Discussion

### Site Description

The subject site, 1034 Gatensbury Road, is located to the east of a Kyle Creek tributary. The subject property contains an existing single-family detached dwelling, which would be demolished for a two-lot subdivision if the proposed Development Variance Permit is granted. The subject site is large enough that the subdivision into two lots would still meet the current RS1 Zoning lot size requirements.

### Neighbourhood Context

The surrounding land use designations include Single Family Low Density to the north, east, and south of the subject site, and Parks and Open Space, where Kyle Creek is located, to the west.

Gatensbury Road is a steep road that is classified as a collector. As part of the recent re-construction of the road, a multi-use pathway was added on Gatensbury Road, which runs along the site at 1034 Gatensbury Road.

### Official Community Plan and Zoning

The subject property is zoned Single Detached Residential (RS1) and designated in the Official Community Plan for Single Family Low Density. Moreover, the site is within Development Permit Area #4 for Environmentally Sensitive Areas (for areas within Zoning Bylaw streamside setbacks) and Development Permit Area #5 for Hazardous Lands (for steep slopes >20%).

The Official Community Plan states that the City endeavours to reduce the number of driveways on collector corridors to improve road safety and mobility. This would be a consideration when reviewing development applications along Gatensbury Road.

### Project Proposal

The applicant is proposing to vary the stream setbacks as listed in the Zoning Bylaw to accommodate an RS1 subdivision (**Attachment 2**).

The tributary of Kyle Creek adjacent to 1034 Gatensbury Road requires a 15-metre Riparian Management Zone, measured from the 'top of bank'. The definition of 'top of bank' under the Riparian Areas Regulations and the City's Zoning Bylaw setback is *'where a break in the slope of the land occurs such that the grade beyond the break is flatter than 3:1 at any point for a minimum distance of 15 metres measured perpendicularly from the break'*. The surveyor has identified Top of Bank, as defined in our Zoning Bylaw, and also a separate 'top of slope' that runs along the western property line, delineating a break in the terrain between the slope on the property and a steeper slope into the ravine adjacent to the property.

An environmental report was obtained by the applicant to determine the minimum streamside setback under provincial legislation. The report proposes setback of 10 metres from the 'high water mark' (**Attachment 3**). This proposed environmental setback is located deep in the ravine adjacent to the tributary watercourse and does not meet the City's definition of 'top of bank' nor is it consistent with the recommended geotechnical setback.

The geotechnical assessment of the site provided guidance for a retaining wall along approximately half of the western property line to create a level building area for the proposed western lot (**Attachment 4**). A 'top of bank' for geotechnical purposes is identified on the Preliminary Subdivision Plan. This line is very similar to the 'top of slope' identified by the surveyor. The 'top of bank' in the geotechnical report is in a substantially different location than the 'top of bank' identified in the environmental report.

The applicant is proposing on-site tree retention of existing trees through a covenant to be registered on title.

#### Staff Review

The Top of Bank, as defined in the Zoning Bylaw, is indicated to be around the location of the current house. Typically, a variance would reduce the setback to accommodate the development activity, but in this circumstance, a variance would be required in the determination of 'top of bank'.

The application proposes a variance deep in the ravine 10m from the high water mark. However, this runs counter to the City's approach of requiring setbacks from 'top of bank'. The City's historical approach to streamside setbacks in hazardous lands areas aimed to exceed the Provincial minimum requirements in recognition of the steep slopes in Port Moody as well as the multiple community benefits that riparian areas provide (e.g. flood/slope protection, storm water management, shade, habitat for wildlife).

Given that the applicant is requesting a significant reduction to the City's setbacks, confirmation through the provincial Riparian Areas Notification System that the proposed variance in fact meets the provincial standards is required. Staff suggested that the applicant submit the required documentation to the Province prior to Council consideration as the proposed setback requirement is unclear and does not incorporate the City's setbacks or steep slope requirements. Furthermore, the request does not meet the Official Community Plan policies for riparian area protection. Despite staff's recommendation that the applicant seek Provincial approval prior to pursuing the variance, the applicant has requested to proceed with the currently proposed variance first.

Staff have also suggested to the applicant that the geotechnical 'top of bank' could be explored as an alternative to the Zoning Bylaw's defined 'top of bank'. In other examples, it is common that environmental reports include consideration of geotechnical setbacks in their recommendations. Since there is a clear break in the slope at that location, this could be an approach that would retain the intent of the Zoning Bylaw.

The application could also demonstrate that the variance would not result in a net decrease in the riparian areas of the creek ravine, by reducing encroachments and impermeable area and naturalising a portion of the existing yard. However, the applicant has opted not to consider this approach at this time and has requested Council consideration of the current proposal.

Staff do not support the proposed variance to the Zoning Bylaw streamside setbacks being requested for the following reasons:

1. concern that the provincial riparian area regulations are not being met;
2. concern that the extent of the variance to streamside setback is not required as a lesser variance is possible that would be closer to the intent of the Zoning Bylaw; and
3. concern that the streamside 'top of bank' identified by the environmental consultant is not in alignment with the geotechnical 'top of bank'.

#### Subdivision Concerns

Although Council does not approve individual subdivision applications, as this is delegated in accordance with the *Local Government Act* to the City's Approving Officer, staff have identified a number of concerns regarding the proposed subdivision. They are provided for information as they highlight additional concerns about the requested variance. The proposed subdivision itself would be reviewed by staff in order to verify whether bylaw requirements and safety concerns can be addressed adequately to consider approval of the proposed subdivision.

The concerns to subdivision centre on safety of access for any new dwellings created along Gatensbury Road and are as follows:

- new driveways and residential units create additional conflict points along Gatensbury Road and the recently created Gatensbury Multi-Use Pathway;
- Gatensbury Road is substandard to current requirements in the Subdivision and Development Servicing Bylaw, and, while it is currently in service, such a road would not be accepted for construction today;
- due to the steep grades and windy nature of Gatensbury, truck restrictions are in place, and weather conditions can close Gatensbury Road due to snow and ice; and
- vertical and horizontal curves and sightline restrictions, combined with collector road traffic volumes and speeds, can exacerbate driveway/residential unit access safety concerns and residential livability concerns, including walkability, traffic noise and speeds, and concerns of potential traffic accidents.

Staff have identified ten other properties on Gatensbury Road that have enough lot area to be potentially eligible for subdivision without rezoning. However, regardless of lot area, other considerations, such as the adjacent road grades, proximity to curves, sightlines, limit potential for many of these to be considered under subdivision applications. In addition, there are Environmentally Sensitive Areas identified on the east and west portions of Gatensbury Road that would require Development Variance Permits for future subdivision applications similar to the current proposal. In addition, each of these lots would need to be considered individually, as the complexities of each lot would need to be evaluated on its own merits and constraints. The subject property and these other properties may not be subdividable regardless of their lot size.

### Conclusion

In staff's view, the currently proposed variance to the Zoning Bylaw's streamside setbacks would create an undesirable precedent by foregoing the City's standards for streamside protection. In addition, staff are concerned about facilitating an increase in the number of people (through subdivision) living on and accessing Gatensbury Road given the steep terrain and the related known safety and livability concerns along this road.

### Other Option(s)

That the application for Development Variance Permit 3090-20-144 be denied.

### Financial Implications

There are no financial implications to the City associated with this Development Variance Permit application.

### Communications and Civic Engagement Initiatives

In accordance with the notification requirements in the City's Development Approval Procedures Bylaw and the *Local Government Act*, notices for the proposed Development Variance Permit application were mailed to property owners and tenants within 140m of the subject site two weeks in advance of the Council meeting date.

### Council Strategic Plan Objectives

The recommendations are consistent with the goals of Council's 2019-2022 Strategic Plan as related to Environmental Leadership and policies to guide environmental goals.

### Attachment(s)

1. Location Map – 1034 Gatensbury Road.
2. Proposed Development Variance Permit – 1034 Gatensbury Road.
3. Environmental Report – 1034 Gatensbury Road.
4. Geotechnical Report – 1034 Gatensbury Road.

### Report Author

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## Report Approval Details

Document Title:	1034 Gatensbury Road - Development Variance Permit.docx
Attachments:	<ul style="list-style-type: none"><li>- Attachment 1 - Location Map - 1034 Gatensbury Road.pdf</li><li>- Attachment 2 - Proposed Development Variance Permit - 1034 Gatensbury Road.pdf</li><li>- Attachment 3 - Environmental Report - 1034 Gatensbury Road.pdf</li><li>- Attachment 4 - Geotechnical Report - 1034 Gatensbury Road.pdf</li></ul>
Final Approval Date:	Apr 6, 2021

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

Kate Zanon, General Manager of Community Development - Mar 31, 2021 - 5:41 PM

Dorothy Shermer, Corporate Officer - Apr 1, 2021 - 4:58 PM

Rosemary Lodge, Manager of Communications and Engagement - Apr 1, 2021 - 6:05 PM

Paul Rockwood, General Manager of Finance and Technology - Apr 4, 2021 - 11:31 AM

Tim Savoie, City Manager - Apr 6, 2021 - 9:18 AM