
CITY OF KELOWNA

MEMORANDUM

Date: September 20, 2001

File No.: DVP01-10,062

To: City Manager

From: Planning and Development Services Department

Subject:

APPLICATION NO. DVP01-10,062

OWNER: KLAUS AND LYDIA
REICHWALD

AT: 4424 HOBSON RD.

APPLICANT: EBA ENGINEERING
CONSULTANTS (LISA
KNIGHT)

PURPOSE: TO VARY THE SETBACK FROM OKANAGAN LAKE FROM THE
REQUIRED 10.0M TO 2.5M

EXISTING ZONE: RU1 – LARGE LOT HOUSING

REPORT PREPARED BY: KIRSTEN G. BEHLER

1.0 RECOMMENDATION

THAT Council not authorize the issuance of Development Variance Permit No. 01-10,062, Klaus Reichwald, Lot A, D.L. 167, ODYD, Plan 18153, located on Hobson Rd., Kelowna, B.C.;

AND THAT a variance to the following section of Zoning Bylaw No. 8000 not be granted:

6.14.1 Stream Protection Leave Strips: A variance to reduce the leave strip
for areas of previous land disturbance from 10.0m to 2.5m.

2.0 SUMMARY

The applicant wishes to vary the stream protection leave strip requirements from Okanagan Lake for a gazebo that has already been constructed. Instead of a 10.0m leave strip required by Zoning Bylaw No. 8000, the applicant wishes to vary the leave strip to 2.5m.

3.0 BACKGROUND

3.1 The Proposal

The house on the subject property was constructed in 1996, following a fire, which destroyed the old house on the site. At the time of construction of the new house, a retaining wall was also constructed on the site, which runs between 8.5 and 0m from the natural boundary (343.0 metres above sea level contour). The applicant purchased the house in 1997 and subsequently added a gazebo in 1998. The gazebo was constructed without a building permit and does not meet all zoning requirements. Rather than being located a minimum of 10.0m from the natural boundary of Lake Okanagan, the setback from the 343.0m.a.s.l. line is only 2.5m. The applicant wishes to vary this setback to be permitted to retain the structure in its current location. The size of the gazebo is approximately 18m" with overhangs. It is located on top of a 35m" large hard-surface patio, constructed on a sandy area. The applicant describes the potential environmental impacts resulting from the construction of the gazebo as the reduction of pervious surface area. The applicant further states that no riparian vegetation has been removed to facilitate the construction of the gazebo.

The proposed mitigation consists of the planting of indigenous riparian plants and trees. This would improve the filtration capacity of the lakeshore edge, provide leaf and insect drop for fish and other aquatic species, and provide habitat for shoreline birds and insects. The applicant describes that the proposed mitigation would result in a positive habitat balance of 7.25m", i.e., the area of mitigation exceeds the area impacted by the gazebo and the patio. The proposed plant material includes five Sandbar Willow trees and numerous shrubs, such as Snowberry, Prickly Rose, Gooseberry and Oregon Grape. The applicant submitted the initial proposed mitigation plan to the Ministry of Water, Land and Air Protection, whose comments were incorporated into the current mitigation plan.

The owner has contacted his neighbours adjacent to the subject properties, who are supportive of the proposed Development Variance Permit.

The application meets the requirements of the RU1 – Large Lot Housing zone as follows:

CRITERIA	PROPOSAL	RU1 ZONE REQUIREMENTS
Site Area (m ²)	2119m"	550m ²
Site Width (m)	27m	16.5m
Site Depth (m)	77m	30.0m
Site Coverage (%)	28.3% 41%	40% 50% with driveway and parking
Setbacks (m)		
- Front	22.0m	4.5
- Rear (Lakeshore)	2.5m ❶	10m stream protection leave strip
- North Side	2.4m	2.3m
- South Side	2.7m	2.3m

Notes:

- ❶ The applicant wishes to vary the leave strip from the required 10.0m to 2.5m under this Development Variance Permit application.

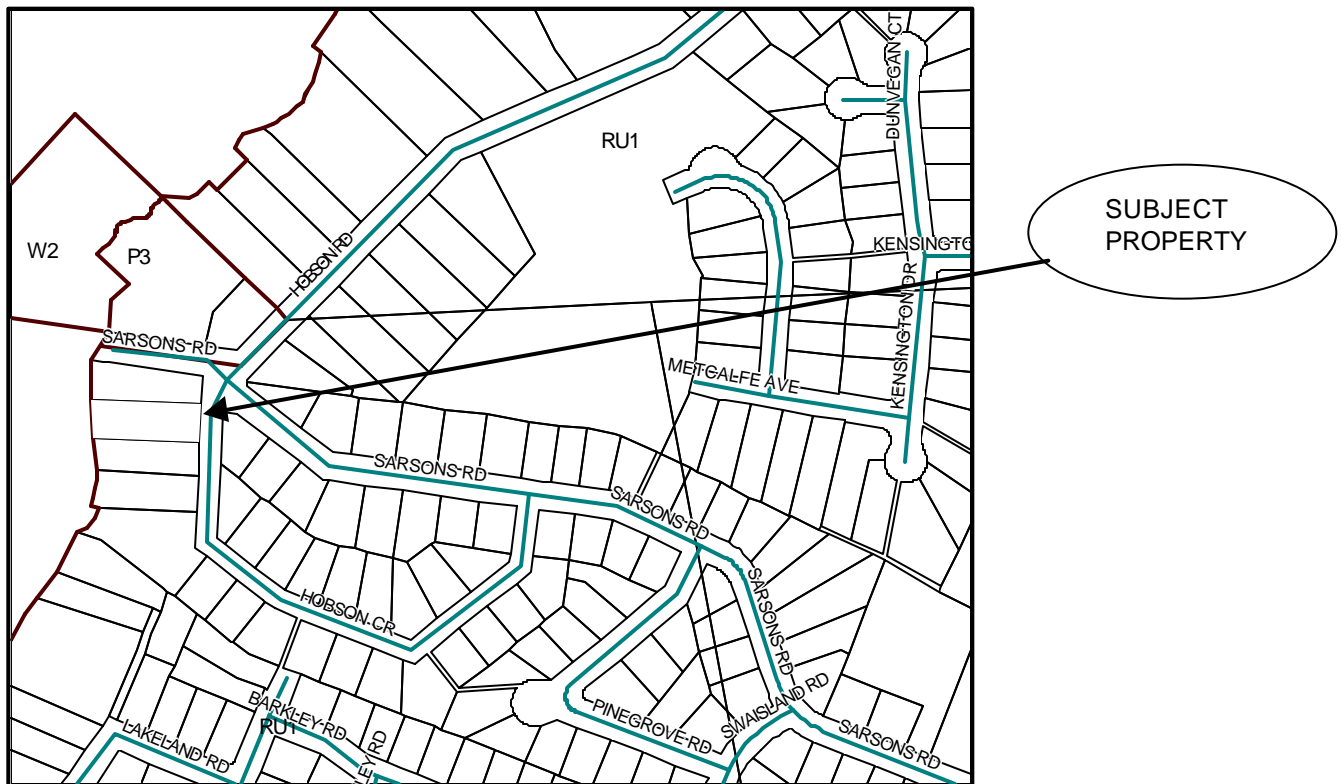
3.2 Site Context

The subject property is located in the North Mission, at the south end of Hobson Road, south of Sarson Road. The area is predominantly zoned for single-family dwellings on large lots (RU1- Large Lot Housing).

Adjacent zones and uses are, to the:

- North - RU1 – Large Lot Housing – Single detached dwelling
- East - RU1 – Large Lot Housing – Single detached dwelling
- South - RU1 – Large Lot Housing – Single detached dwelling
- West - Lake Okanagan

3.3 Location Map



3.3 Existing Development Potential

The property is zoned RU1 – Large Lot Housing. The purpose of this zone is to provide for single detached housing as a principal use, and compatible secondary uses, such as bed and breakfast homes, minor care centres and group homes, as well as home based businesses.

3.4 Current Development Policy

3.4.1 Kelowna Official Community Plan

Stream Protection Corridor Policies in the Official Community Plan require that Leave Strips be established along Lake Okanagan and other stream corridors. Table 2.2 of the OCP requires a 10.0m leave strip for single and two-family residential areas with previous land disturbance along streams in which fish are present. The area within the leave strips along Lake Okanagan is to remain in its natural condition or be landscaped in a manner that either enhances conditions for fish and wildlife or maintains conditions equivalent to those that would have existed had no development occurred. Moreover, Policy 2.7.3 prohibits “the development of buildings, structures, driveways and parking areas” and limits “infilling and some agricultural practices within Stream Protection Corridors”.

The Official Community Plan also includes policies for the protection of the Lake Okanagan Shore Zone, such as to preserve the natural vegetation along the foreshore of Okanagan Lake, regulate further filling of private waterfront areas and maintain the environmental quality of the lake.

3.4.2 North Mission / Crawford Sector Plan (1997)

The plan includes the objective to retain and enhance aquatic habitat area in the Okanagan Lake Shore Zone.

3.4.3 Lake Okanagan Shore Zone Plan (1997)

The Lake Okanagan Shore Zone Plan outlines the natural environment along the lake and suggests that a corridor of land along the lakefront be left in its natural state wherever possible.

3.4.4 Stream Protection Corridor Development Permit Guidelines (1997)

The documents includes detailed guidelines that need to be adhered to in order to prevent damage of streams in the City of Kelowna. It specifies that Leave Strips are to remain in largely undisturbed state in order to maintain healthy watercourse environments.

4.0 TECHNICAL COMMENTS

The application has been submitted to various technical agencies and City departments, and the following relevant comments have been submitted:

4.1. Works and Utilities – Environment Manager

Environment issues have been mitigated; however, the department cannot support a structure in a setback area. The guideline for the setback area is to have native vegetation and no

structures with a minimum of impervious surface. Having structures in the setback area also is not in sync with other City objectives for the foreshore area. The setback from HWM is only 2.5m, not 5.0m, as indicated in the original application.

4.2. Inspections Department

This gazebo exceeds exempt area and a permit is required.

4.3. Ministry of Water, Land and Air Protection

The Ministry recommends approval of the DVP based on the implementation of the mitigation plan and the following conditions:

- Replacement of birch on north boundary on beach with a cluster of “Sandbar” willow, indigenous to this habitat.

The applicant has incorporated the change into the mitigation plan.

5.0 PLANNING AND DEVELOPMENT SERVICES DEPARTMENT

The Planning and Development Services Department is not supportive of this Development Variance Application. Supporting a structure in a setback area is contrary to the City's objectives for stream protection as specified in the Official Community Plan. A DP and potential DVP was required prior to construction of the gazebo, at which time the owner of the property would have been advised to locate the gazebo outside of the leave strip area.

6.0 ALTERNATE RECOMMENDATION

THAT Council authorize the issuance of a Development Variance Permit No. 01-10,062, Klaus Reichwald, Lot A, D.L. 167, ODYD, Plan 18153, located on Hobson Rd., Kelowna, B.C.;

AND THAT a variance to the following section of Zoning Bylaw No. 8000 be granted:

6.14.1 Stream Protection Leave Strips: A variance to reduce the leave strip for areas of previous land disturbance from 10.0m to 2.5m;

AND THAT the applicant be required to post with the City a Landscape Performance Security deposit in the form of a "Letter of Credit" in the amount of 125% of the estimated value of the landscaping, as determined by a professional landscaper;

AND THAT the applicant be required to complete the above-noted condition within 180 days of Council approval of the development variance permit application in order for the permit to be issued.

Andrew Bruce
Current Planning Manager

Approved for inclusion

R.L. (Ron) Mattiussi, ACP, MCIP
Director of Planning & Development Services

KGB
Attach.

FACT SHEET

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| 1. APPLICATION NO.: | DVP01-10,062 |
| 2. APPLICATION TYPE: | Development Variance Permit |
| 3. OWNER: | Klaus Reichwald |
| . ADDRESS | 4424 Hobson Rd. |
| . CITY | Kelowna, BC |
| . POSTAL CODE | V1W 1Y3 |
| 4. APPLICANT/CONTACT PERSON: | EBA Engineering / Lisa Knight |
| . ADDRESS | 255 – 1715 Dickson Avenue |
| . CITY | Kelowna, BC |
| . POSTAL CODE | V1Y 9G6 |
| . TELEPHONE/FAX NO.: | (250) 862-4832
(250) 862-2941 |
| 5. APPLICATION PROGRESS: | |
| Date of Application: | August 13, 2001 |
| Date Application Complete: | |
| Servicing Agreement Forwarded to Applicant: | N/A |
| Staff Report to Council: | September 20, 2001 |
| 6. LEGAL DESCRIPTION: | Lot A, District Lot 167, ODYD, Plan KAP18153 |
| 7. SITE LOCATION: | At the southern end of Hobson Rd., south of Sarson Rd. |
| 8. CIVIC ADDRESS: | 4424 Hobson Rd.
Kelowna, BC
V1W 1Y3 |
| 9. AREA OF SUBJECT PROPERTY: | 2119m" |
| 10. EXISTING ZONE CATEGORY: | RU1 – Large Lot Housing |
| 11. PURPOSE OF THE APPLICATION: | To vary the required leave strip from 10.0m to 2.5m for an existing gazebo |
| 12. MIN. OF TRANS./HIGHWAYS FILES NO.: | N/A |
| NOTE: IF LANDS ARE WITHIN 800 m OF A CONTROLLED ACCESS HIGHWAY | |
| 13. DEVELOPMENT PERMIT MAP 13.2 IMPLICATIONS | Mandatory Natural Environment/Hazardous Conditions DP |

ATTACHMENTS

(not attached to the electronic version of the report)

- Location of subject property
- Site plan
- Mitigation plan
- Photos of gazebo