

AND THAT Council authorize the issuance of Development Variance Permit No. DVP03-0003; for Lot 3, Section 25, Township 28, SDYD, Plan 1722 except Plans B5804, 33821 & H563, located on Lakeshore Drive, Kelowna, B.C.:

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

Section 6.14: Stream Protection Leave Strips

- Vary the setback from Okanagan Lake from the 15.0 m required to 5.0 m

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

2.0 SUMMARY

The applicant is proposing a 29.89m² storage shed to be constructed in a natural environment/hazardous conditions development permit area. As the proposed shed is to be located within the required 15 metre riparian management area (RMA) setback, a development variance permit is also required.

3.0 BACKGROUND

3.1 The Proposal

The applicant is seeking a development permit and a development variance permit to allow for the construction of an accessory building on the shores of Okanagan Lake. The proposed accessory building, a shed 29.89 m² in size and 6'6" in height, will be used for storage of the property owner's kayaks, windsurfers, and canoes. The applicant is proposing to build the shed on pilings that are 50 cm above ground in order to reduce the potential for flooding.

The applicant has submitted a report by EBA Engineering Consultants Ltd. that describes the property, analyzes possible building sites, and provides a mitigation plan to offset any potential impacts on the environmental quality and habitat of the shoreline.

The EBA report refers to a required 10 metre "leave strip" outlined in the Official Community Plan (OCP). In the time since the report was written, amendments to the OCP have revised the regulations for setbacks from Lake Okanagan. Lakeshore development is now required to meet regulations outlined for Riparian Management Areas (RMA) in the OCP. The RMA setback for Lake Okanagan is 15 metre from the "natural boundary" for lake (the 343.0-m elevation mark) as surveyed at the time of the development application. The applicant is therefore seeking to variance of 10.0 metres to allow a 5.0 metre setback.

The EBA report discusses several locations for the shed. The location proposed by the applicant is located on the southwest section of the property where there is the widest distance between the high water mark and toe of slope (approximately 10 m). The applicant is proposing to recess the shed into the toe of slope in order to achieve a setback of 5.0 metres. This proposal will require the re-grading of soils at the top of the slope, the construction of a drainage cutoff ditch, the use of a concrete wall as rear and side support of the shed, and a shed roof designed to withstand potential slope failure.

The applicant's proposal also includes a mitigation plan to compensate for the impacts on the natural environment, such as the removal of a young cottonwood tree, due to construction of the storage shed. The mitigation plan calls for the clearing up of debris and the slump pile at the toe of the slope, the planting of new native trees, shrubs, and grass, and the control of noxious weeds.

The application compares to the requirements the City of Kelowna Bylaw No. 8000 for A1 zones as follows:

CRITERIA	PROPOSAL	REQUIREMENTS
Setback from Natural Boundary		
Location 1(b), recessed into slope	5.0m	15.0m

Notes:

- ① The applicant is seeking to vary the riparian management setback from the 15 metres required in a Riparian Management Area (RMA).

3.2 Site Context

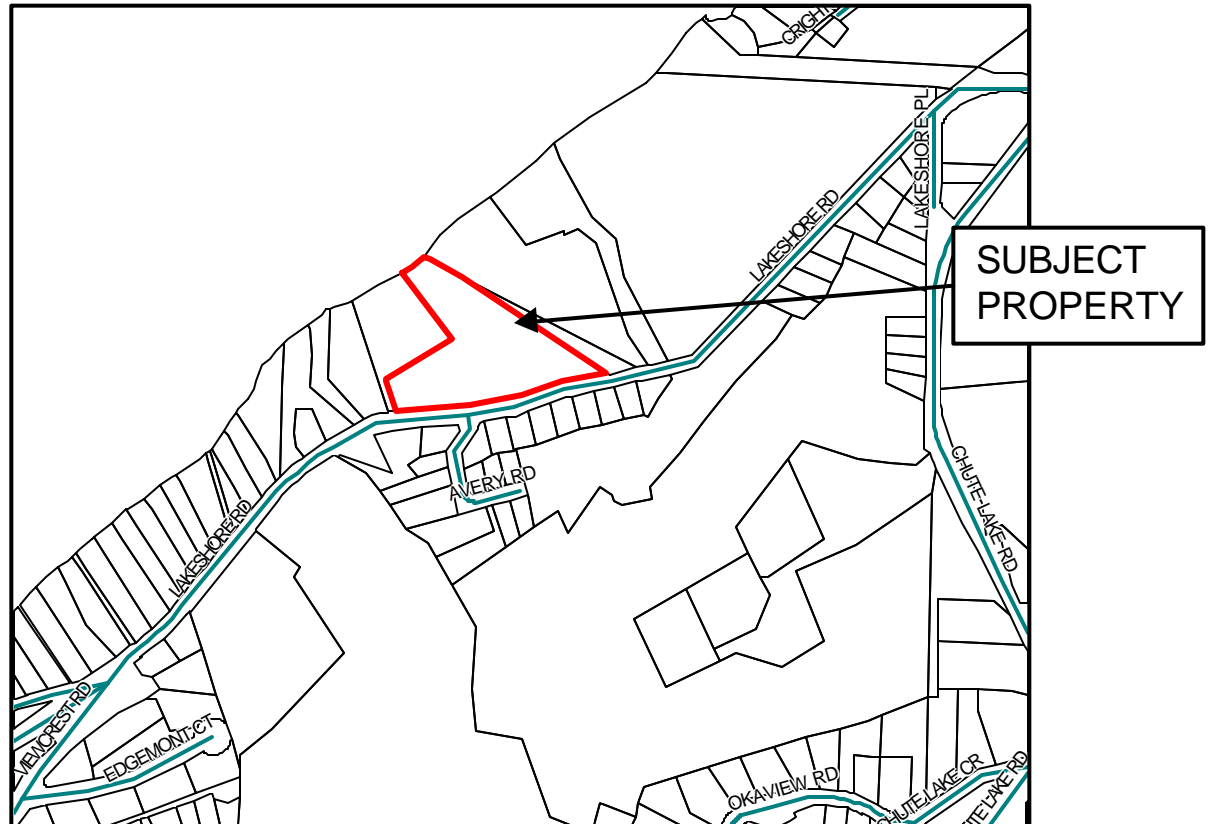
The subject property is located on Lakeshore Road between Lakeshore Place and Roepel Road.

Adjacent zones and uses are:

- North - A1- Agricultural 1
- East - A1 –Agricultural 1
- South - A1- Agricultural 1
- West - Okanagan Lake

3.3 Location Map

Subject Property: 4880 Lakeshore Road



3.4 Existing Development Potential

The intent of the A1 –Agricultural 1 zone is for agricultural uses, animal clinics, aquaculture, greenhouses and plant nurseries, intensive agriculture, mobile homes, single detached housing, utility services (minor impact). Secondary uses in this zone include agricultural dwellings, agri-tourist accommodation, animal clinics (major & minor), bed and breakfast homes, care centres (intermediate), forestry, group homes (minor), home businesses (major, minor, rural), kennels and stables, wineries and cideries, and secondary suites (A1s only).

3.5 Current Development Policy

3.5.1 Kelowna Official Community Plan

Proposed development in a Natural Environment DP area will be sensitively integrated with the natural environment and will present no hazards to person or property, development may be permitted on land with a natural slope that averages greater than 30%. Natural vegetation should be retained on slopes in order to control potential erosion, landslip and rock falls.

Proposed development in a Hazardous Conditions Development Permit area will minimize the effects of development on the natural environment of hillside areas, defined as lands in their natural state that have a slope angle of 10% and greater for a minimum height of 9 m while preserving areas with slopes of 30% and greater. Effects to be minimized may include cuts and fills, tree cutting, regrading and the visual impact of urban development on hillsides.

3.5.2 Lake Okanagan Shore Zone Plan

In order to protect the shore zone, a corridor of land along the lakefront should be left in its natural condition upon redevelopment of the upland parcel, 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.

The rehabilitation of natural areas that have been negatively affected by human activity, even on properties where no development initiatives are being proposed, is also encouraged.

It should be ensured that the natural environment will not be negatively affected. The proposed action or development should have no significant impact on the environment, or which concludes that the land is not considered to be environmentally sensitive to development, nor subject to hazardous conditions.

5.0 TECHNICAL COMMENTS

The application has been submitted to various technical agencies and City departments and the following comments or concerns were expressed:

5.1 Works and Utilities

The application is supported provided: (a) written authorization from MWLAP is submitted, and (b) the Mitigation Plan is implemented as described in the EBA report. Bonding to the amount of 125% of the total amount for the mitigation as estimated in by EBA Engineering is required.

5.2 Ministry of Water, Land, & Air Protection

The Ministry has no objections to the proposal provided the mitigation plans and recommendations for restoration/stabilization work, described in the EBA report, are carried out. Notification by the consultant that mitigation is completed as planned is requested.

6.0 PLANNING AND DEVELOPMENT SERVICES DEPARTMENT

The Planning and Development Services Department supports the proposal to construct a shed within the riparian management area, provided that the geotechnical prescriptions and mitigation plan are implemented as outlined in the EBA report. By recessing the shed into the slope, the applicant is seeking to maximize the setback within the constraints of the shoreline topography. In addition, the geotechnical prescriptions and mitigation plan seek to minimize the environmental impact of construction within the riparian management area.

Andrew Bruce
Current Planning Manager

Approved for inclusion

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

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Attach.

FACT SHEET

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| 1. APPLICATION NO.: | DP03-0002/DVP03-0003 |
| 2. APPLICATION TYPE: | Development Permit
Development Variance Permit |
| 3. OWNER: | Jacqueline & Paul Kurkjian |
| . ADDRESS | 4305 Hobson Road |
| . CITY | Kelowna, BC |
| . POSTAL CODE | V1W 1Y4 |
| 4. APPLICANT/CONTACT PERSON: | Jacqueline & Paul Kurkjian |
| . ADDRESS | 4305 Hobson Road |
| . CITY | Kelowna, BC |
| . POSTAL CODE | V1W 1Y4 |
| . TELEPHONE/FAX NO.: | 862-4454/862-4456 |
| 5. APPLICATION PROGRESS: | |
| Date of Application: | January 17, 2003 |
| Date Application Complete: | |
| Servicing Agreement Forwarded to Applicant: | N/A |
| Servicing Agreement Concluded: | N/A |
| Staff Report to APC: | N/A |
| 6. LEGAL DESCRIPTION: | Lot 3, Plan 1722, SDYD Section 25,
Twp 28 except Plans B5804, 33821 &
H563 |
| 7. SITE LOCATION: | Lakeshore Rd between Roepel Road
and Lakeshore Place |
| 8. CIVIC ADDRESS: | 2880 Lakeshore Road |
| 9. AREA OF SUBJECT PROPERTY: | 6.976 acres (28 231.872 m ²) |
| 10. EXISTING ZONE CATEGORY: | A1- Agricultural 1 |
| 11. PURPOSE OF THE APPLICATION: | A development permit and development
variance permit to allow for the
construction of a storage shed within the
riparian management area setback along
the shores of Okanagan Lake. |
| 12. MIN. OF TRANS./HIGHWAYS FILES NO.:
NOTE: IF LANDS ARE WITHIN 800 m OF A
CONTROLLED ACCESS HIGHWAY | N/A |
| 13. DEVELOPMENT PERMIT MAP 13.2
IMPLICATIONS | N/A |

ATTACHMENTS

(not attached to the electronic version of the report)

- Location of subject property
- Letter from the applicant
- Site Plan
- Elevation
- EBA Report