
CITY OF KELOWNA
MEMORANDUM

Date: January 22, 2004
File No.: DVP03-0148

To: City Manager

From: Planning and Corporate Services Department

Subject:

APPLICATION NO. DVP03-0148 **OWNER:** Mary Erica Leach/ Karen Elizabeth Etheridge
AT: 5550 Lakeshore Road, Kelowna, **APPLICANT:** Erica Leach
BC

PURPOSE: TO OBTAIN A VARIANCE TO ALLOW A SIDE YARD SETBACK OF 10.0 METRES WHERE A 15.0 METRE RIPARIAN MANAGEMENT AREA SETBACK IS REQUIRED.

EXISTING ZONE: RR1 – Rural Residential 1

REPORT PREPARED BY: KEIKO NITTEL

SEE ATTACHED FACT SHEET FOR COMPLETE APPLICATION DETAILS

1.0 RECOMMENDATION

THAT Council authorize the issuance of Development Variance Permit No. DVP03-0148 for Lot A, Sections 15 & 22, Township 28, SDYD, Plan 20994 located on Lakeshore Road, Kelowna, B.C. subject to the following:

1. The dimensions and siting of the building to be constructed on the land be in general accordance with Schedule "A";
2. The exterior design and finish of the building to be constructed on the land be in general accordance with Schedule "B";
3. Landscaping to be provided on the land in general accordance with Schedule "C";

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

Section 6.14.1 : Stream Protection Leave Strips

- A variance to allow a single detached dwelling to have a riparian management area setback of 10.0 metres where a setback of 15.0 metres is required.

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

3.0 BACKGROUND

3.1 The Proposal

The subject property is located on the shores of Okanagan Lake. The existing single detached dwelling was destroyed by wildfires in August of 2003. The applicant is proposing to rebuild a single detached dwelling at a different location on the subject property. The proposed house is to be located 10 metres from the natural boundary of Okanagan Lake. As the required riparian management setback is 15.0 metres, a development variance is required. A significant slope down to the shores of the lake ensures that the proposed development will have little impact on the riparian management area. The applicant has ensured that the existing foundations on the subject property have been removed.

The applicant has submitted a drawing indicating the proposed plans to rehabilitate the site. The applicant is proposing to rehabilitate the property using native plants. The applicant will be required to ensure that the property, in particular the steep slopes, are rehabilitated.

The application compares to the requirements the City of Kelowna Bylaw No. 8000 for RR1 zones as follows:

CRITERIA	PROPOSAL	RR1 ZONE REQUIREMENTS
Lot Area (m ²)	3810 m ² (existing)	1.0ha
Lot Width (m)	37.83 m (existing)	40.0m
Lot Depth (m)	69.31m (existing)	30.0m
Site Coverage (%)	<5%	10%
Height	<5.0m / 2 storeys	9.5m/2.5 storeys
Setbacks		
-Front	10.0 m	6.0m
-Rear	10.0m 10.0 m RMA ❶	10.0m 15.0m RMA setback
- Side (north)	30.0+m	3.0m
- Side (south)	3.0 m	3.0m
Parking Spaces (Total)	2+	

Notes:

- ❶ A variance is required to allow a riparian management area setback of 10.0 metres where 15.0 metres is required.

3.2 Site Context

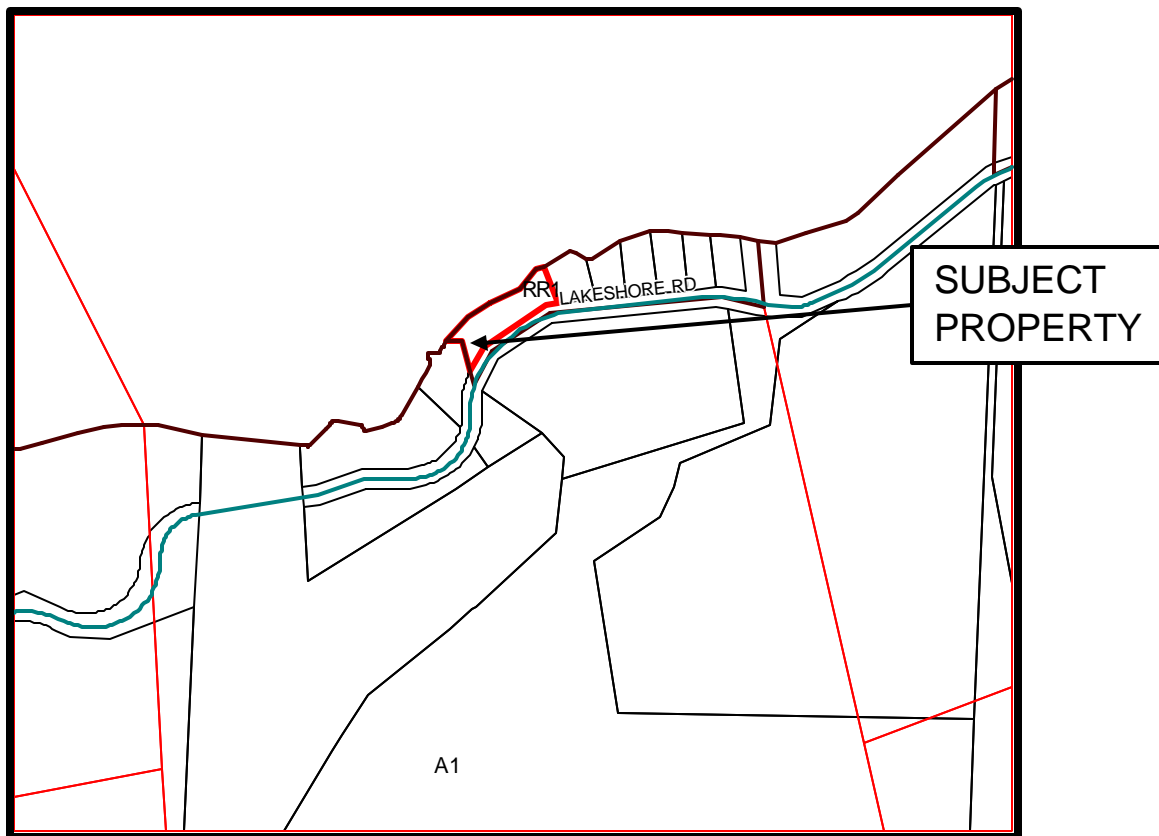
The subject property is located on Lakeshore Road between Lakeshore Place and Roepel Road.

Adjacent zones and uses are:

- North - RR1- Rural Residential Housing Zone
- East - A1- Agricultural 1 Zone
- South - A1- Agricultural 1 Zone
- West - W1- Okanagan Lake

3.3 Location Map

Subject Property:



3.4 Existing Development Potential

The property is zoned RR1 – Rural Residential 1. The purpose of this zone is to provide a zone for country residential development, and complementary uses, on larger lots in areas of high natural amenity and limited urban services.

4.5 Current Development Policy

4.5.1 Kelowna Official Community Plan

The OCP Riparian Management Area policies call for the retention, in a largely undisturbed state throughout and after the development process (unless there exists a hazardous condition which can only be addressed by disturbing the site), of an area of land immediately adjacent to the streams. This area to remain free of development is referred to as the “riparian management area.” The OCP also states that, as a general rule, Riparian Management Areas should be of sufficient width to include any significant natural attribute and adjacent terrestrial ecosystem (i.e., vegetation, water features, fish and wildlife habitat, escarpments, terraces, steep valley sides and cliffs). In addition, the OCP calls for the prohibition of buildings, structures, and hard-surfacing, such as driveways and parking areas and limit soil deposition and some agricultural practices within the Riparian Reserve Zone.

The OCP guidelines for Riparian Management Areas, however, also states that relaxations may be considered, environmental mitigation and restoration will be a requirement of the development process. The Relaxation of the Riparian Management Area may also require habitat mitigation measures acceptable to the Ministry of Water, Land and Air Protection (e.g., planting, diversion of storm water, fencing, or restoration works), or compensation authorized by Department of Fisheries and Oceans. Any proposed relaxation of Riparian Management Area widths, storm water mitigation requirements, or erosion & sediment control requirements are to be referred to the Ministry of Water, Land and Air Protection for authorization prior to review by the City.

The guidelines also state that the City may consider zoning bylaw variances, where necessary, in order to prevent or minimize encroachment into the *Riparian Management Area*. The changes that may be considered include, but are not limited to:

- a) Reducing front and/or rear yard setbacks
- b) Increasing the maximum site coverage of buildings (provided density is not increased)
- c) Increasing maximum building height (provided density is not increased)
- d) Reducing parking space requirements.

The OCP also outlines Development Permit conditions which can be used as a means of satisfying of the above-noted guidelines. The City may issue a development permit that:

- imposes conditions respecting the sequence and timing of construction;
- varies or supplements a bylaw dealing with subdivision servicing requirements or land use designation (zoning) requirements (other than issues relating to use or density);
- includes requirements and conditions or sets standards for:

- areas of land that must remain free of development, except in accordance with any conditions contained in the permit;
- specified natural features or areas to be preserved, protected, restored or enhanced in accordance with the permit
- creek beds to be returned to the Crown
- Riparian Management Areas to be dedicated
- works to be constructed to preserve, protect, restore or enhance natural water courses or other specified natural features of the environment
- protection measures, including that vegetation or trees be planted or retained in order to:· conserve, protect, restore or enhance fish habitat or riparian areas, control drainage, control erosion or protect banks

In areas of flooding, the OCP calls for the referral of the application to the Ministry of Water, Land, and Air Protection as their floodplain management requirements call for a horizontal setback of 15 metres. Setback development on properties along streams and water bodies in accord with the MWLAP required floodplain management provisions require the registration of a Section 219 covenant to save the City of Kelowna harmless from any future flooding damage for relaxation of the required floodplain management setback. The flooding guidelines also call for the protection of the riparian management areas using restrictive covenants, dedications, park zoning, and statutory right-of-ways.

4.5.2 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

5.1 Environmental Division

No concerns provided site is rehabilitated (landscaping). A site inspection will be conducted to ensure the rehabilitation is adequate.

5.2 Fire Department

No comment.

5.3 Inspection Services

No comment.

5.4 Parks Department
No comment.

5.5 Works & Utilities
No Comment

6.0 PLANNING AND DEVELOPMENT SERVICES DEPARTMENT

The Planning and Development Services Department is supportive of the proposal to construct a new single detached dwelling on the subject property. The previous buildings on site, burnt by wildfire in August of 2003, were non-conforming. The foundations that remained were subsequently removed from the property. Due to the constraints of the lot, the proposed location of the new house is preferable than that previously existing. The property slopes considerably down towards the lake therefore will likely have little impact on the riparian management area. The applicant will be required to ensure that landscaping is installed as indicated on the site plan to help ensure the rehabilitation of the subject property. In addition to the plantings, Staff recommends that the applicant seed the steep slope areas with grass in order to both stabilize the slopes as well as restrict the growth of invasive weeds. A site inspection will be conducted with Environmental staff to ensure the adequate rehabilitation of the site.

Andrew Bruce
Development Services Manager

Approved for inclusion ☐

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

FACT SHEET

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|---|---|
| 1. APPLICATION NO.: | DVP03-00148 |
| 2. APPLICATION TYPE: | Development Variance Permit |
| 3. OWNER: | Mary Erica Leach/ Karen Elizabeth Etheridge |
| . ADDRESS | 5550 Lakeshore Road |
| . CITY | Kelowna, BC |
| . POSTAL CODE | V1W 4J4 |
| 4. APPLICANT/CONTACT PERSON: | Erica Leach |
| . ADDRESS | 311 Apsen Road |
| . CITY | Kelowna, BC |
| . POSTAL CODE | V1W 4S5 |
| . TELEPHONE/FAX NO.: | 764-4004 |
| 5. APPLICATION PROGRESS: | |
| Date of Application: | November 5, 2003 |
| Date Application Complete: | January 12, 2003 |
| Servicing Agreement Forwarded to Applicant: | n/a |
| Servicing Agreement Concluded: | n/a |
| Staff Report to APC: | n/a |
| 6. LEGAL DESCRIPTION: | Lot A, Sections 15 & 22, Township 28, SDYD, Plan 20994 |
| 7. SITE LOCATION: | On Lakeshore Road |
| 8. CIVIC ADDRESS: | 5550 Lakeshore Road |
| 9. AREA OF SUBJECT PROPERTY: | n/a |
| 10. EXISTING ZONE CATEGORY: | RR1 – Rural Residential 1 |
| 11. PURPOSE OF THE APPLICATION: | TO OBTAIN A VARIANCE TO ALLOW A SIDE YARD SETBACK OF 10.0 METRES WHERE A 15.0 METRE RIPARIAN MANAGEMENT AREA SETBACK IS REQUIRED. |
| 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 | n/a |

ATTACHMENTS

(not attached to the electronic version of the report)

- Location of subject property
- Site Plan
- Elevations
- Floor Plans
- Landscaping Plan
- Photos