
CITY OF KELOWNA
MEMORANDUM

Date: February 3, 2004
File No.: DVP03-0179

To: City Manager

From: Planning and Corporate Services Department

Subject:

APPLICATION NO. DVP03-0179 **OWNER:** Dieter Scherfenberg

AT: 5044 Lakeshore Rd, Kelowna, BC **APPLICANT:** W.H. Danforth

PURPOSE: TO OBTAIN A DEVELOPMENT VARIANCE PERMIT TO ALLOW A TRAMWAY
TO BE LOCATED WITHIN THE REQUIRED 15.0 METRE RIPARIAN
MANAGEMENT AREA SETBACK FROM OKANAGAN LAKE.

EXISTING ZONE: RR2 –RURAL RESIDENTIAL 2

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. DVP03-0179; for Lot 4, Section 23, Township 28, SDYD, Plan 10605, located on Lakeshore Road, Kelowna, B.C. subject to the following:

1. The dimensions and siting of the tramway to be constructed on the land be in general accordance with Schedule "A";
2. The exterior design and finish of the tramway to be constructed on the land be in general accordance with Schedule "B";
3. Landscaping/Mitigation to be provided on the land in general accordance with the Naito Environmental Report (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

- TO OBTAIN A DEVELOPMENT VARIANCE PERMIT TO ALLOW A TRAMWAY TO BE LOCATED WITHIN THE REQUIRED 15.0 METRE RIPARIAN MANAGEMENT AREA SETBACK.

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

2.0 SUMMARY

A development variance permit is required to allow for the construction of a tram within the required riparian management area setback from Okanagan Lake. The proposed tram will serve to link the existing single detached dwelling to an existing deck and accessory building located along the adjacent to Okanagan Lake. Currently a staircase provides access down a steep slope to the shoreline.

3.0 BACKGROUND

3.1 The Proposal

The proposed tram is to be located with the required 15.0 metre riparian management area setback from Okanagan Lake. The tram will be accessed at the edge of the lawn area adjacent to the existing single detached house and travel 29 metres down the steep slope to terminate on the lakeshore. The tram would terminate at an elevation 0.2 meters above the high water mark of Okanagan Lake (343 metres). The tram track will consist of two aluminum rails supported by seven pairs of screw piles. The drive motor is to be housed at the top of the tram. The proposed tram will be tied in with an existing retaining wall located at the top of the bank.

The applicant has submitted a report by Naito Engineering Consultants Ltd. that describes the property, analyzes the building site, and provides a mitigation plan to offset any potential impacts on the environmental quality and habitat of the shoreline. The alignment has been located to avoid loss of vegetation. The applicant has attempted to mitigate the visual impact of the tramway minimize in part due to existing trees and shrubs. The mitigation report calls for the planting of 6 new shrubs within the 15.0 metre riparian zone.

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

CRITERIA	PROPOSAL	REQUIREMENTS
Setback from 343.0 elevation mark	0.2m ❶	15.0m

Notes:

❶ 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

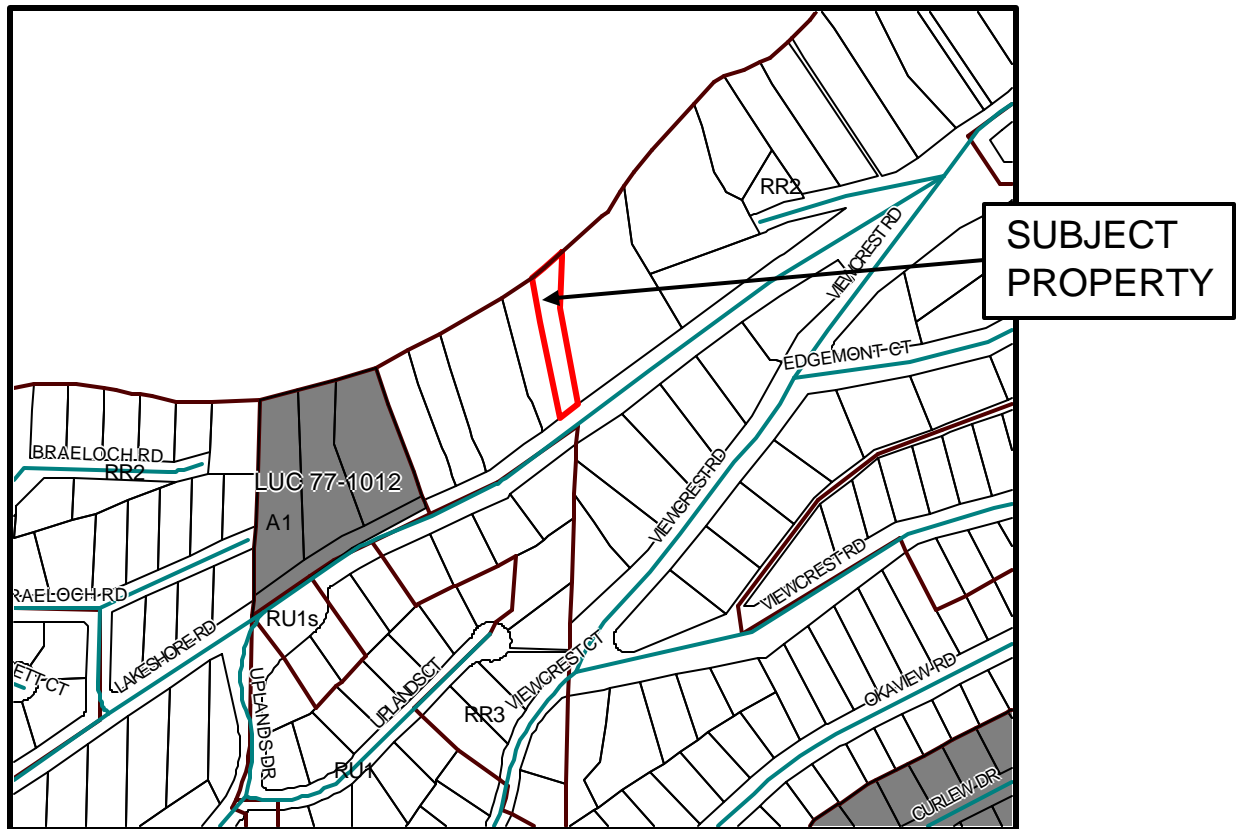
The subject property is located on Lakeshore Road between Roepel Road and Uplands Drive.

Adjacent zones and uses are:

North - RR2- Rural Residential 2
 East - RR2- Rural Residential 2
 - RR3- Rural Residential 3
 South - RR2- Rural Residential 2
 West - Okanagan Lake

3.3 Location Map

Subject Property: 5044 Lakeshore Road



3.4 Existing Development Potential

The purpose of the RR2 – Rural Residential 2 is to provide a zone for country residential development, and complementary uses, in areas of high natural amenity and limited urban services. The principal uses in this zone include greenhouses, plant nurseries and single detached housing. Secondary Uses include bed and breakfast homes, care centres (intermediate), group homes (minor), home based businesses (minor & major), and second kitchens.

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 Inspections
No concerns.

5.2 Fire Department
No comment.

5.3 Ministry of Water, Land, & Air Protection
The Ecosystem Section of the Ministry of Water, Land and Air Protection Okanagan Region has no concerns with the proposal provided the mitigation and compensation measures listed in the conclusions section of the Naito Environmental report dated October 19, 2003 are adhered to.

5.4 Parks Department
No comment.

5.5 Works and Utilities
No comment.

6.0 PLANNING AND DEVELOPMENT SERVICES DEPARTMENT

The Planning and Development Services Department supports the proposal to construct a tramway within the riparian management area, provided that the mitigation plan is implemented as outlined in the Naito Environmental report. A site inspection will be conducted to ensure that the tramway is installed as per the proposed plans and that the impact mitigation and compensation measures are implemented as outlined in the environmental consultant's report.

The application addresses only the variance to allow the proposed tram to be located within the riparian management area setback and does not constitute approval of the existing non-conforming structures located at the lakeshore (i.e. deck and accessory building). The City has no records of approval of the buildings. However, based on an inspection conducted by Inspection Services, it appears that their construction outdated the relevant City bylaws and policies. Staff would not be supportive of legalizing these structures as under current policies and bylaws similar development would not be permitted. Therefore, if damaged or destroyed such that they lose their non-conforming status, the structures would not be permitted to be rebuilt.

Andrew Bruce
Development Services Manager

Approved for inclusion

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

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Attach.

FACT SHEET

1. **APPLICATION NO.:** DVP03-0179
2. **APPLICATION TYPE:** Development Variance Permit
3. **OWNER:** Dieter Scherfenberg
· **ADDRESS** c/o Terry Knight, 200-537 Leon Ave
· **CITY** Kelowna, BC
· **POSTAL CODE** V1Y 2A4
4. **APPLICANT/CONTACT PERSON:** W.H. Dansforth
· **ADDRESS** 2480 Dunsmuir Road
· **CITY** Kelowna, BC
· **POSTAL CODE** V1W 2V3
· **TELEPHONE/FAX NO.:** 860-2480
5. **APPLICATION PROGRESS:**
Date of Application: December 19, 2003
Date Application Complete: January 27, 2004
Servicing Agreement Forwarded to Applicant: N/A
Servicing Agreement Concluded: N/A
Staff Report to APC: N/A
6. **LEGAL DESCRIPTION:** Lot 4, Section 23, Township 28, SDYD, Plan 10605
7. **SITE LOCATION:** The subject property is located on Lakeshore Road between Roepel Road and Uplands Drive.
8. **CIVIC ADDRESS:** 5044 Lakeshore Road
9. **AREA OF SUBJECT PROPERTY:** 2100m²
10. **EXISTING ZONE CATEGORY:** RR2- Rural Residential 2
11. **PURPOSE OF THE APPLICATION:** TO OBTAIN A DEVELOPMENT VARIANCE PERMIT TO ALLOW A TRAMWAY TO BE LOCATED WITHIN THE REQUIRED 15.0 METRE RIPARIAN MANAGEMENT AREA SETBACK FROM OKANAGAN LAKE.
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** Natural Environment/Hazardous Condition DP & Lakeshore DP

ATTACHMENTS

(not attached to the electronic version of the report)

- Location of subject property
- Site Plan
- Airphoto
- Photographs
- Elevations
- Naito Report
- Letter from Ministry of Water, Land, and Air Protection