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**CITY OF KELOWNA**

**MEMORANDUM**

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**Date:** January 11, 2006  
**To:** City Manager  
**From:** Planning & Corporate Services Department  
**Subject:**

**APPLICATION NO.** DP05-0065/ **OWNER:** Rodger Hazard  
DVP05-0173

**AT:** 208 Poplar Point Drive **APPLICANT:** Paul Nesbitt (Nesbitt Originals)

**PURPOSE:** TO CONSTRUCT A SINGLE FAMILY DWELLING ON THE SUBJECT  
PROPERTY  
  
TO REPAIR DAMAGE TO THE RIPARIAN MANAGEMENT AREA ON  
THE SUBJECT PROPERTY  
  
TO VARY THE OKANAGAN LAKE SIGHTLINE REQUIREMENT FROM  
60° REQUIRED TO 40° PROPOSED

**EXISTING ZONE:** RU1 – LARGE LOT HOUSING

**REPORT PREPARED BY:** RYAN SMITH

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1.0 RECOMMENDATION

THAT Council authorize the issuance of Development Permit No. DP05-0065 for Lot 2, District Lot 219 ODYD Plan 4561, located on Poplar Point Drive, 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 be in general accordance with Schedule "C";
4. 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 environmental mitigation, as determined by a qualified professional;

AND THAT Council authorize the issuance of Development Variance Permit No. DVP05-0173; Lot 2, District Lot 219 ODYD Plan 4561 located on Poplar Point Drive, Kelowna, B.C.;

AND THAT variances to the following sections of Zoning Bylaw No. 8000 be granted:

Section 6.11.1: Okanagan Lake Sightlines

Vary the Okanagan Lake Sightlines requirement as it impacts the property to the south from 60° required to 40° proposed.

AND 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;

AND THAT the applicant be required to adhere to the Impact Mitigation and Recommendations contained in the Environmental Habitat Assessment Report by I.C. Ramsay and Associates;

AND THAT an Environmental Monitor be retained for the duration of the proposed development to ensure compliance with the recommendations of the assessment report by I.C. Ramsay and Associates;

AND FURTHER THAT all mitigation works are completed on subject property and abutting property to the south prior to the issuance of a building permit for the proposed residence.

2.0 SUMMARY

The applicant has demolished an old house on the subject property and is seeking to construct a new larger home. The proposed new home will encroach on Okanagan Lake sightlines of the neighbour to the south.

3.0 ADVISORY PLANNING COMMISSION (PREVIOUS CONSIDERATION)

At the regular meeting of April 26, 2005 it was resolved:

*THAT the Advisory Planning Commission support application #DP05-0065, to obtain an environmental Development Permit to allow for the construction of a single family dwelling on the subject property and the rehabilitation of damage done within Okanagan Lake's Riparian Management Area.*

*THAT the Advisory Planning Commission support application # DVP05-0066, to obtain a Development Variance Permit to vary the Okanagan Lake sightline requirement from the 60° required to the 25° proposed for the construction of a new single family dwelling;*

\*Note: The applicant has revised the plans from the original application considered by APC but denied by Council in order to provide a greater sightline for the neighbouring property to the south.

#### 4.0 THE PROPOSAL

The subject property is the second from the end on the western side of Poplar Point Drive and abuts Okanagan Lake. The applicant is seeking an environmental development permit to address damage that has been done to the Riparian Management Area and the applicants are seeking a development variance permit for the impact of the development on the Okanagan Lake Sightlines of the neighbour to the south. The siting of the proposed house would require a reduction of the required sightline from 60° required to 40° proposed.

The applicants have submitted an Environmental Habitat Assessment Plan that proposes measures to mitigate the impact of past disturbances and the proposed development on the riparian management area. The assessment recommends the protection of the site from further degradation in protected areas and rehabilitation and restoration and enhancement of the RMA.

The application compares to the requirements the City of Kelowna Bylaw No. 8000 for RU1 – Large Lot Housing zone as follows:

CRITERIA	PROPOSAL	RU1 ZONE REQUIREMENTS
Site Area (m <sup>2</sup> )	1951m <sup>2</sup>	550m <sup>2</sup>
Lot Width	32.40m	16.5m
Lot Depth	75.10m	30.0m
Site Coverage (%)	25%	40%
<b>Setbacks</b>		
Side Yard (north)	2.3m	2.0m for 1/1.5 storey portion 2.3m for 2/2.5 storey portion
Side Yard (west)	2.3m	2.0m for 1/1.5 storey portion 2.3m for 2/2.5 storey portion
Rear Yard	15.0m	15.0m (Riparian Management Area for Okanagan Lake)
Front Yard	15.0m (to Poplar Point Drive)  0.27-6m - to edge of easement	4.5m or 6.0m to a garage or carport
Okanagan Lake Sightlines	40°	60°

❶ Note: the applicants are seeking a development variance permit for the impact of the development on the Okanagan Lake Sightlines of the neighbour to the south. Zoning Bylaw No.8000 allows a sightline of 60° for the neighbour to the south, whereas the applicant is seeking to vary this to 40° proposed.

#### 3.1 Site Context

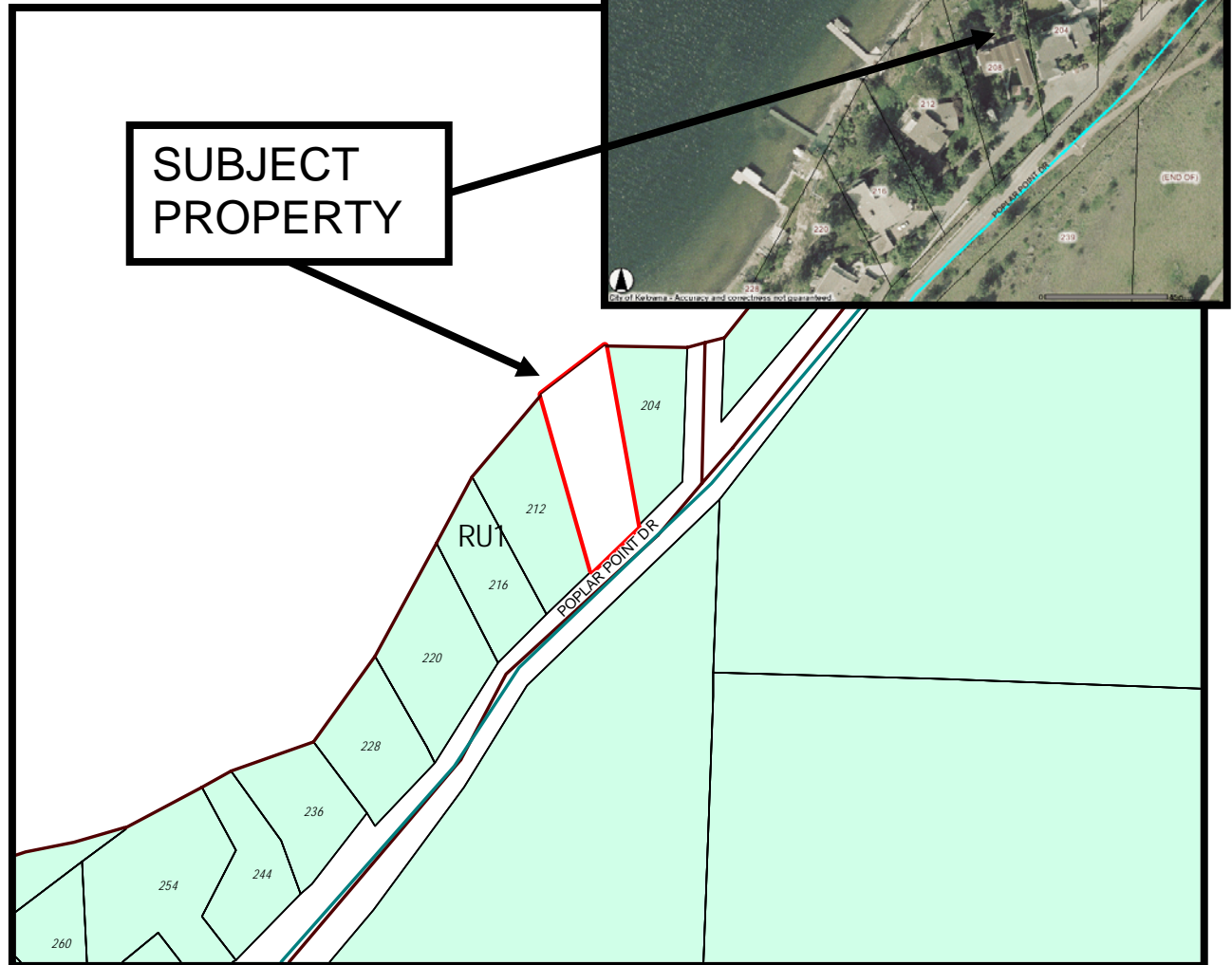
The subject property is the second from the end on the western side of Poplar Point Drive and abuts Okanagan Lake. An access easement for property to the south impacts the eastern side of the subject property.

Adjacent zoning and existing land uses are to the:

- North - RU1 – Large Lot Housing – Single Family Dwelling
- East - P3 – Parks and Open Space – Knox Mountain Park
- South - RR2 – Rural Residential 2
- West - Okanagan Lake

### 3.2 Site Map

Subject Property: 208 Poplar Point Drive



### 5.0 DEVELOPMENT REGULATIONS

The subject property is currently zoned RU1 – Large Lot Housing. The purpose of this zone is to provide for single detached housing, and compatible secondary uses, on large serviced urban lots. The subject property is located in an environmental development permit area because it directly abuts Okanagan Lake.

## 6.0 TECHNICAL COMMENTS

This application has been circulated to various internal departments and external agencies and the following comments have been received:

### 6.1 Environment Manager

The Environment Division has reviewed and approved the Environmental Habitat Assessment Report by I.C. Ramsay and Associates for 208 Poplar Point Drive. The applicant will be required to post a performance bond, and complete the mitigation works prior to the issuance of a building permit for the single family dwelling. The applicant will also be required to adhere to the Impact Mitigation and Recommendations contained in the Environmental Habitat Assessment Report by I.C. Ramsay and Associates and that an Environmental Monitor be retained for the duration of the proposed development to ensure compliance with the recommendations of the report.

### 6.2 Ministry of Water, Land and Air Protection

Our File #2005sip0109

Grant Furness reviewed - no risk.

### 6.3 Telus, Terasen, Shaw Cable, RCMP, Public Health Inspector, Inspection Services, Fortis BC, Fire Department

No concerns or comments expressed.

### 6.4 Works and Utilities

The Works & Utilities Department has the following requirements associated with this application.

#### 6.12.1 Domestic Water and Fire Protection

This property is currently serviced with a 19mm-diameter copper water service.

Water service issues will be reviewed by the Inspection Services Department when a Building Permit application including a mechanical plan is submitted.

#### 6.12.2 Sanitary Sewer

This lot is provided with a 32mm-diameter low pressure sanitary sewer service. Service changes, if required, will be at the applicants cost.

#### 6.12.3 Development Variance and Site Related Issues

The requested Development Variance applications do not compromise Works and Utilities servicing requirements.

The environmental ramifications of new house and dock construction, landscape features including retaining walls, location of onsite storm disposal systems, protection of existing natural features, building and pool setbacks from Okanagan Lake must be

considered. Development Engineering will defer comment on those issues to the City Environment Manager and the Provincial Government

#### 6.12.4 Road Dedication and Subdivision Requirements

By registered plan to provide the following:

Grant Statutory Rights Of Way for utility services.

#### 7.0 PLANNING AND CORPORATE SERVICES COMMENTS

The Planning and Corporate Services Department is generally supportive of the development permit and development variance permit applications. The City's Environment Division has reviewed and approved the Environmental Habitat Assessment report and staff has included their requirements in the recommendation to Council.

Staff are supporting the proposed variance due to the fact that the uneven lakeshore in this area makes it very difficult for the applicant to construct a new single family dwelling while respecting the existing access easements on the south side of the property. While the applicant's house will impact the required sightlines of his neighbour to the west, the applicant's sightlines will likely be impacted when the property to the north develops. The applicant is respecting the Zoning Bylaw with regard to site coverage and setback restrictions and therefore staff feels that the proposed sightline reduction is reasonable.

The applicant has also made a number of attempts to work with the abutting neighbour to the south who has had significant concerns relating to the application. The discussions have resulted in a revised garage layout and improved landscaping along the southern property line of the subject property.

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Andrew Bruce  
Development Services Manager

Approved for inclusion

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

RM/AB/rs  
Attach.

**ATTACHMENTS**

**(not attached to the electronic version of the report)**

- Subject Property Map
- Site Plan Showing Proposed Variances
- Survey Plan