

---

**CITY OF KELOWNA**

**MEMORANDUM**

---

**Date:** March 10, 2006  
**File No.:** **DVP05-0237**

**To:** City Manager

**From:** Planning & Corporate Services Department

**Subject:**

DEVELOPMENT VARIANCE PERMIT  
APPLICATION NO. DVP05-0237

OWNER: ROBERT T. & CINDY L.  
BOLLHORN

AT: #200 – 440 CASCIA DRIVE

APPLICANT: CINDY BOLLHORN

PURPOSE: TO SEEK A DEVELOPMENT VARIANCE PERMIT TO VARY  
THE MAXIMUM SITE COVERAGE FROM 40% PERMITTED TO  
42.8% PROPOSED TO PERMIT A LARGER ELEVATED DECK  
OFF OF A 2<sup>ND</sup> LEVEL BEDROOM

EXISTING ZONE: RU1 – LARGE LOT HOUSING

REPORT PREPARED BY: PAUL McVEY

---

1.0 RECOMMENDATION

THAT Municipal Council authorize the issuance of Development Variance Permit No. DVP05-0237; Cindy L. Bollman; Strata Lot 14, DL's 167, 5284, & 5285, O.D.Y.D., Plan KAS2393, located on Cascia Drive, Kelowna, B.C.;

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

Section 6.4.2 **Projections Into Yards**, be varied from maximum of 2.5 m into a rear yard greater than 6.0 m permitted to 3.5 m projection into a 7.5 m rear yard proposed,

Section 13.1.6 (a) **Development Regulations**, be varied from 40% maximum site coverage permitted to 42.8% proposed

2.0 SUMMARY

The applicants have made application for a building permit on the subject property to construct a single unit dwelling. It was at that time that it became apparent that the site coverage of the proposed dwelling with the deck exceeds the limits of the RU1 – Large Lot Housing zone of 40%. The site coverage with the proposed deck is 42.8%. As well, one corner of the proposed deck projects into required rear yard 3.5 m, where the zoning bylaw limits projections into a rear yard greater than 6.0 m to a maximum of 2.5 m.

### 3.0 BACKGROUND

#### 3.1 The Proposal

The applicants have received a building permit to authorize construction of a single unit dwelling on the subject property in November 2005. The proposed dwelling as designed had a site coverage of 40.1%. It was determined at that time that the proposed deck area off the second floor at the rear of the house would create a situation where the resulting site coverage would be 42.8% of the subject property, where the bylaw permits a maximum of 40%. This application for a Development Variance Permit seeks a variance to the maximum site coverage provision of the RU1 – Large Lot Housing zone from 40% permitted to 42.8% proposed.

The definition for “Site Coverage” is;

SITE COVERAGE means the percentage of the total horizontal area of a lot or lots that may be built upon including accessory buildings or structures (including carports, covered patios larger than 23 m<sup>2</sup>, and decks over 0.6 m in height) excluding steps, eaves, cornices, cantilevered balconies, and similar projections permitted by this Bylaw, breezeways, open courtyards, terraces or patios, driveways, aisles, and parking stalls.

The plans review also determined that one corner of the proposed deck projects 3.5 m into the required 7.5 m rear yard. Section 6.4.2 **Projections Into Yards** states;

Unenclosed steps, eaves, awnings, decks, canopies, balconies, or porches may project into a required yard provided such projections do not exceed 0.6 m in the case of a front or side yard on a flanking street, 0.6 m in the case of an interior side yard, and 2.5 m in the case of a rear yard greater than 6.0 m.

This DVP application has not been circulated to the Advisory Planning Commission as the applicant has provided written confirmation from the adjoining and abutting neighbours that they support the variance application.

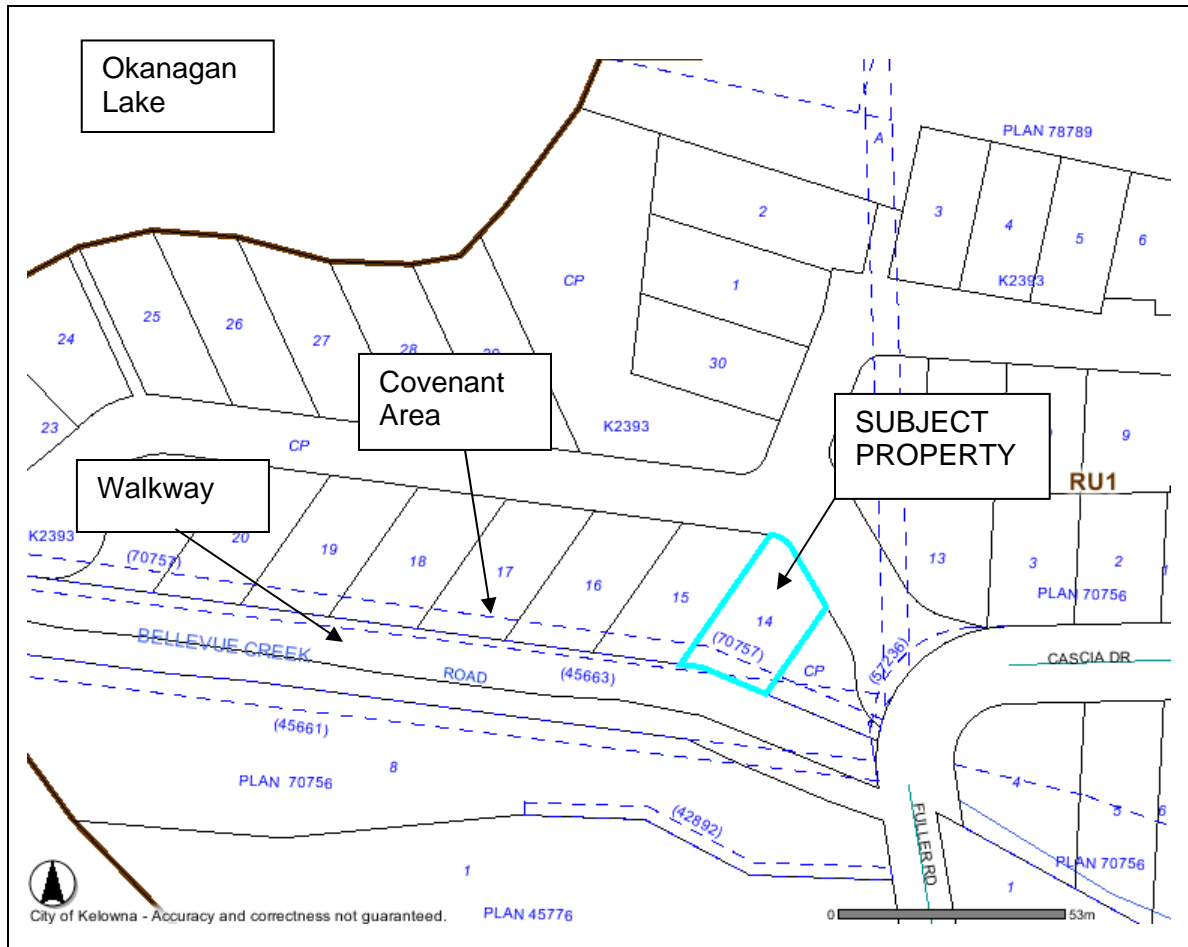
The proposal as compared to the RU1 zone requirements is as follows:

CRITERIA	PROPOSAL	RU1 ZONE REQUIREMENTS
Site Coverage (%)	42.8%	40% max.

#### 3.2 Site Context

The subject property was developed in 2002 as a RU1 – Large Lot Housing zoned bare land strata development know as the “South Bay” development. The subject property is located adjacent to the main entry gate on the south side of the private internal road. Bellevue Creek is located south of the rear property line of the subject property. There is a chain link fence located along the south property line which separates the site from the adjacent pedestrian walkway that is located on the north side of Bellevue Creek. The location of the fence and associated walkway was determined through the subdivision process which created the “South Bay” development.

SUBJECT PROPERTY MAP



The adjacent zone uses are as follows:

- North - RU1 – Large Lot Housing – private access road
- East - RU1 – Large Lot Housing – single unit housing
- South - RU1 – Large Lot Housing – Bellevue Creek
- West - RU1 – Large Lot Housing – single unit housing

**3.3** Current Development Policy

**3.3.1** Kelowna Official Community Plan

The proposed development is consistent with the existing Future Land Use designation of Single / Two unit residential

### 3.3.2 City of Kelowna Strategic Plan (2004)

The City of Kelowna Strategic Plan 2004 describes a vision of what residents hope Kelowna will be like in the future and has identified as one of the themes that overall, residents aspire to live in a community that works to foster the social and physical well being of residents and visitors.

The City of Kelowna Strategic Plan 2004 also states as Objective #4,;

“Realize construction of housing forms and prices that meet the needs of Kelowna residents.”

## 4.0 TECHNICAL COMMENTS

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

### 4.1 Inspection Services Department

No concern in respect to BCBC requirements however, this deck is encroaching into the covenant area.

### 4.2 Works and Utilities Department

The Works & utilities Department comments and requirements regarding this application are as follows:

#### 1. **General.**

(a) Works and Utilities does not support any encroachments onto the creek covenant areas.

## 5.0 PLANNING AND CORPORATE SERVICES DEPARTMENT COMMENTS

The Planning and Corporate Services Department did not originally support this application. There is concern over the potential impact of the “no-build” covenant area and the adjacent riparian management area.

The subject property is one of the last properties adjacent to Bellevue Creek to build. The developer was to site the fence along the creek to delineate the no-build area, a covenant line that is inset from the rear property line of the affected properties. However, the fence was constructed along the actual property line, which is the limit of the riparian management area.

The proposed deck for the dwelling currently under construction is located at the second floor level, and is designed to be supported on structural columns, and have a section that is cantilevered beyond the support structure. The support structure is designed to be located beyond the “no-build” covenant line. It is the cantilevered portion of the suspended deck that impacts the “no-build” covenant area.

The City of Kelowna environmental technician has reviewed the construction that has occurred in the neighbourhood along the creek, and has observed that the situation under construction does not interfere with the “no-build” covenant area, and that the other dwellings located along this covenant area have landscaped right up to the fence line, not the “no-build” covenant line. As well, it was also observed that the fence was constructed along the property line, not the “no-build” covenant line. The environment technician did not have concerns with the proposed variance, and felt that it would be unduly onerous to enforce the strict conditions of the “no-build” covenant area on the last property owner to build in that location.

In light of the above, the Planning and Corporate Services Department does not have concerns with this application, and recommends for positive consideration by Council.

---

Andrew Bruce  
Manager of Development Services

Approved for inclusion

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

PMc/pmc  
Attach.

### Attachments

State of Title  
Subject Property Map  
1 pages of site plan and building detail

### AIR PHOTO

