
CITY OF KELOWNA

MEMORANDUM

Date: April 28, 2006
To: City Manager
From: Planning & Corporate Services Department
Subject:

APPLICATION NO. DVP06-0044 **OWNER:** Dr. J. Scott Williamson

AT: 5432 Lakeshore Road **APPLICANT:** Homequest Construction Ltd.

PURPOSE: TO CONSTRUCT A SINGLE FAMILY DWELLING ON THE SUBJECT PROPERTY

TO VARY THE RIPARIAN MANAGEMENT AREA SETBACK FROM 15M REQUIRED TO 0.0M PROPOSED

TO SEEK COUNCIL APPROVAL FOR AN ENVIRONMENTAL ASSESSMENT AND MITIGATION PLAN TO ADDRESS THE IMPACTS OF THE REQUESTED SETBACK VARIANCE

EXISTING ZONE: RR1 – RURAL RESIDENTIAL 1

REPORT PREPARED BY: RYAN SMITH

1.0 RECOMMENDATION

THAT Council authorize the issuance of Development Variance Permit No. DVP06-0044; Lot 3, Section 22, Township 28, SDYD Plan 7912 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. Landscaping to be provided on the land be in general accordance with Schedule "C";
3. The applicant be required to post with the City a Landscape Restoration 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 variances to the following sections of Zoning Bylaw No. 8000 be granted:

6.14 Riparian Management Area Setbacks

Vary the required setback from Top of Bank (from Okanagan Lake) from 15.0 m required to 0.0 m proposed.

AND THAT the applicant be required adopt the recommendations contained in the Environmental Assessment and Mitigation Plan completed by EBA Engineering Consultants Ltd., April 6, 2006 together with an addendum submitted on April 26, 2006;

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 EBA Engineering Consultants Ltd. (April 6, 2006 and addendum submitted April 26, 2006);

AND THAT the applicant be required to register a Section 219 restrictive “no-disturb” covenant on the area identified as the Stream Protection and Enhancement Area (SPEA) as identified by EBA’s Environmental Assessment and Mitigation Plan of April 6, 2006 together with an addendum submitted on April 26, 2006;

AND FURTHER THAT the applicant be required to complete the above-noted conditions within 360 days of Council approval of the development permit application in order for the permit to be issued.

2.0 SUMMARY

The applicant has demolished an old house on the subject property and is seeking to construct a new larger home. The former building encroached into the 15m Riparian Management Area Setback from Okanagan Lake as it was located at the top of bank above the lake.

3.0 THE PROPOSAL

The subject property is located on the west side of Lakeshore Road and abuts Okanagan Lake on its western boundary. The surrounding neighbourhood is primarily zoned for rural residential development and the predominant zoning is RR1 – Rural Residential 1 and A1 – Agriculture 1.

The applicant has demolished an old house on the subject property and is seeking to construct a new larger home. The former building encroached into the 15m Riparian Management Area Setback from Okanagan Lake as it was located at the top of bank above the lake with a 0m setback to the top of bank. The applicant is proposing to locate the new dwelling in the footprint of the old dwelling; however, as the new house is larger it will impact a greater area of the Riparian Management Area and encroach slightly into the provincial government’s Stream Protection and Enhancement Area (SPEA).

It should be noted that although the applicant is proposing to vary the Riparian Management Area setback from 15.0m required to 0.0m proposed, the actual setback to the natural boundary of Okanagan Lake from the new construction is approximately 30m. The proposed construction will also be located at the top of a natural bluff that is approximately 16m above the natural boundary of Okanagan Lake.

The applicants have submitted an Environmental Assessment and Mitigation Plan that proposes measures to alleviate the impact of past and proposed disturbances in the City’s Riparian Management Area and the Province’s Stream Protection and Enhancement Area.

The Environmental Assessment and Mitigation Plan completed by EBA Engineering Consultants recommends measures such as avoidance, a foreshore land use plan, tree replacement compensation, tree and habitat protection, construction guidelines and environmental monitoring during development.

The applicant has consulted the abutting neighbours on Lot B, Plan 16137 and Lot 2, Plan 4390 and both have indicated their support for the proposal by way of written submission.

The application compares to the requirements the City of Kelowna Bylaw No. 8000 for RR1 – Rural Residential 1 zone as follows:

CRITERIA	PROPOSAL	RR1 ZONE REQUIREMENTS
Site Area (m ²)	5521m ²	1.0Ha (Lot is an existing legal non-conformity with regard to size)
Lot Width	57.21m	40.0m
Lot Depth	90.12m	30.0m
Site Coverage (%)	9%	10%
Setbacks		
Side Yard (north)	6m	3.0m
Side Yard (south)	18m	3.0m
Rear Yard	0.0m	15m (from Top of Bank)
Front Yard	52m	6.0m
Okanagan Lake Sightlines	62 ⁰	60 ⁰

3.1 Site Context

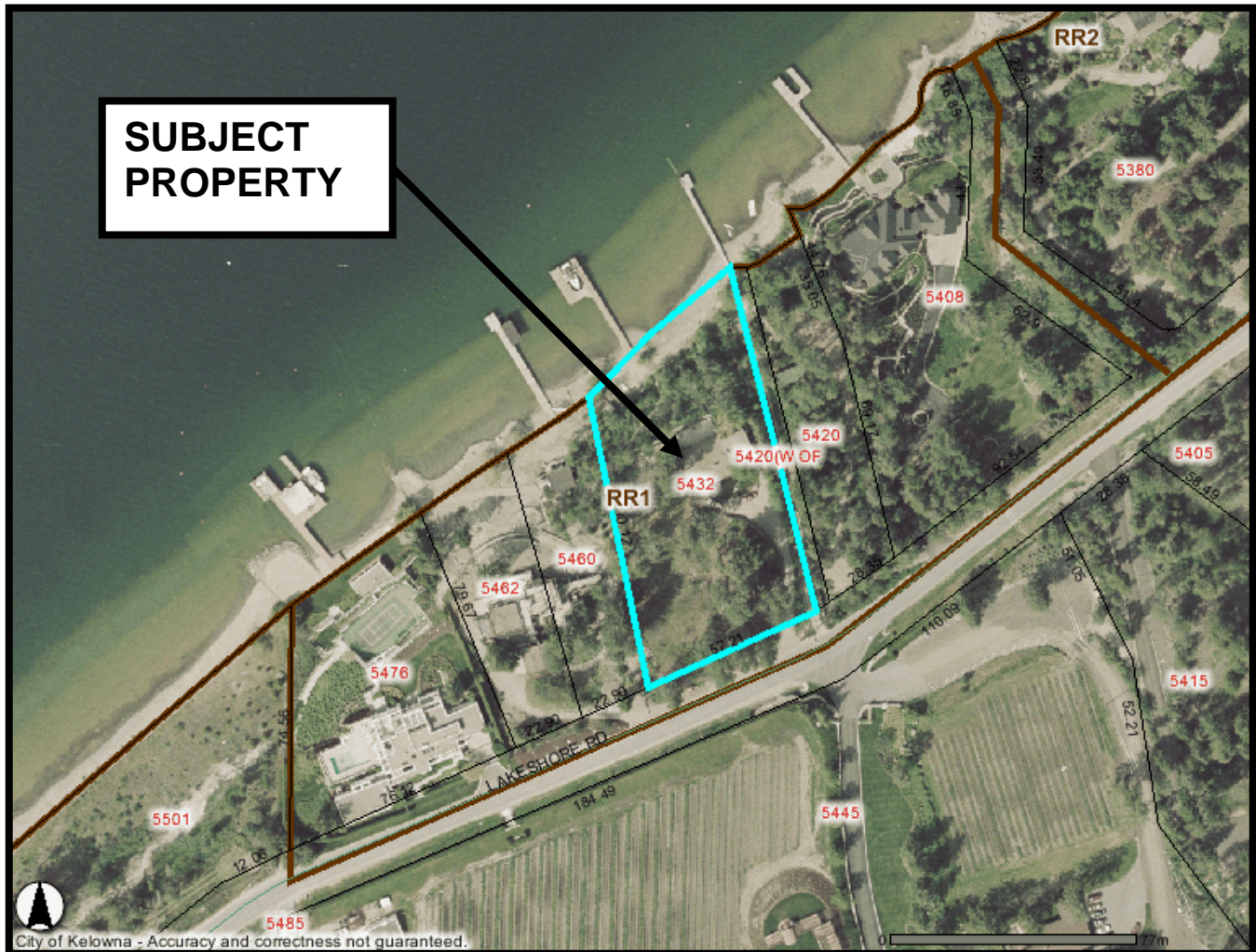
The subject property is located on the west side of Lakeshore Road, opposite Cedar Creek Winery.

Adjacent zoning and existing land uses are to the:

- North - RR1 – Rural Residential 1 - Single Family Dwelling (and Private Moorage Access)
- East - A1 – Agriculture 1 – Cedar Creek Winery
- South - RR1 – Rural Residential 1 – Single Family Dwelling
- West - Okanagan Lake

3.2 Site Map

Subject Property: 5432 Lakeshore Road



5.0 DEVELOPMENT REGULATIONS

The purpose of the RR1 – Rural Residential 1 zone is to provide for country residential development, and complementary uses, on larger lots in areas of high natural amenity and limited urban services. 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 Development Variance Permit should include requirements to implement the recommendations of the EBA report, an estimate of costs of implementation, environmental monitoring and estimate of costs for environmental monitoring. The sum of these costs can then be used to calculate the 125% bonding requirement to held in accordance with the attached template landscape/restoration agreement. Finally, the final SPEA should be registered as a Section 219 restrictive "no-disturb" covenant.

6.2 Inspection Services

No concerns.

6.3 Works and Utilities

The proposed work must be reviewed and approved by the Environmental Division who has the expertise in dealing with environmentally sensitive areas.

7.0 PLANNING AND CORPORATE SERVICES COMMENTS

The Planning and Corporate Services Department is generally supportive of the proposed development variance permit application. In this situation, had staff insisted that the applicant respect the 15m Riparian Management Area setback (from Top of Bank), the result would have impacted a greater amount of established vegetation and tree cover of the site.

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.

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
- Environmental Assessment and Mitigation Plan