

---

**CITY OF KELOWNA**  
**MEMORANDUM**

---

**DATE:** AUGUST 30, 2006  
**TO:** CITY MANAGER  
**FROM:** PLANNING AND DEVELOPMENT SERVICES DEPARTMENT

**APPLICATION NO.** DP05-0207/  
DVP06-0139                      **OWNER:** Georg-Michael Holzhey

**AT:** 350 Prince Edward Drive                      **APPLICANT:** Highline Realty Ltd. (John Hertay)

**PURPOSE:** THE APPLICANT IS SEEKING COUNCIL APPROVAL FOR THE CONSTRUCTION OF AN ACCESSORY BUILDING IN AN ENVIRONMENTAL DEVELOPMENT PERMIT AREA

THE APPLICANT IS SEEKING TO VARY THE RIPARIAN MANAGEMENT AREA SETBACK FOR BUILDINGS AND STRUCTURES FROM OKANAGAN LAKE FROM 15M REQUIRED TO 7.5M PROPOSED

**EXISTING ZONE:** A1 – AGRICULTURE 1

**REPORT PREPARED BY:** RYAN SMITH

---

**1.0 RECOMMENDATION**

THAT Council authorize the issuance of Development Permit No. DP05-0207 for Fractional North-East Quarter, Section 7, Township 23, ODYD located on Prince Edward Drive, Kelowna, B.C. subject to the following:

1. The dimensions and siting of the accessory building to be constructed on the land be in general accordance with Schedule "A (EIA Report for EBA Engineering Consultants Dated May 30, 2006)";
2. Landscaping and Environmental Mitigation to be provided on the land be in general accordance with Schedule "A (EIA Report for EBA Engineering Consultants Dated May 30, 2006)";
3. The applicant be required to post with the City a Performance Security deposit in the form of a "Letter of Credit" in the amount of 125% of the estimated value of the habitat restoration and enhancement, as determined by an environmental report;

AND FURTHER THAT the applicant be required to complete the above-noted Habitat Restoration and Enhancement related bonding requirement within 180 days of Council approval of the development permit application in order for the permit to be issued;

AND THAT Council authorize the issuance of Development Variance Permit No. DVP06-0139; Fractional North-East Quarter, Section 7, Township 23, ODYD, located on Prince Edward Drive, Kelowna, B.C.;

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

**Section 6.14.1: Riparian Management Area (RMA) Setbacks**

Vary the setback from Okanagan Lake (top of bank) from 15.0 m required to 7.5 m proposed for the construction of an accessory building in accordance with Schedule “A” attached to this report.

**2.0 SUMMARY**

In 2003 Council approved an Environmental Development Permit for the construction of a single family dwelling on the subject property. This Development Permit addressed the requirement for an Environmental Assessment and Mitigation Plan and Wildland Fire Interface Assessment as requirements of the new home construction. The Development permit issued in 2003 dealt solely with the construction of the new home and not development on the remainder of the site. The applicant has since forwarded a proposal to the City detailing development plans for the remainder of the site. The intent of this additional Development Permit is to address the potential effects of the construction of a beach house, tennis court, gatehouse, garage and landscaping features on the subject property. The location of the proposed beach house also triggers the need for a Development Variance Permit. The proposed beach house will be located approximately 22m from the high water level of Okanagan Lake (343m) on a slope averaging 20% adjacent to a rocky bluff. There is an existing gully which descends steeply to the lake located 7.5m north of the proposed beach house. This 7.5m setback is the subject of the Development Variance Permit. The OCP requires that the setback from the top of bank from this gully to a building be 15m and therefore a variance is required. The total area that will be impacted by the proposed beach house and attached covered decks is approximately 135m<sup>2</sup>.

The proposed beach house will not contain any cooking facilities or bedrooms and therefore will not require a rezoning for the “s” designation at this time. Should the applicant wish to add these features to the building, such a rezoning would be required.

The proposed sports court will be located in the upland section of the property and will cover an area of approximately 1156m<sup>2</sup>. The proposed water feature (fountain) will be located on the west side of the house (overlooking the lake). The feature will overlap an area which was previously disturbed for the construction of a geothermal field. The original proposal showed the water feature connected to a pathway extending further west towards the lake and terminating at a small viewing platform. This platform was eliminated at the request of staff because of its location below the top of bank.

The environmental report indicates that the roads/trails proposed for the property will be narrow with cart paths designed to a width of 1.5m and road designed to 3.7m. While some of these connections have become large during construction, the report indicates that they will be reclaimed with native vegetation.

The application meets the requirements of the A1 – Agriculture 1 zone as follows:

<b>CRITERIA</b>	<b>PROPOSAL</b>	<b>A1 ZONE REQUIREMENTS</b>
Lot Size (m <sup>2</sup> )	2.82Ha	4 Ha
Lot Width (m)	375m	40.0m
Lot Depth (m)	110m	N/A
House Size	1591m <sup>2</sup>	N/A

<b>Storeys (#)</b>	2.5	2.5
Site Coverage	5.6%	10% (max.)
<b>Setbacks</b>		
<b>House</b>		
Front Yard	7.6m	6.0m
Side Yard (n)	40m+	3.0m
Side Yard (s)	40m+	3.0m
Rear Yard (Okanagan Lake)	50m+	15.0m
<b>Accessory Building (beach house)</b>		
North - Okanagan Lake/ Top Of Bank	7.5m <sup>①</sup>	15.0m
West – Okanagan Lake/ Top of Bank	15m	15.0m

①Note: The applicant is seeking to vary the RMA setback from Okanagan Lake from 15m required to 7.5m proposed for the construction of an accessory building.

### 3.0 SITE CONTEXT

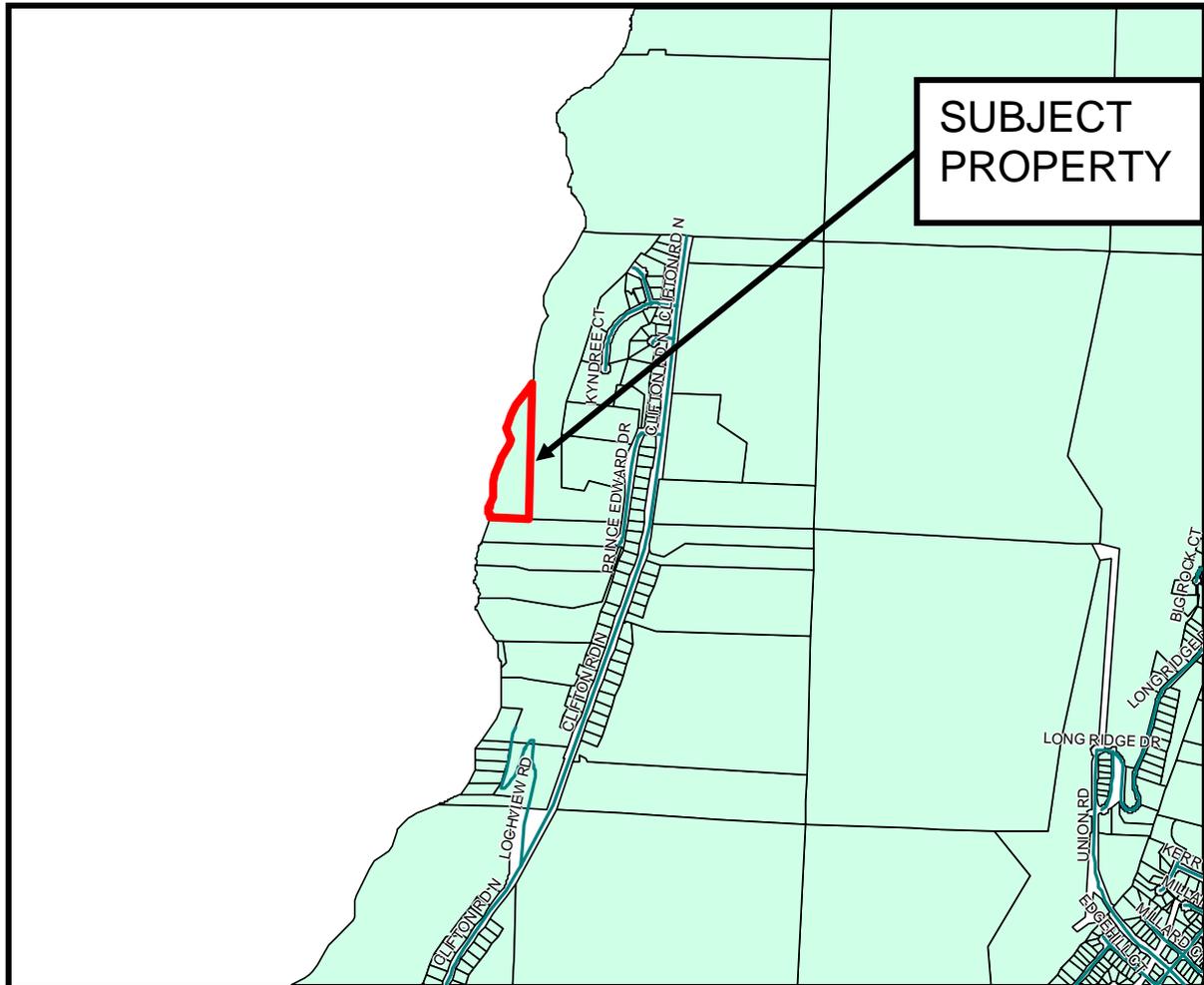
Subject property is located at the south end of Prince Edward Drive, however access is provided via an access easement from the south (Lochview Road).

Adjacent zones and uses are:

- North - A1 – Agriculture 1
- East - RR3 – Rural Residential 3 – Single Family Dwelling
- South - A1 – Agriculture 1 – Single Family Dwelling
- West - Okanagan Lake

### 3.1 Site Location Map

Subject Property: 350 Prince Edward Drive



## 4.0 CURRENT DEVELOPMENT POLICY

### 4.1 Kelowna Official Community Plan

#### **a) Development Permit Guidelines for the Protection of the Natural Environment, its Ecosystems and Biological Diversity**

##### Guidelines for Development

##### i) Preservation of Natural Areas

- Retain mature vegetation wherever possible and incorporate into the design of the project.

- Demonstrate that a diligent effort has been made in site design to preserve both the natural vegetation and tree cover.
- Require that where land and/or natural vegetation is disturbed or damaged that the area be restored and/or replanted with plan material indigenous to the area.

ii) Slopes

- Development will be directed to appropriate areas with slopes averaging less than 30%. Where it can be demonstrated that the proposed development will be sensitively integrated with the natural environment and will present no hazards to persons or property, development may be permitted on land with a natural slope that averages greater than 30%.
- The pattern of development in hillside areas should be responsive to the varied topography, taking advantage of views and the surrounding natural landscape by emphasizing cluster development.
- Limit building heights to the height of the existing tree cover.
- Maintain visibility to vegetative backdrop from off-site.
- Step back building on each floor to reflect the slope of the site.
- Minimize impervious paving surfaces to reduce storm runoff.

## 5.0 TECHNICAL COMMENTS

This application was circulated to various departments and agencies and the following comments were received:

### 5.1 Works and Utilities Department (Environment Division)

We can support this application for the relaxation of the lake setbacks for the beach house; provided, all the recommendations of the environmental assessment are implemented with bonding in place for both mitigative works and environmental monitoring.

### 5.2 Inspection Services

Geotechnical and Structural Engineer to confirm slope stability of property prior to issuance of DVP.

### 5.3 Fire Department

Fire department access as per the BC Building Code.

## 6.0 PLANNING AND DEVELOPMENT SERVICES DEPARTMENT

The Planning and Development Services Department has no concerns with the proposed development variance permit and related Development Permit provided that the applicant adopts the recommendations in the EBA Engineering Consultants report dated May 30, 2006.

---

Shelley Gambacort  
Acting Development Services Manager

Approved for inclusion

Mary Pynenburg, MRAIC MCIP  
Director of Planning & Development Services

SB/SG/rs

**ATTACHMENTS**

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

- Subject Property Map
- EIA Report dated May 30, 2005 from EBA Engineering Consultants
- Schedule "A"