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

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**DATE:** August 25, 2009  
**TO:** City Manager  
**FROM:** Community Sustainability Division

**APPLICATION NO.** DVP09-0048                      **OWNER:** Rodney Hazard  
Jody Hazard

**AT:** 204 Poplar Point Drive                      **APPLICANT:** Andrew Bruce

**PURPOSE:** TO OBTAIN A DEVELOPMENT VARIANCE PERMIT TO VARY THE OKANAGAN LAKE SIGHT LINES TO PERMIT A STRUCTURE (GREATER THAN 1.2M ABOVE NATURAL GRADE) WITHIN THE 120° PANORAMIC SIGHT LINE OF ADJACENT OCCUPANTS ALONG OKANAGAN LAKE FORESHORE.

**EXISTING ZONE:** RU1 – Large Lot Housing

**REPORT PREPARED BY:** Greg Sauer

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## **1.0 RECOMMENDATION**

THAT Council authorize the issuance of Development Variance Permit No. DVP09-0048 for Lot 1, DL 219, ODYD, Plan 4561, located at 204 Poplar Point Drive, Kelowna, BC:

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

Section 6.11.1 - Okanagan Lake Sight Lines - To vary the required Okanagan Lake 120° Panoramic Sight Line to 86° proposed, resulting from the north sight line being reduced from 60° required, to 26° proposed.

## **2.0 SUMMARY**

The property is located in the Central City Sector of the City. The applicant is seeking to vary the requirements of Zoning Bylaw 8000 in order to allow the placement of a portion of the primary dwelling on a lakefront parcel closer to the foreshore than is permitted by the Zoning Bylaw.

## **3.0 BACKGROUND**

### **3.1 The Proposal**

Zoning Bylaw No. 8000, Section 6.11.1 - Okanagan Lake Sight Lines notes that all buildings and structures, greater than 1.2m above natural grade, on lots along Okanagan Lake foreshore shall be sited to not obstruct views of the lake from the established abutting development. New development shall be sited to permit the adjacent occupants a 120° panoramic view from the corner of the house, parallel with the adjacent property lines, as shown in Diagram 6.2: Okanagan Lake 120° Panoramic Sight Line (see below).

The applicant has proposed to reduce the north site line from 60° (required), to 26° (proposed). As a result, the panoramic sight line would be reduced from 120° (required), to 86° (proposed).

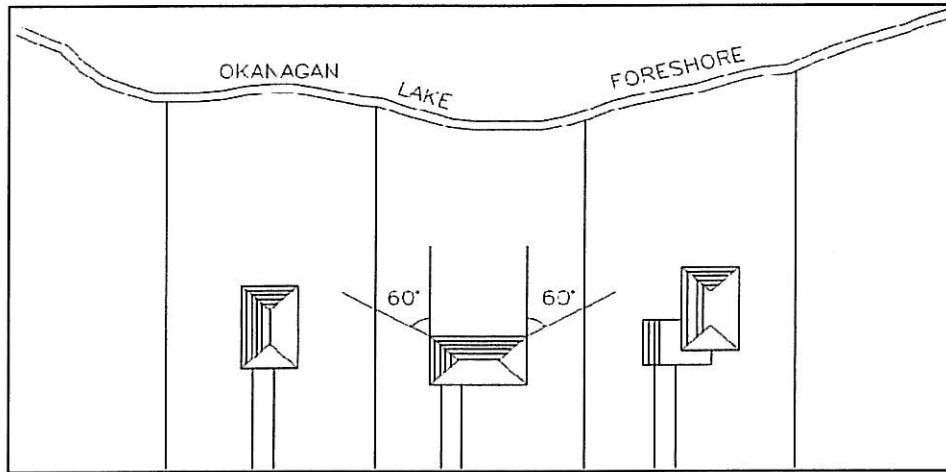


Diagram 6.2: Okanagan Lake 120° Panoramic Sight Line

While the applicant has not proposed a specific development or building envelope, a variance has been requested for the sight line requirements, which currently restrict the building envelope to the front (east) approximate 1/3 of the parcel. As no dwelling is being proposed at this time, the variance will only pertain to the Okanagan Lake 120° Panoramic Sight Line, but will provide greater certainty to the building envelope in anticipation of a building design. As this site is within both the Natural Environment and Hazardous Condition Development Permit Areas, the proponent will be required to obtain a Natural Environment Development Permit including a geotechnical assessment prior to commencing construction on this parcel.

The table below depicts this application's compliance with the requirements of the RU1 zone.

Zoning Bylaw No. 8000		
CRITERIA	PROPOSAL	RU1 ZONE REQUIREMENTS
Development Regulations		
Site Coverage (buildings)	<40%	40%
Site Coverage (buildings, driveways, and parking)	<50%	50%
Height	<9.5 m	9.5 m, 2 ½ storeys
Front yard	>6.0 m	6.0 m
Rear yard	>7.5 m	7.5 m
Side yard	>2.0 m	2.0 m
Other Regulations		
Okanagan Lake 120° Panoramic Sight Line (60° per abutting development)	26° °	60°
° Indicates that a variance is requested		

### 3.2 Site Location Map

Subject Property 204 Poplar Point Drive



The subject property is located near the end of Poplar Point Drive, with open space and the water treatment facility being the only properties east of the subject property. The only adjacent residential property deemed to be affected by the requested variance is 208 Poplar Point Drive and which is also owned by the proponent. The 208 Poplar Point Drive property has recently been completed (summer 2009). The property has a large two storey home with angled exterior walls which contribute to the sight line constraints at 204 Poplar Point Drive. Further, as the owner of these properties has provided semi-mature landscape plantings along the east property line of 204 Poplar Point Drive for buffering purposes, the Okanagan Lake panoramic sightline is already somewhat compromised for this property.

Specifically, adjacent land uses are as follows:

North	Okanagan Lake
East	P3 – Parks & Open Space
South	P3 – Parks & Open Space
West	RU1 – Large Lot Housing

## 4.0 **TECHNICAL COMMENTS**

### 4.1 Fire Department

Fire Department access to be as per BCBC 2006 and the City of Kelowna Subdivision Bylaw 7900.

### 4.2 Development Engineering



The requested variance to reduce the sight line angle from the required 60 degree angle, to the proposed 26 degree angle, does not compromise our servicing requirements.

## 5.0 LAND USE MANAGEMENT DEPARTMENT COMMENTS

The requested variance is unique in that the owner of 204 Poplar Point (Lot 1) is also the owner of the only adjacent residential property – 208 Poplar Point Drive (Lot 2) and would be the only property judged to be reasonably affected by the requested variance. As a result, the concerns regarding obstructed views from adjacent lots are significantly diminished.

The owner of these lots has agreed to, and has submitted for registration, a no disturb covenant from the foreshore to an agreed top of bank for 204 Poplar Point at the request of the City of Kelowna. The covenanted area measures 511m<sup>2</sup> with approximately 12.5m<sup>2</sup> private linear access to the foreshore. This covenant will ensure the preservation of the slope and reduce the impact on the foreshore of Okanagan Lake and the aquatic species. The 204 Poplar Point Drive property will also be subject to a Natural Environment Development Permit at the time of proposed development. At this time Staff will ensure remediation of the slope occurs and also that an environmental monitor be utilized throughout the construction phase.

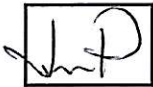
The Land Use Management Department is satisfied that the variance requested by the applicant has merit given the constraints to the lot configuration and the non-linear (undulating) character of the foreshore. The variance will not have a negative impact on the Okanagan Lake 120° Panoramic Sight Line required by Bylaw 8000 beyond the immediately adjacent parcel (208 Poplar Point) as it will conform to the sight line from 212 Poplar Point Drive. Any diminishment to the use and enjoyment of 208 Poplar Point would be reflected in the current owner's sale of the property. As a result, Land Use Management Staff support this application, and recommend for positive consideration.



Danielle Noble  
Urban Land Use Manager

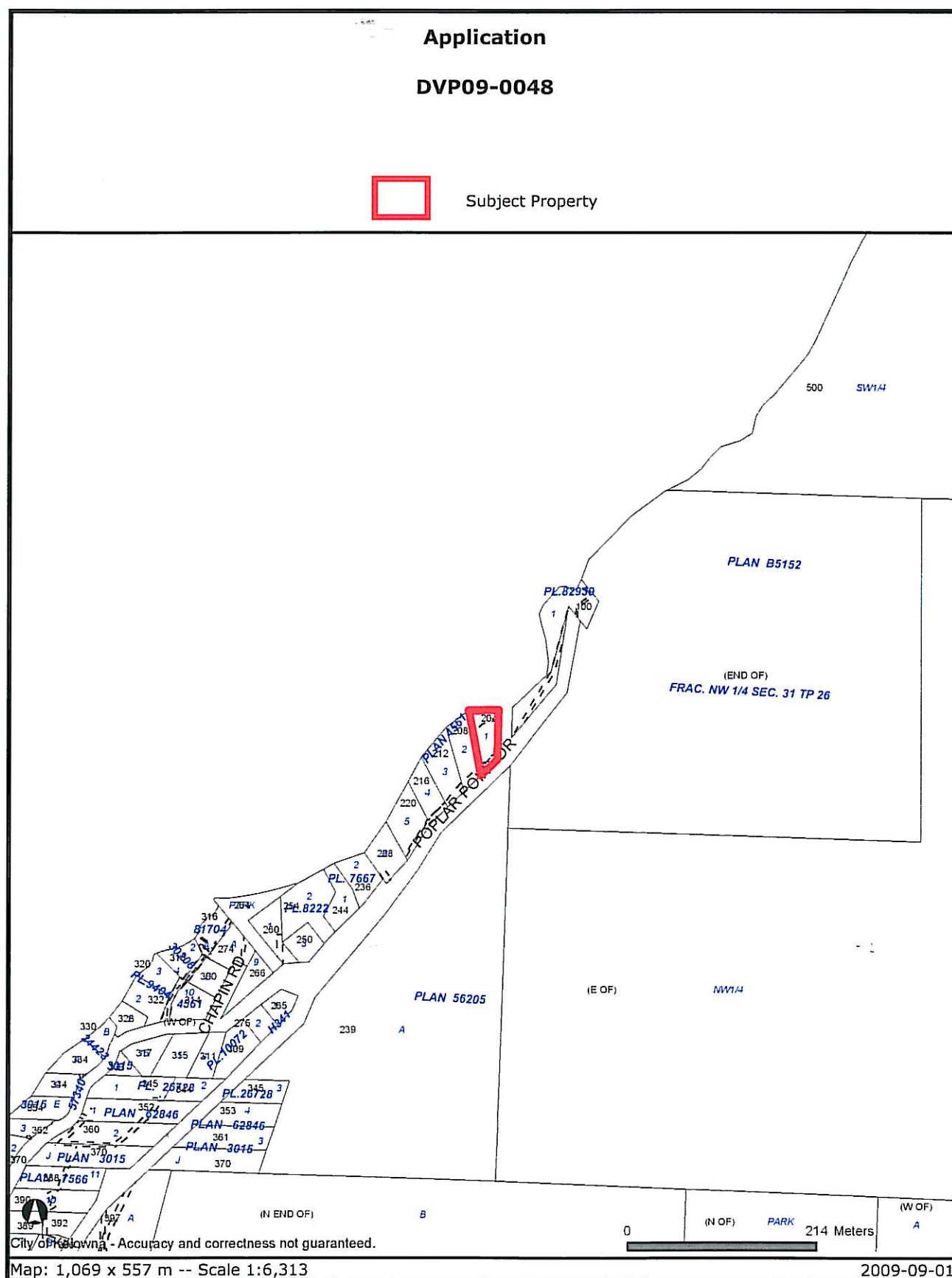
Approved for Issuance

Shelley Gambacort  
Director of Land Use Management



## ATTACHMENTS

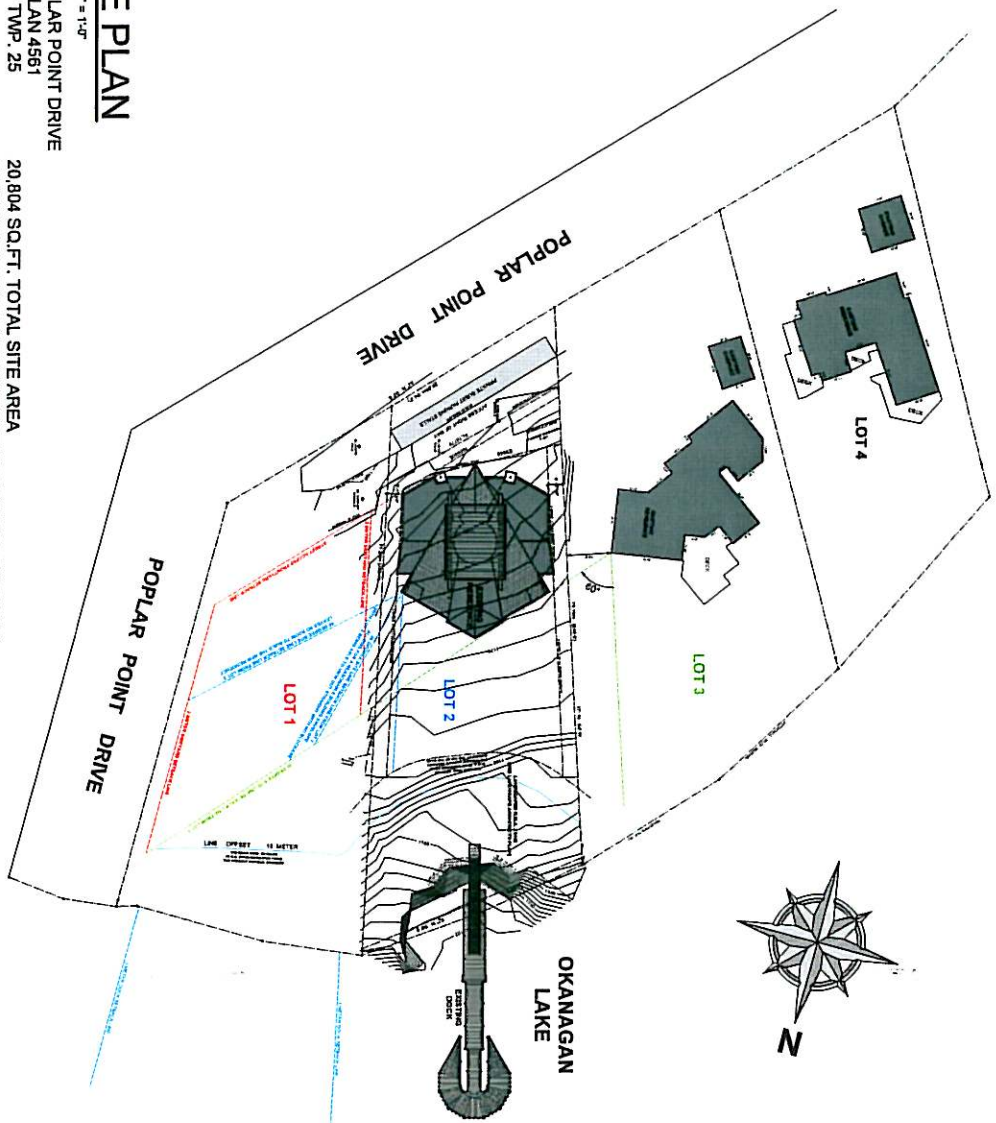
Subject Property Map  
Site Plan  
No Disturb Covenant Area Plan  
Site Photos  
Development Engineering Comments



Certain layers such as lots, zoning and dp areas are updated bi-weekly. This map is for general information only.  
The City of Kelowna does not guarantee its accuracy. All information should be verified.

**SITE PLAN**  
 SCALE: 1/4" = 1'-0"  
 208 POPLAR POINT DRIVE  
 LOT 2, PLAN 4561  
 SEC. 36, TWP. 25  
 O.D. Y.D.  
 ZONE BYLAW: RU1

20,804 SQ.FT. TOTAL SITE AREA  
 (7,281 SQ.FT. MAXIMUM 35% SITE COVERAGE ALLOWED)  
 4,858 SQ.FT. TOTAL SITE COVERAGE PROPOSED



# REFERENCE PLAN OF COVENANT OVER PART OF LOT 1, DISTRICT LOT 219, OSOYOOS DIVISION YALE DISTRICT, PLAN 4561

## PLAN KAP

Deposited in the Land Title Office at Kamloops, B.C.,  
this day of , 2009.

BCGS B2E.083 PURSUANT TO SEC. 99(1)(e) LAND TITLE ACT

Registrar

0 5 10 25  
SCALE 1:300 (All distances are in metres)

### LEGEND

- Denotes standard iron post found
- Denotes standard iron post set
- ⊙ Denotes control monument found
- ⊕ Denotes non-standard post found

Grid bearings are derived from observations between control monuments 75H2443 and 75H2471. This plan shows ground level measured distances. Prior to computation of U.T.M. coordinates multiply by combined factor 0.9999351 integrated survey area No. 4 - City of Kelowna.

OKANAGAN LAKE

ROAD

1  
PLAN 4561

2 1 9

REM.  
PLAN B5152

A  
PLAN KAP56205

This plan lies within the Regional District of Central Okanagan.

I, Neil R. Denby, a British Columbia land surveyor, of the City of Kelowna, in British Columbia, certify that I was present at and personally supervised the survey represented by this plan, and that the survey and plan are correct. The field survey was completed on the 24th day of July, 2009.  
The plan was completed and checked, and the checklist filed under #7, on the 9th day of 1, 2009.

Neil R. Denby

B.C.L.S.

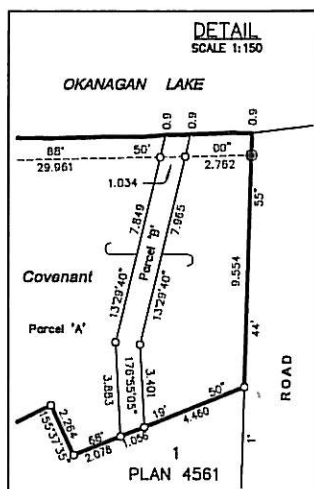
RUNNALLS DENBY

british columbia land surveyors

259A Lawrence Avenue Phone: (250)763-7322  
Kelowna, B.C. Fax: (250)763-4413  
V1Y 6L2 Email: neil@runnallsdenby.com

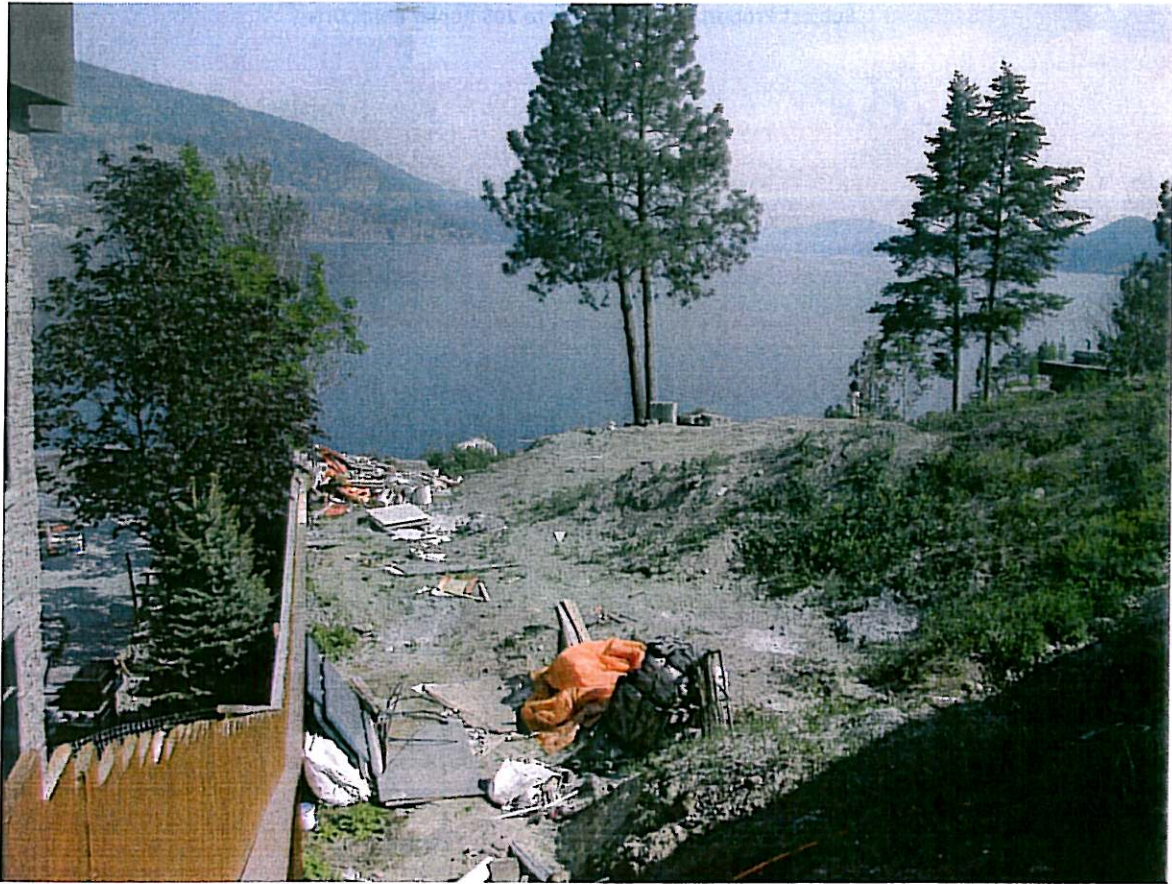
DWG. No.: 12909 CDV

FILE: 12909





**Subject Property along Adjacent (West) Property Line Looking North**



**Public Access to Okanagan Lake to East of Subject Property**





Subject Property Looking West to 208 Poplar Point Drive



Subject Property Looking West to 208 Poplar Point Drive





Subject Property along Top of Bank Looking West





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

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**Date:** May 25, 2009  
**File No.:** DVP09-0048

**To:** Land Use Management Department (GS)

**From:** Development Engineering Manager

**Subject:** 204 Poplar Point Drive

Lot 2 Plan 4561

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Development Engineering Services has the following comments associated with this application.

Site Related Issues

The requested variance to reduce the sight line angle from the required 60 degree angle, to the proposed 26 degree angle, does not compromise our servicing requirements.

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Steve Muenz, P. Eng.  
Development Engineering Manager  
JF