

City of Kelowna

Regular Council Meeting

AGENDA



Tuesday, October 17, 2017
6:00 pm
Council Chamber
City Hall, 1435 Water Street

Pages

1. **Call to Order**
2. **Reaffirmation of Oath of Office**

The Oath of Office will be read by Councilor Donn.
3. **Confirmation of Minutes** 1 - 13

Public Hearing - October 3, 2017
Regular Meeting - October 3, 2017
4. **Bylaws Considered at Public Hearing**
 - 4.1 **4629 Lakeshore Rd, (Amendment to HRA17-0001) BL11478 - City of Kelowna and JEM HTB Properties Inc** 14 - 17

To give Bylaw No. 11478 second and third readings and adopt in order to amend the Heritage Revitalization Agreement Authorization Bylaw No. 11480.
 - 4.2 **2825 Richter St, (Z17-0057) BL11479 - 1018545 BC Ltd** 18 - 18

To give Bylaw No. 11479 second and third readings in order to rezone the subject property from the RU6 - Two Dwelling Housing zone to the RM2 - Low Density Row Housing zone.
 - 4.3 **1065 & 1075 Leathead Rd and 500 Fleming Rd, (Z17-0040) BL11486 - Balkar Gosal, Ranjit Heer and Satwinder & Amarjit Dhesi** 19 - 19

To give Bylaw No. 11486 second and third readings in order to rezone the subject property from the RU1 - Large Lot Housing zone to the RM4 - Transitional Low Density Housing zone.
5. **Notification of Meeting**

The City Clerk will provide information as to how the following items on the Agenda were publicized.

6. Development Permit and Development Variance Permit Reports

- 6.1 2446 Harvard Road, Z17-0011 (BL11422) - Wayne and Denise Henney** 20 - 20
- To adopt Bylaw No. 11422 in order to rezone the subject property from the A1 - Agriculture 1 zone to the A1c - Agriculture 1 with Carriage House zone.
- 6.2 2446 Harvard Road, DVP17-0027 - Wayne and Denise Henney** 21 - 31
- City Clerk to state for the record any correspondence received. Mayor to invite anyone in the public gallery who deems themselves affected by the required variance(s) to come forward.
- To vary the maximum footprint, maximum height, and maximum distance from the primary dwelling for a carriage house.
- 6.3 495 Glen Pine Court, DVP17-0085 - Harold & Stephanie Schock** 32 - 40
- City Clerk to state for the record any correspondence received. Mayor to invite anyone in the public gallery who deems themselves affected by the required variance(s) to come forward.**
- To consider a Staff recommendation to NOT issue a Development Variance Permit to vary the minimum required setback for a swimming pool from a flanking street from 1.5m (required) to 0.2m (proposed) on the subject property.
- 6.4 204 Poplar Point Dr, DVP17-0167 - Rodney & Jody Hazard** 41 - 59
- Item to be deferred**

7. Reminders

8. Termination



City of Kelowna Public Hearing Minutes

Date: Monday, October 3, 2017
 Location: Council Chamber
 City Hall, 1435 Water Street

Members Present Mayor Colin Basran, Councillors Maxine DeHart*, Ryan Donn, Gail Given Tracy Gray*, Charlie Hodge, Brad Sieben, Mohini Singh and Luke Stack

Staff Present Deputy City Manager, Joe Creron; Deputy City Clerk, Karen Needham, Urban Planning Manager, Terry Barton; Community Planning Department Manager, Ryan Smith; Divisional Director, Community Planning & Strategic Investments, Doug Gilchrist; Suburban & Rural Planning Manager, Todd Cashin; Development Engineering Manager, James Kay; Community Planning Supervisor, Lindsey Ganczar; Planner Specialist, Adam Cseke; Planner, Emily Williamson; Legislative Coordinator (Confidential), Arlene McClelland

(* denotes partial attendance)

1. Call to Order

Mayor Basran called the Hearing to order at 6:02 p.m.

Mayor Basran advised that the purpose of the Hearing is to consider certain bylaws which, if adopted, will amend "Kelowna 2030 - Official Community Plan Bylaw No. 10500" and Zoning Bylaw No. 8000", and all submissions received, either in writing or verbally, will be taken into consideration when the proposed bylaws are presented for reading at the Regular Council Meeting which follows this Public Hearing.

2. Notification of Meeting

The City Clerk advised that Notice of this Public Hearing was advertised by being posted on the Notice Board at City Hall on Tuesday, September 19, 2017 and by being placed in the Kelowna Daily Courier issues on Friday, September 22, 2017 and Wednesday, September 27, 2017 and by sending out or otherwise mailing 852 statutory notices to the owners and occupiers of surrounding properties on Tuesday, September 19, 2017.

The correspondence and/or petitions received in response to advertising for the applications on tonight's agenda were arranged and circulated to Council in accordance with Council Policy No. 309.

Councillor Sieben joined the meeting at 6:04 p.m.

3. Individual Bylaw Submissions

3.1 Curlew Area, LUCT17-0001 (BL11455) and Rezoning Z17-0062 (BL11456) - Various Owners

Staff:

- Displayed a PowerPoint Presentation summarizing the application and responded to questions from Council.

City Clerk

- Advised that the correspondence attached for item 3.2 should be attached to Item 3.1.

The City Clerk advised that the following correspondence had been received:

Petition Opposition submitted by Catherine V. Comben (Curlew Dr) and Jan Conradi (Curlew Dr) 32 signatures

Mayor Basran invited anyone in the public gallery who deemed themselves affected to come forward, followed by comments of Council.

Gallery:

Catherine Comben and Jan Conradi, Curlew Drive

- Ms. Comben spoke of her background and community involvement and noted she's been a Kelowna resident for 35 years and has resided on Curlew Drive for 16 years.
- Ms. Conradi has been a resident for 14 years.
- Commented that Land Use Contract LUC77-1002 restricts the use to one single family dwelling which disallows the inclusion of secondary suites and carriage houses.
- Believes this area of the city should remain as it was designed to be a single family only area and have a petition of support from 100 percent of those canvassed.
- Raised concerns with on street parking issues that negatively effects traffic and safety issues for children walking to school.
- Noted that Curlew Drive had previously been designated Kelowna's Best Block and the increase in density would increase traffic and negatively impact our neighbourhood.
- Believes that the character of their neighbourhood will forever be altered and asked that the Land Use Contract remain as is until it is extinguished in 2024 so we may continue to enjoy our neighbourhood as it is today.
- Not in favour of any suites.
- Opposed to this application.
- Responded to questions from Council.

Adriaan Boek, Curlew Drive

- Resident for 29 years.
- Raised great concern with the rezoning and termination of Land Use Contract.
- Was confused about the termination and discharge, however, now understand that one is immediate and one takes a year.
- Spoke to the adjacent property and its development following the fire, with all the levelling and soil distribution it put pressure on the retaining wall and buildings which caused damage.
- Raised concerns with water drainage on his property.
- Does not support zoning to allow for carriage houses
- Raised concerns with the height of the proposed deck and that there will be a loss of privacy for his backyard and patio.

Ian Nicholson, Curlew Drive

- Resident for 29 years.
- Was unaware that a legal suite under RR3 zone would require a second septic.
- Had questions about the affect the RR3 zone would have on rates.

Vernon Johnston, Curlew Drive

- Resident since 1986 and also affected by the 2003 fire.
- Raised concerns that increased density will affect issues of safety for evacuation of the area as well as emergency vehicles being able to access.
- Opposed to this application.

Staff:

- Clarified the process of early termination and the legislation requiring all Land Use Contracts to be terminated by 2024 with zoning in place by 2022.
- Provided rationale for the proposed RR3 zone being the closest zone that does not have connection to sewer.
- Confirmed the LUC has been on title since 1977.
- Confirmed Land Use Contract Termination Strategy adopted by Council.
- Confirmed that rezoning could be adopted with LUC terminated automatically in 2024.

There were no further comments

Mayor advised that 3.5 at 2825 Richter Street has been deferred and will come forward at the October 17th Public Hearing.

3.2 521 Curlew Drive, LUC17-0002 (BL11466) and Z17-0049 (BL11467) - Derek L & Tammy L Cartier

Staff:

- Displayed a PowerPoint Presentation summarizing the application.
- Confirmed there is no development permit for carriage houses unless there is a variance and the building permit for the carriage house does not come back for Council consideration.
- Responded to questions from Council.

The City Clerk advised that no correspondence had been received.

Mayor Basran invited anyone in the public gallery who deemed themselves affected to come forward, followed by comments of Council.

Birte Decloux, Urban Options Planning & Permits, Applicant Representative

- Displayed a PowerPoint Presentation, re: 521 Curlew Drive LUC Dismissal
- The rezoning is to allow for the construction of a one storey carriage house.
- Displayed photos showing the view from the proposed carriage house to the principal dwelling and identified parking on site for the suite.
- Stated that the carriage house is intended for the owner's parents to provide their own private space with a common shared yard.
- Displayed a drawing showing the relationship between the carriage house to the main house.
- Will provide a fence along the lot line so neighbours privacy is maintained.
- Believes that the nature of the shared backyard space lends to only family members occupying the carriage house.
- The carriage house is within the parameter of permitted size.
- Believes the shed height is 2-2.5 m high.
- Responded to questions from Council.

Gallery:

Catherine Comben, Curlew Drive

- Believes this changes the character of the neighbourhood.
- Some lots in the area will never have an opportunity to add carriage houses.
- Was assured by the realtor that only single family dwellings were to be approved under this LUC.
- Bus service in the area is not very good so forced to rely on vehicles which will impact the already congested traffic issue.
- Confirmed that own property is not connected to sewer.

- Suggested deferring the land use termination so residents could work with staff on a resolution for zoning.
- Opposed to this application.
- Responded to questions from Council.

Jan Conradi, Curlew Drive

- Confirmed property is on septic as well.
- Believes RR3 zone is wrong for the whole area.
- Raised concerns that there are no restrictions with who uses the carriage houses and could be used as rentals.
- Want to keep the neighbourhood as it is.

Vernon Johnston, Curlew Drive

- Displayed photos of his backyard and patio area and the view of the proposed height of the deck where the shed is currently situated; level of the deck height is same height as the shed and is very high and completely out of proportion.
- Believes the 20% slope to reach the site of the carriage house is not accessible.
- Raised concerns with parking and congested traffic will only increase with more density.
- Confirmed that the property behind is built quite high overlooking property but the landscaping helped mitigate.
- Responded to questions from Council.

Gary Strict, Collette Road

- Good friend of previous speaker and believes he will be greatly affected by this proposal.
- Spoke to the area being very steep on Curlew and believes access will be difficult.
- The proposed carriage house is 4 feet higher than the pool house and suggested options to fix the height issue.
- Believes the carriage house should be the same height as the shed and drop to pool level.
- Opposed to the extensive deck which will hinder his friend's privacy and enjoyment of backyard.

Ian Nicholson, Curlew Drive

- Believes the carriage house could be incorporated into the pool level elevation.
- Believes the carriage house should be the same level as the main house in order to not impact the neighbour.
- Believes they are trying to capture a view from the carriage house.
- Suggested something be written into the deed to limit the use of the carriage house to family members only.

Birte Decloux, Applicant Representative

- The area has been devastated by fire and there is no longer any mature vegetation and because of slope there isn't a lot of privacy, however, as the shed is 2 m above ground we will put in a privacy fence to mitigate.
- Confirmed parking is on site.
- Requesting this rezoning to allow for a carriage house.
- Would need to discuss with the owner about any changes to the size of the deck but am confident the owner would discuss options with the neighbour.
- Responded to questions from Council.

Staff:

- Clarified the RR3 zone and changes since 1977 and advised that there isn't a zone today that would allow lot sizes of this size to be on septic.
- Confirmed how building grade is determined.
- Confirmed that staff would not support a carriage house on septic.

There were no further comments

Staff:

- Displayed a PowerPoint Presentation summarizing the application and responded to questions from Council.

The City Clerk advised that no correspondence had been received.

Mayor Basran invited anyone in the public gallery who deemed themselves affected to come forward, followed by comments of Council.

Birte Decloux Urban Options Planning & Permits, Applicant

- Commented that there was not a lot to add to staff's presentation.
- Displayed a photo that identified the location of the second dwelling.
- The second dwelling is being placed into a dip to ensure views are not being impacted.
- Available for questions.

No one from the Gallery came forward.

There were no further comments

3.4 1561 Mountain Ave, Z17-0042 (BL11476) - Robin and Heather Mercer

Staff:

- Displayed a PowerPoint Presentation summarizing the application and responded to questions from Council.

The City Clerk advised that the following correspondence had been received:

Letters of Opposition:

Bill and Doreen DiPasquale, Mountain Avenue
Mary and Alan Duckworth, Mountain Avenue

Mayor Basran invited anyone in the public gallery who deemed themselves affected to come forward, followed by comments of Council.

Heather Mercer, Applicant

- Currently the building is a workshop and want to convert to a studio.
- Need to provide updates such as electrical to make the space livable and confirmed the structure would remain the same.
- Believes the studio will complement the house and provide some rental income; as well provide affordable housing option.
- Believes that using an existing structure is more environmentally friendly.
- This is a bachelor suite only and will not contribute to any parking or traffic issues; currently have measured space for 5 cars and we only have one vehicle.
- Structure is built to code and will ensure all requirements are met.
- Confirmed the vent can be placed on opposite side or the back of the structure to address neighbours concerns.
- Currently have a chain link fence with vegetation and believes it feels private.
- Responded to questions from Council.

Gallery:

Mary Duckworth, Mountain Avenue

- Property line is adjacent to this property.
- Dissatisfied with notice delivery and indicated some notices were not delivered.
- Resident since 1959.
- Staff noted 1 variance but it appears there are 2 variances as the structure is only 1.5 m from house.
- Spoke to the neighbourhood deteriorating with carriage houses and being used as rentals.

- Raised concerns with venting with location of existing structure.
- Questioned the need for variances and why applicants cannot just follow rules and regulations.
- The fence is a 4-foot old chain link fence.
- Would like to have a 6-foot fire safe fence from back to front
- Requested a letter from the city and fire department related to further development and fire safety related to this property.
- Opposed to this application.

Barb Butler, Mountain Avenue

- Believes there are 2 variances but staff only mentioned one and would like that clarified.
- Spoke to Old Glenmore being the Best Block in 2011 and now the character of the neighbourhood is changing and deteriorating with more rentals and vehicles.
- Believed that carriage houses were to be at the back of the property behind the main residence so you could see greenspace at the front.
- Raised concerns that the elevation of the property in the back is lower than the proposal and that the rock wall her father had constructed may be impacted.
- The plan states a main floor and questioned whether a second floor could be added in the future.
- Opposed to this application.

Staff:

- Clarified that the variances indicated in the report were added early in the process and may change with a text amendment that was given initial consideration and if approved will eliminate the need for that variance.

Heather Mercer, Applicant

- Clarified that there is no plan to add a second storey.
- Willing to split the cost of a chain link or wood privacy fence. Believes a fire proof fence is ridiculous.
- Advised that if damage to the rock wall occurred they would pay to have it fixed.
- Willing to vent into our backyard if not suitable on the side.

There were no further comments

3.5 2825 Richter St, Z17-0057 (BL11479) - 1018545 BC Ltd

Item was deferred to the October 17, 2017 meeting.

3.6 1373 Tanemura Cr, Z17-0046 (BL11480) - Philip Zurrin

Staff:

- Displayed a PowerPoint Presentation summarizing the application.

The City Clerk advised that no correspondence had been received.

Mayor Basran invited anyone in the public gallery who deemed themselves affected to come forward, followed by comments of Council.

Birte Decloux, Urban Options Planning & Permits, Applicant Representative

- This project started over 2 years ago and the original goal was to preserve the trees; no trees or tree roots will be disturbed.
- The carriage house is for an ill family member.
- A landscaped plan was submitted with upgraded vegetation long the street.

No one from the Gallery came forward.

There were no further comments

3.7 5080 Twinflower Cres, OCP17-0004 (BL11481) and Z17-0015 (BL11482) - Interval Investments Inc.

Staff:

- Displayed a PowerPoint Presentation summarizing the application and responded to questions from Council.

The City Clerk advised that the following correspondence had been received:

Letter of Concern:

Kevin and Laurie Mitchell, Twinflower Crescent

Mayor Basran invited anyone in the public gallery who deemed themselves affected to come forward, followed by comments of Council.

Robin Jamieson, Argus Properties Ltd. Applicant

- In 2013 Interval Investment Inc. subdivided this land but water infrastructure was not available at this time.
- As a result of the 2017 updated water system there is adequate water pressure.
- Confirmed the original plan was for 3 lots and the plan remains with minor adjustments to the panhandle lot with added park.
- Responded to questions of Council.

No one from the Gallery came forward.

There were no further comments

3.8 1915 Enterprise Way, Z17-0001 (BL11487) - Kelowna East Investments Ltd

Councillor DeHart declared a conflict of interest as her employer is a major hotel in Kelowna and in close proximity to this development and departed the meeting at 8:05 p.m.

Staff:

- Displayed a PowerPoint Presentation summarizing the application and responded to questions from Council.

The City Clerk advised that the following correspondence had been received.

Letters of Opposition:

Gail Magrath (President), Strat Corporation KAS229, Ufton Court
 Lekyshia Magrath, Ufton Court
 Michelle and Bobby Schroth, Ufton Court
 Elizabeth Cramm, Ufton Court

Mayor Basran invited anyone in the public gallery who deemed themselves affected to come forward, followed by comments of Council.

Robert Lee, Burnaby, B.C, Applicant, Dave Cullen, Traffic Engineer, CTQ Consultants

- Provided land use rationale for the hotel and noted the feasibility study deemed it desirable and that 161 rooms are ideal.
- Mixed use building was an extension of what was already on this site.
- Density of the mixed use was based on parking.
- Believes this development is a compliment to the area.
- Provided an explanation of technical levels of services, delays and wait times in traffic.
- Confirmed that the main entrance of the site is off of Enterprise Way with a second access.
- Discussed the history and redesign of Enterprise Way in 1992 to prevent overlap of Highway 97.
- The Enterprise Road realignment was paid for by the owner of the site and was always intended as a C4 zoned site.

- Have not gotten into road configurations and detail designs as this is only the rezoning stage.
- Decrease in overall performance is marginal at best; existing traffic and growth in traffic is causing these delays and impact is considered marginal.
- Responded to questions from Council.

Gallery:

Gail Magrath (President) Strata Corporation KA5229, Ufton Court

- Referenced previously submitted correspondence by Strata Corp and owners.
- Commented that traffic is a nightmare in the area and nearly impossible to access the left turn lane onto the Highway.
- Believes that 161 hotel rooms will add a tremendous amount of traffic to the area and does not believe all hotel guests will fly into Kelowna.
- Raised concerns that Parkinson Way is used as a shortcut now and is dangerous for pedestrians near Parkinson Recreation Centre.

Mary Duckworth, Mountain Avenue

- Drives Spall and Enterprise Way daily and believes traffic is more than a nightmare.
- Believes this proposal will only exasperate the current traffic issues.
- Until road issues with Enterprise Way and Spall are resolved the lot should remain empty.

Robert Lee Burnaby, B.C. Applicant, Dave Cullen, Traffic Engineer, CTO Consultants

- Believes a hotel will have the lowest amount of impact.
- Traffic that occurs during peak hours will mostly be staff travelling to work, however, the likelihood of alternate modes of transportation is greater with a site like this so close to transit as well as walking and cycling paths.
- Main egress anticipated to be all access but will require further discussion during the design phase.
- Proposing to extend two way left turn lane.
- Responded to questions from Council.

Staff:

- Clarified that Schedule A of the Engineering comments restricts main access to right in and right out and left only.
- Confirmed this land use is currently zoned C4 and noted allowable uses for the C4 zone.
- The Development Engineer confirmed the 2030 timeframe infrastructure development was not planned.

Councillor DeHart rejoined the meeting at 8:47 p.m.

3.9 OCP17-0019 (BL11490) and TA17-0005 (BL11491) - RU7 – Infill Housing Zone Amendments

Councillor Gray declared a conflict of interest as she is currently building a carriage house and departed the meeting at 8:47 p.m.

Staff:

- Displayed a PowerPoint Presentation summarizing the application and responded to questions from Council.

The City Clerk advised that no correspondence had been received.

Mayor Basran invited anyone in the public gallery who deemed themselves affected to come forward, followed by comments of Council.

No one from the Gallery came forward.

There were no further comments

Councillor Gray rejoined the meeting at 8:56 p.m.

4. **Termination**

The Hearing was declared terminated at 8:56 p.m.

Mayor

/acm



Deputy City Clerk

DRAFT



City of Kelowna Regular Council Meeting Minutes

Date: Monday, October 3, 2017
Location: Council Chamber
City Hall, 1435 Water Street

Members Present Mayor Colin Basran, Councillors Maxine DeHart*, Ryan Donn, Gail Given Tracy Gray*, Charlie Hodge, Brad Sieben, Mohini Singh and Luke Stack

Staff Present Deputy City Manager, Joe Creron; Deputy City Clerk, Karen Needham, Urban Planning Manager, Terry Barton; Community Planning Department Manager, Ryan Smith; Divisional Director, Community Planning & Strategic Investments, Doug Gilchrist; Suburban & Rural Planning Manager, Todd Cashin; Development Engineering Manager, James Kay; Community Planning Supervisor, Lindsey Ganczar; Planner Specialist, Adam Cseke; Planner, Emily Williamson; Legislative Coordinator (Confidential), Arlene McClelland

(* denotes partial attendance)

1. Call to Order

Mayor Basran called the meeting to order at 9:03 p.m.

2. Reaffirmation of Oath of Office

The Oath of Office was read by Councillor DeHart.

3. Confirmation of Minutes

Moved By Councillor Hodge/Seconded By Councillor Singh

R813/17/10/03 THAT the Minutes of the Public Hearing and Regular Meeting of September 19, 2017 be confirmed as circulated.

Carried

Mayor Basran moved Item 4.2 to be heard prior to Item 4.1 as the land is required to be rezoned prior to removing Land Use Contract.

4. Bylaws Considered at Public Hearing

4.2 Curlew Area, Z17-0062 (BL11456) - Various Owners

Moved By Councillor Donn/Seconded By Councillor Singh

R813/17/10/03 THAT Bylaw No. 11456 be read a second and third time and be adopted.

Carried

4.1 LUCT17-0001 (BL11455) - Early Termination of Land Use Contract LUC77-1002

Moved By Councillor Gray/Seconded By Councillor Hodge

R813/17/10/03 THAT Bylaw No. 11455 be read a second and third time and be adopted.

Carried

Councillor Hodge - Opposed

4.3 521 Curlew Drive, LUC17-0002 (BL11466) - Derek L & Tammy L Cartier

Moved By Councillor Given/Seconded By Councillor Donn

R813/17/10/03 THAT Bylaw No. 11466 be read a second and third time and be adopted.

Carried

4.4 521 Curlew Drive, Z17-0049 (BL11467) - Derek L & Tammy L Cartier

Council:

- Raised concerns with the site configuration, height impacts to adjacent neighbours and recommended applicant has further consultation with neighbours.

Moved By Councillor Stack/Seconded By Councillor Singh

R813/17/10/03 THAT second and third readings for Bylaw No. 11467 be deferred.

Carried

Councillor Donn - Opposed

4.5 462 Clifton Rd, Z17-0067 (BL11475) - Lawrence & Mary Berg

Moved By Councillor Given/Seconded By Councillor Donn

R813/17/10/03 THAT Bylaw No. 11475 be read a second and third time.

Carried

4.6 1561 Mountain Ave, Z17-0042 (BL11476) - Robin and Heather Mercer

Moved By Councillor Gray/Seconded By Councillor Hodge

R813/17/10/03 THAT Bylaw No. 11476 be read a second and third time.

Carried

4.7 2825 Richter St, Z17-0057 (BL11479) - 1018545 BC Ltd

Councillor Gray declared a conflict of interest as she resides in the notification area and departed the meeting at 9:45 p.m.

Moved By Councillor Donn/Seconded By Councillor Singh

R813/17/10/03 THAT Bylaw No. 11479 be deferred to the October 17, 2017 Public Hearing.

Carried

Councillor Gray rejoined the meeting at 9:45 p.m.

4.8 1373 Tanemura Cr, Z17-0046 (BL11480) - Philip Zurrin

Moved By Councillor DeHart/Seconded By Councillor Singh

R813/17/10/03 THAT Bylaw No. 11480 be read a second and third time.

Carried

4.9 5080 Twinflower Cres, OCP17-0004 (BL11481) - Interval Investments Inc.

Moved By Councillor Singh/Seconded By Councillor DeHart

R813/17/10/03 THAT Bylaw No. 11481 be read a second and third time.

Carried

4.10 5080 Twinflower Cres, Z17-0015 (BL11482) - Interval Investments Inc.

Moved By Councillor DeHart/Seconded By Councillor Singh

R813/17/10/03 THAT Bylaw No. 11482 be read a second and third time.

Carried

4.11 1915 Enterprise Way, (BL11487) Z17-0001 - Kelowna East Investments Ltd

Councillor DeHart declared a conflict of interest as her employer is located on Enterprise Way and departed the meeting at 9:47 p.m.

Moved By Councillor Singh/Seconded By Councillor Stack

R813/17/10/03 THAT Bylaw No. 11487 be read a second and third time.

Carried

Councillor DeHart rejoined the meeting at 9:57 p.m.

4.12 OCP17-0019 (BL11490) - Amendment to Chapter 14 - Urban Design DP Guidelines

Councillor Gray declared a conflict of interest as she is currently building a carriage house and departed the meeting at 9:57 p.m.

Moved By Councillor Singh/Seconded By Councillor Stack

R813/17/10/03 THAT Bylaw No. 11490 be read a second and third time.

Carried

4.13 TA17-0005 (BL11491) - RU7 - Infill Housing Zone Amendments

Moved By Councillor Dehart/Seconded By Councillor Singh

R813/17/10/03 THAT Bylaw No. 11491 be read a second and third time.

Carried

Council Gray rejoined the meeting at 9:58 p.m.

5. Reminders – Nil.

6. Termination

The meeting was declared terminated at 9:58 p.m.

Mayor



Deputy City Clerk

/acm

CITY OF KELOWNA

BYLAW NO. 11478

**Amendment No. 1 to Bylaw No. 11408 being Heritage Revitalization Agreement Authorization
Bylaw HRA17-0001 – City of Kelowna and JEM HTB Properties Inc.**

4629 Lakeshore Road

WHEREAS a local government may, by bylaw, enter into or amend a heritage revitalization agreement with the Owner of property which Council deems to be of heritage value pursuant to section 610 of the *Local Government Act*;

AND WHEREAS the Municipal Council of the City of Kelowna is desirous of amending the Heritage Revitalization Agreement with JEM HTB Properties Inc. for the property located at 4629 Lakeshore Road, Kelowna, B.C.;

THEREFORE the Municipal Council of the City of Kelowna, in open meeting assembled, enacts as follows:

1. The Municipal Council of the City of Kelowna hereby authorizes the City of Kelowna to amend Schedule A attached to Bylaw No. 11408 being the Heritage Revitalization Agreement with JEM HTB Properties Inc for the property known as the "Surtees Property" located at 4629 Lakeshore Road, Kelowna, B.C., and legally described as:

Lot A, Section 25, Township 28, SDYD, Plan KAP71341

As outlined in Schedule "B" in the form of such Agreement attached to and forming part of this bylaw.

2. The Mayor and City Clerk are hereby authorized to execute the attached amending agreement, as well as any conveyances, deeds, receipts and other documents in connection with the attached agreement, and to affix the corporate seal of the City of Kelowna to same.
3. This bylaw shall come into full force and effect as of and from the date of adoption.

Read a first time by the Municipal Council this 2nd day of October, 2017.

Considered at a Public Hearing this

Read a second and third time by the Municipal Council this

Adopted by the Municipal Council of the City of Kelowna this

Mayor

City Clerk

SCHEDULE "B"

AMENDMENT AGREEMENT

THIS AGREEMENT dated for reference the day of , 2017 is

BETWEEN:

CITY OF KELOWNA, having an office at 1435 Water Street, Kelowna, British Columbia, V1Y 1J4

(the "City")

AND:

JEM HTB PROPERTIES INC. (Inc. No. BC0949919), c/o Pushor Mitchell LLP, 3rd Floor, 1665 Ellis Street, Kelowna, British Columbia, V1Y 2B3

(the "Leasee")

WHEREAS:

- A. The Leasee and the City entered into a heritage revitalization agreement (the "Heritage Revitalization Agreement") to establish terms, conditions and requirements for the use and development of the Heritage Lands and the restoration, renovation, and conservation of the existing Heritage Buildings located thereon;
- B. The parties have agreed to amend the Heritage Revitalization Agreement in accordance with the terms of this Agreement.

NOW THEREFORE, in consideration of the payment of \$1.00 by the Leasee to the City and other good and valuable consideration, the receipt and sufficiency of which the City hereby acknowledges, the Leasee and the City covenant and agree with each other as follows:

- 1. All words and phrases defined in the Heritage Revitalization Agreement and used in this Agreement shall have the same meaning as set forth in the Heritage Revitalization Agreement.
- 2. Section 4.1 of the Heritage Revitalization Agreement is hereby deleted and replaced with the following:
 - 4.1 If one or both of the Heritage Buildings are damaged, the Leasee shall obtain a heritage alteration permit and any other necessary permits and licenses and, in a timely manner, shall restore and repair the Heritage Buildings to the same condition and appearance that existed before the damage occurred.
 - 4.2 If, in the opinion of the City, one or both of the Heritage Buildings are completely destroyed, the Leasee shall construct replicas, using contemporary materials if necessary, of the Heritage Buildings that comply in all respects with the Conservation Plan in Schedule D and with Zoning Bylaw No. 8000, as varied by this Agreement, after

{01128175;1}

having obtained a heritage alteration permit and any other necessary permits and licenses, and this Agreement will remain in full force and effect.

- 4.3 The Leasee shall use its best efforts to commence and complete any repairs to the Heritage Buildings, or the construction of any replica buildings, with reasonable dispatch.

3. Part 5.0 of the Heritage Revitalization Agreement is hereby deleted in its entirety and replaced with the following:

5.0 Enforcement of Agreement

- 5.1 In the event that the Leasee is in breach of any term of this Agreement, the City may give the Leasee notice in writing of the breach and the Leasee shall remedy the breach within 60 days of receipt of the notice, or in the case of a breach that cannot with due diligence be cured within the period of 60 days, the Leasee shall promptly proceed to cure and continue with reasonable diligence to cure such default until the default is cured. The City acknowledges that in consideration of the Leasee performing its obligations under this Agreement and the rent under the lease of the Heritage Lands, the City will only be able to seek recourse in respect of an alleged default by the Leasee under this Agreement by:

- (a) bringing a claim in law against the Leasee for debt or damages, as the case may be, recoverable against the Leasee;
- (b) seeking an order of a Court of competent jurisdiction for specific performance of a mandatory term of this Agreement;
- (c) seeking an order of a Court of competent jurisdiction restraining a continuing breach of this Agreement; or
- (d) pursuing any rights that the City may have under statute in connection with the Heritage Buildings, this Agreement, or the subject matter of the breach, including but not limited to the City seeking recourse in respect to statutory offenses where the breach of this Agreement is also a breach of applicable law,

and the City has no right to cancel or terminate this Agreement so long as the lease of the Heritage Lands by the City to the Leasee, as it may be assigned from time to time, remains in force and effect.

4. All amendments in this Agreement take effect as of the date on which Council for the City of Kelowna adopts the bylaw approving this Agreement.
5. The Leasee affirms and agrees that the Heritage Revitalization Agreement remains unchanged, except as amended herein, and, as amended herein, in full force and effect, time being of the essence, and the Leasee shall perform and observe the covenants, provisos and stipulations in the Heritage Revitalization Agreement as amended herein as fully as if such covenants, provisos and stipulations had been repeated herein in full.

[01128175;1]

provisos and stipulations had been repeated herein in full.

6. This Agreement may be executed in multiple counterparts, each of which is to be deemed to be an original and all of which together constitute one and the same agreement.

IN WITNESS WHEREOF the Leasee and the City have executed this Agreement as of the date written above.

CITY OF KELOWNA by its authorized
signatories:

Mayor:

City Clerk:

JEM HTB PROPERTIES INC. by its authorized
signatory(ies):


Name: Shane Worman

Name:

CITY OF KELOWNA
BYLAW NO. 11479
Z17-0057 – 2825 Richter St

A bylaw to amend the "City of Kelowna Zoning Bylaw No. 8000".

The Municipal Council of the City of Kelowna, in open meeting assembled, enacts as follows:

1. THAT City of Kelowna Zoning Bylaw No. 8000 be amended by changing the zoning classification of Lot 10, District Lot 135, ODYD, Plan 22856 located on Richter St, Kelowna, B.C., from the RU6 – Two Dwelling Housing zone to the RM2 – Low Density Row Housing zone.
2. This bylaw shall come into full force and effect and is binding on all persons as and from the date of adoption.

Read a first time by the Municipal Council this 11th day of September, 2017.

Considered at a Public Hearing on the

Read a second and third time by the Municipal Council this

Adopted by the Municipal Council of the City of Kelowna this

Mayor

City Clerk

CITY OF KELOWNA

BYLAW NO. 11486

Z17-0040 – 1065 & 1075 Leathead Road and 500 Fleming Road

A bylaw to amend the "City of Kelowna Zoning Bylaw No. 8000".

The Municipal Council of the City of Kelowna, in open meeting assembled, enacts as follows:

1. THAT City of Kelowna Zoning Bylaw No. 8000 be amended by changing the zoning classification of Lot 1 Section 27 Township 26 ODYD Plan 10847 except Plan A12943, Lot A Section 27 Township 26 ODYD Plan KAP79327 and Lot B Section 27 Township 26 ODYD Plan KAP79327 located on Leathead Road and Fleming Road, Kelowna, B.C., from the RU1 – Large Lot Housing zone to the RM4 – Transitional Low Density Housing zone.
2. This bylaw shall come into full force and effect and is binding on all persons as and from the date of adoption.

Read a first time by the Municipal Council this 2nd day of October, 2017.

Considered at a Public Hearing on the

Read a second and third time by the Municipal Council this

Approved under the Transportation Act this

(Approving Officer – Ministry of Transportation)

Adopted by the Municipal Council of the City of Kelowna this

Mayor

City Clerk

CITY OF KELOWNA
BYLAW NO. 11422
Z17-0011 – 2446 Harvard Road

A bylaw to amend the "City of Kelowna Zoning Bylaw No. 8000".

The Municipal Council of the City of Kelowna, in open meeting assembled, enacts as follows:

1. THAT City of Kelowna Zoning Bylaw No. 8000 be amended by changing the zoning classification of Lot A, Section 33, Township 29, ODYD, Plan 9442 located on Harvard Rd, Kelowna, B.C., from the A1 – Agriculture 1 zone to the A1c – Agriculture 1 with Carriage House zone.
2. This bylaw shall come into full force and effect and is binding on all persons as and from the date of adoption.

Read a first time by the Municipal Council this 12th day of June, 2017.

Considered at a Public Hearing on the 27th day of June, 2017.

Read a second and third time by the Municipal Council this 27th day of June, 2017.

Adopted by the Municipal Council of the City of Kelowna this

Mayor

City Clerk

REPORT TO COUNCIL



Date: October 17, 2017

RIM No. 0940-00

To: City Manager

From: Community Planning Department (TB)

Application: DVP17-0027

Owner:

Wayne Keith Henney

Denise Alana Henney

Address: 2446 Harvard Road

Applicant:

Wayne Keith Henney

Subject: Development Variance Permit

Existing OCP Designation: REP – Resource Protection Area

Existing Zone: A1 - Agriculture

Proposed Zone: A1c – Agriculture 1 with Carriage House

1.0 Recommendation

THAT final adoption of Rezoning Bylaw No. 11422 be considered by Council;

AND THAT Council authorizes the issuance of Development Variance Permit No. DVP17-0027 for Lot A, Section 33, Township 29, ODYD, Plan 9442, located at 2446 Harvard Road, Kelowna, BC;

AND THAT variances to the following sections of Zoning Bylaw No. 8000 be granted as per Schedule "A":

Section 11.1.6(a): A1 – Agriculture Development Regulations

To vary the maximum floor area of a carriage house from 90m² required to 118.9m² existing;

Section 11.1.6(b): A1 – Agriculture Development Regulations

To vary the maximum height of the peak of a carriage house to be taller than the principal dwelling (6.9m required, 7.43m existing);

Section 11.1.6(e): A1 – Agriculture Development Regulations

To vary the maximum distance between the carriage house and the principal dwelling from 10.0m required to 21.5m existing;

AND FURTHER THAT this Development Variance Permit is valid for two (2) years from the date of Council approval, with no opportunity to extend.

2.0 Purpose

To vary the maximum footprint, maximum height, and maximum distance from the primary dwelling for a carriage house.

3.0 Community Planning

Community planning recommends support for the requested variances as the accessory building already exists and the property is not actively used for agricultural activities, therefore the potential impacts on agricultural production are minimal.

The accessory building was constructed with appropriate building permits in 2001 as a workshop/garage with a storage mezzanine on the second floor. It met the requirements for an accessory building at that time, however, the conversion to a carriage house triggers three variances due to differences in the zoning bylaw. The variances include increasing the maximum footprint of the carriage house from 90.0m² required to 118.9m² existing; to allow the maximum height of the peak of the carriage house to be higher than the principal dwelling (6.9m required, 7.43 existing); and to vary the maximum distance of the carriage house from the principal dwelling from 10.0m required to 21.5m existing.

4.0 Proposal

4.1 Background

The accessory building was constructed with the necessary building permits in 2001. On June 27, 2017 Council supported 3rd reading on the rezoning to A1c – Agriculture with Carriage House to permit the conversion of the existing accessory building to a carriage house.

4.2 Project Description

The proposed carriage house involves the conversion of the existing accessory building to a carriage house for the use of a family member. The carriage house triggers three variances which are due to different regulations in the zoning bylaw for a carriage house compared to an accessory building. Due to the fact that the accessory building is already constructed, there will be minimal impact in approving the three variances. No exterior changes are proposed to the existing building, and interior changes include converting the mezzanine to living space.

The first variance is to increase the maximum footprint of the carriage house from 90.0m² required to 118.9m² existing. The maximum footprint ensures that carriage houses have a reduced impact on potentially viable agricultural land. The second variance is to allow the maximum height of the peak of the carriage house to be higher than the principal dwelling (6.9m required, 7.43m existing) which ensures sensitive infill on existing properties. The final variance is to vary the maximum distance of the carriage house from the principal dwelling from 10.0m required to 21.5m existing. The rationale for requiring a maximum distance for a carriage house from the principal dwelling is to reduce the impact on agricultural activities on A1c properties. Given that the accessory building already exists and the property is not used actively for agriculture, future impacts are determined to be minimal by allowing all three variances.

As a function of the rezoning, the applicant has registered a 219 Restrictive Covenant on title to ensure that no additional units are added to the property including a secondary suite.

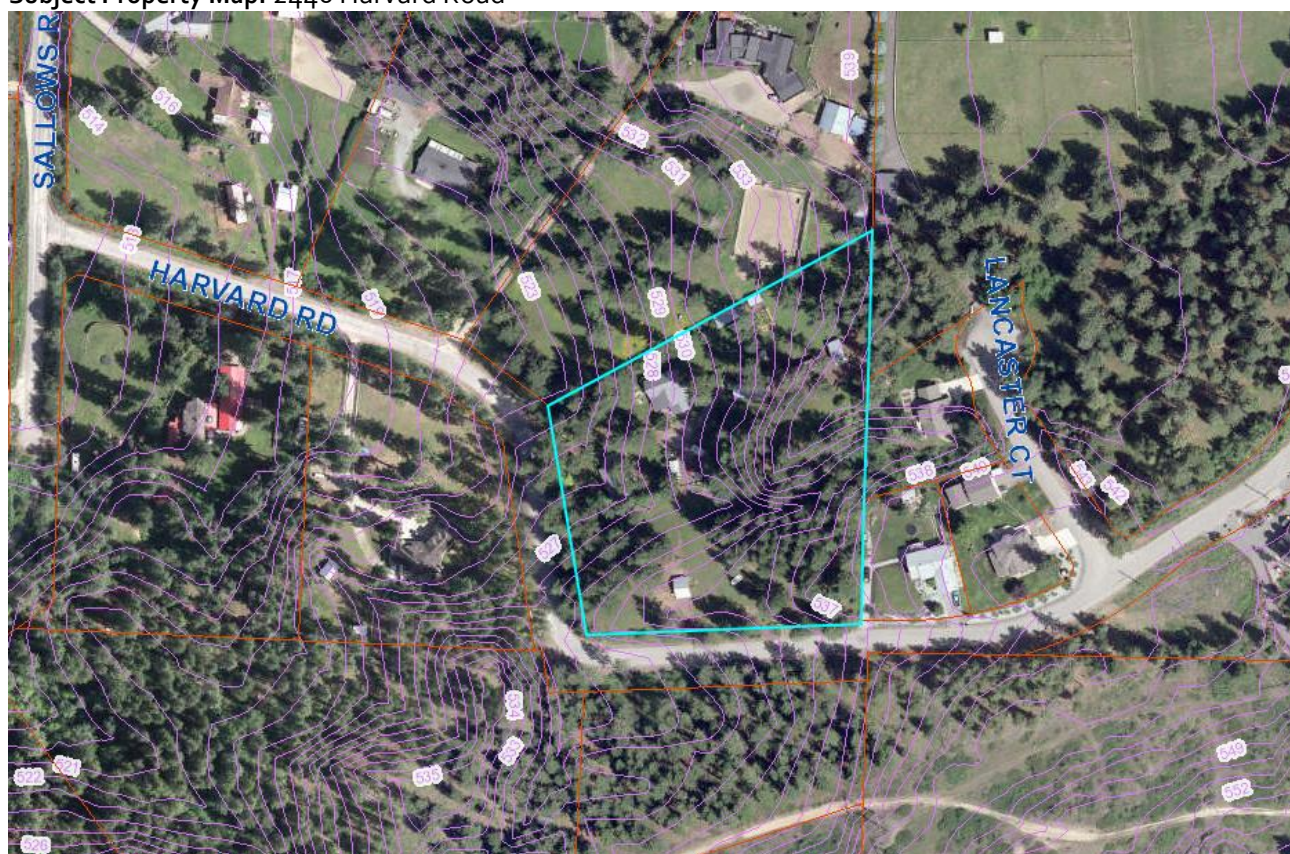
4.3 Site Context

The subject property lies within the Southeast Kelowna Sector. It is located east of Sallows Road and north of Myra-Bellevue Park. The property is not located within the Permanent Growth Boundary and is adjacent ALR Land. The existing accessory building

Specifically, adjacent land uses are as follows:

Orientation	Zoning	Land Use
North	A1 – Agriculture	Rural Residential
South	A1 - Agriculture	Park
East	A1 – Agriculture RR3 – Rural Residential 3	Agriculture Rural Residential
West	RR1 – Rural Residential 1	Rural Residential

Subject Property Map: 2446 Harvard Road



4.4 Zoning Analysis Table

Zoning Analysis Table		
CRITERIA	A1c ZONE REQUIREMENTS	PROPOSAL
Existing Lot/Subdivision Regulations		
Lot Area	1 ha	1.39 ha
Development Regulations		
Height (to peak of carriage house)	6.9m	7.43m ❶
Front Yard	6.0m	17.68m

Side Yard (west flanking)	4.0m	31.86m
Rear Yard	3.0m	85.9m
Maximum Footprint	90.0m ²	118.9m ² ❷
Maximum Distance from Principal Dwelling	10.0m	21.5m ❸
Other Regulations		
Private Open Space	30m ² per dwelling unit	> 30.0m ² per dwelling unit
Parking Stalls	3 stalls	>3 stalls
❶ Indicates a requested variance to allow the peak of the carriage house to be higher than the peak of the principal dwelling (6.9m required, 7.43m proposed). ❷ Indicates a requested variance to increase the maximum footprint from 90.0m ² required to 118.9m ² proposed. ❸ Indicates a requested variance to increase the maximum distance of the carriage house from the principal dwelling from 10.0m required to 21.5m proposed.		

5.0 Application Chronology

Date of Application Received:	January 30, 2017
Date of Agricultural Advisory Committee:	March 13, 2017
Date of Public Consultation:	March 22, 2017
Date of 2 nd and 3 rd readings:	June 27, 2017

The above noted application was reviewed by the Agricultural Advisory Committee at the meeting held on March 13, 2017 and the following recommendations were passed:

Moved by Keith Duhaime/**Seconded by** Tarsem Goraya

THAT the Agricultural Advisory Committee recommends that Council support Rezoning Application No. Z17-0011 for the property located at 2446 Harvard Road, Kelowna, BC to rezone the subject property from the A1 - Agriculture 1 zone to the A1c - Agriculture 1 with Carriage House zone for the purposes of converting an existing accessory building to a carriage house;
 AND THAT the Agricultural Advisory Committee recommends that Council support Development Variance Application No. DVP17-0027 for the property located at 2446 Harvard Road, Kelowna, BC to vary:

- the distance from primary dwelling;
- the height relative to peak of primary dwelling; and
- the maximum footprint of from 90m² required to 118.9m² existing.

Carried

ANCESTRAL COMMENTS:

The Agricultural Advisory Committee recommends that a covenant be registered on title to the subject property restricting any additional dwelling units on the property, including any potential additional suite or mobile home.

Report prepared by: Trisa Brandt, Planner

Reviewed by: Todd Cashin, Suburban and Rural Planning Manager

Approved for Inclusion: Ryan Smith, Community Planning Department Manager

Attachments:

Draft Development Variance Permit DVP17-0027
Schedule "A": Site Plan, Floor Plans, Elevations

DEVELOPMENT VARIANCE PERMIT



APPROVED ISSUANCE OF DEVELOPMENT VARIANCE PERMIT NO. DVP17-0027

Issued To: Wayne Keith Henney
Site Address: 2446 Harvard Road
Legal Description: Lot A, Section 33, Township 29, ODYD, Plan 9442
Zoning Classification: A1c – Agriculture with Carriage House

SCOPE OF APPROVAL

This Permit applies to and only to those lands within the Municipality as described above, and any and all buildings, structures and other development thereon.

This Permit is issued subject to compliance with all of the Bylaws of the Municipality applicable thereto, except as specifically varied or supplemented by this Permit, noted in the Terms and Conditions below.

The issuance of a Permit limits the Permit Holder to be in strict compliance with regulations of the Zoning Bylaw and all other Bylaws unless specific Variances have been authorized by the Permit. No implied Variances from bylaw provisions shall be granted by virtue of drawing notations that are inconsistent with bylaw provisions and that may not have been identified as required Variances by the applicant or Municipal staff.

1. TERMS AND CONDITIONS

THAT Development Variance Permit No. DVP17-0027 for Lot A, Section 33, Township 29, ODYD, Plan 9442 located at 2446 Harvard Road, Kelowna, BC to approve a carriage house development subject to the following:

- a) The dimensions, siting, and elevation of the building to be constructed on the land be in accordance with Schedule "A";

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

Section 11.1.6(a): A1 – Agriculture Development Regulations

To vary the maximum footprint of a carriage house from 90m² required to 118.9m² existing;

Section 11.1.6(b): A1 – Agriculture Development Regulations

To vary the maximum height of the peak of a carriage house to be taller than the principal dwelling (6.9m required, 7.43m existing);

Section 11.1.6(e): A1 – Agriculture Development Regulations

To vary the maximum distance between the carriage house and the principal dwelling from 10.0m required to 21.5m existing;

AND FURTHER THAT this Development Variance Permit is valid for two (2) years from the date of (Council date if applicable, or Community Planning Department Manager) approval, with no opportunity to extend.

2. PERFORMANCE SECURITY

DEVELOPMENT

The land described herein shall be developed strictly in accordance with the terms and conditions and provisions of this Permit and any plans and specifications attached to this Permit that shall form a part hereof.

If the Permit Holder does not commence the development permitted by this Permit within two years of the date of this Permit, this Permit shall lapse.

This Permit IS NOT a Building Permit.

3. Indemnification

Upon commencement of the works authorized by this Permit the Developer covenants and agrees to save harmless and effectually indemnify the Municipality against:

- a) All actions and proceedings, costs, damages, expenses, claims, and demands whatsoever and by whomsoever brought, by reason of the Municipality said Permit.
- b) All costs, expenses, claims that may be incurred by the Municipality where the construction, engineering or other types of works as called for by the Permit results in damages to any property owned in whole or in part by the Municipality or which the Municipality by duty or custom is obliged, directly or indirectly in any way or to any degree, to construct, repair, or maintain.

4. APPROVALS

Issued and approved by Council on the 17th day of October 2017,

Ryan Smith, Community Planning Department Manager
Community Planning & Real Estate

Date

**The PERMIT HOLDER is the CURRENT LAND OWNER.
Security shall ONLY be returned to the signatory of the
Landscape Agreement or his or her designates**



This forms part of application

DVP17-0027

[illegible]

JOB TITLE	PROPOSED COACHOUSE AT 2446 HARVARD ROAD <i>W. Henney</i> <i>250-7644777</i>
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DRAWING TITLE
EXISTING SITE
PHOTOS,
COLOUR BOARD,
AND DESIGN

NATIONAL Initiative	Planned Date	DEC. 1/2000	DRAWN BY D.P.	Job No. WCS 10-	SCALE N.T.S.	DRAWING No.
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AO

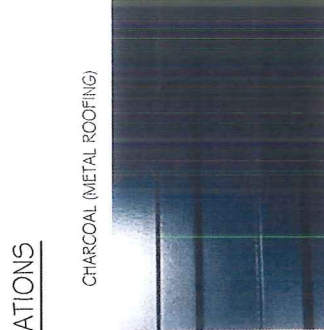
WEST ELEVATION



EAST ELEVATION

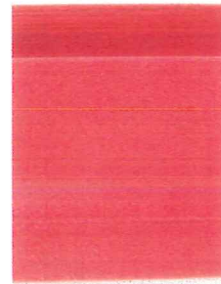
ELEVATIONS

NORTH ELEVATION:



WHITE (DOORS, WINDOWS, GUTTERS)

CHARCOAL (METAL ROOFING)



RED BRICK (FACIA, TRIM, CASING)



CANYON CLAY (VINYL SIDING)

COLOUR BOARD

DESIGN RATIONALE

6. **SUMMARY:** There will be minimal impact on the area. One additional vehicle part-time, parked in the garage, no increases in building footprint, and no visual changes to the property. Simply finishing the existing storage area to make it habitable is all that is required.

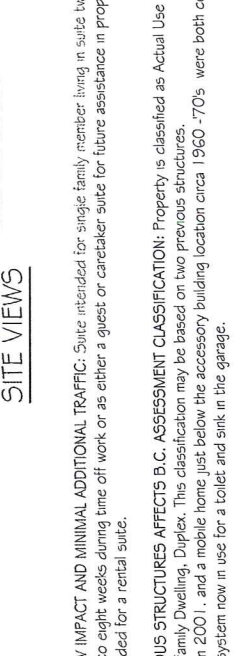
PARKING AREA AT TOP OF DRIVEWAY



DRIVEWAY FROM FRONT GATE

SITE VIEWS

VIEW OF HOUSE AND ACCESSORY BLDG.
FROM N.W. CORNER



1. **USE WOULD BE LOW IMPACT AND MINIMAL ADDITIONAL TRAFFIC:** Suite intended for single family member living in suite two to three weeks out of every six to eight weeks during time off work or as either a guest or caretaker suite for future assistance in property maintenance. Not intended for a rental suite.

2. HISTORY OF PREVIOUS STRUCTURES AFFECTS B.C. ASSESSMENT CLASSIFICATION: Property is classified as Actual Use O60, two acres or more, Single Family Dwelling, Duplex. This classification may be based on two previous structures.

A small cabin removed in 2001, and a mobile home just below the accessory building location circa 1960-'70's were both connected to current septic system now in use for a toilet and sink in the garage.

3. **CURRENT BUILDING BUILT TO ZONING BYLAWS AT TIME OF CONSTRUCTION:** Under Zoning Bylaw 8000, the building was built below the maximum height for an accessory building and at the time of construction there wasn't a regulation specifying maximum footprint or distance from the principal building.

4. **BUILDING IS CURRENTLY SERVICED AND READY FOR DEVELOPMENT:** The building is serviced with power fed underground to a sub-panel from the main house as are telephone and cable. A second service could be added if necessary. The building is plumbed with water and has a septic tank and field.

5. **NEIGHBOURING PROPERTIES ZONING AND USE :** Property is in a small pocket of A1, RR1 and RR3 zoned properties not in the ALR. There are three A1 c zoned properties within approximately 100 m, and 10 "c" zoned properties within 1.6 km. The Myra-Bellelou Provincial Park across the street has frequent visitors. Other neighbours include the Botezaga Boutique Hotel and Naagang Doubt Winery on Sallows Rd. The hotel occasionally attracts large volumes of traffic and the winery will also increase traffic as it develops. The attached South Fernmetter Road extension map shows our location and future road improvements to help with increased traffic from the thousand new housing units planned for the South Slopes, Bedford to Benlucan is our main route to town. The accessory building is located within an "inner yard" area with the house of approximately .3 ha. The remaining portion of the property, 1.1 ha, is used as horse and small animal pasture and contains a small barn and three horse shelters. It is moderately treed with 75 to 100 (22 to 30 m) fir trees as shown on the attached 2015 aerial view. Due to elevation changes and a large ally through the middle of the property, it is not suitable for most other agricultural uses.

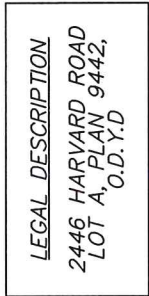
6. **SUMMARY:** There will be minimal impact on the area. One additional vehicle part-time, parked in the garage, no increases in building footprint, and no visual changes to the property. Simply finishing the existing storage area to make it habitable is all that is required.

[illegible]

DRAWING TITLE
SITE PLAN AND SITE COVERAGE

1:250

A





Initials	DR	1	10
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DRAWING No.

Cit
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UNIVERSITY OF LOUISVILLE



UNIVERSITY OF WISCONSIN
MADISON



NOT FOR CONSTRUCTION
DEVELOPMENT PERMIT ONLY

RIGHT (EAST) ELEVATION

SEAR (SOUTH) ELEVATION

LEFT (WEST) ELEVATION

[illegible][illegible]

REPORT TO COUNCIL



Date: October 17, 2017

RIM No. 0940-00

To: City Manager

From: Community Planning Department (TB)

Application: DVP17-0085
Owner: Harold Andrew Schock
Stephanie Schock

Address: 495 Glen Pine Court
Applicant: Harold Schock

Subject: Development Variance Permit

Existing OCP Designation: S2RES – Single/Two Unit Residential

Existing Zone: RU2 – Medium Lot Housing

1.0 Recommendation

THAT Council NOT authorize the issuance of Development Variance Permit No. DVP17-0085 for Lot 10 Section 32 Township 26 ODYD Plan KAP44247, located at 495 Glen Pine Court, Kelowna, BC.

2.0 Purpose

To consider a Staff recommendation to NOT issue a Development Variance Permit to vary the minimum required setback for a swimming pool from a flanking street from 1.5m (required) to 0.2m (proposed) on the subject property.

3.0 Community Planning

Community Planning Staff do not recommend support for the proposed variance to the minimum flanking public street setback for a proposed swimming pool. The Zoning Bylaw requires a minimum setback of 1.5m and the applicant is proposing to reduce the setback to 0.2m. Further, the outer edge of the pool basin will connect to a rock wall and fence at property line. This creates a potential conflict with the location of the property's sewer connection making any future maintenance and repair more challenging and costly. As well, the reduction of the setback may compromise the City's ability to modify the road or boulevard.

The intent of the 1.5m setback is to provide a degree of separation between the public street and private realm eliminating any of these potential conflicts. The subject property is level and flat with a rear yard that could accommodate a swimming pool without the requested variance. Staff do not feel that the variance request is warranted and that the future consequence could impact the City's street and infrastructure.

4.0 Proposal

4.1 Background

The subject property has a single family dwelling that was constructed in 1991 and is located on the corner lot of Glen Pine Court and Yates Road. The home is sited according to RU2 – Medium Lot Housing zoning regulations with a minimum 4.5m setback on the side flanking street and a minimum 6.0m setback on the rear yard. There is a large concrete patio located in the rear yard.

4.2 Project Description

The proposed swimming pool is “lap style” in nature and is located in the side yard so as to preserve the concrete patio in the rear yard. The location requires a variance to the minimum flanking public street from 1.5m required to 0.2m proposed to the edge of the concrete basin of the pool. The proposed pool deck connects to a 0.6m high landscape feature wall which will support a fence at 0.0m at property line along Yates Road.

Yates Road has a grass boulevard with a roll over curb, and a sidewalk on the east side. Immediately across from the subject property is an Elementary School. Although there are no immediate plans to upgrade Yates Road, the proposed location of the pool at 0.2m from property line would severely compromise the City’s ability to modify the roadway or boulevard in the future and represents a negative public impact.

The sewer connection to the subject property is on Yates Road and located in the immediate vicinity of the proposed pool. Should the variance be approved at 0.2m from property line, it could damage public infrastructure during construction, as well as make it more difficult and timely to repair or replace the sewer connection in the future. If the proposed pool were to meet the 1.5m setback it would eliminate potential impact to the public infrastructure.

The rear yard of the subject property is flat and features no topographical challenges other than a concrete patio which would prevent the pool from being located in the rear yard without a variance. All mature vegetation on the subject property has been removed from both the rear yard and the side yard and therefore there would be no negative impact on mature vegetation should the pool be sited differently.

4.3 Site Context

The subject property is located in Glenmore on the corner of Glen Pine Court and Yates Road, immediately across the street from Watson Road Elementary School.

Specifically, adjacent land uses are as follows:

Orientation	Zoning	Land Use
North	RU2 – Medium Lot Housing	Residential
East	P2 – Educational & Minor Institutional	Elementary School
South	RU2 – Medium Lot Housing	Residential
West	RU2 – Medium Lot Housing	Residential

Subject Property Map: 495 Yates Road**4.4 Zoning Analysis Table**

Zoning Analysis Table		
CRITERIA	RU ₂ ZONE REQUIREMENTS	PROPOSAL
Development Regulations		
Side Yard (flanking street)	1.5 m	0.2 m ^❶
Rear Yard (south)	0.9 m	0.9 m
^❶ Indicates a requested variance to the required flanking street setback from 1.5m required to 0.2m proposed.		

5.0 Technical Comments**5.1 Development Engineering Department**

The application for a development variance permit to allow for a pool projection up to 0.2 meters into the required side yard does potentially affect the sanitary service connection. Building and permitting will review on site services.

5.2 Real Estate (Strategic Investments) Department

From a real estate perspective, this is less than ideal as the lack of setback severely compromises the City's ability to modify the roadway in the future.

6.0 Application Chronology

Date of Application Received: April 3, 2017
 Date Public Consultation Completed: March 30, 2017

7.0 Alternate Recommendation

THAT Council authorizes the issuance of Development Variance Permit No. DVP17-0085 for Lot 10 Section 32 Township 26 ODYD Plan KAP44247, located at 495 Glen Pine Court, Kelowna, BC;

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

Section 6.2.3: Swimming Pools

To vary the required minimum flanking street setback from 1.5m required to 0.2m proposed;

AND FURTHER THAT this Development Variance Permit is valid for two (2) years from the date of Council approval, with no opportunity to extend.

Report prepared by:	Trisa Brandt, Planner
Reviewed by:	Terry Barton, Urban Planning Manager
Approved for Inclusion:	Ryan Smith, Community Planning Department Manager

Attachments:

Renderings and Images

Site Plan

Draft Development Variance Permit DVP17-0085

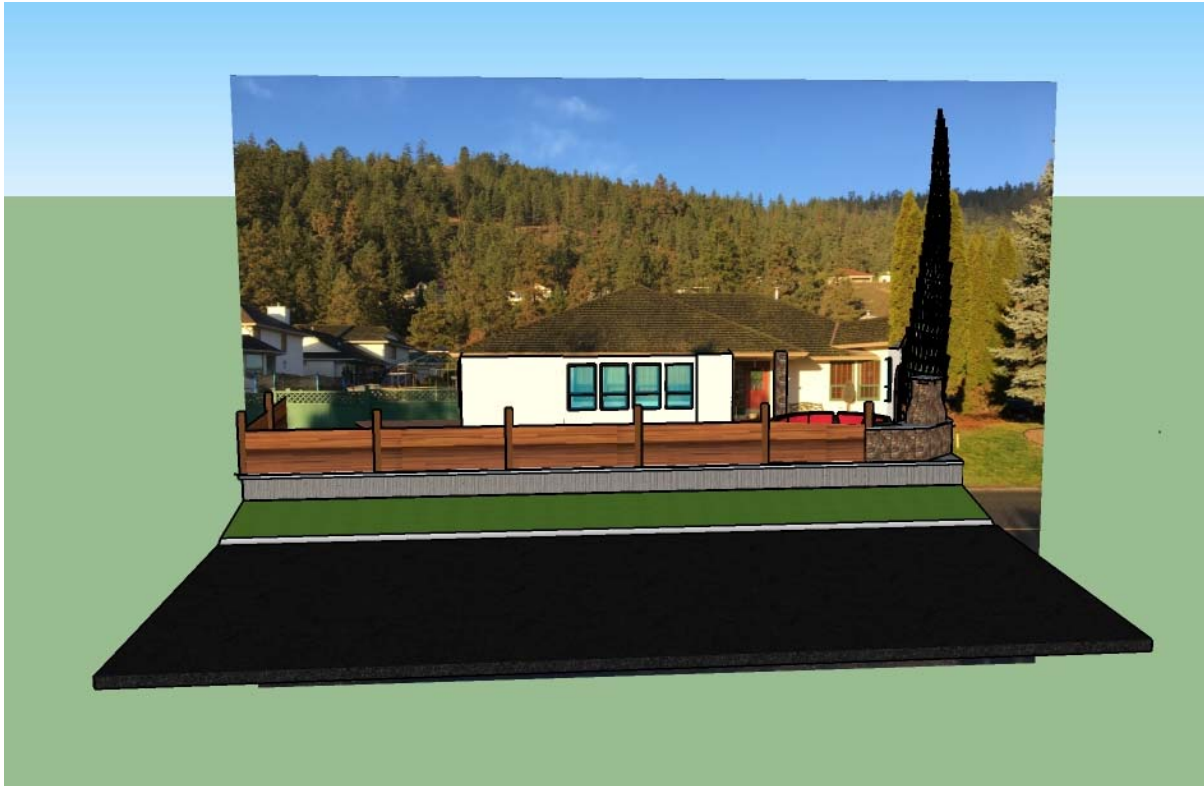
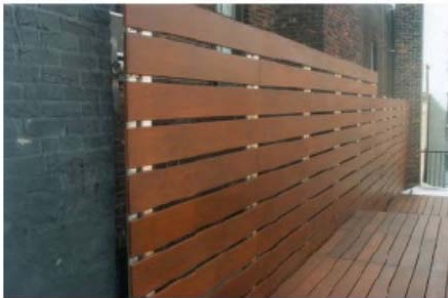


Image showing the proposed exposed swimming pool wall and proposed fence.



Examples of well designed fences

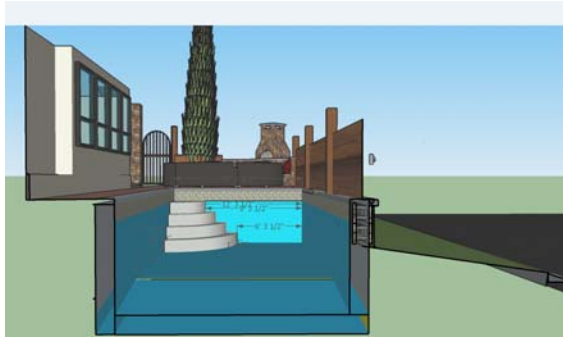


Image showing the feature wall and swimming pool wall together.

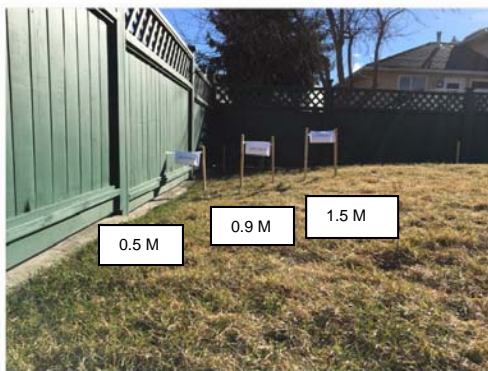
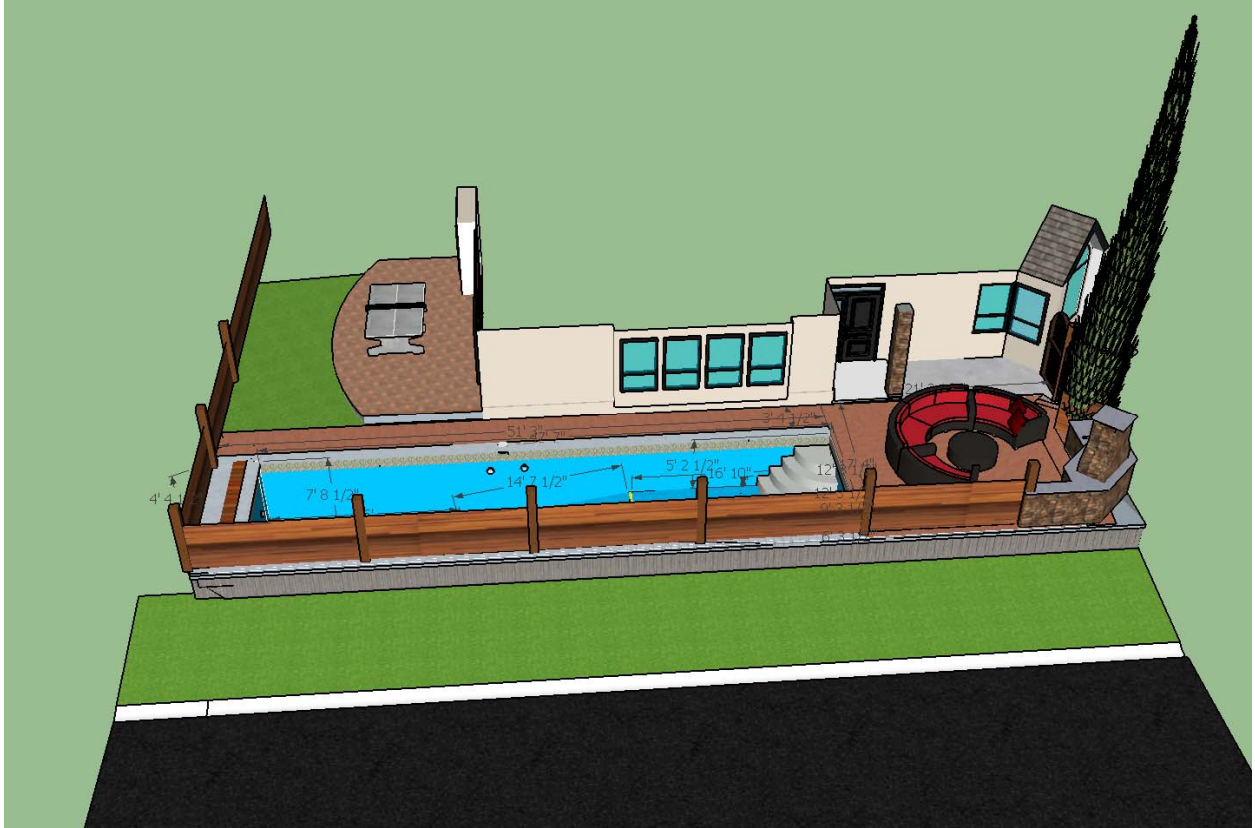


Image of proposed distance.



Image of the distance from street to property line.



DEVELOPMENT PERMIT / DEVELOPMENT VARIANCE PERMIT



APPROVED ISSUANCE OF DEVELOPMENT VARIANCE PERMIT NO. DVP17-0085

Issued To: Harold Andrew Schock

Site Address: 495 Glen Pine Court

Legal Description: Lot 10 Section 32 Township 26 ODYD Plan KAP44247, located at 495 Glen Pine Court, Kelowna, BC.

Zoning Classification: RU2 – Medium Lot Housing

SCOPE OF APPROVAL

This Permit applies to and only to those lands within the Municipality as described above, and any and all buildings, structures and other development thereon.

This Permit is issued subject to compliance with all of the Bylaws of the Municipality applicable thereto, except as specifically varied or supplemented by this Permit, noted in the Terms and Conditions below.

The issuance of a Permit limits the Permit Holder to be in strict compliance with regulations of the Zoning Bylaw and all other Bylaws unless specific Variances have been authorized by the Permit. No implied Variances from bylaw provisions shall be granted by virtue of drawing notations that are inconsistent with bylaw provisions and that may not have been identified as required Variances by the applicant or Municipal staff.

1. TERMS AND CONDITIONS

THAT Development Variance Permit No. DVP17-0085 for Lot 10 Section 32 Township 26 ODYD Plan KAP44247, located at 495 Glen Pine Court, Kelowna, BC, be issued;

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

Section 6.2.3: Swimming Pools

To vary the required minimum flanking street setback from 1.5m required to 0.2m proposed;

AND FURTHER THAT this Development Variance Permit is valid for two (2) years from the date of Council approval, with no opportunity to extend.

2. PERFORMANCE SECURITY

None Required.

3. DEVELOPMENT

The land described herein shall be developed strictly in accordance with the terms and conditions and provisions of this Permit and any plans and specifications attached to this Permit that shall form a part hereof.

If the Permit Holder does not commence the development permitted by this Permit within two years of the date of this Permit, this Permit shall lapse.

This Permit IS NOT a Building Permit.

4. INDEMNIFICATION

Upon commencement of the works authorized by this Permit the Developer covenants and agrees to save harmless and effectually indemnify the Municipality against:

- a) All actions and proceedings, costs, damages, expenses, claims, and demands whatsoever and by whomsoever brought, by reason of the Municipality said Permit.
- b) All costs, expenses, claims that may be incurred by the Municipality where the construction, engineering or other types of works as called for by the Permit results in damages to any property owned in whole or in part by the Municipality or which the Municipality by duty or custom is obliged, directly or indirectly in any way or to any degree, to construct, repair, or maintain.

5. APPROVALS

Issued and approved by Council on the 17th day of October 2017;

Ryan Smith, Community Planning Department Manager
Community Planning & Real Estate

Date

**The PERMIT HOLDER is the CURRENT LAND OWNER.
Security shall ONLY be returned to the signatory of the
Landscape Agreement or his or her designates**

REPORT TO COUNCIL



Date: October 17, 2017

RIM No. 0940-50

To: City Manager

From: Community Planning Department (PMc)

Application: DVP17-0167

Owner: Rodney & Jody Hazard

Address: 204 Poplar Point Drive

Applicant: Rodney hazard

Subject: Development Variance Permit

Existing OCP Designation: Single/Two Unit Residential (S2RES)

Existing Zone: RU1 – Large Lot Housing

1.0 Recommendation

That Council authorize the issuance of Development Variance Permit No. DVP17-0167 for Lot 1, District Lot 219, O.D.Y.D., Plan 4561, located on 204 Poplar Point Drive, Kelowna BC;

AND THAT the variances to the following sections 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 west sight line being reduced from 60° required, to 26° proposed as shown on Schedule "A".

2.0 Purpose

To vary the Okanagan Lake Sight Lines from 60 ° required to 26 ° proposed for the west side of the subject property.

3.0 Community Planning

Community Planning staff do not have concerns with the requested variance. The property was the subject to two Development Variance Permit applications (DVP09-0048 & DVP14-0233) that were considered by Council on September 22, 2009 and again on December 9, 2014, and both permits were subsequently issued. However, owing to the proponent's economic circumstances, construction was not started, and both issued Development Variance Permits have lapsed. This current application to vary the Okanagan Lake Sight Lines is the same as the two previously approved variance applications. The applicant has also provided copy of the sales agreement for the dwelling located at 208 Poplar Point Drive, which acknowledged that the prospective purchaser agreed to support a variance to the Okanagan Lake Sight Lines for the subject property.

At the time of the 2009 application, the applicant registered a no-build covenant adjacent to Okanagan Lake to protect slope and reduce the potential impact on the foreshore of Okanagan Lake and aquatic species.

4.0 Proposal

4.1 Background/Description

The subject property was under application for a Development Variance Permit (DVP09-0048) in 2009 and a Development Variance Permit (DVP14-0233) in 2014 to vary the Okanagan Lake Sight Lines. Those applications were considered by Council in October 2009 and again in December 2014, and were subsequently issued. However, owing to delays in commencing construction, both Development Variance permit have lapsed, in that an issued permit is only good for a maximum of two years if no construction starts.

The applicant now wishes to commence construction on the subject property, and will need to have the associated variance to the Okanagan Lake Sight Lines reconsidered by Council in order to get the Development Variance Permit reinstated.

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 Sight Line (see below).

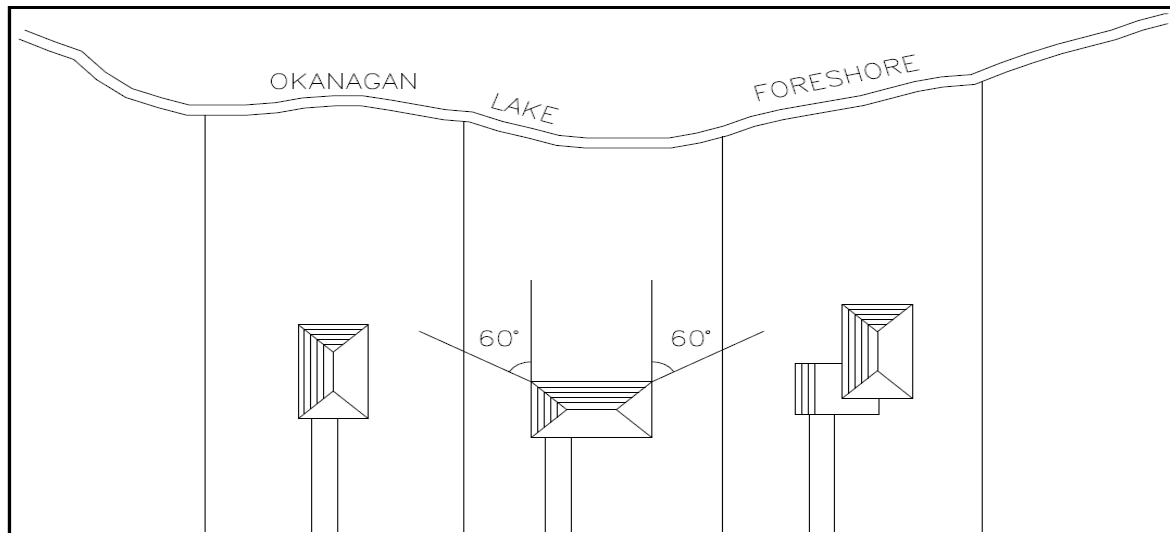


Diagram 6.2: Okanagan Lake 120° Panoramic Sight Line

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

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, and provide greater certainty to the building envelope in anticipation of a building design. As this site is located 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

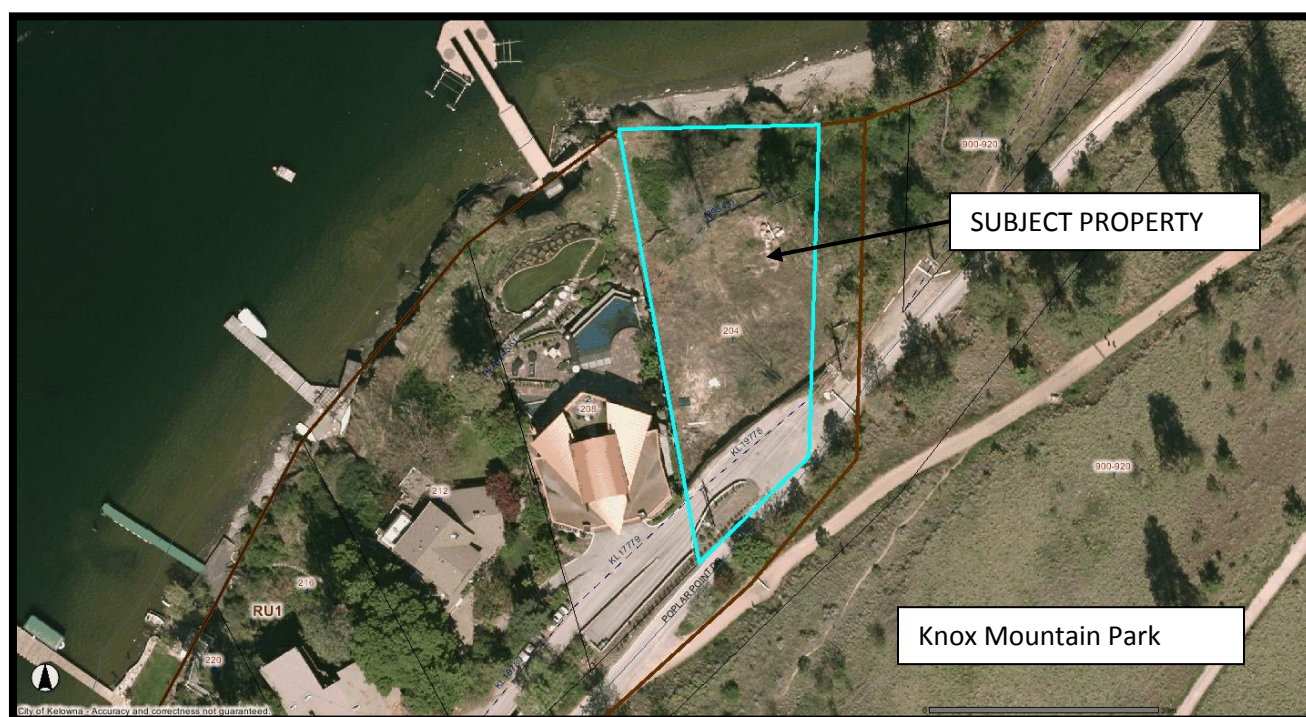
parcel. As part of the 2009 application, the applicant has registered a no-build covenant on the lot to protect the sensitive slopes adjacent to Okanagan Lake.

4.2 Site Context

Specifically, adjacent land uses are as follows:

Orientation	Zoning	Land Use
North	W1 – Recreational Water Use	Okanagan Lake
East	P3 – Parks and Open Space	Road End access to lake
South	P3 – Parks and Open Space	Knox Mountain Park
West	RU1 – Large Lot Housing	Single Unit Dwelling

Subject Property Map: 204 Poplar Point Dr.



4.3 Zoning Analysis Table

Zoning Analysis Table		
CRITERIA	RU1 ZONE REQUIREMENTS	PROPOSAL
Development Regulations		
Height	9.5m/2 ½ storeys	<9.5m
Front Yard	6.0m	>6.0m
Side Yard (east)	2.3m	>2.3m
Side Yard (west)	2.3m	>2.3m
Rear Yard	7.5m	>7.5m
Other Regulations		
Okanagan Lake Sightlines	120°	26° (west side subject property) ❶
❶ Indicates a requested variance to section 6.11.1 Okanagan Lake Sight Lines.		

5.0 Technical Comments

5.1 Building & Permitting Department

No Comment

5.2 Development Engineering Department

This Development Variance Permit application to vary the Okanagan Lake Sight Lines from 60 to 26 does not compromise any municipal services.

5.3 Fire Department

No concerns

6.0 Application Chronology

Date of Application Received: July 7, 2017.

Date Public Consultation Completed: July 17, 2017

Report prepared by: Paul McVey, Urban Planner

Reviewed by: Terry Barton, Urban Planning Manager

Approved for Inclusion: Ryan Smith, Community Planning Department Manager

Attachments:

Site Plan (Schedule "A")

Context/Site Photos

Plan of restrictive Covenant

Draft Development Variance Permit

DEVELOPMENT VARIANCE PERMIT



APPROVED ISSUANCE OF DEVELOPMENT VARIANCE PERMIT NO. DVP17-0167

Issued To: Rodney Hazard
Site Address: 204 Poplar Point Drive
Legal Description: Lot 1, D.L.219, O.D.Y.D., Plan 4561
Zoning Classification: RU1 – Large Lot Housing

SCOPE OF APPROVAL

This Permit applies to and only to those lands within the Municipality as described above, and any and all buildings, structures and other development thereon.

This Permit is issued subject to compliance with all of the Bylaws of the Municipality applicable thereto, except as specifically varied or supplemented by this Permit, noted in the Terms and Conditions below.

The issuance of a Permit limits the Permit Holder to be in strict compliance with regulations of the Zoning Bylaw and all other Bylaws unless specific Variances have been authorized by the Permit. No implied Variances from bylaw provisions shall be granted by virtue of drawing notations that are inconsistent with bylaw provisions and that may not have been identified as required Variances by the applicant or Municipal staff.

1. TERMS AND CONDITIONS

THAT Development Variance Permit No. DVP17-0167, Lot 1, D.L.219, O.D.Y.D., Plan 4561, located at 204 Poplar Point Drive, Kelowna, BC to approve a residential development subject to the following:

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

- a) Section 6.11.1 – Okanagan Lake Sight Lines – To vary the required Okanagan Lake 120° Panoramic Sight Lines to 86° proposed, resulting from the west sight line being reduced from 60° required, to 26° proposed, as shown on Schedule "A".

AND FURTHER THAT this Development Variance Permit DVP17-0167 is valid for two (2) years from the date of Council approval, with no opportunity to extend.

2. PERFORMANCE SECURITY

As a condition of the issuance of this Permit, Council is holding the security set out below to ensure that development is carried out in accordance with the terms and conditions of this Permit. Should any interest be earned upon the security, it shall accrue to the Developer and be paid to the Developer or his or her designate if the security is returned. The condition of the posting of the security is that should the Developer fail to carry out

the development hereby authorized, according to the terms and conditions of this Permit within the time provided, the Municipality may use enter into an agreement with the property owner of the day to have the work carried out, and any surplus shall be paid over to the property own of the day. Should the Developer carry out the development permitted by this Permit within the time set out above, the security shall be returned to the Developer or his or her designate. There is filed accordingly:

- a) No Security required

DEVELOPMENT

The land described herein shall be developed strictly in accordance with the terms and conditions and provisions of this Permit and any plans and specifications attached to this Permit that shall form a part hereof.

If the Permit Holder does not commence the development permitted by this Permit within two years of the date of this Permit, this Permit shall lapse.

This Permit IS NOT a Building Permit.

3. Indemnification

Upon commencement of the works authorized by this Permit the Developer covenants and agrees to save harmless and effectually indemnify the Municipality against:

- a) All actions and proceedings, costs, damages, expenses, claims, and demands whatsoever and by whomsoever brought, by reason of the Municipality said Permit.
- b) All costs, expenses, claims that may be incurred by the Municipality where the construction, engineering or other types of works as called for by the Permit results in damages to any property owned in whole or in part by the Municipality or which the Municipality by duty or custom is obliged, directly or indirectly in any way or to any degree, to construct, repair, or maintain.

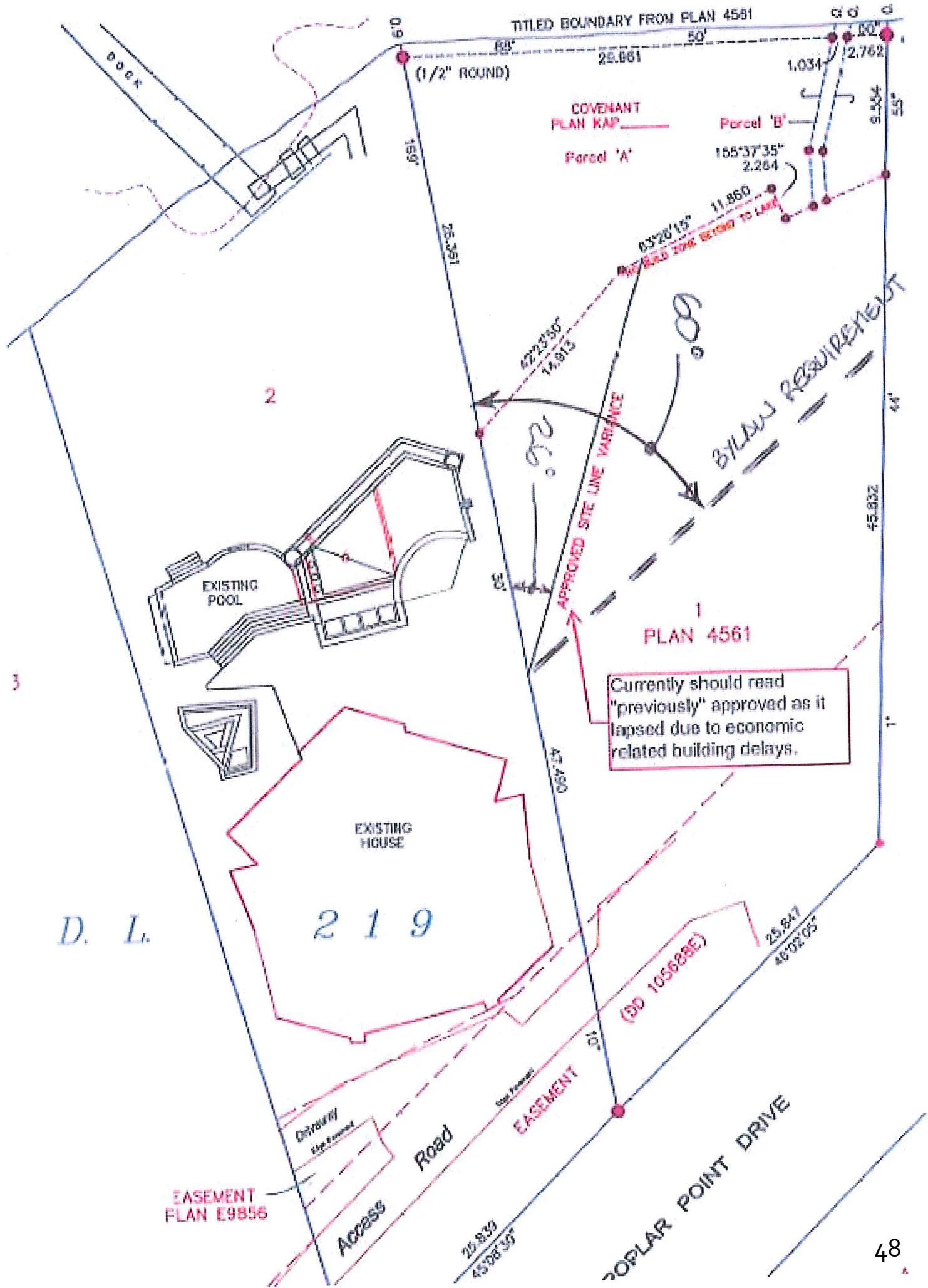
4. APPROVALS

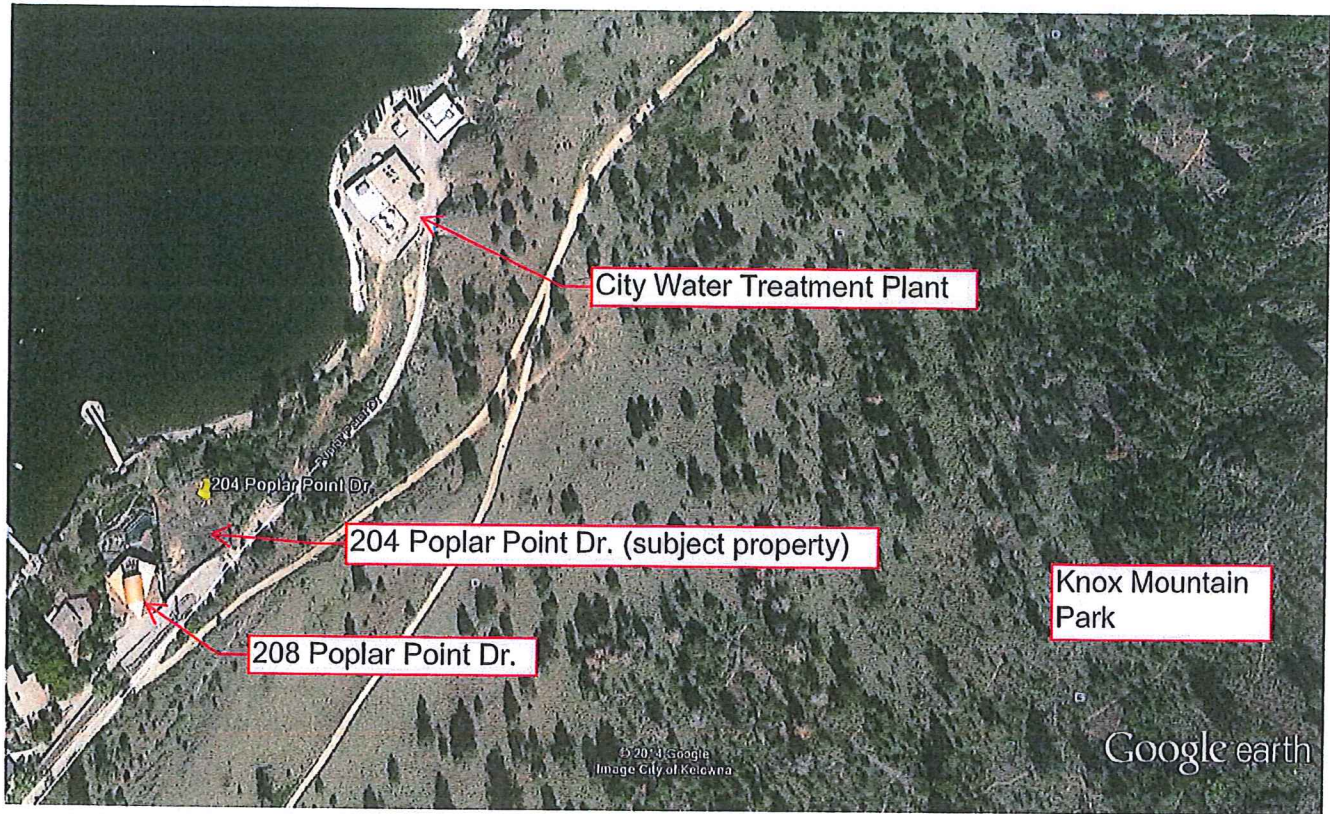
Issued and approved by Council on the @ day of @ 2017

Ryan Smith, Community Planning Department Manager
Community Planning & Real Estate

Date

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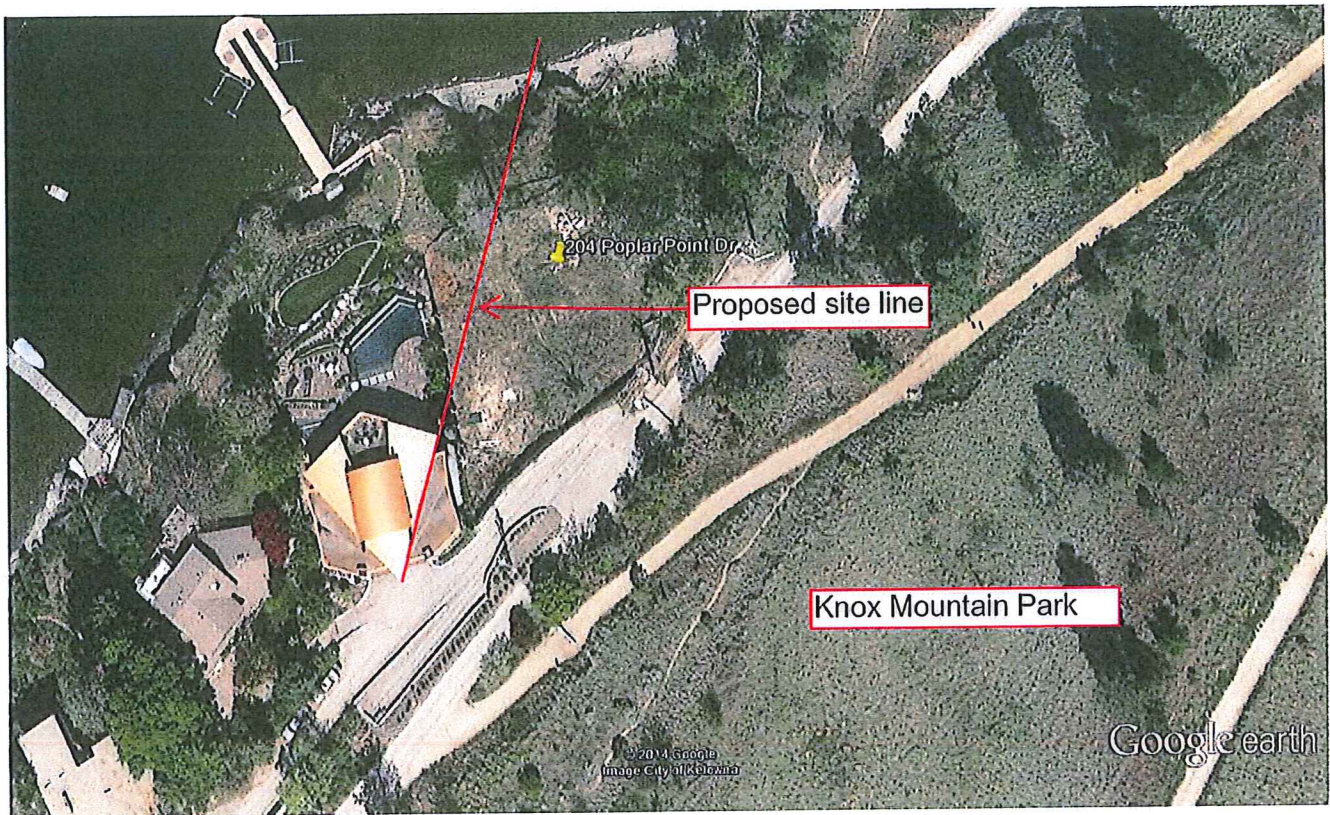




Google earth

feet 700
meters 200





Google earth



Photo from above
subject site facing
slightly West



Photo from top
edge of subject site
pointing West

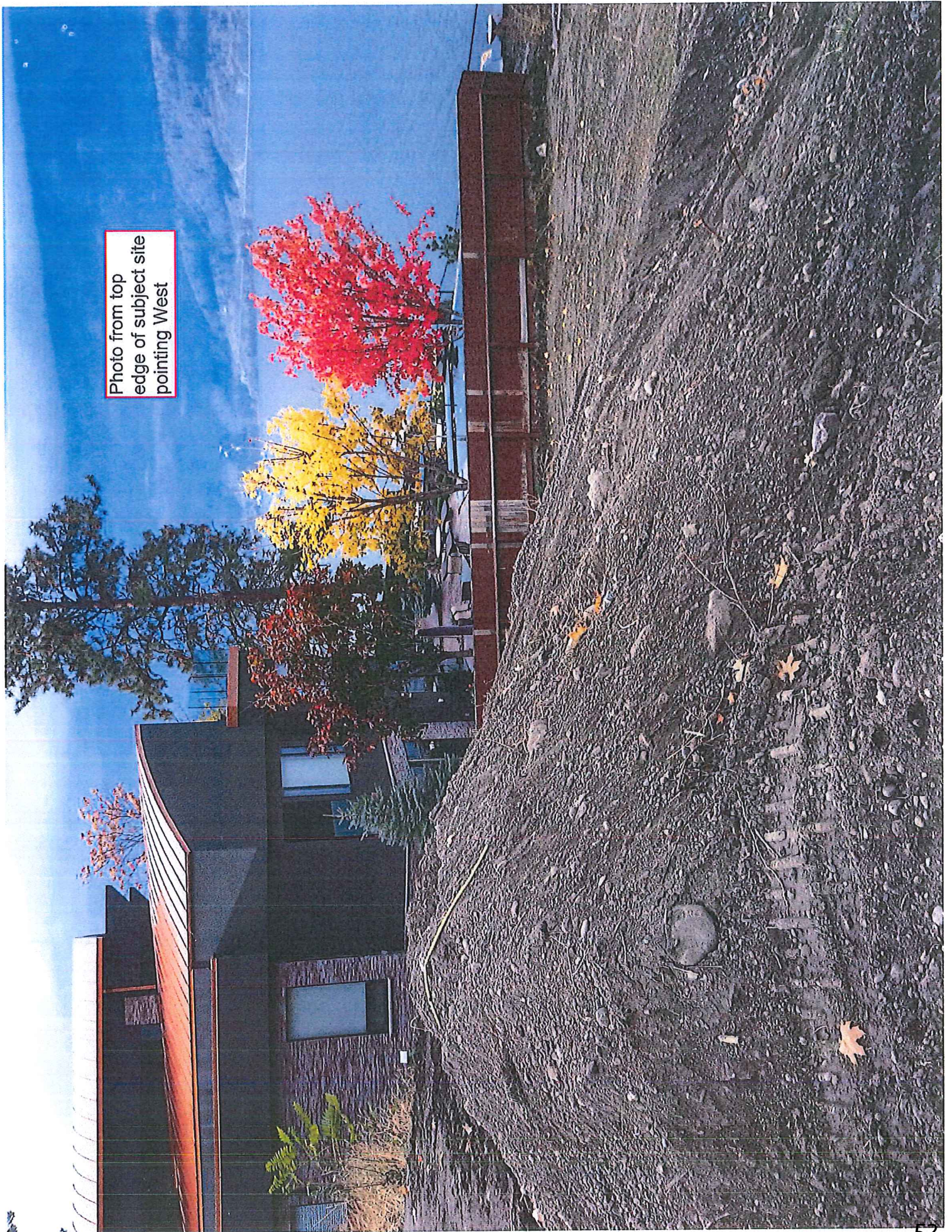


Photo edge of subject site
overlooking shore line slightly
West

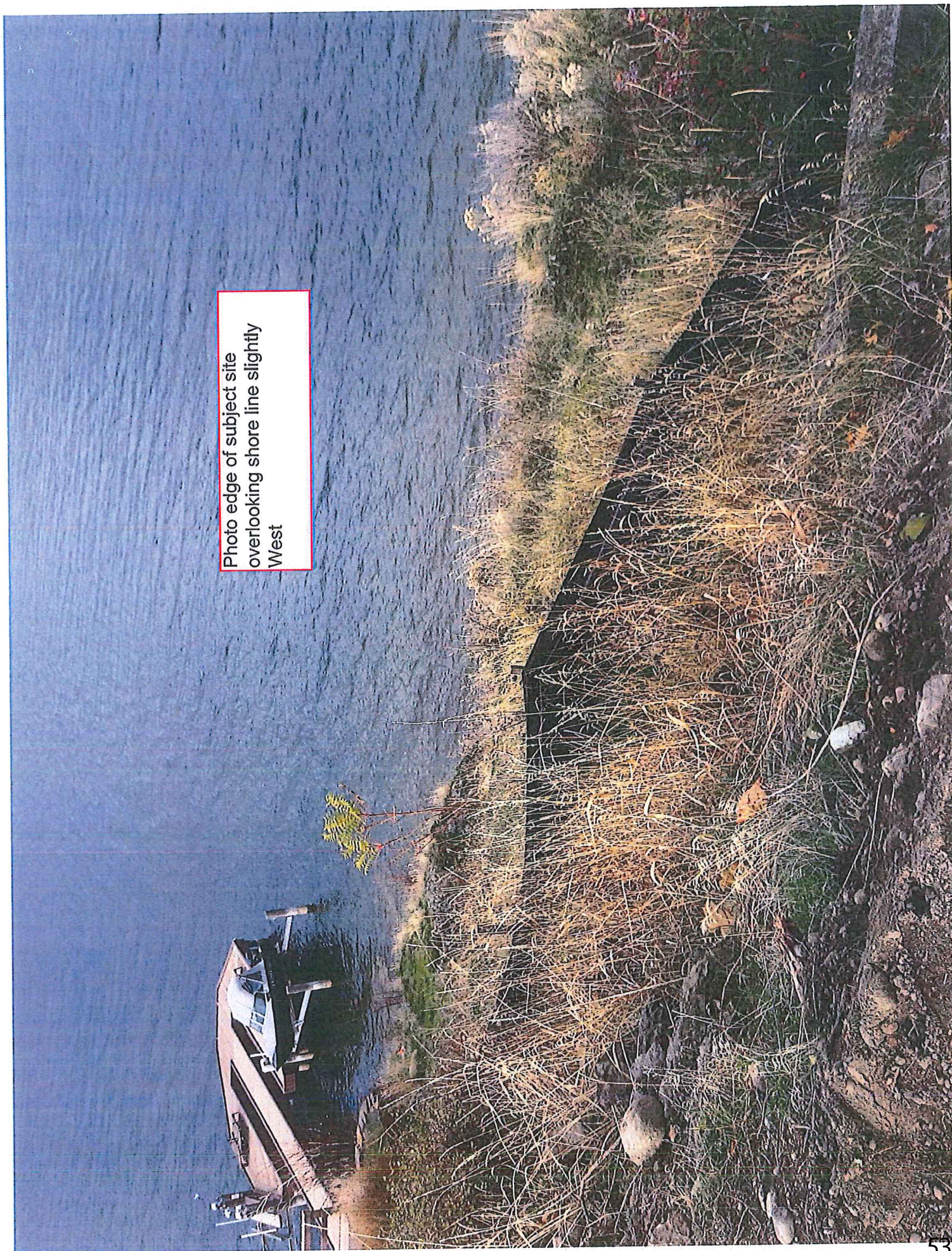


Photo lower edge of
subject site looking
West



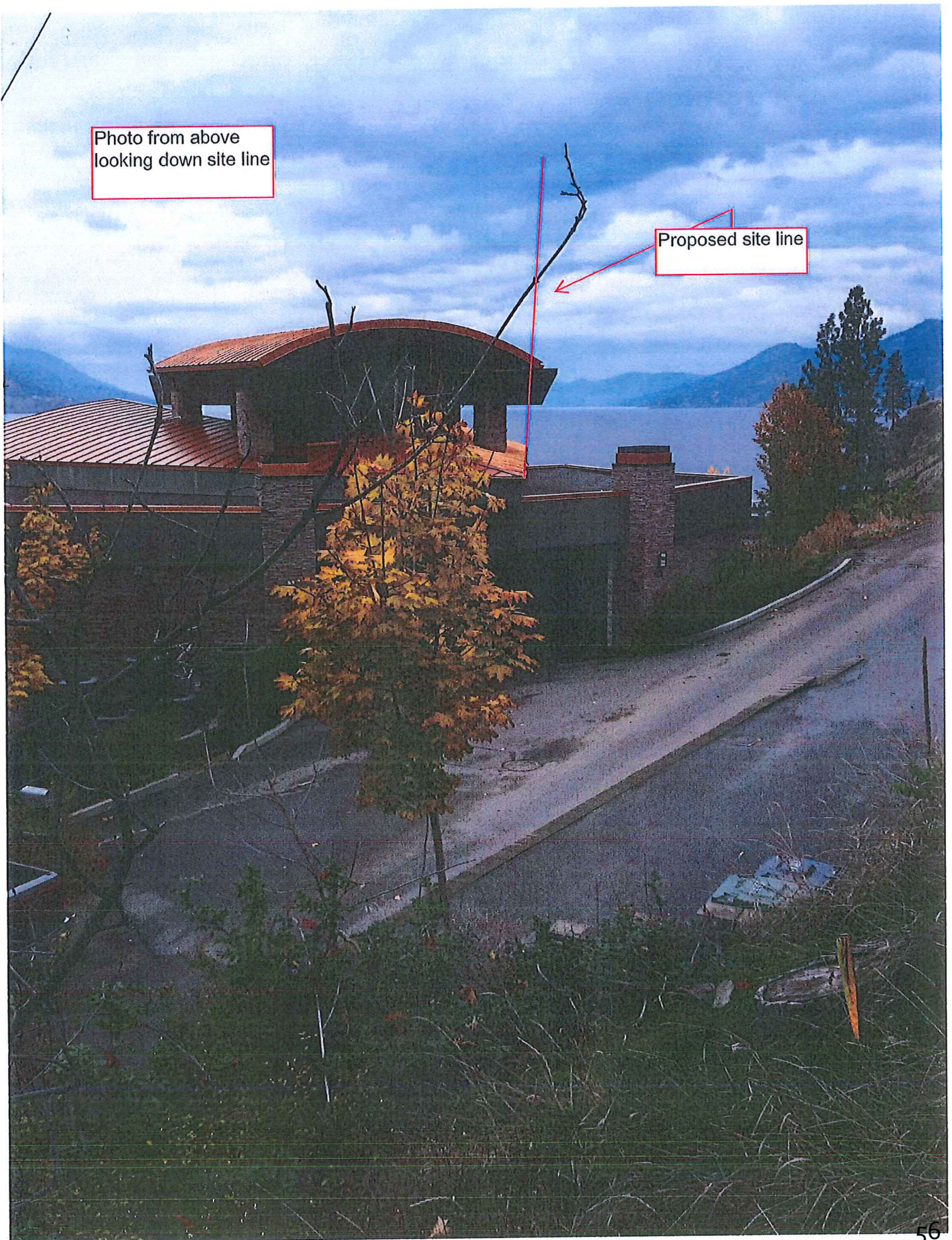


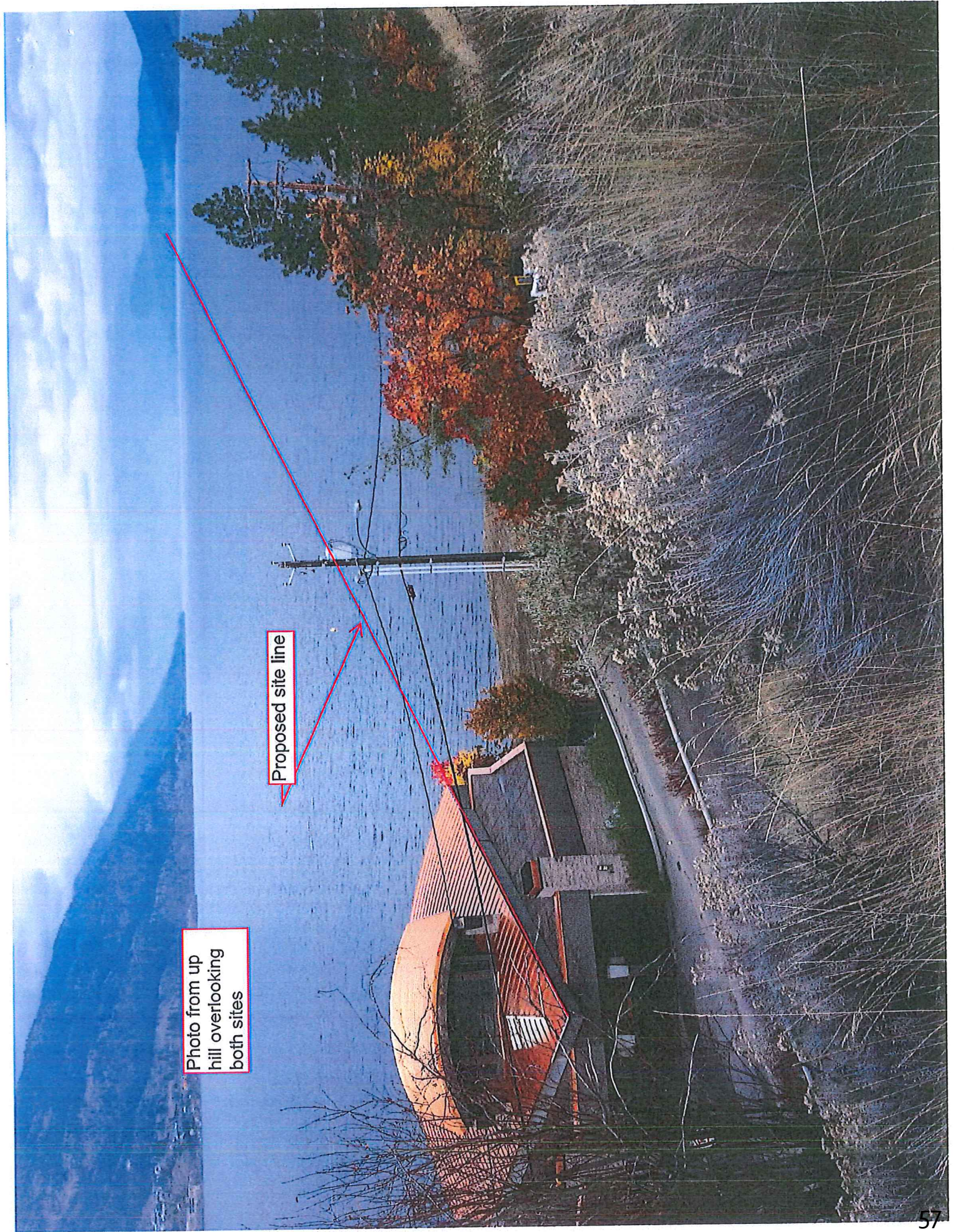
Proposed site line

Photo from
uphill
overlooking
proposed site
line

Photo from above
looking down site line

Proposed site line





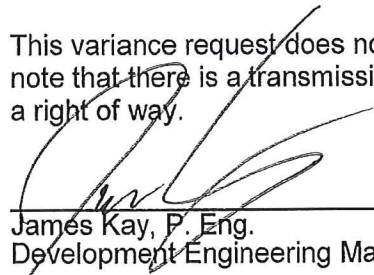
CITY OF KELOWNA

MEMORANDUM

Date: July 25, 2017
File No.: DVP17-0167
To: Urban Planning (PM)
From: Development Engineer Manager (JK)
Subject: 204 Poplar Point Dr

The Development Engineering comments and requirements regarding this DVP application are as follows:

This variance request does not have any impact on any municipal infrastructure, however, we note that there is a transmission main along the south property line that we would like to pursue a right of way.



James Kay, P. Eng.
Development Engineering Manager

JA