

REPORT TO COUNCIL



Date: August 29, 2017

RIM No. 0940-00

To: City Manager

From: Community Planning Department (MS)

Application: DVP16-0241 **Owner:** Pillar West Developments Inc.

Address: 4646 McClure Rd **Applicant:** Integrity Services Inc.

Subject: Development Variance Permit for Lot Width to facilitate a Three Lot Subdivision

Existing OCP Designation: S2RES – Single / Two Unit Residential
PARK – Parks and Open Space

Existing Zone: RU1 – Large Lot Residential Housing

1.0 Recommendation

THAT Council NOT authorize the issuance of Development Variance Permit No. DVP16-0241 for Lot 2 Section 25 TWP 28 SDYD Plan 29484, located at 4646 McClure Road, Kelowna, BC.

2.0 Purpose

To consider a Staff recommendation to NOT issue a Development Variance Permit to vary the required lot width on 1 of 3 proposed lots being created through Subdivision, for Lot B from 16.50m required to 15.72m proposed.

3.0 Community Planning

Staff does not support the application as proposed. Upon adoption of the current OCP in 2011, a number of policies were established for the requirement of dedication of natural areas upon subdivision, particularly in cases where rezoning or variances result in additional density. Options include dedicating the Riparian Management Area as a lot for City park or returning the land to crown, in order to facilitate the protection of all or significant portions of the Environmentally Sensitive Area (ESA). In addition, the policies are outlined to ensure that housing is an adequate distance with an intervening interface area between the housing and potential hazards such as flooding¹. As a last option, dedication to a land trust or similar non-government organization for conservation purposes is provided as an option.

As well as considerations for flood and riparian area protection, the Bellevue Creek Linear Park Master Plan runs along Bellevue Creek and a portion of the property has a Future Land Use of Park. While the plan identifies a walking trail along the other side of the creek (south) from the property, the Concept Plan has identified an interest for crossings that connect the trail to neighbourhoods north of Bellevue Creek where possible.

¹ City of Kelowna Official Community Plan, Policy 5.14.7 (Development Process Chapter).

The applicant has indicated they are willing to provide a 3.5m Statutory Right of Way (SRW) along the north property line, and a 3.0m SRW along the west property line, to provide access for maintenance and emergency protection (e.g. flood) only, not public access. (See Proposed Subdivision Plan below).

An alternate resolution is provided for Council's consideration where the 15m wide riparian area is protected through a dedication, and a 3.5 m width for maintenance as well as public access provided through a Statutory Right of Way (SRW) along the north property line, to access the riparian area and creek for flood mitigation purposes in a flood event, and a potential linkage in the future to Bellevue Creek Linear Park (see Proposed Alternate Subdivision Plan below and Section 8). As there are no imminent plans for a public trail connection through the property at this time, the SRW would be fenced, gated and locked for maintenance purposes, for the foreseeable future. The SRW would only be opened for public access should a continuous trail along Bellevue Creek and bridge crossing be built.

4.0 Proposal

4.1 Background

Property was originally subdivided in 1978, through a two lot split that divided the property from the property to the north (Lot 1). A Section 219 Covenant is on the property prohibiting building or disturbance within 15 metres of Bellevue Creek. This is shown on the Subject Property Map below.

4.2 Project Description

The application is for a Development Variance Permit to vary the required lot width on 1 of the 3 proposed lots, to facilitate a three lot subdivision in the RU1 – Large Lot Housing zone. Specifically, the request is to vary Lot B from 16.50 m required to 15.72 m proposed, together with a 3.5m Statutory Right of Way for public access on Lot A, and a 3.0m Statutory Right of Way for public access along the west property line of all three proposed lots.

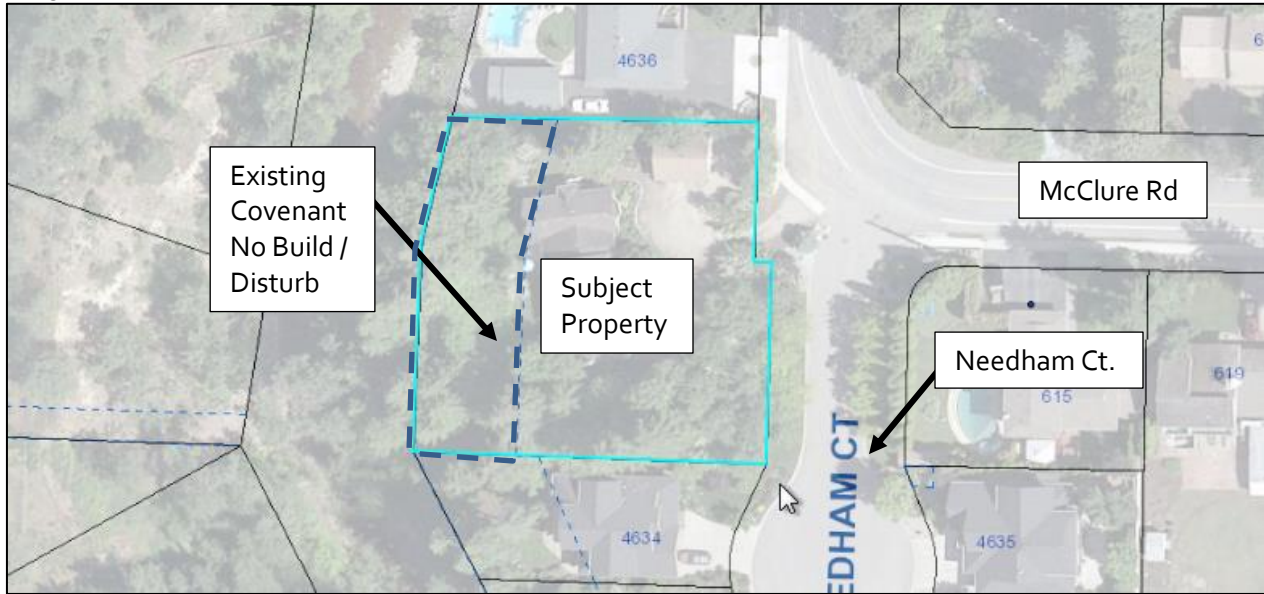
Bellevue Creek runs to the west of the subject property and the riparian area to high water mark, lies within the property. An existing No Build / No Disturb covenant is currently on title for the 15 metre riparian area, but OCP policy outlines dedication as the preferred option for long term habitat and flood protection.

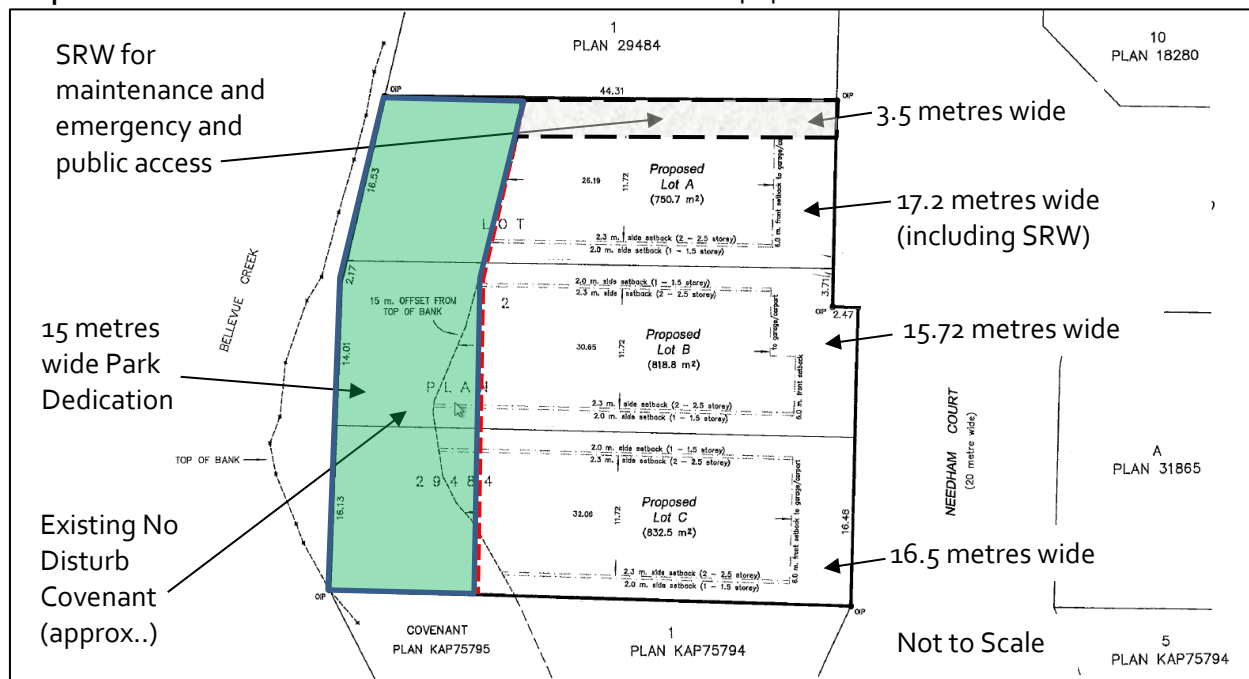
4.3 Site Context

The property is within the Southwest Mission Sector of the City according to the Official Community Plan. The elevation ranges from 366.5 metres above sea level (m.a.s.l.) to 369 m.a.s.l. Specifically, adjacent land uses are as follows:

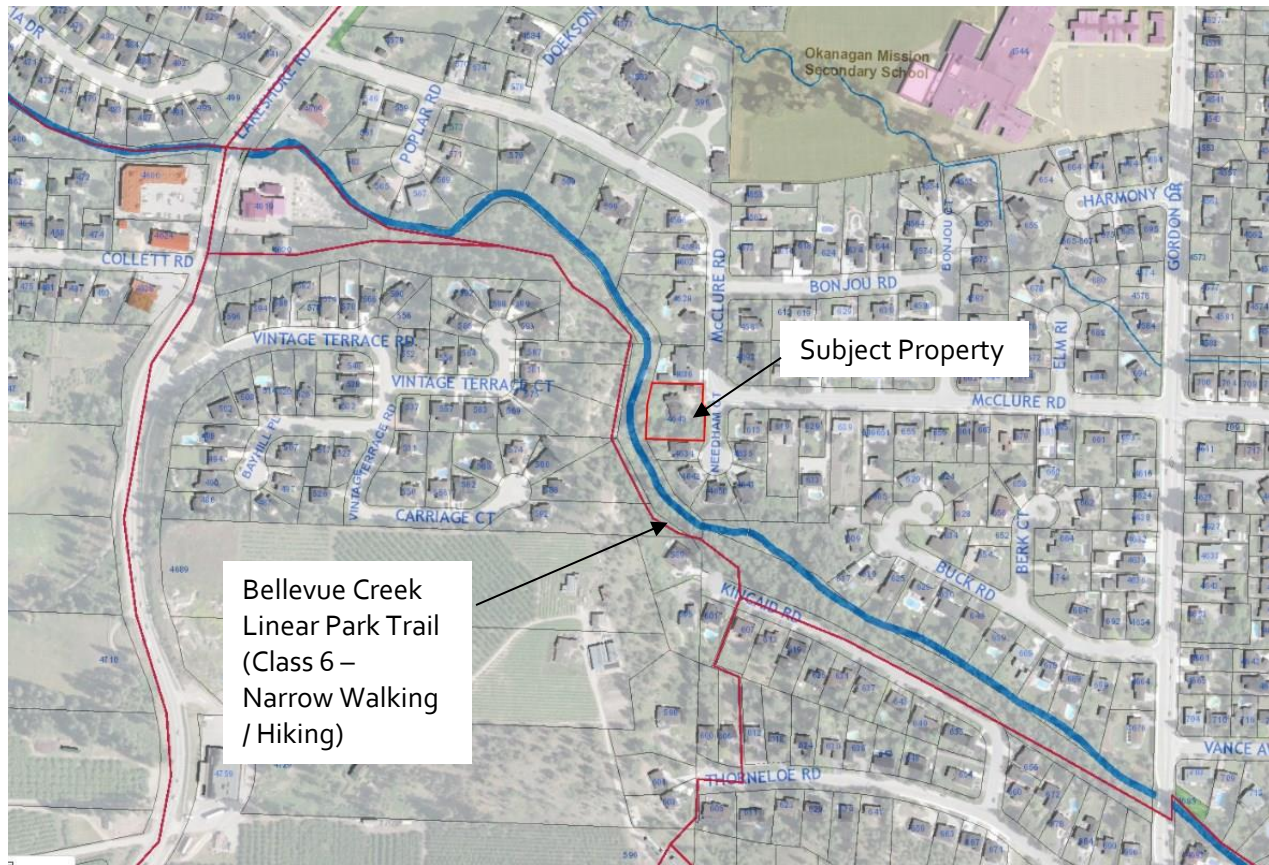
Orientation	Zoning	Land Use
North	RU1 – Large Lot Housing	Single / Two Unit Residential
East	RU1 – Large Lot Housing	Single / Two Unit Residential
South	RU1 – Large Lot Housing	Single / Two Unit Residential
West	RU1 – Large Lot Housing	Bellevue Creek / Single & Two Unit Residential

Subject Property Map: 4646 McClure

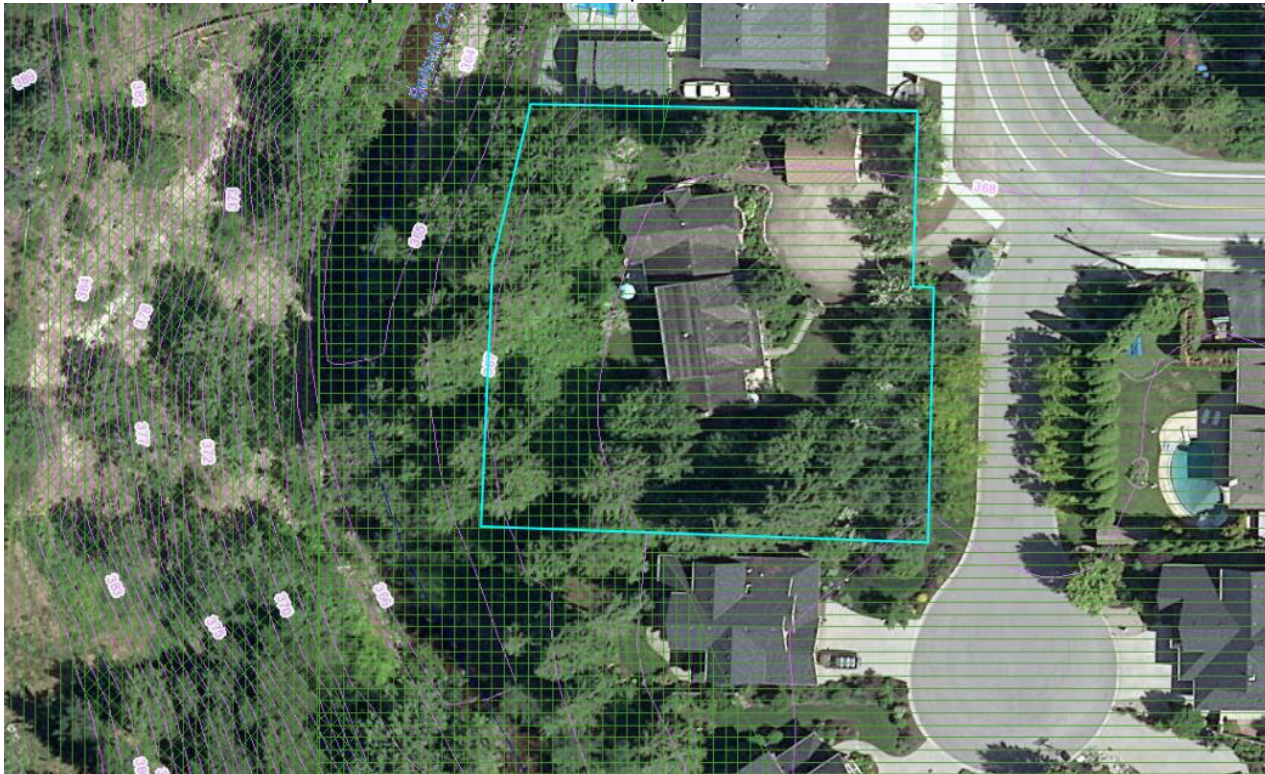




Bellevue Linear Park Plan from Lakeshore Road to Gordon Road



Natural Environment Development Permit Area: 4646 McClure





Zoning Analysis Table		
CRITERIA	RU ₁ ZONE REQUIREMENTS	PROPOSAL
Existing Lot/Subdivision Regulations		
Lot Area	550 m ²	774 m ² (Lot A); 770 m ² (Lot B); 841m ² (Lot C) (approx..)
Lot Width	16.5 m	17.2 (Lot A); 15.72m (Lot B) and 16.5m (Lot C)
Lot Depth	30.0 m	46.05m (Lot A); 49.36m (Lot B);51.06m (Lot C)
❗ Indicates a requested variance to the Lot Width from 16.5 m required to 16.48m (Lot A); 16.48m (Lot B) and 16.46m (Lot C) proposed.		

5.0 Current Development Policies

5.1 Kelowna Official Community Plan (OCP)

Development Process

Dedication of Linear Parks². Dedication of Linear Parks. At subdivision and rezoning for all development types secure a minimum 10-metre wide linear corridor for public access as included in Table 5.1 Linear Park – Public Access and/or are shown on Map 5.9 – Linear Corridors / Paths. The 10-metre wide corridor may be in addition to, and outside, any riparian management area requirements. Table 5.1 Linear Parks identifies Public Access for Bellevue Creek to be both sides of the creek.

Habitat Protection.³ Ensure a proposed development footprint within an ESA is configured in such a way as to minimise the encroachment toward aquatic or terrestrial habitat. Consider zoning and/ or subdivision

² City of Kelowna Official Community Plan, Policy 5.14.2 (Development Process Chapter).

³ City of Kelowna Official Community Plan, Policy 5.14.11 (Development Process Chapter).

variances where needed to prevent or minimize a relaxation of or encroachment into the RMA or to acquire greater RMA width for environmental protection or hazard avoidance.

Protect Sensitive Areas⁴. Sensitive environmental areas and riparian management areas (RMA) will be protected by siting trails beyond their boundaries, unless there are absolutely no alternatives.

Protection Measures⁵. Protect and preserve environmentally sensitive areas using one or more of the following measures, depending on which measures are appropriate to a given situation:

- Dedication as a City park or trail where the area complements the goals and objectives of sustainable development. ESA's acquired as parks or trails will be managed to protect their sensitive features in balance with public use;
- Return to Crown Land or covenant for conservation purposes with the City, the Province and/or a nongovernmental organization (e.g. Central Okanagan Land Trust) eligible to hold Conservation Covenants;
- Some form of development incentive (density transfer, cluster housing, etc.) that will facilitate the protection of all or significant portions of ESAs;
- Protection of ESAs or portions of ESAs as an amenity contribution when new development requires a change to zoning that in-creases density over present zoning;
- Ensure setbacks on adjacent developments are adequate to maintain the integrity of the ESA and to minimize hazards created at the interface between natural areas and development. For example, ensure housing is setback an adequate distance adjacent to an interface area with potential tree, rock fall, flooding or fire hazards;
- As a last option, dedication to a land trust or similar nongovernment organization for conservation purposes.

Environmental Protection Guidelines

Habitat Protection⁶

- Plan, design and implement land development and subdivision to protect environmentally sensitive areas. Habitats that provide for at risk species, at-risk ecological communities and keystone species will be given priority for protection.
- Maintain intact ecosystems. An intact ecosystem is considered to be a community or ecosystem that is maintaining proper function and has not lost significant species (for communities) or significant communities (for ecosystems).
- Retain connectivity to adjacent ecosystems and avoid the creation of isolated islands of ecosystems.

⁴ City of Kelowna Official Community Plan, Policy 5.14.4 (Development Process Chapter).

⁵ City of Kelowna Official Community Plan, Policy 5.14.7 (Development Process Chapter).

⁶ City of Kelowna Official Community Plan, Page 12.4 (Natural Environment Development Permit Guidelines Chapter).

6.0 Technical Comments

6.1 Development Engineering Department

A memo from the Development Engineering Manager has been submitted for subdivision requirements, should the Development Variance Permit be approved. This is attached.

6.2 Infrastructure Planning

Infrastructure Planning has requested a 3.0 m wide SRW for public access through to Bellevue Creek for any potential future connections to Bellevue Creek Linear Park.

6.3 Fire Department

Ensure the lots are addressed off of the street they are accessed from as some appear to be accessed off of Needham Court.

6.4 Transportation

Comments from transportation regarding the subdivision at 4646 McClure Rd:

- The existing sidewalk on McClure should be rebuilt more in-line with the curvature of the road.
- Access (4m ROW) through the property to the creek would be advantageous.

7.0 Application Chronology

Date of Application Received: September 9, 2016

Date of Determination of Final Lot Widths: August 1, 2017

8.0 Alternate Recommendation

THAT Council authorizes the issuance of Development Variance Permit No. DVP16-0241 for Lot 2 Section 25 TWP 28 SDYD Plan 29484, located on McClure Road, Kelowna, BC;

AND THAT variance to the following section[s] of Zoning Bylaw No. 8000 be granted:

13.1.5 (a) Urban Residential Zones - Subdivision Regulations

To vary the minimum lot width for the future proposed Lot B from 16.5 m permitted to 15.72m requested.

AND THAT Council's consideration of this Development Variance Permit be considered subsequent to the outstanding conditions of approval as set out in Schedule "B" attached to the Report from the Community Planning Department dated August 29th, 2017;

AND THAT Council's consideration of the Development Variance Permit be considered whereby:

- A 15 metre width from the west property line is dedicated to the City of Kelowna as a lot as a condition of and concurrent with subdivision; and
- A 3.5 m wide Statutory Right of Way, in favour of the City of Kelowna, for maintenance, flood protection and public access from McClure Road to the riparian area to the City of Kelowna, as

outlined in Schedule B, is legally registered on title as a condition of and concurrent with subdivision;

AND THAT the applicant be required to complete the above noted conditions of Council's approval of the Development Variance Permit Application in order for the permits to be issued;

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:

Melanie Steppuhn, Land Use Planner

Reviewed by:



Ryan Smith, Community Planning Department Manager

Approved for Inclusion:



Doug Gilchrist, Divisional Director, Community Planning & Real Estate

Attachments:

Development Engineering Memo (October 31, 2016)

Draft DVP16-0241 – Proposed Plan

Draft DVP16-0241 - Alternate Recommendation Plan