

REPORT TO COUNCIL



Date: November 7, 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 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 Subdivision Regulations

(a) The minimum **lot width** is 16.5 m permitted to:

Lot B – 15.72 m proposed on the subject property.

AND THAT Council's consideration of the Development Variance Permit be considered whereby the Bellevue Creek Floodplain and Riparian Management Area be dedicated to the City of Kelowna as a lot as a condition of and concurrent to subdivision, and the installation of a 1.2m tall black chain link fence be installed 150mm inside the owner's new property line adjacent to the dedicated area; and the registration on title of a 3.5 m wide Statutory Right of Way in favour of the City for flood protection and public access from McClure Road to Bellevue Creek; and the installation of a 1.2m tall black chain link fence be installed at the edge of the Statutory Right of Way, in accordance with Attachment A;

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.

2.0 Purpose

To consider a Staff recommendation to 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 supports the application in its current form. This proposal is consistent with OCP policies requiring the dedication of natural areas upon subdivision, particularly in cases where rezoning or variances result in additional density. 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.

In addition to 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 this future 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 along this section of the stream that connect the trail to neighbourhoods north of Bellevue Creek where possible.

The applicant has indicated they are willing to provide a park dedication along Bellevue Creek, together with a 3.5m Statutory Right of Way (SRW) along the north property line, to provide access for maintenance in case of emergency flood protection or for future public access (if required). (See Proposed Subdivision Plan below).

As there are no short term 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 should public access be required at this location to connect to the future Bellevue Creek corridor.

4.0 Proposal

4.1 Background

This 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, and thereby facilitating 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 maintenance and public access on Lot A.

The Bellevue Creek Riparian Management Area and floodplain lies along the western boundary of the property. An existing No Build / No Disturb covenant is currently on title, but OCP policy outlines dedication as the preferred option for long term habitat and flood protection. In addition, correspondence from the Ministry of Forests, Lands and Natural Resource Operations states that the preferred option for riparian area protection is public park².

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

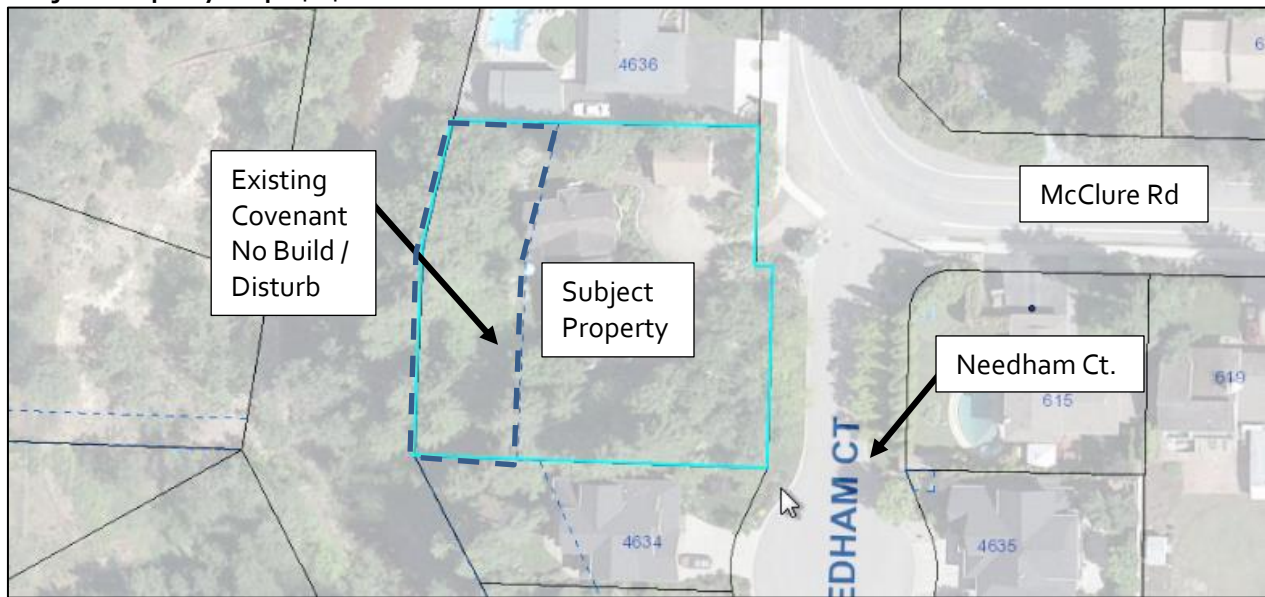
² Ministry of Environment, lands and Parks. May 15, 2001. Letter, Subdivision Application S01-018 McClure Road.

4.3 Site Context

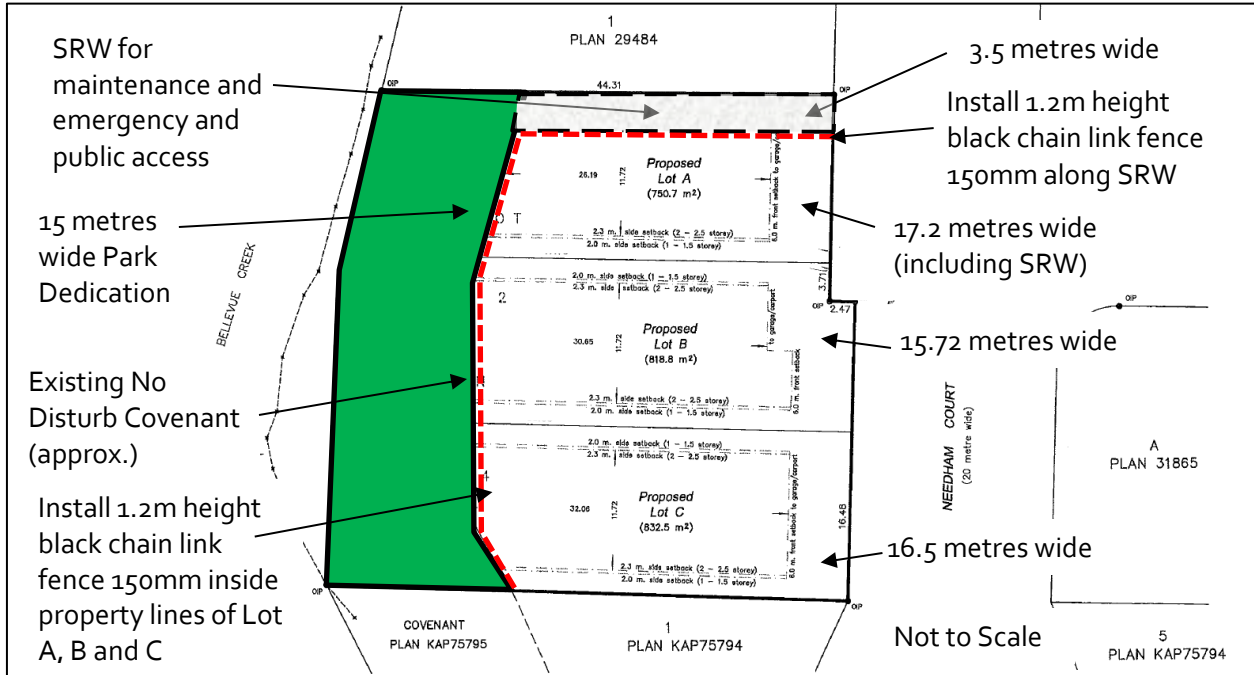
The property is within the Southwest Mission Sector of the City according to the Official Community Plan. The elevation ranges from 366.5 metres above sea level (m.a.s.l.) to 369 m.a.s.l. Specifically, adjacent land uses are as follows:

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	Major Park & Open Space (Bellevue Creek)

Subject Property Map: 4646 McClure



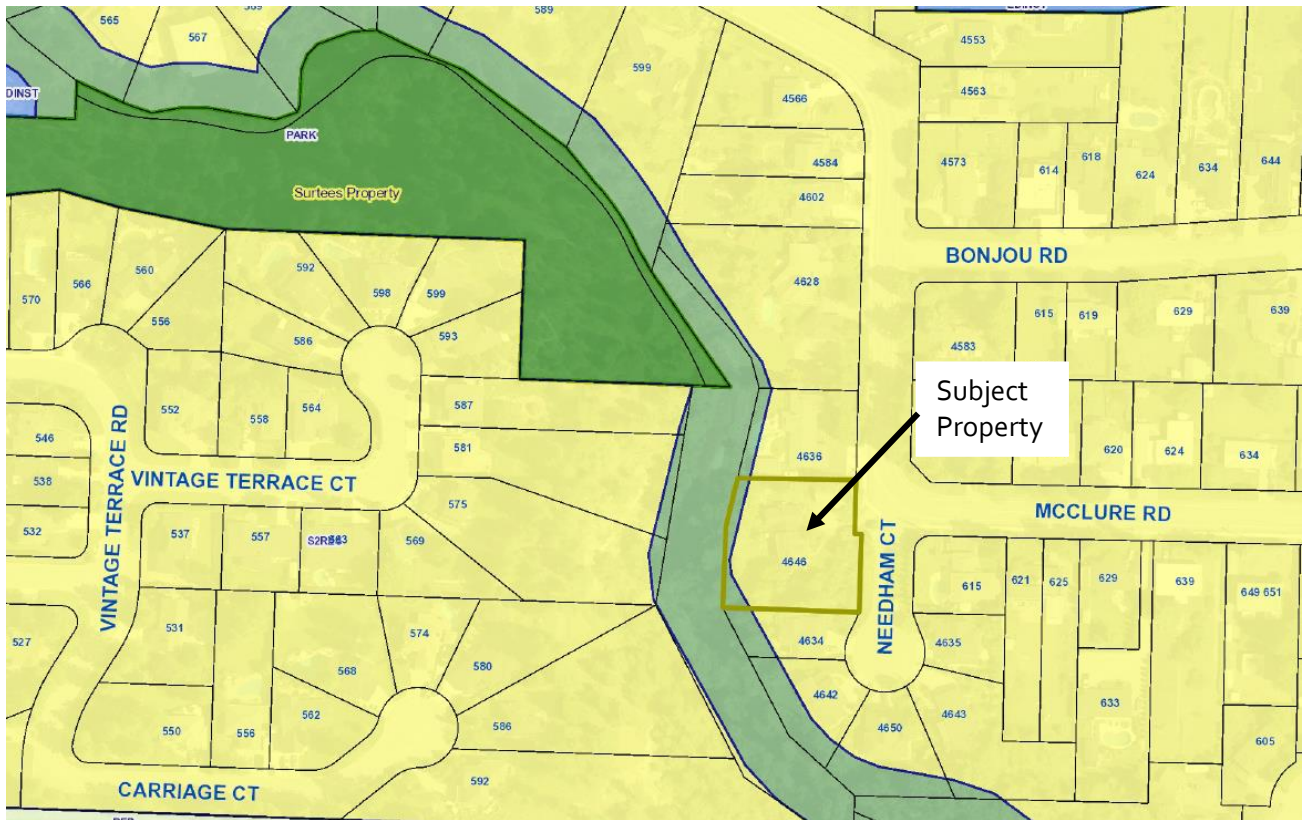
Proposed Subdivision Plan: 4646 McClure



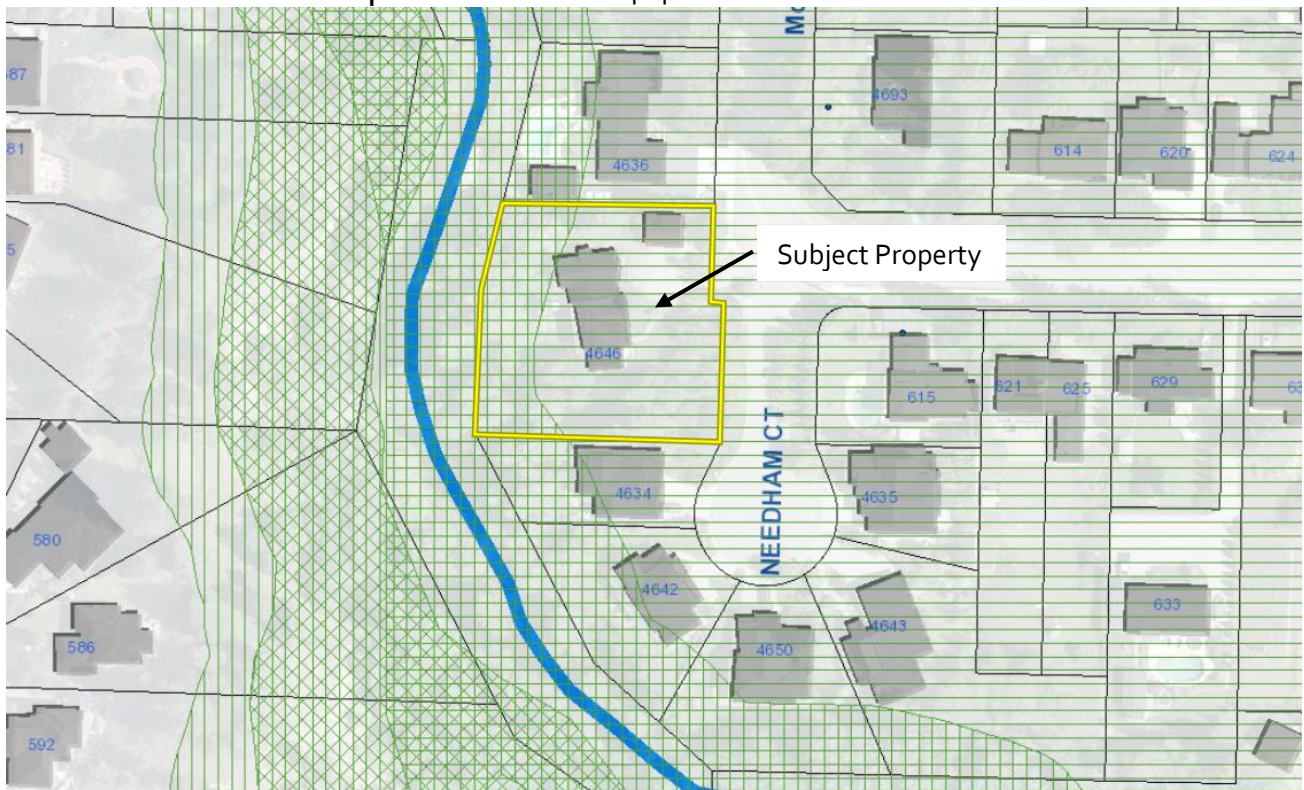
Existing Park Map



Future Land Use



Natural Environment Development Permit Area: 4646 McClure



4.4 Zoning Analysis Table

The subdivision regulations for RU1 – Large Lot Housing are noted in the table below, with requested variances noted.

Zoning Analysis Table		
CRITERIA	RU1 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) ❶ and 16.5m (Lot C)
Lot Depth	30.0 m	46.05m (Lot A); 49.36m (Lot B); 51.06m (Lot C)
❶ Indicates a requested variance to the lot width for Lot B from 16.5m required to 15.72m (Lot B) ❶		

5.0 Current Development Policies

5.1 Kelowna Official Community Plan (OCP)

Development Process

Dedication of Linear Parks³. 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.⁴ 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 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 Areas⁵. Sensitive environmental areas and riparian management areas (RMA) will be protected by siting trails beyond their boundaries, unless there are absolutely no alternatives.

Protection Measures⁶. 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;

³ City of Kelowna Official Community Plan, Policy 5.14.2 (Development Process Chapter).

⁴ City of Kelowna Official Community Plan, Policy 5.14.11 (Development Process Chapter).

⁵ City of Kelowna Official Community Plan, Policy 5.14.4 (Development Process Chapter).

⁶ City of Kelowna Official Community Plan, Policy 5.14.7 (Development Process Chapter).

- 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 increases 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 Protection⁷

- 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.

5.2 Linear Parks Master Plan (2009)

Trail Development Priorities

The top six linear park priorities for acquisition and development are as follows:

- Waterfront Walkway
- Mill Creek Linear Park
- Rails with Trails
- Bellevue Creek Linear Park
- Gopher Creek Linear Park
- Mission Creek Greenway

Land Acquisition

There are two key methods for linear parkland acquisitions:

- City acquisition of properties or portions of properties from land owners (funds are allocated for linear park acquisition in the City's annual budget); and
- Linear park dedication as a requirement of subdivision and rezoning approvals.

6.0 Technical Comments

⁷ City of Kelowna Official Community Plan, Page 12.4 (Natural Environment Development Permit Guidelines Chapter).

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

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, including Attachment A