



Agenda No: 7.2
Mtg Date: Feb 22/16

TO: Regional Board
FROM: Ron Fralick
Manager of Planning
DATE: February 15, 2016
SUBJECT: Development Variance Permit (Application VP-15-03)
S. & J. Greenwood (owners) c/o Kelbrook Construction Corporation (agent)
Lot B, Plan 10869, District Lot 3745, ODYD – 2323 Westside Place

Regional Board Report

Purpose:

To allow a reduction of the front setback from 4.5 m (14.76 ft.) to 1.48 m (4.86 ft.) to permit the siting of a proposed single detached house.

Executive Summary:

The owners intend to demolish the house currently located on the property and are requesting approval for the location to construct a new home. The requested setback variance is to ensure that the proposed house is located as far from the foreshore as possible. The required permit to reduce building setback from a Provincial Public Road has been obtained from the Ministry of Transportation and Infrastructure.

RECOMMENDATION:

THAT Development Variance Permit Application VP-15-03 for S. & J. Greenwood, located at 2323 Westside Place, to vary Section 7.1.4 of Zoning Bylaw No. 871 by allowing a reduction of the minimum front setback from 4.5 m (14.76 ft.) to 1.48 m (4.86 ft.) to permit the siting of a proposed single detached house, based on the December 21, 2015, Plot Plan by Runnalls Denby, be approved.

Respectfully Submitted:

Ron Fralick, MCIP, RPP
Manager of Planning

Prepared by: Janelle Taylor, Planner 1

Approved for Board's Consideration

Brian Reardon, CAO

Implications of Recommendation:**Strategic Plan:**

Development Variance Permits provide options/solutions to address building location issues provided there are no negative impacts (visual, health and safety) to neighbouring residents.

Policy:

The application was submitted and processed in accordance with requirements of RDCO Development Applications Procedures Bylaw No. 944.

Legal/Statutory Authority:

In accord with Section 498 of the Local Government Act, on application by an owner of land, a local government may, by resolution, issue a development variance permit that varies, in respect of the land covered in the permit, the provisions of a bylaw (Part 14 – Planning and Land Use Management). A development variance permit must not vary the use or density of land from that specified in the bylaw and a local government may not delegate the issuance of a permit.

Voting on the permit lies with the Electoral Areas, City of West Kelowna and City of Kelowna Directors.

BACKGROUND:**History & Project Description:**

The owner intends to demolish the existing house and build a single detached house. The proposal also requires the approval of a Development Permit and Building Permit.

The existing home has a footprint of 162 m² (1,743.8 ft²) and was constructed in 1984 for the owner's parents. Subsequent to inheriting the property in 2011, the current owners intend to demolish the existing house and build a single detached house with additional space to host their extended family. The proposed five-bedroom single detached house is to have a footprint of 413.4m² (4,449.8 ft²), and be comprised of three levels (upper, main, and lower floors) with a garage.

The owners and agent have worked with RDCO staff to avoid the riparian area; the new house will not be located within the 15 m floodplain setback from Okanagan Lake. In the owners' attempts to increase the distance between the dwelling and Okanagan Lake, they are proposing to locate the house closer to the parcel's front property line than is permitted under Zoning Bylaw No. 871.

A Permit to Reduce Building Setback of Less Than 4.5 Metres From The Property Line Fronting a Provincial Public Highway (Permit No. 2015-04934) has been obtained from the Ministry of Transportation and Infrastructure.

Professional Report:

In support of this application, the owners have provided a QP report completed by Interior Testing Services Ltd. In the report, Peter Hanenburg, Professional Engineer concludes that "the land may be used safely for the proposed residential construction."

Site Context:

The subject parcel is adjacent to Westside Place and Okanagan Lake. The site has development challenges due to the riparian area, floodplain and road setbacks plus the need to accommodate a sewage disposal system. The area has limited community services and infrastructure; the subject property is supplied with water from Okanagan Lake and is located within the Wilsons Landing Fire Protection Area.

In January 2016 the Regional Board approved VP-15-02 for the neighbouring property. The Development Variance Application allowed four variances to Zoning Bylaw No. 871 to permit the siting of a proposed two-bedroom single detached house.

Additional Information:

Owners: S. & J. Greenwood
Agent: Kelbrook Construction Corporation
Legal Description: Lot B, Plan 10869, District Lot 3745, ODYD
Address: 2323 Westside Place
Lot Size: +/- 0.13 ha (0.32 acre)
Current Zoning: R1 Single Detached Housing
Sewage Disposal: Septic
Water Supply: Okanagan Lake
Existing Use: Single Detached House
Surrounding Uses:

North: Residential / Owaissi Anglican Camp
South: Residential
East: Okanagan Lake
West: Westside Place

A.L.R.: Not within the A.L.R.

Fire Protection: Wilsons Landing Fire Protection Area

The subject property is located within the Rural Westside Official Community Plan Bylaw No. 1274 and is affected by the Aquatic Ecosystems and Wildfire Interface Development Permit provisions; these DP Areas are being addressed through RDCO File: DP-15-09.

AGENCY REFERRALS/TECHNICAL COMMENTS:

RDCO Parks Services and Environmental Section staff notes that their interests are unaffected.

City of Kelowna staff indicates that they have no comment regarding the proposal.

City of West Kelowna staff indicates that their interests are unaffected regarding the application.

Advisory Planning Commission Central Okanagan West comments from the February 16, 2016, meeting will be provided verbally to the Regional Board.

Resource Management – Ministry of Forests, Lands and Natural Resource Operations notes that the proposal is subject to the Riparian Areas Regulation (RAR) if they are within 30m of a stream. RAR assessments must be completed by a qualified environmental professional (QEP). It is the proponent's responsibility to ensure their activities are in compliance with all relevant legislation.

As noted above, RAR will be addressed in conjunction with DP-15-09.

Ministry of Transportation and Infrastructure (MOTI) has issued A Permit to Reduce Building Setback of Less Than 4.5 Metres From The Property Line Fronting a Provincial Public Highway (Permit No. 2015-04934) to allow the construction of the building.

Interior Health Authority has no objection to the proposed reduction of the front setback from 4.5 m to 1.48 m to permit the siting of the proposed single family dwelling; however they recommend having an "Authorized Person" as defined in the Sewerage System Regulation investigate the subject property and provide a report confirming whether or not the subject

property has a suitable site(s) for the installation of an onsite sewerage dispersal system in compliance with the Sewerage System Regulation to service the proposed new dwelling. In the interests of sustainability consideration should also be given to preserving and protecting a suitable area on the subject property for the installation of a replacement sewerage dispersal system should the initial system fail.

Planning staff notes that the owners have retained the services of Oland Engineering Limited to assist in the design and siting of the sewerage system.

BC Hydro advises that there are overhead works in the area which are affected by the proposed development; therefore, building within 1.48 m of the property line will violate their minimum required clearances from an overhead line.

Subsequent to the above comments, BC Hydro has received an application from the property owners to remove the overhead low voltage line which fronts the subject property. BC Hydro is willing to work with the applicant to support the variance application as presented if the line is removed, providing conditions are met. The conditions include registering a Right of Way against the title of the subject property for BC Hydro equipment located adjacent to the property. BC Hydro is aware that the proposed sewerage system may be located within the Right of Way; however, has confirmed that they will accept the septic field, as shown on the February 11, 2016, On-Sit Sewerage System Plan, being partially within the area.

Planning staff is in receipt of correspondence from the owners' agent outlining acceptance of BC Hydro's conditions.

Westbank First Nation Chief and Council have provided a standard response letter indicating that the development infringes on their aboriginal rights and title; therefore, they are opposed to the proposal.

Okanagan Indian Band outlines the following concerns regarding the proposal:

- The parcel is in close proximity to 5 archaeological sites located in the RADD. Due to the location, close proximity to water bodies and land forms it would suggest a very high potential for archaeological sites.
- The former location of the N'kwala trail, or Hudson Brigade Trail, runs along the Westside Road.

Planning staff notes that the majority of the site has been previously disturbed through residential use. Utilizing the Province of British Columbia's Archaeological Sites online mapping, Planning staff indicates that there does not appear to be any known archaeological sites recorded on the subject property; however, there is always a possibility for unknown archaeological sites to exist. Archaeological sites (both recorded and unrecorded) are protected under the *Heritage Conservation Act* and must not be altered or damaged without a permit from the Archaeology Branch. If any land-altering development is planned for the property, owners and operators should be notified that if an archaeological site is encountered during development, activities must be halted and the Archaeology Branch – Ministry of Forests, Lands and Natural Resources be contacted.

RDCO Planning Staff Comments:

The request to reduce the front setback to ensure the house is located as far from the foreshore of Okanagan Lake as possible is strongly supported as this will allow better riparian protection. All environmental issues will be addressed through the Development Permit.

Regional District Inspections staff will ensure that all Building Permit matters are attended to in conjunction with the Building Permit process. Any building permit will be conditional upon proving an adequate on-site septic system consistent with Interior Health direction.

The proposal is consistent with approvals granted for the adjoining property to the north (RDCO Files: FEX-15-01 & VP-15-02).

External Implications:

In accordance with Development Applications Procedures Bylaw No. 944, a Notice of Application sign was posted on the property and written notices were mailed to all registered property owners of land situated within 100 metres of the subject property.

Further to the required notification process, four letters of support have been received at time of this report (copies attached).

Alternatives:

THAT Development Variance Permit application VP-15-03 not be approved.

Attachment(s):

Subject Property and Orthophoto Maps

December 21, 2015, Plot Plan

Kelbrook Construction Corporation Correspondence, received December 22, 2015

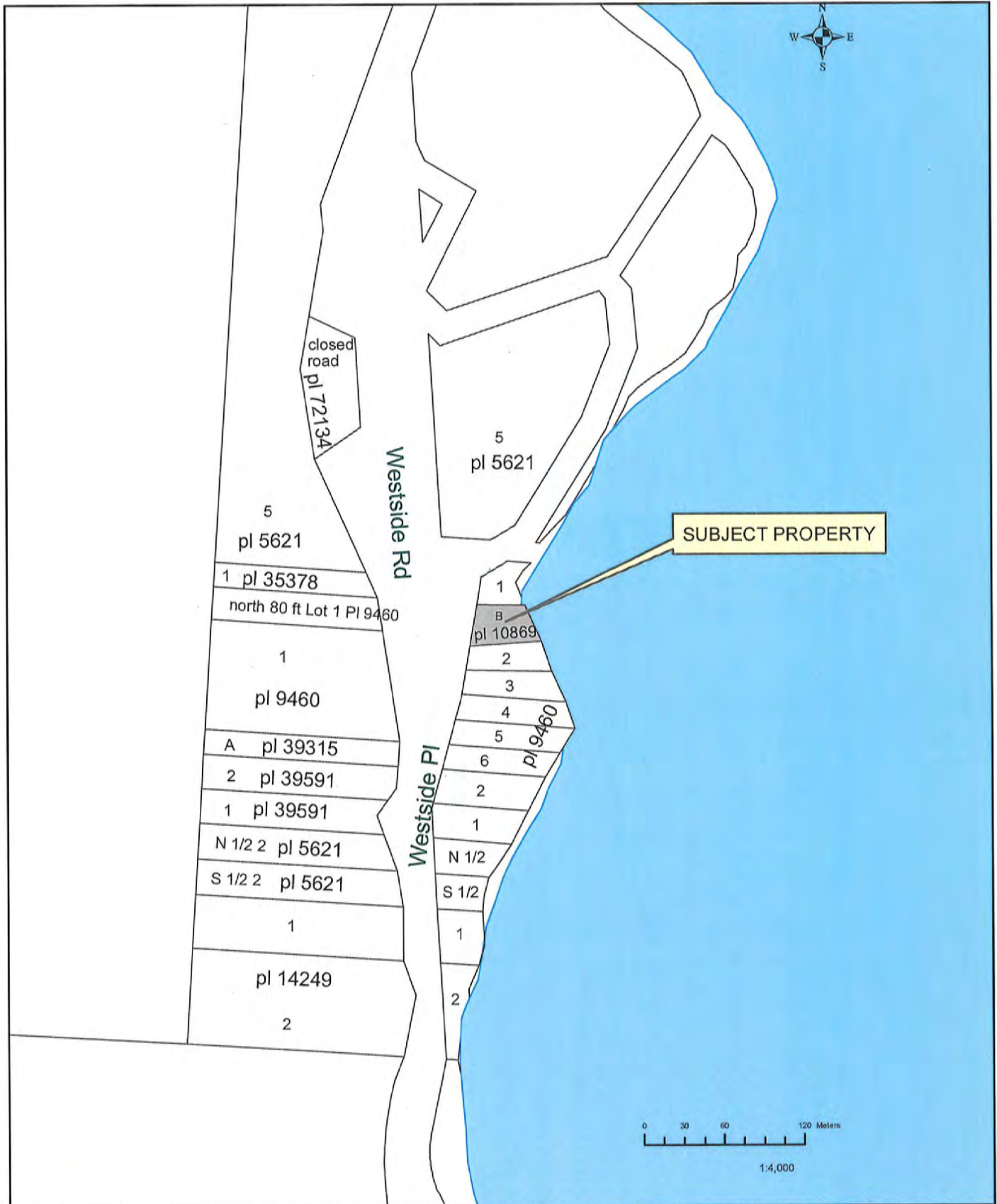
Letters of Support

Considerations not applicable to this report:

- General
- Financial
- Organizational Issues

H:\Planning\3090-Dev_Variances\20-Applications\2015\VP-15-03\Regional Board Report.docx

SUBJECT PROPERTY



File: VP-15-03

Drawn by: JM

Date: Dec. 3, 2015

Lot B, Plan 10869, DL 3745, ODYD

ORTHOPHOTO



File: VP-15-03

Drawn by: JM

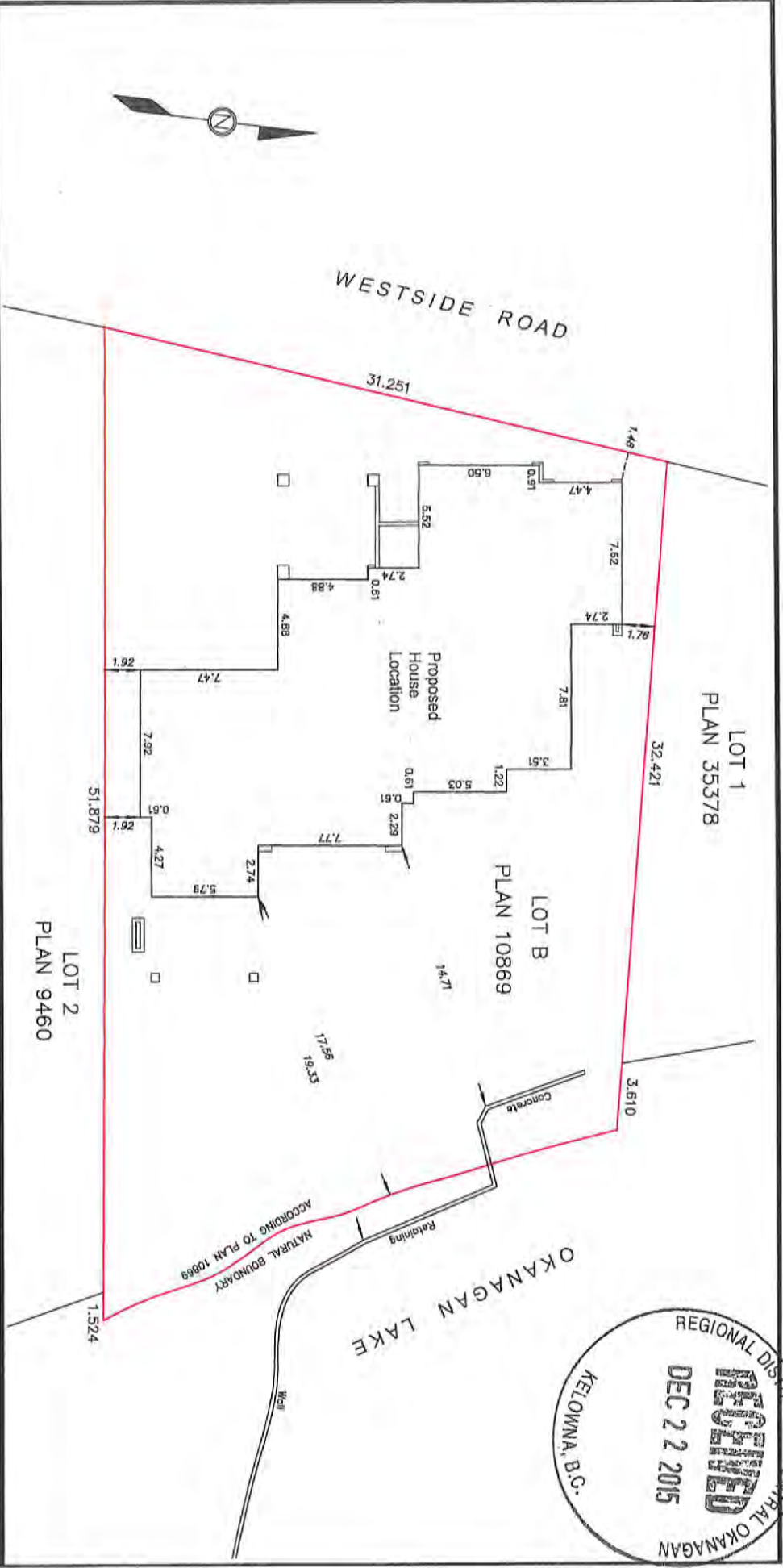
Date: Dec. 3, 2015

Lot B, Plan 10869, DL 3745, ODYD

TITLE:
PLOT PLAN SHOWING PROPOSED HOUSE LOCATION ON LOT B, DISTRICT LOT 3745, O.D.Y.D., PLAN 10869

DRAWN BY: RUNNALLS DENBY
 british columbia land surveyors
 259A Lawrence Avenue
 Kelowna, B.C. V1Y 6L2
 Email: nell@runnallsdenby.com

SCALE: 1:250
DATE: December 21, 2015
DWG: 14094 PLOT
FILE No: 14094
REV. 0





Regional District of Central Okanagan
1450 K.L.O. Road
Kelowna, BC V1W 3Z4
Tel: 250-469-6227
Fax: 250-762-2011
www.regionaldistrict.com

Attention: Community Services – Planning Section

Re: RDCO File DI-15-09
Property Location: 2323 Westside Place – Lot B, Plan KAP10869

Introduction

Kelbrook Construction Corporation has been retained by Scott and Judy Greenwood to act as an owners' agent for the purpose of submitting development permit and building permit applications to the Regional District of Central Okanagan relating to their property located at 2323 Westside Place, and legally described as Lot B, Plan KAP10869, District Lot 3745. The property owners have also retained Oasis Design to provide building design services. As the property is situated on the west side of Okanagan Lake, and occurs within the RDCO Aquatic Ecosystem area, Ecoscape Environmental Consultants has been retained by Scott and Judy Greenwood to provide environmental assessment and monitoring services.

Scott and Judy Greenwood have been the registered owners of the property since 2011, at which time they purchased the property outright from other Greenwood family members. Scott Greenwood's father, Ian Greenwood built the existing 162 square metre house on the property in 1985. There was also a detached garage situated on the southwest corner of the property – the wood-frame structure which has since been moved off the property under approved RDCO Building Permit conditions.

Provincial Riparian Area Regulations

The existing 162 square metre single family dwelling was constructed before the current provincial Riparian Area Regulations (RAR) existed. As this property occurs on the west shore of Okanagan Lake, the current RAR establishes a protection and enhancement area (SPEA) extending away from the natural boundary of Okanagan Lake. The existing 162 square metre house on the property encroaches 68 square metres into this Streamside Protection & Enhancement Area – approx 42% of the existing home occurs in the SPEA. The total subject property is 1271 square metres. The total

SPEA area on the subject property is 630 square metres – roughly half of the subject property. The RAR SPEA determines that the developable portion of the property is the half that is located furthest from Okanagan Lake and nearest to Westside Place.

Proposed Works

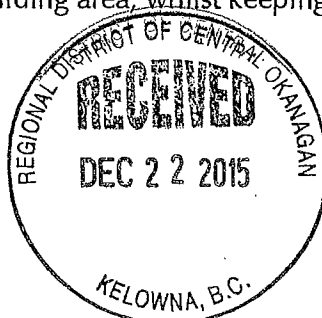
Scott and Judy Greenwood are proposing to demolish the existing 162 square metre home on the property and replace it with a new single family dwelling which is proposed to have a total building footprint of 413.4 square metres, including the attached garage, covered front entry, and covered rear patio. The existing 46 square metre detached garage was initially proposed to be demolished, but has recently been relocated to a new location a few properties to the south on Westside Place.

Because of the current guidelines established in the provincial RAR, and the regulations of RDCO Bylaw #871, the owners are requesting to reduce the minimum front setback of the property from 4.5 metres to 1.48 metres in order to situate the proposed single family dwelling structure as far away from Okanagan Lake and the associated SPEA and as close to the front parcel line as possible without any portion of the structure (eaves, fascia, eavestrouthing) encroaching into the Westside Place Ministry of Transportation & Infrastructure right-of-way. The proposed building structure design and location allows for the necessary septic field to be located in the southwest corner of the property. The new home is also designed to maximize the building area within the RDCO side yard setback requirements.

We have approached the Ministry of Transportation and Infrastructure (MoTI) and have requested a Setback Permit in order to reduce the building setback to less than 4.5 metres from the property line fronting a provincial public highway (Westside Place – formerly a portion of Westside Road). The MoTI has approved this request under MoTI Permit #2015-04934.

Rationale for the Proposed Works

Scott Greenwood inherited the subject property from Scott's father. The modest rancher-style home was constructed in 1984 and was designed for the comfort of two persons - Scott's parents. Scott and Judy Greenwood are proposing to construct a new home on the property so that they are able to comfortably host their visiting children and grandchildren and enjoy the quality family time that occurs with waterfront living. The Greenwoods have made the decision to construct their new home with a full basement, in order to incorporate indoor activity and entertaining space without increasing the building footprint. The design of the attached garage includes a suspended concrete slab, to provide secure storage below and minimize the possibility or requirement for detached landscape storage outbuildings. Although the full basement and garage suspended slab add considerable construction costs to the home, Scott and Judy Greenwood have deemed these items necessary in order to add total building area, whilst keeping the building footprint unchanged.

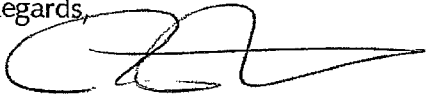


The width of the Westside Place right-of-way between the edge of the existing asphalt surface of Westside Place and the front parcel line of the subject property is approximately 10.9 metres at its nearest point and averages approximately 11.5 metres along the whole of the front parcel line. As Westside Place is not intended to be re-used as a through highway, the MoTI has suggested that the existing asphalt surface of Westside Place will not significantly increase in width in the foreseeable future.

As proposed, the nearest portion of the home to the existing paved portion of Westside Place is the attached garage. The suggested driveway, designed square to the building structure, is still a significant length at 12.4 metres (at its nearest point) from the garage to the existing asphalt surface of Westside Place.

Thank you in advance for considering this request.

Regards,



Ron Petkau, Director
Kelbrook Construction Corporation

