



COUNCIL REPORT
Development Services
For the September 4th, 2018 Council Meeting

DATE: August 30, 2018 File: FEX 17-01 & DP 17-22

TO: Jim Zaffino, CAO

FROM: Jaleen Rousseau, Planner

RE: Application: Floodplain Exemption (FEX 17-01) &
Development Permit (DP 17-22)
Legal: Lot 38, DL 523, ODYD, Plan 11988
Address: 1310 Green Bay Road
Owners: R. & T. Anderson
Agent: James Haasdyk, Oasis Design

RECOMMENDED MOTION:

THAT Council deny the Floodplain Exemption to s. 3.24 of Zoning Bylaw No. 0154 for Lot 38, DL 523, ODYD, Plan 11988 (1310 Green Bay Road);

THAT Council support the issuance of a Development Variance Permit (DP 17-22) for Lot 38, DL 523, ODYD, Plan 11988 (1310 Green Bay Road) to reduce the required front parcel boundary setback from 6.0 m to 0.762 m, in accordance with the attached permit; and

THAT Council support the issuance of an Aquatic Development Permit (DP 17-22) for Lot 38, DL 523, ODYD, Plan 11988 (1310 Green Bay Road) for renovation and addition to the existing single detached dwelling outside of the 15.0 m setback from the high water mark, in accordance with the attached permit.

RATIONALE:

The recommended motion is based on the following:

Floodplain Exemption

- The single detached dwelling was built over 30 years ago and does not conform to current Floodplain regulations (existing non-conforming).
- This structure experienced flood damage in 2017.
- A flood hazard assessment has not been provided, nor have any flood protection measures been proposed to mitigate future flood damage.
- The City has utilized Regional, Provincial and Federal resources and has spent a significant amount of money on flood related works over the past two years.
- The proposal does not meet required floodplain regulations and encourages investment on property susceptible to damage by flooding.
- Encouraging private investment within the floodplain and/or below the minimum, floodplain elevation in an area of high flood risk may have impacts on the City's ability to obtain supporting resources from other levels of government.
- The proposal is not consistent with the definition of hardship as contained within the Provincial Flood Hazard Area Land Use Management Guidelines.

Development Variance Permit

- The subject property is an unusual shaped waterfront parcel, which present siting challenges respecting development.
- A reduction of the required front yard setback would allow expansion of the residence that would not result in construction within the floodplain setback, negative impacts to aquatic values or the streetscape of Green Bay Road.
- The applicant has received signatures from neighbours in support of the proposed variance request.

Aquatic Development Permit

- Further development of the subject property is constrained by its proximity to Okanagan Lake respecting riparian (aquatic) and floodplain regulations.

BACKGROUND:

Location and Surrounding Uses

The subject property is a triangular shaped waterfront parcel located within Green Bay with an area of approximately 1141 m². The property currently maintains a 1.5 storey rancher style single detached dwelling built before 1976 and a dock (*Attachments 6 & 7*). A portion of the main floor is sunken ~4 ft below the rest of the main floor. This structure was damaged by flooding in 2017. The site is a challenging site, as the lot is oddly configured and is subject to environmental and floodplain restrictions.

Proposal

The applicant is proposing to renovate and add on to the existing dwelling to accommodate the addition of a second storey and expansion of the front entry and garage. The subject property currently maintains a 1.5 storey single detached dwelling.

This proposal requires City approval for three separate development components:

1. Floodplain Exemption
2. Development Variance Permit (DVP)
3. Aquatic Development Permit (DP)

1. Floodplain Exemption

To allow renovations to an existing single detached dwelling within the required 15.0 m floodplain setback from Okanagan Lake. Specifically, the proposal includes the addition of a second storey on the portion of the existing structure that is currently located within the required 15 m floodplain setback and below the minimum allowable Flood Construction Level (FCL) of 343.66 ft. (*see Figures 1 & 2 and Attachment 2*). The main floor of the existing dwelling is at 343.55 m with a portion of the main floor sunken 4 ft (342.33 ft) below the rest of the dwelling. This dwelling was damaged by 2017 floods. An application to obtain a Floodplain Exemption requires the submission of a Flood Hazard Assessment by a professional engineer or geoscientist who is experienced in geotechnical engineering. The report should clearly state that the land may be used safely for the intended use. A report of this nature has not been submitted by the applicant.

The applicant has conceded in their attached letter to Council (*Attachment 4*) that future flooding of the sunken main floor is expected to occur again in the future and has proposed the following measures to mitigate the potential impacts:

- Place cement boards on the bottom foot or two of walls instead of drywall;
- Add a floor drain and sump pumps; and
- Tile the floor similar to a shower.

These proposed works have not been reviewed by a professional engineer or geoscientist who is experienced in geotechnical engineering.



Figure 1: 15 m Floodplain setback from Okanagan Lake (Red line depicts proposed new building footprint. Dashed purple line depicts 15 m floodplain setback.)

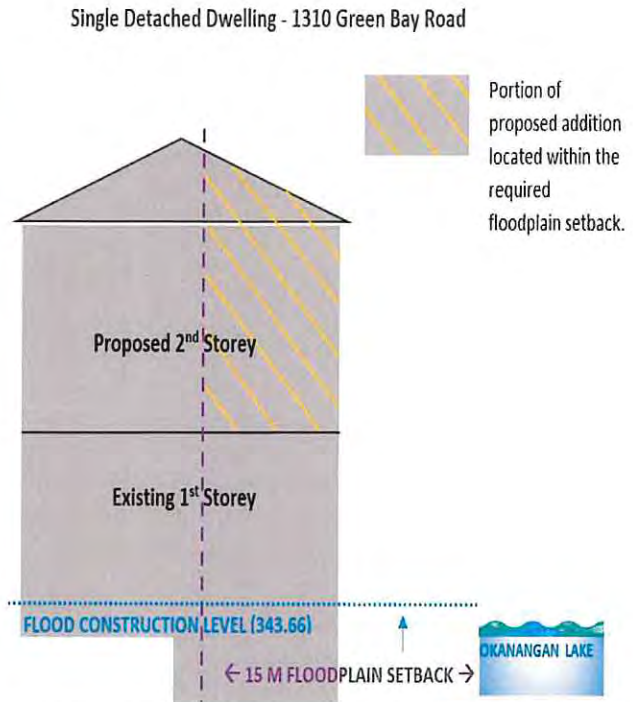


Figure 2: Three dimensional depiction of proposed addition to be located within the 15 m floodplain setback from Okanagan Lake.

2. Development Variance Permit

To permit an addition to the existing single detached dwelling that would result in an encroachment into the front parcel setback. The applicant is requesting a reduction of the required front parcel boundary setback from 6.0 m to 0.762 m (see Figures 3 & 4). The applicant has obtain signatures of support from 27 neighbouring properties (Attachments 3 & 4).



Figure 3: View of the Front Yard of 1310 Green Bay Road

The addition at the front (south) is intended to accommodate a secondary suite. Addition of a suite is only possible with the proposed variance. This renovation is to include a four (4) car garage. Two (2) parking spaces are required for the principal dwelling and one per secondary suite bedroom.



Figure 4: Proposed addition to the first storey necessitating a variance to the front yard setback (Proposed addition shaded gray. Required front yard setback depicted as dashed red line.)

3. Aquatic Development Permit

To permit renovations to an existing single detached dwelling on a waterfront parcel. The entire parcel is located within this Development Permit Area and the proposal meets the Aquatic Development Permit Guidelines, including proposed restoration plantings adjacent to the waterfront encompassing a total of 59 m2 (Attachment 5).

If the proposed development receives approval, the existing structure would be renovated to accommodate first storey additions to the front (south) and side (west) of the structure, in addition to a second storey over the entirety of the existing single detached dwelling. A variance would enable the property owner to renovate this existing dwelling outside of the floodplain setback.

LEGISLATIVE REQUIREMENTS:

Local Government Act

The *Local Government Act* empowers local governments to exempt development from the requirements of a floodplain setback in relation to a specific parcel of land or a use, building or other structure on the parcel of land, if the local government considers it advisable. Decisions on floodplain exemptions should include consideration on the following:

- (a) That the exemption is consistent with Provincial Flood Hazard Area Land Use Management Guidelines; or
- (b) The local government has received a report from a certified professional that the land may be used safely for the use intended.

Under this authority local governments may also impose conditions considered necessary or advisable.

Community Charter

The *Community Charter* stipulates that where construction on lands subject to flood are proposed, a Building Inspector may require reporting by a qualified professional stating that the land may be used safely for the use intended. The Inspector is required to withhold issuance of a Building Permit where a qualified professional determines the said use is not safe.

Provincial Flood Hazard Area Land Use Management Guidelines

The Guidelines state that the local government has the authority to alter any bylaw condition to best match the flood hazard provided the level of protection is not altered. The Guidelines stipulated acceptable parameters respecting consideration of hardship conditions which may warrant local government agreement to site specific modifications to floodplain regulations. The hardship must be of a serious nature and cannot include economic circumstances or design and siting preferences.

(Attachment 9)

Development Permit

Pursuant to Part 14, Division 7 of the *Local Government Act*, a local government may issue a development permit respecting the protection of the natural environment specific to areas of land that must remain free of development.

Development Variance Permit

Pursuant to Part 14, Division 9 of the *Local Government Act*, a local government may issue a development variance permit respecting siting regulations contained within the Zoning Bylaw.

POLICY AND BYLAW REVIEW:

Official Community Plan Bylaw No. 0100

The proposed use is consistent with the OCP's *Land Use Designation of Single Family Residential*, which is intended to serve a diversity of low density housing types appropriate to areas in which they are located.

The subject property is contained within the City's *Aquatic Development Permit Area (DPA)*, as it is a waterfront property. This DPA is in line with Provincial Riparian Areas Regulations and prioritizes the protection and preservation of riparian areas in order to maintain healthy watercourse environments as well as protect private property from flooding and potential loss of land due to channel erosion and instability.

Zoning Bylaw No. 0154

The subject property is zoned Single Detached Residential Zone (R1).

All parcels abutting a body of water are subject to the City's Floodplain Regulations. With respect to the subject property, the following regulations apply:

All site preparation and construction activities shall be consistent with the floodplain regulations in S.3.24 of Zoning Bylaw No. 0154, specifically that:

- I. the underside of any floor system used for dwelling purposes shall be above 343.66m (1127.5ft) Geodetic Survey of Canada elevation, and;
- II. any fill used to elevate a floor system or pad to achieve a 343.66m elevation shall be sited at least 15.0m from the natural boundary of Okanagan Lake.

The subject property maintains an existing single detached dwelling. The construction of this structure predates City records, however historic air photos show this dwelling as far back as 1976. This structure does not meet the City's current floodplain regulations. The structure is located approximately 3.0 m from the rear parcel boundary at its closest point, while the floor system sits at 343.55m above sea level (ASL). A portion of this dwelling is sunken approximately 4 ft (1.2 m) below 343.55m, which is equal to 342.35 m.

Discussion

Existing Non-Conforming

The existing single detached dwelling was built before 1976. The existing structure does not meeting today's siting regulations respecting aquatic and floodplain setbacks. However, under the *Local Government Act*, this non-conformity is permitted to continue provided that no further non-conformities are created. While existing non-conformities are protected under the *Act*, they are not intended to continue indefinitely; the intent of the legislation is that non-conformities will be discontinued, to ultimately bring the use of a parcel into compliance with the current zoning. An addition of a second storey to the existing single detached dwelling within the required floodplain setback and on top of a substandard Flood Construction Level and within the required 15 m setback would result in further non-conforming development of the subject property.

Land Use Management & Flooding

The Provincial government asserts that experience has shown that land use management and flood-proofing in areas susceptible to flooding is the most practical and cost-effective way to reduce the effects of flooding on lives and property. Similarly, while emergency preparedness, response and recovery are essential for public safety, these activities may not prevent economic damage or entirely reduce the risk of loss of life and trauma. Local governments are responsible for understanding the risks of flooding in their areas and make appropriate land use decisions so that developments are built in a manner that limits flood damage and ensures public safety. Flood risk management is a key requirement of land use planning¹.

The Regional District of Central Okanagan (RDCO) is currently preparing a Regional Floodplain Management Plan to better understand regional flood risks. This management plan may be used to inform flood construction levels around Okanagan Lake, as it will present a better understanding of present and future flood risks²

In both the spring of 2017 and 2018 flood protection measures were necessary to protect critical infrastructure within Green Bay. In addition, the City engaged in a variety of projects in early 2018 to repair damage to public infrastructure caused by 2017 floods and protect infrastructure against possible future floods. Projects included excavation of deposited materials, clearing culverts and increasing the conveyance of local waterways. These works were estimated to cost over \$5

¹ British Columbia Flood Hazard Land Use Management Website July 31, 2018 <https://www2.gov.bc.ca/gov/content/environment/air-land-water/water/drought-flooding-dikes-dams/integrated-flood-hazard-management/flood-hazard-land-use-management>

² FINAL REPORT: Regional District of Central Okanagan Regional Floodplain Management Plan: Phase 1, June 2016 https://www.regionaldistrict.com/media/204180/Floodplain_Phase1.pdf August 1, 2018

million. Of the City's entire land base, Green Bay neighbourhood maintains the lowest elevation (342 m). Okanagan Lake reaches full pool at 342.48 m and in 2017 the lake reached 343.28 m.

Indemnities

Where local governments wish to permit a floodplain exemption, a covenant may be registered to title and contain an "indemnity" clause to protect local government from the financial consequences of a special event (e.g. flood damage to an approved structure within the floodplain)³. It is advisable that the said covenant is registered against the title of the property under section 219 of the *Land Titles Act* specifies the following:

- The condition(s) that would enable the land to be safely used for the use intended; and
- Granting indemnity to the local government.

However, this indemnity tool may only protect the local government from a legal ruling of full liability. It is also noted that the applicant has not provided the required professional reporting to ensure that the land can be used safely as intended.

Hardship

The Provincial Guidelines respecting flood management state that the local government have the authority to alter any bylaw condition to best match the flood hazard provided the level of protection is not altered. However, setback requirements should not be reduced unless a serious hardship exists and no other reasonable option is available. Respecting the subject property, a single detached dwelling exists and renovations and additions are possible outside of the required 15 m setback in concert with a variance to the front yard setback. This property does not demonstrate a hardship which warrants reduction in the required floodplain setback.

Recommendation of Non-Support for Floodplain Exemption

It is anticipated that the Green Bay area will experience flooding issues in the future and City resources will continue to be utilized to assist this neighbourhood in preventing and addressing the associated impacts to critical infrastructure. Further non-conforming development impedes the City's ability to improve flood susceptibility of Green Bay. Should a second storey be granted within the required 15 m floodplain setback and the ground floor of the structure within this setback experiences future water damage it could have the potential to impact the upper storey. Furthermore, encouraging private investment in an area within the required floodplain setback and below the flood construction level may have future impacts on the City's ability to obtain supporting resources from other levels of government.

PUBLIC NOTIFICATION:

In accordance with the *Local Government Act*, 34 notification letters respecting the proposed variance were sent to all property owners and their tenants within 100 metres of the subject property (*Attachment 9*) and a Notice of Application sign has been placed on the subject property in accordance with the Development Applications Procedures Bylaw No. 0131. At the time of writing this report, no public correspondence has been received in respect of the notification. The applicant has submitted signatures of support for the proposal from 27 properties in Green Bay (attached).

³ *S12.14, Buholzer, William (February 2018). British Columbia Planning Law and Practice (Markham: Butterworths, looseleaf)*

ALTERNATE MOTION #1:

Applicant's Request

THAT Council approve the Floodplain Exemption to s. 3.24 of Zoning Bylaw No. 0154 for 1310 Green Bay Road subject to the registration to title of an indemnity covenant;

THAT Council approve the issuance of a Development Variance Permit (DP 17-22) for 1310 Green Bay Road to reduce the required front parcel boundary setback from 6.0 m to 0.762 m, in accordance with the attached permit; and

THAT Council approve the issuance of an Aquatic Development Permit with Variance (DP 17-22) for 1310 Green Bay Road for renovation and addition to the existing single detached dwelling outside of the 15.0 m setback from the high water mark.

Should Council choose to approve the floodplain exemption request in addition to the aquatic development permit with variance, the subject property would be approved to complete renovations and additions within the floodplain setback area, as well as an addition to the existing single detached dwelling footprint within the setback of the front parcel boundary.

ALTERNATE MOTION #2:

Require Revisions to Proposal and/or Additional Information

THAT Council postpone the Floodplain Exemption to s. 3.24 of Zoning Bylaw No. 0154 for 1310 Green Bay Road; and

THAT Council postpone the issuance of a Development Variance Permit (DP 17-22) for 1310 Green Bay Road to reduce the required front parcel boundary setback from 6.0 m to 0.762 m, in accordance with the attached permit; and

THAT Council postpone the issuance of an Aquatic Development Permit with Variance (DP 17-22) for 1310 Green Bay Road for renovation and addition to the existing single detached dwelling outside of the 15.0 m setback from the high water mark.

Should Council choose to postpone consideration of the floodplain exemption and aquatic development permit with variance requests the City would work with the applicant to revise the proposal and / or provide greater details regarding the application as directed by Council (such as a flood hazard assessment) prior to Council's reconsideration of the application.

Respectfully submitted,

Jaleen Rousseau
Planner

Brent Magnan
Planning Manager

Nancy Henderson
GM of Development Services

Approved for Agenda

Jim Zaffino, CAO

Date



Allen Fillion
GM of Engineering and Public Works

PowerPoint: X Yes No

Attachments:

1. Aquatic Development Permit with Variance (DP 17-22)
2. Floodplain Exemption Request Depiction
3. Variance Proposal Depiction
4. Letter to Council and Neighbours Signatures of Support
5. Aquatic DPA Assessment Setbacks
6. Context Map
7. Subject Property Map
8. Legislative Requirements
9. Public Notification Map

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CITY OF WEST KELOWNA
DEVELOPMENT PERMIT WITH VARIANCE
DP 17-22

TO: James Haasdyk
108 – 2303 Leckie Road
Kelowna, BC, V1X 6Y5
c/o
Rob and Tor Anderson
West Kelowna, BC, V4T 2B6

1. This Aquatic Development Permit is issued subject to compliance with all of the Bylaws of the City of West Kelowna applicable thereto, except as specifically varied or supplemented by this Permit.
2. This Permit applies to and only to those lands within the City of West Kelowna described below, and any and all buildings, structures and other developments thereon:

Lot 38, DL 523, ODYD, Plan 11988

3. This Permit allows for the renovation and addition of an existing single detached dwelling and, subject to the following conditions and related schedules:
 - a) Site preparation, foundation design and siting, and all construction works shall be in general accordance with Schedule 'A' and the recommendations in the following site plan:
 - i. Site Plan Overlay Map from Environmental Assessment for 1310 Green Bay Road by Makonis Consulting Ltd., dated July 2017.
 - b) All restoration plantings located within 15 m of the High Water Mark (HWM) of Okanagan Lake shall be in general conformance with the Landscape Restoration Plan L-1.0 by Makonis Consulting Ltd. and landscape quote included in Schedule 'C'. A minimum of 59m² of native plant species shall be planted;

Demolition and Construction Waste

- a) Demolition and construction related materials are not to be placed within 15 m of the High Water Mark (HWM) of Okanagan Lake or within Okanagan Lake.

Requirements in Relation to Floodplain

- a) All site preparation and construction activities shall be consistent with the floodplain regulations in S.3.24 of Zoning Bylaw No. 0154, specifically that:
 - i. the underside of any floor system used for dwelling purposes shall be above 343.66m (1127.5ft) Geodetic Survey of Canada elevation, and;
 - ii. any fill used to elevate a floor system or pad to achieve a 343.66m elevation shall be sited at least 15.0m from the natural boundary of Okanagan Lake.

Protection & Maintenance of the Riparian Setback

- a) The 15 m riparian setback from the High Water Mark (HWM) of Okanagan Lake must remain clearly marked (i.e. with silt fencing) on the subject property to accurately delineate setbacks. Encroachment into this riparian setback with construction and associated materials, machinery or soils during construction shall not occur.
- b) Any future works within the riparian setback must not occur without authorization from the City of West Kelowna by approval of a Development Permit application.

Environmental Monitoring

- a) All construction activities shall be consistent with the Environmental recommendations in Schedule 'A'. An environmental monitor shall be retained to document compliance with the environmental recommendations, mitigation measures, and operational best practices for the duration of the construction activities.
- b) Monitoring reports must be completed on a regular basis by an Environmental Monitor and submitted to the City of West Kelowna and any other applicable regulatory agencies. Upon substantial completion of the construction works, a final report must also be submitted.

Security

- a) As a condition of the issuance of this Permit, the City of West Kelowna 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 Permittee and be paid to the Permittee if the security is returned. The condition of the posting of the security is that should the Permittee fail to carry out the development hereby authorized, according to the terms and conditions of the Permit within the time provided, the City of West Kelowna may use the security to carry out the work by its servants, agents or contractors, and any surplus shall be paid over to the Permittee, or should the Permittee carry out the development permitted by this Permit within the time set out below, the security shall be returned to the Permittee. There is filed accordingly:

- a. **An Irrevocable Letter of Credit or Bank Draft in the amount of \$1,837.50.**

Variance to Front Parcel Boundary Setback

- 4. This Permit allows for a reduction to the required front parcel boundary setback from 6.0 m to 0.762 m, in accordance with Schedule 'B'.

General Terms

- 5. The land described herein shall be developed strictly in accordance with the terms and conditions of this Permit and any plans and specifications attached to this Permit, which shall form a part hereof. Should any change be required to this permit, please ensure that you obtain written approval from the City of West Kelowna prior to making any changes.
- 6. If this Development Permit has not been issued within two years from approval, Development Permit DP 17-22 shall be deemed to have been refused and the file will be closed.

- 7. This Permit is not a Building Permit.**

8. Subject to the terms of the permit, where the holder of a permit issued under the *Local Government Act* does not substantially commence any construction with respect to which the permit was issued within two years after the date it is issued, the permit lapses.

APPROVED by the General Manager of Development Services (*as the delegated approving authority as authorized in the City of West Kelowna's Development Applications Procedures Bylaw No. 131*) on _____, 2018.

General Manager of Development
Services

I hereby confirm that I have read and concur with the conditions of DP 17-22 and will ensure that copies of DP 17-22 will be provided to onsite personnel at time of construction.

Signed on _____

Property Owner or Agent

ISSUED on _____

Schedules:

Schedule 'A':

- a) Site Plan Overlay Map from Environmental Assessment for 1310 Green Bay Road by Makonis Consulting Ltd., dated July 2017.

Schedule 'B':

- a) Rock House Site Plan, Sheet No. 001, dated July 25, 2017.

Schedule 'c':

- b) Landscape Restoration Plan L-1.0 by Makonis Consulting Ltd., dated July 2017; and
c) Landscaping Cost Estimate for 1310 Green Bay Road: Project 2017-146 by Makonis Consulting Ltd., dated July 2017.

Makonis Consulting Ltd

Mapping Solutions

July 2017

Oasis Design
108 – 2303 Leckie Road
Kelowna, BC

Attn James Haasdyk

Re: Landscaping Cost Estimate for 1310 Greenbay Road; Project 2017-146

Dear James,

This letter accompanies the landscaping plan for 1310 Greenbay Road, issued July 31, 2017, revision 2.

The total planting area is 59m² within the 15meter setback and has been divided into two areas against the foreshore to provide the optimal vegetation requirement for fish habitat. A total of 49 plants have been prescribed for the areas.

| Key Code | Qty | Botanical Name | Common Name | Pot Size | Spacing |
|----------|-----|---------------------|-------------------|----------|---------|
| CS | 6 | Cornus serica | Red-osier dogwood | #1 | 1.5m |
| MR | 18 | Mahonia repens | Creeping mahonia | #1 | 0.5m |
| SA | 10 | Symphiocarpus albus | Snowberry | #1 | 1.5m |
| AF | 6 | Aster monch | Frikartas aster | #1 | 1.0m |
| FI | 9 | Festica Idahoensis | Idaho fescue | #1 | 0.5m |

Estimated costing for the landscaping is \$1,470.00; includes materials and labour at \$30 per plant, approximately. Bonding for the City of West Kelowna at 125% is \$1,837.50.

Sincerely,

John Grods, R.P.Bio

AQUATIC DPA ASSESSMENT SETBACKS

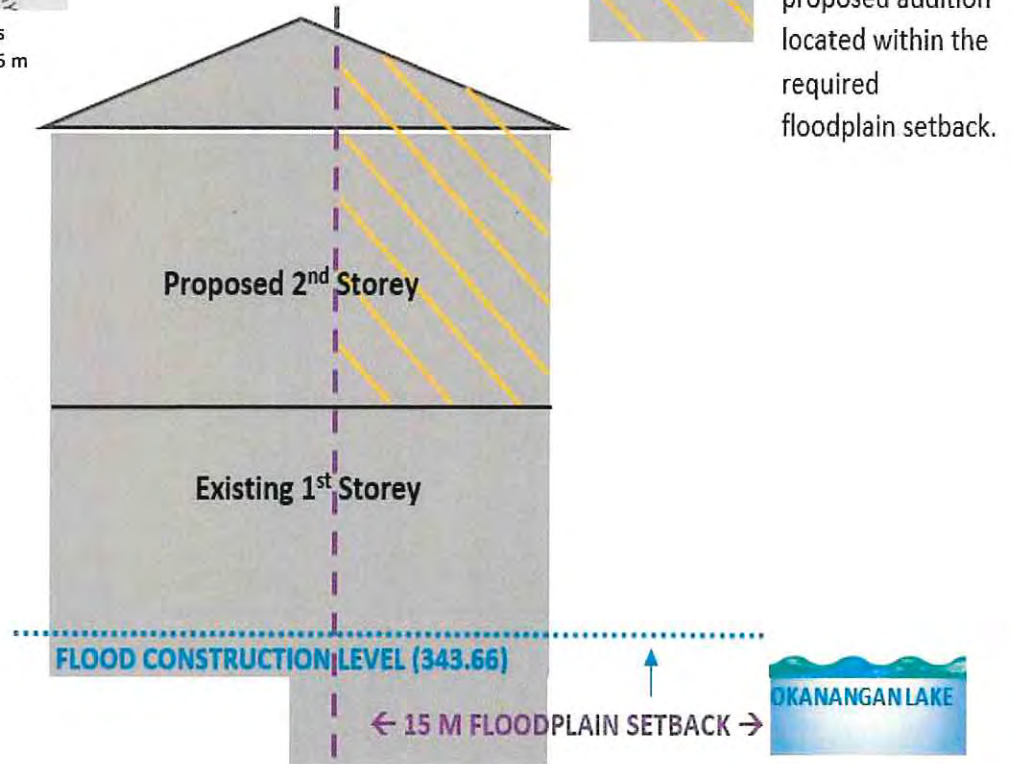


FLOODPLAIN EXEMPTION REQUEST DEPICTION

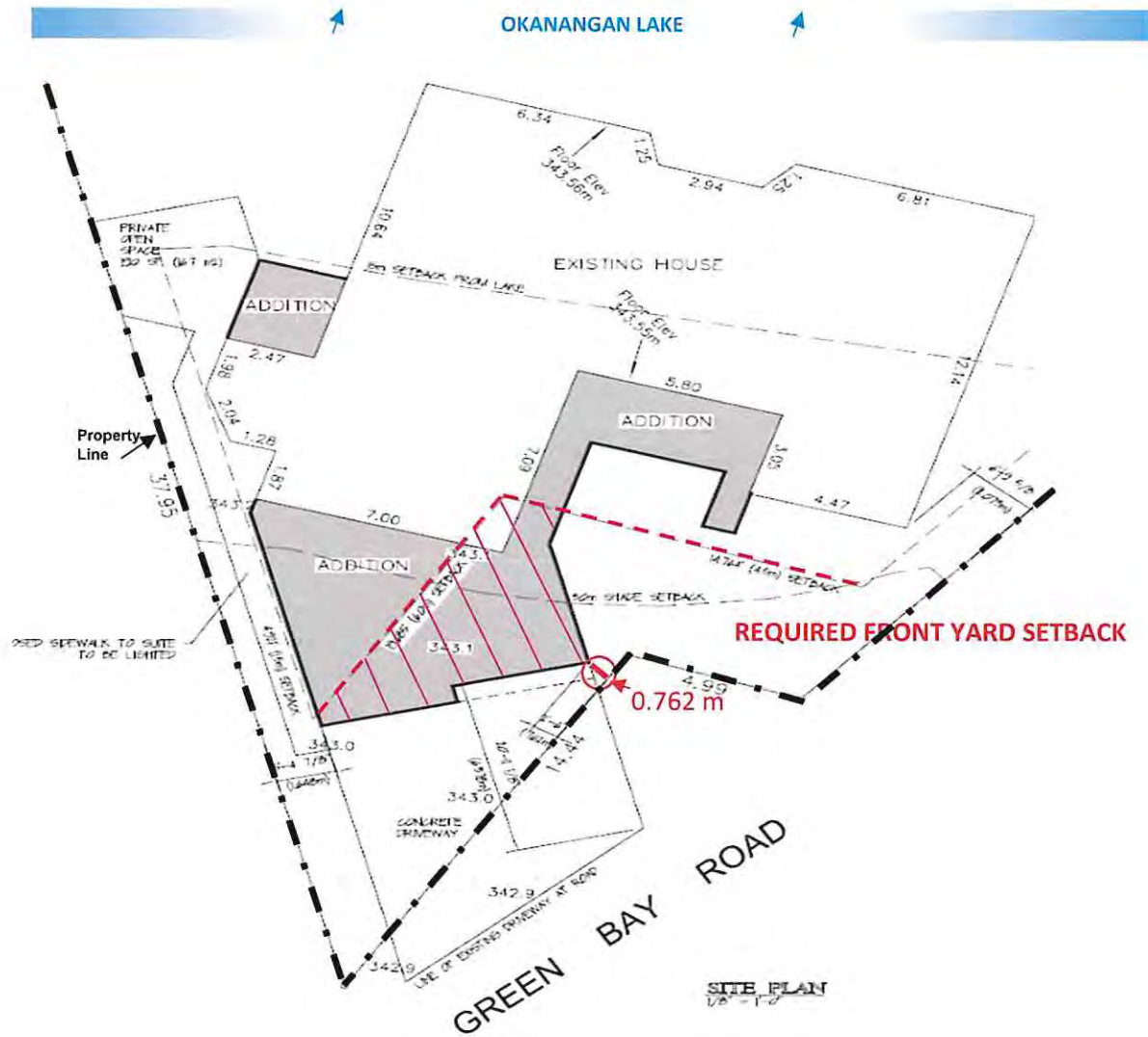


15 m Floodplain setback from Okanagan Lake (Red line depicts proposed new building footprint. Dashed purple line depicts 15 m floodplain setback.)

Single Detached Dwelling - 1310 Green Bay Road



VARIANCE PROPOSAL DEPICTION







Portion of the proposed addition requiring a reduction of the front parcel boundary setback (from 6.0 m to 0.762 m)

AQUATIC DPA ASSESSMENT SETBACKS



1310 Green Bay Road ***Site Plan Overlay***

Legend

- West Kelowna Cadastre
-  Home Footprint
-  High Water Mark (delineated by Kurjata)
-  15m Litter & LWD ZOS
-  30m Shade ZOS (SPEA)



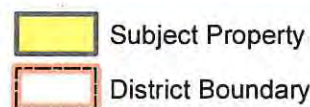


CONTEXT MAP: FEX 17-01



File: FEX 17-01

Legal Description: Lot 38, DL 523, PI 11988, ODYD



0 150 300 600 Metres





SUBJECT PROPERTY: FEX 17-01



File: FEX 17-01

Legal Description: Lot 38, DL 523, Plan 11988 ODYD

LEGEND

- Subject Property
- Zoning Boundary
- Parcels

0 4.5 9 18 Metres

1:311



LEGISLATIVE REQUIREMENTS AND APPLICABLE GUIDELINES

Floodplain Areas

Pursuant to Section 524 of the *Local Government Act*, a local government may exempt development from the requirements of a floodplain setback in relation to a specific parcel of land or a use, building or other structure on the parcel of land, if the local government considers it advisable and either:

- (a) Considers that the exemption is consistent with Provincial Flood Hazard Area Land Use Management Guidelines; or
- (b) Has received a report from a certified professional that the land may be used safely for the use intended by a person who is:
 - i. A professional engineer or geoscientist and experienced in geotechnical engineering, or
 - ii. A person in a class of person the environment minister considers qualified to certify reports respecting safe use of lands as intended on lands which the local government considers at risk of flooding.

Furthermore, the granting of the exemption may be made subject to the terms and conditions the local government considers necessary or advisable, including, without limitation,

- (a) Imposing any term or condition contemplated by the Provincial guidelines in relation to an exemption,
- (b) Requiring that a person submit a report by a qualified professional respecting safe use of lands as intended, and
- (c) Requiring that a person enter into a restrictive covenant.

Issuance of a Building Permit in an Area Subject to Flooding

Section 56 of the *Community Charter* stipulates that if a bylaw regulating the construction of buildings is in effect and a building inspector considers that construction would be on land that is subject to or is likely to be subject to flooding, the building inspector may require the owner of the land to provide a report certified by a qualified professional engineer or geoscientist that the land may be used safely for the use intended. If a qualified professional determines that the land may not be used safely for the use intended, a building inspector must not issue a building permit.

A building inspector may issue a building permit if a qualified professional deems the land safe for the intended use and it may only be issued subject to the following conditions:

- (a) the owner of the land covenants with the municipality to use the land only in the manner certified by the qualified professional as enabling the safe use of the land for the use intended;

(b) the covenant contains conditions respecting reimbursement by the owner for any expenses that may be incurred by the municipality as a result of a breach of a covenant under paragraph (a);

(c) the covenant is registered under section 219 of the Land Title Act.

Provincial Flood Hazard Area Land Use Management Guidelines

The Guidelines state that the local government has the authority to alter any bylaw condition to best match the flood hazard provided the level of protection is not altered.

Conditions of Hardship

Prior to the local government agreeing to a modification, other exceptions in the surrounding area should be reviewed to ensure consistency and a summary report prepared. Review by the local government may not support modification on technical grounds but the applicant may nevertheless have demonstrated a hardship. The Provincial guidelines state clearly that:

Setback requirements should not be reduced unless a serious hardship exists and no other reasonable option is available. A valid hardship should only be recognized where the physical characteristics of the lot (e.g., exposed bedrock, steep slope, the presence of a watercourse, etc.) and size of the lot are such that building development proposals, consistent with land use zoning bylaws, cannot occur unless the requirements are reduced.

In order to avoid setting difficult precedents these site characteristics should be unique to the subject property and environs. The economic circumstances or design and siting preferences of the owner should not be considered as grounds for hardship.

Covenant Measures

Where a local government consents to a floodplain exemption (reduction), it is advisable that a restrictive covenant is registered against the title of the property under section 219 of the *Land Titles Act* specifying:

- The condition(s) that would enable the land to be safely used for the use intended; and
- Granting indemnity to the local government

Rob Anderson
1310 Green Bay Rd
West Kelowna, BC, V4T 2B6
May 3, 2018

City Council
2760 Cameron Rd
West Kelowna, BC, V1Z 2T6

Re: Renovation/Addition Application to 1310 Green Bay Rd.



Dear City Council:

In the Fall of 2016, I purchased the house at 1310 Green Bay Rd. Before I purchased this house I went to West Kelowna City Hall and talked to the lady at the building department counter and asked if we would be allowed to renovate and/or build a new house on our property as the current house was built in the early 1970's and could use an upgrade to stay in line with the other beautiful houses on our street. The lady pulled up the property on her computer and knew the house instantly because we are situated on an odd pie shaped lot. She reassured me that the City was familiar with Green Bay and due to the shape and location of the house and lot that Council or the Building Department would likely take our circumstances into consideration. Whereas I did not receive a yes in writing as there were no official plans drawn up, I left feeling confident we would be able to renovate and/or build a new house, so I purchased the house.

In January 2017 we hired Rock House Style to do our design in partnership with Oasis Design. We chose these companies as they have renovated and built numerous houses in Green Bay already and were very familiar with the street and what would work, and what wouldn't work. Before we got too far into the design stage, Rock House Style and Oasis Design met a member of the planning department on site at 1310 Green Bay Rd and discussed the type of renovation we were looking to do. We were told we could not do a new build as we had to be on our existing footprint to be grandfathered within the 15 meter set back. We were also told we could not do a change we wanted on the lakeside of the house, namely moving a living room sliding glass door out two feet to be in line with the rest of the house on the lakeside.

There did not seem to be any issue raised at the time of adding a two car garage to the street side of the property as well as bring out our entrance a few feet and adding a set of stairs to get up to the suite we wanted to build above the garage. The general plan was to take the suite out of the basement and put it above the garage and add a second level to the house that is currently only one level. As our street is currently zoned for 2 and 3 level homes, adding a 2nd level to the one level section of our house and not changing the footprint on the water side of the house seemed to us to be something that would be a supported renovation/addition. Although, we could not get an official yes as no drawings were in place, we felt confident that if we followed the concept that was discussed in that on site meeting with the City, our plans would be accepted. As a result we

proceeded with design and drawings. We also paid to have environmental and riparian reports done as requested by the City. When we submitted the plans I was surprised when the City building department came back and said we would have to go to Council and ask for an exemption for being within the 15 meter setback of the water, as well as our current main floor is 4" below the water mark of 343.66mm. As our house is a side split, our basement is approximately 3' below this mark. Unfortunately this was built to code back in the 70's and there is very little that can be done about that now.

As a result of the flooding last year, our basement did flood about ¼" in some areas due to ground water and as a result we had some damage in the basement suite. This is further why we want to take the basement suite out of the basement and put it above the garage. We know that a flood may happen again, and while we cannot realistically do anything to completely 100% prevent flooding in our house, we can definitely do some things to mitigate the damage. Our plan is to take the basement suite and put it above the garage high above any possible flood level mark. We would then treat the basement part of the renovation much like a shower. We would use cement board on the bottom foot or two of walls instead of drywall, add a floor drain and some sump pumps, and tile the floor like one would a shower or bathtub enclosure. The room would turn into more of a waterproof man cave than a basement suite with kitchen and bedroom down there. If we ever have a flood again, we would lift up the pool table on blocks and wait until the flood is over and then wipe the water down the drain. There would be little to no damage with this plan, as opposed to what happened to our suite in 2017.

As for the garage, we have plenty of room to park more cars in front of our proposed garage and I believe we have the building department's support on that portion of the renovation. As for the 2nd level addition being proposed, we are staying within the current foot print as it relates to the lake setbacks and only building up to make our one level home a 2 level home on that side of the house.

I have talked to the neighbors in Green Bay and have received 100% support from people currently living here. There are a few houses that are using their places as summer places, so they are not here for the summer season yet. In all, I have collected support from 40⁺ neighbors already and have attached their signatures and addresses showing their support of our renovation/addition.

We understand we are in a unique situation due to the odd shape of our lot, the 15 meter setback, and flood plain level. Building a new house within these current parameters would be impossible given the foot print size we would be allowed to build on. In reality, tearing down the house instead of rehabilitating and upgrading it isn't economically feasible anyway. So we have to work with what we have, improve it and also mitigate future damage or risk in the process. We have addressed all these concerns with our design proposal.

We are only requesting to change the footprint of the street side of the house and we are not asking to change the footprint on the lake side of the house within the 15 meter setback. We are making the current basement suite more waterproof and, if approved, moving the suite to a 2nd level. Furthermore, the 2nd level proposed addition is being built on the existing foot print as it pertains to the lake setback.

We humbly ask for the Council's support in allowing our renovation/addition to proceed. We feel we have been proactive and taken the City's guidance into consideration when designing our house and the renovation we are proposing is the best possible scenario given our lot shape, current existing house we wish Council to grandfather, and the existing bylaws.

Sincerely,

A black rectangular redaction box covering the signature of Rob Anderson.

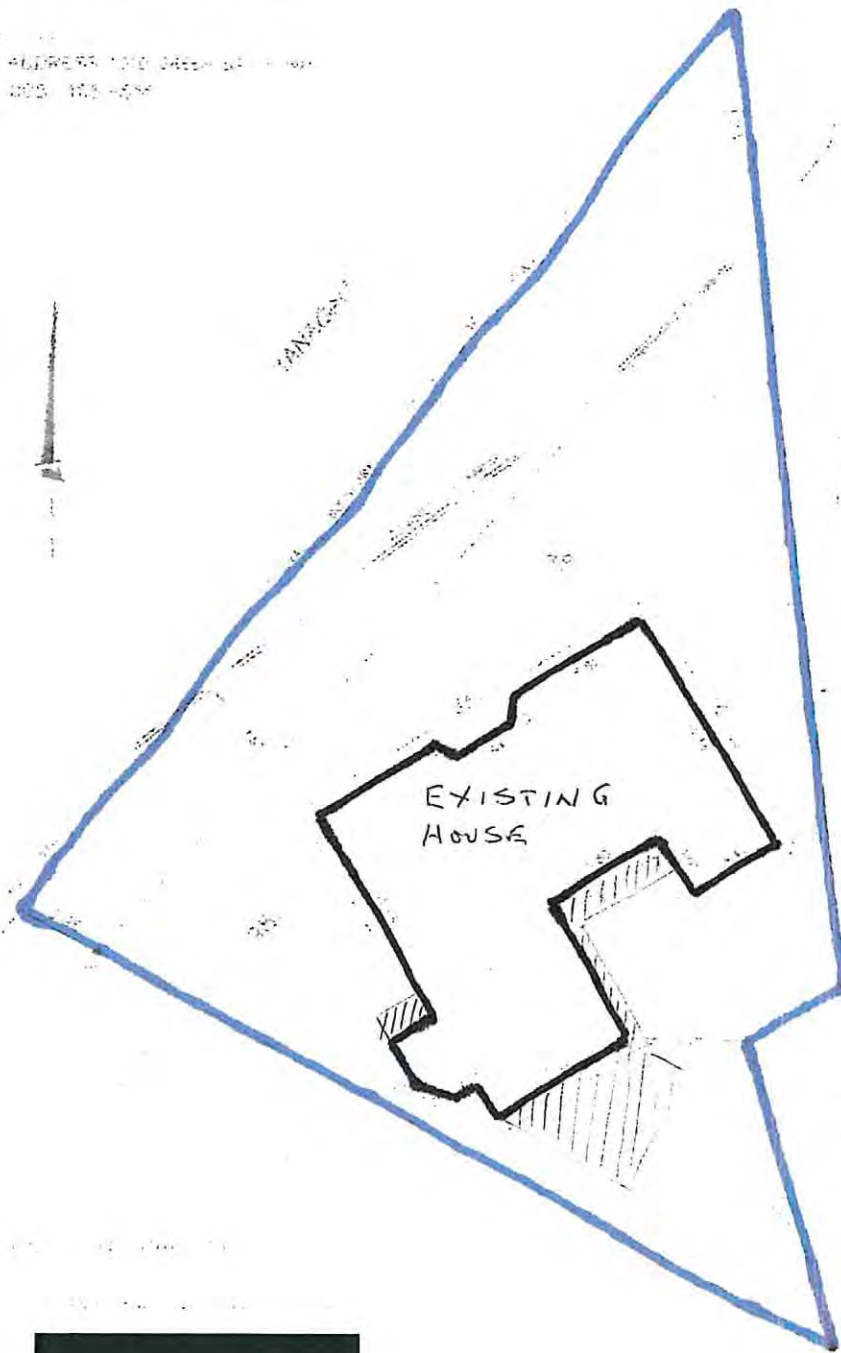
Rob Anderson

B.C. LAND SURVEYOR'S CERTIFICATE

ON LOT 38, DISTRICT LOT 525,
O.D.Y.D., PLAN 11986

SCALE: 1" = 100' (AS SHOWN ON PLAN)

LAND ADDRESS: 1010 GREEN ST. N.W.
VILL. 005, W3-45M



EXISTING
HOUSE



LOT LINE



PROPOSED ADJ.
FOOT PRINT





April 27, 2018

Re: 1310 Green Bay Rd

To our neighbors in Green Bay,

As many of you are aware, we have applied to the City of West Kelowna to do a renovation/addition to our house. Our current 1970's house is in need of a facelift. Current bylaws call for a variance exemption whenever a house is within the 15 meter setback of the high water mark or the floor is below the minimum construction level of 343.66 meters for flood plain protection. As our house was built almost 5 decades ago when these current bylaws did not exist, we have to apply for an exception and get approval from City Council to do our planned renovation/addition.

Our renovation will consist of adding a double car garage on the street side of our house, and then making the single story of our house into two stories to be consistent and up to date with most of the other houses in our beautiful neighborhood.

The footprint of our house within the 15meter setback of the lake is NOT changing. We will be asking the city to grandfather our existing house and floor level, and allow us to proceed with our new garage and 2nd floor addition. I would be happy to show you the proposed plans, and we hope for your signature of support to present to council during our variance request.

Sincerely,



Rob and Tor Anderson

I/We, Mitch & Roberta Gullacher of 1330 GREEN BAY RD.
have been given the opportunity to see the renovation plans of 1310 Green Bay Rd, West Kelowna, and
am/are in support of this renovation in our neighborhood.



Print Name:

Roberta Gullacher

Date:

May 3/18

Signed:



Print Name:

Mitch Gullacher

Date:

May 3/18

April 27, 2018

Re: 1310 Green Bay Rd

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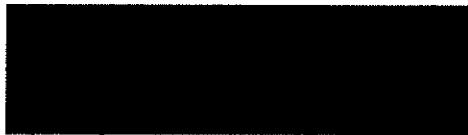
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Sincerely,



Rob and Tor Anderson

I/We, James Tort of 1316 GREEN BAY RD.
have been given the opportunity to see the renovation plans of 1310 Green Bay Rd, West Kelowna, and
am/are in support of this renovation in our neighborhood.



Print Name: James Tort

Date: May 4th 2018

Signed _____

Print Name: _____

Date: _____

April 27, 2018

Re: 1310 Green Bay Rd


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Sincerely



Rob and Tor Anderson

I/We, Jim Buckner of 3630 Wilt Rd West Kelowna
have been given the opportunity to see the renovation plans of 1310 Green Bay Rd, West Kelowna, and
am/are in support of this renovation in our neighborhood.

Signed



Signed _____

Print Name: Jim Buckner

Print Name: _____

Date: May 3/18

Date: _____

April 27, 2018

Re: 1310 Green Bay Rd

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Sincerely,



Rob and Tor Anderson

I/We, Rudy Kater of 1326 Green Bay Rd.
have been given the opportunity to see the renovation plans of 1310 Green Bay Rd, West Kelowna, and West Kelowna
am/are in support of this renovation in our neighborhood.

Signed _____

Print Name: Rudy Kater

Date: April 30/18

Signed _____

Print Name: _____

Date: _____

April 27, 2018

Re: 1310 Green Bay Rd

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Sinc

Rob and Tor Anderson

SANDRA L. MURCHISON

I/We, JOHN V. MURCHISON of 1304 GREEN BAY RD
have been given the opportunity to see the renovation plans of 1310 Green Bay Rd, West Kelowna, and
am/are in support of this renovation in our neighborhood.

Signed

Signed

Print Name: JOHN V. MURCHISON Print Name: SANDRA L. MURCHISON

Date: 29/04/2018

Date: 29/04/18

April 27, 2018

Re: 1310 Green Bay Rd

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Sincerely,



Rob and Tor Anderson

I/We, George Fritzke of 3585 Wigg Rd.
have been given the opportunity to see the renovation plans of 1310 Green Bay Rd, West Kelowna, and
am/are in support of this renovation in our neighborhood.

Signed



Print Name: George Fritzke

Date: 3585 Wigg Rd

Apr/29/18

Signed _____

Print Name: _____

Date: _____

April 27, 2018

Re: 1310 Green Bay Rd

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Sincerely,


Rob and Tor Anderson

I/We, Tom & Kim Szabadi of 1340 GREEN BAY RD.
have been given the opportunity to see the renovation plans of 1310 Green Bay Rd, West Kelowna, and
am/are in support of this renovation in our neighborhood.

Signed 

Print Name: Kim Szabadi

Date: Apr 29/18

Signed 

Print Name: Tom Szabadi

Date: April 29/18

April 27, 2018

Re: 1310 Green Bay Rd

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Sincerely,

Rob and Tor Anderson

I/We, GARY + Jean Gyltark of 3577 Wiig Rd
have been given the opportunity to see the renovation plans of 1310 Green Bay Rd, West Kelowna, and
am/are in support of this renovation in our neighborhood

Signe

Signed

Print Name: Jean Gyltark

Print Name: GARY Gyltark

Date: Apr. 29 2018

Date: April 29/2018

April 27, 2018

Re: 1310 Green Bay Rd

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Sincerely,



Rob and Tor Anderson

I/We, WAYNE + RAINIE HEAL of 3581 WING RD

have been given the opportunity to see the renovation plans of 1310 Green Bay Rd, West Kelowna, and am/are in support of this renovation in our neighborhood.

Signe



Print Name: WAYNE V. HEALE

Date: 29 APR 2018

Signed _____

Print Name: _____

Date: _____

April 27, 2018

Re: 1310 Green Bay Rd

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Sincerely,



Rob and Tor Anderson

I/We, Dennis + Anita Rau of 3606 Wiig Rd
have been given the opportunity to see the renovation plans of 1310 Green Bay Rd, West Kelowna, and
am/are in support of this renovation in our neighborhood.

Signed



Print Name: Dennis Rau

Date: 29/April/2018

Signed



Print Name: ANITA RAU

Date: April 29, 2018

April 27, 2018

Re: 1310 Green Bay Rd

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Sincerely,



Rob and Tor Anderson

DONNA
I/We, PETER & BANG of 3575 WILK RD

have been given the opportunity to see the renovation plans of 1310 Green Bay Rd, West Kelowna, and am/are in support of this renovation in our neighborhood.

Signed



Print Name: P. BANG

Date: APRIL 29/18

Signed



Print Name: DONNA ALI-BANG

Date: 04/29/18

April 27, 2018

Re: 1310 Green Bay Rd

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Sincerely,


Rob and Tor Anderson

I/We, Debby Savard of 3590 Wing Rd.
have been given the opportunity to see the renovation plans of 1310 Green Bay Rd, West Kelowna, and
am/are in support of this renovation in our neighborhood.

Signed 

Print Name: D. SAVARD

Date: 04/29/18

Signed 

Print Name: M. SAVARD

Date: 04/29/18

April 27, 2018

Re: 1310 Green Bay Rd

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Sincerely,



Rob and Tor Anderson

I/We, Paul + LISA PLOCKTUS of 3624 WING RD.

have been given the opportunity to see the renovation plans of 1310 Green Bay Rd, West Kelowna, and am/are in support of this renovation in our neighborhood.

Signed



Print Name:

Paul Plocktus

Date:

APRIL 29/18

Signed

Print Name:

Date:

April 27, 2018

Re: 1310 Green Bay Rd

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Sincerely,


Rob and Tor Anderson

I/We, KEN HARRISON of 1366 GREEN BAY RD.
have been given the opportunity to see the renovation plans of 1310 Green Bay Rd, West Kelowna, and
am/are in support of this renovation in our neighborhood.

Signed 

Print Name: KEN HARRISON

Date: 04/29/18

Signed 

Print Name: BARBARA ANDERSON

Date: 04/29/18

April 27, 2018

Re: 1310 Green Bay Rd

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Sincerely,



Rob and Tor Anderson

I/We, Rob and Tor Anderson of 1310 Green Bay Rd.

have been given the opportunity to see the renovation plans of 1310 Green Bay Rd, West Kelowna, and am/are in support of this renovation in our neighborhood.



Signed

Print Name: Rob Anderson

Date: April 18

Signed _____

Print Name: _____

Date: _____

April 27, 2018

Re: 1310 Green Bay Rd

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Sincerely,



Rob and Tor Anderson

I/We, Chad Ulanovsky of 1302 Green Bay Rd
have been given the opportunity to see the renovation plans of 1310 Green Bay Rd, West Kelowna, and
am/are in support of this renovation in our neighborhood.

Signed 

Print Name: CHAD ULANSKY

Date: April 29 / 18

Signed 

Print Name: ABBY ULANSKY

Date: Apr 29 18

April 27, 2018

Re: 1310 Green Bay Rd

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The footprint of our house within the 15meter setback of the lake is NOT changing. We will be asking the city to grandfather our existing house and floor level, and allow us to proceed with our new garage and 2nd floor addition. I would be happy to show you the proposed plans, and we hope for your signature of support to present to council during our variance request.

Sincerely,

Rob and Tor Anderson

I/We, LEN & DIANE FETTIG of 1398 - GREEN BAY RD
have been given the opportunity to see the renovation plans of 1310 Green Bay Rd, West Kelowna, and
am/are in support of this renovation in our neighborhood.

Signed



Print Name: LEN FETTIG

Date: APR 29 2018

Signed



Print Name: DIANE FETTIG

Date: APR 29 2018

April 27, 2018

Re: 1310 Green Bay Rd

To our neighbors in Green Bay,

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Sincerely,



Rob and Tor Anderson

I/We, PAT BRENNAN of 1310 GREEN BAY RD
have been given the opportunity to see the renovation plans of 1310 Green Bay Rd, West Kelowna, and
am/are in support of this renovation in our neighborhood.



Signed

Print Name: PAT BRENNAN

Date: April 29 / 2018

Signed _____

Print Name: _____

Date: _____

April 27, 2018

Re: 1310 Green Bay Rd

To our neighbors in Green Bay,

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Sincerely,



Rob and Tor Anderson

I/We, DARRELL "MARCO" CAMBON of 1434 GREEN BAY RD have been given the opportunity to see the renovation plans of 1310 Green Bay Rd, West Kelowna, and am/are in support of this renovation in our neighborhood.

Signed



Print Name: DARRELL CAMBON

Date: 23 APRIL 2018

Signed



Print Name: MARCENE CAMBON

Date: April 29/2018

April 27, 2018

Re: 1310 Green Bay Rd

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Sincerely



Rob and Tor Anderson

I/We, Joan Benson of 1446 Green Bay Rd
have been given the opportunity to see the renovation plans of 1310 Green Bay Rd, West Kelowna, and
am/are in support of this renovation in our neighborhood.

Signed 

Print Name: Joan Benson

Date: APR 29 / 2018

Signed _____

Print Name: _____

Date: _____

April 27, 2018

Re: 1310 Green Bay Rd

To our neighbors in Green Bay,

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Sincerely,



Rob and Tor Anderson

I/We, Carla James & James Heigh of 1428 Green Bay Rd.
have been given the opportunity to see the renovation plans of 1310 Green Bay Rd, West Kelowna, and
am/are in support of this renovation in our neighborhood.

Signed



Print Name: Carla James

Date: April 29, 2018

Signed



Print Name: JAMES HEIGH

Date: APRIL 29, 2018

April 27, 2018

Re: 1310 Green Bay Rd

To our neighbors in Green Bay,

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Sincerely,



Rob and Tor Anderson

I/We, Diane Rinn of 1422 GREEN BAY RD
have been given the opportunity to see the renovation plans of 1310 Green Bay Rd, West Kelowna, and
am/are in support of this renovation in our neighborhood.

Signed



Signed _____

Print Name: Diane Rinn

Print Name: _____

Date: APRIL 29/18

Date: _____

April 27, 2018

Re: 1310 Green Bay Rd

To our neighbors in Green Bay,

As many of you are aware, we have applied to the City of West Kelowna to do a renovation/addition to our house. Our current 1970's house is in need of a facelift. Current bylaws call for a variance exemption whenever a house is within the 15 meter setback of the high water mark or the floor is below the minimum construction level of 343.66 meters for flood plain protection. As our house was built almost 5 decades ago when these current bylaws did not exist, we have to apply for an exception and get approval from City Council to do our planned renovation/addition.

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Sincerely,



Rob and Tor Anderson

I/We, Terry Balfour of 1416 Green Bay Rd
have been given the opportunity to see the renovation plans of 1310 Green Bay Rd, West Kelowna, and
am/are in support of this renovation in our neighborhood.

Signed  _____

Print Name: Terry Balfour

Date: 04/27/18

Signed _____

Print Name: _____

Date: _____

April 27, 2018

Re: 1310 Green Bay Rd

To our neighbors in Green Bay,

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Sincerely,



Rob and Tor Anderson

I/We, S. DeSBina of 1310 Green Bay Rd
have been given the opportunity to see the renovation plans of 1310 Green Bay Rd, West Kelowna, and
am/are in support of this renovation in our neighborhood.

Signed 

Print Name: S. DeSBina

Date: 04/29/18

Signed _____

Print Name: _____

Date: _____

April 27, 2018

Re: 1310 Green Bay Rd

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Sincerely,



Rob and Tor Anderson

I/We, DENISE & BETTY KRUSE of 1337 GREEN BAY ROAD, WEST KELLOWNA
have been given the opportunity to see the renovation plans of 1310 Green Bay Rd, West Kelowna, and
am/are in support of this renovation in our neighborhood.

Signe



Print Name: DENISE KRUSE

Date: Apr. 29/2018

Signed



Print Name: BETTY KRUSE

Date: Apr. 29/2018

April 27, 2018

Re: 1310 Green Bay Rd

To our neighbors in Green Bay,

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Sincerely,



Rob and Tor Anderson

I/We, Barbara M. Kline of 1359 GREEN BAY RD.
have been given the opportunity to see the renovation plans of 1310 Green Bay Rd, West Kelowna, and
am/are in support of this renovation in our neighborhood.


Signed



Print Name: Barbara Kline

Date: April 29 / 18

Signed



Print Name: Rick Kline

Date: April 25 / 18

April 27, 2018

Re: 1310 Green Bay Rd

To our neighbors in Green Bay,

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Sincerely,

[Redacted Signature]

Rob and Tor Anderson

I/We, MELVIN JORDISON 1305 GREEN BAY ROAD WEST KELLOWNA
have been given the opportunity to see the renovation plans of 1310 Green Bay Rd, West Kelowna, and
am/are in support of this renovation in our neighborhood.

Signed

[Redacted Signature]

[Redacted Signature]

Print Name: GERALDINE JORDISON

Print Name: MELVIN A JORDISON

Date: MAY 3 2018

Date: MAY 3 2018

DP 17-22 Mail Notification Map



Legend

Landmarks

- Cemetery
- City Hall
- Community Centre
- Dam
- Fire Hall
- Museum

Basemap Layers

- WK Admin Boundary
- Regional Admin Boundary
- Highway
- River / Stream
- Intermittent Stream
- Waterbody
- Lake Access
- Regional Park
- Municipal Park
- Westbank First Nation

Parcels

- Ownership
- Land Strata
- Building Strata
- Common Property
- Crown Land
- Lease
- Park
- Road Right-Of-Way
- Walkway
- Common Access



Scale 1 : 2,284

Notes



0 58 116 Meters

Map Projection: NAD_1983_UTM_Zone_11N

© City of West Kelowna (2015)

Map Produced on: 8/9/2018 3:19:57 PM



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