



COUNCIL REPORT

To: Paul Gipps, CAO

Date: October 27, 2020

From: Hailey Rilkoff, Planner II

File No: DP 20-18

Subject: **DP 20-18, Development Permit with Variance, 657 Westside Road**

RECOMMENDATION

THAT Council authorize the issuance of an Aquatic Ecosystem and Terrestrial Development Permit with variance (DP 20-18) for Lot A District Lot 2924 ODYD Plan KAP46732 (657 Westside Road) for a proposed single detached dwelling and restoration works within the identified Streamside Protection and Enhancement Area; and

THAT Council authorize a variance to S10.4.5(g).1 of Zoning Bylaw No. 0154 to reduce the minimum setback from a private access easement from 6.0 m required to 5.47 m proposed for two front entry garages; and

THAT issuance of DP 20-18 be withheld pending the receipt of a landscape security for the landscape plan attached to DP 20-18 within Schedule's A & C in the amount of \$4,937.50; and further

THAT if DP 20-18 has not been issued within one year from the date of approval, the Permit shall be deemed to have been refused and the file closed.

STRATEGIC AREA(S) OF FOCUS

Economic Growth and Prosperity - Quality, innovative urban development (Council's 2020-2022 Strategic Priorities).

BACKGROUND

The applicant has applied for an Aquatic Development Permit with a Variance (Attachment 1) to permit the reconstruction of a single detached dwelling within the City's Aquatic Development Permit Area. A variance has been requested in order to reduce the required setback for the proposed attached garages from 6.0 m required to 5.47 m proposed. The existing garage encroaches further into the required setback, therefore the applicant's proposal reduces the encroachment.

PROPERTY DETAILS

Address

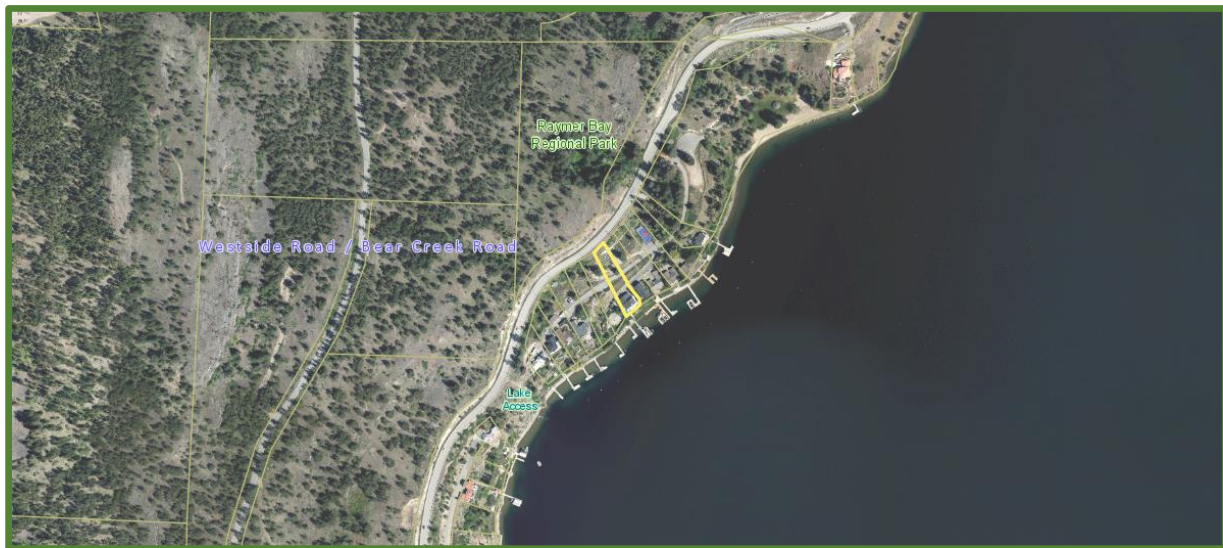
657 Westside Road

PID	017-687-314			
Folio	36414533.037			
Lot Size	0.427 acres (1,910.12 m2)			
Owner	Karen Lobello		Agent	Apchin Design Corp. (Denis Apchin)
Current Zoning	R1	Single Detached	Proposed Zoning	-
	Residential Zone			
Current OCP	SFR – Residential	Single Family	Proposed OCP	-
Current Use	Residential		Proposed Use	-
Development Permit Areas	Aquatic; Hillside; Terrestrial			
Hazards	N/A			
Agricultural Land Reserve	No			

ADJACENT ZONING & LAND USES

North	^	P1 – Parks and Open Space (Raymer Bay Regional Park)
East	>	R1 – Single Detached Residential
West	<	R1 – Single Detached Residential
South	v	W1 – Recreational Water Use (Okanagan Lake)

NEIGHBOURHOOD MAP



PROPERTY MAP



History

The subject property is located between Westside Road and Okanagan Lake, and is accessed by a Private Access Easement. The property has been developed with an existing single detached dwelling, an attached garage and carport and pool. A pathway from the dwelling leads to a private dock on Okanagan Lake.

Proposal

The applicant proposes to replace the existing two storey home with a three storey home and two attached garages (*Figure 1*). The development proposal is located within the City's Aquatic Ecosystem Development Permit Area, and portions of the existing structures and developments are located within the identified Streamside Protection and Enhancement Area (SPEA). Additional items included in this development proposal include

- Reconstruction and realignment of the swimming pool;
- Repair of the staircase that leads from the pool deck to the dock; and
- Restoration and planting of native shrubs and trees within the Streamside Protection and Enhancement Area.

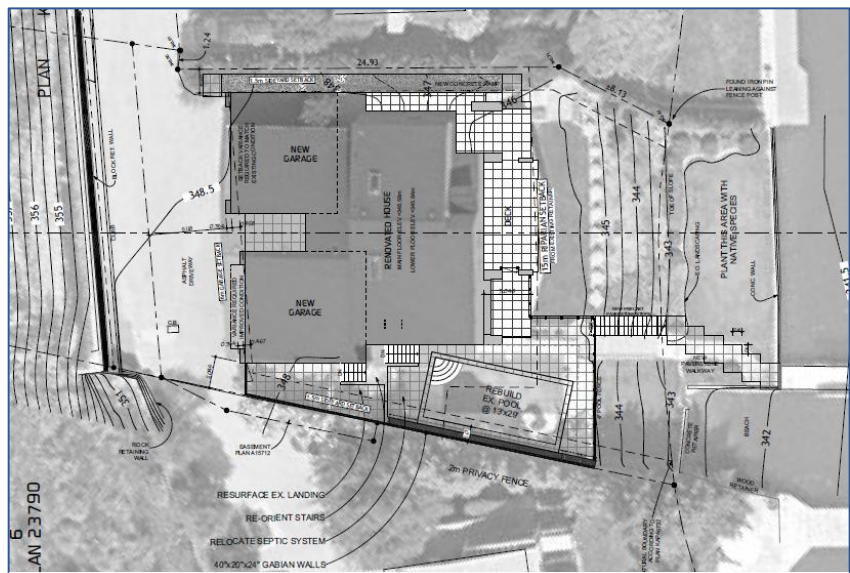


Figure 1 - Proposed Development at 657 Westside Road

Zoning Bylaw No. 0154

A Variance request has been included in the application to reduce the required setback from a private access easement from 6.0 m required to 5.47 m proposed for the attached garages. The proposed variance would be a reduction from the current encroachment of the existing garage and is not anticipated to create significant negative impacts to surrounding property owners.

The proposed dwelling appears to meet all other development regulations in regards to siting and height. The proposed dwelling also meets the required minimum flood construction level of 343.66 m for the underside of any floor system (Attachment 1, Schedule C).

Riparian Areas Protection Regulation

The proposal is subject to the Provincial Riparian Areas Protection Regulation (RAPR). Under RAPR a proposed development meets the riparian protection standard if no development occurs within the Streamside Protection and Enhancement Area (SPEA) and appropriate measures to protect the SPEA are applied. The Environmental Impact Assessment has identified the SPEA for the subject property to be 15.0 m from Okanagan Lake.

Technical Review

Planning Department

The proposal includes an Environmental Impact Assessment (EIA), prepared by Lakestream Environmental Services (Attachment 1, Schedule A). The EIA has determined that the pool deck and the stairway, which both currently encroach into the SPEA, are “grandfathered” structures. The replacement of the pool, provided no alteration to the pool deck area takes place, is supportable along with the replacement of the stairway adjacent to the current location provided the area is not increased and restoration of the existing stairway location is provided.

The proposed new paver stone walkway, in the original plans submitted showed to be increased in area from the existing walkway. Staff worked with the applicant to obtain a revised proposal which has a new paver stone walkway that closely mirrors the same area and alignment of the existing walkway, accommodating the proposed stairway relocation.

The landscape plan included within the EIA is robust and includes the addition of 92 shrubs and 3 trees within the SPEA (Figure 3). The proposed restoration area provides compensation for the historical development areas within the SPEA and is intended to

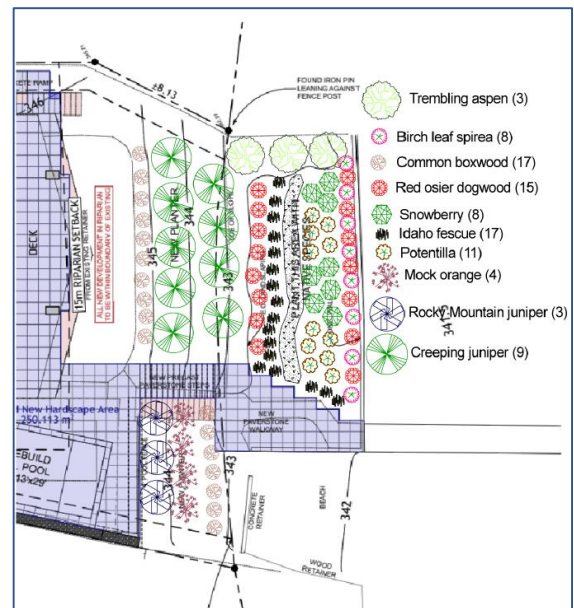


Figure 3 - Proposed Restoration Plan

act as a bank stabilization along the slope between the pool deck and the lower dock area.

In addition, the restoration area will provide on-site stormwater management through a rock pit distribution system. The EIA does not anticipate the dispersion of rain and melt water to cause any negative impact to the riparian area. A cost estimate for plantings, installation, irrigation and monitoring has been provided for a total of \$3950.00, which has been used to calculate the performance security of \$4937.50 (125%) that is required as a condition of the Aquatic Development Permit.

The applicant has also submitted a Section 11 *Water Sustainability Act* Notification Application for proposed repair/replacement of a failing retaining wall at the highwater mark of Okanagan Lake. The applicant will advise the City of the outcome of this application to the Province.

Okanagan Basin Water Board

This application was referred to the Okanagan Basin Water Board for comment who advised that based on the OBWB's flood map website (OkanaganFloodStory.ca) the site could be subject to some wave damage under high water conditions.

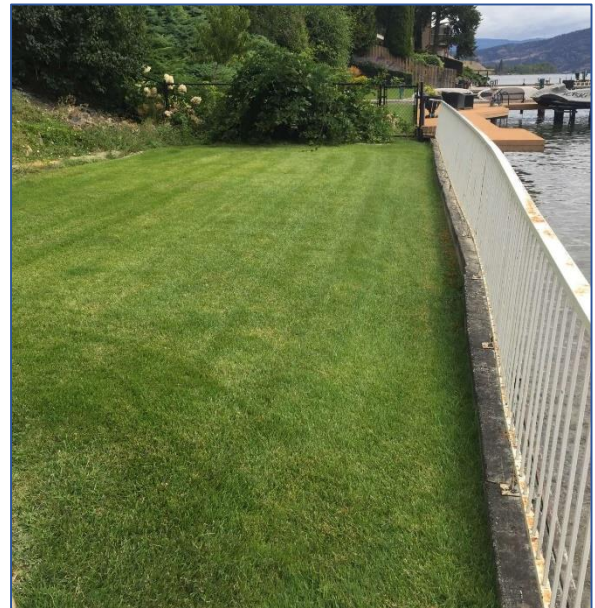


Figure 4 - Failing Retaining Wall

In addition, the OBWB advised that the property does not qualify under the “one hectare” minimum lot size rule for properties on septic. However, the OBWB considered the property to be existing non-conforming and advised that the location of the septic should be as far from the lake as possible.

Ministry of Forests, Lands, Natural Resource Operations and Rural Development

Ministry staff initially identified that the proposal may not meet the standards of the Riparian Areas Protection Regulation (RAPR). Staff advised the applicant that the original site plans submitted showed an increase in developed area within the SPEA with an expanded pathway. Revised plans have been submitted which limit the proposed works to maintenance of the existing concrete pathway between the stairs and dock and address the Ministry's comments.

Legislative Requirements

Section 498 of the *Local Government Act* gives Council the authority to issue a Development Variance Permit that varies, in respect of the land covered in the permit, the provisions of the Zoning Bylaw.

Public Notification

In accordance with the *Local Government Act*, 15 notification letters were sent to all property owners and their tenants within 100 metres of the subject property (Attachment 3) and a notice of application sign has been placed on the subject property in accordance with the Development Applications Procedures Bylaw No. 0260. At the time of writing this report, no submissions from the public had been received.

Staff did meet with neighbours adjacent to the subject property to the south to discuss concerns regarding the proposed construction impacts to their property and access, advised of the Aquatic Development Permit Area guidelines and provincial legislation. The applicant has advised they have also been in contact with the adjacent property owners and will communicate during construction to mitigate potential negative impacts.

DISCUSSION

The applicant's variance request proposes an improvement over the current encroachment of the existing garage into the required setback from the private access easement. The historical private access easement through the subject property provides access to the adjacent property at 661 Westside Road and is 3.0 m wide. The driveway itself between the existing retaining wall and proposed garage would be approximately 8.0 m at its narrowest point. The existing garage encroaches further into the required setback from the easement than the proposed garage. It is not anticipated that this variance would result in significant negative impacts to surrounding properties.

The proposed development plans for the new single detached dwelling are generally in conformance with the Aquatic Ecosystem and Sensitive Terrestrial Ecosystem Development Permit Area Guidelines. The proposal reduces the current development area within the Streamside Protection and Enhancement Area. While there have been historical developments within the SPEA, such as the existing pool, deck, staircase and pathway to the dock, the applicant proposes an overall reduction of developed area within the SPEA. The Environmental Impact Assessment identified the pool and deck to be grandfathered structures, which are proposed to be repaired without increasing the footprint within the SPEA.

A robust restoration plan is proposed to compensate for the maintained encroachments within the SPEA. The proposed restoration includes planting of various native shrubs and trees and is intended to act as a bank stabilization and provide on-site stormwater management.

CONCLUSION

It is recommended that Council approve the proposed Development Permit with Variance application (DP 20-18), with the condition that performance security be submitted prior to the issuance of the permit.

Alternate Motions:

Alternate Motion 1:

THAT Council deny the issuance of an Aquatic Ecosystem and Terrestrial Development Permit with variance (DP 20-18) for Lot A District Lot 2924 ODYD Plan KAP46732 (657 Westside Road);

Should Council deny the requested development permit with variance, the file will be closed. The owners could not re-apply for a similar proposal for at least six months after initial Council consideration.

Alternate Motion 2:

THAT Council postpone consideration of an Aquatic Ecosystem and Terrestrial Development Permit with variance (DP 20-18) for Lot A District Lot 2924 ODYD Plan KAP46732 (657 Westside Road).

Should Council postpone consideration of the proposal, further direction to staff is required.

REVIEWED BY

Brent Magnan, Planning Manager

Mark Koch, Director of Development Services

APPROVED FOR THE AGENDA BY

Paul Gipps, CAO

Powerpoint: Yes No

Attachments:

1. Draft DP 20-18, including Schedules:
 - A. Environmental Assessment, prepared by Lakestream Environmental Services, dated July 2020
 - B. Addendum Letter, prepared by Lakestream Environmental Services, dated September 21, 2020
 - C. Construction Layout drawings, prepared by Apchin Design Corp., dated July 31, 2020
 - D. Storm Water Management Letter, prepared by CTQ Consultants Ltd., dated October 9, 2020
2. Applicant Rationale Statement
3. Public Notification Map