



Regional Board Report

Request for Decision

To: Regional Board

From: Director of Community Services

Date: March 30, 2023

Subject: Covenant Discharge for Lot 4 Lakeshore RD (DP-22-30)
Peter Schrocksnadel (owner) c/o Dave Rolleston

Voting Entitlement: *Custom Vote – Electoral Area East & Kelowna Fringe Area – Electoral Area Directors, Kelowna - 1 Director, 1 Vote*

Purpose: To consider discharge of a restrictive covenant affecting a portion of the subject property.

Executive Summary:

The applicant is requesting to discharge a covenant that restricts on-site septic field location. The applicant is proposing to locate the septic field further from Okanagan Lake than what was originally prescribed, and has provided an Environmental Impact Assessment, Wastewater Practitioner Assessment, and correspondence from Interior Health in support of the proposed change in septic location. The proposal aligns with objectives and policies of the South Slopes Official Community Plan and the Regional Growth Strategy.

Recommendations:

THAT the Regional Board receive the report from the Director of Community Services, dated March 30, 2023, with respect to RDCO File DP-22-30, for the property legally described as Lot 4, District Lot 2724S, Similkameen Division Yale District, Plan 34913 ("the Subject Property");

AND FURTHER THAT the Regional Board support the discharge of covenant W45466 from the Subject Property upon the issuance of Development Permit DP-22-30 and based on the recommendations provided by Triton Environmental Consultants Ltd. (March 2023), the Wastewater Practitioner Assessment (December 2022), and concurrent support from Interior Health (March 2023).

Respectfully submitted by: Jing Niu, Environmental Planner

Approved by:

A handwritten signature in black ink, appearing to read "Todd Cashin".

Todd Cashin

Director of Community Services

Attachments:

1. Site Plan of Proposed Development
2. Covenant W45466
3. Environmental Impact Assessment (Excerpt)
4. Wastewater Practitioner Assessment
5. Provincial Support – Interior Health (Excerpt)
6. Regional Board Presentation

Strategic Plan Alignment:

Priorities: Environment, Sustainable Communities

Values: Resiliency, Resiliency, Good Governance

Background

The property is legally described as Lot 4, DL2724S, SDYD, Plan 34913 and located in the South Slopes community of Central Okanagan East Electoral Area. The property is bounded on the east and west by residential zoned properties, to the north by Okanagan Lake, and to the south by Lakeshore Road and Okanagan Mountain Provincial Park beyond (Figure 1). The Subject Property is currently undeveloped and there are no structures or access roads on site (Figure 2).

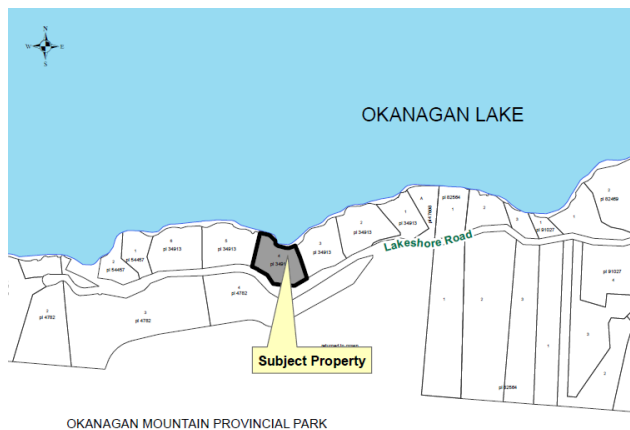


Figure 1 (Location Map)



Figure 2 (Aerial Photo)

Site Context

The Subject Property is a Rural Residential (OCP designation) site zoned Rural 3 (RU3). The property is within Aquatic Ecosystem, Sensitive Terrestrial Ecosystem, Hillside and Wildfire Development Permit Areas. A Development Permit will be required prior to development of the Subject Property.

Owner/Applicant	Peter Schrocksnadel (Owner) c/o Dave Rolleston (Applicant/Agent)
Address	Lot 4 Lakeshore Road (Central Okanagan East Electoral Area)
Legal Descriptions	Lot 4, District Lot 2724S, Similkameen Division Yale District, Plan 34913
Lot Size	1.76 ha (4.354 ac)
OCP Designation	Rural Residential
Zoning Designation	Rural 3 (RU3)
Existing Use	Vacant / Undeveloped
Surrounding Uses	North: Okanagan Lake South: Large Holding Rural 2 (RU2) East: Rural Residential Rural 3 (RU3) West: Rural Residential Rural 3 (RU3)
ALR	No
Fire Protection:	Bylaw #1284 - Lakeshore Road Fire Protection Area
Water Supply	Private water source
Wastewater Disposal:	Onsite wastewater system

Proposal

The applicant is proposing to develop a single-family residence on the Subject Property (Attachment 1). The applicant has worked with a Qualified Environmental Professional and Certified Wastewater Practitioner to minimize environmental impacts and accommodate the proposed works.

The applicant is proposing to discharge covenant W45466 (Attachment 2) in order to locate the septic field further away from Okanagan Lake. The covenant was established during the original subdivision to ensure adequate land was dedicated for sewage disposal on-site. Covenant W45466 locates the septic field at approximately 40 metres from Okanagan Lake while the proposed layout would locate the septic field up to more than 70 metres from Okanagan Lake. The applicant has provided an Environmental Impact Assessment, Wastewater Practitioner Assessment, and correspondence from Interior Health in support of the proposed change in septic location.

Environmental Impact Assessment

An Environmental Impact Assessment (EIA) was conducted by Triton Environmental Consultants Ltd. to summarize the site's environmental conditions and consider the proposed development relative to Development Permit guidelines (Attachment 4).

The EIA notes that the property contains large, contiguous areas of undisturbed habitat with a riparian watercourse stretching north-south from Okanagan Lake to Okanagan Mountain Provincial Park. While the property contains entirely of Very High (ESA 1) and High (ESA 2) Environmentally Sensitive Areas (ESA), it was determined that construction on the eastern portion of the property would likely require less invasive land alteration such as blasting. Septic covenant W45466 would have to be discharged to allow for a building footprint and accommodate the necessary supporting services outside of the Riparian Setbacks (30 metres from Okanagan Lake, 15 metres from riparian watercourse).

In addition, a no-build/no-disturb environmental covenant is being proposed on the Very High and remainder High ESAs to mitigate future development impacts and ensure ecosystem and wildlife connectivity is maintained through the unnamed gully and along Okanagan Lake. This covenant would be formalized during the Development Permit process.

Wastewater Practitioner Assessment

A Wastewater Practitioner Assessment (Attachment 4) was completed and notes that the proposed areas are suitable for septic effluent dispersal and note that the areas do not encroach on the setbacks and will not create a health hazard.

Relevant Policy and Regulations

Regional Growth Strategy (RGS) Bylaw No. 1336

The proposal aligns with the direction of the RGS as it relates to the management of water resources and protection of the natural environment:

- Policy No. 3.2.3.1 - Consider water resources in land use planning decisions.
- Policy No. 3.2.8.3 - Manage growth to minimize disturbance to habitat, watershed and natural drainage areas and systems.

South Slopes Official Community Plan (OCP) Bylaw No. 1304

The proposal adheres to the objectives and policies of the OCP including:

- S5O4: Identify, protect and restore Sensitive Ecosystems.
- S5O6: Work with property owners and agents to inform and guide the design of development in a way that is sensitive to important landscape features such as watercourses, hillsides, and sensitive ecosystems of the Okanagan.
- S5O9: Meet and exceed the requirements of legislation for the protection of water bodies and riparian areas.
- Policy 5.1.1.P4 – Encourage the protection of ground water, streams, ponds, lakes and shorelines using methods such as Development Permits, covenants, subdivision and development servicing bylaws, and park dedication.
- Policy 5.1.2.P14 – Review development and servicing proposals in consideration of the Sensitive Ecosystem Inventory, Sensitive Habitat Information Mapping, and Foreshore Inventory Mapping and Aquatic Habitat Index of the Regional District of Central Okanagan and as well as provincial Best Management Guidelines and publications.
- Policy 5.1.2.P19 – Conserve, enhance and promote the protection of wildlife corridors and ecosystem connectivity with interfacing Crown Lands

Appendix 1 – Aquatic Ecosystem Development Permit Area Guidelines

- A leavestrip for the protection and restoration of the riparian ecosystem is to remain undisturbed near watercourses. The intention is that the leavestrip will be untouched by development and left in its natural condition, or, if damaged by previous use or construction, the ecosystem restored or enhanced. Active floodplains require leavestrips that start at the outer edge of the feature.

Riparian Areas Protection Regulation

The Riparian Areas Protection Regulation (RAPR) directs local governments riparian protection efforts by ensuring that a Qualified Environmental Professional (QEP) conducts a science-based assessment of proposed development activities. The proposal generally meets the riparian protection standard where the development:

- Will not occur in the SPEA, and
 - Will not result in any harmful alteration, disruption or destruction of natural features, functions, and conditions in the SPEA that support the life processes of protected fish.
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Considerations:

External:

Interior Health

Interior Health has noted that sufficient evidence has been provided to support that public health will still be protected if the covenant is released and is prepared to support the formal discharge of the covenant (Attachment 5).

Organizational:

Development Permit Requirements

Portions of the Subject Property are impacted by the South Slopes Official Community Plan's (OCP's) Aquatic Ecosystem, Sensitive Terrestrial Ecosystem, Hillside, and Wildfire Development Permit Areas (DPAs). Application requirements for Development Permits (DPs) are defined within the RDCO's Development Applications Procedures Bylaw No. 944 (the Procedures Bylaw). For development within DPAs for the protection of the natural environment, or the protection of development from hazardous conditions, approval authority is delegated to the Director of Development Services (Section 6.8.a.ii).

A DP will be required prior to development of the Subject Property. The DP application will be evaluated and processed accordingly by staff, following the Board's consideration of the proposed covenant discharge.

Legal/Statutory Authority: Section 219 of the *Land Title Act* allows a covenant registered under Section 219 to be discharged by the holder of the charge.

Considerations not applicable:

- Financial
- Alternate Recommendation

Approved for Agenda***Brian Reardon, CAO***