



# Regional Board Report

## Request for Decision

**To:** Regional Board

**From:** Director of Community Services

**Date:** May 4, 2023

**Subject:** Development Variance Permit (VP-22-08) and LGA Exemption  
A. Schneider (applicant)  
Lot B Sections 13 and 14 Township 27 ODYD, Plan KAP45396, Except Plan KAP50465  
Central Okanagan East Electoral Area

**Voting Entitlement:** *Custom Vote - Electoral Area East Unfringed Area - Electoral Area Directors Only - 1 Director, 1 Vote*

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**Purpose:** To consider the issuance of a Development Variance Permit to allow an increase in the maximum grade for a driveway of a panhandle lot and to exempt the subject properties from the 10% frontage requirement of Section 512 of the *Local Government Act*.

### Executive Summary:

Joe Rich Rural Land Use Bylaw No. 1195 requires a minimum grade of 8% for driveways on panhandle lots. The property located at 1733 Huckleberry Road is a panhandle lot and has an existing driveway that does not meet the 8% grade regulation. The applicant is proposing a boundary adjustment subdivision between 1711, 1725 and 1733 Huckleberry Road which will require an extension to the existing driveway on 1733 Huckleberry Road. As the driveway does not meet this regulation, a variance is being requested by the applicant.

The boundary adjustment for these three properties also decreases the frontage of each property to less than 10% of the perimeters of each respective property. Section 512 of the Local Government Act requires that when a subdivision occurs, all properties must meet the statutory minimum frontage of 10% of the perimeter of the property. The applicant is requesting an exemption to this statutory regulation from the Regional Board. Staff have not received any concerns from referral agencies and has received indication from staff that the proposal will not limit emergency vehicle access to the property. Staff are providing a recommendation of support.

### Recommendation #1:

**THAT** the Regional Board receives the report from the Director of Community Services, dated May 4, 2023, with respect to RDCO file: VP-22-08 for the property located at 1733 Huckleberry Road, legally described as Lot B Sections 13 and 14 Township 27 ODYD, Plan KAP45396, Except Plan KAP50465 ("the subject property");

**AND THAT** the Regional Board approve Development Variance Permit Application VP-22-08 to vary Section 2, Part 3.2.2 of the Joe Rich Rural Land Use Bylaw No. 1195, to increase the maximum grade from 8% to 15% for a panhandle lot, based on the Drawings dated August 18, 2022.

**Recommendation #2:**

**THAT** the Regional Board receives the report from the Director of Community Services, dated December 15, 2022, with respect to LGA exemption for the property located at 1711, 1725, and 1733 Huckleberry Road, legally described as Lot 27, Section 14, Township 27, ODYD, Plan 31551, Except Plan KAP45396; Lot A, Section 14, Township 27, ODYD, Plan KAP45396; and Lot B, Sections 13 and 14, Township 27, ODYD, Plan KAP45396, Except Plan KAP50465 (“the subject properties”);

**AND THAT** the Regional Board exempt the subject properties from statutory minimum frontage requirement of Section 512 of the Local Government Act.

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*Respectfully submitted by:* Michael Czarny, Senior Planner

Approved by:



Todd Cashin  
Director of Community Services

Attachment(s):

1. Subject Property Location
2. Site Plan
3. Drawings
4. Panhandle Regulations – Joe Rich Rural Land Use Bylaw No. 1195
5. Presentation Slides

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Strategic Plan Alignment:

Priorities: Sustainable Communities

Values: Good Governance, Transparency

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**Background:**

The three properties located at 1711, 1725 and 1733 Huckleberry Road are subject to a subdivision application for the purpose of a boundary adjustment. No new lots are being created as part of the subdivision application proposal. 1733 Huckleberry Road is a panhandle lot which is currently vacant other than an unfinished structure and an existing driveway. The current proposal includes a driveway extension which will exceed the maximum allowed grade for panhandle lots. Except for the lot line adjustment, no changes are proposed for 1711 and 1725 Huckleberry Road.

**Proposal:**

The applicant is seeking approval to increase the maximum grade of a driveway from 8% to 15% for a panhandle lot. The proposed subdivision complies with all other policies for the Joe Rich Rural Land Use Bylaw however, the proposed boundary adjustment changes the configuration of the lots causing the frontage of the subject properties to be less than 10% of the perimeter of the properties as required by Section 512 of the Local Government Act.

In addition to the variance request, the applicant is also requesting an exemption from Section 512 of the Local Government Act to allow a minimum frontage of less than 10% of the perimeter of the subject properties.

**Joe Rich Rural Land Use Bylaw No. 1195:**

The Joe Rich Rural Land Use Bylaw requires all panhandle lots to be:

- Section 3.2.1 a minimum of 20 metres in width;
- Section 3.2.2 a maximum grade for the driveway of 8%; and
- Section 3.2.3 an adequate area for two vehicles to turn as the end of the driveway with a maximum slope of 8% in a circular area or hammerhead.

The subject property complies with Section 3.2.1 and Section 3.2.3 however does not meet Section 3.2.2. The subject properties have a Rural Acreage (RA) land use designation which does not provide additional frontage requirements in addition to the statutory 10% required by the Local Government Act.

**Site Context:**

The properties are within the Joe Rich Fire Protection Area and is affected by the Hillside and Sensitive Terrestrial Development Permit Areas. A Development Permit may be required prior to any future land disturbance.

**Additional Information:**

<b>Applicant:</b>	Arno Schneider
<b>Address:</b>	1711 Huckleberry Road 1725 Huckleberry Road 1733 Huckleberry Road
<b>Legal Description:</b>	Lot 27, Section 14, Township 27, ODYD, Plan 31551, Except Plan KAP45396; Lot A, Section 14, Township 27, ODYD, Plan KAP45396; and Lot B, Section 13 and 14, Township 27, ODYD, Plan KAP45396 Except Plan KAP50465
<b>Lot Size:</b>	+/- 4.27 ha (10.79 acres) +/- 4 ha (9.88 acres) +/- 49.3 ha (122 acres)
<b>Joe Rich Rural Land Use Designation:</b>	RA Rural Acreage
<b>Sewage Disposal:</b>	On site sewerage system
<b>Water Supply:</b>	Private water source
<b>Existing Use:</b>	Residential
<b>Surrounding Uses:</b>	<b>North:</b> Rural Acreage <b>South:</b> Rural Acreage <b>East:</b> Rural Acreage

	<b>West:</b> Rural Acreage / Huckleberry Road
<b>A.L.R.:</b>	Not within the A.L.R.
<b>Fire Protection:</b>	Joe Rich Fire Protection Area

### RDCO TECHNICAL COMMENTS:

**Fire Services** staff have completed an inspection of the panhandle driveway and have no concerns with the grade. Emergency apparatus will not have an issue navigating the route provided it is maintained in the winter.

**Unaffected RDCO Departments** include: Inspection Services, Park Services, Engineering Services.

**Unaffected Agencies** include: Ministry of Transportation and Infrastructure and Interior Health Authority.

### Considerations:

#### External:

In accordance with the *Local Government Act* and the 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 500 metres of the subject property. A total of 54 letters were mailed to neighbouring property owners on April 13, 2023.

At time of writing this report, two letters of opposition have been received regarding this application.

#### Statutory Authority:

Section 512(1) of the Local Government Act requires that if a parcel being created by a subdivision and fronts a highway, the minimum frontage on the highway must be the greater of 10% of the perimeter of the lot that fronts on the highway, and the minimum frontage that the local government may, by bylaw, provide. Section 512(2) gives power to a local government to exempt a parcel from the statutory or bylaw minimum frontage provided for in 512(1).

The application was submitted and processed in accordance with RDCO Development Applications Procedures Bylaw No. 944. Section 498 of the Local Government Act states that, 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. 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, except by Bylaw in accordance with section 498.1 of the Act.

In consideration of the Development Variance Permit application, the Regional Board may approve the permit, not approve the permit or defer a decision pending more information or clarification.

Considerations not applicable:

- Organization
  - Financial
  - Legal
  - Alternate Recommendation
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***Approved for Agenda***

A handwritten signature in black ink, appearing to read "Brian Reardon".

**Brian Reardon, CAO**