

Development Applications 7 Nerie Road

FEX-22-01, VP-22-03, DP-22-06

Regional Board Meeting
June 27, 2022

1450 K.L.O. Road
Kelowna, BC, V1W 3Z4
rdco.com



Purpose

- To consider a development proposal for a wildfire impacted property adjacent to Okanagan Lake and Nerie Road requesting approval of a floodplain exemption, development variance permit, and development permit

Subject Property

Beachcomber Bay

Coldstream Ranch

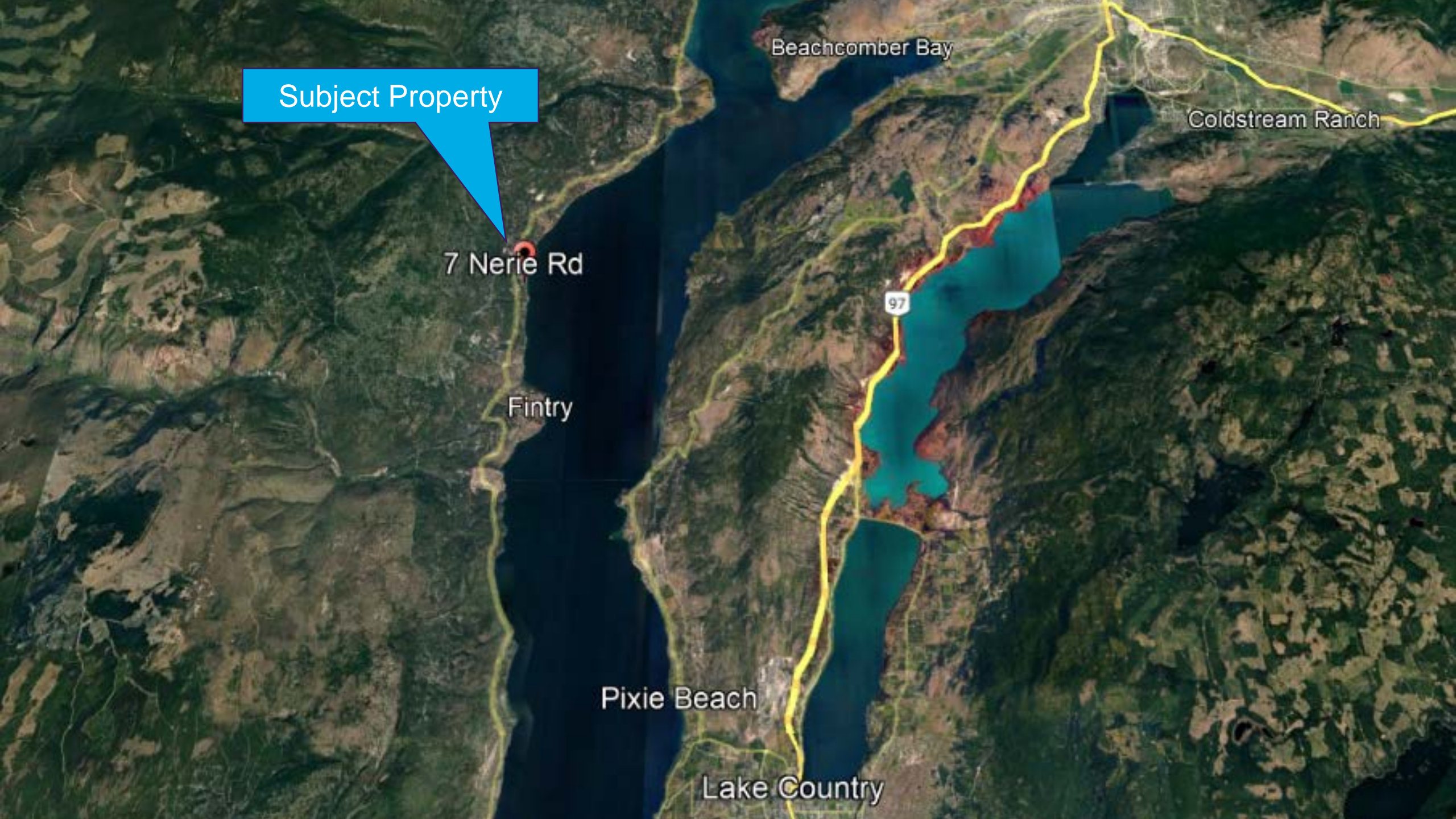
7 Nerie Rd

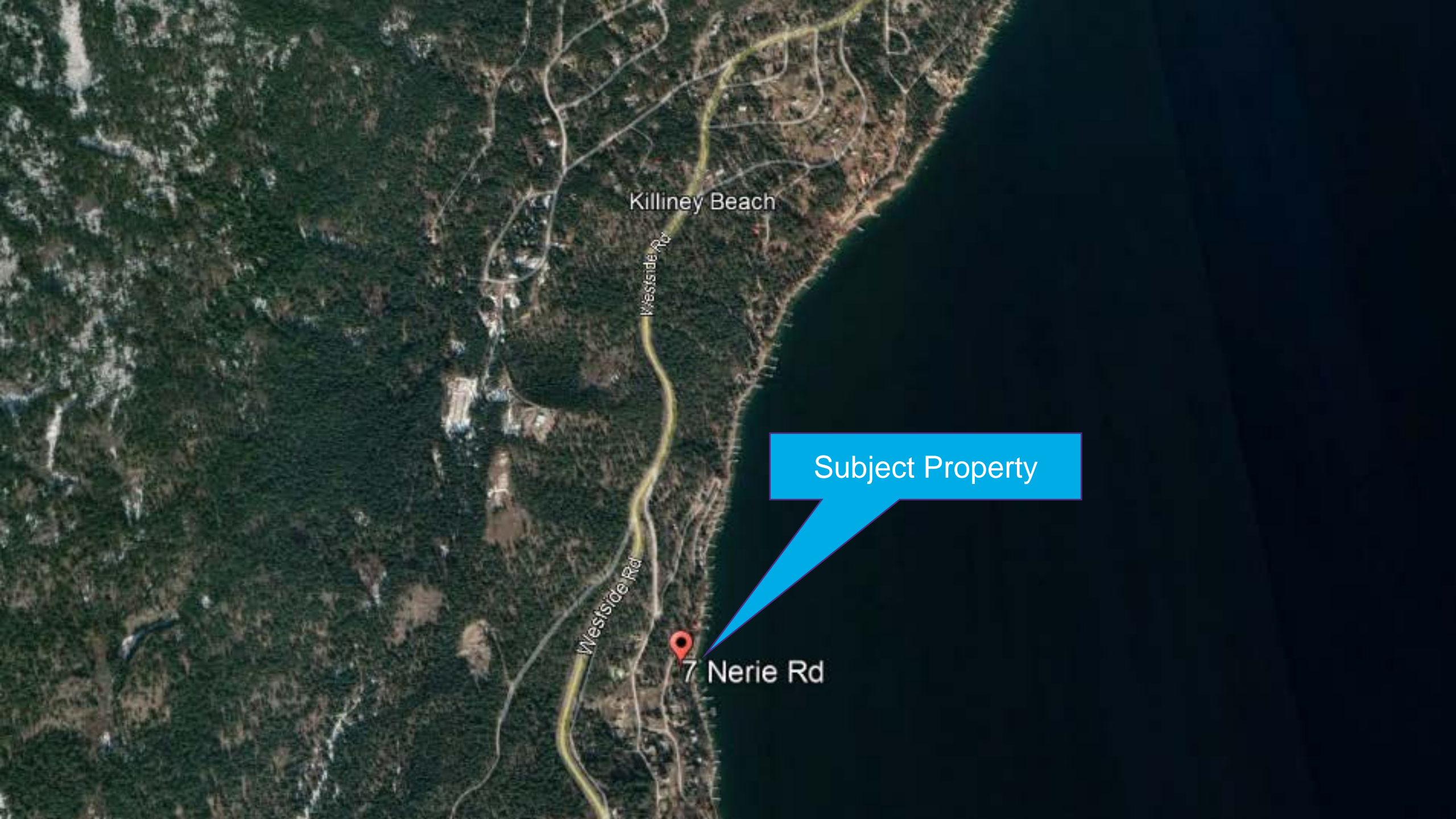
Fintry

97

Pixie Beach

Lake Country





Killiney Beach

Westside Rd

Westside Rd



7 Nerie Rd

Subject Property



pl 1965

Elliott Rd

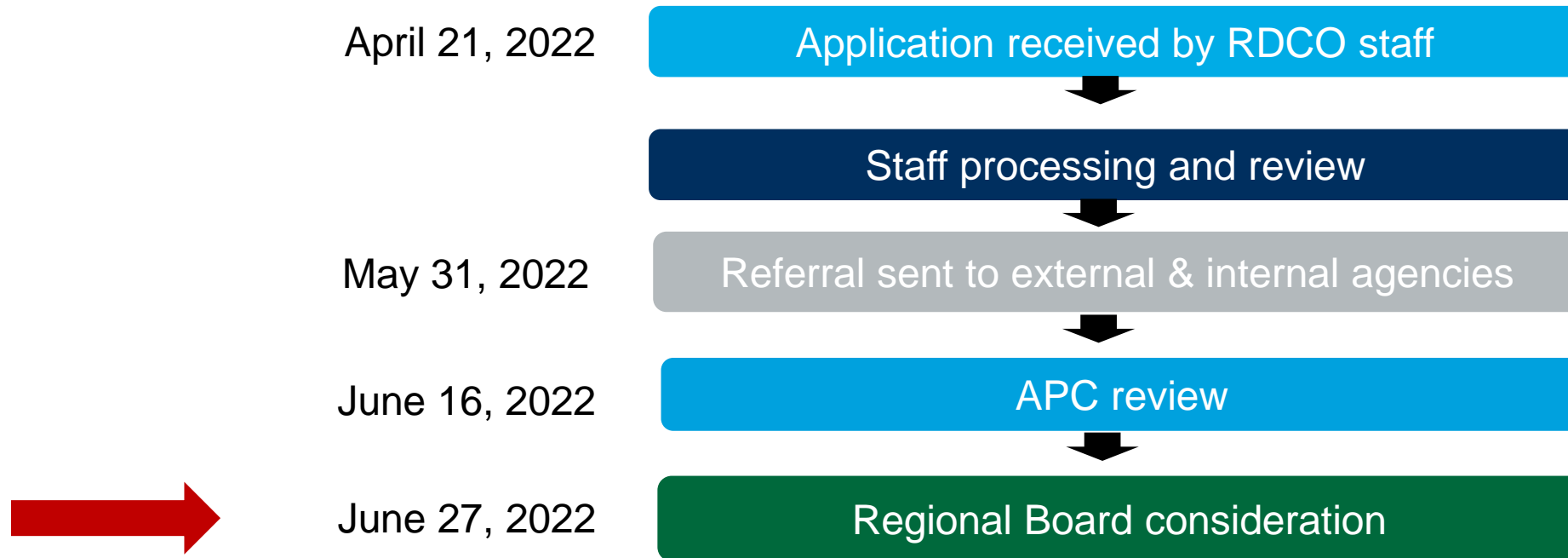
Nerrie Rd

Subject Property

Okanagan Lake

2021 Imagery (Before fire)

Application Process



Background

- Subdivision approved by MOTI in 1970
- Previously developed:
 - Single detached house (1976)
 - Garage & boathouse (1989)
 - Renovations (2006, 2010)
- Permits received from the RDCO in conformance with bylaws in place at the time



09.19.2016

Background

- Impacted by 2021 White Rock Lake Wildfire
- All structures lost



Subject Property

2021 Imagery (Post wildfire)



Ex. Dock

Okanagan Lake

Sprout
Residence
#7 Nerie Rd

Local Government Act

- Section 532(1)

“if a building or other structure, the use of which does not conform to the provisions of a land use regulation bylaw, is damaged or destroyed to the extent of 75% or more of its value above its foundations, the structure must not be repaired or reconstructed except in conformance with the bylaw”

Proposal

1. To exempt the subject property from Section 3.28.2.1.1 Floodplain Regulations of Zoning Bylaw No. 871 by allowing a reduction of the minimum setback from Okanagan Lake from 15.0 metres (49.2 ft.) to 10.32 metres (33.85 ft.)
2. To vary Section 7.1.4 of Zoning Bylaw No. 871 by allowing a reduction of the minimum front setback from 4.5 m (14.8 ft.) to 0.61 m (2.0 ft.)
3. To obtain a Development Permit for works associated with the construction of a single detached house and septic field as well as associated restoration and enhancement work

Floodplain Regulations

- Established for the safety of people and property
- May 2005: the Regional Board adopted an amendment to the Zoning Bylaw increasing the floodplain setback from 7.5 metres to 15.0 metres from the natural boundary of Okanagan Lake in accord with Provincial floodplain regulations

Floodplain Exemptions

- The Regional District may exempt types of development from the requirements if the Regional Board:
 - Considers it advisable;
 - The exemption is consistent with Provincial guidelines;
 - Has received a report from a certified person that the land may be used safely for the use intended.

Technical Considerations

- Development Applications Procedures Bylaw No. 944
- OCP Development Permit Guidelines
- Terms of Reference for Professional Reports

Flood Hazard Assessment

- Land is exposed to flood hazard
- Buildable area is significantly confined by the steep slopes to the west and the natural boundary of Okanagan Lake
- Proposed residential building conforms to the required flood construction level (343.66 m)

Flood Hazard Assessment

Conclusion:

- Outside the shoreline flood construction zone
- Property can be safely developed for its intended use provided recommendations of the report are followed

Geotechnical Hazard Assessment

Upland portion of the property:

- Contains steep slopes, exceeding a gradient of 30%
- Construction would be challenging

Lakeside portion of property:

- Bounded by Okanagan Lake and Nerie Road
- Presents no geotechnical concerns

Geotechnical Hazard Assessment

Conclusion:

- Engineer considers upland undevelopable
- Little risk to the proposed house location from geotechnical hazards
- Development on lakeside portion of the property is feasible provided recommendations are followed

RDCO Post-Wildfire Environmental / Hazardous Conditions Assessment

- Clarke Geoscience (November 2021)
- Moderate hazard levels
- Risk levels low
- Recommend being prepared for higher than usual runoff and potential soil erosion

Environmental Impact Assessment

- Entire site impacted by wildfire
- Upland portion of property:
 - Hydroseeded in the spring of 2022 to control erosion and facilitate regeneration
- Lakeside portion of property:
 - Proposed development is within a previously disturbed area

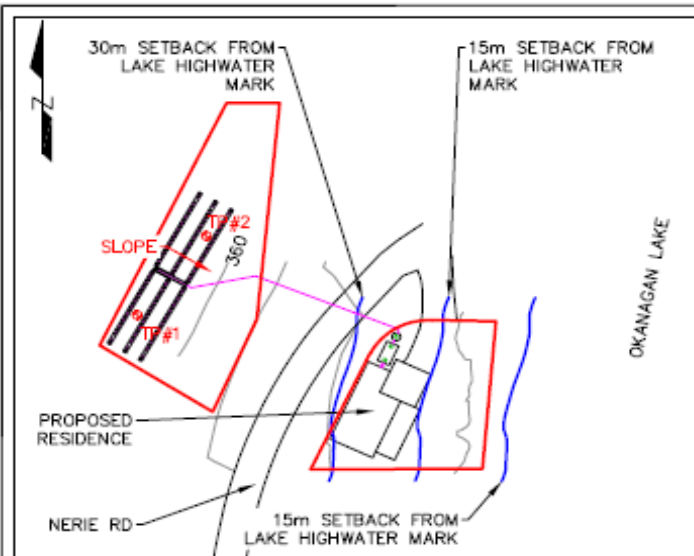
Environmental Impact Assessment

Conclusion

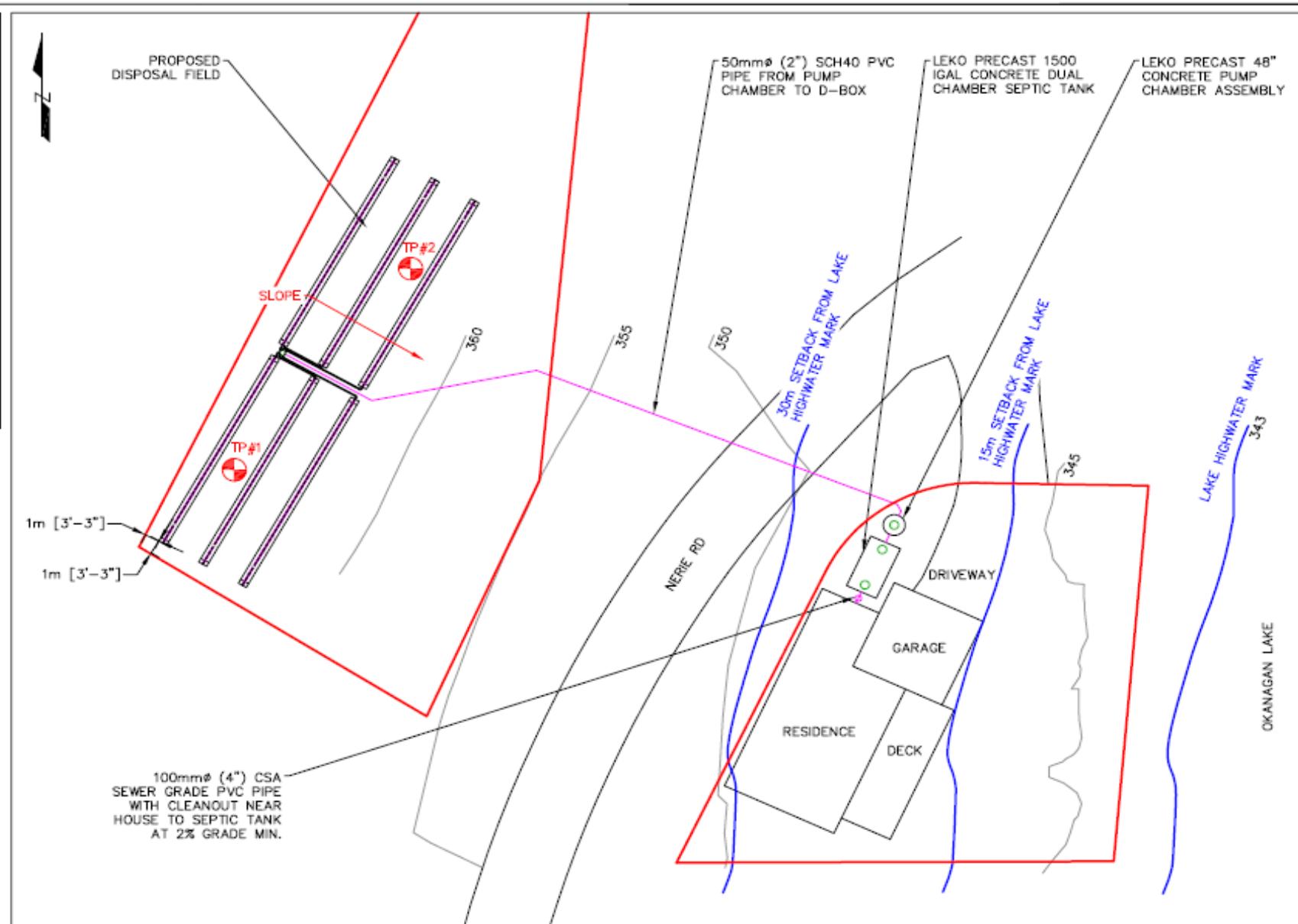
- Report provides recommendations for environmental impact mitigation including habitat restoration
- Recommends security bonding: \$9,981.75

Servicing

- Private water source
- North Westside Fire Protection Area
- On-site septic system (rebuilt on upland portion of the site)



SITE PLAN
SCALE: 1:1000



SYSTEM LOCATION
SCALE: 1:300

CLIENT: SPROUT
7 NERIE RD

PROJECT: 22-030-S
SEWERAGE SYSTEM

TITLE: SITE PLAN AND SYSTEM LOCATION

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DRAWING NO. 22-030-02

Regional Board Strategic Priorities

- The Regional Board has identified and prioritized protection of the environment through various regional plans and actions:
 - Prioritizing a reduction in new construction in higher risk floodplain areas
 - Supporting efforts to reduce our environmental footprint and adapt to climate change

Rural Westside OCP

- Development Permit Areas:

- Sensitive Terrestrial
- Sensitive Aquatic
- Hillside
- Wildfire Interface

- Purpose of the protection of the natural environment or protection of development from hazardous conditions

Climate Projections

for the Okanagan Region

February 2020



14% less by 2050s
22% less by 2080s
(on average)



10% more by 2050s
20% more by 2080s
(on average)



In partnership with



Natural Resources
Canada

Ressources naturelles
Canada

Canada



Climate Projections – Impacts



INCREASED
**HEAT
STRESS**



INCREASED RISK OF
FLOODING



INCREASED
RISK
TO VULNERABLE
PEOPLE



INCREASED RISK OF
WILDFIRE



INCREASED RISK
OF MORE
**EXTREME
WEATHER**



**SHIFTING
ECOSYSTEMS**

Regional Floodplain Management Plan

- Purpose: reduce flood risk, improve emergency response, increase resiliency to climate change
- Central Okanagan is especially vulnerable to flood damage because of the density of population near flood prone creeks and lakeshores

Building Inspections

- Demolition permit received and finalized
- Building permit required for rebuild

Advisory Planning Committee (APC)

- Recommends support for the application as presented

Ministry of Transportation

- Permit Issued:
 - Highway Setback Permit (front setback)
- Floodplain Exemption and Development Permit applications do not fall under the jurisdiction of the Ministry

Interior Health Authority

- No objections regarding the proposal
- Typically require a report from a hydrogeologist
- Sign off from authorized person

Riparian Areas Protection Branch (MoF)

- Development will not occur within the Streamside Protection and Enhancement Area
- Proposal meets the standards of RAPR

Lands Branch (MoF)

- WSA Application required for dock renovation/repair
- No other moorage structures permitted under the *Land Act*
- Boathouse and boat ramp cannot be rebuilt on Crown land

Public Notification

- Application sign posted on property
- 27 written notices mailed to neighbouring property owners

Procedures Bylaw

- Delegates the Director of Community authority to issue development permits only under the conditions noted below:
 - Meets the DP guidelines for protection of the natural environment or protection of development from hazardous conditions;
 - Must address the requirements of affected Provincial and/or Federal agencies;
 - Must address recommendations of RDCO staff and committees.

Summary

- LGA requires buildings conform to current bylaws
- Three development applications submitted

Summary

- History of flooding on Okanagan Lake
- Increased precipitation and more flooding is to be expected
- Strategic Priorities & OCP policy typically does not support new development within the floodplain of Okanagan Lake

Staff Rationale

- Technical reports submitted to support the development
- Provincial approvals received
- No concerns raised by affected agencies, staff, or the public

Recommendation #1:

THAT the Regional Board approves Floodplain Exemption application FEX-22-01 Lot 1, District Lot 3329, ODYD, Plan 20209 located at 7 Nerie Road to exempt the subject property from Section 3.28.2.1.1 Floodplain Regulations of Zoning Bylaw No. 871 by allowing a reduction of the minimum setback from Okanagan Lake from 15.0 m to 10.32 m.

Recommendation #2:

THAT the Regional Board approves Development Variance Permit application VP-22-03 for Lot 1, District Lot 3329, ODYD, Plan 20209 located at 7 Nerie Road to vary the following provisions of Zoning Bylaw No. 871:

- Section 7.1.4 by allowing a reduction of the minimum front setback from 4.5 m to 0.61 m.

Recommendation #3:

THAT the Regional Board approves Development Permit application DP-22-06 for Lot 1, District Lot 3329, ODYD, Plan 20209 located at 7 Nerie Road, subject to the conditions specified in 'Schedule A' attached to the Report of the Director of Community Services dated June 27, 2022.



2021 Imagery (Before fire)

Subject Property

Okanagan Lake



Subject Property

2021 Imagery (Post wildfire)

DP-22-06 Schedule 'A' Conditions

- The landowner/applicant must apply for and receive a building permit to the satisfaction of the RDCO Building Inspection Services.
- The property owner is responsible for complying with the conditions outlined in all covenants, easements, and statutory right of ways registered on title.
- Registration of a restrictive (Floodplain) covenant under Section 219 of the *Land Title Act* identifying that there has been an indication of flood concern relating to the development of the lands as set forth in the April 19, 2022 report prepared by Watershed Engineering Ltd.
- Registration of a restrictive (Wildfire) covenant under section 219 of the *Land Title Act* to address wildfire hazard reduction measures.
- The property owner is responsible for all costs associated with covenant preparation and registration including legal fees and land surveyor fees (if applicable).

DP-22-06 Schedule 'A' Conditions (con't)

- Prior to any disturbance on site, silt fencing is required and must be installed by the contractor prior to commencing any construction works and must remain in place for the duration of land disturbance activities. The silt fence must be located downslope between the construction works and Okanagan Lake and must be trenched into the ground a minimum of 15cm to prevent flow underneath the fence.
- Construction debris and materials must not be stored or deposited within the riparian setbacks and must be removed from the property on a regular basis.
- In accordance with the RDCO Noxious Weed Control Bylaw No. 179, the owner or occupier of the land shall prevent the infestation of noxious weeds and cut down or otherwise destroy and mulch or remove all noxious weeds and plant with native grasses or other native vegetation.