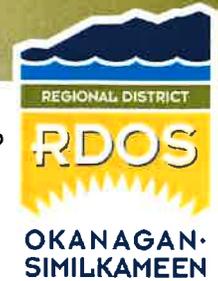


MEMORANDUM

DEVELOPMENT SERVICES DEPARTMENT



DATE: August 4, 2022
TO: Christopher Garrish, Planning Manager
FROM: Colin Martin, Planning Services Clerk
RE: Development Variance Permit (DVP) — Electoral Area “A”

FILE NO.: A2022.022-DVP

Administrative Recommendation:

THAT Development Variance Permit No. A2022.022-DVP, to allow for the construction of a single family dwelling at 16427 87 Street, be approved.

<u>Owner:</u> Adrienne Mailey	<u>Agent:</u> Paul Mailey	<u>Folio:</u> A-05954.001
<u>Civic:</u> 16427 87 th Street	<u>Legal:</u> Lot A, Plan EPP55486, District Lot 2450S, SDYD	

Proposed Development:

This application is seeking a variance to the front parcel line setback and the interior parcel line setback that applies to the subject property in order to undertake the construction of a single family dwelling.

Specifically, it is being proposed to reduce the front parcel line setback from 7.5 metres to 3.7 metres and the interior parcel line setback from 1.5 metres to 1.3 metres.

In support of this request, the applicant has stated that “the property is in an old subdivision and because of lot depths and provincial riparian requirements, properties in the neighbourhood are very challenged to comply with zoning that was put in place long after the neighbourhood was created.” And “a stair case to exit the first floor to grade is the best solution to the problem presented by the flood plane elevation.”

Site Context:

The subject property is approximately 505 m² in area and is situated on the north side of 87 Street, on the western shore of Osoyoos Lake, approximately 2 km north from the boundary with Town of Osoyoos. The property is understood to be vacant.

The surrounding pattern of development is generally characterised by similar residential development. Much of the area to the south of 89 Street is agricultural.

Background:

The current boundaries of the subject property were created by a Plan of Subdivision deposited with the Land Titles Office in Kamloops on September 1, 2015, while available Regional District records indicate that building permit(s) have not previously been issued for this property.

Under the Electoral Area “A” Official Community Plan (OCP) Bylaw No. 2905, 2021, the subject property is currently designated Low Density Residential (LR), and is the subject of a Watercourse Development Permit (WDP) designations.

Under the Okanagan Valley Zoning Bylaw No. 2800, 2022, the property is currently zoned Low Density Residential Two (RS2) which permits single detached dwellings as a principal use.

Under Section 8.0 (Floodplain Regulations) of the Zoning Bylaw, the subject property is within the floodplain associated with Osoyoos Lake.

BC Assessment has classified the property as “Residential” (Class 01), and is within the Agricultural Land Reserve (ALR).

Under Section 3.49 of the Regional District’s *Chief Administrative Officer Delegation Bylaw No. 2793, 2018*, “the CAO or his designate shall ... be delegated authority to issue a development variance permit under Section 498.1 of the *Local Government Act* ...”

Public Process:

In accordance with Section 2.4 of Schedule 4 (Application for a Development Variance Permit) of the Regional District’s Development Procedures Bylaw No. 2500, 2011, adjacent residents and property owners were notified of this DVP application on July 11, 2022, and provided 15 working days to submit comments electronically or in-person to the Regional District.

As of August 2, 2022, being 15 working days from the date of notification, no representations have been received electronically or by submission at the Regional District office.

Delegated Authority:

Under Section 498.1(2) of the *Local Government Act*, a local government that has delegated authority to an officer or employee to issue a development variance permit (DVP) must include “criteria for determining whether a proposed variance is minor.”

Under Section 3.49 of the Regional District’s Chief Administrative Officer Delegation Bylaw No. 2793, 2018, staff are to consider if the variance would be “minor and would have no significant negative impact on the use of immediately adjacent or nearby properties” through the use of the following criteria:

1. *degree or scope of the variance relative to the regulation from which a variance is sought;*
2. *proximity of the building or structure to neighbouring properties; and*
3. *character of development in the vicinity of the subject property.*

With regard to the scope of the requested variance it is considered that a 15% reduction of the side parcel line setback and a 50% reduction of the front parcel line will be considered minor due to the nature of the surrounding parcels, as many other dwellings in the neighbourhood are within the front parcel line setback, and it is consistent with the OCPs efforts to protect Streamside Protection and Enhancement Areas (SPEA).

With regard to the proximity of the proposed single family dwelling to neighbouring properties, the nearest parcel lines is approximately is 1.3 metres to the west and only stairs will be in the side parcel

line setback which will unlikely adversely impact the use of adjacent properties through the loss of privacy or overshadowing.

With regard to the final criteria and the character of development in the vicinity of the subject property, the encroachment into the front parcel line setback is fairly consistent with the neighbourhood as most of the properties are within a floodplain and a (SPEA). Neighbouring properties have received variances for front parcel line setbacks in 2022.

For these reasons, the proposed variance(s) are deemed to be minor, and consideration by staff of whether to issue a development variance permit (DVP) under delegation may proceed.

Analysis:

When considering a “minor” variance request, and in accordance with Section 498.1(2) of the *Local Government Act*, the Regional District Board requires that staff consider the following guidelines when deciding whether to issue a DVP:

1. *is the proposed variance consistent with the general purpose and intent of the zone;*
2. *is the proposed variance addressing a physical or legal constraint associated with the site (e.g. unusual parcel shape, topographical feature, statutory right-of-way, etc.);*
3. *is strict compliance with the zoning regulation unreasonable or un-necessary; and*
4. *Would the proposed variance unduly impact the character of the streetscape or surrounding neighbourhood.*

In this instance, the Zoning Bylaw’s use of setback regulations is generally to provide physical separation between neighbouring properties in order to protect privacy and prevent the appearance of overcrowding. When a parcel is also adjacent a roadway, setbacks are further employed to maintain adequate sightlines for vehicle traffic movements.

Minimum setbacks from parcel lines are used to maintain a minimum space between houses in a residential neighbourhood to allow access to sunlight, to provide separation for fire safety or to mitigate nuisances (like noise) that might come from an adjacent building.

The property is located on the western shore of Osoyoos lake and about 27 metres long which puts 50% of the property in a Watercourse Development Permit (WDP) area and about 25% in the SPEA. By moving the building closer to the front parcel line it will help protect the riparian area on the property. Administration recognizes that the OCP encourages the reduction of zoning setbacks on existing small lots to reduce the impacts and preserve the SPEA.

The parcel is also affected by the floodplain of Osoyoos Lake. Administration finds that moving the structure closer to the front parcel line and up in elevation would help to mitigate the risks of potential flooding.

With respect to concerns surrounding the impacts of the proposal on vehicle traffic movements the subject property is located in a small low density neighbourhood surrounded by agricultural lands which would likely see limited traffic. Administration notes that the setback variances would likely not have any impacts on traffic flow or safety.

In reviewing available aerial imagery, it is noted that other parcels along 87th Street are developed with single detached dwellings which appear to be sited within the front parcel line setback. In this

regard, the proposal is seen to be consistent with the established streetscape of the neighbourhood. Moreover, a recent decision by the Board was made July 7, 2022, to allow a similar front parcel line setback reduction to the neighbouring property.

As for the side parcel line setback the encroachment will be minimal as it will only be a stair case to enter the home from the side. This will be done in lieu of altering the terrain near the interior parcel line.

Conversely, it is recognised that the encroachment into a front and side parcel line setback may mean more direct sightlines from the street and neighbours which may reduce privacy.

For these reasons, it is recommended that the requested variances be approved.

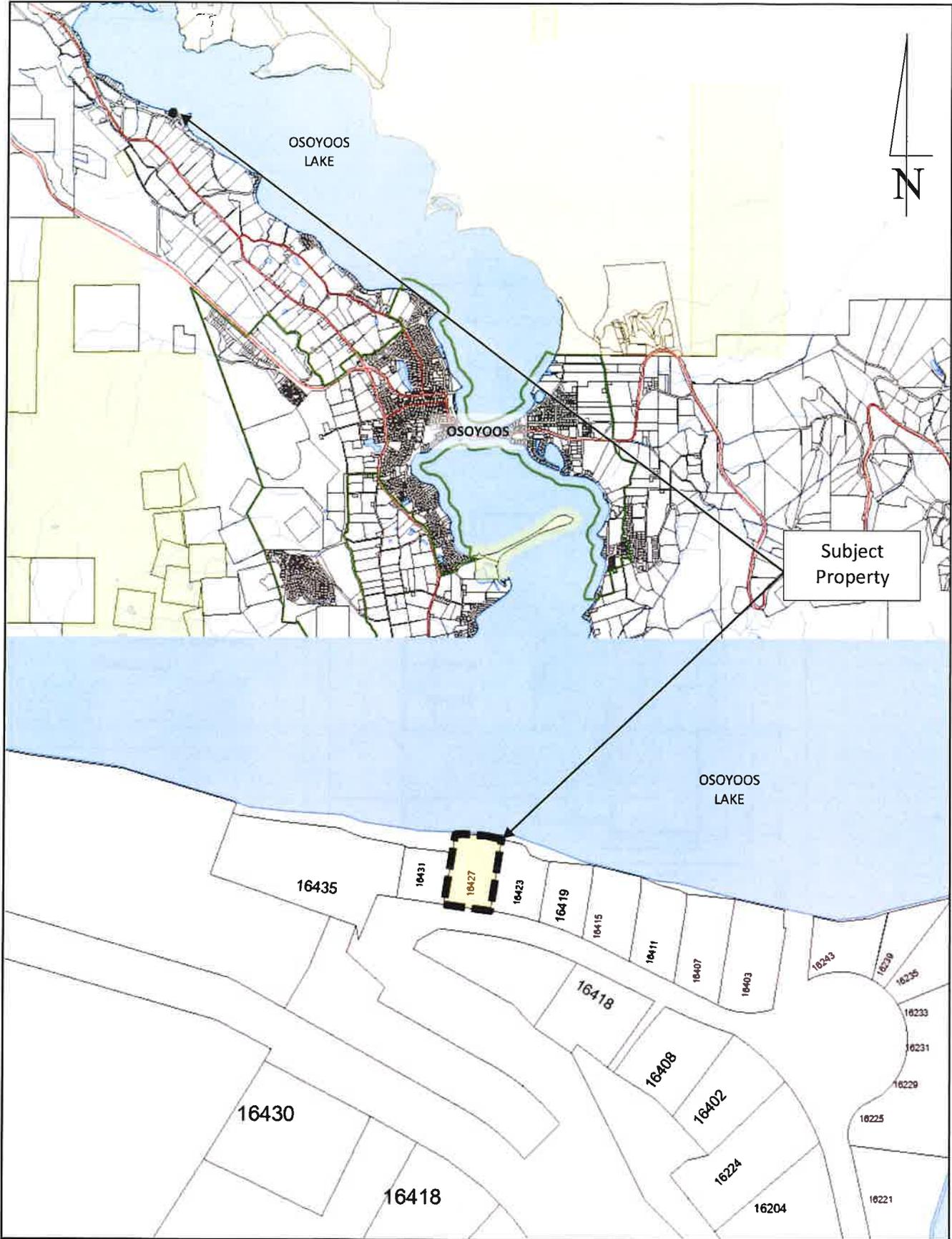
Respectfully submitted:

Colin Martin

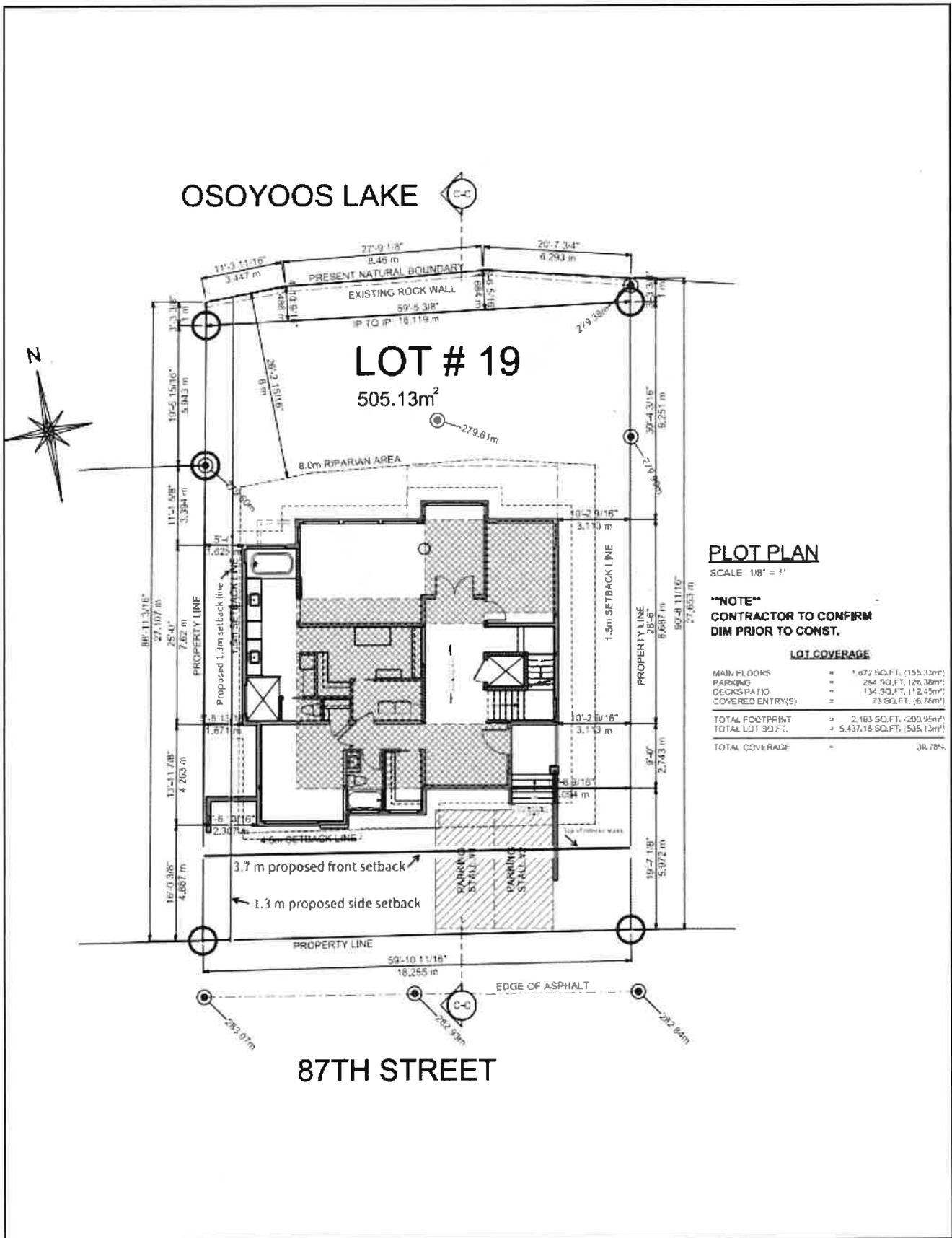
Colin Martin, Planning Services Clerk

Attachments: No. 1 — Context Maps
 No. 2 — Applicant's Site Plan
 No. 3 — Aerial view of 87th Street

Attachment No. 1 – Context Maps



Attachment No. 2 – Applicant’s Site Plan



Attachment No. 3 – Aerial View 87th Street

