

MEMORANDUM

DEVELOPMENT SERVICES DEPARTMENT



DATE: April 28, 2023 **FILE NO.:** C2023.014-DVP

TO: Christopher Garrish, Planning Manager

FROM: Fiona Titley, Planner II

RE: Development Variance Permit (DVP) — Electoral Area “C”

Owner: Jennifer Anne Webster Agent: Landform Architecture Ltd. Folio: C-01963.010

Civic: 158 Sundial Road Legal: Lot B, Plan EPP10869, District Lot 158, SDYD

Proposed Development:

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

Specifically, it is being proposed to vary the minimum front parcel line setback for a principal structure in the Low Density Residential Two (RS2) zone from 7.5 metres to 6.0 metres.

In support of this request, the applicant has stated that:

The zoning on this property required a 6.0 m front yard setback, until the new Okanagan Valley Zoning Bylaw was adopted in 2022. In the new bylaw the front setback was changed to 7.5m. The house was relocated to conform to this standard and submitted for riparian assessment. The response from the province was that a variance needed to be pursued on the front yard setback, to increase the SPEA area...The neighbouring homes were developed with a 6.0, front yard setback requirement so the proposed variance would correspond to the existing form and character.

Site Context:

The subject property is approximately 1091 m² in area and is situated on the north side of Sundial Road, and the north end of the property abuts Vaseux Lake. The property is understood to be vacant.

The surrounding pattern of development is generally characterised by similar residential development to the east and west, Vaseux Lake to the north, and vacant Agriculture land to the south.

Background:

The current boundaries of the subject property were created through a Plan of Subdivision deposited with the Land Titles Office in Kamloops on February 3, 2021, while available Regional District records indicate that a building permits have not previously been issued for this property.

Under the Electoral Area “C” Official Community Plan (OCP) Bylaw No. 2452, 2008, the subject property is currently designated Low Density Residential (LR), and is the subject of a Watercourse Development Permit (WDP) and Environmentally Sensitive Development Permit (ESDP) Area designations.

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

Under Section 8.0 (Floodplain Regulations) of the Zoning Bylaw, the subject property is within the floodplain associated with Vaseux Lake and is subject to the flood construction level outline in Section 10.1.1(f).

BC Assessment has classified the property as “Residential” (Class 01).

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 March 28, 2023, and provided 15 working days to submit comments electronically or in-person to the Regional District.

As of April 20, 2023, being 15 working days from the date of notification, approximately two (2) 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 degree/scope of the requested variance it is considered that a 20% decrease to the minimum front parcel line setback from 7.5 metres to 6.0 metres is relatively minor in nature.

With regard to the proximity of the proposed dwelling to neighbouring properties, the nearest parcel lines to the south is approximately is 14 metres away and is vacant agricultural land. For this reason, the requested variance is seen to be minor and unlikely to adversely impact the use of adjacent properties through loss of privacy or overshadowing.

With regard to the final criteria and the character of development in the vicinity of the subject property, the placement of a structures within 6.0 metre of the front parcel line setback is not uncommon in this area.

For these reasons, the proposed variance is 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.*

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 zoning of the property was updated as part of the Residential Zone Review that was completed in December 2021 which did result in updated setback requirements for parcels in the RS2 zone in Electoral Area “C”. The previous setback requirement for RS2 zoned parcels in electoral Area “C” was 6.0 metres. As no site works had begun prior to this change, a variance application is now required.

The placement of the proposed dwelling 6.0 metres from the front parcel line is not seen to negatively impact the character of the streetscape, access to sunlight, or enjoyment of the surrounding area.

In addition, A Qualified Environmental Professional (QEP) has submitted a report to the Province identifying the SPEA as being 30.0 meters from Vaseux Lake. Administration notes that the assessment report has not yet been approved by the Province. The dwelling was originally constructed to meet the 7.5 metre front setback regulations, however, the agent has stated that the province has directed the applicant to update their development plans and pursue a variance to decrease the front setback to 6.0 metres in order to increase the SPEA (Streamside Protection and Enhancement Area).

Further, Section 21.3.6 of the OCP speaks to encouraging DVP applications to relax parcel line setbacks in order to “reduce impacts and preserve the SPEA”. In this instance, reducing the setback will allow for the development to occur outside of the SPEA and is considered an appropriate building location as it will not require encroachment into the SPEA.

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

Recommendation:

THAT Development Variance Permit No. C2023.014-DVP, to allow for the construction of a single detached dwelling at 158 Sundial Road be approved.

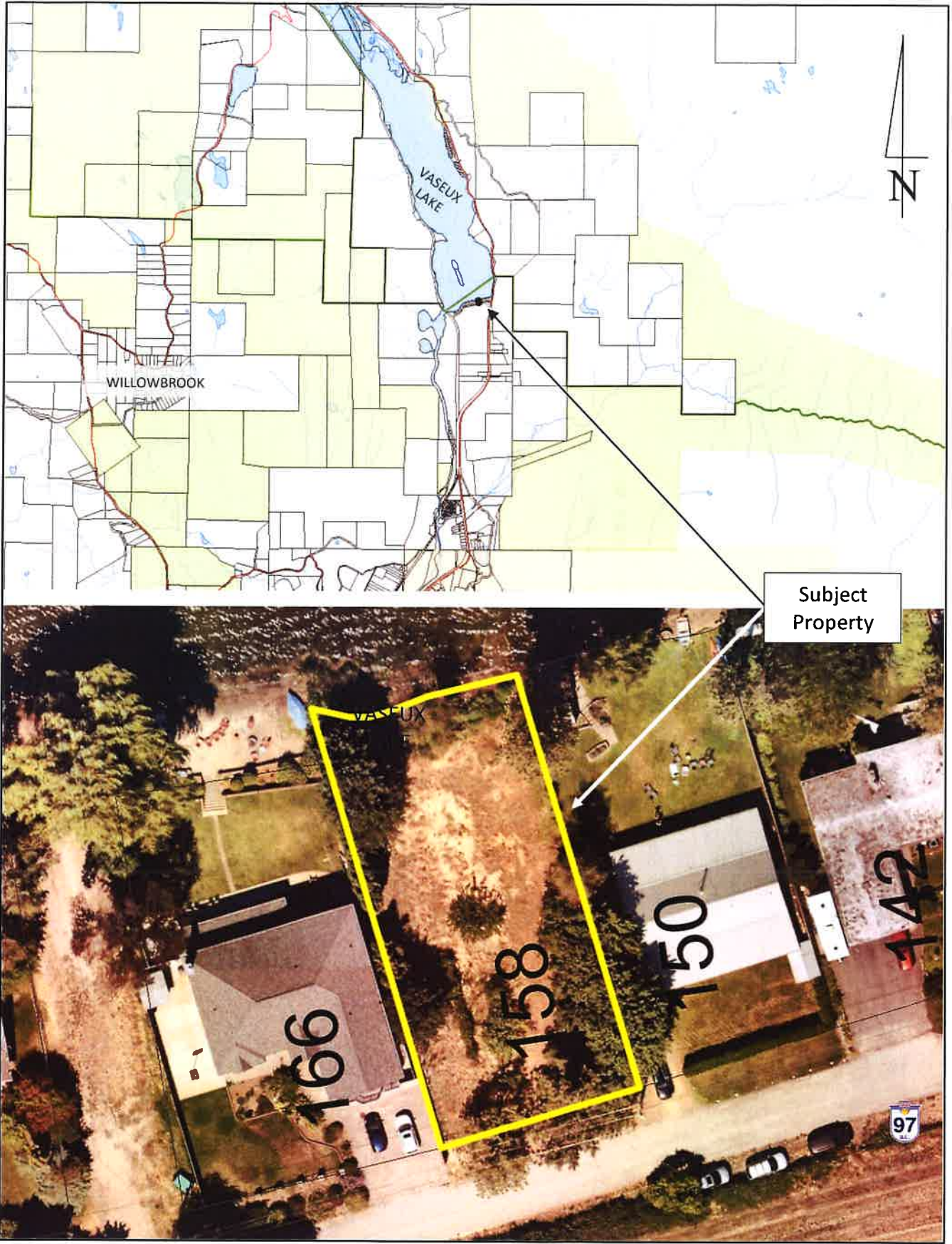
Respectfully submitted:

Fiona Titley

Fiona Titley, Planner II

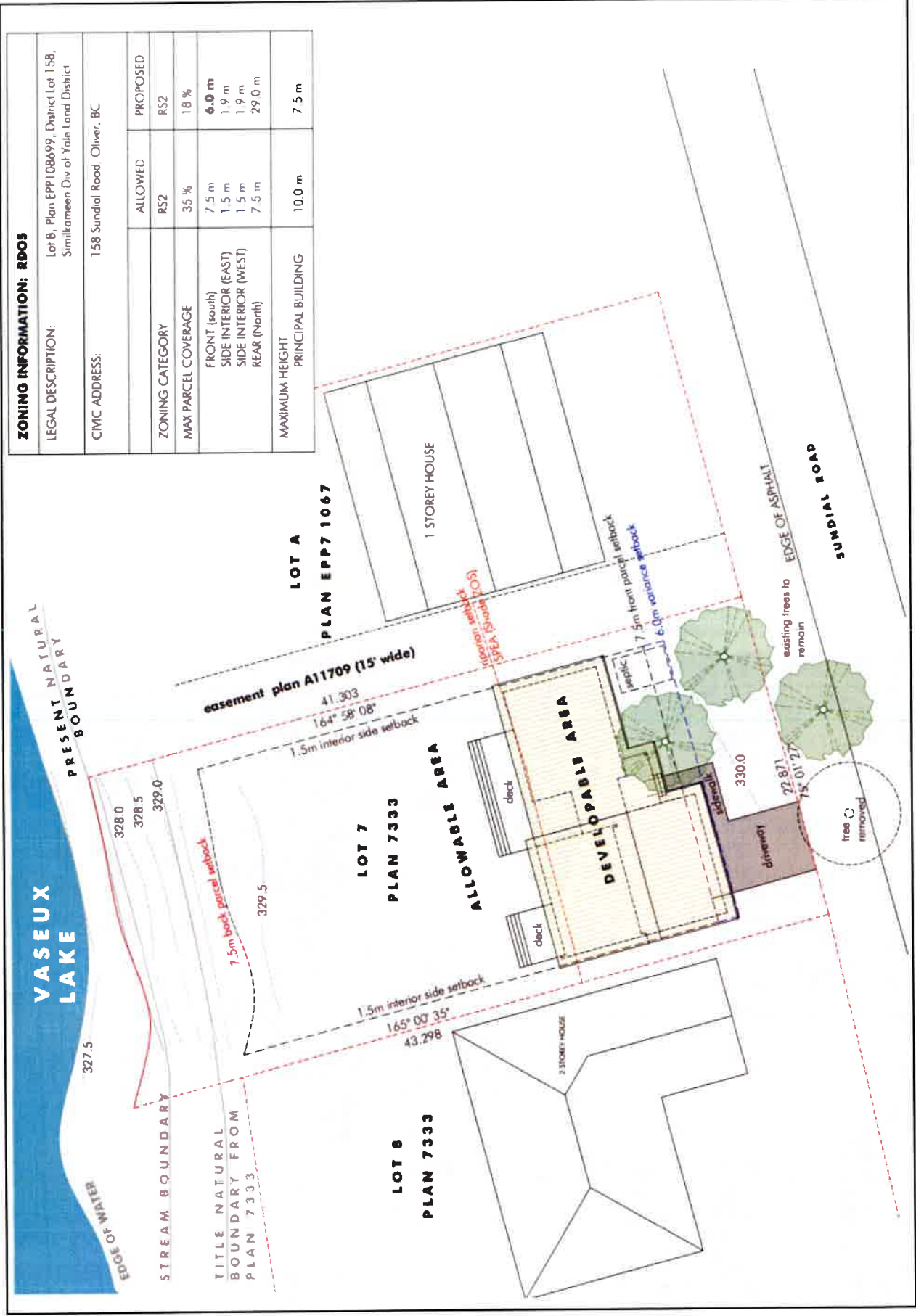
Attachments: No. 1 — Context Maps
 No. 2 — Applicant's Site Plan
 No. 3 — Site Photo (Google Maps September 2022)

Attachment No. 1 – Context Maps



Subject Property

Attachment No. 2 – Applicant’s Site Plan



ZONING INFORMATION: RDOS

LEGAL DESCRIPTION:	Lot B, Plan EPP108699, District Lot 158, Similkameen Div of Yale Land District		
CMC ADDRESS:	158 Sundial Road, Oliver, BC.		
ZONING CATEGORY	ALLOWED	PROPOSED	
MAX PARCEL COVERAGE	RS2	RS2	
FRONT (south)	35 %	18 %	
SIDE INTERIOR (EAST)	7.5 m	6.0 m	
SIDE INTERIOR (WEST)	1.5 m	1.9 m	
REAR (North)	1.5 m	1.9 m	
MAXIMUM HEIGHT	7.5 m	29.0 m	
PRINCIPAL BUILDING	10.0 m	7.5 m	

Attachment No. 3 – Site Photo (Google Maps September 2022)

