

MEMORANDUM
DEVELOPMENT SERVICES DEPARTMENT



DATE: September 8, 2022
TO: Christopher Garrish, Planning Manager)
FROM: Fiona Titley, Planner II
RE: Development Variance Permit (DVP) — Electoral Area “I”

FILE NO.: I2022.030-DVP

Administrative Recommendation:

THAT Development Variance Permit No. I2022.030-DVP, to allow for the construction of a shed/garage at 280 Alder Avenue, be approved.

<u>Owner:</u> Richard Skauge	<u>Agent:</u> Nicolas Poirier	<u>Folio:</u> I-01544.000
<u>Civic:</u> 280 Alder Ave	<u>Legal:</u> Lot 5, Plan KAP1899, District Lot 105S, SDYD	

Proposed Development:

This application is seeking a variance to the interior side and front parcel line setback that applies to the subject property in order to undertake the construction of a shed/garage on the property.

Specifically, it is being proposed to:

- reduce the front parcel line setback for an accessory structure from 7.5 metres to 0.0 metres to the outermost projection; and
- reduce the interior side parcel line setback for an accessory structure from 1.0 metres to 0.0 metres to the outermost projection.

In support of this request, the applicant has stated that the variance will allow them to “replace the shed and it will be further away from the parcel line than the existing shed. We are in the WDP area so we have to move the shed further from the lake. We are trying to reduce impacting the WDP area.”

Site Context:

The subject property is approximately 583 m² in area and is situated on the north east side of Alder Avenue, abutting Skaha Lake. The property is understood to contain a single detached dwelling and accessory structure (shed to be replaced).

The surrounding pattern of development is generally characterised by similar residential development on either side, Skaha Lake to the north east and a vacant lot the north-west.

Background:

The current boundaries of the subject property were created by a Plan of Subdivision deposited with the Land Titles Office in Kamloops on November 13, 1961, while available Regional District records indicate that building permits have not previously been issued for this property.

Under the Electoral Area "I" Official Community Plan (OCP) Bylaw No. 2683, 2016, the subject property is currently designated Low Density Residential (LR) and is the subject of a Watercourse Development Permit (WDP) area designation.

A Qualified Environmental Professional (QEP) has submitted an assessment report which indicates the property is subject to undue hardship as the 22 metres SPEA encompasses the entire property. Section 24.3.6 of the OCP states that the Regional District "encourages Development Variance Permit (DVP) applications for the relaxation of zoning (parcel line) setbacks on existing small lots in order to reduce impacts and preserve the SPEA" (Streamside Protection and Enhancement Area).

Administration notes that the submitted Riparian Area Protection report has not yet been reviewed by the province, and a Watercourse Development Permit has not yet been approved for the subject property.

Under the Okanagan Valley Zoning Bylaw No. 2800, 2022, the property is currently zoned Low Density Residential Two (RS2) which permits accessory structures as an accessory use, subject to section 7.1 of the bylaw.

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

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

On July 19, 2022 the Ministry of Transportation and Infrastructure (MoTI) approved a reduced setback from Alder Avenue for the proposed structure.

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 21, 2022, and provided 15 working days to submit comments electronically or in-person to the Regional District.

As of August 12, 2022, being 15 working days from the date of notification, approximately zero 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;*

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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 of the requested variance it is considered that a 100% decrease to the front parcel line setback and the interior side parcel line setback is significant.

With regard to the proximity of the proposed shed to neighbouring properties, the nearest parcel lines is approximately is 6 metres to the north-west from the front parcel line. There is a property to the north which abuts the interior side parcel line which is also owned by the applicant.

However, it is noted that there is currently a shed (to be replaced) and fence on the property which go past the front parcel line and encroach into Alder Avenue, the new proposed shed will be further from the property lines than the existing shed. For this reason, the requested variances are 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 an accessory building on the front or interior side parcel line is not uncommon in this area.

For these reasons, the proposed variances 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 applicants are proposing to replace a shed which is currently located within the front and interior side parcel line setbacks.

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.

Administration notes that the subject property is located near the end of a cul-de-sac and the construction of a shed/garage at this location is unlikely to negatively impact the sightline for vehicle traffic movement or the sunlight or privacy to any neighbouring properties.

Conversely, it is recognised that a setback of 0.0 metres is seen to be a significant reduction. However, the entire property is designated a Watercourse Development Permit Area, and is within the floodplain associated with Skaha Lake, the proposed location of the shed/garage is as far from the lake as possible in an effort to reduce the impact on this natural feature.

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

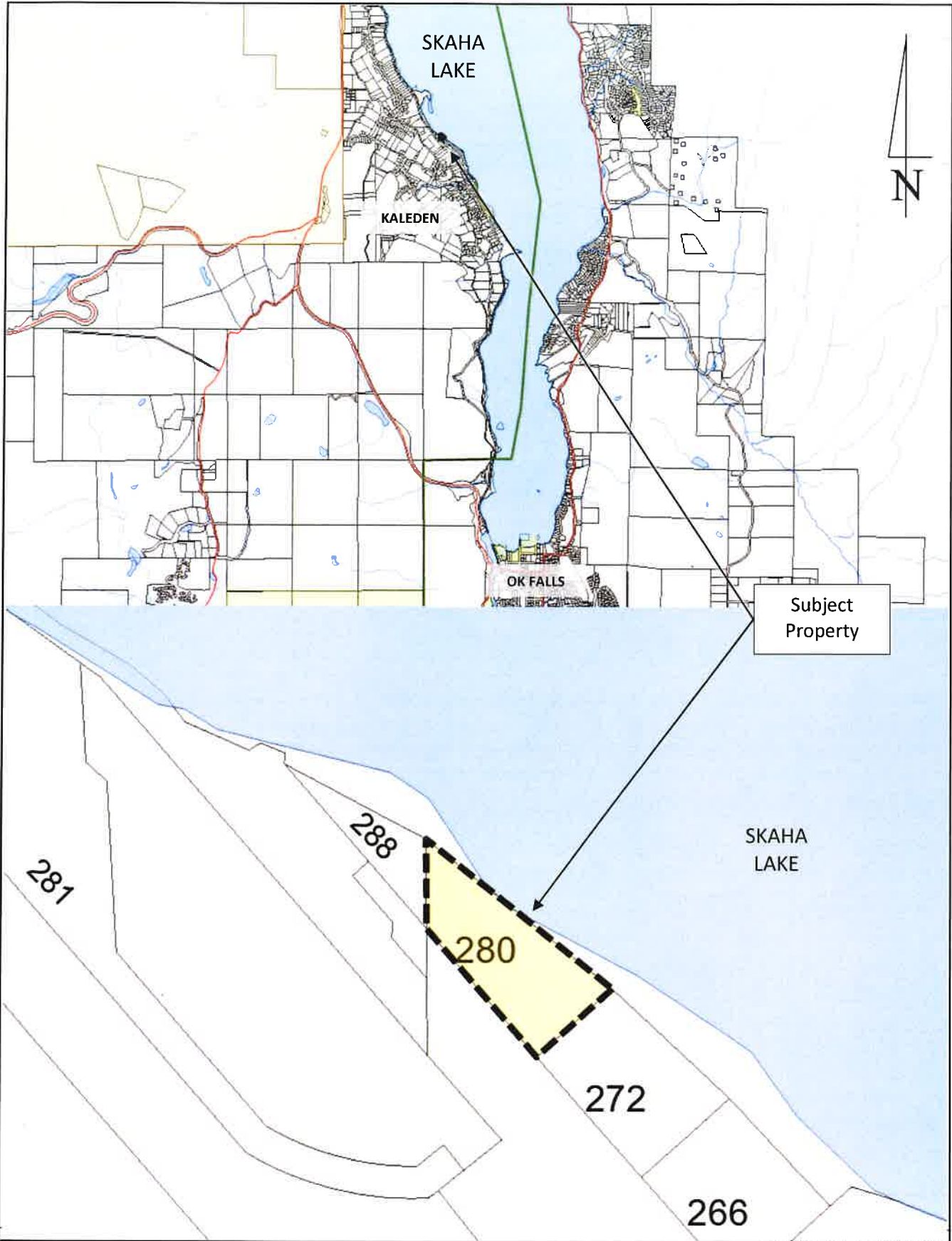
Respectfully submitted:

Fiona Titley

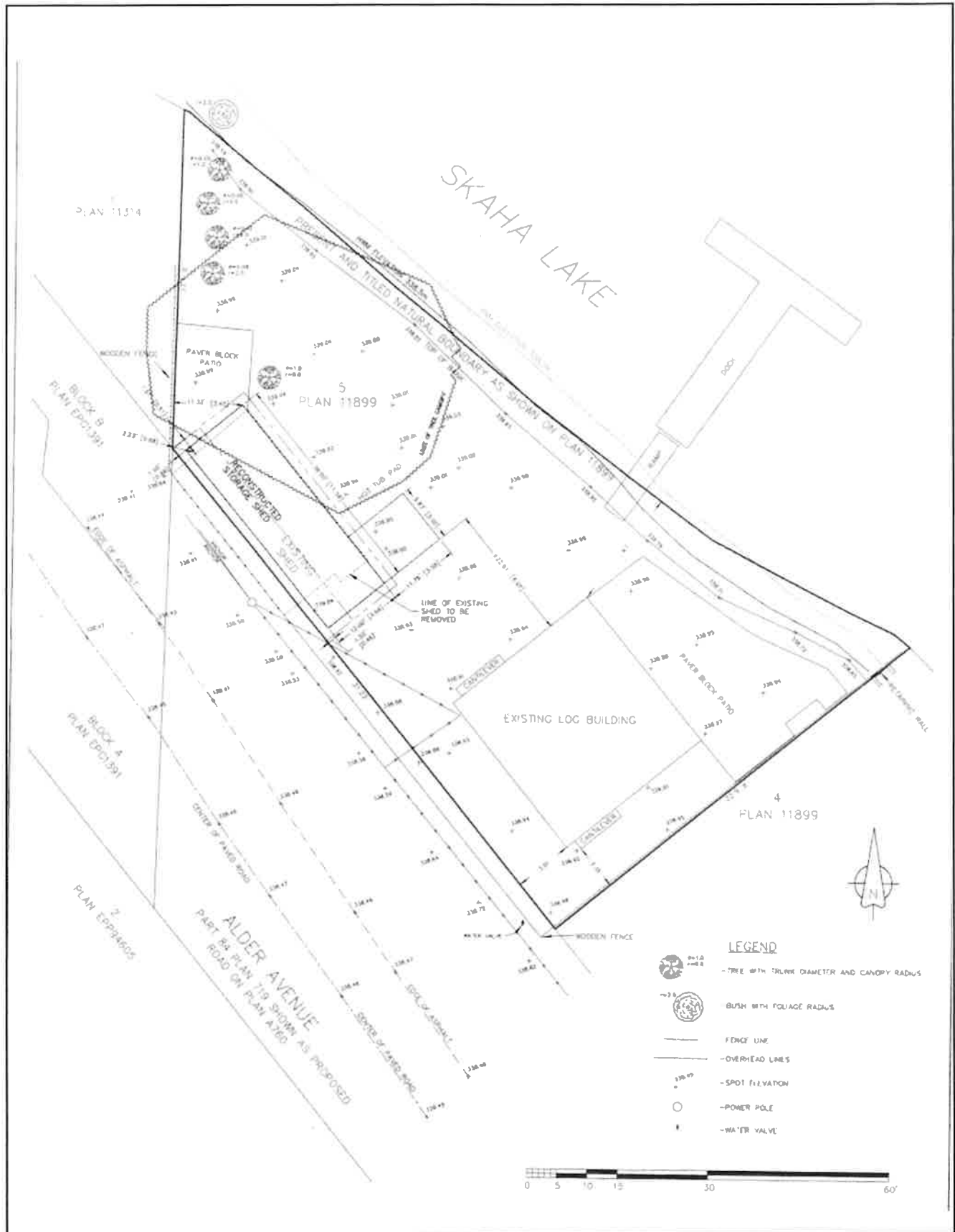
Fiona Titley, Planner II

Attachments: No. 1 — Context Maps
 No. 2 — Applicant's Site Plan
 No. 3 — Site Plan with SPEA Calculation
 No. 4 — Site Photo (Google Maps 2012)

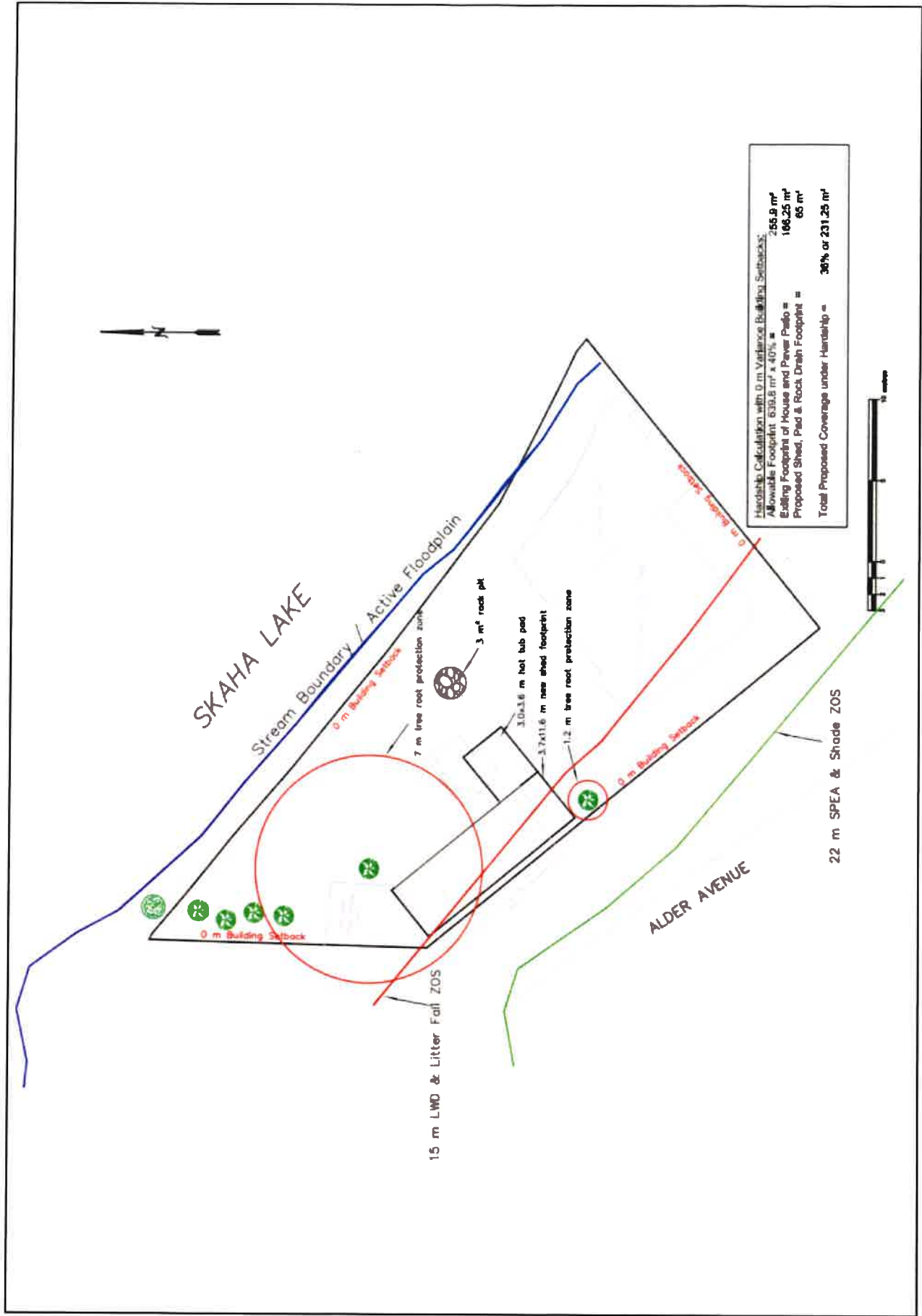
Attachment No. 1 – Context Maps



Attachment No. 2 – Applicant’s Site Plan



Attachment No. 3 – Site Plan with SPEA Calculation



Attachment No. 4 – Site Photo (Google Maps 2012)

