

CITY OF KELOWNA

BYLAW NO. 9673

Heritage Revitalization Agreement Authorization Bylaw HRA06-0001 – 429 Park Avenue

WHEREAS a local government may, by bylaw, enter into a heritage revitalization agreement with the Owner of property which Council deems to be of heritage value pursuant to section 966 of the *Local Government Act*,

AND WHEREAS the Municipal Council of the City of Kelowna is desirous of entering into a Heritage Revitalization Agreement with Valerie Hallford for the property located at 429 Park Avenue, Kelowna, B.C.;

THEREFORE the Municipal Council of the City of Kelowna, in open meeting assembled, enacts as follows:

1. The Municipal Council of the City of Kelowna hereby authorizes the City of Kelowna to enter into a Heritage Revitalization Agreement with Valerie Hallford for the property located at 429 Park Avenue Kelowna, B.C., and legally described as:

Lot 8, Block 6, District Lot 14, ODYD, Plan 431

In the form of such Agreement attached to and forming part of this bylaw as Schedule "A".

2. The Mayor and City Clerk are hereby authorized to execute the attached agreement, as well as any conveyances, deeds, receipts and other documents in connection with the attached agreement, and to affix the corporate seal of the City of Kelowna to same.

Read a first time by the Municipal Council this 18th day of September, 2006.

Considered at a Public Hearing on day of 2006.

Read a second and third time by the Municipal Council this day of 2006.

Approved under The Transportation Act this day of , 2006.

(Approving Officer - Ministry of Transportation)

Adopted by the Municipal Council of the City of Kelowna this day of , 2006.

Mayor

City Clerk

SCHEDULE "A" – Page 1
SCHEDULE "A"
HERITAGE REVITALIZATION AGREEMENT

DOCUMENT APPROVAL			
Document No. HRA06-0001			
Cir	Department	Date	Init.
	Planning		
	Wrks. & Util.		
	Insp. Serv.		
	City Clerks		

THIS AGREEMENT dated as of the day of , 2006 .

BETWEEN:

CITY OF KELOWNA, a Municipal Corporation having offices at
1435 Water Street, Kelowna, British Columbia V1Y 1J4

(herein called the "CITY")

AND:

Valerie Hallford
429 Park Avenue
Kelowna, BC, V1Y 5R2

(herein called the "OWNER")

WHEREAS a local government may, by bylaw, enter into a Heritage Revitalization Agreement with the Owner of property identified as having heritage value, pursuant to Section 966 of the *Local Government Act*;

AND WHEREAS the Owner owns certain real property on which is situated a building of heritage value, pursuant to the City's Heritage Register, which property and building are located at 429 Park Avenue, Kelowna, British Columbia and legally described as:

Parcel Identifier: 012-391-328
Lot 8, Block 6, District Lot 14, ODYD Plan 431

(herein called the "Heritage Lands")

AND WHEREAS the Owner has presented to the City a proposal for the use, development and preservation of the Heritage Lands and has voluntarily and without any requirement by the City, entered into this agreement pursuant to Section 966 of the *Local Government Act*;

AND WHEREAS a local government must hold a Public Hearing on the matter before entering into, or amending, a Heritage Revitalization Agreement if the agreement or amendment would permit a change to the use or density of use that is not otherwise authorized by the applicable

SCHEDULE "A" – Page 2

zoning of the Heritage Lands and for these purposes Section 890 through 894 of the *Local Government Act* apply;

AND WHEREAS within thirty days after entering into, or amending, a Heritage Revitalization Agreement the local government must file a notice in the Land Title Office in accordance with Section 976 of the *Local Government Act* and give notice to the Minister responsible for the *Heritage Conservation Act* in accordance with Section 977 of the *Local Government Act*;

NOW THEREFORE in consideration of the mutual promises contained in this agreement and other good and valuable consideration, the receipt and sufficiency of which is hereby acknowledged, the parties agree as follows:

1.0 Heritage Revitalization

- 1.1 The parties agree that the Heritage Lands have heritage value, deserving of protection and conservation and the Owner specifically agrees to restore, maintain, preserve and protect the heritage character of the buildings located on the Heritage Lands in accordance with attached Appendices "A1", "A2", "A3", "A4", "A5", "A6", "B1", "L1", and "L2".
- 1.2 The parties agree that the Heritage Lands may, notwithstanding the RU1 – Large Lot Housing zoning on the Heritage Lands, be used for the following permitted uses:
 - a) The Heritage Lands may be subdivided to create two lots, in accordance with Appendices "A1" and "A6" attached to this agreement, each of which will retain the RU1 – Large Lot Housing zoning designation.
 - b) A maximum of one single detached house will be permitted on each the newly created lots, including the existing Heritage Building.
 - c) A building addition to the Heritage Building may contain a secondary suite. This addition must be in general conformity with Schedules "A1", "A4" and "A5" attached to this report. The secondary suite is to be rented at an affordable rate as dictated by the annual CMHC Rental Market Report for Kelowna. A Housing Agreement will be registered on title which protects the affordable rental housing in the secondary suite for a period of 10 years from the date of registration.
 - d) The Owner will be permitted to register an easement over the newly created lot which will allow the encroachment of a wheelchair ramp which will provide access to the Heritage Building. Should the Owner remove the handicapped ramp (except temporarily for repair or replacement) the easement will cease to exist.
 - e) A single detached house will be constructed on the newly created unoccupied lot, as shown on Appendix "A1" and shall be constructed in accordance with the plans and design outlined in Appendices "A2" and "A3", attached to this agreement.
 - f) The Owner will apply for formal designation of the Heritage Building (known as the Reekie House) as a protected heritage property pursuant to the City of Kelowna Heritage Procedures Bylaw No.7776 and Section 967 of the *Local Government Act*.
 - g) The Owner will apply for all necessary building permits and complete the heritage revitalization works to the Heritage Building detailed in Appendix "B1" attached to this agreement to the satisfaction of the City of Kelowna's Inspection Services Division prior to substantial completion of the entire development.
- 1.3 The parties agree that, except as varied or supplemented by the provisions of this agreement, all bylaws and regulations of the City and all laws of any authority having jurisdiction shall apply to the Heritage Lands and the Heritage Building.

SCHEDULE "A" – Page 3

- 1.4 The parties agree that variances to the following subsections of **Section 13 – Urban Residential Zones** of City of Kelowna Zoning Bylaw No. 8000 be granted through this agreement:

13.1.5 Subdivision Regulations: Vary paragraphs a) and c) as follows:

- a) Vary the lot width from 16.5m required to 12.19m proposed as shown in Appendix "A1".
- b) Vary the lot area from 550m² required to 437m² proposed as show in Appendix "A1".

13.1.6 Development Regulations: vary paragraphs d) and e) as follows:

- a) Vary the eastern side yard setback for the new lot from 2.0m required to 1.2m proposed as shown in Appendix "A" attached to this agreement.
- b) Vary the rear yard setback for the new lot from 7.5m required to 2.0m proposed as shown in appendix "A1" attached to this agreement.

2.0 Proposed Development

- 2.1 The Owner agrees to undertake and maintain landscaping on the subject property in general accordance with the landscape plans attached hereto as Schedules "L1" and "L2" and forming part of this agreement. The owner also agrees not to remove the existing maple trees unless their removal is supported by a report from a professional arbourist.

(hereinafter called the "Landscaping Works")

- 2.2 The Owner agrees to provide and pay for all servicing required by the proposed development of the Heritage Lands and to provide required bonding for same, including, but not limited to: domestic water and fire protection, sanitary sewer, storm drainage, road improvements, road dedications and statutory rights-of-way for utility servicing, power and telecommunication services and street lighting all as noted below.

(hereinafter called the "Works and Utilities Requirements")

3.0 Works & Utilities Requirements

- 3.1. Domestic Water and Fire Protection

The existing Heritage Building is provided with a 19mm-water service that shall continue to be used to supply the main residence and the proposed suite. Metered water from the main residence shall be extended by the Owner to supply the suite.

The Owner shall arrange for individual lot connections before submission of the subdivision plan, including payment of connection fees, and shall provide a copy of the receipt.

A water service for the proposed additional lot shall be provided by the Owner from a 150mm diameter PVC water main on Park Avenue.

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3.2 Sanitary Sewer

The existing house is provided with a single 100mm-diameter sanitary sewer service that shall be used to service the main residence and the proposed suite. An inspection chamber is in place.

The Owner shall arrange for individual lot connections before submission of the subdivision plan, including payment of connection fees, and shall provide a copy of the receipt.

A sanitary service for the proposed additional lot shall be provided by the Owner from a 200mm diameter PVC sewer main on Park Avenue.

3.3 Road Improvements

Park Avenue fronting this property must be constructed to a full urban standard including curb and gutter, fillet pavement, adjustment and/or re-location of existing utility appurtenances if required to accommodate this construction. Notwithstanding the foregoing, the construction of the full urban upgrade of Park Avenue fronting this development will be deferred. A one-time cash payment of \$10,705.00 shall be collected from the Owner to pay for the future urban upgrade as described. This cash payment shall be made prior to final adoption of City of Kelowna Heritage Revitalization Agreement Authorization Bylaw No. 9673.

3.4 Drainage

The property is located within the City of Kelowna drainage service area. The Subdivision, Development and Servicing Bylaw requires that each lot be provided with an individual connection; however, the City Engineer may permit use of individual ground water disposal systems, where soils are suitable. For on-site disposal of drainage water, a hydro-geotechnical report will be required complete with a design for the disposal method (i.e. trench drain / rock pit). The Lot Grading Plan must show the design and location of these systems for each lot.

3.5 Electric Power and Telecommunication Services

The Owner shall make servicing applications to the respective power and telecommunication utility companies. The utility companies are required to obtain the City's approval before commencing construction.

Before making application for approval of the subdivision plan, the Owner shall make arrangements with Fortis BC for the pre-payment of applicable charges and shall tender a copy of their receipt with the subdivision application for final approval.

3.6 Design and Construction

The Owner shall be responsible for ensuring that all design, construction supervision and inspection of all off-site civil works and site servicing is performed by a consulting civil engineer and all such work is subject to the approval of the City Engineer. The Owner shall ensure that all drawings conform to City standards and requirements.

The Owner shall ensure that all engineering drawing submissions are in accordance with the City's "Engineering Drawing Submission Requirements" Policy, including the required number of sets and drawings required for submissions.

The Owner shall ensure that Quality Control and Assurance Plans are provided in accordance with the Subdivision, Development & Servicing Bylaw No. 7900 (refer to Part 5 and Schedule 3).

SCHEDULE "A" – Page 5

The Owner shall ensure that a "Consulting Engineering Confirmation Letter" (City document 'C') is completed prior to submission of any designs.

3.7 Survey Monuments and Iron Pins

If any legal survey monuments or property iron pins are removed or disturbed during construction, the Owner shall pay to the City a flat sum of \$1,200.00 per incident to cover the cost of replacement and legal registration.

3.8 Geotechnical Report

The Owner shall provide to the City's Planning and Development Services Department, prior to submission of any required engineering drawings or application for subdivision approval, 3 copies of a modified geotechnical report (upon which the City shall rely to prevent any damage to property or injury to persons from occurring as a result of problems with soil slippage or soil instability related to this proposed subdivision), prepared by a professional engineer competent in the field of hydro-geotechnical engineering to address the items below:

- a) Area ground water characteristics, including any springs and overland surface drainage courses traversing the property, and identifying any monitoring required;
- b) Site suitability for development from a hydro-geotechnical perspective;
- c) Any special requirements for construction of driveways, utilities and building structures;
- d) Recommendations for roof drains and perimeter drains;
- e) Site soil characteristics (for example, fill areas, sulphate content, unsuitable soils such as organic material, or other);
- f) Any items required in other sections of this document.

4.0 Inspection Services Requirements

4.1 The Owner shall ensure that all new construction on the Heritage Lands shall conform to the BC Building Code.

5.0 Commencement and Completion

5.1 The Owner agrees to commence the Restoration Works, Landscaping Works, and Works and Utilities Requirements forthwith upon adoption of City of Kelowna Heritage Revitalization Agreement Authorization Bylaw No. 9673 and to complete all such Works no later than December 31st, 2008.

6.0 Damage or Destruction

6.1 In the event that no more than 75% of the Heritage Building is damaged, the parties agree as follows:

- (a) The Owner may repair the Heritage Building in which event the Owner shall forthwith commence the repair work and complete same within one year of the date of damage;

OR, in the event that the Heritage Building is destroyed:

SCHEDULE "A" – Page 6

- (b) The City will, by bylaw and after conducting a Public Hearing in the manner prescribed by Sections 890 through 894 of the *Local Government Act*, cancel this agreement in relation to the parcel on which the Heritage Building stood, whereupon all use and occupation of the Heritage Lands, and any construction of a replacement dwelling or other structure, shall thenceforth be in accordance with the zoning bylaws of the City and in accordance with all other bylaws or regulations of the City or any other laws of authority having jurisdiction.

7.0 Breach

- 7.1 In the event that the Owner is in breach of any term of this Agreement, the City may give the Owner notice in writing of the breach and the Owner shall remedy the breach within 30 days of receipt of the notice. In the event that the Owner fails to remedy the breach within the time allotted by the notice, the City may by bylaw and after conducting a Public Hearing in the manner prescribed by Sections 890 through 894 of the *Local Government Act* cancel this Agreement whereupon all use and occupation of the Heritage Lands shall thenceforth be in accordance with the zoning bylaws of the City and in accordance with all other bylaws or regulations of the City or any other laws of authority having jurisdiction.

8.0 Amendment

- 8.1 The parties acknowledge and agree that this Agreement may only be amended by one of the following means:
- (a) By bylaw with the consent of the parties provided that a Public Hearing shall be held if an amendment would permit a change to use or density of use on site or;
 - (b) By Heritage Alteration Permit (HAP), issued pursuant to Section 972 of the *Local Government Act*.

9.0 Representations

- 9.1 It is mutually understood and agreed upon between the parties that the City has made no representations, covenants, warranties, promises or agreements expressed or implied, other than those expressly contained in this Agreement.

10.0 Statutory Functions

- 10.1 Except as expressly varied or supplemented herein, this Agreement shall not prejudice or affect the rights and powers of the City in the exercise of its statutory functions and responsibilities including, but not limited to, the *Local Government Act* and its rights and powers under any enactments, bylaws, order or regulations, all of which, except as expressly varied or supplemented herein, are applicable to the Heritage Lands.

11.0 Enurement

- 11.1 This Agreement enures to the benefit of and is binding upon the parties hereto and their respective heirs, executors, administrators, successors and assigns.

12.0 Other Documents

- 12.1 The Owner agrees at the request of the City, to execute and deliver or cause to be executed and delivered all such further agreements, documents and instruments and to do and perform or cause to be done and performed all such acts and things as may be required in the opinion of the City to give full effect to the intent of this Agreement.

13.0 Notices

- 13.1 Any notice required to be given pursuant to this Agreement shall be in writing and shall either be delivered mailed by registered mail as follows:

SCHEDULE "A" – Page 7

(a) To the City:

City of Kelowna
1435 Water Street
Kelowna, B.C. V1Y 1J4

ATTENTION: City Clerk

(b) To the Owner:

Valerie Hallford
429 Park Avenue
Kelowna, BC, V1Y 5R2

Or, to such other address to which a party hereto may from time to time advise in writing.

14.0 No Partnership or Agency

14.1 The parties agree that nothing contained herein creates a relationship between the parties of partnership, joint venture or agency.

IN WITNESS WHEREOF this Agreement has been executed by the parties hereto on the day and year first above written.

CITY OF KELOWNA
by its authorized signatories

(Mayor)

(City Clerk)

Valerie Hallford
429 Park Avenue
Kelowna, BC, V1Y 5R2

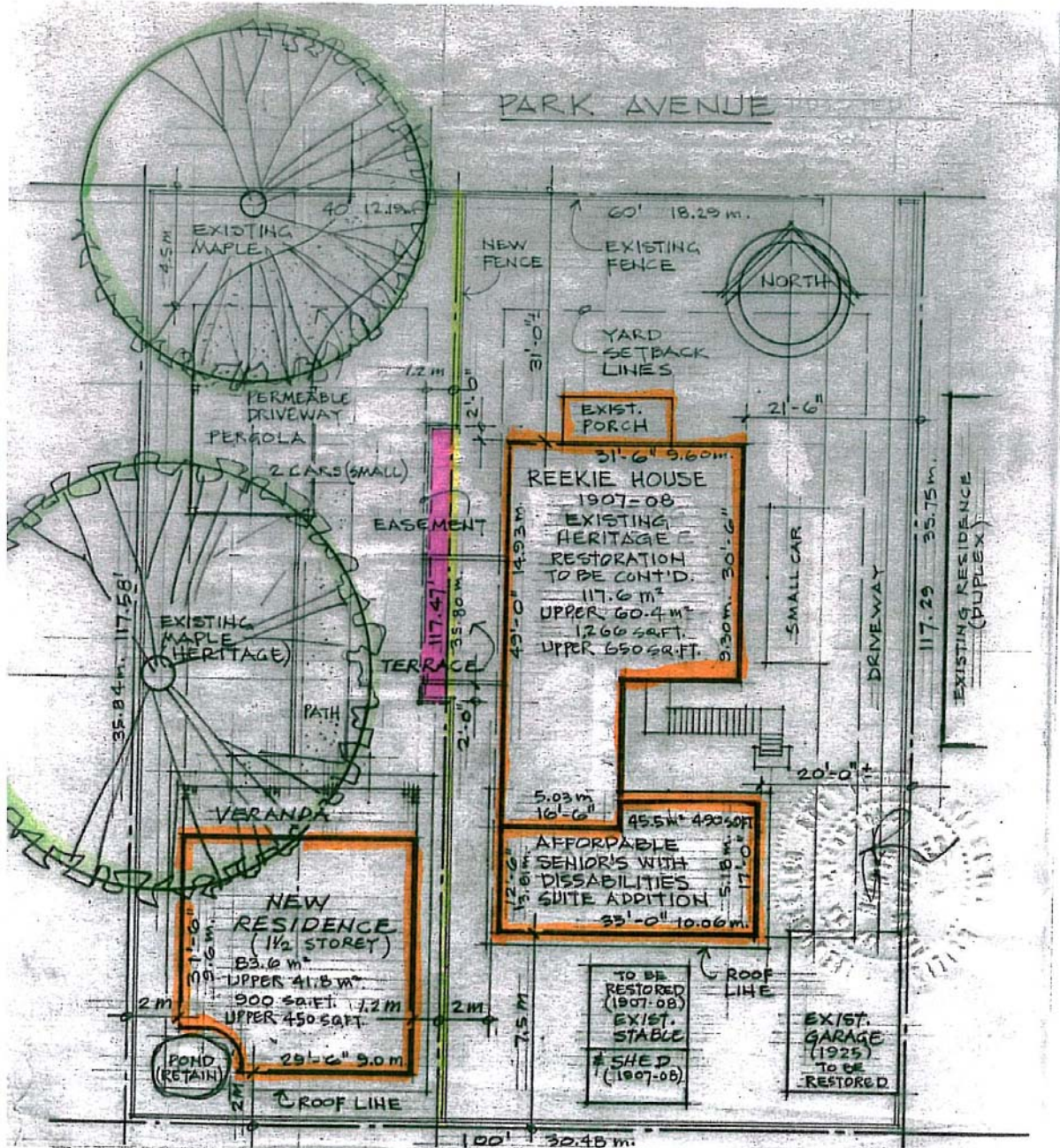
In the presence of:

Witness (print name)

Valerie Hallford

Address

Occupation

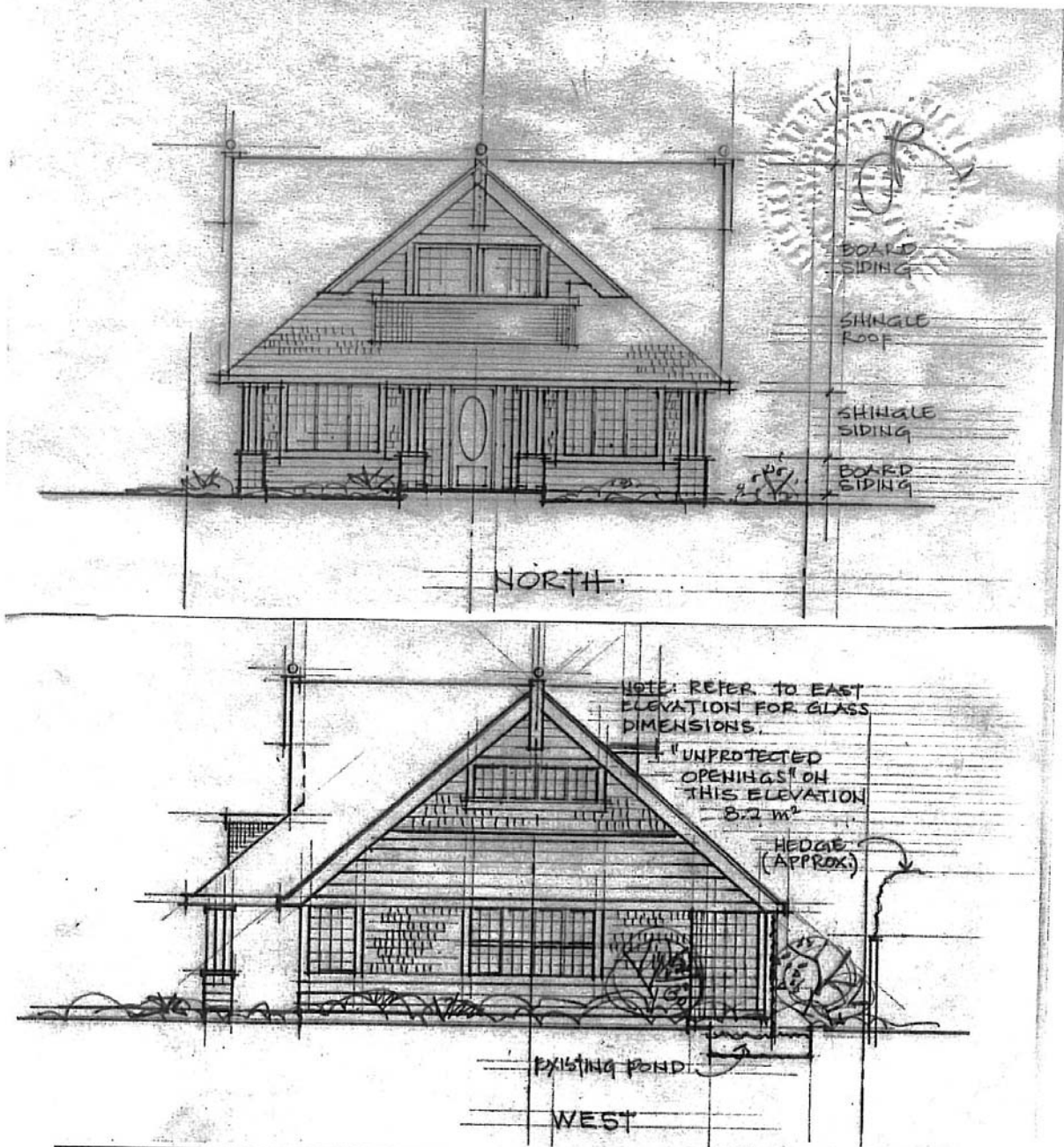


HALLFORD RESIDENCE: Heritage Revitalization Agreement
 429 PARK AVENUE, KELOWNA, BC
Preliminary: Site Plan

Date: May 19, 2006 Revised: August 31, 2006
 Scale on Original: 1:200 (1/16" = 1' - 0")

HRA06-0001
Appendix "A1"

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HALLFORD RESIDENCE: Heritage Revitalization Agreement

429 PARK AVENUE, KELOWNA, BC

Prelim: 12.19m (40ft.) lot – Residence Elev.

Date: May 19, 2006 Revised: August 31, 2006
Scale on Original: 1:100 (1/8" = 1'-0")

HRA06-0001
Appendix "A2"

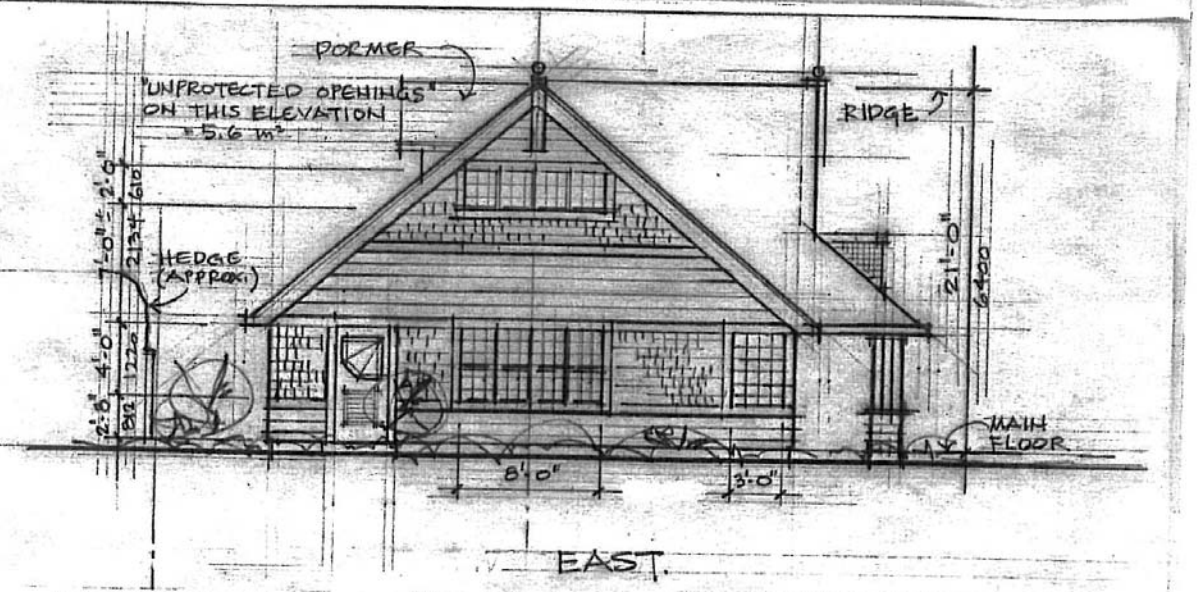
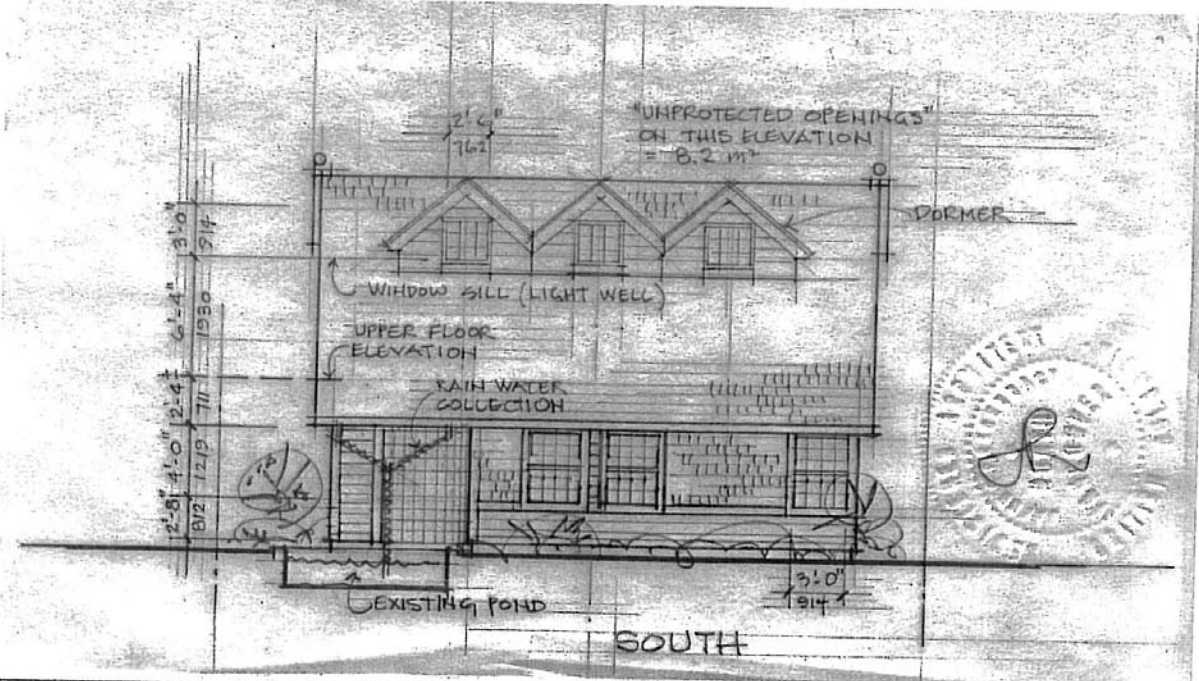
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HALLFORD RESIDENCE: Heritage Revitalization Agreement
 429 PARK AVENUE, KELOWNA, BC
Prelim: 12.19m (40ft.) lot - Residence Elev.

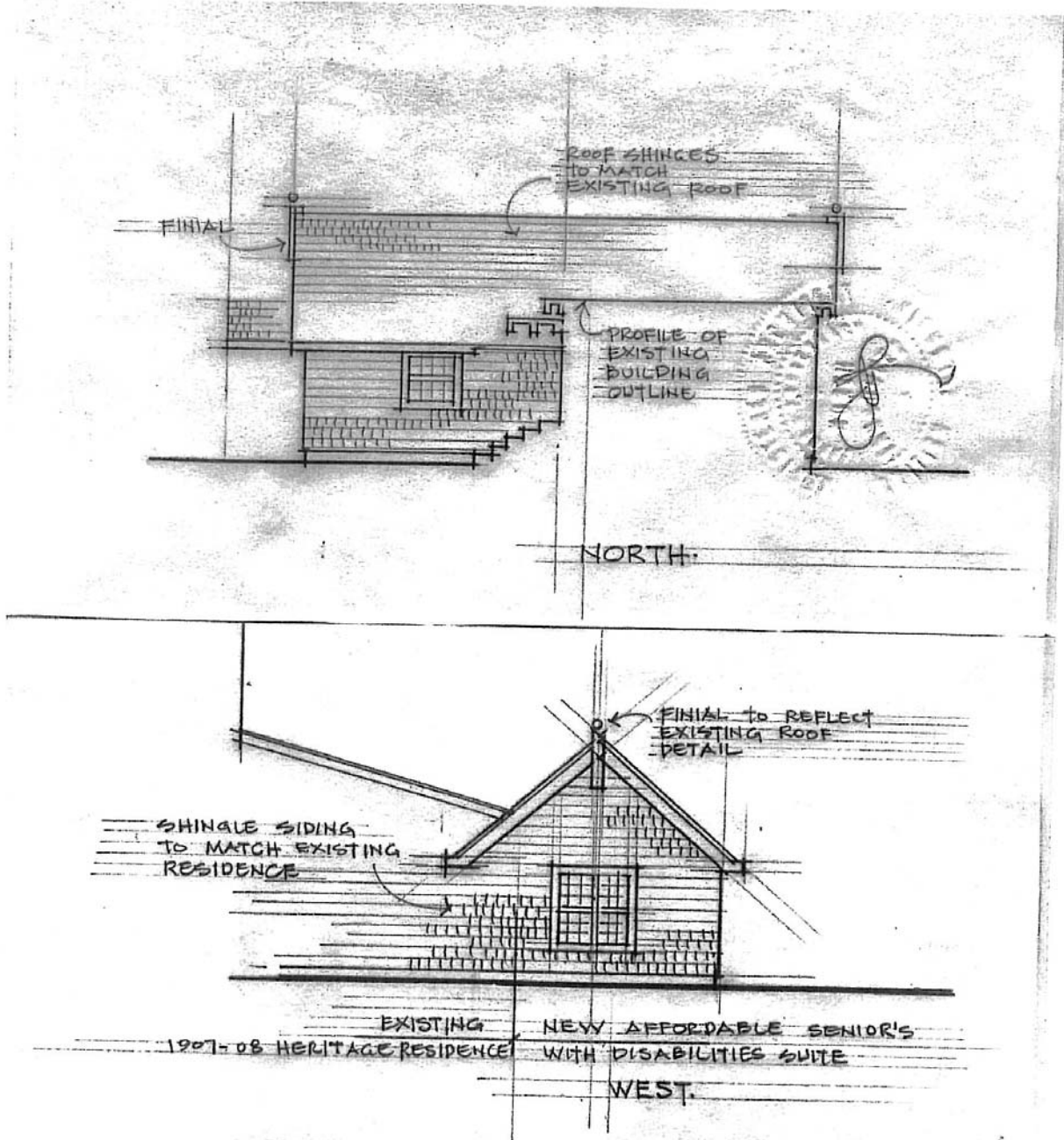
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Date: May 19, 2006 Revised: August 31, 2006
 Scale on Original: 1:100 (1/8" = 1'-0")

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HRA06-0001
Appendix "A3"

SCHEDULE "A" - Page 11



HALLFORD RESIDENCE: Heritage Revitalization Agreement
429 PARK AVENUE, KELOWNA, BC

Prelim: 18.29m (60ft.) lot - Residence Elev.

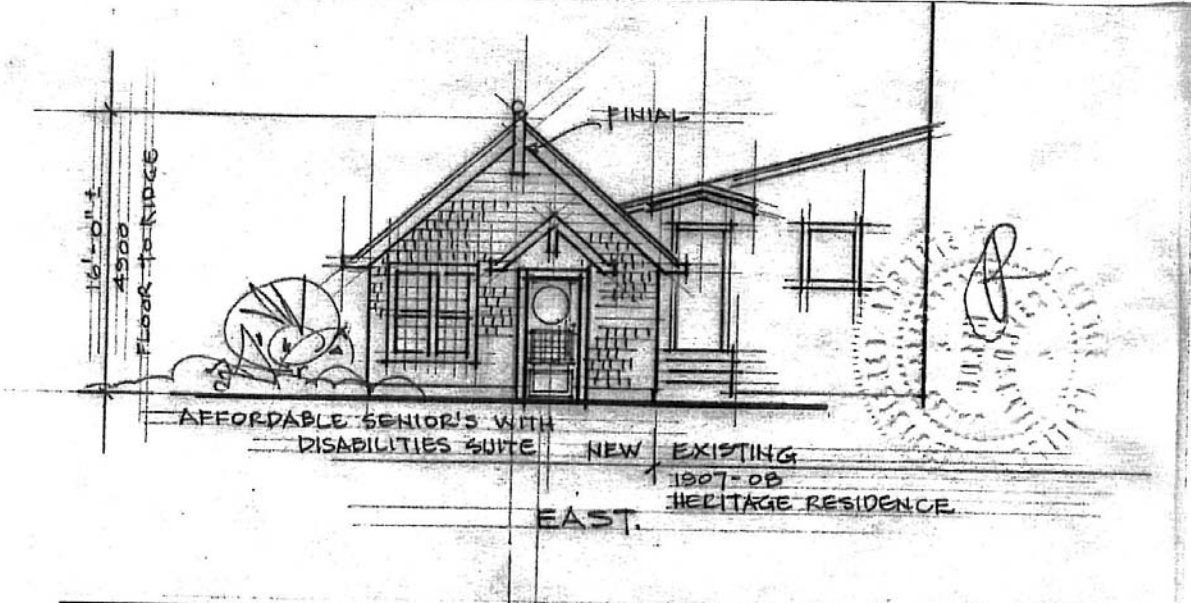
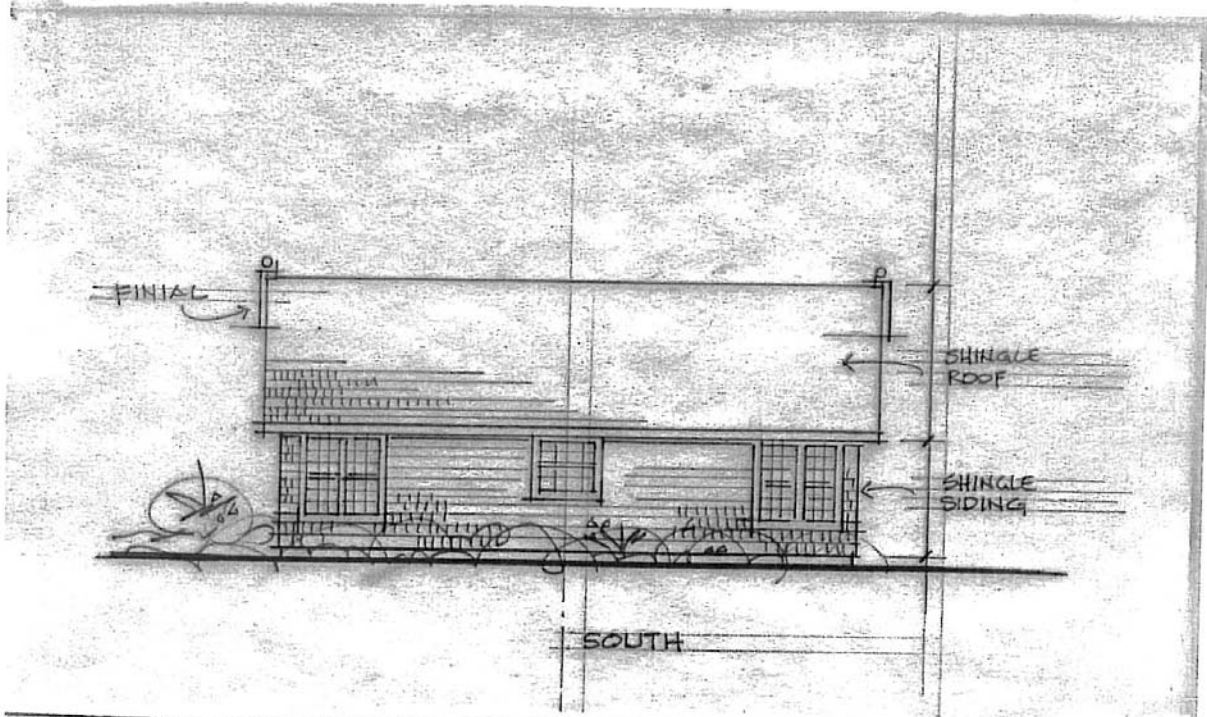
Date: May 19, 2006 Revised: August 31, 2006
Scale on Original: 1:100 (1/8" = 1' - 0")

HRA06-0001

Appendix "A4"

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HALLFORD RESIDENCE: Heritage Revitalization Agreement

429 PARK AVENUE, KELOWNA, BC

Prelim: 18.29m (60ft.) lot - Residence Elev.

Date: May 19, 2006 Revised: August 31, 2006
 Scale on Original: 1:100 (1/8" = 1'-0")

HRA06-0001

Appendix "A5"

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SCHEDULE "A" – Page 13

Re: 429 Park Avenue, Kelowna, BC
Legal Description: Lot 8, Plan 348, Block 6, TP 25, Sec.24, O.D.Y.D.

Drawing A1 - Preliminary: Site Plan
Drawing A2 - Preliminary: Landscape Plan
Dated: May 19, 2006 Revised: August 31, 2006
Hallford Residence: Heritage Revitalization Agreement

Produces the following site statistics:

SITE DATA

Current Zoning: RU1

Existing 30.48 m. (100 ft.) wide lot	1,091 sq.m. (11,743.766 sq.ft.)
New 18.29 m. (60 ft.) wide lot	654 sq.m. (7,042.716 sq.ft.)
New 12.19 m. (40 ft.) wide lot	437 sq.m. (4,701.050 sq.ft.)

Site Coverage: Respecting the New 18.29 m. (60 ft.) wide lot

Including: the existing residence, front porch, exterior stair to the upper floor, garage, stable with lean-to, and the new senior's accommodation:

Site Coverage 34.6% (permitted: 40%)

Including the driveway and the above:

Site Coverage 45.0% (permitted 50%)

Site Coverage: Respecting the New 12.19 m. (40 ft.) wide lot

Including the new residence with veranda, and a new carport:

Site Coverage 31.4% (permitted 40%)

Including the driveway and the above:

Site Coverage 45.2% (permitted 50%)

Notes:

1. These site coverage calculations do not include the terrace area on the west side of the existing residence. The Terrace easement on the new 12.19 m. (40 ft.) wide lot accounts for 10.5 sq.m (113 sq.ft.).
2. These calculations include the stable and its lean-to for the purpose of calculation, but they may not be required for calculating the site coverage.
3. Off-street parking for 2 cars is provided for the new 12.19 m. (40 ft.) wide lot and 1 new space is provided in addition to 1 existing space for the existing residence on the 18.29 m. (60 ft.) wide lot.
4. No coverage allowance is included for the ramped access to the north side of the terrace.
5. Driveway width is taken as 8 ft. Calculations are based on information provided to the architect.
6. An easement is shown to permit retention of the Terrace and a portion of its accessibility ramp on the west side of the existing residence.
7. The new residence on the new 12.19 m. (40 ft.) wide lot is sprinklered. Limiting Distance calculations are made accordingly.

HALLFORD RESIDENCE: Heritage Revitalization Agreement
429 PARK AVENUE, KELOWNA, BC

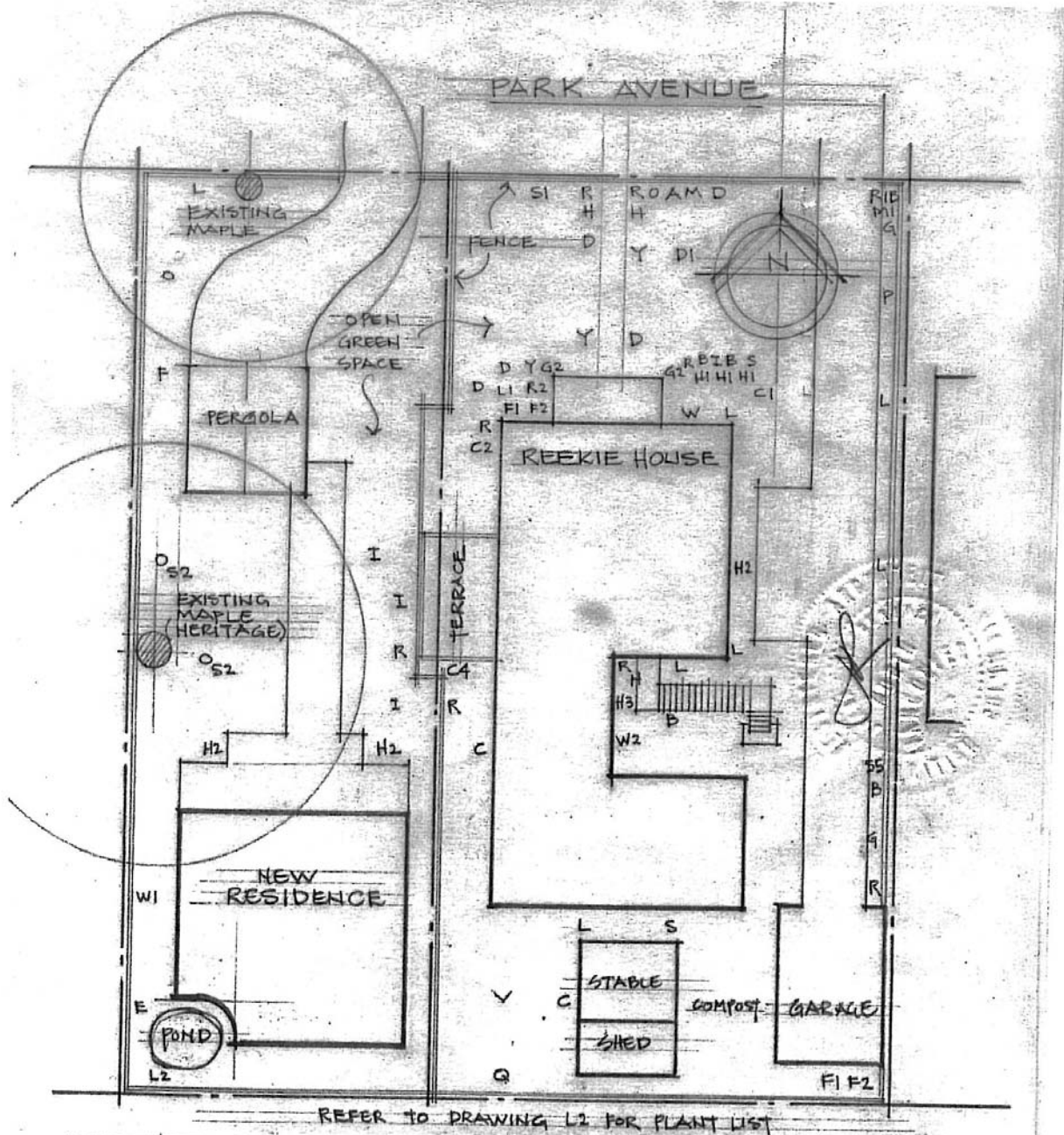
Preliminary: Statistics

Date: May 19, 2006 Revised: August 31, 2006
Scale on Original: n/a

HRA06-0001
Appendix "A6"

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REFER TO DRAWING L2 FOR PLANT LIST

HALLFORD RESIDENCE: Heritage Revitalization Agreement
 429 PARK AVENUE, KELOWNA, BC
Preliminary: Landscape Plan

Date: May 19, 2006 Revised: August 31, 2006
 Scale on Original: 1:200 (1/16" = 1' - 0")

HRA06-0001
Appendix "L1"

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SCHEDULE "A" – Page 15

Note for the new 12.19m. (40 ft.) wide lot:

- to have as recommended plantings for the north: heritage varieties or heritage-type varieties of perennials similar to those on the "Reekie House" site.
- to have as recommended plantings for the south, east, and west: "traditional" vines and low-water, sun-tolerant perennials and existing water lilies in pond.

LANDSCAPE PLANT LIST (existing)

A	apricot (espalier)	L1	lily of the valley
B	bulbs: various winter & spring (aconite, crocus, snowdrops, tulips, daffodil, hyacinth)	M	monardia
B2	bleeding heart	M1	mallow
C	clematis vine	O	Oregon grape
C1	choke cherry	P	peony (will shown adjacent to new parking on the 12.19m (60 ft lot)
C2	columbine	Q	flowering quince
C3	Canterbury bulb	R1	rudbekia
C4	campsis vine (hummingbird vine)	R2	red hot poker
D1	dogwood (Satomi)	R	roses - various heritage and David Austin climbers
D	daisies	S1	snapdragons
E	English bluebells	S2	stocks
F	forsythia	S3	silver lace vine
F1	flocks	S	snowberry
F2	foxgloves	S4	Sweet William
G	ribbon grass	S5	sumac
G1	grape vine	V	vegetables + berries (organic)
G2	geranium (Cranesbill)	V1	vinca
H3	hellebore	V2	violets
H	holly	W1	wild rose (12 ft. tall)
H1	hostas	W	wigelia
H2	honey suckle	W2	wisteria vine
I	iris	Y	yarrow
L	lilac		

HALLFORD RESIDENCE: Heritage Revitalization Agreement
429 PARK AVENUE, KELOWNA, BC

Preliminary: Landscape Plant List

Date: August 31, 2006

Scale on Original: 1:200 (1/16" = 1' - 0")

HRA06-0001

Appendix "L2"

JAK REDENBACH • ARCHITECT

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