
**CITY OF KELOWNA
MEMORANDUM**

Date: September 21, 2007

To: City Manager

From: Planning & Development Services Department

APPLICATION NO. DVP06-0228

APPLICANTS: Diane Drummond

AT: 4284 Jaud Road

OWNER: Diane Drummond

PURPOSE: TO OBTAIN A DEVELOPMENT VARIANCE PERMIT IN ORDER TO PERMIT A SECONDARY SUITE FLOOR AREA OF 113 M2 WHERE THE MAXIMUM ALLOWABLE FLOOR AREA IS 90 M2.

EXISTING ZONE: A1 – AGRICULTURE 1

PROPOSED ZONE: A1S – AGRICULTURE 1 WITH SECONDARY SUITE

REPORT PREPARED BY: NELSON WIGHT

1.0 RECOMMENDATION

THAT Final Adoption of Zone Amending Bylaw No. 9748 be considered by Council;

AND THAT Council authorize the issuance of Development Variance Permit No. DVP06-0228 for Lot A, Section 34, Township 29, O.D.Y.D, Plan 13328, located on Jaud Road, Kelowna, B.C., subject to the following:

1. The dimensions and siting of the building to be constructed on the land be in general accordance with Schedule "A";

AND THAT a variance to the following section of Zoning Bylaw No. 8000 be granted:

Section 9.5.4 – Secondary Suite (Maximum Floor Area for Suite)

To vary the maximum allowable floor area of a secondary suite within an accessory building (the lesser of 90 m² or 75% of principal building) in order to allow a secondary suite floor area of 113 m²

1.0 SUMMARY

The purpose of this application is to allow the original house to remain on the subject property, in addition to the second house, which is under construction. Legalizing this original house as a secondary dwelling unit necessitates successful approval of the following applications:

1. approval of a non-farm use application with the Agricultural Land Commission (previously approved under application # A06-0016, ALC file #G – 36880, see attached minutes recording that decision);
2. approval of a rezoning application from A1 to A1s;
3. approval of a development variance permit to address the non-conforming structure (exceeds maximum floor area allowed for secondary suites).

2.0 ADVISORY PLANNING COMMISSION

At a meeting held on January 30, 2007, the APC passed the following motion:

THAT the Advisory Planning Commission supports Development Variance Permit Application No. DVP06-0228, for 4284 Jaud Road, Lot A, Section 34, Township 29, O.D.Y.D, Plan 13328,

to obtain a Development Variance Permit in order to permit a secondary suite floor area of 113 m² where the maximum allowable floor area is 90 m².

The Chair directed staff to ensure that the conditions of the Agricultural Land Commission are incorporated into the Recommendation to Council

3.0 BACKGROUND

The subject property is located on Jaud Road, approximately 1 km south of the South Kelowna Elementary School. Priest Creek runs through the southern portion of the property.

The surrounding area is predominantly in the Agricultural Land Reserve (ALR) and used for agricultural purposes, except for the two isolated residential developments to the east and south. A 10-lot rural residential subdivision lies to the east across Jaud Road, and there is a ± 10-unit mobile home park across Jaud Road to the south.

Existing development on the subject property consists of the following buildings:

1. a ± 113 m² (± 1,216 ft²) single-family home (under a delayed demolition permit),
2. a ± 416 m² (± 4,474 ft²) single-family home with attached garage under construction, and
3. a ± 70 m² (± 750 ft²) detached garage.

Outside of the established and newly proposed yard areas, the land is primarily grassed and used for horse paddocks and some grazing. There are two significant environmental areas, which include Priest Creek, which runs along the southern portion of the property, and a wetland in the north central portion of the property immediately north of the dwelling that is under construction.

Water service for this lot is supplied by the South East Kelowna Irrigation District (SEKID). Sewage disposal for the new dwelling, which is under construction, is to be provided by a new septic tank and field installation. There is no information from the Applicant with regard to any sewage disposal systems that are connected to the existing dwelling, but is assumed to be the same (i.e.: tank and field).

The proposed development meets the requirements of the A1s – Agriculture 1 with Secondary Suite zone, as follows; conflicts with the Zoning Bylaw requirements are detailed immediately following the table:

| Zoning Bylaw No. 8000 | | |
|-------------------------|-----------------|--|
| CRITERIA | PROPOSAL | A1s ZONE REQUIREMENTS |
| Subdivision Regulations | | |
| Lot Area | 2.0 ha (5.0 ac) | 4.0 ha except it is 2.0 ha for properties in the ALR |
| Lot Width | 102 m | 40.0 m |
| Lot Depth | 195 m | 30.0 m |

| Development Regulations | | |
|---|---|--|
| Site Coverage (residential development) | 3% | 10% |
| Site Coverage (agricultural structures) | 0% | 35% |
| Height (new house under construction) | 1 ½ storey | 2 ½ storeys / 9.5 m |
| Height (original house, to be legalized as secondary suite) | 1 ½ storey | lesser of 9.5 m or the height of the existing principal dwelling unit |
| Front Yard | 13.0 m | 6.0 m |
| Front Yard to Secondary Suite in Accessory Bldg. | ± 40 m | 2 x front yard setback = 12 m |
| Side Yard (south) | 48 m | 4.0 m |
| Side Yard (north) | 16 m | 3.0 m |
| Rear Yard (west) | > 10.0 m | 10.0 m / 3.0 m to accessory structures |
| Floor area of existing house | ± 416 m ² (± 4,474 ft ²) | |
| Floor area of secondary suite | ± 113 m ² (± 1,216 ft ²) ^A 27% | The lesser of 90 m ² or 75% of the total floor area of the principal dwelling |
| Height (Suite in Accessory Building) | meets requirements | Maximum height of an accessory building containing a secondary suite shall be the lesser of 9.5 m or the height of the existing principal dwelling unit on the same property., |

| Other Requirements | | |
|-----------------------------------|--------------------|---|
| Parking Stalls (#) | meets requirements | 3 spaces |
| Private Open Space | meets requirements | 30 m ² of private open space per dwelling |
| Second Kitchen | meets requirements | second kitchen is not permitted in A1s zone |
| No Bed & Breakfast, Lodgers, etc. | meets requirements | a secondary dwelling unit is not permitted in conjunction with lodgers, bed and breakfast accommodation or a group home. |
| Attached Covered Parking | meets requirements | Where a secondary suite is located in an accessory building, the accessory building must include a garage or carport for a minimum of one vehicle. Single storey accessory buildings containing secondary suites are not required to provide an attached garage or carport. |

^A The applicant is applying to vary this regulation in order to allow a secondary suite that exceeds the maximum floor area permitted.

4.0 Zoning and Uses of Adjacent Property

| | |
|-------|--|
| North | A1 – Agriculture 1 / Pasture, Hay Land |
| East | RR2 – Rural Residential 2 / rural residential housing on ± ½ acre parcels. |
| South | A1 – Agriculture 1 / Priest Creek mobile home park (13 units) |
| | RR2 – Rural Residential 2 / rural residential housing on 1.0 ac parcel |
| West | A1 – Agriculture 1 / Pasture |

5.0 Existing Development Potential

The purpose is to provide a zone for rural areas and agricultural uses as well as other complementary uses suitable in an agricultural setting. A maximum of one single dwelling house is permitted. In addition a secondary suite may be permitted when in accordance with relevant provisions of Zoning Bylaw No. 8000, including subsection 6.5 and 9.5.

6.0 POLICY AND REGULATION

6.1 City of Kelowna Strategic Plan

A primary goal of the Strategic Plan is to preserve viable agricultural holdings as an integral part of our community.

6.2 Kelowna 2020 – Official Community Plan

The current Official Community Plan has designated the subject property as Rural / Agricultural.

Agricultural Policies:

11.1.12 Sustained Agriculture. Encourage the retention of diverse agricultural uses through limits on urban development and non-farm use on lands of sustainable production capability;

6.3 City of Kelowna Agriculture Plan

Secondary Suites. Support the provision of secondary suites in agricultural areas as per Land Commission Policy # 770/98, which allows one suite per parcel, substantially within the footprint of an existing or proposed single family dwelling provided it is clearly secondary to the single family dwelling. Suites in accessory buildings or enlarging the footprint of an existing residence for a suite would require an ALC application.

7.0 TECHNICAL COMMENTS

The application has been submitted to various technical agencies and City departments, and the following relevant comments have been submitted:

7.1 Environment Manager

No concerns with rezoning as long as the the boundaries of the 15.0-m Riparian Management Area (and any protected covenant/sensitive areas) of Priest Creek are adhered to. The 15.0 meter RMA extends from the top of bank of Priest Creek.

7.2 Fire Department

Fire department access, fire flows, and hydrants as per the BC Building Code and City of Kelowna Subdivision Bylaw.

7.3 Inspections Services Department

No comments.

7.4 Interior Health

Follow-up letter from IHA indicating that existing sewage disposal is adequate.

7.5 Works & Utilities

The proposed rezoning and variance applications for a suite do not compromise Works and Utilities as far as servicing is concerned.

A Drainage Right of Way (ROW) is required for Priest Creek thru the site. The ROW required is from the top-of-bank to top-of-bank plus an additional 3.0 m on one side of the creek.


8.0 STAFF COMMENTS

Staff is supportive of secondary suite development, in accordance with the policy direction of the OCP and Agriculture Plan (see section above), and in accordance with the previous "non-farm use" approval granted by the Agricultural Land Commission (ALC). It should be noted that the ALC placed two conditions on their approval of the non-farm use application, which are noted below:

- A restrictive covenant be placed on the property to ensure that no new residential buildings are allowed on the property.
- Approval is granted to the applicant only and is valid for three (3) years from the date of the decision, which is September 29, 2006.

Were this a project requiring construction of a new building to accommodate the secondary suite, Staff would ensure that it meet the Bylaw requirements. However, because this is an existing structure on the property, it seems more reasonable to use the development variance permit tool to address the non-conforming suite area.

Consequently, Staff is supportive of this development variance permit application.


Shelley Gambacort

Current Planning Supervisor

Approved for inclusion


David Shipclark
Acting Director of Planning & Development Services
NW/nw

ATTACHMENTS (13 pages)

Location of subject property

ALR Map

Surveyor's Certificate

Photos of Original House (2 pages)

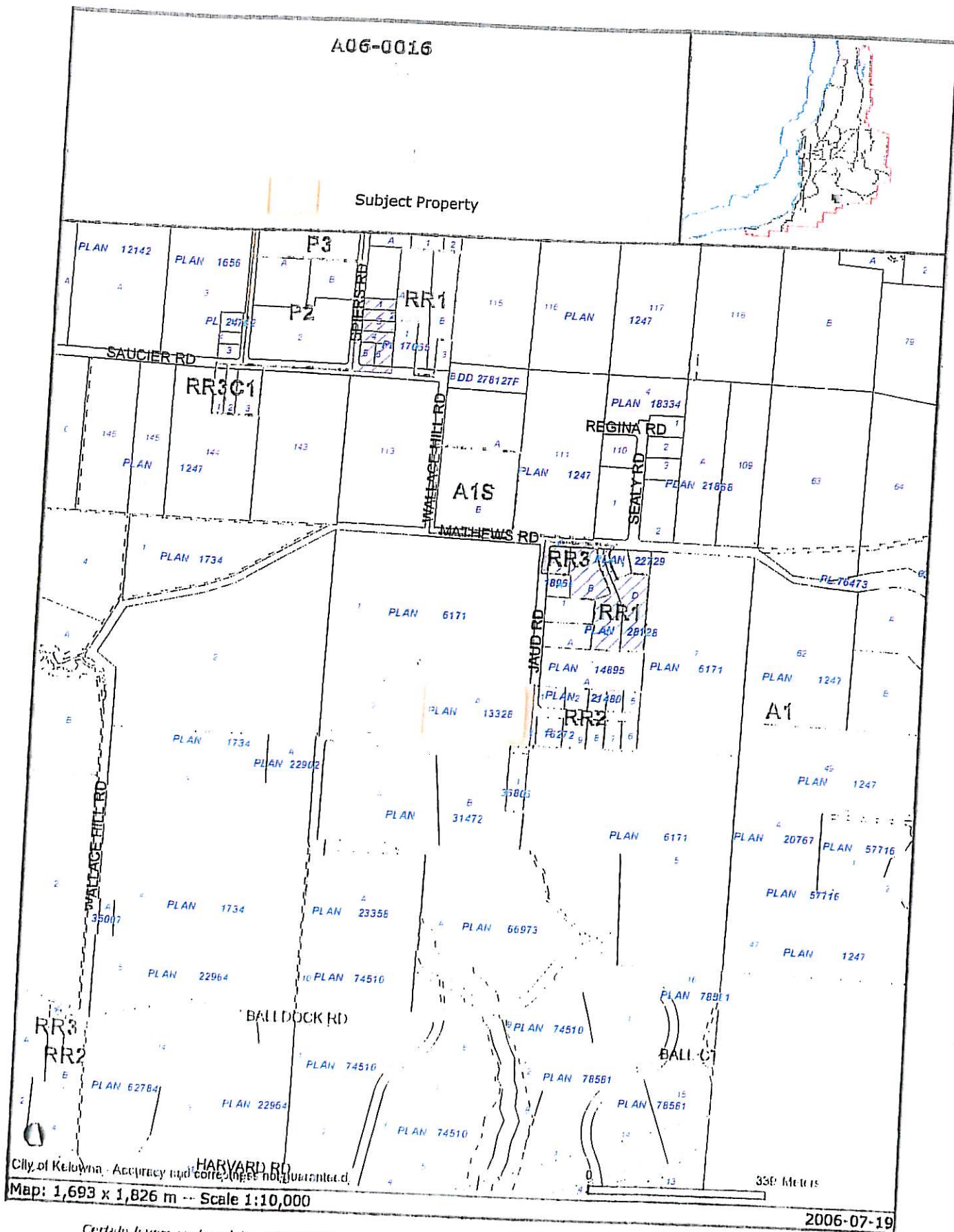
Floor Plans of Original House

Elevations of New House Under Construction (2 pages)

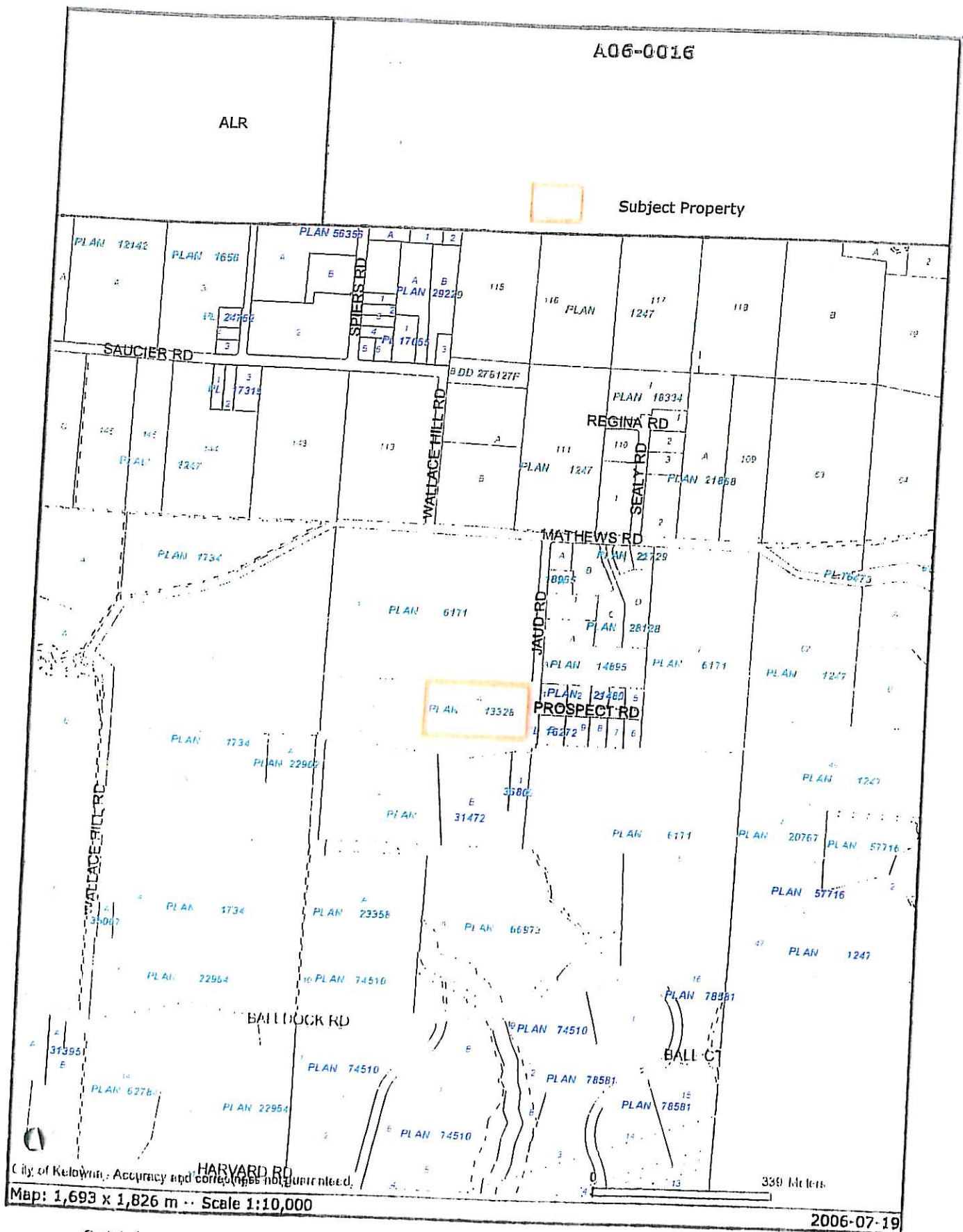
Air Photo

Letters in Support from Neighbours at 4205 Wallace Hill Road (2 pages)

Minutes from ALC Meeting Regarding Application #G – 36880 (2 pages)



Certain layers such as lots, zoning and dp areas are updated bi-weekly. This map is for general information only. The City of Kelowna does not purrantee its accuracy. All information should be verified.

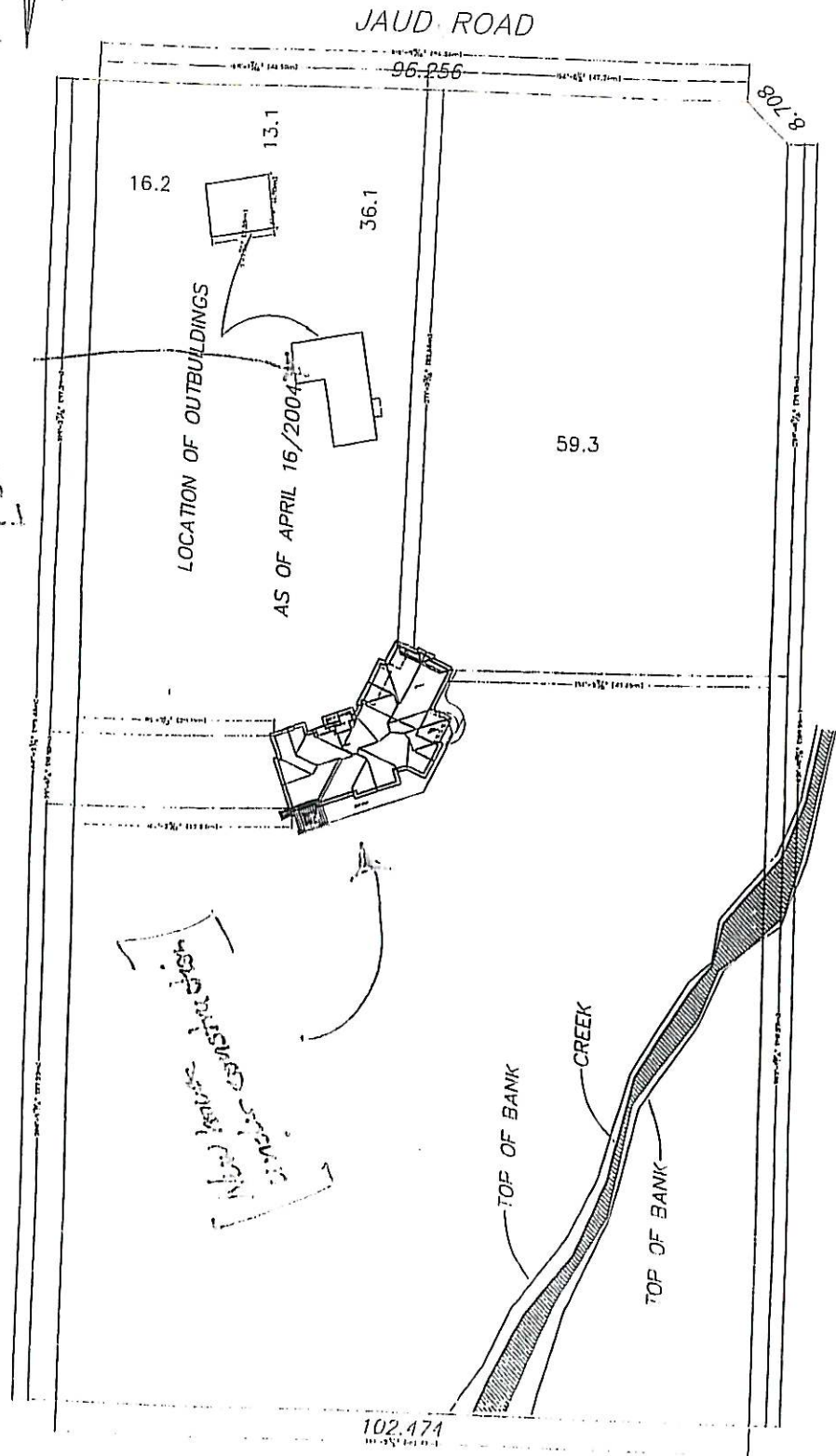
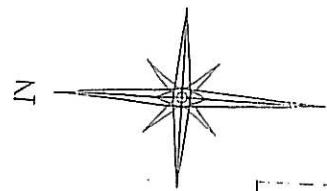


Certain layers such as lots, zoning and dp areas are updated bi-weekly. This map is for general information only. The City of Kelowna does not guarantee its accuracy. All information should be verified.

AND CREEK IN LOT A PLAN 13328
 SEC. 34 TP. 29 O.D.Y.D.
 DISTANCES ARE IN METRES.

Original house to
 be legalized as a
 secondary suite

1/2 acre
 (approximate)
 (approximate)

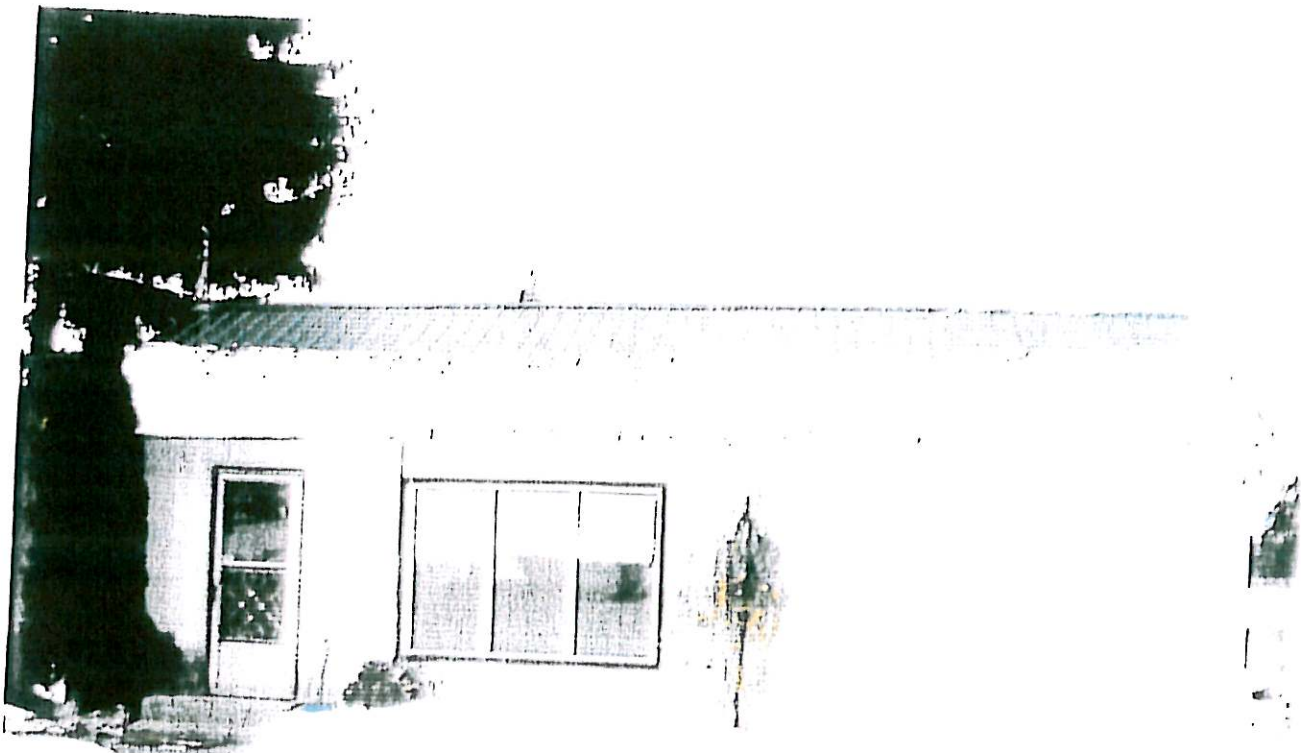
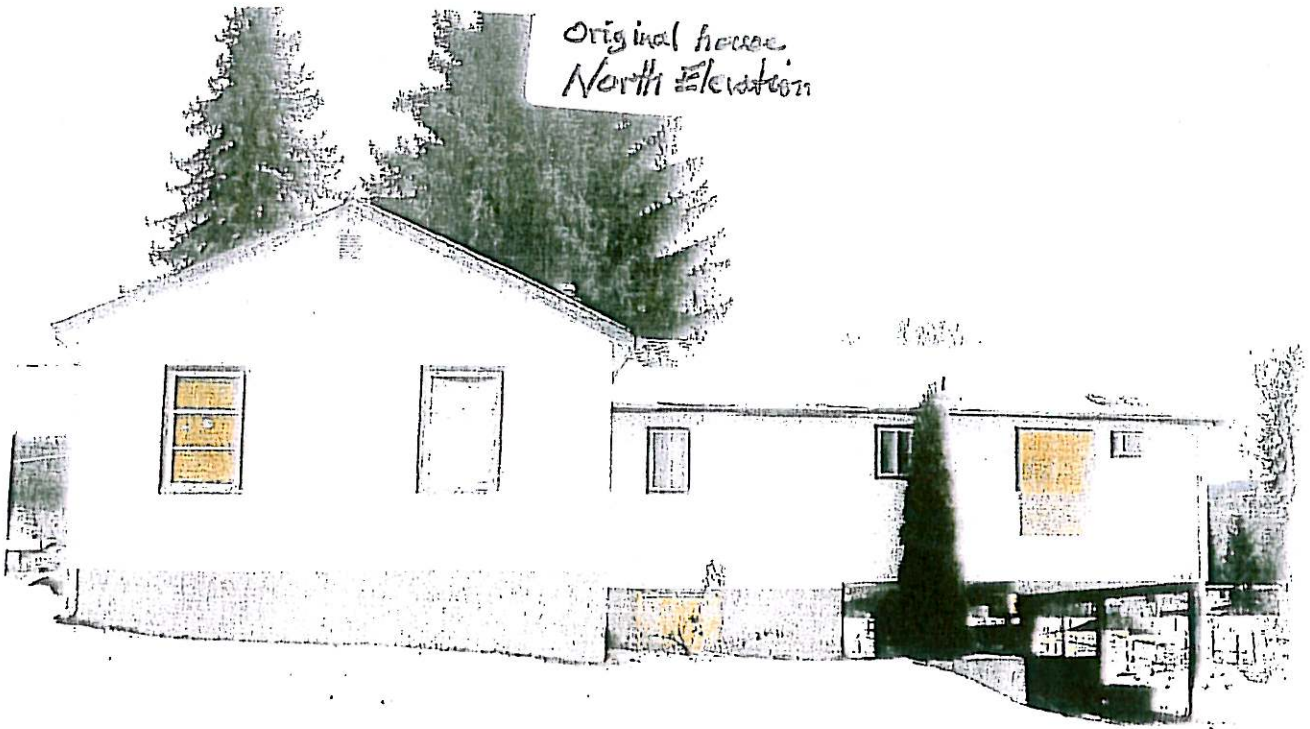


PLOT PLAN

FILE 13493 FB 297
 RE: DIANE DRUMMOND

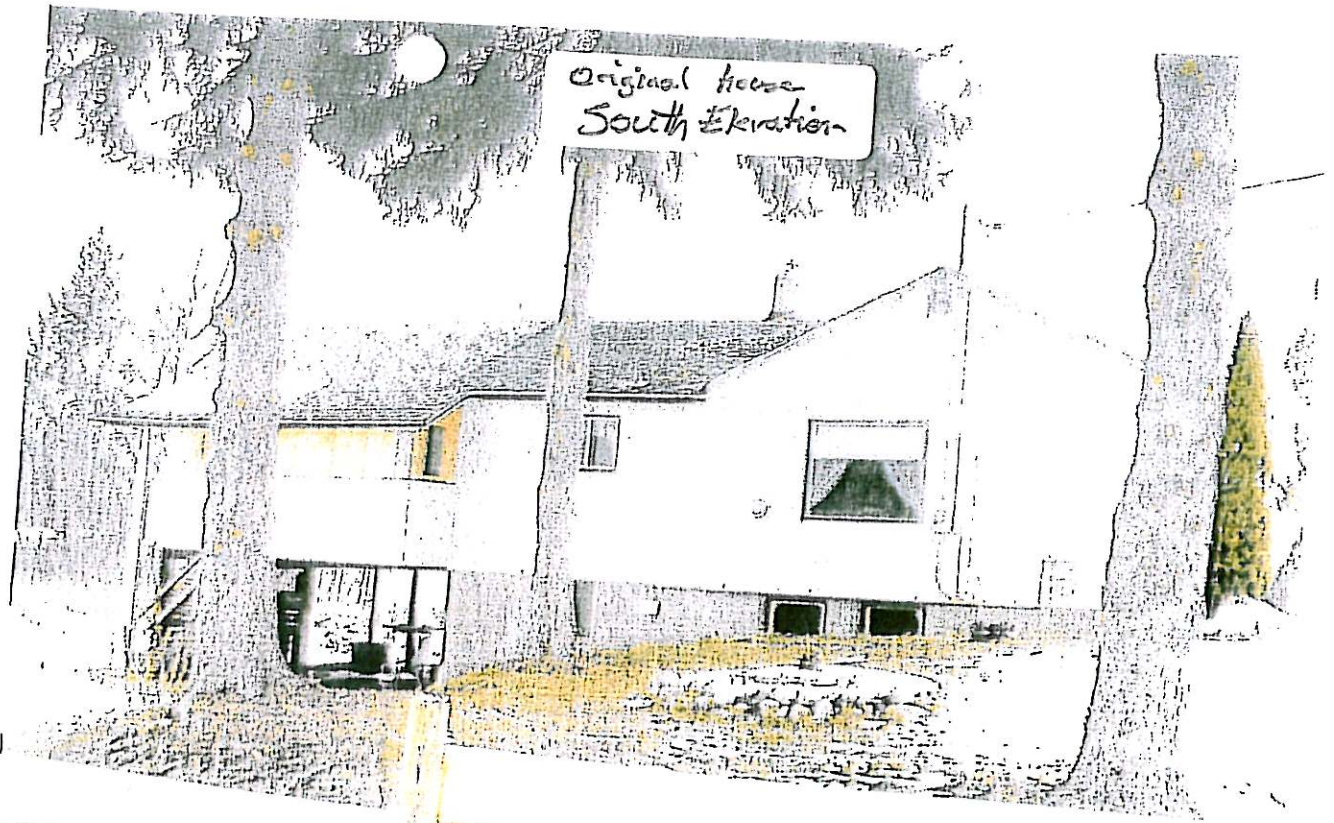
D A Goddard Land Surveying Inc.

Original house
North Elevation



East Elevation

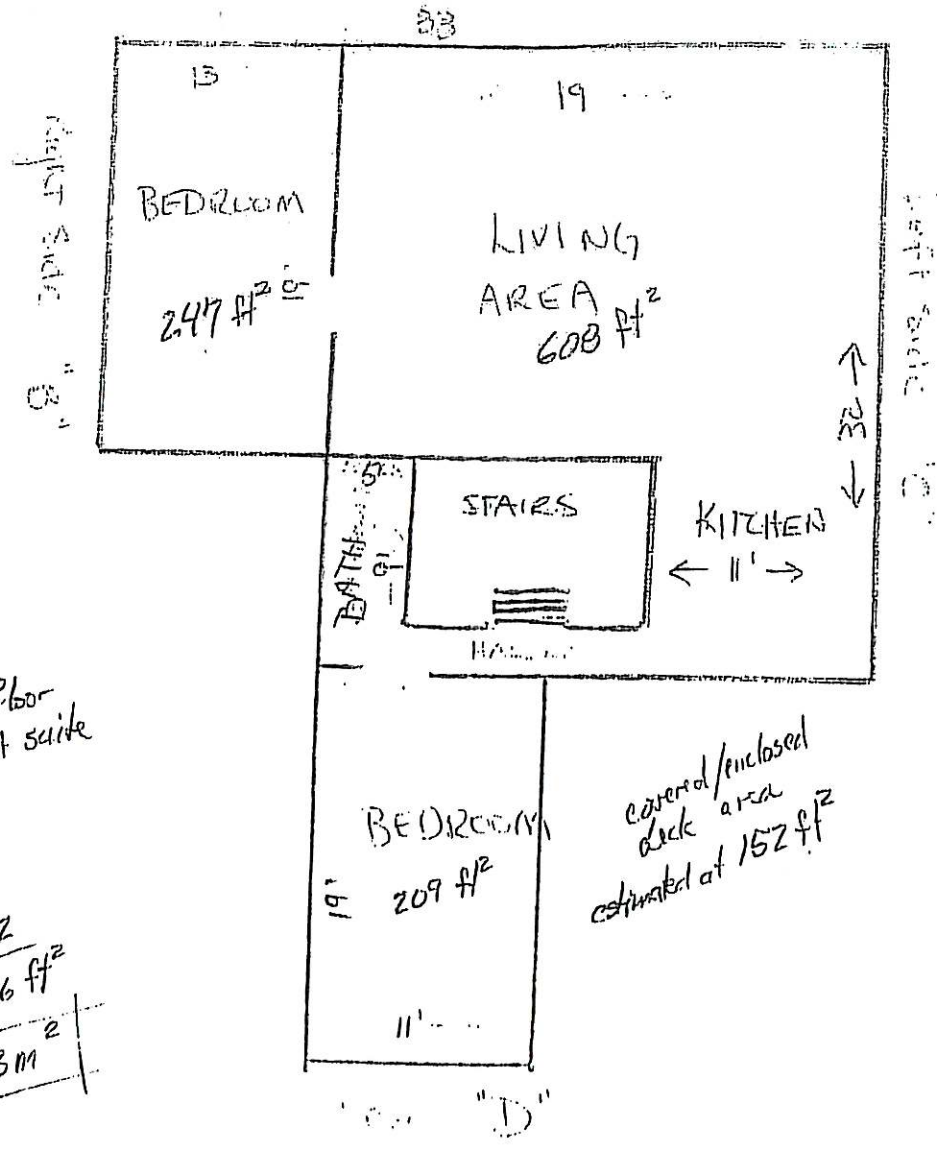
Original house
South Elevation



West Elevation

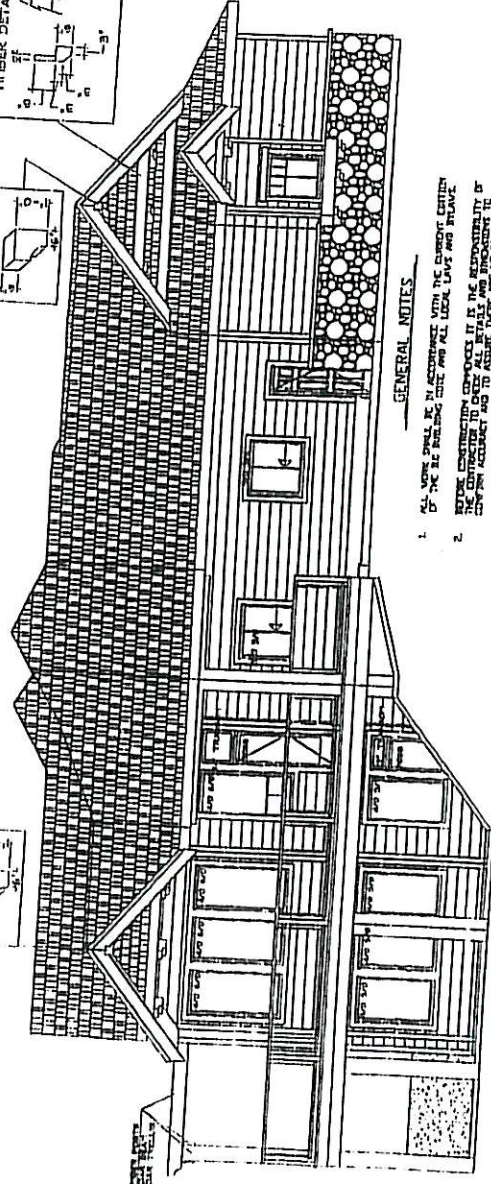
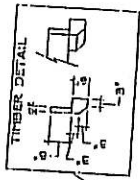
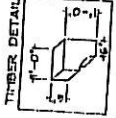
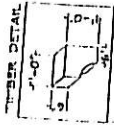
4284 JAUD RID - HOUSE FLOOR PLAN

Front of House "A"

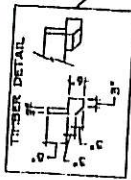


side should bear its own costs.

New House (under construction)



LEFT ELEVATION

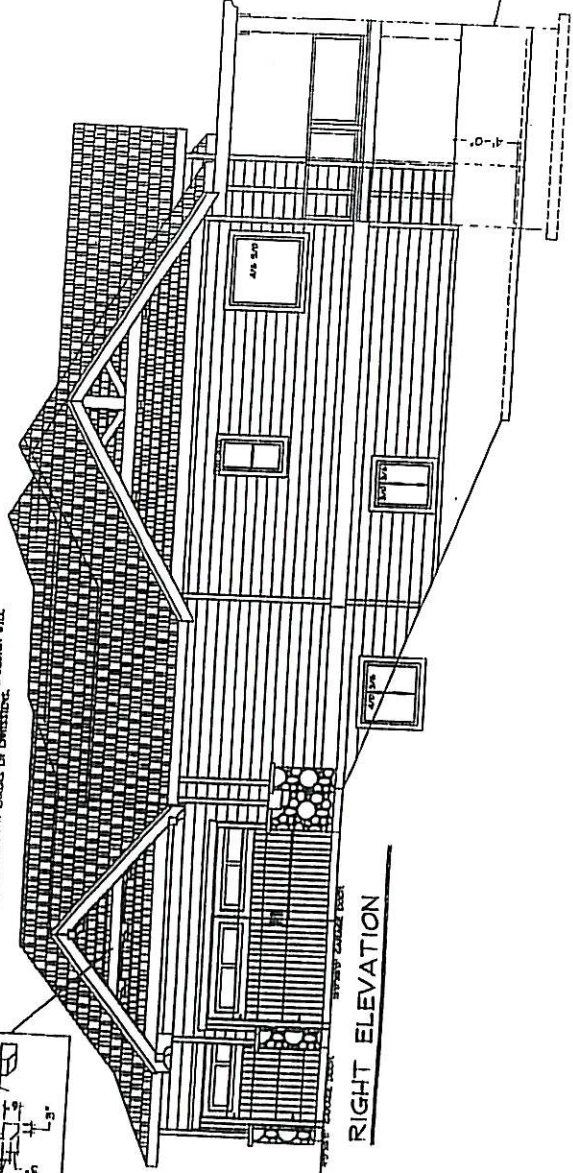


NOTE
WOOD SHEDS TO BE EXPOSED
TO WEATHER AND NOT
PAINTED

NOTE
WOOD SHEDS TO BE EXPOSED
TO WEATHER AND NOT
PAINTED

GENERAL NOTES

1. ALL WORK SHALL BE IN ACCORDANCE WITH THE CURRENT EDITION OF THE BUILDING CODE AND ALL LOCAL LAWS AND ORDINANCES.
2. THE CONTRACTOR SHALL BE RESPONSIBLE FOR THE RESPONSIBILITY OF OBTAINING ALL NECESSARY PERMITS AND INSURANCE.
3. IT IS THE RESPONSIBILITY OF THE CONTRACTOR TO OBTAIN THE NECESSARY PERMITS AND INSURANCE.
4. ALL WORK SHALL BE DONE IN ACCORDANCE WITH THE CURRENT EDITION OF THE BUILDING CODE AND ALL LOCAL LAWS AND ORDINANCES.

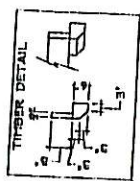
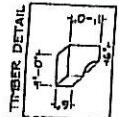


RIGHT ELEVATION

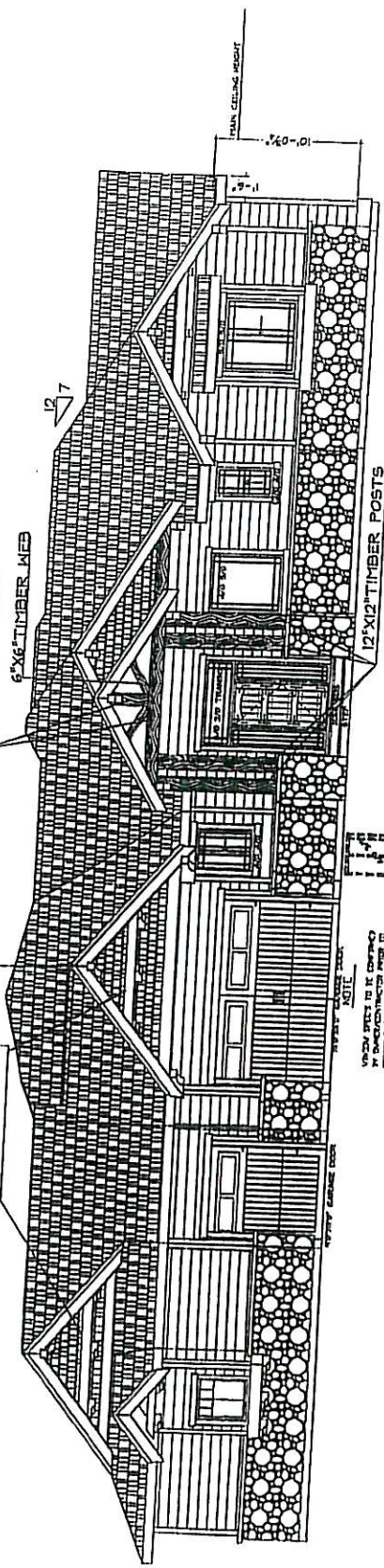
KNOWLEDGE
CONTRACTOR TO CONFIRM
DIM PRIOR TO CONST.

MULLINS
DRAFTING & DESIGN
1000 BATTERY ROAD, S.E. VT. 05401
TEL: (802) 244-1111
FAX: (802) 244-1112
PROJECT: 1000 BATTERY ROAD
DRAWN: J. MULLINS
CHECKED: J. MULLINS
DATE: 10/1/94

New House (under construction)



10'X10" TIMBER TRUSS
6'X6" TIMBER KES

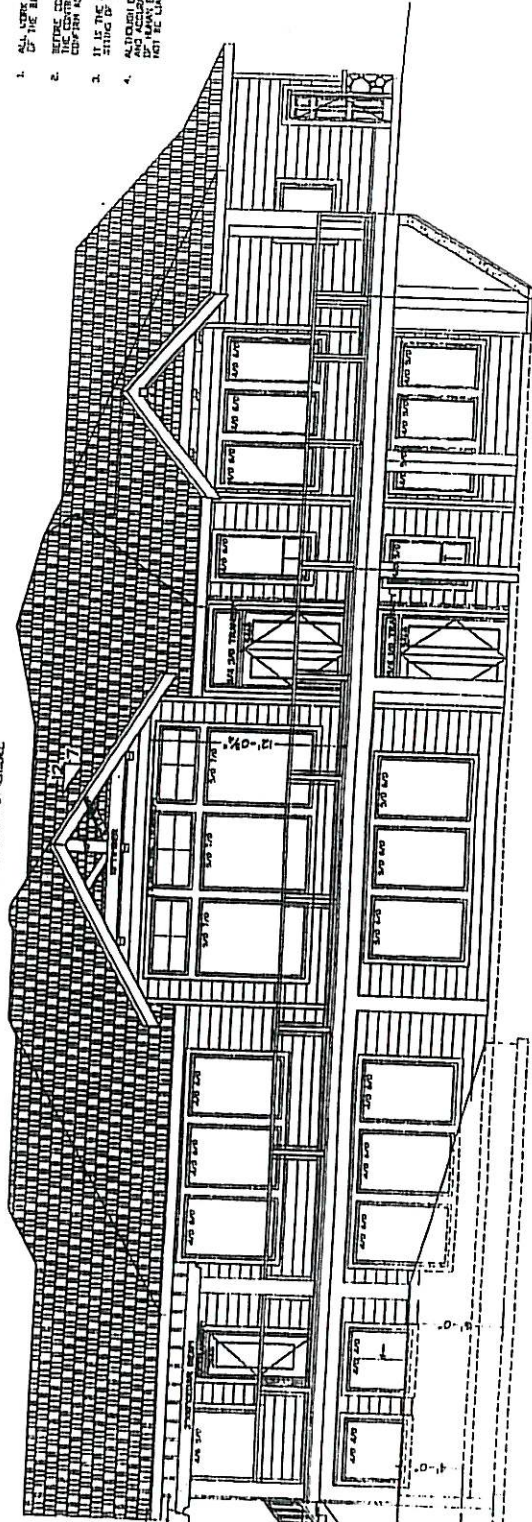


FRONT ELEVATION

NOTE:
WOOD STUDS TO BE CONFORMED
TO BUILDING CODES AND TO
BE PROTECTED BY FIRE PROOFING
AND COATING.

GENERAL NOTES

NOTE:
WOOD STUDS TO BE CONFORMED
TO BUILDING CODES AND TO
BE PROTECTED BY FIRE PROOFING
AND COATING.



REAR ELEVATION

1. ALL WORK SHALL BE IN ACCORDANCE WITH THE CURRENT EDITION OF THE BUILDING CODE AND ALL LOCAL LAWS AND ORDINANCES.
2. BEFORE CONSTRUCTION BEGINS, IT IS THE RESPONSIBILITY OF THE CONTRACTOR TO OBTAIN ALL NECESSARY PERMITS AND TO OBTAIN A COPY OF THE BUILDING CODE AND TO OBTAIN A COPY OF THE BUILDING CODE.
3. IT IS THE RESPONSIBILITY OF THE CONTRACTOR TO OBTAIN A COPY OF THE BUILDING CODE AND TO OBTAIN A COPY OF THE BUILDING CODE.
4. ALTHOUGH EVERY EFFORT HAS BEEN MADE TO PREPARE A COMPLETE SET OF DRAWINGS, THERE MAY BE SOME OMISSIONS OR ERRORS. THE CONTRACTOR SHALL BE RESPONSIBLE FOR CORRECTING ANY SUCH OMISSIONS OR ERRORS.

MULLINS
DRAFTING & DESIGN
1000 S. 10TH AVE., SUITE 100
DENVER, CO 80202
TEL: (303) 733-1111
FAX: (303) 733-1112
PROJECT NO. 1000-000000



This map is for general information only. The City of Kelowna does not guarantee its accuracy. All information should be verified.

To: City of Kelowna
Planning Department

I, Walter Baron of 4205 Wallace Hill Rd
Kelowna, B.C. acknowledge and understand that my neighbour, Diane
Drummond of 4284 Jaud Road, Kelowna, B.C. has made an application to
the City of Kelowna to re-zone her property at 4284 Jaud Road, Kelowna,
B.C. from its existing zoning of A1- Agricultural to A1S – Agricultural with a
Secondary Suite.

By this letter I have no objection to the City of Kelowna approving Diane
Drummond's application to re-zone her property at 4284 Jaud Road from A1
to A1S.

Walter Baron

Dec. 18/06
Date

To: City of Kelowna
Planning Department

I, Helen Barton of 4205 Wallace Hill Rd.
Kelowna, B.C. acknowledge and understand that my neighbour, Diane
Drummond of 4284 Jaud Road, Kelowna, B.C. has made an application to
the City of Kelowna to re-zone her property at 4284 Jaud Road, Kelowna,
B.C. from its existing zoning of A1- Agricultural to A1S – Agricultural with a
Secondary Suite.

By this letter I have no objection to the City of Kelowna approving Diane
Drummond's application to re-zone her property at 4284 Jaud Road from A1
to A1S.

Helen Barton

Dec 18 - 06
Date

MINUTES OF THE PROVINCIAL AGRICULTURAL LAND COMMISSION

A meeting was held by the Provincial Agricultural Land Commission on September 28, 2006 at the Ministry of Agriculture and Lands office located at 4607 - 23rd Street, Vernon, BC.

| | | |
|----------|------------------|-----------------------|
| PRESENT: | Sue Irvine | Chair, Okanagan Panel |
| | Sharon McCoubrey | Commissioner |
| | Sid Sidhu | Commissioner |
| | Terra Kaethler | Staff |
| | Martin Collins | Staff |

For Consideration

Application # G - 36880

Applicant(s) Diane Drummond

Proposal To use the existing house on the 2 ha subject property as a secondary suite to house farm help/trainers.

Legal PID: 002-123-801
Lot A, Section 34, Township 29, Osoyoos Division Yale District, Plan 13328

Location 4284 Juad Rd, Kelowna

Site Inspection

Ms. Drummond confirmed that she received the staff report dated September 14, 2006 and did not identify any errors.

A site inspection was conducted on September 28, 2006. Those in attendance were:

- Commissioners: Sue Irvine, Sharon McCoubrey and Sid Sidhu
- Staff: Terra Kaethler and Martin Collins
- Applicant(s): Diane Drummond, Alex Blanchard

The Commission toured the property with the applicants to view the original house, the new house currently under construction, and the proposed area for horses.

The applicant has begun building a new house on the property. The smaller, original house is still on the property, as well as a small stable. The applicant is developing the property to board and raise horses. The original house is under a delayed demolition permit, but they would like to keep the house on the property to use it as a secondary suite and to rent it out to a horse veterinarian who would help on the property.

Discussion

The Commission held the view that establishment of additional residence would introduce an encroachment of non-agricultural activity into agricultural land. However, the property is only 2 ha and surrounded by large residential lots and a mobile home park. The Commission had no objection to the proposed non-farm use provided a restrictive covenant is registered which would limit the footprint of residential dwelling uses on the property to its current level, prohibiting any more new buildings on the property.

IT WAS

MOVED BY: Commissioner Irvine

SECONDED BY: Commissioner Sidhu

THAT the application for non-farm use on the 2 ha subject property to use the original house as a secondary suite be approved.

AND THAT the approval is subject to the following conditions:

- A restrictive covenant be placed on the property to ensure that no new residential buildings are allowed on the property.
- Approval is granted to the applicant only and is valid for three (3) years from the date of this decision.

This decision does not relieve the owner or occupier of the responsibility to comply with applicable Acts, regulations, bylaws of the local government, and decisions and orders of any person or body having jurisdiction over the land under an enactment.

CARRIED
RESOLUTION # 471/2006