

Memo



Date: November 19, 2010
To: City Manager
From: Land Use Management, Community Sustainability
Application: DVP10-0146 **Owners:** Bruno Curatolo & Nancy Curatolo
Address: 660 Thorneloe Road **Applicants:** Bruno Curatolo & Nancy Curatolo
Subject: Development Variance Permit
Existing Zone: RU1 - Large Lot Housing

1.0 Recommendation

THAT Council authorize the issuance of Development Variance Permit No. DVP10-0146 for Lot A District Lot 357 SDYD Plan KAP74667, located at 660 Thorneloe Road, Kelowna, BC;

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

Section 6.5.9: Accessory Development - To vary the distance between an accessory building and the side lot line abutting a flanking street (1.0 m proposed) to be less than the side yard abutting a flanking street required for the principal building (6.0 m required).

2.0 Purpose

It has been noted by a recent Court decision that Section 6.5.9 of the Zoning Bylaw applies in addition to the previously varied section relating to side yards. This has necessitated an additional Development Variance Permit to formalize the intent of the previously granted Development Variance Permit.

3.0 Land Use Management

As the application has not materially changed from the original variance granted by Council, Land Use Management staff recommend support.

4.0 Proposal

4.1 Background

In late 2009 the applicants sought from Council and were granted two variances from the Zoning Bylaw respecting both the maximum permitted height of an accessory building (from 4.5 m maximum to 5.5 m proposed) and the required side yard setback from a flanking street for an accessory garage (from 4.5 m minimum to 1.0 m proposed).

Written correspondence has been received from the residents of two properties in the neighbourhood indicating non-support for any additional variances for the accessory building primarily on the basis of concern for potential secondary suite (carriage house) use.

4.2 Project Description

The applicant has constructed a new accessory double garage, with workshop, in the rear portion of their side yard. Vehicular access to the garage is to be from the flanking street (Kincaid Road). The table below compares this application's compliance with the requirements of the RU1 zone.

Zoning Bylaw No. 8000			
§	Applicable Item / Criteria	Proposed	Required
6.5.7	Lot Coverage for Accessory Buildings	8.7% and 89.3 m ²	14% or 90 m ²
6.5.4	Separation from Principal Residence	3.0 m	1.0 m
6.5.9	Side Yard	Less than setback required for principal building * (1.0 m)	Not less than setback required for principal building (6.0 m)
13.1.6(d)	Side Yard	1.0 m †	4.5 m
13.1.6(e)	Rear Yard	1.63 m	1.5 m
13.1.6(b)	Maximum Height for Accessory Building	5.5 m †	4.5 m
† Indicates previously varied by DVP09-0113.		* Indicates a required variance.	

4.3 Site Context



The subject property is located at 660 Thorneloe Road in the Southwest Mission. The surrounding neighbourhood is comprised exclusively of single detached residential dwellings on a variety of lot sizes and configurations.

The immediately adjacent zones and land uses are as follows:

North	RU1 - Large Lot Housing	Single detached dwelling
South	RU1 - Large Lot Housing	Vacant as of 2009 air photo
East	RU1 - Large Lot Housing	Single detached dwelling
West	RU1 - Large Lot Housing	Single detached dwelling

5.0 Technical Comments

Building & Permitting. A Building Permit has been issued for the accessory garage.

Fire Department. No objections.

Development Engineering. This development variance permit application to vary the side yard setback and height limit for a detached garage does not compromise any municipal services.

6.0 Application Chronology

Date of Application Received: November 1, 2010

Advisory Planning Commission n/a

At the November 22, 2010 regular meeting of Council, it was resolved:

THAT Council waive the condition that Development Variance Permit Application No. DVP10-0146 be forwarded to the Advisory Planning Commission.

Report prepared by:



Andrew Browne, Urban Land Use Planner

Reviewed by:



Danielle Noble, Manager, Urban Land Use

Approved for Inclusion:

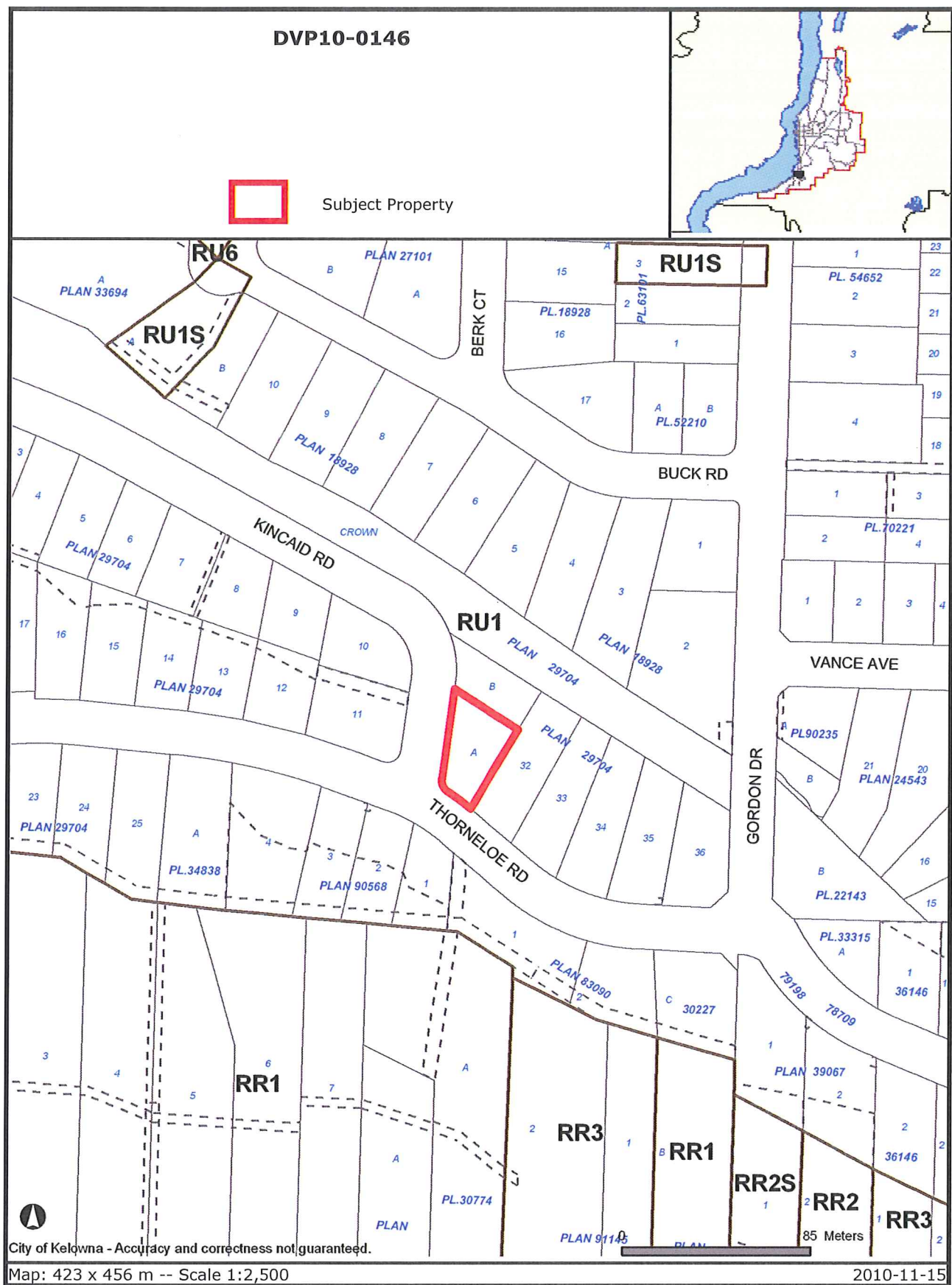


Shelley Gambacort, Director, Land Use Management

Attachments:

Subject property and zoning map
Survey certificate
Photograph



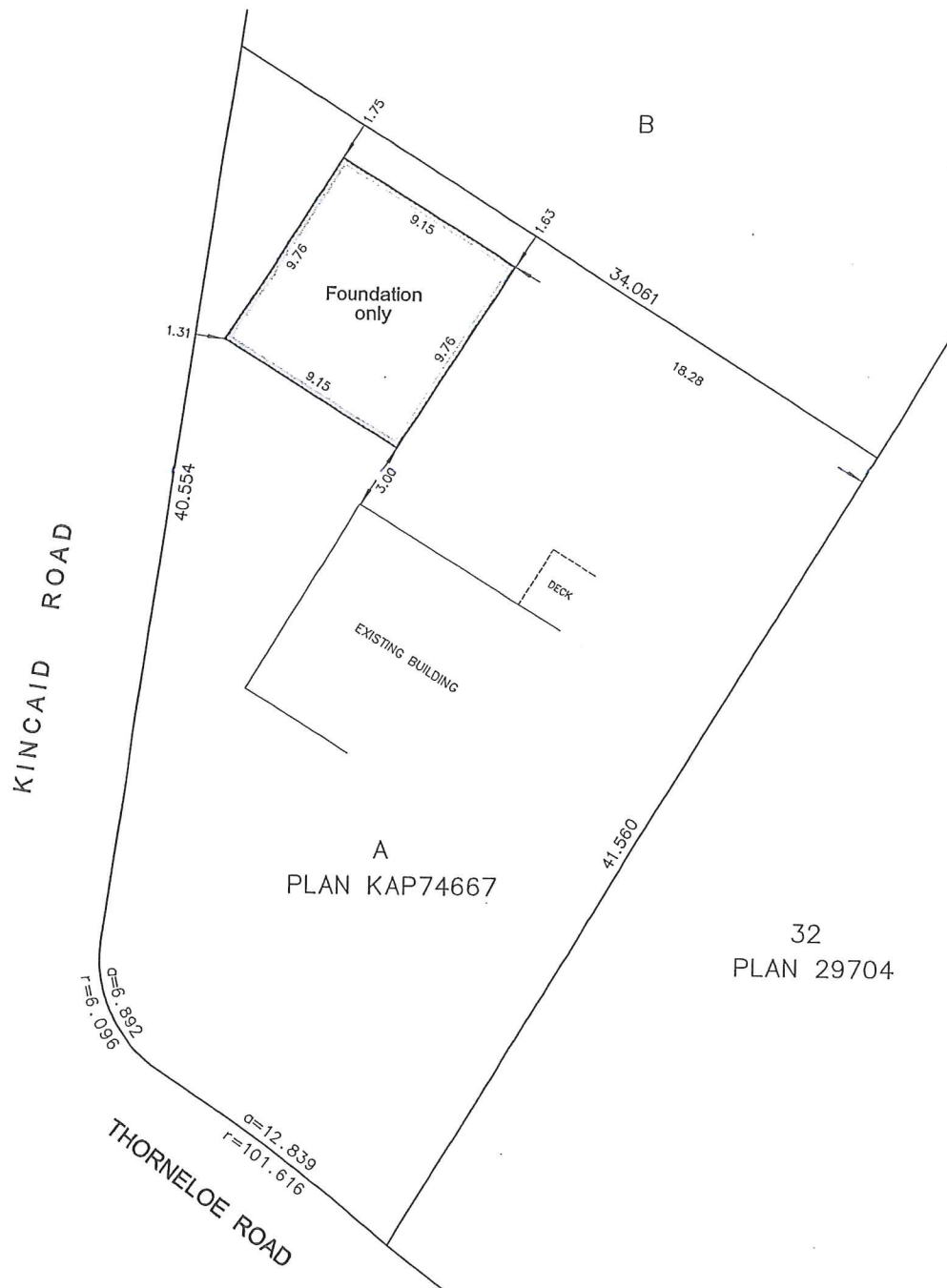


Certain layers such as lots, zoning and dp areas are updated bi-weekly. This map is for general information only.
The City of Kelowna does not guarantee its accuracy. All information should be verified.

B.C. LAND SURVEYOR'S CERTIFICATEON LOT A, DISTRICT LOT 357,
S.D.Y.D., PLAN KAP74667

SCALE 1:250 All distances are in metres.

CIVIC ADDRESS: 660 THORNELOE ROAD



Certified correct this 7th day of May, 2010.

NEIL R. DENBY

B.C.L.S.

CLIENT: BRUNO CURATOLO

FILE No: 12994 SC A

THIS DOCUMENT IS NOT VALID UNLESS ORIGINALLY SIGNED
AND SEALED.

© THIS PLAN IS PROTECTED BY COPYRIGHT.

NO PERSON MAY COPY OR ALTER THIS CERTIFICATE WITHOUT
PRIOR CONSENT OF RUNNALLS DENBY.THE DIMENSIONS SHOWN ON THIS CERTIFICATE ARE NOT TO
BE USED TO DEFINE PROPERTY BOUNDARIES.**RUNNALLS DENBY**
british columbia land surveyors259A Lawrence Avenue
Kelowna, B.C. V1Y 6L2Phone: (250)763-7322
Fax: (250)763-4413

Email: neil@runnallsdenby.com



CITY OF KELOWNA

APPROVED ISSUANCE OF A:

☐ Development Variance Permit No.: DVP10-0146

EXISTING ZONING DESIGNATION: RU1 – Large Lot Housing

DEVELOPMENT VARIANCE: To vary the required side yard setback from a flanking street for the accessory garage from 6.0 m required to 1.31 m proposed.

ISSUED TO: Bruno Curatolo & Nancy Curatolo

LOCATION OF SUBJECT SITE: 660 Thorneloe Rd

	LOT	DISTRICT LOT	DIVISION	DISTRICT	PLAN
LEGAL DESCRIPTION:	A	357	SIMILKAMEEN	YALE	KAP74667

SCOPE OF APPROVAL

- ☐ This Permit applies to and only to those lands within the Municipality as described above, and any and all buildings, structures and other development thereon.
- ☐ This Permit is issued subject to compliance with all of the Bylaws of the Municipality applicable thereto, except as specifically varied or supplemented by this Permit, noted in the Terms and Conditions below.
- ☐ Applicants for Development and Development Variance Permit should be aware that the issuance of a Permit limits the applicant to be in strict compliance with regulations of the Zoning Bylaw or Subdivision Control Bylaw unless specific Variances have been authorized by the Permit. No implied Variances from bylaw provisions shall be granted by virtue of drawing notations which are inconsistent with bylaw provisions and which may not have been identified as required Variances by the applicant or City staff.

1. TERMS AND CONDITIONS:

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

Section 6.5.9: Accessory Development - To vary the distance between an accessory building and the side lot line abutting a flanking street (1.0 m proposed) to be less than the side yard abutting a flanking street required for the principal building (6.0 m required).

2. PERFORMANCE SECURITY:

As a condition of the issuance of this Permit, Council is holding the security set out below to ensure that development is carried out in accordance with the terms and conditions of this Permit. Should any interest be earned upon the security, it shall accrue to the Permittee and be paid to the Permittee if the security is returned. The condition of the posting of the security is that should the Permittee fail to carry out the development hereby authorized, according to the terms and conditions of this Permit within the time provided, the Municipality may use the security to carry out the work by its servants, agents or contractors, and any surplus shall be paid over to the Permittee, or should the Permittee carry out the development Permitted by this Permit within the time set out above, the security shall be returned to the Permittee. There is filed accordingly:

- (a) Cash in the amount of \$ N/A.
- (b) A Certified Cheque in the amount of \$ N/A.
- (c) An Irrevocable Letter of Credit in the amount of \$ N/A.

Before any bond or security required under this Permit is reduced or released, the Developer will provide the City with a statutory declaration certifying that all labour, material, workers' compensation and other taxes and costs have been paid.

3. DEVELOPMENT:

The land described herein shall be developed strictly in accordance with the terms and conditions and provisions of this Permit and any plans and specifications attached to this Permit which shall form a part hereof.

If the Permittee does not commence the development Permitted by this Permit within one year of the date of this Permit, this Permit shall lapse.

This Permit is not transferrable unless specifically Permitted by the Municipality. The authorization to transfer the Permit shall, if deemed acceptable, be granted by Council resolution.

THIS Permit IS NOT A BUILDING Permit.

4. APPLICANT'S AGREEMENT:

I hereby declare that all the above statements and the information contained in the material submitted in support of this Permit are to the best of my belief, true and correct in all respects. Upon issuance of the Permit for me by the Municipality, then in such case, I covenant and agree to save harmless and effectually indemnify the Municipality against:

- (a) All actions and proceedings, costs, damages, expenses, claims, and demands whatsoever and by whomsoever brought, by reason of the Municipality granting to me the said Permit.
- (b) All costs, expenses, claims that may be incurred by the Municipality if the construction by me of engineering or other types of works as called for by the Permit results in damages to any property owned in whole or in part by the Municipality or which the Municipality by duty or custom is obliged, directly or indirectly in any way or to any degree, to construct, repair, or maintain.

I further covenant and agree that should I be granted a Development Permit or Development Variance Permit, the Municipality may withhold the granting of any occupancy Permit for the occupancy and/or use of any building or part thereof constructed upon the hereinbefore referred to land until all of the engineering works or other works called for by the Permit have been completed to the satisfaction of the Municipal Engineer and the Director of Land Use Management.

Should there be any change in ownership or legal description of the property, I undertake to notify the Land Use Management Department immediately to avoid any unnecessary delay in processing the application.

I HEREBY UNDERSTAND AND AGREE TO ALL THE TERMS AND CONDITIONS SPECIFIED IN THIS PERMIT.

Signature of Owner/Authorized Agent

Date

Print Name in Bold Letters

Telephone No.

5. APPROVALS:

AUTHORIZING RESOLUTION PASSED BY MUNICIPAL COUNCIL THE ____ DAY OF _____, 201__.

ISSUED BY THE LAND USE MANAGEMENT DEPARTMENT OF THE CITY OF KELOWNA THE ____ DAY OF _____, 201__.
BY THE DIRECTOR OF LAND USE MANAGEMENT.

Shelley Gambacort
Director of Land Use Management