

Memo



Date: November 15, 2010

To: City Manager

From: Land Use Management, Community Sustainability

Application: DVP10-0078 (GS)

Owner: John Arnold

Address: 4896 Lakeshore Road

Applicant: Tyler Bollhorn

Subject: Development Variance Permit

Existing OCP Designation: Single/Two Unit Residential

Existing Zone: RR3(s) - Rural Residential 3 with Secondary Suite

1.0 Recommendation

THAT Council authorize the issuance of Development Variance Permit No. DVP10-0078 for Lot A, Sections 25 and 26, Township 28, SDYD, Plan KAP77528 located at 4896 Lakeshore Road, Kelowna, BC;

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

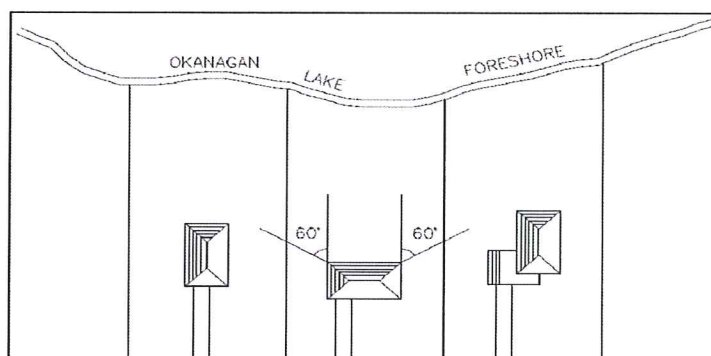
Section 6.11.1 Okanagan Lake Sight Lines

Vary the required Okanagan Lake 120° Panoramic Sight Line from 120° required to 84° proposed.

2.0 Purpose

To obtain approval for a Development Variance Permit to vary the required 120° panoramic sight line requirement for Okanagan Lake views to 84° for a proposed new single family dwelling. See Figure 1 below.

Figure 1: Okanagan Lake 120 degree Panoramic Sight Line



3.0 Land Use Management

Zoning regulations provide a useful standard to be applied in most situations where a “hardship” does not occur and which should typically be upheld to ensure that the intent of the regulation is preserved. The intent of Section 6.11 of the Zoning Bylaw with respect to Okanagan Lake sight lines is to “*not obstruct views of the lake from the established abutting development*”. This policy places the onus on the proponent of a new development to ensure adjacent occupants are afforded a panoramic view of Okanagan Lake and are provided an opportunity to be consulted when the proposed development does not conform.

A couple of factors can result in a hardship being created on a given lakefront lot with respect to Okanagan Lake sight lines. Typically hardships would relate to the undulating nature of the shoreline, lot-line orientation/lot configuration, or the location of existing homes. In this case, the variance request largely stems from the location of an existing dwelling at 4898 Lakeshore Road, west of the subject property (see orthophoto, p. 3). Should 4898 Lakeshore Road redevelop, there is a strong likelihood that the dwelling would be located closer to Okanagan Lake. This would diminish or eliminate sight line impacts created by the proposed development.

The Land Use Management Department is supportive of the proposed variance for the above reasons, in addition to the proposed structure increasing the Okanagan Lake sight line for the affected parcel to 24 degrees from 22 degrees when compared with the existing structure. Of additional importance is that the proponents have obtained written confirmation/support from the affected neighbours.

4.0 Proposal

4.1 Background

The subject property is a large rural residential lot located in the Southwest Mission sector. The property is 0.36 hectares (0.88 acres) in size and is located on Okanagan Lake. As a result of the proximity to Okanagan Lake, the subject property is within a Natural Environment Development Permit Area and is subject to a Natural Environment Development Permit prior to issuance of a Building Permit. This property is also subject to the Okanagan Lake Sight Line constraints.

The home presently situated on this property is an existing non-conforming structure given its non-compliance with the Okanagan Lake Sight Lines requirements. The applicants propose to demolish this structure and replace it with a new dwelling which also does not conform to today’s requirements.

4.2 Project Description

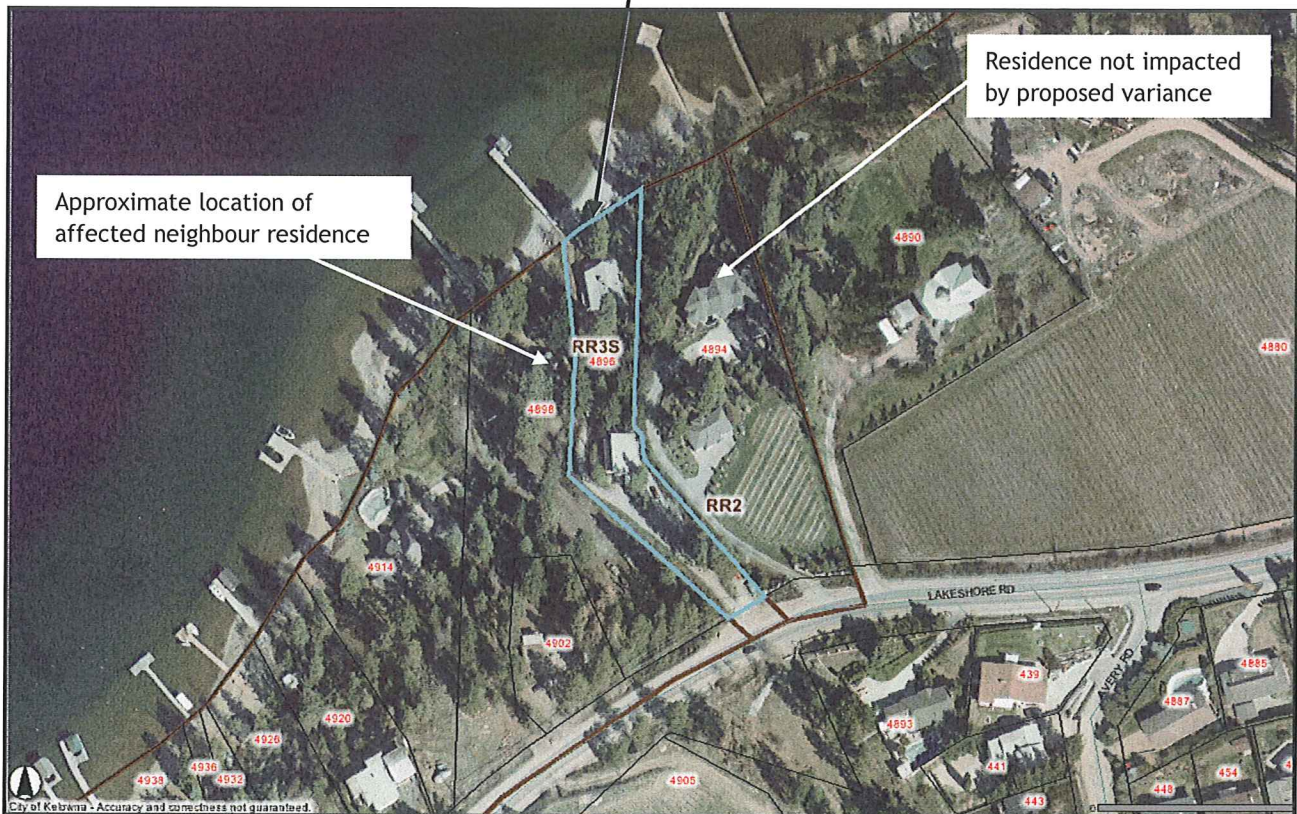
The proposed sight line reduction affects one neighbour located to the west and whose home is set quite far back from Okanagan Lake, relatively speaking. The variance to the sight line requirement would result in the unobstructed sight line for the western property being reduced from 60° required to 24° proposed. The adjacent landowner has been contacted by the proponent and has noted that they are not opposed to the proposed development and variance request. The adjacent neighbour to the east will continue to enjoy the full 60° sight line with the development occurring as proposed.

4.3 Site Context

The adjacent zones and uses are:

<i>Direction</i>	<i>Zoning Designation</i>	<i>Land Use</i>
North	None	Okanagan Lake
East	RR2 – Rural Residential	Residential
South	A1 – Agriculture 1	Agriculture/Residential
West	RR2 – Rural Residential	Residential

Site Location Map - 4896 Lakeshore Road



4.4 Zoning Analysis Table

CRITERIA	PROPOSAL	RR3 ZONE REQUIREMENTS
Subdivision Regulations		
Lot Area	3,568 m ²	1,000 m ²
Lot Width	15.29	18.0 m
Lot Depth	< 30 m	30.0 m
Development Regulations		
Site Coverage (buildings/parking)	< 30%	30%
Height	2 ½ storeys / <12.5 m for walk-out basement	2 ½ storeys / 9.5 m / 12.5 m for walk-out basement
Front Yard	6.0 m	4.5 m
Side Yard (n)	2.3 m	2.3 m (2 - 2 ½ storey)
Side Yard (s)	6.0 m	2.3 m (2 - 2 ½ storey)
Rear Yard	5.7 m	7.5 m
Other Regulations		
Okanagan Lake Sight Lines	84° Panoramic ❶	120° Panoramic
❶ Vary the required 120° panoramic sight line requirement for Okanagan Lake to 84°.		

5.0 Current Development Policies

Not applicable.

6.0 Technical Comments

6.1 Environment & Land Use Branch

The Environment & Land Use Branch has concerns with respect to the portion of Okanagan Lake foreshore and riparian area associated with the subject property. An unauthorized groyne has been constructed beneath the existing dock and protrudes into Okanagan Lake. As background, the placement of fill into Okanagan Lake can negatively impact the natural habitat of Okanagan Lake (e.g. fish habitat), the natural shoreline processes (e.g. longshore drift) and the overall function of the littoral shelf. The applicants have agreed to remove the rock groyne as a condition of the Natural Environment Development Permit.

In addition to the illegal groyne, Environment & Land Use staff recommends that the Riparian Management Area (the area closest to the lake) undergo riparian restoration/enhancement. The riparian enhancement would result in the removal of turf and planting of a mixture of native trees, shrubs and grasses. In an effort to ensure that the restoration area is protected in perpetuity, staff also recommend a Section 219 No Disturb Covenant on the Riparian Management Area which consists of the lands between the natural boundary (high water mark for Okanagan Lake) and 15 metres upland.

6.2 Building & Permitting Department

Full Plan check for Building Code related issues will be done at time of Building Permit applications.

6.3 Development Engineering Department

No concerns.

6.4 Fire Department

No concerns.

7.0 Application Chronology

Date of Application Received: June 3, 2010

While the Development Variance Permit application was received in early June, the delay between receipt and Council consideration reflects the following:

1. Original drawings depicted a height variance which required resolution on the part of the applicants;
2. Applicants desire to deliberate options with respect to an illegal rock groyne under the dock;
3. Receipt of a restoration plan for the foreshore; and
4. Applicants' deliberation with respect to a Section 219 No Disturb covenant on the foreshore.

Advisory Planning Commission

This application was not reviewed by the Advisory Planning Commission given that the affected neighbours were notified of and approve of the development as proposed.

Report prepared by:


Greg Sauer, Land Use Planner

Reviewed by:



Danielle Noble Manager, Urban Land Use Management

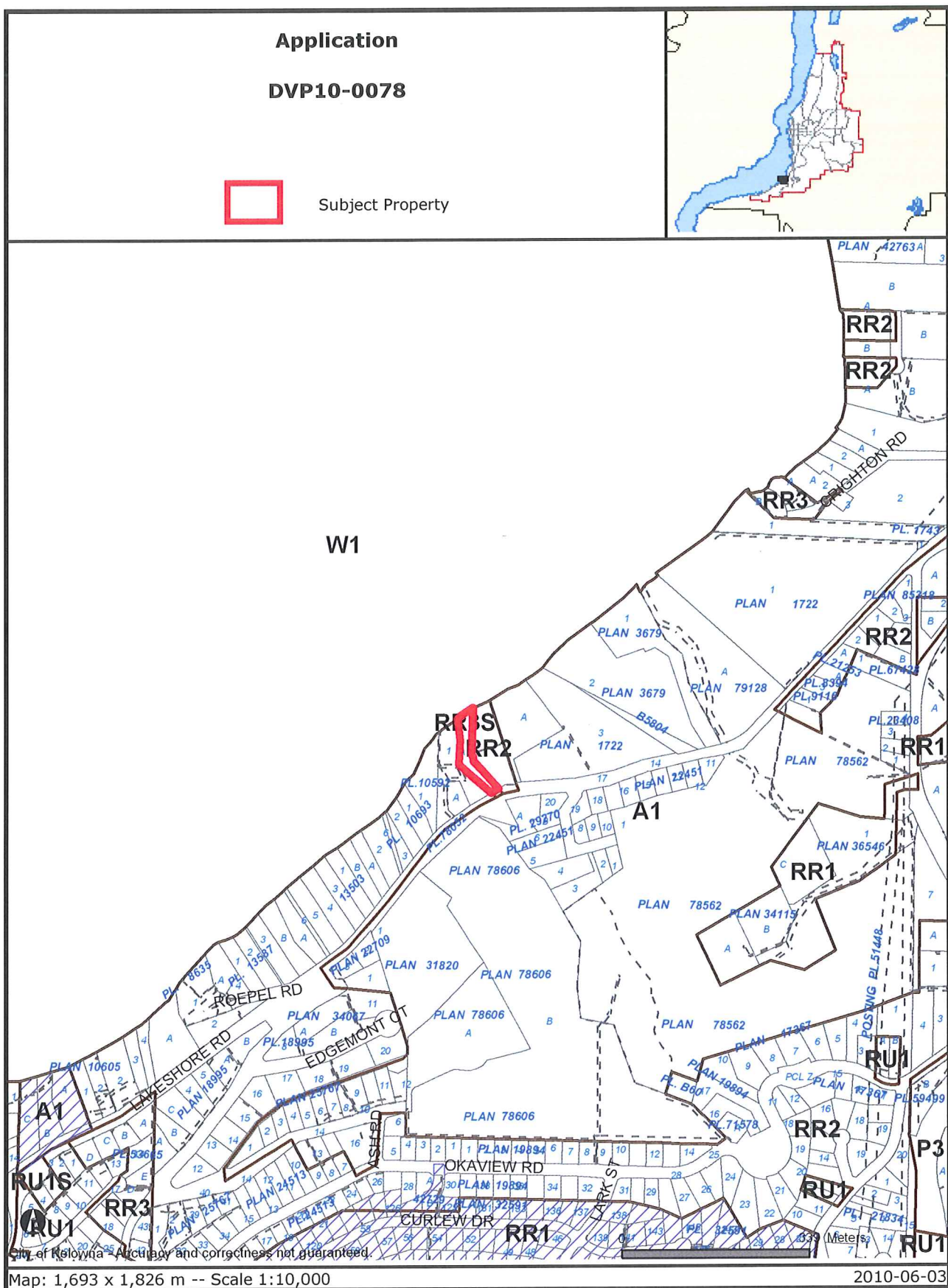
Approved for Inclusion:



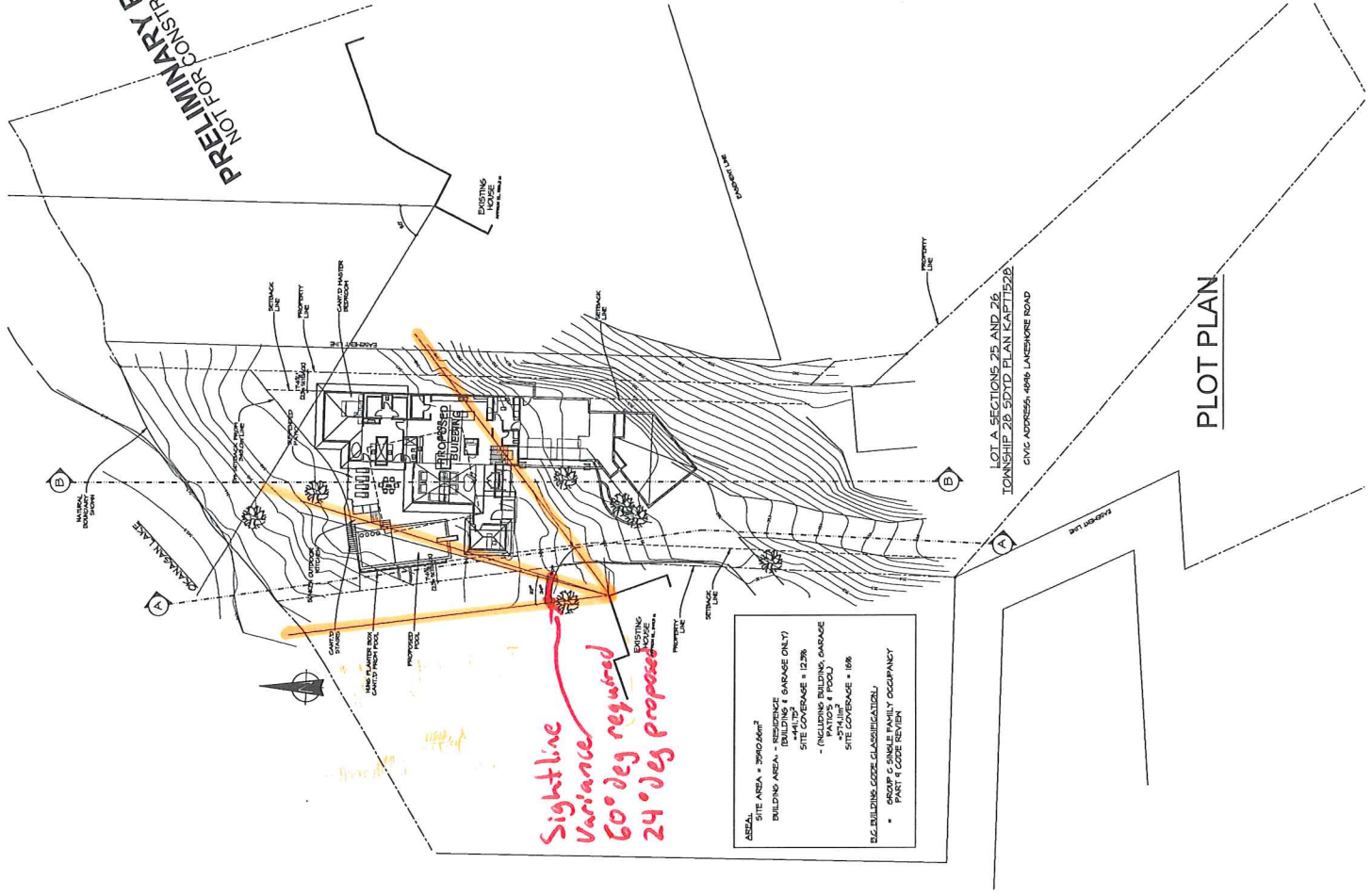
Shelley Gambacort, Director, Land Use Management

Attachments:

Subject Property Map
Site Plan
Site Section



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.

PLOT PLAN

PRELIMINARY PLANS
NOT FOR CONSTRUCTION

Sightline
Variance
60° deg required
24° deg proposed

PLOT PLAN

**BOLLHORN
4896 LAKESHORE
KELOWNA, BC**

Interior Design & Consulting
redcrayondesign@shaw.ca
CRAYON DESIGN
20-760 Highpointe
Kelowna BC V1Y 2Y3
Ph. 250.868.0577 Fax 250.868.0583



COMMITMENT MEMBERSHIP

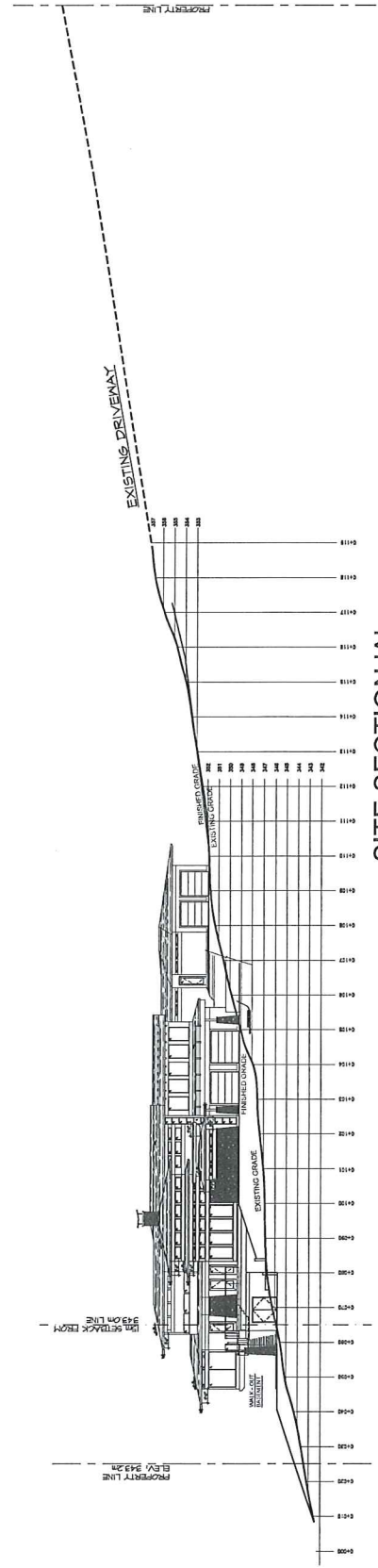
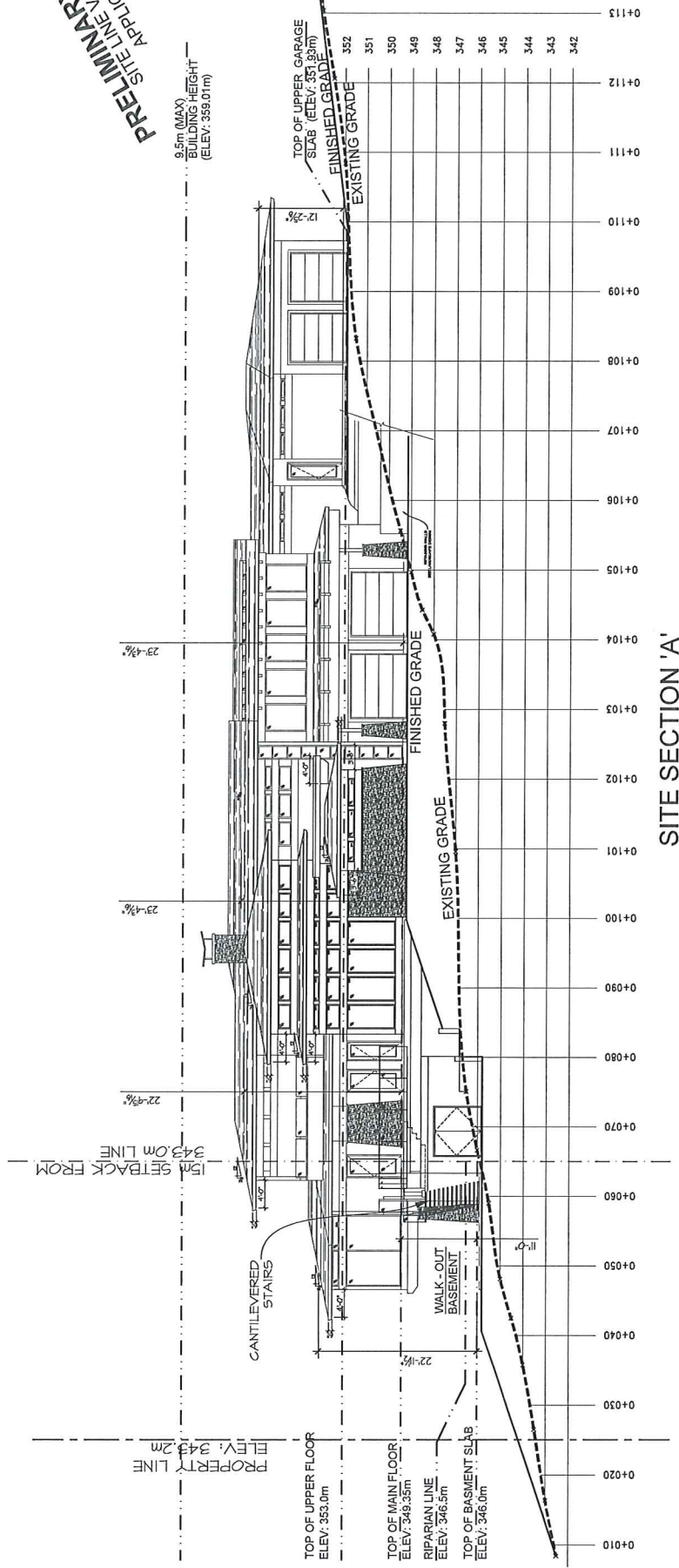
This agreement is an acknowledgment of services for the special needs program. The agreement and the commitment program are not a contract and are not enforceable. The agreement and the commitment program are not a contract and are not enforceable. The agreement and the commitment program are not a contract and are not enforceable.

END NOT SCALE THESE COMMENTS.

[illegible]

DATE	2008/07/26
SCALE	1/8" = 1'-0"
PROJECT	TP
REVISION	REV. A

A1



SITE SECTION 'A'
(SHOWING FULL LOT)

CITY OF KELOWNA

APPROVED ISSUANCE OF A:

☐ Development Variance Permit No.: DVP10-0078

EXISTING ZONING DESIGNATION: RR3s - Rural Residential 3 with Secondary Suite

DEVELOPMENT VARIANCE PERMIT: Vary the required 120° panoramic sight line requirement for Okanagan Lake views to 84°.

ISSUED TO: Tyler Bolhorn

LOCATION OF SUBJECT SITE: 4896 Lakeshore Road

	LOT	BLOCK	D.L.	TOWNSHIP	DISTRICT	PLAN
LEGAL DESCRIPTION:	A			28	SDYD	KAP77528

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 a Development Permit and/or 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:

THAT variances to the following sections of Zoning Bylaw No. 8000 be granted in accordance with Schedule A:

Section 6.11 Okanagan Lake Sight Lines

Vary the required Okanagan Lake 120° Panoramic Sight Line from 120° required to 84° proposed.

2. The development shall commence by and in accordance with an approved Building Permit within ONE YEAR of the date of the Municipal Council authorization resolution.

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.

5. 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 Director of Planning & Development Services.

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.

6. APPROVALS:

DEVELOPMENT VARIANCE PERMIT AUTHORIZED BY COUNCIL ON THE _____ DAY OF DECEMBER, 2010.

ISSUED BY THE LAND USE MANAGEMENT DEPARTMENT OF THE CITY OF KELOWNA THE _____ DAY OF DECEMBER, 2010 BY THE DIRECTOR OF LAND USE MANAGEMENT.

Shelley Gambacort
Director of Land Use Management