

Memo



Date: January 7, 2011
To: City Manager
From: Land Use Management, Community Sustainability
Application: DVP10-0163 (AB) **Owners:** Birgit Bennett & William Bennett
Address: 4760 Crichton Road **Applicant:** Worman Resources Inc.
Subject: Development Variance Permit **REVISED - JANUARY 26, 2011**
Existing Zone: A1 - Agriculture 1

1.0 Recommendation

THAT Council authorize the issuance of Development Variance Permit No. DVP10-0163 for Lot A Section 25 Township 28 ODYD Plan 6187, located at 4760 Crichton Road, Kelowna, BC;

AND THAT variances to the following sections of Zoning Bylaw No. 8000 be granted:

Section 11.1.6(a) - Site Coverage - To vary the maximum site coverage for residential development from 10% permitted to 17% proposed.

Section 6.11.1 - Okanagan Lake Sight Lines - To vary the Okanagan Lake Sight Line to allow a structure to encroach, to a maximum of 49 degrees proposed, within the required 60 degree sight line from the northerly neighbour's residence.

2.0 Purpose

The applicant is seeking to vary the permitted site coverage and Okanagan Lake sight lines in order to facilitate a proposed expansion to the existing lake-facing deck.

3.0 Land Use Management

With regard to the variance requested for site coverage, Section 1.7.1 of the Zoning Bylaw provides that for parcels less than 0.2 ha (0.49 ac) and in existence prior to August 10, 1976, they shall be regulated by the RU1 - Large Lot Housing zone. In this instance the property does not satisfy both of these conditions, as it is approximately 0.215 ha (0.53 ac) in size and therefore slightly too large to benefit. It is important to note that if the lot did qualify, the more generous site coverage regulations of the RU1 - Large Lot Housing zone would apply (40% for buildings and 50% for buildings, driveways, and parking) and could be met. Notably, the existing structure already represents 16% site coverage and staff have no concerns with an incremental and very small increase in site coverage resulting from the expansion of an exterior deck.

Finally, with regard to the variance requested concerning the Okanagan Lake Sight Lines, the trustee for the directly affected landowner has indicated that they do not object. In addition, extensive landscape screening is present on the property line between the homes and acts as a visual obstruction/buffer quite beyond whatever effect a small deck expansion may have. Given

that this bylaw provision is largely intended for the protection of lakefront neighbours (who, in this instance, do not object), staff have no concerns.

4.0 Proposal

4.1 Project Description

The landowner has retained the applicant to renovate their existing home, including a proposed 30 m² (324 ft²) expansion of the lake-facing deck and the construction of a roof covering over a portion of existing deck.

Criteria	Required / Permitted	Proposed / Existing
Front Yard (Crighton Road)	6.0 m	16.08 m (existing)
Side Yard (south)	3.0 m	3.64 m (existing)
Side Yard (north)	3.0 m	3.46 m (existing)
Rear Yard (lake)	10.0 m	~ 40 m
Site Coverage	10%	17% (16% existing)
Okanagan Lake Sight Lines	60 degrees on each side of lakefront homes (120 degree panorama)	49 degrees to northerly neighbour

4.2 Site Context

The subject property is located at 4760 Crighton Road in the Southwest Mission. The surrounding neighbourhood is mostly comprised of an even mix of estate waterfront residential properties on large lots and agricultural operations (orchards and vineyards) on large agricultural acreages.

The immediately adjacent zones and land uses are as follows:

Direction	Zone	Land Use
North	A1 - Agriculture 1	Lakefront residence
South	A1 - Agriculture 1	Lakefront residence
East	A1 - Agriculture 1	Orchards
West	W1 - Recreational Water Use	Okanagan Lake



5.0 Technical Comments

Building & Permitting Branch. No comments.

Fire Department. No concerns.

Development Engineering Branch. The application to vary site coverage and lakefront sightline does not compromise the City of Kelowna servicing requirements.

Environment & Land Use Branch. This particular property has a significant slope on the westerly portion with an elevation change from 344m to 357m (approx. 13m drop in elevation) and is on the waterfront of Okanagan Lake. The steep portion of the property (approx 60% slope) is mostly undisturbed and vegetated with exception of a set of stairs. The lower bench adjacent to Okanagan Lake is best described as mostly turf with mature trees, two structures (a cottage and a shed) and a wooden retaining wall along the high water mark of the foreshore of Okanagan Lake. Further, it appears as though the retaining wall extends beyond the property line onto Crown land. Any future applications for this portion of the property would require a Development Permit for Natural Environment and/or Hazardous Conditions.

In exchange for variances of this nature, Environment & Land Use staff typically recommend that: (a) a covenant is placed on the remaining undisturbed portions of the slopes and riparian area; and/or (b) restore a portion of the foreshore; and/or (c) remove any illegal structures that may exist; and/or (d) get voluntary compliance with any of the above. In this case, Environment & Land Use staff recommend the following measures in order to prevent future impacts on the steep slope and/or the foreshore of the subject property:

1. It is recommended that the applicant provide a draft no build/no disturb Section 219 Restrictive Covenant to be registered under the Land Title Act against the title of the subject property to effectively preserve the Riparian Management Area. The Riparian Management/No Disturb Covenant area is all the land within the property measured 15 meters upland of the Natural Boundary of Okanagan Lake.

2. It is recommended that the applicant provide a draft no build/no disturb Section 219 Restrictive Covenant to be registered under the Land Title Act against the title of the subject property to effectively preserve the steep slope area located in the rear yard of the lot. Development Permit Guidelines within the Official Community Plan (Policy 7.13) recommend that development will be directed to appropriate areas with slopes averaging less than 30%.

6.0 Application Chronology

Date of Application Received	November 25, 2010
Advisory Planning Commission	n/a
All Comments Received	December 21, 2010

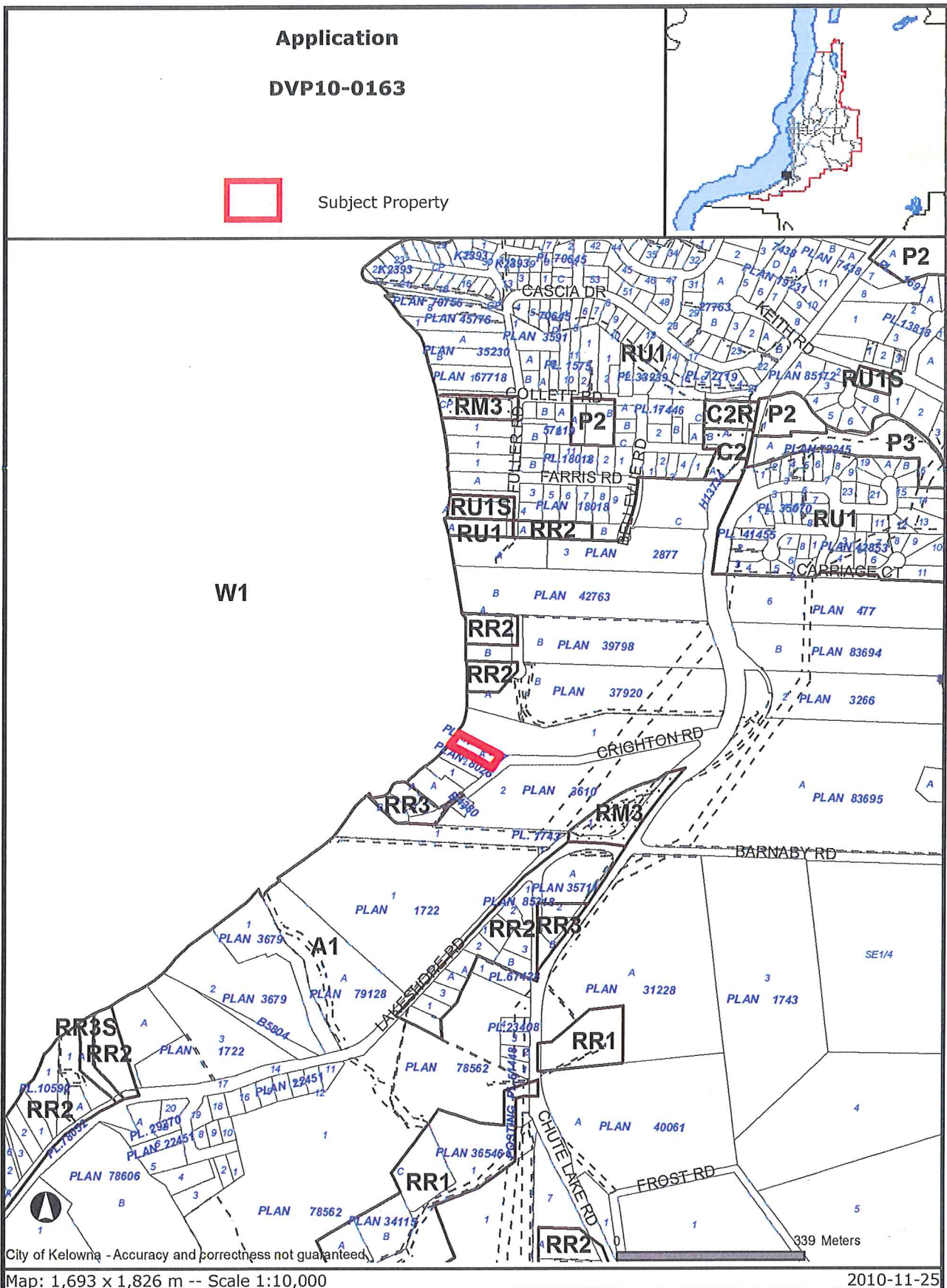
Reviewed by:  Danielle Noble, Manager, Urban Land Use

Approved for Inclusion:  Shelley Gambacort, Director, Land Use Management

Attachments:

- Subject property and zoning map
- Site plan
- Main floor plan
- Lower floor plan
- Elevations (2 pages)
- Photographs (4 pages)

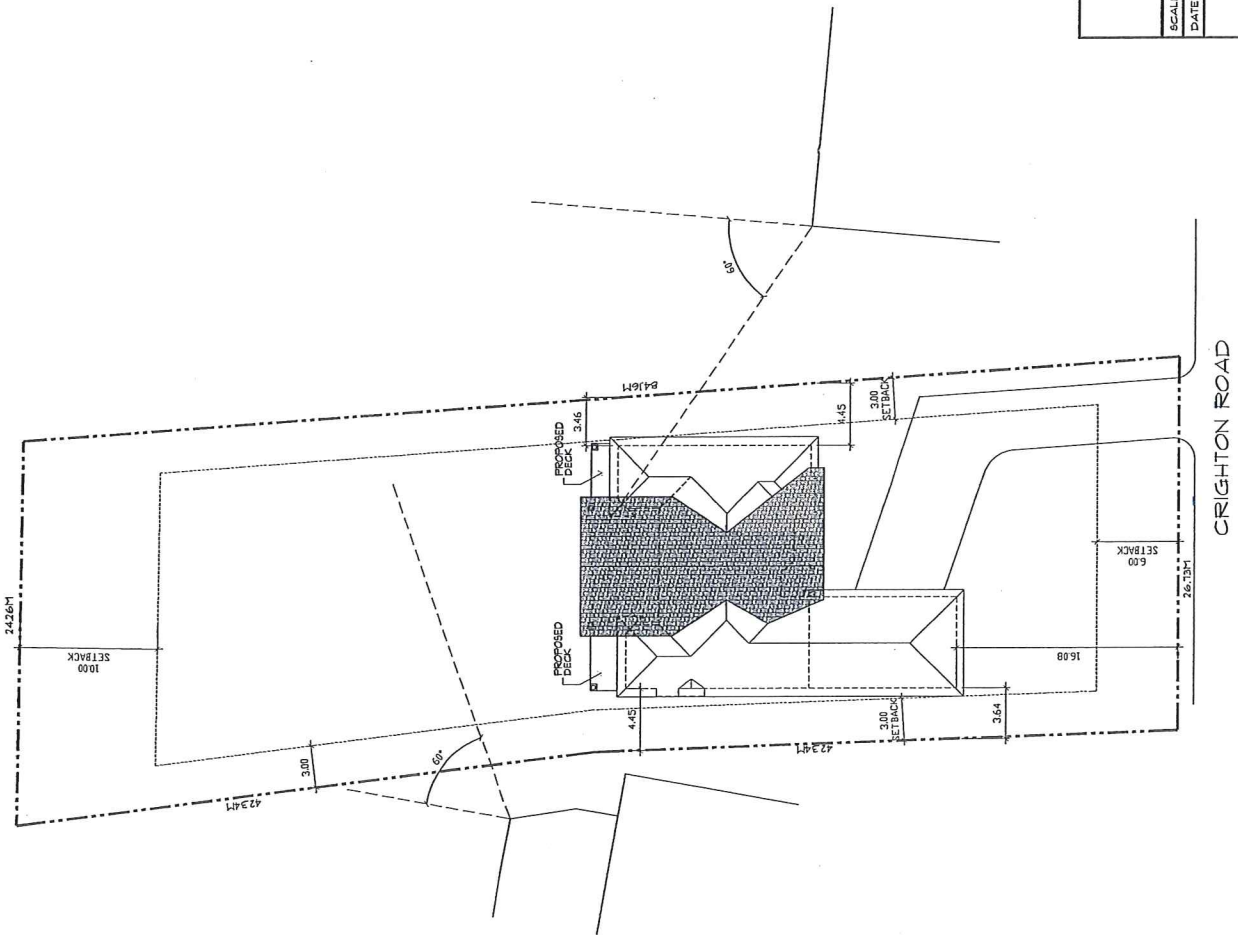




Certain layers such as lots, zoning and dp areas are updated bi-weekly. This map is for general information only.
The City of Kelowna does not guarantee its accuracy. All information should be verified.



OKANAGAN LAKE



CRIGHTON ROAD

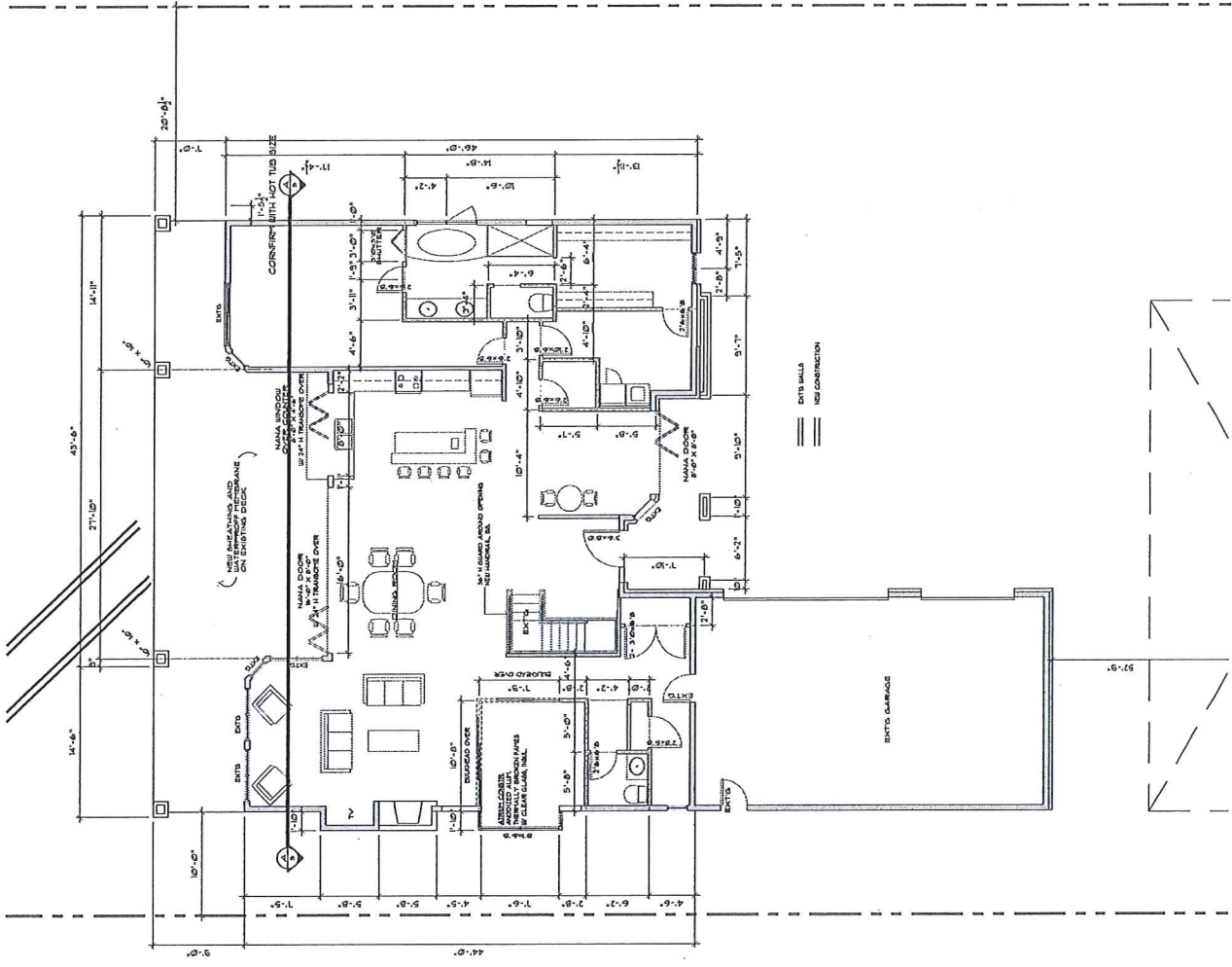
4160 CRIGHTON ROAD
LOT A, PLAN 0181

SCALE: 1" = 20'-0"

DATE: NOV 16, 2010

SITE PLAN PLAN

DRAWING No. 0



4760 CRIGHTON ROAD
 LOT A, PLAN 6181

SCALE: 1/8" = 1'-0"
 DATE: NOV/16, 2016

MAIN FLOOR PLAN

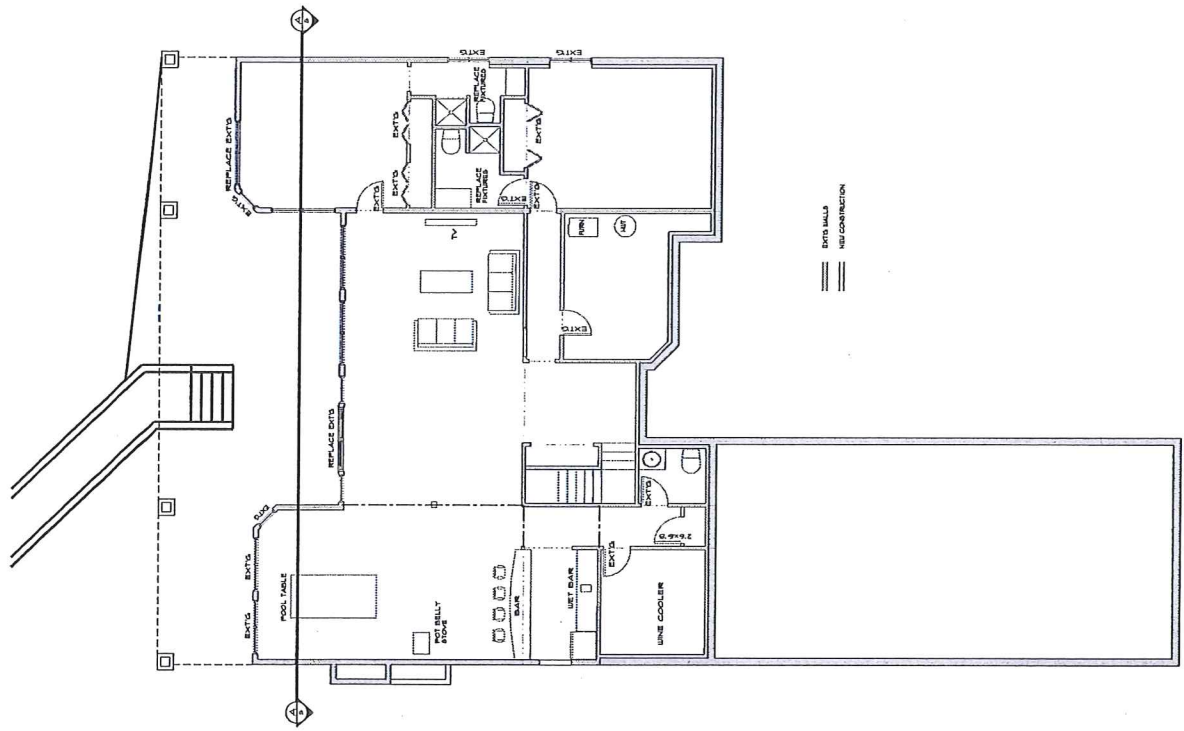
DRAWING NO. 10

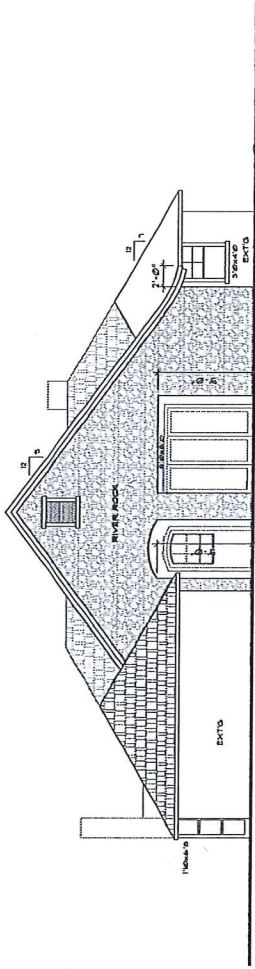
4160 CRIGHTON ROAD
 LOT A, PLAN 6181

SCALE: 1/8" = 1'-0"
 DATE: NOV 16, 2010

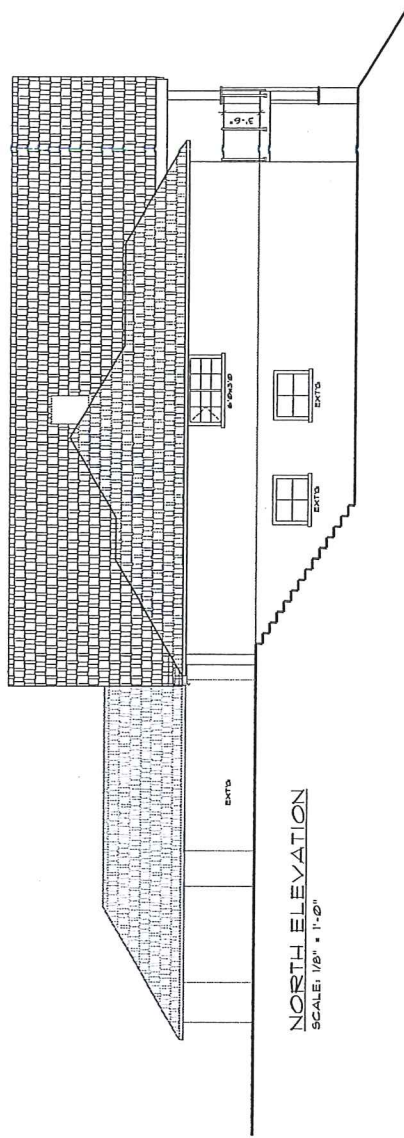
LOWER FLOOR PLAN

DRAWING No. 2.0





FRONT ELEVATION
SCALE: 1/8" = 1'-0"

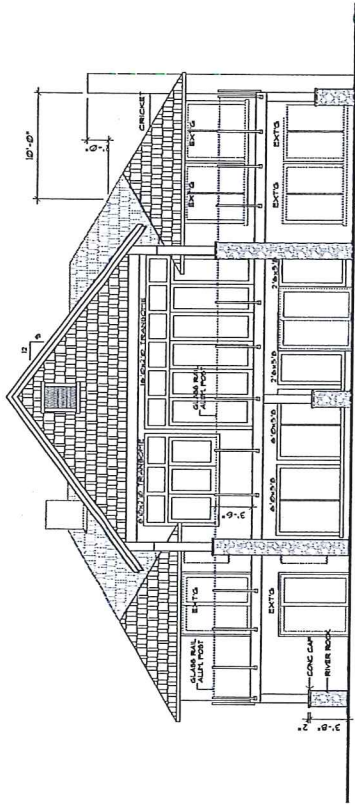


NORTH ELEVATION
SCALE: 1/8" = 1'-0"

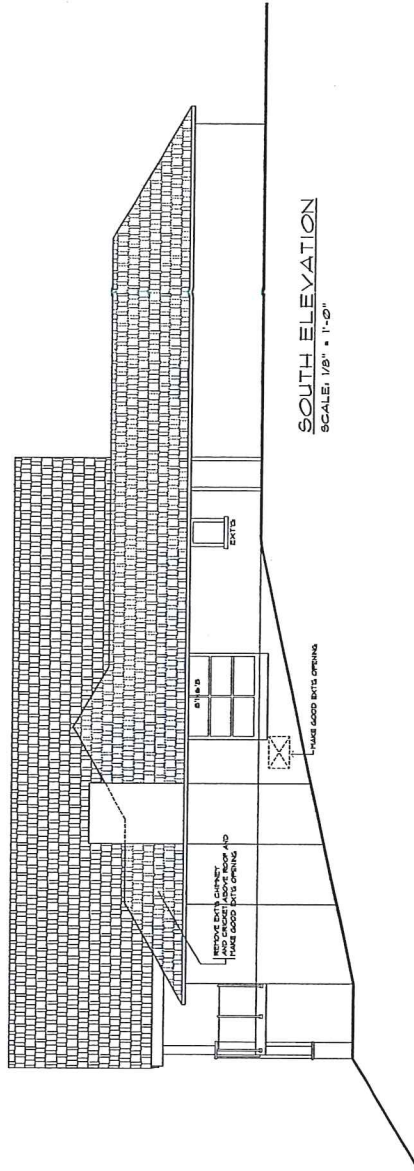
4160 CRIGHTON ROAD
LOT A, PLAN 6181

SCALE: 1/8" = 1'-0"
DATE: NOV 16, 2010
ELEVATIONS

DRAWING No. 4.0



REAR ELEVATION
SCALE: 1/8" = 1'-0"



SOUTH ELEVATION
SCALE: 1/8" = 1'-0"

4160 CRIGHTON ROAD
LOT A, PLAN 61B1

SCALE: 1/8" = 1'-0"

DATE: NOV 16, 2009

ELEVATIONS

DRAWING No. 4.1



4760 Crighton - Photo Looking West Down Driveway



South Boundary Line



South Property Line - Shows Neighbor to South on the left.



View South at rear of house Neighbor's House

Looking North From NW corner of Home
at Neighbour to North.



At North side of property looking North to Neighbours.



→ Looking West with Cedar Hedges along
North Property Boundary.



Photo looking east from Okanogan Lake. Note retaining wall and cottage.



Photo looking east. Note well vegetated steep slope area.

CITY OF KELOWNA

APPROVED ISSUANCE OF A:

Development Variance Permit No.: DVP10-0163

EXISTING ZONING DESIGNATION: A1 – Agriculture 1

DEVELOPMENT VARIANCE: To vary maximum site coverage for residential development from 10% permitted to 17% proposed and to vary the Okanagan Lake Sight Line to allow a structure to encroach, to a maximum of 49 degrees proposed, within the required 60 degree sight line from the northerly neighbour's residence.

ISSUED TO: Worman Resources Ltd. (Shane Worman) & Birgit/William Bennett

LOCATION OF SUBJECT SITE: 4760 Crighton Road

	LOT	SECTION	TOWNSHIP	DIV & DIST	PLAN
LEGAL DESCRIPTION:	A	25	28	ODYD	6187

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 variances to the following section of Zoning Bylaw No. 8000 be granted:

Section 11.1.6(a) - Site Coverage - To vary the maximum site coverage for residential development from 10% permitted to 17% proposed.

Section 6.11.1 - Okanagan Lake Sight Lines - To vary the Okanagan Lake Sight Line to allow a structure to encroach, to a maximum of 49 degrees proposed, within the required 60 degree sight line from the northerly neighbour's residence.

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 _____, 2011.

ISSUED BY THE LAND USE MANAGEMENT DEPARTMENT OF THE CITY OF KELOWNA THE _____ DAY OF _____, 2011, BY THE DIRECTOR OF LAND USE MANAGEMENT.

Shelley Gambacort
Director of Land Use Management

