Memo

City of Kelowna

Date: February 10, 2011

To: City Manager

From: Community Sustainability Division

Application: TUP10-0003 (PMc)

Owner: P 218 Enterprises Ltd.

Address: 459 Groves Avenue, & 437 & 442 Newsom Avenue

Applicant: P 218 Enterprises Ltd. & Wayne Holdings Ltd.

Subject: Temporary Use Permit

Existing OCP Designation: Multiple Unit Residential - Medium Density

Proposed OCP Designation: Temporary Industrial

Existing Zone: RU1 - Large Lot Housing

1.0 Recommendation

THAT Final adoption of OCP Bylaw Text Amendment No.10484 be considered by Council,

AND THAT Council authorize Temporary Use Permit No. TUP10-0003 to allow construction staging and preparation on Lots 14 & 19, DL 14, O.D.Y.D., Plan 3856, Exc. Plan KAP90797, and Lot 11, Blk 2, DL 14, O.D.Y.D., Plan 4743, Exc. Plan KAP90797, located at 459 Groves Avenue, 442 Newsom Avenue, and 437 Newsom Avenue, Kelowna, B.C, as shown on Map "A" attached to the report of the Land Use Management Department, dated February 4 2011, subject to the following conditions:

a) Construction of temporary fencing including a visual/noise barrier to the satisfaction of the Director of Land Use Management as shown on "Schedule A":

b) The entire area to be surfaced with a suitable dust free material;

c) The properties to be remediated with suitable vegetation and street trees upon the expiration of the Temporary Use Permit.

2.0 Purpose

The applicant is seeking a Temporary Use Permit in order to utilize the three subject properties as a construction staging and storage location for the nearby mixed-use Sopa Square project located at 2988-3030 Pandosy St. Accordingly, an Official Community Plan amendment is required to temporarily acknowledge the industrial construction uses.

3.0 Land Use Management

The subject properties are well located to serve the staging and construction needs of the commenced mixed-use commercial project (Sopa Square) located to the east of the subject properties. Critically, there is no opportunity to accommodate these needs on the construction site. The applicant is proposing to fence the entire site (including portions of the temporarily closed lanes and the subject properties) with construction fencing. Additionally, a mesh fabric sheeting to the inside of the construction barrier is proposed to form a visual barrier to minimize impacts upon the adjacent residential uses. The Kelowna Noise and Disturbance Control Bylaw #6647 is in effect and prohibits any construction activity before 7:00 AM or after 10:00PM.

To date, there has been one letter of complaint from a neighbouring property owner expressing concerns for parking problems which have occurred and damage that has occurred to their fence (a copy of the letter is attached as a schedule).

4.0 Proposal

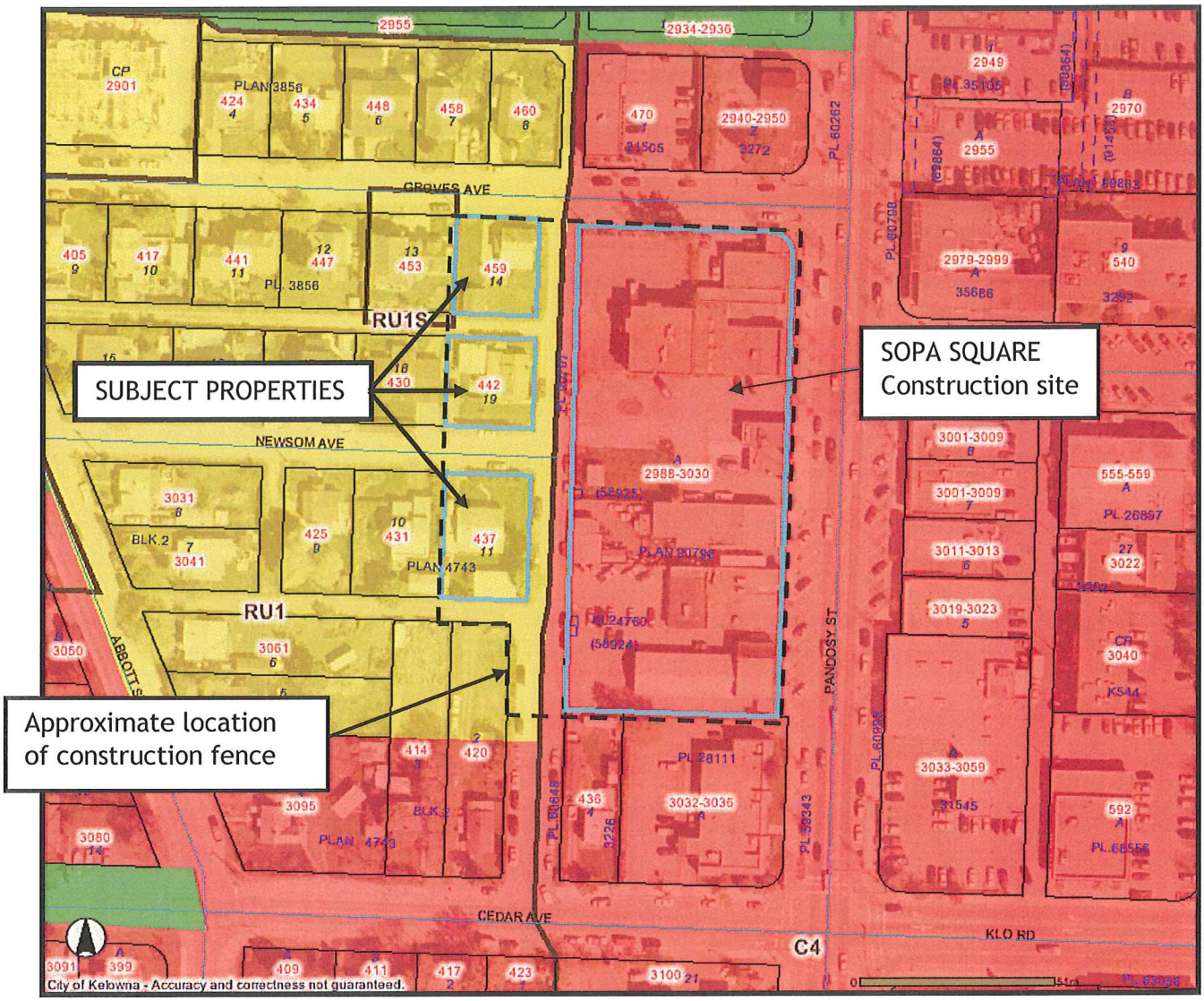
4.1 Background & Project Description

The Sopa Square project is designed as a 11 storey, mixed-use development to be constructed over an underground parking structure. Site preparation for the pending construction project has commenced. However, as the proposed foundation and parking structure occupies the entire parcel, it is not possible for any construction staging to occur on the site.

The applicant is proposing to use the three subject properties as a temporary construction staging and storage area for the adjacent Sopa Square project. The three subject properties and the Sopa Square construction site are to be surrounded with a 1.8m (6 ft) high construction fence to secure the construction site and control access. The construction fencing will also have a mesh fabric attached to the inside of the fence to provide a visual barrier to screen the construction activity from adjacent properties in order to minimize the impact of the temporary construction staging and storage yard on the neighbourhood. It is anticipated that the staging area will be required for at least three years.

The applicant has owned the three residential subject properties since 2008. The properties were acquired to deal with potential road issues associated with the lane to the west of the Sopa Square development site. Previously, single unit dwellings were located on each of the subject properties. Currently, the dwelling at 442 Newsom Avenue has been demolished and the property has been surfaced with gravel. The dwelling located at 437 Newsom Avenue is proposed to be used as a construction office while the dwelling at 459 Groves Avenue is being used for storage.

4.2 Site Context



The adjacent zones are as follows:

Direction	*Zoning Designation*	*Land Use*
North	RU1 - Large Lot Housing	Residential
East	C4 - Urban Centre Commercial	Commercial
South	RU1 - Large Lot Housing	Residential
West	RU1 - Large Lot Housing	Residential

The applicant has received permission from the City to temporarily close a portion of the existing lane to the east of the subject properties for construction purposes. The applicant has also received permission to temporarily close the end of Newsom Avenue, as well as a portion of the lanes located north and south of Newsom Avenue that run parallel to Newsom Avenue.

5.0 Current Development Policies

5.1 Kelowna Official Community Plan (OCP) [1]

Temporary Commercial and Industrial Use Permits
In accordance with the Local Government Act (Sections 879 and 921), an Official Community Plan may designate areas where Council may consider allowing temporary commercial and industrial uses, and may specify general conditions regarding the issuance of temporary use permits in those areas.

The temporary use designation is intended to apply to operations that are temporary in nature and the designation does not in itself permit commercial or industrial uses on the designated sites. Within these areas, Council may, by resolution, issue a Temporary Commercial or Industrial Use Permit and specify the conditions under which the temporary use be carried on. Upon the expiration of a Temporary Use Permit, the permitted uses revert to those outlined in the City of Kelowna Zoning Bylaw 8000.

6.0 Technical Comments

6.1 Building & Permitting Department

1. Individual demolition permits are required for the removal of any building or structures prior to any work taking place.

2. Consideration should be taken regarding the placement of sea containers, equipment, and wood piles to ensure that the adjacent properties are kept safe during the construction process.

6.2 Development Engineering Department

The Temporary Use Permit application, to use these properties for construction material storage as well as a construction staging area, does not compromise our servicing requirements.

1. Water and Sanitary Sewer

   (a) Identify and protect all existing sanitary inspection chambers and water service shut-off valves.

2. Site Related Issues

   (a) It is recommended that a well graded, hard dust free surface be provided for this construction staging and storage area.

6.3 Fire Department

The tower crane owner and operators require an agreement with the Fire Department for High Angle rescue. No concerns with the temporary use permit.

---

[1] City of Kelowna Official Community Plan, Chapter 19, Page 11

7.0 Application Chronology

Date of Application Received: November 19, 2010

Advisory Planning Commission January 18, 2011

The above noted application was reviewed by the Advisory Planning Commission at the meeting on January 18, 2011 and the following recommendations were passed:

> THAT the Advisory Planning Commission support Temporary Use Permit Application No. TUP10-0003 for 459 Groves Avenue, 437 and 442 Newsom Avenue to allow the use of the subject properties for construction staging for project at 2988-3030 Pandosy (Sopa Square).

Anecdotal Comment:
The Advisory Planning Commission supports the Temporary Use Permit and believe that it is a reasonable temporary use and purpose of the land however suggest that the Applicant take measures to avoid conflict with adjacent neighbours, including appropriate screening.

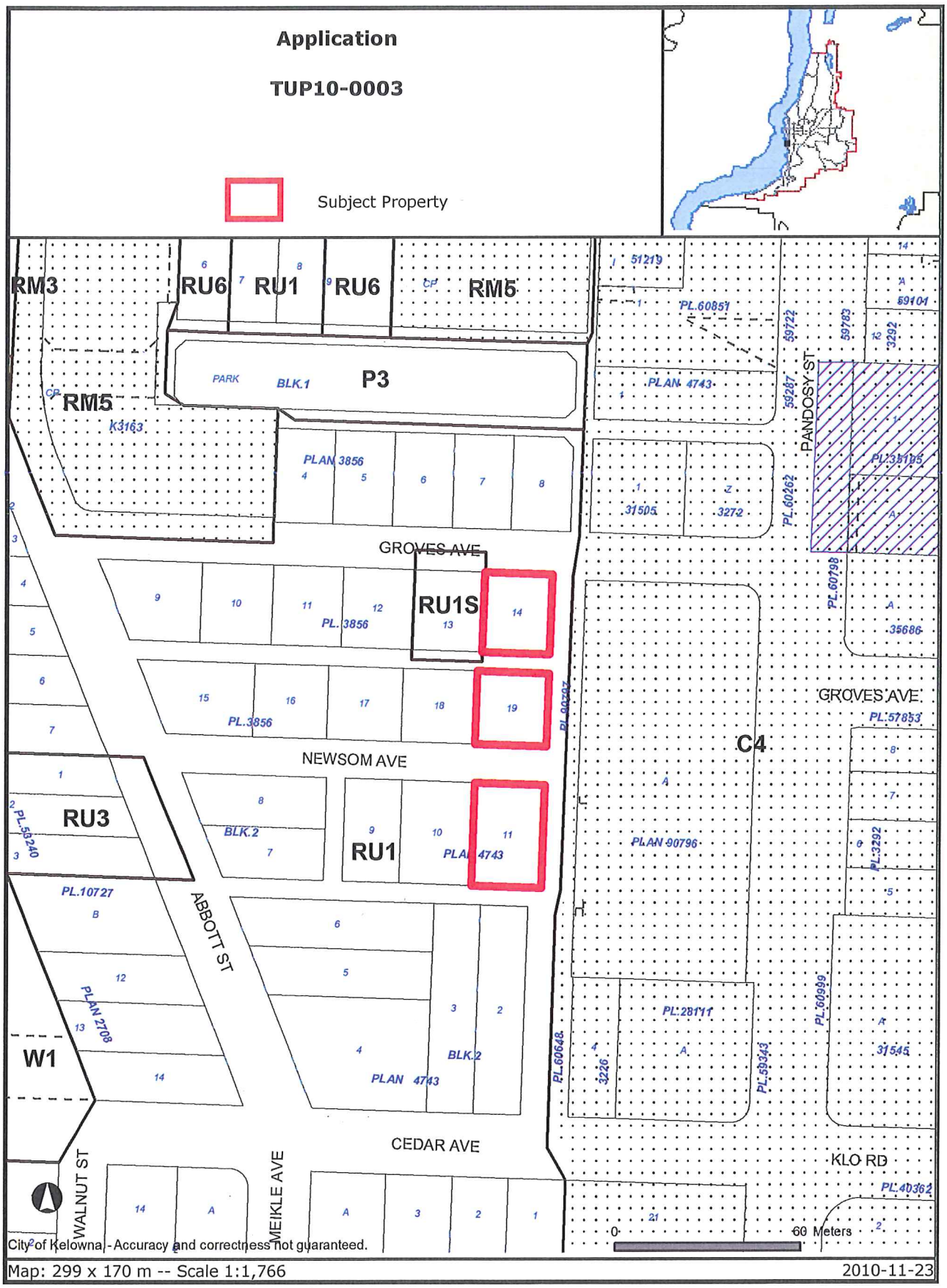
Report prepared by:

Paul McVey, Urban Land Use Planner

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

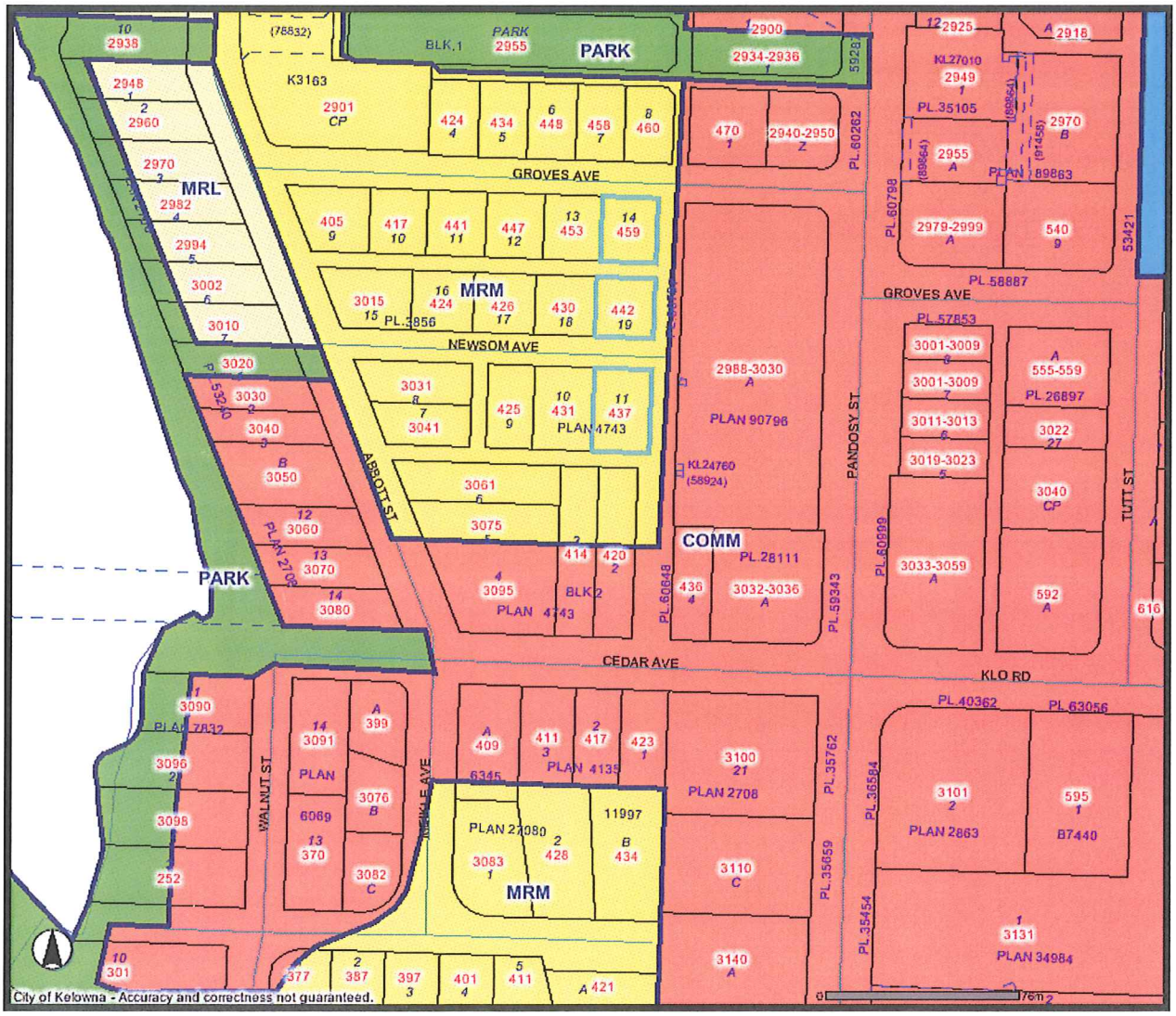
Attachments:

Location Map
Site Plan
Owner rationale letter
Photo of fence and fabric
Copy of letter of concern
Map "A"
Schedule "A"



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.

MAP "A"



Subject Property to have Future Land Use designation temporarily changed from "MULTIPLE UNIT RESIDENTIAL – MEDIUM DENSITY" to "INDUSTRIAL"

sopaSQUARE
conscious living.

November 3, 2010

City of Kelowna
Building & Permitting Branch
1435 Water Street
Kelowna, BC V1Y 1J4

Attention: Paul McVey

Re: Letter of Rationale for Temporary Use Permit for 459 Groves Avenue, 437 Newsom Avenue and 442 Newsom Avenue

---

We are applying to have a three year Temporary Use Permit for these properties to allow for staging during the construction of the Sopa Square Development.

With the goal of minimizing the impact to the residents of this area during this time Sopa Square will look into providing some sort or screen or barrier to be placed over the fencing surrounding these sites to minimize unattractive views and any intrusion to the neighbour's property.

We look forward to working with the community in creating a better South Pandosy area.

Sincerely,

N Dobranski

Nicole Dobranski
Operations Manager

#9 – 3151 Lakeshore Road, Box 152, Kelowna, British Columbia, V1W 3S9 Office: (250) 762-5818 Fax (250) 762-5918

CITY OF KELOWNA APPLICATION FORM

DEVELOPMENT PROPOSAL

Please describe your development proposal: (A supplemental letter of rationale is strongly encouraged to be submitted)

=FENCE AROUND THE PERIMETER

=Lot - 14 PLAN 3856 and Lot 19 PLAN 3856, this Lots will be used FOR STORAGE of WOOD PILES, SEA CONTAINERS FOR STORAGE of SMALL TOOLS, STORAGE of REBAR MATERIAL, STORAGE of FORMWORK MATERIAL, short TERM STORAGE for EXCAVATION EQUIPMENT

= PORTABLE TOILETS.

=Lot 11 PLAN 4743 - RESIDENCE USED FOR CONSTRUCTION OFFICE

=Lot 11 PLAN 4743 - AREA USED FOR STORAGE OF CONSTRUCTION MATERIAL AND SMALL EQUIPMENT.

= NEWSON AVENUE = PARKING FOR CONSTRUCTION OFFICE STAFF AND MANAGEMENT.

= 2 TOWER CRANES

COORDINATING PROFESSIONALS

List any professionals known to date (e.g. Architect, Landscape Architect, Engineer, Biologist, etc):

Name: BUSBY PERKINS + WILL	
Title: ARCHITECT	
Address: 1220 HOMER ST. VANCOUVER	
Phone: 604-684-5446	Cell:
Email: david.dove@busbyperkinswill.ca	

Name: FAST + EPP	
Title: STRUCTURAL ENGINEER	
Address: #201-1672 WEST 1ST. AV. VANCOUVER	
Phone: 604-731-7412	Cell:
Email: Pfast@fastepp.com	

APPLICANT CONFIRMATION

As applicant or approved agent, I confirm that I have read all relevant City of Kelowna Bylaws and policies and that this application is in conformance (unless a Bylaw amendment forms part of this application).

I have attached to this application the required plans and specifications of the proposed development in accordance with the application checklist. **I accept responsibility for processing delays caused by incorrect or insufficient submission materials.**

I understand that this application form is a public document and that any and all information contained in it, including personal information as that term is defined in the Freedom of Information and Protection of Privacy Act of B.C., is open for inspection by the public and may be reproduced and distributed to the public as part of a report(s) to Council or for purposes of a public hearing. I am aware that I am responsible to display and remove the development sign.

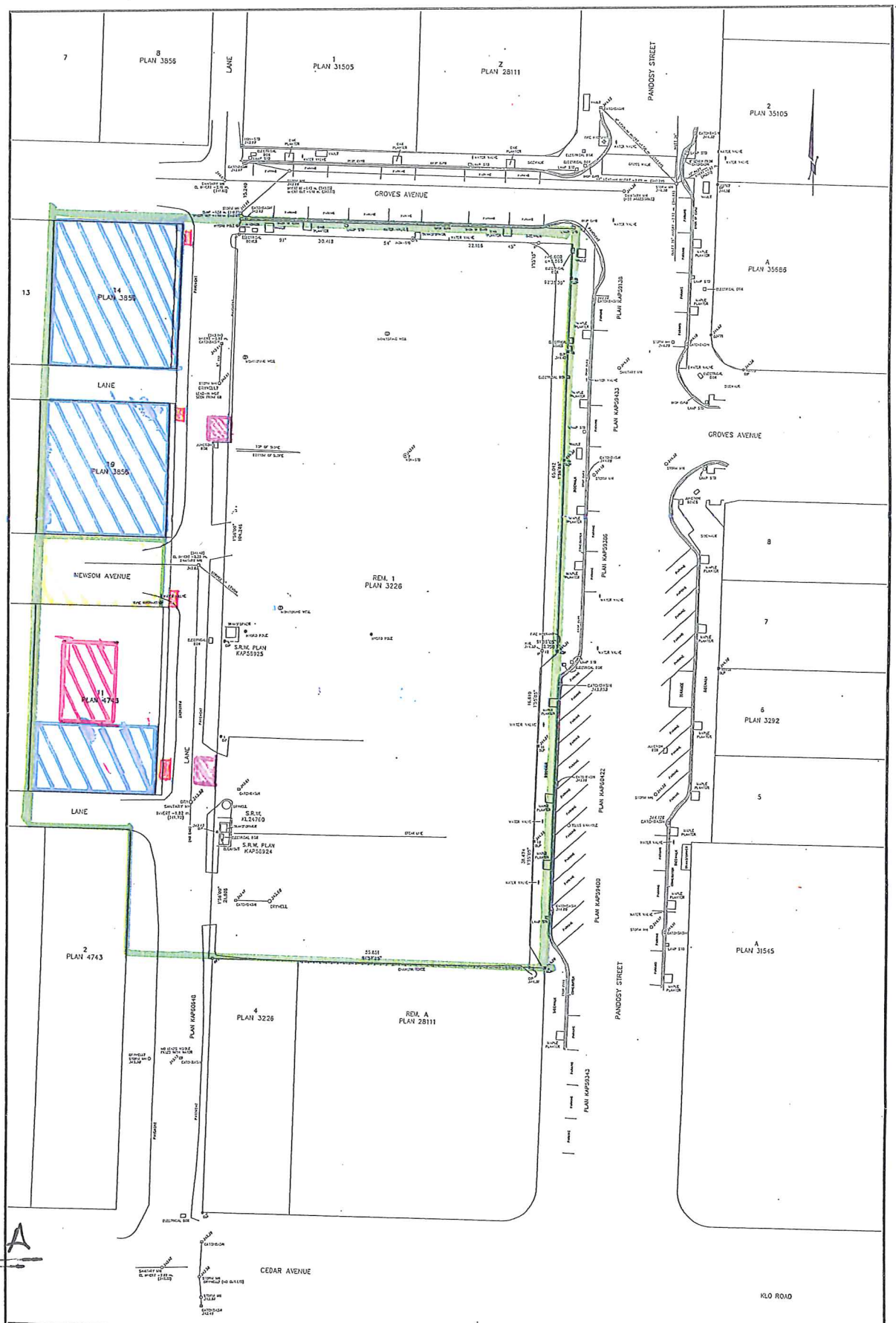
I understand that I am responsible for obtaining development authorizations and permissions from Telus, FortisBC, Terasen, and Shaw Cable and for providing the File Manager with copies of responses from these utilities.

Applicant Signature: _____ Dated: NOV. 03. 2010

Created: January 11, 2010

SCHEDULE "A" 1 of 2

NOV. 03 - 2010



SCHEDULE A
2 of 2

TITLE:

SITE PLAN OF LOT A, DISTRICT LOT 14,
OSOYOOS DIVISION YALE DISTRICT,
PLAN KAP_____

DRAWN BY:

RUNNALLS DENBY
british columbia land surveyors
259A Lawrence Avenue
Kelowna, B.C.
V1Y 6L2
Phone (250)763-7322
Fax (250)763-4413
Email: mail@runnallsdenby.com

CLIENT: ED FENWICK

SCALE:	1:300
DATE:	May 18, 2010
DWG:	12038 SITE PLAN 2
FILE No:	12038
REV.	0

GROVES AVE . JAN 11/11


50.762.5818
MODU-LOC
FENCE RENTALS
1-800-522-8371 | www.moduloc.ca
MODU-LOC
FENCE RENTALS
1-800-522-8371 | www.moduloc.ca


CAT

2011-01-07

Advisory Planning Commission
City Hall
1435 Water Street
Kelowna, BC
V1Y 1J4

Public meeting Tuesday January 18, 2011 TUP10-0003

Dear committee members,

Unfortunately I am away on the meeting date and therefore please accept my comments in writing. I am very much affected by the TUP10-0003 for the SOPA Square project as I live next door at 453 Groves Avenue, which is next to the properties that will be used for the staging area.

For a number of monhs we have been already very much affected by the construction due to shaking of our house from the steel shearwall placement vibration, parking problems, slight damage to our fence, and a power pole replacement which caused a power surge which resulted in an expensive TV repair for which I am still waiting for payment from Fortis / City of Kelowna.

Don't get me wrong. I am totally in favour of the SOPA project and the staging appears necessary, but please consider a few improvements to the application that will make living next to this large development a good experience for the next 2 or 3 years which is not really that temporary is it?

For 459 Groves Avenue which remains zoned RU1 (single family residential) please consider:

1) Maintain the parking in front of the property on Groves Avenue

2) Move the 1.8 m (6 ft) high temporary fence back to the required front yard setback required for a garage which is 6 m(20 ft)

3) Maintain the minimum setback required for a one storey house for the sideyard that is adjacent to my property. This requirement is 2 m (6 ft and 7 inches).

4) Provide signage to inform construction workers not to park in front of neighbouring residences.

5) Provide for construction parking away from the neighbouring residences.

Enclosed with this letter are some pictures taken over the last few months to show you what the front and neighbouring property look like.

Please keep he fence back as described above so that there will be no containers, trucks, materials etc stored within the required RU1 setbacks.

Thank you for listening to my concerns.

Chris Greenway
453 Groves Avenue
Kelowna, BC
VY 4Y4

CITY OF KELOWNA

APPROVED ISSUANCE OF A:

☐ Temporary Industrial Use Permit No .: TUP10-0003

EXISTING ZONING DESIGNATION:	RU1 – LARGE LOT HOUSING
WITHIN DEVELOPMENT PERMIT AREA:	SOUTH PANDOSY TOWN CENTRE DP AREA

ISSUED TO: P218 Enterprises Ltd, & Wayne Holdings Ltd.

LOCATION OF SUBJECT SITE: 459 Groves Ave, 437 & 442 Newsom Ave.

	LOT	D.L.	PLAN	SECTION	TOWNSHIP	DISTRICT
LEGAL DESCRIPTION:	14 & 19	14	3856 Exc. Plan KAP90797	13	25	O.D.Y.D.
	11	14	4743 Exc. Plan KAP90797	13	25	O.D.Y.D

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

1. TERMS AND CONDITIONS:

a) Construction of temporary fencing including a visual/noise barrier to the satisfaction of the director of Land Use Management as shown on "Schedule A";

b) The entire area to be surfaced with a suitable dust free material;

c) The properties to be remediated with suitable vegetation and street trees upon the expiration of the Temporary Use Permit.

2. 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 transferable 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.

3. 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.

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.

4. APPROVALS:

TEMPORARY USE PERMIT AUTHORIZED BY COUNCIL ON THE _____ DAY OF FEBRUARY, 2011.

ISSUED BY THE LAND USE MANAGEMENT DEPT. OF THE CITY OF KELOWNA THE _____ DAY OF FEBRUARY, 2011.

Shelley Gambacort
Director of Land Use Management

DEVELOPMENT PROPOSAL

Please describe your development proposal: (A supplemental letter of rationale is strongly encouraged to be submitted)

=FENCE AROUND THE PERIMETER

=Lot - 14 PLAN 3856 and Lot 19 PLAN 3856, this Lots will be used FOR STORAGE of WOOD PILES, SEA CONTAINERS FOR STORAGE of SMALL TOOLS, STORAGE of REBAR MATERIAL, STORAGE of FORMWORK MATERIAL, short TERM STORAGE for EXCAVATION EQUIPMENT

= PORTABLE TOILETS.

= Lot 11 PLAN 4743 - RESIDENCE USED FOR CONSTRUCTION OFFICE

= Lot 11 PLAN 4743 - AREA USED FOR STORAGE OF CONSTRUCTION MATERIAL AND SMALL EQUIPMENT.

= NEWSON AVENUE = PARKING FOR CONSTRUCTION OFFICE STAFF AND MANAGEMENT.

= 2 TOWER CRANES

COORDINATING PROFESSIONALS

List any professionals known to date (e.g. Architect, Landscape Architect, Engineer, Biologist, etc):

Name: BUSBY PERKINS + WILL	
Title: ARCHITECT	
Address: 1220 HOMER ST. VANCOUVER	
Phone: 604-684-5446	Cell:
Email: david.dove@busbyperkinswill.ca	

Name: FAST + EPP	
Title: STRUCTURAL ENGINEER	
Address: #201-1672 WEST 1ST. AV. VANCOUVER	
Phone: 604-731-7412	Cell:
Email: Pfast@fastepp.com	

APPLICANT CONFIRMATION

As applicant or approved agent, I confirm that I have read all relevant City of Kelowna Bylaws and policies and that this application is in conformance (unless a Bylaw amendment forms part of this application).

I have attached to this application the required plans and specifications of the proposed development in accordance with the application checklist. **I accept responsibility for processing delays caused by incorrect or insufficient submission materials.**

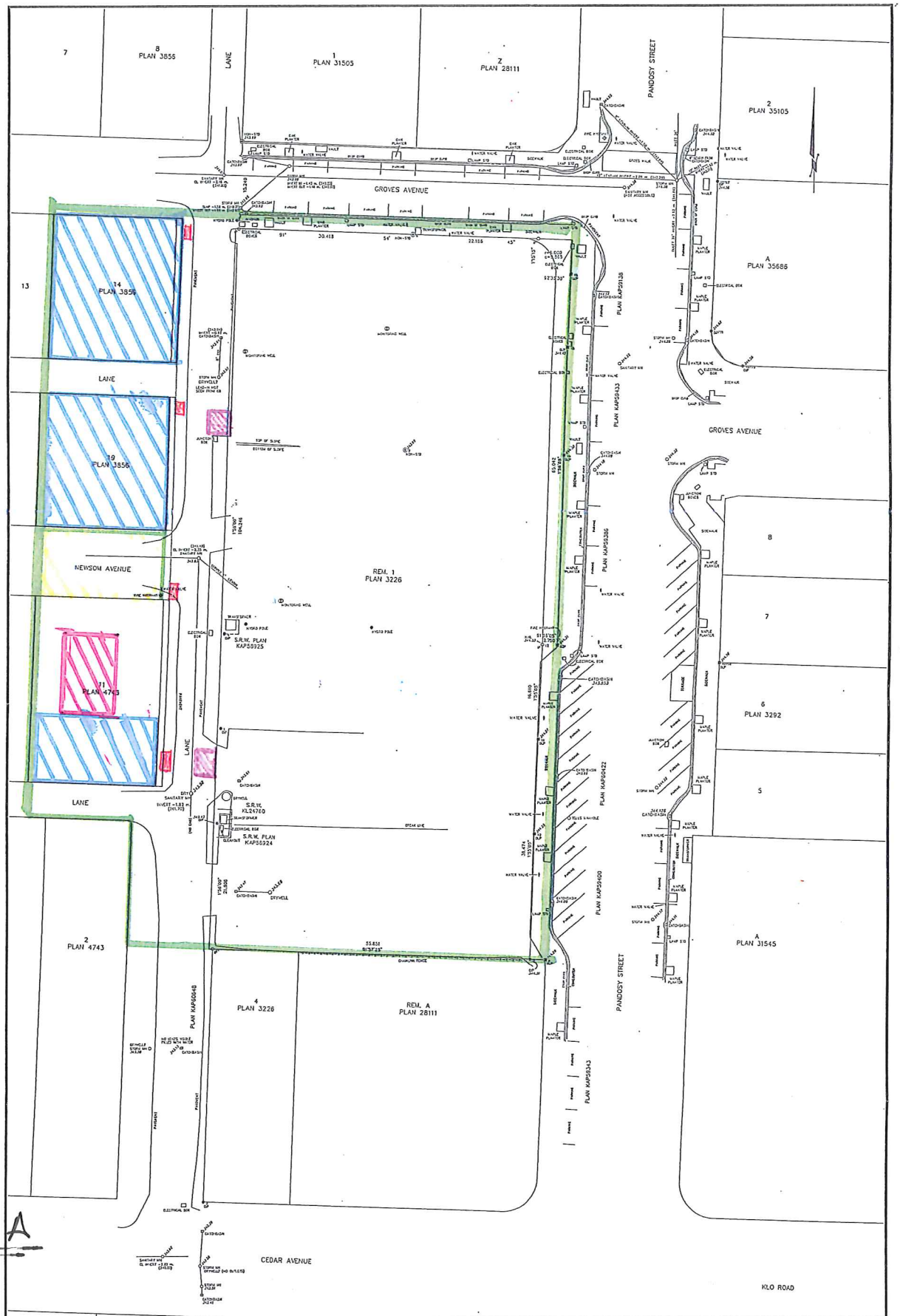
I understand that this application form is a public document and that any and all information contained in it, including personal information as that term is defined in the Freedom of Information and Protection of Privacy Act of B.C., is open for inspection by the public and may be reproduced and distributed to the public as part of a report(s) to Council or for purposes of a public hearing. I am aware that I am responsible to display and remove the development sign.

I understand that I am responsible for obtaining development authorizations and permissions from Telus, FortisBC, Terasen, and Shaw Cable and for providing the File Manager with copies of responses from these utilities.

Applicant Signature: _____ Dated: NOV. 03. 2010

SCHEDULE "A" 1 of 2

NOV. 03-2010



SCHEDULE A
2 of 2

TITLE: SITE PLAN OF LOT A, DISTRICT LOT 14, OSOYOOS DIVISION YALE DISTRICT, PLAN KAP_____	DRAWN BY: RUNNALLS DENBY, british columbia land surveyors, 259A Lawrence Avenue, Kelowna, B.C. V1Y 6L2, Phone: (250)763-7322, Fax: (250)763-4413, Email: rdl@runnallsdenby.com	SCALE: 1:300	
		DATE: May 18, 2010	
		DWG: 12038 SITE PLAN 2	
	CLIENT: ED FENWICK	FILE No: 12038	REV. 0