

# Memo



**Date:** May 25, 2011  
**To:** City Manager  
**From:** Land Use Management, Community Sustainability (BD)  
**Application:** DVP11-0059  
**Owner:** Robert and Catherine Cundy & Maurice and Janis Gauthier  
**Address:** 691 Okanagan Blvd.  
**Applicant:** Robert and Catherine Cundy  
**Subject:** Development Variance Permit

Existing OCP Designation: Single/Two Family Residential

Existing Zone: RU6- Two Dwelling Housing

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## 1.0 Recommendation

THAT Council authorize the issuance of Development Variance Permit No. DVP11-0059, Lot 1, Block 9, District Lot 9, ODYD Plan 4247, located on Okanagan Boulevard, Kelowna, BC;

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

### Section 6.4.2 Projections into Yards

To vary the projection into a rear yard from 0.6m permitted to 0.0m proposed.

### Section 13.6.6 (e) RU6 Development Regulations

To vary the required rear setback for an accessory building from 1.5m permitted to 0.0m proposed.

## 2.0 Purpose

This application is seeking to legalize the placement of the access staircase of an accessory building with a secondary suite.

## 3.0 Land Use Management

A Development Permit was issued in 2005 which authorized the building and siting of an accessory building with a secondary suite. Through the building process it was found that the building had to be constructed higher on the site than anticipated due to the water table level. This altered the configuration of the stair access to the building as well as the height of the building.

As the building had to be raised, this increased the number of stairs required and necessitated a reconfiguration of the access which resulted in the projection into the required rear yard.

City departments do not endorse changes to building plans in process, however in this case it appears that the applicant was following directions from the City. The applicant seeks to legalize the stairs and allow final occupancy to be granted for the secondary suite. Notably, the applicant did receive endorsement for the variances from all abutting and adjoining neighbours.

## 4.0 Proposal

### 4.1 Project Description

As noted, the configuration of the stairs was altered from the original approved plan to accommodate changes to meet requirements of the water table provisions. Accordingly, in order to meet requirements of the BC Building Code, the stairs now encroach into the required rear yard. As the landing projects into the rear yard and is over 0.6m in height, two regulations of the zoning bylaw must be varied.

### 4.2 Zoning Analysis:

CRITERIA	PROPOSAL	RU6 ZONE REQUIREMENTS
Lot Area (m <sup>2</sup> )	557.42m <sup>2</sup>	400m <sup>2</sup>
Lot Width (m)	15.24m	13.0m
Lot Depth (m)	36.57m	30.0m
Storeys (accessory)(#)	1.5	1.5
Site Coverage (SFD)	22.2%	40%
Site Coverage (Accessory)	11.00%	14%
Site Coverage (Proposed)	33.37%	40%
Size of Single Family Dwelling	123.28m <sup>2</sup>	N/A
Size of Proposed Suite	89.74m <sup>2</sup>	90m <sup>2</sup>
<b>Setbacks (SFD)</b>		
Front Yard	9.15m	4.5m
Side Yard (w)	3.5m	2.3m
Side Yard (e) - Flanking Side Yard	3.7m <sup>①</sup>	4.5m
Rear Yard (to accessory)	5.0m	5.0m
<b>Setbacks (Proposed Accessory)</b>		
Front Yard	5.0m	5.0m
Side Yard (w)	2.0m	2.0m
Side Yard (e)	4.5m	4.5m
Rear Yard	0.0m <sup>②</sup>	1.5m
Parking Spaces	3	3
Private Open Space	42.96m <sup>2</sup>	30m <sup>2</sup>

① Note: The flanking side yard setback is legally non-conforming with regard to the provisions of Zoning Bylaw No.8000.

② A variance is required to vary the rear yard set back from 1.5m required to 0.0m proposed, and as the stairs are over the minimum allowable height, they also trigger a projection variance from 0.6m allowed to 0.0 proposed.

### 4.3 Site Context

The subject property is located on the north side of Okanagan Boulevard in North Kelowna. The surrounding properties in all directions are zoned RU6 - Two Dwelling Housing.

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### 4.4 Subject Property Map: 691 Okanagan Boulevard



### 5.0 Technical Comments

No concerns were noted in technical comments received.

### 6.0 Application Chronology

Date of Application Received: April 7, 2011

Report prepared by:

Birte Decloux, Urban Land Use Planner

Reviewed by:

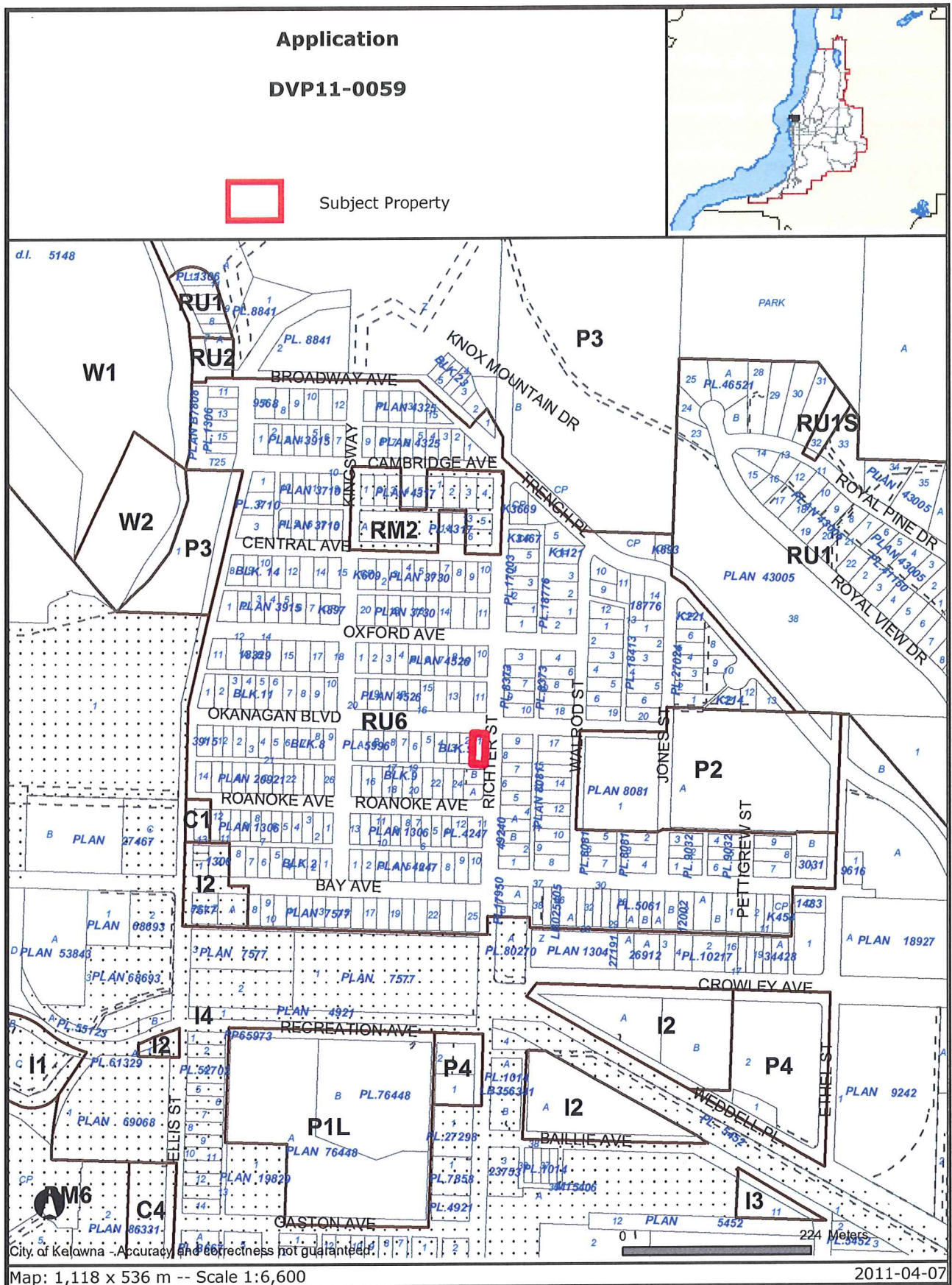
Danielle Noble Manager, Urban Land Use Management

Approved for Inclusion:

Shelley Gambacort, Director, Land Use Management

Attachments:

- Site Plan
- Context/Site Photos



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 CERTIFICATE

ON LOT 1, PLAN 4247,  
DISTRICT LOT 9, O.D.Y.D.

SCALE 1:250 All distances are in metres.

OKANAGAN BOULEVARD



**RECEIVED**  
DEC 20 2005  
Surrey  
Inspection Services Dept.

CLIENT : MEESHA HOMES  
FILE No : 11901SC  
FIELD BOOK : LAYOUT  
Elevation datum is geodetic  
from Control Monument 73H1829.

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.

Certified correct this 15th day of December, 2005.

Neil R. Denby  
B.C.L.S.

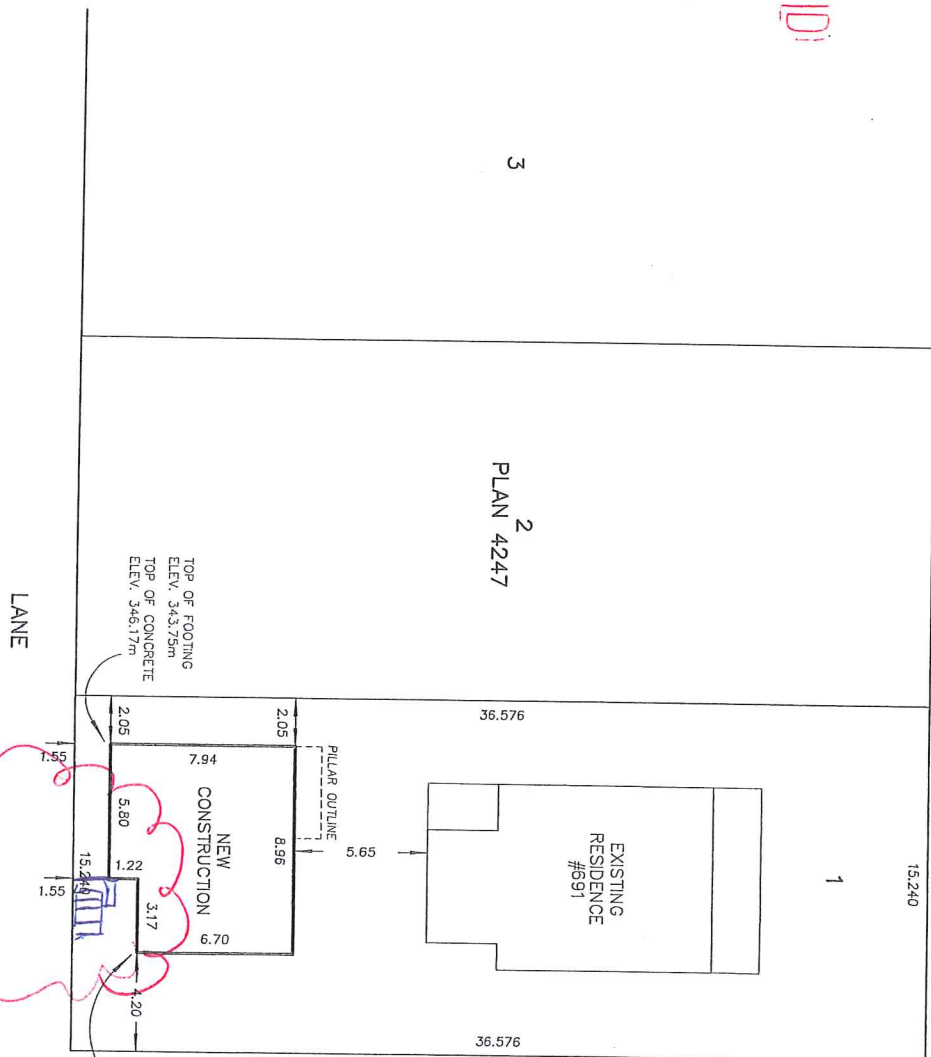
*Runnalls Denby*

*british columbia land surveyors*

#2 - 1470 Water Street Kelowna, B.C. V1Y 1J5  
Phone (250) 763-7322  
Fax (250) 763-4413  
email denby@telus.net

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PLAN 2  
4247



RICHTER STREET

**SCHEDULE A**  
This forms part of development  
Permit # DVP 11-0039

*Area of variance  
to allow a projection  
into the permit rear yard.*









# CITY OF KELOWNA

APPROVED ISSUANCE OF A:

Development Variance Permit No. : DVP11-0059

EXISTING ZONING DESIGNATION:	RU6- Two Dwelling Housing
WITHIN DEVELOPMENT PERMIT AREA:	N/A

ISSUED TO: Robert and Catherine Cundy & Maurice and Janis Gauthier
LOCATION OF SUBJECT SITE: 691 Okanagan Blvd.

	LOT	D.L.	PLAN	SECTION	TOWNSHIP	DISTRICT
LEGAL DESCRIPTION:	1	9	4247			ODYD

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:

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

Section 6.4.2 Projections into Yards

To vary the projection into a rear yard from 0.6m permitted to 0.0m proposed.

Section 13.6.6 (e) RU6 Development Regulations

To vary the required rear setback for accessory building from 1.5m permitted to 0.0m 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. 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.

4. 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.**

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 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.

6. APPROVALS:

DEVELOPMENT VARIANCE PERMIT AUTHORIZED BY COUNCIL ON THE \_\_\_\_<sup>th</sup> DAY OF JUNE, 2011.

ISSUED BY THE LAND USE MANAGEMENT DEPT. OF THE CITY OF KELOWNA THE \_\_\_\_<sup>TH</sup> DAY OF JUNE 2011.

\_\_\_\_\_  
Shelley Gambacort  
Director of Land Use Management