

Memo



Date: June 9, 2011

To: City Manager

From: Land Use Management, Community Sustainability (PMc)

Application: DVP11-0037

Owner: Douglas Troy Prevost

Address: 455 Montgomery Road

Applicant: Douglas Troy Prevost

Subject: Development Variance Permit

Existing OCP Designation: Multiple Unit Residential - Low Density

Existing Zone: RU1 - Large Lot Housing

1.0 Recommendation

THAT Council authorize the issuance of Development Variance Permit No. DVP11-0037, Lot 4, Section 26, Township 26, O.D.Y.D., Plan 7783, located on Montgomery Road, Kelowna, BC;

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

Section 6.5.8: General Development Regulations, Accessory Development in a Residential Zone;

1. Section 6.5.8(a): General Development Regulations - To vary required front yard setback to accessory building from 18m permitted to 8.7m proposed.
2. Section 6.5.8(b): General Development Regulations - To vary required side yard setback to accessory building from 1.0m permitted to 0.83m proposed.

2.0 Purpose

The applicant is seeking a Development Variance Permit to acknowledge non-conforming front and side yard setbacks to an accessory building under construction on the subject property.

3.0 Land Use Management

The building project for the proposed accessory building has been stalled since January 2006 when it became apparent that the siting of the garage under construction did not comply with zoning bylaw requirements. The applicant has made this Development Variance Permit application to address those non-conforming building setbacks.

The applicant has received written support from the affected neighbours for the variances under application. Land Use Management staff do not have concerns with the proposed variances as the neighbourhood has provided support. The variances to the building siting will allow the applicant to finish construction of this accessory building, and tidy up the subject property.

4.0 Proposal

4.1 Background / Project Description

Building permit #29959 was issued in July 2005 and authorized construction of a 6.7m (23 ft) wide x 8.56m (28 ft) long accessory garage building, located 1.0m from the property line adjacent to the lane. There had been a framing inspection made on September 26, 2005.

When the survey certificate for the garage under construction was delivered to the City of Kelowna on January 23, 2006, it became apparent that there had been an error made on the location of the accessory building.

In January 2011 the owner was notified that there had been inactivity on the building permit file, and that a development variance permit application will be required to address the non-conforming siting issues. This application has been made in response to that letter.

During review of the application, it became apparent that the front yard setback from Montgomery Road to the accessory building does not comply to section 6.5.8(a) which requires an 18m setback if the side yard setback of the accessory building does not comply with the side yard setback for the principal building.

The Development Variance Permit application has been amended to address both the front and side yard setbacks to the accessory building under construction.

The applicant has provided written support from his neighbours for both of the identified variances, thus eliminating the necessity for involvement of the Advisory Planning Commission.

4.2 Site Context

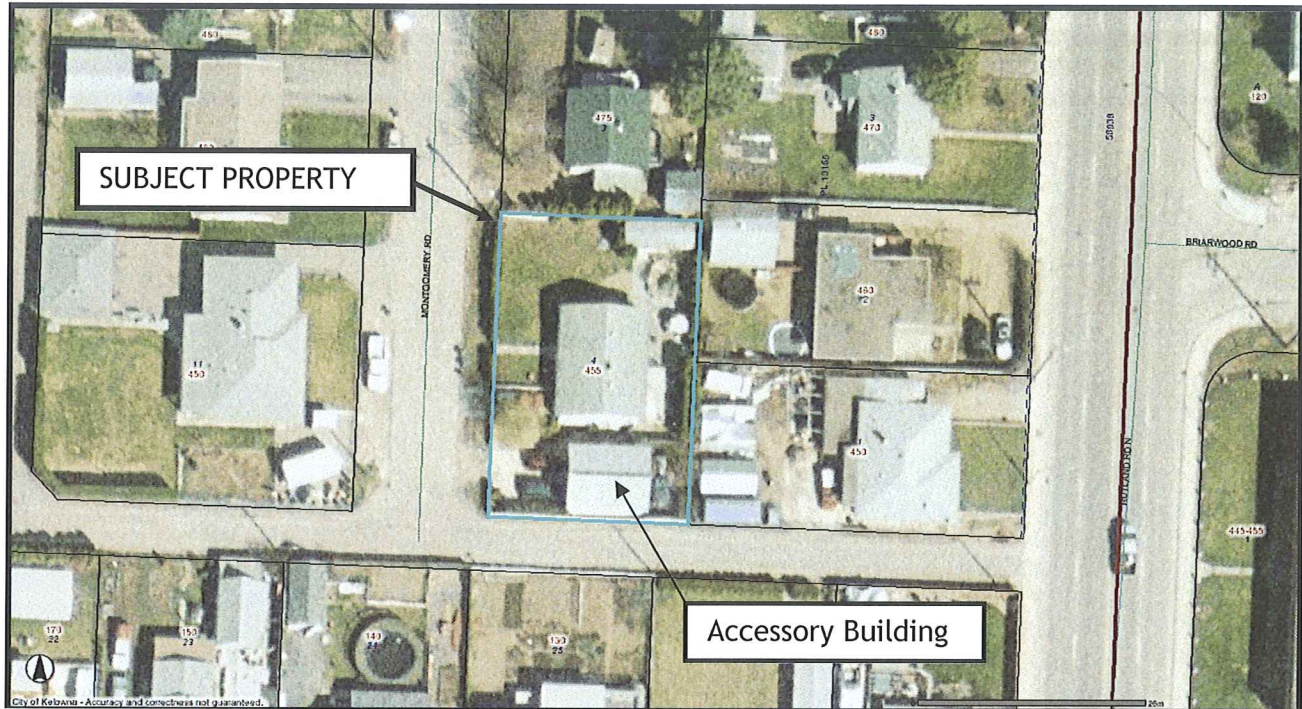
The subject property is located on the east side of Montgomery Road, at the south end of the street, and is in the Rutland sector of the City. The property is occupied by a single unit dwelling and a garage accessory building under construction. There is a lane located immediately south of the subject property.

The adjacent zones and uses in all directions are:

- North RU1 - Large Lot Housing (single unit residential)
- South RU1 - Large Lot Housing (single unit residential)/Lane
- East RU1 - Large Lot Housing (single unit residential)
- West RU1 - Large Lot Housing (single unit residential)/Montgomery Rd.

Location Map

455 Montgomery Road



The proposed application meets the requirements of RU1- Large Lot Housing as follows:

Zoning Analysis Table		
CRITERIA	PROPOSAL	RU1 ZONE REQUIREMENTS
Subdivision Regulations		
Lot Area	780 m ²	550 m ²
Lot Width	34.26 m	15 m
Lot Depth	22.77 m	30 m
Development Regulations		
Accessory Building Envelope		
Building height	3.8 m	4.5 m
Separation from principal building	3.32 m	1.0 m
Front Yard	8.71 m ①	18.0 m if side yard is less than 2.0 m
Side Yard (south)	0.83 m ②	1.0 m
Side Yard (north)	25.7 m	1.0 m
Rear Yard	5.48 m	1.5 m

NOTE;

① Vary front yard to accessory building from 18m to 8.71m

② Vary south side yard to accessory building from 1.0 m to 0.83 m

5.0 Technical Comments

5.1 Building & Permitting Department

The building is to be clad in non-combustible cladding to meet minimum code compliance

5.2 Development Engineering Branch

The Development Engineering comments and requirements regarding this development variance application for the reduction of an existing setback issue are as follows:

1. General.

- a) The front yard setback variance from 18.0m . to 8.71 m. does not compromise any Municipal services or infrastructure.
- b) The side yard setback variance from 1.0m. to 0.83 m. does not compromise any Municipal services or infrastructure.

5.3 Fire Department

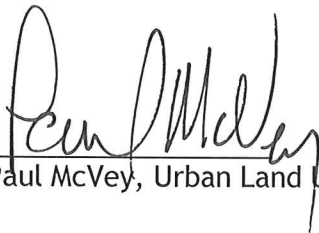
No concerns

6.0 Application Chronology

Date of Application Received: March 2, 2011

Date additional information Received: May 17, 2011

Report prepared by:



Paul McVey, Urban Land Use Planner

Approved for Inclusion:

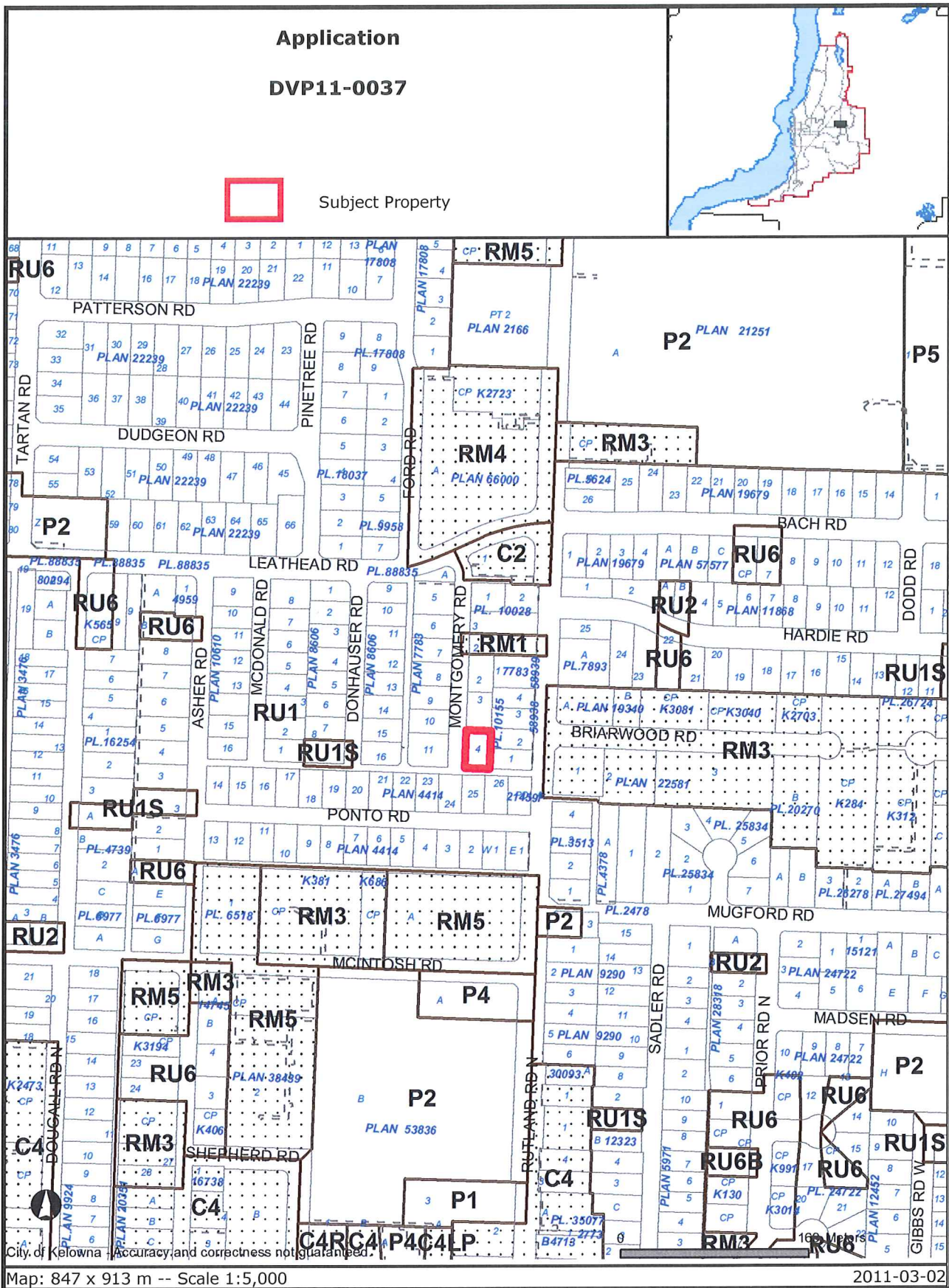


Shelley Gambacort, Director, Land Use Management

Attachments:

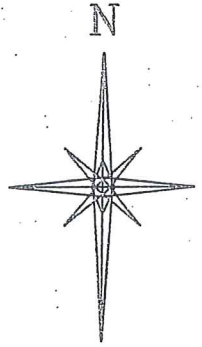
- Site Location Map
- Site Plan
- Proposed Building Plans & Elevations
- Site Photos
- Draft Development Variance Permit



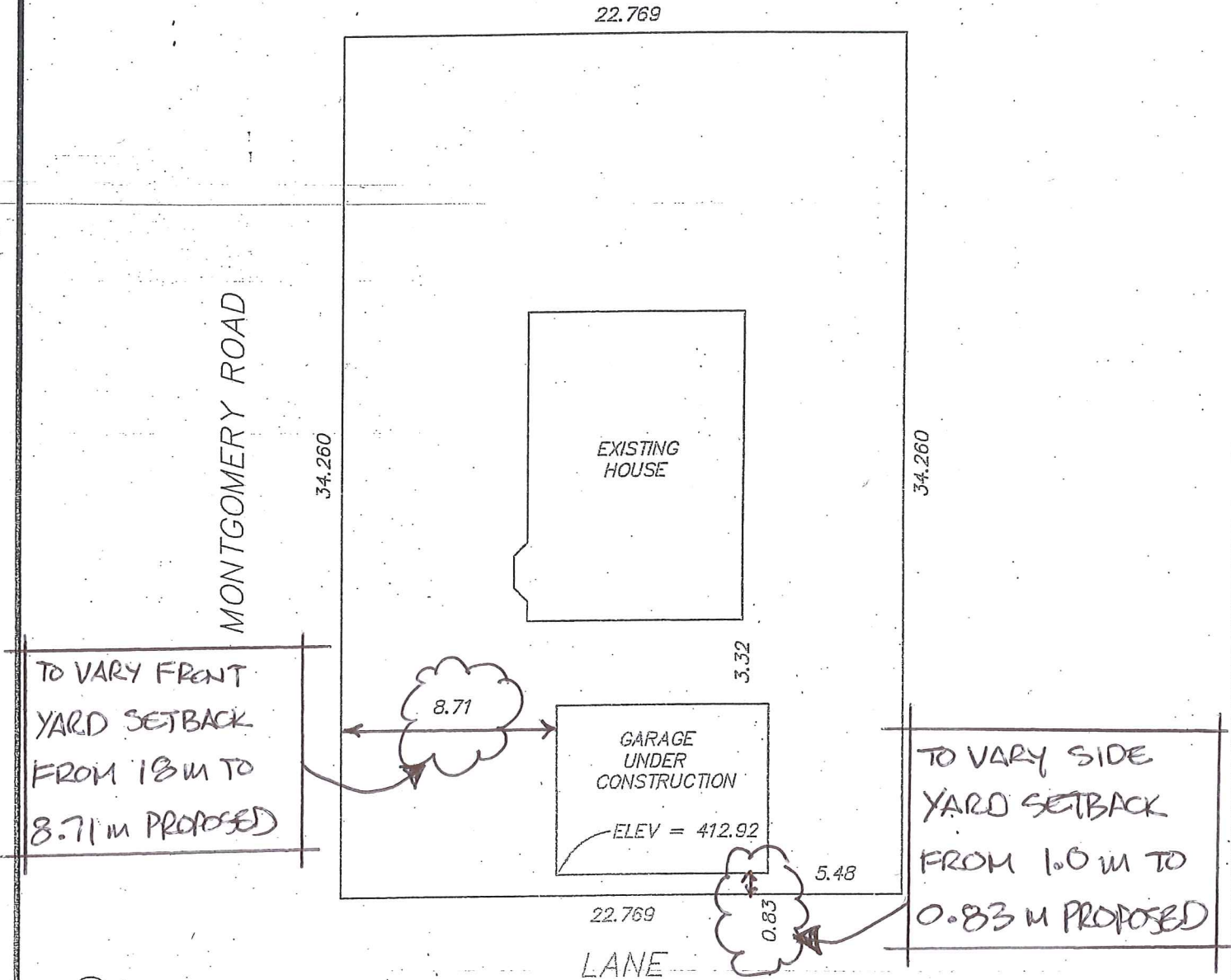


Certain layers such as lots, zoning and dp areas are updated bi-weekly. This map is for general information only.
The City of Kelowna does not guarantee its accuracy. All information should be verified.

**B.C. LAND SURVEYOR'S CERTIFICATE OF
LOCATION OF BUILDING ON LOT 4
PLAN 7783 SEC. 26 TP. 26 O.D.Y.D.**



SCALE 1:250
DISTANCES ARE IN METRES.



©

THIS DOCUMENT IS NOT VALID UNLESS
ORIGINALLY SIGNED AND SEALED.

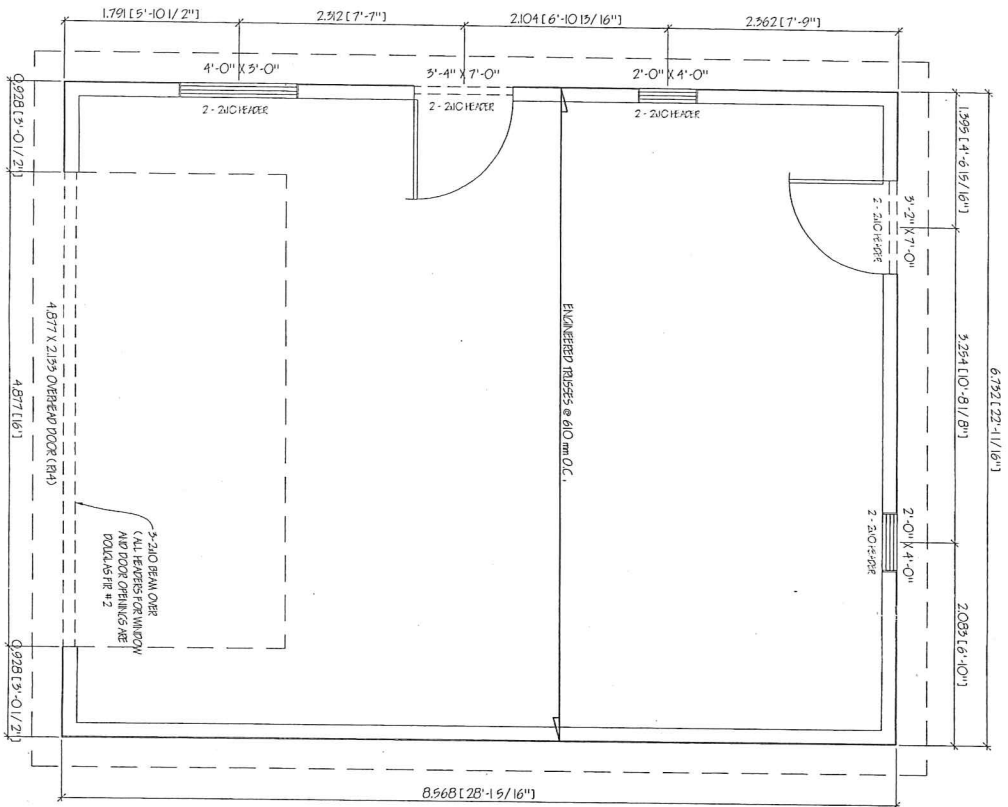
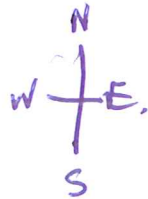
CERTIFIED CORRECT
this 12th day of January, 2006.

D.A. Goddard
D.A. Goddard BCLS

**FILE 13438 FB 292
RE: PREVOST**

THIS PLAN IS FOR MORTGAGE OR
MUNICIPAL PURPOSES ONLY AND IS
NOT TO BE USED TO DEFINE THE
BOUNDARIES OF THIS LOT.

D.A. Goddard Land Surveying Inc.
103-1358 ST. PAUL STREET KELOWNA



FLOOR PLAN

NO.	DATE	REVISION	BY	CHK.

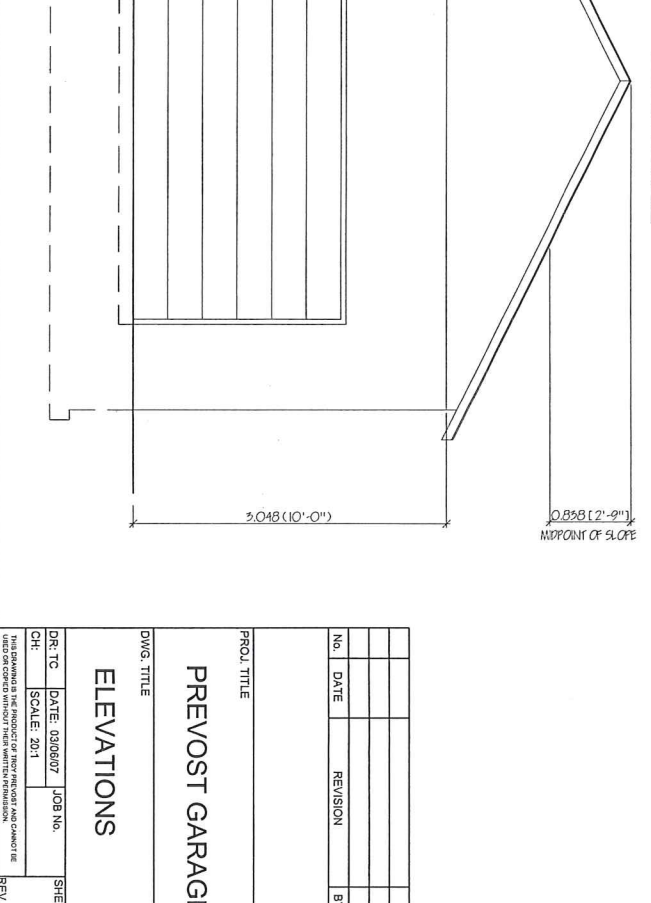
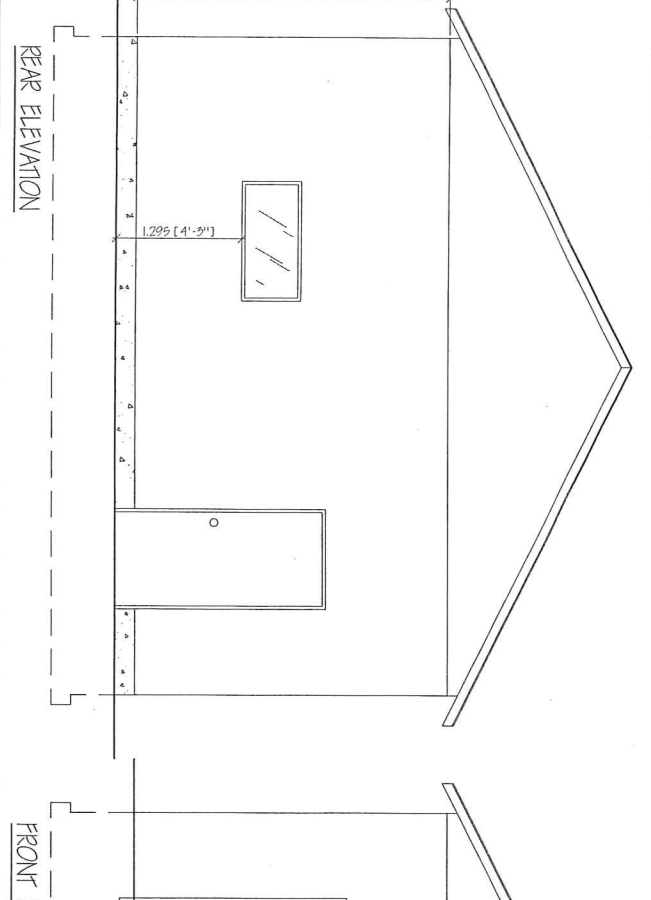
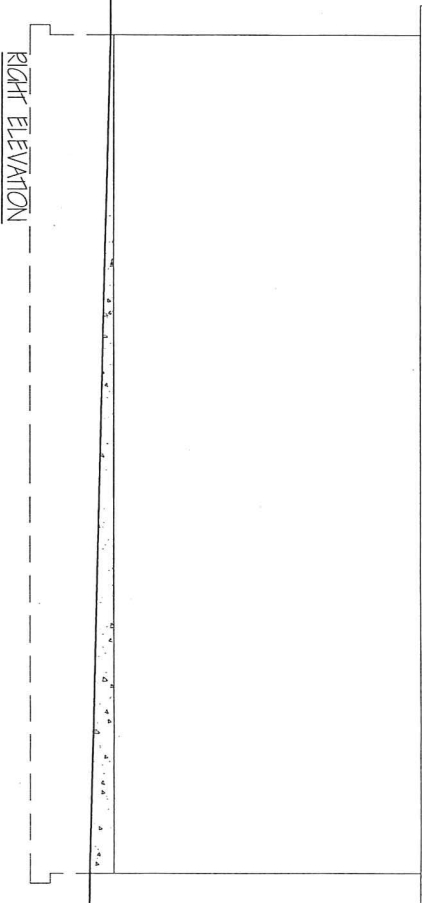
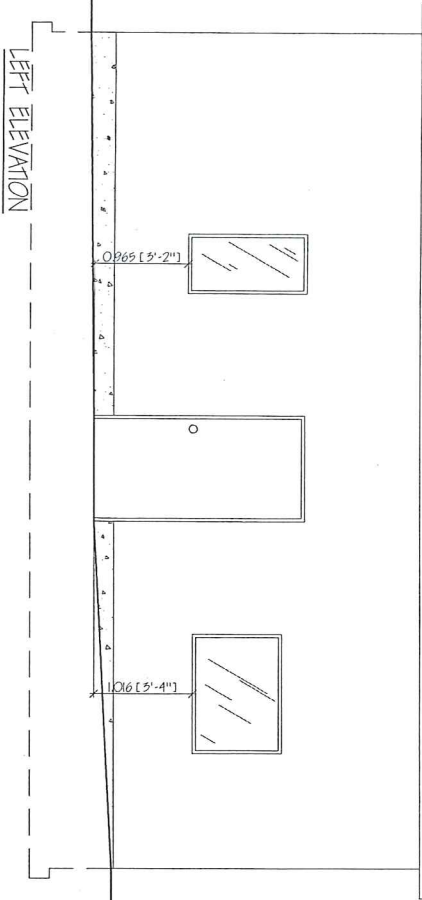
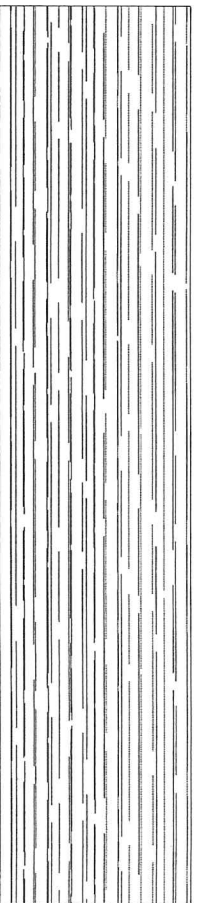
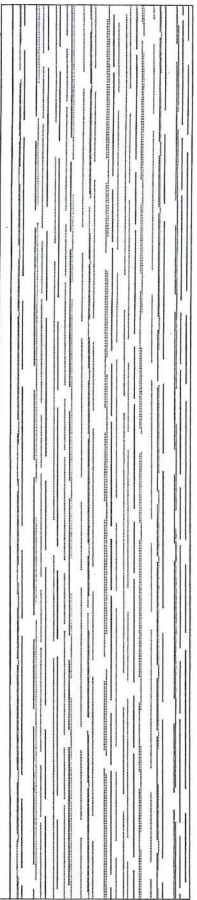
PROJ. TITLE

PREVOST GARAGE

DWG. TITLE

PLAN

DR. TC	DATE: 03/06/07	JOB NO.	SHEET NO.
CH:	SCALE: 3/16" = 1'-0"		
<small>THIS DRAWING IS THE PROPERTY OF HARRIS ENGINEERING CONSULTING INC. ANY REPRODUCTION OR TRANSMISSION IN ANY FORM WITHOUT THE WRITTEN PERMISSION OF HARRIS ENGINEERING CONSULTING INC. IS STRICTLY PROHIBITED.</small>			



PROJ. TITLE	PREVOST GARAGE		
DWG. TITLE	ELEVATIONS		
DR. TC	DATE: 03/08/07	JOB NO.	SHEET NO.
CH:	SCALE: 20:1		
THIS DRAWING IS THE PROPERTY OF BROWN AND CALDWELL INC. IT IS TO BE USED ONLY FOR THE PROJECT AND NOT BE REPRODUCED OR COPIED WITHOUT THEIR WRITTEN PERMISSION.			
NO.	DATE	REVISION	BY / CH

3.2 (10'-6")

1.295 (4'-3")

0.865 (5'-2")

1.4 (5'-4")

3.048 (10'-0")

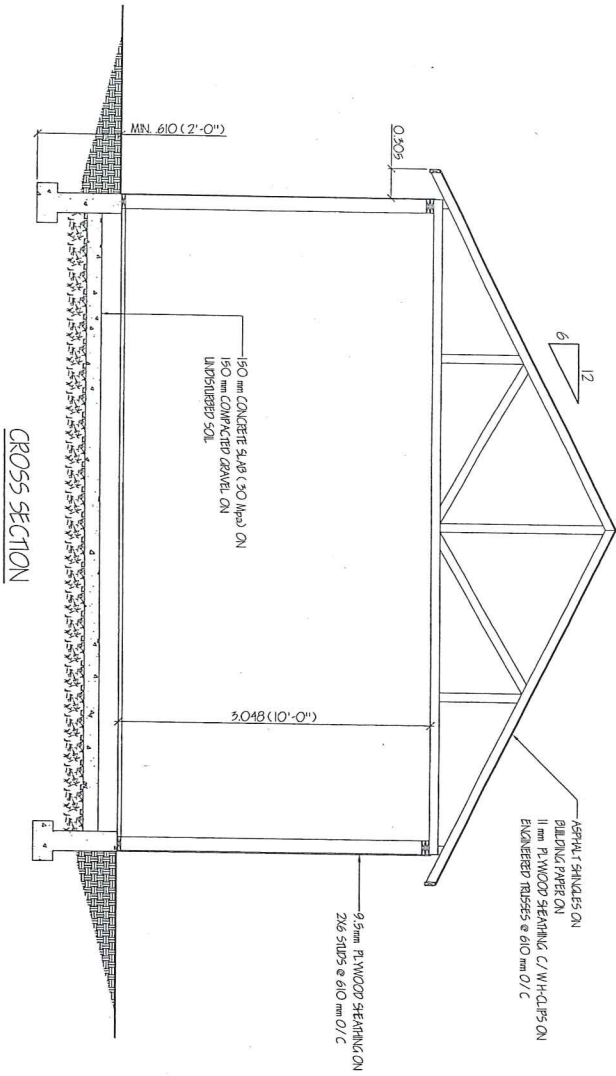
0.858 (2'-9")
MEASUREMENT OF SLOPE

REAR ELEVATION

LEFT ELEVATION

RIGHT ELEVATION

FRONT ELEVATION



No.	DATE	REVISION	BY	CH

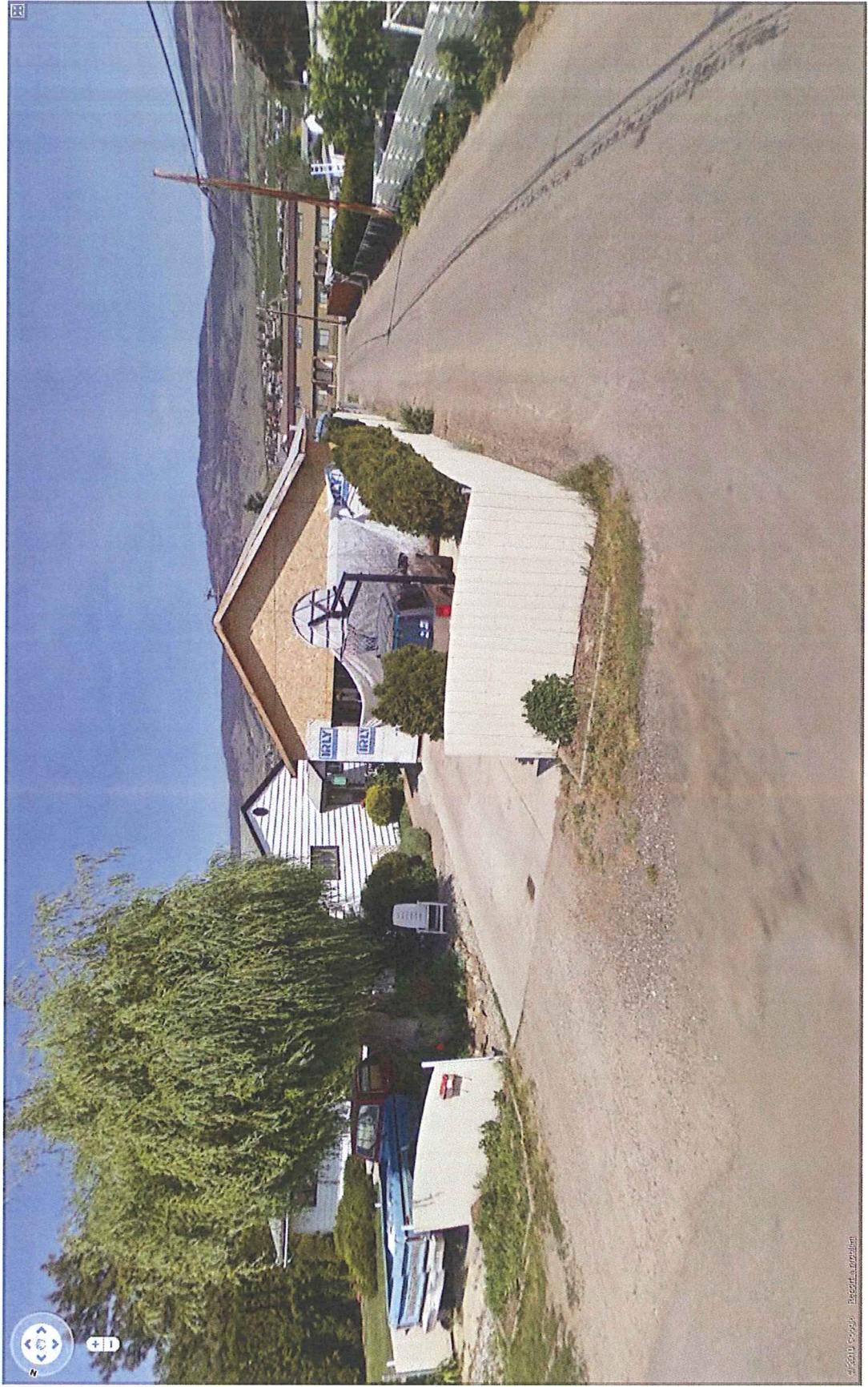
PROJ. TITLE

PREVOST GARAGE

DWG. TITLE

CROSS SECTION

DR. TC	DATE: 03/06/07	JOB No.	SHEET No.
CH:	SCALE: 1/50		
<small> THIS DRAWING IS THE PROPERTY OF PREVOST GARAGE INC. AND IS NOT TO BE REPRODUCED OR TRANSMITTED IN ANY FORM OR BY ANY MEANS, ELECTRONIC OR MECHANICAL, INCLUDING PHOTOCOPYING, RECORDING, OR BY ANY INFORMATION STORAGE AND RETRIEVAL SYSTEM. </small>			
			REV.



©



© 2010 Google. All rights reserved.



CITY OF KELOWNA

APPROVED ISSUANCE OF A:

Development Variance Permit No.: DVP11-0037

EXISTING ZONING DESIGNATION:	RU1 - Large Lot Housing
DEVELOPMENT VARIANCE PERMIT:	A Development Variance Permit to vary front yard setback to accessory building from 18m required to 8.7 m proposed and to vary side yard setback to accessory building from 1.0m required to 0.83m proposed

ISSUED TO:	Douglas Troy Prevost
LOCATION OF SUBJECT SITE:	455 Montgomery Road

	LOT	PLAN	SECTION	TOWNSHIP	DISTRICT
LEGAL DESCRIPTION:	4	7783	26	26	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:

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

Section 6.5.8: General Development Regulations

1. To vary 6.5.8(a) to vary required front yard setback to accessory building from 18 m permitted to 8.7 m proposed.
2. To vary 6.5.8(b) to vary required side yard setback to accessory building from 1.0 m permitted to 0.87 m 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 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 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 THE MUNICIPAL COUNCIL THE ____ DAY OF JUNE, 2011.

ISSUED BY THE DIRECTOR OF LAND USE MANAGEMENT OF THE CITY OF KELOWNA THE ____ DAY OF JUNE, 2011.

Shelley Gambacort
Director of Land Use Management