

Memo



Date: June 9, 2011

To: City Manager

From: Land Use Management, Community Sustainability

Application: DVP11-0048

Owner: Garlon Hui

Address: 1338 Guisachan Rd.

Applicant: Garlon Hui

Subject: Development Variance Permit

Existing OCP Designation: Single/Two Unit Residential

Existing Zone: RU2 - Medium Lot Housing

1.0 Recommendation

THAT Council authorize the issuance of Development Variance Permit No. DVP11-0048, Lot 1, DL 136, O.D.Y.D., Plan KAP89721, located on Guisachan Road, Kelowna, BC;

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

Section 13.2.6(d): Development Regulation - to vary flanking side yard setback from 4.5m permitted to 3.2 m proposed.

2.0 Purpose

The applicant wishes to vary the flanking side yard setback from 4.5m required to 3.2m proposed to allow for the installation of decorative columns to each side of the entry canopy feature.

3.0 Land Use Management

The site development of the subject property has been a challenge as the applicant has designed the orientation of the dwelling and the associated accessory building based on Feng Shui practices. As a result of the site layout, there has been an inordinate amount of driveway required, as direct access from Guisachan Road is not allowed. This access issue was noted at the time of subdivision. The applicant is proposing to utilize a combination of porous gravel and pavers for the driveway in order to minimize the amount of site coverage for the driveway. The applicant has agreed to provide a continuous fence along the Guisachan Road and the Wilkinson Street to force driveway access to Wilkinson Street only.

The request to vary the flanking side yard setback measured to the proposed building columns has been made to allow the installation of columns on each side of the entrance. As the

applicant has acquired written support from affected neighbours for the requested variance, this application was not circulated to the Advisory Planning Commission.

4.0 Proposal

4.1 Background

The subject property was created by registered plan of subdivision in August 2009. The lot layout required that driveway access was to be taken from Wilkinson Road as the adjacent Guisachan Road was designated as a network road.

As shown on the site plan, the principal dwelling is located adjacent to the corner of Wilkinson Road and Guisachan Road and the accessory garage building is sited near the rear yard located at the east end of the property. The site plan also shows the access driveway located along the south property line to provide access from Wilkinson Street.

4.2 Project Description

The building permit for the dwelling currently under construction on the subject property was issued in December 2010. The issued building permit was marked up by the building plan checker to indicate that the maximum projection into the flanking side yard adjacent to Guisachan Road was limited to a maximum projections of 0.6 m.

The applicant has made this Development Variance Permit application in order to permit the installation of ornamental building columns to either side of the entrance facing Guisachan Road. The site plan provided in support of the application indicates that the columns are located to provide a minimum of 3.2 m clearance between the property line and the columns. This clear width allows for a driveway with a minimum width of 3.0 m. This site plan also indicates an ornamental metal fence along the entire Guisachan Road frontage, as well as the Wilkinson Road. There is an opening in the fence along Wilkinson Road to provide driveway access to the property. This opening is flanked by masonry columns on either side of the driveway.

4.3 Site Context

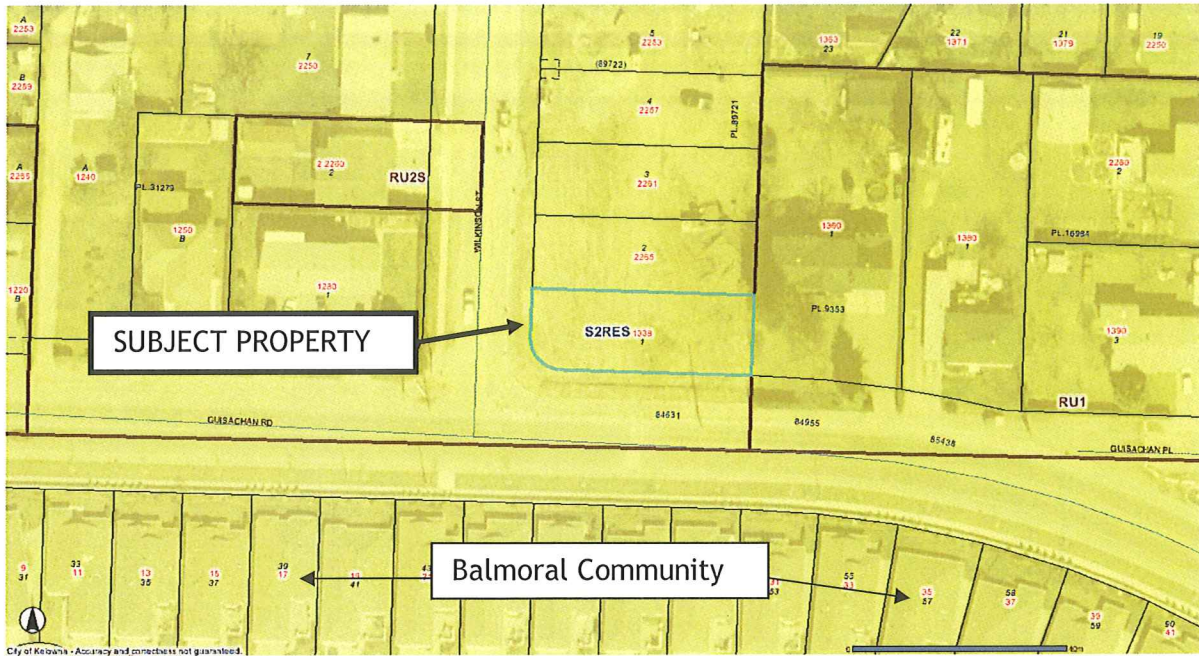
The subject property is located at the northeast corner of Wilkinson Street and Guisachan Road. The property is accessed from Wilkinson Street.

The adjacent zones and uses are:

- North RU2 - Medium Lot Housing (vacant lot)
- South RU5 - Bare Land Strata Housing (single unit residential)/Guisachan Road
- East RU1 - Large Lot Housing (single unit residential)
- West RU2 - Medium Lot Housing (single unit residential)/Wilkinson Street

Location Map

1338 Guisachan Road



The proposed application meets the requirements of the RU2 - Medium Lot Housing zone as follows:

Zoning Analysis Table		
CRITERIA	PROPOSAL	RU2 ZONE REQUIREMENTS
Subdivision Regulations		
Lot Area	616.4 m ²	400 m ²
Lot Width	15.0 m	15.0 m
Lot Depth	41.55 m	30.0 m
Development Regulations		
Site Coverage	36.3% 50%	40% buildings 50% bldg, driveway
Height	7.0 m / 2½ storey	9.5 m / 2½ storey
Front Yard	4.76 m	4.5 m
Side Yard (north)	1.98m (principal bldg.) 1.09m (accessory bldg.)	1.8 m (2 or 2½ storey) 1.0 m (accessory bldg.)
Flanking Side Yard (south)	① 3.29 m to columns 4.5 m (principal bldg.) 6.32 m (accessory bldg.)	4.5 m 6.0 m to garage
Rear Yard	20 m (principal bldg.) 4.5 m (accessory bldg.)	7.5 m (2 or 2½ storey) 1.5 m (accessory bldg.)
Other Regulations		
Minimum Parking Requirements	2 stalls provided	2 stalls required

NOTE;

① Variance requested to vary flanking side yard setback from 4.5 m permitted to 3.29 m proposed measured to column

5.0 Technical Comments

5.1 Building & Permitting Department

No Comment

5.2 Development Engineering Branch

Development Engineering has the following comments associated with this application:

The request to reduce the setback for the purpose of installing decorative support pillars will compromise the width of the proposed driveway to the accessory building.

The applicant is required to construct a graffiti resistant fence along the Guisachan Road frontage. Please contact city personnel for fence height restrictions.

The applicant may wish to consider a shared driveway with the property to the north to provide access to the rear of both properties.

A joint access agreement would need to be registered in favour of Lot 1 Plan 89721.

NOTE: The applicant has reviewed the suggestion of a shared driveway with the property to the north of the subject property, and the shared driveway is not possible.

Regarding the potential for direct access to Guisachan Road, bylaw 7900, Schedule 4, section 4 highways (page 6 of 12) states; " Where a lot abuts a lane or road of different classification, the driveway shall be located to access the lane or road of the lower classification."

In this situation Wilkinson Rd is classified a local road and Guisachan Rd is classified as an Arterial Rd. This is a jump of 2 road classifications and access shall be from the lesser of the two, Wilkinson Road.

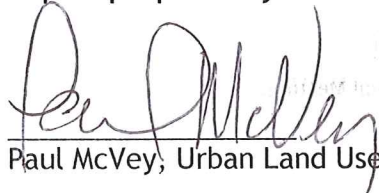
5.3 Fire Department

No Concerns

6.0 Application Chronology

Date of Application Received: March 24, 2011
Revised site plan received; May 18, 2011

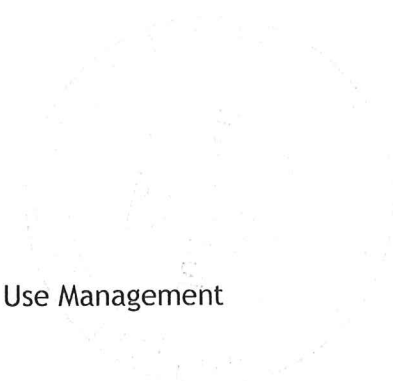
Report prepared by:


Paul McVey, Urban Land Use Planner

Approved for Inclusion:



Shelley Gambacort, Director, Land Use Management



Attachments:

Site Location Map

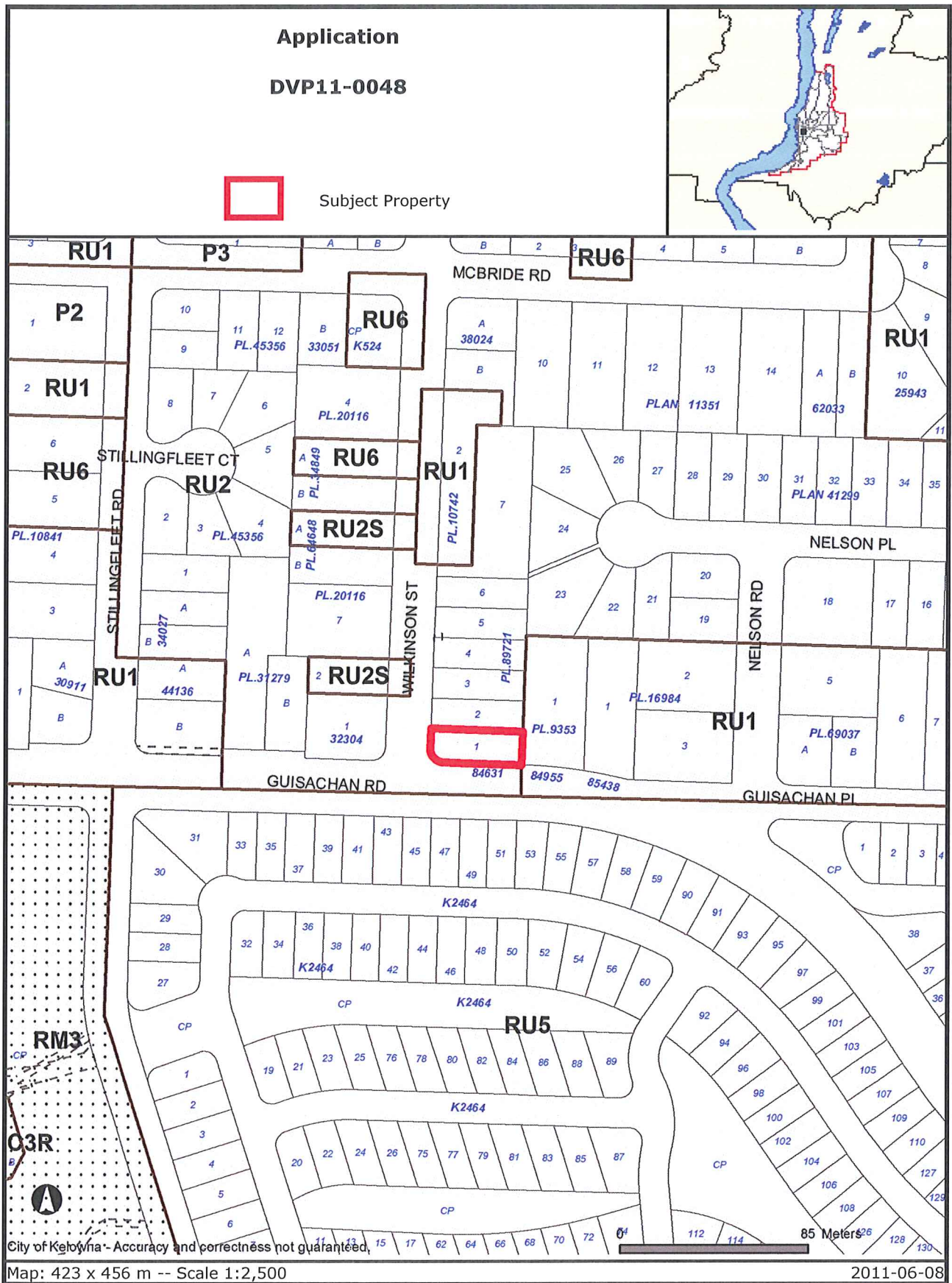
Site Plan

Conceptual Elevations & Landscape Plan

Site Photos

Rationale Letter and response letter to Development Engineering request

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.

Carlton Hui

402-987 K.L.O. Rd.

Kelowna, B.C.

V1Y 9L2

Re: Development Variance Permit Application March 19, 2011

Location: 1338 Guisachan Road

Design Rationale Letter

To Whom it may concern,

We would like to apply for a development variance permit to allow for us to develop a residence according to our original submitted plans. The original plans submitted include decorative pillars which were not permitted because these pillars encroach into the required setback of fifteen(15) feet from the city property line. The City, however, does allow a maximum of two(2) feet protrusion from a residence. Therefore, we are applying for a development variance because the columns of the house protrudes four(4) feet six(6) inches from the residence. These decorative pillars will be approximately eighteen(18) inches in diameter and will have an approximate height of twenty(20) feet. The material used will either be an acrylic stucco finish or a concrete plaster finish. The columns will be built on a brick platform. The color of these pillars will be of a neutral color in the off-white range.

Yours truly,



Carlton Hui

REC'D MAY 11/2011

Re: Lot 1 Plan 89721, 1338 Sisachan Road

This letter is to clarify the difficulties we are receiving from the city of Kelowna, regarding Lot 1 Plan 89721. First, before we obtained our blueprints, my contractor had discussed with the planning department regarding our site plan. He had clearly explained to the planning department regarding the configuration of the project. The planning department had allowed us to proceed with a few minor changes which we have addressed. One of the minor changes was the location of the pillars in front of the house, which we had applied for a development variance permit back in March 24, 2011. Initially, the plan checker allowed us to install the pillars because they were decorative pillars and that the pillars did not create an encroachment into the required setback. After that discussion, we had our blueprints drawn up. The blueprints were presented to the planning department for an application for a building permit. The plan checker for that day had rejected the location of the pillars because the pillars had encroached into the required setback by two feet, therefore, we had to apply for a development variance permit. During the process, we had collected the signatures of the affected surrounding neighbors, except for two because one residence was vacationing in Arizona and the other residence was not available on two occasions. We felt that we have done our

due diligence in regards to the application for our development variance permit.

In response to the letter from the development of engineering, first, the purpose of installing decorative pillars will not compromise the width of the proposed driveway to the accessory building because our pillars will only be a maximum of four feet from the house. The remaining footage is for the overhang of the roof. The bylaw states that the width of the driveway should be a minimum of ten feet six inches but even with the pillars in place, the width of our driveway is eleven feet.

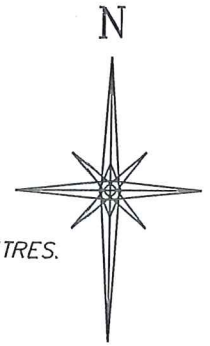
Secondly, we will install a fence according to fence height restrictions, regardless even if the city requires it or not.

Thirdly, we are not considering a shared driveway with the property to the north. The first reason is that the developer of that property is not installing a driveway on that side of his property. The second reason is that even if he does, the proposal will not work because that would only leave twelve feet to maneuver a vehicle and also creates problems regarding setbacks, easements, property lines, fencing, privacy, snow removal, parking, liability issues, insurance, and etc.

Garlon Hui

BP 41438

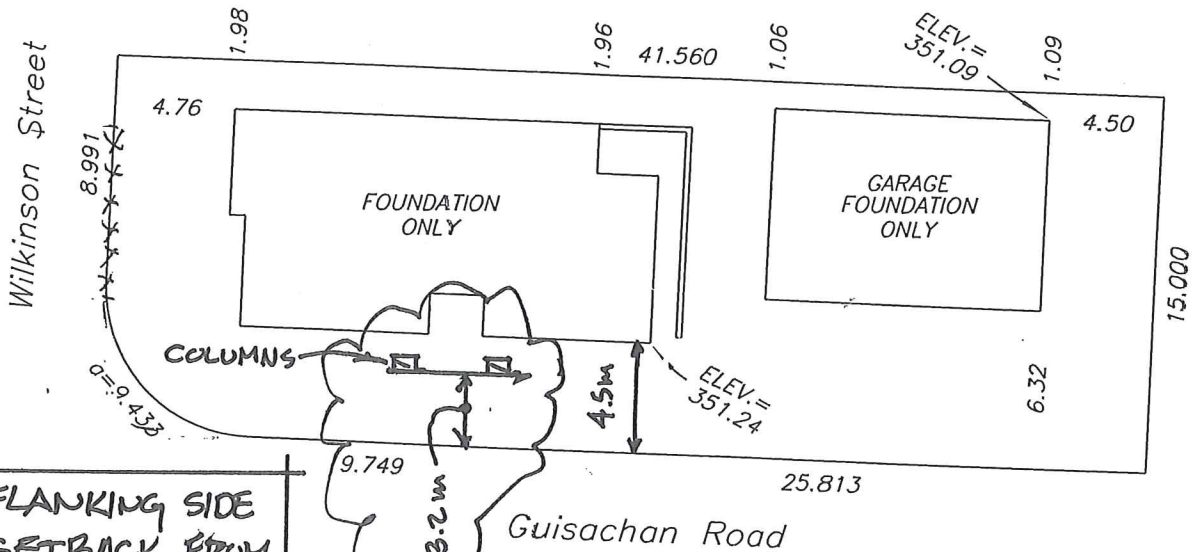
B.C. LAND SURVEYOR'S CERTIFICATE OF LOCATION OF BUILDING ON LOT 1 PLAN KAP89721 D.L. 136 O.D.Y.D.



SCALE 1:300

DISTANCES ARE IN METRES.

Civic Address:
2271 Wilkinson Street
Kelowna, BC



VARY FLANKING SIDE
YARD SETBACK FROM
4.5m PERMITTED TO
3.2m PROPOSED TO
BUILDING COLUMNS

All rights reserved. No person may copy, reproduce, transmit or alter this document in whole or in part without the consent of the signatory.

© This document is not valid unless originally signed and sealed.

CERTIFIED CORRECT

this 8th day of December, 2010.

D.A. Goddard BCLS

This plan was prepared for municipal purposes and is for the exclusive use of our client.

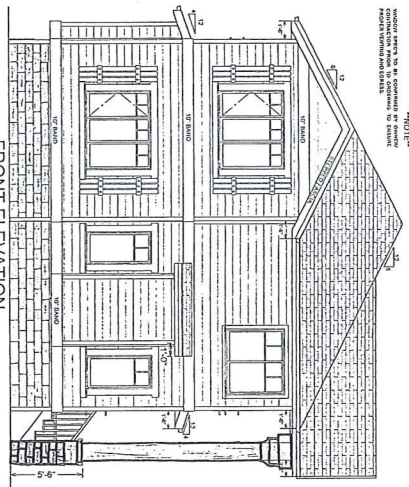
FILE 15547 FB 352

T. Pulice

This document shows the relative location of the surveyed structures and features with respect to the boundaries of the parcel described above. This document shall not be used to define property lines or property corners.

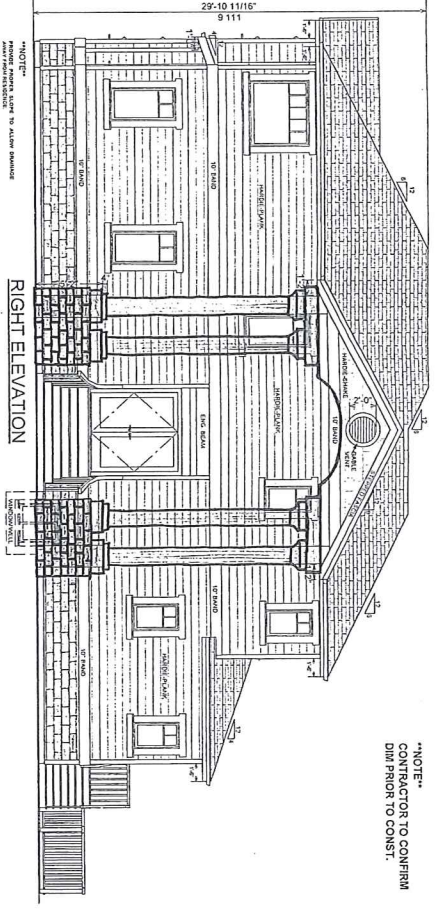
The signatory accepts no responsibility or liability for any damages that may be suffered by a third party as a result of any decisions made, or actions taken based on this document.

D.A. Goddard Land Surveying Inc.
103-1358 St. Paul Street, Kelowna
Phone (250) 763-3733



FRONT ELEVATION

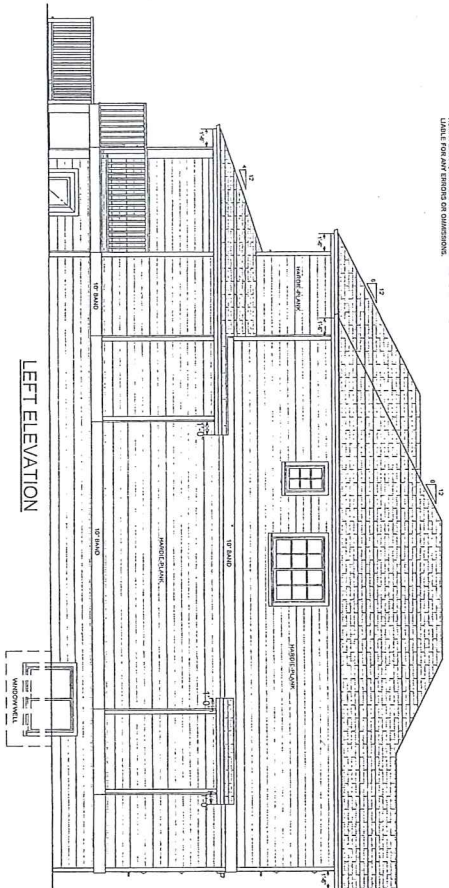
NOTE: DIMENSIONS TO FACE UNLESS OTHERWISE NOTED.



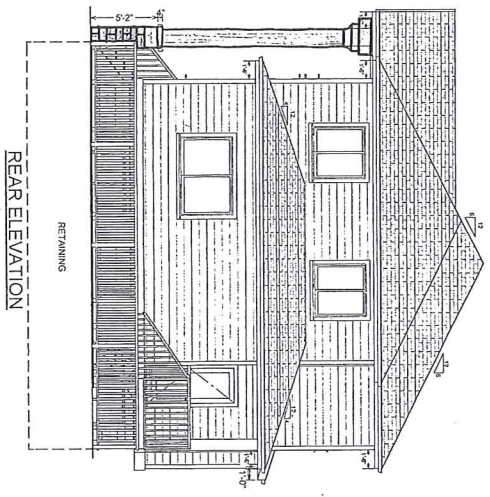
RIGHT ELEVATION

NOTE: CONTRACTOR TO CONFIRM DIMENSIONS TO COMST.

- GENERAL NOTES
1. ALL WORK SHALL BE IN ACCORDANCE WITH THE CURRENT EDITION OF THE B.C. BUILDING CODE AND ALL LOCAL LAWS AND BYLAWS.
 2. DIMENSIONS TO FACE UNLESS OTHERWISE NOTED.
 3. IT IS THE RESPONSIBILITY OF THE CONTRACTOR TO VERIFY THE ACCURACY AND TO ASSURE THEIR OWN DISCREPANCIES.
 4. ALTHOUGH EVERY EFFORT HAS BEEN MADE TO PREVENT CONFLICT AND AMBIGUITY, THE CONTRACTOR SHALL BE RESPONSIBLE TO CLARIFY ANY UNRESOLVED DIMENSIONS.



LEFT ELEVATION



REAR ELEVATION

MULLINS
DRAFTING & DESIGN

1964 Dayton Street
Kelowna BC V1Y 7W6
Bus: (250) 717-3415
Cell: (250) 258-7819
e-mail: mullinsdrafting@shaw.ca

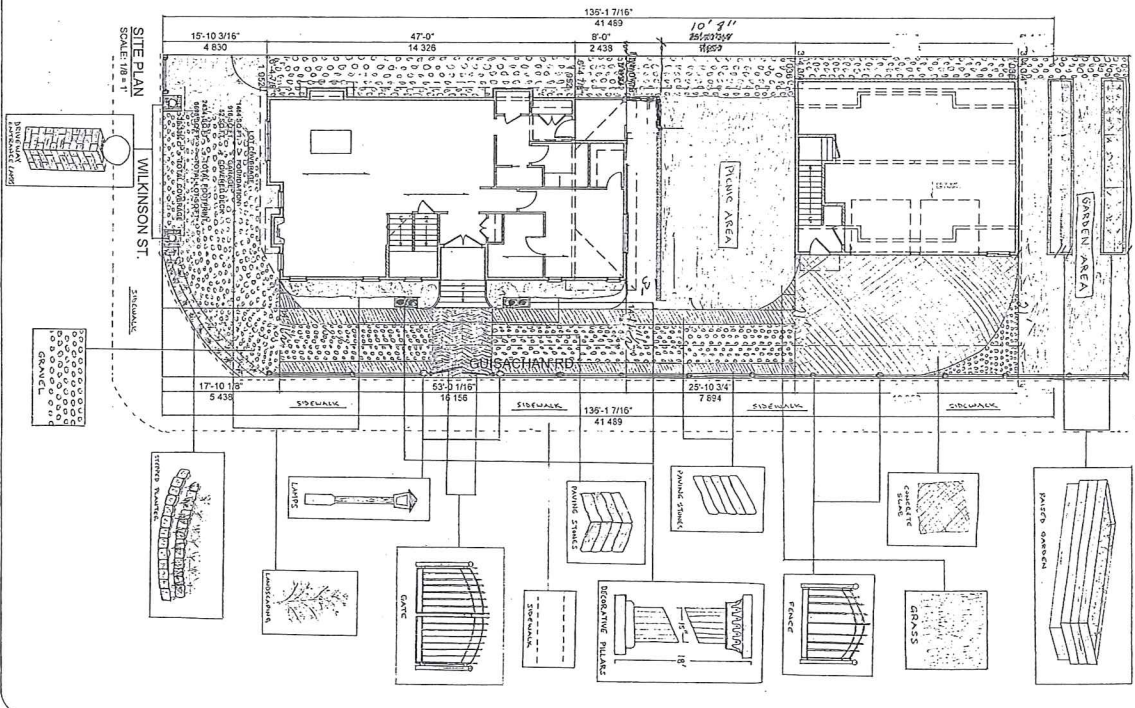
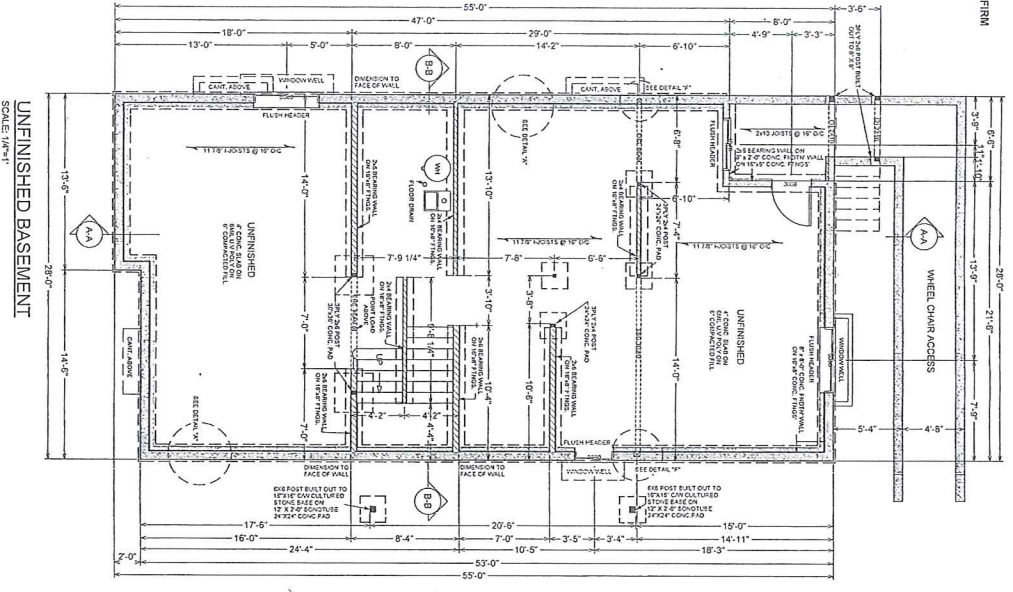
PROPOSED PROJECT FOR
LOT 1 WILKINSON ST

SCALE: 1/4" = 1'

DATE: NOV 08-2010

SHEET NUMBER
1/4

NOTE:
CONTRACTOR TO CONFIRM
DIM PRIOR TO CONST.



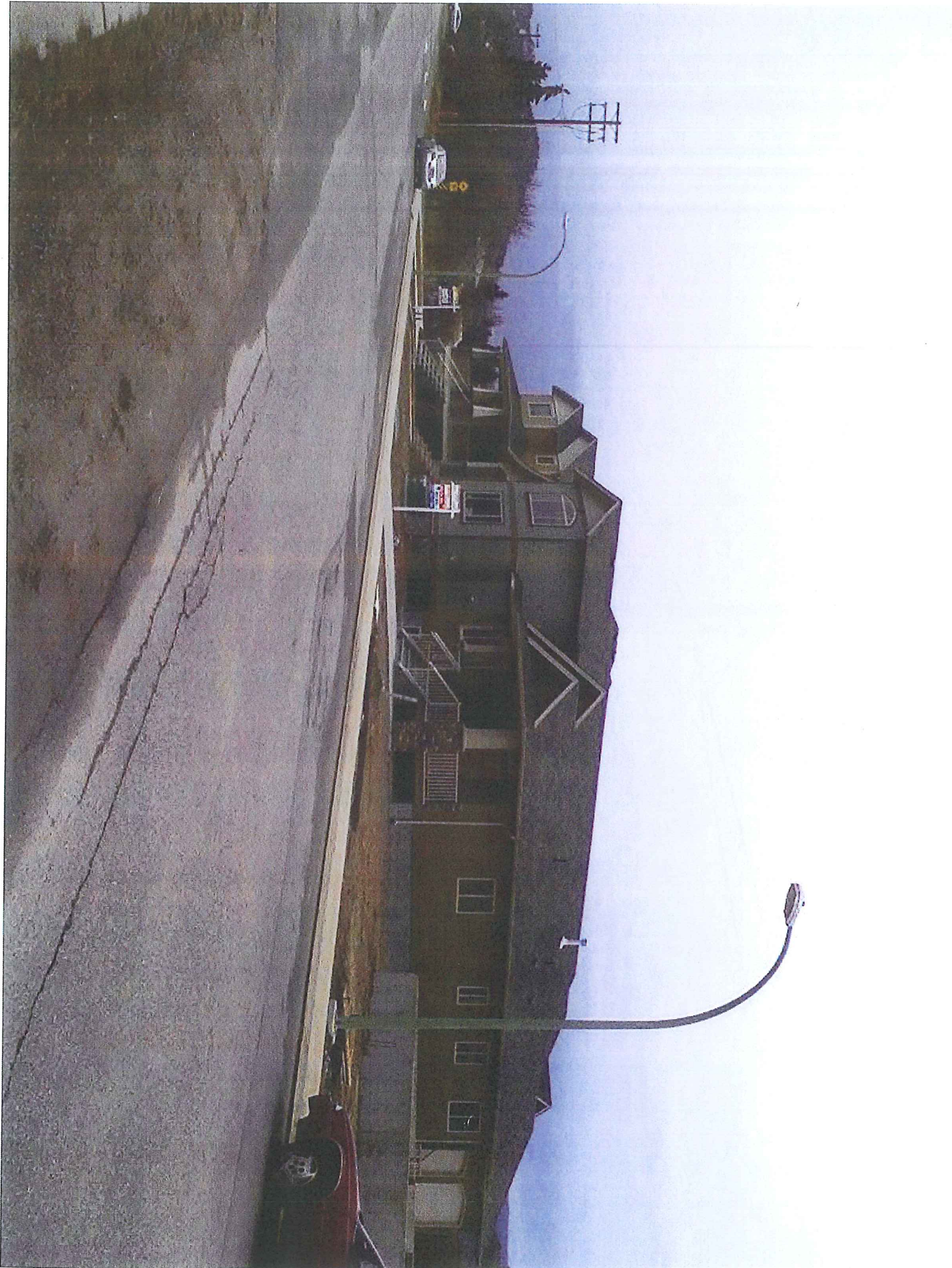
1964 Dayton Street
Kelowna BC V1Y 7W6
Bus: (250) 717-3415
Cell: (250) 258-7819
e-mail: mullinsdrafting@shaw.ca

PROPOSED PROJECT FOR
LOT 1 WILKINSON ST

SCALE: 1/4" = 1'
DATE: NOV 08-2010

SHEET NUMBER
2/4





CITY OF KELOWNA

APPROVED ISSUANCE OF A:

Development Variance Permit No.: DVP11-0048

EXISTING ZONING DESIGNATION:	RU2 - Medium Lot Housing
DEVELOPMENT VARIANCE PERMIT:	A Development Variance Permit to vary the flanking side yard from 4.5m required to 3.2 m proposed

ISSUED TO:	Garlon Kai-Yiu Hui
LOCATION OF SUBJECT SITE:	1338 Guisachan Road

	LOT	DISTRICT LOT	PLAN	SECTION	TOWNSHIP	DISTRICT
LEGAL DESCRIPTION:	1	136	KAP89721	18	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 13.2.6: Development Regulation

To vary 13.2.6 (d) flanking side yard from 4.5 m permitted to 3.2 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