

## DRAFT RESOLUTION

Re: Development Variance Permit Application No. DVP11-0047 - Kirschner Mountain Estates and Donald & Amy Kirschner (Mission Group Creations Ltd.) - 2045 Loseth Road & 2061 Garner Road

---

THAT Council defers consideration of Development Variance Permit Application No. DVP11-0047 to the July 26, 2011 Regular Meeting.

### BACKGROUND:

Staff has advised that the development sign that was posted on the subject property was not updated to reflect the Council Meeting date and therefore, the Applicant did not meet the requirements of Development Applications Procedures Bylaw No. 10540 with respect to signage. The Applicant is aware that Council's consideration of this application will have to be deferred.

Date: July 6, 2011  
File: 0550-01

# Memo



**Date:** May 18, 2011  
**To:** City Manager  
**From:** Land Use Management, Community Sustainability (LT)  
**Application:** DVP11-0047      **Owner:** Kirschner Mountain Estates/  
Donald & Amy Kirschner  
**Address:** 2045 Loseth Rd/2061 Garner Rd      **Applicant:** Mission Group Creations Ltd.  
**Subject:** Development Variance Permit Application  
**Existing OCP Designation:** Single/Two Unit Residential  
**Existing Zoning:** RU4h - Low Density Cluster Housing (Hillside Area)

---

## 1.0 Recommendation

THAT Council authorize the issuance of Development Variance Permit No. DVP11-0047 for Lots 2 & 3, Section 13, Township 26, ODYD, Plan KAP86315, located at 2045 Loseth Road & 2061 Garner Road, Kelowna BC;

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

Section 7.5.9 - Retaining Walls on Residential Lots: To vary the maximum height retaining walls on a residential lot from 1.2m permitted to 1.8m proposed.

## 2.0 Purpose

This application seeks a Development Variance Permit to vary retaining wall height from 1.2m maximum to 1.8m proposed as part of proposed townhome project.

## 3.0 Land Use Management

Staff continually work with developers in hillside areas to limit the amount of retaining on-site, with the intention of respecting natural topography. However, the applicant has proposed a limited variance after pre-application discussion with staff to develop a more ideal site plan in this scenario. The variance would permit individual retaining walls for the site to be 0.6m (2ft) higher than permitted, while still maintaining a 1.2m stagger between walls. The proposal would be an improvement on existing Zoning Bylaw standards for this particular example as the total number of walls would be reduced, ample planting areas would be provided, and the walls would be hidden from downslope view corridors by the proposed townhomes. The supporting landscape plan provides strong visual buffering of the walls.

Given the above considerations, the Land Use Management Department recommends that the proposed variance be supported.

#### 4.0 Proposal

##### 4.1 Background

The subject properties are currently two separate lots (2061 Garner Road and 2045 Loseth Road). As part of the proposed townhome development, the townhome site would be subdivided from these properties to create one legal parcel, as per the attached site plan.

##### 4.2 Project Description

The applicant is proposing a 35 unit semi-detached, cluster housing townhome development on the subject property. The development would be accessed from Loseth Road, with a driveway leading to two single-loaded private roadways.

The hillside area development proposes some limited retaining throughout the site to accommodate internal roadways and emergency vehicle hammerheads. While all of the proposed retaining could have been designed to accommodate the Zoning Bylaw regulation, the applicant has pursued a variance through consultation with City staff. The proposed variance from 1.2m to 1.8m individual wall height would reduce the total amount of retaining wall surface by approximately 12%, while allowing for additional room for planting/screening areas. The proposed variance would also limit the amount of wall steps required. In addition, no retaining is proposed at the edge of the slope (at the rear of Units 1-24). The landscape plan prescribes native planting treatment between the walls to provide buffering and visual interest.

Both a Form & Character and a Natural Environment (Hazardous Conditions) Development Permit for the proposed townhome project are required, and will be considered at a staff level.

The proposed variance is summarized below:

Criteria	Proposal	Zoning Bylaw No.8000 Requirements
Max. height of retaining walls on residential lots	1.8m	1.2m

##### 4.3 Site Context

The subject properties are located in the northwest sector of the Kirschner Mountain area, between Garner & Loseth Roads.

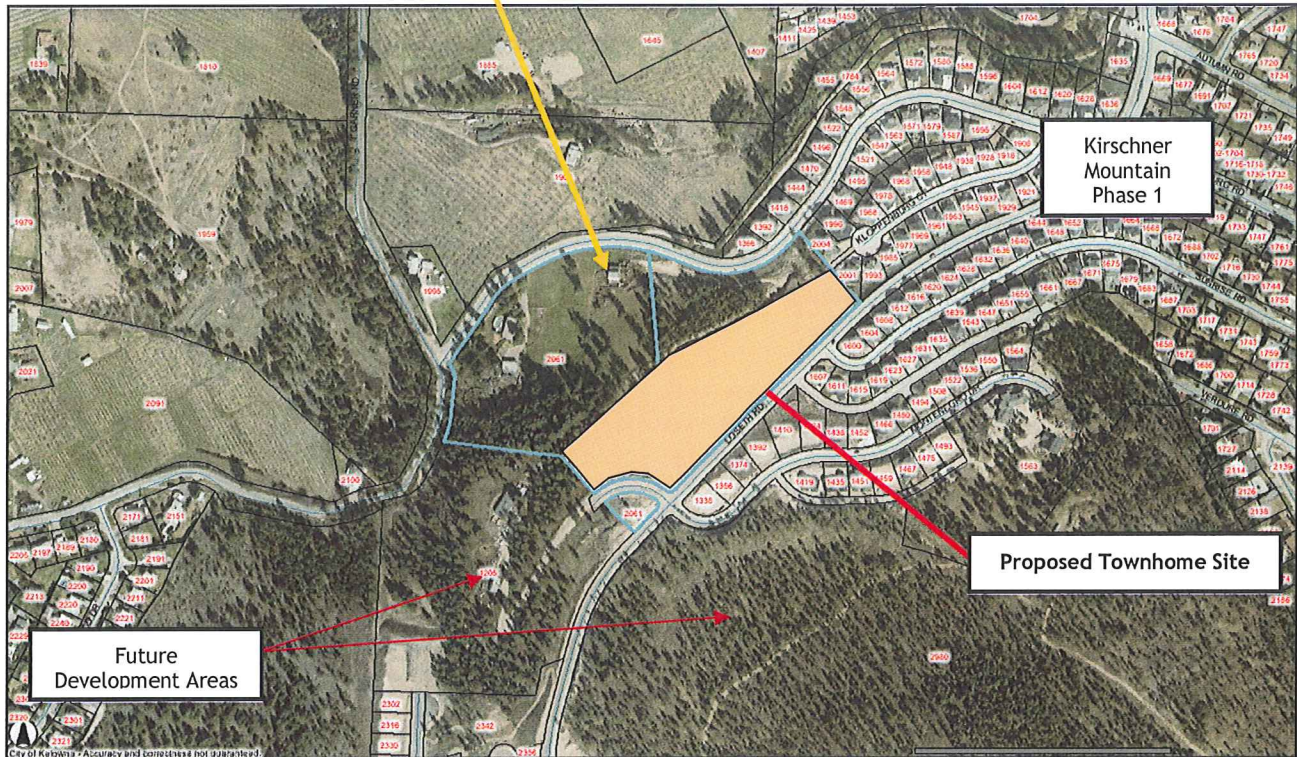
Specifically, adjacent land uses are as follows:

Orientation	Zoning	Land Use
North	A1 - Agriculture 1 (ALR)	Residential Use
East	RU1 - Large Lot Housing	Existing/Future Single Family Subdivision
South	RU1h - Large Lot Housing (Hillside Area)	Existing/Future Single Family Subdivision
West	A1 - Agriculture 1 (ALR)	Future Development Phase



## 4.2 Site Location Map

Subject Properties: 2061 Garner Road & 2045 Loseth Road



## 5.0 Current Development Policies

### 5.1 Hillside Development Guidelines

Pertinent objectives/guidelines from the Council-endorsed Hillside Development Guidelines related to on-site retaining include:

- Retaining structures integrate well with architectural character and natural environment.
- Retaining walls can be used to reduce slope disturbance, rather than modify natural terrain.
- Linear roads, utility cuts, retaining walls and uniform building rooflines should be avoided, or mitigated with mature landscaping.
- Landscaping is capable of hiding views of imposing building facades, reflective glass, retaining walls, roadways and utility corridors, while protecting views from the site
- Road, driveway, retaining wall and fence layout and design conforms to the natural terrain, where possible.

The long-term goal of the Hillside Development Guidelines are to encourage innovation and flexibility, rather than dictating specific standards or requirements through various bylaws. Designers are to have freedom to prepare the most appropriate design given the characteristics of the site, with appropriate review completed by qualified professionals.

**6.0 Technical Comments**

**6.1 Development Engineering Department**

No concerns.

**6.2 Building & Permitting Branch**

Building permit required. Geotechnical engineer is to provide drawings and schedules.

**7.0 Application Chronology**

Date of Application Received: March 24, 2011

Advisory Planning Commission: April 26, 2011

The above noted application was presented to the Advisory Planning Commission at the meeting on April 26, 2011. The following recommendation was passed:

THAT the Advisory Planning Commission support Development Variance Application No. DVP11-0047, for 2061 Garner Road and 2045 Loeth Road, to vary the retaining wall height from 1.2m maximum to 1.8m proposed as part of a proposed townhome project.

**APC Comment:**

The Advisory Planning Commission supported the Development Variance application given the outcome of reducing the amount of retaining wall surface area and number of retaining walls required, this variance request met the spirit of the hillside guidelines.

**Report prepared by:**



Luke Turri, Land Use Planner

**Reviewed by:**


Danielle Noble, Manager, Urban Land Use

**Approved for Inclusion:**

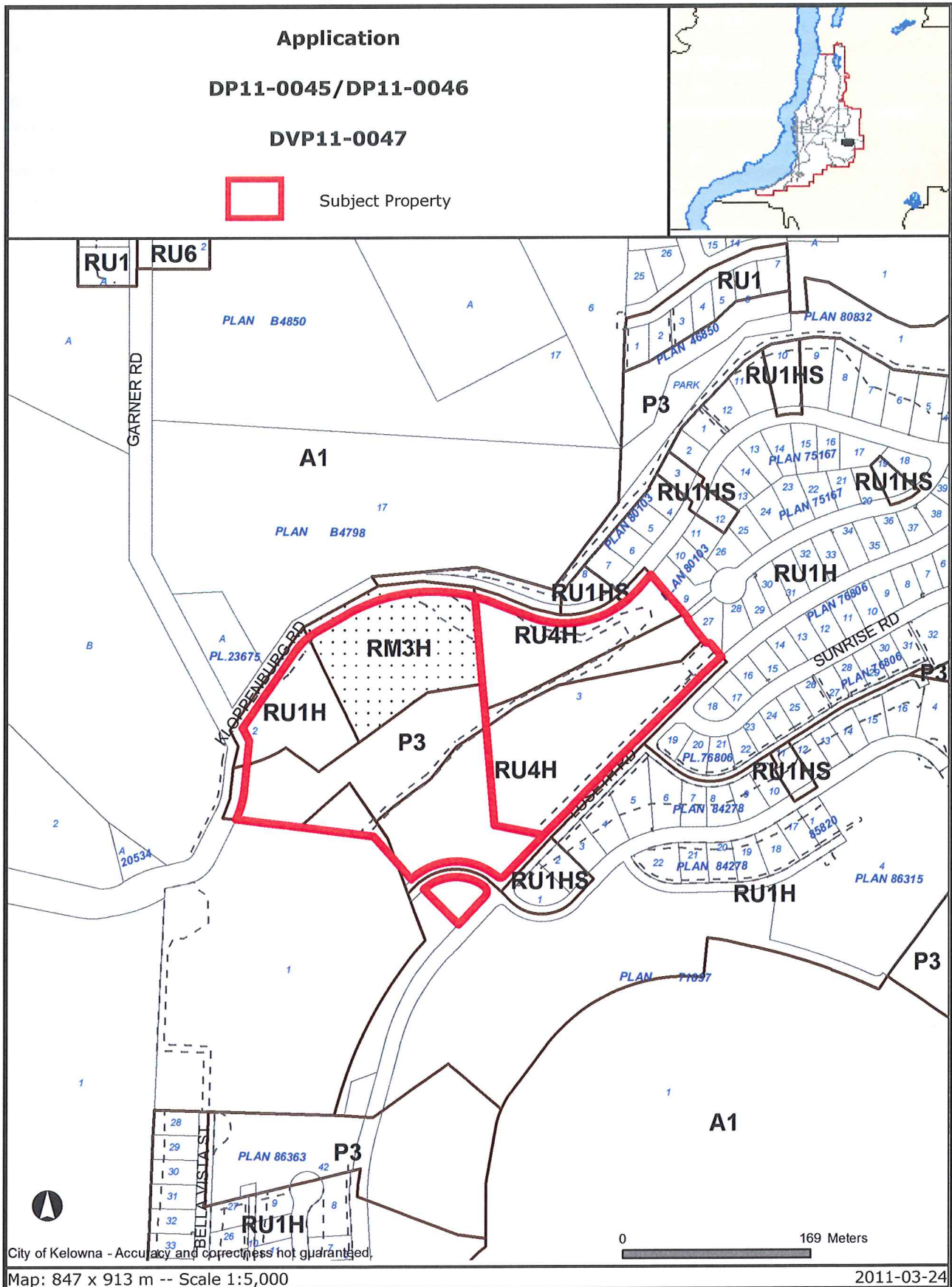
Shelley Gambacort, Director, Land Use Management

**Attachments:**

- Subject Property Map
- Site Plan
- Landscape Plan
- Retaining Wall Plan
- Retaining Wall Cross Sections
- Letter of Intent
- Draft Development Variance Permit DVP11-0047







City of Kelowna - Accuracy and correctness not guaranteed.

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.













MISSION GROUP

April 19, 2011

Luke Turri  
City of Kelowna  
1435 Water Street  
Kelowna, BC  
V1Y 1J4

Dear Luke,

**Re: Kirschner Mountain Townhome Development Permit and Variance Permit Rationale Letter**

After many months of working with City Staff and the consultant team, we present the Kirschner Mountain Townhome application to you for Development Permit and Development Variance Permit Approval.

**SITE CONTEXT**

The subject site is located in the Kirschner Mountain community, which currently contains single-family homes. The proposed townhomes will be the first opportunity for multi-family living in Kirschner Mountain and is compliant with the Area Structure Plan Created in 2001 and the current RU4h zoning.

The subject site is approximately 6.34 acres with the eastern frontage on Loseth Road. Along the northern boundary is a Black Mountain Irrigation District Pump House and single-family residences. The western property line borders a linear park, located at the toe of the slope. (Prior to this development permit application, a rezoning and OCP amendment application was made to create a connection between Kloppenberg Court and the park shown on the OCP. Although the OCP amendment was made prior to this application, the two applications are related. The elevation differential between the future linear park and the subject townhome site will create a natural barrier, negating the need for fencing.) Along the southern boundary is farmland, which is shown on the OCP as multi-family.

**TARGET MARKET**

The proposed residential development is designed to address the housing needs of empty nesters and people desiring to downsize. The demand for this housing segment will

**KELOWNA**

Suite 620, 1632 Dickson Avenue  
Kelowna, British Columbia V1Y 7T2  
T: 250.448.8810 F: 250.762.4236

missiongroup.ca

**ABBOTSFORD**

1-2650 Progressive Way  
Abbotsford British Columbia V2T 6H9  
T: 604.504.5672 F: 604.504.3694

increase as the population in Kelowna continues to age and active retirees move here. This demographic desires single level living with their master bedroom on the main floor.

## **DESIGN RATIONALE**

The proposed community will consist of 35 ground-oriented walk-out rancher style homes comprised of 17 duplexes and one stand alone building. The site topography lends itself to a walkout rancher building form, as the basements will step down with the sloped grades. The site is designed with two single loaded roads, as a response to the target market's desired single level living.

To further minimize site disturbance, the design includes a two-foot vertical step at the party wall of the duplexes. The two-foot step is used in response to the grade conditions for each specific building and will be in approximately two-thirds of the duplex homes.

Well-respected, local architect Jim Meiklejohn, designed the townhomes using Frank Lloyd Wright inspired architecture. The roof profiles, fenestration, colour selection and trim placement aim to combine the horizontal linearity evident in Frank Lloyd Wright's designs with the craftsman requirements of the Kirschner Mountain Architectural design guidelines.

The two building colour schemes are warm, earth tone palettes intended to blend into the natural environment. The warm green scheme was inspired by the foliage of the ponderosa pine tree, while the ocher scheme was inspired by the grasslands and sun-burnt Okanagan hills. The two main body colors, in each scheme, will be interchanged, in essence creating a new scheme. As a result, two schemes become four. Great care will be taken to ensure that the colour schemes assigned to each building create a natural flow on site.

Much attention has been placed on articulating the facades of the buildings along the internal drive isle. A one-foot horizontal jog in the building, the use of both single and double garage doors and a trellis feature have been incorporated to eliminate the mirroring effect and create visual interest on the front door side of the duplexes.

## **ENVIRONMENTAL SUSTAINABILITY**

As part of Mission Group's Inspired Green approach, the proposed townhome development will be a Certified Built Green™ community. The operational building systems will be designed to contribute towards lower energy consumption. The exterior finishes will be comprised of durable exterior materials, while the interior materials will contain low Volatile Organic Compounds to improve indoor air quality. The community will be "Water Wise" with low flow plumbing fixtures, drought tolerant native plant species and drip irrigation systems.



A feature unique to the proposed townhome site is that all homes will come with their own garden space located in the backyards of each home. These raised garden plots, equipped with irrigation, will provide owners an opportunity to grow their own plants. Some may wish to grow their own vegetables, while others may choose to plant flowers. Either way, residents will have an opportunity to part take in recreational gardening, which will encourage a balanced lifestyle.

## **HILLSIDE RESPONSE**

Although this is the formal development permit application, there have been numerous pre-application meetings and discussions with City Staff. These meetings have given us an opportunity to understand Staff's concern about the views, from the valley looking back at hillside townhome communities. The following design strategies have been incorporated into the Kirschner Mountain Townhome design to address these concerns:

- 1) The building footprints respond to the site topography and where necessary have a two-foot vertical step in the party wall.
- 2) The complementing green and ocher earth tone colors schemes will create a variegated effect, blending with the geography.
- 3) The building elevations contain a one-foot horizontal jog at the party wall to break up any uniformity apparent in the paired homes.
- 4) Retaining walls will be placed on the uphill side where they will be screened by the architecture.
- 5) Significant landscape treatment in the stepped retaining walls is planned to further soften their appearance.
- 6) Deciduous trees will be planted between the buildings in the backyards of the homes to add more visual interest and texture. The leaves of the trees will also change color with the seasons, animating the view from the valley looking back to the hillside community.

We believe that the design features listed above will make the proposed community an example of a model hillside townhome development for other projects to emulate in Kelowna.

## **RETAINING WALLS – Request for Variance from 1.2m allowed to 1.8m proposed.**

Retaining walls are a necessary tool when building a hillside community. For the proposed townhome community, the retaining walls are required to retain the internal roadways and the fire truck hammerheads. In all cases, the retaining walls will be placed behind the buildings, which will screen them from views outside the development.

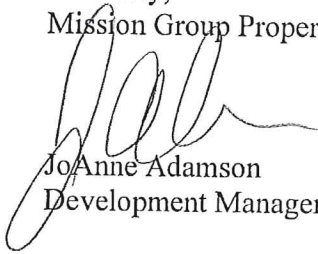
The proposed site plan could have been built using terraced retaining wall heights all within the permitted height of 1.2m, negating a variance. After numerous discussions

with Planning Staff outlining the various options, Staff suggested that the development proceed with a retaining wall of 1.8m, triggering a variance. The reason for this is that the 1.8m heights, as opposed to the 1.2m height, will reduce the total amount of retaining wall surface by approximately 12% and still providing an opportunity for appropriate planting to screen and soften the retaining walls.

Although a variance request is not desired by us, as it will lengthen the permitting process, we are willing to proceed with Planning Staff's recommendation in an effort to build a more sensitive hillside community.

Thank you for taking the time to process our application. Please feel free to contact the undersigned if you require further clarification regarding our submission. Lastly, we would like to present this application to the development review panel when the earliest opportunity arises.

Sincerely,  
Mission Group Properties G.P.



JoAnne Adamson  
Development Manager



# CITY OF KELOWNA

## APPROVED ISSUANCE OF A:

Development Variance Permit No.: DVP11-0047

EXISTING ZONING DESIGNATION:	RU4h - Low Density Cluster Housing (Hillside Area)
DEVELOPMENT VARIANCE:	To vary the maximum height of retaining walls on a residential lot.

ISSUED TO:	Mission Group Creations Ltd.
LOCATION OF SUBJECT SITE:	2045 Loseth Rd/2061 Garner Rd

	LOT	SECTION	TOWNSHIP	DIV & DIST	PLAN
LEGAL DESCRIPTION:	2 & 3	13	26	ODYD	KAP86315

### 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 Sign Bylaw No. 8325 be granted, as per Schedule "A":

Section 7.5.9 - Retaining Walls on Residential Lots: To vary the maximum height retaining walls on a residential lot from 1.2m permitted to 1.8m proposed.

### 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 @, 20@@.

ISSUED BY THE LAND USE MANAGEMENT DEPARTMENT OF THE CITY OF KELOWNA THE @ DAY OF @, 20@@, BY THE DIRECTOR OF LAND USE MANAGEMENT.

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

