

REPORT TO COUNCIL



Date: February 10, 2012
To: City Manager
From: Land Use Management, Community Sustainability (LT)
Application: DVP12-0011 Owner: Louis Pouliot & Johanne Corbin
Address: 3270 Shayler Road Applicant: Keith Construction
Subject: Development Variance Permit Application
Existing OCP Designation: Resource Protection Area
Existing Zone: RR1 - Rural Residential 1

1.0 Recommendation

THAT Council authorize the issuance of Development Variance Permit No. DVP12-0011 for Lot 2, Section 29, Township 23, ODYD, Plan KAP90169, located at 3270 Shayler Road, Kelowna, BC;

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

Section 7.5.9 (Fencing & Retaining Walls): To vary the maximum height of a retaining wall in a residential zone from 1.2m allowed to 2.12m proposed, as per Schedule "A".

AND FURTHER THAT Development Variance Permit issuance be subject to a Building Permit application being made for the retaining wall.

2.0 Purpose

This application seeks a Development Variance Permit to allow an over-height retaining wall (from 1.2m allowed to 2.12m proposed) at the rear of a proposed dwelling.

3.0 Land Use Management

Limits on retaining wall heights help to mitigate the significant visual impact that these walls can create. Ideally, it is expected that building placement, size and design would be developed to limit or eliminate the need for soil retaining.

However, in this circumstance, the variance requested is relatively minor in scale, and is mitigated by several factors. First, the buildable area on the lot is rather compromised by existing easements and a no-disturbance covenant, which limits the placement of the proposed dwelling. In addition, while the proposed dwelling is large, the design steps into the prevailing site topography, which is desirable in hillside areas. Proposed plantings along the base of the wall would also allow the wall to more appropriately blend into the hillside. Further, the wall could limit the amount of earthworks required to construct the home, which would preserve more of the natural slope.

Staff recognizes that some previously-approved subdivisions have created lots which may encourage the construction of retaining walls by individual homeowners. Improved hillside development practices described within the City's Hillside Development Guidelines aim to create lots that respect existing terrain, preserve natural features, and reduce the need for individual retaining walls. Larger lot sizes and widths, reduced road standards, and creative lot layouts will help to limit the construction of retaining walls in hillside areas in the future.

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

4.0 Proposal

The property owner seeks to build a new dwelling on the currently-vacant building lot. The plans include a retaining wall along the rear yard of the proposed dwelling, to allow for a small, flat yard space. The height of the proposed retaining wall is in contravention of the Zoning Bylaw, with heights up to 2.12m above-grade, where the maximum permitted height is 1.2m. As a result, a Development Variance Permit is requested. Plantings at the base of the wall are proposed to help mitigate the visual impact of the wall.

The buildable area on the lot is compromised by existing easements to the east, and a no-disturb covenant to the west of the proposed homesite.

Should the variance be approved by Council, a Building Permit will be required. As part of the Building Permit process a geotechnical engineer will be required to provide the necessary drawings and schedules for the over-height wall.

In addition, the home construction (and retaining wall) will require a Natural Environment Development Permit, given the property's location along the Okanagan Lake foreshore. This DP is to be executed at a staff level.

The requested variance is summarized below:

Criteria	Proposal	Bylaw Requirements
Maximum height of a retaining wall on a residential lot	2.12m	1.2m

4.1 Site Context

The subject properties are located in McKinley Road area, south of the proposed McKinley Resort area. Specifically, adjacent land uses are as follows:

Orientation	Zoning	Land Use
North	RR1 - Rural Residential 1	Single-Family Residential
East	RR1 - Rural Residential 1	Single-Family Residential
South	RR1 - Rural Residential 1	Single-Family Residential
West	RR1 - Rural Residential 1	Single-Family Residential

4.2 Subject Property Map: 3270 Shayler Road



5.0 Technical Comments

5.1 Building & Permitting Department

Structural and Geotechnical engineer required at time of building permit application.

5.2 Development Engineering Department

Application does not compromise any municipal services.

6.0 Application Chronology

Date of Application Received: January 26, 2012

Report prepared by:

Luke Turri, Land Use Planner

Reviewed by:

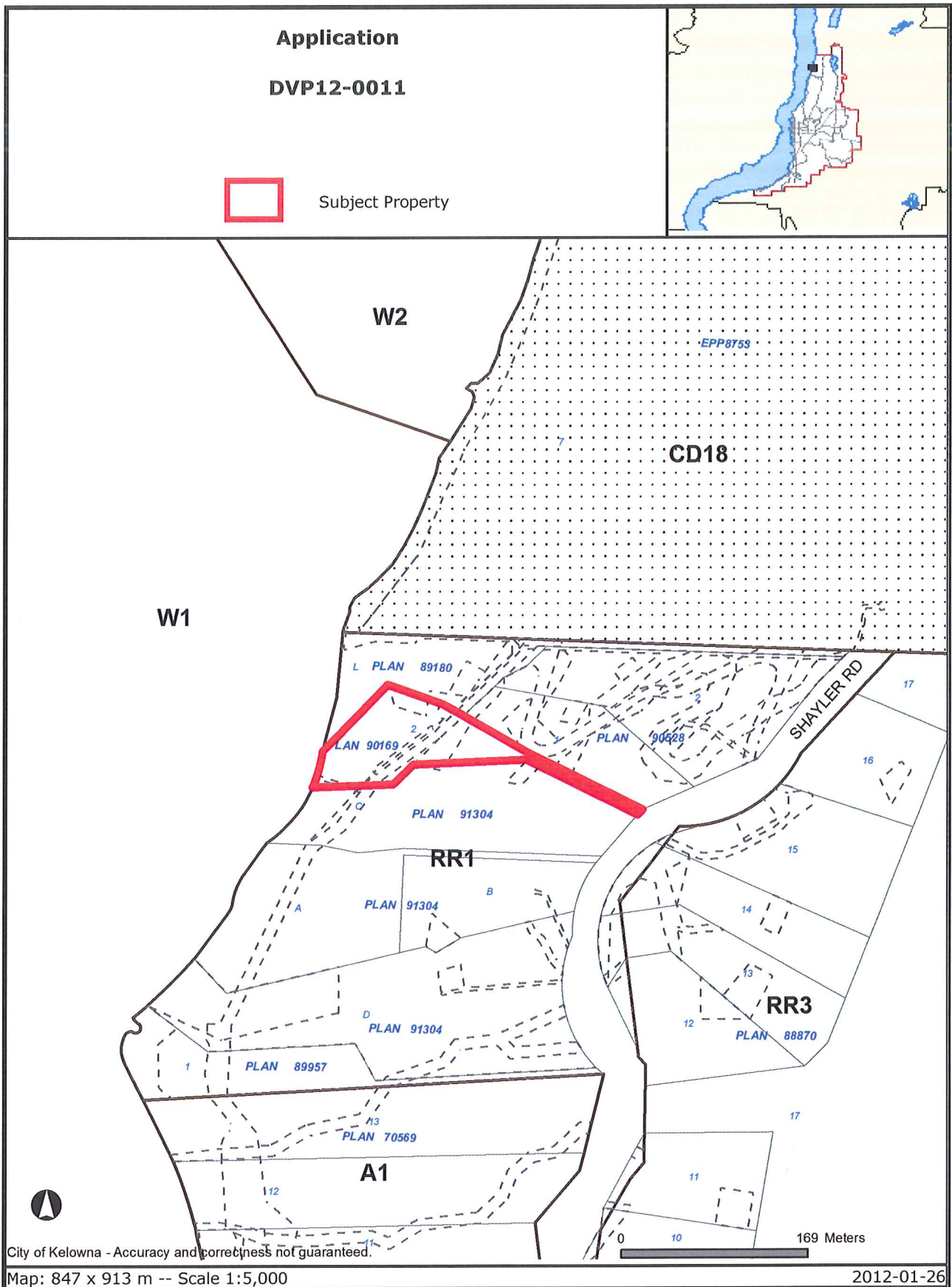
Danielle Noble, Manager, Urban Land Use

Approved for inclusion:

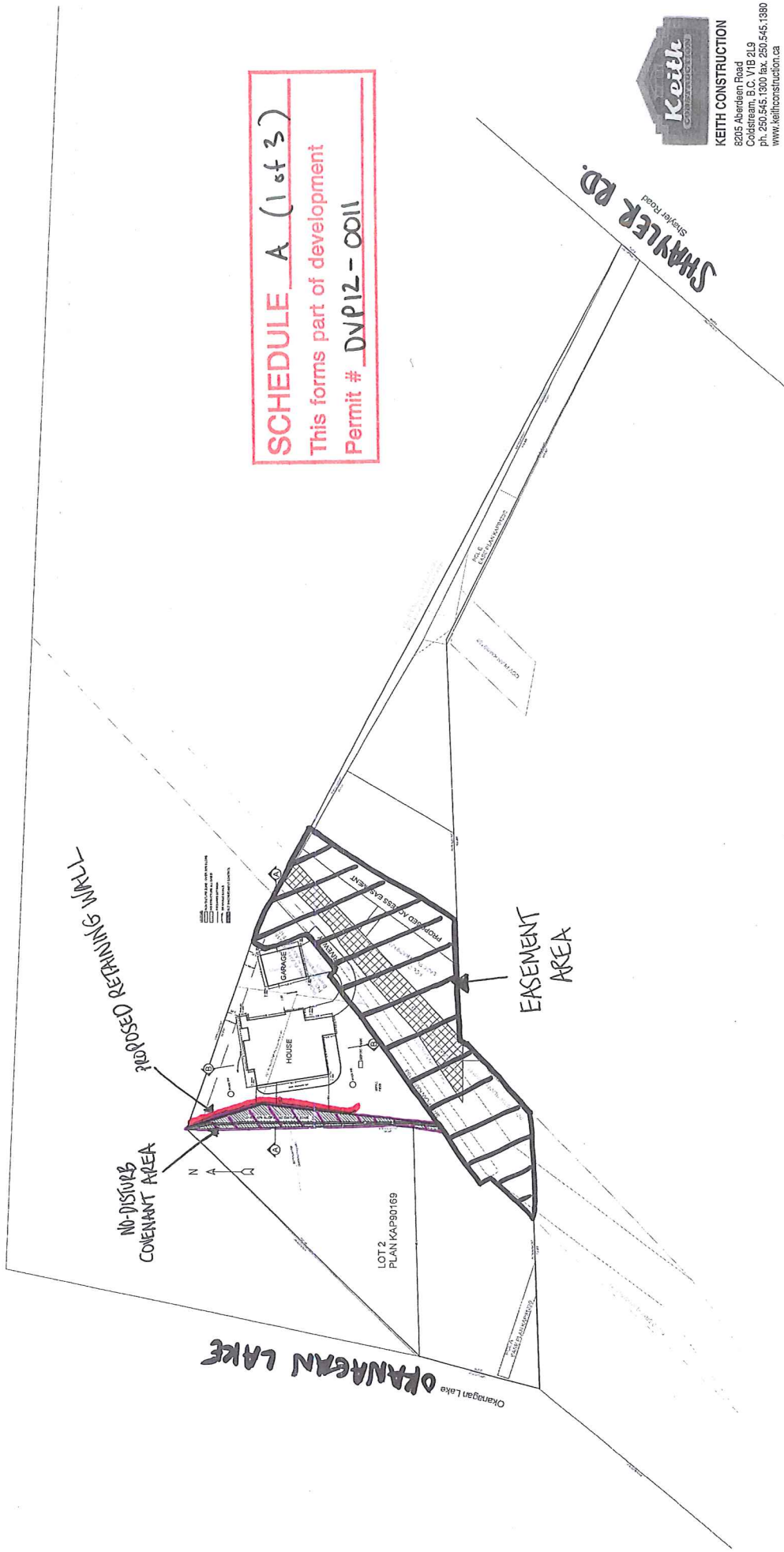
Shelley Gambacort, Director, Land Use Management

Attachments:

- Subject Property Map
- Proposed Site Plans
- 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.



SCHEDULE A (1 of 3)
 This forms part of development
 Permit # **DVPIZ - 0011**

Keith
 CONSTRUCTION
KEITH CONSTRUCTION
 8205 Aberdeen Road
 Courtenay, B.C. V1P 2L9
 Ph: 250.545.1300 Fax: 250.545.1380
 www.keithconstruction.ca
CORBIN-FOULIOT
 RESIDENCE
 3270 SHAYLER ROAD
 KELOWNA, B.C.

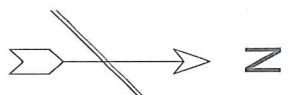
A-2
 DATE: 12/01/11
 REVISED: 12/22/12
 DO NOT SCALE THESE DRAWINGS
 All drawings are the property of Keith Construction Inc.

LOT 2, SEC 29, TP 23, ODYD, PLAN KAP90169
 3270 SHAYLER ROAD KELOWNA, B.C.

SITE PLAN
 SCALE: 1:1000 ON 11X17 SHEET

WALLS FOR RETAINING WALL HEIGHT FROM
1.2m MAXIMUM TO 2.12m PROPOSED

DETAILED SITE PLAN



- LEGEND**
- NON DISTURB ZONE - OVER 30% SLOPE
 - NO STRUCTURE ALLOWED
 - REQUIRED SETBACK
 - DRAINAGE SWALE
 - SILT BANDESDIMENT CONTROL

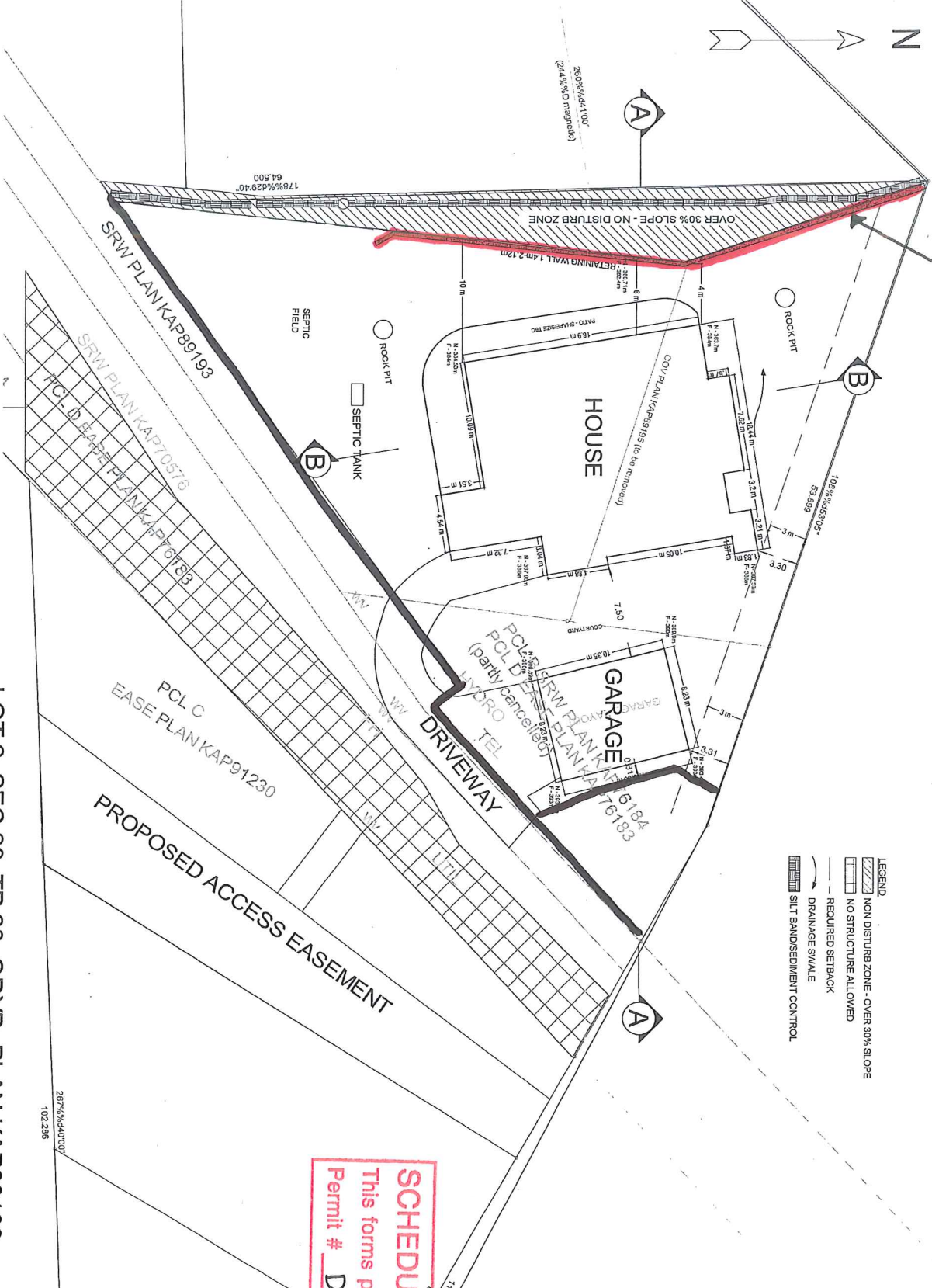
SITE INFORMATION

ZONING	RR1
LEGAL ADDRESS	LOT 2, SEC 29, TP 23, ODYD, PLAN KAP90169
MUNICIPAL ADDRESS	3270 SHAYLER ROAD KELOWNA, B.C.
SITE AREA	1.14 (107,639 SF)
BUILDING AREA	RESIDENCE - 313.27 M ² (3372 SF)
	GARAGE - 85.28 M ² (918 SF)
TOTAL AREA	- 398.55 M ² (4290 SF)
SITE COVERAGE	- 0.2%
SETBACKS	PROPOSED FRONT SETBACK - 6.0 M
	PROPOSED FRONT SETBACK - 19.7 M
	REQUIRED SIDE SETBACK - 3.0 M
	PROPOSED SIDE SETBACK - 3.30 M
	REQUIRED SIDE SETBACK - 3.0 M
	PROPOSED SIDE SETBACK - 33.8 M
	REQUIRED REAR SETBACK - 10 M
	PROPOSED REAR SETBACK - 49.17 M
	MAXIMUM BUILDING HEIGHT - 9.3 M
	PROPOSED BUILDING HEIGHT - 8.11 M

SCHEDULE A (2 of 3)
 This forms part of development
 Permit # **DVP12-0011**

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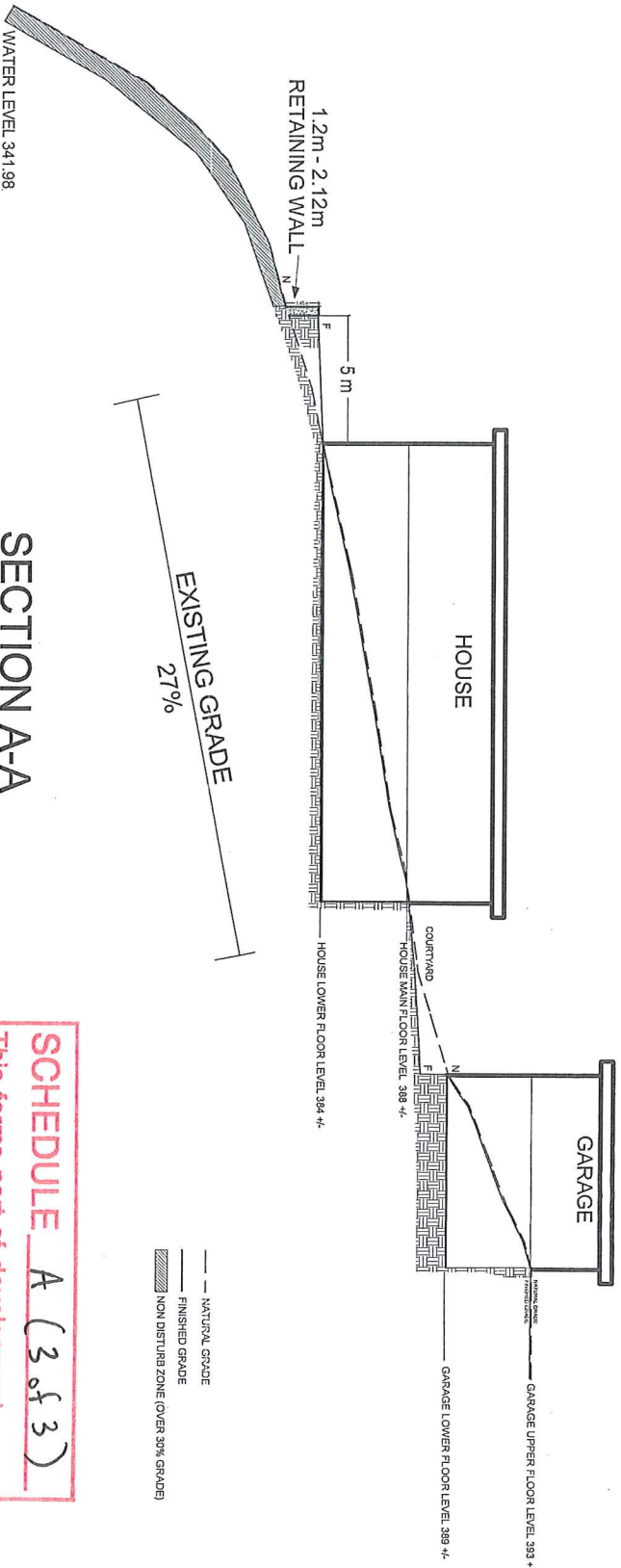
CORBIN-POULLOT
 RESIDENCE
 3270 SHAYLER ROAD
 KELOWNA, B.C.



SITE PLAN
 SCALE: 1:300 ON 11x17 SHEET

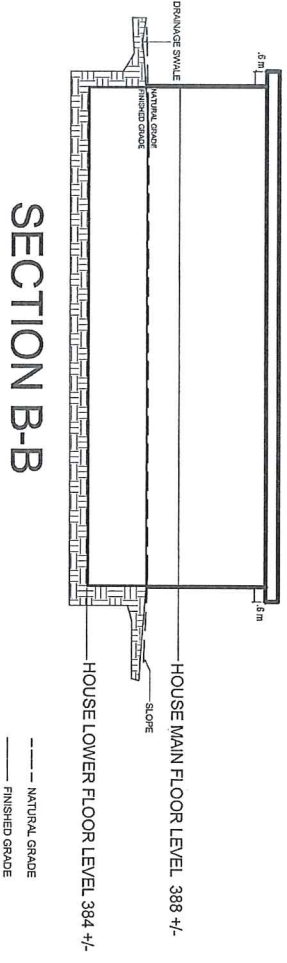
LOT 2, SEC 29, TP 23, ODYD, PLAN KAP90169
 3270 SHAYLER ROAD KELOWNA, B.C.

A-1
 DATE: 05/04/11
 REVISION: 12/28/12
 DO NOT SCALE THESE DRAWINGS
 All dimensions to be verified by contractor, unless otherwise indicated



SECTION A-A

SCHEDULE A (3 of 3)
 This forms part of development
 Permit # DP12-0011



SECTION B-B



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RESIDENCE
CORBIN-POULLIOT
 3270 SHAYLER ROAD
 KELLOWNA, B.C.

A-3

DATE: 05/04/11
 DRAWN BY: JAC
 REVISIONS: 1/2/2012
 DO NOT SCALE THESE DRAWINGS
 Approved by: [Signature]



RETAINING WALL - LAKESIDE VIEWS

NTS



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 www.keithconstruction.ca

CORBIN-POULIOT
 RESIDENCE
 2270 SHAWLER ROAD
 KELOWNA, B.C.

A-8

DATE: 08/20/11
 REVISION:
 REVISION:
 REVISION:

DO NOT SCALE THESE DRAWINGS
 All drawings to be used in accordance with the contract.

CITY OF KELOWNA

APPROVED ISSUANCE OF A:

Development Variance Permit No.: DVP12-0011

EXISTING ZONING DESIGNATION: RR1 - Rural Residential 1
DEVELOPMENT VARIANCE: To vary maximum of a retaining wall.

ISSUED TO: Louis Pouliot & Johanne Corbin (c/o Keith Construction)

LOCATION OF SUBJECT SITE: 3270 Shayler Road

	LOT	SECTION	TOWNSHIP	DIV & DIST	PLAN
LEGAL DESCRIPTION:	2	29	23	ODYD	KAP90169

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 Zoning Bylaw No. 8000 are granted as per Schedule "A":

Section 7.5.9 (Fencing & Retaining Walls): To vary the maximum height of a retaining wall in a residential zone from 1.2m allowed to 2.12m proposed, as per Schedule "A".

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 @ 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

