

# REPORT TO COUNCIL



**Date:** April 3, 2012

**To:** City Manager

**From:** Land Use Management, Community Sustainability (BD)

**Application:** DVP12-0045

**Owner:** Daniel Brian Kreeft  
Jaime Ti'Niel Kreeft

**Address:** 1371 Mountain Ave.

**Applicant:** Reg Rempel

**Subject:** Development Variance Permit

**Existing OCP Designation:** Single / Two Family Residential

**Existing Zone:** RU1s - Large Lot Housing with secondary suite

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## 1.0 Recommendation

THAT Council authorize the issuance of Development Variance Permit No. DVP12-0045, for Lot B, Section 30, Township 26, O.D.Y.D., Plan 92177, located on Mountain Avenue, Kelowna, BC;

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

### Section 7.5.9 Fencing and Retaining walls:

To vary the maximum allowable height of a retaining wall from 1.2m permitted to 3.05 meters proposed (as per Schedule "A").

## 2.0 Purpose

To consider a Development Variance Permit on the western property line to allow a retaining wall that exceeds the maximum height of 1.2 permitted to 3.05m proposed.

## 3.0 Land Use Management

The applicant is proposing a variance to allow the construction of an over height retaining wall on the west side of the subject property. Notably, there is a substantial grade difference between the subject property and the site to the west. The wall is proposed for the length of the west property line and will vary in height from 3.05m to 1.5m as the grade transitions. The variance requested is supportable as the major visual impact is on the subject property, the wall has been engineered, and the neighbour to the west has provided written support for the variance request.

## 4.0 Proposal

### 4.1 Project Description

A new single family dwelling with a secondary suite is currently being constructed, which now contemplates a retaining wall. The wall is proposed to extend from the rear of the dwelling (attached to the foundation wall) to the south rear property line with a 5 cm offset from the legal surveyed lot line. The rear of the property is bordered by a fence located on the bare land strata development.

The proposed wall will be 20cm in width and will be a maximum of 3.05m in height closest to the house and transition to a height of 1.5m at the rear of the property. The proposed wall has been signed off by an engineer and the proposed materials will be cast in place concrete.

### 4.1 Site Context

Subject Property Map:

1371 Mountain Avenue



The subject property is located on the south side of Mountain Avenue, in the Glenmore/Mountain area of Kelowna.

Specifically, adjacent land uses are as follows:

Orientation	Zoning	Land Use
North	RU1 - Large Lot Housing	Single family dwelling
East	RU1s - Large Lot Housing with Secondary Suite	New Construction- Single Family Dwelling
South	RU5 - Bare Land Strata	New Construction- Single Family Dwelling
West	RU1s - Large Lot Housing with Secondary Suite	New Construction - Single Family Dwelling

**5.0 Technical Comments**

**5.1 Building & Permitting Department**

Retaining wall and footing(s) to be solely on one property and not crossing the property line without legal documentation in place. Building permit is required.

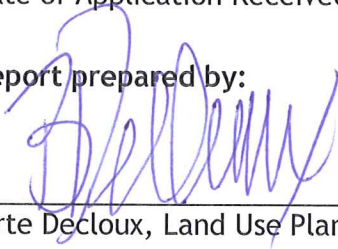
**5.2 Development Engineering Department**

The request to vary the height of a retaining wall from 1.2 meters permitted to a retaining wall height that is 3.05 meters proposed, does not compromise our servicing requirements.

**6.0 Application Chronology**

Date of Application Received: March 13, 2012

Report prepared by:



Birte Decloux, Land Use Planner

Reviewed by:



Danielle Noble, Manager of Urban Land Use

Approved for Inclusion:



Shelley Gambacort, Director of Land Use Management

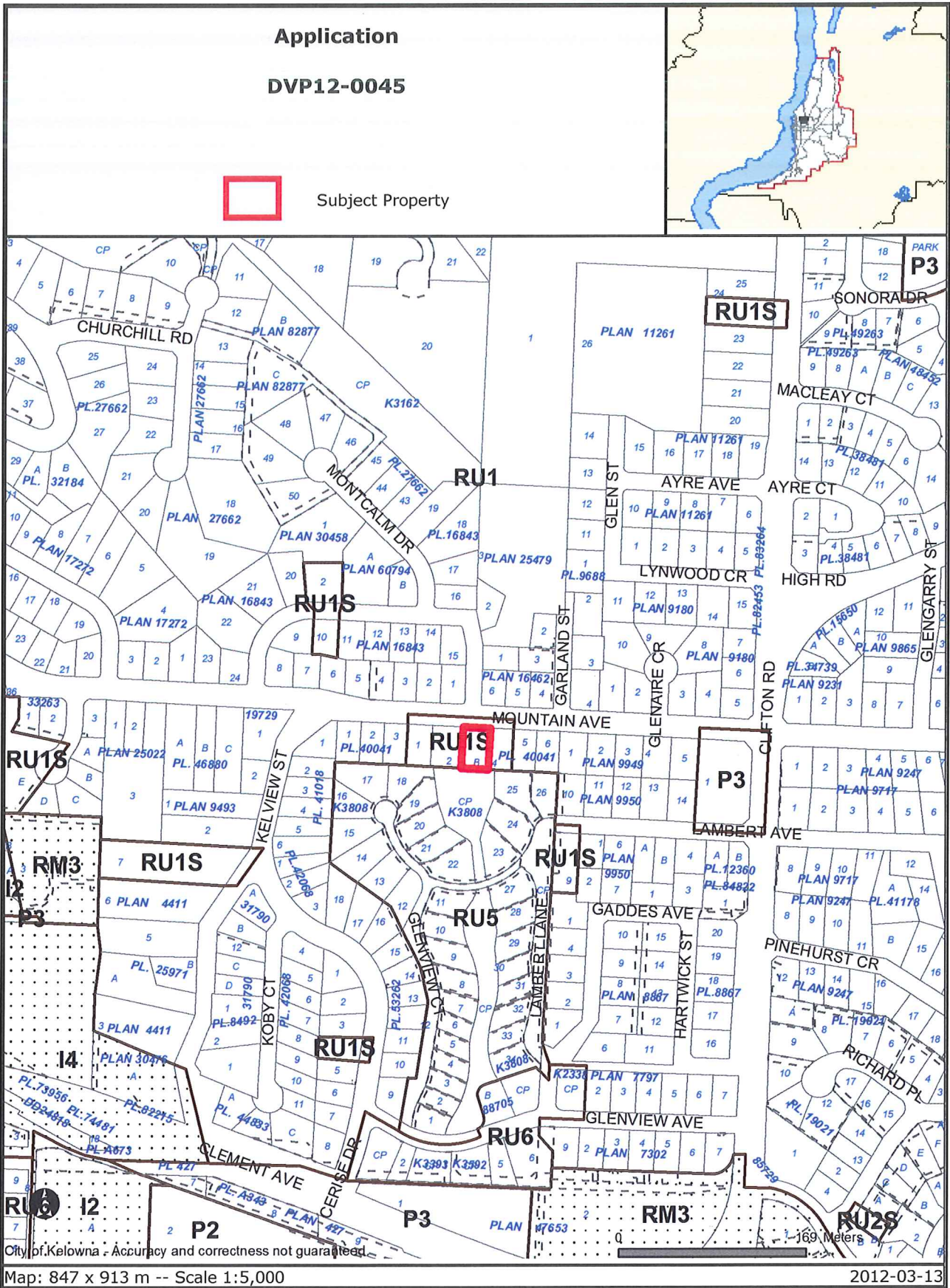
**Attachments:**

- Subject Property Map
- Site Plan
- Elevation drawings

Submitted Pursuant to  
City of San Diego, California







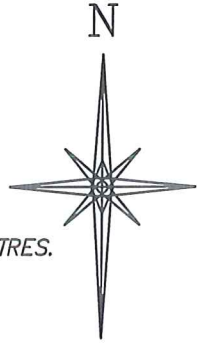
Certain layers such as lots, zoning and dp areas are updated bi-weekly. This map is for general information only.  
The City of Kelowna does not guarantee its accuracy. All information should be verified.

**B.C. LAND SURVEYOR'S CERTIFICATE OF  
LOCATION OF BUILDING ON LOT B  
SEC. 20 TP. 26 O.D.Y.D. PLAN KAP92177**

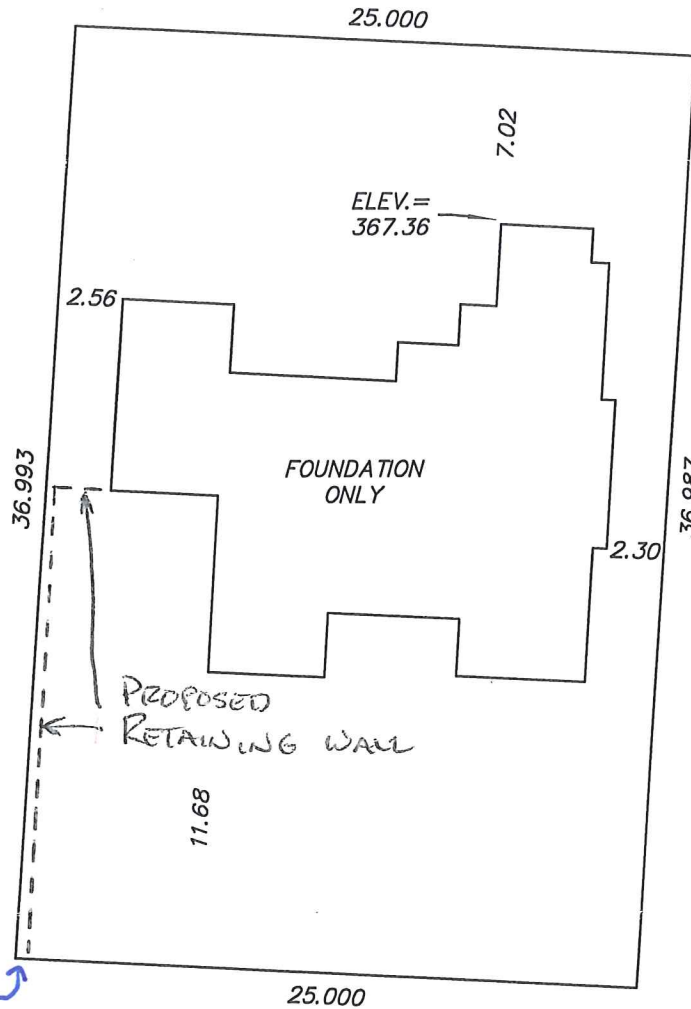
Civic Address:  
1371 Mountain Avenue  
Kelowna, BC

SCALE 1:300

DISTANCES ARE IN METRES.



Mountain Avenue



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

**SCHEDULE A**  
This forms part of development  
Permit # **DVP 12-0045**

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.

**CERTIFIED CORRECT**  
this 27th day of October, 2011.

*[Signature]*

D.A. Goddard BCLS

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

**FILE 15757 FB 353**  
**R. Rempel**

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















# CITY OF KELOWNA

APPROVED ISSUANCE OF A:

Development Variance Permit No. : DVP12-0045

EXISTING ZONING DESIGNATION:	RU1s - Large Lot Housing with Secondary Suite
WITHIN DEVELOPMENT PERMIT AREA:	N/A

ISSUED TO: D & J Kreeft	APPLICANT: Reg Rempel
LOCATION OF SUBJECT SITE: 1371 Mountain Avenue	

	LOT	D.L.	PLAN	SECTION	TOWNSHIP	DISTRICT
LEGAL DESCRIPTION:	B		92177	30	26	ODYD

	<u>SCOPE OF APPROVAL</u>
<input type="checkbox"/>	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.
<input type="checkbox"/>	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.
<input type="checkbox"/>	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 is granted:

Section 7.5.9 Fencing and Retaining walls:

To vary the maximum allowable height of a retaining wall from 1.2m permitted to 3.05 m proposed (as per Schedule "A").

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 MAY, 2012.

ISSUED BY THE LAND USE MANAGEMENT DEPT. OF THE CITY OF KELOWNA THE \_\_\_<sup>TH</sup> DAY OF MAY 2012.

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Shelley Gambacort  
Director of Land Use Management