

Kelowna Hillside Development Guidelines were adopted in 2009. Under the Hillside Development Guidelines and current subdivision practice, a subdivision of this form would have a more stringent review of the lot grading to minimize visual impact. However, the variances requested are to remedy an already constructed hillside lot, where building and retaining wall height are non-conforming as a result of changes made to the site grading that occurred without City authorization. Additionally, the dwelling has a visual impact being sited higher than the neighbouring southeast dwellings.

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.

Recognizing the circumstance, it is in the applicant's best interest to finalize the outstanding building permit issues and ensure that the building code issues are addressed. Realistically, few options are available to allow the building height to conform given it is fully constructed. In response to comments provided by the Advisory Planning Commission, the applicant proposes to add juniper ground cover plantings to the sloped areas between the retaining walls, as well as to add coniferous and deciduous landscape materials to the front yard area to compliment the neighbouring property.

4.0 Proposal

4.1 Background

The dwelling located on the subject property was constructed in 2004 as authorized by building permit No. 27783. A registered statutory building scheme is on the registered title for the properties located in this neighbourhood. During construction, it was noted that the resulting building height exceeded 9.5 m / 2½ storeys. Since January 2008, the Building and Permitting Department has been attempting to finalize the outstanding conditions. As a result, no occupancy permit has been issued and this application aims to address the outstanding zoning non-compliance issues.

The builder had been working on a revised site plan that proposed to install retaining walls and to re-grade the property sloping towards Caramillo Court in order that the building height facing Caramillo Court could be considered as a maximum 9.5 m or 2½ storey building height. However, this solution has proven to be unattainable.

4.2 Project Description

The owner of the property is seeking a variance for both the over-height building and the over-height retaining walls on the property. The large stone retaining walls provide hard landscaping features that were intended to mitigate the height of the exposed portion of the building foundation facing Caramillo Court. However, as the upper storey portions of the dwelling exceed the limits of the bylaw to be considered a ½ storey, this level of the dwelling has to be considered a full storey. Notably, no letters of neighbourhood support were submitted.

The Advisory Planning Commission considered this application on August 30, 2011, where the application was supported subject to the applicant pursuing site landscaping enhancements consistent with the established neighbourhood standard. The applicant has provided a landscape plan that blends the proposed landscaping with the established landscaping of the southeast neighbor and proposes to add juniper ground cover plantings to the sloped areas between the retaining walls, as well as add four maple trees to the four corners of the front yard area. A

cedar hedge planting around the corner of the foundation to further buffer the exposed foundation wall is also proposed.

4.3 Site Context

The subject property is located on the north side of Caramillo Court, in the Glenmore/Clifton/Dilworth sector of the City. The property is accessed from a private easement lane located on the north-east property line. The property is somewhat level near the easement lane, but slopes down approximately 11 m towards Caramillo Court.

Specifically, adjacent land uses are as follows:

Orientation	Zoning	Land Use
North West	RU1 - Large Lot Housing	Vacant lot
North East	A1 - Agriculture 1	Single Family Dwelling
South West	RU1 - Large Lot Housing	Single Family Dwelling
South East	RU1 - Large Lot Housing	Single Family Dwelling

Subject Property Map:

520 Caramillo Court



4.4 Zoning Analysis

Zoning Analysis Table		
CRITERIA	RU1 ZONE REQUIREMENTS	PROPOSAL
Existing Lot/Subdivision Regulations		
Lot Area	550 m ²	1,096 m ²
Lot Width	16.5 m	21.0 m
Lot Depth	30.0 m	50.26 m
Development Regulations		
Height	9.5 m / 2 ½ storey	10.25 m / 3 storey ①
Front Yard	4.5 m 6.0 m to garage or carport	20.0 m
Side Yard (south east)	2.3 m (2 of 2½ storey portion)	2.45 m
Side Yard (north west)	2.3 m (2 of 2½ storey portion)	2.65 m
Rear Yard	7.5 m (2 of 2½ storey portion)	7.54 m
Other Regulations		
Minimum Parking Requirements	2 stalls provided	2 stalls required
Height of Retaining Walls	Max. height on residential lots 1.2 m	2.0 m ②
① Indicates a requested variance to vary building height from 9.5 m or 2 ½ storey permitted to 10.25 m or 3 storey proposed ② Indicates a requested variance to vary height of retaining walls from 1.2 m permitted to 2.0 m or proposed		

5.0 Current Development Policies

5.1 Kelowna 2030 Official Community Plan (OCP)

Objectives for “Intensive Residential - Hillside Design Guidelines”¹

- Promote development that respects the terrain, vegetation, drainage courses and constraints related to the hillside environment of the site;
- Promote the siting of buildings and designs that are compatible with the steep slope context;
- Minimize visual impact on the hillside through appropriate siting, finishes, materials and colours;
- Preserve the natural, hillside character and avoid scarring;
- Ensure compatibility with existing neighbourhood or streetscape; and
- Promote a high standard of design, construction and landscaping.
- Ensure road design and anticipated use (e.g. parking) provides for a safe environment and ease of on-going maintenance.

Guidelines for “Intensive Residential - Hillside Design Guidelines”²

Section 3 - Landscaping and Retaining Walls

- 3.1 Incorporate landscaping that is natural and blends in with any existing vegetation minimizing large areas of formal landscaping;
- 3.2 Preserve existing plant materials of significant size or relocate within the site;
- 3.3 Incorporate landscaping that enhances building design and architectural elements;
- 3.4 Re-vegetate any unavoidable cut and fill along ridgelines with natural landscaping;
- 3.5 Minimize the impact of development by screening structures through effective use of landscape materials;

¹ City Of Kelowna 2030 Official Community Plan - page 14.29

² City Of Kelowna 2030 Official Community Plan - page 14.31

- 3.6 Incorporate retaining walls utilizing native building materials (i.e., earth berms, rock forms, or stone) to minimize the visual impact of cuts;
- 3.7 Minimize fence and retaining wall heights and length. Stepped or terraced walls with landscaping are encouraged for areas where steep cuts are required.

6.0 Technical Comments

6.1 Building & Permitting Department

Building Permit is required for retaining walls in excess of 1.2 meters. Geotechnical Engineer will be required. The current building permit for the dwelling remains open as no occupancy permit as been obtained. The Building and Permitting Department history with this file is as follows:

BP 27783 - New SFD with unfinished basement

Applied for Permit Aug 9th 2004

Permit Issued - Aug 13th 2004

Inspections done to date

- 1) Footing - Approved - Sept 27th, 2004
- 2) Backfill - Approved - Oct 20, 2004
- 3) Framing - Not Ready - July 6th, 2005
- 4) Framing - Reject - July 11th, 2005
- 5) Framing - Proceed - Nov 2nd, 2005

BP 30520 - Basement Finish Permit

Applied for Permit Oct 6th, 2005

Permit Issued - Oct 28th, 2005

Inspections done to date

- 1) Framing - Consult - Nov 3rd, 2005
- 2) Framing - Not Ready - Sept 15, 2006

Compliance Letters

Jan 3, 2008 - Our department issued a letter defining that the permit will be expired and notice placed on tax certificate if not contacted for inspection by Jan 25, 2008.

Feb 7, 2011 - Our department issued the 2nd letter as part of an initiative to clean up old non-complying files. This letter sent to the owner included a notice of the violations. Our department also contacted the realtors for the property and notified them that no occupancy was issued and the structure was completed without inspection. One of the primary issues revolved around the land use issue (over height retaining walls and building height). Secondary issues are building related and may include a possible basement suite.

After the letter was received the owners came to City Hall to establish a direction to achieve compliance. The building department required the owner to deal with the Land Use issues prior to dealing with the interior building related requirements. All interior building issues could be dealt with by exposing the work for verification, involving an engineer to verify or allowing a section 57 to be placed on title identifying the concerns to future owners.

6.2 Development Engineering Department

This application does not compromise any municipal services.

6.3 Fire Department

No Concerns

6.4 Subdivision Approval Branch

Based on a site visit and review of the Site Grading and Drainage Plan, it appears as though the builders/developer did not implement many requirements of the plan. Builders' swales have not been installed and lot-to-lot grading does not appear to be in strict accordance with the plan. Numerous retaining walls have also been constructed and none of these were shown on the grading plan. Given that the Grading Plan was approved in 1997, it was done prior to the creation of many of the City's Hillside development policies. This likely explains the lack of detail. Generally, grading plans which are submitted in today's development system include information on drainage (rock pits), retaining walls, fill dept, cut depth etc... This information is provided early in the process (at Development Permit) and monitored until the conclusion of the process (occupancy). As such, staff deal with far fewer situations where improper grading has occurred (such as this one).

7.0 Application Chronology

Date of Application Received: June 22, 2011

Advisory Planning Commission: August 30, 2011

The above noted application was reviewed by the Advisory Planning Commission at the meeting on August 30, 2011 and the following recommendations were passed:

THAT the Advisory Planning Commission supports Development Variance Application No. DVP11-0137 by Keystone Design (R. Lefebvre) to vary the building height from 9.5 m or 2½ storey permitted to 10.26 m or 3 storey proposed, and to vary the retaining wall height from 1.2 m permitted to 2.0 m proposed, subject to the applicant pursuing site landscaping to the equivalent of the established community landscape standard for this neighborhood.

Anecdotal Comment:

The APC supported the variances as outlined subject to an agreement by the Applicant to bring the landscaping up to community standards before the final occupancy permit is granted, as they felt that there were few options with this already constructed property and that landscaping was the only measure to mitigate the visual impact.

Date Landscape Plan Received: October 18, 2011

Date BP Chronology Received: November 10, 2011

Report prepared by:

Paul McVey, Land Use Planner

Reviewed by:



Danielle Noble, Manager of Urban Land Use

Approved for Inclusion:



Shelley Gambacort, Director, Land Use Management

Attachments:

Subject Property Map

Applicant Design Rationale

Site Plan

Cross-section

Landscape Plan & Site Photos

Rationale for Development Variance Permit

Residence at 520 Caramillo Court, Kelowna, BC

Construction of the residence at 520 Caramillo Court, Kelowna BC was started in the summer of 2004.

Upon excavation, a rock outcrop was found and the proposed grade elevations were altered during the construction of the foundations. This resulted in building height at the east face of the house to be more than originally planned.

At the end of the construction phase, the builder added at a great expense, brick and field stone veneer to the south and east building faces in order to mitigate the high appearance at that exposure.

The house remained unfinished and unoccupied for a quite a time period.

An occupancy permit was never issued by the City of Kelowna.

During recent inspections by the City of Kelowna, they found that the house contravened the zoning bylaw in several areas.

First the building at the East Elevation exceeds the 2-1/2 storey maximum building height required under the Ru1 zoning.

Secondly, in some areas the natural rock retaining walls exceed the maximum 1.2 m height required albeit, the stone retaining walls were constructed to tie into and match the height of the neighbouring walls on the east property line.

We are now applying for A Development Variance Permit to allow the following:

1. Section 7.5.9 vary the height of retaining wall from 1.2 to 2.0m
2. Section 13.1.6 (b) vary building height from 2-1/2 or 9.5 m permitted to 3 storey or 10.26m proposed for the east elevation.

For more information, refer to the attached Site Plan, Site Section Profile, and photographs.

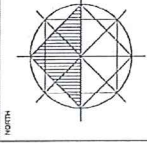
Regards

Cara Gen Estates Ltd.



1745 Gower Road R. 250-1102/14
 Vancouver, B.C. V6C 3S8
 TEL: 604-271-1102 FAX: 604-271-1104

REVISIONS	DATE
Issued for Review	JUNE 12, 2011
Issued for Permit	
Issued for Construction	



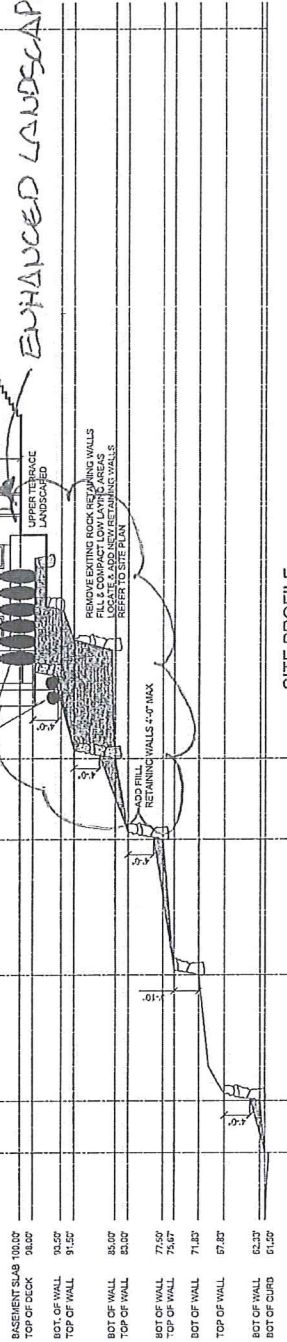
PROJECT
 SAN CABRIO HOMES
 520 CARAMILLO COURT
 KELOWNA BC

DRAWING TITLE
 SITE PROFILE

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DATE	JUNE 12, 2011
DRAWN	BOB LEBLANC
SCALE	1/8" = 1'-0"

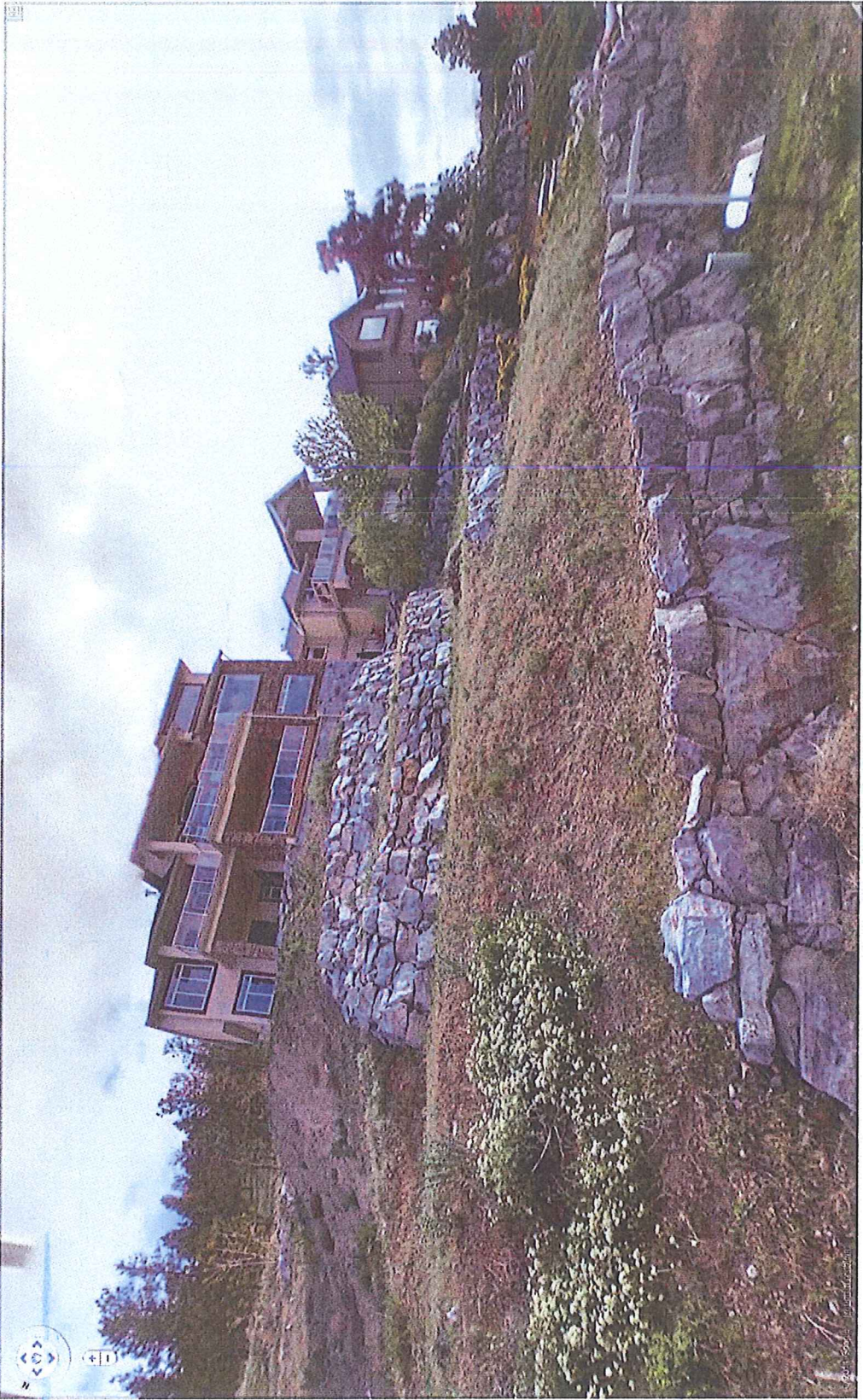
DRAWING NO
 2 of 2

VARY BUILDING HEIGHT
 FROM 9.5m / 2 1/2 STOREY
 TO 10.25m / 3 STOREY



SITE PROFILE
 SOUTH-EAST ELEVATION

SCHEDULE "A" 2 of 3





CITY OF KELOWNA

APPROVED ISSUANCE OF A:

Development Variance Permit No.: DVP11-0137

EXISTING ZONING DESIGNATION:	RU1 - Large Lot Housing
DEVELOPMENT VARIANCE PERMIT:	A Development Variance Permit to vary building height from 9.5 m or 2 ½ storeys permitted to 10.25 m/3 storeys proposed, and to vary maximum height of retaining walls from 1.2 m permitted to 2.0 m proposed

ISSUED TO:	Cara Glen Estates
LOCATION OF SUBJECT SITE:	520 Caramillo Court

	LOT	PLAN	SECTION	TOWNSHIP	DISTRICT
LEGAL DESCRIPTION:	B	KAP87096	32	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:

a) Section 7.5.9 Fencing and Retaining Walls:

To vary the maximum height of retaining walls from 1.2 m permitted to 2.0 m proposed;

b) Section 13.1.6(b) Development Regulations:

To vary the maximum building height from 9.5 m or 2 ½ storeys permitted to 10.25 m / 3 storeys 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 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 MARCH, 2012.

ISSUED BY THE DIRECTOR OF LAND USE MANAGEMENT OF THE CITY OF KELOWNA THE ____ DAY OF MARCH, 2012.

Shelley Gambacort
Director of Land Use Management



1742 Geneva Road
 F. 206.952.6274
 20000 15th St. #100
 WYV 100 C. 409.622.7447

REVISIONS:	DATE: 06.18.2011
Issued for Review	
Issued for Permit	
Issued for Construction	

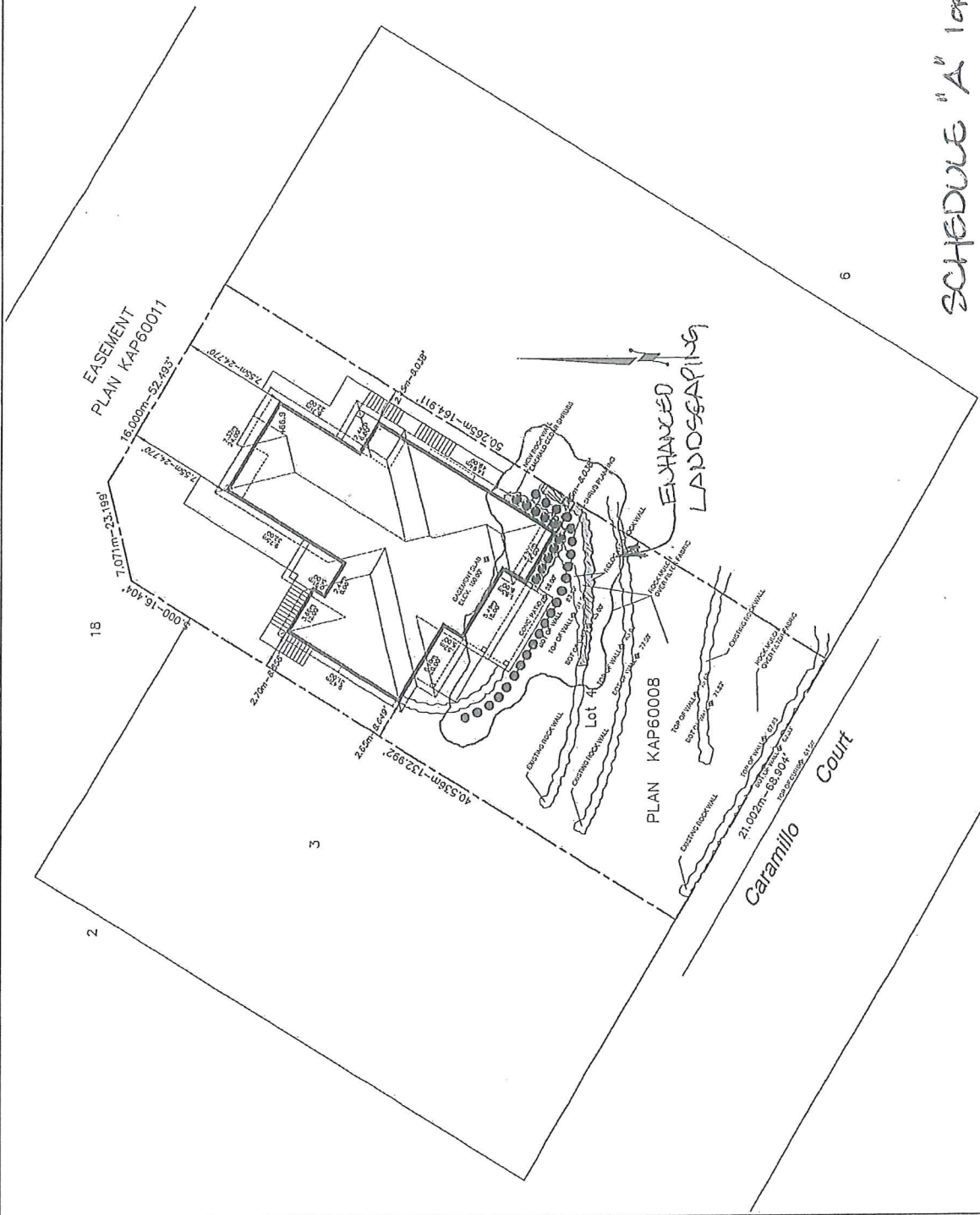


PROJECT
 SAN CABRID HOMES
 320 CARAMILLO COURT
 RELOTHING

DRAWING TITLE
 SITE PLAN

PROJECT NO	20110001
DATE	JUNE 18, 2011
DRAWN	JAN LEONORE
SCALE	1"=10'
DRAWING NO	

1 of 2



6

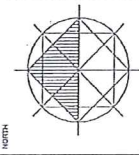
SCHEDULE "A" 1 of 3

MAY 18, 2011



1755 S. Valley Road
 Suite 200
 West Valley City, UT 84119
 Tel: 313.400.0014
 Fax: 313.400.0015
 Email: info@keystone.com

REVISIONS
 1. Initial Review
 2. Final Review
 3. Final Review
 4. Final Review
 5. Final Review
 6. Final Review
 7. Final Review
 8. Final Review
 9. Final Review
 10. Final Review



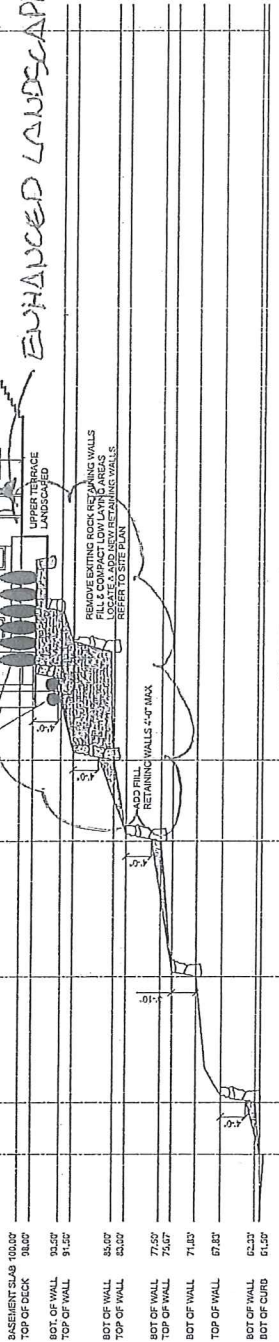
PROJECT
 SAN CABRILLO HOMES
 230 CHAMILLO COURT
 BELLEVILLE, MO

DRAWING TITLE
 SITE PROFILE

PROJECT NO.	2011004
DATE	JUNE 14, 2011
DRAWN BY	BPW/LE/DMC
SCALE	1/8"=1'-0"
DRAWING NO.	

2 of 2

VARY BUILDING HEIGHT
 FROM 9.5 m / 2 1/2 STOREY
 TO 10.25 m / 3 STOREY



SITE PROFILE
 SOUTH-EAST ELEVATION

SCHEDULE "A" 2 of 3

