

REPORT TO COUNCIL



Date: April 24, 2012

To: City Manager

From: Land Use Management, Community Sustainability

Application: DVP12-0060

Owner: Charles Lund
Mary Lund

Address: 990 Manhattan Drive

Applicant: Charles Lund
Mary Lund

Subject: Development Variance Permit

Existing OCP Designation: Single/Two Unit Residential
Major Park/Open Space (public)

Existing Zone: RU6 - Two Dwelling Housing

1.0 Recommendation

THAT Council authorize the issuance of Development Variance Permit No. DVP12-0060 for Lot 16, District Lot 9, ODYD, Plan 16501, located at 990 Manhattan Drive, Kelowna, BC;

AND FURTHER THAT a variance to the following section of Zoning Bylaw No. 8000 be granted:

Section 6.11 Okanagan Lake Sight Lines

Vary the required southern property line Okanagan Lake 120° Panoramic Sight Line from 120° required to 103° proposed as per schedule "A".

2.0 Purpose

To obtain Council approval to issue a Development Variance Permit to vary the required 120° panoramic sight line for the southern property line requirement for Okanagan Lake views to 103°.

3.0 Land Use Management

The intent of Section 6.11 of the Zoning Bylaw with respect to Okanagan Lake sight lines is to "not obstruct views of the lake from the established abutting development". This regulation places the onus on the proponent of new development to ensure adjacent occupants maintain a reasonable panoramic view.

The proposed sight line reduction affects one neighbour located to the south. The variance to the sight line requirement would result in the unobstructed sight line for the southern property being reduced from 60° required to 43° proposed. According to the applicant, the adjacent affected landowner has been contacted and is supportive of the proposal. In fact, the applicants have contacted four other property owners on Manhattan not immediately adjacent or affected

and all are supportive of the proposed variance (see attached). The adjacent neighbour to the north will continue to enjoy the full 60° sight line should the variance be granted.

The Land Use Management Department is supportive of the sight line variance as proposed, given that the adjacent, affected neighbour has indicated support for the proposed development.

4.0 Proposal

4.1 Site Context

The subject property located at 990 Manhattan Drive is a lake front home located in the Central City OCP sector. The surrounding neighbourhood is comprised of predominantly single detached residential dwellings, with a reasonable diversity of land uses within walking distance.

The immediately adjacent zones/uses are as follows:

- North RU6 - Two Dwelling Housing
- South RU6 - Two Dwelling Housing
- East RU6 - Two Dwelling Housing
- West Okanagan Lake

Figure 1: Site Location Map - 990 Manhattan Drive



The table below shows this application’s compliance with the requirements of the RU6 zone.

Zoning Analysis Table		
CRITERIA	PROPOSAL	RU6 ZONE REQUIREMENTS
Development Regulations		
Site coverage of buildings (%)	40%	40%
Site coverage including buildings, driveways and parking (%)	50%	50%
Front Yard	6.0 m	6.0 m
Rear Yard	11.0 m	7.5 m
Side Yard (North)	2.0/2.3 m	2.0/2.3 m
Side Yard (South)	2.0/2.3 m	2.0/2.3 m
Height	9.5	9.5
Minimum Parking Requirements	3	3
Other Requirements		
Okanagan Lake Sight Lines	103° Panoramic ❶	120° Panoramic
❶ Vary the required 120° panoramic sight line requirement for Okanagan Lake to 103°.		

5.0 Current Development Policies/Regulations

5.1 Zoning Bylaw (8000)

Okanagan Lake Sight Lines¹

All buildings and structures, greater than 1.2 m above natural grade, on lots along Okanagan Lake foreshore shall be sited to not obstruct views of the lake from the established **abutting development**. New **development** shall be sited to permit the **adjacent** occupants a 120° panoramic view from the corner of the house, parallel with the **adjacent property lines**, as shown in Diagram 6.2: Okanagan Lake 120° Panoramic Sight Line.

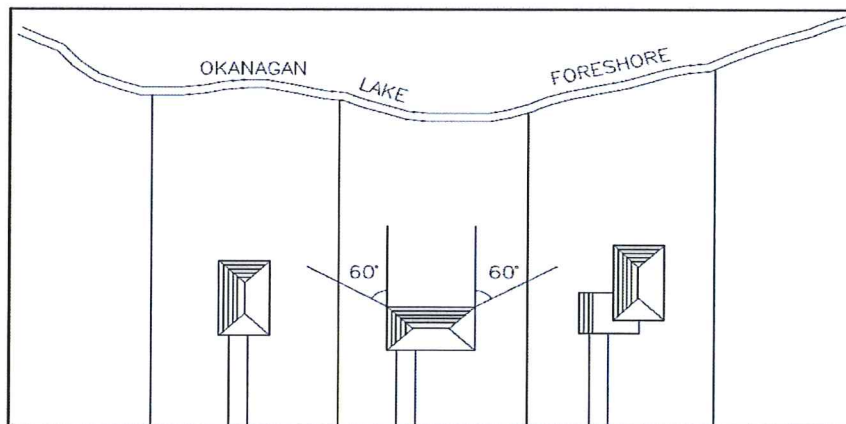


Diagram 6.2: Okanagan Lake 120° Panoramic Sight Line

¹ City of Kelowna Zoning Bylaw, Section 6.11.1 (General Development Regulations).

6.0 Technical Comments

6.1 Building & Permitting Department

A minimum Geodetic Elevation of 343.66 meters is required for all habitable spaces including the parking garage(s).

6.2 Development Engineering Department

The variance requested does not compromise servicing requirements.

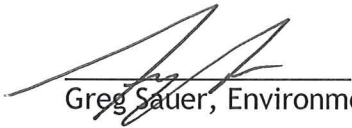
6.3 Fire Department

No concerns - additional address will be required for the suite.

7.0 Application Chronology

Date of Application Received: April 4, 2012

Report prepared by:



Greg Sauer, Environment & Land Use Planner

Reviewed by:



Danielle Noble, Manager, Urban Land Use

Approved for Inclusion:



Shelley Gambacort, Director, Land Use Management

Attachments:

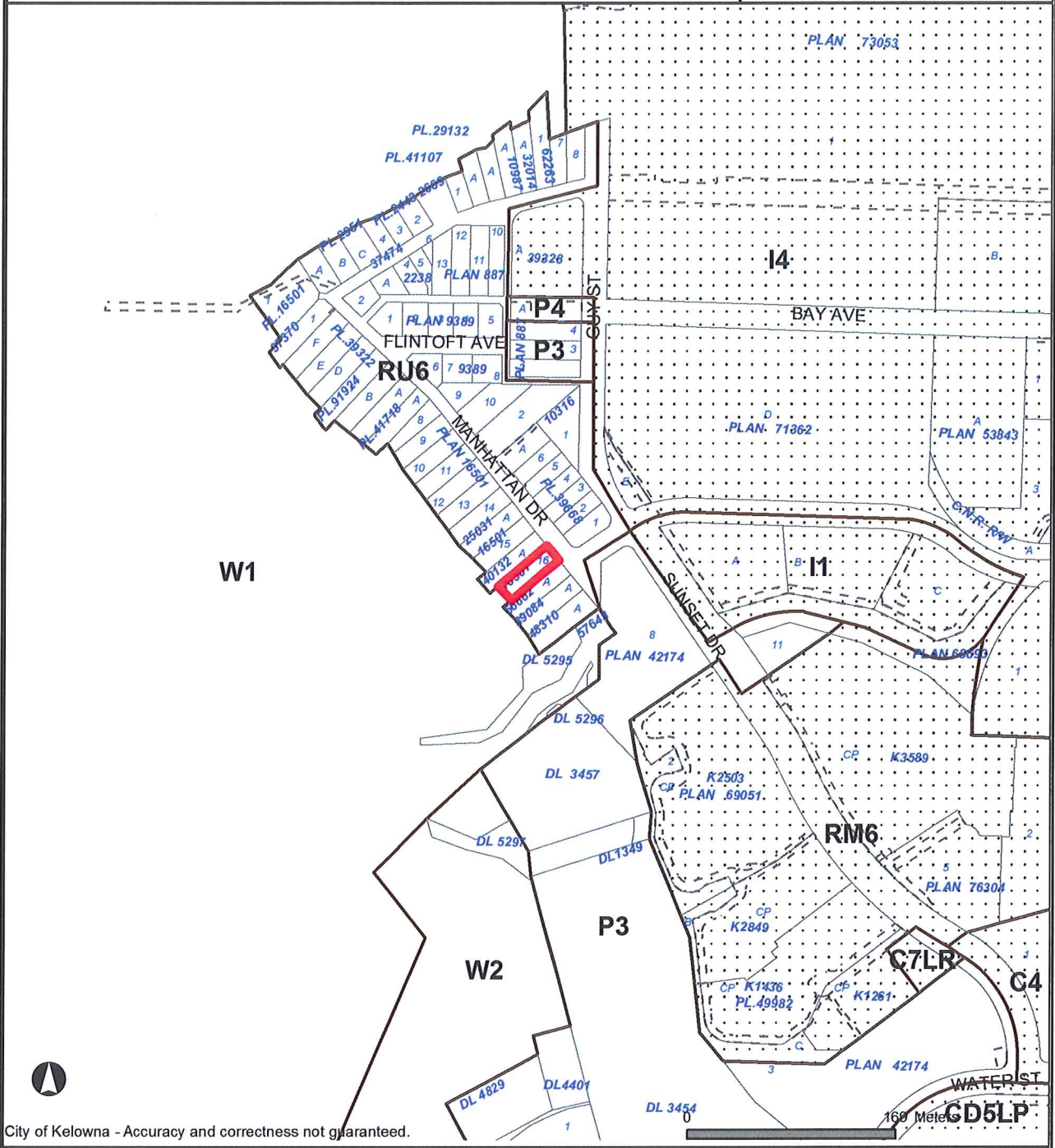
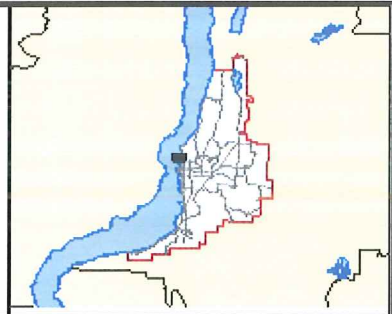
- Subject Property Map
- Site Plan
- Topographic Survey Plan
- Letter of Rationale
- Letter of Support
- Draft Permit

Application

DVP12-0060



Subject Property



City of Kelowna - Accuracy and correctness not guaranteed.

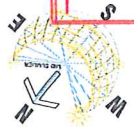
Map: 847 x 913 m -- Scale 1:5,000

2012-04-04

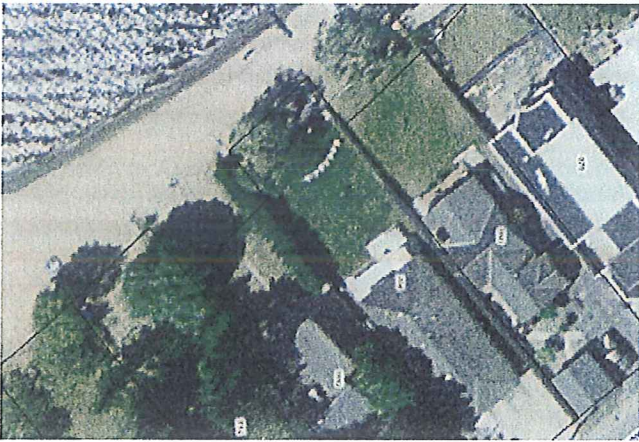
Certain layers such as lots, zoning and dp areas are updated bi-weekly. This map is for general information only. The City of Kelowna does not guarantee its accuracy. All information should be verified.

SCHEDULE "A"

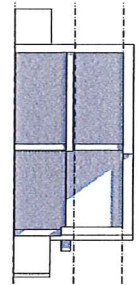
This forms part of development
 Permit # **DVP12-00660**



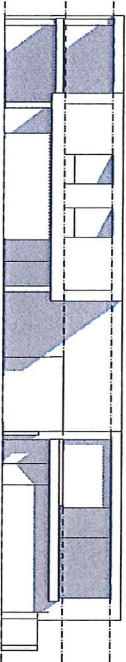
Location



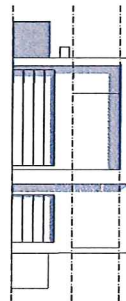
Aerial snapshot 990 Manhattan Dr Site Plan
 Ortho 2009



Lake Elev (SW)



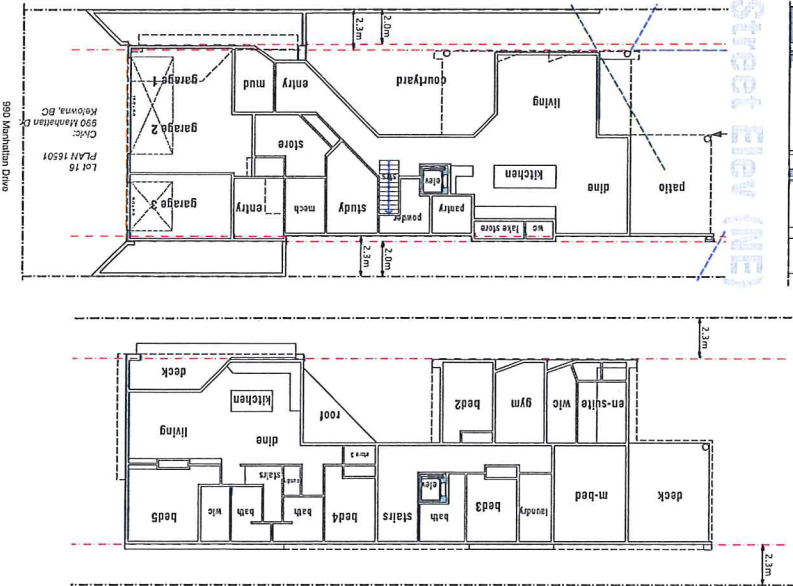
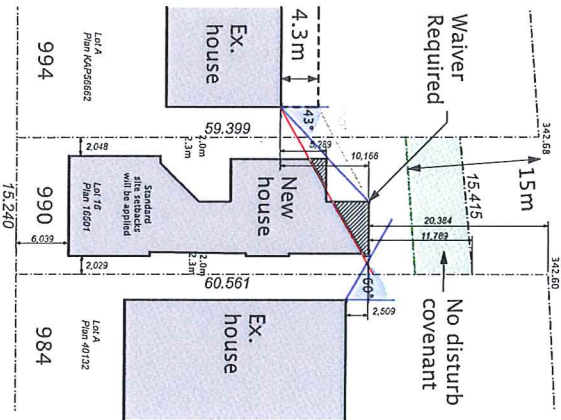
Side Elev (SE)



Street Elev (NE)

WAIVER REQUEST
 Owners of 990 Manhattan Dr request
 4.3m advance from #990 in respect to
 60degree site line rule.

Okanagan Lake
 Beach



Main Floor

Upper Floor

Design Concepts

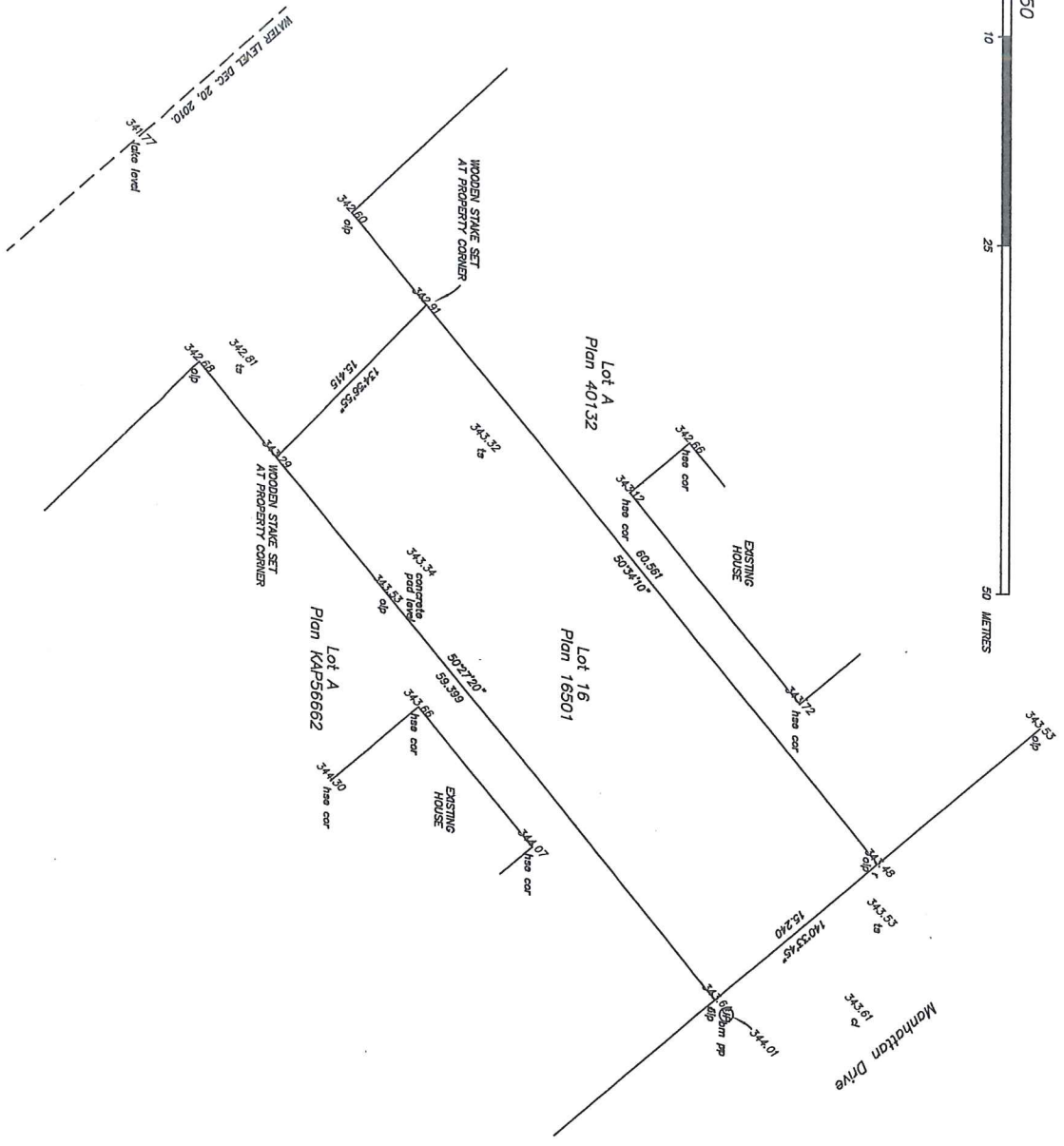
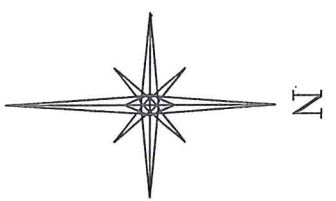
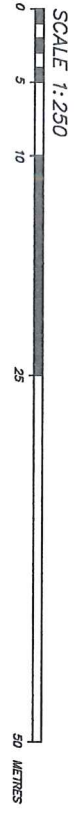
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 (REVISED)
 05/2012
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TOPOGRAPHIC SURVEY OF LOT 16 PLAN 16501 DL 9 O.D.P.D.

990 MANHATTAN DRIVE

BASED ON SURVEY PERFORMED DEC. 29, 2012.
 GEODETIC ELEVATIONS ARE DERIVED FROM OBSERVATION OF OKANAGAN LAKE

- P - random spot height
- St - traverse station
- h/cor - house corner
- pp - power pole
- dm - bench mark
- cl - centreline of road



D.A. Goddard Land Surveying Inc.
 103-1359 ST. PAUL STREET KEMOINA PHONE 783-3733

Tel: (250) 764-7809
Fax: (250) 764-7807

4590 Westridge Drive
Kelowna, BC, Canada
VIW 3B2

To Whom it May Concern:

Development Proposal 990 Manhattan Drive, Kelowna

The proposed new house at 990 Manhattan has a deck on the lake side. The deck is on the North Side of the house, and is in accordance with the 60° sight line required by the house to the North # 984 Manhattan.

The house to the South # 994 Manhattan is owned by Doctor Gail Plecash. She has no objection to the slightly altered sight line.
[Please see letter signed by five 5 lake front neighbours]

The sight line will be altered by 4.3 m to conform to the 60° required by the city.

The deck will have no negative impact on the area and a new house will add to the aesthetic appeal of the area.

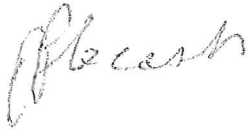
Thank you

Mary Lund

PROPOSED NEW HOUSE 990 MANHATTAN DRIVE, KELOWNA, BC.

Waiver Application for relocation of 60 Degree Sight Line for property 994 Manhattan drive.

This is to confirm that I have no objections to the location of the proposed new house on 990 Manhattan Drive (as shown on drawing #10121 115 dated 21st March 2012 prepared by Hewitt Designs) which indicates the 60 degree site line relocated to 4.3m from the corner of my existing house.



Owner of property 994 Manhattan Drive

Mar 21, 2012

PROPERTY OWNERS

Celina Manson 976 Manhattan Dr. ~~Manson~~

Jimmy Skouge 984 MANHATTAN DR

Jim [unclear] 996 Manhattan Dr

255549 BC Ltd per [unclear] 980 Manhattan

CITY OF KELOWNA

APPROVED ISSUANCE OF A:

Development Variance Permit No.: DVP12-0060

EXISTING ZONING DESIGNATION: RU6 - Two Dwelling Housing
DEVELOPMENT VARIANCE: To vary the required 120° panoramic sight line.

ISSUED TO: Charles & Mary Lund
LOCATION OF SUBJECT SITE: 990 Manhattan Drive

	LOT	SECTION	TOWNSHIP	DIV & DIST	PLAN
LEGAL DESCRIPTION:	16			ODYD	16501

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 a variance to the following section of Zoning Bylaw No. 8000 be granted as per schedule "A":

Section 6.11 Okanagan Lake Sight Lines: To vary the required south property line Okanagan Lake 120° Panoramic Sight Line from 120° required to 103° 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

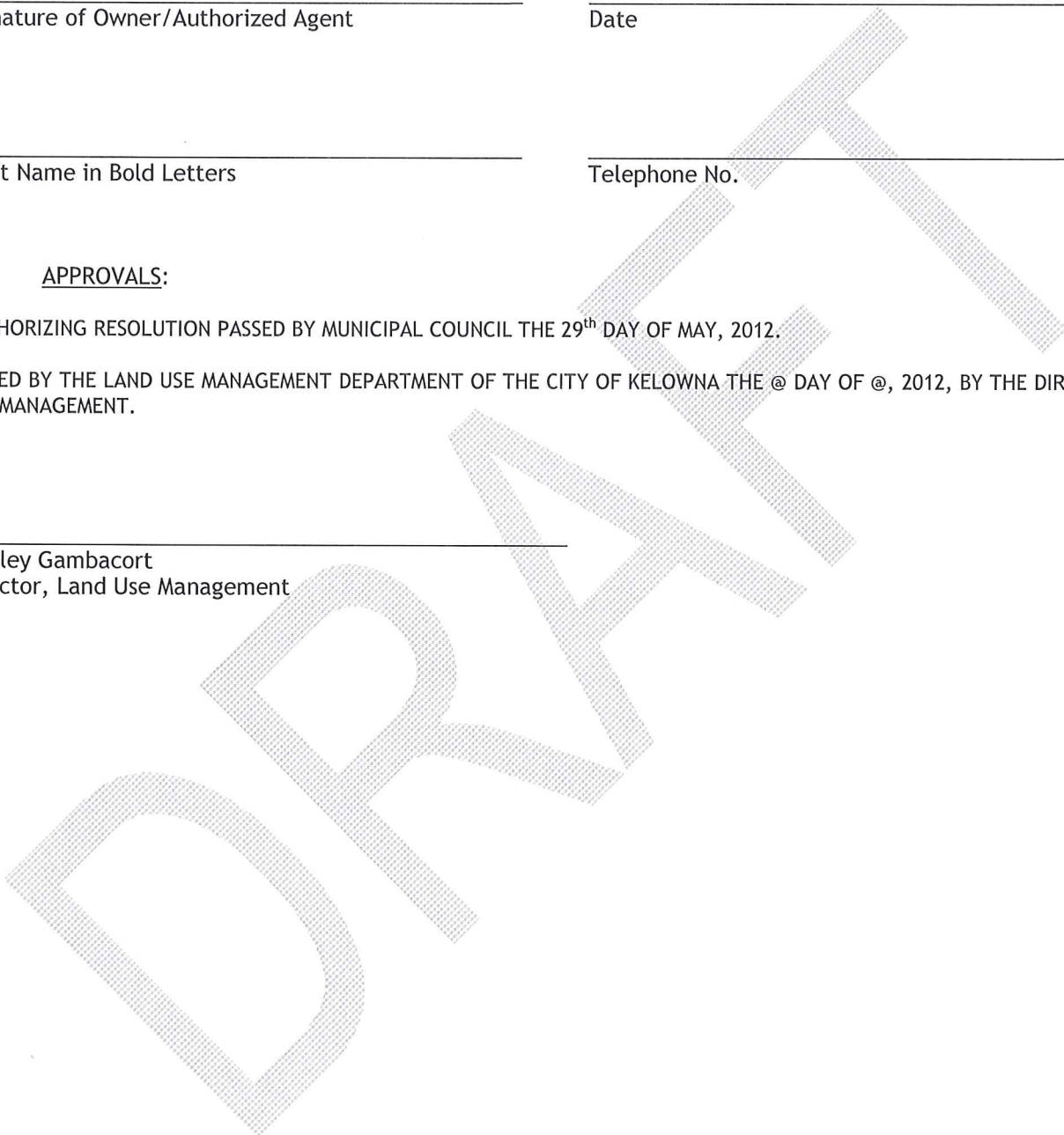
Telephone No.

5. APPROVALS:

AUTHORIZING RESOLUTION PASSED BY MUNICIPAL COUNCIL THE 29th DAY OF MAY, 2012.

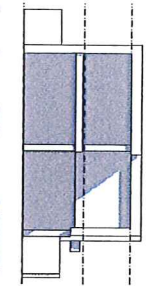
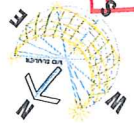
ISSUED BY THE LAND USE MANAGEMENT DEPARTMENT OF THE CITY OF KELOWNA THE @ DAY OF @, 2012, BY THE DIRECTOR OF LAND USE MANAGEMENT.

Shelley Gambacort
Director, Land Use Management

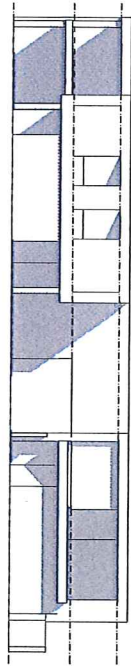


SCHEDULE "A"

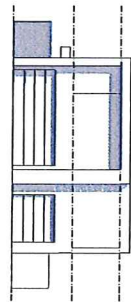
This forms part of development Permit # **DVP 12-0060**



Lake Elev (SW)



Side Elev (SE)

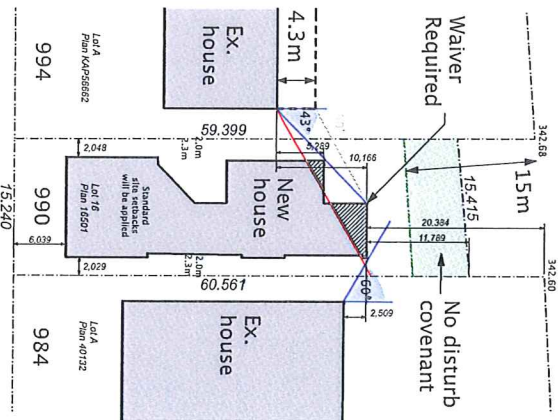
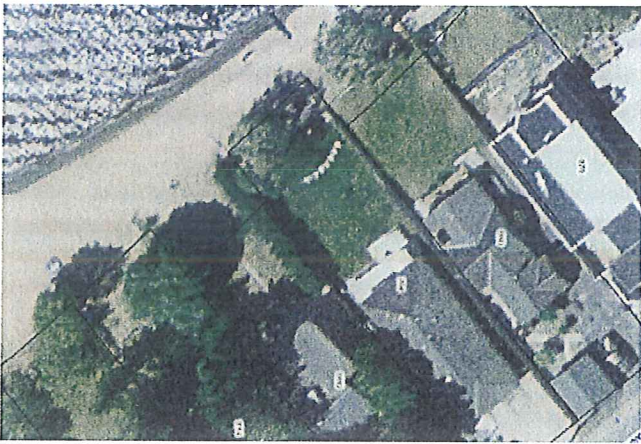


Street Elev (NE)

WAIVER REQUEST
 Owners of 990 Manhattan Dr request 4.3m advance from #990 in respect to 60degree site line rule.

Okanagan Lake

Beach



Main Floor

Upper Floor

Design Concepts

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