



The applicant has consulted ALC staff who noted that the current location is the preferable location for the protection of agricultural land and the site originally proposed would not likely be supported by the Commission by way of a "Reconsideration" (see attached letter).

The applicant also prefers the current location and is not interested in pursuing a "Reconsideration" of the ALC decision or in revising his application. The AAC was therefore not consulted a second time.

### 3.2 Proposed Access

It was unclear as to the nature of the easements over the adjacent lot to the north (Lot 1, Plan 8853) and if access to the lower portion of the subject property could be obtained through 2655 Bewlay Road.

The applicant has since supplied the City with the "Plan of Easements Through Lots 1 and 2 Plan 8853". The easement provides the applicant full and free motor vehicle access for all purposes connected with the use and enjoyment of Lot 2, should Council support the proposed rezoning.

### 3.3 Hazardous Condition Development Permit (DP) Requirements

The City of Kelowna has mapped Hazardous Conditions with respect to steep slopes among other geotechnical conditions. Much of the western portion of the subject property is mapped as hazardous conditions due to the presence of steep slopes.

A DP is required prior to "alteration of land, including but not limited to clearing, grading, blasting, preparation for or construction of services, and roads and trails; and/or, construction of, addition to, or alteration of a building or structure<sup>1</sup>". An exception is with respect to "Right to Farm" legislation which would permit the alteration of land as part of normal farm practices (e.g. terracing) without first obtaining a DP. The proposed development would therefore require the issuance of a Development Permit which is issued at a staff level.

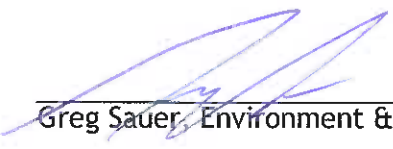
A DP requires among other things, assurance that the land proposed for development is safe for the intended use. A Geotechnical Engineer (P.Eng) is required to provide a letter/report concluding that the development can be safely constructed and outlining conditions to safely develop the site. Conditions may result in the City collecting Performance Bonding to ensure that the prescriptions are met.

The applicant has provided a letter from a geotechnical professional (see attached) and which concludes that the site could be safely developed upon.

## 4.0 Application Chronology

Application Received (ALC & Rezoning):	January 27, 2011
Council Consideration of non-farm use application:	July 7, 2011
ALC decision regarding the non-farm use received:	February 21, 2012
Initial Consideration (Rezoning):	March 26, 2012
Public Hearing:	April 17, 2012

### Report prepared by:

  
 \_\_\_\_\_  
 Greg Sauer, Environment & Land Use Planner

<sup>1</sup> Official Community Plan - Hazardous Conditions Development Permit Guidelines Chapter (p. 13.1)

Approved for Inclusion:



Shelley Gambacort, Director of Land Use Management

**Attachments:**

Covering Letter re: Discussion with ALC staff (1 page)

Easement over 2655 Bewlay Road (3 pages)

Geotechnical Assurance Letter - Interior Testing Services Ltd. (2 pages)

**City of Kelowna  
Greg Sauer  
Land Use Planner**

**Dear Sir:**

**Re: Application for non Farm uses within the Agricultural Land Reserve.**

*Shelley Grambacort 2008*  
**Following up on our last meeting with yourself and ~~Sandi Horning~~. We explored the idea of putting the house on the top section of the land, but needed to approach the ALR for their feed back.**

**I spoke with Martin Collins, he seemed to be handling the file (52541).**

**He informed me that it would likely not happen since the sight could be used for agricultural purposes.**

**I would like to stay with the original plan and but it down below.**

**Perhaps move the house sight in the southeast corner that way it would not be right on top of the neighbours houses. Just a thought?.**

**Trying to accommodate as much as I can.**

**Your truly.**

**Domenic Panucci**

THIS INDENTURE made the 58 day of March, A.D. 1970,  
BETWEEN:

WILLIAM JESSE MURRELL, gentleman, of  
Box 93, Beaverdam, British Columbia,  
(hereinafter called the "Grantor"),

OF THE ONE PART,

AND:

ARTHUR KREBS, orchardist, of Box 16,  
East Kelowna, British Columbia,  
(hereinafter called the "Grantee"),

OF THE OTHER PART,

WHEREAS the Grantor is the owner in fee simple of that  
certain tract of land and premises lying and being in the Vernon  
Assessment District and South East Kelowna Irrigation District and  
Province of British Columbia and more particularly known and des-  
cribed as:-

Lot One (1), Section Sixteen (16),  
Township Twenty-six (26),  
Osoyoos Division Yale District,  
Plan Eight Thousand Eight Hundred Fifty-three (8853),

1953/15

hereinafter referred to as "Lot One (1)".

AND WHEREAS the Grantee is the registered owner in fee  
simple of that certain tract of land and premises situate lying  
and being in the Vernon Assessment District and South East Kelowna  
Irrigation District and Province of British Columbia and more par-  
ticularly known and described as:-

Lot Two (2), Section Sixteen (16),  
Township Twenty-six (26),  
Osoyoos Division Yale District,  
Plan Eight Thousand Eight Hundred Fifty-three (8853),

hereinafter referred to as "Lot Two (2)".

Particulars for Registration:

- (a) Charge by way of Right of Easement.
- (b) Address of Grantee is Box 16, East Kelowna, B.C.
- (c) Fillmore & Company, Barristers & Solicitors,  
1470 Water Street, Kelowna, B.C. 762-4222 - agents, for grantees.
- (d) Value - \$100.00.
- (e)

Arthur Krebs  
Applicant - G. Nikirk

Registered in 26 March  
70 On Application Received  
of the Title Registrar  
On the Application

Agreement of Sale  
March 26 1970



AND WHEREAS the Grantor has agreed to grant unto the Grantee an Easement under the terms hereinafter set forth over that part of Lot One (1) outlined in red on Plan registered in the Land Registry Office, Kamloops, British Columbia, under No. A9140 (hereinafter called the "Easement area") to the intent that the burden of the Easement covenants will run with and bind the said Lot One (1).

AND WHEREAS the Easement rights granted herein shall be appurtenant to the said Lot Two (2) and any future subdivided part or parts thereof, to the intent that the benefit of the Easement will be annexed to and devolve with each and every part of the said Lot Two (2),

NOW THEREFORE THIS INDENTURE WITNESSETH that in consideration of the premises and of the sum of One Dollar (\$1.00) now paid to the Grantor by the Grantee (the receipt of which is hereby by the Grantor acknowledged) and in consideration of the mutual covenants and conditions hereinafter set forth, the parties hereto agree as follows:-

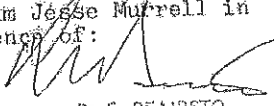
1. The Grantor DOES HEREBY GRANT, convey and transfer unto the Grantee, and his respective personal representatives, successors and assigns as owners of the aforesaid Lot Two (2) the FULL AND FREE right and liberty for the Grantee his personal representatives, successors and assigns as owners of the said Lot Two (2) and all other persons with his or their permission in common nevertheless with all other persons having a like right at all times hereafter by day or night, with or without conveyances, motor vehicles of any description for all purposes whatsoever connected with the use and enjoyment of the said Lot Two (2), (howsoever used and occupied) to pass and repass along over the said Easement area, the said Easement rights granted herein to be appurtenant as aforesaid to the said Lot Two (2).

2. The respective rights of the parties hereto shall be of the same force and effect to all intents and purposes as a covenant running with the land and these presents, including all covenants


and conditions herein contained, shall extend to and be binding upon and enure to the benefit of not only the parties hereto but their respective executors, administrators, successors and assigns, and wherever the singular or masculine pronoun is used the same shall be construed as meaning the plural or feminine or body corporate where the context or the parties so require.

IN WITNESS WHEREOF the parties hereto have set their hands and seals the day and year first above written.

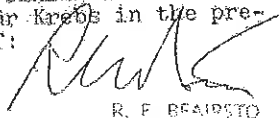
SIGNED, SEALED AND DELIVERED  
by William Jesse Murrell in  
the presence of:



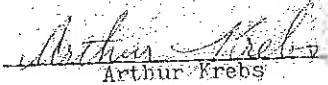
R. E. BEAIRSTO  
BARRISTER & SOLICITOR  
1470 Water Street  
KELOWNA, B.C.

  
William Jesse Murrell

SIGNED, SEALED AND DELIVERED  
by Arthur Krebs in the pre-  
sence of:



R. E. BEAIRSTO  
BARRISTER & SOLICITOR  
1470 Water Street  
KELOWNA, B.C.

  
Arthur Krebs



MATERIALS TESTING • SOILS  
CONCRETE • ASPHALT • CORING  
GEOTECHNICAL ENGINEERING

7 - 1925 KIRSCHNER ROAD  
KELOWNA, B.C. V1Y 4N7  
PHONE: 860-6540  
FAX: 860-6027

Mr. Domenic Panucci  
Box 28001 RPO East Kelowna  
Kelowna, B.C. V1W 4A6

May 15, 2012  
Job 12.051

Dear Sir:

Re: **Geotechnical Considerations  
Proposed Shop  
3380 Neid Road  
Kelowna, B.C.**

---

As requested, Interior Testing Services Ltd. (ITSL) has reviewed the above noted lot with respect to the proposed shop on the lower western portion of the site. We attach a copy of our two page "Terms of Engagement", which forms the basis on which we undertake this work. Our general comments are as follows.

The site was visited on May 7, 2012. In general, the site is mainly level on the upper east side, and then slopes down to the west at the rear of the main residence. You advise that the rear slope was terraced in 2006 to allow for future vineyard planting. Based on the City of Kelowna mapping, the rear slope previously existed at roughly 16 degrees. The site currently has three roughly level benches and the slopes between have been finished to approximately 1.5 Horizontal to 1 Vertical.

Based on our experience in the general area and observations of the regraded terrace slopes, the general site is expected to consist of competent sand and gravel soils. To that end, there do not appear to be any significant geotechnical hazards related to the proposed shop.

You advise that the proposed shop is to be constructed in the lower level bench area, with access from an easement off of Bewlay Road. It is possible that some minor landscaping walls may be required, but global slope stability issues do not appear to be significant. Similarly, surface erosion is not expected to be a critical issue provided that finished slopes are well vegetated. As a minimum, all finished slopes should be no steeper than 1.5 Horizontal to 1 Vertical and vegetated with hydro seeding, landscaping or similar to reduce the potential for surface erosion.

With respect to drainage, we recommend that perimeter drainage for the shop be directed to a rock pit/trench to the west and downhill of the proposed shop. Roof drainage can be directed to splash pads for disposal over the ground surface. In addition, finished grades should be directed away from the shop to reduce the potential for surface water infiltration into the backfill zone.



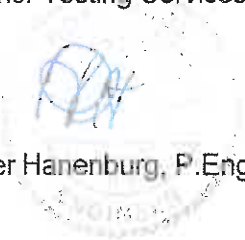
As noted, based our site meeting, construction of the proposed shop appears adequate for this site. Specifically with respect to seismic slope stability, it appears reasonable, in our opinion, to conclude that there is less than 2% probability of failure in a 50 year period, as required by the 2006 BC Building Code.

Please call for a site inspection once excavation for the shop is completed so ITSL can verify bearing conditions. In addition, ITSL can provide further design guidance with respect to proposed retaining walls if desired

We trust this will assist you. Please call if you have any questions.

Yours truly,

Interior Testing Services Ltd.



Peter Hanenburg, P.Eng.