

REPORT TO COUNCIL



Date: August 8, 2012
To: City Manager
From: Land Use Management, Community Sustainability (GS)
Application: DVP12-0100 **Owner:** Stephen Krysko
Donara Krysko
Address: 5460 Lakeshore Road **Applicant:** Davara Holdings Ltd.
(Dave Sargent)
Subject: Development Variance Permit Application
Existing OCP Designation: Resource Protection Area
Existing Zone: RR1- Rural Residential 1
Proposed Zone: RR1s- Rural Residential 1 with Secondary Suite

1.0 Recommendation

THAT final adoption of Zone Amending Bylaw No. 10747 be considered by Council;
AND THAT Council authorize the issuance of Development Variance Permit No. DVP12-0100 for Lot 2, Section 22, Township 28, SDYD Plan EPP15367 located at 5460 Lakeshore Road, Kelowna, BC;

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

Section 6.5.6 Accessory Development

Vary the requirement that an accessory building or structure to be used as a dwelling and which is greater than one storey, include an attached garage or carport;

Section 9.5.10 Secondary Suites

Vary the requirement that a secondary suite in an accessory building greater than one storey include an attached garage or carport;

Section 12.1.6(a) RR1 Development Regulations

Vary the maximum site coverage from 10% permitted to 23% proposed, as per schedule "A";

Section 12.1.6(c) RR1 Development Regulations

Vary the minimum front yard setback from 6.0m required to 4.7m proposed as per schedule "A";

Section 12.1.6(d) RR1 Development Regulations

Vary the minimum side yard setback from 3.0m required to 1.0m proposed as per schedule "A".

2.0 Purpose

To obtain Council approval to issue a Development Variance Permit to:

- increase the permitted site coverage from 10% required to 23% proposed;
- reduce the front yard from 6.0 m required to 4.7 m proposed;
- reduce the required side yard from 3.0 m required to 1.0 m proposed; and,
- to vary the requirement that a secondary suite in an accessory building greater than one storey include an attached garage or carport.

3.0 Land Use Management

The proposed development requires variances which range from side and front yard setback to site coverage and two parking regulations. The yard encroachments are for portions of the structure which are within required front and side yards. The side yard variance has been agreed to by the affected landowner and the applicant is aware that a reduced setback may impact on the home design in terms of building separation and “unprotected openings”. The front yard setback will not impact on City services and the change in elevation from Lakeshore Road will limit visual impacts.

The requested variances relating to parking requirements in an accessory building are of no concern in this location given that the proposal provides for four parking spaces, which exceeds the three required. Further, the accessory structure already exists among a steep hillside environment and would be a technical challenge to retrofit to comply with these regulations. Regulations with respect to providing parking in conjunction with a secondary suite has greater application in urban environments where parking is typically of greater concern to residents.

The most significant variance being sought is with respect to site coverage (from 10% permitted to 23% proposed). The site coverage variance results from the subject property being zoned Rural Residential, but in terms of size is more consistent with the Large Lot Urban Residential (i.e. RU1) zone which allows for 40% site coverage. Given the amount of land that will remain undeveloped site coverage should not be an issue. The applicant will however need to demonstrate that they can contain the rainwater on this site. To assist with rainwater retention the applicant is voluntarily proposing to construct using green roof technologies. This type of proactive approach to rainwater retention and green building while not required is encouraged.

Concern was raised by Council with respect to technical comments by the Fire Department as part of the initial consideration of the rezoning file associated with this property. In the time since, the applicant has worked with City staff to come to a resolution that satisfies the needs of the Fire Department.

Given that the applicant has provided evidence that the adjacent neighbours are supportive of the proposed development and the variances will not negatively impact municipal services, staff support the proposed variances.

4.0 Proposal

4.1 Project Description

The applicants are seeking to construct a new principal dwelling and enclosed pool on the subject property where a small dwelling (i.e. beach house) currently exists. Once the new dwelling is constructed, the beach house will become a secondary suite in an accessory structure and subject to these regulations.

The proposed development requires five variances to zoning requirements as described above.

4.2 Site Context

The subject property is located on the north side of Lakeshore Road and is a lakefront property in the Southwest Mission Sector. The property is set among a number of rural residential properties along the lake and a larger agricultural holding.

The subject property is in a Natural Environment Development Permit Area which reflects both the proximity to Okanagan Lake and the steep slopes rising from Okanagan Lake to the proposed building envelopes. A Natural Environment Development Permit will be required to ensure that the natural areas are adequately protected from disturbance; and the steep slope concerns are adequately mitigated.

The surrounding properties are zoned as follows:

Orientation	Zoning	Land Use
North	None	Okanagan Lake
East	RR1 - Rural Residential 1	Rural residential
South	A1 - Agriculture 1	Agriculture
West	RR1 - Rural Residential 1	Rural residential

4.3 Subject Property Map : 5460 Lakeshore Road



4.4 Zoning Analysis Table

The proposed application conforms or does not conform to the RR1s - Rural Residential 1 with Secondary Suite zone as follows:

Zoning Analysis Table		
CRITERIA	PROPOSAL	RR1s ZONE REQUIREMENTS
Subdivision Regulations		
Lot Area	2,080 m ²	10,000 m ²
Lot Width	22.9 m	40.0 m
Lot Depth	85 m	30.0 m
Development Regulations		
Site Coverage	23 % ①	10 %
Height	2 storeys/ 7.4 m	2 ½ storeys / 9.5 m
Front Yard	4.7 m ②	6.0 m
Side Yard (east)	3.0 m	3.0 m
Side Yard (west)	1.0 m ③	3.0 m
Rear yard	20.4 m	10.0 m / 3.0 m (acc. buildings)
Other Requirements		
Accessory Building Height	4.5 m	6.0 m
Max. Floor Area Secondary Suite	58 m ²	90 m ² or 75% of floor area of principal building
Required Open Space	>30m ²	30 m ²
Garage in an accessory structure	0 ④	1
Parking	4	3

① A variance is being sought to increase permitted site coverage from 10% required to 23% proposed.

② A variance is sought to reduce the front yard from 6.0 m required to 4.7 m proposed.

③ A variance is being sought to reduce the required side yard from 3.0 m required to 1.0 m proposed.

④ Variance to the requirement that a secondary suite in an accessory building greater than one storey must include an attached garage or carport.

4.0 Current Development Policies

Natural Environment Development Permit Guidelines - Water and Drainage¹

8.9 Promote the collection, storage and use of rainwater.

8.10 Require that development proposals incorporate rainwater best management practices to ensure that post-development peak flows do not exceed pre-development peak flows (e.g. green roofs, underground rain water storage system and rain barrels).

¹ City of Kelowna 2030 Official Community Plan: Greening Our Future (2011), Natural Environment Development Permit Guidelines Chapter; p. 12.7 & 12.8.

- 8.11 Require that drainage plans address the effective and environmentally sensitive handling of peak flows.
- 8.15 Retain as much existing vegetation as possible and plant native trees and shrubs to restore the vegetative mass where clearing has occurred.
- 8.16 In the context of land disturbance, the applicant will ensure the safe collection and conveyance of onsite drainage such that no downstream or immediately adjacent properties are adversely affected. Such works will also divert drainage away from hazardous condition (e.g. steep slopes) areas.

5.0 Technical Comments

5.1 Building & Permitting Department

- a. The side yard setback of less than 1.2 meters will require upgraded fire separation and no unprotected opening (door or windows) which may affect the form and character of the structure.
- b. Fire fighting access for the beach house is not good if intended for a residential use.

5.2 Fire Department

The Fire Department originally noted concern that the proposed construction of the upper home eliminated emergency access to the lower (lakeside) home. The applicant has since provided an alternative solution (i.e. a 1.5" standpipe from the top parking area to the lower dwelling) that allows the Fire Department to support both the rezoning and the proposed variances.

5.3 Development Engineering

This Development Variance Permit application does not compromise any municipal services.

6.0 Application Chronology

Date of Application Received: May 25, 2012
Refinement of proposal submissions (letter of support received): July 24, 2012
Initial Consideration of Proposed Rezoning: August 7, 2012

Report prepared by:




Greg Sauer, Environment & Land Use Planner

Reviewed by:

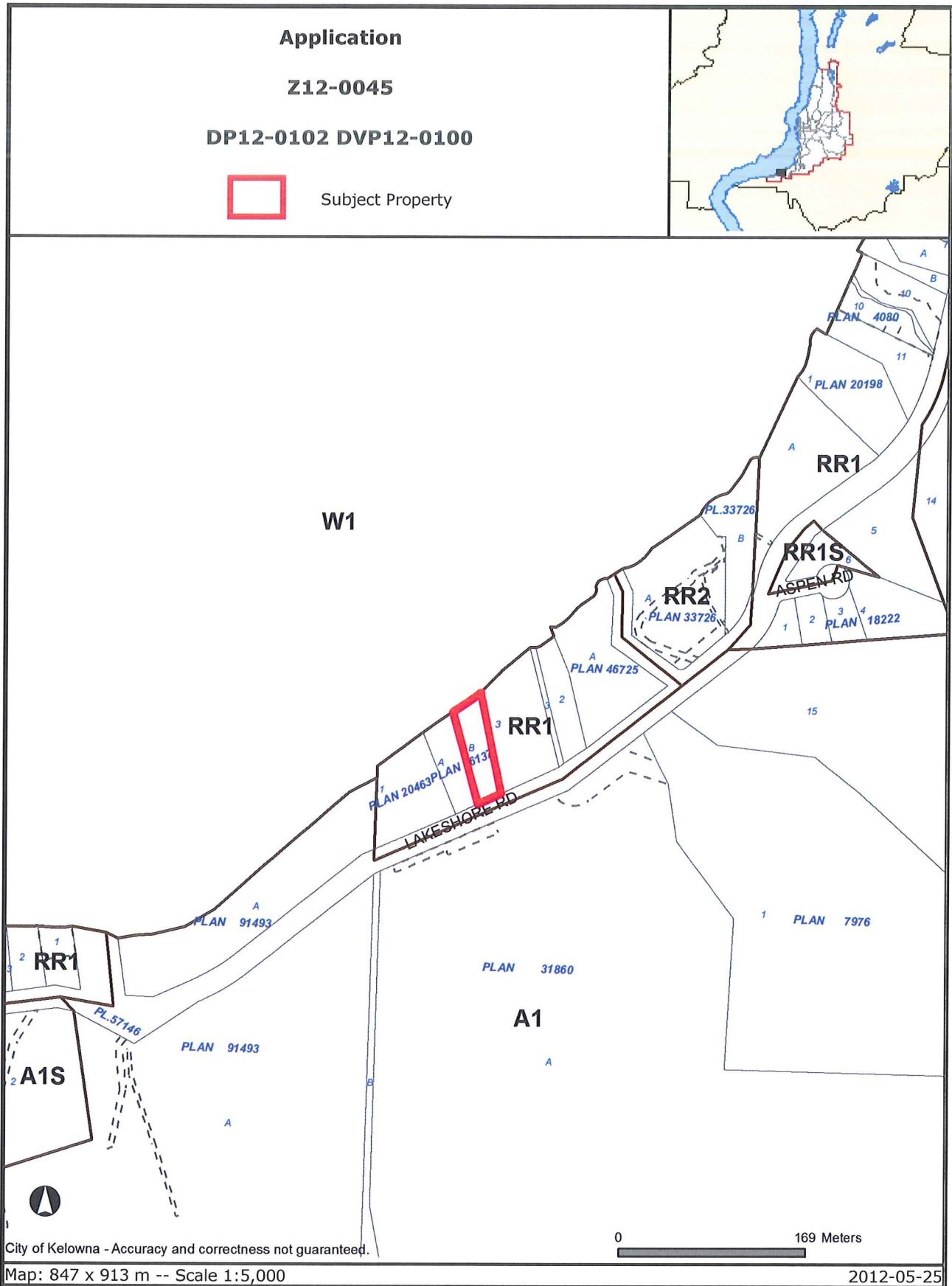
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Danielle Noble Manager, Urban Land Use

Approved for Inclusion:

 _____
Shelley Gambacort, Director, Land Use Management

Attachments:

Subject Property Map
Context/Site Photo
Draft 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.



CITY OF KELOWNA

APPROVED ISSUANCE OF A:

Development Variance Permit No.: DVP12-0100

EXISTING ZONING DESIGNATION:	RR1 - Rural Residential
DEVELOPMENT VARIANCE:	To vary Section 6.5.6 Accessory Development; Section 9.5.10 Secondary Suites; Section 12.1.6(a) RR1 Development Regulations; Section 12.1.6(c) RR1 Development Regulations; and Section 12.1.6(d) RR1 Development Regulations.

ISSUED TO:	Davara Holdings Ltd.
LOCATION OF SUBJECT SITE:	5460 Lakeshore Road

	LOT	SECTION	TOWNSHIP	DIV & DIST	PLAN
LEGAL DESCRIPTION:	2	22	28	SDYD	EPP15367

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:

Section 6.5.6 Accessory Development: To vary the requirement that an accessory building or structure to be used as a dwelling and which is greater than one storey, include an attached garage or carport;

Section 9.5.10 Secondary Suites: To vary the requirement that a secondary suite in an accessory building greater than one storey include an attached garage or carport;

Section 12.1.6(a) RR1 Development Regulations: To vary the maximum site coverage from 10% permitted to 23% proposed, as per schedule "A";

Section 12.1.6(c) RR1 Development Regulations: To vary the minimum front yard setback from 6.0m required to 4.7m proposed, as per schedule "A";

Section 12.1.6(d) RR1 Development Regulations: To vary the minimum side yard setback from 3.0m required to 1.0m 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

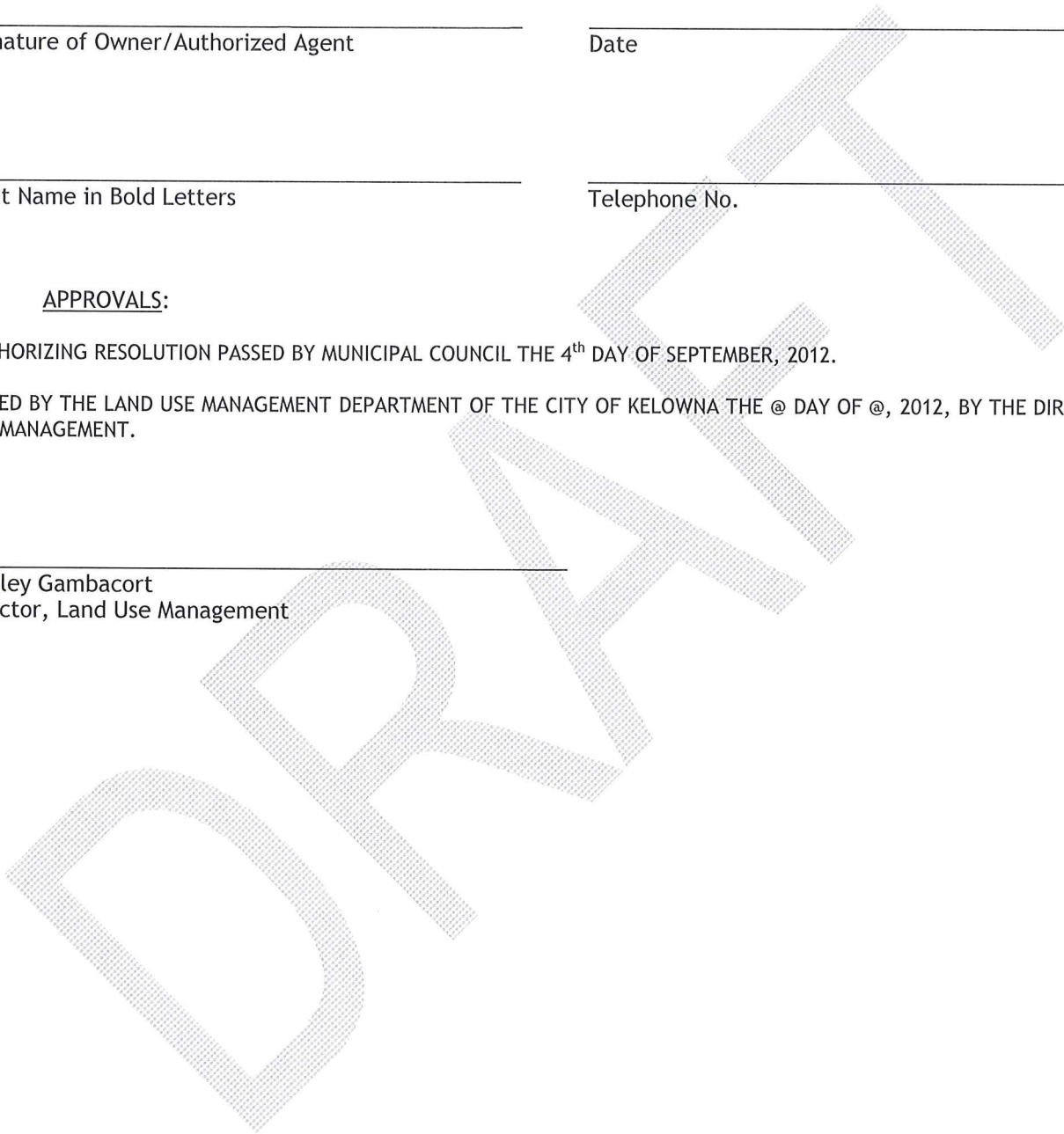
Telephone No.

5. APPROVALS:

AUTHORIZING RESOLUTION PASSED BY MUNICIPAL COUNCIL THE 4th DAY OF SEPTEMBER, 2012.

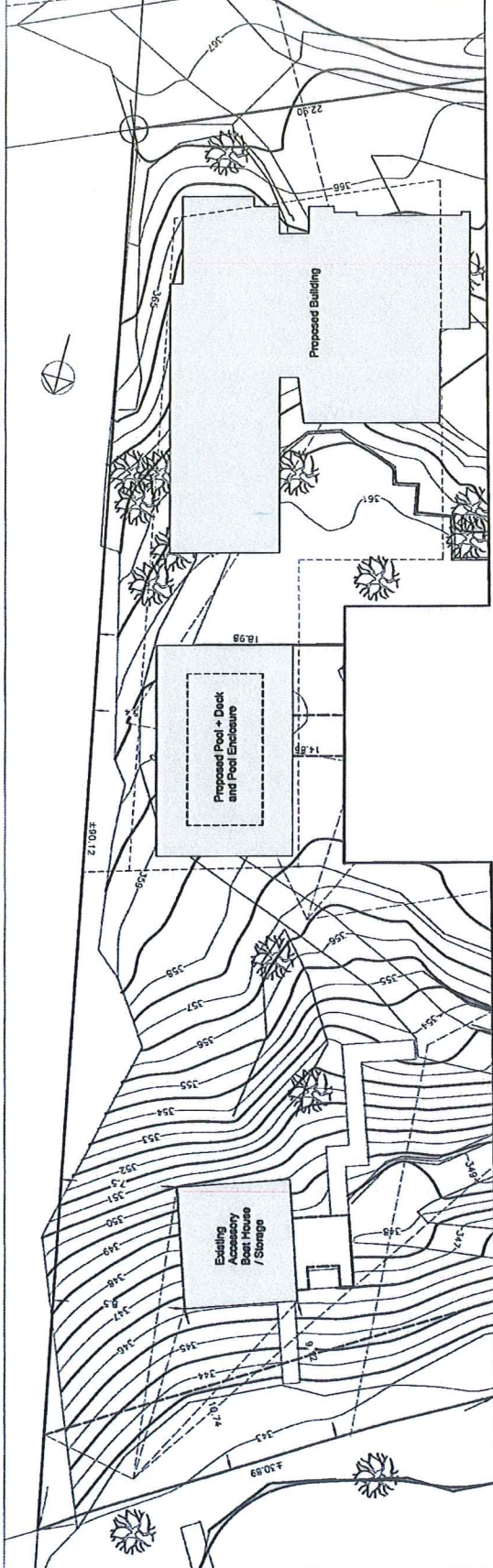
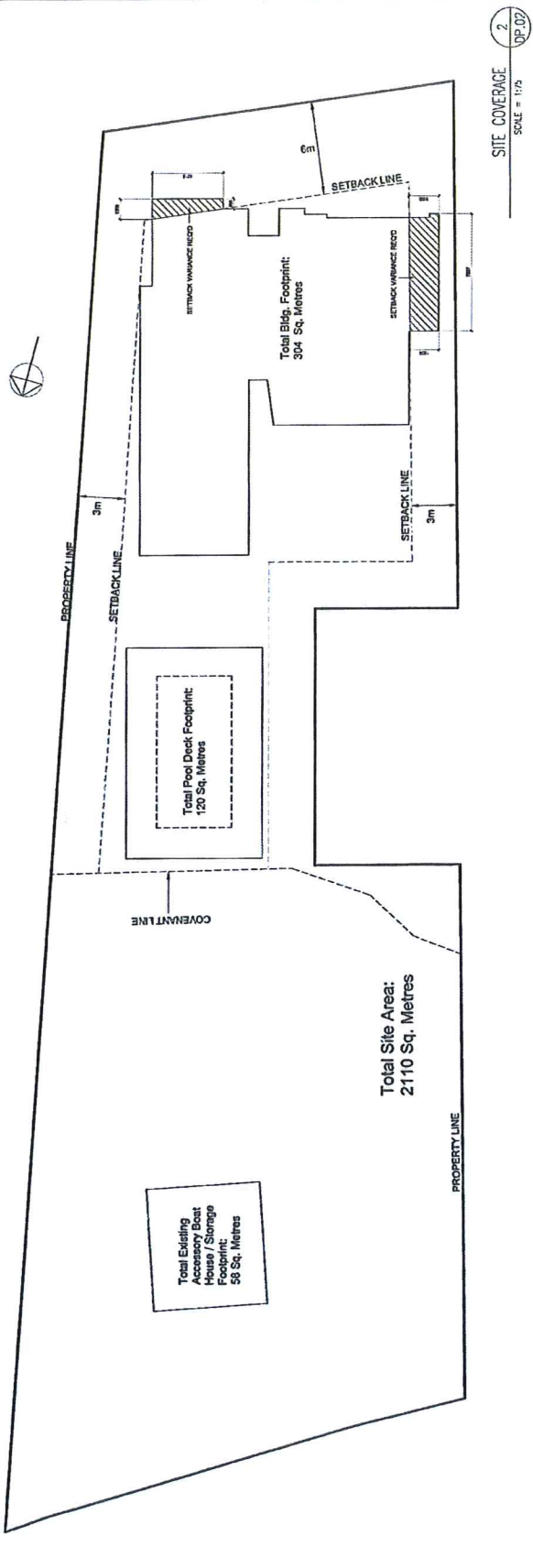
ISSUED BY THE LAND USE MANAGEMENT DEPARTMENT OF THE CITY OF KELOWNA THE @ DAY OF @, 2012, BY THE DIRECTOR OF LAND USE MANAGEMENT.

Shelley Gambacort
Director, Land Use Management



NO.	DESCRIPTION	DATE	BY	CHKD.

DESIGNED BY	
CHECKED BY	
DATE	
SCALE	
APPROVED	
SCALE	
AS NOTED	



SCHEDULE "A"
 This forms part of development
 Permit # **DVP12-0100**