

REPORT TO COUNCIL



Date: October 4, 2012

To: City Manager

From: Land Use Management, Community Sustainability

Application: DVP12-0169

Owner: Kenneth Pendleton
Carolyn Pendleton

Address: 4256 Hobson Road

Applicant: Shoreline Pile Driving

Subject: Development Variance Permit

Existing OCP Designation: None

Existing Zone: W1 - Recreational Water Use

1.0 Recommendation

THAT Council authorize the issuance of Development Variance Permit No. DVP12-0169 for Lot 1, District Lot 167 ODYD, Plan KAP91903, located at 4256 Hobson Road, Kelowna, BC;

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

Section 16.6.6(a) Other Regulations

Vary the maximum permitted length of a dock from 40.0m required to 45.7m proposed as per schedule "A".

2.0 Purpose

To obtain Council approval to issue a Development Variance Permit to extend the maximum permitted length of a dock in the W1 - Recreational Water Use zone.

3.0 Land Use Management

Restrictions on dock length exist to ensure that navigation on the lake is not impeded or made unsafe; to protect from visual impacts from both the lake and from land; and to ensure that impacts to fish and wildlife are minimized. Dock extensions can be precedent setting and the cumulative impacts could result in the natural beauty of Okanagan Lake and the species that rely on it to be impacted in a negative way.

Despite the above, there are cases within the City where water depths remain quite shallow within the 40 metres from high water mark permitted for docks to be constructed. Shallow waters make navigation and moorage challenging, especially at lower lake levels. In these cases a dock extension is a reasonable solution where the structure has been permitted by the Province who issues the License of Occupation. The subject property has been granted conditional approval of the 45.7m long dock as proposed to the City of Kelowna.

Further, the applicant has consulted with adjacent neighbours to the north and south. The applicant has submitted signed letters by each of the affected property owners who support the proposed variance.

Given the above considerations, the Land Use Management Department recommends support for the proposed variance.

4.0 Proposal

The property owner seeks to construct a pile supported dock into Okanagan Lake which is proposed to be 45.7m in length. The applicants suggest that the requested extra length of 5.7m is to access deeper water that will allow for boat moorage. The proposal is consistent with docks constructed in this area and is shorter than an existing dock which is located directly to the west of the subject property. The proposed dock complies with all other zoning regulations.

The requested variance is summarized below:

Criteria	Proposal	Bylaw Requirements
Maximum dock length	45.7m	40.0m

4.1 Site Context

The subject property located at 4256 Hobson Road is a lake front property located in the North Mission-Crawford sector. The surrounding area is comprised of large lot residential properties.

The immediately adjacent zones/uses are as follows:

- North W1 - Recreational Water Use
- South RU1 - Large Lot Housing
- East RU1 - Large Lot Housing
- West RU1 - Large Lot Housing

Figure 1: Site Location Map - 4256 Hobson Road



5.0 Current Development Policies/Regulations

5.1 Official Community Plan

Objective 5.15 Ensure environmentally sustainable development¹.

Policy .1 No Net Loss of Aquatic Habitat Productivity. Require "no net loss" with respect to land use decisions that affect aquatic habitat based on the "no net loss" principle of the Department of Fisheries and Oceans policy. No individual land use or development project should result in a net loss in habitat productivity as determined through environmental assessment in land use decisions and project approvals that affect aquatic habitats as identified on the Natural Environment DP Map 5.5. In the long term the City will strive for a net gain in overall productivity of the city's aquatic habitats. "Tradeoffs" in the interest of land development will only be supported when long term net gains in habitat productivity can be substantiated.

Objective 6.1 Protect and enhance Kelowna's biodiversity².

Policy .1 Natural Ecosystem Management. Ensure the protection of biodiversity, the conservation of critical habitats and the sustainable use of biological resources through the incorporation of an integrated ecosystem management approach and the use of best available knowledge.

5.2 Zoning Bylaw (8000)

16.6 W1 - Recreational Water Use

16.6.6 Other Regulations³

(a) No docks, boatlifts, shall be maintained, used or constructed beyond 40.0 m from the natural boundary of the upland parcel.

6.0 Technical Comments

None.

7.0 Application Chronology

Date Application Received: September 27, 2012

Report prepared by:


Greg Sauer, Environment & Land Use Planner

Reviewed by:



Todd Cashin, Manager, Environment & Land Use

Approved for Inclusion:



Shelley Gambacort, Director, Land Use Management

Attachments:

Subject Property Map (1 page)

Dock Plans (2 pages)

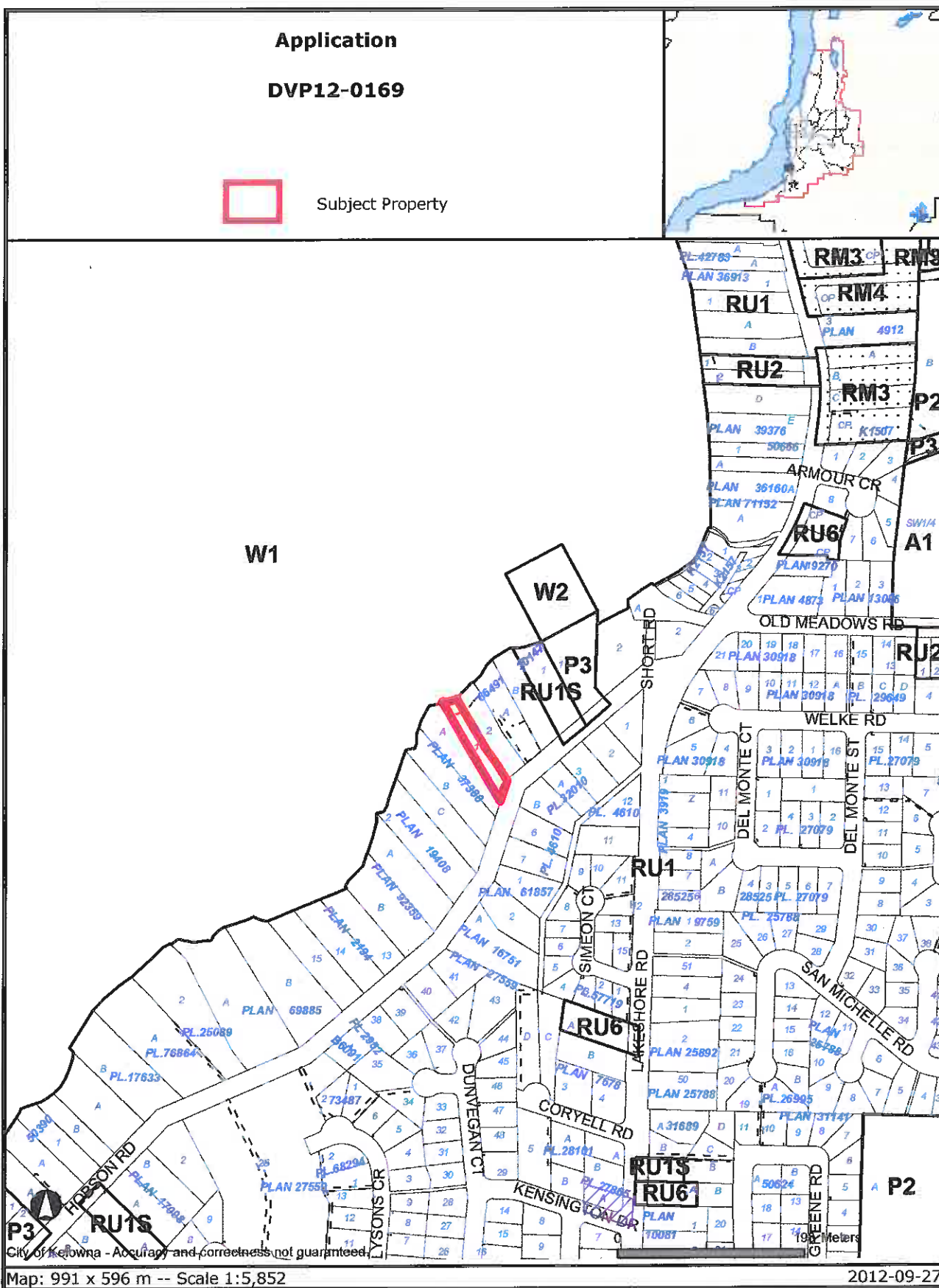
Photo (1 page)

Draft Permit (4 pages)

¹ City of Kelowna Official Community Plan (Development Process Chapter) - p. 5.17.

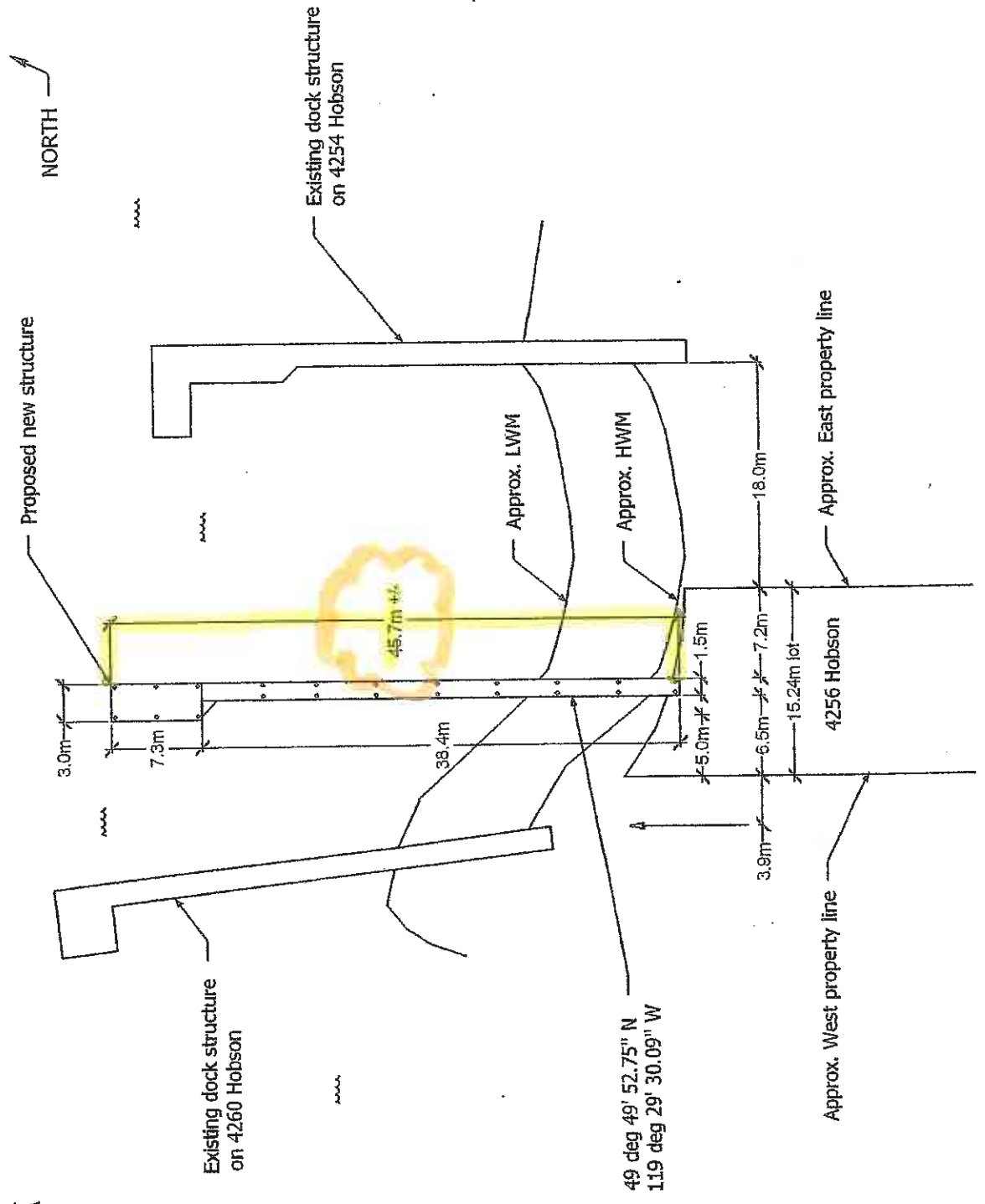
² City of Kelowna Official Community Plan (Environment Chapter) - p. 6.1.

³ City of Kelowna Zoning Bylaw, Section 16.6.6(a) (Other Regulations) - p. W1-1.

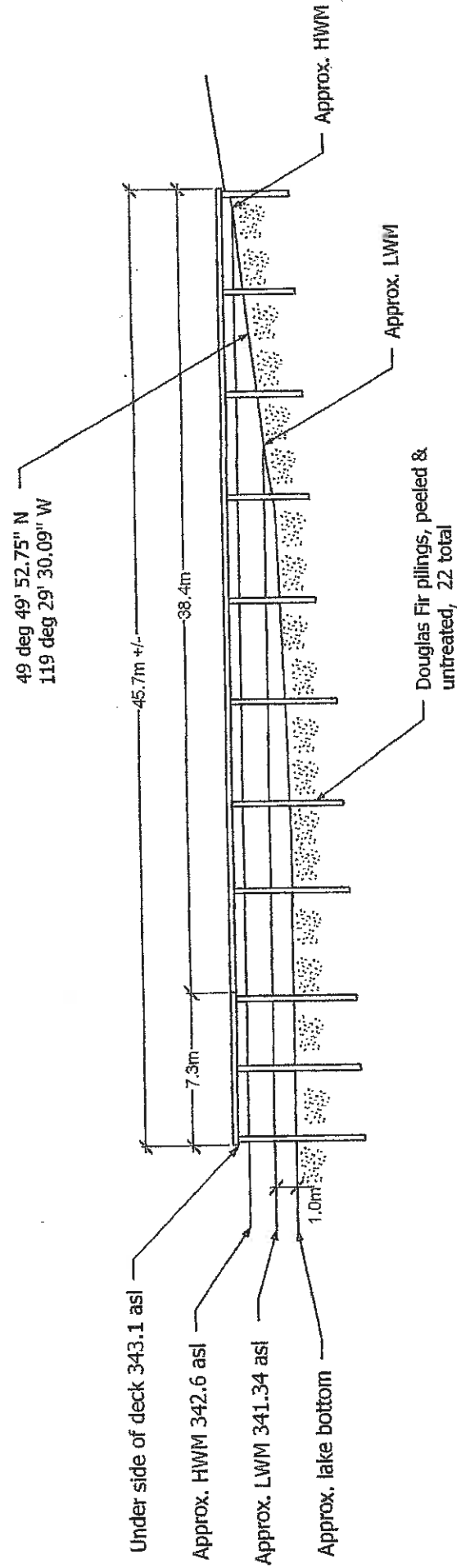


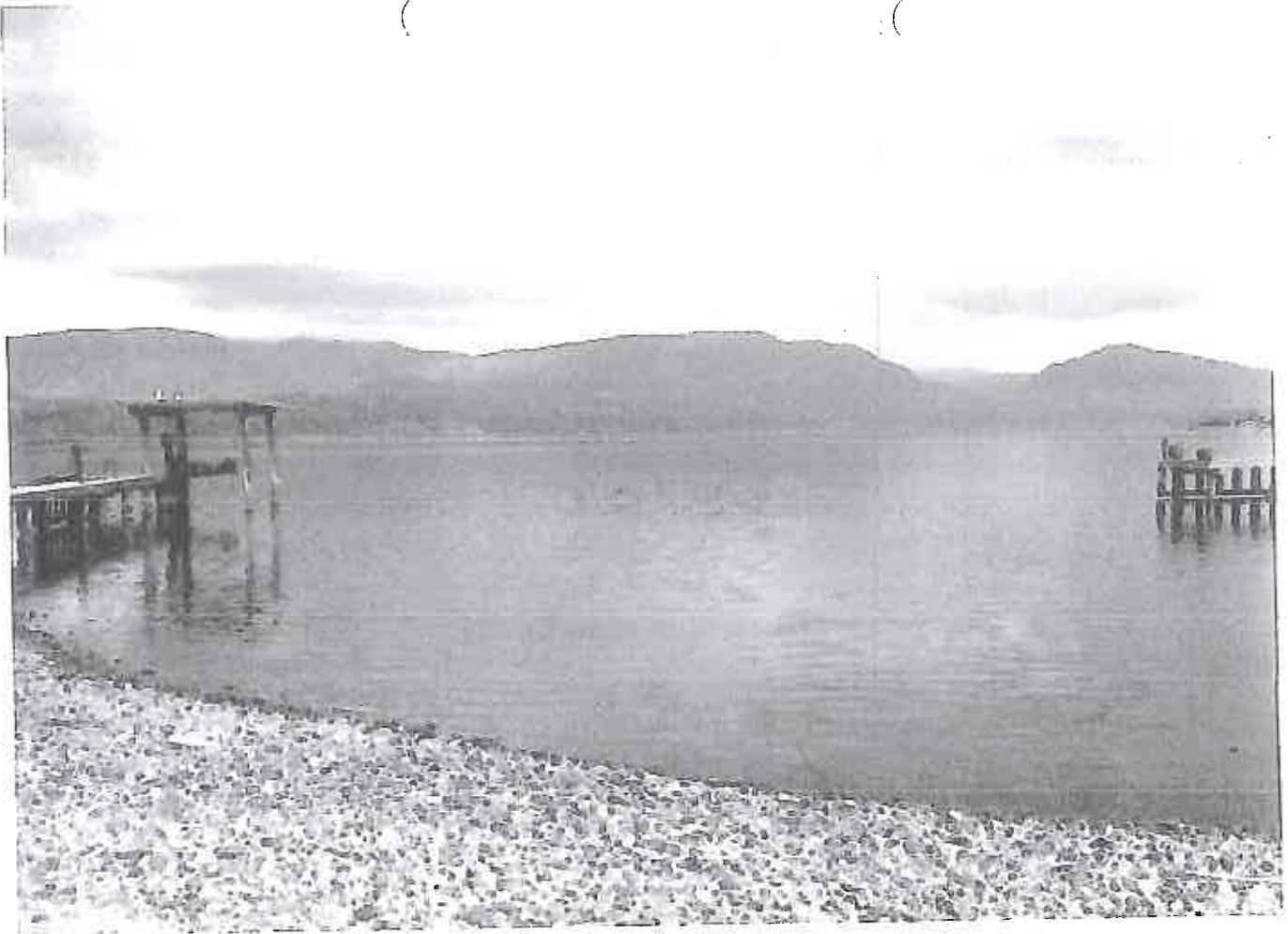
Okanagan Lake

Ken & Carol Pendilton
Lot 1, Plan num. KAP91903,
Dist. lot 167, Land dis. 41
PID 028-531-221
Plot plan Drw A



Ken & Carol Pendilton
Lot 1, Plan num. KAP91903,
Dist. lot 167, Land dist. 41,
PID 028-531221
Side Elevation Drw B





Ken and Carol Pendleton
4256 Hobson Road
PID: 028-531-221

CITY OF KELOWNA

APPROVED ISSUANCE OF A:

Development Variance Permit No.: DVP12-0169

EXISTING ZONING DESIGNATION:	W1 - Recreational Water Use
DEVELOPMENT VARIANCE:	To vary the maximum permitted length of a dock in the W1 - Recreational Water Use zone.

ISSUED TO:	Shoreline Pile Driving
LOCATION OF SUBJECT SITE:	4256 Hobson Road

	LOT	District Lot	TOWNSHIP	DIV & DIST	PLAN
LEGAL DESCRIPTION:	1	167		ODYD	KAP91903

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 16.6.6(a) Other Regulations: To vary the maximum permitted length of a dock from 40.0m required to 45.7m 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

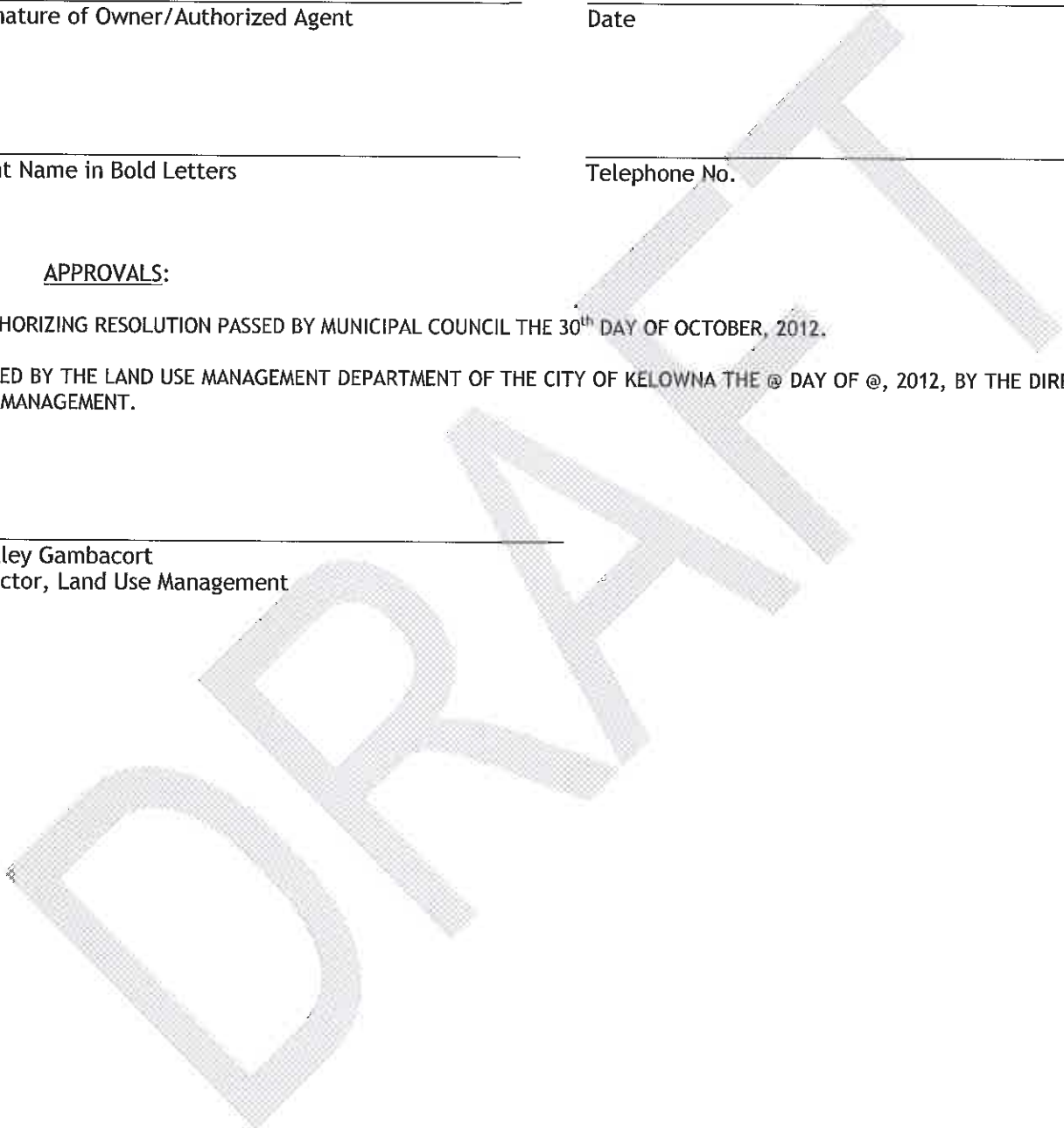
Telephone No.

5. **APPROVALS:**

AUTHORIZING RESOLUTION PASSED BY MUNICIPAL COUNCIL THE 30th DAY OF OCTOBER, 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



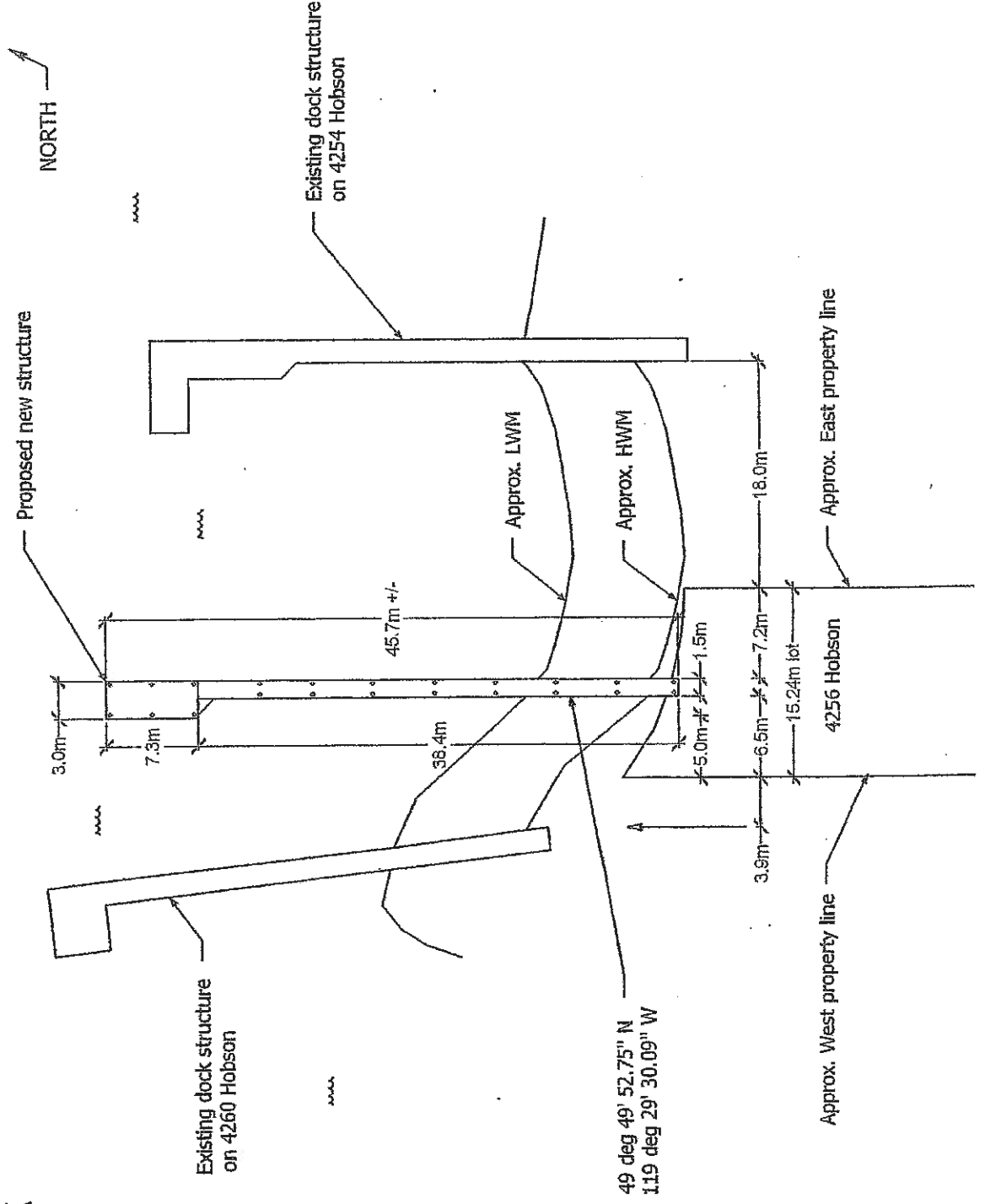
SCHEDULE "A"

This forms part of development

Permit # **DVP12-0169**

Ken & Carol Pendleton
Lot 1, Plan num. KAP91903,
Dist. lot 167, Land dis. 41
PID 028-531-221
Plot plan Drw A

Okanagan Lake



NORTH

Proposed new structure

Existing dock structure
on 4254 Hobson

Existing dock structure
on 4260 Hobson

Approx. LWM

49 deg 49' 52.75" N
1.19 deg 29' 30.09" W

Approx. West property line

Approx. East property line

4256 Hobson

15.24m lot

3.9m

6.5m

7.2m

18.0m

5.0m

1.5m

45.7m +/-

36.4m

7.3m

3.0m