

REPORT TO COUNCIL



Date: October 17, 2012
To: City Manager
From: Land Use Management, Community Sustainability (GS)
Application: DVP12-0156 **Owner:** Stephen Krysko
Donara Krysko
Address: 5462 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

1.0 Recommendation

THAT Council authorize the issuance of Development Variance Permit No. DVP12-0156 for Lot 1, Section 22, Township 28, SDYD Plan EPP15367 located at 5462 Lakeshore Road, Kelowna, BC;

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

Section 12.1.6(a) RR1 Development Regulations

Vary the maximum site coverage from 10% permitted to 17% proposed, as per schedule "A";

Section 12.1.6(d) RR1 Development Regulations

Vary the minimum side yard setback from 3.0m required to 1.2m proposed as per schedule "A"; and

Section 7.5.9 Fencing and Retaining Walls

Vary the maximum height of a retaining wall from 1.2m permitted to 2.4m proposed as per schedule "B".

2.0 Purpose

To obtain Council approval to issue a Development Variance Permit that will result in:

- an increase in the permitted site coverage from 10% allowed to 17% proposed;
- a reduction in the required eastern side yard from 3.0m required to 1.2m proposed; and,
- an increase to the maximum height of a retaining wall from 1.2m permitted to 2.4m proposed.

3.0 Land Use Management

The subject property contains an existing single family dwelling with historical significance¹ which is currently undergoing extensive renovations, but which will maintain much of the original structure and features of significance. The proposed development requires variances which range from side yard setback to site coverage and over-height retaining walls. The side yard

¹ The home was designed by Erikson, Massey Architects.

encroachment is for a new patio addition on the eastern edge (see attached). However, the affected property to the east is also owned by the owners of this property which effectively negates the encroachment concern with the exception of building code requirements.

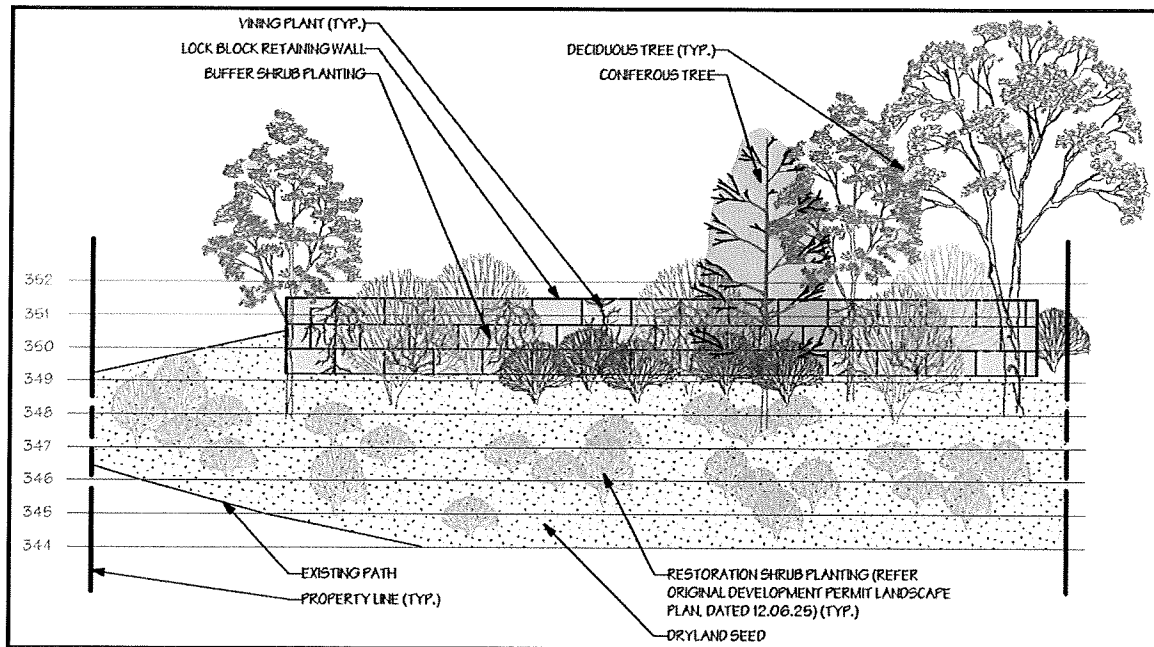
A variance is also being sought for site coverage (from 10% permitted to 23% proposed). The site coverage variance largely results from the subject property being zoned Rural Residential, but in terms of size is more consistent with the Large Lot Urban Residential (i.e. RU1) zone which allows for 40% site coverage. The applicant is however expected to demonstrate that rainwater can be contained on the subject property - a primary concern with site coverage. To assist with rainwater retention the applicant is proposing to retrofit the roof using green roof technologies.

Further, the applicants seek a variance to the zoning regulation which restricts the height of retaining walls to 1.2m. This regulation is meant to limit the visual impact to both the immediate community and to the community at large. Retaining walls in hillside conditions are known to create significant visual impacts when poorly planned and/or executed.

With respect to the subject property, the applicants were previously issued a Natural Environment/Hazardous Conditions Development Permit (DP) which included bank stabilization and shoreline restoration. The shoreline area is critical for natural processes that include habitat for fish and wildlife and also for water quality. This area has been highly impacted by previous landowners over the years. The restoration authorized by the staff issued DP was expected to result in a net positive. The DP did not, however, contemplate the use of retaining at the scale now being proposed and which necessitates the proposed variance (see Photos 1 and 2, below).

Retaining walls which conform to the regulations and which steps back and allow for planting between the structures is the preferred approach. In this case, the applicant has demonstrated a willingness to undertake significant shoreline restoration. The restoration will enhance natural processes from existing conditions; and will also ensure that the impacts of a 2.4 m (or less) vertical retaining wall will be mitigated from view from the north (i.e. Okanagan Lake). The mitigation will be achieved through the use of landscaping (e.g. vines, shrubs and trees) as illustrated in Image 1 below. Future protection is enhanced via a "No Disturb" Covenant.

Image 1: Proposed Vegetative Mitigation to Over-height Retaining Wall



Given that the applicant has provided evidence that the adjacent affected neighbour is supportive of the proposed development and the variances will not negatively impact municipal services, staff support the proposed variances with the proposed mitigation.

4.0 Proposal

4.1 Project Description

The applicants are currently undertaking an extensive renovation and expansion of the existing dwelling. In addition to the residential development, work is being undertaken in the foreshore area of Okanagan Lake to restore to a more natural state and also to provide improved slope stabilization.

The proposed residential development requires two variances to zoning requirements as described above, while the proposed approach to slope stabilization requires one variance.

A Natural Environment Development Permit was previously issued to ensure that the natural areas are adequately restored and protected from future disturbance while the steep slope (hazardous condition) concerns are adequately mitigated. During the restoration activities an over-height retaining wall has been constructed which was not previously authorized. The retaining wall variance is to authorize a development that has already been largely completed .

Photo 1: Existing Over-height Lock Block Retaining Walls (from Okanagan Lake High Water Mark)



Photo 2: Foreshore Reconstruction and Over-height Lock Block Retaining Walls (from above)



4.2 Site Context

The subject property is a lakefront property located on the north side of Lakeshore Road in the Southwest Mission. 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 Development Permit Area which reflects both the proximity to Okanagan Lake and the steep slopes rising from Okanagan Lake to the building envelope. The subject property is located between a “red” and “yellow” zone as determined by Provincial mapping. Red zones indicate high to very high value habitat², while yellow zones reflect generally moderate, with some high value habitat. That this short section is defined as a “no colour” zone (i.e. unclassified or low value habitat) may reflect the high degree of human disturbance that is evident along this stretch of shoreline.

The surrounding properties are zoned as follows:

Orientation	Zoning	Land Use
North	W1 - Recreational Water Use	Okanagan Lake
East	RR1c - Rural Residential 1 with Carriage House	Rural residential
South	A1 - Agriculture 1	Agriculture
West	RR1 - Rural Residential 1	Rural residential

² Habitat refers to areas that are utilized (for life processes including spawning and rearing) by fish and wildlife, including species at risk.

4.3 Subject Property Map : 5462 Lakeshore Road



4.4 Zoning Analysis Table

The proposed application conforms to the RR1 - Rural Residential 1 zone as follows:

Zoning Analysis Table		
CRITERIA	PROPOSAL	RR1 ZONE REQUIREMENTS
Subdivision Regulations		
Lot Area	2,080 m ²	10,000 m ²
Lot Width	23 m	40.0 m
Lot Depth	74 m	30.0 m
Development Regulations		
Site Coverage	17 % ①	10 %
Height	> 2 ½ storeys / 9.5 m	2 ½ storeys / 9.5 m
Front Yard	6.0 m	6.0 m
Side Yard (west)	3.0 m	3.0 m
Side Yard (east)	1.2 m ②	3.0 m
Rear yard	20.4 m	10.0 m
Other Requirements		
Retaining Wall Height	2.4 m ③	1.2 m

- ① A variance is being sought to increase permitted site coverage from 10% required to 17% proposed.
- ② A variance is being sought to reduce the required side yard from 3.0 m required to 1.2 m proposed.
- ③ A variance is being sought to increase the maximum height of a retaining wall from 1.2 m required to 2.4 m proposed.

4.0 Current Development Policies

4.1 Natural Environment Development Permit Guidelines

Objectives³

The objective of Natural Environment Development Permit Areas is to ensure that negative impacts (disturbance) on environmentally sensitive areas are minimized by:

- Protecting, restoring, and enhancing environmentally sensitive areas to a functioning ecosystem;
- Protecting and/or enhancing water quality;
- Minimizing soil disturbance;
- Protecting the hydrological functions of environmentally sensitive areas; and
- Protecting biological diversity, wildlife and important wildlife habitats, features and functions.

Biodiversity⁴

- Retain intact ecosystems and their connectivity and reconnect fragmented ecosystems, where practical and necessary, by establishing corridors and protecting habitats for isolated species or populations.

Habitat Protection⁵

- Plan, design and implement land development and subdivision to protect environmentally sensitive areas. Habitats that provide for at-risk species, at-risk ecological communities and keystone species will be given priority for protection.

Vegetation⁶

- Restore ecosystems to a natural state.
- Rehabilitate using native species.

Water and Drainage⁷

- Promote the collection, storage and use of rainwater.
- 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).
- Require that drainage plans address the effective and environmentally sensitive handling of peak flows.

³ City of Kelowna 2030 Official Community Plan: Greening Our Future (2011), Natural Environment Development Permit Guidelines Chapter; p. 12.2 & 12.3.

⁴ City of Kelowna 2030 Official Community Plan: Greening Our Future (2011), Natural Environment Development Permit Guidelines Chapter; p. 12.2 & 12.3.

⁵ City of Kelowna 2030 Official Community Plan: Greening Our Future (2011), Natural Environment Development Permit Guidelines Chapter; p. 12.4.

⁶ City of Kelowna 2030 Official Community Plan: Greening Our Future (2011), Natural Environment Development Permit Guidelines Chapter; p. 12.4.

⁷ City of Kelowna 2030 Official Community Plan: Greening Our Future (2011), Natural Environment Development Permit Guidelines Chapter; p. 12.4.

- Retain as much existing vegetation as possible and plant native trees and shrubs to restore the vegetative mass where clearing has occurred.
- 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

- Structural engineer and potentially a building envelope engineer may be required at time of Building Permit application.
- Full plan check is required at time of Building Permit application.
- The existing retaining wall requires a Building Permit, which will include structural and/or geotechnical engineering with appropriate drawings and schedules.

5.2 Development Engineering

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

6.0 Application Chronology

Date of Application Received: August 20, 2012

Refinement of proposal submissions (req'd drawings received): October 18, 2012

Report prepared by:


Greg Sauer, Environment & Land Use Planner

Reviewed by:



Danielle Noble, Manager, Urban Land Use



Todd Cashin, Manager, Environment & Land Use

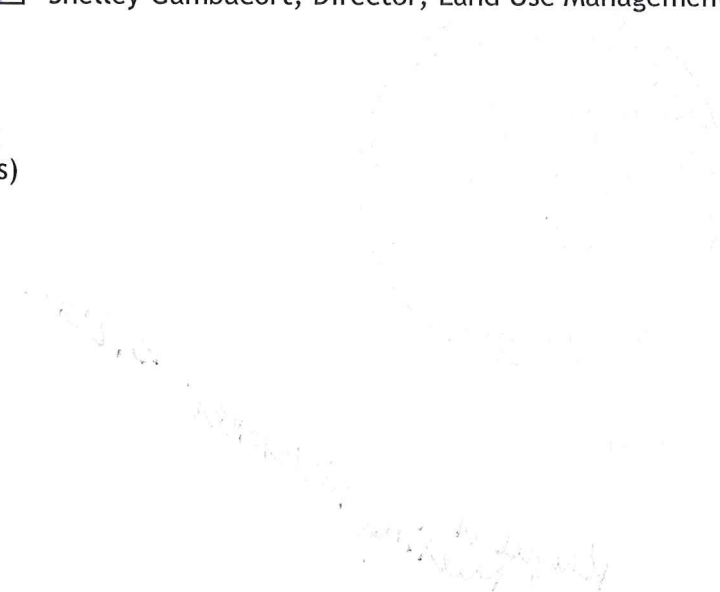
Approved for Inclusion:

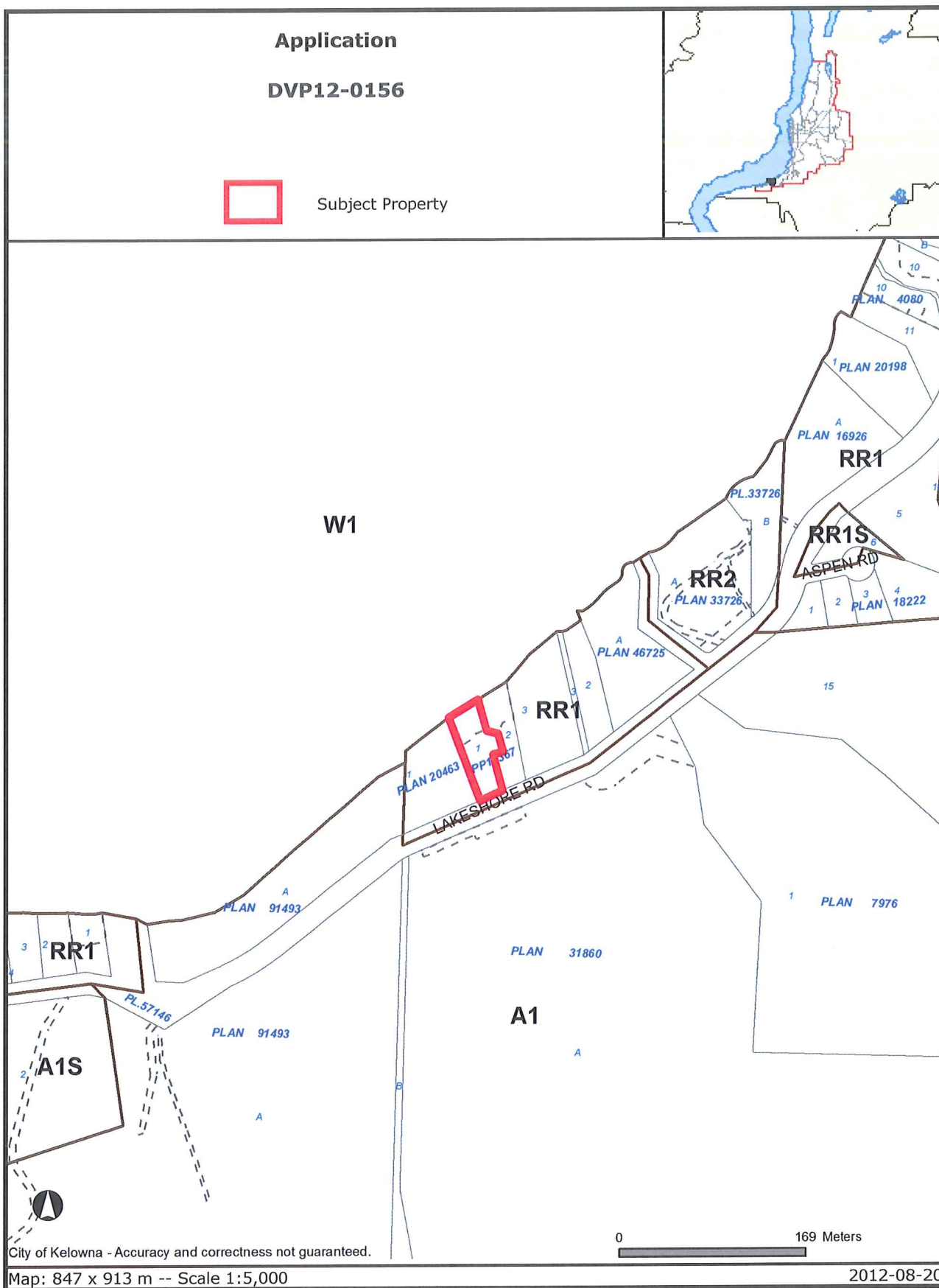


Shelley Gambacort, Director, Land Use Management

Attachments:

Subject Property Map
Patio Addition Elevation Drawing
Draft Permit (including Schedules)





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.

TEAM
CONSTRUCTION
MANAGEMENT LTD.
1110 WILSON AVENUE
WILLOWDALE, ONTARIO M2H 2P2

&
davara.

NOTICE:

NO.	DESCRIPTION	DATE



PROJECT NO. 10-1256

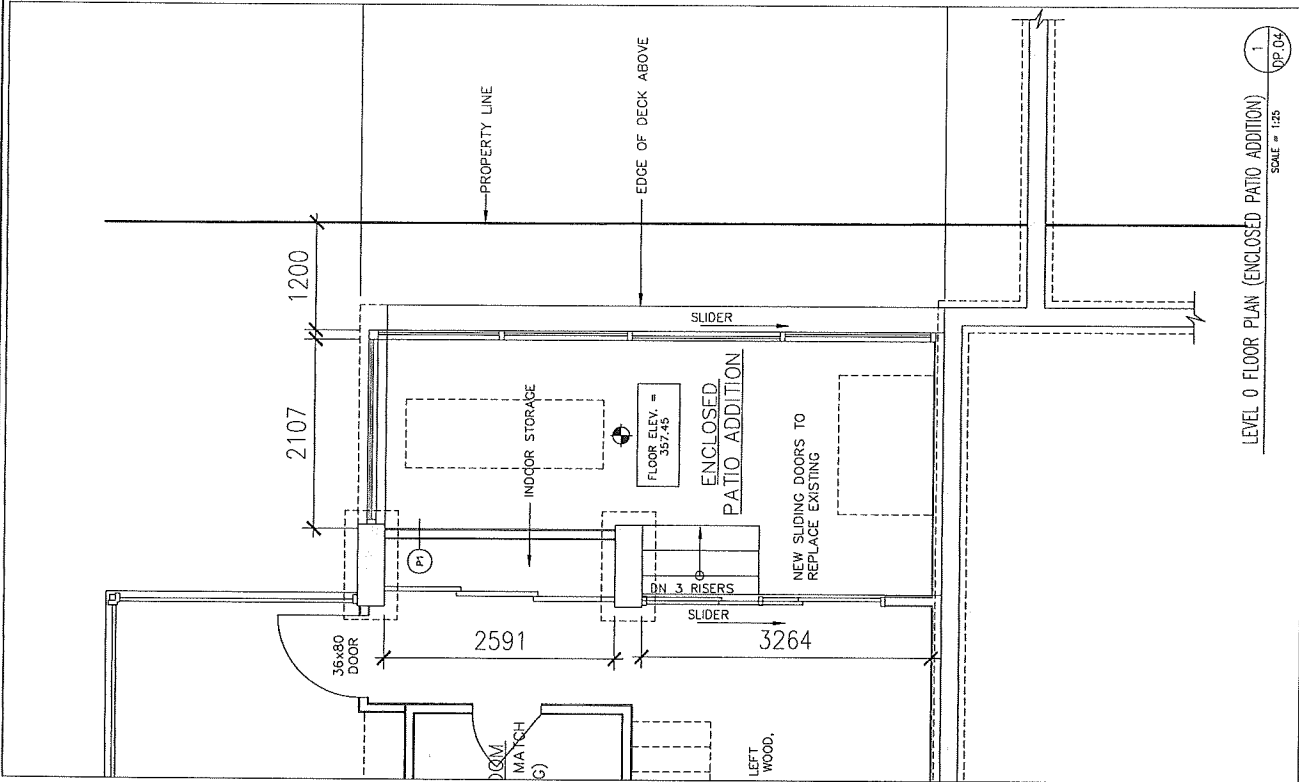
PROJECT: Krisko Residence Renovation & Addition

LOCATION: KELOWNA, BC

DATE: 08 AUG 2012

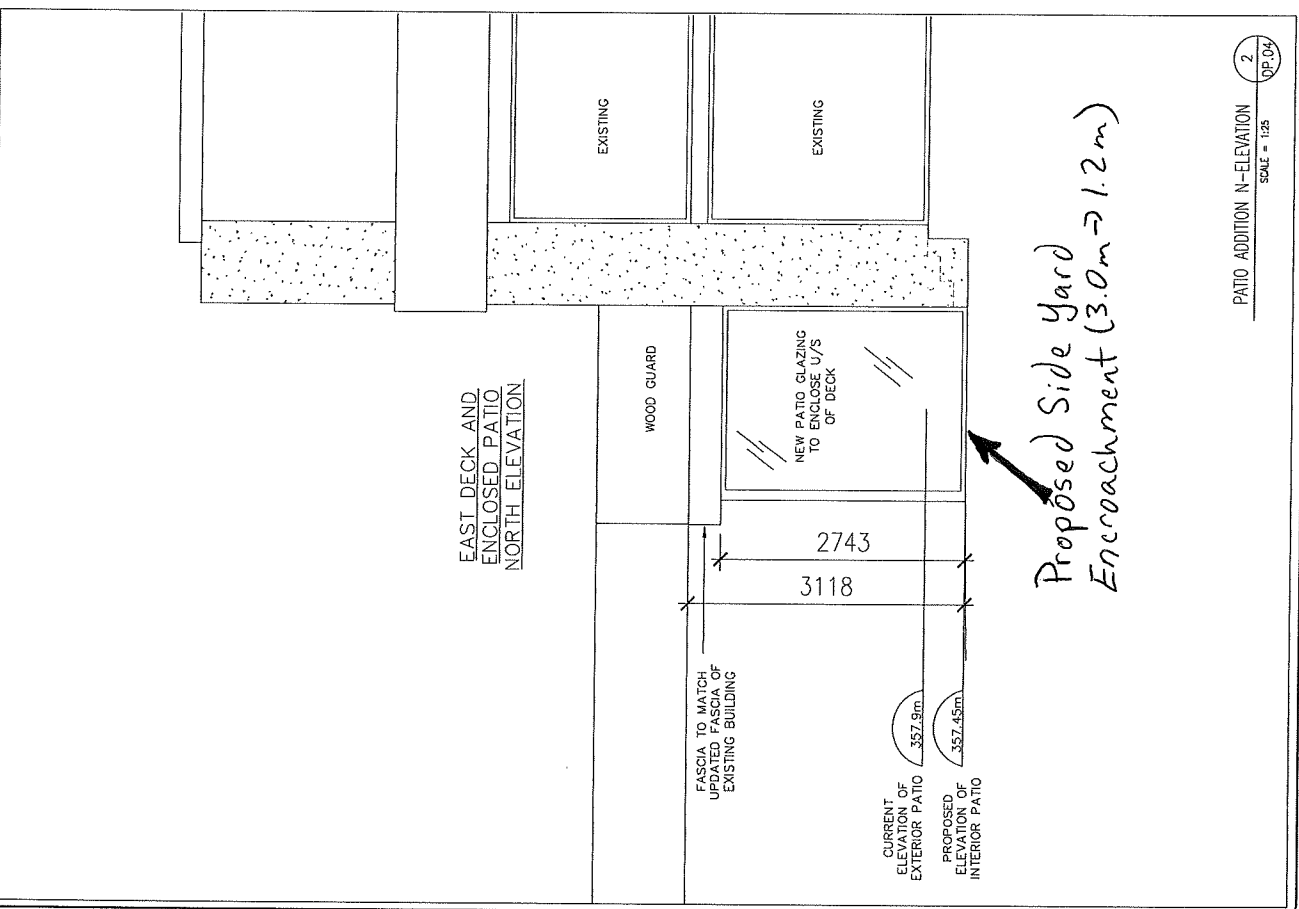
DRAWING NO. DP-04

DRAWN: MS
CHECKED: MS
APPROVED: MS
AS NOTED: MS



1
DP-04

LEVEL 0 FLOOR PLAN (ENCLOSED PATIO ADDITION)
SCALE = 1:25



2
DP-04

PATIO ADDITION N-ELEVATION
SCALE = 1:25

CITY OF KELOWNA

APPROVED ISSUANCE OF A:

Development Variance Permit No.: DVP12-0156

EXISTING ZONING DESIGNATION:	RR1 - Rural Residential
DEVELOPMENT VARIANCE:	To vary Section 12.1.6(a) RR1 Development Regulations; Section 12.1.6(d) RR1 Development Regulations; and Section 7.5.9 Fencing and Retaining Walls.

ISSUED TO:	Davara Holdings Ltd.
LOCATION OF SUBJECT SITE:	5462 Lakeshore Road

	LOT	SECTION	TOWNSHIP	DIV & DIST	PLAN
LEGAL DESCRIPTION:	1	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 variances to the following sections of Zoning Bylaw No. 8000 be granted:

Section 12.1.6(a) RR1 Development Regulations: To vary the maximum site coverage from 10% permitted to 17% 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 1.2m proposed as per schedule "A"; and

Section 7.5.9 Fencing and Retaining Walls: To vary the maximum height of a retaining wall from 1.2m permitted to 2.4m proposed as per schedule "B".

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

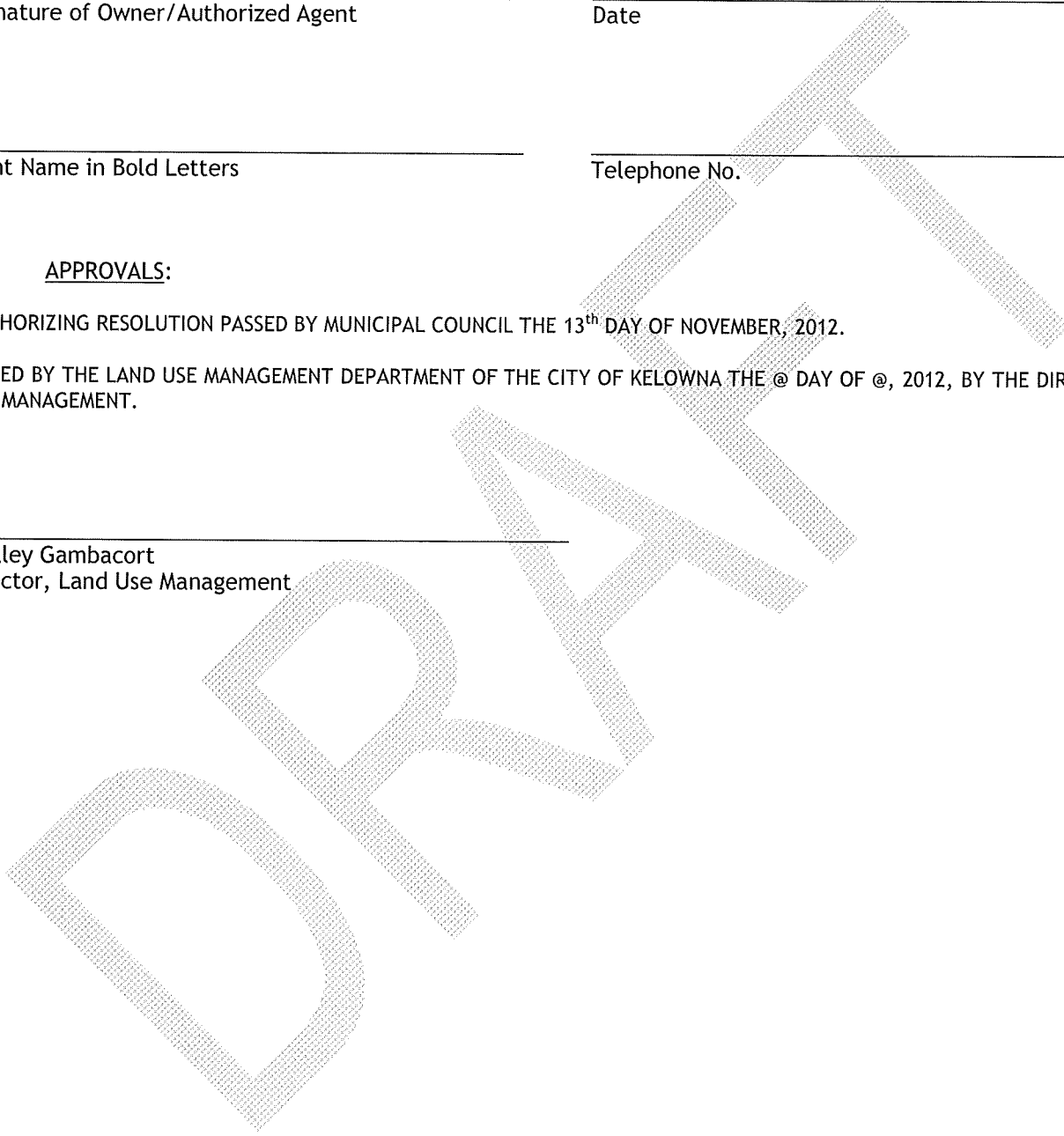
Telephone No.

5. APPROVALS:

AUTHORIZING RESOLUTION PASSED BY MUNICIPAL COUNCIL THE 13th DAY OF NOVEMBER, 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



NOTES:



PROJECT NO. 10-1256

DATE 08 AUG 2012

DRAWING NO.

DRAWN: IMS

CHECKED: IMS

APPROVED: IMS

SCALE: AS NOTED

PROJECT: Kysko Residence Renovation & Addition

LOCATION: RELOWAN, BC

DATE: 08 AUG 2012

DRAWING NO.: 1

SCALE: AS NOTED

PROJECT: Kysko Residence Renovation & Addition

LOCATION: RELOWAN, BC

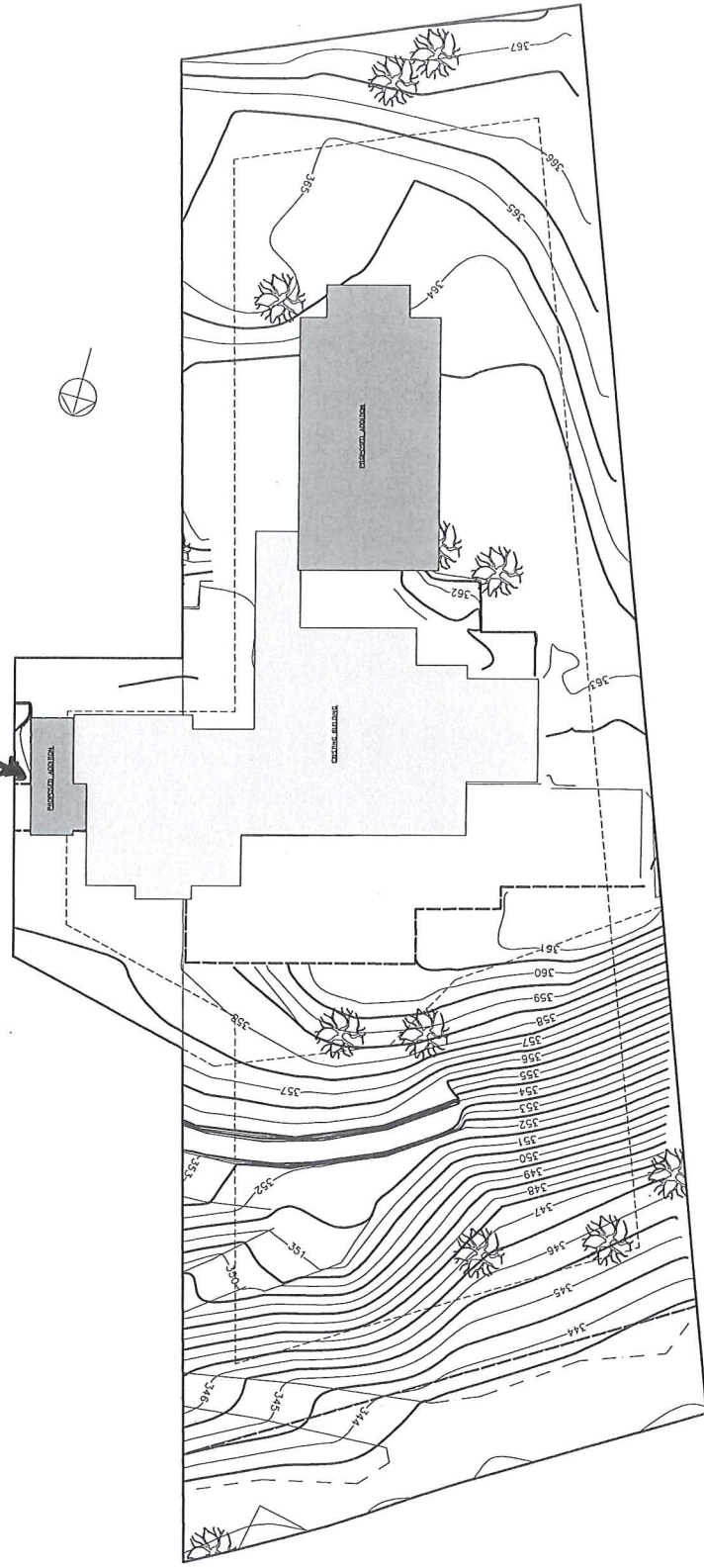
DATE: 08 AUG 2012

DRAWING NO.: 1

SCALE: AS NOTED

SCHEDULE "A"
This forms part of development
Permit # **DVP 12-0156**

Proposed Side Yard
Encroachment (1.2m)





PROJECT TITLE
5460 LAKESHORE ROAD
Kelowna, BC

**LANDSCAPE PLAN -
LOCK BLOCK WALL**

NO.	DESCRIPTION	QTY
1	LOCK BLOCK WALL (1.2M x 1.2M)	1
2	LOCK BLOCK WALL (1.2M x 1.2M)	1
3	LOCK BLOCK WALL (1.2M x 1.2M)	1
4	LOCK BLOCK WALL (1.2M x 1.2M)	1
5	LOCK BLOCK WALL (1.2M x 1.2M)	1
6	LOCK BLOCK WALL (1.2M x 1.2M)	1
7	LOCK BLOCK WALL (1.2M x 1.2M)	1
8	LOCK BLOCK WALL (1.2M x 1.2M)	1
9	LOCK BLOCK WALL (1.2M x 1.2M)	1
10	LOCK BLOCK WALL (1.2M x 1.2M)	1



DATE: 11/11

REVIEW FOR REVIEW ONLY
This drawing is not to be used for construction without the approval of the author.

DRAWING NOTES

1. ALL DIMENSIONS ARE IN METERS UNLESS OTHERWISE SPECIFIED.

2. THE CONTRACTOR SHALL VERIFY THE EXISTING UTILITIES AND SERVICES PRIOR TO CONSTRUCTION.

3. THE CONTRACTOR SHALL MAINTAIN ACCESS TO ALL ADJACENT PROPERTIES AT ALL TIMES.

4. THE CONTRACTOR SHALL BE RESPONSIBLE FOR OBTAINING ALL NECESSARY PERMITS AND APPROVALS.

5. THE CONTRACTOR SHALL PROTECT ALL EXISTING TREES AND PLANTS TO REMAIN.

6. THE CONTRACTOR SHALL MAINTAIN THE PROPOSED LANDSCAPE PLAN AT ALL TIMES.

7. THE CONTRACTOR SHALL BE RESPONSIBLE FOR THE COST OF ALL MATERIALS AND LABOR.

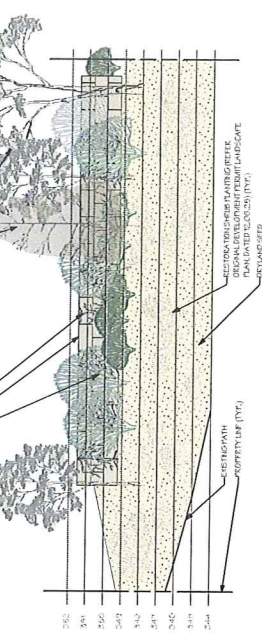
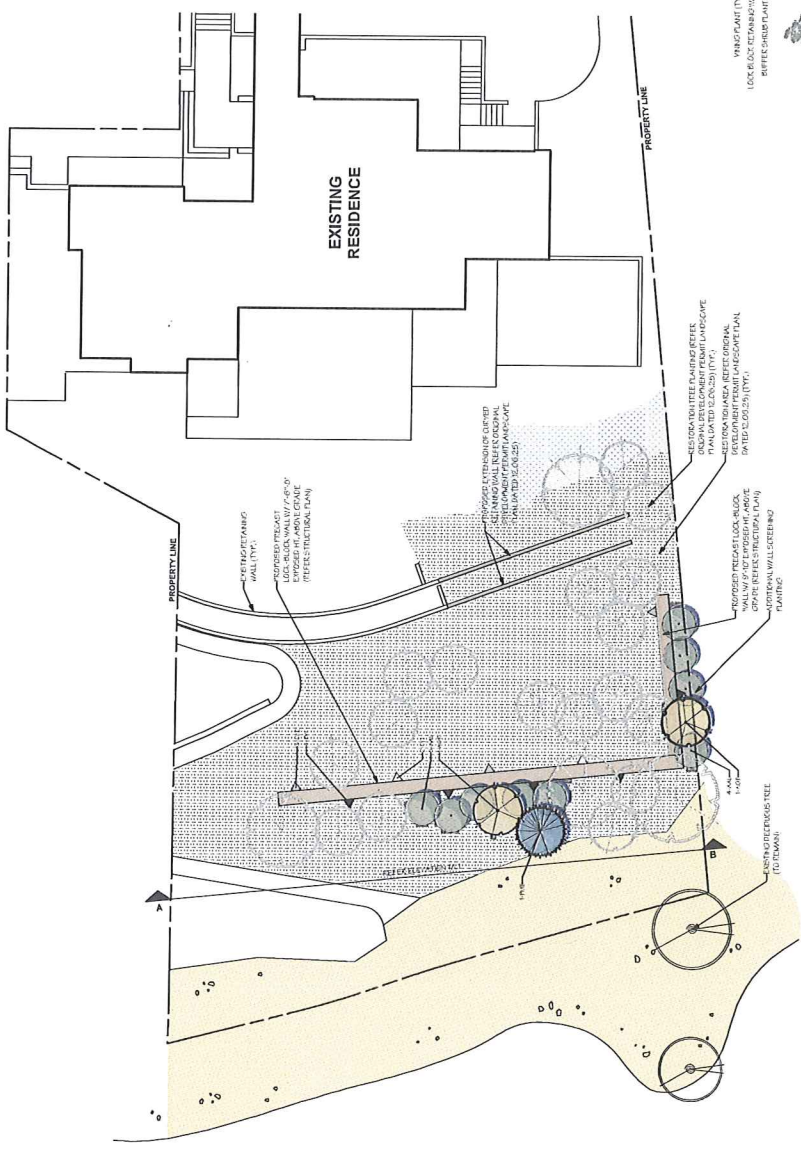
8. THE CONTRACTOR SHALL BE RESPONSIBLE FOR THE COST OF ALL PERMITS AND APPROVALS.

9. THE CONTRACTOR SHALL BE RESPONSIBLE FOR THE COST OF ALL UTILITIES AND SERVICES.

10. THE CONTRACTOR SHALL BE RESPONSIBLE FOR THE COST OF ALL TREES AND PLANTS TO REMAIN.

PLANT LIST

KEY	BOTANICAL NAME	COMMON NAME	QTY
1	PLANT SPECIES	PLANT SPECIES	1
2	PLANT SPECIES	PLANT SPECIES	2
3	PLANT SPECIES	PLANT SPECIES	3
4	PLANT SPECIES	PLANT SPECIES	4
5	PLANT SPECIES	PLANT SPECIES	5
6	PLANT SPECIES	PLANT SPECIES	6
7	PLANT SPECIES	PLANT SPECIES	7
8	PLANT SPECIES	PLANT SPECIES	8
9	PLANT SPECIES	PLANT SPECIES	9
10	PLANT SPECIES	PLANT SPECIES	10



SCHEDULE "B"
This forms part of development
Permit # DUPI2-0156