

# City of Kelowna

## Regular Council Meeting

### AGENDA



June 18, 2013  
6:00 pm  
Council Chamber  
City Hall, 1435 Water Street

Pages

1. Call to Order

2. Prayer

A Prayer will be offered by Councillor Stack.

3. Bylaws Considered at Public Hearing

3.1 Bylaw No. 10849 (Z13-0011) - 370 Fleming Road, Wendy Cullen & Michael Anderson

1 - 1

To give Bylaw No. 10849 second and third readings.

4. Notification of Meeting

The City Clerk will provide information as to how the following items on the Agenda were publicized.

5. Liquor License Application Reports

City Clerk to state for the record any correspondence received. Mayor to invite anyone in the public gallery who deems themselves affected by the liquor license application to come forward.

5.1 Liquor License Application No. 13-0004 - 3110 Lakeshore Road, Simple Pursuits Inc.

2 - 8

This application seeks Council's support for transfer of the existing Liquor License from the 'Pheasant & Quail' to the 'Mission Tap House & Grill' and to increase the capacity from 169 to 229 patrons.

6. Development Permit and Development Variance Permit Reports

City Clerk to state for the record any correspondence received. Mayor to invite anyone in the public gallery who deems themselves affected by the required

variance(s) to come forward.

- 6.1 Development Variance Permit Application No. DVP13-0073 - 5458-5460 & 5462 Lakeshore Road, Stephen & Donara Krysko 9 - 18

To obtain Council approval to issue a Development Variance Permit (DVP) that will allow an increase to the maximum height of a retaining wall from 1.2m permitted to 3.9 metres proposed on the two subject properties.

- 6.2 Temporary Use Permit Application No. TUP12-0001 - 1269 KLO Road, Pietro & Caterina Perretta 19 - 35

To consider a proposal for a Temporary Use Permit in order to legalize the existing outdoor storage of recreational vehicles for a period of 3 years.

- 6.3 Development Variance Permit Application No. DVP13-0068 - 301 West Avenue, Teresa Roechoudt 36 - 54

To consider a Development Variance Permit to reduce the front yard setback from 4.5m required to 2.5m proposed, reduce the rear yard setback from 4.5m required to 2.01 proposed and to vary the Okanagan lake sight line from 60° to 0° proposed for the northern portion of the property.

- 6.4 Development Variance Permit Application No. DVP13-0071 - Unit 15, 3151-3155 Lakeshore Road, Callahan Construction Company Ltd. & 3720 Investments Ltd. 55 - 66

To vary the number of fascia signs permitted along a business frontage from two (2) signs permitted to three (3) signs proposed.

7. Reminders

8. Termination

**CITY OF KELOWNA**  
**BYLAW NO. 10849**  
**Z13-0011 - Wendy Diana Cullen & Michael Steve Anderson**  
**370 Fleming Road**

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A bylaw to amend the "City of Kelowna Zoning Bylaw No. 8000".

The Municipal Council of the City of Kelowna, in open meeting assembled, enacts as follows:

1. THAT City of Kelowna Zoning Bylaw No. 8000 be amended by changing the zoning classification of Lot B, Section 27, Township 26, ODYD Plan 11730 located on 370 Fleming Road, Kelowna, B.C., from the RU1 - Large Lot Housing zone to the RU1c - Large Lot Housing with Carriage House zone.
2. This bylaw shall come into full force and effect and is binding on all persons as and from the date of adoption.

Read a first time by the Municipal Council this

Considered at a Public Hearing on the

Read a second and third time by the Municipal Council this

Approved under the Transportation Act

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(Approving Officer-Ministry of Transportation)

Adopted by the Municipal Council of the City of Kelowna this

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Mayor

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City Clerk

# REPORT TO COUNCIL



**Date:** May 23<sup>th</sup>, 2013

**RIM No.** 0930-50

**To:** City Manager

**From:** Land Use Management, Community Sustainability (AW)

**Application:** LL13-0004      **Owner:** Simple Pursuits Inc., Inc. No. BC0449611

**Address:** 3110 Lakeshore Road      **Applicant:** Steve Stinson

**Subject:** Liquor License Application

**Existing OCP Designation:** Mixed Use (Residential / Commercial)

**Existing Zone:** C4 - Urban Centre Commercial (Liquor Retail)

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## 1.0 Recommendation

THAT in accordance with Section 53 of the Liquor Control and Licensing Regulation and Council Policy #359, be it resolved that:

Council's comments on the Liquor Control & Licensing Branch (LCLB)'s prescribed considerations for the application from at address: 3110 Lakeshore Road, Kelowna BC, (legally described as Lot C, District Lot 14, ODYD, Plan 22527, Except Plan 35659) for a transfer of a Liquor Primary License, are as follows:

a) The potential for noise if the application is approved:  
A Minimal increase in noise is expected compared to current circumstances.

b) The impact on the community if the application is approved:  
The potential for negative impacts is considered to be minimal.

c) View of residents:  
The Council's comments on the views of residents (if applicable) are as contained within the minutes of the meeting at which the application was considered by Council. The methods used to gather views of residents were as per Council Policy #359 "Liquor Licensing Policy & Procedures."

d) The person capacity and hours of liquor service of the establishment:  
The total person capacity proposed for liquor primary service is 229 seats with closing hours remaining unchanged from the previous Pheasant and Quail Pub license holder.

e) Traffic and parking:

The C4 parking requirements are calculated based on gross floor area, regardless of use (or occupant load). Therefore, the onsite parking is considered compliant to the C4 zone regulations.

f) The proximity of the establishment to other social or recreational facilities and public buildings:

Surrounding facilities would not conflict with the proposed establishment.

g) Recommendation:

Council recommends that the application to transfer the existing liquor license for the property located at 3110 Lakeshore Road and to expand the capacity from 169 to 229 patrons be approved.

## **2.0 Purpose**

This application seeks Council's support for transfer of the existing Liquor License from the 'Pheasant & Quail' to the 'Mission Tap House & Grill' and to increase the capacity from 169 to 229 patrons.

## **3.0 Land Use Management**

The transfer of the existing liquor license is seen to accommodate a new business opportunity and to serve an expanded clientele for this sector of the City. Additionally, the expansion of the capacity from 169 to 229 patrons is the result of a tenant improvement, where both internal and exterior upgrades will be completed for the building. This allows the site to be programmed more comprehensively and include additional patio seating which will add outside activity and animation to the site. The subject property is located within an Urban Centre and has been a pub location for a number of years. While the expansion is significant, an upscale establishment serving both food and beverage options within the South Pandosy Urban Centre will help to provide more vibrancy within the area which has long been a goal of the Official Community Plan. There are no proposed changes to the liquor primary license hours.

## **4.0 Proposal**

### **4.1 Background**

The building within which the Pheasant & Quail Pub and adjacent liquor store was recently sold and is under new ownership.

### **4.2 Summary**

An application has been forwarded by the licensee to the Provincial Liquor Control and Licensing Branch (LCLB) for their approval. Procedurally, the relocation of Liquor Licenses requires Local Government comment, prior to the LCLB making a final decision.

The proposal seeks to transfer the existing Liquor License from the 'Pheasant & Quail Pub' to the 'Mission Tap House & Grill' and to increase the capacity from 169 to 229 patrons. The Liquor Retail license was recently relocated and the new restaurant area will be renovated and expanded to take over the former liquor store area. Additionally, interior renovations and modifications are also proposed to provide an updated and more efficient layout.

### Proposed Structural Change Summary:

#### Person Capacity:

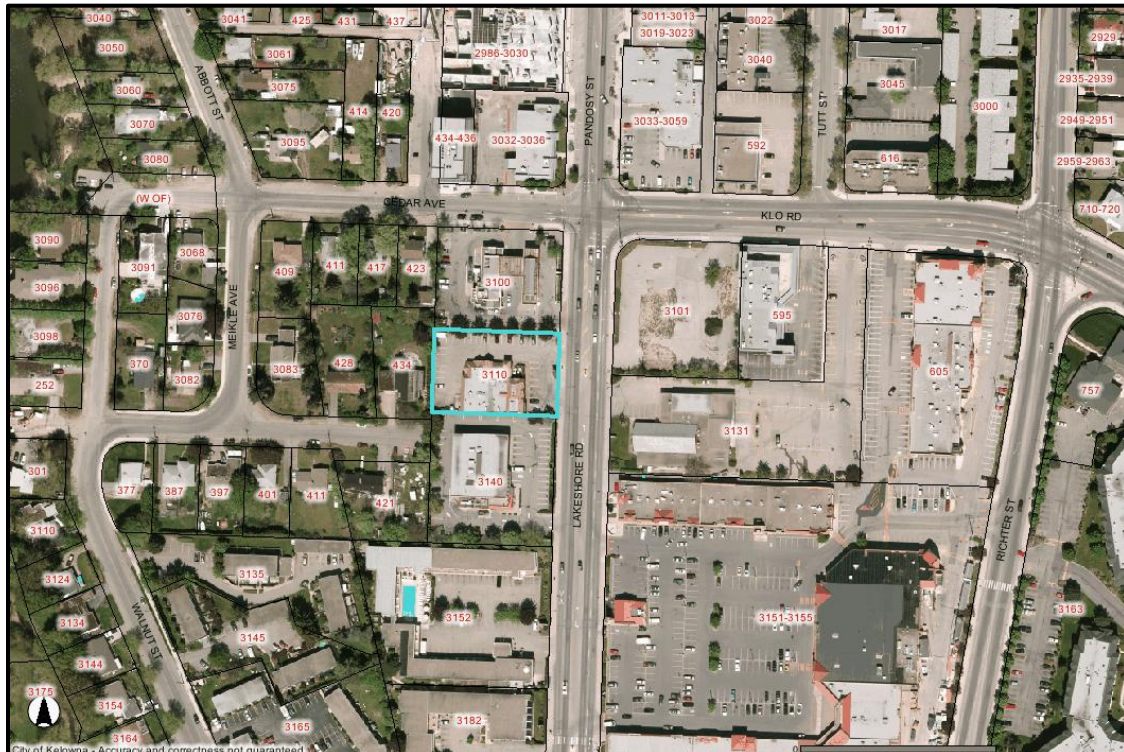
Existing	Capacity
Existing Indoor Capacity	149
Existing Outdoor Patio	20
Total Existing Capacity	169
Proposed	
Proposed Indoor Capacity	212
Proposed Outdoor Patio	17
Total Proposed Capacity	229

#### 4.3 Site Context

The property is located within the South Pandosy Town Centre, adjacent land uses are as follows:

Orientation	Zoning	Land Use
North	C4 - Urban Centre Commercial	Commercial
East	C4 - Urban Centre Commercial P2 - Educational & Minor Institutional	Vacant St. Paul's Church
South	C4 - Urban Centre Commercial	Commercial
West	RU1 - Large Lot Housing	Residential

#### Subject Property Map: 3110 Lakeshore Road



## 5.0 Existing Policies

### 5.1 Council Policy #359 - Liquor Licensing Policy & Procedures

The following sections of Policy #359 are applicable to this application:

- Medium establishments (with person capacity between 100-249 persons):
  - i) Should only be located within an Urban or Village Centre.
  - ii) Should be located a minimum of 100m from a Large or Medium establishment.
  - iii) Should not be located beside a Small establishment.

## 6.0 Circulation Comments

### 6.1 Building & Permitting

No comment.

### 6.3 Fire Department

No concerns.

### 6.4 Public Health Inspector

No comment.

### 6.5 RCMP

No comment.

## 7.0 Application Chronology

Date of Application Received: May 1<sup>st</sup>, 2013

Report prepared by:

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Alec Warrender, Land Use Planner

Reviewed by:

☐

Danielle Noble, Manager of Urban Land Use Management

Approved for Inclusion:

☐

Doug Gilchrist, A. General Manager, Community Sustainability

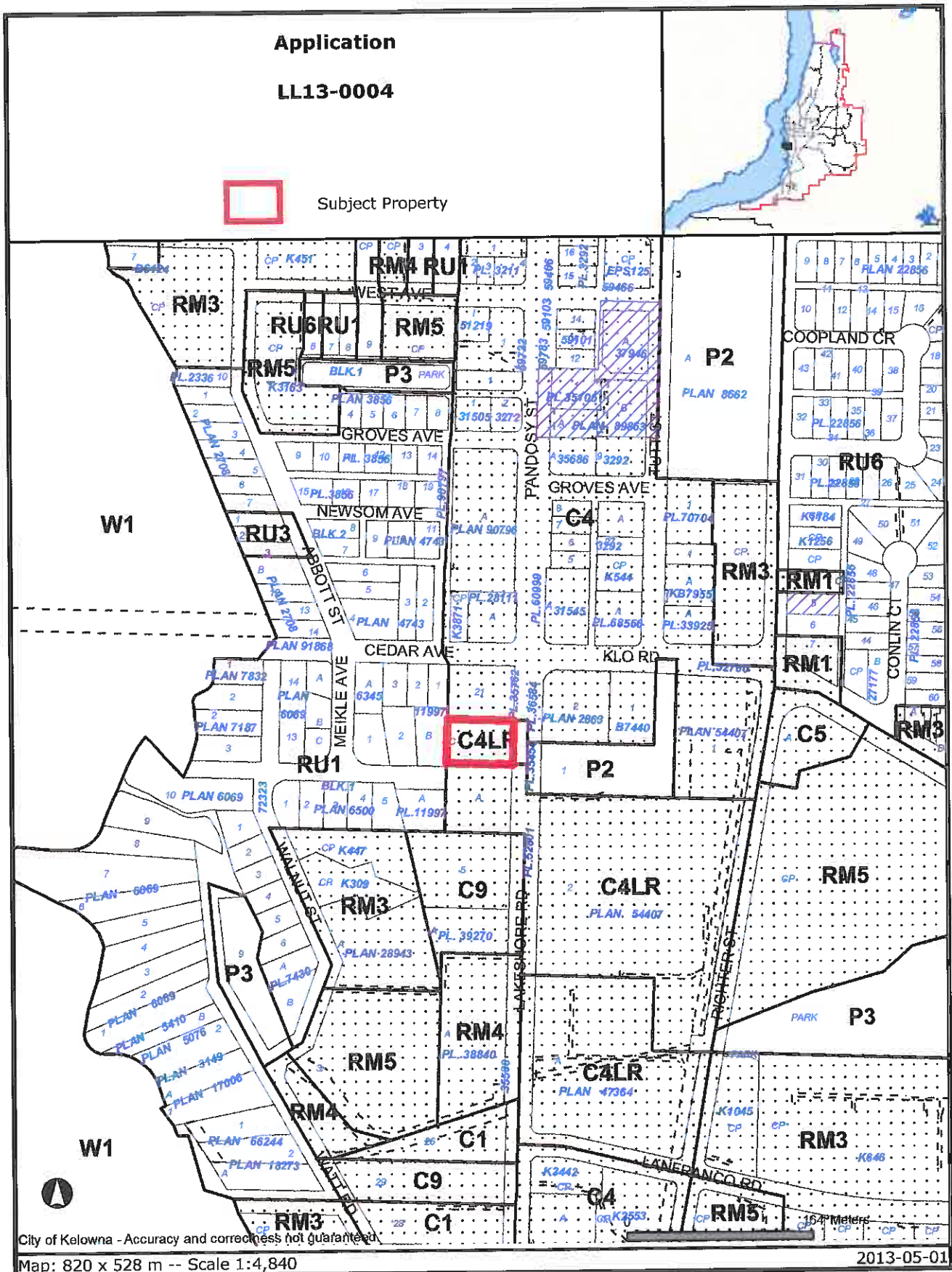
Attachments:

Subject Property Map

Provisional Internal Floor Plan (Occupancy Load)

Liquor Primary License





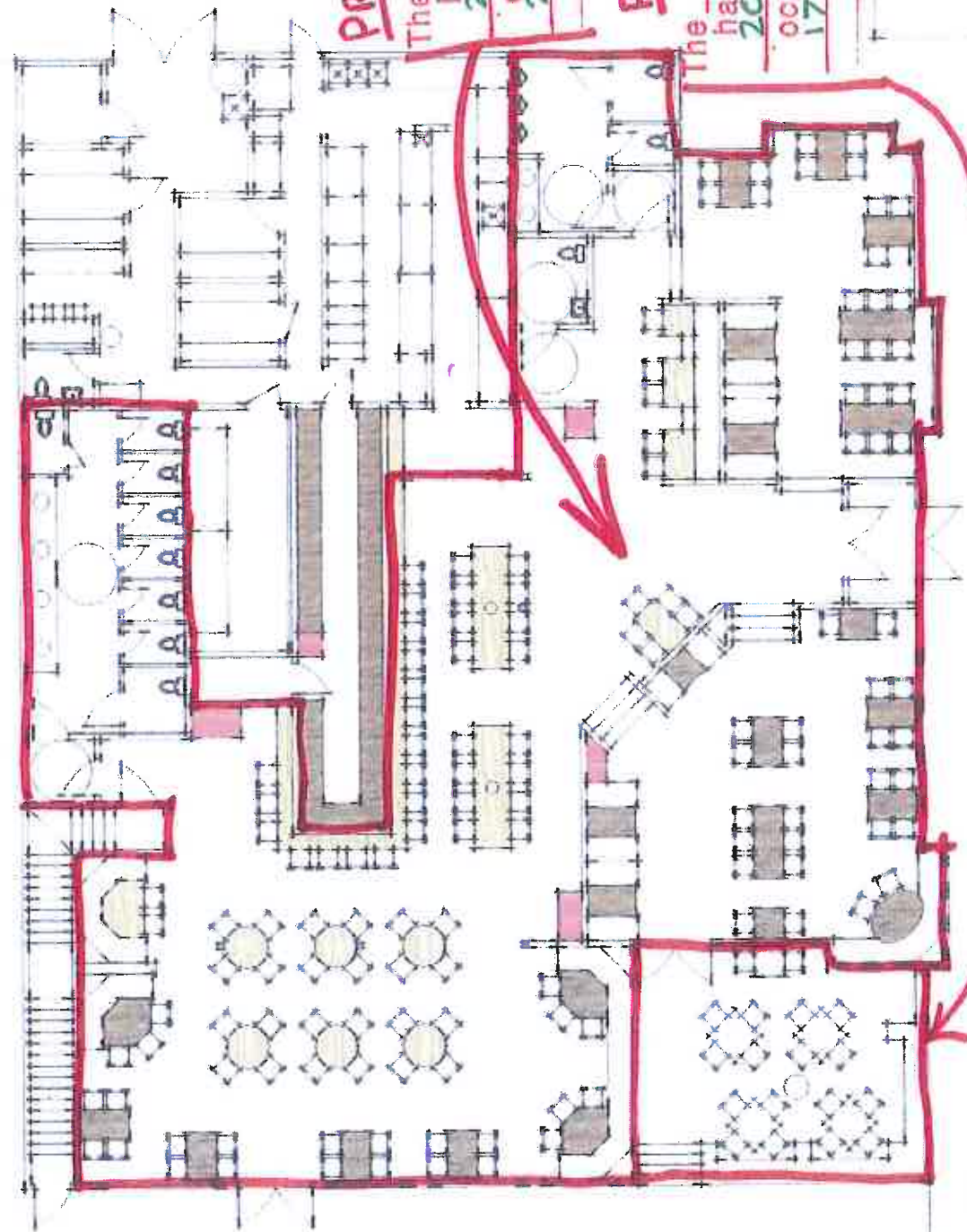
Certain layers such as lots, zoning and dp areas are updated bi-weekly. This map is for general information only.  
The City of Kelowna does not guarantee its accuracy. All information should be verified.



92' 3 1/2"

74'

Legend
Low Tables
High Tables
POS
Rests



# PROVISIONAL

## The DINING / LOUNGE

has a net floor area of  
255.3 m<sup>2</sup>. The maximum  
 occupant load shall be  
212 persons, based on  
1.2 m<sup>2</sup>/person.

# PROVISIONAL

## THE PATIO

has a net floor area of  
20.5 m<sup>2</sup>. The maximum  
 occupant load shall be  
17 persons, based on  
1.2 m<sup>2</sup>/person.

Floor Plan Final R1

March 28, 2013

# PROVISIONAL

**Reviewed**

by City of Kelowna  
 Inspection Services

W MAY 10/2013

FINAL LOADING TO BE CONFIRMED  
 ONCE SPACE IS CLOSED TO  
 COMPLETION.



Liquor Control and Licensing Branch  
Liquor Control and Licensing Act

## LIQUOR PRIMARY LICENCE

Establishment Name: Pheasant and Quail Pub  
Licence Name: Pheasant and Quail Pub  
Mailing Address: 3110 LAKESHORE RD  
KELOWNA, BC V1W 3T1

Licence Number  
**032871**  
Expiry Date  
**July 31, 2013**

Location Address: 3110 LAKESHORE RD  
KELOWNA, BC V1W 3T1

Issued to: OPCO 12 Holdings Ltd

Third Party Operator: N/A

**Hours of Sale:**

	Monday	Tuesday	Wednesday	Thursday	Friday	Saturday	Sunday
Open	10:00 AM	10:00 AM	10:00 AM	10:00 AM	11:00 AM	11:00 AM	11:00 AM
Close	Midnight	Midnight	Midnight	Midnight	1:00 AM	1:00 AM	Midnight

Capacity: Patio1 20 Person01 60 Person02 48  
Person03 41

Endorsements: Off premises sales permitted

### TERMS AND CONDITIONS

- The terms and conditions to which this licence is subject include the terms and conditions contained in the publication 'A Guide for Liquor Licensees in British Columbia' as that publication is amended from time to time.
- Liquor may only be sold, served and consumed within the areas outlined in red on the official plan, unless otherwise endorsed or approved by the LCLB.
- Subject to terms and conditions specified in the restriction or approval letter(s). A copy of restriction or approval letter(s) to be kept with current liquor licence.
- Sale of packaged coolers containing not greater than 7% alcohol, beer, cider and wine for off-premises consumption is only permitted before 11:00 p.m. during the hours of sale as shown on the licence.
- Patio extension permitted as outlined in red on the official plan.

Local Government: KELOWNA (CITY OF)  
LDB Addresses: KELOWNA MISSION PK. GLS #148  
KELOWNA ORCHARD PK. GLS #167

September 10, 2012  
Printed Date

*Karen Ayers*  
General Manager

# REPORT TO COUNCIL



**Date:** May 24, 2013

**RIM No.** 0940-50

**To:** City Manager

**From:** Land Use Management, Community Sustainability (GS)

**Application:** DVP13-0073      **Owner:** Stephen Krysko  
Donara Krysko

**Address:** 5458 - 5460 Lakeshore Road      **Applicant:** Davara Holdings Ltd.  
5462 Lakeshore Road      (Dave Sargent)

**Subject:** Development Variance Permit

**Existing OCP Designation:** Resource Protection Area

**Existing Zone(s):** RR1c - Rural Residential 1 with Carriage House  
RR1- Rural Residential 1

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## 1.0 Recommendation

THAT Council authorize the issuance of Development Variance Permit No. DVP13-0073 for Lot 1, Section 22, Township 28, SDYD Plan EPP15367 located at 5462 Lakeshore Road; and for Lot 2, Section 22, Township 28, SDYD Plan EPP15367 located at 5458 - 5460 Lakeshore Road, Kelowna, BC;

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

Section 7.5.9 Fencing and Retaining Walls

Vary the maximum height of a retaining wall from 1.2m permitted to 3.9 metres proposed as per Schedule "A".

## 2.0 Purpose

To obtain Council approval to issue a Development Variance Permit (DVP) that will allow an increase to the maximum height of a retaining wall from 1.2m permitted to 3.9 metres proposed on the two subject properties.

## 3.0 Land Use Management

The proposed 3.9 metre high retaining wall will function to provide an internal courtyard between the dwelling on the western parcel and the pool structure on the eastern property. The large retaining wall will not be visible from adjacent properties to the east or west, nor from Lakeshore Road. The wall will however be visible from Okanagan Lake.

The retaining wall is effectively an extension of each of the two structures. However, the use of control joints at each of the structures allows the concrete wall to act independently as a retaining wall. A control joint at the property line allows for the wall to be divided in two if the need ever arose. The Building & Permitting Branch has confirmed that this approach has been used previously and that in the event of future issues with the retaining wall, the issue would be a civil matter between the two properties (note: properties are currently under common ownership).

Staff are typically not supportive of large, over-height retaining walls in hillside areas due to the visual impacts that they create. The proposed development will however result in a very limited visual impact as the retaining wall is largely hidden from view and is also setback from the crest of slope, situated between two structures. The applicants are proposing to treat the retaining wall with an architectural finish which will serve to minimize the visual impact.

While a stepped retaining wall system with plantings used to obscure the wall is the preferred approach, as presented the proposal is acceptable to staff.

### **Neighbour Consultation**

Council's policy for Public Notification & Consultation for Development Applications states that *"all abutting and adjoining parcels and any parcels within 300m of the subject property must be consulted, or as determined by the Director of Land Use Management"*. In this case, given the very limited impact, staff feel the notification requirements to be onerous and have not required formal notification of the proposed variance. Instead, staff have encouraged the applicant to proactively discuss the proposed variance with adjacent neighbour.

## **4.0 Proposal**

### **4.1 Background**

The applicants are currently undertaking an extensive renovation and expansion of the existing dwelling at 5462 Lakeshore Road in addition to constructing a new residence along with pool on the 5458 - 5460 Lakeshore Road property. A Carriage House already exists on the eastern property. In addition to the residential development, Okanagan Lake foreshore works have been ongoing since last summer to improve slope stabilization and restore the foreshore to a more natural state.

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.

Each of the two subject properties were granted variances in 2012 to allow for the proposed developments which include a renovation to an existing historically significant structure on the western property, and the development of a new dwelling and pool on the eastern property. Variances were issued with respect to site coverage and yard setbacks. The site coverage variance largely resulted from the subject properties 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 much greater site coverage.

During construction it was determined that an existing wall which was expected to remain was not structurally sound and required removal. The removal of this wall has led to this requested variance.



## 4.2 Project Description

The proposed development requires a variance to zoning requirements as described above. The project is being undertaken on a relatively steep hillside lot where some retaining is typical. The 3.9 metre high retaining wall is 4.85 metres long spanning the distance between the house on the western parcel and the in-ground pool structure to the east.

## 4.3 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 surrounding properties are zoned as follows:

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

Subject Properties Map: 5458 - 5460 & 5462 Lakeshore Road



#### 4.4 Zoning Analysis Table

The proposed application conforms to the RR1 - Rural Residential 1 and RR1c - Rural Residential 1 with Carriage House zone as follows:

Zoning Analysis Table		
CRITERIA	PROPOSAL	RR1 ZONE REQUIREMENTS
Other Requirements		
Retaining Wall Height	3.9 m ①	1.2 m
① To vary the maximum height of a retaining wall from 1.2m permitted to 3.9 metres proposed.		

#### 5.0 Current Development Policies

##### 5.1 Kelowna Official Community Plan (OCP)

##### Hazardous Condition Development Permit Guidelines.

**General Guideline.**<sup>1</sup> Prohibit the use of non-engineered retaining walls over 1.4 metres.

##### 5.2 Technical Comments

##### 5.3 Building & Permitting Department

- As long as the retaining wall is constructed with a construction joint on property line Building & Permitting is able to issue the two permits (one for each property) for a retaining wall. This retaining wall with a construction joint would then be independent of each other and issued to the appropriate properties.
- Structural Engineering is required for the retaining wall at time of Building Permit application.

##### 5.4 Development Engineering Department

Not applicable.

#### 6.0 Application Chronology

Date of Application Received: May 17, 2013

**Report prepared by:**

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

<sup>1</sup> City of Kelowna Official Community Plan; p. 13.3 (Hazardous Condition Development Permit Guidelines Chapter).

**Reviewed by:**



Danielle Noble, Manager, Urban Land Use

**Approved for Inclusion**



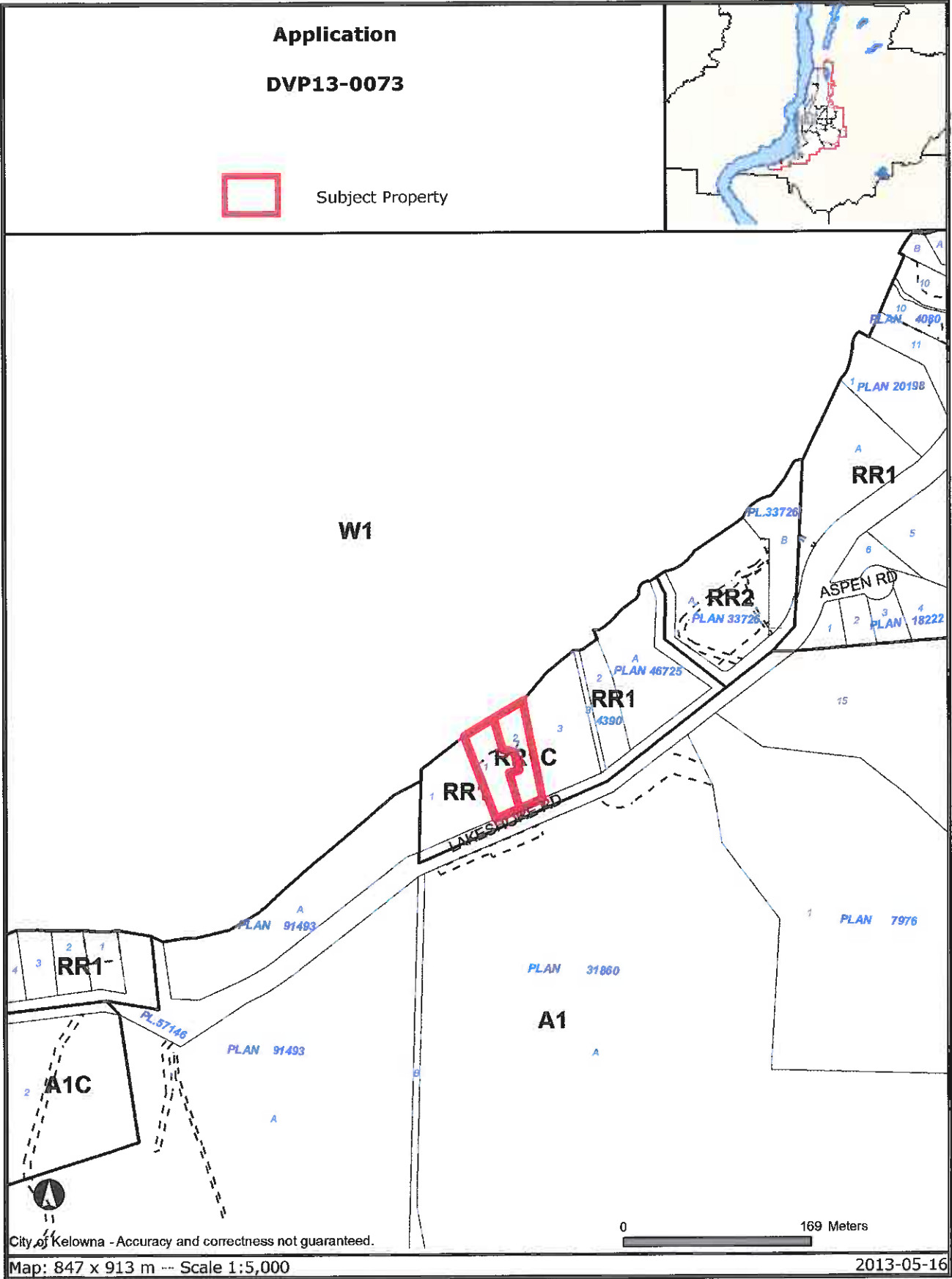
D. Gilchrist, Acting General Manager, Community  
Sustainability

**Attachments:**

Subject Property Map

Draft Permit (including Schedule)





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.  
801 - 810 BTHURST ST.  
KELOWNA, BC V1Y 2W5

ALL DIMENSIONS SHOWN ARE APPROVED FOR THE  
PROPOSED RETAINING WALL VARIANCE  
AND ARE SUBJECT TO THE APPROVAL OF THE  
LOCAL AUTHORITY. THE DRAWING IS NOT TO BE  
USED FOR ANY OTHER PURPOSE WITHOUT THE  
WRITTEN PERMISSION OF TEAM CONSTRUCTION  
MANAGEMENT LTD.

# PROPOSED RETAINING WALL

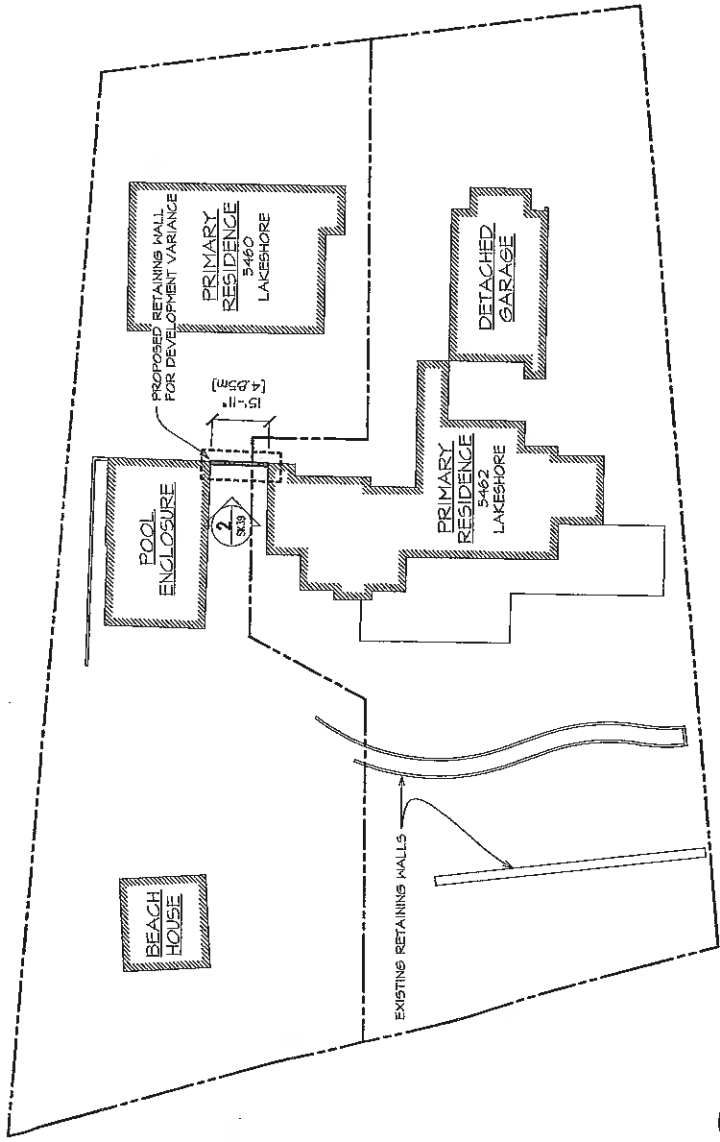
DRAWING TITLE		
No.	Description	Date
1	Submitted for D.V.P. 1000013	

PROJECT NO.  
10-1256

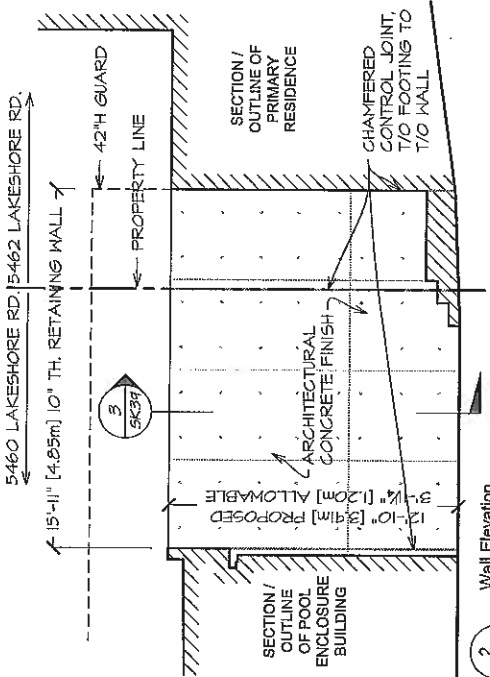
PROJECT:  
5460 & 5462  
Lakeshore Rd.  
Site Development  
LOCATION:  
KELOWNA, BC

DRAWN  
CW  
CHECKED  
CC  
APPROVED  
DS  
SCALE  
AS NOTED

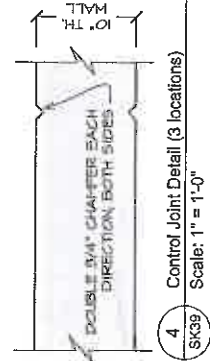
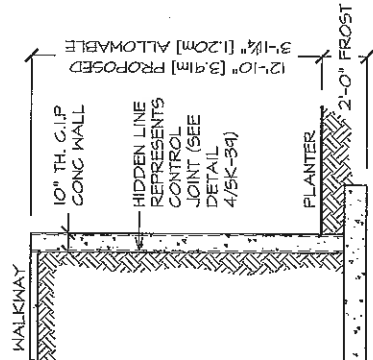
DATE  
08MAY2013  
DRAWING NO.  
SK-39



2 Wall Elevation  
SK39 Scale: 3/16" = 1'-0"



**SCHEDULE "A"**  
This forms part of development  
Permit # **DVP13-0073**



# CITY OF KELOWNA

## APPROVED ISSUANCE OF A:

☐ Development Variance Permit No.: DVP13-0073

EXISTING ZONING DESIGNATION: RR1 - Rural Residential 1 and RR1c - Rural Residential 1 with Carriage House

DEVELOPMENT VARIANCE: To vary Zoning Bylaw Section 7.5.9 Fencing and Retaining Walls.

ISSUED TO: Davara Holdings Ltd.

LOCATION OF SUBJECT SITE: 5458 - 5460 and 5462 Lakeshore Road

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

#### Section 7.5.9 Fencing and Retaining Walls:

To vary the maximum height of a retaining wall from 1.2m permitted to 3.9 metres 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 18<sup>th</sup> DAY OF JUNE, 2013.

ISSUED BY THE LAND USE MANAGEMENT DEPARTMENT OF THE CITY OF KELOWNA THE @ DAY OF @, 2013, BY THE DIRECTOR OF LAND USE MANAGEMENT.

\_\_\_\_\_  
Doug Gilchrist  
Acting Director, Land Use Management

# REPORT TO COUNCIL



**Date:** May 28, 2013

**RIM No.** 0940-93

**To:** City Manager

**From:** Land Use Management, Community Sustainability (JM)

**Application:** TUP12-0001 **Owners:** Pietro & Caterina Perretta

**Address:** 1269 KLO Road **Applicant:** John Perretta

**Subject:** Temporary Use Permit

**Existing OCP Designation:** MRL - Multiple Unit Residential (Low Density)

**Existing Zone:** A1 - Agriculture 1

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## 1.0 Recommendation

THAT Council authorizes the issuance of Temporary Use Permit No. TUP12-0001 to allow the outdoor storage of recreational vehicles from June 10, 2013 until June 10, 2016, for Lot 2, District Lot 131, ODYD, Plan 13021, Except Plan KAP78631, located on 1269 KLO Road, Kelowna, BC as shown on Map "A" attached to the Report of the Land Use Management Department dated May 28, 2013, subject to the following conditions:

- a) THAT, prior to issuance of the Temporary Use Permit, the applicant be required to register on title an easement for access for the outdoor storage of recreational vehicles via 1319-1329 KLO Road;
- b) AND THAT, prior to issuance of the Temporary Use Permit, the applicant be required to remove all vehicles, objects and structures within an area of 15 metres from the Top of Bank of Fascieux Creek and to install appropriate fencing preventing future access to this area.

## 2.0 Purpose

To consider a proposal for a Temporary Use Permit in order to legalize the existing outdoor storage of recreational vehicles for a period of 3 years.

## 3.0 Land Use Management

Land Use Management staff are generally supportive of the proposed Temporary Use Permit as a means to facilitate the gradual transition out of the business within 3 years. The use has been in place since 1995 (and a similar use since 1991) with little disruption to the area. However, the use does not meet current Zoning Bylaw, nor does it meet environmental regulations. The recreational vehicle storage use is inconsistent with the future land use of the subject property

and, more broadly, with the anticipated land use for the area. The areas abutting the north and south of KLO Road east of Gordon Drive are expected to feature a mix of multiple unit residential development and institutional uses; whereas, the outdoor storage of recreational vehicles is an industrial land use. Approving an industrial use on the subject property in any more permanent a fashion would be at counter purposes to the OCP, and would risk creating a pattern of development that is not conducive to creating compact, vibrant and livable neighbourhoods.

With the above in mind, staff would not be supportive of an application to rezone the subject property to legalize the use permanently. It follows that staff would also not be prepared to support an extension to the 3 year term of the TUP. Should the applicant choose to pursue either of the above scenarios, Staff will seek restoration of Fascieux Creek and full compliance with Zoning Bylaw setback, landscaping and screening standards.

## **4.0 Proposal**

### **4.1 Background**

In 1991, the owners of the subject property entered into an easement agreement with the neighbouring Evangel Church for a five year period (1991-1995) in order to provide additional vehicle parking for church parishioners. To facilitate this, the Evangel Church undertook some improvements to the rear portion of the subject property, including the placement of crush material, fencing, and the creation of an appropriate access. According to the applicant, prior to this use, the property was used for agricultural purposes.

Upon the conclusion of the easement agreement, the property owners did not discontinue the vehicle parking use. Instead, the use transitioned into a parking facility for recreational vehicles, which, according to the applicant, provided “much needed RV parking for the residents of Kelowna.” A total of 24 recreational vehicle stalls are in place at the rear of the subject property, behind the single detached dwelling. Under the terms of the easement agreement, access to the parcel for parking was obtained legally through the property owned by the Evangel Church (now owned by the Gordon Park Housing Society). Since the conclusion of the agreement, the applicant has continued to use this access without any formal authorization to do so.

During this time, the property has been zoned for agricultural use (A1 - Agriculture 1) under Zoning Bylaw No. 8000. Under the previous Zoning Bylaw No. 4500, which came into effect in 1976, the parcel was zoned A5 - Rural Urban Reserve. The vehicle parking use, whether for recreational vehicles or for overflow church parking, was not permitted in 1991 has not been permitted under the pertinent zones since. In addition, there is no evidence to suggest that the City in any way sanctioned the use either in 1991 or at the conclusion of the easement agreement in 1995 or at any time since then.

In 2012, Bylaws received a complaint regarding the use, and enforcement action began. In response, the applicant is proposing to legalize the use via Temporary Use Permit (TUP) for a period of 3 years in order to allow the land owners to transition out of providing the use gradually. In support of the request, the applicant has stated that “...the Perrettas are a retired couple and do not anticipate living or providing this service in this location after this time. In addition, this also provides a small income to these seniors while also providing a service much in demand by the public of Kelowna.”

#### Administrative Note:

Council recently adopted several amendments to the OCP addressing Temporary Use Permits. As a result of these changes, TUPs are specifically prohibited on lands designated for residential development. However, this application was accepted and was in stream prior the Council consideration of these changes. On this basis, the application is considered to be



“grandfathered”, and may be granted despite the revised OCP policy. No other TUP applications will be affected in the same manner.

#### 4.2 Project Description

The applicant is seeking a Temporary Use Permit (TUP) in order to legalize for a period of 3 years the existing recreational vehicle (RV) storage use that has been active on the subject property since 1995. The parking area currently occupies the southern approximately 50% of the lot and consists of a total of 24 spaces. Access to the storage area is taken from the southeastern property line from the lane that also serves as an access to both the Evangel Church and the adjacent multiple unit residential complex to the east (Gordon Park Housing). The Evangel Church and Gordon Park Housing Society have indicated formally that they are willing to enter into an easement agreement with the applicant to grant access through their lands for the RV storage use (see attached letters).

As noted in Section 4.3 of this report, the subject property abuts the southern arm of Fascieux Creek, which the OCP identifies as having a Riparian Management Area (RMA) of 15m<sup>1</sup>. Presently, the condition of the riparian area is extremely poor, with no notable riparian vegetation and RV parking occupying the lands up to the Top of Bank of the creek.

Given the temporary nature of the use, Staff are not recommending full riparian restoration at this time. However, the applicant has agreed to fence off an area 15m from the Top of Bank of the creek to ensure that no accidental spills or additional compaction occurs in the RMA. This will result in a reduction in the number of RV parking spaces from 24 to 20. However, should the applicant seek an extension of the 3 year TUP, staff will be seeking riparian restoration at that time, as well as landscaping and screening consistent with the standards of the Zoning Bylaw.

#### 4.3 Site Context

The subject property is located on the south side of KLO Road approximately 100m east of its intersection with Gordon Drive. The lot is 0.39ha in area and presently contains one single detached dwelling, several small and medium sized accessory structures, and a gravel parking area for 24 RVs.

The property is zoned A1 - Agriculture 1 zone but does not reflect a significant agricultural use. Approximately 50% of the parcel is occupied by the outdoor storage of recreational vehicles, while the remaining 50% is occupied by a single detached dwelling and accessory buildings. There is an area of approximately 700m<sup>2</sup> at the rear of the principal dwelling a portion of which is presently under cultivation, while another portion of this area contains poultry.

The southern property line of the subject lot directly abuts the south arm of Fascieux Creek, which is a fish-bearing watercourse<sup>2</sup>. At this point, the south arm of Fascieux Creek is highly modified, with long segments culverted both east and west of this location. For the length of the subject property, the creek channel is open, but is channelized and exhibits little to no riparian vegetation.

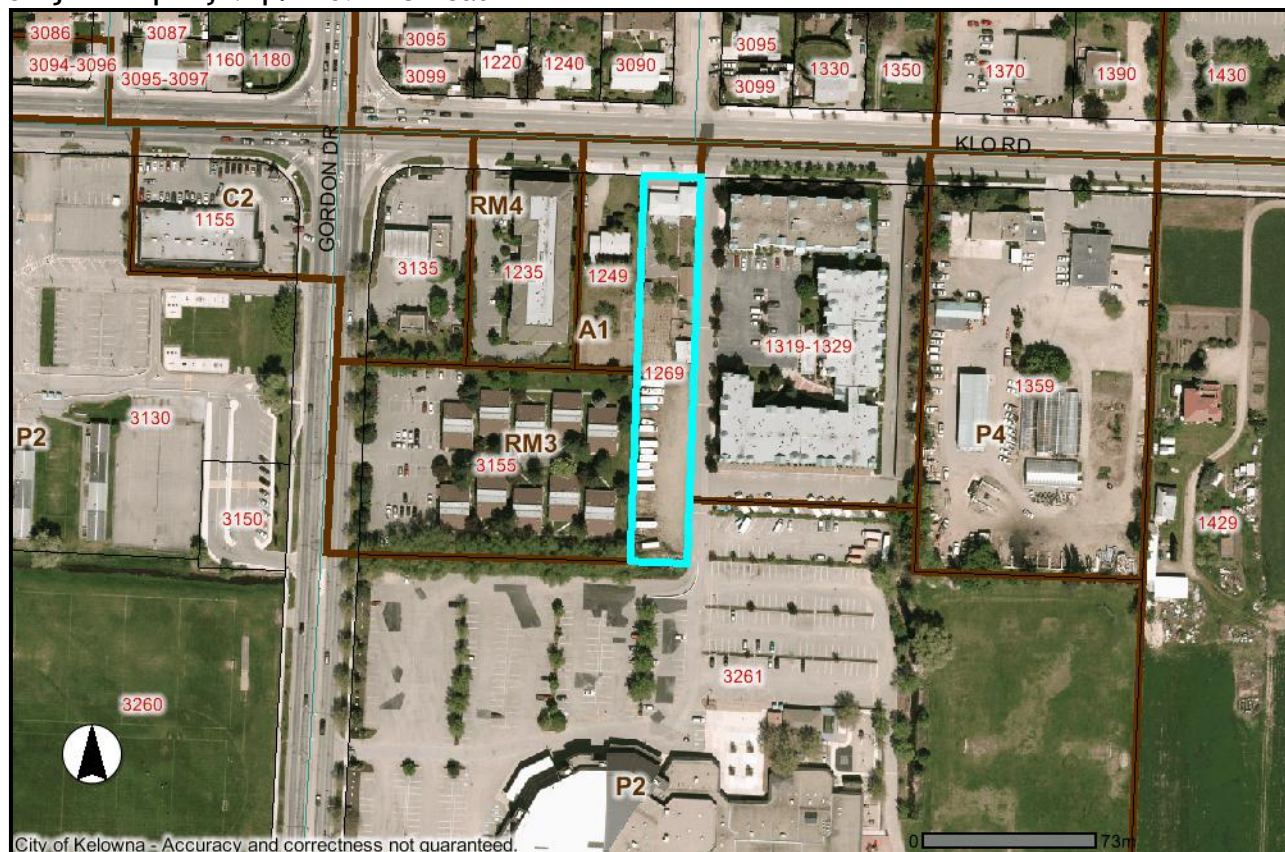
The parcel is surrounded by a mix of land uses, from multi-storey apartment housing to religious assembly, and single detached housing. The subject property has been assigned a Future Land Use designation of Multiple Unit Residential (Low Density) in the OCP and is expected to develop into a multiple unit residential development. Specifically, adjacent land uses are as follows:

<sup>1</sup> City of Kelowna. 2011. 2030 Official Community Plan: Greening Our Future. Table 12.1: Riparian Management Areas (Natural Environment Development Permit Chapter).

<sup>2</sup> City of Kelowna. 2007. *Sensitive Habitat Inventory and Mapping (SHIM): Inventory Summary Report - Volume 2*. Pg. 11-12.

Orientation	Zoning	Land Use
North	RU1 - Large Lot Housing	Low density single dwelling housing
East	RM4 - Transitional Low Density Housing	Apartment housing
South	P2 - Education and Minor Institutional	Religious Assembly (Evangel Church)
West	A1 - Agriculture 1, RM3 - Low Density Multiple Housing	Large lot housing (limited agriculture), row housing

Subject Property Map: 1269 KLO Road



## 5.0 Current Development Policies

### 5.1 Kelowna Official Community Plan (OCP)

#### Development Process

**Complete Suburbs.**<sup>3</sup> Support a mix of uses within Kelowna's suburbs (see Map 5.1 - Urban Core Area), in accordance with "Smart Growth" principles to ensure complete communities. Uses that should be present in all areas of the City (consistent with Map 4.1 - Future Land Use Map), at appropriate locations, include: commercial, institutional, and all types of residential uses (including affordable and special needs housing) at densities appropriate to their context. Building heights in excess of four storeys will not be supported within the suburban areas, unless provided for by zoning existing prior to adoption of OCP Bylaw 10500.

<sup>3</sup> City of Kelowna. 2011. 2030 Official Community Plan: Greening Our Future. Policy 5.2.3 (Development Process).

**Environmentally Sensitive Area Linkages.**<sup>4</sup> Ensure that development activity does not compromise the ecological function of environmentally sensitive areas and maintains the integrity of plant and wildlife corridors.

## **6.0 Technical Comments**

### **6.1 Fire Department**

A 6M road width should be maintained at all times for emergency vehicle access.

## **7.0 Application Chronology**

Date of Application Received: September 17, 2012

Application put on hold: November 7, 2012

Additional Information Provided: April 23, 2013

**Report prepared by:**

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James Moore, Land Use Planner

**Reviewed by:** ☐ Todd Cashin, Manager, Environment & Land Use

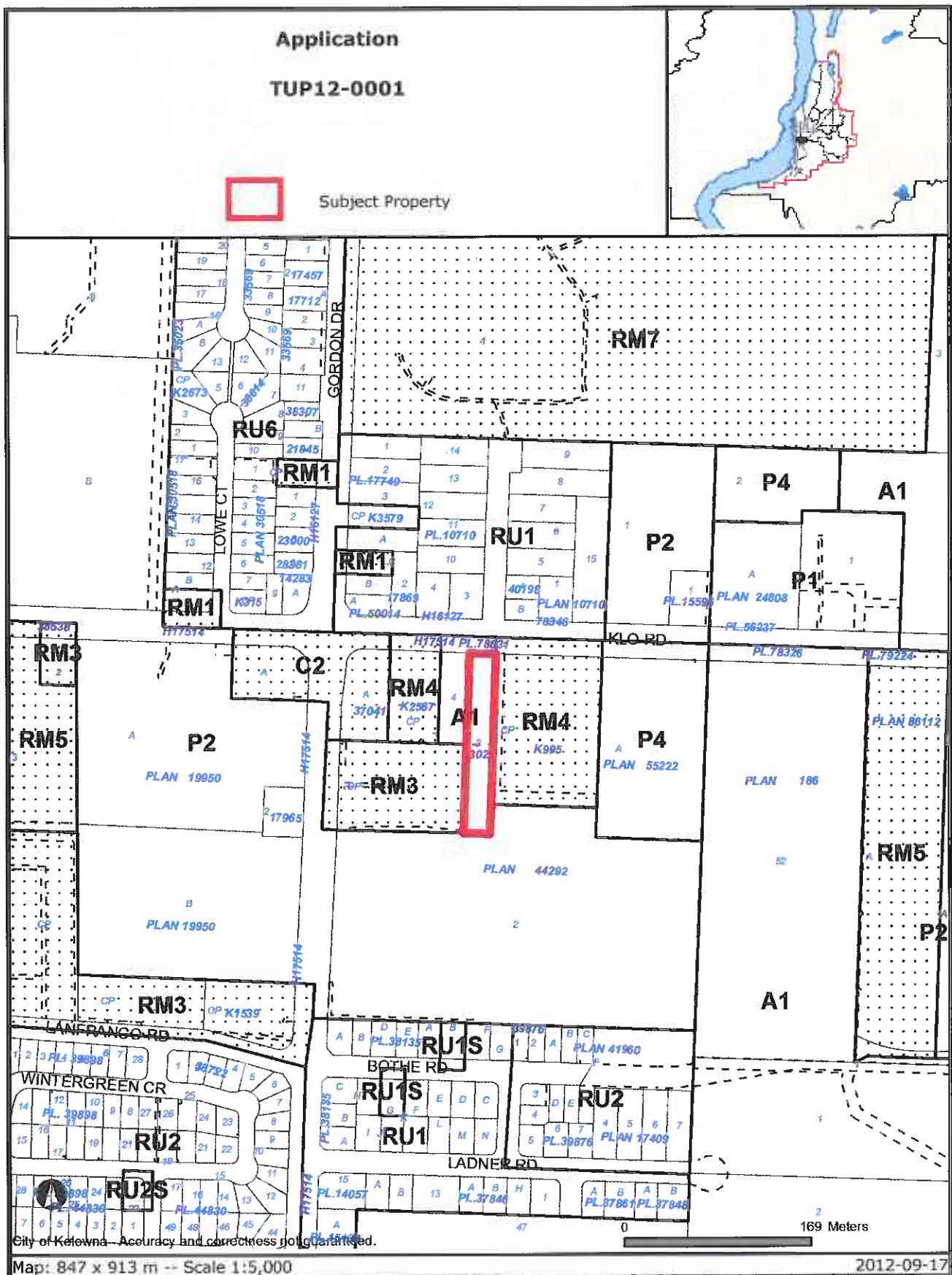
**Approved for Inclusion:** ☐ Doug Gilchrist, Acting GM of Community Sustainability

### **Attachments:**

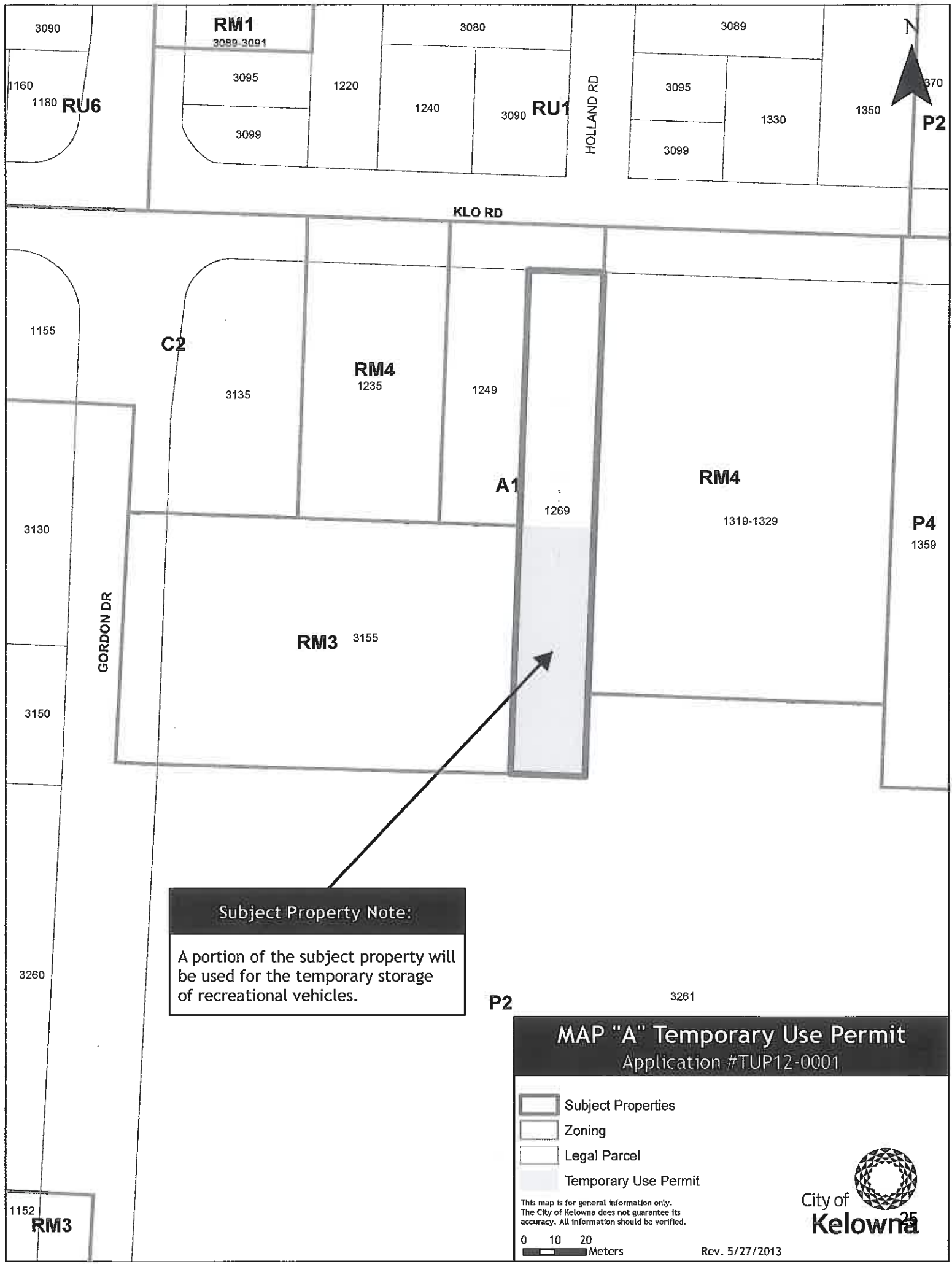
Subject Property Map  
Map "A" - Temporary Use Permit  
Applicant's Site Plan  
Context/Site Photos  
Letter from Evangel Church  
Letter from Gordon Park Housing Society  
DRAFT Temporary Use Permit No. TUP12-0001

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<sup>4</sup> City of Kelowna. 2011. 2030 Official Community Plan: Greening Our Future. Policy 5.15.3 (Development Process).



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.



# MAP "A" Temporary Use Permit

Application #TUP12-0001

- Subject Properties
- Zoning
- Legal Parcel
- Temporary Use Permit

This map is for general information only.  
The City of Kelowna does not guarantee its  
accuracy. All information should be verified.

0 10 20  
Meters

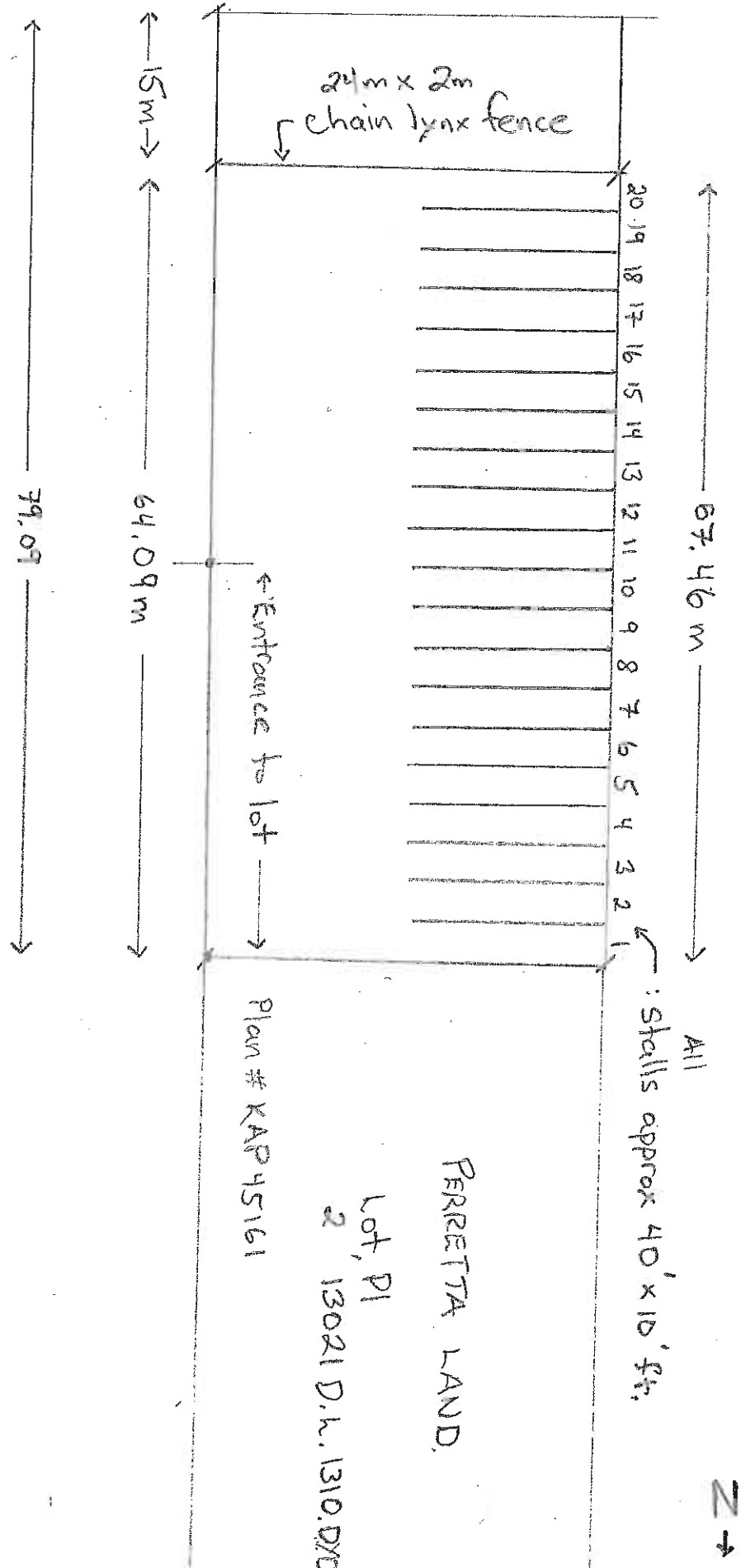
Rev. 5/27/2013





Faseaux Creek

Catherine Perreth 1269 K.L.O. Rd



April 23/2013  
John Perreth.

Context/Site Photos



View from subject property looking southwest



View from subject property looking south



View of Fascieux Creek within subject property



View from subject property looking north





# GORDON PARK HOUSING SOCIETY

101-1329 K.L.O. Road, Kelowna, B.C. ♦ V1W 3N9 ♦ Phone: 250-868-0850

May 15, 2013

To whom it may concern;

Please accept this letter as our acceptance to enter into a temporary easement with our neighbors, the Perretta's, for the road access as highlighted on the map, with the following conditions:

- term of the easement is for a maximum of 3 years and will end August 15, 2016
- the easement is only for the area indicated and only for the required use of parking storage as per the permit the Perretta's have applied for
- the easement is solely with the Perretta's and is not transferable
- all costs associated with adding and removing of the easement from title will be covered by the Perretta's.

If you have any questions or need further information concerning the above, please feel free to contact our property manager, Mrs. Olsen-Saunders at 250-868-0850, or myself at 250-717-0798.

Thank you for your time and attention to this.

Sincerely,

Mrs. L Huk, President

Gordon Park Housing Society



August 15, 2012

**Re: Easement for right of access to the a joining property.**

To whom it may concern,

By this letter we acknowledge the request of Pietro and Caterina Perrtta, (here after referred to as *the applicant*), for a temporary easement which will ensure access to the back portion of their property, (with the address: 1269 K.L.O. RD, KELOWNA, BC, V1W 3N7), from our private access road as shown and clearly marked on the attached map.

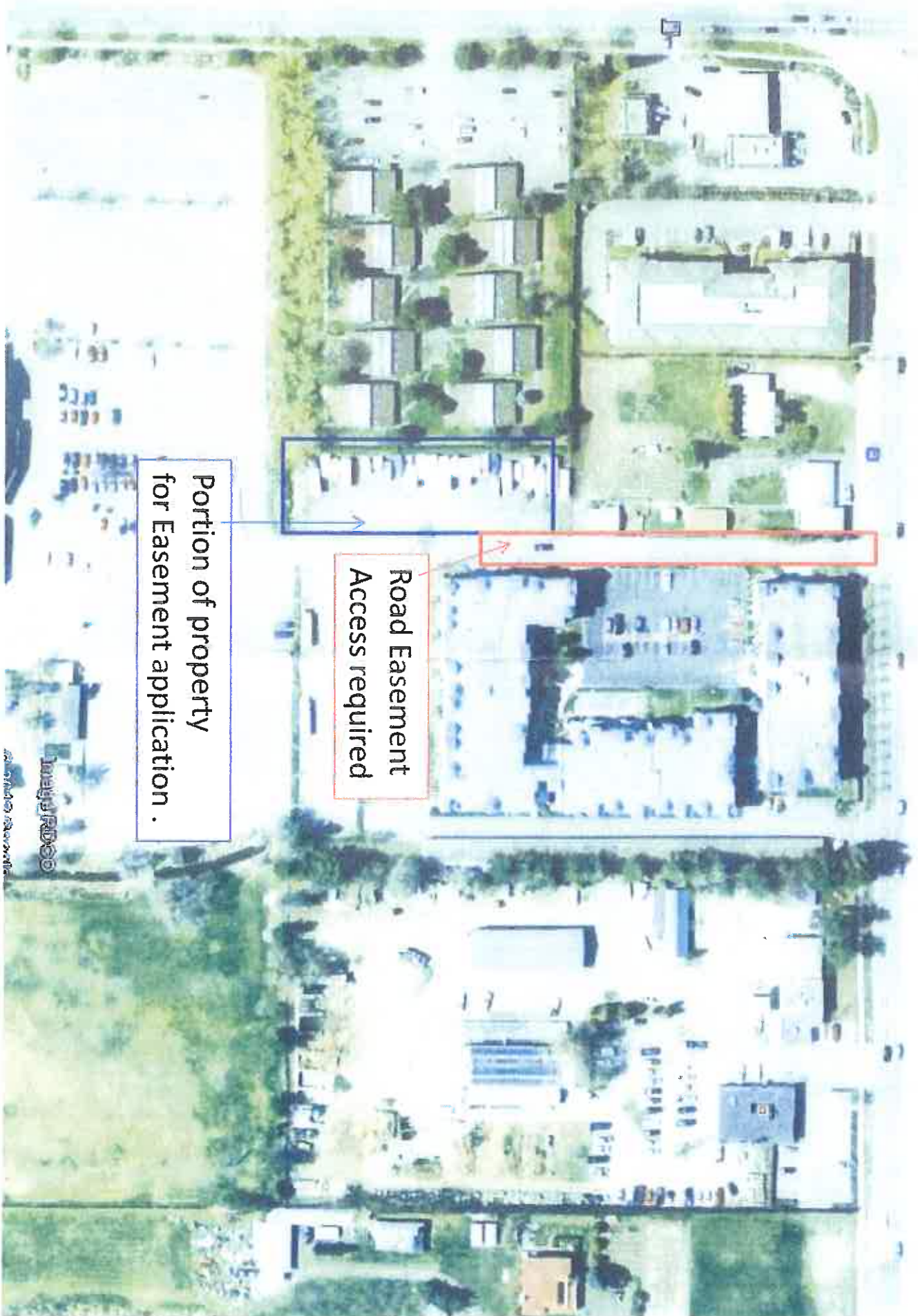
We are willing to enter into this temporary easement, with our neighbors, *the applicant*, for the road access as highlighted on the map, with the following conditions:

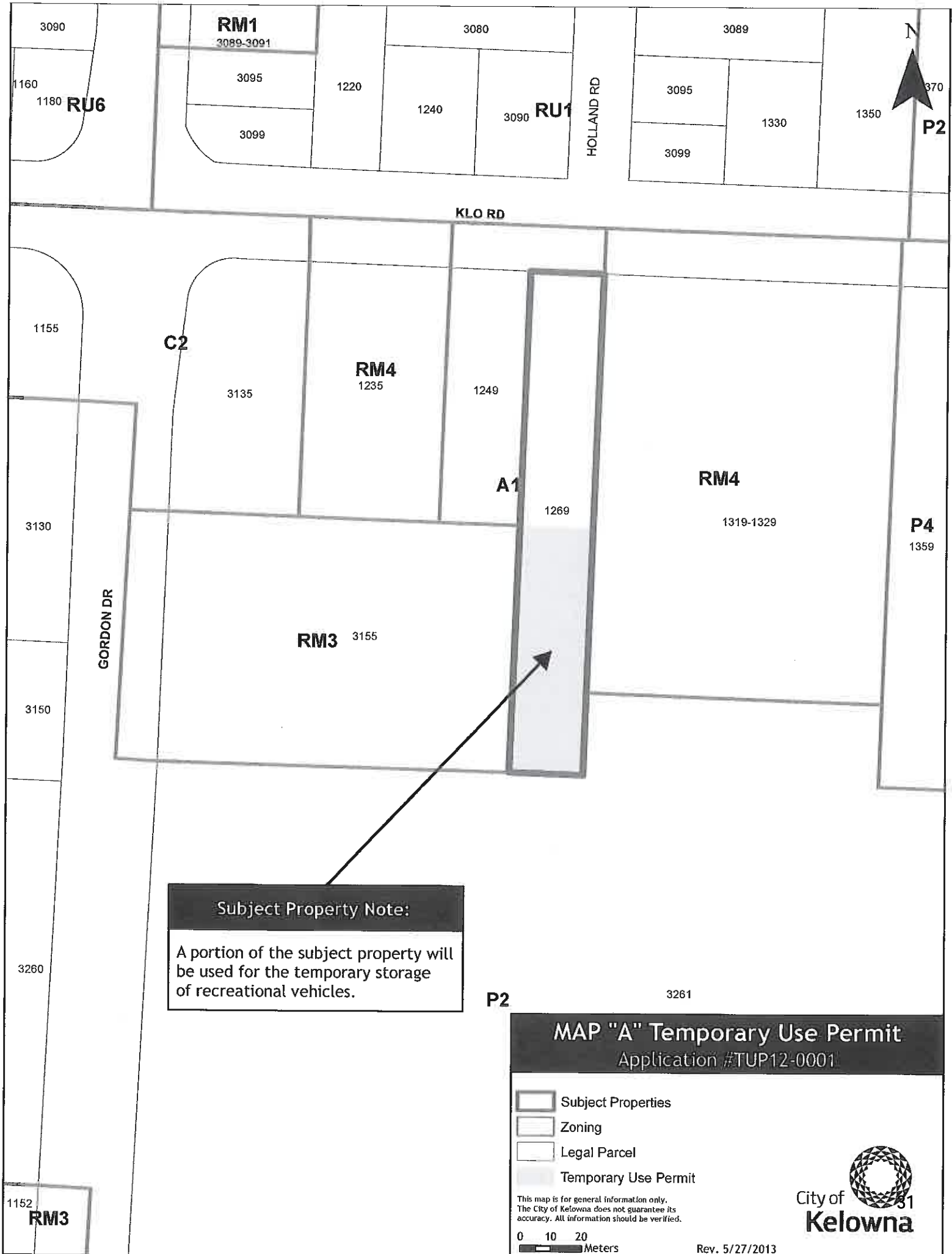
- Term of the easement is for a maximum of 3 years and will end August 31, 2015.
- The easement is only for the area indicated and only for the required use of parking storage as for the permit applied by *the applicant*.
- The easement is solely with *the applicant* and is not transferable.
- All costs associated with adding and removing of this easement from title will be covered by *the applicant*.

If you have questions or need additional information concerning this letter please free to call me at our office or at 250 869-4416

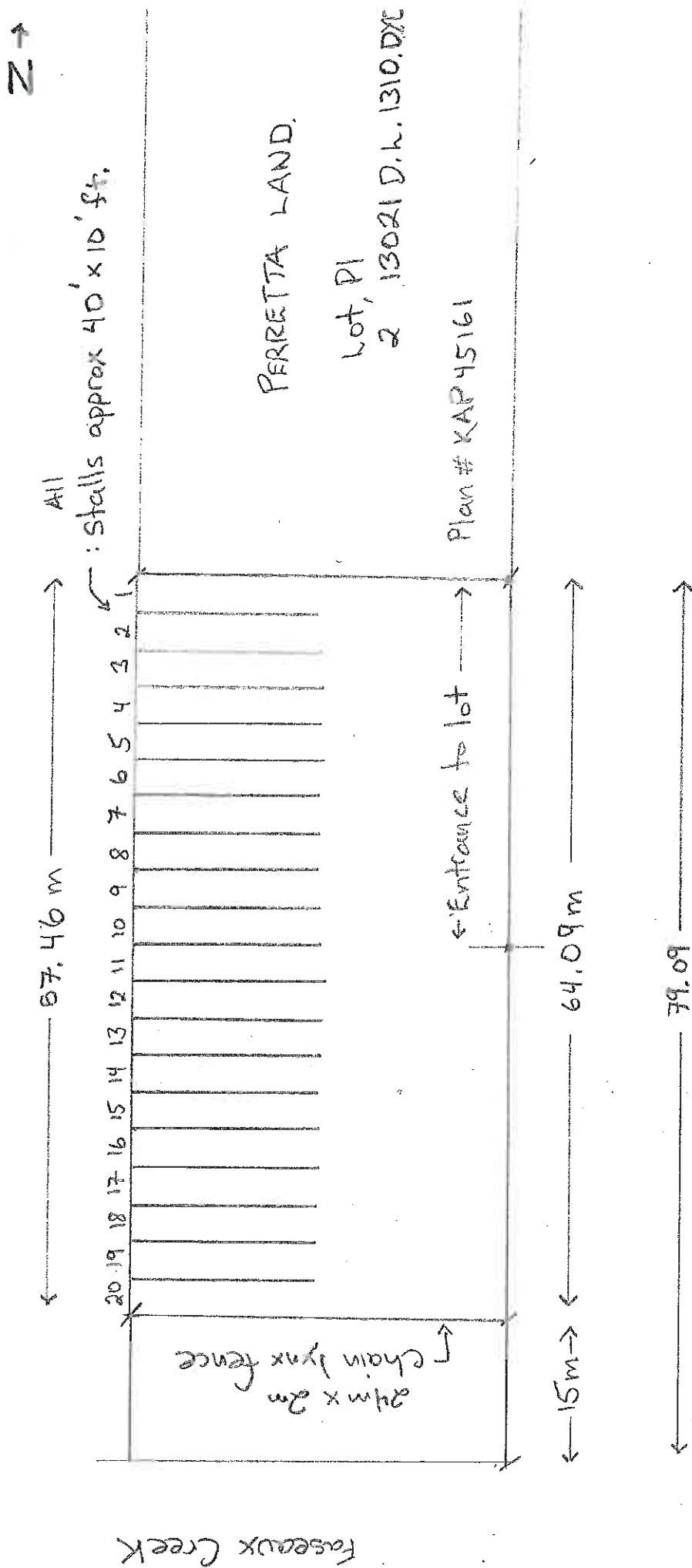
Sincerely,

Irvin Cordes – Executive Pastor and Administrator  
Evangel Church of Kelowna  
Email: [irvc@evangelbc.org](mailto:irvc@evangelbc.org)





Caterina Perretta 1269 K.L.O. Rd



April 23/2013  
John Perretta

SCHEDULE B

This forms part of development

Permit # TUP12-0001

# CITY OF KELOWNA

## APPROVED ISSUANCE OF A:

☐ Temporary Industrial Use Permit No .: TUP12-0001

EXISTING ZONING DESIGNATION: A1 - AGRICULTURE 1

ISSUED TO: Pietro & Caterina Perretta

LOCATION OF SUBJECT SITE: 1269 KLO Road

	LOT	D.L.	PLAN	SECTION	TOWNSHIP	DISTRICT
LEGAL DESCRIPTION:	2	131	13021 Except Plan KAP78631	-	-	O.D.Y.D.

### 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

#### 1. TERMS AND CONDITIONS:

- a) THAT, in addition to the permitted uses of the A1 - Agricultural 1 zone of Zoning Bylaw 8000, as amended or replaced from time to time, this Permit allows for the commercial storage of recreational vehicles within the area shown shaded on the attached Map "A";
- b) THAT, for the purposes of this Permit, "recreational vehicles" shall be defined as follows:  
*"RECREATIONAL VEHICLE means a transportable conveyance intended as a temporary accommodation for travel, vacation, or recreational use and includes travel trailers, motorized homes, slide-in campers, chassis-mounted campers, boats, all terrain vehicles, snowmobiles and tent trailers but not including mobile homes."*
- c) THAT development in accordance with this Permit is not subject to the Landscaping & Screening, and Off-Street Parking & Loading requirements of Zoning Bylaw 8000, as amended or replaced from time to time;
- d) THAT a maximum of 20 recreational vehicles are permitted within the Temporary Use Permit area at any one time;
- e) THAT no expansion of the existing parking area is permitted;
- f) THAT 1.8m tall chain link fence be erected and maintained on the subject property at least 15m from the Top of Bank of Fascieux Creek, as shown on the attached Schedule "B";
- g) THAT this Permit is restricted to a maximum term of three (3) years, beginning on July 16, 2013 (to expire on July 16, 2016);
- h) THAT, following the expiry of this Permit, the use of the subject property must comply with the provisions of the A1-Agriculture 1 zone of Zoning Bylaw 8000, as amended or replaced from time to time;
- i) AND THAT general requirements for obtaining a Business License are to be met.



2. 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 transferable 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.**

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.

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.

3. APPROVALS:



TEMPORARY USE PERMIT AUTHORIZED BY COUNCIL ON THE \_\_\_\_ DAY OF \_\_\_\_\_, 2013.

ISSUED BY THE LAND USE MANAGEMENT DEPT. OF THE CITY OF KELOWNA THE \_\_\_\_ DAY OF \_\_\_\_\_, 2013.

---

Shelley Gambacort  
Director of Land Use Management

DRAFT

# REPORT TO COUNCIL



**Date:** May 24<sup>th</sup>, 2013  
**RIM No.** 0940-50  
**To:** City Manager  
**From:** Land Use Management, Community Sustainability (AW)  
**Application:** DVP13-0068      **Owner:** Teresa Anne Van Roechoudt  
**Address:** 301 West Avenue      **Applicant:** Worman Resources Inc.  
**Subject:** Development Variance Permit  
**Existing OCP Designation:** Single / Two Unit Residential  
**Existing Zone:** RU6 - Two Dwelling Housing

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## 1.0 Recommendation

THAT Council authorize the issuance of Development Variance Permit No. DVP13-0068 for Parcel A, (DD 129455F and Plan B4490) of Lot 7, District Lot 14, ODYD, Plan 2336, located at 301 West Avenue, Kelowna, B.C;

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

### Section 6.11.1 Okanagan Lake Sight Lines

Vary the Okanagan Lake Sightline from 60° to 0° proposed for the northern portion of the property, as per Schedule 'A'.

### Section 13.6.6 (c) Development Regulations

To vary the front yard setback from 4.5m required to 2.5m proposed, as per Schedule 'A'.

### Section 13.6.6 (c) Development Regulations

To vary the rear yard setback from 4.5m required to 2.01m proposed, as per Schedule 'A'.

## 2.0 Purpose

To consider a Development Variance Permit to reduce the front yard setback from 4.5m required to 2.5m proposed, reduce the rear yard setback from 4.5m required to 2.01 proposed and to vary the Okanagan lake sight line from 60° to 0° proposed for the northern portion of the property.

## 3.0 Land Use Management

The proposed variances are primarily the result of the unconventional lot pattern, which sees the subject property adjacent to a low density strata development to the east and south. The lot

layout with the longest frontage facing the street also does not fit well within the Zoning Bylaw which is based on a more conventional lot layout with the street frontage being the shortest property line. As such, both setback variances are considered to be within reason and have been supported by the adjacent Strata Council. Although the Okanagan Lake Site Line will be further encroached upon with the new dwelling the property was put in a non-conforming situation when the neighbouring properties to the east and south re-developed. If the single family lot pattern had been maintained to the south only a minor sight line variance would be required to accommodate the proposal. For these reasons Staff support the proposed variances and believe that the impacts on adjacent properties will not be significant.

## 4.0 Proposal

### 4.1 Project Description

The applicant has applied for three variances in order to accommodate the construction of a new single family dwelling. The proposed variances are as follows:

- reduce the front yard setback from 4.5m required to 2.5m;
- reduce the rear yard from 4.5m required to 2.01m proposed;
- vary the Okanagan lake sight line from 60° to 0° proposed for the northern portion of the property.
- 

Zoning Bylaw No. 8000		
CRITERIA	PROPOSAL	RU1 REQUIREMENTS
Development Regulations		
Site Coverage - Buildings	33.2%	40%
Site Coverage - Bldgs, parking, driveways	47.7%	50%
Front Yard	2.5m <sup>1</sup>	4.5m 6.0m to Garage
Side Yard (e)	2.01m	2.0m - 1-1 ½ storey portion
Side Yard (w)	+/-15m	2.0m
Rear Yard	2.01m <sup>2</sup>	4.5m
General Development Regulations		
Okanagan Lake Sightline	0° <sup>3</sup>	60°
<sup>1</sup> Vary the front yard setback from 4.5m required to 2.5m proposed. <sup>2</sup> Vary the rear yard setback from 4.5m required to 2.01m proposed. <sup>3</sup> Vary the Okanagan Lake Sightline from 60° to 0° proposed for the northern portion of the property.		

## 4.2 Site Context

### Subject Property Map: 301 West Avenue



Adjacent land uses are as follows:

<i>Direction</i>	<i>Zoning Designation</i>	<i>Land Use</i>
North	RU6 - Two Dwelling Housing	Residential
West	Okanagan Lake	-
South	RM3 - Low Density Multiple Housing	Residential
East	RM3 - Low Density Multiple Housing	Residential

## 5.0 Technical Comments

### 5.1 Building & Permitting Department

- A minimum Geodetic Elevation of 343.66 meters is required for all habitable spaces including the parking garage(s).
- Full Plan check for Building Code related issues will be done at time of Building Permit applications

### 5.2 Development Engineering Department

No concerns

### 5.3 Environment Branch

Natural Environment Development Permit required.

### 6.0 Application Chronology

Date Application Received: May 10<sup>th</sup>, 2013

**Report prepared by:**

---

Alec Warrender, Land Use Planner

**Reviewed by:**

☐

Danielle Noble, Manager, Urban Land Use

**Approved for Inclusion:**

☐

Doug Gilchrist, A. General Manager, Community Sustainability

**Attachments:**

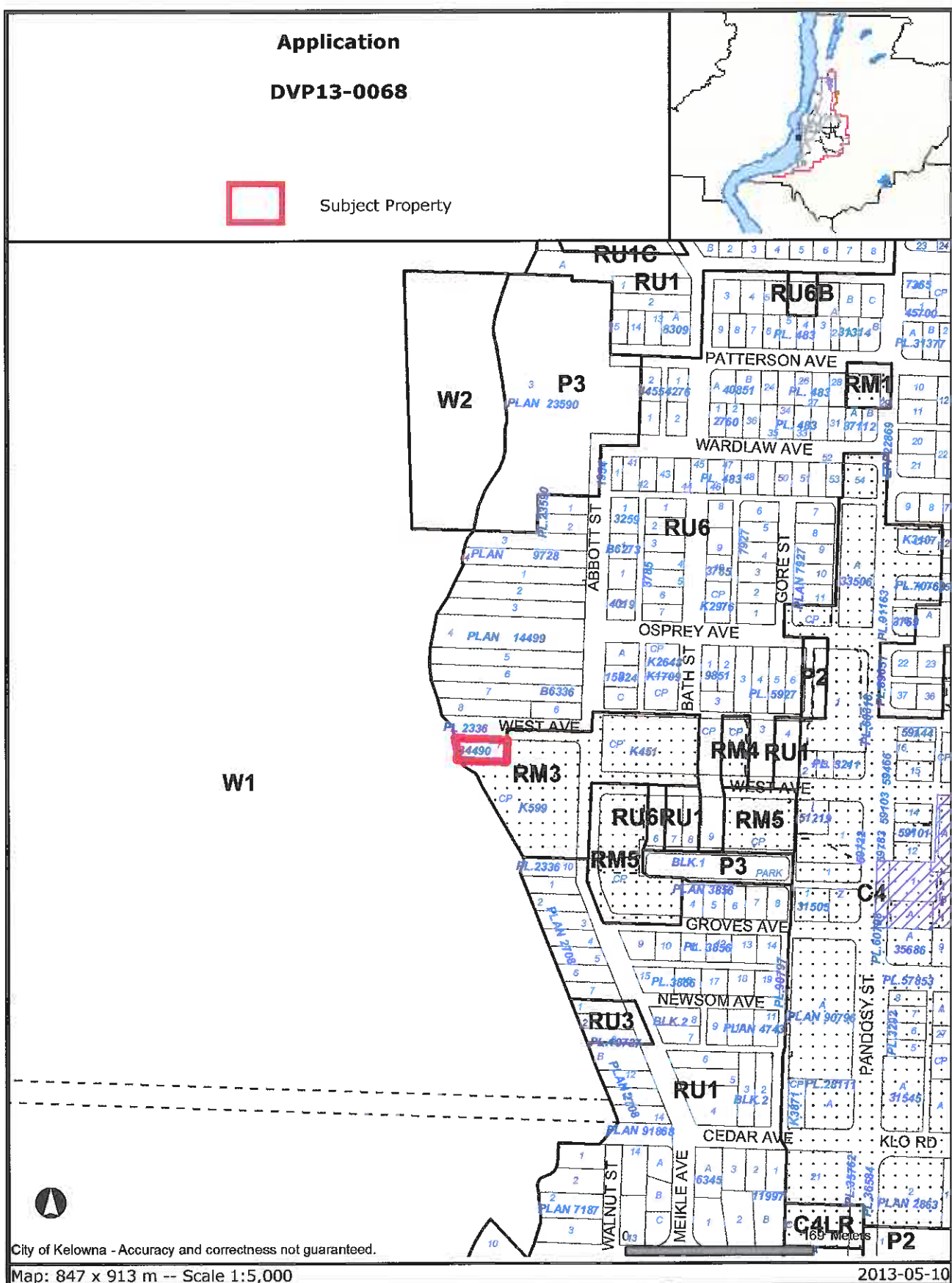
Site Plan

Coloured rendering

Letter of Rationale

Letter of Support from adjacent Strata Council

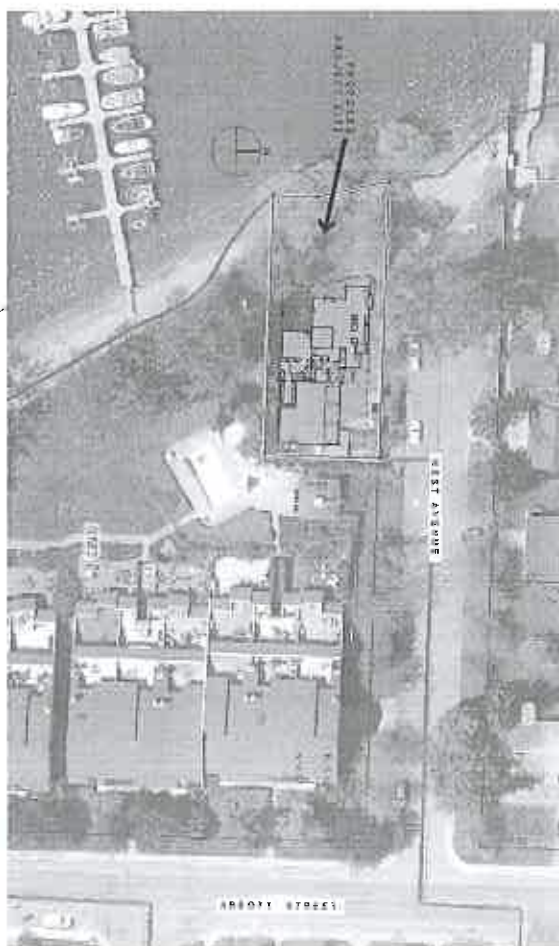
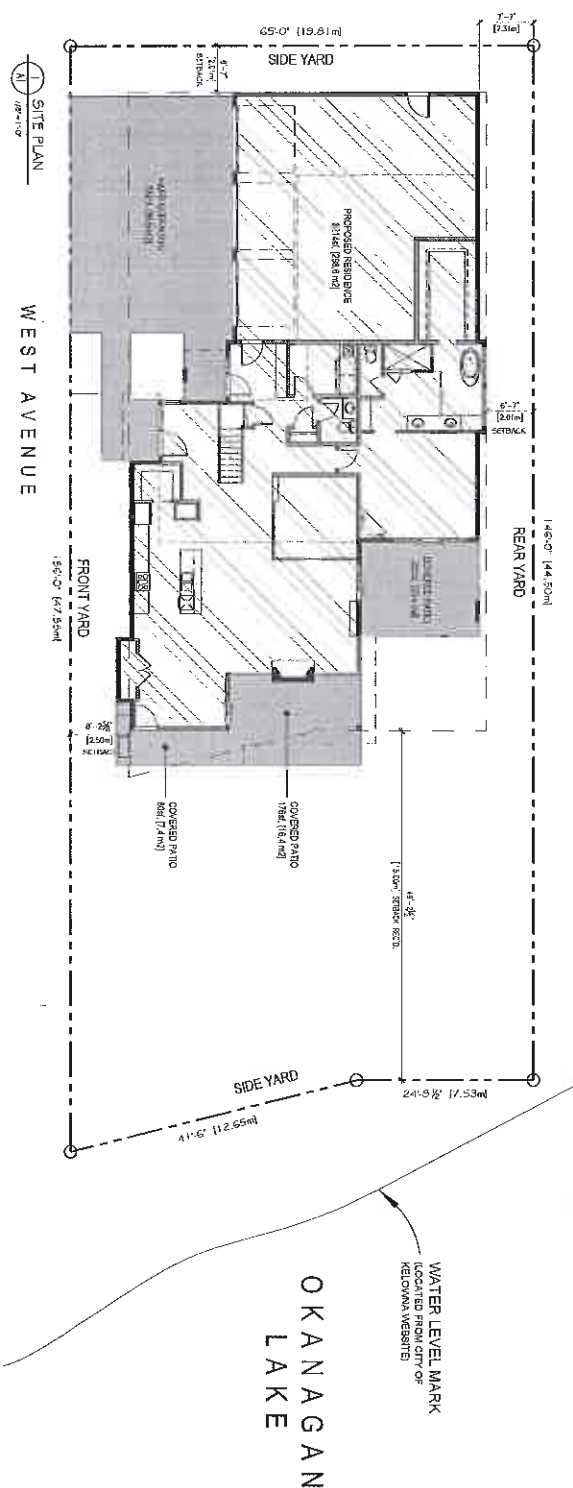
Site Photographs



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.



SITE  
PLAN  
A101

[illegible]

BROWN RESIDENCE

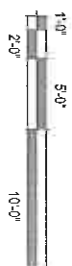
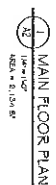
301 WEST AVE.  
KELOWNA, BC

SCHEDULE A  
This forms part of development  
Permit # DUP13-0068

## KEY PLAN



MAIN  
FLOOR PLAN  
A202



BROWN RESIDENCE

301 WEST AVE.  
KELOWNA, BC



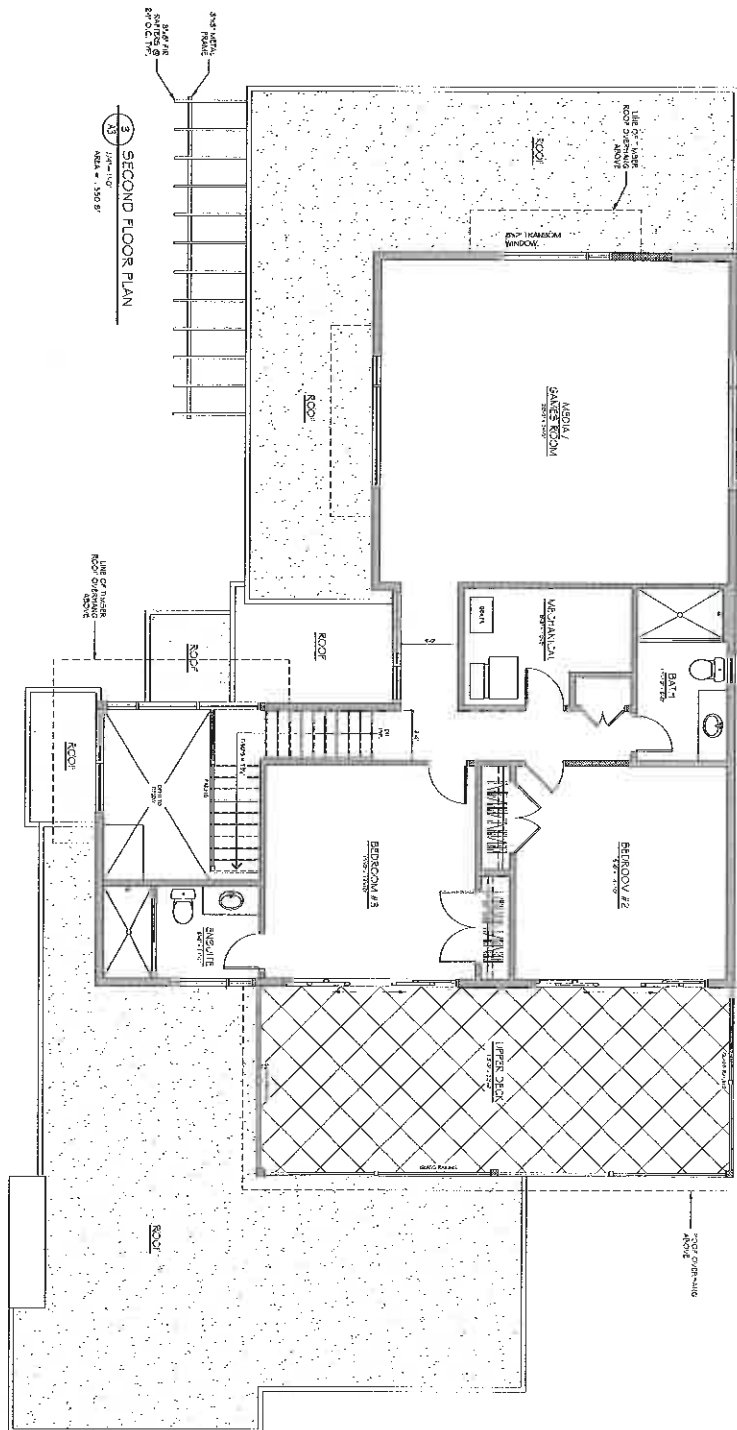
**SCHEDULE A**

This forms part of development

Permit # DUPB-0068

APR-11-2013

UPPER  
FLOOR PLAN  
A203



BROWN RESIDENCE

301 WEST AVE.  
KELOWNA, BC



SCHEDULE A  
This forms part of development  
Permit # DUP13-0068



WORMAN



301 WEST AVENUE | Kelowna, BC

Worman Homes | Worman Commercial





WORMAN  
WORMAN HOMES | WORMAN COMMERCIAL

May 2, 2013

Re: Brown Residence  
301 West Avenue

This letter is to explain the variance requests for a new residence at 301 West Avenue.

In designing a house for this lot careful consideration was given to its impact on the neighboring property, the Kelowna Shores development. To the extent we could, the design provides the least amount of impact possible on the neighbor while still building a home that will be practical for its owners. We have discussed our proposal with the strata president of the abutting property who in turn will be discussing with the rest of the members at their next strata meeting.

The first variance being requested is to vary the 60 degree site line requirement on lake front lots. As you can see by the aerial view, this property abuts a very large parcel. This lot is actually located right in front (lake side) of a portion of the neighboring lot and building. If the bylaw was to be followed it would render this lot unbuildable. I don't believe that was the intention of the bylaw.

The second variance request is to vary the front and rear yard setbacks. This is a very unique lot as its frontage is on the long side of the lot. There is also the constraint of a 15 m riparian setback from the natural boundary of Okanagan Lake. Obviously we wanted to respect this setback. Ironically what we found when we were designing the home was that if we maintained the front and rear setbacks it meant building more second floor on the home which in turn had a more detrimental effect on the site lines of the abutting property. We felt that by expanding the house into the front and rear yard setbacks it had less impact on the neighbors than if we respected the setbacks.

The other factor unique to this site to consider is the current natural barrier between this lot and its neighbor. There is a wonderful growth of hedges and trees at the perimeter of the lot which we feel are a great asset and will contribute to the preservation of privacy for both parties. This natural buffer is also a natural barrier to the site lines available from the Kelowna Shores development. Our goal in design was to try and stay within the areas already blocked by these natural obstructions.

I hope that our proposal demonstrates that careful planning was used and that our request for variances came with well-intentioned and carefully thought out design. Thank you for the consideration of the above and we hope you will find our application acceptable.

Sincerely,

Shane Worman  
Worman Homes



May 14, 2013

Property Owner  
301 West Avenue  
Kelowna, BC V1Y 4Y9

**Re: Strata Plan KAS 599  
Proposed plans for development of property at 301 West Avenue**

The strata council of Strata Plan KAS 599 directed Okanagan Strata Management Ltd. to forward this letter. The council received your proposed plans for the development of your property at 301 West Avenue. The council is aware that you will need to apply to the municipality for a variance to the setback requirements in order to proceed as planned. The council understands that you wish to receive a letter from the strata corporation confirming that they do not object to your proposed plan.

**The currently elected strata council members confirm that they do not object to your proposed plan, including with regards to the proposed variance to the setback requirements.**

For clarity of the above statement, please be aware that the strata council are responsible for the maintenance and administration of the strata corporation. Matters relating to property outside of the strata plan are not matters for which the strata council have any mandate or power to make decisions on behalf of the strata corporation. As such, this "non-objection" can only be on behalf of the five individual members currently servicing on council and not on behalf of all owners in the strata corporation.

For your information, the strata council has not received any feedback from owners who disagree with your proposed plans. It is understood that there will be a public consultation period after your apply for the variance to the setback requirements. If any owners at Kelowna Shores object to your proposed plans, the council trusts that those objections will come to light during the public consultation.

Okanagan Strata Management Ltd., per

A handwritten signature in black ink, appearing to read 'G Bickert'.

Greg Bickert  
Strata Manager  
gbickert@okstrata.com  
Ext 108

**WWW.OKSTRATA.COM**



**KELOWNA (HEAD OFFICE)**

#201 - 1475 Ellis Street  
Kelowna, BC V1Y 2A3  
Phone: (250) 868-3383 Fax: (250) 861-4586



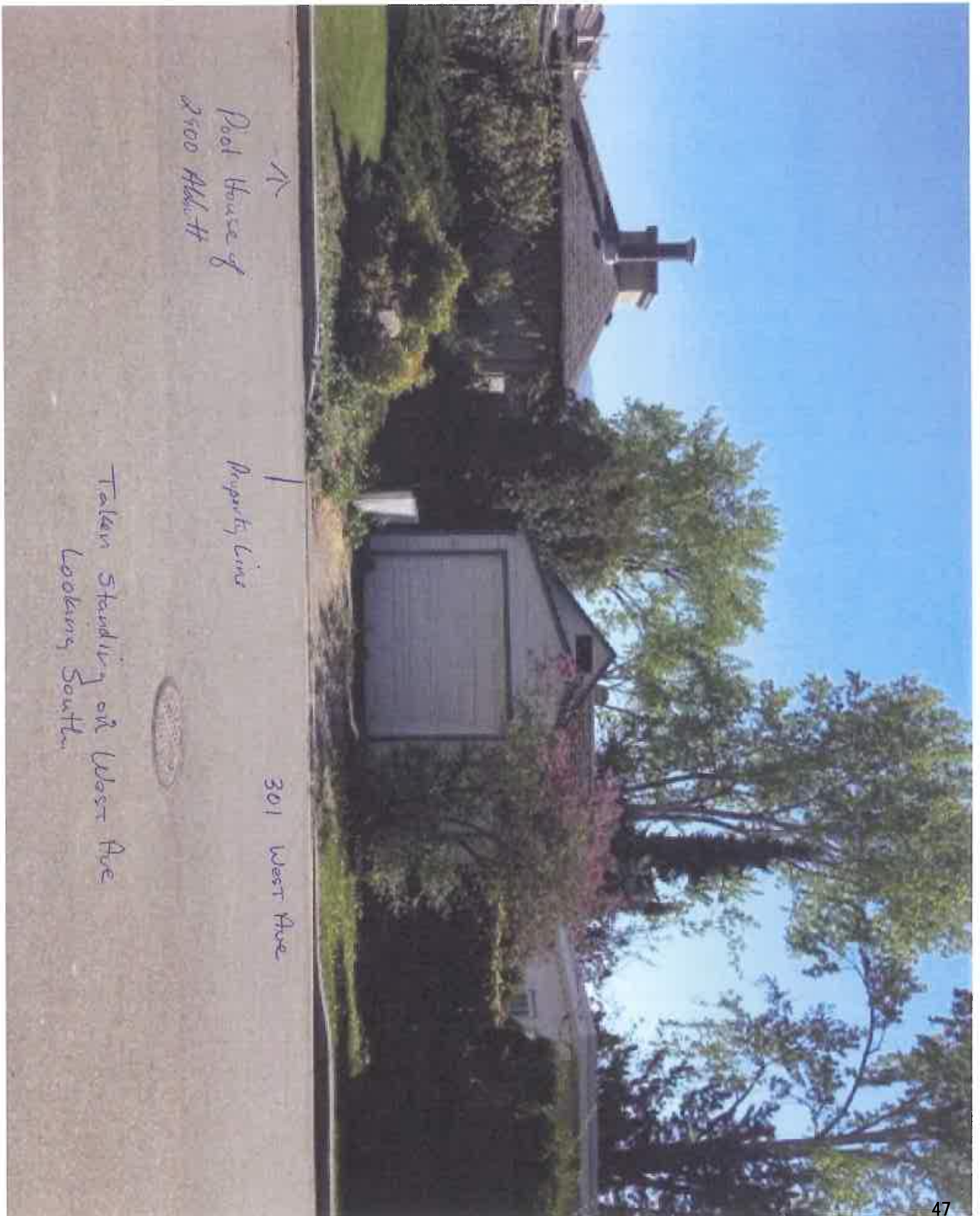
**PENTICTON (BRANCH)**

#102 - 95 Eckhardt Avenue East  
Penticton, BC V2A 8L2  
Phone: (250) 492-7300 Fax: 1-877-862-5700



**SICAMOUS (BRANCH)**

#1 - 433 Finlayson Street  
Sicamous, BC V0E 2V0  
Phone: (250) 838-3840 Fax: 1-877-862-5700



Pool House of  
2500 Hb. #



Property Line



301 West Ave

Taken Standing on West Ave  
Looking South

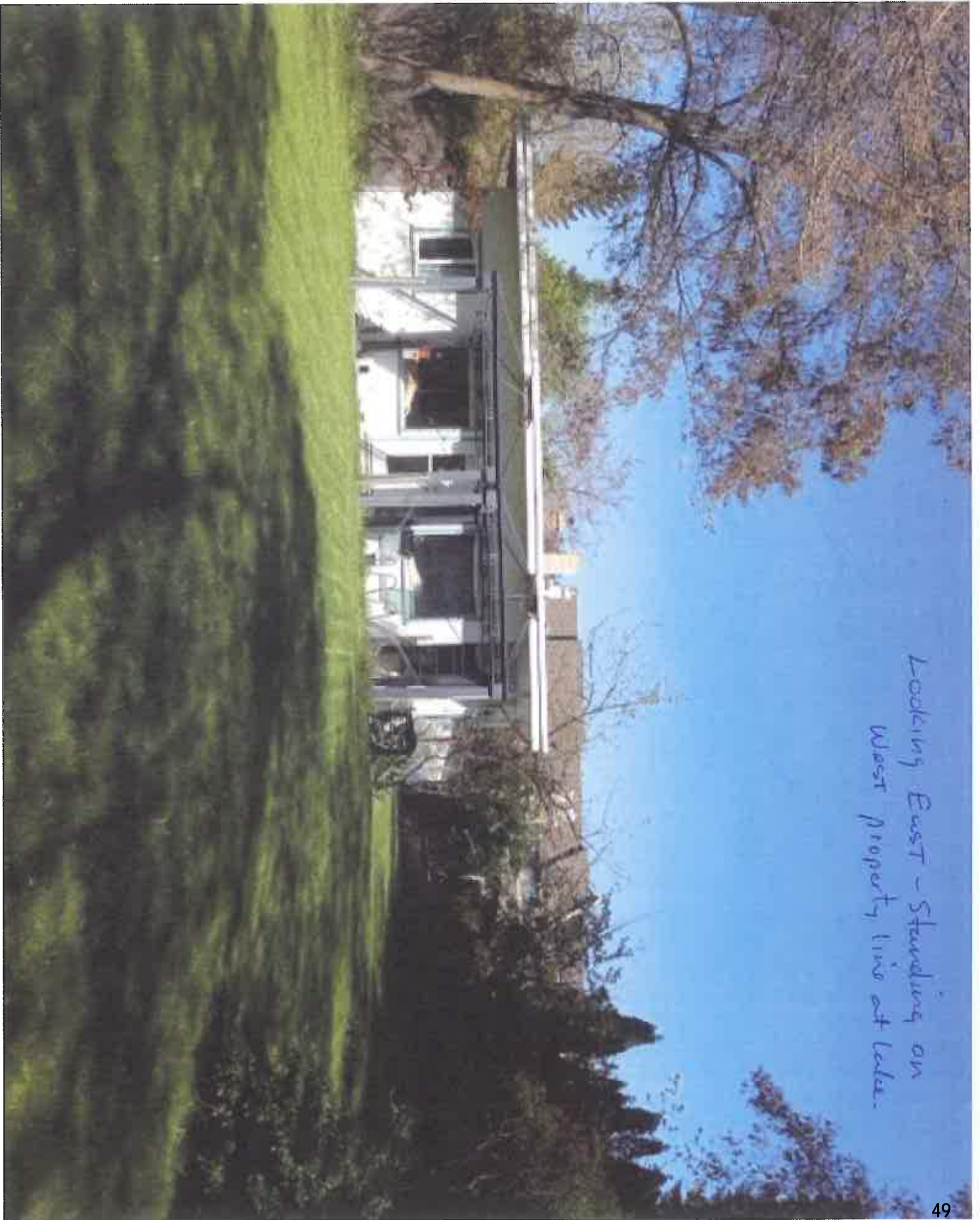




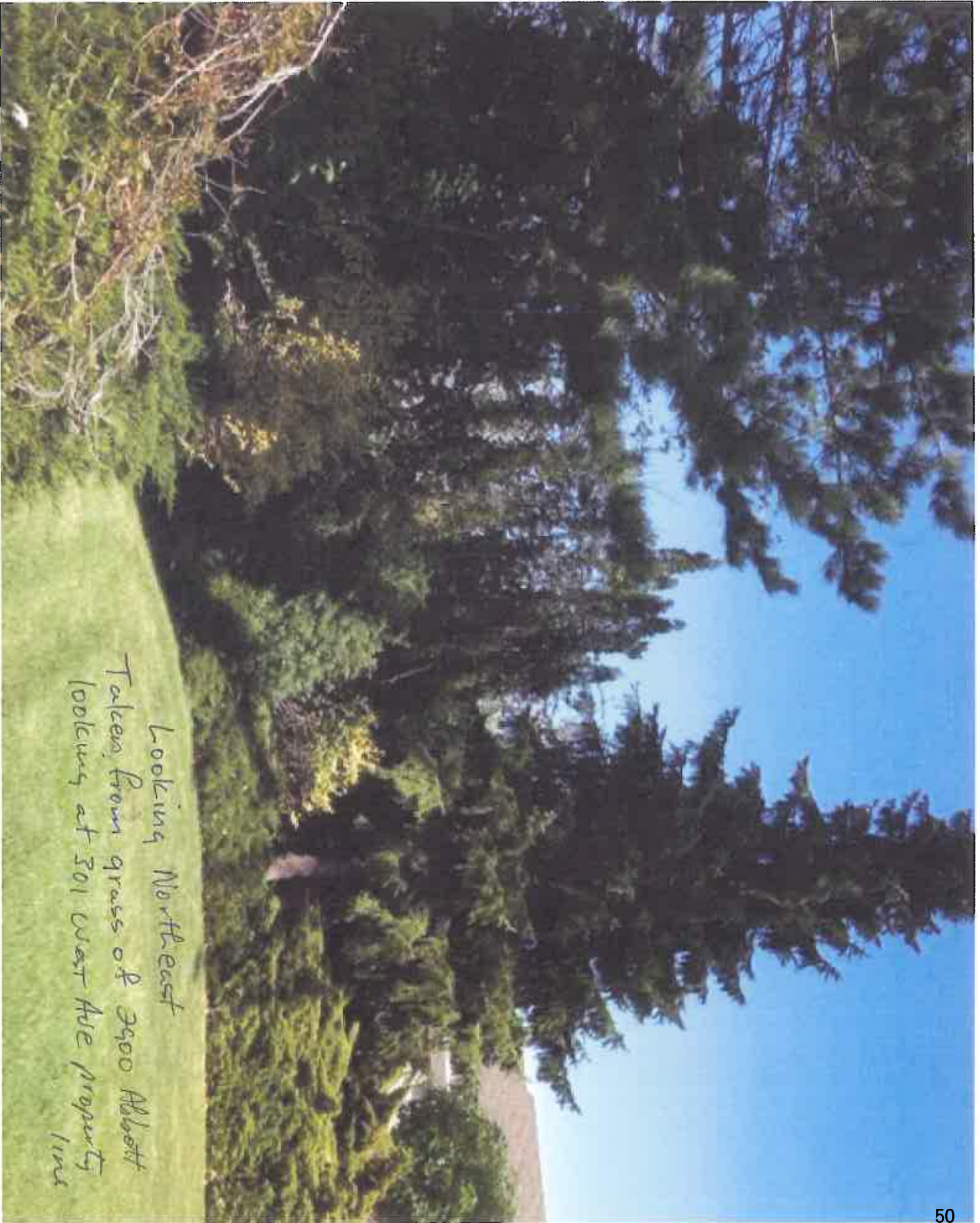


Standing on 2900 Abbott Property,  
looking West at Cedars on property,  
line of 301 West Ave.

Looking East - Standing on  
West Property, line of lake.



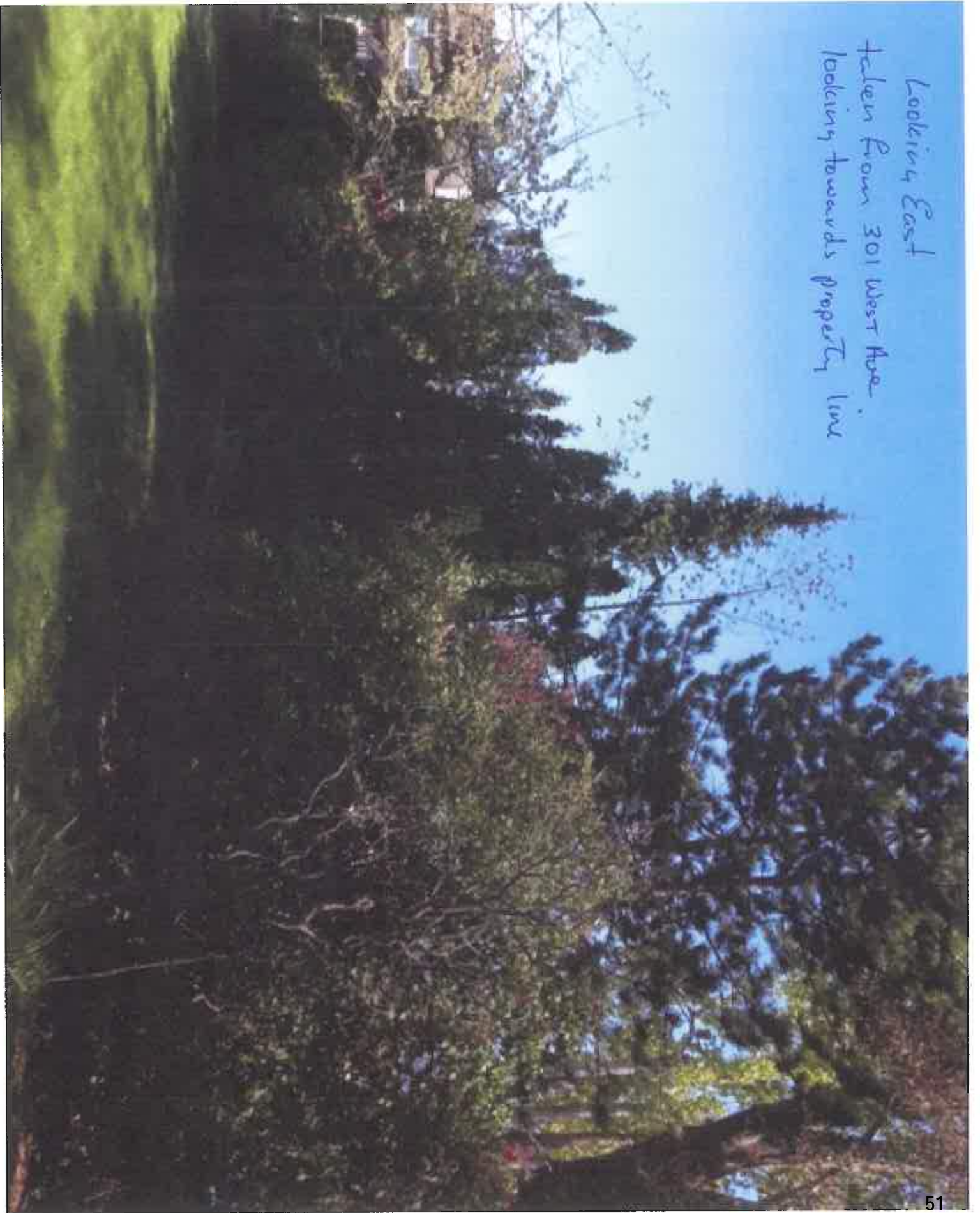




Looking Northeast  
Taken from grass of 3900 Abbott  
looking at 301 West Hill property line



Looking East  
taken from 301 West Ave.  
looking towards property line



# CITY OF KELOWNA

## APPROVED ISSUANCE OF A:

☐ Development Variance Permit No.: DVP13-0068

EXISTING ZONING DESIGNATION:

RU6 – Two Dwelling Housing

DEVELOPMENT VARIANCE PERMIT:

- Vary the Okanagan Lake Sightline from 60° to 0° proposed for the northern portion of the property, as per Schedule 'A'.
- To vary the front yard setback from 4.5m required to 2.5m proposed, as per Schedule 'A'.
- To vary the rear yard setback from 4.5m required to 2.01m proposed, as per Schedule 'A'.

ISSUED TO: Worman Resources Inc.

LOCATION OF SUBJECT SITE: 301 West Avenue

	PARCEL	LOT	D.L.	TOWNSHIP	DISTRICT	PLAN
LEGAL DESCRIPTION:	A	(DD 129455F and Plan B4490) of Lot 7	14		ODYD	2336

### 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 a Development Permit and/or 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:

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

Section 6.11.1 Okanagan Lake Sight Lines

Vary the Okanagan Lake Sightline from 60° to 0° proposed for the northern portion of the property, as per Schedule 'A'.

Section 13.6.6 (c) Development Regulations

To vary the front yard setback from 4.5m required to 2.5m proposed, as per Schedule 'A'.

Section 13.6.6 (c) Development Regulations

To vary the rear yard setback from 4.5m required to 2.01m proposed, as per Schedule 'A'.

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. 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.

5. 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 Director of Planning & Development Services.

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.

6. APPROVALS:

DEVELOPMENT VARIANCE PERMIT AUTHORIZED BY THE COUNCIL ON THE 4<sup>th</sup> DAY OF JUNE, 2013.

ISSUED BY THE ACTING GENERAL MANAGER OF COMMUNITY SUSTAINABILITY OF THE CITY OF KELOWNA THE \_\_\_\_ DAY OF JUNE, 2013.

\_\_\_\_\_  
Doug Gilchrist  
A. General Manager, Community Sustainability

# REPORT TO COUNCIL



**Date:** May 29, 2013

**RIM No.** 0940-50

**To:** City Manager

**From:** Land Use Management, Community Sustainability (AR)

**Application:** DVP13-0071      **Owner:** Callahan Construction Company Ltd., Inc. No. 66876  
3720 Investments Ltd., Inc. No. 432637

**Address:** Unit 15 - 3151-3155 Lakeshore Road      **Applicant:** Five Star Permits

**Subject:** Development (Variance) Permit

**Existing OCP Designation:** Mixed-Use (Residential/Commercial)

**Existing Zone:** C4LRS - Urban Centre Commercial (Liquor Retail Sales)

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## 1.0 Recommendation

THAT Council authorizes the issuance of Development Variance Permit No. DVP13-0071 for Lot 2, District Lots 14 and 135, ODYD, Plan KAP54407, located at 3151-3155 Lakeshore Road, Kelowna, BC;

AND THAT a variance to the following section of the Sign Bylaw No. 8235 be granted:

Section 6.1 - Number of Signs Permitted Per Business Frontage in the C4 Zone:

To vary the permitted number of signs along the east business frontage from two (2) signs permitted to three (3) signs proposed, as per Schedule 'A'.

## 2.0 Purpose

To vary the number of fascia signs permitted along a business frontage from two (2) signs permitted to three (3) signs proposed.

## 3.0 Land Use Management

Generally, Land Use Management does not support variances to the Sign Bylaw due to the proliferation of signage in certain areas of the City. The overuse of signage (in number and size) generally detracts from the architectural appearance of many buildings, and contributes to the visual clutter of commercial areas.

This proposal seeks to replace an existing fascia sign on the east frontage of the Prospera Credit Union business at Mission Park Plaza, thereby requiring a variance to facilitate a third fascia sign. As the proposed sign is replacing an existing sign, and given that, in this specific circumstance, a third fascia sign contributes to an aesthetic balance of signage on this building elevation, staff are supportive of the proposed variance. Further, while the number of fascia signs exceeds bylaw regulations, the total sign area for the frontage is less than 60% of the maximum permitted.

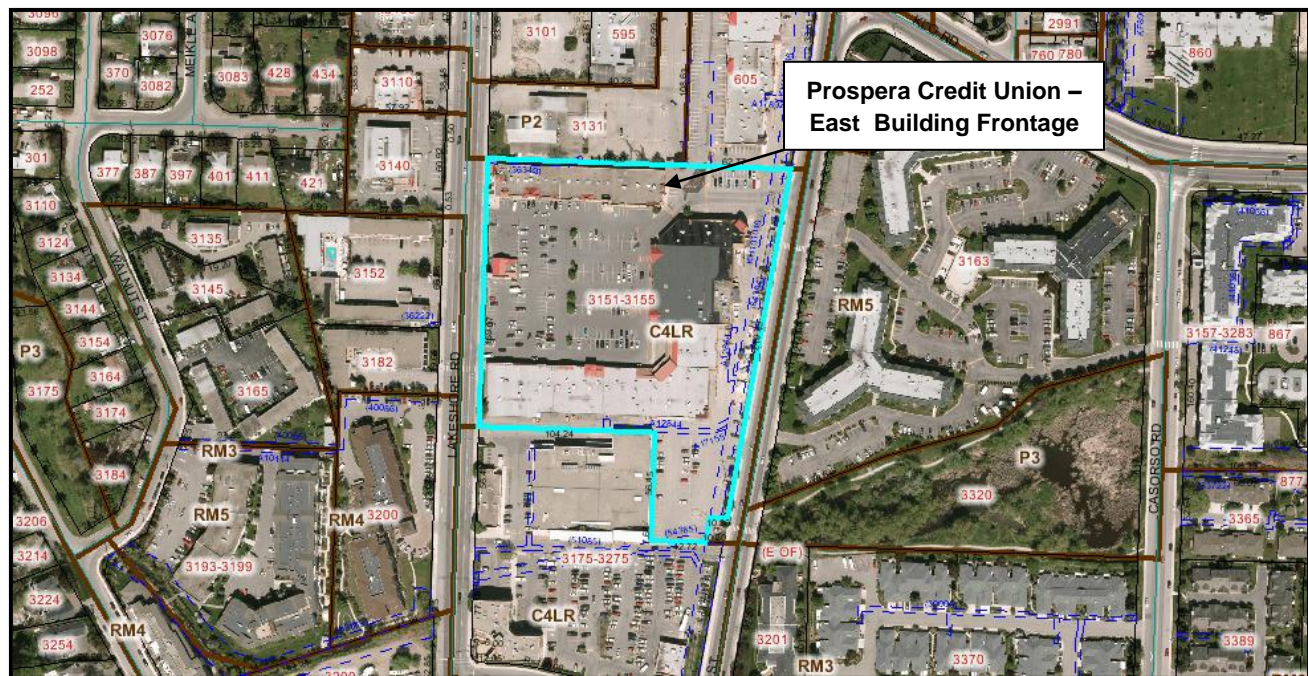
In accordance with Council Policy 367 - Public Notification & Consultation for Development Applications, the applicant has provided notification of the proposed Development Variance Permit application to neighbouring properties within 50 m of the subject site, and to date, City staff has not been contacted with any objections or concerns with the proposed sign variance.

#### 4.0 Proposal

##### 4.1 Site Context

The subject business is located centrally within the Pandosy Urban Centre, within the Mission Park Plaza shopping centre development. Specifically, the Prospera Credit Union is located in Unit 15, at the east end of the building located along the shopping centre's north property line.

##### Subject Property Map: Unit 15 - 3151-3155 Lakeshore Drive



Specifically, adjacent land uses are as follows:

Orientation	Zoning	Land Use
North	P2 - Educational & Minor Institutional	Place of Worship
East	RM5 - Medium Density Multiple Housing	Residential
South	C4LR - Urban Centre Commercial (Liquor Retail Sales)	Commercial
West	C4LR - Urban Centre Commercial (Liquor Retail Sales) C9 - Tourist Commercial	Commercial Motel

## 4.2 Project Description

In conjunction with renovations of the building's exterior, Prospera Credit Union is presently replacing its existing signage from box signs to channel letters, consistent with the signage policies for the Mission Park Plaza development. There are presently three (3) fascia signs along the east business frontage. One of these is for Autoplan, a service which the credit union no longer provides (see attached photo of existing). Given the building's architectural façade stepping, a single fascia band is not possible. As such, and in the interest of achieving an aesthetic balance of signage along this building frontage, the application requests to vary the requirements of the Sign Bylaw to enable a third fascia sign on the building's east frontage to replace the existing Autoplan sign with a sign advertising the credit union's investment advice services (see attached drawings).

The proposal compares to Sign Bylaw 8235 requirement as follows:

CRITERIA	C4 SIGN REQUIREMENTS	PROPOSAL
Awning, Fascia, Canopy & Projecting Signs	Max 2 signs per business frontage	3 fascia signs proposed for east frontage ❶
	Max total sign area of 17.6 m <sup>2</sup>	10.22 m <sup>2</sup>
❶ To vary the number of signs on the east business frontage from 2 signs permitted to 3 signs proposed.		

## 5.0 Current Development Policies

### 5.1 Kelowna Official Community Plan (OCP)

Urban Design Development Permit Areas (Chapter 14) - Revitalization Design Guidelines

#### Signage

- Design signage that is high quality, imaginative, and innovative;
- Design signage with consideration of the size of any individual sign as part of the overall scheme of building signage and the appearance of the building's façade. Scale and architectural expression should not be compromised by size and number of signs;
- Box signs are strongly discouraged;
- Incorporate concise messaging and simple graphics into signage. Corporate and store logos are appropriate only if they form part of an overall sign design, and are suitably scaled to the façade composition;
- Light lettering on a dark background is preferred over dark lettering on a light background and consideration should be given to those with visual impairment;
- Minimize signage lighting (i.e., incorporate indirect front-lit signs wherever possible);
- Counter-balance illuminated signs with natural materials and appropriate framing.

## 6.0 Technical Comments

### 6.1 Building & Permitting Department

No comment.

### 6.2 Development Engineering Department

See attached Memorandum.

## 7.0 Application Chronology

Date of Application Received: May 21, 2013

Report prepared by:

---

Abigail Riley, Land Use Planner

Reviewed by:

☐

Danielle Noble, Manager, Urban Land Use

Approved for Inclusion

☐

Doug Gilchrist, A/General Manager, Community Sustainability

### Attachments:

Subject Property Map

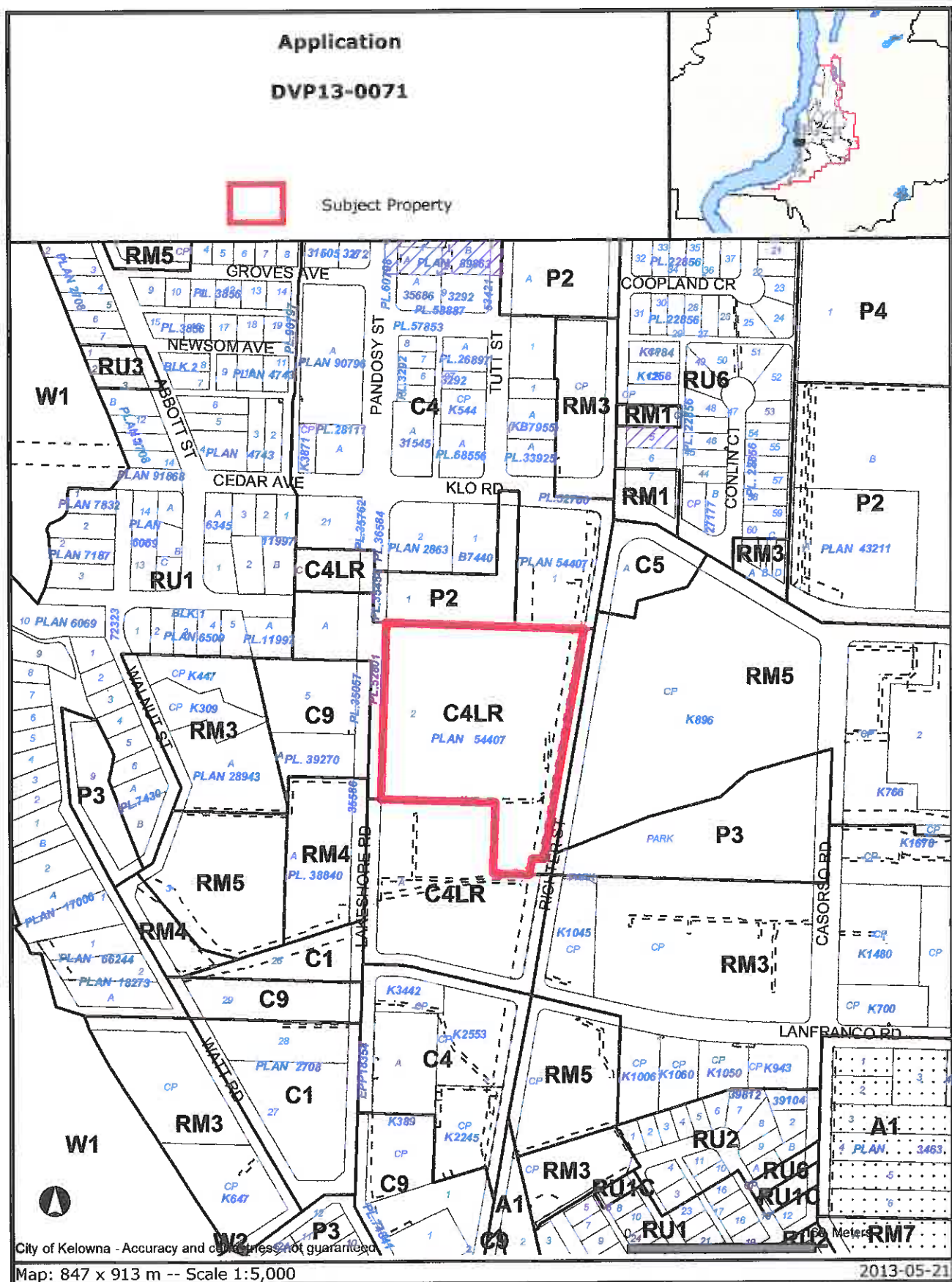
Site Plan

East Building Elevation (existing & proposed signage)

Sign Details

Development Engineering Memorandum

Draft Development Variance Permit

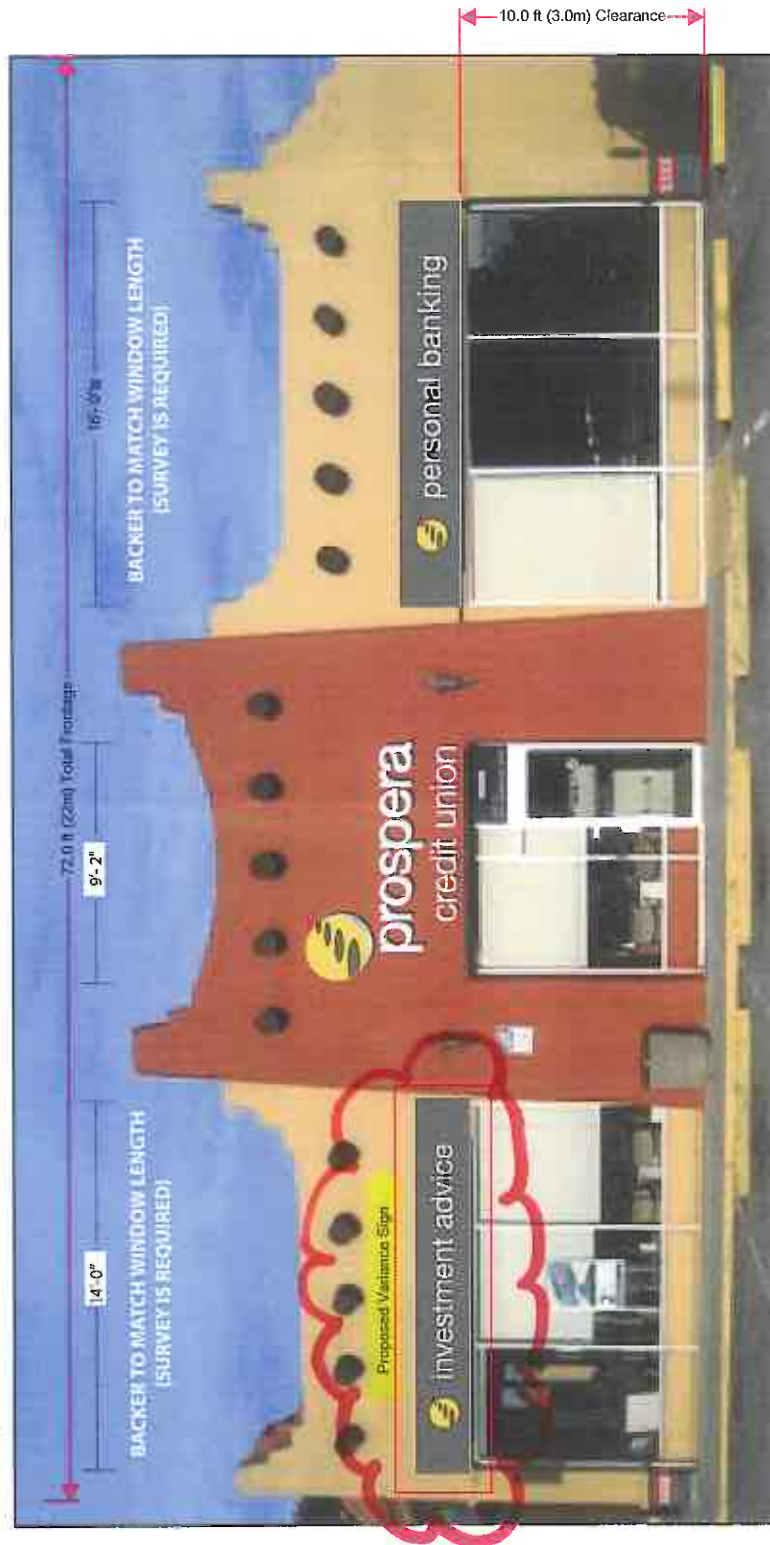


Certain layers such as lots, zoning and dp areas are updated bi-weekly. This map is for general information only.  
The City of Kelowna does not guarantee its accuracy. All information should be verified.





PROPOSED.



SIGN #2

SIGN #4.2

SIGN #3

WALL TO BE  
REPAIRED BY OTHERS

REMOVE SIGNS



EXISTING



SIGN #2 SCALE: 3/8"=1'-0"

Quantity 1

SIGN 1 / 2 / 3.

ITEM 1:  
FACE LIT CHANNEL LETTERS  
MOUNTED TO ALUMINUM BACKER

LIGHTING:  
WHITE LEDS

FACE:  
LETTERS: 3/16" WHITE PLEXI

RETURNS:  
3" DEEP LET-R-EDGE PAINTED

ITEM 2:  
FACE LIT CHANNEL LOGO

LIGHTING:  
WHITE LEDS

FACE:  
3/16" WHITE PLEXI W/ TRANSLUCENT &  
OPAQUE VINYL


RETURNS:  
3" DEEP LET-R-EDGE PAINTED

MOUNTING:  
ALL MOUNTED TO ALUMINUM BACKER AND  
TO WALL

ITEM 3:  
MODEL: ALUMINUM BACKER W/ 1" X 1"  
SQUARE TUBE FRAME

Vinyl Colours:	Paint Colours:
*Logo Avery A9113-T Pantone 109C Yellow	*Backer / Returns Painted to Match: PMS 425C Dark Grey
*Oak: 3M 3630-143 Poppy Red	
*3M 7725-41 Dark Grey (Opaque)	
<input checked="" type="checkbox"/> 1st Surface <input type="checkbox"/> 2nd Surface	
Colours shown are strictly representational	
Quote Number:	3165-08-11-PRO-DJ-REV4
Job Number:	*
Drawing Number:	DWG - 1

Quantity 1 each

 <b>KNIGHT SIGNS</b> A Division of Knight Sign Group Inc. 1000 Highway 101, Unit 101 Scarborough, ON M1B 4Y1 Tel: 416-490-2311 Fax: 416-490-2312	Project Name: Prospera - Mission Park Branch, Kelowna Unit 13 - 3151 Lakeshore Road, KELOWNA, BC		Art Department Revisions *REV 1-April 20, 2012: Sign #1: Perf. Backer Revised to Aluminum / Deleted "Investment advise" Chan. Letters Rev2: 02/13/2013 Delete Sign 2 and 3, add "a business" to sign 1 Rev 3: 02/26/2013 Sign #1-Revised Copy/ Deleted Sign 2 and 3 Rev 4: 02/26/2013 Sign #1-Revised Copy		Production Department Revisions		Sign Number: *	
	Account Manager: Dale Wlaschuk		Sign #1-Revised Copy/ Deleted Sign 2 and 3				Quote Number: 3165-08-11-PRO-DJ-REV4	
	Date: AUG 03, 2011		Scale: 3/8"=1'-0"				Job Number: *	
	Client's Approval		Date		Account Manager Approval		Drawing Number: DWG - 1	

S.1

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**CITY OF KELOWNA**  
**MEMORANDUM**

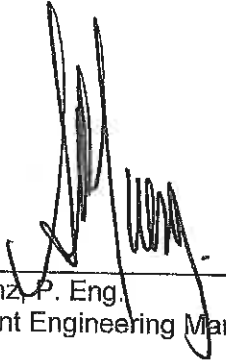
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**Date:** May 28, 2013  
**File No.:** DVP13-0071  
**To:** Land Use Management Planner (AR)  
**From:** Development Engineering Manager (SM)  
**Subject:** 3151 - 3155 Lakeshore Road

---

Development Engineering comments and requirements regarding this development permit application are as follows:

This development variance permit application to vary the number of allowable fascia signs from 2 to 3 does not compromise any municipal services.



---

Steve Muenz, P. Eng.  
Development Engineering Manager

SS

# CITY OF KELOWNA

## APPROVED ISSUANCE OF A:

☐ Development Variance Permit No.: DVP13-0071

EXISTING ZONING DESIGNATION: C4LR – Urban Centre Commercial (Liquor Retail Sales)

DEVELOPMENT VARIANCE PERMIT: To vary the permitted number of signs along the east building frontage from two (2) signs permitted to three (3) signs proposed.

ISSUED TO: Five Star Permits

LOCATION OF SUBJECT SITE: Unit 15 – 3151-3155 Lakeshore Road (Prospera Credit Union)

	LOT	SECTION	D.L.	TOWNSHIP	DISTRICT	PLAN
LEGAL DESCRIPTION:	2		14 & 135		ODYD	KAP54407

### 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 a Development Permit and/or 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:

THAT a variance to the following section of Sign Bylaw No. 8325 be granted:

#### Section 6.1 – Number of Signs Permitted Per Business Frontage in the C4 Zone:

To vary the permitted number of signs along the east business frontage from two (2) signs permitted to three (3) signs proposed, as per Schedule 'A'.

### 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. 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.

5. 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 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.



6. APPROVALS:

DEVELOPMENT VARIANCE PERMIT AUTHORIZED BY THE COUNCIL ON THE \_\_\_<sup>th</sup> DAY OF JUNE 2013.

ISSUED BY THE LAND USE MANAGEMENT DEPARTMENT OF THE CITY OF KELOWNA THE \_\_\_<sup>TH</sup> DAY OF JUNE, 2013 BY THE DIRECTOR OF LAND USE MANAGEMENT.

---

Doug Gilchrist  
A/ General Manager of Community Sustainability  
For Director of Land Use Management

DRAFT