



## **CORPORATION OF THE CITY OF VERNON**

### **ADVISORY PLANNING COMMITTEE**

**TUESDAY, JANUARY 12, 2021 @ 4 P.M.**

**VIA ZOOM**

## **A G E N D A**

**1) ELECTION OF CHAIR AND VICE CHAIR**

**2) ADOPTION OF AGENDA**

**3) ADOPTION OF MINUTES**

November 10, 2020 (attached)

**4) NEW BUSINESS:**

a) **DVP00503** – Development Variance Permit Application for #5, 80 Kestrel Place

**5) INFORMATION ITEMS:**

a) Review of Terms of Reference and Bullying and Harassment Policy

**6) DATE OF NEXT MEETING:**

The next meeting is tentatively scheduled for **Tuesday, January 26, 2021.**

**7) ADJOURNMENT**



## THE CORPORATION OF THE CITY OF VERNON

### MINUTES OF ADVISORY PLANNING COMMITTEE MEETING

HELD

WEDNESDAY, NOVEMBER 10, 2020

**PRESENT:** VOTING

Mark Longworth, Chair  
Phyllis Kereliuk  
Monique Hubbs-Michiel  
Doug Neden  
Jamie Paterson

NON-VOTING

Mayor Cumming (Alternate Appointed Member)

**ABSENT:** Councillor Mund (Appointed Member)

Lisa Briggs  
Joshua Lunn  
Harpreet Nahal  
Don Schuster  
Bill Tarr  
Larry Lundgren

**STAFF:** Craig Broderick, Manager, Current Planning/Staff Liaison  
Laurie Cordell, Manager, Long Range Planner  
Ellen Croy, Planning Assistant  
Natasha Kositsin, Legislative Secretary

**ORDER**

The Chair called the meeting to order at 4:04 p.m.

**ADOPTION OF  
AGENDA**

Moved by Jamie Paterson, seconded by Doug Neden:

THAT the Advisory Planning Committee agenda for  
November 10, 2020 be adopted.

**CARRIED.**

**ADOPTION OF  
MINUTES**

Moved by Doug Neden, seconded by Phyllis Kereliuk:

THAT the minutes for the Advisory Planning Committee  
meeting of October 27, 2020 be adopted.

**CARRIED.**

**NEW BUSINESS:**

**OFFICIAL COMMUNITY  
PLAN AMENDMENT  
AND REZONING  
APPLICATION FOR  
3398 DAVISON ROAD  
(OCP00084/ZON00350)**

The Manager, Long Range Planner reviewed official community plan amendment and rezoning application for 3398 Davison Road. The Committee noted the following:

- Grey Canal trail is connected even if the picture on the map in the report shows a gap, and will connect Turtle Mountain with the Rise
- No development is planned for the other side of Tassie Creek for safety concerns
- Transportation concerns for Turtle Mountain residents and the new subdivision plan, needs more than one access to this subdivision so they are not all going through Turtle Mountain
- Mention of an old farmhouse located in the middle of the development, this will be removed
- Davison Road concerns as the road does not meet the current road standards and will cost a lot of money to upgrade, can be used for emergency vehicles for access to park

Moved by Phyllis Kereliuk, seconded by Jamie Paterson:

THAT the Advisory Planning Committee recommends that Council support the application to amend the Official Community Plan land use designation for portions of Lot 1, Plan EPP80986, Section 4, Township 8, Osoyoos Division Yale District (3398 Davison Road) from 'Public Institutional', 'Parks & Open Space', 'ALR Lands' and 'Hillside Residential' to 'Hillside Residential' to 'Parks & Open Space' as outlined in the report titled "Official Community Plan Amendment and Rezoning Application for 3398 Davison Road" dated November 6, 2020 by the Long Range Planner;

AND FURTHER, that the Advisory Planning Committee recommends that Council support the application to rezone the subject property from A1 (Agriculture in the ALR) to HR1 (Hillside Residential Single and Two Family), HR2 (Hillside Residential Multi-Family) and P1 (Parks and Opens Space), as described in the report titled "Official Community Plan Amendment and Rezoning Application for 3398 Davison

Road” dated November 6, 2020 by the Long Range Planner;

AND FURTHER, that the Advisory Planning Committee recommends that Council consider the referral process already undertaken with persons, organizations and authorities which are considered to be affected by the proposed amendment to the Official Community Plan to be appropriate and sufficient to meet the requirements of Section 475 of the *Local Government Act*;

AND FURTHER, that final adoption of the OCP amendment and rezoning bylaws be subject to the following:

- a) Completion of a purchase and sale agreement for a portion of the subject property in order to provide for additional park land as detailed in the report titled “Official Community Plan Amendment and Rezoning Application for 3398 Davison Road” dated November 6, 2020 by the Long Range Planner;
- b) Submission of a subdivision application for the subject lands to create a park lot, aligning with the proposed OCP amendment, and a remainder lot, to the satisfaction of the Approving Officer;
- c) Registration of a statutory right-of-way in favour of the City of Vernon over the Streamside Protection and Enhancement Area that is required under the Riparian Areas Protection Regulation which includes public trail access;
- d) Registration of a ‘no-build’ restrictive covenant on the remainder of the development lands which is to remain in place until such a time that a future subdivision application which incorporates an extension and connection of the road network and trail network across the site is completed;
- e) Registration of a restrictive covenant which prohibits any subdivision of the property until emergency egress to Davison Road is provided, and specifically limits such access to Davison Road for emergency egress only, and specifies the crossing width over Tassie Creek to be a maximum of 4.0 metres;

- f) Registration of a restrictive covenant requiring the installation of fencing or appropriate barriers along the western property line of the subject property at the subdivision stage in order to protect against trespass and interference with adjacent agricultural operations;
- g) Completion of a purchase and sale agreement for the lands described as Plan A911, Section 4 Township 8, Osoyoos Division Yale District, Parcel 1 (3301 Davison Road), in order to facilitate acquisition of a missing link in the Grey Canal Trail, as detailed in the report titled “Official Community Plan Amendment and Rezoning Application for 3398 Davison Road” dated November 6, 2020 by the Long Range Planner.

**CARRIED.**

The Manager, Current Planning reviewed the following APC related applications discussed at the November 9, 2020 Council meeting:

- **DVP00492 – 3204 15 Street** – issue permit once conditions are met
- **ZON00353 – 3912 and 3914 Alexis Park Drive and 3703 Turtle Mountain Boulevard** – PH set for December 14
- **ZON00359/ZON00360/ZON00361 - 6309, 6321 and 6335 Okanagan Landing Road Rezoning Amendment** – PH held and received third reading

**NEXT MEETING**

The next meeting of the Advisory Planning Committee is tentatively scheduled for **Tuesday, November 24, 2020.**

**ADJOURNMENT**

The meeting of the Advisory Planning Committee adjourned at 4:31 p.m.

**CERTIFIED CORRECT:**

---

**Chair**



# THE CORPORATION OF THE CITY OF VERNON REPORT TO COUNCIL

**SUBMITTED BY:** Jing Niu, Environmental Planning  
Assistant

**COUNCIL MEETING:** REG  COW  I/C   
**COUNCIL MEETING DATE:** February 8, 2021  
**REPORT DATE:** January 4, 2020  
**FILE:** DVP00503

**SUBJECT: DEVELOPMENT VARIANCE PERMIT APPLICATION FOR 5 – 80 KESTREL PL**

---

## **PURPOSE:**

To review the development variance permit application to vary setbacks of Zoning Bylaw #5000 in order to accommodate a single family dwelling at 8081 Okanagan Landing RD.

## **RECOMMENDATION:**

THAT Council support development variance permit application DVP00503 to vary the following section of Zoning Bylaw #5000 to accommodate a single family dwelling at LT 5 PL KAS2084 DL 297 ODYD (5 – 80 Kestrel PL):

- a) Section 9.5.5 by reducing the front yard setback from 3.5 m to 0.45 m, reducing the side yard setback from 1.5 m to 0.9 m and reducing flanking street side yard setback from 3.5 m to 1.5 m, and
- b) Section 4.13.2 to allow for development within 15 m of High Water Mark of Okanagan Lake;

AND FURTHER, that Council's support of DVP00503 is subject to the following:

- a) that the applicant provides confirmation of Strata (KAS2084) support for the proposed development pertaining to the variances requested,
- b) that the building siting and footprint must adhere to the site plan by Dean Thomas Design Group dated October 28, 2020, which will be attached to and form part of DVP00503,
- c) that the Environmental Assessment by Ecoscape Environmental Consultants Ltd. dated December 2020 be attached to and form part of DVP00503, and
- d) that the applicant demonstrates the requirements Provincial Riparian Areas Protection Regulation (RAPR) have been met and that a complete and accepted RAPR Assessment, detailed landscaping plan including all required compensation works, be provided and form part of the associated Development Permit DP000878 (Environmental).

## **ALTERNATIVES & IMPLICATIONS:**

1. THAT Council support development variance permit application DVP00503 to vary the following section of Zoning Bylaw #5000 to accommodate a single family dwelling at LT 5 PL KAS2084 DL 297 ODYD (5 – 80 Kestrel PL):

- a) Section 9.5.5 by reducing the front yard setback from 3.5m to 0.45m, reducing the side yard setback from 1.5m to 0.9m and reducing flanking street side yard setback from 3.5m to 1.5m, and
- b) Section 4.13.2 to allow for development within 15m of High Water Mark of Okanagan Lake;

AND FURTHER, that Council's support of DVP00503 is subject to the following:

- a) that the applicant provides confirmation of Strata (KAS2084) support for the proposed development pertaining to the variances requested,
- b) that the building siting and footprint must adhere to the site plan by Dean Thomas Design Group dated October 28, 2020, which will be attached to and form part of DVP00503,
- c) that the Environmental Assessment by Ecoscape Environmental Consultants Ltd. dated December 2020 be attached to and form part of DVP00503,
- d) that the applicant demonstrates the requirements Provincial Riparian Areas Protection Regulation (RAPR) have been met and that a complete and accepted RAPR Assessment, detailed landscaping plan including all required compensation works, be provided and form part of the associated Development Permit DP000878 (Environmental), and
- e) (to be cited by Council).

*Note: This alternative supports the development variance application subject to the RAR assessment forming part of permit DVP00503 and any other conditions cited by Council.*

2. THAT Council not support development variance permit application DVP00503 to vary the following section of Zoning Bylaw #5000 to accommodate a single family dwelling at LT 5 PL KAS2084 DL 297 ODYD (5 – 80 Kestrel PL):
  - a) Section 9.5.5 by reducing the front yard setback from 3.5m to 0.45m, reducing the side yard setback from 1.5m to 0.9m and reducing flanking street side yard setback from 3.5m to 1.5m, and
  - b) Section 4.13.2 to allow for development within 15m of High Water Mark of Okanagan Lake.

*Note: Denial of the development variance permit application would restrict the siting of any proposed structure to meet the existing provisions of Zoning Bylaw #5000. The applicant would be restricted to a building footprint of approximately 144m<sup>2</sup> and would have to revise the proposal and any future development on the subject property to meet the prevailing zoning provisions.*

## **ANALYSIS:**

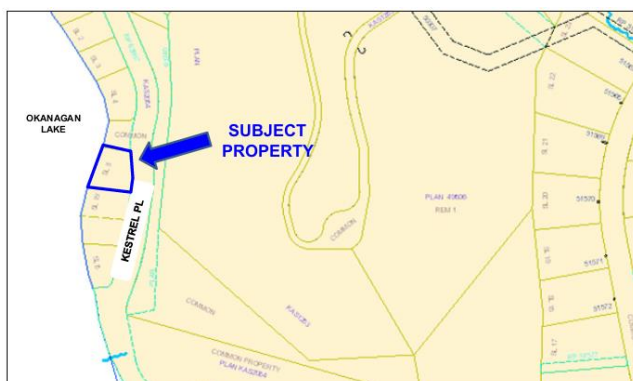
### **A. Committee Recommendations:**

At its meeting of January 12, the Advisory Planning Committee passed the following resolution:

*“(to be cited by the Advisory Planning Committee).”*

### **B. Rationale:**

1. The subject property is an irregular shaped lakeshore strata property located within the Bella Vista West neighbourhood (Figures 1 and 2). The property is bound by Okanagan Lake to the west and a private strata road to the east. The site is currently undeveloped and is 602m<sup>2</sup> in area.



**Figure 1. Property Location Map**



**Figure 2. Aerial Location Map**

2. The subject property is zoned R4 – Small Lot Residential (Attachment 1) and is subject to the development regulations contained within Section 4.13.2 of Zoning Bylaw #5000 (Attachment 2).
3. The applicant is request to vary the following sections of Zoning Bylaw #5000 in order to construct a two storey single family dwelling and provide riparian compensation and landscaping:
  - a) Section 9.5.5 by reducing the front yard setback from 3.5m to 0.45m, reducing the side yard setback from 1.5m to 0.9m and reducing flanking street side yard setback from 3.5m to 1.5m, and
  - b) Section 4.13.2 to allow for development within 15m of High Water Mark of Okanagan Lake
4. The subject strata lot was created and registered in 2002, prior to the adoption of the current Zoning Bylaw #5000 and the updated provincial Riparian Areas Protection Regulation in November 2019.
5. According to current zoning provisions, the developable area of the site is estimated to be approximately 144m<sup>2</sup> and is severely restricted by setbacks as illustrate by the hatched area in Figure 3.
6. The subject property is located entirely within the Riparian Assessment Area (within 30m of High Water Mark) and is subject to the provincial Riparian Areas Protection Regulation (RAPR). Due to site specific constraints, an “undue hardship” as defined by RAPR exists on ths property, and could potentially provide allowances for the development of up to 40% of the property with provincial approval. Since November 2019, the Province requires local government variance review prior to the submission of a formal RAPR assessment to the provincial notification system.

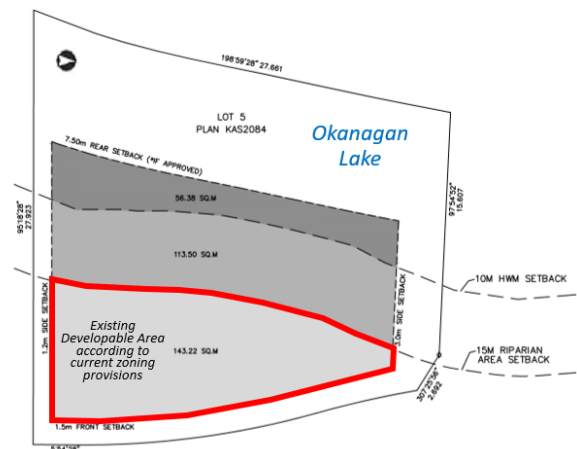


Figure 3. Existing Developable Area

7. A preliminary environmental assessment by Ecoscape Environmental Consultants Ltd dated December 2020 has been submitted for the proposed development (Attachment 3). It has been noted that:
  - a) Little of the lakefront parcel remains in its natural riparian state, consisting of mostly of lawn and rock, and existing vegetation on-site provides limited riparian function;
  - b) Up to 128m<sup>2</sup> of riparian encroachment have been identified in order to accommodate the proposed development. Based on the provisions of the Official Community Plan's Environmental Management Strategy, a combination of 3:1 habitat compensation and landscaping, sediment and erosion control, soil and plant management, and best management strategies for wildlife habitat and spill control are proposed to mitigate the potential impacts of residential development at the subject property. A total of 384m<sup>2</sup> of compensation is proposed.
  - c) Despite the requests for extensive setback relaxations to facilitate RAPR undue hardship calculation requirements, the dwelling would not be constructed closer than 10m to the Okanagan Lake HWM, 1.53m to the side yard, or 2.29m to the flanking side yard. The building siting and footprint would adhere to the site plan as shown in Attachment 4;

- d) The Qualified Environmental Professional anticipates that if all recommendations and mitigation measures are adhered to, the potential environmental effects of the construction will be minimal.

8. Administration supports the requested variance for the following reasons:

- a) The subject vacant lot has an irregular configuration and limited buildable area restricted by Okanagan Lake and private strata road. As existing setbacks would not accommodate a building footprint for a reasonable size single family dwelling, a relaxation of setbacks is warranted. The proposed siting with variances to the front, side, and flanking side yard setbacks maximizes the protection of potential riparian habitat.
- b) Given the size of the lot, when the lot was created and the subsequent change in municipal and provincial regulations, some flexibility is required to ensure that a reasonable development can be achieved. The proposed single family dwelling is consistent with the prevailing form and character of the neighbourhood while accommodating riparian protection and enhancements.
- c) While the proposed relaxation of the front yard setback is from 3.5m 0.45m, the effective setback from the edge of the strata road to the structure will be between approximately 2.2m to 4.1m. Landscaping will be planted to separate the proposed dwelling from the street and the applicant have demonstrated that sightline requirements for safe access per Transportation Association of Canada have been met. Furthermore, should the Province support the proposed development, the applicant would provide confirmation of Strata (KAS2084) support for the proposed development as a condition of Development Variance Permit issuance.
- d) The proposed compensation and enhancement planting will result in an improvement and gain in riparian habitat.
- e) Final issuance of Development Variance Permit and Development Permit would be conditional upon provincial approval.

9. In order to protect the public, Council members, and staff, the City has implemented strict physical distancing measures in all City facilities, which follow the guidelines and Orders of the Provincial Health Officer (PHO).

Until further notice, to support these measures, Council has directed Administration to receive public input development variance permit applications in written form only, until physical distancing requirements have been lifted by the PHO.

Only those written submissions (or emails to [phearings@vernon.ca](mailto:phearings@vernon.ca)) received prior to the Public Input Session shall be distributed to Council.

As part of the notification process, XX letters were sent to neighbouring residents, tenants and property owners. At the time of report writing, XX written submissions had been received. As input is received, it is placed on the City of Vernon website Development Variance Permits – Public Input as well as in a binder at the front counter of the Community Services Building.

**C. Attachments:**

Attachment 1 – Zoning Bylaw #5000” Section 9.5, R4 – Small Lot Residential zoning district

Attachment 2 – Zoning Bylaw #5000: Section 4.13 Riparian Setback

Attachment 3 – Excerpts from Environmental Assessment by Ecoscape Environmental Consultants Ltd, December 2020

Attachment 4 – site plan by Dean Thomas Design Group dated October 28, 2020

**D. Council's Strategic Plan 2019 – 2022 Goals/Action Items:**

The subject application involves the following goal in Council's Strategic Plan 2015 - 2018:

➤ N/A.

**E. Relevant Policy/Bylaws/Resolutions:**

1. The Official Community Plan (OCP) designates the property as Residential – Low Density and identifies guidelines within the Environmental Management Area Strategy for which development within the Riparian Assessment Area are subject to.
2. The property is zoned R4 – Small Lot Residential, which confirms with the OCP land use designation. The proposed development variance permit application is to vary the following section of Zoning Bylaw #5000:
  - 4.13.2 No development shall take place within 15m of the High Water Mark of Okanagan Lake.
  - 9.5.5 Development Regulations
    - Minimum front yard is 3.5m.
    - Minimum side yard is 1.2m for a 1 to 1.5 storey portion of a building and 1.5m for a 2 or 2.5 storey portion of a building, except it is 3.5m from a flanking street. Where there is no direct vehicular access to the rear yard or an attached garage or carport, one side yard shall be at least 3.0m.
3. The *Local Government Act* provides Council with the authority to vary local bylaws based on specific considerations. The granting of such variances does not set precedence within the community for future variances to be based upon, as each variance application must be evaluated on its own merit and potential implications to the whole community and the specific neighbourhood.

**BUDGET/RESOURCE IMPLICATIONS:**

N/A

---

Prepared by:

Approved for submission to Council:

**X**

\_\_\_\_\_  
Signer 1

Jing Niu  
Environmental Planning Assistant

\_\_\_\_\_  
Will Pearce, CAO

Date: \_\_\_\_\_

**X**

\_\_\_\_\_  
Signer 2

Kim Flick  
Director, Community Infrastructure & Planning

**REVIEWED WITH**

- |  |   |  |
|--|---|--|
| <input type="checkbox"/> Corporate Services                    | <input type="checkbox"/> Operations           | <input checked="" type="checkbox"/> Current Planning                     |
| <input type="checkbox"/> Bylaw Compliance                      | <input type="checkbox"/> Public Works/Airport | <input checked="" type="checkbox"/> Long Range Planning & Sustainability |
| <input type="checkbox"/> Real Estate                           | <input type="checkbox"/> Facilities           | <input checked="" type="checkbox"/> Building & Licensing                 |
| <input type="checkbox"/> RCMP                                  | <input type="checkbox"/> Utilities            | <input checked="" type="checkbox"/> Engineering Development Services     |
| <input type="checkbox"/> Fire & Rescue Services                | <input type="checkbox"/> Recreation Services  | <input type="checkbox"/> Infrastructure Management                       |
| <input type="checkbox"/> Human Resources                       | <input type="checkbox"/> Parks                | <input checked="" type="checkbox"/> Transportation                       |
| <input type="checkbox"/> Financial Services                    |   | <input type="checkbox"/> Economic Development & Tourism                  |
| <input checked="" type="checkbox"/> COMMITTEE: APC (Jan 12/21) |   |  |
| <input type="checkbox"/> OTHER:                                |   |  |

## 9.5 R4 : Small Lot Residential

### 9.5.1 Purpose

The purpose is to provide a **zone** for **single detached housing**, and compatible uses, on smaller urban serviced **lots**. The R4c sub-zoning district allows for **care centre, major** as an additional use. The R4h sub-zoning district allows for **home based business, major** as an additional use. *(Bylaw 5467)*

### 9.5.2 Primary Uses

- **care centre, major** *(use is only permitted with the R4c sub-zoning district)*
- **single detached housing**

### 9.5.3 Secondary Uses

- **boarding rooms**
- **bed and breakfast homes** *(in single detached housing only) (Bylaw 5498)*
- **care centres, minor**
- **home based businesses, minor**
- **home based businesses, major** *(use is only permitted with the R4h sub-zoning district)*
- **secondary suites (in single detached housing only)**

### 9.5.4 Subdivision Regulations

- Minimum **lot width** is 10.0m, except it is 14.0m for a **corner lot**.
- Minimum **lot area** is 320m<sup>2</sup>, or 10,000m<sup>2</sup> if not serviced by a **community sewer system**.

### 9.5.5 Development Regulations

- Maximum **site coverage** is 40% and together with driveways, parking areas and **impermeable surfaces** shall not exceed 50%.
- Maximum **height** is the lesser of 10.0m or 2.5 **storeys**, except it is 4.5m for **secondary buildings** and **structures**.
- Minimum **front yard** is 3.5m.
- Minimum **side yard** is 1.2m for a 1 or 1.5 **storey** portion of a **building** and 1.5m for a 2 or 2.5 **storey** portion of a **building**, except it is 3.5m from a **flanking street**. Where there is no direct vehicular access to the **rear yard** or to an attached garage or **carport**, one **side yard** shall be at least 3.0m.
- For **party wall semi-detached housing** one **side yard**, not **flanking a street**, may be reduced to 0.0m. There shall be no windows or doors on the side of the **dwelling** without the **side yard**.
- Minimum **rear yard** is 6.0m for a 1 or 1.5 **storey** portion of a **building** and 7.5m for a 2 or 2.5 **storey** portion of a **building**, except it is 1.0m for **secondary buildings**. Where the **lot width** exceeds the **lot depth**, the minimum **rear yard** is 4.5m provided that one **side yard** shall have a minimum width of 4.5m.
- The maximum **height** of any vertical wall element facing a **front, flanking or rear yard** (including **walkout basements**) is the lesser of 6.5m or 2.5 **storeys**, above which the **building** must be **set back** at least 1.2m.

### 9.5.6 Other Regulations

- There shall be no more than one **single detached house** per **lot**.
- Where **development** has access to a rear **lane**, vehicular access to the **development** is only permitted from the rear **lane**.
- One garage or **carport**, or the location for one, shall be provided on the **lot**.
- For strata developments, common recreation buildings, facilities and amenities may be included in the strata plan. Recreational buildings shall be treated as **secondary buildings** for the purpose of determining the **height** and **setbacks** of the **building** as specified in each **zone**.
- In addition to the regulations listed above, other regulations may apply. These include the general **development** regulations of Section 4 (secondary **development**, **yards**, projections into **yards**, lighting, agricultural setbacks, etc.); the specific use regulations of Section 5; the **landscaping** and fencing provisions of Section 6; and, the parking and loading regulations of Section 7.
- As per Section 4.10.2 - All **buildings** and **structures, excluding perimeter fencing (garden walls and fences)** on **lots abutting** City Roads as identified on Schedule "B" shall not be sited closer to the City Road than the setback as per the appropriate zone measured from the offset Rights of Way as illustrated on Schedule "B".  
(Bylaw 5440)

#### 4.11 Rooftop Screening

4.11.1 Rooftop mechanical and electrical equipment in **zones** other than **agricultural zones** shall be screened from view from a public **street** or **adjacent lots** at grade.

#### 4.12 Utility Cabinets

4.12.1 Utility cabinets for the provision of telephone, power, cable television or other **utility services**, when located outside a statutory right-of-way, shall comply with the following:

- a cabinet less than 1.8m in **height** with no horizontal dimension exceeding 1.0m need not comply with any **yard** requirements in any **zone**;
- a cabinet less than 1.8m in **height** with a horizontal dimension between 1.0m and 2.0m must be set back at least 1.0m from a **lot line**; and,
- a cabinet greater than 1.8m in **height** or with a horizontal dimension exceeding 2.0m shall comply with the setbacks for **secondary structures** in that **zone**.

#### 4.13 Riparian Assessment Areas

4.13.1 Vernon's Official Community Plan (OCP) establishes Development Permit Areas (DPAs) for all areas within the City of Vernon. Vernon's Environmental Management Areas (EMA) Strategy regulates the riparian portion of Development Permitting for all areas, as provided by the OCP. Riparian permitting in the EMA Strategy addresses the siting of buildings and structures in relation to streams and ravines by development permit in accordance with site specific riparian assessments. *(Bylaw 5369)*



4.13.2 No **development** shall take place within 15m of the **High Water Mark** of Okanagan Lake. *(Bylaw 5369) (Bylaw 5440)*

#### 4.14 Minimum Building Width

4.14.1 The minimum horizontal width of any detached primary **building** shall be 7.0m in all residential zones, except in the R7 Mobile Home Residential zone and RST1 Residential Single and Two Family Zone which may have a minimum building unit width of 5.0m on single family lots up to 9.4m wide and two family lots up to 16.4 m wide. *(Bylaw 5397)*

## LOT 5 80 KESTREL PLACE, VERNON, BC

---

### *Environmental Assessment*

PLAN KAS2084 LOT 5 DISTRICT LOT 297

PID: 024-273-678

Prepared For:

Brad Tetreau  
Rockwood Custom Homes  
6107 6<sup>th</sup> Street SE  
Calgary, AB  
T2H 1L9

VIA email: [brad@rockwoodcustomhomes.com](mailto:brad@rockwoodcustomhomes.com)

Prepared By:

ECOSCAPE ENVIRONMENTAL CONSULTANTS LTD.  
#102 – 450 Neave Court  
Kelowna, BC V1V 2M2



December 2020

File No. 19-3156

## TABLE OF CONTENTS

<b>1.0</b>	<b>Introduction</b> .....	<b>- 2 -</b>
<b>2.0</b>	<b>Proposed Works</b> .....	<b>- 2 -</b>
<b>3.0</b>	<b>Information Sources</b> .....	<b>- 2 -</b>
<b>4.0</b>	<b>Environmental Setting</b> .....	<b>- 3 -</b>
4.1	Terrestrial Conditions.....	- 3 -
4.1.1	Vegetation.....	- 3 -
4.2	Wildlife .....	- 4 -
4.2.1	Species at Risk .....	- 5 -
4.3	Aquatic Conditions.....	- 6 -
<b>5.0</b>	<b>Riparian Setback Assessment</b> .....	<b>- 8 -</b>
<b>6.0</b>	<b>Impact Assessment</b> .....	<b>- 8 -</b>
<b>7.0</b>	<b>Mitigation Measures</b> .....	<b>- 11 -</b>
7.1	General.....	- 11 -
7.2	Best Management Practices .....	- 11 -
7.3	Work Timing Windows.....	- 12 -
7.3.1	Avian Nesting Periods .....	- 12 -
7.4	Clearing and Grubbing .....	- 12 -
7.5	Erosion and Sediment Control .....	- 13 -
7.6	Turbid Water Management .....	- 14 -
7.7	Spills .....	- 15 -
7.8	Foreshore Use .....	- 15 -
7.9	Site Cleanup .....	- 16 -
7.10	Habitat Restoration.....	- 16 -
7.10.1	Invasive Species Management.....	- 17 -
7.11	Environmental Monitoring.....	- 18 -
7.12	Bonding .....	- 18 -
<b>8.0</b>	<b>Conclusion</b> .....	<b>- 19 -</b>
<b>9.0</b>	<b>Closure</b> .....	<b>- 19 -</b>
<b>10.0</b>	<b>References</b> .....	<b>- 20 -</b>

## FIGURES

FIGURE 1 .....	Site Location and Fisheries Information
FIGURE 2 .....	Riparian Areas Regulation Assessment

## APPENDICES

APPENDIX A.....	Site Plan Provided by: Dean Thomas Design Group
APPENDIX B.....	Dock Section 11 Permit
APPENDIX C.....	Site Photos
APPENDIX D.....	Landscape Plan Provided By: Bench
APPENDIX E .....	Bonding Estimate Provided By: Bench

## 1.0 INTRODUCTION

Ecoscape Environmental Consultants Ltd. (Ecoscape) was retained by Mr. Brad Tetreau of Rockwood Custom Homes (client) to complete an Environmental Assessment for a proposed single-family home development at 5-80 Kestrel Place, Vernon, BC (subject property). The subject property is legally described as Lot 5, Plan KAS2084, District Lot 297, Osoyoos Division of Yale Land District (**Figure 1**). The subject property is zoned as Small Lot Residential (R4) along the eastern shoreline of Okanagan Lake. The subject property occurs within the Hillside Residential and Agricultural Environmental Development District 3 (DD3) as per the City of Vernon (COV) Official Community Plan (OCP) (Bylaw 5470, 2013). In addition, the subject property is situated within a High Conservation Value area as depicted on Map 14 of the Environmental Management Areas Strategy, which is a part of the OCP and accounted for in the development permit process for DPA 3.

The purpose of this report is to address the COV Development Permit guidelines for developments in DPA 3, specify an appropriate Streamside Protection and Enhancement Area (SPEA) or riparian buffer, identify potential environmental impacts of the proposed work, and describe the current conditions of the subject property. This report also provides an assessment of potential terrestrial and aquatic resource values, the potential for rare and/or endangered species and habitats, and subsequently provides mitigation measures to protect and enhance the natural integrity of existing ecological lakeside communities.

## 2.0 PROPOSED WORKS

The proposed development includes the construction of a single-family dwelling, with a covered rear crushed gravel sitting pad equating to a total development area of 215.8 m<sup>2</sup>, and restoration landscaping. The proposed sitting pad and house are partially situated within the Streamside Protection and Enhancement Area (SPEA) because of the property alignment. The proposed development requires a variance for setbacks and will be adjusted based on the outcomes of that process, if required. The site plan is provided in **Appendix A**. If any works are to be conducted with the foreshore structures that encroach on the high-water mark (HWM) of Okanagan Lake (343 m above sea level), it will likely require a *Water Sustainability Act* Section 11 permit prior to construction. A Section 11 permit has been issued for the construction of a dock at the subject property and has been provided in **Appendix B**. Dock permits are not typically released if there are concerns with Crown Lands and we are assuming that all concerns as it relates to Present Natural Boundary were resolved with the issuance of this permit.

## 3.0 INFORMATION SOURCES

The following databases were queried on September 2, 2020 to find relevant information on the subject property and surrounding lands:

- BC Conservation Data Centre (CDC);
- BC Habitat Wizard;
- Foreshore Inventory and Mapping of Okanagan Lake 2016 update; and,
- Species at Risk Act Public Registry.

## 4.0 ENVIRONMENTAL SETTING

### 4.1 Terrestrial Conditions

A site visit was conducted on September 3, 2020 by Leanne McDonald, B.Sc., B.I.T., A.Ag., Natural Resource Biologist with Ecoscape. The subject property occurs within a residential area and is bordered by Okanagan Lake to the west, Kestrel Place to the east, and neighboring residential properties to the north and south. The subject property occurs within the Okanagan variant Very Dry Hot subzone of the Interior Douglas-fir biogeoclimatic zone (IDF<sub>xh1</sub>). The IDF<sub>xh1</sub> is the driest variant of the Interior Douglas-fir zone and is characterized by a long growing season with warm dry summers, but the region commonly experiences summer moisture deficits. The subzone occupies the lower elevations of the southern Okanagan valley, Similkameen valley, along the Thompson river from northeast of Kamloops west to the Fraser River valley and its tributaries in the Lytton-Lillooet region. Winters are cool with low to moderate snowfall. The IDF<sub>xh1</sub> is dominated by mixed open forests of Douglas-fir and Ponderosa pine with an understory typically comprised of pinegrass, red-stemmed feathermoss, and birch-leaved spirea (Hope et al., 1991).

The subject property is situated within an urban developed area and is bounded to the north and east by a riprap landscaped slope, a neighbouring property to the south and Okanagan Lake to the west. Site photos are included in **Appendix C**.

#### 4.1.1 Vegetation

The property is highly disturbed and primarily comprised of ornamental species and a sod lawn. Native vegetation is limited to one Interior Douglas-fir (*Pseudotsuga menziesii*) and one Common Snowberry (*Symphoricarpos albus*). Exotic vegetation included Tree of Heaven (*Ailanthus altissima*), Prickly Sowthistle (*Sonchus asper*) and Virginia Creeper (*Parthenocissus quinquefolia*).

The BC Conservation Data Centre (CDC) was accessed on August 31, 2020 and reviewed for at-risk ecological communities that occur within a 1.0 km radius of the subject property. The search results are included in **Table 1**.

**TABLE 1.** CDC listed at-risk ecological community occurrences within 1 km of the subject property (CDC, 2020).

Common Name	Scientific Name	BC List <sup>1</sup>	Occurrence ID	Distance
-------------	-----------------	----------------------	---------------	----------

Black Cottonwood – Douglas-fir / Common Snowberry – Red-osier Dogwood	<i>Populus trichocarpa</i> – <i>Pseudeotsuga menziesii</i> / <i>Symphoricarpos albus</i> – <i>Cornus sericea</i>	Red	10481	Approximately 790 m southeast of the subject property.
--	---	-----	-------	--

<sup>1</sup> **Yellow:** Not considered at risk. **Blue:** Of special concern. **Red:** Endangered or threatened. **Various:** May be one of multiple potential listings, depending upon more detailed taxonomic classification.

## 4.2 Wildlife

Due to the scope of this assessment, a detailed wildlife assessment of the project area was not conducted. Incidental bird species observations are summarized in **Table 2**. The majority of the birds observed were at the rock outcrop to the east of Kestrel Place and the upland area beyond. The native vegetation on the subject property may provide foraging, perching and/or nesting habitat for birds and small mammals.

**TABLE 2.** Bird species observed within the subject property (CDC, 2020).

Family	Scientific Name	Common Name	BC List <sup>1</sup>	MBCA species <sup>2</sup>	SARA Schedule 1 <sup>3</sup>
<i>Bombycillidae</i>	<i>Bombycilla cedrorum</i>	Cedar Waxwing	Yellow	Yes	NAR
<i>Corvidae</i>	<i>Cyanocitta stelleri</i>	Steller's Jay	Yellow	No	NAR
<i>Emberizidae</i>	<i>Junco hyemalis</i>	Dark-eyed Junco	Yellow	Yes	NAR
<i>Emberizidae</i>	<i>Pipilo maculatis</i>	Spotted Towhee	Yellow	Yes	NAR
<i>Fringillidae</i>	<i>Spinus pinus</i>	Pine Siskin	Yellow	Yes	NAR
<i>Parulidae</i>	<i>Setophaga coronata</i>	Yellow-rumped Warbler	Yellow	Yes	NAR
<i>Picidae</i>	<i>Colaptes auratus</i>	Northern Flicker	Yellow	Yes	NAR
<i>Picidae</i>	<i>Picoides pubescens</i>	Downy Woodpecker	Yellow	Yes	NAR
<i>Sittidae</i>	<i>Siita carolinensis</i>	White-breasted Nuthatch	Yellow	Yes	NAR
<i>Thraupidae</i>	<i>Piranga ludoviciana</i>	Western Tanager	Yellow	Yes	NAR

<sup>1</sup> **Yellow:** Not considered at risk. **Blue:** Of special concern. **Red:** Endangered or threatened. **Various:** May be one of multiple potential listings, depending upon more detailed taxonomic classification.

<sup>2</sup> **Migratory Birds Convention Act (MBCA):** whether a species is protected under the MBCA.

<sup>3</sup> **NAR = Not at Risk:** A wildlife species that has been evaluated and found to be not at risk of extinction given the current circumstances. **SC = Special Concern:** A wildlife species that may become threatened or endangered because of a combination of biological characteristics and identified threats. **E = Endangered:** A wildlife species facing imminent extirpation or extinction. **T = Threatened:** A wildlife species that is likely to become endangered if nothing is done to reverse the factors leading to its extirpation or extinction. **DD = Data Deficient:** A category that applies when the available information is insufficient (a) to resolve a wildlife species' eligibility for assessment or (b) to permit an assessment of the wildlife species' risk of extinction.

### 4.2.1 Species at Risk

The CDC was accessed and reviewed for species-at-risk, wildlife species inventory (WSI), and critical habitat occurrences within a 1.0 km radius of the subject property. Species-at-risk results are provided in **Table 3**. In addition, the subject property is overlain by a masked CDC occurrence record. Ecoscape did not obtain details about the masked occurrence record from the CDC. Critical habitat occurrences are provided in **Table 4**.

**TABLE 3.** CDC listed at-risk species occurrences within 1 km of the subject property (CDC, 2020).

Common Name	Scientific Name	BC List <sup>1</sup>	SARA Schedule 1 <sup>2</sup>	Occurrence ID	Distance	Critical Habitat	Likelihood
American Badger, <i>jeffersonii</i> subspecies	<i>Taxidea taxus jeffersonii</i>	Red	Endangered	10214	Record overlays the subject property	Non-forested grassland and shrubland ecosystems, however their range is between 16 to 64 km <sup>2</sup> and can therefore migrate through a range of habitats <sup>3</sup>	Low
Great Basin Gophersnake	<i>Pituophis catenifer deserticola</i>	Blue	Threatened	WSI-Incidental	Approximately 700 m northeast of the subject property	Rock outcrops, talus slopes, shrub-steppe, grassland, riparian, and open Ponderosa pine and Douglas fir forests <sup>4</sup>	Moderate
Western Yellow-Bellied Racer	<i>Coluber constrictor mormon</i>	Blue	Special Concern	WSI-Incidental	Two sightings approximately 450 m and 460 m northeast of the subject property.	Ponderosa Pine and Bunchgrass habitats during active season and they overwinter in communal rock dens or rodent burrows. <sup>5</sup>	Moderate

<sup>1</sup> **Yellow:** Not considered at risk. **Blue:** Of special concern. **Red:** Endangered or threatened.

<sup>2</sup> **NAR = Not at Risk:** A wildlife species that has been evaluated and found to be not at risk of extinction given the current circumstances. **SC = Special Concern:** A wildlife species that may become threatened or endangered because of a combination of biological characteristics and identified threats. **E = Endangered:** A wildlife species facing imminent extirpation or extinction. **T = Threatened:** A wildlife species that is likely to become endangered if nothing is done to reverse the factors leading to its extirpation or extinction. **DD = Data Deficient:** A category that applies when the available information is insufficient (a) to resolve a wildlife species' eligibility for assessment or (b) to permit an assessment of the wildlife species' risk of extinction.

<sup>3</sup> COSEWIC, 2012.

<sup>4</sup> Environment and Climate Change Canada, 2019.

<sup>5</sup> COSEWIC, 2015.

TABLE 4. Critical habitat occurrences within 1 km of the project area (CDC, 2020).							
Common Name	Scientific Name	BC List <sup>1</sup>	SARA Schedule 1	Critical Habitat ID	Critical Habitat Status	Distance	Critical Habitat
Desert Nightsnake	<i>Hypsiglena chlorophaea</i>	Red	Endangered	110311	Final	10 km grid square overlapping the subject property.	Rock outcrops, talus slopes, shrub-steppe, grassland, riparian, and open Ponderosa pine and Douglas fir forests <sup>2</sup>
Great Basin Gophersnake	<i>Pituophis catenifer deserticola</i>	Blue	Threatened	110426	Final	10 km grid square overlapping the subject property.	See Table 3.
Western Rattlesnake	<i>Crotalus oreganus</i>	Blue	Threatened	110196	Final	10 km grid square overlapping the subject property.	Rock outcrops, talus slopes, shrub-steppe, grassland, riparian, and open Ponderosa pine and Douglas fir forests <sup>2</sup>

<sup>1</sup> **Yellow:** Not considered at risk. **Blue:** Of special concern. **Red:** Endangered or threatened.

<sup>2</sup> Environment and Climate Change Canada, 2019.

### 4.3 Aquatic Conditions

The subject property occurs along Segment 150 of the Okanagan Foreshore Inventory and Mapping (FIM). It is described as 100% single-family land use. The shore type was described as 100% gravel. The nearshore substrates were composed of 5% sand, 80% gravel, 5% cobble, 5% boulder and 5% bedrock. The foreshore vegetation was classified as landscaped with sparse (<10%) coverage of tall shrubs (2-10 m), sparse (<10%) tree cover and a patchy distribution. Aquatic vegetation was comprised of 5% emergent and 5% floating grasses. Foreshore modifications were abundant throughout the segment, including a dock density of 21.65 docks per km, a groyne density of 0.80 per km, 90% of the segment has retaining walls, and there was 1 boat launch documented. The condition of the foreshore of the property is consistent with adjacent properties to the north and south and generally consistent with the FIM. The Aquatic Habitat Index (AHI) current rating was low, potential was moderate and the juvenile rearing potential was low (Schleppe, 2010).

The foreshore along the subject property is located within an Okanagan Large Lakes Foreshore Protocol No Colour Zone for Freshwater Mussels and Foreshore Plants (BC MFLNRORD, 2018). The

Provincial No Colour Zone indicates that the habitat has not been assessed for Rocky Mountain Ridged Mussel and for foreshore plant SAR presence as of 2017 (BC MFLNRORD, 2018 A). No foreshore plant SAR or mussel shells were observed at the subject property during the site assessment, including those of Rocky Mountain ridged mussels (*Gonidea angulata*) (RMRM). However, a non-detection of RMRM does not imply there are no mussels present at the site and formal mussel surveys were not completed to determine presence.

Kokanee (*Oncorhynchus nerka*) are the fish species of primary concern with respect to shoreline development and aquatic habitat alteration along Okanagan Lake. A review of Kokanee shore spawning zoning information for Okanagan Lake revealed that the subject property is located within a Ministry of Forests, Lands and Natural Resource Operations (MFLNRO) No Colour Zone for shore spawning Kokanee. While shore spawning Kokanee have not previously been documented within the vicinity of the subject property, substrates may provide suitable spawning, foraging and general living habitat for a number of fish species. **Table 5** provides a list of species documented to occur in Okanagan Lake.

**TABLE 5. Species of fish found in Okanagan Lake (MECCS, 2020)**

Common Name	Scientific Name
Brook Trout	<i>Salvelinus fontinalis</i>
Bull Trout	<i>Salvelinus confluentus</i>
Burbot	<i>Lota lota</i>
Carp	<i>Cyprinus carpio</i>
Chiselmouth	<i>Acrocheilus alutaceus</i>
Kokanee	<i>Oncorhynchus nerka</i>
Lake Trout	<i>Salvelinus namaycush</i>
Lake Whitefish	<i>Coregonus clupeaformis</i>
Largescale Sucker	<i>Catostomus macrocheilus</i>
Leopard Dace	<i>Rhinichthys falcatus</i>
Longnose Dace	<i>Rhinichthys cataractae</i>
Longnose Sucker	<i>Catostomus</i>
Mountain Whitefish	<i>Prosopium williamsoni</i>
Northern Pikeminnow	<i>Ptychocheilus oregonensis</i>
Peamouth Chub	<i>Mylocheilus caurinus</i>
Prickly Sculpin	<i>Cottus asper</i>
Pumpkinseed	<i>Lepomis gibbosus</i>
Pygmy Whitefish	<i>Prosopium coulterii</i>
Rainbow Trout	<i>Oncorhynchus mykiss</i>
Redside Shiner	<i>Richardsonius balteatus</i>
Smallmouth Bass	<i>Micropterus dolomieu</i>
Slimy Sculpin	<i>Cottus cognatus</i>
Yellow Perch	<i>Perca flavescens</i>
Rocky Mountain (Western) Ridged Mussel	<i>Gonidea angulata</i>
Western Floater Mussel	<i>Anodonta kennerlyi</i>
Winged Floater Mussel	<i>Anodonta nuttalliana</i>

## 5.0 RIPARIAN SETBACK ASSESSMENT

Riparian setback requirements for the subject property are regulated under the Provincial *Riparian Areas Protection Regulation* (RAPR) and the COV OCP (Bylaw 5470, 2013). As per RAPR, the setback determination is based on the high-water mark (HWM). The recommended HWM for Okanagan Lake is 343 m above sea level.

As per the RAPR, the provincial recommended HWM has been used to determine the appropriate riparian setbacks from Okanagan Lake. Riparian setbacks are based on Zones of Sensitivity (ZOS) for the following three different factors:

- Litter fall and insect drop (15 meters);
- Large woody debris, bank, and channel stability (15 meters); and
- Shade (30 meters due south).

The SPEA is then determined from the ZOS with the greatest setback area. The provincial RAPR results in a 15 m setback from the HWM of Okanagan Lake at the subject property. **Figure 2** illustrates the various setbacks from Okanagan Lake and the resultant 414 m<sup>2</sup> SPEA, which encompasses a portion of the proposed development.

Based on discussions with COV staff, Rockwood Custom Homes is looking to pursue a variance to the R4 Zoning Bylaw (Bylaw 5000, 2003) setbacks. The bylaw includes a front yard setback of 3.5 m (Section 9.5.5), a rear yard setback of 15 m from the HWM of Okanagan Lake (Section 4.13.2), and a side yard setback of 1.5 m, except it is 3.5 m from a flanking street (Section 9.5.5). Considering the RAPR setback of 15 m, this would leave a small development footprint. Therefore, the proposed variance to the bylaw include a rear yard setback of 0 m, a north side yard setback of 1.5 m, a south side yard setback of 0.90 m and a front yard setback of 0.45 m from the closest portion of the dwelling to the property line (setback will vary between 0.45 – 2.10 m from the property line) in order to construct a development. This proposed variance will be up to the discretion of COV Council.

The provincial guidance document makes provision for QEPs to adjust the riparian area boundary in site specific cases. Historically, under the previous regulation (*Riparian Areas Regulation*; RAR) allowed for a flex on setbacks of up to 15 m but no less than 10 m. Therefore, considering the level of disturbance to the riparian and foreshore area, size of the lot and the local bylaw constraints, Ecoscape proposes that a setback of 10 m from the HWM of Okanagan Lake be utilized.

Given that the riparian and foreshore area within the subject property are disturbed, and the proposed encroachment into the SPEA is limited, it is anticipated that impacts to existing riparian habitat will be negligible, provided that the proposed development does not encroach beyond the 10 m setback. It should be noted that Ecoscape has not considered potential Crown Land encroachments in this assessment.

## 5.1 Undue Hardship Developable Area

The RAR Variance Protocol, issued in January 2009, is used to inform Local governments, developers, and Qualified Environmental Professionals (QEPs) on how SPEA variances should be managed. The methodology outlined in the protocol and Section 11 of the RAPR Regulation (2019) was used to determine whether there is an undue hardship associated with this property.

Ecoscope acknowledges that the methods for determination of Undue Hardship are complicated and require proponents to work with local government to balance other legally required setbacks with setbacks from Okanagan Lake. This plan has been under development prior to the change in regulation and has been adapted several times, while the new regulation and how to appropriately implement it have occurred. Ecoscope staff have taken appropriate training for this regulation, but we acknowledge that Undue Hardship as defined by the Act and the technical guidance provided by the Province is complicated. As a result, our interpretation provided herein is based upon our best understanding of the regulation considering recent developments identified the week of October 26, 2020. At this time, it is likely that any development on this property will require a variance to proceed. Identification of the specific area of development and the footprint are needed. The Province has indicated that local government variances must be obtained prior to submission of a report to the Riparian Areas Regulation Notification System (RARNS). This report is intended to facilitate a Council decision on a variance that is necessary for development to proceed, as we understand.

Before the application of the RAPR setbacks, the developable area of the property, considering local government setbacks, is 541 m<sup>2</sup> of the total property area of 602 m<sup>2</sup> (**Figure 2**). The developable area is constrained by the proposed variance to the COV Zoning Bylaw, including a rear yard setback of 0 m, a north side yard setback of 1.5 m, a south side yard setback of 0.90 m and a front yard setback of 0.45 m from the closest portion of the dwelling to the property line (setback will vary between 0.45 – 2.10 m from the property line).

An undue hardship will only be considered where the development footprint is 40% or less of the site, which is the case for the subject property as human disturbance is greater than 70% of the subject property (RAPR, 2019). After applying the RAPR setbacks, the largest portion of developable area outside of the SPEA is 135.7 m<sup>2</sup>. According to this methodology, it is apparent that there is no option to undertake a development of this size appropriate for the zoning if an undue hardship of the SPEA variance is not granted. The allowable footprint is 216.4 m<sup>2</sup>, and the proposed development footprint is 215.8 m<sup>2</sup>. The allowable variance/encroachment area into the SPEA is then 80.7 m<sup>2</sup> and the proposed development encroachment would only be 80.2 m<sup>2</sup>. An Undue hardship as defined by the RAPR regulation exists on the property, and options for development are very limited if an allowable SPEA variance is not considered in order to address the hardship.

## 6.0 IMPACT ASSESSMENT

The proposed development includes the construction of a single-family dwelling, with a covered rear crushed gravel sitting pad equating to a total development area of 215.8 m<sup>2</sup>, and restoration landscaping. Ecoscape anticipates that if all recommendations and mitigation measures within this report are adhered to, the potential environmental effects of the construction on the local flora and fauna will be minimized. However, if proper mitigation measures are not adhered to during construction on the subject property, the following environmental issues may occur:

- Potential to directly or indirectly impact wildlife and wildlife habitat during construction, including disruption of migration, breeding, or other behavior as a result of construction noise, impacts to air quality, and other alterations to existing wildlife habitat and cover. This includes mammals, herptiles and avian species that could potentially be foraging or nesting in the area;
- Potential for the release of fine sediments into natural areas through erosive processes during construction activities;
- Potential to encounter water during excavations which may result in the release of turbid water to the lake;
- Potential further encroachment into the SPEA could occur if the 10 m setback is not clearly delineated in the field by the land surveyor and contractors prior to initiating construction activities;
- Improper handling and disposal of construction materials and debris could result in the addition of deleterious substances to Okanagan Lake and subsequent negative impacts to fish, wildlife, associated habitat, and surface water quality;
- Improper fuel storage and/or poorly maintained equipment used during construction could create spill potential that could negatively impact fish, wildlife, and associated habitats;
- Potential for the release of other deleterious substances (e.g., fuel, oil, hydraulic fluid, construction materials, debris) to the environment as a result of improper storage, equipment re-fueling, and/or poorly maintained equipment; and,
- Potential to introduce or facilitate the spread of invasive and noxious plant species resulting from ground disturbance and seed dispersal.

Section 7.0 below provides specific recommendations to mitigate these potential impacts. As already indicated, adverse impacts associated with construction activities will be minimized provided that the mitigation measures proposed are implemented. Our assessment does not consider the cumulative effects of the proposed development on a larger shoreline area or the cumulative impacts originating from shoreline developments across the lake as a whole or within a specific municipality.

## 7.0 MITIGATION MEASURES

Ecoscope provides the following mitigation measures to minimize the risks of impacts to wildlife and associated habitats during proposed works. This document will be made available to the contractor prior to initiating the works and it should be kept onsite during works. This demonstrates that the contractor is aware of the mitigation measures and that they are being followed.

### 7.1 General

- Prior to any site disturbance, the 10 m setback must be clearly marked/staked in the field by the surveyor or other suitable means to prevent any further encroachment within the SPEA. The setback boundary must then be delineated using orange snow fence (or similar), which will also help prevent any construction debris from entering the SPEA and the lake;
- The appropriate Development Permits and approvals must be obtained from the COV prior to demolition and construction activities within the subject property. The Development Permit must be kept onsite at all times.; and,
- All potential wildlife attractants, including food, beverages, and other strong smelling or perfumed materials must be removed from the site daily.

### 7.2 Best Management Practices

Ecoscope provides the following general mitigation strategies for the proposed works, based on the existing ecosystems. In addition to the recommendations provided herein, the proponent can find additional information on provincial Best Management Practices (BMPs) online at:

<https://www2.gov.bc.ca/gov/content/environment/natural-resource-stewardship/laws-policies-standards-guidance/best-management-practices>

- All works should generally conform to the Develop with Care 2014: Environmental Guidelines for Urban and Rural Land Development in BC (Polster et al., 2014) and companion documents:
  - Guidelines for Raptor Conservation during Urban & Rural Land Development in BC (2013)
  - Guidelines for Reptile and Amphibian Conservation during Urban & Rural Land Development in BC (2014)

## 7.3 Work Timing Windows

### 7.3.1 Avian Nesting Periods

Avian nesting periods should be considered to protect nesting birds within and adjacent to the proposed work area.

- Section 6 of the Federal *Migratory Birds Convention Regulation* protects both the nests and eggs of migratory birds. The project area falls within the Canadian Avian Nesting Zone A1 (MECCS, 2020). The general avian nesting period for migratory birds within this zone is **March 26th to August 9th**. Section 34 of the Provincial *Wildlife Act* protects all birds and their eggs, and Section 34(c) protects their nests while they are occupied by a bird or egg. The project area falls within the Northern Okanagan Basin ecodistrict. The avian nesting period for all birds within this ecodistrict is **February 18th to September 12th** (Birds Canada, 2020);
- If vegetation clearing activities are required during the identified avian nesting period, pre-clearing nesting surveys may be required by an Environmental Monitor (EM) to identify active nests;
- If active nests are found within the clearing limits, a buffer will be established around the nest until such time that the EM can determine that nest has become inactive. The size of the buffer will depend on the species and nature of the surrounding habitat. Buffer sizes will generally follow provincial BMP guidelines or other accepted protocol (e.g., Environment Canada). In general, a minimum 20 m buffer will be established around songbird nests or other non-sensitive (i.e., not at risk) species;
- Clearing and other construction activities must be conducted within 72 hours following the completion of the pre-clearing nesting surveys. If works are not conducted in that time, the nesting surveys are considered to have expired and a follow-up survey will be completed to ensure that no new nests have been constructed; and,
- The nests of Bald Eagle, Golden Eagle, Peregrine falcon, Gyrfalcon, Osprey and Burrowing Owl are protected year-round whether they are active or not as per Section 34(b) of the *Wildlife Act*. Best management practices relating to raptors and their nests can be found in *Guidelines for Raptor Conservation during Urban and Rural Land Development in BC (2013)*.

## 7.4 Clearing and Grubbing

- Native vegetation, including trees, shrubs, and groundcover, must be retained as much as possible to mitigate the establishment of additional invasive plant species; and,

- In the event that land and/or natural vegetation is disturbed or damaged beyond the development footprint area, these areas should be restored and/or replanted with plant material native to the area under the direction of the EM.

## 7.5 Erosion and Sediment Control

This section addresses minimizing the potential for the introduction of deleterious substances to Okanagan Lake and the SPEA. The following recommendations must be adhered to throughout all stages of demolition and construction:

- The release of silt, sediment, sediment-laden water, raw concrete, concrete leachate, or any other deleterious substances into any drainage or areas of high environmental value must be prevented at all times;
- Silt fence must be installed between the proposed works and Okanagan Lake to mitigate the risks to aquatic resources associated with runoff and sediment transport. It is recommended that silt fence is installed just outside of the 10 m setback to prevent any debris/deleterious substances from entering the steep slope and the lake;
- Silt fencing must be installed as directed by the EM in a field-fit manner, as required. ***Silt fence must be staked into the ground and trenched a minimum of 15 cm to prevent flow underneath the fence and must remain taut to prevent material from moving over the fence. Silt fencing should contain sufficient storage capacity to collect runoff and sediment deposition during storm events.*** Silt fencing will be monitored on a regular basis and any damages or areas where the integrity and function of the fencing has been compromised should be repaired or replaced promptly. Silt fence must remain in place where required until the completion of the project;
- All construction debris must be kept outside of the SPEA and steep slopes and should be removed from the property on a regular basis;
- Stockpiling of fill material within the SPEA must not occur without consent from the environmental monitor (EM). Any fill material, if required for construction, must be located outside of the SPEA beyond the silt fence;
- Ensure that onsite machinery is in good operating condition, clean, and free of leaks, excess oil or grease. No equipment refueling can take place within 30 m of Okanagan Lake;
- Erosion and sediment control (ESC) should incorporate the measures described below to mitigate risks during construction works. The plan is generally based upon provincial BMPs and other specifications and includes the following principles:

- Construction works should be conducted during periods of warm, dry weather with no forecasted precipitation;
  - Construction works should be scheduled to reduce the overall amount of time soils are exposed;
  - Natural drainage patterns should be maintained where possible;
  - Existing native vegetation should be retained where possible; and,
  - Stormwater and sediment-laden runoff should be directed away from exposed soils within the construction area.
- Exposed soils along slopes should be stabilized and covered where appropriate using geotextile fabric, polyethylene sheeting, tarps, or other suitable materials to reduce the potential for erosion resulting from rainfall, seepage, or other unexpected causes; and,
  - Adjacent roadways should be kept clean and free of fine materials. Sediment accumulation upon the road surfaces must be removed and disposed of appropriately.

## 7.6 Turbid Water Management

If water is encountered during excavations dewatering may be required. Options for turbid water management include the following;

- Discharging water in small quantities to well-vegetated areas of the site to allow for infiltration and reduction of runoff potential;
- Discharging to local stormwater will only be an option if prior approval is gained from the COV;
- Discharge to Okanagan Lake may be an option provided that water discharged is within the allowable limits for turbidity under the ambient water quality guidelines for turbidity, suspended and benthic sediments; see below (BC MoE, 2019). Any water discharged to Okanagan Lake must be approved by the EM prior to discharge and the EM would need to be onsite full time.

Turbidity levels under the Ministry of Environment guidelines for fish and aquatic habitats (BC MoE, 2019) are as follows:

- During clear flow periods, induced turbidity should not exceed 8 NTU above background levels at any given time and no more than an average of 2 NTU above background levels over a 30-day period; and,
- During turbid flow periods, induced turbidity should not exceed background levels by more than 5 NTU at any time when background turbidity is between 8 and 50 NTU. When

background exceeds 50 NTU, turbidity should not be increased by more than 10% of the measured background level at any one time.

## 7.7 Spills

Spills of deleterious substances can be prevented through awareness of the potential for negative impact on aquatic habitats and with responsible housekeeping practices onsite. Maintenance of a clean site and the proper use, storage and disposal of deleterious liquids and their containers are important to mitigate the potentially harmful effects of spills and/or leaks.

- Ensure equipment and machinery are in good operating condition, free of leaks, excess oil, and grease. Equipment needs to be pressure/steam-washed prior to use within close proximity of a watercourse;
- Spills occurring on dry land will be contained, scraped and disposed of appropriately. Contaminated material will be stored on tarps and covered to prevent mobilization and will be disposed of in accordance with the Environmental Management Act;
- Copies of contact phone numbers for notification of all of the required authorities in the event of a spill/emergency response should be posted and clearly visible at the site; and,
- Spill containment kits must be kept readily available onsite during construction in case of the accidental release of a deleterious substance to the environment. Any spills of a toxic substance should be immediately reported to the Emergency Management BC 24-hour hotline at **1-800-663-3456**, as well as Ecoscape at **1-250-491-7337**.

## 7.8 Foreshore Use

The following recommendations must be adhered to in order to prevent additional foreshore disturbance and to enhance the ecological integrity of the subject property:

- No beach grooming, addition of sand, removal or alteration of cobbles/boulders, dredging or removal of riparian vegetation is to occur at any time. There must be no disturbance to substrates occurring along the foreshore of the subject property;
- No works are to occur below the 343 m elevation (HWM) of Okanagan Lake without having a provincial *Water Sustainability Act* Section 11 application submitted, approved and in the possession of the property owner and contractor; and,
- The construction of permanent structures such as patios, boardwalks, boat houses, hot tubs, pools, etc. are not permitted within the SPEA.

## 7.9 Site Cleanup

Upon substantial completion of construction activities:

- Silt fencing, snow fence and other temporary mitigation features must be removed if the risk of surface erosion and sediment transport has been adequately mitigated with other permanent measures; and,
- All equipment, supplies, waste, and other materials must be removed from the site.

## 7.10 Habitat Restoration

A formal landscape plan has been prepared for the subject property by Bench (**Appendix D**). Habitat restoration is required to address the DD3 requirements of the COV and RAPR for development occurring within the SPEA. The formal landscape plan has been reviewed and approved by Ecoscape and will need to be reviewed by the COV prior to implementation. The total area within the SPEA that will be disturbed by the proposed housing development is 80.2 m<sup>2</sup> and the total riparian encroachment was estimated to be 128 m<sup>2</sup> by Bench. Using a 2:1 replacement ratio would result in a total restoration area of 256 m<sup>2</sup> and Bench is proposing to restore a total area of 283 m<sup>2</sup> on the subject property. If a 3:1 replacement ratio is required (384 m<sup>2</sup> total restoration area), the additional 101 m<sup>2</sup> would require offsite compensation. The 101 m<sup>2</sup> restoration area would take place at 80 Kestrel Place Lots 6, 7, and/or 8 via a *Land Title Act* Section 219 covenant secured to the title(s) to ensure that the required restoration required of the development permit is completed. The additional 101 m<sup>2</sup> restoration area (if required) would be incorporated into the existing landscaping plan on these properties (Lot 6, 7, and/or 8). In addition, a SPEA restoration area of 4.7 m<sup>2</sup> has been delineated and displayed on **Figure 2**. Ecoscape recommends native tall and low shrubs and grass plantings to prevent invasive species from becoming established in this area.

- Planting must occur in spring between April and June or fall between September and October when temperatures are cooler and many plants are dormant, to ensure greater planting success;
- Trees are to be planted at a density of 7 m<sup>2</sup>, tall shrubs every 3 m<sup>2</sup>, and low shrubs every 1.0 m<sup>2</sup>;
- Plants should be installed in groups or clusters and make use of suitable micro-climates, such as moisture-receiving areas, coarse woody debris, and remnant patches of natural areas. This will help prevent plant mortality by limiting competition with invasive species. Planting should not be completed in an evenly distributed, grid-like pattern;
- Plantings should target depressions to capture local moisture from rain or runoff. Woody debris/wood fiber mulch spread around the base of plantings may help to deter establishment of and competition from invasive plant species;

- Flagging of native plants will be helpful for future monitoring purposes; flagging must not be tied around the main stem such that girdling of the plant will occur as it grows;
- Seed and plant material must be sourced from within the southern interior to avoid complications associated with transplanting coastal species or northern species into dry southern interior conditions;
- To promote germination and establishment of vegetation, temporary irrigation should be supplied for at least the first two growing seasons. If no irrigation is proposed for restoration areas, it is recommended that regular maintenance is conducted to improve planting survival. This may include: additional fertilizing, routine watering and/or replanting, and the removal of invasive species. Poor growth, elevated erosion problems, and/or animal intrusion should be mitigated to promote plant growth; and,
- The contractor completing the restoration works should inspect plants monthly during the growing season, replacing any dead or diseased plants.

All disturbed soils must be restored with native Grade A grass seed free of invasive species to minimize establishment of invasive plant species, erosion, and to restore the area to early successional conditions.

- Grass seed mixes must be approved by the EM before purchase and use. Restoration grass mixes cannot include species considered invasive within BC;
- All seed mixes will be submitted to a certified seed testing laboratory for germination and purity analysis. Seed analysis certificates are to be provided prior to purchase;
- Grass seed should be broadcast and hand-raked into the soil. For steep slopes or large areas, hydroseed may be used; and,
- Grass seed mixes should be suitable for the environmental conditions (urban with a western frontage of Okanagan Lake). These conditions may be given to a seed provider to determine the most appropriate species to provide.

#### **7.10.1 Invasive Species Management**

Ongoing invasive species control through mechanical means (i.e., hand pulling and mowing) will be required within any areas with exposed/disturbed soils within the subject property.

- Any contractor working within the property must ensure that all equipment and vehicles are washed and free of weed seeds prior to mobilization and de-mobilization. Vehicles and equipment should not be stored, parked, or staged within weed infested areas if possible. Contractor clothing should also be inspected daily for signs of weed seeds. If found, weed seeds should be disposed of in a contained refuse bin for offsite disposal;
- Care must be taken to ensure that invasive species removal does not impact existing or planted native tree and shrub species; and,

- Invasive plant species must be disposed of in a landfill; however, invasive species material must not be composted in the yard waste section of the landfill. Invasive plant species must not be transported to or deposited in other natural areas.

### 7.11 Environmental Monitoring

An environmental monitor (EM) should be retained to document compliance with proposed mitigation measures and to provide guidance during construction works. In the event that greater disturbance occurs due to unforeseen circumstances, the EM should recommend further measures to protect/restore the natural integrity of the site. The EM should be an appropriately Qualified Environmental Professional (QEP).

The EM's duties and schedule will include, as a minimum, the following:

- A pre-construction meeting prior to the implementation of works. During this visit, best management practices and erosion and sediment control measures will be reviewed;
- Visits should be conducted during construction and will target higher-risk activities. The EM should be notified prior to high-risk activities so they can schedule site visits accordingly;
- EM reports will be generated for each visit and submitted to the client; and,
- Following completion of the project, a substantial completion report will be prepared.

### 7.12 Bonding

Performance bonding may be required by COV to ensure that the recommended mitigation measures are adhered to and any restoration is completed as required. Bonding in the amount of 125% of the estimated value of the prescribed works (i.e. monitoring, erosion and sediment control) and is generally required to ensure faithful performance and that all mitigation measures are completed and function as intended. Security deposits shall remain in effect until the COV has been notified, in writing by the EM that the objectives have been met and substantial completion of the restoration works has been achieved.

Bench provided a bonding estimate for habitat restoration works (not inclusive of proposed development) including erosion and sediment control, plant materials, topsoil and mulch, and irrigation to be approximately \$13,209.00, not including GST. The bonding is estimated to be \$16,511.25 (125% of cost), as shown in **Appendix E**. In addition, Ecoscape has estimated that the environmental monitoring and reporting (over the maintenance phase only) would be \$2,000, not including GST, resulting in a bonding amount of \$2,500. Therefore, the total bonding amount is estimated to be **\$19,011.25** including estimates for other aspects of the bond previously submitted.

## 8.0 CONCLUSION

This report pertains to existing and potential site conditions at the subject property with respect to riparian and upland habitats in relation to the proposed development. As per the requirements of the COV, this report identifies potential environmental impacts and appropriate mitigation measures to protect the natural integrity of both terrestrial and aquatic communities. Provided that mitigation measures within this report are adhered to, impacts to the aquatic and terrestrial communities should be avoided.

## 9.0 CLOSURE

This report has been prepared for the exclusive use of Mr. Brad Tetreau of Rockwood Custom Homes. Ecoscape has prepared this assessment with the understanding that all available information on the present and proposed condition of the site has been disclosed. The client has acknowledged that in order for Ecoscape to properly provide its professional service, Ecoscape is relying upon full disclosure and accuracy of this information.

If you have any questions or comments, please contact the undersigned at your convenience.

Respectfully Submitted,

ECOSCAPE Environmental Consultants Ltd.

Prepared by:



Leanne McDonald, B.Sc., P.Ag., B.I.T.  
Intermediate Natural Resource Biologist  
Direct Line: (250) 491-7337 ext. 217

Reviewed by:



Jason Schleppe, M.Sc., R.P. Bio.  
Senior Natural Resource Biologist  
Direct Line: (250) 491-7337 ext. 202



**Subject Property**  
 5-80 Kestrel Place,  
 SL 5, DL 297, ODYD, Plan KAS2084  
 Vernon, BC

Proposed House

Okanagan Lake

\*Refer to the legend for blanket  
 Species at Risk Occurrence data

# FIGURE 1

## Site Location and Fisheries Information

**Project:** Riparian Areas Regulation Assessment  
**Location:** City of Vernon  
**Project No.:** 19-3156  
**Prepared for:** Rockwood Custom Homes  
**Prepared by:** Ecoscape Environmental Consultants Ltd.  
 Josh Castanier, GIS Technician

**Coordinate System:** NAD83-UTM Zone 11  
**Imagery:** ESRI World Imagery  
**Field Visit:** September 3, 2020  
**Map Date:** October 29, 2020

### LEGEND

- Regional Location of Subject Property
- Wildlife Species Inventory (Survey)
- Wildlife Species Inventory (Incidental)
- Subject Property
- Cadastre
- Okanagan Critical Habitat (Species at Risk)
- BC Conservation Data Center (CDC) Polygons\*
- Streams
- Historical Kokanee Spawning Records
- Okanagan Large Lakes Foreshore Protocol**
- Kokanee Spawning Black Zone
- Kokanee Spawning Red Zone
- Kokanee Spawning Yellow Zone
- Mussel Red Zone
- Mussel Yellow Zone
- Foreshore Plants Black Zone
- Foreshore Plants Red Zone
- Foreshore Plants Yellow Zone

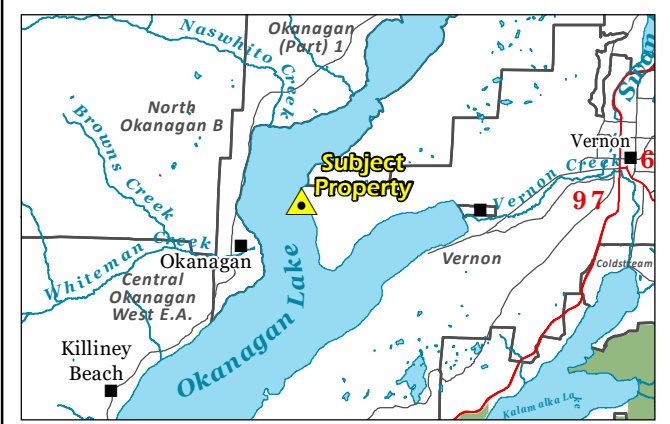
\*A large Okanagan Critical Habitat polygon covers the entire map and subject property area representing the following wildlife species but is not shown on this figure:

- Western Rattlesnake (*Crotalus oreganus*)
- Desert Nightsnake (*Hypsiglena chlorophaea*)
- Great Basin Gophersnake (*Pituophis catenifer desertiicola*)


\*A large BC Conservation Center (CDC) polygon covers the entire map and subject property area representing the following wildlife species but is not shown on this figure:

- American Badger (*Taxidea Taxus*)

### Regional Location of Subject Property



**DISCLAIMER**  
 The data displayed is for conceptual purposes only and should not be interpreted as a legal survey or for legal purposes. If discrepancies are found between the data portrayed in this report and that of a legal survey, the legal survey will supersede any data presented herein.



**FIGURE 2**  
Riparian Areas Regulation Assessment

Project: Riparian Areas Regulation Assessment  
 Location: City of Vernon  
 Project No.: 19-3156  
 Prepared for: Rockwood Custom Homes  
 Prepared by: Ecoscape Environmental Consultants Ltd.  
 Josh Castanier, GIS Technician  
 Coordinate System: NAD83-UTM Zone 11  
 Imagery: ESRI World Imagery  
 Site Visit: September 3, 2020  
 Map Date: October 29, 2020

**LEGEND**


- Proposed Development
- Buildable Area (Municipal Setbacks)
- Development Area Outside SPEA
- SPEA Encroachment Area
- Streamside Protection and Enhancement Area (SPEA)
- SPEA Enhancement Restoration Area
- Subject Property
- Cadastre
- Property Setbacks
- Approximate High Water Level (343.0 m.a.s.l.)
- 30 m Riparian Areas Regulation Assessment Area
- 10 m Setback
- Zone of Sensitivity - Large Woody Debris (15 m)
- Zone of Sensitivity - Litterfall (15 m)
- Zone of Sensitivity - Shade (30 m due south)

Hardship Area Calculation (Brownfield)	
Total Property Area =	602m <sup>2</sup>
Total Buildable Area (Municipal Setbacks) =	541m <sup>2</sup>
Development Area (Outside of SPEA) =	135.7m <sup>2</sup>
Total Proposed Development Area =	215.8m <sup>2</sup>
Allowable Footprint (40% of Buildable Area (Municipal Setbacks)) =	216.4m <sup>2</sup>
Allowable Variance Area/Encroachment into SPEA =	80.7m <sup>2</sup>
SPEA Enhancement Restoration Area =	4.7m <sup>2</sup>



Source: Esri, Maxar, GeoEye, Earthstar Geographics, CNES/Airbus DS, USDA, USGS, AeroGRID, IGN, and the GIS User Community

**DISCLAIMER**  
 The data displayed is for conceptual purposes only and should not be interpreted as a legal survey or for legal purposes. If discrepancies are found between the data portrayed in this report and that of a legal survey, the legal survey will supersede any data presented herein.





**Photo 1.** View of subject property looking north from the southern boundary. Photo taken September 3, 2020.



**Photo 2.** View of subject property looking south from the northern boundary. Photo taken September 3, 2020.



**Photo 3.** View of subject property looking east from the western boundary. Photo taken September 3, 2020.



**Photo 4.** View of subject property looking west from the eastern boundary. Photo taken September 3, 2020.



**Photo 5.** View of existing landscaped riprap along western boundary. Photo taken September 3, 2020.



**Photo 6.** View of foreshore area of the subject property. Photo taken September 3, 2020.

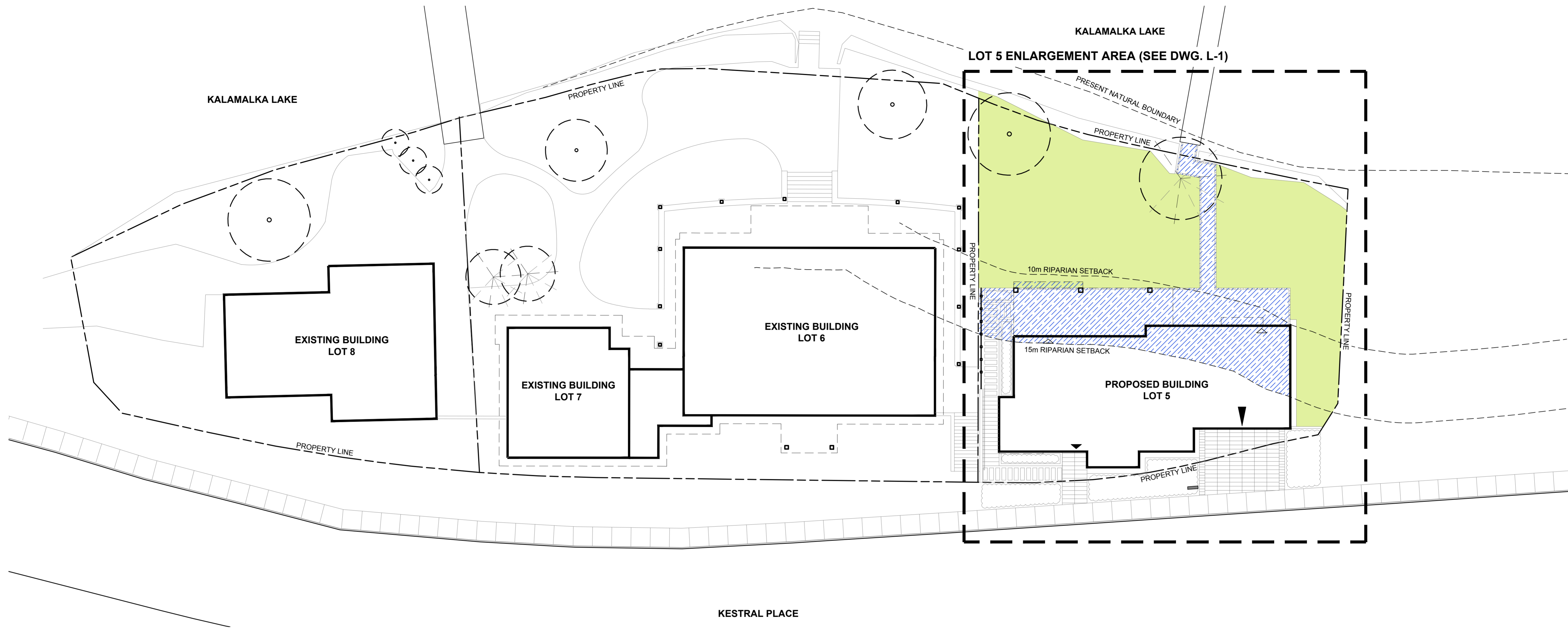


**Photo 7.** View of existing firepit. Photo taken September 3, 2020.



**Photo 8.** View of rock outcrop to the east of Kestrel Place. Photo taken September 3, 2020.

/VOLUMES/BENCH/400 - PROJECTS/2020/20-019\_KESTRALPLACE\_RESIDENCES/440 - PRODUCTION/442 - DRAWINGS/00-CURRENT/00-20-019\_CONCEPT\_LAYOUTS.MXD

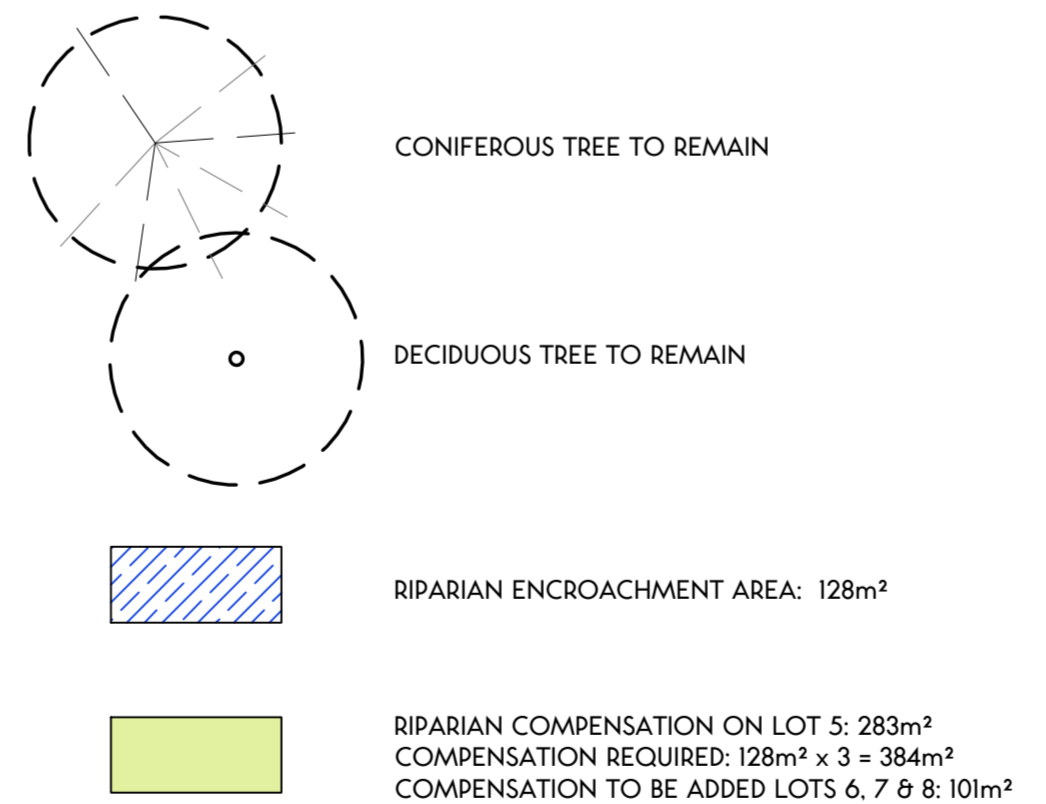


**ENVIRONMENTAL DEVELOPMENT PERMIT NOTES:**

- A EROSION CONTROL:  
PRIOR TO COMMENCING ANY WORK THE OWNER SHALL INSTALL SILT FENCING IN THE LOCATION DIRECTED BY THE PROJECT ENVIRONMENTAL MONITOR. THIS HELPS ENSURE THE RELEASE OF THE FINE SEDIMENTS OR OTHER SUBSTANCES DELETERIOUS TO THE ENVIRONMENT DO NOT MIGRATE TO SENSITIVE AREAS OF THE SITE.
- B ENVIRONMENTAL MONITORING:  
ECOSCAPE ENVIRONMENTAL CONSULTANTS HAS BEEN RETAINED TO BE QUALIFIED ENVIRONMENTAL PROFESSIONAL AND TO FUNCTION AS THE SITE INSPECTOR AS IT RELATES TO THE ENVIRONMENT DURING CONSTRUCTION.
- C ONSITE TOPSOIL REUSE:  
THE EXISTING ONSITE TOPSOIL SHALL BE STRIPPED, STOCKPILED AND REINSTALLED WITHIN THE RIPARIAN COMPENSATION AREA AT A MINIMUM DEPTH OF 50mm
- D PLANT MATERIALS AND CONSTRUCTION METHODS SHALL CONFORM TO MINIMUM STANDARDS ESTABLISHED IN THE LATEST EDITION OF THE CANADIAN LANDSCAPE STANDARDS, PUBLISHED BY C.L.N.A. AND C.S.L.A. AS WELL AS THE CITY OF VERNON LANDSCAPE STANDARDS.
- E NATIVE TREES, SHRUBS, GRASSES AND PERENNIALS ARE TO BE POCKET PLANTED WITHIN THE RIPARIAN COMPENSATION AREA AS SHOWN ON THE LOT 5 - RIPARIAN PLANTING PLAN DURING THE SPRING AND/OR FALL WEATHER WINDOWS (SPRING: MARCH TO MAY, FALL: OCTOBER TO NOVEMBER) TO ALLOW FOR ESTABLISHMENT AND LIMIT THE REQUIREMENT OF CONTINUOUS IRRIGATION. ALL POCKETS SHALL BE DUG TO TWICE THE ROOTBALL SIZE TO ALLOW FOR ADDITIONAL GROWING MEDIUM TO HELP WITH ESTABLISHMENT OF THE PLANT.

- F NATIVE SEEDING (RIPARIAN MEADOW AREA):  
SEEDING IN RIPARIAN MEADOW AREA SHALL BROADCAST SEEDED AND MEET THE SEED SPECIFICATION OUTLINED IN THE ENVIRONMENT MANAGEMENT PLAN PREPARED BY ECOSCAPE ENVIRONMENTAL CONSULTANTS. SEED SHALL BE INSTALLED DURING THE SPRING OR FALL WEATHER WINDOWS (SPRING: MARCH TO MAY, FALL: OCTOBER TO NOVEMBER) TO ALLOW FOR ESTABLISHMENT AND LIMIT THE AMOUNT OF WATER USE.
- G ESTABLISHMENT IRRIGATION SYSTEM:  
A FULLY AUTOMATED IRRIGATION SYSTEM SHALL BE INSTALLED AND OPERATIONAL THROUGH THE THREE (3) YEAR MAINTENANCE PERIOD TO SUPPORT THE ESTABLISHMENT OF THE PLANTS IN THE RIPARIAN AREA. THE SYSTEM SHALL CONFORM TO THE CITY OF VERNON'S IRRIGATION STANDARDS.
- H THREE (3) YEAR MAINTENANCE REQUIREMENTS:  
THE FOLLOWING THREE (3) YEAR MAINTENANCE REQUIREMENTS MUST BE FOLLOWED TO ENSURE SURVIVAL AND ESTABLISHMENT OF A WEED-FREE HILLSIDE RESTORATION AREA.
  - 1) ESTABLISHMENT IRRIGATION SYSTEM OPERATING EVERY SECOND DAY FOR ONE (1) HOUR FROM JUNE TO SEPTEMBER AND ADDITIONAL IRRIGATION OR MANUAL WATERING IN DRY PERIODS IF NECESSARY.
  - 2) WEEDING OF THE ENTIRE RIPARIAN AREA ONCE IN THE SPRING AND ONCE IN THE FALL TO CONTROL WEEDS PRIOR TO GOING TO SEED.
  - 3) PERIODIC REVIEW OF THE RIPARIAN AREA TO EVALUATE THE PROGRESS OF THE PLANT ESTABLISHMENT AND WEED CONTROL.
  - 4) REPLACEMENT OF PLANT MATERIAL IF SURVIVAL RATE OF PLANTS IS BELOW 80%.
  - 5) FINAL REVIEW AT THE END OF THE THREE (3) YEAR PERIOD TO ENSURE REQUIREMENTS HAVE BEEN MET.

**GENERAL LEGEND:**



NO.	DATE	DESCRIPTION
2	SEPT 11/20	ISSUED FOR ENVIRONMENTAL DP
1	SEPT 10/20	ISSUED FOR REVIEW

PROJECT  
**KESTRAL PLACE RESIDENCES**  
 VERNON, BC  
 SHELDON AND CLAIRE MARCOTTE



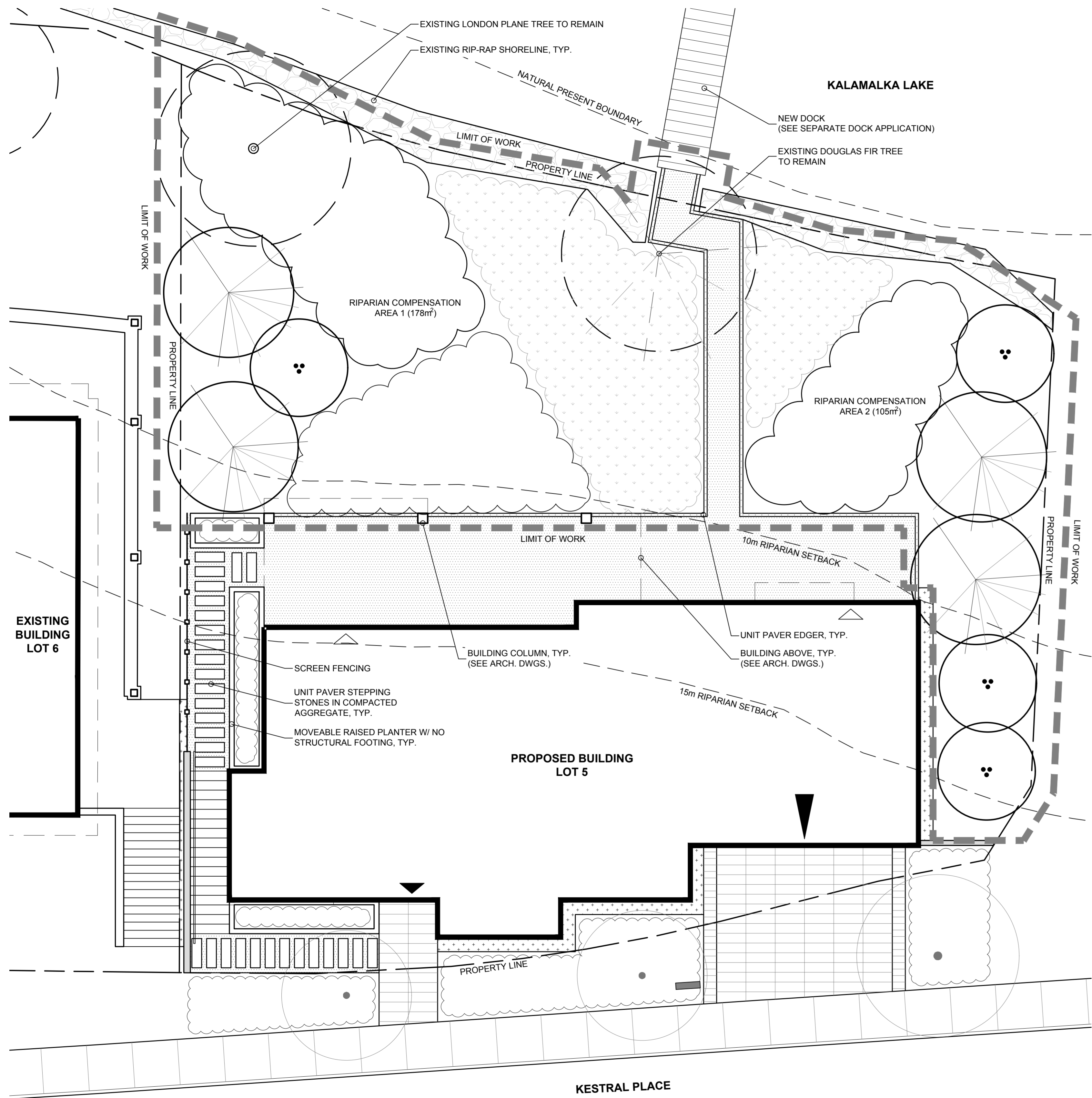
**NOT FOR CONSTRUCTION**

**BENCH**

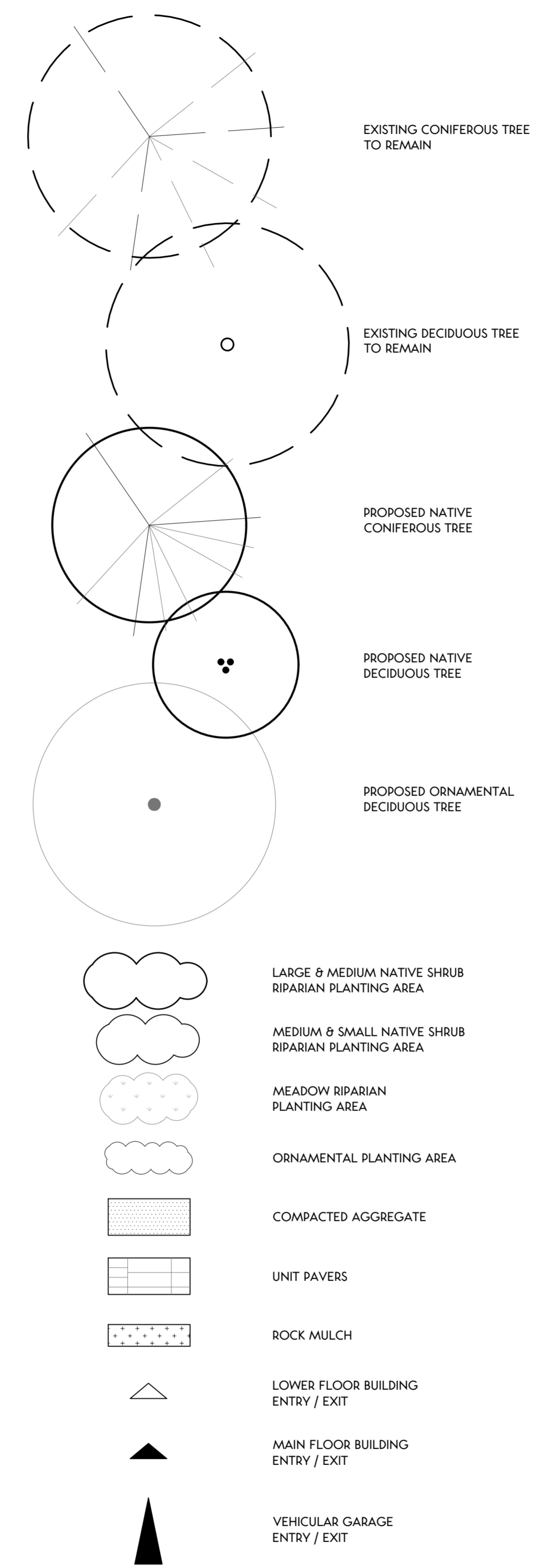
| 4-1562 Water Street, Kelowna BC V1Y 1J7 | +1 250 860 6778 |

SHEET TITLE	
<b>LOT 5 - CONTEXT PLAN</b>	
SHEET NO.	PROJECT #
L-0	20-019
SCALE	1:150

/VOLUMES/BENCH/400 - PROJECTS/2020/20-019\_KESTRALPLACE\_RESIDENCES/440 - PRODUCTION/442 - DRAWINGS/00-CURRENT/00-20-019\_CONCEPT\_LAYOUTS\_M.DWG



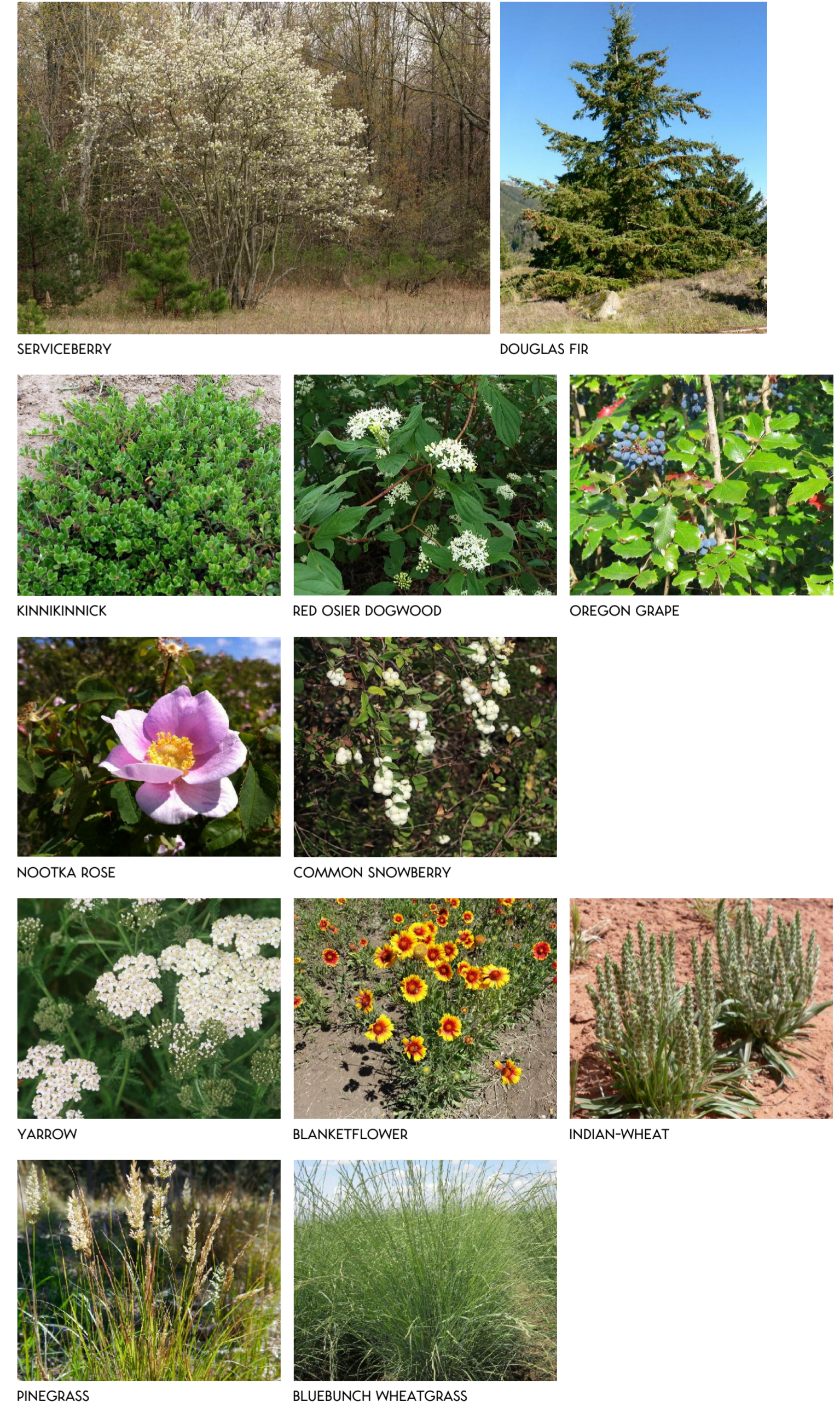
**GENERAL LEGEND:**



**RIPARIAN AREA PLANT LIST:**

TREES				
Qty	Botanical Name	Common Name	Size/Spacing	Root
4	<i>Amelanchier alnifolia</i>	Serviceberry	1.2m Ht. Multi-stem	B&B
4	<i>Pseudotsuga menziesii var. glauca</i>	Interior Douglas fir	1.2m Ht.	B&B
SHRUBS				
Qty	Botanical Name	Common Name	Size/Spacing	Root
15	<i>Arctostaphylos uva-ursi</i>	Kinnikinnick	#01 Cont./1.2m O.C.	Potted
15	<i>Cornus sericea</i>	Red Osier dogwood	#01 Cont./2.5m O.C.	Potted
15	<i>Mahonia aquifolium</i>	Oregon grape	#01 Cont./1.5m O.C.	Potted
15	<i>Rosa nutkana</i>	Nootka rose	#01 Cont./2.0m O.C.	Potted
15	<i>Symphoricarpos albus</i>	Common snowberry	#01 Cont./1.5m O.C.	Potted
PERENNIALS				
Qty	Botanical Name	Common Name	Size/Spacing	Root
48	<i>Achillea millefolium</i>	Yarrow	24 Tray	Plugs
24	<i>Gallardia aristata</i>	Blanketflower	24 Tray	Plugs
24	<i>Plantago patagonica</i>	Indian-Wheat	24 Tray	Plugs
GRASSES				
Qty	Botanical Name	Common Name	Size/Spacing	Root
24	<i>Calamagrostis rubescens</i>	Pinegrass	24 Tray	Plugs
24	<i>Pseudoroegneria spicata</i>	Bluebunch wheatgrass	24 Tray	Plugs

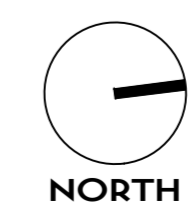
**RIPARIAN PLANT PALETTE:**



NO.	DATE	DESCRIPTION
2	SEPT 11/20	ISSUED FOR ENVIRONMENTAL DP
1	SEPT 10/20	ISSUED FOR REVIEW

PROJECT  
**KESTRAL PLACE RESIDENCES**  
 VERNON, BC  
 SHELDON AND CLAIRE MARCOTTE

**NOT FOR CONSTRUCTION**



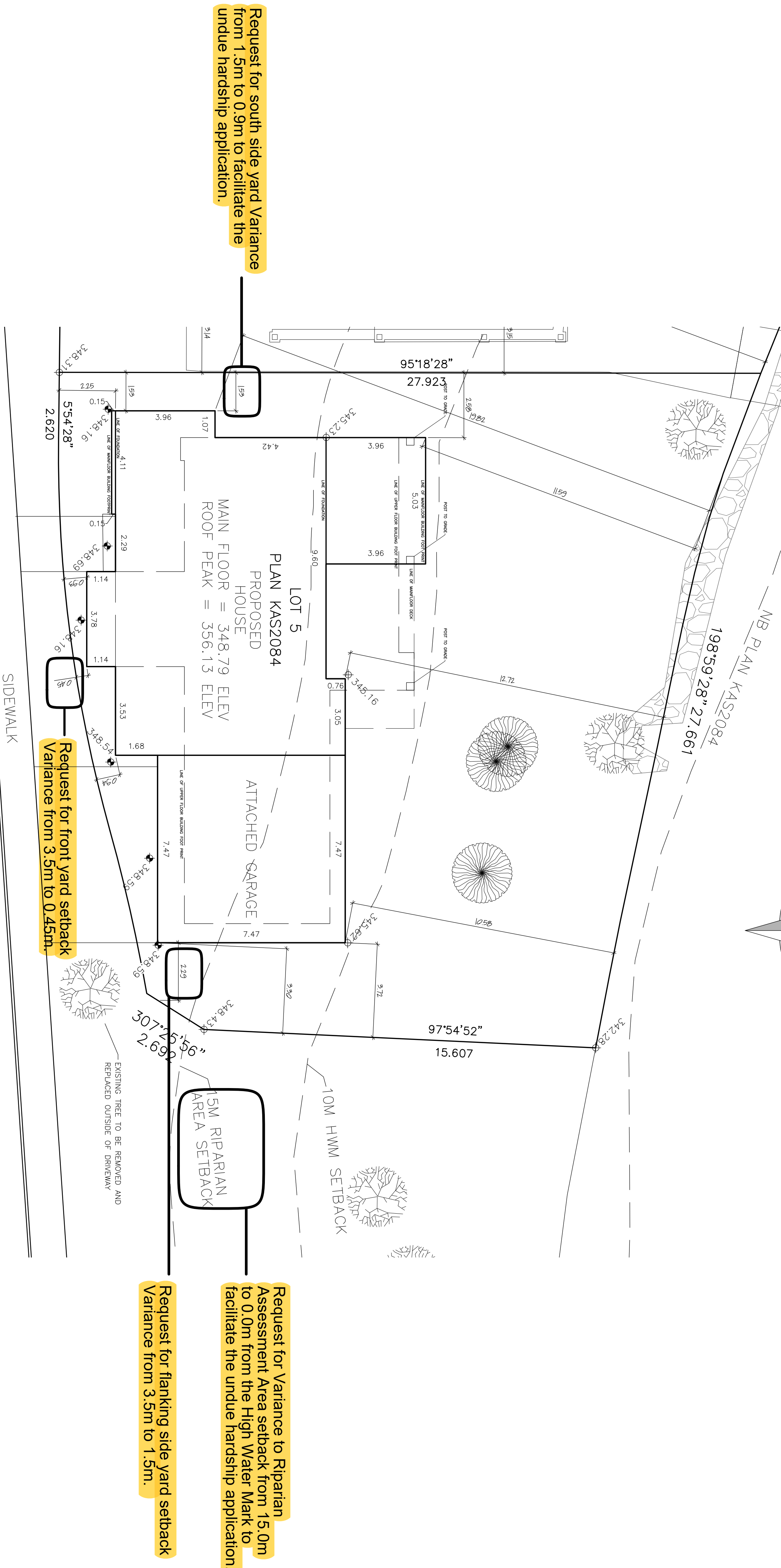
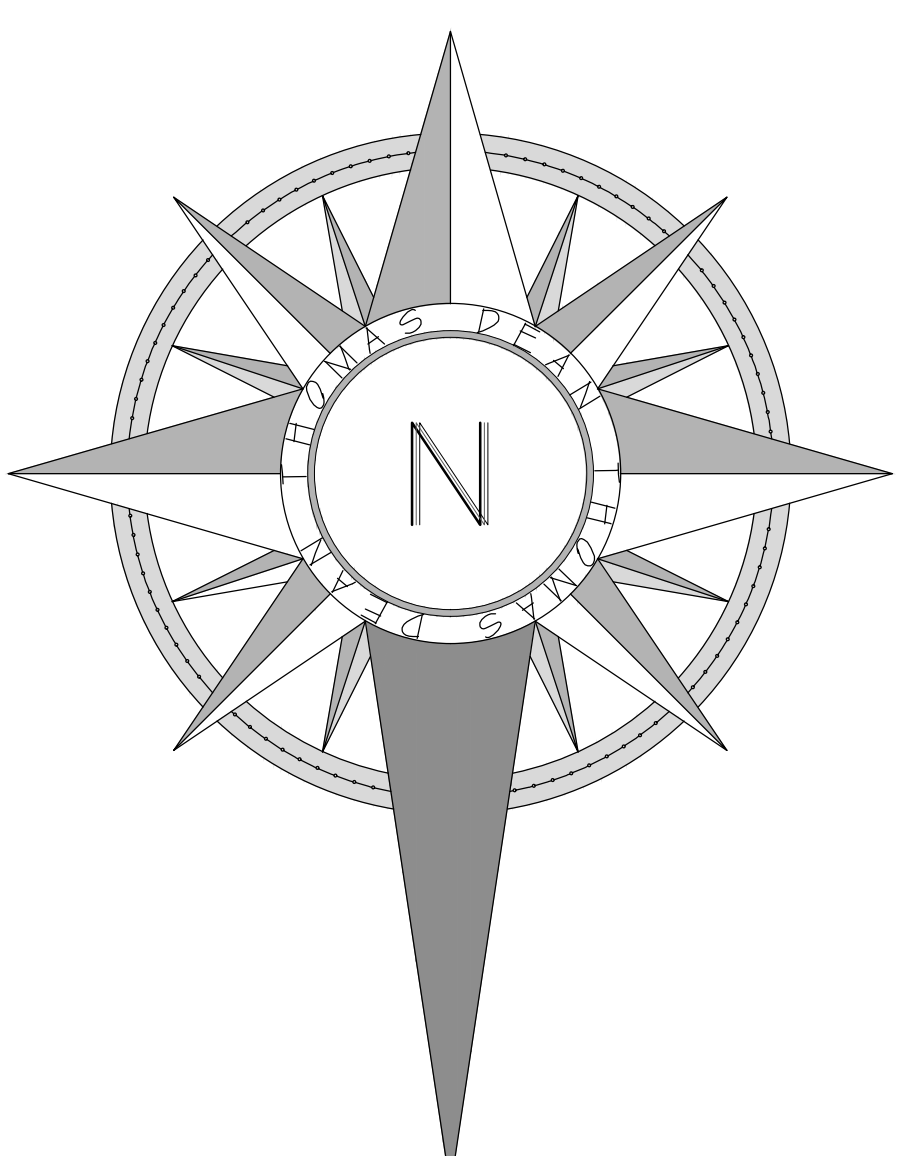
**BENCH**



| 4-1562 Water Street, Kelowna BC V1Y 1J7 | +1 250 860 6778 |

SHEET TITLE	
<b>LOT 5 - RIPARIAN PLANTING PLAN</b>	
SHEET NO.	PROJECT #
L-1	20-019
SCALE	1:75

EXISTING DOCK



Request for south side yard Variance from 1.5m to 0.9m to facilitate the undue hardship application.

Request for front yard setback Variance from 3.5m to 0.45m.

Request for flanking side yard setback Variance from 3.5m to 1.5m.

Request for Variance to Riparian Assessment Area setback from 15.0m to 0.0m from the High Water Mark to facilitate the undue hardship application.

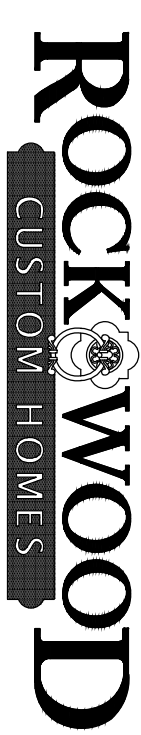
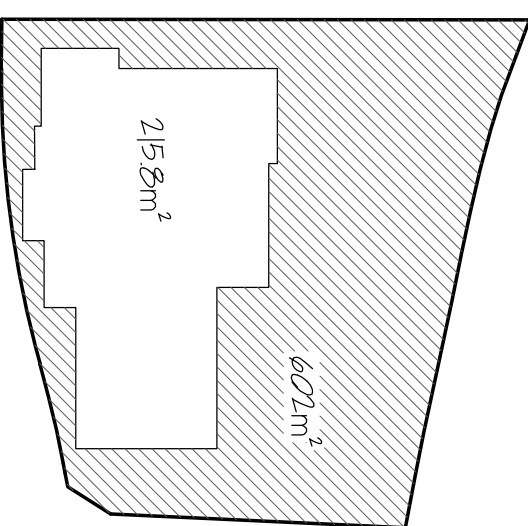
KESTREL PLACE

SIDEWALK

**LINETYPE LEGEND**

- denotes Subject Property Line
- - - denotes Adjacent Property Lines
- · - · - denotes Proposed Cont., at Grade
- · - · - · denotes Proposed Floor Above
- · - · - · - denotes Existing to Remain

TOTAL BLDG FOOTPRINT: 2152m<sup>2</sup>  
 LOT AREA: 6071m<sup>2</sup>  
 BUILDING COVERAGE: 35.8%



403 | 452 | 5995  
 6107 6th STREET SE  
 CALGARY, ALBERTA  
 T2H 1L9

**DEANTHOMAS**  
 DESIGN GROUP

403 | 719 | 6641  
 SUITE 11, 1111 3RD STREET SE  
 CALGARY, ALBERTA  
 T2G 2S9

PROJECT:  
**ISSUED FOR REVIEW**

8-80 KESTREL PLACE  
 VERNON BC  
 SL 5  
 DL297 - ODYD  
 PLAN KAS2094

THESE DESIGN AND DRAWINGS ARE COPYRIGHT © DEAN THOMAS DESIGN GROUP. THEY ARE THE EXCLUSIVE PROPERTY OF THE FIRM AND CANNOT BE USED, REPRODUCED OR COPIED IN ANY MANNER WITHOUT WRITTEN CONSENT. DO NOT SCALE THESE DRAWINGS. VERIFY ALL DIMENSIONS, SPACING, LEVELS, AND OTHER INFORMATION PRIOR TO CONSTRUCTION. THESE DRAWINGS ARE PRELIMINARY AND NOT TO BE USED FOR CONSTRUCTION. ALL WORK MUST COMPLY WITH THE MOST RECENT EDITION OF THE ALBERTA BUILDING CODE AND ANY OTHER APPLICABLE REGULATIONS.

REVISION SCHEDULE:

1.	ISSUED FOR REVIEW	OCTOBER 28, 2020
----	-------------------	------------------

DRAWN BY: TT

DRAWING TITLE:

SITE PLAN

SCALE: 1:100  
 DATE: OCTOBER 28, 2020

SHEET: **A1.1**



# THE CORPORATION OF THE CITY OF VERNON

## TERMS OF REFERENCE

**Committee Name:** Advisory Planning Committee

**Type:** Select

### Approvals/Reviews/Amendments

POLICY/AMENDMENT APPROVED BY:	DATE OF COUNCIL MEETING:	SECTION AMENDED
<p align="center"><i>“Sean Harvey,”</i> Mayor</p>	<p align="center">October 14, 2003</p>	<p align="center">ORIGINAL POLICY</p>
<p align="center"><i>“Sean Harvey,”</i> Mayor</p>	<p align="center">October 27, 2003</p>	<p>Section Amended:</p> <p>4.3 - Meeting Schedule</p> <p>4.0 – Addition of Committee Clerk duties</p> <p>Delete reference to DLUC and add Mayor and two Councillors to membership of the Committee.</p>
<p align="center"><i>“Wayne Lippert,”</i> Mayor</p>	<p align="center">October 26, 2009</p>	<p>2.01 Duties – amended</p> <p>2.03 Duties – added</p> <p>3.02 Mayor will appoint one member of Council and one alternate</p> <p>4.01 Referrals will include the draft staff report</p>
<p align="center"><i>“Rob Sawatzky,</i></p>	<p align="center">January 9, 2012</p>	<p>Change name to Advisory Planning Committee.</p>



## THE CORPORATION OF THE CITY OF VERNON

---

<i>Mayor</i>		Add a Youth Member, as a non-voting member.
<i>"Rob Sawatzky, Mayor"</i>	April 14, 2014	Various amendments to streamline TOR. Add two new positions with expertise in universal accessibility issues in the community.
<i>"Catherine Lord Acting Mayor"</i>	March 9, 2015	Add one representative from ' <i>Independent Living Vernon</i> '
<i>"Akbal Mund" Mayor</i>	March 23, 2015	Limit the term of the youth member to two years.
<i>"Akbal Mund" Mayor</i>	March 14, 2016	Add ALR exclusion applications to 2.01 Duties



# THE CORPORATION OF THE CITY OF VERNON

---

## **1.0 Committee Purpose**

- 1.01 To provide City Council with advice and recommendations on proposed land use and planning changes and related matters as detailed below.

## **2.0 Duties**

- 2.01 The Committee will consider proposed Official Community Plan, Neighbourhood Plans, Rezoning, Agricultural Land Reserve exclusion and Development Variance Permit applications, in accordance with the current Official Community Plan and will provide recommendations to City Council on same.
- 2.02 The Committee will also review and provide their advice on land use matters referred by Council.
- 2.03 The Committee will receive regular updates on long range planning matters, including neighbourhood plan reviews.

## **3.0 Membership**

- 3.01 The Committee shall be comprised of twelve (12) members appointed by Council from the community at large. All members must be a resident or property owner in the City of Vernon.
- 3.02 Membership may include one (1) individual from the community at large who has a background in accessibility for the disabled/mobility impaired.
- 3.03 Membership may include one (1) representative from Independent Living Vernon (ILV).
- 3.04 A youth member may be included on the Committee, as a non-voting member, in order to contribute the perspective of Vernon youth to Committee discussions and recommendations. The youth member shall have a



# THE CORPORATION OF THE CITY OF VERNON

---

maximum term of two (2) years. The youth member shall not attend in camera meetings of the Committee.

- 3.05 All members, excepting the youth member, shall have a maximum term of four (4) years expiring in December following an election. Members are permitted a maximum of two consecutive terms, with each term not to exceed four years.

## **4.0 Operations of the Committee**

### 4.01 Agenda Preparation

Agendas will be prepared by the Committee Clerk and endorsed by the City Planner or their designate. The Agenda will be circulated by the Committee Clerk to the Committee members by Friday preceding the Committee meeting.

The referral material provided in the committee agenda will include a copy of the draft staff report on the subject application.

The Committee and/or staff recommendations will be an addendum to reports to Council.

### 4.02 Meeting Schedule

The Committee will meet at 4:00 p.m. each Tuesday of the same week following a regularly scheduled Council meeting. Should there be no agenda items, the Committee will not meet.

In the event that the regularly scheduled Council meeting falls on a Tuesday, the Committee shall meet at 4:00 p.m. on the Wednesday of the same week.



**THE CORPORATION OF THE CITY OF VERNON**

3400 – 30<sup>th</sup> Street, Vernon, B.C. V1T 5E6  
 Telephone: (250) 545-1361 Fax: (250) 545-4048

website: [www.vernon.ca](http://www.vernon.ca)

**Corporate Policy**

Section:	Human Resources	
Sub-Section:		
Title:	Bullying and Harassment	

**RELATED POLICIES**

Number	Title
	Replaced Harassment Policy

**APPROVALS**

<b>POLICY APPROVAL:</b>	<b>AMENDMENT APPROVAL:</b>	<b>SECTION AMENDED</b>
Approved by: Mayor: "Akbal Mund" Date: December 14, 2015	Amendment Approved by: Mayor: "Akbal Mund" Date: December 18, 2015	Amended due to compliance Workers Compensation Bill 14

## **POLICY**

The policy of the City of Vernon is to provide and maintain a workplace that is free from discrimination, bullying and harassment, not only in relation to the specific conduct prohibited by the British Columbia (BC) Human Rights Code, but regarding any form of personal bullying harassment which may reasonably cause embarrassment, insecurity, discomfort, offence or humiliation to another person or group.

The City of Vernon is committed to a professional working environment where employees, contractors, elected officials, committee volunteers, and students working on behalf of the City or present within the City's facilities and programs, are treated with respect and dignity.

This Policy will apply to the resolution of all internal informal or formal complaints brought forward or filed pursuant to this Policy.

The procedures set out within this Policy will also apply to any and all City of Vernon investigations conducted in response to external discrimination/harassment/bullying complaints filed with WorkSafe BC, the Human Rights Tribunal or otherwise.

## **DEFINITIONS**

### **Parties**

Parties are the Complainant(s) and Respondent(s) directly involved in a Complaint and may include: employees (unionized and excluded), contractors, elected officials, committee volunteers, and students.

### **Complainant(s)**

Complainant(s) are those individuals making a Complaint and seeking recourse in relation to this Policy.

### **Respondent(s)**

Respondent(s) are those individuals alleged to have violated this Policy.

### **Bystanders**

Bystanders are third parties who have witnessed behaviour that, in their view, potentially constitutes a violation of this Policy. Bystanders should report their concerns in accordance with Step 2 of the informal processes set out below.

Bystanders are not Parties to a Complaint. However, they may be interviewed as witnesses in the event there is a formal investigation into their concerns.

## **Witnesses**

Witnesses are individuals who have direct knowledge of or involvement in any matter or incident that potentially relates to a Complaint brought forward or filed pursuant to this Policy.

## **Complaint**

A concern or Complaint regarding any of the potential behaviour as defined below that requires a solution that is brought forward for the purposes of obtaining a resolution.

## **Prohibited Grounds**

Conduct or commentary that is based, in whole or part, on any of the following 13 grounds: race, colour, ancestry, place of origin, political belief, religion, marital status, family status, physical or mental disability, sex, sexual orientation, age or unrelated criminal conviction.

## **Respectful Conduct**

Respectful workplace conduct incorporates courtesy, civility, consideration, and compassion. It is an approach which actively respects individuals by avoiding unnecessary behaviours which would reasonably be considered to have a negative impact on others. It involves taking responsibility for one's behaviour/conduct in the workplace.

A workplace disagreement or difference of opinion is not by definition disrespectful. The manner in which a disagreement is described, discussed or resolved will determine whether or not the conduct is respectful.

### *Examples of Respectful vs. Disrespectful Behavior*

Violations of this Policy will be determined on an objective and case-by-case basis, having regard to the overall circumstances of each Complaint, including the particular timing and context of the event(s) in question. This commonly will be determined after receiving information from the Parties and Witnesses. However, for illustrative purposes only, some examples of respectful versus disrespectful behaviour could include the following:

- Quiet and calm communication which focuses on the issues rather than personal characteristics of the individuals involved vs. loud, profane, name-calling, and abusive language that may also focus on personal characteristics.
- Expressing and resolving disagreement in a calm and professional manner vs. insulting or belittling others through personal attacks, sarcasm or through non-verbal behaviour that may include repetitive eye-rolling, loud sighing, disrespectful

facial expressions, shunning, stone walling discussions, walking out of discussions prematurely, or making physical or psychological threats.

- Addressing issues and concerns regarding work performance or misconduct in a confidential, discreet manner through responsible managers vs. engaging in gossip, rumours, speculation or criticism of an individual to others or discussing issues in front of individuals who do not need to be a part of the discussion.
- Sharing information required to deliver services effectively vs. repeatedly ignoring questions or requests for information or deliberately failing to provide necessary/helpful information.
- Responding to on-call pages in a timely fashion vs. not being accessible or responding to pages when on-call.
- Written communication made in a respectful professional manner vs. unprofessional comments made about colleagues or co-workers.

## **Discrimination**

Discrimination is adverse differential treatment of an individual or group, whether intended or not, on the basis of race, colour, ancestry, place of origin, political belief, religion, marital status, family status, physical or mental disability, sex, sexual orientation, age or unrelated criminal conviction. Discrimination of this nature imposes burdens or obligations on an individual or group that serves no work-related function. It is important to note that such conduct is not only a breach of this Policy; it may also be a breach of the BC Human Rights Code.

## **Discriminatory Harassment**

Discriminatory harassment is a form of discrimination and is also contrary to the BC Human Rights Code. Discriminatory harassment is abusive, unfair, offensive, or demeaning treatment of or disrespectful/disruptive conduct towards a person or group of persons related to their race, colour, ancestry, place of origin, political belief, religion, marital status, family status, physical or mental disability, sex, sexual orientation, age or unrelated criminal conviction that a reasonable person would know or ought to know or would:

- have the effect of interfering with an individual's work or participation in work related activities; or
- create an intimidating, hostile or offensive environment for work or participation in a work-related activity.

*Examples of Discriminatory Harassment:*

- Teasing, joking, taunting, insulting or criticizing a person, directly or indirectly, verbally or in writing, based on his or her prohibited grounds (e.g. race, gender, age). This may include commentary regarding their ability to communicate clearly, physical appearance, work style, and level of intelligence.

**Sexual Harassment**

Sexual harassment is disrespectful/disruptive conduct of a sexual nature made by a person who knows or ought to reasonably know that such conduct or comment is unwanted or unwelcome; or an expressed or implied promise of a reward for complying with a request of a sexual nature; or an expressed or implied threat of reprisal for refusal to comply with such a request; or disrespectful/disruptive conduct of a sexual nature which is intended or reasonably would be known to create an intimidating, hostile or offensive environment.

*Examples of Sexual Harassment include:*

- verbal abuse or threats of a sexual nature;
- unwelcome remarks, jokes, innuendoes or taunting of a sexual nature;
- displaying of pornographic or other offensive pictures;
- unwelcome and/or repeated sexual invitations or requests;
- leering or other inappropriate sexually oriented gestures;
- unnecessary physical contact such as: touching, patting or pinching;
- sexual assault (this may also be a criminal matter);
- negative comments that are gender-based, and
- repeated behavior that a person has objections to and is known or should reasonably be known to the offender as being unwelcome.

**Personal Harassment**

Personal harassment is any behavior, including disrespectful/disruptive conduct by a person directed against another person that a reasonable person would know or ought to know would cause offence, humiliation or intimidation, where the conduct is not carried out in good faith and serves no legitimate work-related purpose.

*Examples of Personal Harassment:*

- swearing, yelling, or making derogatory gestures or comments to or about another individual;
- engaging in embarrassing practical jokes, ridicule, or malicious gossip;
- verbal or physical threats or physical assault.

## **Bullying**

Bullying is any repeated or systematic physical, verbal or psychological behaviour including disrespectful/disruptive behavior, which would be seen by a reasonable person as intending to belittle, intimidate, coerce or isolate another person.

Note: Personal harassment and/or bullying does not include social banter in the workplace that is objectively viewed as acceptable in tone and content. Nor does it include actions occasioned through the good faith management of the employment relationship, including decisions related to hiring, selection, performance evaluations, and progressive corrective discipline, provided that such decisions are made and implemented in a manner that is respectful of those involved. <http://www2.worksafebc.com/Topics/BullyingAndHarassment/RegulationAndGuidelines.asp?ReportID=37223>.

## **Methods of Communication**

Inappropriate communication that may violate this Policy may be transmitted in person, on the phone, and in writing, through email, texts, Facebook, Twitter and other social media messaging, and otherwise. Potential violations may consist of inappropriate communication made to a person and/or communication made about a person to others.

## **Fairness**

Parties, Bystanders, and Witnesses have a right to fair treatment in the consideration and adjudication of complaints and concerns under this policy. Fair treatment includes the right to:

- bring forward their concerns pursuant to processes within the Policy within a timely manner;
- being informed in a timely manner of Complaints made against them;
- an impartial and objective consideration and evaluation of the circumstances, through informal or formal intervention;
- confidentiality to the extent possible in the circumstances, including the avoidance of gossip, rumours and speculation by Party(ies), Witness(es) or others within the City;
- protection to any Party(ies) or Witness(es) from retaliation for participation in processes under this Policy
- being effectively informed of the outcome of any formal intervention;
- union representation for unionized staff; and
- other representation, for excluded staff.

## **Confidentiality**

All Bystanders, Witnesses, and Parties involved in a Complaint or in the informal/formal resolution of a Complaint, are expected to keep matters related to a Complaint confidential. This includes managers and supervisors who are privy to the Complaint or Complaint resolution process.

An established breach of confidentiality regarding a Complaint or Complaint resolution process shall be considered an independent violation of the Policy (regardless of the merits or conclusions regarding the Complaint) and may result in discipline.

Any allegation or Complaint under this Policy will be considered personal information supplied in confidence for the purpose of Section 22(2) (f) of the *Freedom of Information and Protection Privacy Act*. The names of those involved in the Complaint shall not be disclosed to any person except where necessary for the purpose of fairly investigating and determining the outcome of the complaint.

The substance of investigative reports and the substance of meetings held by those in authority to make decisions in relation to a Complaint, regardless of whether it is substantiated, will be protected from disclosure to third parties in accordance with Section 19 of the *Freedom of Information and Protection Privacy Act*.

## **Complaint Resolution**

Complainants are encouraged to resolve Complaints/concerns with others as soon as they arise using the informal process set out below, unless it is clearly inappropriate in all of the circumstances.

Without limiting its application, the informal resolution process is commonly used in circumstances where the alleged concern/conduct appears to be: (a) non-repetitive (a 'one-off' discussion/interaction); and (b) relatively minor in severity or seriousness, considering its content, potential impact on the individual and/or the safety/health of the overall organization.

Although the Complainant(s) may indicate that he/she prefers the informal process, the City of Vernon may at any time exercise its discretion to initiate a formal process based upon its overall review of the circumstances.

## **PROCEDURES**

### **Informal Processes**

#### **Step 1 – Resolution (Informal Conversation)**

Wherever reasonable, the Complainant(s) should address the person with whom he/she is having difficulty (the Respondent(s)) in a direct and discreet (confidential) manner as soon as possible following the incident.

If the Complainant(s) is not comfortable taking this step, or if the Complainant(s) has done so without success, then the Complainant(s) should proceed to the next step.

#### **Step 2 – Resolution (Manager/Designate Involvement)**

The Complainant(s) or Bystander(s) should approach his/her manager or director with his/her concerns including particular examples of inappropriate statements or verbal or non-verbal behaviours by the Respondent(s), dates, times, witnesses, and as much detail as possible. This should be done as soon as reasonably possible following the incident/behaviours. The manager or director should contact Human Resources.

If the Complainant(s) or Bystander(s) is uncomfortable approaching any of these individuals, or if the individuals are the Respondent(s) or if the individuals are perceived by the Complainant(s) to be part of the problem, then the Complainant(s) or Bystander(s) can speak to Human Resources.

Human Resources will review the concern and where appropriate should directly or indirectly facilitate a resolution in a manner that it considers most effective and reasonable considering all of the circumstances.

Interventions by managers or directors, Human Resources in Step 2 may include one or more of the following possibilities (or other similar interventions):

- meeting separately with each person involved in the concern to discuss and investigate the situation;
- meeting together with the persons involved to facilitate a discussion aimed at understanding and resolving the issue in a practical, non-punitive manner or mediating a solution that works for all Parties;
- coaching one or more of the Parties (verbally or in writing) on workplace expectations regarding appropriate workplace behavior or performance;
- recommending or applying progressive discipline when warranted i.e. based on the findings and severity of the misconduct found;
- engaging the support of Human Resources to assist with Step 2 processes, or
- engaging an external third party facilitator or mediator to work with the Parties and others involved to achieve a confidential, practical and mutually agreeable

resolution to outstanding concerns without making findings against any Parties (Mediation).

The above noted intervention/preliminary investigation should be completed on or before 30 days after the final interview. The time-lines will be reasonably extended at the request of the lead investigator based on a number of factors, including extenuating circumstances or complexities surrounding a particular investigation/intervention.

If, at the outset of or at any time during the Step 2 process, the individual who receives the reported Complaint/concern concludes that, given the severity of the behaviours alleged in the Complaint, including their potential physical or psychological impact on the Complainant(s) or other employees at the City of Vernon, a formal investigation is warranted, then the matter should be immediately referred to Step 3 of the Policy for investigation and resolution.

### **Formal Processes**

#### **Step 3 – Investigation**

The formal process involves an objective investigation of a written Complaint/concern that has been brought forward to Human Resources, the Complaint.

Once the Complaint has been received by the immediate supervisor, manager, or Human Resources representative; the Complainant(s) will be asked to complete a formal Complaint form. This form seeks the following details:

- Complainant(s) name and position;
- name and position(s) of the Respondent(s);
- address or location where the incident occurred;
- detailed summary of all of the specific incidents or examples of behavior that have led to the filing of the Complaint;
- date(s) and time of each incident;
- names of the individual(s) alleged to have engaged in the unacceptable conduct;
- details of the Complaint(s) – that is, the specifics of what was said or done to the Complainant(s) to have triggered the Complaint;
- identity of any potential witnesses;
- impact of the behaviour on the Complainant(s); and
- steps taken, though Steps 1 or 2 of the Policy, to address the Complaint and the outcome of those processes.

The Complainant(s) must sign and date the Complaint and send to the designated individuals set out above by either:

- envelope marked **Confidential**; or

- scanning the signed complaint and sending it via email indicating **Confidential**.

The filing of a formal Complaint does not mean that a formal investigation will automatically be conducted. The manner in which a Complaint is resolved will be determined by the City, following consultation with the Parties, and will depend on a number of factors, including the nature, extent and severity of allegations brought forward by the Complainant(s) and the history of circumstances leading up to the filing of the formal Complaint.

Following this review, the individual(s) who receives the Complaint may take one of the following steps:

- refer the matter back to Step 2 to resolve the matter through informal processes;  
or
- assign an internal or external Investigator to conduct a formal investigation of the Complaint.

### **Appointment of Investigator**

Factors that the City will consider in determining whether to retain an internal or external investigator may include: the overall complexity of the facts/law related to the Complaint; the Parties to the Complaint, the anticipated length of time necessary to conduct the investigation; the potential severity of the outcome(s) of the investigation in relation to the Respondent(s) should the Complaint be substantiated; and any other relevant circumstances.

Internal investigators shall have sufficient prior experience and/or training in conducting workplace investigations and shall have no previous involvement in the facts/circumstances giving rise to the Complaint.

External investigators shall be appointed by the Director, Human Resources, in consultation with the Chief Administrative Officer (CAO) and at his/her discretion.

### **Time Limits**

The time limit for making a formal complaint is within six (6) months from the date of the last incident. This is consistent with the time limits noted in the BC Human Rights Code.

### **Interim Measures**

It may be necessary to take interim measures, such as transfers/leaves/restrictions on contact or communication while a Complaint is being investigated. Such measures will be precautionary, not disciplinary.

### **Mediation during the Formal Process**

Where appropriate, mediation is available to Parties to try to resolve the Complaint at any point during the process. Any ongoing investigation will be suspended during mediation and will resume if mediation is unsuccessful.

Unless explicitly agreed to by the Parties in writing, the investigator shall not act as the mediator and shall have no communication with the mediator regarding the Complaint at any time.

### **Withdrawal of a Formal Complaint**

At any time during the course of an investigation of a formal Complaint, the Complainant(s) may choose to withdraw his or her Complaint without penalty so long as the Complaint was filed in good faith. In such circumstances, there should be no indication of the complaint in the personnel files of the Complainant(s) or Respondent(s).

### **The Investigation Process and Role of the Investigator**

The investigator will take a reasonable amount of time to conduct the investigation to interview the Parties and relevant Witnesses and obtain and review any potentially relevant documents.

The investigator will prepare a report of investigation outlining his/her findings and conclusions and submit the report to the relevant Human Resources Representative.

The findings and conclusions may relate to both the conduct at issue and the medical/emotional/financial impact of the conduct on those involved.

The investigator may include recommendations in the report of investigation, where applicable and if requested by the City.

The City will advise both the Complainant(s) and Respondent(s) of the findings and conclusions of the investigation and any recommendations related to their conduct, through a written summary of the report. Other Parties involved in the complaint (Witnesses and others) will be advised that the investigation has been concluded (without being provided any further information).

### **Appeals**

Within 15 days of receiving a summary of the report of investigation, either Party(ies) may file an appeal with the City.

The appeal shall be based upon and restricted to, specific concerns related to the investigative process. The appeal shall not constitute an avenue in which to re-investigate the Complaint.

The CAO shall review the report of investigation to evaluate the fairness of the process and has sole discretion to take further action based upon his/her review.

The decision of the CAO is final.

### **Complaints involving City's Chief Administrative Officer, the Mayor or Members of City Council**

#### External Investigator

Complaints brought under this policy against the Chief Administrative Officer, the Mayor or Members of City Council shall be presented to an external investigator with expertise regarding matters covered under this policy.

The external investigator will be retained by and will report directly to the Mayor and Chief Administrative Officer in cases involving the Members of Council. In cases involving the Mayor, the external investigator will be retained by and will report directly to the Chief Administrative Officer. In cases involving the Chief Administrative Officer, the external investigator will be retained by and will report directly to the Mayor.

### **Outcomes**

#### **General Outcomes**

Once the appeal period has expired or the appeal has been concluded, the City will inform the Complainant(s) and Respondent(s) of its final implementation plan based upon the report of investigation.

Part of the implementation plan may include processes similar to those set out in Step 2, in order to help rebuild/repair the relationships.

Outcomes that may be included in the implementation plans include one or more of the following:

- oral and/or written apology from the parties;
- adjustments to the workplace environment;
- coaching of expectations – verbal or in writing;
- medical assessment referrals;
- training;
- transfers to a different department; and/or

- institution of formal discipline and disciplinary processes, up to and including suspension/removal from premises for contractors, visitors and volunteers; and
- mediation.

Discipline in accordance with Corporate Policy may arise if such action is warranted based on the severity of the findings/conclusions of the investigation.

The Complainant(s) and Respondent(s) will only receive information relevant to their role in the final implementation plan; they will not be privy to recommendations related to the other Party(ies).

### **Outcomes**

City management will determine and implement specific consequences and remedies that are reflective of and relevant to the investigative findings/conclusions within a reasonable period of time after receipt of the report of investigation.

Any Party(ies) who disagrees with the nature/extent of action or disciplinary action imposed by the City as a result of the investigation should access the usual grievance/appeal process set out in the relevant collective agreements and City of Vernon policies.

### **Other Important Points**

#### **Malicious/Vexatious/Frivolous Complaints of Misuse of the Policy**

In circumstances where a Complaint is found to have been made in bad faith or determined to be vexatious, frivolous or a general misuse of the Policy, the Complainant(s) may face similar outcomes as a Respondent(s) as set out above (ie. Interventions ranging from coaching to formal disciplinary intervention).

This section of the Policy may apply to filed Complaints as well as any circumstances in which individuals repeatedly threaten to file Complaints against others in order to achieve similar ends.

A Complaint, or threatened Complaint, will be deemed to have been made in bad faith when, considering all of the circumstances surrounding the complaint including its timing and context, the Complaint was found to have been made solely in an attempt to:

- influence or overturn decisions related to the Complainant's employment;
- intimidate, threaten or cause trouble to the Respondent(s);
- create a hostile or intimidating workplace environment for others, including the Respondent(s); or

- create a potential personal benefit or entitlement to the Complainant(s).

Misuse of the Policy may include unreasonable, repetitive filing of Complaints or concerns that are consistently found to be unsubstantiated.

In circumstances where a Complaint has been found to be malicious, vexatious or a misuse of the Policy, the Respondent(s) may be awarded the same remedies as those available to Complainant(s) as set out above (interventions ranging from an apology to compensation for established losses).

### **Unsubstantiated Complaints**

If the investigator finds insufficient evidence to support the Complainant's allegations and finds that there has been no misuse of the Policy or bad faith in filing the Complaint, no action will be taken in relation to the complaint. There will be no record of the Complaint on the Respondent's file.

### **Consequences of Retaliation**

Any established retaliation against any Party(ies), Bystander(s) or Witness(es) involved in an informal or formal resolution process shall be considered an independent violation of the Policy (regardless of the merits or outcome of the initial concern or Complaint) and shall result in discipline commensurate with the severity of the conduct.

### **Multiple Proceedings**

This Policy is in addition to and not in substitution for any rights an individual may have to pursue action, whether under collective agreements, policies including any applicable legislation, including human rights legislation.

If at any time a staff member elects to initiate other legal proceedings or if the staff member takes any steps outside of those contemplated in this policy, the City may discontinue any procedures taken under this policy as a result of the Complaint (depending on a consideration of all of the circumstances).

Potentially criminal behaviour such as an assault, significant threats, or attempts at extortion shall be directly referred to the RCMP by the City upon receipt of a Complaint of this nature.