

# REPORT TO COUNCIL



**Date:** August 9<sup>th</sup>, 2016

**RIM No.** 1250-20

**To:** City Manager

**From:** Community Planning Department (AC)

**Application:** DVP16-0145      **Owner:** The BC Muslim Association

**Address:** 150 Homer Rd & 1120 Hwy 33 W      **Applicant:** Steve Shoranick (Trak Construction)

**Subject:** Official Community Plan Re-designation and Rezoning Application

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

Proposed OCP Designation: EDINST - Education / Institutional

Existing Zone: RU1 - Large Lot Housing

Proposed Zone: P2 - Education and Minor Institutional

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## 1.0 Recommendation

THAT Final Adoption of Zoning Amending Bylaw No. 11187 and OCP Amending Bylaw No. 11186 be considered by Council;

AND THAT Council authorize the issuance of Development Variance Permit DVP16-0145 for proposed Lot 2, Section 27, Township 26, ODYD, Plan EPP63747, located on 150 Homer Road, Kelowna, BC.

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

### Section 13.1.6 (e) Development Regulations

- Reduce the minimum rear yard setback from 7.5m to 1.5m.

AND THAT Council authorize the issuance of Development Variance Permit DVP16-0145 for proposed Lot 1, Section 27, Township 26, ODYD, Plan EPP63747, located on 1120 Hwy 33 W, Kelowna, BC.

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

### Section 6.5.3 Accessory Buildings in non-residential zones

- Reduce the setback distance from 1.5m to 0.75m.

### Table 8.1 - Parking Schedule

- Reduce the minimum number of parking stalls required from 57 stalls to 29 stalls.

AND THAT the applicant be required to complete the above noted conditions of Council's approval of the Development Variance Permit Applications in order for the permit to be issued.

AND FURTHER THAT this Development Variance Permit be valid for two (2) years from the date of Council approval, with no opportunity to extend.

## 2.0 Purpose

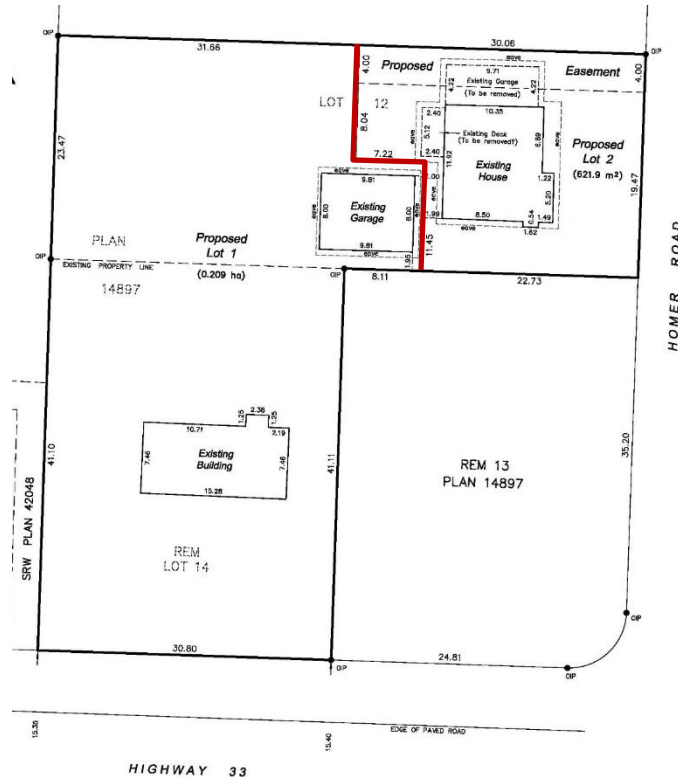
To consider three variances to facilitate the redevelopment of a religious assembly use.

## 3.0 Community Planning

Staff supports the Development Variance Permit proposal to facilitate the redevelopment of the Kelowna Islamic Centre. Development Permits for places of worship (institutional use) are not required as per Section 488 in the Local Government Act. However, the applicant has provided drawings for Council to view (see attachments).

There are two variances related to the property line moving between 1170 Hwy 33 and 150 Homer Rd also owned by the BC Muslim Association. This property line adjustment is necessary to meet the parking demand by the Islamic Centre and the access easement required by the Ministry of Transportation and Infrastructure (MOTI). The purpose of rear yard setbacks is to have appropriate buffering distances between dwellings. In this case, the setback variances are triggered by a parking lot versus another residential parcel. As such, Staff consider the setback variances as minor.

Figure 1: Proposed Location of Property Line (1170 Hwy 33 and 150 Homer Rd)



The redevelopment of the Islamic Centre triggers additional parking requirements. The BC Muslim Association recently purchased 150 Homer Road in order to achieve this objective. However, a parking variance is still needed from 57 stalls to 29 stalls. Staff support this variance as the majority of the time the parking spaces will be under-utilized due the variable prayer times.

The Zoning Bylaw's parking requirement of 10 stalls per 100 m<sup>2</sup> of gross floor area applies to the whole building which has a main worship floor and a basement. The parking requirement would be met under the premise that only one floor is occupied at a time and typically the main worship floor and the basement would not be occupied simultaneously. There is also adequate space to add bicycle racks if it is desired. However, the zoning bylaw does not require any minimum bicycle parking for religious assembly.

#### 4.0 Proposal

##### 4.1 Background

There were numerous discussions and negotiations with the Ministry of Transportation and Infrastructure (MOTI) about the Kelowna Islamic Centre's existing Highway 33 access. The solution that was adequate for MOTI and the Applicant was to limit the existing access to right out on Hwy 33 and to develop an alternative access into the site from Homer Road. The existing garage on the northern half of 150 Homer Road will be removed and developed into a drive aisle.

In fulfillment of Council Policy No. 367 respecting public consultation, the applicant has notified all of the neighbours within a 50 metre radius.

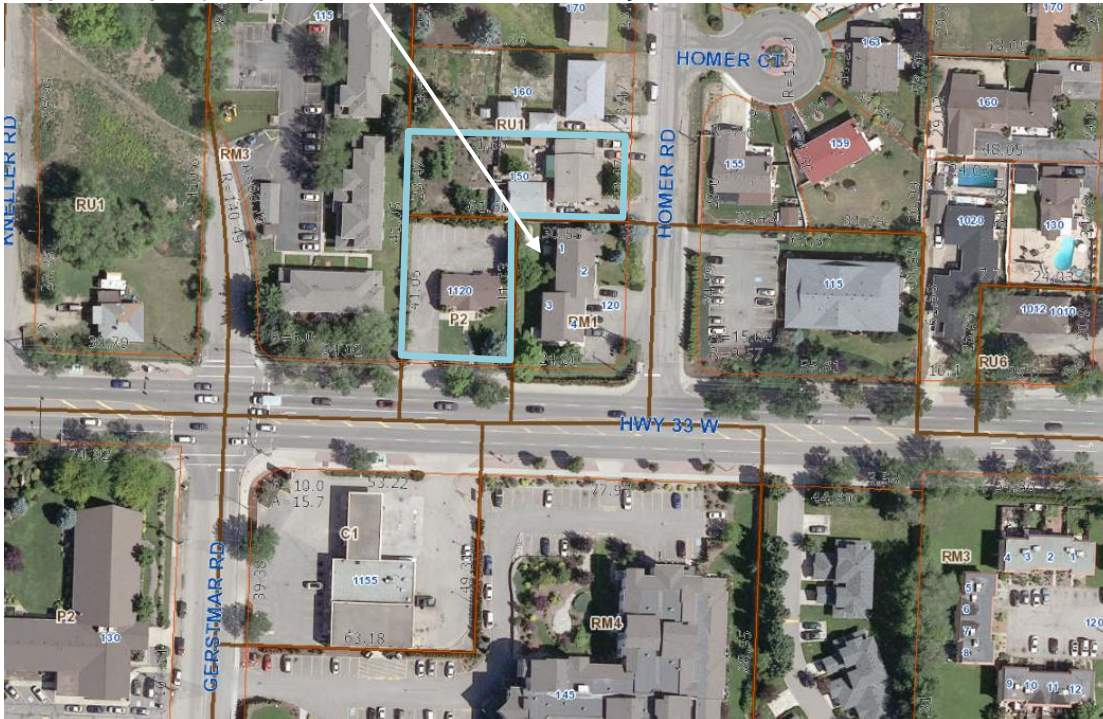
##### 4.2 Zoning Analysis Table

Zoning Analysis Table		
CRITERIA	P2 ZONE REQUIREMENTS	PROPOSAL
Development Regulations		
Site Coverage	40 %	10 %
Site coverage for buildings, roads, & parking areas	60 %	53 %
Side Yard for accessory building (east)	1.5m	0.75 ❶
Other Regulations		
Minimum Parking Requirements	57 stalls	29 stalls ❷
Zoning Analysis Table		
CRITERIA	RU1 ZONE REQUIREMENTS	PROPOSAL
Rear Yard setback (west)	7.5m	1.5m ❸
❶ Side yard setback reduction variance for an accessory building.		
❷ Parking reduction variance.		
❸ Rear yard setback reduction for the primary dwelling.		

##### 4.3 Site Context

Specifically, adjacent land uses are as follows:

Orientation	Zoning	Land Use
North	RU1 - Large Lot Housing	MRL - Multiple Unit Residential (Low Density)
East	RU1 - Large Lot Housing RM3 - Low Density Multiple Housing	MRL - Multiple Unit Residential (Low Density)
South	RU1 - Large Lot Housing P2 - Education and Minor Institutional	MRL - Multiple Unit Residential (Low Density) EDINST - Education / Institutional
West	RM3 - Low Density Multiple Housing	MRL - Multiple Unit Residential (Low Density)

**Subject Property Map: 150 Homer Rd & 1120 Hwy 33 W****5.0 Current Development Policies****5.1 Kelowna Official Community Plan (OCP)****Chapter 5: Development Process**

**Compact Urban Form.**<sup>1</sup> Develop a compact urban form that maximizes the use of existing infrastructure and contributes to energy efficient settlement patterns. This will be done by increasing densities (approximately 75 - 100 people and/or jobs located within a 400 metre walking distance of transit stops is required to support the level of transit service) through development, conversion, and re-development within Urban Centres (see Map 5.3) in particular and existing areas as per the provisions of the Generalized Future Land Use Map 4.1.

**Sensitive Infill.**<sup>2</sup> Encourage new development or redevelopment in existing residential areas to be sensitive to or reflect the character of the neighbourhood with respect to building design, height and siting.

**6.0 Technical Comments****6.1 Building & Permitting Department**

- 1) Development Cost Charges (DCC's) are required to be paid prior to issuance of any Building Permit(s).
- 2) Placement permits are required for any sales or construction trailers that will be on site. The location(s) of these are to be shown at time of development permit application.

<sup>1</sup> City of Kelowna Official Community Plan, Policy 5.2.3 (Development Process Chapter).

<sup>2</sup> City of Kelowna Official Community Plan, Policy 5.22.6 (Development Process Chapter).

- 3) A Building Code analysis is required for the structure at time of building permit applications, but the following items may affect the form and character of the building(s):
  - a. Any security system that limits access to exiting needs to be addressed in the code analysis by the architect.
- 4) A Geotechnical report is required to address the sub soil conditions and site drainage at time of building permit application.
- 5) An exit analysis is required as part of the code analysis at time of building permit.
- 6) Size and location of all signage to be clearly defined as part of the development permit. This should include the signage required for the building addressing to be defined on the drawings per the bylaws on the permit application drawings.
- 7) Full Plan check for Building Code related issues will be done at time of Building Permit applications. Please indicate how the requirements of Radon mitigation, soffit protection the new requirements for part 9 buildings and NAFS are being applied to this structure at time of permit application.

6.2 Development Engineering Department

N/A

6.3 Fire Department

- 1) The Fire Department has no issues with the zoning.

**7.0 Application Chronology**

Date of Application Received:	April 17 <sup>th</sup> 2015
Date Public Consultation for Rezoning Completed:	July 29 <sup>th</sup> 2015
Date Public Consultation for Variances Completed:	July 30 <sup>th</sup> 2016

**Report prepared by:**

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Adam Cseke

**Reviewed by:**



Terry Barton, Urban Planning Manager

**Approved for:**



Ryan Smith, Community Planning Department Manager

**Attachments:**

DVP16-0145  
Survey Plan  
Conceptual Renderings  
Site

Plan

# DEVELOPMENT VARIANCE PERMIT



## APPROVED ISSUANCE OF DEVELOPMENT VARIANCE PERMIT

**File Number** DVP16-0145  
**Issued To:** The BC Muslim Association  
**Site Address:** 150 Homer Rd & 1120 Hwy 33 W  
**Legal Description:** Lot 1 & 2, Section 27, Township 26, ODYD, Plan EPP63747  
**Zoning Classification:** P2 - Education and Minor Institutional  
**Development Permit Area:** Comprehensive Development Permit Area

### SCOPE OF APPROVAL

This Permit applies to and only to those lands within the Municipality as described above, and any and all buildings, structures and other development thereon.

This Permit is issued subject to compliance with all of the Bylaws of the Municipality applicable thereto, except as specifically varied or supplemented by this Permit, noted in the Terms and Conditions below.

The issuance of a Permit limits the Permit Holder to be in strict compliance with regulations of the Zoning Bylaw and all other Bylaws unless specific Variances have been authorized by the Permit. No implied Variances from bylaw provisions shall be granted by virtue of drawing notations that are inconsistent with bylaw provisions and that may not have been identified as required Variances by the applicant or Municipal staff.

### 1. TERMS AND CONDITIONS

THAT Development Variance Permit No. DVP16-0145 for Lot 2 and Lot 1, Section 22, Township 26, ODYD, Plan EPP51775, located at 150 Homer Rd & 1120 Hwy 33 W, Kelowna, BC be approved subject to general conformance to the drawings (Schedule "A", "B", & "C") attached to this permit.

AND THAT the variances to the following sections of Zoning Bylaw No. 8000 for lot 2, Section 27, Township 26, ODYD, Plan EPP63747, located on 150 Homer Rd, Kelowna, BC, be granted:

#### Section 13.1.6 (e) Development Regulations

- Reduce the minimum rear yard setback from 7.5m to 1.5m.

AND THAT the variances to the following sections of Zoning Bylaw No. 8000 for lot 1, Section 27, Township 26, ODYD, Plan EPP63747, located on 1120 Hwy 33 W, Kelowna, BC, be granted:

#### Section 6.5.3 Accessory Buildings in non-residential zones

- Reduce the setback distance from 1.5m to 0.75m;

**SCHEDULE**

**A**

This forms part of development

Permit # **DVP16-0145**



Table 8.1 - Parking Schedule

Reduce the minimum number of parking stalls required from 57 stalls to 29 stalls.

**2. PERFORMANCE SECURITY**

As a condition of the issuance of this Permit, Council is holding the security set out below to ensure that development is carried out in accordance with the terms and conditions of this Permit. Should any interest be earned upon the security, it shall accrue to the Permit Holder and be paid to the Permit Holder if the security is returned. The condition of the posting of the security is that should the Permit Holder fail to carry out the development hereby authorized, according to the terms and conditions of this Permit within the time provided, the Municipality may use the security to carry out the work by its servants, agents or contractors, and any surplus shall be paid over to the Permit Holder, or should the Permit Holder carry out the development permitted by this Permit within the time set out above, the security shall be returned to the Permit Holder. There is filed accordingly:

- a) Cash in the amount of \$\_\_\_\_\_ n/a \_\_\_\_\_ OR
- b) A Certified Cheque in the amount of \$\_\_\_\_\_ n/a \_\_\_\_\_ OR
- c) An Irrevocable Letter of Credit in the amount of \$\_\_\_\_\_ n/a \_\_\_\_\_ .

Before any bond or security required under this Permit is reduced or released, the Developer will provide the City with a statutory declaration certifying that all labour, material, workers' compensation and other taxes and costs have been paid.

**3. DEVELOPMENT**

The land described herein shall be developed strictly in accordance with the terms and conditions and provisions of this Permit and any plans and specifications attached to this Permit that shall form a part hereof.

If the Permit Holder does not commence the development permitted by this Permit within two years of the date of this Permit, this Permit shall lapse.

**This Permit IS NOT a Building Permit.**

**4. APPLICANT'S AGREEMENT**

I hereby declare that all of the above statements and the information contained in the material submitted in support of this Permit are to the best of my belief, true and correct in all respects. Upon issuance of the Permit for me by the Municipality, then in such case, I covenant and agree to save harmless and effectually indemnify the Municipality against:

- a) All actions and proceedings, costs, damages, expenses, claims, and demands whatsoever and by whomsoever brought, by reason of the Municipality granting to me the said Permit.
- b) All costs, expenses, claims that may be incurred by the Municipality if the construction by me of engineering or other types of works as called for by the Permit results in damages to any property owned in whole or in part by the Municipality or which the Municipality by duty or custom is obliged, directly or indirectly in any way or to any degree, to construct, repair, or maintain.

I further covenant and agree that should I be granted a Development Permit and/or Development Variance Permit, the Municipality may withhold the granting of any Occupancy Permit for the occupancy and / or use of any building or part thereof constructed upon the hereinbefore referred to land until all of the engineering works or other works called for by the Permit have been completed to the satisfaction of the Municipal Engineer and Divisional Director of Community Planning & Real Estate.

Should there be any change in ownership or legal description of the property, I undertake to notify the Community Planning Department immediately to avoid any unnecessary delay in processing the application.

**I HEREBY UNDERSTAND AND AGREE TO ALL THE TERMS AND CONDITIONS SPECIFIED IN THIS PERMIT.**

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Signature of Owner / Authorized Agent

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Date

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Print Name in Bold Letters

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Telephone No.

#### **5. APPROVALS**

Issued and approved by Council on the \_\_\_\_\_ day of \_\_\_\_\_, 2016.

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Ryan Smith, Community Planning Department Manager  
Community Planning & Real Estate

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Date

**The PERMIT HOLDER is the CURRENT LAND OWNER.  
Security shall be returned to the PERMIT HOLDER.**

**SCHEDULE**

**B**

This forms part of development

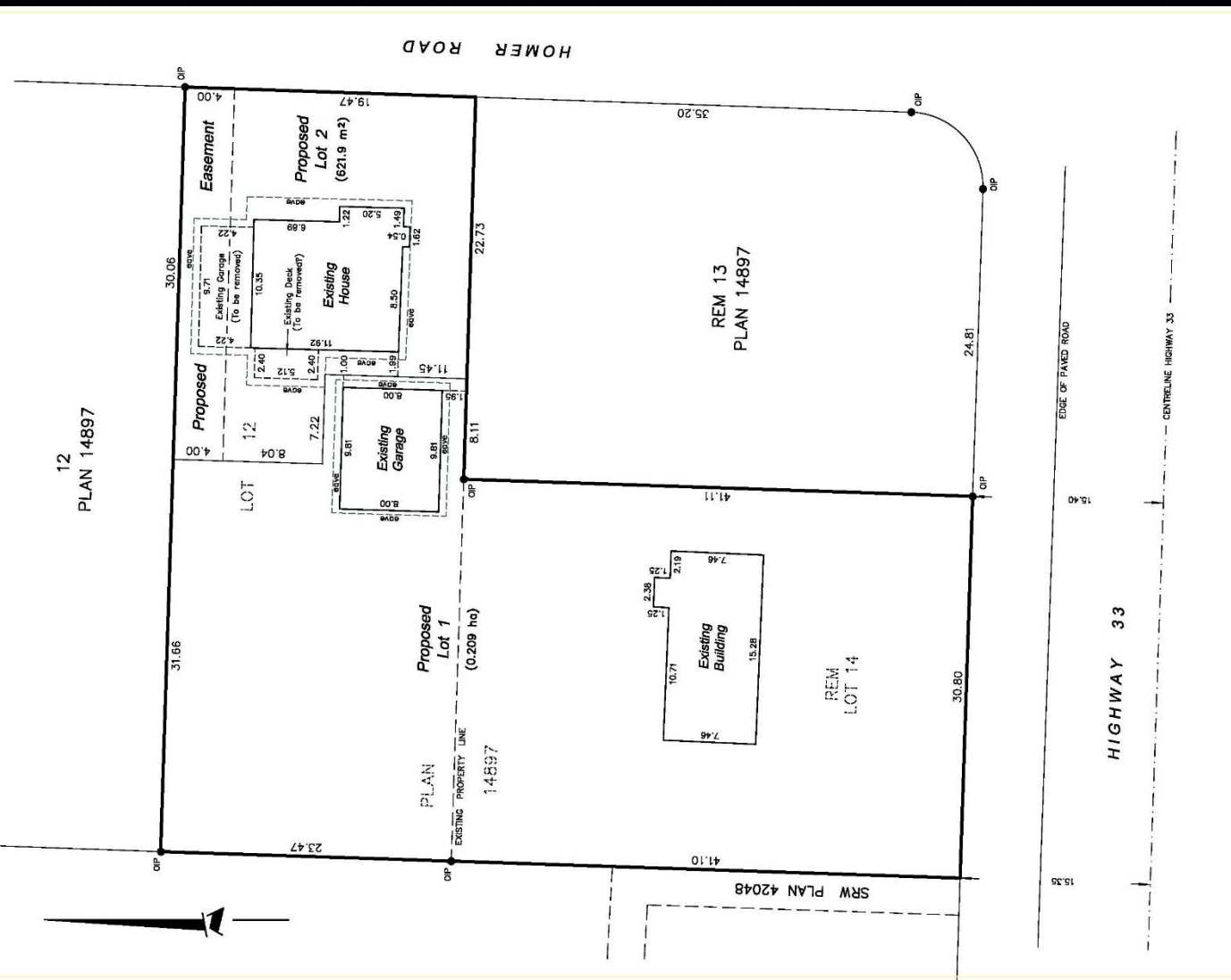
**Permit # DVP16-0145**





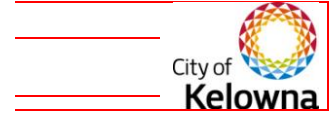
SCHEDULE

A



SKETCH PLAN SHOWING PROPOSED SUBDIVISION OF LOT 12,  
PLAN 14897 AND LOT 14, PLAN 14897, EXCEPT PLAN 40797,  
ALL SECTION 27, TOWNSHIP 26, O.D.Y.D

DRAWN BY:	<b>RUNNALLS DENBY</b> <i>british columbia land surveyors</i> 2554 Lawrence Avenue Kelowna, B.C. V1Y 6L2 Phone: (250)763-7969 Fax: (250)763-4413 Email: <a href="mailto:nel@runnalldenby.com">nel@runnalldenby.com</a>	
SCALE:	1:300 (11"x17")	
DATE:	March 7th, 2016	
DWG:	14428 PROPOSED SUB	
CLIENT:	BCMA (c/o MKS)	REV: 0





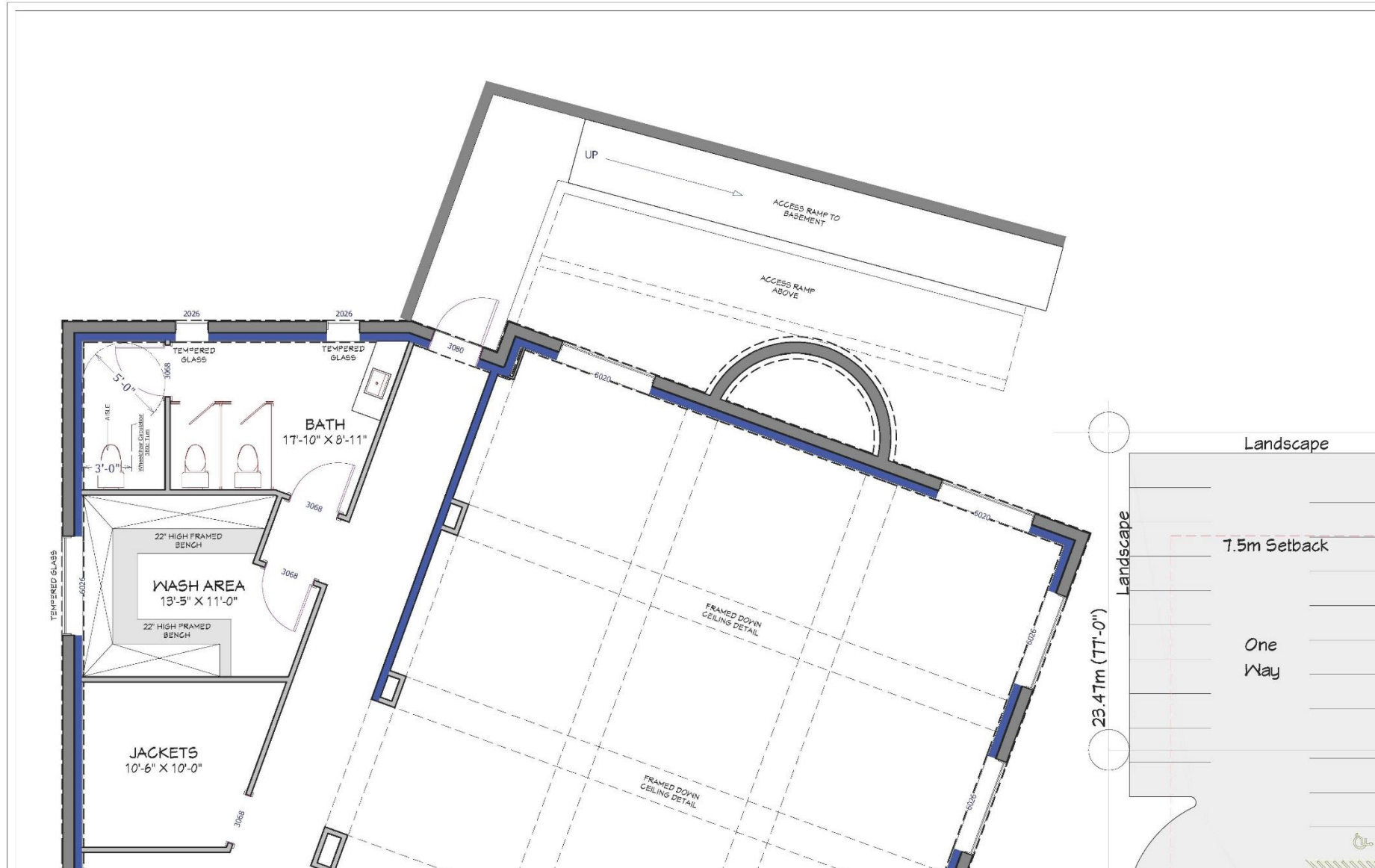












# Landscape

