

PART 2 - TERMS OF INSTRUMENT

STATUTORY RIGHT OF WAY

THIS INDENTURE made this day of , 2015.

BETWEEN:

W 620 HOLDINGS LTD., INC. NO. BC1038052
1574 HARVEY AVENUE
KELOWNA, BC
V1Y 6G2

(hereinafter called "the Transferor")

OF THE FIRST PART

AND:

FORTISBC INC., a public utility incorporated by Special Act
of the Legislature of the Province of British Columbia, having its
head office at #100 – 1975 Springfield Road, Kelowna, BC V1Y 7V7

(hereinafter called the "Company")

OF THE SECOND PART

WHEREAS:

- A. The Transferor is the registered owner in fee simple of the lands and premises (hereinafter called the "Lands") described in Part 1 of Schedule "A" attached hereto;
- B. The Transferor has agreed to grant to the Company a statutory right of way over a portion of the Lands;
- C. All those portions of the Lands described in part 2 of Schedule "A" attached hereto are hereinafter collectively called the "Right of Way Area", and all those portions of the Lands that are from time to time not included in the Right of Way Area (including portions of the Lands from which the statutory right of way hereby granted may from time to time be discharged) are hereinafter collectively called the "Remaining Lands";
- D. The statutory right of way herein granted is necessary for the operation and maintenance of the Company's undertaking;

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NOW THEREFORE in consideration of the sum of ONE (\$1.00) DOLLAR and other good and valuable consideration, now paid by the Company, (the receipt of which is hereby acknowledged by the Transferor), the Transferor hereby grants and conveys unto the Company a Statutory Right of Way on and under those parts of the Lands contained within the Right of Way Area to install, construct and maintain thereon facilities and such equipment as the Company considers necessary or beneficial (hereinafter called "the Facilities") for the operation and maintenance of an electrical distribution system and all related equipment including communication facilities together with the right to dig up the soil and rock thereof for the installation of the Facilities, and from time to time to inspect, repair, remove, alter, renew and replace the same or any part or parts thereof, and to clear the Right of Way Area of such growth and material that in the Company's reasonable opinion might interfere with or damage the Facilities.

AND FURTHER the Transferor hereby grants and conveys unto the Company, its agents, servants, licensees and workmen, and all other persons acting on its or their behalf, at all times hereafter by day or night, with or without such vehicles or equipment as it or they may consider necessary, an Easement by way of Statutory Right of Way to, through and over such portions of the Remaining Lands adjacent to the Right of Way Area, as may from time to time be reasonably required, for full, free and uninterrupted access to the Facilities located within the Right of Way Area.

Notwithstanding any rule of law or equity, the Facilities shall at all times remain the property of the Company notwithstanding that the same may be annexed or fixed to the freehold, and shall at any time and from time to time be removable in whole or in part by the Company, its successors and assigns.

RESERVING HOWEVER to the Transferor the right to cultivate or otherwise use the Right of Way Area so long as it does not interfere with the operation and maintenance of the Facilities, and the right to compensation for any damage done by the Company to crops thereon.

The Transferor covenants that he will not at any time plant any trees or climbing vines on the Right of Way Area or do any act either on the Right of Way Area or on that part of the Lands adjacent to it that will jeopardize or interfere with the operation or maintenance of the Facilities or the rights granted herein; **that he will not erect thereon any buildings or structures on the Right of Way Area;** and that he will cause no damage to nor interfere with the Facilities.

The Transferor may plant the Right of Way Area to lawn or may pave it with asphalt or concrete. PROVIDED THAT, the Transferor will not, without the written consent of the Company, diminish or substantially add to the ground cover over such of the Facilities as may be from time to time installed, operated or maintained below the surface of the Right of Way Area and in particular, and without in any way limiting the generality of the foregoing, will not construct open drains or ditches across any of the Facilities which may at any time be installed on the Right of Way Area.

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The Transferor may install a fence within the Right of Way Area provided it does not interfere with the operation or maintenance of the Facilities and, if a fence is installed by the Transferor, the Company may at its expense install gates for its purposes. The Company will not be liable for any costs of repair to the fence if it is damaged during the installation or maintenance of the Facilities. Subject to the foregoing, the Company will be liable for any damage caused by its agents, servants, licensees or workmen to the Lands and will, each time it disturbs the Lands, restore the same as near as is reasonably practicable to the same conditions as before the disturbance.

The Transferor agrees that the Company may provide a communications and/or cable company with all the rights granted to the Company under this Statutory right of Way to install and maintain communications and/or cable facilities within the Right of Way Area either together with the Company, or in such other conduits or facilities as may be installed by such communications company with full right of ingress or egress as herein granted to the Company.

If any provision of this Indenture is declared invalid or unenforceable by a competent authority, such provision shall be deemed severed and shall not affect the validity or enforceability of the remaining provisions of this Indenture, unless such invalidity or unenforceability renders the operation of this indenture impossible.

The rights, privileges and easement hereby granted are and shall be of the same force and effect as a covenant running with the land, and this Statutory Right of Way shall enure to the benefit of and be binding upon the parties hereto, their heirs, administrators, successors and assigns, and wherever the singular or masculine is used herein, it shall be construed as if the feminine, plural or neuter, as the case may be, had been used wherever the context or the parties hereto so require.

ATTACHMENT
This forms part of application
DVP16-0076
RCVD: 2016-12-10 RQST: 2017-03-15 09:06:41
Planner Initials **TB**

A

City of Kelowna
COMMUNITY PLANNING

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SCHEDULE "A"

PART 1 - DESCRIPTION OF THE LANDS

LOT 1 SECTION 26 TOWNSHIP 26 OSOYOOS DIVISION YALE DISTRICT PLAN KAP62974

In the City of Kelowna, Black Mountain Irrigation District, and Rutland Waterworks District

PART 2 - DESCRIPTION OF THE RIGHT OF WAY AREA

The Right of Way Area consists of the following: Those parts of **LOT 1 SECTION 26 TOWNSHIP 26 OSOYOOS DIVISION YALE DISTRICT PLAN KAP62974** shown on a Reference Plan of Statutory Right of Way completed by Douglas A. Goddard, B.C.L.S., on the 20th day of November, 2015 and deposited in the Kamloops Land Title Office under EPP54049.

Status: Registered

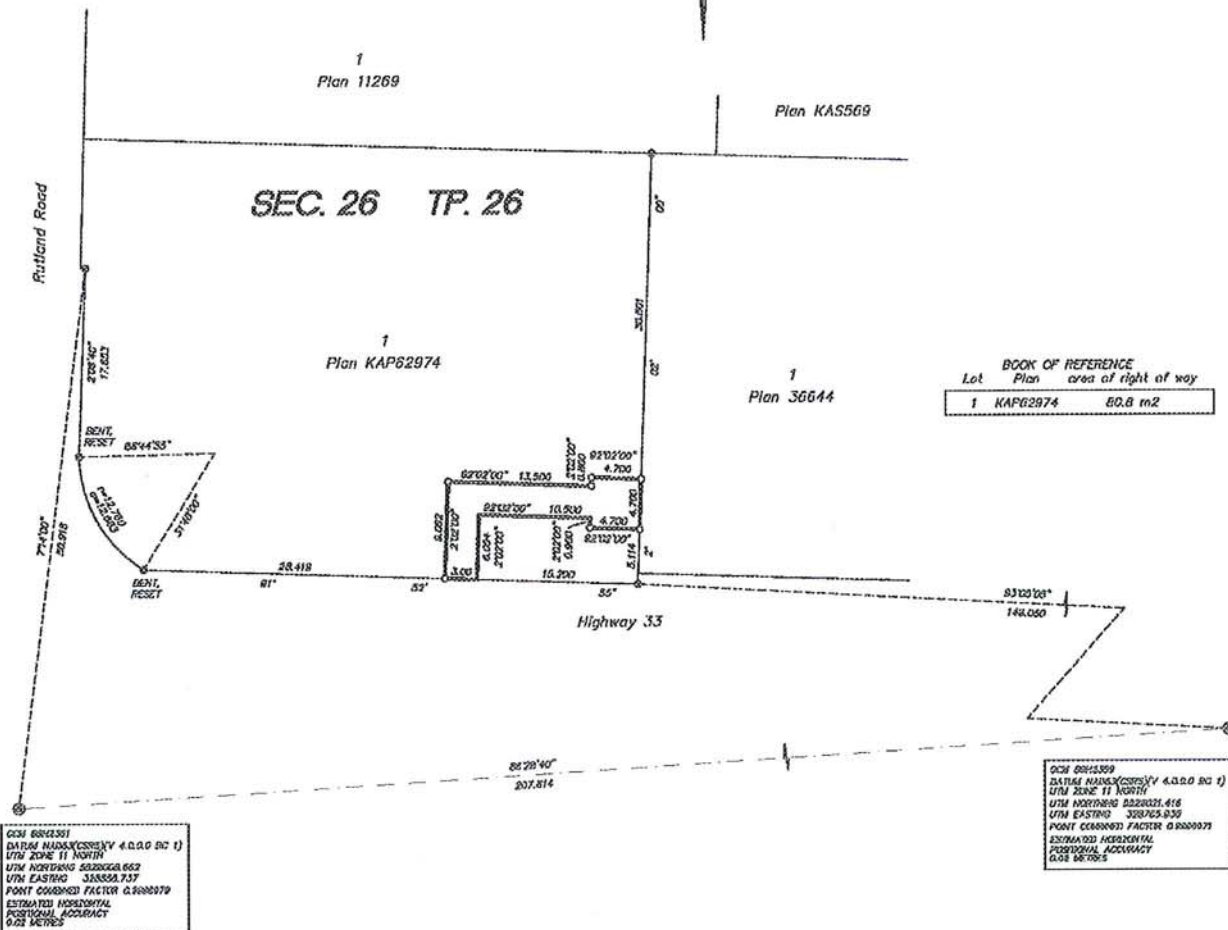
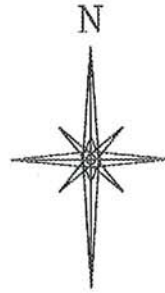
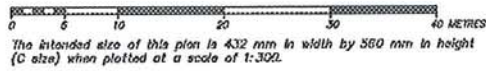
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RCVD: 2017-03-15 09:06:42

REFERENCE PLAN OF STATUTORY RIGHT OF WAY
OVER PART OF LOT 1 SEC. 26 TP. 26 O.D.Y.D.
PLAN KAP62974

PURSUANT TO SECTION 113 OF THE LAND TITLE ACT.

BCGS 82E.083



LEGEND

All distances are in metres.

- Iron Post Found
- Iron Post Set
- ⊗ Control Monument Found

Grid bearings are derived from observations between central monuments 86H2359 and 86H2381, integrated survey area no. 4 - Keicena.

This plan shows ground-level measured distances. Prior to computation of U.T.M. coordinates multiply by combined factor 0.9998975.

UIM coordinates and estimated horizontal positional accuracy derived from the MASCOT published coordinates and standard deviations for geodetic control monuments 86H2359 and 86H2361.

This plan lies within the Central Okanogan Regional District.

The field survey represented by this plan was completed on the 20th day of November, 2015.
Douglas A. Goddard, BCLS 508.

16762 FORTIS Ab 339, 342

D.A. Goddard Land Surveying Inc.
103-1308 ST. PAUL STREET KILORNA PHONE 250-783-3733

This forms part of application

DVP16-0076

PLAN EPP60238

Planner
Initials

TB

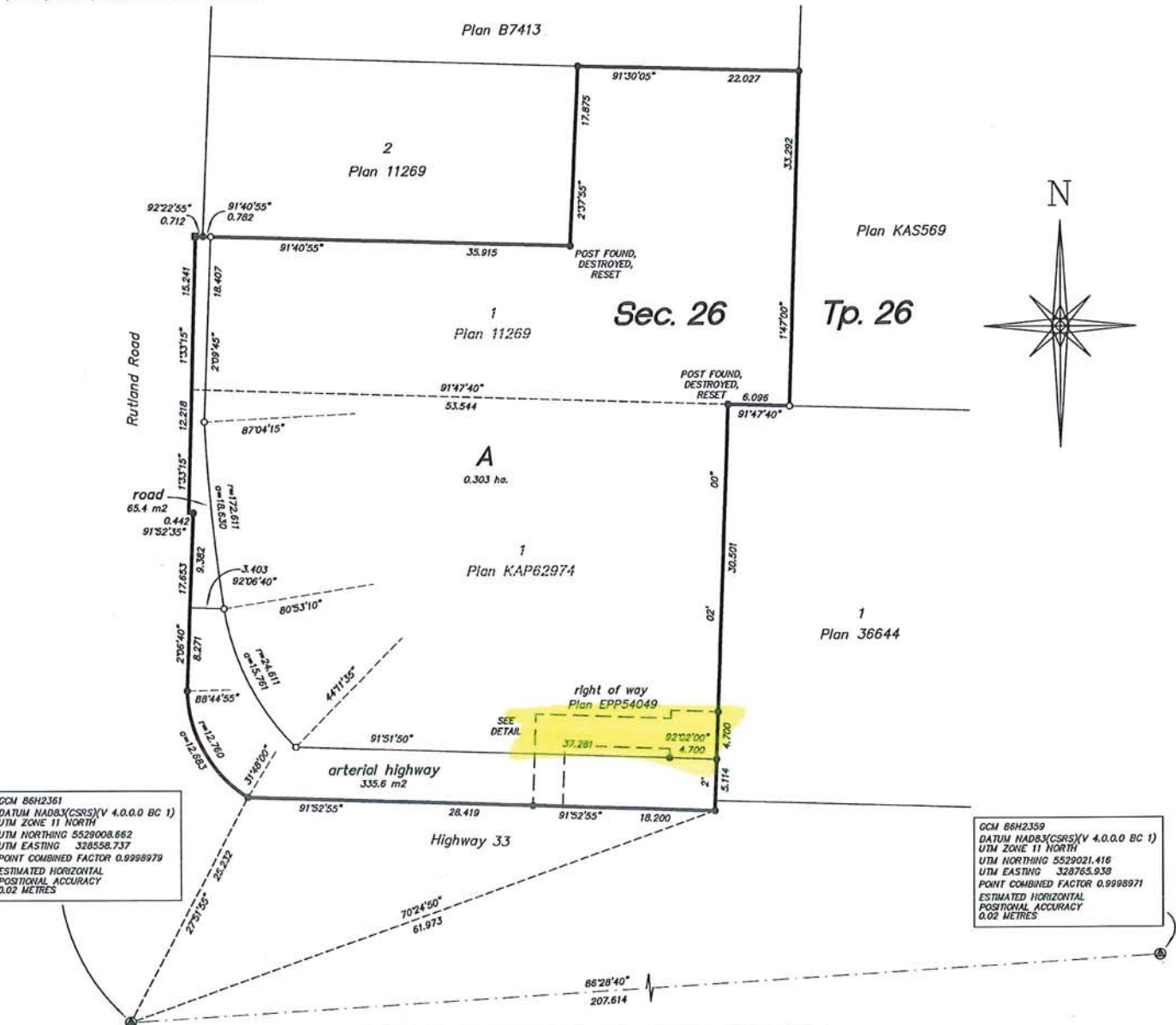
Kelowna
COMMUNITY PLANNING

**SUBDIVISION PLAN OF LOT 1 SEC. 26 TP. 26 O.D.Y.D.
PLAN KAP62974 AND OF LOT 1 SEC. 26 TP. 26 O.D.Y.D.
PLAN 11269 EXCEPT PLAN 37956**

BCGS 82E.083

0 5 10 20 30 40 METRES

The intended size of this plan is 432 mm in width by 560 mm in height
(C size) when plotted at a scale of 1:300.



CGM 86H2361
DATUM NAD83(CSRS)(V 4.0.0.0 BC 1)
UTM ZONE 11 NORTH
UTM NORTHING 5529008.662
UTM EASTING 328558.737
POINT COMBINED FACTOR 0.9998979
ESTIMATED HORIZONTAL
POSITIONAL ACCURACY
0.02 METRES

CGM 86H2359
DATUM NAD83(CSRS)(V 4.0.0.0 BC 1)
UTM ZONE 11 NORTH
UTM NORTHING 5529021.416
UTM EASTING 328765.938
POINT COMBINED FACTOR 0.9998971
ESTIMATED HORIZONTAL
POSITIONAL ACCURACY
0.02 METRES

LEGEND

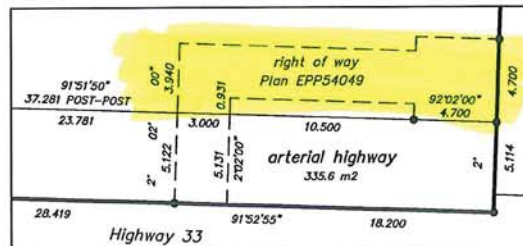
All distances are in metres.

- Iron Post Found
- Lead Plug Found
- Iron Post Set
- ⊙ Control Monument Found

Grid bearings are derived from observations between control monuments 86H2359 and 86H2361, integrated survey area no. 4 - Kelowna.

This plan shows ground-level measured distances. Prior to computation of U.T.M. coordinates multiply by combined factor 0.9998975.

UTM coordinates and estimated horizontal positional accuracy derived from the MASCO published coordinates and standard deviations for geodetic control monuments 86H2359 and 86H2361.



This plan lies within the Central Okanagan Regional District.

This plan dedicates arterial highway as authorized the Minister of Transportation and Infrastructure.

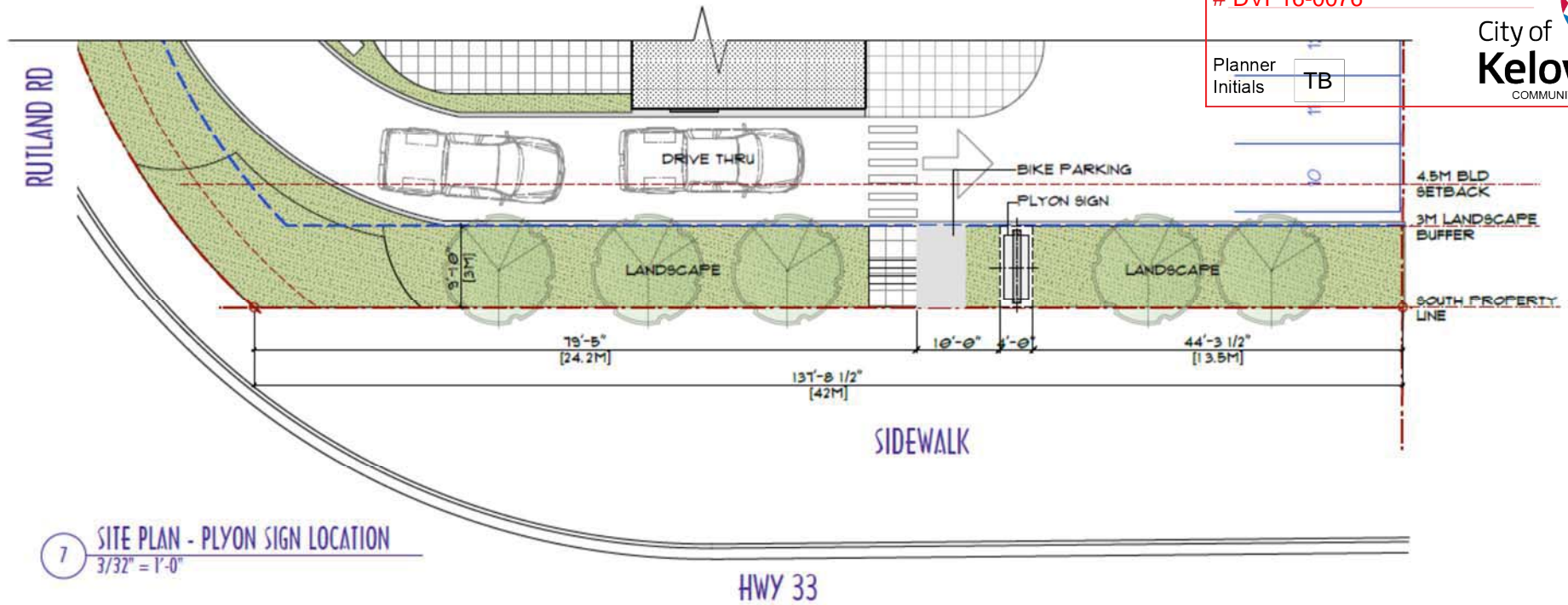
This plan lies within the jurisdiction of the approving officer for the City of Kelowna.

The field survey represented by this plan was completed on the 10th day of March, 2016.
Douglas A. Goddard, BCLS 588.

file 16762 fb 339, 382

D.A. Goddard Land Surveying Inc.

103-1358 ST. PAUL STREET KELOWNA PHONE 250-763-3733



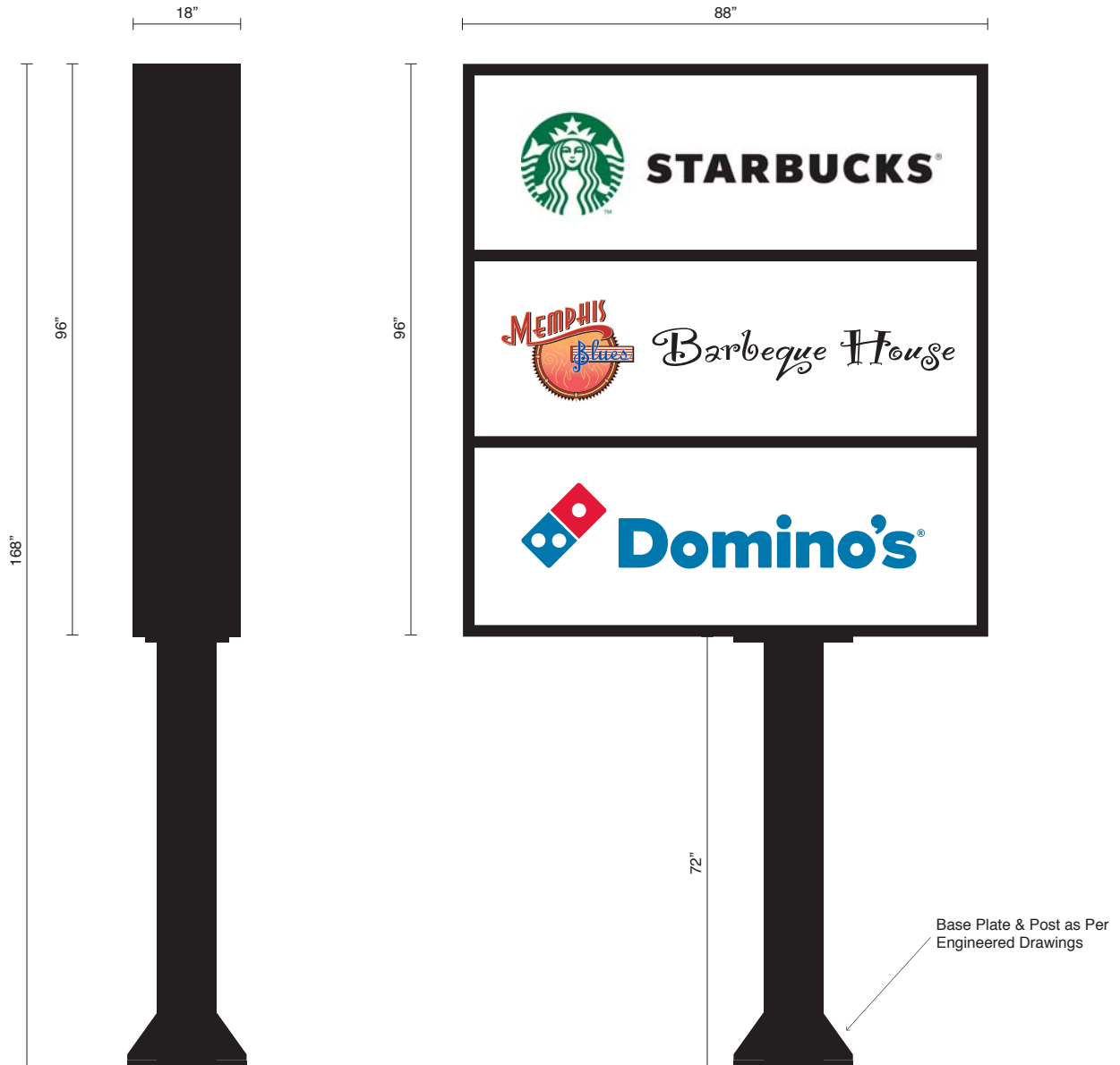
SITE PYLON SIGNAGE VARIANCE PERMIT APPLICATION

DATE
SCALE
ISSUED FOR
PROJECT

REVISED 2016.05.16
AS NOTED
VARIANCE

13.335

A1.0



Sign Surface Area: 88" x 96" (2.24m x 2.44m = 5.47m2)

DEVELOPMENT VARIANCE PERMIT



APPROVED ISSUANCE OF DEVELOPMENT VARIANCE PERMIT NO. DVP16-0076

Issued To: W62o Holdings Ltd
Site Address: 135 Rutland Road N
Legal Description: Lot 1, Section 26, Township 26, ODYD, Plan KAP62974
Zoning Classification: C4 – Urban Centre Commercial

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. DVP16-0076 for Lot 1, Section 26, Township 26, ODYD, Plan KAP62974, located at 135 Rutland Road N, Kelowna, BC to allow the construction of a sign be approved subject to the following:

1. The dimensions and siting of the building to be constructed on the land be in accordance with Schedule "A";
2. A 219 Covenant is registered on title regarding removal of the sign if the highway is ever widened or constructed;

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

Section 5.6.1(d) Free-Standing Sign Regulations

To vary the required minimum setback for a free-standing sign from 1.5m permitted to 0.0m proposed.

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

3. PERFORMANCE SECURITY

None required.

4. 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.

5. 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.

6. APPROVALS

Issued and approved by Council on the _____ day of _____, 2017.

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

Date

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