

**MUNICIPAL PLANNING COMMISSION AGENDA  
SUMMER VILLAGE OF BIRCHCLIFF  
SUMMER VILLAGES ADMINISTRATION OFFICE  
MAY 18, 2023 @ 1:00 P.M.**

- A. CALL TO ORDER**
- B. ADOPTION OF AGENDA**
- C. DEVELOPMENT ITEMS**
  - 1) 71 Birchcliff Road
- D. ADJOURNMENT**

## Summer Village of Birchcliff – Municipal Planning Commission

### Agenda Item

May 18, 2023

### 71 Birchcliff Road (Lot 2, Block 4, Plan 4486AX)

### Development Permit Application

#### Background:

An application was submitted by the homeowners of 71 Birchcliff Road (Lot 2, Block 4, Plan 4486AX) in the Summer Village of Birchcliff for landscaping revisions/ mechanized excavation on the escarpment. This property is in the R1 District (Lakeshore Residential). There is currently a dwelling development permit for this property as well.

Previously In March of 2021, the applicants applied to the Municipal Planning Commission to obtain permission for work on the escarpment, and the application was approved by the MPC. (Schedule A - approved development documents).

On October 6, 2021, a site inspection was completed, it was found that the landscaping was not complete in accordance with the approved plans. It was found that the landscaping constructed was very unlike the approved landscaping plans, with the majority of the escarpment area covered in hard landscaping. The firepit area had also been relocated, expanded, and lowered, meaning one of the sections of retaining wall measures at 2.4m (7.87ft.) and is exceeding the approved 2m (6.56ft.).

In many conversations with the developer over several months, it became clear that there appeared to be a misinterpretation or difference of opinion over what had been approved. The application before the MPC today shows the approved landscaping plan with additional comments added by the developer. Administration does not agree with how the developer is interpreting the approved drawings and what has been constructed is in our opinion not what was approved by the MPC. Those reasons are as follows:

- **Tier levels** - On the original drawing (Schedule B) it appears the winter storage area is on the same level as the beach, there is no elevation difference shown. This was all considered the lowest tier and as it was shown on the drawings as “beach”. MPC referenced beach in the condition as that is what was proposed in the area (Schedule A).

The current application before MPC notes a tier 1 (lower) and (upper) which was never shown on the original drawings. As referenced in the applicant’s current

May 8, 2023

submission, what is classified as tier 1 (lower) was approved to be a no mow zone and tier 1 (upper) was approved to be grass only. It appears that the applicant is referring to both tier 1 (upper) and (lower) as a no mow zone. However, a no mow zone is a buffer strip or area of vegetation that includes native plantings that let aquatic vegetation grow to maintain a stable natural state. A no mow zone allows native plants to seed and re-establish and is not to be maintained. As noted on the original approved drawings, it is meant to be filled with native grasses and shrubs. What is currently in place is not what we would consider a no mow zone, however, tier 1 (upper) was approved to have grass in the original application.

- **Landscaping** – The approved documents show grass on every tier except the lowest winter storage and beach area which was to be a no mow zone (Schedule C). Condition #11 in the development permit also states, *“Tiered areas between retaining walls to be grass which could include a rock/stone perimeter around the firepit”*. This is clear that the tiers are to be entirely grass as shown in the proposed/approved drawings.
- **Firepit area** – (Schedule D) Condition #11 of the development permit states *“Tiered areas between retaining walls to be grass which could include a rock/stone perimeter around the firepit”*. The proposed and approved drawings show a small circular firepit location that the MPC gave permission to have a perimeter around. In our opinion, the perimeter would be only as significant as the small circle shown on the drawings.

The developer's current application is stating that a 2m perimeter is required by the National Fire Code. However, administration was unable to find this stipulation in the Fire Code. We also reached out to Lacombe County Fire Chief and Lacombe Regional Emergency Management Partnership member Drayton Bussier who confirmed there is no code requirements for fire pits. Birchcliff does have a Fire Pit Bylaw which states that *“firepits should follow the recommendation that there should be a minimum of 3.4 meters (10') clearance from buildings, property lines, and combustible materials”*.

The area around the firepit was approved as grass. We do not consider grass to be a combustible material, so the above listed regulation from the Fire Pit Bylaw would not apply. It was also confirmed with the Town of Sylvan Lake Fire Chief and Lacombe County Fire Chief that grass and manicured lawn is not considered to be a combustible material. According to the NFPA (National Fire Protection Agency) a combustible material is *“any material that, in the form in which is used and under the conditions anticipated, will ignite, and burn or will add heat to an ambient fire”*.

May 8, 2023

What was originally approved was a small circular firepit area. What was constructed appears to be a 240ft<sup>2</sup> stone patio that is not required by Fire Code or the Birchcliff Fire Pit Bylaw. While the relocating of the fire pit to another tier may be an acceptable minor amendment, the substantial enlargement of the hard landscaped area is not.

- **Retaining Walls** – The proposed and approved drawing shows a cross section of the tiers (Schedule E). The cross section shows each of the walls are the same height, with the exception of the wall along the winter storage area as there are stairs going down to that lower area.

As the currently constructed firepit area was recessed, the height of that retaining wall is now 2.4m.

### **Discussion:**

This application is before MPC for the following reasons:

- Land located below the top of the bank/top of the escarpment should be in a natural state, a variance is required. (LUB Part Three: 4.1 4(5))
- Mechanized Excavation, Stripping and Grading is listed as a discretionary use, and Retaining walls greater than 1m (3.28ft) in height above any adjoining grade requires a development permit, therefore MPC approval is required. (LUB Part Three: 4.1 4(4)(f))

What was constructed on site was not approved in the original landscaping plan. Therefore, the developer has two options. Option one would be to remove what was constructed and replace it with what was approved in the original application. Option 2 would be to apply to the MPC for approval of a different landscaping plan, which is what is before the board today.

### **Recommendation:**

After reviewing the application, all relevant planning documents, and the previous decision of the application, it is administration's opinion to deny the application with the proposed revisions. The drawings approved were clear that landscaping was to be in place, that the tiers were indicated as grass and the no mow zone/natural vegetation was labeled by administration and by the applicant on drawings. It was our understanding of the MPC's decision that the firepit perimeter was approved small in scale as shown on the drawing. The constructed development compared to the approved plans is drastically different. Birchcliff's planning documents state the desire for shorelines and escarpments to be as natural as possible, to replant areas with native shrubs where vegetation was removed. Occasionally retaining walls are needed to stabilize the bank so development can take place, as is the case with this property. While the retaining walls are necessary, there are ways to ensure that the rest of the landscaping is done with lots of vegetation to keep the bank as natural as possible.

May 8, 2023



Adjacent landowners have been notified and no response has been received.

### **Conditions:**

If approved, Administration would recommend the following conditions:

- Completions Deposit of \$3,000.00 to be carried over from current development permit.
- There shall be no further alterations to the escarpment.

### **Authorities:**

For a discretionary use in any district:

- The Municipal Planning Commission may approve an application for a Development Permit:
  - With or without conditions;
  - Based on the merits of the proposed development, including its relationship to any approved statutory plan, non-statutory plan, or approved policy, affecting the site;
  - Where the proposed development conforms in every respect to this Land Use Bylaw; or
- May refuse an application for a development permit based on the merits of the proposed development, even though it meets the requirements of the Land Use Bylaw; or
- Subject to provisions of section 2.4 (2), the Municipal Planning Commission shall refuse an application for a development permit if the proposed development does not conform in every respect to the Land Use Bylaw.

The MPC may:

- Grant a variance to reduce the requirements of any use of the LUB and that use will be deemed to comply with LUB.
- Approve application even though the proposed development does not comply or is a non-conforming building if:
  - It would not unduly interfere with the amenities of the neighborhood, or
  - Materially interfere with or affect the use, enjoyment, or value of neighboring parcels of land, And
  - It conforms with the use prescribed for that land or building in the bylaw.
- Consider a Variance only where warranted by the merits or the proposed development and in response to irregular lot lines, parcel shapes or site characteristics which create difficulties in siting structures within the required setback or in meeting the usual bylaw requirements, except there shall be no

May 8, 2023

variance for Parcel Coverage or Building Height.

**Decision:**

In order to retain transparency of the Commission, Administration recommends one of the following:

1. Approve the application with or without conditions (*Section 642 of the MGA*), or
2. Deny the application stating reasons why (*Section 642(4) of the MGA*).

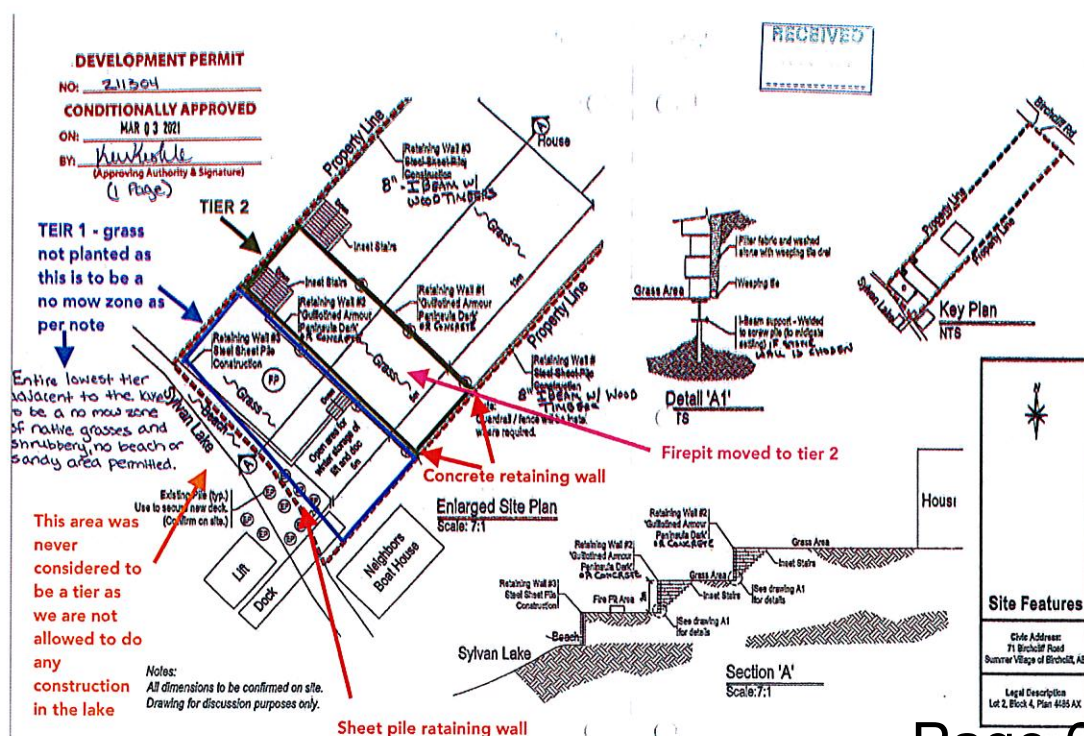
February 10, 2023

Kara Hubbard  
SV of Birchcliff

Re: Development Permit #211304 Landscaping/Mechanized Excavation  
Amendment Application at 71 Birchcliff Road (Revised Plan)

Kara, as per our email correspondence regarding the landscaping permit for 71 Birchcliff Road, this is a new application for the landscaping on the escarpment with a revised landscape plan. This application is being submitted due to the fact that both the Summer Village and the applicant identified different understanding and or interpretation of the wording in the permit and what was discussed at the MPC (zoom meeting) on March 1, 2021. It was decided that we provide a detailed outline of these items and how we interpreted them to become what was constructed so that we can meet with MPC and discuss each item in detail in a letter of intent. This was done however we were told that we could not meet with MPC and the best way to move forward would be with a New or Revised application and application fee. Here is the details and description of what was originally approved and the new/revised application.

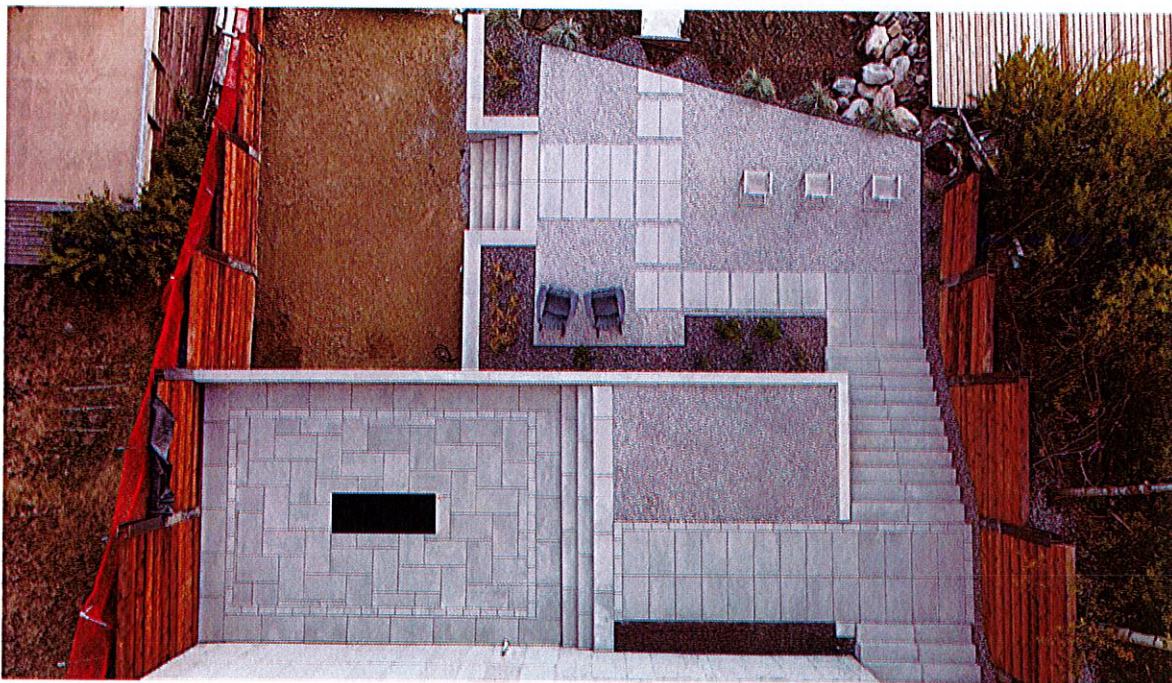
This is what was originally approved by MPC.





The landscape work completed to date is slightly different than what was proposed and approved however in concept things were just moved around a bit and are determined by the natural slope of the bank on the properties adjacent to this lot.

Here a aerial photo of what has been constructed to date along with a plot plan (attached to email) that was submitted to the SV for the development application.



To better understand which areas we are discussing I have labeled them for discussion purposes.

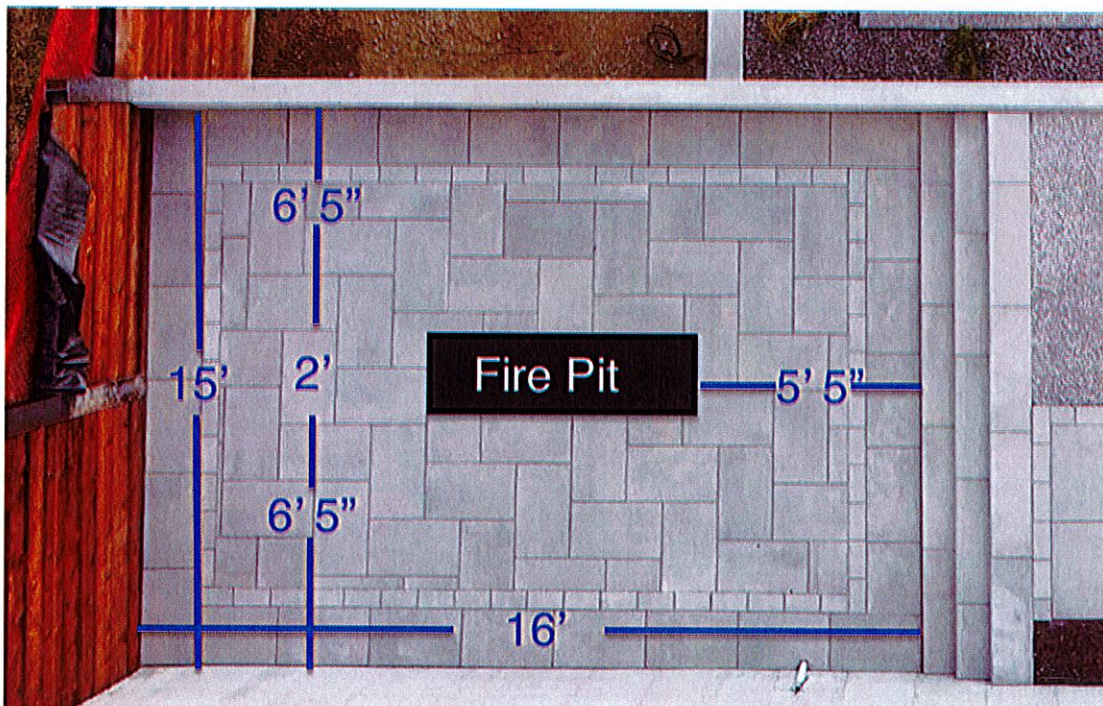




Tier 1 (Lower). This is the boat lift/dock storage area. The approved permit indicates that *"The entire lowest tier adjacent to the lake to be a no mow zone of native grasses and shrubbery, no beach or sandy area permitted"*. This area will be a no mow zone and left to naturally revegetate.

Tier 1 (Upper) This tier has a combination of paving stones and natural rundle stone. The pavers serve as a walk way from the stairs to access the dock and the dock/lift storage area. We have elderly parents that spend a lot of time with us and require accessible access to the lake. We planted 32 shrubs and grasses on the perimeter of this tier. Natural vegetation can also grow in the areas amongst the rundle rock.

Tier 2 This tier is a combination of a lowered fire pit area and a turfed lounging area. The fire pit area was recessed 2' for protection from the wind. The size of the wood burning fire pit is approx 2' x 4'. Permeable paving stones were installed surrounding the fire pit as per the National Fire Code which states that a 2 meter stone perimeter is a safe flame protective perimeter.

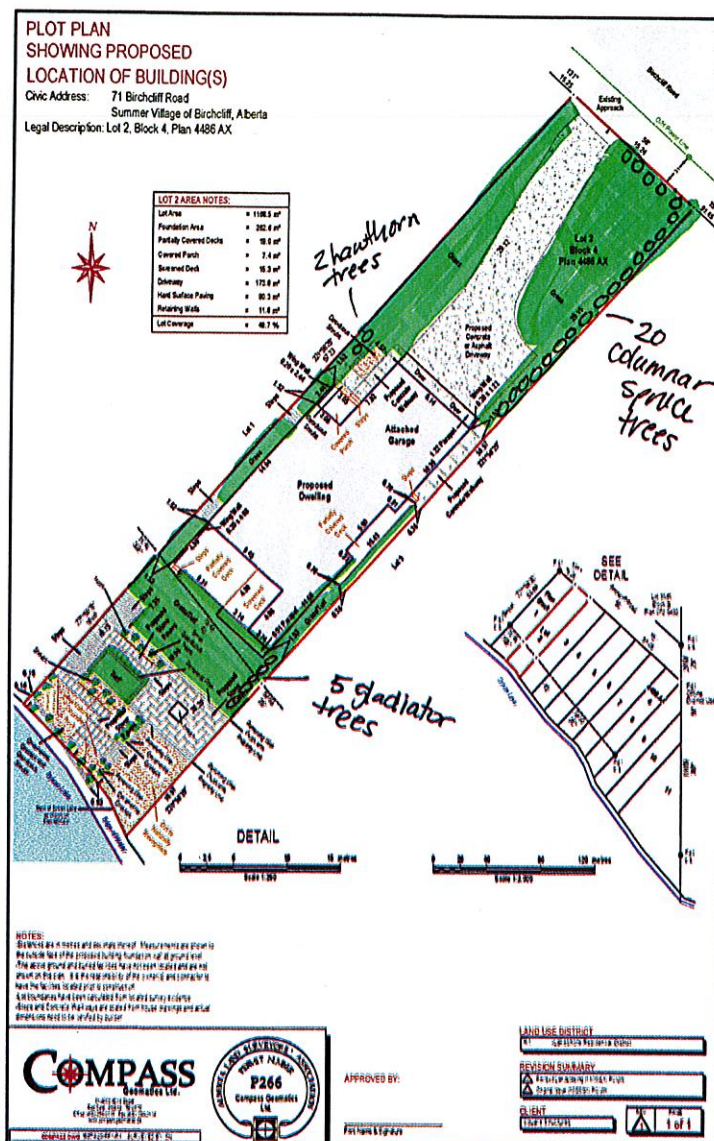


The lounging area of Tier 2 includes stone pavers that access the fire pit area, a turfed area for lounge chairs and perimeter planting of 5 shrubs.





A survey plan showing the entire lot with all hardscape surfaces included = 49.7% which is within the 50% hard surface coverage allowed is attached.

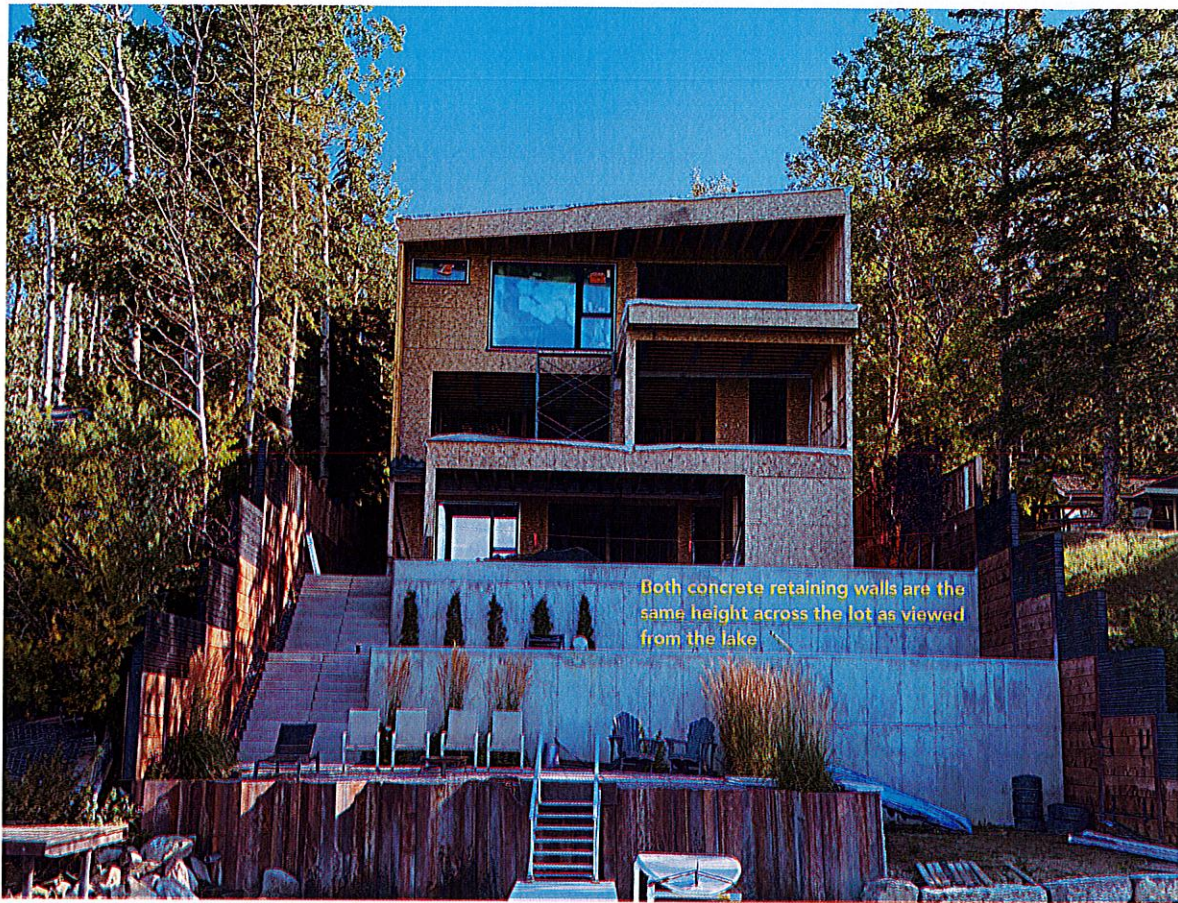


The only other item that was mis interpreted after the first application was the heights of the retaining walls. All the concrete retaining walls are 2 meters in height with the exception of the boat lift/dock storage area (shown on the original plan) and the new fire pit area on tier 2. As the fire pit area was recessed within the original concrete walls, the height is 2.4m. However when looking at the lot from the lake view you cannot see this difference in height. See the pic below.

Although modifications have been made to suit the escarpment landscaping to accommodate the slope of the lot, we are submitting a new application with this revised plan. We look forward to meeting with MPC to discuss any questions they may have in person and coming to a final resolution that is acceptable by all parties.

Thank you,  
Jodi Neish







PLOT PLAN  
SHOWING PROPOSED  
LOCATION OF BUILDING(S)

Civic Address: 71 Birchcliff Road  
Summer Village of Birchcliff, Alberta  
Legal Description: Lot 2, Block 4, Plan 4486 AX



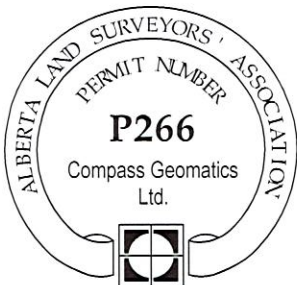
| LOT 2 AREA NOTES:       |                         |
|-------------------------|-------------------------|
| Lot Area                | = 1168.5 m <sup>2</sup> |
| Foundation Area         | = 262.6 m <sup>2</sup>  |
| Partially Covered Decks | = 19.0 m <sup>2</sup>   |
| Covered Porch           | = 7.4 m <sup>2</sup>    |
| Screened Deck           | = 15.3 m <sup>2</sup>   |
| Driveway                | = 173.8 m <sup>2</sup>  |
| Hard Surface Paving     | = 90.3 m <sup>2</sup>   |
| Retaining Walls         | = 11.8 m <sup>2</sup>   |
| Lot Coverage            | = 49.7 %                |



- NOTES:**
- Distances are in metres and decimals thereof. Measurements are shown to the outside face of the proposed building foundation wall at ground level.
  - The above ground and buried facilities have not been located and are not shown on this plan. It is the responsibility of the owner(s) and contractor to have the facilities located prior to construction.
  - Lot boundaries have been calculated from located survey evidence.
  - Steps and Concrete Walkways are scaled from house drawings and actual dimensions need to be verified by builder.



11-4608 62nd Street  
Red Deer, Alberta T4N 6T3  
Office (403) 356-0111 Fax (403) 356-0114  
www.compassgeomatics.ca



APPROVED BY:

Print Name & Signature

LAND USE DISTRICT

R1 -Lakeshore Residential District

REVISION SUMMARY

- Revised Landscaping (11/10/21) PC/JW
- Original Issue (10/28/21) PC/JW

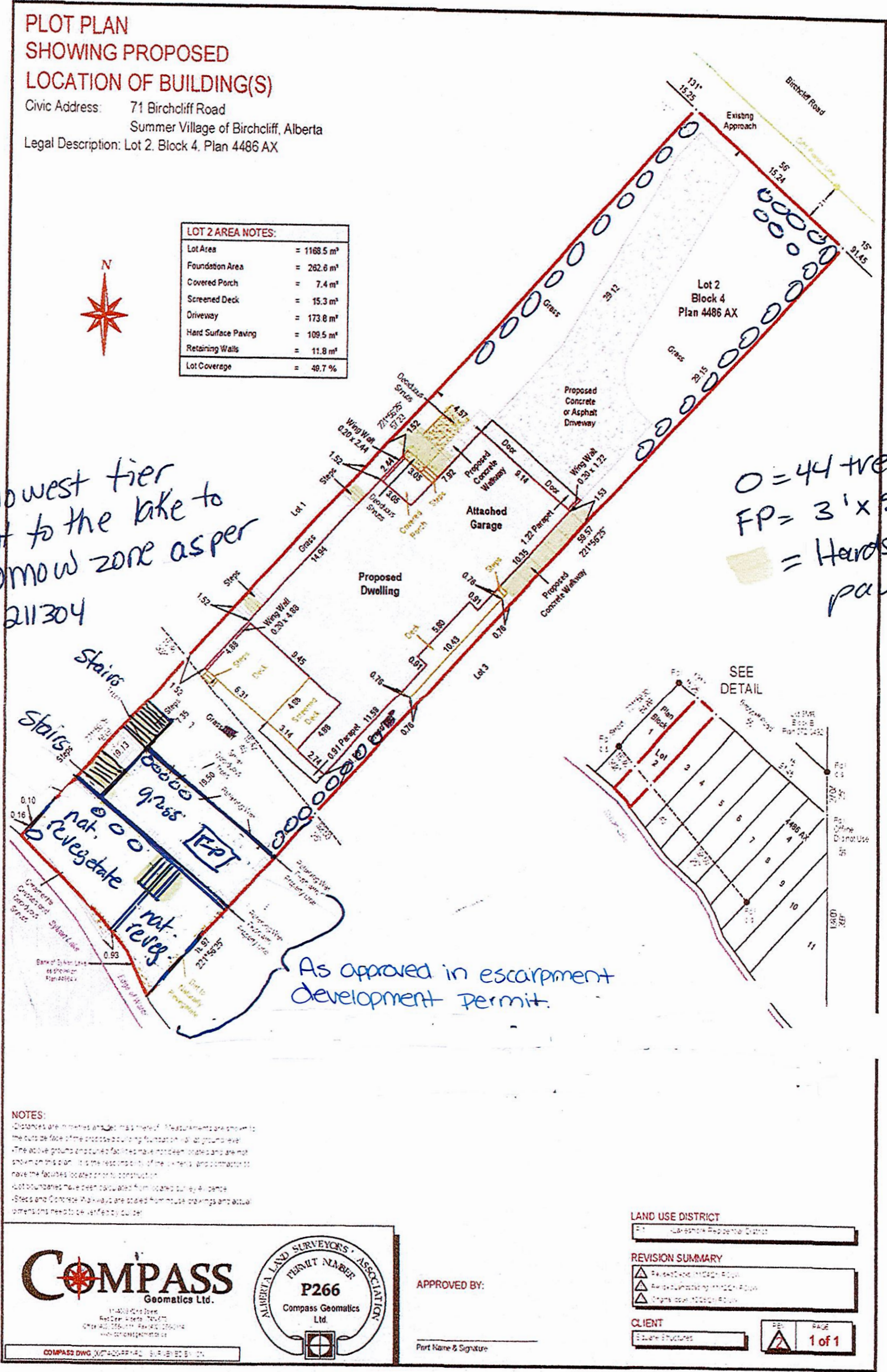
CLIENT

Square Structures

REV. 1 PAGE 1 of 1



APPROVED LANDSCAPING PLAN AT THE TIME OF DWELLING APPROVAL. DECEMBER 3, 2021







Summer Village of Birchcliff  
Bay 8, 14 Thevenaz Industrial Trail  
Sylvan Lake, AB T4S 2J5

# **DEVELOPMENT PERMIT**

Permit Number: 211304

Municipal Address: 71 Birchcliff Road

Lot: 2 Block: 4 Plan: 4486AX

Applicant:



On Behalf Of: -

The Development Involving: *Landscaping/Mechanized Excavation*

Has Been Approved Subject to the Following Conditions:

- 1) The payment of all outstanding property taxes or the making of arrangements, satisfactory to the Council, for the payment thereof, prior to the commencement of the development.
- 2) The development commences and continues in the manner applied for and that all development complies with the regulations and specifications of the Land Use By-Law under which this permit was issued.
- 3) The construction shall be completed within 12 months and the landscaping shall be completed within 2 years of the date of permit issuance.
- 4) The payment of a \$3,000.00 completions deposit to ensure all conditions of this development permit have been met, including the completion of building construction within a one-year period, landscaping completed with two years, and any or all road damage repaired.
- 5) Shoreline erosion control measures are prohibited unless prior written approval has been received from the appropriate provincial authorities and the Municipality.
- 6) All parcels shall be graded to ensure that storm water is directed to a drainage ditch without crossing adjacent land, except as permitted by the Development Authority. All maintenance and upkeep shall be the responsibility of the property owner.
- 7) Any damage to public roads due to the construction shall be repaired immediately at the expense of the permit holder.
- 8) Copies of all applicable Building, Electrical, and Plumbing & Gas permits shall be provided to the administration office to be kept on file.
- 9) At minimum, the same number of trees removed from the escarpment to be replaced anywhere on the lot.
- 10) Entire lowest tier adjacent to the lake to be a no mow zone of native grasses and shrubbery, no beach or sandy area permitted.
- 11) Tiered areas between retaining walls to be grass which could include a rock/stone perimeter around the firepit.
- 12) Obtain a recommendation from Alberta Environment and Parks regarding the use of the existing piles, if they should be removed or remain in place, and follow that recommendation.
- 13) Future dwelling plans are to comply with the geotechnical report recommendations to ensure that the bank is protected, and the development is safe.
- 14) Land located below the top of bank/land with slope areas of a gradient of 15% or more, area to retain in its natural state. Variance was granted by the Municipal Planning Commission.
- 15) Sewer curb stop must remain accessible at all times, during and after construction.
- 16) Any development commenced prior to March 24, 2021 (21-day appeal period), is at the applicant's own risk.

You are hereby authorized to proceed with the development specified, provided that any stated conditions are complied with, that the development is in accordance with any approved plans and applications, and that construction conforms with any provincial and federal requirements relative to this development.

Date of Decision: March 1, 2021

Date of Issuance of Development Permit: March 3, 2021

  
Development Authority

**Note:**

- 1) The issuance of a development permit in accordance with the notice of decision is subject to the condition that it does not become effective until 21 days after the date that the development permit is issued.
- 2) This permit is valid for a period of 12 months from the date of its issue, or the date of the decision of the Council confirming it. If at the expiry of this period, the development has not been commenced or carried out with reasonable diligence as determined by the development officer, this permit shall be null and void, unless an extension to this period, being no longer than an additional 12 months, has been previously granted.
- 3) Development Authority may carry out on-site inspections of the development at any time.

## DEVELOPMENT PERMIT

NO: 211304

CONDITIONALLY APPROVED

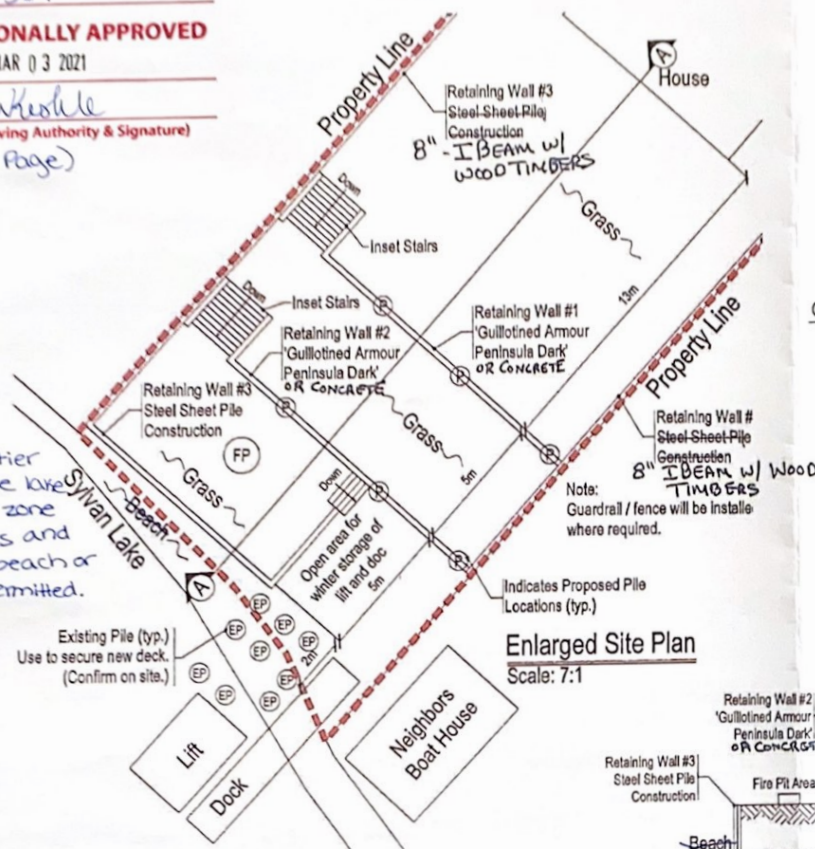
ON: MAR 03 2021

BY: *hewke*  
(Approving Authority & Signature)  
(1 Page)

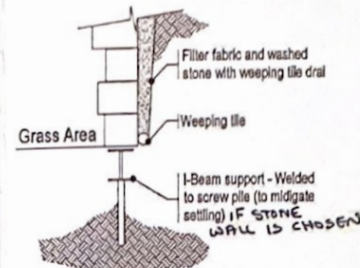
Entire lowest tier adjacent to the lake to be a no mow zone of native grasses and shrubbery, no beach or sandy area permitted.

Existing Pile (typ.)  
Use to secure new deck.  
(Confirm on site.)

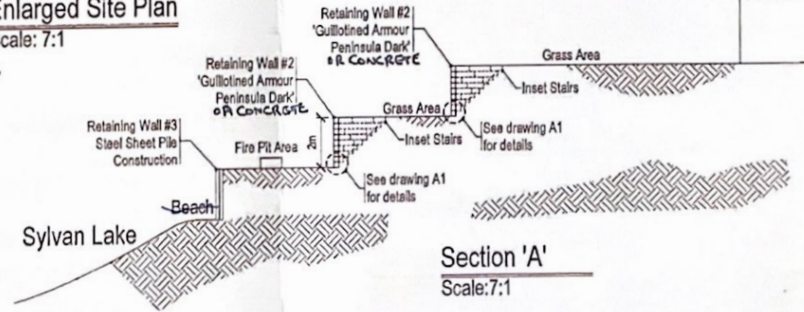
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All dimensions to be confirmed on site.  
Drawing for discussion purposes only.



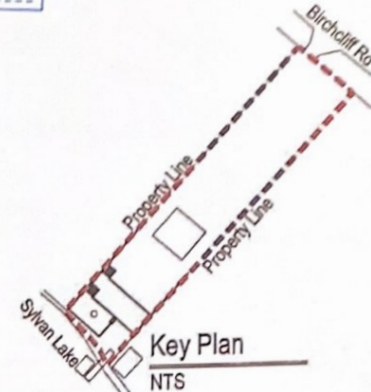
Enlarged Site Plan  
Scale: 7:1



Detail 'A1'  
NTS



Section 'A'  
Scale: 7:1



Key Plan  
NTS

|  |
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|  |
| <b>Site Features</b>   |
| Civic Address:<br>71 Birchcliff Road<br>Summer Village of Birchcliff, AB |
| Legal Description<br>Lot 2, Block 4, Plan 4486 AX                        |



Lowest Tier

Condition #10 on DP.

## DEVELOPMENT PERMIT

NO: 211304

CONDITIONALLY APPROVED

MAR 03 2021

ON:

BY:

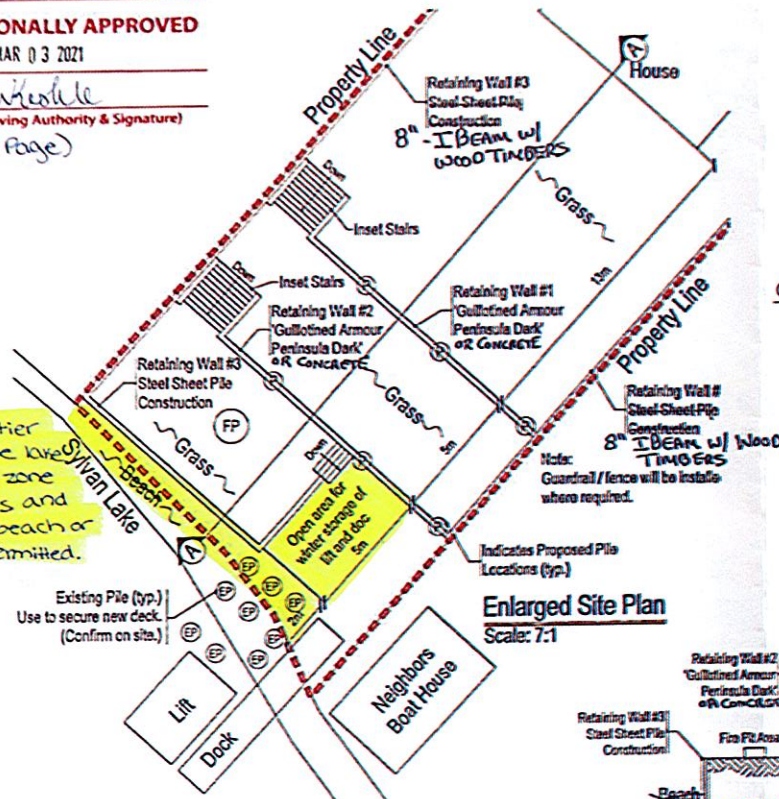
(Approving Authority & Signature)

(1 Page)

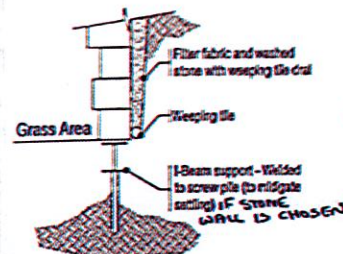
Entire lowest tier adjacent to the lake to be a no mow zone of native grasses and shrubbery, no beach or sandy area permitted.

Existing Pile (typ.)  
Use to secure new deck.  
(Confirm on site.)

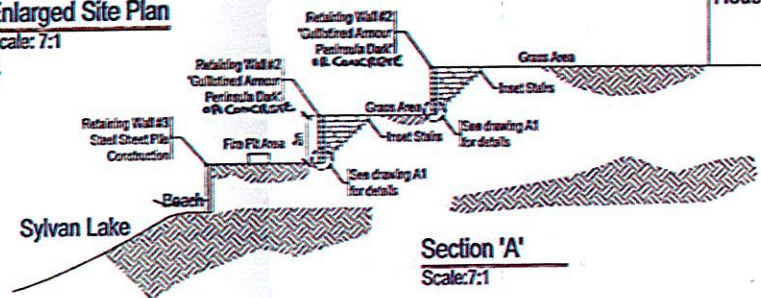
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All dimensions to be confirmed on site.  
Drawing for discussion purposes only.



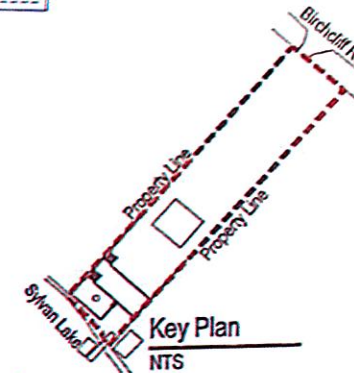
Enlarged Site Plan  
Scale: 7:1



Detail 'A1'  
NTS



Section 'A'  
Scale: 7:1



|   |  |
|---|--|
|   |  |
| <p><b>Site Features</b></p>   |  |
| <p>Civic Address:<br/>71 Birchcliff Road<br/>Summer Village of Birchcliff, AB</p> |  |
| <p>Legal Description<br/>Lot 2, Block 4, Plan 4486 AX</p>                         |  |

Other tiers

Condition #11 on DP.

## DEVELOPMENT PERMIT

NO: 211304

CONDITIONALLY APPROVED

ON: MAR 03 2021

BY: *Heurkens*  
(Approving Authority & Signature)  
(1 Page)

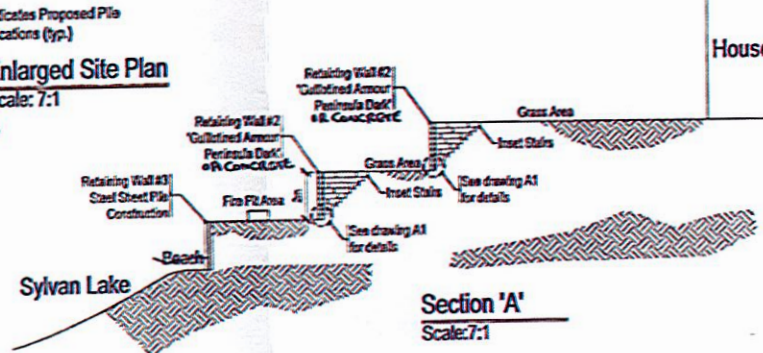
Entire lowest tier adjacent to the lake Sylvan Lake to be a no mow zone of native grasses and shrubbery, no beach or sandy area permitted.

Existing Pile (typ.)  
Use to secure new deck.  
(Confirm on site.)

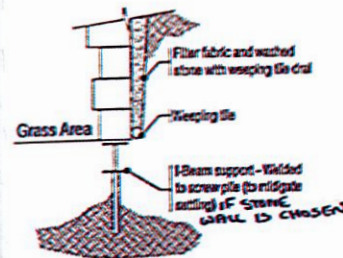
Notes:  
All dimensions to be confirmed on site.  
Drawing for discussion purposes only.



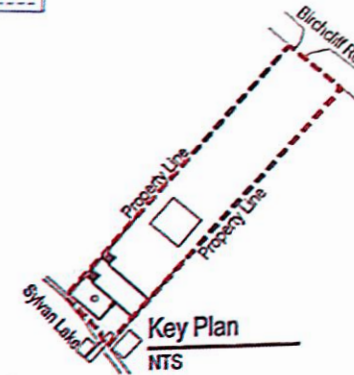
Enlarged Site Plan  
Scale: 7:1



Section 'A'  
Scale: 7:1



Detail 'A1'  
NTS



Key Plan  
NTS

|  |  |
|--|--|
|  |  |
| <b>Site Features</b>   |  |
| Civic Address:<br>71 Birchfield Road<br>Summer Village of Birchfield, AB |  |
| Legal Description<br>Lot 2, Block 4, Plan 4486 AX                        |  |



Firepit area proposed

Constructed

C-1

# SCHEDULE D

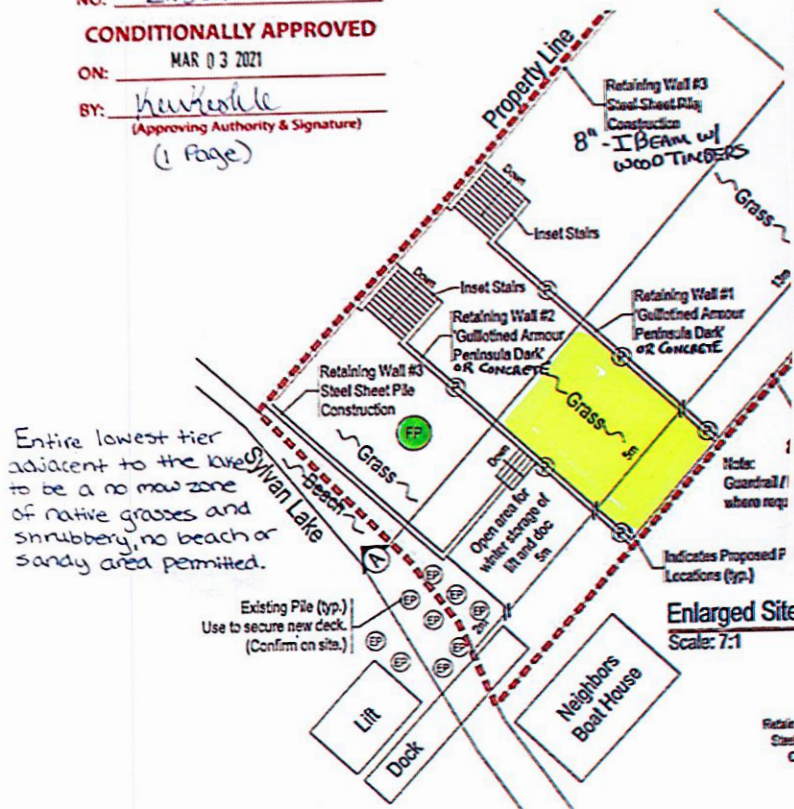
## DEVELOPMENT PERMIT

NO: 211304

CONDITIONALLY APPROVED

ON: MAR 03 2021

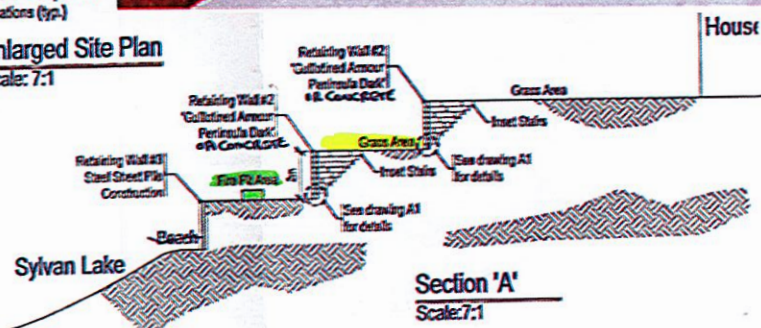
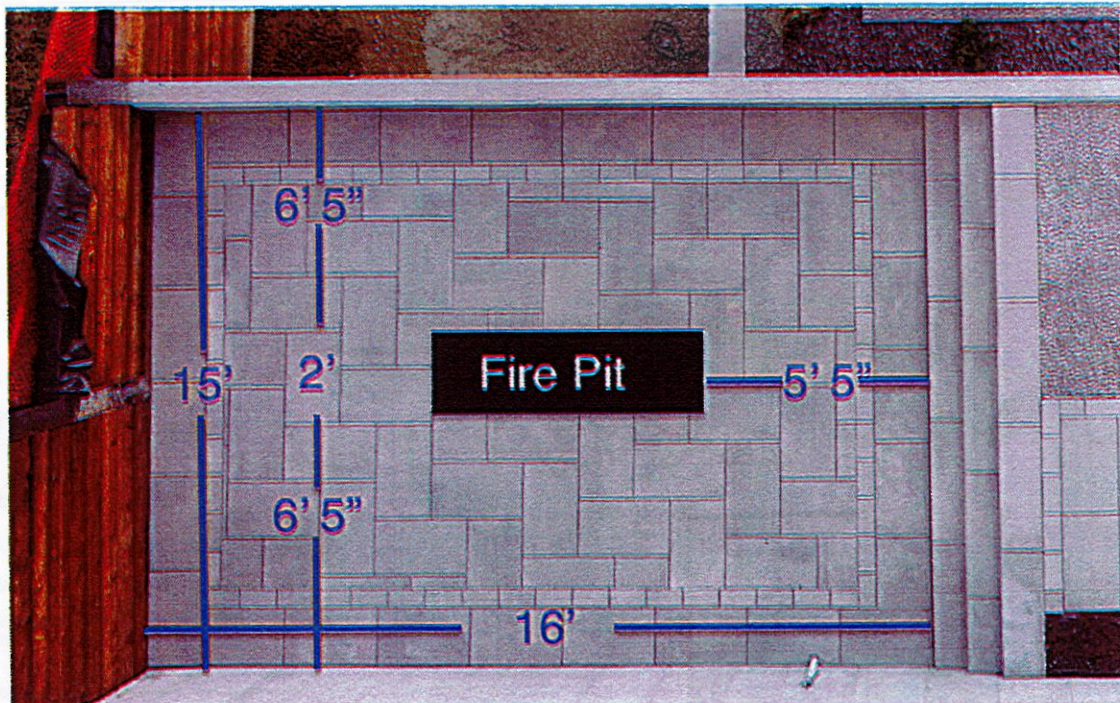
BY: *hewlett*  
(Approving Authority & Signature)  
(1 Page)



Entire lowest tier adjacent to the lake to be a no mow zone of native grasses and shrubbery, no beach or sandy area permitted.

Existing Pile (typ.)  
Use to secure new deck.  
(Confirm on site.)

Notes:  
All dimensions to be confirmed on site.  
Drawing for discussion purposes only.



## Site Features

Civic Address:  
71 Birchcliff Road  
Summer Village of Birchcliff, AS

Legal Description  
Lot 2, Block 4, Plan 4486 AX

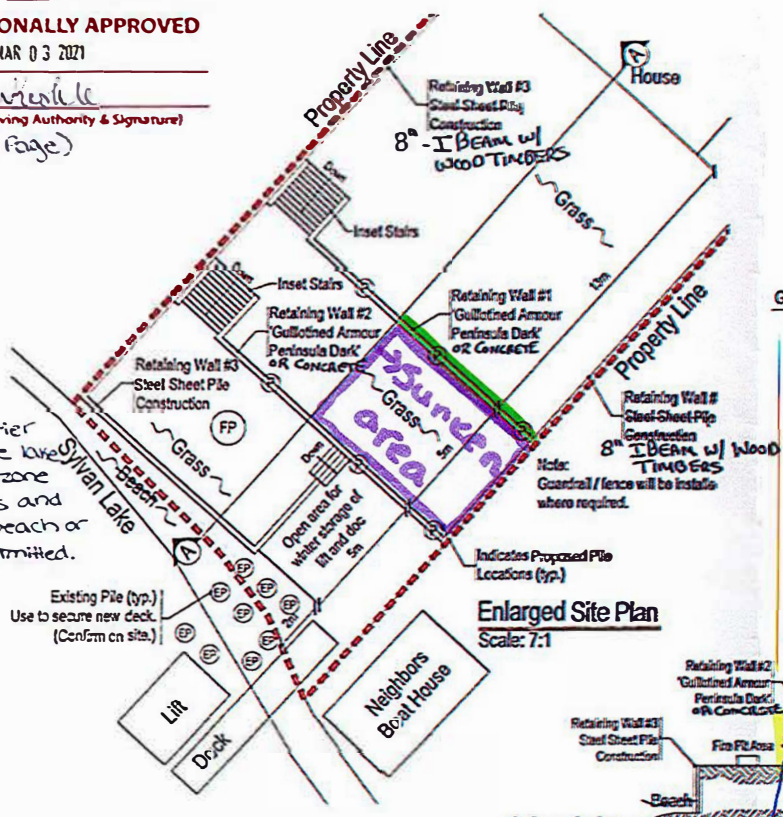


Location retaining wall exceeds maximum

DEVELOPMENT PERMIT

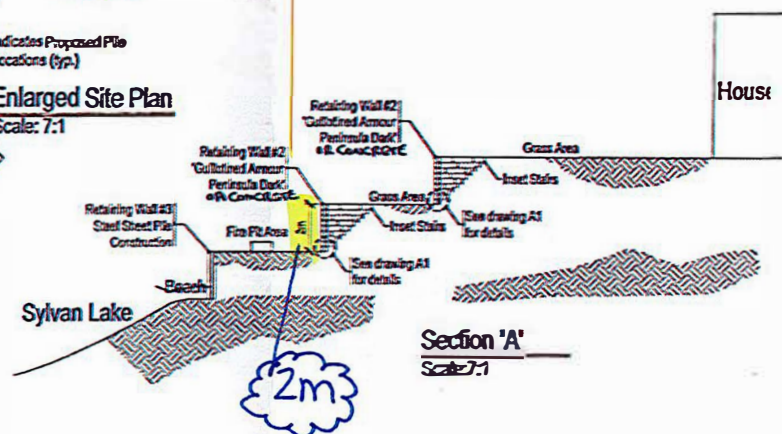
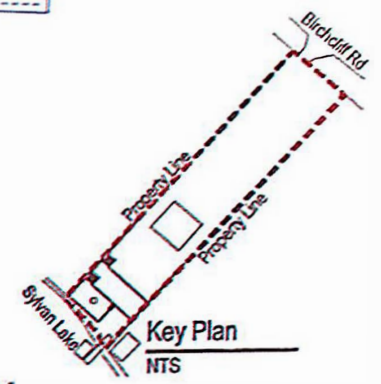
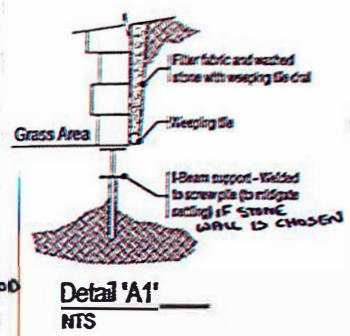
NO: 211304  
 CONDITIONALLY APPROVED  
 ON: MAR 03 2021  
 BY: *hewit*  
 (Approving Authority & Signature)  
 (1 Page)

Entire lowest tier adjacent to the lake to be a no mow zone of native grasses and shrubbery, no beach or sandy area permitted.



Notes:  
 All dimensions to be confirmed on site.  
 Drawing for discussion purposes only.

RECEIVED



|  |  |
|--|--|
|  |  |
| <b>Site Features</b>   |  |
| Civic Address:<br>71 Birchcliff Road<br>Summer Village of Birchcliff, AB |  |
| Legal Description:<br>Lot 2, Block 4, Plan 4436 AX                       |  |