

City of Kelowna

Public Hearing

AGENDA



Tuesday, July 14, 2020
6:00 pm
Council Chamber
City Hall, 1435 Water Street

Pages

1. Due to COVID-19 a Public Hearing Agenda will also include Regular Council Meeting Items
2. Call to Order the Public Hearing - START TIME 6:00 PM - Kyndree Ct, Prince Edward Dr, Clifton Rd N - LUCT19-0027 (12038) - Multiple Owners

THE CHAIR WILL CALL THE HEARING TO ORDER:

I would like to acknowledge that we are gathered today on the traditional, ancestral, unceded territory of the syilx/Okanagan people.

This evening, Council will hold both a Public Hearing and a Regular Meeting.

The purpose of the Hearing is to hear from the public on matters contained in the various bylaws which, if adopted, will amend *Kelowna 2030* - Official Community Plan Bylaw No. 10500 and Zoning Bylaw No. 8000.

After the close of the Public Hearing, Council will then debate and vote on the proposed bylaws at the Regular Meeting that follows.

Council has been provided with the information, correspondence, petitions or reports that have been received concerning the subject bylaws. This information is available to the public on the table in the foyer of Council Chamber. Reports are also available to the public online under *Council* at Kelowna.ca.

For those in attendance this evening, or who have already submitted letters to Council, a reminder that this Hearing is open to the public and all representations to Council form part of the public record. A live audio feed may also be broadcast and recorded by Castanet.

Following the close of the Public Hearing, no further information from the applicant or members of the public will be accepted by Council.

3. Individual Bylaw Submissions

- 3.1 START TIME - 6:00 PM - Kyndree Ct, Prince Edward Dr, Clifton Rd N - LUCT19-0027 (12038) - Multiple Owners

8 - 27

To consider an application for the early termination of Land Use Contract LUC77-

4. Termination

5. Call to Order the Regular Meeting

- 5.1 **START TIME - 6:00 PM - Kyndree Ct, Prince Edward Dr, Clifton Rd N - BL12038 (LUCT19-0027) - Multiple Owners** 28 - 29

To give Bylaw No. 12038 second and third reading and adopt.

- 5.2 **START TIME - 6:00 PM - Kyndree Ct, Prince Edward Dr, Clifton Rd N - BL12039 (Z19-0096) - Multiple Owners** 30 - 31

To give Bylaw No. 12039 second and third reading and adopt.

6. Termination

7. **Call to Order the Public Hearing - 6:00 PM - Hwy 33 E 1799 - LUC20-0002 (BL12058) OCP20-0012 (BL12059) Z20-0043 (BL12060) - 1231306 B.C. Ltd., Inc. No. BC1231306**

THE CHAIR WILL CALL THE HEARING TO ORDER:

The purpose of the Public Hearing is to hear from the public on matters contained in the various bylaws which, if adopted, will amend *Kelowna 2030* Zoning Bylaw No. 8000.

After the close of the Public Hearing, Council will then debate and vote on the proposed bylaws at the Regular Meeting that follows.

Council has been provided with the information, correspondence, petitions or reports that have been received concerning the subject bylaws. This information is available to the public on the table in the foyer of Council Chamber. Reports are also available to the public online under *Council* at Kelowna.ca.

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Following the close of the Public Hearing, no further information from the applicant or members of the public will be accepted by Council.

- 7.1 **Hwy 33 E 1799 - LUC20-0002 (BL12058) OCP20-0012 (BL12059) Z20-0043 (BL12060) - 1231306 B.C. Ltd., Inc. No. BC1231306** 32 - 67

To consider an application for Land Use Contract discharge, an application to amend the Official Community Plan from the MRL – Multiple Unit Residential (Low Density) designation to the SC – Service Commercial designation and a rezoning application from the A1 – Agriculture 1 zone to the C10 – Service Commercial zone.

8. Termination

9. Call to Order the Regular Meeting

- 9.1 START TIME - 6:00 PM - Hwy 33 E 1799 - BL12058 (LUC20-0002) - 1231306 B.C. Ltd., Inc. No. BC1231306** 68 - 68

To give Bylaw No. 12058 second and third reading.

- 9.2 START TIME - 6:00 PM - Hwy 33 E 1799 - BL12059 (OCP20-0012) - 1231306 B.C. Ltd., Inc. No. BC1231306** 69 - 69

To give Bylaw No.12059 second and third reading.

- 9.3 START TIME - 6:00 PM - Hwy 33 E 1799 - BL12060 (Z20-0043) - 1231306 B.C. Ltd., Inc. No. BC1231306** 70 - 70

To give Bylaw No. 12060 second and third reading.

10. Termination

- 11. Call to Order the Public Hearing - 6:20 PM - Landsdowne Pl 1990 - Z19-0116 (BL12052) - Raul Holdings Inc., Inc. No. BC0968428**

THE CHAIR WILL CALL THE HEARING TO ORDER:

The purpose of the Public Hearing is to hear from the public on matters contained in the various bylaws which, if adopted, will amend *Kelowna 2030* Zoning Bylaw No. 8000.

After the close of the Public Hearing, Council will then debate and vote on the proposed bylaws at the Regular Meeting that follows.

Council has been provided with the information, correspondence, petitions or reports that have been received concerning the subject bylaws. This information is available to the public on the table in the foyer of Council Chamber. Reports are also available to the public online under *Council* at Kelowna.ca.

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Following the close of the Public Hearing, no further information from the applicant or members of the public will be accepted by Council.

- 11.1 Landsdowne Pl 1990 - Z19-0116 (BL12052) - Raul Holdings Inc., Inc. No. BC0968428** 71 - 88

To consider an application to rezone the subject property from the C10 – Service Commercial zone to the C10rcs – Service Commercial (Retail Cannabis Sales) zone to facilitate a retail cannabis sales establishment.

12. Termination

13. Call to Order the Regular Meeting

13.1 START TIME - 6:20 PM - Landsdowne Pl 1990 - BL12052 (Z19-0116) - Raul Holdings Inc., Inc. No. BCo968428

89 - 89

To give Bylaw No. 12052 second and third reading.

14. Termination

15. Call to Order the Public Hearing - START TIME - 6:20 PM - Old Vernon Rd 175, Rutland Ct 2053, 2065 and 2115 OCP18-0005 (BL12053) Z18-0019 (BL12054) TA18-0011 (BL12055) - Reid's Crossing Developmen

THE CHAIR WILL CALL THE HEARING TO ORDER:

The purpose of the Public Hearing is to hear from the public on matters contained in the various bylaws which, if adopted, will amend *Kelowna 2030* Zoning Bylaw No. 8000.

After the close of the Public Hearing, Council will then debate and vote on the proposed bylaws at the Regular Meeting that follows.

Council has been provided with the information, correspondence, petitions or reports that have been received concerning the subject bylaws. This information is available to the public on the table in the foyer of Council Chamber. Reports are also available to the public online under *Council* at Kelowna.ca.

For those in attendance this evening, or who have already submitted letters to Council, a reminder that this Hearing is open to the public and all representations to Council form part of the public record. A live audio-video feed is being broadcast and recorded on kelowna.ca and may also be broadcast and recorded by Castanet.

Following the close of the Public Hearing, no further information from the applicant or members of the public will be accepted by Council.

15.1 START TIME - 6:20 PM - Old Vernon Rd 175, Rutland Ct 2053, 2065 and 2115 OCP18-0005 (BL12053) Z18-0019 (BL12054) TA18-0011 (BL12055) - Reid's Crossing Development Inc. Inc. No. BC1165652 and City of Kelowna

90 - 114

To amend the Official Community Plan to change the future land use designation of the subject properties to SC – Service Commercial and to rezone the subject properties to the C10lp – Service Commercial (Liquor Primary) zone with a site-specific text amendment to permit additional retail and commercial uses.

16. Termination

17. Call to Order the Regular Meeting

17.1 START TIME - 6:20 PM - Old Vernon Rd 175, Rutland Ct 2053, 2065 and 2115 BL12053 (OCP18-0005) - Reid's Crossing Dev. Inc & City of Kelowna

115 - 116

To give Bylaw No. 12053 second and third reading.

- 17.2** **START TIME - 6:20 PM - Old Vernon Rd 175, Rutland Ct 2053, 2065 and 2115 - BL12054 (Z18-0019) - Reid's Crossing Dev. Inc & City of Kelowna** 117 - 117
- To give Bylaw No. 12054 second and third reading.
- 17.3** **START TIME - 6:20 PM - Old Vernon Rd 175, Rutland Ct 2053, 2065 and 2115 OCP18-0005 BL12055 (TA18-0011) - Reid's Crossing Dev. Inc & City of Kelowna** 118 - 119
- To give Bylaw No. 12055 second and third reading.
- 18. Termination**
- 19. Call to Order the Public Hearing - START TIME 6:50 PM - Fitzpatrick Road 729 - Z20-0016 (BL12050) - Marian Beatrice Gruber**
- THE CHAIR WILL CALL THE HEARING TO ORDER:
- The purpose of the Public Hearing is to hear from the public on matters contained in the various bylaws which, if adopted, will amend *Kelowna 2030* Zoning Bylaw No. 8000.
- After the close of the Public Hearing, Council will then debate and vote on the proposed bylaws at the Regular Meeting that follows.
- Council has been provided with the information, correspondence, petitions or reports that have been received concerning the subject bylaws. This information is available to the public on the table in the foyer of Council Chamber. Reports are also available to the public online under *Council* at Kelowna.ca.
- For those in attendance this evening, or who have already submitted letters to Council, a reminder that this Hearing is open to the public and all representations to Council form part of the public record. A live audio-video feed is being broadcast and recorded on kelowna.ca and may also be broadcast and recorded by Castanet.
- Following the close of the Public Hearing, no further information from the applicant or members of the public will be accepted by Council.
- 19.1 START TIME 6:50 PM - Fitzpatrick Road 729 - Z20-0016 (BL12050) - Marian Beatrice Gruber** 120 - 140
- To consider an application to rezone the subject property from the A1-Agriculture 1 zone to the I2 – General Industrial zone and the P3 – Parks and Open Space zone, to facilitate the use of the subject property for an industrial development, and to dedicate a portion of the property as parkland.
- 20. Termination**
- 21. Call to Order the Regular Meeting**
- 21.1 START TIME 6:50 PM - Fitzpatrick Road 729 - BL12050 (Z20-0016) - Marian Beatrice Gruber** 141 - 142

To give Bylaw No.12050 second and third reading.

22. Termination

23. Call to Order the Public Hearing - START TIME 7:20 PM - Knowles Rd. 472, Z20-0029 - Amarjit S. Hundal, Jaswinder S. Nahal, Harminder S. Dhillon and Gurdip K. Dhillon

THE CHAIR WILL CALL THE HEARING TO ORDER:

The purpose of the Public Hearing is to hear from the public on matters contained in the various bylaws which, if adopted, will amend *Kelowna 2030* Zoning Bylaw No. 8000.

After the close of the Public Hearing, Council will then debate and vote on the proposed bylaws at the Regular Meeting that follows.

Council has been provided with the information, correspondence, petitions or reports that have been received concerning the subject bylaws. This information is available to the public on the table in the foyer of Council Chamber. Reports are also available to the public online under *Council* at Kelowna.ca.

For those in attendance this evening, or who have already submitted letters to Council, a reminder that this Hearing is open to the public and all representations to Council form part of the public record. A live audio-video feed is being broadcast and recorded on kelowna.ca and may also be broadcast and recorded by Castanet.

Following the close of the Public Hearing, no further information from the applicant or members of the public will be accepted by Council.

23.1 START TIME 7:20 PM - Knowles Rd. 472, Z20-0029 - Amarjit S. Hundal, Jaswinder S. Nahal, Harminder S. Dhillon and Gurdip K. Dhillon 143 - 163

To rezone the subject property from the RU1 – Large Lot Housing zone to the RU2 - Medium Lot Housing zone to facilitate a 3-lot subdivision.

24. Termination

25. Call to Order the Regular Meeting

25.1 START TIME 7:20 PM - Knowles Rd 472 - BL12043 (Z20-0029) - Amarjit Hundal, Jaswinder Nahal, Harminder and Gurdip Dhillon 164 - 164

To give Bylaw No. 12043 second and third reading.

26. Termination

27. Procedure on each Bylaw Submission

(a) Brief description of the application by City Staff (Community Planning);

(b) The applicant is requested to make representation to Council regarding the project and is encouraged to limit their presentation to 15 minutes.

(c) The Chair will call for representation from the public in attendance as follows:

(i) The microphone at the public podium has been provided for any person(s) wishing to make representation at the Hearing.

(ii) The Chair will recognize ONLY speakers at the podium.

(iii) Speakers are encouraged to limit their remarks to 5 minutes, however, if they have additional information they may address Council again after all other members of the public have been heard a first time.

(d) Once the public has had an opportunity to comment, the applicant is given an opportunity to respond to any questions raised. The applicant is requested to keep the response to a total of 10 minutes maximum.

(e) Questions by staff by members of Council must be asked before the Public Hearing is closed and not during debate of the bylaw at the Regular Meeting, unless for clarification.

(f) Final calls for representation (ask three times). Unless Council directs that the Public Hearing on the bylaw in question be held open, the Chair shall state to the gallery that the Public Hearing on the Bylaw is closed.

Note: Any applicant or member of the public may use visual aids (e.g. photographs, sketches, slideshows, etc.) to assist in their presentation or questions. The computer and ELMO document camera at the public podium are available. Please ask staff for assistance prior to your item if required.

REPORT TO COUNCIL



Date: June 22, 2020

To: Council

From: City Manager

Department: Development Planning

Application: LUCT19-0027 / Z19-0096

Owner: Multiple Owners

Address: Multiple Addresses

Applicant: City of Kelowna

**Affected
Addresses:** Kyndree Court, Prince Edward Drive
& Clifton Road North

Subject: Land Use Contract Termination and Rezoning Application

Existing OCP Designation: S2RES – Single / Two Unit Residential

Existing Zone: A1 – Agriculture 1

Proposed Zone RR1 – Rural Residential 1 / RR2 – Rural Residential 2

1.0 Recommendation

WHEREAS the BC Provincial Government has mandated that all Land Use Contracts under the jurisdiction of a local government and in the Province of British Columbia be terminated by 2024;

AND WHEREAS the BC Provincial Government has provided a legislated process for the early termination of land use contracts when the local government has adopted a zoning bylaw that will apply to the land at the time the termination bylaw comes into force;

THEREFORE, BE IT RESOLVED THAT as the underlying A1 – Agriculture 1 zone for the subject properties under Land Use Contract LUC77-1023 outlined in 'Schedule A' does not meet the land use requirements under City of Kelowna Zoning Bylaw No. 8000;

THAT Application No. LUCT19-0027 to terminate LUC77-1023 from properties identified in 'Schedule A', located on Kyndree Court, Prince Edward Drive & Clifton Road North, Kelowna, B.C. be considered by Council;

AND THAT Rezoning Application No. Z19-0096 to amend the City of Kelowna Zoning Bylaw No. 8000 by changing the zoning classification for properties identified in 'Schedule B', located on Kyndree Court & Prince Edward Drive, Kelowna, BC from the A1 – Agriculture 1 zone to the RR1 – Rural Residential 1 zone be considered by Council;

AND THAT Rezoning Application No. Z19-0096 to amend the City of Kelowna Zoning Bylaw No. 8000 by changing the zoning classification for properties identified in 'Schedule C', located on Kyndree Court & Prince Edward Drive, Kelowna, BC from the A1 – Agriculture 1 zone to the RR2 – Rural Residential 2 zone be considered by Council;

AND THAT the Land Use Contract Termination Bylaw be forwarded to a Public Hearing for further consideration;

AND FURTHER THAT Council, in accordance with the *Local Government Act* s.464(2), waive the Public Hearing for Zoning Bylaw No. 12039.

Purpose

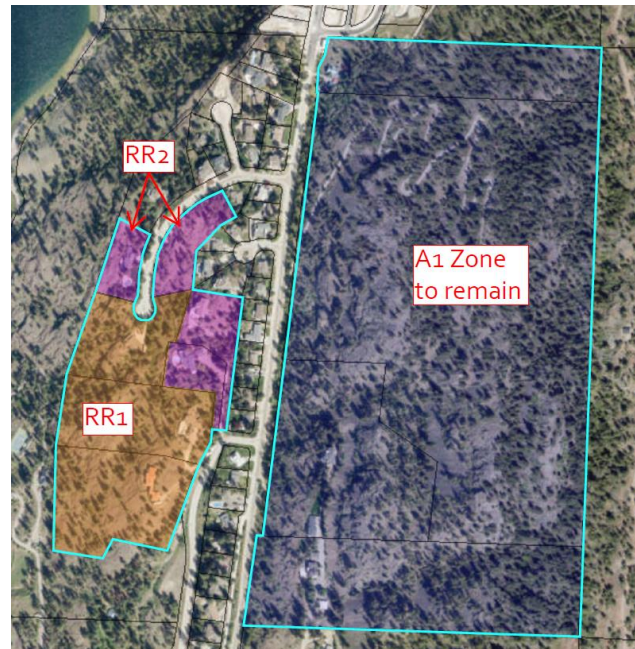
To consider an application for the early termination of Land Use Contract LUC77-1023 and to rezone select properties to the RR1 – Rural Residential 1 and RR2 – Rural Residential 2 zones as identified in 'Schedule A, B and C', and the waive the Public Hearing for the rezoning application.

2.0 Development Planning

Staff are bringing forth and recommending this Land Use Contract (LUC77-1023) be terminated with a majority of the properties requiring rezoning to a more appropriate zone. Out of the 11 total properties currently regulated by LUC77-1023, 4 have appropriate underlying zoning of A1 – Agriculture 1, with the 7 remaining properties requiring rezoning to the RR1 – Rural Residential 1 and RR2 – Rural Residential 2 zones. The underlying zone of A1 – Agriculture 1 does not entirely fit within the established neighbourhood and is not an appropriate land use for all properties.



A1 – Agriculture 1 zone (Refer to Schedule 'A')



RR1 – Rural Residential 1 & RR2 – Rural Residential 2 Properties (Refer to Schedules 'B' & 'C')

3.0 Proposal

3.1 Background

Land Use Contracts were a tool regularly used in the 1970's before it was eliminated on November 15th 1978. The purpose of the tool was to allow local governments to arrive at agreements with specific developers to grant development rights over and above what was allowed under current zoning. This was typically done in exchange for commitments by developers to help finance the infrastructure costs of development.

Issues have arisen, specifically with the continued application of land use contracts as they supersede any subsequent bylaw dealing with land use and development including: Zoning Bylaws, Development Cost Charge Bylaws, and Development Permits. The Local Government Act was amended in 2014 stating all land use contracts in the province will be terminated as of June 30th 2024. Land use contracts will remain in force until that date unless terminated early by the municipality. By June 20th 2022, local governments must have appropriate zoning regulations in place to replace land use contracts upon their termination. However, LUC terminations (unlike LUC discharges) do not apply when Council adopts the bylaw. Terminations require a one-year grace period as outlined by the Local Government Act.

3.2 Notification

Local governments must provide notice to each owner that the termination of land use contract is occurring and must provide notice of what the new zoning regulations apply to the land. The municipality must send additional letters after the one-year grace period is complete informing the property owners of which land use regulations apply to their properties.

Staff are recommending Council Notification Policy #367 including early notification and development signage be waived for all Land Use Contract terminations. Public consultation in this case is not recommended as the notification policy is a City initiative. Staff are suggesting the standard development notification, as outlined above, be sent to properties affected by the LUC under consideration for termination.

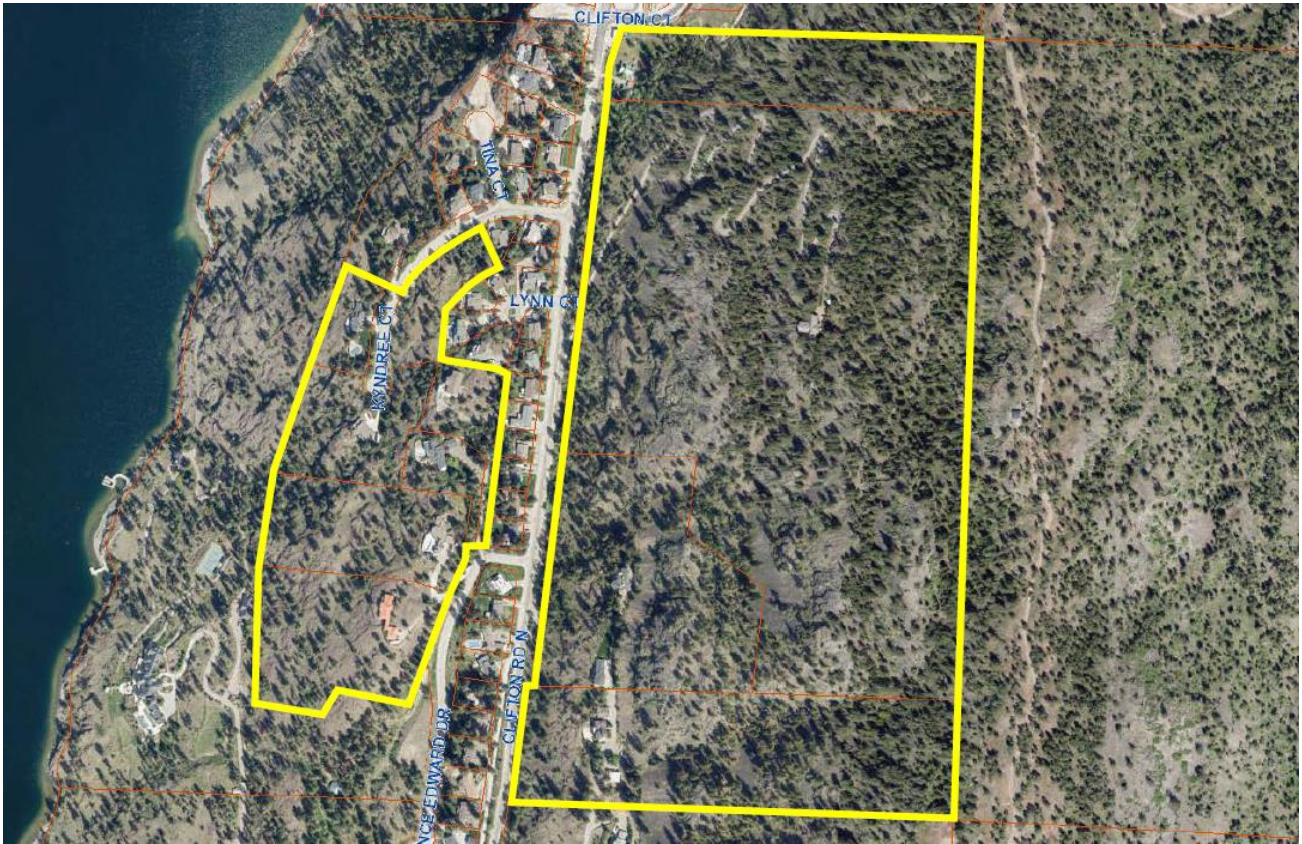
3.3 Site Context

The subject

Specifically, adjacent land uses are as follows:

Orientation	Zoning	Land Use
North	RR3 – Rural Residential 3	Residential
East	A1 – Agriculture 1	Undeveloped and unfarmed lands
South	A1 – Agriculture 1	Rural Residential / Undeveloped and unfarmed lands
West	A1 – Agriculture 1	Rural Residential

Subject Properties Map: Kyndree Court, Prince Edward Drive & Clifton Road N.



4.0 Current Development Policies

4.1 Council Policy No. 282 – Strategy for Elimination of Remaining Land Use Contracts

Council Policy No. 282. Includes the following statement:

That the City of Kelowna initiate proceeding to discharge the contracts subject to consultation with affected owners of the land and subject to prior approval by council with regard to affected contracts;

5.0 Technical Comments

N/A

6.o Application Chronology

N/A

Report prepared by: Andrew Ferguson, Planner II
Reviewed by: James Moore, Urban Planning & Development Policy Manager
Approved for Inclusion: Terry Barton, Development Planning Department Manager

Attachments:

Schedule A: Properties affected by LUC77-1023

Schedule B: Properties to be Rezoned to RR1

Schedule C: Properties to be Rezoned to RR2

Schedule A: LUC77-1023 Charge #: M17452					
No.	Legal Description	Address	Parcel Identifier Number	Land Use Contract	Underlying Zone
1	Lot 4 Section 8 Township 23 ODYD Plan 33219	1231 Kyndree Crt	001-771-396*	LUC77-1023	A1 – Agriculture 1
2	Lot B Section 8 Township 23 ODYD Plan 33589	1238 Kyndree Crt	001-951-211*	LUC77-1023	A1 – Agriculture 1
3	Lot 3 Section 8 Township 23 ODYD Plan 33219 Except Plan 34187	1252 Kyndree Crt	003-233-227*	LUC77-1023	A1 – Agriculture 1
4	Lot D Section 8 Township 23 ODYD Plan 33308	382 Prince Edward Dr	003-210-880*	LUC77-1023	A1 – Agriculture 1
5	Lot C Section 8 Township 23 ODYD Plan 33308	394 Prince Edward Dr	002-751-399*	LUC77-1023	A1 – Agriculture 1
6	Lot 1 Section 8 Township 23 ODYD Plan 34187	398 Prince Edward Dr	003-018-202*	LUC77-1023	A1 – Agriculture 1
7	Lot A Section 8 Township 23 ODYD Plan 33308	400 Prince Edward Dr	003-210-863*	LUC77-1023	A1 – Agriculture 1
8	Lot 4 Section 8 Township 23 ODYD Plan 29568	365 Clifton Rd N	004-245-938	LUC77-1023	A1 – Agriculture 1
9	Lot B Section 8 Township 23 ODYD Plan KAP47167	405 Clifton Rd N	017-778-964	LUC77-1023	A1 – Agriculture 1
10	Lot A Section 8 Township 23 ODYD Plan KAP47167	465 Clifton Rd N	017-778-956	LUC77-1023	A1 – Agriculture 1
11	Lot 1 Section 8 Township 23 ODYD Plan 29568	491 Clifton Rd N	003-175-227	LUC77-1023	A1 – Agriculture 1
*Charge #M17452/P1215/T15327					

Schedule B: Proposed RR1 Zone Charge #: M17452/P1215/T15327						
No.	Legal Description	Address	Parcel Identifier Number	Land Use Contract	Underlying Zone	Proposed Zone
1	Lot 3 Section 8 Township 23 ODYD Plan 33219 Except Plan 34187	1252 Kyndree Crt	003-233-227	LUC77-1023	A1 – Agriculture 1	RR1 – Rural Residential 1
2	Lot D Section 8 Township 23 ODYD Plan 33308	382 Prince Edward Dr	003-210-880	LUC77-1023	A1 – Agriculture 1	RR1 – Rural Residential 1
3	Lot C Section 8 Township 23 ODYD Plan 33308	394 Prince Edward Dr	002-751-399	LUC77-1023	A1 – Agriculture 1	RR1 – Rural Residential 1

Schedule C: Proposed RR2 Zone
Charge #: M17452/P1215/T15327

No.	Legal Description	Address	Parcel Identifier Number	Land Use Contract	Underlying Zone	Proposed Zone
1	Lot 4 Section 8 Township 23 ODYD Plan 33219	1231 Kyndree Crt	001-771-396	LUC77-1023	A1 – Agriculture 1	RR2 – Rural Residential 2
2	Lot B Section 8 Township 23 ODYD Plan 33589	1238 Kyndree Crt	001-951-211	LUC77-1023	A1 – Agriculture 1	RR2 – Rural Residential 2
3	Lot 1 Section 8 Township 23 ODYD Plan 34187	398 Prince Edward Dr	003-018-202	LUC77-1023	A1 – Agriculture 1	RR2 – Rural Residential 2
4	Lot A Section 8 Township 23 ODYD Plan 33308	400 Prince Edward Dr	003-210-863	LUC77-1023	A1 – Agriculture 1	RR2 – Rural Residential 2



Existing Underlying zone of A1 – Agriculture 1



Properties proposed to rezone to RR1 – Rural Residential 1 & RR2 – Rural Residential 2



LUCT19-0027 / Z19-0096 Kyndree Ct, Prince Edward Dr & Clifton Rd N

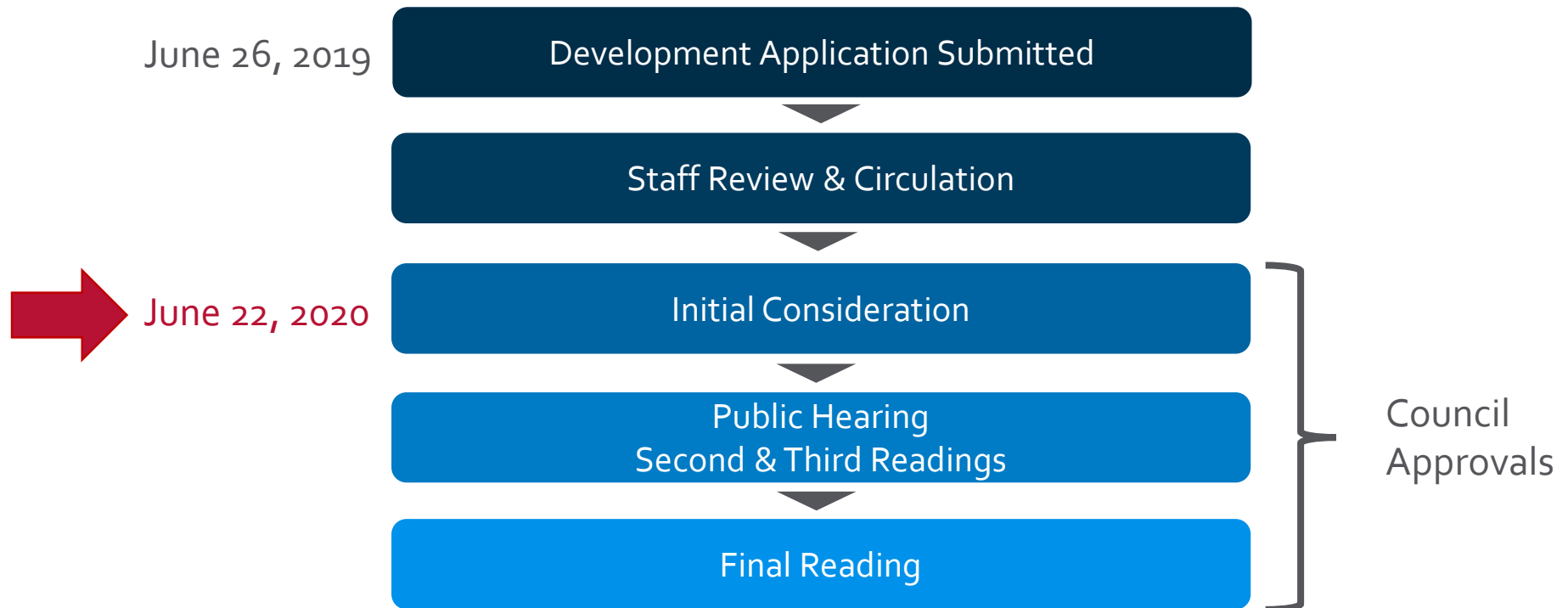
Land Use Contract Termination & Rezoning Applications



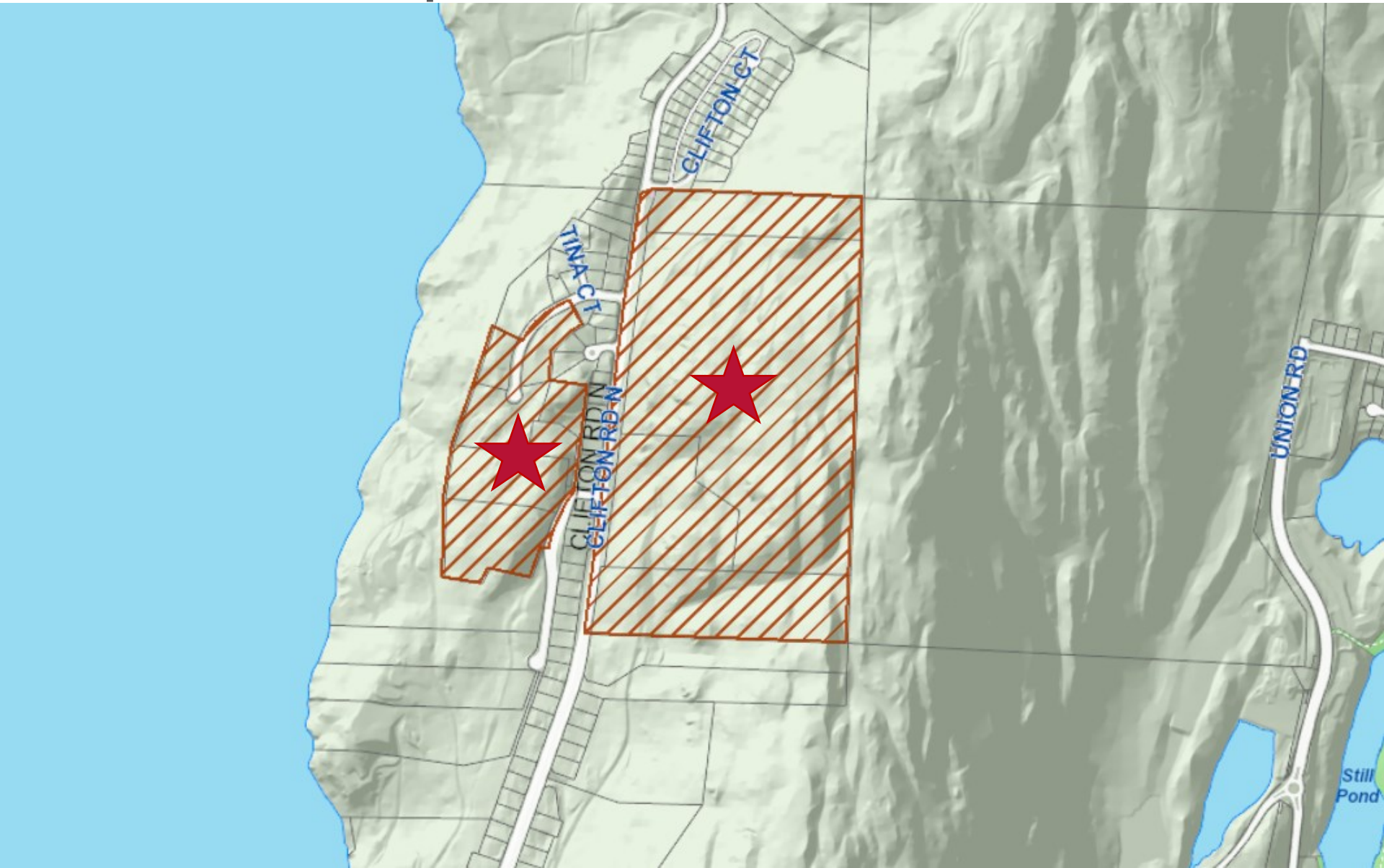
Proposal

- ▶ To consider an application for the early termination of Land Use Contract LUC77-1023 and to rezone select properties to the RR1 – Rural Residential 1 and RR2 – Rural Residential 2 zones as identified in 'Schedule A, B & C'.

Development Process



Context Map



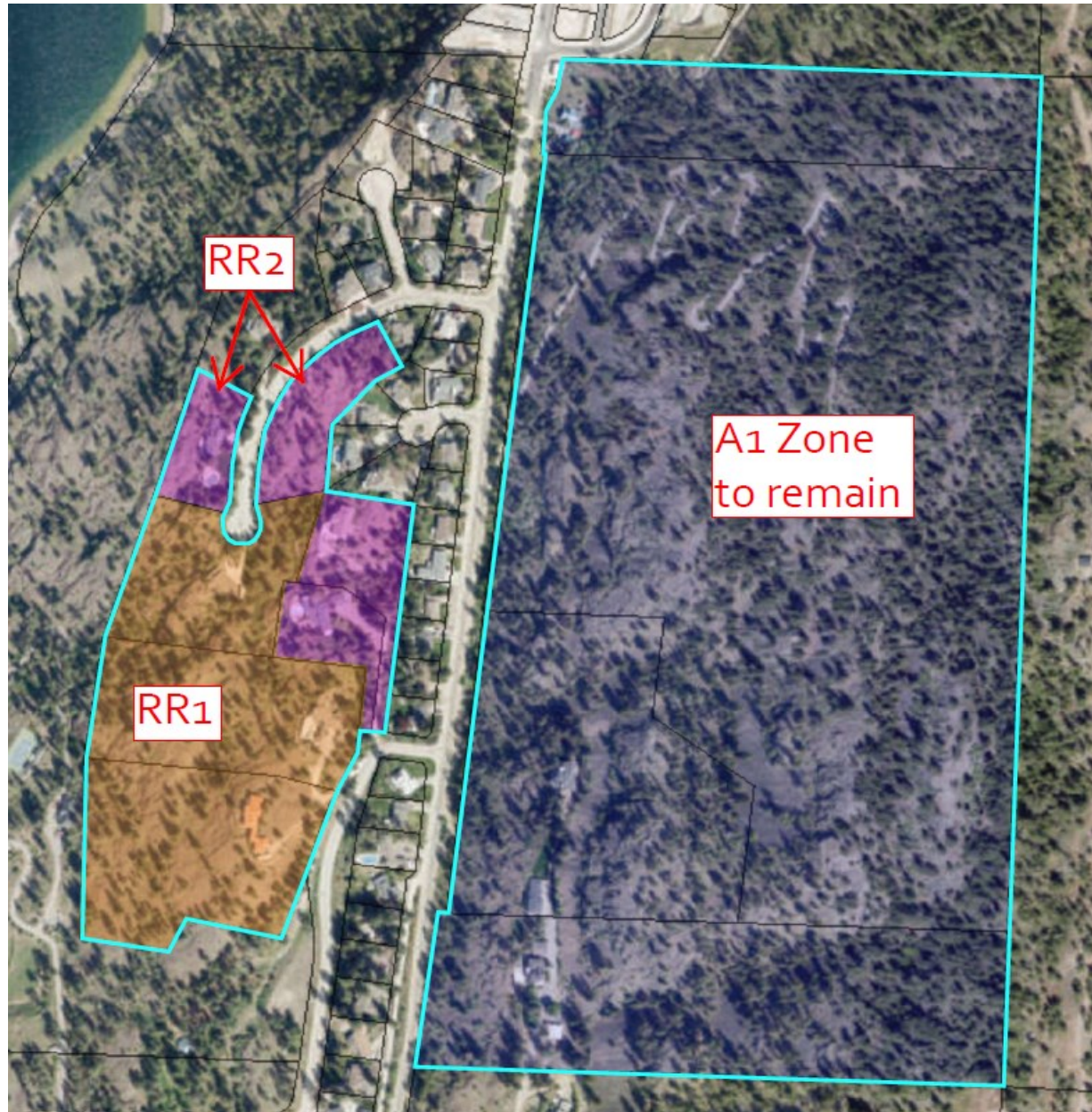
Subject Properties Map



Existing Zoning



Proposed Rezoning



Proposal

- ▶ To terminate the Land Use Contract (LUC77-1023) and rezone select properties to the RR1 and RR2 zones.
 - ▶ The underlying zone (A1 – Agriculture 1) is not appropriate for all properties regulated by the LUC.
 - ▶ Out of the total 11 properties regulated by the LUC:
 - ▶ 4 have appropriate underlying zoning of A1
 - ▶ 7 properties require rezoning (3 proposed to rezone to RR1 with the remaining 4 proposed to rezone to RR2)

Development Policy

- ▶ Application consistent with Council Policy No 282 – Strategy for Elimination of Remaining Land Use Contracts
 - ▶ Consultation with affected land owners prior to Council Approval
 - ▶ Letters sent out on May 7, 2020

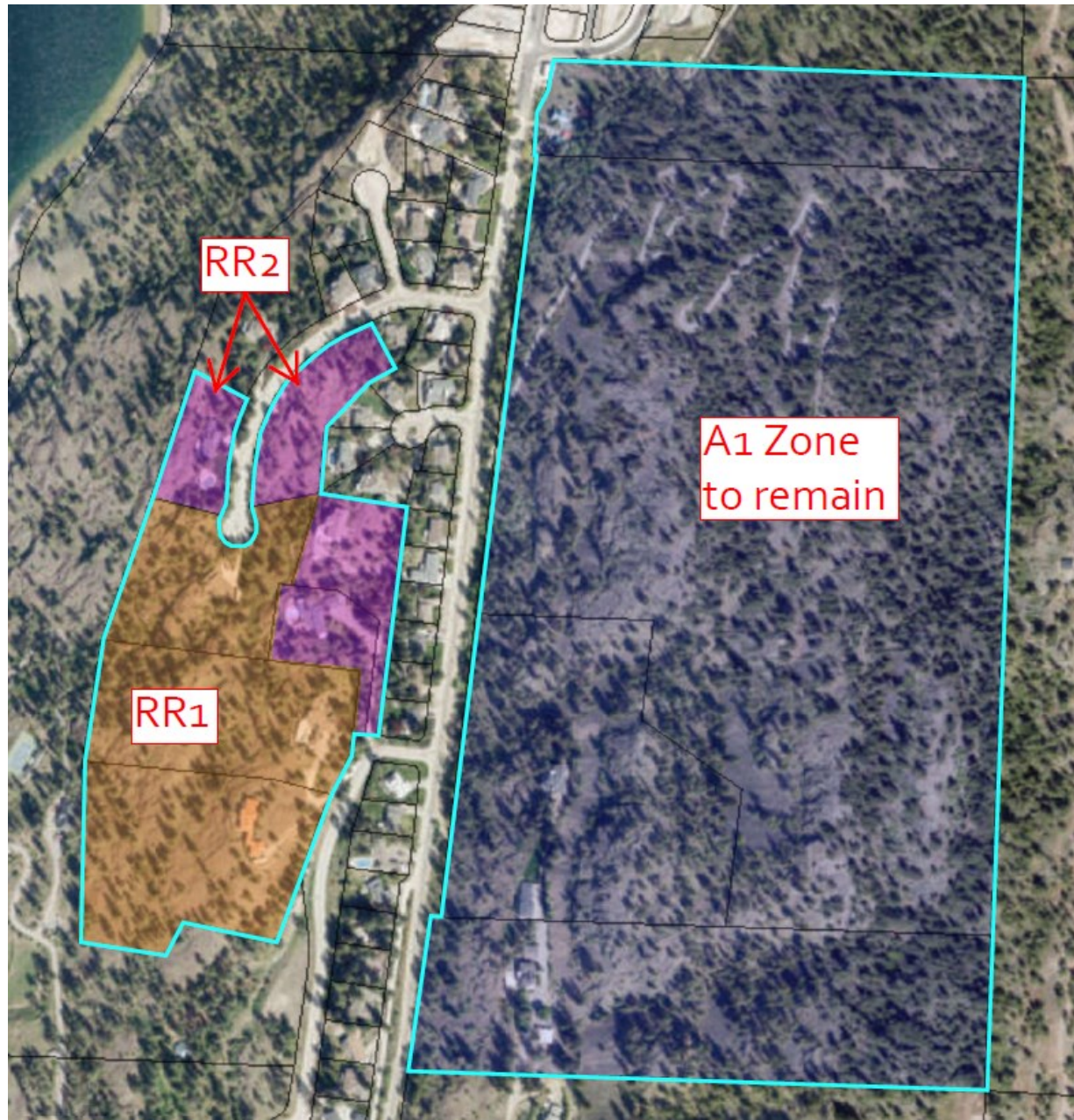
Staff Recommendation

- ▶ Staff recommend **support** of the proposed Land Use Contract Termination of LUC77-1023
- ▶ Recommend the Land Use Contract Termination Bylaw be forwarded to Public Hearing



Conclusion of Staff Remarks

Proposed Rezoning



CITY OF KELOWNA

BYLAW NO. 12038

LUCT19-0027

Early Termination of Land Use Contract – LUC77-1023 Kyndree Court, Prince Edward Drive and Clifton Road North

WHEREAS a land use contract (the "Land Use Contract LUC77-1023") is registered at the Kamloops Land Title Office under the charge number M17452, P1215 and T15327 against lands in the City of Kelowna particularly known and described as in Schedule "A" attached (the "Lands"), located on Kyndree Court, Prince Edward Drive and Clifton Road North, Kelowna, B.C.;

AND WHEREAS Section 548 of the *Local Government Act* provides that a local government may impose an early termination to land use contracts registered in a Land Title Office that applies to land within the jurisdiction of the local government;

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

1. This Bylaw may be cited for all purposes as "Early Termination of Land Use Contract LUC77-1023";
2. Bylaw No. 4694-78 establishing Land Use Contract LUC77-1023 and all amendments thereto, are hereby repealed and the Land Use Contract is terminated as of the date of adoption; and
3. This bylaw will come into force and effect one year after the adoption date.

Read a first time by the Municipal Council this 22nd day of June, 2020.

Considered at a Public Hearing this

Read a second and third time by Municipal Council this

Adopted by the Municipal Council this

Mayor

City Clerk

Schedule A: LUC77-1023 Charge #: M17452					
No.	Legal Description	Address	Parcel Identifier Number	Land Use Contract	Underlying Zone
1	Lot 4 Section 8 Township 23 ODYD Plan 33219	1231 Kyndree Court	001-771-396*	LUC77-1023	A1 – Agriculture 1
2	Lot B Section 8 Township 23 ODYD Plan 33589	1238 Kyndree Court	001-951-211*	LUC77-1023	A1 – Agriculture 1
3	Lot 3 Section 8 Township 23 ODYD Plan 33219 Except Plan 34187	1252 Kyndree Court	003-233-227*	LUC77-1023	A1 – Agriculture 1
4	Lot D Section 8 Township 23 ODYD Plan 33308	382 Prince Edward Drive	003-210-880*	LUC77-1023	A1 – Agriculture 1
5	Lot C Section 8 Township 23 ODYD Plan 33308	394 Prince Edward Drive	002-751-399*	LUC77-1023	A1 – Agriculture 1
6	Lot 1 Section 8 Township 23 ODYD Plan 34187	398 Prince Edward Drive	003-018-202*	LUC77-1023	A1 – Agriculture 1
7	Lot A Section 8 Township 23 ODYD Plan 33308	400 Prince Edward Drive	003-210-863*	LUC77-1023	A1 – Agriculture 1
8	Lot 4 Section 8 Township 23 ODYD Plan 29568	365 Clifton Road North	004-245-938	LUC77-1023	A1 – Agriculture 1
9	Lot B Section 8 Township 23 ODYD Plan KAP47167	405 Clifton Road North	017-778-964	LUC77-1023	A1 – Agriculture 1
10	Lot A Section 8 Township 23 ODYD Plan KAP47167	465 Clifton Road North	017-778-956	LUC77-1023	A1 – Agriculture 1
11	Lot 1 Section 8 Township 23 ODYD Plan 29568	491 Clifton Road North	003-175-227	LUC77-1023	A1 – Agriculture 1

*Charge #M17452/P1215/T15327

CITY OF KELOWNA
BYLAW NO. 12039
Z19-0096 - Kyndree Court and Prince Edward Drive

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

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

1. THAT City of Kelowna Zoning Bylaw No. 8000 be amended by changing the zoning classification of parcels outlined in Schedule "B" and Schedule "C" attached and forming part of this bylaw located on Kyndree Court and Prince Edward Drive, Kelowna, BC from the A1 – Agriculture 1 zone to the RR1 – Rural Residential 1 and the RR2 - Rural Residential 2 zones;
2. This bylaw shall come into full force and effect and is binding on all persons as and from the date of adoption.

Read a first time by the Municipal Council this 22nd day of June, 2020.

Public Hearing Waived by the Municipal Council this 22nd day of June, 2020.

Read a second and third time by the Municipal Council this

Adopted by the Municipal Council of the City of Kelowna this

Mayor

City Clerk

Schedule B: Proposed RR1 Zone Charge #: M17452/P1215/T15327						
No.	Legal Description	Address	Parcel Identifier Number	Land Use Contract	Underlying Zone	Proposed Zone
1	Lot 3 Section 8 Township 23 ODYD Plan 33219 Except Plan 34187	1252 Kyndree Crt	003-233-227	LUC77-1023	A1 – Agriculture 1	RR1 – Rural Residential 1
2	Lot D Section 8 Township 23 ODYD Plan 33308	382 Prince Edward Dr	003-210-880	LUC77-1023	A1 – Agriculture 1	RR1 – Rural Residential 1
3	Lot C Section 8 Township 23 ODYD Plan 33308	394 Prince Edward Dr	002-751-399	LUC77-1023	A1 – Agriculture 1	RR1 – Rural Residential 1

Schedule C: Proposed RR2 Zone Charge #: M17452/P1215/T15327						
No.	Legal Description	Address	Parcel Identifier Number	Land Use Contract	Underlying Zone	Proposed Zone
1	Lot 4 Section 8 Township 23 ODYD Plan 33219	1231 Kyndree Crt	001-771-396	LUC77-1023	A1 – Agriculture 1	RR2 – Rural Residential 2
2	Lot B Section 8 Township 23 ODYD Plan 33589	1238 Kyndree Crt	001-951-211	LUC77-1023	A1 – Agriculture 1	RR2 – Rural Residential 2
3	Lot 1 Section 8 Township 23 ODYD Plan 34187	398 Prince Edward Dr	003-018-202	LUC77-1023	A1 – Agriculture 1	RR2 – Rural Residential 2
4	Lot A Section 8 Township 23 ODYD Plan 33308	400 Prince Edward Dr	003-210-863	LUC77-1023	A1 – Agriculture 1	RR2 – Rural Residential 2

REPORT TO COUNCIL



Date: June 22, 2020

To: Council

From: City Manager

Department: Development Planning

Application: LUC20-0002 OCP20-0012 & Z20-0043

Owner: 1231306 BC Ltd., Inc. No. BC1231306

Address: 1799 Hwy 33 E

Applicant: Urban Options Planning and Permits – Birte Decloux

Subject: Land Use Contract Discharge, OCP Amendment and Rezoning Application

Existing OCP: MRL – Multiple Unit Residential (Low Density)

Proposed OCP: SC – Service Commercial

Existing Zone: A1 – Agriculture 1

Proposed Zone: C10 – Service Commercial

1.0 Recommendation

That Application No. LUC20-0002 to discharge LUC76-1064 from Lot A, Section 18, Township 27, ODYD, Plan 29386, located at 1799 Hwy 33 E, Kelowna, BC, be considered by Council;

AND THAT OCP Amendment Application No. OCP20-0012 to amend the City of Kelowna Official Community Plan No. 10500 by changing the OCP Future Land Use designation of Lot A, Section 18, Township 27, ODYD, Plan 29386, located at 1799 Hwy 33 E, Kelowna, BC from the MRL – Multiple Unit Residential (Low Density) designation to the SC – Service Commercial designation as attached to the Report from the Development Planning Department dated June 22nd 2020, be considered by Council;

AND THAT Rezoning Application No. Z20-0043 to amend the City of Kelowna Zoning Bylaw No. 8000 by changing the zoning classification of Lot A, Section 18, Township 27, ODYD, Plan 29386, located at 1799 Hwy 33 E, Kelowna, BC from the A1 – Agriculture 1 zone to the C10 – Service Commercial zone as attached to the Report from the Development Planning Department dated June 22nd 2020, be considered by Council;

AND THAT the Land Use Contract Discharge Bylaw, the Official Community Plan Map Amending Bylaw, and the Rezoning Bylaw be forwarded to a Public Hearing for further consideration;

AND FURTHER THAT final adoption of the Land Use Contract Discharge Bylaw and the Rezoning Bylaw be considered subsequent to the approval of the Ministry of Transportation and Infrastructure.

2.0 Purpose

To consider an application for Land Use Contract discharge, an application to amend the Official Community Plan from the MRL – Multiple Unit Residential (Low Density) designation to the SC – Service Commercial designation and a rezoning application from the A1 – Agriculture 1 zone and to the C10 – Service Commercial zone.

3.0 Development Planning

This site has been used as a commercial gas station as permitted under the original Land Use Contract (LUC76-1064). The original land use contract allowed for a food store and a gas station. The applicant is applying to discharge the land use contract and to change the existing land use regulations to reflect the current land use (gas station). This application is consistent with Council's direction to eliminate Land Use Contracts and the proposed OCP amendment and rezoning applications are consistent with the current land use. The applicant is not proposing to change anything onsite. Staff are recommending support for the proposed Land Use Contract discharge, rezoning, and OCP amendment applications.

Subject Property Map: 1799 Hwy 33 e



3.1 Background

Land Use Contracts were a tool regularly used in the 1970's before it was eliminated on November 15th 1978. The purpose of the tool was to allow local governments to arrive at agreements with specific developers to grant development rights over and above what was allowed under current zoning. This was typically done in exchange for commitments by developers to help finance the infrastructure costs of development.

Issues have arisen, specifically with the continued application of land use contracts as they supersede any subsequent bylaw dealing with land use and development including: Zoning Bylaws, Development Cost

Charge Bylaws, and Development Permits. The Local Government Act was amended in 2014 stating all land use contracts in the province will be terminated as of June 30th 2024. Land use contracts will remain in force until that date unless terminated early by the municipality. By June 20th 2022, local governments must have appropriate zoning regulations in place to replace land use contracts upon their termination. However, LUC terminations (unlike LUC discharges) do not apply when Council adopts the bylaw. Terminations require a one-year grace period as outlined by the Local Government Act.

4.0 Technical Comments

None

5.0 Application Chronology

Application Submitted: May 14th 2020.
Public Notification: June 5th 2020

Report prepared by: Adam Cseke, Planner

Reviewed by: Terry Barton, Development Planning Department Manager

Approved for Inclusion: Ryan Smith, Divisional Director, Planning & Development Services

Attachments:

Development Engineering Memo

Applicant Rationale and Drawing Set

LUC76-1064


CITY OF KELOWNA
MEMORANDUM

Date: May 28, 2020
File No.: LUC20-0002
To: Development Planning (AC)
From: Development Engineering Manager (JK)
Subject: 1799 HWY 33 E LUC discharge (A1 to C10)

The Development Engineering Branch's comments and requirements regarding this application to terminate the Land Use Contract (LUC76-1064) on the subject lot and to rezone the property from A1 - Agriculture to C10 - Service Commercial is linked to zoning memo Z20-0043 are as follows:

General

- 1) The subject property is serviced with Municipal utility services.
- 2) At such time that the property re-develops or has a change in use, this may trigger utility and frontage improvements which will be implemented at time of building permit.
- 3) These Development Engineering comments/requirements are subject to the review and requirements from the Ministry of Transportation and Infrastructure (MoTI).



James Kay, P.Eng.
Development Engineering Manager

JKH

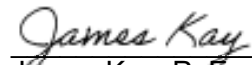
CITY OF KELOWNA
MEMORANDUM

Date: May 28, 2020
File No.: Z20-0043
To: Development Planning (AC)
From: Development Engineering Manager (JK)
Subject: 1799 HWY 33 E LUC discharge (A1 to C10)

The Development Engineering Branch's comments and requirements regarding this application to rezone the subject lot from A1 – Agriculture to C10 – Service Commercial to support the termination of Land Use Contract (LUC76-1064) on the subject lot are as follows:

General

- 1) This application does not compromise any City of Kelowna municipal infrastructure.
- 2) This rezoning application is linked to application LUC20-0002 for land use contract termination and therefore does not trigger any off-site improvements.



James Kay, P. Eng.
Development Engineering Manager

JKH



May 13, 2020

City of Kelowna
Urban Planning Department
1435 Water Street
Kelowna, BC
V1Y 1J4

Re: Land Use Contract Discharge/Rezoning Application at 1799 Highway 33 E.

Dear Planning Staff,

We are pleased to submit the following application for the property addressed 1799 Highway 33 E:

- Application to discharge Land Use Contract LUC76-1064 from the subject property.
- Rezoning application to rezone the property from the current A1 – Agriculture 1 zone to the proposed C10 – Service Commercial zone.

The site has been used as a commercial gas station as permitted under LUC76-1064. The above noted applications have been made after consultation with City Planning staff (Adam Cseke) to determine the most appropriate Commercial zone that can accommodate the existing uses on the property. Through these consultations, it has been determined that the applicable Commercial zone would be the C10 – Service Commercial zone, as the subject property is not located within an "Urban Centre."

The future land use for the property is currently designated as MRL – Multiple Unit Residential (Low Density). However, a substantial amount of clean up would be required to achieve this use. The landowners wish to continue with the gasbar/convenience store use. A survey showing the configuration of the gas pumps, concrete pad, and building accompanies this application.

This application will allow for a Land Use Contract to be discharged from the property and ultimately terminated, be consistent with Council direction to eliminate Land Use Contracts in the City of Kelowna in order to meet Provincial directives. Conventional appropriate zoning will enable current City bylaw regulations to be applied to the property and remove any uncertainty regarding how land uses are to be regulated.

We look forward to hearing your comments and feedback on this application package. Should you have any questions please call me at 250.575.6707.

Regards,

A handwritten signature in blue ink, appearing to read "Birte Decloux".

Birte Decloux behalf of PR Petroleum

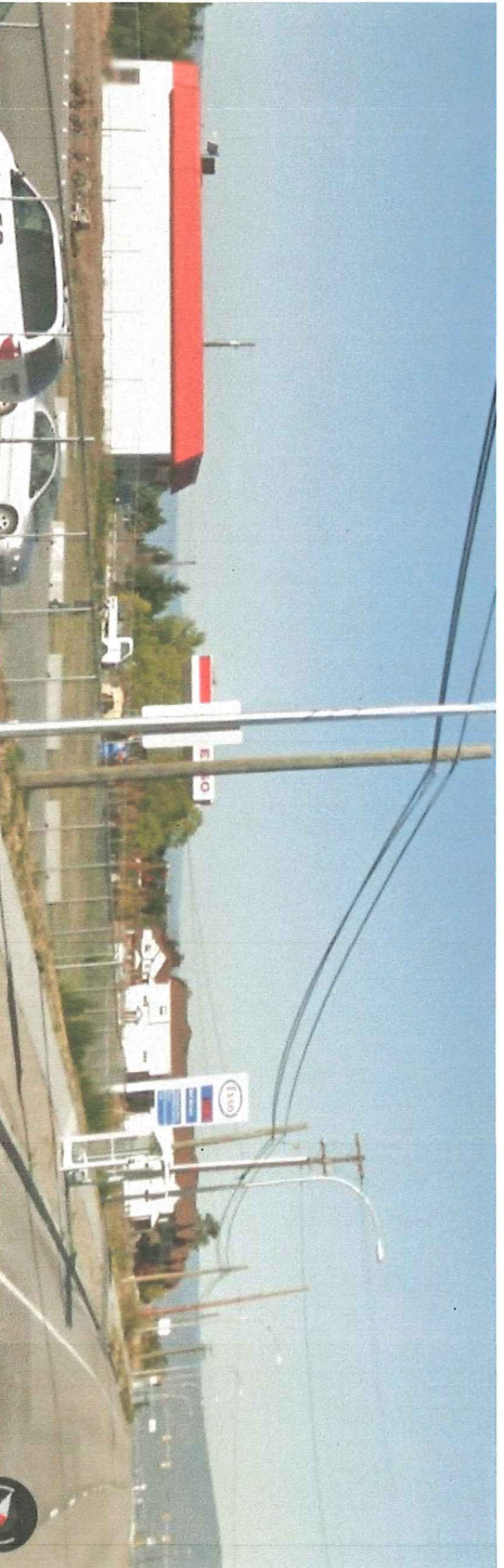
Zoning Analysis Table

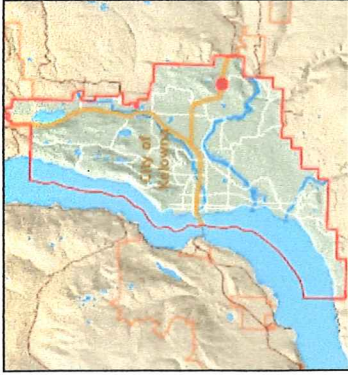
Address: 1799 Highway 33 E.

Zone: C10 – Service Commercial

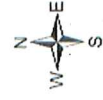
Development Regulations	ZBL Requirements	Current Configuration
Site Details:		
Site Area (m ²)	1200 m ² (Service Station)	3,197 m ²
Site Width	30.0 m	45.21 – 42.04 m
Site Depth	30.0 m	67.99 – 84.60 m
Site Coverage including pump islands	30%	~ 8%
Front yard setback	2.0 m	15.33 m (to gas bar)
Rear yard setback	0.0 m	20.30 m
Side yard setbacks	0.0 m or 4.5 m when adjacent to residential, agricultural, or institutional zone.	E: 3.04 m W: 26.78 m (building) 10.48 m (fuel pumps)

Site Photos





Legend:



Notes

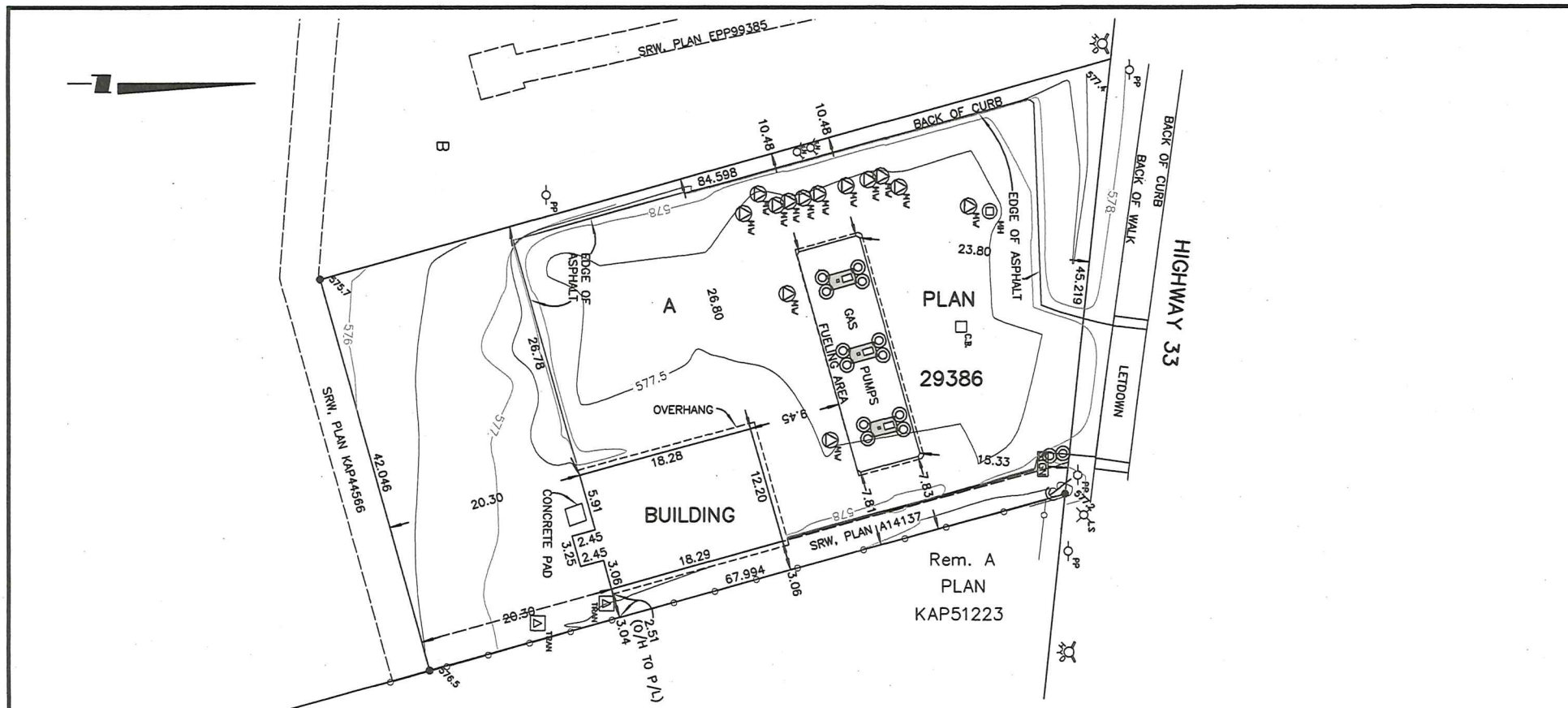
This map is for general information only. The City of Kelowna does not guarantee its accuracy, currency or completeness. All information should be verified.

50Meters

25

0

May 14, 2020



LEGAL DESCRIPTION: LOT A SECTION 18
TOWNSHIP 27 ODYD PLAN 29386

DRAWING TYPE: TOPOGRAPHIC SITE PLAN

CIVIC ADDRESS: 1799 HIGHWAY 33



B.C. LAND SURVEYORS
CANADA LANDS SURVEYORS
Subdivision Design
Legal, Topographic & GPS Surveys
404-1630 Pandosy St., Kelowna, B.C. V1Y 1P7
Telephone (250)763-3115 Fax (250)763-0321

LEGEND

- IRON PIN FOUND
- ⊙ BOLLARD
- ⊗ GAS VENT
- ⊗ FIRE HYDRANT
- OVERHANG
- FENCELINE
- ⊗ LS LAMP STANDARD
- ⊙ MH STORM MANHOLE
- ⊗ SIGN ROAD SIGN
- ⊗ TRAN TRANSFORMER
- ⌋ ANCHOR
- C.B. STORM CATCH BASIN
- ⊙ PP POWER POLE
- ⊗ MW MONITORING WELL
- ⊗ GAS PUMP (TYP.)

REVISION NO.	DESCRIPTION	BY	DATE REVISED

JOB NO. 22082

DATE: JANUARY 24, 2020

SCALE: 1:400 METRES

CLIENT: PR PETRO

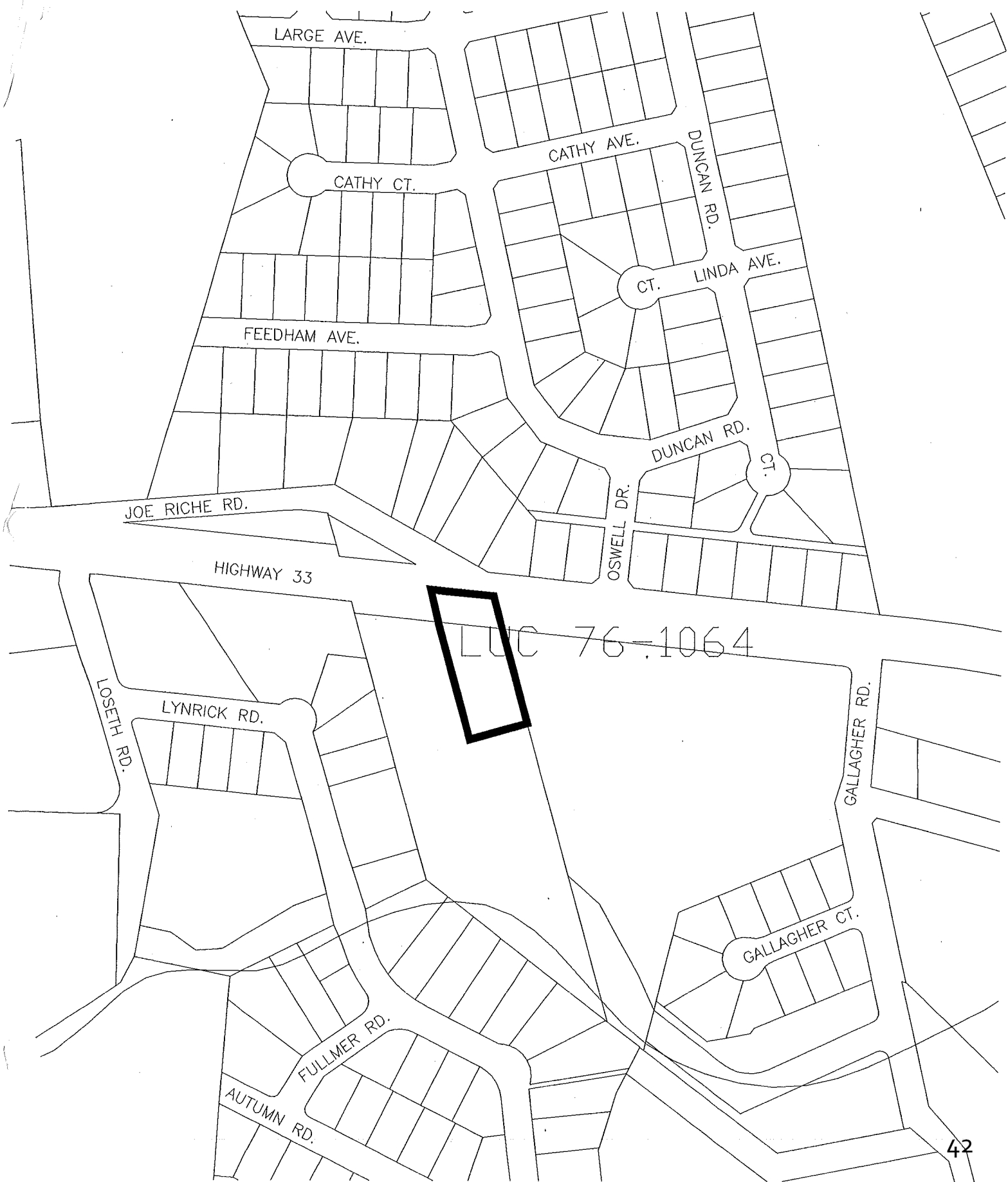
NOTES: ELEVATIONS ARE GEODETIC AND ARE DERIVED FROM RTK GPS.

CONTOURS ARE SET TO 0.5m INTERVALS.

FIELD CREW: JF/RC

DRAWN BY: FL

S:\Shared (Aug 10, 2006)\Job_Files\22082\22082-TOPO.DWG



LARGE AVE.

CATHY CT.

CATHY AVE.

DUNCAN RD.

CT.

LINDA AVE.

FEEDHAM AVE.

DUNCAN RD.

CT.

JOE RICHE RD.

OSWELL DR.

HIGHWAY 33

LUC 76-1064

LOSETH RD.

LYNRICK RD.

GALLAGHER RD.

GALLAGHER CT.

FULLMER RD.

AUTUMN RD.

Kid: 330542 Plan: 29386 Lot: A Block: _____
Address: HWY 33 E 1799 Add Date: _____
Land Stat: Active Reg Stat: Registered Archived Date: _____

Zoning-

Zoning: Land Use Contract: Future Land Use: Urban Area: No Aviation Zone: No
A-1 LUC 76-1064 SF/2F Residential

Development Permit Information-Current DP: No

Other DPA Considerations

Natural Feature: NoUrban Town Centre: NoIndustrial: NoResidential Urban Village: BLACK MOUNTAINCommercial: NoArterial: HIGHWAY 33Multi-Family: No**Natural Features-**Water:
noneLand:
none**DCC Sector Codes-**

Water:	Parks:	Sewer:	Roads:	Treatment:	Drainage:
none	<u>A</u>	<u>A</u>	<u>D</u>	<u>A</u>	<u>A</u>

Pre-1996 DCC Sector Codes-

Water:	Parks:	Sewer:	Roads:	Treatment:
none	<u>A</u>	<u>I</u>	<u>D</u>	<u>A</u>

Utility Boundaries-Water:
BMIDElectrical:
WKPL**Misc-**

Water Spec Area:	Sewer Spec Area:	Future Park: <u>No</u>	ALR: <u>No</u>
none	<u>6</u>		
		Park/Recreational: <u>No</u>	
Contaminated Area:	Heritage Designation:	Tree Soil Bylaw: <u>No</u>	
none	none		

Worksheet Number:

26-1327-18*wood stove
gas station*

Roll: 6884425 Status: Assessed Deleted: No
Plan: 29386 Lot: A Block:
Street Name: HWY 33 Dir: E Number:

Owners

Owner: A H E HLDG LTD
Address: 10916 5 AVE SW
EDMONTON AB
T6W 1A2

**** End of Report ****

BY-LAW NO. 4402

LAND USE CONTRACT
NO. 76-1064

NAME:

HAYMOOR, ~~HASSAN~~ ^{HIMBYR}

LOCATION:

HWY 33 E.

AMENDMENTS:

BY-LAW/DP/DVP NO.

DATE

LEGAL

COMMENTS

QUIT CLAIMS:

BY-LAW NO.

DATE

LEGAL

COMMENTS

COMMENTS

N 68 050

CITY OF KELOWNA

BY-LAW NO. 4402-77

(H. Himour, O. Haymour and M. Haymour Land Use Contract
Authorizing By-Law, Hwy. 33 E. of Loseth Rd., LUC76-1064)

WHEREAS Subsection (3) of Section 702A of the "Municipal Act", being Chapter 255 of the Revised Statutes of British Columbia, 1960, provides in part that the Council may, by by-law, notwithstanding any by-law of the municipality, or Section 712 or 713 of the "Municipal Act", enter into a Land Use Contract containing such terms and conditions for the use and development of the land as may be mutually agreed upon, and thereafter the use and development of the land shall, notwithstanding any by-law of the municipality, or Section 712 or 713 of the said Act, be in accordance with the land use contract;

AND WHEREAS the Municipal Council of the City of Kelowna, is desirous of entering into a Land Use Contract with Messrs. H. Himour, O. Haymour and M. Haymour;

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

1. The Municipal Council of the City of Kelowna hereby authorizes the City of Kelowna to enter into a Land Use Contract with Messrs. Hassen Himour, 880 Wayne Road, Kelowna, B.C.; Omar Haymour, 8315 - 137th Avenue, Edmonton, Alta. and Mike Haymour, 12312 - 135th Avenue, Edmonton, Alberta in the form of Land Use Contract attached hereto and forming part of this by-law.
2. His Worship the Mayor and the City Clerk are hereby authorized to sign the attached Land Use Contract, as well as any conveyances, deeds, receipts and other documents in connection with the attached Land Use Contract and affix the corporate seal of the City of Kelowna to same.

Read a first time by the Municipal Council this 13 day of April, 1978.

Considered at a Public Hearing on the 9th day of May, 1978.

Read a second time by the Municipal Council this 9th day of May, 1978.


Read a third time by the Municipal Council this 9th day of May, 1978.

Approved under the Controlled Access Highways Act this 4 day of August, 1978.

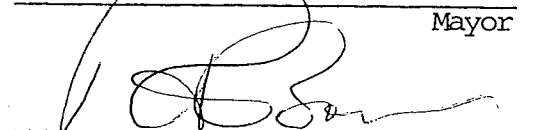
(Signed H.F. Blunden)
Approving Officer,
Ministry of Highways & Public Works.

By-Law 4402-77 - 2

Reconsidered, finally passed and adopted by a vote of two-thirds of the members of the Municipal Council of the City of Kelowna present this 22 day of August, 1978.



Mayor



City Clerk

LAND USE CONTRACT

THIS CONTRACT made the _____ day of _____, 197

BETWEEN:

CITY OF KELOWNA

a municipal corporation having
its offices at 1435 Water Street,
in the City of Kelowna,
Province of British Columbia
(hereinafter called the "Municipality")

OF THE FIRST PART

AND: ~~MARGARET CHAPEL McCLELLAND, Widow
of 1220 K.L.O. Road,
Kelowna, British Columbia~~

AND: HASSEN HIMOUR
880 Wayne Road
Kelowna, British Columbia

AND: OMAR HAYMOUR
8315 - 137th Avenue
Edmonton, Alberta

AND: MIKE HAYMOUR
12312 - 135th Avenue
Edmonton, Alberta

(hereinafter called the "Developer")

OF THE SECOND PART

WHEREAS the Municipality, pursuant to Section 702A of the Municipal Act, may, notwithstanding any By-Law of the Municipality, or Section 712 or 713 of the Municipal Act, enter into a land use contract containing such terms and conditions for the use and development of land as may be agreed upon with a Developer, and thereafter the use and development of the land shall be in accordance with the land use contract;

AND WHEREAS the Municipal Act requires that the Municipal Council consider the criteria set out in Section 702(2) and 702A(1) in arriving at the terms, conditions and consideration contained in a land use contract and the Council of the Municipality have considered such criteria in arriving at the terms and conditions herein contained;

AND WHEREAS the Developer has presented to the Municipality a scheme of use and development of the within described lands and premises that would be in contravention of the Zoning By-Law of the Municipality and has requested that the Council of the Municipality enter into this contract under the terms, conditions and for the consideration hereinafter set forth;

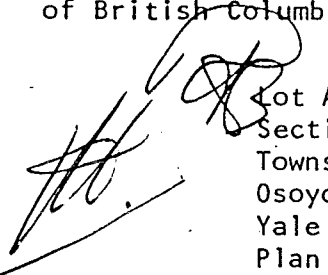
AND WHEREAS the Land is within an area of the Municipality designated as a development area pursuant to Section 702A(2) of the Municipal Act;

AND WHEREAS if the Land is within a radius of one-half mile of the intersection of a controlled access highway and another highway, the approval of the Minister of Highways to the terms hereof must be obtained;

AND WHEREAS the Municipality and the Developer both acknowledge that the Council of the Municipality cannot enter into this Contract, until the Council has held a public hearing in relation to this Contract, and considered any opinions expressed at such hearing, and unless two-thirds of the members of Council present at the meeting at which the By-Law to approve this Contract is adopted vote in favour of the Municipality entering into this Contract;

NOW THEREFORE THIS CONTRACT WITNESSETH that in consideration of the premises and the conditions and covenants hereinafter set forth, the Municipality and the Developer covenant and agree as follows:

OWNER 1. (a) The Developers, Hassen Himour, Omar Haymour and Mike Haymour, are the registered owners in fee simple of ALL AND SINGULAR that certain parcel or tract of Land and premises situate, lying and being in the City of Kelowna, in the Province of British Columbia and being more particularly known and described as:


Lot A
Section 18
Township 27
Osoyoos Division
Yale District
Plan 29386

 (herein called the "Land")

CONSENTS

2. The Developer has obtained the consent of all persons having a registered interest in the Land as set out in the Schedule prefacing the consents to the use and development set forth herein which consents are attached hereto.

DEVELOPMENT

3. The provisions of the C-1a (Rural Local Commercial) zone of City of Kelowna Zoning By-Law 1976, No. 4500 shall apply to the Land and those provisions as amended or replaced from time to time both before and after the date of this Agreement are hereby incorporated into and form a part of this Agreement and any development upon or use of the Land shall be in strict compliance with those provisions and regulations save and except where expressly added to or varied by the terms of this Agreement.

3. (a) The Lands shall not be used for the purpose of a Neighbourhood Public House as defined in Part 1 of Zoning By-Law, 1976, No. 4500.

SITING

4. All buildings and structures, off-street parking facilities, landscaping, signs and points of ingress and egress to and from the Land shall be constructed, placed and developed strictly in accordance with the site plan annexed hereto as Schedule "B".

DESIGN

5. All buildings shall be of a size and shape and all off-street parking spaces shall be provided in the number as shown on Schedule "B". All buildings, structures and signs shall be constructed of an appearance and with surface treatment as more particularly shown on Schedule "B".

SUBDIVISION

6. The Developers shall, by Plan of Subdivision registered in the Land Registry Office at the City of Kamloops prior to the issuance of any building permits for new construction upon the Land, subdivide the Land in accordance with the plan attached hereto as Schedule "A".

SETBACK

7. Any future constructed buildings or structures upon the Land shall be situated at least fifty feet (50') back from the front property line, as the front property line abuts Highway #33.

LANDSCAPING

8. (a) The Developer shall landscape the Land according to the general plans and descriptions as more particularly set out in Schedule "C" attached hereto.

8. (b) In order to ensure the provision of landscaping upon the Land, as more particularly set out in paragraph (a) of this paragraph the Developer shall deliver to the Municipality an Irrevocable Letter of Credit in the form attached hereto as Schedule "D". The condition of deposit of the Letter of Credit is that should the Developer fail to landscape the Land in accordance with the provisions of Schedule "C" to the satisfaction of the Director of Planning Services of the Municipality on or before the 1st day of May 1979, the Municipality, by its servants or agents or contractors, may carry out the work according to the provisions of Schedule "D" and may draw down on the said Letter of Credit sufficient funds to pay the costs thereof. Should there be insufficient funds deposited with the Municipality through the Irrevocable Letter of Credit to carry out such work, the Developer shall pay the balance thereof within thirty (30) days of invoice by the Municipality. Should the Municipality draw down more money than is required then the balance shall be returned to the Developer but without interest thereon. Should the Developer perform the construction and provision of landscaping as herein required before the date provided herein the Letter of Credit shall be returned to the Developer. The Letter of Credit shall be in the amount of Six Thousand (\$6,000.00) Dollars.

DOMESTIC
WATER

9. The Developer shall connect any water system on the Land to the Black Mountain Irrigation District Water System according to the terms and conditions and plans and specifications first approved by the Black Mountain Irrigation District and the Director of Engineering of the Municipality.

FIRE
PROTECTION

10. The Developer shall, at the sole cost of the Developer, provide a fire hydrant to the satisfaction of the Director of Engineering of the Municipality, the Fire Chief of the Municipality and School District No. 23.

SEWAGE
DISPOSAL

11. The Developer shall dispose of all sewage effluent created upon the Land in a manner approved by and to the satisfaction of the Medical Health Officer.

STORM
DRAINAGE

12. The Developer shall contain and dispose of storm drainage within the boundaries of the Land and shall provide adequate drainage facilities to plans and specifications first approved by the Director of Engineering and constructed to the satisfaction of the Director of Engineering of the Municipality.

ELECTRICAL
() TELEPHONE

13. The Developer shall deliver all electrical and telephone services to the buildings and structures upon the Land by means of underground transmission facilities. If required by the supplying utility the Developer shall, subject to the statutory approvals required, provide rights-of-way for the installation of electrical and telephone facilities upon the Land.

TERMINATION

14. On or after (10) years from the date of this contract the Municipality may, by resolution, in its sole discretion, unilaterally terminate all or any part of this Contract provided always that:

- (a) the Municipality before adopting any such resolution shall hold a public hearing thereon in the manner provided for in Section 703 of the Municipal Act, R.S.B.C. 1960 Chapter 255 and amendments thereto;
- (b) any such resolution shall be registered in the Land Registry Office at the City of Kamloops in the same manner as this Contract.

INCORPORATIONS

15. The Schedules attached hereto hereinbefore referred to are hereby incorporated into and made a part of this Contract.

COSTS

16. The Developer shall pay to the Municipality on invoice by the Municipality, all legal, surveying and advertising costs incurred by the Municipality in the preparation and registration of this Contract.

COMPLIANCE

17. Except for the matters otherwise specifically provided for herein the Developer shall comply with all of the By-Laws of the Municipality as the same apply to the Land.

REPRESENTATIONS

18. It is understood and agreed that the Municipality has made no representations, covenants, warranties, guarantees, promises or agreements (verbal or otherwise) with the Developer other than those set out in this Contract.

REGISTRATION

19. This Contract shall be construed as running with the Land and shall be registered in the Land Registry Office by the Municipality pursuant to the provisions of Section 702A(4) of the Municipal Act.

INTERPRETA-
TION

20. Wherever the singular or masculine is used herein, the same shall be construed as meaning the plural; feminine or body corporate or politic where the context or the parties so require.

BINDING

21. This Contract shall enure to the benefit of and be binding upon the parties hereto and their respective successors and assigns.

A public hearing on this Contract was held on the *9th* day of *May*, 1978

This Contract was adopted by an affirmative vote of at least two-thirds of the members of the Council of the Municipality present at the meeting at which the By-Law to authorize this Contract was adopted by the Council of the Municipality on the *22* day of *August*, 1978

IN WITNESS WHEREOF the said parties to this Contract have hereunto set their hands and seals the day and year first above written.

THE CORPORATE SEAL OF THE)
CITY OF KELOWNA was here-)
unto affixed in the)
presence of:)

(Seal)

John A. ...
Mayor
City Clerk

SIGNED, SEALED AND DELIVERED)
by the Developer in the)
presence of:)

Name: I. S. Kavinshet

Address: 301-10408-128 St.

City: *Edmonton, Alberta*

Occupation: *Domestic & Scientist*

THE CORPORATE SEAL OF

was hereunto affixed in
the presence of:

Mike Hamour

Omar Haywood

H. H. Hiss

R. J. PUSHOR
427 HIGHWAY 33 WEST
KELOWNA, B.C.
BARRISTER & SOLICITOR

KELOWNA, B.C.
BARRISTER & SOLICITOR
signature of Gordon Kimour

(Seal)

Acknowledgment of Maker

I HEREBY CERTIFY that, on the

23

day of

March

, 19 78 , at

Kelowna, in the Province of British Columbia

Nansen Hemour

Oath of

before me and acknowledged to me that ~~he is~~ the person mentioned in the annexed instrument as the maker thereof, and whose name ~~is~~ subscribed thereto as party that ~~he~~ knows the contents thereof, and that ~~he~~ executed the same voluntarily, and ~~is~~ of the full age of nineteen years.

(whose identity has been proved by the evidence on

), who is personally known to me, appeared

mentioned in the annexed instrument as the

that ~~he~~ knows the contents

of the full age of nineteen years.

IN TESTIMONY whereof I have hereunto set my Hand and Seal of Office,
at Kelowna in the Province of
British Columbia, this 23 day of March 1978.

A Notary Public in and for the Province of British Columbia.
A Commissioner for taking Affidavits for British Columbia.

NOTE.—Where the person making the acknowledgement is personally known to the officer taking the same, strike out the words in brackets.

PARKS
Form 208

Acknowledgment of Maker

I HEREBY CERTIFY that, on the

28th

day of

March

, 19 78 , at

EDMONTON, in the Province of British Columbia ALBERTA

DANIEL HAYMOUR & MIKE HAYMOUR (whose identity has been proved by the evidence on
oath of
before me and acknowledged to me that ~~they are~~ the person ~~s~~ mentioned in the annexed instrument as the
maker " thereof, and whose name ~~is~~ subscribed thereto as parties that ~~they~~ know the contents
thereof, and that ~~they~~ executed the same voluntarily, and ~~are~~ of the full age of nineteen years.

IN TESTIMONY whereof I have hereunto set my Hand and Seal of Office,
at EDMONTON in the Province of
British Columbia, this 28 day of March 1978.
ALBERTA

A Notary Public in and for the Province of British Columbia. ALBERTA
A Commissioner for taking Affidavits for British Columbia

NOTE.—Where the person making the acknowledgement is personally known to the officer taking the same, strike out the words in brackets.

LAND USE CONTRACT

Schedule of Persons Having a Registered Interest In the Land Whose Consents Are Required

Full Name

Address

Occupation

Nature of Charge

NIL

NAME OF CHARTERED BANK GRANTING LETTER OF CREDIT

TO: CITY OF KELOWNA
Kelowna, B.C.

Dear Sirs:

Irrevocable Commercial Letter of Credit
Number _____

At the request of _____, we hereby authorize you to
draw on _____

for account of _____ up to an
aggregate amount of SIX THOUSAND DOLLARS (\$6,000.00) available by drafts at
sight for one hundred percent (100%) of value;

Covering the construction and provision of landscaping as set out in
Sections 8 and 8(a) _____ of a Land Use Contract between the City of
Kelowna and _____, dated the _____ day of _____, 1977.

1. Drawings are to be made in writing to the _____
(Name of Bank)

(Address)

2. Partial drawings may be made.

3. The Bank will not inquire as to whether or not the City of Kelowna has a right
to make demand on the Letter of Credit.

4. This Letter of Credit is irrevocable up to the expiry date.

Drafts must be drawn and negotiated not later than the _____ day of _____ 197

The drafts drawn under this Credit are to be endorsed hereon and shall state on their
face that they are drawn under the _____

(Name and Address of Bank)

Letter of Credit No. _____

Yours truly,

Letters of Credit Officer

Letters of Credit Manager

PART 1 CONFIRMATION OF TERM DEPOSIT

CANADIAN IMPERIAL
BANK OF COMMERCE

Rutland, Kelowna, B. C.

No. 5639580

June 6, 1978

We confirm receipt of the following deposit at this branch upon the terms and conditions set out below

PRINCIPAL AMOUNT OF DEPOSIT	MATURITY DATE	NUMBER OF DAYS YEARS	INTEREST RATE PER ANNUM TO BUT NOT AFTER MATURITY	INTEREST PAYABLE	<input type="checkbox"/> PERSONAL
\$6,000.00	June 6/79	1year	8 1/4%	<input checked="" type="checkbox"/> WHEN WITHDRAWN <input type="checkbox"/> APR 30 & OCT 31 <input type="checkbox"/> MONTHLY	<input checked="" type="checkbox"/> NON PERSONAL
MAIL TO ▶	NAME			SOURCE OF DEPOSIT	
	City of Kelowna			<input type="checkbox"/> DEBIT _____ ACCOUNT	
	STREET			<input type="checkbox"/> CHEQUE / CASH	
	1420 Water St.,			INTEREST AND PRINCIPAL WILL BE PAID BY	
	CITY & PROV.			<input type="checkbox"/> CREDIT TO _____ ACCOUNT	
	Kelowna, B. C.			<input type="checkbox"/> OUR CHEQUE IN YOUR FAVOUR	
	Re: Hassen Himour/Black Knight Market			ACCOUNT NUMBER	
				N/A	

All but not part of the principal amount may be withdrawn prior to the maturity date, in which event interest will be calculated from the date hereof to date of withdrawal in accordance with the following table instead of at the rate specified above, and if the interest so payable is less than the total interest paid before date of withdrawal, the difference shall be refunded to the Bank. The Bank reserves the right to require 10 days' written notice of any such withdrawal.

IF REDEEMED WITHIN	LESS THAN 30 DAYS	30 TO 59 DAYS	60 TO 89 DAYS	90 TO 179 DAYS	180 TO 269 DAYS	270 DAYS TO 1 YEAR	OVER 1 TO 2 YEARS	OVER 2 TO 3 YEARS	OVER 3 TO 4 YEARS	OVER 4 TO 5 YEARS	OVER 5 TO 6 YEARS
INTEREST RATE PAYABLE IF REDEEMED BEFORE MATURITY	NO INTEREST PAYABLE	6 3/4 %	7 %	7 1/4 %	7 1/2 %	7 1/2 %	%	%	%	%	%

If not withdrawn on maturity date, the principal amount will remain on deposit for 30 days thereafter with interest at a rate to be advised by the Bank in a Confirmation of Term Deposit issued in replacement hereof.

[Signature]
ACCOUNTANT

NOT NEGOTIABLE

[Signature]
MANAGER



Z20-0043

OCP20-0012

LUC20-0002

1799 Hwy 33 e

Rezoning, OCP Amendment, & LUC Discharge Applications

Proposal

- ▶ To consider an application for Land Use Contract discharge, an application to amend the Official Community Plan from the MRL – Multiple Unit Residential (Low Density) designation to the SC – Service Commercial designation and a rezoning application from the A1 – Agriculture zone and to the C10 – Service Commercial zone.

Development Process

May 14, 2020

Development Application Submitted

Staff Review & Circulation

June 5, 2020

Public Notification Received

June 22, 2020

Initial Consideration

Public, Hearing,
Second & Third Readings

Final Reading

Building Permit

Council
Approvals

Joe Riche Rd

Hwy 33 E

Oswell

Black Mountain

Lasher Rd

Loseith Rd




Lynrick Rd

1799

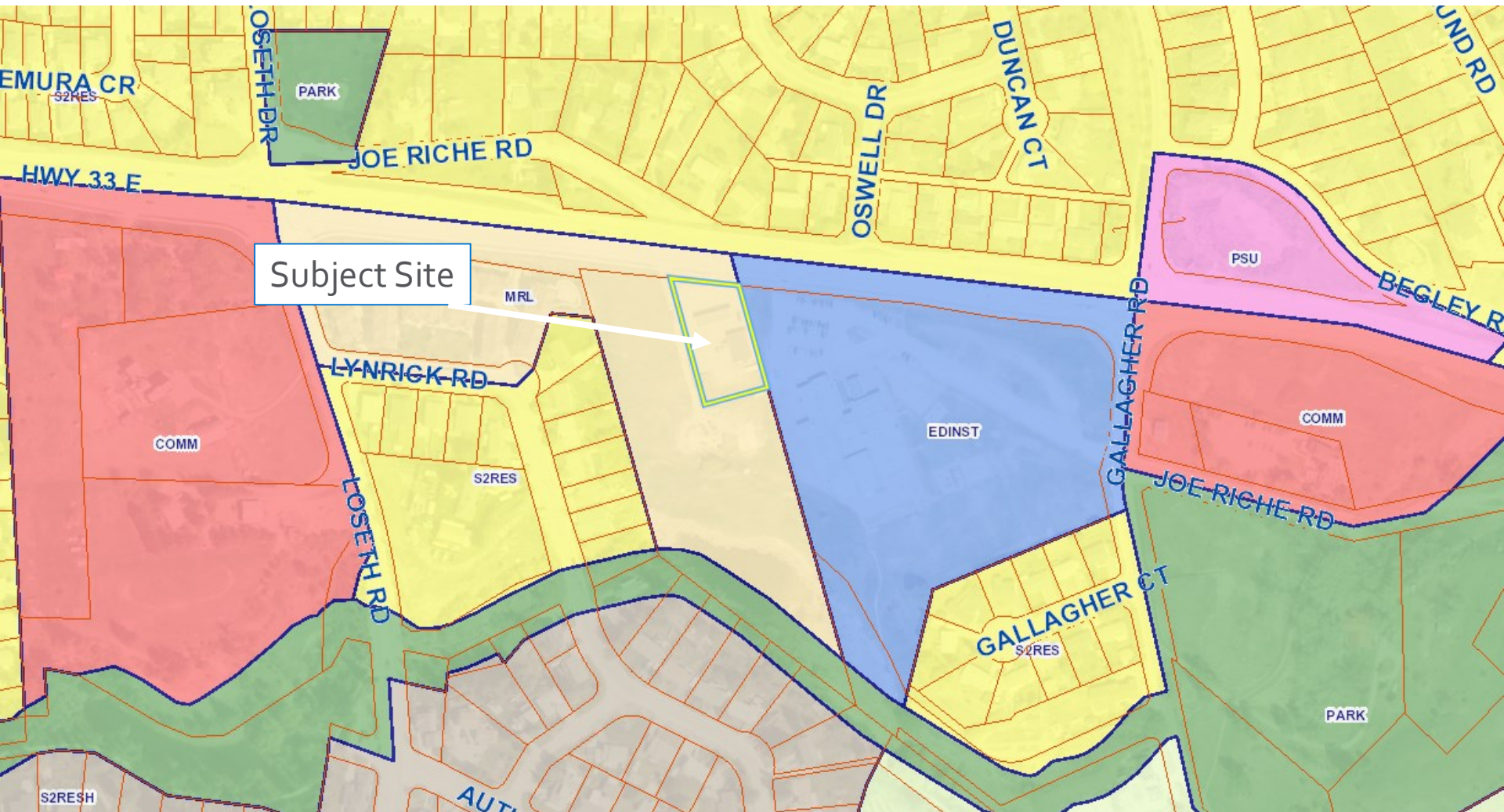
Walk Score
0
Car-Dependent
Almost all errands require a car.

Transit Score
21
Minimal Transit
It is possible to get on a bus.

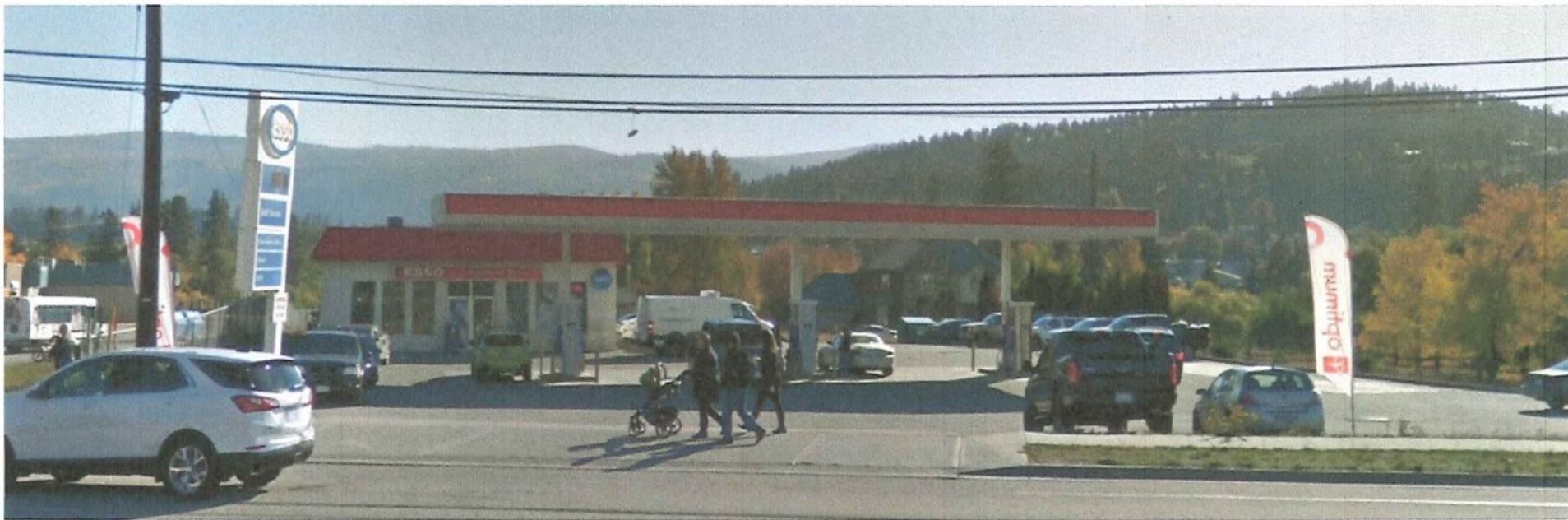
Somewhat Bikeable

-  **Walk Score**
0
Car-Dependent
Almost all errands require a car.
-  **Transit Score**
21
Minimal Transit
It is possible to get on a bus.
-  **Bike Score**
49
Somewhat Bikeable
Minimal bike infrastructure.

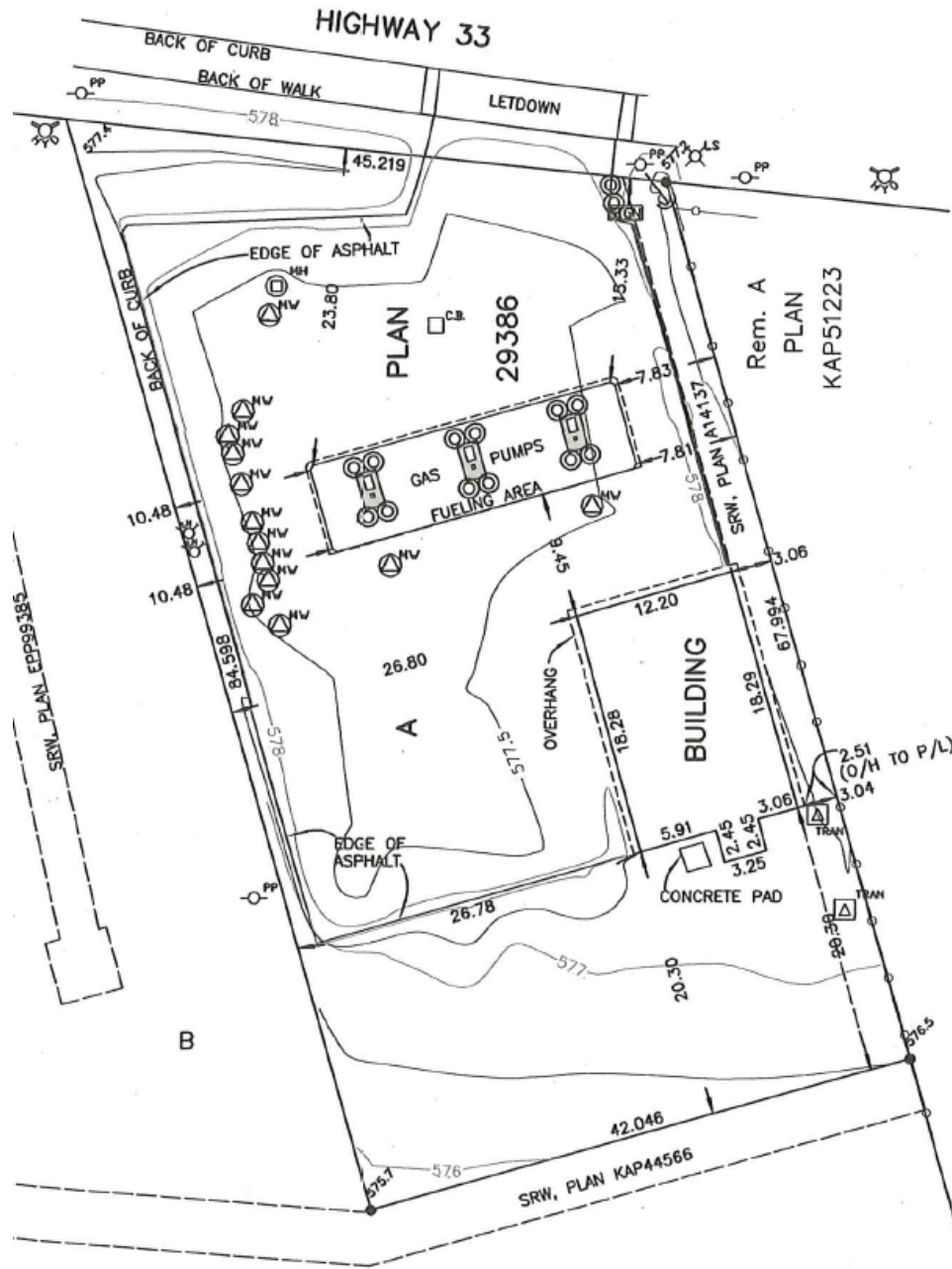
Future Land Use Designations



Site Photos



Current Site Plan



Staff Recommendation

- ▶ Staff recommend **support** of the proposed Rezoning, Official Community Plan (OCP) amendment, and Land Use Contract Discharge application, and
 - ▶ New Regulations congruent with existing Land Uses
 - ▶ Application consistent with Council's Land Use Contract Elimination Strategy
- ▶ Recommend the Public Hearing be waived for the Rezoning, Official Community Plan (OCP) amendment, and Land Use Contract Discharge Bylaws.



Conclusion of Staff Remarks

CITY OF KELOWNA

BYLAW NO. 12058

Discharge of Land Use Contract

LUC76-1064 - (N68050)

1799 Hwy 33 East

WHEREAS a land use (the "Land Use Contract") is registered at the Kamloops Land Title Office under number N68050 against lands in the City of Kelowna particularly known and described as Lots A, Section 18, Township 27, ODYD, Plan 29386 (the "Lands"), located on Hwy 33 East, Kelowna, BC;

WHEREAS Section 546 of the *Local Government Act* provides that a land use contract that is registered in a Land Title Office may be discharged in the manner specified in the Land Use Contract, by bylaw following a public hearing on the proposed bylaw;

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

1. This Bylaw may be cited for all purposes as "Land Use Contract LUC76-1064 Discharge Bylaw".
2. The Land Use Contract is hereby cancelled and of no further force and effect and the City of Kelowna is hereby authorized and empowered to apply for the discharge of the Land Use Contract from the Lands.

Read a first time by the Municipal Council this 22nd day of June, 2020.

Considered at a Public Hearing on the

Read a second and third time by the Municipal Council this

Approved under the Transportation Act this

(Approving Officer – Ministry of Transportation)

Amended and adopted by the Municipal Council of the City of Kelowna this

Mayor

City Clerk

CITY OF KELOWNA

BYLAW NO. 12059

Official Community Plan Amendment No. OCP20-0012 1799 Hwy 33 East

A bylaw to amend the "*Kelowna 2030* – Official Community Plan Bylaw No. 10500".

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

1. THAT Map 4.1 - **GENERALIZED FUTURE LAND USE** of "*Kelowna 2030* – Official Community Plan Bylaw No. 10500" be amended by changing the Generalized Future Land Use designation of Lot A, Section 18, Township 23, ODYD, Plan 29386 located on Hwy 33 East, Kelowna, BC, from MRL – Multiple Unit Residential (Low Density) designation to SC – Service Commercial designation.
2. This bylaw shall come into full force and effect and is binding on all persons as and from the date of adoption.

Read a first time by the Municipal Council this 22nd day of June, 2020.

Considered at a Public Hearing on the

Read a second and third time by the Municipal Council this

Adopted by the Municipal Council of the City of Kelowna this

Mayor

City Clerk

CITY OF KELOWNA

BYLAW NO. 12060

Z20-0043 – 1799 Hwy 33 East

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

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

1. THAT City of Kelowna Zoning Bylaw No. 8000 be amended by changing the zoning classification of Lot A, Section 18, Township 27, ODYD Plan 29386 located on Hwy 33 East, Kelowna, BC from the A1 – Agriculture 1 zone to the C10 – Service Commercial zone;
2. This bylaw shall come into full force and effect and is binding on all persons as and from the date of adoption.

Read a first time by the Municipal Council this 22nd day of June, 2020.

Considered at a Public Hearing on the

Read a second and third time by the Municipal Council this

Approved under the Transportation Act this

(Approving Officer – Ministry of Transportation)

Adopted by the Municipal Council of the City of Kelowna this

Mayor

City Clerk

REPORT TO COUNCIL



Date: June 15, 2020

To: Council

From: City Manager

Department: Development Planning

Application: Z19-0116

Owner: Raul Holdings Inc., Inc. No.
BCog68428

Address: 1990 Landsdowne Place

Applicant: Gerald Bugera

Subject: Rezoning Application

Existing OCP Designation: SC – Service Commercial

Existing Zone: C10 – Service Commercial

Proposed Zone: C10rcs – Service Commercial (Retail Cannabis Sales)

1.0 Recommendation

THAT Rezoning Application No. Z19-0116 to amend the City of Kelowna Zoning Bylaw No. 8000 by changing the zoning classification of Lot A Section 35 Township 26 ODYD Plan 19674 Except Plans 23587 and EPP53538, located at 1990 Landsdowne Pl, Kelowna, BC from the C10 – Service Commercial zone to the C10rcs – Service Commercial (Retail Cannabis Sales) zone be considered by Council;

AND THAT the Rezoning Bylaw be forwarded to a Public Hearing for further consideration;

AND FURTHER THAT if the Rezoning Bylaw is adopted, Council direct Staff to send a recommendation to the Provincial Liquor and Cannabis Regulation Branch that they support issuance of a non-medical cannabis retail store license for this legal lot with the following comments:

- The proposed store location meets local government bylaw requirements and as such, no negative impact is anticipated;
- The views of the residents were captured during a public hearing process for the rezoning of the property and Council meeting minutes summarizing those views are attached; and
- Local government recommends that the application be approved because of the compliance with local regulations and policies.

AND THAT final adoption of the Rezoning Bylaw be considered subsequent to the approval of the Ministry of Transportation and Infrastructure.

2.0 Purpose

To consider an application to rezone the subject property from the C1o – Service Commercial zone to the C1orcs – Service Commercial (Retail Cannabis Sales) zone to facilitate a retail cannabis sales establishment.

3.0 Development Planning

Development Planning Staff are recommending support for the proposed rezoning to the C1orcs – Service Commercial (Retail Cannabis Sales) to allow a retail cannabis sales establishment on the subject property as it is consistent with the Official Community Plan (OCP) Future Land Use Designation of SC- Service Commercial.

Should Council adopt the proposed Rezoning Bylaw, the property would be rezoned to a Retail Cannabis Sales subzone. Staff would send a recommendation to the British Columbia Liquor and Cannabis Regulation Branch indicating support for issuance of a non-medical cannabis retail store license for this property.

The proposed rezoning meets the regulations for Retail Cannabis Sales Establishments in Zoning Bylaw No. 8000 and there are no variances being requested.

4.0 Proposal

4.1 Project Description

A Retail Cannabis Sales Establishment is proposed in an existing ground-floor commercial retail unit on the subject property.

Subject Property Map: 1990 Landsdowne Pl



4.2 Site Context

The subject property is located on the east side of Highway 97 North and just south of the Sexsmith road, Hwy 97 N and Old Vernon Road intersection. There is one existing commercial building located on site containing 4 separate existing commercial retail units (CRU's). The site is located in the Rutland City Sector and has a future Land Use designation of SC- Service Commercial. The surrounding Future Land Use designations include SC – Service Commercial and REP – Resource Protection Area on the east side of the highway corridor and IND – Industrial and PARK – Major Park / Open Space located on the west side of Hwy 97 N. The nearest approved retail cannabis sales establishment is located at 1675-1677 Commerce Avenue which is in excess of 2km from the subject property.

Specifically, adjacent land uses are as follows:

Orientation	Zoning	Land Use
North	A1 – Agriculture 1	Mill Creek Linear Park
East	C10 – Service Commercial	Commercial Plaza
South	A1 – Agriculture 1	Active farming
West	LUC77-1040 / Underlying zone of A1 – Agriculture 1	Commercial plaza with Gas Bar

5.0 **Application Chronology**

Date of Application Received: September 18, 2019

Date Public Consultation Completed: November 21, 2019

Report prepared by: Andrew Ferguson, Planner II

Reviewed by: James Moore, Urban Planning & Development Policy Manager

Approved for Inclusion: Terry Barton, Development Planning Department Manager

Attachments:

Attachment A: Floor and Site Plans

ATTACHMENT

A

This forms part of application

Z19-0116

Planner

Initials

AF

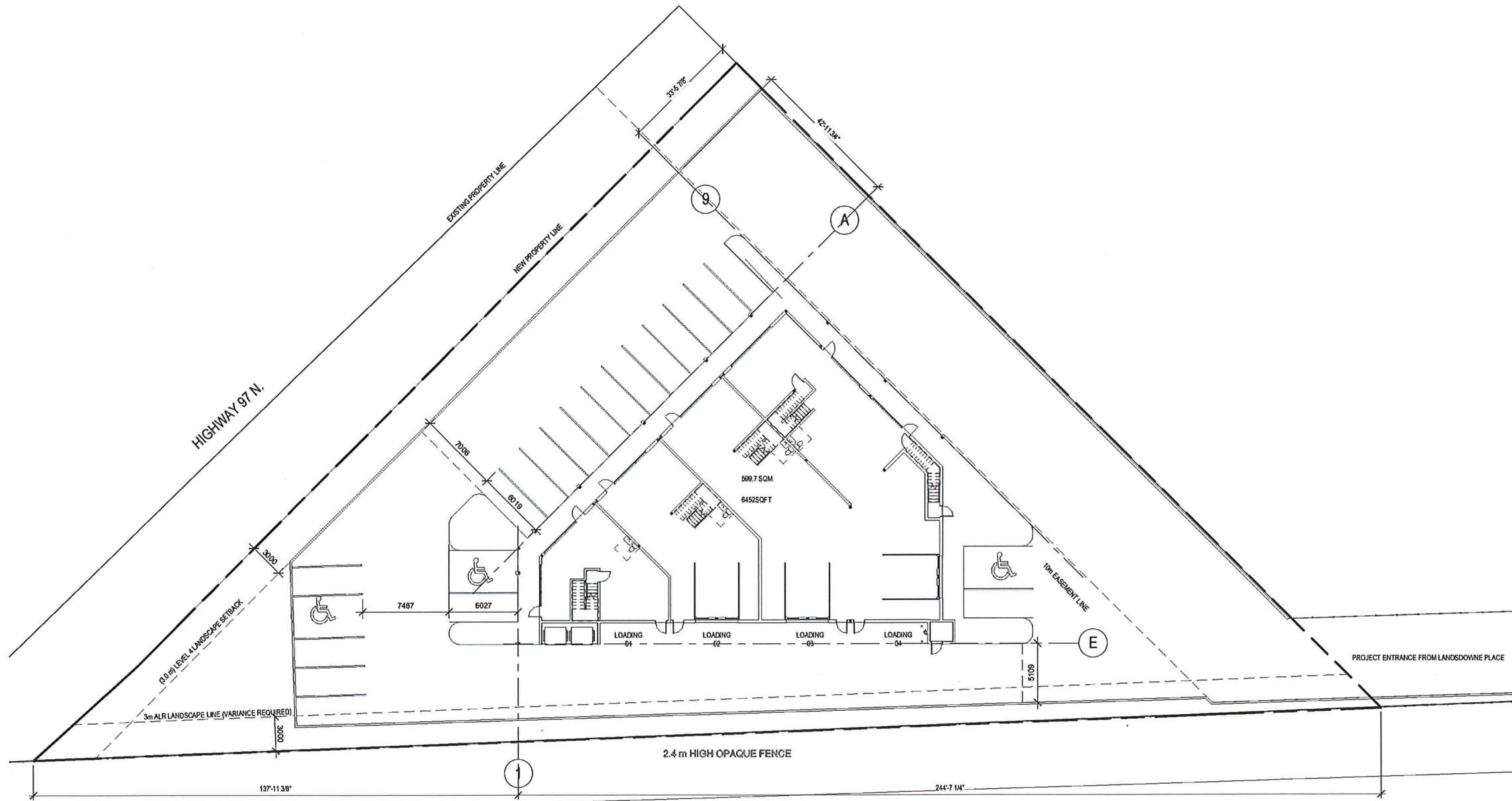
City of

Kelowna

DEVELOPMENT PLANNING

Notes:
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All drawings shall be read in conjunction with specifications and
consultant details.
All work shall be carried out in accordance with Canadian
standards, specifications, B.C. Building Code (Current Edition)
and local authority by-laws and regulations.
Tabulated scales refer to Arch D size drawings sheet.
This drawing must not be scaled.
Contractors shall verify all dimensions prior to commencement of
work.
Any omissions or discrepancies shall be referred to the designer.
Seal

- This document is:
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 - ☐ A partial revision. Remove previous issues of corresponding sheets / pages from use.
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2 2016-10-25 ISSUED FOR CONSTRUCTION
1 2015-11-12 ISSUED FOR DP



101 - 1865 DILWORTH DR. SUITE 520
KELOWNA BC V1Y 9T1

PM
PATRICK McCUSKER
ARCHITECTURE INC.
AAA MAIBC MRAIC
3430 BENOUILIN ROAD
KELOWNA BC V1W 4M5
Phone: 778-484-0223
pml@pmccarch.com

Project Title
RAUL HOLDINGS INC.
COMMERCIAL

1990 LANDSDOWNE PLACE
Project no. 1301

Drawing Title
SITE PLAN

designed	PS	scale	1/16" = 1'-0"
drawn	JGW		
checked	PS		
drawing no.			

A1.00

plotted 2016-10-05 10:39:36 AM

Notes:

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All drawings shall be read in conjunction with specifications and consultant details.

All work shall be carried out in accordance with Canadian standards, specifications, B.C. Building Code (Current Edition) and local authority by-laws and regulations.

Tabulated scales refer to Arch D size drawings sheet.

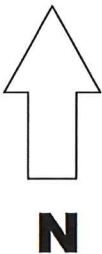
This drawing must not be scaled.

Contractors shall verify all dimensions prior to commencement of work.

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Seal

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 - ☐ A partial revision. Remove previous issues of corresponding sheets / pages from use.
 - ☐ Not for Construction.



2	2016-10-25	ISSUED FOR CONSTRUCTION
1	2016-11-12	ISSUED FOR OP

NOVATION
DESIGN STUDIO

101 - 1865 DILWORTH DR. SUITE 520
KELOWNA BC V1Y 9T1

PM
PATRICK McCUSKER
ARCHITECTURE INC.

AAA MAIBC MRAIC
3430 BENOULIN ROAD
KELOWNA BC V1W 4M5
Phone: 778-484-0223
p@pmccarch.com

project title
RAUL HOLDINGS INC.
COMMERCIAL

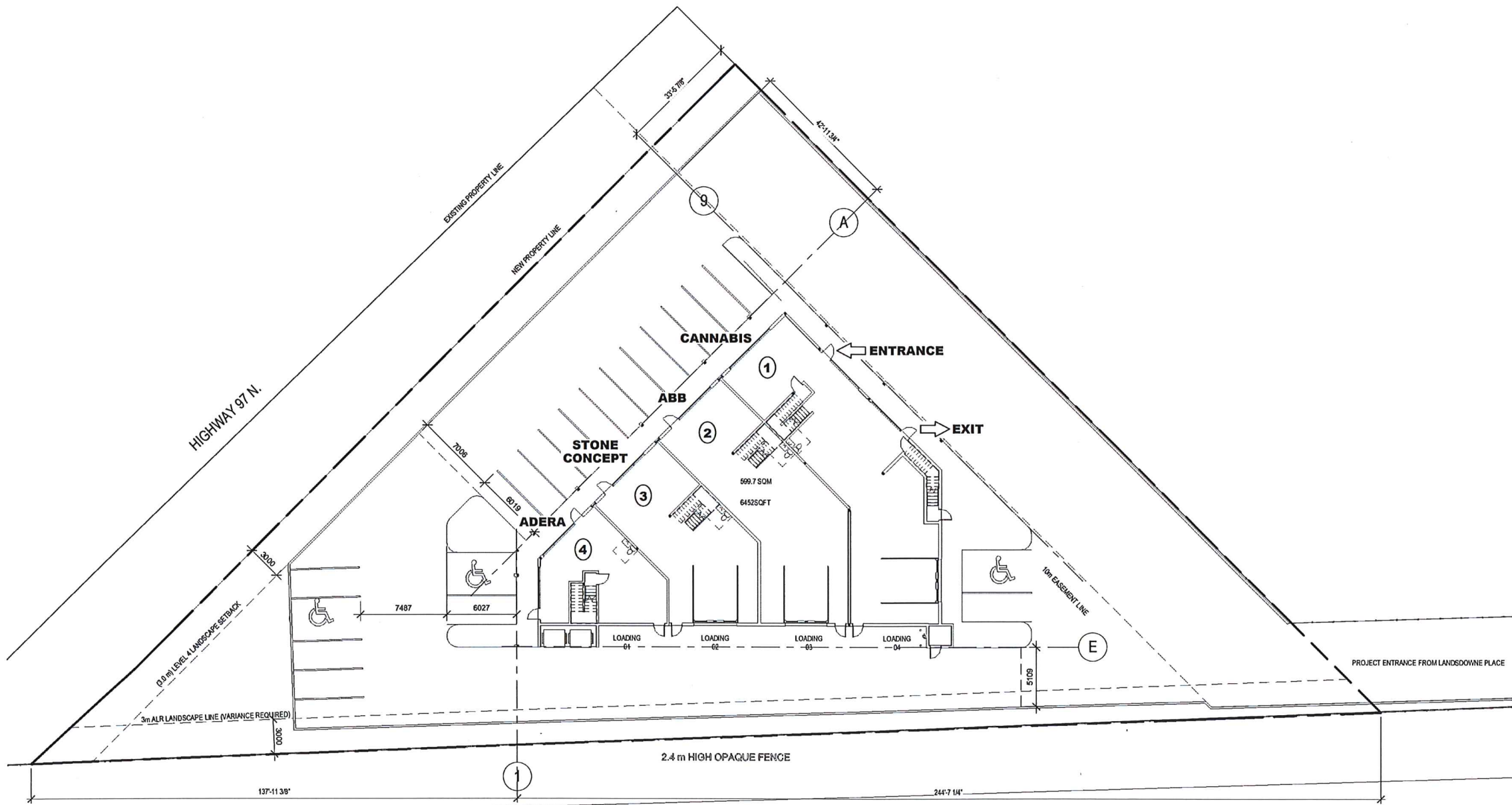
1990 LANDSDOWN PLACE
project no. 1301

drawing title
SITE PLAN

designed	PS	scale	1/16" = 1'-0"
drawn	JGW		
checked	PS		
drawing no.			

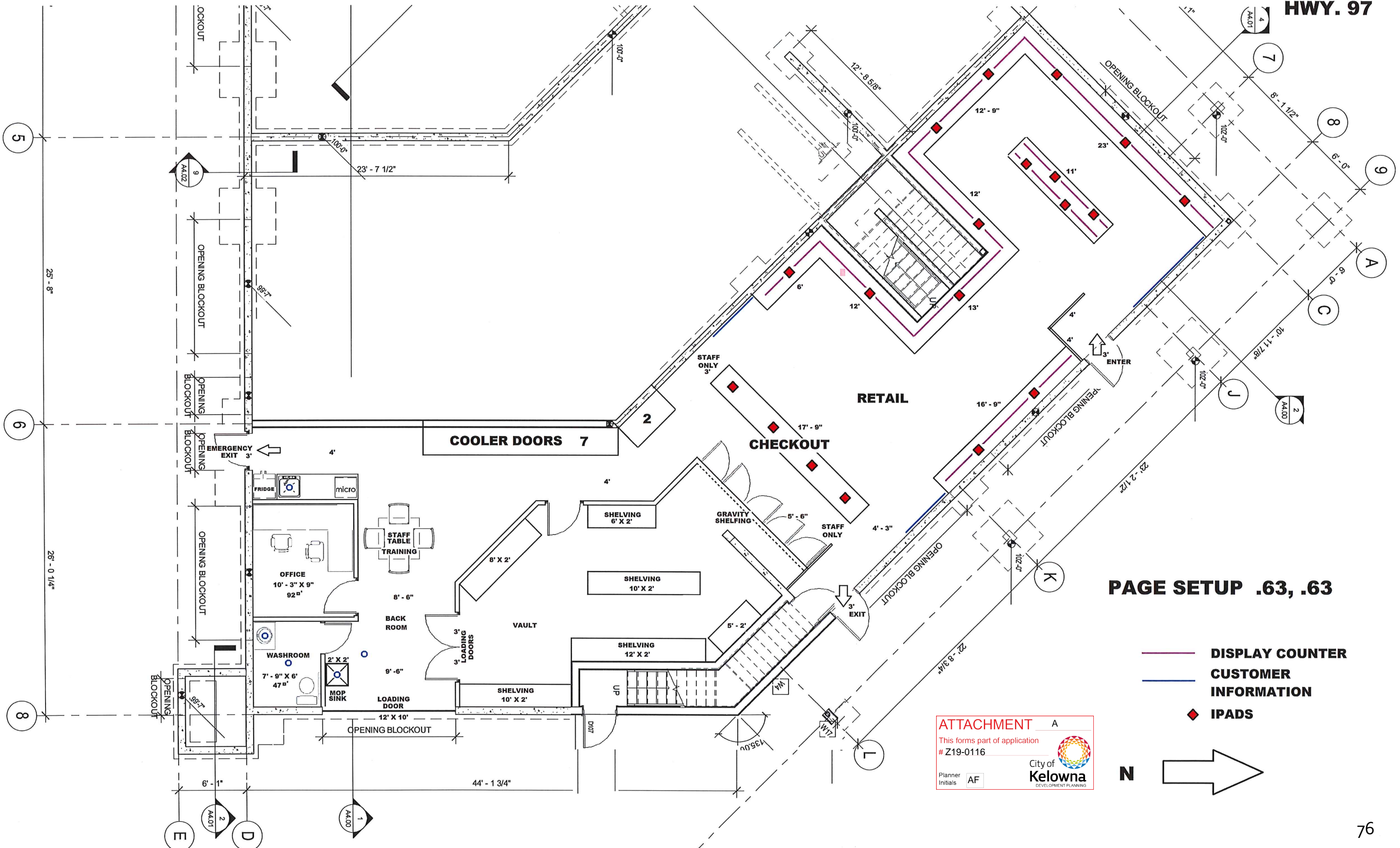
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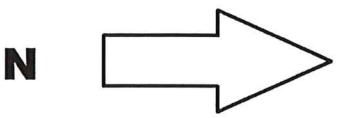
1 SITE PLAN
A1.00 1/16" = 1'-0"

UPSTAIRS 1800 SQUARE FEET, NOT TO BE USED FOR CANNABIS



PAGE SETUP .63, .63

- DISPLAY COUNTER
- CUSTOMER INFORMATION
- ◆ IPADS



ATTACHMENT A
This forms part of application
Z19-0116
Planner Initials AF
City of Kelowna
DEVELOPMENT PLANNING



Z19-0116

1990 Landsdowne Pl

Rezoning Application



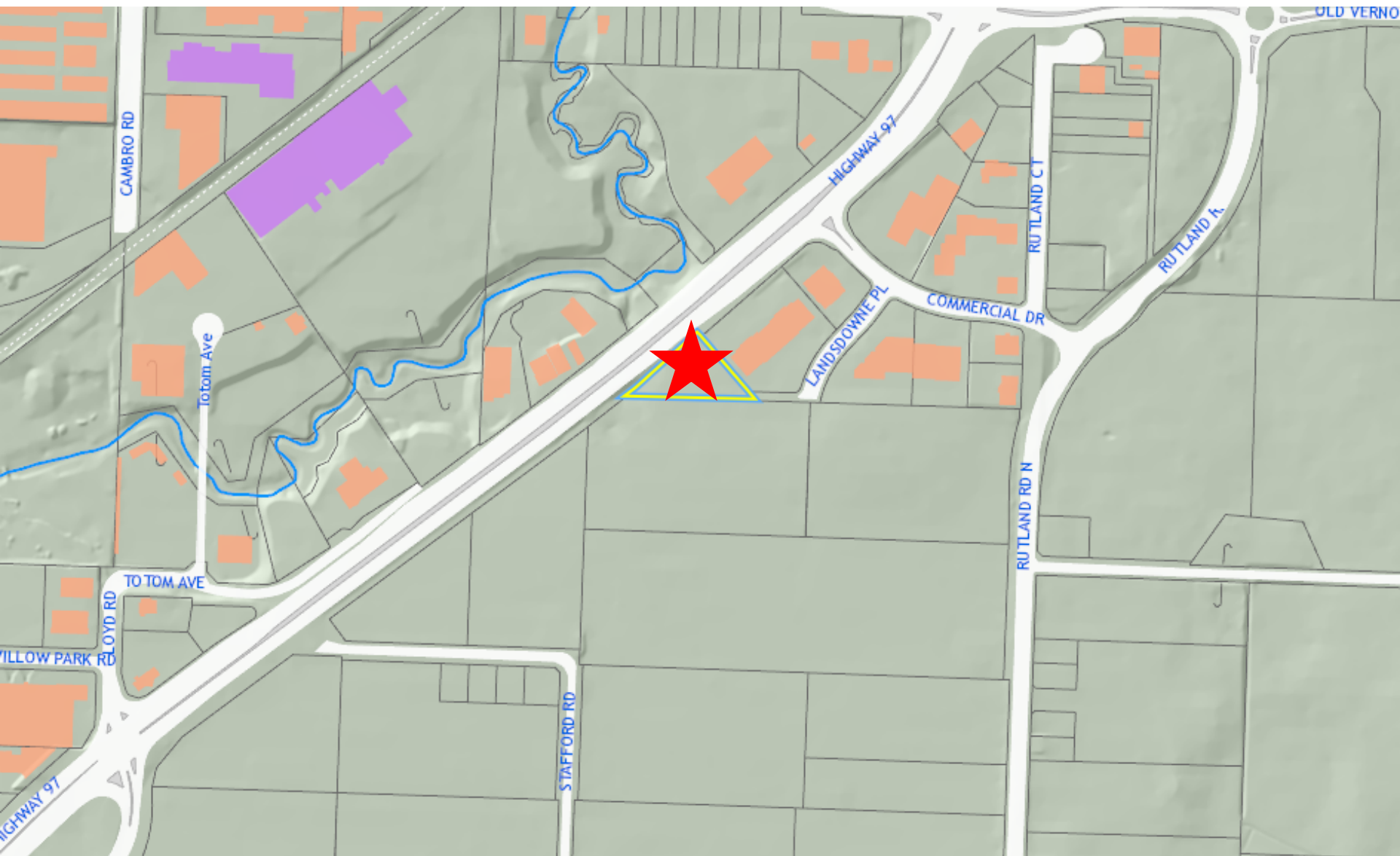
Proposal

- ▶ To consider an application to rezone the subject property from the C10 – Service Commercial zone to the C10rcs – Service Commercial (Retail Cannabis Sales) zone to facilitate a retail cannabis sales establishment.

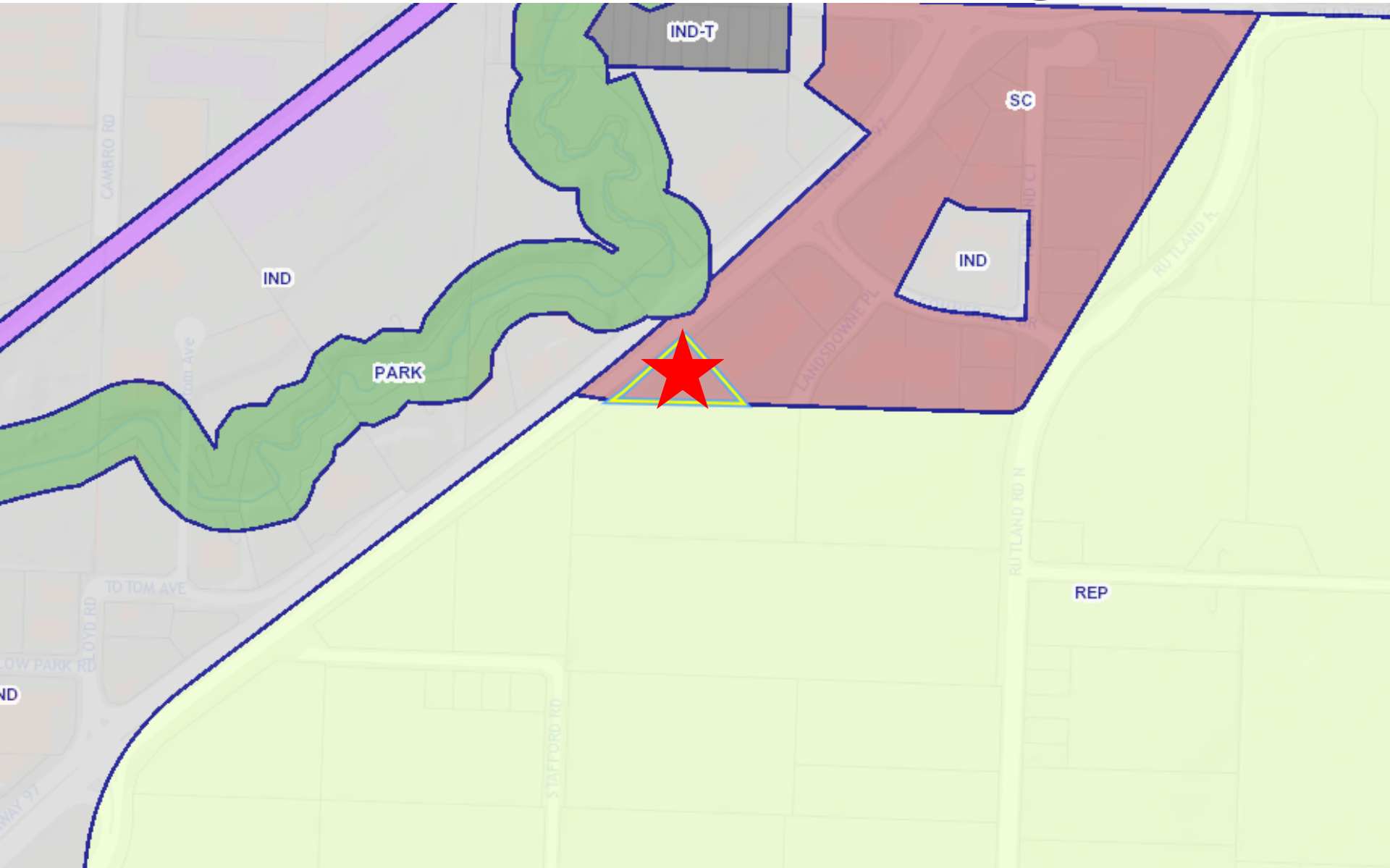
Development Process



Context Map



OCP Future Land Use / Zoning



Subject Property Map

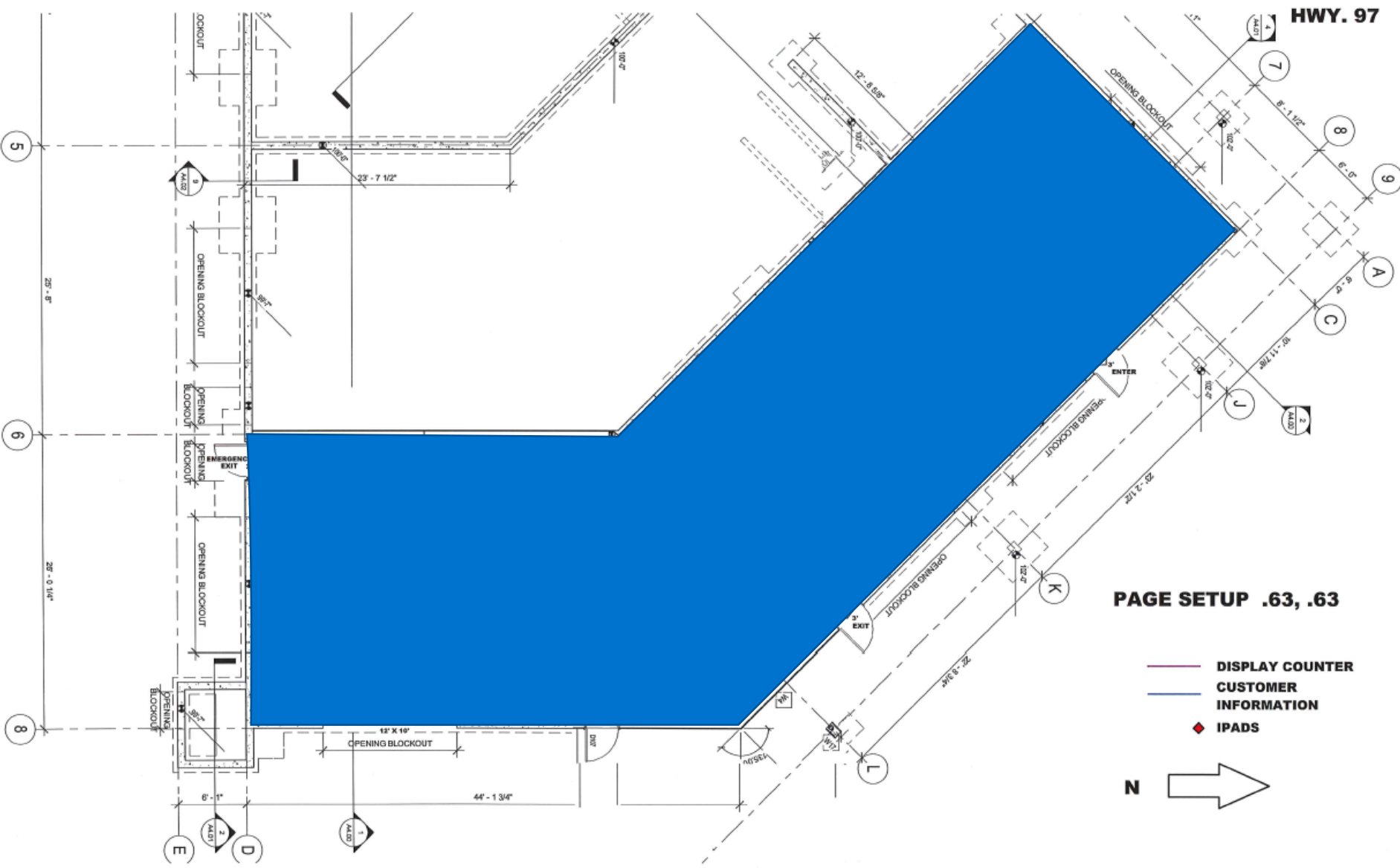


Project/technical details

- ▶ Rezone property from C10 to C10rcs
- ▶ Consistent with Future Land Use designation of SC – Service Commercial
- ▶ Should Council support the rezoning application, a BP will be required to facilitate interior building changes to facilitate the proposed retail cannabis sales establishment.

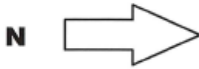
UPSTAIRS 1800 SQUARE FEET, NOT TO BE USED FOR CANNABIS

Floor Plan



PAGE SETUP .63, .63

- DISPLAY COUNTER
- CUSTOMER INFORMATION
- IPADS



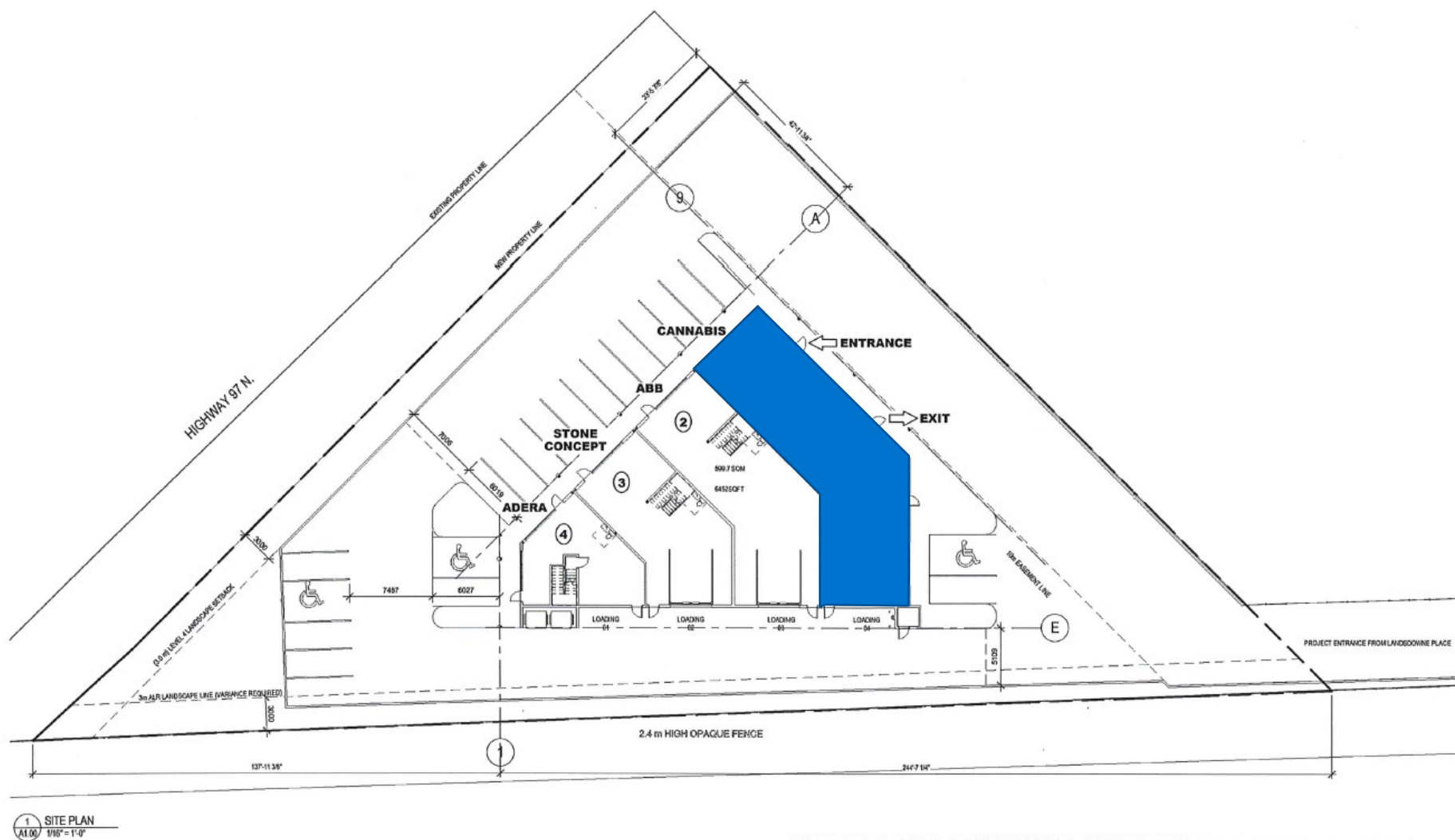
Staff Recommendation

- ▶ Staff are recommending **support** for the proposed rezoning to C1orcs
 - ▶ Consistent with the Future Land Use designation of SC – Service Commercial



Conclusion of Staff Remarks

Site Plan



UPSTAIRS 1800 SQUARE FEET, NOT TO BE USED FOR CANNABIS

CITY OF KELOWNA
BYLAW NO. 12052
Z19-0116 – 1990 Landsdowne Place

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

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

1. THAT City of Kelowna Zoning Bylaw No. 8000 be amended by changing the zoning classification of Lot A, Section 35, Township 26, ODYD, Plan 19674 Except Plans 23587 and EPP53538 located at Landsdowne Place, Kelowna, BC from the C10 – Service Commercial zone to the C10rcs – Service Commercial (Retail Cannabis Sales) zone.
2. This bylaw shall come into full force and effect and is binding on all persons as and from the date of adoption.

Read a first time by the Municipal Council this 15th day of June, 2020.

Considered at a Public Hearing on the

Read a second and third time by the Municipal Council this

Approved under the Transportation Act this

(Approving Officer – Ministry of Transportation)

Adopted by the Municipal Council of the City of Kelowna this

Mayor

City Clerk

REPORT TO COUNCIL



Date: June 15, 2020

To: Council

From: City Manager

Department: Development Planning

Application: OCP18-0005, TA18-0011, Z18-0019 **Owner:** Reid's Crossing Development Inc., Inc. No. BC1165652
City of Kelowna

Address: 175 Old Vernon Road
2053, 2065, and 2115 Rutland Court **Applicant:** Garry Fawley

Subject: OCP Amendment and Rezoning Application

Existing OCP Designation: Resource Protection Area (REP) and Service Commercial (SC)

Proposed OCP Designation: Service Commercial (SC)

Existing Zone: A1 – Agriculture 1

Proposed Zone: C10lp Service Commercial (Liquor Primary)

1.0 Recommendation

THAT Official Community Plan Amendment Application No. OCP18-0005 to amend Map 4.1 in the Kelowna 2030 – Official Community Plan Bylaw No. 10500 by changing the Future Land Use designation of portions of Lot A Section 35 Township 26 ODYD Plan EPP56074; Lot 1 Section 35 Township 26 ODYD Plan 4375 Except Plan EPP56072; Lot 4 Section 35 Township 26 ODYD Plan 4170; and Lot A Section 35 Township 26 ODYD Plan 23482 Except Plan EPP56073, located at 175 Old Vernon Road and 2053, 2065, and 2115 Rutland Court Kelowna, BC, from the REP – Resource Protection Area designation to the SC – Service Commercial designation, as shown on Map "A" attached to the report from the Development Planning Department dated June 15, 2020, be considered by Council;

AND THAT the Official Community Plan Map Amending Bylaw be forwarded to a Public Hearing for further consideration;

AND THAT Council considers the Public Information Session public process to be appropriate consultation for the *Purpose* of Section 879 of the *Local Government Act*, as outlined in the report from the Development Planning Department dated June 15, 2020;

AND THAT final adoption of the Official Community Plan Map Amending Bylaw be considered subsequent to the outstanding conditions of approval as set out in Schedule "A" attached to the Report from the Development Planning Department dated June 15, 2020;

AND THAT Rezoning Application No. Z18-0019 to amend the City of Kelowna Zoning Bylaw No. 8000 by changing the zoning classification of Lot A Section 35 Township 26 ODYD Plan EPP56074; Lot 1 Section 35 Township 26 ODYD Plan 4375 Except Plan EPP56072; Lot 4 Section 35 Township 26 ODYD Plan 4170; and Lot A Section 35 Township 26 ODYD Plan 23482 Except Plan EPP 56073, located at 175 Old Vernon Road and 2053, 2065, and 2115 Rutland Court, Kelowna, BC, from the A1 – Agriculture 1 zone to the C10lp – Service Commercial (Liquor Primary) zone be considered by Council;

AND THAT the Rezoning Bylaw be forwarded to a Public Hearing for further consideration;

AND THAT final adoption of the Rezoning Bylaw be considered subsequent to the outstanding conditions of approval as set out in Schedule "A" attached to the report from the Development Planning Department dated June 15, 2020;

AND THAT Zoning Bylaw Text Amendment Application No. TA18-0011 to amend Zoning Bylaw No. 8000 as outlined in the report from the Development Planning Department dated June 15, 2020 to allow additional retail and commercial uses be considered by Council;

AND THAT the Zoning Bylaw Text Amendment Bylaw be forwarded to a Public Hearing for further consideration;

AND THAT final adoption of the Rezoning Bylaw and the Zoning Bylaw Text Amending Bylaw be considered subsequent to the approval of the Ministry of Transportation and Infrastructure.

2.0 Purpose

To amend the Official Community Plan to change the future land use designation of the subject properties to SC – Service Commercial to facilitate the rezoning of the subject property to the C10lp – Service Commercial (Liquor Primary) zone with the following additional permitted uses: Retail Store, Convenience; Retail Store, General; Health Services, Major and Minor; Personal Service Establishments; Contractor Services, Limited; and Financial Services.

3.0 Development Planning

Development Planning staff recommend support for the proposed OCP and Zoning Bylaw amendments. If approved, the amendments will result in a new multi-building shopping complex that could accommodate a range of service commercial and light industrial businesses. The proposed amendments are consistent with the Official Community Plan SC - Service Commercial Future Land Use designation which is meant to provide land for business support services and other commercial uses that may require on-site storage. The property is located within the Permanent Growth Boundary and has full urban services.

The proposed development is appropriately located in an area characterized by light industrial and service commercial businesses. The proposed C10lp zone accommodates a mix of commercial uses, including vehicular oriented uses. The proposed rezoning would also allow for 'Liquor Primary Establishments', provided that future tenants obtain required license approvals from the Liquor & Cannabis Regulation Branch. No applications for liquor primary establishment have been submitted to date.

In addition to the uses permitted in the C10lp zone the following additional uses are proposed: Retail Store, Convenience; Retail Store, General; Health Services, Major and Minor; Personal Service Establishments; Contractor Services, Limited; and Financial Services. These additional uses are meant to provide convenient retail shops and services for residents working and living in the surrounding area with the exception of

'Contractor Services, Limited' which is meant to accommodate light industrial business that provide services primarily to individual households such as plumbing and heating services.

4.0 Proposal

4.1 Background

The subject site is located on the southwest corner of Old Vernon Road and Rutland Road North. The site also has road frontage along Rutland Court and Commercial Drive. The road network in this area was reconfigured in 2018, and a roundabout at the intersection of Old Vernon Road and Rutland Road North was constructed as part of that project.

The subject site consists of four legal parcels and an undeveloped laneway. The parcels located 175 Old Vernon Road and 2115 and 2065 Rutland Court are privately owned. The fourth parcel, located at 2053 Rutland Court, and the laneway are owned by the City of Kelowna. The applicants have entered into a purchase agreement with the City of Kelowna to purchase 2053 Rutland Court and a portion of the lane that runs through the middle of the site. In total, the size of the subject site is 5.55 acres.

The applicant's intention is to consolidate all of the properties and then subdivide the parcel into two lots. The applicant would then proceed with a proposal for a shopping centre development with units leased to a range of retail and service commercial businesses. To facilitate this development a number of applications that require Council consideration have been submitted including:

- **OCP Amendment Application (OCP18-0005):** In terms of OCP Future Land Use Designation, approximately two thirds of the site is designated SC – Service Commercial, with the remaining third of the site designated REP – Resource Protection Area. The Future Land Use designation boundary currently follows the previous road alignment and needs to be amended to reflect the new road alignment; once this is completed, the entire site will be designated Service Commercial.
- **Rezoning Application (Z18-0019):** The entire site is zoned A1 – Agriculture 1. In November of 2018 the owners applied to rezone the property to: C10lp - Service Commercial (Liquor Primary). The proposed C10 zone is meant to accommodate a mix of commercial uses, including vehicular oriented uses. The application includes the use of Liquor Primary Establishments to provide the option for a future tenant to apply for a licence to operate a liquor primary establishment.
- **Zoning Bylaw Text Amendment Application (TA18-0011):** In November of 2018, in addition to the permitted uses allowed in the C10 zone the property owners applied to allow the following uses on the subject property: *Retail Store, Convenience; Retail Store, General; Health Services, Major and Minor; Personal Service Establishments; Contractor Services, Limited; Financial Services*. If approved this text amendment would allow for the proposed commercial units to be leased to a wider range of tenants and offer services that otherwise would not be permitted in the C10 Zone.

In addition to the OCP/Zoning Bylaw amendment applications, a Traffic Impact Analysis was undertaken, and Development Permit and Subdivision application have also been submitted. The Development Permit plans submitted meet the regulations of the C10lps zone with regards to site coverage, parking, and height. Staff do not anticipate that any variances will be required to accommodate the proposed development.

4.2 Project Description

The proposal is to redevelop the entire site. The four existing lots would be consolidated and then subdivided to create two large legal parcels. One of the two lots is proposed to front Rutland Road N and Old Vernon Road. This lot is proposed to include a carwash, shopping centre, and drive-thru food primary establishment. The second of the two lots would front Rutland Court and Commercial Drive. This lot is currently proposed to include a gas station, shopping centre building, and an additional building intended to accommodate

service commercial/light industrial uses that require loading spaces and service bays such as warehouse sales, vehicle and equipment services, and automotive repair shops.



Figure 1. Proposed Shopping Centre.

4.3 Site Context

The site is located at the northern extent of the Rutland City Sector in an area colloquially known as 'Reid's Corner'. The subject site has previously been used for residential housing and topsoil storage. The property is mostly vacant with the exception of one single detached house at 2053 Rutland Ct. The properties to the South and East of the site are zoned A1 and located within the ALR. The properties to the North and West of the site are zoned C10 and I2 are being used for a range of service commercial and light industrial uses. Specifically, adjacent land uses are as follows:

Orientation	Zoning	Land Use
North	I2	General Industrial
East	A1	Agricultural (ALR)
South	A1	Agricultural (ALR)
West	I1, I2, C10	Light Industrial/Service Commercial

Subject Property Map:



Figure 2. Subject Site Map.

5.0 Current Development Policies

5.1 Kelowna Official Community Plan (OCP)

Chapter 5: Development Process

Objective 5.3 Focus development to designated growth areas

Policy .2 Compact Urban Form. 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.

Objective 5.2 Develop sustainably.

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

5.2 City of Kelowna Zoning Bylaw No. 8000

Section 14: Commercial Zones

C10 – Service Commercial, Section 14.10.1 Purpose. The purpose is to designate and preserve land for the accommodation of a mix of commercial uses, including vehicular oriented areas, not provided for in other zones.

6.0 **Application Chronology**

Date of Application Received: Nov 9, 2018 (Revised February 27, 2019)

Date Public Consultation Completed: May 20, 2019

Report prepared by: Arlene Janousek, Environmental Coordinator

Reviewed by: Dean Strachan, Suburban and Rural Planning Manager

Approved for Inclusion: Terry Barton, Development Planning Department Manager

Attachments:

Map "A": Proposed OCP Amendment Map OCP18-0005

Schedule "A": Development Engineering Memo Z18-0019

Schedule "B": Summary Table of Proposed Text Amendments to Zoning Bylaw No. 8000 TA18-0011

Attachment "A": Site Plan



OCP18-0005, TA18-0011, Z18-0019 **175 Old Vernon Road** **2053, 2065, and 2115 Rutland Court**

OCP Amendment, Rezoning, and Text Amendment Applications



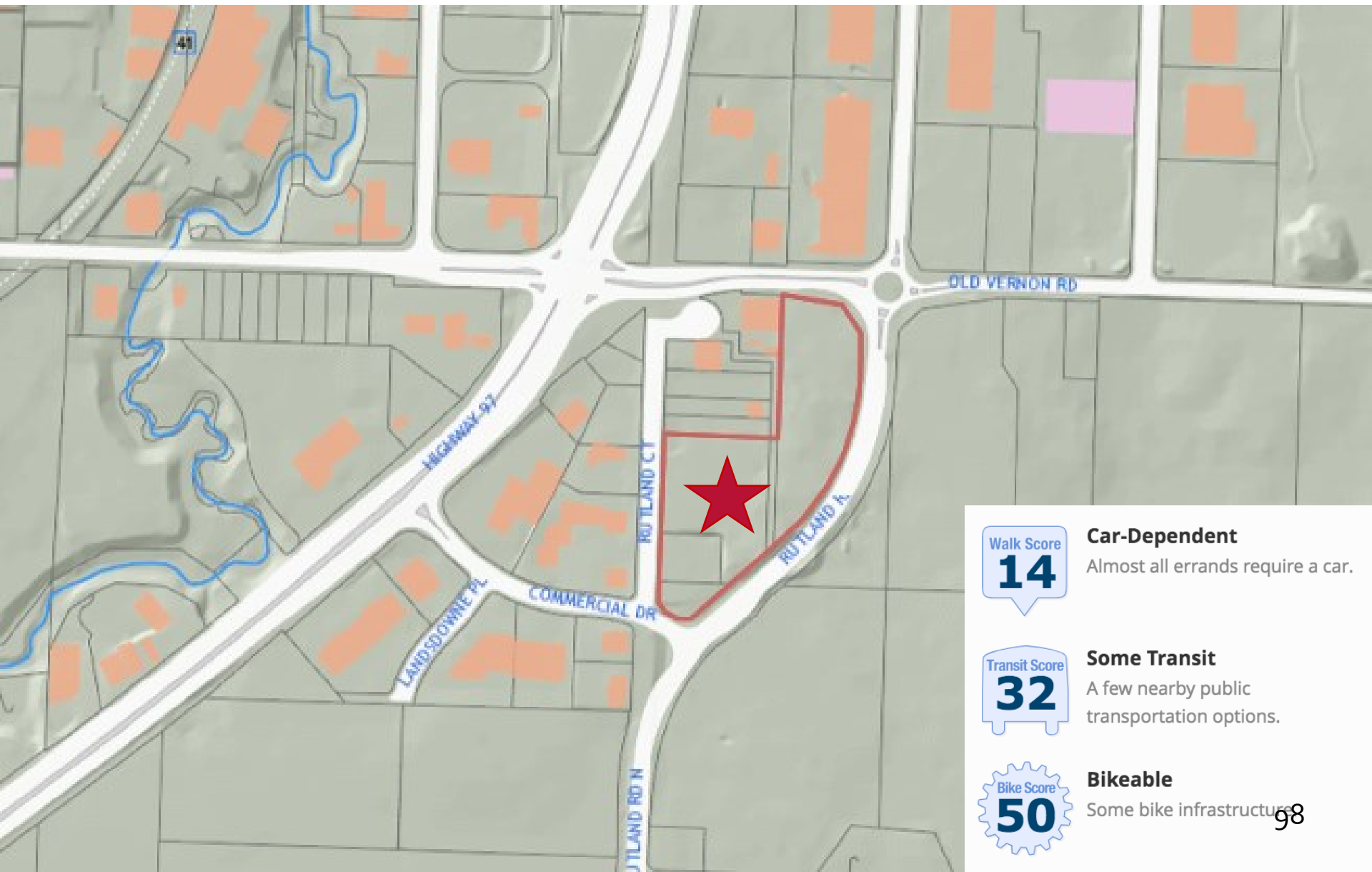
Proposal

- ▶ To amend the Official Community Plan to change the Future Land Use Designation of the subject properties to SC – Service Commercial
- ▶ To rezone the subject property to C1olp – Service Commercial (Liquor Primary) with the following additional permitted uses:
 - ▶ Retail Store, Convenience; Retail Store, General; Health Services, Major and Minor; Personal Service Establishments; Contractor Services, Limited; and Financial Services

Development Process



Context Map



Walk Score
14

Car-Dependent

Almost all errands require a car.

Transit Score
32

Some Transit

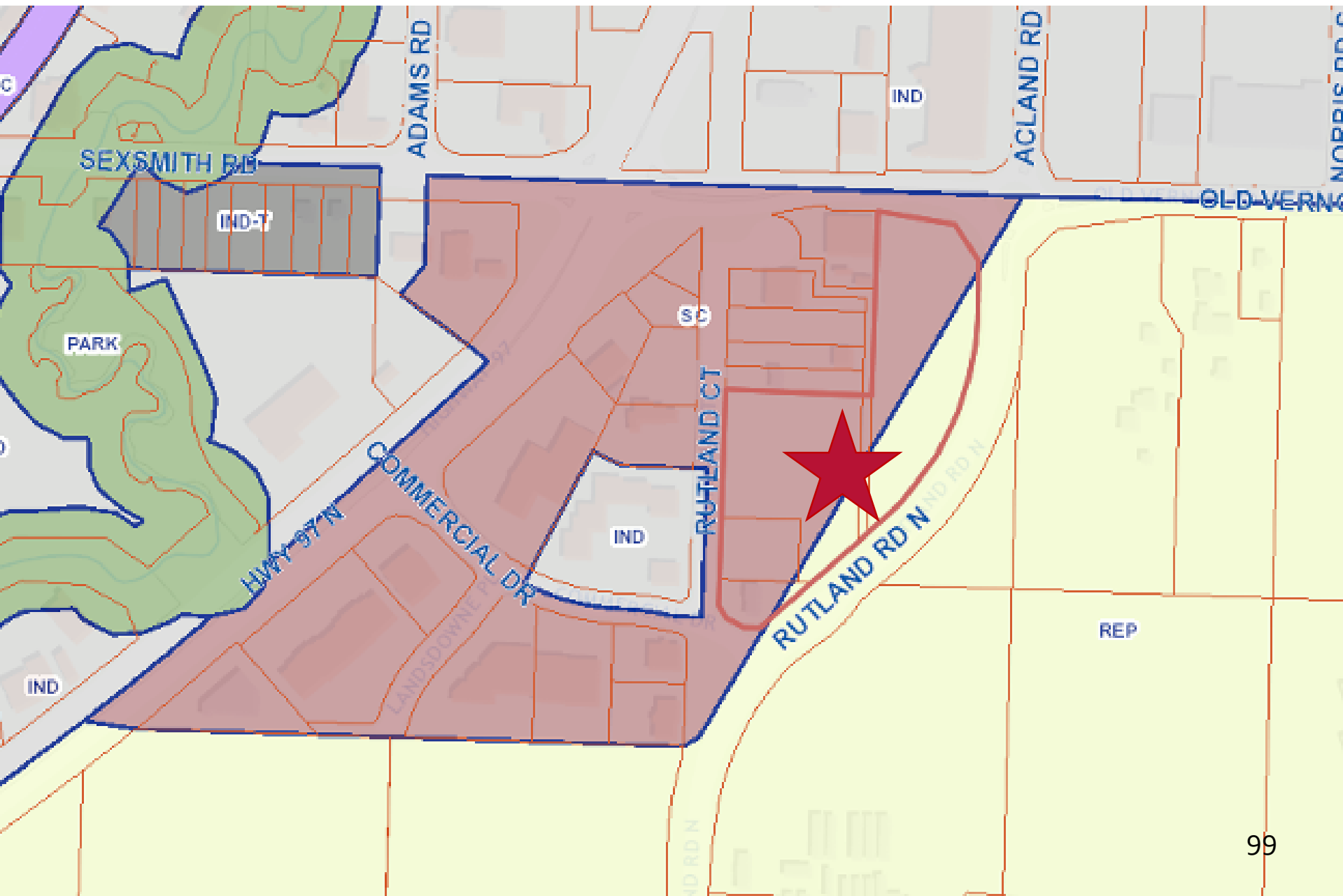
A few nearby public transportation options.

Bike Score
50

Bikeable

Some bike infrastructure

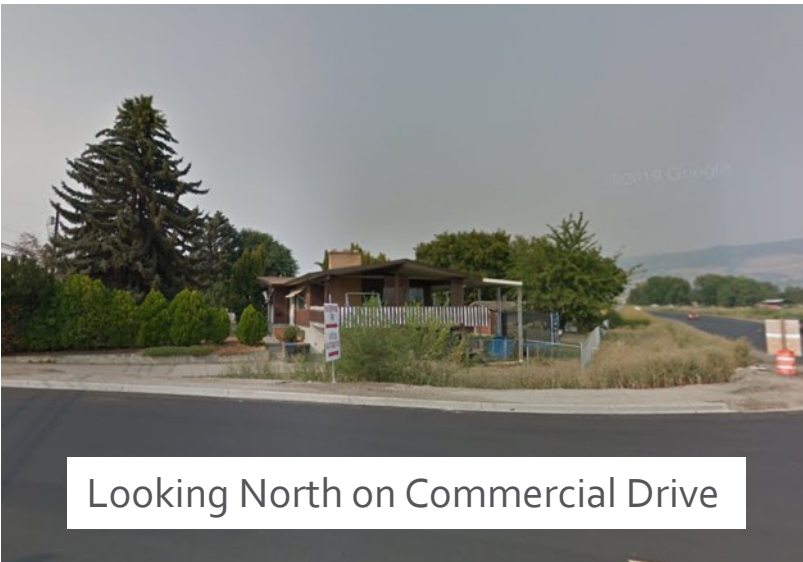
Future Land Use



Subject Property Map



Subject Property Photos



[illegible]

- 102

OCP Amendment

- ▶ Two thirds of the site is designated Service Commercial, one third designated Resource Protection Area
- ▶ The Future Land Use designation boundary follows the previous Rutland Road N alignment; needs to be amended to reflect the new alignment
- ▶ Entire site would then be designated Service Commercial

Rezoning

- ▶ Meets the intent of OCP Development Policies:
 - ▶ Policy 5.3.2 – Compact Urban Form
 - ▶ Policy 5.2.2 – Compete Suburbs
- ▶ Zoning is consistent with Future Land Use of SC – Service Commercial
 - ▶ Appropriately located in an area characterized by light industrial and service commercial businesses
 - ▶ Proposal includes liquor primary subzone, which would allow a liquor primary establishment in the future pending provincial approval

Text Amendment

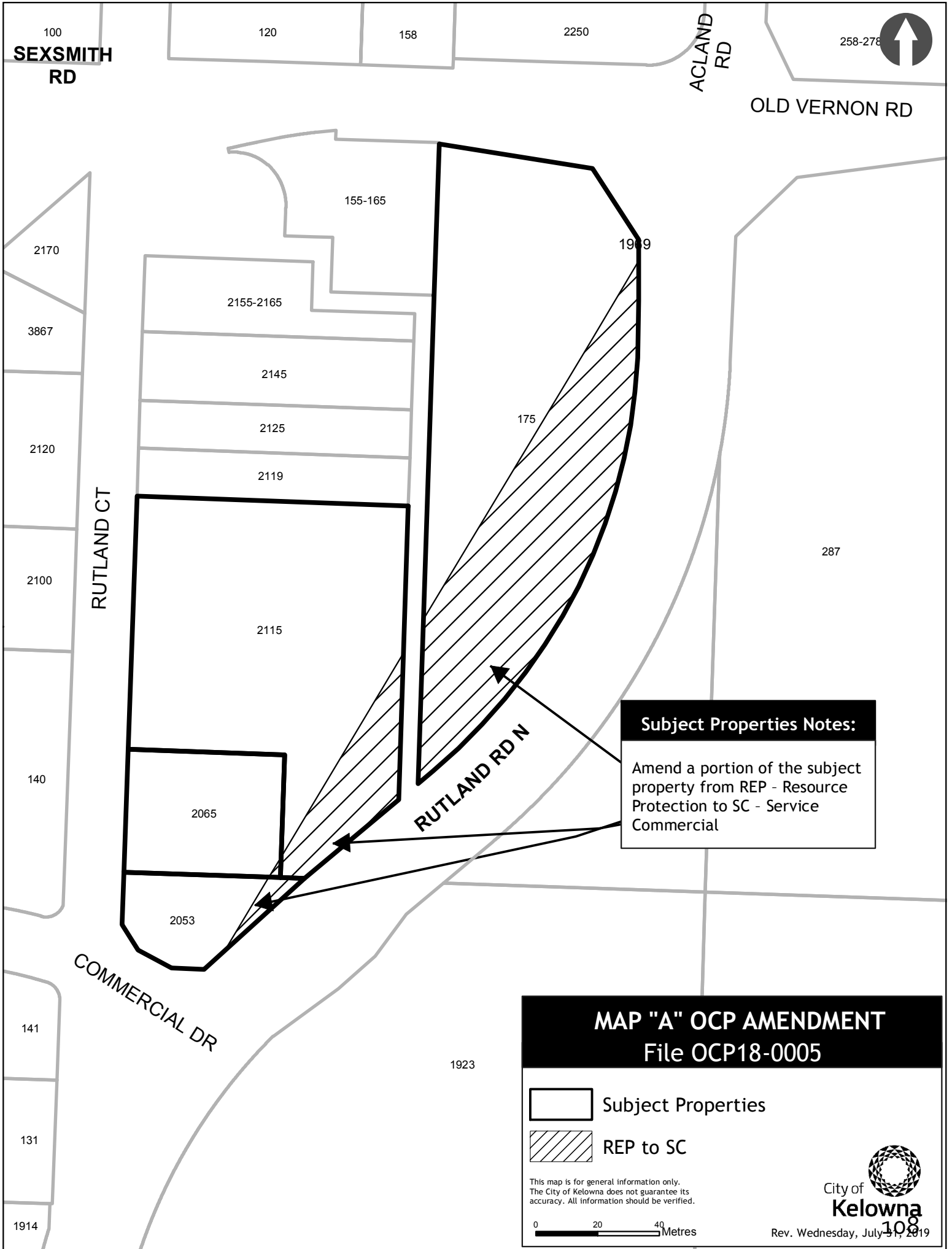
- ▶ Additional uses proposed through site-specific text amendment:
 - ▶ Retail Store, Convenience; Retail Store, General; Health Services, Major and Minor; Personal Service Establishments; Contractor Services, Limited; and Financial Services
- ▶ Intended to provide shops and services for residents working and living in the area beyond what is permitted under C10lp zoning
- ▶ No anticipated conflicts with C10lp zoning or surrounding land uses

Staff Recommendation


- ▶ Staff recommend **support** of the proposed OCP Amendment, Rezoning, and site-specific Text Amendment
 - ▶ OCP Amendment will align Future Land Use Designations with current road configuration
 - ▶ Rezoning and proposed uses meet the intent of the Official Community Plan
 - ▶ Compact urban form and complete suburbs
 - ▶ Appropriate location for commercial and light industrial uses including liquor primary and additional requested uses
- ▶ Recommend the applications be forwarded to Public Hearing



Conclusion of Staff Remarks



CITY OF KELOWNA
MEMORANDUM

SCHEDULE A	
This forms part of application # Z18-0019	
Planner Initials	<div style="border: 1px solid black; padding: 2px; display: inline-block;">AJ</div>
<div style="display: flex; align-items: center;"><div style="flex: 1;">City of Kelowna <small>DEVELOPMENT PLANNING</small></div><div style="flex: 0 0 40px;"></div></div>	

Date: May 25, 2020

File No.: Z18-0019

To: Suburban and Rural Planning (AJ)

From: Development Engineering Manager (JK)

Subject: 175 Old Vernon Road , 2065, 2115 Rutland Ct A1 to C10LR/RLS

The Development Engineering Branch has the following comments and requirements associated with this application. The road and utility upgrading requirements outlined in this memo will be a requirement of this development. This memo supersedes the March 5, 2018 memo originally drafted by the Development Engineering Branch. The changes in this updated memo (see section 4. *Road Improvements*) are a result of a now completed Traffic Impact Study for the proposed development.

The Development Engineering Technician for this project is Jim Hager.

1. Domestic Water and Fire Protection

- a) The property is located within the Black Mountain Irrigation District (BMID)
- b) Provide an adequately sized domestic water and fire protection system complete with individual lot connections. The water system must be capable of supplying domestic and fire flow demands of the project in accordance with the Subdivision, Development & Servicing Bylaw. Provide water calculations for this subdivision to confirm this. Ensure every building site is located at an elevation that ensures water pressure is within the bylaw pressure limits.
- c) Arrange for individual lot connections before submission of the subdivision plan; including payment of connection fees (provide copy of receipt).
- d) Remove or relocate any existing service connections encroaching on the proposed lots.
- e) Design drawings must be reviewed by the Black Mountain Irrigation District prior to the City issuing the drawings for construction. Confirmation of their review must be provided to the City.

2. Sanitary Sewer

- (a) Our records indicate that this proposed development site is connected with a 150mm diameter sewer service. The developer's consulting mechanical engineer will determine the development requirements of this proposed development and establish the service needs. Only one service will be permitted for this development. The applicant, at his cost, will arrange for the removal and

disconnection of the existing service and the installation of one new larger service if necessary.

3. Storm Drainage

- (a) The developer must engage a consulting civil engineer to provide a storm water management plan for these sites which meets the requirements of the City Subdivision, Development and Servicing Bylaw 7900. The storm water management plan must also include provision of lot grading plans, minimum basement elevations (MBE), if applicable, and provision of a storm drainage service and recommendations for onsite drainage containment and disposal systems.
- (b) Only one service will be permitted for this development. The applicant, at his cost, will arrange for the installation of one new overflow service if required.

4. Road Improvements

- (a) As a result of a Traffic Impact Study completed by Stantec Consulting Ltd., a suite of off-site upgrades were agreed upon by the Development Engineering Branch, the Ministry of Transportation and Infrastructure, and the Applicant.
- (b) The off-site upgrades shall be constructed in general conformance with drawing 1433-021-FL2 Rev No. 3. by TRUE Consulting. The off-site works include, but are not limited to:
 - (i) Right-in only access off of Old Vernon Rd.
 - (ii) Upgrades to existing bus stops on the east and west side of Rutland Rd N.
 - (iii) Urbanization, surface widening, and lane marking of Rutland Rd N, including left turn lanes and bike lanes.
 - (iv) Right-out only access onto southbound Rutland Rd N.
 - (v) Restricted-left out access onto Rutland Rd N.
 - (vi) Signalization of the Commercial Dr and Rutland Rd N intersection.
 - (vii) Urbanization of Rutland Ct to an SS-R5 standard.
 - (viii) Continuation of separated sidewalk along the full frontage of the subject lots.
 - (ix) All fronting boulevards to be complete with landscaping and irrigation.

NOTE: These drawings are preliminary in nature and are yet to be issued for construction by the Development Engineering Branch.

5. Transportation

- a) These Development Engineering comments/requirements are subject to the review and requirements from the Ministry of Transportation (MOT) Infrastructure Branch.

6. Subdivision

- (a) Grant Statutory Rights of Way if required for utility services.

- (b) If any road dedication or closure affects lands encumbered by a Utility right-of-way (such as Hydro, Telus, Gas, etc.) please obtain the approval of the utility. Any works required by the utility as a consequence of the road dedication or closure must be incorporated in the construction drawings submitted to the City's Development Manager.

7. Electric Power and Telecommunication Services

- a) All proposed distribution and service connections are to be installed underground.
- b) Make servicing applications to the respective Power and Telecommunication utility companies. The utility companies are required to obtain the City's approval before commencing construction.

8. Engineering

Road and utility construction design, construction supervision, and quality control supervision of all off-site and site services including on-site ground recharge drainage collection and disposal systems, must be performed by an approved consulting civil engineer. Designs must be submitted to the city engineering department for review and marked "issued for construction" by the city engineer before construction may begin.

9. Design and Construction

- (a) Design, construction supervision and inspection of all off-site civil works and site servicing must be performed by a Consulting Civil Engineer and all such work is subject to the approval of the City Engineer. Drawings must conform to City standards and requirements.
- (b) Engineering drawing submissions are to be in accordance with the City's "Engineering Drawing Submission Requirements" Policy. Please note the number of sets and drawings required for submissions.
- (c) Quality Control and Assurance Plans must be provided in accordance with the Subdivision, Development & Servicing Bylaw No. 7900 (refer to Part 5 and Schedule 3).
- (d) A "Consulting Engineering Confirmation Letter" (City document 'C') must be completed prior to submission of any designs.
- (e) Before any construction related to the requirements of this subdivision application commences, design drawings prepared by a professional engineer must be submitted to the City's Works & Utilities Department. The design drawings must first be "Issued for Construction" by the City Engineer. On examination of design drawings, it may be determined that rights-of-way are required for current or future needs.

10. Servicing Agreements for Works and Services

- (a) A Servicing Agreement is required for all works and services on City lands in accordance with the Subdivision, Development & Servicing Bylaw No.

7900. The applicant's Engineer, prior to preparation of Servicing Agreements, must provide adequate drawings and estimates for the required works. The Servicing Agreement must be in the form as described in Schedule 2 of the bylaw.

- (b) Part 3, "Security for Works and Services", of the Bylaw, describes the Bonding and Insurance requirements of the Owner. The liability limit is not to be less than \$5,000,000 and the City is to be named on the insurance policy as an additional insured.

11. Geotechnical Report


As a requirement of this application the owner must provide a geotechnical report prepared by a Professional Engineer qualified in the field of hydro-geotechnical survey to address the following:

- (a) Area ground water characteristics.
- (b) Site suitability for development, unstable soils, etc.
- (c) Drill and / or excavate test holes on the site and install piezometers if necessary. Log test hole data to identify soil characteristics, identify areas of fill if any. Identify unacceptable fill material, analyse soil sulphate content, identify unsuitable underlying soils such as peat, etc. and make recommendations for remediation if necessary.
- (d) List extraordinary requirements that may be required to accommodate construction of roads and underground utilities as well as building foundation designs.
- (e) Additional geotechnical survey may be necessary for building foundations, etc.

12. Development Permit and Site Related Issues

Access and Manoeuvrability

- (i) An WB 20 size vehicle must be able to manoeuvre onto and off the site without requiring a reverse movement onto public roadways.
- (ii) Indicate on the site, the locations of loading bays as well as the garbage and recycle bins.

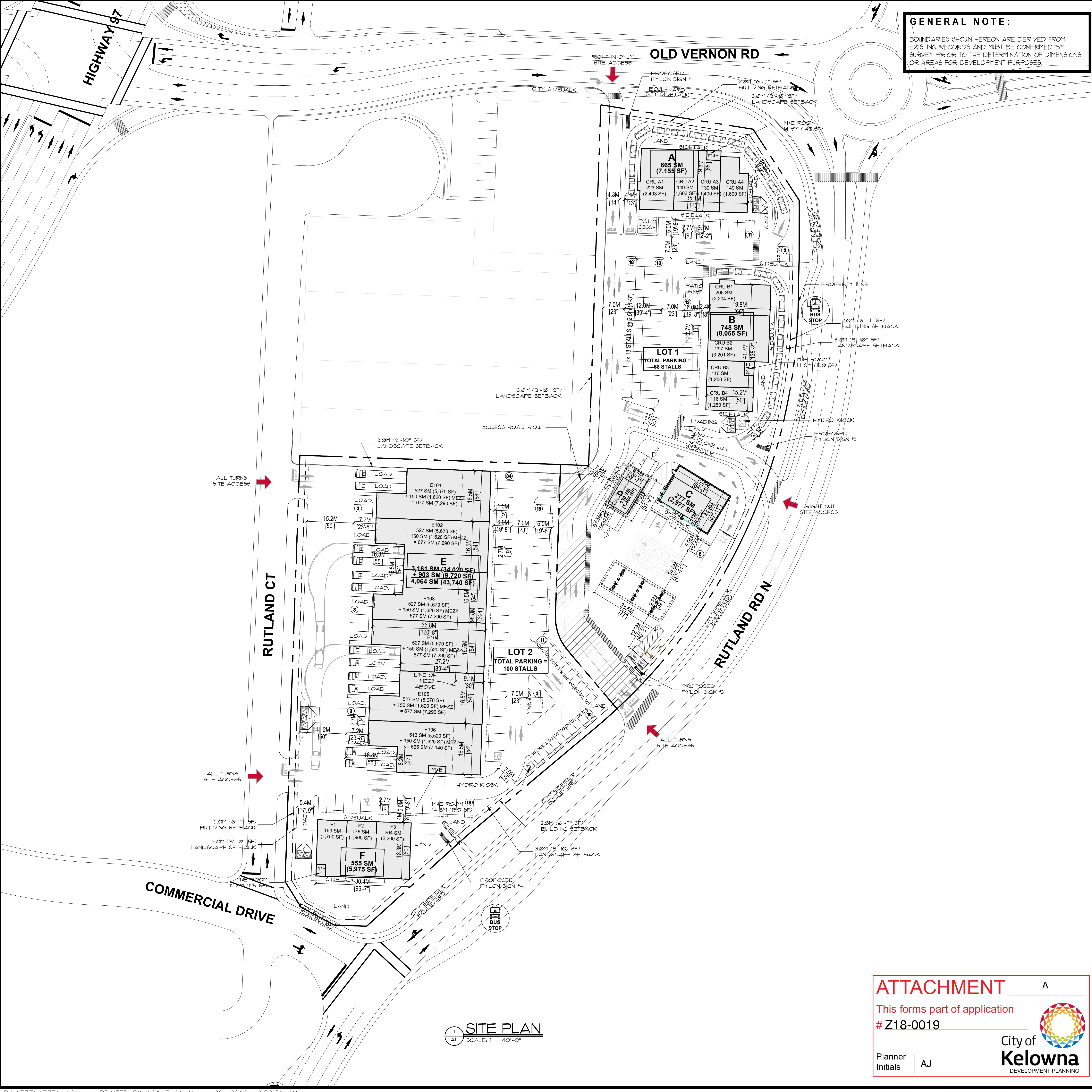


James Kay, P. Eng.
Development Engineering Manager

JKH

Schedule "B" - Zoning Bylaw No. 8000 Text Amendment

No.	Section	Existing Text	Proposed Text				Explanation of Change										
1.	14.10 C10 – Service Commercial 14.10.7 Site Specific Uses and Regulations	N/A	14.10.7 Site Specific Uses and Regulations Uses and regulations apply to the C10 – Service Commercial zone on a site-specific basis as follows: <table><tr><td></td><td>Legal Description</td><td>Civic Address</td><td colspan="2">Regulation</td></tr><tr><td>1.</td><td>Lot A Section 35 Township 26 ODYD Plan EPP56074; Lot 1 Section 35 Township 26 ODYD Plan 4375 Except Plan EPP56072; Lot 4 Section 35 Township 26 ODYD Plan 4170; and Lot A Section 35 Township 26 ODYD Plan 23482 Except Plan EPP56073.</td><td>Located at 175 Old Vernon Road and 2053, 2065, and 2115 Rutland Court,</td><td colspan="2">To allow Retail Store, Convenience; Retail Store, General; Health Services, Major and Minor; Personal Service Establishments; Contractor Services, Limited; and Financial Services as permitted Principal Uses in addition to those permitted in section 14.10.2.</td></tr></table>					Legal Description	Civic Address	Regulation		1.	Lot A Section 35 Township 26 ODYD Plan EPP56074; Lot 1 Section 35 Township 26 ODYD Plan 4375 Except Plan EPP56072; Lot 4 Section 35 Township 26 ODYD Plan 4170; and Lot A Section 35 Township 26 ODYD Plan 23482 Except Plan EPP56073.	Located at 175 Old Vernon Road and 2053, 2065, and 2115 Rutland Court,	To allow Retail Store, Convenience; Retail Store, General; Health Services, Major and Minor; Personal Service Establishments; Contractor Services, Limited; and Financial Services as permitted Principal Uses in addition to those permitted in section 14.10.2.		<i>The new section will facilitate the addition of a site-specific text amendment for the subject properties and allow for various uses in addition to the uses already permitted under the C10 zone. The site-specific text amendment will allow various Principal Uses on the subject property.</i>
	Legal Description	Civic Address	Regulation														
1.	Lot A Section 35 Township 26 ODYD Plan EPP56074; Lot 1 Section 35 Township 26 ODYD Plan 4375 Except Plan EPP56072; Lot 4 Section 35 Township 26 ODYD Plan 4170; and Lot A Section 35 Township 26 ODYD Plan 23482 Except Plan EPP56073.	Located at 175 Old Vernon Road and 2053, 2065, and 2115 Rutland Court,	To allow Retail Store, Convenience; Retail Store, General; Health Services, Major and Minor; Personal Service Establishments; Contractor Services, Limited; and Financial Services as permitted Principal Uses in addition to those permitted in section 14.10.2.														



KEY PLAN
SCALE: N/A

OVERALL SITE INFORMATION:

LEGAL DESCRIPTION:	LOT A, PLAN EPP58074; LOT 4, PLAN 4170; LOT 1, PLAN 4375
CIVIC ADDRESSES:	175 OLD VERNON RD. AND 2065 & 2115 RUTLAND CT.
EXISTING ZONING:	A1 - AGRICULTURE 1
PROPOSED ZONING:	C10 LP/RLS/RCS
OVERALL SITE AREA (INC. R.O.W.):	22,464 SM (241,799 SF) (5.55 ACRES)

LOT 1 (BUILDING AREA & PARKING REQUIREMENTS)

LOT AREA, INCL. ROW	=	10,785 SM (116,090 SF) (2.66 AC)
LOT COVERAGE	=	1,820 SM / 10,785 SM X 100% = 16.9%
NET FLOOR AREA	=	1,792 SM (19,292 SF)
SERVICE FLOOR AREA	=	28 SM (299 SF)
GROSS FLOOR AREA	=	1,820 SM (19,591 SF)
PARKING REQUIRED	=	68 STALLS
PARKING PROVIDED	=	68 STALLS
PARKING RATIO	=	3.7 / 100 SM OR 3.5 / 1,000 SF
PARKING CALCULATIONS (MUST ROUND UP) =		
BUILDING A & B [SHOPPING CENTRE USE = 4.4 PER 100 SM G.L.A.]		
= 1,385 SM / 100 SM X 4.4 = 60.9 ~ 61 STALLS REQUIRED		
BUILDING C & D [CONVENIENCE STORE = 2.0 PER 100 SM G.F.A.; GAS BAR USE = 1.0 SPACE PER 2 EMPLOYEES, PLUS 2.0 PER SERVICE BAY; CAR WASH = N/A]		
= (27 SM / 100 SM X 2.0 = 5.5) + (2 EMPLOYEES = 1) = 6.5 ~ 7 STALLS REQUIRED		

LOT 2 (BUILDING AREA & PARKING REQUIREMENTS)

LOT AREA	=	11,679 SM (125,709 SF) (2.89 AC)
LOT COVERAGE	=	3,716 SM / 11,679 SM X 100% = 31.8%
NET FLOOR AREA (MAIN)	=	3,690 SM (39,720 SF)
NET FLOOR AREA (MEZZ)	=	903 SM (9,720 SF)
SERVICE FLOOR AREA	=	28 SM (275 SF)
GROSS FLOOR AREA	=	4,619 SM (49,715 SF)
PARKING REQUIRED	=	100 STALLS
PARKING PROVIDED	=	100 STALLS
PARKING RATIO	=	2.2 / 100 SM OR 2.0 / 1,000 SF
PARKING CALCULATIONS (MUST ROUND UP) =		
BUILDING E [GENERAL INDUSTRIAL USE = 2.0 PER 100 SM G.F.A.]		
= 4,064 SM / 100 SM X 2.0 = 81.3 ~ 82 STALLS REQUIRED		
BUILDING F [RETAIL USE = 2.0 PER 100 SM G.F.A.; FOOD PRIMARY EST. USE = 1 PER 4 SEATS]		
= [F1/F2] 351 SM / 100 SM X 2.0 = 7.0 + [F3] 44 SEATS / 4 = 11 ~ 18 STALLS REQUIRED		

PARKING SIZES

REGULAR CAR STALL (BYLAW MINIMUM)	8'-3" (2.5m) x 19'-8" (6.0m)
REGULAR CAR STALL (PROVIDED SIZE)	9'-0" (2.7m) x 19'-8" (6.0m)
HANDICAP CAR STALL (1 PER 100 STALLS)	12'-2" (3.7m) x 19'-8" (6.0m)
SMALL CAR STALL (BYLAW MIN. (MAX 40%))	7'-6" (2.3m) x 15'-9" (4.8m)
SMALL CAR STALL (PROVIDED SIZE)	8'-3" (2.5m) x 16'-5" (5.0m)
PARALLEL CAR STALL (BYLAW SIZE)	8'-6" (2.5m) X 23'-0" (7.0m)
PARALLEL CAR STALL (PROVIDED SIZE)	9'-0" (2.7m) X 23'-0" (7.0m)
CAR STALL (ADJ. TO STRUCT./CURB - ONE SIDE)	8'-10" (2.7m) x 19'-8" (6.0m)
CAR STALL (ADJ. TO STRUCT./CURB - TWO SIDE)	9'-10" (3.0m) x 19'-8" (6.0m)
LOADING SPACE (MINIMUM SIZE)	9'-10" (3.0m) x 30'-0" (9.2m)
MANOEUVERING AISLE (REGULAR STALL)	23'-0" (7.0m)

ATTACHMENT A

This forms part of application # Z18-0019

Planner Initials AJ

City of Kelowna DEVELOPMENT PLANNING

2 19/03/20 ISSUED FOR SUBMISSION

1 19/03/20 ISSUED FOR RETURN

no y/m/d description

revisions

NORTH

This drawing, as an instrument of service, is the property of Urban Design Group Architects Ltd., and may not be reproduced, copied or loaned without written permission.

All designs, concepts, and other information shown on this drawing, are for use on this project only, and shall not be used otherwise without written permission.

consultant

COMMERCIAL DEVELOPMENT
175 OLD VERNON RD AND 2065 & 2115 RUTLAND CT, KELOWNA, BC
For WEST 18TH ST. ENTERPRISES INC.

REGISTERED ARCHITECT
PAUL T. CHIU
2019-03-20
BRITISH COLUMBIA

architects ltd

420 - 745 THURLOW ST
VANCOUVER, BC V6C 5S5
TELEPHONE 604 687 2334

project number 4777

sheet 15a

SITE PLAN

date 2019-02-13 sheet number

scale AS NOTED

drawn CDC

checked AV

A=1:1

114

CITY OF KELOWNA

BYLAW NO. 12053

Official Community Plan Amendment No. OCP18-0005 175 Old Vernon Road and 2053, 2065 and 2115 Rutland Court

A bylaw to amend the "*Kelowna 2030* – Official Community Plan Bylaw No. 10500".

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

1. THAT Map 4.1 - **GENERALIZED FUTURE LAND USE** of "*Kelowna 2030* – Official Community Plan Bylaw No. 10500" be amended by changing the Generalized Future Land Use designation of portions of:
 - a) Lot A Section 35 Township 26 ODYD Plan EPP56074, located on Old Vernon Road, Kelowna, B.C.;
 - b) Lot 1 Section 35 Township 26 ODYD Plan 4375 Except Plan EPP56072, located on Rutland Court, Kelowna, B.C.;
 - c) Lot 4 Section 35 Township 26 ODYD Plan 4170, located on Rutland Court, Kelowna, B.C.; and
 - d) Lot A Section 35 Township 26 ODYD Plan 23482 Except Plan EPP56073, located on Rutland Court, Kelowna, B.C.

from the REP – Resource Protection Area designation to the SC – Service Commercial designation as shown on Map "A" attached to and forming part of this bylaw.

2. This bylaw shall come into full force and effect and is binding on all persons as and from the date of adoption.

Read a first time by the Municipal Council this 15th day of June, 2020.

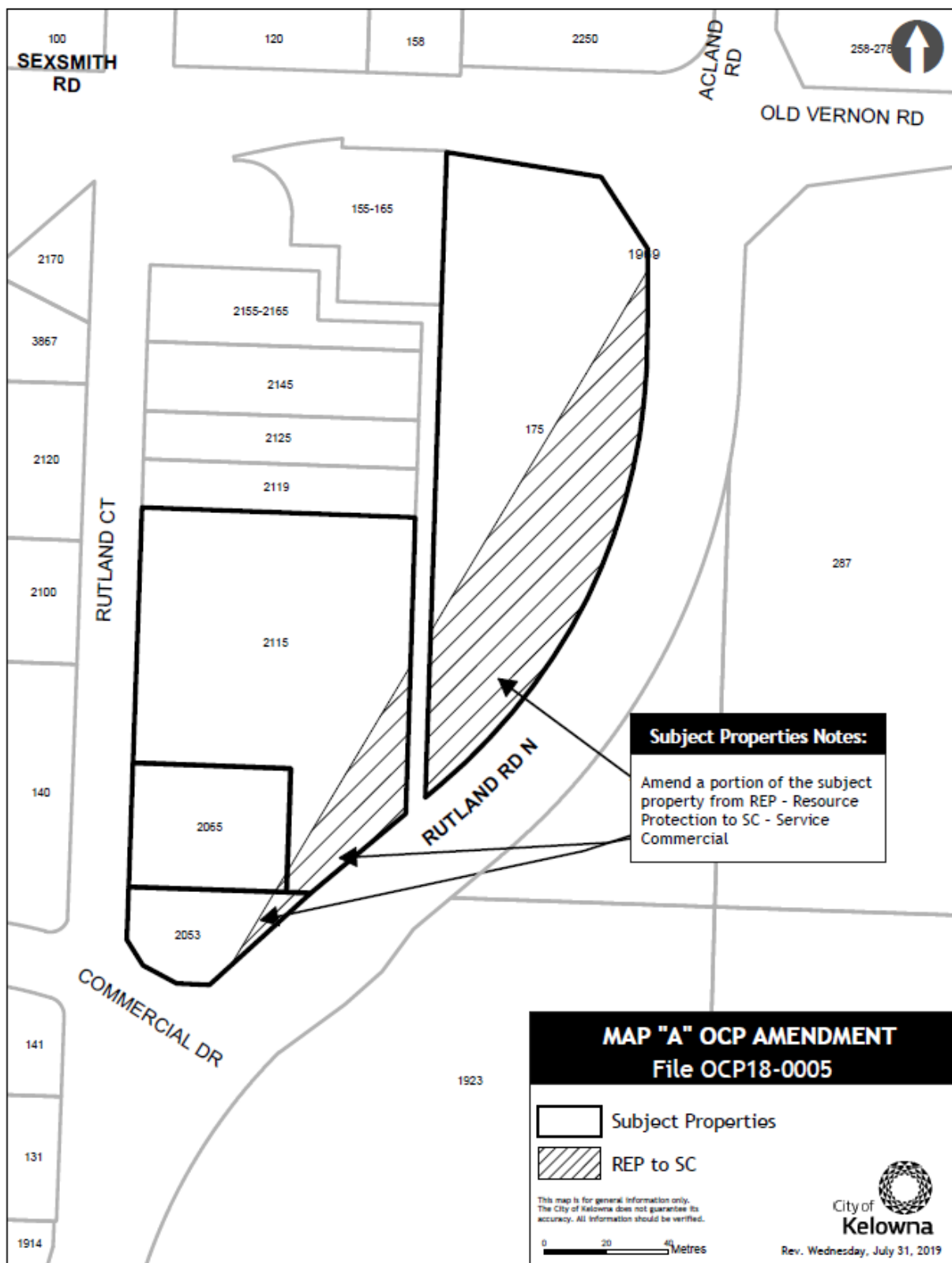
Considered at a Public Hearing on the

Read a second and third time by the Municipal Council this

Adopted by the Municipal Council of the City of Kelowna this

Mayor

City Clerk



CITY OF KELOWNA

BYLAW NO. 12054

Z18-0019

175 Old Vernon Road and 2053, 2065 and 2115 Rutland Court

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

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

1. THAT City of Kelowna Zoning Bylaw No. 8000 be amended by changing the zoning classification of:
 - a) Lot A Section 35 Township 26 ODYD Plan EPP56074, located on Old Vernon Road, Kelowna, B.C.;
 - b) Lot 1 Section 35 Township 26 ODYD Plan 4375 Except Plan EPP56072, located on Rutland Court, Kelowna, B.C.;
 - c) Lot 4 Section 35 Township 26 ODYD Plan 4170, located on Rutland Court, Kelowna, B.C.; and
 - d) Lot A Section 35 Township 26 ODYD Plan 23482 Except Plan EPP56073, located on Rutland Court, Kelowna, B.C.

From the A1 – Agriculture 1 zone to the C10lp – Service Commercial (Liquor Primary) zone;

2. This bylaw shall come into full force and effect and is binding on all persons as and from the date of adoption.

Read a first time by the Municipal Council this 15th day of June, 2020.

Considered at a Public Hearing on the

Read a second and third time by the Municipal Council this

Approved under the Transportation Act this

(Approving Officer – Ministry of Transportation)

Adopted by the Municipal Council of the City of Kelowna this

Mayor

City Clerk

CITY OF KELOWNA

BYLAW NO. 12055

TA18-0011 – Old Vernon Road 175 and Rutland Court 2053, 2065 and 2115

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

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

1. THAT **Section 14 – Commercial Zones, 14.10 Service Commercial** be amended by adding in its appropriate location a new sub section **14.10.7 Site Specific Uses and Regulations** as follows:

14.10.7 Site Specific Uses and Regulations

Uses and regulations apply to the C10 – Service Commercial zone on a site-specific basis as follows:

	<i>Legal Description</i>	<i>Civic Address</i>	<i>Regulation</i>
1.	Lot A Section 35 Township 26 ODYD Plan EPP56074; Lot 1 Section 35 Township 26 ODYD Plan 4375 Except Plan EPP56072; Lot 4 Section 35 Township 26 ODYD Plan 4170; and Lot A Section 35 Township 26 ODYD Plan 23482 Except Plan EPP56073.	Located at 175 Old Vernon Road and 2053, 2065, and 2115 Rutland Court,	To allow Retail Store, Convenience; Retail Store, General; Health Services, Major and Minor; Personal Service Establishments; Contractor Services, Limited; and Financial Services as permitted Principal Uses in addition to those permitted in section 14.10.2.

2. This bylaw shall come into full force and effect and is binding on all persons as and from the date of adoption.

Read a first time by the Municipal Council this 15th day of June, 2020.

Considered at a Public Hearing on the

Read a second and third time by the Municipal Council this

Approved under the Transportation Act this

(Approving Officer-Ministry of Transportation)

Adopted by the Municipal Council of the City of Kelowna this

Mayor

City Clerk

REPORT TO COUNCIL



Date: June 15, 2020

To: Council

From: City Manager

Department: Development Planning

Application: Z20-0016

Owner: Marian B. Gruber

Address: 729 Fitzpatrick Road

Applicant: Birte Decloux, Urban Options
Planning & Permits

Subject: Rezoning Application

Existing OCP Designation: IND – Industrial
PARK – Major Park / Open Space

Existing Zone: A1 – Agriculture 1

Proposed Zone: I2 – General Industrial
P3 – Parks and Open Space

1.0 Recommendation

THAT Rezoning Application No. Z20-0016 to amend the City of Kelowna Zoning Bylaw No. 8000 by changing the zoning classification of Lot 7, Section 34, Township 26, Osoyoos Division Yale District Plan 3236 Except Plan B5456, located at 729 Fitzpatrick Road, Kelowna, BC from the A1-Agriculture 1 zone to the I2 – General Industrial zone and P3 – Parks and Open Space, be considered by Council;

AND THAT the Rezoning Bylaw be forwarded to a Public Hearing for further consideration;

AND THAT final adoption of the Rezoning Bylaw be considered subsequent to the outstanding conditions of approval as set out in Schedule "A" attached to the Report from the Development Planning Department dated May 26, 2020;

AND THAT final adoption of the Rezoning Bylaw be considered subsequent to the approval of the Ministry of Transportation and Infrastructure;

AND THAT final adoption of the Rezoning Bylaw be considered subsequent to the issuance of an Environmental Development Permit for the subject property;

AND FURTHER THAT final adoption of the Rezoning Bylaw be considered subsequent to the issuance of a Preliminary Layout Review Letter for the dedication of the linear park and riparian management area along Francis Brook.

2.0 Purpose

To consider an application to rezone the subject property from the A1-Agriculture 1 zone to the I2 – General Industrial zone and the P3 – Parks and Open Space zone, to facilitate the use of the subject property for an industrial development, and to dedicate a portion of the property as parkland.

3.0 Development Planning

Staff are supportive of the proposed rezoning of the subject property to I2-General Industrial zone and to dedicate a portion of the property as parkland, as it is consistent with the Official Community Plan (OCP) future land use designation. The subject property is located within the Permanent Growth Boundary and is located adjacent to and near other industrially zoned properties. The I2 – General Industrial zone would allow several industrial uses on the property similar to a number of properties in the immediate area. The riparian area of Francis Brook would be protected by the P3- Parks and Open Space zone for environmental purposes.

4.0 Proposal

4.1 Project Description

In addition to a single-family dwelling that is located at the northwest corner of the property, there are three additional accessory structures located within the center of the property, and Francis Brook is located along the southern portion of the parcel. Subject to finalization of sale, the future landowner intends to move his business to the property with no immediate plans to demolish or construct any structures on the property.

The rezoning of the parcel will allow the City to acquire and protect the lands along Francis Brook. The City has already acquired lands along Francis Brook to the west of the subject property with the development of the Porsche Car Dealership on Finns Road, and other properties along the Francis Brook corridor are in different stages of rezoning process. With the rezoning of the subject property, the City will acquire 10.0 meters from top-of-bank along north side of the Brook and the remaining portion of the lands to the south of the Brook. Francis Brook is an important drainage corridor and habitat area, and the City will be able to protect it in perpetuity.

The applicant has indicated they are willing to provide a Statutory Right of Way (SRW) along the western property line to provide access for City maintenance and in case of emergency flood protection. As there are no short-term plans for a public trail connection through the property at this time, the SRW would be fenced, gated and locked for maintenance purposes, for the foreseeable future.

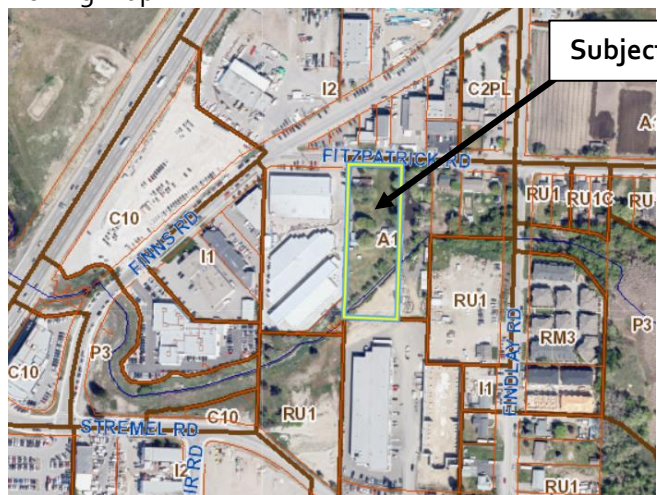
4.2 Site Context

The subject property is located near the corner of Fitzpatrick Road and Finns Road within the Rutland Sector of the city, and is predominantly surrounded by industrial or commercial lands. Adjacent land uses are as follows:

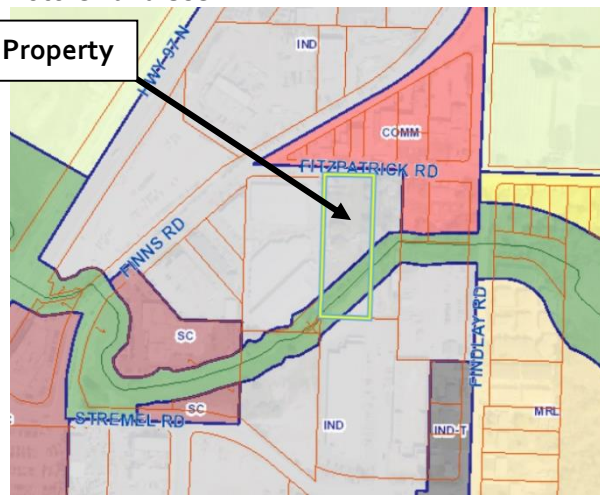
Orientation	Zoning	Land Use
North	I2 – General Industrial C2pl – Neighbourhood Commercial	Industrial Commercial
East	A1 – Agriculture 1 RU1 – Urban Residential Zone	Residential
South	I2 – General Industrial RU1 – Urban Residential Zone	Francis Brook Industrial Residential
West	I2 – General Industrial C10 – Service Commercial	Industrial Commercial

Subject Property Map: 729 Fitzpatrick Road

Zoning Map:



Future Land Use:



5.0 Current Development Policies

5.1 Kelowna Official Community Plan (OCP)

Chapter 10: Development Process

Objective 5.28 Industrial Land Use Policies:

Focus industrial development to areas suitable for industrial use.

6.0 Technical Comments

6.1 Development Engineering Department

- Refer to attached Schedule A, Development Engineering Department Memorandum, dated May 26, 2020.

6.2 Parks and Building Planning

- Per OCP Policy 5.14.2, a 5-meter-wide linear park must be dedicated at the north end of the property, outside the riparian management area requirements per OCP Chapter 12 (15 m width per Table 12.1 in the OCP). The OCP outlines that this dedication is to occur at rezoning, so the

definition of the riparian area and adjacent linear park must occur at rezoning and not wait for the Environmental Development Permit.

- A Statutory Right of Way for maintenance by City crews (minimum 3.0m with a 2.4m access route) is required from Fitzpatrick Road to the creek lot.
- The construction of a multi-use path Class 4 – Multi-Use should be required and bonded for through the Servicing Agreement, as part of the required infrastructure of the site.

7.0 Application Chronology

Date of Application Received: December 20, 2019

Date Public Consultation Completed: March 31, 2020

Report prepared by: Barbara B. Crawford, Planner II

Reviewed by: James Moore, Urban Planning & Development Policy Manager

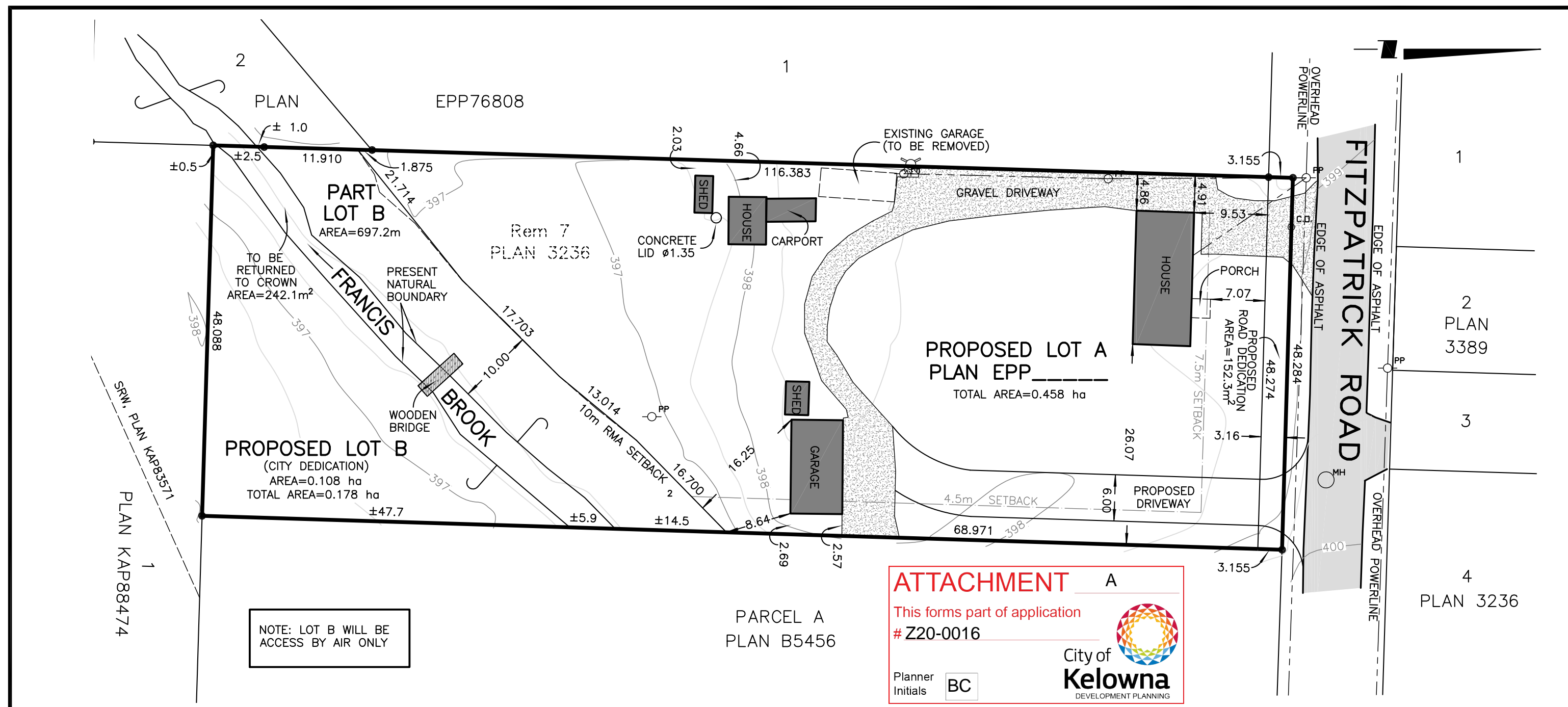
Approved for Inclusion: Terry Barton, Development Planning Department Manager



Attachments:

Schedule A: Development Engineering Memo

Attachment A: Site Plan

Attachment B: Applicant's Rationale Letter



<div>LEGAL DESCRIPTION: LOT 7 SECTION 34 TOWNSHIP 26 ODYD PLAN 3236 EXCEPT PLAN B5456</div> <div>DRAWING TYPE: TOPOGRAPHIC SITE PLAN/ PROPOSED SUBDIVISION PLAN</div> <div>CIVIC ADDRESS: 729 FITZPATRICK ROAD, KELOWNA</div> <div><div>FERGUSON Land Surveying & Geomatics Ltd.</div><div>B.C. LAND SURVEYORS CANADA LANDS SURVEYORS Subdivision Design Legal, Topographic & GPS Surveys 404-1630 Pandosy St., Kelowna, B.C. V1Y 1P7 Telephone (250)763-3115 Fax (250)763-0321</div></div>	LEGEND				JOB NO. 21950-TOPO	
	<div><div><div>✕ SPOT HEIGHT</div><div>● IRON PIN FOUND</div><div>PP POWER POLE</div><div>C.D. SANITARY SEWER CLEANOUT</div><div>MH SANITARY SEWER MANHOLE</div></div><div><div> FIRE HYDRANT</div><div>RMA DENOTES REPAIRMAN MANAGEMENT AREA</div><div>OVERHEAD POWERLINE</div><div>PROPOSED SETBACK (12 ZONING)</div></div></div>				DATE: AUGUST 30, 2019	
					SCALE: 1:500 METRES	
					CLIENT: JUSTIN BULLOCK	
					NOTES: ELEVATIONS ARE GEODETIC AND ARE DERIVED FROM RTK GPS. CONTOURS ARE 0.5 METRES INTERVALS.	
REVISION NO.		DESCRIPTION	BY	DATE REVISED	FIELD BOOK: SEE FILE	
1		PROPOSED PARK ADDED	AI	DECEMBER 6, 2019	FIELD CREW: JF/RQ	
2		ADDED PROPOSED LOT B	RD	MAY 21, 2020	DRAWN BY: AI	
—			—	—	S:\Shared (Aug 10, 2006)\Job_Files\219XX\21950\21950-TOPO.DWG	



December 20, 2019

City of Kelowna
Community Planning Dept.
1435 Water Street
Kelowna, BC
V1Y 1J4

Re: Rezoning at 729 Fitzpatrick Road

Dear Planning Staff

We are pleased to submit this application to rezone the property at 729 Fitzpatrick Road from the A1 – Agriculture 1 zone to the I2 – General Industrial zone. The application triggers an Environmental Development Permit application which is to be applied for in early 2020 and reviewed concurrently with the rezoning process. There are no plans to demolish or construct any structures on the property.

This property's current zone is designated as A1 – Agriculture 1, which is no longer the highest and best use of the subject property. The A1 zone allows for agricultural use; however, there is no evidence that the property has been used for agricultural purposes. Over the past few decades, this area has transitioned towards residential and industrial. In addition, the *City of Kelowna Official Community Plan* identifies the property with a future land use designation of Industrial, therefore it is logical to rezone the land to I2 – General Industrial to bring the subject property into compliance. The future landowner intends to move his business to the property, initially utilizing the existing structures.

The property at 729 Fitzpatrick Road is in sync with the surrounding area due to a variety of applications to the City. These applications are listed as follows:

- *1308 Findlay Rd* – rezoning the subject property from RU1 to I2.
- *766 Stremel Rd* – rezoning the subject property from RU1 to I2 and P3.
- *766 Stremel Rd* – rezoning to C10 & P3 to allow the construction of car dealership.
- *820 Finns Rd, 839 Finns Rd, 850 Finns Rd, 888 Finns Rd* – amending the OCP, rezoning from A1- Agriculture zone to the C10- Vehicle Commercial Zone and associated Development Permits (in progress since 2015).

Some of these projects have already received 3rd reading and are working through further requirements prior to final adoption.


The southern portion of the property is designated as 'Park,' and the landowner is prepared to dedicate this area to the City as discussed with Planning staff. Pre-application meetings were held on site with Corey Davis, Environmental Technician and Melanie Stepphun, Parks Department to discuss the City's interests.

Given the need for industrial land, the appropriate future land use designation and accessibility to the site we feel that it is appropriate to rezone to the I2 Industrial use. We look forward to hearing your comments and feedback on the project. Should you have any questions please call Birte Decloux at 250.575.6707.

Regards,



Birte Decloux on behalf of Justin Bullock

ATTACHMENT		B
This forms part of application		
# Z20-0016		
Planner Initials	BC	 City of Kelowna <small>DEVELOPMENT PLANNING</small>

CITY OF KELOWNA

MEMORANDUM

Date: ~~February 24, 2020~~ (May 26, 2020)
File No.: Z20-0016
To: Community Planning (BC)
From: Development Engineering Manager (JK)
Subject: 729 Fitzpatrick Rd.

A1 – I2

The Development Engineering Department has the following comments and requirements associated with this rezoning application. The road and utility upgrading requirements outlined in this report will be a requirement of this development. The Development Engineering Technologist for this project is Aaron Sangster.

1. General

- a) These are Development Engineering comments/requirements and area subject to the review and requirements from the Ministry of Transportation (MOTI) Infrastructure Branch.

2. Road Improvements

- a) Fitzpatrick Rd. must be upgraded to an urban standard along the full frontage of this proposed development, including barrier curb and gutter, sidewalk, irrigated landscaped boulevard, drainage system including catch basins, manholes and pavement removal and replacement and re-location or adjustment of utility appurtenances if required to accommodate the upgrading construction. Road cross section to be used is a SS-R5

3. Domestic Water and Fire Protection

- a) This development is within the service area of the Black Mountain Irrigation District (BMID). The developer is required to make satisfactory arrangements with the BMID for these items. All charges for service connection and upgrading costs are to be paid directly to the BMID. The developer is required to provide a confirmation that the district is capable of supplying fire flow in accordance with the City of Kelowna current Bylaws and Policies.

2. Sanitary Sewer

- a) Our records indicate that this property is currently serviced with a 150mm-diameter sanitary sewer service. The applicant's consulting mechanical engineer will determine the requirements of the proposed development and establish the service needs. Only one service will be permitted for this development. If required, the applicant will arrange for the removal and disconnection of the existing service and the installation of one new larger service at the applicants cost.

SCHEDULE		A
This forms part of application # Z20-0016		
Planner Initials	BC	 City of Kelowna <small>DEVELOPMENT PLANNING</small>

3. **Storm Drainage**

- a) Provide a detailed Stormwater Management Plan for this development as per the Subdivision, Development and Servicing Bylaw #7900.
- b) Ground water will not be allowed to be pumped to City drainage system.
- c) The developer must engage a consulting civil engineer to provide a storm water management plan for this site which meets the requirements of the City Subdivision Development and Servicing Bylaw 7900. The storm water management plan must also include provision of lot grading plans, minimum basement elevations (MBE), if applicable, and provision of a storm drainage service and recommendations for onsite drainage containment and disposal systems

4. **Erosion Servicing Control Plan**

- a) Provide a detailed ESC Plan for this development as per the Subdivision, Development and Servicing Bylaw #7900.
- b) The developer must engage a consulting civil engineer to provide an ESC plan for this site which meets the requirements of the City Subdivision Development and Servicing Bylaw 7900.
- c) Civil consultant is responsible for all inspection and maintenance.
- d) A Security Deposit for ESC Works equal to 3.0% of the Consulting Engineer's opinion of probable costs of civil earthworks and infrastructure will be added to the Servicing Agreement.

5. **Road Dedication and Subdivision Requirements**

- a) Grant Statutory Rights of Way if required for utility services.
- b) If any road dedication or closure affects lands encumbered by a Utility right-of-way (such as Hydro, Telus, Gas, etc.) please obtain the approval of the utility. Any works required by the utility as a consequence of the road dedication or closure must be incorporated in the construction drawings submitted to the City's Development Manager.
- c) Dedicate ~3.15m width along the full frontage of Fitzpatrick Rd. to align with the property line of 747 Fitzpatrick Rd.

6. **Development Permit and Site Related Issues**

- a) *Road access via driveway letdown must conform to bylaw 7900. As per bylaw 7900 only one driveway will be permitted on this development.*
- b) Direct the roof drains into on-site rock pits or splash pads.
- c) Creek easements/dedication will be required.

7. **Electric Power and Telecommunication Services**

- a) All proposed service connections are to be installed underground. It is the developer's responsibility to make a servicing application with the respective electric power, telephone and cable transmission companies to arrange for these services, which would be at the applicant's cost. The utility companies are required to obtain the City's approval before commencing construction.

- b) Re-locate existing poles and utilities, where necessary. Remove aerial trespass (es).

7. **Design and Construction**

- a) Design, construction supervision and inspection of all off-site civil works and site servicing must be performed by a Consulting Civil Engineer and all such work is subject to the approval of the City Engineer. Drawings must conform to City standards and requirements.
- b) Engineering drawing submissions are to be in accordance with the City's "Engineering Drawing Submission Requirements" Policy. Please note the number of sets and drawings required for submissions.
- c) Quality Control and Assurance Plans must be provided in accordance with the Subdivision, Development & Servicing Bylaw No. 7900 (refer to Part 5 and Schedule 3).
- d) A "Consulting Engineering Confirmation Letter" (City document 'C') must be completed prior to submission of any designs.
- e) Before any construction related to the requirements of this subdivision application commences, design drawings prepared by a professional engineer must be submitted to the City's Works & Utilities Department. The design drawings must first be "Issued for Construction" by the City Engineer. On examination of design drawings, it may be determined that rights-of-way are required for current or future needs.

8. **Servicing Agreement for Works and Services**

- a) A Servicing Agreement is required for all works and services on City lands in accordance with the Subdivision, Development & Servicing Bylaw No. 7900. The applicant's Engineer, prior to preparation of Servicing Agreements, must provide adequate drawings and estimates for the required works. The Servicing Agreement must be in the form as described in Schedule 2 of the bylaw.
- b) Part 3, "Security for Works and Services", of the Bylaw, describes the Bonding and Insurance requirements of the Owner. The liability limit is not to be less than \$5,000,000 and the City is to be named on the insurance policy as an additional insured.

4. **Geotechnical Report**

- a) Provide a comprehensive geotechnical report, prepared by a Professional Engineer competent in the field of hydro-geotechnical engineering to address the items below: **NOTE: The City is relying on the Geotechnical Engineer's report to prevent any damage to property and/or injury to persons from occurring as a result of problems with soil slippage or soil instability related to this proposed subdivision.**


The Geotechnical report must be submitted prior to submission of Engineering drawings or application for subdivision approval.

- i. Area ground water characteristics, including any springs and overland surface drainage courses traversing the property. Identify any monitoring required.
- ii. Site suitability for development.

- iii. Site soil characteristics (i.e. fill areas, sulphate content, unsuitable soils such as organic material, etc.).
- iv. Any special requirements for construction of roads, utilities and building structures.
- v. Suitability of on-site disposal of storm water and sanitary waste, including effects upon adjoining lands.
- vi. Slope stability, rock fall hazard and slippage including the effects of drainage and septic tank effluent on the site.
- vii. Identify slopes greater than 30%.
- viii. Top of bank assessment and location including recommendations for property line locations, septic field locations, building setbacks, and ground water disposal locations.
- ix. Recommendations for items that should be included in a Restrictive Covenant.
- x. Any special requirements that the proposed subdivision should undertake so that it will not impact the bank(s). The report must consider erosion and structural requirements.
- xi. Any items required in other sections of this document.
- xii. Recommendations for erosion and sedimentation controls for water and wind.
- xiii. Recommendations for roof drains and perimeter drains.
- xiv. Recommendations for construction of detention or infiltration ponds if applicable.

5. Charges and Fees

- a) Development Cost Charges (DCC's) are payable
- b) Fees per the "Development Application Fees Bylaw" include:
 - (i) Street/Traffic Sign Fees: at cost if required (to be determined after design).
 - (ii) Survey Monument, Replacement Fee: \$1,200.00 (GST exempt) – only if disturbed.
 - (iii) Engineering and Inspection Fee: 3.5% of construction value (plus GST).



 James Kay, P. Eng.
 Development Engineering Manager

AS



Z20-0016

729 Fitzpatrick Road

Rezoning Application



Proposal

- ▶ To consider an application to:
 - ▶ Rezone the subject property from A1- Agriculture to the I2 – General Industrial zone and P3 – Parks and Open Space zone, to facilitate the use of the subject property for an industrial development, and;
 - ▶ Dedicate a portion of the property as parkland.

Development Process

December 20, 2019

Development Application Submitted

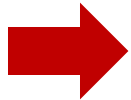


Staff Review & Circulation



March 31, 2020

Public Notification Received



June 15, 2020

Initial Consideration



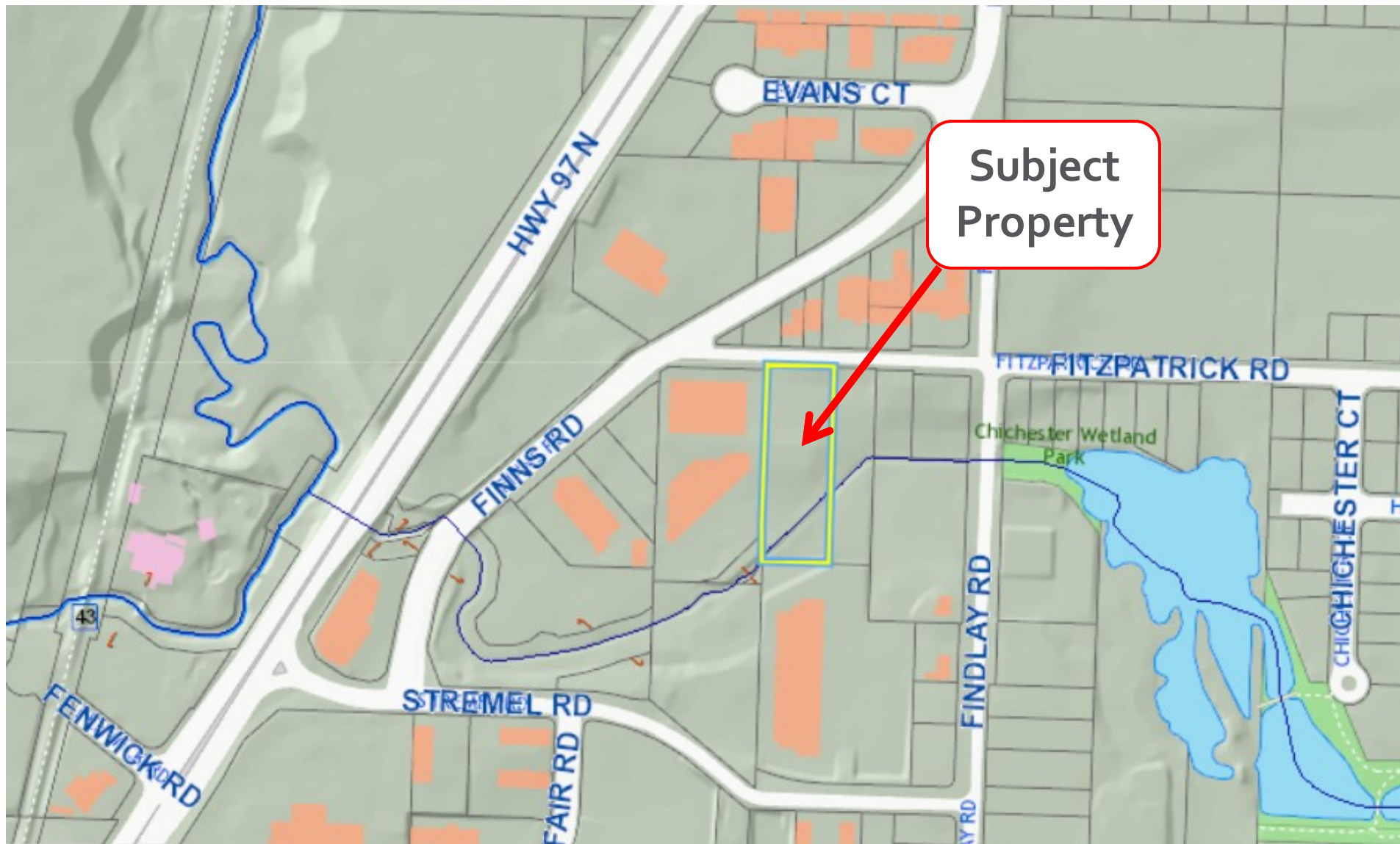
Public Hearing
Second & Third Readings



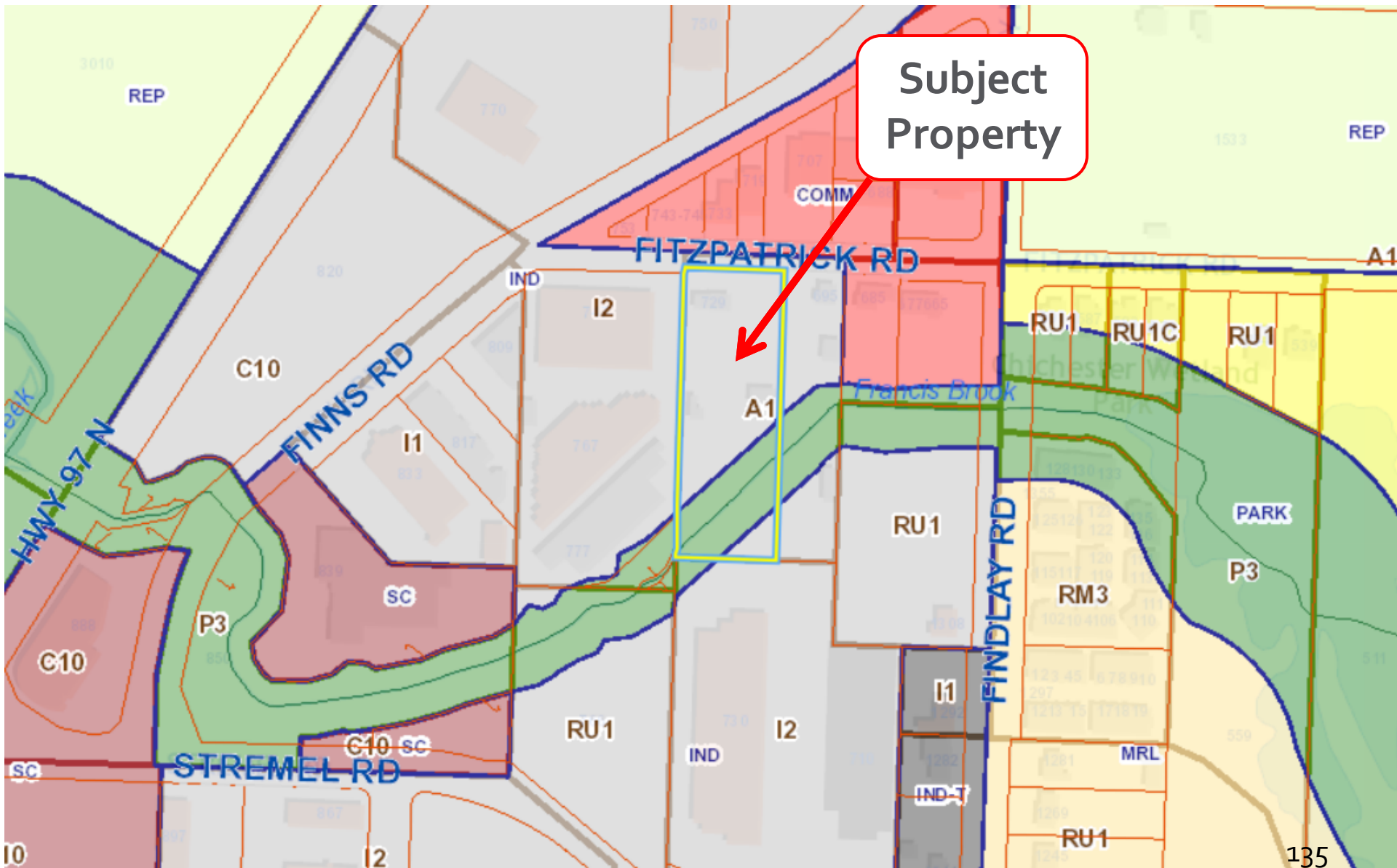
Final Reading

Council
Approvals

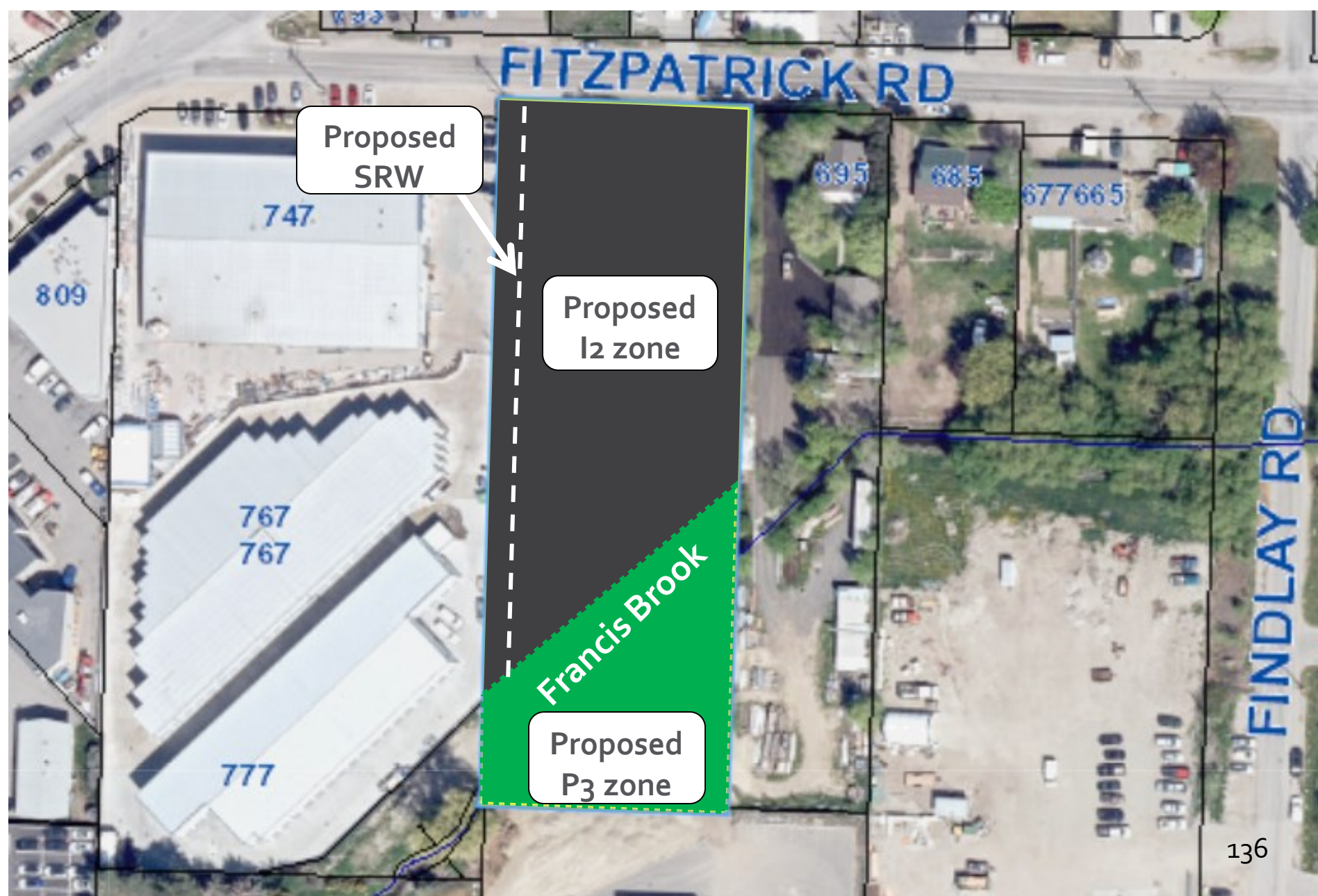
Context Map



Zoning and OCP Future Land Use



Subject Property Map and Project Details



Development Policy

- ▶ Meets the intent of the Official Community Plan
 - ▶ Industrial Land Use Policies - *Focus industrial development to areas suitable for industrial use*
 - ▶ Provide Parks for a Diversity of People and a Variety of Uses – *Dedication of Linear Parks*
- ▶ Natural Environment DP for Francis Brook

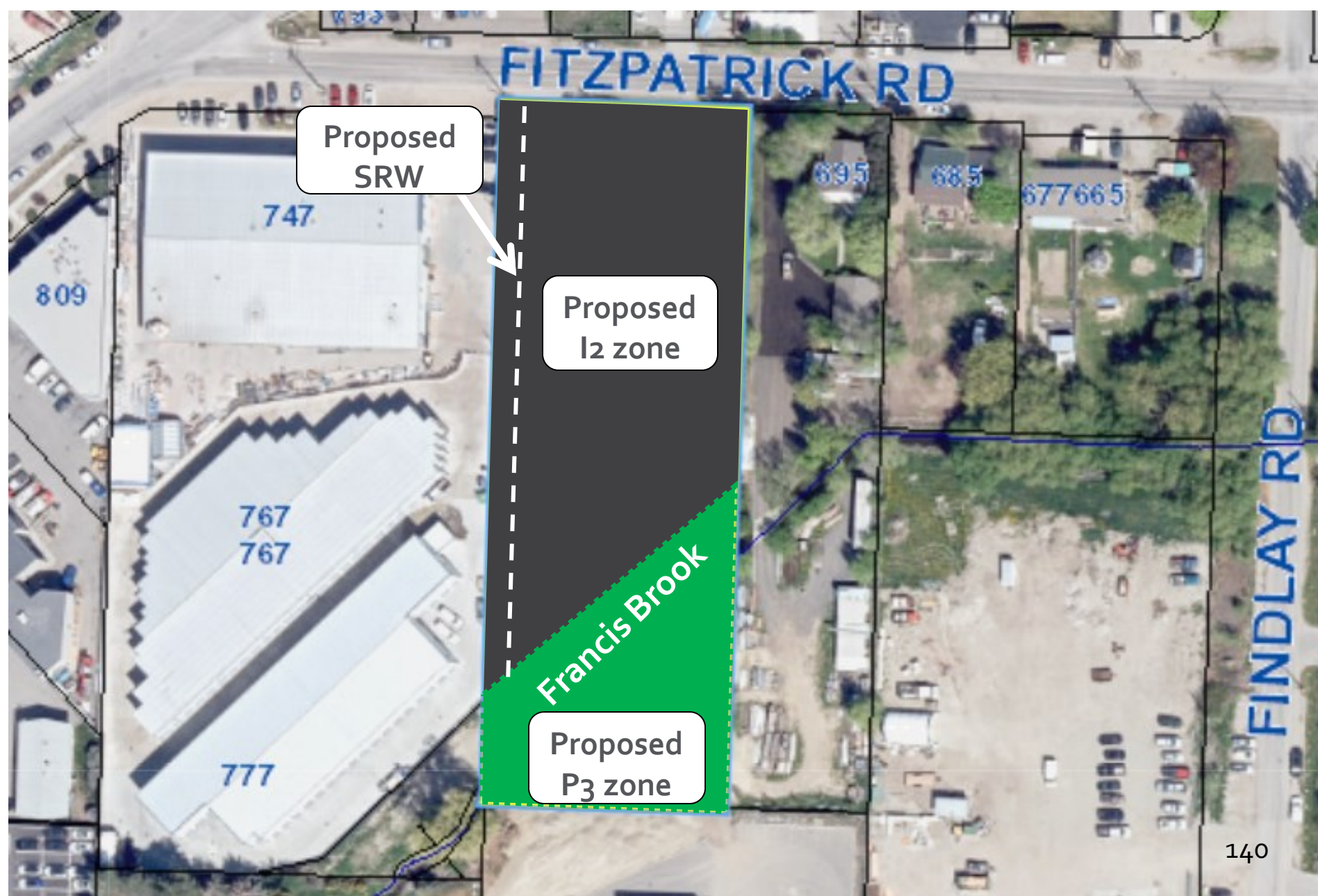
Staff Recommendation

- ▶ Staff recommend support for the proposed rezoning of the subject property
- ▶ Meets the intent of the Official Community Plan
 - ▶ Industrial Land Use
 - ▶ Provide Parks for a Diversity of People and a Variety of Uses
- ▶ Recommend the Bylaw be forwarded to Public Hearing



Conclusion of Staff Remarks

Subject Property Map and Project Details



CITY OF KELOWNA

BYLAW NO. 12050

Z20-0016 – 729 Fitzpatrick Road

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

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

1. THAT City of Kelowna Zoning Bylaw No. 8000 be amended by changing the zoning classification of Lot 7, Section 34, Township 26, ODYD Plan 3236 Except Plan B5456 located on Fitzpatrick Rd, Kelowna, BC from the A1 – Agriculture 1 zone to the I2 – General Industrial zone and the P3 – Parks and Open Space zone as shown on Map "A" attached to and forming part of this bylaw;
2. This bylaw shall come into full force and effect and is binding on all persons as and from the date of adoption.

Read a first time by the Municipal Council this 15th day of June, 2020.

Read a second and third time by the Municipal Council this

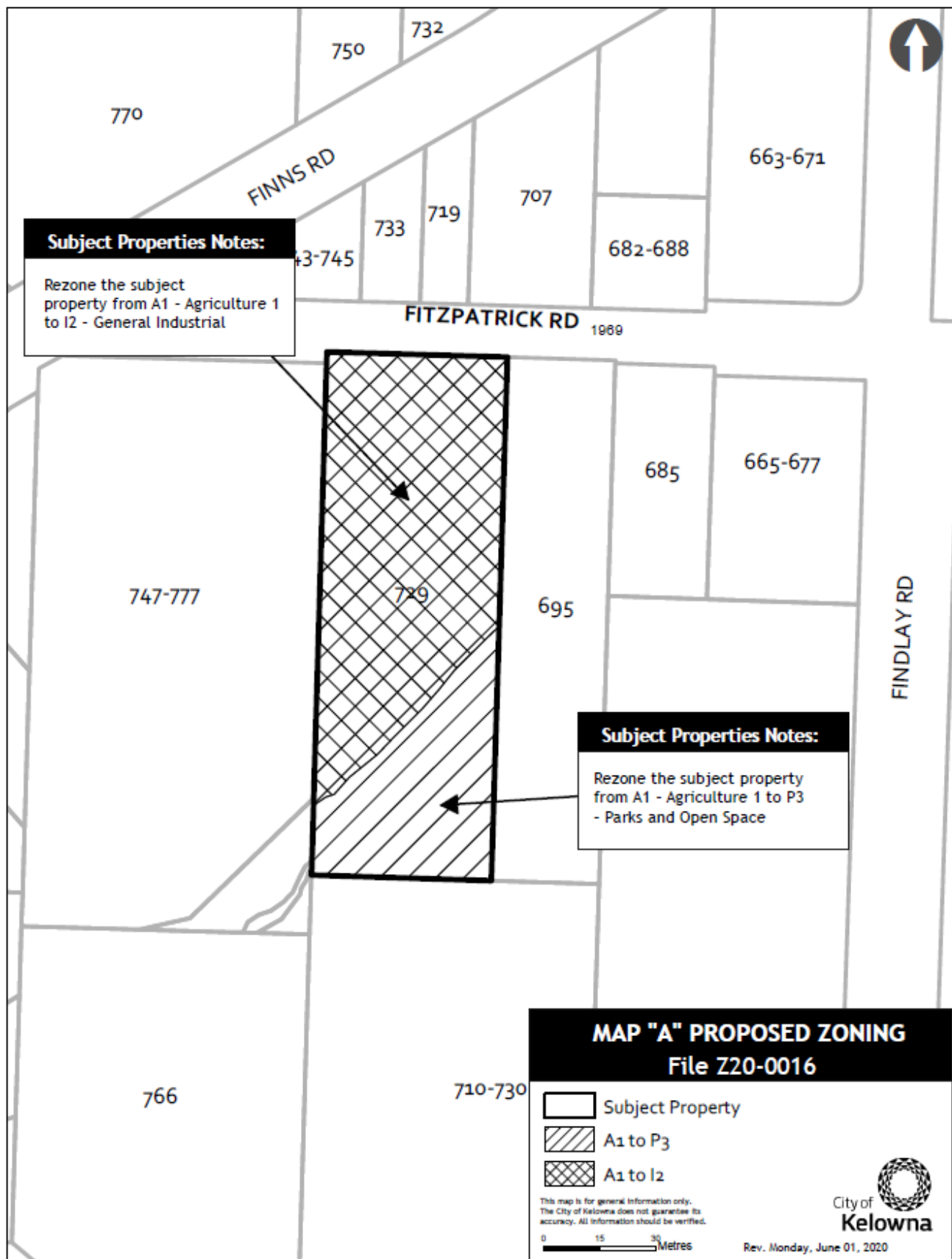
Approved under the Transportation Act this

(Approving Officer – Ministry of Transportation)

Adopted by the Municipal Council of the City of Kelowna this

Mayor

City Clerk



REPORT TO COUNCIL



Date: May 25, 2020

To: Council

From: City Manager

Department: Development Planning

Application: Z20-0029
Owner: Amarjit S. Hundal, Jaswinder S. Nahal, Harminder S. Dhillon and Gurdip K. Dhillon

Address: 472 Knowles Road
Applicant: Nathan Waterhouse; Ecora

Subject: Rezoning Application

Existing OCP Designation: S2RES – Single / Two Unit Residential

Existing Zone: RU1 – Large Lot Housing

Proposed Zone: RU2 – Medium Lot Housing

1.0 Recommendation

THAT Rezoning Application No. Z20-0029 to amend the City of Kelowna Zoning Bylaw No. 8000 by changing the zoning classification of Lot A District Lot 167 ODYD Plan 9341, Except Plans 13481 and 19834, located at 472 Knowles Rd., Kelowna, BC from the RU1 – Large Lot Housing zone to the RU2 – Medium Lot Housing zone, be considered by Council;

AND THAT Council, in accordance with Local Government Act s. 464(2), waive the Public Hearing for the Rezoning Bylaw;

AND THAT final adoption of the Rezoning Bylaw be considered subsequent to the outstanding conditions of approval as set out in Schedule "A" attached to the Report from the Development Planning Department dated May 25, 2020;

AND THAT final adoption of the Rezoning Bylaw be considered subsequent to the issuance of a Preliminary Layout Review Letter by the Approving Officer.

2.0 Purpose

To rezone the subject property from the RU1 – Large Lot Housing zone to the RU2 - Medium Lot Housing zone to facilitate a 3-lot subdivision.

3.0 Development Planning

Development Planning supports the proposal to rezone the subject property to the RU2 – Medium Lot Housing zone to facilitate a 3-lot subdivision.

To begin with, the subject property has a future land use designation of S2RES – Single / Two Unit Residential, and is within the City's Permanent Growth Boundary (PGB). As such, the proposed zone is consistent with the Official Community Plan's (OCP) objective of incrementally increasing residential densities in existing neighbourhoods.

In addition, each of the proposed lots meets the minimum dimensions of the RU2 zone. There are multiple properties in the vicinity that are zoned RU2, as well as numerous lots with similar lot dimensions. As such, the proposed zone and lots should fit with the context of the neighbourhood.

4.0 Proposal

4.1 Project Description

The applicant proposes to rezone the subject property to the RU2 – Medium Lot Housing zone to facilitate a 3-lot subdivision. Each of the 3 proposed lots meets the minimum dimensions of the RU2 zone.

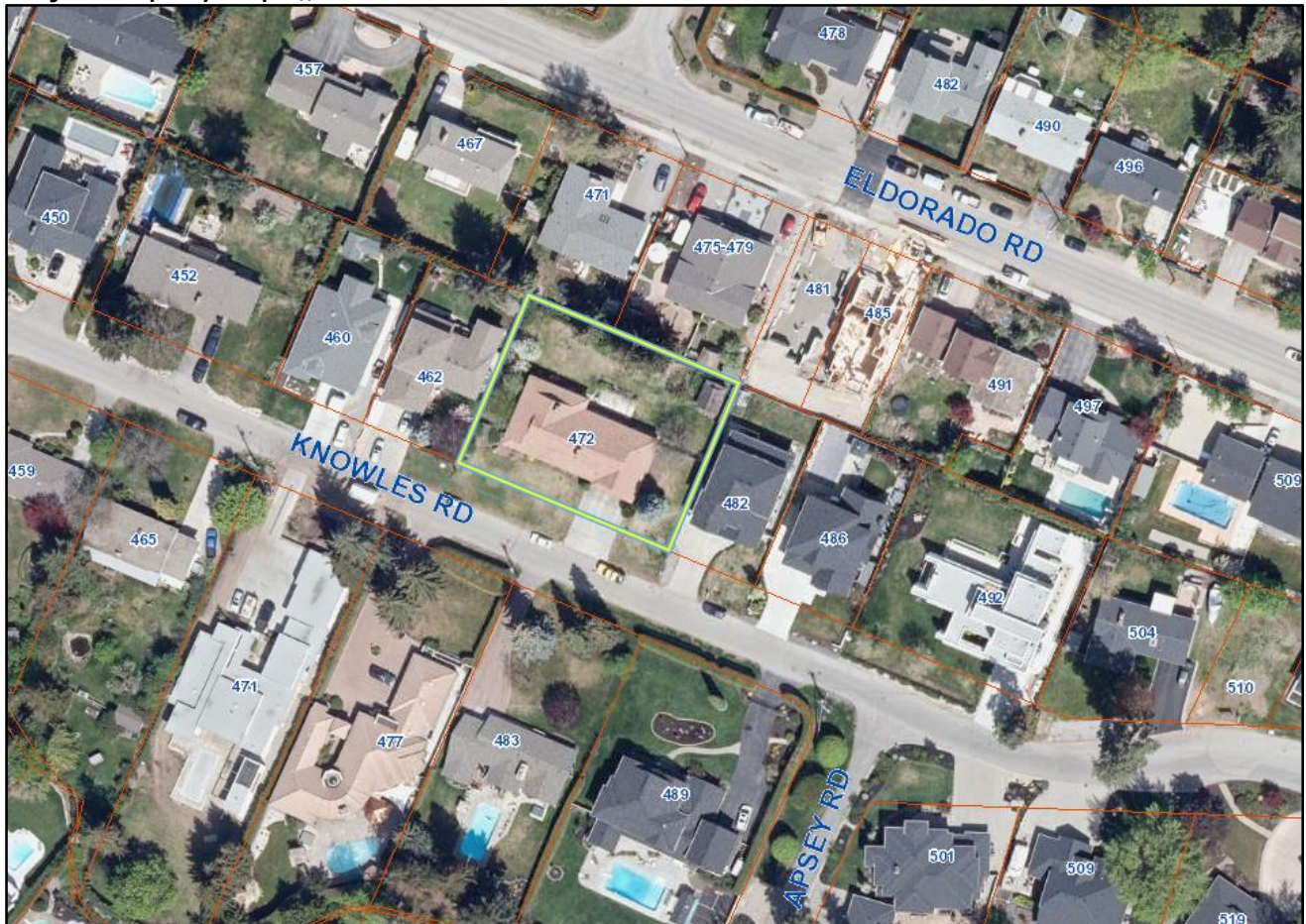
4.2 Site Context

The property is located in the North Okanagan Mission Sector and is within the Permanent Growth Boundary (PGB). The lot is within easy walking distance of Anne McClymont Elementary School and the Lakeshore Road Recreation Corridor to the east, and Eldorado Road Beach Access to the west. The commercial node at Collett Road, Okanagan Mission Community Hall, and Okanagan Mission Secondary School are also nearby in the neighbourhood.

Specifically, adjacent land uses are as follows:

Orientation	Zoning	Land Use
North	RU6 – Two Dwelling Housing	Duplex Housing
East	RU1 – Large Lot Housing	Single Family Housing
South	RU1 – Large Lot Housing	Single Family Housing
West	RU1 – Large Lot Housing	Single Family Housing

Subject Property Map: 472 Knowles Rd.



5.0 Current Development Policies

5.1 Kelowna Official Community Plan (OCP)

Chapter 5: Development Process

Objective 5.22 Ensure context sensitive housing development.

*Policy .6 **Sensitive Infill.** 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 Development Engineering Department

- See Schedule A

7.0 Application Chronology

Date of Application Received: March 17, 2020

Date Public Consultation Completed: May 8, 2020

Report prepared by: Aaron Thibeault, Planner II

Reviewed by: James Moore, Acting Development Planning Manager

Approved for Inclusion: Terry Barton, Development Planning Department Manager

Attachments:

Schedule A: Development Engineering Memo

Attachment A: Applicant Rationale

Attachment B: Subdivision Plan

CITY OF KELOWNA

MEMORANDUM

Date: April 1, 2020
File No.: Z20-0029
To: Community Planning (AT)
From: Development Engineering Manager (JK)
Subject: 472 Knowles Rd.

SCHEDULE

A

This forms part of application

Z20-0029

Planner
Initials

AT



RU1 to RU2

The Development Engineering Department has the following comments and requirements associated with this application to rezone the subject property from RU1 to RU6. The road and utility upgrading requirements outlined in this report will be a requirement of this development. The Development Engineering Technician for this project is Aaron Sangster.

1. General

- a) The following requirements are valid for two (2) years from the reference date of this memo, or until the PLR and/or application has been closed, whichever occurs first. The City of Kelowna reserves the rights to update/change some or all items in this memo once these time limits have been reached.

2. Domestic Water and Fire Protection

- a) The subject property is currently serviced with a 19mm water service. One metered water service will be required for the development. The disconnection of the existing small diameter water services and the tie-in of a larger service is the developer's responsibility. You can engage an engineer and contractor to manage the work on your behalf or it can be provided by City forces at the developer's expense. If you chose to have it completed by City forces, you will be required to sign a Third-Party Work Order and pre-pay for the cost of the water service upgrades. For estimate inquiries please contact Mike Thomas, by email mthomas@kelowna.ca or phone, 250-469-8797.

3. Sanitary Sewer

- a) This property is currently serviced with a 100-mm sanitary service. The developer's consulting mechanical engineer will determine the development requirements of this proposed development and establish the service needs. Only one service will be permitted for this development. You can engage an engineer and contractor to manage the work on your behalf or it can be provided by City forces at the developer's expense. If you chose to have it completed by City forces, you will be required to sign a Third-Party Work Order and pre-pay for the cost of the water service upgrades. For estimate inquiries please contact Mike Thomas, by email mthomas@kelowna.ca or phone, 250-469-8797.

4. Storm Drainage

- a) The developer must engage a consulting civil engineer to provide a storm water management plan for the site, which meets the requirements of the Subdivision,

City of
Kelowna

Development and Servicing Bylaw No. 7900. The storm water management plan shall include provision of lot grading plan, minimum basement elevation (MBE), if applicable, and provision of a storm drainage service for the development and / or recommendations for onsite drainage containment and disposal systems. Only one service will be permitted for this development. The applicant, at his cost, will arrange the installation of one overflow service if required.

5. Electric Power and Telecommunication Services

- a) All proposed service connections are to be installed underground. It is the developer's responsibility to make a servicing application with the respective electric power, telephone and cable transmission companies to arrange for these services, which would be at the applicant's cost.

6. Road Improvements

- a) Knowles Rd. must be upgraded to a local standard along the full frontage of this proposed development, curb and gutter, drainage system, catch basin, manholes, irrigated landscaped boulevard, pavement removal and replacement, and re-location or adjustment of utility appurtenances if required to accommodate the upgrading construction. A one-time cash payment in lieu of construction must be collected from the applicant for future construction by the City. The cash-in-lieu amount is determined to be **\$70,609.83** not including utility service cost. The road cross section to be used is a SS-R3.

7. Erosion Servicing Control Plan

- a) Provide a detailed ESC Plan for this development as per the Subdivision, Development and Servicing Bylaw #7900.
- b) The developer must engage a consulting civil engineer to provide an ESC plan for this site which meets the requirements of the City Subdivision Development and Servicing Bylaw 7900.

8. Road Dedication and Subdivision Requirements

- a) Grant Statutory Rights of Way if required for utility services.
- b) If any road dedication or closure affects lands encumbered by a Utility right-of-way (such as Hydro, Telus, Gas, etc.) please obtain the approval of the utility. Any works required by the utility as a consequence of the road dedication or closure must be incorporated in the construction drawings submitted to the City's Development Manager.

9. Geotechnical Report

Provide a geotechnical report prepared by a Professional Engineer competent in the field of hydro-geotechnical engineering to address the items below: NOTE: The City is relying on the Geotechnical Engineer's report to prevent any damage to property and/or injury to persons from occurring as a result of problems with soil slippage or soil instability related to this proposed subdivision. The Geotechnical reports must be submitted to the Development Services Department (Subdivision Approving officer) for distribution to the Development Engineering Branch and Inspection Services Division prior to submission of Engineering drawings or application for subdivision approval.

- (i) Area ground water characteristics, including any springs and overland surface drainage courses traversing the property. Identify any monitoring required.

- (ii) Site suitability for development.
- (iii) Site soil characteristics (i.e. fill areas, sulphate content, unsuitable soils such as organic material, etc.).
- (iv) Any special requirements for construction of roads, utilities and building structures.
- (v) Recommendations for items that should be included in a Restrictive Covenant.
- (vi) Recommendations for roof drains, perimeter drains and septic tank effluent on the site.
- (vii) Any items required in other sections of this document.

12. Charges and Fees

- a) Development Cost Charges (DCC's) are payable.
- b) Fees per the "Development Application Fees Bylaw" include:
 - i) Survey Monument, Replacement Fee: \$1,200.00 (GST exempt) – only if disturbed.
 - ii) Survey Monument Fee: **\$100.00** (\$50 per newly created lot – GST exempt).
- c) A hydrant levy charge of **\$500.00** (\$250.00 per new lot.)
- d) Cash-in-lieu for Deferred Frontage Works: \$70,609.83
- e) New Services (water & Sanitary) per lot **to be determined**.

James Kay

James Kay, P.Eng.
Development Engineering Manager

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SCHEDULE		A
This forms part of application # Z20-0029		
Planner Initials	AT	 City of Kelowna COMMUNITY PLANNING

Project:	472 Knowles Road Subdivision	Project No:	CK-191098
Client:	Jaswinder Sigh	Date:	2020-02-03
Location:	472 Knowles Road, Kelowna, BC	Contractor:	N/A

Design Rational Statement

RE: City of Kelowna Rezoning / DP Application 472 Knowles Road

The proposed Rezoning / DP Application allows the site located at 472 Knowles Road to be rezoned from RU1 to RU2. The purpose of this change in zoning is to allow the creation of 3 new single family lots in place of the existing single family home. The lot at 472 Knowles Road is approximately 35.64m deep and 44.68m of frontage totaling 531m². The proposed 3 new individual lots would be a depth of approximately 35.64m and a frontage of approximately 14.89m. The proposed subdivided lots meet the minimum RU2 requirements of 13m frontage, 30m deep, and minimum 400m². The existing lot is currently serviced by the 100mm AC water main by a 19mm service 1.8m west of the south east iron pin, and from the existing 200mm PVC sanitary main by a 100mm PVC service 2.4m east of the south west iron pin. The existing city infrastructure will allow for the addition of 2 new 25mm water services, and 2 new 100mm sanitary services. The subdivision will allow for the creation of 2 additional lots and remain withing the city's development plan for this neighborhood.

Regards,



Nathan Waterhouse, P.Eng



Z20-0029 472 Knowles Rd.

Rezoning Application



Proposal

- ▶ To rezone the subject property from the RU1 – Large Lot Housing zone to the RU2 - Medium Lot Housing zone to facilitate a 3-lot subdivision.

Development Process

March 17, 2020

Development Application Submitted



Staff Review & Circulation



May 8, 2020

Public Notification Received



May 25, 2020

Initial Consideration



Public Hearing
Second & Third Readings



Final Reading
DP & Variances

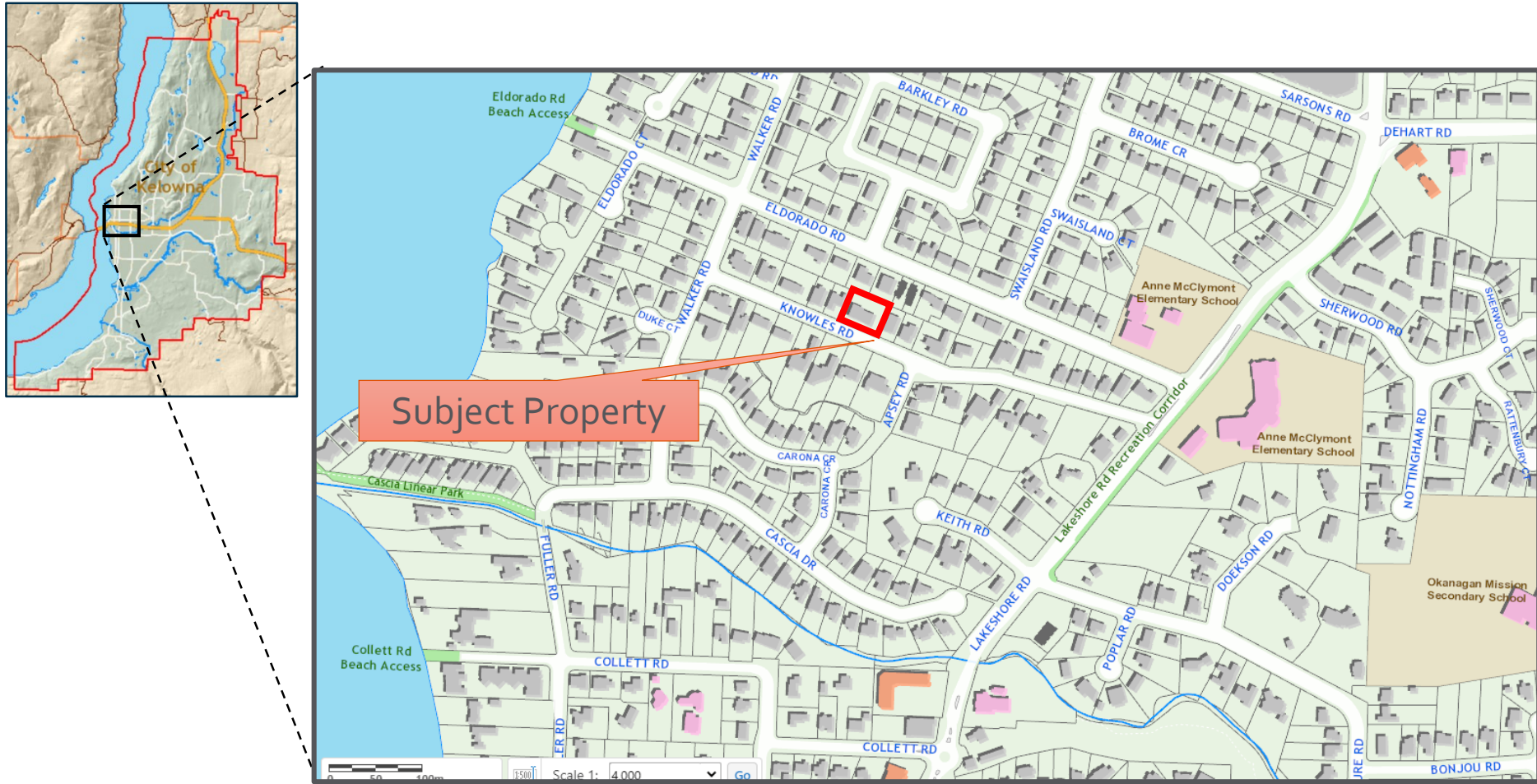


Building Permit

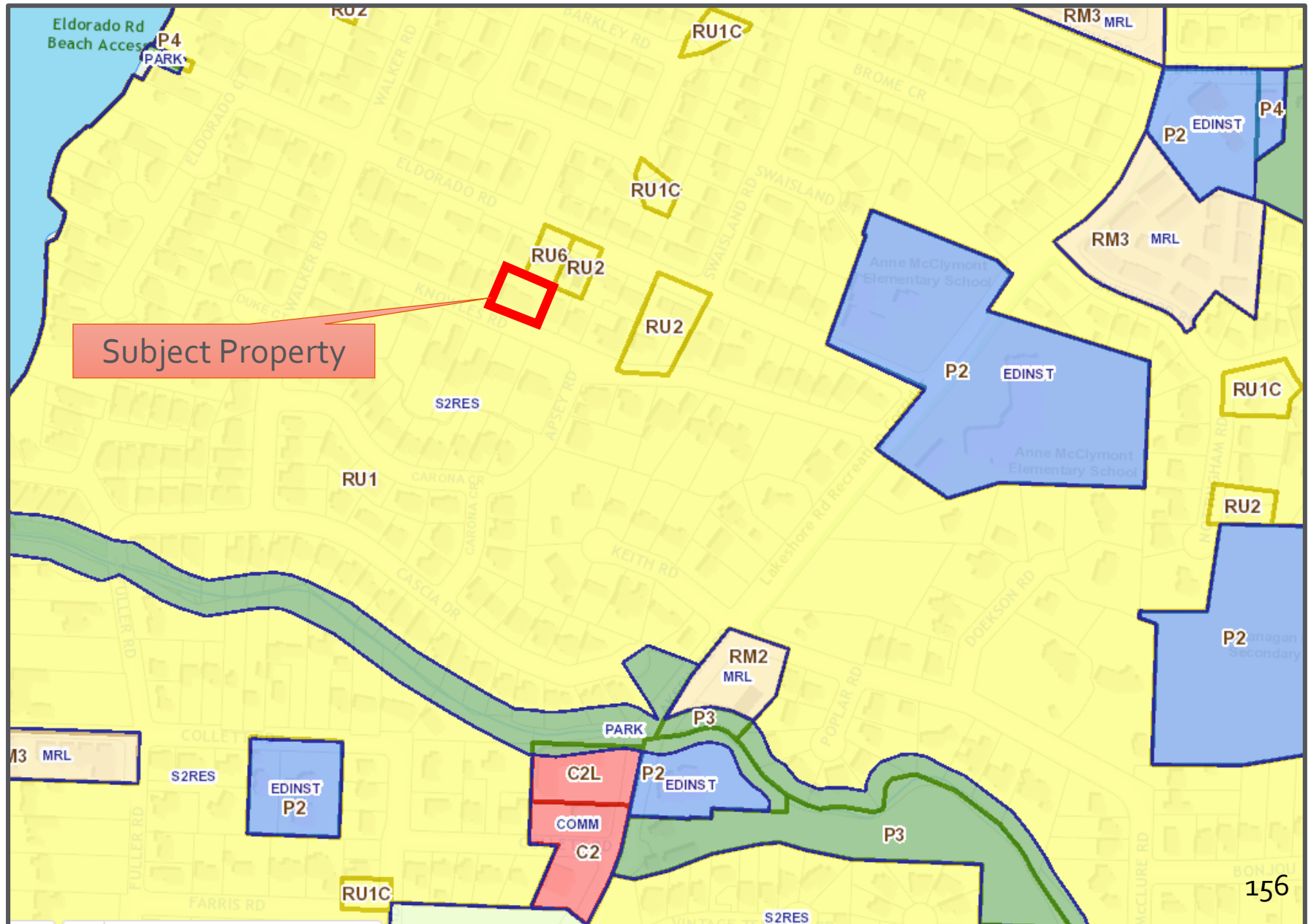


Council
Approvals

Context Map



OCP Future Land Use / Zoning



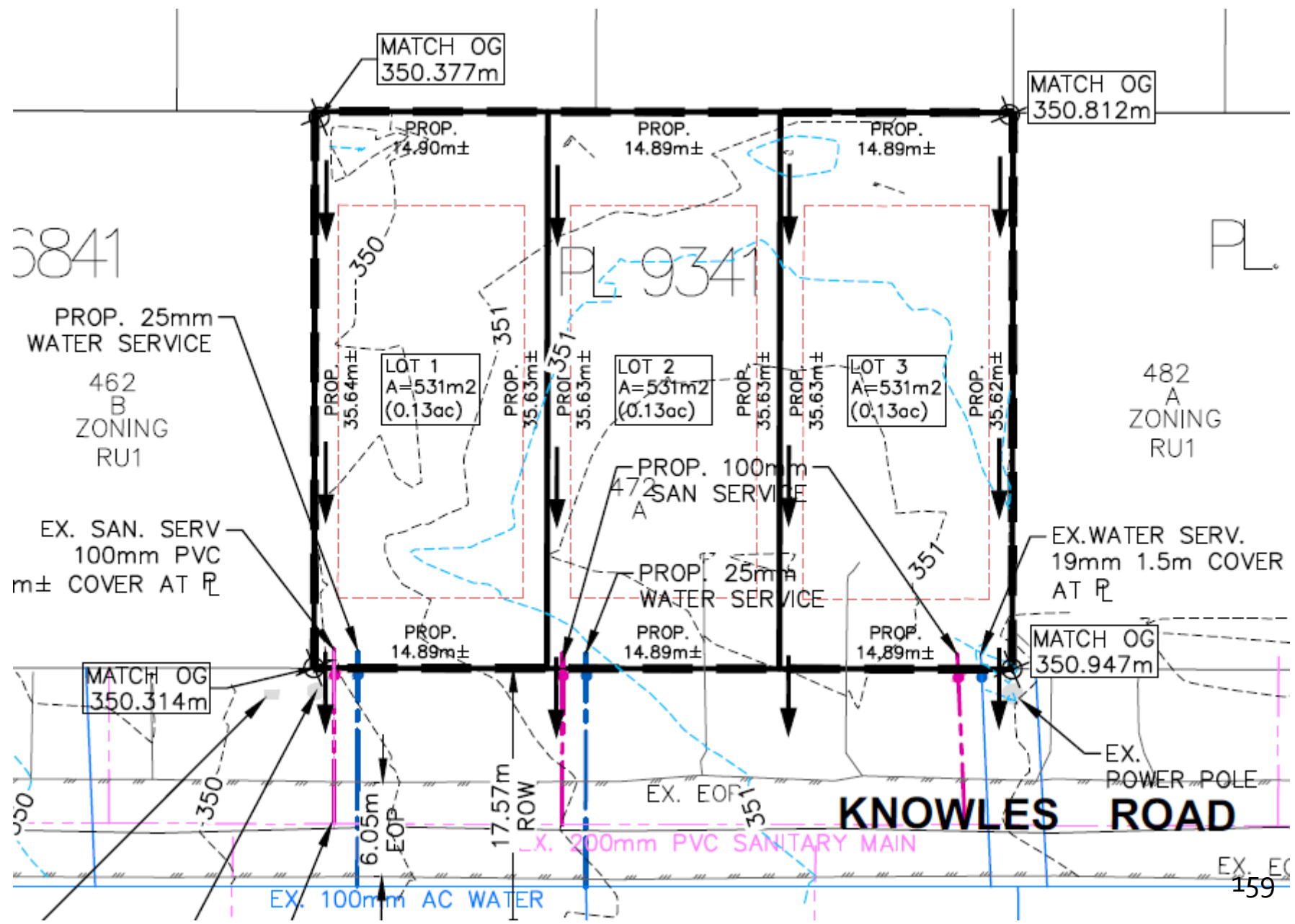
Subject Property Map



Project/technical details

- ▶ The applicant proposes to rezone the subject property to the RU2 – Medium Lot Housing zone to facilitate a 3-lot subdivision.
- ▶ Each of the 3 proposed lots meets the minimum dimensions of the RU2 zone.

Subdivision Plan



Development Policy

- ▶ *Objective 5.22 Ensure context sensitive housing development.*
- ▶ *Policy .6 **Sensitive Infill**.* 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

Public Notification Policy #367

- ▶ The public consultation process for this application was performed in full accordance with Policy #367
 - ▶ Neighbour Consultation completed May 8, 2020

Staff Recommendation

- ▶ Staff recommend support to rezone the property to the RU2 – Medium Lot Housing zone to facilitate a 3-lot subdivision.
 - ▶ Consistent with OCP
 - ▶ Advances context sensitive infill



Conclusion of Staff Remarks

CITY OF KELOWNA
BYLAW NO. 12043
Z20-0029 – 472 Knowles Road

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

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

1. THAT City of Kelowna Zoning Bylaw No. 8000 be amended by changing the zoning classification of Lot A, District Lot 167, ODYD, Plan 9341 Except Plans 13481 and 19834 located at Knowles Road, Kelowna, BC from the RU1 – Large Lot Housing zone to the RU2 – Medium Lot Housing zone.
2. This bylaw shall come into full force and effect and is binding on all persons as and from the date of adoption.

Read a first time by the Municipal Council this 25th day of May, 2020.

Public Hearing Waived by the Municipal Council this 25th day of May, 2020.

Considered at a Public Hearing on the

Read a second and third time by the Municipal Council this

Adopted by the Municipal Council of the City of Kelowna this

Mayor

City Clerk