

City of Kelowna Public Hearing AGENDA



Tuesday, January 18, 2022
6:00 pm
Council Chamber
City Hall, 1435 Water Street

Pages

1. Due to COVID-19 a Public Hearing Agenda will also include Regular Meeting Items

2. Call to Order the Public Hearing - START TIME 6:00 PM - Kirschner Rd 1939-1959 - LUCT21-0004 (BL12287) - Lambert and Paul Construction Ltd

The purpose of the Hearing is to hear from the public on matters contained in the various bylaws which, if adopted, will amend 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 online at Kelowna.ca/council or by request to the Office of the City Clerk.

For those participating 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.

In accordance with the most recent Provincial Health Officer Order regarding face coverings, a mask or face covering must be worn in the gallery of Council Chambers except when presenting to Council.

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 - Kirschner Rd 1939-1959 - LUCT21-0004 (BL12287) - Lambert and Paul Construction Ltd

4 - 19

To proceed with the early termination of Land Use Contract LUC76-1052 on the subject property.

4. Termination

5. Call to Order the Regular Meeting

6. Bylaws Considered at Public Hearing

6.1. START TIME 6:00 PM - Kirschner Rd 1939-1959 - BL12287 (LUCT21-0004) - Lambert And Paul Construction Ltd.

20 - 20

To give Bylaw No. 12287 second and third reading and be adopted in order to proceed with the early termination of Land Use Contract LUC76-1052.

7. Termination

8. Call to Order the Public Hearing - START TIME 6:00 PM - Fisher Rd 1925 - Z21-0054 (BL12304) - ERAC DEVELOPMENTS INC, INC NO BC1293206

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9. Individual Bylaw Submissions

9.1. START TIME 6:00 PM - Fisher Rd 1925 - Z21-0054 (BL12304) - ERAC DEVELOPMENTS INC, INC NO BC1293206

21 - 41

To rezone the subject property to facilitate a two-dwelling housing development..

10. Termination

11. Call to Order the Regular Meeting

12. Bylaws Considered at Public Hearing

12.1. START TIME 6:00 PM - Fisher Rd 1925 - BL12304 (Z21-0054) - ERAC DEVELOPMENTS INC, INC NO BC1293206

42 - 42

To give Bylaw No. 12304 second and third reading in order to rezone the subject

property from the RU1 - Large Lot Housing zone to the RU6 - Two Dwelling Housing zone.

13. Termination

14. Procedure on each Bylaw Submission

- a) Brief description of the application by City Staff (Development Planning);
- (b) The applicant has up to 15 minutes to make representations to Council regarding the project.
- (c) The Chair will call for representation from the public participating in person and online as follows:
 - (i) Any person wishing to make representations during the Hearing will have the opportunity to do so.
 - (ii) Speakers have up to 5 minutes to share their remarks.
- (d) Final calls for representation (ask three times). Unless Council directs that the Public Hearing on the bylaw in questions be held open, the Chair shall state to participants the the Public Hearing on the Bylaw is closed.
- (e) Once the public has had an opportunity to comment, the application is given up to 10 minutes to respond to any questions raised.
- (f) Questions of 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.

Note: Any applicant or member of the public may use electronic visual aids to assist in their presentation or questions. Online participants must be able to share their screen to display the item.

REPORT TO COUNCIL



Date: December 6, 2021

To: Council

From: City Manager

Department: Development Planning

Application: LUCT21-0004 **Owner:** Lambert and Paul Construction

Address: 1939 - 1959 Kirschner Rd **Applicant:** City of Kelowna

Subject: Land Use Contract Termination

Existing OCP Designation: Mixed Use (Residential / Commercial) (MXR)

Existing Zone: C10 – Service Commercial

1.0 Recommendation

THAT Land Use Contract Termination Application No. LUCT21-0004 to terminate LUC76-1052 from Lot B District Lot 129 ODYD Plan 22938, located at 1939 – 1959 Kirschner Rd, Kelowna, B.C. be considered by Council;

AND THAT Council Waive the development sign requirement under Public Notification & Consultation for Development Applications Policy No. 367;

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

2.0 Purpose

To proceed with the early termination of Land Use Contract LUC76-1052 on the subject property.

3.0 Development Planning

Staff are recommending the Land Use Contract (LUC76-1052) be terminated and allow the underline zoning to dictate land use and development regulations. The underlying zone is C10 – Service Commercial zone. The current uses on site are retail store – service commercial, household repair services and business support service. These uses are currently permitted under the Land Use Contract as well as the underline C10 zoning. As a result, unlike other land use contracts, none of the existing business will be put into a non-conforming status. Although the C10 – Service commercial zone does not match the Future Land Use of MXR – Mixed Used (Residential / Commercial), this is the most appropriate zone as it permits all the existing uses and is

consistent with the context of the neighbourhood. This specific land use contract only affects this single property.

4.0 Proposal

4.1 Background

Land Use Contracts were a tool commonly 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 local government. 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.

4.2 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 also send an additional letter within 30 days of adoption, informing the owners and providing information about the Board of Variance. Staff are recommending Council Notification Policy #367 development signage requirements be waived for this Land Use Contract Termination application. Development Signs, in this case, are not recommended as the land uses and density on site will not be affected by this termination.

4.3 Site Context

The subject property has a total area of 5,287m² and is located at 1939 – 1959 Kirschner Rd. The property has been designated MXR – Mixed Use (Residential / Commercial) in the Official Community Plan and the surrounding area is a mix of MXR – Mixed Use (Residential / Commercial), SC- Service Commercial and PARK – Major Park / Open Space (public). The subject property is located within the Capri-Landmark Urban Centre.

Specifically, adjacent land uses are as follows:

Orientation	Zoning	Land Use
North	C10 – Service Commercial	Retail Stores, Service Commercial
East	C10 – Service Commercial	Retail Stores, Service Commercial
South	C10c – Service Commercial (Retail Cannabis Sales)	Cannabis Retail
West	C10PL – Service Commercial (Liquor Primary)	Liquor Primary Establishment

Subject Property Map: 1939 – 1959 Kirschner Rd



5.0 Current Development Policies

5.1 Kelowna Official Community Plan (OCP)

5.2 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 proceedings 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.

6.0 Application Chronology

Date of Application Accepted: October 29, 2021

Date of Owner Notification: November 5, 2021

Report prepared by: Jason Issler, Planner I

Reviewed by: Dean Strachan, Community Planning & Development Manager

Reviewed by: Terry Barton, Development Planning Department Manager

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



LUCT₂₁-0004

1939-1959 Kirschner Rd

Land Use Contract Termination



Proposal

- ▶ To consider an application for the subject property to proceed with the early termination of Land Use Contract LUC76-1052.

Development Process

Oct 29, 2021

Development Application Submitted



Nov 5, 2021

Owner Notification Completed



Dec 6, 2021

Initial Consideration



Public Hearing
Second & Third Readings



Final Reading



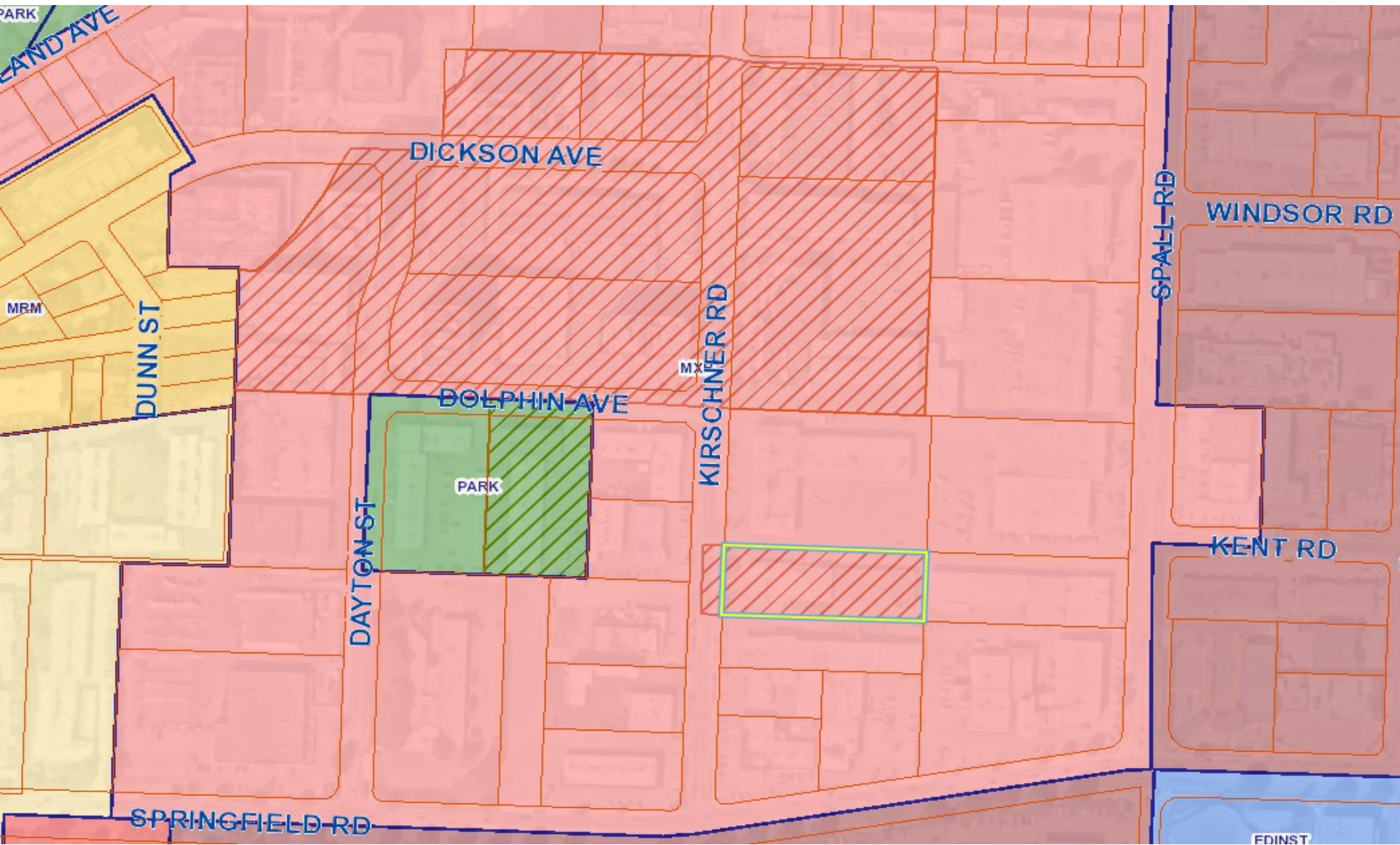
LUC Eliminated (1 year later)

Council
Approvals

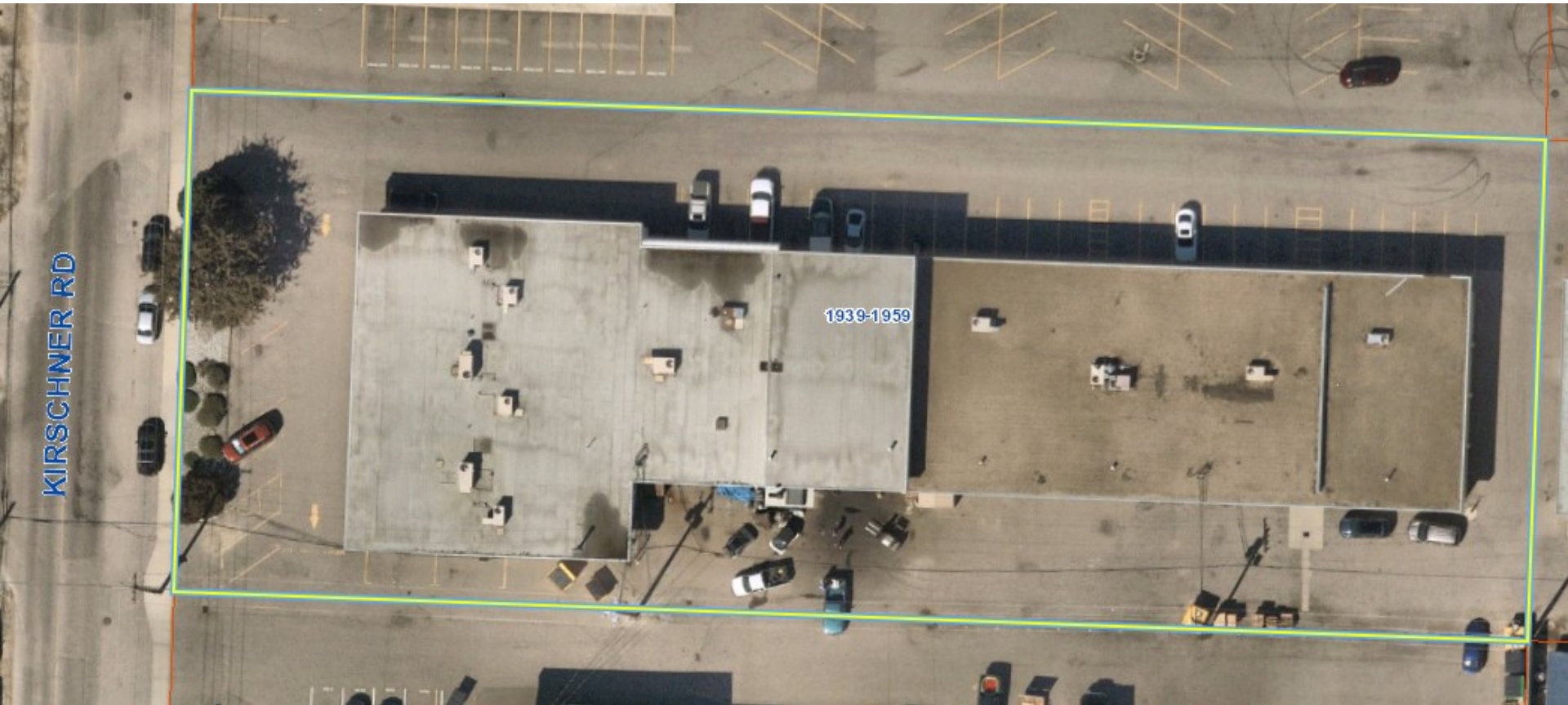
Context Map



OCP Future Land Use / Zoning



Subject Property Map



Background

- ▶ Land Use Contracts: 1970's tool
- ▶ Allow local governments to grant development right above and beyond current zoning
- ▶ Exchange for commitments from developers to help infrastructure costs
- ▶ BC Government requires all contracts to be discharged and/or terminated by 2024 and the appropriate zoning in place by 2022.
- ▶ If an applicant initiates a discharge – Staff initiate a termination

LUC Update

- ▶ 1 Land Use Contract remaining to be initiated by staff (LUC71-1) which affects several properties in Landmark Urban Centre.
- ▶ There are currently 3 remaining Land Use Contracts currently in stream with Staff to be brought to council at a later date for termination.

Project details

- ▶ Staff initiated termination of LUC76-1052 for the subject property.
- ▶ The LUC permits land uses of warehousing, ancillary offices, electrical & machine shops and other uses permitted in the zone of current bylaw enforced (C10).
- ▶ Staff are proposing to utilize the underline zoning as it is consistent with land uses on site.

Public Notification Policy #367

- ▶ Staff sent a letter of Proposed Termination of Land Use Contract to the property owner.
 - ▶ Sent on November 5, 2021
- ▶ One-year grace period from Council consideration before the rezoning comes into effect.

Staff Recommendation

- ▶ Development Planning Staff recommend **support** for the proposed rezoning and land use contract termination:
 - ▶ C10 zone is appropriate to support existing use and consistent with neighbourhood context.
 - ▶ Province of BC requires all LUC's to be discharged/terminated.



Conclusion of Staff Remarks

CITY OF KELOWNA

BYLAW NO. 12287

LUCT21-0004

**Early Termination of Land Use Contract – LUC76-1052
1939 - 1959 Kirschner Road**

WHEREAS a land use contract (the "Land Use Contract LUC76-1052") is registered at the Kamloops Land Title Office under the charge number N10775 against lands in the City of Kelowna particularly known and described as Lot B District Lot 129 ODYD Plan 22938 (the "Lands"), located on Kirschner Road, 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 LUC76-1052 Bylaw No. 12287";
2. Bylaw No.4482-77 establishing Land Use Contract LUC76-1052 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 6th day of December, 2021.

Considered at a Public Hearing on the

Read a second and third time by Municipal Council this

Adopted by the Municipal Council this

Mayor

City Clerk

has service connections for both water and sanitary sewer. Third, the lot is not adjacent to the Agricultural Land Reserve (ALR). The property has a Future Land Use designation of Single / Two Unit Residential (S2RES) which supports the RU6 – Two Dwelling Housing zone.

4.0 Proposal

4.1 Background

The subject property was previously rezoned from A1 – Agriculture 1 to RU1 – Large Lot Housing in March of 2020, to facilitate a two-lot subdivision.

4.2 Project Description

This application proposes a rezoning from RU1 – Large Lot Housing to RU6 – Two Dwelling Housing to facilitate the development of two-dwelling housing on the subject property. The lot meets minimum area requirements for two dwelling housing, and is connected to City services, including water and sanitary.

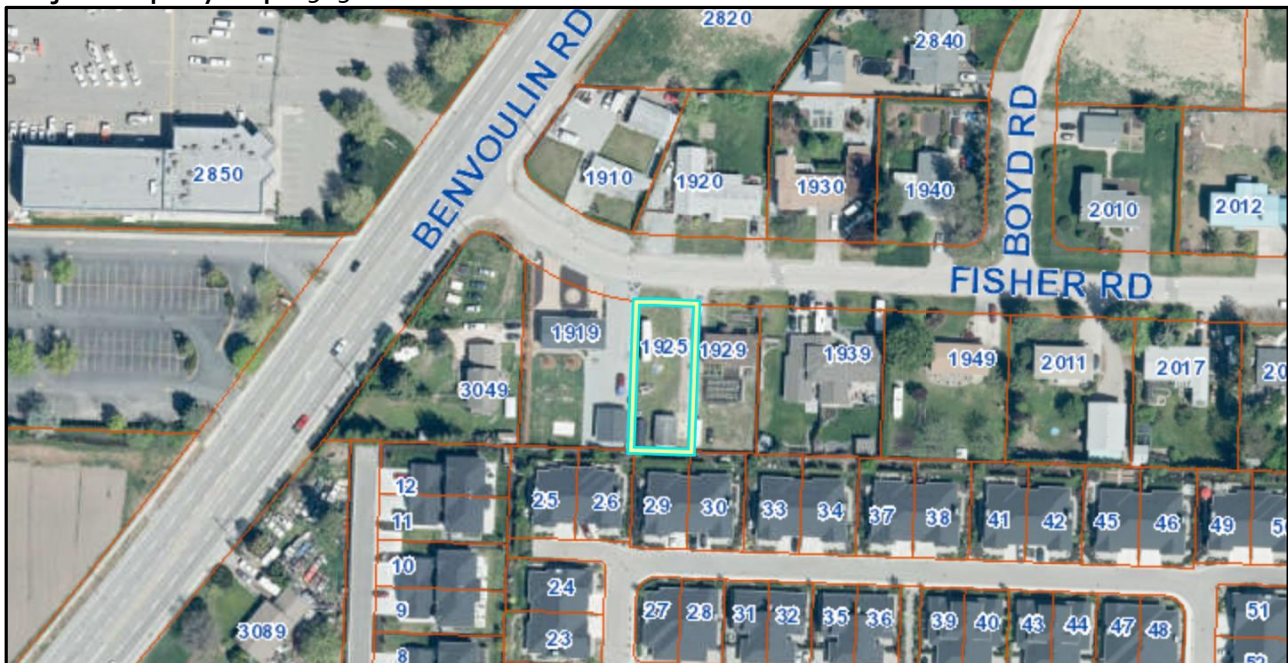
4.3 Site Context

The subject property is located to the east of Benvoulin Road, and north of K.L.O. Road in the City’s South Pandosy – KLO OCP Sector. The Walk Score is 9 indicating that it is car dependent, and almost all errands require a car. It is in proximity to a small pocket of commercial businesses, as well as to the Kelowna Christian School.

Specifically, adjacent land uses are as follows:

Orientation	Zoning	Land Use
North	A1 – Agriculture 1	Single Dwelling Housing
East	RU1 – Large Lot Housing	Single Dwelling Housing
South	RU5 – Bareland Strata Housing	Single Dwelling Housing
West	A1 – Agriculture 1	Single Dwelling Housing

Subject Property Map: 1925 Fisher Road



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 .1 Permanent Growth Boundary. Establish a Permanent Growth Boundary as identified on Map 4.1 and Map 5.2. The City of Kelowna will support development of properties outside the PGB for more intensive use only to the extent permitted as per the OCP Future Land Use designations in place as of initial adoption of OCP Bylaw 10500, except for Agri-Business designated sites or as per Council's specific amendment of this policy. The PGB may be reviewed as part of the next major OCP update.

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 per ha 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

6.0 Technical Comments

6.1 Development Engineering Department

Application does not compromise municipal infrastructure. All requirements are addressed under City of Kelowna subdivision application No. S20-0025.

7.0 Application Chronology

Date of Application Accepted: May 7, 2021

Date Public Consultation Completed: October 7, 2021

Report prepared by: Kimberly Brunet, Planner II
Reviewed by: Dean Strachan, Community Planning & Development Manager
Reviewed by: Terry Barton, Development Planning Department Manager
Approved for Inclusion: Ryan Smith, Divisional Director, Planning & Development Services

Attachments:

Attachment A: Applicant's Rationale

Attachment B: Draft Site Plan

DESIGN RATIONALE:

1925 FISHER RD

Dear community planners,

As part of our development / rezoning application I am writing to you to share our rationale for this project.

LAND UTILIZATION:

At CM Designs, we seek efficiency in every aspect of design. From well designed floor plans to efficiently utilization of land. This project is a prime example where we can better utilize land by providing two dwelling housing in place of the vacant RU1 zoned lot.

REZONING PROPOSAL:

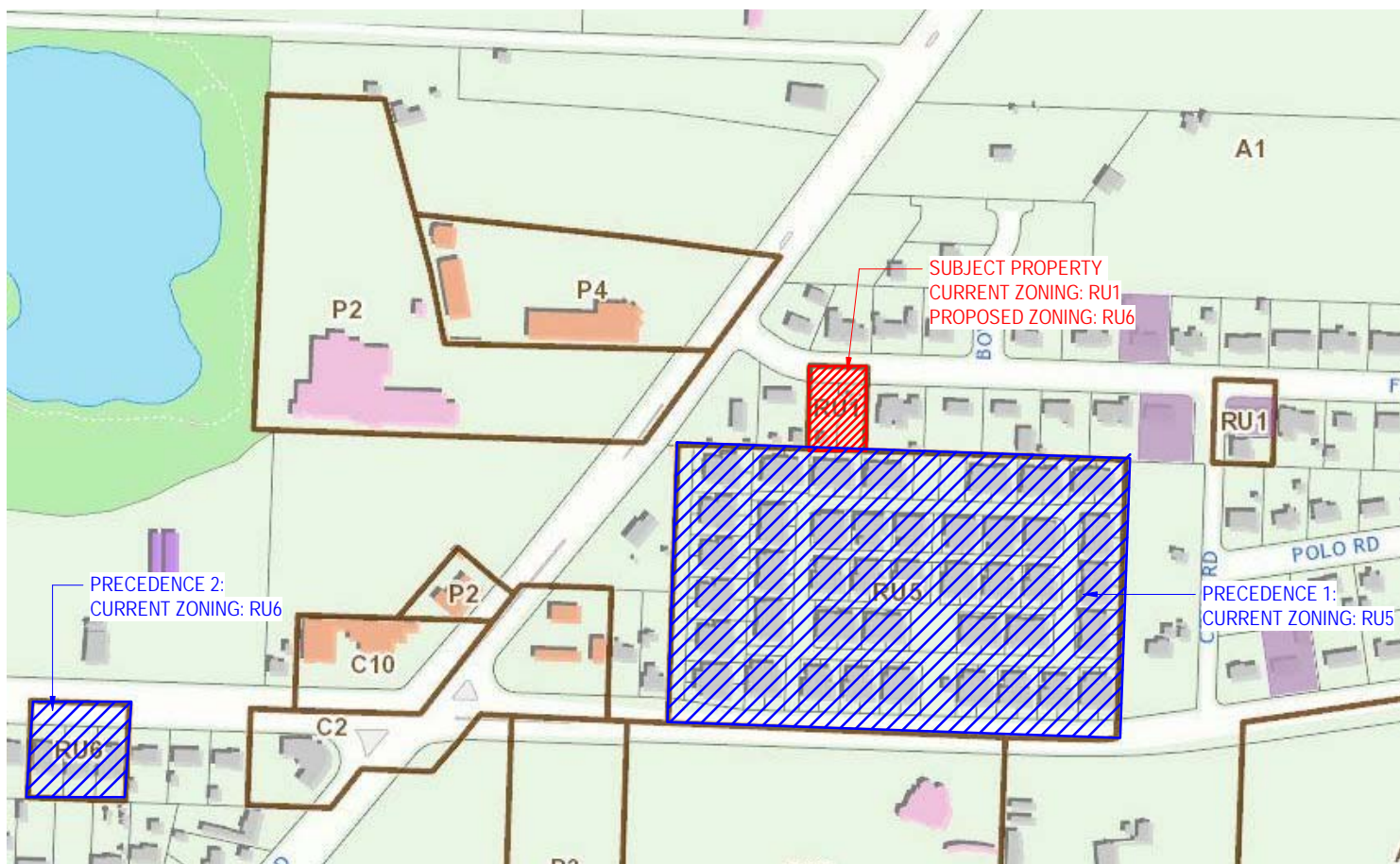
The current lot, as it sits, is 18.0m in width x 44.0m in depth. Because of the 18.0m in width, the RU6 zoning would allow for construction of two dwelling housing or duplex housing. The proposal is to rezone the land from RU1 to RU6 and build a duplex with front facing garages and side entrances.

The proposal is supported by the Official Community Plan (OCP) which was a future land use designation of S2Res - single / two unit residential. As such, the proposed zone is consistent with the OCP's objective of incrementally increasing residential densities in existing neighbourhoods. There are multiple properties in the vicinity that are zoned RU6 and RU5 that serve as precedence (refer to map below). As such, our proposed design will fit within the neighbourhood allowing for a large backyard to each unit, ample parking, and keeping well under the required parcel coverage area.

PRECEDENCE:

1960 K.L.O. rd: Behind the subject property, there is a large gated community, zoned RU5 that contains duplex housing similar to the proposed design on Fisher rd.

1751 K.L.O. rd: Down K.L.O rd a block further west there is a development that was rezoned to RU6 and contains two side by side duplex's.



curt_mitch@outlook.com
250-300-6888

No.	Date	Revision
01	2021-05-06	ISSUED FOR REZONING & DEVELOPMENT PERMIT

Drawing Title

DESIGN RATIONALE

Project Title

1925 FISHER RD

1925 FISHER RD, KELOWNA, BC V1W2H1
LOT B, DISTRICT LOT 130, PLAN EPP104385

Drawing Number

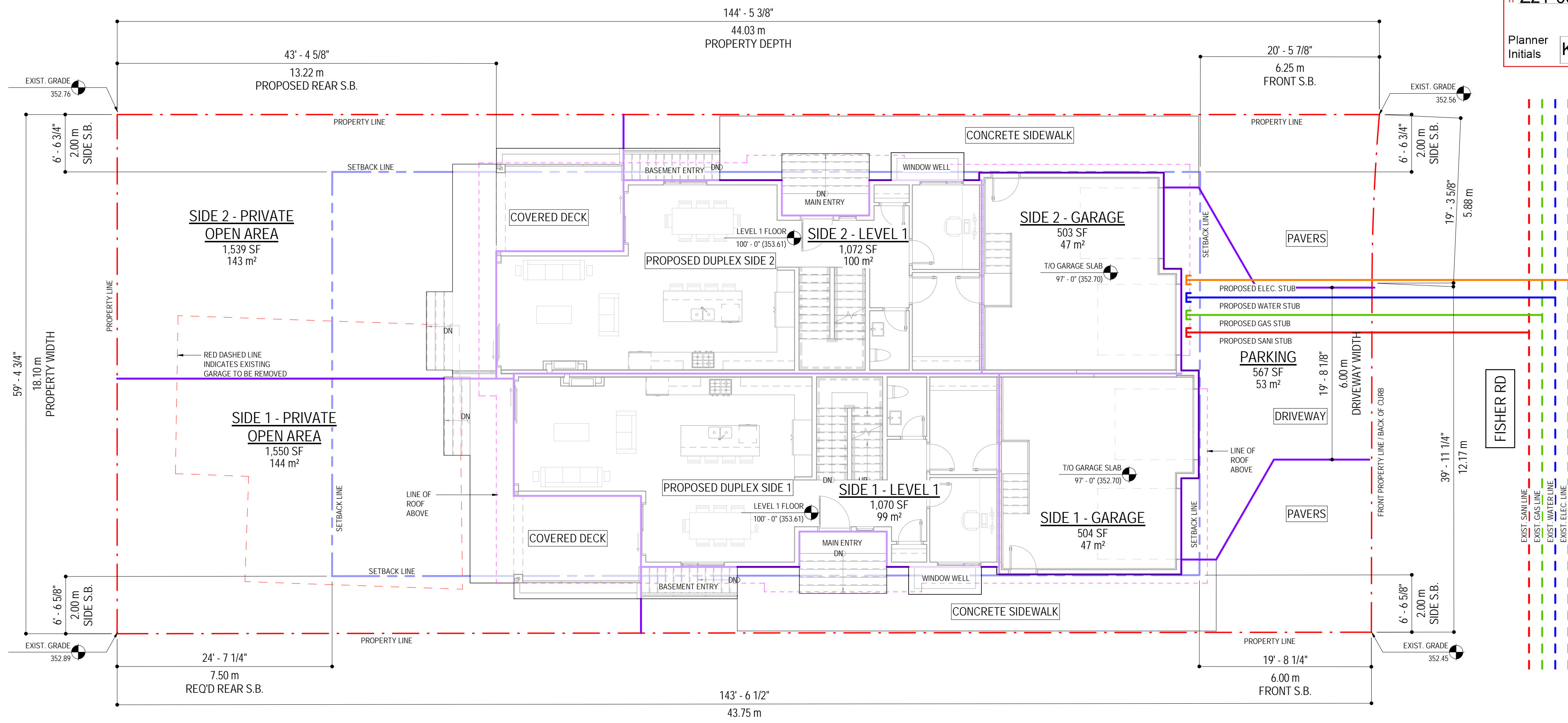
X1.00

Job No.

18 - 1816

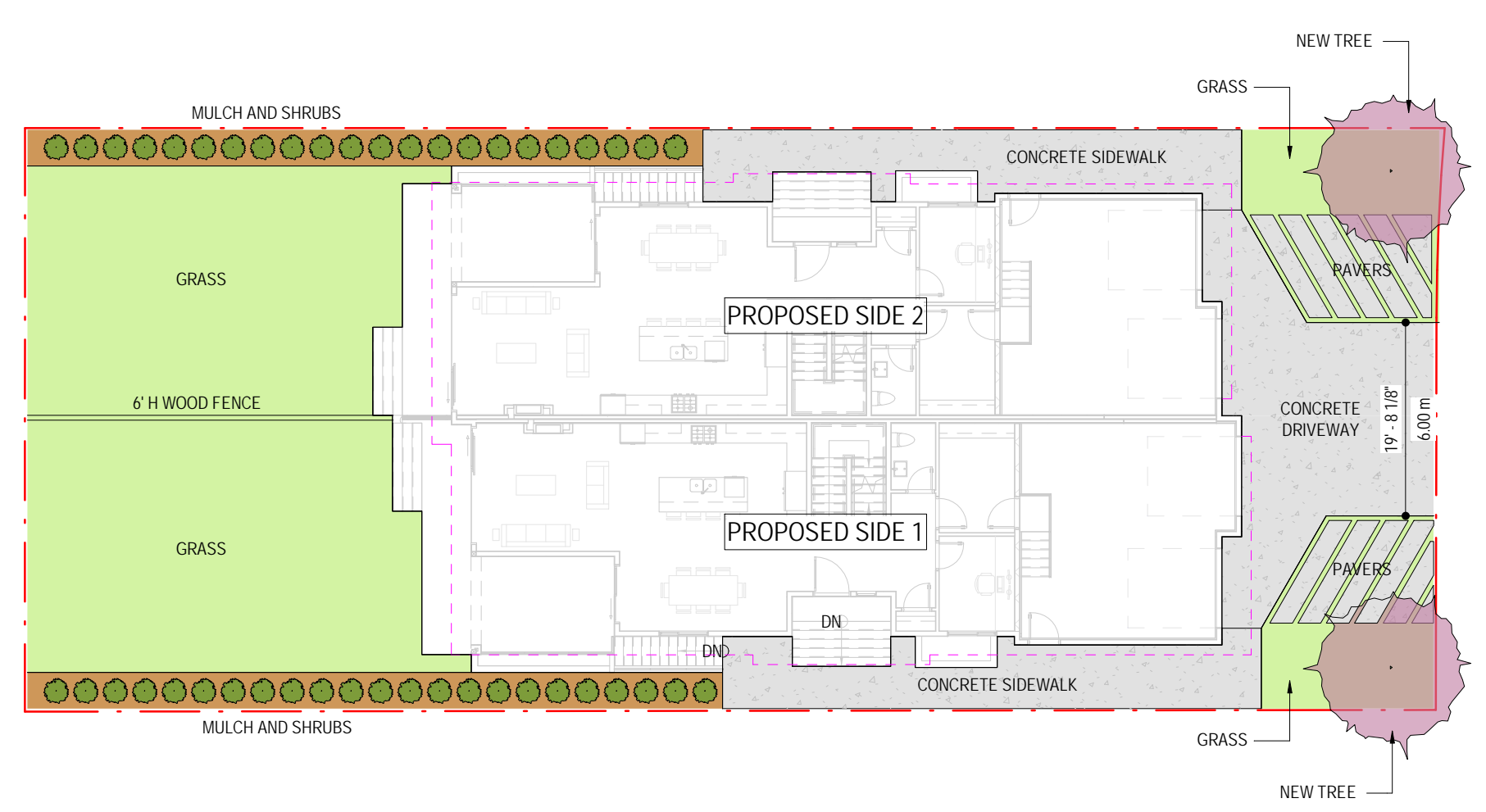
Scale

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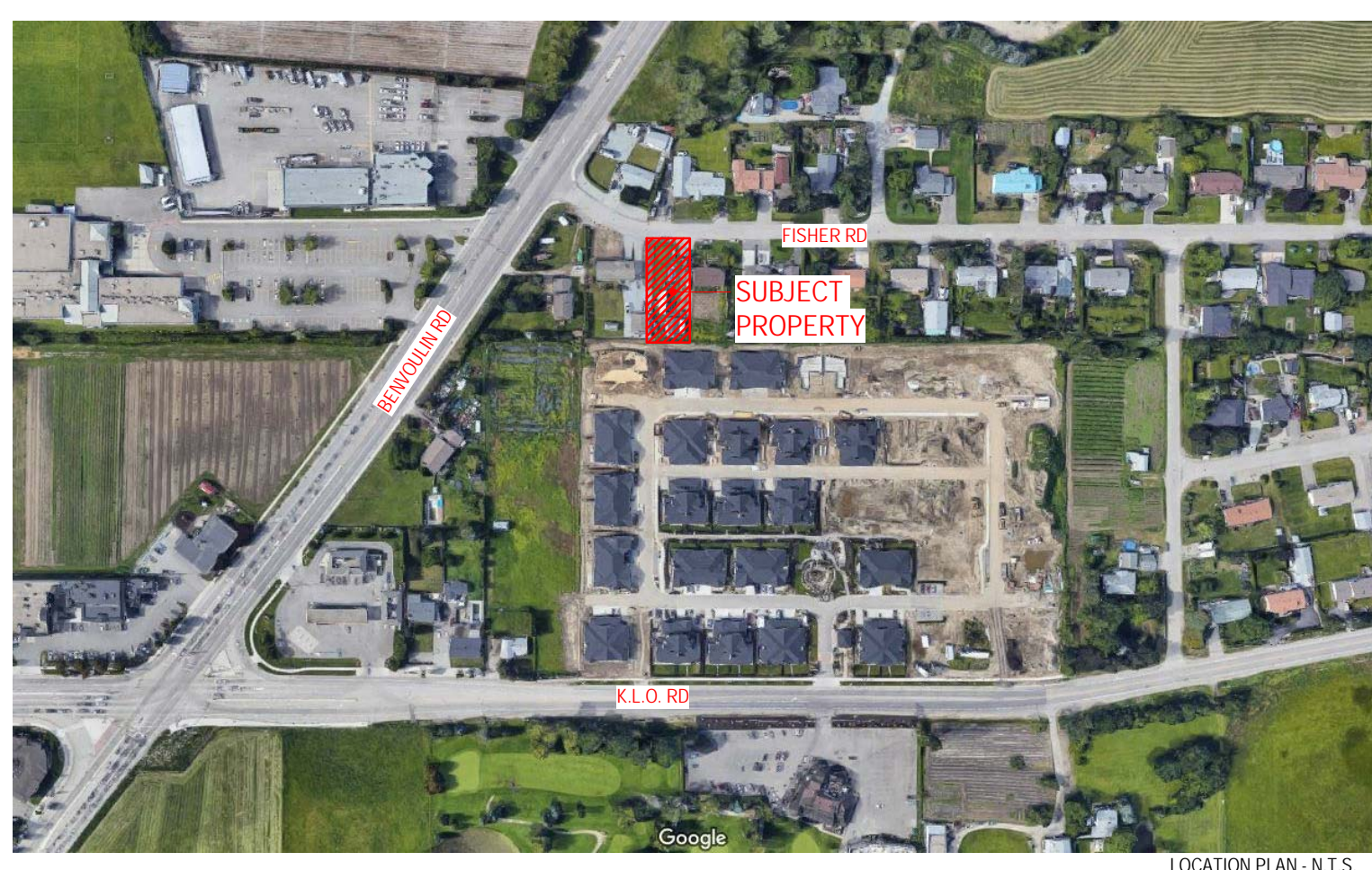


1 LEVEL 1 - SITE PLAN
 A2.01 1/8" = 1'-0"

- NOTES:**
- ALL EXISTING GRADES AND SURVEY INFORMATION BASED ON SURVEY FILE BY BENNETT LAND SURVEYING DATED JULY 30, 2020
 - ALL SERVICING IS APPROX. CIVIL TO CONFIRM UPON BUILDING PERMIT APPROVAL



2 LEVEL 1 - LANDSCAPE PLAN
 A2.01 1/16" = 1'-0"



ZONING SUMMARY		1925 FISHER RD
ADDRESS	1925 FISHER RD, KELOWNA, BC V1W2H1	
LEGAL DESCRIPTION	LOT 8, DISTRICT LOT 130, PLAN EPP104385	
DEVELOPMENT PERMIT AREA	N/A	
EXISTING ZONING	RU1	
PROPOSED ZONING	RU6 (REZONING REQUIRED)	
EXISTING LEGAL USE	VACANT LAND	
PROPOSED LEGAL USE	DUPLIX HOUSING	
ZONING REQUIREMENTS MAIN BUILDING		
	ZONING STANDARD	PROPOSED
FRONT SETBACK	4.5m HOUSE / 6.0m GARAGE	6.0m GARAGE
SIDE SETBACK	2.0m (1 storey) / 2.3m (2 storey)	2.0m (1 storey) / 2.3m (2 storey)
REAR SETBACK	7.5m	7.5m
PARCEL SIZE	700 SM (TWO DWELLING HOUSING)	793.1 SM (8,537 SF)
PARCEL WIDTH	18.0m (TWO DWELLING HOUSING)	18.107m
BUILDING HEIGHT	9.5m or 2.5 storeys	7.59m (24' - 6.34')
LEVEL 1 PARCEL COVERAGE AREA	317.24 SM (40%)	292.5 SM (3,149 SF)
TOTAL PARCEL COVERAGE %	40%	36.9%
TOTAL PARKING COVERAGE %	10%	6.6%
PRIVATE OPEN SPACE/ DWELLING	30 SM / DWELLING	142 SM / DWELLING

PARCEL SIZE		
Name	Area	Area (SM)
PARCEL SIZE	8,537 SF	793.1 m ²
	8,537 SF	793.1 m ²
PARKING AREA		
Name	Area	Area (SM)
PARKING	567 SF	52.7 m ²
	567 SF	52.7 m ²
PRIVATE OPEN AREA		
Name	Area	Area (SM)
SIDE 2 - PRIVATE OPEN AREA	1,539 SF	142.9 m ²
SIDE 1 - PRIVATE OPEN AREA	1,550 SF	144.0 m ²
ACCESS	3,089 SF	286.9 m ²
TOTAL BUILDING AREA		
Name	Area	Area (SM)
SIDE 1 - BASEMENT	1,078 SF	100.2 m ²
SIDE 1 - GARAGE	504 SF	46.8 m ²
SIDE 1 - LEVEL 1	1,070 SF	99.4 m ²
SIDE 1 - LEVEL 2	1,058 SF	98.3 m ²
SIDE 1 - ROOF ACCESS	149 SF	13.8 m ²
SIDE 2 - BASEMENT	1,080 SF	100.3 m ²
SIDE 2 - GARAGE	503 SF	46.7 m ²
SIDE 2 - LEVEL 1	1,072 SF	99.8 m ²
SIDE 2 - LEVEL 2	1,063 SF	98.8 m ²
SIDE 2 - ROOF ACCESS	151 SF	14.0 m ²
	7,728 SF	717.9 m ²

No.	Date	Revision
01	2021-05-07	ISSUED FOR REZONING & DEVELOPMENT PERMIT





Z21-0054 1925 Fisher Rd

Rezoning Application



Proposal

- ▶ To rezone the subject property from RU1 – Large Lot Housing to RU6 – Two Dwelling Housing to facilitate the development of a two dwelling housing.

Development Process

May 7, 2021

Development Application Submitted

Staff Review & Circulation

Oct 7, 2021

Public Notification Received

Nov 15, 2021

Initial Consideration

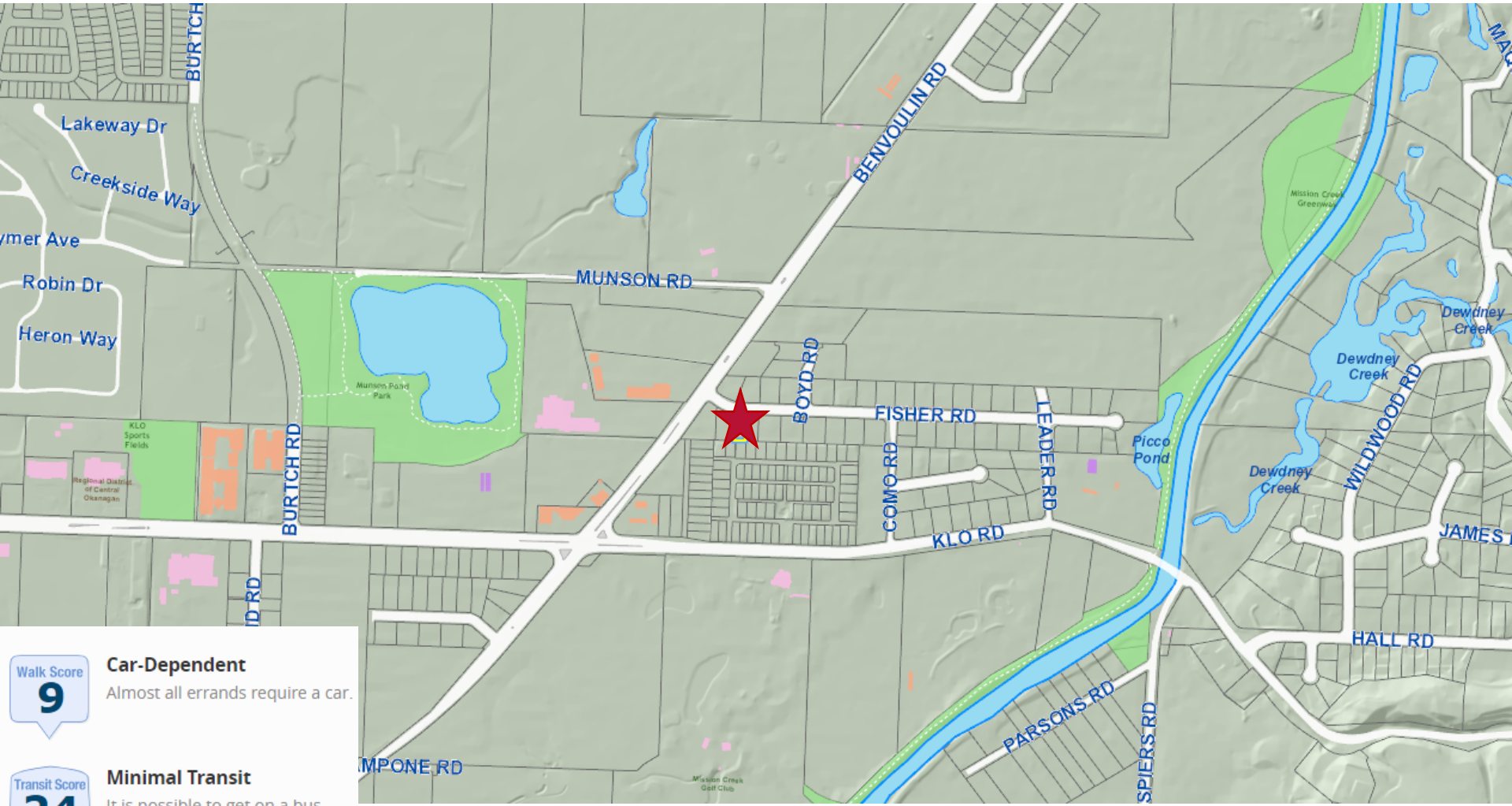
Waive Public Hearing

Final Reading

Building Permit

Council Approvals

Context Map



Walk Score
9
Car-Dependent
Almost all errands require a car.

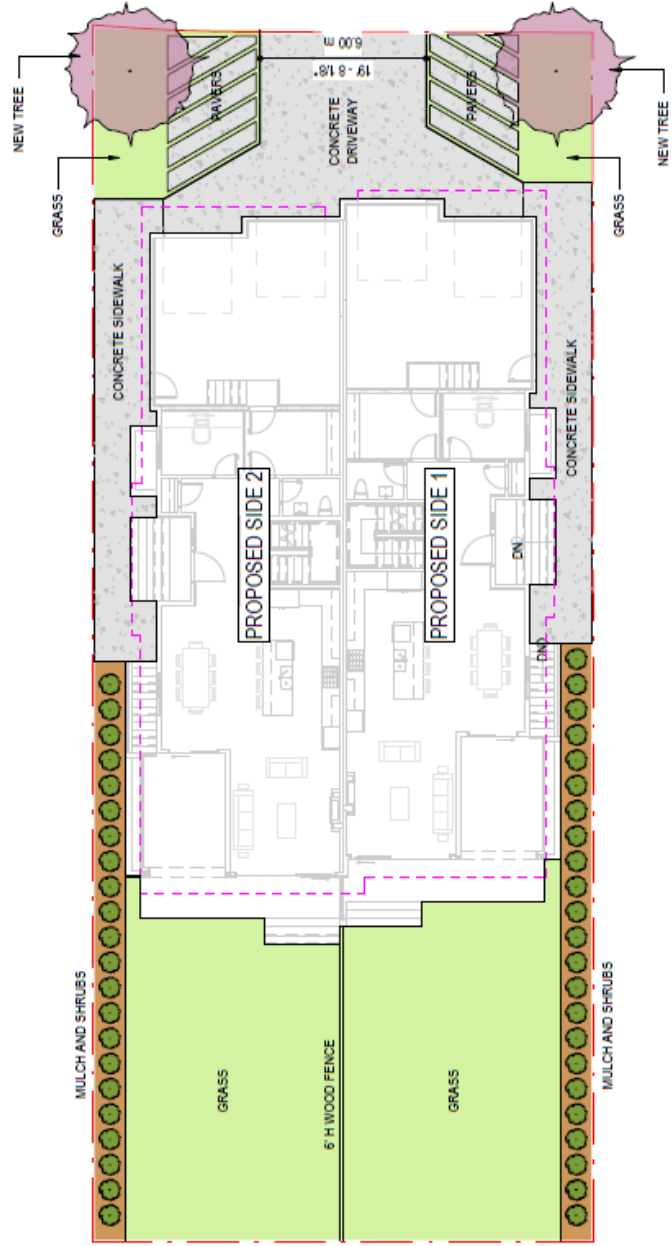
Transit Score
24
Minimal Transit
It is possible to get on a bus.

Bike Score
79
Very Bikeable
Biking is convenient for most trips.

Subject Property Map



Conceptual Site Plan



Development Policy

- ▶ Consistent with Future Land Use **S2RES**
- ▶ Meets the intent of Official Community Plan Urban Infill Policies:
 - ▶ Compact Urban Form
- ▶ Lot is part of a neighbourhood that is fully built out with single and semi-detached homes
- ▶ Lot has water and sanitary connections
- ▶ Not adjacent to ALR

Staff Recommendation

- ▶ Staff recommend **support** of the proposed rezoning
 - ▶ Meets the intent of the Official Community Plan
 - ▶ Urban Infill Policies
 - ▶ Appropriate location for adding residential density
- ▶ Recommend the Public Hearing be waived

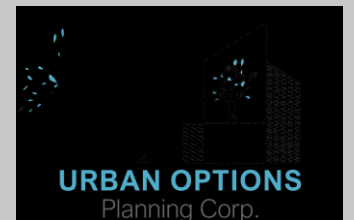


Conclusion of Staff Remarks

1925 Fisher Road

Rezone from RU1 – Large Lot housing to

RU6 Two Dwelling housing



Current conditions



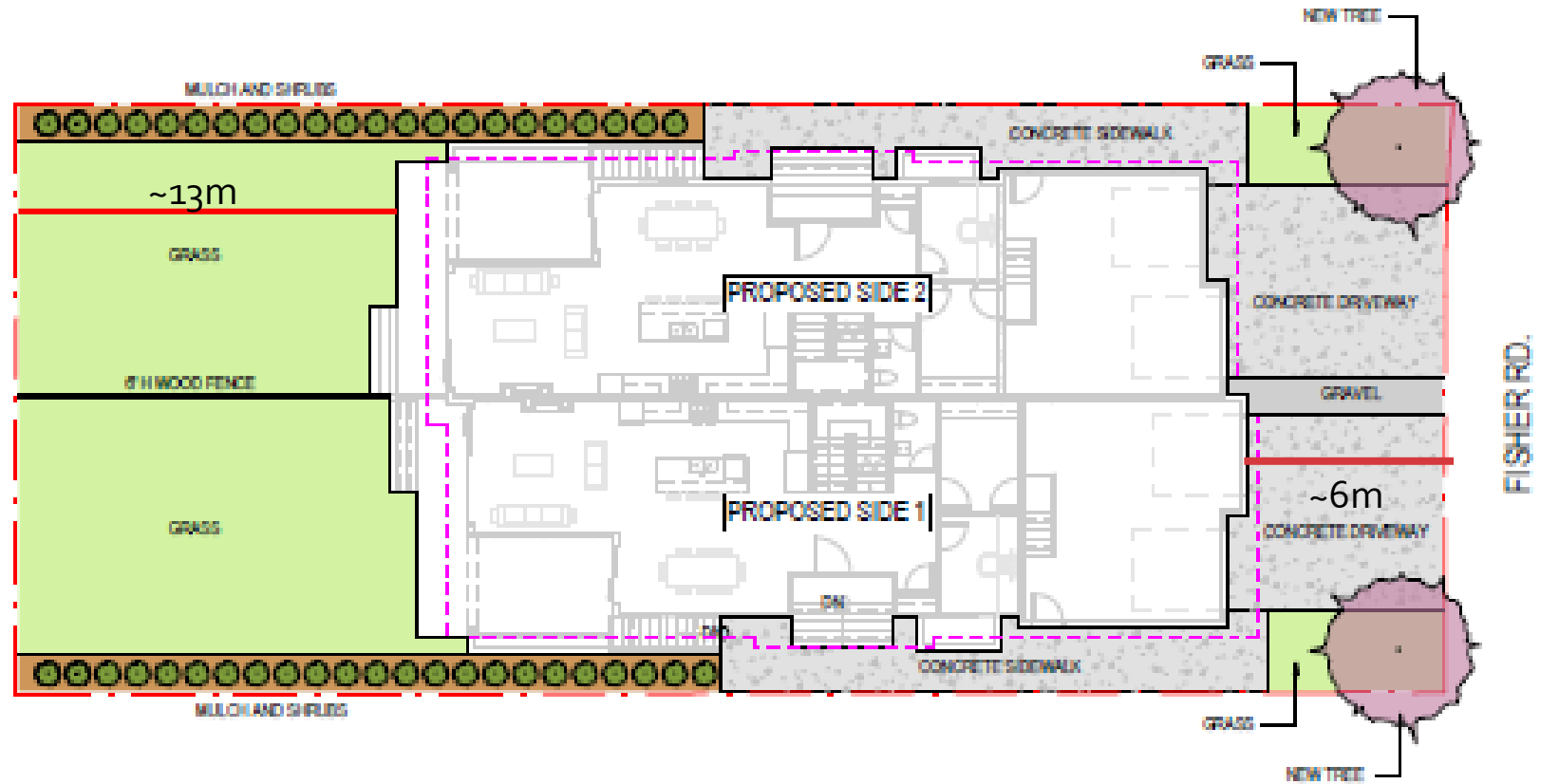
Planning details

OCP changes to future land use designation

RU6 Zone requirements for a duplex

Parking requirements

Potential site plan



2 LEVEL 1 - LANDSCAPE PLAN
A2.01 1/16" = 1'-0"

Neighbourhood
concerns

- OCP/Rezoning
- Parking
- Rooftop Deck – will remove
- Modern design



FRONT ELEVATION

Other designs being considered to blend in the neighbourhood



FINISH NOTES:
RENDERINGS ARE NOT TO SCALE; ALL RENDERINGS ARE FOR ARTISTIC DEPICTION ONLY. PLAN UPDATES
MAY NOT BE REFLECTED IN RENDERINGS. RENDERINGS SHALL NOT BE USED FOR CONSTRUCTION.



- Questions



CITY OF KELOWNA

BYLAW NO. 12304

Z21-0054

1925 Fisher 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 B District Lot 130, ODYD, Plan EPP104385 located on Fisher Road, Kelowna, BC from the RU1 – Large Lot Housing zone to the RU6 – Two Dwelling 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 15th day of November, 2021.

Public Hearing waived by the Municipal Council this 15th day of November, 2021.

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