

**City of Kelowna**  
**Regular Council Meeting**  
**AGENDA**



Monday, November 18, 2024  
1:30 pm  
Council Chamber  
City Hall, 1435 Water Street

**Pages**

**1. Call to Order**

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

This Meeting 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.

**2. Confirmation of Minutes**

4 - 11

PM Meeting - November 4, 2024

**3. Development Application Reports & Related Bylaws**

**3.1 Fitzpatrick Rd 426 - A24-0009 - Kamaljeet Singh Sandher**

12 - 39

To review a Staff recommendation NOT to support a subdivision application to the Agricultural Land Commission.

**3.2 KLO Rd 1629 - A24-0012 - Western Global Enterprises Inc., Inc.No. BC0679291**

40 - 102

To support an application to the Agricultural Land Commission to allow a Soil and Fill Use application for placement of 745 cubic meters of gravel fill for a retail nursery parking lot and a nursery container production area.

**3.3 Dougall Rd N 165 - Z24-0038 (BL12724) - City of Kelowna**

103 - 120

To rezone the subject property from the UC<sub>4</sub> – Rutland Urban Centre zone to the UC<sub>4r</sub> – Rutland Urban Centre Rental Only zone to facilitate the development of purpose-built rental housing.

**3.4 Treetop Rd 1870 - Z24-0016 (BL12726) - 1870 Treetop Road Development Ltd., Inc.No. BC1265565**

121 - 142

To rezone the subject property from the RR<sub>1</sub> – Large Lot Rural Residential zone to the RU<sub>2</sub> – Medium Lot Housing zone to facilitate a 26-lot subdivision.

<b>3.5</b>	<b>Rezoning Bylaws Supplemental Report to Council</b>	143 - 144
	To receive a summary of notice of first reading for Rezoning Bylaw No. 12717 and to give the bylaw further reading consideration.	
<b>3.6</b>	<b>Osprey Ave 459 - BL12717 (Z24-0034) - 1347431 B.C. Ltd., Inc.No. BC1347431</b>	145 - 145
	To give Bylaw No. 12717 first, second and third reading in order to rezone the subject property from the UC5 – Pandosy Urban Centre zone to the UC5r – Pandosy Urban Centre Rental Only zone.	
<b>4.</b>	<b>Non-Development Reports &amp; Related Bylaws</b>	
<b>4.1</b>	<b>Belaire Ave 1330, 1340, 1350-1352 - Housing Agreement - Resurrection Recovery Resource Society, Inc.No. Soo45391</b>	146 - 158
	To authorize a Housing Agreement with Resurrection Recovery Resource Society (Freedom’s Door) on the subject property.	
<b>4.2</b>	<b>BL12720 - Housing Agreement Authorization Bylaw - Belaire Ave 1330, 1340, 1350-1352</b>	159 - 166
	To give Bylaw No. 12720 first, second and third reading.	
<b>4.3</b>	<b>Repeal the Medical Marihuana Producer Business Licence and Regulation Bylaw No.10920</b>	167 - 177
	To repeal Medical Marihuana Production Regulation Business Bylaw No. 10920 and update Business Licence and Regulation Bylaw No. 12585 and Bylaw Notice Enforcement Bylaw No. 10475 to reflect current cannabis legislation and practices.	
<b>4.4</b>	<b>BL12727 - Amendment No. 1 to Business Licence and Regulation Bylaw No. 12585</b>	178 - 179
	To give Bylaw No. 12727 first, second and third reading.	
<b>4.5</b>	<b>BL12728 - Amendment No. 37 to Bylaw Notice Enforcement Bylaw No. 10475</b>	180 - 181
	To give Bylaw No. 12728 first, second and third reading.	
<b>4.6</b>	<b>Third Quarter 2024 Financial Performance</b>	182 - 199
	To provide Council with information summarizing the City of Kelowna’s third quarter financial activity in alignment with the presentation of the 2024 Financial Plan reflecting activities through a service-based model.	
<b>4.7</b>	<b>Quarter Three Amendment to the 2024 Financial Plan</b>	200 - 205
	To amend the 2024 Financial Plan to include quarter three budget changes outlined in this report.	



<b>4.8</b>	<b>Stormwater Utility Engagement Results and Next Steps</b>	206 - 240
	To update Council on the stormwater utility engagement results and seek direction to prepare principles for stormwater utility bylaw development.	
<b>4.9</b>	<b>Review of Policy No. 388 - Code of Conduct</b>	241 - 256
	To review Council Policy No. 388 – Code of Conduct and advance revisions to strengthen and clarify the Policy.	
<b>5.</b>	<b>Resolutions</b>	
<b>5.1</b>	<b>Councillor Cannan - Draft Resolution - Complimentary Parking for Veterans</b>	257 - 262
<b>6.</b>	<b>Bylaws for Adoption (Non-Development Related)</b>	
<b>6.1</b>	<b>BL12714 Amendment No. 1 to Uptown Rutland Business Improvement Area Bylaw No. 12427</b>	263 - 264
	To adopt Bylaw No. 12714.	
<b>6.2</b>	<b>BL12723 Amendment No. 1 to Kelowna Downtown Business Improvement Area Bylaw No. 12575</b>	265 - 266
	To adopt Bylaw No. 12723.	
<b>6.3</b>	<b>Lakeshore Rd 3773-3795 - BL12725 (RTE23-0004)</b>	267 - 274
	To adopt Bylaw No. 12725.	
<b>6.4</b>	<b>BL12704 - Amendment No. 15 to the Solid Waste Management Bylaw No. 12704</b>	275 - 276
	To adopt Bylaw No. 12704.	
<b>7.</b>	<b>Mayor and Councillor Items</b>	
<b>8.</b>	<b>Termination</b>	



**City of Kelowna  
Regular Council Meeting  
Minutes**

Date:	Monday, November 4, 2024
Location:	Council Chamber City Hall, 1435 Water Street
Members Present	Mayor Tom Dyas, Councillors Ron Cannan, Maxine DeHart*, Gord Lovegrove, Mohini Singh, Luke Stack, Rick Webber and Loyal Wooldridge
Members Absent	Councillor Charlie Hodge
Staff Present	City Manager, Doug Gilchrist; City Clerk, Laura Bentley; Divisional Director, Planning, Climate Action & Development Services, Ryan Smith*; Development Planning Manager, Dean Strachan*; Planner, Sara Skabowski*; Development Planning Manager, Trisa Atwood*; Community Safety Director, Darren Caul*; Community Safety Services Manager, Kevin Duggan*; General Manager, Infrastructure, Mac Logan*; Infrastructure Operations Department Manager, Geert Bos*; Social Development Manager, Colleen Cornock*; Housing Policy and Programs Manager, James Moore*; Social Development Supervisor, Stephanie Martin*; Planner, Graham Allison*; Long Range Planning Manager, Robert Miles*; Project Manager, Arlene Janousek*; Mobility Specialist, Cameron Noonan*, Utility Services Department Manager, Kevin Van Vliet*; Landfill and Compost Operations Manager, Scott Hoekstra*; Legal & Administrative Coordinator, Lisa Schell
Staff Participating Remotely	Legislative Coordinator (Confidential), Arlene McClelland

(\* Denotes partial attendance)

**1. Call to Order**

Mayor Dyas called the meeting to order at 1:33 p.m.

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

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**2. Confirmation of Minutes**

Moved By Councillor Wooldridge/Seconded By Councillor Lovegrove

THAT the Minutes of the Regular Meetings of October 28, 2024 be confirmed as circulated.

**Carried**

### 3. Development Application Reports and Related Bylaws

#### 3.1 Benvoulin Rd 3441-3443 - TA24-0013 - Satnam Singh Basran and Sucha Singh Sanghera

Staff:

- Displayed a PowerPoint Presentation summarizing the application and provided rationale for non-support.

Jas Sanghera and Satnam Basran, Don-O-Ray Farms, Applicant:

- Provided background regarding Don-O-Ray Farms and noted that it has been their family run business since 2005.
- Spoke to their community support and involvement.
- Commented that they worked with a company to replace their current sign; believes electric signage is more visual than a static sign as it assists in advancing communication with customers, makes it easier to change the content and designed to handle all weather conditions.
- Commented that the electric sign does not flash and would only be used seasonally from 8:00 a.m. to 8:00 p.m.
- Asked Council to consider each applicant on their own merit.
- Responded to questions from Council.

Staff:

- Responded to question from Council.

Moved By Councillor Singh/Seconded By Councillor Cannan

THAT Sign Bylaw Text Amendment Application No. TA24-0013 to amend City of Kelowna Sign Bylaw No. 11530 as outlined in Schedule "A" attached to the Report from the Development Planning Department dated November 4, 2024 for Lot 1 District Lot 132 ODYD Plan KAP78305, located at 3441 – 3443 Benvoulin Rd, be considered by Council;

AND THAT the Sign Bylaw Text Amending Bylaw be forwarded to a Public Hearing for further consideration.

**Defeated**

Mayor Dyas, Councillors Lovegrove, Stack, Webber and Wooldridge - Opposed

#### 3.2 Jim Bailey Rd 8999 - TA24-0012 (BL12718) - Britannia Brewing Lake Country Company Corp., Inc. No. BC1275857

Staff:

- Displayed a PowerPoint Presentation summarizing the application.

Moved By Councillor Wooldridge/Seconded By Councillor Webber

THAT Zoning Bylaw Text Amendment Application No. TA24-0012 to amend City of Kelowna Zoning Bylaw No. 12375 as outlined in Schedule "A" attached to the Report from the Development Planning Department dated November 4, 2024, for Lot 1 Section 2 Township 20 ODYD PLAN EPP98124 located at 8999 Jim Bailey Rd be considered by Council;

AND THAT the Zoning Bylaw Text Amending Bylaw be forwarded to a Public Hearing for further consideration.

**Carried**



**3.3 Jim Bailey Rd 8999 - BL12718 (TA24-0012) - Britannia Brewing Lake Country Company Corp., Inc. No. BC1275857**

Moved By Councillor Wooldridge/Seconded By Councillor Lovegrove

THAT Bylaw No. 12718 be read a first time.

**Carried**

Councillor DeHart joined the meeting at 2:22 p.m.

**3.4 Rezoning Bylaws Supplemental Report to Council**

City Clerk:

- Commented on notice of first reading and correspondence received.

**3.5 Rezoning Applications**

**3.5.1 Valley Rd 728 - BL12712 (Z24-0035) - 1138742 B.C. Ltd., Inc. No. BC1138742**

**3.5.2 Fizet Ave 399 - BL12713 (Z24-0043) - Preeti Yadav and Manish Yadav**

Moved By Councillor Wooldridge/Seconded By Councillor Lovegrove

THAT Bylaw Nos. 12712 and 12713 each be read a first, second and third time and be adopted.

**Carried**

**4. Bylaws for Adoption (Development Related)**

**4.1 Hwy 97 N 4690 - BL12706 (Z24-0005) - City of Kelowna**

Moved By Councillor Wooldridge/Seconded By Councillor Lovegrove

THAT Bylaw No. 12706 be adopted.

**Carried**

**4.2 Barlee Rd 1857, 1869, 1879 - BL12707 (Z24-0024) - Barlee Road Development GP Ltd., Inc. No. BC1450498**

Moved By Councillor Lovegrove/Seconded By Councillor Wooldridge

THAT Bylaw No. 12707 be adopted.

**Carried**

**4.3 St. Paul St 1355 - BL12709 (Z24-0044) - 1247752 B.C. Ltd., Inc. No. BC1247752**

Moved By Councillor Wooldridge/Seconded By Councillor Lovegrove

THAT Bylaw No. 12709 be adopted.

**Carried**

#### 4.4 Loughheed Rd 230-240 - BL12710 (TA24-0010) - Various Owners

Moved By Councillor Lovegrove/Seconded By Councillor Wooldridge

THAT Bylaw No. 12710 be adopted.

Carried

### 5. Non-Development Reports & Related Bylaws

#### 5.1 Lakeshore Rd 3773-3795 - RTE23-0004 Amendment

Staff:

- Provided an overview of the amendment to the Revitalization Tax Exemption Agreement and Housing Agreement Bylaw and responded to questions from Council.

Moved By Councillor Stack/Seconded By Councillor Wooldridge

THAT Council receives, for information, the report from the Development Planning Department dated November 4, 2024, with respect to amendments to Revitalization Tax Exemption Agreement RTE23-0004 and Housing Agreement Bylaw No. 12565, both concerning the property located at Lot 1 District Lot 134 ODYD EPP41204 Except Plan EPP112300, located at 3773 – 3795 Lakeshore Road, Kelowna, BC;

AND THAT Council authorizes amendments to Revitalization Tax Exemption Agreement RTE23-0004 between the City of Kelowna and Westcorp On The Lake Inc., Inc. No. A75763 for Lot 1 District Lot 134 ODYD EPP41204 Except Plan EPP112300, located at 3773 – 3795 Lakeshore Road, Kelowna, BC as set out in Schedule A of the report from the Development Planning Department dated November 4, 2024;

AND THAT Council authorizes the Development Planning Department Manager to execute the amendments to Revitalization Tax Exemption Agreement RTE23-0004 on behalf of the City of Kelowna;

AND THAT Bylaw No. 12565 be rescinded;

AND FURTHER THAT Bylaw No. 12725 authorizing a Housing Agreement between the City of Kelowna and Westcorp On The Lake Inc., Inc. No. A75763, which requires the owners to maintain 521 dwelling units as rental housing for 10 years for Lot 1 District Lot 134 ODYD EPP41204 Except Plan EPP112300 located at 3773 – 3795 Lakeshore Road, Kelowna, BC be forwarded for reading consideration.

Carried

#### 5.2 Lakeshore Rd 3773-3795 - BL12725 (RTE23-0004)

Moved By Councillor Stack/Seconded By Councillor Cannan

THAT Bylaw No. 12725 be read a first, second and third time.

Carried

#### 5.3 Business Improvement Area On-Call Funding

Staff:

- Displayed a PowerPoint Presentation providing an overview of the proposed Council Policy and funding and responded to questions from Council.



Moved By Councillor DeHart/Seconded By Councillor Webber

THAT Council receives, for information, the report from the Revenue Branch and Community Safety Department dated November 4, 2024 regarding the establishment of a Business Improvement Area Ambassador Program Funding Model;

AND THAT Council adopts Council Policy No. 393, being BIA Ambassador Program Funding;

AND THAT Bylaw No. 12575 being Amendment No. 1 to Bylaw No. 12575 Kelowna Downtown Business Improvement Area 2024 - 2028, be forwarded for reading consideration.

AND FURTHER THAT Bylaw No. 12714 being Amendment No. 1 to Bylaw No. 12427 Uptown Rutland Business Improvement Area 2023-2027, be forwarded for reading consideration.

Carried

**5.4 BL12714 Amendment No. 1 to Uptown Rutland Business Improvement Area Bylaw No. 12427**

Moved By Councillor Webber/Seconded By Councillor Stack

THAT Bylaw No. 12714 be read a first, second and third time.

Carried

**5.5 BL12723 Amendment No. 1 to Kelowna Downtown Business Improvement Area Bylaw No. 12575**

Moved By Councillor Stack/Seconded By Councillor Webber

THAT Bylaw No. 12723 be read a first, second and third time.

Carried

Councillor DeHart left the meeting at 3:05 p.m.

The meeting recessed at 3:05 p.m.

The meeting reconvened at 3:14 p.m.

**5.6 2024 - 2025 Winter Operations Snow and Ice Control**

Staff:

- Displayed a PowerPoint Presentation providing an overview of preparations for the 2024/2025 winter operations, snow and ice control and responded to questions from Council.

Moved By Councillor Wooldridge/Seconded By Councillor Lovegrove

THAT Council receives, for information, the Report from Infrastructure Operations dated November 4, 2024, regarding Snow & Ice Control Program preparedness.

Carried

**5.7 Housing Action Plan Interim Report**

Staff:

- Displayed a PowerPoint Presentation providing an update on the development of the Housing Action Plan and key actions and responded to questions from Council.

Moved By Councillor Wooldridge/Seconded By Councillor Lovegrove

THAT Council receives for information the report from the Housing Policy and Programs and Social Development Departments, dated November 4, 2024, regarding the Housing Action Plan Interim Report;

AND THAT Council directs Staff to further explore and report back on the draft objectives and actions of the Housing Action Plan as described in the report from the Housing Policy and Programs and Social Development Departments, dated November 4, 2024.

**Carried**

**5.8 Housing Accelerator Fund Transit Supportive Corridor Pilot Project**

Staff:

- Displayed a PowerPoint Presentation to provide an overview of the pilot project to pre-zone select transit supportive corridors and responded to questions from Council.

Moved By Councillor Lovegrove/Seconded By Councillor Singh

THAT Council receives, for information, the report from the Long Range Planning & Housing Policy and Programs departments dated November 4, 2024 with information about the Housing Accelerator Fund Transit Supportive Corridor Pilot Project.

**Carried**

Councillor Cannan – Opposed

**5.9 Solid Waste Management - Curbside Collection Program**

Staff:

- Displayed a PowerPoint Presentation outlining the proposed amendments to the Solid Waste Management Regulation Bylaw and responded to questions from Council.

Moved By Councillor Wooldridge/Seconded By Councillor Lovegrove

THAT Council receives, for information, the Report from Utility Services dated November 4, 2024, with regards to curbside waste collection for infill housing;

AND THAT Bylaw 12704, Amendment No. 15 to the Solid Waste Management Regulation Bylaw 10106, be forwarded for reading consideration.

**Carried**

Councillor Webber - Opposed

**5.10 BL12704 - Amendment No. 15 to the Solid Waste Management Bylaw No. 12704**

Moved By Councillor Webber/Seconded By Councillor Stack

THAT Bylaw No.12704 be read a first, second and third time.

**Carried**

Councillor Webber - Opposed



## 6. Resolutions

### 6.1 Draft Resolution - 2025 Council Meeting Schedule

Moved By Councillor Wooldridge/Seconded By Councillor Singh

THAT the 2025 Council Meeting Schedule be adopted as follows:

Monday Regular Meetings	Public Hearing/Regular Meetings
January 13, 20 and 27	January 21
February 10 and 24	February 11
March 3, 10, 17 and 31	March 11
April 7, 14, and 28	April 8
May 5, 12 and 26	May 13
June 9, 16, 23 and 25*	June 17
July 7 and 21	July 22
August 11 and 25	August 26
September 8, 15 and 29	September 16
October 6, 20 and 27	October 21
November 3, 17 and 24	November 18
December 1, 4* and 8	

- June 25<sup>th</sup> – Pre-Budget Council Meeting
- December 4<sup>th</sup> – 2026 Budget Deliberations

Carried

## 7. Bylaws for Adoption (Non-Development Related)

### 7.1 BL12703 - Amendment No. 14 to Solid Waste Management Regulation Bylaw No. 10106

Moved By Councillor Stack/Seconded By Councillor Cannan

THAT Bylaw No. 12703 be adopted.

Carried

### 7.2 BL12719 - Amendment No. 43 to Sewerage System User Bylaw No. 3480

Moved By Councillor Cannan/Seconded By Councillor Webber

THAT Bylaw No. 12719 be adopted.

Carried

## 8. Mayor and Councillor Items

Mayor Dyas:

- Commented on the Memorial Cup bid and anticipated a response by the end of November, 2024.



Councillor Cannan:

- Made a Notice of Motion for a Policy for complimentary City parking for Veterans.
- Commented on Remembrance Day events on November 11, 2024.
- Congratulated the Okanagan Sun Football team for securing a spot in the Canadian Bowl on November 9, 2024 in Windsor, Ontario.

Councillor Singh:

- Spoke to their attendance at the Kelowna Fire Department Chief Officer’s Awards and Recognition Ceremony last week.
- Will be representing Council at the Remembrance Day ceremonies being held at the Cenotaph in Lions Park, Rutland.

Councillor Lovegrove:

- Commented on the Memorial Cup bid.
- Spoke to their participation in a school tour of Council Chambers.
- Will be attending a Prefabricated Building Conference this week.
- Will be attending Remembrance Day events.

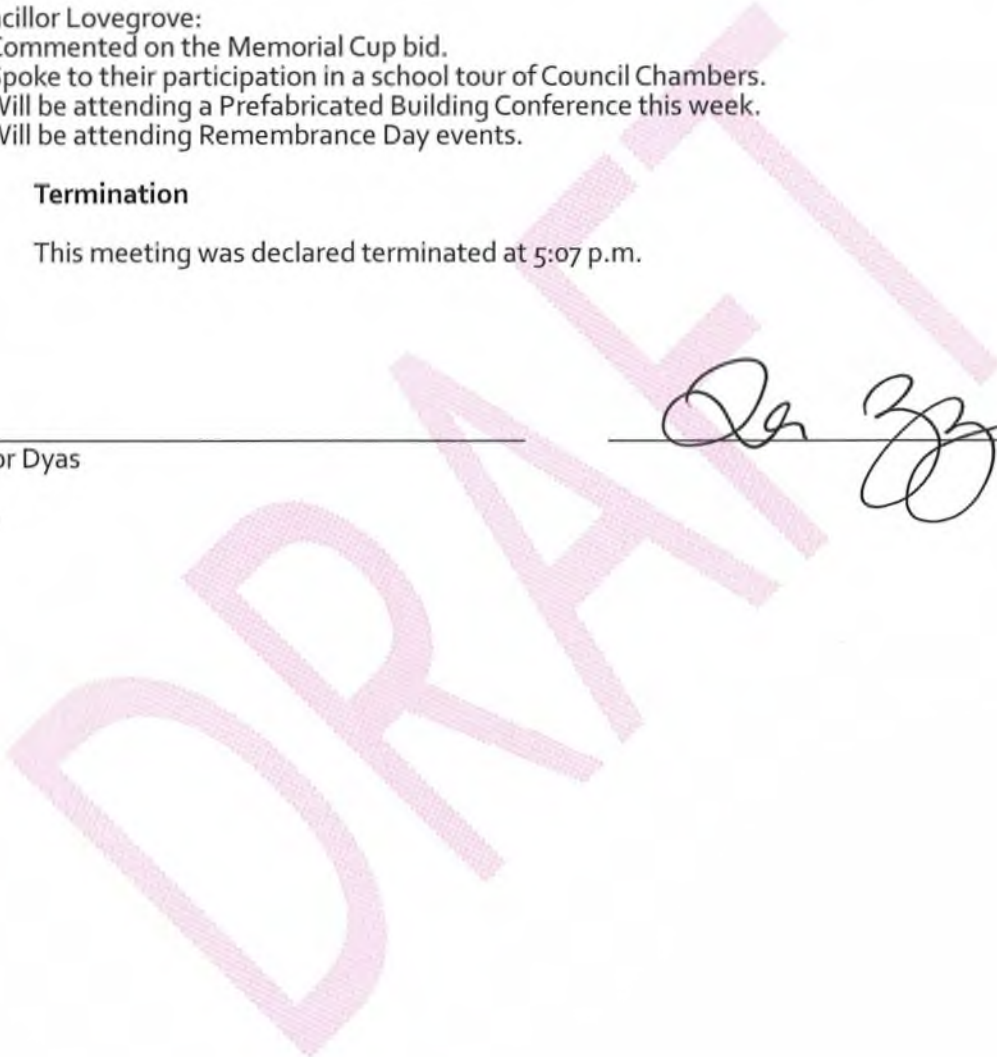
9. Termination

This meeting was declared terminated at 5:07 p.m.

\_\_\_\_\_  
Mayor Dyas

/acm

\_\_\_\_\_  
 City Clerk



# REPORT TO COUNCIL

## ALR APPLICATION



**Date:** November 18, 2024  
**To:** Council  
**From:** City Manager  
**Address:** 426 Fitzpatrick Rd  
**File No.:** A24-0009  
**Zone:** A1 – Agriculture

### 1.0 Recommendation

THAT Agricultural Land Reserve Application No. A24-0009 for Lot 3 Section 35 Township 26 ODYD Plan 20374, located at 426 Fitzpatrick Rd, Kelowna, BC for a subdivision of Agricultural Land Reserve under Section 21(2) of the *Agricultural Land Commission Act*, NOT be supported by Council;

AND THAT Council directs Staff NOT to forward the subject application to the Agricultural Land Commission for consideration.

### 2.0 Purpose

To review a Staff recommendation NOT to support a subdivision application to the Agricultural Land Commission.

### 3.0 Development Planning

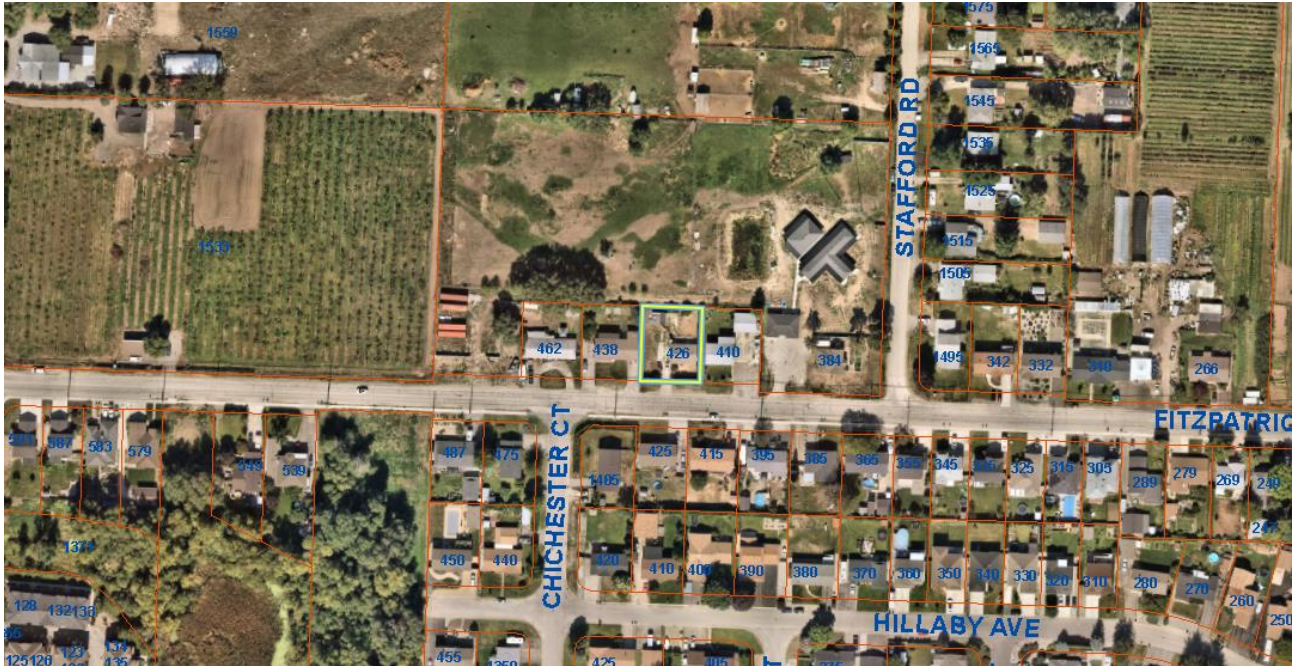
Staff do not support the proposal to subdivide the subject property as it is inconsistent with the objectives of the Official Community Plan (OCP) and the City’s Agricultural Plan. To stop urban sprawl into rural lands, the policy direction is to discourage subdivisions for properties located outside of the Permanent Growth Boundary (PGB), when the proposed zone does not align with the Future Land Use Designation and when the subject property abuts or is in the Agricultural Land Reserve (ALR). Given the subject property is located outside the PGB, designated R-RES (Rural Residential), and situated within the ALR, staff recommend against the proposal.

If the application is endorsed by Council and approved by the Agricultural Land Commission (ALC), a Rezoning Application from the A1 – Agriculture zone to the RU2 – Medium Lot Housing zone and an OCP Amendment from R-RES – Rural Residential to the S-RES – Suburban Residential would be required. In addition, if the Rezoning and OCP Amendment applications are successful, a Subdivision – PLR Application and a Farm Development Permit to establish a landscape buffer, would be required to complete the subdivision.

### 4.0 Subject Property & Background

Orientation	Zoning	ALR	Land Use
North	A1 – Agriculture	Yes	Kennel
East	A1 – Agriculture	Yes	Single-Detached Dwelling
South	RU1 – Large Lot Housing	No	Single-Detached Dwelling(s)
West	A1 – Agriculture	Yes	Single-Detached Dwelling

4.1 Subject Property Map



The subject property is located on Fitzpatrick Rd near the intersection with Chichester Ct. The surrounding area is a mix of agriculture, low-density residential, and park land.

5.0 **Project Description**

The subject property is zoned A1 – Agriculture, is approximately 0.22 acres (890 m<sup>2</sup>) in size and is located on Fitzpatrick Rd. The property is in the ALR and is outside of the PGB. The applicant is seeking a two-lot subdivision, which would result in the existing dwelling being removed. The subject property does not have any active agriculture. The property is connected to City sanitary services and water services through Black Mountain Irrigation District (BMID).

6.0 **Current Development Policies**

<b>Objective 8.4. Stop urban sprawl into Rural Lands</b>	
Policy 8.4.1. Intensification of Rural Lands	Do not support urban uses on lands outside of the Permanent Growth Boundary except for a permitted by the 2040 OCP Future Land Use Designations in place as of initial adoption of the 2040 OCP Bylaw. <i>The subject property is outside of the Permanent Growth Boundary (PGB) and the proposed zone does not align with the Future Land Use Designation.</i>
Policy 8.4.2. Discourage Subdivision	Discourage further subdivision of properties outside of the Permanent Growth Boundary (PGB) <i>The subject property is located outside of the PGB.</i>
Policy 8.4.3. Housing in Agricultural Areas	Discourage additional residential development (both expansions and new developments) in areas surrounded by ALR and non-ALR agricultural lands. Secondary suites may be permitted in a permitted primary dwelling. Carriage houses may be considered on Rural Residential lands where the property is 1.0 hectares or greater and where proposal is consistent with the Farm

	Protection Guidelines outlined in Chapter 22: Farm Protection Development Permit Area.
	<i>The subject property is located within the ALR, and it abuts active agriculture uses.</i>

**7.0 Application Chronology**

Application Accepted: July 17, 2024  
 Neighbour Notification Received: N/A

**8.0 Agricultural Advisory Committee**

Agricultural Advisory Committee Oct 10, 2024

THAT the Committee recommends that Council not support an application (A24-0009) to the Agricultural Land Commission (ALC) for a subdivision at 426 Fitzpatrick Rd.

The above noted application was reviewed by the Agricultural Advisory Committee at the meeting held on October 10<sup>th</sup>, and the following recommendations were passed:

Anecdotal comments include that the Committee wants to ensure if the application is approved to create enough room for a vegetative buffer on the north side of the property.

**9.0 Alternate Recommendation**

THAT Agricultural Land Reserve Application No. A24-0009 for Lot 3 Section 35 Township 26 ODYD Plan 20374, located at 426 Fitzpatrick Rd, Kelowna, BC for a subdivision of Agricultural Land Reserve under Section 21(2) of the *Agricultural Land Commission Act*, be supported by Council;

AND THAT Council directs Staff to forward the subject application to the Agricultural Land Commission for consideration.

**Report prepared by:** Tyler Caswell, Planner II  
**Reviewed by:** Dean Strachan, Development Planning Manager  
**Reviewed by:** Nola Kilmartin, Development Planning Department Manager  
**Approved for Inclusion:** Ryan Smith, Divisional Director, Planning, Climate Sustainability & Development Services

**Attachments:**

- Attachment A – ALC Application File No: 100998
- Attachment B – Site Plan
- Attachment C – Development Engineering Memo
- Attachment D – Ministry of Agriculture Memo

For additional information, please visit our Current Developments online at [www.kelowna.ca/currentdevelopments](http://www.kelowna.ca/currentdevelopments).



# Provincial Agricultural Land Commission - Applicant Submission

**Application ID:** 100998  
**Application Type:** Subdivide Land in the ALR  
**Status:** Submitted to L/FNG  
**Name:** Sandher  
**Local/First Nation Government:** City of Kelowna

## 1. Parcel(s) Under Application

### Parcel #1

**Parcel Type** Fee Simple  
**Legal Description** LOT 3 SECTION 35 TOWNSHIP 26 OSOYOOS DIVISION YALE DISTRICT PLAN 20374  
**Approx. Map Area** 0.09 ha  
**PID** 007-900-708  
**Purchase Date** Aug 6, 2023  
**Farm Classification** No  
**Civic Address** 426 Fitzpatrick RD. Kelowna (BC)  
**Certificate Of Title** search.pdf

Land Owner(s)	Organization	Phone	Email	Corporate Summary
Kamaljeet Singh Sandher	Not Applicable		k	Not Applicable

**ATTACHMENT** A

This forms part of application # A24-0009

Planner Initials **TC**



City of Kelowna  
DEVELOPMENT PLANNING

## 2. Other Owned Parcels

Do any of the land owners added previously own or lease other parcels that might inform this application process? No

## 3. Primary Contact

Type	Land Owner
First Name	Kamaljeet Singh
Last Name	Sandher
Organization (If Applicable)	No Data
Phone	
Email	

## 4. Government

Local or First Nation Government: City of Kelowna

## 5. Land Use

### Land Use of Parcel(s) under Application

Describe all agriculture that currently takes place on the parcel(s).	PID 007-900-708: .09 HA NOT AN AGRICULTURE LAND. THERE IS ONLY ONE HOUSE, NO SPACE OF THE AGRICULTURE.
Describe all agricultural improvements made to the parcel(s).	"No Agricultural Improvements"
Describe all other uses that currently take place on the parcel(s).	RESIDENTIAL - ONE HOUSE 75.80 SQ.M.

### Land Use of Adjacent Parcels

**ATTACHMENT**      A

This forms part of application # A24-0009

Planner Initials **TC**



City of **Kelowna**  
DEVELOPMENT PLANNING



	<b>Main Land Use Type</b>	<b>Specific Activity</b>
<b>North</b>	Agricultural / Farm	AGRICULTURE LAND
<b>East</b>	Residential	HOUSE
<b>South</b>	Transportation / Utilities	ROAD
<b>West</b>	Residential	HOUSE

## 6. Proposal

### Proposed Lot Areas

#	Type	Size
1	Lot	0.045
2	Lot	0.045

**What is the purpose of the proposal?** I am applying for two separate full-size houses.

**Why do you believe this parcel is suitable for subdivision?** There are several factors that need to be considered:-  
 1. Zoning regulation: The parcel complies with local zoning regulations. Minimum lot size, setback requirements, and surrounding properties.  
 2. Physical Characteristics: A rectangular or square-shaped parcel is generally easier to subdivide into regular lots, whereas irregular shapes might require creative solutions or variances.  
 3. Infrastructure: The availability of utilities such as water, sewer, electricity, and roads plays a crucial role. Subdivided lots should ideally have access to these utilities without significant additional infrastructure costs.  
 4. Market Demand: Understanding the market demand for smaller lots versus larger ones in the area is important. This can influence the decision on how many lots to create and their size.

**Does the proposal support agriculture in the short or long term? Please explain.** Not Applicable.

**Proposal Map / Site Plan** Preliminary Design-426 Fitzpatrick.05152024.pdf

**Are you applying for subdivision pursuant to the ALC Homesite Severance Policy?** No

**ATTACHMENT** A

This forms part of application  
 # A24-0009

Planner  
Initials

TC

  
**City of Kelowna**  
DEVELOPMENT PLANNING

# 7. Optional Documents

Type	Description	File Name
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**ATTACHMENT**     A    

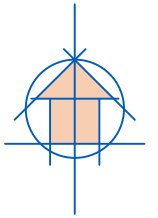
This forms part of application  
# A24-0009

Planner Initials TC



City of  
**Kelowna**  
DEVELOPMENT PLANNING





# PROPOSED TWO SINGLE DETACHED HOUSE

## 426 FITZPATRICK RD. KELOWNA (BC)

**CURRENT ZONE A1**  
**PROPOSED ZONE RU2**

PROJECT DATA:	
ADDRESS	: 426 FITZPATRICK RD, KELOWNA
LEGAL	: PLAN KAP20374 LOT 3, SECTION 35
	TOWNSHIP 26
PID	: 007-900-708
CURRENT ZONING: A1	
PROPOSED ZONING:RU2	
LOT SIZE:	= 890.00 m <sup>2</sup> = 9579.88 ft <sup>2</sup>
PERMITTED 40%	= 356.00 m <sup>2</sup> = 3831.95 ft <sup>2</sup>
WITH DRIVEWAY 70%	= 623.00 m <sup>2</sup> = 6705.91 ft <sup>2</sup>
PROPOSED AREA (UNIT A#B)	
MAIN FLOOR	= 708.32 ft <sup>2</sup> (65.80 SQM.)
UPPER FLOOR	= 3190.9 ft <sup>2</sup> (296.44 SQM.)
SUITE	= 1910.22 ft <sup>2</sup> (177.46 SQM.)
GARAGE AREA	= 967.56 ft <sup>2</sup> (89.88 SQM.)
TOTAL	= 6777.00 ft <sup>2</sup> (629.58 SQM)
LOT COVERAGE:	
PRINCIPLE BUILDING (A#B)	= 3586.1 ft <sup>2</sup> (333.15 SQM)
FRONT PORCH (A#B)	= 142.26 ft <sup>2</sup> (13.21 SQM.)
COVERED DECK (A#B)	= 159.18 ft <sup>2</sup> (14.78 SQM.)
DRIVEWAY/WALKWAY (A#B)	= 1068.22 ft <sup>2</sup> (99.24 SQM.)
TOTAL (A & B)	= 4955.76 ft <sup>2</sup> (460.38 SQM.)



**SITE PLAN**  
SCALE: 1/16" = 1'-0"

**ATTACHMENT B**

This forms part of application

# A24-0009

Planner Initials **TC**



NO.	DATE	DESCRIPTION
2024-05-15	B	REVISION AREA
2024-03-04	A	EP APPLICATION

**MARWAHA DESIGN INC.**

778-318-4874  
creative.marwaha@gmail.com  
www.marwahadesigns.com

PROJECT:

**PROPOSED DUPLEX**  
**426 FITZPATRICK RD.**  
**KELOWNA, BC**

CLIENT:

**KAMALJEET SINGH SANDHER**

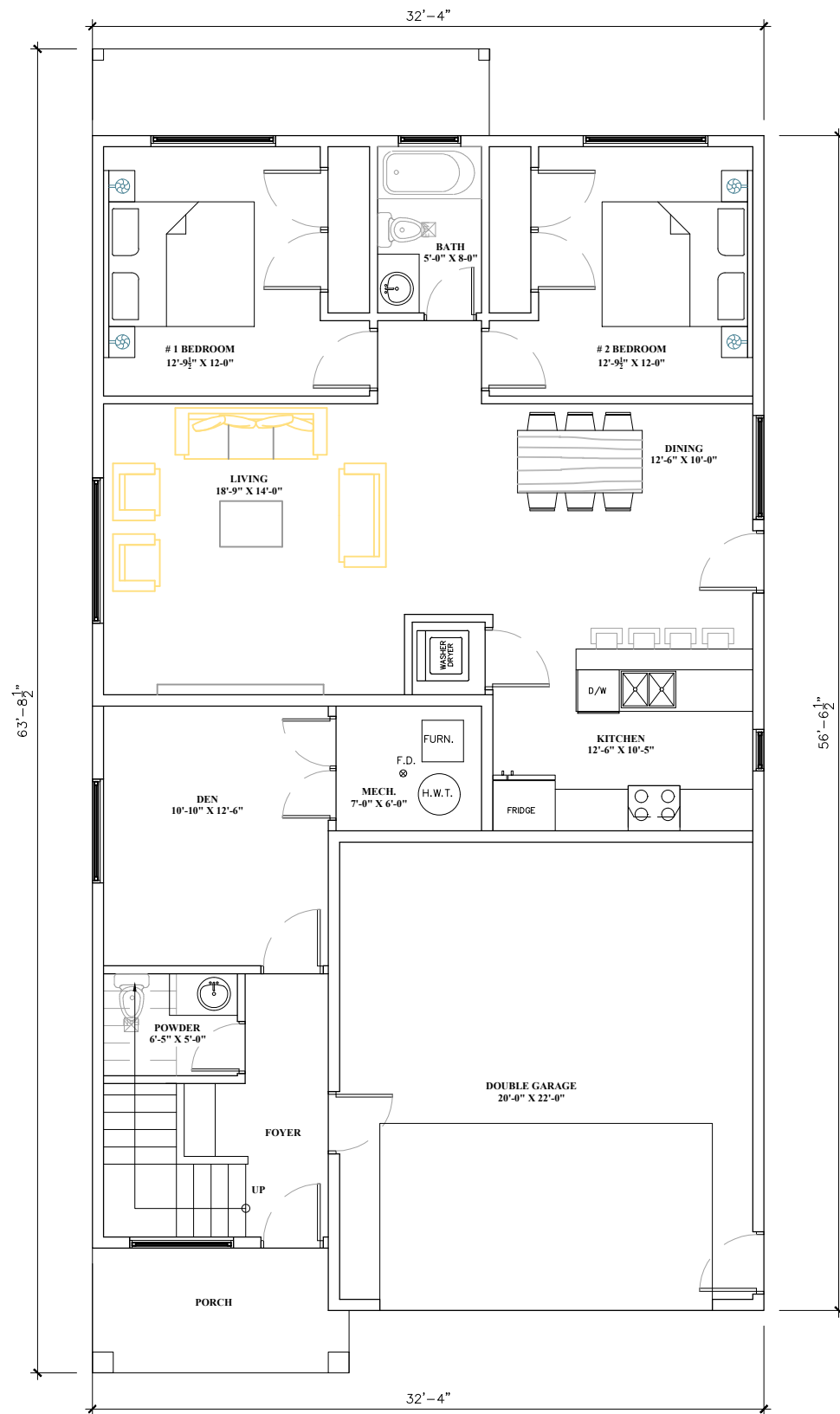
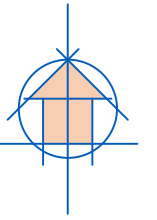
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CHECKED:	HS
SCALE:	1/16" = 1'-0"
JOB NO.:	KEL-KAM-430
DATE:	03-04-2024
SHEET TITLE:	

SITE PLAN

DRAWING NO.:	A-101	1 OF 2
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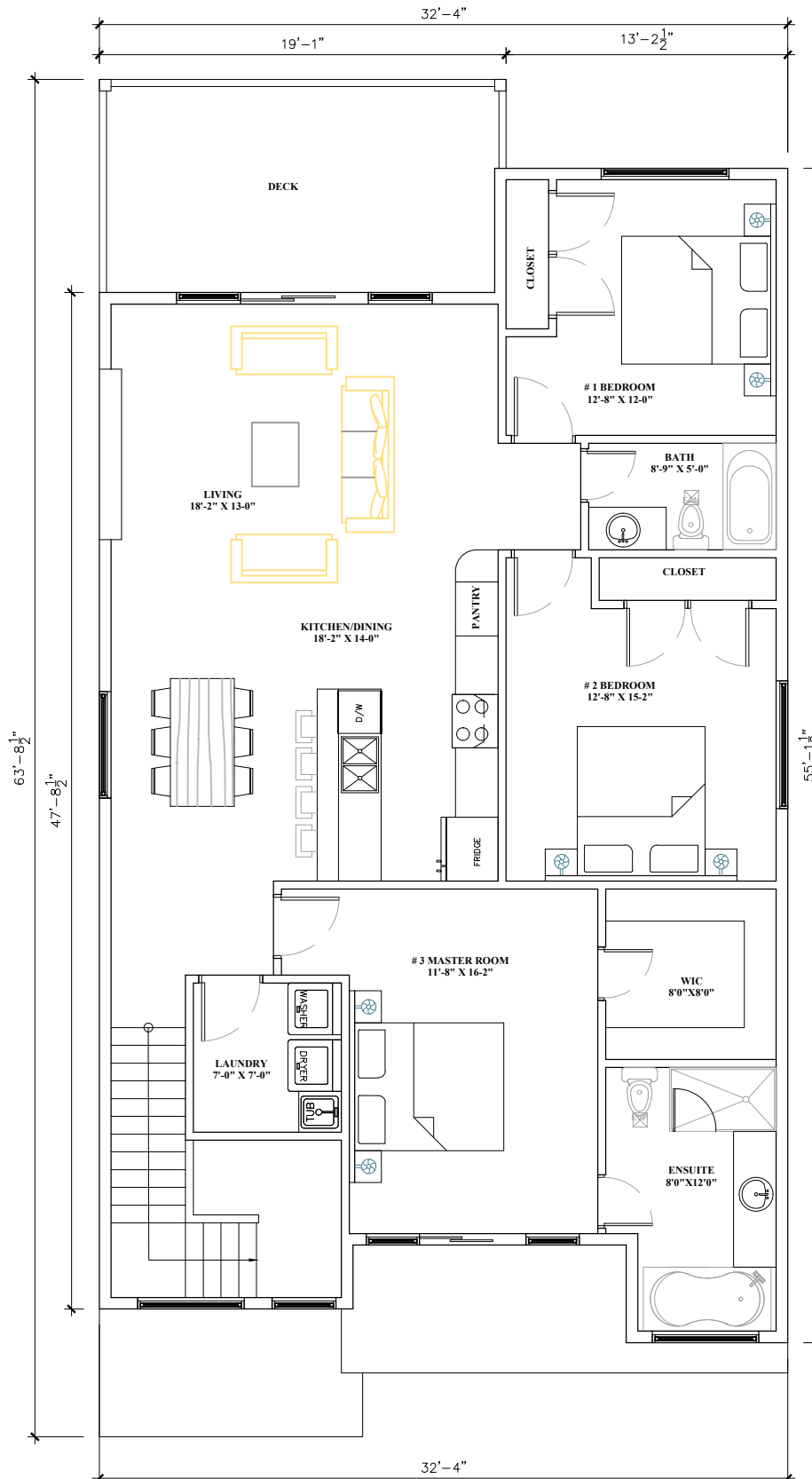
THE CONTRACTOR IS TO CONFIRM ALL MEASUREMENTS AND REPORT ANY ERRORS OR OMISSIONS BACK TO MARWAHA DESIGNS INC. BEFORE COMMENCING WORK. MARWAHA DESIGNS INC WILL NOT BE LIABLE FOR ANY ERRORS OR OMISSIONS. ALL WORK IS TO BE DONE IN ACCORDANCE WITH THE CURRENT PART 9 OF THE BCBC. LOADS NOT COVERED IN THE BUILDING CODE WILL REQUIRE AN ENGINEER AND IS THE RESPONSIBILITY OF THE CONTRACTOR TO SECURE. THIS PLAN IS EXCLUSIVE PROPERTY OF MARWAHA DESIGNS INC. AND MAY NOT BE REPRODUCED WITH OUT WRITTEN CONSENT.

NOTES:



**MAIN FLOOR PLAN (UNIT A & B)**

SCALE: 1/8" = 1'-0"  
 MAIN FLOOR: 354.16 SQ.FT.  
 SUITE: 955.11 SQ.FT.  
 GARAGE: 483.78 SQ.FT.  
 TOTAL FLOOR AREA: 1793.05 SQ.FT.



**UPPER FLOOR PLAN (UNIT - A & B)**

SCALE: 1/8" = 1'-0"  
 TOTAL FLOOR AREA: 1595.45 SQ.FT.

**ATTACHMENT B**  
 This forms part of application  
 # A24-0009  
 Planner Initials **TC**  
 City of Kelowna  
 DEVELOPMENT PLANNING

2024-03-04	A	DP APPLICATION

**MARWAHA DESIGN INC.**  
 778-318-4874  
 creative.marwaha@gmail.com  
 www.marwahadesigns.com

PROJECT:  
**PROPOSED DUPLEX  
 426 FITZPATRICK RD.  
 KELOWNA, BC**  
 CLIENT:  
**KAMALJEET SINGH SANDHER**

DRAWN:	HS
CHECKED:	HS
SCALE:	1/8" = 1'-0"
JOB No.:	KEL-KAM-430
DATE:	03-04-2024
SHEET TITLE:	

FLOOR PLANS

DRAWING NO.:	A-102	1 OF 2
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THE CONTRACTOR IS TO CONFIRM ALL MEASUREMENTS AND REPORT ANY ERRORS OR OMISSIONS BACK TO MARWAHA DESIGNS INC. BEFORE COMMENCING WORK. MARWAHA DESIGNS INC WILL NOT BE LIABLE FOR ANY ERRORS OR OMISSIONS. ALL WORK IS TO BE DONE IN ACCORDANCE WITH THE CURRENT PART 9 OF THE B.C.B.C. LOADS NOT COVERED IN THE BUILDING CODE WILL REQUIRE AN ENGINEER AND IS THE RESPONSIBILITY OF THE CONTRACTOR TO SECURE. THIS PLAN IS EXCLUSIVE PROPERTY OF MARWAHA DESIGNS INC. AND MAY NOT BE REPRODUCED WITH OUT WRITTEN CONSENT.

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**CITY OF KELOWNA**

**MEMORANDUM**

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**Date:** August 9, 2024  
**File No.:** A24-0009  
**To:** Urban Planning (TC)  
**From:** Development Engineering Branch (MH)  
**Subject:** 426 Fitzpatrick Rd 2 Lot Subdivision

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The Development Engineering Department has the following comments associated with this application for a 2-lot subdivision. The following Works and Services will be required of this development prior to final subdivision approval. The Development Engineering Technologist for this file is Michael James-Davies ([mjames-davies@kelowna.ca](mailto:mjames-davies@kelowna.ca)).

**1. GENERAL**

- a. The following comments and requirements are valid for a period of one (2) years from the reference date of this memo, or until the application has been closed, whichever occurs first. The City of Kelowna reserves the rights to modify some or all items in this memo if an application for Building Permit is not made within this time.
- b. This proposed development may require the installation or modification of centralized mail delivery equipment. Please contact Arif Bhatia, Delivery Planning Officer, Canada Post Corporation, 530 Gaston Avenue, Kelowna, BC, V1Y 2K0, (250) 859-0198, [arif.bhatia@canadapost.ca](mailto:arif.bhatia@canadapost.ca) to obtain further information and determine requirements.
- c. All City Trees must be protected as per Bylaw 8042 Schedule C – Tree Barrier and Installation Policy requirements. Removal of City Trees will require prior approval of the City’s Urban Forestry Supervisor and may be subject to replacement, at a minimum two for one ratio, and compensation payment as per the City of Kelowna Equitable Compensation as defined in Section 8.2 of Bylaw 8042.

**2. DOMESTIC WATER AND FIRE PROTECTION**

- a. The subject property is located within the Black Mountain Irrigation District (BMID) Water Supply Area. The Developer’s Consulting Engineer will determine the servicing and fire protection requirements of this proposed development. The Developer is required to make satisfactory arrangements with BMID for all water servicing and fire protection requirements.
- b. All fire flow calculations are to be provided to the City’s Development Engineering Department upon submittal of Building Permit application or off-site civil engineering drawings, as the case may be. Confirmation of adequate servicing and fire protection from BMID must be provided to the City Engineer prior to issuance of Building Permit.

<b>ATTACHMENT</b> <u>    </u> C	
This forms part of application # A24-0009	
Planner Initials	TC
 City of <b>Kelowna</b> DEVELOPMENT PLANNING	

### 3. **SANITARY SEWER SYSTEM**

- a. Our records indicate that this property is currently serviced with a 100 mm diameter sanitary service off Fitzpatrick Rd. Only one service connection will be permitted per lot.
- b. The Developer's Licensed Residential Builder or Plumbing Contractor will determine the sanitary sewer servicing requirements of this development. If upgrades are determined to be necessary to achieve adequate servicing, the Developer must complete any such upgrades at their cost. At a minimum, one service per lot will be required. New service connections are to be completed as per SS-S7 with an inspection chamber and Brooks Box. Any obsolete services must be fully decommissioned at the main.
- c. In this case, the Developer, can choose to either engage a Consulting Engineer and a qualified Contractor to design and construct the service upgrades or they can choose to have the works completed by City forces at the Developer's expense. If the Developer chooses to have the works completed by City forces, they will be required to sign a Third-Party Work Order and pre-pay for the cost of the work. For estimate inquiries please contact the Development Engineering Technician assigned to the file.

### 4. **STORM DRAINAGE**

- a. The subject property is located within the City of Kelowna drainage service area. The City Engineer may permit use of individual ground water disposal systems, where soils are suitable. For on-site disposal of drainage water, a hydrogeotechnical report will be required complete with a design for the disposal method (i.e. trench drain / rock pit). The Lot Grading Plan must show the design and location of these systems for each lot.
- b. The Developer must engage a Consulting Engineer to provide a combined Lot Grading Plan, Stormwater Management Plan, and Erosion and Sediment Control Plan to meet the requirements of Bylaw 7900. Indicate on the plan the building elevations, finished grade slopes and elevations throughout the site, perimeter grades to match existing grades, overland flow routes, onsite stormwater retention if required, and erosion and sediment control measures.

### 5. **ROADWAY AND STREETScape**

- a. Approximately 1 m road dedication along the entire frontage of Fitzpatrick Rd is required to achieve a ROW width of 22 m in accordance with OCP Functional Road Classification objectives and Bylaw 7900 Typical Road Sections.
- b. Fitzpatrick Rd is classified in the 2040 OCP as a Suburban Minor Arterial and must be upgraded to an urban XS-R65 standard along the full frontage of the subject property to facilitate additional corridor density associated with this development. Required upgrades to include sidewalk, curb and gutter, LED street lighting, landscaped and irrigated boulevard, pavement removal and replacement and re-location or adjustment of utility appurtenances if required to accommodate the upgrading construction.
- c. Only utility upgrades must be completed at this time as the City wishes to defer the frontage upgrades on Fitzpatrick Rd.
  - i. A cash payment in lieu of construction in the amount of 125% of the estimated construction cost is required in accordance with Section 8.1.(b) of Bylaw 7900.

- ii. The City Engineer's estimated cost of construction for the roadway and laneway works is outlined in the *Costs, Fees, and Securities* section of this memo.

## 6. **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. Utility companies are required to obtain the City's approval before commencing construction.
- b. Provide all necessary Statutory Rights-of-Ways for any utility corridors as may be required.

## 7. **GEOTECHNICAL STUDY**

- a. Provide a Geotechnical Report prepared by a Professional Engineer competent in the field of geotechnical or hydrogeological engineering as applicable. The Geotechnical Report must be submitted to the Development Services Department as part of the Building Permit submission and prior to the City's review of Engineering drawings. Geotechnical Report to address, at a minimum, any of the applicable items below:
  - i. Site suitability for development;
  - ii. Area ground water characteristics, including any springs and overland surface drainage courses traversing the property, as well as any monitoring required;
  - iii. Site soil characteristics (i.e., soil types and depths, fill areas, infiltration rate, 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 erosion and sedimentation controls for water and wind;
  - vii. Any items required in other sections of this memo;
  - viii. Recommendations for roof drains, perimeter drains, and septic tank effluent on the site;

**8. CHARGES, FEES, AND SECURITIES**

## a. Cash-in-Lieu of Construction Payment:

Fitzpatrick Rd	\$	84,226.07
<b>TOTAL</b>	<b>\$</b>	<b>84,226.07</b>

## b. Engineering and Inspection Fee:

3.5% of Construction Value	\$	2,105.65
5% GST	\$	105.28
<b>TOTAL</b>	<b>\$</b>	<b>2,210.93</b>

## c. Survey Monument Fee:

Survey Monument Fee for 2 lots at \$60.00 per lot	\$	120.00
<b>TOTAL</b>	<b>\$</b>	<b>120.00</b>

*M Hobbs*

Melissa Hobbs, P.Eng., PMP  
Development Engineer

MJD





**ATTACHMENT** D

This forms part of application  
# A24-0009

Planner Initials TC



City of  
**Kelowna**  
DEVELOPMENT PLANNING

October 20, 2023

File: 0280-30  
Ref: 201422

Dear Local Government Planning Staff:

Ministry of Agriculture and Food (the Ministry) staff have noted that there has been a marked increase in Agricultural Land Commission (ALC) subdivision applications over the past few years, resulting in increased referral workload for local government, the Ministry and ALC staff.

A recent referral impact review project conducted by the Ministry, which reviewed 148 referrals from 26 local governments over a six-month period, showed that 80 percent of ALC subdivision applications were assessed by Ministry staff as “not beneficial to agriculture”; however, local government councils and boards opted to send these applications to the ALC for decision in nearly every instance. While local government decisions to forward these applications to the ALC are inconsistent with Ministry staff input, 92 percent of ALC decisions are consistent with Ministry staff’s assessment (i.e., applications identified as not beneficial to agriculture are refused).

Given the similar input provided by Ministry staff on most subdivision applications, the limited impact that Ministry referral responses have on local government decisions, and current staff workload pressures, the Ministry will be discontinuing parcel-specific review of ALC subdivision applications for a 12-month trial period. Instead, Ministry staff will focus on developing alternative outreach and education mechanisms to support land use decisions that benefit agriculture.

In the absence of a parcel-specific review, local government planning staff and decision makers are encouraged to consider the following when reviewing ALC applications for subdivision on the Agricultural Land Reserve (ALR).

- Subdivision in the ALR frequently results in each parcel having diminished agricultural potential and an increase in land cost per hectare due to increased residential and accessory structures. Smaller lots and increased residential structures can also increase conflict between adjacent land uses.
- Ministry data, through Agricultural Land Use Inventories (ALUI), shows that smaller agricultural lots are less likely to be farmed.

.../2

- A [2022 Kwantlen Polytechnic University study](#) exploring the impact of non-farm uses and subdivision on agricultural land found that in regions of British Columbia (B.C.) reviewed, “30 percent of all new parcels created as a result of subdivision ceased to have a farm class status”, and “64 percent of all the parcels had their ownerships transferred within three years after non-farm use and subdivision applications were approved. This percentage becomes higher for subdivided parcels” (Summary Results, p.1-2).
- To advance viable long-term agricultural opportunities on the ALR, Ministry staff encourage ALR landowners to pursue alternative land access and tenure options, other than subdivision, (such as the leasing of portions of the property) as part of a coordinated succession plan. For more information on [B.C.’s Land Matching Program](#), please visit the [Agrarians Foundation](#) organization website.
- The Ministry also provides resources to producers to support successful farm transition, including support through the [B.C. Agri-Business Planning Program](#), as well as succession planning workshops and webinars to familiarize farmers with the steps and practices required for a successful farm transition.
- Ministry staff are available to discuss viable agricultural opportunities with the landowners considering pursuing farming activities on ALR land. For more information or to contact Ministry staff, please visit the Ministry [AgriService BC webpage](#) or email [AgriServiceBC@gov.bc.ca](mailto:AgriServiceBC@gov.bc.ca).

While the Ministry will not be providing a detailed review and response to this parcel-specific referral, please feel free to reach out to Ministry staff with specific questions or for advice on this referral or land use planning for agriculture in general.

Sincerely,

**Arlene Anderson**

Executive Director

Corporate Policy and Priorities Branch

Ministry of Agriculture and Food

Phone: (778) 698-5170

Email: [Arlene.Anderson@gov.bc.ca](mailto:Arlene.Anderson@gov.bc.ca)







City of  
Kelowna

# A24-0009 426 Fitzpatrick Rd

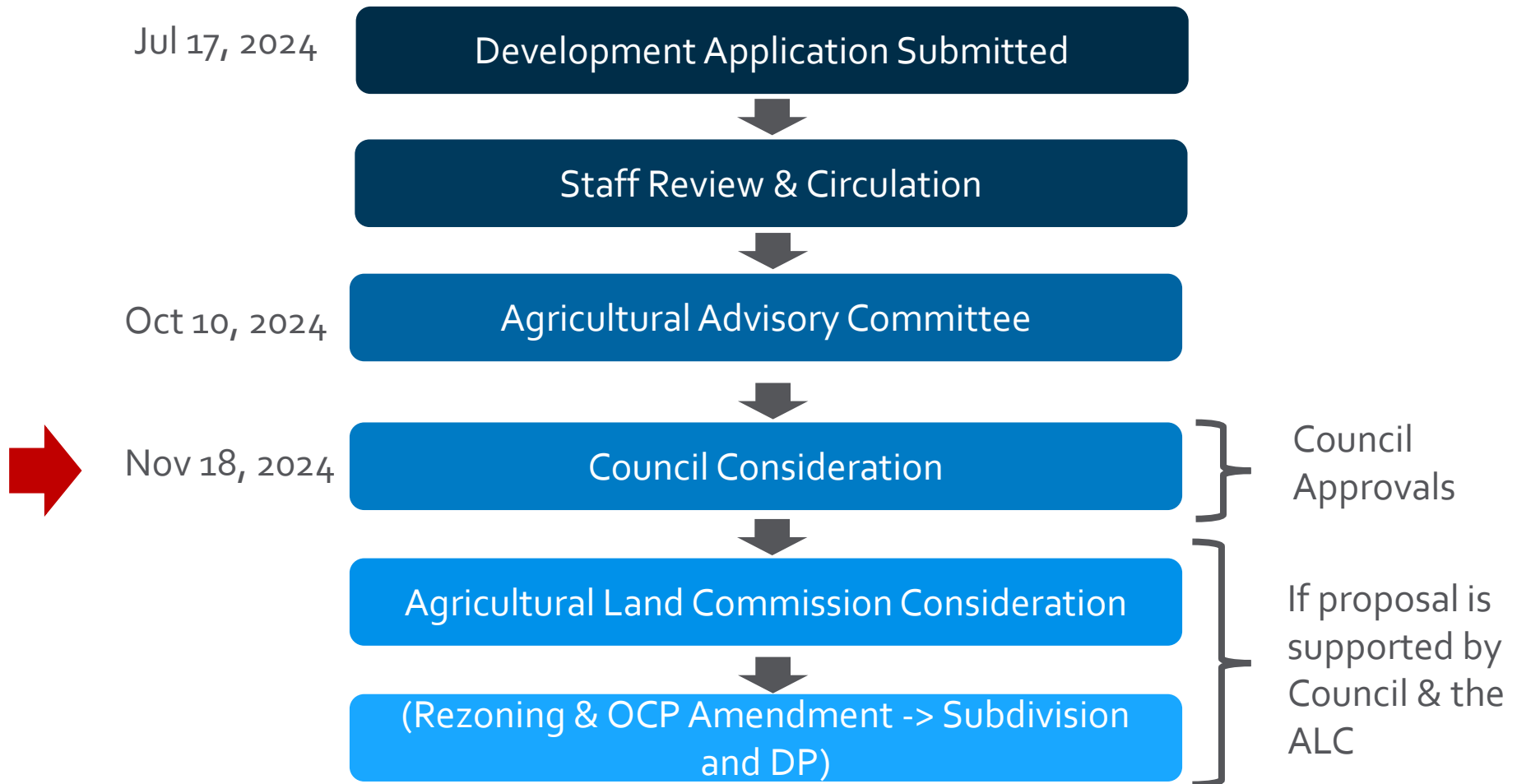
ALR Application for a Subdivision



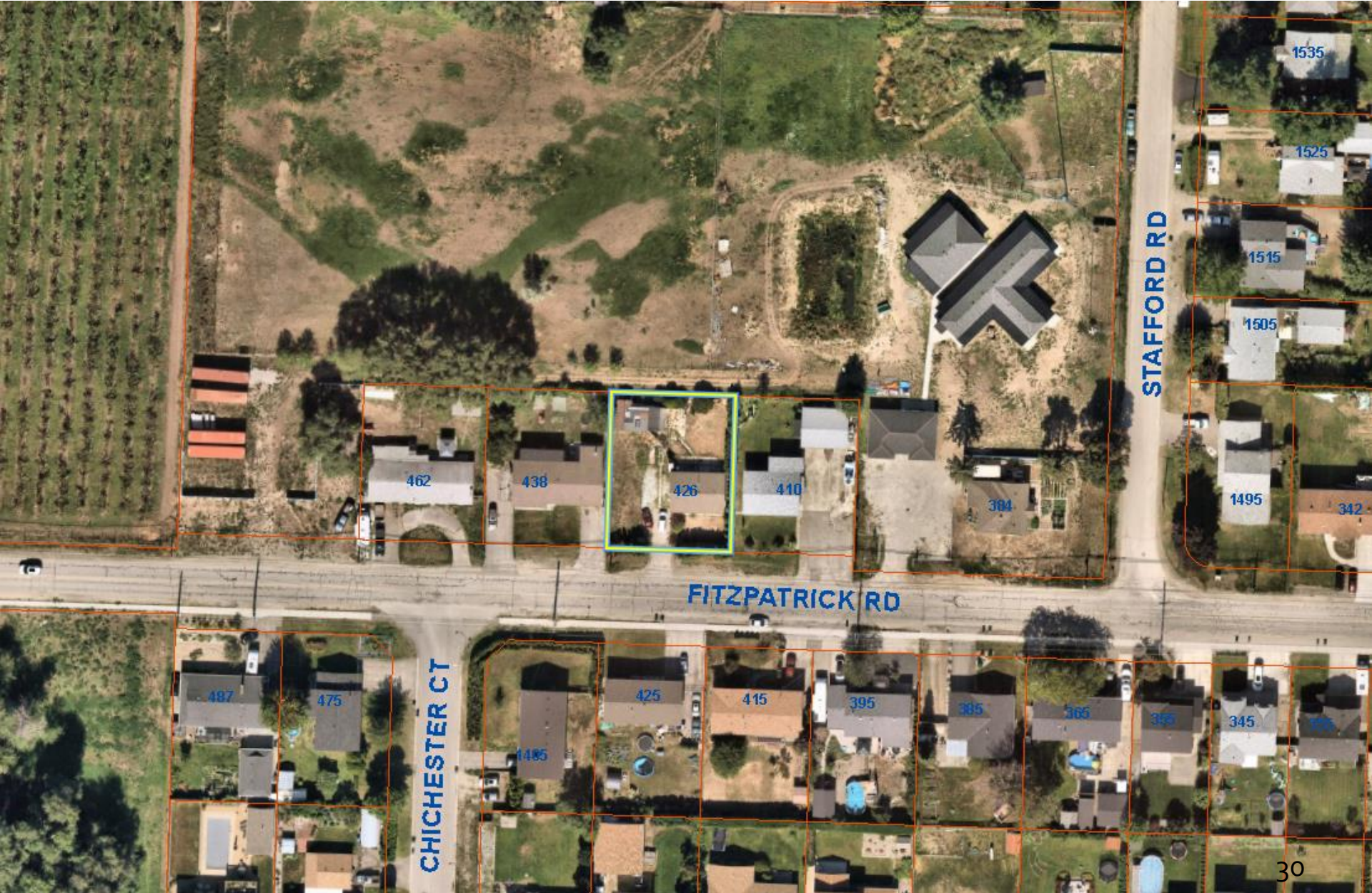
# Proposal

- ▶ To review a Staff recommendation NOT to support a subdivision application to the Agricultural Land Commission.

# Development Process

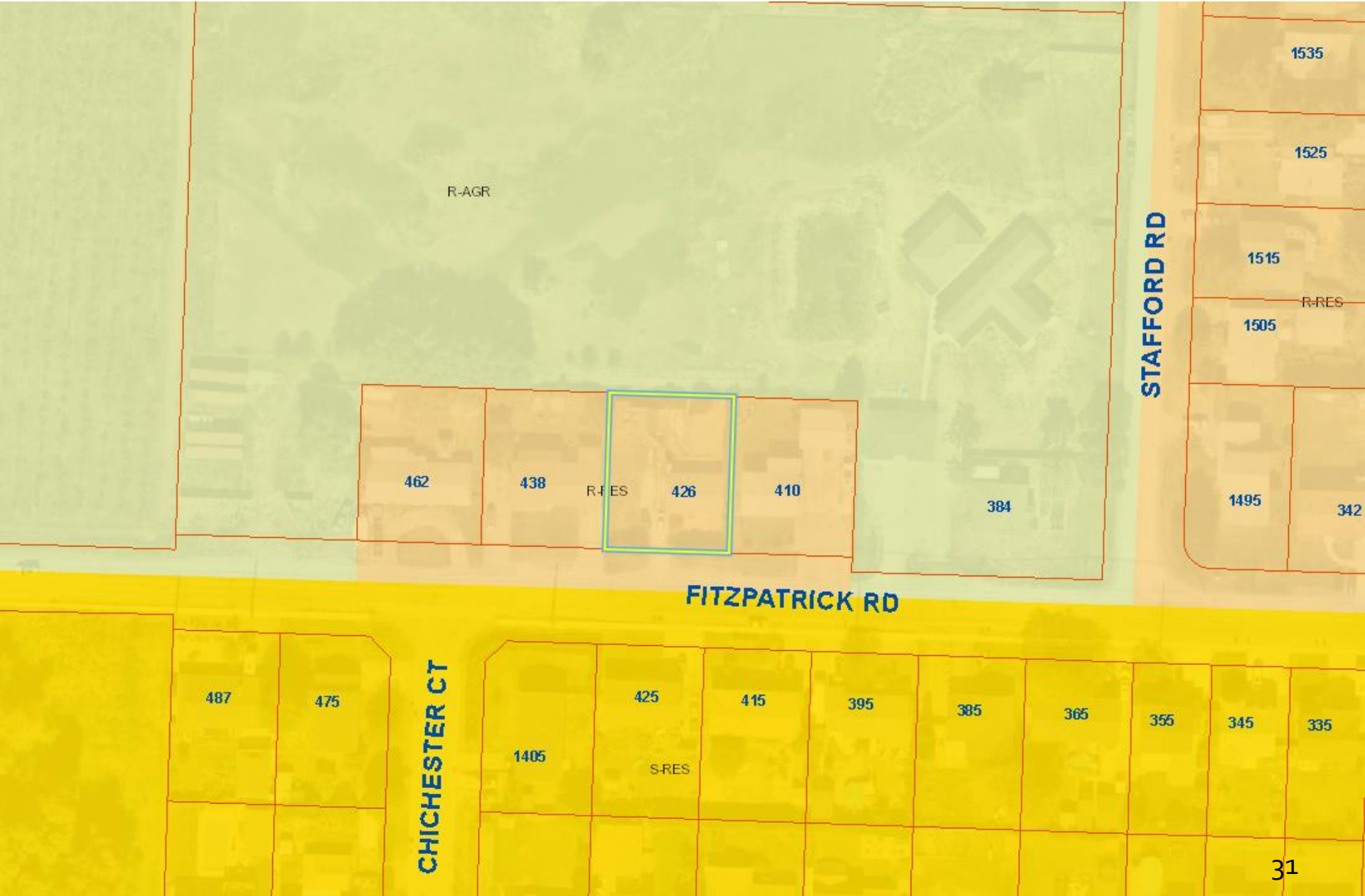


# Context Map





# OCP Future Land Use / Zoning

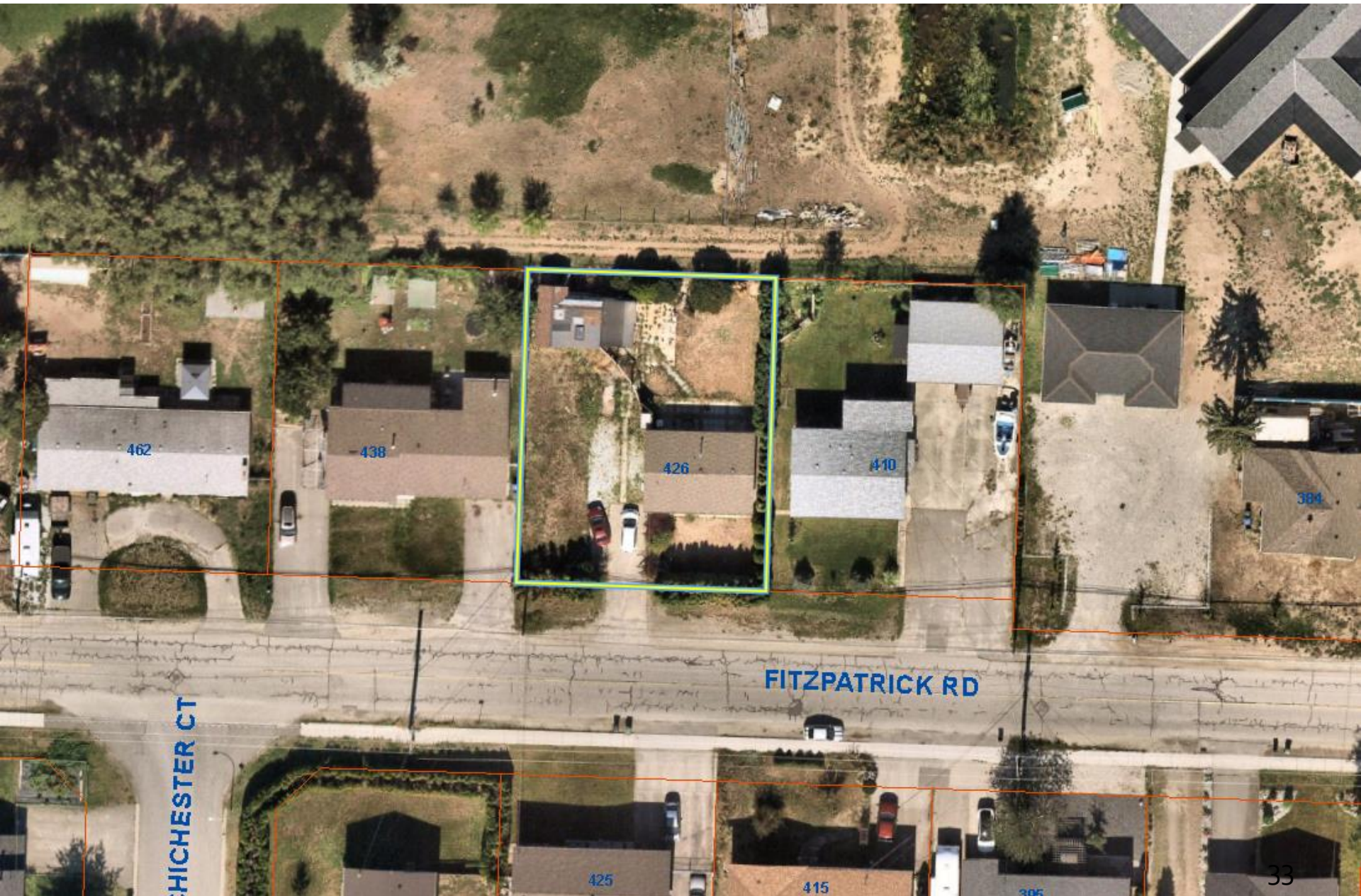


# Agricultural Land Reserve





# Aerial View



# Project Details

- ▶ The applicant is seeking approvals to allow for a two-lot subdivision;
  - ▶ The existing dwelling would have to be removed.
- ▶ If approved, the applicant would be required the additional applications:
  - ▶ A Rezoning Application from A1 – Agriculture to RU2 – Medium Lot Housing
  - ▶ An OCP Amendment from R-RES – Rural Residential to S-RES – Suburban Residential
  - ▶ A Farm Development Permit to establish the required landscape buffer at the rear of the property
  - ▶ A Subdivision – PLR Application to allow for the subdivision



# Site Plan



# OCP Objectives & Policies

- ▶ **Policy 8.4.1. Intensification of Rural Lands.**
  - ▶ Do not support urban uses on lands outside of the Permanent Growth Boundary except for a permitted by the 2040 OCP Future Land Use Designations in place as of initial adoption of the 2040 OCP Bylaw.
- ▶ **Policy 8.4.2. Discourage Subdivision.**
  - ▶ Discourage further subdivision of properties outside of the Permanent Growth Boundary (PGB).
- ▶ **Policy 8.4.3. Housing in Agricultural Areas.**
  - ▶ Discourage additional residential development (both expansions and new developments) in areas surrounded by ALR and non-ALR agricultural lands. Secondary suites may be permitted in a permitted primary dwelling. Carriage houses may be considered on Rural Residential lands where the property is 1.0 hectares or greater and where proposal is consistent with the Farm Protection Guidelines outlined in Chapter 22: Farm Protection Development Permit Area.

# AAC Recommendation

- ▶ Application went to the Agricultural Advisory Committee on October 10<sup>th</sup>, 2024;
  - ▶ AAC Recommended that Council not support the application.

# Staff Recommendation

- ▶ Staff do **not** recommend support of the proposed Subdivision Application.
  - ▶ Does not meet the intent of the OCP and Agricultural Plan as the subject property is:
    - ▶ Outside of the PGB;
    - ▶ Has the Future Land Use Designation of Rural Residential;
    - ▶ Is within and abuts the ALR.
  - ▶ Additional Application Required to come back to Council.
- ▶ Recommend the Bylaw **not** be forwarded to ALC for consideration.



## *Conclusion of Staff Remarks*

# REPORT TO COUNCIL



**Date:** November 18, 2024  
**To:** Council  
**From:** City Manager  
**Address:** 1629 KLO Road  
**File No.:** A24-0012  
**Zone:** A1 - Agriculture

---

## 1.0 Recommendation

THAT Agricultural Land Reserve Application No. A24-0012 for Block 57 District Lot 131 ODYD Plan 186 Except Parcels C and D Plan B1813 and Plan KAP78678, located at 1629 KLO Road, Kelowna, BC for a Soil and Fill Use in the Agricultural Land Reserve pursuant to Section 20.3 of the *Agricultural Land Commission Act*, be supported by Council.

AND THAT Council directs staff to forward the subject application to the Agricultural Land Commission for consideration.

## 2.0 Purpose

To support an application to the Agricultural Land Commission to allow a Soil and Fill Use application for placement of 745 cubic meters of gravel fill for a retail nursery parking lot and a nursery container production area.

## 3.0 Development Planning

The applicant is seeking a retroactive Agricultural Land Commission (ALC) approval via a Soil and Fill Use application for placement of 745 cubic meters of gravel fill (30 cm depth) to accommodate for retail nursery parking, nursery greenhouse container planting, and pedestrian traffic. The gravel fill will allow for a clean, functional, and free draining area for customers and staff using the site.

The subject property is 5.1 ha (12.8 acres) in size and is located on KLO Rd. The current nursery garden centre is 1.4 ha in area, which includes greenhouses and outdoor irrigated growing beds. The area includes a gravel parking lot and retail sales building as part of their operation. The farming operation includes three properties (3350 Benvoulin Rd, 3400 Benvoulin Rd and 1629-1649 KLO Rd), which consists of 7.1 ha of land. The active agriculture consists of 3.9 ha of alfalfa production and 2.0 ha of field grown cut flowers.

The ALC has determined that Soil and Fill Use applications that are not expressly allowed under the Agricultural Land Reserve Regulation may not proceed to the ALC for permit review unless authorized by a resolution of the local government. There are several common reasons why the ALC will not accept fill applications without first obtaining consent from local government, which are as follows:

- Applicants were initially caught placing fill without permits from the ALC.
- The fill may not aid the farm/farming activity.
- Work is planned to extend beyond two years.

- A waterway may be fouled, obstructed, or impeded.
- The agricultural capability of the land may be degraded.
- Fill placement has not been demonstrated as the only means available to address implementation of standard agricultural best practices.

In this instance, the ALC will not accept this proposal directly, since the applicant placed fill without having ALC approvals in place. Subsequently, the applicant has hired a professional agrologist to prepare a plan to seek Council’s authorization to forward this Soil and Fill Use application to the ALC for their consideration.

As part of the application review process the subject application was assessed by the Agricultural Advisory Committee at the meeting held on October 10, 2024. The Committee recommends that Council support the subject application to be forwarded to the ALC for their consideration. Additionally, the Ministry of Agriculture and Food provided comments in support of the application as well. As a result, staff supports this Soil and Fill Use proposal to be sent to the ALC for their review and further direction on the matter.

#### 4.0 Subject Property & Background

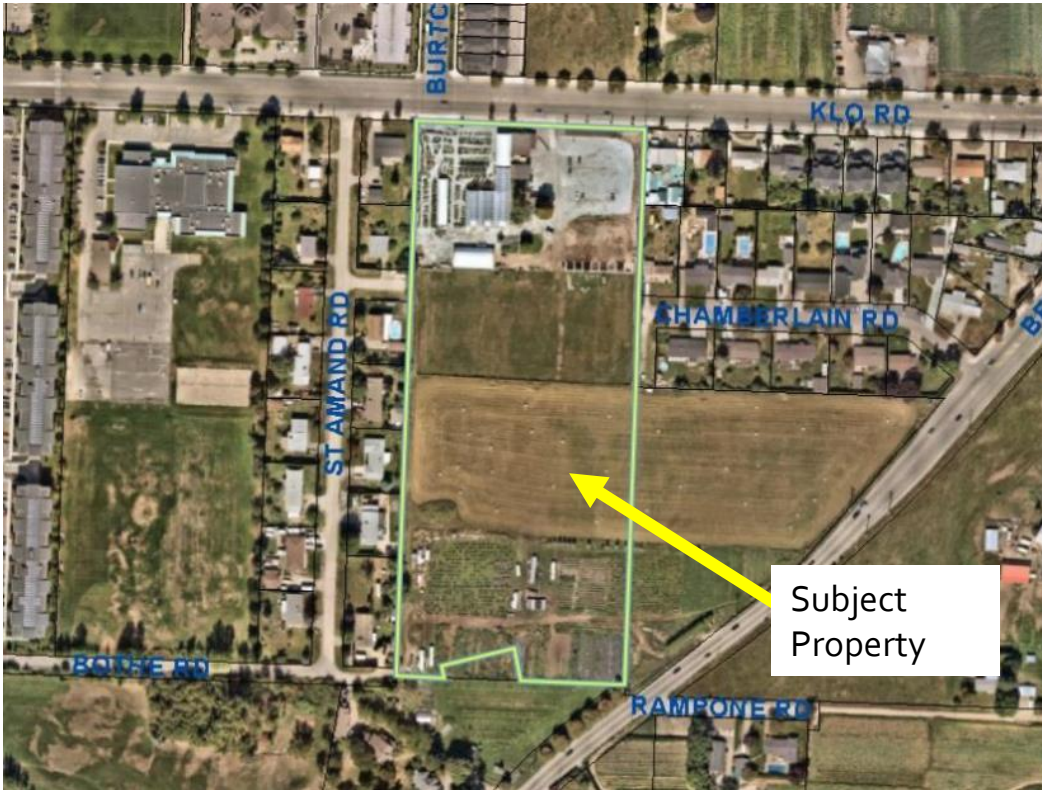
##### 4.1 Site Context

The subject property is located in the South Pandosy – KLO City Sector near the intersection of Burtch Road and KLO Road. The parcel is within the Agricultural Land Reserve with a Future Land Use designation of Rural – Agricultural and Resource (R - AGR) and is zoned A1 – Agriculture. The surrounding area is a mix of agricultural, commercial, and residential land uses.

Orientation	Zoning	ALR	Land Use
North	A1 – Agriculture	Yes	Agriculture
	MF1 – Infill Housing	No	Residential
South	A1 – Agriculture	Yes	Agriculture
East	RU1 – Large Lot Housing	No	Residential
	RR2 – Small Lot Rural Residential	No	Residential
	A1 – Agriculture	Yes	Agriculture
West	MF1 – Infill Housing	No	Residential



Subject Property Map



Unauthorized Fill Area Map



4.2 Background

The subject property has been owned by Bylands Nursery, since August 2023. Prior to Bylands, the property was used as a garden centre for over 10 years under the business name of Better Earth and Garden and Tropicals.

Between October 2023 and March 2024, Bylands imported gravel to the site to enhance the container nursery production area and provide parking for the retail nursery business. This type of fill required authorization by the ALC, which did not occur, and resulted in an investigation by ALC Enforcement Officers. On May 5, 2024, ALC Enforcement issued an order to Bylands to apply for a Soil and Fill Use application or remove the unauthorized fill.

Currently, the majority of the parcel (3.7 ha) is used for soil-based agriculture (alfalfa and cut flowers). The northern portion of the site (1.4 ha) has historically been used for nursery and greenhouse production, retail sales and bulk sales of soil and other products. The site is able to support a wide range of crops based on the Class 2 and 3 agricultural land capability ratings as per the attached agrology report.

The subject property had a previous non-farm use application (A15-0006) that was forwarded to the ALC in 2015. The purpose of the original application was to bring the previous garden nursery business, Better Earth Garden Centre, into compliance with the City’s bylaws and ALC regulations. The non-compliance uses of the land included retail sales of non-farm products and the landscaping portion of the property. In February 2016, the ALC issued a resolution to allow the non-farm use application for three-years and was nontransferable. A Temporary Use Permit Application (TUP16-0001) was approved by Council in July 2016 and was issued for a three-year period. This permit lapsed in 2019, with no opportunity to extend. The sale of landscaping products has continued and remained following this date. Bylands is currently working towards ALC and Zoning Bylaw conformance for their retail operation on the parcel.

**Current Development Policies**

4.3 Kelowna Official Community Plan (OCP)

<b>Objective 8.1. Protect and preserve agricultural land and its capability</b>	
Policy 8.1.1. Protect Agricultural Land.	<p>Retain the agricultural land base by supporting the ALR and by protecting agricultural lands from development. Ensure that the primary use of agricultural land is agriculture, regardless of parcel size.</p> <p><i>The applicant proposes to operate the retail business in compliance with ALC Regulations and the City of Kelowna Zoning Bylaw. The majority of the property is being used for growing alfalfa and field grown flowers.</i></p>
Policy 8.1.6. Non-farm Uses.	<p>Restrict non-farm uses that do not directly benefit agriculture except where such non-farm uses are otherwise consistent with the goals, objects, and other policies of this OCP. Support non-farm use applications only where approved by the ALC and where the proposed uses:</p> <ul style="list-style-type: none"> <li>i. Are consistent with the Zoning Bylaw and the 2040 OCP;</li> <li>ii. Provide significant benefits to local agriculture;</li> <li>iii. Do not require the extension of municipal services;</li> <li>iv. Will not utilize productive agricultural lands;</li> <li>v. Will not preclude future use of lands for agriculture; and</li> </ul>

	vi. Will not harm adjacent farm operations.
	<i>The applicant is currently working towards ALC and Zoning Bylaw conformance for their retail operation on the parcel.</i>

**5.0 Application Chronology**

Application Accepted: September 12, 2024  
 Agricultural Advisory Committee Meeting: October 10, 2024

The subject application was reviewed by the Agricultural Advisory Committee at the meeting held on October 10, 2024 and the following recommendation was passed:

THAT the Committee recommends that Council supports an application (A24-0012) to the Agricultural Land Commission for a Soil and Fill Use application.

**Report prepared by:** Corey Davis, Development Engineering Technologist  
**Reviewed by:** Dean Strachan, Development Planning Manager - South  
**Reviewed by:** Nola Kilmartin, Development Planning Department Manager  
**Approved for Inclusion:** Ryan Smith, Divisional Director, Planning, Climate Action & Development Services

**Attachments:**

- Attachment A: ALC Application File No. 101865
- Attachment B: Site Plan
- Attachment C: Agrologist Report
- Attachment D: Referral Letter from Ministry of Agriculture and Food





ATTACHMENT A

This forms part of application  
# A24-0012

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Initials CD

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## Provincial Agricultural Land Commission - Applicant Submission

**Application ID:** 101865

**Application Type:** Placement of Fill within the ALR

**Status:** Submitted to L/FNG

**Name:** Bylands Garden Center Ltd. et al.

**Local/First Nation Government:** City of Kelowna

### 1. Parcel(s) Under Application

#### Parcel #1

**Parcel Type** Fee Simple

**Legal Description** BLOCK 57 DISTRICT LOT 131 OSOYOOS DIVISION YALE DISTRICT PLAN 186 EXCEPT PARCELS C AND D PLAN B1813 AND PLAN KAP78678

**Approx. Map Area** 4.95 ha

**PID** 012-637-858

**Purchase Date** Jun 23, 2020

**Farm Classification** Yes

**Civic Address** 1629 KLO Road Kelowna BC

**Certificate Of Title** STC - Western Global - 012-637-858 (1).pdf

Land Owner(s)	Organization	Phone	Email	Corporate Summary
Maria Byland	Bylands Garden Center Ltd.	2508706635	maria@bylands.com	corporate summary - Bylands Garden Center Ltd (1).pdf

Sassan Filsoof	Western Global Enterprises	2505405911	sfilsoof@gmail.com	corporate summary - Western Global Enterprises (1).pdf
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## 2. Other Owned Parcels

Do any of the land owners added previously own or lease other parcels that might inform this application process? No

## 3. Primary Contact

Type	Third-Party Agent
First Name	Bruce
Last Name	McTavish
Organization (If Applicable)	McTavish Resource and Management
Phone	6042402481
Email	bruce@mctavishconsultants.ca

## 4. Government

Local or First Nation Government: City of Kelowna

## 5. Land Use

### Land Use of Parcel(s) under Application

Describe all agriculture that currently takes place on the parcel(s).	Nursery, greenhouse, forage, tree farm, cut flower farm and retail nursery centre
---	---

**ATTACHMENT** \_\_\_\_\_ **A**

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**Describe all agricultural improvements made to the parcel(s).**

Greenhouse structures, gravel all weather roads, gravel parking area and cross fencing

**Describe all other uses that currently take place on the parcel(s).**

small residence

## Land Use of Adjacent Parcels

	Main Land Use Type	Specific Activity
North	Residential	Townhouses and 1 home with unused pasture
East	Residential	Single Family
South	Agricultural / Farm	Pasture
West	Residential	Single Family

## 6. Proposal

**Has the ALC previously received an application or Notice of Intent for this proposal?**

Yes

**Application or NOI ID**

NOI ID: 101449

**What is the purpose of the proposal?**

Placement of fill for container nursery over wintering and seasonal parking for retail nursery outlet. Bylands nursery required a well drained site for container production and seasonal parking for the retail nursery. Note that the gravel has been placed.

**Placement of Fill Project Duration**

Fill Already Placed

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<b>Fill to be Placed</b>	
<b>Volume</b>	0 m <sup>3</sup>
<b>Area</b>	0 m <sup>2</sup>
<b>Maximum Depth</b>	0 m
<b>Average Depth</b>	0 m

<b>Fill already Placed</b>	
<b>Volume</b>	745 m <sup>3</sup>
<b>Area</b>	2485 m <sup>2</sup>
<b>Maximum Depth</b>	0.4 m
<b>Average Depth</b>	0.3 m

**Describe the type of soil proposed to be removed.** Clean crushed gravel from local Kelowna gravel supplier.

**What alternative measures have you considered or attempted before proposing to place fill?** The area of fill placement has historically been subject to flooding and had been previously disturbed by previous landowners. The increase in elevation with crush gravel is needed for container growing and for seasonal parking.

**What steps will be taken to reduce impacts to surrounding agricultural land?** Buffer area between the gravel fill area and crop production areas to the south are already in place. KLO road is adjacent to the fill area to the north and the garden center is located to the west.

**Proposal Map / Site Plan** Site overview (1).pdf

**Cross Sections** Bylands fill area .png


**Reclamation Plan** MRMC\_BLN-02\_Agrologist\_Report\_A.1 jm (1).pdf

ATTACHMENT A

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## 7. Optional Documents

Type	Description	File Name
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<b>ATTACHMENT</b>	<u>        </u> <b>A</b>
This forms part of application	
# <u>        </u> <b>A24-0012</b>	
Planner Initials	<input type="text" value="CD"/>
 <b>City of Kelowna</b> DEVELOPMENT PLANNING	





### LEGEND

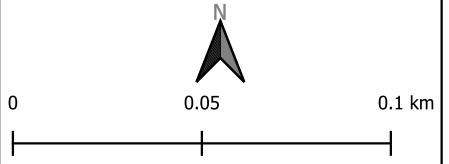
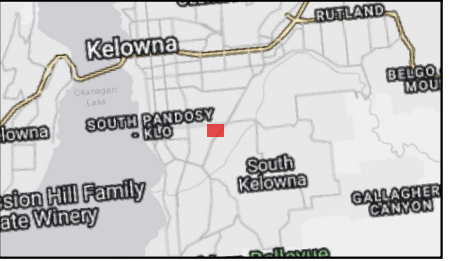
- Site boundaries
- Soil pits
- Test pits
- ◆ Observation points
- BC Agricultural Capability Mapping

- Site land uses
- Garden centre
  - Forage field
  - Tree nursery

**ATTACHMENT B**  
 This forms part of application  
 # A24-0012

Planner Initials: CD

### LOCATION OVERVIEW



Scale: 1:2000  
 Spatial Reference: NAD83 / BC Albers

Project ID: BLN-02  
 Project Description: Bylands Garden Centre  
 Created By: F.L.  
 Date: 2024-06-12





# Agrologist Report 1629 KLO Road Kelowna, BC

**Prepared for: Bylands Nursery Ltd.**

REV 0.4

June 2024

<b>ATTACHMENT</b>	<b>C</b>
This forms part of application # A24-0012	
Planner Initials	<b>CD</b>
 <b>City of Kelowna</b> DEVELOPMENT PLANNING	

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**Document Details**

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Document title           McTavish Agricultural Capability Report 1629 K.L.O Road Kelowna, BC

Document subtitle       Prepared for: Bylands Nurseries

Date                        June 2024

Version                  0.4

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**Document History**

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Version	Date	Author	Comments
0.1	29 May 2024	Franco Lopez Campomanes	Initial draft
0.2	29 June 2024	Trish Hanuszak	Draft 2
0.3	30 June 2024	Trish Hanuszak	Issue for Review (Internal)
0.4	01 July 2024	Bruce McTavish	Reviewed
A.1	01 July 2024	Trish Hanuszak	Issued for Client Review

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**ATTACHMENT C**  
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 City of Kelowna DEVELOPMENT PLANNING

# 1. INTRODUCTION

McTavish Resource & Management Consultants Ltd. (McTavish) was retained by Bylands (the “Client”) to conduct an agricultural assessment of 1629 KLO Road, Kelowna, BC (the “Site”). The purpose of the assessment was collect information on the existing conditions of the Site to provide supporting information for a notice of intent (NOI) to the Agricultural Land Commission (ALC) for the importation of gravel on to the Site.

The Client imported gravel on to the Site between November 2023 and March 2024 to support the expansion of the container nursery winter plant storage, improve the trafficability around the farm buildings and to provide an all-season parking area for the plant retail nursery business operating on 1.4 hectares of the 7.28-hectare Site (**Figure 1, Figure 2, and Figure 3**).

The Client has received a notice from the local municipal bylaw office in Kelowna, BC, indicating that they are in violation of Section 20.3(c) of the Agricultural Land Commission Act by not applying via the NOI process for fill prior to importing the gravel. The Client has enlisted the professional support of McTavish to evaluate the extent and purpose of the imported gravel, conduct an agricultural capability assessment of the Site, and to provide support for the NOI process. The Client is seeking to be in compliance with the local municipal bylaw and the ALC regulations.

In 2023 Bylands applied for a non-farm use via the ALC portal for permission to sell soil and bulk products. No decision has been received on this application and it is McTavish’s understanding that the City of Kelowna is planning to review the NOI for fill (gravel) and the application for the non-farm use at the same time. The previous retail nursery operators (Better Earth Garden Centre) had a temporary non-farm use for this area for a 3-year period based on an ALC decision of February 24, 2016 (ALC File 54508).

The McTavish project for Bylands involved a desktop review to provide context to historic and on-going land use, review of communications between the Client and the ALC and local bylaw office, a field assessment, and collection of soil samples and photographic images.

This report summarizes the methodology, desktop and field assessments, proposed land use, laboratory analysis, agricultural capability revisions, crop suitability comments, gravel depth, extent, and gravel volume placed by the Client.



**Figure 1.** Aerial image captured June 2024 facing northeast of gravel parking area and all-season roads for farm vehicles.





**Figure 2.** Aerial image captured June 2024 facing north of gravel installed on top of previous parking area and landscaping fabric to support container nursery production and winter plant storage.



**Figure 3.** Aerial image captured June 2024 of the 1.4-hectare plant retail nursery operating on the 7.28-hectare Site.





### 1.1 Site Overview

The Site is located within the BC Agricultural Land Reserve (ALR) and is therefore subject to the *Agricultural Land Commission Act* (2002) and its associated regulations. The specific characteristics of the Site are described in **Table 1-1**. An overview map of the Site and surrounding areas is provided in **Appendix I**.

**Table 1-1. Site characteristics and associated land use**

Address	PID	Zoning	Current Land Use	Area (ha)
1629 & 1649 KLO Rd Kelowna, BC	012-637-858;	A1 – Agricultural	Nursery and greenhouse production	1.4
	012-637-874;			
	012-637-882			
			Alfalfa hay production	3.6
		Outdoor cut flower production	2.0	
		<b>Total Area</b>	<b>7.28</b>	

### 1.2 Bylands Nurseries KLO Location Overview

#### 1.2.1 Location Rationale

The following business location rationale was provided by the Client:

Bylands is one of the largest wholesale nurseries in Western Canada with a total production area of ~ 450 acres, 143 employees and revenue of \$27 million per year. The nursery produces ornamental plants that are sold across Canada and the United States. Bylands also has a retail outlet in West Kelowna that has been in existence since the early 1950’s. Bylands expanded to the Kelowna nursery and greenhouse facility at KLO to grow and sell farm products to the local community. For years, Kelowna customers have been asking Bylands to expand to Kelowna to reduce travel to the West Kelowna location which often involves heavy and restricting traffic over the Okanagan Lake Bridge. Opening a retail location in Kelowna also allows more of Bylands-grown products to remain in the Okanagan, versus being shipped to Alberta and beyond.

Byland expansion to Kelowna with a new nursery and retail location allows for the local community in Kelowna to have greater access to locally grown trees, shrubs, flowers, fruit and vegetable plants to support their own gardening needs. Prior to this location opening consumers had few sources to purchase locally grown plants in Kelowna’s urban center.

#### 1.2.2 Products and Services

The intent of the KLO locations was initially for Bylands to sell 100% of their own nursery and greenhouse products on Site. However, a business analysis conducted by the Client indicated that the local consumers were interested in enhancement products for their backyard gardening and food production needs, this includes the ability to purchase soil/compost for their gardens. Bylands applied in 2023 for a non-farm use for selling soil and bulk supplies from this Site.



Bylands is also supplying landscape contractors with plants which will be sold wholesale (discounted from the retail value). This is not considered retail sales and it is a normal farm practice for wholesale nursery and greenhouse growers to sell their products wholesale from their production operations.

### 1.2.2.1 Farm Production and Sales Summary

- All plant materials on Site are 100% grown by Bylands wholesale operation, imported and grown on by Bylands Nursery or grown directly at the retail outlet.
- 100% of bulk materials sold on Site including compost, soil, wood mulch, etc., are locally sourced from Kelowna, West Kelowna, or Penticton,
- Less than 15% of the products sold on Site are gardening supplies including fertilizers, seeds, containers, etc.,
- farm products (cut flowers) produced on the 2-hectare outdoor cut flower farm (operated by Casa Verde) will be sold on Site from the Bylands farm outlet garden center and wholesale to larger commercial buyers, and
- alfalfa produced on the 3.6-hectare fields will be sold from the property to local cattle producers.

### 1.2.3 Site History

Prior to Bylands securing the 1629 KLO Road location in Kelowna in August 2023, the land and buildings on Site were previously used as a garden center for 10 + years under the business Better Earth Garden & Tropicals. The business sold bulk soil, compost, landscaping rocks, indoor and outdoor plants, hanging baskets, trees, shrubs and other perennials. The bulk materials yard was originally located on the west side of the property and in 2013 was moved to the east side of the property adjacent to KLO road. This move facilitated more greenhouse container production and storage buildings on the west side of the property to be build and for the bulk yard to be expanded. Customer parking was located on the northwest corner adjacent to the KLO road for the lifetime of the business.

### 1.2.4 Changes to the Site by Bylands

Bylands secured the Site in August 2023. Between October 2023 and March 2024 Bylands imported gravel on to the Site and enhanced the container production and retail space expanding the area from 0.17 hectares in size to 0.4 hectares in size. Bylands converted the old parking area to a container production and container plant sales area and moved the parking area to the former bulk materials yard located on the east side of the Site. Bylands removed up to 20 cm of surface soil material from the bulk area and stockpiled it on the eastern property boundary and spread gravel for a level well draining parking area. The bulk yard was moved and placed behind the parking area (**Figure 4**).

The newly graveled area has two purposes. During the retail outlet operation (March to October) it is used for customer parking. From November to the beginning of March this area is used for wholesale nursery production. The primary use in these months is to provide additional space for the overwintering of hardy plants such as Junipers that are being produced at multiple other Bylands wholesale nursery locations. The area directly behind the soil bulk bins (**Figure 5**) will be converted into pot in pot nursery production in 2025.





**Figure 4.** Aerial imagery captured June 2024 facing south towards bulk materials area and alfalfa fields.

### 1.2.5 Site Disturbance Summary

The changes made to the Site by Bylands did not change the original disturbance footprint of the former garden center operating at that location for 10+ years. Changes to the Site are primarily from spreading gravel to provide a surface for higher trafficability for farm vehicles, seasonal parking area for customers, and a well draining surface for both container production and garden center outdoor potted containers.

## 2. METHODOLOGY

To evaluate the extent and purpose of the imported gravel, determine agricultural capability and document the existing conditions on the Site, McTavish conducted both field and desktop assessments, including the:

- review of elevations, topography, and drainage from available mapping;
- review of historical land uses;
- review of published soils and agricultural capability;
- review of surrounding land use and agricultural activities;
- determination of the soil types/series and depths present on the Site through a detailed soil survey;
- collection of aggregate soil samples for chemical and physical analysis; and
- gathering of information related to farming practices and nursery operations and sales.

The Project field sampling and interpretation adhered to BC Agricultural Land Commission (ALC) Criteria for Agricultural Capability Assessments Policy P-10 (BC ALC 2024).

### 2.1 Desktop Assessment

The following available information sources were reviewed to characterize existing conditions and to assess agricultural capability of the Site:



- Aerial imagery (Google Earth 2024; City of Kelowna 2024) – displays land use changes over time including urban development, changes in rural land use, and disturbances to parcels including addition of buildings, and soil disturbances.
- British Columbia Biogeoclimatic Ecosystem Classification (BEC) Zones (BC MOF 2023) – provides information on vegetation, topography, soils, moisture, and temperature, and classifies areas into ecoregions that share a broadly homogenous macroclimate.
- BC Soil Information Finder Tool (SIFT) (Province of BC 2018) – provides information on mapped soils, including soil classification, soil type (i.e., organic, mineral), parent material, land formations, slope, and soil profile. SIFT data is based on detailed soil surveys that occurred in the 1950s to 1970s. As land use has changed significantly since these reports were published, many soils have been modified and no longer belong to their original groups. A summary of soils present on the Site is provided in **Appendix II**.
- Agricultural Capability Mapping and Classifications (Province of BC 2018) – provides information on the capability of land for a range of soil bound agricultural purposes. The classification system rates land on its capability as well as providing an indication of the management constraints. Under the system, land is ranked as Class 1 to 7, where Class 1 is best suited for agriculture and Class 7 is non-arable (Kenk and Cotic 1983). For organic soils (not including peaty phases of mineral soils), the land capability classes are designated as Class O1 to O7. Various subclasses describe the factors that limit agriculture. Detailed descriptions of agricultural capability classes and subclasses present on the Site are provided in **Appendix II**.
- Climate and moisture data (Government of Canada 2022) – used in a version of the Priestly-Taylor equation to calculate potential evapotranspiration (PET) on the Site. PET indicates the potential for precipitation and weather conditions to limit agricultural capability and is used to determine the Climate Moisture Deficit (CMD) and the Soil Moisture Deficiency (SMD). The analysis followed the methods described in *Land Capability Classification for Agriculture in British Columbia* (Kenk and Cotic 1983).
- Client correspondence for land use and Site history
- Review of drone pictures of the Site provided by the Client
- Review of ALC and local municipal bylaw communications with the Client

The desktop review provided guidance for the placement of the detailed soil pit investigation sites that would allow for pits to be installed based on mapped soil polygons and Site history rather than placement driven by property boundaries alone.

## 2.2 Field Assessment

The field assessment was conducted on June 4<sup>th</sup>, 2024, by Justin McTavish, PAg and Trish Hanuszak, PAg.

The assessment comprised of:

- Recording observations of conditions on the Site that may promote or limit agriculture (e.g., existing farm infrastructure, environmental conditions, drainage, topography, debris content). Topography was assessed based on the definitions provided by Luttmerding (1981).
- Conducting a detailed soil survey following the requirements of the ALC Policy P-10 (BC ALC 2017). ALC Policy P-10 requires that the soil survey meet the Survey Intensity Level 1 (SIL1), as outlined in the *Soil Inventory Methods for British Columbia* (Resources Inventory Committee, 1995). SIL1 requires one detailed soil pit per 1 to 5 ha.





- Evaluating extent and use of imported gravel

A total of 4 detailed soil pits were installed across the Site on the active agricultural parcels and 4 test holes were installed in the gravel parking lot to determine gravel depth, volume and soils below. The detailed soil pits ensured assessment of the mapped soil polygon that occur on the Site. Each soil pit was hand dug to the C horizon, or until shovel refusal. The detailed soil survey included the documentation of soil characteristics based on *Soils Illustrated – Field Descriptions, 1st Edition* (Watson 2007).

### 2.3 Soil Laboratory analysis

Soil samples were collected from the topsoil (A) and subsurface (B) horizons of each soil pit during the field assessment. When pits had similar soil characteristics and land management practices, the individual samples were bulked into a single composite sample comprising soil from the same horizon (i.e., A or B) from up to four pits. Pits that did not share similar characteristics were sampled individually.

Soil samples were analyzed to determine soil physical and chemical properties that may promote or limit agriculture. The samples were analyzed at Element Materials Testing Laboratory accredited by the Standards Council of Canada (SCC) to ISO17025.

Topsoil samples were analyzed to determine particle-size analysis (PSA), soil macro<sup>1</sup>- and micro<sup>2</sup>- nutrient content, pH, electrical conductivity (EC), base saturation (BS), organic matter (OM) content, and cation exchange capacity (CEC). Subsurface soil samples were analyzed to determine particle-size analysis (PSA), soil nitrogen (N), soil sulfur (S), pH, and electrical conductivity (EC).

---

<sup>1</sup> Plant macronutrients are essential nutrients required in relatively large amounts and include nitrogen (N), potassium (K), calcium (Ca), Magnesium (Mg), phosphorus (P), and sulfur (S).

<sup>2</sup> Plant micronutrients are essential nutrients used in smaller amounts (when compared to macronutrients) and include chlorine (Cl), iron (Fe), boron (B), manganese (Mn), zinc (Zn), copper (Cu), molybdenum (Mo), and nickel (Ni). However, Mo and Ni were excluded from laboratory analysis.



### 3. DESKTOP ASSESSMENT RESULTS

The following provides the results of the desktop assessment.

#### 3.1 Site Location and Historical Use

Located in south Kelowna, approximately 2.5 km west of the north of the Okanagan Lake, the Site is bordered by KLO Road to the north, residential properties to the east and west, and a tree nursery to the south (**Appendix I**). The Site has farm roads connecting all parcels with three roads access/egress points: KLO road, Benvoulin Road, and St Amand Road. The Site has a surface drainage channel that runs along Benvoulin Road.

Adjacent land use to the Site includes agricultural properties to the north and south ranging in size from 1.3 to 2.5 ha and residential properties to the east and west. The agricultural production in the surrounding area is predominantly forage/hay and tree nurseries.

Available satellite imagery from Google Earth and Kelowna City mapping for the period between 2000 – 2024 was retrieved to assess historic lands use. Historic satellite imagery indicates that most of the Site has been in agricultural production (i.e., forage and tree production) since at least 2000. Satellite imagery between 2000-2009 indicate that most of the Site was under tree production with exception of the north of the Site which had store buildings and outdoor storage facilities encompassing approximately 0.3 ha. Imagery between 2009-2013 indicates the expansion of a garden centre area from approximately 0.3 to 1.3 ha which included the removal and relocation of topsoil to the southern field and the addition of fill material on all garden centre areas. Imagery from 2013-2017 indicates the transition from tree to forage production across most of the Site which included land regrading after the removal of fill and addition of topsoil as noted in the ALC Resolution #67/2015 (ALC File 54508).

#### 3.2 Climate

Biogeoclimatic Ecosystem Classification (BEC) mapping provides an indication of the overall anticipated moisture and temperature conditions. The Site is within the Ponderosa Pine, Very Dry Hot (PPhx1) BEC zone (MOF 2023). This BEC zone extends along elevations ranging between 400-1000 meters in the Okanagan and Similkameen valley bottoms. The PPhx1 zone is characterized by very dry conditions with mild winters, hot springs and summers, and very hot autumns (Ryan et al. 2022).

The Site is located approximately 2.2 km southeast of the Kelowna PC Burnetts Nursery Climate station (Climate ID 1123992). Climate Normals from 1981 to 2003 for this station indicate that that the climate of the Site is characteristic of the PPhx1 BEC zone (Government of Canada 2022). The station data indicates mean daily temperature in December of -1.1°C and mean daily temperature in August of 20.4°C. The mean annual precipitation is 344.5 mm, including a mean annual snowfall of 63.5 cm. There were on average (and with 90% probability) 187 frost-free days per year with the first fall frost falling on average on October 24, and the last spring frost on April 15. There were on average 2261.4 growing degree days above 5°C and 1236.3 growing degree days above 10°C.

A climatic moisture deficit exists for the study area. Modeled estimates of potential evapotranspiration (PET) indicate that the Site is characterized by a soil moisture deficit from March to October when the mean monthly precipitation is less than the estimated PET (Government of Canada 2022; Kenk and Cotic 1983). According to the Climatic Capability Classification for Agriculture in British Columbia (BC MOE 1981), the Site has a Climate Capability Class of 7A due to the presence of a climatic moisture deficit (CMD) of 534 mm and a soil moisture deficit (SMD) of 429-474 mm in the upper 50 cm of soil during the growing season. The 7A classification indicates that the site is climatically limited by a moisture deficit that can be improved to Class 1 (no limitations) by installing irrigation.



### 3.3 Published Soil Series

One soil polygon from two soil series is documented to occur on the Site (**Table 3.3-1**; Province of BC 2018). The soil series on the Site occur in a complex (i.e., multiple soil series per polygon) consisting of mineral soils developed from fluvial deposits (Wittneben 1986).

Descriptions of the mapped soil series are provided in **Appendix II**. An overview map indicating the published soil series is provided in **Appendix III**.

**Table 3.3-1. Summary of Published Soil Series Polygons on the Site.**

Soil Series Polygon	Mapped Soil Series 1	Soil Series 1 Classification	%	Mapped Soil Series 2	Soil Series 2 Classification	%	Area (ha)
1	Guisachan	Orthic Humic Gleysol	70	Tanaka	Rego Humic Gleysol	30	7.32

Note: Soil mapping data is from BC SIFT (Province of BC 2018).

### 3.4 Published Agricultural Capability

One agricultural capability polygon with two capability subclasses is documented to occur on the Site (**Table 3.4-1**; Province of BC 2018). The published unimproved agricultural capability of the Site ranges from Class 4 to Class 5 with the limitations due to excess water within the soil profile (W). The published improved rating ranges from Class 2 to Class 3 with limitations due to excess water (W) and fertility (F).

Detailed descriptions of all agricultural capability subclasses are provided in **Appendix II**. An overview map delineating the published agricultural capability polygons that occur across the Site is provided in **Appendix III**.

**Table 3.4-1. Summary of Published Agricultural Capability Polygons on the Site.**

Ag. Cap. Polygon	Mapped Soil Series	Slope Class	Mapped Agricultural Capability	Improvable Agricultural Capability	Area (ha)
1	Guisachan (70%) / Tanaka (30%)	Nearly level to very gently sloping (aB)	<sup>7</sup> 4W <sup>3</sup> 5W	<sup>7</sup> 2W <sup>3</sup> 3WF	7.32

Note: Superscript numbers represent proportion of polygon out of 10. Published ratings are from BC SIFT (Province of BC 2018).

### 3.5 Topography

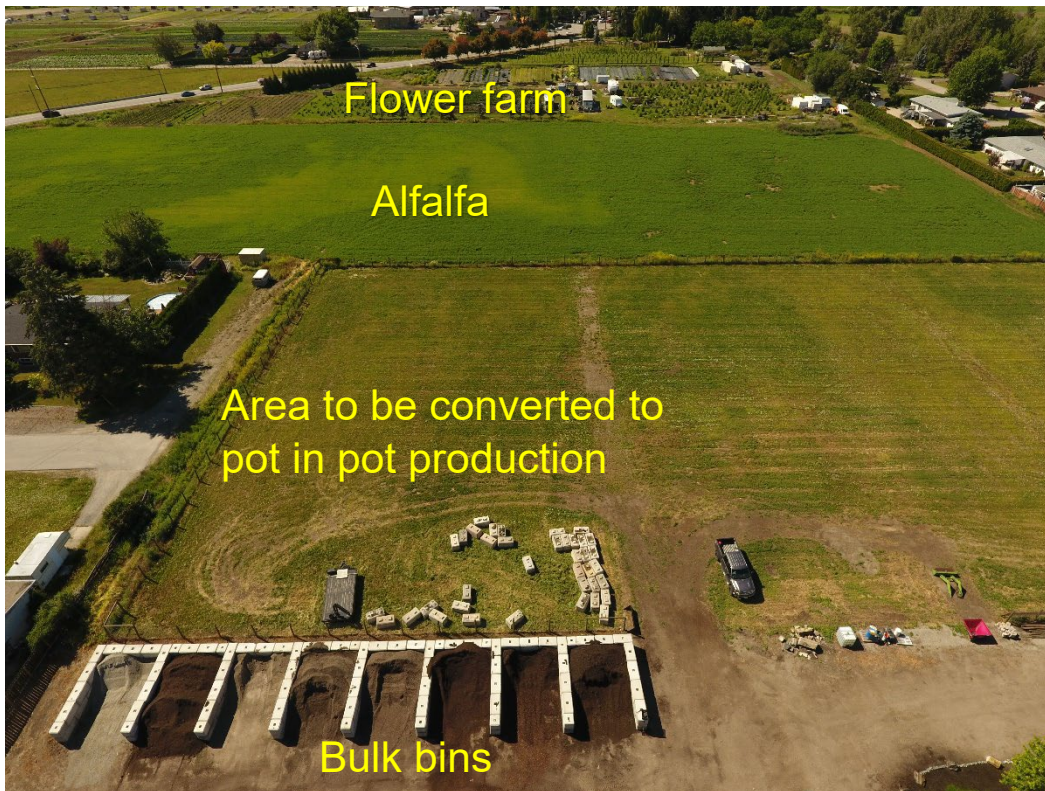
Available topographic mapping indicates that topography on the Site varies from 349 – 352 m above sea level (masl; Google Earth, 2024). The highest point on the Site is in southwestern side adjacent to a low depression in the alfalfa fields. In general, the topography is nearly level with an elevation of 351 masl and only minor i.e., <1 or 2 m changes across the Site.



## 4. FIELD ASSESSMENT RESULTS

### 4.1 Site Observations

The Site assessment verified the importation of gravel as observed on recent Google Earth Imagery and drone pictures, the new access/egress location for the plant nursery on the east side of the buildings, and the expansion of the container nursery/retail plant sale area of the Site as described in the desktop review. The Site is divided into 3 land use sections with cross fencing running east-west. The section closest to KLO Road (Section 1) consisted of the container nursery (retail and production), bulk materials yard, garden outlet retail center, a residential dwelling, storage building, and a section of alfalfa production. The middle section (Section 2) was entirely alfalfa production, and the southern section (Section 3) is a flower farm (Figure 5).



**Figure 5** Aerial imagery captured June 2024 facing south towards alfalfa fields and flower farm on the Site.

#### 4.1.1 Section 1 Observations – Container Nursery and Retail Nursery Store

The onsite observations of gravel extent and recent land use aligned with the desktop assessment and communications with the Client. A vegetated soil stockpile was observed along the northeast boundary and after communication with the Client it was determined that the stockpile was surface material / soil salvaged from the parking area prior to the gravel being placed. The Client was under the impression that the 20 cm depth of soil they removed was the topsoil for that area. The four investigation pits installed in a north-south transect across the gravel parking lot indicated that 20-30 cm of topsoil still remains underneath the gravel (Figure 6). The gravel was deepest close to the road (~30 cm) and tapered in depth towards to south where the bulk materials yard is located. The Client representative onsite indicated the gravel was placed in that manner to level out the parking area.





Gravel placed around the greenhouses and storage building was generally placed on pre-existing landscape fabric and asphalt near the original parking lot entrance. The imported gravel in these areas is being used to improve the trafficability of the surface for farm equipment, retail nursery foot traffic, and to improve drainage on the Site for container nursery section of the operation.

A detailed soil pit installed in the alfalfa field behind the equipment storage shed and bulk materials yard s indicated a recent land use as a horse barn. This assumption was confirmed with Google Earth Imagery dated April 2022.



**Figure 6.** Depth of crush gravel present on one portion of the gravel parking area

#### **4.1.2 Section 2 Observations – Alfalfa Field**

This section of the Site is in alfalfa production with a fence on the north side of the. Irrigation valves were observed near the center of the section along the fence line. The surface of the soil indicated a recent (this year) application of composted manure (chicken). Three detailed soil pits were installed in this section. The operator of the flower farm indicated an area near the western parcel boundary to investigate as they mentioned the soil was an anomaly. Upon inspection McTavish observed imported coarse fragments and imported soil which indicate that stockpile had been previously placed there. (**Figure 7**). This area was identified by the ALC decision for a temporary non-farm use in 2016. The ALC noted that “The Agent removed 1944 m<sup>3</sup> of material left on the properties by previous tenants. They are currently rehabilitating the land to return it to growing alfalfa”<sup>3</sup>. Google Earth Imagery for the Site dated May 2012 indicates use as a stockpile area for bulk materials. A stockpile of mixed debris (coarse fragments, soil and garbage) remains on the southeast corner of this section.

<sup>3</sup> ALC decision February 24, 2016. Resolution #67/2015 ALC File 54508





**Figure 7.** Imported coarse fragments observed in a previously identified disturbance area near the center of the Site.

#### 4.1.3 Section 3 Observations - Flower Farm

This section of the Site was not fully investigated due to different operators and operations for the Site. The flower farm was in full production at the time of the visit and no soil pits were installed.

Site photographs from the field assessment are provided in **Appendix IV**.

#### 4.2 Imported Gravel Observations

Gravel was imported in two locations within Section 1. The areas within the retail plant nursery and greenhouses and the area used for seasonal parking and winter container plant production. The gravel placed in the area within the retail and production facility was placed on top of existing gravel, asphalt, and landscaping fabric. McTavish believes the volume placed in these areas is within the allowable limit for maintaining an existing farm road, based on the total annual volume being equal or less than the ratio of 50m<sup>3</sup> to 100m of existing road length.

Based on client communication and review of historical imagery, the area where gravel has been deposited in the current parking area was historically disturbed before the property was leased by Bylands. Evidence of disturbance is visible on satellite imagery starting in 2013 where soil piles and soil storage bins were under construction. From 2013 onwards, the area appears to be heavily trafficked likely by previous garden center equipment and vehicle traffic. The area where crushed gravel was deposited by Bylands (between November 2023 and March 2024) encompasses the previous disturbed footprint and was field verified by McTavish GPS to be approximately 2485m<sup>2</sup> (0.61 acres). Based on an average depth of 30cm, the total estimated amount of gravel deposited in this area is approximately 745m<sup>3</sup>.

#### 4.3 Soil Observations

The detailed soil survey comprised the excavation of 4 detailed soil pits across the agriculturally active areas of the Site and 1 detailed soil pit installed in the gravel parking area (see **Appendix III** for soil pit locations). No detailed soil pits were installed on the active cut flower farm section of the Site. Four additional investigation holes were installed in the gravel areas to determine presence and type of soil underneath the gravel and the depth and extent of gravel present. Based on the results of the detailed soil survey the soil pits indicated consistency with the soil complexes mapped across the Site. Each soil pit varied slightly from the last working south on the property. The soil pits generally showed characteristics of



both the Guisachan and Tanaka series within the soil profile. Soil pits in closer proximity to one another had more overlap in characteristics compared to soil pits installed further apart.

Soil pit 1 was installed in the gravel parking area on the north side of the Site. The soil surface was present under 40 cm of crush gravel in this location and the pit indicated a 25 cm mineral topsoil (Ap) was present below the gravel followed by a modified subsoil (Bm). Both horizons had a silty loam texture, were free of coarse fragments, rapidly draining, and had a fine to medium subangular blocky structure.

Soil pit 2 and soil pit 3 were similar exhibiting features of both the disturbed by agriculture versions of the Guisachan and Tanaka soil series. Both soil pits had an Ap horizon deeper than the general mapped soil descriptions indicating deeper tillage and cultivation practices occurring on the Site. Soil pits 2 and 3 were closer to the described Guisachan series with gleying present at 45+ cm in both soil pits. The surface material present at Soil pit 2 indicated former use of the area for a horse stall due to the aged manure and bedding present. Both soil pits had soil horizons ranging from silty loam at the surface to sandy loam to sand with depth, both free of coarse fragments, imperfectly drained, fine to medium subangular blocky, and had mottles that were coarse, few and distinct present at depths around 45 cm.

Soil pits 4 and 5 were similar to soil pits 2 and 3 in the following characteristics: each had a deep Ap horizon (~30 cm) and were imperfectly drained. Apart from those similarities, the soil textures present in soil pit 4 and 5 differed from the previous soil textures observed. The Ap horizon was consistently identified in field as a silt loam (0-50 cm depth), followed by a sandy loam for the Bm horizon (50-80 cm depth) and a silty clay loam for the Cg horizon (80-90+ cm depth).

Due to mottling and gleying present in the upper 50 cm of pit 2 and 3 and slight gleying observed in the upper 50-80 cm of pit 4 and 5 and the texture classes present across the Site, the drainage class was determined to be imperfect to poor across the study area. At the time of the field assessment, the water table was not present within the soil profile.

Detailed soil descriptions representative of the soil pits excavated on the Site are provided in **Appendix V**.

#### 4.4 Laboratory Results

Soil nutrient analysis results of the topsoil samples indicated optimum to excess levels for most macronutrients apart from nitrogen in the form of nitrate which was observed to be deficient in the composite sampled collected. These results are fairly consistent with what would be expected early in the growing season prior to crop uptake though the higher values indicate nutrient applications may be exceeding crop requirements. Low levels of nitrate in the laboratory results could indicate the primary form of nitrogen present in the soils is ammonium at the time of sampling. Mean subsoil macronutrient values ranged from deficient in nitrate to optimal for sulfate.

Organic matter content (%) in the topsoil was 2.2% and the pH present at both depths ranged from 8.2 - 8.6 indicating an alkaline soil that may limit some nutrient availability for certain macronutrients.

All samples measured electrical conductivities of <1 dS/m indicating no salinity issues.

A summary of laboratory results is provided in **Table 4.4-1**. Full laboratory results are provided in **Appendix VI**.



**Table 4.4-1. Nutrient Test results of Soils on the Site.**

Sample	pH	EC	Total OM	Available			
				N	P	K	S
				ppm	ppm	ppm	ppm
Aggregate topsoil of Pit 2-5 (0-30cm)	8.2	0.48 <sup>M</sup>	2.2 <sup>A</sup>	7 <sup>VL</sup>	110 <sup>VH</sup>	989 <sup>VH</sup>	S <sup>SH</sup>
Aggregate subsoil of Pit 2-5	8.6	0.45 <sup>M</sup>	-	7 <sup>VL</sup>	-	-	17 <sup>SH</sup>

Note: Values are ranked according to general crop requirements: VL = Very Low, L = Low, M = Moderate, A = Adequate, SH = Slightly High, H = High, VH = Very High

## 5. DISCUSSION

### 5.1 Agricultural Capability Revisions

The detailed soil survey and site assessment indicated that the agricultural capability of the Site is consistent with the improved capability rating published for the Site. Historical modifications to the surrounding areas including ditching system improvements have potentially led to the reduction in frequency and duration for high water in the soil profile within the growing season. High ground water during the production year was the main influence on the mapped unimproved agricultural capability rating for the Site. Note that only dominant limitations are identified in **Table 5.1-1**. Descriptions of the limitations affecting the soils on the Site are provided in **Appendix II**.

The **W** subclass applies to soils for which excess free water limits their use for agriculture (Kenk and Cotic 1983). Soil conditions observed during the detailed soil survey were consistent with improved capability subclass ratings for the soil complexes present. The published 4W to 5W (unimproved rating) was amended to subclass 2W and 2W based on field observations of mottling and gleying (including noting depth and visual characteristics), absences of water table, and determined drainage classification. Conditions typical of subclass 4W and 5W (i.e., frequent or continuous occurrence of excess water during the growing period making land suitable only for perennial forage crops and/or improved pasture) were not observed.

The **F** subclass (limitations due to soil fertility) describes the soils inherent low natural fertility due to a lack of available nutrients, high acidity or alkalinity, low exchange capacity, high levels of calcium carbonate or presence of toxic compounds which will impact the productivity and agricultural capability of the Site. Due to the high pH observed throughout both soil depths sampled from soil pit 2 – 5, the soil conditions align with the criteria for subclass 2F and 3F which describe soils with minor fertility limitations in the upper 50 cm and or soils that require ongoing additions of fertilizers or other soil amendments to maintain productivity.





**Table 5.1-1. Soil Series and Agricultural Capability Ratings on the Site – Based on Field Assessment Results**

Polygon	Soil Pits	Published				Assessed				
		Soil Series	Unimproved Capability Rating (CC)	Improved Capability Rating (IC)	Area (ha)	Soil Series	Unimproved Capability Rating (CC)	Improved Capability Rating (IC)	Area (ha)	Capability Rating Revision*
1	2 – 5	Guisachan (70%) Tanaka (30%)	<sup>7</sup> 4W <sup>3</sup> 5W	<sup>7</sup> 2W <sup>3</sup> 3WF	7.32	Guisachan (70%) Tanaka (30%)	<sup>7</sup> 2W <sup>3</sup> 3WF	N/A	7.32	-Change to mapped improved rating

Note: Source of published unimproved and improved ratings area from BC SIFT and superscript numbers represent proportion of polygon out of 10. Published ratings are from BC SIFT (Province of BC 2018).

\*Discussion of justification for revisions can be found in Section 5.1.



## 5.2 Current Land Use & Crop Suitability

The Site is able to support a wide range of crops based on the Class 2 and Class 3 capability ratings determined during the field assessment. The subclass ratings present across the site 2W to 3WF have minor limitations for crop production that management of inputs and installation of subsurface drainage can easily address. The current soil bound agricultural uses on the Site (cut flowers and alfalfa) indicate that the agricultural capability rating is accurate.

General crops suited to conditions on the Site include alfalfa, annual vegetable crops, cereals, corn, forage crops, nursery and Christmas trees, pears, raspberries and strawberries. Apples can be suitable if subsurface drainage is installed (Gough, et al. 1994). However, the naturally high alkaline soils present on the Site may limit production of some crops without further amendment to the Site to lower the pH.

## 6. SUMMARY

The majority of the Site (5.88 Ha out of the total 7.28 or 81%) is used for soil-based agriculture (alfalfa and cut flowers).

The northern portion of the Site (~1.4 Ha) has historically been used for nursery and greenhouse production and retail sales and bulk sales of soil and other products. Bylands improved the area within the nursery/greenhouse production and retail section of the Site by the top dressing the existing gravel, asphalt and landscape fabric with new gravel. This was done to improve the trafficability of these areas for equipment and foot traffic. McTavish believes that the gravel placed in this area is within the 50m<sup>3</sup>/100 m of road and therefore falls within the allowable limits as described in Information Bulletin 07 Soil or Fill Uses in the ALR (August 11, 2022).

The 2485m<sup>2</sup> (0.61 acres) area that is being used for seasonal parking for the retail nursery outlet and for container plant overwinter storage does not fall within the ALC allowable limits and a NOI should have been submitted prior to the work commencing. Bylands wish to be in compliance with the City of Kelowna bylaws and the ALC regulations and are therefore submitting a NOI for the 745 m<sup>3</sup> of gravel (fill) that has been placed on the Site.



## 7. CLOSING

We trust this is the information that you require at this time. Should you have any questions regarding this report please contact the undersigned.

Sincerely,

**MCTAVISH RESOURCE & MANAGEMENT CONSULTANTS LTD.**

*Per*



**Trish Hanuszak, P.Ag., M.Sc., B.i.T., EFP PA**

Project Agrologist



**Bruce McTavish, M.Sc., MBA., P.Ag., R.P.Bio., P.Biol**

Senior Project Agrologist | President



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## APPENDIX I. AREA OVERVIEW MAP



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### LEGEND

- Site boundaries
- Agricultural Land Reserve (ALR)

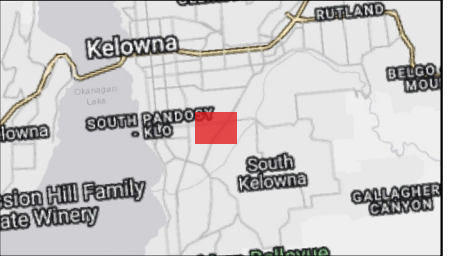
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City of Kelowna  
DEVELOPMENT PLANNING

### LOCATION OVERVIEW



0      0.1      0.2 km

Scale: 1:5000  
Spatial Reference: NAD83 / BC Albers

Project ID: BLN-02  
Project Description: Bylands Garden Centre  
Created By: F.L.  
Date: 2024-06-04



## APPENDIX II. DESCRIPTIONS OF SOIL SERIES AND AGRICULTURAL CAPABILITY CLASSES AND SUBCLASSES

### Description of Soil Series Present on the Site

Soil series descriptions have been retrieved from Wittneben (1986).

**Guisachan soils** are classified as *Orthic Humic Gleysol* and have developed in a medium to moderately coarse-textured, stone free veneer, usually between 30 and 100 cm thick, which overlies gravelly, coarse-textured fluvial fan and deltaic deposits. Guisachan soils occur on the upper parts of the gentle undulations in the nearly level to gently sloping landscapes. Surface and subsurface soil textures are either loam, silt loam or sandy loam. Subsoil textures are very gravelly sand or very gravelly loamy sand. Guisachan soils are poorly drained, moderately pervious, and have high water storage capacities and slow surface runoff. The groundwater table is near the surface during winter and spring and gradually recedes by autumn. Guisachan soils, with artificial drainage, are suited to most crops not usually sensitive to occasional high water tables. Almost all areas are cleared and cultivated and uses currently range from vegetable production to hay and pasture. Uncleared areas support willows, black cottonwood, sedges and reeds.

**Tanaka soils** are classified as *Rego Humic Gleysol* and have developed in the lower aprons of fluvial fans in gravel-free, mostly medium to moderately coarse textured fluvial fan deposits. Tanaka soils are nearly level to gently sloping and are associated with Guisachan, Rumohr and Winslow soils. Surface and subsurface soil textures range from sandy loam to silt loam with occasional silty clay loam. Subsoil textures are sandy loam or gravelly sandy loam. Tanaka soils are poorly to very poorly drained, moderately to slowly pervious, and have moderate to high water holding capacity and slow surface runoff. The water table fluctuates between the surface and 1.5 meters with depressional areas often being subject to flooding. The soils are moderately to strongly calcareous. Tanaka soils are limited for agricultural uses by high water tables. Developed areas are currently used for pasture and hay, turf, some field crops and vegetables. The natural vegetation in uncleared areas consists of black cottonwood, willow, cattail, sedges, water birch and some grasses.

**Cameron Lake soils** are classified as *Gleyed Regosol* and have developed from coarsely textured fluvial deposits. These soils occur on the nearly level and very gentle sloping lower portion of the Mission Creek fan and have sandy loam or loamy sand textures. At depth gravelly material usually is present. Cameron Lake soils are imperfectly drained and have subsoil mottling due to a fluctuating water table. Cameron Lake soils are suited for most agricultural crops although coarse textures and fluctuating high water tables may be limiting in some areas. Cultivated areas are mostly used for forage or vegetable production. Native vegetation consists of various shrubs, willows, cottonwood, and grasses interspersed with Ponderosa pine and minor amounts of Douglas-fir.



**Description of Agricultural Capability Classes and Subclasses present on the Site**

In BC, land is rated for its agricultural capability through a classification system known as *The Land Capability Classification for Agriculture in British Columbia* by Kenk and Cotic (1983) . Using this system, land in BC is rated between Class 1 to 7, where Class 1 is land best suited for agriculture and Class 7 is non-arable land (**Table AII-1**). For organic soils (not including peaty phases of mineral soils), the land capability classes are designated as Class O1 to O7. Various subclasses describe the factor(s) that limit agriculture (**Table AII-2**).

The agricultural land capability classification indicates the range of crops that can be grown and/or the management inputs required based on soil and climate parameters. The ratings can be “unimproved” based on the conditions that exist at the time of the survey without any management inputs or “improved” based on the rating after the limitations have been alleviated through improvements.

**Table AII-1. Descriptions of BC Land Capability Classes for Agriculture**

Class	Description
1	Land has little or no limitations, is level or nearly level, and is easily maintained for a wide range of field crops. Soils are deep, hold moisture well, and can be managed without difficulty.
2	Land has minor limitations that either require good ongoing management practices or may restrict the range of crops (or both). Soils are deep, hold moisture well, and can be managed with little difficulty.
3	Land has limitations that require moderately intensive management practices, or may moderately restrict the range of crops, or both. Limitations may restrict choice of crop, timing and ease of tillage, planting and harvesting, and methods of soil conservation.
4	Land may only be suitable for a few crops, or a wide range of crops with low yield. Risk of crop failure is high. Soil conditions are such that special development and management practices are required. Limitations may restrict choice of crop, timing and ease of tillage, planting and harvesting, and methods of soil conservation.
5	Land has limitations that make it suitable for perennial forage or other specially adapted crops. Crops such as cranberries may be appropriate, or fruit trees or grapes if area is climatically suitable (stoniness and/or topography are not significant limitations to these crops). Productivity of these suited crops may be high. Class 5 lands may be used to cultivate field crops, provided intensive management is employed. If adverse climate is the main limitation, cultivated crops may be grown, however crop failure is expected under average conditions.





**Table All-2. Descriptions of BC Land Capability Subclasses for Agriculture.**

Subclass	Description
<p>W</p> <p>Excess Water</p>	<p>The W subclass describes how imperfect or poor drainage due to high water tables, seepage, or runoff may limit or prevent agriculture.</p> <p>On <b>Class 1</b> land, excess water is not a limiting factor. <b>Class 2W</b> land may have occasional excess water during the growing season and without other contribution limiting factors, is not likely to significantly impact agriculture or the range of crops that can be grown. <b>Class 3W</b> has occasional occurrences of excess water during the growing season and the occurrence of excess soil water during the winter months that would adversely affect perennial crops. <b>Class 4W</b> has frequent or continues excess water during the growing season and the water level is at the surface most of the winter and into mid spring. This may force late seeding and/or restrict the crop type or production in a moderate way. <b>Class 5W</b> has frequent or continuous occurrence of excess water during the growing period making land suitable only for perennial forage crops and/or improved pasture. In this case, water level is at the surface until early summer.</p>
<p>F</p> <p>Fertility</p>	<p>The F subclass describes the soils inherent low natural fertility due to a lack of available nutrients, high acidity or alkalinity, low exchange capacity, high levels of calcium carbonate or presence of toxic compounds which will impact the productivity and agricultural capability of the site. Low inherent fertility is correctable with constant and careful management in the use of fertilizers and soil amendments or is difficult to correct in a feasible way.</p> <p>In <b>Class 1</b> land, soil is well supplied with nutrients easily and are continuously available to plants. Class <b>2F</b> includes both soils with minor fertility limitations in the upper 50 cm and/or soils with moderate to severe fertility problems below the 50 cm depth. Class 2F is highly responsive to fertilizers and amendments. The low fertility of <b>Class 3F</b> soils does not restrict the range of crops, but moderate, ongoing additions of fertilizer and/or other soil amendments are required to maintain productivity.</p>



# APPENDIX III. PUBLISHED SOIL SERIES AND AGRICULTURAL CAPABILITY MAPS



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### LEGEND

- Site boundaries
- Soil pits
- Test pits
- ◆ Observation points
- BC Agricultural Capability Mapping

- Site land uses
- Garden centre
  - Forage field
  - Tree nursery

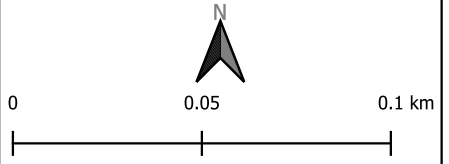
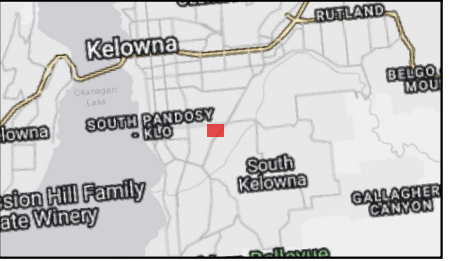
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### LOCATION OVERVIEW



Scale: 1:2000  
Spatial Reference: NAD83 / BC Albers

Project ID: BLN-02  
Project Description: Bylands Garden Centre  
Created By: F.L.  
Date: 2024-06-12

**MAPPED AGRICULTURAL CAPABILITY ON THE SITE**

79





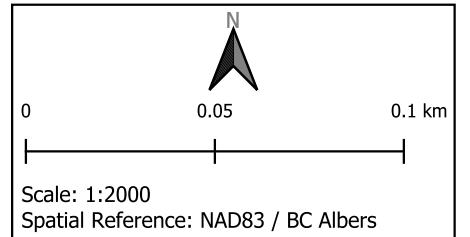
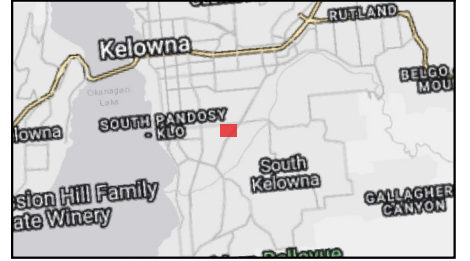
### LEGEND

- Site boundaries
  - Soil pits
  - Test pits
  - ◆ Observation points
  - BC Soil Survey
- Site land uses
- Garden centre
  - Forage field
  - Tree nursery

**ATTACHMENT C**  
 This forms part of application  
 # A24-0012

Planner Initials: CD

### LOCATION OVERVIEW



Project ID: BLN-02  
 Project Description: Bylands Garden Centre  
 Created By: F.L.  
 Date: 2024-06-12

**MAPPED SOIL SERIES ON THE SITE**

80



## APPENDIX IV. SOIL PIT DESCRIPTIONS



<b>ATTACHMENT</b> <u>    </u> <b>c</b>	
This forms part of application	
# <b>A24-0012</b>	
Planner Initials	<b>CD</b>
 <b>City of Kelowna</b> <small>DEVELOPMENT PLANNING</small>	

# Soil Pit 1

## General Description

### Land Use:

Plant retail nursery

### Mapped Soil Series:

Guisachan (70%) / Tanaka (30%)

### Mapped Soil Classification:

Orthic Humic Gleysol (70%) / Rego Humic Gleysol (30%)

### General Observations

Rooting Depth (cm): NA

Water Table Depth (cm): NA

Drainage Class: Rapid

General Comments: 20 - 48 cm of gravel over native soil profile.



Figure 1. Pit 1 representative landscape.



Figure 2. Soil Pit 1 profile.

Horizon	Depth	Coarse Fragments (%) and notes		Texture	Structure – dominant	Consistence	Colour	Mottling (size, abundance, contrast)
?	0 – 25 cm	0%	NA	Sandy loam (SL)	Medium subangular blocky (SBK)	Friable	7.5YR 2.5/1	NA
Bm	25 – 40+ cm	0%	NA	Sandy loam (SL)	Fine subangular blocky (SBK)	Very friable	10YR 3/2	NA

## Field Baseline Assessment – Soil Sampling



Completed by: Franco Lopez Campomanes, AAg

## Site Information

Latitude:  
49.860682°N

Longitude:  
119.461633°W





## Soil Pit 2 - 3

### General Description

#### Land Use:

Agricultural – alfalfa

#### Mapped Soil Series:

Guisachan (70%) / Tanaka (30%)

#### Mapped Soil Classification:

Orthic Humic Gleysol (70%) / Rego Humic Gleysol (30%)

#### General Observations

Rooting Depth (cm): NA

Water Table Depth (cm): NA

Drainage Class: NA

General Comments: NA



Figure 1. Pit 2 representative landscape.



Figure 2. Soil Pit 2 profile.

Horizon	Depth	Coarse Fragments (%) and notes		Texture	Structure – dominant	Consistence	Colour	Mottling (size, abundance, contrast)
Ap	0 – 28 cm	0%	NA	Silty loam (SiL)	Medium subangular blocky (SBK)	Slightly firm	7.5YR 2.5/1	NA
Bm	28 – 49 cm	0%	NA	Sandy loam (SL)	Medium SBK breaking into single grain	Friable	10YR 3/2	NA
BCg	48 – 75 cm	0%	NA	Sandy loam (SL)	Fine SBK breaking into single grain	Loose	10YR 5/3	Coarse, few, distinct
Cg	79 – 90+cm	0%	NA	Medium sand (S)	Single grain	Loose	10YR 4/2	NA

### Field Baseline Assessment – Soil Sampling

### Site Information



## Soil Pit 4 – 5

### General Description

#### Land Use:

Agricultural – alfalfa

#### Mapped Soil Series:

Guisachan (70%) / Tanaka (30%)

#### Mapped Soil Classification:

Orthic Humic Gleysol (70%) / Rego Humic Gleysol (30%)

### General Observations

Rooting Depth (cm): NA

Water Table Depth (cm): NA

Drainage Class: Imperfect.

General Comments: NA



Figure 1. Pit 4 representative landscape.



Figure 2. Soil Pit 4 profile.

Horizon	Depth	Coarse Fragments (%) and notes		Texture	Structure – dominant	Consistence	Colour	Mottling (size, abundance, contrast)
Ap	0 – 50 cm	0%	NA	Silty loam (SiL)	Medium subangular blocky (SBK)	Hard	10YR 3/1	NA
Bm	50 – 80 cm	0%	NA	Sandy loam (SL)	Single grain	Loose	10YR 3/1	NA
Cg	80 – 90+cm	0%	NA	Silty clay loam (SiCL)	Medium subangular blocky (SBK)	Slightly sticky	10YR 4/1	Few, fine, faint

### Field Baseline Assessment – Soil Sampling



Completed by: Franco Lopez Campomanes, AAg

### Site Information

Latitude:  
49.859294°N

Longitude:  
119.462514°W



## APPENDIX V. LABORATORY RESULTS



**ATTACHMENT**      **C**  
This forms part of application  
# A24-0012

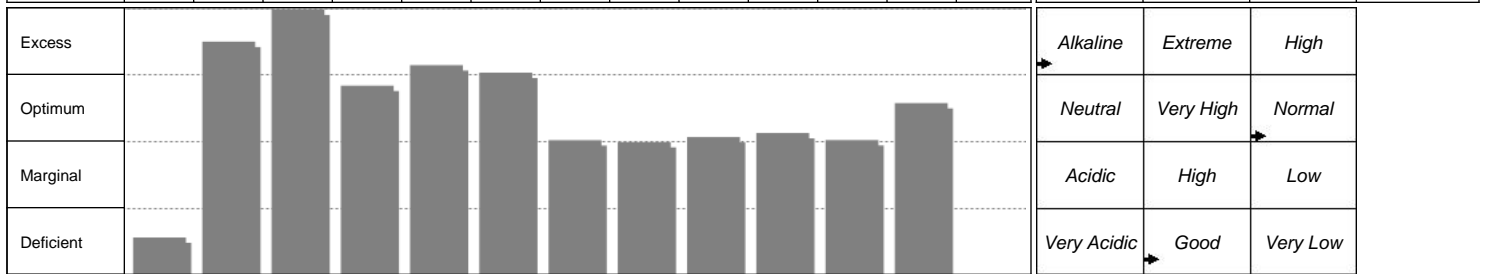
Planner  
Initials      **CD**

City of  
**Kelowna**  
DEVELOPMENT PLANNING

### Farm Soil Analysis

Bill To: McTavish Resource & Address: 203-19292 60 Ave. Surrey, BC., Canada V3S 3M2 Agreement: 36394	Grower Name: McTavish Site ID: Field Name: BLN-02 TS 0-25 Acres: Legal Location: Previous Crop: Crop not provided	Lot ID: 1738291 Report Number: 3014464 Report Type: Final Report Date Received: Jun 11, 2024 Date Reported: Jun 14, 2024 Event Code:
--	---	--

Nutrient analysis (ppm)														Soil Quality			
Depth	N*	P	K	S**	Ca	Mg	Fe	Cu	Zn	B	Mn	Cl	Na	pH	EC(dS/m)	OM(%)	Lot Ref #
0" - 12"	7	110	989	8	2320	380	31.6	0.8	2.3	1.2	3.1	61.2	83	8.2	0.48	2.2	26412
12" - 18"	7			17										8.6	0.45		26413



Total lbs/acre	43	444	3956	68	Texture <u>Sandy Loam</u> Hand Texture <u>n/a</u>	BS 100 % CEC 17.6 meq/100 g
Estimated lbs/acre	45	310	1981	72	Sand 52.0 % Silt 34 % Clay 14 %	Ca 65.8 % Mg 17.8 % Na 2.1 % K 14.4 %
					Ammonium n/a	TEC 17.6 meq/100 g
					Lime n/a Buffer pH n/a	K/Mg Ratio n/a

\*Nitrate-N \*\*Sulfate-S n/a = not analysed

### RECOMMENDATIONS FOR BALANCED CROP NUTRITION

Macro-nutrients	Alfalfa - New					Crop not provided					
	Yield	N	P2O5	K2O	S	Yield	N	P2O5	K2O	S	
Growing Condition	T/ac	To be added (lbs/acre)					To be added (lbs/acre)				
Excellent	1.5	0	0	0	0						
Average	1.2	0	0	0	0						
Your Goal	0.0										
Removal Rate (Seed/Total)	1.5	0 / 96	0 / 23	0 / 99	0 / 10						
Micro-nutrients	Iron	Copper	Zinc	Boron	Manganese	Iron	Copper	Zinc	Boron	Manganese	
To be added (lbs/ac)	0.0	0.0	0.0	0.0	0.0						

### Comments:



Element uses nutrient extraction and analytical methods specifically developed for western Canadian soils.

The modified Kelowna extractant used to analyze key nutrients in this Farm Soil Analysis report is the standard method used in soil fertility research in western Canada. It is used in developing crop response curves to fertilizer in the prairies. The Element "RECOMMENDATIONS FOR BALANCED CROP NUTRITION" are based on those research data. Element recommendations are accurate but should not replace responsible judgement.





**ATTACHMENT** D

This forms part of application  
# A24-0012

Planner Initials CD

  
**City of Kelowna**  
DEVELOPMENT PLANNING

October 9, 2024

File No: 0280-30

Local Government File No: A24-0012

Corey Davis, Development Engineering Technologist  
 City of Kelowna  
 1435 Water Street  
 Kelowna, BC V1Y 1J4  
 Via E-mail: [planninginfo@kelowna.ca](mailto:planninginfo@kelowna.ca)

Dear Corey Davis:

**Re: Placement of Fill Application for 1629-1649 KLO Road (PID: 003-270-386; ALC Application ID: 101865)**

Thank you for providing B.C. Ministry of Agriculture and Food staff the opportunity to comment on the proposed placement of fill on the Subject Property for the purpose expanding the container growing and parking areas for a nursery within the Agricultural Land Reserve (ALR). Ministry staff offer the following comments:

- Increasing elevation with crushed gravel for nursery container growing and seasonal parking is a common practice that may be considered in the nursery industry when expanding production areas. The advantages are:
  - Improved drainage
  - Accessibility and stability
  - Weed and erosion control.
 Disadvantages may include:
  - Cost
  - Runoff concerns and heat retention (gravel), which may stress plants.
  - Maintenance as the gravel may shift or compact, requiring upkeep.
- While this is a common practice in the sector, it needs to be adapted to specific and operational conditions. The applicants may wish to consider:
  - -Proper grading for drainage and slope for elevated gravel areas to avoid standing water and improve water runoff management
  - Using the appropriate depth of crushed rock (4-6 inches/10-15 cm) to support heavy container loads and vehicles.

- Using lighter colored crushed rock to reduce heat absorption or shade structures to minimize heat stress on plants.
- Incorporating retention ponds, buffer strips permeable surface to water runoff and plan for regular maintenance as gravel areas require periodic maintenance to prevent compaction and ensure adequate drainage
- The owners of the Subject Property are also experienced nursery operators with other sites comprising their operation. With all of these point in mind, Ministry staff have no objection to the application proceeding to the Agricultural Land Commission (ALC) for decision.

If you have any questions regarding our comments, please feel free to contact me via phone or email.

Sincerely,



Alison Fox, P.Ag.  
Land Use Agrologist  
B.C. Ministry of Agriculture and Food  
Alison.Fox@gov.bc.ca  
(778) 666-0566

Email copy: Chris Zabek, Regional Agrologist, B.C. Ministry of Agriculture and Food  
Claire Buchanan, Regional Planner, ALC [ALC.Referrals@gov.bc.ca](mailto:ALC.Referrals@gov.bc.ca)

<b>ATTACHMENT</b>	<b>D</b>
This forms part of application # A24-0012	
Planner Initials	<b>CD</b>
<b>City of Kelowna</b> DEVELOPMENT PLANNING	





City of  
Kelowna

A24-0012

1629 KLO Road

ALC Soil and Fill Use Application to Place Fill on the Property



# Proposal

- ▶ The applicant is requesting retroactive approval from the ALC for a Soil and Fill Use application for placement of 745 cubic meters of gravel fill for a retail nursery parking lot and a nursery container production area.

# Development Process



Sept. 12, 2024

Development Application Submitted



Sept. 26, 2024

Staff Review & Circulation



Oct. 10, 2024

Agricultural Advisory Committee



Nov. 18, 2024

Council Consideration

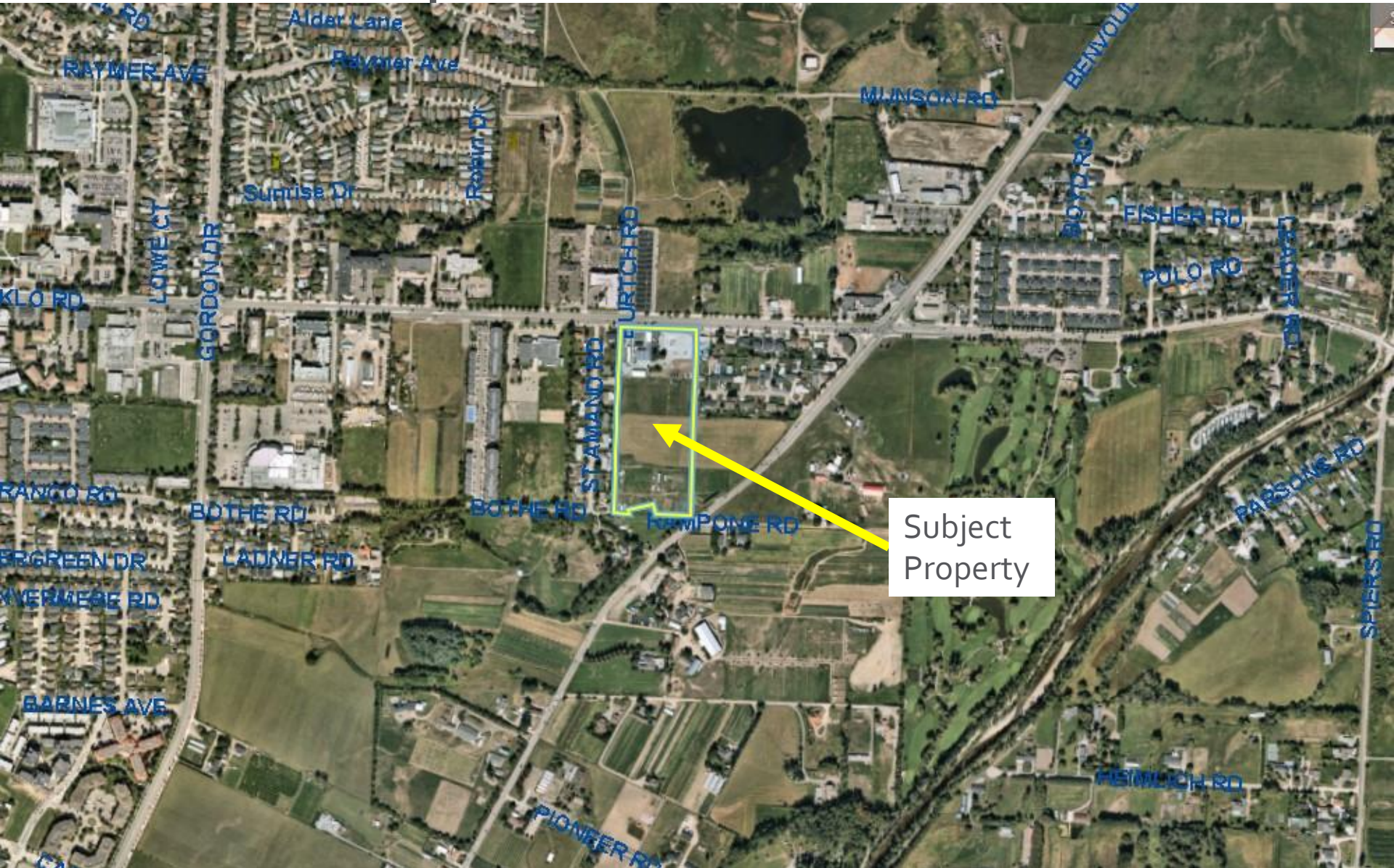


Agricultural Land Commission



Soil Placement Permit (City of Kelowna)

# Context Map



Subject  
Property



# Subject Property Map



# Agricultural Land Reserve





# Background

- ▶ The property has been owned by Bylands Nursery, since August 2023.
- ▶ Prior to Bylands, the property was used as a garden center for over 10 years under the business Better Earth and Garden.
- ▶ Between Oct. 2023 and March 2024 Bylands imported gravel to the site to enhance the container nursery and provide parking for the retail nursery business.
- ▶ On May 5, 2024, ALC Enforcement issued an order to Bylands to apply for a Soil and Fill Use application or remove the unauthorized fill.



# Agricultural Land and Soil Capability

- ▶ The site is able to support a wide range of crops based on the Class 2 and 3 capability ratings.
- ▶ General crops suited to conditions on the site include alfalfa, annual vegetable crops, cereals, corn, forage crops, nursery and Christmas trees, pears, raspberries and strawberries. Apples can be suitable if subsurface drainage is installed.

# Project/technical details

- ▶ Bylands added 745 cubic metres of fill (30 cm deep) to allow for a clean, functional and free draining area for retail nursery parking, nursery/greenhouse production and pedestrian traffic.
- ▶ The majority of the site (3.7 ha) is used for soil-based agriculture (alfalfa and cut flowers).
- ▶ The northern portion of the site (1.4 ha) has historically been used for nursery and greenhouse production, retail sales and bulk sales of soil and other products.

# Site Plan





# OCP Policy

- ▶ Support for Non-Farm Uses only where:
  - ▶ consistent with Zoning Bylaw and OCP;
  - ▶ provide significant benefits to agriculture;
  - ▶ accommodated using existing infrastructure;
  - ▶ minimize impacts on agricultural lands;
  - ▶ will not preclude future use for agriculture; and
  - ▶ will not harm adjacent farm operations.

# AAC Recommendation

- ▶ THAT the Committee recommends that Council supports an application (A24-0012) to the Agricultural Land Commission for a Soil and Fill Use application.

# Staff Recommendation

Staff recommend **support** of the proposed fill application.

- ▶ The fill plan is supported by the AAC
- ▶ The fill plan is supported by the Ministry of Agriculture
- ▶ The plan aligns with OCP Objectives
- ▶ The gravel fill will allow for a clean, functional and free draining area for customers and staff utilizing the site.





## *Conclusion of Staff Remarks*

# REPORT TO COUNCIL REZONING



**Date:** November 18, 2024  
**To:** Council  
**From:** City Manager  
**Address:** 165 Dougall Rd N.  
**File No.:** Z24-0038

	Existing	Proposed
<b>OCP Future Land Use:</b>	UC – Urban Centre	UC – Urban Centre
<b>Zone:</b>	UC <sub>4</sub> – Rutland Urban Centre	UC <sub>4r</sub> – Rutland Urban Centre Rental Only

### 1.0 Recommendation

THAT Rezoning Application No. Z24-0038 to amend the City of Kelowna Zoning Bylaw No. 12375 by changing the zoning classification of Lot A Section 26 Township 26 ODYD Plan EPP137229, located at 165 Dougall Road N, Kelowna, BC from the UC<sub>4</sub> – Rutland Urban Centre zone to the UC<sub>4r</sub> – Rutland Urban Centre Rental Only zone, be considered by Council;

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 rezone the subject property from the UC<sub>4</sub> – Rutland Urban Centre zone to the UC<sub>4r</sub> – Rutland Urban Centre Rental Only zone to facilitate the development of purpose-built rental housing.

### 3.0 Development Planning

Staff support the proposal to rezone the subject property from the UC<sub>4</sub> – Rutland Urban Centre zone to the UC<sub>4r</sub> – Rutland Urban Centre Rental Only zone. The proposed rezoning will facilitate the development of purpose-built rental housing development and the ability to leverage the City’s Revitalization Tax Exemption (RTE). Additionally, the proposed rental only zone aligns with the City’s broader housing goals and the future development supports key direction within the Healthy Housing Strategy to promote and protect rental housing.

The proposed rental housing use is also consistent with Official Community Plan (OCP) Policies which encourage medium and high-density residential development and diverse housing tenures within the Urban Centres. Finally, the City is actively seeking partnerships with the province and private industry through the recent launch of the City’s Middle Income Housing Partnership (MIHP) to yield below market rental housing. The property encompasses approximately 3,169m<sup>2</sup> in size and has the potential to provide a 12-storey building, which aligns with the City’s vision for scope and scale of an affordable housing project:

Lot Area	Proposed (m <sup>2</sup> )
Gross Site Area	3,169 m <sup>2</sup>
Road Dedication	N/A
Undevelopable Area	N/A
Net Site Area	3,169 m <sup>2</sup>

4.0 Site Context & Background

Orientation	Zoning	Land Use
North	UC <sub>4</sub> – Rutland Urban Centre	Single family detached, townhouse, apartment housing
East	UC <sub>4</sub> – Rutland Urban Centre	Dougall Rd N, commercial and mixed use
South	UC <sub>4</sub> – Rutland Urban Centre	Fuel and gas station, Hwy 33
West	UC <sub>4</sub> – Rutland Urban Centre	Commercial and mixed use

Subject Property Map: 165 Dougall Rd N



The vacant subject property is located at the intersection of Dougall Rd N and Shepherd Rd, which is part of the Rutland Transit Exchange corridor. Hwy 33 W is less than 100m to the south of the site; there are several transit stops within short walking distance of the subject lot located on Hwy 33 W, Dougall Rd N, and Shepherd Rd. The surrounding neighbourhood context consists of a mixture of commercial services, townhouses and apartment housing. The property is also in close proximity to Centennial Park, Rutland Lions Park, Rutland Middle and Senior School.

5.0 Current Development Policies

5.1 Kelowna Official Community Plan (OCP)

Objective 4.1 Strengthen the Urban Centres as Kelowna’s primary hubs of activity	
Policy 4.1.6 High Density	Direct medium and high-density residential development to Urban Centres to provide a greater mix of housing near employment and to maximize use of existing and new infrastructure, services and amenities



Residential Development	<i>The proposed rezoning would increase residential density within the Urban Centre by granting additional permitted floor area ratio for rental projects</i>	
<b>Objective 4.7. Focus new development in Rutland strategically to create a new high-density business and residential hub to support improved services and amenities.</b>		
Policy Rutland Building Heights.	4.7.1.	Undertake a building heights study as part of an Urban Centre Plan process for the Rutland Urban Centre. Until this process is complete, support development in the Rutland Urban Centre that is generally consistent with the building heights outlined in Map 4.7 to accomplish the following: <ul style="list-style-type: none"> <li>• Focusing taller buildings between Shepherd Road, Dougall Road, Rutland Road and Highway 33 to support the viability of Rutland’s designated high streets, the Rutland Transit Exchange, and Rutland Centennial Park;</li> <li>• Directing more modest heights along the Highway 33 and Rutland Road corridor to support transit use and the viability of commercial uses in those two corridors;</li> <li>• Tapering heights down towards surrounding Core Area Neighbourhoods.</li> </ul>
<i>The subject property is located on the corner of Dougall Rd N and Shepherd Rd which permits building height of 12 storeys.</i>		
<b>Objective 4.12. Increase the diversity of housing types and tenures to create inclusive, affordable, and complete Urban Centres.</b>		
Policy Diverse Tenures	4.12.3.	Encourage a range of rental and ownership tenures that support a variety of households, income levels, and life stages. Promote underrepresented forms of tenure, including but not limited to co-housing, fee simple row housing, co-ops, and rent-to-own.
<i>The proposed rental only subzone will ensure the proposed apartment housing will be developed and maintained as long-term-rental units.</i>		

**6.o Application Chronology**

Application Accepted: July 31, 2024  
 Neighbourhood Notification Summary Received: October 3, 2024

**Report prepared by:** Barbara B. Crawford, Planner II  
**Reviewed by:** Dean Strachan, Development Planning Manager  
**Reviewed by:** Nola Kilmartin, Development Planning Department Manager  
**Approved for Inclusion:** Ryan Smith, Divisional Director, Planning, Climate Sustainability & Development Services

**Attachments:**  
 Attachment A: Neighbourhood Notification Letter

For additional information, please visit our Current Developments online at [www.kelowna.ca/currentdevelopments](http://www.kelowna.ca/currentdevelopments).



October 02, 2024

**Regarding:** Public Notification of Rezoning Application for properties located at 165 Dougall Road North

---

Dear Resident,

This letter is to inform you that City of Kelowna staff have initiated a rezoning application for the property located at 165 Dougall Road North. The purpose of this application is to rezone the subject properties from the UC4 (Urban Centre) to UC4r (Urban Centre rental).

The proposed zone aligns with the Official Community Plan, which encourages the development of new rental options to ensure housing options for a range of ages and incomes. At a future date a Development Permit will also be submitted and considered by City Council.

If you have any questions or concerns about the rezoning application, please contact Benjamin Walker, Strategic Land Development Manager (Real Estate), at 250-469-8472 or email [bwalker@kelowna.ca](mailto:bwalker@kelowna.ca); or Barbara Crawford, Planner II (Development Planning), at 250-469-8586 or email [bcrawford@kelowna.ca](mailto:bcrawford@kelowna.ca). You can also view the application details and supporting documents on the City's website at:

<https://www.kelowna.ca/homes-building/property-development/current-development-applications>

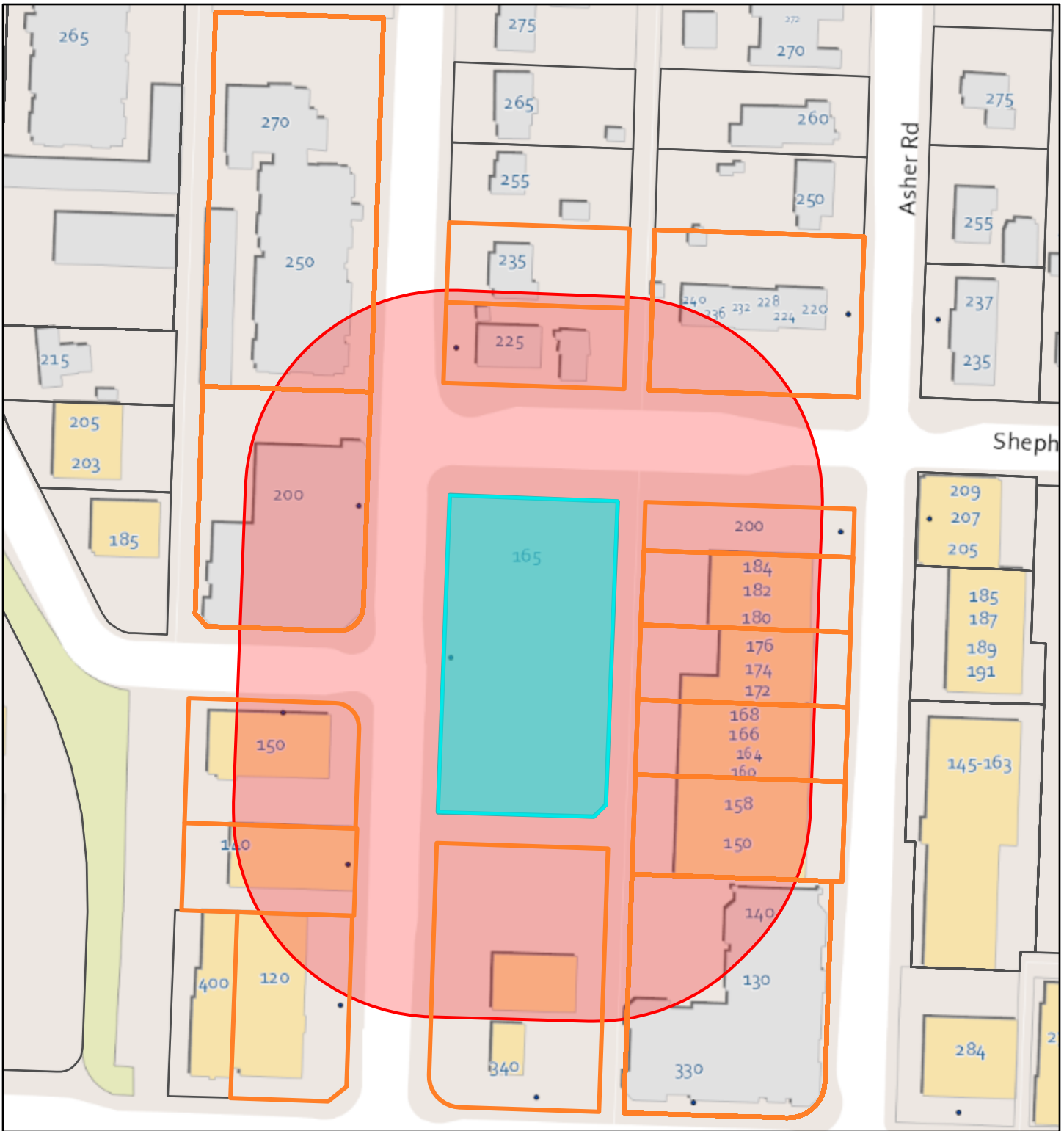
Sincerely,

**Benjamin Walker (he / him / his)**

Strategic Land Development Manager | City of Kelowna  
250-469-8472 | [bwalker@kelowna.ca](mailto:bwalker@kelowna.ca)

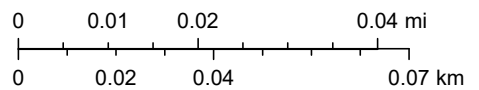
Real Estate  
1435 Water Street  
Kelowna, BC V1Y 1J4  
TEL 250-469-8500  
FAX 250-862-3399  
[kelowna.ca](http://kelowna.ca)

# City of Kelowna - 165 Dougall Rd N 50m Map



September 27, 2024

1:1,355



**ATTACHMENT** A  
This forms part of application  
# Z24-0038  
Planner Initials BC  
City of Kelowna  
DEVELOPMENT PLANNING



**Address**

150-158 Asher Rd

160-168 Asher Rd

172-176 Asher Rd

180-184 Asher Rd

200 Asher Rd

120 Dougall Rd N

140 Dougall Rd N

165 Dougall Rd N

225 Dougall Rd N

235 Dougall Rd N

150 Froelich Rd

340 Hwy 33 W

220-240 Asher Rd

200 Dougall Rd N

250-270 Dougall Rd N

330 Hwy 33 W

**CITY OF KELOWNA**

**BYLAW NO. 12724  
Z24-0038  
165 Dougall Road N**

---

A bylaw to amend the "City of Kelowna Zoning Bylaw No. 12375".

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

1. THAT City of Kelowna Zoning Bylaw No. 12375 be amended by changing the zoning classification of Lot A Section 26 Township 26 ODYD Plan EPP137229, located on Dougall Road N, Kelowna, BC from the UC<sub>4</sub> – Rutland Urban Centre zone to the UC<sub>4r</sub> – Rutland Urban Centre Rental Only 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, 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**

# Z24-0038 165 Dougall Rd N

Rezoning Application



# Purpose

- ▶ To rezone the subject property from the UC<sub>4</sub> – Rutland Urban Centre zone to the UC<sub>4r</sub> – Rutland Urban Centre Rental Only zone to facilitate the development of purpose-built rental housing

# Development Process

July 31, 2024

Development Application Submitted



Staff Review & Circulation



Oct 3, 2024

Public Notification Received



Nov 18, 2024

Initial Consideration



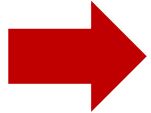
Reading Consideration



Final Reading

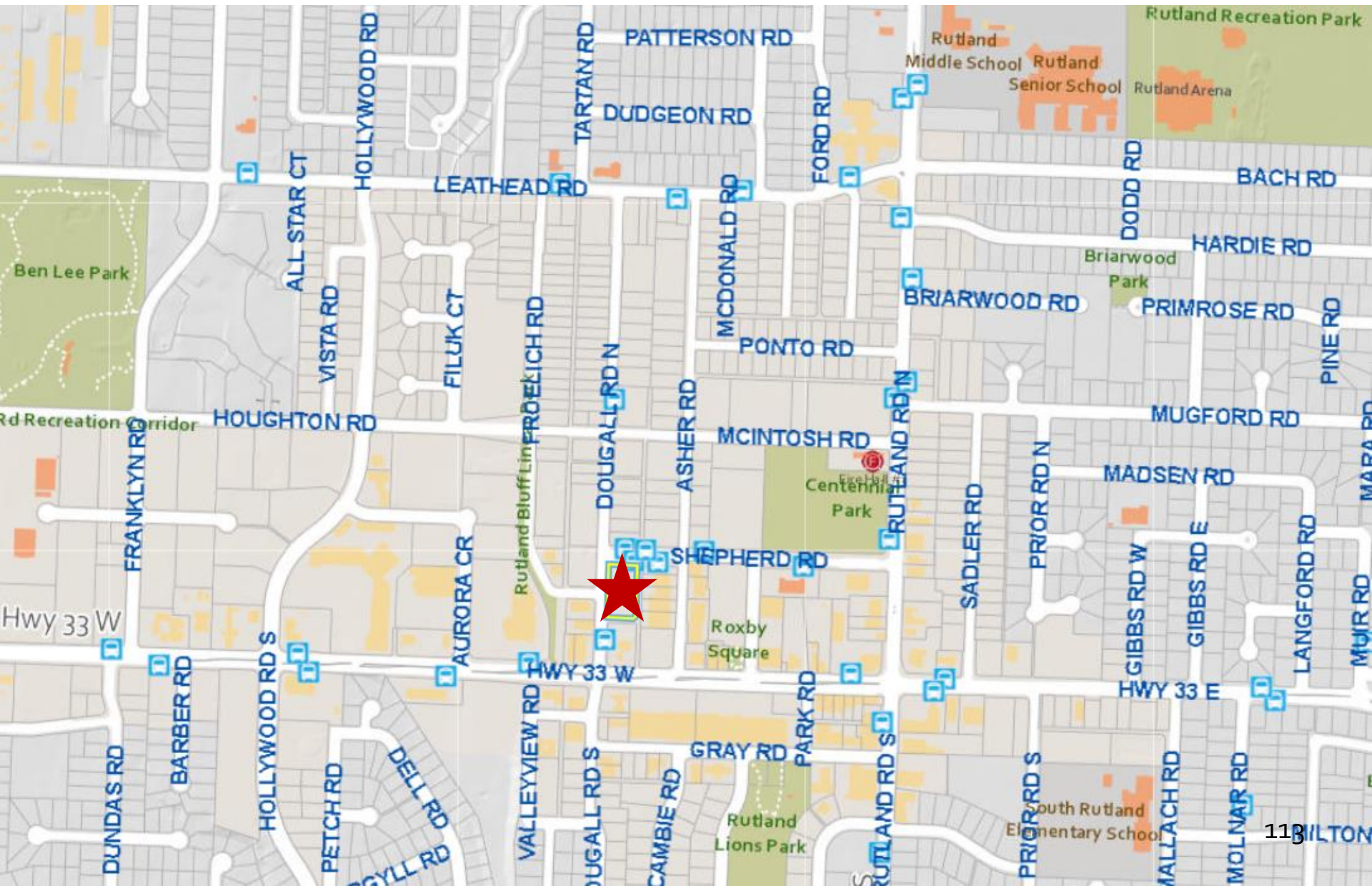


DP & Building Permit



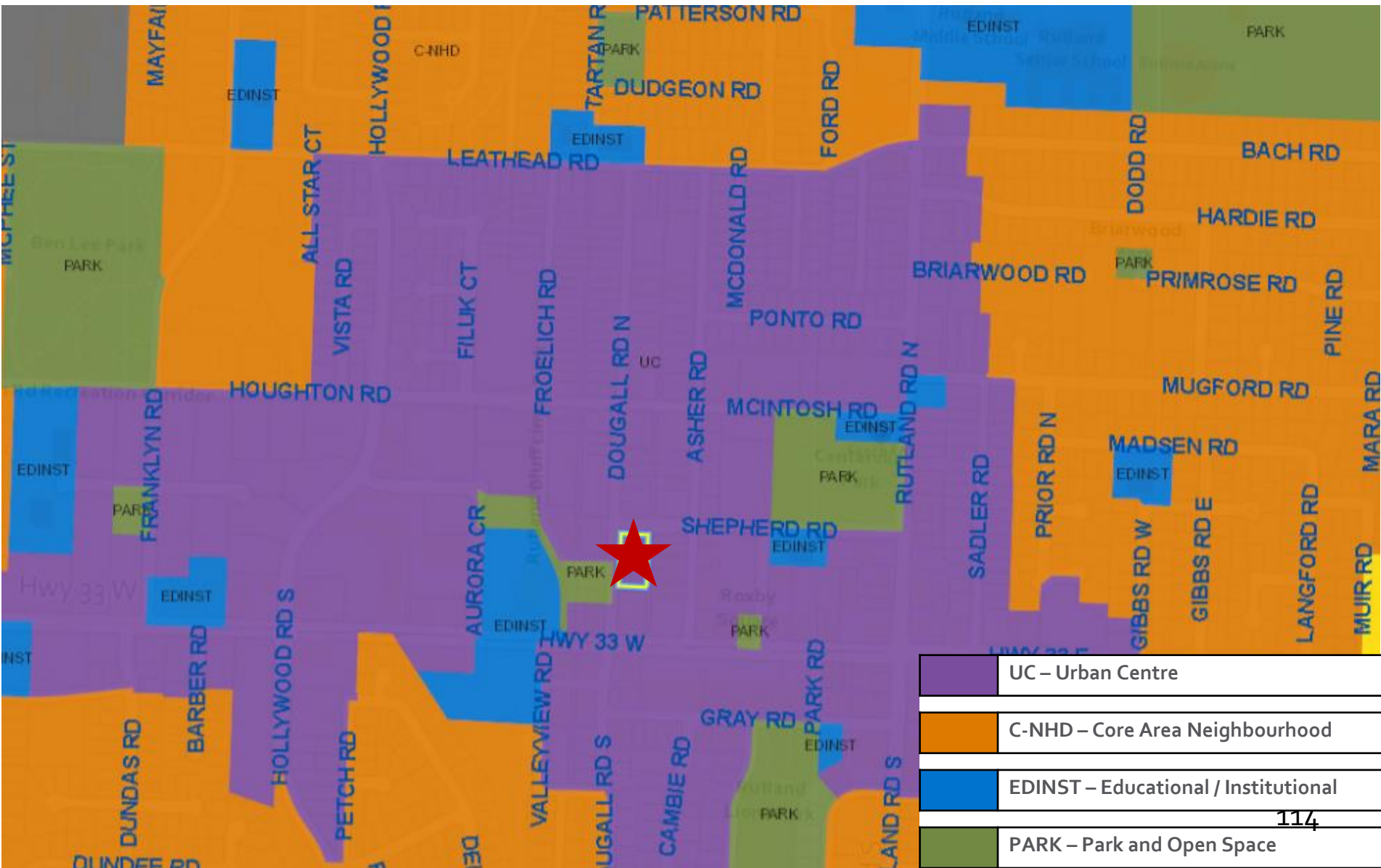
Council  
Approvals

# Context Map





# OCP Future Land Use



	UC – Urban Centre
	C-NHD – Core Area Neighbourhood
	EDINST – Educational / Institutional
	PARK – Park and Open Space

# Subject Property Map





# “r” – Rental Only Subzone

## **Purpose**

- To provide a sub-zone that restricts the dwelling units to a rental only tenure and to prohibit any building or bareland stratification.

## **Summary of Uses**

- Dwelling units must be long-term rental only
- Eligible to apply for Revitalization Tax Exemption



# “r” – Rental Only Subzone

Regulation	Maximum Permitted
Bonus Height	12.0 m & 3 storeys
Bonus Floor Area Ratio	Rental: 0.3 12 storey: 0.05 FAR / storey
Parking Reduction	20% Urban Centre

# OCP Objectives – Climate Resilience

## Climate Criteria

**Dark Green** – Meets Climate Criteria

**Light Green** – Will Meet Criteria Soon

**Yellow** – Does not meet Climate Criteria

10 min Walk to Retail/Restaurants	Dark Green
5 min Walk to Park	Dark Green
10 min Bike to Public School	Dark Green
20 min Bus to Urban Centre/Village Centre/Employment Hub	Dark Green
Retaining Trees and/or Adding Trees	Light Green
<b>OCP Climate Resilience Consistency</b>	Dark Green

# OCP Objectives & Policies

- ▶ **Policy 4.1.6: High Density Residential Development**
  - ▶ Direct medium and high-density development to the Urban Centre
- ▶ **Policy 4.7.1. Rutland Building Heights**
  - ▶ Focusing taller buildings between Shepherd Road, Dougall Road, Rutland Road and Highway 33 to support the viability of Rutland's designated high streets, the Rutland Transit Exchange, and Rutland Centennial Park
- ▶ **Policy 4.12.3. Diverse Housing Tenures**
  - ▶ Encourage a range of rental and ownership tenures that support a variety of households, income levels, and life stages.



# Staff Recommendation

- ▶ Staff recommend **support** for the proposed rezoning as it is consistent with:
  - ▶ OCP Future Land Use - UC
  - ▶ OCP Objectives in Chapter 4 – Urban Centres
    - ▶ High density residential development
    - ▶ Rutland building heights
    - ▶ Diverse housing tenures
- ▶ Development Permit to follow

# REPORT TO COUNCIL REZONING



**Date:** November 18, 2024  
**To:** Council  
**From:** City Manager  
**Address:** 1870 Treetop Rd  
**File No.:** Z24-0016

	Existing	Proposed
<b>OCP Future Land Use:</b>	S-RES – Suburban – Residential	S-RES – Suburban – Residential
<b>Zone:</b>	RR1 – Large Lot Rural Residential	RU2 – Medium Lot Housing

## 1.0 Recommendation

THAT Rezoning Application No. Z24-0016 to amend the City of Kelowna Zoning Bylaw No. 12375 by changing the zoning classification of Lot 1 Section 19 Township 27 ODYD Plan 33849, located at 1870 Treetop Rd, Kelowna, BC from the RR1 – Large Lot Rural Residential zone to the RU2 – Medium Lot Housing zone, be considered by Council;

AND THAT final adoption of the Rezoning Bylaw be considered subsequent to the outstanding conditions of approval as set out in Attachment “A” attached to the Report from the Development Planning Department dated November 18<sup>th</sup>, 2024;

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

## 2.0 Purpose

To rezone the subject property from the RR1 – Large Lot Rural Residential zone to the RU2 – Medium Lot Housing zone to facilitate a 26-lot subdivision.

## 3.0 Development Planning

Staff support the proposed rezoning from the RR1 – Large Lot Rural Residential zone to the RU2 – Medium Lot Housing zone to facilitate a 26-lot subdivision. The subject property has the Future Land Use Designation of S-RES – Suburban – Residential and is located within the Permanent Growth Boundary (PGB). As such, the proposed zone is consistent with the Official Community Plan (OCP) objectives. In addition, the proposed lots are consistent with the minimum dimensions of the RU2 zone and can be adequately serviced. To accommodate the proposal substantial road dedication is required as shown on Attachment B. Staff are recommending final adoption be considered subsequent to the issuance of a subdivision preliminary layout review (PLR) letter.

## 4.0 Site Context & Background

Orientation	Zoning	Land Use
North	A1 – Agriculture	Agriculture
East	RR1 – Large Lot Rural Residential	Rural Residential
South	RU1 – Large Lot Housing	Singled Detached Dwellings
West	RU1 – Large Lot Housing / A1 – Agriculture	Vacant (Future Single Detached Dwelling)

**Subject Property Map: 1870 Treetop Rd**



The subject property is located on both Treetop Rd and Turnberry St, and the surrounding area is zoned RU1 – Large Lot Housing, RR1 – Large Lot Rural Residential and A1 – Agriculture. The subject property is in close proximity to Birkdale Park, Black Mountain Recreation Corridor and sntsk'il'ntən - Black Mountain Regional Park.

**4.1 Background**

On March 14<sup>th</sup>, 2022, Council gave 1<sup>st</sup>, 2<sup>nd</sup> and 3<sup>rd</sup> readings to a similar Rezoning Application (Z20-0096) which was to rezone the subject property to the previous Ru1H – Large Lot Housing (Hillside Area). The bylaw was not adopted, as it was rescinded with the adoption of Zoning Bylaw No. 12375.

**5.0 Current Development Policies**

**5.1 Kelowna Official Community Plan (OCP)**

<b>Objective 7.2. Design Suburban Neighbourhoods to be low impact, context sensitive and adaptable.</b>	
Policy	7.2.1. Consider a range of low-density ground-oriented housing development to improve housing diversity and affordability and to reduce the overall urban footprint of Suburban Neighbourhoods. Focus more intensive ground-oriented housing where it is in close proximity to small scale commercial services, amenities like schools and parks, existing transit service and/or active transportation facilities.
Ground-Oriented Housing.	<i>The proposed development includes ground-oriented housing.</i>

**6.0 Application Chronology**

Application Accepted:	May 6, 2024
Neighbourhood Notification Summary Received:	October 24, 2024



**Report prepared by:** Tyler Caswell, Planner II  
**Reviewed by:** Alex Kondor, Development Planning Manager  
**Reviewed by:** Nola Kilmartin, Development Planning Department Manager  
**Approved for Inclusion:** Ryan Smith, Divisional Director, Planning & Development Services

**Attachments:**

Attachment A: Development Engineering Memo  
Attachment B: DRAFT Site Plan  
Attachment C: Summary of Public Information Session

For additional information, please visit our Current Developments online at [www.kelowna.ca/currentdevelopments](http://www.kelowna.ca/currentdevelopments).

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**CITY OF KELOWNA**  
**MEMORANDUM**

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**Date:** October 28, 2024  
**File No.:** Z24-0016  
**To:** Suburban & Rural Planning (TC)  
**From:** Development Engineering Manager (NC)  
**Subject:** 1870 Treetop Rd RR1 to RU2

---

The Development Engineering Department has the following comments associated with this Rezoning Application to rezone the subject property from the RR1 – Large Lot Rural Residential to RU2 – Medium Lot Housing to facilitate a 16-lot subdivision. Works and Services attributable at time of subdivision are contained in the Development Engineering memo under file S22-0015.

The Development Engineering Technologist for this file is John Filipenko (jfilipenko@kelowna.ca).

**1. GENERAL**

- a. The following comments and requirements are valid for a period of one (1) year from the reference date of this memo, or until the application has been closed, whichever occurs first. The City of Kelowna reserves the right to modify some or all items in this memo if the zone amendment bylaw is not adopted within this time.

**2. ZONING COMMENTS AND SITE-SPECIFIC REQUIREMENTS**

- a. Dedication of at least 18.2 m wide road ROW is required to achieve construction of proposed Road A to a Hillside Collector standard.
- b. Dedication of at least 14.1 m wide road ROW is required to achieve construction of Road B to a Hillside Local standard complete with a 15.65 m Radius cul-de-sac.
- c. Road dedication requirements are exclusive of any width necessary to support the roadway as noted above based on detailed site grading. Dedication may be deferred to time of subdivision approval.
- d. The viability of Road A being able to be constructed must be demonstrated with a Plan Profile road design complete with cross sections.

  
Nelson Chapman, P.Eng.  
Development Engineering Manager  
JF

<b>ATTACHMENT</b>		A
This forms part of application # Z24-0016		
Planner Initials	TC	 <b>City of Kelowna</b> DEVELOPMENT PLANNING

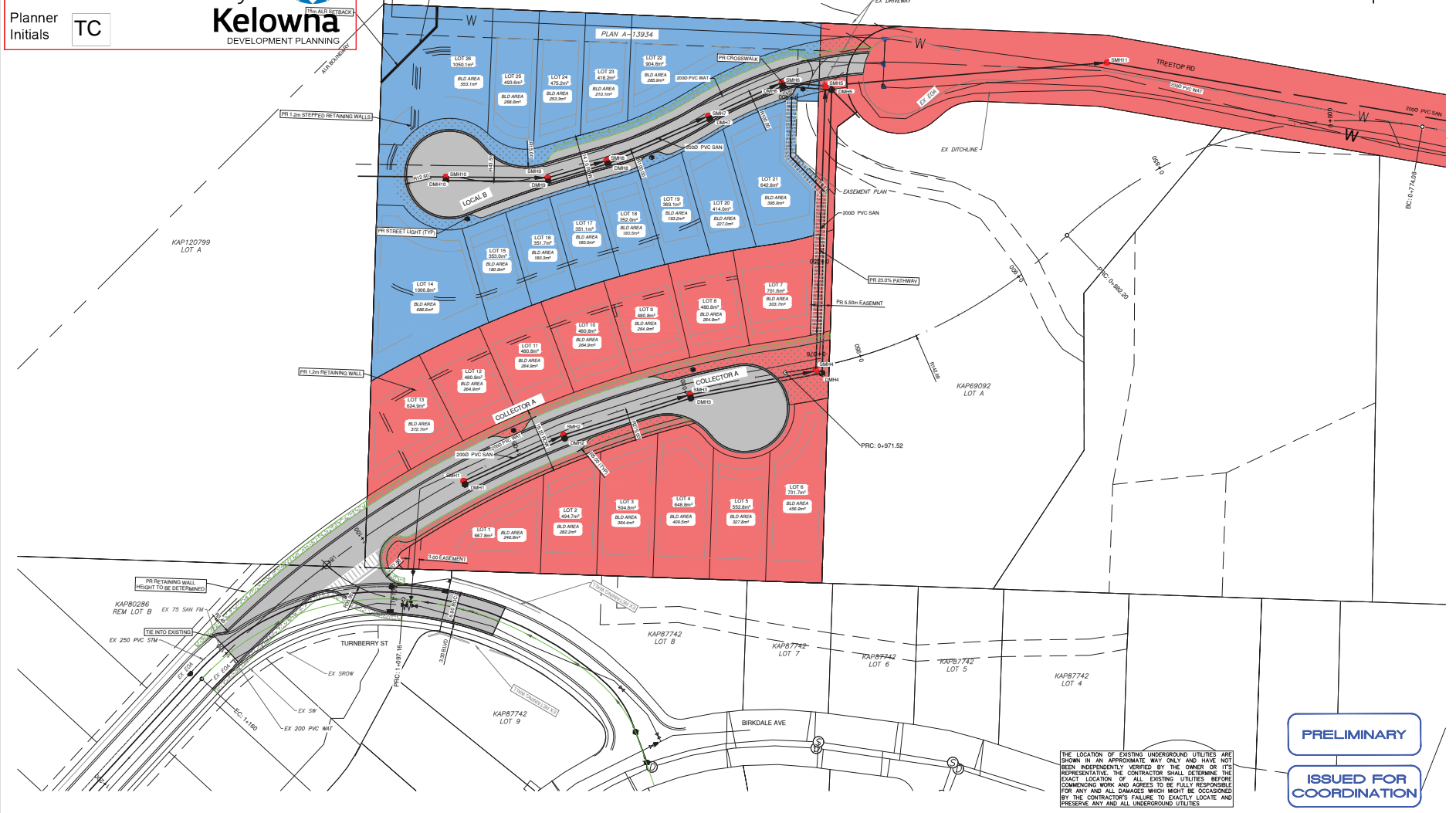
# ATTACHMENT B

This forms part of application  
# Z24-0016



City of  
**Kelowna**  
DEVELOPMENT PLANNING

Planner Initials **TC**



**PRELIMINARY**  
**ISSUED FOR COORDINATION**

THE LOCATION OF EXISTING UNDERGROUND UTILITIES ARE SHOWN IN AN APPROXIMATE WAY ONLY AND HAVE NOT BEEN INDEPENDENTLY VERIFIED BY THE OWNER OR ITS REPRESENTATIVE. THE CONTRACTOR SHALL DETERMINE THE EXACT LOCATION OF ALL EXISTING UTILITIES BEFORE COMMENCING WORK AND AGREE TO BE FULLY RESPONSIBLE FOR ANY AND ALL DAMAGES WHICH MIGHT BE OCCURRED BY THE CONTRACTOR'S FAILURE TO EXACTLY LOCATE AND PRESERVE ANY AND ALL UNDERGROUND UTILITIES.

LEGEND	
WATER	EX. MANHOLE MH #
SAN. SEWER	PROP. MANHOLE MH #
STORM SEWER	POWER POLE #
GAS	LAMP STANDARD L#
U/C UTILITY (ALIGNMENT)	CATCH BASIN CB #
	HYDRANT #
	WATER CURB STOP
	SANITARY INSPECTION CHAMBER
	STORM INSPECTION CHAMBER
	TRANSFORMER - POWER
	SERVICE BOX
	SURVEY MONUMENT

**PROTECH CONSULTING**  
300 - 3275 Lakeshore Rd Kelowna B.C. Phone 860-1771  
PERMIT TO PRACTICE NO. 1001403

NO.	DATE	BY	REVISION	CHKD
1	2024-10-31	NGH	ISSUED FOR COORDINATION	

DRAWN	---
DESIGN	---
APPROVED	---
DATE	OCT 2024
SCALE	
HORIZ.	1:500
VERT.	N/A

**THE CITY OF KELOWNA**  
ENGINEERING DEPARTMENT  
SABA CONSTRUCTION LTD  
TREETOP ROAD SUBDIVISION  
CONCEPTUAL SUBDIVISION PLAN

DRAWING NO.	REV. NO.
24058-P01	1



# Public Consultation Summary Report

**Date of Completion:** September 26, 2024

**Method:** Mailout

**Addresses Consulted:** 1788 Birkdale Ave  
1796 Birkdale Ave  
1804 Birkdale Ave  
1830 Birkdale Ave  
1848 Birkdale Ave  
1866 Birkdale Ave  
1884 Birkdale Ave  
1785 Swainson Rd  
1995 Swainson Rd  
1865 Treetop Rd  
1940 Treetop Rd  
1960 Treetop Rd  
2025 Treetop Rd  
1812 Turnberry St

**Info Provided:** See attached

**Feedback:** None received

**ATTACHMENT** C

This forms part of application  
# Z24-0016

Planner Initials

City of Kelowna  
DEVELOPMENT PLANNING



Neighbour Consultation Form  
(Council Policy No.367)



A summary of neighborhood consultation efforts, feedback and response must be provided to City staff, identifying how the efforts meet the objectives of this Policy. This form must be filled out and submitted to the File Manager a minimum of 20 days prior to initial consideration by Council.

I, Kim McKechnie, the applicant for Application No. 224-0016  
 for rezoning to R42 to allow for construction of 26 lot duplex  
 (brief description of proposal) Subdivision  
 at 1870 Treetop Road have conducted the required neighbour  
 (address)  
 consultation in accordance with Council Policy No. 367.

- My parcel is located **outside** of the Permanent Growth Boundary and I have consulted all owners & occupants within a 300m radius
- My parcel is located **inside** of the Permanent Growth Boundary and I have consulted all owners & occupants within a 50m radius

I have consulted property owners and occupants by doing the following: mail out to  
all properties within 50m radius (see attached)

Please initial the following to confirm it has been included as part of the neighbour consultation:

- Location of the proposal;
- Detailed description of the proposal, including the specific changes proposed;
- Visual rendering and/or site plan of the proposal;
- Contact information for the applicant or authorized agent;
- Contact information for the appropriate City department;
- Identification of available methods for feedback.

Please return this form, along with any feedback, comments, or signatures to the File Manager 20 days prior to the anticipated initial consideration by Council date. On the back of this form please list those addresses that were consulted.

ATTACHMENT C

This forms part of application  
 # Z24-0016

Planner  
Initials TC

**City of Kelowna**  
DEVELOPMENT PLANNING

City of Kelowna  
 1435 Water Street  
 Kelowna, BC V1Y 1J4  
 TEL 250 469-8600  
 FAX 250 862-3330  
 kelowna.ca

Address	Spoke with Owner & Occupant	Left Package with Owner & Occupant	Date
1788 Birkdale		"	Sept 26/24
1796 "			
1804 "			
1830 "			
1848 "			
1866 "			
1884 "			
1785 Swainson			
1995 "			
1865 Treety Rd			
1940 "			
1960 "			
2025 "			
1812 Turnberry St		↓	↓

**ATTACHMENT C**

This forms part of application  
# Z24-0016



City of  
**Kelowna**  
DEVELOPMENT PLANNING

Planner Initials



**CITY OF KELOWNA**

**BYLAW NO. 12726**

**Z24-0016**

**1870 Treetop Road**

---

A bylaw to amend the "City of Kelowna Zoning Bylaw No. 12375".

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

1. THAT City of Kelowna Zoning Bylaw No. 12375 be amended by changing the zoning classification of Lot 1 Section 19 Township 27 ODYD Plan 33849, located on Treetop Road, Kelowna, BC from the RR1 – Large Lot Rural Residential 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, 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**

# Z24-0016 1870 Treetop Rd

Rezoning Application

# Purpose

- ▶ To rezone the subject property from the RR1 – Large Lot Rural Residential zone to the RU2 – Medium Lot Housing zone to facilitate a 26-lot subdivision.



# Development Process



May 6, 2024

Development Application Submitted



Staff Review & Circulation



Oct 24, 2024

Neighbour Notification Received



Initial Consideration



Nov 18, 2024

Reading Consideration

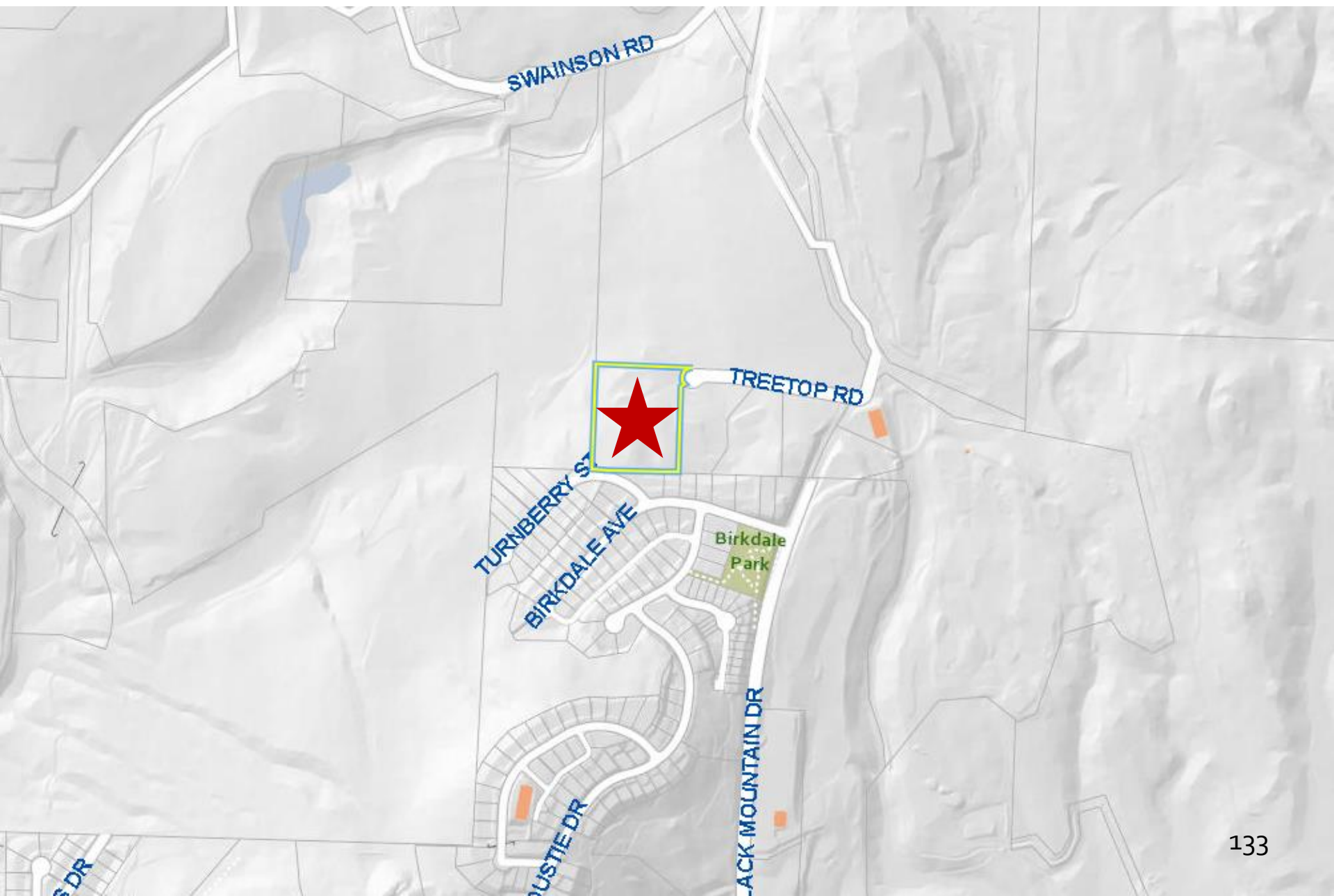


Final Reading

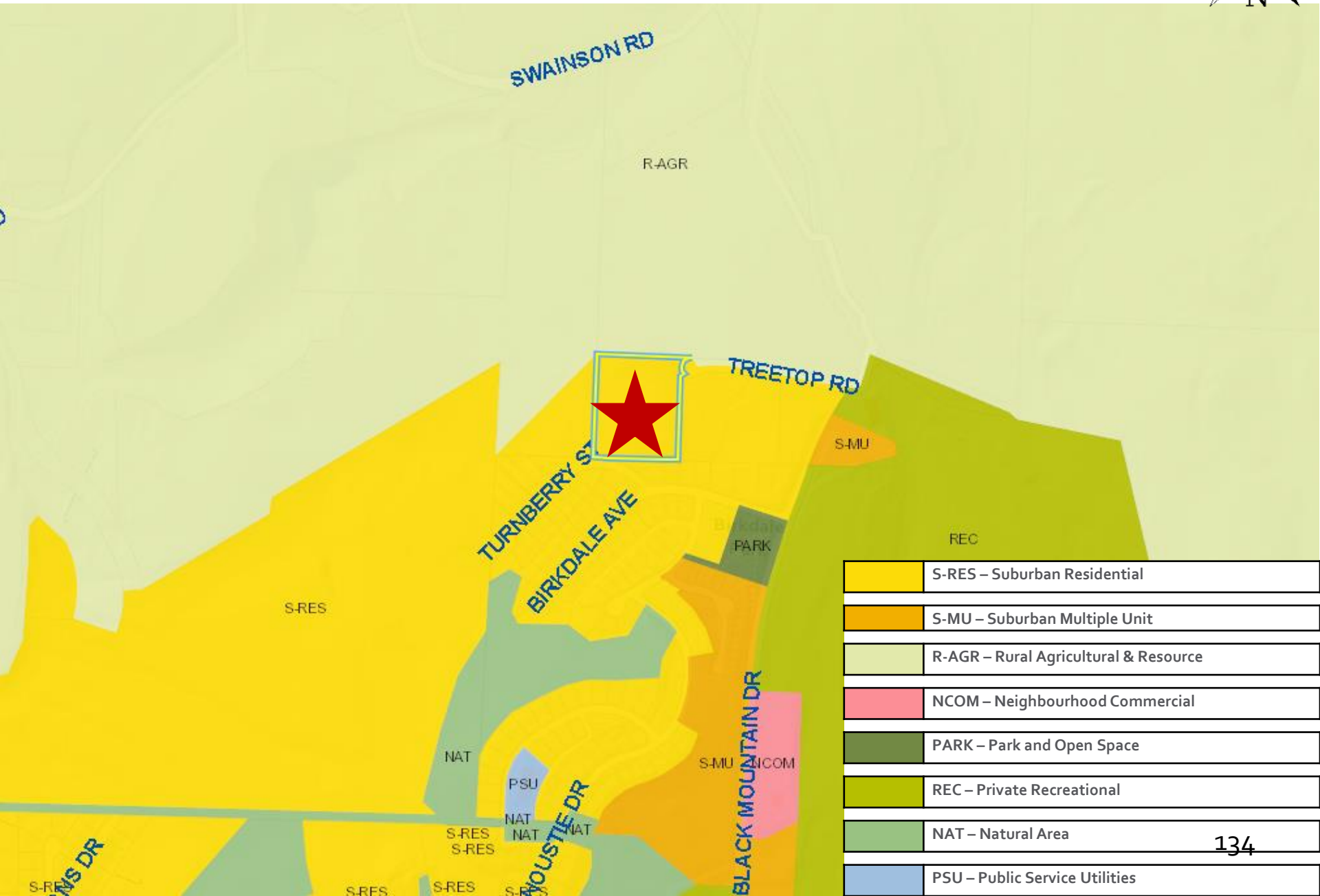










Council Approvals

# Context Map



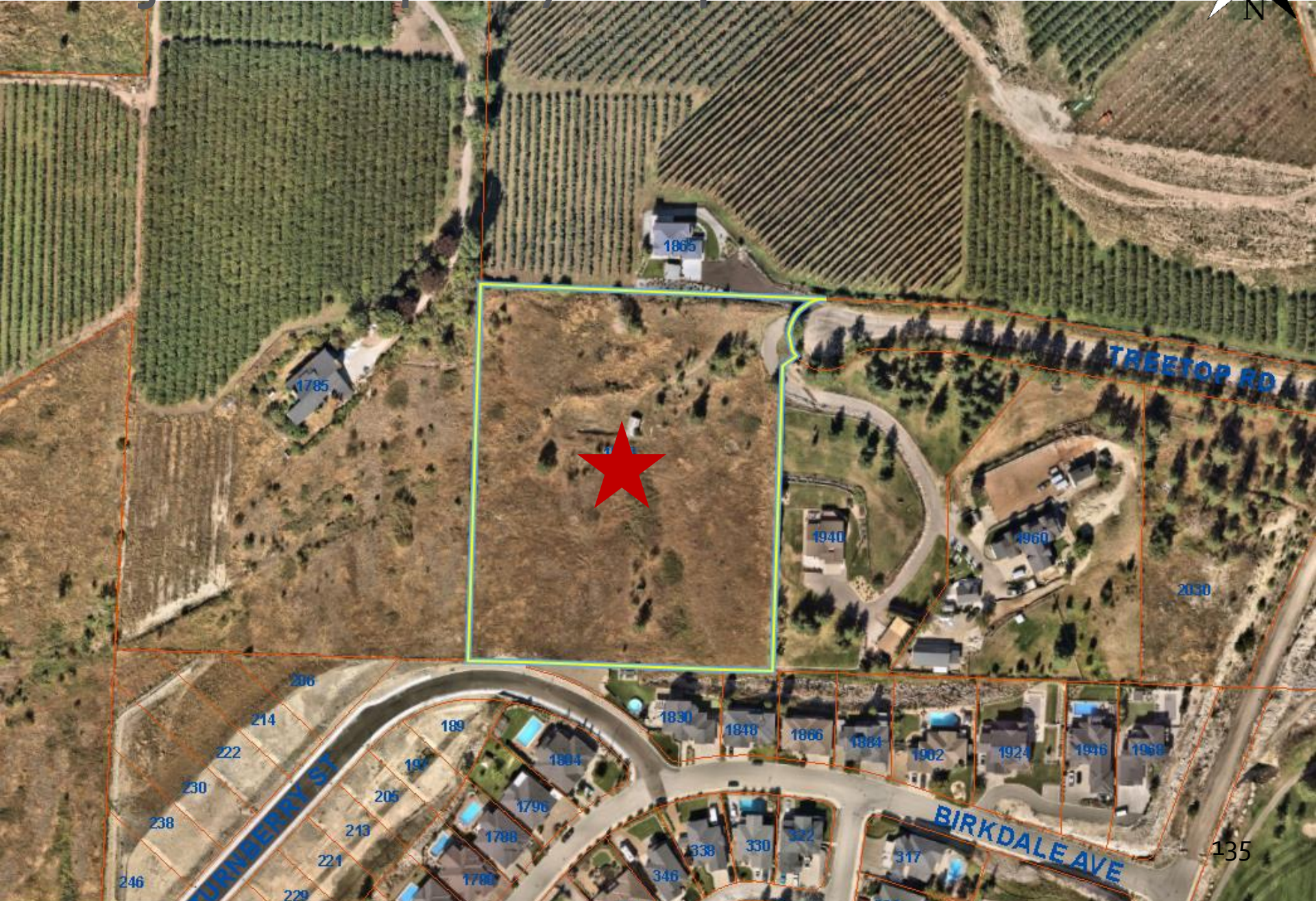
# OCP Future Land Use



	S-RES – Suburban Residential
	S-MU – Suburban Multiple Unit
	R-AGR – Rural Agricultural & Resource
	NCOM – Neighbourhood Commercial
	PARK – Park and Open Space
	REC – Private Recreational
	NAT – Natural Area
	PSU – Public Service Utilities



# Subject Property Map

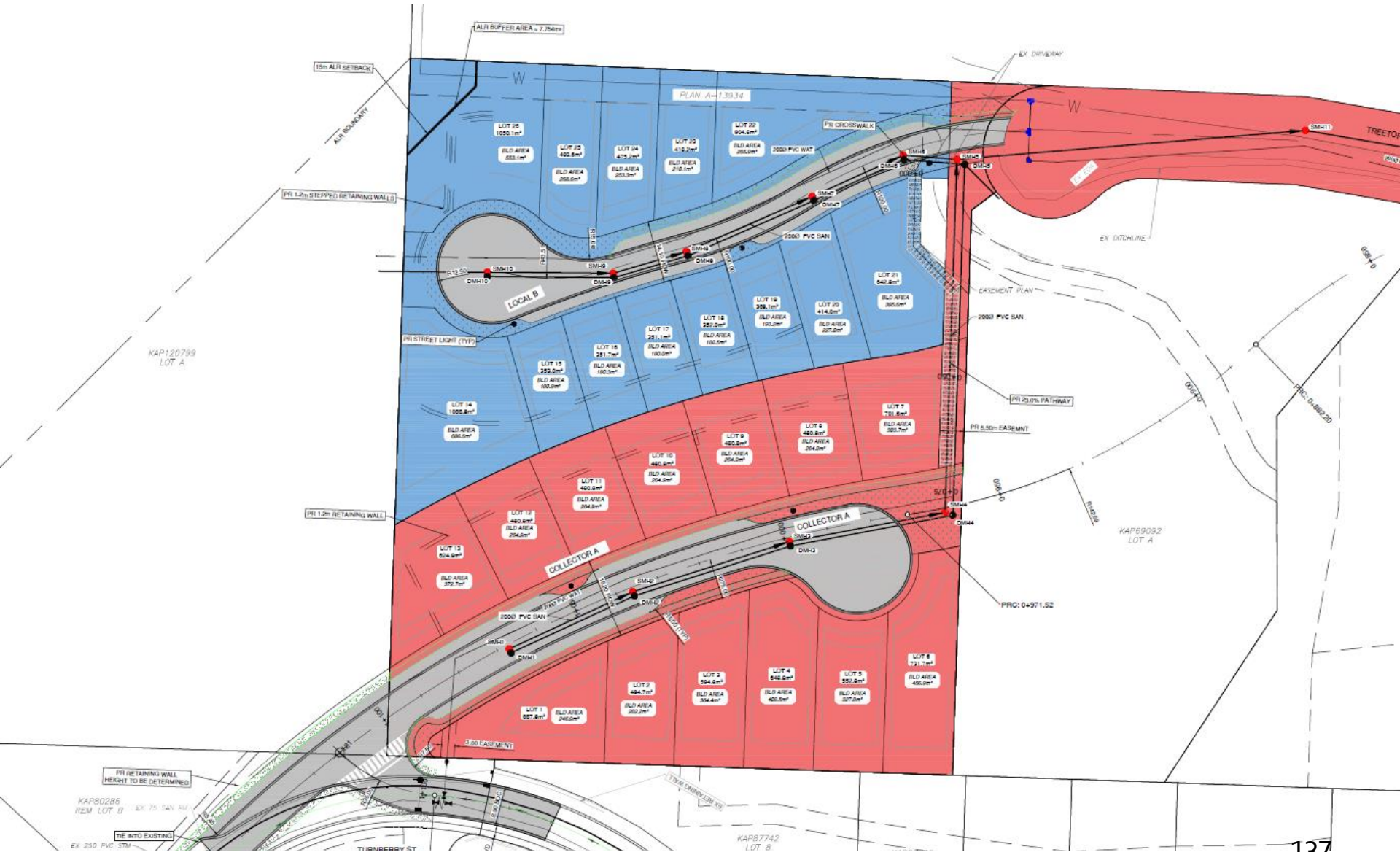




# Background

- ▶ In March 2022 Council gave 1st -3rd readings to a Rezoning Bylaw (Z20-0096) to rezone the subject property to the RU1h – Large Lot Housing (Hillside Area) zone.
- ▶ The bylaw was not adopted, and was rescinded with the adoption of the new Zoning Bylaw No. 12375.

# Site Plan





# RU2 – Medium Lot Housing Zone

## Purpose

- To provide a zone for up to 4 dwelling units on medium serviced urban lots.

## Summary of Uses

- Single Detached Housing
- Semi-Detached Housing
- Duplex Housing
- Townhouses
- Secondary Suite
- Home Based Business
- Child Care Centre, Minor

# RU2 – Medium Lot Housing Zone

Regulation	Permitted
Maximum Height	11.0 m & 3 storeys
Maximum Height with Walk-out Basements	Front Elevation: 9.0 m Rear Elevation: 12.5 m
Maximum Number of Units	4 dwelling units per lot
Maximum Site Coverage of Buildings	40%

# OCP Objectives – Climate Resilience

## Climate Criteria

**Dark Green** – Meets Climate Criteria

**Light Green** – Will Meet Criteria Soon

**Yellow** – Does not meet Climate Criteria

10 min Walk to Retail/Restaurants	Yellow
5 min Walk to Park	Dark Green
10 min Bike to Public School	Yellow
20 min Bus to Urban Centre/Village Centre/Employment Hub	Yellow
Retaining Trees and/or Adding Trees	Light Green
<b>OCP Climate Resilience Consistency</b>	Yellow



# OCP Objectives & Policies

- ▶ S-RES – Suburban Residential
  - ▶ Policy 7.2.1. Ground-Oriented Housing
  - ▶ Policy 7.2.2. Hillside Housing Forms

# Staff Recommendation

- ▶ Staff recommend **support** for the proposed rezoning as it is consistent with:
  - ▶ OCP Future Land Use S-RES
  - ▶ OCP Objectives in Chapter 7 Suburban Neighbourhoods
    - ▶ Ground Oriented Housing
  - ▶ Subject property part of important road connections nodes in neighbourhood.

# Report to Council



**Date:** November 18, 2024  
**To:** Council  
**From:** City Manager  
**Department:** Office of the City Clerk  
**Subject:** Rezoning Bylaws Supplemental Report to Council

---

**Recommendation:**

THAT Council receives, for information, the report from the Office of the City Clerk dated November 18, 2024 with respect to one rezoning applications;

AND THAT Rezoning Bylaw No. 12717 be forwarded for further reading consideration.

**Purpose:**

To receive a summary of notice of first reading for Rezoning Bylaw No. 12717 and to give the bylaw further reading consideration.

**Background:**

A public hearing cannot be held for zoning bylaws for residential development that are consistent with the OCP. A public hearing is not required for all other zoning bylaws that are consistent with the OCP. Public notice is given before first reading with signage on the subject property, newspaper advertisements, and mailouts in accordance with the Local Government Act and Development Application & Heritage Procedures Bylaw No. 12310.

**Discussion:**

The one Rezoning Applications were brought forward to Council for initial consideration on October 28, 2024. Notice of first reading was completed as outlined above.



Correspondence was received as per the following table:

Address	Application	Bylaw	Public Hearing Option	Recommended Readings	Correspondence Received
<a href="#">459 Osprey Ave</a>	Z24-0034	12717	No	1 <sup>st</sup> , 2 <sup>nd</sup> , 3 <sup>rd</sup>	0

These applications were brought forward with a recommendation of support from the Development Planning Department. Staff are recommending Council proceed with further readings of the Bylaw.

**Conclusion:**

Following notice of first reading, staff are recommending that Council give Rezoning Bylaw No. 12717 further reading consideration.

**Considerations applicable to this report:**

**Legal/Statutory Authority:**

*Local Government Act s. 464(2)*

**Legal/Statutory Procedural Requirements:**

Following the notification period under s. 467 of the Local Government Act, Council may choose to:

- give a bylaw reading consideration,
- defeat the bylaw, or
- for non-residential bylaws, give a bylaw first reading and advance the bylaw to a Public Hearing.

**Considerations not applicable to this report:**

**Existing Policy:**

**Financial/Budgetary Considerations:**

**External Agency/Public Comments:**

**Communications Comments:**

Submitted by: N Beauchamp, Legislative Technician

Approved for inclusion: L Bentley, City Clerk

cc: Development Planning

**CITY OF KELOWNA**

**BYLAW NO. 12717**

**Z24-0034**

**459 Osprey Avenue**

---

A bylaw to amend the "City of Kelowna Zoning Bylaw No. 12375".

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

1. THAT City of Kelowna Zoning Bylaw No. 12375 be amended by changing the zoning classification of Lot A District Lot 14 ODYD Plan EPP120981 located on Osprey Avenue, Kelowna, BC from the UC5 – Pandosy Urban Centre zone to the UC5r – Pandosy Urban Centre Rental Only 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, second and third time by the Municipal Council this

Adopted by the Municipal Council of the City of Kelowna this

---

Mayor

---

City Clerk

# Report to Council



**Date:** November 18, 2024  
**To:** Council  
**From:** City Manager  
**Subject:** Housing Agreement Bylaw for 1330, 1340 & 1350-1352 Belaire Ave  
**Department:** Housing Policy & Programs

---

**Recommendation:**

THAT Council receives, for information, the report from the Housing Policy & Programs Department dated November 18, 2024, with respect to a Housing Agreement Bylaw for 1330, 1340 & 1350-1352 Belaire Ave;

AND THAT Bylaw No. 12720 authorizing a Housing Agreement between the City of Kelowna and Resurrection Recovery Resource Society, Inc.No. S0045391 which requires the owners to designate 12 dwelling units in purpose-built rental housing for:

- a) Lot 31 District Lot 137 ODYD Plan 10011, located at 1330 Belaire Ave, Kelowna, BC,
- b) Lot 32 District Lot 137 ODYD Plan 10011, located at 1340 Belaire Ave, Kelowna, BC, and
- c) Lot 33 District Lot 137 ODYD Plan 10011, located at 1350-1352 Belaire Ave, Kelowna, BC

be forwarded for reading consideration.

**Purpose:**

To authorize a Housing Agreement with Resurrection Recovery Resource Society (Freedom’s Door) on the subject property.

**Council Priority Alignment:**

Affordable Housing

**Background:**

On September 9, 2024, Council approved a rental housing grant of \$88,392.86 for a 12 unit townhouse development located at 1330, 1340 & 1350-1352 Belaire Ave. The development will be operated by a non-profit society and provide non-market rental housing.

**Discussion:**

In accordance with Council Policy #335 – Rental Housing Grants Eligibility, projects receiving housing grants are required to secure the dwelling units through a Housing Agreement with the City of Kelowna or a long-term operating agreement with BC Housing. As this project is not subject to a long-term operating agreement with BC Housing, a Housing Agreement with the City of Kelowna is required.

Accordingly, this rental Housing Agreement is required to ensure the 12 townhouse units are secured as non-market rental housing for a minimum of ten years. The Housing Agreement further stipulates that the rental housing be operated by a non-profit society. The *Local Government Act* requires that Housing Agreements must be entered into by bylaw.

**Conclusion:**

A Housing Agreement is required to ensure that non-market rental housing units that receive Rental Housing Grants are secured for that purpose. To ensure that the 12 townhouse units at 1330, 1340, and 1350-1352 Belaire Ave are secured as non-market rental housing operated by non-profit society, a Housing Agreement Bylaw is required.

**Internal Circulation:**

City Clerk  
Financial Services

**Considerations applicable to this report:*****Legal/Statutory Authority:***

Local Government Act, Section 483

***Legal/Statutory Procedural Requirements:******Existing Policy:***

Council Policy #335 – Rental Housing Grants Eligibility

**Considerations not applicable to this report:*****Financial/Budgetary Considerations:******Consultation and Engagement:******Communications Comments:***

Submitted by:

M. Tanner, Planner Specialist

**Approved for inclusion:** J. Moore, Housing Policy and Programs Manager

**Attachments:**

Attachment A: Housing Agreement – Belaire Ave



**PURPOSE-BUILT RENTAL HOUSING AGREEMENT**

THIS AGREEMENT dated for reference October 8, 2024 affects:

**LEGAL DESCRIPTION OF PROPERTY SUBJECT TO THE AGREEMENT:**

Lot 31 District Lot 137 ODYD Plan 10011;  
Lot 32 District Lot 137 ODYD Plan 10011; and  
Lot 33 District Lot 137 ODYD Plan 10011

("Land")

And is

**BETWEEN:**

**RESURRECTION RECOVERY RESOURCE SOCIETY, INC. NO. S45391**  
1279 Centennial Cres  
Kelowna, BC  
V1Y 6K3

("Owner")

**AND:**

**CITY OF KELOWNA**, a local government incorporated pursuant to the *Community Charter* and having its offices at 1435 Water Street, Kelowna, B.C. V1Y 1J4

("City")

**GIVEN THAT:**

- A. Section 483 of the *Local Government Act* permits the City to enter into housing agreements for provision of affordable and special needs housing, which may include conditions in respect to the form of tenure of housing units, availability of housing units to classes of persons, administration of housing units and rent which may be charged for housing units;
- B. The Owner and the City wish to enter into this Agreement to provide for purpose-built rental housing on the terms and conditions set out in this Agreement, and agree that this Agreement is a housing agreement under s. 483 of the *Local Government Act*; and
- C. The City has, by bylaw, authorized the execution of this Agreement and the Owner has duly authorized the execution of this Agreement;

This Agreement is evidence that in consideration of \$1.00 paid by the City to the Owner (the receipt of which is acknowledged by the Owner) and in consideration of the promises exchanged below, the City and Owner agree, as a housing agreement between the Owner and the City under s. 483 of the *Local Government Act*, as follows:

## ARTICLE 1 INTERPRETATION

### 1.1 Definitions -

"Caregiver" means an individual who provides assistance with the performance of the personal functions and activities necessary for daily living that a person is unable to perform efficiently for himself or herself;

"City" means the City of Kelowna;

"Dwelling Unit" means accommodation providing sleeping rooms, washrooms, and no more than one kitchen, intended for domestic use, and used or intended to be used permanently or semi-permanently for a Household. This use does not include a room in a hotel or a motel.

"Household" means

- (a) a person;
- (b) two or more persons related by blood, marriage, or adoption; or associated through foster care, all living together in one dwelling unit as a single household using common cooking facilities;
- (c) a group of not more than five persons, including boarders, who are not related by blood, marriage, or adoption, or associated through foster care, all living together in one dwelling unit as a single household using common cooking facilities; or
- (d) a combination of (b) and (c), provided that the combined total does not include more than 3 persons unrelated by blood, marriage or adoption or associated through foster care; all living together in one dwelling unit as a single household using common cooking facilities.

In addition, a household may also include up to one Caregiver or nanny;

"Land" means the land described herein;

"LTO" means the Kamloops Land Title Office or its successor;

"Official Community Plan" means the City of Kelowna Official Community Plan Bylaw No. 10500, or its successor bylaw;

"Owner" means the registered owner of the Lands from time to time and any parcels into which the Lands are subdivided;

"Purpose-Built Rental Housing" means a Dwelling Unit that is intended to be used for rental housing; and

"Tenancy Agreement" means a tenancy agreement as defined in, and subject to, the *Residential Tenancy Act*.

### 1.2 Interpretation - In this Agreement:

- (a) reference to the singular includes a reference to the plural, and vice versa, unless the context requires otherwise;



- (b) article and section headings have been inserted for ease of reference only and are not to be used in interpreting this Agreement;
- (c) reference to a particular numbered section or article, or to a particular lettered Schedule, is a reference to the correspondingly numbered or lettered article, section or Schedule of this Agreement;
- (d) if a word or expression is defined in this Agreement, other parts of speech and grammatical forms of the same word or expression have corresponding meanings;
- (e) the word "enactment" has the meaning given in the *Interpretation Act* on the reference date of this Agreement;
- (f) reference to any enactment includes any regulations, orders or directives made under the authority of that enactment;
- (g) reference to any enactment is a reference to that enactment as consolidated, revised, amended, re-enacted or replaced, unless otherwise expressly provided;
- (h) the provisions of s. 25 of the *Interpretation Act* with respect to the calculation of time apply;
- (i) time is of the essence;
- (j) all provisions are to be interpreted as always speaking;
- (k) reference to a "party" is a reference to a party to this Agreement and to their respective successors, assigns, trustees, administrators and receivers;
- (l) reference to a "day", "month", "quarter" or "year" is a reference to a calendar day, calendar month, calendar quarter or calendar year, as the case may be, unless otherwise expressly provided;
- (m) the definitions given in the City of Kelowna Zoning Bylaw No. 8000, or its successor bylaw, and the Official Community Plan apply for the purposes of this Agreement; and
- (n) any act, decision, determination, consideration, consent or exercise of discretion by a party, or other person, as provided in this Agreement will be performed, made or exercised acting reasonably.

**1.3 Purpose of Agreement - The Owner and the City agree that:**

- (a) this Agreement is intended to serve the public interest by providing for occupancy of a certain number of Dwelling Units, of the kinds provided for in this Agreement, that are in demand in the City of Kelowna but that are not readily available;
- (b) damages are not an adequate remedy to the City in respect of any breach of this Agreement by the Owner, such that the Owner agrees the City should be entitled to an order for specific performance, injunction or other specific relief respecting any breach of this Agreement by the Owner.

**ARTICLE 2  
HOUSING AGREEMENT AND LAND USE RESTRICTIONS**

**2.1 Land Use Restrictions - The Owner and the City hereby covenant and agree as follows:**

- (a) The Land will be used only in accordance with this Agreement;

- (b) The Owner will design, construct and maintain one or more buildings providing 12 Dwelling Units as Purpose-Built Rental Housing.
- (c) The Owner acknowledges that the City will not support applications to stratify the building(s) on the Land, thereby allowing the identified Purpose-Built Rental Housing Dwelling Units to be sold independently of each other, for a period of ten (10) years from the date of this Agreement.
- (d) Dwelling Units on the Land must be operated by a non-profit housing provider.

### ARTICLE 3 HOUSING AGREEMENT AND TRANSFER RESTRICTIONS

#### 3.1 Purchaser Qualifications - The City and the Owner agree as follows:

- (a) the Owner will not sell or transfer, or agree to sell or transfer, any interest in any building containing Purpose-Built Rental Housing Dwelling Units on the Land other than a full interest in the fee simple title to an agency or individual that will continue to ensure that the Purpose-Built Rental Housing Dwelling Units are available in accordance with this Agreement.

#### 3.2 Use and Occupancy of Purpose-Built Rental Housing Dwelling Unit - The Owner agrees with the City as follows:

- (a) the Owner will rent or lease each Purpose-Built Rental Housing Dwelling Unit on the Land in accordance with the *Residential Tenancy Act*, unless exempted under Section 4 of the *Act*, and in no event may the Owner itself occupy a Purpose-Built Rental Housing Dwelling Unit or use the Purpose-Built Rental Housing Dwelling Unit for short-term vacation accommodation; and
- (b) the Owner will deliver a copy of the Tenancy Agreement for each Purpose-Built Rental Housing Dwelling Unit to the City upon demand, unless exempted under Section 4 of the *Residential Tenancy Act*.

### ARTICLE 4 GENERAL

#### 4.1 Notice of Housing Agreement - For clarity, the Owner acknowledges and agrees that:

- (a) this Agreement constitutes a housing agreement entered into under s. 483 of the *Local Government Act*;
- (b) the City is requiring the Owner to file a notice of housing agreement in the LTO against title to the Land;
- (c) once such a notice is filed, this Agreement binds all persons who acquire an interest in the Land;
- (d) in the event the parties agree to release this Agreement from the title of the Land, which may not occur before the tenth (10<sup>th</sup>) anniversary of the date of this Agreement, the Owner will repay the City for 100% of the amount of the rental grant received from the City. Such repaid funds will be directed to the City's Housing Opportunities Reserve Fund.

#### 4.2 No Effect On Laws or Powers - This Agreement does not



- (a) affect or limit the discretion, rights, duties or powers of the City under any enactment or at common law, including in relation to the use or subdivision of land,
- (b) impose on the City any legal duty or obligation, including any duty of care or contractual or other legal duty or obligation, to enforce this Agreement,
- (c) affect or limit any enactment relating to the use or subdivision of land, or
- (d) relieve the Owner from complying with any enactment, including in relation to the use or subdivision of land.

**4.3 Management** – The Owner covenants and agrees that it will furnish good and efficient management of the Dwelling Units and will permit representatives of the City to inspect the Dwelling Units at any reasonable time, subject to the notice provisions of the *Residential Tenancy Act*, if applicable. The Owner further covenants and agrees that it will maintain the Dwelling Units in a satisfactory state of repair and fit for habitation and will comply with all laws, including health and safety standards applicable to the Land. Notwithstanding the foregoing, the Owner acknowledges and agrees that the City, in its absolute discretion, may require the Owner, at the Owner's expense, to hire a person or company with the skill and expertise to manage the Dwelling Units.

**4.4 Notice** - Any notice which may be or is required to be given under this Agreement will be in writing and either be delivered or sent by facsimile transmission. Any notice which is delivered is to be considered to have been given on the first day after it is dispatched for delivery. Any notice which is sent by fax transmission is to be considered to have been given on the first business day after it is sent. If a party changes its address or facsimile number, or both, it will promptly give notice of its new address or facsimile number, or both, to the other party as provided in this section.

**4.5 Agreement Runs With the Land** - Every obligation and covenant of the Owner in this Agreement constitutes both a contractual obligation and a covenant granted by the Owner to the City in respect of the Land and this Agreement burdens the Land and runs with it and binds the Owner's successors in title and binds every parcel into which it is consolidated or subdivided by any means, including by subdivision or by strata plan under the *Strata Property Act*.

**4.6 Limitation on Owner's Obligations** - The Owner is only liable for breaches of this Agreement that occur while the Owner is the registered owner of the Land.

**4.7 Release** – The Owner by this Agreement releases and forever discharges the City and each of its elected officials, officers, directors, employees and agents, and its and their heirs, executors, administrators, personal representatives, successors, and assigns, from and against all claims, demands, damages, actions, or causes of action by reason of or arising out of advice or direction respecting the ownership, lease, operation or management of the Land or the Dwelling Units which has been or at any time after the commencement of this Agreement may be given to the Owner by all or any of them. This clause will survive the termination of this Agreement.

**4.8 Joint Venture** – Nothing in this Agreement will constitute the Owner as the agent, joint venturer, or partner of the City or give the Owner any authority to bind the City in any way.

**4.9 Waiver** - An alleged waiver of any breach of this Agreement is effective only if it is an express waiver in writing of the breach. A waiver of a breach of this Agreement does not operate as a waiver of any other breach of this Agreement.

- 4.10 **Further Acts** - The Owner will do everything reasonably necessary to give effect to the intent of this Agreement, including execution of further instruments.
- 4.11 **Severance** - If any part of this Agreement is held to be invalid, illegal or unenforceable by a court having the jurisdiction to do so, that part is to be considered to have been severed from the rest of this Agreement and the rest of this Agreement remains in force unaffected by that holding or by the severance of that part.
- 4.12 **Equitable Remedies** – The Owner acknowledges and agrees that damages would be an inadequate remedy for the City for breach of this Agreement and that the public interest strongly favours specific performance, injunctive relief (mandatory or otherwise), or other equitable relief, as the only adequate remedy for a default under this Agreement.
- 4.13 **No Other Agreements** - This Agreement is the entire agreement between the parties regarding its subject and it terminates and supersedes all other agreements and arrangements regarding its subject.
- 4.14 **Amendment** - This Agreement may be discharged, amended or affected only by an instrument duly executed by both the Owner and the City.
- 4.15 **Enurement** - This Agreement binds the parties to it and their respective successors, heirs, executors and administrators. Reference in this Agreement to the "City" is a reference also to the elected and appointed officials, employees and agents of the City.
- 4.16 **Deed and Contract** - By executing and delivering this Agreement each of the parties intends to create both a contract and a deed executed and delivered under seal.



**IN WITNESS WHEREOF** the parties hereunto have executed this Agreement on the date and year first above written.

**SIGNED, SEALED & DELIVERED** in the presence of: )

*Wanda Agor*  
 Signature of Witness )

Wanda Agor  
 Print Name )

1279 Centennial Cr  
 Address Kelowna. )

Executive Assistant  
 Occupation )

**"OWNER"** by its authorized signatories:

*H. Hubert*

Helmut Hubert  
 Print Name:

*[Signature]*

Tom Smithwick  
 Print Name:

**SIGNED, SEALED & DELIVERED** in the presence of: )

\_\_\_\_\_  
 Signature of Witness )

\_\_\_\_\_  
 Print Name )

\_\_\_\_\_  
 Address )

\_\_\_\_\_  
 Occupation )

**CITY OF KELOWNA** by its authorized signatories:

\_\_\_\_\_  
 Mayor

\_\_\_\_\_  
 City Clerk

# Housing Agreement Bylaw Freedom's Door

Rental Housing Grants  
Housing Policy & Programs



# Background

- ▶ Rental Housing Grant – Freedom’s Door
  - ▶ 1330, 1340, 1350-1352 Beldaire Ave
  - ▶ 12-unit townhouse development
  - ▶ Non-market rental housing

# Council Policy 335

- ▶ Council Policy #335 – Rental Housing Grants Eligibility
  - ▶ Units must be secured through a Housing Agreement with the City of Kelowna or long-term operating agreement with BC Housing

# Staff Recommendation

- ▶ Staff recommend **support** for the Housing Agreement Bylaw:
  - ▶ Ensures 12 townhouse units will be secured as non-market rental housing for a minimum of 10 years
  - ▶ Requires the non-market rental housing be operated by a non-profit society



**CITY OF KELOWNA**

**BYLAW NO. 12720**

**Housing Agreement Authorization Bylaw – Resurrection Recovery  
Resource Society, Inc.No. Soo45391**

**1330, 1340, 1350-1352 Belaire Avenue**

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Whereas pursuant to Section 483 of the *Local Government Act*, a local government may, by bylaw, enter into a housing agreement.

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

1. The Municipal Council hereby authorizes the City of Kelowna to enter into a Housing Agreement with Resurrection Recovery Resource Society, Inc.No. Soo45391 for the lands known as:

- a) Lot 31 District Lot 137 ODYD Plan 10011,
- b) Lot 32 District Lot 137 ODYD Plan 10011, and
- c) Lot 33 District Lot 137 ODYD Plan 10011,

located on Belaire Avenue, Kelowna, B.C., a true copy of which is attached to and forms part of this bylaw as Schedule "A".

2. The Mayor and City Clerk are hereby authorized to execute the attached agreement as well as any conveyances, deeds, receipts or other documents in connection with the attached agreement.
3. 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, second and third time by the Municipal Council this

Adopted by the Municipal Council of the City of Kelowna this

---

Mayor

---

City Clerk

# Schedule "A"

Page 1

## PURPOSE-BUILT RENTAL HOUSING AGREEMENT

THIS AGREEMENT dated for reference October 8, 2024 affects:

### LEGAL DESCRIPTION OF PROPERTY SUBJECT TO THE AGREEMENT:

Lot 31 District Lot 137 ODYD Plan 10011;  
Lot 32 District Lot 137 ODYD Plan 10011; and  
Lot 33 District Lot 137 ODYD Plan 10011

("Land")

And is

### BETWEEN:

**RESURRECTION RECOVERY RESOURCE SOCIETY, INC. NO. S45391**  
1279 Centennial Cres  
Kelowna, BC  
V1Y 6K3

("Owner")

AND:

**CITY OF KELOWNA**, a local government incorporated pursuant to the *Community Charter* and having its offices at 1435 Water Street, Kelowna, B.C. V1Y 1J4

("City")

GIVEN THAT:

- A. Section 483 of the *Local Government Act* permits the City to enter into housing agreements for provision of affordable and special needs housing, which may include conditions in respect to the form of tenure of housing units, availability of housing units to classes of persons, administration of housing units and rent which may be charged for housing units;
- B. The Owner and the City wish to enter into this Agreement to provide for purpose-built rental housing on the terms and conditions set out in this Agreement, and agree that this Agreement is a housing agreement under s. 483 of the *Local Government Act*; and
- C. The City has, by bylaw, authorized the execution of this Agreement and the Owner has duly authorized the execution of this Agreement;

This Agreement is evidence that in consideration of \$1.00 paid by the City to the Owner (the receipt of which is acknowledged by the Owner) and in consideration of the promises exchanged below, the City and Owner agree, as a housing agreement between the Owner and the City under s. 483 of the *Local Government Act*, as follows:

**ARTICLE 1  
INTERPRETATION**

**1.1 Definitions -**

"Caregiver" means an individual who provides assistance with the performance of the personal functions and activities necessary for daily living that a person is unable to perform efficiently for himself or herself;

"City" means the City of Kelowna;

"Dwelling Unit" means accommodation providing sleeping rooms, washrooms, and no more than one kitchen, intended for domestic use, and used or intended to be used permanently or semi-permanently for a Household. This use does not include a room in a hotel or a motel.

"Household" means

- (a) a person;
- (b) two or more persons related by blood, marriage, or adoption; or associated through foster care, all living together in one dwelling unit as a single household using common cooking facilities;
- (c) a group of not more than five persons, including boarders, who are not related by blood, marriage, or adoption, or associated through foster care, all living together in one dwelling unit as a single household using common cooking facilities; or
- (d) a combination of (b) and (c), provided that the combined total does not include more than 3 persons unrelated by blood, marriage or adoption or associated through foster care; all living together in one dwelling unit as a single household using common cooking facilities.

In addition, a household may also include up to one Caregiver or nanny;

"Land" means the land described herein;

"LTO" means the Kamloops Land Title Office or its successor;

"Official Community Plan" means the City of Kelowna Official Community Plan Bylaw No. 10500, or its successor bylaw;

"Owner" means the registered owner of the Lands from time to time and any parcels into which the Lands are subdivided;

"Purpose-Built Rental Housing" means a Dwelling Unit that is intended to be used for rental housing; and

"Tenancy Agreement" means a tenancy agreement as defined in, and subject to, the *Residential Tenancy Act*.

**1.2 Interpretation - In this Agreement:**

- (a) reference to the singular includes a reference to the plural, and vice versa, unless the context requires otherwise;

- (b) article and section headings have been inserted for ease of reference only and are not to be used in interpreting this Agreement;
- (c) reference to a particular numbered section or article, or to a particular lettered Schedule, is a reference to the correspondingly numbered or lettered article, section or Schedule of this Agreement;
- (d) if a word or expression is defined in this Agreement, other parts of speech and grammatical forms of the same word or expression have corresponding meanings;
- (e) the word "enactment" has the meaning given in the *Interpretation Act* on the reference date of this Agreement;
- (f) reference to any enactment includes any regulations, orders or directives made under the authority of that enactment;
- (g) reference to any enactment is a reference to that enactment as consolidated, revised, amended, re-enacted or replaced, unless otherwise expressly provided;
- (h) the provisions of s. 25 of the *Interpretation Act* with respect to the calculation of time apply;
- (i) time is of the essence;
- (j) all provisions are to be interpreted as always speaking;
- (k) reference to a "party" is a reference to a party to this Agreement and to their respective successors, assigns, trustees, administrators and receivers;
- (l) reference to a "day", "month", "quarter" or "year" is a reference to a calendar day, calendar month, calendar quarter or calendar year, as the case may be, unless otherwise expressly provided;
- (m) the definitions given in the City of Kelowna Zoning Bylaw No. 8000, or its successor bylaw, and the Official Community Plan apply for the purposes of this Agreement; and
- (n) any act, decision, determination, consideration, consent or exercise of discretion by a party, or other person, as provided in this Agreement will be performed, made or exercised acting reasonably.

**1.3 Purpose of Agreement** - The Owner and the City agree that:

- (a) this Agreement is intended to serve the public interest by providing for occupancy of a certain number of Dwelling Units, of the kinds provided for in this Agreement, that are in demand in the City of Kelowna but that are not readily available;
- (b) damages are not an adequate remedy to the City in respect of any breach of this Agreement by the Owner, such that the Owner agrees the City should be entitled to an order for specific performance, injunction or other specific relief respecting any breach of this Agreement by the Owner.

**ARTICLE 2  
HOUSING AGREEMENT AND LAND USE RESTRICTIONS**

**2.1 Land Use Restrictions** - The Owner and the City hereby covenant and agree as follows:

- (a) The Land will be used only in accordance with this Agreement;



- (b) The Owner will design, construct and maintain one or more buildings providing 12 Dwelling Units as Purpose-Built Rental Housing.
- (c) The Owner acknowledges that the City will not support applications to stratify the building(s) on the Land, thereby allowing the identified Purpose-Built Rental Housing Dwelling Units to be sold independently of each other, for a period of ten (10) years from the date of this Agreement.
- (d) Dwelling Units on the Land must be operated by a non-profit housing provider.

**ARTICLE 3  
HOUSING AGREEMENT AND TRANSFER RESTRICTIONS**

**3.1 Purchaser Qualifications** - The City and the Owner agree as follows:

- (a) the Owner will not sell or transfer, or agree to sell or transfer, any interest in any building containing Purpose-Built Rental Housing Dwelling Units on the Land other than a full interest in the fee simple title to an agency or individual that will continue to ensure that the Purpose-Built Rental Housing Dwelling Units are available in accordance with this Agreement.

**3.2 Use and Occupancy of Purpose-Built Rental Housing Dwelling Unit** - The Owner agrees with the City as follows:

- (a) the Owner will rent or lease each Purpose-Built Rental Housing Dwelling Unit on the Land in accordance with the *Residential Tenancy Act*, unless exempted under Section 4 of the *Act*, and in no event may the Owner itself occupy a Purpose-Built Rental Housing Dwelling Unit or use the Purpose-Built Rental Housing Dwelling Unit for short-term vacation accommodation; and
- (b) the Owner will deliver a copy of the Tenancy Agreement for each Purpose-Built Rental Housing Dwelling Unit to the City upon demand, unless exempted under Section 4 of the *Residential Tenancy Act*.

**ARTICLE 4  
GENERAL**

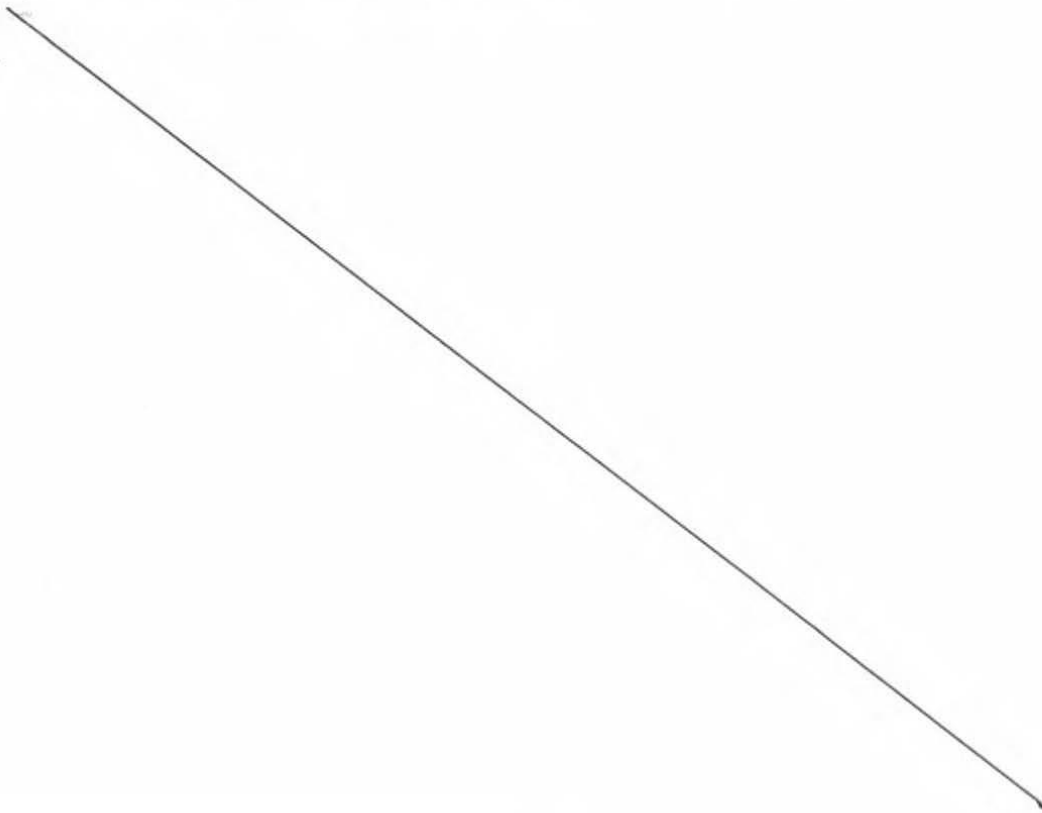
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- (c) once such a notice is filed, this Agreement binds all persons who acquire an interest in the Land;
- (d) in the event the parties agree to release this Agreement from the title of the Land, which may not occur before the tenth (10<sup>th</sup>) anniversary of the date of this Agreement, the Owner will repay the City for 100% of the amount of the rental grant received from the City. Such repaid funds will be directed to the City's Housing Opportunities Reserve Fund.

**4.2 No Effect On Laws or Powers** - This Agreement does not

- (a) affect or limit the discretion, rights, duties or powers of the City under any enactment or at common law, including in relation to the use or subdivision of land,
  - (b) impose on the City any legal duty or obligation, including any duty of care or contractual or other legal duty or obligation, to enforce this Agreement,
  - (c) affect or limit any enactment relating to the use or subdivision of land, or
  - (d) relieve the Owner from complying with any enactment, including in relation to the use or subdivision of land.
- 4.3 Management** – The Owner covenants and agrees that it will furnish good and efficient management of the Dwelling Units and will permit representatives of the City to inspect the Dwelling Units at any reasonable time, subject to the notice provisions of the *Residential Tenancy Act*, if applicable. The Owner further covenants and agrees that it will maintain the Dwelling Units in a satisfactory state of repair and fit for habitation and will comply with all laws, including health and safety standards applicable to the Land. Notwithstanding the foregoing, the Owner acknowledges and agrees that the City, in its absolute discretion, may require the Owner, at the Owner's expense, to hire a person or company with the skill and expertise to manage the Dwelling Units.
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- 4.6 Limitation on Owner's Obligations** - The Owner is only liable for breaches of this Agreement that occur while the Owner is the registered owner of the Land.
- 4.7 Release** – The Owner by this Agreement releases and forever discharges the City and each of its elected officials, officers, directors, employees and agents, and its and their heirs, executors, administrators, personal representatives, successors, and assigns, from and against all claims, demands, damages, actions, or causes of action by reason of or arising out of advice or direction respecting the ownership, lease, operation or management of the Land or the Dwelling Units which has been or at any time after the commencement of this Agreement may be given to the Owner by all or any of them. This clause will survive the termination of this Agreement.
- 4.8 Joint Venture** – Nothing in this Agreement will constitute the Owner as the agent, joint venturer, or partner of the City or give the Owner any authority to bind the City in any way.
- 4.9 Waiver** - An alleged waiver of any breach of this Agreement is effective only if it is an express waiver in writing of the breach. A waiver of a breach of this Agreement does not operate as a waiver of any other breach of this Agreement.

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- 4.12 Equitable Remedies** – The Owner acknowledges and agrees that damages would be an inadequate remedy for the City for breach of this Agreement and that the public interest strongly favours specific performance, injunctive relief (mandatory or otherwise), or other equitable relief, as the only adequate remedy for a default under this Agreement.
- 4.13 No Other Agreements** - This Agreement is the entire agreement between the parties regarding its subject and it terminates and supersedes all other agreements and arrangements regarding its subject.
- 4.14 Amendment** - This Agreement may be discharged, amended or affected only by an instrument duly executed by both the Owner and the City.
- 4.15 Enurement** - This Agreement binds the parties to it and their respective successors, heirs, executors and administrators. Reference in this Agreement to the "City" is a reference also to the elected and appointed officials, employees and agents of the City.
- 4.16 Deed and Contract** - By executing and delivering this Agreement each of the parties intends to create both a contract and a deed executed and delivered under seal.



IN WITNESS WHEREOF the parties hereunto have executed this Agreement on the date and year first above written.

SIGNED, SEALED & DELIVERED in the presence of:

Wanda Agar  
Signature of Witness

Wanda Agar  
Print Name

1279 Centennial Cr  
Address Kelowna.

Executive Assistant  
Occupation

"OWNER" by its authorized signatories:

H. Hubert

Helmut Hubert  
Print Name:

Tom Smithwick

Print Name:

SIGNED, SEALED & DELIVERED in the presence of:

\_\_\_\_\_  
Signature of Witness

\_\_\_\_\_  
Print Name

\_\_\_\_\_  
Address

\_\_\_\_\_  
Occupation

CITY OF KELOWNA by its authorized signatories:

\_\_\_\_\_  
Mayor

\_\_\_\_\_  
City Clerk



# Report to Council



**Date:** November 18, 2024  
**To:** Council  
**From:** City Manager  
**Subject:** Cannabis Business Licensing Updates  
**Department:** Business Licensing

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**Recommendation:**

THAT Council receives, for information, the report from Business Licensing, dated November 18, 2024, recommending that Council rescind the Medical Marihuana Production Regulation Business Bylaw No. 10920 and consider amendments to the Business Licence and Regulation Bylaw No. 12585 and Bylaw Notice Enforcement Bylaw No. 10475;

AND THAT Bylaw No. 12727, being Amendment No. 1 to Business Licence and Regulation Bylaw, No. 12585 be forwarded for reading consideration;

AND THAT Bylaw No. 12728, being Amendment No. 37 to Bylaw Notice Enforcement Bylaw No. 10475 be forwarded for reading consideration;

AND FURTHER THAT Council direct staff to notify all cannabis producers and retailers within the City with pending and approved business licences, as well as place a newspaper advertisement, allowing for comments to be submitted to the Business Licensing Supervisor no later than 4 p.m. on November 27, 2024.

**Purpose:**

To repeal Medical Marihuana Production Regulation Business Bylaw No. 10920 and update Business Licence and Regulation Bylaw No. 12585 and Bylaw Notice Enforcement Bylaw No. 10475 to reflect current cannabis legislation and practices.

**Background:**

Since the legalization of cannabis in Canada on October 17, 2018, federal, provincial, and municipal regulations have evolved. The City's Zoning Bylaw has been updated accordingly, addressing the licensing of cannabis producers and retailers. This report recommends rescinding the now obsolete Medical Marijuana Production Regulation Business Bylaw No. 10920 and updating the Business Licence and Regulation Bylaw No. 12585 to incorporate relevant cannabis-related definitions, regulations, and

fees. Furthermore, to ensure all related bylaws are updated, the Bylaw Notice Enforcement Bylaw No. 10475 will be amended to remove the section with charges related to the Medical Marijuana Production Bylaw.

**Discussion:**

The Medical Marijuana Production Regulation Business Bylaw No. 10920 is no longer relevant, as it predates significant changes in cannabis legislation and local industry needs. Since cannabis legalization, the City has established a regulatory framework for licensing cannabis-related businesses. The proposed amendments to the Business Licence and Regulation Bylaw reflect these changes and support the administration of the City's cannabis licensing program.

The proposed amendments to the Business Licence and Regulation Bylaw introduce cannabis-specific definitions and establish special use provisions that outline requirements for ventilation, waste management, and water supply protections. These measures are designed to prevent any negative impact on City infrastructure and assets while ensuring full compliance with City standards. The amendments also set fees for cannabis-related businesses, consistent with those for other businesses operating under similar regulatory frameworks.

Research from other municipalities, including Abbotsford, Nanaimo, Prince George, Vancouver, and Victoria, informed the decision to integrate these changes into the existing business licence bylaw, rather than creating a separate bylaw. This approach ensures user-friendly access to the regulations.

As required by legislation, the affected parties will be given an opportunity to provide input on the proposed bylaw changes. A letter will be sent to all cannabis producers and retailers with a pending or approved business licence within the City, and an advertisement will be placed in the newspaper, and public comments can be submitted until 4 p.m. on November 27, 2024.

**Conclusion:**

Council's approval of the amendments will streamline cannabis business licensing and enhance the City's regulatory framework. This will support the administration of the City's cannabis licensing program.

**Internal Circulation:**

Utility Services  
Water Quality and Customer Care  
Development Services  
Financial Planning  
Office of the City Clerk

**Considerations applicable to this report:**

***Legal/Statutory Authority:***

Community Charter Sections 15, 16, 59 and 60.

***Legal/Statutory Procedural Requirements:***

Community Charter Section 59 (2)

***Existing Policy:***

***Financial/Budgetary Considerations:***

***Consultation and Engagement:***

Comments from the public to be submitted to the Business Licensing Supervisor no later than 4pm on November 27, 2024.

***Communications Comments:***

Submitted by:

G. March, Business Licensing Supervisor

**Approved for inclusion:**

R. Smith, Divisional Director, Planning, Climate Action & Development Services

# Cannabis Business Licensing Updates

November 18, 2024



# Purpose:

To reflect current cannabis legislation and practices by:

- ▶ Repealing the Medical Marihuana Production Bylaw No. 10920, and;
- ▶ Amending the Business Licence and Regulation Bylaw No. 12585, and;
- ▶ Amending the Bylaw Notice enforcement Bylaw No. 10475

# Background:

- ▶ May 26, 2014 – The Medical Marijuana Production Regulation Business Bylaw No. 10920 was adopted
- ▶ October 18, 2018 - The Government of Canada introduced the Cannabis Act, which legalized and regulated access to cannabis
- ▶ Zoning Bylaw No. 12375 regulates where cannabis producers and retailers are able to operate

# Key Objectives:

- ▶ Ensure bylaws align with current federal and provincial cannabis legislation
- ▶ Prevent negative impacts on City infrastructure and assets
  - ▶ waste management
  - ▶ water supply protections
  - ▶ ventilation (odour control)
- ▶ Realign cannabis related licensing fees

# Notification and Consultation

- ▶ Legislative requirement to provide opportunity for persons affected to make representation
- ▶ Notify cannabis producers and retailers
- ▶ Publish newspaper advertisements in Daily Courier City-in-Action section
- ▶ Written comments to be submitted by end of day November 27<sup>th</sup>



# Update to Bylaw Notice Enforcement Bylaw No. 10475

- ▶ Remove section with charges related to Medical Marihuana Bylaw
- ▶ Proposed regulation are covered by charges related to the Business Licence Bylaw No. 12585

# Conclusion:

The proposed amendments will:

- ▶ Streamline licensing for cannabis businesses
- ▶ Update fees to align with other regulated industries
- ▶ Protect City infrastructure with targeted compliance measures
- ▶ Address remaining gaps in the City's cannabis regulation program



*Questions?*

For more information, visit [kelowna.ca](http://kelowna.ca).

**CITY OF KELOWNA**  
**Bylaw No. 12727**  
**Amendment No. 1 to**  
**Business Licence and Regulation Bylaw, No. 12585**

---

The Municipal Council of the City of Kelowna, in open meeting assembled, enacts that the Business Licence and Regulation Bylaw, No. 12585 be amended as follows:

1. THAT **Part 2 – Definitions, Section 2.2** be amended by adding the following new defined terms, in the appropriate alphabetical order:
  - 1.1. “**CANNABIS** as defined by the *Cannabis Act*, SC 2018, c.16 as amended or replaced from time to time.”
  - 1.2. “**CANNABIS PRODUCTION BUSINESS** means a **premises** for producing, processing, sorting, providing, shipping, delivering, or destroying **cannabis** or a **cannabis**-related product. Must include a Health Canada licensed process or activity pertaining to cannabis such as analytical testing, micro or standard cultivation, nursery, processing, research, wholesale sale, production for a medical or non-medical purpose. This does not include the retail sale or dispensing of **cannabis**.”
  - 1.3. “**CANNABIS RETAIL SALES ESTABLISHMENT** means a **premises** used for the retail sale of **cannabis** which holds a licence issued by the **BCLCRB**.”
2. THAT **Part 8 – Regulations for Specific Businesses** be amended by
  - 2.1. Adding the following new sections after Section 8.3 and before Section 8.4:

**“Cannabis**

8.4 Every person operating a **Cannabis Production Business** must submit to the **Licence Inspector**, at the time of application or within five (5) days of such a request, the following:

    - a) A copy of the Health Canada Cannabis licence indicating licensed activities.
    - b) A ventilation plan that indicates the system used to control the environment
      - i) meets the requirement of Health Canada Licensing standards, and
      - ii) prevents the escape of pollen and other particles through exhausted air ensuring no particles or odours leaving the premises can be detected by a person with a normal sense of smell while standing at the exterior of the premises.
    - c) A waste management plan that demonstrates compliance with Solid Waste Management Regulation Bylaw No. 10106 and indicates the methods used to
      - i) dispose of waste, cannabis, or cannabis byproduct in a manner that protects a person or animal at time of possession or ingestion, including denaturing cannabis.
    - d) A plan that demonstrates compliance with Water Regulation Bylaw No. 10480 and Sanitary Sewer/Storm Drain Regulation Bylaw, No. 6618-90, including
      - i) how backflow prevention protects the water supply delivered to the property or building, and
      - ii) the quality of wastewater to be discharged into the City’s wastewater or storm water collection system.

8.5 Every person operating a **Cannabis Retail Sales Establishment** must submit to the **Licence Inspector**, at the time of application or within five (5) days of such a request, the following:

    - a) A copy of the Cannabis Retail Store Licence issued by the **BCLCRB**.



- b) A floor plan of the **premises** that labels each room or area with its intended use and dimensions, including cannabis storage area, sales counter, cash register location, or security features.”

2.2. Renumbering the remainder of Part 8 to reflect the insertion of new sections.

3. THAT **Schedule “A” Annual Licence Fees** table be amended by adding the following in the appropriate locations:

Type Code	Licence Category	Annual Licence Fee(s)
“1055	CANNABIS PRODUCTION An establishment intended to operate as a <b>Cannabis Production Business.</b>	\$650”
“1056	CANNABIS RETAIL SALES ESTABLISHMENT An establishment intended to operate as a <b>Cannabis Retail Sales Establishment.</b>	\$650”

- 4. The Medical Marihuana Producer Business Licence and Regulation Bylaw No. 10920 including all amendments is hereby repealed.
- 5. This bylaw may be cited as "Bylaw No. 12727, being Amendment No. 1 to Business Licence and Regulation Bylaw, No. 12585".
- 6. 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, 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. 12728

### Amendment No. 37 to Bylaw Notice Enforcement Bylaw No. 10475

The Municipal Council of the City of Kelowna, in open meeting assembled, enacts that the Bylaw Notice Enforcement Bylaw No. 10475 be amended as follows:

1. THAT Schedule 'A', Table for Business Licence Bylaw No. 12585, be amended by adjusting the following Section references:
  - 1.1. Deleting "8.7" and replacing with "8.8"
  - 1.2. Deleting "8.8" and replacing with "8.9"
  - 1.3. Deleting "8.14" and replacing with "8.15"
  - 1.4. Deleting both instances of "8.15" and replacing both with "8.16"
2. THAT Schedule 'A' be amended by deleting Medical Marihuana Producer Business Licence and Regulation Bylaw No. 10920 in its entirety that reads:

<b>Medical Marihuana Producer Business Licence and Regulation Bylaw No. 10920</b>						
10920	4.4	Carry on business without a licence	\$500.00	\$450.00	\$500.00	Yes
10920	8.1	Transfer a business without approval	\$100.00	\$90.00	\$110.00	Yes
10920	8.2	Fail to pay transfer fee	\$50.00	\$45.00	\$55.00	Yes
10920	9.1	Use contrary to issued licence	\$500.00	\$450.00	\$500.00	Yes
10920	11.1 (a), (b), (c), (d), (e), (f), (g), (h), (i), (j)	Fail to submit required plan, declaration, licence or identification number (for each offence)	\$100.00	\$90.00	\$110.00	Yes
10920	11.1 (k)	Fail to submit names of employees	\$100.00	\$90.00	\$110.00	Yes
10920	11.1 (k)	Fail to provide employee changes	\$100.00	\$90.00	\$110.00	Yes
10920	11.1 (j)	Fail to submit criminal records check	\$100.00	\$90.00	\$110.00	Yes
10920	13.1	Fail to display business license	\$50.00	\$45.00	\$55.00	Yes
10920	15.1	Prohibit entry of License Inspector	\$500.00	\$450.00	\$500.00	Yes

3. This bylaw may be cited as "Bylaw No. 12728, being Amendment No. 37 to Bylaw Notice Enforcement Bylaw No. 10475".

4. 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, second and third time by the Municipal Council this

Adopted by the Municipal Council of the City of Kelowna this

\_\_\_\_\_  
Mayor

\_\_\_\_\_  
City Clerk

# Report to Council



**Date:** November 18, 2024  
**To:** Council  
**From:** City Manager  
**Subject:** Third Quarter 2024 Financial Performance  
**Department:** Financial Services

---

**Recommendation:**

THAT Council receives, for information, the Report from Financial Services dated November 18, 2024, with respect to Third Quarter 2024 Financial Performance.

**Purpose:**

To provide Council with information summarizing the City of Kelowna’s third quarter financial activity in alignment with the presentation of the 2024 Financial Plan reflecting activities through a service-based model.

**Background:**

The Financial Services Department is committed to continuous improvement. As we navigate economic changes and a shifting macro environment, staff provide regular performance reporting throughout the year to improve governance and financial oversight. This report presents the third quarter financial performance against the budget and prior year activity.

**Discussion:**

Performance to date

The performance against budget, as seen in the table below, indicates that consolidated revenues and spending are trending near target, with some economic variances from budget. Investment revenue is exceeding the target, while service area revenues and expenses have seen some fluctuation from target. The timing of taxation revenue collection sees nearly 100% to budget in the third quarter. This is an anticipated variance as taxation collection predominantly occurs in the second quarter.



End of year budget variance projections follow the table below:

Activity Ratio	Description	Third Quarter Performance
Revenue to Budget	Measures revenue performance against original and amended net budget. This metric allows management/Council to identify revenue gaps or surpluses, and to adjust where required to reach financial goals.	<b>Group: Revenue</b> <ul style="list-style-type: none"> <li>➤ <b>\$429M (96%)</b> <ul style="list-style-type: none"> <li>○ <b>Top Source: Property &amp; Parcel Tax (\$198M)</b></li> <li>○ <b>Top Service: Enabling Services (\$282M)</b></li> </ul> </li> </ul>
Spending to Budget	Measures performance against original and amended net budget. This measure provides an indication of progress toward planned outcomes.	<b>Group: Spending</b> <ul style="list-style-type: none"> <li>➤ <b>\$261M (71%)</b> <ul style="list-style-type: none"> <li>○ <b>Top Source: Salaries &amp; Wages (\$102M)</b></li> <li>○ <b>Top Service: Enabling Services (\$56M)</b></li> </ul> </li> </ul>
Payroll Spending to Budget	Measures salary performance, the City's largest expenditure, against original and amended budget. This measure assesses the extent of staff resources utilized for service delivery relative to the planned needs outlined in the budget.	<b>Group: Spending Source</b> <ul style="list-style-type: none"> <li>➤ <b>\$102M (78%)</b> <ul style="list-style-type: none"> <li>○ <b>Top Service: Enabling Services (\$25M)</b></li> </ul> </li> </ul>
Capital Spending Burn Rate	Measures the percentage of annual capital budget being used and indicates the City's ability to deliver on its capital program.	<b>Group: Capital Projects</b> <ul style="list-style-type: none"> <li>➤ <b>\$151M (61%)</b></li> </ul>
Investment Income to Budget	As a rapidly growing city, investment income will continue to be a greater part of our annual budget. A more specific metric than Revenue Earned/Budget, this metric specifically measures investment returns to allow management/Council to manage the ongoing impacts of economic volatility.	<b>Group: Revenue Source</b> <ul style="list-style-type: none"> <li>➤ <b>\$29M (133%)</b></li> </ul>

### Service Area budget projections by year-end

Airport	Expenses under target
Arts & Culture	Near Budget
Community Development	Revenues and expenses under target
Community Safety & Bylaw	Near Budget
Development Planning	Near Budget
Development Services	Revenue and expenses under target
Enabling Services	Investment income above target
Fire Safety	Near Budget
Governance & Leadership	Near Budget
Parking	Revenue above target
Parks	Near Budget
Partnerships & Relationships	Revenues and expenses under target
Police Services	Expense above target
Solid Waste & Landfill	Near Budget
Sport & Recreation	Near Budget
Stormwater	Near Budget
Transit	Near Budget
Transportation	Near Budget
Wastewater Utility	Near Budget
Water Utility	Revenue and expenses under target

### Risks Identified

The financial activities and progress to date have been stable and reveal no indication of potential future risks.

### Budget adjustments

Third quarter budget adjustments and transfers will be presented through a separate Report to Council. This will include one adjustment totaling \$4M (*2024 Budget: \$400k, 2025 Budget: \$3.6M*) with no impact to taxation demand.

### **Conclusion:**

The third quarter's financial performance reflects a positive outlook for the organization. The performance across multiple service areas demonstrates the effectiveness of our financial planning and resource allocation strategies.

### **Internal Circulation:**

Financial Planning Manager

**Considerations not applicable to this report:**

***Legal/Statutory Authority:***

***Legal/Statutory Procedural Requirements:***

***Existing Policy:***

***Financial/Budgetary Considerations:***

***Consultation and Engagement:***

***Communications Comments:***

**Submitted by:** M. Friesen, Controller, Financial Services

**Approved for inclusion:** M. Warrender, Deputy Chief Financial Officer, Financial Services

**Attachments:**

Appendix A. Presentation to council

cc:

J. Sass, General Manager, Corporate Services Division



# Measuring Financial Performance

City of Kelowna's Third Quarter Financial Activity

November 18, 2024



# Purpose

- Present an understanding of our financial performance
- Provide insights into the factors driving our financial performance.
  - Revenue and expenditure trends
  - Performance against budget
  - Investment income
  - Capital spending

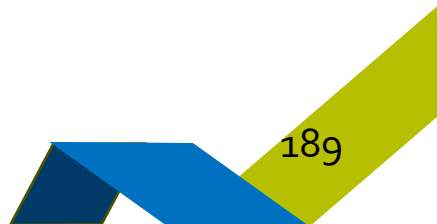
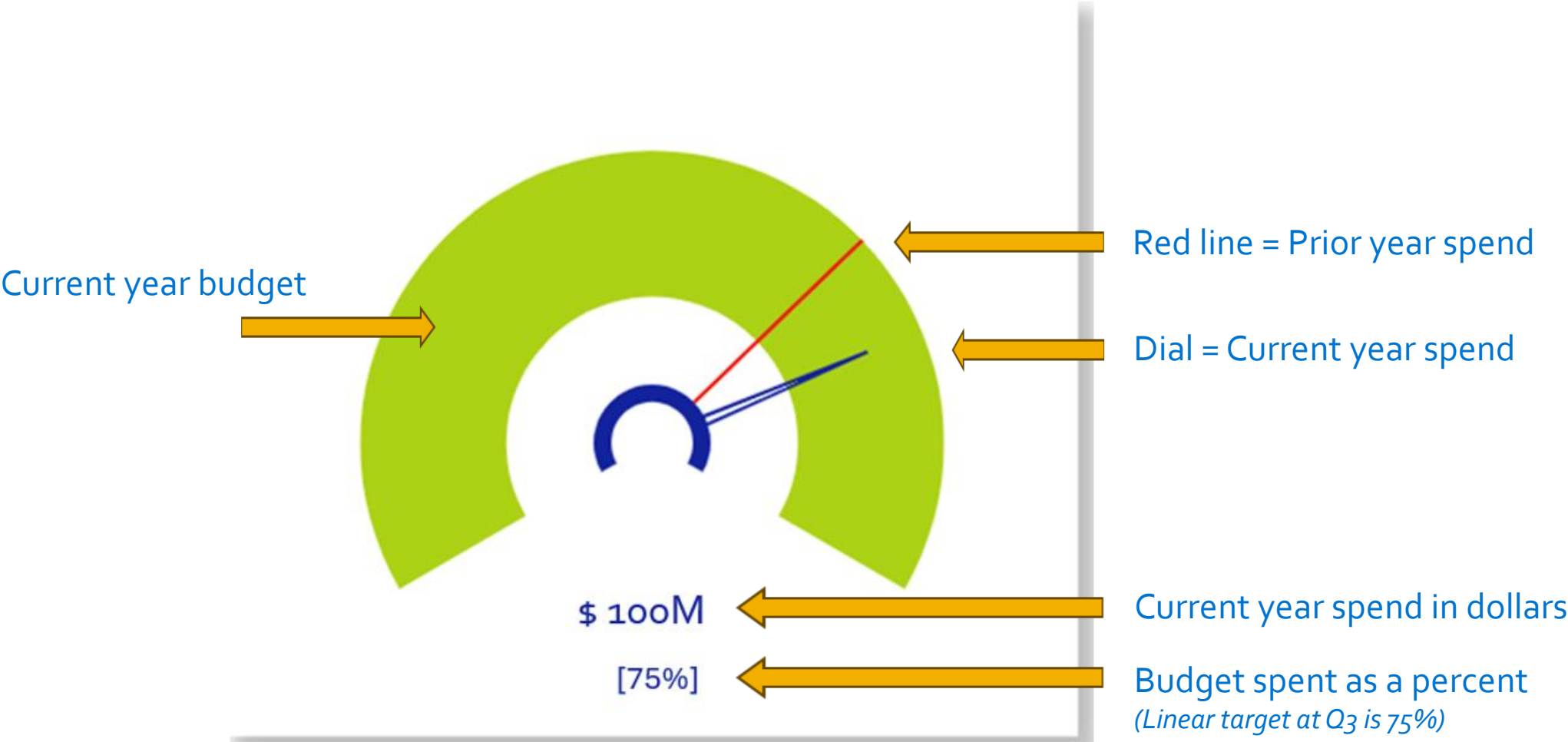


# Financial Performance Measures

- Revenue Activity
- Spending Activity
  - Operating
  - Payroll
  - Capital
- Investment Activity
- Performance Summary
- Budget Adjustments



# Graphic explanation





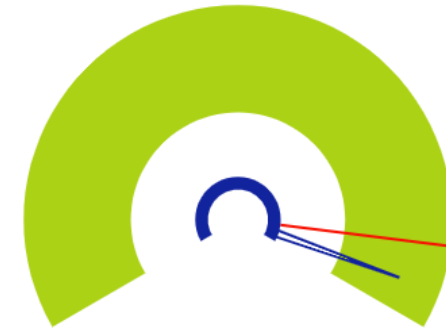
# Revenue By Source

The City of Kelowna has multiple revenue sources including:

- **Property taxes** that are levied on properties based on the municipal taxation demand;
- **Parcel taxes** which are levied through bylaw on properties receiving a specific service;
- **Fees & charges** for public services like water, parking, and building permits and fines for things like bylaw infractions;
- **Grants** are funds awarded to the City by various grantors to be used for a specific purpose;
- **Material and other** revenues earned in interest and through government transfers.

Year-to-date activity includes higher than budgeted investment revenue. Other revenue inflows are trending near target, with some economic fluctuations.

## Revenue to Budget



\$429M  
[96%]

### Fees and Charges



\$140M  
[78%]

### Grants



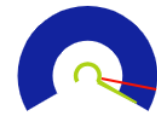
\$20M  
[64%]

### Other



\$72M  
[182%]

### Property & Parcel Tax



\$198M  
[100%]

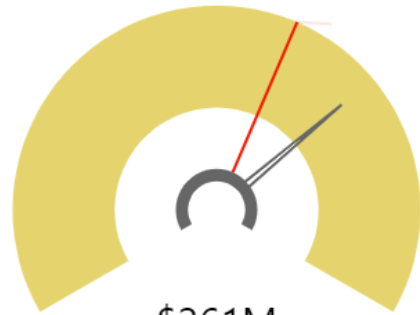


Service revenue: trending near target with some economic fluctuations from target.



\* Other Services: Arts & Culture, Community Development, Development Planning, Governance & Leadership, Partnerships & Relationships and Stormwater.  
Exclusions: Capital and Transfers.

## Spending to Budget



\$261M

[71%]

### Contract Services



\$80M

[73%]

### Debt Services



\$9M

[62%]

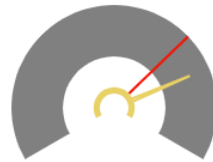
### Material & Other



\$71M

[62%]

### Salaries & Wages



\$102M

[78%]

## Spending by type

Operational expenditures by type can be grouped in the following categories:

- **Salaries & wages** payroll and fringe expenditures;
- **Materials & other** largely comprised of materials, supplies, travel, training and repairs;
- **Contract services** for operational contracts;
- **Debt servicing** including principal and interest payments.

Year-to-date activity is trending near target, with some economic fluctuations.

Spending  
By Type

Exclusions: Capital, Transfers, and Amortization.

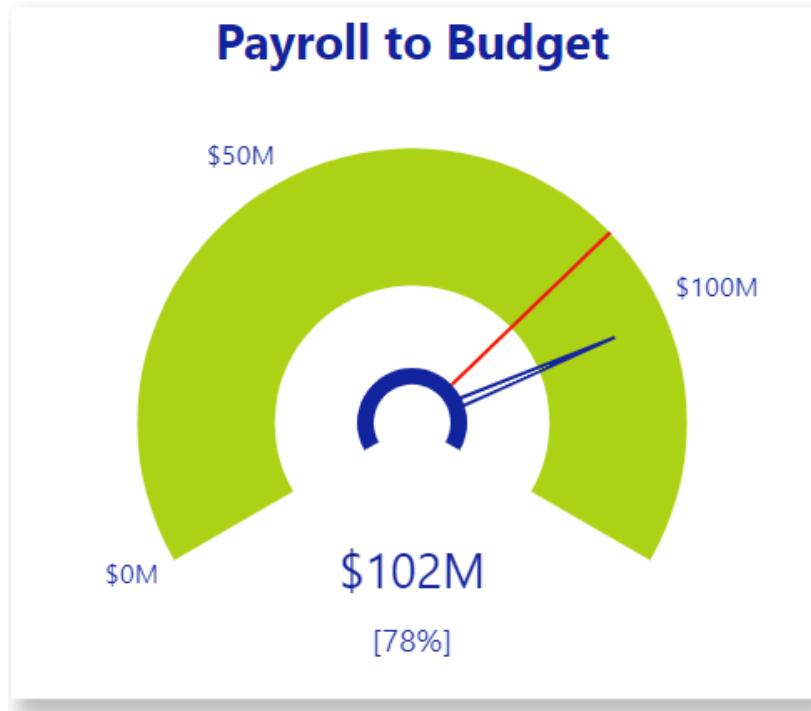
**Service spending:** trending near target with some economic fluctuations from target



\* Other Services: Arts & Culture, Community Development, Development Planning, Governance & Leadership, Partnerships & Relationships and Stormwater. Exclusions: Capital, Transfers, and Amortization.

# Payroll

Budget Analysis



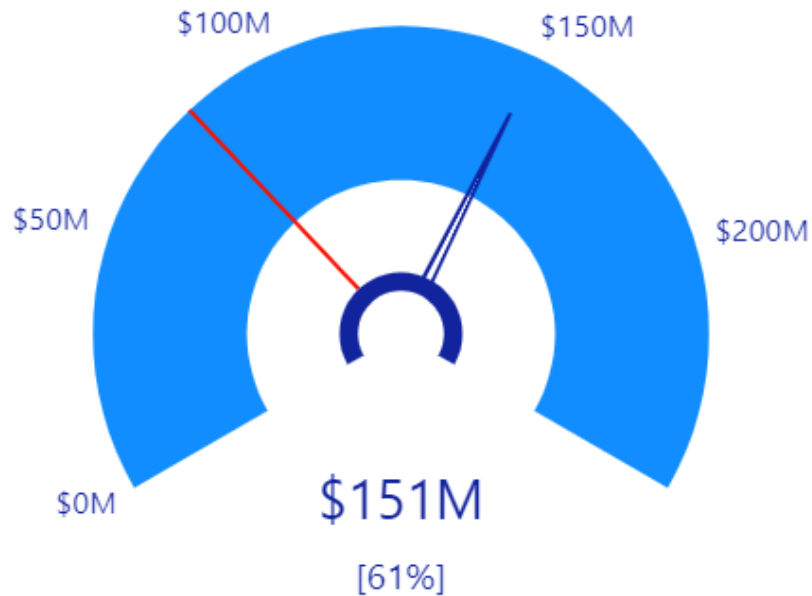
A significant portion of the annual operating budget is for staffing. The City of Kelowna has four collective agreements for municipal staff, and a contract for RCMP services:

- **CUPE Local 338** – collective agreement ratified in 2023 for the term 2024 to 2025;
- **IAFF Local 953** – collective agreement was renewed in 2022 for 2020 to 2024;
- **CUPE Local 338 - Airport** – collective agreement was ratified in 2022 for the term 2020 to 2026;
- **IBEW Local 213** – collective agreement ratified in 2021 for the term;
- **RCMP contract** - the current RCMP collective agreement expired on March 31, 2023;
  - The 2024 contract staffing is at 240 members with a budgeted vacancy factor for 15 members.

Payroll expenditure are trending near budget.



## Capital Spending to Budget



*Capital budget has been annualized.*

The City of Kelowna's capital structure includes twelve capital cost centres:

- Airport
- Fire Equipment
- Information Services
- Real Estate & Parking
- Buildings
- Parks
- Vehicles & Equipment
- Transportation
- Water
- Wastewater
- Solid Waste
- Storm Drainage

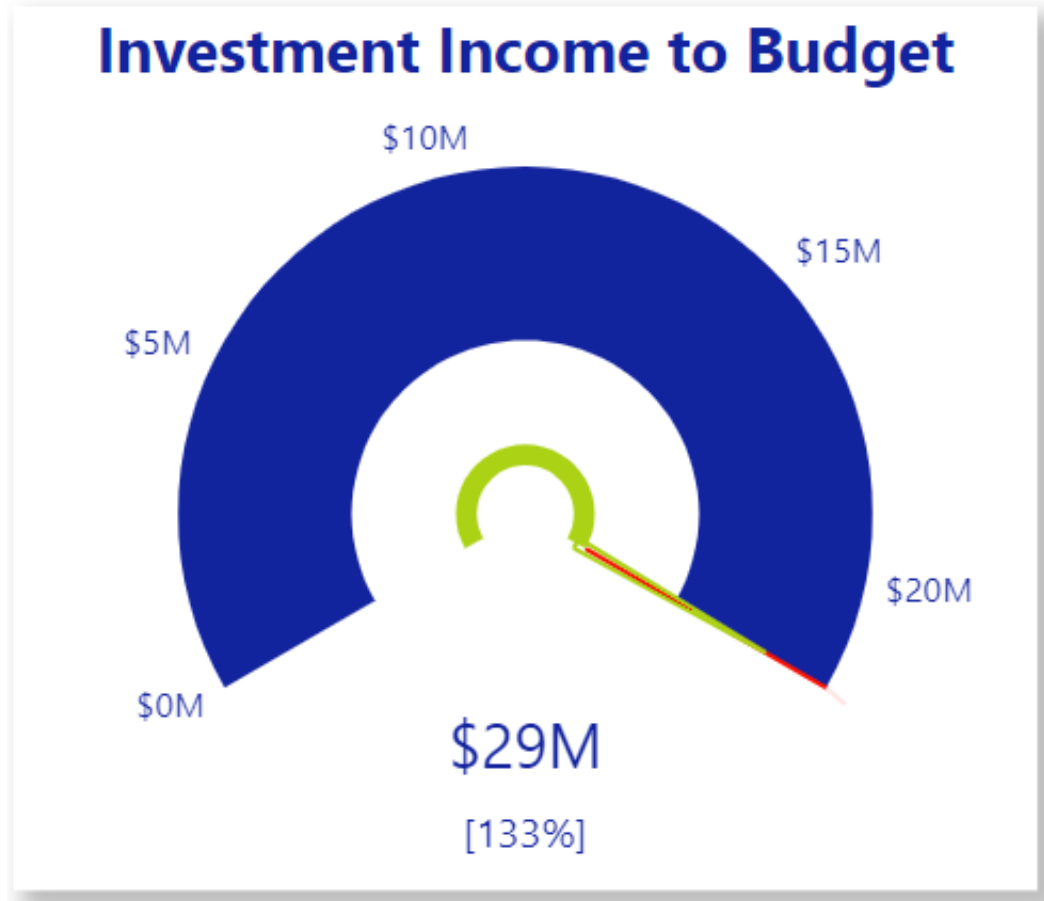
Funding for projects within these cost centres could come from a variety of sources including utility revenues, financial reserves, borrowing, grants or taxation.

Capital activities have increased over previous year.

# Capital Budget Analysis

# Investment Income

*Budget Analysis*



- Investment income is generated through interest on the City's investments and banks accounts.
- Like other own source revenues, investment income serves as a reduction of taxation demand.
- Investment income to date is trending above budget.

# Performance Summary

## Actual activity

- Income streams are diversified in support of our City's economic resilience
- Anticipated variance in grant revenue from the prior year
- Overall revenues and expenses are up over the prior year, as budgeted

## Budget utilization

- Tax collection rates are strong
- Investment income is exceeding the budget
- Operational budget utilization includes some variation to expectations, resulting from economic fluctuations
- Rate of capital delivery continues to improve

# Budget Adjustments

- One third quarter budget adjustment for \$4M
  - 2024 budget: \$4.00M
  - 2025 budget: \$3.6M
- Does not impact the approved taxation demand.
- A separate Report to Council to present the details





*Questions?*

For more information, visit [kelowna.ca](http://kelowna.ca).

# Report to Council



**Date:** November 18, 2024  
**To:** Council  
**From:** City Manager  
**Subject:** Quarter Three Amendment to the 2024 Financial Plan  
**Department:** Financial Planning

---

**Recommendation:**

THAT Council receives, for information, the Report from Financial Services dated November 18, 2024, with respect to quarter three amendments to the 2024 Financial Plan;

AND THAT the 2024 Financial Plan be amended to include budget amendments detailed in this report.

**Purpose:**

To amend the 2024 Financial Plan to include quarter three budget changes outlined in this report.

**Background:**

Budget amendments and transfers are changes to the annual budget that reflect new or updated information, circumstances, or priorities and are frequently required after the City's Financial Plan has been approved by Council. Reasons for amendments vary and may include confirmed grant funding, emergent events, new Council-directed initiatives, new legislation, or regulations, and when unforeseen expenditures are deemed necessary but were not included in the approved Financial Plan.

Budget amendments and transfers are permitted under section 165(1) of the Community Charter (Financial Management). The amendments in all cases do not impact the approved taxation demand but rather result in a shift of funding from one source to another and/or shifts in expenditures within, or from one municipal purpose area to another. As part of the City's commitment to active financial management, redeployment of the forecasted surplus is considered first before other City funds are added to the annual budget. Budget transfers and amendments included in the amended financial plan are permitted under Council Policies #262 Financial Plan Amendment Policy, and #261 Financial Plan Transfer Policy.

**Discussion:**

The following are transfers and amendments being recommended for quarter three of 2024.

*Enabling Services:*

Housing Accelerator Fund (HAF) Initiatives: Funding has been allocated to the seven HAF Initiatives as outlined in the grant agreement. The largest portion of the budget so far has been allocated to land acquisition for affordable housing, and the remainder has been allocated to infrastructure projects and resourcing (staffing and consulting). Budget of \$2.1 million was approved as part of the quarter two budget amendment report. To support quarter three initiatives, an additional budget of \$4.0 million of grant funding is requested, with \$418k required in 2024, and the remainder in 2025. Details of the initiatives included in this amount will be brought forward to Council with greater detail in a separate report by the Planning, Climate Action & Development Services Division.

**Internal Circulation:**

Planning, Climate Action & Development Services

***Legal/Statutory Authority:***

Community Charter section 165

**Considerations not applicable to this report:****Conclusion:*****Legal/Statutory Procedural Requirements:******Existing Policy:******Financial/Budgetary Considerations:******Consultation and Engagement:******Communications Comments:***

Submitted by:

J. Jean, Budget Supervisor

**Approved for inclusion:** J. Sass, CA, CPA Director of Financial Services

cc: M. Antunes, CPA Financial Planning Manager

Attachment:

1. Quarter Three Amendment to the 2024 Financial Plan Presentation



# 2024

## Q3 Amendment to the Financial Plan

November 18, 2024  
Council Chambers

[#kelownabudget](#)  
[Kelowna.ca/budget](https://kelowna.ca/budget)







# Quarterly amendment report background

- ▶ Detail requested changes to Financial Plan
- ▶ Changes during the year
  - ▶ Confirmed grant funding
  - ▶ Emergent events
  - ▶ New Council directed initiatives
  - ▶ New legislation or regulations





# Financial Plan changes

Adjustment Request	<i>\$ thousands</i>	Ongoing / One-time	Funding Source
Housing Accelerator Fund (HAF) Initiatives	4,004	One-time	Deferred Grant





City of

**Kelowna**

Questions?

For more  
information, visit  
[kelowna.ca/budget](http://kelowna.ca/budget)

# Report to Council



**Date:** November 18, 2024  
**To:** Council  
**From:** City Manager  
**Subject:** Stormwater Utility Engagement Results and Next Steps  
**Department:** Utility Services

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**Recommendation:**

THAT Council receives for information, the Report from Utility Services dated November 18, 2024, regarding Stormwater Utility Engagement Results and Next Steps;

AND THAT Council direct staff to prepare principles for bylaw development that align with the tiered-equivalent rate structure option as presented in the report from Utility Services dated November 18, 2024;

AND FURTHER THAT staff return the draft principles to Council for consideration and direction.

**Purpose:**

To update Council on the stormwater utility engagement results and seek direction to prepare principles for stormwater utility bylaw development.

**Council Priority Alignment:**

Climate & Environment

**Background:**

The adoption of stormwater utilities by other Canadian cities demonstrates a viable path forward to ensure a dedicated, non-property taxation revenue structure for municipal stormwater management services. In line with the core value of "innovate to make things better", staff have been investigating a fit-for-Kelowna solution that provides opportunity to incentivize property owners to better meet the City's unique stormwater management needs. With around 80% of impervious (i.e., hard) surfaces in Kelowna on private property, developing a method of encouraging responsible stormwater practices among property owners addresses a critical gap in the City's stormwater management efforts.



Funding stormwater on a utility basis is not new taxation. It is intended to be a shift from property tax, based on assessed value, to user fees and credits based on a property’s impact on the stormwater system.

This multi-year project includes three phases that provide staff and Council multiple opportunities to respond to community feedback before committing to any funding strategy changes. This report outlines the results of *Phase 2: Alignment with community values*.

*Table 1: Project phase names, years, and scope.*

#	Name	Year	Scope
1	Blueprint for a predictable future	2023	Funding structure options and drivers
2	Alignment with community values	2024	Public engagement and detailed rate structure analysis
3	Implementation and change management	2025+	Bylaw adoption and funding framework rollout

On [September 25, 2023](#) (Item 5.4), Council received a report from Utility Services outlining the development of five drivers to be considered when examining any potential funding framework changes. These drivers (Figure 1) were used to evaluate multiple stormwater utility rate structures in search of a fit-for-Kelowna solution. In the same meeting, Council resolved that public engagement on a potential stormwater utility be based on the EQUIVALENT (i.e., Equivalent Residential Unit) and PROPORTIONAL (i.e., Single Family Unit) rate structure options.

*Figure 1: Stormwater funding decision-making drivers.*



*Previous Council Resolution:*

Resolution	Date
AND THAT, future public engagement on a potential stormwater utility be based on rate structure options 4 and 5 as presented in this Report.	September 25, 2023

**Discussion:**

Two proposed rate structure options were presented to the public for feedback (EQUIVALENT and PROPORTIONAL). Based on engagement feedback, a third option (TIERED-EQUIVALENT) was developed. Under all three options industrial, commercial, institutional, mixed-use, and higher-density residential lots are considered in the same way – based on actual imperviousness (i.e., hard surface) with a supporting credit program. The largest difference between the three options is how residential properties with 1-6 dwelling units are considered. In alignment with the simplicity driver the following options were developed:

**EQUIVALENT:** All residential properties with six units or fewer will pay the same rate per dwelling unit, regardless of the unit type, size, or impervious area.

**PROPORTIONAL:** Residential properties with six or fewer units would be separated into two groups: single-family OR multi-family 2-6 units.

**TIERED-EQUIVALENT:** Residential properties with six or fewer units would be separated into three groups based on total impervious area: small, medium, and large.

Analysis and staff recommendation:

Staff, and a supporting consulting team, reviewed the three proposed rate structure options to consider the implications for property owners across a wide range of land uses and alignment with the drivers established in phase 1. The Tiered-Equivalent rate structure aligns best with community feedback and the criteria for evaluating rate options (Figure 2). Attachment B includes details on the comparative analysis of the three rate structure options. Staff recommend proceeding with the Tiered Equivalent model highlighted in Figure 2.

*Figure 2: Equivalent, Proportional, and Tiered-proportional rate structure options compared with five stormwater funding drivers.*

Stormwater Funding Model	Used By	Single Family Residential	Multi-residential (2-6 units)	ICI <sup>a</sup> and large multi-res <sup>b</sup>	Drivers				
					Protect Okanagan Lake water quality	Promote good private SW practices	Predictable funding	Fair & equitable	Simple
EQUIVALENT	Guelph, Ajax, Saskatoon	Average residential impervious area		Measured impervious area & credit program	●	●	●	●	●
PROPORTIONAL	Windsor	Average SFU <sup>c</sup> impervious area	Average multi-res impervious area		●	●	●	●	●
<b>TIERED-EQUIVALENT</b>	Potentially Kelowna	Small, medium, and large tiers based on impervious area			●	●	●	●	●

<sup>a</sup> ICI: Industrial, commercial and institutional land uses. <sup>b</sup> Multi-res includes lots and stratas with > 6 units. <sup>c</sup> SFU: Single-family unit

Principles for bylaw development:

A bylaw would be required to establish any proposed stormwater-based user fees just like the City's water and wastewater rates. In advance of presenting a draft bylaw to Council, staff are recommending the development of guiding principles to inform bylaw development. At Council's discretion, staff recommend a Council workshop to review and refine these guiding principles. Key workshop topics will include:

1. Reviewing the background and rationale for the switch from taxation to user-fee and incentive-based funding;
2. Consideration of agricultural/tax-exempt properties to limit impacts of unanticipated changes;
3. Finalizing property classifications to achieve fairness and equity;
4. Creating an attractive incentive program to empower property owners to address stormwater impacts; and
5. Determining a bylaw framework that streamlines administration.

## Public Engagement Summary:

Public engagement occurred between March 18<sup>th</sup> and May 3<sup>rd</sup>, 2024, with two primary objectives:

1. Inform and educate the public on stormwater management.
2. Obtain public feedback and answer questions on proposed funding options.

Education and public feedback on the proposed funding options was facilitated by creating a [Get Involved project page](#) (6,700 views), gathering feedback through digital and physical surveys (256 responses), hosting in-person and virtual open houses (61 open house attendees), creating educational videos hosted on various platforms, and leveraging local and social media platforms. In addition, the Project Manager's phone number and a project specific email address were also publicized for residents to reach out and ask questions. Attachment A, Engagement Summary Stormwater Funding Strategy includes a summary of the results of public engagement.

Some of the key themes from public feedback included:

1. **Importance of stormwater management:** Most consider stormwater management services as important.
2. **On-site stormwater management measures:** Many residents have already taken steps to manage their stormwater on site. Industrial, commercial, and institutional respondents expressed willingness to take further steps.
3. **Rebate and credit programs:** Most respondents expressed interest in rebate or credit programs.
4. **Uncertainty regarding funding models:** Many are unsure about which funding model they preferred.
5. **Concerns over fairness and contributions:** Concepts of fairness and equity were recurring themes.

Most local news outlets covered the project. While they did highlight the engagement opportunity and the proposed models correctly based on the City's news release provided to them, words such as "controversial" and phrases such as "may trigger increased stormwater costs" were used, which may have added to some negative sentiment from the public.

Throughout public engagement, staff encountered recurring misunderstanding/misinformation from residents and the media. Two of the most prevalent and recurring narratives were "this is just a new tax" and "my property doesn't benefit from and/or contribute to the stormwater system." Staff leveraged the multiple virtual and in-person platforms established for engagement to respond and clarify.

## **Conclusion:**

Should Council adopt the recommendations in this Report, staff will proceed with developing preliminary guiding principles for bylaw development that align with a tiered-equivalent rate option. These principles will be presented to Council during an AM workshop in the first quarter of 2025 for further feedback and refinement.

## **Internal Circulation:**

Communications  
Financial Planning  
Revenue

**Considerations applicable to this report:**

***Financial/Budgetary Considerations:***

A request for budget to support this phase of the project will be included as part of the 2025 Financial Plan - Preliminary Budget.

**Considerations not applicable to this report:**

***Legal/Statutory Authority:***

***Legal/Statutory Procedural Requirements:***

***Existing Policy:***

***Consultation and Engagement:***

***Communications Comments:***

Submitted by: J. Hager, Design Technician

Reviewed by: K. Van Vliet, Manager, Utility Services

Approved for inclusion: M. Logan, General Manager, Infrastructure

**Attachment(s):**

Attachment A - Engagement Summary: Stormwater Funding Strategy

Attachment B - Stormwater user fee comparison



## ATTACHMENT B: Stormwater user fee comparison

### 1. Comparison of rate structure options

Table 1 compares the current taxation/reserve funding strategy for the City’s stormwater management services against three rate structure options: Equivalent, Proportional or Tiered-equivalent. If the City were to transition from an assessed value based funding model to an impervious based funding model, the actual change in a property’s contribution to stormwater funding will depend on a property’s assessed value, property type (and associated tax rate), and total impervious area.

The direction of the arrows in Table 1 indicates whether that type of property is expected to see a relative increase (↑), decrease (↓), or little change (≈) compared to the current tax-funded framework.

**Table 1: Relative change from taxation for rate structure options.**

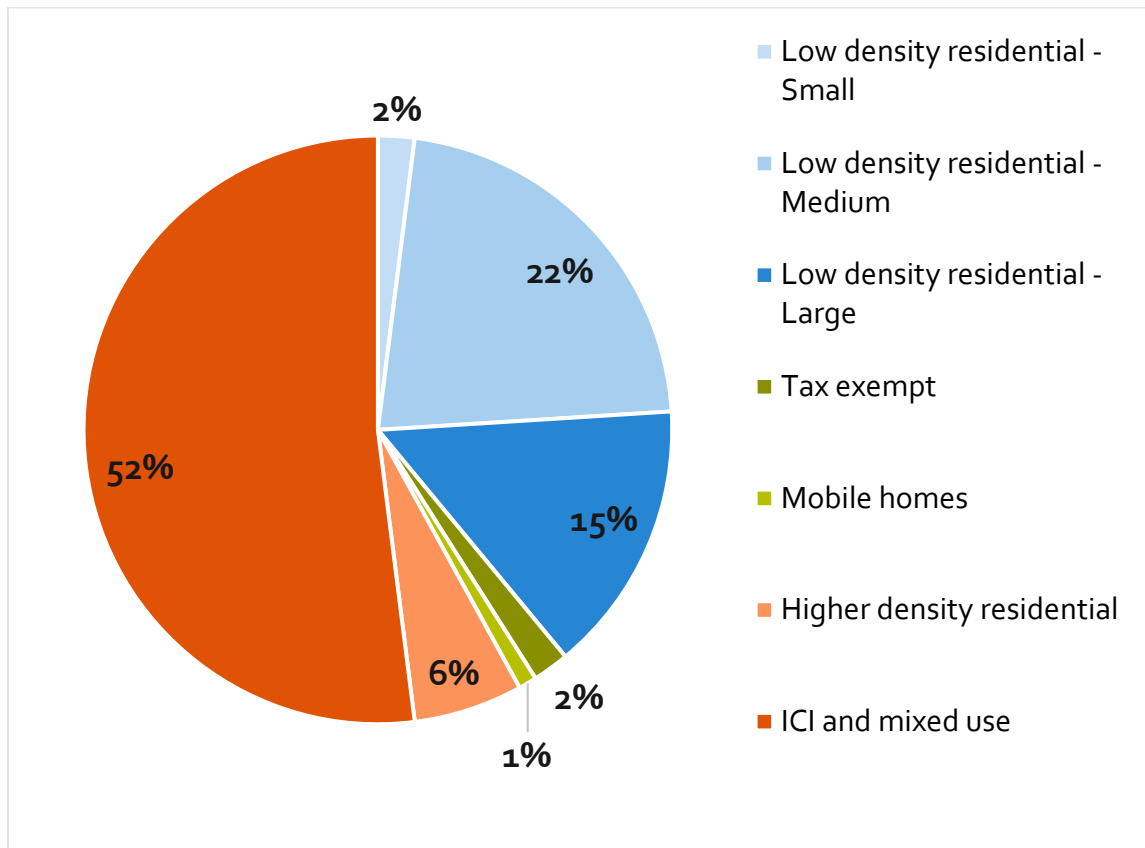
Property Type		Relative change from taxation			
		Equivalent	Proportional		Tiered equivalent
<b>Low-density residential (≤6 units)</b>					
Single-family homes	Small	↓	↑		↓
	Medium	↓	≈		≈
	Large	↓	↓	↑	
Multiplex (2-6 units)		↑	↓		↓
<b>Higher-density residential (&gt;6 units), ICI<sup>a</sup> and mixed use</b>					
Mobile home		↑	↑		↑
Condo/Apartment		↑	↓	≈	↓    ≈
ICI and mixed use		Varies			
Agriculture/Tax exempt		↑	↑		↑
Undeveloped		↓	↓		↓
<sup>a</sup> ICI: Industrial, Commercial and Institutional					

Key assumptions for Table 1 include an average annual taxation/reserve contribution of \$4.1M for the taxation scenario and a \$4.5M annual revenue from any proposed stormwater fee structure. These values are consistent with current funding practices for stormwater management services. The \$400K difference is attributed to offsetting planned credit programs and additional administrative costs.

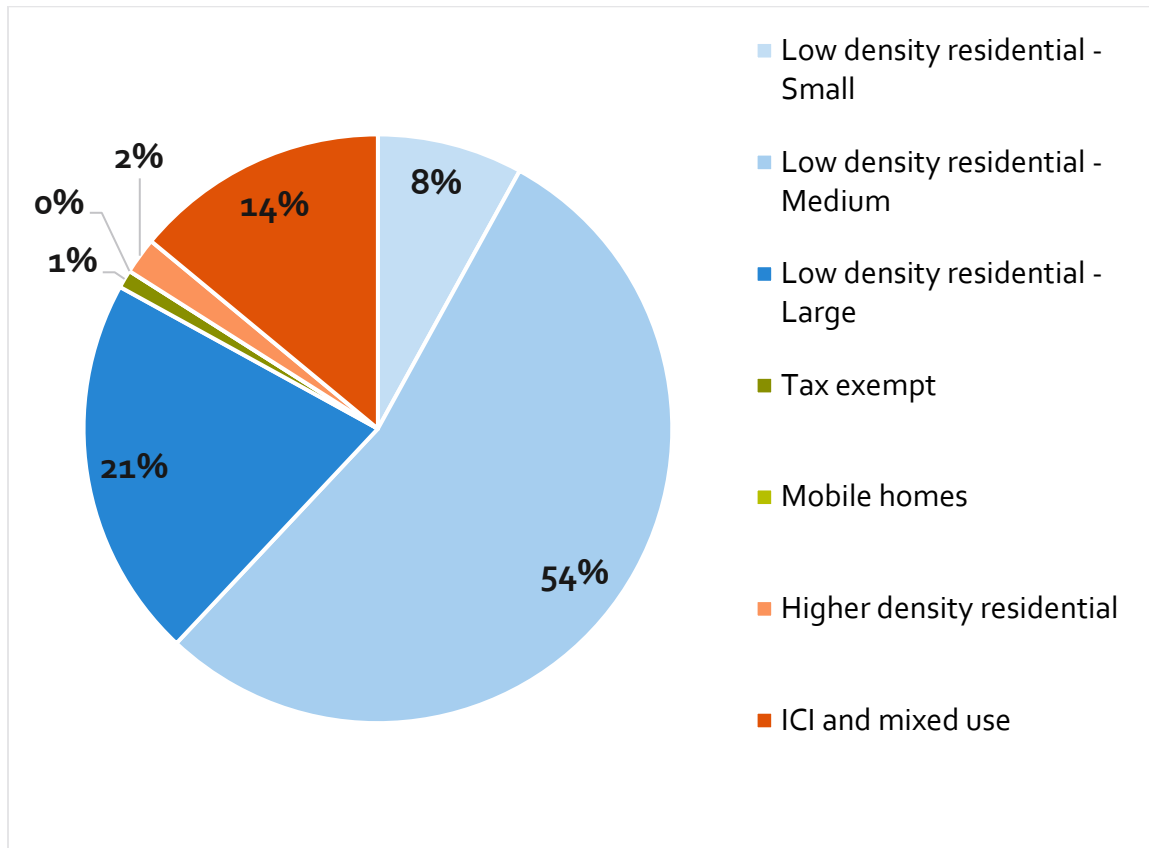
## 2. Total impervious area and billing units

Figures 1 and 2 illustrate the total private impervious area and billable units by land use based on the tiered-equivalent rate structure option. The intent of Figure 1 is to show how imperviousness is distributed across land use types in the City. The intent of Figure 2 is to show how many billable properties are within each property type classification. With more than 80% of properties classified as low density residential, the tiered-equivalent rate structure appears to be a balanced approach that seeks fairness while simplifying administration.

**Figure 1: Private impervious area by land use type. Categories based on tiered-equivalent rate structure option.**



**Figure 2: Breakdown of billable properties by land use type. Categories based on tiered-equivalent rate structure option.**

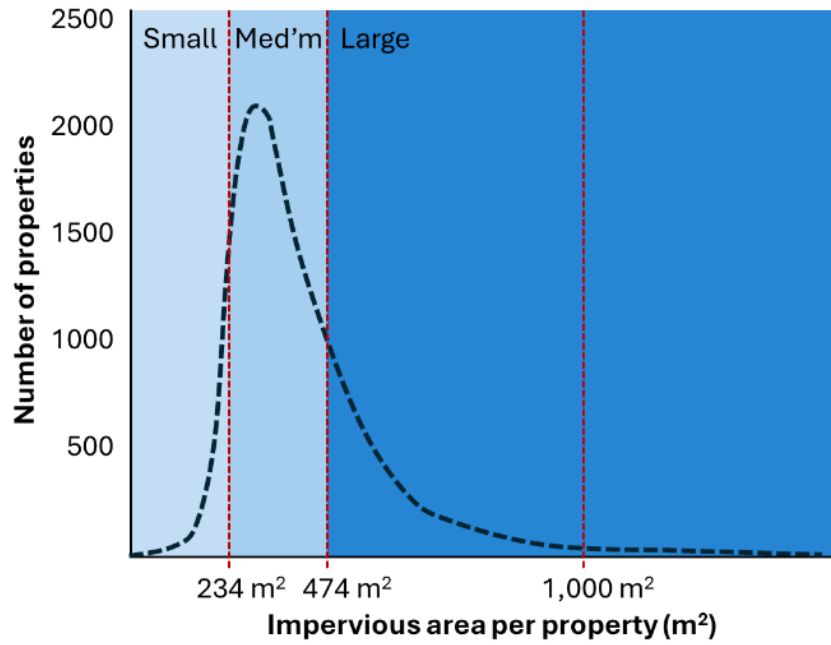


### 3. Low-density residential tiers

Figure 3 illustrates the distribution of impervious area for residential properties in Kelowna with less than seven units under the tiered-equivalent rate structure option. This plot was used to establish the small, medium, and large tiers for the tiered-equivalent rate structure. The proposed splits recognize a small number of properties with minimal impervious area, a large number with an average amount, and a notable portion with above-average impervious area.

- Small tier – smallest 10% (<234 m<sup>2</sup>)
- Medium tier – standard-sized
- Large tier – largest 25% (≥ 474 m<sup>2</sup>)

Figure 3: Distribution of impervious area for low-density residential properties under the tiered-equivalent rate structure option.



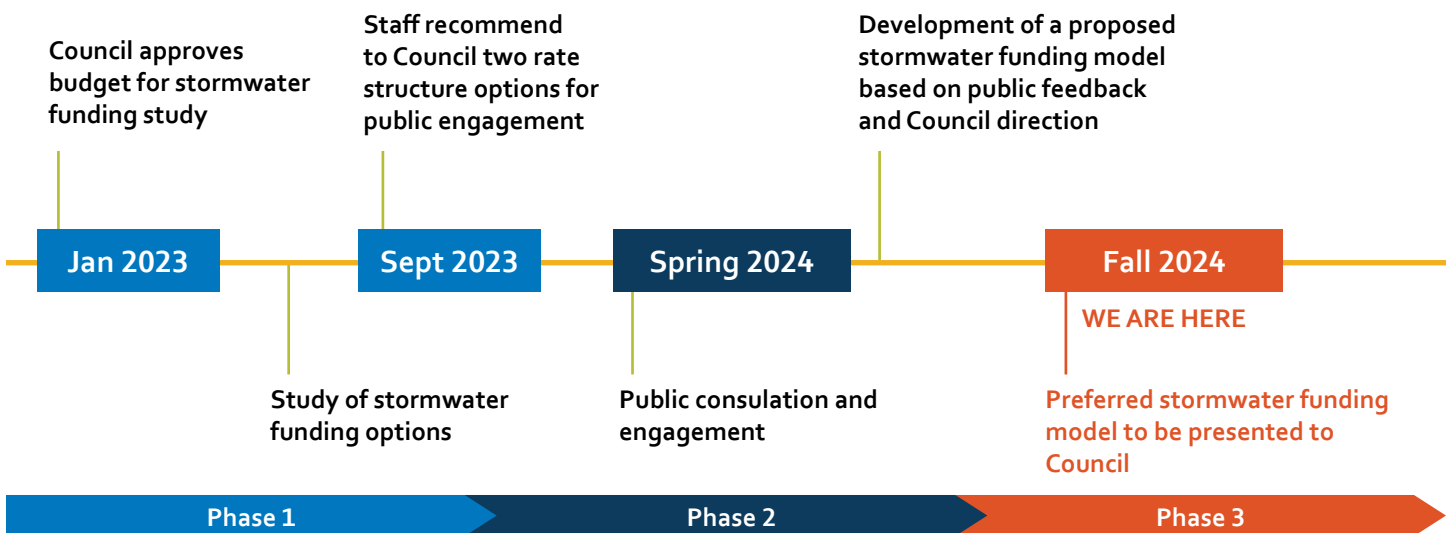


# Executive Summary

## Background

Stormwater and stormwater management affects everyone in Kelowna. We need to ensure that the water draining into our engineered and natural stormwater system is clean and flows at a rate that does not negatively impact people, property and the environment. This requires a stable funding source. While property owners have always contributed to stormwater funding, it has historically been based on the assessed value of that property rather than the load they place on the City's stormwater system. This means properties that don't contribute a lot to stormwater issues have sometimes paid the same as (or in some cases, more than) properties who contribute significantly to stormwater issues. It also means that there are no incentives to support action to reduce negative impacts on the stormwater system. **We believe we can do better.** This is why the City is conducting a study to review and recommend a predictable and dedicated funding source to support the City's current and future stormwater management program.

### How did we get here?

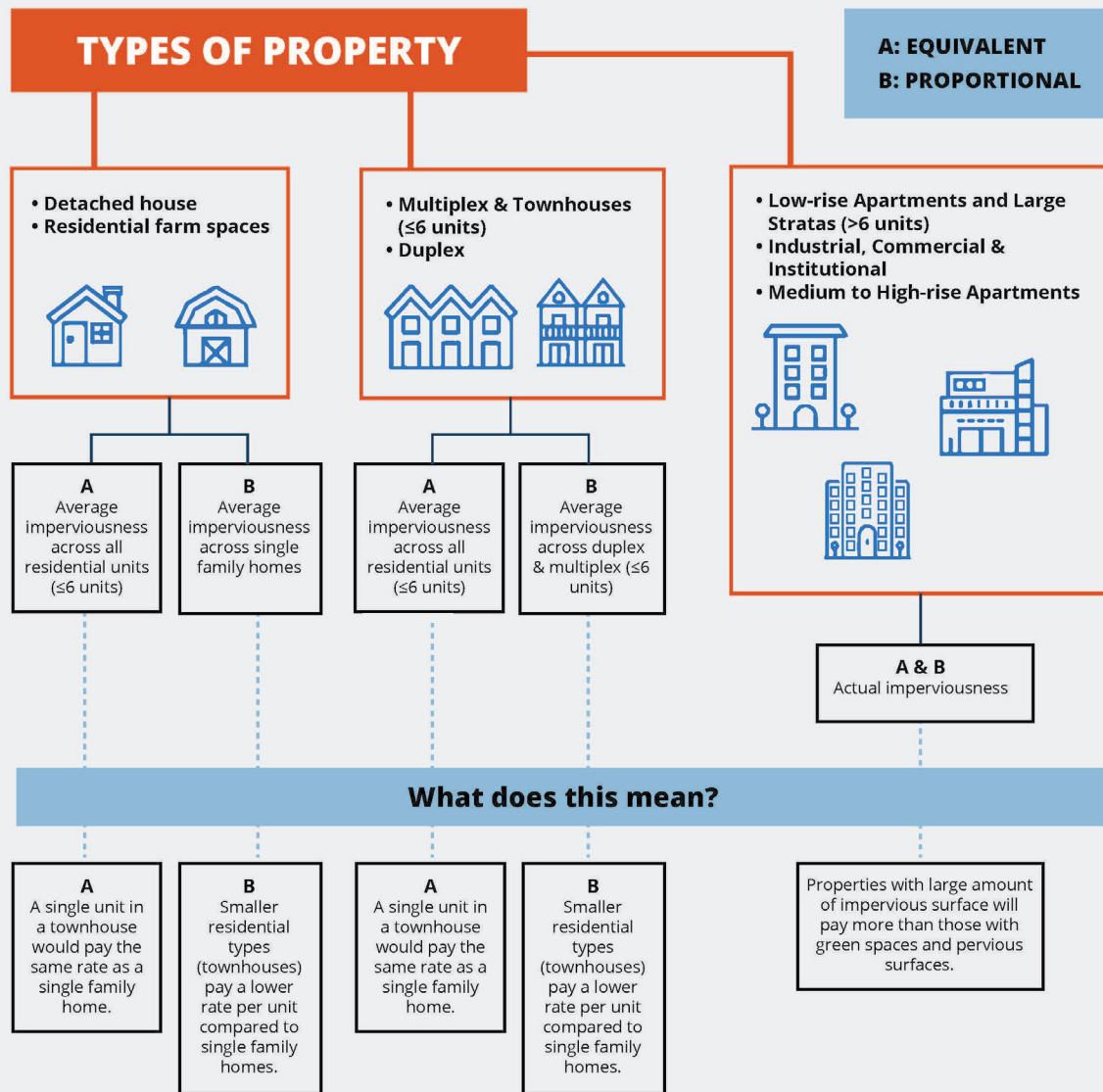


**The goals of the new funding strategy are to:**

- Protect Okanagan Lake water quality;
- Provide predictable funding;
- Promote good private stormwater practices;
- Be fair and equitable to rate payers; and,
- Be simple to implement and administer.

The City is considering a stormwater rate which would charge property owners based on the amount of hard (or impervious) surface on their property. If approved, this would be a change from using general tax revenue to fund stormwater management to a separate stormwater user fee based on impervious area. The amount property owners pay will no longer be dependent on their property's assessed value but will better reflect their property's impact on the City's stormwater system.

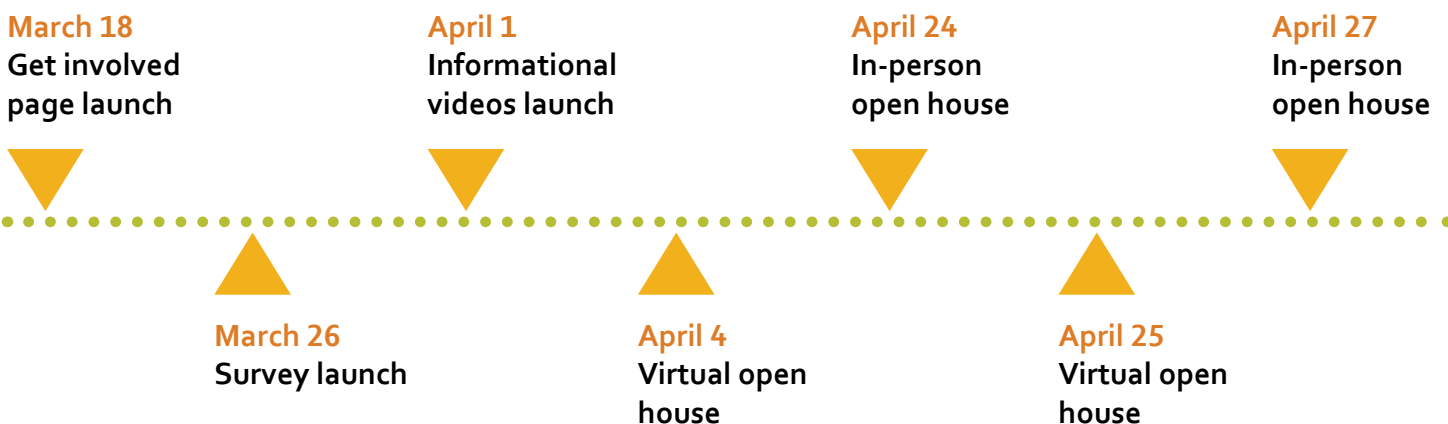
# What are Kelowna's funding options?



**Find your property type in the graphic above to see how it would be considered under both scenarios.**

In accordance with Council's Engage Policy, a pre-engagement assessment was conducted for this Project. Public engagement was recommended due to the complexity of stormwater management funding and available solutions, as well as the anticipated amount of public feedback likely to arise from the topic. The engagement period launched on March 18, 2024, and ended on May 3, 2024.

## Engagement Activities at a Glance



### Engagement Activities at a Glance

Below is a high-level summary of the communication and engagement activities conducted during the engagement period.

- A dedicated [Get Involved Kelowna](#) page, including:
  - Background on stormwater and stormwater management;
  - An overview of the stormwater management funding and possible incentive programs, including the goals of these incentives and the importance of stakeholder and public engagement;
  - Council-endorsed guiding principles, applied when considering any changes in how stormwater management services are funded;
  - Information about virtual and in-person public meetings;
  - Online surveys;
    - » A survey for industrial, commercial and/or institutional (ICI) property owners, and large multi-residential property owners or operators to provide input on the study;
    - » A survey for residential property owners to provide input on the study;
- Stormwater open house educational display boards;
- Staff stories – “Meet your stormwater superhero” blogs;
- Frequently Asked Questions;
- An “Ask a Question” section for members of the public to ask questions directly to the Project team; and
- Related City reports, resources and links.
- Updates to the [City’s Stormwater Management Funding](#) page, with a link pointing visitors to the Get Involved page for more information;
- Two short informational videos posted on the City’s YouTube channel; the first was an overview of stormwater management, the proposed new stormwater funding models, incentive programs and a call-to-action to participate in the public engagement period. The second video focused on how the City monitors water quality in Kelowna, specifically focusing on how stormwater affects water quality and the potential negative impacts that can have.

## Stormwater Funding Strategy (Phase 2) Engagement Summary

- Social media content highlighting the stormwater management funding engagement activities and general stormwater education were posted on four different social media platforms: Facebook, Instagram, LinkedIn and X.
- A blurb was added to the City's Cityviews e-newsletter and was circulated to subscribers on April 1, 2024, giving an overview of the proposed stormwater funding models and inviting readers to visit Kelowna.ca for upcoming engagement opportunities.
- Two virtual open houses; the first virtual open house was open to the general public and the second virtual open house was targeted to members of the local business community and strata management companies. The second open house involved a direct invitation to attend from the Project team to 20 ICI key contacts.
- Two in-person open houses; these were targeted to the general public.
- A common concern from respondents was that they don't feel they currently benefit from and/or contribute run-off to the stormwater system.
- There are overarching concerns with how impervious area will be assessed, and if this is the most accurate/fair way to determine rates.
- Understanding the costs and resulting rates of the proposed models would help residents select a preferred proposed model.
- Fairness, rather than equity, appears to be important to residents. Residents want to have the steps they've taken on their properties to mitigate stormwater's impact taken into account.
- Residents want to understand the potential benefits of the new proposed stormwater funding system.

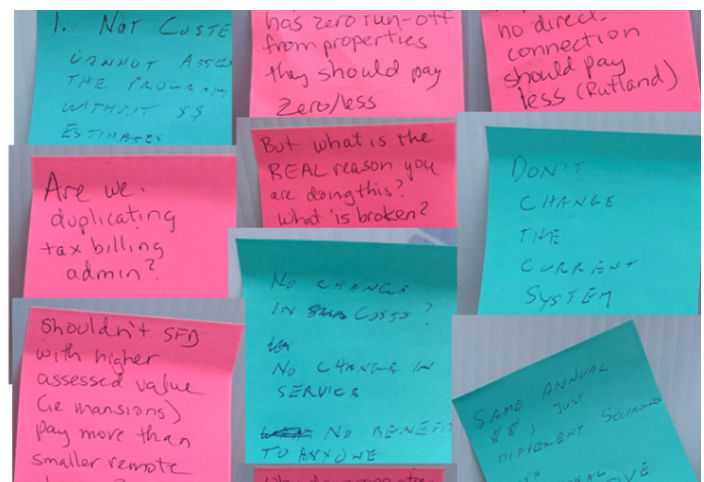
## What We Heard

Input from targeted audiences and the general public was captured throughout the engagement period. A summary of the main feedback themes is below.

- The majority of respondents think stormwater is important and most residential respondents have already taken steps to mitigate stormwater's impacts to their property. While a smaller percentage of ICI respondents have taken mitigative measures, a large portion would be willing to do so in the future.
- There is interest from both residential and ICI respondents in a credit and/or rebate program to lower upfront costs which are seen as a barrier to implementation.
- Respondents are unsure which of the two proposed funding models would be their preferred choice.

## Next Steps

Community and stakeholder communication and engagement is critical to the success of developing new infrastructure funding streams. Based on the feedback received, it is recommended that AECOM and the City determine resulting rates (user fees) associated with both funding options before further consultation with Council and the public.



Sticky notes with feedback on the program completed by members of the public at the open houses



# Stormwater Utility Engagement Results and Next Steps

Phase 2: Alignment with community values

November 18<sup>th</sup>, 2024



# Agenda

- Background and process
- Engagement summary
- Rate structure options evaluation
- Next steps
- Conclusion



*Stormwater runoff discharges to surface waterbodies throughout the City.*

# Water Security and Responsibility Plan

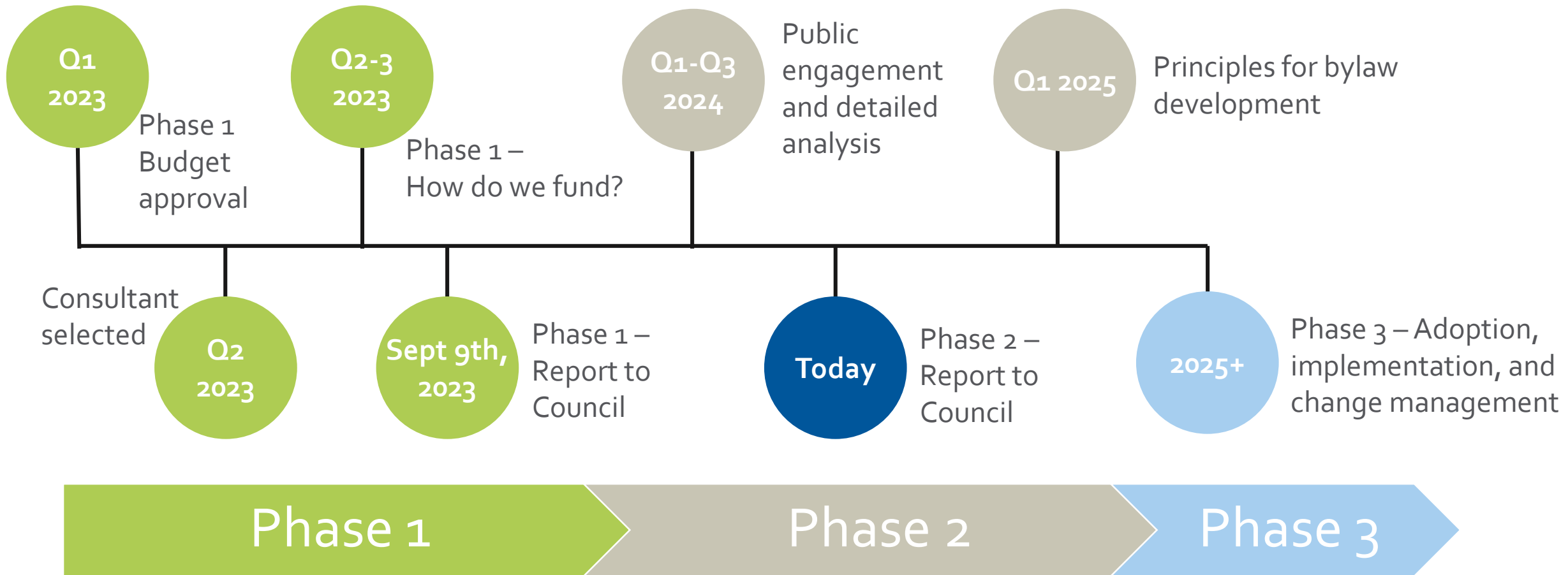
**Principle 3:** “Stormwater is effectively managed without negatively impacting riparian areas, infrastructure, property, or Okanagan Lake.”

**Principle 4:** “The community is resilient to lake and creek flooding.”



*The six water sectors outlined in the City's Water Security Planning Process*

# Phased Approach





# Stormwater Funding Decision-Making Drivers



# How we fund, not what we fund

- This initiative is about **HOW** we fund stormwater management services, not **WHAT** we fund.
- Council has other mechanisms for determining what is funded, including:
  - 10-Year Capital Plan
  - Annual Financial Plans
  - Level of service policies
  - Service-based budgeting

# Stormwater Rate Structure Options

Stormwater Funding Model	Used By	Single Family Residential	Multi-residential (2-6 units)	ICI <sup>a</sup> and large multi-res <sup>b</sup>	Drivers				
					Protect Okanagan Lake water quality	Promote good private SW practices	Predictable funding	Fair & equitable	Simple
EQUIVALENT	Guelph, Ajax, Saskatoon	Average residential impervious area		Measured impervious area and credit program	●	●	●	●	●
PROPORTIONAL	Windsor	Average SFU <sup>c</sup> impervious area	Average multi-res impervious area		●	●	●	●	●
TIERED-EQUIVALENT	Potentially Kelowna	Small, medium, and large tiers based on impervious area			●	●	●	●	●

RECOMMENDED IN PHASE 1

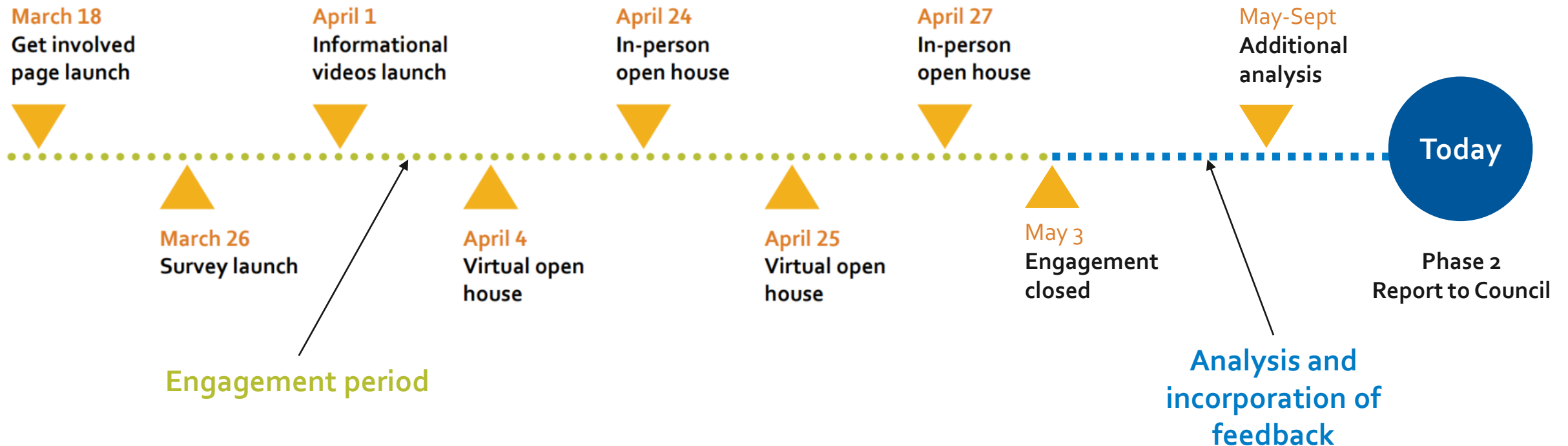


**ADDED TO ADDRESS COMMUNITY FEEDBACK**

<sup>a</sup> ICI: Industrial, commercial and institutional land uses. <sup>b</sup> Multi-res includes lots and stratas with > 6 units. <sup>c</sup> SFU: Single-family unit

# Engagement Timeline

➤ Public engagement occurred from March 18<sup>th</sup> to May 3<sup>rd</sup>, 2024





# Engagement Objectives

Two primary objectives from public engagement

1. Inform and educate the public on stormwater management
2. Obtain public feedback and answer questions on proposed funding options



# Engagement Activities and Feedback

1. **Importance of stormwater management:** Most consider stormwater management services as important.
2. **On-site stormwater management measures:** Many residents have already taken steps to manage their stormwater on site. ICI respondents expressed willingness to take further steps.
3. **Rebate and credit programs:** Most respondents expressed interest in rebate or credit programs.
4. **Uncertainty regarding funding models:** Many are unsure about which funding model they preferred.
5. **Concerns over fairness and contributions:** Concepts of fairness and equity were recurring themes.

6,666

Get Involved project webpage views

20

Survey responses from ICI or multi-residential property owners or operators

25

Emails

25

Phone calls

17

Virtual open house visitors

236

Survey responses from residential property owners

44

In-person open house visitors

# Myth Busting

Throughout public engagement, staff encountered recurring misinformation/misunderstanding from residents and the media.

➤ ***This is just a new tax!***

Considerations for tax exempt – see next steps

- ▶ Property owners have always contributed to funding stormwater management services. Historically, this amount was calculated based on the assessed property value. This initiative would be a shift in funding.

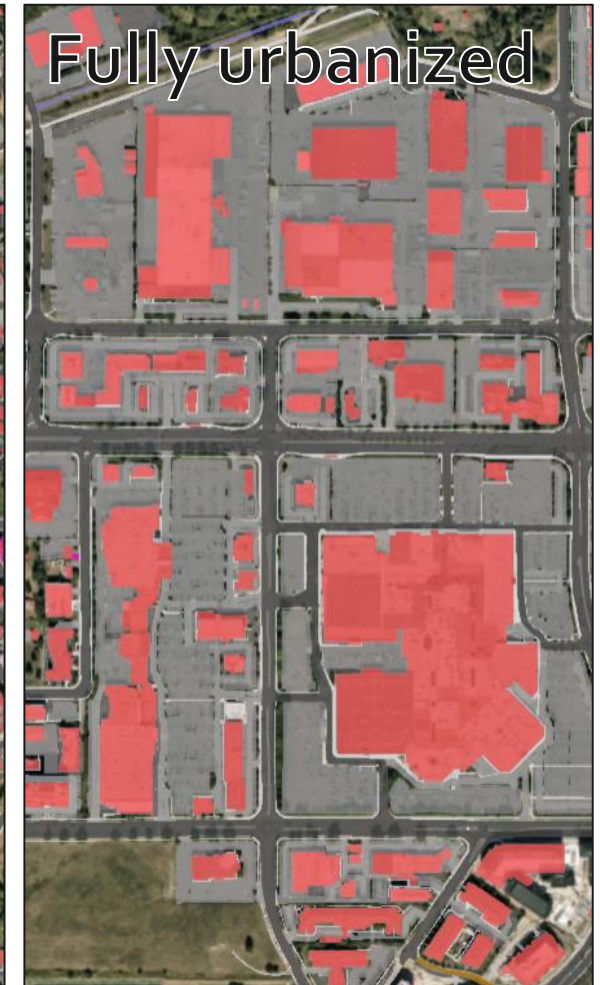
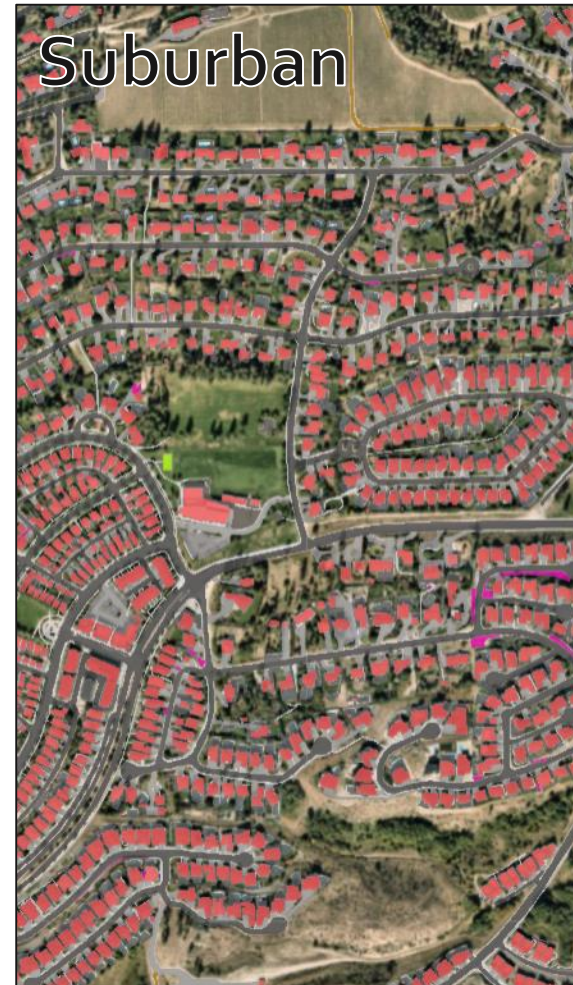
➤ ***My property doesn't benefit from and/or contribute to the stormwater system.***

- ▶ All properties benefit from the stormwater system. Whether you live on an urban or rural property, stormwater management is vital to our community's health and resiliency.



# Impervious Data

- Building
- Pavement
- Driveway
- Sidewalk
- Parking
- Unpaved driveway
- Compacted surface
- Road
- Unpaved road
- Unpaved sidewalk
- Unpaved parking
- Sport ground



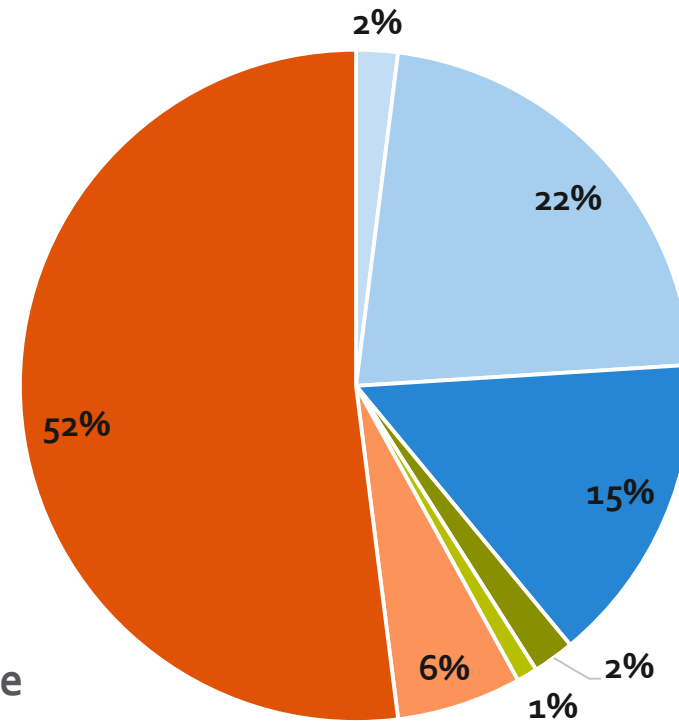


# Relative Change from Taxation

Property Type		Relative change from taxation to tiered-equivalent
<b>Low density residential (<math>\leq 6</math> units)</b>		
Low-density residential	Small	↓
	Medium	≈
	Large	↑
<b>Higher-density residential (&gt;6 units), ICI<sup>a</sup> and mixed use</b>		
Mobile home		↑
Condo/Apartment		↓ / ≈
ICI and mixed use		Varies
Agriculture/Tax exempt		↑
Undeveloped		↓

Credit eligible

Impervious area percentage by land use type



- Low density residential - Small
- Low density residential - Medium
- Low density residential - Large
- Tax exempt
- Mobile homes
- Higher density residential
- Non-res and mixed use

# Single-Family Homes

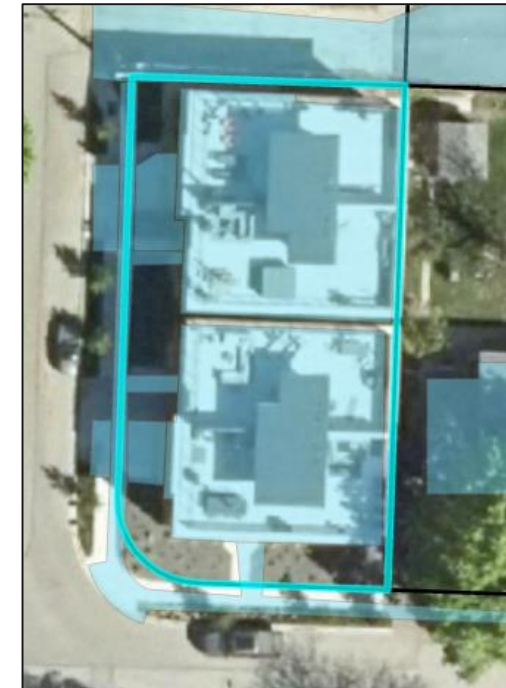
Property Type	Relative change from taxation to tiered-equivalent	
<b>Low density residential (≤6 units)</b>		
Low-density residential	Small	↓
	Medium	≈
	Large	↑
<b>Higher-density residential (&gt;6 units), ICI<sup>a</sup> and mixed use</b>		
Mobile home	↑	
Condo/Apartment	↓ / ≈	
ICI and mixed use	Varies	
Agriculture/Tax exempt	↑	
Undeveloped	↓	



Category	Small low density residential	Medium low density residential	Large low density residential
Impervious area	183 m <sup>2</sup>	323 m <sup>2</sup>	679 m <sup>2</sup>
Assessed value	\$800,000	\$1,191,000	\$1,387,000
Residential units	1	1	1
Current tax/reserves	\$45 (\$45/unit)	\$66 (\$66/unit)	\$76 (\$76/unit)
Tiered-Eq. rate	\$35 (\$35/unit)	\$58 (\$58/unit)	\$99 (\$99/unit)

# Duplex and Infill (2-6 units)

Property Type		Relative change from taxation to tiered-equivalent
<b>Low density residential (≤6 units)</b>		
Low-density residential	Small	↓
	Medium	≈
	Large	↑
<b>Higher-density residential (&gt;6 units), ICI<sup>a</sup> and mixed use</b>		
Mobile home		↑
Condo/Apartment		↓ / ≈
ICI and mixed use		Varies
Agriculture/Tax exempt		↑
Undeveloped		↓



Category	Medium low density residential	Large low density residential
Impervious area	426 m <sup>2</sup>	561 m <sup>2</sup>
Assessed value	\$1,793,000	\$4,176,000
Residential units	2	4
Current tax/reserves	\$99 (\$45/unit)	\$230 (\$58/unit)
Tiered-Eq. rate	\$58 (\$29/unit)	\$99 (\$25/unit)



# Apartments

Property Type		Relative change from taxation to tiered-equivalent
<b>Low density residential (≤6 units)</b>		
Low-density residential	Small	↓
	Medium	≈
	Large	↑
<b>Higher-density residential (&gt;6 units), ICI<sup>a</sup> and mixed use</b>		
Mobile home		↑
Condo/Apartment		↓ / ≈
ICI and mixed use		Varies
Agriculture/Tax exempt		↑
Undeveloped		↓



Category	Apartment/Condo	Mixed use tower
Impervious area	1,245 m <sup>2</sup>	2,045 m <sup>2</sup>
Assessed value	\$3,689,000	\$75,210,000
Residential units	12	60
Current tax/reserves	\$204 (\$17/unit)	\$4,453 (\$74/unit)
Tiered-Eq. rate	\$203 (\$17/unit)	\$333 (\$6/unit)



# Non-Residential and Mixed Use

Property Type		Relative change from taxation to tiered-equivalent
<b>Low density residential (≤6 units)</b>		
Low-density residential	Small	↓
	Medium	≈
	Large	↑
<b>Higher-density residential (&gt;6 units), ICI<sup>a</sup> and mixed use</b>		
Mobile home		↑
Condo/Apartment		↓ / ≈
ICI and mixed use		Varies
Agriculture/Tax exempt		↑
Undeveloped		↓



Category	Industrial	Commercial
Impervious area	18,150 m <sup>2</sup>	172,462 m <sup>2</sup>
Assessed value	\$15,803,000	\$293,154,000
Residential units	0	0
Current tax/reserves	\$2,142	\$39,732
Tiered-Eq. rate	\$2,957	\$28,100
















# Tax Exempt (full or partial)

Property Type	Relative change from taxation to tiered-equivalent
<b>Low density residential (≤6 units)</b>	
Low-density residential	Small ↓
	Medium ≈
	Large ↑
<b>Higher-density residential (&gt;6 units), ICI<sup>a</sup> and mixed use</b>	
Mobile home	↑
Condo/Apartment	↓ / ≈
ICI and mixed use	Varies
<b>Agriculture/Tax exempt</b>	<b>↑</b>
Undeveloped	↓



Category	Place of worship	Non-profit – social services	Agriculture w/ packing facility
Impervious area	23,684 m <sup>2</sup>	1,085 m <sup>2</sup>	19,789 m <sup>2</sup>
Assessed value	\$33,185,000	\$5,981,600	\$7,244,000
Residential units	0	0	0 (16 portables for farm workers)
Current tax/reserves	\$0	\$0	\$1 (one)
Tiered-Eq. rate	\$3,859	\$179	\$3,224

# Staff Recommended Rate Structure

Stormwater Funding Model	Used By	Single Family Residential	Multi-residential (2-6 units)	ICI <sup>a</sup> and large multi-res <sup>b</sup>	Drivers				
					Protect Okanagan Lake water quality	Promote good private SW practices	Predictable funding	Fair & equitable	Simple
EQUIVALENT	Guelph, Ajax, Saskatoon	Average residential impervious area		Measured impervious area & credit program					
PROPORTIONAL	Windsor	Average SFU <sup>c</sup> impervious area	Average multi-res impervious area						
<b>TIERED-EQUIVALENT</b>	Potentially Kelowna	Small, medium, and large tiers based on impervious area							

RECOMMENDED IN PHASE 1

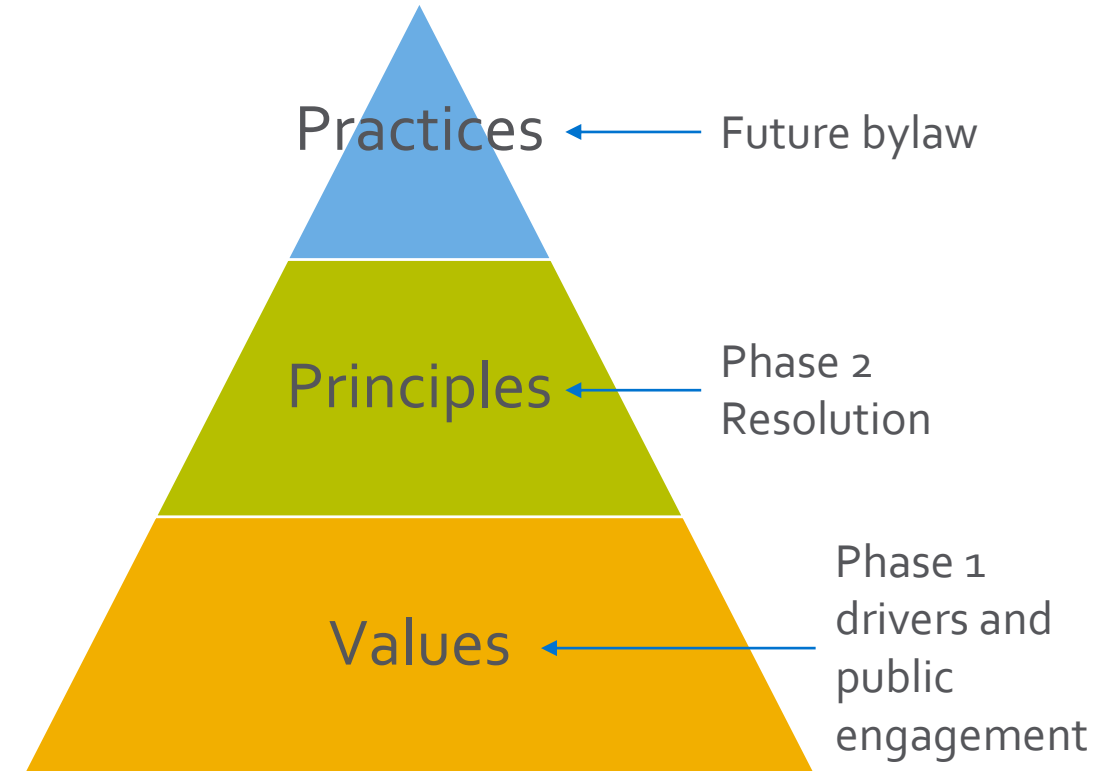
<sup>a</sup> ICI: Industrial, commercial and institutional land uses. <sup>b</sup> Multi-res includes lots and stratas with > 6 units. <sup>c</sup> SFU: Single-family unit

**Staff recommendation:** Proceed with TIERED-EQUIVALENT rate structure option.

**ADDED TO ADDRESS COMMUNITY FEEDBACK**

# Principles for Bylaw Development

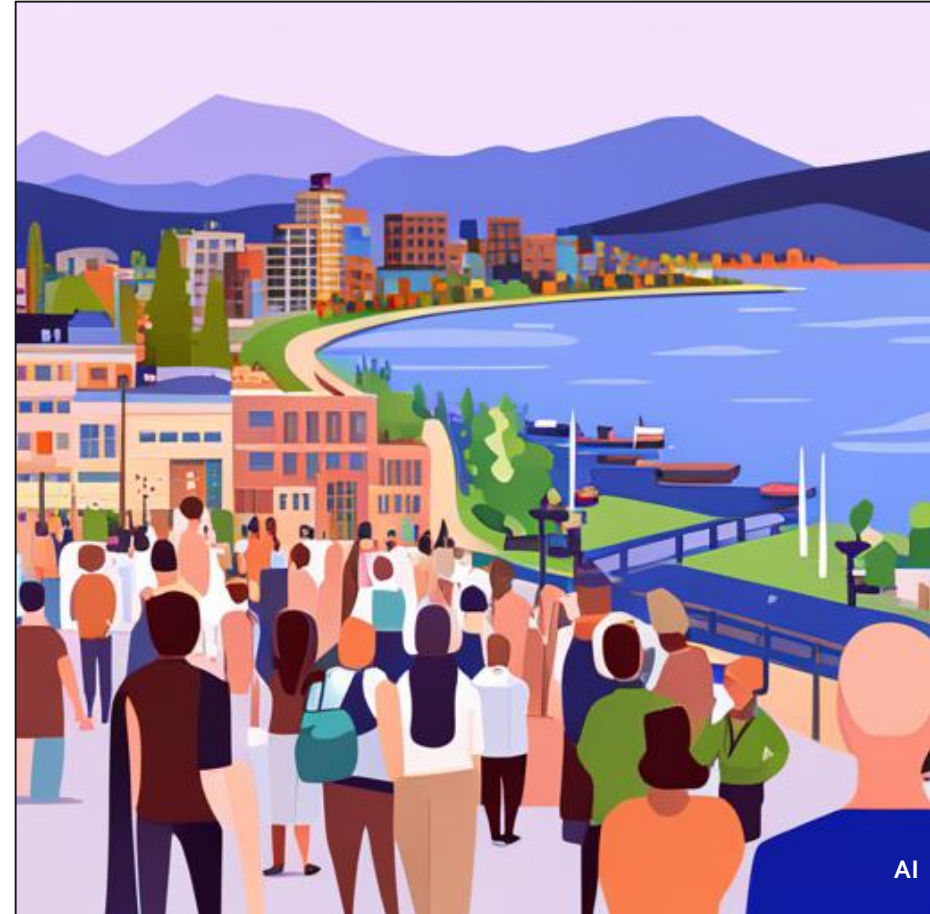
- **Resolution:** AND THAT Council direct staff to prepare principles for bylaw development that align with the tiered-equivalent rate structure option.
- Proposed principles would consider:
  - Background and rationale for change
  - Consideration of agricultural/tax- exempt properties
  - Finalizing property classifications
  - Creating a viable incentive program
  - Bylaw framework (existing vs. new bylaw)





# Conclusion

- Should Council adopt the recommendations in this report, staff will proceed with developing principles for bylaw development that align with the tiered-equivalent rate option.
- Staff will present the recommended principles at a future Council workshop.



AI



*Questions?*

For more information, visit [kelowna.ca](http://kelowna.ca).

# Report to Council



**Date:** November 18, 2024  
**To:** Council  
**From:** City Manager  
**Subject:** Review of Council Policy No. 388 – Code of Conduct  
**Department:** Office of the City Clerk

---

**Recommendation:**

THAT Council receive, for information, the report from the Office of the City Clerk dated November 18, 2024, regarding a review of Council Policy No. 388 – Code of Conduct;

AND THAT Council direct staff to bring forward for Council consideration revisions to Council Policy No. 388 – Code of Conduct and Council Remuneration and Expense Bylaw No. 7547 as outlined in the report from the Office of the City Clerk dated November 18, 2024.

**Purpose:**

To review Council Policy No. 388 – Code of Conduct and advance revisions to strengthen and clarify the Policy.

**Background:**

Council Policy No. 388 – Code of Conduct was adopted by Council on September 11, 2023. The Policy sets out standards of responsible conduct for members of Council and establishes the process for alleged breaches of these standards of conduct to be identified, assessed, investigated and resolved appropriately. Staff provided an implementation overview of the Code of Conduct to Council on [February 26, 2024](#), with observations based on experience implementing the Code to date.

On September 23, 2024 Council received and provided feedback on a [staff report](#) concerning a Union of British Columbia Municipalities (UBCM) and Local Government Management Association (LGMA) discussion paper on responsible conduct frameworks. On Council’s behalf, the Mayor submitted a letter to the UBCM summarizing Council’s feedback, with general support for mandatory codes of conduct and a desire for stronger enforcement options. Staff continue to monitor and be involved in discussions around potential changes to the provincial framework for local elected official responsible conduct.

This report reflects observations and recommendations based on the current framework and experience with Council’s Code of Conduct.

## Discussion:

### *Implementation of the Code of Conduct Policy*

The Policy expresses in section 20 that it is “intended to be self-enforcing and becomes most effective when Council Members are thoroughly familiar with it and embrace its provisions”. To provide for enforcement when breaches of the Policy do occur, sections 24-28 establish a process whereby a Council member, staff member or resident may file a complaint alleging a breach of the Policy. A complaint that is accepted for investigation will be referred to an independent third-party investigator.

Between adoption of the Policy and the end of Q3 2024 (September 30, 2024), four complaints were submitted, each of them by members of the public. Three of the four complaints were dismissed at the preliminary assessment stage in accordance with section 29 of the Policy, which creates a non-discretionary obligation to close a complaint when one of the prescribed circumstances is present. The other complaint was dismissed as it did not meet the time requirements to submit a complaint. The circumstances of each complaint are briefly summarized below:

Complaint	Section cited	Result	Reason
#1	s. 10 (Interactions with the Public and Advocacy)	<u>Closed</u>	Preliminary assessment found that s. 29(g) applies – there were no possible grounds on which to conclude that a violation of the Policy occurred.
#2	s. 2 (General Conduct), s. 10 (Interactions with the Public and Advocacy)	<u>Closed</u>	Preliminary assessment found that s. 29(c) and s. 29(g) apply – the complaint would be more appropriately addressed through another process; there were no possible grounds on which to conclude that a violation of the Policy occurred.
#3	s. 10 (Interactions with the Public and Advocacy)	<u>Closed</u>	Preliminary assessment found that s. 29(c) and s. 29(g) apply – the complaint would be more appropriately addressed through another process; there were no possible grounds on which to conclude that a violation of the Policy occurred.
#4	s. 9, 10 (Interactions with the Public and Advocacy), s. 16 (Use of Public Resources)	<u>Not accepted</u>	The complaint was submitted outside the time limits set out in s. 25 and an extension was not found to be warranted.

The most common section cited in complaints is section 10, particularly relating to Council members not explicitly stating the views they’re expressing are their own and they do not represent Council or the City. This observation was raised with Council in the implementation overview in February 2024 with a reminder to include a disclosure statement when sharing individual opinions.

### *Recommended Amendments to the Code of Conduct Policy*

As noted above, the Policy has been in place since September 2023. Over the past year both staff and Council have gained experience in interpreting and applying the Policy. As a result of this experience,



staff have identified a number of areas where the current Policy can be strengthened and clarified. The amendments to the Policy that staff are recommending are summarized below in general terms.

### Summary of Recommended Amendments to Code of Conduct Policy

Section #	Current Text	Proposed Change	Rationale
<b>Section 3</b>	Council Members will not use their office to attempt to gain personal benefits for themselves, their family members or their friends.	Add a list of general examples of conduct that may constitute a breach of this section, particularly as they relate to conflict of interest provisions in the Community Charter.	The existing text could apply to a broad range of situations, leaving considerable discretion to an investigator to make a finding that this section has been breached. A list of examples will provide greater clarity as to the types of conduct that are prohibited by this section.
<b>Section 4</b>	Council Members will direct questions and inquiries regarding departmental issues in accordance with protocols established by the City Manager and will only contact Staff directly to seek administrative clarity.	Add clarification that only Senior Staff should be contacted for administrative clarity on matters.	Clarify that administrative clarity, such as procedural matters, should only be sought directly with senior members of staff, primarily the Senior Leadership Team.
<b>Section 10</b>	The Mayor is the designated spokesperson for the City on Council matters. Council Members will represent the official policies or positions of Council to the best of their ability when designated as a delegate of Council. When presenting their individual opinions and positions, Council Members will explicitly state that it is their own personal view and that they do not represent Council or the City in those views.	Add a provision that a single statement on a social media account covers all posts from that account.	Based on complaints and inquiries staff have received, clarity around how Council members may use social media to express their personal views would help to address confusion related to the provisions of s. 10. It is reasonable for a Council member to make one statement, viewable on their profile, that addresses this requirement instead of being expected to state it on every post.

Section #	Current Text	Proposed Change	Rationale
<b>Section 12</b>	Council Members will not interact or communicate with members of the public during open or closed Council meetings about matters being considered at that meeting via email, text or other social media applications.	Limit use of technology during Council meetings to only a City-issued device stationed at each Council member's space to access the Council agenda software (e.g., eScribe), with an exception for emergency situations.	Council makes decisions collectively after all members have had the same information presented to them. Individual Council members receiving additional information from members of the public during a meeting undermines Council governance and procedural fairness. A new device stationed at each Council member's seat in Chambers will provide access to the Council agenda and meet the intent of the existing provision.
<b>Section 16</b>	Council Members will not undertake federal, provincial or municipal election campaign related activities at City Hall or on other premises owned by the City.	Limit to prohibiting at City facilities where the main function is employee workspaces (e.g., City Hall, Public Works Yard). Add that Council Members must follow procedures for any other candidate to campaign at other City-owned property or facilities.	This section was intended to prevent Council members from using their access to City-owned premises to gain an unfair advantage in an election campaign. However, a blanket prohibition against campaigning on all City property creates an advantage for candidates who are not Council members.
<b>Various Sections</b>	N/A	Minor text improvements and clarifications.	Various minor amendments will improve the clarity and consistency of the Policy throughout.

The recommended revisions focus on Part 1 – Conduct of the Code. While no revisions to Part 2 – Investigation, Compliance and Enforcement are recommended, staff acknowledge concerns Council has expressed with the limitations on remedies that may be imposed should a Council member be found to have violated the Code. Council currently has a series of sanctions available within their authority, with criteria to consider when determining appropriate options. Council's feedback on this topic has been shared with UBCM.

To strengthen the possible remedy of a temporary reduction in remuneration (Code of Conduct s. 46.i), staff recommend amending Council Remuneration and Expense Bylaw No. 7547 to reflect this provision, along with other administrative bylaw updates.

**Conclusion:**

A relatively modest set of amendments to the Policy will provide greater clarity to Council, staff and the public as to the standards of conduct expected of Council members under the Policy. Should Council direct staff to proceed with the recommended revisions summarized in this report, a revised Policy and bylaw amendments will be brought back to Council for further consideration.

**Considerations applicable to this report:**

**Existing Policy:** [Council Policy No. 388 – Code of Conduct](#)

**Legal/Statutory Authority:** [Community Charter s 113.1](#)

**Considerations not applicable to this report:**

**Legal/Statutory Procedural Requirements:**

**Financial/Budgetary Considerations:**

**Consultation and Engagement:**

**Communications Comments:**

Submitted by:

M. Jud, Deputy City Clerk

Approved for inclusion: L. Bentley, City Clerk





City of  
**Kelowna**

# Review of Council Policy No. 388 Code of Conduct

November 18, 2024



# Background

- ▶ Code of Conduct adopted September 11, 2023
- ▶ Sets standards of responsible conduct for Council members
- ▶ Establishes processes for submitting and reviewing complaints, conducting investigations, and enforcing the Code
- ▶ Review based on observations and experience with the current Code of Conduct

# Code of Conduct Use & Implementation

Complaint	Section Cited	Result	Reason
1	s. 10 (Interactions with the Public and Advocacy)	<u>Closed</u>	No possible grounds on which to conclude that a violation of the Policy occurred.
2	s. 2 (General Conduct), s. 10 (Interactions with the Public and Advocacy)	<u>Closed</u>	Complaint more appropriately addressed through another process; no possible grounds on which to conclude that a violation of the Policy occurred.
3	s. 10 (Interactions with the Public and Advocacy)	<u>Closed</u>	Complaint more appropriately addressed through another process; no possible grounds on which to conclude that a violation of the Policy occurred.
4	s. 9, 10 (Interactions with the Public and Advocacy), s. 16 (Use of Public Resources)	<u>Not accepted</u>	Submitted outside the time limits set out in s. 25 and an extension was not found to be warranted.

# Part 1 - Conduct

- ▶ Experience in interpreting and applying the Policy since September 2023
- ▶ Areas where the Policy can be strengthened and clarified

# Recommended Amendments

Section #	Current Text	Proposed Change	Rationale
3	Council Members will not use their office to attempt to gain personal benefits for themselves, their family members or their friends.	Add general examples of conduct that may be a breach.	Provide clarity about the types of conduct.
4	Council Members will direct questions and inquiries regarding departmental issues in accordance with protocols established by the City Manager and will only contact Staff directly to seek administrative clarity.	Add that only senior staff should be contacted directly.	Clarify that administrative clarity should only be sought directly with senior staff members.



# Recommended Amendments

Section #	Current Text	Proposed Change	Rationale
10	<p>The Mayor is the designated spokesperson for the City on Council matters. Council Members will represent the official policies or positions of Council to the best of their ability when designated as a delegate of Council. When presenting their individual opinions and positions, Council Members will explicitly state that it is their own personal view and that they do not represent Council or the City in those views.</p>	<p>Add that a single statement on a social media account covers all posts.</p>	<p>Clarify that one statement, viewable on a profile, addresses this Code requirement.</p>

# Recommended Amendments

Section #	Current Text	Proposed Change	Rationale
Section 12	Council Members will not interact or communicate with members of the public during open or closed Council meetings about matters being considered at that meeting via email, text or other social media applications.	Limit use of technology during Council meetings to only a City-issued device stationed at each Council member's space to access the Council agenda.	Individual Council members receiving information from members of the public during a meeting undermines Council governance and procedural fairness. A stationary device provides access to the agenda while meeting the intent of this provision.

# Recommended Amendments

Section #	Current Text	Proposed Change	Rationale
Section 16	Council Members will not undertake federal, provincial or municipal election campaign related activities at City Hall or on other premises owned by the City.	Limit to prohibiting at City facilities where the main function is employee workspaces (e.g., City Hall, Public Works Yard).	A blanket prohibition on all City property creates an advantage for candidates who are not Council members.
Various	N/A	Minor text improvements and clarifications.	Various minor amendments will improve the clarity and consistency of the Policy throughout.

# Part 2 – Investigation, Compliance & Enforcement

- ▶ Series of sanctions available within Council's authority with criteria to determine appropriate options
- ▶ Council feedback about sanction limitations shared with UBCM
- ▶ Amendments to Council Remuneration and Expense Bylaw
  - ▶ Strengthen possible remedy of temporary reduction in pay
  - ▶ Administrative bylaw updates



# Conclusion

- ▶ Modest amendments to Policy
  - ▶ Greater clarity to Council, staff, and the public
- ▶ Next Steps
  - ▶ Revised Policy
  - ▶ Amendments to Council Remuneration and Expense Bylaw



*Questions?*

For more information, visit [kelowna.ca](http://kelowna.ca).

## DRAFT RESOLUTION

Re: Complimentary City Parking for Veterans

THAT Council directs staff to review and report back to Council on options to grant year-round complimentary parking to vehicles bearing a “veteran” license plate for all City of Kelowna on-street parking.

### BACKGROUND:

Councillor Cannan indicated their intent to bring forward a resolution regarding year-round complimentary parking for veterans on all City on-street parking on November 4, 2024.

### COUNCILLOR CANNAN’S COMMENTS:

Councillor Dehart and myself have been approached by various members of the community, including Kelowna Legion Branch #26, requesting the city provide year-round complimentary parking to our Veterans (Legion letter attached).

The actual number of vehicles registered in Kelowna displaying BC Veterans license plates was 391 as of the end of December 2023 (see attached ICBC report for more details).

Of those 391 vehicles, a portion of those veterans will also have accessible parking permits which already provides for free parking in accessible on-street stalls and City parking lots. I submit that the proportionate numbers of veterans who have accessible parking permits will be relatively similar across BC.

For example, the City of Surrey which has a population about four times the size of Kelowna, has approximately 1,600 veteran's plates registered to vehicles with addresses in Surrey. The City of Surrey has had a complimentary parking policy for veterans since 2008.

This parking policy would reciprocate the complimentary veterans parking already offered in numerous other cities in BC. In addition to the City of Surrey, other BC municipalities providing free parking to Veterans includes, but is not limited to, the following:

- Penticton
- Vernon
- Kamloops
- White Rock
- Surrey
- Port Moody
- New Westminster

- Richmond
- Coquitlam
- Vancouver
- Prince George

In 2005, in recognition of the federal government's declaration of that year as the "Year of the Veteran," Kelowna City Council approved a temporary no-charge parking policy for veterans. While the measure was extended until May 2006, it was later rescinded and has not been reintroduced. It appears there was no significant impact on parking meter revenues in 2005 in comparison to previous or subsequent years.

#### **ELIGIBILITY:**

To be eligible for free parking, veterans need to have a **Veteran's License Plate**, which is available through the Insurance Corporation of British Columbia (ICBC) in collaboration with the BC Veterans Commemorative Association.

#### **POLICY RATIONALE:**

Supporting a policy that provides complimentary parking for veterans can be seen as a way to honor their service and sacrifice while also addressing practical needs. Here are several reasons why such a policy could be beneficial:

##### **1. Recognizing Service and Sacrifice**

- **A Gesture of Gratitude:** Veterans have often risked their lives and limb for defense of the country. They have fought to provide freedom, democracy, human rights and the rule of law for all Canadians. Providing complimentary parking can be a small but meaningful way to express appreciation for their sacrifices. It's a visible acknowledgment that our community and society values their service.
- **Symbol of Respect:** Rather than one day a year at Remembrance Day, free parking can be part of a broader effort to honor veterans for their contributions to national security and public service. It shows that we recognize their unique role in society.

##### **2. Practical Benefits for Veterans**

- **Convenience:** Many veterans may have mobility challenges or health conditions stemming from their service. Complimentary parking, especially in key areas, makes accessing services, healthcare, and businesses easier for them.  
**This is addressed primarily through accessible parking passes and accessible on-street parking spots (handicap stalls).** However, there is a limited number of designated handicap stalls on each block. Providing complimentary on-street parking for all veterans would expand the free parking options for those veterans with accessible parking passes when the designated handicap stalls are occupied in any given block.
- **Financial Relief:** Many veterans live on fixed incomes or receive disability benefits. Providing free parking can help reduce their living expenses, particularly in areas where parking fees are high.
- **Access to Services:** Veterans often require frequent medical appointments or other services. Free parking ensures they have easier access without the added burden of parking costs.

##### **3. Promoting Inclusivity and Equal Access**



- **Support for Disabled Veterans:** A significant number of veterans live with disabilities, which can make even routine activities, such as visiting a store or healthcare facility, more difficult. Providing free parking near these venues can reduce some of the challenges they face.
- **Encouraging Participation in Civic Life:** Veterans who may face barriers to transportation or parking fees might be less likely to engage in community events or other public activities. Complimentary parking can help ensure they are able to take part in both civic and social life without undue hardship.

#### 4. Encouraging Public Recognition and Community Building

- **Setting a Positive Example:** Offering free parking is one way to foster a sense of community and collective responsibility. It sets an example of how a society can care for those who have served it. It can inspire other communities or businesses to implement similar supportive policies for veterans.
- **Building Trust and Support:** Veterans and their families might feel more connected to their communities and government when they see tangible, thoughtful policies being enacted in their favor. It fosters goodwill and reinforces a culture of respect and support for veterans.

#### 5. Promoting Awareness of Veterans' Needs

- **Public Education:** By offering complimentary parking to veterans, our local government and businesses can help raise awareness about the challenges veterans face in civilian life. It brings attention to issues like disability, mobility limitations, and the transition to civilian life that some veterans experience after their service.
- **Building Relationships with Veterans' Groups:** Supporting policies like free parking can strengthen the relationship between veterans' organizations, local governments, and the general public, creating a stronger network of support for veterans' needs.

#### 6. Cost-Effective Public Policy

- **Minimal Financial Impact:** Providing complimentary parking will be a relatively low-cost for our local government. The policy can be implemented in a way that balances the need for respect and support with responsible budgeting.
- **Encouraging Economic Participation:** If free parking is offered at all metered parking locations, veterans may be more likely to visit the Downtown and South Pandosy business establishments, boosting local businesses and contributing to the economy.

#### CLOSING COMMENTS:

In summary, I believe the City of Kelowna has a strong history of supporting our veterans. The exceptional community turnout at our recent Remembrance Day ceremony services was a prime example.

By Council implementing a policy of complimentary parking for veterans is another simple yet respectful way to show appreciation for their service. This policy is also a practical means of helping veterans lead more convenient, accessible, and financially sustainable lives. After all, many veterans are living on a fixed income and are struggling due to inflationary pressures.

This parking policy is a relatively modest yet powerful gesture that can enhance the well-being of veterans while fostering a culture of respect and recognition in society.

LEST WE FORGET!

Date: November 18, 2024



**Branch 26  
Kelowna**

November 4, 2024

**Subject: Request for Free Parking Privileges for Veterans**

Dear Mayor Tom Dyas and Council,

I am writing to respectfully urge the City of Kelowna to consider implementing a policy that would grant free parking privileges for veterans within our community. This initiative would serve as a small, yet meaningful way to show appreciation and support for those who have served our country.

Our veterans have dedicated their lives to protecting our freedoms and ensuring the safety of our nation. Many have made immense sacrifices, enduring hardships, and risking their lives. Transitioning back into civilian life can be challenging, with financial and mobility obstacles often standing in the way of accessing essential services and community activities. Free parking would help ease some of these burdens, allowing veterans greater access to necessary amenities, healthcare, and community engagement without the added financial concern.

Implementing free parking privileges for veterans would send a strong, positive message of gratitude, reinforcing the respect and honor our community holds for them. Many other municipalities and cities like Penticton, Vernon and Kamloops have already adopted similar programs, demonstrating the practical feasibility and community benefits of such initiatives. This policy could potentially be implemented through identifiable veteran license plates, ensuring only eligible veterans benefit from the service.

Thank you for considering this request. Your support for our veterans is deeply appreciated, and I am hopeful that this proposal will receive the thoughtful consideration it deserves.

Respectfully,

Jim White

President, Kelowna Legion Branch 26

**Title:** Actively insured veteran licence plates  
**Location:** Kelowna (B.C.)  
**Period:** as of Dec. 31, 2023  
**Reported By:** ICBC

Year	Count
2023	391

**Notes:**

- Counts are based on veteran license plates with an active policy on **December 31, 2023**.
- Vehicle location is based on the policy's mailing address which may not necessarily represent where the vehicle is used or parked.



# CITY OF KELOWNA

## Bylaw No. 12714

### Amendment No. 1 to Uptown Rutland Business Improvement Area Bylaw No. 12427

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WHEREAS the Community Charter, Section 154(1), empowers Council to delegate by bylaw its powers, duties and functions, including those specifically established by an enactment, to the extent provided, to an officer or employee of the municipality;

AND WHEREAS Council wishes to delegate to an officer or employee certain powers, duties and functions;

AND WHEREAS Council wishes to specify which officer or employee may set conditions and limitations on the receipt and expenditure of money on behalf of the City of Kelowna as it relates to a Business Improvement Area;

The Municipal Council of the City of Kelowna, in open meeting assembled, enacts that the Uptown Rutland Business Improvement Area (URBA) Bylaw No. 12427 be amended as follows:

1. THAT **Section 2** be amended by deleting "Two Hundred and Seventy Thousand Five Hundred and Eight Dollars (\$270,508.00) per annum" and replacing with "Three Hundred and Eighty Thousand Seven Hundred and Fifty-eight Dollars (\$380,758) per annum".
2. THAT the following new subsection be added after **Section 4**:

"4.1 The General Manager, People and Protective Services, may set an objective, priority or goal for a project in a service agreement, which may stipulate:

  - (a) Conditions and limitations on the receipt and expenditure of money that commensurate with URBA performance of the project objective, priority or goal.
  - (b) That URBA provide a written report to the City, as reasonably required, using City-approved metrics to demonstrate the progress on the implementation of a project objective, priority, or goal. It may be reasonable to require a written report as often as once a month."
3. THAT **Section 11** be deleted in its entirety and replaced with the following:

"11. There shall be levied annually against all taxable land and improvements within the designated Business Improvement Area which fall within Class 5 or 6 of the Assessments – Class and Percentage Levels Regulation, B.C. Re. 438/81 excluding Federal, Provincial and Municipal owned properties used for government purposes, and based on assessed values, rates sufficient to raise \$270,508.00 per annum or such lesser amount granted to URBA pursuant to the provisions of this bylaw."
4. This bylaw may be cited as "Bylaw No. 12714, being Amendment No. 1 to Uptown Rutland Business Improvement Area Bylaw No. 12427".
5. 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, second and third time by the Municipal Council this 4<sup>th</sup> of November, 2024

Adopted by the Municipal Council of the City of Kelowna this

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Mayor

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City Clerk

# CITY OF KELOWNA

## Bylaw No. 12723

### Amendment No. 1 to Kelowna Downtown Business Improvement Area Bylaw No. 12575

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WHEREAS the Community Charter, Section 154(1), empowers Council to delegate by bylaw its powers, duties and functions, including those specifically established by an enactment, to the extent provided, to an officer or employee of the municipality;

AND WHEREAS Council wishes to delegate to an officer or employee certain powers, duties and functions;

AND WHEREAS Council wishes to specify which officer or employee may set conditions and limitations on the receipt and expenditure of money on behalf of the City of Kelowna as it relates to a Business Improvement Area;

The Municipal Council of the City of Kelowna, in open meeting assembled, enacts that the Kelowna Downtown Business Improvement Area Bylaw No. 12575 be amended as follows:

1. THAT **Section 2** be amended by deleting "One Million, Five Hundred and Three Thousand, and Seventy-Five Dollars (\$1,503,075.00) per annum" and replacing with "One Million, Seven Hundred and Thirty Eight Thousand, Nine Hundred and Seventy Three Dollars (\$1,738,973.00) per annum".
2. THAT the following new subsection be added after **Section 4**:

"4.1 The General Manager, People and Protective Services, may set an objective, priority or goal for a project in a service agreement, which may stipulate:

  - (a) Conditions and limitations on the receipt and expenditure of money that commensurate with DKA performance of the project objective, priority or goal.
  - (b) That DKA provide a written report to the City, as reasonably required, using City-approved metrics to demonstrate the progress on the implementation of a project objective, priority, or goal. It may be reasonable to require a written report as often as once a month."
3. THAT **Section 9** be deleted in its entirety and replaced with the following:

"9. There shall be levied annually against all taxable land and improvements within the designated Business Improvement Area which fall within Class 5 or 6 of the Assessments – Class and Percentage Levels Regulation, B.C. Re. 438/81 excluding Federal, Provincial and Municipal owned properties used for government purposes, and based on assessed values, rates sufficient to raise \$1,503,075.00 per annum or such lesser amount granted to DKA pursuant to the provisions of this bylaw."
4. This bylaw may be cited as "Bylaw No. 12723, being Amendment No. 1 to Kelowna Downtown Business Improvement Area Bylaw No. 12575".
5. 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, second and third time by the Municipal Council this 4<sup>th</sup> of November, 2024

Adopted by the Municipal Council of the City of Kelowna this

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Mayor

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City Clerk



**CITY OF KELOWNA**

**BYLAW NO. 12725**

**Housing Agreement Authorization Bylaw – Westcorp on the Lake  
Inc., Inc.No. A75763**

**3773-3795 Lakeshore Road**

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Whereas pursuant to Section 483 of the *Local Government Act*, a local government may, by bylaw, enter into a housing agreement.

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

1. THAT City of Kelowna Housing Agreement Authorization Bylaw Westcorp on the Lake Inc., Inc.No. A75763 Bylaw No. 12565, and all amendments thereto, be repealed.
2. The Municipal Council hereby authorizes the City of Kelowna to enter into a Housing Agreement with Westcorp on the Lake Inc., Inc.No. A75763 for the lands known as Lot 1 District Lot 134 ODYD Plan EPP41204 Except Plan EPP112300 located on Lakeshore Road, Kelowna, B.C., a true copy of which is attached to and forms part of this bylaw as Schedule "A".
3. The Mayor and City Clerk are hereby authorized to execute the attached agreement as well as any conveyances, deeds, receipts or other documents in connection with the attached agreement.
4. 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, second and third time by the Municipal Council this 4<sup>th</sup> day of November, 2024.

Adopted by the Municipal Council of the City of Kelowna this

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Mayor

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City Clerk

## Schedule "A"

Page 1

### PURPOSE-BUILT RENTAL HOUSING AGREEMENT

THIS AGREEMENT dated for reference \_\_\_\_\_ affects:

#### LEGAL DESCRIPTION OF PROPERTY SUBJECT TO THE AGREEMENT:

LOT 1 DISTRICT LOT 134 OSOYOOS DIVISION YALE DISTRICT  
PLAN EPP41204 EXCEPT PLAN EPP112300

("Land")

And is

**BETWEEN: WESTCORP ON THE LAKE INC., INC.NO. A75763**  
200, 8215 – 112 Street  
Edmonton, Alberta T6G 2C8

("Owner")

**AND:**

**CITY OF KELOWNA**, a local government incorporated pursuant to the *Community Charter* and having its offices at 1435 Water Street, Kelowna, B.C. V1Y 1J4

("City")

GIVEN THAT:

- A. The Owner has applied to the City for rezoning of the Lands to permit the construction of a housing complex that will include purpose-built rental housing units, as defined in this Agreement, on certain lands more particularly described in this Agreement;
- B. The City may, pursuant to section 483 of the *Local Government Act*, enter into an agreement with an owner of land that includes terms and conditions regarding the occupancy, tenure, and availability of the housing units on the land or construction on land;
- C. The Owner and the City wish to enter into this Agreement to provide for purpose-built rental housing on the terms and conditions set out in this Agreement, and agree that this Agreement is a housing agreement under s. 483 of the *Local Government Act*; and
- D. The City has, by bylaw, authorized the execution of this Agreement and the Owner has duly authorized the execution of this Agreement;

This Agreement is evidence that in consideration of \$1.00 paid by the City to the Owner (the receipt of which is acknowledged by the Owner) and in consideration of the promises exchanged below, the City and Owner agree, as a housing agreement between the Owner and the City under s. 483 of the *Local Government Act*, as follows:

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**ARTICLE 1  
INTERPRETATION**

**1.1 Definitions -**

"Caregiver" means an individual who provides assistance with the performance of the personal functions and activities necessary for daily living that a person is unable to perform efficiently for himself or herself;

"City" means the City of Kelowna;

"Dwelling Unit" means accommodation providing sleeping rooms, washrooms, and no more than one kitchen, intended for domestic use, and used or intended to be used permanently or semi-permanently for a Household. This use does not include a room in a hotel or a motel.

"Household" means

- (a) a person;
- (b) two or more persons related by blood, marriage, or adoption; or associated through foster care, all living together in one dwelling unit as a single household using common cooking facilities;
- (c) a group of not more than five persons, including boarders, who are not related by blood, marriage, or adoption, or associated through foster care, all living together in one dwelling unit as a single household using common cooking facilities; or
- (d) a combination of (b) and (c), provided that the combined total does not include more than 3 persons unrelated by blood, marriage or adoption or associated through foster care; all living together in one dwelling unit as a single household using common cooking facilities.

In addition, a household may also include up to one Caregiver or nanny;

"Land" means the land described herein;

"LTO" means the Kamloops Land Title Office or its successor;

"Official Community Plan" means the City of Kelowna Official Community Plan Bylaw No. 10500, or its successor bylaw;

"Owner" means the registered owner of the Lands from time to time and any parcels into which the Lands are subdivided;

"Purpose-Built Rental Housing" means a Dwelling Unit that is intended to be used for rental housing; and

"Tenancy Agreement" means a tenancy agreement as defined in, and subject to, the *Residential Tenancy Act*.

**1.2 Interpretation - In this Agreement:**

- (a) reference to the singular includes a reference to the plural, and vice versa, unless the context requires otherwise;

- (b) article and section headings have been inserted for ease of reference only and are not to be used in interpreting this Agreement;
- (c) reference to a particular numbered section or article, or to a particular lettered Schedule, is a reference to the correspondingly numbered or lettered article, section or Schedule of this Agreement;
- (d) if a word or expression is defined in this Agreement, other parts of speech and grammatical forms of the same word or expression have corresponding meanings;
- (e) the word "enactment" has the meaning given in the *Interpretation Act* on the reference date of this Agreement;
- (f) reference to any enactment includes any regulations, orders or directives made under the authority of that enactment;
- (g) reference to any enactment is a reference to that enactment as consolidated, revised, amended, re-enacted or replaced, unless otherwise expressly provided;
- (h) the provisions of s. 25 of the *Interpretation Act* with respect to the calculation of time apply;
- (i) time is of the essence;
- (j) all provisions are to be interpreted as always speaking;
- (k) reference to a "party" is a reference to a party to this Agreement and to their respective successors, assigns, trustees, administrators and receivers;
- (l) reference to a "day", "month", "quarter" or "year" is a reference to a calendar day, calendar month, calendar quarter or calendar year, as the case may be, unless otherwise expressly provided;
- (m) the definitions given in the City of Kelowna Zoning Bylaw No. 12375, or its successor bylaw, and the Official Community Plan apply for the purposes of this Agreement; and
- (n) any act, decision, determination, consideration, consent or exercise of discretion by a party, or other person, as provided in this Agreement will be performed, made or exercised acting reasonably.

**1.3 Purpose of Agreement - The Owner and the City agree that:**

- (a) this Agreement is intended to serve the public interest by providing for occupancy of a certain number of Dwelling Units, of the kinds provided for in this Agreement, that are in demand in the City of Kelowna but that are not readily available;
  - (b) damages are not an adequate remedy to the City in respect of any breach of this Agreement by the Owner, such that the Owner agrees the City should be entitled to an order for specific performance, injunction or other specific relief respecting any breach of this Agreement by the Owner.
-



**ARTICLE 2  
HOUSING AGREEMENT AND LAND USE RESTRICTIONS**

**2.1 Land Use Restrictions** - The Owner and the City hereby covenant and agree as follows:

- (a) The Land will be used only in accordance with this Agreement;
- (b) The Owner will design, construct and maintain one or more buildings providing 521 Dwelling Units as Purpose-Built Rental Housing
- (c) The Owner acknowledges that the City will not support applications to stratify the building(s) on the Land, thereby allowing the identified Purpose-Built Rental Housing Dwelling Units to be sold independently of each other, for a period of ten (10) years from the date of this Agreement.

**ARTICLE 3  
HOUSING AGREEMENT AND TRANSFER RESTRICTIONS**

**3.1 Purchaser Qualifications** - The City and the Owner agree as follows:

- (a) the Owner will not sell or transfer, or agree to sell or transfer, any interest in any building containing Purpose-Built Rental Housing Dwelling Units on the Land other than a full interest in the fee simple title to an agency or individual that will continue to ensure that the Purpose-Built Rental Housing Dwelling Units are available in accordance with this Agreement.

**3.2 Use and Occupancy of Purpose-Built Rental Housing Dwelling Unit** - The Owner agrees with the City as follows:

- (a) the Owner will rent or lease each Purpose-Built Rental Housing Dwelling Unit on the Land in accordance with the *Residential Tenancy Act*, and in no event may the Owner itself occupy a Purpose-Built Rental Housing Dwelling Unit or use the Purpose-Built Rental Housing Dwelling Unit for short-term vacation accommodation; and
- (b) the Owner will deliver a copy of the Tenancy Agreement for each Purpose-Built Rental Housing Dwelling Unit to the City upon demand.

**ARTICLE 4  
GENERAL**

**4.1 Notice of Housing Agreement** - For clarity, the Owner acknowledges and agrees that:

- (a) this Agreement constitutes a housing agreement entered into under s. 483 of the *Local Government Act*;
  - (b) the City is requiring the Owner to file a notice of housing agreement in the LTO against title to the Land;
-

- (c) once such a notice is filed, this Agreement binds all persons who acquire an interest in the Land;
- (d) in the event the parties agree to release this Agreement from the title of the Land, which may not occur before the tenth (10<sup>th</sup>) anniversary of the date of this Agreement, the Owner will repay the City for 100% of the amount of the rental grant received from the City. Such repaid funds will be directed to the City's Housing Opportunities Reserve Fund.

**4.2 No Effect On Laws or Powers** - This Agreement does not

- (a) affect or limit the discretion, rights, duties or powers of the City under any enactment or at common law, including in relation to the use or subdivision of land,
- (b) impose on the City any legal duty or obligation, including any duty of care or contractual or other legal duty or obligation, to enforce this Agreement,
- (c) affect or limit any enactment relating to the use or subdivision of land, or
- (d) relieve the Owner from complying with any enactment, including in relation to the use or subdivision of land.

**4.3 Management** – The Owner covenants and agrees that it will furnish good and efficient management of the Dwelling Units and will permit representatives of the City to inspect the Dwelling Units at any reasonable time, subject to the notice provisions of the *Residential Tenancy Act*. The Owner further covenants and agrees that it will maintain the Dwelling Units in a satisfactory state of repair and fit for habitation and will comply with all laws, including health and safety standards applicable to the Land. Notwithstanding the foregoing, the Owner acknowledges and agrees that the City, in its absolute discretion, may require the Owner, at the Owner's expense, to hire a person or company with the skill and expertise to manage the Dwelling Units.

**4.4 Notice** - Any notice which may be or is required to be given under this Agreement will be in writing and either be delivered or sent by facsimile transmission. Any notice which is delivered is to be considered to have been given on the first day after it is dispatched for delivery. Any notice which is sent by fax transmission is to be considered to have been given on the first business day after it is sent. If a party changes its address or facsimile number, or both, it will promptly give notice of its new address or facsimile number, or both, to the other party as provided in this section.

**4.5 Agreement Runs With the Land** - Every obligation and covenant of the Owner in this Agreement constitutes both a contractual obligation and a covenant granted by the Owner to the City in respect of the Land and this Agreement burdens the Land and runs with it and binds the Owner's successors in title and binds every parcel into which it is consolidated or subdivided by any means, including by subdivision or by strata plan under the *Strata Property Act*.

**4.6 Limitation on Owner's Obligations** - The Owner is only liable for breaches of this Agreement that occur while the Owner is the registered owner of the Land.

**4.7 Release** – The Owner by this Agreement releases and forever discharges the City and each of its elected officials, officers, directors, employees and agents, and its and their heirs, executors, administrators, personal representatives, successors, and assigns, from and against all claims, demands, damages, actions, or causes of action by reason of or arising out of advice or direction respecting the ownership, lease, operation or management of the Land or the Dwelling Units which has been or at any time after the

commencement of this Agreement may be given to the Owner by all or any of them. This clause will survive the termination of this Agreement.

- 4.8 **Joint Venture** – Nothing in this Agreement will constitute the Owner as the agent, joint venturer, or partner of the City or give the Owner any authority to bind the City in any way.
  - 4.9 **Waiver** - An alleged waiver of any breach of this Agreement is effective only if it is an express waiver in writing of the breach. A waiver of a breach of this Agreement does not operate as a waiver of any other breach of this Agreement.
  - 4.10 **Further Acts** - The Owner will do everything reasonably necessary to give effect to the intent of this Agreement, including execution of further instruments.
  - 4.11 **Severance** - If any part of this Agreement is held to be invalid, illegal or unenforceable by a court having the jurisdiction to do so, that part is to be considered to have been severed from the rest of this Agreement and the rest of this Agreement remains in force unaffected by that holding or by the severance of that part.
  - 4.12 **Equitable Remedies** – The Owner acknowledges and agrees that damages would be an inadequate remedy for the City for breach of this Agreement and that the public interest strongly favours specific performance, injunctive relief (mandatory or otherwise), or other equitable relief, as the only adequate remedy for a default under this Agreement.
  - 4.13 **No Other Agreements** - This Agreement is the entire agreement between the parties regarding its subject and it terminates and supersedes all other agreements and arrangements regarding its subject.
  - 4.14 **Amendment** - This Agreement may be discharged, amended or affected only by an instrument duly executed by both the Owner and the City.
  - 4.15 **Enurement** - This Agreement binds the parties to it and their respective successors, heirs, executors and administrators. Reference in this Agreement to the "City" is a reference also to the elected and appointed officials, employees and agents of the City.
  - 4.16 **Deed and Contract** - By executing and delivering this Agreement each of the parties intends to create both a contract and a deed executed and delivered under seal.
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IN WITNESS WHEREOF the parties hereunto have executed this Agreement on the date and year first above written.

SIGNED, SEALED & DELIVERED in )  
the presence of: )

Keri Fields )  
Signature of Witness )

Keri Fields )  
Print Name )

20-1460 Pandosy Str. Kelowna )  
Address )

Executive Assistant )  
Occupation )

SIGNED, SEALED & DELIVERED in )  
the presence of: )

\_\_\_\_\_)  
Signature of Witness )

\_\_\_\_\_)  
Print Name )

\_\_\_\_\_)  
Address )

\_\_\_\_\_)  
Occupation )

"OWNER"  
by its authorized signatories:

[Signature]

GAIL TEMPLE  
Print Name:

\_\_\_\_\_  
Print Name:

CITY OF KELOWNA  
by its authorized signatories:

\_\_\_\_\_) Mayor

\_\_\_\_\_) City Clerk



# CITY OF KELOWNA

## BYLAW NO. 12704

### Amendment No.15 to the Solid Waste Management Regulation Bylaw No. 10106

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The Municipal Council of the City of Kelowna, in open meeting assembled, enacts that the City of Kelowna Solid Waste Bylaw No. 10106 be amended as follows:

1. THAT Section 1.2 INTERPRETATION be amended by
  - a. deleting the following definition:

***“Director of Civic Operations”*** means the person appointed as such by the City and includes his or her lawful delegate.”
  - b. adding the following definition that reads:

***“Manager”*** means concrete that is only concrete and free of all contamination such as re-bar, paint, adhesives, and other contaminants.”;
2. AND THAT reference to “Director of Civic Operations” and “Director of Infrastructure Operations” be replaced throughout the bylaw with the defined term ***“Manager”***;
3. AND THAT **Section 2. 4 Disposal Requirements within Garbage Containers – Residential and Non Residential, 2.4.5** be added as follows:

“Every strata council of a strata titled multi-family residence and owner of a non-strata titled multi-family residence shall:

  - (a) provide written information to new residents, employees and contractors and at least annually to all existing residents, its employees and contractors on how to separate and deposit garbage, yard waste, food scraps and recyclable materials into the appropriate receptacles without contamination;
  - (b) post signage with information on separating garbage, yard waste, food scraps and recyclable materials on the premises and in the recycling storage space;
  - (c) designate a storage area and signage for bulky items within the property; and
  - (d) remove bulky items for disposal from the property within one week of the items being placed in the designated storage area.”;

4. AND THAT **Schedule "B" CURBSIDE PICK UP LIMITS AND COLLECTION FEES, SECTION 1.5** be added as follows:

"Properties that have multiple applicable Residential Dwelling Units will receive carts for shared use on the properties to minimize the storage and space required for waste collection as per the table below:

**Table 1 - Shared Cart distribution**

Residential Dwelling Units	Garbage Carts	Yard Waste Carts	Recyclables Carts
1	one 120L	one 240L	one 240L
2	one 240L	one 240L	two 240L
3	one 360L	one 240L	two 240L
4	two 240L	two 240L	two 360L
5	one 240L and one 360L	two 240L	two 360L
6	two 360L	two 240L	two 360L

”;

5. AND FURTHER THAT **Schedule "B" CURBSIDE PICK UP LIMITS AND COLLECTION FEES, SECTION 2** be amended by deleting the following:

"Each Residential Dwelling Premise using a 240L cart for garbage collection will pay an additional annual fee outlined in the table below".

This bylaw may be cited for all purposes as "Bylaw No. 12704, being Amendment No. 15 to Solid Waste Bylaw No. 10106."

Read a first, second and third time by the Municipal Council this 4<sup>th</sup> day of November, 2024.

Adopted by the Municipal Council of the City of Kelowna this

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Mayor

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City Clerk