

City of Kelowna

Regular Council Meeting

AGENDA



Tuesday, April 4, 2017
6:00 pm
Council Chamber
City Hall, 1435 Water Street

Pages

1. **Call to Order**
2. **Reaffirmation of Oath of Office**
The Oath of Office will be read by Councilor Sieben.
3. **Confirmation of Minutes** 1 - 10
Public Hearing - March 21, 2017.
Regular Meeting - March 21, 2017.
4. **Bylaws Considered at Public Hearing**
 - 4.1 **4377 Kensington Drive, BL11361 (Z16-0042) - Gary Lupul** 11 - 11
To give Bylaw No. 11361 second and third readings in order to rezone the subject property to facilitate the development of a second single family dwelling on the subject parcel.
 - 4.2 **757 Raymer Road BL11368 (Z17-0005) - Daniel Joinson** 12 - 12
To give Bylaw No. 11368 second and third readings in order to rezone the subject property from the RU1 - Large Lot Housing zone to the RU2 - Medium Lot Housing zone to facilitate a future subdivision.
 - 4.3 **1449 Ethel Street BL11371 (HRA16-0001) - Donald McDonald and Linda Scott-McDonald** 13 - 23
To give Bylaw No. 11371 second and third readings in order to enter into a Heritage Revitalization Agreement to allow special events such as weddings, corporate events, fundraisers, and others; in exchange for long term preservation of a heritage resource
 - 4.4 **289-291 Valley Road BL11372 (Z17-0002) - City of Kelowna** 24 - 24
To give Bylaw No. 11372 second and third readings in order to rezone the subject property A1 Agriculture 1 zone to the P5 - Municipal District Park zone.

5. Notification of Meeting

The City Clerk will provide information as to how the following items on the Agenda were publicized.

6. Development Permit and Development Variance Permit Reports

6.1 140-146 Gray Road, TUP16-0004 - 0814932 BC Ltd. Inc

25 - 29

City Clerk to state for the record any correspondence received. Mayor to invite anyone in the public gallery who deems themselves affected by the required variance(s) to come forward.

To temporarily allow outdoor storage on the subject property.

7. Reminders

8. Termination



City of Kelowna Public Hearing Minutes

Date: Tuesday, March 21, 2017
 Location: Council Chamber
 City Hall, 1435 Water Street

Members Present Mayor Colin Basran, Councillors Maxine DeHart, Ryan Donn*, Gail Given, Tracy Gray*, Charlie Hodge Mohini Singh and Luke Stack

Members Absent Councillors Brad Sieben

Staff Present Deputy City Manager, Joe Creron; City Clerk, Stephen Fleming, Community Planning Department Manager, Ryan Smith*; Urban Planning Manager, Terry Barton*; Divisional Director, Community Planning & Strategic Investments, Doug Gilchrist*; Legislative Coordinator (Confidential), Arlene McClelland

(* denotes partial attendance)

1. Call to Order

Mayor Basran called the Hearing to order at 6:01 p.m.

Mayor Basran advised that the purpose of the Hearing is to consider certain bylaws which, if adopted, will amend "Kelowna 2030 - Official Community Plan Bylaw No. 10500" and Zoning Bylaw No. 8000", and all submissions received, either in writing or verbally, will be taken into consideration when the proposed bylaws are presented for reading at the Regular Council Meeting which follows this Public Hearing.

Councillor Donn joined the meeting at 6:03 p.m.

2. Notification of Meeting

The City Clerk advised that Notice of this Public Hearing was advertised by being posted on the Notice Board at City Hall on March 7, 2017 and by being placed in the Kelowna Daily Courier issues on Friday March 10 and Wednesday March 15, 2017 and by sending out or otherwise mailing 149 statutory notices to the owners and occupiers of surrounding on March 8, 2017.

The correspondence and/or petitions received in response to advertising for the applications on tonight's agenda were arranged and circulated to Council in accordance with Council Policy No. 309.

3. Individual Bylaw Submissions

3.1 TA16-0018 (BL11363) C7 - Central Business Commercial Zone Amendments

Staff:

- Displayed a PowerPoint Presentation summarizing the application and responded to questions from Council.

Councillor Gray joined the meeting at 6:19 p.m.

The City Clerk advised that no correspondence had been received.

Mayor Basran invited anyone in the public gallery who deemed themselves affected to come forward, followed by comments of Council.

Gallery

Anne Laurie, Abbott Street

- Spoke to her attendance at the Happy City Symposium with a presentation by Charles Montgomery in September 2015 and believes the research presented is relevant on the decision Council will make today.
- Suggested the land use decision under consideration should remain the authority of Council.
- Displayed photographs on the ELMO and raised concern with the street level facades proposed; in particular, the developments with one or two stories of above ground parking that will create a sense of being unsafe for the pedestrian.
- Opposed to the proposed front lot setbacks as this will result in buildings that are too close to the sidewalks; current restrictions are in place to make our streets and sidewalks more livable.
- Believes these amendments will make the City less happy as they will result in a reduced sidewalk vibe.

Staff:

- Responded to questions from Council

There were no further comments.

3.2 700 Swordy Road - TA17-0003 (BL11364) & Z17-0009 (BL11365) - FORTISBC Ltd

Staff:

- Displayed a PowerPoint Presentation summarizing the application and responded to questions from Council.

The City Clerk advised that no correspondence had been received.

Mayor Basran invited anyone in the public gallery who deemed themselves affected to come forward, followed by comments of Council.

Jean Guy Beliveau, Zeidler BKDI Architects and Greg Appelt, Rise Commercial Developments

- Displayed a PowerPoint presentation displaying drawings of the project.
- Advised that the proposed parking lot has some restrictions at the north end of the substation and that a buffer is required for safety and maintenance purposes. The intent is to keep all vehicles away from the power lines.
- Providing a landscape buffer around the property to screen parking from the single family residences.
- Advised that 67 parking stalls are being proposed and that one or two stalls may require a variance.
- Confirmed that a preliminary engineering report has been done on the project site.
- Responded to questions from Council.

Jack Peters, Gyro Beach area Resident

- Commented on the fire lane requirements and believes it may have an impact on parking.
- Suggested that public parking for Gyro Beach users would be an appropriate use.
- Recommended a pedestrian path through this area to the adjoining neighbourhood.

Gail Wright, Bray Street

- Inquired if the parking variance would take away from road or sidewalk space.

Jean Guy Beliveau, Zeidler BKDI Architects

- The variance along the east property line is in order to provide a drive isle around the powerline with a slight reduction in landscape, however, will provide comprehensive landscaping across the property.
- Confirmed the lane way has no fire lane or right-of-way on the property. The existing gate has been used as access over private property and is at odds with the parking lot use.
- There are no other variances that would take away from public sidewalks.

There were no further comments.

4. Termination

The Hearing was declared terminated at 6:56 p.m.

Mayor

/acm

City Clerk

DRAFT



City of Kelowna Regular Council Meeting Minutes

Date: Tuesday, March 21, 2017
Location: Council Chamber
City Hall, 1435 Water Street

Members Present: Mayor Colin Basran, Councillors Maxine DeHart, Ryan Donn, Gail Given, Tracy Gray, Charlie Hodge Mohini Singh and Luke Stack

Members Absent: Councillors Brad Sieben

Staff Present: Deputy City Manager, Joe Creron; City Clerk, Stephen Fleming, Community Planning Department Manager, Ryan Smith*; Urban Planning Manager, Terry Barton*; Divisional Director, Community Planning & Strategic Investments, Doug Gilchrist*; Legislative Coordinator (Confidential), Arlene McClelland

(* denotes partial attendance)

1. Call to Order

Mayor Basran called the meeting to order at 6:56p.m.

2. Reaffirmation of Oath of Office

The Oath of Office was read by Councillor Hodge.

3. Confirmation of Minutes

Moved By Councillor Donn/Seconded By Councillor Gray

R208/17/03/21 THAT the Minutes of the Public Hearing and Regular Meeting of March 7, 2017 be confirmed as circulated.

Carried

4. Bylaws Considered at Public Hearing

4.1 BL11363 (TA16-0018) - C7 - Central Business Commercial Zone

Moved By Councillor Hodge/Seconded By Councillor Given

R209/17/03/21 THAT Bylaw No. 11363 be read a second and third time.

Carried
Councillor Hodge – Opposed

4.2 BL11364 (TA17-0003) - Section 16 - Public and Institutional Zones

Moved By Councillor Hodge/Seconded By Councillor Given

R210/17/03/21 THAT Bylaw No. 11364 be read a second and third time.

Carried

4.3 BL11365 (Z17-0009) - 700 Swordy Road - FORTISBC Inc.

Moved By Councillor Given/Seconded By Councillor Hodge

R211/17/03/21 THAT Bylaw No. 11365 be read a second and third time.

Carried

5. Notification of Meeting

The City Clerk advised that Notice of Council's consideration of these Development Variance Permit Applications was given by sending out or otherwise mailing 149 statutory notices to the owners and occupiers of surrounding on March 8, 2017.

Notice of Council's consideration of these Heritage Alteration Permit Application was given by sending out or otherwise mailing 27 statutory notices to the owners and occupiers of surrounding on March 8, 2017.

The correspondence and/or petitions received in response to advertising for the applications on tonight's Agenda were arranged and circulated to Council in accordance with Council Policy No. 309.

6. Development Permit and Development Variance Permit Reports

6.1 140 Mugford Rd, 405 and 425 Rutland Rd, BL11123 (Z15-0010) - RA Quality Homes Ltd

Moved By Councillor Singh/Seconded By Councillor DeHart

R212/17/03/21 THAT Bylaw No. 11123 be adopted.

Carried

6.2 140 Mugford Rd & 415 Rutland Rd, DVP16-0144 - RA Quality Homes Ltd

Staff:

- Displayed a PowerPoint Presentation summarizing the application and responded to questions from Council.

The City Clerk advised that the following correspondence had been received:

Letters of Opposition or Concern:

Nancy Ryan and Richard Martin, Rutland Rd N.
Jody Dais and Leroy Chase, Mugford Road

Mayor Basran invited anyone in the public gallery who deemed themselves affected to come forward, followed by comments of Council.

Ben Rowlinson, Applicant Representative

- Displayed a new drawing on ELMO and advised that aspects of the development permit had changed.
- Spoke to the relocation of the driveway.

Mayor Basran:

- Recommended that Council defer this application as the development permit is incomplete.

Moved By Councillor Hodge/Seconded By Councillor Stack

R213/17/03/21 THAT Council defer development applications DP16-0014 and DVP16-0144, 140 Mugford Road and 405 and 425 Rutland Road.

Carried

6.3 370 Burne Ave, HAP16-0005 - Anil and Zulekha Bharwani

Staff:

- Displayed a PowerPoint Presentation summarizing the application.

The City Clerk advised that no correspondence had been received.

Mayor Basran invited anyone in the public gallery who deemed themselves affected to come forward, followed by comments of Council.

Staff advised that the Applicant's Architect was unable to attend due to winter weather conditions blocking road access between North Vancouver and Kelowna.

Gallery:

Gail Wright, Bray Street

- Inquired how this modern home design fits into a heritage area.

Staff:

- Made comment on how this new style is appropriate and noted that the Heritage Advisory Committee appreciated the adaptive reuse and giving the building new life.
- Confirmed the house was not on the Heritage Registry.

There were no further comments.

Moved By Councillor Stack/Seconded By Councillor Given

R214/17/03/21 THAT Council authorizes the issuance of Heritage Alteration Permit No. HAP16-0005 for Lot 6, District Lot 14, ODYD, Plan 1178, located at 370 Burne Avenue, Kelowna, BC subject to the following:

1. The dimensions and siting of the building to be constructed on the land be in accordance with Schedule "A,"
2. The exterior design and finish of the building to be constructed on the land, be in accordance with Schedule "B";

AND THAT variances to the following section of Zoning Bylaw No. 8000 be granted:

Section 13.1.6(d): RU1 – Large Lot Housing Development Regulations

To vary the required minimum side yard from 2.3 m permitted to 1.73 m (east) and 1.82 m (west) proposed.

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

Carried

6.4 629 Greene Rd, DVP14-0149 - Garth Coxford & Gillian Krol

Staff:

- Displayed a PowerPoint Presentation summarizing the application.

The City Clerk advised that the following correspondence had been received:

Letters of Opposition or Concern:

Gordon Froese, Greene Road
Cynthia Hoffman, Greene Road

Mayor Basran invited anyone in the public gallery who deemed themselves affected to come forward, followed by comments of Council.

Garth Coxford, Greene Road, Applicant

- Confirmed the 2 car garage and driveway will house 3 vehicles with sufficient parking for the suite.
- Responded to questions from Council.

Gallery:

Gail Wright, Bray Street

- Property backs onto Greene Road but not onto the subject property; the variance will not impact her property.
- Here to support, in principle, the setbacks as indicated in the Zoning Bylaw and commented that there must be value purposes for the zoning setbacks and should not be so readily amended.
- Opposed to the variance.
- The variance has no impact on density and there are other land use options the owners could pursue.
- Spoke to parking issues and pedestrian safety implications created by Dorothea Walker Elementary School.

Richard Drinnan, Greene Road

- Opposed to the variance.
- Believes this will increase on street parking on an already dangerous corner of Greene Road.
- Displayed a map and photos on ELMO depicting the narrow width of the Road.
- Displayed a photo of the Applicant's home showing that there are currently 5 vehicles parked there and noted that the garage is used for storage and not parking.
- Made comment on parking restriction where there is no curb as a matter of public safety.
- Raised concerns on parking and asked Council to add covenants on title to ban off street parking as there are for other properties on Greene Road.

Staff:

- Advised that a restrictive covenant cannot be registered on a city street.

Garth Coxford, Applicant

- Agreeable to the City adding additional on-street parking restrictions on Greene Road.
- Responded to questions from Council.

Deputy City Manager:

- Will have staff look at Greene Road to see if there are any improvements that the City could make.

Moved By Councillor Given/Seconded By Councillor Donn

R215/17/03/21 THAT Council authorizes the issuance of Development Variance Permit No. DVP14-0149 for Lot 6 District Lot 358 ODYD Plan 9564, located at 629 Greene Road, Kelowna, BC;

AND THAT variances to the following section of Zoning Bylaw No. 8000 be granted:

Section 13.1.6 (c): Large Lot Housing Development Regulations

To vary the required minimum side setback from 2.3 m permitted to 1.8 m proposed.

AND THAT Council's consideration of this Development Variance Permit be considered subsequent to the outstanding conditions of approval as set out in Schedule "A" attached to the Report from the Community Planning Department dated September 8, 2014;

AND THAT the applicant be required to complete the above noted conditions of Council's approval of the Development Variance Permit Application in order for the permits to be issued;

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

Carried

6.5 (650 Swordy Rd) 3441, 3451, 3461 & 3471 Lakeshore Road, BL11280 (OCP16-0007) - 0984342 BC Ltd.

Moved By Councillor Singh/Seconded By Councillor DeHart

R216/17/03/21 THAT Bylaw No. 11280 be adopted.

Carried

6.6 (650 Swordy Rd) 3441, 3451, 3461 & 3471 Lakeshore Road, BL11281 (Z16-0040) - 0984342 BC Ltd. & City of Kelowna

Moved By Councillor DeHart/Seconded By Councillor Singh

R217/17/03/21 THAT Bylaw No. 11281 be adopted.

Carried

6.7 650 Swordy Rd, DVP16-0161 - 0984342 BC Ltd

Staff:

- Displayed a PowerPoint Presentation summarizing the application and responded to questions from Council.

The City Clerk advised that no correspondence had been received.

Mayor Basran invited anyone in the public gallery who deemed themselves affected to come forward, followed by comments of Council.

Jean Guy Beliveau, Zeidler BKDI Architects

- Displayed an aerial photo of the subject property and provided a brief overview of the site.
- Believes the key elements are a true mixed use component with retail, office space and residential.
- The Central Plaza area helps to break down the large mass.
- Parking is located in the back of the site with access off of Swordy Road.
- Materials being used are high quality and the colour palate will create a vibrancy.
- Believes this project is a Gateway to Lakeshore and commercial corridor.
- Responded to questions from Council.

Gallery:

Ellen Churchill, Coldwell Banker Horizon Realty, Lakeview Road, West Kelowna

- Representing clients who own property in the area.
- Raised questions regarding the lease term with Fortis BC.
- Raised questions regarding intentions for greenspace and landscaping proposed as this may impact her client's site lines long term.

Jean Guy Beliveau, Zeidler BKDI Architects

- Provided details of the landscape plan indicating mixed vegetation that will not be extensive and displayed drawings in support.

There were no further comments.

Moved By Councillor Hodge/Seconded By Councillor Donn

R217/17/03/21 THAT final adoption of Rezoning Bylaw No. 11281 (Z16-0040) & OCP Amendment Bylaw No. 11280 (OCP16-0007) be considered by Council;

AND THAT Council authorizes the issuance of Development Permit No. DP16-0160 for Lot A, District Lot 134, ODYD, Plan EPP65105, located at 650 Swordy Rd, Kelowna, BC subject to the following:

1. The dimensions and siting of the building to be constructed on the land be in accordance with Schedule "A,"
2. The exterior design and finish of the building to be constructed on the land, be in accordance with Schedule "B";
3. Landscaping to be provided on the land be in accordance with Schedule "C";
4. The applicant be required to post with the City a Landscape Performance Security deposit in the form of a "Letter of Credit" in the amount of 125% of the estimated value of the landscaping, as determined by a Registered Landscape Architect;

AND THAT Council authorize the issuance of Development Variance Permit DVP16-0161 for Lot A, District Lot 134, ODYD, Plan EPP65105, located at 650 Swordy Rd, Kelowna, BC;

AND THAT the variances to the following sections of Zoning Bylaw No. 8000 be granted, as shown on Schedule "A, B, & C":

Table 8.1 Parking Schedule

To vary the required parking from 145 parking stalls permitted to 144 parking stalls proposed.

S.14.4.5 (c) Development Regulations

To vary the maximum height from '15.0m or 4 stories' permitted to '20.55m or 6 stories' proposed.

AND THAT Council's consideration of this Development Permit be considered subsequent to the outstanding conditions of approval as set out in Attachment "A" attached to the Report from the Community Planning Department dated March 21 2017;

AND THAT the applicant be required to complete the above noted conditions of Council's approval of the Development Permit and Development Variance Permit applications in order for the permits to be issued;

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

Carried

7. Reminders - Nil

8. Termination

The meeting was declared terminated at 8:42 p.m.

Mayor

/acm



City Clerk

DRAFT

CITY OF KELOWNA
BYLAW NO. 11361
Z16-0042 – 4377 Kensington Drive

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

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

1. THAT City of Kelowna Zoning Bylaw No. 8000 be amended by changing the zoning classification of Lot 21, District lot 167, ODYD, Plan 27559 located on Kensington Drive, Kelowna, B.C., from the RU1 – Large Lot Housing zone to the RU6 – Two Dwelling Housing zone;
2. This bylaw shall come into full force and effect and is binding on all persons as and from the date of adoption.

Read a first time by the Municipal Council this 20th day of March, 2017.

Considered at a Public Hearing on the

Read a second and third time by the Municipal Council this

Adopted by the Municipal Council of the City of Kelowna this

Mayor

City Clerk

CITY OF KELOWNA
BYLAW NO. 11368
Z17-0005 – 757 Raymer Road

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

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

1. THAT City of Kelowna Zoning Bylaw No. 8000 be amended by changing the zoning classification of LotA, District Lot 358, ODYD, Plan 26557 located on Raymer Road, Kelowna, B.C., from the RU1 – Large Lot Housing zone to the RU2 – Medium Lot Housing zone.
2. This bylaw shall come into full force and effect and is binding on all persons as and from the date of adoption.

Read a first time by the Municipal Council this 20th day March, 2017.

Considered at a Public Hearing on the

Read a second and third time by the Municipal Council this

Adopted by the Municipal Council of the City of Kelowna this

Mayor

City Clerk

CITY OF KELOWNA

BYLAW NO. 11371

**Heritage Revitalization Agreement Authorization Bylaw HRA16-0001 –
Donald McDonald and Linda Scott-McDonald
1449 Ethel Street**

WHEREAS a local government may, by bylaw, enter into a heritage revitalization agreement with the Owner of property which Council deems to be of heritage value pursuant to section 610 of the *Local Government Act*;

AND WHEREAS the Municipal Council of the City of Kelowna is desirous of entering into a Heritage Revitalization Agreement with Donald McDonald and Linda Scott-McDonald for the property located at 1449 Ethel Street, Kelowna, B.C.;

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

1. The Municipal Council of the City of Kelowna hereby authorizes the City of Kelowna to enter into a Heritage Revitalization Agreement with Donald McDonald and Linda Scott-McDonald for the property known as the "Billy-Lloyd Jones House" located at 1449 Ethel Street, Kelowna, B.C., and legally described as:

Lot 1, District lot 138, ODYD, Plan 2442;

In the form of such Agreement attached to and forming 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 and other documents in connection with the attached agreement, and to affix the corporate seal of the City of Kelowna to same.
3. This bylaw shall come into full force and effect as of and from the date of adoption.

Read a first time by the Municipal Council this 20th day of March, 2017.

Considered at a Public Hearing this

Read a second and third time by the Municipal Council this

Approved under the Transportation Act this

(Approving Officer-Ministry of Transportation)

Adopted by the Municipal Council of the City of Kelowna this

Mayor

City Clerk

SCHEDULE "A"
HERITAGE REVITALIZATION AGREEMENT

THIS AGREEMENT dated as of the ___ day of _____, 2017

BETWEEN:

City of Kelowna, a Municipal Corporation having offices at 1435 Water Street, Kelowna, British Columbia V1Y 1J4

(herein called the "CITY")

OF THE FIRST PART

AND: Donald Franklin McDonald and Linda Joan Scott-McDonald of 1449 Ethel Street, Kelowna, British Columbia, V1Y2X5

(herein called the "OWNER")

OF THE SECOND PART

WHEREAS a local government may, by bylaw, enter into a Heritage Revitalization Agreement with the Owner of property identified as having heritage value, pursuant to Section 610 of the *Local Government Act*;

AND WHEREAS the Owner owns certain real property on which is situated a building of heritage value, pursuant to the City's Heritage Register, which property and building are located at 1449 Ethel Street, Kelowna, BC and legally described as:

Parcel Identifier: 002-001-527
Lot 1, District Lot 138, ODYD, Plan 2442

(herein called the "Heritage Lands")

AND WHEREAS the Owner has presented to the City a proposal for the use, development and preservation of the Heritage Lands and has voluntarily and without any requirement by the City, entered into this agreement pursuant to Section 610 of the *Local Government Act*;

AND WHEREAS a local government must hold a Public Hearing on the matter before entering into, or amending, a Heritage Revitalization Agreement if the agreement or amendment would permit a change to the use or density of use that is not otherwise authorized by the applicable zoning of the Heritage Lands and for these purposes Section 464 through 470 of the *Local Government Act* apply;

AND WHEREAS within thirty days after entering into, or amending, a Heritage Revitalization Agreement the local government must file a notice in the Land Title Office in accordance with Section 594 of the *Local Government Act* and give notice to the Minister responsible for the *Heritage Conservation Act* in accordance with Section 595 of the *Local Government Act*;

NOW THEREFORE in consideration of the mutual promises contained in this agreement and other good and valuable consideration, the receipt and sufficiency of which is hereby acknowledged, the parties agree as follows:

1.0 Heritage Revitalization

- 1.1 The parties agree that the Heritage Lands have heritage value, deserving of protection and conservation and the Owner specifically agrees to maintain, preserve and protect the heritage character of the buildings located on the Heritage Lands (Billy Lloyd-Jones House) in accordance with attached Schedule "AA".
- 1.2 The parties agree that the Heritage Lands may, notwithstanding the RU6 – Two Dwelling Housing zoning on the Heritage Lands, be used for the following permitted uses:
- (a) The adaptive reuse of the residential property to a space for small scale special events such as but not limited to weddings, corporate lunches, birthday parties, garden tours, and heritage tours, provided that:
- i. The hours of operation for any commercial enterprises taking place outdoors on the subject property shall take place between 9am – 10pm, Sunday through Saturday;
 - ii. The hours of operation for any commercial enterprises taking place indoors on the subject property shall take place between 9am – 12 midnight, Sunday through Saturday;
 - iii. The frequency of weekend events is not to exceed 4 events per month to a maximum of 24 days per year;
 - iv. The frequency of weekday events is not to exceed 4 events per month to a maximum of 24 days per year;
 - v. The subject property must adhere to the rules and regulations set out in the City of Kelowna Noise Control Bylaw No. 6647.
 - vi. The number of attendees is limited to 30 guests within the heritage home as per British Columbia Building Code Regulations;
 - vii. The serving of alcohol is regulated by the Liquor Control and Licensing Branch of British Columbia (LCLB) and hosts of the special events shall abide by the licensing regulations of the LCLB;
 - viii. Four on-site parking stalls shall be provided on the front driveway accessed from Ethel Street;
 - ix. One on-site loading stall shall be provided from the lane off Stockwell Avenue;
 - vi. A minimum of one dwelling unit on site shall be used for a full time residence;
 - vii. A maximum of 4 Bed & Breakfast rooms within the heritage home may be used for nightly accommodation as related to hosting special events. Consecutive stays must be 3 days or less;
 - viii. The 2 bedroom carriage house may be used for special events and/or nightly accommodation as related to hosting special events. Consecutive stays for nightly accommodation must be 3 days or less;
 - viv. A maximum of 4 rooms may be used for nightly accommodation at any one point in time in any combination of rooms in the heritage home and carriage house;
 - vv. The business sign be limited to one non-illuminated nameplate not to exceed 2.5 square feet in area as regulated by City of Kelowna Sign Bylaw No.8235;

- vvi. Fencing and landscaping shall be maintained to provide a visual and sound buffer for adjacent properties;
 - vii. No nuisance from noise, vibration, smoke, dust, odours, traffic, heat, glare, electrical or radio disturbance shall be produced and the privacy and enjoyment of adjacent properties shall be preserved;
 - viii. The owners/operators of the business shall hold a valid City of Kelowna Business License for Special Events and Bed and Breakfast as per City of Kelowna Business License and Regulation Bylaw No. 7878.
- 1.3 The parties agree that, except as varied or supplemented by the provisions of this agreement, all bylaws and regulations of the City and all laws of any authority having jurisdiction shall apply to the property and commercial business.
 - 1.4 Where a Heritage Alteration Permit is required, the discretion to approve, refuse, or revise such permit is delegated by Council to the Director of Land Use Management.
- 2.0 Conservation and Maintenance of Existing Development.**
- 2.1 The owner agrees not to alter the exterior of the heritage building except pursuant to a Heritage Alteration Permit issued by the City, and in accordance with this agreement.
 - 2.2 The owner agrees to maintain the exterior of the Heritage Building (Billy Lloyd-Jones House) and Carriage House on the Heritage Lands in general accordance with the photographs attached hereto as Schedule "AA";
 - 2.3 If original features must be replaced, the new material shall be similar or identical to the original. Where original features were removed through earlier renovations or alterations and the replacements were not in keeping with the original style of the building, any subsequent replacement of these features shall complement the building's heritage style.
- 3.0 Proposed Development**
- 3.1 The parties agree that variances to the following subsections of City of Kelowna Zoning Bylaw No. 8000 be granted through this agreement:
 - Zoning Bylaw No. 8000 – Section 9.5b.8 – Carriage House Regulations**
 - To allow a carriage house in conjunction with a Bed and Breakfast.
 - Zoning Bylaw No. 8000 – Section 9.6.1(a) – Bed and Breakfast Regulations:**
 - To allow a Bed and Breakfast to operate with a total of 6 rooms, only 4 of which may be used at any one time; and to allow 2 of those rooms to exist in the carriage house rather than the principal dwelling.
 - Zoning Bylaw No. 8000 – Table 8.1 – Parking Schedule:**
 - To reduce the required number of parking spaces from 8 (required) to 4 plus 1 loading stall (proposed).
 - 3.2 The Owner agrees to undertake and maintain appropriate landscaping on the subject property.

4.0 Damage or Destruction

4.1 In the event that no more than 75% of the Heritage Building is damaged, the parties agree as follows:

a) The Owner may repair the Heritage Building in which event the Owner shall forthwith commence the repair work and complete same within one year of the date of damage;

OR, in the event that the Heritage Building is destroyed,

b) The City may, by bylaw, and after conducting a Public Hearing in the manner prescribed by Sections 464 through 470 of the *Local Government Act*, cancel this agreement, whereupon all use and occupation of the Heritage Lands shall thenceforth be in accordance with the zoning bylaws of the City and in accordance with all other bylaws or regulations of the City or any other laws of authority having jurisdiction.

5.0 Breach

5.1 In the event that the Owner is in breach of any term of this Agreement, the City may give the Owner notice in writing of the breach and the Owner shall remedy the breach within 30 days of receipt of the notice. In the event that the Owner fails to remedy the breach within the time allotted by the notice, the City may, by bylaw and after conducting a Public Hearing in the manner prescribed by Sections 464 through 470 of the *Local Government Act*, cancel this Agreement whereupon all use and occupation of the Heritage Lands shall thenceforth be in accordance with the zoning bylaws of the City and in accordance with all other bylaws or regulations of the City or any other laws of authority having jurisdiction.

6.0 Amendment

6.1 The parties acknowledge and agree that this Agreement may only be amended by one of the following means:

a) By bylaw with the consent of the parties provided that a Public Hearing shall be held if an amendment would permit a change to use or density of use on site or;

b) By Heritage Alteration Permit (HAP), issued pursuant to Section 617 of the *Local Government Act*.

7.0 Representations

7.1 It is mutually understood and agreed upon between the parties that the City has made no representations, covenants, warranties, promises or agreements expressed or implied, other than those expressly contained in this Agreement.

8.0 Statutory Functions

8.1 Except as expressly varied or supplemented herein, this Agreement shall not prejudice or affect the rights and powers of the City in the exercise of its statutory functions and responsibilities including, but not limited to, the *Local Government Act* and its rights and powers under any enactments, bylaws, order or regulations, all of which, except as expressly varied or supplemented herein, are applicable to the Heritage Lands.

9.0 Inurement

9.1 This Agreement inures to the benefit of and is binding upon the parties hereto and their respective heirs, executors, administrators, successors and assigns.

10.0 Other Documents

- 10.1 The Owner agrees at the request of the City, to execute and deliver or cause to be executed and delivered all such further agreements, documents and instruments and to do and perform or cause to be done and performed all such acts and things as may be required in the opinion of the City to give full effect to the intent of this Agreement.

11.0 Notices

- 11.1 Any notice required to be given pursuant to this Agreement shall be in writing and shall either be delivered mailed by registered mail as follows:

(a) To the City:

City of Kelowna
1435 Water Street
Kelowna, B.C. V1Y 1J4

ATTENTION: City Clerk

(b) To the Owner:

Donald Franklin McDonald
Linda Joan Scott-McDonald
1449 Ethel Street
Kelowna, BC
V1Y2X5

Or, to such other address to which a party hereto may from time to time advise in writing

12.0 No Partnership or Agency

- 12.1 The parties agree that nothing contained herein creates a relationship between the parties of partnership, joint venture or agency.

IN WITNESS WHEREOF this Agreement has been executed by the parties hereto on the day and year first above written.

CITY OF KELOWNA
By its authorized signatories

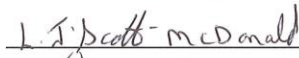
Mayor

City Clerk

Donald Franklin McDonald



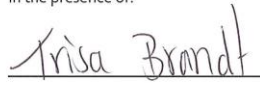
Linda Joan Scott-McDonald

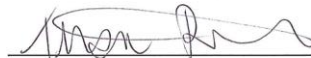


Date:



In the presence of:





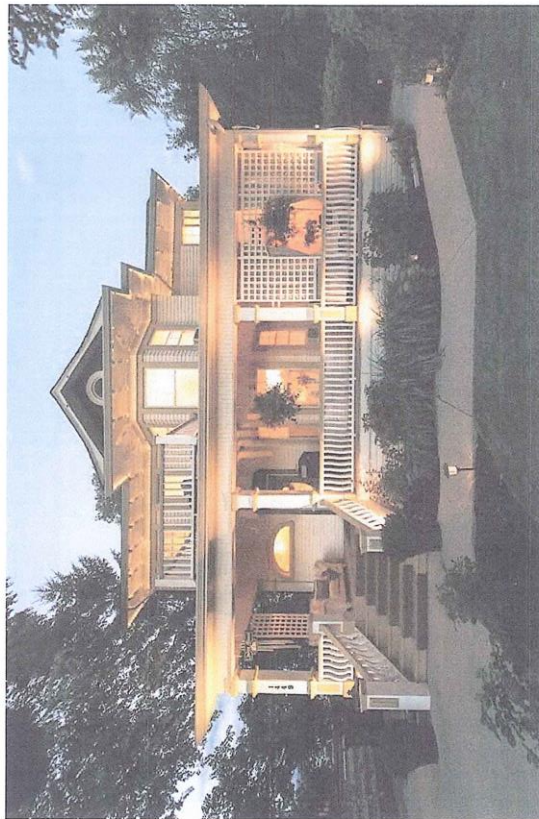
Witness (print name)

Witness (Signature)

TRISA BRANDT
A COMMISSIONER FOR TAKING
AFFIDAVITS FOR BRITISH COLUMBIA
1135 WATER STREET, KELOWNA, BC V1Y 1J4
Address
Order No. 2015-1159
Expiry Date: 2018-09-30

Occupation

SCHEDULE		AA
This forms part of application # HRA16-0001		
Planner Initials	TB	 City of Kelowna COMMUNITY PLANNING



SCHEDULE		AA
This forms part of application # HRA16-0001		
Planner Initials	TB	 City of Kelowna <small>COMMUNITY PLANNING</small>



Carriage House

SCHEDULE	AA
This forms part of application	
# HRA16-0001	
Planner Initials	TB
City of Kelowna COMMUNITY PLANNING	



CITY OF KELOWNA
BYLAW NO. 11372
Z17-0002 – 289-291 Valley Road

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

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

1. THAT City of Kelowna Zoning Bylaw No. 8000 be amended by changing the zoning classification of Lot A, Sections 4, Township 23 and Section 33 ODYD, Plan EPP16971 located on Valley Road, Kelowna, B.C., from the A1 – Agriculture 1 zone to the P5 – Municipal District Park zone.
2. This bylaw shall come into full force and effect and is binding on all persons as and from the date of adoption.

Read a first time by the Municipal Council this 20th day of March, 2017.

Considered at a Public Hearing on the

Read a second and third time by the Municipal Council this

Adopted by the Municipal Council of the City of Kelowna this

Mayor

City Clerk

REPORT TO COUNCIL



Date: April 4, 2017

RIM No. 0940-93

To: City Manager

From: Community Planning Department (TB)

Application: TUP16-0004 **Owner:** 0814932 BC Ltd. Inc. No. BC0814932

Address: 140-146 Gray Road **Applicant:** GT Air Mechanical Services

Subject: Temporary Use Permit

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

Existing Zone: C4 – Urban Centre Commercial

1.0 Recommendation

THAT Council authorizes the issuance of Temporary Use Permit No. TUP16-0004 to allow outdoor storage for Lot 2, Section 23, Township 26, ODYD, Plan 18642, located at 140 Gray Road, Kelowna, BC for a three (3) year period commencing from Council approval subject to the following conditions:

- a) That the outdoor storage is limited to two temporary sea-cans;
- b) That the area where the sea-cans are stored shall remain in the rear of the property and not visible from the front street;
- c) That the area on the rear of the property shall remain fenced;

AND FURTHER THAT any application to extend the permit must be approved by Council prior to this permit expiring.

2.0 Purpose

To temporarily allow outdoor storage on the subject property.

3.0 Community Planning

Community Planning staff are in support of the application to allow temporary outdoor storage in the form of two sea-cans on the property. The outdoor storage is not visible from the public street, is located on the rear of the subject property, and will be removed after 3 years. The Temporary Use Permit offers a short term solution to continue operating while the applicant seeks out a long term solution for off-site storage.

4.0 Proposal

4.1 Background

Outdoor storage in the form of two sea-cans were placed on the property without permits in approximately 2005. An initial bylaw investigation took place in 2006 however the containers were not removed and a satisfactory resolution was not achieved. The applicant leased the property in 2014 without knowledge that the containers were not compliant with the City's Zoning Bylaw and has now come forward to comply through a Temporary Use Permit.

4.2 Project Description

The two sea-cans are located on the rear of the property in a fenced area off of a lane and are not visible from the public street. The containers do not take up any required parking as the parking requirements are met on the front of the subject property. The impact on the neighbours or public appears to be minimal. The applicant uses the containers to store materials related to their mechanical services business such as sheet metal, furnaces, and plumbing materials. The applicant has proposed three options to consider long term after the temporary use permit expires including; finding a new location for the business that has storage space, selling the business, or requesting the Landlord to provide a suitable alternative for storage.

The Temporary Use Permit will give the applicant the necessary time and flexibility to continue to operate his business while seeking a long term permanent solution. In exchange, the applicant will be required to ensure that the containers remain on the rear of the property, not visible from the public street, and that the area remain fenced. In addition, the City has the authority to enforce the removal of the containers at the end of the three-year period through bylaw enforcement and potential fines.

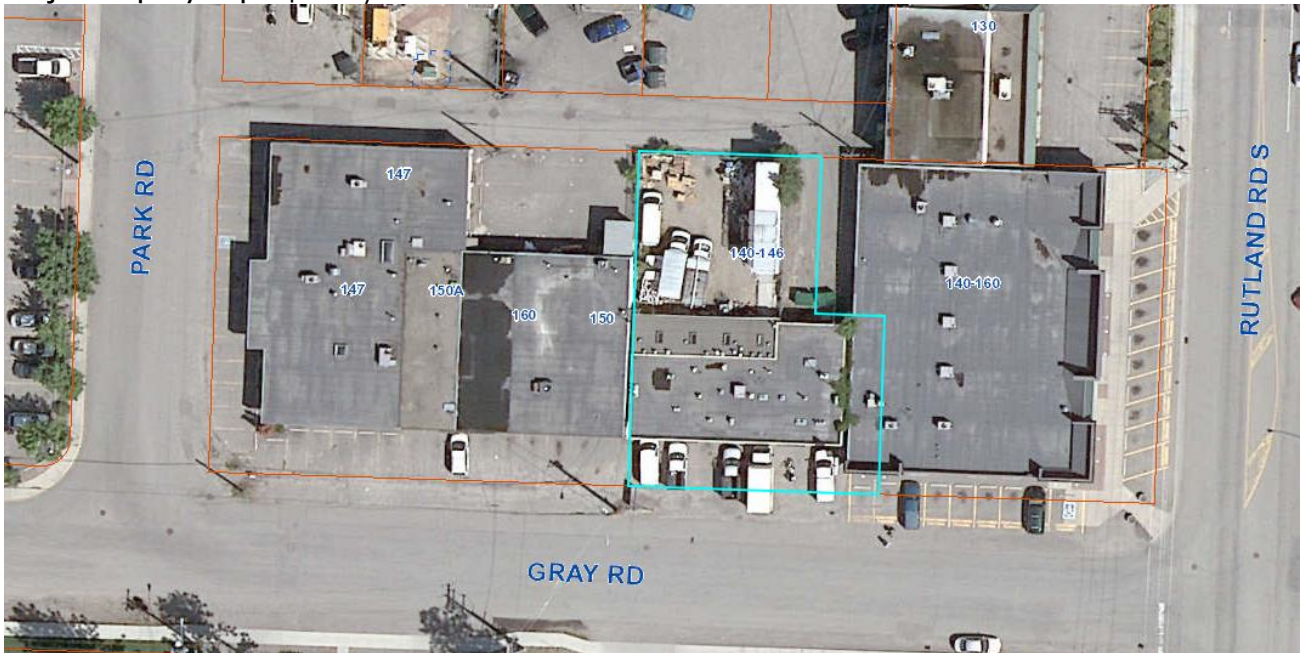
4.3 Site Context

The subject property is located in the Rutland Urban Centre, one block south of Highway 33.

Specifically, adjacent land uses are as follows:

Orientation	Zoning	Land Use
North	C4 – Urban Centre Commercial	Commercial
East	C4 – Urban Centre Commercial	Commercial
South	C4 – Urban Centre Commercial	Commercial
West	C4 – Urban Centre Commercial	Commercial

Subject Property Map: 140 Gray Road



5.0 Technical Comments

5.1 Fire Department

The storage containers shall not contain any flammable liquids. The owners should adhere to the BC Work Safe regulations for sea can storage.

6.0 Application Chronology

Date of Application Received: October 27, 2016
Date Public Consultation Completed: December 6, 2016

Report Prepared by: Trisa Brandt, Planner

Reviewed by: Terry Barton, Urban Planning Manager

Approved for Inclusion: Ryan Smith, Community Planning Department Manager

Attachments:

Attachment "A": Applicant's Letter of Rationale
Attachment "B": Site Plan



..... *We make buildings work!*

Oct 27, 2016

storage issues.

City Of Kelowna

Kelowna, BC. Attention: Paul McVey

Storage C cans issues, that have been on site for over 10 years

GT Air Mechanical Services is enclosing the documents for a temporary use permit.

The 2 – C-can units are stacked and are made of steel. The higher one has stairs built out of pressure treated wood and the stairs are 5 feet wide going up roughly 8 feet to the side door.

The lower bin is used for HVAC equipment as it's a staging and holding BIN for new home construction. Sheet metal, furnaces, AC units, vent, grills, registers, exhaust fans, refrigeration piping, plumbing materials and misc emergency service repair parts.

The upper bin is storage for new fireplaces, venting, faceplates, misc fireplace replacement parts

For long term place after three years.

Option 1: Move out and find another lease that can sustain our business in two to three years.

Option 2: Landlord comes to the table with a workable solution to our problem

Option 3. Sell the Fireplace business

I trust we have met your requirements and look forward to working together in the near future.

Please call if you have any questions or require further clarification regarding this proposal.

Sincerely,

Greg Fougere

GT Air Mechanical Services

Address: 140 Gray Road. Kelowna, BC. Canada V1X 1W7 | **Bus:** 250-763-2665 (COOL) | **Fax:** 250-451-9275 |
Web: www.heatingandairconditioningkelowna.com

FORTIS BC
Trade Ally Member

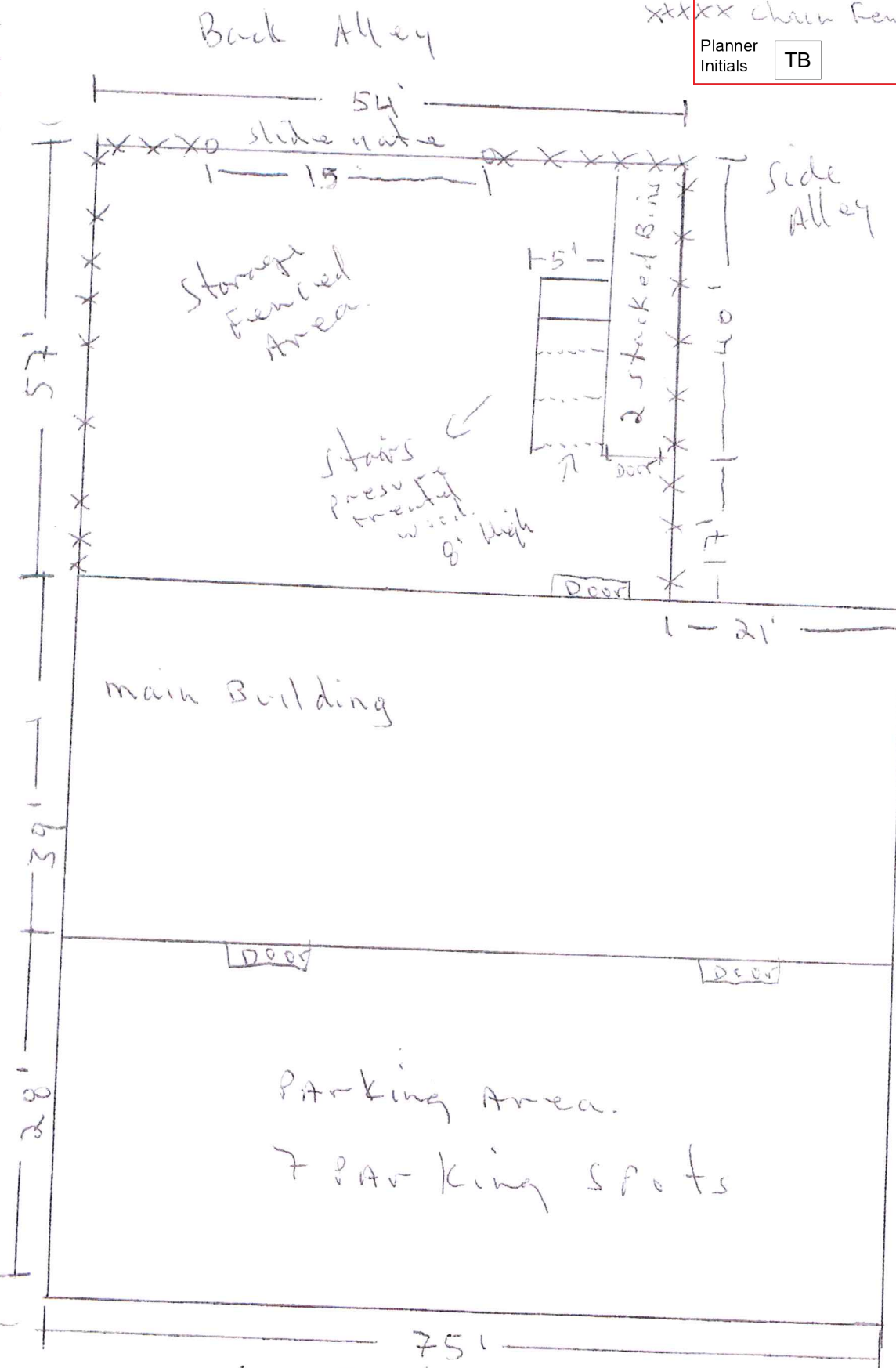
This forms part of application

TUP16-0004

Planner
Initials

TB

City of
Kelowna
COMMUNITY PLANNING



Bins are steel at 40 long 8' wide 8' high

(E) →

(S) ↓