

City of Kelowna

Regular Council Meeting

AGENDA



Tuesday, July 25, 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 Councillor Hodge.
3. **Confirmation of Minutes** 1 - 10

Public Hearing - July 11, 2017
Regular Meeting - July 11, 2017
4. **Bylaws Considered at Public Hearing**
 - 4.1 **2800 Hwy 97 N - BL11405 (OCP16-0021) - o802333 BC Ltd** 11 - 11

Requires a majority of all members of Council (5).
To give Bylaw No. 11405 second and third readings in order to change the future land use from the REP - Resource Protection Area designation to the IND - Industrial Designation.
 - 4.2 **2800 Hwy 97 N, BL11406 (Z16-0072) - o802333 BC Ltd** 12 - 13

To give Bylaw No. 11406 second and third readings in order to rezone the subject property from the A1 - Agriculture 1 zone to the I2 - General Industrial zone.
 - 4.3 **2673 Gore St, TA17-0009 (BL11426) - Multiple Dwelling Housing Amendments** 14 - 14

To give Bylaw No. 11426 second and third readings in order to amend the Zoning Bylaw No. 8000 by amending the definition of "Multiple Dwelling Housing".
 - 4.4 **2673 Gore St, Z17-0025 (BL11427) - Stanley Tessmar** 15 - 15

To give Bylaw No. 11427 second and third readings in order to rezone the subject property from the RU6 - Two Dwelling Housing zone to the RM5 - Medium Density Housing zone.

- 4.5 1350 and 1370 KLO Rd, BL11433 (OCP17-0010) - Summerwood Retirement Resort Holding Corporation** 16 - 16
- Requires a majority of all members of Council (5).**
 To give Bylaw No. 11433 second and third readings in order to change the Future Land Use Designation from S2RES - Single /Two Unit Residential and EDINST - Educational/Major Institutional to the MRM - Multiple Unit Residential (Medium Density).
- 4.6 1350 and 1370 KLO Rd, BL11434 (Z17-0026) - Summerwood Retirement Resort Holding Corporation** 17 - 17
- To give Bylaw No. 11434 second and third readings in order to rezone the subject property from RU1 - Large Lot Housing zone to the RM5 - Medium Density Multiple Housing zone.
- 4.7 2375 Abbott St, Z17-0038 (BL11442) - Aurora Exteriors Ltd** 18 - 18
- To give Bylaw No. 11442 second and third readings, and be adopted, in order to rezone the subject property from RU1 - Large Lot Housing zone to RU1c - Large Lot Housing with Carriage House 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**
- 6.1 135 Rutland Rd N, DVP16-0076 - W620 Holdings Ltd** 19 - 35
- 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 consider a Staff recommendation to NOT issue a Development Variance Permit to vary the required minimum setback for a free-standing sign from 1.5m required to 0.0m proposed.
- 6.2 1580 & 1558 Ellis St, DP17-0066 & DVP17-0067 - City of Kelowna** 36 - 78
- 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 review the Form & Character Development Permit of a 20 storey residential tower with ground floor commercial as well as to consider two variances: the first is to increase the height of the overall building and the second variance is to increase the height of the podium.
- 7. Reminders**

8. Termination



City of Kelowna

Public Hearing

Minutes

Date: Tuesday, July 11, 2017
 Location: Council Chamber
 City Hall, 1435 Water Street

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

Staff Present: City Manager, Ron Mattiussi; City Clerk, Stephen Fleming; Divisional Director, Community Planning & Strategic Investments, Doug Gilchrist; Community Planning Department Manager, Ryan Smith; Urban Planning Manager, Terry Barton; Suburban & Rural Planning Manager, Todd Cashin*; Planner Specialist, Adam Cseke*; Sustainability Coordinator, Tracy Guidi*; and FOI-Legislative Coordinator, Sandi Horning

(* denotes partial attendance)

1. Call to Order

Mayor Basran called the Hearing to order at 6:02 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.

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 Tuesday, June 27, 2017 and by being placed in the Kelowna Daily Courier issues on Friday June 30, 2017 and Wednesday July 5, 2017 and by sending out or otherwise mailing 302 statutory notices to the owners and occupiers of surrounding properties on Tuesday, June 27, 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 Temporary Farm Worker Housing Bylaw Amendments OCP16-0022 (BL11373), TA16-0015 (BL11374)

Staff:

- Displayed a PowerPoint Presentation summarizing the amendments to Temporary Farm Worker Housing 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.

Gallery:

Glen Lucas, General Manager, BC Fruit Growers' Association

- Read letter from Fred Steele, President, BC Fruit Growers' Association.
- Supportive of the amendments and thanked staff for the collaborative approach.
- Will be monitoring the impacts of the amendments on the industry.

Norm Melnichuk, Shanks Road

- Supportive of the amendments.
- Expressed concerns with a temporary farm worker housing application from his immediate neighbour.
- Responded to questions from Council.

Sukpaul Bal, McCurdy Road East

- Made comment that the amendments are an improvement over what was previously considered
- Made comment on the arbitrary reliance of determining types of applications based on the sector plan.
- Responded to questions from Council.

Alexander Geen, Lake Country, BC

- Agrees with the comments from the BC Fruit Growers' Association.
- Expressed concerns with the sector approach.
- Responded to questions from Council

There were no further comments.

3.2 170 & 230 Nickel Road, Z17-0039 (BL11429) - 554764 BC 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

Barry Moscrop, Nickel Road

Solei Luchene, Nickel Road

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

James & Sandy Zeleznik, Lower Glenrosa Road, Property Owners

- Sandy's family has owned the property for many years.
- The plan is to keep the units as rentals and have a property manager live on site.
- Believes that the development will enhance the neighbourhood.

No one from the gallery came forward.

3.3 1287 & 1297 Findlay Road, Z16-0083 (BL11430) - 0725353 BC Ltd Inc.

Staff:

- Displayed a PowerPoint Presentation summarizing the application.

The City Clerk advised that no correspondence had been received.

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

Pat McCusker, Architect, Applicant's Representative

- Available to answer any questions from Council or the Gallery.

No one from the gallery came forward.

3.4 540 Jaginder Lane, Z16-0086 (BL11431) - Michael and Edgar Hiebert

Mayor Basran declared a conflict of interest as his parents sold the subject property to the applicants and are assisting them with the application and left the meeting at 6:47 p.m.

Deputy Mayor Hodge took over as chair of the meeting at 6:47 p.m.

Staff:

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

The City Clerk advised that no correspondence had been received.

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

Birte Decloux, Urban Options Planning & Permits, Applicants' Representative

- Does not have a formal presentation.
- Spoke to the lack of formal heritage aspects of the old farm house.
- A building permit will be required before the old farm house can be inhabited.

No one from the gallery came forward.

Mayor Basran rejoined the meeting at 6:53 p.m. and took over as chair.

3.5 454 Glenwood Ave, Z17-0031 (BL11432) - Lindsay Gibson and Meghan Wise

Staff:

- Displayed a PowerPoint Presentation summarizing the application.

The City Clerk advised that the no correspondence had been received.

Mayor Basran invited the applicant and anyone in the public gallery who deemed themselves affected to come forward, followed by comments of Council. The Applicant was present and available for questions. No one from the gallery came forward.

3.6 2045 Loseth Rd and 1261 Kloppenburg Rd, OCP17-0009 (BL11435) and Z17-0024 (BL11436) - Kirschner Mountain Estates Ltd

Staff:

- Displayed a PowerPoint Presentation summarizing the application.

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

Letter of Opposition

Bob & Sue Emslie, Montenegro Drive

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

Dave Cullen, CTQ Consultants, Applicant's Representative

- Available to answer any questions.

No one from the gallery came forward.

3.7 5317 Chute Lake Road, OCP17-0001 (BL11437) and TA17-0002 (BL11438) - 1104053 BC 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:

Package of 2 Form Letters of Support submitted by Applicant
Birte Decloux, Urban Options Planning & Permits

Letter of Opposition
Chaneal Larocque & Denis Normandeau, Chute Lake Road

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

Birte Decloux, Urban Options Planning & Permits, Applicant's Representative

- Does not have a formal presentation.
- Referenced and refuted the concerns raised in the letter of opposition.
- Responded to questions from Council.

No one from the gallery came forward.

4. Termination

The Hearing was declared terminated at 7:14 p.m.

Mayor



City Clerk

Deputy Mayor Hodge

/slh



City of Kelowna

Regular Council Meeting

Minutes

Date: Tuesday, July 11, 2017
Location: Council Chamber
City Hall, 1435 Water Street

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

Staff Present: City Manager, Ron Mattiussi; City Clerk, Stephen Fleming; Divisional Director, Community Planning & Strategic Investments, Doug Gilchrist; Community Planning Department Manager, Ryan Smith; Urban Planning Manager, Terry Barton; Suburban & Rural Planning Manager, Todd Cashin*; Planner Specialist, Adam Cseke; and FOI-Legislative Coordinator, Sandi Horning

(* denotes partial attendance)

1. Call to Order

Mayor Basran called the meeting to order at 7:21 p.m.

2. Reaffirmation of Oath of Office

The Oath of Office was read by Councillor Gray.

3. Confirmation of Minutes

Moved By Councillor Sieben/Seconded By Councillor Hodge

R560/17/07/11 THAT the Minutes of the Public Hearing and Regular Meeting of June 27, 2017 be confirmed as circulated.

Carried

4. Bylaws Considered at Public Hearing

4.1 Temporary Farm Worker Housing OCP Amendments - OCP16-0022 (BL11373)

Moved By Councillor Hodge/Seconded By Councillor Donn

R561/17/07/11 THAT Bylaw No. 11373 be read a second and third time.

Carried

4.2 Temporary Farm Worker Housing Amendments - TA16-0015 (BL11374)

Moved By Councillor Hodge/Seconded By Councillor Gray

R562/17/07/11 THAT Bylaw No. 11374 be read a second and third time.

Carried

4.3 170 & 230 Nickel Road, Z17-0039 (BL11429) - 554764 BC Ltd

Moved By Councillor Donn/Seconded By Councillor Hodge

R563/17/07/11 THAT Bylaw No. 11429 be read a second and third time.

Carried

4.4 1287 & 1297 Findlay Road - Z16-0083 (BL11430) - 0725353 BC Ltd Inc

Moved By Councillor Given/Seconded By Councillor Donn

R564/17/07/11 THAT Bylaw No. 11430 be read a second and third time.

Carried

4.5 540 Jaginder Lane, Z16-0086 (BL11431) - Michael and Edgar Hiebert

Mayor Basran declared a conflict of interest as his parents sold the subject property to the applicants and are assisting them with the application and left the meeting at 7:38 p.m.

Deputy Mayor Hodge took over as chair of the meeting at 7:38 p.m.

Moved By Councillor Given/Seconded By Councillor Donn

R565/17/07/11 THAT Bylaw No. 11431 be read a second and third time.

Carried

Mayor Basran rejoined the meeting at 7:39 p.m. and took over as chair.

4.6 454 Glenwood Ave, Z17-0031 (BL11432) - Lindsay Gibson and Meghan Wise

Moved By Councillor Singh/Seconded By Councillor Stack

R566/17/07/11 THAT Bylaw No. 11432 be read a second and third time and be adopted.

Carried

4.7 2045 Loseth Rd and 1261 Kloppenburg Rd, OCP17-0009 (BL11435) - Kirschner Mountain Estates

Moved By Councillor Singh/Seconded By Councillor Stack

R567/17/07/11 THAT Bylaw No. 11435 be read a second and third time.

Carried

4.8 2045 Loseth Rd and 1261 Kloppenburg Rd, Z17-0024 (BL11436) - Kirschner Mountain Estates

Moved By Councillor Singh/Seconded By Councillor DeHart

R568/17/07/11 THAT Bylaw No. 11436 be read a second and third time.

Carried

4.9 5317 Chute Lake Road, OCP17-0001 (BL11437) - 1104053 BC Ltd

Moved By Councillor Stack/Seconded By Councillor DeHart

R569/17/07/11 THAT Bylaw No. 11437 be read a second and third time.

Carried

Councillor Sieben – Opposed.

4.10 5317 Chute Lake Road, TA17-0002 (BL11438) - 1104053 BC Ltd

Moved By Councillor DeHart/Seconded By Councillor Stack

R570/17/07/11 THAT Bylaw No. 11438 be read a second and third time.

Carried

Councillor Sieben – Opposed.

5. Notification of Meeting

The City Clerk advised that Notice of Council's consideration of the *Heritage Alteration Permit Application* was given by sending out or otherwise mailing 20 statutory notices to the owners and occupiers of surrounding properties on Tuesday, June 27, 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 2210 Abbott St, HAP17-0001 - Richard, Judith and Craig Mohr

Staff:

- Displayed a PowerPoint Presentation summarizing the rationale for staff's non-support of the application and responded to questions from Council.

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

Letter of Opposition

Pat Munro, Kelowna South Central Association of Neighbourhoods

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

Craig Mohr, Applicant

- Displayed photos of examples of other homes he has built in the City.
- Provided background information on his company and his design-build philosophy.
- Plans to live in the property with his parents.
- Believes the design fits into the neighbourhood and displayed examples of similar looking houses in the area.
- Provided a sketch of the Frank Lloyd Wright's Falling Water Feature
- Spoke to the design of the structure.
- Spoke to the setbacks and the height of the structure.
- Responded to questions from Council.

Gallery:

Brian Woinoski, Abbott Street

- Raised concern with privacy impacts.
- Not concerned with the siting of the accessory building.
- Spoke to the existing fence and hedge that was removed and noted that it has improved his sightlines.
- Concerned with the size and height of the structure, but noted that the development would probably not directly impact him.
- Responded to questions from Council.

Jan Murphy, Cadder Avenue

- She is a daily user of the Abbott Street corridor.
- Expressed a concern with the massing and height of the proposed structure.
- Believes that the proposal does not fit into the neighbourhood.
- Expressed a concern with the number of variances being requested.

Craig Mohr, Applicant

- Made reference to letters of support from neighbours who were unable to attend the Council meeting.

There were no further comments.

Moved By Councillor Sieben/Seconded By Councillor Donn

R571/17/07/11 THAT Council NOT authorize the issuance of Heritage Alteration Permit No. HAP17-0001 for Lot 27, DL 14, ODYD, Plan 535, located at 2210 Abbott Street, Kelowna, BC.

Carried

Councillors Given & Gray – Opposed.

7. **Reminders – Nil.**

8. **Termination**

The meeting was declared terminated at 8:49 p.m.

Mayor



City Clerk

Deputy Mayor Hodge

/slh

CITY OF KELOWNA

BYLAW NO. 11405

Official Community Plan Amendment No. OCP16-0021 – 2800 Hwy 97 N

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

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

1. THAT Map 4.1 - **GENERALIZED FUTURE LAND USE** of "*Kelowna 2030* – Official Community Plan Bylaw No. 10500" be amended by changing the Generalized Future Land Use designation of Lot 1 District Lots 124 and 143 ODYD Plan KAP83915 Except Plan KAP84828 and EPP57498, located on Hwy 97 N, Kelowna, B.C., from REP – Resource Protection Area designation to the IND - Industrial designation.
2. This bylaw shall come into full force and effect and is binding on all persons as and from the date of adoption.

Read a first time by the Municipal Council this 15th day of May, 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. 11406
Z16-0072 – 2800 Hwy 97 N

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

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

1. THAT City of Kelowna Zoning Bylaw No. 8000 be amended by changing the zoning classification of a portion of Lot 1 District Lots 124 and 143 ODYD Plan KAP83915 Except Plan KAP84828 and EPP57498 located on Hwy 97 N, Kelowna, B.C., from the A1 – Agriculture 1 zone to the I2 – General Industrial zone.
2. This bylaw shall come into full force and effect and is binding on all persons as and from the date of adoption.

Read a first time by the Municipal Council this 15th day of May, 2017.

Considered at a Public Hearing on the

Read a second and third time by the Municipal Council this

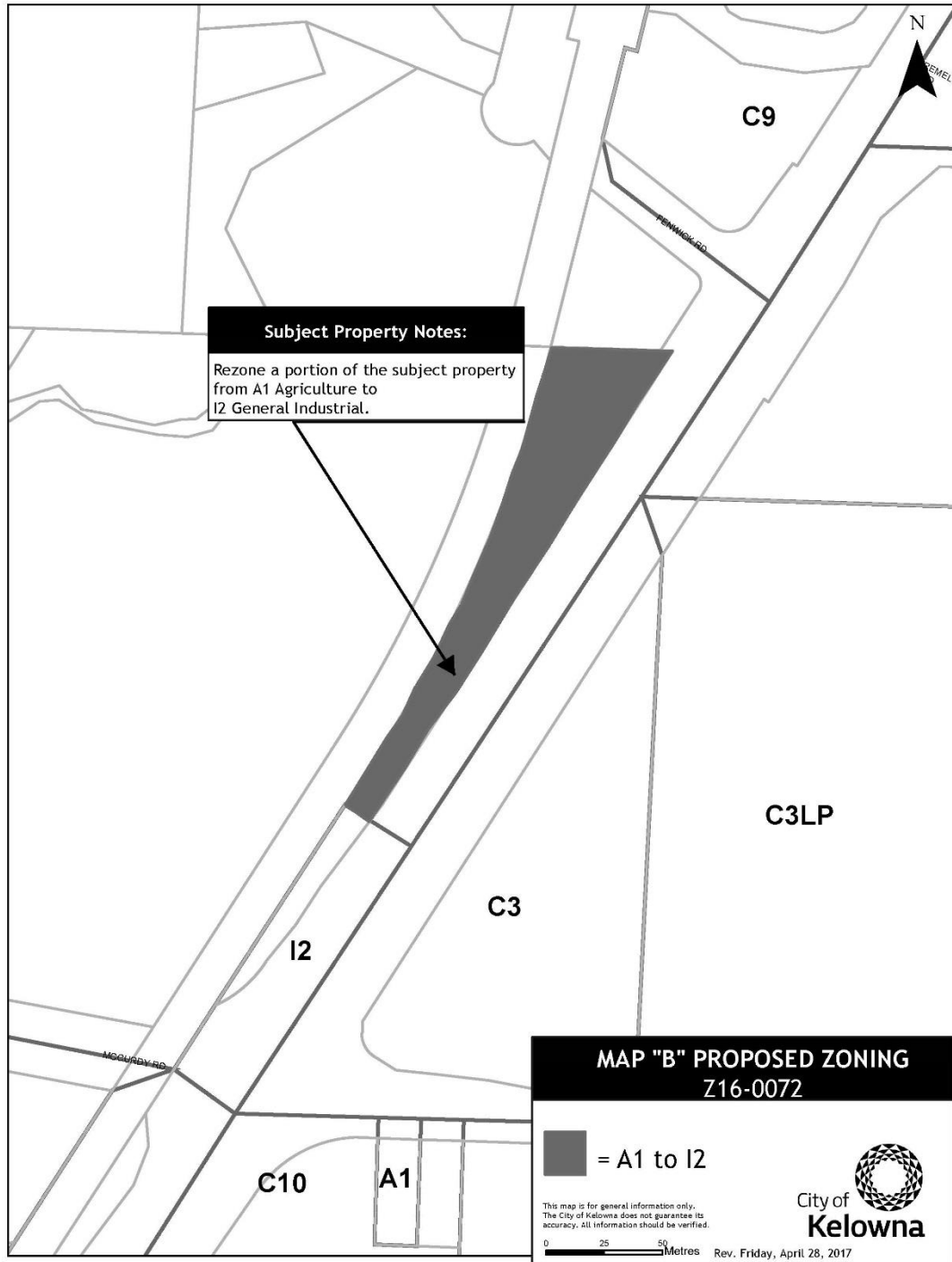
Approved under the Transportation Act this

(Approving Officer – Ministry of Transportation)

Adopted by the Municipal Council of the City of Kelowna this

Mayor

City Clerk



CITY OF KELOWNA
BYLAW NO. 11426
TA17-0009 – Multiple Dwelling Housing Amendments

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

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

1. THAT **Section 2 – Interpretation, 2.3 General Definitions "MULTIPLE DWELLING HOUSING"** be deleted in its entirety that reads:

"MULTIPLE DWELLING HOUSING means housing on a single **lot** other than a **bareland strata lot** that contains five or more **dwelling** units."

And replacing it with:

"MULTIPLE DWELLING HOUSING means housing on a single **lot** other than a **bareland strata lot** that contains three or more **dwelling** units."

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 12th day of June, 2017.

Considered at a Public Hearing on the

Read a second and third time by the Municipal Council this

Approved under the Transportation Act this

(Approving Officer-Ministry of Transportation)

Adopted by the Municipal Council of the City of Kelowna this

Mayor

City Clerk

CITY OF KELOWNA
BYLAW NO. 11427
Z17-0009 – 2673 Gore Street

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 11, District Lot 14, ODYD, Plan 7927 located on Gore Street, Kelowna, B.C., from the RU6 – Two Dwelling Housing zone to the RM5 – Medium Density Multiple 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 12th day of June, 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. 11433

Official Community Plan Amendment No. OCP17-0010 1350 & 1370 KLO Road

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

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

1. THAT Map 4.1 - **GENERALIZED FUTURE LAND USE** of "*Kelowna 2030* – Official Community Plan Bylaw No. 10500" be amended by changing the Generalized Future Land Use designation of Lot 15, District Lot 131, ODYD, Plan 10710 Except Plan KAP79079 and Lot 1 District Lot 131 ODYD Plan 27982 Except Plan KAP57931, located on KLO Road, Kelowna, B.C., from the S2RES – Single /Two Unit Residential designation and the EDINST – Educational/Major Institutional designation to the MRM – Multiple Unit Residential (Medium Density) designation.
2. This bylaw shall come into full force and effect and is binding on all persons as and from the date of adoption.

Read a first time by the Municipal Council this 25th day of June, 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. 11434
Z17-0026– 1350 & 1370 KLO 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 15, District Lot 131, ODYD, Plan 10710 Except Plan KAP79079 and Lot 1 District Lot 131 ODYD Plan 27982 Except Plan KAP57931, located on KLO Road, Kelowna, B.C., from the RU1 – Large Lot Housing zone and P2 – Education and Minor Institutional zone to the RM5 – Medium Density Multiple Housing zone.
2. This bylaw shall come into full force and effect and is binding on all persons as and from the date of adoption.

Read a first time by the Municipal Council this 25th day of June, 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. 11442
Z17-0038 – 2375 Abbott Street

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 10, District Lot 14, ODYD, Plan 6701 located on Abbott Street Kelowna, B.C., from the RU1 – Large Lot Housing zone to the RU1c – Large Lot Housing with Carriage House 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 10th day of July, 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: July 25, 2017

RIM No. 0940-50

To: City Manager

From: Community Planning Department (TB)

Application: DVP16-0076

Owner: W62o Holdings Ltd

Address: 135 Rutland Rd N

Applicant: Compass Real Estate
Developments

Subject: Development Variance Permit

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

Existing Zone: C4 – Urban Centre Commercial

1.0 Recommendation

THAT Council NOT authorize the issuance of Development Variance Permit No. DVP16-0076 for Lot A, Section 26, Township 26, ODYD, Plan EPP60238, located at 135 Rutland Rd N, Kelowna, BC.

2.0 Purpose

To consider a Staff recommendation to NOT issue a Development Variance Permit to vary the required minimum setback for a free-standing sign from 1.5m required to 0.0m proposed.

3.0 Community Planning

Community Planning Staff do not support the requested variance to eliminate the 1.5m minimum setback for a free-standing sign on the subject property. The concrete base for the sign has already been installed illegally by the applicant without permits and is located within an established Statutory Right of Way (SRW) for underground transmission lines in favor of FortisBC Electric (FBC). Despite repeated correspondence and requests, City Bylaw has been unsuccessful at forcing the applicant to remove the illegal concrete sign base. There are alternate locations for the sign on the subject property that would not require a variance and would not be located within the SRW. Staff have encouraged the applicant to explore one of these alternate locations.

4.0 Proposal

4.1 Background

There was a commercial building on the subject property that was demolished in 1998. The property remained vacant until 2015 when a new commercial development was constructed with 3 commercial tenant spaces including one drive-through. As part of the commercial development, 5.0m along Highway 33 was dedicated to Ministry of Transportation and Infrastructure (MOTI) as road dedication for a future right hand turn lane or widening of the highway. MOTI has stated that they have no immediate plans to utilize the road dedication and so the area is treated as a wide landscaped boulevard.

The applicant applied for this Development Variance Permit on March 3, 2016 in order to construct a free-standing sign on the property. At some point in the summer of 2016, the applicant illegally constructed the sign base without Council's approval of the variance or the required building permits. Through the variance application circulation process, it was discovered that a FortisBC Electric Statutory Right-of-Way (SRW) was registered on-title that provided protection for underground transmission lines that delivers electricity to the commercial development on the subject property. The sign has been illegally located within that SRW.

4.2 Project Description

The proposed free-standing sign would provide signage for the three existing commercial tenants (Starbucks, Dominoes, Memphis Blues). It is proposed on the south property line on Highway 33 E. Starbucks and Dominoes currently have visible store frontage on Highway 33 E and have five fascia signs combined. Memphis Blues is located on the rear of the building and has limited visibility from Highway 33 E and therefore would benefit from the increased visibility that a free-standing sign could provide. The proposed free-standing sign requires a variance to vary the setback to the property line from 1.5m required to 0.0m proposed.

There are alternate locations for the construction of the free-standing sign that would not require a variance and would not be located within a SRW. One option is to locate it within the parking lot, which currently provides more than 125% of the required parking. The additional parking was created after the development was completed and is in excess of the Zoning Bylaw for maximum parking allowance. Another alternative would be to locate the sign near the entrance to the property on Rutland Rd N. Staff have worked with the applicant for over a year to encourage one of these alternate locations.

The applicant began construction on the free-standing sign in June or July of 2016 by installing wiring for the sign as well as pouring concrete for the sign base. It is for this reason that the applicant has declined pursuing an alternate location for the proposed sign. This construction was done illegally and without the required building permit. Had the applicant applied for a building permit, it would have been denied as the sign is located within the FortisBC Electric SRW. In the technical comments section of this report, FortisBC Electric has stated that they will not support allowing this free-standing sign within their SRW and have requested that the City of Kelowna Council deny this variance. The SRW legal documentation is attached for Council review as Attachment "A".

Over the past year, the applicant has provided 3 design revisions for the sign. Initially it met the majority of the Design Guidelines and was considered an aesthetically pleasing design with high quality materials including a wood frame, development identification for "Rutland Crossing", and a dual post base (see Figure 1 below). The current version has deteriorated in terms of design and is now proposed as a single post base, no building identification, and with lower quality materials including painted metal framing (see Figure 2 below). This sign will be highly visible on Hwy 33 E.

Figure 1: Initial Proposal

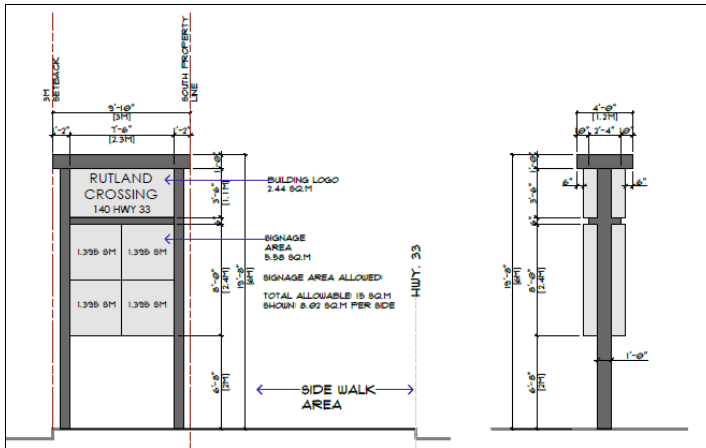
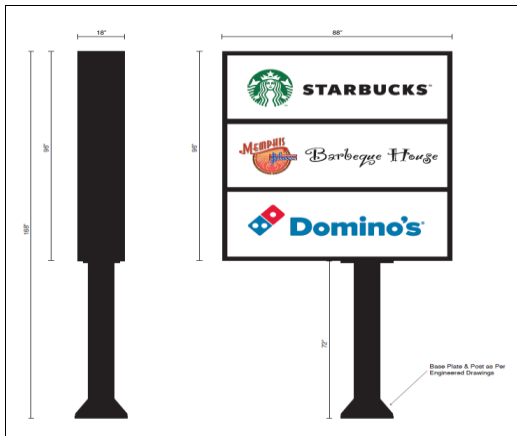


Figure 2: Current Proposal



An Alternate Recommendation supporting the variance has been included in Section 8.0 of this report for Council's consideration. The recommendation includes the registration of a Section 219 Restrictive Covenant that would require the property owner to relocate the sign in the future in accordance with the City's relevant bylaws of the day should MOTI carryout highway improvements for the road dedication area.

4.3 Site Context

Rutland Crossing is located on the north side of Highway 33 E and the east side of Rutland Road N. It is on a prominent corner in Rutland's Urban Centre.

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: 135 Rutland Rd N



4.4 Zoning Analysis Table

Zoning Analysis Table		
CRITERIA	C4 ZONE REQUIREMENTS	PROPOSAL
Development Regulations for Free-Standing Signs		
Minimum Distance from Intersection	8.0m	27.28m
Minimum Distance from Property Line	1.5m	0.0m ^❶
Maximum Height	8.0m	6.0m
Maximum Area of Sign	13.99m ²	8.02m ²
Maximum Number of Signs per Frontage	1 sign	1 sign
^❶ Indicates a requested variance to the minimum distance from property line.		

5.0 Current Development Policies

5.1 Kelowna Official Community Plan (OCP)

Comprehensive Design Guidelines - Signs

- Integrate signage that contributes to the overall quality and unique character of a development (e.g. coordinate proportion, materials, and colour).¹
- Do not compromise the scale and visual qualities of a building with the size and number of signs.²
- Locate, size, and format signs such that they can be easily read by pedestrians.³

6.0 Technical Comments

6.1 Development Engineering Department

- Please see attached City of Kelowna Memorandum dated May 2, 2016.

6.2 FortisBC Electric

FortisBC Electric (FBC) would never approve the construction of any structure within a Statutory Right of Way (SRW). FBC has not been made aware of this project in terms of hooking it into power.

If we had to excavate the section, the pylon would at least incur significant extra cost if not be a safety hazard for the construction crews. The electrical crossing of the primary line there is also a serious safety issue both for the developer's crew as well as FBC personnel going forward. The applicant may have violated WorkSafeBC regulations by digging so near the underground primary line and pouring concrete.

FBC has serious concerns regarding the safety of this project and asks that the City of Kelowna deny the permit and enforce the removal of the pylon from the SRW area. Further, if the applicant intends to cross the SRW area with electrical of any kind, they need to contact us immediately for review prior to construction.

¹ City of Kelowna Official Community Plan, Chapter 14.17.1

² City of Kelowna Official Community Plan, Chapter 14.17.2

³ City of Kelowna Official Community Plan, Chapter 14.17.3

7.0 Application Chronology

Date of Application Received: March 3, 2016
Date Public Consultation Completed: November 23, 2016

8.0 Alternate Recommendation

THAT Council authorizes the issuance of Development Variance Permit No. DVP16-0076 for Lot A, Section 26, Township 26, ODYD, Plan EPP60238 located at 135 Rutland Rd N, Kelowna, BC; subject to the following:

1. The dimensions and siting of the sign to be constructed on the land be in accordance with Schedule "A";
2. A 219 Restrictive Covenant is registered on title requiring the sign to conform to the bylaws of the day if the City of Kelowna or Ministry of Transportation widen or develop the highway in the future;

AND THAT variances to the following section of Sign Bylaw No. 8235 be granted:

Section 5.6.1(d) Free-Standing Sign Regulations

To vary the required minimum setback for a free-standing sign from 1.5m permitted to 0.0m proposed.

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

Report prepared by: Trisa Brandt, Planner I

Reviewed by: Terry Barton, Urban Planning Manager

Approved for inclusion by: Ryan Smith, Community Planning Department Manager

Attachments:

Attachment "A": Statutory Right of Way Document
Schedule "A": Site Plan & Elevations
Draft Development Variance Permit DVP16-0076

PART 2 - TERMS OF INSTRUMENT

STATUTORY RIGHT OF WAY

THIS INDENTURE made this day of , 2015.

BETWEEN:

W 620 HOLDINGS LTD., INC. NO. BC1038052
1574 HARVEY AVENUE
KELOWNA, BC
V1Y 6G2

(hereinafter called "the Transferor")

OF THE FIRST PART

AND:

FORTISBC INC., a public utility incorporated by Special Act
of the Legislature of the Province of British Columbia, having its
head office at #100 – 1975 Springfield Road, Kelowna, BC V1Y 7V7

(hereinafter called the "Company")

OF THE SECOND PART

WHEREAS:

- A. The Transferor is the registered owner in fee simple of the lands and premises (hereinafter called the "Lands") described in Part 1 of Schedule "A" attached hereto;
- B. The Transferor has agreed to grant to the Company a statutory right of way over a portion of the Lands;
- C. All those portions of the Lands described in part 2 of Schedule "A" attached hereto are hereinafter collectively called the "Right of Way Area", and all those portions of the Lands that are from time to time not included in the Right of Way Area (including portions of the Lands from which the statutory right of way hereby granted may from time to time be discharged) are hereinafter collectively called the "Remaining Lands";
- D. The statutory right of way herein granted is necessary for the operation and maintenance of the Company's undertaking;

Page 3 of 6 pages

NOW THEREFORE in consideration of the sum of ONE (\$1.00) DOLLAR and other good and valuable consideration, now paid by the Company, (the receipt of which is hereby acknowledged by the Transferor), the Transferor hereby grants and conveys unto the Company a Statutory Right of Way on and under those parts of the Lands contained within the Right of Way Area to install, construct and maintain thereon facilities and such equipment as the Company considers necessary or beneficial (hereinafter called "the Facilities") for the operation and maintenance of an electrical distribution system and all related equipment including communication facilities together with the right to dig up the soil and rock thereof for the installation of the Facilities, and from time to time to inspect, repair, remove, alter, renew and replace the same or any part or parts thereof, and to clear the Right of Way Area of such growth and material that in the Company's reasonable opinion might interfere with or damage the Facilities.

AND FURTHER the Transferor hereby grants and conveys unto the Company, its agents, servants, licensees and workmen, and all other persons acting on its or their behalf, at all times hereafter by day or night, with or without such vehicles or equipment as it or they may consider necessary, an Easement by way of Statutory Right of Way to, through and over such portions of the Remaining Lands adjacent to the Right of Way Area, as may from time to time be reasonably required, for full, free and uninterrupted access to the Facilities located within the Right of Way Area.

Notwithstanding any rule of law or equity, the Facilities shall at all times remain the property of the Company notwithstanding that the same may be annexed or fixed to the freehold, and shall at any time and from time to time be removable in whole or in part by the Company, its successors and assigns.

RESERVING HOWEVER to the Transferor the right to cultivate or otherwise use the Right of Way Area so long as it does not interfere with the operation and maintenance of the Facilities, and the right to compensation for any damage done by the Company to crops thereon.

The Transferor covenants that he will not at any time plant any trees or climbing vines on the Right of Way Area or do any act either on the Right of Way Area or on that part of the Lands adjacent to it that will jeopardize or interfere with the operation or maintenance of the Facilities or the rights granted herein; that he will not erect thereon any buildings or structures on the Right of Way Area; and that he will cause no damage to nor interfere with the Facilities.

The Transferor may plant the Right of Way Area to lawn or may pave it with asphalt or concrete. PROVIDED THAT, the Transferor will not, without the written consent of the Company, diminish or substantially add to the ground cover over such of the Facilities as may be from time to time installed, operated or maintained below the surface of the Right of Way Area and in particular, and without in any way limiting the generality of the foregoing, will not construct open drains or ditches across any of the Facilities which may at any time be installed on the Right of Way Area.

Page 4 of 6 pages

The Transferor may install a fence within the Right of Way Area provided it does not interfere with the operation or maintenance of the Facilities and, if a fence is installed by the Transferor, the Company may at its expense install gates for its purposes. The Company will not be liable for any costs of repair to the fence if it is damaged during the installation or maintenance of the Facilities. Subject to the foregoing, the Company will be liable for any damage caused by its agents, servants, licensees or workmen to the Lands and will, each time it disturbs the Lands, restore the same as near as is reasonably practicable to the same conditions as before the disturbance.

The Transferor agrees that the Company may provide a communications and/or cable company with all the rights granted to the Company under this Statutory right of Way to install and maintain communications and/or cable facilities within the Right of Way Area either together with the Company, or in such other conduits or facilities as may be installed by such communications company with full right of ingress or egress as herein granted to the Company.

If any provision of this Indenture is declared invalid or unenforceable by a competent authority, such provision shall be deemed severed and shall not affect the validity or enforceability of the remaining provisions of this Indenture, unless such invalidity or unenforceability renders the operation of this indenture impossible.

The rights, privileges and easement hereby granted are and shall be of the same force and effect as a covenant running with the land, and this Statutory Right of Way shall enure to the benefit of and be binding upon the parties hereto, their heirs, administrators, successors and assigns, and wherever the singular or masculine is used herein, it shall be construed as if the feminine, plural or neuter, as the case may be, had been used wherever the context or the parties hereto so require.

ATTACHMENT
This forms part of application
DVP16-0076
RCVD: 2016-12-10 RQST: 2017-03-15 09:06:41
Planner Initials **TB**

A

City of Kelowna
COMMUNITY PLANNING

Page 5 of 6 pages

SCHEDULE "A"

PART 1 - DESCRIPTION OF THE LANDS

LOT 1 SECTION 26 TOWNSHIP 26 OSOYOOS DIVISION YALE DISTRICT PLAN KAP62974

In the City of Kelowna, Black Mountain Irrigation District, and Rutland Waterworks District

PART 2 - DESCRIPTION OF THE RIGHT OF WAY AREA

The Right of Way Area consists of the following: Those parts of **LOT 1 SECTION 26 TOWNSHIP 26 OSOYOOS DIVISION YALE DISTRICT PLAN KAP62974** shown on a Reference Plan of Statutory Right of Way completed by Douglas A. Goddard, B.C.L.S., on the 20th day of November, 2015 and deposited in the Kamloops Land Title Office under EPP54049.

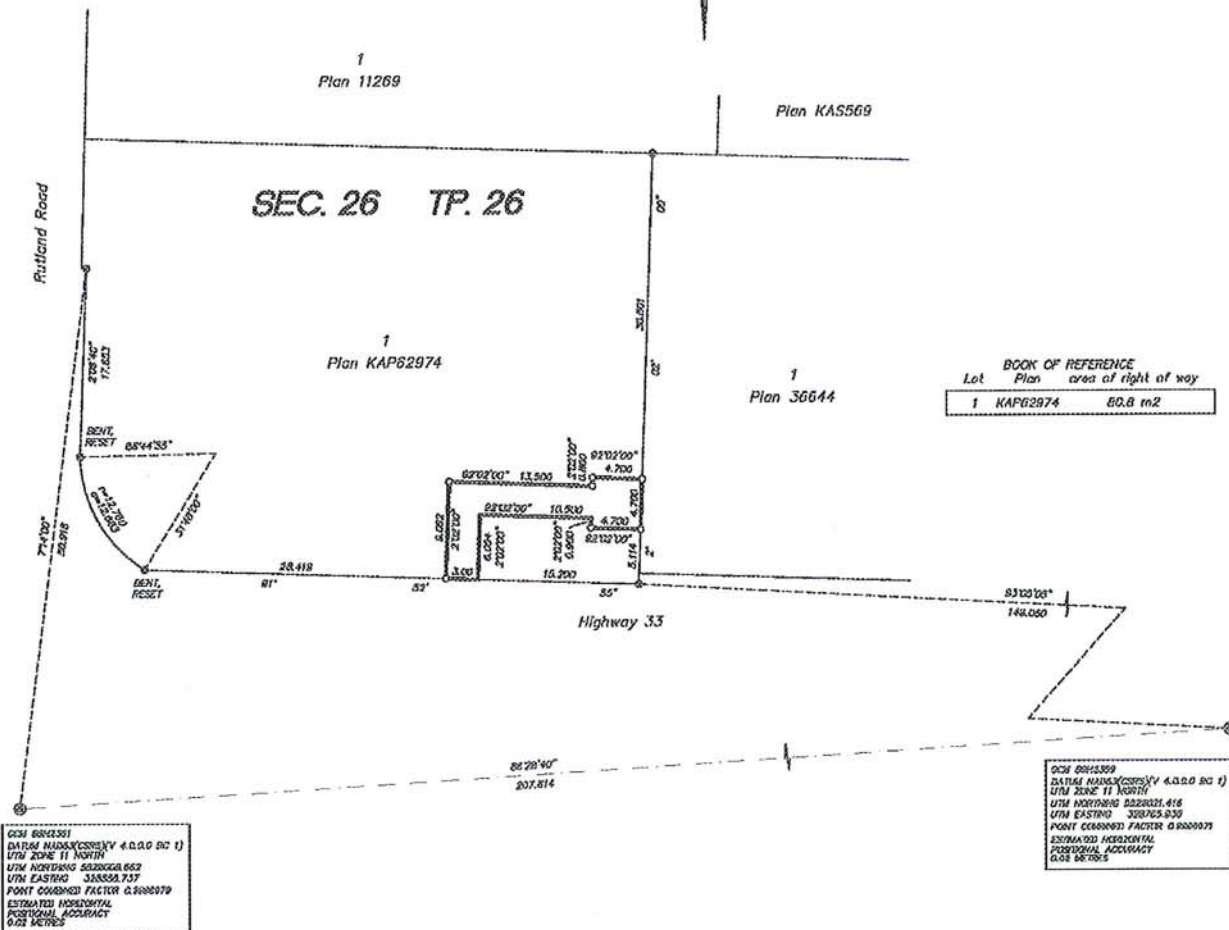


REFERENCE PLAN OF STATUTORY RIGHT OF WAY OVER PART OF LOT 1 SEC. 26 TP. 26 O.D.Y.D. PLAN KAP62974

PURSUANT TO SECTION 113 OF THE LAND TITLE ACT.

BCGS 82E.083

The intended size of this plan is 432 mm in width by 560 mm in height (C size) when plotted at a scale of 1:300.



LEGEND

All distances are in metres.

- Iron Post Found
- Iron Post Set
- ⊙ Control Monument Found

Grid bearings are derived from observations between control monuments 86H2359 and 86H2381, integrated survey area no. 4 - Kelowna.

This plan shows ground-level measured distances. Prior to computation of U.T.M. coordinates multiply by combined factor 0.999979.

UTM coordinates and estimated horizontal positional accuracy derived from the MASCOT published coordinates and standard deviations for geodetic control monuments 86H2359 and 86H2381.

18762 FORTIS B 338, 382

D.A. Goddard Land Surveying Inc.
163-1598 ST. PAUL STREET, KELOWNA, PHO 250-783-3733

This forms part of application

DVP16-0076

PLAN EPP60238

Planner
Initials

TB

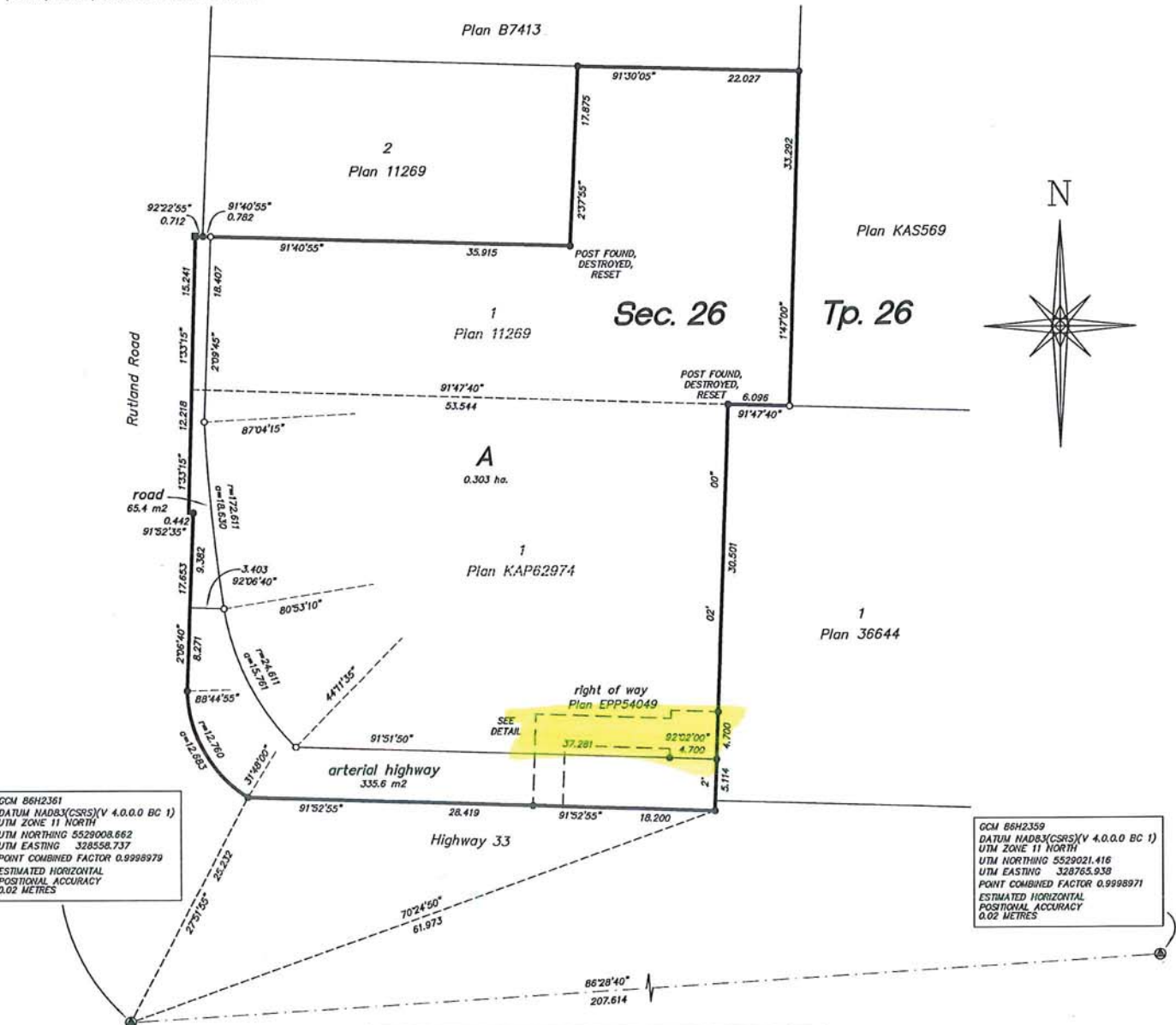
Kelowna
COMMUNITY PLANNING

**SUBDIVISION PLAN OF LOT 1 SEC. 26 TP. 26 O.D.Y.D.
PLAN KAP62974 AND OF LOT 1 SEC. 26 TP. 26 O.D.Y.D.
PLAN 11269 EXCEPT PLAN 37956**

BCGS 82E.083

0 5 10 20 30 40 METRES

The intended size of this plan is 432 mm in width by 560 mm in height
(C size) when plotted at a scale of 1:300.



LEGEND

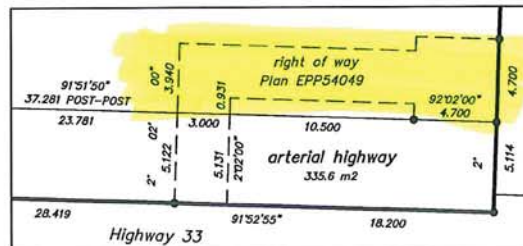
All distances are in metres.

- Iron Post Found
- Lead Plug Found
- Iron Post Set
- ⊙ Control Monument Found

Grid bearings are derived from observations between control monuments 86H2359 and 86H2361, integrated survey area no. 4 - Kelowna.

This plan shows ground-level measured distances. Prior to computation of U.T.M. coordinates multiply by combined factor 0.9998975.

UTM coordinates and estimated horizontal positional accuracy derived from the MASCO published coordinates and standard deviations for geodetic control monuments 86H2359 and 86H2361.



This plan lies within the Central Okanagan Regional District.

This plan dedicates arterial highway as authorized the Minister of Transportation and Infrastructure.

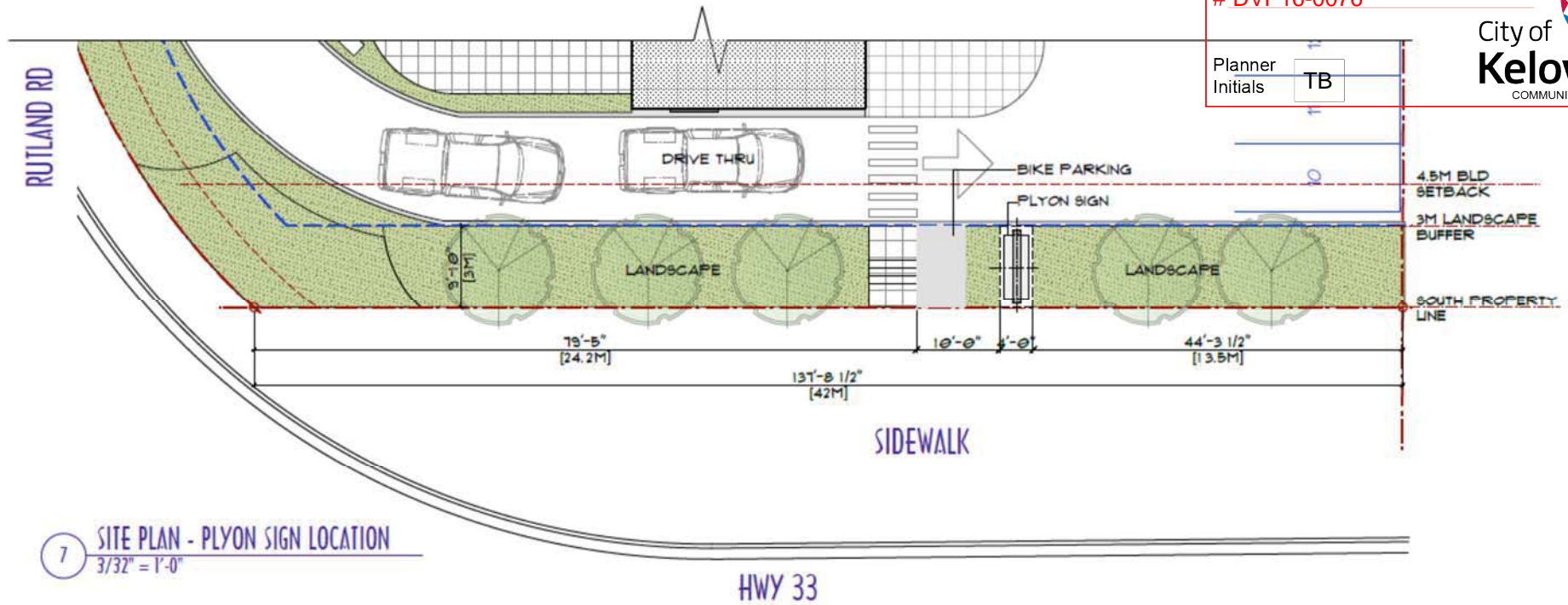
This plan lies within the jurisdiction of the approving officer for the City of Kelowna.

The field survey represented by this plan was completed on the 10th day of March, 2016.
Douglas A. Goddard, BCLS 588.

file 16762 fb 339, 382

D.A. Goddard Land Surveying Inc.

103-1358 ST. PAUL STREET KELOWNA PHONE 250-763-3733



SITE PYLON SIGNAGE VARIANCE PERMIT APPLICATION

DATE
SCALE
ISSUED FOR
PROJECT

REVISED 2016.05.16
AS NOTED
VARIANCE

13.335

A1.0

This forms part of application

DVP16-0076



City of Kelowna
COMMUNITY PLANNING

Planner
Initials

TB

NOTES:

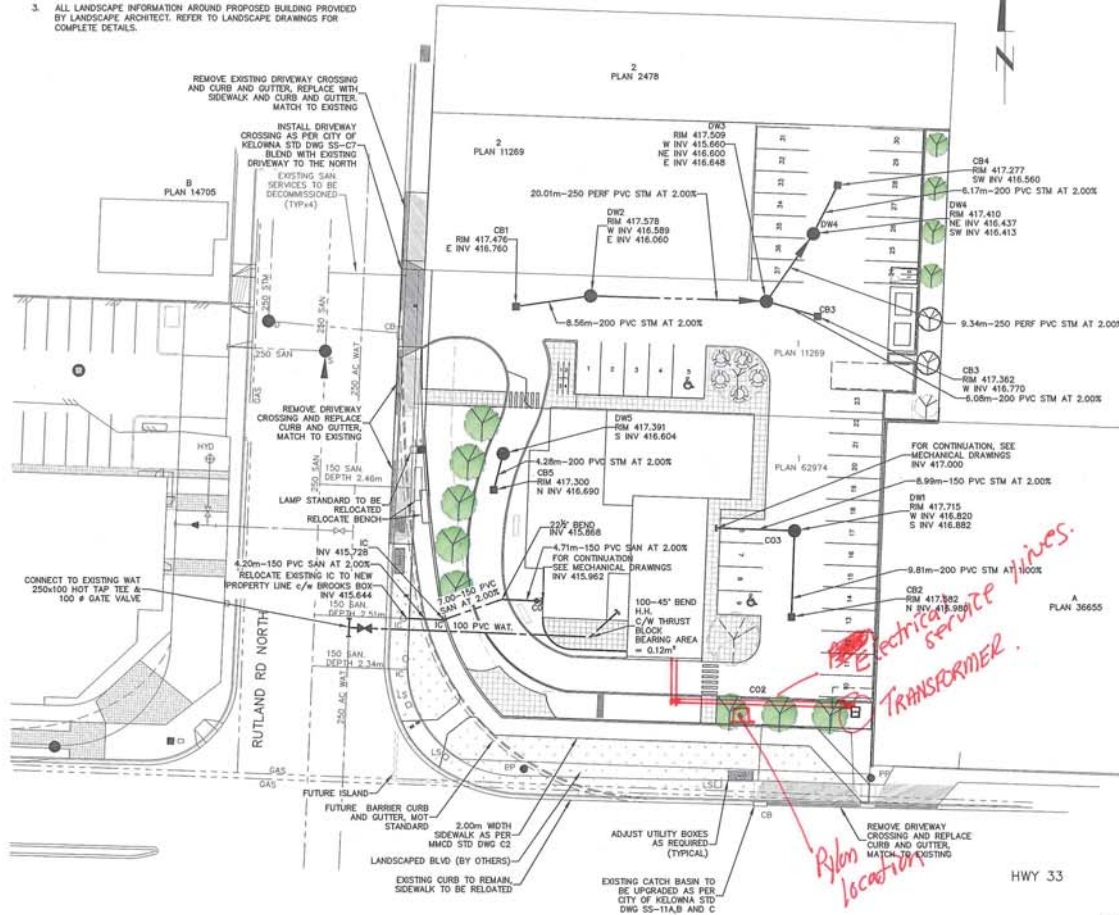
1. ALL WORK TO BE CONSTRUCTED IN ACCORDANCE WITH MDCO PLATINUM EDITION SPECIFICATIONS AND THE CITY OF MINNEAPOLIS SUPERVISION, DEVELOPMENT AND SERVING CONTRACT, BY-LAW NO. 7900 AND AMENDMENTS.
2. LOCATIONS AND OFFSETS OF EXISTING UTILITIES SHOWN ON THESE PLANS ARE COMPILED FROM THE MOST RECENT AVAILABLE RECORD DRAWINGS. THE CONTRACTOR IS GUARANTEED TO BE COMPLETE OR ACCURATE AND MUST BE VERIFIED BY THE CONTRACTOR PRIOR TO ANY CUTTING OR DIGGING. THE LOCATION OF ALL SHALLOW UTILITY LINES AND PIPES ARE TO BE OBTAINED ONLY. DETAILS MUST BE OBTAINED FROM EACH UTILITY COMPANY.

CONTRACTOR IS TO COMPLETE ALL TIE-INS AND OFFSETS FOR RIVER WATER MAINS, WATERS, WATER, IN THE PRESENCE OF R.W.M. PERSONNEL. THE CONTRACTOR IS TO SCHEDULE THIS WITH R.W.M. AT LEAST TWO (2) FULL WORKING DAYS PRIOR TO SCHEDULING FOR WATER TIE-INS, CONFIRM CLOSURE PRESSURE, STOP VALVE LOCATION, FLUSHING, PRIOR TO SCHEDULING. THE CONTRACTOR SHALL OBTAIN A ROAD USE PERMIT AND A THIRD PARTY WORK ORDER FROM THE CITY VARD OFFICE.

IT IS INCIDENT UPON THE CONSTRUCTION CONTRACTOR TO PROVIDE ALL NECESSARY OPERATIONS DEPARTMENT WITH AT LEAST TWO FULL WORKING DAYS NOTICE TO ALLOW SCHEDULING OF THE CITY VARD OFFICE. A THIRD PARTY WORK ORDER MUST BE SIGNED BY THE PARTY RESPONSIBLE FOR PAYMENT SAME PRIOR TO THE CITY SCHEDULING THE WORK.
3. ALL WORKS TO MEET MDCO (PLATINUM EDITION) ENVIRONMENTAL PROTECTION SECTION REQUIREMENTS. THE CONTRACTOR SHALL FOLLOW BEST MANAGEMENT PRACTICES FOR EROSION AND SEDIMENT CONTROL-UPWARD WORKS BY CITY OF MINNEAPOLIS LAND DEVELOPMENT DIVISION. THE CONTRACTOR SHALL FOLLOW GUIDELINES FOR THE PROTECTION OF AQUATIC HABITAT - GFO & BOCAE.
4. REPLACE / UPGRADE ALL UNDERSIZED EXISTING CURB & SIDEWALK MATERIALS LIDS AS PER CITY OF KELLOWNA DWS-S5-S1A AND SS-S5-S1A.
5. ENSURE MINIMUM COVER OVER WATERMAIN IS 1.5m
6. ENSURE WATERMAINS HAVE HORIZONTAL SEPARATION OF 3m from STORM and SANITARY MAINS, WHERE THIS HORIZONTAL SEPARATION IS NOT POSSIBLE, MAINTAIN VERTICAL DIFFERENCE OF 0.45m.
7. WRAP WATERMAIN JOINTS WHERE THERE IS NOT 0.45m vertical and 3.0m horizontal separation from SAND AND GRAVEL BACKFILL. USE CANUSIA PIPE WRAP OR EQUIVALENTS.
8. ALL WATERMAIN IS TO BE INSTALLED IN ACCORDANCE WITH MANUFACTURER'S INSTALLATION AND RECOMMENDATION. CONNECTION AT JOINTS IS NOT RECOMMENDED OR ALLOWED. THE CONTRACTOR IS REQUIRED TO INSTALL AN INSTRUMENTED JOINT THAT MEET THE MANUFACTURER'S REQUIREMENTS.
9. ALL PIPE ELEVATIONS SHOWN ARE AT INVERT.

ON-SITE SERVICING COORDINATION:
ONE CONTRACTOR TO INSTALL SERVICING TO A

1. ALL MECHANICAL INFORMATION PROVIDED BY MECHANICAL ENGINEER. REFER TO MECHANICAL DRAWINGS FOR COMPLETE DETAILS. FOR SERVICES SEE IN SEE MECHANICAL DRAWINGS FOR CONTINUATION.
2. ALL ELECTRICAL INFORMATION PROVIDED BY ELECTRICAL ENGINEER. REFER TO ELECTRICAL DRAWINGS FOR COMPLETE DETAILS. FOR SERVICES SEE IN SEE ELECTRICAL DRAWINGS FOR CONTINUATION.
3. ALL LANDSCAPE INFORMATION AROUND PROPOSED BUILDING PROVIDED BY LANDSCAPE ARCHITECT. REFER TO LANDSCAPE DRAWINGS FOR COMPLETE DETAILS.



PIPE TYPE:

STORM - ULTRA RIB

SERVICE CONNECTIONS

WATER - 100 DR18 PVC
SANITARY - 150mm DR28 PV

STORM - 150mm DR28 PVC

[illegible]

CITY FILE # DP15-0030 13102

CTQ
RUTLAND CROSSING
140 HWY 33 E
COMPOSITE UTILITY PROJECT

Division MUNICIPAL	
Drawing No. G-01	Rev No. 7



Sign Surface Area: 88" x 96" (2.24m x 2.44m = 5.47m2)

DEVELOPMENT VARIANCE PERMIT



APPROVED ISSUANCE OF DEVELOPMENT VARIANCE PERMIT NO. DVP16-0076

Issued To: W62o Holdings Ltd
Site Address: 135 Rutland Road N
Legal Description: Lot 1, Section 26, Township 26, ODYD, Plan KAP62974
Zoning Classification: C4 – Urban Centre Commercial

SCOPE OF APPROVAL

This Permit applies to and only to those lands within the Municipality as described above, and any and all buildings, structures and other development thereon.

This Permit is issued subject to compliance with all of the Bylaws of the Municipality applicable thereto, except as specifically varied or supplemented by this Permit, noted in the Terms and Conditions below.

The issuance of a Permit limits the Permit Holder to be in strict compliance with regulations of the Zoning Bylaw and all other Bylaws unless specific Variances have been authorized by the Permit. No implied Variances from bylaw provisions shall be granted by virtue of drawing notations that are inconsistent with bylaw provisions and that may not have been identified as required Variances by the applicant or Municipal staff.

1. TERMS AND CONDITIONS

THAT Development Variance Permit No. DVP16-0076 for Lot 1, Section 26, Township 26, ODYD, Plan KAP62974, located at 135 Rutland Road N, Kelowna, BC to allow the construction of a sign be approved 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. A 219 Covenant is registered on title regarding removal of the sign if the highway is ever widened or constructed;

AND THAT variances to the following section of Sign Bylaw No. 8235 be granted:

Section 5.6.1(d) Free-Standing Sign Regulations

To vary the required minimum setback for a free-standing sign from 1.5m permitted to 0.0m proposed.

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

3. PERFORMANCE SECURITY

None required.

4. DEVELOPMENT

The land described herein shall be developed strictly in accordance with the terms and conditions and provisions of this Permit and any plans and specifications attached to this Permit that shall form a part hereof.

If the Permit Holder does not commence the development permitted by this Permit within two years of the date of this Permit, this Permit shall lapse.

This Permit IS NOT a Building Permit.

5. APPLICANT'S AGREEMENT

I hereby declare that all of the above statements and the information contained in the material submitted in support of this Permit are to the best of my belief, true and correct in all respects. Upon issuance of the Permit for me by the Municipality, then in such case, I covenant and agree to save harmless and effectually indemnify the Municipality against:

- a) All actions and proceedings, costs, damages, expenses, claims, and demands whatsoever and by whomsoever brought, by reason of the Municipality granting to me the said Permit.
- b) All costs, expenses, claims that may be incurred by the Municipality if the construction by me of engineering or other types of works as called for by the Permit results in damages to any property owned in whole or in part by the Municipality or which the Municipality by duty or custom is obliged, directly or indirectly in any way or to any degree, to construct, repair, or maintain.

I further covenant and agree that should I be granted a Development Permit and/or Development Variance Permit, the Municipality may withhold the granting of any Occupancy Permit for the occupancy and / or use of any building or part thereof constructed upon the hereinbefore referred to land until all of the engineering works or other works called for by the Permit have been completed to the satisfaction of the Municipal Engineer and Divisional Director of Community Planning & Real Estate.

Should there be any change in ownership or legal description of the property, I undertake to notify the Community Planning Department immediately to avoid any unnecessary delay in processing the application.

6. APPROVALS

Issued and approved by Council on the _____ day of _____, 2017.

Ryan Smith, Community Planning Department Manager
Community Planning & Real Estate

Date

**The PERMIT HOLDER is the CURRENT LAND OWNER.
Security shall be returned to the PERMIT HOLDER.**

REPORT TO COUNCIL



Date: July 25th 2017

RIM No. 0940-00 & 0940-50

To: City Manager

From: Community Planning Department (AC)

Application: DP17-0066 & DVP17-0067 **Owner:** City of Kelowna

Address: 1580 & 1558 Ellis St **Applicant:** Mission Group (Luke Turri)

Subject: Development Permit and Development Variance Permit

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

Existing Zone: C7 – Central Business Commercial

1.0 Recommendation

THAT Council authorizes the issuance of Development Permit No. DP17-0066 for Lot 3, Block 15, District Lot 139, ODYD, Plan 462, located at 1580 Ellis St, Kelowna, BC, & Lot A, District Lot 139, ODYD, Plan 17140, located at 1588 Ellis St, 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;
5. That the Development Permit and Development Variance Permit is issued subsequent to the outstanding conditions set out in Attachment "A" attached to the Report from the Community Planning Department dated July 25th 2017;
6. That a Servicing Agreement be completed and bonded for prior to the issuance of the Development Permit that includes the enhanced streetscape as described in Attachment 'B';

AND THAT Council authorize the issuance of Development Variance Permit DVP17-0067 for Lot 3, Block 15, District Lot 139, ODYD, Plan 462, located at 1580 Ellis St, Kelowna, BC, & Lot A, District Lot 139, ODYD, Plan 17140, located at 1588 Ellis St, Kelowna, BC;

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

Section 14.7.5 Development Regulations (h)

To vary the maximum height of a building before a 3 metre setback is required from 16 metres to 17.1 metres.

Section 14.7.5 Development Regulations (a)

To vary the maximum height from 58 metres to 61 metres

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.

2.0 Purpose

To review the Form & Character Development Permit of a 20 storey residential tower with ground floor commercial as well as to consider two variances: the first is to increase the height of the overall building and the second variance is to increase the height of the podium.

3.0 Community Planning

When assessing the merits of a tall building project, staff break the design into three components: the base of the building called the podium; the middle of the building largely consisting of the tower; and the top of the building as it relates to Kelowna's skyline.



Top

The tops of tall buildings, including upper floors and roof-top mechanical or telecommunications equipment, signage, and amenity space, should be designed, primarily through tower massing and articulation, and secondarily through materials, to create an integrated and appropriate conclusion to the tall building form.



Middle

The location, scale, floor plate size, orientation and separation distances of the middle affect sky view, privacy, wind, and the amount of sunlight and shadows that reach the public realm and neighbouring properties. The design and placement of the tower should effectively resolve these matters to ensure that a tall building minimizes its impact of surrounding streets as well as existing and/or future buildings on adjacent properties.



Podium

The lower storeys of a tall building should frame the public realm, articulate entrances and assist in the creation of an attractive and animated public realm which provides a safe, interesting, and comfortable pedestrian experience. The podium should define and support adjacent streets at an appropriate scale, integrate with adjacent buildings, assist to achieve a transition down to lower-scale buildings and minimize the

impact of parking and servicing on the public realm.

The design of the tower (middle) and the top of the building have been resolved by the applicant adequately to meet the City's Urban Design guidelines. It has been the design of the podium during the application process that has required more discussion and attention between Staff and the applicant.

The applicant's proposed podium represents a critical component in defining the public realm along Ellis Street and Lawrence Avenue, as it will create a sense of enclosure along the streetscape. The proposed podium is a large built form, at 17.1m (56 ft) in height, that will be seen from many blocks away including Bernard Avenue and Pandosy Street. While the OCP envisions this area to be redeveloped with taller buildings over the long term, there are currently a number of one and two storey buildings in the immediate area that will likely remain for the foreseeable future.

Podiums which are too large can overwhelm the public realm and smaller neighboring buildings and create spaces that are uncomfortable for pedestrians. Podiums that are too large distort the sense of human scale and impact the visual quality of the downtown. The street experience may appear dark and/or oppressive and potentially lack sunlight penetration and/or sky views at the street level.

These conclusions have been reinforced by the City of Toronto's Urban Design Department that have studied the shadowing effect of podiums at different heights for different street widths¹. That study showed that podium heights that are equivalent to the street width with a 3.0m setback on the upper storeys create optimal pedestrian conditions. As the ratio of podium height to street width increases, and as the setback of the upper floors of the base building decreases, the sidewalks are increasingly shadowed. Therefore, the City of Toronto's podium height regulation states:

The maximum height of a podium will be a 1:1 ratio to the width of the street allowance. To ensure greater sunlight penetration on the sidewalk across the street, the main front wall can be no higher than 80% of the width of the street allowance before applying a 3.0m setback to the remainder of the base building height. If a tall building site fronts onto more than one street, the podium will be massed to address both frontages, giving prominence to the corner.

The City of Kelowna incorporated this principle into its zoning regulations when the C7 zone was recently updated (May 2017). The regulation states "a podium height limit of 16.0 metres before a 3.0 metre setback is required." With the vast majority of downtown streets at 20.0 metre widths including Ellis Street and Lawrence Avenue, 80% would result in the desired 16.0 metre podium height. A challenge with applying the C7 zone to the applicant's project, is that the height regulation before requiring a setback does not differentiate between the various building typologies allowed in the zone including small buildings, large buildings, podiums with towers, or midrise buildings. Also, the regulation does not differentiate between the various tower height categories within the downtown which should also be a consideration.

A key OCP design guideline states developments should be sensitive to and compatible with the massing of the established or future streetscape as well as to mitigate the actual and perceived bulk of buildings by utilizing appropriate massing including architectural elements, projections, indentations, setbacks on upper floors. Staff requested a reduction in the height and massing of the podium to help achieve a more sensitive transition. A podium limited to four storeys, would eliminate the need for the two height variances. The two main alternatives Staff suggested to achieve a reduction in the podium height were:

¹ https://www1.toronto.ca/city_of_toronto/city_planning/urban_design/files/pdf/Tall-buildings-Final-pt5.pdf

- 1) Reduce the proposal's parking per unit ratio to 1 stall per dwelling unit and pay cash-in-lieu of parking on the shortfall. The shortfall would be 15 parking stalls (12% reduction from bylaw parking requirements). The cash-in-lieu amount is currently \$22,500 per stall totaling \$337,500.
- 2) Re-design the parkade to have one floor of underground parking. This solution would likely reduce the overall parking by 4 stalls but the parking would still be significantly over the minimum as per the City's Zoning Bylaw and this solution would maintain the applicant's desired parking ratio of 1.25 parking stalls per dwelling unit. An access ramp would have been permitted from Lawrence Avenue to facilitate this solution.

Staff felt that either solution was acceptable as a parking relaxation would likely be appropriate considering the downtown location of the project. The applicant was not willing to consider these alternate solutions as the overall cost to the project may increase and the amount of parking was a key consideration for the developer in their proposed marketing plans. The 5 storey podium contains 22% (31 stalls) more parking than the City's minimum parking requirements. In order to address Staff's concerns and meet the OCP's Urban Design Guidelines, the applicant has concentrated on design solutions to help mitigate the overall scale and height of the podium. The images below illustrate how the evolution of the podium design has progressed over the past few months.



Figure 1. Figure 2: First Redesign



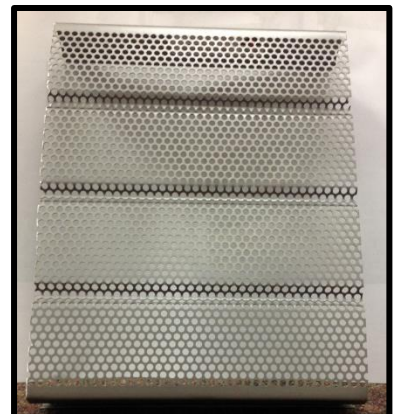
Figure 3: Final Proposed Design

Specifically, the final podium design includes these features:

- Commercial retail at-grade along Lawrence Ave & Ellis St with the only exception being the residential lobby. The main floor is consistent with the City's Urban Design Guidelines as it provides a visually interesting streetscape with transparent glazing, pedestrian weather protection and a commitment by the applicant to provide an enhance streetscape / boulevard treatment (See Attachment 'B').
- Included spandrel windows on the 2nd storey to mimic occupied space.
- Included a visually interesting roofline/cornice line at the top of the podium.
- Included black metal paneling mid-block to attempt to break the architectural massing of the podium and the use of white brick on the columns to create some texture on the façade.
- Has randomized colour concrete panels on the north and west elevations to provide visual interest compared to blank concrete walls.
- Improved the architectural features along the north elevation (laneway) to provide visual interest for pedestrians when viewing the wall from Bernard Avenue over the existing buildings on Bernard Avenue.
- Attempted to meet the setback requirement above 16.0 metres on the Lawrence Avenue and Ellis Street facades by stepping back 1.0 metre instead of 3.0 metres.

The other main design features associated with this application are:

- The tower will be constructed primarily of concrete and glass. The consistent pattern of windows and balconies provide a coherent and visually interesting modern design.
- On corner lots, Staff have been encouraging applicants to design each façade and the corner of the building slightly different in order to provide visual interest and avoid repetitive or monotonous designs. In this case, the applicant has provided a separate architectural feature with the main lobby entrance which provides some visual differentiation from Ellis Street to Lawrence Avenue.
- The applicant has provided the required corner cut in the building at Ellis Street & Lawrence Avenue intersection in order to meet the design requirements with the C7 zone and the OCP guidelines.
- All vehicular access and loading will be from the lane. The applicant proved that all truck turning radius were met within the existing 6 metre wide one-way lane. By expanding the sidewalk along Ellis Street, this will help improve vehicular sightlines and pedestrian interaction at the corner of the lane and Ellis Street.
- The enhanced streetscape will provide an improved pedestrian realm on both Ellis Street and Lawrence Avenue. Additionally, the applicant has committed to protecting the existing mature trees on Ellis Street. Staff and the applicant are hoping these trees will survive construction as this location is one of the few streets in the downtown that has a tree canopy that extends almost the entire road width.
- Another design concern is the aluminum paneling instead of glazing within the 'window wells' along the Ellis Street and Lawrence Avenue facades (on floors 3 to 5). The 'window wells'



are inset within the elevation which provides a positive architectural response but the concern is the aluminum panels will appear solid from the pedestrian realm rather than providing a reflective glazing finish. See figure 4 to see the sample material.

- As per the Real Estate arrangement made between the City and the applicant, the project would adhere to LEED certification. Having an environmentally friendly and sustainable concrete building would be a positive addition to the City.

Figure 4: Proposed
Aluminium Mesh Panelling

In recognizing OCP policy that strongly encourages residential towers to be built downtown, the benefits that redevelopment represents along Lawrence Avenue and the applicant's refinement of the form and character of the podium, Staff are recommending support for the Development Permit and Development Variance Permit.

4.0 Proposal

4.1 Project Description

Mission Group has finalized an agreement to purchase the subject property from the City of Kelowna. The subject site represents a key location within the Downtown - fronting along Ellis Street, a principal "gateway" corridor into the downtown from Highway 97, and being immediately south of Kelowna's revitalized main retail street, Bernard Avenue. With immediate access to a variety of amenities, bus rapid transit and the waterfront, the site is an excellent candidate for new residential density. A development covenant was placed on the title of the property restricting the development to a minimum building height of 13 stories.

The 0.41 acre site is identified in the City of Kelowna's Downtown Plan for a high-rise building. The proposal includes the following:

- 5,733 ft² of commercial retail space fronting both Ellis St and Lawrence Avenue, animating the public realm in a key location;
- A 5 level podium consisting of at-grade commercial units and four levels of above-grade parking;
- 116 condominium homes over 15 residential levels (total of 20 storeys including penthouse level), including a range of units
 - 14 studio apartments;
 - 14 one-bedrooms;
 - 56 two-bedrooms <1,000 ft²;
 - 32 two-bedrooms & three-bedrooms >1,000 ft².
- A commitment to LEED Certified construction, supporting environmental sustainability goals outlined in Kelowna's OCP.
- A commitment to an enhanced and custom streetscape for both Ellis Street and Lawrence Avenue.

4.2 Background

This property is known as the old "Henderson Cleaners" site. The City bought the property in 2012 and recently went through a disposition and sale process in order to ensure desirable downtown redevelopment.

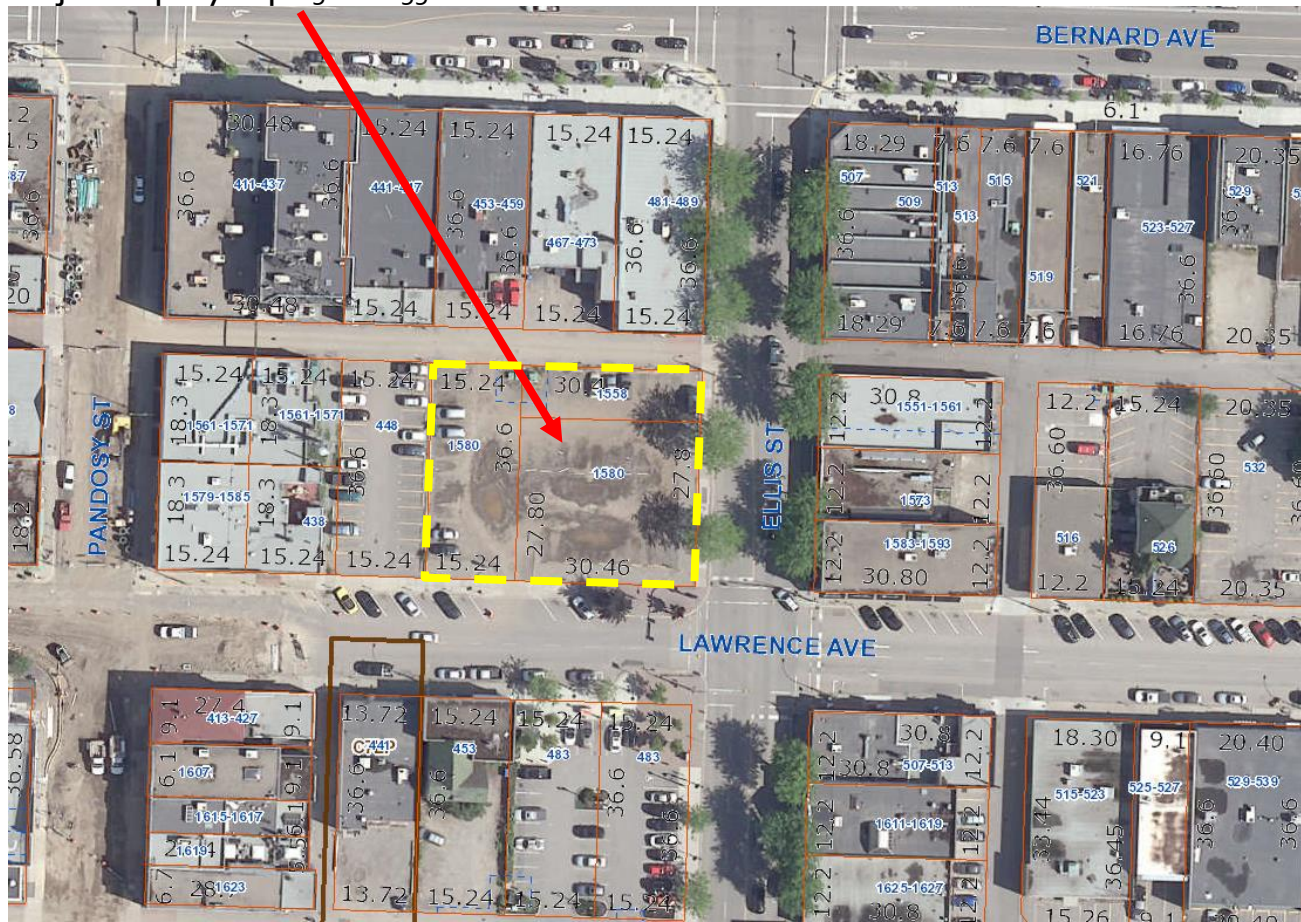
occurs on this site. A covenant was placed on title to ensure a minimum 13 storey mixed-use building would be developed on the property.

4.3 Site Context

The site is located at the north end of the Downtown Urban Centre at the corner of Ellis Street and Lawrence Avenue. Specifically, the adjacent land uses are as follows:

Orientation	Zoning	Land Use
North	C7 – Central Business Commercial	Commercial
East	C7 – Central Business Commercial	Commercial
South	C7 – Central Business Commercial	Surface Parking & Commercial
West	C7 – Central Business Commercial	Surface Parking & Commercial

Subject Property Map: 1580 & 1558 Ellis St



4.4 Zoning Analysis Table

Zoning Analysis Table

CRITERIA	C7 ZONE REQUIREMENTS	PROPOSAL		
For portion of building between 0.0 metres & 16.0 metres in height				
Front Yard, Flanking Street & Lane Setback	0.0 m	0.0 m		
Side Yard Setback	0.0 m	0.0 m		
Floorplate	No restriction	1,671 m ²		
For portion of building between 16.0 metres & above in height				
		Podium (17.07m)	Tower	
Front Yard & Flanking Street	3.0 m	0.0m ❶	3.0 m	
Lane Setback	3.0 m	0.0m ❶	10.0 m	
Side Yard Setback	4.0 m	0.0m ❶	15.0 m	
Floorplate	1,221 m ²	n/a	778.3 m ²	
Development Regulations				
Height	Podium	Tower	Podium	Tower
	16.0 / ~4.5 stories (unless Bldg steps back)	58.0 m / ~19.0 storeys	17.07 m / 5 stories	61.0 m / 20 storeys ❷
Corner Cut Setback	4.5 m		4.5 m	
FAR	9.0		6.44	
Parking Regulations				
Minimum Parking Requirements	141 parking stalls (116 stalls for residential units 17 stalls for visitors 8 stalls for commercial)		172 parking stalls (31 stalls over or 22%)	
Ratio of Parking Stalls	Small Size: 10% Max Medium Size: 40% Max Regular Size: 50% Min		Small Size: 0% Medium Size: 20% Regular Size: 80%	
Minimum Bicycle Parking Requirements	None required		Class 1: 16 bikes Class 2: 0 bikes But 102 storage lockers provided	
Other Regulations				
Minimum commercial	Min 90% frontage on Ellis St		100% frontage on Ellis St	
Minimum Private Open Space	1,544 m ²		2,049 m ²	
The two proposed variances associated with this permit are as follows:				
❶ To increase the overall height of the building from 58 metres (approx. 19 stories) to 61 metres (20 stories); and				
❷ To increase the podium height without a setback from 16.0 metres to 17.1 metres.				

5.0 Current Development Policies

5.1 Kelowna Official Community Plan (OCP)

Chapter 5: Development Process

Compact Urban Form.² Develop a compact urban form that maximizes the use of existing infrastructure and contributes to energy efficient settlement patterns. This will be done by increasing densities (approximately 75 - 100 people and/or jobs located within a 400 metre walking distance of transit stops is required to support the level of transit service) through development, conversion, and re-development within Urban Centres (see Map 5.3) in particular and existing areas as per the provisions of the Generalized Future Land Use Map 4.1.

Contain Urban Growth.³ Reduce greenfield urban sprawl and focus growth in compact, connected and mixed-use (residential and commercial) urban and village centres.

Housing Mix.⁴ Support a greater mix of housing unit size, form and tenure in new multi-unit residential and mixed use developments.

Objective 5.5: Ensure appropriate and context sensitive built form.

Building Height.⁵ In determining appropriate building height, the City will take into account such factors as:

- Contextual fit into the surrounding neighbourhood;
- Shadowing of the public realm;
- View impacts;
- Overlook and privacy impact on neighbouring buildings;
- Impacts on the overall skyline;
- Impacts on adjacent or nearby heritage structures;

Chapter 14: Land Use Designation Massing and Height.⁶

- Mitigate the actual and perceived bulk of buildings by utilizing appropriate massing, including:
- Architectural elements (e.g. balconies, bay windows, cantilevered floors, cupolas, dormers);
- Visually-interesting rooflines (e.g. variations in cornice lines and roof slopes);
- Step back upper floors to reduce visual impact;
- Detailing that creates a rhythm and visual interest along the line of the building;
- Wall projections and indentations, windows and siding treatments as well as varied material textures should be utilized to create visual interest and to articulate building facades;
- Building frontages that vary architectural treatment in regular intervals in order to maintain diverse and aesthetically appealing streets.

Chapter 14: Urban Design Guidelines Amenities, Ancillary Services and Utilities.⁷

- Locate loading, garbage, storage, utilities and other ancillary services away from public view. All such areas shall be screened and designed as an integral part of the building to minimize impact;

² City of Kelowna Official Community Plan, Policy 5.2.3 (Development Process Chapter).

³ City of Kelowna Official Community Plan, Goals for a Sustainable Future, Objective 1 (Chapter 1 Introduction)

⁴ City of Kelowna Official Community Plan, Policy 5.27.11 (Development Process Chapter)

⁵ City of Kelowna Official Community Plan, Policy 5.22.6 (Development Process Chapter).

⁶ City of Kelowna Official Community Plan, Chapter 14 Urban Design Development Permit Areas, Guidelines

⁷ City of Kelowna Official Community Plan, Chapter 14 Urban Design Development Permit Areas, Guidelines

- Create attractive rear alley facades with high quality materials on buildings facing residential areas (e.g. rear building entrances, windows, balconies, plazas, and plantings).

Chapter 14: Decks, balconies, rooftops, and common outdoor amenity space.⁸

- Incorporate decks, balconies and common outdoor amenity spaces into developments;
- Integrate vents, mechanical rooms and equipment, and elevator penthouses with the architectural treatment of the roof, and/or screen these elements with materials and finishes compatible with the building's design;

Chapter 14: Signs.⁹

- Integrate signage that contributes to the overall quality and unique character of a development (e.g. coordinate proportion, materials, and colour);
- Do not compromise the scale and visual qualities of a building with the size and number of signs;
- Locate, size, and format signs such that they can be easily read by pedestrians.

6.0 Technical Comments

6.1 Building & Permitting Department

- Development Cost Charges (DCC's) are required to be paid prior to issuance of any Building Permit(s).
- Placement permits are required for any sales or construction trailers that will be on site. The location(s) of these are to be shown at time of development permit application.
- HPO (Home Protection Office) approval or release is required at time of Building Permit application.
- Requirements of the City of Kelowna fire prevention regulations bylaw No. 10760 for buildings 6 stories and greater are to be shown on the building permit drawings. Please add these to the requirements outlined in BCBC 3.2.6 for High Buildings
- Fire Department access is to be verified with Kelowna Fire Department
- A Structural, Mechanical and Code Analysis peer review may be required at time of building permit application
- Fire resistance ratings are required for storage, janitor and/or garbage enclosure room(s) / area(s). The drawings submitted for building permit is to clearly identify how this rating will be achieved and where these area(s) are located.
- A Hoarding permit is required and protection of the public from the staging area and the new building area during construction. Location of the staging area and location of any cranes should be established at time of DP.
- A Building Code analysis is required for the structure at time of building permit applications, but the following items may affect the form and character of the building(s):
 - Any alternative solution must be accepted by the Chief Building Inspector prior to the release of the Building Permit
 - Location, Heights, Colors of mechanical systems and the required screening are to be determined at time of DP
 - Any security system that limits access to exiting needs to be addressed in the code analysis by the architect.

⁸ City of Kelowna Official Community Plan, Chapter 14 Urban Design Development Permit Areas, Guidelines

⁹ City of Kelowna Official Community Plan, Chapter 14 Urban Design Development Permit Areas, Guidelines

- Handicap Accessibility to the main floor levels to be provided, ramps may be required.
- Access to the roofs are required per NFPA and guard rails may be required and should be reflected in the plans if required
- Main door may be required from the 1st floor parking area to the exterior.
- Main Exit stairwell doors are required to swing in direction of exit, door swing can't have impeded access in an exit corridor and mechanical rooms cannot open into an access to exit corridor.
- Exit thru lobby requirements must be met, so the main floor plan may be required to be revised
- A Geotechnical report is required to address the sub soil conditions and site drainage at time of building permit application. Minimum building elevations are required to be established prior to the release of the Development Permit. If a soil removal or deposit permit is required, this must be provided at time of Development Permit application.
- We strongly recommend that the developer have his professional consultants review and prepare solutions for potential impact of this development on adjacent properties. Any damage to adjacent properties is a civil action which does not involve the city directly. The items of potential damage claims by adjacent properties are items like settlement of foundations (preload), damage to the structure during construction, undermining & underpinning of existing foundation, additional snow drift on neighbour roofs, excessive noise from mechanical units, vibration damage during foundation preparation work, water infiltration systems, etc.
- Size and location of all signage to be clearly defined as part of the development permit. This should include the signage required for the building addressing to be defined on the drawings per the bylaws on the permit application drawings.
- Universal washroom requirements for CRU areas of the building are to be addressed in the building permit application. This will be addressed at time of building permit application. Washroom requirements for the commercial space of base building are to be addressed in the building permit application
- An exit analysis is required as part of the code analysis at time of building permit application. The exit analysis is to address travel distances within the units and all corridors, number of required exits per area, door swing direction, handrails on each side of exit stairs, width of exits, spatial calculation for any windows in exit stairs, etc.
- Full Plan check for Building Code related issues will be done at time of Building Permit applications. Please indicate how the requirements of Radon mitigation and NAFS are being applied to this complex at time of permit application

6.2 Development Engineering Department

- See Memo (Attachment 'A') dated June 28th 2017.

6.3 Fortis BC (Electric)

- There are FortisBC Inc (Electric) ("FBC(E)") primary distribution facilities along Ellis Street and within the lane adjacent the subject's north property line. Based on the plans submitted, it is unclear whether adequate space has been provided to accommodate the transformation required to service the proposed development. It is recommended that FBC(E) be contacted as soon as possible to determine servicing and land rights requirements for the proposed design. The

applicant is responsible for costs associated with any change to the subject property's existing service, if any, as well as the provision of appropriate land rights where required.

- Otherwise, FBC(E) has no concerns with this circulation.

6.4 Fire Department

- Construction fire safety plan is required to be submitted and reviewed prior to construction and updated as required. Template at Kelowna.ca
- Should a hydrant be required on this property it shall be operational prior to the start of construction and shall be deemed a private hydrant
- This building shall be addressed off of the street it is accessed from .
- A fire safety plan as per section 2.8 BCFC is required at occupancy. The fire safety plan and floor plans are to be submitted for approval in AutoCAD Drawing format on a CD
- Fire Department access is to be met as per BCBC 3.2.5.
- Approved Fire Department steel lock box acceptable to the fire dept. is required by the fire dept. entrance and shall be flush mounted
- All requirements of the City of Kelowna Fire and Life Safety Bylaw 10760 shall be met for communications and high buildings
- Fire alarm system is to be monitored by an agency meeting the CAN/ULC S561 Standard.
- Contact Fire Prevention Branch for fire extinguisher requirements and placement.
- Fire department connection is to be within 4.5M of a fire hydrant - unobstructed.
- Ensure FD connection is clearly marked and visible from the street.
- Standpipe connections to be on intermediate landings.
- Sprinkler zone valves shall be accessible as per fire prevention bylaw (10760) - no higher than 7 feet.
- Dumpster/refuse container must be 3 meters from structures or overhangs or in a rated room in the parking garage
- Upon completion, an owners certificate and copy of NFPA 25 shall be provided for the sprinkler system.
- Upon completion, a certificate is required to verify CANULC 561 Compliance.

6.5 Real Estate

- Development Covenant in place as part of purchase & sale agreement. Please contact Real Estate regarding developer commitments (For example, building to LEED standards).

7.0 Application Chronology

Date of Application:

March 16th 2017

Date of Notification Letters:

June 28th 2017

Prepared by:

Adam Cseke, Urban Planner

Reviewed by:

Terry Barton, Urban Planning Manager

Approved for:

Ryan Smith, Community Planning Department Manager

Attachments:

Attachment A - Development Engineering Memo

Attachment B – Enhanced Streetscape Requirement

DP17-0066

&

DVP17-0067

CITY OF KELOWNA MEMORANDUM

ATTACHMENT

A

This forms part of application

DP17-0066

Planner
Initials

AC



Date: June 30, 2017
File No.: DP17-0066
To: Community Planning (AC)
From: Development Engineering Manager (SM)
Subject: 1580 Ellis Street *REVISED II*

Mixed Use Development

Development Engineering Department have the following comments and requirements associated with this application. The road and utility upgrading requirements outlined in this report will be a requirement of the building permit. The Development Engineering Technologist for this project is Jason Angus.

1. Domestic Water and Fire Protection

- (a) This lots are two 50mm water services. The developer's consulting mechanical engineer will determine the domestic and fire protection requirements of this proposed development and establish hydrant requirements and service needs.
- (b) The applicant, at the developer's cost, will arrange for the installation of a metered water service. If it is determined that upgrades to the existing water distribution system must be made to achieve the required fire flows, additional bonding will be required.
- (c) A water meter is mandatory for this development and must be installed inside the building on the water service inlet as required by the City Plumbing Regulation and Water Regulation bylaws. The developer or building contractor must purchase the meter from the City at the time of application for a building permit from the Inspection Services Department, and prepare the meter setter at the developer's cost. Boulevard landscaping, complete with underground irrigation system, must be integrated with the on-site irrigation system.

2. Sanitary Sewer

- (a) This lot is serviced with three small diameter services. The developer's consulting mechanical engineer will determine the requirements of this proposed development and establish the required size of the new service. Only one service will be permitted for this development. The applicant, at the developer's cost, will arrange for the installation of a new service.
- (b) A downstream flow analysis check is required by a consulting civil engineer to determine the impact of additional flow contributions on the existing pipe system. If it is determined that upgrades to the existing facilities must be made, additional bonding will be required.



3. Storm Drainage

- (a) The developer must engage a consulting civil engineer to provide a storm water management plan for the site, which meets the requirements of the Subdivision, Development and Servicing Bylaw No. 7900. The storm water management plan must also include provision of lot grading plan, minimum basement elevation (MBE), if applicable, and provision of a storm drainage service for the development and / or recommendations for onsite drainage containment and disposal systems.
- (b) This lot is serviced with two small diameter services. Only one overflow service will be permitted for this development.
- (c) Storm drainage systems for the site will be reviewed and approved by Engineering when design drawings are submitted.

4. Road Improvements

- (a) Ellis Street fronting this development site is urbanized but the existing curb and sidewalk is in a deteriorated state. The upgrades will require curb, gutter and sidewalk removal and reconstruction, boulevard streetscape and traffic signal upgrades as well as the re-location or adjustment of existing utility appurtenances if required to accommodate the upgrading construction.
- (b) Lawrence Ave fronting this development site is urbanized but the existing curb and sidewalk is in a deteriorated state. The upgrades will require curb, gutter and sidewalk removal and reconstruction, boulevard streetscape as well as the re-location or adjustment of existing utility appurtenances if required to accommodate the upgrading construction.
- (c) *Lane thru this development site will require reconstruction to a paved commercial standard including the extension of the piped drainage system. Re-location or adjustment of existing utility appurtenances to accommodate the upgrading construction will be required.*
- (d) *The City of Kelowna requested a 0.8m road dedication from the development to facilitate the widening of the lane to 7.6m. It was agreed upon that if the development could prove out the turning movements from the development to the lane without conflicts, that the City would accept the existing conditions of the lane width at 6.0m.*

5. Subdivision

By registered plan to provide the following:

- (a) Lot consolidation.
- (b) Grant statutory rights-of-way if required for utility services.
- (c) *Dedicate a 4.5m corner rounding at the intersection of Ellis Street and Lawrence Ave.*

6. Electric Power and Telecommunication Services

- a) The electrical services to this development must be installed in an underground duct system, and the building must be connected by an underground service. Existing distribution and service connections, on that portion of a road

immediately adjacent to the site, are to be relocated and installed underground as this site is located within the City Centre urban town centre.

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

7. Engineering

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

8. Design and Construction

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

9. Servicing Agreements for Works and Services

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

ATTACHMENT		A
This forms part of application		
# DP17-0066		
Planner Initials	AC	 City of Kelowna <small>COMMUNITY PLANNING</small>

10. Geotechnical Report

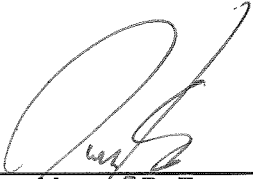
As a requirement of this application the owner must provide a geotechnical report prepared by a Professional Engineer qualified in the field of hydro-geotechnical survey to address the following:

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

11. Development Permit and Site Related Issues

Access and Manoeuvrability

- (i) Perimeter access must comply with the BC Building Code. Fire Truck access designs and proposed hydrant locations will be reviewed by the Fire Protection Officer.

*J and
PN*


Steve Muenz, P. Eng.
Development Engineering Manager

SS/JA

ATTACHMENT		A
This forms part of application		
# DP17-0066		
Planner Initials	AC	 City of Kelowna <small>COMMUNITY PLANNING</small>

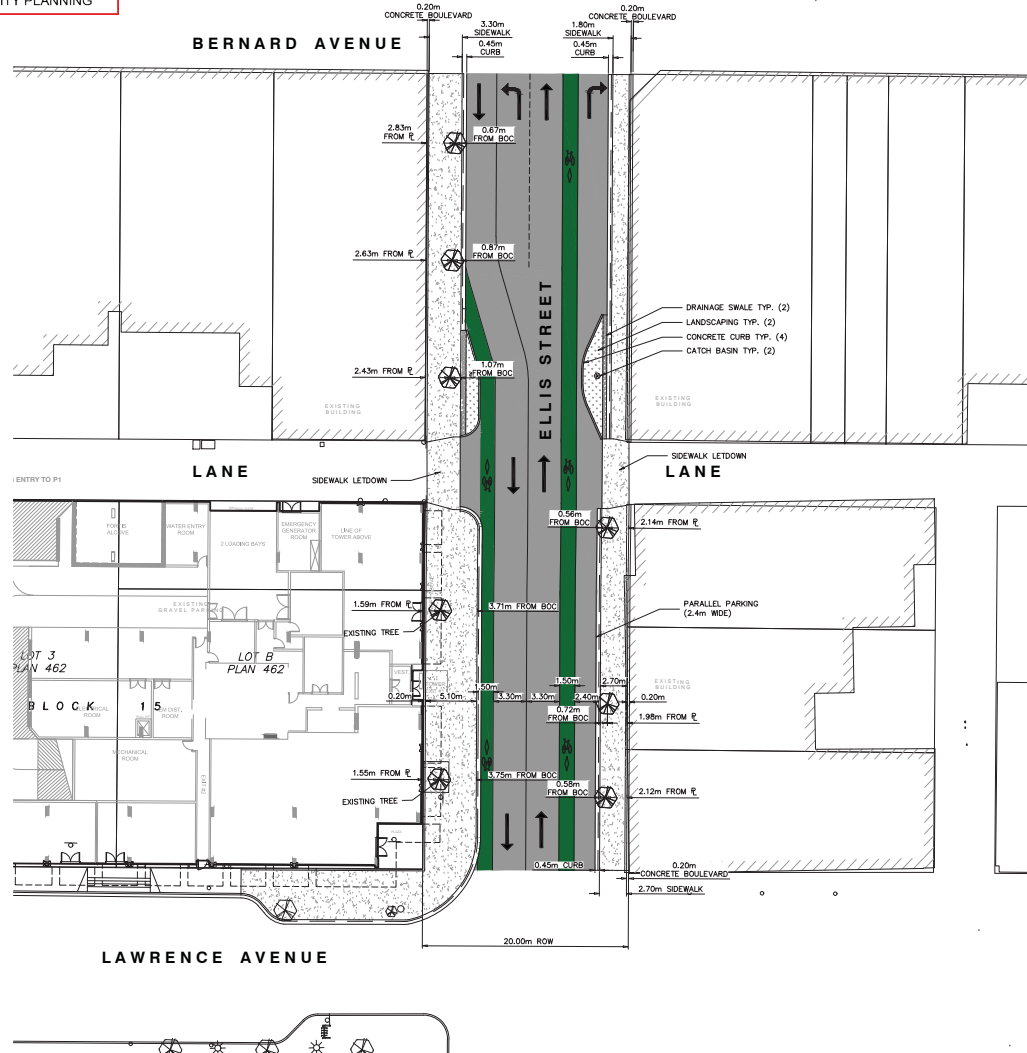
ATTACHMENT B

This forms part of application

DP17-0066

Planner
Initials AC

City of
Kelowna
COMMUNITY PLANNING



Applicant responsible for
road improvements up to
centreline of Road (both Ellis
& Lawrence).

LEGEND	
WATER	MANHOLE
SAN. SEWER	UTILITY POLE
STORM SEWER	POWER POLE
GAS	LAMP STANDARD
U/G TELEPHONE	CATCH BASIN
U/G ELECTRICAL	HYDRANT
	TREES
	SURVEY MONUMENT

NAD 83
 LOCATION AND ORIGIN OF SURVEY DATA
 LOCATION AND ORIGIN OF SURVEY DATA
 LOCATION AND ORIGIN OF SURVEY DATA

APLIN MARTIN
 454 Leon Avenue, Kelowna, B.C. Canada V1Y 6J3
 Tel: (250) 448-0157, Fax: (778) 436-2312, Email: general@aplinmartin.com

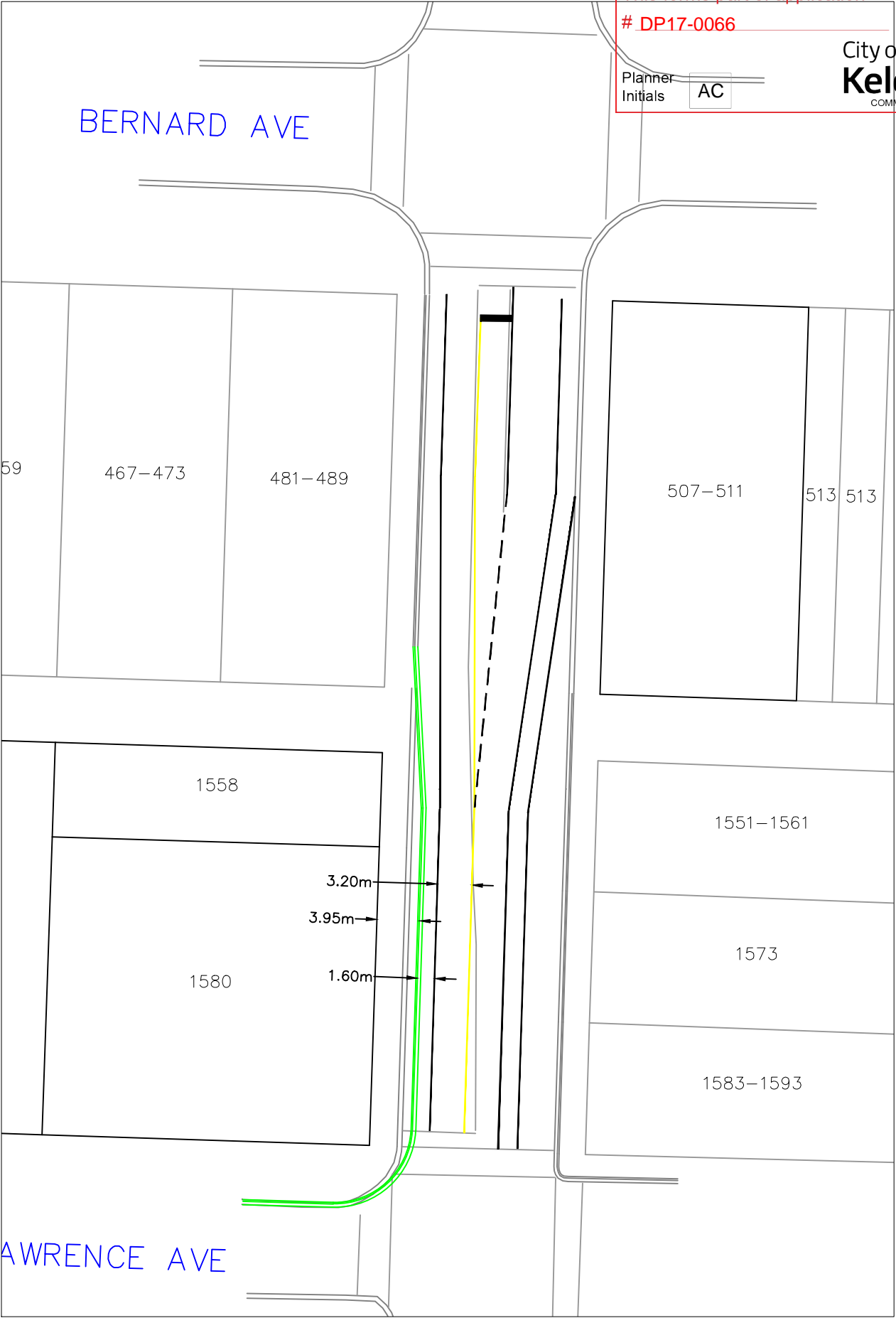
NO.	YY/MM/DD	BY	REVISION	CHKD

BASE	DESIGN
APPROVED	CAB
DATE	
SCALE	HORIZ. 1:250 VERT. N/A
SCALE NOT ACCURATE OVER LONG DISTANCES	

THE CITY OF KELOWNA
 DESIGN AND CONSTRUCTION
 ELLA TOWER PROJECT
ELLIS STREET ROAD LAYOUT

DIVISION	DRAWING NO.	REV NO.
CITY DRAWING NO.	16-653-030	0

0 2 1250 12m



DEVELOPMENT PERMIT / DEVELOPMENT VARIANCE PERMIT



APPROVED ISSUANCE OF DEVELOPMENT PERMIT (DP17-0066) / DEVELOPMENT VARIANCE PERMIT (DVP17-0067)

Issued To:	Mission Group
Site Address:	1580 & 1558 Ellis St
Legal Description:	Lot 3, Block 15, District Lot 139, ODYD, Plan 462 & Lot A, District Lot 139, ODYD, Plan 17140
Zoning Classification:	C7 – Central Business Commercial
Development Permit Area:	COMPREHENSIVE DEVELOPMENT PERMIT AREA

SCOPE OF APPROVAL

This Permit applies to and only to those lands within the Municipality as described above, and any and all buildings, structures and other development thereon.

This Permit is issued subject to compliance with all of the Bylaws of the Municipality applicable thereto, except as specifically varied or supplemented by this Permit, noted in the Terms and Conditions below.

The issuance of a Permit limits the Permit Holder to be in strict compliance with regulations of the Zoning Bylaw and all other Bylaws unless specific Variances have been authorized by the Permit. No implied Variances from bylaw provisions shall be granted by virtue of drawing notations that are inconsistent with bylaw provisions and that may not have been identified as required Variances by the applicant or Municipal staff.

1. TERMS AND CONDITIONS

THAT Development Permit No. DP17-0066 for Lot 3, Block 15, District Lot 139, ODYD, Plan 462, located at 1580 Ellis St, Kelowna, BC, & Lot A, District Lot 139, ODYD, Plan 17140, located at 1588 Ellis St, Kelowna, BC, to allow for the construction the development be approved 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 variances to the following sections of Zoning Bylaw No. 8000 be granted, as shown on Schedule "A, B, & C":

Section 14.7.5 Development Regulations (h)

To vary the maximum height of a building before a 3 metre setback is required from 16 metres to 17.1 metres.

Section 14.7.5 Development Regulations (a)

To vary the maximum height from 58 metres to 61 metres.

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

2. PERFORMANCE SECURITY

As a condition of the issuance of this Permit, Council is holding the security set out below to ensure that development is carried out in accordance with the terms and conditions of this Permit. Should any interest be earned upon the security, it shall accrue to the Permit Holder and be paid to the Permit Holder if the security is returned. The condition of the posting of the security is that should the Permit Holder fail to carry out the development hereby authorized, according to the terms and conditions of this Permit within the time provided, the Municipality may use the security to carry out the work by its servants, agents or contractors, and any surplus shall be paid over to the Permit Holder, or should the Permit Holder carry out the development permitted by this Permit within the time set out above, the security shall be returned to the Permit Holder. There is filed accordingly:

- a) Cash in the amount of \$ 65,828.75 OR
- b) A Certified Cheque in the amount of \$ 65,828.75 OR
- c) An Irrevocable Letter of Credit in the amount of \$ 65,828.75 .

Before any bond or security required under this Permit is reduced or released, the Developer will provide the City with a statutory declaration certifying that all labour, material, workers' compensation and other taxes and costs have been paid.

3. DEVELOPMENT

The land described herein shall be developed strictly in accordance with the terms and conditions and provisions of this Permit and any plans and specifications attached to this Permit that shall form a part hereof.

If the Permit Holder does not commence the development permitted by this Permit within two years of the date of this Permit, this Permit shall lapse.

This Permit IS NOT a Building Permit.

4. APPLICANT'S AGREEMENT

I hereby declare that all of the above statements and the information contained in the material submitted in support of this Permit are to the best of my belief, true and correct in all respects. Upon issuance of the Permit for me by the Municipality, then in such case, I covenant and agree to save harmless and effectually indemnify the Municipality against:

- a) All actions and proceedings, costs, damages, expenses, claims, and demands whatsoever and by whomsoever brought, by reason of the Municipality granting to me the said Permit.

- b) All costs, expenses, claims that may be incurred by the Municipality if the construction by me of engineering or other types of works as called for by the Permit results in damages to any property owned in whole or in part by the Municipality or which the Municipality by duty or custom is obliged, directly or indirectly in any way or to any degree, to construct, repair, or maintain.

I further covenant and agree that should I be granted a Development Permit and/or Development Variance Permit, the Municipality may withhold the granting of any Occupancy Permit for the occupancy and / or use of any building or part thereof constructed upon the hereinbefore referred to land until all of the engineering works or other works called for by the Permit have been completed to the satisfaction of the Municipal Engineer and Divisional Director of Community Planning & Real Estate.

Should there be any change in ownership or legal description of the property, I undertake to notify the Community Planning Department immediately to avoid any unnecessary delay in processing the application.

5. APPROVALS

Issued and approved by Council on the _____ day of _____, 2017.

Ryan Smith, Community Planning Department Manager
Community Planning & Real Estate

Date

Ryan Smith, Community Planning Department Manager
Community Planning & Real Estate

**The PERMIT HOLDER is the CURRENT LAND OWNER.
Security shall be returned to the PERMIT HOLDER.**

SCHEDULE **A**

This forms part of application

DP17-0066

Planner
Initials

AC



IBI GROUP
ARCHITECTS (CANADA) INC.
700 - 1285 West Pender Street
Vancouver BC V6E 4B1 Canada
tel 604 683 8797 fax 604 683 0492
ibigroup.com

Development Permit Application #2
2017.07.07



ELLA - MISSION GROUP
1580- 1588 Ellis Street, Kelowna, BC

SCHEDULE A

This forms part of application
DP17-0066

Planner
Initials AC



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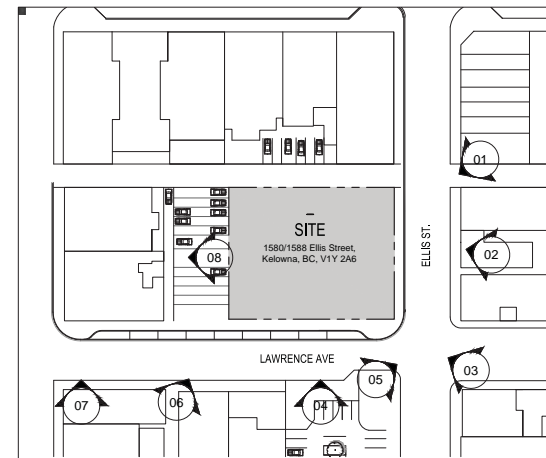


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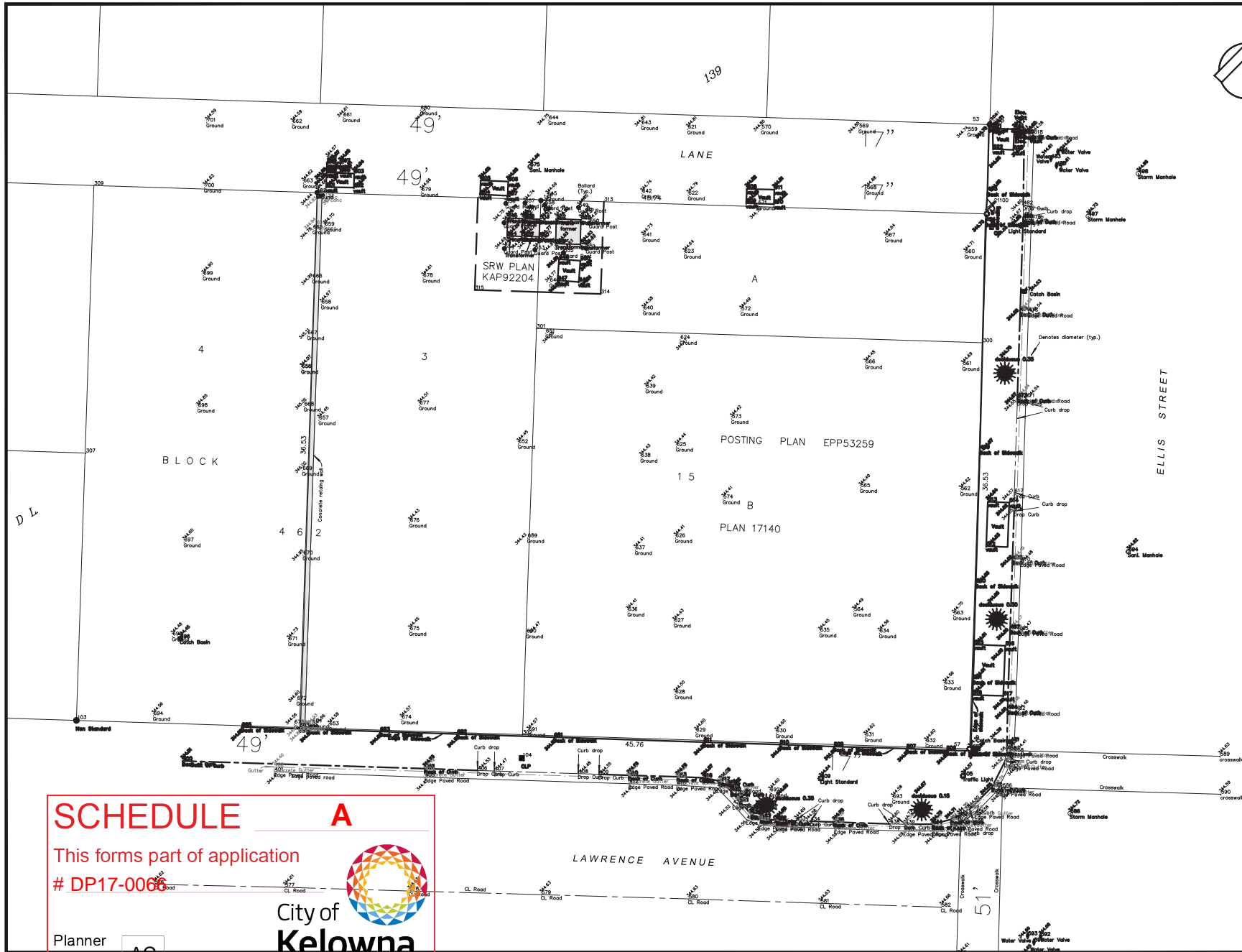
SCHEDULE A

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<small>PRIME CONSULTANT</small> <small>MISSION GROUP ARCHITECTS (CANADA) INC.</small> <small>100-1100 West Pender Street</small> <small>Vancouver, BC V6E 4B3 Canada</small> <small>tel 604 683 8797 fax 604 683 0462</small> <small>info@missiongroup.ca</small>									
PROJECT TITLE									
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SEAL

SUB-CONSULTANT

PRIME CONSULTANT
IBI GROUP ARCHITECTS (CANADA) INC.
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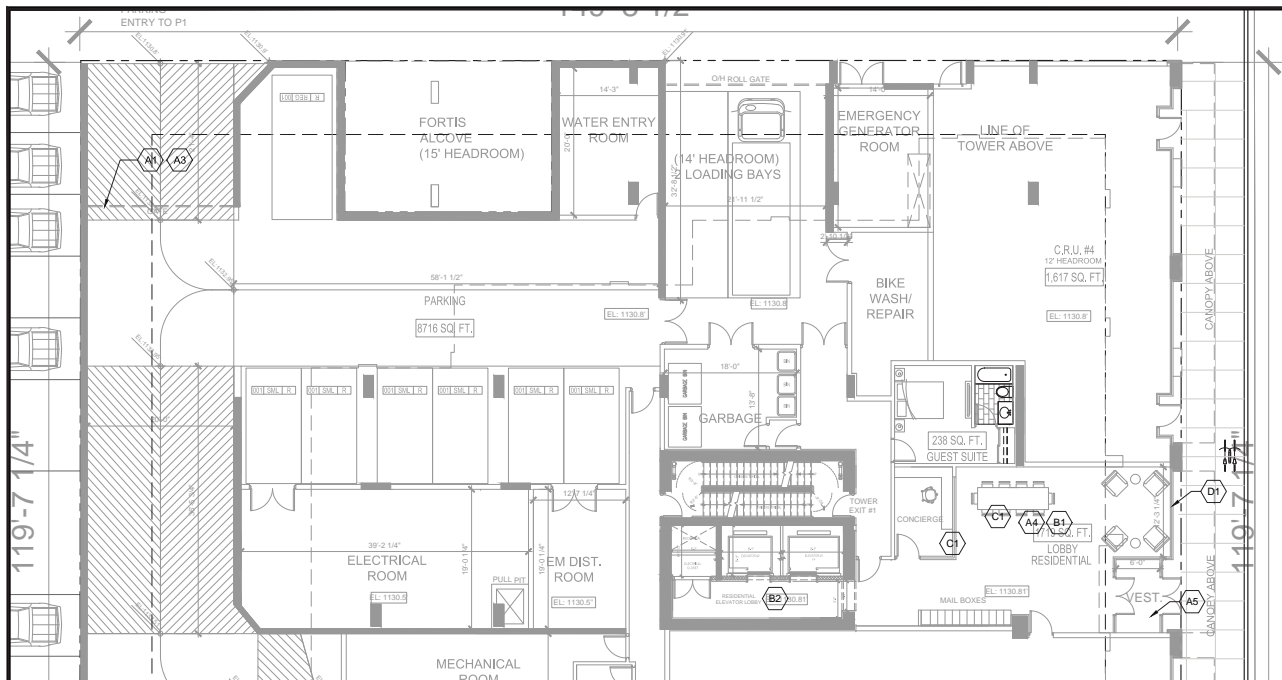
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1580/1588 Ellis Street

PROJECT NO: 102031
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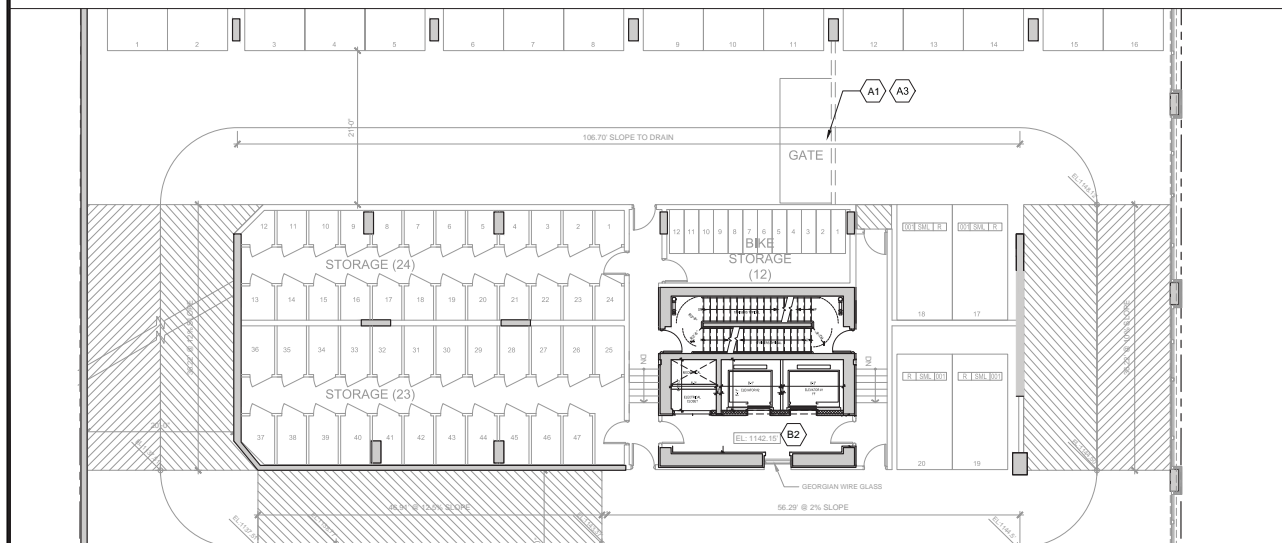
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1/8"=1'-0"



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CRIME PREVENTION THROUGH ENVIRONMENTAL DESIGN (CPTED)

LEGEND:

A. THEFT IN ABOVEGRADE PARKING

- A1 PRIMARY GATE AT LANE ENTRANCE TO RAMP
- A2 SECONDARY GATE BETWEEN COMMERCIAL AND RESIDENTIAL PARKING
- A3 SURVEILLANCE CAMERAS INSTALLED TO MONITOR ENTRANCE TO PARKING AREAS
- A4 CONCIERGE IN LOBBY MONITORING SURVEILLANCE
- A5 VESTIBULES HAVE WIRED GLASS

B. BREAK AND ENTER

- B1 CONCIERGE MONITORING ENTRANCE TO TOWER
- B2 FOB ACCESS TO ELEVATOR LOBBIES OFF COMMON AREAS

C. MAIL THEFT

- C1 MAIL ROOM VISIBLE TO MAIN LOBBY
- C2 MAIL ROOM HAS REAR ACCESS FOR MAIL DELIVERY

D. MISCHIEF AND VANDALISM, SUCH AS GRAFFITI

- D1 FRONTAGE ON STREET FACES ARE ACTIVE AND GLAZED. PORTIONS THAT ARE OPAQUE ARE GLAZED IN HIGH QUALITY MATERIAL THAT IS MAINTAINABLE.

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REVISIONS

SCHEDULE A

This forms part of application
DP17-0066

Planner Initials **AC**

City of Kelowna
COMMUNITY PLANNING

PROJECT TITLE

Ella

1580/1588 Ellis Street

PROJECT NO. 102031

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DATE: YYMMDD

SHEET TITLE

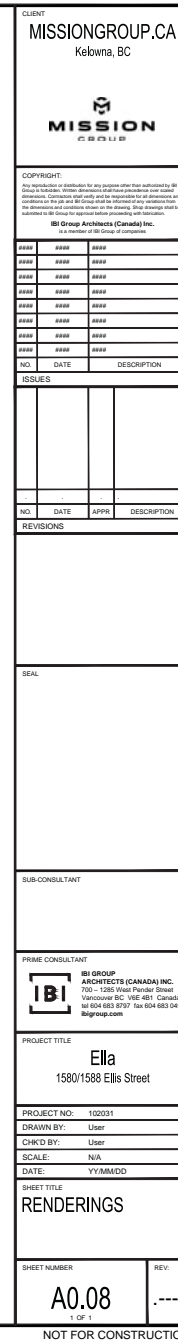
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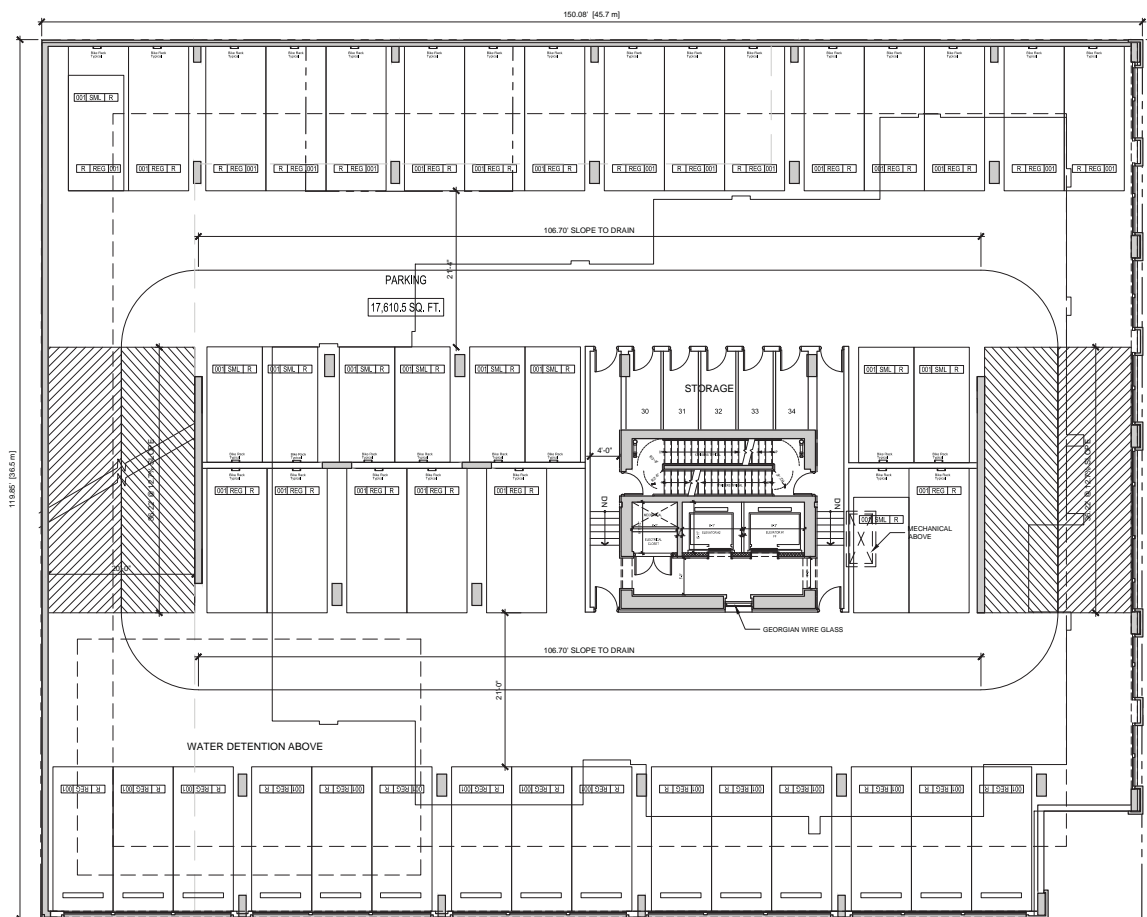
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1 OF 1

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PARKING TYPICAL
46 CAR STALLS
36 REGULAR STALLS
10 SMALL STALLS

SCHEDULE A

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SUB-CONSULTANT

PRIME CONSULTANT

PROJECT TITLE

Ella
1580/1588 Ellis Street

PROJECT NO: 100031

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Parking Typ.

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 tel 604 683 8797 fax 604 683 0411
ibigroup.com

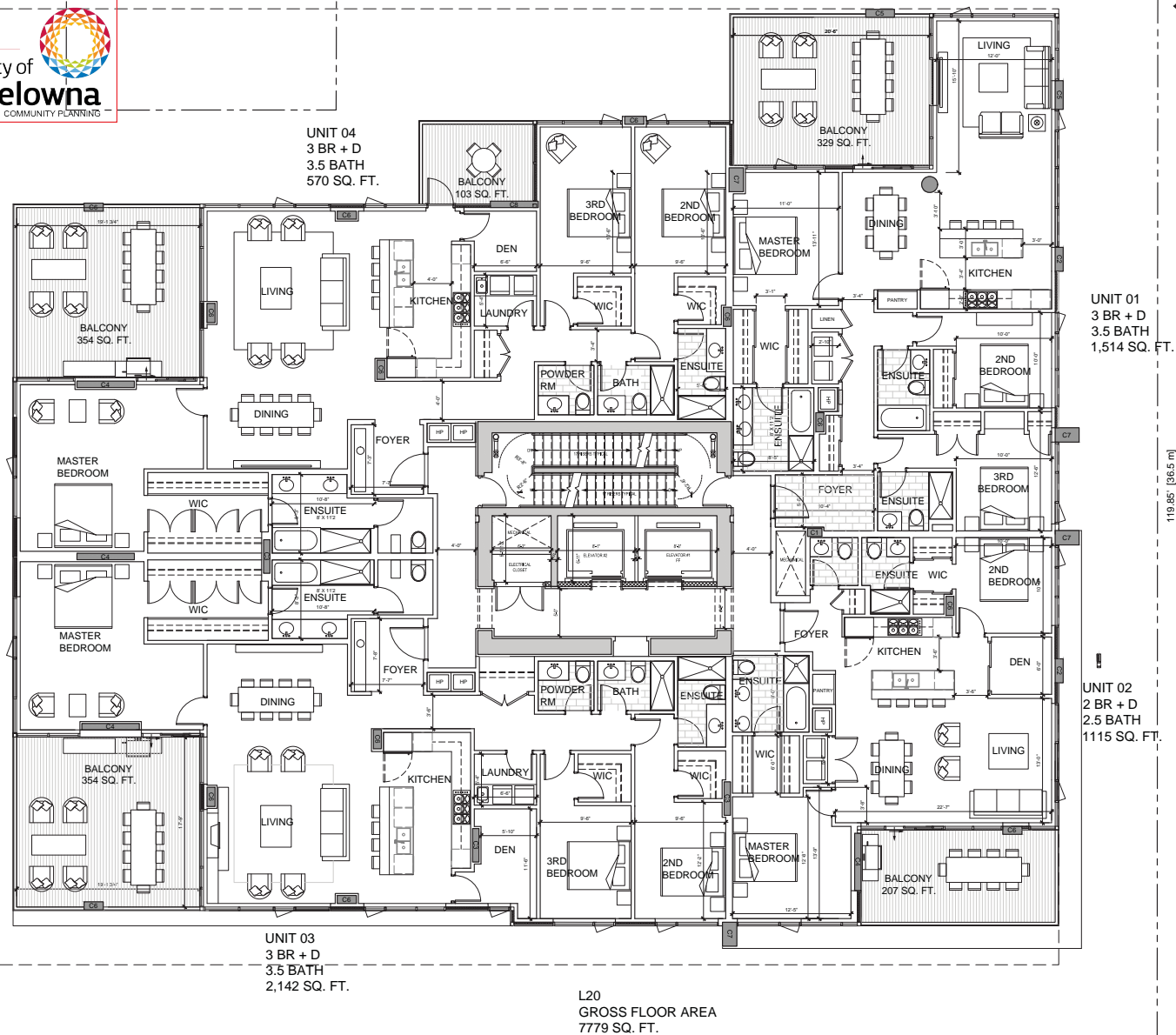
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City of Kelowna
COMMUNITY PLANNING

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1580/1588 Ellis Street

PROJECT NO: 102031

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1. *Journal of the American Medical Association*, 2000; 284: 2689-2695.

1. *Journal of the American Medical Association*, 2000; 284: 1039-1044.

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1580/1588 Ellis Street

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PROJECT TITLE
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1 OF 1

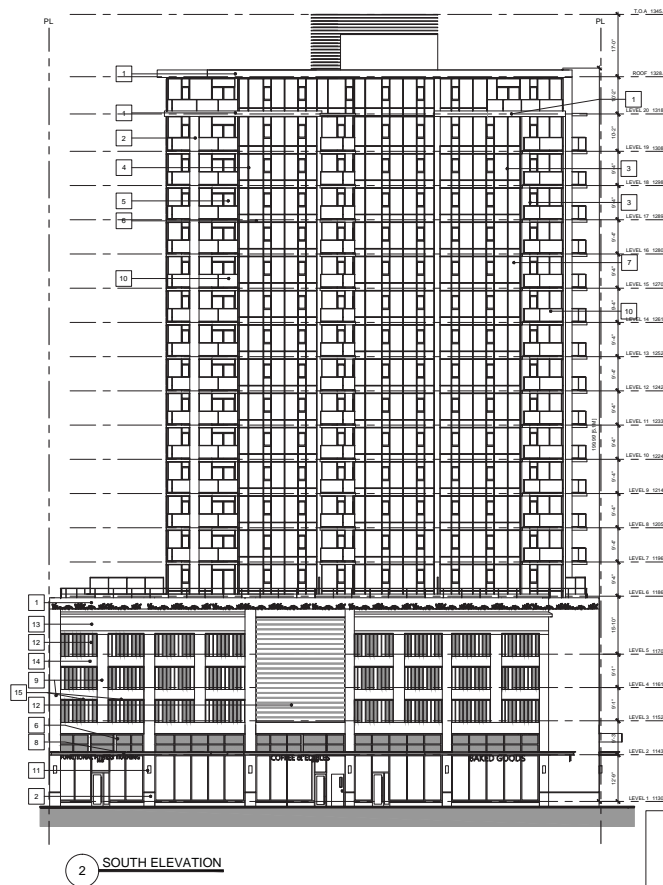
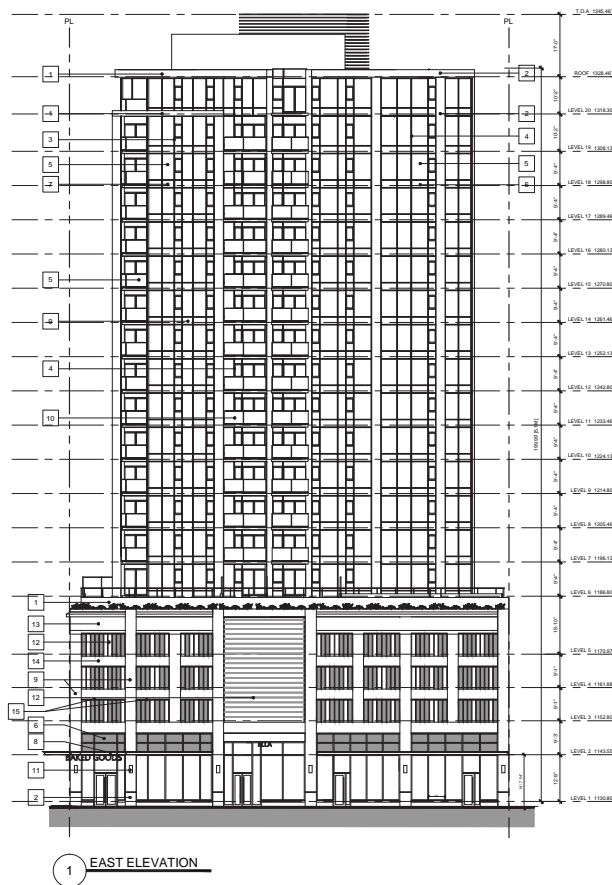
NOT FOR CONSTRUCTION



This forms part of application
DP17-0066

Planner Initials AC

City of Kelowna
COMMUNITY PLANNING



MATERIAL LEGEND	
1	Painted Concrete (White)
2	Painted Concrete (Charcoal Grey)
3	Aluminum Mullions (White)
4	Aluminum Mullions (Charcoal Grey)
5	Glass -Double Glazed Window (Clear)
6	Spandrel Glass (Grey)
7	Spandrel Glass (White)
8	Translucent Glass
9	Brick
10	Glass Railing (Clear)
11	Light Fixture
12	Kalzip Panel
13	Metal Panel (Charcoal Grey)
14	Metal Panel (White)
15	Sun Shade

SCHEDULE B

This forms part of application
DP17-0066

Planner
Initials

AC



CLIENT
MISSIONGROUP.CA
Kelowna, BC



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NO.	DATE	APPR.	DESCRIPTION

REVISIONS

NO.	DATE	APPR.	DESCRIPTION

REVISIONS

NO.	DATE	APPR.	DESCRIPTION

REVISIONS

NO.	DATE	APPR.	DESCRIPTION

REVISIONS

NO.	DATE	APPR.	DESCRIPTION

REVISIONS

PRIME CONSULTANT



PROJECT TITLE
Ella
1580/1588 Ellis Street

PROJECT NO: 100031

DRAWN BY: User

CHK'D BY: User

SCALE: 1/16"=1'-0"

DATE: YYMMDD

SHEET TITLE

ELEVATION SOUTH & EAST

SHEET NUMBER

A2.01

1 OF 1

NOT FOR CONSTRUCTION



NOT FOR CONSTRUCTION

