



March 25, 2021

Mayor and Council  
City of Kelowna  
1435 Water Street  
Kelowna, BC V1Y 1J4

Dear Mayor and Council:

**RE: 2040 DRAFT OCP COMMENTARY**

Argus Properties Ltd is one of British Columbia's premiere real estate investment and property management companies that has proudly served Kelowna for over 50 years. Together with our wholly-owned companies, we own and manage one of the finest portfolios of industrial, office, retail, residential, hotel and agricultural properties in the BC interior. Our innovative developments have been integral to transforming our community into the thriving municipality that Kelowna is today. Collectively, Argus Properties has over 750 people (pre-COVID) making us one of the largest private employers, if not the largest private employer in the City.

Of utmost importance, we strongly believe that due to the COVID pandemic, the rollout of the 2040 OCP is poorly timed. The 2040 OCP review must be delayed due to the unprecedented and limited ability to conduct meaningful consultation between staff, council and key stakeholders- namely the business community, landowners and the community-at-large. With the federal, provincial & health regulations prohibiting social & business gatherings, many people who would normally engage in consultation have been unable meaningfully do so in person. Staff and Council have been unable to conduct in-person public hearings, organize full in-person council meetings, or engage in face-to-face interactions with the community and affected business owners. It would be a fallacy to assume that phone-calls, zoom meetings and internet communications with a limited segment of Kelowna's population (less than 1% of the population) constitute a legitimate basis to lay the foundation of Kelowna's future.

*Imagine Kelowna's* vision was originally founded on the principles of widespread consultation, community-at-large, business community and stakeholder engagement. The 2040 OCP should act on these long-stated principles by creating opportunities for legitimate feedback, individual meetings with community & business stakeholders and organizations. This should include open houses, presentations, workshops, in-person meetings, which can only be organized once the COVID restrictions are lifted.

A delay in the 2040 OCP review is a responsible position to take and will allow Kelowna's citizens to craft a meaningful and representative community plan that is intended to shape the future of Kelowna over the next 20 years. Without meaningful, wide-spread, post-COVID community engagement, we will not build a strong foundation for the future, and the plan will have little legitimacy with the community-at-large or with the business community.

We commend the City for its hard work and dedication to produce the first draft of the 2040 Official Community Plan. We remain fully committed to help create a vision for Kelowna that is based on a foundation of trust and accuracy. We hereby provide our comments below.

Argus Properties is in full support of the City's move to further densification in appropriate areas, in particular close to major transportation corridors. We have long advocated for increased density along arterial roadways such as Richter Street and Pandosy Street in order to make productive use of land and increase housing affordability. Service industry workers in our city are highly vulnerable to high rents and have suffered under the preponderance and growth of short-term rentals, especially in the peak tourist season, when housing needs are at the highest.

Parking and turning radius are major costs in commercial, industrial and residential development. They are a barrier to the creation of affordable density near our urban centres. A focus on improved transit and active transportation options is therefore highly welcomed.

We are pleased to see attention given to specialized research and collaboration with UBC Okanagan in the Industrial Gateway area, near the airport. Argus already has a strong and lasting relationship with UBC Okanagan, as well as Okanagan College, and we look forward to our continued contribution in making these major economic engines grow. To note, in March 2021, we completed and turned over a substantial academic facility for UBC Okanagan on Innovation Drive.

The following concerns are in relation to specific sections of the draft OCP:

#### **A. Proposed Policy 6.4.1 - Gateway Industrial & Hotel Lands**

Argus Properties, through its wholly-owned companies, owns and operates a significant industrial portfolio and two hotels near the Kelowna Airport - Sheraton Four Points and Hilton Hampton Inn & Suites. For a long time, in support of the UBC Okanagan campus and the Kelowna International Airport, Argus has envisioned a hotel cluster between UBC Okanagan and the Airport, supported by a casino, convention space, parking and other amenities.

In 2016, Argus applied for an OCP change to lands contiguous to our Sheraton Four Points Hotel to accommodate future hotel uses. Inexplicably, this OCP amendment was altered by City staff without our knowledge or forewarning, and was surprisingly presented to council as an application for construction of only the Hilton Hampton Inn & Suites. To avoid further costly delay in construction, and avoid employee layoffs, we reluctantly proceeded with the OCP change and rezoning.

We are now deeply concerned to see that the draft 2040 OCP does not include our reasonable proposals to expand on the existing C9-zoned lands and create a contiguous clustering of hotels across the street from the airport. This is despite the fact that we have submitted a long-standing rezoning application for a third hotel and that the original OCP application was made in 2016.

It is important to note the following:

1. The Gateway area will continue to transform and grow significantly moving forward- by 2040, UBC will grow its academic community from 10,000 to over 20,000 (*source: UBC Okanagan Outlook 2040 document*); Kelowna YLW Airport will grow its passengers from 2MM passengers in 2019 to over 3.5MM passengers in 2045 (*source: ylw.kelowna.ca*);

2. We currently have an active rezoning application and official community plan amendment before the City, and are waiting to conduct a traffic study, once road usage is “normalized”.
3. In regards to our property contiguous to the Sheraton Four Points and Hilton Hampton Inn & Suites, the highest and best use of this property is clearly a cluster of hotels and related uses.
4. After ten years of planning, design, negotiations with the City and other regulatory bodies, the first phase of the Airport Business Park was finally subdivided circa 2006. It should be noted that all this was commenced *prior* to the existence of UBC Okanagan and *prior* to the significant expansion of the airport. Fifteen years later, Argus Properties and others own the undeveloped or partially developed industrial sites from the first phase. Additionally, UBC-owned lands to the south in their Innovation Precinct remain undeveloped. The past fifteen years and the projected growth in the airport corridor demonstrate that there is strong market demand for industrial uses, as well as complementary uses, such as expansion of our hotel cluster.

## **B. Proposed Chapter 22 – Industrial/Commercial/ ALR Boundaries**

Argus commented on an earlier iteration of agricultural buffers in a June 2018 letter (Schedule A) to the City. The current BC Ministry of Agriculture *Guide to Edge Planning* recommends that a land use inventory be prepared and that a focus be made on critical edges (new urban development) instead of industrial areas or commercial areas. In fact, the guide states that industrial and commercial land uses have a moderate to high compatibility with agriculture, which is not reflected in the draft 2040 OCP. The guide states that impacts are to be shared on both sides of the ALR boundary, and a site-specific approach is the only reasonable course of action. The guide states as follows:

*“The success of edge planning relies on shared responsibility. This philosophy requires that both agricultural and urban land users and decision makers seek opportunities and adopt approaches to ensure compatibility. More specifically, successful agricultural - urban edge planning relies on recognition that it is reasonable for landowners along both sides of the agriculture-urban boundary to share the benefits and impacts from edge planning implementation.” Page 7- Section 2.5 Edge strategy- Shared Responsibility*

Argus Properties is disappointed to see that none of the Ministry’s recommendations were acted on since our letter of June 2018. In fact, the reasonable, site-specific measures suggested in the provincial guidelines have been abandoned in favor of the prescriptive and heavy-handed approach identified in the draft 2040 OCP. We are unaware of any ongoing harm to agriculture along existing edges that could not be remedied with a fence.

The amount of disruption and loss of scarce industrial, commercial and residential land with a value of tens of millions of dollars to the city and loss of jobs is disproportionate with any conceivable economic risk to the agricultural lands. We strongly recommend that an independent study be conducted to measure the economic impact vis-a-vis DCCs, tax base, job creation and affordable housing etc., so that Council has a complete picture when reviewing this aspect of the draft 2040 OCP.

## **C. Proposed Objectives 4.13, 5.12, etc. Rental-Only Zones and Affordable Housing**

Re-designation to new rental-only zones should only be done with the cooperation of the affected landowners, and not through an arbitrary “taking of lands.” To date, rental-only zoning has been tied to government support for the construction of affordable housing. Argus Properties supports new rental-only housing zones, similar to voluntary opt-in schemes that are tied to incentives or other positive support mechanisms.

We strongly believe that the biggest impediment to affordable housing is the proliferation of short-term vacation rentals, such as Airbnb in Kelowna. The City has lost thousands of rental units (basement apartments, carriage houses, condominiums etc.) that were once rented on a monthly/ yearly basis to these short-term rentals.

The City would be far better off promoting investment in new and existing affordable housing by limiting the use, promotion and concession of existing and proposed housing stock through these short-term vacation rentals.

The BC government recently pushed through new measures that *drastically* strengthen the Residential Tenancy Act and is the further disincentive for much-needed investment in affordable rental housing stock, which *continues* to be in short supply. The City must be cognizant of how detrimental and draconian the cumulative effect is of its support of short-term vacation rentals and of BC's recent strengthening of the Residential Tenancy Act.

City council and senior staff have openly and rightly decried the federal and provincial downloading of responsibility to provide affordable housing onto municipalities. It seems odd for the City to further download this responsibility onto investors and private landlords. Adding more restrictions at a local government level will only serve as further disincentive to offer rental housing, and it will prevent reinvestment in existing buildings. In other cities, this and other forms of rent control act as significant barriers to the creation of new rental housing, and only offer modest short-term benefits to a few existing renters, at the long-term expense of reduced quantity of new rental units for everyone else.

#### **D. Proposed Policies 4.3.3 and 4.6.1 - Supported Building Heights**

The tallest buildings in Kelowna have been located north of Prospera Place since construction of both the Dolphins and Sunset towers starting nearly 30 years ago. This pattern continues with Skye tower 7 years ago, One Water Street - under construction at 29- and 39-stories high, and Landmark 7- 23-stories; under construction, completely contrary to the original land-use contract. The draft 2040 OCP goal of tapering downwards from downtown towards Knox Mountain is completely inconsistent with the past several decades of development approvals and the reality of Kelowna's downtown skyline that we see today.

Argus made a zoning application in 2014 for a 26-story mixed-use tower at 1000 Manhattan Drive, near the existing Skye tower. This process was stopped at the time due to the exorbitant demands that the City was requiring for our proposed development. Our lands on Manhattan Drive are consistent with the other towers on the same block, and on adjoining neighbouring lands.

Kelowna needs Class A office space in its downtown area if it is to achieve a true work-live-play balance mix. It cannot rely solely on local coffee shops and retailers. There are only an exceptionally few retail national brands in the downtown area, due to the lack of national tenants that would employ well-paid workers in Class A office stock. Class A offices are sorely needed in the downtown area, especially considering the huge latitude given to Landmark et al.

#### **E. Proposed Development Permits Guidance 2.1.1 and 2.1.1 - Stepping Back Upper Stories of Buildings**

We recommend that requirements for stepping back in building design, be reviewed on a case-by-case basis, taking the local neighbourhood characteristics into consideration. The following all contribute to design inefficiencies related to step-designs:

1. Interference with the BC Building Code that requires placement of emergency egress stairways near the ends of hallways. Step backs can also prevent building lobbies from facing the street, as elevators need to travel to the top floor, and may require the added height of an elevator structure on the roof.
2. Interference with the design of HVAC systems and efficient delivery of heating and cooling from rooftop units to apartments below.
3. Reduce energy efficiency and increase environmental impact, due to inefficiencies in weatherproofing, drainage and overall lower building volume compared to the building surface area.
4. Add cost and complexity to the structural design and construction. Stepping back upper floors can require more load bearing walls and load transfer strategies.

#### **F. Proposed Development Permit Guidance 4.1.4 Curb-Cuts**

Many existing properties have more than one curb cut per site. A requirement to eliminate existing curb cuts at time of infill development or partial redevelopment needs to be site specific and appropriately phased. Large truck-dependent sites with multiple frontages may need to maintain multiple entrances due to existing one-way transport truck access behind buildings, lack of turn-around areas on site and separated parking areas.

Online shopping will continue to grow exponentially, driving demand for more warehousing, order fulfillment & logistics in our industrial and mixed-use developments. Ingenuity in property design will need to include multiple curb cuts in order to accommodate e-commerce demand, increase the efficiency of our tax base, and affordability.

#### **G. Proposed Policy 5.3.3 Strategic Densification**

While Argus Properties welcomes densification, we feel that it would be best achieved via positive up-zoning similar to the approach taken for the RU7 zone. We are concerned about limiting infill development along transit corridors to 1-hectare sites, and the resulting requirement for large land assemblies as a prerequisite for some types of infill and redevelopment. Since a 1-hectare site would require the purchase of more than 20 typical 0.1 acre urban lots, project timelines could be prolonged, impeding the creation of affordable housing and densification. The City will lose significant tax and DCC revenues as a result.

Developers in other cities can deliver exciting projects in unusually small or oddly shaped redevelopments, and landowners in Kelowna should have the same opportunity. This bias towards large developments and master plans should be revisited and revised. Argus recommends that consideration be given to *include* small innovative, developments instead of *only* encouraging a limited number of large developments.

#### **H. Proposed Chapter 3 - Future Land Use, Temporary-Use Permits (Page 40)**

Core neighbourhoods appear to be excluded from the list of areas where Temporary Use Permits will be accepted. As this will exclude a large number of commercial and residential parcels, Argus suggests that Temporary Use Permits also be permitted on all properties within the permanent growth boundary that have industrial or commercial zoning.

### **I. Proposed Chapter 3 - Future Land Use, Regional Commercial**

Proposed Policy 5.5.4 discourages residential development more than 200m from a mass transit station. This will significantly and further burden our transit costs (already operating at a deficit) and limit the City's densification efforts. Instead, the City should provide leadership and encourage a greater walking distance of up to 800m from mass transit stations- more in line with other North American cities.

It should be noted that our request for increased bus service and a covered bus stop along Airport Way and Highway 97 has been outstanding and repeated for over seven years.

### **J. Proposed Map 18.1 Urban Design Development Permit Areas**

The draft 2040 OCP proposes that the Form and Character Development Permit (DP) be extended across the entire city, with no exemptions listed for urban design DPs. As such, the number of DPs will be greatly expanded, resulting in substantial increase in council and staff time and resources, unnecessary delays and added costs to many projects that only require a building permit today.

The existing OCP has a rationale for including only commercial and multi-family areas in the DP process, and we see no reason to change. The list of exemptions on pages 14.2 and 14.3 of the 2030 OCP needs to be maintained (see Schedule B).

### **K. Proposed Objective 8.1 Protection of Agricultural Land**

Blanket statements to protect the ALR are inappropriate considering our transportation needs, recreation needs, other community and business needs. Agriculture although important, contribute significantly to the unaffordability of our city.

The blanket protection for ALR land and prohibitions on removing ALR land should be considered on a case-by-case basis. If lands have a strong economic or social rationale for removal, then this same rationale should be applied to any other ALR lands in the city, as fairness and highest-and-best-use are important principles in land use.

### **L. Closing Comments**

The draft 2040 OCP envisages the creation of a number of detailed plans for the various neighbourhoods and city sectors. This overly prescriptive and heavy-handed approach lacks the necessary flexibility to adapt to as conditions change. It would be better to offer fair flexibility within predetermined envelopes, thereby reducing the number of permits required and allow the City to be more innovative and flexible.

In closing, we support the City's efforts in preparing this significant development document that is intended to guide the City's growth over the next 20 years. However, this can only be achieved if all stakeholders, including the community-at-large and the business community are meaningfully and properly consulted and heard.

We note that we are still in the middle of COVID restrictions, and cases of COVID variants are on the rise in BC, fueling concerns over a third wave and a potential lock-down.

As a major developer and property owner in Kelowna, our concerns are both legitimate and real. We reiterate, the City *must* in fairness delay the 2040 OCP review until we can have meaningful and wide-spread in-person

community dialogue and engagement. Without this, we will not build a strong foundation for the future, and the plan will have little legitimacy with the community-at-large or with the business community.

We thank you for your consideration and look forward to discussing these important matters with the City at the highest level.

Sincerely,

A handwritten signature in black ink, appearing to read 'Laurence Sie', is positioned above a horizontal line.

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Laurence Sie, Managing Director  
**ARGUS PROPERTIES LTD.**

cc Robert Miles, Project Manager