
CITY OF KELOWNA

MEMORANDUM

Date: March 18, 2002
File No.: OCP01-019/Z01-1063/DVP01-10,091
(3360-20)

To: City Manager

From: Planning & Development Services Department

Purpose: To amend the OCP Future Land Use from Rural/Agriculture to Industrial; to Rezone from A1 – Agriculture 1 to I2 – General Industrial and to waive all Zoning Bylaw and Subdivision, Development & Servicing Bylaw requirements as a result of the rezoning.

Owner: Luigi Giovanni Russo **Applicant/Contact Person:** Porter Ramsay/
Tom Smithwick

At: 982 & 1040 Old Vernon Road

Existing OCP Designation: Rural/ Agriculture **Proposed OCP Designation:** Industrial

Existing Zone: A1 – Agriculture 1 **Proposed Zone:** I2 – General Industrial

Report Prepared by: Shelley Gambacort

SEE ATTACHED FACT SHEET FOR COMPLETE APPLICATION DETAILS

1.0 RECOMMENDATION

THAT the City of Kelowna Official Community Plan (1994 - 2013) Bylaw No. 7600 **not** be amended by changing the Generalized Future Land Use Map 15.1 designation for Lot 2 & Lot 3, Sec. 1, Twp. 23, ODYD, Plan 546, located on Old Vernon Road, Kelowna, BC, from Rural/Agricultural to Industrial;

AND THAT Rezoning Application No. Z01-1063, for Lot 2 & Lot 3, Sec. 1, Twp. 23, ODYD, Plan 546 located on Old Vernon Road, Kelowna, BC, to amend the zoning classification from the A1 – Agriculture 1 zone to the I2 – General Industrial zone not be approved by the Municipal Council.

2.0 SUMMARY

The applicant is requesting an amendment to the Official Community Plan (OCP) to change the designation of the subject properties from Rural/Agriculture to Industrial and Rezoning from A1 – Agriculture 1 to I2 – General Industrial, in order to facilitate the continued use of the sawmill operation.

In addition, a Development Variance Permit application has been submitted to vary any Zoning Bylaw requirements and Subdivision, Development & Servicing Bylaw requirements that may be necessary as a result of the rezoning.

2.1.1 Agricultural Advisory Committee

The Agricultural Advisory Committee reviewed the proposal at the time of application to the Land Reserve Commission and the following recommendations were passed:

THAT the Agricultural Advisory Committee not support the Agricultural Land Reserve application No. A99-112, Luigi Russo (Porter Ramsay/Tom Smithwick), 944 – 2332 Old Vernon Road, as the sawmill operation, which is classified as an industrial use, all or part of which requires an industrial zone, is detrimental to the agricultural integrity of the land and surrounding area;

AND THAT the Agricultural Advisory Committee is concerned that once an industrial zoning designation is given to all or part of the sawmill operation that, should the sawmill operation cease, the land would not revert back to an agricultural use and other industrial uses could then occur on the land.

2.1.2 Advisory Planning Commission

The above noted applications were reviewed by the Advisory Planning Commission at their meeting of January 15, 2002 and the following recommendations were passed:

THAT the Advisory Planning Commission supports Official Community Plan Amendment application No. OCP01-1019, Rezoning Application No. Z01-1063 by Porter Ramsay (Tom Smithwick), Lots 2 & 3, Plan 546, Sec. 1, Twp. 23, ODYD – 982/1040 Old Vernon Road, to designate the Future Land Use of the subject property as Industrial and to rezone the property in order to facilitate the existing sawmill use and to rezone from the A1-Agriculture 1 zone to the I2 – General Industrial zone;

AND THAT the Advisory Planning Commission supports Development Variance Permit Application NO. DVP01-10,091 by Porter Ramsay (Tom Smithwick), Lots 2 & 3, Plan 546, Sec. 1, Twp. 23, ODYD – 982/1040 Old Vernon Road, to waive any landscaping or paving requirements resulting from the proposed rezoning to I2 – General Industrial zone for the existing sawmill use, subject to the applicant consulting with the Planning & Development Services Department with regards to an acceptable form of landscaping along the frontage of the subject properties.

There were 6 in favour of the above recommendations and 3 opposed. It should also be noted that the APC was not aware of the full extent of the variances being requested (all Subdivision, Development & Servicing Bylaw requirements as well as all Zoning Bylaw requirements).

3.0 BACKGROUND

The original Russo sawmill operation was established in approximately the mid 1950's on Lot 2, which comprises four hectares in area. Since that time there has been expansion of the sawmill operation on the adjacent lots 1,3 and 4. In 1985, an application was made to the Land Reserve Commission requesting approval to use a 1.7 ha portion of Lot 3, in addition to the existing sawmill operation on Lot 2, for the storage of logs, lumber and sawdust associated with the sawmill operation.

The LRC allowed this application; however, the owner failed to apply for a consequential zone amendment concerning the 1.7 ha portion of Lot 3.

In the later part of 1999 an application was submitted requesting approval from the Land Reserve Commission (LRC) to utilize lots 2 and 3 for the existing sawmill, wood waste recycling and pallet operation.

This application to the LRC also included gradually utilizing the stockpiled composted material that was situated on Lots 2 & 3 as a soil replenishing nutrient for Lot 4 which would subsequently be used a turf farm. As part of the application the applicant was proposing to remove the portion of the sawmill operation that was situated on Lot 1 and return Lot 1 to agricultural use.

The LRC, in August of 2000, granted approval to use all of Lots 2 & 3 for sawmilling, woodwaste recycling/composting and pallet recycling subject to a number of conditions. These conditions included the reclamation of Lot 1 to an agricultural standard acceptable to the LRC and the fencing of the industrial area (Lots 2 & 3). The LRC tabled further consideration of the turf farming aspect of the application and the use of the compost in the ALR because of the uncertainty about the feedstocks being used and the quality of the compost.

3.1 The Proposal

In October of 2001 the LRC provided written confirmation that they had no objection to the zoning designation remaining as agriculture for Lots 2 & 3 but did not make it a condition of approval that the zone be changed to Industrial to facilitate the existing sawmill operation. This was acceptable to the City as it avoided the need to parachute in an industrial designation in the rural area that was contrary to the Strategic Plan, the OCP and the Agriculture Plan.

However, the owner is unable to secure financing for the business as a result of the legal non-conforming status and is therefore pursuing the OCP amendment and the rezoning application. In addition, a Development Variance Permit application has been submitted requesting a waiver of the Zoning Bylaw and Subdivision, Development & Servicing Bylaw requirements that will result from the rezoning application.

3.2 Requested Waivers

The applicant has advised that they do not intend to meet any of the Zoning Bylaw or Subdivision, Development & Servicing Bylaw requirements for the I2 – General Industrial zone as the business has existed on Old Vernon Road for fifty years. The requested waivers are outlined below.

3.2.1 Zoning Bylaw Waivers

- i) All requirements of Section 7 – Landscaping and Screening. The landscaping proposed is a compromise and will be more rural in nature in-keeping with what already exists along the frontage of the subject properties. Essentially only those areas currently void of landscaping along the Old Vernon Road frontage will be planted.
- ii) The waiver of the Section 7 requirements will also include the waiver of the requirement that all outdoor storage areas shall have a dust-free surface (Sec. 7.2.4).

- iii) Section 8.3 - Development Standards. This includes waiving the requirement that every off-street parking and loading area, and every access road to have a durable, dust-free hard surface of concrete, asphalt or similar material, constructed such that surface drainage is directed to an approved drainage system or is contained on-site.

3.2.2 Subdivision, Development & Servicing Bylaw Waivers

- i) Dedication and construction of the north half of Old Vernon Road to a full urban standard.
- ii) Provision of a water system capable of supplying domestic and fire flow demands for the proposed I2 – General Industrial zoning. It should be noted that Black Mountain Irrigation District has advised that the fire flow in this area does not meet the industrial requirement. BMID has also advised that once the lands is zoned industrial it would [in the future] allow for other industrial uses rather than the current sawmill use of 50 years and fire flows could not be met without even further extensive upgrading in the area.
- iii) The Fire Department has advised that they would require, in addition to the above noted industrial fire flows to the site, the following:
 - (a) Provision of hard surfaced, on-site fire access roads, 6 m in width.
 - (b) Provision of fire hydrants.
 - (c) In accordance with the BC Fire Code, the outdoor storage area shall be surrounded by a firmly anchored fence that is:
 - Substantially constructed to discourage climbing and unauthorised entry,
 - Not less than 1.8 m high, and
 - Provided with gates that shall be locked when the storage area is not staffed.
- iv) Provision of a comprehensive site drainage management plan, designed to comply with the City's drainage design and policy manual.

3.3 Site Context

The subject properties are situated on the north side of Old Vernon Road southeast of the Kelowna springs Golf Course (refer to the map on page 11 of this report).

The two lots under application are each approximately 4 ha in size for a total area of approximately 8.0 ha. There are two single family dwellings, an office, a shed, a barn and a machine shop all situated on Lots 2 & 3.

CRITERIA	Lot 2	Lot 3	I2 REQUIRMENTS
Site Area (ha)	4.04	4.04	1.0
Site Width (m)	100.5	100.5	40
Site Depth (m)	402.34	402.34	35

Adjacent zones and uses are, to the:

- North - City Boundary; agricultural uses
- East - A1 – Agriculture 1; lot rehabilitated for agricultural use
- South - A1 – Agriculture 1; agricultural use
- West - A1 – Agriculture 1; rural/agricultural land.

3.4 Current Development Policy

3.4.1 City of Kelowna Strategic Plan (1992)

One of the objectives of the Strategic Plan is to protect productive agricultural land and provide buffers between urban and agricultural land.

3.4.2 Kelowna Official Community Plan (1994-2013)

The current OCP designation of the subject properties is Rural/Agriculture. Therefore, in order to proceed with the rezoning application an OCP amendment is required to designate the subject properties for industrial use.

3.4.2 The Rutland Sector Plan

The Rutland Sector Plan designation of the subject properties is Rural/Agriculture.

3.4.3 The Agriculture Plan

The subject property falls within the rural/agriculture boundary of the Agriculture Plan and a policy of that plan is not to support extensions to existing development or new development isolated within agricultural areas, regardless of ALR status.

4.0 TECHNICAL COMMENTS

4.1 Works & Utilities

The Works & utilities Department comments and requirements regarding this application to rezone the subject property to I -2 are as follows:

1. Subdivision

- a) Dedicate the necessary road right of way along the frontage of Old Vernon Road to provide one half of the 20.0m road right of way measured from the center line.
- b) The City is planning to correct the substandard sharp curve at the south-east corner of lot 1. The beginning of the corner radius is located on lot 2 and the new dedication must include the portion of the new road curvature through lot 2.
- c) Provide easements as may be required.

2. Domestic water and fire protection.

- a) This development is within the service area of the Black Mountain Irrigation District (BMID). The developer is required to make satisfactory arrangements with the BMID for these items. All charges for service connection, and upgrading costs are to be paid directly to the BMID.

- b) Water meters are mandatory for the proposed developments and must be installed, inside a heated building on the water service inlet as required by the City Plumbing Regulation and Water Regulation Bylaws.
- c) The water system must be capable of supplying domestic and fire flow demands in accordance with the Subdivision & Servicing Bylaw. The applicant must provide water computations for this development to confirm the available water supply.

3. Sanitary Sewer

The subject properties are not serviced by the municipal sanitary sewer; this item is under the jurisdiction of the Public Health Inspector.

4. Drainage

A comprehensive site drainage management plan and design to comply with the City's drainage design and policy manual, is a requirement of this application.

5. Power and Telecommunication Services

The services along the frontage of this development are to be installed underground. It is the developer's responsibility to make a servicing application to the respective utility companies. The utility companies are then required to obtain the city's approval before commencing their works.

6. Road improvements

The north half of Old Vernon Road along the frontage of the subject properties is required to be upgraded to a full urban standard complete with curb, gutter, sidewalk, street lighting, asphalt fillet, storm drainage, landscaped boulevard and the relocation and/or removal of utilities as may be required. The estimated cost of this work, for bonding purposes, would be \$119,200.00, inclusive of a bonding contingency.

7. Street lights.

Street lights must be installed on all fronting roads as per bylaw requirements. Design drawings to include level of illumination plan

8. Engineering.

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.

9. General

The City is planning to correct the substandard sharp curve at the south-east corner of lot 1 plan 546. The corner improvement would necessitate the purchase of a sliver of land from the owners.

10. Bonding and Levies Summary

Performance Bonding –
Old Vernon Road frontage upgrading = \$119,200.00

4.2 Fire Department

- (a) As the subject properties are being rezoned to I2 – General Industrial it is necessary to provide industrial fire flows to this site. Black Mountain Irrigation District has advised that the current fire flow in this area does not meet the industrial requirement and that even with extensive upgrading in this area the industrial fire flows cannot be met. A copy of the BMID letter dated January 14, 2002 is attached for your reference.
- (b) Provision of hard surfaced, on-site fire access roads, 6 m in width.
- (c) Provision of fire hydrants.
- (d) In accordance with the BC Fire Code, the outdoor storage area shall be surrounded by a firmly anchored fence that is:
 - Substantially constructed to discourage climbing and unauthorized entry,
 - Not less than 1.8 m high, and
 - Provided with gates that shall be locked when the storage area is not staffed.

4.3 Black Mountain Irrigation District (BMID)

The property is within the BMID boundaries and is currently serviced by same. In addition, a 150 mm service was installed to this property but it has not been connected.

We have no objection to the rezoning of this property, however, we would point out that the fire flow in this area does not meet the industrial requirement of 225/l/s (3570 usgpm). Upgrading of the watermain on Old Vernon Road, complete with a two-way pressure reducing station would be at owner's cost, but would still provide only 2000 usgpm.

Our concern is that once this land is zoned industrial, it would allow for other industrial uses rather than the current sawmill use of fifty years standing, and as stated, fire flows could not be met without even further extensive upgrading in the area.

4.4 Regional District of Central Okanagan

It is noted that lands within the Regional District to the north and northeast are zoned A1-Agricultural in Zoning Bylaw 871 and are located within the ALR. These lands are designated Agricultural in the Ellison Official Community Plan. The policies of the Agricultural section of the OCP apply and specify a minimum lot size of 8 hectares in this part of Ellison.

It is understood that the Land Reserve Commission has specified fencing requirements for the Russo sawmill operation. Provided that City of Kelowna staff is satisfied that adequate buffering is put in place (particularly along the north and west boundaries) to mitigate impact on neighbouring agricultural operations, the Regional District would have no objections to the application.

4.5 Public Health Inspector

The properties at 982 and 1040 Old Vernon Road are not located in an environmental control zone. The parcels are substantially larger than five acres (each) and Black Mountain Irrigation District provides water service. Therefore, in terms of on-site sewage disposal and water, I have no objection to the application.

4.6 Shaw Cable

Owner/contractor to supply/install conduit system as per Shaw drawings and specifications.

4.7 Utilicorp Networks Canada

Existing services are overhead. Requested zoning requires underground services. Any changes in servicing would require conversion to underground.

4.8 BC Gas/Inspections Services/Parks Manager/Telus

No comment

5.0 PLANNING COMMENTS

The Planning & Development Services Department does not support the proposed OCP amendment, Rezoning and Development Variance Permit applications to facilitate the continued operation of the existing sawmill operation. This position is based on the concerns with the lack of servicing to the property and the subsequent precedent of zoning land for industrial purposes, without the necessary upgrades to the servicing in accordance with the City of Kelowna Subdivision, Development and Servicing Bylaw.

The applicant has indicated that the sawmill operation has been in existence since 1950, prior to the creation of the ALR, prior to amalgamation by the City and prior to the OCP designation of Rural/Agriculture. Therefore, since the use cannot change as per the Land Reserve Commission approval, the application to rezone should not trigger any improvements.

However, in discussions with the Fire Department, in order to effectively suppress a fire on this site, a suitable water supply (including fire hydrants) is required as well as 6.0 m wide, hard surface access lanes for the fire trucks. The Fire Department has also indicated that the subject property is within the air corridor for the airport and therefore, should an extreme fire event occur on the site, the airport would be shutdown and compromising the servicing of this site would increase the risk of this occurring. The Fire Department has also indicated their concern, should the zoning of this property be successful and use of the property no longer be restricted by regulation of the Land Reserve Act, that there is a broad range of uses within the I2 zone that could also be compromised with the insufficient servicing that is being proposed by the Development Variance Permit application.

The Land Reserve Commission approval is specific to the uses allowed on the property, however, once the I2 – General Industrial zone is in place there is no restriction, should the LRC choose to amend their decision in any way, restricting the uses within the I2 – General Industrial designation. More importantly, should Council support the rezoning to I2 – General Industrial and the subsequent Development Variance Permit application, there would then be 8 ha of I2 – General Industrial land that does not meet any of the servicing requirements for I2 – General Industrial land. With respect to the water service to this site, BMID has advised that, even with significant upgrades the industrial fire flows cannot be met.

It has been suggested to the applicant that, if there were some assurance (i.e.: a 219 Covenant restricting the use of the land to the uses approved by the Land Reserve Commission) that no other uses could occur, consideration could be given to support of the proposal.

The Planning & Development Services Department has put forth the negative recommendation as a result of the potential risk and/or liability that the City could face should the Land Reserve Commission ever relax the restrictions of use that currently apply to the subject properties. Planning staff have suggested to the applicant that to mitigate this risk, they enter into a voluntary Section 219 Covenant that would formally recognize the current restrictions of use that are imposed by the Land Reserve Commission. However, in order for such a covenant to be binding and effective, it must be registered prior to a public hearing for the requested zoning and it must be entered into voluntarily by the landowner. The applicant has refused to consider this option.

It is unlikely that the Land Reserve Commission will relax their restrictions on the existing land use any time soon. However, the authority of the Land Reserve Commission is completely beyond the City of Kelowna's jurisdiction and, as such, presents a level of unknown risk to the City. It is also acknowledged that the industrial standard for fire protection cannot realistically be provided, but the fire protection system can be upgraded to provide better fire protection than exists today.

In summary, the Planning & Development Services Department would be prepared to support the rezoning and reduction in servicing requirements if the applicant was prepared to address the risk concerns of the City. The applicant has adamantly refused to address the risk issue and therefore, the Planning & Development Service Department cannot support the application as presented.

6.0 ALTERNATE RECOMMENDATIONS

Should favourable consideration be given to this application the following recommendations may apply:

THAT the City of Kelowna Official Community Plan (1994 - 2013) Bylaw No. 7600 be amended by changing the Generalized Future Land Use Map 15.1 designation for Lot 2 & Lot 3, Sec. 1, Twp. 23, ODYD, Plan 546, located on Old Vernon Road, Kelowna, BC, from Rural/Agricultural to Industrial;

AND THAT Rezoning Application No. Z01-1063, for Lot 2 & Lot 3, Sec. 1, Twp. 23, ODYD, Plan 546 located on Old Vernon Road, Kelowna, BC, to amend the zoning classification from the A1 – Agriculture 1 zone to the I2 – General Industrial zone be approved by the Municipal Council;

AND THAT the Official Community Plan and zone amending bylaw be forwarded to a Public Hearing for further consideration;

AND THAT final adoption of the zone amending bylaw be withheld pending the execution, by the owner of the subject property, a Servicing Agreement acceptable to the City of Kelowna.

AND FURTHER THAT final adoption of the zone amending bylaw be considered in conjunction with Council's consideration of a Development Variance Permit on the subject property;

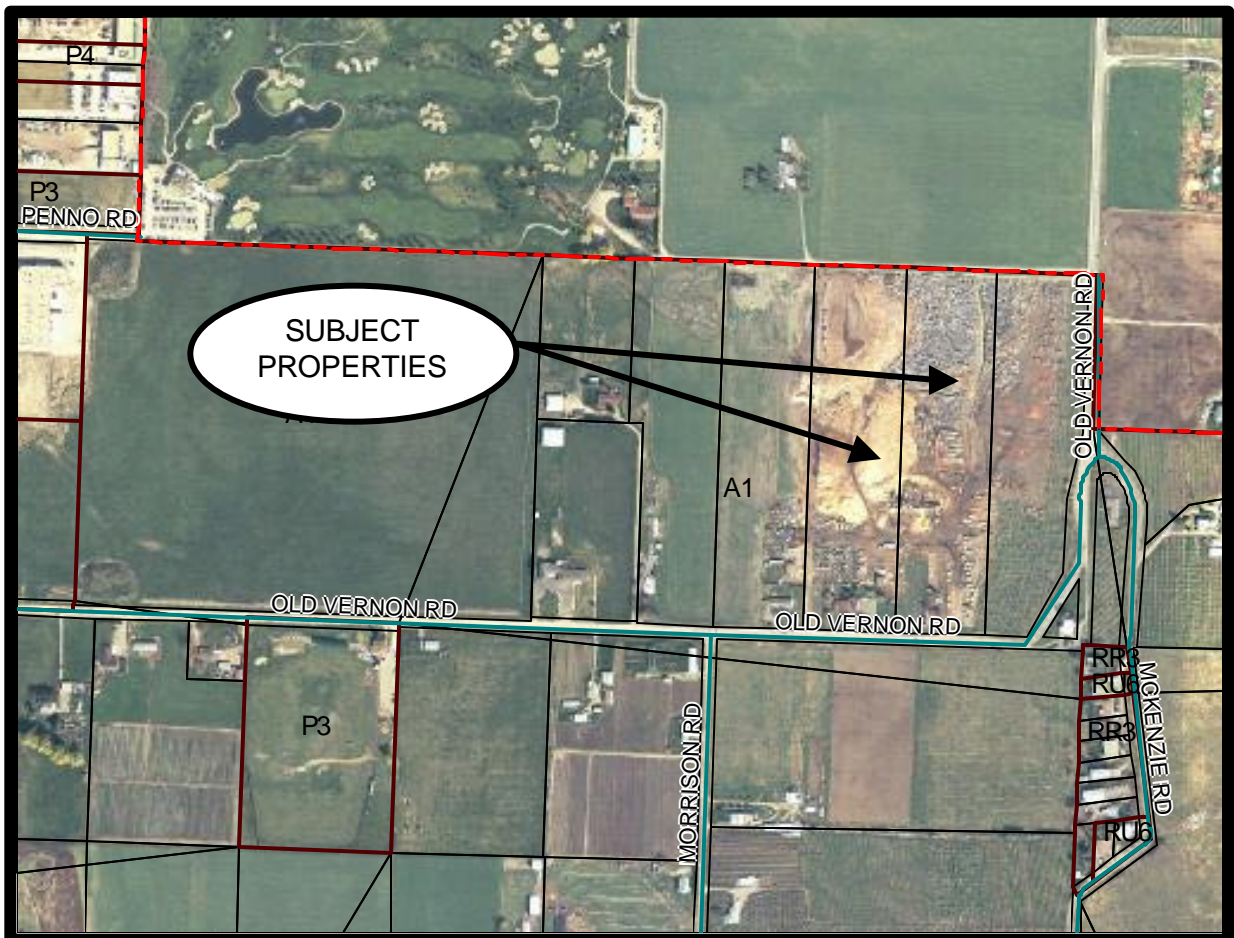
Andrew Bruce
Current Planning Manager

Approved for inclusion ☐

R.L. (Ron) Mattiussi, ACP, MCIP
Director of Planning & Development Services

AB/SG/sg

RUSSO SAWMILL SITE



FACT SHEET

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|---|--|
| 1. APPLICATION NO.: | OCP01-019/Z01-1063/DVP01-10,091 |
| 2. APPLICATION TYPE: | OCP Amendment/ Rezoning/
Development Variance |
| 3. OWNER: | Luigi Giovanni Russo |
| . ADDRESS | 982 Old Vernon Road |
| . CITY/ POSTAL CODE | Kelowna, BC V1X 6T8 |
| 4. APPLICANT/CONTACT PERSON: | Porter Ramsay/Tom Smithwick |
| . ADDRESS | 200 – 1465 Ellis Street |
| . CITY/ POSTAL CODE: | Kelowna, BC V1Y 2A3 |
| . TELEPHONE/FAX NO.: | 763-7646/762-9960 |
| 5. APPLICATION PROGRESS: | |
| Date of Application: | December 4, 2001/ December 18, 2001 (OCP) |
| Servicing Agreement Forwarded to Applicant: | |
| Servicing Agreement Concluded: | |
| Staff Report to Council: | March 15, 2002 |
| 6. LEGAL DESCRIPTION: | Lot 2 & Lot 3, Sec. 1, Twp. 23, ODYD, Plan 546 |
| 7. SITE LOCATION: | North side of Old Vernon Road, 100 m east of Morrison Road |
| 8. CIVIC ADDRESS: | 982 & 1040 Old Vernon Road |
| 9. AREA OF SUBJECT PROPERTY: | Lot 2 = 4.045 ha & Lot 3 = 4.045 ha
Total Area = 8.09 ha |
| 10. AREA OF PROPOSED REZONING: | 8.09 ha |
| 11. EXISTING ZONE CATEGORY: | A1 – Agriculture 1 |
| 12. PROPOSED ZONE: | I2 – General Industrial |
| 13. PURPOSE OF THE APPLICATION: | To amend the OCP Future Land Use from Rural/Agriculture to Industrial; to Rezone from A1 – Agriculture 1 to I2 – General Industrial and to waive any landscaping or paving requirements as a result of the rezoning. |
| 15. DEVELOPMENT PERMIT MAP 13.2 IMPLICATIONS | Not Applicable |

Attachments

(Not attached to the electronic copy of the report)

Location Map