
CITY OF KELOWNA
MEMORANDUM

Date: November 17, 2003
File No.: DP03-0123/DVP03-0124

To: City Manager

From: Planning and Corporate Services Department

Subject:

APPLICATION NO. DP03-0123/
DVP03-0124

OWNER: Terry Gold Realty.

AT: 200-210 Hwy. 33

APPLICANT: Zodiac Pub Beer and Wine
Store (Steve Berezan)

PURPOSE: TO CONSTRUCT A NEW COMMERCIAL BUILDING AT THE
REAR OF THE SUBJECT PROPERTY (SIZE: 1891m²)

TO VARY THE SIZE OF THE PROPOSED RETAIL LIQUOR
STORE FROM 186m² PERMITTED TO 630m² PROPOSED

TO VARY THE FLANKING SIDE YARD SETBACK FROM 2.0M
REQUIRED TO 0.0M PROPOSED

TO VARY THE SETBACK FOR PARKING ABUTTING A STREET
FROM 2.0M REQUIRED TO 1.9 PROPOSED

EXISTING ZONE: C4 – TOWN CENTRE COMMERCIAL

PROPOSED ZONE: C4RLS – TOWN CENTRE COMMERCIAL/RETAIL LIQUOR
SALES

REPORT PREPARED BY: RYAN SMITH

SEE ATTACHED FACT SHEET FOR COMPLETE APPLICATION DETAILS

1.0 RECOMMENDATION

THAT Final Adoption of Zone Amending Bylaw No. 9101 be considered by Council;

AND THAT Council authorize the issuance of Development Permit No. DP03-0123 for
Lot 1, Section 26, Township 26, ODYD Plan 511, located on Hwy.33 W, Kelowna, B.C.
subject to the following:

1. The dimensions and siting of the building to be constructed on the land be in general accordance with Schedule "A";
2. The exterior design and finish of the building to be constructed on the land be in general accordance with Schedule "B";
3. Landscaping to be provided on the land be in general 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 professional landscaper;

AND THAT Council authorize the issuance of Development Variance Permit No. DVP03-0124; Lot 1, Section 26, Township 26, ODYD Plan 511 , located on Hwy.33 W, Kelowna, B.C.;

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

Section 14: C4-Town Centre Commercial: Subsection: 14.4.5(e)

Vary flanking side yard setback from 2.0m required to 0.0m provided.

Section 8: Parking and Loading: Subsection: 8.1.10(c):

Vary required parking setback from abutting streets from 2.0m required to 1.9m permitted.

AND THAT variances to the following sections of Zoning Bylaw No. 8000 not be granted:

Section 14: C4-Town Centre Commercial: Subsection: 14.4.6(e):

Vary the size for a retail liquor store from 186m² permitted to 630m² proposed.

AND THAT the applicant registers an access easement in favour of Lot B, Plan B1019 as per schedule "D";

AND FURTHER THAT the applicant be required to complete the above-noted conditions within 180 days of Council approval of the development permit application in order for the permit to be issued.

2.0 SUMMARY

The applicants are seeking a development permit for the form and character of renovations and new development proposed for the subject property at 200-210 Hwy.33. The applicants are also seeking a development variance permit to vary the maximum permitted size for a retail liquor sales establishment and have agreed to pay cash-in-lieu for the shortfall in required parking. In addition a further variance is being sought for a proposed side yard variance.

Council has considered the applicants proposal to rezone the subject property to add a Retail Liquor Sales designation in order to accommodate the transfer of the Zodiac Beer and Wine Store. After a public hearing Council advanced the proposed rezoning to third reading.

3.0 ADVISORY PLANNING COMMISSION

At the regular meeting of October 21, 2003 it was resolved:

THAT the Advisory Planning Commission supports Development Permit Application DP03-0123, 200/210 Hwy 33 West, Lot 1, Plan 511, Sec. 26, Twp. 26, ODYD, by 661662 BC Ltd., to obtain a Development Permit to allow for the exterior renovation of an existing building on the site and for the construction of a new commercial building to be located at the rear of the property;

AND THAT Advisory Planning Commission not support Development Variance Permit Application DVP03-0124, 200/210 Hwy 33 West, Lot 1, Plan 511, Sec. 26, Twp. 26, ODYD, by 661662 BC Ltd., to obtain a Development Variance Permit to vary the size of a retail liquor store from the 186 m² permitted to the 960m² proposed.

4.0 BACKGROUND

The existing Zodiac Pub and Zodiac Beer and Wine store are currently located at 155 Rutland Road South.

4.1 The Proposal

The applicants are seeking a development permit for the form and character of the proposed new development on-site and for the refurbishment of the existing buildings' façade.

The subject property is located at Hwy. 33 and Roxby Road and is approximately 250m from the existing Zodiac site. The applicants are proposing to use the existing building which fronts onto the highway as a Retail Liquor Store (and coffee shop) and construct a new building at the rear of the property to house Magrath's Auto Supply and possibly the Zodiac Pub.

The applicants are proposing to finish the facades of both buildings with mustard colour stucco. The buildings will be accented with door and window frames in a classic bronze shade and a glazed black ceramic tile. The canopies on both buildings will be burgundy in colour and all soffits, brackets and pilasters will be stained Navajo red.

The applicants will be seeking a development variance permit to vary the maximum permitted size for a retail liquor sales establishment and have agreed to pay cash-in-lieu for the shortfall in parking.

The applicants have indicated that they are willing to provide an access easement through their parking area to Lot B, Plan B1019.

The nearest liquor primary licensed establishments to the subject property are Valley Lanes and Rascals.

The application meets the requirements of the proposed C4 – Town Centre Commercial LP/RLS zone as follows:

CRITERIA	PROPOSAL	C4 LP/RLS ZONE REQUIREMENTS
Lot Area (m ²)	4038m ²	460m ²
Lot Width (m)	34.50m	13.0,
Lot Depth (m)	117.26m	30.0m
Existing Building Size	969m ²	N/A
New Building Size	1891m ² (1/2 is basement storage)	N/A
RLS size (in existing building)	826m ² ❶	186m ²
Setbacks (Existing Building)		
Front Yard	4.5m (approx.)	4.5m (after 15m dedication from mean centerline of Hwy.33 required by MOT)
Side Yard	0.0m ❷	2m
Setbacks (Proposed Building)		
Side Yard	2.1m	2m
Rear Yard	1m	0.0m
Site Coverage	46% (approx.)	75%
Parking	33 stalls ❸	39 stalls
Bicycle Parking	4 class 1 stalls 12 class 2 stalls	4 class 1 stalls 12 class 2 stalls
Height	5.5m	15m

❶Note: Applicant is seeking to vary the maximum permitted size for a retail liquor sales establishment in a development variance permit that will follow this application.

❷Note: Flanking side yard is an existing legal non-conformity.

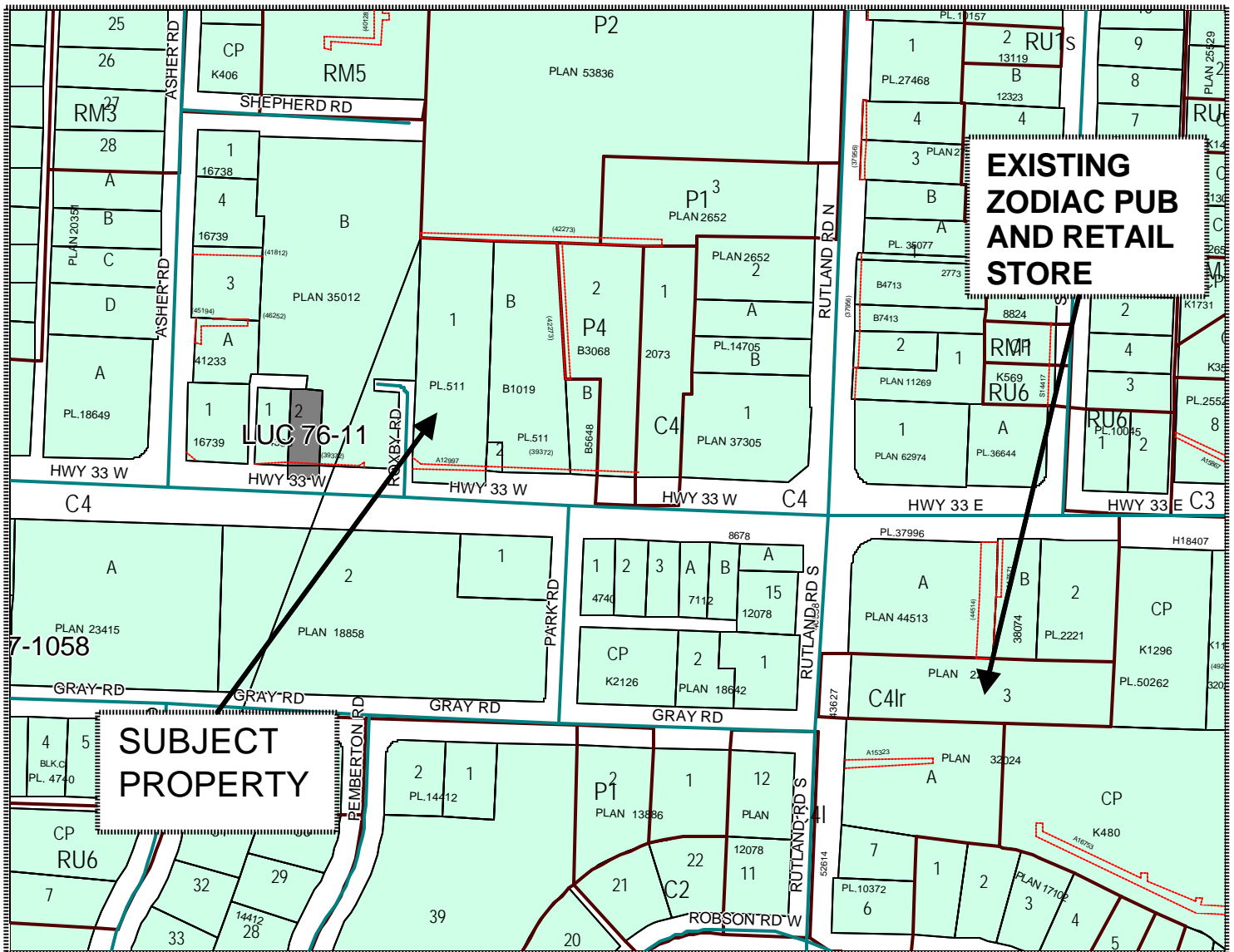
❸Note: Applicant will pay cash-in-lieu for 6 parking stalls.

4.2 Site Context

The subject property is located on the north east corner of Hwy. 33 and Roxby Road.

Adjacent zones and uses are:

North - P2 – Education and Minor Institutional
 East - C4 – Town Centre Commercial
 South - C4 – Town Centre Commercial
 West - C4 – Town Centre Commercial



4.3 Existing Development Potential

The property is zoned C4 – Town Centre Commercial. The purpose of the C4 – Town Centre Commercial zone is to provide a zone for the development of community commercial centres to serve more than one neighbourhood.

4.4 Current Development Policy

4.4.1 Mayor's Entertainment District Task Force

The Mayor's Entertainment District Task Force has made the following recommendations, which Council has adopted as policy when dealing with liquor primary establishments and retail liquor stores:

- In order to avoid problems associated with rowdy behaviour in line ups at liquor primary establishments, when considering applications for Retail Liquor establishments associated with Liquor Primary Licensees, Council should have regard to the size of the liquor primary establishment, the nature of clientele, the likelihood of line ups, and the number and proximity of other Liquor Primary Licensees in the area.
- That, in order to avoid concentrations for this use (e.g. in the same block or at the same intersection), generally the store should be at least 300 metres (shortest travel distance) from an existing Licensed Retail Store, BC Liquor Store, or wine and beer store. A reduced distance (generally not less than 100 metres) may be warranted in locations such as the City Centre, the Highway Centre (Highway 97/Springfield) or the two Town Centres (Rutland and Pandosy).

4.4.2 Rutland Sector Plan

The Rutland Sector Plan encourages commercial revitalization projects and increased commercial densities in the Town Centre area.

5.0 TECHNICAL COMMENTS

5.1 Works and Utilities Department

5.1.1 Subdivision

a) Provide easements as may be required.

b) The City of Kelowna is the owner of the parcel of land located to the west of the subject property. The City will dedicate a 20.0 m. wide extension of Roxby along the frontage of the property by survey plan registered at the Land Title Office.

c) Highway 33 to be established at an estimated 15 m. (subject to MOT) from existing mean centreline by survey plan registered in the Land Title Office.

5.1.2 Geotechnical Study.

a) We recommend that a comprehensive geotechnical study be undertaken over the entire site. The geotechnical study should be undertaken by a Professional Engineer or a Geoscientist competent in this field. This study should analyse the soil characteristics and suitability for development of the requested zoning. As well, the study should address drainage patterns including the identification of ground water and the presence of any surface springs and the suitability of the lands for disposal of site generated storm drainage. In addition this study must describe soil sulphate contents, the presence or absence of swelling clays,

5.1.3 Domestic water and fire protection.

a) This development is within the service area of the Rutland Waterworks District (RWD). The developer is required to make satisfactory arrangements with the RWD for these items. All charges for service connection, and upgrading costs are to be paid directly to the RWD. The developer is required to provide a confirmation that the district is capable of supplying fire flow in accordance with current requirements.

b) A watermeter is mandatory as well as a sewer credit meter to measure all the irrigation water. Watermeters must be housed in an above-ground, heated, accessible and secure building, either as part of the main site buildings or in a separate building. Remote readers units are also mandatory on all meters.

5.1.4 Sanitary Sewer.

a) The subject property is currently serviced by the Municipal sewer collection system. The existing 150 mm. diameter service should be adequate for the proposed use of the property.

5.1.5 Drainage.

a) 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. This plan can become part of the geotechnical study to identify possible ground recharge/detention areas.

5.1.6 Power and Telecommunication Services.

a) The subject property is located within the Rutland Town Center Area, the overhead wires along the frontage of the property and the services must be relocated 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.

5.1.7 Road improvements.

a) Roxby Road:

The applicant is responsible for the extension of a curb, gutter, sidewalk and related services along the frontage of the subject property, extending from the end of the existing portion at the end of the existing building. The estimated cost of this work, for bonding purpose would be \$48,700.00, inclusive of a bonding contingency.

5.1.8 Site Access.

The proposed traffic circulation as shown on the latest development submission appears acceptable.

5.1.9 Bonding and Levies Summary.

a) Performance Bonding

Roxby Road extension	\$48,700.00
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b) Levies

N/A

5.2 Inspection Services Department

a) Occupant load of Pub is 164 max. (or restaurant if pub does not relocate)

b) Washrooms OK. Staff washroom shall be designed to accommodate the H/C.

c) The exit doors are to close together. Must be redesigned.

d) A second exit is required from the Retail Liquor store. If the exit path is through the storage area a pathway shall be indicated on the floor to ensure it is not blocked by stock.

5.3 Fire Department

a) Fire department access and hydrants as per the BC Building Code and City of Kelowna Subdivision By-law. Hydrant required within 90m of each principal entrance. Consideration for installing a new hydrant on the north side of Hwy 33 should be looked at.

5.4 Parks Manager

a) Due to persistent disease problems and messy dropped flowers and fruit, Parks requires the developer to substitute the BLVD tree variety Prunus virginiana 'Bailey Select' with a more appropriate tree selection for the Okanagan such as Acer platanoides 'Crimson King' or Pyrus calleryana (Callery Pear).

- b) All entry feature signs for the proposed development to be located on private property and not on City Blvd.
- c) Minimum plant material specifications for BLVD deciduous Tree: caliper @300mm above rootball min. 60mm
- d) Shrub beds require plastic edge beside all areas abutting a city sidewalk or city land to prevent migration of mulch.
- e) All trees planted in sidewalk and not in grass Blvd will require a vault and grate and/or root shield barriers. Parks recommends structural soil.
- f) All trees in grass Blvd to use root shield barriers, min 18 inch depth beside concrete infrastructure.
- g) BLVD maintenance (irrigation, shrubs, ground cover, sod, and seeded areas) is the responsibility of owner/occupant.
- h) BLVD tree maintenance is the responsibility of Parks Division. However, the adjacent owner is responsible for watering and replacement of trees during the establishment period, for at least two years after planting.

5.5 Shaw Cable

- a) Owner/developer to supply and install an underground conduit system as per Shaw Cable drawings and specifications.

5.6 Telus

- a) TELUS will provide underground facilities to this development. Developer will be required to supply and install conduit as per TELUS policy.

5.7 Public Health Inspector

- a) No objections at this time, approval of food premise plans and specifications required by this office; permit to operate food premise required.

6.0 PLANNING AND CORPORATE SERVICES DEPARTMENT

The Planning and Corporate Services Department has no significant concerns with the form and character of the proposed development although staff has recommended that the applicant consider adding lighting along the rear proposed commercial building as per CEPTED guidelines. This proposal is consistent with the Rutland Sector Plan and staff are encouraged that this is a step in the right direction towards the revitalisation of the Rutland Town Centre.

The proposed retail liquor store is in excess of 300m from the closest establishment of this type; however it is relatively close to both Valley Lanes which holds a liquor primary license and Rascals which also holds a liquor primary license. The Mayor's Entertainment District Task Force recommends that Council consider the potential impacts on conflicts between these two uses.

In conjunction with this development permit the applicant is seeking to vary the maximum permitted size for a retail liquor store. The RLS originally proposed by the applicants was more than four times the size that is permitted by Zoning Bylaw No.8000. In response to concerns expressed by staff and by the Advisory Planning Commission, the applicant has revised the plans to reduce the size of the proposed Retail Liquor Store from 826m² originally proposed to 630m². While the Planning and Corporate Services Department recognises that the applicant has attempted to reduce the proposed size of the licensee retail store, staff are unwilling to support a retail liquor store of this scale due to the precedent that may be set. Council created a maximum RLS size of 186m² during zoning bylaw amendments initiated in the spring of 2003 as a response to changes to liquor control and licensing made by the provincial government.

It must also be noted that as the applicant has elected not to add a Liquor Primary designation to the parent zone of the property, the maximum person capacity of any Liquor Primary establishment is 100 persons. As of November 12, 2003, the Liquor Control and Licensing Branch has changed their policy and the applicants are no longer required to move their Liquor Primary License with the Retail Liquor Store License.

The City will dedicate the remainder of Roxby Road (to Shephard Road) at the time of Building Permit. The developer will pay for the cost of dedication and the cost of required upgrades along the frontage of the subject property.

7.0 ALTERNATE RECOMMENDATION

AND THAT Council authorize the issuance of Development Permit No. DP03-0123 for Lot 1, Section 26, Township 26, ODYD Plan 511, located on Hwy.33 W, Kelowna, B.C. subject to the following:

1. The dimensions and siting of the building to be constructed on the land be in general accordance with Schedule "A";
2. The exterior design and finish of the building to be constructed on the land be in general accordance with Schedule "B";
3. Landscaping to be provided on the land be in general 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 professional landscaper;

AND THAT Council authorize the issuance of Development Variance Permit No. DVP03-0124; Lot 1, Section 26, Township 26, ODYD Plan 511 , located on Hwy.33 W, Kelowna, B.C.;

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Section 14: C4-Town Centre Commercial: Subsection: 14.4.5(e)

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Section 8: Parking and Loading: Subsection: 8.1.10(e):

Vary required parking setback from abutting streets from 2.0m required to 1.9m permitted.

AND THAT the applicant registers an access easement in favour of Lot B, Plan B1019 as per schedule "D";

AND FURTHER THAT the applicant be required to complete the above-noted conditions within 180 days of Council approval of the development permit application in order for the permit to be issued.

Andrew Bruce
Manager of Development Services



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

RM/AB/rs
Attach.

FACT SHEET

- | | |
|---|---|
| 1. APPLICATION NO.: | DP03-0123/DVP03-0124 |
| 2. APPLICATION TYPE: | Development Permit/ Development
Variance Permit |
| 3. OWNER: | Zodiac Pub Beer and Wine Store |
| . ADDRESS | 155 Rutland Road S |
| . CITY | Kelowna, BC |
| . POSTAL CODE | V1X 2Z3 |
| 4. APPLICANT/CONTACT PERSON: | Steve Berezan |
| . ADDRESS | 155 Rutland Road S |
| . CITY | Kelowna, BC |
| . POSTAL CODE | V1X 2Z3 |
| . TELEPHONE/FAX NO.: | 606-202-0024 |
| 5. APPLICATION PROGRESS: | |
| Date of Application: | July 19, 2003 |
| Date Application Complete: | September 24, 2003 |
| Servicing Agreement Forwarded to Applicant: | N/A |
| Servicing Agreement Concluded: | N/A |
| Staff Report to Council: | September 24, 2003 |
| 6. LEGAL DESCRIPTION: | Lot 1, Section 26, Township 26,
ODYD Plan 511 |
| 7. SITE LOCATION: | The subject property is located on the
north east corner of Hwy. 33 and Roxby
Road. |
| 8. CIVIC ADDRESS: | 200-210 Hwy.33 |
| 9. AREA OF SUBJECT PROPERTY: | 4038m ² |
| 10. AREA OF PROPOSED REZONING: | 4038m ² |
| 11. EXISTING ZONE CATEGORY: | C4 – Town Centre Commercial |
| 12. PROPOSED ZONE: | C4 – Town Centre Commercial
LP/RLS |

- | | |
|--|---|
| 13. PURPOSE OF THE APPLICATION: | TO CONSTRUCT A NEW COMMERCIAL BUILDING AT THE REAR OF THE SUBJECT PROPERTY (SIZE: 1891m ²)

TO VARY THE SIZE OF THE PROPOSED RETAIL LIQUOR STORE FROM 186m ² PERMITTED TO 630m ² PROPOSED

TO VARY THE FLANKING SIDE YARD SETBACK FROM 2.0M REQUIRED TO 0.0M PROPOSED

TO VARY THE SETBACK FOR PARKING ABUTTING A STREET FROM 2.0M REQUIRED TO 1.9 PROPOSED |
| 14. MIN. OF TRANS./HIGHWAYS FILES NO.:
NOTE: IF LANDS ARE WITHIN 800 m OF A CONTROLLED ACCESS HIGHWAY | N/A |
| 15. DEVELOPMENT PERMIT MAP 13.2 IMPLICATIONS | N/A |

ATTACHMENTS

(not attached to the electronic version of the report)

- Location of subject property
- Site plan
- Elevations
- Colour Boards