
CITY OF KELOWNA

MEMORANDUM

Date: November 25, 2003
File No.: Z03-0047/OCP03-0011/LUC03-0002
To: City Manager
From: Planning and Corporate Services Department
Subject:

APPLICATION NO. Z03-0047/
OCP03-0011/LUC03-0002
AT: 1094 Lawson Avenue
OWNER: LCC Holdings Inc.
APPLICANT: LCC Holding Inc.
(Terry Feeny)

PURPOSE: TO DISCHARGE THE EXISTING LAND USE CONTRACT (LUC78-1029)

TO AMEND THE OFFICIAL COMMUNITY PLAN FUTURE LAND USE
DESIGNATION FOR THE SUBJECT PROPERTY FROM MULTIPLE
UNIT RESIDENTIAL LOW DENSITY TO MULTIPLE UNIT RESIDENTIAL
LOW DENSITY TRANSITION

TO REZONE THE SUBJECT PROPERTY FROM THE RU6-TWO
DWELLING HOUSING ZONE TO THE RM4-TRANSITIONAL LOW
DENSITY HOUSING

EXISTING ZONE: LAND USE CONTRACT (RU6 IS UNDERLYING ZONE)

PROPOSED ZONE: RM4 – TRANSITIONAL LOW DENSITY HOUSING

REPORT PREPARED BY: RYAN SMITH

1.0 RECOMMENDATION

THAT Application No. LUC03-0002 to discharge the Land Use Contract 78-1029 from Lot 2, District Lot 138, ODYD Plan 3809, located on Lawson Avenue, Kelowna, BC, be considered by Council;

AND THAT LUC03-0002 be forwarded to a Public Hearing for further consideration;

AND THAT OCP Bylaw Amendment No. OCP03-0011 to amend Map 15.1 of the Kelowna Official Community Plan (1994 - 2013) Bylaw No. 7600 by changing the Future Land Use designation of Lot 2, District Lot 138, ODYD Plan 3809, located on Lawson Avenue, Kelowna, B.C., from the Multiple Unit Residential Low Density designation to the Multiple Unit Residential Transition designation, as shown on Map "A" attached to the report of Planning & Corporate Services Department, dated November , 2003, be considered by Council;

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

AND THAT Rezoning Application No. Z03-0047 to amend the City of Kelowna Zoning Bylaw No. 8000 by changing the zoning classification of Lot 2, District Lot 138, ODYD Plan 3809, located on Lawson Avenue, Kelowna, B.C. from the RU6 – Two Dwelling Housing zone to the RM4 – Transition Low Density Housing zone be considered by Council;

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

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

AND THAT final adoption of the zone amending bylaw be considered following registration of a Road Reservation Agreement in the Land Title Office;

AND THAT final adoption of the zone amending bylaw be considered subsequent to the requirements of the Works & Utilities Department being completed to their satisfaction.

2.0 SUMMARY

The applicants are proposing to construct a 15-unit condo/apartment building on the subject property. There is an existing land-use contract that currently limits the use of the subject property to parking. The applicant is proposing to discharge this land use contract as it has outlasted its usefulness. The applicant is also proposing a rezoning from the RU6- Two Dwelling Housing zone that underlies the land use contract to and RM4-Transitional Low Density Housing Zone. As the future land use designation for the subject property is Multiple Unit Residential Low Density, the applicant is also seeking an amendment to the Official Community Plan to allow a future land use designation of Multiple Unit Residential Low Density Transitional. The development permit and development variance permit associated with this application will be forwarded to Council at such time as the applicant has completed the requirements of the rezoning application.

3.0 ADVISORY PLANNING COMMISSION

At the regular meeting of October 7th, 2003 it was resolved:

THAT the Advisory Planning Commission supports Land Use Contract No. LUC03-0002, LCC Holdings Ltd (Terry Feeny), to discharge the Land Use Contract;

AND THAT the Advisory Planning Commission supports OCP03-0011 and Z03-0047 by LCC Holdings Ltd (Terry Feeny), to amend the Official Community Plan's Future Land Use designation from Multiple Unit Residential Low Density, to Multiple Unit Residential Low Density Transitional and to rezone to the RM4-Transitional Low Density Housing zone;

AND THAT the Advisory Planning Commission not consider support for Development Permit Application No. DP03-0099 by LCC Holdings Ltd (Terry Feeny), to obtain a development permit for the construction of a 15 unit, 3 storey multi-family residential building until either a Development Variance Permit application is submitted for APC review, or the proposal has been revised to meet all zoning bylaw requirements.

*Note: The Development Permit and Development Variance Permit applications were forwarded to the December 9, 2003 meeting of the Advisory Planning Commission for consideration as unfinished business.

4.0 BACKGROUND

The existing land-use contract limits the permitted uses on this site to parking for the employees of People's Food Market. The contract allows that "On or after (10) years from the date of the contract, in its sole discretion, the municipality may unilaterally terminate all or any part of this contract provided that:

- The municipality before adopting any such resolution shall hold a public hearing thereon in the manner provided for in Section 703 of the Municipal Act, RSBC, 1960, Chapter 255 and amendments thereto;
- Any such resolution shall be registered in the Land Registry Office at the City of Kamloops in the same manner as this contract.

The People's Food Market and its successor IGA are no longer in operation and the current Zoning Bylaw requirement for parking can be met without the use of the subject property.

4.1 The Proposal

The applicants are proposing to construct a 15-unit condo/apartment building on the subject property. There is an existing land-use contract that currently limits the use of the subject property to parking. The applicant is proposing to discharge this land use contract as it has outlasted its usefulness. The applicant is also proposing a rezoning from the RU6- Two Dwelling Housing zone that underlies the land use contract to and RM4-Transitional Low Density Housing Zone. As the future land use designation for the subject property is Multiple Unit Residential Low Density, the applicant is also seeking an amendment to the Official Community Plan to allow a future land use designation of Multiple Unit Residential Low Density Transition.

The proposed 15-unit building will be 3.5 storeys in height and will be accessed via a driveway from Lawson Avenue. The development will accommodate 19 stalls in the parkade under the building and 2 stalls at grade. The applicant is planning to provide 4 two-bedroom suites and 1 one-bedroom suite on each of three floors. The pedestrian entrance to the building is also via Lawson Avenue and identified by a porte-cochere feature.

The applicant has chosen a light ivory stucco to finish the exterior walls of the building. The base of the building will be finished with red brick application which will extend vertically the cornice line in several places. The brick is intended to visually anchor the building, and add a vertical element in several places to add visual interest to the façade.

As a significant amount of mature vegetation currently exists along the Gordon Drive frontage of the property the applicant has indicated that every attempt will be made to retain as much of this vegetation as possible, however, much of this vegetation will be located within the road reserve. The applicant will also attempt to incorporate existing vegetation located along the western property line into the landscape plan.

In separate applications (to follow) the applicant is seeking both a development permit for the form and character of the proposed development, and a development variance permit. The applicant is seeking a development variance permit to address the front and side yard setbacks on Gordon Drive and Lawson Avenue as well as variance for the

minimum lot width for the RM4 zone (30m required--27.48m proposed). The original plans submitted by the applicant appeared to meet the required setbacks, however, these plans did not account for the road reserves and dedications on Lawson Avenue and Gordon Drive required by the Works and Utilities Department. To accommodate the 7.5m road reserve required on Gordon Drive the applicant has also reduced the size of the two-way drive aisle from 7m required to 5.5m proposed.

In addition the applicant is seeking to vary the height from 3 storeys permitted to 3.5 storeys proposed to accommodate a parkade structured that will be located semi below grade. The applicant is also seeking to vary the minimum number of parking stalls from 22 stalls required to 21 stalls proposed.

The development permit and development variance permit associated with this application will be forwarded to Council at such time as the applicant has completed the requirements of the rezoning.

The application meets the requirements of the RM4 – Transitional Low-Density Housing zone as follows:

CRITERIA	PROPOSAL	RM4 ZONE REQUIREMENTS
Lot Area (m ²)	1494m ² (Includes required road widening)	900m ²
Lot Width (m)	30.45m	30m
Lot Width (m) (after dedication)	27.45m ❶	30m
Lot Depth (m)	49.0m	30m
Area of Buildings at Grade	635.3m ²	746.7m ²
Area of Pavement, Accessory Buildings, etc...	786.3m ²	896.1m ²
Site Coverage %(Buildings)	42.5%	50%
Site Coverage %(Buildings and paved areas)	52.6%	60%
Total Floor Area (m ²)	2264m ²	
Net Floor Area (m ²)	1250m ²	
Floor Area Ratio (FAR)	0.78 (after dedication)	0.84
Parking Spaces	21 ❷	22
Bicycle Parking	10	10
Storeys (#)	3.5 ❸	3
Setbacks (m)		
- Front	6.1m ❹	6.0m
- Rear	11.2m	9.0m
- Side (n)	4.5m	4.9m
- Side (s)	1.43m ❺	4.5m
Drive Aisle Width	5.5m ❻	7.0m
Refuse Bins (Setback from abutting residential areas)	0.0m ❼	3.0m

❶ Applicant seeking to vary the lot width in the RM4 zone from 30.0m required to 27.48m proposed.

❷ Applicant is seeking to vary the required parking from 22 stalls require to 21 stalls proposed.

- ③ Applicant is seeking a variance for the height of the proposed building that exceeds the maximum of three storeys permitted in the RM4 zone.
- ④ Applicant is seeking to vary the front yard setback (from road reserve) from 6.0m required to 0.0m proposed.
- ⑤ Applicant is seeking to vary the side yard (south) setback from 4.5m required to 1.43m proposed.
- ⑥ Applicant is seeking to vary the minimum drive aisle width from 7.0m required to 5.5m proposed.
- ⑦ Applicant is seeking to vary the minimum setback for refuse/recycling bins abutting a residential zone from 3.0m required to 0.0m proposed.

4.2 Site Context

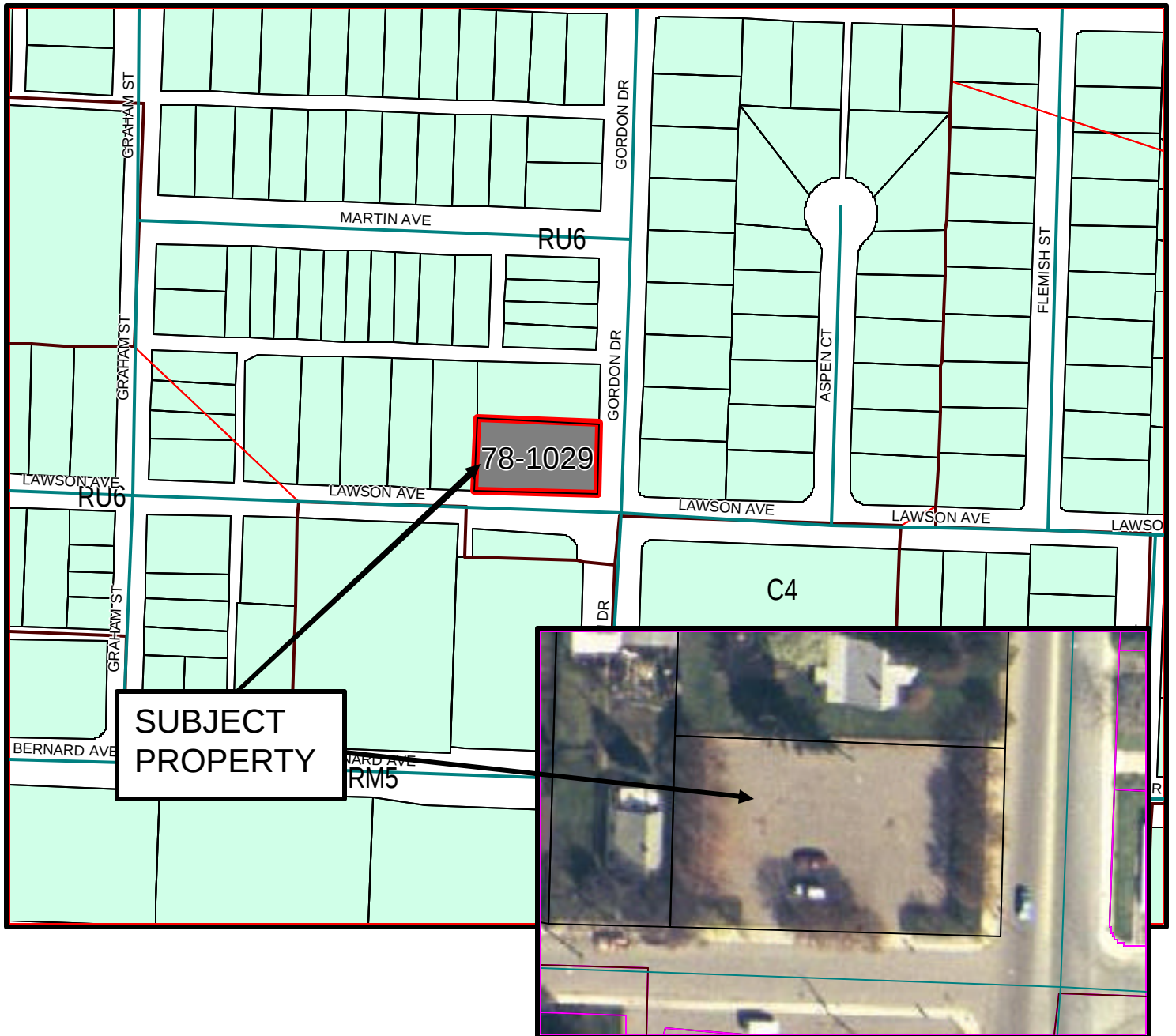
The subject property is located on the north west corner of Gordon Drive and Lawson Avenue. The current use of the property (as dictated by a land use contract) is a parking lot.

Adjacent zones and uses are:

North - RU6 – Two Dwelling Housing – Single Family Dwelling
East - RU6 – Two Dwelling Housing – Single Family Dwelling
South - RM5 – Medium Density Multiple Housing – Apartments
West - RU6 – Two Dwelling Housing– Single Family Dwelling

4.3 Site Location Map

Subject Properties: 1094 Lawson Avenue



4.4 Existing Development Potential

The development potential of the property is currently limited by a land use contract that limits potential uses to a parking lot.

4.5 Current Development Policy

4.5.1 Kelowna Official Community Plan

The subject properties are designated multi-family low-density in the Kelowna Official Community Plan future land-use designation. The OCP also supports amendments and rezonings to higher densities greater than those provided for on the general land-use map in cases where:

- Supporting infrastructure is sufficient to accommodate the proposed development;
- Proposed densities do not exceed the densities provided for on map 19.1 by more than one increment;
- Provided the project can be sensitively integrated into the surrounding neighbourhood;
- Contributes to the City's goal of over the 1994-2013 timeframe of having 67% of new residential units to be in the form of apartments, townhouses and multi-unit dwellings;
- Support a land use approach where residential densities increase as proximity to the core of Urban Centres increases, as shown on future land use map 19.1.

4.5.2 Kelowna Strategic Plan (1992)

The City of Kelowna Strategic Plan encourages the development of a more compact urban form by increasing densities through infill and redevelopment within existing urban areas and to provide for increased densities within future urban areas. Also redeveloping transitional area to increase densities for more efficient use of existing land. Also recommended is that the City will emphasize a density of development higher than presently occurring to allow for more efficient use of the land.

5.0 TECHNICAL COMMENTS

5.1 Works and Utilities Department

5.1.1 Domestic Water and Fire Protection

a) The proposed development site is serviced with a 13mm diameter water service. The developer must engage a consulting mechanical engineer to determine the domestic and fire flow requirements of this development, a larger service will be required. Only one water service is permitted. Unused services must be removed by City forces at the applicant's cost.

The estimated cost for the new service for bonding purposes is \$7,500.00

b) 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 his cost.

c) City of Kelowna water will be used for on-site irrigation and within the fronting road boulevards. After the site is connected to City of Kelowna sanitary sewer, a “irrigation sewer credit meter” must also be purchased from the City and installed on the irrigation branch line. This development will have to be billed for sewer-use as a commercial account. (Sewer-use charge by metered consumption).

5.1.2 Sanitary Sewer

a) The proposed development site is serviced with a 100mm-diameter sanitary service. The developer’s consulting mechanical engineer will determine the requirements of this development.

b) Only one sanitary service is permitted and all unused services must be removed by City forces at the applicant’s cost. A larger sanitary sewer service will likely be required.

c) The estimated cost for bonding purposes is \$5,500.00.

5.1.3 Storm Drainage

a) The developer must engage a consulting civil engineer to provide a storm water management plan for this site which meets the requirements of the City Storm Water Management Policy and Design Manual.

b) To utilize the existing 200mm storm service as a overflow service, the construction of a build-over manhole on the existing service will be required just inside the property line. The consulting engineer will determine the 100 year hydraulic grade line and the need for a backflow prevention device and sump pump system inside the building.

c) No storm drywells to be constructed within the requested road reserve.

5.1.4 Road Improvements

a) Lawson Avenue: The existing easterly access to Lawson Avenue must be removed. This work will require asphalt removal and boulevard restoration.

Damage to existing curb and sidewalk sections will likely occur during the excavation and construction period. Replacement of damaged works will be at the developer’s expense. Replacement of the new concrete driveway

access will require removing existing curb and sidewalk sections and it may be necessary to relocate or adjust existing facilities.

The cost for bonding purposes is \$4,000.00

b) Gordon Drive has been fully urbanized and no further work is anticipated at this time.

5.1.5 Road Dedication and Subdivision Requirements

a) By registered plan to provide the following:

- Grant statutory rights of way if required for utility services.
- Provide an additional highway allowance widening of 3.14 m for the widening of Lawson Avenue and dedicate a 6.0 m corner rounding at the Gordon Drive intersection.
- Register a 7.5 m wide Road Reserve along the full frontage of Gordon Drive as well as the required 6.0 m corner rounding at the intersection.

5.1.6 Electric Power and Telecommunication Services

The electrical and telecommunication services to this building must be installed in an underground duct system, and the building must be connected by an underground service. 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.

5.1.7 Street Lighting

Ornamental street lighting including underground ducts have been installed on all roads fronting on the proposed development. It may be necessary to relocate or add new light standards. The cost of this requirement will be at the applicant's cost.

5.1.8 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.

5.1.9 Geotechnical Report

a) As a requirement of this application and building permit approval the applicant must provide a comprehensive geotechnical report prepared by a Professional Engineer qualified in the field of hydro-geotechnical survey to address the following:

- Area ground water characteristics, including water sources on the site.
- Site suitability for development; i.e. unstable soils, foundation requirements etc.
- 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.
- List extraordinary requirements that may be required to accommodate construction of roads and underground utilities as well as building foundation designs.
- Additional geotechnical survey may be necessary for building foundations, etc.

5.1.10 Survey Monuments and Iron Pins

If any legal survey monuments or property iron pins are removed or disturbed during construction, the developer will be invoiced a flat sum of \$1,200.00 per incident to cover the cost of replacement and legal registration. Security bonding will not be released until restitution is made.

5.1.11 Bonding and Levy Summary

a) Bonding

Road access modifications	\$ 4,000.00
Water service upgrades	\$ 7,500.00
Sanitary service upgrades	\$ 5,500.00
Total Bonding	\$17,000.00

NOTE: The bonding amounts shown above are comprised of estimated construction costs escalated by 140% to include engineering design and contingency protection and are provided for information purposes only. The owner should engage a consulting civil engineer to provide detailed designs and obtain actual tendered construction costs if he wishes to do so. Bonding for required off-site construction must be provided as a condition of

subdivision approval or building permit issuance, and may be in the form of cash or an irrevocable letter of credit, in an approved format.

b) The owner must also enter into a servicing agreement in a form provided by the City prior to 4th reading of the zone amending bylaw or issuance of a building permit.

5.1.12 Development Permit and Site Related Issues

a) The developer must obtain the necessary permits.

b) The development will be required to contain and dispose of site generated storm water on the site by installing a ground recharge system consisting of drywells and perforated pipe bedded in drain rock.

5.1.13 Access and Maneuverability

a) The site plan should illustrate the ability of an SU-9 standard size vehicle to maneuver onto and off the site without requiring a reverse movement onto public roadways. If the development plan intends to accommodate larger vehicles, the site plan should be modified and illustrated accordingly.

b) The site access and egress design onto the frontage roads as well as the parking lot configuration must be submitted for approval by the City Works & Utilities Department before final adoption of the development permit. This is required to guarantee that the requirements and the limitations of access and egress required by the City have been addressed to the City's satisfaction.

c) The property has several mature trees within its boundaries. Excavation, lot grading and material storage within the drip-line of the tree will have to be done with great care.

5.1.14 Administration Charge

An administration charge will be assessed for processing of this application, review and approval of engineering designs and construction inspection. The administration charge is calculated as 3% of the total off-site construction costs, not including design. 7% GST will be added.

5.2 Inspection Services Department

a) The definition of bedroom includes a den. This would change the 2 bedroom suite count therefore the parking calculations.

**Note: Parking calculation in this report reflects this comment.*

b) The water table should be established to ensure building height.

- c) A second exit is required from the parkade. Typically the one into the lobby is locked.
- d) The second exit stair need to be redesigned as it comes down into the parkade affecting stalls 4 & 5.
- e) A path through the landscaping is required for the rear exit stair.
- f) The storage lockers shall be sprinklered.

5.3 Fire Department

- a) Fire department access and hydrants as per the BC Building Code and City of Kelowna Subdivision By-law.
- b) Engineered fire flows will be required, and should determine hydrant requirement(s).

5.4 Parks Manager

- a) All entry feature signs for the proposed development to be located on private property and not on City Blvd.
- b) Shrub beds require plastic edge beside all areas abutting a city sidewalk or city land to prevent migration of mulch.
- c) All trees in grass Blvd to use root shield barriers, min 18" depth beside concrete infrastructure.
- d) BLVD maintenance (irrigation, shrubs, ground cover, sod, and seeded areas) is the responsibility of owner/occupant.
- e) 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

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

5.6 Telus

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

6.0 PLANNING AND CORPORATE SERVICES DEPARTMENT

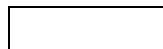
The Planning and Corporate Services Department has no concerns with the proposed land use. The existing land use contract has served its purpose and is no longer required and staff feel that the medium density multiple family development to the south of this property strengthens the applicants case for an amendment to the Official Community Plan and a rezoning to the RM4 –Transitional Low Density Housing zone.

The Planning and Corporate Services Department is generally supportive of the form and character of the proposed development and encourages that the applicant retain the sites existing vegetation wherever possible. Council will have the opportunity to review the form and character as well as the proposed variances associated with this development with the Development Permit and Development Variance Permit applications. Prior to Council consideration of the Development Permit and Development Variance Permit the applicant will be required to consult with and provide a report to the Planning and Corporate Services Department confirming the depth of the water table on this property. City of Kelowna Inspections Services have indicated that this may be a concern. This issue would affect the height of the proposed building.

Staff would like to note several concerns regarding the development permit and development variance permit at this point. Although generally satisfied with the form and character of the proposed development, the required road reservation and dedication, when taken into account, drastically effect this proposal and trigger a variety of variances that would not otherwise be required. Staff recognize that the required road reservation and dedication reduce the building envelope on the subject property, however, encourage that the applicant revisit the proposal and attempt to increase the size of the side yards on Lawson Avenue and Gordon Drive. This could be accomplished by reducing the overall size of the building and may also allow the proposed development to meet the parking requirements.

It should also be noted that in 1999 staff supported several similar variances on the lot to the south of the subject property due to the small size of the lot and future road improvements that were required. Council also supported these variances.

Andrew Bruce
Development Services Manager



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

RM/AB/rs
Attach.

FACT SHEET

1. **APPLICATION NO.:** Z03-0047/OCP03-0011/LUC03-0002/
2. **APPLICATION TYPE:** OCP Amendment, Rezoning,
Land Use Contract Discharge,
3. **OWNER:** LCC Holdings Inc.
· **ADDRESS** #24-2670 Enterprise Way
· **CITY** Kelowna, BC
· **POSTAL CODE** V1X 7L6
4. **APPLICANT/CONTACT PERSON:** LCC Holdings Inc. (Terry Feeny)
· **ADDRESS** #24-2670 Enterprise Way
· **CITY** Kelowna, BC
· **POSTAL CODE** V1X 7L6
· **TELEPHONE/FAX NO.:** 862-7766
5. **APPLICATION PROGRESS:**
 Date of Application: August 27, 2003
 Date Application Complete: August 27, 2003
 Servicing Agreement Forwarded to Applicant: N/A
 Servicing Agreement Concluded: N/A
 Staff Report to APC: October 7, 2003
 Staff Report to Council N/A
6. **LEGAL DESCRIPTION:** Lot 2, District Lot 138, ODYD Plan 3809
7. **SITE LOCATION:** The subject property is located on the north west
Corner of Gordon Drive and Lawson Avenue.
The current use of the property
(as dictated by a land use contract) is a parking lot.
8. **CIVIC ADDRESS:** 1094 Lawson Avenue
9. **AREA OF SUBJECT PROPERTY:** 1494m²
10. **AREA OF PROPOSED REZONING:** 1494m²
11. **EXISTING ZONE CATEGORY:** Land Use Contract (RU6 underlying)
12. **PROPOSED ZONE:** RM4 – Transitional Low Density Housing

- 13. PURPOSE OF THE APPLICATION:**
- TO DISCHARGE THE EXISTING LAND USE CONTRACT (LUC78-1029)
- TO AMEND THE OFFICIAL COMMUNITY PLAN FUTURE LAND USE DESIGNATION FOR THE SUBJECT PROPERTY FROM MULTIPLE UNIT RESIDENTIAL LOW DENSITY TO MULTIPLE UNIT RESIDENTIAL LOW DENSITY TRANSITION
- TO REZONE THE SUBJECT PROPERTY FROM THE RU6-TWO DWELLING HOUSING ZONE TO THE RM4-TRANSITIONAL LOW DENSITY HOUSING
- 14. MIN. OF TRANS./HIGHWAYS FILES NO.:** N/A
- NOTE: IF LANDS ARE WITHIN 800 m OF A CONTROLLED ACCESS HIGHWAY**

ATTACHMENTS

(not attached to the electronic version of the report)

- Location of subject property
- Site plan
- Floor plans
- Elevations
- Landscaping plan
- Colour Board