
**CITY OF KELOWNA
MEMORANDUM**

Date: August 20, 2004
File No.: Z04-0043 & LUC04-0001
To: City Manager
From: Planning & Corporate Services Department
Subject:

APPLICATION NO. Z04-0043
LUC04-0001 **OWNER:** K. Kaminski Construction Ltd.

AT: 2441 – 2453 Hwy 97 **APPLICANT:** K. Kaminski Construction Ltd.
2455 Hwy 97 (Al Kleinfelder)

PURPOSE: TO DISCHARGE LAND USE CONTRACT NO. 76-1114 ON LOT A PLAN 30858.

REZONE THE SUBJECT PROPERTY FROM C10 – SERVICE COMMERCIAL TO C3 – COMMUNITY COMMERCIAL AND DISCHARGE LAND USE CONTRACT NO. 76-1114

EXISTING ZONE: C10 – SERVICE COMMERCIAL UNDERLYING LUC NO. 76-1114

PROPOSED ZONE C3 – COMMUNITY COMMERCIAL

REPORT PREPARED BY: NELSON WIGHT

SEE ATTACHED FACT SHEET FOR COMPLETE APPLICATION DETAILS

1.0 RECOMMENDATION

THAT Application No. LUC04-0001 to discharge Land Use Contract No.76-1114 from Lot A, D.L. 125 O.D.Y.D. Plan 30858, located on Hwy 97 be considered by Council;

AND THAT Rezoning Application No. Z04-0043 to amend City of Kelowna Zoning Bylaw No. 8000 by changing the zoning classification of Lot A, D.L. 125 O.D.Y.D. Plan 30858 and Lot 1 D.L. 125 O.D.Y.D. Plan 31510, on Hwy 97, Kelowna, B.C. from C10 – Service Commercial to C3 – Community Commercial be considered by Council;

AND THAT the Land Use Contract discharge bylaw and Zone amending bylaw be forwarded to a Public Hearing for further consideration;

AND FURTHER THAT final adoption of the Land Use Contract discharge bylaw and zone amending bylaw be withheld until the Applicant has addressed the requirements of the Works and Utilities department.

2.0 SUMMARY

The Applicant is proposing to rezone the subject property from C10 – Service Commercial to C3 – Community Commercial and discharge Land Use Contract #76-1114.

3.0 ADVISORY PLANNING COMMISSION

On a meeting held July 20, 2004, the Advisory Planning Commission made the following recommendation:

THAT the Advisory Planning Commission supports Rezoning Application No. Z04-0043, for 2441-2453 & 2455 Highway 97 N, Lot A, Plan 30858 & Lot 1, Plan 31510, Sec. 21, Twp. 26, ODYD, by K. Kaminski Construction Ltd. (Al Kleinfelder) to discharge the Land Use Contract and rezone from C10 - Service Commercial to C3 - Community Commercial for an existing commercial building.

4.0 BACKGROUND

4.1 The Proposal

This application is intended to allow for a broader range of commercial uses within this existing building. The Applicant hopes to attract tenants that otherwise would not be able to locate here. The existing Land Use Contract (LUC) that governs Lot A allows uses consistent with the C10 zone, and Lot 1 is subject specifically to the C10 provisions. As part of this application, LUC #77-1114 would be discharged on Lot A Plan 30858.

The application meets the requirements of the C3 – Community Commercial zone as follows:

CRITERIA	PROPOSAL	C3 ZONE REQUIREMENTS
Site Area	Lot 1: 4,775 m ² (1.18 ac.) Lot A: 4,614 m ² (1.14 ac.) Total area: 9,389 m ² (2.32 ac)	460 m ² , or 1300 m ² if there is no abutting lane
Lot Width	Lot 1: 59 m Lot A: 51 m	13.0 m, except it is 40.0 if there is no abutting lane
Lot Depth	Lot 1: 89 m Lot A: 88 m	30.0 m
Building Area (main floor)	3,411 m ²	n/a
Building Area (upper floor)	1,115 m ²	n/a
F.A.R.	Lot 1: 0.79 Lot A: 0.65	1.0
Site Coverage	Lot 1: 40% Lot A: 33%	50%
Height	7.37 m	15.0 m or 4 storeys
SETBACKS		
Front	28 m	3.0 m
Side (southwest)	Lot 1: 0.0 m Lot A: 16.2 m	2.0 m from a flanking street
Side (northeast)	Lot 1: 7.3 m Lot A: 0.0 m	0.0 m
Rear	16.2 m	0.0 m
Parking	124 spaces	116 spaces

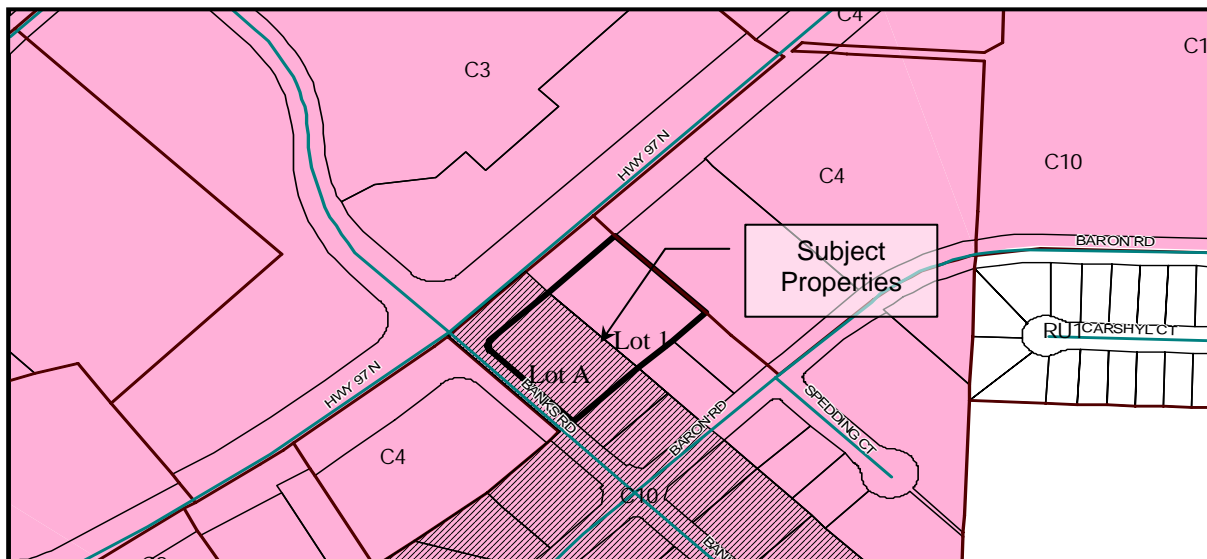
Site Context

The subject property is located northeast of the intersection of Hwy 97 and Banks Road. The surrounding area is entirely commercial in nature. Adjacent land uses are as follows:

North	C3 – Community Commercial
East	C4 – Urban Centre Commercial
South	C10 – Service Commercial
	C10 – Service Commercial underlying L.U.C. #76-1114
West	C4 – Urban Centre Commercial

4.3 Site Map

Subject Properties: 2441 – 2453 Hwy 97 and 2455 Hwy 97



4.4 Existing Uses

The main floor of the building located on the subject property is dominated by retail uses. More specifically, these uses could be defined as “retail store, general” and “retail store, service commercial”. “Retail store, general” is not a listed use within the C10 – Service Commercial zone, but it is a principal use within the C3 – Community Commercial zone. Rezoning the site to C3 would legitimize these existing uses.

The upper floor is used as office space. Much of the space is devoted to training and meeting rooms for tenants such as Primerica Financial Services, among others.

4.5 Development Potential

The purpose of C3 – Community Commercial zone is to provide for the development of community commercial centres, serving more than one neighbourhood. There is a broad range of uses permitted in this zone, as detailed in the list below:

amusement arcades, major	gas bars	personal service establishment
animal clinics, minor	government services	private clubs
animal daycare	group homes, major	recycled materials drop-off centres
broadcasting studios	health services	religious assemblies
care centres, major	hotels	retail liquor sales (C3lp/rls)

commercial schools	liquor primary establishment, major (C3lp/rls only)	retail stores, convenience
custom indoor manufacturing	liquor primary establishment, minor	retail stores, general
drive-in food services	motels	service stations, minor
emergency and protective services	non-accessory parking	spectator entertainment establishments
financial services	offices	used goods stores
food primary establishment	participant recreation services, indoor	utility services, minor impact

4.6 Current Development Policy

4.6.1 Kelowna Official Community Plan

The Future Land Use designation for this property is for commercial development. The proposed land use is consistent with this designation.

5.0 **TECHNICAL COMMENTS**

5.1 Fortis B.C.:

No comments.

5.2 Community Development and Real Estate Manager

The existing Land Use Contract should be released from title. The properties should be consolidated and a Restrictive Access Covenant registered. An Access Easement is required over the property to the east to access parking stalls.

5.3 Fire Department

No comments

5.4 Parks Manager

No comments

5.5 Public Health Inspector

No comments

5.6 Terasen Utility Service

No comments.

5.7 Works and Utilities Department

The Works & Utilities Department comments and requirements associated with this application to rezone the subject property from C10 to C3 are as follows.

5.7.1 General

Provide a corner rounding at the intersection of Banks and Highway 97. The exact amount of dedication is to be determined but should include the existing and future sidewalk network.

5.7.2 Road Improvements

Hwy 97 - The frontage of the property is urbanized to a level consistent with the current Development and Servicing Bylaw and Policies. This application does not trigger any highway frontage upgrading.

Banks Road - The new zone as proposed under this application has the potential to generate more pedestrian traffic than the present zone. Therefore, a sidewalk along the frontage of Banks Road is a requirement that is directly attributable to the requested zoning. The applicant is

required to construct a concrete sidewalk along the entire frontage of Banks Road linking to the sidewalk network along Highway 97. The cost of the sidewalk is estimated at **\$9,100.00** and is inclusive of a bonding escalation.

5.7.3 Domestic Water and Fire Protection

The property is serviced by the Rutland Waterworks District (RWWD) distribution system and as such, all fees associated with regrade or other charges will have to be paid directly to the RWWD.

5.7.4 Drainage

The current storm water management plan appears to be functioning adequately.

5.7.5 Sanitary Sewer

The property is currently serviced by the municipal wastewater collection system.

5.7.6 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

5.7.7 Levies and Performance Bonding

Performance security

Construction of sidewalk on Banks Road \$9,100.00

6.0 PLANNING AND DEVELOPMENT SERVICES COMMENTS

The subject property is designated as Commercial in the Official Community Plan (OCP) and is also located within the Highway Urban Centre. The proposal to discharge the Land Use Contract and rezone the site from C10 to C3 would be in compliance with the OCP and could be supported.

Staff recommends that this application be supported subject to the Applicant addressing the requirements of the Works and Utilities department.

Andrew Bruce

Manager of Development Services

Approved for inclusion

R.L. (Ron) Mattiussi, ACP, MCIP

Director of Planning & Corporate Services

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FACT SHEET

1. APPLICATION NO.:	Z04-0043 & LUC04-0001
2. APPLICATION TYPE:	Discharge of LUC and Rezoning
3. OWNER/APPLICANT:	K. Kaminski Construction Ltd.
CONTACT	Al Kleinfelder
ADDRESS	c/o 3153 Thacker Drive
• CITY	Kelowna, BC
• POSTAL CODE	V1Z 1X8
• TELEPHONE:	(250) 763-4343
• FAX:	(250) 868-2488
• CELL:	(250) 869-6446
5. APPLICATION PROGRESS:	
Date of Application:	June 16, 2004
Date Application Complete:	June 16, 2004
Servicing Agreement Forwarded to	N/A
Servicing Agreement Concluded:	N/A
APC Meeting:	July 20, 2004
Staff Report to Council:	August 20, 2004
6. LEGAL DESCRIPTION:	Lot 1 D.L. 125 O.D.Y.D. Plan 31510 Lot A D.L. 125 O.D.Y.D. Plan 30858
7. SITE LOCATION:	The subject property is located northeast of the intersection of Hwy 97 and Banks Road.
8. CIVIC ADDRESS:	2441 – 2453 Hwy 97 2455 Hwy 97
9. AREA OF SUBJECT PROPERTY:	1093 m ²
10. EXISTING ZONE CATEGORY:	C10 – SERVICE COMMERCIAL UNDERLYING LUC NO. 76-1114
11. PURPOSE OF THE APPLICATION:	DISCHARGE LUC NO. 76-1114, AND REZONE THE SUBJECT PROPERTY FROM C10 – SERVICE COMMERCIAL TO C3 – COMMUNITY COMMERCIAL
12. MIN. OF TRANS./HIGHWAYS FILES NO.: NOTE: IF LANDS ARE WITHIN 800 m OF A CONTROLLED ACCESS HIGHWAY	2-81-20799
13. DEVELOPMENT PERMIT MAP 13.2 IMPLICATIONS	General Commercial and Industrial abutting a major urban roadway

ATTACHMENTS

(not attached to the electronic version of the report)

- Location of subject property
- State of Title
- Site Plan
- Existing Uses