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**CITY OF KELOWNA**

**MEMORANDUM**

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**Date:** November 10, 2004  
**File No.:** TUP04-0001 / OCP04-0017

**To:** City Manager

**From:** Planning and Corporate Services Department

**Subject:**

APPLICATION NO. TUP04-0001 / OWNER: R354 Enterprise Ltd.  
OCP04-0017

AT: 2355-2455 Acland Road APPLICANT: Okanagan Independent School Society

PURPOSE: TO RECEIVE AUTHORIZATION FOR A TEMPORARY COMMERCIAL  
PERMIT AS PER CHAPTER 19 OF THE OFFICIAL COMMUNITY PLAN

EXISTING ZONE: I1-BUSINESS INDUSTRIAL

REPORT PREPARED BY: MARK KOCH

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**SEE ATTACHED FACT SHEET FOR COMPLETE APPLICATION DETAILS**

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**1.0 RECOMMENDATION**

THAT Chapter 19 – Temporary Commercial and Industrial Use Permits, of the City of Kelowna Official Community Plan be amended, to identify part of 2355-2455 Acland Road, identified as Lot 1, Sec. 2, Twp. 23, ODYD, Plan 11263 as a temporary commercial area, limited to an area contained within the northern most 115m of the subject property;

AND THAT final adoption of the Official Community Plan amending bylaw be considered subsequent to the requirements of the Ministry of Transportation & Highways being completed to their satisfaction;

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

AND FURTHER THAT Council authorize issuance of Temporary Use Permit No TUP04-0001; for the Okanagan Independent School Society, on lands described as Lot 1, Sec. 2, Twp. 23, ODYD, Plan 11263; and located at 2355-2455 Acland Road, in Kelowna, BC, subject to the following terms and conditions:

1. The subject property is to be used solely for temporary commercial use as a private school, in accordance with Chapter 19 of the City of Kelowna Official Community Plan;
2. The authorization for the temporary commercial use be valid until November 10, 2006;
3. The dimensions and siting of the buildings be general accordance with Schedule "A";

4. Upon termination of the temporary use permit, the use of the land shall revert back to the existing zoning of the land;
5. Prior to issuance of the temporary commercial use permit, the applicant must provide written acknowledgement that the use will be carried out in compliance with any and all direction from the City of Kelowna Fire Department, an acknowledgement by the applicant of any fire protection deficiencies and further, an agreement to indemnify and save harmless the City from any and all liabilities, claims or demands arising out of fire damage or issuance of this permit, to the satisfaction of the City solicitor;
6. Prior to issuance of the temporary commercial permit, the applicant must provide evidence that the owner's insurance policy has been amended to recognize the implication of Condition No 5 and that the City is named insured in order to guarantee performance of the terms of the permit.

## 2.0 SUMMARY

The applicant has applied for an OCP Amendment to enable Council to consider the issuance of a temporary commercial permit. The applicant is a private school, who were recently forced to vacate their previous premises, and need to find an appropriate school location in order to continue providing their services to the children attending the school. The subject property has previously been used as a school, however, was rezoned to the existing I1-Business Industrial zone. The OCP Future Land Use designation is identified as Industrial and reflects the current zoning. This request for a temporary commercial use permit is the vehicle to have the matter brought before Council for consideration, relating to the specifics of the proposed use. Specific conditions can be made for each individual permit application, including bonding requirements and may define a variation to the term of the permit, as long as it does not exceed two years.

The Planning and Corporate Services Department is recommending that Council authorize the temporary use permit for a period ending November 10, 2006 in order for the school to complete their search for a permanent location. The school intends to occupy the entire building, which is approximately 1589m<sup>2</sup> (17104ft<sup>2</sup>) in size, and includes seven classrooms, a gym, computer lab, and a library. The school also plans on adding up to four portable classrooms, which were in place when they previously occupied this particular site.

There are several conditions that this recommendation is subject to, including the requirement that the applicant confirm acknowledgement of the deficiencies related to fire protection, and that the City be indemnified under agreement to the satisfaction of the City solicitor. The enabling legislation provides that the local authority can only issue a permit for a period of up to two years. However, the applicant is able to apply for one renewal of the temporary use permit for a period of not more than an additional two years. Staff are hesitant to support the extension of the temporary use permit beyond the initial period ending on November 10, 2006 as the proposed permit duration appears to be sufficient for the tenant to make an alternative arrangement for a school location. In any event, consideration of an extension of the permit will be an issue for Council to consider at such time as an application is made for renewal of the permit.

## 3.0 ADVISORY PLANNING COMMISSION

The subject application was reviewed by the Advisory Planning Commission at the meeting of November 9, 2004, and the following recommendation was passed:

THAT the Advisory Planning Commission supports Official Community Plan Amendment Application No. OCP04-0017 and Temporary Use Permit Application No. TUP04-0001, for 2355/2455 Acland Road, Lot 1, Plan 11263, Sec. 2, Twp. 23, ODYD, by Okanagan Independent School Society (Michael Holzhey), to receive authorization for a temporary commercial permit, as per Chapter 19 of the Official Community Plan, for a commercial school.

#### 4.0 Site Context

The subject property is located within the Highway 97 Sector Plan area, and is situated within a neighbourhood that is primarily industrial in nature.

Adjacent zones and uses are, to the:

- North - I2-General Industrial / Industrial Building Development  
RR3-Rural Residential 3 / Single Dwelling Housing
- East - I1-Business Industrial / Industrial Building Development  
I2-General Industrial / Industrial Building Development
- South - A1-Agricultural 1 / Single Dwelling Housing
- West - I2 - General Industrial / Industrial Building Development

This application meets the requirements of the I1- Business Industrial zone as follows:

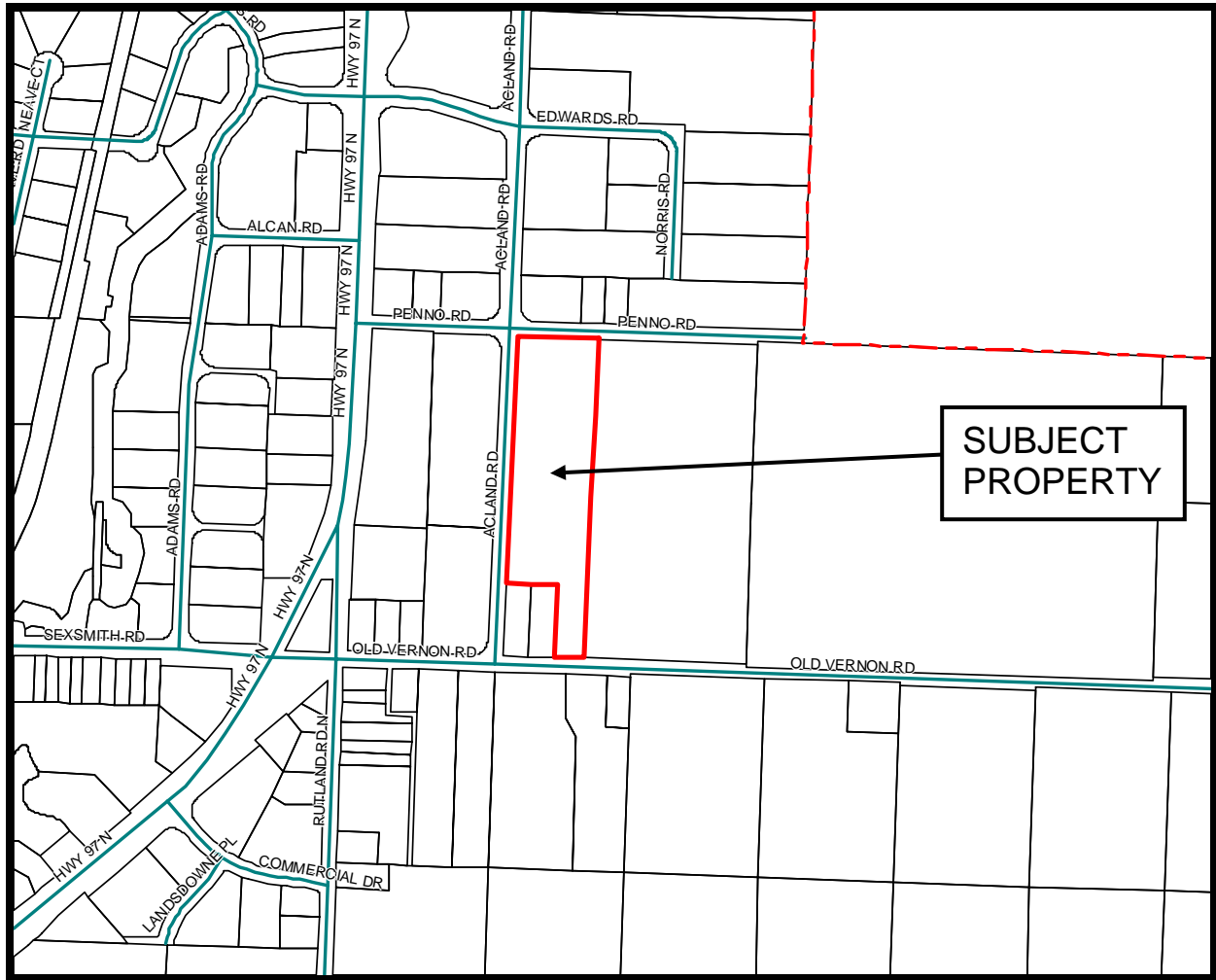
| CRITERIA  | PROPOSAL   | I1 ZONE REQUIREMENTS   |
|---|--|--|
| Site Area (m <sup>2</sup> )                           | 34,182m <sup>2</sup> (entire site)                             | 1ha<br>4000m <sup>2</sup> where sewer is available   |
| Site Width (m)  | 160m (525')  | 40.0m  |
| Site Coverage (%) IHA BLDG<br>School                  | 29.7%<br>4.6%  | N/A  |
| Total Floor Area (m <sup>2</sup> ) IHA BLDG<br>School | 5662m <sup>2</sup> (60,820SF)<br>1589m <sup>2</sup> (17,104SF) | Max 41,018 m <sup>2</sup> @ FAR = 1.2  |
| F.A.R.  | 0.212  | Max. FAR = 1.2   |
| Storeys (#)   | 2 storeys(30.5') 9.2m  | 3 storeys (16m)  |
| Setbacks (m) School Building                          |  |  |
| - Front (Acland Road)                                 | 39m (128')   | 6.0m   |
| - Rear  | 25m (84')  | The minimum rear yard is 0.0m where adjacent to commercial or industrial zones, except that it is 6.0m abutting other zones.   |
| - North Side  | 49m (162')   | The minimum side yard is 0.0m where adjacent to commercial or industrial zones, except that it is 6.0m abutting other zones. The minimum side yard is 4.5m from a flanking street. |
| - South Side  | 35m (117')   | The minimum side yard is 0.0m where adjacent to commercial or industrial zones, except that it is 6.0m abutting other zones. The minimum side yard is 4.5m from a flanking street. |
| Parking Stalls (#) School                             | 44 provided  | 40 stalls required   |

Notes: PARKING CALCULATIONS:

IHA building – 5664m<sup>2</sup> @ 2.5 stalls per 100m<sup>2</sup> = 142 stalls  
 Old School building – 1589m<sup>2</sup> @ 2.5 stalls per 100m<sup>2</sup> = 40 stalls  
 Total parking stalls required **182 stalls**

**197 Stalls provided - (8.2% over)**

## Site Location Map



## 5.0 Existing Development Potential

The proposed I1 – Business Industrial Zone permits; broadcasting studios, business support services, care centres – major, commercial storage, contractor services – limited, custom indoor manufacturing, emergency and protective services, food primary establishment, general industrial uses, liquor primary establishment – minor, offices, participant recreation services - indoor, private clubs, utility services - minor impact, as principal permitted uses, and residential security/operator unit as a permitted secondary use.

## 5.1 Current Development Policy

### 5.1.1 Kelowna Official Community Plan - Temporary Commercial and Industrial Use Permits

In accordance with the Local Government Act (Sections 879 and 921), an Official Community Plan may designate areas where Council may consider allowing temporary commercial and industrial uses, and may specify general conditions regarding the issuance of temporary use permits in those areas. The temporary use designation is intended to apply to operations that are temporary in nature and the designation does not in itself permit commercial or industrial uses on the designated sites. Within these areas, Council may, by resolution, issue a Temporary Commercial or Industrial Use Permit and specify the conditions under which the

temporary use be carried on. Upon the expiration of a Temporary Use Permit, the permitted uses revert to those outlined in the City of Kelowna Zoning Bylaw 8000. A temporary commercial permit may be issued for any area designated as commercial on OCP Map 19.1 Generalized Future Land Use and/or zoned commercial under Zoning Bylaw 8000. A temporary industrial permit may be issued for any area designated as industrial on OCP Map 19.1 Generalized Future Land Use and/or zoned industrial under Zoning Bylaw 8000.

## 6.0 TECHNICAL COMMENTS

### 6.1 Works & Utilities Department

As a condition of this application, Works and Utilities recommends that all the servicing and frontage upgrading previously identified under files Z03-0022 and S04-0048 be undertaken to provide safety to the user of the school facility. The property owner has submitted a letter of credit and a duly signed a servicing agreement for the frontage upgrading.

## 7.0 PLANNING AND CORPORATE SERVICES DEPARTMENT

Staff supports the amendment to the OCP to make a provision for this temporary commercial permit, as the temporary commercial permit procedure is a way of acknowledging that there may be suitable temporary uses that will have a finite time limit that can be accommodated without rezoning the land. In this particular case, a temporary use permit can be used to assist an existing private school, and help preserve the unique relationships already formed between teachers and students. Although the Planning and Corporate Services Department would not support a rezoning of the subject property to the required P2-Education and Minor Institutional zone, staff recommends that Council consider a temporary use permit for the subject property in order to facilitate the survival of the former Central Okanagan Academy school.

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Andrew Bruce  
Development Services Manager

Approved for inclusion

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

RGS/MK/mk

Attach.

**FACT SHEET**

1. **APPLICATION NO.:** TUP04-0001 / OCP04-0017
2. **APPLICATION TYPE:** Temporary Use Permit / Official Community Plan Amendment
3. **OWNER:** R354 Enterprise Ltd. / Bob Callahan
  - **ADDRESS** 218-1626 Richter Street
  - **CITY** Kelowna, BC
  - **POSTAL CODE** V1Y 2M3
4. **APPLICANT/CONTACT PERSON:** Okanagan Independent School Society / Michael Holzhey
  - **ADDRESS** 102-260 Harvey Avenue
  - **CITY** Kelowna, BC
  - **POSTAL CODE** V1Y 7S5
  - **TELEPHONE/FAX NO.:** 250-448-7260
5. **APPLICATION PROGRESS:**
  - Date of Application:** October 5, 2004
  - Date Application Complete:** October 5, 2004
  - Servicing Agreement Forwarded to Applicant:** N/A
  - Servicing Agreement Concluded:** N/A
  - Staff Report to APC:** N/A
  - Staff Report to Council:** November 10, 2004
6. **LEGAL DESCRIPTION:** Lot 1, Sec. 2, Twp. 23, ODYD, Plan 11263
7. **SITE LOCATION:** On Acland Road, north of Old Vernon Road
8. **CIVIC ADDRESS:** 2355-2455 Acland Road
9. **AREA OF SUBJECT PROPERTY:** 3.4ha (8.5ac)
11. **EXISTING ZONE CATEGORY:** I1-Business Industrial
13. **PURPOSE OF THE APPLICATION:** To received authorization for a temporary commercial permit as per chapter 19 of the official community plan
14. **MIN. OF TRANS./HIGHWAYS FILES NO.:** Application under review, comments pending  
**NOTE: IF LANDS ARE WITHIN 800 m OF**  
**A**  
**CONTROLLED ACCESS HIGHWAY**
15. **DEVELOPMENT PERMIT MAP 13.2 IMPLICATIONS** N/A

*ATTACHMENTS*

*(not attached to the electronic version of the report)*

- Location of subject property
- Affidavit
- Site Plan