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**CITY OF KELOWNA**

**MEMORANDUM**

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**Date:** January 5, 2005  
**File No.:** (3360-20) **Z04-0065/OCP04-0016**

**To:** City Manager

**From:** Planning & Corporate Services Department

**Subject:**

APPLICATION NO. Z04-0065 / OWNER: SIMPLE PURSUITS INC.  
OCP04-0016

AT: 1007 RUTLAND RD. N. APPLICANT: AS ABOVE

PURPOSE: TO AMEND THE FUTURE LAND USE DESIGNATION OF A PORTION OF THE SUBJECT PROPERTY FROM THE EXISTING "COMMERCIAL" DESIGNATION TO THE PROPOSED "MULTIPLE UNIT RESIDENTIAL – LOW DENSITY" FUTURE LAND USE DESIGNATION;

TO REZONE A PORTION OF THE SUBJECT PROPERTY FROM THE EXISTING "C2 – NEIGHBOURHOOD COMMERCIAL" ZONE TO THE PROPOSED "RM3 – LOW DENSITY MULTIPLE HOUSING" ZONE

EXISTING ZONE: C2 – NEIGHBOURHOOD COMMERCIAL

PROPOSED ZONE: RM3 – LOW DENSITY MULTIPLE HOUSING

REPORT PREPARED BY: PAUL McVEY

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**1.0 RECOMMENDATION**

THAT OCP Bylaw Amendment No. OCP04-0016 to amend Map 19.1 of the *Kelowna 2020* - Official Community Plan Bylaw No. 7600 by changing the Future Land Use designation of a part of Lot 1, Sec. 26, Twp. 26, O.D.Y.D., Plan KAP65904, located on Rutland Road N., Kelowna, B.C., from the existing "Commercial" designation to the proposed "Multiple Unit Residential – Low Density" designation, as shown on Map "A" attached to the report of Planning & Corporate Services Department, dated January 5, 2005, be considered by Council;

THAT Rezoning Application No. Z04-0065 to amend the City of Kelowna Zoning Bylaw No. 8000 by changing the zoning classification of part of Lot 1, Sec. 26, Twp. 26, O.D.Y.D., Plan KAP65904, located on Rutland Road N., Kelowna, B.C., from the existing C2 – Neighbourhood Commercial zone to the proposed RM3 – Low Density Multiple Housing zone as shown on Map "B" attached to the report of Planning & Corporate Services Department, dated January 5, 2005, be considered by Council;

AND THAT the OCP Bylaw Amendment No. OCP04-0016 and 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 subsequent to the requirements of the Works & Utilities Department being completed to their satisfaction;

AND FURTHER THAT final adoption of the zone amending bylaw be withheld until the owner has executed a Servicing Agreement acceptable to the City of Kelowna, and has discharged the Restrictive Covenant for the Building Scheme.

## 2.0 SUMMARY

The development site was zoned to the C2 – Local Commercial zone in November 1996. The lot was created in December 1999 as part of the registration of the plan of subdivision which created the McCurdy Road extension access route to the proposed Tower Ranch development.

At the time the lot was created, there was a Building Scheme registered as a Section 219 restrictive covenant on title to control the form of development and specifically indicated residential uses on the second floor of the proposed commercial development in order to create a mixed-use development. The development was also to be sited close to the street corner to encourage pedestrian oriented development. This restrictive covenant was required in response to concerns raised by Council at the Public Hearing regarding the development of the site.

In November 2003, the applicant made application and received permission to construct a 311 m<sup>2</sup> building on the subject property for use as a convenience store. There was also an associated application for a Development Variance Permit which has been made to authorize a 1.5 m roof overhang to project into the required front and flanking side yards, where the zoning bylaw limits projections into the yards to a maximum of 600 mm.

This current development application proposes the development of the remainder of the subject property with a 204 m<sup>2</sup> commercial building located adjacent to the north boundary near the Rutland Road frontage of the property, and an 8 unit townhouse building proposed to be located adjacent to the east boundary of the property.

However, as the applicant also wishes to subdivide the residential portion off of the parent site it will be necessary to revisit the restrictive covenant registered on title to have it amended or discharged. This application seeks to rezone that part of the subject property that is developed with the 8 townhouse units. There has also been an application made for an OCP Amendment to apply a "Multiple Unit Residential – low density" designation to that portion of the development site.

There has been an associated Development Variance Permit application seeks to reduce what will become the rear yard setback of the "RM3 – Low Density Multiple Housing" zoned portion of the development site, once the subdivision is complete.

Council will have an opportunity to consider the associated Development Permit and Development Variance Permit applications prior to final adoption of the zone amending bylaw, should this rezoning application proceed.

## 2.1 Advisory Planning Commission

The above noted applications (Z04-0065/OCP04-0016) were reviewed by the Advisory Planning Commission at the meeting of October 12, 2004 and the following recommendation was passed:

THAT the Advisory Planning Commission supports Official Community Plan Amendment Application No. OCP04-0016 and Rezoning Application No. Z04-0065, for 1007 Rutland Rd N, Lot 1, O.D.Y.D., Plan KAP65904, by Simple Pursuits Inc. (Shane Worman), to amend the Future Land use designation of a portion of the subject property from the existing "Commercial" designation to the proposed "Multiple Unit Residential – Low Density" future land use designation; and to rezone a portion of the subject property from the existing "C2 – Local Commercial" zone to the proposed "RM3 – Low Density Multiple Housing" zone;

## 3.0 BACKGROUND

### 3.1 The Proposal

In November 2003, Development Permit DP03-0121 was issued after Council consideration on December 2, 2003, which authorized the development of a 311 m<sup>2</sup> commercial building which has been used as a convenience store. It was anticipated that future phases of development would include mixed-use components as required by the restrictive covenant building design scheme. Should this not occur, Council will have to direct the Mayor and City Clerk, as well as the Subdivision Approving Officer, to approve the amended restrictive covenant building scheme, or discharge the covenant in its entirety.

This current application proposes the development of the remainder of the subject property with a 204 m<sup>2</sup> commercial building proposed to be located adjacent to the north boundary of the subject property near the Rutland Road frontage, and an 8 unit townhouse building located adjacent to the east boundary of the subject property.

The proposed commercial building is designed as a single storey building that is finished with a blend of stucco and brick facing finishes, and pre-cast concrete detail elements. The south façade and a portion of the west façade include store front glazing. The business entrance is located in the centre of the south façade.

The 8 unit row house unit is designed as a 2 ½ storey building, located adjacent to the east property line of the subject property, extending from the north property line, south towards the south property line adjacent to McCurdy Road.

The floor plans provided indicate the lower floor is designed with a single car garage, and space for a small den, storage, and the main entrance to the unit. The grade level of the garage and entry areas are 1.2 m (4') below the remainder of the property.

The main living level is designed to provide kitchen, dining, and living room areas, as well as a small powder room.

The upper level is designed to provide 2 bedrooms, a full bathroom, and an ensuite bathroom to the master bedroom.

Council will have an opportunity to consider the associated Development Permit application (DP04-0119) Development Variance Permit application (DP04-0122) to deal with the proposed form and character of the development prior to final adoption of the zone amending bylaw, should Council support this rezoning application for further consideration.

The proposal as compared to the C2 zone requirements is as follows:

CRITERIA	PROPOSAL	C2 ZONE REQUIREMENTS
Site Area (m <sup>2</sup> ) (before subdivision)	3,998.9 M <sup>2</sup>	1,500 M <sup>2</sup>
Site Width (m)	55 M	40 M
Site Coverage (%)	24 %	40%
Total Floor Area (m <sup>2</sup> )	1,166 M <sup>2</sup>	1,203 M <sup>2</sup> max @ FAR = 0.3
F.A.R.	.29	FAR = 0.3 + 0.2 = 0.5 max
Storeys (#)	2 ½ storey	2 ½ Stories (10.5 M) Max
Setbacks (m)		
- Front (Rutland Rd)	4.5 m	4.5 M
- Rear	7.5 m	6.0 M adj. to residential
- North Side	3.0 m	3.0 M for 2 or 2 ½ Storey
- South Side (Flanking)	4.5 m	4.5 M
Parking Stalls (#)	29 stalls provided	23 stalls required
Loading Stalls (#)	1 stall provided	1 per 1,900 M <sup>2</sup> GFA

Parking Calculations;

Commercial	515 m <sup>2</sup> @ 2 / 100 m <sup>2</sup> GFA =	11 stalls required
Residential	8 - 2br units @ 1.5 stalls / unit =	12 stalls required
<b>TOTAL PARKING REQUIRED</b>		<b>23 STALLS x 125% = 29 stalls maxi.</b>

This proposed application has been reviewed for compliance with the existing “C2 – Neighbourhood Commercial” zone, as noted in the table above. However, it is the desire of the applicant to make a future application for subdivision of the site in order to separate the commercial and residential components of the subject property, and to rezone the residential component to the “RM3 – Low Density Multiple Housing” zone.

As that portion of the subject property is designated as “Commercial” in the Official Community Plan, it will be necessary for the applicant to make application for an OCP amendment concurrently with the Rezoning application. As well, after subdivision, the residential lot will have the front yard facing McCurdy Road, which will make the north property line for that lot the rear yard. Prior to subdivision, that area would have been considered as an interior lot line and has been provided with a 3.0 m side yard set back, consistent with the side yard set back recruitments of the “C2 – Neighbourhood Commercial” zone. A Development Variance Permit will be required to address this situation.

Zoning summary tables have been provided below to indicate the zone compliance after subdivision.

#### COMMERCIAL COMPONENT

The proposal after subdivision as compared to the C2 zone requirements is as follows:

CRITERIA	PROPOSAL	C2 ZONE REQUIREMENTS
Site Area (m <sup>2</sup> )	2,116.03 M <sup>2</sup>	1,500 M <sup>2</sup>
Site Width (m)	55 M	40 M
Site Coverage (%)	8 %	40%
Total Floor Area (m <sup>2</sup> )	515 M <sup>2</sup>	1,203 M <sup>2</sup> max @ FAR = 0.3
F.A.R.	.24	FAR = 0.3
Storeys (#)	1 storey	2 ½ Stories (10.5 M) Max
Setbacks (m)		
- Front (McCurdy Rd)	4.5 m	4.5 M
- Rear	3.0 m	3.0 M
- East Side	2.0 m	2.0 M for 1 or 1 ½ Storey
- West Side (Flanking)	4.5 m	4.5 M
Parking Stalls (#)	17 stalls provided	2 per 100 M <sup>2</sup> GFA = 11 stalls req'd
Loading Stalls (#)	1 stall provided	1 per 1,900 M <sup>2</sup> GFA

#### MULTIPLE UNIT RESIDENTIAL COMPONENT

The proposal after subdivision as compared to the RM3 zone requirements is as follows:

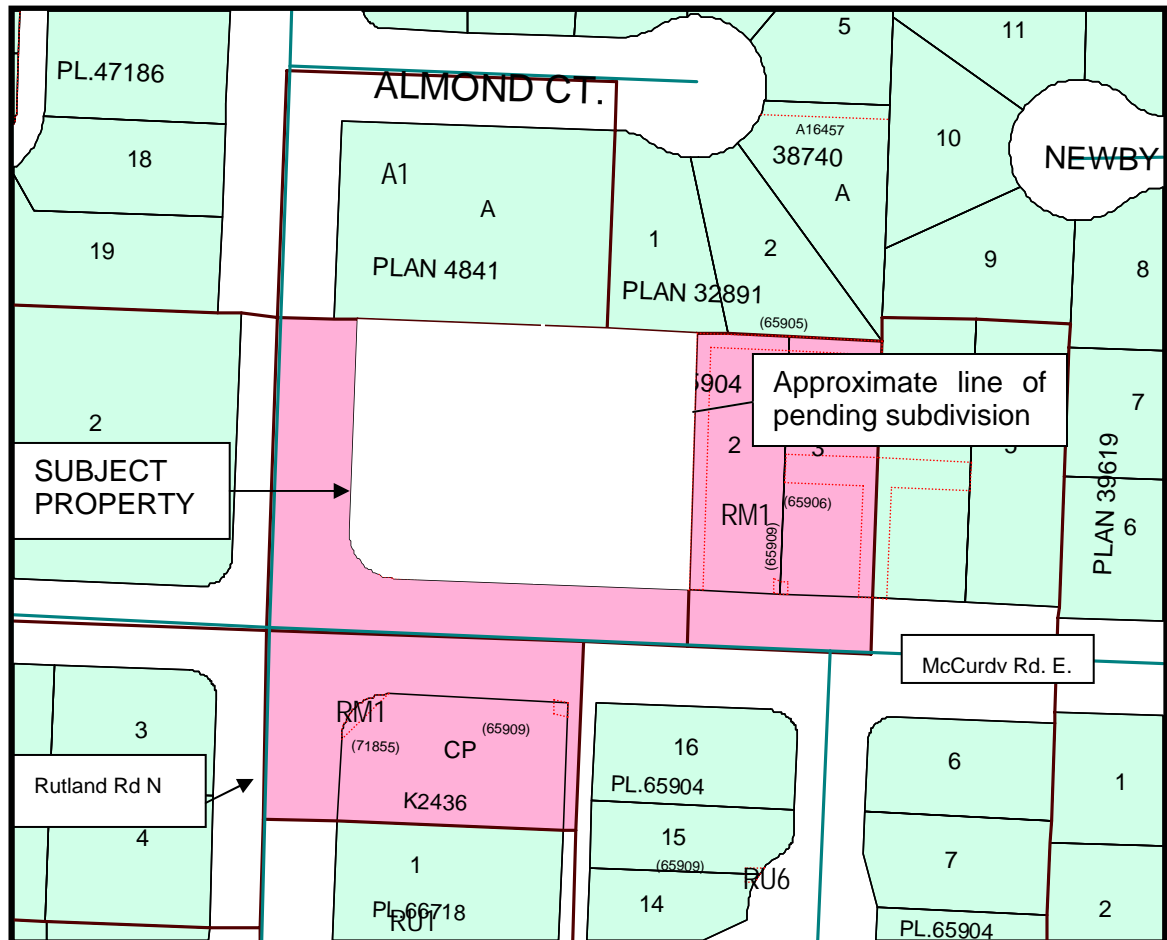
CRITERIA	PROPOSAL	RM3 ZONE REQUIREMENTS
Site Area (m <sup>2</sup> )	1,882.87 m <sup>2</sup>	900 m <sup>2</sup>
Site Width (m)	34.18 m	30 m
Site Coverage (%)	24% Buildings only 50% buildings and parking areas	The maximum building site coverage is 40%, provided that the maximum site coverage of buildings, driveways, and parking areas is 50%.
Total Floor Area (m <sup>2</sup> )	1,118.4 m <sup>2</sup>	1,129.7 m <sup>2</sup> max @ FAR = 0.6
F.A.R.	0.60	FAR = 0.5 + 0.1 = 0.6 max
Storeys (#)	2 ½ storey	2 ½ Stories (9.5 m) max
Setbacks (m)		
- Front (McCurdy Rd)	4.5 m	4.5 m (6.0 m from garage or carport)
- Rear	3.0 m ❶	7.5 m
- East Side	7.5 m	4.5 m for 2 or 2 ½ storey building
- West Side	17.1 m	4.5 m for 2 or 2 ½ storey building
Parking Stalls (#)	18 stalls provided	1.5 stall per 2 br unit 8 units, 12 stalls required

#### NOTES;

❶ The associated DVP04-0122 application seeks to vary the rear yard setback in the RM3 zone from the 7.5 m required to the 3.0 m proposed.

### 3.2 Site Context

#### SUBJECT PROPERTY MAP



The subject property is generally flat and level, and has a convenience store located at the southwest corner of the site. The site was the former location of the “Greenery” nursery. The subject property was created in 1999 as part of the road dedication to provide for the access route to the pending Tower Ranch Golf Resort. At the time that the lot was created, there was a building scheme registered on title to control the form of building permitted on the site.

Adjacent zones and uses are, to the:

- North - A1 – Agriculture 1 / Church
- RU1 – Large Lot Housing / Single Family Dwelling units
- East - RM1 – Four Plex Housing / Vacant
- South - RM1 – Four Plex Housing / Four Plex housing units, McCurdy Rd. E.
- West - A1 – Agriculture 1 / Knights of Columbus church hall

### 3.3 Existing Development Potential

The existing “C2 – Neighbourhood Commercial” zone permits; animal clinics – minor, care centres – major, financial services, food primary establishment, gas bars, health services, liquor primary establishment – minor, offices, participant recreation services – indoor, personal service establishments, public libraries and cultural exhibits, recycled materials drop-off centres, and retail stores – convenience as principal permitted uses, as well as; amusement arcades – minor, apartment housing, care centres – minor, group homes – minor, home based businesses – minor, and retail liquor sales establishment (C2rls only) as permitted secondary uses.

The proposed zone of “RM3 – Low Density Multiple Housing” allows for apartment housing, congregate housing, group home – major, row housing, semi-detached housing, and stacked row housing as permitted principal uses. The zone also permits care centres – major, and home based businesses – minor as permitted secondary uses.

### 3.4 Current Development Policy

#### 3.4.1 Kelowna Official Community Plan

This proposal is consistent with the Official Community Plan future land use designation of “Commercial”.

However, in order to support a future subdivision and the rezoning of the residential area to a Residential zone, it will be necessary for the applicant to apply for an Official Community Plan amendment.

#### 3.4.2 City of Kelowna Strategic Plan (1992)

The application is consistent with the Strategic Plan, as follows:

“The City will, in its plans and policies concerning future urban development, place an emphasis on more efficiently using serviced land within existing urban areas through infill and will provide for an increased density of development within established urban areas through redevelopment of areas which are in transition. Urban areas which are targeted include the Central City area with emphasis on the waterfront and north end, Rutland, and South Padosy particularly along major traffic arteries and near the town centres, the Glenmore Valley and Highway 97 corridor.”

### 4.0 TECHNICAL COMMENTS

The application has been circulated to various technical agencies and City departments and the following relevant comments have been submitted:

#### 4.1 Fire Department

No Concerns

#### 4.2 FortisBC

Will provide u/g electrical service.

#### 4.3 Inspection Services Department

The proposed development falls under Part 9 BCBC - Designer to:

- Ensure Separate signage package is provided for review.
- Review that Fire dept access meets 9.10.19.3/3.2.5.6.
- Confirm proposed CRU as group E or group A2(part 3 BCBC).
- Review spatial limits north side of residential building.
- Review spatial limits and const. for north face of CRU.
- Review requirements for 9.10.12. Exterior walls and 9.10.14.13. for combustible clearances for residential bldg.

There will be a chance for further review of the above at the time of Building Permit application.

#### 4.4 Irrigation District (B.M.I.D.)

The above noted property is within B.M.I.D. boundaries and is currently serviced with a 150mm water line. We have no objections to the proposed development subject to;

1. In regards to the commercial building, a capital cost charge of \$1,000.00 for the first 100 m2 and \$4.00 per m2 thereafter. 2,044 m2 = \$8,776.00 plus a \$350.00 connection fee. Total = \$9,126.00
2. In regards to the townhouse units, a capital cost charge of \$800.00 per unit. 8 units = \$6,400.00. Plus a \$150.00 per unit connection fee. 8 units = \$1,200.00. Total = \$7,600.00.

Comments;

The existing watermain goes directly to the existing commercial building. We would suggest the “teeing” off this line on property line and installing two valves to enable independent shut off capability for the existing commercial building and the proposed development. If the units will be stratified, an independent shut off to each unit will be required.

Fire flow is deemed adequate for the development.

#### 4.5 Parks Manager

1. Street trees contribute to the liveability of a street. Trees modify the microclimate and foster a sense of comfort and safety for drivers and pedestrians. The Parks Division recommends the planting of street trees along Rutland Road East and McCurdy Road East consistent with the City of Kelowna's Urban Forestry Tree Planting Guide (available at the Parks Division).
2. Parks encourages the applicant to incorporate native plants and xeriscape vegetation where practical.
3. In an effort to conserve water, all automated irrigation systems will be design to minimize overspraying on non-landscaped areas including City sidewalks, courtyards, parking areas, roadways, etc.

#### 4.6 Public Health Inspector

City water and sewer required.



4.7 Shaw Cable

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

4.8 Telus

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

4.8 Works and Utilities Department

The Works & utilities Department comments and requirements regarding this Development permit application are as follows:

The general layout of the proposed development is not supported by Works and Utilities by virtue of the fact that it does not respect the existing driveway located at the easterly end of the subject property.

The proposed new driveway location is within the left turn bay on McCurdy Road, which create a unacceptable conflict between vehicles waiting at the light to make a left turn and the vehicles making a left turn onto the subject property. Any development of the subject property must respect the original planned layout that complies with all the existing accesses.

Note; The applicant has met with City Staff to review the issue of the location of the relocated access driveway as it impacts the left turn bay on to Rutland Road, and have agreed on a mutually acceptable means to deal with this issue.

5.0 PLANNING AND CORPORATE SERVICES DEPARTMENT COMMENTS

The building scheme that is registered on the title of the subject property as a Section 219 restrictive covenant requires that the proposed development has a residential use on the second storey in order to create a mixed-use development on the site. This restrictive covenant was required in response to concerns raised by Council at the Public Hearing regarding the development of the site.

The previously approved development plan (DP03-0121) approved a small commercial building for use as a convenience store. As that building development did not include a residential component, it was anticipated that application for future phases would include a residential component.

This current application provides for another small commercial building on site, as well as a residential component to provide for a "Mixed-Use" development on site. However, the applicant would also like to subdivide the commercial component of this development proposal from the multi-unit residential component. As this current application does not propose combining the residential component within the proposed building, it will be necessary to revisit the restrictive covenant registered on title to either amend or discharge the document.

These applications for an OCP amendment to change the future land use designation from “Commercial” to “Multiple Unit Residential – low density” and Rezoning to the RM3 – Low Density Multiple Housing” zone are required to facilitate the applicant’s desire to create the multi-unit residential development as a separate entity from the commercial component in order to simplify the future operation of the resulting development. This development, when complete, will provide both residential and commercial uses on the subject property, as was required by the original restrictive covenant. However, as the pending lot for the residential component is planned to be subdivided off from the commercial lot, the existing restrictive covenant will have to be modified prior to final adoption of the zone amending bylaw.

Council will have an opportunity to consider an associated Development Permit application to address the form and character of the proposed development. As well, there has also been a Development Variance Permit application made to reduce the rear yard setback of the multi-unit residential area from the required 7.5 m to the proposed 3.0 m are all to facilitate a pending subdivision in order that the commercial land uses are on a separate lot from the residential uses.

The Planning and Development Services Department does not have concerns with this application, and recommends for positive consideration by Council.

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Andrew Bruce  
Manager of Development Services

Approved for inclusion

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

PMc/pmc  
Attach.

Attachments

(Not attached to the electronic copy of the report)

Subject Property Map

Maps A & B (2 pages)

4 pages of site plans, elevations & building diagrams