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**CITY OF KELOWNA**  
**MEMORANDUM**

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**DATE:** September 20, 2007

**TO:** City Manager

**FROM:** Planning and Development Services Department

**APPLICATION NO.** Z07-0060

**APPLICANT:** Gazelle Enterprises Inc.

**AT:** 601, 605, 609, 613 & 617 Horn  
Crescent

581, 583, 585, 587 & 589  
South Crest Drive

**OWNERS:** Robert G. & Rena Mitchell;  
Mission Creek Homes Ltd., Inc. No. BC0747200;  
Simon G. & Corie J. Griffiths; Amandeep S. & Bimy  
Sandhu; Victor E. Loewen; Inc. No. 656169; Umberto  
& Amanda I.A. Cagnoni and Gazelle Enterprises Inc.,

**LEGAL DESCRIPTION:**

Lots 5 – 15 District Lot 1688S Similkameen Division  
Yale District Plan KAP82290

**PURPOSE:** TO REZONE THE SUBJECT PROPERTY FROM THE RU2 - MEDIUM  
LOT HOUSING ZONE TO THE RU2H – MEDIUM LOT HOUSING  
(HILLSIDE AREA) ZONE TO FACILITATE THE USE OF HILLSIDE  
DEVELOPMENT STANDARDS CONSISTENT WITH THE  
SURROUNDING NEIGHBOURHOOD.

**EXISTING ZONE:** RU2 – MEDIUM LOT HOUSING

**PROPOSED ZONE** RU2h – MEDIUM LOT HOUSING (HILLSIDE AREA)

**REPORT PREPARED BY:** Corine (Cory) Gain, MCIP, CPT

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## **1.0 RECOMMENDATION**

THAT Rezoning Application No. Z07-0060 to amend the City of Kelowna Zoning Bylaw No. 8000 by changing the zoning classification of Lots 5 – 15 District Lot 1688S Similkameen Division Yale District Plan KAP82290, located on Horn Crescent and South Crest Drive, Kelowna BC from RU2 – Medium Lot Housing Zone to RU2h – Medium Lot Housing (Hillside Area) Zone be considered by Council;

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

## **2.0 SUMMARY**

This rezoning application seeks to rezone the subject property from RU2 – Medium Lot Housing to RU2h – Medium Lot Housing (Hillside Area) Zone to facilitate the use of the Hillside Development Standards consistent with properties in the surrounding area affected by a steep slope in the rear yard. The original application contemplated rezoning for all 15 lots in the subdivision. The application has been modified to include only those lots that are affected by the slope to the south of South Crest Drive and Horn Crescent.

### **3.0 ADVISORY PLANNING COMMISSION**

At the regular meeting of September 11, 2007 it was resolved:

THAT the Advisory Planning Commission supports Rezoning Application No. Z07-0060, for Horn Crescent & South Crest Drive, Lots 1 to 15 inclusive, Plan 82290, by Gazelle Enterprises Inc (G. Gaucher), to rezone 15 lots from RU2 – Medium Lot Housing to RU2h – Medium Lot Housing (Hillside Area) to facilitate the use of Hillside Development Standards consistent with the surrounding neighbourhood.

### **3.0 BACKGROUND**

#### **3.1 The Proposal**

The property is zoned RU2 – Medium Lot Housing. The purpose is to rezone the subject properties to allow for development that is consistent with the hillside development that has occurred to the south and east of these properties.

Since the parent property was rezoned from P2 – Education and Minor Institutional Zone in February 2006 and lots created by Subdivision Plan KAP82290 under S05-0024-01 the properties along the base of the slope (Lots 5 – 15) have been developed as if designated the Hillside Area Designation ("h"). To be consistent with the 2001 decision on the designation of neighbouring South Ridge properties to the "h" Hillside Area zoning designation the property could have been designated RU2h. This application seeks to resolve the inconsistency in the zoning designation.

The Surveyor Certificates for four lots (601, 605, 609 and 613 Horn Crescent) indicate that the homes on these properties were constructed on the assumption by builders that the properties were zoned RU2h. In fact, the building permit drawings showed the standard RU2 setbacks and were approved on that basis. A fifth home at 617 Horn Crescent was issued a building permit that approved the RU2h setbacks. Final Occupancy Permits for the houses completed are being withheld until the zoning is changed. When this issue was first discovered the builders were advised that they proceeded with construction at their own risk.

#### **3.2 Site Context**

The subject property is located in the South Ridge development at the western end of South Crest Drive. The surrounding area has been developed as a single-family neighbourhood. More specifically, the adjacent land uses are as follows:

North-	P3 – Parks & Open Space & RU2 – Medium Lot Housing
East	P3 – Parks & Open Space; RM2h – Low Density Housing (Hillside Area) and RU1h Large Lot Housing (Hillside Area)
South	RU1h – Large Lot Housing (Hillside Area)
West	A1 – Agriculture (currently undeveloped)

#### 4.0 Current Development Policy

The Kelowna Hillside Development Guidelines, October 2001 states that, “building setbacks should be varied to complement the character of hillside settings and to protect slopes, ridges, or special features” (p. 3-5). The hillside area zoning designations were designed to address this issue. The rear of the subject properties features a significant slope into a parks and open space area.

#### 5.0 TECHNICAL COMMENTS

5.1 Environment Manager  
No concerns.

5.2 Fire Department  
No objections.

5.3 Inspections Department  
No concerns.

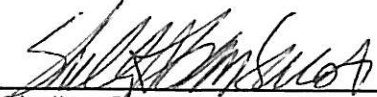
5.4 Parks Department

- .1 To prevent private/public encroachment, the applicant will be required to delineate the private property lines adjacent to the parkland of Lots 5-10, and 13-15 with a minimum 1.2 m high (4ft.) black vinyl chain link fence with black powder coated posts, rails and hardware located 150 mm (6 ft.) within the private property.
- .2 The adjacent parkland shall not be disturbed during the building process, no debris or garbage, no tree cutting, damage to the natural ground cover, material or construction storage and/or equipment parking.

5.5 Works and Utilities Department  
All Works & Utilities requirements were completed as part of S05-0024. Works were substantially completed on September 18, 2006.

#### 6.0 PLANNING AND DEVELOPMENT SERVICES DEPARTMENT COMMENTS

The proposed rezoning of the subject property to RU2h is consistent with Planning and Development Services Department policies.

  
Shelley Gambacort  
Current Planning Supervisor

Approved for Inclusion



Ron Dickinson  
Inspection Services Manager

#### ATTACHMENTS

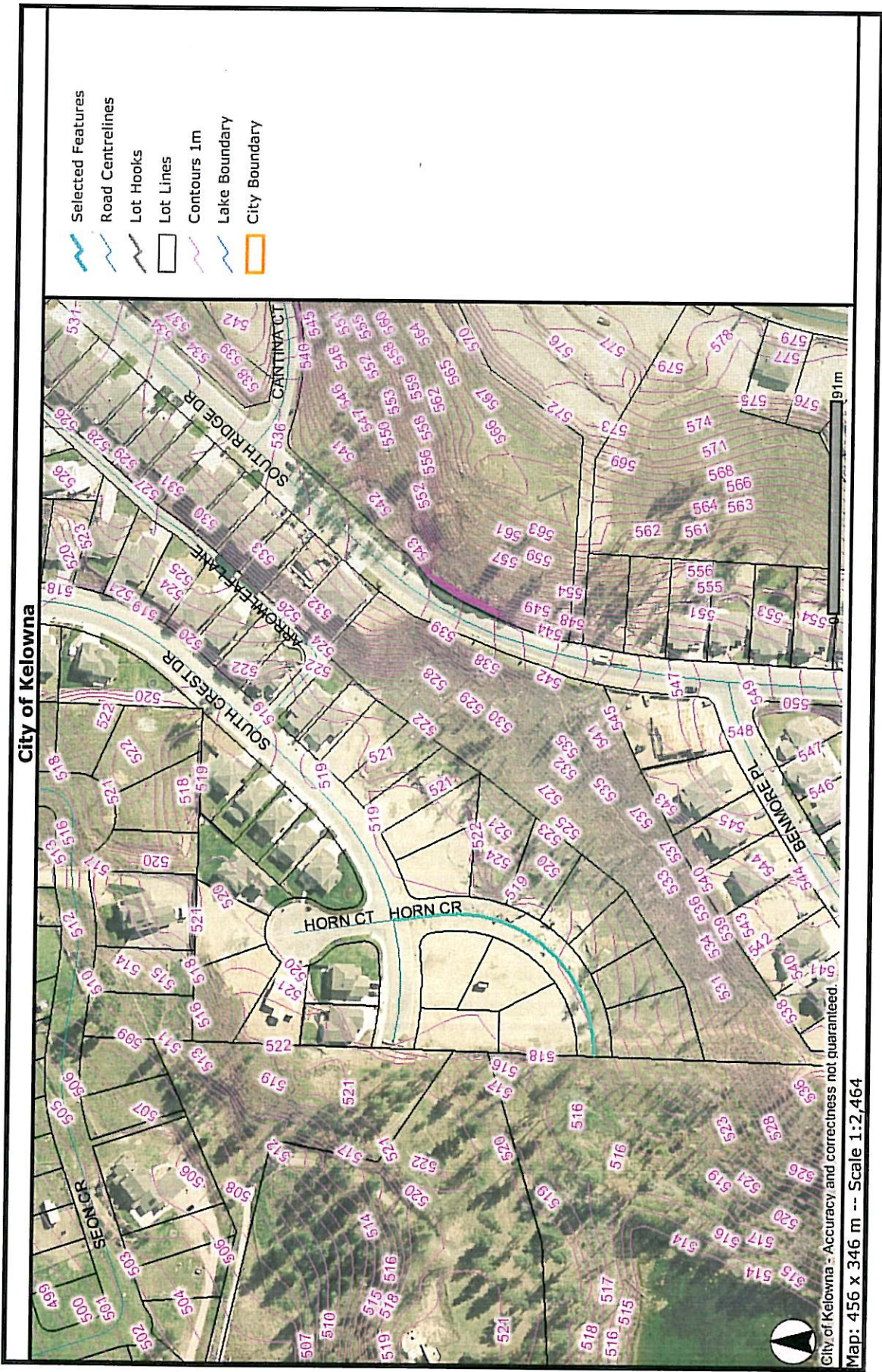
- A - Subject Property Map with Zoning Designations
- B - Orthophoto showing 1m Contours
- C - Subdivision Plan KAP82290





*This map is for general information only. The City of Kelowna does not guarantee its accuracy. All information should be verified.*





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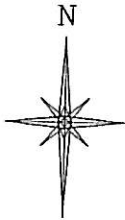


PLAN OF SUBDIVISION OF LOT 14 PLAN KAP74684 AND OF PART OF LOT A  
PLAN KAP68646 D.L. 16888 S.D.Y.D. EXCEPT PLANS KAP68647, KAP70485,  
KAP71342, KAP72474, KAP74275, KAP74684, KAP76064, KAP79204 AND KAP 82069

PLAN No. KAP 82290

Deposited in the Land Title Office at Kelowna, B.C.  
this 26 day of Oct. 2006

SCALE 1:750 BCGS 82E.073 & 82E.083



*[Signature]*  
Registrar

LA 148815  
8

The registered owners designated herein  
declare that they have entered into a  
covenant agreement in favour of the  
City of Kelowna pursuant to Section  
219 of the Land Title Act.

PLAN 23489

PLAN 39945

PLAN 42749

PLAN 28453

TELUS COMMUNICATIONS INC.  
RC 2.8.8. 8/1/2004

*[Signature]*  
AUTHORIZED SIGNATORY Local Rosol

WITNESS

*[Signature]*  
RUSSELL GOSBERT  
ADMINISTRATIVE  
115079-114 AVE  
SURREY, BC V3S 1X9  
ADDRESS

OWNER  
DALLAS ENTERPRISES INC.

WITNESS

*[Signature]*  
Tim Kucher  
Lawyer  
200, 537 LEAN AVE  
Kelowna, BC  
ADDRESS

OWNER  
ONE AMERICAN CONSTRUCTION CO. LTD.

WITNESS

*[Signature]*  
Tim Kucher  
Lawyer  
200, 537 LEAN AVE  
Kelowna, BC  
ADDRESS

MORTGAGEE  
THE TORONTO DOMINION BANK

WITNESS

*[Signature]*  
Tim Kucher  
Lawyer  
200, 537 LEAN AVE  
Kelowna, BC  
ADDRESS

CITY OF KELLOWNA

WITNESS

*[Signature]*  
Ashley Peterson  
Acting, Legislative Coordinator  
1435 WATER STREET KELLOWNA  
ADDRESS

OWNER  
OLIVER INVESTMENTS INC.

WITNESS

*[Signature]*  
Tim Kucher  
Lawyer  
200, 537 LEAN AVE  
Kelowna, BC  
ADDRESS

OWNER  
OLIVER MANAGEMENT LTD.

WITNESS

*[Signature]*  
Tim Kucher  
Lawyer  
200, 537 LEAN AVE  
Kelowna, BC  
ADDRESS

OWNER  
# 201 ENTERPRISES LTD.

WITNESS

*[Signature]*  
Tim Kucher  
Lawyer  
200, 537 LEAN AVE  
Kelowna, BC  
ADDRESS

APPROVAL

Approved under the Land Title Act this 17<sup>TH</sup> day  
of Oct., 2006.

*[Signature]*  
Approving officer for the City of Kelowna

This plan lies within the Central Okanagan  
Regional District

LEGEND

All distances are in metres.  
● Iron Post Found  
○ Iron Post Set  
⊗ Control Monument Found

Old bearings are derived from observations between  
control monuments 7512808 and 7512804 integrated  
survey area no. 4 - City of Kelowna

This plan shows ground-level measured distances.  
Prior to conversion to U.T.M. coordinates  
multiply by combined factor 0.9999994.

I Douglas A. Gossard a British Columbia Land  
Surveyor, of the City of Kelowna in British  
Columbia, certify that I was present at and  
personally supervised the survey represented  
by this plan, and that the survey and plan are  
correct. The field survey was completed on the 28th  
day of August, 2006. The plan was corrected  
and checked and the checklist filed under # 53342  
on the 28th day of August, 2006.

*[Signature]*  
D.A. Gossard  
B.C.L.S.

10110-9

D.A. Gossard Land Surveying Inc.  
101 1390 ST. PAUL STREET KELLOWNA B.C. V1Y 1Z1

ORIGINAL