
**CITY OF KELOWNA
MEMORANDUM**

DATE: January 6, 2009
TO: City Manager
FROM: Community Sustainability Division
APPLICATION NO. OCP08-0007 **APPLICANT:** Tim Valeriote
Z08-0037

AT: 2569 Benvoulin Road **OWNER:** Tim Valeriote

PURPOSE: TO AMEND THE KELOWNA 2020 – OFFICIAL COMMUNITY PLAN
FUTURE LAND USE DESIGNATION OF THE SUBJECT PROPERTY
FROM RURAL / AGRICULTURAL TO COMMERCIAL.

TO REZONE THE SUBJECT PROPERTY FROM A1 - AGRICULTURE
1 TO C3 - COMMUNITY COMMERCIAL IN ORDER TO LEGALIZE AN
EXISTING LANDSCAPING BUSINESS.

EXISTING FUTURE LAND USE DESIGNATION: RURAL/AGRICULTURAL

PROPOSED FUTURE LAND USE DESIGNATION: COMMERCIAL

EXISTING ZONE: A1 – AGRICULTURE 1

PROPOSED ZONE C3 – COMMUNITY COMMERCIAL

REPORT PREPARED BY: Nelson Wight / Birte Decloux

1.0 RECOMMENDATION


THAT OCP Bylaw Amendment No. OCP08-0007 to amend Map 19.1 of the *Kelowna 2020 - Official Community Plan* Bylaw No. 7600 by changing the Future Land Use designation of Lot B, District Lot 130, O.D.Y.D., Plan 20646, located on Benvoulin Road, Kelowna, B.C., from the Rural/Agricultural designation to the Commercial designation, as shown on Map "A" attached to the report of Planning & Development Services Department, dated January 6, 2009, NOT be considered by Council;

AND THAT Rezoning Application No. Z08-0037 to rezone Lot B, District Lot 130, O.D.Y.D., Plan 20646, located on Benvoulin Road, from A1 – Agriculture 1 to C3 – Community Commercial NOT be considered by Council;

2.0 SUMMARY

There is an existing non-confirming landscaping business being operated from the subject property, which is in contravention of the existing zoning. Rather than relocate the business at this time, the owner is seeking to have the use legalized under a commercial zone. Land Use Management staff recommend against the OCP Bylaw amendment and rezoning for multiple reasons (See 8.0 for explanation). Most significantly, the proposed use does not conform to the designated future land use and the required servicing for a commercial zone is not available at the site.

If the application were successful and the site is to be built to the maximum development potential permitted under the C3 zoning, a financial impact on servicing requirements, specifically issues relating to roads and traffic management would be a result. As identified in the Works and Utilities memo, a requirement to connect to water



and sewer systems is necessary. At this time, there are no services within close proximity of the subject property.

3.0 ADVISORY PLANNING COMMISSION

This application was reviewed by the Advisory Planning Commission at the meeting of November 4th, 2008 and the following recommendation was passed:

THAT the Advisory Planning Commission NOT support Official Community Plan Application No. OCP08-0007, for 2569 Benvoulin Road; Lot B, Plan 20646, Sec. 17, Twp. 26, ODYD by T. Valeriot, to amend the Official Community Plan Future Land Use from Agriculture to Commercial.

APC Comment:

Members acknowledged they were sympathetic to the applicant but noted that this is strictly a land use question and commercial use was contrary to the future land use designation.

Due to non-support of the Official Community Plan amendment no motion was put forward for the rezoning application.

4.0 BACKGROUND

There is an existing single-storey residential home and detached garage on the subject property. These structures are used solely for the operation of the landscape business, and currently there is no residential use of the property.

Vehicle access to the site is from Beetlestone Drive and Benvoulin Road. The property is currently unserviced with respect to water and sanitary services, but lies within the City of Kelowna Future Water Supply Area.

Floor plans provided by the applicant show that the residence has been converted to an "office/design room". The detached garage is used for storage of landscaping equipment. Notably, parking for employees and the landscape vehicle fleet is provided on the adjacent property to the south, which is in the Agricultural Land Reserve.

Please refer to the attached letter of rationale provided by the applicant for additional information.

The following table shows this application's comparison with the requirements of the C3 zone:

CRITERIA	PROPOSAL	C3 ZONE REQUIREMENTS
Subdivision Regulations		
Lot Area	1,393 m ²	1300 m ²
Lot Width	30.5 m ①	40.0 m
Lot Depth	46 m	30.0 m
Development Regulations		
Floor Area Ratio	0.28	1.0
Site Coverage	28%	50%
Height	1-storeys	15 m or 4-storeys

CRITERIA	PROPOSAL	C3 ZONE REQUIREMENTS
Front Yard	16 m	3.0 m
Side Yard (north)	2.0 m	2.0 m
Side Yard (south)	5.0 m	2.0 m
Rear Yard	4.0 m ❷	6.0 m
Other requirements		
Parking Stalls (#)	Not demonstrated on site ❸	2.5 per 100 m ² 10 spaces required

❶ a variance will need to be sought to vary the permitted lot width

❷ a variance will need to be sought to vary the rear yard set back

❸ a variance to the parking requirements to vary the number of stalls provided will need to be sought

● a variance to the Subdivision and Servicing Bylaw would be required for water and sewer provisions

5.0 SITE CONTEXT

The subject property is located in the Beetlestone Road subdivision, which is an isolated residential development east of Benvoulin Road, just south of Byrns Road. The surrounding area is in the Agricultural Land Reserve, with the prevailing land use in the area being agricultural in nature. Some exceptions include the Golf Centre, which is located to the south and west of this property. More specifically, the adjacent land uses are as follows:

North	A1 – Agriculture 1
East	A1 – Agriculture 1
South	A1 – Agriculture 1
West	A1 – Agriculture 1

Site Map: 2569 Benvoulin Road



6.0 CURRENT DEVELOPMENT POLICY

Staff recommend that the Advisory Planning Commission public process should be considered appropriate consultation for the purpose of Section 879 of the *Local Government Act*, and that the process is sufficiently early and does not need to be further ongoing in this case. Furthermore, additional consultation with the Regional District of Central Okanagan, other boards, councils or agencies listed in Section 879, is not required in this case.

Staff have reviewed this application, and there is an anticipated affect to the City's financial plan by impacting the servicing requirements.

Kelowna 2020 Official Community Plan (OCP)

Future Land Use Designation - The property is designated "Rural/Agriculture" Residential, pursuant to Map 19.1 of the OCP. The proposed C3 zone is inconsistent with that future land use designation.

9.1.14 – Location of New Commercial. Direct new commercial ventures to locate in areas designated for commercial purposes (see Map 19.1);

9.1.36 – Commercial Along Major Roads. Discourage new commercial developments (other than C1 developments) along the City's major roads where such uses have not been provided for on the OCP Future Land Use map.

City of Kelowna Agriculture Plan

Farmland Preservation – Direct urban uses to land within the urban portion of the defined urban – rural / agricultural boundary, in the interest of reducing development and speculative pressure, toward the preservation of agricultural lands and discourage further extension of existing urban areas into agricultural lands.

Isolated Developments – In general, not support extensions to existing development or new development isolated within agricultural areas, regardless of ALR status.

Parcels less than .8 Hectares (2 Acres) discourage the non-farm use of parcels less than .8 hectares where such parcels are located in an agricultural area.

7.0 TECHNICAL COMMENTS

(See attached)

8.0 LAND USE MANAGEMENT DEPARTMENT

The Land Use Management Department recognizes the merit of this landscape business, and values the quality and commitment to providing creative landscape responses on a number of local properties. Accordingly, staff have provided ample time for the business owner to pursue alternative locations where the business operations would be more suitable.

The applicant is seeking an OCP amendment to Commercial and correlating zoning to C3 - Community Commercial to allow an office / equipment storage for a landscape design / construction business. The business currently has a home based business license but does not meet the requirements of the license due to: i) the scale of the operation and, ii) the requirement to have the primary resident to reside on the property more than 240 days a year is not fulfilled .

The subject property is designated as Rural / Agricultural in the OCP. Specifically, the site is part of a rural single family detached subdivision that has been in existence prior to the inception of the ALC. Although the subject property is not in the ALR, this small rural subdivision is virtually surrounded by ALR lands.

The C3 zone is generally applicable to the Urban Village areas and other major commercial areas. The types of uses allowed in the C3 zone are not appropriate in this rural area and once granted, the site could be used for other commercial uses not suitable to the location. The OCP (Policy 9.1.14) specifically directs commercial uses to lands currently designated for commercial purposes and (Policy 9.1.36) discourages new commercial developments along the City's major roads where such uses have not been provided for on the OCP Future Land Use map.

The Benvoulin Road corridor (is for the most part) rural in character and this proposal to amend the OCP and rezone the site for commercial use is completely out of character for this rural residential location. Support for these applications would likely encourage more commercial use proposals along Benvoulin Rd, which is inconsistent with the City's land use policies and servicing plans.

The Subdivision and Servicing bylaw requires this applicant to connect to the City's sanitary and water systems. However, at this time there are no services within close proximity of the subject property, therefore a variance to the Subdivision and Servicing bylaw would be required. It should be noted that the Development Engineering Manager will not be supportive of a variance to the servicing requirements. Additionally, a Development Variance Permit will also need to be sought for the lot width, the rear yard set back and a reduction in parking requirements.

9.0 ALTERNATE RECOMMENDATION

Should Council choose to support the application for an OCP and zone amendment, the following recommendations could apply:

THAT OCP Bylaw Amendment No. OCP08-0007 to amend Map 19.1 of the *Kelowna 2020 - Official Community Plan* Bylaw No. 7600 by changing the Future Land Use designation of Lot B, District Lot 130, O.D.Y.D., Plan 20646, located on Benvoulin Road, Kelowna, B.C., from the Rural/Agricultural designation to the Commercial designation, as shown on Map "A" attached to the report of Community Sustainability Division, dated January 6, 2009, be considered by Council;

AND THAT Council considers the Advisory Planning Commission public process to be appropriate consultation for the purpose of section 879 of the Local Government Act, as outlined in the report of the Community Sustainability Division, dated January 6, 2009;

AND THAT Rezoning Application No. Z08-0037 to rezone Lot B, District Lot 130, O.D.Y.D., Plan 20646, located on Benvoulin Road, from A1 – Agriculture 1 to C3 – Community Commercial, be considered by Council;


AND THAT the OCP Bylaw Amendment No. OCP08-0037 and the Zone amending bylaw be forwarded to a Public Hearing for further consideration;

AND THAT final adoption of the zone amending bylaw be considered subsequent to the receipt of a letter from the applicant's solicitor, undertaking to register a Section 219 Restrictive Covenant that limits the use of the property solely for landscaping design, construction offices and residential uses. All other uses within the C3 zone are not entitled to be carried out within the lands without an amendment to the covenant in writing as approved by City Council;

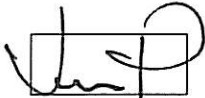
AND THAT final adoption of the zone amending bylaw be considered subsequent to the requirements of the Works & Utilities Department, being completed to their satisfaction;

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



 Shelley Gambacort
Director of Land Use Management
NW//nw

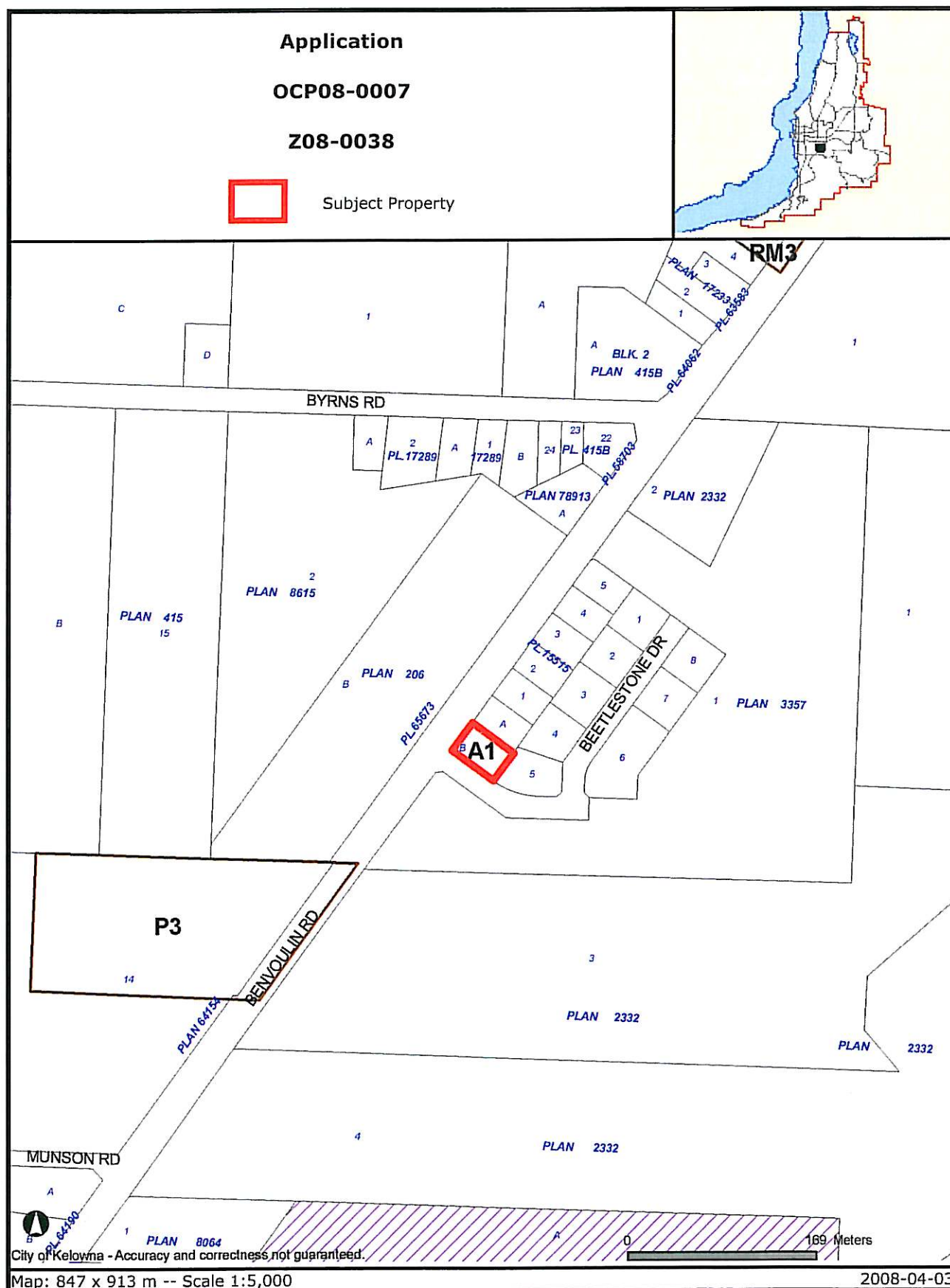
For Inclusion



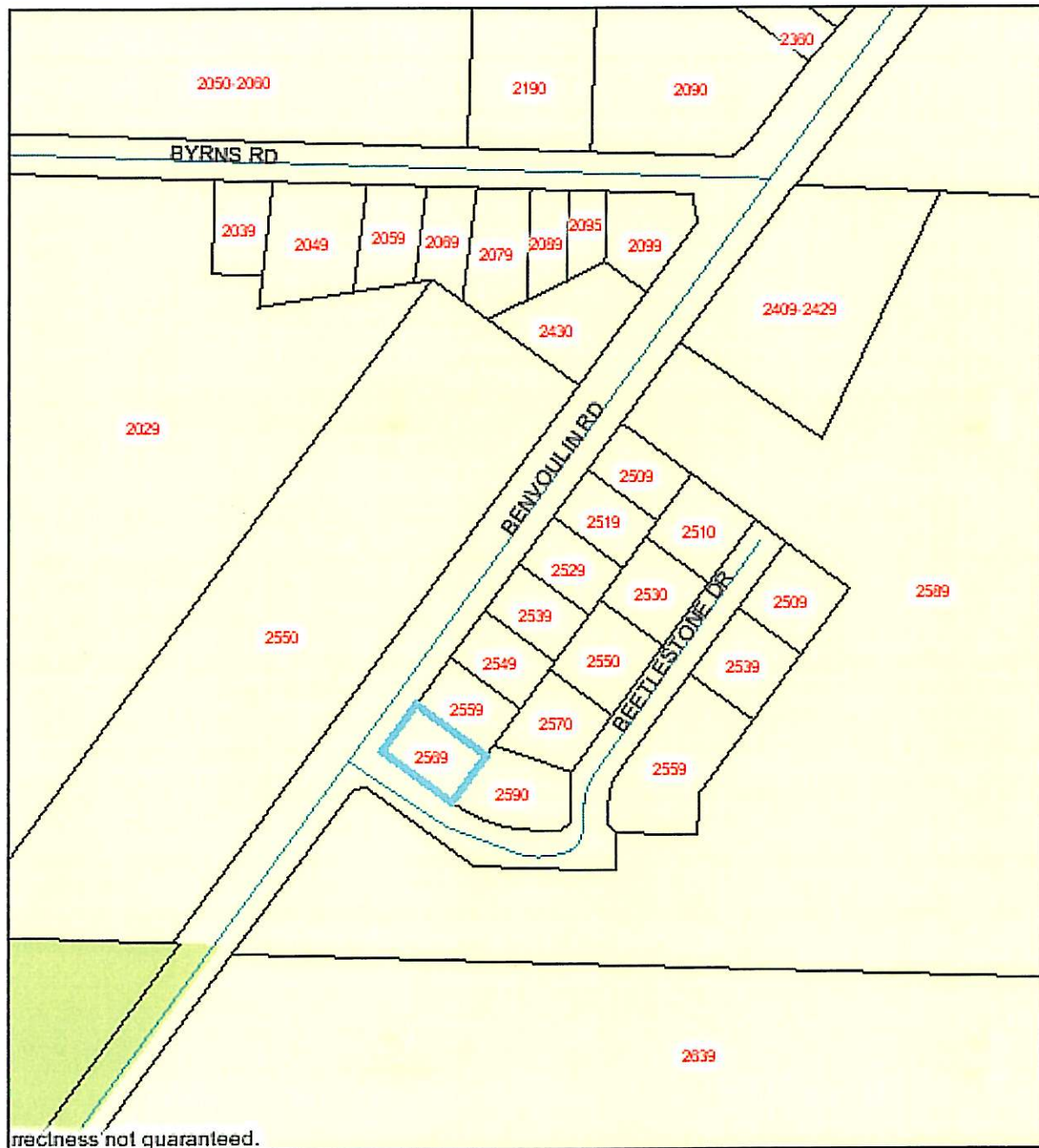
Jim Paterson
General Manager of Community Sustainability

ATTACHMENTS:

Location of subject property
Site plan
Map "A"
Applicant's Letter of Rationale
Technical comments



Certain layers such as lots, zoning and dp areas are updated bi-weekly. This map is for general information only.
The City of Kelowna does not guarantee its accuracy. All information should be verified.



Map "A" - OCP08-0007

2569 Benvoulin Rd.
Kelowna BC
Lot: B, Plan: 20646, Section: 17, Township: 26, District: Yale

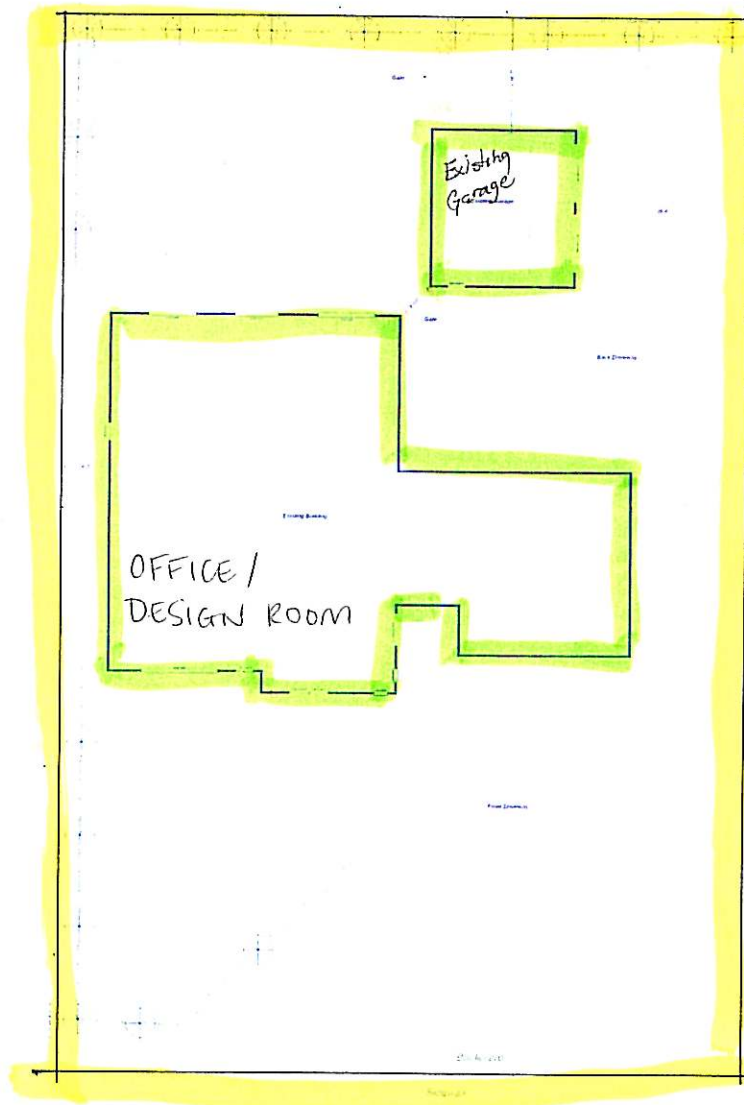
Existing Privacy Hedge



Property Line

Proposed Privacy Hedge

Scale



Property Line

Property Line

Property Line

Property Line

Property Line

Benvoulin Rd

Property Line

Bedlesstone Drive



HAMPTON

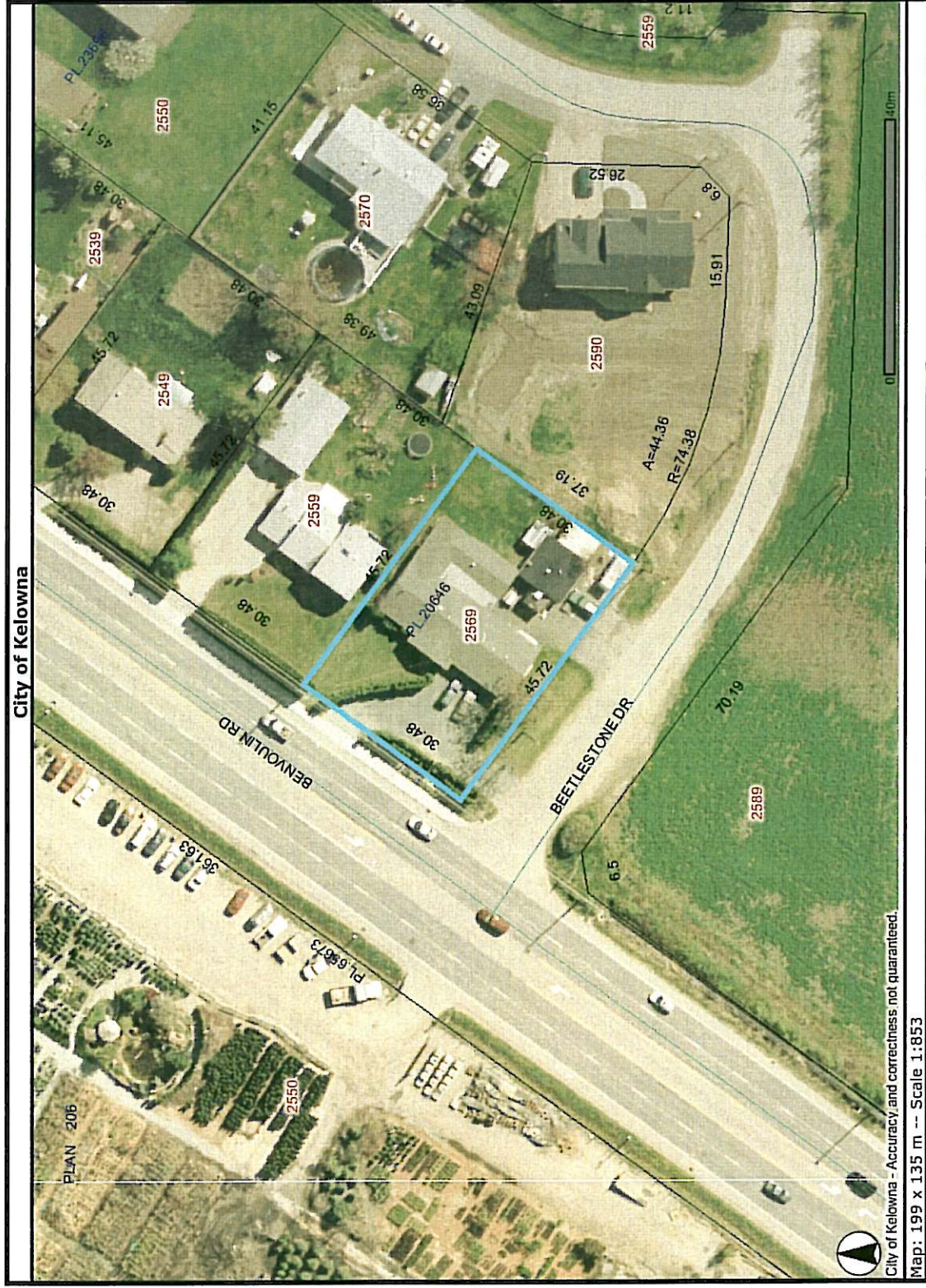
Hampton Overview

Hampton Landscape is a "design and build" business for outdoor residential and commercial landscaping.

The company has been in business since 1998 starting as a property maintenance operation. Taken over in 2004, the business has since established itself as a full service landscape design and installation company. It moved to its current location in June 2006 taking over from the previous business of A-1 meats which had been there since 1981. The company took the run down house and property and dramatically changed it to what it is today.

The location now operates as a design center where customers can come and review their projects and look at a variety of samples to better make their decisions. We have established a small outdoor living area and a plant area for customers to get a better idea of what their project will look like. The company has a design room in the house and some offices in the building where 4-5 staff work. The remainder of the seasonal staff go directly to the project side or briefly come by the office to get their tools. The company reaches a peak staff of about 30 people during the summer, however the inhouse staff stays at 4-5 people. The general small equipment is stored in the garage of the house. Larger equipment is kept on project site or rented throughout the year. Major equipment maintenance is done through the dealers with winter storage onsite as well.

Hampton is looking to continue its current business as is at this location and is applying for a rezoning in order for that to happen. The company has created a reputation of quality and integrity in Kelowna and a place that people want to work. We have made both the neighborhood and hopefully the city a better place by what we design and create through our landscaping.



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File: Z08-0037

Application

File: Z08-0037

Type: REZONING

File Circulation

Seq	Out	In	By	Comment
				B.C. Assessment Authority (info only) 2008-04-03 2008-04-03
				Community Development & Real Estate Mgr 2008-04-03 2008-04-17
			SALEXANC	CD&RE Comments for Inclusion in Council Report: Please contact the Land Agent for road dedications over 20 metres in width, land dedications and land transfers to or from the City of Kelowna, road closures and road reserves. Depending on the type of land transaction being contemplated, the processing time can vary from 3 weeks to 3 months. The Land Department requires a full size copy, together with an 8 ? x 11 copy, of any survey plans.
				Fire Department 2008-04-03 2008-05-05
			GDAFT	No comment
				FortisBC 2008-04-03 2008-05-23
				Inspections Department 2008-04-03 2008-04-03
			RREADY	Possible renovations done without permit?
				Mgr Policy, Research & Strategic Plannin 2008-04-03 2008-05-01
				The subject property is designated as Rural / Agricultural in the OCP. In fact the site is part of a rural single detached subdivision that has been in existence since prior to the inception of the ALC. Although the subject property is not in the ALR this small rural subdivision is virtually surrounded by ALR lands.
				The applicant is seeking an OCP amendment to Commercial and a Zoning to C3 Community Commercial to allow an office / equipment storage for a landscape design / construction business. The scale of this operation does not qualify as a home based business.
				The Benvoulin Road corridor is for the most part rural in character and there is no other precedent that would support the commercialization of this corridor. In addition, we should not set a precedent that might generate more commercial use proposals along Benvoulin Rd. This proposal to amend the OCP and rezone the site for commercial use is completely out of character for this rural residential location and should not be supported. The C3 zone is generally applicable to the Urban Village areas and other major commercial areas. The types of uses allowed in the C3 zone are not appropriate in this rural area and once conferred the site could be used for other commercial uses not suitable to the location. The OCP (Policy 9.1.14) specifically directs commercial uses to lands currently designated for commercial purposes and (Policy 9.1.36) discourages new commercial developments along the City's major roads where such uses have not been provided for on the OCP Future Land Use map.
				Therefore it is recommended that these OCP amendment and Zoning amendment applications not be supported.
				Park/Leisure Services Dir. (info only) 2008-04-03 2008-04-03
				Parks Planning Manager 2008-04-03 2008-04-10
			TBARTON	No comment
				Public Health Inspector 2008-04-03 2008-04-24
				RCMP 2008-04-03 2008-04-11
				Shaw Cable 2008-04-03 2008-04-07
				Telus 2008-04-03 2008-04-22
				Terasen Utility Services 2008-04-03 2008-04-17
				Works & Utilities 2008-04-03
				No comment

CITY OF KELOWNA
MEMORANDUM

Date: April 11, 2008
File No.: Z08-0037
To: Planning and Development Officer (NW)
From: Development Engineering Manager (SM)
Subject: 2569 Benvoulin Rd. – Lot B, Plan 20646, section 17, Township 26

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

A requirement of this application is to connect to the City's sanitary and water systems. However at this time there are no services within close proximity of the subject property, therefore this application is premature.

Steve Muenz, P.Eng.
Development Engineering Manager
DC