

Memo



Date: September 16, 2010

To: City Manager

From: Community Sustainability Division

File No: DVP04-0044 **Applicant:** SmartPlans Ltd. (Mike Brown)
At: 5050 McCulloch Road **Owner:** Otto Babichuk et al (See Appendix A)

Purpose: To vary the requirements of Zoning Bylaw 8000 Section 12.1.5(c) and 12.2.5(c) to allow the minimum parcel size of 8000 m² for the RR1 lots and 4000 m² for the RR2 zone to apply for properties that are connected to a private sanitary sewer collection system, in order to facilitate a bareland strata rural residential subdivision.

Existing Zones: RR1 - Rural Residential 1 and RR2 - Rural Residential 2

1.0 RECOMMENDATION

THAT final adoption of Zone Amending Bylaw No. 9313 be considered by Council;

AND THAT Council authorize the issuance of Development Variance Permit No. DVP04-0044; East ½ of Sec. 1, Twp. 26, ODYD except Plan KAP48126, located on McCulloch Road, Kelowna, B.C.;

AND THAT variances to the following sections of Zoning Bylaw No. 8000 be granted:

Section 12.1.5(c) - To vary the requirement, that if a connection to a community sanitary sewer system, in accordance with the requirements of the City of Kelowna's Subdivision, Development & Servicing Bylaw has been installed, the minimum lot area is 8000 m², to apply to lots connected to a private sanitary sewer collection system

Section 12.2.5 (c) - To vary the requirement, that if a connection to a community sanitary sewer system, in accordance with the requirements of the City of Kelowna's Subdivision, Development & Servicing Bylaw has been installed, the minimum lot area is 4000 m², to apply to lots connected to a private sanitary sewer collection system

2.0 SUMMARY

At a regular meeting of Council held on November 2, 2004 Rezoning Authorization Bylaw No. 9313 received second and third reading to rezone the subject property from the A1 - Agriculture 1 zone to the RR1 and RR2 zones in order to facilitate a 110 lot bareland strata subdivision development off McCulloch Road.

Final adoption of the zone amending bylaw was being withheld pending the execution of a Servicing Agreement and consideration of a Development Variance Permit. As the subject property will not be serviced by a community sanitary sewer system the applicant is requesting a Development Variance Permit, to vary Zoning Bylaw 8000, to allow for a minimum parcel size of 8,000 m² in the RR1 zone, and 4,000 m² in the RR2 zone to apply if properties are connected to a private sanitary sewer collection system.

2.1 Advisory Planning Commission

The Advisory Planning Commission at their meeting of April 27, 2004 reviewed the application and the following recommendation was passed:

THAT the Advisory Planning Commission supports Rezoning Application No. Z04-0020, 5050 McCulloch Road/Lot E ½, Twp. 26, Sec. 1, ODYD, by Protech Consultants (Grant Maddock), to rezone from the A1-Agriculture 1 zone to the RR1-Rural Residential 1 zone, and the RR2-Rural Residential 2 zone, in order to facilitate a 110 lot bareland strata subdivision, subject to the understanding that all road improvements, as required by the Works & Utilities Department are provided as part of this development;

3.0 BACKGROUND

The proposal is to facilitate a 110 lot bareland strata subdivision to be serviced by a private sanitary sewer collection system. The applicant is proposing for the portion of the property situated on the south side of McCulloch Road, 16 RR1 lots with a minimum lot size of 8000 m² and for that portion of the subject property situated on the north side of McCulloch Road, 94 RR2 lots, with a minimum parcel size of 4000 m².

The required disposal field area and private sanitary sewer treatment plant facility will be designated as common property as well as the internal private access roads. Through the rezoning application, the balance of the property (± 50 ha or 125 acs.) has been zoned as P3 - Parks and Open Space, which is in keeping with Official Community Plan designation of Major Park/Open Space. This P3 component will form part of the Scenic Canyon Regional Park system including the corridor of Mission Park Greenway Phase 2.

3.2 Site Context

The ~130 ha (320 acre) property is located on McCulloch Road at the southeasterly boundary of the City limits, east of Gallaghers Canyon Golf Resort, in the South East Kelowna Sector of the City as shown outlined below.



Adjacent zones and uses are, to the:

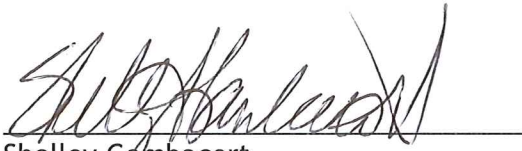
- North - A1 - Agriculture; rural undeveloped land
- East - A1 - Agriculture; large undeveloped holdings and an existing 5-lot subdivision ranging in size from 2 ha to 4.3 ha.
- South - A1 - Agriculture; rural undeveloped
- West - A1 - Agriculture; rural and KLO Creek corridor area

4.0 Land Use Management Comments

The Director of Design and Construction Services advises that several years ago, in an attempt to make a clear definition between urban development requiring full services, and rural development requiring lesser services, the City modified all the applicable bylaws and regulations to establish a minimum lot size of 1 ha if a property was not going to be serviced with a community sanitary sewer system. The intent was not to promote urban style development in a rural area through the installation of private satellite (package plant) sanitary sewage treatment systems. That said, the OCP also states that more intensive development may be supported under specific circumstances to satisfy other civic objectives including the provision of park / recreation uses.

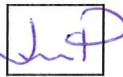
The Consulting Engineer for the developer has provided a letter confirming that this proposed development can be adequately served by a private sanitary sewage treatment plant. Such a sewage treatment facility would be privately owned and operated and the Strata Corporation would obtain their approval and governance to operate from the Provincial Ministry of Environment.

Given the Civic objectives that are being met as a result of this development (transferring of the P3 zoned land to the City of Kelowna and the McCulloch Road upgrades), and as Council of the day supported the requested rezoning, staff are recommending support for the Development Variance Permit request .



Shelley Gambacort
Director, Land Use Management

Approved for inclusion:



Jim Paterson
General Manager, Community Sustainability

Attachments:

Subject Property Map
Site Plan

File Chronology:

Application Received: April 13, 2004

APC: April 27, 2004

Concurrent Rezoning:

Rezoning Report forwarded to Council not supporting rezoning application: September 27, 2004

Council supported rezoning and gave 1st Reading: October 4, 2004

Public Hearing: November 2, 2004

2nd & 3rd Reading: November 2, 2004

DVP Application on hold: February 3, 2005 (pending rezoning servicing conditions being met)

Application did not proceed as applicant had file on hold pending resolution of the financial obligations of servicing requirements.

Partnering Agreement to address the Servicing Requirements for the rezoning application, as executed by applicant, forwarded to our office from City Solicitor: July 7, 2010

APPENDIX A

OWNERS:

Otto Babichuk
c/o 11523 – 100 Avenue
Edmonton, AB T5K 0J8

Jomada Ventures Corp.,
592 KLO Road
Kelowna, BC V1Y 7S2

Newport Investments Ltd.,
311 – 11523 100th Avenue
Edmonton, AB T5K 0J8

244584 Alberta Ltd.,
312 Wolf Ridge Pt. NW
Edmonton, AB T5T 5R7

537584 Alberta Inc.,
45 Glenmeadow Crescent
St. Albert, AB T8N 3A2

Cher-Ken Holdings Ltd.,
Box 69, RR #4
Edmonton, AB T5E 5S7

MJC Development Corporation
19 Lancaster Crescent
St. Albert, AB T8N 2N9

Joric Holdings Ltd.
Box 8 Site 220, RR#2
St. Albert, AB T5T 5R7

Seadrift Properties Ltd.,
803 Wheeler Road West
Edmonton, AB T6M 2E5

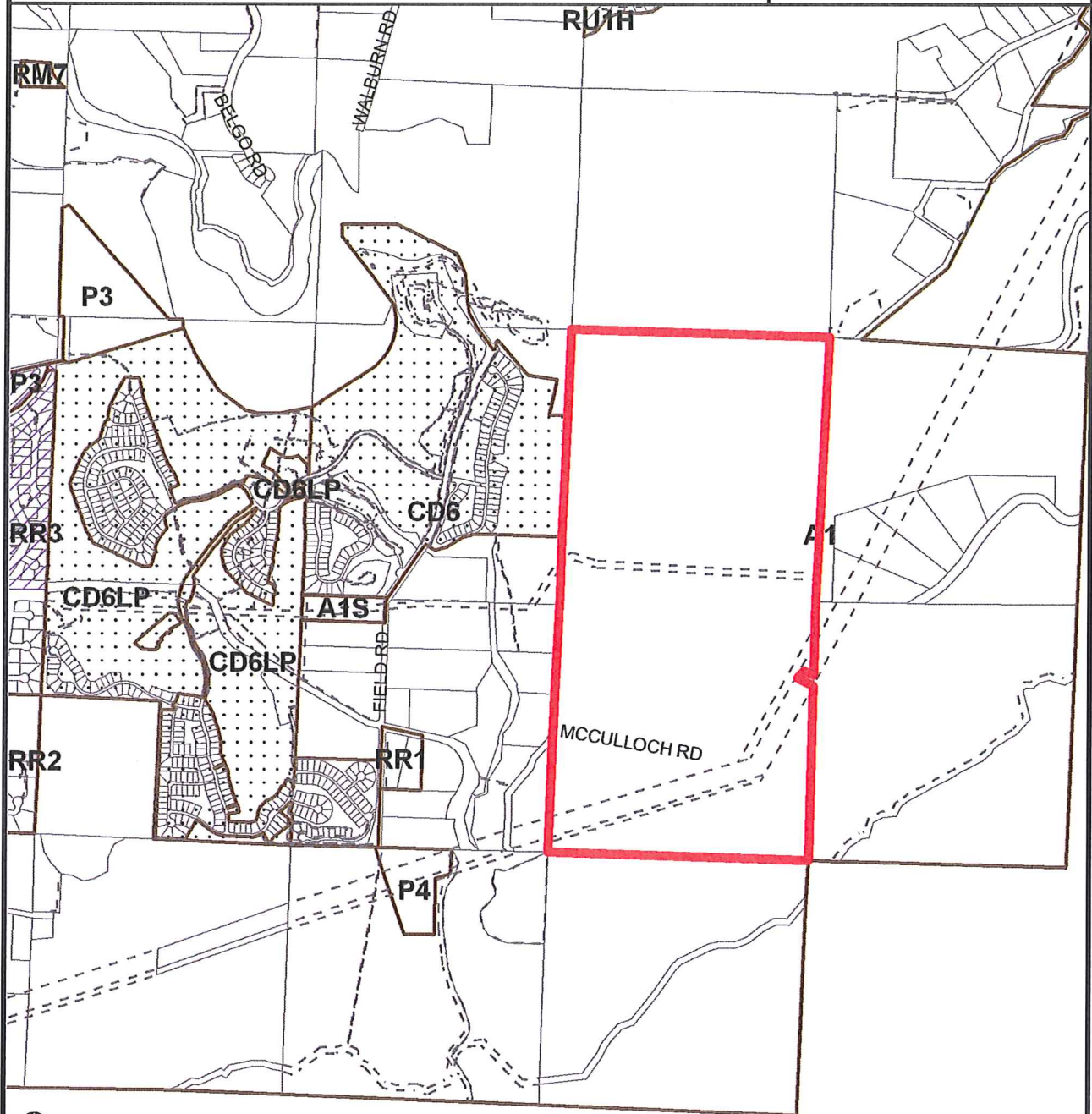
Dlanor Developments Ltd.,
17515 – 106A Avenue
Edmonton, AB T5S 1M7

407904 BC Ltd.
799 Young Road
Kelowna, BC V1W 2K7

DVP04-0044



Subject Property



City of Kelowna - Accuracy and correctness not guaranteed.

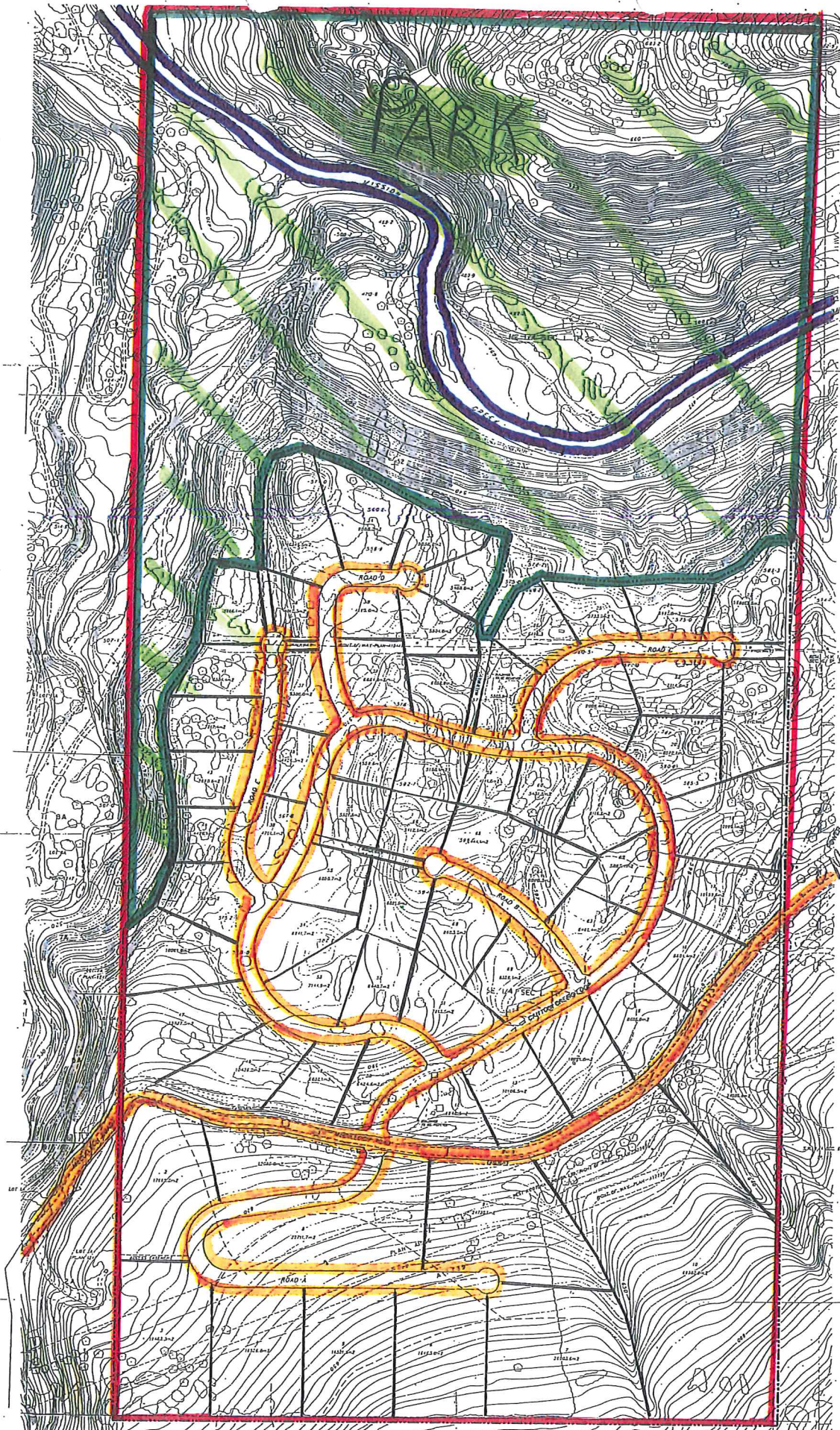
0 677 Meters



Map: 3,387 x 3,651 m -- Scale 1:20,000

2010-07-23

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.



CANYON CREEK

PROPERTY LINE RIGHT OF WAY
McConochy Road

R. 1/4 SEC. 34, T. 29

Date: 08-Sep-2010 TITLE SEARCH PRINT
 Requestor: (PG46330) CITY OF KELOWNA
 Folio: TITLE - LB403718

Time: 16:17:55
 Page 001 of 003

KAMLOOPS LAND TITLE OFFICE TITLE NO: LB403718
 FROM TITLE NO: LB168609

APPLICATION FOR REGISTRATION RECEIVED ON: 17 AUGUST, 2010
 ENTERED: 18 AUGUST, 2010

REGISTERED OWNER IN FEE SIMPLE:

OTTO BABICHUK, BUSINESSMAN

C/O 11523-100 AVENUE
 EDMONTON, AB
 T5K 0J8

JOMADA VENTURES CORP., INC.NO. A58332

592 K.L.O. ROAD
 KELOWNA, BC
 V1Y 7S2

NEWPORT INVESTMENTS LTD., INC.NO. 203585732

311 - 11523 - 100 AVENUE
 EDMONTON, AB
 T5K 0J8

244584 ALBERTA LTD., INC.NO. 202445847

312 WOLF RIDGE PT NW
 EDMONTON, AB
 T5T 5R7

537584 ALBERTA INC., INC.NO. 205375843

45 GLENMEADOW CRESCENT
 ST. ALBERT, AB
 T8N 3A2

CHER-KEN HOLDINGS LTD., INC.NO. 20340721

BOX 69, RR #4
 EDMONTON, AB
 T5E 5S7

MJC DEVELOPMENT CORPORATION, INC.NO. 20629751

19 LANCASTER CRESCENT
 ST. ALBERT, AB
 T8N 2N9

JORIC HOLDINGS LTD., INC.NO. 20105972

BOX 8, SITE 220, RR #2
 ST. ALBERT, AB
 T5T 5R7

SEADRIFT PROPERTIES LTD., INC.NO. 20272010

803 WHEELER ROAD WEST
 EDMONTON,, AB
 T6M 2E5

DLANOR DEVELOPMENTS LTD., INC.NO. 20159772

17515-106A AVENUE
 EDMONTON, AB
 T5S 1M7

407904 B.C. LTD., INC.NO. 407904

799 YOUNG ROAD
 KELOWNA, BC
 V1W 2K7

TAXATION AUTHORITY:

CITY OF KELOWNA
 SOUTH EAST KELOWNA IRRIGATION DISTRICT

Date: 08-Sep-2010 TITLE SEARCH PRINT
 Requestor: (PG46330) CITY OF KELOWNA
 Folio: TITLE - LB403718

Time: 16:17:55
 Page 002 of 003

DESCRIPTION OF LAND:

PARCEL IDENTIFIER: 013-576-755
 THE EAST 1/2 OF SECTION 1 TOWNSHIP 26 OSOYOOS DIVISION YALE DISTRICT
 EXCEPT PLAN KAP48126

LEGAL NOTATIONS:

THIS CERTIFICATE OF TITLE MAY BE AFFECTED BY THE AGRICULTURAL LAND
 COMMISSION ACT, SEE AGRICULTURAL LAND RESERVE PLAN NO. M11328 (PART)

THIS TITLE MAY BE AFFECTED BY A PERMIT UNDER PART 26 OF THE LOCAL
 GOVERNMENT ACT, SEE LB274325

CHARGES, LIENS AND INTERESTS:

NATURE OF CHARGE

CHARGE NUMBER	DATE	TIME
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RIGHT OF WAY

69737E	1957-05-30	14:12
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REGISTERED OWNER OF CHARGE:

WEST KOOTENAY POWER AND LIGHT COMPANY LIMITED
 69737E

REMARKS: PART ON PLAN A1566

RIGHT OF WAY

L39650	1976-07-16	13:21
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REGISTERED OWNER OF CHARGE:

SOUTH EAST KELOWNA IRRIGATION DISTRICT
 L39650

REMARKS: PART ON PLAN A10447

STATUTORY RIGHT OF WAY

V38606	1983-06-06	08:46
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REGISTERED OWNER OF CHARGE:

WEST KOOTENAY POWER AND LIGHT COMPANY LIMITED
 V38606

REMARKS: PART ON PLAN A17739 SHOWN AS PCL'S A & B
 (SEE V44708)

STATUTORY RIGHT OF WAY

V82022	1983-12-15	13:33
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REGISTERED OWNER OF CHARGE:

WEST KOOTENAY POWER AND LIGHT COMPANY LIMITED
 V82022

REMARKS: PART ON PLAN A10477

STATUTORY RIGHT OF WAY

KH9846	1994-02-04	10:21
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REGISTERED OWNER OF CHARGE:

BC TEL
 KH9846

REMARKS: PART SHOWN ON PLAN A10447

MORTGAGE

LB68166	2007-06-14	10:43
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Date: 08-Sep-2010 TITLE SEARCH PRINT
Requestor: (PG46330) CITY OF KELOWNA
Folio: TITLE - LB403718

Time: 16:17:55
Page 003 of 003

REGISTERED OWNER OF CHARGE:
HSBC BANK CANADA
LB68166

ASSIGNMENT OF RENTS
LB68167 2007-06-14 10:43

REGISTERED OWNER OF CHARGE:
HSBC BANK CANADA
LB68167

"CAUTION - CHARGES MAY NOT APPEAR IN ORDER OF PRIORITY. SEE SECTION 28, L.T.A."

DUPLICATE INDEFEASIBLE TITLE: NONE OUTSTANDING

TRANSFERS: NONE

PENDING APPLICATIONS: NONE

*** CURRENT INFORMATION ONLY - NO CANCELLED INFORMATION SHOWN ***