

- Large Lot Housing zone to the RM3 - Low Density Multiple Housing zone as shown on Map B, be considered by Council.

AND THAT the OCP Bylaw Amendment No. OCP10-0012, and zone amending bylaw be forwarded to a Public Hearing scheduled for April 19th, 2011 for further consideration.

AND THAT final adoption of Zone Amending Bylaw be considered subsequent to the requirements of the Development Engineering branch, Infrastructure Planning branch, Terasen Gas and the Environment & Land Use branch being completed to their satisfaction.

AND THAT final adoption of Zone Amending Bylaw be considered subsequent to the registration of a plan of subdivision for the lot consolidation and dedication of the creek side area as road, and the removal of the existing dwellings located on the properties.

AND THAT final adoption of Zone Amending Bylaw be considered subsequent to the registration of a restrictive covenant that requires the structural fill required for the property to be engineered and placed in accordance with the Risk Assessment Report prepared by Urban Systems, dated December 20, 2010.

2.0 Purpose

This proposal seeks to rezone the subject properties from the existing RU1 - Large Lot Housing zone to the proposed RM3 - Low Density Multiple Housing zone in order to allow the development of the subject properties with a Low Density Multiple Unit form of housing. Accordingly, an Official Community Plan (OCP) amendment to increase the density of the future land use designation from Single / Two unit residential to Multiple Unit Residential - Low Density to support the proposed rezoning is required. Furthermore, a text amendment to the OCP Housing chapter is proposed.

3.0 Land Use Management

The change in OCP designation and the proposed rezoning of the subject properties to a one-increment density bump is a reasonable form of land use in the neighbourhood. The draft Kelowna 2030 Plan has identified the subject properties as having a future land use designation of Multiple Unit Residential - low density. However, the Real Estate and Building Services (REBS) department wishes to proceed with the rezoning application for the subject properties prior to the adoption of the Kelowna 2030 Plan.

The wording in the current Official Community Plan does allow staff to support a single increment increase in density where there is a provision of residential units for affordable, special needs or rental housing that are guaranteed through a housing agreement. The changes proposed through this City initiated proposal seek to change these provisions to allow opportunities for City initiated projects to increase the land use designation by a one-increment density gain where 100% of the proceeds generated by the sales of the City owned lands are to be applied to Council approved City initiated projects for public benefit. Having the land appropriately zoned prior to the disposition of the land will improve the marketability of the consolidated parcel and allow the public to gain benefits from an increase in density rather than the future property owner and/or developer.

Currently, there is no Development Permit application for the proposed form and character of the anticipated low-density multiple family development. It will be necessary for the future property owner to apply for a Development Permit once the site planning exercise has been completed. Distinctively, the City of Kelowna is unique in that the organization is not a “developer” and has no intentions of competing in the development market, and therefore expectations of a conceptual development plan is outside the scope of the City’s normal process for disposition of lands.

4.0 Proposal

4.1 Background

The City of Kelowna has owned the subject properties since the early 1990’s, when the properties were acquired for road and drainage projects in the area. Since that time, the road works have been completed and it has been determined that the lands are no longer required for anticipated drainage purposes. The City of Kelowna Real Estate and Building Services (REBS) department wishes to sell off the surplus lands, and apply the funds generated to other City initiated projects.

A review of the neighbourhood has been determined that a low density multiple unit residential form of development would be an appropriate use as there is an existing row house development located to the west across Clifton Road. This increase in density has been included in the draft Kelowna 2030 Plan.

4.2 Project Description

The Real Estate and Building Services department (REBS) wishes to sell the subject properties and use the proceeds to fund other Council approved initiatives. However, REBS wishes to sell the site rezoned to the higher density residential zone as anticipated in the 2030 Official Community Plan designation. The current Kelowna 2020 - Official Community Plan (OCP) has designated the subject properties as Single/Two Unit Residential future land use. In order to support the proposed rezoning, the OCP designation for the subject properties needs to be amended to the Multiple Unit Residential (low density) designation. To support such an increase in density, Section 8.1.31 of the OCP “Rezoning to Higher Densities” requires that there be creation of affordable, special needs, or rental housing guaranteed with a housing agreement provided as part of the development proposal. The City is proposing a text amendment to this clause to deal with special circumstances for City owned properties.

The current policy states:

8.1.31 Rezoning to Higher Densities. Consider supporting an OCP amendment and rezoning application for residential densities greater than those provided for on the Generalized Future Land Use Map 19.1 where a portion of the proposed units are available for affordable, special needs or rental housing identified to be in short supply (guaranteed through a Housing Agreement). To mitigate the neighbourhood impact of higher densities, it is important that:

- supporting infrastructure and park land is sufficient to accommodate the proposed development (or the developer is prepared to upgrade the necessary infrastructure and park land); and
- the proposed densities do not exceed the densities provided for on Map 19.1 by more than one increment (e.g. medium density multiple units might be entertained where low-density has been provided for, and low-density multiple units might be entertained where single/two unit residential densities have been provided for); and
- the project be sensitively integrated into the surrounding neighbourhood, with no more than a one-storey height gain between the proposed development and the height permitted within land use designations assigned to adjacent parcels (Where the property being proposed for redevelopment is large, consideration may be given to providing greater heights at the centre of the property provided that the new building is sensitively integrated with the surrounding neighbourhood); and
- approval of the project not destabilize the surrounding neighbourhood or threaten viability of existing neighbourhood facilities (e.g. schools, commercial operations etc.).

It is proposed to add the following wording to the end of Policy 8.1.31 of the OCP:

“The requirements of this section do not apply to land where the proposed densities do not exceed the densities provided by on Map 19.1 by more than one increment (e.g. medium density multiple units might be entertained where low-density has been provided for, and low-density multiple units might be entertained where single/two unit residential densities have been provided for) and where 100% of the funds generated from the sale of the lands goes towards Council approved City initiatives for public benefit”.

In addition, it is also proposed to add a table to this section of the OCP to identify specific properties that have been granted a one-increment increase in density as part of their sale, to prevent future opportunities to increase the density of the future land use designation once the properties are sold to developers.

Table of Properties granted a one-increment gain in land use designation (density) potential

Legal Description	Effective Date	Density increase granted
Lots A & B, Sec. 29, Twp 26, O.D.Y.D., Plan 13228, Lot C, Sec. 29, Twp 26, O.D.Y.D., Plan 13228, Exc. Plan KAP82455, Lots 17 & 18, Sec. 29, Twp 26, O.D.Y.D., Plan 3329, Exc. Plan KAP82455	TBD	Single/Two Unit Residential designation increased to Multiple Unit Residential (Low Density)

4.3 Site Context

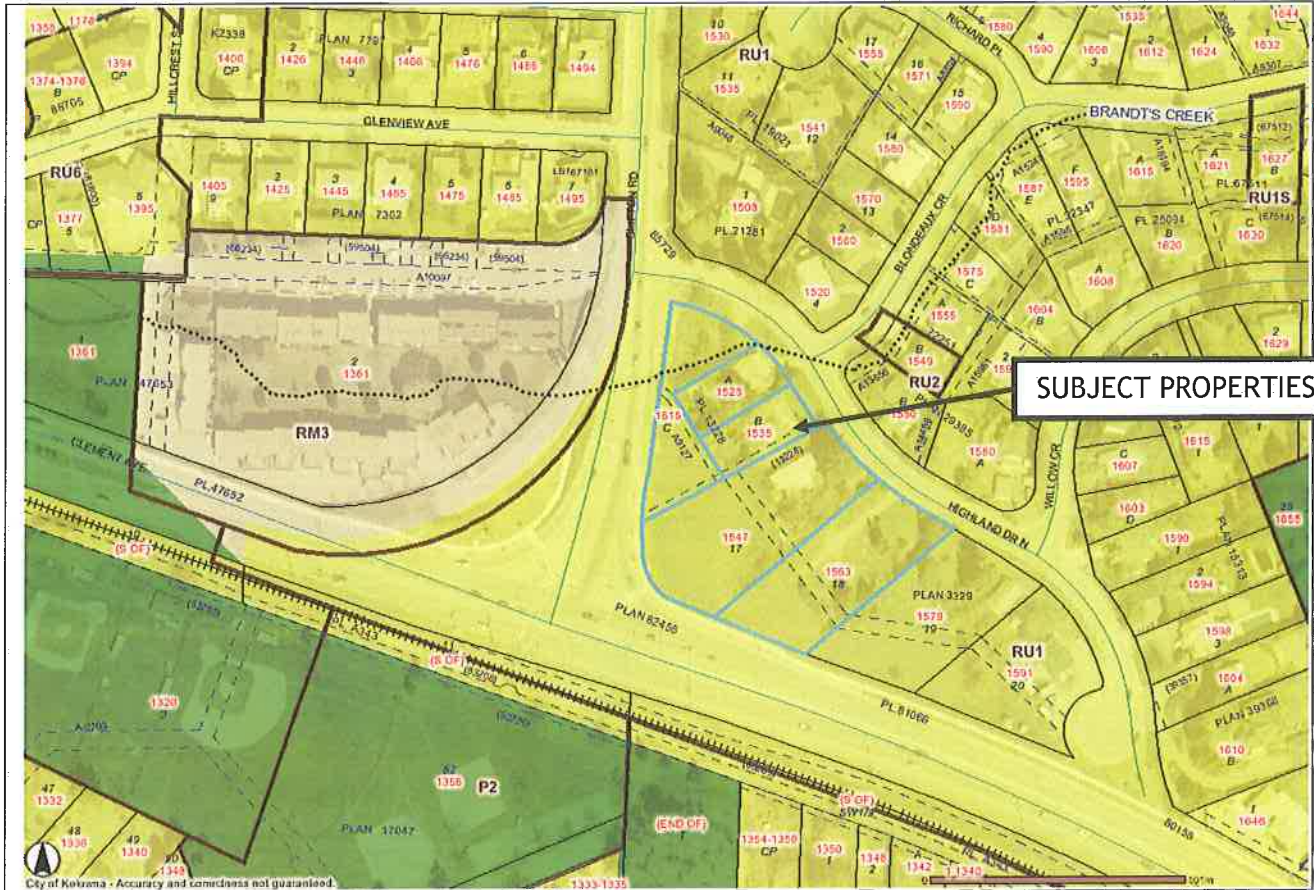
The subject properties are located on the east side of Clifton Road, south of Highland Drive North and north of Clement Avenue. The site is sloping down from Highland Drive south to Clement Avenue. The development site is comprised of 5 lots and is currently occupied by 3 dwellings. Brandt’s Creek bisects across the north end of the property. The site is also encumbered by several utility rights of way.

The adjacent land uses are as follows:

- North RU1 - Large Lot Housing (residential)
- West R3 - Low Density Multiple Housing (row house residential)
- East RU1 - Large Lot Housing (residential)
- South RU6 - Two Dwelling Housing (residential)
 P3 - Parks and Open Space (Park)

Site Location Map:

1515, 1525, 1535, 1547, 1563 Highland Drive N.



The adjacent land uses are as follows:

- North RU1 - Large Lot Housing (residential)
- West R3 - Low Density Multiple Housing (row house residential)
- East RU1 - Large Lot Housing (residential)
- South RU6 - Two Dwelling Housing (residential)
 P3 - Parks and Open Space (Park)

The proposed application meets the requirements of RM3 - Low Density Multiple Housing zone follows:

Zoning Analysis Table		
CRITERIA	PROPOSAL	RM3 ZONE REQUIREMENTS
Subdivision Regulations		
Lot Area	9,453 m ²	900 m ²
Lot Width	75 m	30.0 m
Lot Depth	108 m	30.0 m

5.0 Current Development Policies

Staff have reviewed this application, and it may move forward without affecting either the City's Financial Plan or Waste Management Plan.

5.1 Kelowna Official Community Plan (OCP)

Infrastructure Availability.¹ Give preference to supporting new housing in areas where required services already exist or can be provided most economically and efficiently;

Ground-Oriented Housing.² Encourage the development of ground-oriented multiple unit housing as an affordable housing choice for the rental or ownership markets, including families with children, in those areas where Map 19.1 indicates necessary densities as being appropriate. Ground oriented housing is defined as housing where each dwelling unit has direct access to the unit and private open space at grade level.

Family Housing.³ Encourage family-oriented townhouses or apartment housing, and work to achieve some family housing that conforms to the City's definitions of affordability (see 8.1.16), especially within, and in proximity to, Urban Centre areas.

- All development should promote safety and security of persons and property within the urban environment (CPTED).

Housing Variety.⁴ Encourage the development of a variety of housing forms to ensure that the housing supply meets the needs of Kelowna's diverse population and satisfies a range of lifestyle choices;

¹ OCP Policy 8.30

² OCP Policy 8.38

³ OCP Policy 8.39

⁴ OCP Policy 8.40

6.0 Technical Comments

6.1 Building & Permitting Department

Demolition permits required for existing structures

6.2 Development Engineering Branch

See attached memo (January 14, 2011)

6.3 Environment and Land Use Branch

See attached memo

6.4 Fire Department

Fire department access, fire flows, and hydrants as per the BC Building Code and City of Kelowna Subdivision Bylaw #7900. Additional comments may be required at permit application.

6.5 FortisBC

No concerns

6.6 Infrastructure Planning

The subject property is at risk of flooding due to the recently upgraded Clifton Road. The property is a low lying area in relationship to the neighbourhood and a large storm event will create problems. IPLAN has proposed drainage works to correct the problem as part of the final phase of the Clifton Road expansion project (High 1). This project needs to occur before development of this site as multi-family. These proposed drainage works were determined to be Priority 2 in the 2011 Capital Budget Process, so the earliest the drainage improvements can occur are 2012 or later.

NOTE; Infrastructure Planning has received a Flood Risk Assessment report that advises that mitigation is not required at this stage. See attached report. The recommendation for structural fill on the property will be dealt with as a registered notice on the title.

6.7 Shaw Cable

Owner/Developer to install an underground conduit system as per Shaw Cable drawings and specifications.

6.8 Telus

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

6.9 Terasen Utility Services

See attached memo

7.0 Application Chronology

Date of Application Received: July 21, 2010

Date revised Development Engineering comments received; January 14, 2011

Advisory Planning Commission October 12, 2010

The above noted applications were reviewed by the Advisory Planning Commission at the meeting on October 12, 2010 and the following recommendations were passed:

THAT the Advisory Planning Commission support Official Community Plan Amendment Application No. OCP10-0012, for 1515, 1525, 1535, 1547, 1563 Highland Drive North, to change future land use designation of the subject properties from single/two unit residential to multiple unit residential low density and the text amendment to the Housing Chapter of the Official Community Plan to support a one-increment density increase for City owned properties where 100% of the funds generated are allocated for a City initiated community benefit or project.

AND THAT the Advisory Planning Commission support Rezoning Application No. Z10-0067 for, 1515 Highland Drive North, to rezone the subject properties from the RU1 - Large Lot Housing zone to the RM3 - Low Density Multiple Housing zone to allow low density multiple unit housing uses.

Anecdotal Comment;

The Advisory Planning Commission supports this application and believes it to be a reasonable proposal that indirectly will have a long term public benefit.

Report prepared by:

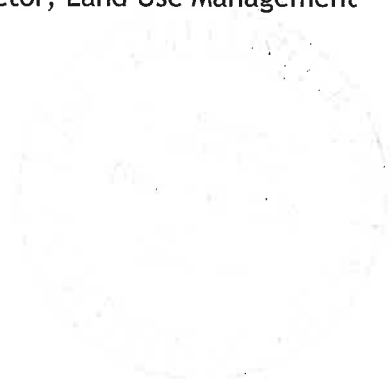

Paul McVey, Urban Land Use Planner

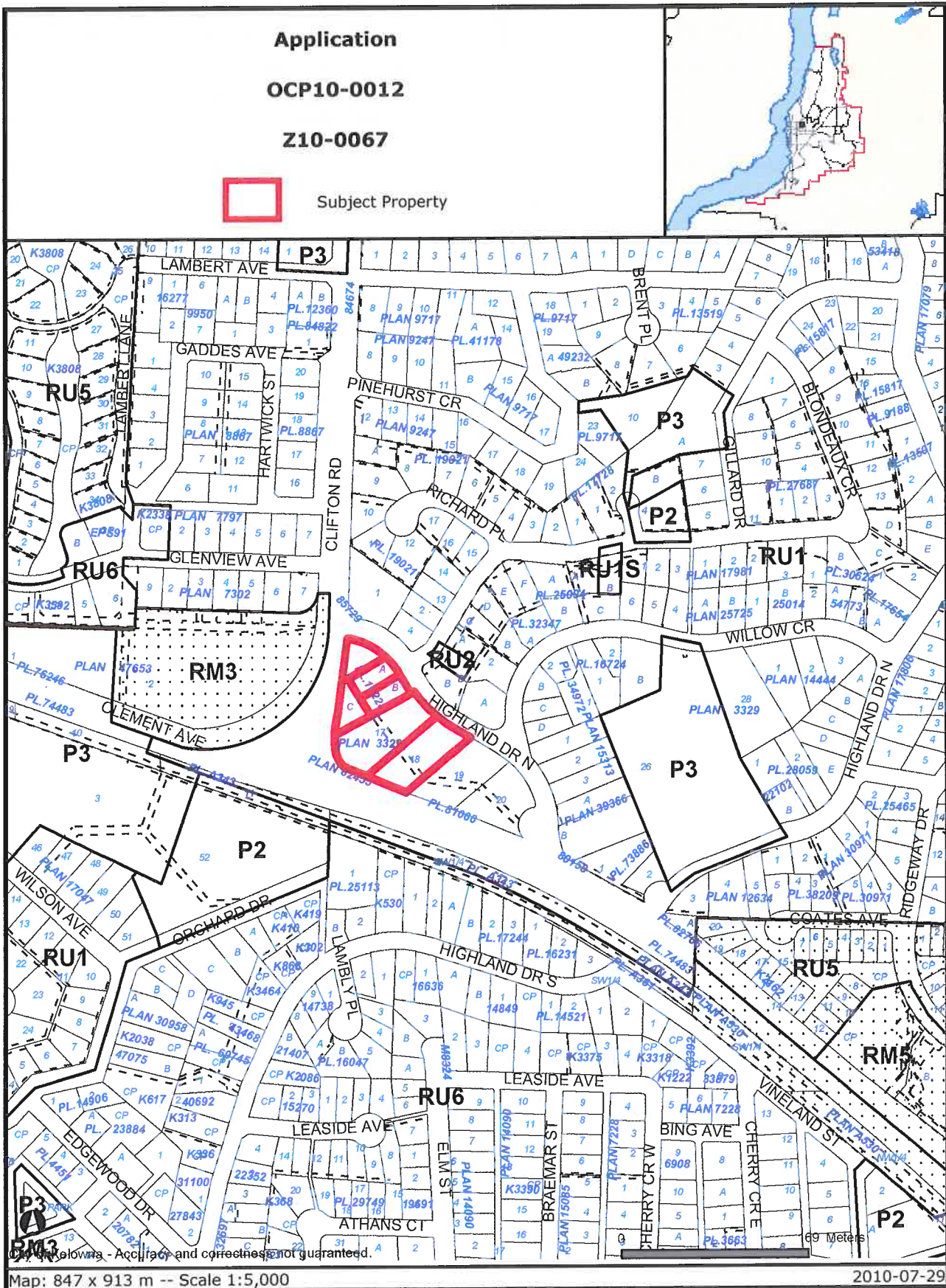
Reviewed by:  Danielle Noble Manager, Urban Land Use Management

Approved for Inclusion:  Shelley Gambacort, Director, Land Use Management

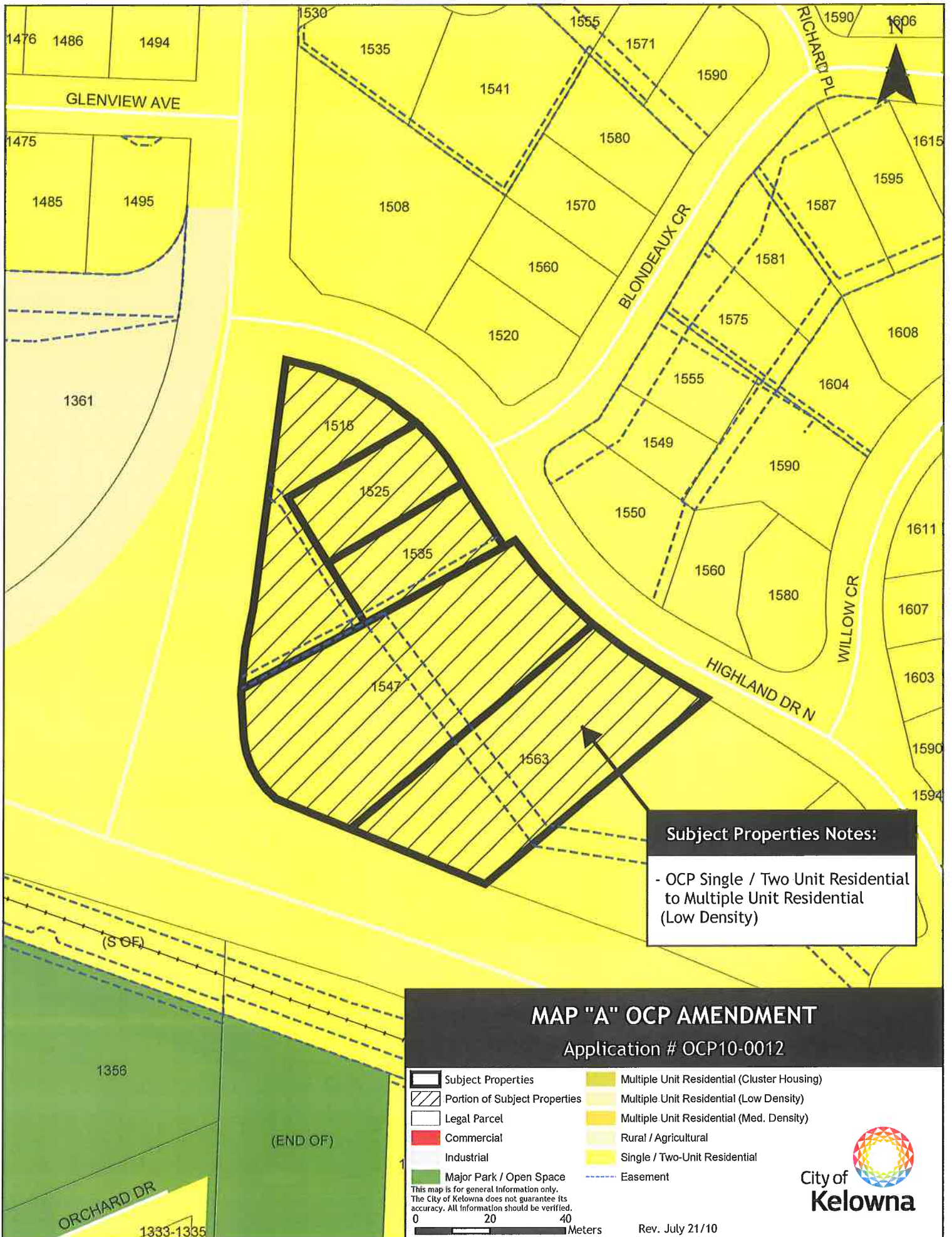
Attachments:

- Location Map
- Site Photos
- Development Engineering Comments
- Environment and Land Use Branch Comments
- Terasen Utilities Services Comments
- Map A
- Map B
- Schedule A





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.



Subject Properties Notes:

- OCP Single / Two Unit Residential to Multiple Unit Residential (Low Density)

MAP "A" OCP AMENDMENT

Application # OCP10-0012

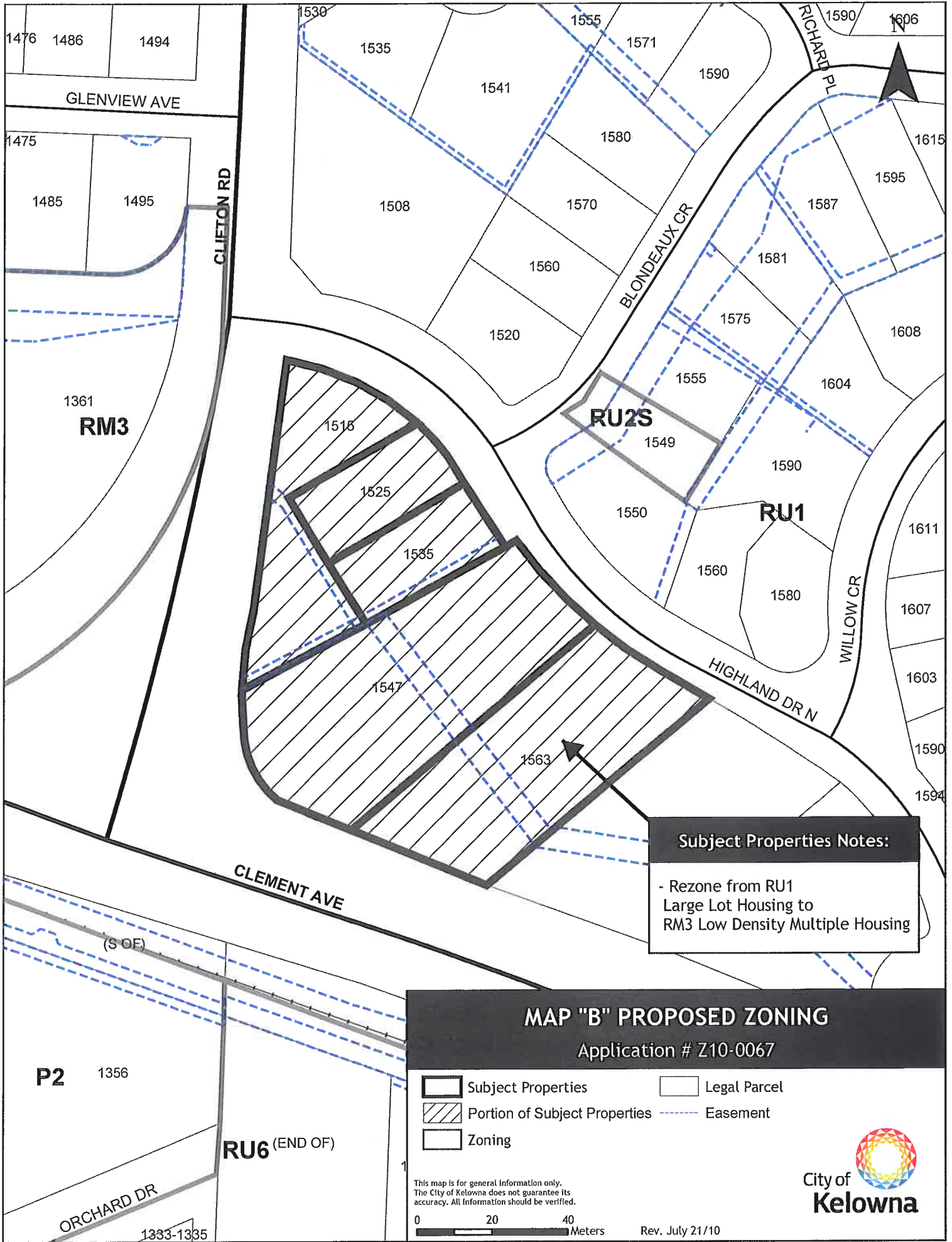
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|-------------------------------|---|
| Subject Properties | Multiple Unit Residential (Cluster Housing) |
| Portion of Subject Properties | Multiple Unit Residential (Low Density) |
| Legal Parcel | Multiple Unit Residential (Med. Density) |
| Commercial | Rural / Agricultural |
| Industrial | Single / Two-Unit Residential |
| Major Park / Open Space | Easement |

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Rev. July 21/10










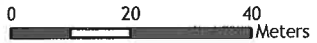
Subject Properties Notes:

- Rezone from RU1 Large Lot Housing to RM3 Low Density Multiple Housing

MAP "B" PROPOSED ZONING
Application # Z10-0067

- | | |
|---|--|
|  Subject Properties |  Legal Parcel |
|  Portion of Subject Properties |  Easement |
|  Zoning | |

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Rev. July 21/10



Schedule "A"

Add the following wording to the end of Policy 8.1.31 of the OCP:

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SITE PHOTOS – 1525 – 1563 HIGHLAND DRIVE NORTH



1525 Highland Dr. N.



1535 Highland Dr. N.



1547 Highland Dr. N.



Creek at 1525 Highland Dr. N.

CITY OF KELOWNA
MEMORANDUM

Date: January 14, 2011
File No.: Z10-0067 OCP10-0012 (Revised Comments)
To: Planning & Development Services Department (PMcV)
From: Development Engineering Manager
Subject: Highland Drive N 1535 Clifton Rd COB Plan 13228 City of Kelowna

Development Engineering has the following requirements associated with this development application. The road and utility upgrading requirements outlined in this report will be a requirement of this development.

Typically off-site roads and utilities upgrading requirements for the private sector development community would be identified in the rezoning application and made a requirement of the issuance of a building permit or subdivision approval, if applicable. In the case of a City of Kelowna application, there may be some leeway in this process.

However it has been the consensus of all the City of Kelowna departments involved in this development that the applicant will voluntarily budget for the required offsite road and utility upgrading identified in this report.

The Development Engineering Technologist for this project is John Filipenko. AScT

1. Domestic Water and Fire Protection

- (a) The existing lots are serviced with small 13mm diameter copper water services. The developer's consulting mechanical engineer will determine the domestic and fire protection requirements of this proposed development and establish hydrant requirements and service needs.
- (b) Only one service will be permitted for this development. The applicant, at his cost, will arrange for the removal of all existing services and the installation of a new larger metered water service.
- (c) The estimated cost of this construction for bonding purposes is **\$20,000.00**. If it is determined that upgrades to the existing water distribution system must be made to achieve the required fire flows, additional bonding will be required.
- (d) A water meter is mandatory for this development and must be installed inside the building on the water service inlet as required by the City Plumbing Regulation and Water Regulation bylaws. Boulevard landscaping, complete with underground irrigation system, must be integrated with the on-site irrigation
- (e) Domestic water and fire protection for the site will be reviewed and approved by Development Engineering when a site servicing design is submitted.

2. Sanitary Sewer

- (a) The developer's consulting mechanical engineer will determine the development requirements of this proposed development and establish the service needs.
- (b) Our records indicate that the existing properties are currently serviced from mains that traverse through the properties within statutory right-of-ways. The services from the mains are 100mm in diameter
- (c) It is apparent that some of the existing 200mm sewer main will be obsolete and can be removed. Record drawings also indicate that Lots 19 and 20 Plan 3329 have been provided with new connects from the recently constructed main within Clement Avenue.

The applicant, at his cost, will arrange for connecting the existing homes to the new connections and removing and capping of all existing unused mains and services. The estimated cost for construction for bonding purposes is **\$15,000.00**

Sanitary sewer servicing for the site will be reviewed and approved by Development Engineering when a site servicing design is submitted.

3. Storm Drainage

- (a) The developer must engage a consulting civil engineer to provide a Storm Water Management Plan for the site, which meets the requirements of the City Storm Water Management Policy and Design Manual. The storm water management plan must also include provision of lot grading plan, minimum basement elevation (MBE), and on-site drainage containment and disposal systems.
- (b) The on-site drainage system may be connected to the existing or proposed storm drainage mains with an overflow service. Only one overflow service will be permitted for this development. A direct connection to Brant's Creek will not be permitted.
- (c) Storm drainage for the site will be reviewed and approved by Engineering when a site servicing design is submitted.
- (d) It will be necessary to construct some storm drainage facilities (catch-basins etc.) on Clifton Road fronting the proposed development. The cost of this construction is included in the roads item.

4. Road Improvements

- (a) Extend the existing urbanization of Clifton Road to the intersection of Highland Drive North including curb and gutter, separate sidewalk, catch basins, manholes, pavement widening, boulevard treatment complete with tree wells with underground irrigation system, street lights as required and re-location or adjustment of existing utility appurtenances if required to accommodate the upgrading construction.
The estimated cost for this construction for budget purposes is **\$65,000.00**

- (b) The Highland Drive North frontage is urbanized but requires the construction of a separate sidewalk for the full length of this development site. The redundant driveway curb letdowns will need to be removed and replaced with a barrier curb. The estimated cost for this construction as previously estimated for budget purposes is **\$30,000.00**

5. Road Dedication and Subdivision Requirements

By registered plan to provide the following:

- (a) Dedicate an additional road allowance widening of 2.3m along the frontage of lots 17 and 18 Plan 3329.
- (b) Dedicate a 9.0m x 9.0m corner truncation at the Clifton Road Highland Dr. N property line intersection.
- (c) Provide a 4.5m wide SROW for vehicle access to the culvert headwall and trash rack from Highland Dr N.
- (d) Provide 4.5m wide utility SROW over the existing sanitary main c/w a vehicle access ROW to the sanitary main from Highland Dr N
- (e) Lot consolidation

6. Electric Power and Telecommunication Services

The electrical and telecommunication services to this development must be installed in an underground duct system. It is the developer's responsibility to make a servicing application with the respective electric power, telephone and cable transmission companies to arrange for these services which would be at the developer's cost.

7. Street Lighting

Street lighting including underground ducts must be installed on all roads fronting on the proposed development. The cost of this requirement is included in the roads upgrading item.

8. Engineering

- (a) Road and utility construction design, construction supervision, and quality control supervision of all off-site and site services including on-site ground recharge drainage collection and disposal systems, must be performed by an approved consulting civil engineer. Designs must be submitted to the City Engineering Department for review and marked "issued for construction" by the City Engineer before construction may begin.
- (b) For proposed works within the City right-of-way, please submit four (4) sealed sets of drawings for our review and approval.

- (c) For proposed works within the Brant's Creek riparian management area, please obtain a **Water Act Section 9 Authorization** from the Ministry of Environment in order to carry out any changes in and about a stream.
- (d) A Notice to Proceed and Road Usage Permit will be required prior to commencement of construction within the City right-of-way.

9. Geotechnical Report

As a requirement of this application or at building permit application, the applicant must provide a comprehensive geotechnical report prepared by a Professional Engineer qualified in the field of hydro-geotechnical survey to address the following:

- (a) Area ground water characteristics, including water sources on the site and overland surface drainage courses traversing across or influencing this property.
- (b) Site suitability for development; i.e. unstable soils, peat deposits, soil bearing capability, etc.
- (c) Drill and/or excavate test holes on the site and install piezometers if necessary. Log test hole data to identify soil characteristics, identify areas of fill if any. Identify unacceptable fill material, analyse soil sulphate content, identify unsuitable underlying soils such as peat, etc. and make recommendations for remediation if necessary.
- (d) List extraordinary requirements that may be required to accommodate construction of roads and underground utilities as well as building foundation designs.

10. Survey Monuments and Iron Pins

If any legal survey monuments or property iron pins are removed or disturbed during construction, the developer will be invoiced a flat sum of \$1,200.00 per incident to cover the cost of replacement and legal registration. Security bonding will not be released until restitution is made.

11. Development Permit and Site Related Issues

- (a) **Removed** Note pertaining to placing a "No-Build Covenant" on the property at time of lot consolidation.
- (b) Comments related to site development will be addressed when a development permit and / or a building permit application is submitted.
An Environmental Development Permit Application to the Land Use Management Department will be required. The coordinator for this project should contact the Environment & Land Use Branch to arrange for a pre-application meeting.

12. Administration Charge

An administration charge is normally assessed for processing an application and for review and approval of engineering designs and construction inspection. A discussion between department managers should be held to decide if an administration charge is required for this application. An administration charge would be calculated as 3% of the total off-site construction costs, not including design. 12% HST is normally added.

13. Cost Estimates for Information Purposes

(a) Estimates

Clifton Road Frontage upgrades	\$ 65,000.00
Highland Dr N frontage upgrades.	\$ 30,000.00
Service Upgrades	\$ 35,000.00
Total Costs	\$130,000.00.

NOTE: The amounts shown above are estimated construction costs excluding bonding escalation but include engineering design and contingency protection. These estimates are provided for information purposes only.

A typical private developer would be required to enter into a servicing agreement, and provide a performance bond to assure that the required construction is completed, but this may not be necessary in this case.

(b) Levies Nil

Steve Muenz, P. Eng.
Development Engineering Manager
JF/jf
Cc Subdivision Approving Officer (DB) see item 11 (a)

CITY OF KELOWNA
MEMORANDUM

Date: November 4, 2010
File No.: Z10-0067

To: Paul McVey (Senior Planner 2)

From: Environment & Land Use Branch

Subject: Z10-0067

LOCATION:	1515 and 1525 Highland Dr. N.
APPLICANT:	City of Kelowna
LEGAL:	Lot C, Plan 13228 and Lot A, Plan 13228

The Environment & Land Use Branch comments and requirements regarding this application are as follows:

a) **General**

X	Properties are located in a Natural Environment Development Permit Area
X	Properties have a stream (Brandt Creek)
X	The City of Kelowna Zoning setback for Brandt Creek is 10 meters from the top of bank.

Environment & Land Use Branch comments:

Environment & Land Use Branch recommend the following measures in consideration of rezoning the subject properties:

1. It is recommended that the riparian management area for Brandt Creek be kept as City owned land and zoned P3 (Parks and Open Space) in order to effectively protect/preserve this riparian corridor. The Riparian Management Area extends 10 m from each side of Brandt Creek measured from the top of bank.
2. It is recommended that the Riparian Management Area of Brandt Creek for the above mentioned properties undergo Riparian Restoration in order to transform it back to productive riparian habitat. The Riparian Restoration Plan must be submitted to the Environment & Land Use Branch for review and approval. The Riparian Restoration Plan shall be for the entire riparian setback area within the subject properties and be designed and submitted to the City of Kelowna as follows:

✓ The cross section design of the creek channel must be approved by a Professional

- Engineer (adequately designed for storm flows).
- ✓ The Riparian Management Area should be delineated with a 4 foot high black chain link fence.
 - ✓ Provide a schematic plan and schematic cross section of proposed landscape plan.
 - ✓ Remove cement retaining walls and re-slope creek banks to a 3:1 slope or to the satisfaction of a Registered Professional Biologist in order to restore the riparian management area.
 - ✓ Remove house, driveway, swimming pool and all hard surfacing within the Riparian Management Area and provide a riparian restoration plan for the area within the 10 m riparian setback
 - ✓ Provide an irrigation plan. Provide a water management strategy that incorporates water conservation measures in the landscape plan (e.g. drip irrigation).
 - ✓ Landscape drawings should show the dimensions and location of footprints for all existing and proposed landscaping relative to the existing and final **site** grades, vehicle areas, property lines, easements, adjacent land uses, building entrances and walkways, exterior lighting, street furniture; hydrants, garbage collection areas, utility poles, and underground utilities;
 - ✓ Drawings are to describe the existing and proposed plant materials (including areas of natural vegetation to be retained) identifying common and scientific plant names, quantity, calliper, rootball size, and height at planting and maturity;
 - ✓ landscape drawings are to include a north arrow and legend that includes the date, metric scale, revision box, and plant materials list;
 - ✓ Provide a riparian restoration maintenance plan for the site.
 - ✓ A Registered Professional Biologist must approve the riparian restoration plan.

Corey Davis, Environmental Technician 2
Environment & Land Use Branch
City of Kelowna
Ph: 250-469-8984

P:\Planning\General\Environment\3060 - Development Permits\3060-20 - Permits Individual\2010\1515, 1525 Highland Dr N (Z10-0067)\Memo Z10-0067.doc



Property Services Department
Right of Way Management
16705 Fraser Highway
Surrey, British Columbia
Canada, V4N 0E8

Tel (604) 576-7091
Fax (604) 576-7011
Toll Free 1-800-773-7001
e-mail: alisa.fowler@terasengas.com

Alisa Fowler
Property Services Clerk

1

Aug 19, 2010

Your File: Z10-0067 & OCP10-0012
Our File: TGI 5016
C/R: IP

City of Kelowna
1435 Water Street
Kelowna, BC
V1Y 1J4

Attn: Shelley Gambacort – Director Land Use Management



Re: Rezoning Application – Highland Dr N

Thank you for your letter received **July 29, 2010** regarding the proposed rezoning application of the subject property. Terasen Gas has no objection in principal to the rezoning application of the subject lands with the following conditions:

Site Specific Comments

- The Terasen Gas pipeline was initially installed to the required standards of the prevailing land use at the time of installation and may not be to the standards necessary to support the proposed re-zoning. As such, the acceptability of the pipeline to support the change in land use may require an engineering assessment and possible pipeline upgrade by Terasen Gas, and at the expense of the Applicant / Property Owner. (see item #3 below)
- Existing soil conditions, final site grades, building elevations, and adjacent preloading must be considered during design and feasibility study as it relates to the existing Terasen Gas pipeline and right of way.
- Terasen Gas encourages the use of its ROW for linear park areas
- Terasen Gas requests that the proposed property lines align with the Terasen Gas right of Way boundaries and in no case do the property lines terminate over the Terasen Gas pipeline.

General Development Requirements

1) Pipeline Permits

The Pipeline Act of British Columbia requires that an application be made for a "Pipeline and/or Right of Way Permit" for all work within the pipeline right of way. A permit application must be forwarded to Terasen Gas for all work within the pipeline right of way. An application can be obtained from the Permit Representative by calling (604) 576-7021 or toll free 1-800-773-7001.

Each utility designed to cross a Terasen Gas right of way (i.e. road, driveway, parking lot) will require a pipeline crossing permit from Terasen Gas. It is recommended that, given the nature of the development and proposed use of the right of way, the applicant submit an application for pipeline crossing permit to Terasen Gas as soon as possible so that the issues can be dealt with in timely manner.

2) Inspection

A Terasen Gas Pipeline Representative **must be** on site to witness **all work** within the pipeline right of way. The applicant must notify Terasen Gas a minimum of **72 hours** in advance of starting any activities within the right of way and have an approved permit on site.

3) Vehicle Crossing -Parking Lots – New Roads

In respect to vehicle crossings and parking lots, Terasen Gas is required to complete an engineering assessment of all proposed vehicle crossings of a Terasen Gas transmission pipeline. A physical inspection and possible upgrading of the pipeline is required at all proposed road and parking lot locations. All costs to complete this work will be borne by the property owner or applicant.

Upon receipt of the applicant's final design drawings and permit application, Terasen Gas will prepare an estimate of costs to complete these works and shall include the following:

Physical inspection and engineering assessment and analysis of loads that will be potentially imposed on the pipeline for a minimum distance of seven meters (7m) beyond the proposed travelled surface; and

- Mitigative action by Terasen Gas to protect or upgrade our pipelines or facilities. This may require upgrading, realigning or replacing the existing pipeline in order to accommodate the development proposal and change in land use.

The property owner or applicant is responsible for the following costs:

- To retain the services of a qualified geotechnical engineer to prepare a soils report of the existing soil conditions below and around the pipeline;
- To provide an engineering drawing illustrating the geodetic elevation of the pipeline, existing grade and proposed grade; and
- Terasen Gas' costs to complete the pipeline inspection, engineering assessment and facility upgrade. The property owner must commit the necessary funds to Terasen Gas by way of certified cheque or an irrevocable letter of credit prior to Terasen Gas commencing its works. Scheduling of the pipeline inspection and upgrade will be at the discretion of Terasen Gas.

5) Right of Way Identification

The pipeline right of way must remain clearly identifiable from the ground and the air at all times. Provision must be made for the installation of Terasen Gas' pipeline markers, which must be placed directly over the gas pipeline. The Terasen right of way should be defined on the development plan and all property boundaries intersecting with the Terasen Gas right of way should be posted with new iron pins at the applicant's expense.

If the applicant plans to pave the right of way, both vent grates and painted pavement identification will be required over the pipeline.

As a general comment, effective March 1, 1998, Terasen Gas will not endorse a subdivision plan that consents to the dedication of a new roadway or park over an area presently charged with a Terasen Gas Statutory Right of Way. This applies to Transmission pipelines only, operating in excess of 2069 kPa. Terasen Gas will require that a new lot be created over the right of way, which is to become road or park. The new lot must be assigned a lot number and registered with the Land Title Office. For road, it can be noted on the plan that the lot is "For Road Purposes Only". This policy is to ensure that our rights of way, which allow us to protect and maintain the pipeline, are not extinguished. Additionally, Terasen Gas would prefer not to sign any subdivision plan until we are assured that any inspection and/or upgrade to the gas pipeline are completed.

6) Landscaping

Landscaping within the right of way shall be restricted to low growing ground cover within 1 metre either side of the pipeline (i.e. grass or ground cover shrubs); the balance of the right of way may be planted with vegetation that does not exceed 1.8m maximum height at maturity. Trees exceeding 1.8 m in height should not be planted in a location outside the right of way where the tree canopy will encroach on the right of way.

7) Statutory Right Of Way Agreement

The conditions in this letter are to be read in conjunction with the Statutory Right of Way Agreement charged on the land and shall not be construed as diminishing the terms of the Right of Way Agreement.

Terasen Gas Inc. shall be released from all claims and demands from future property owners that may arise directly or indirectly from the construction, operation, protection, surveillance, maintenance and repair of the pipeline or any other future activities within the gas pipeline Right of Way.

Construction Fill Material

All fill material placed within the Right of Way must be clean and free of any Hazardous Substances. This would include all materials that present a hazard to human, animal and plant life or health. No material is to be imported onto the Right of Way that would cause any damage to the environment. The placement of fill within the Right of Way must be done in accordance with all laws and authorities pertaining to contaminated soil regulations. If the property owner introduces any Hazardous Substance within the Right of Way, then the property owner shall remove all such Hazardous Substances at its sole cost and expense and the property owner shall indemnify Terasen Gas from any costs, damages or claims which may be made against Terasen Gas including all clean-up costs and legal or professional fees. Prior to placing any material within the Right of Way, the applicant must provide Terasen Gas with analytical data assuring that no Hazardous Substances are present in the fill material.

Building Construction

The developer is responsible to ensure that their actions adjacent to the Terasen Gas right of way do not adversely impact our facilities. This includes:

- Activities such as land filling, preloading or excavation which have the potential of displacing the pipeline as a result of loading or sloughing; and
- The existing drainage must not be altered in a manner that will result in water accumulation within the right of way.

In respect to the future buildings proposed outside of the right of way, no building, structure or foundation or portions thereof, and roof overhangs are permitted within the pipeline right of way. We recommend that the future buildings be set back far enough from the Terasen right of way to ensure that the foregoing structures do not encroach into the Terasen Gas right of way.

Utilities

Utilities (i.e. future telephone and electrical ducts, storm and sanitary sewers, water main etc.) will not be permitted to run parallel within the Terasen Gas right of way. Crossing angles must be between 45 and 90 degrees to the gas pipeline. All street light poles, junction boxes, luminaries, catch basins or manholes and signage are to be located outside the pipeline right of way.

We trust the information contained herein is suitable for your purposes at this time. However, if you require any further clarification, please contact the undersigned directly at (604) 576-7253. Please ensure the applicant is aware of the requirements and conditions in respect to the use of the Terasen Gas right of way.

Yours truly,

TERASEN GAS INC.



Alisa Fowler
Property Services