

REPORT TO COUNCIL



Date: June 28, 2012
To: City Manager
From: Land Use Management, Community Sustainability (PMc)
Application: LUC12-0001 **Owner:** Horst Albert Zyweck and Freia Margarete Zyweck
Address: 325 Banks Rd. **Applicant:** Mission Group Construction Ltd.
Subject: Discharge of Land Use Contract
Existing OCP Designation: Service Commercial
Existing Zone: C7 - Service Commercial (of Zoning Bylaw 4500) (LUC76-1114)

1.0 Recommendation

THAT Application No. LUC12-0001 to discharge Land Use Contract LUC76-1114 from Lot B, District Lot 125, ODYD, Plan 30858, located at 325 Banks Road, Kelowna, BC, be considered by Council; AND THAT LUC12-0001 be forwarded to a Public Hearing for further consideration;

2.0 Purpose

The subject property was the location of a major fire in July 2011, where the building situated on the property was a total loss. The applicant is rebuilding the site and wishes to have the Land Use Contract discharged to allow the underlying C10 Service Commercial zone as the land use regulation to accommodate an on-site residential operator unit.

3.0 Land Use Management

The applicant has elected to rebuild the site development as regulated by the Land Use Contract (LUC) to proceed with the project in a timely manner. However, the applicant has expressed a desire to create a residential unit within the floor plan in order to occupy the building when the business is not open. As the existing development is regulated by a LUC that relates to the expired C-7 Service Commercial zone of Zoning Bylaw 4500 (a regulation that does not allow for residential units), it is necessary to discharge the Land Use Contract and allow the underlying C10 - Service Commercial zone to become the active regulation in order to permit the residential suite.

A handwritten signature in black ink, appearing to be a stylized 'Z' or similar mark.

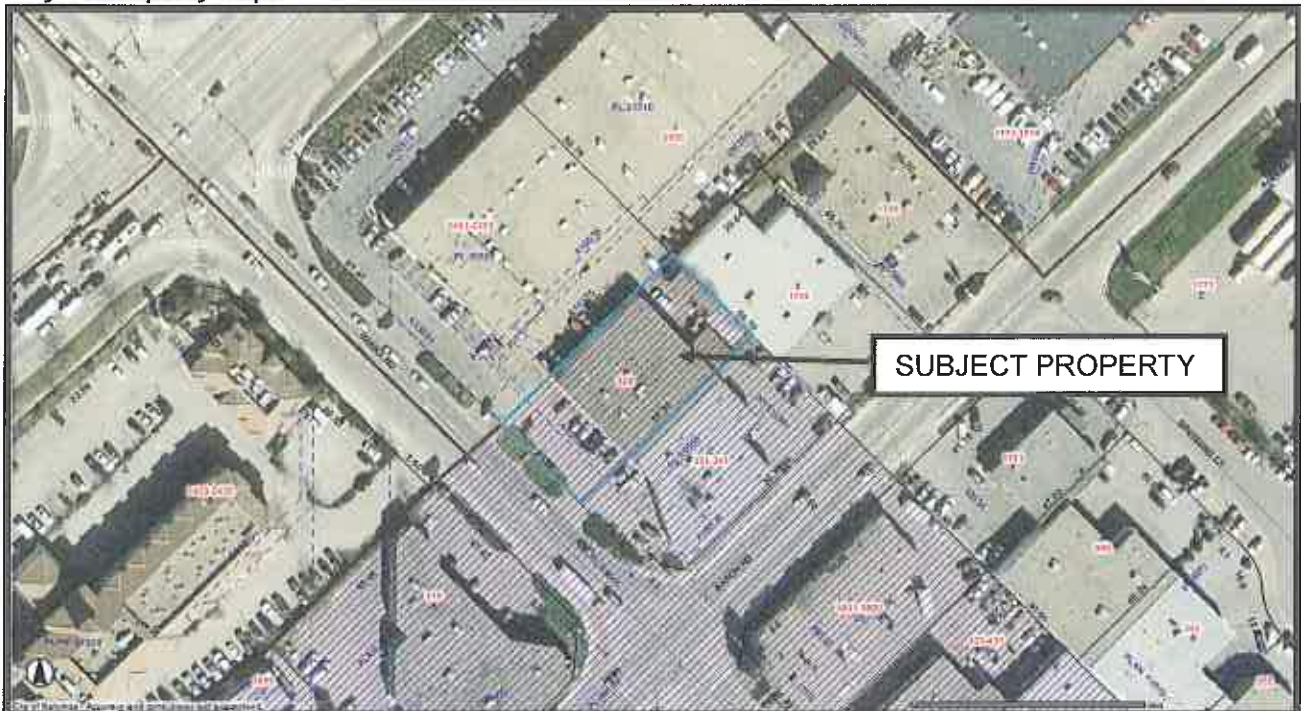
Favorably, through a recently approved Development Permit, the applicant has taken this opportunity to amend the exterior materials and colors to update the form and character of the building to more contemporary standards. As well, the applicant is also rebuilding the destroyed wood-framed accessory buildings with non-combustible materials to the same standard as the replacement building. There will also be improvements made to the existing landscaping located along the Banks Road frontage.

4.1 Site Context

The subject property is located on the north east side of Banks Road, between Highway 97 and Baron Road, within the Midtown Urban Centre. Adjacent zones and uses are to the:

- North West - C3 - Community Commercial
- North East - C10 - Service Commercial
- South West - C10 - Service Commercial (LUC76-1114)
- South East - C10 - Service Commercial (LUC76-1114)

Subject Property Map:



4.2 Zone Analysis

Zoning Analysis Table		
CRITERIA	PROPOSAL	C10 ZONE REQUIREMENTS
Subdivision Regulations		
Lot Area	1,535 m ²	1,000 m ²
Lot Width	26.79 m	30.0 m
Lot Depth	57.3 m	30.0 m
Development Regulations		
Floor Area Ratio	0.65	FAR = 0.65 max
Floor Area	991.5 m ²	997.75 m ² max
Height	1 storey / 7.52 m	3 storeys / 12.0 m

Site Coverage	59.4%	60%
Front Yard	16.28 m	2.0 m
Side Yard (south west)	0.0 m	0.0 m
Side Yard (north east)	0.0 m	0.0 m
Rear Yard	0.0 m	0.0 m
Other Regulations		
Minimum Parking Requirements	15 parking stalls	2 per 100 m ² = 19 stalls required*
Loading Space	1 stall	1 stall per 1,900m ² 1 stall required

*Legal Non-conforming

5.0 Current Development Policies

5.1 Council Policy No.282 - Strategy for Elimination of Remaining Land Use Contracts

That the City of Kelowna initiate proceedings to discharge Land Use Contracts that have provisions enabling the City to unilaterally discharge the contracts subject to consultation with affected owners of the land and subject to prior approval by Council with regard to affected contracts.

6.0 Technical Comments

6.1 Building & Permitting Department

Building Permits required for any renovations / modifications to this building.

6.2 Development Engineering Department

As attached.

Application Chronology

Date of Application Received: February 21, 2012

Development Engineering Requirements completed: June 25, 2012

Report prepared by:

Paul McVey, Land Use Planner

Reviewed by:



Danielle Noble, Manager of Urban Land Use

Approved for Inclusion:



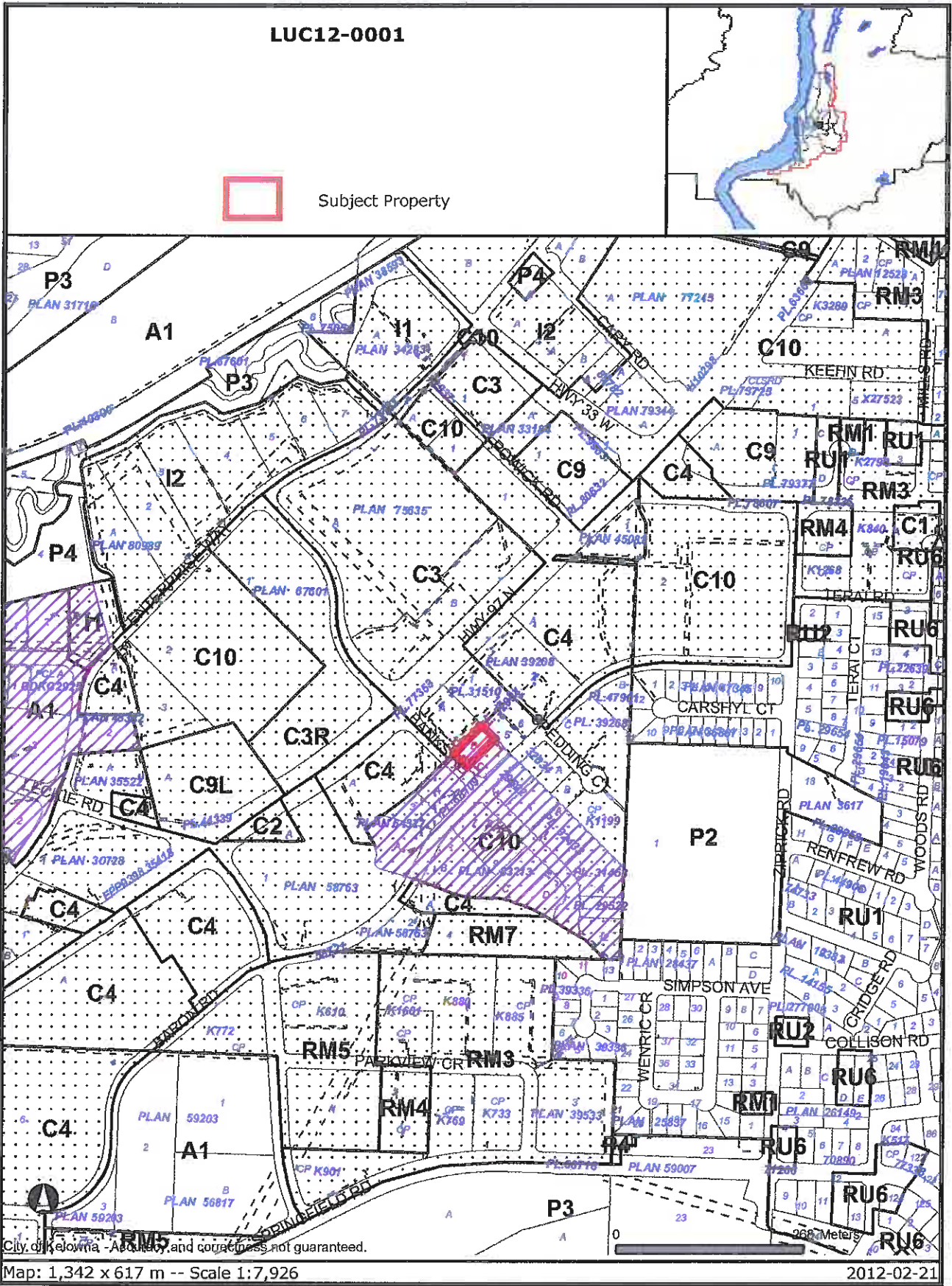
Shelley Gambacort, Director of Land Use Management

Attachments:

Subject Property Map

Site Plan

Copy of LUC76-1114



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.

PROJECT DATA

CIVIC ADDRESS: 325 BANKS ROAD, KELOWNA B.C.
 LEGAL DESCRIPTION: LOT 8, PLAN 8886, O.D.V.D., IPD (03-84-0497)
 CURRENT ZONING: LUC No. 761114 - CT SERVICE COMMERCIAL (C/B)

ZONING BYLAW REQUIREMENTS

SITE AREA = 16,524 SQ.FT. (1,533 SQ.M.)
 BUILDING AREA:
 MAIN FLOOR (EXISTING) = 7,954 SQ.FT. (730.6 SQ.M.)
 PROPOSED MAIN FLOOR ADDITION = 1,947 SQ.FT. (180.9 SQ.M.)
 SECOND FLOOR = 861 SQ.FT. (80.0 SQ.M.)
 TOTAL = 10,673 SQ.FT. (991.5 SQ.M.)

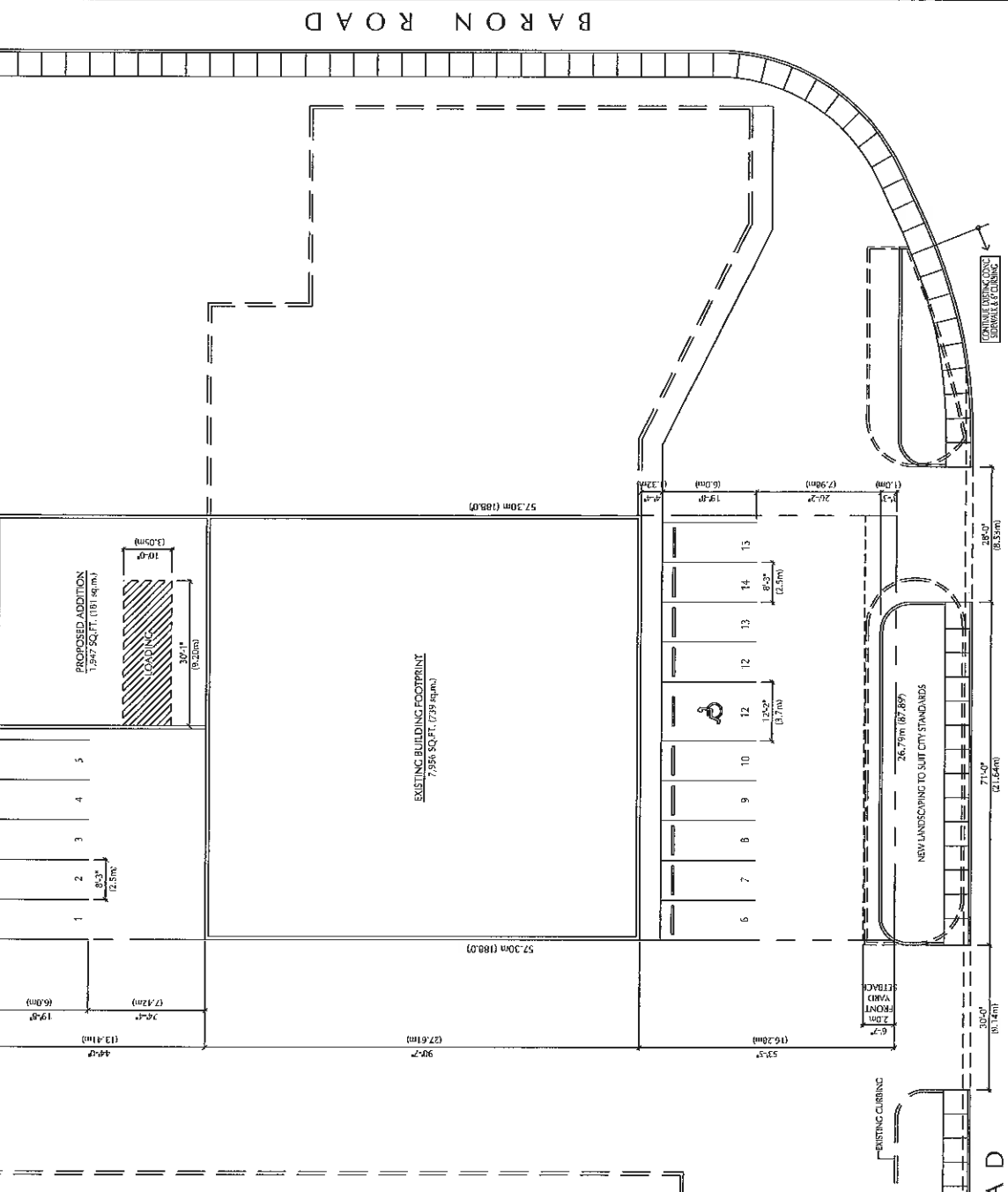
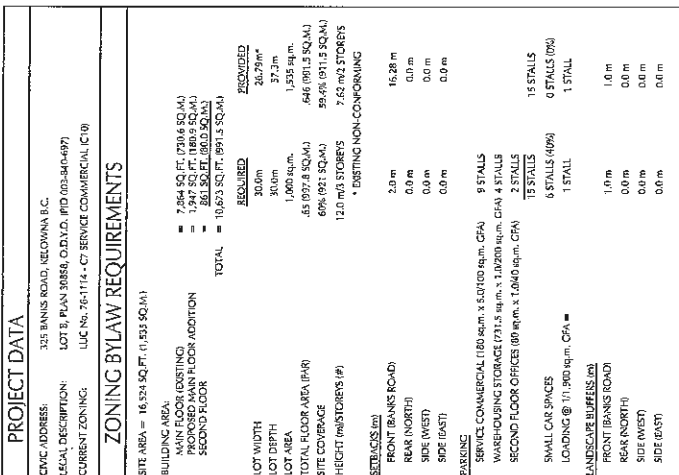
	REQUIRED	PROVIDED
LOT WIDTH	30.0m	26.75m
LOT DEPTH	30.0m	37.3m
LOT AREA	1,000 sq.m.	1,535 sq.m.
TOTAL FLOOR AREA (FAR)	45 (977.8 SQ.M.)	646 (601.5 SQ.M.)
SITE COVERAGE	60% (921 SQ.M.)	59.6% (911.5 SQ.M.)
HEIGHT (MAX STOREYS) #	12.0 m/3 STOREYS	7.62 m/2 STOREYS

PARKING

SERVICE COMMERCIAL (120 sq.m. x 5,070 sq.m. CPA) 9 STALLS
 WAREHOUSING STORAGE (731.5 sq.m. x 1,020 sq.m. CPA) 4 STALLS
 SECOND FLOOR OFFICES (80 sq.m. x 1,040 sq.m. CPA) 2 STALLS
 15 STALLS
 SMALL CAR SPACES 6 STALLS (60%)
 1 STALL (40%)
 LOADING @ 11,300 sq.m. CPA = 1 STALL

LANDSCAPE BUFFER (M)

FRONT (BANKS ROAD) 1.0 m
 REAR (BARON ROAD) 0.0 m
 SIDE (WEST) 0.0 m
 SIDE (EAST) 0.0 m



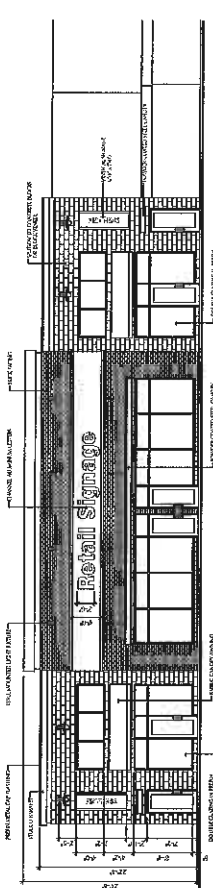
HANS P. NEUMANN ARCHITECT INC.
 1320 HIGHLAND DRIVE NORTH, KELOWNA, B.C. V1Y 4V3
 PHONE (250) 864-0278 FAX (250) 864-0337

DP1

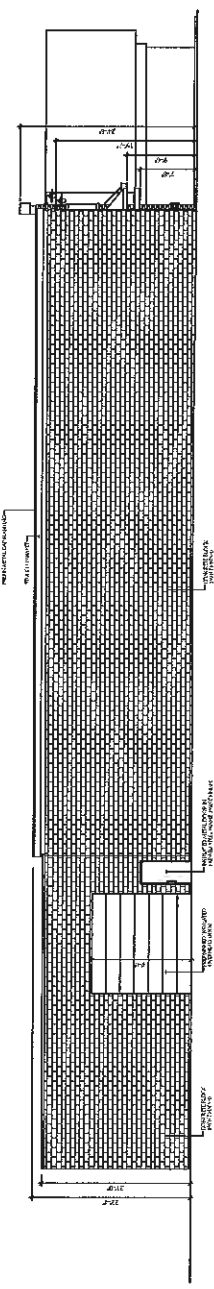
DATE: 02/11/14
 DISCIPLINE: SITE/ROOF PLAN & ZONING ANALYSIS
 DRAWN BY: [Signature]
 CHECKED BY: [Signature]

PROJECT: FIRE RE-BUILD SERVICE COMMERCIAL BUILDING
 325 BANKS ROAD, KELOWNA, BC

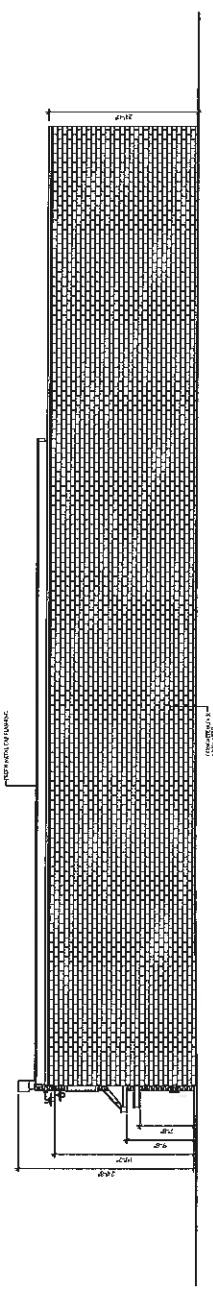
DRAWING TITLE: SITE/ROOF PLAN & ZONING ANALYSIS



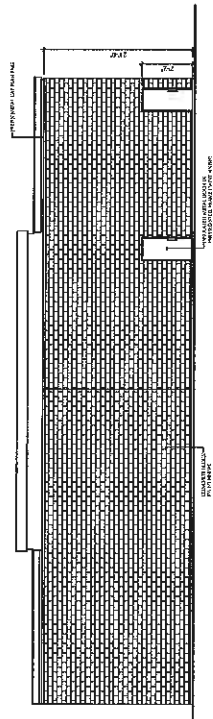
FRONT (SOUTH) ELEVATION
SCALE: 1/8" = 1'-0"



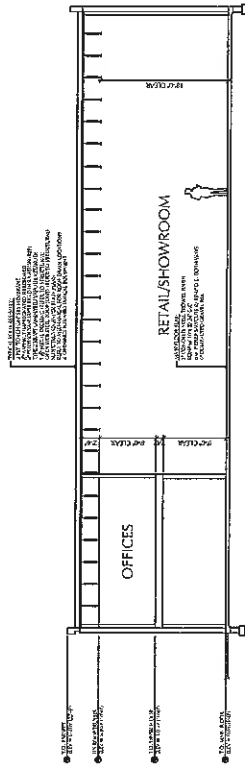
SIDE (WEST) ELEVATION
SCALE: 1/8" = 1'-0"




SIDE (EAST) ELEVATION
SCALE: 1/8" = 1'-0"



REAR (NORTH) ELEVATION
SCALE: 1/8" = 1'-0"



BUILDING CROSS-SECTION
SCALE: 1/8" = 1'-0"

HANS P. NEUMANN ARCHITECT INC. 
 1330 HIGHLAND DRIVE NORTON, KELLOWNA, B.C. V1V 4K3 PHONE (250) 854-0178 FAX (250) 854-0187
 325 BANKS ROAD KELLOWNA, B.C.
 ELEVATIONS/BUILDING CROSS-SECTION

NO.	DATE	DESCRIPTION	SCALE
0001	DEC 11	ISSUED FOR DEVELOPMENT PERMIT	1/8" = 1'-0"
0002			
0003			
0004			
0005			
0006			
0007			
0008			
0009			
0010			

SCALE: 1/8" = 1'-0"
 DATE: OCTOBER 1, 2013
 DRAWN: JPM
 PROJECT: DP3
 LICENSE NO.:

M46624
Aug 11/77

CITY OF KELOWNA

BY-LAW NO. 4299-77

(Land Use Contract Authorization By-Law, Kaminski Construction Limited, Tamco Holdings Limited, Ed-Mar Enterprises Limited, Sid's Grocery Limited, Highway 97).

A by-law to authorize the entering into of a Land Use Contract.

WHEREAS Subsection (3) of Section 702A of the "Municipal Act" being Chapter 255 of the Revised Statutes of British Columbia, 1960, provides in part that the Council may, by by-law, notwithstanding any by-law of the municipality, or Section 712 or 713 of the "Municipal Act", enter into a Land Use Contract containing such terms and conditions for the use and development of the land as may be mutually agreed upon, and thereafter the use and development of the land shall, notwithstanding any by-law of the municipality, or Section 712 or 713 of the said Act, be in accordance with the Land Use Contract;

AND WHEREAS the Municipal Council of the City of Kelowna is desirous of entering into a Land Use Contract with Kaminski Construction Limited - 1630 Ellis Street, Kelowna, B.C., Tamco Holdings Limited - 143 Park Road, Box 2130, Kelowna, B.C., Ed-Mar Enterprises Limited - No. 3 - 286 Bernard Avenue, Kelowna, B.C., and Sid's Grocery Limited - No. 3, 286 Bernard Avenue, Kelowna, B.C.;

THEREFORE the Municipal Council of the City of Kelowna, in open meeting assembled, enacts as follows:

1. The Municipal Council of the City of Kelowna hereby authorizes the City of Kelowna to enter into a Land Use Contract with Kaminski Construction Limited, Tamco Holdings Limited, Ed-Mar Enterprises Limited, and Sid's Grocery Limited, in the form of the Land Use Contract attached hereto and forming part of this by-law.
2. His Worship the Mayor and the City Clerk are hereby authorized to sign the attached Land Use Contract as well as any conveyances, deeds, receipts, and other documents in connection with the attached Land Use Contract and affix the corporate seal of the City of Kelowna to same.

Read a first time by the Municipal Council this 10 day of May, 1977.

Considered at a Public Hearing on the day of 10 day of May, 1977.

Read a second time by the Municipal Council this 10 day of May, 1977.

Read a third time by the Municipal Council this 10 day of May, 1977.

By-Law No. 4299-77 - 2.

Approved under the Controlled Access Highways Act this 7th day
of June, 1977.

"H.F. Blunden"

Approving Officer
Ministry of Highways and Public Works

Reconsidered, finally passed and adopted by the Municipal Council
of the City of Kelowna by a vote in favour thereof of at least two-thirds
of the members present this 21st day of June, 1977.



Acting Mayor



City Clerk

Owner

1. The Developer is the registered owner or has the right to purchase an estate in fee simple of all and singular those certain parcels or tracts of land and premises, situate, lying and being in the City of Kelowna, in the Province of British Columbia, and being more particularly known and described as:

Lot 4
Plan 3738
Osoyoos Division
Yale District
(except part on Plan 9120)

Lot 5
Plan 3738
Osoyoos Division
Yale District

Lot 3
Plan 3489
Osoyoos Division
Yale District

Lot 3
Plan 3738
Osoyoos Division
Yale District

(herein called the "Land").

Consent

2. The Developer has obtained the consent of all person having a registered interest in the Land as set out in the schedule prefacing the consents to the use and development set forth herein which consents are attached hereto.

Development and Compliance

3. For the purpose of determining the use of Land, buildings and structures within the Land and the regulation of the size, shape and siting of buildings and structures and the provision of off-street parking and other zoning regulations those portions of the Land shown in red on the Plan attached hereto as Schedule "A" shall be deemed to be zoned C-7 Service Commercial as described in the City of Kelowna Zoning By-law 1976 #4500 as amended, and those portions of the Land shown in green on the Plan attached hereto as Schedule "A" shall be deemed to be zoned C-3 Community Commercial as described in the City of Kelowna Zoning By-law 1976 #4500 as amended and the Land shall be used and developed strictly in compliance with such regulations except as amended by this contract.

Street Dedication

4. The Developer shall dedicate by a plan of subdivision the streets as generally shown in red on the plan attached hereto as Schedule "E" at the time of subdivision of the Land.

Consolidation

5. The Developer shall consolidate the portions of the Land shown in red on the Plan attached hereto as Schedule "C" with the adjacent parcels shown in green on the Plan attached hereto as Schedule "C" at the time of subdivision of the Land.

T.T.
H. E. J.

ALL roads dedicated by subdivision and utilities required to be constructed on the Land as a condition of subdivision shall be constructed to current City standards, at the sole cost of the Developer, to the satisfaction of the City Engineer prior to the issuance of any building permit within the Land.

Easements and Rights of Way

7. The Developer shall provide, at his sole cost, all necessary utility and drainage easements or rights of way at the time of subdivision of the Land, and shall be registered in the Land Registry Office.

Fire Hydrants

8. The Developer shall install, at his sole cost, all fire hydrants required by the City to the satisfaction of the City Engineer.

Waste Water Disposal

9. The Developer shall, at his sole cost, connect any building on the Land to the Sanitary Sewer System of the City of Kelowna or alternatively provide for sewage disposal through the use of on site septic tank systems constructed to the satisfaction of the Medical Health Officer of the South Okanagan Health Unit.

Water

10. The Developer shall connect any building on the Land to the Rutland Water Works water supply system.

Water Rights Branch Requirements

11. The Developer shall meet any requirements of the British Columbia Water Rights Branch as a condition of subdivision.

Landscaping

12. The Developer shall provide for the landscaping, including bonding, of the required front yard of each lot prior to the issuance of a building permit to construct any building upon such lot to the satisfaction of the Chief Building Inspector of the City of Kelowna. The landscaping shall be maintained, as provided, by the Developer.

Setback

13. A yard shall be provided adjacent to Highway 97 to a full depth of fifty feet.

Buffer

14. A ten foot landscaped buffer strip shall be provided for, including bonding, adjacent to all lands zoned Residential or Institutional prior to the issuance of a building permit to construct any building upon such lot to the satisfaction of the Chief Building Inspector. The landscaping shall be maintained, as provided, by the Developer.

Vehicular Access

15. No direct vehicular access shall be allowed to Highway 97.

Building Design

16. The design of buildings and structures to be constructed on each lot shall be approved by the City Planner and Chief Building Inspector prior to the issuance of a building permit to construct any building or structure upon such lot.

tion

17. Schedules "A", "B", and "C" hereinbefore referred to are hereby incorporated into and made a part of this Agreement.

Bylaws

18. Except as provided in this contract the Land shall be used and developed strictly in compliance with the bylaws of the Municipality.

Legal Fees

19. The Developer agrees to pay all of the legal costs incurred by the Municipality in the preparation of this Contract.

Representa-
tion

20. It is understood and agreed that the Municipality has made no representations, covenants, warranties, guarantees promises or agreements (verbal or otherwise) with the Developer other than those in this Contract.

Registra-
tion

21. This Agreement shall be construed as running with the Land and shall be registered in the Land Registry Office by the Municipality pursuant to the provisions of Section 702A(4) of the Municipal Act.

Interpre-
tation

22. Whenever the singular or masculine is used herein, the same shall be construed as meaning the plural, feminine or body corporate or politic where the context or the parties so require.

Binding

23. This Agreement shall enure to the benefit of and be binding upon the parties hereto and their respective heirs, executors, administrators, successors and assigns.

A public hearing on this Contract was held on the
10th day of May 1977.

THIS AGREEMENT WAS APPROVED by the affirmative vote of at least two-thirds of all the members of the Council of the Municipality on the 21st day of June, 1977.

IN WITNESS WHEREOF the said parties to this Agreement have hereunto set their hands and seals the day and year first above written.

THE CORPORATE SEAL OF THE)
CITY OF KELOWNA was hereunto)
affixed in the presence of:)

J. Colman)

Mayor)

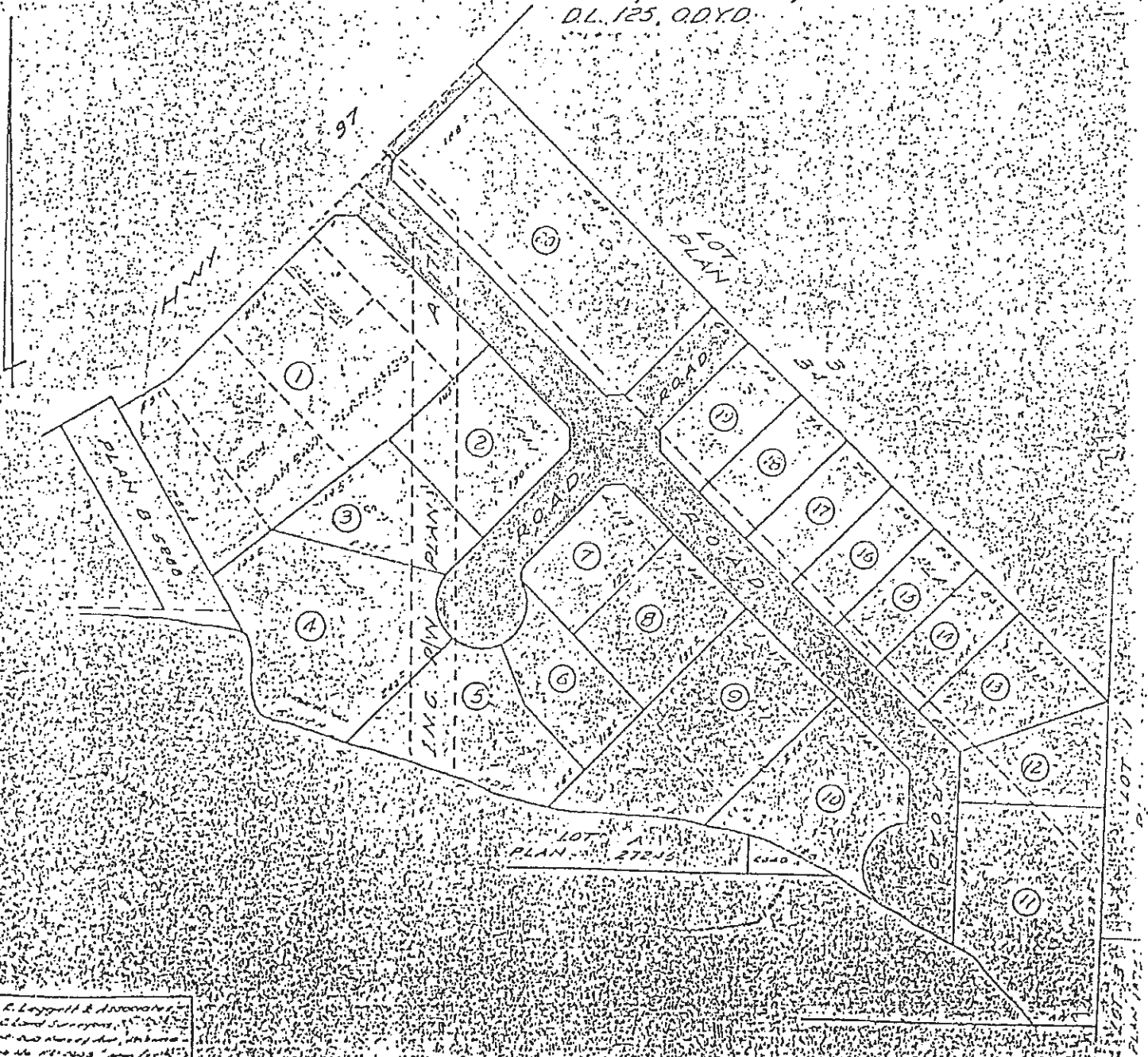
[Signature])

Clerk)

(Seal)

T.C.
17
E.M.

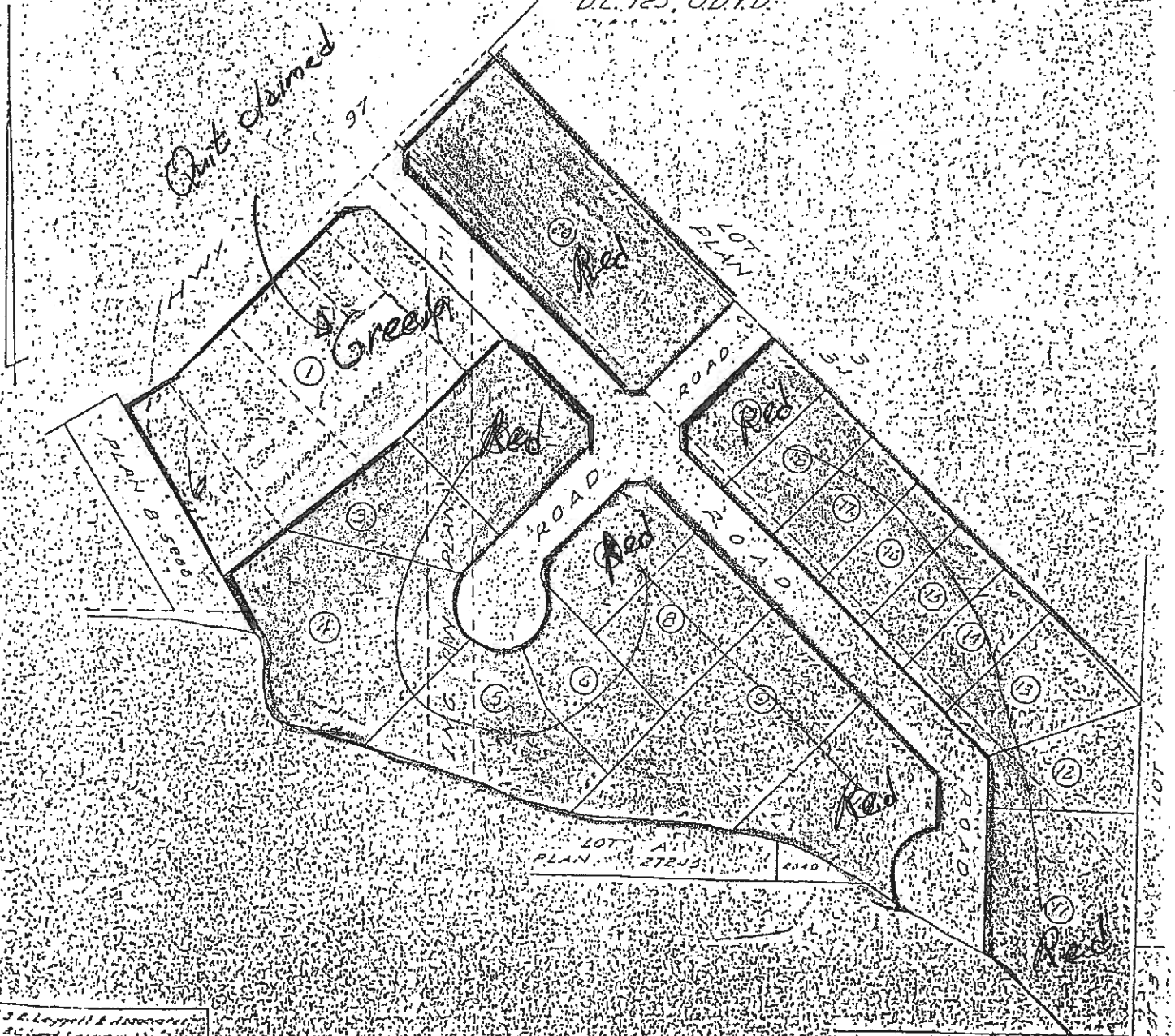
PLAN OF PROPOSED SUBDIVISION OF
LOT 3, PLAN 3439, AND LOT 1, PLAN 1456,
AND REVI. LOT A, PLAN 9120, AND
LOT 3, REVI. LOT 4, AND REVI. LOT 5, PLAN 3735,
D.L. 125, O.D.Y.D.



J. R. Layzell & Associates
200 Land Surveyors
100-100 West 1st Street
Vancouver, B.C.

PLAN 1471 LOT 1
PLAN 1471 LOT 2
PLAN 1471 LOT 3
PLAN 1471 LOT 4
PLAN 1471 LOT 5

PLAN OF PROPOSED SUBDIVISION OF
LOT 3, PLAN 3439, AND LOT 1, PLAN 14156,
AND REVI. LOT A, PLAN 9120, AND
LOT 3, REVI. LOT 4, AND REVI. LOT 5, PLAN 3755,
D.L. 125, O.D.Y.D.



S. E. Layzell & Associates
D.L. Land Surveyors
and has been approved, returned
and is a true and correct copy