

# REPORT TO COUNCIL



**Date:** June 28, 2012  
**To:** City Manager  
**From:** Land Use Management, Community Sustainability (BD)  
**Application:** Z12-0017 **Owner:** Michael Gaspari  
**Address:** 614-624 Francis Ave. **Applicant:** Michael Gaspari  
**Subject:** Rezoning Application  
**Existing OCP Designation:** MRL - Low Density Multiple Family  
**Existing Zone:** RU6 - Two Dwelling Housing  
**Proposed Zone:** RM1 - Four-Plex Housing

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## 1.0 Recommendation

THAT Rezoning Application No. Z12-0017 to amend the City of Kelowna Zoning Bylaw No. 8000 by changing the zoning classification of Lot 6, District Lot 14, ODYD, Plan 3438, located on Francis Avenue, Kelowna, BC from the RU6 - Two Dwelling Housing zone to the RM1 - Four-plex Housing zone be considered by Council;

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

AND THAT final adoption of the Zone Amending Bylaw be considered in conjunction with Council's consideration of a Development Permit and a Development Variance Permit for the subject property;

AND THAT final adoption of the zone amending bylaw be considered subsequent to the requirements of Development Engineering Branch being completed to their satisfaction.

## 2.0 Purpose

This application is seeking to rezone the subject property from the RU6- Two Dwelling Housing zone to the RM1 - Four Dwelling Housing zone to legalize a converted duplex.

## 3.0 Land Use Management

The applicant is seeking to legalize a duplex which has been converted to a fourplex. The future land use designation for the area changed to MRL- multiple residential low density with the introduction of the 2030 Official Community Plan, and the RM1 - Fourplex zone is permitted within this designation.

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Although Staff do not endorse the ongoing illegal use of the subject property, the subject property is located near an Urban Centre with amenities such as parks, schools, transit and bike paths which support land use objectives for low density multi-family neighbourhoods.

Staff are concerned that rezoning the property after development has already occurred does not allow for comprehensive consideration of structural design and siting of the multiple-unit development. Given that the building was previously constructed, design amendments are limited in terms of practical upgrades. The front elevation is dominated by driveways and garages, and the principal entrances to all four units are not easily identifiable and could benefit from additional façade improvements to enhance the pedestrian connection to the street.

The ability to meet the zoning bylaw side yard setback requirement is also impacted as the residential building was constructed at the setbacks stipulated by the existing RU6 zone, therefore a variance to the east and west side yards will be considered by Council should the land use be supported.

#### **4.0 Proposal**

##### **4.1 Background**

This is the third attempt by the applicant to rezone the subject property. In 1993, the client had withdrawn their application after review by the Advisory Planning Committee and in 2007 the application was not supported by Staff and defeated by Council.

The applicant constructed a duplex in 1993. A summer kitchen was added to 624 Francis Avenue under Building Permit 4081 in November 1993. In conjunction, the applicant provided an affidavit to confirm that the duplex would not be used other than as a “two family dwelling” unit and that “the summer kitchen facilities located on the lower floor would not be offered for rental purposes or means of revenue except for use by the family living on the main floor”. Bylaw Enforcement activity has been pursued over several years.

The proposed change to legitimize the existing fourplex is out of character with the existing neighbourhood although this area is considered transitioning. However, the addition of suites into existing homes is recognized by the Official Community Plan as an acceptable way to increase neighbourhood density without a significant impact on form and character.

##### **4.2 Project Description**

The applicant is requesting to rezone the subject property from the RU6 - Two Dwelling Housing zone to the RM1 - Four Dwelling Housing zone, which would allow for the legal operation of a four-plex.

The building was originally constructed as a side-by-side duplex, with a driveway and garage on either side of the lot. The entrance to two of the units is from the back. The required parking is satisfied with a garage and tandem parking on the driveway for two units and parking in carports at the rear of the site with tandem parking off the lane. The application requires an Urban Design and Character Area Development Permit to review the form and character of the existing four-plex and a Development Variance Permit which would be presented to Council at a later date.

4.3 Site Context

The subject property is located on the north side of Francis Avenue, south of the Kelowna General Hospital block. The surrounding properties are zoned RU1 - Large Lot housing in the form of single/two family dwellings in all directions.

Subject Property Map: 614 - 624 Francis Avenue



4.4 Zoning Analysis Table

The proposed development meets the requirements of the RM1 - Four Dwelling Housing Zone except as noted:

CRITERIA	PROPOSAL	RM1 ZONE REQUIREMENTS
Subdivision Regulations		
Lot Area (m <sup>2</sup> )	900.76 m <sup>2</sup>	700 m <sup>2</sup>
Lot Width (m)	21.34 m	20 m
Lot Depth (m)	42.21 m	30 m
Development Regulations		
Site Coverage	39% 49% <sup>i</sup>	40% (buildings) 50% (buildings, parking areas, and driveways)
Height	8 m / 2 storeys	9.5 m or 2 ½ storeys
Front Yard	7.62 m	6.0 m
Rear Yard	16.92 m	7.5 m
Side Yard (West) Side Yard (East)	2.14 m <sup>o</sup> 2.11 m	2.5m ( 2 ½ storeys)
Other Regulations		
Minimum Parking Requirements	2 per dwelling unit = 8	2 per dwelling unit = 8

CRITERIA	PROPOSAL	RM1 ZONE REQUIREMENTS
Section 8.19(b) No off-street parking in the front yard	Unpaved parking spaces in front yard must be removed which will be a condition of the Development Permit	No off-street parking shall be located in the required front yard
Private Open Space	Each unit has access to: Upper units: 28.65 m <sup>2</sup> (deck) Lower units: 72 m <sup>2</sup>	Private Open Space Req'd: 25 m <sup>2</sup> per unit
Landscaping	No Level 2 buffer has been provided along the front property line Level 3 buffer along the rear and side property lines is discontinuous	Buffer required: Level 2 (Front) and Level 3 (Rear & Sides)

Ⓣ A variance is request to reduce the side yard set backs for the west side of the building from 2.5m required to 2.14 proposed and 2.5m required to 2.11m proposed for the east side.

## 5.0 Current Development Policies

### 5.1 Kelowna Official Community Plan (OCP)

**Policy 5.2.3 Complete Suburbs.**<sup>1</sup> Support a mix of uses within Kelowna's suburbs (see Map 5.1 - Urban Core Area), in accordance with "Smart Growth" principles to ensure complete communities. Uses that should be present in all areas of the City (consistent with Map 4.1 - Future Land Use Map), at appropriate locations, include: commercial, institutional, and all types of residential uses (including affordable and special needs housing) at densities appropriate to their context.

**Policy 5.3.2 Compact Urban Form.**<sup>2</sup> Develop a compact urban form that maximizes the use of existing infrastructure and contributes to energy efficient settlement patterns. This will be done by increasing densities (approximately 75 - 100 people and/or jobs located within a 400 metre walking distance of transit stops is required to support the level of transit service) through development, conversion, and re-development within Urban Centres (see Map 5.3) in particular and existing areas as per the provisions of the Generalized Future Land Use Map 4.1.

## 6.0 Technical Comments

### 6.1 Building & Permitting Department

1) Development Cost Charges (DCC's) are required to be paid prior to issuance of any Building Permits.

2) Operable bedroom windows required as per the 2006 edition of the British Columbia Building Code (BCBC 06).

3) Range hood above the stove and the washroom to vent separately to the exterior of the building. The size of the penetration for this duct thru a fire separation is

<sup>1</sup> Official community plan Objective 5.2 Community Sustainability

<sup>2</sup> Official community plan Objective 5.3 Focus development to designated growth areas.

restricted by BCBC 06, so provide size of ducts and fire separation details at time of Building Permit Applications.

4) Fire rated wall and door assemblies are required from the suite to the common laundry room and from the laundry room to the main dwelling. Please provide these details on the building permit drawing sets.

6) Full Plan check for Building Code related issues will be done at time of Building Permit applications.

## 6.2 Development Engineering Department

See attached.

## 6.2 Bylaw Services

There have been three (3) illegal suite investigations since 2003, including a current open request. Compliance was obtained in 2003 with the decommissioning of two (2) of the four (4) suites. In 2006, Court action was required and a Judgment against Mr. Gaspari was awarded. A fine of \$1,000.00 was paid and the removal of both lower kitchens was completed by September 1, 2006. In 2007, Council approved an injunction request to force compliance. After a rezoning request was turned down in 2008, the bare minimum to comply with the Bylaw was done to revert the building back to a duplex. A current bylaw enforcement file was opened in November 2011 and unpaid Bylaw Notice fines of \$1,600.00 have been disputed by Mr. Gaspari and the dispute will be dealt with through the adjudication process.

## 6.3 Fire Department

Requirements of section 9.10.9.14, Secondary Residential Suites, of the BCBC 2006 are to be met. Smoke Alarms as per section 9.10.19 of the BCBC are required. Additional address for the suites are required.

## 7.0 Application Chronology

Date of Application Received: March 14, 2012  
Application refinement: June 28, 2012

Report prepared by:

Birte Decloux, Land Use Planner

Reviewed by:

Danielle Noble Manager, Urban Land Use

Approved for Inclusion:

Shelley Gambacort, Director, Land Use Management

**Attachments:**

Site Plan

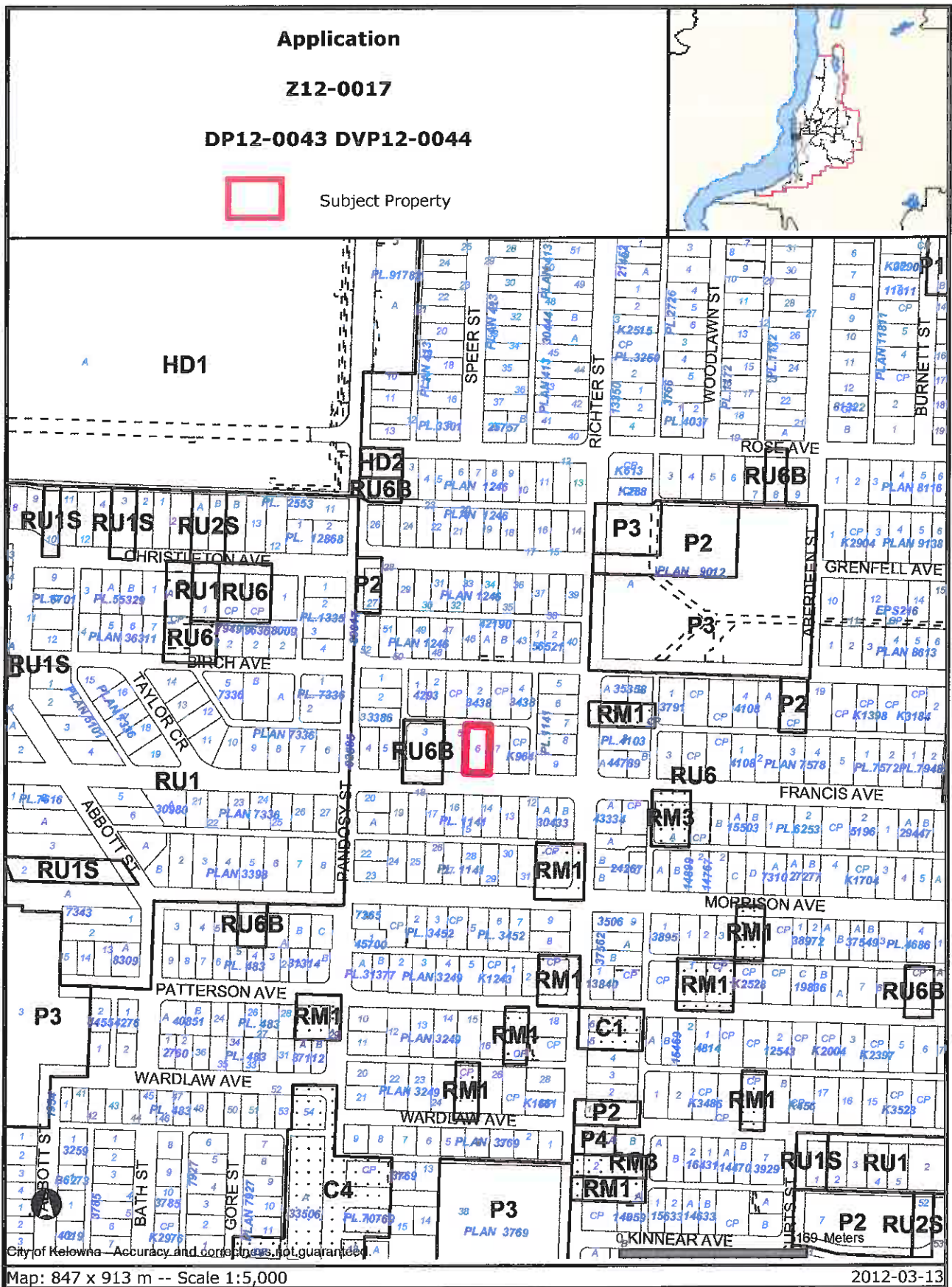
Conceptual Elevations

Landscape Plan

Context/Site Photos

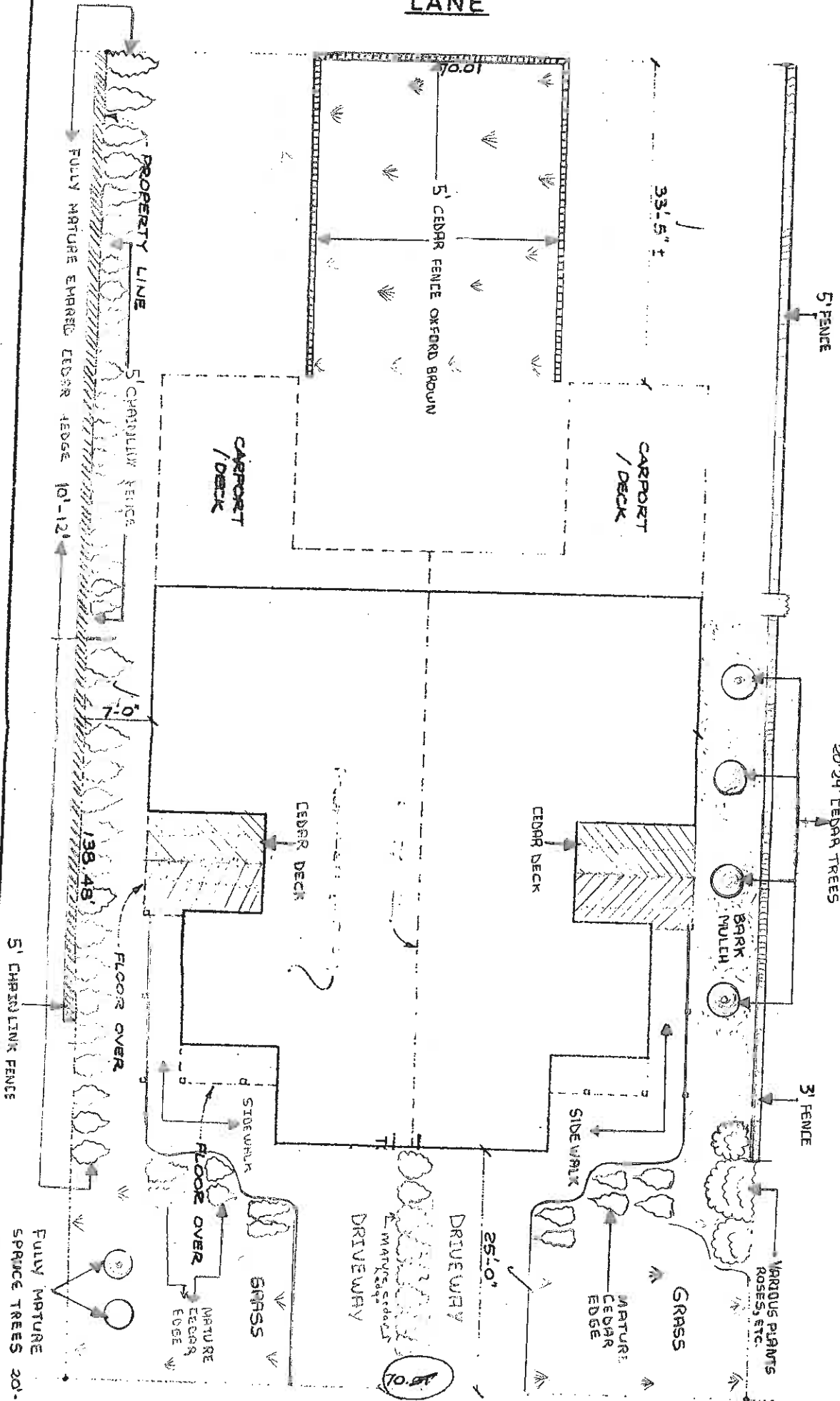
Technical Comments

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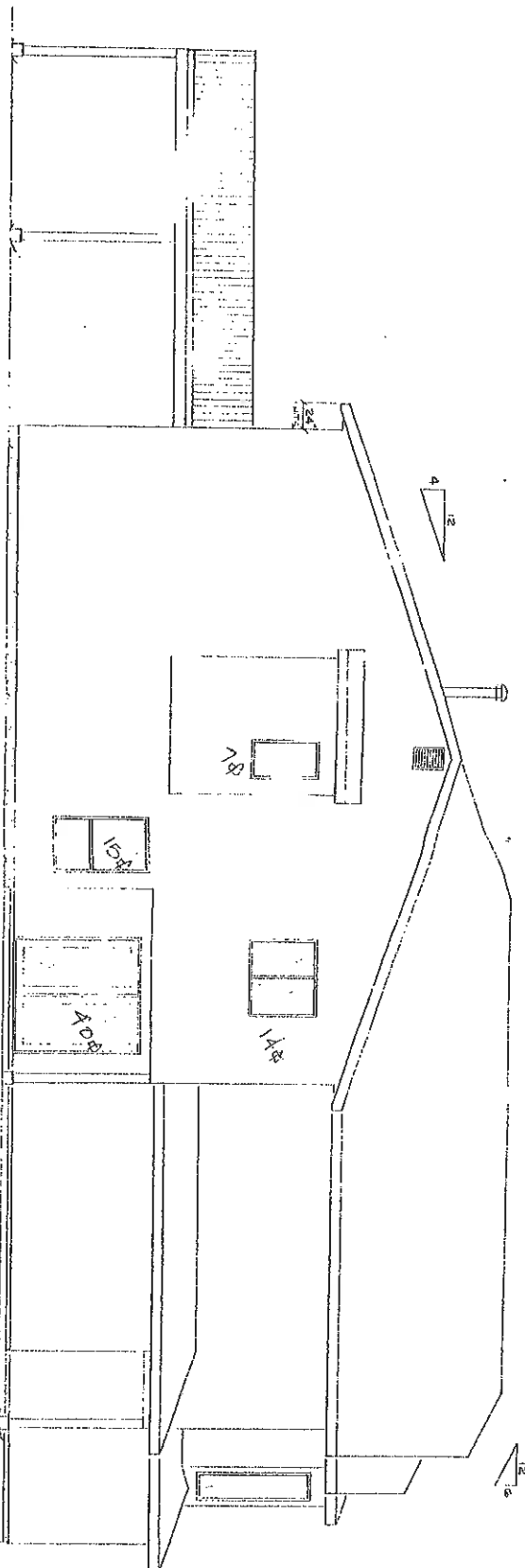


Certain layers such as lots, zoning and dp areas are updated bi-weekly. This map is for general information only. The City of Kelowna does not guarantee its accuracy. All information should be verified.

LANE







LEFT ELEVATION (RIGHT ELEVATION IS IDENTICAL IN REVERSE)

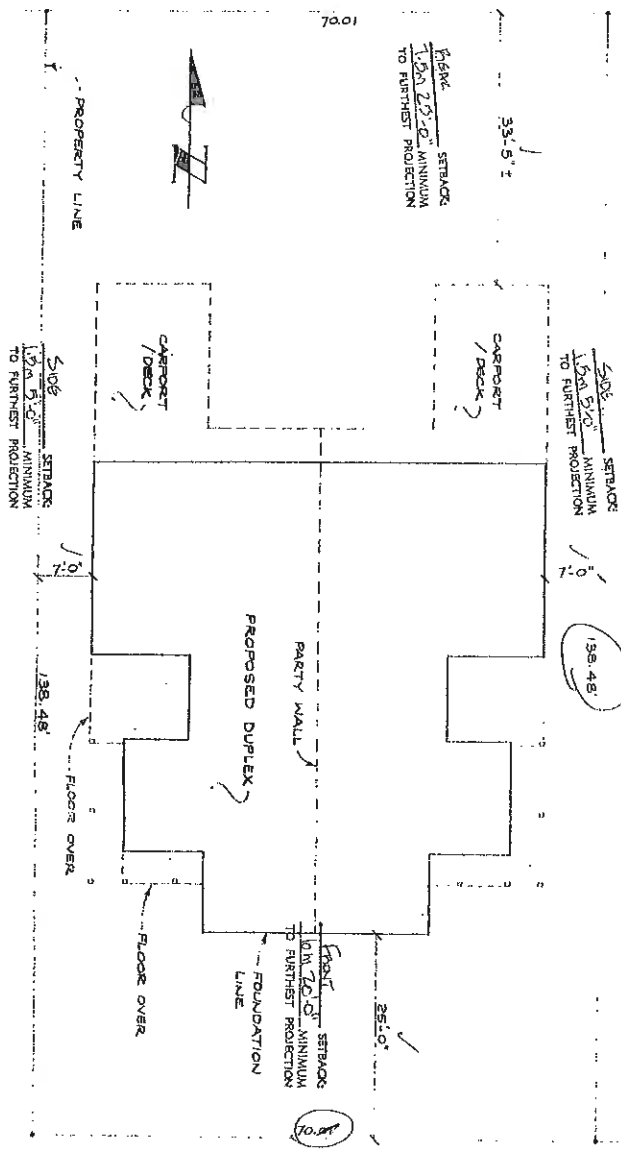
SCALE: 1/4" = 1'-0"

SIDE SETBACK  
15.0' MINIMUM  
TO FURTHEST PROJECTION

FRONT SETBACK  
15.0' MINIMUM  
TO FURTHEST PROJECTION

LANE

70.01



Lot 6  
151' x 55' 1.6"  
Val 58 x 11.9 = 1015#  
= 94m<sup>2</sup>

URB-76#

LEGAL DESCRIPTION

LOT 6  
PLAN 3438  
SEC. 13  
T.P. 25  
O.D.Y.D.

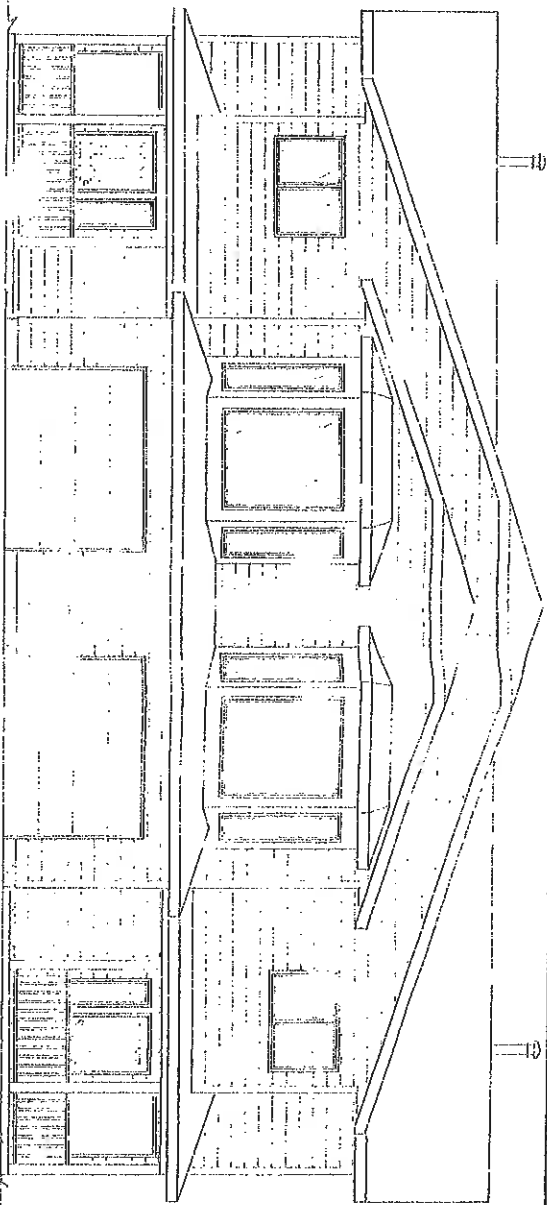
LOT SIZE

LOT COVERAGE 9,694.98 #  
COVERAGE % 3.808 #  
GROSS FLR. AREA 39.9%  
FLR. AREA RATIO 5,268 #  
BUILDING HEIGHT .543  
26.5'

Australian Lot  
Adelaide 4002 = 3871.4 #

PLOT PLAN

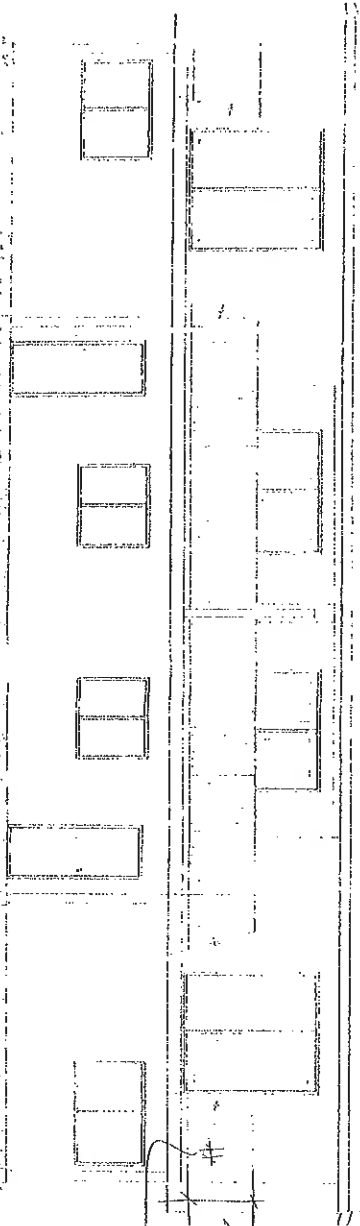
SCALE: 1" = 10'



FRONT ELEVATION

SCALE : 1/4"

**APPROVED**  
FORMING PART OF BUILDING PERMIT # 2225  
THESE DRAWINGS SHALL REMAIN ON SITE  
AVAILABLE TO CITY BUILDING INSPECTORS.



REAR ELEVATION

SCALE : 1/4" = 1'-0"

MIKE CASPARI  
11-2-1985

4" new opening  
Between upper 1st

4 1/2" new window frame



Front



Rear



Photo of neighbouring properties



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

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**Date:** April 18, 2012  
**File No.:** Z12-0017

**To:** Land Use Management Department (DN)

**From:** Development Engineering Manager

**Subject:** 614 624 Francis Ave                      Lot 6 Plan 3438                      RM1

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Development Engineering have the following comments and requirements associated with this application to rezone from RU-6 to RM1.

1. Domestic Water and Fire Protection

Our records indicate that this property is serviced with two 19mm diameter copper water service. The current by-law requires that only one service be permitted for this application. **The disconnection of both existing services and the tie-in of a larger new service can be provided by City forces at the applicant's expense.** For estimate inquiry's please contact John Filipenko, by email [jfilipenko@kelowna.ca](mailto:jfilipenko@kelowna.ca) or phone, 250-469-8581.

2. Sanitary Sewer

Our records indicate that this property is serviced with a 100mm-diameter sanitary sewer service complete with inspection chamber. The service is adequate for the proposed application.

3. Road Improvements

Francis Avenue must be upgraded to a urban standard along the full frontage of this property, including curb and gutter, piped storm drainage facilities, sidewalk replacement and pavement widening. A one-time cash payment in lieu of construction must be collected from the applicant for future construction by the City. The cash-in-lieu amount is determined to be **\$11,729.00** not including utility service costs

The rear lane along the full width of this property must be upgraded to a paved standard, complete with storm drainage facilities. The City wishes to defer the upgrades to lane fronting this property. Therefore, cash-in-lieu of immediate construction is required. The cash-in-lieu amount is determined to be **\$ 5,959.00**

4. Access, Manoeuvrability and Parking Requirements

A minimum of eight off-street vehicle parking spaces are required.

**On-site parking modules must meet bylaw requirements.**

A minimum of four parking modules will be required that access the rear lane.

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Steve Muenz, P. Eng.  
Development Engineering Manager  
JF/jf