

City of Kelowna

Regular Council Meeting

AGENDA



Monday, April 8, 2013

1:30 pm

Council Chamber

City Hall, 1435 Water Street

Pages

1. **Call to Order**
This meeting is open to the public and all representations to Council form part of the public record. A live audio feed is being broadcast and recorded by CastaNet and a delayed broadcast is shown on Shaw Cable.
2. **Confirmation of Minutes**
Regular PM Meeting - March 18, 2013

Regular PM Meeting - March 25, 2013

6 - 20
3. **Public in Attendance**
 - 3.1 **Rotary Centre for the Arts - Annual Report**
To update Council on the activities of the Rotary Centre for the Arts.

21 - 28
4. **Unfinished Business**
 - 4.1 **Rezoning Application No. Z12-0039, Supplemental Report - Westcorp Properties Inc., Mobile Home Relocation Plan, 3787, 3791 & 3795 Lakeshore Road**
To report back to Council with regards to clarification on the intent of Council Policy No. 229 - Mobile Home Park Redevelopment and Option #4 of the applicant's relocation plan.

29 - 32
 - 4.1.1 **Bylaw No. 10817 (OCP12-0008) - Westcorp Properties Inc., 3787, 3791 and 3795 Lakeshore Road**
To give Bylaw No. 10817 second and third reading.

33 - 35
 - 4.1.2 **Bylaw No. 10812 (TA12-0007) - Westcorp Properties Inc., New CD 24 Comprehensive Development Zone 24 - Zoning Bylaw No. 8000**
To give Bylaw No. 10812 second and third reading.

36 - 79

4.1.3	Bylaw No. 10818 (Z12-0039) - Westcorp Properties Inc., 3787, 3791 and 3795 Lakeshore Road To give Bylaw No. 10818 second and third reading.	80 - 81
5.	Development Application Reports & Related Bylaws	
5.1	Bylaw No. 10837 (OCP13-0001) - Graeme James, 1242-1244 Pheasant Street Requires a majority of all members of Council (5).	82 - 83
	To give first reading consideration to the Bylaw associated with Official Community Plan Bylaw Amendment Application No. OCP13-0001 (Bylaw No. 10837) for the properties located at 1242-1244 Pheasant Street.	
5.1.1	Bylaw No. 10838 (Z13-0002) - Graeme James, 1242-1244 Pheasant Street To give first reading consideration to the Bylaw associated with Rezoning Application No. Z13-0002 (Bylaw No. 10838) for the properties located at 1242-1244 Pheasant Street.	84 - 85
5.2	Rezoning Application No. Z13-0012 - Blenk Development Corp., Various Wilden Properties The Phase 2D rezoning application is to deal with the broad zoning designations that have shifted slightly now that detailed road and lot layouts have been established.	86 - 91
5.2.1	Bylaw No. 10839 (Z13-0012) - Blenk Development Corp, Various Wilden Properties To give Bylaw No. 10839 first reading.	92 - 93
5.3	Official Community Plan Bylaw Amendment Application No. OCP12-0015 - 0754028 BC Ltd., 526 Doyle Avenue & 1368 St. Paul Street To consider an OCP amendment to exclude the development proposed at 526 Doyle Avenue and 1368 St. Paul Street from the OCP's Building Height Policy in order to permit a 65m (22 storey) and 88m (30 storey) 2 tower, mixed use development where the City Centre Building Height Map allows 76.5m (~26 storeys); and to permit a 30 storey mixed use development with two towers having a separation of 32.0m where the minimum tower separation for a project with a floor plate greater than 697m ² is 36.5m.	94 - 162
5.3.1	Bylaw No. 10825 (OCP12-0015) - 0754028 BC Ltd., 526 Doyle Avenue & 1368 St. Paul Street Requires a majority of all Members of Council (5).	163 - 163
	To give Bylaw No. 10825 first reading.	

5.4	<p>Official Community Plan Bylaw Amendment Application No. OCP13-0002, Rezoning Application No. Z13-0003 and Text Amendment Application No. TA13-0004 - Protech Consultants Ltd., 1760, 2025 & 2137 Quail Ridge Blvd. To amend the Official Community Plan future land use designations (Map 4.1) and the existing line work from the "Resource Protection Area", and "Industrial" designations to a largely industrial and commercial designation, with the remainder designated for Parks & Open Space. The OCP amendment is proposed in support of a rezoning to the CD15 - Airport Business Park zone. Further, to amend Official Community Plan Map 5.8 - Urban Design Development Permit Area Map by adding the CD15 - Airport Business Park zone as a 'General Commercial & Industrial DP Area' and to amend Table 4.2 by removing reference to a Pier Mac Area Structure Plan. Additionally, it is proposed that the subject property be rezoned from the A1- Agriculture 1, CD15 - Airport Business Park, I5 - Extraction, and P3 - Parks & Open Space zones (current) to the CD15 - Airport Business Park and P3 - Parks and Open Space zones (proposed). The proposed CD15 rezoning is in support of a proposed 51 lot subdivision containing one commercially zoned property and 50 industrially zoned properties. The applicants are concurrently proposing to amend the CD15 zone to include 'Breweries and Distilleries, Major' as a permitted "Principal Use" within the areas designated as "Industrial" in the CD15 - Airport Business Park zone. Finally, to amend the CD15 - Airport Business Park zone by replacing existing Map 1 (Airport Business Park Phase 1 & 2 Zoning Plan) with a revised "Map 1".</p>	164 - 183
5.4.1	<p>Bylaw No. 10832 (OCP13-0002) - Protech Consultants Ltd., 1760, 2025 & 2137 Quail Ridge Road Requires a majority of all Members of Council (5).</p> <p>To give Bylaw No. 10832 first reading.</p>	184 - 187
5.4.2	<p>Bylaw No. 10833 (TA13-0004) - Protech Consultants Ltd., CD15 Airport Business Park To give Bylaw No. 10833 first reading.</p>	188 - 188
5.4.3	<p>Bylaw No. 10834 (Z13-0003) - Protech Consultants Ltd., 1760, 2025 & 2137 Quail Ridge Road To give Bylaw No. 10834 first reading.</p>	189 - 189
5.5	<p>Bylaw No. 10703 (OCP11-0018) - JB Developments Inc., 373-375 Fizet Avenue Requires a majority of all Members of Council (5).</p> <p>To adopt Bylaw No. 10703.</p>	190 - 190

5.5.1	Bylaw No. 10704 (Z11-0090) - JB Developments Inc., 373-375 Fizet Avenue To adopt Bylaw No. 10704.	191 - 191
5.5.2	Development Permit Application No. DP12-0171 - JB Developments Inc., 373-375 Fizet Avenue To consider a Development Permit for the form and character of the proposed four-plex housing conversion.	192 - 206
5.6	Rezoning Application No. Z10-0091, Extension Request - Siegrfried Schulz, 196 Cariboo Road To extend the deadline for adoption of the Zone Amending Bylaw from October 19, 2012 to October 19, 2013.	207 - 209
6.	Bylaws for Adoption (Development Related)	
6.1	Bylaw No. 10791 (OCP12-0018) - The Creeks Kelowna, (N of) Steele Road & 1450 Steele Road Requires a majority of all members of Council (5).	210 - 212
	To consider adoption of Bylaw No. 10791 being OCP12-0018 in order to change the future land use designation to accommodate the proposed single family subdivision located in “The Ponds” neighbourhood and to further enhance the neighbourhood’s natural features and trail infrastructure.	
6.1.1	Bylaw No. 10792 (Z12-0058) - The Creeks Kelowna, (N of) Steele Road and 1450 Steele Road To consider adoption of Bylaw No. 10792 being Z12-0058 in order to rezone the subject properties to accommodate the proposed single family subdivision located in “The Ponds” neighbourhood and to further enhance the neighbourhood’s natural features and trail infrastructure.	213 - 215
6.2	Bylaw No. 10796 - City of Kelowna Text Amendment Application No. TA12-0013, Text Amendments to Zoning Bylaw No. 8000 (Carriage House) To consider adoption of Bylaw No. 10796, being Text Amendment Application No. TA12-0013 - Text Amendments to Zoning Bylaw No. 8000 - Carriage House.	216 - 220
6.3	Bylaw No. 10801 - City of Kelowna Text Amendment No. TA12-0010, Amending Section 14, Commercial Zone To consider adoption of Bylaw No. 10801, being Text Amendment Application No. TA12-0010 - Text Amendments to Zoning Bylaw No. 8000 - Section 14 - Commercial Zone.	221 - 222
7.	Non-Development Reports & Related Bylaws	

7.1	Licence and Management Agreement - Downtown Marina To obtain Council approval of the Licence and Management Agreement.	223 - 305
8.	Bylaws for Adoption (Non-Development Related)	
8.1	Bylaw No. 10814 - Amendment No. 22 to Traffic Bylaw No. 8120 To consider adoption of Bylaw No. 10814 being Amendment No. 22 to Traffic Bylaw No. 8120.	306 - 310
9.	Mayor and Councillor Items	
10.	Termination	



City of Kelowna Regular Council Meeting Minutes

Date: Monday, March 18, 2013
Location: Council Chamber
City Hall, 1435 Water Street

Council Members Present: Mayor Walter Gray and Councillors Colin Basran, Andre Blanleil*, Maxine DeHart, Gail Given, Robert Hobson, Luke Stack and Gerry Zimmermann

Council Members Absent: Councillor Mohini Singh

Staff Present: City Manager, Ron Mattiussi; City Clerk, Stephen Fleming; Acting Director, Real Estate & Building Services, Derek Edstrom*; Manager, Urban Land Use, Danielle Noble*; Community Planning Manager, Theresa Eichler*; Director, Regional Services, Ron Westlake*; Manager, Cultural Services, Sandra Kochan*; Manager, Airport Administration & Finance, Noreen Redman*; Manager, Financial Planning, Genelle Davidson*; Revenue Manager, George King*; Parking Operations Coordinator, Dave Duncan*; Council Recording Secretary, Sandi Horning

(* denotes partial attendance)

1. Call to Order

Mayor Gray called the meeting to order at 1:37 p.m.

Mayor Gray advised that the meeting is open to the public and all representations to Council form part of the public record. A live audio feed is being broadcast and recorded by CastaNet and a delayed broadcast is shown on Shaw Cable.

2. Confirmation of Minutes

Moved By: Councillor Zimmermann/Seconded By: Councillor Hobson

R173/13/03/18 THAT the Minutes of the Regular PM Meeting of March 11, 2013 be confirmed as circulated.

Carried

3. Public in Attendance

3.1. Alternator Centre for Contemporary Art - Annual Report

Staff:

- Introduced the presentation and the presenters.

Councillor Blanleil joined the meeting at 1:39 p.m.

Lorna McFarland, Artistic & Administrative Director, Alternator Centre for Contemporary Art:

- Displayed a Powerpoint presentation and responded to questions from Council.

4. Development Application Reports & Related Bylaws

4.1. Official Community Plan Bylaw Amendment Application No. OCP13-0001 and Rezoning Application No. Z13-0002 - 1242-1244 Pheasant Street

Mayor Gray:

- Advised that the Applicant's Representative was unable to attend today's Council Meeting and therefore has requested that the application be deferred to the March 25, 2013 PM Council Meeting.

4.2. Rezoning Application No. Z13-0010 - Various Addresses within the Wilden Neighbourhood

Moved By: Councillor Given/Seconded By: Councillor Blanleil

R174/13/03/18 THAT Rezoning Application No. Z13-0010 to amend the City of Kelowna Zoning Bylaw No. 8000 by changing the zoning classification of Lot 54, Section 5, Township 23, ODYD, Plan EPP9195, located at 123 Lost Creek Court, Lot 55, Section 5, Township 23, ODYD, Plan EPP9195, located at 117 Lost Creek Court and Lot 56, Section 5, Township 23, ODYD, Plan EPP9195, located at 111 Lost Creek Court, Kelowna B.C. from P3 - Parks & Open Space to RU2H - Medium Lot Housing (Hillside Area) be considered by Council;

AND THAT Rezoning Application No. Z13-0010 to amend the City of Kelowna Zoning Bylaw No. 8000 by changing the zoning classification of a portion of Lot 53, Section 5, Township 23, ODYD, Plan EPP9195, located at 155 Lost Creek Court from RU2H - Medium Lot Housing (Hillside Area) to P3 - Parks and Open Space and a portion of Lot 52, Section 5, Township 23, ODYD, Plan EPP9195, located at 183 Lost Creek Court, Lot 51, Section 5, Township 23, ODYD, Plan EPP9195, located at 189 Lost Creek Court, Lot 50, Section 5, Township 23, ODYD, Plan EPP9195, 195 Lost Creek Court, Lot 49, Section 5, Township 23, ODYD, Plan EPP9195, 201 Lost Creek Court from P3 - Parks and Open Space to RU2H - Medium Lot Housing (Hillside Area) and a portion of Lot 72, Section 5, Township 23, ODYD, Plan EPP9195, located at 191 Lost Creek Place, Lot 73, Section 5, Township 23, ODYD, Plan EPP9195, located at 179 Lost Creek Place, Lot 63, Section 5, Township 23, ODYD, Plan EPP9195, located at 246 Lost Creek Lane, Lot 64, Section 5, Township 23, ODYD, Plan EPP9195, located at 240 Lost Creek Lane, Lot 65, Section 5, Township 23, ODYD, Plan EPP9195, located at 234 Lost Creek Lane, Lot 66,

Section 5, Township 23, ODYD, Plan EPP9195, located at 228 Lost Creek Lane, Lot 67,
Section 5, Township 23, ODYD, Plan EPP9195, located at 222 Lost Creek Lane, Lot 68,
Section 5, Township 23, ODYD, Plan EPP9195, located at 216 Lost Creek Lane, Lot 69,
Section 5, Township 23, ODYD, Plan EPP9195, located at 210 Lost Creek Lane from
RU1H - Large Lot Housing (Hillside Area) to RU2H - Medium Lot Housing (Hillside Area)
and a portion of Lot 12, Section 5, Township 23, ODYD, Plan EPP9195, located at 1410
Rocky Point Drive from P3 - Parks & Open Space to RU1H - Large Lot Housing (Hillside
Area) as shown on Map 'B' attached to the report of the Land Use Management
Department, dated February 22nd, 2013 be considered by Council;

AND FURTHER THAT the Zone Amending Bylaw be forwarded to a Public Hearing for
further consideration.

Carried

**4.2.1. Bylaw No. 10820 (Z13-0010) - Various Addresses within the Wilden
Neighbourhood**

Moved By: Councillor Stack/Seconded By: Councillor Given

R175/13/03/18 THAT Bylaw No. 10820 be read a first time.

Carried

**4.3. Text Amendment Application No. TA13-0002 and Text Amendment No.
TA13-0003 - Amendments to Zoning Bylaw No. 8000**

Moved By: Councillor Given/Seconded By: Councillor Stack

R176/13/03/18 THAT Council receives for information the Report from the City Clerk
dated March 13, 2013 with respect to rescinding Bylaw No. 10808 (TA13-0002) and
amending Bylaw No. 10816 (TA13-0003);

AND THAT Bylaw No. 10808 for Text Amendment Application No. TA13-0002 be
forwarded for rescindment consideration;

AND FURTHER THAT Bylaw No. 10816 for Text Amendment No. TA13-0003 be
forwarded for amendment at first reading.

Carried

**4.3.1. Bylaw No. 10808 (TA13-0002) - Amendment to Zoning Bylaw No.
8000 - RM3 Low Density Multiple Housing Zone**

Moved By: Councillor Given/Seconded By: Councillor Stack

R177/13/03/18 THAT first reading given to Bylaw No. 10808 be rescinded;

AND THAT the file for Text Amendment Application No. TA13-0002 be amalgamated
into Text Amendment Application No. TA13-0003.

Carried

4.3.2. Bylaw No. 10816 (TA13-0003) - Miscellaneous Amendments to Zoning Bylaw No. 8000

Moved By: Councillor Zimmermann/Seconded By: Councillor DeHart

R178/13/03/18 THAT Bylaw No. 10816 be amended at first reading by:

Deleting from **13.9 RM3 - Low Density Multiple Housing, 13.9.6 Development Regulations** be sub-paragraph (a) that reads:

“(a) The maximum floor area ratio is 0.5, except it is 0.55 with a housing agreement pursuant to the provisions of Section 6.9. Where parking spaces are provided totally beneath habitable space of a principal building or beneath useable common amenity areas providing that in all cases, the parking spaces are screened from view, an amount may be added to the floor area ratio equal to 0.2 multiplied by the ratio of such parking spaces to the total required parking spaces, but in no case shall this amount exceed 0.2.”

And replacing it with the following:

“(a) The maximum floor area ratio is 0.75:

Where at least 75% parking spaces are provided totally beneath habitable space of a principal building, beneath useable common amenity areas, or in a garage/carport providing that in all cases, the parking spaces are screened from public view, the floor area ratio may be increased by 0.05;

The floor area ratio may be increased by a further 0.1 for a development constructed in an Urban Centre (as defined by Kelowna's Official Community Plan).”

Carried

5. Non-Development Reports & Related Bylaws

5.1. Volume 2 - Carryovers, 2013 Financial Plan

Staff:

- Provided an overview of the Carryovers for the 2013 Financial Plan and responded to questions from Council.
- Displayed a slide entitled "2013 Financial Plan, Carryover Request 3 Year Comparison".

Moved By: Councillor Stack/Seconded By: Councillor Hobson

R179/13/03/18 THAT the 2013 Financial Plan be increased by \$3,228,300 to provide for operating carryover projects and \$71,129,660 for capital carryover projects as summarized in Financial Plan Volume 2.

Carried

5.2. Intermunicipal Transportation Service and Regulation Bylaw

Staff:

- Displayed a PowerPoint presentation and responded to questions from Council.

Moved By: Councillor Hobson/Seconded By: Councillor Given

R180/13/03/18 THAT Council approves the "Sustainable Transportation Partnership Intermunicipal Service Agreement between the Local Governments of the Central Okanagan", in the form outlined in the Report of the City Manager dated March 13, 2013, in order to formally establish the new partnership known as the "Sustainable Transportation Partnership of the Central Okanagan" ("STPCO") consisting of the City of Kelowna, District of Lake Country, District of West Kelowna, Westbank First Nation, District of Peachland and the Regional District of the Central Okanagan;

AND THAT Council authorizes and requests the withdrawal of the City of Kelowna from the Regional Transportation Demand (TDM) program administered by the Regional District of Central Okanagan;

AND THAT Council appoints the Mayor to the "Intermunicipal Advisory Board" of the STPCO;

AND THAT Council directs the City Manager to work with his counterparts of local and regional governments in the Okanagan to oversee and provide direction to the STPCO through the "CAO Committee";

AND THAT Intermunicipal Transportation Service and Regulation Bylaw No. 10830 be advanced for reading consideration;

AND FURTHER THAT upon adoption of Intermunicipal Transportation Service and Regular Bylaw No. 10830, the Mayor and City Clerk be authorized to sign the Intermunicipal Transportation Service Agreement.

Carried

5.2.1. Bylaw No. 10830 - Intermunicipal Transportation Service and Regulation Bylaw

Moved By: Councillor Basran/Seconded By: Councillor Hobson

R181/13/03/18 THAT Bylaw No. 10830 be read a first, second and third time.

Carried

5.3. Downtown Kelowna Association 2013 Budget

Staff:

- Provided an overview of Downtown Kelowna Association's 2013 Budget.

Moved By: Councillor Stack/Seconded By: Councillor Hobson

R182/13/03/18 THAT Council approves the Downtown Kelowna Association 2013 Budget as outlined in the Report of the Revenue Manager dated March 13, 2013;

AND THAT Council approves the 2013 levy of \$679,000 on Class 5 and Class 6 properties located within the boundaries of the Downtown Kelowna Business Improvement Area.

Carried

5.4. Uptown Rutland Business Association 2013 Budget

Staff:

- Provided an overview of the Uptown Rutland Business Association's 2013 Budget and responded to questions from Council.

Moved By: Councillor Zimmermann/Seconded By: Councillor Basran

R183/13/03/18 THAT Council approves the Uptown Rutland Business Association 2013 Budget as outlined in the report of the Revenue Manager dated March 13, 2013;

AND THAT Council approves the 2013 levy of \$162,800 on Class 5 and Class 6 properties located within the boundaries of the Uptown Rutland Business Improvement Area.

Carried

5.5. Utility Billing Customer Care Services

Staff:

- Provided the rationale for the proposed changes to the Utility Billing.

Moved By: Councillor Zimmermann/Seconded By: Councillor Given

R184/13/03/18 THAT Council receives for information, the Report from the Revenue Manager dated March 13, 2013 with respect to amending the Utility Billing Customer Care Bylaw No. 8754;

AND THAT Bylaw No. 10821, being Amendment No. 4 to the Utility Billing Customer Care Bylaw No. 8754 be given reading consideration.

Carried

5.5.1. Bylaw No. 10821 - Amendment No. 4 to Utility Billing Customer Care Services Bylaw No. 8754

Moved By: Councillor Hobson/Seconded By: Councillor Basran

R185/13/03/18 THAT Bylaw No. 10821 be read a first, second and third time.

Carried

5.6. Air Carrier Airport Use Agreement with Air North Charter & Training - Kelowna International Airport

Staff - Provided an overview of the Agreement and responded to questions from Council.

Moved By: Councillor Basran/Seconded By: Councillor DeHart

R186/13/03/18 THAT Council approves the City entering into an Air Carrier Airport Use Agreement with Air North Charter & Training Ltd. in the form attached to the report of the Airport Director dated March 5, 2013, allowing Air North Charter & Training Ltd. to operate at Kelowna International Airport;

AND THAT the Mayor and City Clerk be authorized to execute the Air Carrier Airport Use Agreement.

Carried

5.7. Amendment to Airport Fees Bylaw No. 7982 - Kelowna International Airport

Staff:

- Provided an overview of the proposed amendments to the Airport Fee Bylaw.

Moved By: Councillor Hobson/Seconded By: Councillor Blanleil

R187/13/03/18 THAT Council receives for information the Report of the Airport Finance & Administration Manager dated March 8, 2013 outlining recommended changes to the automobile parking fees in the Airport Fees Bylaw;

AND THAT Bylaw No. 10819 being Amendment No. 26 to the City of Kelowna Airport Fees Bylaw 7982 be advanced for reading consideration.

Carried

5.7.1. Bylaw No. 10819 - Amendment No. 26 to Airport Fee Bylaw No. 7982

Moved By: Councillor Hobson/Seconded By: Councillor Basran

R188/13/03/18 THAT Bylaw No. 10819 be read a first, second and third time.

Carried

Staff:

- Advised that there is a United Airlines Hemispheres magazine article about Kelowna entitled "Three Perfect Days in Kelowna, B.C."

5.8. Free Downtown Parking for Small Shop Saturdays in 2013

Staff:

- Provided an overview of the request from the Downtown Kelowna Association.

Moved By: Councillor Zimmermann/Seconded By: Councillor Hobson

R189/13/03/18 THAT Council receives, for information, the report from the Acting Director, Real Estate & Building Services dated March 7, 2013, with respect to free downtown parking on three (3) Saturdays throughout 2013;

AND THAT Council approves free on-street parking in the downtown area on the following three (3) Saturdays in 2013: April 6, June 22, and one Saturday (date to be determined) during the month of October 2013.

Carried

5.9. John Howard Society - Final Report Regarding Emergency Grant

Moved By: Councillor Hobson/Seconded By: Councillor Stack

R190/13/03/18 THAT Council receives, for information, the report from the Community Planning Manager dated March 13, 2013, with respect to John Howard Society - Final Report Regarding Emergency Grant.

6. Mayor and Councillor Items

Councillor Given:

- Encouraged the community to support the businesses on Bernard Avenue during the revitalization project.

Councillor DeHart:

- Reported on her attendance, on behalf of Council, at the Okanagan Historical Society's Annual General Meeting and Dinner and, at the recent Bantam Tier II Hockey Championships.

Mayor Gray:

- Advised that he attended the official opening of provincial "Services BC" office.
- Reported on his attendance at the final Kelowna Ballet city performance last Friday evening.

7. Termination

This meeting was declared terminated at 3:00 p.m.

Mayor

/slh



City Clerk

DRAFT



City of Kelowna Regular Council Meeting Minutes

Date: Monday, March 25, 2013
Location: Council Chamber
City Hall, 1435 Water Street

Council Members Present: Mayor Walter Gray and Councillors Colin Basran, Maxine DeHart, Gail Given, Luke Stack and Gerry Zimmermann*

Council Members Absent: Councillors Andre Blanche, Robert Hobson and Mohini Singh

Staff Present: City Manager, Ron Mattiussi*; Acting City Manager, Doug Gilchrist*; City Clerk, Stephen Fleming; Acting Director, Real Estate & Building Services, Derek Edstrom*; Manager, Urban Land Use, Danielle Noble*; Manager, Utilities Planning, Andrew Reeder*; Manager, Cultural Services, Sandra Kochan*; Manager, Sport & Event Development, Don Backmeyer*; Manager, Property Management, Ron Forbes*; Property Officer, Tammy Abrahamson*; Council Recording Secretary, Sandi Horning

(* denotes partial attendance)

1. Call to Order

Mayor Gray called the meeting to order at 1:32 p.m.

Mayor Gray advised that the meeting is open to the public and all representations to Council form part of the public record. A live audio feed is being broadcast and recorded by CastaNet and a delayed broadcast is shown on Shaw Cable.

Mayor Gray noted the upcoming retirement of Superintendent McKinnon and presented the Superintendent with a "farewell" gift on behalf of the City Council and the City of Kelowna.

Superintendent McKinnon thanked the Mayor and Council, and previous Councils, for their support during his tenure as Superintendent.

2. Public in Attendance

2.1. Kelowna International Children's' Winter Games Committee - Ufa, Russia Presentation

Staff:

- Introduced the presentation.

Heather Schneider, Chair, Kelowna International Children's' Winter Games Committee:

- Displayed a presentation regarding the Kelowna contingent at the International Children's Winter Games in Ufa, Russia.

Tom Waters, Hockey Coach:

- Provided comment regarding his experience at the Games.

2.2. Festivals Kelowna - Annual Report

Staff:

- Introduced the presentation.

Renata Mills, Executive Director, Festivals Kelowna:

- Displayed a video highlighting the 2012 Festivals Kelowna events.

Willy Kovasic, President, Board of Directors, Festivals Kelowna:

- Provided further comment regarding Festivals Kelowna.

3. Development Application Reports & Related Bylaws

3.1. Official Community Plan Bylaw Amendment Application No. OCP13-0001 and Rezoning Application No. Z13-0002 - 1242-1244 Pheasant Street

The City Manager left the meeting at 2:10 pm. The Acting City Manager joined the meeting at 2:10 pm.

Staff:

- Provided an overview of the development application and responded to questions from Council;

Mayor Gray invited the Applicant, or Applicant's Representative, to come forward.

Graeme James, Applicant's Representative

- Addressed some of the items noted in the staff report.
- Confirmed the applicant always intended the property to be a four-plex.
- Advised the building was constructed in 1993 with an unfinished basement.
- Confirmed no permits were obtained, or rezoning application submitted, when the basement units were constructed.
- Confirmed the property owner has obtained letters of support from several immediate neighbours, including the adjacent Northland retirement facility.
- Confirmed the property owner has the financial resources to complete the interior in accordance with the B.C. Building Code and to complete the fire code upgrades.

Moved By: Councillor Zimmermann/Seconded By: Councillor Stack

R193/13/03/25 THAT Official Community Plan Bylaw Amendment No. OCP13-0001 to amend Map 4.1 of the Kelowna 2030 - Official Community Plan Bylaw No. 10500, by

changing the Future Land Use designation of Strata Lot 1 & 2, District Lot 137, ODYD Strata plan KAS1353 together with an interest in the common property in proportion to the unit entitlement of the strata lot as shown on Form 1, located on 1242 - 1244 Pheasant Street, Kelowna, BC from the Multiple Unit Residential (Medium Density) designation to the Multiple Unit Residential (Low Density) designation, as shown on Map "A" attached to the Report of Land Use Management Department dated February 27, 2013, be considered by Council;

AND THAT Rezoning Application No. Z13-0002 to amend the City of Kelowna Zoning Bylaw No. 8000 by changing the zoning classification of Strata Lot 1 & 2, District Lot 137, ODYD Strata plan KAS1353 together with an interest in the common property in proportion to the unit entitlement of the strata lot as shown on Form 1, located on 1242 - 1244 Pheasant Street, Kelowna, BC, from the RU6 - Two Dwelling Housing zone to the RM1 - Four Dwelling Housing zone, be considered by Council;

AND THAT the Official Community Plan Bylaw Amendment Bylaw 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 in conjunction with Council's consideration of a Development Permit and Development Variance Permit on the subject property;

AND THAT final adoption of the Zone Amending Bylaw be considered subsequent to the requirements of the Development Engineering Branch being completed to their satisfaction;

AND FURTHER THAT final adoption of the Zone Amending Bylaw be considered subsequent to the Building and Permitting Branch be provided necessary professional reports to satisfy the feasibility of BC Building Code upgrades.

Carried

3.2. Official Community Plan Bylaw Amendment Application No. OCP13-0004 and Rezoning Application No. Z13-0005 - 641 & 683 Osprey Avenue, 600 Raymer Avenue and 2764 Richter Street

Staff:

- Provided an overview of the rezoning application and responded to questions from Council.

Moved By: Councillor DeHart/Seconded By: Councillor Given

R194/13/03/25 THAT Official Community Plan Bylaw Amendment No. OCP13-0004 to amend Map 19.1 of the Kelowna 2030 - Official Community Plan Bylaw No. 10500 by changing the Future Land Use designation of Lot C, D.L. 14, ODYD, Plan EPP15783, located at 641 Osprey Avenue and Lot D, D.L. 14, ODYD, Plan EPP15783, located at 600 Raymer Avenue from Commercial to Mixed Use (Residential / Commercial) and by changing the Future Land Use designation of Lot 2, D.L. 14, ODYD, Plan EPP16791, located at 2764 Richter Street and Lot 1, D.L. 14, ODYD, Plan EPP16791 located at 683 Osprey Avenue from Multiple Unit Residential - Medium Density to Mixed Use (Residential / Commercial), as shown on Map "A" attached to the Report of the Land Use Management Department dated March 8th, 2013, be considered by Council;

AND THAT Council considers the applicant's March 5th, 2013 Public Open House to be appropriate consultation for the purpose of Section 879 of the Local Government Act, as outlined in the Report of the Land Use Management Department dated March 8th, 2013;

AND THAT Rezoning Application No. Z13-0005 to amend the City of Kelowna Zoning Bylaw No. 8000 by changing the zoning classification of Lot 2, D.L. 14, ODYD, Plan EPP16791, located at 2764 Richter Street and Lot 1, D.L. 14, ODYD, Plan EPP16791 located at 683 Osprey Avenue from RU6 - Two Dwelling Housing to C4 - Urban Centre Commercial be considered by Council;

AND THAT the Official Community Plan Bylaw Amendment 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 in conjunction with Council's consideration of a Development Permit and Development Variance Permit on the subject properties;

AND THAT final adoption of the Zone Amending Bylaw be considered subsequent to the requirements of the Development Engineering Branch being completed to their satisfaction;

AND FURTHER THAT final adoption of the Zone Amending Bylaw be considered subsequent to the submission of a plan of subdivision to consolidate the properties.

Carried

3.2.1. Bylaw No. 10822 (OCP13-0004) - 641 & 683 Osprey Avenue, 600 Raymer Avenue and 2764 Richter Street

Moved By: Councillor Zimmermann/Seconded By: Councillor DeHart

R195/13/03/25 THAT Bylaw No. 10822 be read a first time;

AND THAT the Bylaw has been considered in conjunction with the City's Financial Plan and Waste Management Plan.

Carried

3.2.2. Bylaw No. 10823 (Z13-0005) - 641 & 683 Osprey Avenue, 600 Raymer Avenue and 2764 Richter Street

Moved By: Councillor DeHart/Seconded By: Councillor Zimmermann

R196/13/03/25 THAT Bylaw No. 10823 be read a first time.

Carried

3.3. Rezoning Application No. Z12-0068, Supplemental Report - 1121, 1131, 1141 & 1151 Brookside Avenue

Staff:

- Provided an update and responded to questions from Council.

Moved By: Councillor Zimmermann/Seconded By: Councillor DeHart

R197/13/03/25 THAT Council receives for information the supplemental report from the Land Use Management Department dated March 15th, 2013 with respect to Rezoning Application No. Z12-0068;

AND THAT Rezoning Application No. Z12-0068 be forwarded to the April 9, 2013 Public Hearing.

Carried

3.4. Rezoning Application No. Z13-0001, Supplemental Report - 674 Old Meadows Road

Moved By: Councillor Given/Seconded By: Councillor Basran

R198/13/03/25 THAT Council receives for information the supplemental report from the Land Use Management Department dated March 18, 2013.

Carried

3.5. Rezoning Application No. Z09-0077, Extension Request - 4064 Lakeshore Road

Moved By: Councillor Zimmermann/Seconded By: Councillor Basran

R199/13/03/25 THAT in accordance with Development Application Procedures Bylaw No. 10540, the deadline for the adoption of Amending Bylaw No. 10306 (Z09-0077), Lot 1, Section 1, Township 25 and Section 6, Township 26, ODYD, Plan KAP89719 located on 1500 Friesen Road, Kelowna, BC be extended from December 15, 2012 to December 15, 2013.

Carried

3.6. Rezoning Application No. Z11-0035, Extension Request - 1599 KLO Road

Moved By: Councillor Stack/Seconded By: Councillor Given

R200/13/03/25 THAT in accordance with Development Application Procedures Bylaw No. 10540, the deadline for the adoption of Amending Bylaw No. 10569 (Z11-0035), Lot 4, District Lot 131, ODYD Plan 17156 except Plan KAP78069, located on 1599 KLO Road, Kelowna, BC be extended from February 9, 2013 to February 9, 2014.

Carried

4. Non-Development Reports & Related Bylaws

4.1. Kelowna Joint Water Supply Plan, 2013 Implementation Plan

Councillor Zimmermann declared a conflict of interest as he is a Member of the Board of Directors of Black Mountain Irrigation District and left the meeting at 2:41 p.m.

Staff:

- Provided an overview of the 2013 Kelowna Joint Water Supply Plan, 2013 Implementation Plan.

Moved By: Councillor Basran/Seconded By: Councillor DeHart

R201/13/03/25 THAT Council receives, for information, the report from the Manager, Utilities Planning dated March 20, 2013, with respect to the 2013 Implementation Plan, Kelowna Integrated Water Supply Plan;

AND THAT Council approves the 2013 Implementation Plan, Kelowna Integrated Water Supply Plan, as attached to the Report of the Manager, Utilities Planning dated March 20, 2013;

AND FURTHER THAT the Mayor and City Clerk be authorized to execute all documents related to the 2013 Implementation Plan, Kelowna Integrated Water Supply Plan.

Carried

4.2. Bernard Avenue Sidewalk Program Fees

Councillor Zimmermann rejoined the meeting at 2:47 p.m.

Moved By: Councillor Stack/Seconded By: Councillor Zimmermann

R202/13/03/25 THAT Council receive the Report from the Manager, Property Management, dated March 20, 2013, regarding the Bernard Avenue Sidewalk Program Fees Policy;

AND THAT Council approves the Bernard Avenue Sidewalk Program Fees as attached to the Report of the Manager, Property Management dated March 20, 2013;

AND FURTHER THAT Bylaw No. 10815 being Amendment No. 22 to Traffic Bylaw No. 8120 be given reading consideration.

Carried

4.2.1. Bylaw No. 10814 - Amendment No. 22 to Traffic Bylaw No. 8120

Moved By: Councillor DeHart/Seconded By: Councillor Zimmermann

R203/13/03/25 THAT Bylaw No. 10814 be read a first, second and third time.

Carried

5. Bylaws for Adoption (Non-Development Related)

5.1. Bylaw No. 10819 -Amendment No. 26 to Airport Fee Bylaw No. 7982

Moved By: Councillor Given/Seconded By: Councillor Stack

R204/13/03/25 THAT Bylaw No. 10819 being Amendment No. 26 to Airport Fee Bylaw No. 7982 be adopted.

Carried

5.2. Bylaw No. 10821 - Amendment No. 4 to Utility Billing Customer Care Services Bylaw No. 8754

Moved By: Councillor Stack/Seconded By: Councillor Given

R205/13/03/25 THAT Bylaw No. 10821 being Amendment No. 4 to Utility Billing Customer Care Services Bylaw No. 8754 be adopted.

Carried

5.3. Bylaw No. 10830 - Intermunicipal Transportation Service and Regulation Bylaw

Moved By: Councillor Given/Seconded By: Councillor Stack

R206/13/03/25 THAT Bylaw No. 10830 being Intermunicipal Transportation Service and Regulation Bylaw be adopted.

Carried

5.4. Bylaw No. 10811 - Road Closure Bylaw - Portion of Road adjacent to and bisecting 760 & 840 Curtis Road

Mayor Gray invited anyone in the public gallery who deemed themselves affected by the proposed road closure to come forward. No one came forward.

Moved By: Councillor Stack/Seconded By: Councillor Given

R207/13/03/25 THAT Bylaw No. 10811, being a Road Closure Bylaw for a Portion of Road adjacent to and bisecting 760 & 840 Curtis Road, be adopted.

Carried

6. Mayor and Councillor Items

6.1. Draft Resolution, Electrical Utility Restructuring Opportunity

City Clerk:

- Provided background information.

Moved By: Councillor Stack/Seconded By: Councillor Given

R208/13/03/25 THAT Council directs staff to proceed with the closing of the Purchase Agreement between the City of Kelowna and Fortis BC Inc, following notification of closure from Fortis BC Inc;

AND THAT the associated lands and interests in lands be transferred to FortisBC Inc. on or after the closing of this Agreement.

Carried

6.2. Councillor Items

Councillor DeHart:

- Advised the Kelowna City Band is having a Brass Extravaganza at the Mary Irwin Theatre on March 27, 2013.

7. Termination

This meeting was declared terminated at 2:58 p.m.

Mayor

/slh



City Clerk



City of Kelowna Presentation, April 8

Rotary Centre for the Arts Mission Statement:

- The Rotary Centre for the Arts operates as a multi-purpose arts facility
- Nurture and foster an appreciation of the arts;
- Provide visual and performing arts programming;
- Provide the facility for rental to the community at reasonable rates;
- Provide educational opportunities;
- Raise funds to support the mission;
- Collaborate with government, business, community groups and individuals in the development of the arts.

About the RCA

- Founded in 1994, The Kelowna Visual and Performing Arts Centre Society (KVPACS) is the non-profit society that operates the Rotary Centre for the Arts.
- The RCA is a 43000 sq ft City owned facility operated by KVPACS under a multi-year agreement for services. The most recent 5 year lease went into effect starting January 1, 2013.
- The operational model provides excellent value to the City, and high quality programs and services to the public
- The KVPACS board of directors is made up of 9 dedicated professionals representing a broad spectrum of our community
- We are also very fortunate to have a dedicated team of professional employees, each with unique training and skills required for our complex business operations.
- We employ 17 people to service our community.
- In addition we contract more than 100 people each year as performers, technicians, and arts instructors.
- Estimates of annual visits are around 250,000 annually. This includes attending performances, gallery exhibitions, arts education programming and drop-in classes.
- The 330 seat Mary Irwin Theatre that offers residents and artists an opportunity to experience acoustical excellence in an intimate performance venue at accessible rates.
- We manage 12 commercial sub-leases, which continue to be 100% occupied. This includes the Alternator Gallery for Contemporary Arts, the Potters' Addict, Theatre Kelowna Society, 8 visual artists and groups, and our most recent tenant Mission Dance Centre.
- In the 2012 calendar year the rental rooms in the facility were utilized for over 10,000 hours.
- The Mary Irwin Theatre itself exceeded 2,000 hours of usage resulting in the sale of over 16,000 tickets to performances in the theatre.

Kelowna Visual and Performing Arts Centre Society

421 Cawston Avenue, Kelowna, BC V1Y 6Z1 p: (250) 717-5304 f: (250) 717-5314 info@rotarycentreforthearts.com

www.RotaryCentrefortheArts.com

(Page 2)

Our Community Impact

- Drop in Programs such as Salsa, Belly Dance, Drumming, song writing are only \$5
- Adult course and workshops are offered on a cost recovery bases at affordable rates
- This season' business partners include The Courier, Astral Media, Prestige Inns, Harmony Honda, Cedar Creek Winery, BDO Chartered Accountants, Turner Audi, Grant Thornton, RBC Foundation, Holiday Park, Trade Exchange Canada, Speedpro Signs, Full Spectrum Leadership, BC Touring Council, Heritage Canada, and of course the City of Kelowna.
- Endowment Fund supports youth and community programming
- Creative art workshops for children for more than 14,000 children per year
- School day programming coordinated through SD#23 resulting in 85 days in 2012
- Arts Blast, our week long integrated arts camp for those 5-12 filling to capacity.
- In 2012 we launched after school arts programming for young people thanks to partnerships with TELUS and project funding from the City of Kelowna – thank you.
- By providing accessible and affordable space, the RCA is contributing to the sustainability of many community organizations.

Financial

- As stated in the cultural plan, we recognize that creativity and culture not only contribute directly to the economy, but they also attract more investment, residents and employees, leading to further economic growth.
 - The Rotary Centre for the Arts total annual budget is around \$1.2 million.
 - Reliable revenue from sub-leases reaches \$110,000 annually
 - Room rental revenue is predictable at \$190,000 per year and is growing
 - Grants from Provincial and Federal partners including Gaming, BC Touring Council, and Heritage Canada total around \$56,000
 - Approximately 65% of our funds are earned revenue, which is challenging but we are strategizing to maximize possibilities.
 - In 2010 we purchased the Bistro at the RCA for quality control purposes and catering revenue potential.
 - All community groups have suffered provincial funding cuts and are in need of funds: many more groups are counting on event based revenue, competing for the same dollars. The recent financial downturn has led to many of these organizations including the RCA to reevaluate expensive gala fundraising events.
 - In an effort to maximize revenue we have created 2 events that will be held in the RCA. They are Ticket only based events that will use the building to its fullest, incorporating music, art and artists without over-expensive décor or add-on auctions. Our goal is to host a party at the RCA and have people enjoy the lovely building.
1. WAM! (Wine, Art and Music) on June 15 is a regionally focused wine and food tasting event with roving musicians and artists
 2. Sugar Skull Strut (a chic Halloween style costume party) on November 2.
- The RCA is making a positive impact on the community by providing cultural services
 - Our motto at the Rotary Centre for the Arts is **Everyone Plays Here!**

Thank you for your time. I welcome each of you to call or drop in at any time to find out more, and I would be pleased to answer any questions at this time.

[Mis Hermanas](#) | [Words from the GM](#) | [WAM! Wine, Art & Music April Exhibits](#) | [Featured Sponsors](#) | [About the RCA](#)

Spread the word!



Rotary Centre for the Arts - Monthly News #97 - APR 2013

In the heart of Kelowna's cultural district.



Make a MemoryWire Bracelet with Fay Wolfenden

Offering classes in Wire Art Jewellery, Fused Glass, Mosaics and more, let resident artist Fay Wolfenden take you into a new world of mixed media jewellery and glass!

[more](#)

Flamenco FlashMob! April 29th

We're keeping the location secret, but we'll be busting a move on International Dance Day! Join Mission Dance Monday evenings, 7:00-7:30PM for FREE choreography. No experience req'd. All ages.

[more](#)

Western Canada's BC Interior Jazz Fest at the RCA

The BC Interior Jazz Fest hosts Jazz Bands, Choirs and Combos April 11th-13th. Open to the public with FREE instrument and vocal workshops Fri & Sat.

[more](#)



Mis Hermanas Thicker Than Water: My Sisters and I

Flamenco Rosario | (Thu) April 11, 2013 @ 7:30 PM

Mis Hermanas tells the personal story and recalls the memories of Rosario Ancer growing up in

Mexico, her dreams of becoming a dancer, her journey to Spain and her arrival to Vancouver, Canada. Mexican-born, Spanish-trained, Rosario Ancer incorporates seven other flamenco dancer/choreographers as well as a live Flamenco band, sets and costumes that reflect the era on this collaborative project.

Musical Director and flamenco master Victor Kolstee composed and arranged the music to accomplish the choreographic vision and will direct a team of musicians including; guitarist Miguel Ramos and Gypsy singer Angelita la del Lito, both from Spain and percussionist Alvaro Rubio from Mexico.

Mis Hermanas, which received critical acclaim when it premiered in 2008 won the 2009 Isadora Award for Excellence in Choreography and toured Mexico in 2010.

"The cast is unbelievable! The musicians are brilliant, the dancers are powerful and passionate, breathtaking really, the story and projections work perfectly, Rosario herself the perfect ending... and that vocalist... she stays with me. This is the real deal. I just can't say enough about it."

- Holly Bright, Artistic Director/Producer, Port Theatre Nanaimo

TICKETS: \$30/Adult, \$10/Student,
SAVE 20% when you purchase a Party Pak (min 6 tix)
SelectYourTickets.com

Rotary Centre for the Arts, 421 Cawston Ave. Kelowna, BC 250-717-5304

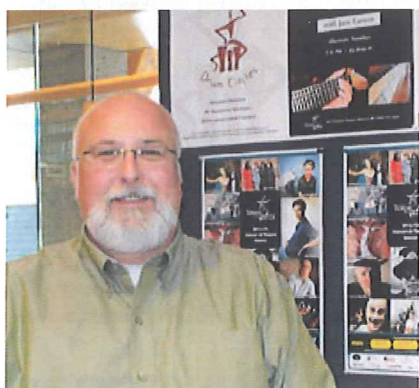
Flamenco Rosario Workshop "Introduction to Flamenco"

April 10, 2013 6:00-7:30 PM \$20

Designed for those with no dance background, this workshop will introduce students in a fun and easy way to the world of flamenco. Throughout the class, students will work on the 4 and 12 rhythms compas, arms & footwork.

Age: 10 years and up

Register [online](#) or call 250-717-5304



Stage Left... Words from the GM

Spring is finally here! It's the time of year that we begin planning performances for our upcoming season, calling exciting Canadian bands, musicians, actors and dancers to create a series of performances for you to enjoy.

This is also the time of year when we start talking to Kelowna's businesses to develop partnerships that help us present our annual performance series and our community and youth arts education programs. The Rotary Centre for the Arts is a non-profit organization that services the community. These partnerships are integral in helping us to serve you and keep

programming affordable. Without them we couldn't operate.

Thankfully our partners; RBC Foundation, Prestige Hotels and Resorts, The Kelowna Daily Courier, Astral Media, Harmony Honda, Turner Audi, CedarCreek Estate Winery, BDO Chartered Accountants and Advisors, Grant Thornton LLP, Full Spectrum Leadership, Holiday Park Resort Community, Speedpro Signs, Trade Exchange Canada and our government funders, especially the City of Kelowna, understand that numerous benefits come with supporting the Rotary Centre for the Arts.

Through their financial generosity these valued businesses support the RCA's unique blend of multi-media arts programming. They give back to our community by enabling the Rotary Centre for the Arts to be a place that inspires and shares creativity and artistic excellence, a place where our children can explore their talents, and where adults and seniors can share their experiences.

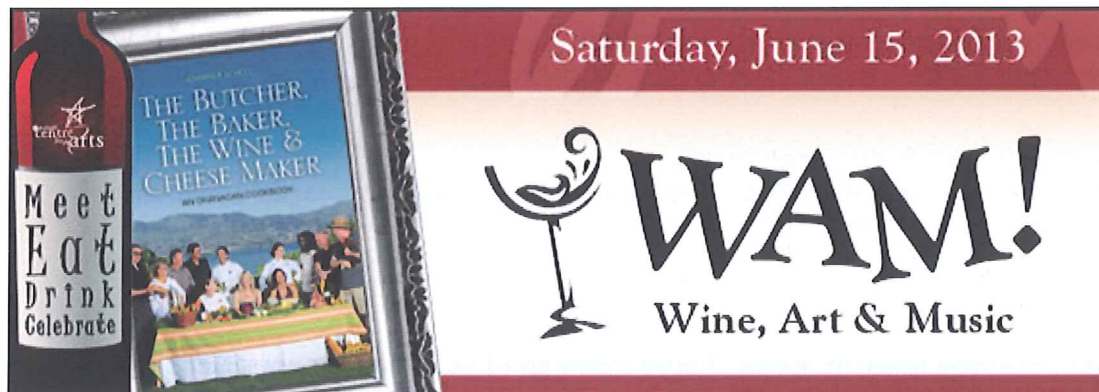
We have a variety of partnerships to suit any size of business. From \$30 to replenish art supplies for a children's workshop, \$500 to support seasonal drop-in programs, to \$2,500 for a concert, and much more. We tailor partnerships to provide your business with excellent community exposure and a presence at the Rotary Centre for the Arts.

If you or someone you know has a business that is looking to give back to our community, or needs some great media exposure, contact myself at 250-717-5304, or gm@rotarycentreforthearts.com. I will work with you to develop a partnership that meets your needs. And don't feel you need to be incorporated to help us out. Individual contributions are always welcome and will receive tax receipts in return.

Join us at the Rotary Centre for the Arts. Everyone plays here!

Patrick

[website](#)



"NAPA NORTH" shines with WAM! Wine, Art & Music event

Meet, Eat, Drink & Celebrate with Wine, Okanagan Cuisine, Art & Music as the main course of WAM!

What is WAM anyway? This impactful acronym refers to all of the great things you'll find at this event, including WINE, ART & MUSIC! What goes better with culinary arts than wine and fabulous entertainment? If you have a discerning palette, enjoy an intimate and interactive experience and are looking to break out your favorite Creative Chic threads, expect an

incredible night out.

We are here to promote the arts in all disciplines. We think you will love the field to table connections. The gorgeous Rotary Centre for the Arts offers a vibrant atmosphere to host a brilliantly playful evening. This is an opportunity for you to join us in profiling the region while also helping to support the Rotary Centre for the Arts' mission to champion arts and culture in the Okanagan.

WINE producers from Osoyoos through to Vernon will allow you to truly reflect the grape variety in the Valley. Summer is an excellent time to sample some of the new releases.

"After three years, WAM! has a reputation with some wineries as the best event to attend. We are proud to have the involvement of the 'Stars' of 'The Butcher, The Baker, The Wine & Cheese Maker - An Okanagan Cookbook' with author Jennifer Schell's involvement. Our goal is to showcase chefs, wineries, food producers, visual and performing artists throughout the Centre, where our guests can experience the best our region has to offer." says Shelly Vida, event organizer. "Although we have over 40,000 sq feet of space, it will be completely filled during WAM! Our Master of Ceremonies for the evening will be CHBC's Jessica Samuels."

ART making can be collaborative or simply experienced as it is created onsite. Livessence Figurative artists will participate in life drawing and HeART Fit members will share their appreciation for healing spontaneous process painting. Kinshira Performance Troupe will amaze with roving stilt and glow shows. Take an awesome memory home with a photo strip from Okanagan Photo Star.

MUSIC maker Ari Neufeld is one of the visually innovation and diverse performers scheduled. Music. Rhythm. Melody. Rhyme. If it can be made with the human body, he's probably figuring out how to make it.

Check out the excitement at last year's WAM!
www.rotarycentreforthearts.com/about/photogallery.html

WAM! Wine Art & Music celebrates The Butcher, The Baker, The Wine & Cheese Maker - An Okanagan Cookbook

Where: Rotary Centre for the Arts

When: June 15, 2013 - 7:00 PM

Tickets Available NOW! \$89/each or 10 for \$800

SelectYourTickets.com

The Cookbook Speaker Series "Three Evenings of Delicious Conversations"

Where: Rotary Centre for the Arts

When: May 27, June 3, June 10, 2013 - 5:30 PM

Tickets Available NOW! \$15/Delicious Conversation or

Delicious WAM Package: WAM! Ticket, Cookbook Speaker Series and Bonus Cookbook \$120

SelectYourTickets.com

Thanks to our partners, Turner Audi, the Kelowna Daily Courier, Wine Trails Magazine and Eat Magazine. WAM! is a Safe Ride Home event powered by Turner Audi. Partnership opportunities available - contact Patrick if you'd like to be involved. 250-717-5304 ext 109 or gm@rotarycentreforthearts.com

[more](#)

April Exhibits



Yuichi Takasaka

South Atrium & Upper Mezzanine

April 2-30, 2013

Born in Japan, Yuichi Takasaka became interested in photography in his late teens when he moved to Canada. Yuichi didn't seriously develop his photography skills until the early 1990's when he moved to Yellowknife in the Northwest Territories, Canada. While living there, he gained much of his expertise from conferring with professional photographers who shared their love of the craft with him. Since that time, Yuichi's images have appeared in various brochures and magazines, in educational books and textbooks, and on many Internet web pages, including the NASA and National Geographic... [more](#)



Artwork by Tove Sorenson (top left), Anita Skinner (right) and Colleen J Dyson (bottom left)

Kelowna Painters' Studio Society

Alex Fong Galleria

April 1-30, 2013

The Kelowna Painters' Studio developed in Kelowna in 1992, as an alternative to the established art groups who had lengthy waiting lists for new membership. At its inception, seventeen fellow artists were working in diverse media, but open to new and

innovative approaches to expressing their art. After making some serious changes in 2006, they have redefined themselves as a new and forward-looking society and have come together with a new purpose; to promote and support their members and to encourage them in their artistic growth... [more](#)

FEATURED SPONSORS

BDO Chartered Accountants | ArtsCard.ca

About Rotary Centre for the Arts

Located in the heart of Kelowna's Cultural District, the Rotary Centre for the Arts is a unique multi-disciplinary arts centre operated by Kelowna Visual and Performing Arts Centre Society, offering a wide array of events and festivals. At this City of Kelowna facility, the community can experience artists and performers in action, while sharing in the excitement of strengthening art and culture in the Okanagan.

www.RotaryCentrefortheArts.com

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[Okanagan Symphony Orchestra](#)

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REPORT TO COUNCIL



Date: April 3rd, 2013

RIM No. 1250-30

To: City Manager

From: Land Use Management, Community Sustainability (AW)

Application: OCP12-0006 / TA12-0007 / Z12-0039 **Owner:** Westcorp On The Lake Inc.,
Inc. No. A75763

Address: 3787, 3791, 3795 Lakeshore Road **Applicant:** Westcorp Properties Inc.

Subject: Supplemental Report - Mobile Home Relocation Plan

Existing OCP Designation: Mixed Use Tourism / Multiple Unit Residential - Medium Density
/ Multiple Unit Residential - Low Density / Major Park & Open
Space

Proposed OCP Designation: Mixed Use Tourism / Multiple Unit Residential - High Density /
Multiple Unit Residential - Medium Density / Major Park & Open
Space

Existing Zone: C1 - Local Commercial, C9 - Tourist Commercial, RM7 - Mobile
Home Park and RR3 - Rural Residential 3

Proposed Zone: CD24 - Comprehensive Development 24 zone (newly created) &
P3 - Parks & Open Space

1.0 Recommendation

That Council receives for information the supplemental report from the Land Use Management Department dated April 3rd, 2013 with respect to clarification on Application No's. OCP12-0006, TA12-0007 & Z12-0039.

2.0 Purpose

To report back to Council with regards to clarification on the intent of Council Policy No. 229 - Mobile Home Park Redevelopment and Option #4 of the applicant's relocation plan.

3.0 Land Use Management

The intent of Council Policy No. 229 is to ensure that residents of Mobile Home Parks are dealt with in a fair and transparent manner when the property is under a redevelopment proposal. As per the applicant's relocation strategy, Westcorp has relocated approximately 80% of the mobile home park tenants prior to Council's consideration of the land use. Accordingly, given the four available relocation options for all of the impacted residents, the objectives of Council Policy 229 are believed to be satisfied.

4.0 Proposal

Relocation Plan

Over the past few years the applicant has worked to relocate the Hiawatha mobile home park tenants, when the process began there were a total of 94 units and currently 18 units remain onsite. This has been achieved through passive acquisitions as tenants were interested and willing to consider the sale of their mobile home. As part of the relocation plan the applicant is committed to actively working with the remaining tenants should the development proposal receive Council endorsement. As outlined in the applicant's 'Relocation Plan for Hiawatha Mobile Home Owners' the applicant has committed that:

Each existing mobile home owner will be paid the 12 months' value of their pad rent (approximately \$5,000) and will be given 12 months' notice to vacate the Hiawatha Mobile Home Park upon the Effective Notice Date (as per provincial law). Each owner can then choose one option from the following four relocation options:

Option 1: Westcorp will relocate the mobile home.

- Westcorp will assume the cost of relocation (and reconnection to services) of any approved-for-transport mobile home to anywhere in BC or Alberta.
- Compensation: 12 months' pad rent (approximately \$5,000) + moving costs + a lump sum to equal a combined minimum value of \$25,000.

Option 2: Westcorp will purchase the mobile home.

- Westcorp will purchase the mobile home and will assume responsibility for the cost of demolition and removal.
- Current average total compensation amount is \$31,989.
- For those owners who choose to sell after the Effective Notice Date, the 12 months' pad rent already paid will be factored into the purchase price in order that a consistent purchase practice will be maintained for all residents. *(The assurance that monetary settlements for mobile home sales will be consistent for all residents of the Park has been very important for Hiawatha residents who have already relocated because those residents do not want to feel penalized for choosing to relocate sooner than other residents within the Park.)* If Westcorp cannot, or chooses not to, resell a mobile home after it has been purchased from the Hiawatha owner, that owner may relocate or salvage the mobile home if they so choose, at their cost.

Option 3: Westcorp will offer Hiawatha residents an option to purchase a housing unit within the new development.

- The Hiawatha mobile home owner will be offered a five (5) percent reduction of the list price up to a maximum of \$25,000 on any new housing unit for sale by Westcorp, or any other development company which is affiliated with Westcorp, located within the City of Kelowna. The purchase discount will be a one-time offer.
- Compensation: 12 month's pad rent + \$25,000 to a minimum combined total of \$30,000.

Option 4: Westcorp will provide Hiawatha residents with an affordable rental housing option.

- The Hiawatha mobile home owner will be provided a rental unit at a rate consistent with the mobile home owner's current housing costs. Determination of the rent rate can be vetted on an ongoing basis by an outside agency deemed appropriate by the City of Kelowna, and there shall be no time limit on how the subsidy can apply to that individual.

Until such time as a unit is available within the development, a subsidized unit will be provided elsewhere in the community.

Additionally, Seniors Outreach will be contracted by Westcorp to assess the needs of each Hiawatha mobile home owner who wishes to choose Option 4 of the Relocation Plan. The mobile home owner's current housing costs (inclusive of things such as utilities, taxes, etc) will be determined, and a social worker will provide recommendations to Westcorp about what rent subsidy is required for that individual. The social worker will also look at all other means of assistance that the mobile home owner might be eligible for (and not currently taking advantage of). The social worker will determine what needs to happen in terms of the individual's relocation and will create a plan for how that process will unfold.

Report prepared by:

Alec Warrender, Land Use Planner

Reviewed by:

☐

Danielle Noble, Manager, Urban Land Use

Approved for Inclusion:

☐

Doug Gilchrist, A. General Manager, Community Sustainability

Attachments:

Council Policy 229



City of Kelowna
 1435 Water Street
 Kelowna, BC V1Y 1J4
 250 469-8500
 kelowna.ca

Council Policy

Mobile Home Park Redevelopment

APPROVED February 8, 1993

RESOLUTION: R375/10/04/26
 REPLACING: S120/93/02/08
 DATE OF LAST REVIEW: April 2010

1. All Tenants affected by any proposed mobile home park redevelopment be advised by the owner that an application for a mobile home site redevelopment has been made.
2. The Owners of any proposed mobile home park site redevelopment include in their zoning and development application any proposals for the relocation of persons occupying the current mobile home park site.
3. The Owners of any mobile home park site proposing to redevelop to another residential zone, provide present tenants with a first refusal to purchase prior to giving notice to tenants that they must vacate the mobile home park site.
4. The applicant of any mobile home park site undergoing redevelopment provide all tenants of the park with a letter at least 10 days prior to the matter being presented to Council for their consideration. This letter would advise the tenants of the date and time of the Council Meeting when such application is to be considered, and that any tenants who deem their interest to be affected by such redevelopment may appear before Council and express their views regarding this redevelopment.
5. That any rezoning of existing mobile home parks where non-CSA approved or older mobile or manufactured homes are located, will not be considered for rezoning until a viable relocation plan for affected units is in place.

REASON FOR POLICY

Policy established because of concern for people being displaced when redevelopment of mobile home park sites.

LEGISLATIVE AUTHORITY

Council Resolution.

PROCEDURE FOR IMPLEMENTATION

Through the Land Use Management Department as applications are received.

CITY OF KELOWNA

BYLAW NO. 10817

Official Community Plan Amendment No. OCP12 - 0006

Westcorp on the Lake Inc. No. A75763

3787, 3791 and 3795 Lakeshore Road

WHEREAS Council wishes to adopt certain text amendments to Bylaw No. 10500 - *Kelowna 2030 - Official Community Plan*;

AND WHEREAS Council may adopt an official community plan by bylaw and each reading of the bylaw must receive an affirmative vote of a majority of all members of Council;

AND WHEREAS after first reading of the bylaw and before third reading of the bylaw, Council held a public hearing on the proposed amendments to the official community plan in accordance with Sections 890 through 894 of the *Local Government Act*;

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

1. THAT Map 4.1 - **GENERALIZED FUTURE LAND USE** of “*Kelowna 2030 - Official Community Plan* Bylaw No. 10500” be amended by changing the Generalized Future Land Use designation for Lot 2, D.L. 134, ODYD, Plan 3420 Except Parcel A (Plan B6180 and Plan H9673), located at 3791 Lakeshore Road; Lot 3, DL 134, ODYD, Plan 3420 Except Plan H9673, located at 3795 Lakeshore Road, and Lot B, D.L. 134, ODYD, Plan 12063 located at 3787 Lakeshore Road, Kelowna B.C. from the Mixed Use Tourism / Multiple Unit Residential - Medium Density / Multiple Unit Residential - Low Density / Major Park & Open Space to the Mixed Use Tourism / Multiple Unit Residential - High Density / Multiple Unit Residential - Medium Density / Major Park & Open Space, as shown on Map “A” attached to and forming part of this bylaw;
2. AND THAT Chapter 5 - Development Process, Objective 5.5 Ensure appropriate and context sensitive built form, Policy .1 Building Height, OTHER URBAN CENTRES, Elsewhere be amended by adding to the table titled, “Policy .1 Building Heights Does Not Apply to the following:” the following civic and legal addresses:

3787 Lakeshore Road	Lot B, D.L. 134, ODYD, Plan 12063
3791 Lakeshore Road	Lot 2, D.L. 134, ODYD, Plan 3420 Except Parcel A (Plan B6180 and Plan H9673)
3795 Lakeshore Road	Lot 3, DL 134, ODYD, Plan 3420 Except Plan H9673

3. This bylaw shall come into full force and effect and is binding on all persons as and from the date of adoption.

Read a first time by the Municipal Council this 11th day of March, 2013.

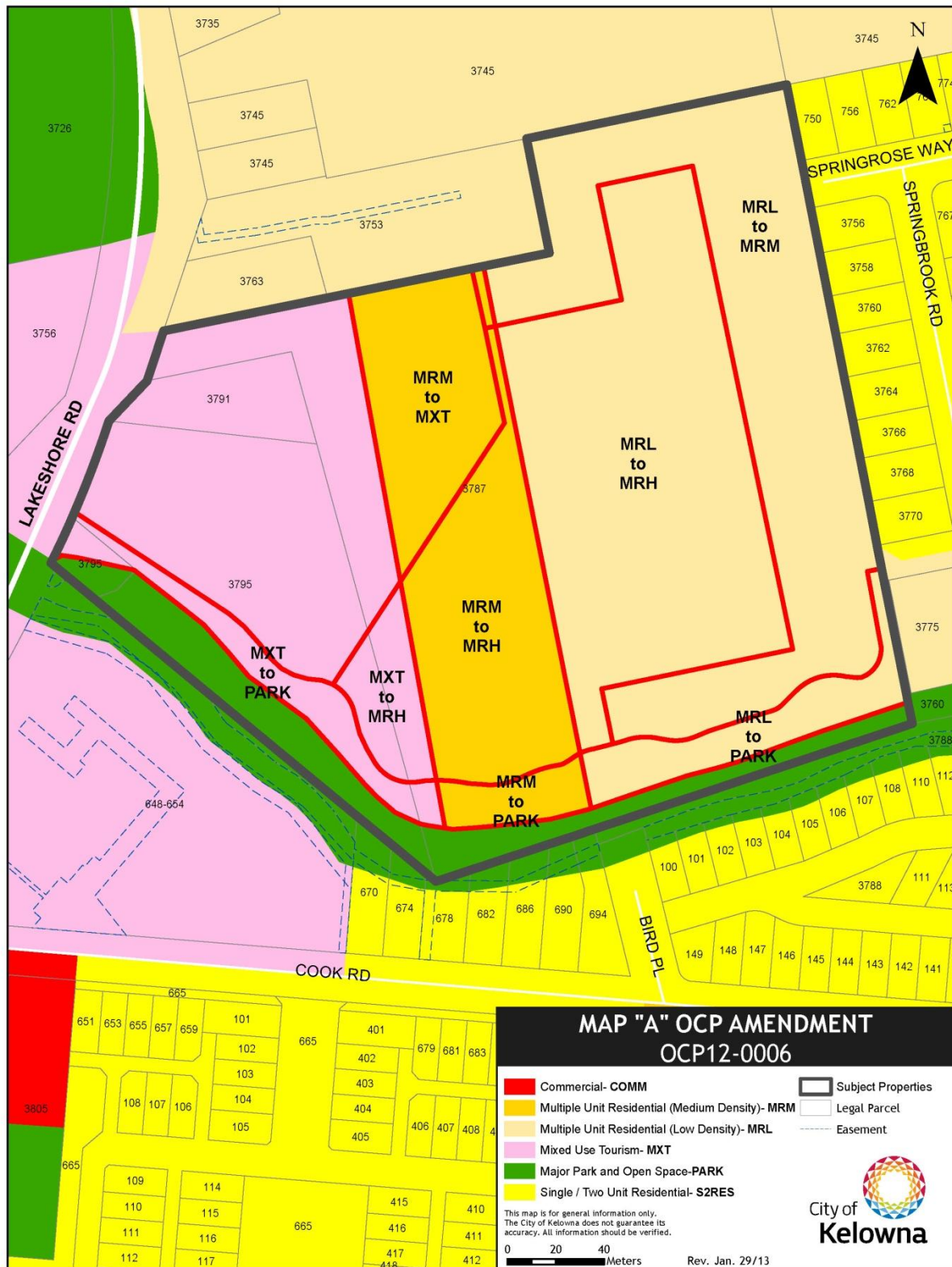
Considered at a Public Hearing on the

Read a second and third time by the Municipal Council this

Adopted by the Municipal Council of the City of Kelowna this

Mayor

City Clerk



CITY OF KELOWNA

BYLAW NO. 10812

Text Amendment No. TA12-0007 -Amendment to the City of Kelowna Zoning Bylaw No. 8000 - New CD24 - Comprehensive Development Zone 24

The Municipal Council of the City of Kelowna, in open meeting assembled, enacts that City of Kelowna Zoning Bylaw No. 8000 be amended as follows:

1. THAT **Section 1 - General Administration, 1.3 Zoning Map, 1.3.1** be amended by adding to the end of **Section 18 - Comprehensive Development Zones** the following:

CD23	(Intentionally Blank)
CD24	Comprehensive Development Zone 24

2. AND THAT **Section 7 - Landscaping and Screening, Table 7.1 - Minimum Landscape Buffer Treatment Levels Schedule,**
 - a) be amended in **Commercial Zones**, under **Location** by adding “CD24 Sub-Area A”; and
 - b) be amended in **Urban Residential Zones**, under **Location** by adding “CD24 Sub-Area B”
3. AND THAT a new **CD24 - Comprehensive Development Zone 24** be added to **Section 18 - Schedule B - Comprehensive Development Zones** as attached outlined in Schedule “A” attached;
4. This bylaw shall come into full force and effect and is binding on all persons as and from the date of adoption.

Read a first time by the Municipal Council this 11th day of March, 2013.

Considered at a Public Hearing on the

Read a second and third time by the Municipal Council this

Approved under the Transportation Act this

(Approving Officer-Ministry of Transportation and Infrastructure)

Adopted by the Municipal Council of City of Kelowna on the

Mayor

City Clerk

Schedule 'A'

CD24 – Comprehensive Development Zone**1.1 Purpose**

The purpose is to provide for the integrated design of a comprehensive mixed-use development which includes tourist commercial and residential uses.

1.2 CD24 Lands

The CD24 Lands consist of two Sub-Areas A and B inclusive ("CD24 Sub-Areas") as shown on Plan HW-1. The boundaries of Areas A and B will generally conform to Plan HW-1.

1.3 Regulations

In the CD24 Comprehensive Development Zone, regulations may be different for each CD24 Sub-Area as set out in the CD24 Sub-Area Zoning as shown on Schedules 1 and 2.

1.4 General Regulations of the Comprehensive Site

- (a) **Section 6 – General Development Regulations** of this bylaw applies;
- (b) **Section 7 – Landscaping and Screening** of this bylaw applies;
- (c) **Section 9 – Specific Use Regulations** of this bylaw does not apply with the exception of:
 - Sub-Section **9.2 – Home Based Business, Minor**;
 - Sub-Section **9.3 – Home Based Business, Major**.
- (d) The CD24 Comprehensive Development Zone has been designated as a Development Permit Area by "Kelowna 2030 – Official Community Plan Bylaw No. 10500" for the purpose of guiding the form and character of development. The guidelines applicable to the CD24 Comprehensive Development Zone are annexed to this Bylaw as Annexure "1" and entitled "CD24 Comprehensive Development Area Design Guidelines".

1.5 Site Coverage

- (a) The maximum **site coverage** is 40%, provided that the maximum **site coverage** of **buildings**, driveways, and above ground parking areas is 50%.
- (b) Parking structures located above natural finished grade and surfaced with landscaping or useable open space shall not be included in the calculation of site coverage.

1.6 Other Regulations

- (a) A total of fifty (50) purpose-built rental units shall be included in the CD24 zone prior to the completion of 570 units.
- (b) No commercial uses shall be located beyond 250 metres of Lakeshore Drive frontage.

1.7 Parking and Loading

- 1.7.1 Loading facilities shall be designed in accordance with the loading regulations of **Section 8 – Parking and Loading** of this bylaw, with the exception that the minimum number of loading spaces required must be in accordance with **Table 2** of this CD24 Zone.
- 1.7.2 **Parking spaces** shall be designed in accordance with the parking regulations of **Section 8 – Parking and Loading** of this bylaw, with the exception that the minimum number of **parking spaces** required must be in accordance with **Table 1** of this CD24 Zone.
- 1.7.3 Bicycle parking shall be provided in accordance with the bicycle parking regulations of **Section 8 – Parking and Loading** of this bylaw.
- 1.7.4 Co-op cars or pool cars provided for shared use by residential development shall equate to five parking stalls per pool car provided. A maximum of 10 pool cars can be used for parking stall credits within the zone. The provision of pool cars shall be considered as part of a Development Permit and will be secured by way of agreement with the developer.

Table 1: Parking

Use	Minimum Parking Space Requirement
Commercial	2.5 spaces per 100 m ² Gross Floor Area
Residential	1.4 spaces per dwelling unit / 3 bedroom apartment 1.2 space per dwelling unit / 2 bedroom apartment 1.0 spaces per dwelling unit / 1 bedroom apartment 0.8 spaces per dwelling unit / studio apartment 1.55 spaces for dwelling unit/ 3+ bedroom townhouse unit 1.35 spaces per dwelling unit/2 bedroom townhouse unit 1.10 spaces per dwelling unit/ 1 bedroom townhouse unit Additional parking shall be designated for residential visitor parking at a rate of 1 space for every 7 dwelling units
Supportive Housing	1 space per three bed spaces
Hotels	0.75 spaces per sleeping unit
Hotel Ancillary Uses (restaurant/lounge, conference/meeting rooms, retail shops)	4.0 spaces per 100 m ² of Gross Floor Area

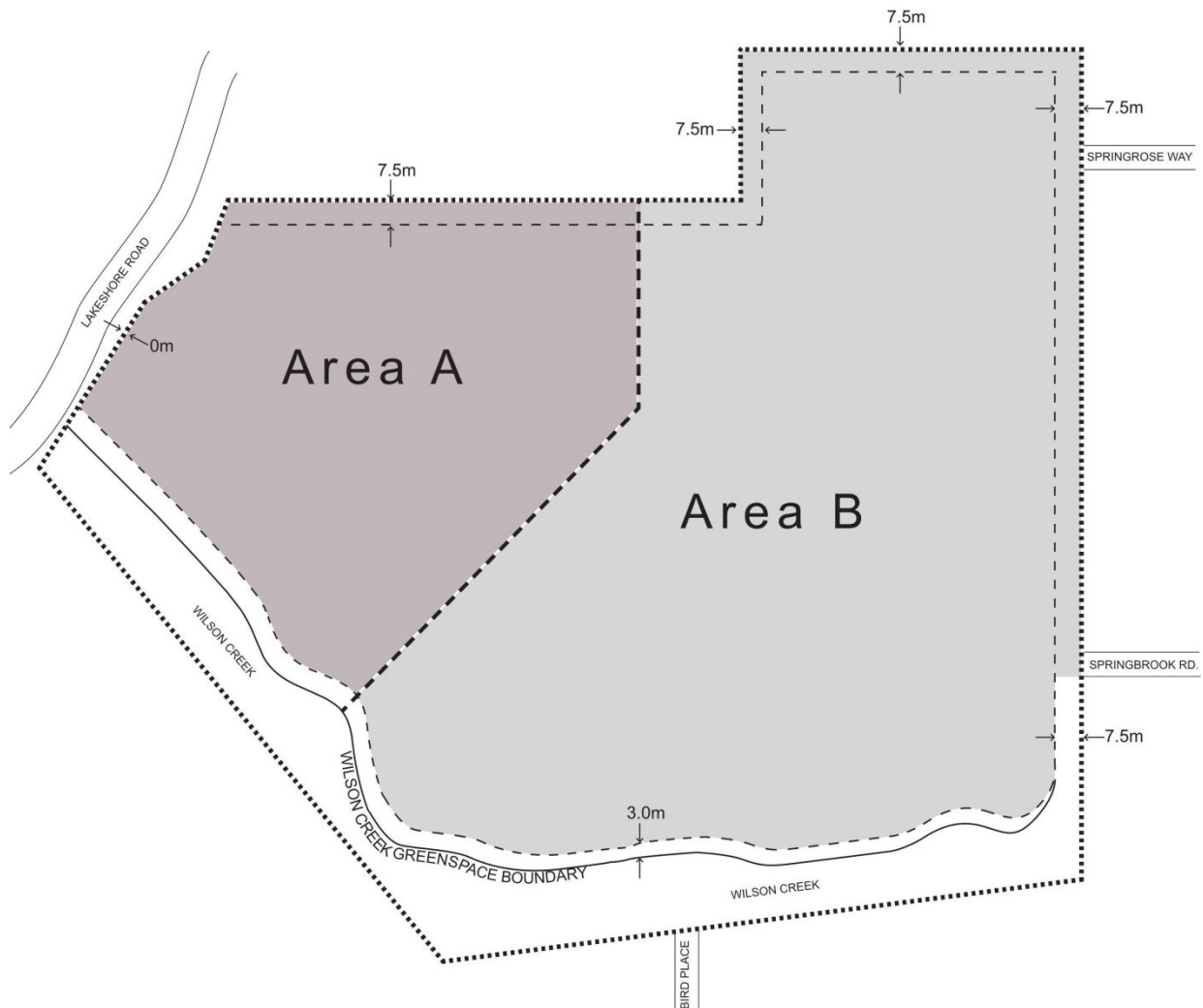
Table 2: Loading

Use	Minimum Parking Space Requirement
Commercial/Hotel	2 Large scale loading stalls 1 per 2,800 m ² gross floor area

2.1 Subdivision Regulations

- (a) Each lot created that is serviced by the common lot access shall have a minimum frontage on the common lot access of 10 metres
- (b) Area B minimum lot width is 25 metres
- (c) Area B minimum lot depth is 30 metres
- (d) Area B minimum lot area is 750 m²
- (e) At the time of subdivision, a Section 219 Restrictive Covenant will be registered on all properties indicating the allocation of I Net Floor Area to each of the lots being created. The sum of all allocation covenants cannot exceed 90,990 m² or 1.25 FAR.

PLAN HW-1



SCHEDULE 1 – CD24 SUB-AREA A ZONING**7.1 Purpose**

The purpose of Sub-Area A is to provide a mix of tourist commercial and residential uses.

7.2.1 Principal Uses

The **principal uses** in this Sub-Area are:

- a) apartment hotels
- b) boarding or lodging houses
- c) congregate housing
- d) group home major
- e) hotels
- f) motels
- g) multiple dwelling housing
- h) supportive housing
- i) tourist campsites

7.2.2 Secondary Uses

- a) agriculture, urban
- b) boat storage (only within an enclosed building or structure)
- c) care centre major
- d) community recreation services
- e) financial services
- f) food primary establishment
- g) health services
- h) liquor primary establishment , major
- i) liquor primary establishment, minor
- j) liquor primary license
- k) non-accessory parking
- l) home based business minor
- m) offices
- n) participant recreation services, indoor
- o) personal services establishments
- p) retail liquor sales (establishments)
- q) retail store, general

7.3 Density

- a) Area A has a maximum F.A.R. of 1.5. The overall site density shall not exceed a Net Floor Area of 90,990 m² or an F.A.R. of 1.25 calculated on the gross site area, whichever is the greater.
- b) Area A has a minimum ground floor commercial area of 2,500 m².
- c) A minimum of 50% ground floor commercial area within Area A must front Lakeshore Drive.

7.4 Height

The maximum **height** of one **building** within Area A shall be the lesser of 36 metres or 11 **storeys**, not including rooftop mechanical penthouse, antenna or other ancillary structures. For all other buildings in Area A, the maximum height should be the lesser of

33 metres or ten (10) **storeys**, not including rooftop mechanical penthouse, antenna or other ancillary structures.

7.5.1 Site Setbacks

Perimeter Property Line Setbacks

- a) South Side – 3.0 metres from the boundary of the Wilson Creek green space for any **buildings** and **structures** less than 15 metres in **height**. All portions of **buildings** and **structures** above 15 metres in **height** will require an additional 1.5 metre setback for a total of 4.5 metre setback from the boundary of the Wilson Creek Green Space.
- b) North Side – 7.5 metres for all **buildings** and **structures** up to 10 metres in **height**; 15 metres for any **buildings** and **structures** greater than 10 metres in **height**.
- c) West Side / Lakeshore Road Frontage – 0.0 metres for 50% of the **frontage** and 3.0 metres for 50% of the **frontage** for any **buildings** or **structures** under 10 metres in **height**. 3.0 metres for any portion of **buildings** or **structures** above 10 metres in **height**. Notwithstanding this provision, architectural features that are less than 25% of the building face width may encroach into the 3.0 metre setback requirement, to a maximum of 1.5 metres.

7.5.2 Internal Site Setbacks

- a) The site is intended to be subdivided further into individual parcels served by a common lot access road. The minimum setbacks for all internal parcels are:
 - i. 0 metres for all parking structures;
 - ii. 0 metres for front yard setback; and
 - iii. 3.0 metre setback from all internal side and rear yards.

7.6 Private Open Space

A minimum area of 7.5 m² of private open space shall be provided per **bachelor dwelling, apartment hotel unit, or congregate housing bedroom**; 15 m² of **private open space** shall be provided per **1 bedroom dwelling**, and 25 m² of **private open space** shall be provided per **dwelling** with more than **1 bedroom**, except for hotel where no minimum private open space is required.

7.7 Other Regulations

- a) The maximum site area of Sub-Area A is 35,000 m².
- b) Financial services use shall not have a floor area greater than 280 m²
- c) Health services and office uses shall not have a cumulative floor area that exceeds 500 m²
- d) Retail store, general use shall be limited to a maximum single tenancy of 1,400 m²

Annexure 1

SCHEDULE 2 – CD24 SUB-AREA B ZONING**8.1 Purpose**

The purpose of Sub-Area B is to provide multi-family residential housing.

8.2.1 Principal Uses

The **principal uses** in Sub-Area B are:

- a) **congregate housing**
- b) **group home major**
- c) **multiple dwelling housing**
- d) **supportive housing**

8.2.1 Secondary Uses

The **secondary uses** in Sub-Area B are:

- a) **agriculture, urban**
- b) **boarding or lodging houses**
- c) **care centre major**
- d) **care Centre, major**
- e) **non-accessory parking**
- f) **community recreation services**
- g) **home based business, minor**

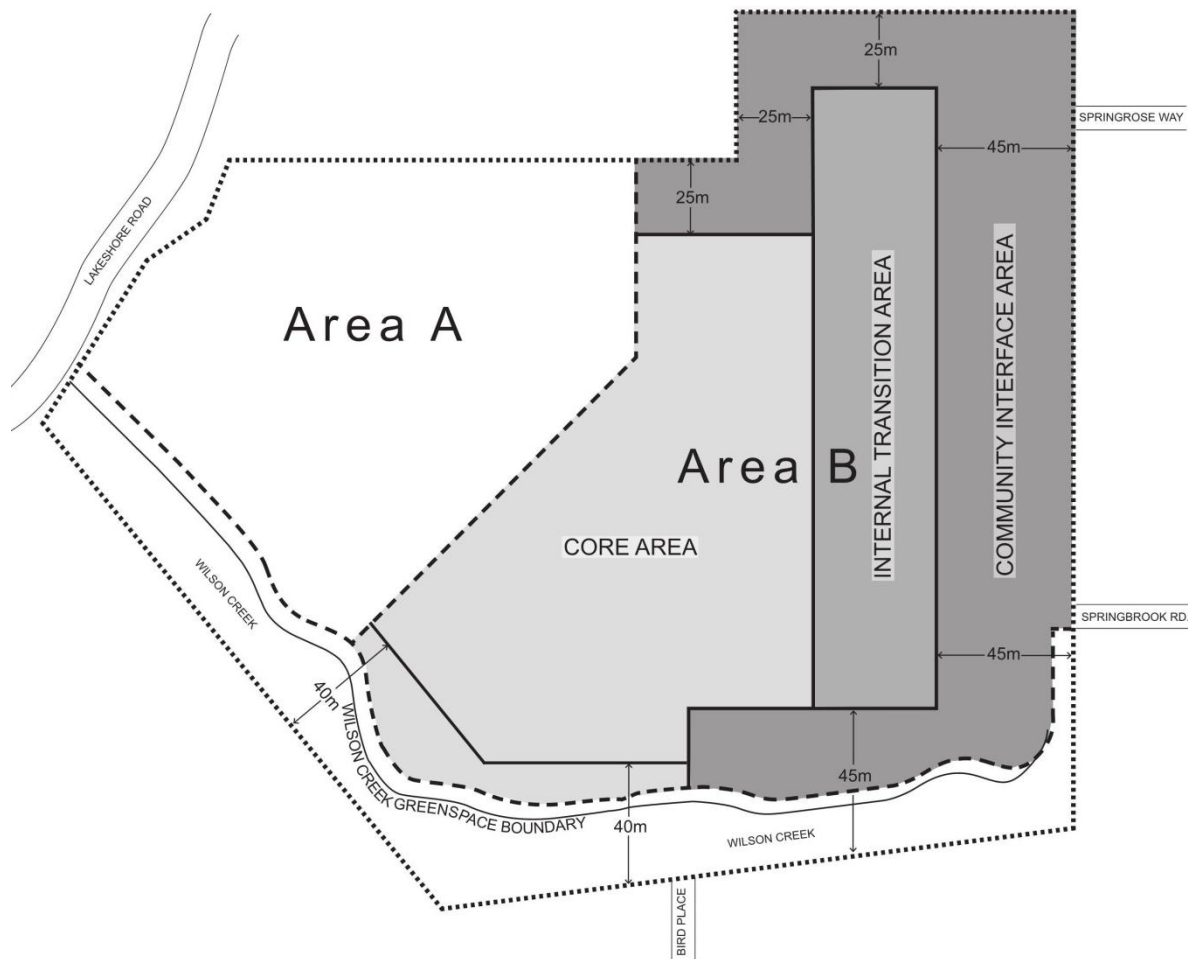
8.3 Density

Sub-Area B has a maximum density of 1.20 F.A.R. In addition, the overall site density shall not exceed a Net Floor Area of 90,990 m² or an F.A.R. of 1.25 calculated on the gross site area, whichever is the greater.

8.4 Height

For the purposes of **height**, Sub-Area B will be made up of three (3) distinct areas as illustrated on Plan HW-2. **Building heights** within the Community Interface area shall be the lesser of 11.5 metres or 3.5 **storeys**. **Building heights** within the Internal Transition area shall be the lesser of 20.5 metres or 6 **storeys**. **Building heights** within the Core Area shall be the lesser of 29.5 metres or 9 **storeys**.

PLAN HW-2



8.5 Site Setbacks

Perimeter Setbacks

- a) South Side – 3.0 metres from the boundary of the Wilson Creek green space for any **buildings** and **structures** less than 15 metres in **height**. All portions of **buildings** and **structures** above 15 metres in height will require an additional 1.5 metre setback for a total of 4.5 metre setback from the boundary of the Wilson Creek green space.
- b) North Side – 7.5 metres for all **buildings**.
- c) East Side – 7.5 metres for all **buildings**.

Internal Setbacks

- a) The site is intended to be subdivided further into individual parcels served by a common lot access road. The minimum setbacks for all internal parcels are:
 - o 0 metres for all parking structures;
 - o 2 metres from the fronting road, and
 - o 3.0 metres from all side and rear yards.

8.6 Private Open Space

A minimum area of 7.5 m² of private open space shall be provided per **bachelor dwelling or congregate housing bedroom**; 15 m² of **private open space** shall be provided per **1 bedroom dwelling**; and 25 m² of **private open space** shall be provided per **dwelling** with more than **1 bedroom**.

8.7 Other Regulations

- a) The maximum site area of Sub-Area B is 60,000 m².
- b) The uses set within Section 8.2 are only permitted provided that off-street vehicular parking and off-street loading must be screened from public view with a minimum 2.0 metre landscape buffer. This buffer can be reduced to a 1.0 metre width when provided in combination with a decorative fence or wall with a minimum height of 1.2 metres. A minimum of 50 family-oriented **dwelling**s shall be included in Sub-Area B prior to the completion of 400 residential units. Family-oriented dwellings, for purposes of this zone, are defined as a **dwelling** suitable as a residence for a **household** with children which meets the following criteria:
 - i. The lowest **storey** of the **dwelling** is no higher than the third storey of the building;
 - ii. The **dwelling** has two bedrooms or more, and the average number of bedrooms per **dwelling** is not less than 2.25 for all such dwellings in a development;
 - iii. The **dwelling** has individual and private access to grade, except that in the case of stacked row housing access to **dwelling**s above the first **storey** may be shared by two **dwelling**s. In the case of **apartment housing**, access to **dwelling**s above the first storey may be shared, provided that entrances to not more than six **dwelling**s are located on any one **storey** or landing.

Annexure 1



CD24 COMPREHENSIVE DEVELOPMENT DESIGN GUIDELINES

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INTRODUCTION AND OVERVIEW

The development envisioned under the CD24 zone is to be a place where a sense of community thrives and pride in the neighbourhood is evident.

The CD24 development will be an inviting and sustainable mixed-use commercial residential neighbourhood that will support the tourism potential of this unique area of Kelowna. The overall vision for CD24 is forward thinking; incorporating principles of smart growth development, a high level of urban design and best management practices for sustainability. The following are the over-arching development objectives for CD24:

- ≈ Promote the City of Kelowna's vision for new communities and development, as outlined in Chapter 5.0 of the 2030 Overall Community Plan (OCP): *develop in a sustainable manner; focus development in established growth areas; ensure appropriate and context sensitive built form; create a sense of community; provide high quality urban design; create opportunities for greater pedestrian, active transportation and public transit use.*
- ≈ Promote the creation of a *Complete Communities and Compact Urban Form* that combines a variety of residential building types with a tourism based commercial and retail component that is responsive to the surrounding context.
- ≈ Promote a pedestrian-oriented lifestyle community that integrates mixed-use development with park-like open spaces that are inter-connected by pathways both internally and externally.



SITE PLAN



MIXED USE – COMMERCIAL TOURISM



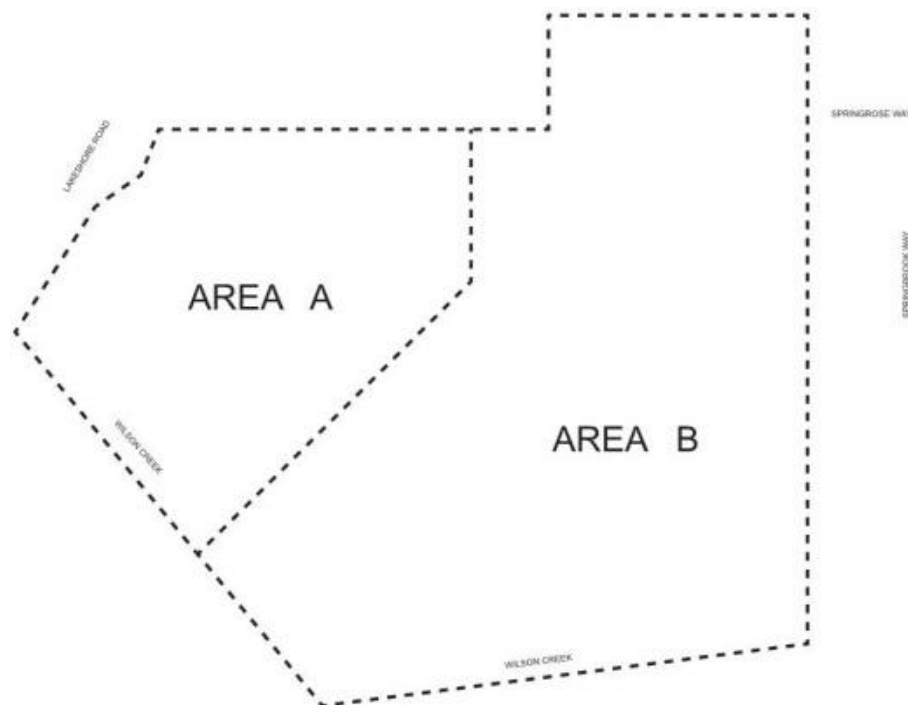
SUSTAINABILITY

- ≈ Promote the construction of energy efficient buildings and best management practices with regards to sustainability initiatives for community design, energy efficiency, reduced water consumption, active transportation, increased biodiversity and preservation of ecology.

The following *Design Guidelines* will ensure a harmonious understanding of the 'vision', with a strong focus on environmental, economic and social sustainability.

1.1 USING THE DESIGN GUIDELINES

These Design Guidelines form part of a Comprehensive Development (CD24) agreement that will shape the future of this multi-phased mixed-use development. The site has been divided into two distinct areas (Area A and Area B). Area A has both residential and commercial uses and Area B has only residential uses. As such, these guidelines have been structured to include overall guidelines for both Area A and Area B and commercial specific guidelines for Area A.



The intent of the Design Guidelines is to provide the following:

- ≈ Provide the framework that will be used by individuals preparing the form and character Development Permit applications relating to buildings and open spaces within the CD24 boundary.
- ≈ Assist the City of Kelowna's planning staff with individual Development Permit applications within the CD24 boundary.
- ≈ Provide general guidance as to the level of detailed design needed to ensure that each individual development is compatible with the overall urban design concept established for CD24 Zone.
- ≈ Provide, through high-level graphic examples, to illustrate potential applications of the design guidelines.

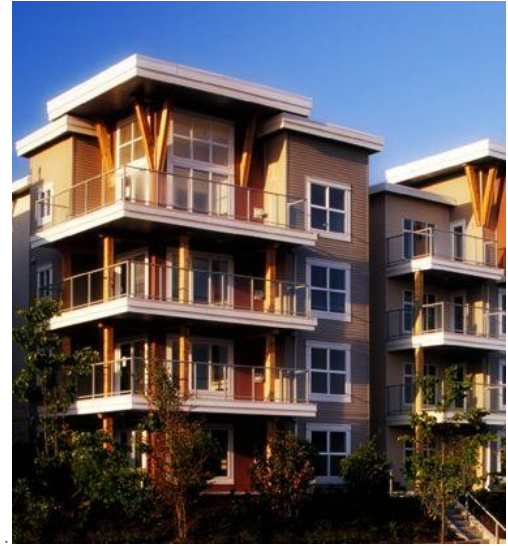
These guidelines are not intended to be the final form of development, but rather represent a 'conforming outline' to be used as a starting point for detailed design to build upon.

1.2 GUIDING PRINCIPLES

Guiding principles represent the larger planning and design objectives that are to be reinforced whenever possible during subsequent development stages.

1.2.1 LAND USE PRINCIPLES

- ≈ The development of the CD24 site will incorporate a mix of land uses including retail, commercial, hotel and residential with associated residential uses.
- ≈ Land use for the CD24 site has been allocated to two different areas ('Area A' and 'Area B').



RESIDENTIAL BUILDING

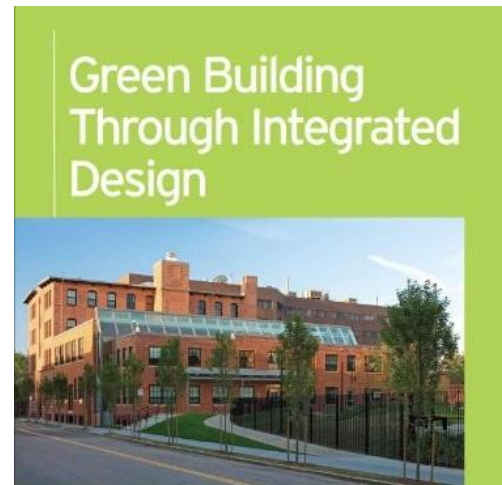


RESIDENTIAL BUILDING

- ≈ Area A's core land use will be tourism-based commercial that includes hotel and conference space, ground floor retail, and residential use located above retail. Commercial development will be complemented with an urban plaza space that accommodates some surface parking.
- ≈ Area A's building forms respond to the Lakeshore Road frontage and will have a landmark structure in terms of scale and architecture.
- ≈ Area B's land use will be residential, with no commercial or retail use, and will be complemented by an inter-connected network of landscaped open spaces.
- ≈ Area B's building forms will be mid-rise, multi-unit structures that step back in height from the site edges in response to adjacent existing residential.
- ≈ Vehicular traffic within the site will be accommodated by an internal road network, with limited surface parking and an easily accessible parking structure.

1.2.2 SUSTAINABILITY PRINCIPLES

- ≈ To promote higher density mixed-use development near existing communities and public infrastructure to reduce adverse environmental and public health effects associated with low density urban sprawl.
- ≈ To encourage the development of energy-efficient buildings by employing strict heating and cooling strategies that will reduce dependency on natural resources.
- ≈ To reduce pollution and flooding associated with major storm events through on-site stormwater capture and treatment to promote aquifer recharge and improve water quality by emulating natural conditions.
- ≈ To reduce energy consumption and pollution from motor vehicles by providing high levels of external connectivity and by encouraging alternative modes of transportation such as public transit, cycling, car sharing and walking.
- ≈ To promote a healthy lifestyle by providing safe, appealing and comfortable street, pathway and open space environments.



GREEN BUILDING



ACTIVE TRANSPORTATION



COMMUNITY GARDENS

- ≈ To preserve water quality, natural hydrology, habitat, and biodiversity through conservation and rehabilitation of wetlands and Wilson Creek.
- ≈ To enable the widest spectrum of people, regardless of age or ability, to more easily participate in community life by incorporating principles of universal accessibility into the design process.
- ≈ To promote community-based food production, access to fresh produce, and improve nutrition through provision of community gardens.
- ≈ To limit or eliminate the use of potable water for irrigation by use of captured or recycled water for use in landscape irrigation.
- ≈ To minimize amounts of sod lawn provided and to use a planting palette of drought tolerant native, or native-adaptive, plant species to minimize water consumption for irrigation.

1.2.3 URBAN DESIGN PRINCIPLES

- ≈ It is the overall intent that the CD24 development site incorporates a high level of urban design and character into its buildings and outdoor open spaces that is responsive to the functional requirements of a mixed-use development, the site's unique context, and the promotion of a pedestrian-oriented neighbourhood.
- ≈ Building and open space design should convey human scale, address pedestrian comfort and safety, and complement the surrounding community as well as existing buildings.
- ≈ Create opportunities for public open space as part of the development that is safe, of high-quality and human scale.
- ≈ Consider a road network as part of the public open space that will include amenities that promote pedestrian comfort and use.



MINIMAL SOD PLANTING



MIXED-USE – URBAN DESIGN



PEDESTRIAN FRIENDLY STREETScape



TOURISM - COMMERCIAL

1.2.4 RESPONSE TO CONTEXT

- ≈ Development in Area A will have a strong urban character in the treatment of buildings and open spaces in response to the context of Lakeshore Road, Manteo Resort and other major commercial developments within the Cook Road Tourist Commercial Area.
- ≈ Development in Area B will have a residential character through scale and material treatment of buildings, landscape buffers and landscape treatment of open spaces that respond to the context of adjacent existing residential uses.
- ≈ Development in both Area A and Area B will respond to the highly naturalized character of the Wilson Creek wetland and riparian corridor by providing the required building setbacks from the City of Kelowna Wilson Creek Linear Park and accompanying environmental green space.
- ≈ Character of exterior spaces and selection of plant material is to transition from cultured (inside site) to natural (edge of site at environmental riparian zone).
- ≈ The character of buildings and public spaces within the CD24 site should celebrate that which is unique and distinctive about the Okanagan Valley by drawing inspiration from the region's natural and cultural landscapes.



WILSON CREEK



OKANAGAN INSPIRED LANDSCAPING

1.2.5 CRIME PREVENTION THROUGH ENVIRONMENTAL DESIGN (CPTED)

- ≈ Provide sufficient density to help ensure enough “eyes and ears” on the street.
- ≈ Improve public safety through the creation of public spaces that instil a sense of pride and ownership.
- ≈ Provide natural surveillance and sight lines to ensure unobstructed views in areas where public safety and pedestrian / vehicle conflicts will be a factor.
- ≈ Provide lighting at a sufficient enough level to uniformly light adjacent sidewalks so as to provide a high level of “psychological comfort and safety” for pedestrian use at night.

OVERALL DEVELOPMENT GUIDELINES

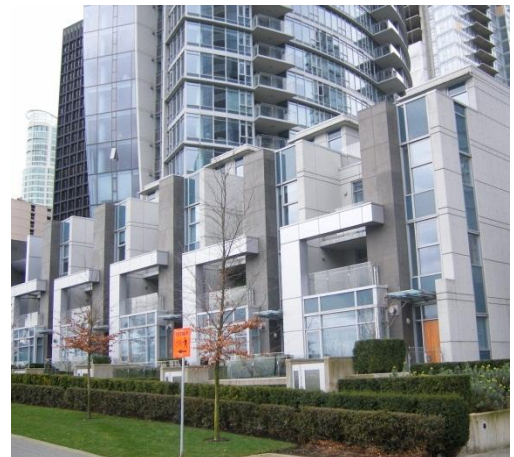
The following guidelines apply to both Area A and Area B. Additionally, at the end of each section, commercial specific guidelines for Area A only have been highlighted.

2.1. BUILDING SITING, MASSING AND PROPORTION

- ≈ In general, building massing will respond to adjacent existing land uses by stepping the heights of buildings from the edges of the site (lower building heights) to the core of site (higher building heights).
- ≈ Where residential buildings are situated in close proximity to each other, consideration should be given to stepping back the upper floors of the building to visually reduce the massing by expanding the horizontal relationship between the upper levels when compared to the lower levels.
- ≈ Consideration should be given at the site planning level to provide private open space at grade for each ground unit along with transitional landscaped open space from private to semi-private / semi-public space (see CD24 Comprehensive Zoning Bylaw for minimum private open space requirements).
- ≈ Buildings should be sited with sensitivity to future development on adjacent properties and in a way that promotes the creation of functional and interconnected outdoor spaces for residents within the community.
- ≈ Building siting should consider placement and orientation to maximize use of natural light in building design, and maximize view corridors to Wilson Creek while minimizing views into adjacent developments.



HOTEL CONFERENCE PODIUM



TOWER PODIUM ASSEMBLY



SUSTAINABILITY

- ≈ Buildings should demonstrate a high degree of human scale through emphasis of doors and windows and through appropriate choice of materials and surface detailing to create a rich visual interest at the pedestrian level.
- ≈ Building articulation refers generally to the exterior details and the arrangement of both specific and repetitive features. As it is not intended that the CD24 site be developed under one specific architectural theme, care and attention at the preliminary design stage should be made to ensure that different architectural styles be complementary in detail to each other.
- ≈ Building facades should have a balance of vertical and horizontal proportions.
- ≈ Vertical accents should occur on a regular basis to reinforce a pedestrian-scaled rhythm and are preferred for windows.
- ≈ Horizontally-extended glazed areas should be subdivided into vertically proportioned windows separated by mullions or building structure.
- ≈ Building siting and massing for structures over 2 stories should be comprised of a podium and a tower element.
- ≈ Building tower and podium should be perceived as assemblages of forms through overlapping of building elements to break-up massing. Homogenous building treatments that tend to create monolithic building massing are strongly discouraged.
- ≈ Building towers should be designed to help reduce perceptions of bulk as well as contribute to a distinct identity for the architectural expression of development.
- ≈ Towers should have a minimum 25 metre separation from any other tower, with the distance between buildings measured from the nearest vertical plane, not including balconies or building overhangs.



PEDESTRIAN LEVEL INTEREST



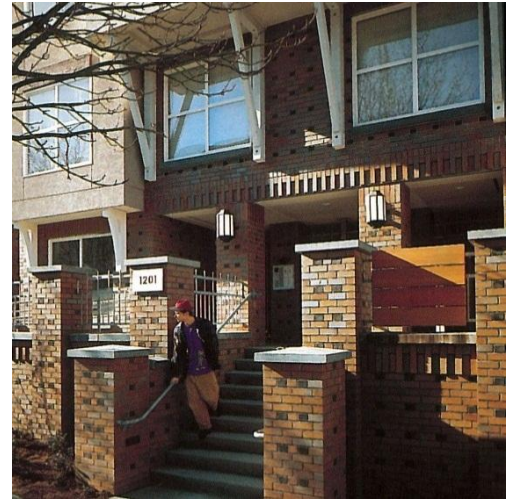
WILSON CREEK GREEN SPACE

2.2. BUILDING HEIGHTS AND SETBACKS

- ≈ The CD24 Zone prescribes minimum setbacks to the external property boundaries on the CD24 site.
- ≈ Building heights will step in response to the prescribed setbacks as outlined in the CD24 Zone Site Setbacks.
- ≈ Designated setback areas along the north and eastern property lines which are immediate to existing residential development should be primarily treated as semi-private to private space allowing for maximum landscape planting and screening and minimum pedestrian access.
- ≈ In residential units located at the ground level adjacent to the Wilson Creek Green Space, it is recommended that buildings be sited to maximize the potential for on-grade outdoor private patio spaces.

2.2.1 COMMERCIAL BUILDING HEIGHTS AND SETBACKS

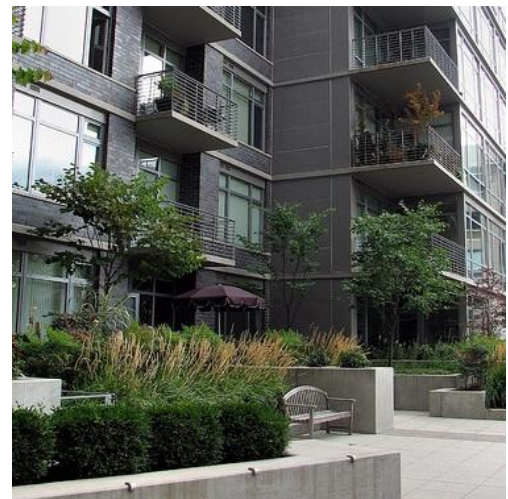
- ≈ The podium for each building should be no more than 3 stories above grade.
- ≈ Where residential uses are proposed above retail or commercial uses, the first level of residential should be set back slightly further than the commercial or retail façade.
- ≈ Where buildings face the commercial piazza, floors above the first 2 stories should be slightly set back from the lower façade in order to create an appropriate pedestrian scale of building at the commercial level.
- ≈ The first 2 stories of a building is where design elements can be most effective to provide a human scale to the building, regardless of its overall size and massing. Lower levels should be designed to accentuate the horizontal elements and to provide a separation between the lower retail uses and upper mixed use levels.



INVITING ENTRANCES



COVERED ENTRANCES



UNIVERSALLY ACCESSIBLE MAIN ENTRANCE

2.3. BUILDING ENTRANCES

- ≈ All entrances should be inviting from the street and create a comfortable and welcoming experience through attention to details, proportions, materials, and lighting.
- ≈ Principal entrances should be easy to identify from the street or any adjoining public open space.
- ≈ If the principal building entrance is located within a courtyard/ garden space, there should be adequate address identification in close proximity to street or adjoining open space, and an appropriate walkway through the space to the main entry door.
- ≈ Principal entrances should include a canopy, overhang, portico or other similar structure to provide appropriate weather protection, without sacrificing visibility.
- ≈ Principal entrances should be universally accessible.
- ≈ Principal entrances should be in close proximity to a vehicular lay-by or drop off area, without compromising pedestrian safety.
- ≈ The building address should be clearly visible and located near the principle building entrance.
- ≈ The principal entrance should be designed so that it is secure and that visitors can be identified from within the building without opening the door.
- ≈ Secondary entrances and exits should be designed for safety and visibility.
- ≈ If the route of access to secondary entrances crosses through a courtyard / garden space or landscaped area, there should be a defined path.
- ≈ If a secondary entrance is not frequently used, the pathway does not necessarily have to be a hard surface. Crushed gravel could be an adequate treatment.

2.3.1 COMMERCIAL BUILDING ENTRANCES

- ≈ Retail spaces should be easy to see into from the adjoining commercial plaza and outdoor space(s). A high degree of transparency should not preclude use of mullion patterns to add visual interest and human scale to the building.



BALCONY AND OVERHANG RESPOND TO CLIMATE



LANDSCAPED DECKS AND ROOFTOPS



SOLAR SHADING

2.4. BUILDING ROOFTOPS, BALCONIES, OVERHANGS, AND SOFFITS

- ≈ Buildings should be articulated with the aim of creating shadows through indentations and projections of elements within a façade composition on all sides – not just the front building elevation. (i.e. windows and doors, cornice lines, pilasters, balconies, and/or base-relief detailing).
- ≈ Buildings with flat roof areas, whether actively used or not, should be enhanced by use of texture, colour, and/or landscaping, especially when visible from habitable spaces above.
- ≈ Rooftops designed as active outdoor social spaces are encouraged and should be designed to withstand the weight of mature trees and plantings.
- ≈ All mechanical equipment and elevator penthouses should be integrated with the architectural treatment of the roof, or be screened with materials and finishes compatible with the building's design.
- ≈ In response to a regional expression, building detailing should emphasize shade from summer sun with overhangs and recesses of sufficient depth that are appropriate responses to solar exposure.
- ≈ Upper levels of buildings should incorporate decks, balconies, or other building features as outdoor amenity space for occupants. Balconies should be designed to maximize outdoor living opportunities.
- ≈ Where appropriate, Green Roofs should be considered as a viable option to tar and gravel ballast roofs in response to sustainable building practices and the reduction of heat island effect on roofs.
- ≈ Any soffits or the underside of any portion of a building, including the undersides of balconies, within the first 2 stories and exposed to public view should be treated in a manner as to provide visual interest and show attention to detail.



REGIONAL EXPRESSION – TRANSITION TO OUTSIDE



SOFFIT TREATMENT



BALCONY AND OVERHANGS RESPOND TO CLIMATE



LANDSCAPED DECKS AND ROOFTOPS

2.4.1 COMMERCIAL BUILDING ROOFTOPS, BALCONIES, OVERHANGS AND SOFFITS

- ≈ Where at-grade patios are to be provided in support of commercial uses, consideration should be given to provide a landscape buffer between the public realm and outdoor patio.
- ≈ Outdoor patios should be delineated with decorative fencing of a high quality and durable material (i.e. metal) and should not exceed 1.2 metres in height unless considered as part of a gateway treatment.



OUTDOOR PATIO DECORATIVE FENCING

2.5. EXTERIOR MATERIALS, TREATMENT AND WINDOWS

- ≈ In response to a regional expression, the character of building, detailing and selection of materials should celebrate the unique and distinctive qualities of the Okanagan Valley and draw inspiration from the region's natural and cultural landscapes.
- ≈ In response to a regional expression, consider techniques and treatments that emphasize the transition between inside and outside through the differing seasons such as; retractable windows, overhead rolling doors, canopies, trellises, and extended building planes.
- ≈ Window and balcony sizes and spacing should create a comfortable rhythm that is consistent through the majority of the floors above the lowest level.
- ≈ Windows should be maximized to create natural light penetration into the buildings. Positioning of windows will consider solar effects during both the hottest summer months and the cooler and greyer winter months.
- ≈ Windows that open for natural ventilation should be encouraged, but the windows must also have a means to be secured at lower levels on the buildings.
- ≈ Windows should incorporate an appropriate trim detail that will be suited to the exterior materials and colours of the building.



COMPLEMENTARY MATERIAL CHANGE



WINDOW BALCONY RHYTHM

- ≈ All roof flashings and vents exposed to public view should be painted to match adjacent surfaces or disguised in a manner consistent with the visual characteristics of the building.
- ≈ Materials should be durable and appropriate to the character of community development. No vinyl siding or non-vision (mirrored) window glass is to be used as part of building fenestration.

2.6. PARKING, LOADING, FIRE AND EMERGENCY ACCESS

- ≈ Vehicle drop off and temporary lay-by parking should be provided in close proximity to residential buildings, or by having a single drop off serving a grouping of buildings.
- ≈ Vehicle drop off and temporary lay-by parking should be located in a manner as to ensure adequate access by the appropriate sized vehicles, while minimizing pedestrian conflicts and visual impacts from principle building entries and outdoor patios.
- ≈ Vehicle drop off and temporary lay-by parking should be treated so that pedestrians and vehicles have equal status.
- ≈ Vehicle drop off and temporary lay-by parking should offer visual interest (i.e. stamped concrete, concrete pavers, etc.) such that the space takes on a higher quality and distinction from the asphalt roadway surface.
- ≈ The majority of the required parking will be located in parking structures. Due to the high water table, it is not practical to construct the parking structures completely underground.
- ≈ Under-building parking structures should be built to internal property lines to ensure a contiguous public open space can be created on top of the structure.
- ≈ Parking garage interconnectivity should be encouraged between adjacent building sites.



REGIONAL EXPRESSION – TRANSITION TO OUTSIDE



VEHICLE DROP OFF PAVING



ARCHITECTURAL INTEGRATED PARKADE ENTRY

- ≈ The lowest level parkade can have approximately ½ storey of the parking structure wall height exposed, provide that it is treated in a manner as outlined in these guidelines.
- ≈ The second level parkade should be integrated into buildings and may include portions of the parkade structure that will have a full one-storey potentially exposed, provide that it is treated in a manner as outlined in these guidelines.
- ≈ Exposed parkade walls in areas with no pedestrian access have the potential to be naturally ventilated using screened openings. The design of screens should be decorative with be a powder-coated finished metal material.
- ≈ Exposed parkade walls in areas with pedestrian access will, at minimum, include; colour parging or cast-in-place concrete reveals, and if possible, sloped landscape with plant screening to minimize visual impact of walls. Any landscaping associated with parkade structures will consider CPTED guidelines.
- ≈ Exposed parkade walls in areas with pedestrian access and associated with second level parking should also function as pedestrian access points to the network of open spaces by incorporated into their design stairs and/or ramps for pedestrian access.
- ≈ Terraced landscaping should be used to complement pedestrian access points and be integrated into the overall landscape open space design.
- ≈ Exposed parkade walls in highly visible areas should have equal treatment as building exteriors in terms of articulated surface, reveals and applied detailing to visually break-up wall surfaces.
- ≈ Garage doors and vehicle access points into building should not terminate on axial views (i.e. views down streets within the vicinity of the site).
- ≈ Where axial views are terminated, design consideration should be given to mitigating the visual impact of such views and to otherwise provide a high degree of human scale and visual interest at visual termination points.



CONSOLIDATED LOADING AND PARKING



EXTERNAL TREATMENT OF PARKADE WALLS



UNOBTRUSIVE PARKADE ENTRY

- ≈ Doors and entrances into parking garages should not be visually obtrusive and should not be more visually prominent than any principal entrance to the building.
- ≈ Garage entrances should be architecturally integrated into the overall building design with street-level exterior building finishes wrapping into the garage opening for a minimum of 2 metres in depth.
- ≈ Doors to parking garages should have an architectural treatment that is primarily expressed as an opaque or semi-opaque door rather than an open screen. Open screens are acceptable if highly detailed and rich in visual interest.
- ≈ Garbage and recycling facilities should be located away from public sidewalks and screened from view. The materials used for such purposes should be common to the building's exterior finishes.
- ≈ Surface parking should consider the use of permeable pavers as a means for passive storm water management to control surface water run-off.

2.6.1 COMMERCIAL PARKING, LOADING, FIRE AND EMERGENCY ACCESS

- ≈ There is to be one access off of Lakeshore Road that will serve as the main entrance for the commercial and hotel uses.
- ≈ Surface parking lots should be exclusively for commercial and retail uses and temporary drop off areas; structured parking (except for drop-off zones) will be created for residential uses.
- ≈ Loading areas for commercial and hotel uses should be consolidated into one area that provides safe and efficient access and minimizes exposure to adjacent commercial uses.



LAY-BY PARKING



PARKING PLAZA

2.7. SIGNAGE

- ≈ Building signage should be made of durable, weather-resistant materials, and be professionally fabricated and installed. No box signs are permitted.
- ≈ The size of any individual sign should follow a common theme of building signage as well as the appearance on an individual building's facade.
- ≈ The scale and visual qualities of a building should not be compromised by the size and/or number of building and address signs.
- ≈ Address signage should be of a pedestrian scale that is proportionate to the residential building frontage that it promotes.
- ≈ Free standing entry features that include building / address signage, and that are integrated with a site's landscape design, should be encouraged.
- ≈ Any free standing entry feature should be built to internal property lines to ensure a contiguous public open space.
- ≈ Any free standing entry feature, as part of the building design, should be included in the Development Permit package and include detail elevations and material selection.

2.7.1 COMMERCIAL SIGNAGE

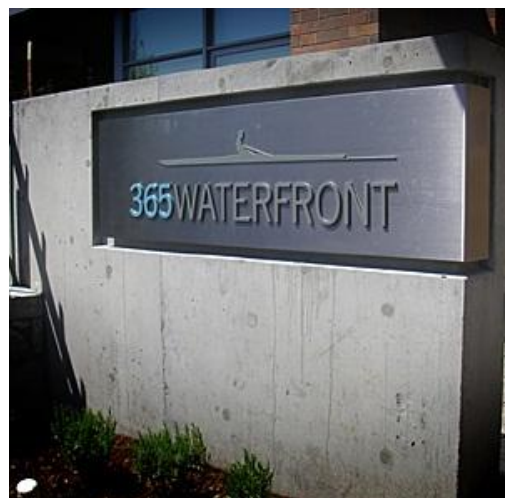
- ≈ Signage should create a rich visual character to enhance an overall festive character of the commercial area. Signage should be made of durable, weather-resistant materials, and be professionally fabricated and installed. No box signs or back-lit signs are permitted.
- ≈ Signage should consist of fascia signage, projecting signage and a free standing main project sign located along Lakeshore Road frontage.
- ≈ The main project sign should include the name of the project (yet to be determined) and identification for the commercial hotel. Individual retailers and commercial businesses should have an opportunity for secondary placement on this sign.



DURABLE BUILDING SIGNAGE



FREE STANDING BUILDING SIGNAGE



FREE STANDING BUILDING SIGNAGE

- ≈ Fascia signage should be of a pedestrian scale that is proportionate to the retail frontage that it promotes.
- ≈ Projecting signage should not extend over large areas unless incorporated as part of an awning, with text located within the awning valance. Letters should be of appropriate scale and size to complement the character of the awning design.
- ≈ The size of any individual sign should follow a common theme of building signage as well as the appearance on an individual building's facade.

2.8. LIGHTING

- ≈ Illumination should be planned as a key element in a façade's design with consideration for the effect on the façade and on adjoining buildings and open spaces.
- ≈ All exterior lighting should follow best practice methods to preserve the Dark Sky by limiting light pollution and to include selection of high performance fixtures that conserve energy.
- ≈ Lighting should not contribute to glare through use of full cut-off or low-wattage luminaries.
- ≈ Designs should also incorporate shielded fixtures and/or appropriate mounting heights, as well as be aimed appropriately.
- ≈ Building and wall scone lighting should be in response to the individual building's architectural character, while complementary to the overall character of the residential area.
- ≈ Building and parkade entry lighting should be of sufficient illumination levels as to clearly indicate principle entries from secondary, and to provide a high level of "psychological comfort" for persons using each entrance.
- ≈ Directional or accent lighting should be limited to specific exterior feature elements of notable distinction.



PROJECT SIGNAGE



DARK SKY EXTERIOR LIGHTING



FAÇADE LIGHTING EFFECTS

- ≈ Street and pedestrian light fixtures should add daytime visual interest and human scale to the exterior environment and be complimentary to the building design, as well as help accentuate the rhythm of the building façade.
- ≈ Lighting should be designed for high-quality environmental performance. Only one style of street and pedestrian fixture should be used within the residential areas.
- ≈ Lighting of sidewalks and bike paths adjacent to roadways should provide for continuous and uniform lighting of ground level.

2.8.1 COMMERCIAL LIGHTING

- ≈ Window displays should be lit from the inside of the tenant space with directional lighting such that there is minimum light spillage outside of the tenant space.

2.9. SCREENING AND FENCING

- ≈ Areas for consideration for buffering and fencing will be along the property boundary between the CD24 site and the adjacent residential properties and should respond to privacy issues.
- ≈ All buffering and fencing should be an appropriate response to adjacent social interaction, security and safety.
- ≈ A solid privacy fence, along with supplemental planting, should be provided in response to landscape aesthetics and to assist with sound attenuation.
- ≈ Fence height and landscape buffer screening should be maximized in these areas and meet, as a minimum the City of Kelowna's Section 7 Landscaping and Screening Level 3 Landscape Buffer Requirements.
- ≈ Level 3 Landscape Buffer Requirements: a minimum 3 metre landscape buffer is required to separate uses from adjacent existing properties and will consist of a vegetative buffer or a continuous opaque barrier.



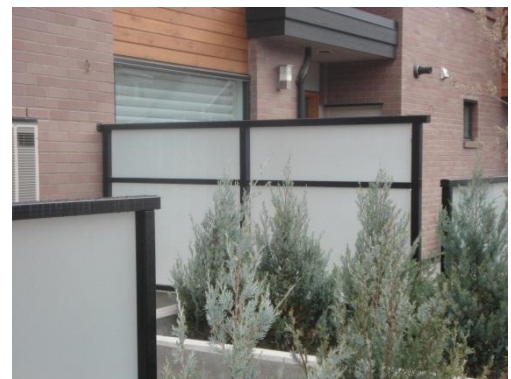
PATHWAY LIGHTING



SHIELDED AIMED LIGHTING



PRINCIPLE ENTRY LIGHTING



INDIVIDUAL UNIT FENCING

- ≈ Fencing should be treated simply and in a similar manner between individual parcels and buildings to create a sense of harmony and unification with the residential area.
- ≈ Ground level private patios should be delineated with fencing of a high quality and durable material (i.e. wood or metal) and should not exceed 1.5 metres in height unless considered as part of a gateway treatment.
- ≈ In all public to semi-private open areas, fencing should be visually permeable and its height should be such that it is not imposing to the pedestrian realm and maintain CPTED sightlines.
- ≈ The use of chain link as a fencing should be discouraged in public open space and private landscaped areas, with the exception of the delineation of the Wilson Creek wetland and riparian corridor.
- ≈ Variations in fence treatment can be presented at the Development Permit stage, and should only be considered when the fence design is in response to a specific microclimate to increase pedestrian comfort or to increase usability of an outdoor space (i.e. patio).

2.9.1 COMMERCIAL SCREENING AND FENCING

- ≈ The commercial area and associated parking plaza should be considered as an urban plaza. As such, the City of Kelowna's Section 7.0 Landscaping and Screening requirements of surface parking lots should be relaxed in consideration of this higher urban treatment.
- ≈ No major conflicting land uses are proposed with the commercial area that will require significant screening. Any requirements to separate adjacent building uses or create exterior territorial definition should be accomplished through planting.
- ≈ Landscape screening and buffer should be considered along the Lakeshore Road corridor in response to any outdoor activities related to commercial uses. Any planting in close proximity to intersections and pedestrian and vehicle conflict points will respond to visual sight lines and CPTED safety requirements.



INDIVIDUAL UNIT FENCING



VARIATION ON FENCE



PRIVACY FENCING

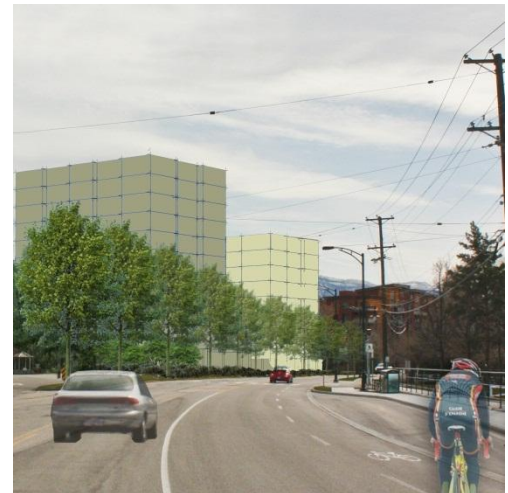
- ≈ Outdoor patios should be delineated with decorative fencing of a high quality and durable material (i.e. metal) and should not exceed 1.2 metres in height unless considered as part of a gateway treatment.

2.10. SITE ACCESS AND CONNECTIONS

- ≈ Primary access into the CD24 site is provided off of Lakeshore Road along with a secondary access off of Bird Place (via a new bridge over Wilson Creek).
- ≈ A secondary vehicular and pedestrian access into the CD24 site will be provided from Springrose Way.
- ≈ Emergency vehicle access into the CD24 site is provided off of Springbrook Road. This access will provide important emergency access into the CD24 site and improved pedestrian connectivity to the larger community.
- ≈ Circulation and connectivity between the four vehicle access points will consist of an interior road network as part of a bare-land strata development and should be designed in a manner that will reduce the potential for short cutting.
- ≈ All internal roads and access points into / out of the CD24 site should be designed in a manner that promotes pedestrian and cycling in a safe and comfortable public realm environment.
- ≈ Bridge access off Bird Place will include appropriate Wilson Creek environmental approvals in conjunction with the bridge design and construction.
- ≈ Bridge access off Bird Place will be constructed over Wilson Creek and designed as a gateway entrance to the site and the bridge design should be included as part of the form and character Development Permit application.
- ≈ Bridge access off Bird Place will accommodate pedestrian and cyclists, and the north side approach will also be designed to accommodate a pedestrian crossing of the secondary entry road for the Wilson Creek trail.



SITE ACCESS AND CONNECTIONS



PERSPECTIVE – LOOKING SOUTH

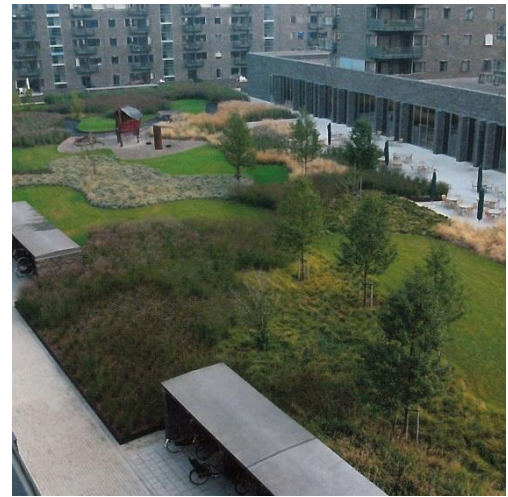
- ≈ For any pedestrian underpass associated with the Bird Place bridge access, consideration should be given to increasing the amounts of pedestrian level lighting under bridge structure and additional considerations for CPTED principles at bridge abutments to minimize potential hiding places.
- ≈ It is anticipated that vehicle access off of Lakeshore Road will be associated with a new controlled intersection which will serve as the main entrance for the commercial and hotel uses.
- ≈ The Lakeshore Road entry is considered a major pedestrian and commuter cycle connection with safe and convenient access to the adjacent Multi-Use Corridor (MUC) that connects Upper Mission to Downtown. As such, consideration should be given to the commercial plaza and adjacent ground floor retail design for the accommodation of multi-modal movement.

2.10.1 COMMERCIAL SITE ACCESS AND CONNECTIONS

- ≈ Pedestrian walkways adjacent to ground floor retail should be wide enough to accommodate retail overflow into the public realm frontage zone without restricting pedestrian circulation.
- ≈ The commercial area will be an area where the public is invited to be, and security within public areas should be considered in conjunction with building development.
- ≈ All security devices such as gates or screens should be located on the inside of the retail frontages. Corridors or entry ways that need to be secured should be either doors or gates in keeping with the architectural style of the exterior of the building. Roller gates and shutters are not permitted.



COMMERCIAL AREA SITE ACCESS



PROVIDE LARGE PUBLIC OPEN SPACES

2.11. PUBLIC AND PRIVATE OPEN SPACE

- ≈ The provision of large usable areas designated for use by CD24 residents should be promoted in the building siting and design of exterior spaces.
- ≈ Private open space should be limited to exterior spaces immediately adjacent to residential units (private patios and balconies) and to principle/ secondary building entrances - to promote a continuous and integrated series of open spaces.
- ≈ In situations where private areas will not be secured, landscape design and planting should create a territorial separation between semi-public and private spaces, without necessitating the use of fencing that will disrupt the visual continuity of the landscaped open spaces; fencing should be provided only when security is an issue.
- ≈ Spatial separation, combined with landscape planting, should be considered in all locations where there is an interface between a road and a building, or a major pedestrian access route and a building.
- ≈ Open spaces should be highly accessible and primarily promote passive recreational uses such as walking, jogging, cycling, and informal play opportunities.
- ≈ Open spaces should provide for some level of pedestrian scale lighting to promote safety and encourage limited night-time use.
- ≈ The provision of landscape feature elements such as gazebos, trellises, and pergolas should be encouraged as a way to enhance the visual interest and use of open spaces and should be attractive when viewed from above.
- ≈ A continuous pedestrian connection should be provided to link all major open spaces, including the Wilson Creek wetland and riparian corridor, which limits any potential for pedestrian and vehicle conflicts.



URBAN DESIGN



ENHANCED PUBLIC REALM

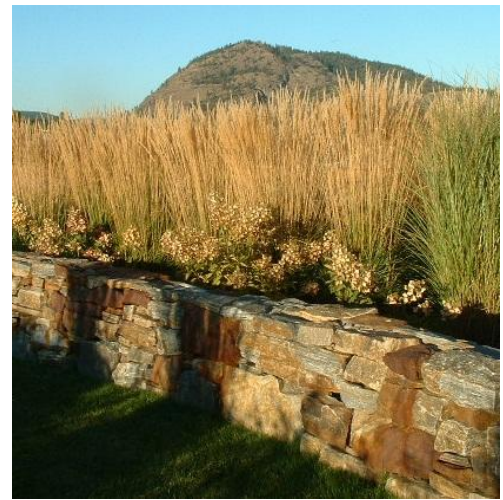


HIGH QUALITY PLAY EQUIPMENT

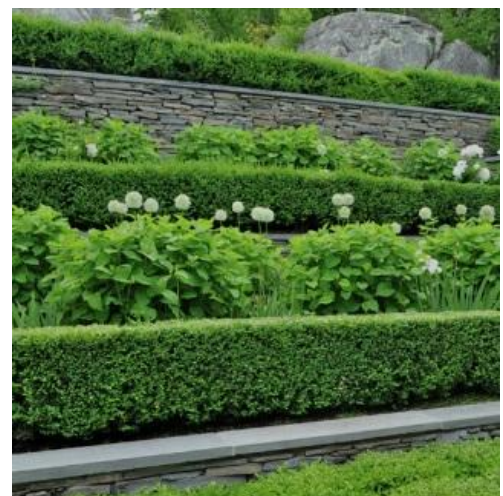
- ≈ Portions of the Wilson Creek's northern boundary will be reserved as public open space, and will be protected by covenant against development in order to preserve and enhance the creek's wetland and riparian habitat.
- ≈ Any new work associated with Wilson Creek's northern boundary will be designed in a manner to meet City of Kelowna design and construction standards and any environmental mitigation recommendations.
- ≈ Provision of community gardens should be considered either as part of the overall development's common open space, or as part of an individual building's garden space. Community gardens provide a direct sustainability feature and also create more of a community presence in the development.
- ≈ Community gardens should be considered as part of a private or semi-private open space development and be designed in a manner that provides some level of security and controlled access for users.
- ≈ Provision of structured play areas should be considered either as part of the overall development's common open space, or as part of an individual building's garden space.
- ≈ Structured play should consist of play equipment that promoted physical play and social interaction among its users.
- ≈ Any play equipment should conform to current CSA playground standards and be of high quality design and durable materials and include appropriate safety surfacing.
- ≈ No black colour rubber tile safety surfacing should be used due to potential heat absorption.
- ≈ Non-structural retaining walls used in open spaces should not be greater than 1.2 metres in height and made from local stone or of modular/ segmental block construction.



PEDESTRIAN AMENITIES



LOW NATURAL STONE WALLS



TERRACED LANDSCAPE TREATMENT

- ≈ Where structural retaining walls are required, exposed faces should be treated in a manner that is complementary with adjacent landscaping and/or architectural details - so as to limit their overall mass, height and visual impact.
- ≈ Where structural retaining walls are required, exposed faces should be treated in a manner that will discourage graffiti (i.e. treated with anti-graffiti coating). Photo image vinyl wraps should be provided on all utility boxes that are susceptible to graffiti (i.e. tagging).

2.11.1 COMMERCIAL PUBLIC AND PRIVATE OPEN SPACE

- ≈ The Commercial plaza should be fully accessible to the public as it depends on pedestrian and vehicular traffic. Open spaces within this area should serve either as aesthetic landscaped areas relating to retail activity or routes of access.
- ≈ The character of the commercial open space should have an “urban plaza character” in support of retail activities and promote a pedestrian friendly environment through spatial continuity between the public and private realms.
- ≈ The design of open spaces within the commercial plaza should promote social interaction throughout the following site planning considerations: orient the spaces to take advantage of natural sunlight and key views; provide shade and protection from wind and other climatic elements.
- ≈ Encourage the provision of streetscape elements of greater distinction within the public realm that should incorporate a high level of urban and functional design. The intent is to create a unique and memorable experience through innovative and creative design.
- ≈ Consideration should be given to placement of streetscape elements within the commercial area’s public realm so as not to create clutter or restrict

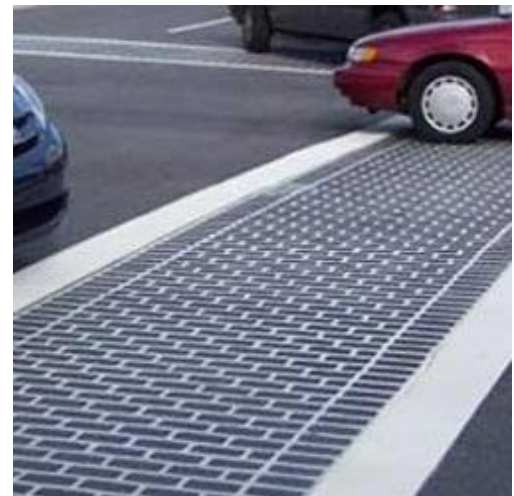


PEDESTRIAN ZONES

PUBLIC REALM ZONE LEGEND:

	FRONTAGE ZONE
	SIDEWALK (PEDESTRIAN CLEARANCE ZONE)
	FURNITURE / PLANTING ZONE
	EDGE ZONE
	ENHANCED PUBLIC REALM ZONE (FLEX PARKING/PATIO SPACE)

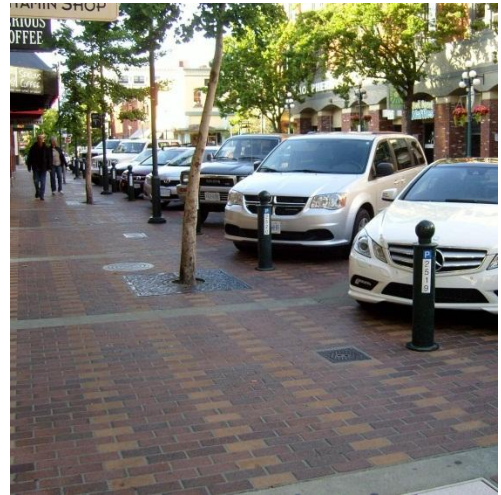
PEDESTRIAN ZONE LEGEND



PEDESTRIAN SIDEWALK

pedestrian movement.

- ≈ The public realm for Area “A” should be considered as a series of pedestrian zones in which specific site furnishing, planting and streetscape elements will be located. Zones may include any of the following:
- ≈ Edge Zone: immediately adjacent to parking and provides a safety buffer for pedestrian against vehicle encroachment;
- ≈ Furniture and Planting Zone: accommodates street tree planting, lighting, site furniture and other fixed objects;
- ≈ Pedestrian Clearance Zone: must be kept free of obstructions and provide a continuous linear pathway of an appropriate width to serve anticipated pedestrian flow;
- ≈ Frontage and Marketing Zone: is the area directly in front of the building and/or property line. It can be used as flow-out space, patios and outdoor display areas for merchants.
- ≈ Enhanced Public Realm Zone: is the flexible parking space that can be utilized for seating areas.
- ≈ Consideration should be given to the use of brick pavers as the primary surface treatment to promote a sense of ‘high quality urban design’ and promote passive stormwater management through porous pavement.
- ≈ Consideration should be given to the use of rolled curbing in association with decorative metal bollards in high pedestrian and vehicle circulation areas to define and separate movement while maintaining continuity of paving treatment.
- ≈ Open space areas closer to Lakeshore Road should be used to complement the main signage opportunities and create an aesthetic buffer between the site and the boulevard.



URBAN PLAZA CHARACTER



SOCIAL INTERACTION

LANDSCAPE DESIGN GUIDELINES

3.1. PEDESTRIANS

- ≈ All major pedestrian walkways within the semi-private and public open spaces should be accessible at all hours and to all users, and conform to best practices for barrier-free design.
- ≈ All internal roads should include sidewalks of a minimum 1.8 metre width.
- ≈ Wherever possible, sidewalks should be separated by a planted boulevard of minimum 2.0 metre width.
- ≈ All major pedestrian walkways should provide for some level of pedestrian scale lighting to promote safety and encourage limited night-time use.
- ≈ Pedestrian network should be considered in conjunction with overall roadway network and building siting, so as to maximize interconnectivity between roads private and public open spaces and minimize pedestrian and vehicle conflicts.
- ≈ A hierarchy of pedestrian pathways should be developed in conjunction with overall pedestrian network system. Paving surface treatment and pathway widths should be used as part of the pedestrian hierarchy.
- ≈ Consideration should be given for the following pathway hierarchy system;
 - brick pavers in urban areas where pedestrian and vehicles have equal importance;
 - concrete paving for major pathways and sidewalks within public realm;
 - combination concrete and brick paving for pathways within the private realm;
 - asphalt paving for multi-modal and high traffic pathways in natural areas;
 - compacted crushed granular in low traffic natural areas.



SEPARATED WALKWAY



HIERARCHY PATHS



BRICK PAVERS IN URBAN PLAZA AREA

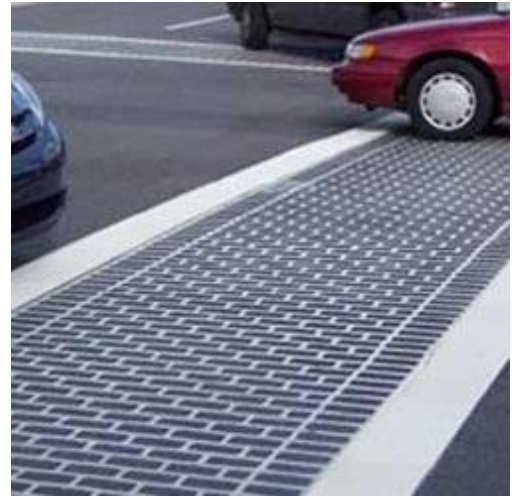


ROLLED CURB WITH BRICK PAVERS

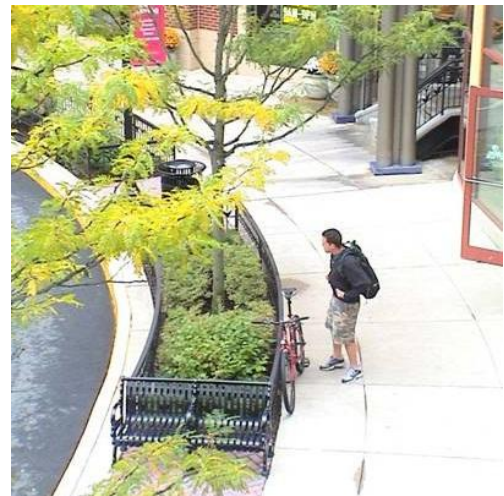
- ≈ Public realm should provide site furnishing, comfort amenities, shade trees, low level planting, and landscape / urban design elements that will create a pedestrian friendly streetscape environment and promote pedestrian use.
- ≈ Pedestrian crosswalks should be treated in a manner that provides paving contrast, in an aesthetically pleasing manner, between pedestrian zones within roadway.
- ≈ Pedestrian crosswalks paving treatment should be limited to:
 - stamped and tinted concrete,
 - wear-resistant thermal plastic traffic patterns (i.e. SquareOne Paving),
 - or at minimum, painted zebra lines.

3.2. CYCLING

- ≈ Bike paths for recreation, commuter bike lanes and multi-use shared bike and pedestrian corridors shall promote alternative modes of transportation and increased physical activity that provides a direct sustainability feature to the CD24 site, and also creates more of a community presence in the development.
- ≈ Pathway connections into the CD24 site should take full advantage of the adjacent Lakeshore Multi-Use Corridor (MUC) that connects Upper Mission to Downtown. As such, consideration should be given to the Commercial Plaza and adjacent ground floor retail design for the accommodation of multi-modal movement.
- ≈ Given the residential nature of the development, with lower traffic volumes when compared to city collector and arterial roads, no painting should be required to delineate commuter bike lanes on internal roads.
- ≈ Bollards are recommended in areas where separated bike paths join-up with vehicle intersections as a way to encourage the slowing down and dismounting of cyclists before crossing roadway.



PEDESTRIAN SIDEWALK



PEDESTRIAN AMENITIES



PROMOTE CYCLING

- ≈ Provisions should be made for safe and reliable bicycle storage in key public open space areas and within every private building site in the development.

3.3. WAYFINDING AND SIGNAGE

- ≈ Buildings in the residential area should have adequate directional signage at the main entries to the CD24 site.
- ≈ All of the internal roads will be private roads and should be properly named and addressed to orient and direct local residents and visitors within the development.
- ≈ A logical addressing system should be developed in conjunction with the City of Kelowna and the emergency response providers, to ensure that each building or cluster of town houses is easily identifiable.
- ≈ Any wayfinding and directional signage associated with the Wilson Creek wetland and riparian corridor should be coordinated with the City of Kelowna's wayfinding and park signage requirements.

3.4. WILSON CREEK GREEN SPACE LANDSCAPING

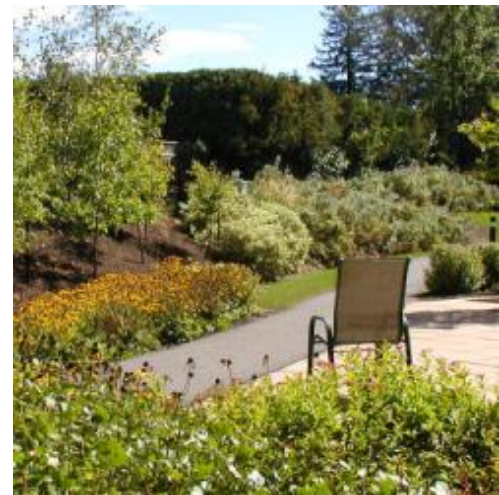
- ≈ Portions of the Wilson Creek's northern boundary will be reserved as public open space, and will be protected by covenant against development in order to preserve and enhance the creek's wetland and riparian habitat.
- ≈ Private open space landscaping adjacent to the Wilson Creek Green Space should consist primarily of native and indigenous plant species in natural plant groupings that is complementary of the public open space treatment for the adjacent Wilson Creek wetland and riparian corridor.
- ≈ Private patios adjacent to the Wilson Creek Green Space should provide some fencing in response to security and delineation of private and public spaces.



PROJECT SIGNAGE



AWNING SIGNAGE



WILSON CREEK SPACE SETBACK

- ≈ Private patio spaces should be delineated with decorative fencing of a high quality and durable material (i.e. metal, glass) and should not exceed 1.2 metres in height unless considered as part of a gateway treatment.
- ≈ Private patio fencing should encourage views to the adjacent naturalized landscape and be constructed in a manner that minimizes its opacity.
- ≈ Non-structural retaining walls used in open spaces should not be greater than 1.2 metres in height and made from local stone or of modular/ segmental block construction.



PUBLIC SPACE COMMUNITY GARDENS

3.5. COMMUNITY GARDENS

- ≈ Provision of community gardens should be considered either as part of the overall development's common open space, or as part of an individual building's garden space. Community gardens provide a direct sustainability feature and also create more of a community presence in the development.
- ≈ Maintenance agreements between developers and users should be developed in coordination with the establishment of any community garden, to ensure proper stewardship, access control and visual tidiness of these unique garden spaces.
- ≈ The provision of landscape feature elements such as gazebos, trellises, and a storage shed should be encouraged to enhance the visual interest and functionality of the community gardens, and should be attractive when viewed from above.



STREET TREES ADAPTED TO REGION

3.6. STREET TREE PLANTING

- ≈ Street trees can significantly contribute to the overall beauty and increased property values of the CD24 site and therefore should be provide wherever possible.



STREET TREES TO CELEBRATE SEASONS

- ≈ Street trees should be of a deciduous species that has a non-aggressive root habit and tolerant of urban conditions (i.e. road salt) with a minimum 7.5 cm (3") calliper size measured at Circumference at Breast Height (CBH).
- ≈ At minimum, street tree selection should be cross-referenced to the City of Kelowna's Tree Selection Guidelines for appropriateness of tree species: <http://www.kelowna.ca/CM/Page292.aspx>
- ≈ Street tree species selection should be suitable for the Okanagan climate and growing conditions and have been grown locally.
- ≈ Street tree species selection should celebrate seasonal variations through changing colour of leaves, winter and summer bark and branching interest, etc.
- ≈ Street tree species selection should provide enough diversity of species as to protect against the spread of disease and pests that can devastate monoculture plantings (i.e. Dutch Elm disease).
- ≈ Street tree planting (i.e species and spacing) should be treated in a similar manner on both sides of the internal road ROW to create a unified appearance.
- ≈ Changes in street tree species should be in logical locations such as roadway intersections, changes in road directions, and termination of key roadway vistas. Avoid random or multiple specie changes along a single stretch of roadway.
- ≈ Soil volumes for street tree planting should be maximized to increase the area available for root growth.
- ≈ Consideration should be given to providing continuous soil trenches, root zone break-out areas to adjacent green spaces, structural soil, and use of suspended pavement systems such as SilvaCell® as possible strategies of increasing soil volumes.
- ≈ Wherever possible, all trees should be offset back from sidewalk and major utility services by a minimum of 2.0 metres measured from edge of conflict to edge of tree rootball. If not possible root barriers should be used.



MAXIMIZE SOIL AREA FOR TREES



ROOT BARRIERS ADJACENT TO UTILITIES



STREET TREE DRIP IRRIGATION

- ≈ Root barriers should be provided at critical root zones areas adjacent to sidewalks, utilities and other vulnerable infrastructure, to direct surface roots downward and away from potential conflicts.
- ≈ All street trees should be irrigated with an automatic underground irrigation system. System controls and zoning should be such as to allow trees to be irrigated independently of other planting.
- ≈ All irrigation should conform to the highest standards and irrigation best practices for reduced water consumption and usage.
- ≈ Drip and Drip manifold should be the preferred method of irrigation, to eliminate water loss due to over-spraying and evaporation and provide equal distribution of water directly to the root zone area.

3.7. LANDSCAPE PLANTING

- ≈ Landscape planting (including trees) should include species adapted and suitable for the Okanagan's hot-dry climate and growing conditions and have been grown locally.
- ≈ Plant material should be of various species and genus as to provide a high level of visual and seasonal interest in form, colour and texture.
- ≈ Landscape trees should be large enough at maturity to create a park-like setting, especially along roadside boulevards.
- ≈ Plant material should be specified at a sufficient installation sizes as to provide an immediate landscape impact.
- ≈ Planting areas should include a mixture of deciduous and evergreen plants in combinations of perennials, ornamental grasses, shrubs, and trees in response a building's specific exterior space programming and buffering requirements.
- ≈ All planting should conform to the BC Landscape Standards, current edition, for minimum plant and installation specifications.



MAXIMIZE LANDSCAPE BUFFERING AT EDGES

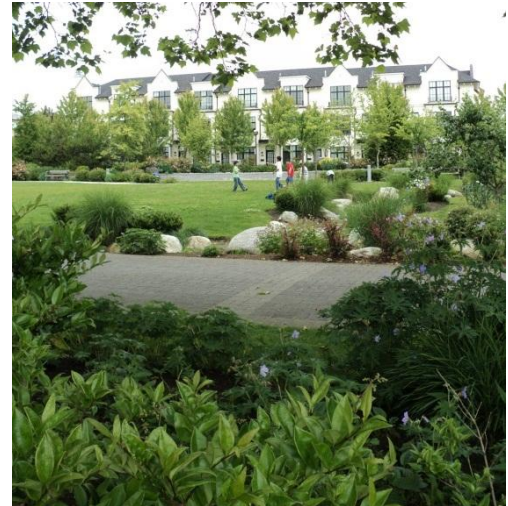


SCREEN PRIVATE FROM PUBLIC SPACES



GREEN STREETS

- ≈ All planting should be irrigated with an automatic underground irrigation system. System controls and zoning should be such as to allow planting to be irrigated independently of landscape trees and street tree planting.
- ≈ All irrigation should conform to the highest standards and irrigation best practices for reduced water consumption and usage.
- ≈ Drip and Drip manifold should be the preferred method of irrigation, to eliminate water loss due to over-spraying and evaporation and provide equal distribution of water directly to the root zone area.



VARIETY OF PLANT SPECIES



PLANTING ENTRY



NATURALIZED PLANTING

CITY OF KELOWNA
BYLAW NO. 10818
Z12-0039 - Westcorp On The Lake Inc.
3787, 3791 and 3795 Lakeshore Road

A bylaw to amend the "City of Kelowna Zoning Bylaw No. 8000".

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

1. THAT City of Kelowna Zoning Bylaw No. 8000 be amended by changing the zoning classification of a portion of Lot 2, District Lot 134, ODYD, Plan 3420, Except Parcel A (Plan B6180) and Plan H9673; Lot 3, District Lot 134, ODYD, Plan 3420, Except Plan H9673; and Lot B, District Lot 134, ODYD, Plan 12063 located on Lakeshore Road, Kelowna, B.C., from the C1 - Local Commercial zone, the C9 - Tourist Commercial zone, the RM7 - Mobile Home Park zone and the RR3 - Rural Residential 3 zone to the CD24 - Comprehensive Development 24 zone and the P3 - Parks & Open Space zone as per Map "B" attached to and forming part of this bylaw.
2. This bylaw shall come into full force and effect and is binding on all persons as and from the date of adoption.

Read a first time by the Municipal Council this 11th day of March, 2013.

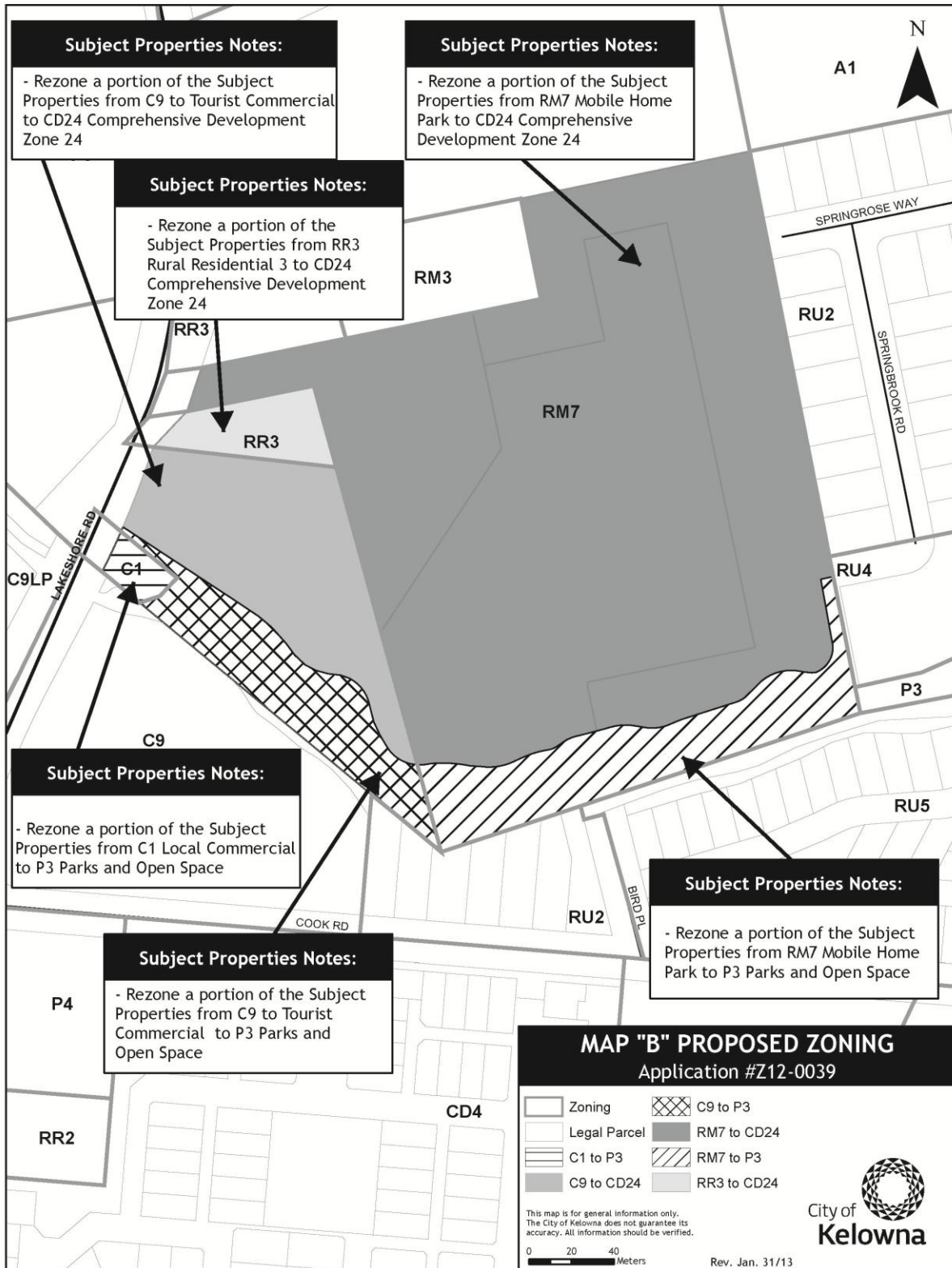
Considered at a Public Hearing on the

Read a second and third time by the Municipal Council this

Adopted by the Municipal Council of the City of Kelowna this

Mayor

City Clerk



Report to Council



Date: April 2, 2013
File: 0600-10
To: City Manager
From: City Clerk
Subject: Official Community Plan Amendment Application OCP13-0001 and Rezoning Application Z13-0002
Report Prepared by: Jolene Lamoureux, Legislative Clerk

Recommendation:

THAT Bylaw No. 10837 for Official Community Plan Bylaw Amendment Application No. OCP13-0001 be read a first time;

AND THAT Bylaw No. 10838 for Rezoning Application No. Z13-0002 be read a first time.

Purpose:

To give first reading consideration to the Bylaws associated with Official Community Plan Bylaw Amendment Application No. OCP13-0001 (Bylaw No. 10837) and Rezoning Application No. Z13-0002 (Bylaw No. 10838) for the properties located at 1242-1244 Pheasant Street.

Background:

At the March 25, 2013 PM Council Meeting, Council considered the requested Official Community Plan amendments and rezoning applications for the properties located at 1242-1244 Pheasant Street. During Council's consideration of the staff report, Council adopted the "Alternate Recommendation" and forwarded the Official Community Plan and Rezoning Applications to a Public Hearing. Council is required to give initial reading consideration to the amending Bylaws in order to forward the application to a Public Hearing.

Submitted by:

Stephen Fleming, City Clerk

CITY OF KELOWNA

BYLAW NO. 10837

Official Community Plan Amendment No. OCP13-0001 - Geoff and Leanne Proteau 1242-1244 Pheasant Street

A bylaw to amend the "*Kelowna 2030* - Official Community Plan Bylaw No. 10500".

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

1. THAT Map 4.1 - **GENERALIZED FUTURE LAND USE** of "*Kelowna 2030* - Official Community Plan Bylaw No. 10500" be amended by changing the Generalized Future Land Use designation of Strata Lot 1 and 2, District Lot 137, ODYD, Strata Plan KAS1353, together with an interest in the common property in proportion to the unit entitlement of the strata lot as shown on Form 1, located on Pheasant Street, Kelowna, B.C., from the Multiple Unit Residential (Medium Density) designation to the Multiple Unit Residential (Low Density) designation;
2. This bylaw shall come into full force and effect and is binding on all persons as and from the date of adoption.

Read a first time by the Municipal Council this

Considered at a Public Hearing on the

Read a second and third time by the Municipal Council this

Adopted by the Municipal Council of the City of Kelowna this

Mayor

City Clerk

Report to Council



Date: April 2, 2013

File: 0600-10

To: City Manager

From: City Clerk

Subject: Official Community Plan Amendment Application OCP13-0001 and Rezoning Application Z13-0002
Report Prepared by: Jolene Lamoureux, Legislative Clerk

Recommendation:

THAT Bylaw No. 10837 for Official Community Plan Bylaw Amendment Application No. OCP13-0001 be read a first time;

AND THAT Bylaw No. 10838 for Rezoning Application No. Z13-0002 be read a first time.

Purpose:

To give first reading consideration to the Bylaws associated with Official Community Plan Bylaw Amendment Application No. OCP13-0001 (Bylaw No. 10837) and Rezoning Application No. Z13-0002 (Bylaw No. 10838) for the properties located at 1242-1244 Pheasant Street.

Background:

At the March 25, 2013 PM Council Meeting, Council considered the requested Official Community Plan amendments and rezoning applications for the properties located at 1242-1244 Pheasant Street. During Council's consideration of the staff report, Council adopted the "Alternate Recommendation" and forwarded the Official Community Plan and Rezoning Applications to a Public Hearing. Council is required to give initial reading consideration to the amending Bylaws in order to forward the application to a Public Hearing.

Submitted by:

Stephen Fleming, City Clerk

CITY OF KELOWNA
BYLAW NO. 10838
Z13-0002 - Geoff and Leanne Proteau
1242-1244 Pheasant Street

A bylaw to amend the "City of Kelowna Zoning Bylaw No. 8000".

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

1. THAT City of Kelowna Zoning Bylaw No. 8000 be amended by changing the zoning classification of Strata Lot 1 and 2, District Lot 137, ODYD, Strata Plan KAS1353, together with an interest in the common property in proportion to the unit entitlement of the strata lot as shown on Form 1, located on Pheasant Street, Kelowna, B.C., from the RU6 - Two Dwelling Housing zone to the RM1 - Four Dwelling Housing zone.
2. This bylaw shall come into full force and effect and is binding on all persons as and from the date of adoption.

Read a first time by the Municipal Council this

Considered at a Public Hearing on the

Read a second and third time by the Municipal Council this

Adopted by the Municipal Council of the City of Kelowna this

Mayor

City Clerk

REPORT TO COUNCIL



Date: March 15, 2013

RIM No. 1250-30

To: City Manager

From: Land Use Management, Community Sustainability (AW)

Application: Z13-0012

Owner: Various owners

Address: Various Wilden Properties

Applicant: Blenk Development Corporation

Subject: Rezoning Application

Existing OCP Designation: Single / Two Unit Residential & Major Park and Open Space

Existing Zone: P3 - Parks and Open Space, RU2H - Medium Lot Housing (Hillside Area), RU1H - Large Lot Housing (Hillside Area) & Agriculture 1

Proposed Zone: RU2H - Medium Lot Housing (Hillside Area), P3 - Parks and Open Space & RU1H - Large Lot Housing (Hillside Area)

1.0 Recommendation

THAT Rezoning Application No. Z13-0012 to amend the City of Kelowna Zoning Bylaw No. 8000 by changing the zoning classification of a portion of The North West ¼ of Section 5, Township 23, ODYD, Except Plans 20895, KAP88266, and EPP24895, located at 185 Clifton Road North, The South West ¼ of Section 5, Township 23, ODYD, Except Plans KAP83526, KAP88266, EPP9195, and EPP24895, located at (E OF) Upper Canyon Drive, The North East ¼ of Section 5, Township 23, ODYD, Except Plans 896, B645, KAP69724, and EPP24895, located at (W OF) Union Road, Lot D, Section 8, Township 23, ODYD, Plan KAP75116, Except Plan EPP24895, located at 225 Clifton Road from P3 - Parks and Open Space, RU2H - Medium Lot Housing (Hillside Area), RU1H - Large Lot Housing (Hillside Area) and Agriculture 1 to RU2H - Medium Lot Housing (Hillside Area) & RU1H - Large Lot Housing (Hillside Area) as shown on Map 'B' attached to the report of the Land Use Management Department, dated March 15, 2013 be considered by Council;

AND FURTHER THAT the Zone Amending Bylaw be forwarded to a Public Hearing for further consideration;

2.0 Purpose

The Phase 2D rezoning application is to deal with the broad zoning designations that have shifted slightly now that detailed road and lot layouts have been established.

3.0 Land Use Management

This application is to rezone portions of the Phase 2D Wilden neighbourhood. The detailed lot configuration and road design has now been created for Phase 2D and this application is intended

to align the zoning designations with the proposed lot layout. The result will be improved lot layouts requiring less grading. This is seen to be an administrative exercise, and to ensure land uses are consistent with the established lot layout.

4.0 Proposal

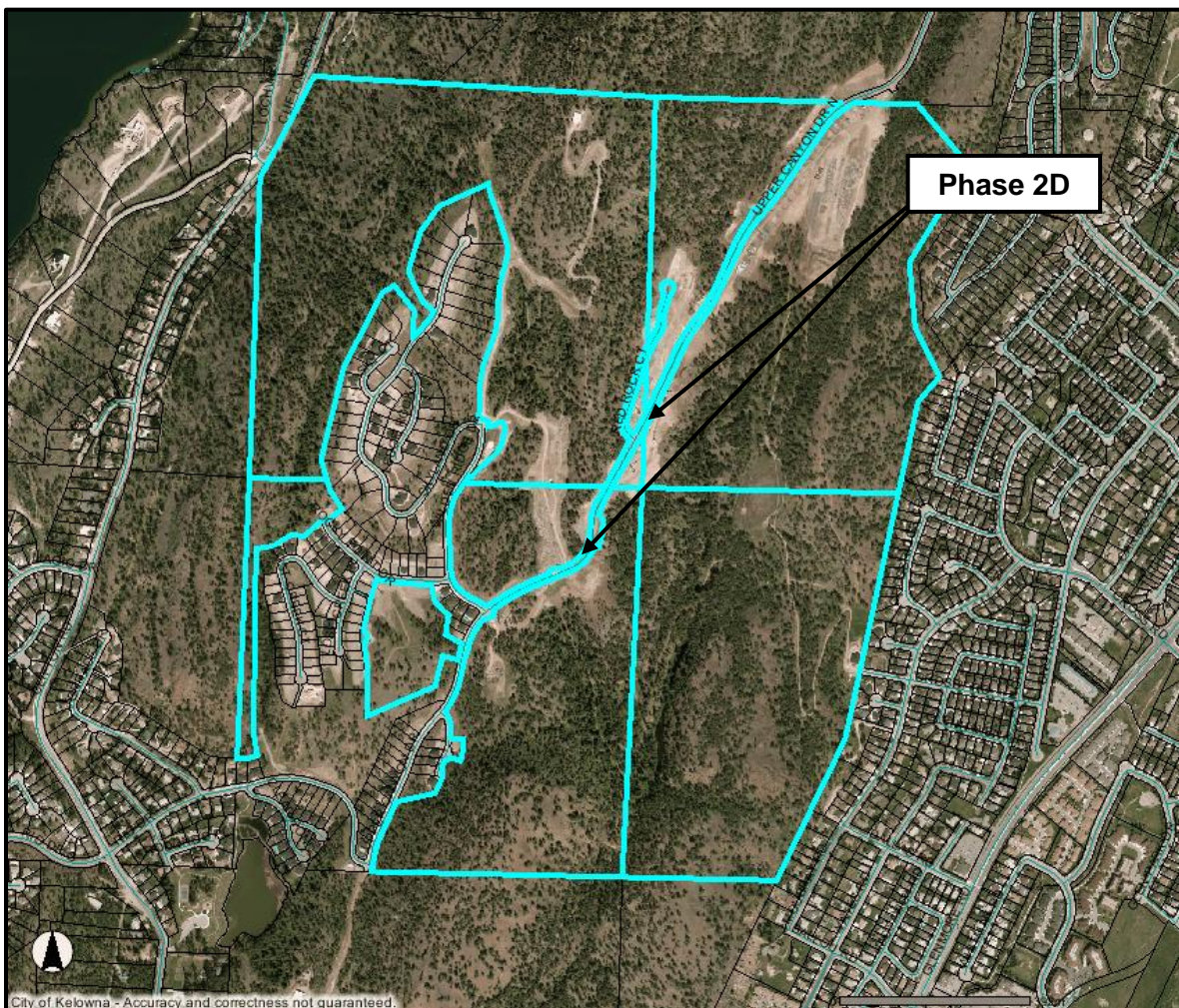
4.1 Background

The Glenmore Highland ASP was adopted in 2002 and has guided the Wilden community development. The ASP is a high level document that outlined where development should be located and how it should take shape. When the ASP was adopted, most of the land was pre-zoned at the same time based on the work done through the ASP. Staff recently submitted a large amendment for the Wilden development but these properties were not dealt with.

4.2 Project Description

The Phase 2D rezoning amendment is to deal with block zoning designations that have shifted slightly now that detailed road and lot layouts have been designed.

4.3 Site Context



5.0 Technical Comments

5.1 Building & Permitting Department

No comment

5.2 Development Engineering Department

The adjustment to the zoning boundaries as indicated does not compromise any municipal services.

5.3 Fire Department

Fire Hydrants and flows as per the City of Kelowna Subdivision Bylaw #7900. Wilden is an interface area and all areas required fuel modifications as per the Fire Smart Guidelines. Fuel treatments should include up to 100 meters from home sites on sloped areas.

5.4 Fortis BC - Gas

Upon review of the property referral referencing the above noted matter, please be advised that FortisBC facilities will not be adversely affected.

FortisBC (electric) reviewed the attached referral and based on the information received have identified two areas that Fortis will require SRW for protection of existing Fortis facilities over the approximate areas shown in the two attached sketch plans. Fortis has no other objections with the proposal subject to any changes to this application which would require further review and comment by Fortis.

Prior to final approval of this application, the applicants must contact FortisBC at 1-866-436-7847 and quote their file # Z12-0023; OCP12-0003; Wilden Phase 2 to initiate all necessary arrangements for electrical service with this proposal. It is the developer's responsibility to ensure that all of FortisBC's requirements including construction fees and any SRWs that may be required have been addressed prior to receiving final approval.

5.5 Infrastructure Planning

We will require fencing along the side property line of Lot 56. Because the interface is between natural area park and manicured front/side yard, it probably should be either chain link or post & rail. This would be true for Lots 53, 52, 18 and 17 or any other lots that have this type of interface. In areas where a private back/side yard with a registered Section 219 covenant back on to parkland, we have agreed with Wilden to continue with the post and sign pilot project. This is to be completed at time of subdivision.

Any areas of park that are disturbed, they will need to restore - I would suggest that they install temporary construction fencing to try to protect the area from contractors. For road frontage immediately adjacent to public park & open space, the developer shall install a vertical curb.

6.0 Application Chronology

Date Application Received: March 1st, 2013

Report prepared by:

Alec Warrender, Land Use Planner

Reviewed by:

☐

Danielle Noble, Manager of Urban Land Use

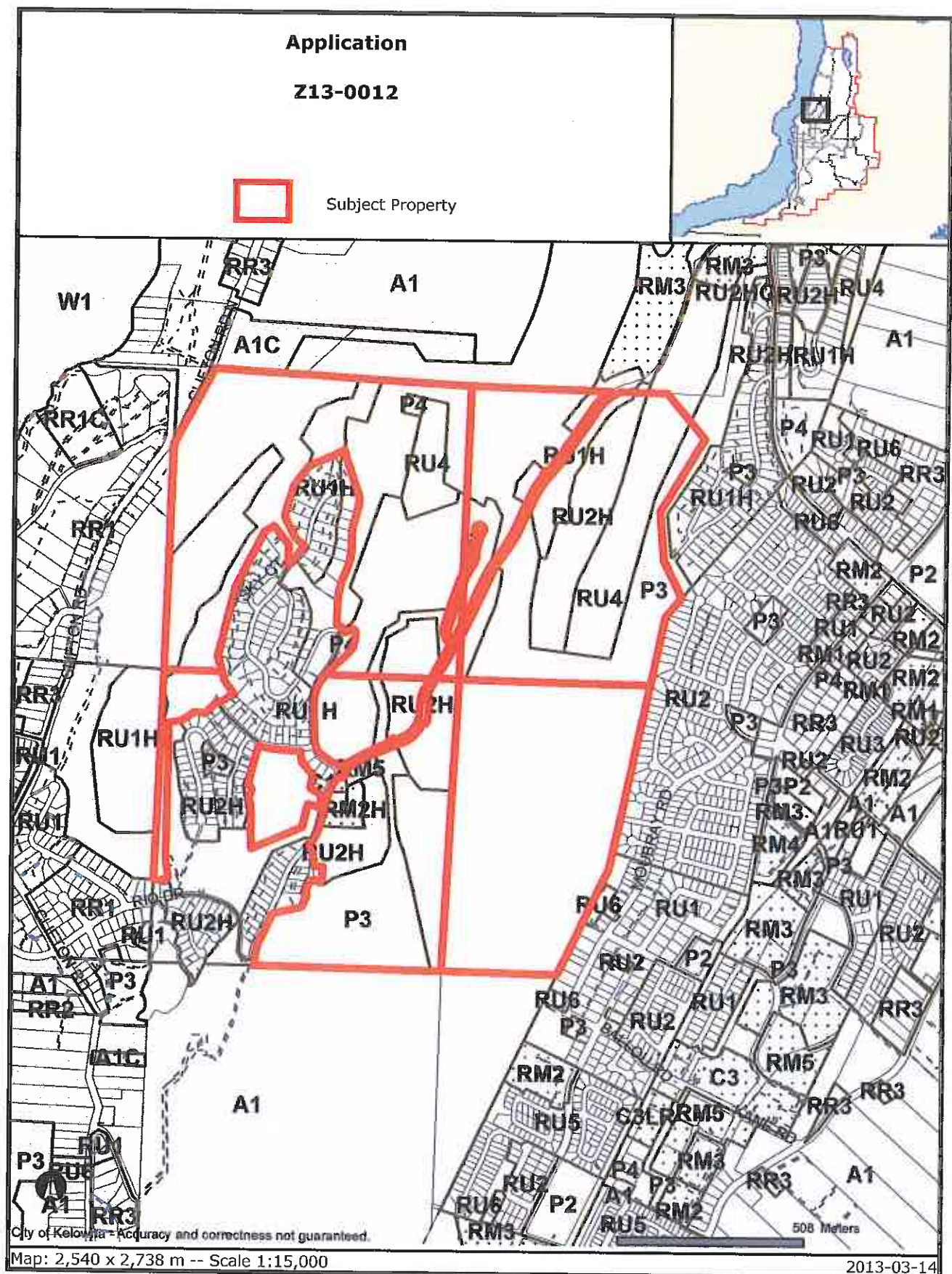
Approved for Inclusion:

☐

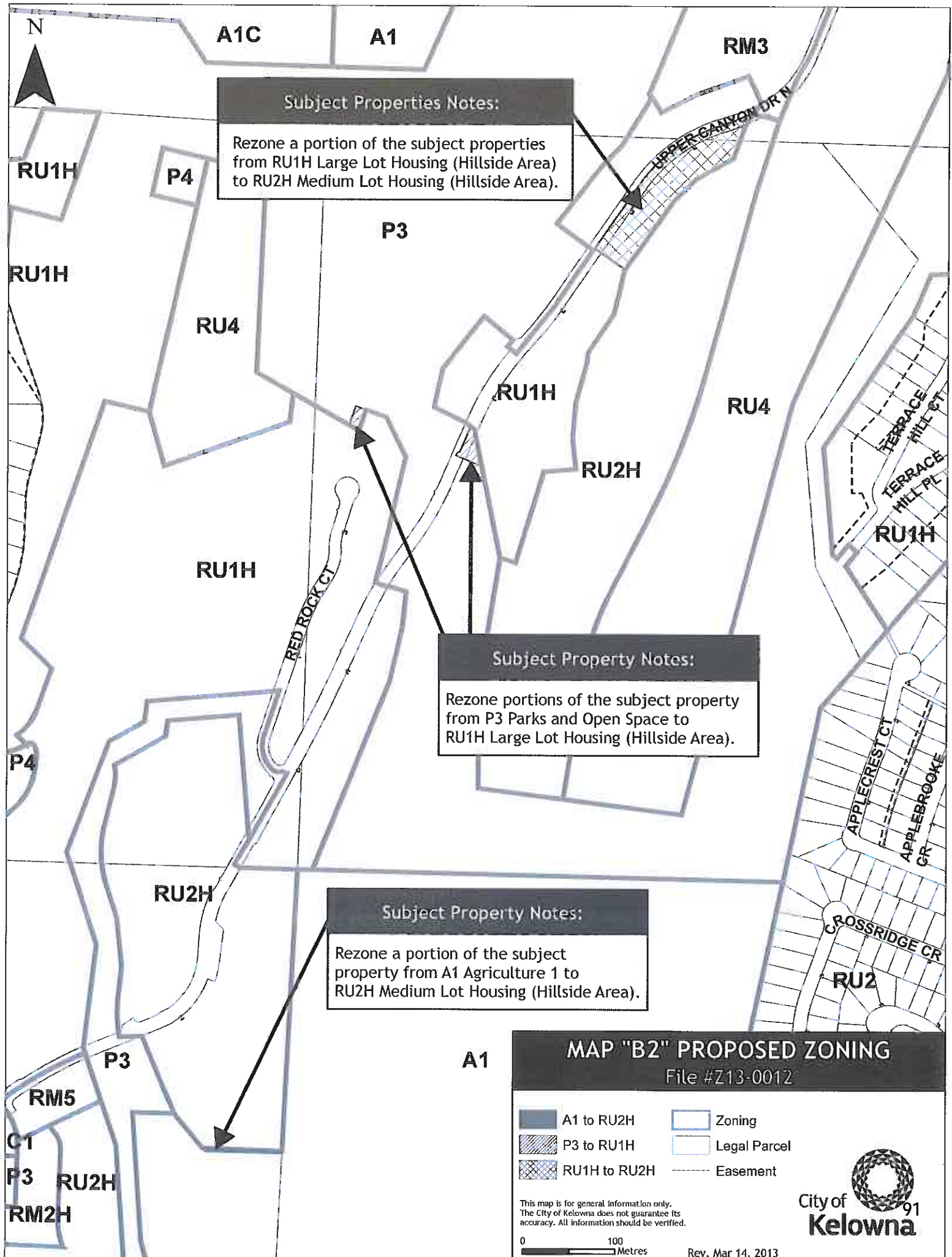
Doug Gilchrist, A. General Manager, Community Sustainability

Attachments:

Subject Property Map
Map 'B'



*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.*



CITY OF KELOWNA

BYLAW NO. 10839

Z13-0012 - Glenwest Properties Ltd. Inc. No. C0889227 185 Clifton Road North, (E of) Upper Canyon Drive, (W of) Union Road and 225 Clifton Road

A bylaw to amend the "City of Kelowna Zoning Bylaw No. 8000".

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

1. THAT City of Kelowna Zoning Bylaw No. 8000 be amended by changing the zoning classification of a portion of The North West ¼ of Section 5, Township 23, ODYD, Except Plans 20895, KAP88266 and EPP24895 located on Clifton Road North; The South West ¼ of Section 5, Township 23, ODYD, Except Plans KAP83526, KAP88266, EPP9195 and EPP24895, located on Upper Canyon Drive; The North East ¼ of Section 5, Township 23, ODYD, Except Plans 896, B645, KAP69724 and EPP24895, located on Union Road; Lot D, Section 8, Township 23, ODYD, Plan KAP75116, Except Plan EPP24895, located on Clifton Road, Kelowna, B.C., from the P3 - Parks and Open Space zone, the RU2h - Medium Lot Housing (Hillside Area) zone, the RU1h - Large Lot Housing (Hillside Area) zone and the A1 - Agriculture 1 zone to the RU2h - Medium Lot Housing (Hillside Area) zone and the RU1h - Large Lot Housing (Hillside Area) zone as per Map "B" attached to and forming part of this bylaw.
2. This bylaw shall come into full force and effect and is binding on all persons as and from the date of adoption.

Read a first time by the Municipal Council this

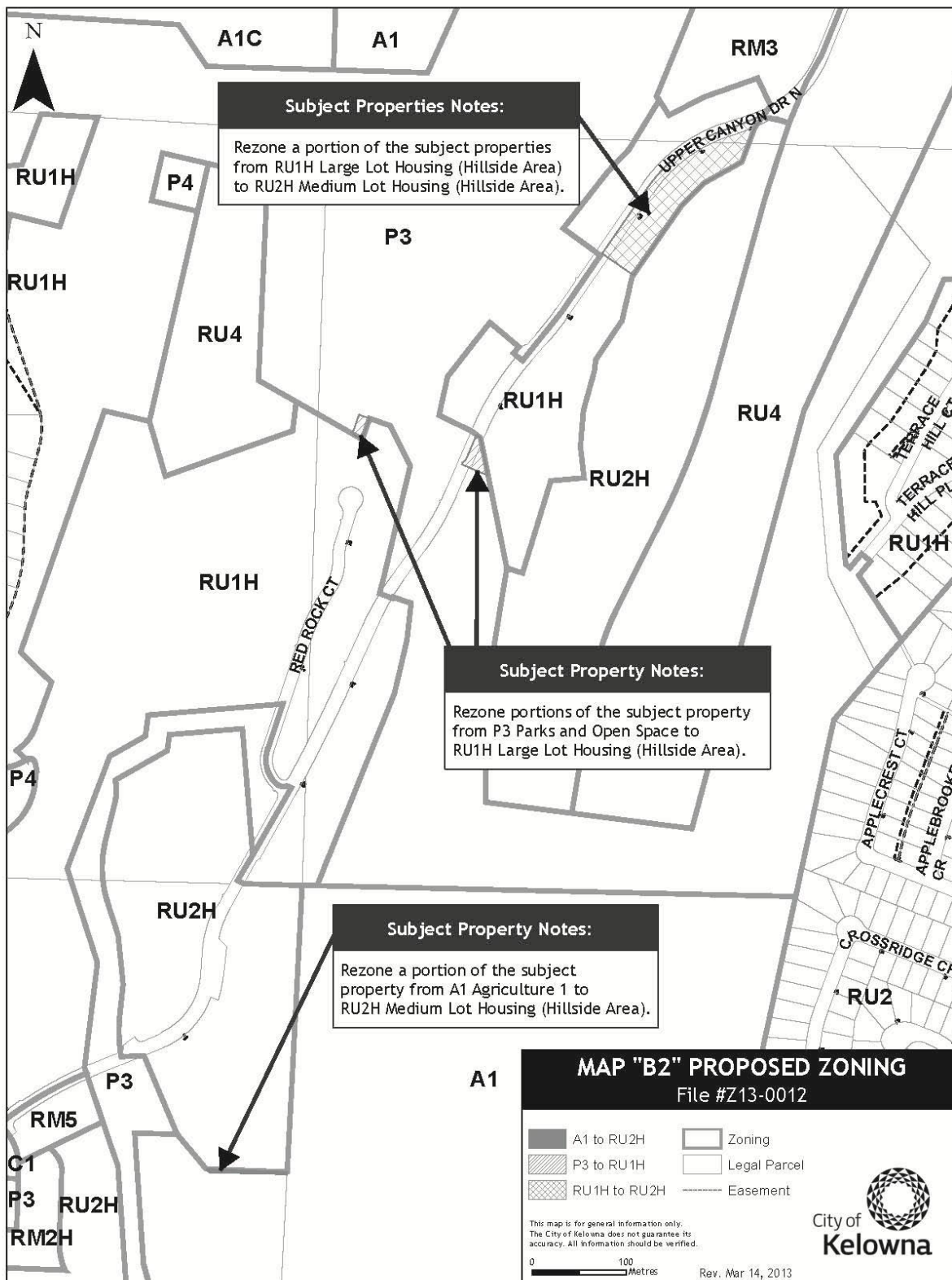
Considered at a Public Hearing on the

Read a second and third time by the Municipal Council this

Adopted by the Municipal Council of the City of Kelowna this

Mayor

City Clerk



REPORT TO COUNCIL



Date: March 15th, 2013

RIM No. 1250-20

To: City Manager

From: Land Use Management, Community Sustainability (AW)

Application: OCP12-0015 / DP12-0198 / DVP12-0199 **Owners:** 0754028 BC LTD., INC. NO. BC0754028 & D.M.R LAW CORPORATION, INC. NO. BC0776896; 0814932 BC LTD., INC. NO. BC0814932 / BETKER HOLDINGS INC., INC. NO. BC0936374

Address: 526 Doyle Avenue
1368 St. Paul Street **Applicant:** 0754028 BC LTD. (Doug Dueck)

Subject: Supplemental Report - OCP Text Amendment

Existing OCP Designation: Mixed-Use (Residential/Commercial)

Existing Zone: C7 - Central Business Commercial

1.0 Recommendation

THAT Official Community Plan Bylaw Amendment No. OCP12-0015 to amend the 2030 Official Community Plan Bylaw No. 10500, for Objective 5.5, Policy .1, Building Height to exclude the development proposed at 526 Doyle Avenue and 1368 St. Paul Street from the City Centre Building Heights Map in order to permit one 30 storey (88m) mixed use tower be considered by Council;

AND THAT Official Community Plan Bylaw Amendment No. OCP12-0015 to amend the 2030 Official Community Plan Bylaw No. 10500, for Objective 5.5, Policy .1, Building Height to exclude the development proposed at 526 Doyle Avenue and 1368 St. Paul Street in order to permit a 22 storey and 30 storey mixed use development with the two towers having a separation of 32.0m where the minimum tower separation for a project with a tower floor plate greater than 697m² is 36.5m., be considered by Council;

AND THAT Council considers the applicant's March 8th, 2013 Public Information Meeting to be appropriate consultation for the purpose of Section 879 of the Local Government Act, as outlined in the report of the Land Use Management Department dated March 15th, 2013;

AND THAT the Official Community Plan Bylaw Amendment Bylaw be forwarded to a Public Hearing for further consideration;

AND THAT Final Adoption of the Official Community Plan Bylaw Amendment Bylaw be considered by Council;

AND THAT Council authorize the issuance of Development Permit No. DP12-0198 for Lot A, District Lot 139, ODYD, Plan EPP9526, located at 526 Doyle Avenue and Lot A, District Lot 139, ODYD, Plan KAP87835 located at 1368 St. Paul Street, Kelowna, B.C. subject to the following:

- 1) The dimensions and siting of the building to be constructed on the land be in general accordance with Schedule "A";
- 2) The exterior design and finish of the building to be constructed on the land be in general accordance with Schedule "B";
- 3) Landscaping to be provided on the land be in general accordance with Schedule "C";
- 4) The applicant be required to post with the City a Landscape Performance Security deposit in the form of a "Letter of Credit" in the amount of 125% of the estimated value of the landscaping, as determined by a professional landscaper and for the public art program;
- 5) The registration of a covenant on title limiting the use of CRU #6 as a Major Child Care Centre including dedicated play space on top of the podium to the satisfaction of the Interior Health Authority as shown on Schedule "A";
- 6) The execution of the Servicing Agreement and associated bonding for the Development Engineering requirements;
- 7) Registration of a plan of subdivision at Land Titles Office to consolidate the two subject properties into a single title prior to issuance of the Development Permit;
- 8) That Cash-in-Lieu of the required parking ($35 \times \$22,500.00 = \$787,500.00$) be provided prior to issuance of the Development Permit.
- 9) Prior to issuance of a Building Permit the applicant be required to design the building to accommodate Fortis BC's anticipated District Energy system;
- 10) Prior to issuance of a Building Permit the applicant be required to provide plans for two electric car charging stations and a bike share program including 10 bikes;

AND FURTHER THAT the applicant be required to complete the above-noted condition No. 4 within 180 days of Council approval of the Development Permit Application in order for the permit to be issued;

AND THAT Council authorize the issuance of Development Variance Permit No. DVP12-0199 for Lot A, District Lot 139, ODYD, Plan EPP9526, located at 526 Doyle Avenue and Lot A, District Lot 139, ODYD, Plan KAP87835 located at 1368 St. Paul Street, Kelowna, B.C.;

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

Section 14.7.5 (a) Development Regulations - Height:

To vary the height from 44m permitted to 65m (Tower #1) and 88m (Tower #2) proposed;

Section 14.7.5 (e) Development Regulations - Setbacks above 15m:

To vary the building setback for Tower #1 along Doyle Avenue from 3.0m required to 1.24m proposed for portions of a building above 15m;

Section 14.7.5 (g) Development Regulations - 80° Inclined Angle:

To vary the inclined plane above 15m from 80° permitted for Tower #1 to 85.58° for western elevation and 88.65° for the eastern elevation and from 80° for Tower #2 to 87.07° for the western elevation and 83.09° for the eastern elevation.

Section 14.7.5 (h) Development Regulations - Floor Plate Area:

To vary the maximum floor plate area for Tower #2 from 676m² to 822.65m² (Floors 5-13) - 770.63m² (Floors 14-21) - 695.85m² (Floors 22-28);

Section 14.7.5 (i) Development Regulations - Horizontal Dimension Above 15m:

To vary the maximum horizontal dimension above 15m for Tower #2 from 26m permitted to 37.8m x 31.24m proposed;

Section 14.7.5 (l) (i) Development Regulations - Setbacks above 22m:

To vary the building setback from an interior lot line for Tower #2 from 15m required to 4.0m proposed for portions of a building above 22m;

Section 14.7.5 (l) (ii) Development Regulations - Setbacks above 22m:

To vary the building setback from a lot line abutting a lane for Tower #2 from 10m required to 3.6m proposed for portions of a building above 22m;

2.0 Purpose

To consider an OCP amendment to exclude the development proposed at 526 Doyle Avenue and 1368 St. Paul Street from the OCP's Building Height Policy in order to permit a 65m (22 storey) and 88m (30 storey) 2 tower, mixed use development where the City Centre Building Height Map allows 76.5m (~26 storeys); and to permit a 30 storey mixed use development with two towers having a separation of 32.0m where the minimum tower separation for a project with a floor plate greater than 697m² is 36.5m.

A Development Permit for the form and character of the proposed two high rise towers is also under consideration. The following variances have been proposed as part of the revised development concept:

1. Vary the height from 44m permitted to 65m (Tower #1) and 88m (Tower #2) proposed;
2. Vary the required setback from a property line abutting a street from 3.0m required to 1.24m proposed for portions of a building above 15m;
3. Vary the building setback from an interior lot line from 15m required to 4.0m proposed for portions of a building above 22m;
4. Vary the building setback from a lot line abutting a lane for Tower #2 from 10m required to 3.6m proposed for portions of a building above 22m;
5. Vary the maximum horizontal dimension above 15m for Tower #2 from 26m permitted to 37.8m x 31.24m proposed;
6. Vary the maximum floor plate area for Tower #2 from 676m² to 822.65m² (Floors 5-13) - 770.63m² (Floors 14-21) - 695.85m² (Floors 22-28);
7. Vary the inclined plane above 15m from 80° permitted for Tower #1 to 85.58° for western

elevation and 88.65° for the eastern elevation and to vary the 80° for Tower #2 to 87.07 ° for the western elevation and 83.09 for the eastern elevation.

3.0 Land Use Management

When this application was deferred at the December 3rd, 2012 Council Meeting, Staff had indicated that the desire was to work with the applicant to establish a concept that could be supported, the ideal situation was to have a project that satisfied both the floor plate area and tower separation regulations. Staff had indicated that the additional height (30 storeys) could be supported if these two important criteria had been addressed. Since then, the applicant has been able to secure the property to the north which has eliminated the tower separation variance. However, the additional land assembly has been unable to address the floor plate variance and it remains unchanged. While Staff would still prefer to see the floor plate area variance considerably reduced (or eliminated), Staff are supporting the project based on the increased tower separation and the proposed amenity package.

Downtown Plan & OCP Considerations

Although the applicant has made positive changes the overall massing, the floor plate and height variance for Tower #2 remains a concern. As was evident through the Downtown Plan Charette public process creating a dynamic skyline, allowing strategic and sustainable density, and incorporating facilities/elements that enhance public benefits are all highly desirable public objectives. Through this collaborative process, the subject property was noted as having the potential to support building heights of up to 26 stories. However, these height considerations were balanced with an important 36.5m tower separation provision when floor plates exceed 697m². As proposed, the towers are sited 32m apart which is a reduction from the required 36.5m. Furthermore, this larger height profile would be more appropriate with a slender tower conforming to the 697m² maximum floor plate area. Notably, the first 8 stories of Tower #2 have a floor plate area of 822.65 m² which is in excess of the maximum allowable.

It is important to note that the building heights identified in the OCP do not imply or recommend that all development reach this maximum height potential. Rather, site-specific consideration of each development is required to ensure an overall improvement to the urban design and public realm of the Downtown. The evaluation criteria for tall buildings have been identified as:

- Contextual fit into the surrounding urban fabric
- Shadowing of the public realm
- View impacts
- Overlook and privacy impacts on neighbouring buildings
- Impacts on the overall skyline
- Distance between adjacent buildings above 22m in height
- Impacts on adjacent or nearby heritage structures
- Building form and massing to mitigate negative impacts of buildings over 22m in height

The proposed development does not satisfy all of these criteria, but the applicant has made improvements to the project that have brought it more in line with these criteria. Considering additional height above and beyond the OCP City Centre Building Height Map is not the core issue when evaluating the merits of the overall development proposal. However, approving additional height for a project that does not conform to the floor plate area continues to be a concern.

Visual & Shadow Impact Assessment

The Visual Impact analysis attached to this report shows how the proposed development has been improved to reduce impacts on the surrounding neighbourhood and the Downtown Urban Centre. There will be significant changes to Kelowna's sky line and the surrounding neighbourhood as a result of this project moving forward, but increasing the tower separation to 32m has helped to minimize these impacts. The larger tower separation in conjunction with the reduced the floor plate area for Tower #1 has significantly reduced the project's overall massing.

Amenity Package

Daycare

The applicant is still proposing to secure one of the street level retail spaces for the use of a daycare. The original proposal included a day-care space of 165m² finished at a cost of approximately \$650,000. The applicant no longer plans to finish the space but will secure a 188m² unit (see the attached site plan shown on Schedule 'A'). A covenant will be registered on title restricting the use and ensuring that the daycare is secured in perpetuity. The details of this covenant have not been fully endorsed by the City's Solicitor, however the applicant's lawyer will be required to provide a covenant that is appropriately drafted and acceptable to the City. The applicant will be responsible for the costs associated with the City's review of the legal document. The applicant will have to work with Interior Health on programming to ensure the licensing requirements can be satisfied.

Public Art

The public art component includes a sailboat at the entrance to the north tower and a bronze statue of a bicyclist on the corner of St. Paul and Doyle. The applicant has estimated the cost of these pieces at \$55,000 (see the attached Public Art Proposal).

Transportation & Mobility

The applicant has committed to providing two electric car charging stations and a bike share program providing 10 bikes as part of the proposal. While these aren't amenities that benefit the broader community, they are progressive features that have not yet been attempted in Kelowna. Notably, the applicant is not seeking a variance for parking reduction, but committing to the cash in-lieu amount. This provides the City with a further investment in comprehensive Downtown parkade solutions, rather than requesting a variance that would place additional strain on the available downtown parking stalls.

Sustainable Building

The applicant has committed to designing the building to take advantage of District Energy if / when it becomes available. Rainwater capture will also be used to irrigate on-site landscaping.

In summary, consideration of a project of this scale and size will be precedent setting for the City, and a proposal with this height and massing will have a lasting impact on the City's skyline. The redevelopment of the subject properties will achieve many planning objectives noted in the OCP and Downtown Plan that will help catalyze an environment of live, work, and play. The project will add additional residential and hotel units to the Downtown Urban Centre which will help to support local businesses, while there are components of the project that recognize the importance of its proximity to the Cultural District and this important transitional location. The applicant team has again made a number of improvements to the overall design of the project. This final package has advanced to a point where considerable effort has been undertaken for the land assembly to reduce the tower separation and consequently the massing of the two

towers. On balance, Staff are able to support the proposed development recognizing that it does not completely adhere to the framework of the Official Community Plan and C7 zoning regulations.

4.0 Proposal

4.1 Background

At the December 3rd, 2012 Regular Council meeting, Council deferred the proposed OCP amendment so that the applicant could work with Staff to review the viability of a project having a reduced floor plate area and an increased tower separation.

4.2 Project Description

Commercial and retail units will be wrapped around the exterior of the 4 storey podium, while parking will be located at the centre. The wrapping of the commercial units around the exterior of the podium provides the parking structure with a visual buffer and an active streetscape. Two residential towers will be located above the commercial / parking podium, Tower #1 is 22 storeys (65m) and Tower #2 will be 30 storeys (88m). The project is comprised of a total of 161 residential units (1 three bedroom, 90 two bedroom and 70 one bedroom), 128 hotel suites and approximately 3,000m² of commercial space.

The exterior of the proposed buildings are designed to be finished with grey and beige painted concrete, and the commercial retail units will have clear windows while the towers will have bronze tinted windows. The top surface of the podium has been designed to include extensive landscaping, a hot tub, pool and other amenities for the residents. The top of the podium is finished with a metal railing system around the perimeter. The private open space requirements will be met as each unit will have sufficient deck / patio space. In addition, residents will have access to approximately 1,858m² of open space located on top of the podium. The proposed streetscaping will be similar to what has been secured through the Madison development which would include street trees, benches and additional landscaping. The applicant has proposed public art features that will adorn the building podium, the corner of St. Paul and Doyle and the St. Paul lobby entrance will provide art pieces located near the entranceways. The applicant has also proposed that one of the commercial retail units (188m²) be secured as a day-care. A total of 7 variances have been requested, they are as follows:

1. Vary the height from 44m permitted to 65m (Tower #1) and 88m (Tower #2) proposed;
2. Vary the required setback from a property line abutting a street from 3.0m required to 1.24m proposed for portions of a building above 15m;
3. Vary the building setback from an interior lot line from 15m required to 4.0m proposed for portions of a building above 22m;
4. Vary the building setback from a lot line abutting a lane for Tower #2 from 10m required to 3.6m proposed for portions of a building above 22m;
5. Vary the maximum horizontal dimension above 15m for Tower #2 from 26m permitted to 37.8m x 31.24m proposed;
6. Vary the maximum floor plate area for Tower #2 from 676m² to 822.65m² (Floors 5-13) - 770.63m² (Floors 14-21) - 695.85m² (Floors 22-28);
7. Vary the inclined plane above 15m from 80° permitted for Tower #1 to 85.58° for western elevation and 88.65° for the eastern elevation and to vary the 80° for Tower #2 to 87.07° for the western elevation and 83.09 for the eastern elevation.

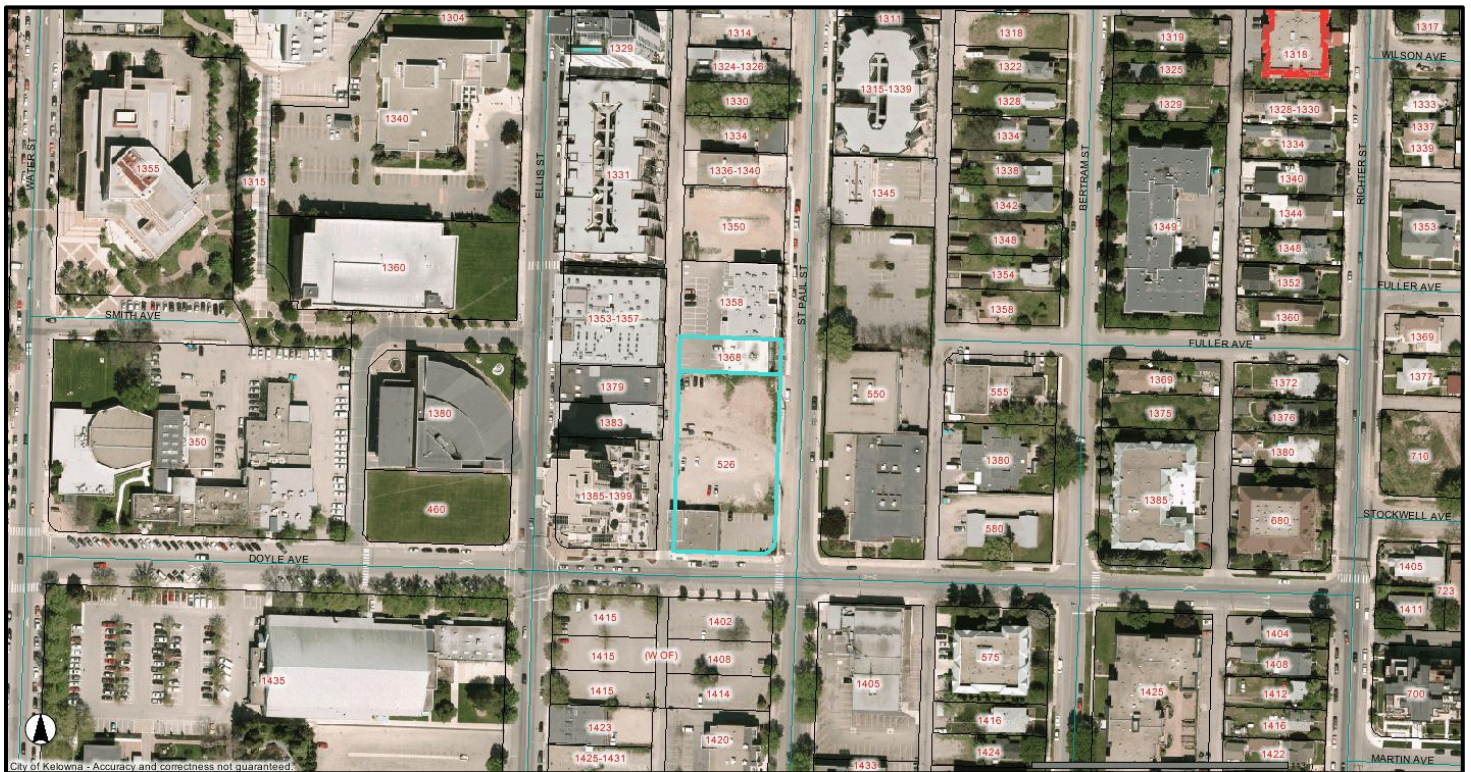
It should also be noted that the applicant will be providing cash-in-lieu for some of the required parking spaces. The applicant is providing 295 stalls where 330 stalls are required. In order to meet the parking requirements, cash-in-lieu of the required parking will be provided for 35 stalls (35 x \$22,500 = \$787,000.00). The proposal compares to the C7 zone requirements is as follows:

CRITERIA	Deferred Application	Development Proposal	C7 Zone
Development Regulations			
Total Floor Area (m ²)	26,571.3m ²	26,931m ²	
F.A.R.	7.54	6.41	FAR = 9.0
Building Height	Tower #1 - 22 storeys / 65m Tower #2- 30 Storeys / 88m	Tower #1 - 22 storeys / 65m Tower #2- 30 Storeys / 88m	44.0m
Setbacks - At Grade			
Front (St. Paul St.)	0.0m	0.0m	0.0m
Rear (lane)	0.0m	0.0m	0.0m
North Side	0.0m	0.0m	0.0m
South Side	0.0m	0.0m	0.0m
Setbacks - 15m above grade			
East - St. Paul St.	3.0m	3.0m	3.0m
West - lane	Tower #1 - 15.3m Tower #2 - 3.64m	Tower #1 - 15.3m Tower #2 - 3.64m	3.0m
North - Property	1.22m	4.0m	4.0m
South - Doyle Ave.	1.24m	1.24m	3.0m
Setbacks - 22m above grade			
North - Adj. property	1.22m	4.0m	15.0m
West - lane / Madison	Tower #2 - 3.64m	Tower #2 - 3.64m	10.0m
Tower Separation	19.5m	32.0m	30.0m
Floor Plate			
Floor Plate - Exterior horizontal dimension	Tower #1 - 25.96m x 25.96m Tower #2 - 37.8m x 31.24m	Tower #1 - 25.96m x 25.96m Tower #2 - 37.8m x 31.24m	26.0m (max)
Floor Plate - Diagonal dimension	Tower #1 - 29.72m Tower #2 - 32.46m	Tower #1 - 29.72m Tower #2 - 32.46m	39m (max)
Floor Plate - Area	<u>Tower #1:</u> Floors 5 - 615.5 m ² Floors 6-15 - 587.7 m ² Floors 16-22 - 466.75 m ² <u>Tower #2:</u> Floors 5-13 - 822.65 m² Floors 14-21 - 770.63 m² Floors 22-28 - 695.85 m² Floors 29-30 - 627.56 m ²	<u>Tower #1:</u> Floors 5 - 615.5 m ² Floors 6-15 - 587.7 m ² Floors 16-22 - 466.75 m ² <u>Tower #2:</u> Floors 5-13 - 822.65 m² Floors 14-21 - 770.63 m² Floors 22-28 - 695.85 m² Floors 29-30 - 627.56 m ²	676 m ² (max)
Vertical Angle - 15m	<u>Tower #1</u> South - 88.65° West - 85.58° <u>Tower #2</u> West - 87.07° East - 83.09°	<u>Tower #1</u> South - 88.65° West - 85.58° <u>Tower #2</u> West - 87.07° East - 83.09°	80°

Private Open Space	2,415 m ² + 2,022 m ² top of podium	2,415 m ² + 1,858m ² top of podium	2,065 m ²
Parking Stalls (#)	210 stalls (Cash in lieu for 106 stalls)	295 stalls (Cash in lieu for 35 stalls)	330 stalls
Bicycle Parking (#)	Class I: 102 Class II: 42	Class I: 102 Class II: 42	Class I: 94 Class II: 42
Loading Stalls (#)	4 stalls	4 stalls	4 stalls
<p>Current Proposed Variances:</p> <ol style="list-style-type: none"> 1. Vary the height from 44m permitted to 65m (Tower #1) and 88m (Tower #2) proposed; 2. Vary the required setback from a property line abutting a street from 3.0m required to 1.24m proposed for portions of a building above 15m; 3. Vary the building setback from an interior lot line from 15m required to 4.0m proposed for portions of a building above 22m; 4. Vary the building setback from a lot line abutting a lane for Tower #2 from 10m required to 3.6m proposed for portions of a building above 22m; 5. Vary the maximum horizontal dimension above 15m for Tower #2 from 26m permitted to 37.8m x 31.24m proposed; 6. Vary the maximum floor plate area for Tower #2 from 676m² to 822.65m² (Floors 5-13) - 770.63m² (Floors 14-21) - 695.85m² (Floors 22-28); 7. Vary the inclined plane above 15m from 80° permitted for Tower #1 to 85.58° for western elevation and 88.65° for the eastern elevation and to vary the 80° for Tower #2 to 87.07 ° for the western elevation and 83.09 for the eastern elevation. 			

4.3 Site Context

Subject Property Map:



Adjacent land uses are as follows:

Orientation	Zoning	Land Use
North	C7 - Central Business Commercial	Office building
East	C7 - Central Business Commercial	Newspaper office
South	C4 - Urban Centre Commercial	Parking
West	C7 - Central Business Commercial I4 - Central Industrial	Madison Development Awning manufacturer

5.0 Current Development Policies

5.1 Kelowna Official Community Plan (OCP)

5.1.1 Development Process (Chapter 5) - Considerations in Reviewing Development Applications **Ensure appropriate and context sensitive built form (Objective 5.5)**

Building Height (Policy .1). In determining appropriate building height, the City will take into account such factors as:

- Contextual fit into the surrounding urban fabric
- Shadowing of the public realm
- View impacts
- Overlook and privacy impacts on neighbouring buildings
- Impacts on the overall skyline
- Distance between adjacent buildings above 22m in height
- Impacts on adjacent or nearby heritage structures
- Building form and massing to mitigate negative impacts of buildings over 22m in height

For all properties where height variances are required, a minimum separation distance of 36.5 m (120 ft.) will be sought between adjacent towers where there are floor plates larger than 697 sq. m (7,500 sq. ft.) and a minimum separation distance of 30.5 m (100 ft.) will be sought between towers where floor plates are less than 697 sq. m. (7500 sq. ft.). In addition, where a height variance is required, adequate view corridors shall be provided between towers. For blocks a minimum of 100m in width, any portion of a building above 44.0m should be sited to afford existing surrounding tower development on the same block a 40 degree panoramic view, measured from the closest building face parallel to the lot line fronting a street.

Unless existing zoning provides for greater heights, building heights within the areas noted on Map 5.3 should be as noted below:

City Centre: For the Downtown area, building heights shall, at maximum, be as noted on the “Downtown Building Heights” map. To achieve those heights, Council may consider variances from the heights set out in the Zoning Bylaw, provided that the additional height (beyond that provided in the Zoning Bylaw) results in the creation of affordable housing or yields other significant community benefits.

5.1.2 Urban Design Development Permit Areas (Chapter 14) - Revitalization Design Guidelines

Objectives

- Use appropriate architectural features and detailing of buildings and landscapes to define area character;

- Convey a strong sense of authenticity through high quality urban design that is distinctive of Kelowna;
- Enhance the urban centre's main street character in a manner consistent with the area's character;
- Provide for a scale and massing of buildings that promotes an enjoyable living, pedestrian, working, shopping and service experience;
- Encourage an appropriate mix of uses and housing types and sizes;
- Design and facilitate beautiful public open spaces that encourage year-round enjoyment;
- Create open, architecturally-pleasing and accessible building facades to the street; and
- Improve existing streets and sidewalks to promote alternative transportation.

Guidelines

Relationship to the Street (Objective 2.0)

- Ensure streetwall height is proportional (0.75:1 maximum) to the width of the street as measured from building face to building face. Any development that exceeds this height must utilize a podium and step back above the streetwall;
- Provide for public movement, street furniture, and building access zones to be incorporated into sidewalks adjacent to development;
- Design buildings to occupy 100% of a property's frontage along streets, eliminating elements that disrupt the streetwall such as off-street parking, dead spaces, empty lots, or driveways;
- Coordinate building setbacks with adjacent sidewalks to increase the space for public use (i.e., utilize a building setback or building indentation as a patio space or seating area, incorporate corner rounding into the public realm with specialized paving treatment and street furniture);
- Provide a high quality public realm consistent with the character of urban development (i.e. incorporate focal points/plazas, pedestrian pathways, parks and open space, enhanced streetscapes, and landscaping).

Downtown Considerations

- Articulate the street façade in a vertical rhythm that is consistent with the traditional subdivision pattern (i.e., maintain the character of narrow buildings and storefronts through changing materials, patterns, reveals, setbacks, façade portions, or design elements to maintain façade widths);
- Incorporate a level of detailing that conveys a sense of craftsmanship consistent with the era in which original downtown buildings were built (i.e., incorporate architectural features such as quoins, traditional brick patterns, pediments, keystones, recessed entrances, etc.);
- Windows should be set back from the building face (as opposed to flush) and include headers and sills;
- Windows at street level should keep the sills low for displays of retail goods and for high visibility into interior spaces;
- Upper floor windows should have vertical proportions where the height is at a minimum, 1.5 times the width;
- Brick and cut stone are preferred building materials, where appropriate. Materials should emulate a range of colours found on prominent buildings located Downtown;

- Incorporate high quality signage utilizing traditional size, style, fonts and design. Prominent and colourful signage creating a rich visual character is encouraged; however, illuminated signs in fluorescent colours are discouraged.

Building Design (Objective 4.0)

- Align architectural features from one building to the next. (i.e., building kickplate, top and bottom height of first floor windows, transoms over entranceway, horizontal and vertical proportions of the building, sign band above street level, parapet and cornice line, window sills on upper floors, roof line and proportions);
- Mitigate the effect of shadowing on public areas. A visual assessment sun/shadow study is required for those developments greater than 5 storeys in height;
- Design active facades that incorporate windows and doors on at least 75% of a building's frontage;
- Design buildings with an identifiable base, middle, and top through a change in setbacks, projections, textures, materials, detailing, or other architectural features;
- Incorporate distinctive massing articulation and architectural treatments for corner sites, highly visible building sites, or buildings/portions of buildings that terminate important view corridors (i.e., varying building heights, change in façade plane, additional pedestrian space, large windows, awnings, canopies, arcades, or archways);
- Orient windows, entrances, balconies and other building elements to surrounding points of interest and activity;
- Use architectural elements such as atriums, grand entries and large ground-level windows to reveal active interior spaces;
- Promote pedestrian-scaled architecture along the street through the use of street wall massing, articulation, quality materials and decorative details, textures, colours, lighting, and signage;
- Design buildings with individual entrances leading to streets and pathways rather than lobby entrances;
- Provide ground level access for first storey units within multiple unit residential projects;
- Provide transition zones between the inside and outside of buildings and where applicable, between the public and private realms, with increased setbacks to incorporate courtyards, arcades, plazas, and/or patios;
- Incorporate a high level of transparency (non-reflective and non-tinted glazing) on a minimum of 75% of the first floor elevation for commercial, mixed use, and industrial developments;
- Finish buildings with exterior building materials that are natural, indigenous, durable and appropriate to the character of the development. Recommended building materials include brick, stone, wood and heavy timber, clear glass, metal, composite cement board, and finished in-situ concrete and modular concrete;
- Prohibited building materials include vinyl siding, reflective or non-vision glass, plastic, unpainted or unstained wood, including pressure treated wood, and concrete block;
- Stucco and stucco-like finishes shall not be used as a principal exterior wall material;
- Select exterior building materials that are appropriate to the building face orientation (sun, wind, noise, views) as well as building use and street frontage;
- Vents, mechanical rooms/equipment, and elevator penthouses should be integrated with the architectural treatment of the roof, or be screened with materials and finishes compatible with the building's design.

View Corridors (Objective 5.0)

- Preserve and protect existing views, and where possible, create new viewsapes at the pedestrian level for any public or semi-public space;
- Reinforce viewsapes to and from developments (i.e. through the placement of seating, open spaces, circulation routes and massing of buildings);
- Retain extensive views (including from afar) to both the Lake and to the mountains, and special care should be taken with respect to massing of new developments on street ends from the pedestrian level and from other strategic locations;
- Design new developments that take into account the view characteristics of adjacent ground floor public areas, of surrounding buildings as well as the view potential of the proposed building itself.

Public Art (Objective 8)

- Incorporate quality public art that:
 - Is located strategically to enhance the visual environment and provide interactive and interpretive experiences;
 - Is complimentary and architecturally enhancing when related to a specific building.

Tower Design (Objective 9)

- Design towers that are sited, shaped, and oriented along their longest axis in order to enhance the views to and through the skyline;
- Incorporate tower forms and the upper portions of buildings as integral yet distinct elements of the overall building design. Tower tops are encouraged to have trellising and roof projections that are fundamental expressions of the building structure and contain substantial landscaping;
- Evaluate tower buildings with respect to their compatibility with surrounding structures and contribution to the general skyline. Tower design should contemplate:
 - Colour, reflectivity, shape, materials, detailing, and ease of maintenance;
 - Generally, lighter-coloured buildings are preferred;
- Incorporate architecture that expresses a slender verticality, particularly in its upper elements. Design buildings greater than ten floors that are tall, slender towers rather than bulkier towers of the same floor space ratio;
- Design new buildings to take into account microclimatic effects, including shading of adjacent areas (i.e., reduce the casting of long shadows on high volume pedestrian areas) and wind tunneling;
- Integrate new developments with the established urban pattern through siting and building design by utilizing transitional structures, setbacks, landscaping, etc.;
- Enhance large, flat expanses of roof (whether actively used or not) with texture, colour, and/or landscaping where visible from above or adjacent properties;
- Enhance towers with elements such as gazebos, trellises, and pergolas providing visual interest and usability of rooftop spaces;
- Incorporate balconies into building design as outdoor rooms rather than as appendages to a building's mass. Recess balconies a minimum depth of 1m within the adjoining building face;
- Design podiums to provide an animated pedestrian environment with the use of street wall massing, articulation, and overall design. Podiums should highlight their active uses and disguise any parking or ancillary uses.

6.0 Technical Comments

6.1 Building & Permitting Department

- This building is required to be of non-combustible construction. Any proposed deviance from this requirement of BCBC 2012 requires an approved alternate solution report approved prior to the release of the Development Permit.
- A minimum Geodetic Elevation of 343.66 meters is required for all habitable spaces including the parking garage(s).
- A Geotechnical report is required to address the sub soil conditions and potential impact on neighbouring properties. A Geotechnical pier review will be required at time of building permit application.
- A Structural peer review will be required at time of building permit application.
- We strongly recommend that the developer have his professional consultants review and prepare solutions for potential impact of this development on adjacent properties. Any damage to adjacent properties is a civil action which does not involve the city directly. The items of potential damage claims by adjacent properties are items like settlement of foundations (preload), damage to the structure during construction, additional snow drift on neighbour roofs, excessive noise from mechanical units, vibration damage during foundation preparation work etc.
- Door swing and travel distances to be addressed at time of building permit application
- Travel distances are required to meet BCBC 12 for the pool deck level to exit stairwells. This may require additional signage or an alternative solution at time of Building Permit
- Guards are required for patio areas & all decks. The drawings provided don't clearly.
- A fire resistance rating is required for garbage enclosure room(s). The drawings submitted for building permit are to clearly identify how this rating will be achieved.
- Requirements of the City of Kelowna fire prevention regulations bylaw No. 6110 for buildings greater than 6 stories are to be shown on the building permit drawings.
- Access to the mechanical rooms at roof level are required
- Size and location of all signage to be clearly defined as part of the development permit
- Awnings over city property require an indemnification agreement(s).

6.2 Development Engineering Department

See Attached Development Engineering Memorandum

6.3 Fire Department

A central alarm and control facility is to be provided that is accessible from the primary entrance as per 3.2.6 of the BCBC. The standpipe system is to be provided with a 3" drain for PRV testing. A fire hydrant is to be located on the south side of St Paul St. within close proximity of the building and located within 45M of the FD connection. Fire flows calculations will be required as per the City of Kelowna Subdivision bylaw #7900 with a minimum of 150ltr/sec flow. The fire prevention bylaw requirements for high buildings will be required. Additional comments will be required at the building permit application.

6.4 Fortis BC - Gas

FortisBC Inc. has no land rights concerns at this time. It should be noted that land rights issues may arise from the design process but can be dealt with at that time, prior to construction.

6.5 Fortis BC - Electric

Due to the overall size of the development, it is likely that there will be some impact to off-site FBC facilities in close proximity. The applicant is responsible for all off-site costs incurred as a part of this development. Any primary facilities that will be required on-site will require land rights protection prior to construction or energization. Otherwise, FBC has no land rights concerns at this time.

6.6 Infrastructure Planning

The developer should use the same vocabulary of streetscape elements / palette of materials as that used for the Madison frontages (Ellis Street and Doyle Avenue). The detailing of the sidewalk pattern in the Madison's case related directly to the location of the entrances to the commercial and residential units so obviously, this will not be the same as that of the proposed project. Nevertheless, the general character can be replicated through use of the same surface materials, benches, bollards, vegetation, trees and the curb let-down detail.

A Landscape Plan is required to be submitted as part of the Civil Engineering Drawing Review that details the public sidewalk including: i) the proposed trees/plants (species, size, etc), ii) tree planting detail (tree grate, structural soils, irrigation, etc.), iii) curb let-down detail, iv) furniture and v) street light locations, etc.

The irrigation system for the street trees and vegetation will be the responsibility of the developer and ultimately the future strata.

Urban Braille, as per the Madison frontage should be incorporated into the public streetscape. The applicant is encouraged to use CNIB's resources and the City's Accessibility Committee.

7.0 Application Chronology

Date of Application Received:	November 2 nd , 2012
Date of Council Deferral:	December 3 rd , 2012
Revised Application received:	March 4 th , 2013

Applicant's Public Information Meeting: March 8th, 2013

The applicant hosted a Public Information Meeting to provide neighbouring businesses and residents with information and an opportunity to make comment prior to the application advancing to Council. Council Policy 367 was recently adopted which provides guidelines for appropriate consultation measures. Although the application has been in process long before the policy was adopted, Staff encouraged the applicant to hold an open house to ensure public consultation was conducted on the refined development proposal.

Report prepared by:

Alec Warrender, Land Use Planner

Reviewed by:



Danielle Noble, Manager, Urban Land Use

Approved for Inclusion



D. Gilchrist, A. General Manager, Community Sustainability

Attachments:

Subject Property Map

Sit Plan

Elevations & Renderings

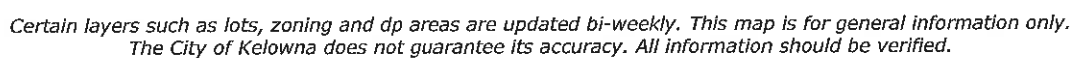
Landscape Plan

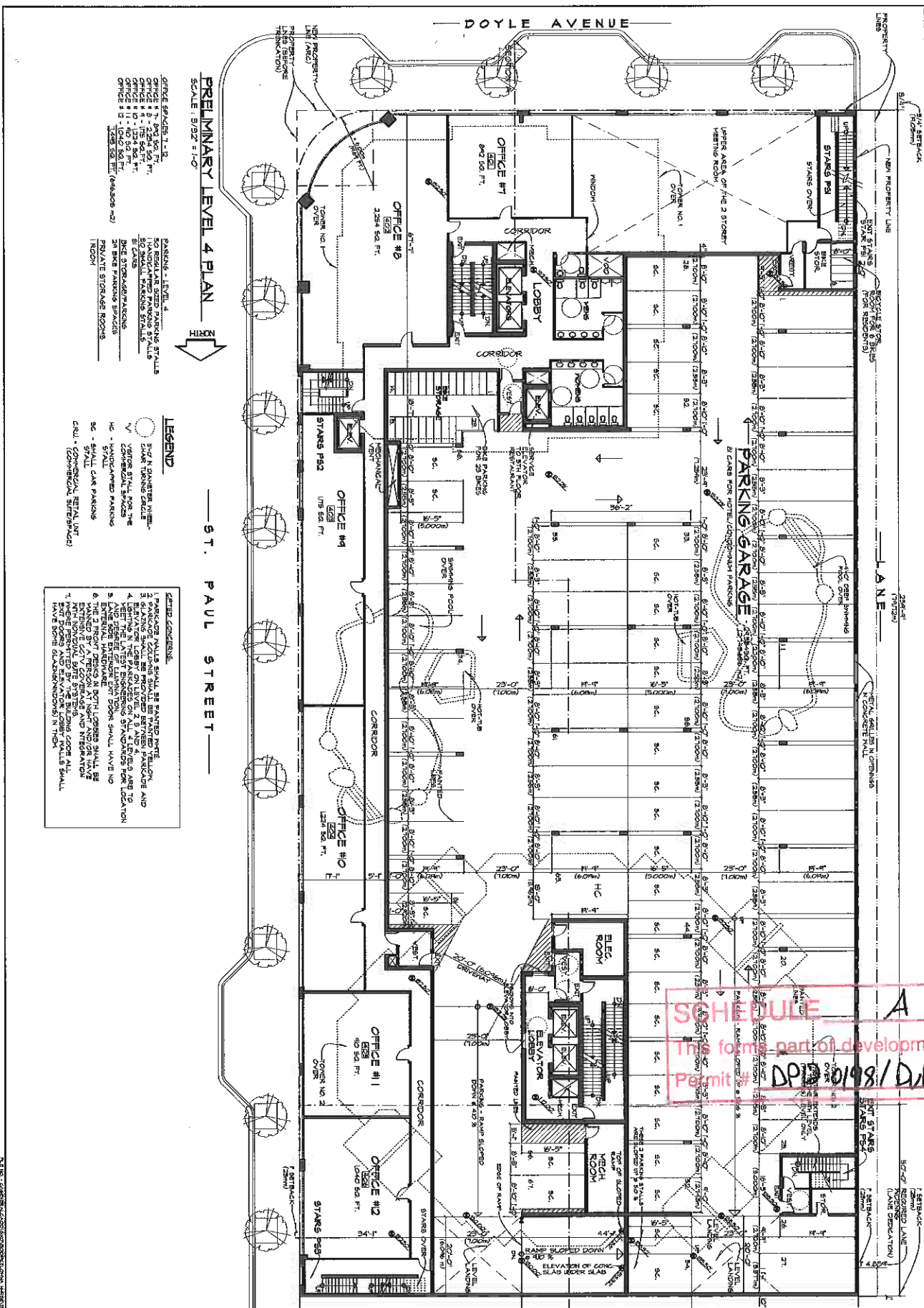
Amenity Package Outline

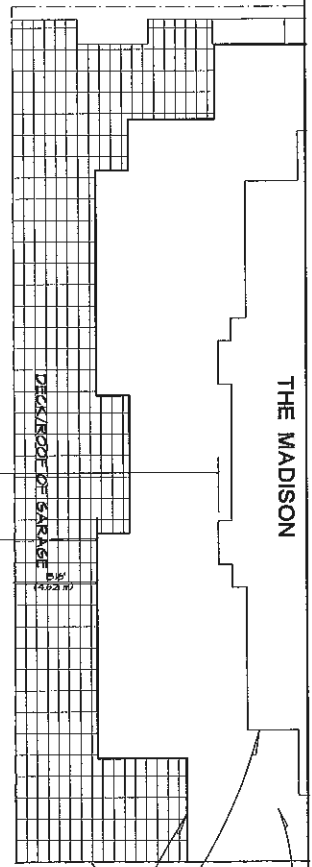
Public Art Proposal

Development Engineering Requirements

Public Information Meeting Summary







THE MADISON

84 SUITE CONDOMINIUM
6 STORIES HIGH

EXTERIOR WALL AT LEVELS 4-7

3 STORY HIGH TOWER

LANE BELOW

REAR ELEVATION OF THE MADISON
TO THE BUILDING FACE OF THE MONACO
HOTEL

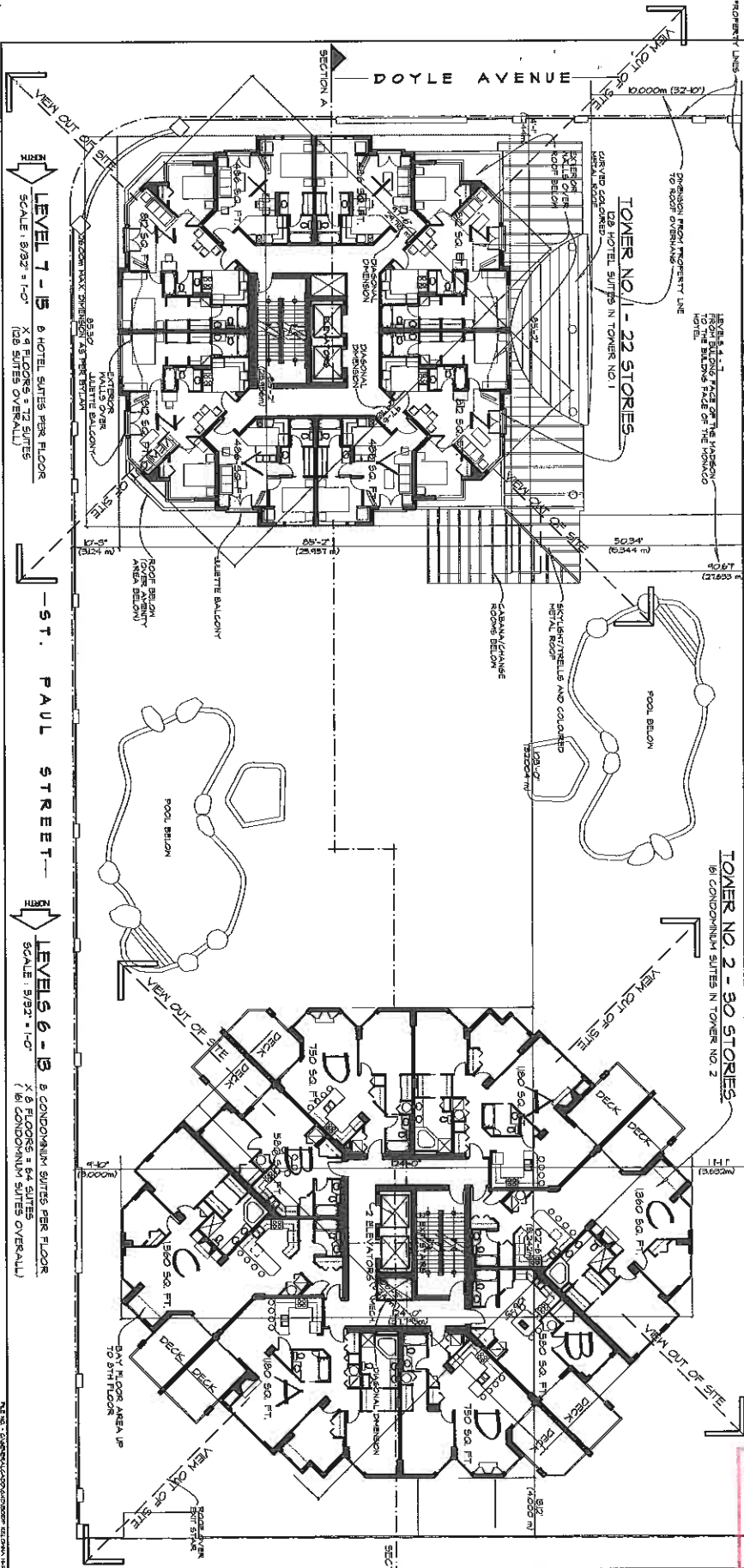
STATISTICS

TOWER NO. 1	PER FLOOR: 1,6526 SQ. FT. (28,170442)
LEVELS 7 - 15	8 SUITES PER FLOOR X 4 LEVELS
	112 SUITES (BACHELOR SUITES AND 56 ONE BEDROOM SUITES)
SUITE SCHEDULE	
SUITE X - 486 SQ. FT. (STUDIO/BACHELOR SUITE)	
SUITE Y - 486 SQ. FT. (ONE BEDROOM SUITE)	
SUITE Z - 600 SQ. FT. (TWO BEDROOM SUITE)	
8 SUITES PER FLOOR LEVEL	
TOWER NO. 2	PER FLOOR: 1,8895 SQ. FT. (22,26542)
LEVELS 6 - 15	8 SUITES PER FLOOR X 8 LEVELS
	64 SUITES (32 TWO BEDROOM SUITES AND 32 ONE BEDROOM SUITES)
SUITE SCHEDULE	
SUITE A - 1100 SQ. FT. (2 SUITES PER FLOOR)	
SUITE B - 1500 SQ. FT. (2 SUITES PER FLOOR)	
SUITE C - 1500 SQ. FT. (2 SUITES PER FLOOR)	
SUITE D - 1700 SQ. FT. (2 SUITES PER FLOOR)	
CONC. AREA - 1119 SQ. FT.	
8,895 SQ. FT.	

SCHEDULE

This forms part of development

Permit # **DPD-0198 / DUPD-0199**



LEVEL 7 - 15 8 HOTEL SUITES PER FLOOR
X 8 FLOORS = 72 SUITES
SCALE: 1/8" = 1'-0" (72 SUITES OVERALL)

ST. PAUL STREET

LEVELS 6 - 15 8 CONDOMINIUM SUITES PER FLOOR
X 8 FLOORS = 64 SUITES
SCALE: 1/8" = 1'-0" (64 CONDOMINIUM SUITES OVERALL)

PROJECT
DOYLE AVENUE
2 H-RISES PROJECT
- THE MONACO -
50 CONDOMINIUMS COMMERCIAL
ROOMS OFFICE, OR HOTEL
DOYLE AVENUE & ST. PAUL STREET
DOYNN, ILL.

DRAWING TITLE
PRELIMINARY
TYPICAL
FLOOR PLANS
HOTEL: FLOOR 7-16
CONDO: FLOOR 6-15

DATE
2007

SCALE
1/8" = 1'-0"

SHEET NO.
1204

DP-7

points west
ARCHITECTURE

203 - 2100 W. Railway St.
Abbottford, B.C.
V2W 2S2

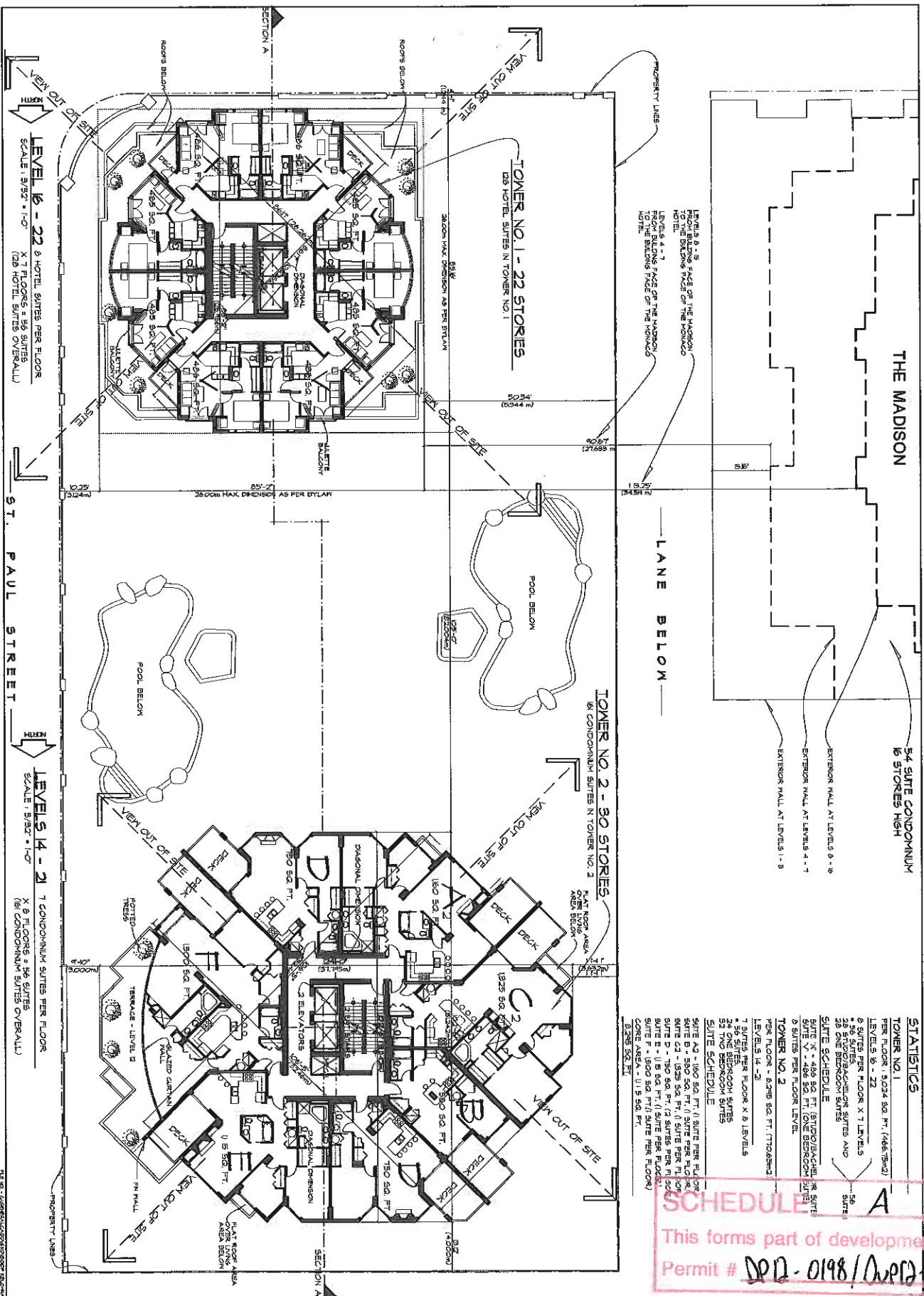
PHONE: 604-896-9566
FAX: 604-891-6505
www.pointswestarch.com

CONSULTANT

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REVISIONS

REV. 1 - 2007 - 2007/02/01 - INITIAL DESIGN
REV. 2 - 2007 - 2007/02/01 - INITIAL DESIGN
REV. 3 - 2007 - 2007/02/01 - INITIAL DESIGN
REV. 4 - 2007 - 2007/02/01 - INITIAL DESIGN



DOYLE AVENUE
2 H-RISES PROJECT
- THE MONACO -
50 CONDOMINIUMS, COMMERCIAL
ROOFS, OFFICES, 128 HOTEL
ROOMS, 54 SUITES
MONACO, B.C.

points west
ARCHITECTURE
203 - 2100 W. Railway St.
Abbotsford, B.C.
V2H 2S7

PHONE: 604-864-6005
FAX: 604-864-6006
www.pointswestarch.com

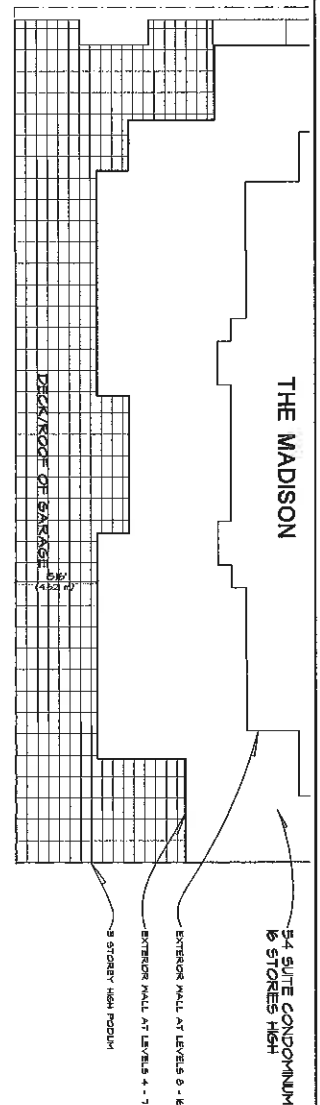
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1204

DP-8

117



STATISTICS

TOWER NO. 2

PER FLOOR: 6,785 SQ. FT. (62,736 SQ. FT.)

LEVELS: 24 + 50

2 SUITES PER FLOOR X 2 LEVELS

4 SUITES

4 TWO BEDROOM SUITES

SUITE SCHEDULE

SUITE L - 2,485 SQ. FT. (1 SUITE PER FLOOR)

SUITE M - 2,400 SQ. FT. (1 SUITE PER FLOOR)

LOBBY AREA - 50 SQ. FT.

6,785 SQ. FT.

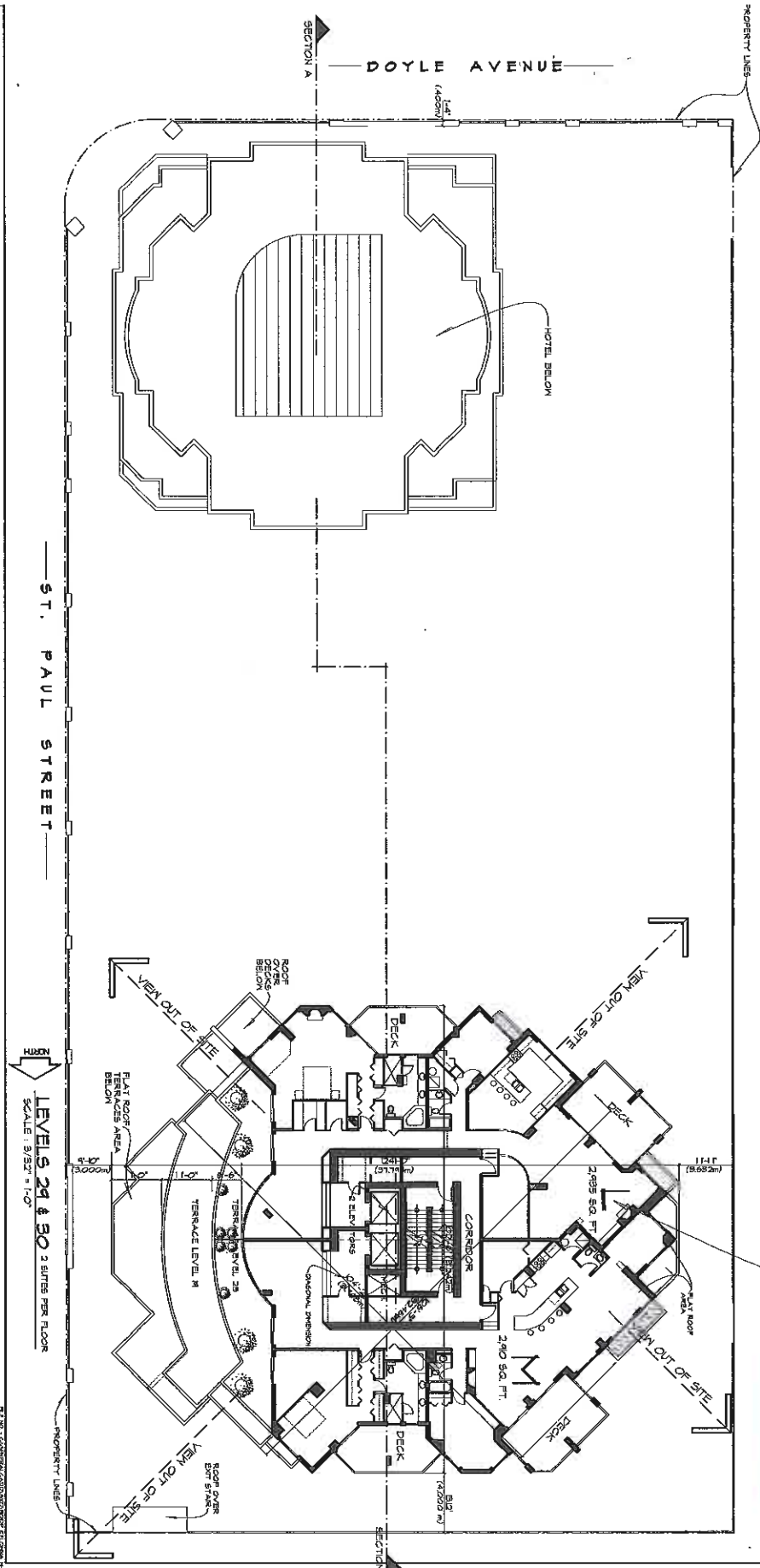
TOWER NO. 2 - 30 STORES

(6) CONDOMINIUM SUITES OVERALL

SCHEDULE A

This forms part of development

Permit # **DP120198 / DP120199**



PROJECT:
DOYLE AVENUE
2-HI-RISES PROJECT
- THE MONACO -
91 CONDOMINIUMS COMMERCIAL
ROOF OFFICE, 100 HOTEL
DOYLE AVENUE & ST. PAUL STREET
RENOVA, IL

DATE: JAN 202
SCALE: 1/8" = 1'-0"
DRAWN: N

DRAWING TITLE:
PRELIMINARY
TYPICAL
FLOOR PLANS
HOTEL: N/A
CONDO: FLOOR 29-30

points west
ARCHITECTURE

233 - 2180 W. Railway St.
Abbotsford, B.C.
V2R 2E2

PHONE: 604-884-8805
FAX: 604-884-8806
pw@pointswestarch.com

CONSULTANT:

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REVISIONS:

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REV. 99: 2021 - REVISED DRAWING FOR PERMIT
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1204 **DP-10**

COLOR BOARD

BUILDING PAINT COLORS

COLOR NO. 1 - COY. ROSE BY BENJAMIN MOORE

COLOR NO. 2 - VINE HARBOR BY BENJAMIN MOORE

COLOR NO. 3 - VINE HARBOR BY BENJAMIN MOORE

COLOR NO. 4 - VINE HARBOR BY BENJAMIN MOORE

COLOR NO. 5 - VINE HARBOR BY BENJAMIN MOORE

COLOR NO. 6 - VINE HARBOR BY BENJAMIN MOORE

COLOR NO. 7 - VINE HARBOR BY BENJAMIN MOORE

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COLOR NO. 100 - VINE HARBOR BY BENJAMIN MOORE

NOTE: MOST OF THE CONCRETE PANELS SHALL BE COLORED TO MATCH THE COLOR OF THE CONCRETE USED IN THE FOUNDATION AND PILING. THE COLOR OF THE CONCRETE SHALL BE DETERMINED BY THE ARCHITECT AND THE COLOR BOARD SHALL BE USED TO SELECT THE COLOR.

LEGEND

1. CONCRETE PANELS - COLORED TO MATCH THE COLOR OF THE CONCRETE USED IN THE FOUNDATION AND PILING.

2. CONCRETE PANELS - COLORED TO MATCH THE COLOR OF THE CONCRETE USED IN THE FOUNDATION AND PILING.

3. CONCRETE PANELS - COLORED TO MATCH THE COLOR OF THE CONCRETE USED IN THE FOUNDATION AND PILING.

4. CONCRETE PANELS - COLORED TO MATCH THE COLOR OF THE CONCRETE USED IN THE FOUNDATION AND PILING.

5. CONCRETE PANELS - COLORED TO MATCH THE COLOR OF THE CONCRETE USED IN THE FOUNDATION AND PILING.

6. CONCRETE PANELS - COLORED TO MATCH THE COLOR OF THE CONCRETE USED IN THE FOUNDATION AND PILING.

7. CONCRETE PANELS - COLORED TO MATCH THE COLOR OF THE CONCRETE USED IN THE FOUNDATION AND PILING.

8. CONCRETE PANELS - COLORED TO MATCH THE COLOR OF THE CONCRETE USED IN THE FOUNDATION AND PILING.

9. CONCRETE PANELS - COLORED TO MATCH THE COLOR OF THE CONCRETE USED IN THE FOUNDATION AND PILING.

10. CONCRETE PANELS - COLORED TO MATCH THE COLOR OF THE CONCRETE USED IN THE FOUNDATION AND PILING.

NOTES

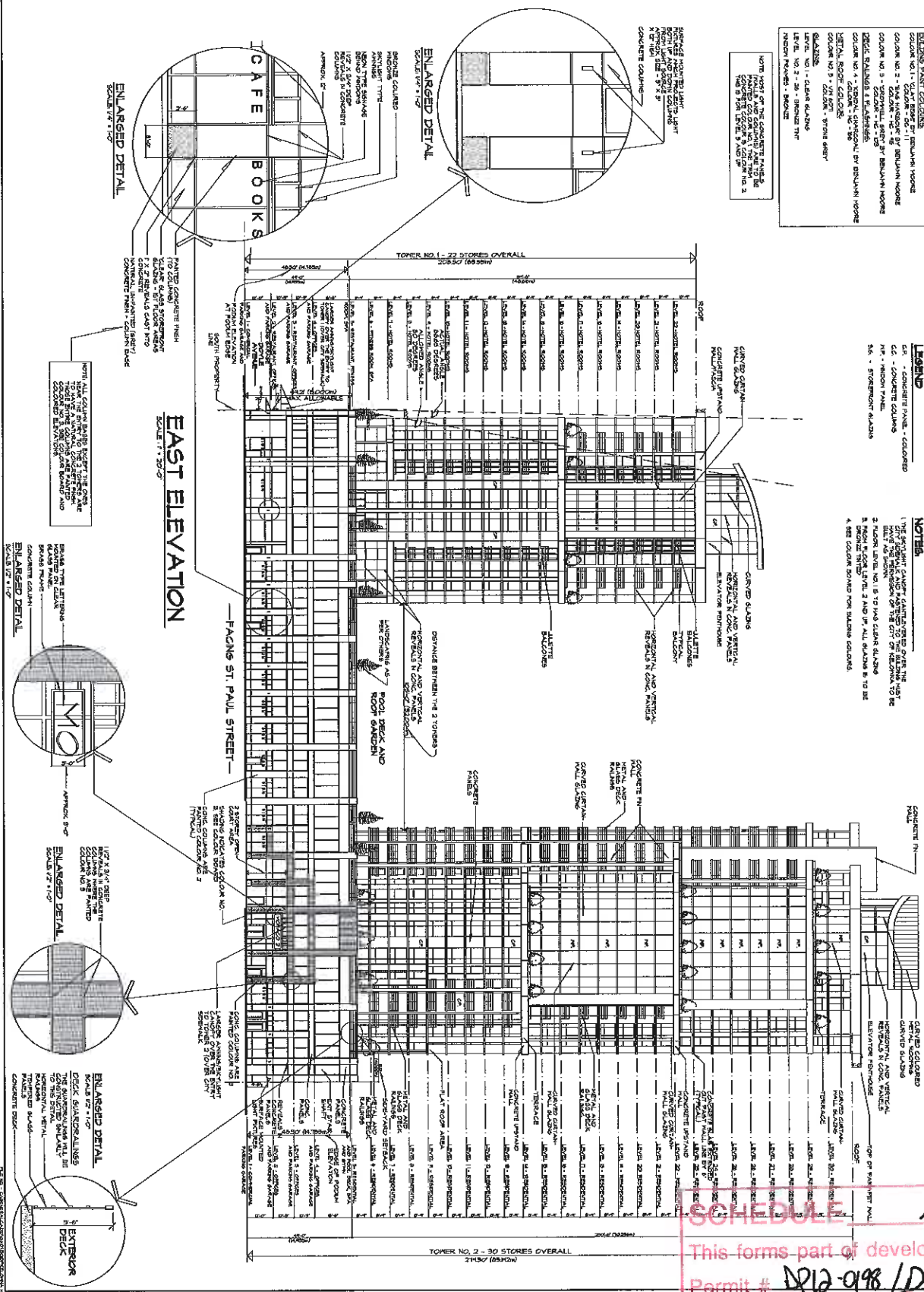
1. THE COLOR BOARD SHALL BE USED TO SELECT THE COLOR OF THE CONCRETE PANELS. THE COLOR OF THE CONCRETE SHALL BE DETERMINED BY THE ARCHITECT AND THE COLOR BOARD SHALL BE USED TO SELECT THE COLOR.

2. THE COLOR BOARD SHALL BE USED TO SELECT THE COLOR OF THE CONCRETE PANELS. THE COLOR OF THE CONCRETE SHALL BE DETERMINED BY THE ARCHITECT AND THE COLOR BOARD SHALL BE USED TO SELECT THE COLOR.

3. THE COLOR BOARD SHALL BE USED TO SELECT THE COLOR OF THE CONCRETE PANELS. THE COLOR OF THE CONCRETE SHALL BE DETERMINED BY THE ARCHITECT AND THE COLOR BOARD SHALL BE USED TO SELECT THE COLOR.

4. THE COLOR BOARD SHALL BE USED TO SELECT THE COLOR OF THE CONCRETE PANELS. THE COLOR OF THE CONCRETE SHALL BE DETERMINED BY THE ARCHITECT AND THE COLOR BOARD SHALL BE USED TO SELECT THE COLOR.

5. THE COLOR BOARD SHALL BE USED TO SELECT THE COLOR OF THE CONCRETE PANELS. THE COLOR OF THE CONCRETE SHALL BE DETERMINED BY THE ARCHITECT AND THE COLOR BOARD SHALL BE USED TO SELECT THE COLOR.



PROJECT:

DOYLE AVENUE
2 HIRSES PROJECT
- THE MONDO -
91 CONDOMINIUM COMMERCIAL
ROCKFORD, ILLINOIS 60067
DOYLE AVENUE & ST. PAUL STREET
ROCKFORD, ILLINOIS

DATE: JUL 3, 2009

SCALE: 1/8" = 1'-0"

BOOKING: E

points west
ARCHITECTURE

201 - 200 W. Railway St.
Abbotsford, B.C.
V2R 2S2

PHONE: 604-663-0066
FAX: 604-663-0066
E-MAIL: pointswest@pointswest.ca

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2. WEST ELEVATION
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104. SECTION 100-100

[illegible]

1. THE SOFTBACK CANOPY CANTILEVERED OVER THE CITY SIDEWALK AND PARADED TO THE BUILDING MUST HAVE THE PERMISSION OF THE CITY OF KILGORE TO BE PLACED AS SHOWN.
2. FLOOR LEVEL NO. 1 IS TO HAVE CLEAR STAIRS
3. SECOND FLOOR LEVEL 2 AND UP ALL GLAZING IS TO BE BRONZE TINTED
4. SET COLOR BOARD FOR BUILDING COLUMNS.

TOWER NO. 1
BACKSCATTER

FEB. 4, 2012 - REVIEWED AND RE-GRANTED FOR
 MATCHING TRUST APPLICATION
 NOV. 21, 2012 - REVIEWED AND RE-GRANTED FOR
 DIVERSIFICATION TRUST APPLICATION
 NOV. 19, 2012 - REVIEWED AND RE-GRANTED FOR
 DIVERSIFICATION TRUST APPLICATION
 OCTOBER 18, 2012 - REBID FOR DIVERSIFIED

1000

The logo for points west ARCHITECTURE features a stylized graphic of three vertical bars of varying heights, composed of small squares, resembling a bar chart or a modern building facade. Below the graphic, the words "points west" are written in a large, lowercase, sans-serif font, and "ARCHITECTURE" is written in a smaller, uppercase, sans-serif font below it.

points west
ARCHITECTURE

203 - 290 W. Highway 81
Abbotsford, B.C.
V2H 2E2

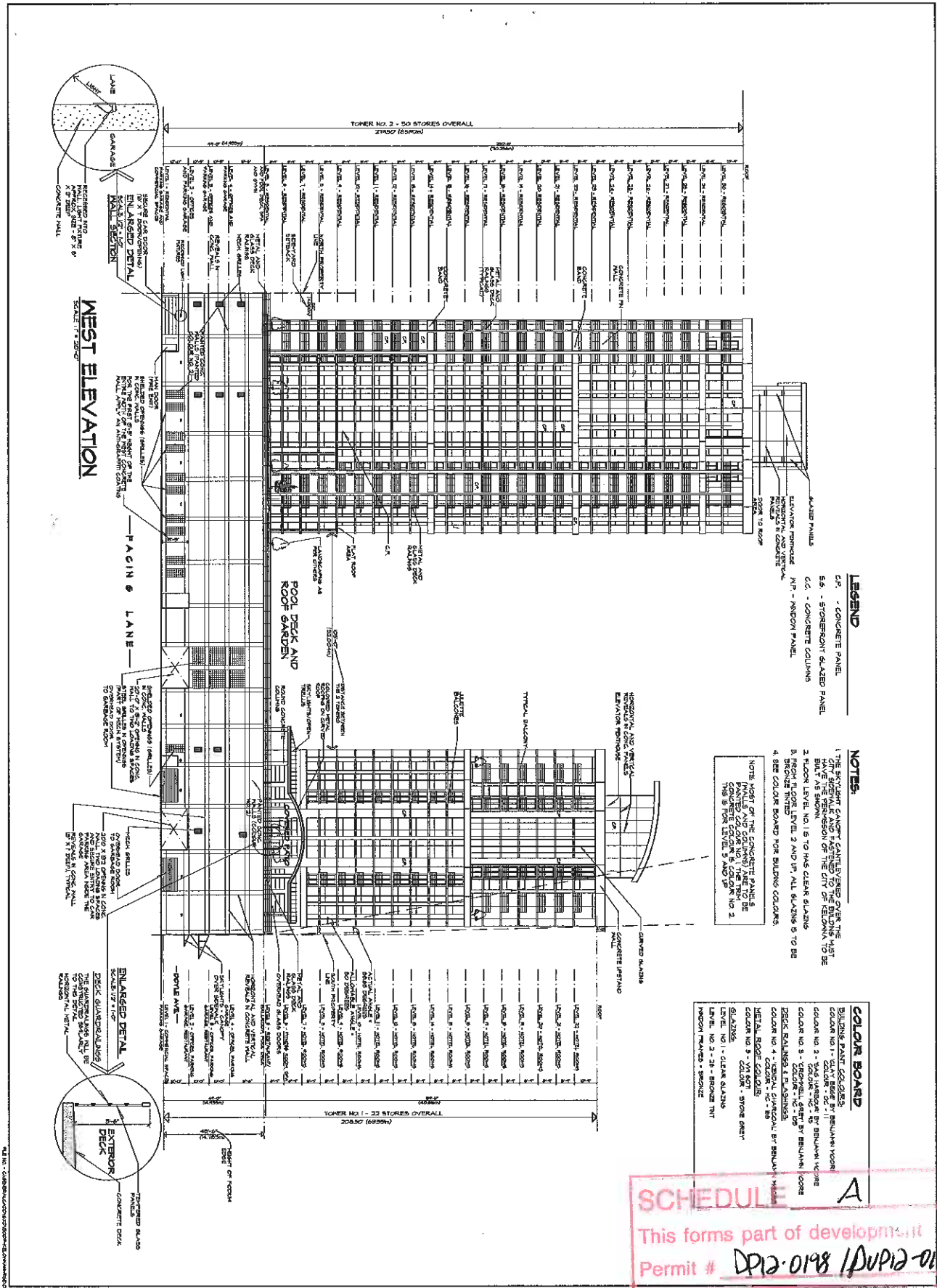
PHONE: 001-604-8666
FAX: 001-604-8606
E-mail: pw@telusnet

PROJECT	
DOYLE AVENUE	
2 HI-RISES PROJECT	
- THE MONACO -	
311 CONDOMINIUMS, COMMERCIAL ROCKFORD OFFICES, 228 HOTEL	
DOYLE AVENUE & ST. PAUL STREET RECONNA, B.C.	
DATE:	REVISION 4, 2005
SCALE:	1" = 20'-0"
DRAWN:	BT

**SOUTH
ELEVATION**

JOB NO. :
1204

SHEET NO. :
DP-12



PROJECT:
DOYLE AVENUE
2-HOUSE PROJECT
- THE MONACO -
30 CONDOMINIUMS, COMMERCIAL
ROOF, OVERHEAD, 100 HOTEL
DOYLE AVENUE & ST. PAUL STREET
BIRMINGHAM, AL

DRAWING TITLE:
WEST
ELEVATION

DATE:
JULY 24, 2007

SCALE:
1" = 20'

DESIGNER:
B

PROJECT NO.:
1204

SHEET NO.:
DP-13

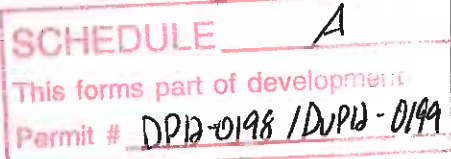
points west
ARCHITECTURE

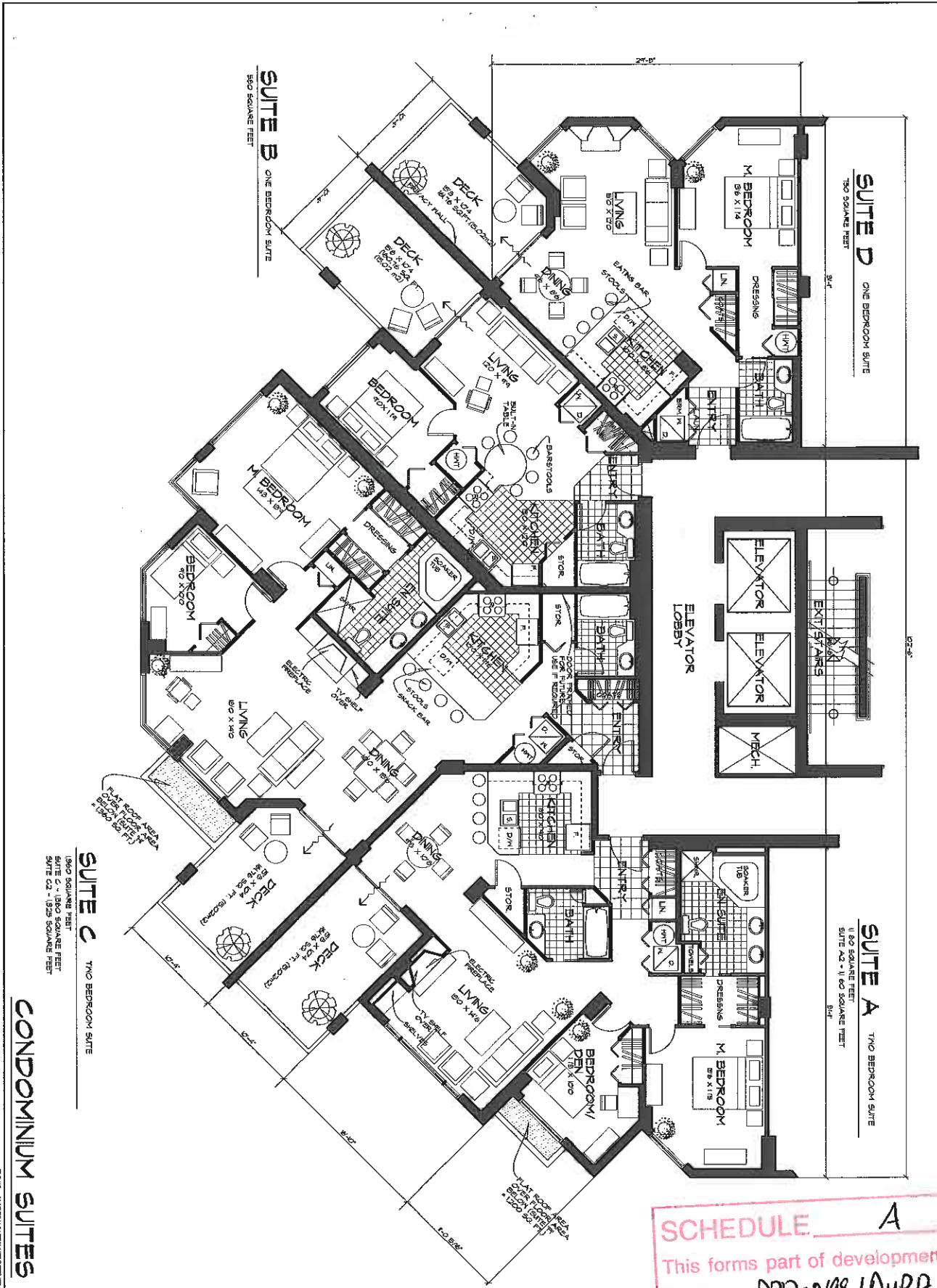
203 - 280 W. Highway 81
Birmingham, AL 35201
936 252 1100

PHONE: 936-454-4500
FAX: 936-454-4501
WWW.POINTSWESTARCHITECTURE.COM

REVISIONS:

NO.	DATE	DESCRIPTION
1	7/24/07	ISSUED FOR PERMIT
2	7/24/07	ISSUED FOR PERMIT
3	7/24/07	ISSUED FOR PERMIT
4	7/24/07	ISSUED FOR PERMIT
5	7/24/07	ISSUED FOR PERMIT
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99	7/24/07	ISSUED FOR PERMIT
100	7/24/07	ISSUED FOR PERMIT





SCHEDULE A
This forms part of development
Permit # **DD12-0198 / DvPR 0199**

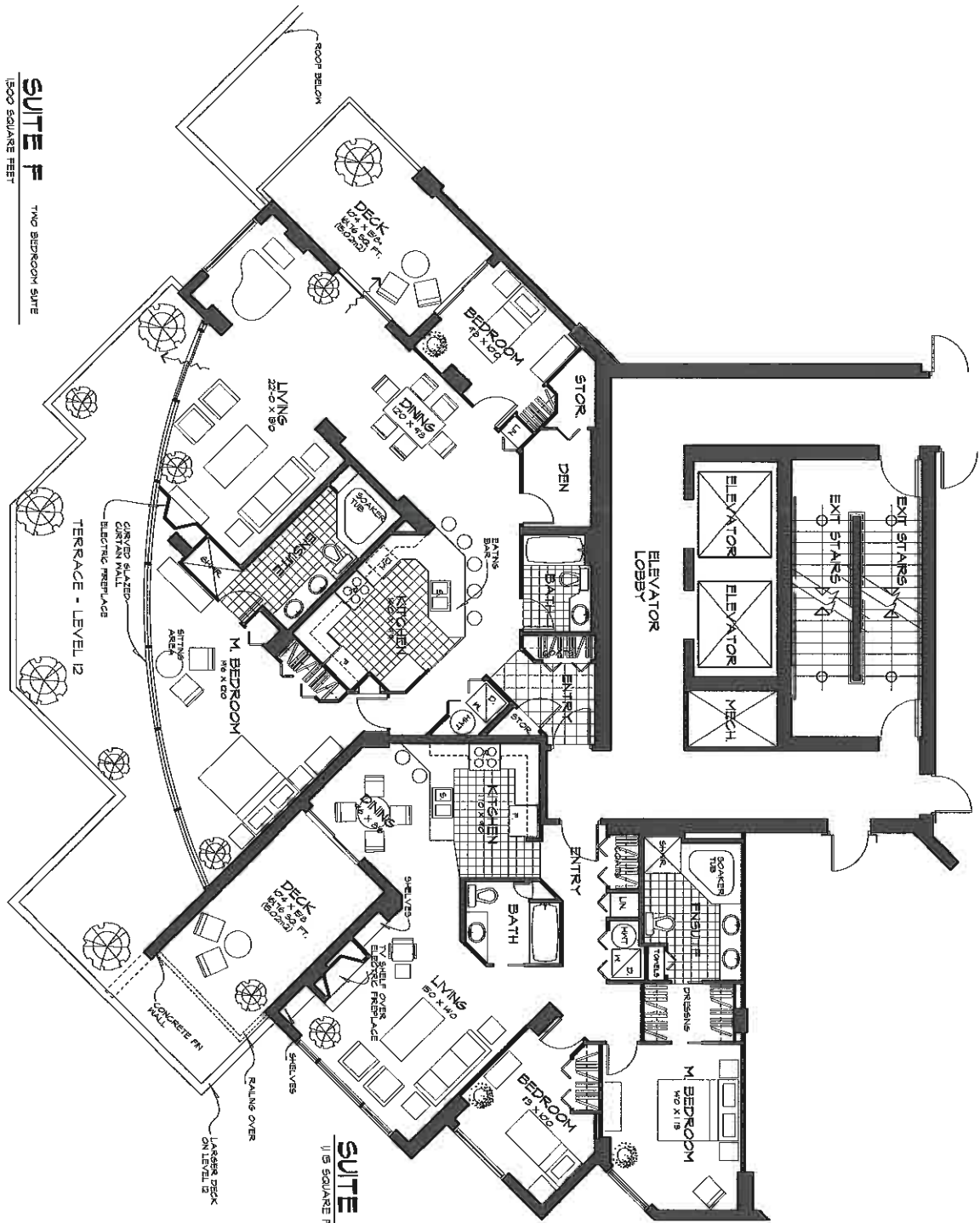
PROJECT DOYLE AVENUE 2 PHASES PROJECT - THE MONACO - 311 CONDOMINIUM, COMMERCIAL ROOMS, OFFICES, GAS HOTEL DOYLE AVENUE & ST. PAUL STREET GEORGETOWN, DC	POINTS WEST ARCHITECTURE 203 - 230 W. Railway BL. Arlington, D.C. V22 262 PHONE: 804-684-8555 FAX: 804-684-8556 pwp@pointswestarch.com	CONSULTANT THE ARCHITECTURE OF THE MONACO 1000 DOYLE AVENUE, 10TH FLOOR ARLINGTON, VA 22202 PHONE: 804-684-8555 FAX: 804-684-8556 pwp@pointswestarch.com
---	---	--

DATE SEP 2007	SCALE 1/4" = 1'-0"	DRAWN N
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DRAWING TITLE
PRELIMINARY
1/4" SCALE
SUITE PLANS
A, B, C & D

JOB NO. 1204	SHEET NO. DP-16
------------------------	---------------------------

SUITE F
TWO BEDROOM SUITE
1500 SQUARE FEET



CONDOMINIUM SUITES

SUITE E
TWO BEDROOM SUITE
1155 SQUARE FEET

SCHEDULE A
This forms part of development
Permit # **DP12-0198 / DP12-0199**

JOB NO. **1204**
SHEET NO. **DP-17**

DRAWING TITLE
**PRELIMINARY
1/4" SCALE
SUITE PLANS E & F**

DATE: **SEP 2003**
SCALE: **1/4" = 1'-0"**
DRAWN: **BJ**

PROJECT:
**DOYLE AVENUE
2 HI-RISES PROJECT
- THE MONACO -
M1 CONDOMINIUM COMMERCIAL
ROUNDER OFFICER 78 HOTEL
DOYLE AVENUE & ST. PAUL STREET
BIRMINGHAM, AL.**

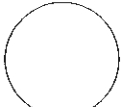
points west
ARCHITECTURE
203 - 2100 W. Railway St.
Abbotsford, B.C.
V2S 2K2
PHONE: 604-664-8005
FAX: 604-664-8006
pw@pointswestarch.com

CONSULTANT:

THIS DRAWING IS THE PROPERTY OF POINTS WEST ARCHITECTURE. IT IS TO BE USED ONLY FOR THE PROJECT AND SITE SPECIFICALLY IDENTIFIED HEREIN. NO PART OF THIS DRAWING IS TO BE REPRODUCED OR TRANSMITTED IN ANY FORM OR BY ANY MEANS, ELECTRONIC OR MECHANICAL, WITHOUT THE WRITTEN PERMISSION OF POINTS WEST ARCHITECTURE.

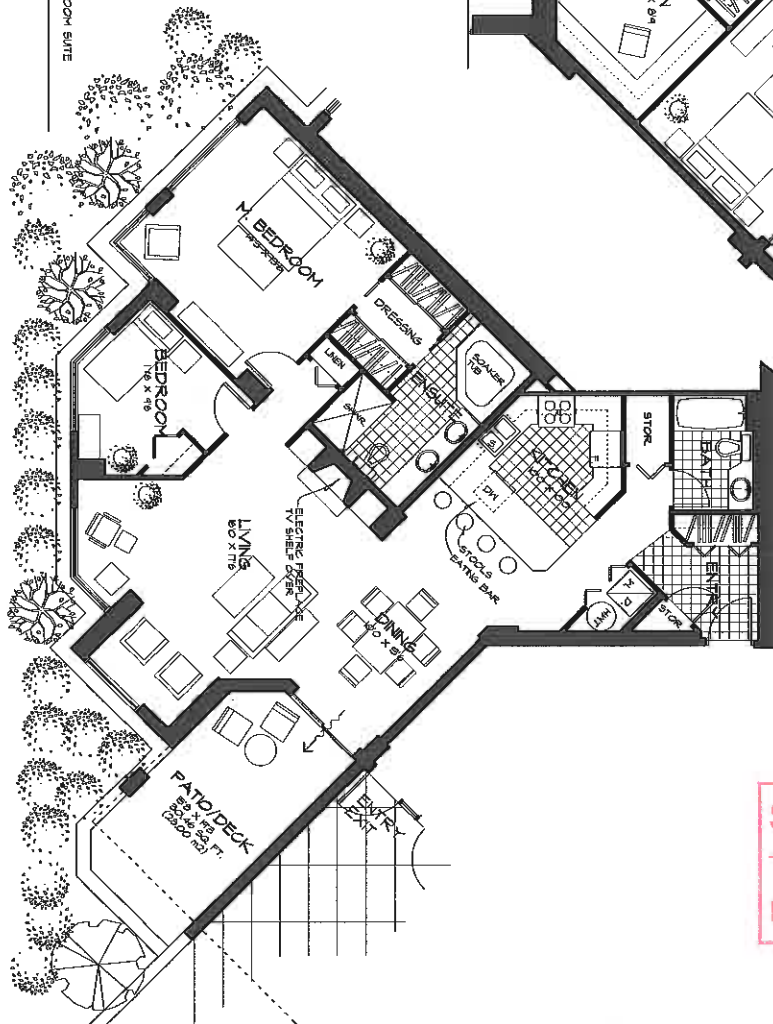
REVISIONS:

REV. 4: 2003 - REVISION AND REVISION TO PLAN
REV. 3: 2003 - REVISION AND REVISION TO PLAN
REV. 2: 2003 - REVISION AND REVISION TO PLAN
OCTOBER 8, 2003 - REVISION AND REVISION TO PLAN
REV. 1: 2003 - REVISION AND REVISION TO PLAN
REV. 0: 2003 - REVISION AND REVISION TO PLAN
REV. 0: 2003 - REVISION AND REVISION TO PLAN

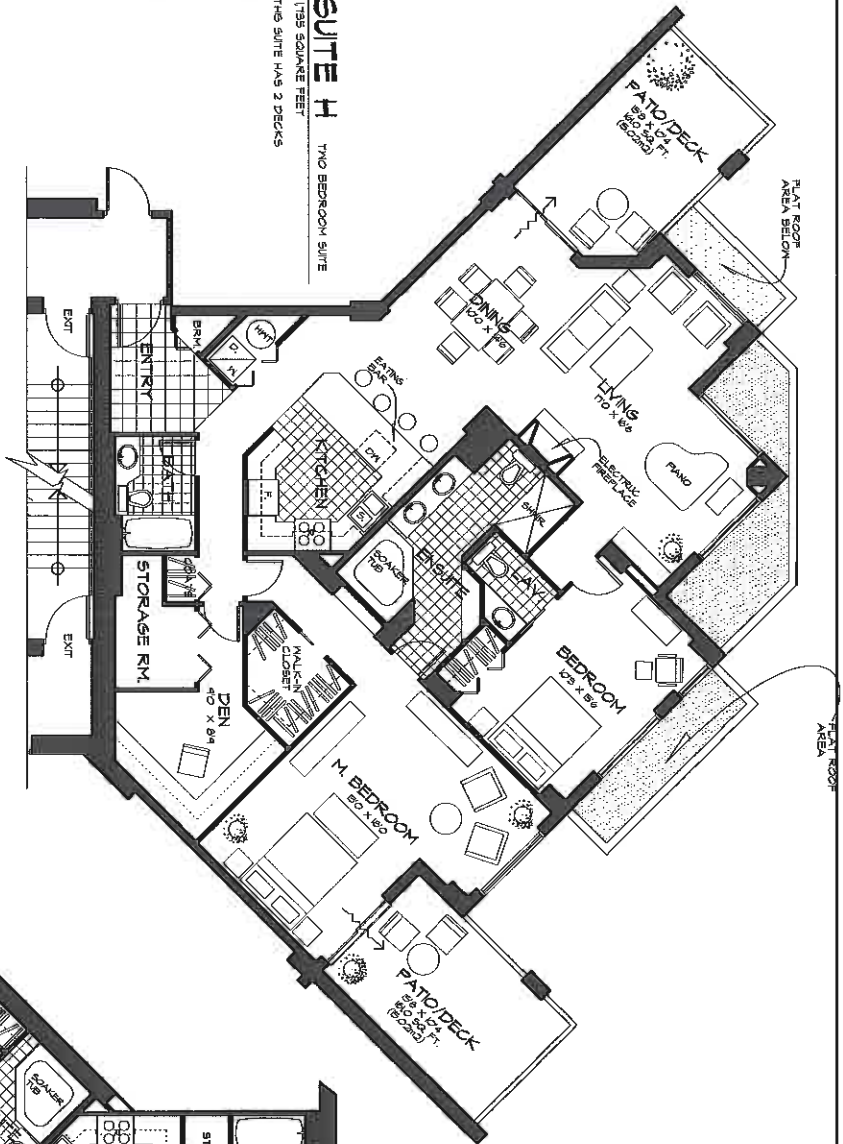


CONDOMINIUM SUITES

SUITE J TWO BEDROOM SUITE
1340 SQUARE FEET



SUITE H TWO BEDROOM SUITE
1735 SQUARE FEET
THIS SUITE HAS 2 DECKS



SCHEDULE A

This forms part of development

Permit # DP12-0198 / DUPD-0199

JOB NO. 1204
SHEET NO. DP-19

DRAWING TITLE:
PRELIMINARY
1/4" SCALE
SUITE PLANS H & J

DATE: 02/20/2008
SCALE: 1/4" = 1'-0"
DRAWN BY: ST

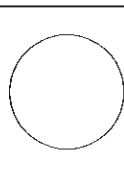
PROJECT:
DOYLE AVENUE
2-HRISES PROJECT
- THE MONACO -
341 CONDOMINIUMS, COMMERCIAL,
BRIDGE OFFICE, 120 HOTEL,
DOYLE AVENUE & ST. PAUL STREET
EDMONTON, BC

points west
ARCHITECTURE
205 - 2800 W. Highway St.
Abbotsford, B.C. V2S 2E2
PHONE: 804-484-6805
FAX: 804-484-6806
www.pointswest.ca

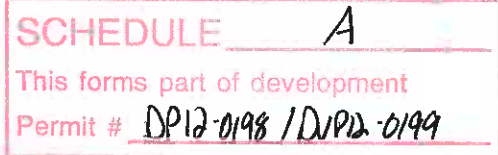
CONSULTANT:
THIS DRAWING IS THE PROPERTY OF POINTS WEST ARCHITECTURE AND IS NOT TO BE REPRODUCED OR USED IN ANY MANNER WITHOUT THE WRITTEN PERMISSION OF POINTS WEST ARCHITECTURE.

REVISIONS:
1. 04/11/2008 - REVISION AND SUBMITTAL TO C.O.P.
2. 05/21/2008 - REVISION AND SUBMITTAL TO C.O.P.
3. 06/10/2008 - REVISION AND SUBMITTAL TO C.O.P.
4. 06/10/2008 - REVISION AND SUBMITTAL TO C.O.P.
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8. 06/10/2008 - REVISION AND SUBMITTAL TO C.O.P.
9. 06/10/2008 - REVISION AND SUBMITTAL TO C.O.P.
10. 06/10/2008 - REVISION AND SUBMITTAL TO C.O.P.

11. 06/10/2008 - REVISION AND SUBMITTAL TO C.O.P.
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16. 06/10/2008 - REVISION AND SUBMITTAL TO C.O.P.
17. 06/10/2008 - REVISION AND SUBMITTAL TO C.O.P.
18. 06/10/2008 - REVISION AND SUBMITTAL TO C.O.P.
19. 06/10/2008 - REVISION AND SUBMITTAL TO C.O.P.
20. 06/10/2008 - REVISION AND SUBMITTAL TO C.O.P.



THIS SUITE HAS 2 DECKS



PAGE NO. : C:\Users\ADMIN\Documents\KELI Onlin 44-7879-2020\TITAN | 4

PROJECT:
2101 E AVENUE
2 HARRIS PROJECT
- THE MONACO -
APARTMENTS
 2101 E AVENUE
 DENVER, CO 80202



points west
 ARCHITECTURE

PHONE: 303-854-8300
FAX: 303-854-8300
EMAIL: info@pointswestarch.com

205 - 290 W. Railway St.
Albionville, B.C.
V2S 2E2

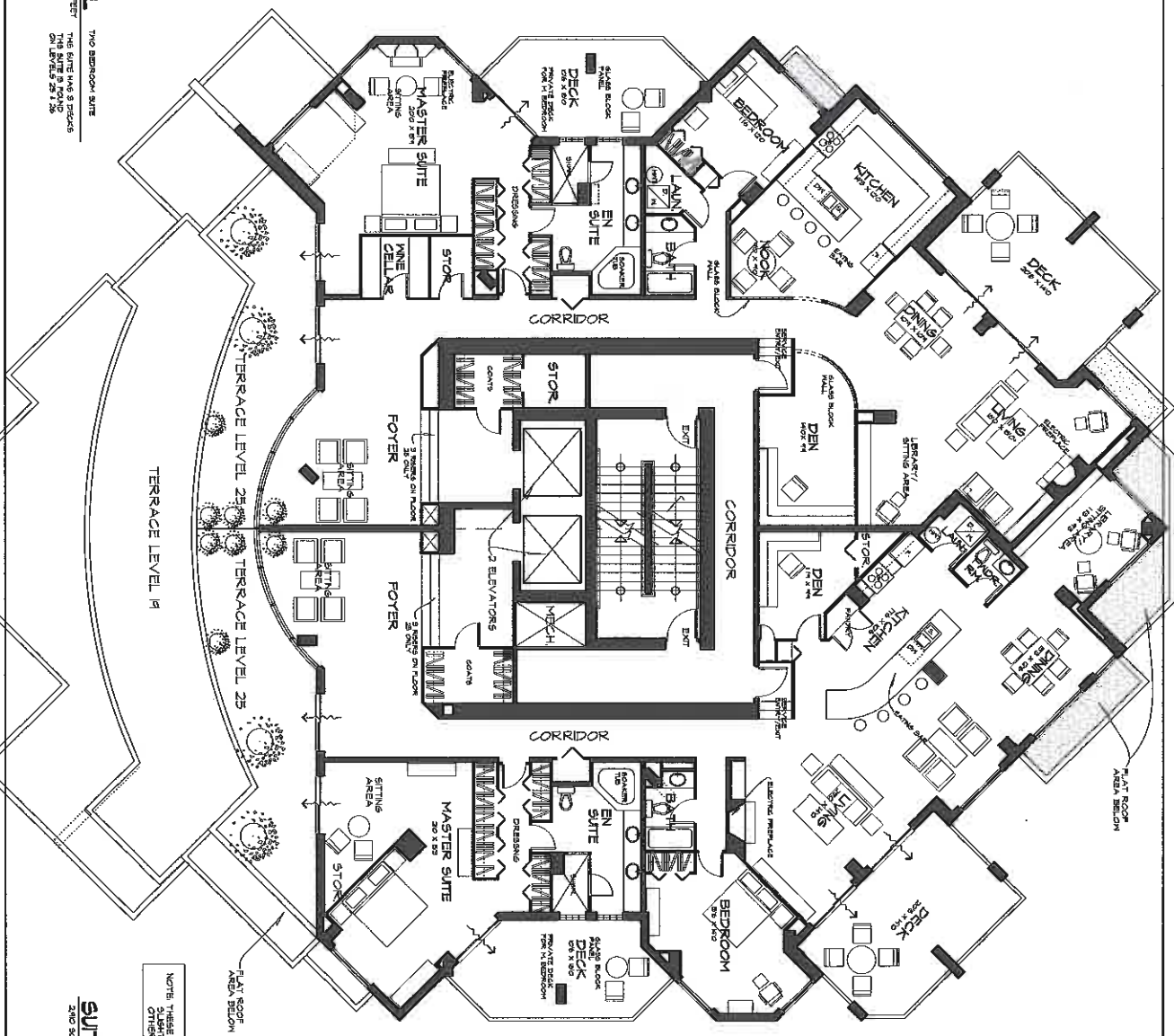
DATE: SEP 2002
DESIGN: 10% - 40%
CONTRACT: 10%

PRELIMINARY
1/4" SCALE
SITE PLAN K

JOB NO.:
1204

SHEET NO.:
DP-20

SUITE L
TWO BEDROOM SUITE
2,499 SQUARE FEET
THIS SUITE HAS 9 BEDS
ON LEVELS 25 & 26



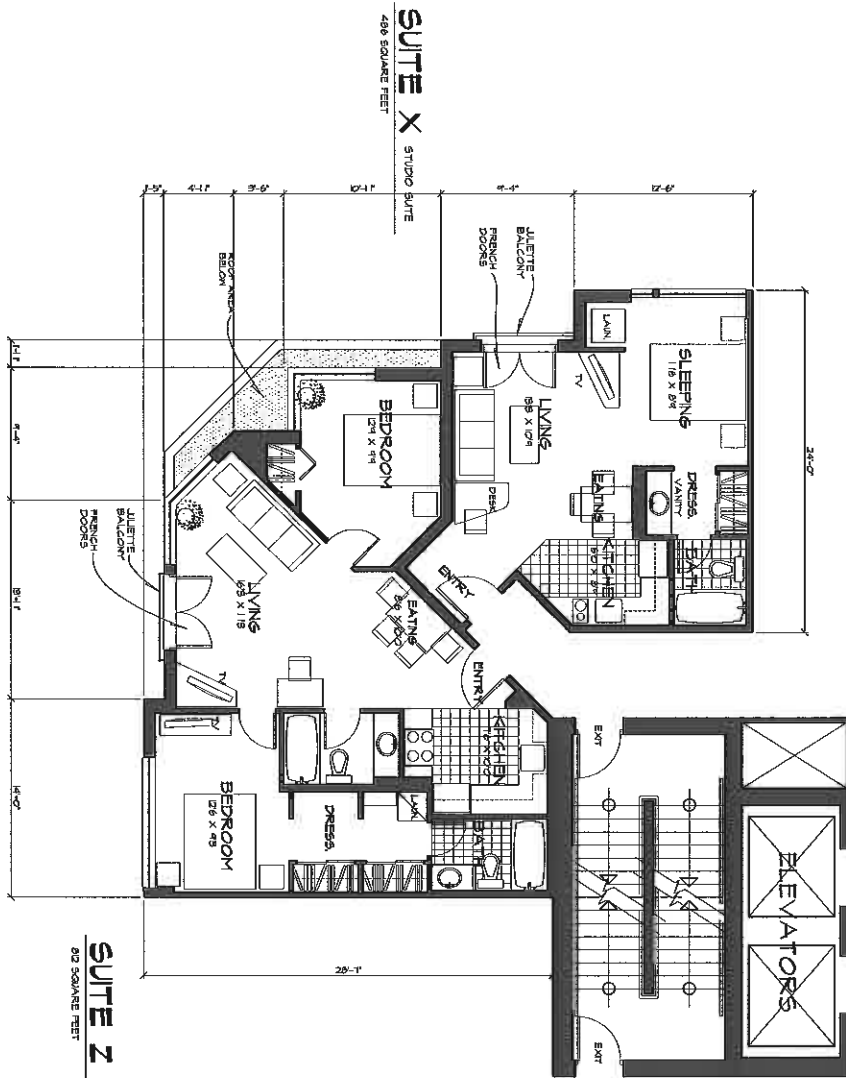
SUITE M
TWO BEDROOM SUITE
2,499 SQUARE FEET
THIS SUITE HAS 9 BEDS
ON LEVELS 25 & 26

NOTE: THESE 2 SUITES ARE ORIGINALLY A
LARGER SUITE. THE SCALE IS SMALLER THAN THE
OTHER SUITES.

SCHEDULE A
This forms part of development
Permit # **DD12-0198 / DVPD-0199**

CONDOMINIUM SUITES

<p>DATE: 07/20/08 SCALE: 3/8" = 1'-0" DRAWN: SI</p>	<p>PROJECT: DOYLE AVENUE 2 HI-RISES PROJECT - THE MONACO - BY CONDOMINIUM, COMMERCIAL BRAND OFFICER, 25 HOTEL DOYLE AVENUE & ST. PAUL STREET RENOVATION, B.C.</p>	<p>points west ARCHITECTURE 203 - 2500 W. Highway 91 Abbotsford, B.C. V2S 2S2</p> <p>PHONE: 804-654-6565 FAX: 804-654-8906 E-mail: pwest@twi.net</p>	<p>CONSULTANT:</p>	<p>REVISIONS:</p> <p>1. 11/4/00 - SCHEDULE A & B, 1/2" = 1'-0" 2. 11/7/00 - SCHEDULE A & B, 1/2" = 1'-0" 3. 11/10/00 - SCHEDULE A & B, 1/2" = 1'-0" 4. 11/13/00 - SCHEDULE A & B, 1/2" = 1'-0" 5. 11/16/00 - SCHEDULE A & B, 1/2" = 1'-0" 6. 11/19/00 - SCHEDULE A & B, 1/2" = 1'-0" 7. 11/22/00 - SCHEDULE A & B, 1/2" = 1'-0" 8. 11/25/00 - SCHEDULE A & B, 1/2" = 1'-0" 9. 11/28/00 - SCHEDULE A & B, 1/2" = 1'-0" 10. 12/1/00 - SCHEDULE A & B, 1/2" = 1'-0"</p>
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SCHEDULE A
 This forms part of development
 Permit # **DPB-0198 / DUPD-0199**

HOTEL SUITES

JOB NO. **1204**
 SHEET NO. **DP-22**

DRAWING TITLE:
**PRELIMINARY
 1/4" SCALE
 HOTEL SUITE PLANS
 X AND Z**

DATE: **SEP 2008**
 SCALE: **1/4" = 1'-0"**
 SHEET: **21**

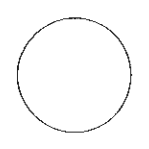
PROJECT:
**DOYLE AVENUE
 2 H-RISES PROJECT
 - THE MONACO -
 811 CONDOMINIUM, CONDOMINIUM,
 10000 DOYLE AVENUE, 2ND FLOOR,
 DOWNTOWN, BIRMINGHAM, AL 35203**

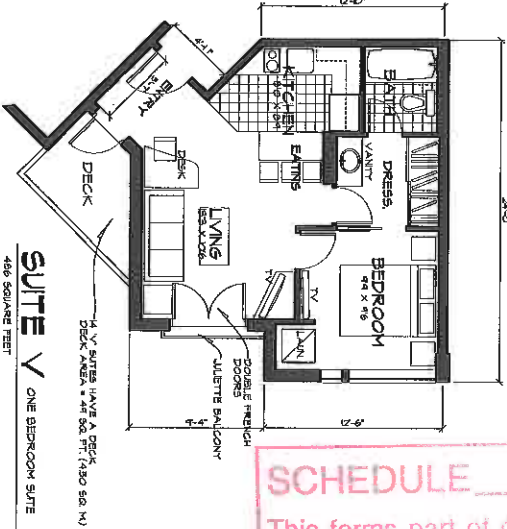
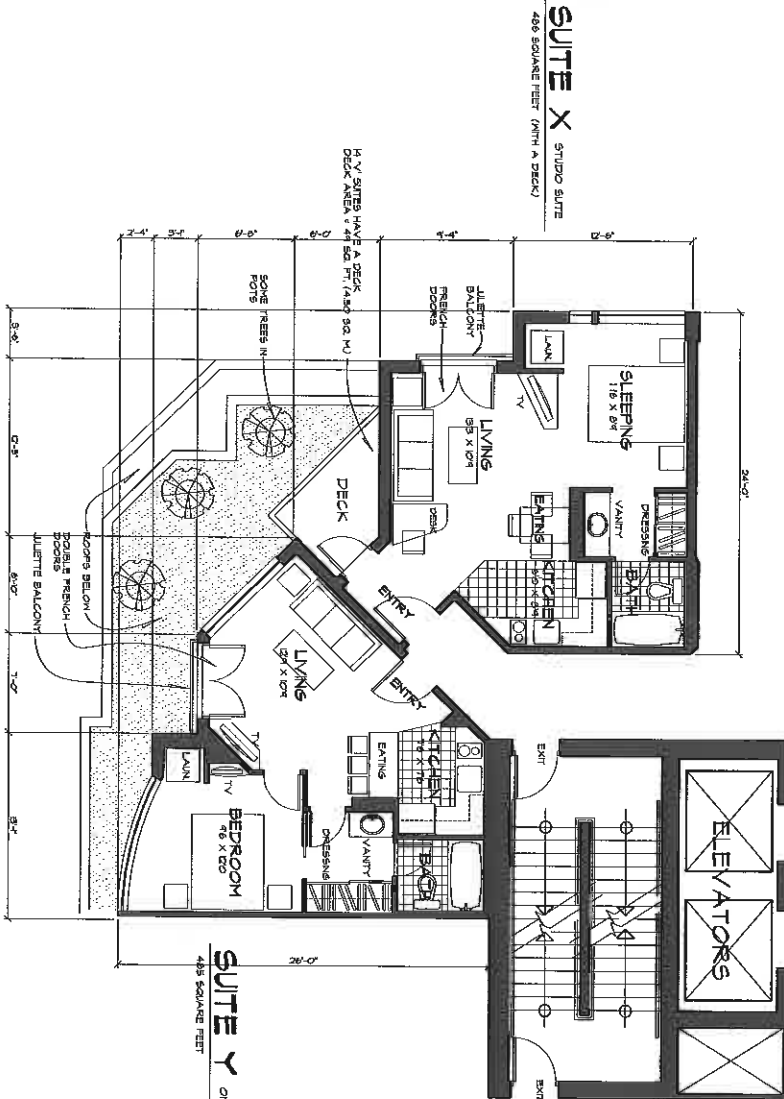
points west
 ARCHITECTURE
 205 - 250 W. Railway Bl.
 Birmingham, AL 35203
 PHONE: 205-664-8866
 FAX: 205-664-8906
 pwc@pointswestarch.com

CONSULTANT:
 THE ARCHITECTS OF RECORD FOR THIS PROJECT ARE THE ARCHITECTS OF RECORD FOR THE MONACO PROJECT, 811 CONDOMINIUM, CONDOMINIUM, 10000 DOYLE AVENUE, 2ND FLOOR, DOWNTOWN, BIRMINGHAM, AL 35203.

REVISIONS:
 NO. 1 - 09/20/08 - REVISED PER CITY OF BIRMINGHAM PERMITTING DEPARTMENT COMMENTS.
 NO. 2 - 10/01/08 - REVISED PER CITY OF BIRMINGHAM PERMITTING DEPARTMENT COMMENTS.
 NO. 3 - 10/01/08 - REVISED PER CITY OF BIRMINGHAM PERMITTING DEPARTMENT COMMENTS.

NO. 4 - 10/01/08 - REVISED PER CITY OF BIRMINGHAM PERMITTING DEPARTMENT COMMENTS.
 NO. 5 - 10/01/08 - REVISED PER CITY OF BIRMINGHAM PERMITTING DEPARTMENT COMMENTS.
 NO. 6 - 10/01/08 - REVISED PER CITY OF BIRMINGHAM PERMITTING DEPARTMENT COMMENTS.





SCHEDULE A
This forms part of development
Permit # DP12-0193 / DP12-0199

HOTEL SUITES

JOB NO. 1204
SHEET NO. DP-23

PRELIMINARY
HOTEL SUITE PLANS
V AND Y (AND SUITE
X WITH A DECK)

DATE: 08/20/2008
SCALE: 1/4" = 1'-0"

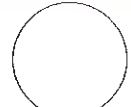
PROJECT: DOYLE AVENUE
2 FLRIS PROJECT
THE MONACO
1100 DOYLE AVENUE
BRIDGE OFFICE, 3RD FLOOR
RENOVA, VA 22060

points west
ARCHITECTURE
200 - 2100 W. Railway St.
Arlington, VA 22202
PHONE: 804-694-6555
FAX: 804-694-6508
www.pointswestarch.com

CONSULTANT:

NOTES: 1. SEE SCHEDULE A FOR DETAILS.
2. SEE SCHEDULE B FOR DETAILS.
3. SEE SCHEDULE C FOR DETAILS.
4. SEE SCHEDULE D FOR DETAILS.
5. SEE SCHEDULE E FOR DETAILS.
6. SEE SCHEDULE F FOR DETAILS.
7. SEE SCHEDULE G FOR DETAILS.
8. SEE SCHEDULE H FOR DETAILS.
9. SEE SCHEDULE I FOR DETAILS.
10. SEE SCHEDULE J FOR DETAILS.

REVISIONS:





SCHEDULE D
This forms part of development
Permit # DPR-0198 / DUPD-0199



SCHEDULE B

This forms part of development

Permit # DDA-0198/DAPIA-0199 134



Colour No. 1
'Clay Beige' by Benjamin Moore
Colour - OC-11



Colour No. 2
'Sag Harbour Gray' by Benjamin Moore
Colour - HC-95



Colour No. 3
'Cromwell Gray' by Benjamin Moore
Colour - HC-103



Colour No. 4
Deck Railings & Flashing
'Kendall Charcoal' by Benjamin Moore
Colour - HC-166



Colour No. 5
Metal Roof by VicWest
Colour - Stone Grey



Colour No. 6
Aluminum Window Frames
Colour - Anodized Dark Bronze



First Floor Glass Windows
Colour - Clear Glass
(Not Exactly as Shown)



Glass Windows
Colour - Bronze Tint
(Not Exactly as Shown)

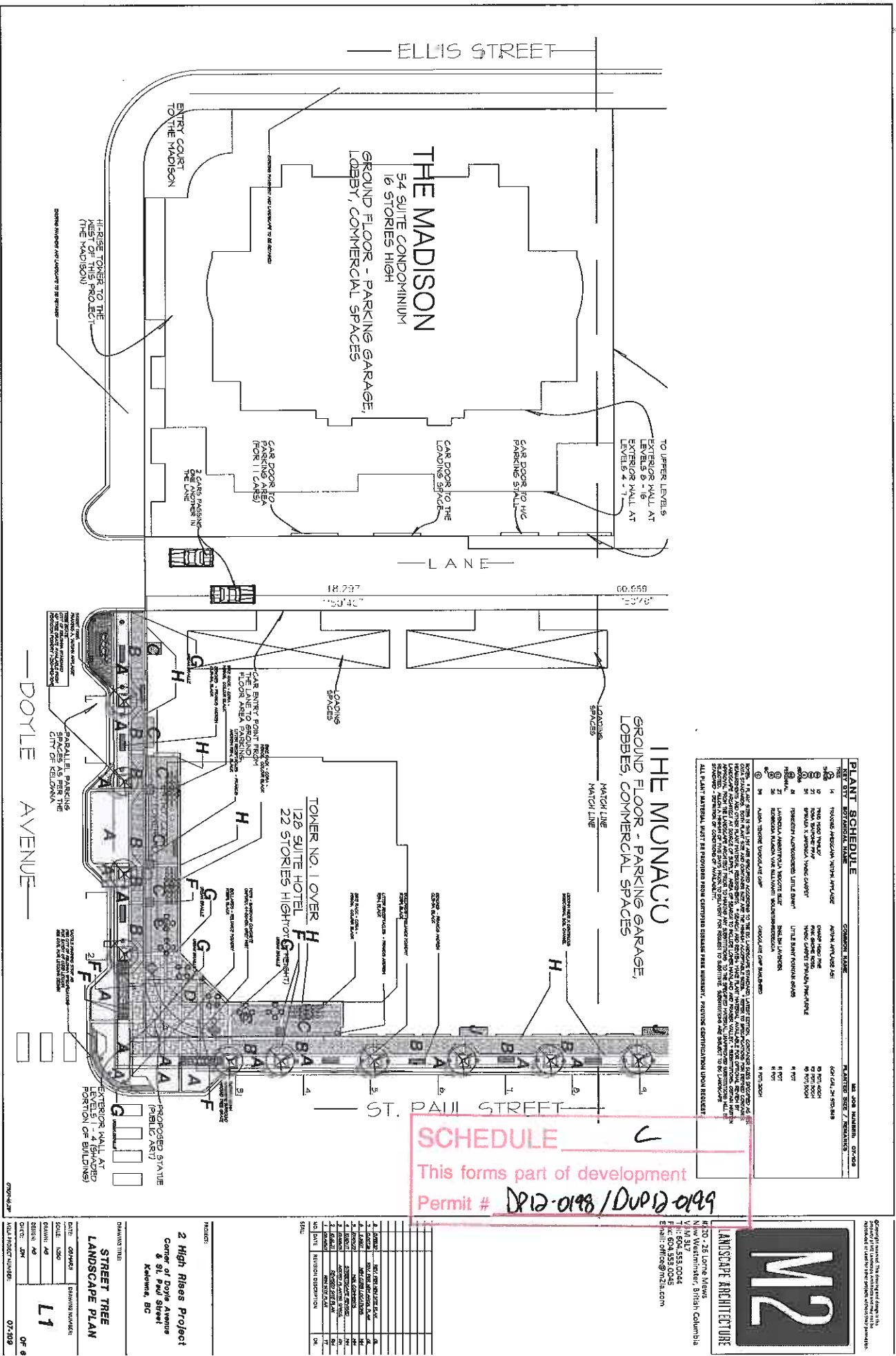
The Monaco

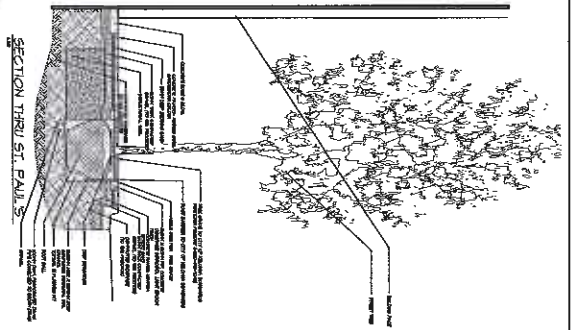
Exterior Materials Colour Selection

SCHEDULE 13

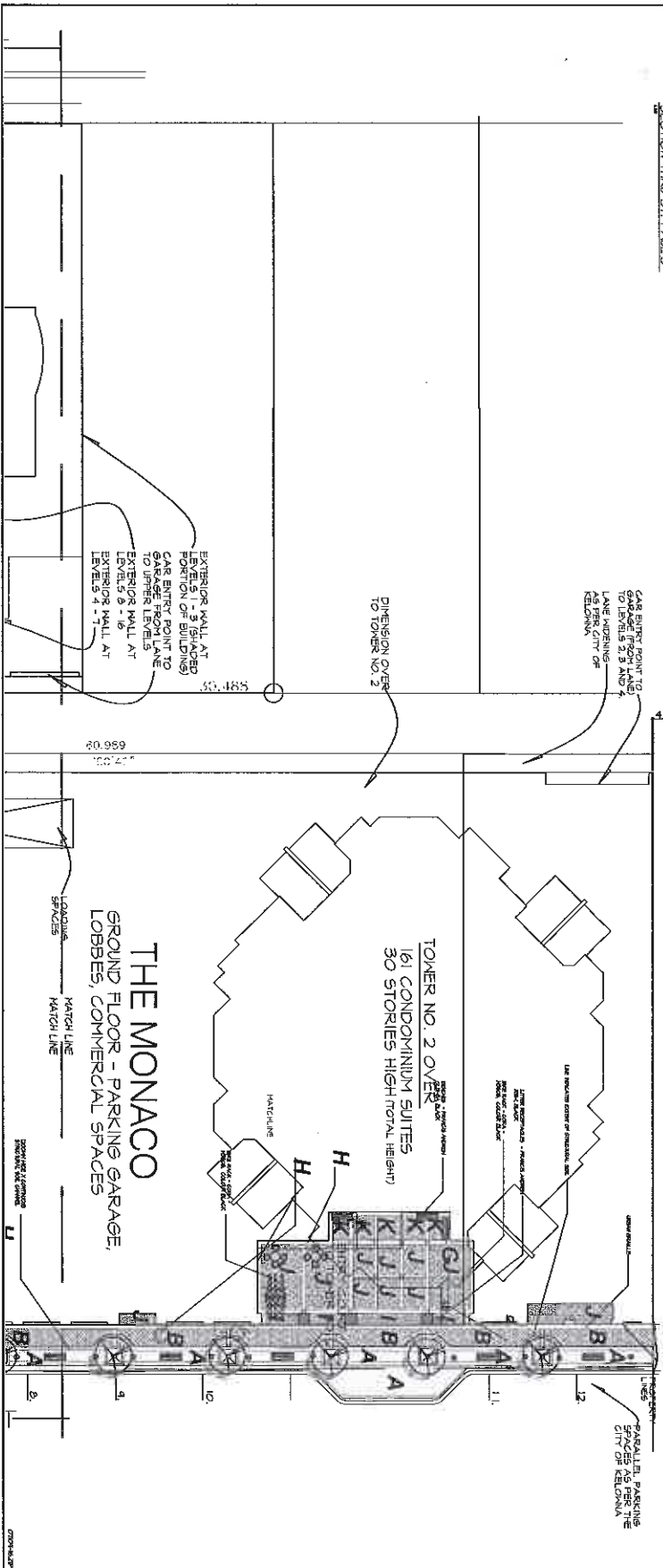
This forms part of development

Permit # 2012-0018 / 13/14/15/16/17/18/19/20/21/22/23/24/25/26/27/28/29/30/31/32/33/34/35/36/37/38/39/40/41/42/43/44/45/46/47/48/49/50/51/52/53/54/55/56/57/58/59/60/61/62/63/64/65/66/67/68/69/70/71/72/73/74/75/76/77/78/79/80/81/82/83/84/85/86/87/88/89/90/91/92/93/94/95/96/97/98/99/100/101/102/103/104/105/106/107/108/109/110/111/112/113/114/115/116/117/118/119/120/121/122/123/124/125/126/127/128/129/130/131/132/133/134/135/136/137/138/139/140/141/142/143/144/145/146/147/148/149/150/151/152/153/154/155/156/157/158/159/160/161/162/163/164/165/166/167/168/169/170/171/172/173/174/175/176/177/178/179/180/181/182/183/184/185/186/187/188/189/190/191/192/193/194/195/196/197/198/199/200/201/202/203/204/205/206/207/208/209/210/211/212/213/214/215/216/217/218/219/220/221/222/223/224/225/226/227/228/229/230/231/232/233/234/235/236/237/238/239/240/241/242/243/244/245/246/247/248/249/250/251/252/253/254/255/256/257/258/259/260/261/262/263/264/265/266/267/268/269/270/271/272/273/274/275/276/277/278/279/280/281/282/283/284/285/286/287/288/289/290/291/292/293/294/295/296/297/298/299/300/301/302/303/304/305/306/307/308/309/310/311/312/313/314/315/316/317/318/319/320/321/322/323/324/325/326/327/328/329/330/331/332/333/334/335/336/337/338/339/340/341/342/343/344/345/346/347/348/349/350/351/352/353/354/355/356/357/358/359/360/361/362/363/364/365/366/367/368/369/370/371/372/373/374/375/376/377/378/379/380/381/382/383/384/385/386/387/388/389/390/391/392/393/394/395/396/397/398/399/400/401/402/403/404/405/406/407/408/409/410/411/412/413/414/415/416/417/418/419/420/421/422/423/424/425/426/427/428/429/430/431/432/433/434/435/436/437/438/439/440/441/442/443/444/445/446/447/448/449/450/451/452/453/454/455/456/457/458/459/460/461/462/463/464/465/466/467/468/469/470/471/472/473/474/475/476/477/478/479/480/481/482/483/484/485/486/487/488/489/490/491/492/493/494/495/496/497/498/499/500/501/502/503/504/505/506/507/508/509/510/511/512/513/514/515/516/517/518/519/520/521/522/523/524/525/526/527/528/529/530/531/532/533/534/535/536/537/538/539/540/541/542/543/544/545/546/547/548/549/550/551/552/553/554/555/556/557/558/559/560/561/562/563/564/565/566/567/568/569/570/571/572/573/574/575/576/577/578/579/580/581/582/583/584/585/586/587/588/589/590/591/592/593/594/595/596/597/598/599/600/601/602/603/604/605/606/607/608/609/610/611/612/613/614/615/616/617/618/619/620/621/622/623/624/625/626/627/628/629/630/631/632/633/634/635/636/637/638/639/640/641/642/643/644/645/646/647/648/649/650/651/652/653/654/655/656/657/658/659/660/661/662/663/664/665/666/667/668/669/670/671/672/673/674/675/676/677/678/679/680/681/682/683/684/685/686/687/688/689/690/691/692/693/694/695/696/697/698/699/700/701/702/703/704/705/706/707/708/709/710/711/712/713/714/715/716/717/718/719/720/721/722/723/724/725/726/727/728/729/730/731/732/733/734/735/736/737/738/739/740/741/742/743/744/745/746/747/748/749/750/751/752/753/754/755/756/757/758/759/760/761/762/763/764/765/766/767/768/769/770/771/772/773/774/775/776/777/778/779/780/781/782/783/784/785/786/787/788/789/790/791/792/793/794/795/796/797/798/799/800/801/802/803/804/805/806/807/808/809/810/811/812/813/814/815/816/817/818/819/820/821/822/823/824/825/826/827/828/829/830/831/832/833/834/835/836/837/838/839/840/841/842/843/844/845/846/847/848/849/850/851/852/853/854/855/856/857/858/859/860/861/862/863/864/865/866/867/868/869/870/871/872/873/874/875/876/877/878/879/880/881/882/883/884/885/886/887/888/889/890/891/892/893/894/895/896/897/898/899/900/901/902/903/904/905/906/907/908/909/910/911/912/913/914/915/916/917/918/919/920/921/922/923/924/925/926/927/928/929/930/931/932/933/934/935/936/937/938/939/940/941/942/943/944/945/946/947/948/949/950/951/952/953/954/955/956/957/958/959/960/961/962/963/964/965/966/967/968/969/970/971/972/973/974/975/976/977/978/979/980/981/982/983/984/985/986/987/988/989/990/991/992/993/994/995/996/997/998/999/1000/1001/1002/1003/1004/1005/1006/1007/1008/1009/1010/1011/1012/1013/1014/1015/1016/1017/1018/1019/1020/1021/1022/1023/1024/1025/1026/1027/1028/1029/1030/1031/1032/1033/1034/1035/1036/1037/1038/1039/1040/1041/1042/1043/1044/1045/1046/1047/1048/1049/1050/1051/1052/1053/1054/1055/1056/1057/1058/1059/1060/1061/1062/1063/1064/1065/1066/1067/1068/1069/1070/1071/1072/1073/1074/1075/1076/1077/1078/1079/1080/1081/1082/1083/1084/1085/1086/1087/1088/1089/1090/1091/1092/1093/1094/1095/1096/1097/1098/1099/1100/1101/1102/1103/1104/1105/1106/1107/1108/1109/1110/1111/1112/1113/1114/1115/1116/1117/1118/1119/1120/1121/1122/1123/1124/1125/1126/1127/1128/1129/1130/1131/1132/1133/1134/1135/1136/1137/1138/1139/1140/1141/1142/1143/1144/1145/1146/1147/1148/1149/1150/1151/1152/1153/1154/1155/1156/1157/1158/1159/1160/1161/1162/1163/1164/1165/1166/1167/1168/1169/1170/1171/1172/1173/1174/1175/1176/1177/1178/1179/1180/1181/1182/1183/1184/1185/1186/1187/1188/1189/1190/1191/1192/1193/1194/1195/1196/1197/1198/1199/1200/1201/1202/1203/1204/1205/1206/1207/1208/1209/1210/1211/1212/1213/1214/1215/1216/1217/1218/1219/1220/1221/1222/1223/1224/1225/1226/1227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PAVING KEY	
SYMBOL, PATTERN	DESCRIPTION
A	STANDARD - RUNNING & HALF STANDARD
B	STANDARD - RUNNING SIDE PATTERN
C	STANDARD - RUNNING SIDE PATTERN
D	STANDARD - RUNNING SIDE PATTERN
E	STANDARD - RUNNING SIDE PATTERN
F	STANDARD - RUNNING SIDE PATTERN
G	STANDARD - RUNNING SIDE PATTERN
H	STANDARD - RUNNING SIDE PATTERN
I	STANDARD - RUNNING SIDE PATTERN
J	STANDARD - RUNNING SIDE PATTERN
K	STANDARD - RUNNING SIDE PATTERN



SCHEDULE C

This forms part of development

Permit # **DR12-0198 / DU12-0199**

2 High Rise Project
Corner of Doyle Avenue
& St. Paul Street
Kelowna, BC

LANDSCAPE ARCHITECTURE

STREET TREE

LANDSCAPE PLAN

SCALE: 1/8" = 1'-0"

DATE: 04/20/2014

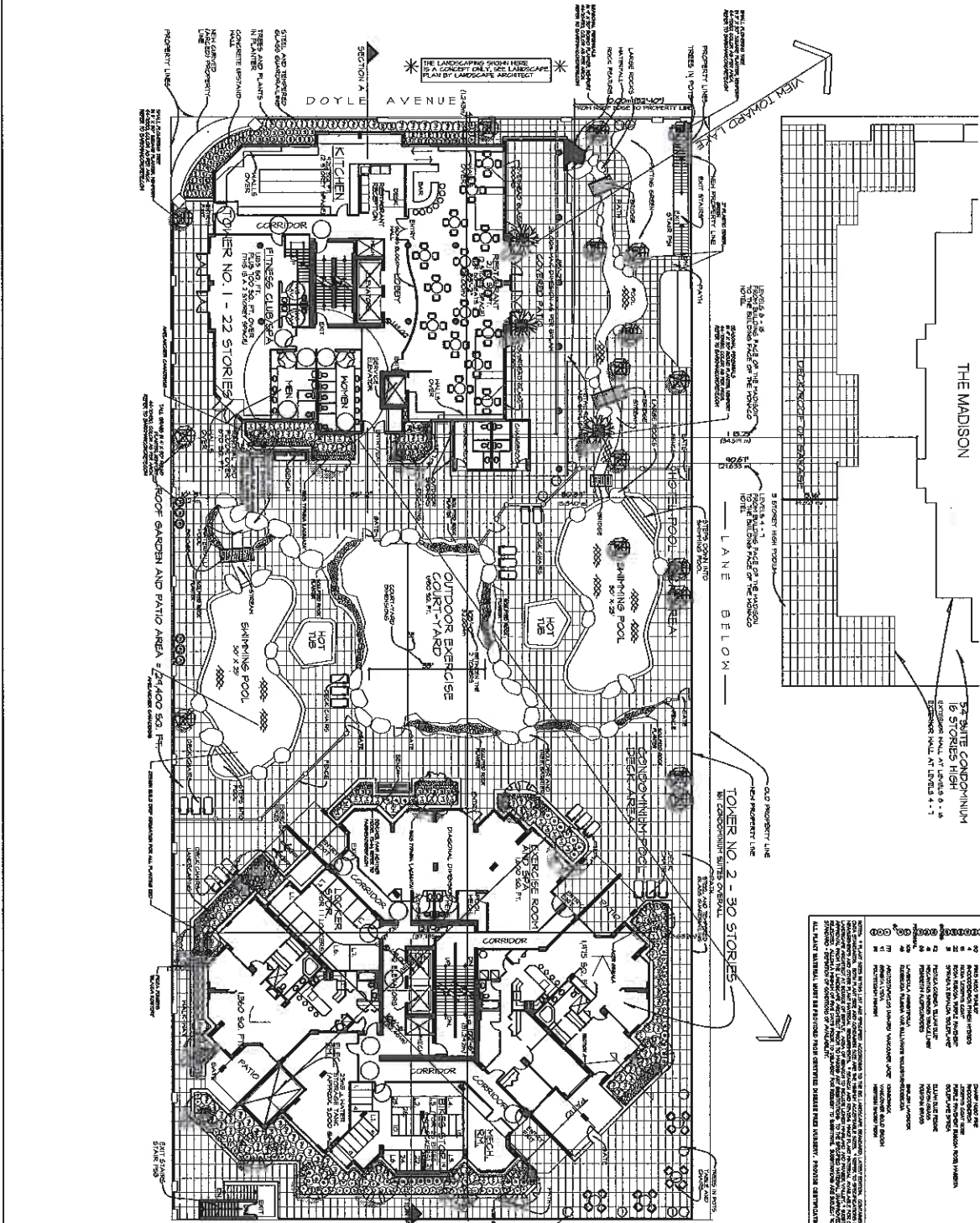
DESIGNER: L2

PROJECT NUMBER: 07-009

M2

LANDSCAPE ARCHITECTURE

2220 - 361 Lane West
New Westminster, British Columbia
V3M 3J7
Tel: 604.553.0044
Fax: 604.553.0045
Email: office@m2lan.com



PLANT SCHEDULE		COMMON NAME	SCIENTIFIC NAME	HEIGHT	SPACING	NOTES
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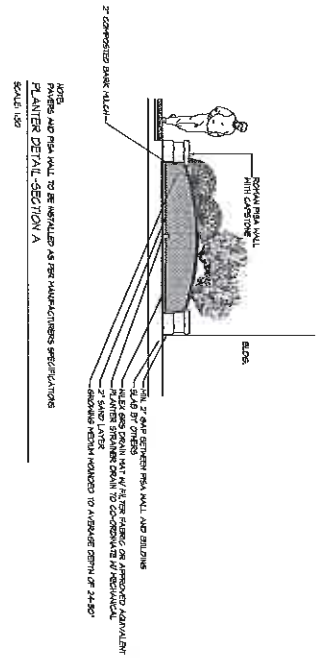
SCHEDULE
 This forms part of development
 Permit # DP12-0198 / DWP12-0199

2 High Rises Project
 Corner of Doyle Avenue
 & St. Paul Street
 Kelowna, BC

LANDSCAPE PLAN

DATE: 01/01/2010
 SCALE: 1/8" = 1'-0"
 DRAWING NO: L3
 OF 6

M2
 LANDSCAPE ARCHITECTURE
 1230-36 LINDA MAVER
 New Westminster, British Columbia
 V3M 3J7
 TEL: 604.553.0014
 FAX: 604.553.0015
 EMAIL: OFFICE@M2A.COM



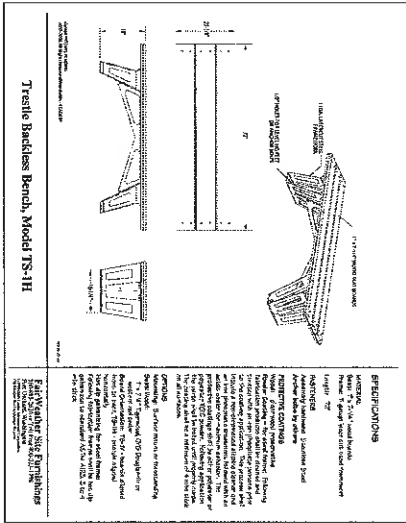
BARKMAN NEWPORT
44-70430 PLANTER



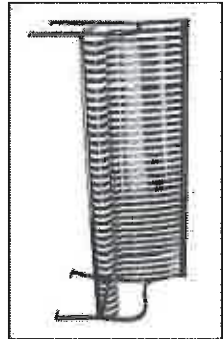
BARKMAN NEWPORT
44-71530 PLANTER



FAIR WEATHER TS-1H BENCH



FRANCIS ANDREWM
R31-1 LITTER RECEPTACLE



FRANCIS ANDREWM CL31-5A BENCH



RELIANCE FOUNDRY
R1534 BOLLARD



BARKMAN OXFORD 44-80436 PLANTER



CORA 193606 BIKE RACK



SCULPTED ROCK PLANTER

SCHEDULE
This forms part of development
Permit # **000**



M2 ARCHITECTURE
M2 ARCHITECTURE
1000 West 1st Ave.
Vancouver, BC V6C 1A5
TEL: 604-681-1544
WWW.M2ARCH.COM

NO.	REVISION	DESCRIPTION	DATE
1		ISSUED FOR PERMIT	07-10-09
2		REVISED FOR PERMIT	07-10-09
3		REVISED FOR PERMIT	07-10-09
4		REVISED FOR PERMIT	07-10-09
5		REVISED FOR PERMIT	07-10-09
6		REVISED FOR PERMIT	07-10-09
7		REVISED FOR PERMIT	07-10-09
8		REVISED FOR PERMIT	07-10-09
9		REVISED FOR PERMIT	07-10-09
10		REVISED FOR PERMIT	07-10-09

2 High Rises Project
Corner of Doyle Avenue
& St. Paul Street
Kelowna, BC

**LANDSCAPE
DETAILS**

DATE:	03/04/09
SCALE:	1/8" = 1'-0"
DRAWING NUMBER:	L4
SHEET:	OF 6
PROJECT NUMBER:	07-10-09

07-10-09

Visual Impact Assessment - H1





VF4 B3



VIA #4



VIA #5
December 3rd, 2012 Proposal



VIA #6

Revised Proposal



The Monaco Amenity

The Monaco is a living building that brings with it a wealth of amenities to greater serve the community. It will be a vital part of the neighborhood and have a pivotal roll in the city. As Kelowna's downtown becomes more defined with new residents, tourists, and professionals the need for services increase. The Monaco comes at an opportune time, with the new Interior Health Association office as well as several tech companies wanting to expand into the new downtown. The Monaco is the ideal product to fit the need of the growing traffic of downtown.

Two restaurants will serve the community, both with a unique atmosphere that few locations can match. Restaurant A located on the second and third floor of the corner of St Paul Street and Doyle Ave will have an open feel with a mezzanine overlooking the Okanagan valley. Restaurant B offers a panoramic view of Kelowna and Lake Okanagan from the 5th floor. From this location patrons can relax on The Monaco's above ground garden space. Viewing the reflecting pool, or practicing their putt on the putting green located beside the restaurant, a perfect way to unwind from a busy day.

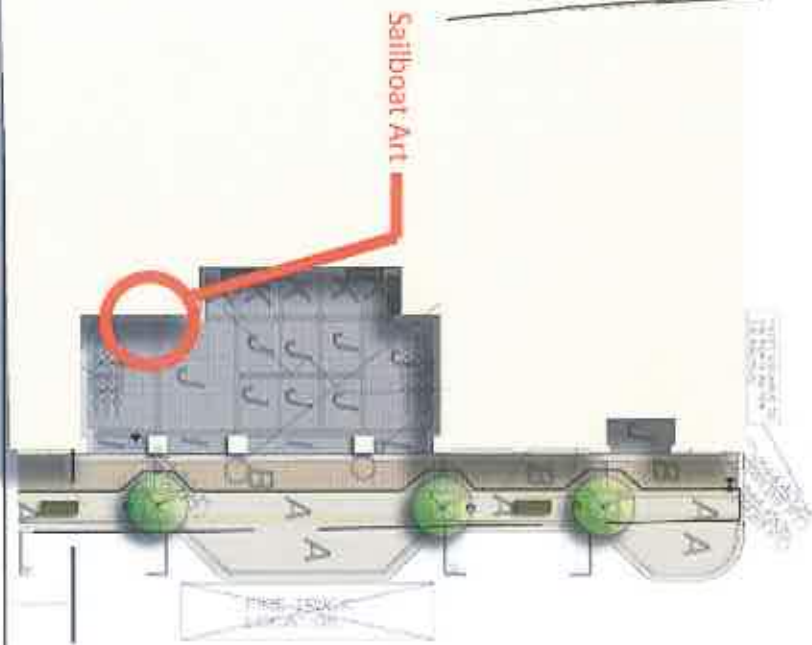
The daycare facility located on the North East side of the buildings ground floor is a much needed amenity for the neighborhood. With 1000 future employees working in the neighborhood and 160 plus residents it will be even more crucial. The daycare will also have a secure, designated play area on the podium deck reinforcing the commitment to parents that the downtown can and should be enjoyed by all members of the family.

The Monaco features over a half acre of green park space on its terrace including two pools surrounded by lush greenery, rock and water features. Meandering streams create a natural, visibly appealing border between the garden amenities. Follow the walking path around the garden features to the putting green located on the south west corner completes the active environment.

Retail space in The Monaco is sought after by many high end shops looking for a highly visible space next to surrounding offices, hotel, and residences. The Madison and Monaco tower along with IHA makes this the ideal project for premium retailers. A high end boutique clothing shop from the Fraser Valley is looking to expand their brand to Kelowna. Within the requests for rights was a piano lounge. Kelowna does not yet have a place where a mature demographic can listen to jazz and ballroom dance.

Public art will link The Monaco with Kelowna's strong ties to the outdoors and active lifestyle. The Monaco will feature a bicyclist on the corner of St Paul Street and Doyle Ave. Further connecting the block from Ellis Street along the sidewalk the bicyclist will mimic the style of The Madison's Dancer IV. The bicyclist will be a great addition to Kelowna's public art and its art corridor. Turning the corner onto St. Paul at the entrance of the north tower a Sailboat will be a welcoming feature to the exterior of the building hinting at Lake Okanagan's many water sports.

Public Art Locations



CITY OF KELOWNA
MEMORANDUM

Date: March 11, 2013
File No.: DP12-0198, DVP12-0199
To: Planning & Development Services Department (AW)
From: Development Engineering Manager
Subject: 526 Doyle Ave & 1368 St. Paul St - Lot A, Plan EPP9526 & Lot A, Plan 87835 *REVISED*
The Monaco

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

The Development Engineering Technologist for this project is Sergio Sartori.

1. Domestic Water and Fire Protection

- (a) The previously existing lots are serviced with small -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 fire hydrant and one new larger metered water service.
- (c) The estimated cost of this construction for bonding purposes is **\$25,000.00**. 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) The existing 250mm diameter AC watermain on St Paul Street fronting this development is within 4.27m of the property line. Soil compaction of the development site will impact the integrating of this watermain. It is likely that this watermain fronting this development will need replacing. The estimated cost of Watermain replacement for bonding purposes is **\$45,000.00**. Should the integrity of the Watermain on Doyle Avenue also be impacted, additional bonding for it's replacement will be required.
- (e) 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. The developer or building contractor must purchase the meter from the City at the time of application for a building permit from the Inspection Services Department, and prepare the meter setter at his cost. Boulevard landscaping, complete with underground irrigation system, must be integrated with the on-site irrigation system.

2. Sanitary Sewer

- (a) The developer's consulting mechanical engineer will determine the development requirements of this proposed development and establish the service needs. The previously existing lots are connected with small diameter sewer services. The applicant, at his cost, will arrange for the installation of one new larger service, as well as the capping of all existing unused services at the mains. Only one service will be permitted for this development. The estimated cost for construction for bonding purposes is **\$10,000.00**
- (b) It will be necessary to replace approximately 32 lineal meters of existing substandard 150mm diameter AC sanitary main on St Paul Street with 250mm diameter PVC main. The remainder of the 150mm diameter AC main up-to the Doyle Street intersection manhole may be abandoned. The estimated cost for construction for bonding purposes is **\$25,000.00**
- (c) A flow analysis check by the developer's consulting civil engineer will be required to determine the impact of the projected flow contributions to the existing sanitary sewer system and establish if there is sufficient capacity to support the proposed development needs. If it is determined that upgrades to the existing sanitary sewer system must be made, additional bonding will be required.

3. Storm Drainage

- (a) It will be necessary for the applicant to extend the piped storm drainage collection system in the rear lane including the installation of a catch-basin and manhole. The cost of these works is included in the road upgrading cost estimates.
- (b) 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), if applicable, and provision of a storm drainage service for the development and /or recommendations for onsite drainage containment and disposal systems. The on-site drainage system may be connected to an existing or proposed drainage system with an overflow service. The estimated cost for providing a overflow service for bonding purposes is **\$ 10,000.00**
- (c) The existing storm main on Doyle Avenue fronting this development is within 5.50m of the property line. It is anticipated that the soil compaction of the development site will impact the integrating of this main. It is likely that the existing man will need to be repaired or replaced. The estimated cost of main replacement for bonding purposes is **\$35,000.00**

4. Road Improvements

- (a) Doyle Avenue fronting this development site is urbanized but the existing curb and sidewalk is in a deteriorated state. The upgrades will require curb, gutter and sidewalk removal and reconstruction as well as the re-location or adjustment of existing utility appurtenances if required to accommodate the upgrading construction.

The developer shall use the same vocabulary of streetscape elements as that used for the Madison frontage (Doyle Avenue). Although the materials and pattern need not be identical, the general character shall be replicated through use of the same surface colors, benches, bollards, and the curb let-down details. Tree spacing shall match the existing spacing along the Doyle Ave. Contact the City Planning Specialist, Pat McCormick @ pmccormick@kelowna.ca for further input on the streetscape design.

Urban Braille shall be incorporated as an extension to the Madison frontage. The applicant is encouraged to use the resources of The Canadian National Institute for the Blind (CNIB). Contact: Walter.Stancec@cnib.ca

The estimated cost of the road improvements and anticipated reconstruction, for bonding purposes is **\$75,000.00**. If it is determined that additional road reconstruction is required, additional bonding will be required. Soil compaction of the development site will impact the integrating of the frontage roads. The decommissioning of existing services and installation of new services will also require road cuts. The extent of pavement restoration will be at the discretion of the City Development Engineer.

- (b) St. Paul Street fronting this development must be upgraded to a full urban standard including a new sidewalk, curb and gutter, storm drainage system including catch basin modifications, pavement widening, and re-location or adjustment of existing utility appurtenances if required to accommodate the upgrading construction.

The developer shall use the same vocabulary of streetscape elements as that used for the Madison frontages (Ellis Street and Doyle Avenue). Although the pattern need not be identical, the general character can be replicated through use of surface materials, benches, bollards and vegetation.

The tree spacing along St. Paul should be approximately the same as Doyle Ave.

The estimated cost of the road improvements and reconstruction, for bonding purposes is **\$145,000.00**

- (c) Lane adjacent to this development site will require widening and reconstruction to a paved commercial standard including the extension of the piped drainage system. The estimated cost of this construction for bonding purposes is **\$25,000.00**

5. Road Dedication and Subdivision Requirements

- (a) Dedicate widening of the rear lane to provide the required widening to provide an ultimate 7.6m wide commercial standard lane.
 - (i) 6.0m radius corner rounding at the Doyle Ave, St. Paul St intersection.
 - (ii) Lot consolidation.
 - (iii) Grant statutory rights-of-way if required for utility services.

6. Electric Power and Telecommunication Services

- (a) The development site is within the Urban Town Center. Electrical and telecommunication services to this site as well as the local distribution wiring must be installed in an underground duct system. The existing building and the proposed new building must be connected by an underground service. 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 applicant's cost.

7. Street Lighting

- (a) Street lights are installed on St Paul Street and Doyle Ave fronting the proposed development. Re-location or adjustments to the existing street lighting system may be required to accommodate the road upgrading construction.

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) The Developer's Civil Consultant will inspect the condition of all existing infrastructure fronting this development and provide a pre-construction video report of the storm and sanitary mains to the City Engineer. After soil compaction is complete, the condition of the infrastructure shall be inspected and a new video report provided by the consultant complete with the engineer's findings and recommendations.
- (c) Of particular concern is the 250mm diameter AC water main that is within 4.70 meters of the property line on St Paul Street. A contingency plan should be in place in the event of a main break.
- (d) A separate application will be required by the developer's consultant prior to commencement of pre-loading. Development Engineering will provide a "Notice to Proceed" once all the requirements are met.

9. Geotechnical Report

- (a) As a requirement of this application and / or prior to issue of a building permit, 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:
- (b) Area ground water characteristics.
- (c) Site suitability for development; i.e. unstable soils, etc.
- (d) 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, analyze soil sulphate content, identify unsuitable underlying soils such as peat, etc. and make recommendations for remediation if necessary.
- (e) 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

- (a) 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. Bonding and Levy Summary

- (a) Bonding

Watermain and servicing	\$ 70,000.00
Sanitary Mains and servicing	\$ 35,000.00
Storm Mains and servicing	\$ 45,000.00
St. Paul Street Rd frontage	\$145,000.00
Doyle Avenue frontage	\$ 75,000.00
Lane upgrading	\$ 25,000.00

Total Bonding **\$395,000.00**

Bonding requirements have been satisfied and are in place with the City as part of the Rezoning (Z07-0056) and previous Development Permit (DP10-0125) applications.

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.

If it is determined that additional reconstruction of works including; roads, utilities, services, etc, must be made as a result of soil compaction, additional bonding will be required.

NOTE: The bonding amounts shown above are comprised of estimated construction costs escalated by 140% to include engineering design and contingency protection and are provided for information purposes only. The owner should engage a consulting civil engineer to provide detailed designs and obtain actual tendered construction costs if he wishes to do so. Bonding for required off-site construction must be provided and may be in the form of cash or an irrevocable letter of credit, in an approved format.

The owner must also enter into a servicing agreement in a form provided by the City.

12. Administration Charge

An administration charge will be assessed for processing of this application, review and approval of engineering designs and construction inspection. The administration charge is calculated as (3% of Total Off-Site Construction Cost plus HST) **\$9,479.96** (\$8,464.25 + \$1,015.71) ***This fee has been paid as part of the Rezoning (Z07-0056) and previous Development Permit (DP10-0125) applications.***

13. Latecomer Protection

Under provisions of Section 990 of the BC Municipal Act, and in conformance with the City of Kelowna Subdivision Development & Servicing Bylaw No. 7900, the owner is eligible to apply for latecomer protection for the following:

- (i) Lane paving and storm drainage system within the lane

14. Development Variance Permit and Site Related Issues

The development variances permit to vary;

- the maximum height requirement does not compromise our servicing requirements.
- the building setback from an interior lot line (north).
- the building setback from a lot line abutting the lane.
- the separation distance between more than one tower on the same property.
- the maximum horizontal dimension above 15m for both towers.
- the maximum floor plate area for both towers.
- the inclined plane above 15m.

does not compromise our municipal servicing requirements.

Steve Muenz, P. Eng.
Development Engineering Manager

Jf/ss

12/03/2013

The Monaco Public Information Meeting

The public information meeting was held May 8th between the time of 5:30pm - 8pm.

The location chosen for the event was The Bike Shop Cafe 101 - 1357 Ellis St Kelowna which is in close proximity to the project site.

I (Tyler Dueck) informed 20 business's by walking door to door, as well as requesting landlords to inform their tenants. A list of notified businesses and copies of email invitations that were sent out has been submitted to the City of Kelowna Land Use Management Department. I also asked the strata manager from The Madison Robert Zivkovic (Associated Property Management,) and resident Dina Kotler to email and post notices to The Madison unit owners.

At the meeting two different 3D renderings were on display. One rendering represents a straight on view and one represented a corner view. I also had a rendering of the previous application to compare. Most of the attendees showed up together so I introduced myself and asked them to sign the attendance form and fill in the comment sheets. Approximately 18 people were in attendance. The attendees were a mix of 8 local business owners and or building owners, and 10 people announced they were residents of The Madison (1300 block of Ellis St.) Unfortunately only two people signed our attendance/comment sheet however both signified their support of the project.

12/03/2013

I informed the attendees of the benefits to the community that the proposed Monaco has to offer. During my presentation one of the Madison resident interjected "but what is in it for me" with several other residents echoing the sentiment. I proceeded to elaborate on the amenities that are directly accessible and, or viewable from The Madison. I mentioned that there will be a half acre of greenspace above the podium visible to The Madison east facing residents. I let them know that quite a few inquiries from upscale retailers and commercial operators have expressed interest in locating in our project. There are several quality restaurants designed within The Monaco. I also mentioned the daycare on the ground floor. A Madison resident responded by saying "look at me what do I need that for", the sentiment resounded with other residents of The Madison. I didn't know how to answer that. I mentioned our public art as an enhancement to the neighborhoods overall esthetic appeal. Realtors from the Remax office on the ground floor of The Madison also mentioned the increase in property value for neighbors including The Madison.

Once The Monaco is built along with the Interior Health Association building there will be a more lively, desirable vibrant downtown. Security was also addressed. The hotel will have a concierge and other staff monitoring the building and neighborhood to ensure safety. I also mentioned that a well lived in building is safer than an empty lot with an empty building.

The public information meeting was held in accordance with the new policy implemented after I sent out notification with exception to newspaper notification and

12/03/2013

time elapsed prior to the meeting. Premier Pacific agreed with City of Kelowna Land Use Management Department that this would be a positive step to further inform the public of the modification of an existing application. Impacted property owners were informed 1 week prior to the meeting. Completion of a public information meeting was important to the timing of the report so Premier Pacific along with the Land Use Management Department decided it was best to go ahead with the meeting as soon as possible to include this step in the report.

Since only 2 comment sheets were filled out, I have done my best to reflect from my notes the questions and concerns from the neighbors that were addressed at the meeting.

Tyler Dueck

VP Project Development

Premier Pacific Group

On March 4, 13 Tyler Dueck VP Project Development assisted by Brittany Dombrosky canvassed the neighborhood block of Doyle Ave, St Paul Ave, Cawston Ave, and Ellis St. The intent was to inform tenants of the new developments of The Monaco and inform of a public information open house dated for March 8, 13.

Front Shop Hair Salon
Vantage West Realty
It's Media
Georgie Girl
Distefano Architecture
Spectrum
The De Pieri Clinic
Images and Shades
Water Garden
Opus
Fashion Foundations
Remax
Posh Galery Bistro
Beyond Audio
O'Rourke's Grocery
Canada Safety Equipment
Property Owner of 1314 St Paul.
Goddard Surveying
The Bike Shop Café

Tyler Dueck
VP Project Development
Premier Pacific Group
778.808.1000

CITY OF KELOWNA

APPROVED ISSUANCE OF A:

☐ Development Permit No.: DP12-0198 & DVP12-0199

EXISTING ZONING DESIGNATION:	C7 - Central Business Commercial
WITHIN DEVELOPMENT PERMIT AREA:	Revitalization Development Permit Area
DEVELOPMENT VARIANCE PERMIT:	Multiple Variances (See Section 1. below)

ISSUED TO:	0754028 BC LTD. (Doug Dueck)
LOCATION OF SUBJECT SITE:	526 Doyle Avenue & 1368 St. Paul Street

	LOT	DISTRICT LOT	TWP	DISTRICT	PLAN
LEGAL DESCRIPTION:	A	139		ODYD	Plan EPP9526
	A	139		ODYD	Plan KAP87835

SCOPE OF APPROVAL

- ☐ This Permit applies to and only to those lands within the Municipality as described above, and any and all buildings, structures and other development thereon.
- ☐ This Permit is issued subject to compliance with all of the Bylaws of the Municipality applicable thereto, except as specifically varied or supplemented by this Permit, noted in the Terms and Conditions below.
- ☐ Applicants for a Heritage Alteration Permit should be aware that the issuance of a Permit limits the applicant to be in strict compliance with regulations of the Zoning Bylaw or Subdivision Control Bylaw unless specific Variances have been authorized by the Permit. No implied Variances from bylaw provisions shall be granted by virtue of drawing notations which are inconsistent with bylaw provisions and which may not have been identified as required Variances by the applicant or City staff.

1. TERMS AND CONDITIONS:

- 1) The dimensions and siting of the building to be constructed on the land be in general accordance with Schedule "A";
- 2) The exterior design and finish of the building to be constructed on the land be in general accordance with Schedule "B";
- 3) Landscaping to be provided on the land be in general accordance with Schedule "C";
- 4) The applicant be required to post with the City a Landscape Performance Security deposit in the form of a "Letter of Credit" in the amount of 125% of the estimated value of the landscaping, as determined by a professional landscaper and for the public art program;
- 5) The registration of a covenant on title limiting the use of CRU #6 as a Major Child Care Centre including

dedicated play space on top of the podium to the satisfaction of the Interior Health Authority as shown on Schedule "A";

6) The execution of the Servicing Agreement and associated bonding for the Development Engineering requirements;

7) Registration of a plan of subdivision at Land Titles Office to consolidate the two subject properties into a single title prior to issuance of the Development Permit;

8) That Cash-in-Lieu of the required parking ($35 \times \$22,500.00 = \$787,500.00$) be provided prior to issuance of the Development Permit.

9) Prior to issuance of a Building Permit the applicant be required to design the building to accommodate Fortis BC's anticipated District Energy system;

10) Prior to issuance of a Building Permit the applicant be required to provide plans for two electric car charging stations and a bike share program including 10 bikes;

AND THAT the applicant be required to complete the above-noted condition No. 4 within 180 days of Council approval of the Development Permit in order for the permit to be issued.

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

Section 14.7.5 (a) Development Regulations - Height:

To vary the height from 44m permitted to 65m (Tower #1) and 88m (Tower #2) proposed;

Section 14.7.5 (e) Development Regulations - Setbacks above 15m:

To vary the building setback for Tower #1 along Doyle Avenue from 3.0m required to 1.24m proposed for portions of a building above 15m;

Section 14.7.5 (g) Development Regulations - 80° Inclined Angle:

To vary the inclined plane above 15m from 80° permitted for Tower #1 to 85.58° for western elevation and 88.65° for the eastern elevation and from 80° for Tower #2 to 87.07° for the western elevation and 83.09° for the eastern elevation.

Section 14.7.5 (h) Development Regulations - Floor Plate Area:

To vary the maximum floor plate area for Tower #2 from 676m² to 822.65m² (Floors 5-13) - 770.63m² (Floors 14-21) - 695.85m² (Floors 22-28);

Section 14.7.5 (i) Development Regulations - Horizontal Dimension Above 15m:

To vary the maximum horizontal dimension above 15m for Tower #2 from 26m permitted to 37.8m x 31.24m proposed;

Section 14.7.5 (l) (i) Development Regulations - Setbacks above 22m:

To vary the building setback from an interior lot line for Tower #2 from 15m required to 4.0m proposed for portions of a building above 22m;

Section 14.7.5 (l) (ii) Development Regulations - Setbacks above 22m:

To vary the building setback from a lot line abutting a lane for Tower #2 from 10m required to 3.6m proposed for portions of a building above 22m;

2. The development shall commence by and in accordance with an approved Building Permit within ONE YEAR of the date of the Municipal Council authorization resolution.

3. DEVELOPMENT:

The land described herein shall be developed strictly in accordance with the terms and conditions and provisions of this Permit and any plans and specifications attached to this Permit which shall form a part hereof.

If the Permittee does not commence the development Permitted by this Permit within one year of the date of this Permit, this Permit shall lapse.

This Permit is not transferrable unless specifically Permitted by the Municipality. The authorization to transfer the Permit shall, if deemed acceptable, be granted by Council resolution.

THIS Permit IS NOT A BUILDING Permit.

3. PERFORMANCE SECURITY:

As a condition of the issuance of this Permit, Council is holding the security set out below to ensure that development is carried out in accordance with the terms and conditions of this Permit. Should any interest be earned upon the security, it shall accrue to the Permittee and be paid to the Permittee if the security is returned. The condition of the posting of the security is that should the Permittee fail to carry out the development hereby authorized, according to the terms and conditions of this Permit within the time provided, the Municipality may use the security to carry out the work by its servants, agents or contractors, and any surplus shall be paid over to the Permittee, or should the Permittee carry out the development Permitted by this Permit within the time set out above, the security shall be returned to the Permittee. There is filed accordingly:

- (a) Cash in the amount of \$ N/A.
- (b) A Certified Cheque in the amount of \$ N/A.
- (c) An Irrevocable Letter of Credit in the amount of \$ TBD.

Before any bond or security required under this Permit is reduced or released, the Developer will provide the City with a statutory declaration certifying that all labour, material, workers' compensation and other taxes and costs have been paid.

5. APPLICANT'S AGREEMENT:

I hereby declare that all the above statements and the information contained in the material submitted in support of this Permit are to the best of my belief, true and correct in all respects. Upon issuance of the Permit for me by the Municipality, then in such case, I covenant and agree to save harmless and effectually indemnify the Municipality against:

- (a) All actions and proceedings, costs, damages, expenses, claims, and demands whatsoever and by whomsoever brought, by reason of the Municipality granting to me the said Permit.
- (b) All costs, expenses, claims that may be incurred by the Municipality if the construction by me of engineering or other types of works as called for by the Permit results in damages to any property owned in whole or in part by the Municipality or which the Municipality by duty or custom is obliged, directly or indirectly in any way or to any degree, to construct, repair, or maintain.

I further covenant and agree that should I be granted a Development Permit or Development Variance Permit, the Municipality may withhold the granting of any occupancy Permit for the occupancy and/or use of any building or part thereof constructed upon the hereinbefore referred to land until all of the engineering works or other works called for by the Permit have been completed to the satisfaction of the Municipal Engineer and Director of Planning & Development Services.

Should there be any change in ownership or legal description of the property, I undertake to notify the Land Use Management Department immediately to avoid any unnecessary delay in processing the application.

I HEREBY UNDERSTAND AND AGREE TO ALL THE TERMS AND CONDITIONS SPECIFIED IN THIS PERMIT.

Signature of Owner/Authorized Agent

Date

Print Name in Bold Letters

Telephone No.

5. APPROVALS:

DEVELOPMENT PERMIT & DEVELOPMENT VARIANCE PERMIT AUTHORIZED BY THE COUNCIL ON THE 23rd DAY OF APRIL, 2013

ISSUED BY THE ACTING GENERAL MANAGER OF COMMUNITY SUSTAINABILITY OF THE CITY OF KELOWNA THE _____ DAY OF _____, 2013.

Doug Gilchrist, A. General Manager, Community Sustainability

CITY OF KELOWNA

BYLAW NO. 10825

**Official Community Plan Amendment No. OCP12 - 0015
0754028 BC Ltd., Inc. No. BC0754028/D.M.R. Law Corporation, Inc.
No. BC0776896/0814932 BC Ltd., Inc. No. BC0814932/
Betker Holdings Inc., No. BC0936374
526 Doyle Avenue and 1368 St. Paul Street**

A bylaw to amend the "Kelowna 2030 - Official Community Plan Bylaw No. 10500".

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

1. **THAT Chapter 5 - Development Process, Objective 5.5 Ensure appropriate and context sensitive built form, Policy .1 Building Height**, be amended by adding the following table after the words "measured from the closest building face parallel to the lot line fronting a street. (See Diagram 5.1)"

Policy .1 Building Separation Does Not Apply to the following:	
Civic Address	Legal Address
526 Doyle Avenue	Lot A, District Lot 139, ODYD, Plan EPP9526
1368 St. Paul Street	Lot A, District Lot 139, ODYD, Plan KAP87835

2. **AND THAT Chapter 5 - Development Process, Objective 5.5 Ensure appropriate and context sensitive built form, Policy .1 Building Height, CITY CENTRES** be amended by adding the following table to the end of the last paragraph:

Policy .1 Building Heights Does Not Apply to the following:	
Civic Address	Legal Address
526 Doyle Avenue	Lot A, District Lot 139, ODYD, Plan EPP9526
1368 St. Paul Street	Lot A, District Lot 139, ODYD, Plan KAP87835

3. This bylaw shall come into full force and effect and is binding on all persons as and from the date of adoption.

Read a first time by the Municipal Council this

Considered at a Public Hearing on the

Read a second and third time and adopted by the Municipal Council this

Mayor

City Clerk

REPORT TO COUNCIL



Date: March 13, 2013

RIM No. 1250-30

To: City Manager

From: Land Use Management, Community Sustainability (GS)

Application: OCP13-0002
Z13-0003
TA13-0004

Owner: Pier Mac Petroleum
Installation Ltd., Inc. No.
BC0088127

Address: 1760 Quail Ridge Blvd.
2025 Quail Ridge Blvd.
2137 Quail Ridge Blvd.

Applicant: Protech Consultants Ltd.

Subject: OCP Amendment, Rezoning and Text Amendment Applications

Existing OCP Designation: Resource Protection Area (REP), Commercial (COMM), Industrial (IND) and Parks & Open Space (PARK)

Proposed OCP Designation: Commercial (COMM), Industrial (IND) and Parks & Open Space (PARK)

Existing Zone(s): A1- Agriculture 1, CD15 - Airport Business Park, I5 - Extraction, and P3 - Parks & Open Space

Proposed Zone(s): CD15 - Airport Business Park and P3 - Parks and Open Space

1.0 Recommendation

THAT Official Community Plan Bylaw Amendment No. OCP13-0002 to amend Map 4.1 of the Kelowna 2030 - Official Community Plan Bylaw No. 10500, by changing the Future Land Use designation of The West ½ of Section 14 Township 23 ODYD Except Plans H16596, KAP47192, KAP51877, KAP53641, KAP53790, KAP57365, KAP73608 and KAP82802 located at 1760 Quail Ridge Blvd; Lot A District Lot 32 and Section 14 Township 23 ODYD Plan KAP52924 located at 2137 Quail Ridge Blvd; and Lot B District Lot 32 and Section 14 Township 23 ODYD Plan KAP52924 located at 2025 Quail Ridge Blvd, Kelowna, BC from the Resource Protection Area (REP), Commercial (COMM), Industrial (IND) and Parks & Open Space (PARK) designation, to the Commercial (COMM), Industrial (IND) and Parks & Open Space (PARK) designation, as shown on Map "A" attached to the Report of the Land Use Management Department dated March 13, 2013, be considered by Council;

AND THAT Official Community Plan Bylaw Amendment No. OCP13-0002 to amend Map 5.8 of the Kelowna 2030 - Official Community Plan Bylaw No. 10500, by adding the 'Comprehensive Development Permit Area' designation to The West ½ of Section 14 Township 23 ODYD Except Plans H16596, KAP47192, KAP51877, KAP53641, KAP53790, KAP57365, KAP73608 and KAP82802 located at 1760 Quail Ridge Blvd; Lot A District Lot 32 and Section 14 Township 23 ODYD Plan

KAP52924 located at 2137 Quail Ridge Blvd; and Lot B District Lot 32 and Section 14 Township 23 ODYD Plan KAP52924 located at 2025 Quail Ridge Blvd, Kelowna, B.C., as shown on Map “C” attached to the Report of Land Use Management Department dated March 13, 2013, be considered by Council;

AND THAT Official Community Plan Bylaw No. OCP13-0002 to amend Table 4.2 - Potential ASP Development Components of the Kelowna 2030 - Official Community Plan Bylaw No. 10500 by removing reference to “1. Pier Mac” as shown on Schedule “A” attached to the Report of the Land Use Management Department dated March 13, 2013, be considered by Council;

AND THAT Rezoning Application No. Z13-0003 to amend the City of Kelowna Zoning Bylaw No. 8000 by changing the zoning classification of The West ½ of Section 14 Township 23 ODYD Except Plans H16596, KAP47192, KAP51877, KAP53641, KAP53790, KAP57365, KAP73608 and KAP82802 located at 1760 Quail Ridge Blvd; Lot A District Lot 32 and Section 14 Township 23 ODYD Plan KAP52924 located at 2137 Quail Ridge Blvd; and Lot B District Lot 32 and Section 14 Township 23 ODYD Plan KAP52924 located at 2025 Quail Ridge Blvd, Kelowna, BC from the A1- Agriculture 1, CD15 - Airport Business Park, I5 - Extraction, and P3 - Parks & Open Space zone to the CD15 - Airport Business Park and P3 - Parks and Open Space zone, as shown on Map “B” attached to the Report of the Land Use Management Department dated March 13, 2013, be considered by Council;

AND THAT Zoning Bylaw Text Amendment No. TA13-0004 to amend City of Kelowna Zoning Bylaw No. 8000 by amending the CD15 - Airport Business Park zone, as outlined in Schedule “B” of the Report of the Land Use Management Department dated March 13, 2013, be considered by Council;

AND THAT the City of Kelowna Zoning Bylaw be amended by removing and replacing the CD15 - Airport Business Park zone “Map 1” as outlined in Schedule “C” of the Report of the Land Use Management Department dated March 13, 2013 be considered by Council;

AND THAT the Official Community Plan Bylaw Amendment Bylaw, the Zone Amending Bylaw and the Text Amendment Bylaw be forwarded to a Public Hearing for further consideration;

AND THAT final adoption of the Zone Amending Bylaw be considered subsequent to the requirements of the Development Engineering Branch, Environment & Land Use Branch, Ministry of Transportation and the Glenmore Ellison Irrigation District being met.

2.0 Purpose

To amend the Official Community Plan future land use designations (Map 4.1) and the existing line work from the “Resource Protection Area”, and “Industrial” designations to a largely industrial and commercial designation, with the remainder designated for Parks & Open Space. The OCP amendment is proposed in support of a rezoning to the CD15 - Airport Business Park zone. Further, to amend Official Community Plan Map 5.8 - Urban Design Development Permit Area Map by adding the CD15 - Airport Business Park zone as a ‘General Commercial & Industrial DP Area’ and to amend Table 4.2 by removing reference to a Pier Mac Area Structure Plan.

Additionally, it is proposed that the subject property be rezoned from the A1- Agriculture 1, CD15 - Airport Business Park, I5 - Extraction, and P3 - Parks & Open Space zones (current) to the CD15 - Airport Business Park and P3 - Parks and Open Space zones (proposed). The proposed CD15 rezoning is in support of a proposed 51 lot subdivision containing one commercially zoned

property and 50 industrially zoned properties.

The applicants are concurrently proposing to amend the CD15 zone to include ‘Breweries and Distilleries, Major’ as a permitted “Principal Use” within the areas designated as “Industrial” in the CD15 - Airport Business Park zone.

Finally, to amend the CD15 - Airport Business Park zone by replacing existing Map 1 (Airport Business Park Phase 1 & 2 Zoning Plan) with a revised “Map 1”.

3.0 Land Use Management

The Airport Business Park zone (CD15) was created to *“provide a zone for the development of a comprehensively planned business park for high technology and general industrial and business uses to complement the City’s northern gateway development node”* and to *“provide for a neighbourhood commercial area as part of the airport business park development”*¹. The development has proceeded as anticipated when the CD zone was drafted and adopted into the Zoning Bylaw in 2003. Construction of The Four Points Sheraton near the intersection of Airport Way and Highway 97 N is the most recent high profile addition that was anticipated for this zone.

The subject property is in a gateway location at one of Kelowna’s premiere entry points and in close proximity to Kelowna International Airport and University of British Columbia, Okanagan campus. The development site provides for a high profile location for businesses and offers among the best transportation infrastructure (i.e. road, rail and air) that Kelowna has to offer. The subject properties nicely augment the City’s existing industrial land base with the addition of 50 industrial parcels of various sizes that will satisfy a wide variety of business needs.

While the proposed development area was identified in the Official Community Plan (OCP) as a potential future Area Structure Plan (ASP) location, the creation of an ASP to direct the orderly development was not warranted. Rather, a Draft ASP developed (but never adopted) prior to the initial rezoning and a subsequent set of Development Permit (DP) guidelines provide sufficient guidance. As a result, the current reference in the OCP will be removed as a result of the OCP amendment.

The gateway location and proximity to Highway 97 N and a major residential and tourist hub in the Quail Ridge development warrants additional oversight in terms of the form and character of future development. The proposed amendments will result in each of the properties requiring a DP prior to construction. This requirement is consistent with recommendations made in a supplemental document to the originally proposed Area Structure Plan (Airport Business Park - Development Applications). The DP will help to ensure a higher level of development in terms of the buildings and structures and the landscaping within the zone.

Development of the subject properties will trigger construction of Hollywood Road N through the subject properties and connecting with Quail Ridge Boulevard. The construction of Hollywood Road N between Airport Way and Lougheed Road is anticipated within the 20 year Servicing Plan. Construction of Hollywood Road N through the subject properties should allow for the orderly development of the industrial parcels with limited impact on Quail Ridge residents and visitors.

The dedication of the area west of proposed Hollywood Road N to the City, while not providing recreational value, will allow the City to ensure that the area can be maintained to a high standard. The visually prominent hillside will be restored by the applicant in addition to a commitment to ongoing maintenance for five years to ensure planting success.

¹ City of Kelowna Zoning Bylaw 8000. Schedule ‘B’ - Comprehensive Development Zones (CD15 - Airport Business Park). P. CD15-1.

A portion of the subject properties was, until very recently, within the Agricultural Land Reserve (ALR). Exclusion of a portion of the subject properties was conditional on the provision of \$150,000 for the improvement of agriculture. Staff look forward to working with the Agricultural Land Commission (ALC) to identify the best use of these funds.

Staff are supportive of the proposed addition of the '*Breweries and Distilleries, Major*' use within one of the City's prominent business parks and in a gateway location. While older breweries and distilleries have been associated with noxious odors especially, newer technologies and brewing and distilling practices have resulted in the elimination of most odors. Examples such as the Molson Brewery on Burrard Street in Vancouver suggest that even a large scale brewery or distillery is a reasonable use in this zone.

The location of the Airport Business Park at a key location for receiving raw materials and shipping finished product further supports this use. Highway 97 N is a key link between Kelowna's manufacturers and its business markets and the desire for a large scale brewer or distiller to locate along this major transportation corridor is evident. Further, the proposed text amendment applies only to a CD zone and only those properties noted as industrial in this zone, the properties affected are fairly limited.

For the above-noted reasons, staff are supportive of the proposed amendments. While an OCP amendment is necessary to facilitate this development, the changes are consistent with staff expectations for this area.

4.0 Proposal

4.1 Background

OCP Amendment / Rezoning

The owners of the subject properties have been operating a gravel extraction operation since the 1970s. Several applications over the years have dealt with the ongoing gravel extraction operation as the gravel removal has proceeded towards the north boundary of the properties.

The subject properties were partially within the Provincial Agricultural Land Reserve (ALR) until recently. The land owners applied in 1996 to have ~25 ha excluded from the ALR. The ALC approved the exclusion of the land subject to a number of conditions. Of significance is a condition that the owner provides funds in the amount of \$150,000 for an agricultural project of the Commission's choice in the City of Kelowna. The conditions were satisfied in 2012 and the ~25 ha removed from the ALR. The use of the funds has not yet been identified, but it has been confirmed that they will be made available for a worthy project in the City's boundaries.

As the extraction operations are nearing their end, the land owners are now seeking to develop the former extraction areas for urban land uses.

The CD15 zone was developed with the subject properties in mind and was first applied to properties to the south through a 2003 rezoning. The CD zone contains a variety of uses that are appropriate and unique to these properties given their proximity to the airport and university and in a gateway location along Highway 97 N. The CD zone draws from I1 - Business Industrial and I2 - General Industrial zone uses, in addition to limited uses from the C3 - Community Commercial zone. The CD zone restricts the location and extent of certain uses (i.e. commercial) within the development site by virtue of the embedded location map (i.e. Map '1').

Text Amendment - Breweries and Distilleries, Major

The applicant seeks to amend the CD 15 - Airport Business Park zone to include the *Breweries and Distilleries, Major* use. The '*Breweries and Distilleries, Major*' and '*Breweries and Distilleries, Minor*' use categories were added to Zoning bylaw 8000 in February 2010. That

amendment added the ‘Breweries and Distilleries, Major’ use as a permitted “principal use” to the I2 - General Industrial, I3 - Heavy Industrial, I4 - Central Industrial zones. Meanwhile the C4 - Urban Centre Commercial and the C7 - Central Business Commercial zones were identified as appropriate zones for a more restrictive use, ‘Breweries and Distilleries, Minor’.

Staff felt that these few zones were appropriate for this use, which especially in the case of the ‘Major’, could generate impacts consistent with industrial uses and as a result, less desirable in most commercial zones, and even the cleaner ‘Business Industrial’ zone (i.e. I1).

4.2 Project Description

a) Official Community Plan

The applicant is proposing to expand the commercial/industrial uses that currently exist to the south of Airport Way north to Quail Ridge Blvd. Much of the land to become industrial has a Resource Protection designation, while the proposed Commercial area has an Industrial future land use designation. In addition, a portion (hillside) is proposed to have a Park designation where it is currently designated Industrial and Resource Protection Area (see Map A).

The entire Airport Business Park is also proposed to become a Development Permit Area which is consistent with the recommendations of the area structure planning.

b) OCP Text Amendment

The OCP text amendment is required to remove the Pier Mac site as a potential Area Structure Plan development site. The text amendment reflects general housekeeping to ensure that the OCP remains accurate and up-to-date.

c) Zoning

The subject properties are proposed to be rezoned from the existing A1 - Local Agriculture, I5 - Extraction, and P3 - Parks & Open Space zones to the CD15 - Airport Business Park and P3 - Parks & Open Space zones in order to accommodate the phased development of the proposed commercial/industrial business park (51 lots, comprised of one commercial and 50 industrial lots). The sloped area proposed to be rezoned to the P3 - Parks & Open Space zone will be dedicated to the City through the subdivision.

d) Zoning Bylaw Text Amendments

The Zoning Bylaw text amendment is required to permit ‘Breweries and Distilleries, Major’ as a principal use within the areas designated for industrial in the CD15 - Airport Business Park zone.

The rezoning of the subject properties north of Airport Way requires the replacement of the existing map which displays the extent of the CD 15 zone and the permitted uses within the zone with an updated map showing Phase 3.

e) Development Permit(s)

A Natural Environment DP will be executed at the staff level pending favourable consideration of the proposed land uses by Council and prior to adoption of the zone amending bylaw. The DP will specifically consider the east-facing hillside which will be rezoned and dedicated to the City. The DP will also address the drainage and restoration of this visually sensitive slope along with a maintenance plan to ensure the longer term success of the restoration.

Given that the CD15 zone includes some design guidelines, an overarching Form and Character DP will not be considered by Council prior to adoption of the zone amending bylaw. However, the proposed changes (including the amendment to OCP Map 5.8) will require that the development of the future lots (i.e. construction of buildings) require a DP executed at the staff level.

Project Overview

The applicant proposes the application of the CD15 zone to the portion of the site located between Airport Way to the south and Quail Ridge Boulevard to the north for the third and final phase. Since the first two phases were rezoned in 2003 it has been anticipated that this CD zone would be extended to the remainder of the site as the aggregate extraction was completed.

The applicant has provided a preliminary lot layout plan which proposes 51 lots, with nine lots being proposed as part of a first phase. Industrial parcel sizes vary considerably with smaller lots of approximately 4,000 m² and larger lots in excess of 2 ha (21,000 m²) to appeal to a wide variety of uses and operations. The single commercial parcel of 13,600 m² is located at the corner of Highway 97 N and Airport Way. The location allows for maximum highway exposure.

While it was originally envisioned (Draft ASP) that Phase 3, north of Airport Way would not contain commercial land uses, the development of the earlier phases saw the removal of some of that commercial land base in favour of industrial land. As a result of this redistribution, the proposed zoning seeks commercial use north of Airport Way in an amount generally consistent to what was agreed to in 2003.

This application proposes to rezone the west portion of the site which is located between the western property line and the proposed Hollywood Road extension between Airport Way and Quail Ridge Boulevard to P3 - Parks & Open Space. The proposed Hollywood Road alignment is at the toe of the slope. The result would be a titled parcel with the land west of the proposed Hollywood Road (~9.67 ha) dedicated to the City. Given the relatively steep slope (i.e. 50%) the dedicated parks space will function as a passive park space rather than a usable park.

The proposal also results in the dedication of land at the intersection of Airport Way and Highway 97 N. The dedication of land is consistent with the land dedicated to the south of Airport Way in support of an envisioned future diamond interchange. The diamond interchange is conceptual at this time, but has been discussed as an important piece of road infrastructure for years. Timing of the construction is dependent on the procurement of funding from senior governments.

The applicant notes that a major brewery has entered into a contract with the landowner to purchase and construct a brewery within the new phase of development. This agreement has led to the proposed addition of 'Breweries and Distilleries, Major' as a 'Principal Use' within the CD15 - Airport Business Park zone.

4.3 Site Context

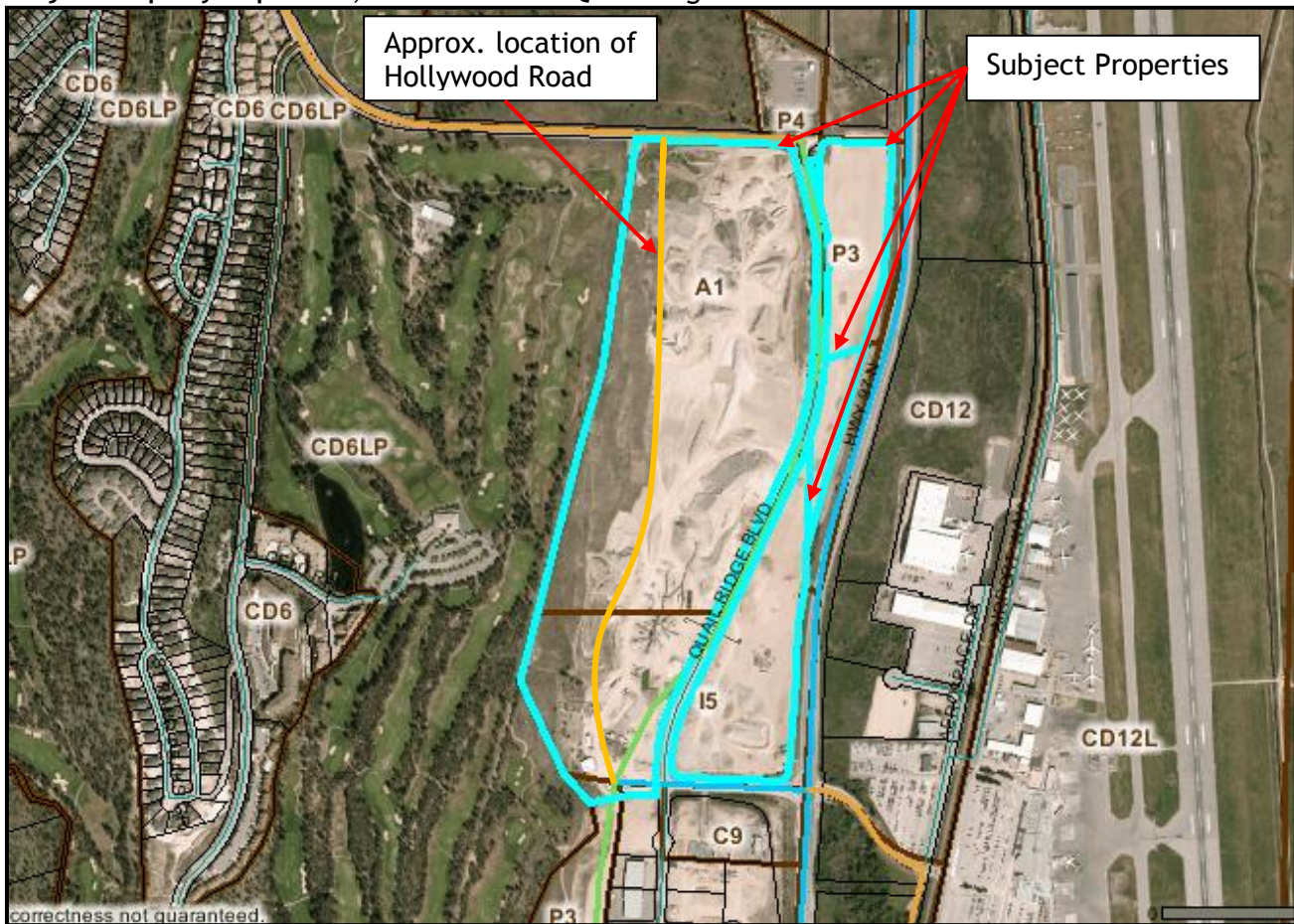
The subject property is located between the east boundary of the Quail Ridge Development and Highway 97 N. The western edge is bordered by the Okanagan Golf Club's "The Bear". The property slopes down west to east from the Quail Ridge development to the Highway. On the northern edge lies a Fortis substation, while Phase I of the Airport Business Park, including the Four Points by Sheraton hotel, currently under construction to the south.

The subject properties have been used for gravel extraction and related uses.

Adjacent land uses are as follows:

Orientation	Zoning	Land Use
North	A1 - Agriculture 1 P4 - Utilities	Rural Fortis Substation
East	Highway CD12 - Airport	Highway 97 N Kelowna International Airport
South	C9 - Tourist Commercial CD15 - Airport Business Park P3 - Parks & Open Space	Hotel Business park Open space
West	CD6 - Golf Resort	Golf course

Subject Property Map: 1760, 2025 and 2137 Quail Ridge Blvd



5.0 Current Development Policies

5.1 Kelowna Official Community Plan (OCP)

Development Process Policies:

Rezoning to Industrial. Consider allowing land not currently designated as industrial to be supported for an Official Community Plan amendment and subsequent rezoning to allow industrial uses provided that such a rezoning would be consistent with other Official Community Plan policies, provided that available municipal infrastructure can support the use, and provided that the industrial use would be compatible with existing and proposed future surrounding uses.

Compatibility issues to consider include, but are not limited to, visual impact, noise, odour, hours of operation, pollution and traffic².

Business Centres. Encourage, in areas designated as “Industrial,” the provision of business centres that incorporate a mix of research, light manufacturing and associated business office uses³.

Location of Heavy Industry. Direct heavy industries to areas that would not negatively affect existing neighbourhoods or businesses and the natural environment⁴.

Use of Gravel Prior to Development. Encourage identified gravel resources to be extracted prior to development of these sites for urban uses to avoid the necessity of seeking such resources in ALR areas (see Map 5.11 - Sand and Gravel Deposits)⁵.

Use of Depleted Areas. Require depleted extraction areas to be rehabilitated in accord with provincial Best Management Practices and used for urban or open space purposes consistent with Official Community Plan goals and policies⁶.

Economic Development Policies:

Sustainable Prosperity. Assign priority to supporting the retention, enhancement and expansion of existing businesses and post secondary institutions and the attraction of new businesses and investment identified as bringing sustainable prosperity to Kelowna⁷.

Highway 97. Recognize the role that Highway 97 plays as a goods and services transportation link between Kelowna and its business markets⁸.

6.0 Technical Comments

6.1 Building & Permitting Department (N/A)

6.2 Development Engineering Department (see attached)

6.3 Bylaw Services (N/A)

6.4 Infrastructure Planning (Parks)

Consistent with the previous land dedication at 3420 Fleet Avenue as part of the previous phase, the City will accept Lot 10 (9.67 ha) as open space dedication with the following conditions:

- Dedication of a titled lot zoned P3 - Parks & Open Space;
- The adequate mitigation of all slope hazards, including drainage, erosion, etc.;
- Environmental Development Permit which satisfies the need for restoration of the lot along with an implementation and monitoring plan; and,
- Five year maintenance agreement to ensure success of the implemented restoration plan.

6.5 Fire Department

Fire department access, fire flows, and hydrants as per the BC Building Code and City of Kelowna Subdivision Bylaw #7900. The Subdivision Bylaw requires a minimum of 225 litres per second flow. Additional comments will be provided at the time of building permit applications.

² City of Kelowna Official Community Plan; Chapter 5 - Development Process Chapter - Industrial Land Use Policies. Page 5.29.

³ City of Kelowna Official Community Plan; Chapter 5 - Development Process Chapter - Industrial Land Use Policies. Page 5.30.

⁴ City of Kelowna Official Community Plan; Chapter 5 - Development Process Chapter - Industrial Land Use Policies. Page 5.30.

⁵ City of Kelowna Official Community Plan; Chapter 5 - Development Process Chapter - Industrial Land Use Policies. Page 5.30.

⁶ City of Kelowna Official Community Plan; Chapter 5 - Development Process Chapter - Industrial Land Use Policies. Page 5.30.

⁷ City of Kelowna Official Community Plan; Chapter 8 - Economic Development Chapter - Sustainable Wealth. Page 8.1

⁸ City of Kelowna Official Community Plan; Chapter 8 - Economic Development Chapter - Physical Infrastructure. Page 8.3.

6.6 Interior Health Authority

Interior Health is in support of this application.

6.7 Irrigation District

The properties are within GEID's boundaries and are currently assessed by GEID with a total of 114.29 acres of "0" Grade (land with no water). Land elevation of the properties ranges from approximately 433 m at the southeast corner to 464 m at the north end of the site. The proposed CD-15 zoning for commercial and industrial development requires a minimum fire flow of 225 in all industrial zones, along with 100 m hydrant spacing.

The majority of this fire flow must be provided from the UBCO Reservoir with possible supplementary flow from the Quail Reservoir. Pier Mac Petroleum, the City of Kelowna, GEID and UBCO contributed to the construction of the UBCO reservoir in 2006. During the past few years, considerable development including build-out at UBCO, connection of the airport lands to GEID water, and valving changes by GEID for the Ellison area have occurred. Modelling and detailed engineering design are required to update the original design model and analyze the demands that development of the subject properties may impose on GEID. GEID has no objection to the rezoning of this property, subject to resolving issues outlined in the above comments.

7.0 Application Chronology

Date Application Received: January 11, 2013

Report prepared by:

Greg Sauer, Environment & Land Use Planner

Reviewed by:

☐

Danielle Noble, Manager, Urban Land Use

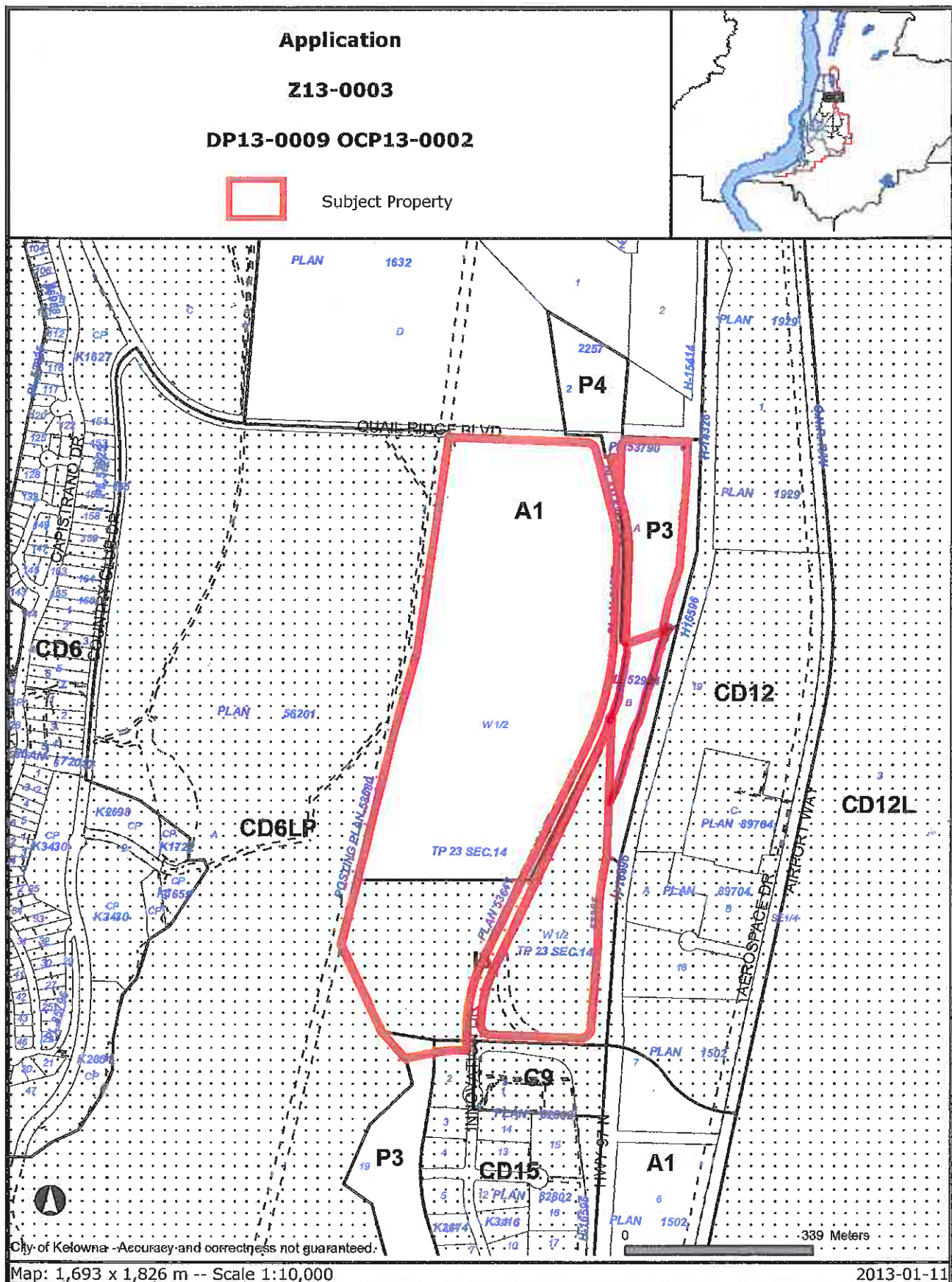
Approved for Inclusion:

☐

Doug Gilchrist, Acting Director, Land Use Management

Attachments:

Subject Property Map
 CD15 - Airport Business Park Zoning Plan - Current Phase
 Map "A" - OCP Amendment
 Map "B" - Zoning Amendment
 Map "C" - Development Permit Area Amendment
 Schedule "A" - Summary of OCP Text Amendments
 Schedule "B" - Map 1 - CD15 Zone
 Schedule "C" - Summary of Zoning Bylaw Text Amendments
 Development Engineering 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.*

Subject Property Notes:

Amend the OCP for a portion of the subject property from Resource Protection (AGR) to Major Park and Open Space (PARK).

Subject Property Notes:

Amend the OCP for portions of the subject property from Resource Protection (AGR) to Industrial (IND).

AGR to IND

AGR to PARK

IND to PARK

IND to COMM

Subject Properties Notes:

Amend the OCP for the subject properties from Resource Protection (AGR) to Industrial (IND).


















Subject Property Notes:

Amend the OCP for a portion of the subject property from Industrial (IND) to Commercial (COMM).

Subject Property Notes:

Amend the OCP for a portion of the subject property from Industrial (IND) to Major Park and Open Space (PARK).

**MAP "A" OCP AMENDMENT
OCP13-0002**

	Commercial		Subject Property		Legal Parcel
	Education / Institutional		AGR to PARK		Easement
	Industrial		AGR to IND		Highway 97
	Major Park and Open Space		IND to COMM		Railway
	Public Service Utilities		IND to PARK		
	Private Recreational				
	Resource Protection				
	Railway				

0 100
Metres

This map is for general information only.
The City of Kelowna does not guarantee its
accuracy. All information should be verified. Rev. Mar 05, 2013





Subject Property Notes:

Rezone a portion of the subject property from A1 Agriculture 1 to P3 Parks and Open Space.

Subject Property Notes:

Rezone the subject property from P3 Parks and Open Space to CD15 Airport Business Park (Industrial).

Subject Property Notes:

Rezone portions of the subject property from A1 Agriculture 1 to CD15 Airport Business Park (Industrial).

Subject Property Notes:

Rezone the subject property from A1 Agriculture 1 to CD15 Airport Business Park (Industrial).

Subject Property Notes:

Rezone a portion of the subject property from I5 Extraction to CD15 Airport Business Park (Industrial).

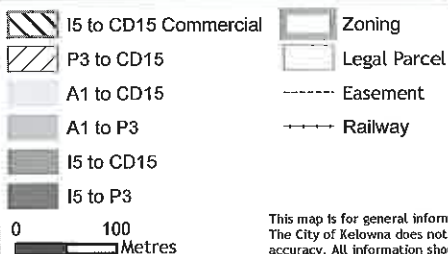
Subject Property Notes:

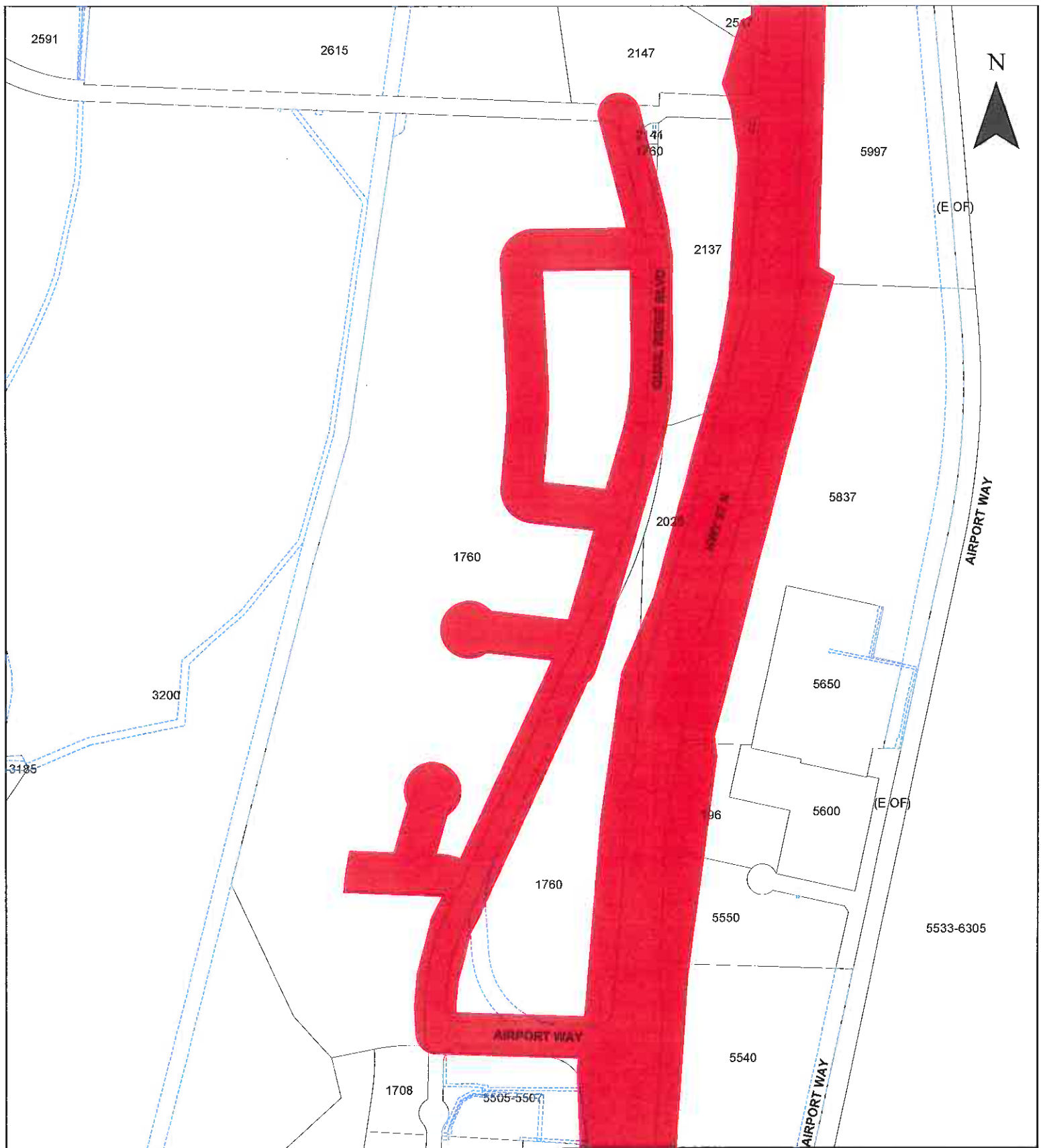
Rezone a portion of the subject property from I5 Extraction to P3 Parks and Open Space.

Subject Property Notes:

Rezone a portion of the subject property from I5 Extraction to CD15 Airport Business Park (Commercial).

MAP "B" PROPOSED ZONING
File #Z13-0003





Secondary Suite & Two Dwelling

All properties within the city zoned to permit secondary suites, two dwelling housing.

General Commercial & Industrial DP Areas



Commercial & Industrial properties abutting red coloured roads and Okanagan Lake Foreshore are subject to Development Permit Designation.

All commercial zoned properties within the City located in a residential neighbourhood are subject to DP Designation.

General Multiple Unit DP Areas

All properties within the city that are multiple dwelling housing are subject to DP designation.

Map "C" - Urban Design Development Permit Area Designation - OCP Map 5.8 Proposed Amendment

-  Legal Parcel
-  Easement

This map is for general information only. The City of Kelowna does not guarantee its accuracy. All information should be verified.

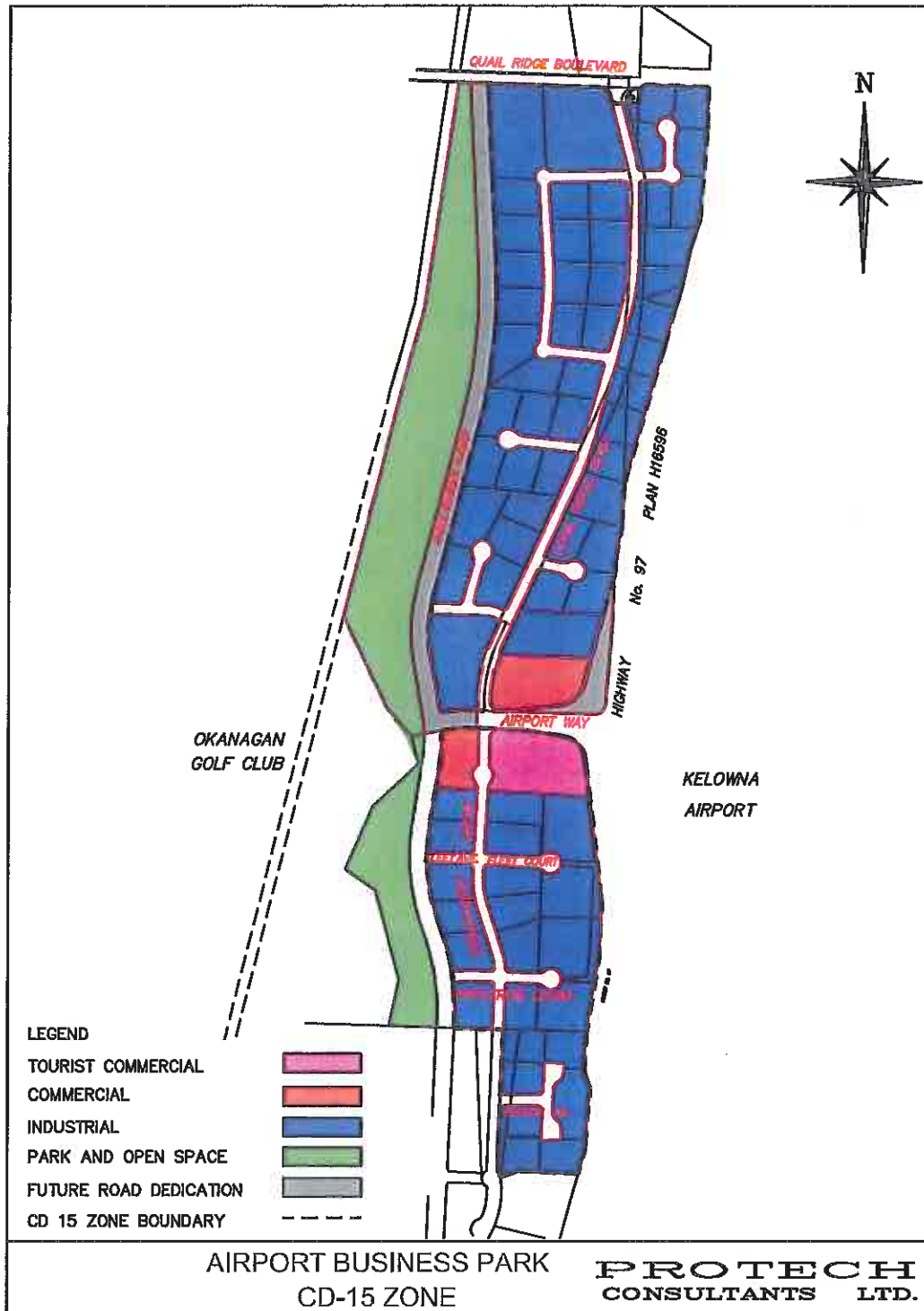
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Rev. Mar 14, 2013

Official Community Plan Bylaw No. 10500														
No.	Section	Existing Text						Proposed Text						
		Table 4.2 Potential ASP Development Components						Table 4.2 Potential ASP Development Components						
1	Chapter 4: Future Land Use Mapping Notes	Area Structure Plans		A	B	C	D	E	F	G	H	I	J	K
		1. Pier Mac		•			•	•	•					•
		2. North Clifton Road		Potential Future Land Uses To Be Determined										
		3. Eagle Ridge												
		4. Tonn Mountain												
				Potential Future Land Uses To Be Determined										
				A. Public Open Space B. School/College/ University C. Neighbourhood Commercial D. General Commercial E. Tourism Commercial K. Agricultural										
				F. One/Two Unit Residential G. Multi-Unit Residential (Low) H. Multi-Unit Residential (Medium) I. Multi-Unit Residential (High) J. Industrial K. Agricultural										

Schedule "B" - Map 1- CD15 Zone



Schedule "C" - Text Amendment No. TA13-0004

Zoning Bylaw No. 8000			
No.	Section	Existing Text	Proposed Text
1	Schedule 'B' - Comprehensive Development Zones	The principal uses for areas noted as industrial on CD15 Map 1, which is attached to and forms part of this bylaw, are:	The principal uses for areas noted as industrial on CD15 Map 1, which is attached to and forms part of this bylaw, are:
	CD15 - Airport Business Park S.1.2.1	<ul style="list-style-type: none"> (a) animal clinic, major (b) auctioneering establishments (c) automotive rentals (d) broadcasting studios (e) business support services (f) care centres, major (g) commercial storage (h) contractor services, limited (i) custom indoor manufacturing (j) emergency and protective services (k) food primary establishments (l) fleet services (m) general industrial (n) liquor primary establishment, minor (o) mobile home sales (p) non-accessory parking (q) offices (r) participant recreation services, indoor (s) recycling depots (t) vehicle and equipment services, industrial (u) warehouse sales (v) utility services, minor impact 	<ul style="list-style-type: none"> (a) animal clinic, major (b) auctioneering establishments (c) automotive rentals (d) breweries and distilleries, major (e) broadcasting studios (f) business support services (g) care centres, major (h) commercial storage (i) contractor services, limited (j) custom indoor manufacturing (k) emergency and protective services (l) food primary establishments (m) fleet services (n) general industrial (o) liquor primary establishment, minor (p) mobile home sales (q) non-accessory parking (r) offices (s) participant recreation services, indoor (t) recycling depots (u) utility services, minor impact (v) vehicle and equipment services, industrial (w) warehouse sales

CITY OF KELOWNA
MEMORANDUM

Date: February 28, 2013
File No.: Z13-0003
To: Land Use Planner (GS)
From: Development Engineering Manager (SM)
Subject: 5520 Hwy 97N.- Pier Mac – W ½ Sec. 14, Twp. 23, ODYD

Development Engineering Comments and requirements regarding this application to rezone the subject properties from A1 and I5 to P3 and CD-15 as follows:

These are Development Engineering initial comments and they may be subject to the MOTI comments and requirements.

1. Geotechnical Study.

A comprehensive Geotechnical Study is required, which is to be prepared by a Professional Engineer competent in the field of geotechnical engineering, The study is to address the following:

- Overall site suitability for development.
- Slope analysis (i.e. 0-10 %, 10-20 %, 20-30% and over 30 %).
- Presence of ground water and/or springs.
- Presence of fill areas.
- Presence of swelling clays.
- Presence of sulfates.
- Potential site erosion.
- Provide specific requirements for footings and foundation construction.
- Provide specific construction design sections for roads and utilities over and above the City's current construction standards

2. Domestic water and fire protection.

- a) This development is within the service area of the Glenmore Ellison Improvement District (GEID). The developer is required to make satisfactory arrangements with the GEID for these items. All charges for service connection and all necessary upgrading costs are to be paid directly to the GEID.
- b) The water system must be capable of supplying domestic and fire flow demands in accordance with the Subdivision & Servicing Bylaw for the requested zoning. The applicant must provide water computations for this development to confirm the available water supply.

.../2

3. Sanitary Sewer.

The municipal wastewater collection system is available for the proposed development. Certain portions of the wastewater infrastructure require some investigation to confirm the capacity and routing of the collection system as follows:

- a) The Hwy 97 lift station was designed and constructed to accommodate the wastewater flows from the subject property based upon industrial flows. The plans submitted in support of this application indicate a proposed increase of commercial area. The applicant is required to assess the capacity of the lift station under the current conditions, evaluate the effect of the proposed development on the system and upgrade the lift station if required. The cost of the lift station upgrades will have to be determined for bonding purpose.

4. Drainage.

A comprehensive site drainage management plan and design to comply with the City's drainage design and policy manual, is a requirement of this application. This plan can become part of the geotechnical study to identify the ground recharge/detention areas.

5. Power and Telecommunication Services.

The services to this development are to be installed underground. It is the developer's responsibility to make a servicing application to the respective utility companies. The utility companies are then required to obtain the city's approval before commencing their works.

6. Road improvements.

- a) A traffic Impact Analysis (TIA) was submitted in support of the initial development application for the development of the southerly portion of the original property. There have been significant road network upgrades and some shift in the traffic objectives in the recent years. The TIA must be updated based upon the Terms of Reference to be established in collaboration with the Ministry of Transportation and the City of Kelowna Transportation & Mobility Branch. The costs of road improvements will have to be determined for bonding purpose.
- b) The intersection of Airport Way and Hwy 97 has gone through many metamorphoses over the last decade or so and varying land acquisitions scenarios have been identified as the intersection geometry evolved. The land dedication and upgrades triggered by this application must be determined prior to the adoption of the zone amending Bylaw.

7. Design and Construction.

- a) Design, construction supervision and inspection of all off-site civil works and site servicing must be performed by a Consulting Civil Engineer and all such work is subject to the approval of the City Engineer. Drawings must conform to City standards and requirements.
- b) Engineering drawing submissions are to be in accordance with the City's "Engineering Drawing Submission Requirements" Policy. Please note the number of sets and drawings required for submissions.

.../3

- c) Quality Control and Assurance Plans must be provided in accordance with the Subdivision, Development & Servicing Bylaw No. 7900 (refer to Part 5 and Schedule 3)
- d) A "Consulting Engineering Confirmation Letter" (City document 'C') must be completed prior to submission of any designs.
- e) Before any construction related to the requirements of this subdivision application commences, design drawings prepared by a professional engineer must be submitted to the City's Works & Utilities Department. The design drawings must first be "Issued for Construction" by the City Engineer. On examination of design drawings, it may be determined that rights-of-way are required for current or future needs.

8. Servicing Agreements for Works and Services

- a) A Servicing Agreement is required for all works and services on City lands in accordance with the Subdivision, Development & Servicing Bylaw No. 7900. The applicant's Engineer, prior to preparation of Servicing Agreements, must provide adequate drawings or reports and estimates for the required works. The Servicing Agreement must be in the form as described in Schedule 2 of the bylaw.
- b) Part 3, "Security for Works and Services", of the Bylaw, describes the Bonding and Insurance requirements of the Owner. The liability limit is not to be less than \$5,000,000 and the City is to be named on the insurance policy as an additional insured.

9. Bonding and Levies Summary.

a) Performance Bonding

Road infrastructure upgrading (if required) To be determined

Lift Station upgrading(if required) To be determined

b) Levies

Engineering Development and Inspection Fee To be determined



Steve Muenz, P. Eng.
Development Engineering Manager

B²

CITY OF KELOWNA

BYLAW NO. 10832

Official Community Plan Amendment No. OCP13-0002 - Pier Mac Petroleum Installation Ltd., Inc. No. BC0088217 1760, 2025 and 2137 Quail Ridge Boulevard

A bylaw to amend the "Kelowna 2030 - Official Community Plan Bylaw No. 10500".

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

1. THAT Map 4.1 - **Generalized Future Land Use** of "Kelowna 2030 - Official Community Plan Bylaw No. 10500" be amended by changing the Generalized Future Land Use designation of the West ½ of Section 14, Township 23, ODYD, Except Plans H16596, KAP47192, KAP51877, KAP53641, KAP53790, KAP57365, KAP73608 and KAP82802, located on 1760 Quail Ridge Boulevard, Lot A, District Lot 32 and Section 14, Township 23, ODYD District Plan KAP52924, located on 2173 Quail Ridge Boulevard, and Lot B, District Lot 32 and Section 14, Township 23, ODYD, District Plan KAP52924, located on 2025 Quail Ridge Boulevard, Kelowna, B.C., from the Resource Protection Area (REP), Commercial (COMM), Industrial (IND) and Parks & Open Space (PARK) designation to the Commercial (COMM), Industrial (IND) and Parks & Open Space (PARK) designation as shown on Map "A" as attached;
2. AND THAT Chapter 4: Future Land Use, Table 4.2 Potential ASP Development Components be deleted in it's entirety that reads:

Area Structure Plans	A	B	C	D	E	F	G	H	I	J	K
1. Pier Mac	●			●	●		●	●		●	
2. North Clifton Road	Potential Future Land Uses To Be Determined										
3. Eagle Ridge											
4. Tonn Mountain											

And replaced with:

Area Structure Plans	A	B	C	D	E	F	G	H	I	J	K
2. North Clifton Road	Potential Future Land Uses To Be Determined										
3. Eagle Ridge											
4. Tonn Mountain											

3. AND THAT **Map 5.8 - Urban Design DP Area Designation** be deleted in it's entirety and replaced with a new **Map 5.8- Urban Design DP Area Designation** as shown on Map "B" as attached;
4. This bylaw shall come into full force and effect and is binding on all persons as and from the date of adoption.

Read a first time by the Municipal Council this

Considered at a Public Hearing on the

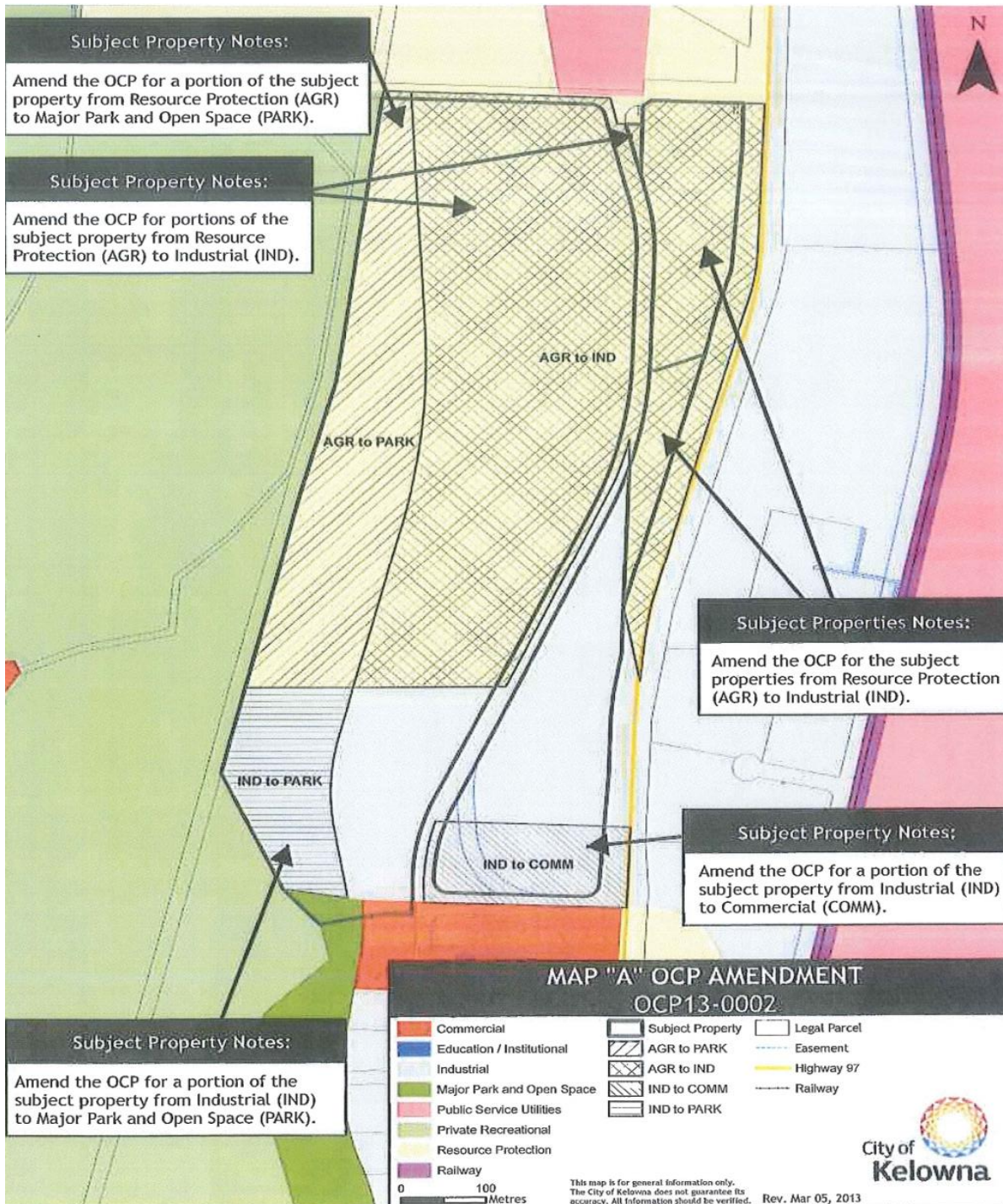
Read a second and third time by the Municipal Council this

Adopted by the Municipal Council of the City of Kelowna this

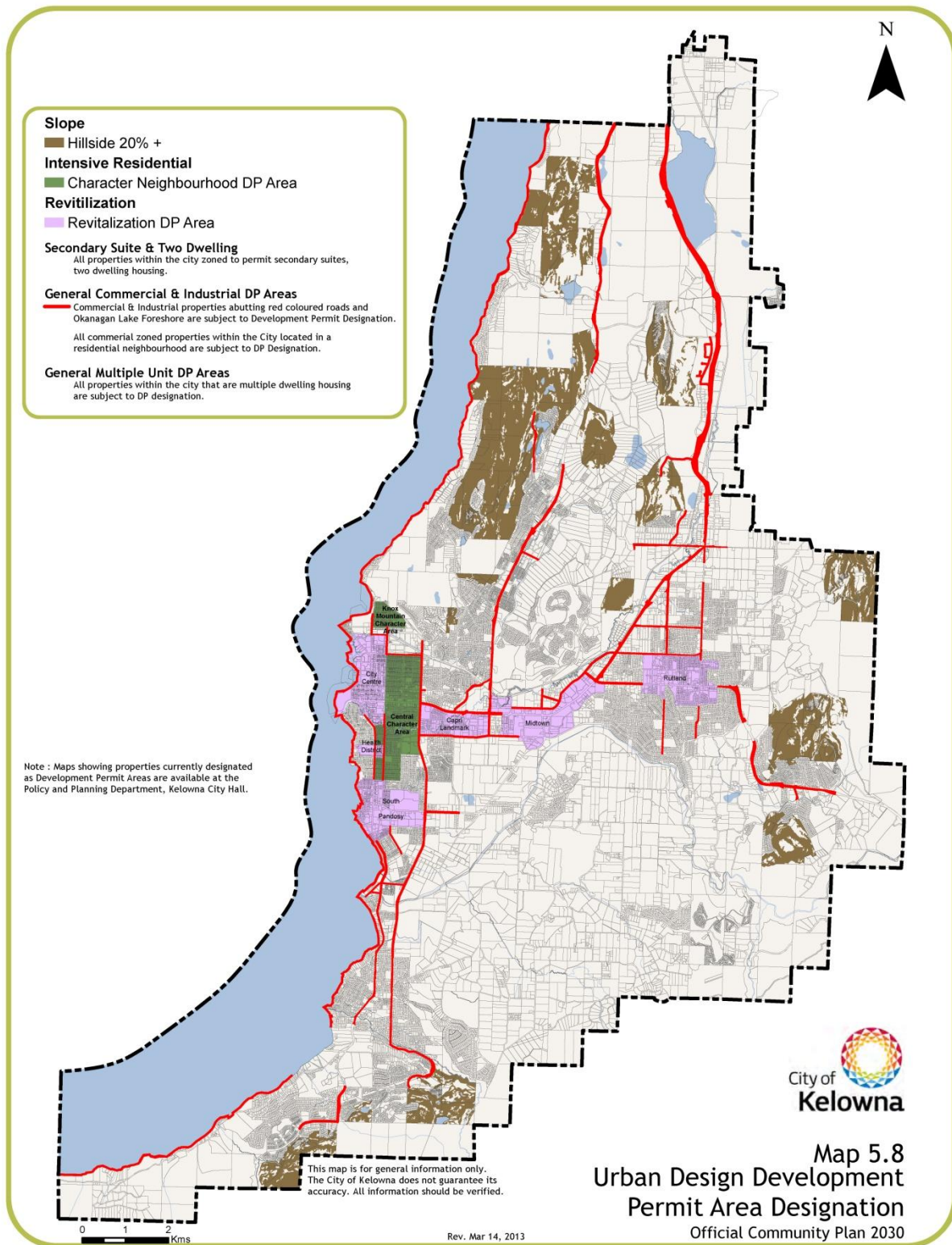
Mayor

City Clerk

Map "A"



Map B



CITY OF KELOWNA

BYLAW NO. 10833

Text Amendment No. TA13-0004 -Amendment to the City of Kelowna Zoning Bylaw No. 8000 - CD15Airport Business Park

The Municipal Council of the City of Kelowna, in open meeting assembled, enacts that City of Kelowna Zoning Bylaw No. 8000 be amended as follows:

1. THAT **Schedule 'B' - Comprehensive Development Zones, CD15 - Airport Business Park, 1.2 Principal Uses** be amended by adding in its appropriate locations, and renumbering subsequent sub-paragraphs the following:
 - “(d) breweries and distilleries, major
 - (u) utility services, minor impact
 - (v) vehicle and equipment services, industrial
 - (w) warehouse sales”
2. This bylaw shall come into full force and effect and is binding on all persons as and from the date of adoption.

Read a first time by the Municipal Council this

Amended at first reading by the Municipal Council this

Considered at a Public Hearing on the

Read a second and third time by the Municipal Council this

Approved under the Transportation Act this

(Approving Officer-Ministry of Transportation and Infrastructure)

Adopted by the Municipal Council of City of Kelowna on the

Mayor

City Clerk

CITY OF KELOWNA
BYLAW NO. 10834
Z13-0003 - Pier Mac Petroleum Installation Ltd.
1760, 2025 and 2137 Quail Ridge Blvd

A bylaw to amend the "City of Kelowna Zoning Bylaw No. 8000".

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

1. THAT City of Kelowna Zoning Bylaw No. 8000 be amended by changing the zoning classification of The West ½ of Section 14, Township 23, ODYD, Except Plans H16596, KAP47192, KAP51877, KAP53641, KAP53790, KAP57365, KAP73608 and KAP2802; Lot A, District Lot 32 and Section 14, Township 23, ODYD, Plan KAP52924; Lot B, District Lot 32 and Section 14, Township 23, ODYD, Plan KAP52924, located on Quail Ridge Blvd, Kelowna, B.C., from the A1 - Agriculture 1 zone, the CD15 - Airport Business Park zone, I5 Extraction zone and the P3 - Parks and Open Space zone to the CD15 - Airport Business Park zone and the P3 - Parks and Open Space zone.
2. This bylaw shall come into full force and effect and is binding on all persons as and from the date of adoption.

Read a first time by the Municipal Council this

Considered at a Public Hearing on the

Read a second and third time by the Municipal Council this

Approved under the Transportation Act

(Approving Officer-Ministry of Transportation)

Adopted by the Municipal Council of the City of Kelowna this

Mayor

City Clerk

CITY OF KELOWNA

BYLAW NO. 10703

Official Community Plan Amendment No. OCP11-0018 - JB Developments Ltd. Inc. No. 0634315 373-375 Fizet Avenue

A bylaw to amend the "*Kelowna 2030* - Official Community Plan Bylaw No. 10500".

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

1. THAT Map 4.1 - **GENERALIZED FUTURE LAND USE** of "*Kelowna 2030* - Official Community Plan Bylaw No. 10500" be amended by changing the Generalized Future Land Use designation of Lot 47, Section 26, Township 26, ODYD, Plan KAP52738, located on Fizet Avenue, Kelowna, B.C., from the Single/Two Unit Residential designation to the Multiple Unit Residential (Low Density) designation;
2. AND THAT pursuant to Section 882 of the *Local Government Act*, each reading of this bylaw receive an affirmative vote of a majority of all members of the Council;
3. This bylaw shall come into full force and effect and is binding on all persons as and from the date of adoption.

Read a first time by the Municipal Council this 7th day of May, 2012.

Considered at a Public Hearing on the 29th day of May, 2012.

Read a second and third time by the Municipal Council this 29th day of May, 2012.

Adopted by the Municipal Council of the City of Kelowna this

Mayor

City Clerk

CITY OF KELOWNA
BYLAW NO. 10704
Z11-0090 - JB Developments Ltd. Inc. No. 0634315
373-375 Fizet Avenue

A bylaw to amend the "City of Kelowna Zoning Bylaw No. 8000".

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

1. THAT City of Kelowna Zoning Bylaw No. 8000 be amended by changing the zoning classification of Lot 47, Section 26, Township 26, ODYD, Plan KAP52738 located on Fizet Avenue, Kelowna, B.C., from the RU6 - Two Dwelling Housing zone to the RM1 - Four Dwelling Housing zone.
2. This bylaw shall come into full force and effect and is binding on all persons as and from the date of adoption.

Read a first time by the Municipal Council this 7th day of May, 2012.

Considered at a Public Hearing on the 29th day of May, 2012.

Read a second and third time by the Municipal Council this 29th day of May, 2012.

Adopted by the Municipal Council of the City of Kelowna this

Mayor

City Clerk

REPORT TO COUNCIL



Date: March 28th, 2013

RIM No. 0940-40

To: City Manager

From: Land Use Management, Community Sustainability (AW)

Application: DP12-0171 **Owner:** JB Developments Ltd., Inc. No. 0634315

Address: 373 - 375 Fizet Avenue **Applicant:** JB Developments Ltd., Inc. No. 0634315

Subject: Development Permit

Existing OCP Designation: Single/Two Unit Residential

Proposed OCP Designation: Multiple Unit Residential (Low Density)

Existing Zone: RU6 - Two Dwelling Housing

Proposed Zone: RM1 - Four Dwelling Housing

1.0 Recommendation

THAT Final Adoption of Official Community Plan Amending Bylaw No. 10703 and the Zone Amending Bylaw No. 10704 be considered by Council;

AND THAT Council authorize the issuance of Development Permit No. DP12-0171 for Lot 47, Section 26, Twp. 26, ODYD, Plan KAP52738, located at 373 - 375 Fizet Avenue, Kelowna B.C., subject to the following:

1. The dimensions and siting of the building to be constructed on the land be in general accordance with Schedule "A";
2. The exterior design and finish of the building to be constructed on the land be in general accordance with Schedule "B";
3. Landscaping to be provided on the land be in general accordance with Schedule "C";

2.0 Purpose

To consider a Development Permit for the form and character of the proposed four-plex housing conversion.

3.0 Land Use Management

The applicant has worked with Building & Permitting Staff to prove that the upgrades required to bring the building up to code for the 4 units can be accomplished, external changes impacting the form and the character of the building are not proposed. Given that the proposed development was endorsed by Council at the May 29th, 2012 Public Hearing Staff are supportive of the Development Permit. The preference would have been to work with the applicant up front to ensure that the design was more appropriate for a four-plex development. However, given that the building was previously constructed as a large duplex, exterior design improvements are limited.

3.1 Background

The existing building was constructed and approved originally as a duplex. Since that time, the property has been the subject to Bylaw enforcement for operating as an illegal four-plex. Enforcement action has prompted the current owners to pursue this application to legalize the four-plex, it is not known when the illegal suites were constructed. Staff were not supportive of the OCP and Zone amending Bylaws, they were endorsed by Council at the May 29th, 2012 Public Hearing.

3.2 Project Description

The building was originally constructed as a side-by-side duplex, with a driveway and garage on either side of the lot. A side entrance is also provided on each side of the building, which now acts as entrances for added units. Parking for each unit is provided at the front of the property and in the garages. Given that the building was previously constructed as a large duplex, exterior design improvements are limited.

The project compares to Zoning Bylaw No. 8000 as follows:

Zoning Analysis Table		
CRITERIA	RM1 ZONE REQUIREMENTS	PROPOSAL
Existing Lot/Subdivision Regulations		
Lot Area	700m ²	757m ²
Development Regulations		
Floor Area Ratio	0.6	0.58
Height	9.5m	9.5m
Front Yard	6.0m	6.17m
Side Yard (west)	2.5m	3.61m
Side Yard (east)	2.5m	3.65m
Rear Yard	7.5m	11.83m
Other Regulations		
Minimum Parking Requirements	7 spaces	2-Three Bedroom Units = 4 spaces 2-One Bedroom Units = 2.5 spaces 7 spaces

3.3 Site Context

Subject Property Map:



Adjacent land uses are as follows:

Orientation	Zoning	Land Use
North	RU6 - Two Dwelling Housing	Single/Two Family Residential
East	RU6 - Two Dwelling Housing	Single/Two Family Residential
South	RM3 - Low Density Multiple Housing	Multi-family housing
West	RU6 - Two Dwelling Housing	Single/Two Family Residential

4.0 Current Development Policies

4.1 Kelowna Official Community Plan (OCP)

Policy 5.23.1 - Ground-Oriented Housing. Encourage all multi-unit residential buildings in neighbourhoods with schools and parks to contain ground-oriented units with 2 or more bedrooms to provide a family housing choice within multi-unit rental or ownership markets. High density residential projects in the Downtown area are encouraged to include a ground-oriented housing component, especially where such can be provided on non-arterial and non-collector streets.'

Comprehensive Development Permit Objectives:

- Convey a strong sense of authenticity through urban design that is distinctive for Kelowna;
- Promote a high urban design standard and quality of construction for future development that is coordinated with existing structures;
- Integrate new development with existing site conditions and preserve the character amenities of the surrounding area;
- Promote interesting, pedestrian friendly streetscape design and pedestrian linkages;

- Provide for a scale and massing of commercial buildings that promotes a safe, enjoyable living, pedestrian, working, shopping and service experience;
- Incorporate architectural features and detailing of buildings and landscapes that define an area's character;
- Promote alternative transportation with enhanced streetscapes and multimodal linkages;
- Protect and restore the urban ecology (i.e. architectural and site consideration with respect to the ecological impact on urban design).
- Moderate urban water demand in the City so that adequate water supply is reserved for agriculture and for natural ecosystem processes.
- Reduce outdoor water use in new or renovated landscape areas in the City by a target of 30%, when compared to 2007.

5.0 Technical Comments

5.1 Building & Permitting Department

- Development Cost Charges (DCC's) are required to be paid prior to issuance of any Building Permits.
- Operable bedroom windows required as per the 2006 edition of the British Columbia Building Code (BCBC 06).
- Code consultant report required to deal with exiting and fire resistance ratings at time of building permit.
- 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 restricted by BCBC 06, so provide size of ducts and fire separation details at time of Building Permit Applications.
- A fire rated exit corridor is required from the suites to the exterior c/w fire rated doors and exit in two directions as per BCBC. An additional exit may be required from the suites or the corridor which may affect the form and character of the building.
- Full Plan check for Building Code related issues will be done at time of Building Permit applications.
- This application was brought in bylaw services for work done without permit and use contrary to allowable land use. Development Engineering Department

5.2 Fire Department

This home has 8 bedrooms within 4 suites accessed from one common corridor. A fire alarm system is required as per the BCBC.

5.3 Development Engineering

See Attached.

5.4 FortisBC - Electric

FortisBC has reviewed the attached referral. The proponent may be required to upgrade their electrical service to accommodate the additional units as indicated by their electrician. If this is the case, they'll be required to call 1-866-436-7847 to discuss servicing requirements with a FortisBC designer.

5.5 FortisBC - Electric

Please be advised FortisBC has no issue with the above mentioned proposal other than the meters may require protection posts as they will be within the new parking stalls on either side of the house.

5.6 Bylaw Services

Illegal suite investigation for both sides of the existing duplexes.

6.0 Application Chronology

Date of Application Received: September 9th, 2012

Council Consideration of OCP & Zone Amending Bylaws: May 29th, 2012

Report prepared by:

Alec Warrender, Land Use Planner

Reviewed by:

☐

Danielle Noble, Manager, Urban Land Use

Approved for Inclusion

☐

D. Gilchrist, A. General Manager, Community Sustainability

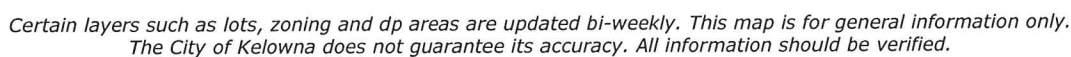
Attachments:

Subject Property Map

Sit Plan

Elevations & Photos

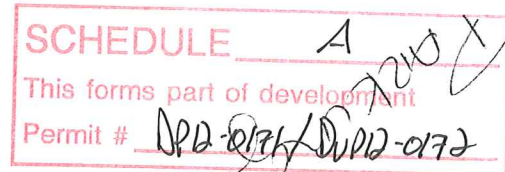
Landscape Plan



373-375 FIZET AVENUE

THE CITY DOES NOT warrant the accuracy or completeness of this information and no representations are made by providing this copy. Any reliance on information will be solely at YOUR OWN RISK and not the City.

FIZET AVENUE This information has been provided subject to the Federal
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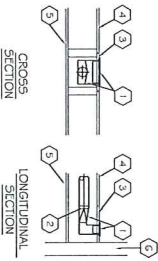
I HEREBY CERTIFY THAT THE ABOVE SKETCH
SHOWS THE REGISTERED DIMENSIONS OF THE
ABOVE DESCRIBED PROPERTY AND THE RELATIVE
LOCATION OF THE BUILDINGS THEREON

T.E. Ferguson Land Surveying Ltd.

1 REMOVE EXISTING FLOOR GRILLE AND SUPPLY BOOT.

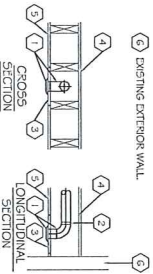
2. CAP AND SEAL END OF EXISTING SUPPLY DUCT IN JOIST SPACE.
3. EXISTING FLOOR TO BE CUT OUT AND REPLACED BY OTHER TRADES AS REQUIRED TO SUIT MECHANICAL WORK.
4. FLOOR.
5. CEILING BELOW.
6. EXTERIOR WALL.

N.T.S.



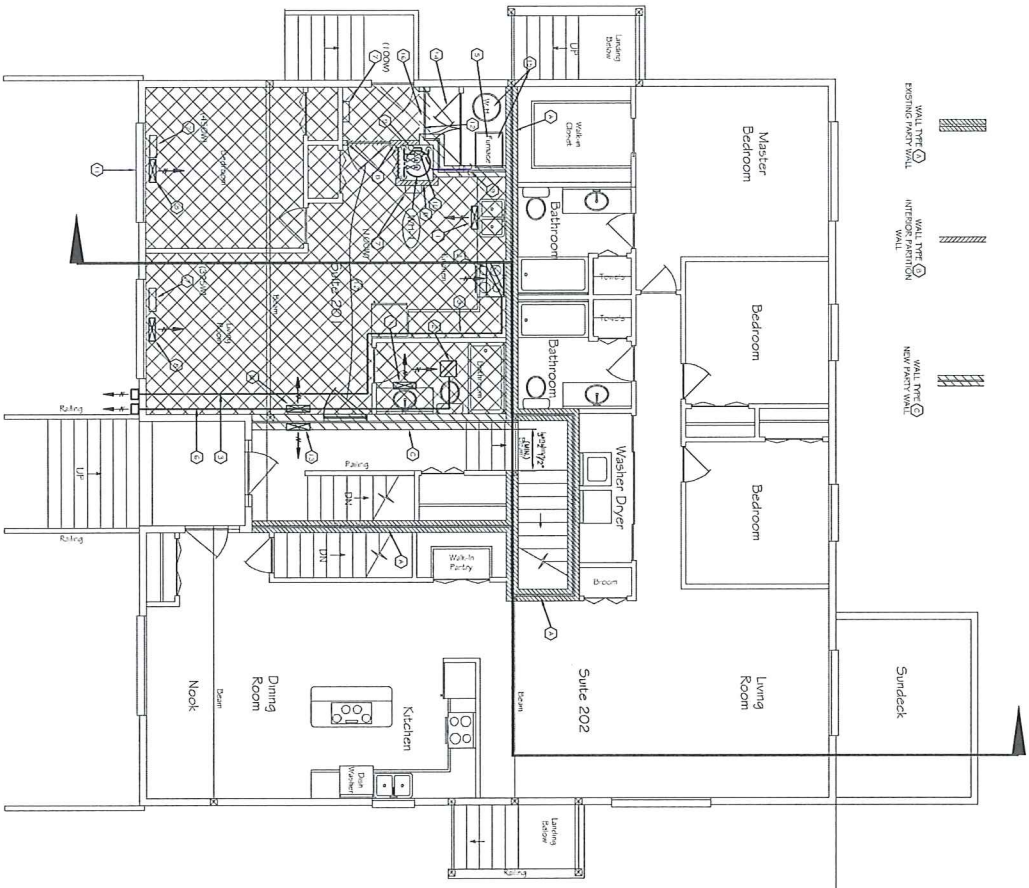
- 1 REMOVE EXISTING CEILING DIFFUSER AND EXISTING SUPPLY DUCTWORK, AS INDICATED.
- 2 SEAL AND CAP END OF EXISTING SUPPLY DUCT IN JOIST SPACE.
- 3 EXISTING DRYWALL CEILING TO BE CUT OUT AND REPLACED BY OTHER TRADES AS REQUIRED TO SUIT MECHANICAL WORK.

- 4 EXISTING FLOOR.
- 5 EXISTING CEILING.
- 6 EXISTING EXTERIOR WALL.



CEILING SUPPLY DIFFUSER REMOVAL DETAIL

N.T.5.



DRAWING NOTES

- [illegible]

A

Permit # DPI2-0171 / DVPI2-0172

no.	date	revision
0	DEC.11, 2012	PRELIMINARY WORKING DRAWING (NOT FOR CONSTRUCTION)
1	JAN.03, 2013	ISSUED FOR BUILDING PERMITS
2	FEB.07, 2013	REVISED FOR BUILDING PERMITS
3	FEB.16, 2013	REVISED FOR BUILDING PERMITS
4	MAR.21, 2013	REVISED FOR BUILDING PERMITS

- THIS DRAWING MUST NOT BE SCALED.
- VERIFY ALL DIMENSIONS AND DATA PRIOR TO COMMENCEMENT OF WORK. REPORT ALL ERRORS AND OMISSIONS TO THE ARCHITECT AND ENGINEER.
- VARIATIONS AND MODIFICATIONS ARE NOT ALLOWED WITHOUT WRITTEN PERMISSION FROM THE ARCHITECT AND ENGINEER.
- THIS DRAWING IS THE EXCLUSIVE PROPERTY OF THE OWNER.
- ANY REPRODUCTION MUST BEAR THEIR NAME AS ARCHITECT AND ENGINEER.

YOUNG & RUBICAM ASSOCIATES

1715 SPRINGFIELD BLVD., TEL. (202) 893-4500
WASHINGTON, D.C. 20004 FAX (202) 778-3750

200-1100 VERMONT ST., TEL. (604) 864-0412
VANCOUVER, B.C. V6E 2M1 FAX (604) 684-2894

client

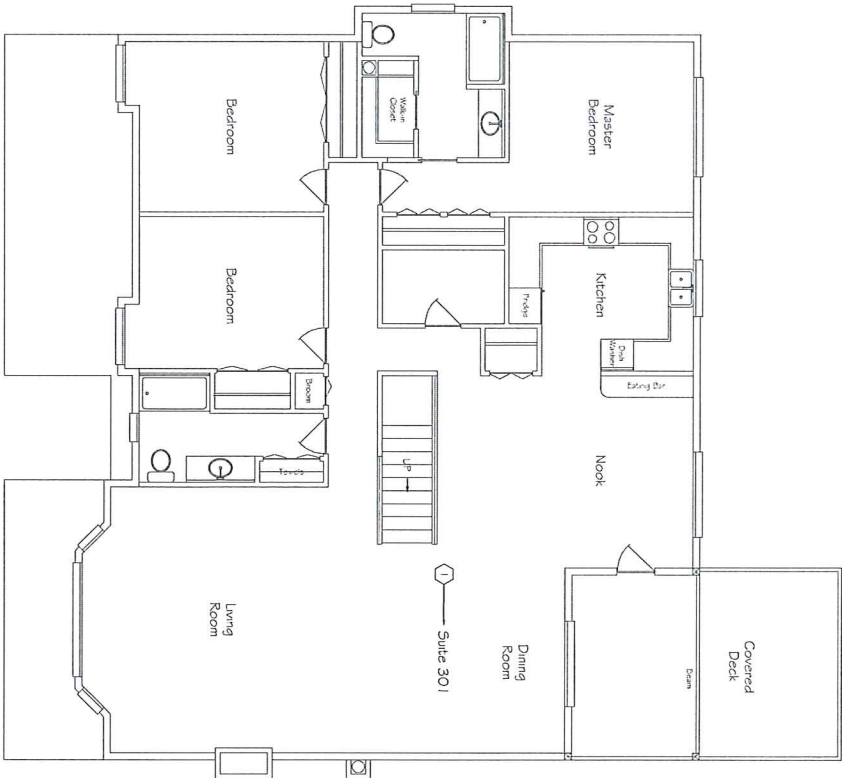
JB DEVELOPMENTS LTD.
KELOWNA, B.C.

375 - 373 FIZET
4 UNIT
RENOVATIONS

MAIN FLOOR PLAN

date JUN. 2013	diag. by D.C.
scale 1/4" = 1' - 0"	chk. by F.S.
job no. 12000	drawn. by D.C.

M-2 OF 5

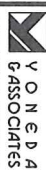


NOTES
 ① NEW ADDRESS FOR EXISTING UNIT.

SCHEDULE A
 This forms part of development
 Permit # DEP-10-1210-1210

NO.	DATE	REVISION
1	1/10/2013	ISSUED FOR BUILDING PERMIT
2	1/10/2013	REVISED FOR BUILDING PERMIT
3	1/10/2013	REVISED FOR BUILDING PERMIT
4	1/10/2013	REVISED FOR BUILDING PERMIT

THIS DRAWING MUST NOT BE SIGNED, SEaled, or otherwise used in any way without the written consent of the architect and engineer. ANY VIOLATION OF THIS AGREEMENT SHALL BE CONSIDERED A VIOLATION OF THE PROFESSIONAL ETHICS OF THE ARCHITECT AND ENGINEER.



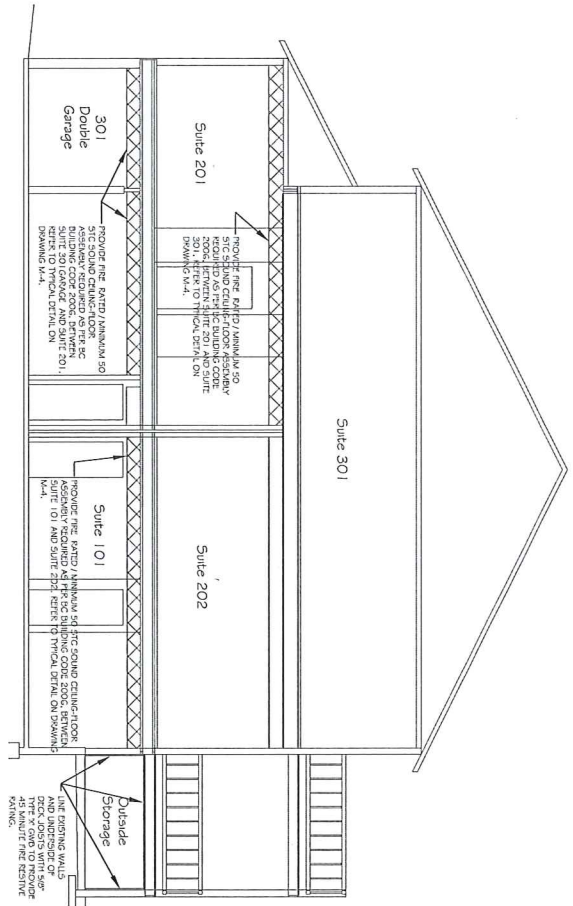
YONEDA ASSOCIATES
 1000 W. 10th Ave. Suite 200
 Minneapolis, MN 55408
 Tel: (612) 338-3000
 Fax: (612) 338-3001
 Email: info@yoneda.com

JB DEVELOPMENTS LTD.
 KEDONIA, E.C.

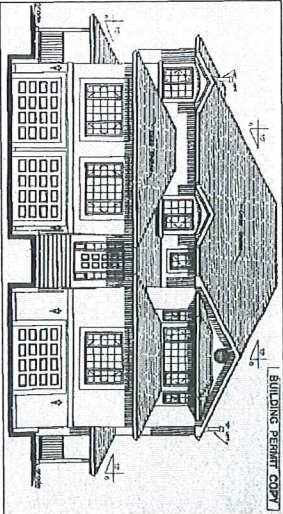
Project: 373 FZET
 4 UNIT
 RENOVATIONS

Drawing Title:
 UPPER FLOOR
 PLAN

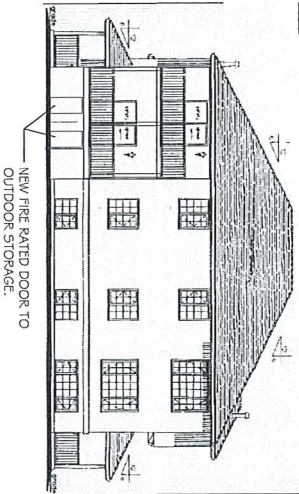
Scale	DATE	Drawn by	Check by
1/4" = 1'-0"	JAN 2013	DKA	E.S.
Job no.	10000	Drawn by	DKA
Drawing no.			



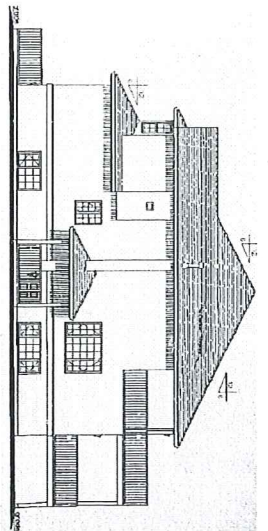
BUILDING SECTION
1/4" = 1'-0"



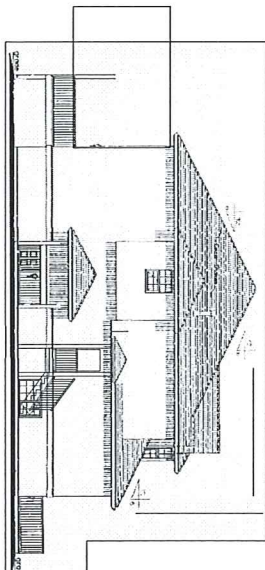
FRONT ELEVATION
1/8" = 1'-0"



REAR ELEVATION
1/8" = 1'-0"



RIGHT ELEVATION
1/8" = 1'-0"



LEFT ELEVATION
1/8" = 1'-0"

SCHEDULE A-B
This forms part of development
Permit # DE12-0171 / DUPP-072

NO.	DATE	REVISION
1	DEC 11	PRELIMINARY WORKING DRAWING
2	2012	ISSUED FOR BUILDING PERMIT
3	2013	ISSUED FOR BUILDING PERMIT
4	2013	ISSUED FOR BUILDING PERMIT
5	2013	ISSUED FOR BUILDING PERMIT
6	2013	ISSUED FOR BUILDING PERMIT
7	2013	ISSUED FOR BUILDING PERMIT
8	2013	ISSUED FOR BUILDING PERMIT
9	2013	ISSUED FOR BUILDING PERMIT
10	2013	ISSUED FOR BUILDING PERMIT
11	2013	ISSUED FOR BUILDING PERMIT
12	2013	ISSUED FOR BUILDING PERMIT
13	2013	ISSUED FOR BUILDING PERMIT
14	2013	ISSUED FOR BUILDING PERMIT
15	2013	ISSUED FOR BUILDING PERMIT
16	2013	ISSUED FOR BUILDING PERMIT
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97	2013	ISSUED FOR BUILDING PERMIT
98	2013	ISSUED FOR BUILDING PERMIT
99	2013	ISSUED FOR BUILDING PERMIT
100	2013	ISSUED FOR BUILDING PERMIT

375 B/c
Parking
For 375 B
Borm

Parking

For
375 A

375

SCHEDULE

B

This forms part of development

Permit # DPB 0171 / DPB-0172

9/10/2006



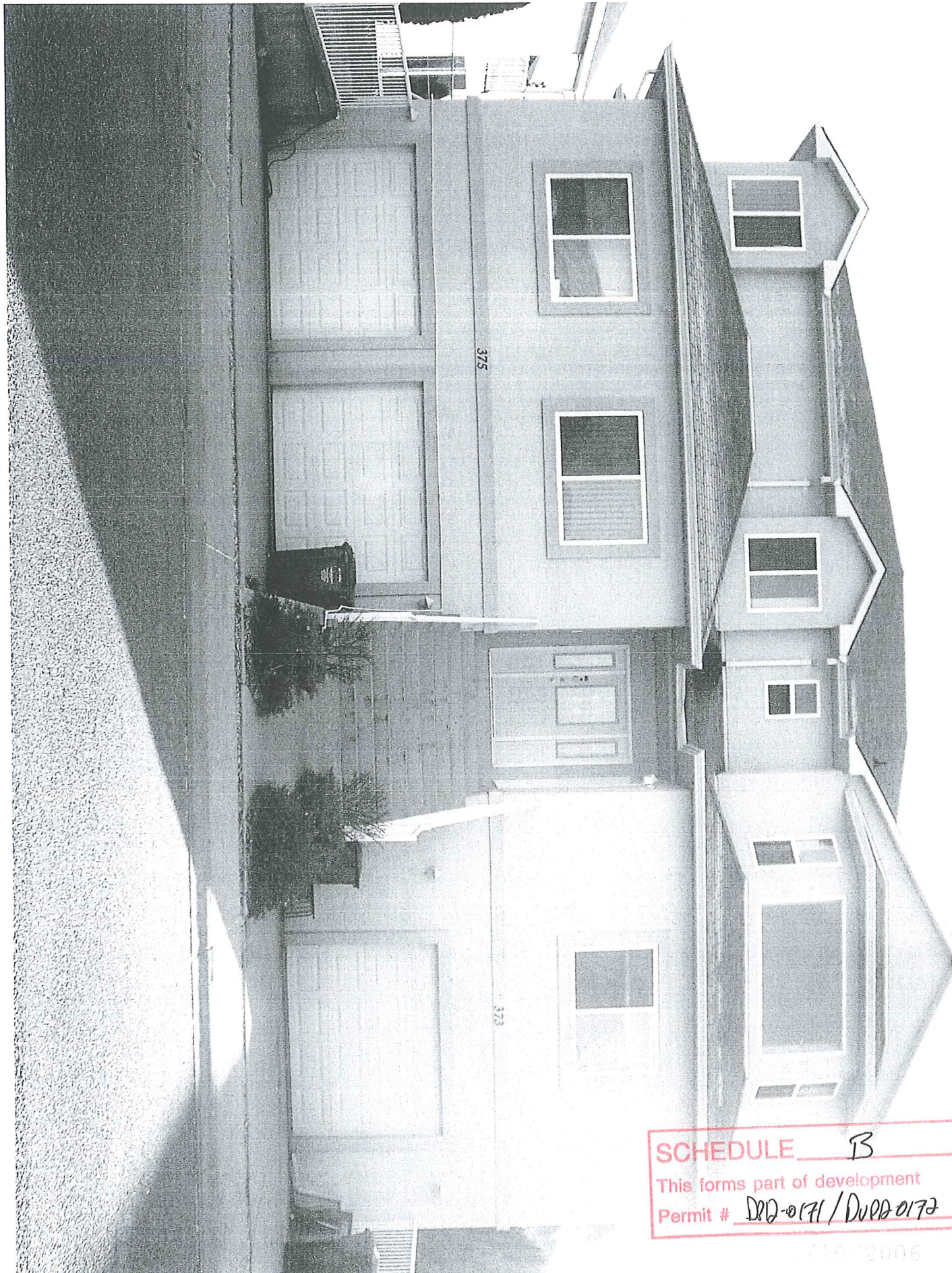
373A
Duplex
Legal Suite

Basement Suite
373 B
1 BDRM

Parking
For
Basement
Suite
373 B

SCHEDULE B
This forms part of development
Permit # DPD 0171 / DPD 0172

9/10/2006




SCHEDULE B
This forms part of development
Permit # DD-0171 / DDD-0172


373-375 FIZET AVENUE


City of Chicago does NOT warrant the accuracy or reliability of this information and no representations or warranties are made by providing this copy. Any reliance on this information will be solely at YOUR OWN RISK and not the City.


FIZET AVENUE This information has been provided subject to the Federal Copyright Act and in accordance with the Freedom of Information and Protection of Privacy Act.



chain link fence - 

grass - 

cedar - 

shrubs - 

SCHEDULE C

This forms part of development

Permit # DD-0171 / DVA 020172

THIS PLAN IS FOR THE USE OF THE BUILDING
INSPECTOR AND/OR MORTGAGEE ONLY AND
IS NOT TO BE USED FOR RE-ESTABLISHMENT
OF PROPERTY BOUNDARIES

I HEREBY CERTIFY THAT THE ABOVE SKETCH
SHOWS THE REGISTERED DIMENSIONS OF THE
ABOVE DESCRIBED PROPERTY AND THE RELATIVE

T.E. Ferguson Land Surveying Ltd.

REPORT TO COUNCIL



Date: March 28, 2013

RIM No. 1250-30

To: City Manager

From: Land Use Management, Community Sustainability (PM)

Application: Z10-0091 **Owner:** D & S Schulz Enterprises Ltd.

Address: 196 Cariboo Road **Applicant:** Siegfried Schulz

Subject: Rezoning Application, Extension Request

Existing OCP Designation: Single / Two Unit Residential

Existing Zone: RR3 - Rural Residential 3

Proposed Zone: RU6 - Two Dwelling Housing
RU1 - Large Lot Housing

1.0 Recommendation

THAT in accordance with Development Application Procedures Bylaw No. 10540, the deadline for the adoption of Amending Bylaw No. 10536, Lot H, Section 4, Township 23, O.D.Y.D., Plan 20088, located on 196 Cariboo Road, Kelowna, BC, be extended from October 19, 2012 to October 19, 2013.

2.0 Purpose

To extend the deadline for adoption of the Zone Amending Bylaw from October 19, 2012 to October 19, 2013.

3.0 Land Use Management

Section 2.12.1 of Procedure Bylaw No. 10540 states that:

In the event that an application made pursuant to this bylaw is one (1) year old or older and has been inactive for a period of six (6) months or greater:

- a) The application will be deemed to be abandoned and the applicant will be notified in writing that the file will be closed;
- b) Any bylaw that has not received final adoption will be of no force and effect;

c) In the case of an amendment application, the City Clerk will place on the agenda of a meeting of **Council** a motion to rescind all readings of the bylaw associated with that Amendment application.

Section 2.12.2 of the Procedure Bylaw makes provision for Council to consider an extension to an amending bylaw for up to 6 months beyond the 12 months deadline.

By-Law No. 10522 received second and third readings on May 17, 2011 after the Public Hearing held on the same date. The applicant wishes to have this application remain open for an additional twelve months in order to secure the finance costs to meet site servicing requirements. This project remains unchanged and is the same in all respects as originally applied for. However, given the amount of time that has lapsed, this will be the last extension that Staff favourably endorses without further activity.

The Land Use Management Department recommends Council consider the request for an extension favourably.

Report prepared by:

Paul McVey, Land Use Planner
/hb

Reviewed by:

☐

Danielle Noble, Manager, Urban Land Use

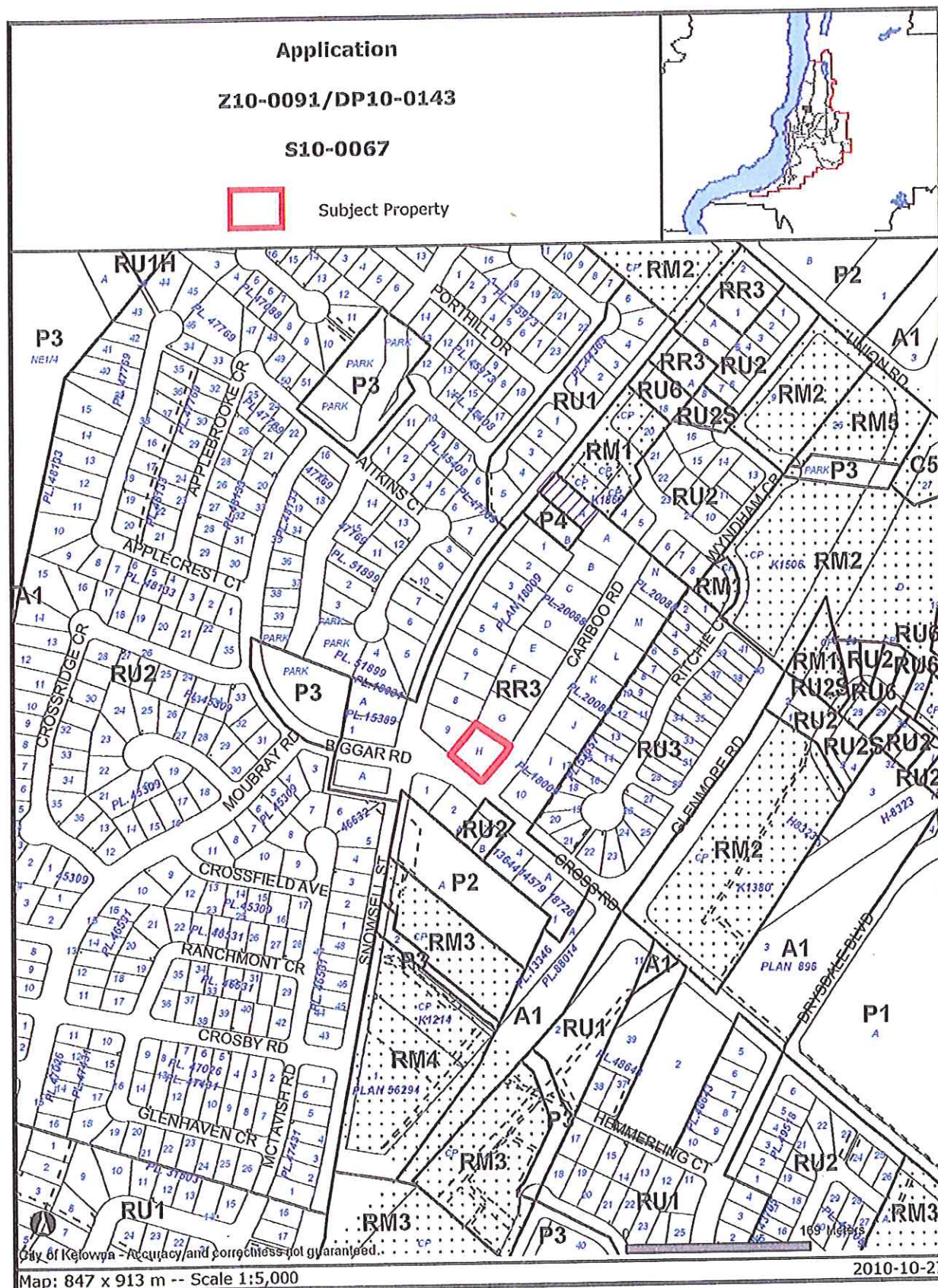
Approved for Inclusion

☐

Doug Gilchrist, Acting General Manager, Community Sustainability

Attachments:

Site Plan



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.

Report to Council



Date: April 2, 2013

File: 0600-10

To: City Manager

From: City Clerk

Subject: OCP Application No. OCP12-0018 and Rezoning Application No. Z12-0058

Report Prepared by: Jolene Lamoureux, Legislative Clerk

Recommendation:

THAT Bylaw No. 10791 being OCP12-0018 and Bylaw No. 10792 being Z12-0058 be adopted.

Purpose:

To consider adoption of Bylaw No. 10791 being OCP12-0018 and Bylaw No. 10792 being Z12-0058 in order to change the future land use designation and rezone the subject properties to accommodate the proposed single family subdivision located in "The Ponds" neighbourhood and to further enhance the neighbourhood's natural features and trail infrastructure.

Background:

Bylaw No. 10791 and 10792 received second and third readings by Council on January 29, 2013. A copy of the Bylaws is attached. As the following conditions of adoption have been met, the Bylaws can now be adopted:

1. Ravine Area Rezoned to P3 - Parks and Open Space be dedicated to the City as a titled lot;
2. Parks Agreement for the construction of a public trail;
3. Natural Environment DP;
4. Issuance of a PLR for the proposed subdivision.

Submitted by:

S. Fleming, City Clerk

CITY OF KELOWNA

BYLAW NO. 10791

Official Community Plan Amendment No. OCP12-0018 - Vincent & Pamela Blaskovich and Mair Developments Ltd (N of) Steele Road and 1450 Steels Road

A bylaw to amend the "Kelowna 2030 - Official Community Plan Bylaw No. 10500".

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

1. THAT Map 4.1 - **GENERALIZED FUTURE LAND USE** of "Kelowna 2030 - Official Community Plan Bylaw No. 10500" be amended by changing the Generalized Future Land Use designation of a portion of Lot A, Sections 20 and 29, Township 29, SDYD, Plan KAP44335, Except Plan KAP92565 and Lot 1, Section 29, Township 29, SDYD, Plan EPP23066, located on Steele Road, Kelowna, B.C., from the S2RES - Single/Two Unit Residential designation, the S2RESH - Single/Two Unit Residential - Hillside designation, the MRC - Multiple Unit Residential - Cluster designation and the PARK - Major Park/Open Space designation to the S2RES - Single/Two Unit Residential designation and the PARK - Major Park/Open Space designation as shown on Map "A" attached to and forming part of this bylaw;
2. AND THAT pursuant to Section 882 of the *Local Government Act*, each reading of this bylaw receive an affirmative vote of a majority of all members of the Council;
3. This bylaw shall come into full force and effect and is binding on all persons as and from the date of adoption.

Read a first time by the Municipal Council this 14th day of January, 2013.

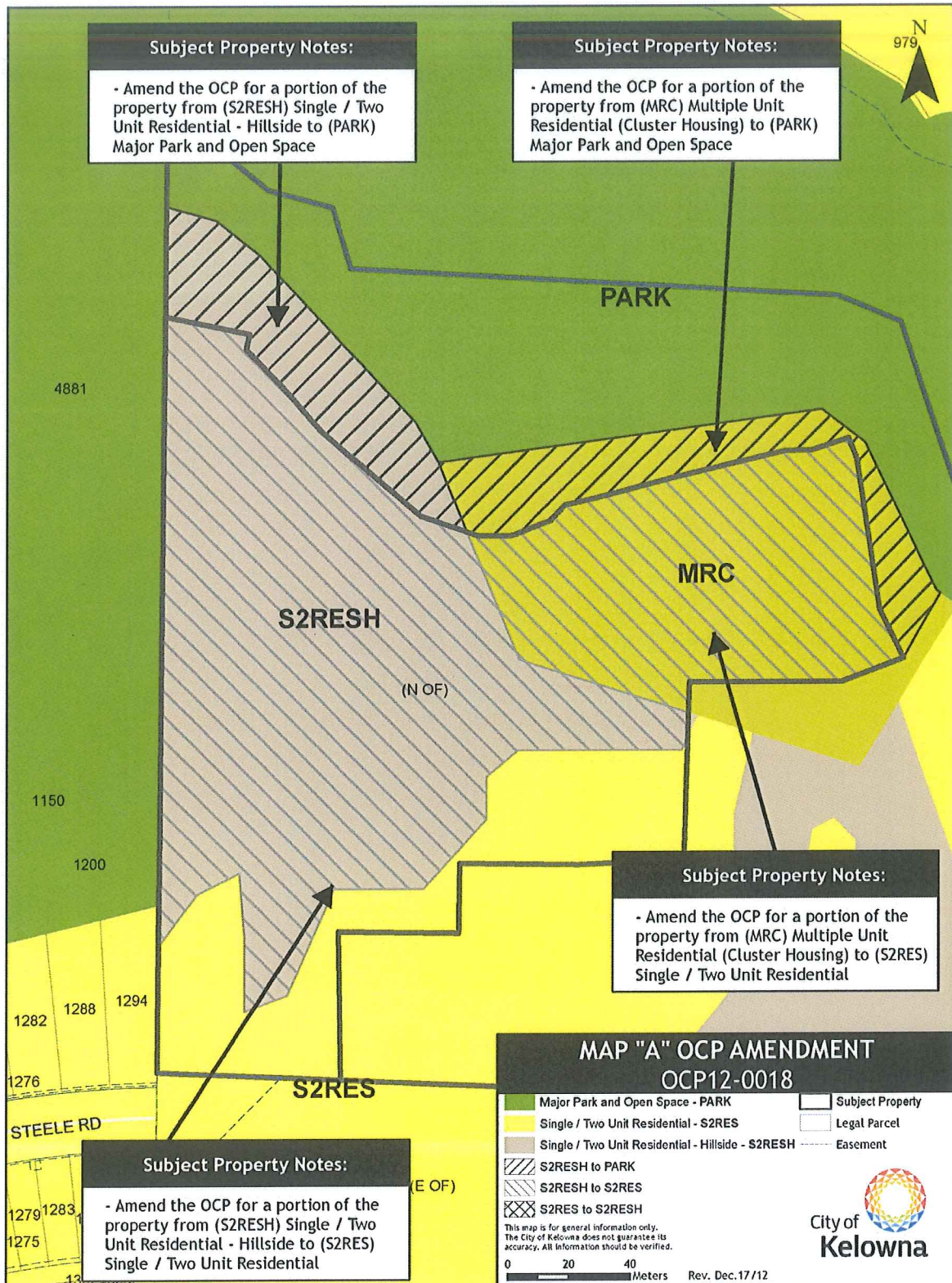
Considered at a Public Hearing on the 29th day of January, 2013.

Read a second and third time by the Municipal Council this 29th day of January, 2013.

Adopted by the Municipal Council of the City of Kelowna this

Mayor

City Clerk



Report to Council



Date: April 2, 2013

File: 0600-10

To: City Manager

From: City Clerk

Subject: OCP Application No. OCP12-0018 and Rezoning Application No. Z12-0058

Report Prepared by: Jolene Lamoureux, Legislative Clerk

Recommendation:

THAT Bylaw No. 10791 being OCP12-0018 and Bylaw No. 10792 being Z12-0058 be adopted.

Purpose:

To consider adoption of Bylaw No. 10791 being OCP12-0018 and Bylaw No. 10792 being Z12-0058 in order to change the future land use designation and rezone the subject properties to accommodate the proposed single family subdivision located in “The Ponds” neighbourhood and to further enhance the neighbourhood’s natural features and trail infrastructure.

Background:

Bylaw No. 10791 and 10792 received second and third readings by Council on January 29, 2013. A copy of the Bylaws is attached. As the following conditions of adoption have been met, the Bylaws can now be adopted:

1. Ravine Area Rezoned to P3 - Parks and Open Space be dedicated to the City as a titled lot;
2. Parks Agreement for the construction of a public trail;
3. Natural Environment DP;
4. Issuance of a PLR for the proposed subdivision.

Submitted by:

S. Fleming, City Clerk

CITY OF KELOWNA
BYLAW NO. 10792
Z12-0058 - Vincent & Pamela Blaskovich and Mair
Developments Ltd.
(N Of) Steele Road and 1450 Steele Road

A bylaw to amend the "City of Kelowna Zoning Bylaw No. 8000".

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

1. THAT City of Kelowna Zoning Bylaw No. 8000 be amended by changing the zoning classification of Lot 1, Section 29, Township 29, SDYD, Plan EPP23066, located on Steele Road, Kelowna, B.C., from the A1 - Agriculture 1 zone to the RU1 - Large Lot Housing zone and a portion of Lot A, Sections 20 and 29, Township 29, SDYD, Plan KAP44335, Except Plan KAP92565, located on Steele Road, Kelowna, B.C., from the A1 - Agriculture 1 zone to the P3 - Parks & Open Space zone as per Map "B" attached to and forming part of this bylaw.
2. This bylaw shall come into full force and effect and is binding on all persons as and from the date of adoption.

Read a first time by the Municipal Council this 14th day of January, 2013.

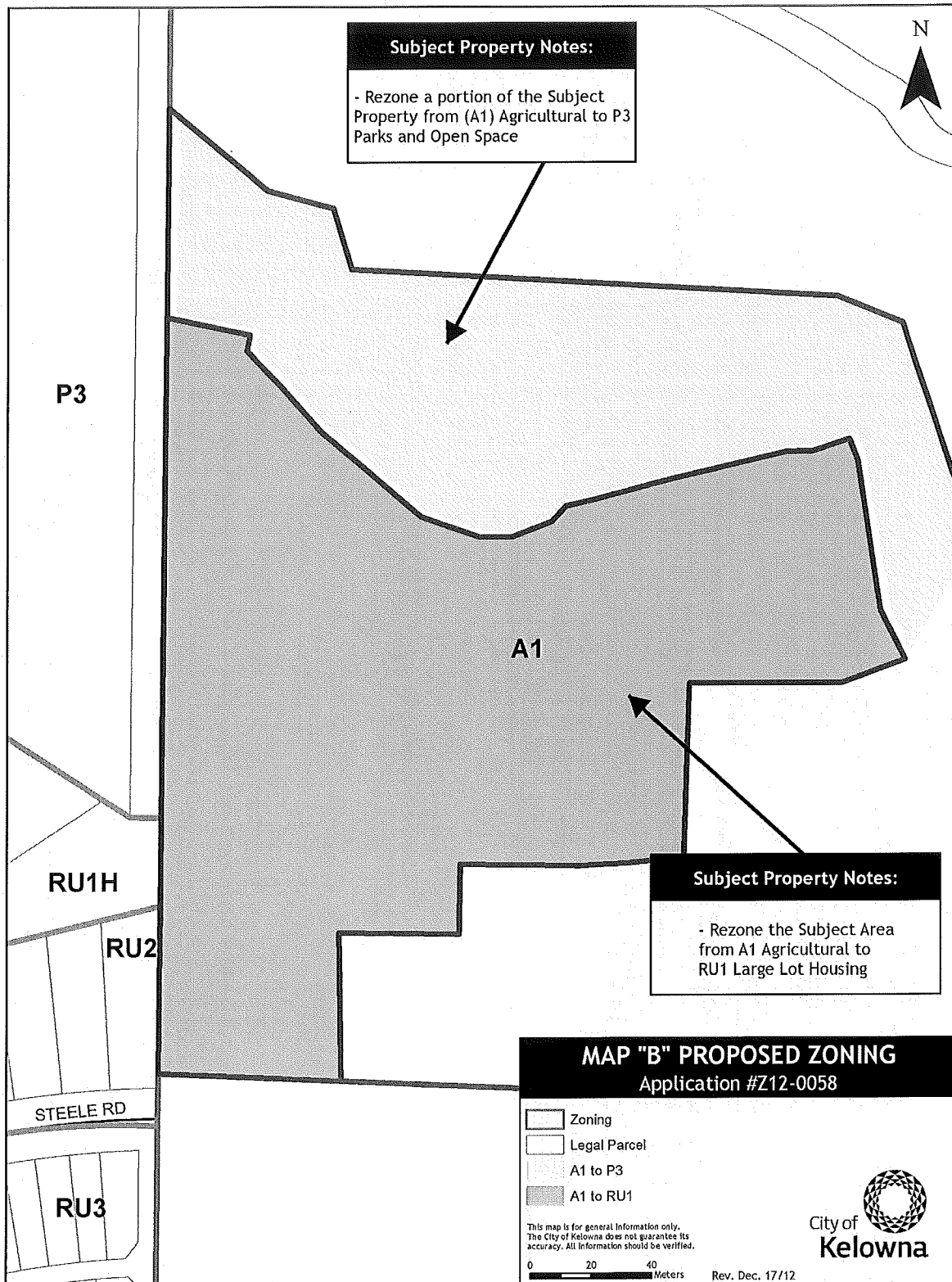
Considered at a Public Hearing on the 29th day of January, 2013.

Read a second and third time by the Municipal Council this 29th day of January, 2013.

Adopted by the Municipal Council of the City of Kelowna this

Mayor

City Clerk



Report to Council



Date: April 2, 2013
File: 0600-10
To: City Manager
From: City Clerk
Subject: Text Amendment Application No. TA12-0013 - Text Amendments to Zoning Bylaw No. 8000 - Carriage House
Report Prepared by: Jolene Lamoureux, Legislative Clerk

Recommendation:

THAT Bylaw No. 10796, being Text Amendment Application No. TA12-0013, be adopted.

Purpose:

To consider adoption of Bylaw No. 10796, being Text Amendment Application No. TA12-0013 - Text Amendments to Zoning Bylaw No. 8000 - Carriage House.

Background:

Bylaw No. 10796 received second and third readings by Council on February 26, 2013. A copy of the Bylaw is attached.

As the following condition for adoption has been met, the Bylaw can now be adopted:

1. Ministry of Transportation.

Submitted by:

Stephen Fleming, City Clerk

CITY OF KELOWNA

BYLAW NO. 10796

Text Amendment No. TA12-0013 -Amendment to the City of Kelowna Zoning Bylaw No. 8000 - Carriage House Text Amendments

The Municipal Council of the City of Kelowna, in open meeting assembled, enacts that City of Kelowna Zoning Bylaw No. 8000 be amended as follows:

1. THAT Section 2 - Interpretation, 2.3 General Definitions be amended by:

- a) deleting the definition for **HEIGHT** that reads:

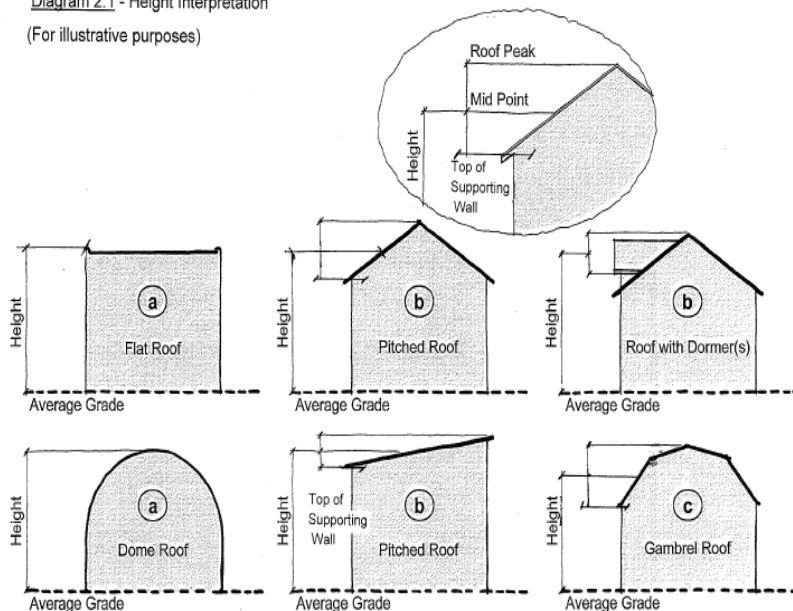
“**HEIGHT** means, with respect to a **building**, the maximum vertical distance between **building grade** and the highest point of the **structure** of a non-sloping roof, or the mid-point between the eaveline and ridge of a sloping roof excluding dormers as provided for in Section 6.6 describes restrictions for walkout basements.”

and replacing it with:

“**HEIGHT** with respect to a **building** refers to the maximum vertical distance between **building grade** and the highest point of the **structure** of a non-sloping roof, or the **mid-point** of a sloping roof. (see Diagram 2.1)

Note: Section 6. 6 provides additional **height** and **grade** regulations.

Diagram 2.1 - Height Interpretation
(For illustrative purposes)



Bylaw No. 10796

- b) Adding a new definition for **MID-POINT** in its appropriate location that reads:

“**MID-POINT** of a roof means, the half way point of a roof that falls between the top of the peak and the top of the supporting wall.”;

2. AND THAT **Section 6 - General Development Regulations, 6.6 Height and Grade**, Sub-Section 6.6.1 be amended to include the word “firewalls,” after the words “roof stairway entrances, ventilating equipment,”;
3. AND THAT **Section 6 - General Development Regulations, 6.6 Height and Grade**, Sub-Section 6.6.4 be deleted that reads:

“Where the width of the dormer or dormers exceeds 50% of the width of the roof on which they are located the **height** of the dormer will be measured as if it was the main roof.”

and replaced with:

“The **height** of dormers will be measured as if they are the main roof, unless the dormers are limited to 2 dormers per elevation, with a maximum width of 1.2m each and a minimum 1m separation. The total width of the dormers may not exceed 50% of the horizontal width of the building elevation on which they are located.”;

4. AND THAT **Section 7 - Landscaping and Screening**, Section 7.7.1 be amended by:
- a) deleting the words “an ‘s’” after the words “Properties with” and replacing it with the words “a ‘c’”; and
- b) deleting the word “RU1s” in the sentence that reads “(e.g. RU1s shall comply with the requirements of the RU1 zone)” and replace it with “RU1c”;
5. AND THAT **Section 7 - Landscaping and Screening, Table 7.1 - Minimum Landscape Buffer Treatment Levels Schedule** be amended by:
- a) deleting under **Rural Residential Zones**, “RR1s, RR2s, RR3s” and replacing it with “RR1c, RR2c, RR3c”; and
- b) deleting under **Urban Residential Zones** the following:
- i) “RU1, RU1s, RU2, RU2s, RU3” and replacing it with “RU1, RU1c, RU2, RU2c, RU3” and
- ii) “RU2hs” and replacing it with “RU2hc”
6. AND THAT **Section 8 - Parking and Loading, Location**, Section 8.1.9 be amended by adding a new sub-paragraph (e) as follows:
- “(e) no required parking shall be in the form of a parallel parking stall adjacent to a lane or alley way unless the parallel parking site is accessed by a driveway and is screened from the lane way.”;
7. AND THAT **Section 8 - Parking and Loading, Table 8.1 - Parking Schedule** be amended as follows:
- a) deleting under **Residential and Residential Related, Secondary Suites** at the end of the paragraph “**Carriage house: 1 additional parking space, plus the required parking spaces for the corresponding principal dwelling unit.**” and

Bylaw No. 10796

- b) adding under **Residential and Residential Related**, a new section in its appropriate location the following:

Carriage House	1 additional parking space , plus the required parking spaces for the corresponding principal dwelling unit.
-----------------------	---

8. AND THAT **Section 11 - A1 - Agriculture 1/ A1c - Agriculture 1 with Carriage House/ A1t - Agriculture 1 with Agri-tourist Accommodation, 11.1.6 Development Regulations** be amended as follows:

- a) deleting sub-paragraph (b) that reads:

“(b) The maximum **height** is the lesser of 9.5 m or 2½ **storeys**, except it is 13.0m for **accessory buildings** and 16.0 m for **agricultural structures**.”

and replace it with;

“(b) The maximum **height** is the lesser of 9.5 m or 2½ **storeys**, except it is 16.0 m for **agricultural structures** and 6.0m for **accessory buildings** or **carriage house**.”

- b) deleting sub-paragraph (e) that reads:

“(e) The minimum **rear yard** is 10.0 m, except it is 3.0 m for **accessory buildings**.”

and replacing it with:

“(e) The minimum **rear yard** is 10.0 m, except it is 3.0 m for **accessory buildings** and a **carriage house**. A **carriage house** must be located no closer than 4.5 m to the principal **dwelling** and no further than 10m from the principal **dwelling**.”;

9. AND THAT **Section 12 - Rural Residential Zones RR1/Rural Residential 1/RR1c - Rural Residential 1 with Carriage House, 12.1.6 Development Regulations** sub-paragraph (b) be amended by deleting the words at the end of the paragraph that read “, and 13.0 m for **agricultural structures**”;

10. AND THAT **Schedule ‘B’ - Comprehensive Development Zones, CD10 - Heritage Cultural, 1.3 Secondary Suites** be amended by adding a new sub-paragraph “(g) **Carriage House**” in its appropriate location.

11. This bylaw shall come into full force and effect and is binding on all persons as and from the date of adoption.

Bylaw No. 10796

Read a first time by the Municipal Council this 28th day of January, 2013.

Considered at a Public Hearing on the 26th day of February, 2013.

Read a second and third time by the Municipal Council this 26th day of February, 2013.

Approved under the Transportation Act this 20th day of March, 2013.

Blaine Garrison

(Approving Officer-Ministry of Transportation)

Adopted by the Municipal Council of City of Kelowna on the

Mayor

City Clerk

Report to Council



Date: April 2, 2013
File: 0600-10
To: City Manager
From: City Clerk
Subject: Text Amendment Application No. TA12-0010 - Text Amendments to Zoning Bylaw No. 8000 - Section 14 - Commercial Zone
Report Prepared by: Jolene Lamoureux, Legislative Clerk

Recommendation:

THAT Bylaw No. 10801, being Text Amendment Application No. TA12-0010, be adopted.

Purpose:

To consider adoption of Bylaw No. 10801, being Text Amendment Application No. TA12-0010 - Text Amendments to Zoning Bylaw No. 8000 - Section 14 - Commercial Zone.

Background:

Bylaw No. 10801 received second and third readings by Council on February 26, 2013. A copy of the Bylaw is attached.

As the following condition for adoption has been met, the Bylaw can now be adopted:

1. Ministry of Transportation.

Submitted by:

Stephen Fleming, City Clerk

CITY OF KELOWNA

BYLAW NO. 10801

Text Amendment No. TA12-0010 -Amendment to the City of Kelowna Zoning Bylaw No. 8000 - Commercial Zone Text Amendments

The Municipal Council of the City of Kelowna, in open meeting assembled, enacts that City of Kelowna Zoning Bylaw No. 8000 be amended as follows:

1. THAT **Section 14 - Commercial Zone, 14.8 - Convention Hotel Commerical/C8rls-Convention Hotel Commercial (Retail Liquor Primary)/C8lp - Convention Hotel Commercial (Liquor Primary), 14.8.3 Secondary Uses** be amended by adding in its appropriate location a new subparagraph “(e) **breweries and distilleries, minor**” and renumbering the subsequent subparagraphs.
2. This bylaw shall come into full force and effect and is binding on all persons as and from the date of adoption.

Read a first time by the Municipal Council this 4th day of February, 2013.

Considered at a Public Hearing on the 26th day of February, 2013.

Read a second and third time by the Municipal Council this 26th day of February, 2013.

Approved under the Transportation Act this 20th day of March, 2013.

Blaine Garrison

(Approving Officer-Ministry of Transportation and Infrastructure)

Adopted by the Municipal Council of City of Kelowna on the

Mayor

City Clerk

Report to Council



Date: April 3, 2013

Rim No.: 1140-50

To: City Manager

From: Ron Forbes, Property Manager

Subject: Licence and Management Agreement - Downtown Marina

Recommendation:

THAT Council approves the City entering into a fifteen (15) year Licence and Management Agreement, with Downtown Marina Inc., with the option to renew for an additional five (5) year term, in the form attached to the Report of the Manager, Property Management, dated April 3, 2013;

AND THAT the Mayor and City Clerk be authorized to execute the agreement.

Purpose:

To obtain Council approval of the Licence and Management Agreement.

Background:

On March 26, 2012 Council passed the following resolutions:

THAT Council endorses staff's recommendation to award the design, construction, operation and maintenance of the Queensway Marina to Westcorp Properties Inc.;

AND THAT Council authorizes staff to enter into an agreement with Westcorp Properties Inc. for the design and construction of the Queensway Marina for a lump sum payment of Two Hundred Thousand (\$200,000) Dollars;

AND THAT Council authorizes staff to enter into negotiations with Westcorp Properties Inc. with respect to a lease agreement for the operation and maintenance of the Queensway Marina;

AND FURTHER THAT staff report back to Council with the draft lease agreement for Council's consideration.

Staff has been working with Westcorp Properties Inc. staff to finalize the terms of the agreement and have developed the attached Licence and Management Agreement for Council's consideration. The terms of the agreement follow the terms set out in the Request For Proposal and the bid accepted by the City.

The general terms and conditions are:

- Westcorp has formed a new company and assigned the agreement to Downtown Marina Inc (DMI)
- The City owns part of the bed of Okanagan Lake. The City will be Licensing that area to DMI for construction of the marina.
- The City and DMI jointly have a Licence Of Occupation over the remaining area of the lake bed owned by the Province.
- As part of the Agreement, the City has assigned its responsibilities for the Licence Of Occupation to DMI.
- The term of the Agreement is for fifteen (15) years with an option to renew for an additional five (5) years.
- The rent with respect to the City lands will be calculated in accordance with what the Province charges for rent for the use of their lands. In addition, DMI will pay the City the annual fees payable to the Province for the Licence Of Occupation plus a 10% administrative fee.
- DMI will be responsible for;
 - Meeting obligations under the Licence Of Occupation;
 - All cleanliness, maintenance, and repairs to the marina;
 - All equipment, signage, and rental equipment;
 - Providing moorage and a ticket booth and use reasonable efforts to negotiate fair market rent for the existing commercial passenger ships;
 - Providing a public pier that will have 27 daily public moorage slips with the remaining 42 slips being for rental boats, nightly, weekly or longer term moorage depending on demand. The slip mix will be re-visited by DMI and City staff every two years and adjusted according to demand;
 - Providing all the public amenities outlined in the Design and Construction Agreement;
 - Providing a minimum of nine (9) boats and three (3) personal watercraft for rent;
 - Providing a boat fueling service for the general public;
 - Providing a washroom facility for controlled use by DMI staff and customers;
 - Providing and maintaining all necessary insurance;

DMI has been proceeding with the construction of the facility.

Internal Circulation:

Manager, Park and Public Space Projects

Considerations not applicable to this report:

Existing Policy:

Financial/Budgetary Considerations:

Communications Comments:

Alternate Recommendation:

Personnel Implications:

External Agency/Public Comments:

Legal/Statutory Authority:
Legal/Statutory Procedural Requirements:

Submitted by:

R. Forbes, Manager, Property Manager

Approved for inclusion:



D. Edstrom, Acting Director, Real Estate & Building Services

LICENCE AND MANAGEMENT AGREEMENT

THIS AGREEMENT dated for reference February 28, 2013 is

BETWEEN:

CITY OF KELOWNA
1435 Water Street
Kelowna, British Columbia,
V1Y 1J4

(the "City")

AND:

DOWNTOWN MARINA INC.
#300 – 1460 Pandosy Street
Kelowna, BC
V1Y 1P3

(the "Company")

WHEREAS:

- A. The City and Westcorp Properties Inc. ("Westcorp") entered into a Licence and Sublicence Agreement dated for reference July 12, 2012 (the "Licence and Sublicence Agreement").
- B. Under an Assignment and Assumption Agreement made between Westcorp, the Company and the City as of July 12, 2012, Westcorp assigned the Licence and Sublicence Agreement to the Company, and the Company assumed Westcorp's obligations under the Licence and Sublicence Agreement, with the City's consent.
- C. The City and the Company jointly applied for and entered into a Licence of Occupation agreement dated for reference October 1, 2012, with Her Majesty the Queen in Right of the Province of British Columbia (the "Crown") in the form attached to this Agreement as Schedule "A" (the "Crown Licence"), in respect of a 3.10 hectare area (more or less) defined in the Crown Licence as the "Land" and referred to herein as the "Crown Licence Area".
- D. The Company wishes to manage the Crown Licence Area, and the City wishes for the Company to manage the Crown Licence Area, on the terms and conditions set out in this Agreement.

- E. The City is the owner of lands in Kelowna, British Columbia legally described as:

PID: 010-971-831, Lot 1 District Lot 139 Osoyoos Division Yale District Plan 2732;

PID: 010-971-840, That Part of Lot 2 Shown on Plan B4780; District Lot 139 Osoyoos Division Yale District Plan 2732;

PID: 012-625-299, Lot 1 District Lots 139, 5129 and 5118 Osoyoos Division Yale District Plan 40519;

PID: 011-118-768, Lot 3 District Lot 139 Osoyoos Division Yale District Plan 2207

PID: 011-118-750, Lot 1 District Lot 139 Osoyoos Division Yale District Plan 2207;

PID: 025-620-185, Block F District Lot 1527 Osoyoos Division Yale District

PID: 011-812-192, District Lot 5002 Osoyoos Division Yale District Except Plan KAP80506; and

PID: 011-347-228, District Lot 4004 Osoyoos Division Yale District.

(collectively, the “City Lands”).

- F. The Company wishes to licence the City Lands (the “City Licence”) and the City wishes to grant the City Licence to the Company, on the terms and conditions set out in this Agreement.
- G. The City and the Company agree that the Company will build a marina facility (“Facility”) at the Company’s expense as outlined in the agreement attached hereto as Schedule “B”, as may be amended from time to time by agreement of the parties (the “Design and Construction Agreement”).

- H. The City and the Company agree that the purpose of the Facility is to provide moorage for commercial passenger ships, a boat rental facility, a boat fuel dispensing facility, day use moorage, short-term itinerant moorage, concession and a fully accessible public dock with a viewing platform and it is not the purpose of the Facility to provide long-term seasonal moorage.

THIS AGREEMENT is evidence that in consideration of the mutual covenants, conditions and agreements herein contained the parties agree as follows:

Grant of Licence and Management Agreement

1. The City hereby:

- (a) grants the City Licence to the Company on the terms and conditions of this Agreement. For greater certainty, the City Licence is limited to those portions of the City Lands reasonably required to accommodate the construction and use of the Facility in accordance with this Agreement. The City Lands and the Crown Licence Area are hereinafter collectively referred to as the "Property"; and
- (b) appoints the Company to manage its interest in the Crown Licence, and to occupy and use the Crown Licence Area subject to the terms of this Agreement. The parties agree that the Company shall be entitled to retain any and all revenues generated from the management, use and occupation of the Crown Licence Area subject to the Company paying the Rent and the Fee as set out in this Agreement.

Term of Agreement and Long Term Tenure

2. The term of this Agreement commences on January 1, 2013, or on such other date mutually agreed by the parties, and expires on December 31, 2017 (the "Term"). Upon construction of the Facility, the City and the Company will jointly apply to the Crown for tenure over the Crown Licence Area for a term ending December 31, 2027 (the "Long Term Tenure") plus one (1) right to renew for a further five (5) years. If the Crown grants the Long Term Tenure, the Term will automatically extend such that the Term expires at the same time the Long Term Tenure expires (not including the period of any right to renew the Long Term Tenure), and the Long Term Tenure will be deemed to be the Crown Licence for the purposes of this Agreement such that all the rights and obligations of the Company and the City under this Agreement in respect of the Crown Licence and Crown Licence Area will apply to the Long Term Tenure and area subject to the Long Term Tenure.

Renewal

3. This Agreement may be renewed for an additional five (5) year term (the "Renewal Term") at the sole discretion of the Company. Subject to section 4, all terms and covenants of this Agreement shall apply to the Renewal Term save and except this Section 3. The Company may only exercise its option to renew this Agreement:

- (a) if the Long Term Tenure has been renewed for at least five (5) years;
- (b) by giving the City notice of its intention to renew no later than two (2) years before the expiration of the Term; and
- (c) provided the City has not delivered a Removal Notice under section 10(mm).

4. If the Company, during the Term, has received net revenue from the operation of the Facility sufficient to repay the cost of construction and operation of the Facility plus a Reasonable Rate of Return (defined below) on the cost of the Facility, the Company shall pay to the City during the Renewal Term Rent and a Fee equal to the Fair Market Value (defined below) rent and fee for the Property. "Fair Market Value" shall mean the rent and fee the City would reasonably accept for the Property at the Renewal Term commencement date, but shall be determined on the basis that the Property does not have the Facility constructed within the area and in no event will be less than the Rent and Fee during the Term. "Reasonable Rate of Return" shall mean the rate of return a prudent investor would expect to receive from an investment similar to the Facility.

Reasonable Rate of Return and Fair Market Value shall be agreed by the parties no later than one year prior to expiration of the Term, and failing agreement, shall be determined by a single arbitrator (despite section 53(b)) who is an independent valuator from a national firm.

Overholding

5. It is hereby agreed by and between the parties hereto that if the Company shall hold over after the expiration of the Term or any Renewal Term hereby granted and the City shall accept Rent and a Fee, the new licence thereby created shall be a licence from year to year on the same terms and conditions as this Agreement. The overholding licence may be terminated by the City providing thirty (30) days notice in writing.

Rent and Fee

6. The Company shall pay:

- (a) annual rent in respect of the City Lands to be calculated in accordance with the same formula used to calculate rent under the Crown Licence (the "Rent"); and
- (b) subject to section 4, an annual fee in an amount equal to the annual payments required to be paid under the Crown Licence to the Crown plus an administrative fee of 10% of such amounts (the "Fee").

7. The Company shall, in each year of the Term or Renewal Term (as applicable), pay to the City the Rent and the Fee within 30 days of the date of receiving an invoice from the City showing the amount of the Rent and Fee, which the City will issue within 30 days of receiving an invoice from the Province for payments due under the Crown Licence.

8. The Company shall pay the Rent and Fee by cheque payable to the City.

Purpose

9. The Company may only use the Crown Licence Area for the purposes of a commercial marina as described in the Crown Licence. The Company shall only use the City Lands for the purposes set out in Recital H of this Agreement.

The Company's Covenants

10. The Company covenants and agrees with the City:

- (a) **Obligations under Crown Licence**— to manage and perform at the cost and expense of the Company all of the obligations of the City under the Crown Licence, and, subject to section 51, to exercise the Company's interest under the Crown Licence in accordance with this Agreement;
- (b) **Obligations under Agreement** – to perform all of the Company's obligations under this Agreement at the cost and expense of the Company;
- (c) **No Breach of Crown Licence** – not to do or omit to do any act in or around the Crown Licence Area which would cause a breach of the City's obligations as licensee under the Crown Licence;
- (d) **Operations** – to manage and operate the Facility in accordance with the bylaws of the City of Kelowna and applicable legislation and regulations of the provincial and federal governments and to manage and operate the commercial portion of the marina as required to meet the needs of commercial boat operators;
- (e) **Payment of Rent and Fee** - to promptly pay the Rent and Fee when due;
- (f) **Taxes and Assessments** - to promptly pay when due, unless otherwise exempted by the City, all rates, taxes, property taxes and assessments, of whatsoever description, that may at any time during the existence of this Agreement be lawfully imposed, or become due and payable, upon, or in respect of the Property and the operations of the Company or any part thereof;
- (g) **Business Licences and Permits** - to procure and maintain, at the cost and expense of the Company, such licences, permits or approvals from any Federal, Provincial, Municipal or other Government authorities, and such private permits as may be necessary to enable the Company to furnish the services and conduct the operations provided for in this Agreement;
- (h) **Utilities** - to promptly pay when due all other utility rates, charges and assessments, of whatsoever description, that may at any time during the existence

of this Agreement be lawfully imposed, or become due and payable, upon or in respect of the Property and the operations of the Company or any part thereof;

- (i) **Repair** – to repair and maintain all structures, equipment, services, fixtures and utilities of the Facility in a safe, clean, functional and environmentally sound condition, free from defects, deficiencies and damage and to promptly correct defects, deficiencies, damage and safety concerns. This includes the benches, trash/recycling receptacles, pedestrian lights and other furnishings necessary to support public use of the Facility;
- (j) **Nuisance and Negligence** - not to do, suffer or permit any act which may in any manner, directly or indirectly, cause injury or damage to the Property or Facility or which may be or become a nuisance to or interference with the owners, occupiers or users of other parts of adjoining lands or to the public, including the accumulation of rubbish or unused personal property of any kind;
- (k) **Assignment** – not to assign, transfer, or sublicense this Agreement in whole or in part without the express written consent of the City, and if required under the Crown Licence, the Crown. Such consent may not be unreasonably withheld provided the assignee, transferee or sublicensee agrees to assume the Company's obligations under this Agreement and the City is reasonably assured the assignee, transferee or sublicensee will operate the Facility, or part thereof, in accordance with the public interest. If the control or beneficial ownership of the Company is changed at any time by the sale or other disposition of its shares or securities, such change in control or ownership shall be deemed to be an assignment of this Agreement by the Company requiring the City's consent. The City acknowledges that the Company will be granting sublicences to other parties who will operate food concessions, marina or tourism retail operations, rental operations and the handling of tickets, and the City agrees to consent to such sublicences subject to the reasonable approval by the City of the operators.
- (l) **Abide by Laws and Bylaws**- to abide by and comply with, at its own expense, all laws, bylaws, rules, zoning requirements and regulations of every authority which in any manner relates to or affects the operations of the Company or the use of the Property and to save harmless the City from all costs, charges or damages to which the City may be put or suffer by reason of any breach by the Company of any such law, rule or regulation;
- (m) **Rules and Regulations** – that the Company and its agents and employees and all persons using the Crown Licence Area shall strictly comply with any rules and regulations governing the Crown Licence Area attached to the Crown Licence or this Agreement;
- (n) **Cleanliness** – not to permit the Property to become untidy, unsightly or hazardous or to permit unreasonable quantities of waste or refuse to accumulate on the Property or the area immediately surrounding the Property;

- (o) **Provision of Equipment** – to provide, at its own expense, all equipment and materials required to use the Property for the purposes of this Agreement;
- (p) **Signs** - not to use or erect any signs on the Facility without the prior written consent of the City, which consent shall not be unreasonably withheld;
- (q) **Installation of Improvements and Structures** – not to establish or erect any improvements or structures on the Facility without the prior written consent of the City which consent will not be unreasonably withheld. Provided, however, that the Company shall be able to erect or construct any and all improvements and structures on the Crown Licence Area that are set out in the Design and Construction Agreement;
- (r) **Builder's Liens** – to comply at all times with the *Builders Lien Act* (British Columbia) in respect of any improvements, work or construction undertaken on the Facility;
- (s) **Inspection** – to permit the City to enter upon the Facility at all reasonable times to determine whether the Company is complying with this Agreement;
- (t) **Buffer** – to maintain a buffer between the Facility structures and the Kelowna Yacht Club breakwater and moorage structures of at least 20 meters;
- (u) **Moorage** – to provide and maintain approximately 65 moorage slips in the public marina and 7 commercial boat slips at a separate commercial pier. The Company shall commence operations in year one with a minimum of 27 marina slips available on a per hour or per day basis and a minimum of 8 of the marina slips available for rental boats. The remainder of the marina slips will be available for nightly, weekly or longer term moorage according to demand. After two years of operation and every two years thereafter, the allocation of moorage slips will be reviewed jointly by the City and the Company and this section may be reconsidered and amended to ensure the marina is meeting its intended purpose of providing itinerant moorage in the downtown waterfront. Any changes to the itinerant moorage allocation shall be at the sole discretion of the City, acting reasonably. Further joint reviews may be undertaken by agreement of the parties;
- (v) **Existing Agreements** – as part of the allocation of commercial boat slips in subsection (u), to use reasonable efforts to negotiate new rental agreements with the commercial boat operators at the City's existing commercial marina (collectively, the "Existing Tenants"), all at market rates and on market terms, provided however the Company will not enter into agreements with any Existing Tenant unless the Existing Tenant has fully paid the City all moneys owed under their existing agreement with the City;
- (w) **Prohibited Services** – to not allow:
 - (i) Overnight sleeping, camping or occupancy,

- (ii) Provision of facilities or services for the repair or maintenance of watercraft whether commercial or otherwise,
- (iii) Commercial advertising or signage not directly related to the commercial boat business, rental business, food and/or marina retail sales business or fuel sales business,
- (iv) Liquor or tobacco product sales,
- (v) Illegal products or services,
- (vi) Uses not compatible with the land use zone designation for the Property,
- (vii) The use of the adjacent beaches, paths and plazas for any aspect of Facility operation. Maintain clear and unencumbered public marine access to the beach north and south of the Property.

Provision of any of the prohibited services shall be considered a default under the Agreement;

- (x) **Licences and permits** - to maintain all necessary licences and permits for the operation and maintenance of the Facility and provide them to the City for inspection upon 7 days notice by the City;
- (y) **Security and Fire Protection** - to provide for fire protection and security for the Facility as is required by the City laws and regulations;
- (z) **Fire Prevention** – at its own expense take reasonable precautions to prevent fire from occurring in or about the Facility and shall observe and comply with all laws and regulations in force in regards to fires respecting both the Facility and surrounding areas;
- (aa) **Hazards** – to respond immediately to repair any hazards identified by the City;
- (bb) **Sewage Pump Out** - Maintain safe and manageable access for pleasure boats, house boats and larger vessels to and from the existing sanitary sewer pump out facility located north of the Facility, or provide new sanitary sewer pump out service at the Facility;
- (cc) **Emergency Services** – to provide necessary fire protection, spill response, safety and environmental equipment to meet regulatory requirements, protect the environment and ensure public safety;
- (dd) **Uses** – to ensure uses comply with zoning requirements;
- (ee) **Public Access** – to provide public access on all docks, wharfs and floats during the days and hours of operation for Kerry Park, as determined from time to time. Ensure that the minimum width for the public access is maintained at 3.66 metres (to prevent commercial boat owners from putting up stands on the dock or signs or storing equipment on the dock so as to impede the public's access). Maintain access for those with mobility challenges. Use access controls to prevent

unauthorized access to the Facility outside days and hours of operation and during unfavourable or unsafe conditions (e.g. snow build-up, icy surfaces, high winds, high water, maintenance);

- (ff) **Public Amenities** – to maintain all the public amenities as defined in the Design and Construction Agreement at a standard similar to or higher than City maintenance standards;
- (gg) **Inspections** – to conduct inspections in April of each year of the water, fuel and sanitary system within the Facility and Property and provide results of those inspections to the City. To do any repairs to these systems identified as a result of the inspections prior to the commencement of operations for the season;
- (hh) **Utilities with respect to the Facility** – to be responsible for payments of utilities and services, including garbage and recycling pick up;
- (ii) **Garbage and Recycling** – with respect to the Facility, to be responsible for ensuring the areas around the garbage and recycling bins are kept neat and tidy;
- (jj) **Service / Training** - Provide employees, agents and tenants of the Company with the level of training required, reasonably considering the position to be filled by the employee, agent or tenant, to maintain and operate the facility and to assist the boating public in a safe, effective, responsive and courteous manner. The Company shall keep records of such training and those records will be made available upon request for inspection by City staff;
- (kk) **Criminal Record Search** - Conduct criminal record check on staff involved with operation and maintenance of the Facility and provide City with copy of record check documentation;
- (ll) **Annual Meeting** - Conduct an annual meeting with the City to inspect the condition of the Facility and review operational practices. Meet with the City on an as needed basis to deal with emergent issues;
- (mm) **Structures** - At the end of the Term or Renewal Term, if applicable, and provided the City has delivered a Removal Notice (as defined in this Section) to the Company, the Company will remove all structures, equipment, services and fixtures from the Property and leave the Property in a safe, clean, functional and environmentally sound condition.

The City may provide a notice (the “Removal Notice”) to the Company to remove all structures, equipment, services and fixtures from the Property and leave the Property in a safe, clean, functional and environmentally sound condition no less than 2 years, and no more than 3 years, before the end of the Term or Renewal Term, as applicable. Prior to the City providing the Removal Notice, the City and the Company shall negotiate in good faith and use reasonable commercial efforts,

but without any obligation to reach a binding agreement (despite any arbitration of fair market value under this Section), an agreement to allow the Company to continue to operate the Facility or for the City to purchase the Facility from the Company at the Facility's fair market value as agreed to by the parties, or failing agreement, as determined by arbitration pursuant to section 53;

- (nn) **Payment** – to accept major credit and debit cards in addition to cash. The Company shall be responsible for obtaining and thereafter maintaining, at their own cost and expense, all credit and debit card processing equipment necessary for the provision of a credit and debit card service;
- (oo) **U. S. Currency** – to accept U.S. currency in payment for goods or services hereunder at such rates of exchange that will be equal to the “buy” rate set by a Canadian chartered bank. The Company shall inform the public of the exchange rate granted by displaying signs indicating the said rate in a prominent location within the Facility;
- (pp) **Continuous Operation** – to ensure continuity of seasonal operation during any and all adjacent development by the Company or an entity affiliated with the Company;
- (qq) **Required Services** – the Company shall provide the following services at the Facility:
 - (i) a minimum of 9 boats for rental through a concession located at the Facility. The boats shall be no more than 4 model years old and shall be in proper working condition and repair;
 - (ii) a level of service and range of rental boats is comparable to those offered by competitors within the area;
 - (iii) a minimum of 3 personal watercraft for rental through a concession located at the Facility. The personal watercraft shall be no more than 4 model years old and shall be of the 4 stroke variety;
 - (iv) the Company shall ensure rental agreements indicate the area from shore out 200 meters is a no wake zone requiring all boats and personal watercraft to leave and return to the Facility in a safe manner;
 - (v) provide a boat fuelling operation at the Facility which at all times complies with all current Federal, Provincial and City regulations;
 - (vi) provide one public washroom at the Facility which shall be maintained in a clean and sanitary condition, provided, however, that the Company will not be required to provide the public washroom if the Company is not,

after using reasonable efforts, able to obtain the required permit to install the public washroom within the Facility;

- (vii) provide a concession offering incidental items of interest to the boating public including non-alcoholic beverages and confectionary items;
- (viii) provide ticket services for commercial passenger ship cruises.

City's Covenants and Representations

11. The City represents, covenants and agrees with the Company to:

- (a) permit the Company to peaceably manage, use, possess and enjoy the Property for the Term and, if applicable, the Renewal Term, so long as the Company is not in default of the Company's obligations under this Agreement;
- (b) subject to section 10(a), comply with the City's obligations under the Crown Licence;
- (c) permit the Company to charge a reasonable fee for commercial passenger ship cruise ticket services;
- (d) not provide reserved parking for the Company employees or their customers, and the Company acknowledges the City is not responsible for such parking;
- (e) do all things necessary to permit the Company to construct and operate the Facility as contemplated in this Agreement;
- (f) that there are no Hazardous Substances within the City Lands at the commencement of the Term;
- (g) ensure water discharged from the outfall pipe into the marina area from the City's storm sewer will comply with the waste discharge requirements of the most current version of the City's Sanitary Sewer/Storm Drain Regulation Bylaw (Bylaw No. 6618-90) (in this section, the "Bylaw"). If the discharge does not meet these requirements, the City agrees to take the necessary precautions or corrective action to ensure compliance with the Bylaw. It is acknowledged by the parties that storm water may from time to time contain some of the same contaminants as could be released from marina operations, such as oil and grease, or hydrocarbons from fuel spills that may be released from boat motors or other equipment. In the event a release occurs at the Facility in the vicinity of the City's outfall and the source of the release is uncertain, the Company and the City will jointly assess the situation to identify the source, and the party responsible for the source of the contamination shall be responsible for the clean up and remediation of the contamination;

- (h) remediate the Property in accordance with section 29 if necessary;
- (i) be bound by those obligations of the City contained in sections 10(u) and 10(mm);
- (j) the City represents that it has the right and authority to enter into this Agreement and perform all the obligations of the City under this Agreement;
- (k) the City has taken any and all steps necessary to permit the City to enter into this Agreement, including any steps required under any laws or legislation (including the *Local Government Act*) and any internal policy requirements of the City;
- (l) the entering into this Agreement will not cause the City to be in breach of any other agreement, including, but not limited to, any other agreement to provide a lease, sublease, licence or sublicense over all, or any part of, the Property;
- (m) the City represents that the Property is not subject to any trust provisions, including, but not limited to, a trust commonly referred to as the Simpson Covenant; and
- (n) enter into a non-disturbance agreement with the Company's lender on terms mutually agreeable to the City and the Company's lender;
- (o) notwithstanding subsection 10(k), consent to other such security as reasonably required by the lender of the Company including, but not limited to, an Assignment of this Agreement and a mortgage of the Company's interest in this Agreement;
- (p) upon the completion of the Facility, the Company may arrange for a survey of the Facility on the City Lands, and the City shall, subject to compliance with any requirements or restrictions in the *Community Charter* or other applicable enactments (including without limitation publication of a notice of disposition), grant a lease of the Facility to the Company on the same terms and conditions as contained in this Agreement. The City agrees that the Company shall be entitled to register the lease against the City Lands in the Land Title Office. For greater certainty, the City agrees the provisions of section 11(o) of this Agreement shall apply to a lease granted pursuant to the terms of this section 11(p).

Insurance

12. The Company must, at its sole expense, obtain and maintain during the Term:

- (a) comprehensive general liability insurance providing coverage for death, bodily injury, property loss and damage, and all other losses, arising out of or in connection with the Company's operations, use and occupation of the Property in an amount of not less than Five Million Dollars (\$5,000,000.00) per occurrence;

- (b) “all risks” insurance providing coverage for replacement cost of all damaged structures and improvements making up part of the Property and all of the Company’s Fixtures (defined below) and personal property on the Property resulting from fire, earthquake and all other perils customarily included in the usual all risks form of policy applicable to similar properties;
- (c) marina operators liability insurance to cover all marina related operations of the insured on the Property with an inclusive limits of not less than Two Million Dollars (\$2,000,000.00) per occurrence;
- (d) protection and indemnity liability insurance covering the ownership and operation of marine vessels owned by the named insured with an inclusive limit of not less than Two Million Dollars \$2,000,000 per occurrence;
- (e) environmental impairment liability insurance providing coverage for death, bodily injury, Property loss and damage, and all other losses, arising out of or in connection with the operations, use and occupation of the Property in an amount of not less than Two Million Dollars \$2,000,000.00 per occurrence;
- (f) any other insurance required in the Crown Licence to be maintained by the City for the Crown Licence Area; and
- (g) any other form or forms of insurance that the City may reasonably require from time to time in amounts and for perils against which a prudent tenant acting reasonably would protect itself in similar circumstances.

The Company shall adjust the amounts listed in subsections (a) (c), (d) and (e) through the Term or Renewal Term to reflect current insurance coverage standards for municipalities in British Columbia upon receipt of written notice from the City specifying the amounts required by such standards, provided that the City will not provide such notice within the first five years of the Term and thereafter not more than once every five years.

13. All policies of insurance required to be taken out by the Company must be with companies satisfactory to the City and must:

- (a) name the City, in respect of the Property, and the Crown, in respect of the Crown Licence Area, as additional insureds;
- (b) be issued by an insurance company of investment grade and lawfully entitled to carry on the business of insurance under the laws of British Columbia;
- (c) be primary and non-contributing with respect to any policies carried by the City or the Crown and that any coverage carried by the City or the Crown is in excess coverage;

- (d) not be changed or amended in any way or cancelled without the insurer providing the City and the Crown, in respect of the Crown Licence Area, with 30 clear days written notice stating when such change or cancellation is to be effective;
- (e) comprehensive general liability insurance shall include a cross liability clause;
- (f) be on other terms acceptable to the City, acting reasonably.

14. The Company must, before the commencement of the Term and promptly upon the City's request at such other times during the Term, provide the City with certificates of insurance confirming the placement and maintenance of the insurance in a form acceptable to the City.

15. If the Company fails to insure as required, the City may, after 30 days notice to the Company, effect the insurance in the name and at the expense of the Company and the Company must repay the City all costs reasonably incurred by the City within 21 days of receipt of an invoice. For clarity, the City has no obligation to insure the Property during the Term or Renewal Term.

16. The Company covenants and agrees with the City not to do or permit anything to be done which would render any other policy of insurance on the Property or any part thereof void or voidable or which would cause an increase in the insurance premiums of insurance held by the City. In the event that the Company does anything that would cause an increase in the insurance premiums on the Property for which the City pays the premiums, the Company shall pay to the City that amount which represents the increase in the insurance premiums by virtue of the Company's use or occupation of the Property.

17. The failure or refusal to pay losses by any insurance company providing insurance on behalf of the Company shall not be held to waive or release the Company from any of the provisions of Sections 12 to 16 of this Agreement, with respect to the liability of the Company otherwise. Any insurance deductible maintained by the Company under any of the insurance policies is solely for their account and any such amount incurred by the City will be recovered from the Company.

No Other Agreement

18. The provisions in this Agreement constitute the whole of the agreement between the parties and merges and supersedes all previous communications, representations, warranties, covenants and agreements, whether verbal or written, between the parties with respect to the subject matter of this Agreement.

Surrender

19. Subject to the terms of section 10(mm), and unless otherwise permitted by the City, the Company shall at the expiration or sooner termination of this Agreement peaceably surrender and give up possession of the Property in a safe and sanitary condition and in good repair to the satisfaction of the City without notice from the City and any right or notice to quit or vacate is

hereby expressly waived by the Company notwithstanding any law, usage or custom to the contrary.

Carefree

20. Except as set out in this Agreement, the Company acknowledges and agrees that this Agreement shall be completely carefree for the City and the City shall not be responsible during the Term or Renewal Term for any costs, charges, expenses or outlays of any nature whatsoever in respect of the Property.

Construction and Completion

21. The Company covenants and agrees with the City that the Company shall make reasonable commercial efforts for the Facility to achieve substantial performance by the dates set out in the Design and Construction Agreement and shall be open to the public and commercial use in accordance therewith.

Environmental Clauses

22. For the purpose of this Agreement:

- (i) "*Environmental Law*" means all federal, provincial, municipal or local laws, statutes or ordinances relating to environmental matters, including all rules, regulations, policies, guidelines, criteria or the like promulgated under or pursuant to any such laws;
- (ii) "*Hazardous Substance*" means a contaminant, pollutant, dangerous good, waste, toxic substance, special waste or hazardous substance as defined in or pursuant to any Environmental Law;
- (iii) "*Communication*" means any citation, directive, order, claim, litigation, investigation, proceedings, judgment, letter or other communication, written or oral, actual or threatened, from any governmental agency or any other person, acting reasonably; and
- (iv) "*Permit*" means any authorization, permit, licence, approval or administrative consent issued pursuant to Environmental Law.

23. **Compliance with Laws** – The Company shall conduct its business and operation on the Property in compliance with all laws, rules and regulations of the Federal Government, Provincial Government and all by-laws and regulations of the City and any other governing body whatsoever and shall comply with all local police, health or fire regulations or by-laws, in any manner affecting the business of the Company on the Facility. In agreeing to comply with all by-laws and regulations of the City, the Company does so voluntarily as a matter of commercial expedience, without protest, without any demand by the City and without qualification by any condition.

24. **Toxic Construction Materials** – The Company shall use construction materials on the Crown Licence Area as approved by the provincial regulatory authorities.

25. **Contamination** – If the Facility, Okanagan Lake or the lands adjacent to the Facility (including the lands around the fuel storage tank) become contaminated by reason of the use or occupation of the Property by the Company, or any of its tenants, then the Company at its own expense shall clean up the contamination in accordance with the environmental remediation standards in place at the time.

26. **Communication to City** – The Company shall forthwith notify the City of the occurrence of any of the following and shall provide the City with copies of all relevant documentation in connection therewith:

- (a) a release of a Hazardous Substance on the Property, except as is authorized under Environmental Laws;
- (b) the receipt by the Company of a Communication from any governmental agency of non-compliance pursuant to any Environmental Law, including a Communication of non-compliance respecting a Permit;
- (c) the receipt by the Company of a Communication in writing of a claim by a third party relating to environmental concerns; or
- (d) the receipt by the Company of information which indicates that Hazardous Substances are present in or on the Property.

27. **Storage of Hazardous Substances** – The Company shall not permit the storage, treatment or disposal of Hazardous Substances on the Property except in accordance with all Environmental Laws. For greater certainty, the Company may bring fuel and oil onto the Property required to operate boats or equipment, propane required to operate cooking, heating or other appliances, and cleaning solutions, all in accordance with Environmental Laws.

28. **Investigations** – The Company shall conduct such investigations, searches, testing, and sampling (“Investigations”) as may at any time be required by the City if the Company's use or occupation of the Property may be introducing or increasing the existence of any Hazardous Substance on the Property. If the Company does not complete the Investigations to the satisfaction of the City, the City may enter on the Property and take any actions necessary to complete the Investigations, the cost of which actions shall be borne by the Company.

29. **Remediation** – If Hazardous Substances are present on or in the Property or remediation is required under Environmental Law as a result of the Company's use or occupation of the Property, the Company shall take all necessary action, at the cost of the Company to remediate the Property to the level required by Environmental Law. If Hazardous Substances are present on or in the Property at the commencement of the Term or due to the City's actions or failure to comply with Environmental Law, the City shall be responsible for the remediation of the

Property, and the City shall take all necessary action, at the cost of the City, to remediate the Property to the level required by Environmental Law.

30. Condition of Crown Licence Area on Termination – Prior to the termination of this Agreement, the Company shall conduct all Investigations required by the City where any reasonable evidence exists that the Company's use or occupation of the Property has introduced or increased the existence of any Hazardous Substance on or in the Property. The Company shall provide the result of the Investigations to the City. Where any Hazardous Substance is found on or in the Property as a result of the Company's use or occupation of the Property, the Company shall take all necessary action, at the cost of the Company, to remediate the Property to a level acceptable to the existing Environmental Law in force at the time.

31. Permits – The Company shall provide to the City satisfactory documentary evidence that all Permits are valid and in good standing as requested by the City from time to time.

32. Environmental Indemnity – The Company shall indemnify and save harmless the Province and the City, and its elected and appointed officials, officers, employees, agents, successors, and assigns from and against any and all losses, claims, costs, expenses, damages and liabilities, including all costs of defending or denying the same, and all costs of investigation, monitoring, remedial response, removal, restoration or permit acquisition and including all solicitor's fees and disbursements in connection therewith which at any time may be paid or incurred by or claimed against the City, and its elected and appointed officials, officers, employees, agents, successors and assigns arising, directly or indirectly, out of:

- (a) a breach by the Company of any of sections 23- 32 contained in this Agreement;
- (b) where the Company's use or occupancy of the Crown Licence Area results in the presence, release or increase of any Hazardous Substance on or off-site of the Property;
- (c) any reasonable action taken by the City with respect of the existence of or remediation for any Hazardous Substance on or off-site of the Property if such remediation or Hazardous Substance was the responsibility of the Company pursuant to the terms of this Agreement; or
- (d) any reasonable action taken by the City in compliance with any Communication from any governmental authority with respect to the existence of any Hazardous Substance on or off-site of the Property if the Communication related to a Hazardous Substance was the responsibility of the Company pursuant to the terms of this Agreement.

Wastes Prohibited

33. The Company shall not permit or condone the discharge of wastes from watercraft bilges or sewage systems onto the Property.

The Company's Fixtures

34. The City acknowledges and agrees that all improvements, alterations and additions installed on the Property at the commencement of the Term or during the Term or Renewal Term are owned by the Company, including but not limited to the Facility, all floating docks, ramps, pilings, footings, electrical systems, water systems, sewage pump out systems, fuel pumps, all pumps and the breakwater installed by the Company (the "Company's Fixtures").

35. The Company may during the Term or Renewal Term, at its own expense with the City's prior written consent, which shall not be unreasonably withheld, install, alter or remove any of the Company's Fixtures, provided however that the Company acknowledges that it may be required to obtain consent from the Crown under the terms of the Crown Licence and must comply with bylaws of the City generally applicable to such installation, alteration or removal. A Section 9 Notification or Application for Changes In and About a Stream under the Water Act (British Columbia) or other legislative requirement will be applied for by the City (together with the Company, if necessary) at the Company's sole expense.

36. If the Company Fixtures are removed pursuant to section 35, the Company shall repair any damage to the Property caused by the removal of the Company's Fixtures to the satisfaction of the City and leave the Property in a clean and orderly state.

37. The Company and the City may from time to time jointly designate in writing any or all of the Company's Fixtures to remain on the Property upon the expiration or earlier termination of this Agreement, in which case such remaining improvements shall become the property and responsibility of the City.

City Not Obligated to Inspect or Repair

38. The City shall not be obliged to furnish any facilities or to make any repairs or alterations in or to the Property and the Company hereby assumes the full and sole responsibility for the condition, operation, repair, replacement, maintenance and management of the Property. As the Facility is open to the public the City shall have the right to inspect the Facility with a representative of the Company.

Maintenance and Repair

39. The Company must, at its own expense, at all times during this Agreement, inspect, maintain and repair the Property, the Facility and appurtenances and equipment thereon including the Company's Fixtures to standards of repair generally accepted in British Columbia with respect to comparable premises and to standards required by the Crown Licence and upon written notice from the City to the Company must make such repairs as are reasonably required by the City in the notice, acting as a prudent and careful owner. If at any time during the Term or Renewal Term the City considers any structures or improvements on the Property to be in such a state of deterioration that it is not feasible to repair and creates a safety hazard to the public, the City may, acting reasonably as a prudent and careful owner would do, require the Company to remove such structures or improvements, and the Company shall be responsible for

their removal at its own expense. The Company shall be responsible, at its own expense for the capital replacement of any and all portions of the Company's Fixtures.

Right to Make Repairs

40. If at any time during the Term or Renewal Term the Company fails to maintain the Property and the Facility in the condition required by this Agreement, the City may but shall not be obligated to enter upon the Property for the purpose of making the repairs required. The City shall make such repairs only after giving the Company 10 days written notice of its intention to do so, except in the case of an emergency when no notice to the Company is required. Any expenses incurred by the City in making such repairs to the Property shall be reimbursed to the City by the Company on demand. Any failure to repair by the Company shall constitute a default under this Agreement, despite any repairs made by the City.

Minimum Work Standards

41. The Company shall ensure that any repairs or work with respect to the Property done by or on behalf of the Company meet or exceed the standards of materials and construction employed in the original construction and comply with all applicable laws, statutes, enactments, regulations, bylaws and orders from time to time in force, including the applicable building code and bylaws of the City.

Ownership of Structures

42. Ownership of the Facility and structures shall belong to the Company.

State of Property at Termination

43. If the Company fails to leave the Property in a condition required by this Agreement, the City may do so on behalf of the Company and the Company must, on demand, compensate the City for all costs incurred by the City.

Indemnity

44. The Company shall indemnify and save harmless the Province and the City and its elected and appointed officials, officers, employees, agents, successors and assigns from any and all actions, causes of action, suits, claims, demands, losses, expenses (including actual fees of professional advisors), liens (including builders liens), damages, liabilities and costs, whether connected to death, bodily injury, property loss, property damage, or consequential or economic loss, arising directly or indirectly out of:

- (a) any breach or default of the Company under this Agreement or the Crown Licence;
- (b) any representation of the Company in this Agreement being false or incorrect;

- (c) the Company's use or occupation of the Property contrary to this Agreement; and
- (d) any act, omission or negligence of the Company or its directors, officers, employees, agents, partners, contractors, subcontractors, invitees and others for whom it is responsible in law.

45. The City shall indemnify and save harmless the Company and its directors, officers, employees, agents, successors and assigns from any and all actions, causes of action, suits, claims, demands, losses, expenses (including actual fees of professional advisors), liens (including builders liens), damages, liabilities and costs, whether connected to death, bodily injury, property loss, property damage, or consequential or economic loss, arising directly or indirectly out of:

- (a) any breach or default of the City under this Agreement or the Crown Licence;
- (b) any representation of the City in this Agreement being false or incorrect; and
- (c) any act, omission or negligence of the City or its elected officials and appointed officers, employees, agents, successors, and others for whom it is responsible in law.

46. The release and indemnities in this Agreement shall survive the expiry or earlier termination of this Agreement.

Crown Licence Area Rendered Unusable

47. If the Property or the Company's Fixtures, at any time during the Term or Renewal Term, are destroyed or damaged by any cause so that in the Company's opinion, acting reasonably, the Property or the Company's Fixtures are unfit for use as a commercial marina, then the Company may terminate this Agreement, and any insurance proceeds shall be made payable in case of loss to:

- (a) in the case of insurance proceeds in respect to the Company's Fixtures, the Company; and
- (b) in the case of insurance proceeds in respect to the Property, the City.

48. If this Agreement is not terminated, the Company shall be entitled to rebuild equivalent structures or improvements on the same site or another location acceptable to the City and the insurer, acting reasonably.

Termination Due to Default

49. If and whenever

- (a) this Agreement is at any time seized or taken in execution or attachment by any creditor of the Company or under bill of sale or chattel mortgage;

- (b) a writ of execution issues against the goods and chattels of the Company;
- (c) the Company makes any assignment for the benefit of creditors or becomes insolvent or bankrupt;
- (d) proceedings are begun to wind up the Company;
- (e) the Company is in default in the payment of Rent or the Fee or any other amount payable under this Agreement;
- (f) the Company does not fully observe, perform and keep each and every term, covenant, agreement, stipulation, obligation, condition and provision of this Agreement to be observed, performed and kept by the Company; or
- (g) the Company vacates or abandons the Property or uses or permits or suffers the use of the Property for any purpose other than the purposes permitted by the Crown Licence and this Agreement,

in any such case, the Company shall be in default of this Agreement.

The City shall provide notice of the default to the Company and:

- (a) the Company will not be considered in default of this Agreement if it cures the default within 30 days of receipt of notice; or
- (b) if the default is not capable of being cured within 30 days, the Company shall not be considered in default if the Company takes reasonable steps to start curing the default within 30 days of notice from the City, and continues to take reasonable steps until the default has been cured.

If the Company has not cured the default, or taken steps to cure the default, as set out above, the City may, as its option, consider the Term, or Renewal Term, if applicable, ended.

Exercise of Rights

50. The taking of any action or exercise of any other rights under the Crown Licence which is permitted to the Crown shall, upon written notice to the Company of such action or exercise, be binding upon the Company.

Paramountcy of Crown Licence

51. To the extent that any right or benefit conferred by this Agreement contravenes or is incompatible with the Crown Licence, such right or benefit shall be amended or modified so as not to contravene or be incompatible with the Crown Licence.

Whole Agreement

52. The provisions in this Agreement constitute the whole of the agreement between the parties and supersede all previous communications, representations, warranties, covenants and agreements, whether verbal or written, between the parties with respect to the subject matter of this Agreement.

Arbitration

53. The Company and the City agree as follows.

- (a) any arbitration required under this Agreement shall be conducted in accordance with this Section;
- (b) notice shall be given by the party desiring the arbitration to the other party with whom that party is having a dispute or disagreement and within two weeks after notice is received, the parties shall agree upon and appoint a single arbitrator. Provided, however if they cannot agree upon a single arbitrator, each party shall within one further week appoint an arbitrator and the two arbitrators so appointed shall within one further week appoint a third arbitrator who shall be the chairman of the arbitration proceedings;
- (c) the arbitrators shall hear the reference as soon as possible at a convenient location in Kelowna, British Columbia;
- (d) the arbitrators shall conduct a hearing as they believe proper allowing each party adequate opportunity to present and rebut evidence;
- (e) the arbitrators may accept evidence on oath, affidavit or otherwise as they believe proper whether or not admissible in a court. Parties who are not parties to the dispute may present evidence only if requested to do so by a party to the dispute or by the arbitrators;
- (f) the arbitrators may make whatever award they consider just and equitable including an order in the nature of a mandatory or prohibitive injunction or for payment of damages and may make an order regarding the contribution of the parties to the cost of the arbitration and remuneration of the arbitrators;
- (g) the arbitrators' award may be entered in the Kelowna registry of the British Columbia Supreme Court and enforced with leave of the court in the same manner as an order of that court.

For greater certainty, the parties are not obligated to arbitrate a dispute unless expressly required to do so under this Agreement.

Notices

54. Where any notice, request, direction or other communication (any of which is a “Notice”) must be given or made by a party under this Agreement, it must be in writing and is effective if delivered in person, sent by registered mail addressed to the party for whom it is intended at the address set forth above in this Agreement or sent by fax, to the City at fax number (250) 862-3320 or to the Company at fax number (250) 763-9960, as the case may be, provided that any Notice to the City must be to the attention of the City Clerk. Any Notice that is delivered by hand is to be considered given on the day it is delivered, any Notice sent by registered mail is to be considered given three days after mailing, and any Notice sent by fax is to be considered given on the day it is sent, except that if, in any case, that day is not a business day, it is to be considered given on the next business day.

Licence of Occupation Not in Registrable Form

55. The Company acknowledges and agrees that the City is under no obligation to at any time deliver this Agreement or any instrument creating this Agreement to the Company in a form registrable under the *Land Title Act* (British Columbia).

No Waiver

56. Waiver by the City of any breach of any term, covenant or condition of this Agreement by the City must not be deemed to be a waiver of any subsequent default by the Company. Failure by the City to take any action in respect of any breach of any term, covenant or condition of this Agreement by the Company must not be deemed to be a waiver of such term, covenant or condition.

No Effect on Laws or Powers

57. Nothing contained or implied herein prejudices or affects the City’s rights and powers in the exercise of its functions pursuant to the *Community Charter* (British Columbia) or its rights and powers under any enactment to the extent the same are applicable to the Property, all of which may be fully and effectively exercised in relation to the Property as if this Agreement had not been fully executed and delivered.

Agreement Execution and Crown’s Consent

58. This Agreement and all subsequent amendments thereto are only binding on the City and the Company respectively, if in writing and executed by authorized signatories for the City and the Company and executed copies thereof have been delivered to each party.

Enurement

59. This Agreement enures to the benefit of and is binding upon the parties and their respective successors and assigns, notwithstanding any rule of law or equity to the contrary.

Severance

60. If any portion of this Agreement is held invalid by a court of competent jurisdiction, the invalid portion shall be severed and the decision that it is invalid shall not affect the validity of the remainder of this Agreement.

Law of British Columbia

61. This Agreement must be construed according to the laws of the Province of British Columbia and the parties attorn to the exclusive jurisdiction of the courts of British Columbia..

Time of Essence

62. Time is of the essence of this Agreement

Accounting Principles

63. Any calculation referred to in this Agreement will be made in accordance with Generally Accepted Accounting Principles. All accounting terms which are not defined in this Agreement will have the meaning assigned to them by Generally Accepted Accounting Principles.

As evidence of their agreement to be bound by the above terms, the City and the Company each have executed this Agreement on the respective dates written below:

CITY OF KELOWNA

by its authorized signatories:

Mayor:

Clerk:

Date: _____

DOWNTOWN MARINA INC.

by its authorized signatories:

Name: **GAIL TEMPLE**

Name:

Date: **MARCH 7 / 13**

Schedule "A"
Crown Lease



Our File: 0269276
Your File: 1110-03

November 16, 2012

CITY OF KELOWNA
DOWNTOWN MARINA INC.
c/o 1435 Water St
Kelowna, BC V1Y 1J4

Attention: Ron Forbes, Property Manager

Enclosed is an originally executed copy of Licence Number 346301 covering District Lots 5355 and 5203, that part of District Lot 1527 and that part of Block A, District Lot 5118, together with all that unsurveyed Crown foreshore being part of the bed of Okanagan Lake adjacent to District Lot 5355, Osoyoos Division Yale District, containing 3.10 hectares, more or less.

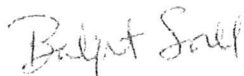
The Licence is issued for a term of 5 years commencing October 1, 2012 for marina and commercial boat dock purposes. Survey of the Land must be completed 6 months prior to the expiration of this Licence.

This License replaces License Number 342620 on this file, Licence No 342619 on File 0216006 and Licence 342533 on File 3403558. Files 0216006 and 3403558 have been closed. Lease No. 345686 on File 3402186 will be amended once the new survey for the above area is completed.

Attached is a copy of your Management Plan for your convenience. Please ensure that this Tenure is kept in a safe location, as it must be presented to this office for assignment, should the interest be transferred or sold.

Should you have any questions regarding this matter, please contact me at the details listed below.

Yours truly,



Ms. Baljit Sall
Portfolio Administrator

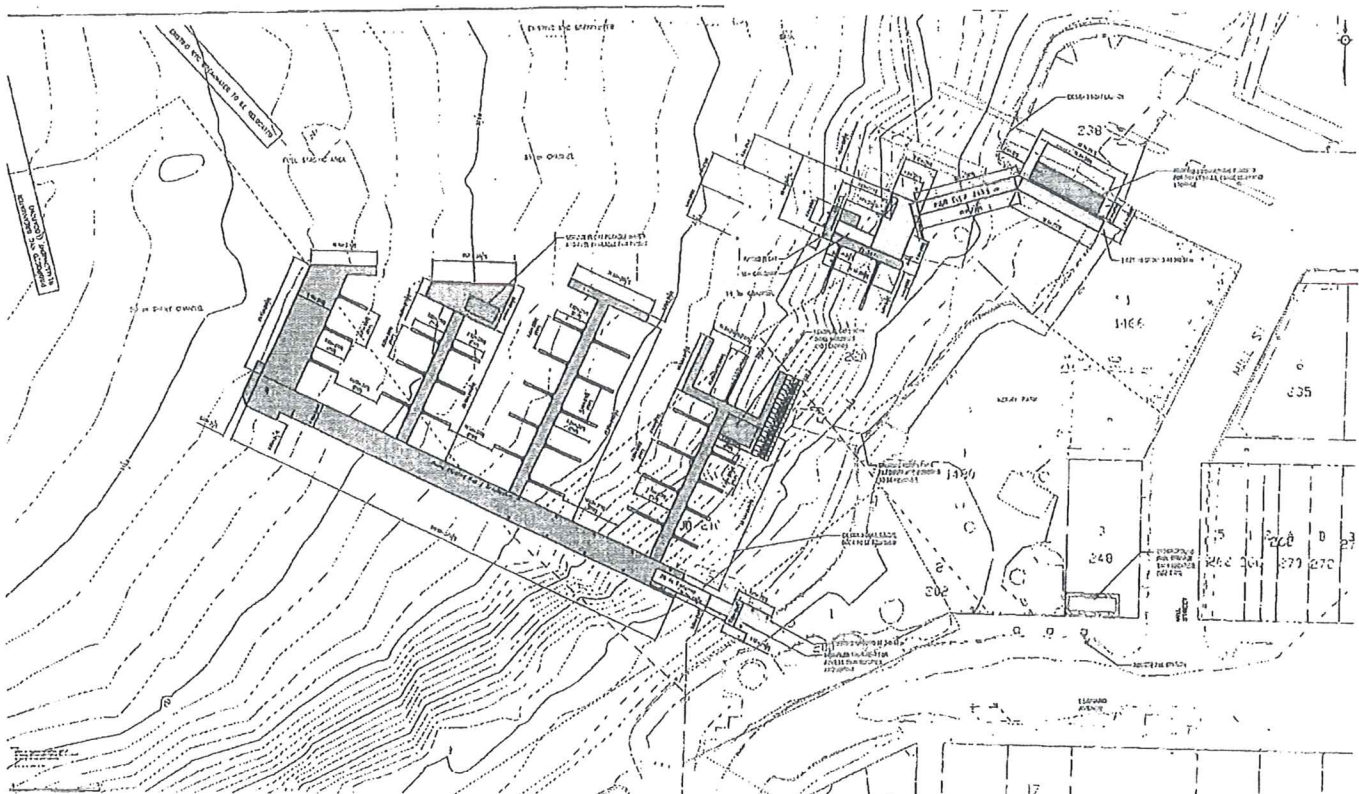
Attachment

pc: B.C. Assessment Authority, Kelowna
Transport Canada
Downtown Marina Attn: Gail Temple 300-1460 Pandosy St, Kelowna BC VY 1P3

Management Plan

File: 0269276

September 25, 2012



Signed by

An authorized representative of the City of Kelowna and Downtown Marina Inc.

R. Temple

October 12, 2012

Date

Goul Temple

HER MAJESTY THE QUEEN IN RIGHT OF THE PROVINCE OF BRITISH COLUMBIA,
by its authorized representative

[Signature]

Sept. 25/12

Date



LICENCE OF OCCUPATION

Licence No.:

840301

File No.: 0269276

Disposition No.: 903508

THIS AGREEMENT is dated for reference October 1, 2012 and is made under the *Land Act*.

BETWEEN:

HER MAJESTY THE QUEEN IN RIGHT OF THE PROVINCE OF BRITISH COLUMBIA, represented by the minister responsible for the *Land Act*, Parliament Buildings, Victoria, British Columbia

(the "Province")

AND:

CITY OF KELOWNA
1435 Water St
Kelowna, BC V1Y 1J4

And

DOWNTOWN MARINA INC.
Inc. No. A0071315
1460 Pandosy St
Kelowna, BC V1Y 1P3

As Tenants in Common

(the "Licensee")

The parties agree as follows:

ARTICLE 1 - INTERPRETATION

1.1 In this Agreement,

"Agreement" means this licence of occupation;

"Commencement Date" means October 1, 2012;

"disposition" has the meaning given to it in the *Land Act* and includes a licence of occupation;

"Fees" means the fees set out in Article 3;

"Hazardous Substances" means any substance which is hazardous to persons, property or the environment, including without limitation

- (a) waste, as that term is defined in the *Environmental Management Act*; and
- (b) any other hazardous, toxic or other dangerous substance, the use, transportation or release into the environment of which, is now or from time to time prohibited, controlled or regulated under any laws or by any governmental authority, applicable to, or having jurisdiction in relation to, the Land;

"Improvements" includes anything made, constructed, erected, built, altered, repaired or added to, in, on or under the Land, and attached to it or intended to become a part of it, and also includes any clearing, excavating, digging, drilling, tunnelling, filling, grading or ditching of, in, on or under the Land;

"Land" means that part or those parts of the Crown land either described in, or shown outlined by bold line on, the schedule attached to this Agreement entitled "Legal Description Schedule" except for those parts of the land that, on the Commencement Date, consist of highways (as defined in the *Transportation Act*);

"Management Plan" means the most recent management plan prepared by you in a form approved by us, signed and dated by the parties, and held on file by us;

"Realty Taxes" means all taxes, rates, levies, duties, charges and assessments levied or charged, at any time, by any government authority having jurisdiction which relate to the Land, the Improvements or both of them and which you are liable to pay under applicable laws;

"Security" means the security referred to in section 6.1 or 6.2, as replaced or supplemented in accordance with section 6.5;

"Term" means the period of time set out in section 2.2;

"we", "us" or "our" refers to the Province alone and never refers to the combination of the Province and the Licensee: that combination is referred to as **"the parties"**; and

"you" or "your" refers to the Licensee.

- 1.2 In this Agreement, "person" includes a corporation, partnership or party, and the personal or other legal representatives of a person to whom the context can apply according to law and wherever the singular or masculine form is used in this Agreement it will be construed as the plural or feminine or neuter form, as the case may be, and vice versa where the context or

parties require.

- 1.3 The captions and headings contained in this Agreement are for convenience only and do not define or in any way limit the scope or intent of this Agreement.
- 1.4 This Agreement will be interpreted according to the laws of the Province of British Columbia.
- 1.5 Where there is a reference to an enactment of the Province of British Columbia or of Canada in this Agreement, that reference will include a reference to every amendment to it, every regulation made under it and any subsequent enactment of like effect and, unless otherwise indicated, all enactments referred to in this Agreement are enactments of the Province of British Columbia.
- 1.6 If any section of this Agreement, or any part of a section, is found to be illegal or unenforceable, that section or part of a section, as the case may be, will be considered separate and severable and the remainder of this Agreement will not be affected and this Agreement will be enforceable to the fullest extent permitted by law.
- 1.7 Each schedule to this Agreement is an integral part of this Agreement as if set out at length in the body of this Agreement.
- 1.8 This Agreement constitutes the entire agreement between the parties and no understanding or agreement, oral or otherwise, exists between the parties with respect to the subject matter of this Agreement except as expressly set out in this Agreement and this Agreement may not be modified except by subsequent agreement in writing between the parties.
- 1.9 Each party will, upon the request of the other, do or cause to be done all lawful acts necessary for the performance of the provisions of this Agreement.
- 1.10 Any liabilities or obligations of either party arising, or to be performed, before or as a result of the termination of this Agreement, and which have not been satisfied or remain unperformed at the termination of this Agreement, any indemnity and any release in our favour and any other provision which specifically states that it will survive the termination of this Agreement, shall survive and not be affected by the expiration of the Term or the termination of this Agreement.
- 1.11 Time is of the essence of this Agreement.
- 1.12 Wherever this Agreement provides that an action may be taken, a consent or approval must be obtained or a determination must be made, then you or we, as the case may be, will act reasonably in taking such action, deciding whether to provide such consent or approval or making such determination; but where this Agreement states that you or we have sole discretion to take an action, provide a consent or approval or make a determination, there will be no requirement to show reasonableness or to act reasonably in taking that action, providing that consent or approval or making that determination.

- 1.13 Any requirement under this Agreement for us to act reasonably shall not require us to act in a manner that is contrary to or inconsistent with any legislation, regulations, Treasury Board directives or other enactments or any policy, directive, executive direction or other such guideline of general application.

ARTICLE 2 - GRANT AND TERM

- 2.1 On the terms and conditions set out in this Agreement, we grant you a licence of occupation of the Land for marina and commercial boat dock purposes, as set out in the Management Plan. You acknowledge this licence of occupation does not grant you exclusive use and occupancy of the Land.
- 2.2 The term of this Agreement commences on the Commencement Date and terminates on the 5th anniversary of that date, or such earlier date provided for in this Agreement. We reserve the right to terminate this Agreement in certain circumstances as expressly provided in this Agreement.

ARTICLE 3 - FEES

- 3.1 You will pay to us:
- (a) for the first five years of the Term, an annual Fee of \$2,776.32, payable in advance on the Commencement Date and thereafter on each successive anniversary of that date; and
 - (b) for each year during the remainder of the Term, the Fee either determined by us under section 3.2 or established under section 3.3, payable in advance, beginning on the fifth anniversary of the Commencement Date, and thereafter on each successive anniversary of that date.
- 3.2 We will, not later than 15 days before each anniversary of the Commencement Date during each succeeding year of the Term after the fifth anniversary of the Commencement Date, give written notice to you specifying in our sole discretion the Fee payable by you under subsection 3.1(b) for the subsequent year of the Term.
- 3.3 If we do not give notice to you under section 3.2, the Fee payable by you under section 3.1(b) for the year for which notice was not given will be the same as the Fee payable by you for the preceding year of the Term.

ARTICLE 4 - COVENANTS**4.1 You must**

- (a) pay, when due,
 - (i) the Fees to us at the address set out in Article 10,
 - (ii) the Realty Taxes, and
 - (iii) all charges for electricity, gas, water and other utilities supplied to the Land for use by you or on your behalf or with your permission;
- (b) deliver to us, immediately upon demand, receipts or other evidence of the payment of Realty Taxes and all other money required to be paid by you under this Agreement;
- (c) observe, abide by and comply with
 - (i) all applicable laws, bylaws, orders, directions, ordinances and regulations of any government authority having jurisdiction in any way affecting your use or occupation of the Land or the Improvements including without limitation all laws, bylaws, orders, directions, ordinances and regulations relating in any way to Hazardous Substances, the environment and human health and safety, and
 - (ii) the provisions of this Agreement;
- (d) in respect of the use of the Land by you or by any person who enters upon or uses the Land as a result of your use of the Land under this Agreement, keep the Land and the Improvements in a safe, clean and sanitary condition satisfactory to us, and at our written request, rectify any failure to comply with such a covenant by making the Land and the Improvements safe, clean and sanitary;
- (e) not commit any wilful or voluntary waste, spoil or destruction on the Land or do anything on the Land that may be or become a nuisance to an owner or occupier of land in the vicinity of the Land;
- (f) use and occupy the Land only in accordance with and for the purposes set out in the Management Plan;
- (g) not construct, place, anchor, secure or affix any Improvement in, on, or to the Land or otherwise use the Land in a manner that will interfere with any person's riparian right of access over the Land and you acknowledge and agree that the granting of this Agreement and our approval of the Improvements under this Agreement, whether through our approval of a Management Plan (where applicable) or otherwise, do not:

- (i) constitute a representation or determination that such Improvements will not give rise to any infringement of any riparian right of access that may exist over the Land; or
- (ii) abrogate or authorize any infringement of any riparian right of access that may exist over the Land;

and you remain responsible for ensuring that you will not cause any infringement of any such riparian right of access;

- (h) pay all accounts and expenses as they become due for work performed on or materials supplied to the Land at your request, on your behalf or with your permission, except for money that you are required to hold back under the *Builders Lien Act*;
- (i) if any claim of lien over the Land is made under the *Builders Lien Act* for work performed on or materials supplied to the Land at your request, on your behalf or with your permission, immediately take all steps necessary to have the lien discharged, unless the claim of lien is being contested in good faith by you and you have taken the steps necessary to ensure that the claim of lien will not subject the Land or any interest of yours under this Agreement to sale or forfeiture;
- (j) not deposit on the Land, or any part of it, any earth, fill or other material for the purpose of filling in or raising the level of the Land unless you obtain our prior written approval;
- (k) have a British Columbia Land Surveyor conduct a survey of the Land 6 months prior to the expiration of this Licence;
- (l) take all reasonable precautions to avoid disturbing or damaging any archaeological material found on or under the Land and, upon discovering any archaeological material on or under the Land, you must immediately notify the ministry responsible for administering the *Heritage Conservation Act*;
- (m) permit us, or our authorized representatives, to enter on the Land at any time to inspect the Land and the Improvements, including without limitation to test and remove soil, groundwater and other materials and substances, where the inspection may be necessary or advisable for us to determine whether or not you have complied with your obligations under this Agreement with respect to Hazardous Substances, provided that we take reasonable steps to minimize any disruption of your operations;
- (n) indemnify and save us and our servants, employees and agents harmless against all claims, actions, causes of action, losses, damages, costs and liabilities, including fees of solicitors and other professional advisors, arising out of

- (i) your breach, violation or non-performance of a provision of this Agreement,
- (ii) any conflict between your use of the Land under this Agreement and the lawful use of the Land by any other person, and
- (iii) any personal injury, bodily injury (including death) or property damage occurring or happening on or off the Land by virtue of your entry upon, use or occupation of the Land,

and the amount of all such losses, damages, costs and liabilities will be payable to us immediately upon demand; and

(o) on the termination of this Agreement,

- (i) peaceably quit and deliver to us possession of the Land and, subject to paragraphs (ii), (iii) and (iv), the Improvements in a safe, clean and sanitary condition,
- (ii) within 90 days, remove from the Land any Improvement you want to remove, if the Improvement was placed on or made to the Land by you, is in the nature of a tenant's fixture normally removable by tenants and is not part of a building (other than as a tenant's fixture) or part of the Land and you are not in default of this Agreement,
- (iii) not remove any Improvement from the Land if you are in default of this Agreement, unless we direct or permit you to do so under paragraph (iv),
- (iv) remove from the Land any Improvement that we, in writing, direct or permit you to remove, other than any Improvement permitted to be placed on or made to the Land under another disposition, and
- (v) restore the surface of the Land as nearly as may reasonably be possible, to the condition that the Land was in at the time it originally began to be used for the purposes described in this Agreement, but if you are not directed or permitted to remove an Improvement under paragraph (iii), this paragraph will not apply to that part of the surface of the Land on which that Improvement is located,

and all of your right, interest and estate in the Land will be absolutely forfeited to us, and to the extent necessary, this covenant will survive the termination of this Agreement.

- 4.2 You will not permit any person who enters upon or uses the Land as a result of your use of the Land under this Agreement to do anything you are restricted from doing under this Article.

4.3 You must not use all or any part of the Land

- (a) for the storage or disposal of any Hazardous Substances; or
- (b) in any other manner whatsoever which causes or contributes to any Hazardous Substances being added or released on, to or under the Land or into the environment from the Land;

unless

- (c) such storage, disposal, release or other use does not result in your breach of any other provision of this Agreement, including without limitation, your obligation to comply with all laws relating in any way to Hazardous Substances, the environment and human health and safety; and
- (d) we have given our prior written approval to such storage, disposal, release or other use and for certainty any such consent operates only as a consent for the purposes of this section and does not bind, limit, or otherwise affect any other governmental authority from whom any consent, permit or approval may be required.

4.4 Despite any other provision of this Agreement you must:

- (a) on the expiry or earlier termination of this Agreement; and
- (b) at any time if we request and if you are in breach of your obligations under this Agreement relating to Hazardous Substances;

promptly remove from the Land all Hazardous Substances stored, or disposed of, on the Land, or which have otherwise been added or released on, to or under the Land:

- (c) by you; or
- (d) as a result of the use of the Land under this Agreement;

save and except only to the extent that we have given a prior written approval expressly allowing specified Hazardous Substances to remain on the Land following the expiry of the Term.

4.5 We may from time to time

- (a) in the event of the expiry or earlier termination of this Agreement;
- (b) as a condition of our consideration of any request for consent to an assignment of this Agreement; or

- (c) if we have a reasonable basis for believing that you are in breach of your obligations under this Agreement relating to Hazardous Substances;

provide you with a written request to investigate the environmental condition of the Land and upon any such request you must promptly obtain, at your cost, and provide us with, a report from a qualified and independent professional who has been approved by us, as to the environmental condition of the Land, the scope of which must be satisfactory to us and which may include all such tests and investigations that such professional may consider to be necessary or advisable to determine whether or not you have complied with your obligations under this Agreement with respect to Hazardous Substances.

- 4.6 You must at our request from time to time, but not more frequently than annually, provide us with your certificate (and if you are a corporation such certificate must be given by a senior officer) certifying that you are in compliance with all of your obligations under this Agreement pertaining to Hazardous Substances, and that no adverse environmental occurrences have taken place on the Land, other than as disclosed in writing to us.

ARTICLE 5 - LIMITATIONS

- 5.1 You agree with us that

- (a) in addition to the other reservations and exceptions expressly provided in this Agreement this Agreement is subject to the exceptions and reservations of interests, rights, privileges and titles referred to in section 50 of the *Land Act*;
- (b) other persons may hold or acquire rights to use the Land in accordance with enactments other than the *Land Act* or the *Ministry of Lands, Parks and Housing Act*, including rights held or acquired under the *Coal Act*, *Forest Act*, *Geothermal Resources Act*, *Mineral Tenure Act*, *Petroleum and Natural Gas Act*, *Range Act*, *Water Act* or *Wildlife Act* (or any prior or subsequent enactment of the Province of British Columbia of like effect); such rights may exist as of the Commencement Date and may be granted or acquired subsequent to the Commencement Date and may affect your use of the Land;
- (c) other persons may hold or acquire interests in or over the Land granted under the *Land Act* or the *Ministry of Lands, Parks and Housing Act*; such interests may exist as of the Commencement Date; following the Commencement Date we may grant such interests (including fee simple interests, leases, statutory rights of way and licences); you acknowledge that your use of the Land may be affected by such interests and the area or boundaries of the Land may change as a result of the granting of such interests;
- (d) you have no right to compensation from us and you release us from all claims, actions, causes of action, suits, debts and demands that you now have or may at any time in the

future have against us arising out of any conflict between your use of the Land under this Agreement and any use of, or impact on the Land arising from the exercise, or operation of the interests, rights, privileges and titles described in subsections (a), (b), and (c);

- (e) this Agreement does not limit any right to notice, compensation or any other benefit that you may be entitled to from time to time under the enactments described in subsection (b), or any other applicable enactment;
- (f) you will not commence or maintain proceedings under section 65 of the *Land Act* in respect of any interference with your use of the Land as permitted under this Agreement that arises as a result of the lawful exercise or operation of the interests, rights, privileges and titles described in subsections (a), (b) and (c);
- (g) you will not dredge or displace beach materials on the Land unless you have obtained our prior written approval;
- (h) you will not moor or secure any boat or structure to the Improvements or on any part of the Land for use as a live-aboard facility, whether permanent or temporary;
- (i) you will not interrupt or divert the movement of water or of beach materials by water along the shoreline unless you have obtained our prior written approval;
- (j) you will not use mechanized equipment other than a pile-driver during the construction, operation or maintenance of Improvements on the Land;
- (k) you will not remove or permit the removal of any Improvement from the Land except as expressly permitted or required under this Agreement;
- (l) any interest you may have in the Improvements ceases to exist and becomes our property upon the termination of this Agreement, except where an Improvement may be removed under paragraph 4.1(o)(ii), (iii) or (iv) in which case any interest you may have in that Improvement ceases to exist and becomes our property if the Improvement is not removed from the Land within the time period set out in paragraph 4.1(o)(ii) or the time period provided for in the direction or permission given under paragraph 4.1(o)(iii); and
- (m) if, after the termination of this Agreement, we permit you to remain in possession of the Land and we accept money from you in respect of such possession, a tenancy from year to year will not be created by implication of law and you will be deemed to be a monthly occupier only subject to all of the provisions of this Agreement, except as to duration, in the absence of a written agreement to the contrary.

ARTICLE 6 - SECURITY AND INSURANCE

- 6.1 On the Commencement Date, you will deliver to us Security in the amount of \$0.00 which will
- (a) guarantee the performance of your obligations under this Agreement;
 - (b) be in the form required by us; and
 - (c) remain in effect until we certify, in writing, that you have fully performed your obligations under this Agreement.
- 6.2 Despite section 6.1, your obligations under that section are suspended for so long as you maintain in good standing other security acceptable to us to guarantee the performance of your obligations under this Agreement and all other dispositions held by you.
- 6.3 We may use the Security for the payment of any costs and expenses associated with any of your obligations under this Agreement that are not performed by you or to pay any overdue Fees and, if such event occurs, you will, within 30 days of that event, deliver further Security to us in an amount equal to the amount drawn down by us.
- 6.4 After we certify, in writing, that you have fully performed your obligations under this Agreement, we will return to you the Security maintained under section 6.1, less all amounts drawn down by us under section 6.3.
- 6.5 You acknowledge that we may, from time to time, notify you to
- (a) change the form or amount of the Security; and
 - (b) provide and maintain another form of Security in replacement of or in addition to the Security posted by you under this Agreement;
- and you will, within 60 days of receiving such notice, deliver to us written confirmation that the change has been made or the replacement or additional form of Security has been provided by you.
- 6.6 You must
- (a) without limiting your obligations or liabilities under this Agreement, at your expense, purchase and maintain during the Term the following insurance with insurers licensed to do business in Canada:
 - (i) Commercial General Liability insurance in an amount of not less than \$2,000,000.00 inclusive per occurrence insuring against liability for personal injury, bodily injury (including death) and property damage, including coverage

for all accidents or occurrences on the Land or the Improvements. Such policy will include cross liability, liability assumed under contract, provision to provide 30 days advance notice to us of material change or cancellation, and include us as additional insured;

- (b) ensure that all insurance required to be maintained by you under this Agreement is primary and does not require the sharing of any loss by any of our insurers;
- (c) within 10 working days of Commencement Date of this Agreement, provide to us evidence of all required insurance in the form of a completed "Province of British Columbia Certificate of Insurance";
- (d) if the required insurance policy or policies expire or are cancelled before the end of the Term of this Agreement, provide within 10 working days of the cancellation or expiration, evidence of new or renewal policy or policies of all required insurance in the form of a completed "Province of British Columbia Certificate of Insurance";
- (e) notwithstanding subsection (c) or (d) above, if requested by us, provide to us certified copies of the required insurance policies.

6.7 We may, acting reasonably, from time to time, require you to

- (a) change the amount of insurance set out in subsection 6.6(a); and
- (b) provide and maintain another type or types of insurance in replacement of or in addition to the insurance previously required to be maintained by you under this Agreement;

and you will, within 60 days of receiving such notice, cause the amounts and types to be changed and deliver to us a completed "Province of British Columbia Certificate of Insurance" for all insurance then required to be maintained by you under this Agreement.

6.8 You shall provide, maintain, and pay for any additional insurance which you are required by law to carry, or which you consider necessary to insure risks not otherwise covered by the insurance specified in this Agreement in your sole discretion.

6.9 You waive all rights of recourse against us with regard to damage to your own property.

ARTICLE 7 - ASSIGNMENT

7.1 You must not sublicense, assign, mortgage or transfer this Agreement, or permit any person to use or occupy the Land, without our prior written consent, which consent we may withhold.

7.2 Prior to considering a request for our consent under section 7.1, we may require you to meet

certain conditions, including without limitation, that you provide us with a report as to the environmental condition of the Land as provided in section 4.5.

ARTICLE 8 - TERMINATION

8.1 You agree with us that

- (a) if you
 - (i) default in the payment of any money payable by you under this Agreement, or
 - (ii) fail to observe, abide by and comply with the provisions of this Agreement (other than the payment of any money payable by you under this Agreement),and your default or failure continues for 60 days after we give written notice of the default or failure to you,
- (b) if, in our opinion, you fail to make diligent use of the Land for the purposes set out in this Agreement, and your failure continues for 60 days after we give written notice of the failure to you;
- (c) if you transfer or assign your interest in fee simple in all that parcel or tract of land more particularly described as Lot 1, DLs139, 5129 and 5118 ODYD Plan 40519 PID# 012-625-299; DL 4004, ODYD PID# 001-347-228; Lot 1, DL 139, ODYD, Plan 2207 PID# 011-118-750; Block F, DL1527, ODYD PID# 025-620-185; DL5002, ODYD except PLAN KAP80506 PID# 011-812-192;
- (d) if you
 - (i) become insolvent or make an assignment for the general benefit of your creditors,
 - (ii) commit an act which entitles a person to take action under the *Bankruptcy and Insolvency Act* (Canada) or a bankruptcy petition is filed or presented against you or you consent to the filing of the petition or a decree is entered by a court of competent jurisdiction adjudging you bankrupt under any law relating to bankruptcy or insolvency, or
 - (iii) voluntarily enter into an arrangement with your creditors;
- (e) if you are a corporation,
 - (i) a receiver or receiver-manager is appointed to administer or carry on your

business, or

- (ii) an order is made, a resolution passed or a petition filed for your liquidation or winding up;
- (f) if you are a society, you convert into a company in accordance with the *Society Act* without our prior written consent;
- (g) if this Agreement is taken in execution or attachment by any person; or
- (h) if we require the Land for our own use or, in our opinion, it is in the public interest to cancel this Agreement and we have given you 60 days' written notice of such requirement or opinion;

this Agreement will, at our option and with or without entry, terminate and your right to use and occupy the Land will cease.

8.2 If the condition complained of (other than the payment of any money payable by you under this Agreement) reasonably requires more time to cure than 60 days, you will be deemed to have complied with the remedying of it if you commence remedying or curing the condition within 60 days and diligently complete the same.

8.3 You agree with us that

- (a) you will make no claim against us for compensation, in damages or otherwise, upon the lawful termination of this Agreement under section 8.1; and
- (b) our remedies under this Article are in addition to those available to us under the *Land Act*.

ARTICLE 9 - DISPUTE RESOLUTION

- 9.1 If any dispute arises under this Agreement, the parties will make all reasonable efforts to resolve the dispute within 60 days of the dispute arising (or within such other time period agreed to by the parties) and, subject to applicable laws, provide candid and timely disclosure to each other of all relevant facts, information and documents to facilitate those efforts.
- 9.2 Subject to section 9.5, if a dispute under this Agreement cannot be resolved under section 9.1, we or you may refer the dispute to arbitration conducted by a sole arbitrator appointed pursuant to the *Commercial Arbitration Act*.
- 9.3 The cost of the arbitration referred to in section 9.2 will be shared equally by the parties and the arbitration will be governed by the laws of the Province of British Columbia.

- 9.4 The arbitration will be conducted at our offices (or the offices of our authorized representative) in Kamloops, British Columbia, and if we or our authorized representative have no office in Kamloops, British Columbia, then our offices (or the offices of our authorized representative) that are closest to Kamloops, British Columbia.
- 9.5 A dispute under this Agreement in respect of a matter within our sole discretion cannot, unless we agree, be referred to arbitration as set out in section 9.2.

ARTICLE 10 - NOTICE

- 10.1 Any notice required to be given by either party to the other will be deemed to be given if mailed by prepaid registered mail in Canada or delivered to the address of the other as follows:

to us

MINISTRY OF FORESTS, LANDS AND NATURAL RESOURCE OPERATIONS
441 Columbia Street
Kamloops, BC V2C 2T3;

to you

CITY OF KELOWNA
1435 Water St
Kelowna, BC V1Y 1J4

DOWNTOWN MARINA INC.
1460 Pandosy St
Kelowna, BC V1Y 1P3;

or at such other address as a party may, from time to time, direct in writing, and any such notice will be deemed to have been received if delivered, on the day of delivery, and if mailed, 7 days after the time of mailing, except in the case of mail interruption in which case actual receipt is required.

- 10.2 In order to expedite the delivery of any notice required to be given by either party to the other, a concurrent facsimile copy of any notice will, where possible, be provided to the other party but nothing in this section, and specifically the lack of delivery of a facsimile copy of any notice, will affect the deemed delivery provided in section 10.1.
- 10.3 The delivery of all money payable to us under this Agreement will be effected by hand, courier or prepaid regular mail to the address specified above, or by any other payment procedure agreed to by the parties, such deliveries to be effective on actual receipt.

ARTICLE 11 - MISCELLANEOUS

- 11.1 No provision of this Agreement will be considered to have been waived unless the waiver is in writing, and a waiver of a breach of a provision of this Agreement will not be construed as or constitute a waiver of any further or other breach of the same or any other provision of this Agreement, and a consent or approval to any act requiring consent or approval will not waive or render unnecessary the requirement to obtain consent or approval to any subsequent same or similar act.
- 11.2 No remedy conferred upon or reserved to us under this Agreement is exclusive of any other remedy in this Agreement or provided by law, but that remedy will be in addition to all other remedies in this Agreement or then existing at law, in equity or by statute.
- 11.3 The grant of a sublicense, assignment or transfer of this Agreement does not release you from your obligation to observe and perform all the provisions of this Agreement on your part to be observed and performed unless we specifically release you from such obligation in our consent to the sublicense, assignment or transfer of this Agreement.
- 11.4 This Agreement extends to, is binding upon and enures to the benefit of the parties, their heirs, executors, administrators, successors and permitted assigns.
- 11.5 If, due to a strike, lockout, labour dispute, act of God, inability to obtain labour or materials, law, ordinance, rule, regulation or order of a competent governmental authority, enemy or hostile action, civil commotion, fire or other casualty or any condition or cause beyond your reasonable control, other than normal weather conditions, you are delayed in performing any of your obligations under this Agreement, the time for the performance of that obligation will be extended by a period of time equal to the period of time of the delay so long as
- (a) you give notice to us within 30 days of the commencement of the delay setting forth the nature of the delay and an estimated time frame for the performance of your obligation; and
 - (b) you diligently attempt to remove the delay.
- 11.6 You acknowledge and agree with us that
- (a) this Agreement has been granted to you on the basis that you accept the Land on an "as is" basis;
 - (b) without limitation we have not made, and you have not relied upon, any representation or warranty from us as to

- (i) the suitability of the Land for any particular use, including the use permitted by this Agreement;
 - (ii) the condition of the Land (including surface and groundwater), environmental or otherwise, including the presence of or absence of any toxic, hazardous, dangerous or potentially dangerous substances on or under the Land and the current and past uses of the Land and any surrounding land and whether or not the Land is susceptible to erosion or flooding;
 - (iii) the general condition and state of all utilities or other systems on or under the Land or which serve the Land;
 - (iv) the zoning of the Land and the bylaws of any government authority which relate to the development, use and occupation of the Land; and
 - (v) the application of any federal or Provincial enactment or law to the Land;
- (c) you have been afforded a reasonable opportunity to inspect the Land or to carry out such other audits, investigations, tests and surveys as you consider necessary to investigate those matters set out in subsection (b) to your satisfaction before entering into this Agreement;
- (d) you waive, to the extent permitted by law, the requirement if any, for us to provide you with a "site profile" under the *Environmental Management Act* or any regulations made under that act;
- (e) we are under no obligation, express or implied, to provide financial assistance or to contribute toward the cost of servicing, creating or developing the Land or the Improvements and you are solely responsible for all costs and expenses associated with your use of the Land and the Improvements for the purposes set out in this Agreement; and
- (f) we are under no obligation to provide access or services to the Land or to maintain or improve existing access roads.
- 11.7 You agree with us that nothing in this Agreement constitutes you as our agent, joint venturer or partner or gives you any authority or power to bind us in any way.
- 11.8 This Agreement does not override or affect any powers, privileges or immunities to which you are entitled under any enactment of the Province of British Columbia.

The parties have executed this Agreement as of the date of reference of this Agreement.

SIGNED on behalf of **HER MAJESTY
THE QUEEN IN RIGHT OF THE
PROVINCE OF BRITISH COLUMBIA**
by the minister responsible for the *Land Act*
or the minister's authorized representative



Minister responsible for the *Land Act*
or the minister's authorized representative

SIGNED on behalf of **CITY OF KELOWNA**
by its authorized signatories



Authorized Signatory

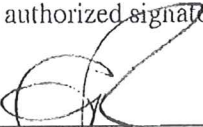
Walter Gray, Mayor



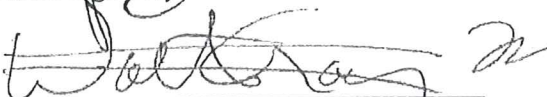
Authorized Signatory

Karen Needham,
Deputy City Clerk

SIGNED on behalf of **DOWNTOWN MARINA INC.**
by its authorized signatories



Authorized Signatory



Authorized Signatory

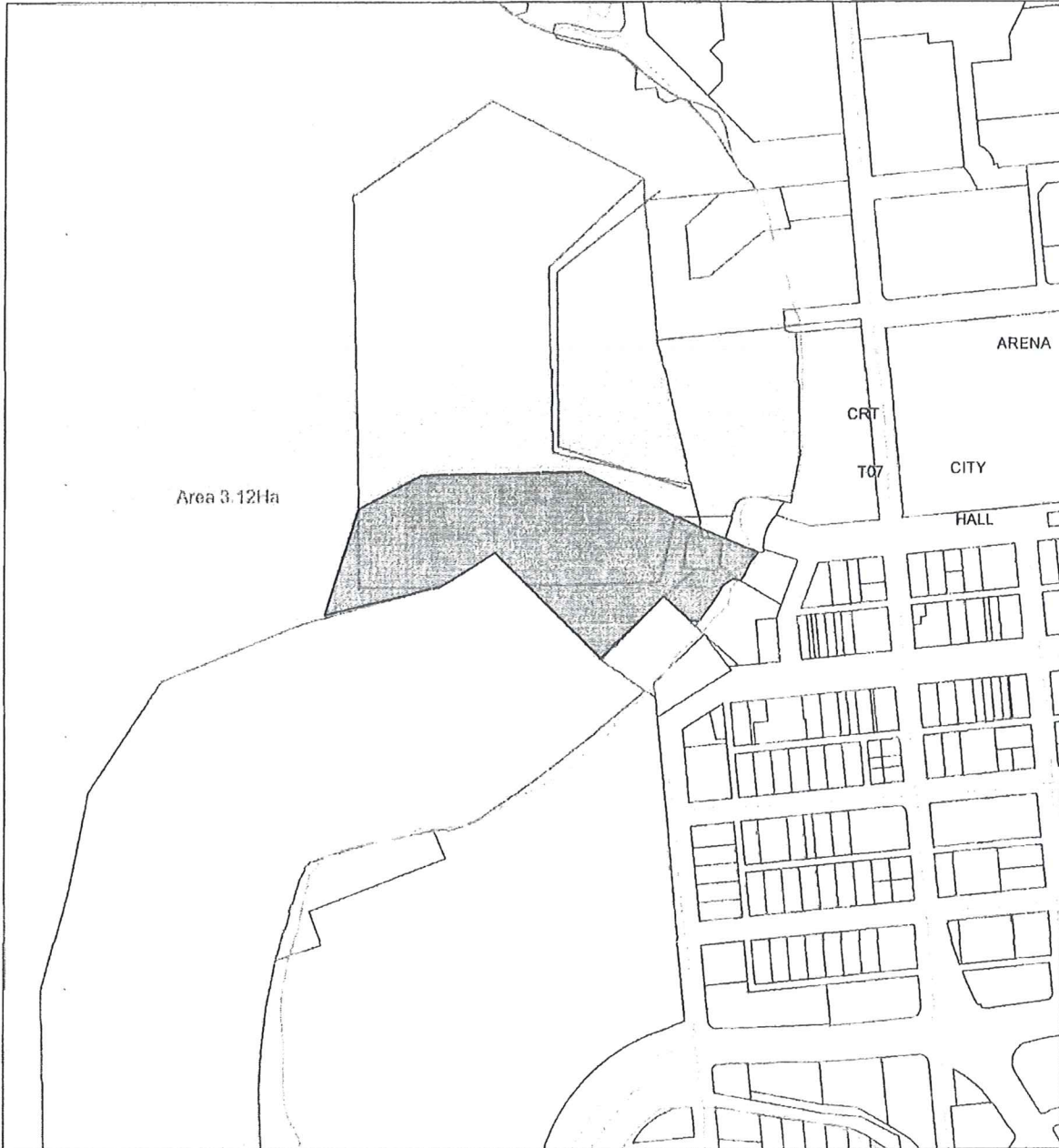
840301

Licence

Legal Description Schedule

File No.:0269276
Disposition No.:903508

District Lots 5355 and 5203, that part of District Lot 1527 and that part of Block A, District Lot 5118, together with all that unsurveyed Crown foreshore being part of the bed of Okanagan Lake adjacent to District Lot 5355, ODYD containing 3.12 hectares, more or less



Scale: 1:5,000
BCGS Mapsheet(s):82E 083



Commercial - Licence of Occupation

Page 19 of 19

design-build stipulated price contract

Project:

T11-111 QUEENSWAY MARINA
CITY OF KELOWNA AND WESTCORP PROPERTIES INC.



Endorsed by:

**The Canadian Construction Association
Construction Specifications Canada
The Royal Architectural Institute of Canada**

Apply a Document 14 copyright seal here. The application of the seal demonstrates the intention of the party proposing the use of this document that it be an accurate and unamended form of Document 14 – 2000 except to the extent that any alterations, additions or modifications are set forth in supplementary conditions.

INSTRUCTIONS TO USERS OF DOCUMENT 14 - 2000



CCA-CSC-RAIC DOCUMENT 14 - 2000 DESIGN-BUILD STIPULATED PRICE CONTRACT

September 2000

The Design-Build Stipulated Price Contract is developed by the Joint Design-Build Working Group comprised of representatives from:

The Canadian Construction Association
Construction Specifications Canada
The Royal Architectural Institute of Canada

This document is based on CCDC 2 – 1994 ‘Stipulated Price Contract’ and CCAC 6 – 1994 ‘Canadian Standard Form of Agreement Between Client and Architect’. A number of terms in Document 14 are defined differently from other standard contract documents and, accordingly, all definitions should be read to properly understand the terms and conditions of this document.

THE FOLLOWING ARE THE BASIC PRINCIPLES OF DOCUMENT 14 - 2000:

1. The *Owner* deals with one single administrative entity, the *Design-Builder*, who provides *Design Services* and *Construction* of the project under one contract package.
2. The *Contract Documents* include but not limited to:
 - Agreement,
 - Definitions,
 - General Conditions,
 - *Owner's Statement of Requirements*, and
 - *Construction Documents*, after they have been accepted by the *Owner*.
3. After execution of the *Contract*, *Construction Documents* are prepared to illustrate the details of the design that meets the *Owner's Statement of Requirements*. When accepted and signed by both the *Owner* and *Design-Builder*, these also become part of the *Contract Documents*.
4. *Change Orders* are issued to change:
 - the *Work*;
 - the *Owner's Statement of Requirements* (scope);
 - the *Contract Price*; and
 - the *Contract Time*.

5. The only consultant recognized in the *Contract* is the *Design-Builder's Consultant*. The *Owner* may also appoint representatives or advisors, but they are recognized in the *Contract* as the *Owner's* authorized representatives.
6. The roles of the *Design-Builder's Consultant* are:
 - to design to the *Owner's Statement of Requirements* and prepare the *Construction Documents*;
 - to be the interpreter of the *Contract* and *Construction Documents* in the first instance;
 - to certify to the Design-Builder:
 - compliance with *Construction Documents*;
 - *Substantial Performance of the Work*;
 - progress payments based on the agreed schedule of values. (i) These will be used as support documents to the *Design-Builder's* applications for payment, or (ii) in the event that the *Design-Builder's Consultant* is the *Payment Certifier*, will become the payment certificates that authorize payments to the *Design-Builder*.
7. The *Design-Builder's* consultants are bound to fulfil their duties and responsibilities in accordance with the professional standards required by the various professions. The *Design-Builder's* consultants are consultants to the *Design-Builder* to provide the *Design Services*. This does not preclude them from performing normal professional duties, i.e. certifying payments, issuing certificates for payment, and interpretation of the *Contract* and *Construction Documents*.
8. The parties are required to identify the *Payment Certifier* in the Agreement, whose responsibility is to verify a claim and issue certificates for payment. The *Payment Certifier* may be the *Design-Builder's Consultant*, *Owner*, *Owner's Advisor*, or any knowledgeable third party, as designated by the *Owner*.
9. The *Owner's Advisor* is the person or entity employed or engaged by the *Owner* to assist in organizing and administering the design-build selection process and to provide ongoing professional assistance to the *Owner* during the *Project's* implementation as required by the *Owner*.

SUMMARY OF IMPORTANT DIFFERENCES BETWEEN THE 1997 AND THE 2000 EDITIONS:

1. Introduce and explain the roles of the *Payment Certifier* in Article 5.1.1, Article 6.1, Definition 14, GC 1.1.3, GC 2.3.3, and Part 5 of the General Conditions.
2. Revise the Definition of Construction Documents to reaffirm that they must meet the general functional intent of the *Contract Documents*.

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- GC 11.1 Insurance
- GC 11.2 Bonds

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- GC 12.1 Indemnification
- GC 12.2 Waiver of Claims
- GC 12.3 Warranty

Enquiries should be directed to:

The Secretary
Canadian Construction Documents Committee
400 - 75 Albert Street
Ottawa, Ontario K1P 5E7
Tel: (613) 236-9455
Fax: (613) 236-9526
www.ccdc.org



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AGREEMENT BETWEEN OWNER AND DESIGN-BUILDER
For use when a stipulated price is the basis of payment.

This Agreement made as of the 12 day of July in the year 2012 .

by and between

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



hereinafter called the "Owner"

and

Westcorp Properties Inc., 300 - 389 Queensway Avenue, Kelowna, BC V1Y 8E6

hereinafter called the "Design-Builder"

The Owner and the Design-Builder agree as follows:

ARTICLE A-1 THE WORK

The Design-Builder shall:

- 1.1 perform the *Work* required by the *Contract Documents* for _____
T11-111 Queensway Marina - Design and Construction

insert above the title of the Work

located at _____ foot of Queenway Street, Kelowna BC

insert above the Place of the Work

for which the Agreement has been signed by the parties, and for which _____
EBA , A Tetra Tech Company

insert above the name of the Consultant

is acting as, and is hereinafter called, the "*Consultant*",
- 1.2 do and fulfil everything indicated by the *Contract Documents*, and
- 1.3 commence the *Work* by the 1 day of December in the year 2012 and, subject to adjustment in
Contract Time as provided for in the *Contract Documents*, attain *Substantial Performance of the Work*:
 - .1 31 day of May in the year 2013 ; or
 - .2 within _____ weeks after receipt of all approvals from authorities having jurisdiction.

(Manually strike out inapplicable paragraph.)

ARTICLE A-2 AGREEMENTS AND AMENDMENTS

- 2.1 The *Contract* as described in Article A-3 of the Agreement - CONTRACT DOCUMENTS supersedes all prior negotiations, representations, or agreements, either written or oral, relating in any manner to the *Work*.
- 2.2 The *Contract* may be amended only as provided in the *Contract Documents*.

ARTICLE A-3 CONTRACT DOCUMENTS

- 3.1 The following are the *Contract Documents* referred to in Article A-1 of the Agreement - THE WORK:

- Agreement Between *Owner* and *Design-Builder*
- Definitions of the Design-Build Stipulated Price Contract
- General Conditions of the Design-Build Stipulated Price Contract
- *Owner's Statement of Requirements*
- *Construction Documents*, after they have been accepted by the *Owner*

*

Request for Proposal T11-111 Queensway Marina
Westcorp Properties Inc. response to T11-111 dated February 14, 2012
Engineering Plan Option 18

* (Insert here, attaching additional pages if required, a list identifying all other Contract Documents e.g. Supplementary Conditions; Proposals; Specifications, giving a list of contents with section numbers and titles, number of pages, and date; Drawings, giving drawing number, title, date, revision date or mark; Addenda, giving title, number, date)

ARTICLE A-4 CONTRACT PRICE

4.1 The *Contract Price*, which excludes *Value Added Taxes*, is:

Two hundred thousand dollars /100 dollars \$ 200,000.00

4.2 *Value Added Taxes* (of 12 %) payable by the *Owner* to the *Design-Builder* are:

Twenty four thousand dollars /100 dollars \$ 24,000.00

4.3 Total amount payable by the *Owner* to the *Design-Builder* for the *Work* is:

Two hundred twenty four thousand dollars /100 dollars \$ 224,000.00

4.4 All amounts are in Canadian funds.

4.5 These amounts shall be subject to adjustments as provided in the *Contract Documents*.

ARTICLE A-5 PAYMENT

5.1 Subject to the provisions of the *Contract Documents*, and in accordance with legislation and statutory regulations respecting holdback percentages and, where such legislation or regulations do not exist or apply, subject to a holdback of 0 percent (0 %), the *Owner* shall:

.1 make progress payments to the *Design-Builder* on account of the *Contract Price* when due in the amount certified by The City of Kelowna

insert above the name of the Payment Certifier

who is acting as, and is hereinafter called, the "*Payment Certifier*", together with such *Value Added Taxes* as may be applicable to such payment, and

.2 upon *Substantial Performance of the Work*, pay to the *Design-Builder* the unpaid balance of the holdback amount when due together with such *Value Added Taxes* as may be applicable to such payment, and

.3 upon the issuance of the final certificate for payment, pay to the *Design-Builder* the unpaid balance of the *Contract Price* when due together with such *Value Added Taxes* as may be applicable to such payment.

5.2 In the event of loss or damage occurring where payment becomes due under the property and boiler and machinery insurance policies, payments shall be made to the *Design-Builder* in accordance with the provisions of GC 11.1 - INSURANCE.

5.3 Interest

.1 Should either party fail to make payments as they become due under the terms of the *Contract* or in an award by arbitration or court, interest at ONE percent (1 %) per annum above the prime rate on such unpaid amounts shall also become due and payable until payment. Such interest shall be compounded on a monthly basis. The prime rate shall be the lowest rate of interest quoted by the Royal Bank of Canada for prime business loans.

- .2 Interest shall apply at the rate and in the manner prescribed by paragraph 5.3.1 of this Article on the amount of any claim advanced and for which the *Design-Builder* is thereafter entitled to payment, either pursuant to Part 8 of the General Conditions - DISPUTE RESOLUTION, or otherwise, from the date the amount would have been due and payable under the *Contract*, had it not been in dispute, until the date it is paid.

ARTICLE A-6 RECEIPT OF AND ADDRESSES FOR NOTICES

- 6.1 Notices in writing between the parties or between them and the *Consultant* shall be considered to have been received by the addressee on the date of delivery if delivered to the individual, or to a member of the firm, or to an officer of the corporation for whom they are intended by hand or by registered post; or if sent by regular post, to have been delivered within 5 *Working Days* of the date of mailing when addressed as follows:

The *Owner* at The City of Kelowna, 1435 Water Street,

Kelowna, British Columbia V1Y 1J4

street and number and postal box number if applicable
post office or district, province, postal code

The *Design-Builder* at Westcorp Properties Inc., 300 - 389 Queensway Avenue,

Kelowna, British Columbia V1Y 8E6

street and number and postal box number if applicable
post office or district, province, postal code

The *Consultant* at EBA, A Tetra Tech Company, 150- 1715 Dickson Avenue,

Kelowna British Columbia V1Y 9G6

street and number and postal box number if applicable
post office or district, province, postal code

*The *Payment Certifier* at Not applicable

street and number and postal box number if applicable

post office or district, province, postal code

* Manually strike out this paragraph if inapplicable

ARTICLE A-7 LANGUAGE OF THE CONTRACT

- 7.1 When the *Contract Documents* are prepared in both the English and French languages, it is agreed that in the event of any apparent discrepancy between the English and French versions, the English / ~~French~~ * language shall prevail.

* Complete this statement by striking out inapplicable term.

- 7.2 This Agreement is drawn in English at the request of the parties hereto. La présente convention est rédigée en anglais à la demande des parties.

ARTICLE A-8 SUCCESSION

- 8.1 The *Contract* shall enure to the benefit of and be binding upon the parties hereto, their respective heirs, legal representatives, successors, and permitted assigns.

In witness whereof the parties hereto have executed this Agreement and by the hands of their duly authorized representatives.

SIGNED AND DELIVERED
in the presence of:

Owner

The City of Kelowna

name of Owner

signature

name and title of person signing

signature

name and title of person signing

WITNESS

signature

name and title of person signing

Design-Builder

Westcorp Properties Inc

name of Design-Builder

signature

name and title of person signing

WITNESS

signature

name and title of person signing

- N.B. Where legal jurisdiction, local practice, or Owner or Design-Builder requirement calls for:
- (a) proof of authority to execute this document, attach such proof of authority in the form of a certified copy of a resolution naming the representative(s) authorized to sign the Agreement for and on behalf of the corporation or partnership; or
 - (b) the affixing of a corporate seal, this Agreement should be properly sealed.

DEFINITIONS OF THE DESIGN-BUILD STIPULATED PRICE CONTRACT

The following Definitions shall apply to all *Contract Documents*.

1. **Change Directive**
A *Change Directive* is a written instruction signed by the *Owner* directing a change in the *Work* within the general scope of the *Contract Documents*.
2. **Change Order**
A *Change Order* is a written amendment to the *Contract* signed by the *Owner* and the *Design-Builder* stating their agreement upon:
 - a change in the *Work*;
 - an amendment to the *Owner's Statement of Requirements*, if any;
 - the method of adjustment or the amount of the adjustment in the *Contract Price*, if any; and
 - the extent of the adjustment in the *Contract Time*, if any.
3. **Construction**
Construction means the total construction and related services required by the *Contract Documents*.
4. **Construction Documents**
The *Construction Documents* consist of the drawings and specifications that are prepared based on the *Contract Documents* by or on behalf of the *Design-Builder* and that are accepted and signed by the *Owner* and the *Design-Builder* after execution of the Agreement, as meeting the general functional intent of the *Contract Documents*.
5. **Consultant**
The *Consultant* is the person or entity identified as such in the Agreement. The term *Consultant* means the Architect, the Engineer, or entity licensed to practice in the province or territory of the *Place of the Work* and engaged by the *Design-Builder* to provide the *Consultant's Design Services* and to coordinate the provision of the *Design Services* of all other consultants employed by the *Design-Builder*. The term *Consultant* means the *Consultant* or the *Consultant's* authorized representative as designated by the *Design-Builder* to the *Owner* in writing.
6. **Contract**
The *Contract* is the undertaking by the parties to perform their respective duties, responsibilities, and obligations as prescribed in the *Contract Documents* and represents the entire agreement between the parties.
7. **Contract Documents**
The *Contract Documents* consist of those documents listed in Article A-3 of the Agreement - CONTRACT DOCUMENTS and amendments thereto agreed upon between the parties.
8. **Contract Price**
The *Contract Price* is the amount stipulated in Article A-4 of the Agreement - CONTRACT PRICE.
9. **Contract Time**
The *Contract Time* is the time stipulated in paragraph 1.3 of Article A-1 of the Agreement - THE WORK from commencement of the *Work* to *Substantial Performance of the Work*.
10. **Design-Builder**
The *Design-Builder* is the person or entity identified as such in the Agreement. The term *Design-Builder* means the *Design-Builder* or the *Design-Builder's* authorized representative as designated by the *Design-Builder* to the *Owner* in writing.
11. **Design Services**
Design Services means the professional services for the design and construction administration performed by the *Consultant* or other consultants under the *Contract*.

12. **Owner**
The *Owner* is the person or entity identified as such in the Agreement. The term *Owner* means the *Owner* or the *Owner's* authorized agent or representative as designated by the *Owner* to the *Design-Builder* in writing.
13. **Owner's Statement of Requirements**
The *Owner's Statement of Requirements* consists of the site information and program requirements provided by the *Owner* and as listed in Article A-3 of the Agreement - CONTRACT DOCUMENTS and amendments thereto agreed upon between the parties.
14. **Payment Certifier**
The *Payment Certifier* is the person or entity identified as such in the Agreement responsible for the issuance of certificates for payment. The *Payment Certifier* may be the *Consultant*, *Owner*, or any knowledgeable third party, as designated by the *Owner*.
15. **Place of the Work**
The *Place of the Work* is the designated site or location of the *Construction* identified in Article A-1 of the Agreement - THE WORK.
16. **Product**
Product or *Products* means material, machinery, equipment, and fixtures forming part of the *Work*, but does not include machinery and equipment used to prepare, fabricate, convey, or erect the *Work*, which are referred to as construction machinery and equipment.
17. **Project**
The *Project* means the *Owner's* enterprise of which the *Work* may be the whole or a part.
18. **Provide**
Provide means to supply and install.
19. **Subcontractor**
A *Subcontractor* is a person or entity, other than the *Consultant* or other consultants, having a direct contract with the *Design-Builder* to perform a part or parts of the *Work*, or to supply *Products* worked to a special design for the *Work*.
20. **Substantial Performance of the Work**
Substantial Performance of the Work is as defined in the lien legislation applicable to the *Place of the Work*. If such legislation is not in force or does not contain such definition, or if the *Work* is governed by the Civil Code of Quebec, *Substantial Performance of the Work* shall have been reached when the *Work* is ready for use or is being used for the purpose intended and is so certified by the *Consultant*.
21. **Supplier**
A *Supplier* is a person or entity having a direct contract with the *Design-Builder* to supply *Products* not worked to a special design for the *Work*.
22. **Value Added Taxes**
Value Added Taxes means such sum as shall be levied upon the *Contract Price* by the Federal or any Provincial or Territorial Government and is computed as a percentage of the *Contract Price* and includes the Goods and Services Tax, the Quebec Sales Tax, Harmonized Sales Taxes, and any similar tax, the payment or collection of which, by the legislation imposing such tax, is an obligation of the *Design-Builder*.
23. **Work**
The *Work* means the *Design Services* and *Construction* required by the *Contract*.
24. **Working Day**
Working Day means a day other than a Saturday, Sunday, or a holiday which is observed by the construction industry in the area of the *Place of the Work*.

GENERAL CONDITIONS OF THE DESIGN-BUILD STIPULATED PRICE CONTRACT

PART 1 GENERAL PROVISIONS

GC 1.1 CONTRACT DOCUMENTS

- 1.1.1 The intent of the *Contract Documents* is to include the *Design Services*, *Construction*, and other services necessary for the performance of the *Work* in accordance with these documents. It is not intended, however, that the *Design-Builder* shall supply products or perform work not consistent with, not covered by, or not properly inferable from the *Contract Documents*.
- 1.1.2 Nothing contained in the *Contract Documents* shall create any contractual relationship between the *Owner* and the *Consultant*, an other consultant, a *Subcontractor*, a *Supplier*, or their agent, employee, or any other person performing any of the *Work*.
- 1.1.3 If the *Payment Certifier* is not the *Consultant* or the *Owner*, the *Owner* shall, if requested in writing by the *Design-Builder*, disclose the contractual relationship between the *Owner* and the *Payment Certifier* by provision of a copy of the contract with the *Payment Certifier* to the *Design-Builder*.
- 1.1.4 The *Contract Documents* are complementary, and what is required by any one shall be as binding as if required by all.
- 1.1.5 Words and abbreviations which have well known technical or trade meanings are used in the *Contract Documents* in accordance with such recognized meanings.
- 1.1.6 References in the *Contract Documents* to the singular shall be considered to include the plural as the context requires.
- 1.1.7 The specifications are that portion of the *Contract Documents*, wherever located and whenever issued, consisting of the written requirements and standards for *Products*, systems, workmanship, and the services necessary for the performance of the *Construction*.
- 1.1.8 The drawings are the graphic and pictorial portions of the *Contract Documents*, wherever located and whenever issued, showing the design, location, and dimensions of the *Construction*, generally including plans, elevations, sections, details, schedules, and diagrams.
- 1.1.9 Neither the organization of the specifications into divisions, sections, and parts, nor the arrangement of drawings shall control the *Design-Builder* in dividing the work among *Subcontractors* and *Suppliers* or in establishing the extent of the work to be performed by a trade.
- 1.1.10 If there is a conflict within the *Contract Documents*:
- .1 the order of priority of documents, from highest to lowest, shall be
 - the Agreement between the *Owner* and the *Design-Builder*,
 - the Definitions,
 - Supplementary Conditions,
 - the General Conditions,
 - the *Owner's Statement of Requirements*,
 - the *Construction Documents*:
 - Division 1 of the specifications,
 - Divisions 2 through 16 of the specifications,
 - material and finishing schedules,
 - drawings.
 - .2 drawings of larger scale shall govern over those of smaller scale of the same date.
 - .3 dimensions shown on drawings shall govern over dimensions scaled from drawings.
 - .4 later dated documents shall govern over earlier documents of the same type.
- 1.1.11 Copyright for the design and drawings prepared by or on behalf of the *Design-Builder* belongs to the *Consultant* or other consultants who prepared them.
- 1.1.12 Plans, sketches, drawings, graphic representations, and specifications, including computer generated designs, when prepared by the *Consultant*, or other consultants are instruments of their service and shall remain their property whether the *Construction* for which they are made is executed or not.

- 1.1.13 Submissions or distribution of the *Consultant* or other consultants' plans, sketches, drawings, graphic representations, and specifications to meet official regulatory requirements or for other purposes in connection with the *Work* is not to be construed as publication in derogation of their reserved rights.
- 1.1.14 The *Owner* may retain copies, including reproducible copies, of plans, sketches, drawings, graphic representations, and specifications for information and reference in connection with the *Owner's* design and construction and the *Owner's* use and occupancy of the *Work*. As a condition precedent to the use of such documents, the *Owner* shall have paid in full for any *Design Services* rendered. The *Design-Builder* will, prior to any payment being issued under this *Contract*, deliver to the *Owner* a consent and acknowledgement signed by the *Consultant* confirming the *Consultant's* agreement that the *Owner* may use any material produced by the *Consultant* and in which the *Consultant* retains any copyright in the manner set forth in paragraphs 1.1.13 to 1.1.16.
- 1.1.15 Except for reference purposes, the plans, sketches, drawings, graphic representations, and specifications shall not be used for additions or alterations to the *Work* or on any other project.
- 1.1.16 Models and architectural renderings furnished by the *Design-Builder* at the *Owner's* expense are the property of the *Owner*.

GC 1.2 OWNER SUPPLIED INFORMATION

- 1.2.1 Unless the *Contract Documents* specifically state otherwise, the *Design-Builder*, *Consultant* and other consultants may rely on the accuracy and completeness of all information provided by the *Owner* without regard for the source of such information.
- 1.2.2 Notwithstanding any other provision of the *Contract*, the *Design-Builder* is not responsible for any design errors or omissions in any designs or specifications provided by or on behalf of the *Owner* unless the *Design-Builder* has been specifically requested to review and has accepted in writing those designs and specifications under the *Contract*.
- 1.2.3 The *Owner* shall furnish the information and services required under the *Contract* promptly to avoid delay in the performance of the *Contract*.
- 1.2.4 The *Owner's Statement of Requirements* may include:
 - .1 site information e.g. site description, topographical and boundary surveys, environmental, geotechnical and designated substance investigation reports, utility information, and covenants and restrictions on the property; and
 - .2 the *Owner's* program requirements e.g. design objectives and parameters, performance requirements, constraints and criteria, spatial and functional requirements and relationships, flexibility and potential for expansion, special equipment and systems, and site requirements and budget.
- 1.2.5 The *Design-Builder* shall review the *Owner's Statement of Requirements* and shall report promptly to the *Owner* any significant error, inconsistency, or omission the *Design-Builder* may discover.
- 1.2.6 The review by the *Design-Builder* under paragraph 1.2.5 shall be to the best of the *Design-Builder's* knowledge, information, and belief and in making such review the *Design-Builder* does not assume any responsibility to the *Owner* for the accuracy of the review with respect to the *Owner's Statement of Requirements* prepared by or on behalf of the *Owner*.
- 1.2.7 The *Design-Builder* shall not be liable for damage or costs resulting from such errors, inconsistencies, or omissions in the *Owner's Statement of Requirements* prepared by or on behalf of the *Owner* which the *Design-Builder* did not discover.
- 1.2.8 If the *Design-Builder* does discover any significant error, inconsistency, or omission in the *Owner's Statement of Requirements* prepared by or on behalf of the *Owner*, the *Design-Builder* shall not proceed with the work affected until the *Design-Builder* and the *Owner* have discussed how the information should be corrected or supplied.

GC 1.3 LAW OF THE CONTRACT

- 1.3.1 The law of the *Place of the Work* shall govern the interpretation of the *Contract*.

GC 1.4 RIGHTS AND REMEDIES

- 1.4.1 Except as expressly provided in the *Contract Documents*, the duties and obligations imposed by the *Contract Documents* and the rights and remedies available thereunder shall be in addition to and not a limitation of any duties, obligations, rights, and remedies otherwise imposed or available by law.

- 1.4.2 Except as expressly provided in the *Contract Documents*, no action or failure to act by the *Owner*, *Design-Builder*, or the *Consultant* shall constitute a waiver of any right or duty afforded any of them under the *Contract*, nor shall any such action or failure to act constitute an approval of or acquiescence in any breach thereunder, except as may be specifically agreed to in writing.

GC 1.5 ASSIGNMENT

- 1.5.1 Neither party to the *Contract* shall assign all or any part of the *Contract* without the written consent of the other, which consent shall not be unreasonably withheld.

GC 1.6 CONFIDENTIALITY

- 1.6.1 The *Owner* and the *Design-Builder* shall keep confidential all matters respecting technical, commercial, and legal issues relating to or arising out of the *Work* or the performance of the *Contract* and shall not, without the prior written consent of the other party, disclose any such matters, except in strict confidence, to its professional advisors.

PART 2 DESIGN SERVICES AND ADMINISTRATION OF THE CONTRACT

GC 2.1 CONSULTANT

- 2.1.1 The *Design-Builder* shall engage the *Consultant* under a contract pursuant to which the *Consultant's* services, duties and responsibilities will include:
- .1 the review of the *Owner's Statement of Requirements*;
 - .2 the review with the *Owner* of reasonable alternative approaches to the design;
 - .3 the preparation of a design that meets the criteria set forth in the *Contract Documents*;
 - .4 the coordination required to integrate all parts of the *Design Services*;
 - .5 the preparation of schematic design documents to illustrate the scale and character of the *Work* and how the parts of the *Work* functionally relate to each other;
 - .6 the preparation of design development documents, based on the schematic design documents accepted by the *Owner*, consisting of drawings and other documents appropriate to the size of the *Work* to describe the size and character of the entire *Work* including architectural, mechanical and electrical systems, materials, and such other elements as may be appropriate;
 - .7 the preparation of *Construction Documents* setting forth in detail the requirements for *Construction* based on the design development documents accepted by the *Owner*;
 - .8 the provision of assistance to the *Owner* and *Design-Builder* to obtain approvals, permits, and licenses for the *Construction*;
 - .9 the conducting of general review of the progress of the *Construction*, to the extent necessary, in order to determine to the *Consultant's* satisfaction that the *Construction* is performed in general conformity with the requirements of:
 - (1) The *Contract Documents*, and
 - (2) The applicable statutes, regulations, codes, and bylaws of all authorities having jurisdiction over the *Work*;
 - .10 the assurances required by regulatory authorities respecting substantial conformance of the design with the applicable building regulations, other than construction safety issues;
 - .11 the preparation of *Change Orders* and *Change Directives* as set out in GC 6.2 - CHANGE ORDER and GC 6.3 - CHANGE DIRECTIVE;
 - .12 the determining of amounts owing to the *Design-Builder* based on the *Consultant's* observations and evaluation of the *Design-Builder's* applications for payment;
 - .13 the issuance of certificates for payment in the value proportionate to the amount of the *Contract*, for *Work* performed and *Products* delivered to the *Place of the Work*;
 - .14 the interpretation, in the first instance, of the requirements of the *Construction Documents* and the making of findings as to the performance thereunder by both the *Owner* and the *Design-Builder* without showing partiality to either the *Owner* or the *Design-Builder*, and in no event incurring liability for the result of such interpretations or findings rendered in good faith in such capacity;
 - .15 the interpretation and finding, in the first instance, of claims, disputes, and other matters in question relating to the performance of the *Work* or the interpretation of the *Contract Documents*, except for GC 5.1 - FINANCING INFORMATION REQUIRED OF THE OWNER.
 - .16 the rejecting of work which does not conform to the requirements of the *Contract Documents*;

- .17 the requiring of special testing and inspection of the *Construction* at the sole discretion of the *Consultant*, whether or not such *Construction* has been fabricated, installed, or completed;
 - .18 the determining of the date of *Substantial Performance of the Work* and the issuing of a certificate attesting to same;
 - .19 the verification of the *Design-Builder's* application for final payment and the issuing of a certificate for payment;
 - .20 the reviewing of any defects or deficiencies in the *Work* during the period described in GC 12.3 - WARRANTY and the issuance of appropriate instructions for the correction of same; and
 - .21 such other work that may be required from time to time that is agreed to by the *Owner* and the *Design-Builder* in writing and is acceptable to the *Consultant*.
- 2.1.2 In performing the above duties, the *Consultant* will provide the necessary services as expeditiously as is required for the orderly progress of the *Work*.
 - 2.1.3 All certificates issued by the *Consultant* shall be to the best of the *Consultant's* knowledge, information, and belief. By issuing any certificate, the *Consultant* does not guarantee the *Work* is correct or complete.
 - 2.1.4 The *Consultant* shall perform the *Design Services* and fulfil the *Consultant's* duties and responsibilities to the standard of diligence, skill, and care that consultants would customarily provide in similar circumstances and in the same relative geographic location, subject to the *Consultant's* professional and legal obligations.
 - 2.1.5 The *Owner* waives any right of action in negligence or otherwise against the *Consultant* or any other consultant employed by the *Design-Builder* in respect of performance of the *Design Services* except to the extent the *Owner* may be entitled to make a claim against the *Design-Builder* under the *Contract*.
 - 2.1.6 If the *Consultant's* engagement is terminated, the *Design-Builder* shall engage a new *Consultant* to provide the *Consultant's* services. The *Design-Builder* shall notify the *Owner* in writing before appointing or reappointing a *Consultant* to provide the *Design Services*. The *Design-Builder* shall not appoint any *Consultant* to whom the *Owner* may reasonably object.

GC 2.2 OWNER'S REPRESENTATIVE

- 2.2.1 The *Owner* shall designate a representative authorized to act on the *Owner's* behalf and shall specify in written notice to the *Design-Builder* any limits on the representative's authority.
- 2.2.2 Subject to any notified limitations in authority, the *Design-Builder* may rely upon any written instructions or directions provided by the *Owner's* representative.
- 2.2.3 The *Owner's* representative shall take all reasonable steps to be accessible to the *Design-Builder* during performance of the *Contract* and shall render any necessary decisions or instructions promptly to avoid delay in the performance of the *Contract*.
- 2.2.4 The *Owner* and *Owner's* representatives shall not communicate with any *Subcontractors* performing the *Work* except through the *Design-Builder* or a person designated by the *Design-Builder*.

GC 2.3 REVIEW AND INSPECTION OF THE WORK

- 2.3.1 The *Design-Builder* shall
 - .1 permit the *Owner* to review all material aspects of the design of the *Work* as the design proceeds, and
 - .2 provide a copy of all drawings, specifications, and diagrams to the *Owner* when required for review and acceptance.
- 2.3.2 From time to time, the *Design-Builder* may request and, on request, the *Owner* shall examine certain aspects of the design as set out on design development documents or *Construction Documents* to confirm that the design aspects are in general compliance with:
 - .1 the qualitative, functional layout, operational, and other *Owner* requirements for the *Work*; and
 - .2 the standards of finish, comfort, or aesthetics as required by the *Contract Documents*.
- 2.3.3 The *Owner*, the *Consultant* and the *Payment Certifier* shall have access to the *Construction* at all times. The *Design-Builder* shall provide sufficient, safe, and proper facilities at all times for their review of the *Construction* and the inspection of the *Construction* by authorized agencies. If parts of the *Construction* are in preparation at locations other than the *Place of the Work*, the *Owner*, the *Consultant* and the *Payment Certifier* shall be given access to such work whenever it is in progress.

- 2.3.4 If work is designated for tests, inspections, or approvals in the *Contract Documents*, or by the instructions of the *Owner* or the *Consultant*, or the laws or ordinances of the *Place of the Work*, the *Design-Builder* shall give the *Owner* reasonable notice of when the work will be ready for review and inspection. The *Design-Builder* shall arrange for and shall give the *Owner* reasonable notice of the date and time of inspections by other authorities.
- 2.3.5 The *Design-Builder* shall furnish promptly to the *Consultant* and to the *Owner*, on request, a copy of certificates and inspection reports relating to the *Work*.
- 2.3.6 If the *Design-Builder* covers, or permits to be covered, work that has been designated for special tests, inspections, or approvals before such special tests, inspections, or approvals are made, given or, completed, the *Design-Builder* shall, if so directed, uncover such work, have the inspections or tests satisfactorily completed, and make good the covering work at the *Design-Builder's* expense.
- 2.3.7 The *Owner* may order any portion or portions of the *Construction* to be examined to confirm that such work is in accordance with the requirements of the *Contract Documents*. If the work is not in accordance with the requirements of the *Contract Documents*, the *Design-Builder* shall correct the work and pay the cost of examination and correction. If the work is in accordance with the requirements of the *Contract Documents*, the *Owner* shall pay all costs incurred by the *Design-Builder* as a result of such examination and restoration.
- 2.3.8 The *Consultant* shall provide any required assurances to regulatory authorities respecting substantial conformance of the *Construction* with the design approved by that authority for issuance of the building permit.

GC 2.4 DEFECTIVE WORK

- 2.4.1 The *Design-Builder* shall promptly remove from the *Place of the Work* and replace or re-execute defective work that has been rejected by the *Consultant* as failing to conform to the *Contract Documents* whether or not the defective work has been incorporated in the *Work* and whether or not the defect is the result of poor workmanship, design, use of defective products, or damage through carelessness or other act or omission of the *Design-Builder*.
- 2.4.2 The *Design-Builder* shall make good promptly other contractors' work destroyed or damaged by such removals or replacements at the *Design-Builder's* expense.
- 2.4.3 If, in the opinion of the *Owner*, it is not expedient to correct defective work or work not performed as provided in the *Contract Documents*, the *Owner* may deduct from the amount otherwise due to the *Design-Builder* the difference in value between the work as performed and that called for by the *Contract Documents*. If the *Design-Builder* does not agree on the difference in value, the *Design-Builder* shall refer the dispute to Part 8 of the General Conditions - DISPUTE RESOLUTION.

PART 3 EXECUTION OF THE WORK

GC 3.1 CONTROL OF THE WORK

- 3.1.1 The *Design-Builder* shall have total control of the *Work* and shall effectively direct and supervise the *Work* so as to ensure conformity with the *Contract Documents*.
- 3.1.2 The *Design-Builder* shall be solely responsible for construction means, methods, techniques, sequences, and procedures with respect to the *Construction* and for co-ordinating the various parts of the *Construction* under the *Contract*.
- 3.1.3 The *Design-Builder* shall keep the *Owner* informed of the progress of the *Work*.
- 3.1.4 The *Design-Builder* is solely responsible for the quality of the *Work* and shall undertake any quality control activities specified in the *Contract Documents* or, if none are specified, as may be reasonably required to ensure such quality.

GC 3.2 CONSTRUCTION DOCUMENTS

- 3.2.1 During the progress of the *Work*, the *Design-Builder* shall furnish to the *Owner* the *Construction Documents* that describe details of the design required by the *Contract Documents*. At the time of submission the *Design-Builder* shall notify the *Owner* in writing of any significant deviations in the *Construction Documents* from the requirement of the *Contract Documents*.

- 3.2.2 The *Design-Builder* shall submit the *Construction Documents* to the *Owner* to review in orderly sequence and sufficiently in advance so as to cause no delay in the *Work*. Upon request of the *Owner* or the *Design-Builder*, they jointly shall prepare a schedule of the dates for submission and return of *Construction Documents*.
- 3.2.3 The *Owner* shall review the *Construction Documents* in accordance with the schedule agreed upon, or in the absence of an agreed schedule with reasonable promptness so as to cause no delay. The *Owner's* review is for conformity to the intent of the *Contract Documents*. The *Owner's* review shall not relieve the *Design-Builder* of responsibility for errors or omissions in the *Construction Documents* or for meeting all requirements of the *Contract Documents* unless the *Owner* expressly accepts a deviation from the *Contract Documents*.
- 3.2.4 No later than 7 days after completing the review, the *Owner* shall notify the *Design-Builder* in writing that the *Owner* has accepted and has signed the *Construction Documents* or shall notify the *Design-Builder*, giving reasons in writing, why the *Owner* rejects the *Construction Documents*. Upon request by the *Owner*, the *Design-Builder* shall revise and resubmit *Construction Documents* which the *Owner* has rejected. The *Design-Builder* shall notify the *Owner* in writing of any revisions to any resubmission other than those requested by the *Owner*.
- 3.2.5 When the *Construction Documents* are accepted and signed by the *Owner* and the *Design Builder* such *Construction Documents* shall become part of the *Contract Documents*.
- 3.2.6 When a change is required to the *Construction Documents* that have been accepted and signed by the *Owner*, it shall be made in accordance with GC 6.1 - CHANGES, GC 6.2 - CHANGE ORDER, or GC 6.3 - CHANGE DIRECTIVE.

GC 3.3 CONSTRUCTION BY OWNER OR OTHER CONTRACTORS

- 3.3.1 The *Owner* reserves the right to award separate contracts in connection with other parts of the *Project* to other contractors and to perform work with own forces.
- 3.3.2 When separate contracts are awarded for other parts of the *Project*, or when work is performed by the *Owner's* own forces, the *Owner* shall:
 - .1 provide for the co-ordination of the activities and work of other contractors and *Owner's* own forces with the *Work* of the *Contract*;
 - .2 assume overall responsibility for compliance with the applicable health and construction safety legislation at the *Place of the Work*;
 - .3 enter into separate contracts with other contractors under conditions of contract which are compatible with the conditions of the *Contract*;
 - .4 ensure that insurance coverage is provided to the same requirements as are called for in GC 11.1 – INSURANCE and co-ordinate such insurance with the insurance coverage of the *Design-Builder* as it affects the *Work*; and
 - .5 take all reasonable precautions to avoid labour disputes or other disputes on the *Project* arising from the work of other contractors or the *Owner's* own forces.
- 3.3.3 When separate contracts are awarded for other parts of the *Project*, or when work is performed by the *Owner's* own forces, the *Design-Builder* shall:
 - .1 afford the *Owner* and other contractors reasonable opportunity to introduce and store their products and use their construction machinery and equipment to execute their work;
 - .2 co-ordinate and schedule the *Work* with the work of other contractors and *Owner's* own forces and connect as specified or shown in the *Contract Documents*;
 - .3 participate with other contractors and the *Owner* in reviewing their schedules when directed by the *Owner*; and
 - .4 where part of the *Work* is affected by or depends upon for its proper execution the work of other contractors or *Owner's* own forces, promptly report to the *Owner* in writing and prior to proceeding with that part of the *Work*, any apparent deficiencies in such work. Failure by the *Design-Builder* to so report shall invalidate any claims against the *Owner* by reason of the deficiencies in the work of other contractors or *Owner's* own forces except those deficiencies not then reasonably discoverable.
- 3.3.4 Where a change in the *Work* is required as a result of the co-ordination and connection of the work of other contractors or *Owner's* own forces with the *Work*, the changes shall be authorized and valued as provided in GC 6.1 - CHANGES, GC 6.2 - CHANGE ORDER, and GC 6.3 - CHANGE DIRECTIVE.
- 3.3.5 Claims, disputes, and other matters in question between the *Design-Builder* and other contractors shall be dealt with as provided in Part 8 of the General Conditions - DISPUTE RESOLUTION provided the other contractors have reciprocal obligations. The *Design-Builder* shall be deemed to have consented to arbitration of any dispute with any other contractor whose contract with the *Owner* contains a similar requirement to arbitrate such dispute.

GC 3.4 SCHEDULE OF THE WORK

3.4.1 The *Design-Builder* shall:

- .1 prepare and submit to the *Owner* prior to the first application for payment, a schedule of the *Work* that indicates the timing of the major activities of the *Work* and provides sufficient detail of the critical events and their inter-relationship to demonstrate the *Work* will be performed in conformity with the *Contract Time*;
- .2 monitor the progress of the *Design Services* and *Construction* relative to the schedule of the *Work* and update the schedule on a monthly basis or as stipulated by the *Contract Documents*; and
- .3 advise the *Owner* in writing of any revisions required to the schedule as the result of extensions of the *Contract Time* as provided in Part 6 of the General Conditions - CHANGES IN THE WORK.

GC 3.5 CONSTRUCTION SAFETY

- 3.5.1 Subject to paragraph 3.3.2.2 of GC 3.3 - CONSTRUCTION BY OWNER OR OTHER CONTRACTORS, the *Design-Builder* shall be solely responsible for construction safety at the *Place of the Work* and for compliance with the rules, regulations, and practices required by the applicable construction health and safety legislation and shall be responsible for initiating, maintaining, and supervising all safety precautions and programs in connection with the performance of the *Construction*.

GC 3.6 SUPERVISOR

- 3.6.1 The *Design-Builder* shall employ a competent supervisor and necessary assistants who shall be in attendance at the *Place of the Work* while the *Construction* is being performed. The supervisor shall not be changed except for valid reason.
- 3.6.2 The supervisor shall represent the *Design-Builder* at the *Place of the Work* and notices and instructions given to the supervisor by the *Owner* shall be held to have been received by the *Design-Builder*.

GC 3.7 OTHER CONSULTANTS, SUBCONTRACTORS, AND SUPPLIERS

- 3.7.1 The *Design-Builder* shall preserve and protect the rights of the parties under the *Contract* with respect to work to be performed under subcontract, and shall:
- .1 enter into contracts or written agreements with the *Consultant*, and other consultants to require them to perform their design and other services as provided in the *Contract Documents*;
 - .2 enter into contracts or written agreements with *Subcontractors* and *Suppliers* to require them to perform their work and related services as required by the *Contract Documents*;
 - .3 incorporate the terms and conditions of the *Contract Documents* into all contracts or written agreements with the *Consultant*, other consultants, *Subcontractors*, and *Suppliers* insofar as they are applicable; and
 - .4 be as fully responsible to the *Owner* for acts and omissions of the *Consultant*, other consultants, *Subcontractors*, *Suppliers*, and of persons directly or indirectly employed by them as for acts and omissions of persons directly employed by the *Design-Builder*.
- 3.7.2 The *Design-Builder* shall indicate in writing, at the request of the *Owner*, other consultants, *Subcontractors*, or *Suppliers* whose proposals or bids have been received by the *Design-Builder* which the *Design-Builder* would be prepared to accept for the performance of a portion of the *Work*. Should the *Owner* not object before signing the *Contract*, the *Design-Builder* shall employ other consultants, *Subcontractors*, or *Suppliers* so identified by the *Design-Builder* in writing for the performance of that portion of the *Work* to which their proposal or bid applies.
- 3.7.3 The *Owner* may, for reasonable cause, at any time before the *Design-Builder* has signed the subcontract, object to the use of a proposed other consultant, *Subcontractor*, or *Supplier* and require the *Design-Builder* to employ another proposed other consultant or subcontract bidder.
- 3.7.4 If the *Owner* requires the *Design-Builder* to change a proposed other consultant, *Subcontractor*, or *Supplier*, the *Contract Price* and *Contract Time* shall be adjusted by the differences occasioned by such required change.
- 3.7.5 The *Design-Builder* shall not be required to employ as an other consultant, *Subcontractor*, or *Supplier*, a person or firm to whom the *Design-Builder* may reasonably object.
- 3.7.6 The *Owner* may provide to other consultants, *Subcontractors*, or *Suppliers* information as to the percentage of their work which has been certified for payment.

GC 3.8 LABOUR AND PRODUCTS

- 3.8.1 The *Design-Builder* shall provide and pay for labour, *Products*, tools, construction machinery and equipment, water, heat, light, power, transportation, and other facilities and services, including *Design Services*, necessary for the performance of the *Work* in accordance with the *Contract*.
- 3.8.2 Unless otherwise specified, all *Products* provided shall be new. *Products* which are not specified shall be of a quality consistent with those similar products specified.
- 3.8.3 The *Design-Builder* shall maintain good order and discipline among the *Design-Builder's* employees engaged on the *Work* and shall not employ on the *Work* anyone not skilled in the tasks assigned.

GC 3.9 DOCUMENTS AT THE SITE

- 3.9.1 The *Design-Builder* shall keep one copy of current *Contract Documents*, submittals, reports, and records of meetings at the *Place of the Work*, in good order and available to the *Owner*.

GC 3.10 SHOP DRAWINGS

- 3.10.1 Shop drawings are drawings, diagrams, illustrations, schedules, performance charts, brochures, product, and other data which illustrate details of a portion of the *Work*.
- 3.10.2 The *Design-Builder* shall provide shop drawings as described in the *Contract Documents* or as the *Owner* may reasonably request.
- 3.10.3 The *Design-Builder*, the *Consultant* and where appropriate, other consultants, shall review all shop drawings. The *Design-Builder* represents by this review that: the *Design-Builder* has determined and verified all field measurements and field construction conditions, or will do so; *Product* requirements; catalogue numbers; and similar data and that the *Design-Builder* has checked and coordinated each shop drawing with the requirements of the *Work* and of the *Contract Documents*.
- 3.10.4 Shop drawings which require approval of any authority having jurisdiction shall be submitted to such authority by the *Design-Builder*.
- 3.10.5 If the *Owner* requests to review shop drawings, the *Design-Builder* shall submit them in orderly sequence and sufficiently in advance so as to cause no delay in the *Work* or in the work of other contractors. The *Owner* and the *Design-Builder* shall jointly prepare a schedule of the dates for submission and return of shop drawings.
- 3.10.6 The *Owner's* review under paragraph 3.10.5 is for conformity to the intent of the *Contract Documents* and for general arrangement only. The *Owner's* review shall not relieve the *Design-Builder* of the responsibility for errors or omissions in the shop drawings or for meeting all requirements of the *Contract Documents* unless the *Owner* expressly accepts a deviation from the *Contract Documents*.

GC 3.11 USE OF THE WORK

- 3.11.1 The *Design-Builder* shall confine construction machinery and equipment, storage of *Products*, and operations of employees to limits indicated by laws, ordinances, permits, or the *Contract Documents* and shall not unreasonably encumber the *Construction*.
- 3.11.2 The *Design-Builder* shall not load or permit to be loaded any part of the *Construction* with a weight or force that will endanger the safety of the *Project*.

GC 3.12 CUTTING AND REMEDIAL WORK

- 3.12.1 The *Design-Builder* shall do the cutting and remedial work required to make the several parts of the *Construction* come together properly.
- 3.12.2 The *Design-Builder* shall co-ordinate the *Work* to ensure that this requirement is kept to a minimum.
- 3.12.3 Cutting and remedial work shall be performed by specialists familiar with the *Products* affected and shall be performed in a manner to neither damage nor endanger the *Construction*.

GC 3.13 CLEANUP

- 3.13.1 The *Design-Builder* shall maintain the *Place of the Work* in a tidy condition and free from the accumulation of waste products and debris, other than that caused by the *Owner*, other contractors, or their employees.
- 3.13.2 The *Design-Builder* shall remove waste products and debris, other than that resulting from the work of the *Owner*, other contractors, or their employees, and shall leave the *Place of the Work* clean and suitable for occupancy by the *Owner* before attainment of *Substantial Performance of the Work*. The *Design-Builder* shall remove products, tools, construction machinery, and equipment not required for the performance of the remaining work.
- 3.13.3 Prior to application for the final certificate for payment, the *Design-Builder* shall remove products, tools, construction machinery and equipment, and waste products and debris, other than that resulting from the work of the *Owner*, other contractors, or their employees.

GC 3.14 SIGNAGE

- 3.14.1 Unless reasonably objected by the *Owner*, the *Design-Builder* and the *Consultant* shall be entitled to sign the building by inscription or otherwise on a suitable and reasonably visible part of the permanent fabric of the building.
- 3.14.2 The *Design-Builder* may erect a sign identifying the *Design-Builder*, the *Consultant*, other consultants, and *Subcontractors* at the *Place of the Work* during the construction.

PART 4 ALLOWANCES

GC 4.1 CASH ALLOWANCES

- 4.1.1 The *Contract Price* includes cash allowances stated in the *Contract Documents*, which allowances shall be expended as the *Owner* directs.
- 4.1.2 Cash allowances cover the net cost to the *Design-Builder* of services, *Products*, construction machinery and equipment, freight, unloading, handling, storage, installation, and other authorized expenses incurred in performing the *Work* stipulated under the cash allowances but do not include any *Value Added Taxes* payable by the *Owner* to the *Design-Builder*.
- 4.1.3 The *Contract Price*, and not the cash allowances, includes the *Design-Builder's* overhead and profit in connection with such cash allowances.
- 4.1.4 Where costs under a cash allowance exceed the amount of the allowance, the *Design-Builder* shall be compensated for any excess incurred and substantiated plus an amount for overhead and profit as provided in GC 6.1 - CHANGES.
- 4.1.5 The *Contract Price* shall be adjusted by *Change Order* to provide for any difference between the actual cost and each cash allowance.
- 4.1.6 The value of the *Work* performed under a cash allowance is eligible to be included in progress payments.
- 4.1.7 The *Design-Builder* and the *Owner* shall jointly prepare a schedule that shows when the *Owner* must authorize ordering of items called for under cash allowances to avoid delaying the progress of the *Work*.

GC 4.2 CONTINGENCY ALLOWANCE

- 4.2.1 The *Contract Price* includes the contingency allowance, if any, stated in the *Contract Documents*.
- 4.2.2 Expenditures under the contingency allowance shall be authorized and valued as provided in GC 6.1 - CHANGES, GC 6.2 - CHANGE ORDER, and GC 6.3 - CHANGE DIRECTIVE.
- 4.2.3 The *Contract Price* shall be adjusted by *Change Order* to provide for any difference between the expenditures authorized under paragraph 4.2.2 and the contingency allowance.

PART 5 PAYMENT

GC 5.1 FINANCING INFORMATION REQUIRED OF THE OWNER

- 5.1.1 The *Owner* shall, at the request of the *Design-Builder*, prior to execution of the Agreement, and promptly from time to time as requested thereafter, furnish to the *Design-Builder* reasonable evidence that financial arrangements have been made to fulfil the *Owner's* obligations under the *Contract*.
- 5.1.2 The *Owner* shall notify the *Design-Builder* in writing of any material change in the *Owner's* financial arrangements during the performance of the *Contract*.

GC 5.2 APPLICATIONS FOR PROGRESS PAYMENT

- 5.2.1 Applications for payment on account as provided in Article A-5 of the Agreement - PAYMENT may be made monthly as the *Work* progresses.
- 5.2.2 The *Design-Builder* shall submit to the *Owner*, at least 14 days before the first application for payment, a schedule of values for the parts of the *Work*, aggregating the total amount of the *Contract Price*, so as to facilitate evaluation of applications for payment.
- 5.2.3 The schedule of values shall be made out in such form and supported by such evidence as accepted by the *Owner* and shall be used as the basis for applications for payment, unless it is found to be in error.
- 5.2.4 Applications for payment shall be dated the last day of the agreed monthly payment period. They shall be issued to the *Owner* and unless the *Payment Certifier* is identified to be the *Consultant*, to the *Payment Certifier*. The amount claimed shall be for the value, proportionate to the amount of the *Contract*, of *Work* performed and *Products* delivered to the *Place of the Work* at that date.
- 5.2.5 The *Design-Builder* shall include a statement based on the schedule of values with each application for payment and a certificate for payment issued by the *Consultant* to the *Design-Builder* in the amount applied for by the *Design-Builder*.
- 5.2.6 Claims for *Products* delivered to the *Place of the Work* but not yet incorporated into the *Work* shall be supported by such evidence as the *Owner* may reasonably require to establish the value and delivery of the *Products*.

GC 5.3 PROGRESS PAYMENT

- 5.3.1 If the *Payment Certifier* is not the *Consultant* or the *Owner*, the *Payment Certifier* will issue to the *Owner*, and if the *Payment Certifier* is the *Owner*, the *Owner* shall issue, no later than 10 days after the receipt of an application for payment from the *Design-Builder* submitted in accordance with GC 5.2 – APPLICATION FOR PROGRESS PAYMENT, a certificate for payment in the amount applied for or in such other amount as the *Payment Certifier* determines to be properly due. If the *Payment Certifier* amends the application, the *Payment Certifier* will promptly notify the *Design-Builder* in writing giving reasons for the amendment.
- 5.3.2 The *Owner* shall make payment to the *Design-Builder* on account as provided in Article A-5 of the Agreement – PAYMENT no later than 15 days after the receipt of a certificate for payment issued by the *Payment Certifier* or after the *Owner* has issued a certificate as contemplated by paragraph 5.3.1.

GC 5.4 SUBSTANTIAL PERFORMANCE OF THE WORK

- 5.4.1 When the *Design-Builder* considers that the *Work* is substantially performed, or if permitted by the lien legislation applicable to the *Place of the Work* a designated portion thereof which the *Owner* agrees to accept separately is substantially performed, the *Design-Builder* shall prepare and submit to the *Owner* a comprehensive list of items to be completed or corrected and apply for a review by the *Owner*. Failure to include an item on the list does not alter the responsibility of the *Design-Builder* to complete the *Contract*.
- 5.4.2 The *Design-Builder's* list and application for *Substantial Performance of the Work* shall include a statement from the *Consultant* representing to the *Design-Builder* the validity of the list and the date of *Substantial Performance of the Work* or designated portion of the *Work*. Where required by the applicable lien legislation, the *Consultant* shall issue a certificate of *Substantial Performance of the Work*.

- 5.4.3 If the *Consultant* is not the *Payment Certifier* and the applicable lien legislation requires the *Payment Certifier* to determine whether the *Contract* has been substantially performed, the *Owner* shall require the *Payment Certifier* within 7 days after receipt of the *Design-Builder's* application for *Substantial Performance of the Work* issue a certificate of the *Substantial Performance of the Work* which shall state the date of *Substantial Performance of the Work* or advise the *Design-Builder* in writing of the reasons for which such a certificate is not issued.
- 5.4.4 Immediately following the issuance of a certificate of *Substantial Performance of the Work*, the *Design-Builder*, in consultation with the *Owner*, will establish a reasonable date for finishing the *Work*.

GC 5.5 PAYMENT OF HOLDBACK UPON SUBSTANTIAL PERFORMANCE OF THE WORK

- 5.5.1 After the issuance of the certificate of *Substantial Performance of the Work* as in accordance with GC 5.4 – SUBSTANTIAL PERFORMANCE OF THE WORK, the *Design-Builder* shall:
 - .1 submit an application for payment of the holdback amount,
 - .2 submit a sworn statement that all accounts for the *Design Services*, labour, subcontracts, *Products*, construction machinery and equipment, and other indebtedness which may have been incurred by the *Design-Builder* in the *Substantial Performance of the Work* and for which the *Owner* might in any way be held responsible have been paid in full, except for amounts properly retained as a holdback or those amounts not yet paid by the *Owner* to the *Design-Builder* for *Work* done which amounts in the *Design-Builder's* hands would be payable by the *Design-Builder* to those with whom it is bound by contract for the performance of the *Work* or any amounts identified by the *Design-Builder*, the payment of which is in dispute.
- 5.5.2 After the receipt of an application for payment from the *Design-Builder* and the sworn statement as provided in paragraph 5.5.1, the *Payment Certifier* will issue a certificate for payment of the holdback amount.
- 5.5.3 Where the holdback amount has not been placed in a separate holdback account as may be required by the lien legislation applicable to the *Place of the Work*, the *Owner* shall, 10 days prior to the expiry of the holdback period stipulated in the lien legislation applicable to the *Place of the Work*, place the holdback amount in a bank account in the joint names of the *Owner* and the *Design-Builder*.

In the Common Law provinces GC 5.5.4 shall read as follows:

- 5.5.4 The holdback amount authorized by the certificate for payment of the holdback amount is due and payable on the day following the expiration of the holdback period stipulated in the lien legislation applicable to the *Place of the Work*. Where lien legislation does not exist or apply, the holdback amount shall be due and payable in accordance with other legislation, industry practice, or provisions which may be agreed to between the parties. The *Owner* may retain out of the holdback amount any sums required by law to satisfy any liens against the *Work* or, if permitted by the lien legislation applicable to the *Place of the Work*, other third party monetary claims against the *Design-Builder* which are enforceable against the *Owner*.

In the Province of Quebec GC 5.5.4 shall read as follows:

- 5.5.4 The holdback amount authorized by the certificate for payment of the holdback amount is due and payable no later than 30 days after the date of *Substantial Performance of the Work*. The *Owner* may retain out of the holdback amount any sums required by law to satisfy any legal hypothecs that have been taken or could be taken against the *Work* or other third party monetary claims against the *Design-Builder* which are enforceable against the *Owner*.

GC 5.6 PROGRESSIVE RELEASE OF HOLDBACK

In the Common Law provinces GC 5.6.1 shall read as follows:

- 5.6.1 Where legislation permits and where, upon application by the *Design-Builder*, the *Consultant* has certified that the work of a *Subcontractor* or *Supplier* has been performed prior to *Substantial Performance of the Work*, the *Owner* shall pay the *Design-Builder* the holdback amount retained for such subcontract work, or the *Products* supplied by such *Supplier*, on the day following the expiration of the holdback period for such work stipulated in the lien legislation applicable to the *Place of the Work*.

In the Province of Quebec GC 5.6.1 shall read as follows:

- 5.6.1 Where, upon application by the *Design-Builder*, the *Consultant* has certified that the work of a *Subcontractor* or *Supplier* has been performed prior to *Substantial Performance of the Work*, the *Owner* shall pay the *Design-Builder* the holdback amount retained for such subcontract work, or the *Products* supplied by such *Supplier* no later than 30 days after the date of *Substantial Performance of the Work*. The *Owner* may retain out of the holdback amount any sums required to satisfy any legal hypothecs that have been taken or could be taken against the *Work* or other third party monetary claims against the *Design-Builder* which are enforceable against the *Owner*.
- 5.6.2 Notwithstanding the provisions of the preceding paragraph, and notwithstanding the wording of such certificates, the *Design-Builder* shall ensure that such subcontract work or *Products* is protected pending the issuance of a final certificate for payment and be responsible for the correction of defects or work not performed regardless of whether or not such was apparent when such certificates were issued.

GC 5.7 FINAL PAYMENT

- 5.7.1 When the *Design-Builder* considers that the *Work* is completed, the *Design-Builder* shall submit an application for final payment and a certificate for payment issued by the *Consultant* to the *Design-Builder* in the amount applied for by the *Design-Builder*.
- 5.7.2 Unless the *Payment Certifier* is identified to be the *Consultant*, the *Payment Certifier* will review the *Work* to verify the validity of the application after the receipt of the *Design-Builder's* application for final payment and the *Consultant's* certificate for payment. The *Payment Certifier* will review the *Work* within 10 days of receipt of the *Design-Builder's* application and will issue to the *Owner*, no later than 7 days after reviewing the *Work*, a certificate for payment in the amount applied for or in such other amount as the *Payment Certifier* determines to be properly due. If the *Payment Certifier* amends the application, the *Payment Certifier* will promptly notify the *Design-Builder* in writing giving reasons for the amendment.
- 5.7.3 Subject to the provision of paragraph 10.4.1 of GC 10.4 - WORKERS' COMPENSATION, and any lien legislation applicable to the *Place of the Work*, the *Owner* shall make payment to the *Design-Builder* on account as provided in Article A-5 of the Agreement – PAYMENT no later than 15 days after the receipt of a final certificate for payment issued by the *Payment Certifier*.

GC 5.8 WITHHOLDING OF PAYMENT

- 5.8.1 If because of climatic or other conditions reasonably beyond the control of the *Design-Builder*, there are items of the *Work* that cannot be performed, payment in full for that portion of the *Work* which has been performed as certified by the *Payment Certifier* shall not be withheld or delayed by the *Owner* on account thereof, but the *Owner* may withhold, until the remaining portion of the *Work* is finished, only such an amount that the *Payment Certifier* determines is sufficient and reasonable to cover the cost of performing such remaining work.

GC 5.9 NON-CONFORMING WORK

- 5.9.1 No payment by the *Owner* under the *Contract* nor partial or entire use or occupancy of the *Work* by the *Owner* shall constitute an acceptance of any portion of the *Work* or *Products* which are not in accordance with the requirements of the *Contract Documents*.

PART 6 CHANGES IN THE WORK

GC 6.1 CHANGES

- 6.1.1 The *Owner*, without invalidating the *Contract*, may make changes in the *Work* consisting of additions, deletions, or other revisions to the *Work* by *Change Order* or *Change Directive*.
- 6.1.2 The *Design-Builder* shall not perform a change in the *Work* without a *Change Order* or a *Change Directive* except as provided in paragraph 6.1.6.
- 6.1.3 If a change in the *Work* results in a net increase in the *Contract Price*, an allowance for overhead and profit shall be included.
- 6.1.4 If a change in the *Work* results in a net decrease in the *Contract Price*, the amount of the credit shall be the net cost, without deduction for overhead or profit.

- 6.1.5 When both additions and deletions covering related work or substitutions are involved in a change in the *Work*, the allowance for overhead and profit shall be calculated on the basis of the net increase, if any, with respect to that change in the *Work*.
- 6.1.6 The *Design-Builder*, without invalidating the *Contract*, may make minor adjustments in the *Work* consistent with the intent of the *Contract Documents* without a *Change Order* and shall advise the *Owner* in writing of such adjustments. Such adjustments in the *Work* shall not involve adjustment in the *Contract Price* or *Contract Time*.

GC 6.2 CHANGE ORDER

- 6.2.1 When a change in the *Work* is proposed or required, the *Owner* or the *Design-Builder* shall provide a notice in writing describing the proposed change in the *Work* to the other party. The responding party shall present, in a form acceptable to the other party, an amendment to the *Owner's Statement of Requirements*, if any, and a method of adjustment or an amount of adjustment for the *Contract Price*, if any, and the adjustment in the *Contract Time*, if any, for the proposed change in the *Work*.
- 6.2.2 When the *Owner* and *Design-Builder* agree to the amendment to the *Owner's Statement of Requirements*, the adjustments in the *Contract Price* and *Contract Time*, or to the method to be used to determine the adjustments, such agreement shall be effective immediately and shall be recorded in a *Change Order* and signed by the *Owner* and *Design-Builder*. The value of the *Work* performed as the result of a *Change Order* shall be included in applications for progress payment.
- 6.2.3 If the *Owner* requests the *Design-Builder* to submit a proposal for a change in the *Work* and then elects not to proceed with the change, a *Change Order* shall be issued for the *Owner* to reimburse the *Design-Builder* for all costs incurred in any *Design Services* rendered.

GC 6.3 CHANGE DIRECTIVE

- 6.3.1 If the *Owner* requires the *Design-Builder* to proceed with a change in the *Work* within the general scope of the *Work* prior to the *Owner* and the *Design-Builder* agreeing upon the adjustment in *Contract Price* and *Contract Time*, the *Owner* shall direct the preparation of a *Change Directive*.
- 6.3.2 Upon receipt of a *Change Directive*, the *Design-Builder* shall proceed promptly with the change in the *Work*.
- 6.3.3 The adjustment in the *Contract Price* for a change carried out by way of a *Change Directive* shall be determined on the basis of the cost of expenditures and savings to perform the work attributable to the change.
- 6.3.4 The *Design-Builder* shall keep and present, in such form as the *Owner* may require, an itemized accounting of the cost of expenditures and savings referred to in paragraph 6.3.3 together with supporting data. The cost of performing the work attributable to the *Change Directive* shall be limited to the actual cost of all of the following:
 - .1 wages and benefits paid for labour in the direct employ of the *Design-Builder* under applicable collective bargaining agreements, or under a salary or wage schedule agreed upon by the *Owner* and *Design-Builder*;
 - .2 salaries, wages, and benefits of the *Design-Builder's* personnel, when stationed at the field office, in whatever capacity employed; and personnel engaged at shops or on the road, in expediting the production or transportation of materials or equipment;
 - .3 salaries, wages, and benefits of the *Design-Builder's* office personnel engaged in a technical capacity, and other personnel identified in the agreed wage schedule for the time spent in the performance of the *Work*;
 - .4 contributions, assessments, or taxes incurred for such items as employment insurance, provincial health insurance, workers' compensation, and Canada or Quebec Pension Plan, insofar as such cost is based on wages, salaries, or other remuneration paid to employees of the *Design-Builder* and included in the cost of the work as provided in paragraphs 6.3.4.1, 6.3.4.2, and 6.3.4.3;
 - .5 travel and subsistence expenses of the *Design-Builder's* personnel described in paragraphs 6.3.4.1, 6.3.4.2, and 6.3.4.3;
 - .6 the cost of *Design Services* including all fees and disbursements of the *Consultant* or other consultants engaged or employed to provide such services;
 - .7 the cost of all *Products* including cost of transportation thereof;
 - .8 the cost of materials, supplies, equipment, temporary services and facilities, and hand tools not owned by the workers, including transportation and maintenance thereof, which are consumed; and cost less salvage value on such items used but not consumed, which remain the property of the *Design-Builder*;

- .9 rental cost of all tools, machinery, and equipment, exclusive of hand tools, whether rented from or provided by the *Design-Builder* or others, including installation, minor repairs and replacements, dismantling, removal, transportation and delivery cost thereof;
 - .10 deposits lost;
 - .11 the amounts of all subcontracts;
 - .12 the cost of quality assurance such as independent inspection and testing services;
 - .13 charges levied by authorities having jurisdiction at the *Place of the Work*;
 - .14 royalties, patent license fees, and damages for infringement of patents and cost of defending suits therefor subject always to the *Design-Builder's* obligations to indemnify the *Owner* as provided in paragraph 10.3.1 of GC 10.3 - PATENT FEES;
 - .15 any adjustment in premium for all bonds and insurance which the *Design-Builder* is required, by the *Contract Documents*, to purchase and maintain in relation to the performance of the *Work*;
 - .16 any adjustment in taxes and duties for which the *Design-Builder* is liable in relation to the performance of the *Work*;
 - .17 charges for long distance telephone and facsimile communications, courier services, expressage, photocopying, reproduction of *Contract Documents*, and petty cash items incurred in relation to the performance of the *Work*;
 - .18 the cost of removal and disposal of waste products and debris;
 - .19 costs incurred due to emergencies affecting the safety of persons or property;
- 6.3.5 Pending determination of the final amount of a *Change Directive*, the undisputed value of the work performed as the result of a *Change Directive* is eligible to be included in progress payments.
- 6.3.6 If the *Owner* and *Design-Builder* do not agree on the proposed adjustment in the *Contract Time* or the method of determining it, the adjustment shall be referred to the *Consultant* for determination.
- 6.3.7 If at any time after the start of the *Work* directed by a *Change Directive*, the *Owner* and the *Design-Builder* reach agreement on the amendment to the *Owner's Statement of Requirements* or the adjustment to the *Contract Price* and to the *Contract Time*, this agreement shall be recorded in a *Change Order* signed by the *Owner* and the *Design-Builder*.

GC 6.4 CONCEALED OR UNKNOWN CONDITIONS

- 6.4.1 If the *Owner* or the *Design-Builder* discover conditions at the *Place of the Work* which are:
- .1 subsurface or otherwise concealed physical conditions which existed before the commencement of the *Work* which differ materially from those indicated in the *Contract Documents*; or
 - .2 physical conditions of a nature which differ materially from those ordinarily found to exist and generally recognized as inherent in construction activities of the character provided for in the *Contract Documents*;
- then the observing party shall notify the other party in writing, if possible before conditions are disturbed, and in no event later than 5 *Working Days* after first observance of the conditions.
- 6.4.2 The *Consultant* or other consultants will promptly investigate such conditions. The *Consultant* will notify the *Owner* and the *Design-Builder* of the finding in writing. If the finding is that the conditions differ materially and this would cause an increase or decrease in the *Design-Builder's* cost or time to perform the *Work*, the *Owner* shall issue appropriate instructions for a change in the *Work* as provided in GC 6.1 - CHANGES, GC 6.2 - CHANGE ORDER, and GC 6.3 - CHANGE DIRECTIVE.
- 6.4.3 If the *Consultant* finds that the conditions at the *Place of the Work* are not materially different or that no change in the *Contract Price* or the *Contract Time* is justified, the *Consultant* shall notify the *Owner* and *Design-Builder* in writing.

GC 6.5 DELAYS

- 6.5.1 If the *Design-Builder* is delayed in the performance of the *Work* by an action or omission of the *Owner* or anyone employed or engaged by them directly or indirectly, contrary to the provisions of the *Contract Documents*, then the *Contract Time* shall be extended for such reasonable time as agreed between the *Owner* and the *Design-Builder*. *Design-Builder* shall be reimbursed by the *Owner* for reasonable costs incurred by the *Design-Builder* as the result of such delay.

- 6.5.2 If the *Design-Builder* is delayed in the performance of the *Work* by a stop work order issued by a court or other public authority and providing that such order was not issued as the result of an act or fault of the *Design-Builder* or any person employed or engaged by the *Design-Builder* directly or indirectly, then the *Contract Time* shall be extended for such reasonable time as agreed between the *Owner* and the *Design-Builder*. The *Design-Builder* shall be reimbursed by the *Owner* for reasonable costs incurred by the *Design-Builder* as the result of such delay.
- 6.5.3 If the *Design-Builder* is delayed in the performance of the *Work* by labour disputes, strikes, lock-outs (including lock-outs decreed or recommended for its members by a recognized contractors' association, of which the *Design-Builder* is a member or to which the *Design-Builder* is otherwise bound), fire, unusual delay by common carriers or unavoidable casualties, or without limit to any of the foregoing, by a cause beyond the *Design-Builder's* control, then the *Contract Time* shall be extended for such reasonable time as agreed between the *Owner* and the *Design-Builder*. The extension of time shall not be less than the time lost as the result of the event causing the delay, unless the *Design-Builder* agrees to a shorter extension. The *Design-Builder* shall not be entitled to payment for costs incurred by such delays unless such delays result from actions by the *Owner*.
- 6.5.4 No extension shall be made for delay unless notice in writing of claim is given promptly to the *Owner* and in no event later than 10 *Working Days* after the commencement of delay, providing however, that in the case of a continuing cause of delay only one notice of claim shall be necessary.
- 6.5.5 Any adjustment to *Contract Price* and *Contract Time* required as a result of GC 6.5 - DELAYS shall be made as provided in GC 6.1 - CHANGES, GC 6.2 - CHANGE ORDER, and GC 6.3 - CHANGE DIRECTIVE.

PART 7 DEFAULT NOTICE

GC 7.1 OWNER'S RIGHT TO PERFORM THE WORK, SUSPEND THE WORK, OR TERMINATE THE CONTRACT

- 7.1.1 If the *Design-Builder* should be adjudged bankrupt, or makes a general assignment for the benefit of creditors because of the *Design-Builder's* insolvency, or if a receiver is appointed because of the *Design-Builder's* insolvency, the *Owner* may, without prejudice to any other right or remedy the *Owner* may have, by giving the *Design-Builder* or receiver or trustee in bankruptcy notice in writing, terminate the *Design-Builder's* right to continue with the *Work*.
- 7.1.2 If the *Design-Builder* should neglect to prosecute the *Work* properly or otherwise fails to comply with the requirements of the *Contract* to a substantial degree, the *Owner* may, without prejudice to any other right or remedy the *Owner* may have, notify the *Design-Builder* in writing that the *Design-Builder* is in default of the *Design-Builder's* contractual obligations and instruct the *Design-Builder* to correct the default in the 5 *Working Days* immediately following the receipt of such notice.
- 7.1.3 If the default cannot be corrected in the 5 *Working Days* specified, the *Design-Builder* shall be in compliance with the *Owner's* instructions if the *Design-Builder*:
- .1 commences the correction of the default within the specified time, and
 - .2 provides the *Owner* with an acceptable schedule for such correction, and
 - .3 corrects the default in accordance with such schedule.
- 7.1.4 If the *Design-Builder* fails to correct the default in the time specified or subsequently agreed upon, without prejudice to any other right or remedy the *Owner* may have, the *Owner* may:
- .1 correct such default and deduct the cost thereof from any payment then or thereafter due to the *Design-Builder*, or
 - .2 terminate the *Design-Builder's* right to continue with the *Work* in whole or in part or terminate the *Contract*.
- 7.1.5 If the *Owner* terminates the *Design-Builder's* right to continue with the *Work* as provided in paragraphs 7.1.1 and 7.1.4, the *Owner* shall be entitled to:
- .1 take possession of the *Construction*, and *Products*; utilize the *Construction Documents*, construction machinery, and equipment; subject to the rights of third parties, finish the *Work* by whatever reasonable method the *Owner* may consider expedient, but without undue delay or expense;
 - .2 withhold further payment to the *Design-Builder* until a final certificate for payment is issued;
 - .3 charge the *Design-Builder* the amount by which the full cost of finishing the *Work* and a reasonable allowance to cover the cost of corrections to *Work* performed by the *Design-Builder* that may be required under GC 12.3 - WARRANTY, exceeds the unpaid balance of the *Contract Price*; however, if such cost of finishing the *Work* is less than the unpaid balance of the *Contract Price*, the *Owner* shall pay the *Design-Builder* the difference; and

- .4 on expiry of the warranty period, charge the *Design-Builder* the amount by which the cost of corrections to the *Design-Builder's* work under GC 12.3 - WARRANTY exceeds the allowance provided for such corrections, or if the cost of such corrections is less than the allowance, pay the *Design-Builder* the difference.
- 7.1.6 The *Design-Builder's* obligation under the *Contract* as to quality, correction, and warranty of the work performed by the *Design-Builder* up to the time of termination shall continue in force after such termination.
- 7.1.7 The *Owner* may, if conditions arise which make it necessary for reasons other than as provided in paragraphs 7.1.1 and 7.1.4, suspend performance of the *Work* or terminate the *Contract* by giving written notice to that effect to the *Design-Builder* identifying the reason for the suspension and the expected length of the suspension. Such suspension or termination shall be effective in the manner specified in said notice and shall be without prejudice to any claims which either party may have against the other.
- 7.1.8 The *Design-Builder* upon receiving notice of suspension or termination from the *Owner* shall suspend all operations as soon as reasonably possible except *Work* which, in the *Design-Builder's* opinion, is necessary for the safety of personnel and for the care and preservation of the *Work*, the materials and plant. Subject to any directions in the notice of suspension or termination, the *Design-Builder* shall discontinue ordering materials, facilities, and supplies and make every reasonable effort to delay delivery of existing orders and, in the event of termination, to cancel existing orders on the best terms available.
- 7.1.9 During the period of suspension, the *Design-Builder* shall not remove from the site any part of the *Work*, or any *Product* or materials without the consent of the *Owner*.
- 7.1.10 If the *Work* should be suspended for a period of 30 days or less, the *Design-Builder*, upon the expiration of the period of suspension, shall resume the performance of the *Work* in accordance with the *Contract Documents*. If the suspension was not due to an act or an omission of the *Design-Builder*, the *Contract Price* and *Contract Time* shall be adjusted as provided in paragraph 6.5.1 of GC 6.5 - DELAYS.
- 7.1.11 If, after 30 days from the date of notice of suspension of the *Work* the *Owner* and the *Design-Builder* agree to continue with and complete the *Work*, the *Design-Builder* shall resume operations and complete the *Work* in accordance with any terms and conditions agreed upon by the *Owner* and the *Design-Builder*.

GC 7.2 DESIGN-BUILDER'S RIGHT TO SUSPEND THE WORK OR TERMINATE THE CONTRACT

- 7.2.1 If the *Owner* should be adjudged bankrupt, or makes a general assignment for the benefit of creditors because of the *Owner's* insolvency, or if a receiver is appointed because of the *Owner's* insolvency, the *Design-Builder* may, without prejudice to any other right or remedy the *Design-Builder* may have, by giving the *Owner* or receiver or trustee in bankruptcy notice in writing, terminate the *Contract*.
- 7.2.2 If the *Work* should be suspended or otherwise delayed for a period of 30 days or more under the *Owner's* direction as provided in paragraph 7.1.7 of GC 7.1 - OWNER'S RIGHT TO PERFORM THE WORK, SUSPEND THE WORK, OR TERMINATE THE CONTRACT or under an order of a court or other public authority and providing that such order was not issued as the result of an act or fault of the *Design-Builder* or of anyone directly or indirectly employed or engaged by the *Design-Builder*, the *Design-Builder* may, without prejudice to any other right or remedy the *Design-Builder* may have, by giving the *Owner* notice in writing, terminate the *Contract*.
- 7.2.3 The *Design-Builder* may notify the *Owner* in writing that the *Owner* is in default of the *Owner's* contractual obligations if:
- .1 the *Owner* fails to furnish, when so requested by the *Design-Builder*, reasonable evidence that financial arrangements have been made to fulfil the *Owner's* obligations under the *Contract*,
 - .2 the *Owner* fails to pay the *Design-Builder* the amounts due under the *Contract* or awarded by arbitration or court,
 - .3 the *Owner* has made an assignment of the *Contract* without the required consent of the *Design-Builder*, or
 - .4 the *Owner* persistently disregards communications or reasonable requests from the *Design-Builder* for information or instructions, or otherwise violates the requirements of the *Contract* to a substantial degree.
- 7.2.4 The *Design-Builder's* notice in writing to the *Owner* provided under paragraph 7.2.3 shall advise that if the default is not corrected within 5 *Working Days* following the receipt of the notice, the *Design-Builder* may, without prejudice to any other right or remedy the *Design-Builder* may have, suspend the *Work* or terminate the *Contract*.

- 7.2.5 If the *Design-Builder* terminates the *Contract* under the conditions set out above, the *Design-Builder* shall be entitled to be paid for all *Work* performed including reasonable profit, for loss sustained upon *Products* and construction machinery and equipment, and such other damages as the *Design-Builder* may have sustained as a result of the termination of the *Contract*.

PART 8 DISPUTE RESOLUTION

GC 8.1 AUTHORITY OF THE CONSULTANT

- 8.1.1 Differences between the parties to the *Contract* as to the interpretation, application, or administration of the *Contract* or any failure to agree where agreement between the parties is called for, collectively referred to as disputes, which are not resolved in the first instance by findings of the *Consultant* as provided in GC 2.1 - CONSULTANT, shall be settled in accordance with the requirements of Part 8 of the General Conditions - DISPUTE RESOLUTION.
- 8.1.2 If a dispute is not resolved promptly, the *Consultant* shall give such written instructions as in the *Consultant's* opinion are necessary for the proper performance of the *Work* and to prevent delays pending settlement of the dispute. The *Design-Builder* shall act immediately according to such instructions, it being understood that by so doing the *Design-Builder* will not jeopardize any claim the *Design-Builder* may have. If it is subsequently determined that such instructions were in error or at variance with the *Contract Documents*, the *Owner* shall pay the *Design-Builder* costs incurred by the *Design-Builder* in carrying out such instructions which the *Design-Builder* was required to do beyond what the *Contract Documents* correctly understood and interpreted would have required, including costs resulting from interruption of the *Work*.

GC 8.2 NEGOTIATION, MEDIATION, AND ARBITRATION

- 8.2.1 In accordance with the latest edition of the Rules for Mediation of Construction Disputes as provided in CCDC 40, the parties shall appoint a Project Mediator
- .1 within 30 days after the *Contract* was awarded, or
 - .2 if the parties neglected to make an appointment within the 30 day period, within 15 days after either party by notice in writing requests that the Project Mediator be appointed.
- 8.2.2 A party shall be conclusively deemed to have accepted a finding of the *Consultant* under GC 2.1 - CONSULTANT and to have expressly waived and released the other party from any claims in respect of the particular matter dealt with in that finding unless, within 15 *Working Days* after receipt of that finding, the party sends a notice in writing of dispute to the other party and to the *Consultant*, which contains the particulars of the matter in dispute and the relevant provisions of the *Contract Documents*. The responding party shall send a notice in writing of reply to the dispute within 10 *Working Days* after receipt of the notice of dispute setting out particulars of this response and any relevant provisions of the *Contract Documents*.
- 8.2.3 The parties shall make all reasonable efforts to resolve their disputes by amicable negotiations and agree to provide, without prejudice, frank, candid, and timely disclosure of relevant facts, information, and documents to facilitate these negotiations.
- 8.2.4 After a period of 10 *Working Days* following receipt of a responding party's notice in writing of reply under paragraph 8.2.2, the parties shall request the Project Mediator to assist the parties to reach agreement on any unresolved dispute. The mediated negotiations shall be conducted in accordance with the latest edition of the Rules for Mediation of Construction Disputes as provided in CCDC 40.
- 8.2.5 If the dispute has not been resolved within 10 *Working Days* after the Project Mediator was requested under paragraph 8.2.4 or within such further period agreed by the parties, the Project Mediator shall terminate the mediated negotiations by giving notice in writing to both parties.
- 8.2.6 By giving a notice in writing to the other party, not later than 10 *Working Days* after the date of termination of the mediated negotiations under paragraph 8.2.5, either party may refer the dispute to be finally resolved by arbitration under the latest edition of the Rules for Arbitration of Construction Disputes as provided in CCDC 40. The arbitration shall be conducted in the jurisdiction of the *Place of the Work*.
- 8.2.7 On expiration of the 10 *Working Days*, the arbitration agreement under paragraph 8.2.6 is not binding on the parties and, if a notice is not given under paragraph 8.2.6 within the required time, the parties may refer the unresolved dispute to the courts or to any other form of dispute resolution, including arbitration, which they have agreed to use.

- 8.2.8 If neither party requires by notice in writing given within 10 *Working Days* of the date of notice requesting arbitration in paragraph 8.2.6 that a dispute be arbitrated immediately, all disputes referred to arbitration as provided in paragraph 8.2.6 shall be
- .1 held in abeyance until
 - (1) *Substantial Performance of the Work*,
 - (2) the *Contract* has been terminated, or
 - (3) the *Design-Builder* has abandoned the *Work*,
 whichever is earlier, and
 - .2 consolidated into a single arbitration under the rules governing the arbitration under paragraph 8.2.6.

GC 8.3 RETENTION OF RIGHTS

- 8.3.1 It is agreed that no act by either party shall be construed as a renunciation or waiver of any rights or recourses, provided the party has given the notices required under Part 8 of the General Conditions - DISPUTE RESOLUTION and has carried out the instructions as provided in paragraph 8.1.2.
- 8.3.2 Nothing in Part 8 of the General Conditions - DISPUTE RESOLUTION shall be construed in any way to limit a party from asserting any statutory right to a lien under applicable lien legislation of the jurisdiction of the *Place of the Work* and the assertion of such right by initiating judicial proceedings is not to be construed as a waiver of any right that party may have under paragraph 8.2.6 to proceed by way of arbitration to adjudicate the merits of the claim upon which such a lien is based.

PART 9 PROTECTION OF PERSONS AND PROPERTY

GC 9.1 PROTECTION OF WORK AND PROPERTY

- 9.1.1 The *Design-Builder* shall protect the *Work* and the *Owner's* property and property adjacent to the *Place of the Work* from damage which may arise as the result of the *Design-Builder's* operations under the *Contract*, and shall be responsible for such damage, except damage which occurs as the result of:
- .1 errors in the *Contract Documents* issued by the *Owner*;
 - .2 acts or omissions by the *Owner*, other contractors, their agents and employees.
- 9.1.2 Should the *Design-Builder* in the performance of the *Contract* damage the *Work*, the *Owner's* property, or property adjacent to the *Place of the Work*, the *Design-Builder* shall be responsible for the making good such damage at the *Design-Builder's* expense.
- 9.1.3 Should damage occur to the *Work* or *Owner's* property for which the *Design-Builder* is not responsible, as provided in paragraph 9.1.1, the *Design-Builder* shall at the *Owner's* expense make good such damage to the *Work* and, if the *Owner* so directs, to the *Owner's* property. The *Contract Price* and *Contract Time* shall be adjusted as provided in GC 6.1 - CHANGES, GC 6.2 - CHANGE ORDER, and GC 6.3 - CHANGE DIRECTIVE.

GC 9.2 DAMAGES AND MUTUAL RESPONSIBILITY

- 9.2.1 If either party to the *Contract* should suffer damage in any manner because of any wrongful act or neglect of the other party or of anyone for whom the other party is responsible in law, then that party shall be reimbursed by the other party for such damage. The reimbursing party shall be subrogated to the rights of the other party in respect of such wrongful act or neglect if it be that of a third party.
- 9.2.2 Claims for damage under paragraph 9.2.1 shall be made in writing to the party liable within reasonable time after the first observance of such damage and if undisputed shall be confirmed by *Change Order*. Disputed claims shall be resolved as set out in Part 8 of the General Conditions - DISPUTE RESOLUTION.
- 9.2.3 If the *Design-Builder* has caused damage to the work of another contractor on the *Project*, the *Design-Builder* agrees upon due notice to settle with the other contractor by negotiation or arbitration. If the other contractor makes a claim against the *Owner* on account of damage alleged to have been so sustained, the *Owner* shall notify the *Design-Builder* and may require the *Design-Builder* to defend the action at the *Design-Builder's* expense. The *Design-Builder* shall satisfy a final order or judgment against the *Owner* and pay the costs incurred by the *Owner* arising from such action.
- 9.2.4 If the *Design-Builder* becomes liable to pay or satisfy a final order, judgment, or award against the *Owner*, then the *Design-Builder*, upon undertaking to indemnify the *Owner* against any and all liability for costs, shall have the right to appeal in the name of the *Owner* such final order or judgment to any and all courts of competent jurisdiction.

GC 9.3 TOXIC AND HAZARDOUS SUBSTANCES AND MATERIALS

- 9.3.1 For the purposes of applicable environmental legislation, the *Owner* shall be deemed to have control and management of the *Place of the Work* with respect to existing conditions.
- 9.3.2 Prior to the *Design-Builder* commencing the *Work*, the *Owner* shall
- .1 take all reasonable steps to determine whether any toxic or hazardous substances or materials are present at the *Place of the Work*, and
 - .2 provide the *Design-Builder* with a written list of any such substances and materials.
- 9.3.3 The *Owner* shall take all reasonable steps to ensure that no person suffers injury, sickness, or death and that no property is injured, damaged, or destroyed as a result of exposure to, or the presence of, toxic or hazardous substances or materials which were at the *Place of the Work* prior to the *Design-Builder* commencing the *Work*.
- 9.3.4 Unless the *Contract Documents* expressly provides otherwise, the *Owner* shall be responsible for taking all necessary steps, in accordance with legal requirements, to dispose of, store or otherwise render harmless, toxic or hazardous substances or materials which were present at the *Place of the Work* prior to the *Design-Builder* commencing the *Work*.
- 9.3.5 If the *Design-Builder*
- .1 encounters toxic or hazardous substances or materials at the *Place of the Work*, or
 - .2 has reasonable grounds to believe that toxic or hazardous substances or materials are present at the *Place of the Work*,
- which were not disclosed by the *Owner*, as required under paragraph 9.3.2, or which were disclosed but have not been dealt with as required under paragraph 9.3.4, the *Design-Builder* shall
- .3 take all reasonable steps, including stopping the *Work*, to ensure that no person suffers injury, sickness, or death and that no property is injured or destroyed as a result of exposure to or the presence of the substances or materials, and
 - .4 immediately report the circumstances to the *Owner* in writing.
- 9.3.6 If the *Design-Builder* is delayed in performing the *Work* or incurs additional costs as a result of taking steps required under paragraph 9.3.5.3, the *Contract Time* shall be extended and the *Design-Builder* shall be reimbursed for all reasonable costs incurred as a result of the delay and as a result of taking those steps.
- 9.3.7 The *Owner* and the *Design-Builder* may jointly rely upon the advice of an independent expert in a dispute under paragraph 9.3.6 and, in that case, the expert shall be jointly selected, retained, and paid by the *Owner* and the *Design-Builder*.
- 9.3.8 The *Owner* shall indemnify and hold harmless the *Design-Builder*, *Consultant*, other consultants, *Subcontractors*, *Suppliers*, and their agents and employees, from and against claims, demands, losses, costs, damages, actions, suits, or proceedings arising out of or resulting from exposure to, or the presence of, toxic or hazardous substances or materials which were at the *Place of the Work* prior to the *Design-Builder* commencing the *Work*. This obligation shall not be construed to negate, abridge, or reduce other rights or obligations of indemnity set out in GC 12.1 - INDEMNIFICATION or which otherwise exist respecting a person or party described in this paragraph.
- 9.3.9 GC 9.3 - TOXIC AND HAZARDOUS SUBSTANCES AND MATERIALS shall govern over the provisions of paragraph 1.4.1 of GC 1.4 - RIGHTS AND REMEDIES or GC 9.2 - DAMAGES AND MUTUAL RESPONSIBILITY.

PART 10 GOVERNING REGULATIONS

GC 10.1 TAXES AND DUTIES

- 10.1.1 The *Contract Price* shall include all taxes and customs duties in effect at the time of the proposal or bid closing except for *Value Added Taxes* payable by the *Owner* to the *Design-Builder* as stipulated in Article A-4 of the Agreement - CONTRACT PRICE.
- 10.1.2 Any increase or decrease in costs to the *Design-Builder* due to changes in such included taxes and duties after the time of the proposal or bid closing, as the case may be, shall increase or decrease the *Contract Price* accordingly.
- 10.1.3 Refunds that are properly due to the *Owner* and have been recovered by the *Design-Builder* will be promptly refunded to the *Owner*.

GC 10.2 LAWS, NOTICES, PERMITS, AND FEES

- 10.2.1 The *Owner* shall obtain and pay for the permanent easements and rights of servitude.
- 10.2.2 Unless otherwise stated, the *Design-Builder* shall obtain and pay for the building permit and other permits, licences, or certificates necessary for the performance of the *Work* which were in force at the time of the proposal or bid closing.
- 10.2.3 The *Design-Builder* shall give the required notices and comply with the laws, ordinances, rules, regulations, or codes which are or become in force during the performance of the *Work* and which relate to the *Work*, to the preservation of the public health, and to construction safety.
- 10.2.4 The *Design-Builder* shall not be responsible for verifying that the *Owner's Statement of Requirements* is in substantial compliance with the applicable laws, ordinances, rules, regulations, or codes relating to the *Work*. If, after the time of the proposal or bid closing, changes are made to the applicable laws, ordinances, rules, regulations, or codes which require modification to the *Contract Documents*, the *Design-Builder* shall notify the *Owner* in writing requesting direction immediately upon such variance or change becoming known. Changes shall be made as provided in GC 6.1 - CHANGES, GC 6.2 - CHANGE ORDER, and GC 6.3 - CHANGE DIRECTIVE.
- 10.2.5 If the *Design-Builder* fails to notify the *Owner* in writing, fails to obtain direction as required in paragraph 10.2.4, and performs work knowing it to be contrary to any laws, ordinances, rules, regulations, or codes; the *Design-Builder* shall be responsible for and shall correct the violations thereof; and shall bear the costs, expenses, and damages attributable to the failure to comply with the provisions of such laws, ordinances, rules, regulations, or codes.

GC 10.3 PATENT FEES

- 10.3.1 The *Design-Builder* shall pay the royalties and patent licence fees required for the performance of the *Contract*. The *Design-Builder* shall hold the *Owner* harmless from and against claims, demands, losses, costs, damages, actions, suits, or proceedings arising out of the *Design-Builder's* performance of the *Contract* which are attributable to an infringement or an alleged infringement of a patent of invention by the *Design-Builder* or anyone for whose acts the *Design-Builder* may be liable.
- 10.3.2 The *Owner* shall hold the *Design-Builder* harmless against claims, demands, losses, costs, damages, actions, suits, or proceedings arising out of the *Design-Builder's* performance of the *Contract* which are attributable to an infringement or an alleged infringement of a patent of invention in executing anything for the purpose of the *Contract*, the model, plan, or design of which was supplied to the *Design-Builder* as part of the *Contract Documents*.

GC 10.4 WORKERS' COMPENSATION

- 10.4.1 Prior to commencing the *Work*, *Substantial Performance of the Work*, and the application for final payment, the *Design-Builder* shall provide evidence of compliance with workers' compensation legislation at the *Place of the Work*, including payments due under it.
- 10.4.2 At any time during the term of the *Contract*, when requested by the *Owner*, the *Design-Builder* shall provide such evidence of compliance by the *Design-Builder* and *Subcontractors* and any other person performing the *Work* who is required to comply with such legislation.

PART 11 INSURANCE — BONDS

GC 11.1 INSURANCE

- 11.1.1 Without restricting the generality of GC 12.1 - INDEMNIFICATION, and unless the *Owner* and the *Design-Builder* agree to obtain project-specific insurance, or higher insurance limits, the *Design-Builder* shall provide, maintain, and pay for the minimum insurance coverages specified in GC 11.1 - INSURANCE.

.1 General Liability Insurance:

The policy shall be in the joint names of the *Design-Builder*, the *Owner*, the *Consultant* and other consultants, with limits of not less than \$2,000,000 per occurrence and with a property damage deductible of not more than \$5,000. The insurance coverage shall not be less than the insurance required by IBC Forms 2100 and 2320, or their equivalent replacement. Umbrella or excess liability insurance may be used to achieve the desired limit. Where the *Design-Builder* maintains a single, blanket policy, the addition of the *Owner* is limited to liability arising out of the *Work* and all operations necessary or incidental thereto.

Completed Operations Liability coverage shall be maintained continuously from the commencement of the *Construction* until two years after *Substantial Performance of the Work*.

.2 Errors and Omissions Insurance:

The *Design-Builder* shall ensure that the *Consultant* and other consultants engaged in the performance of the *Design Services* each carry Errors and Omissions Insurance that have limits of not less than \$250,000 per claim and with an aggregate limit of not less than \$500,000 within any policy year. The *Consultant* or other consultants found to be at fault will be responsible for the deductible amount.

The policy shall be maintained continuously from the commencement of the *Work*, until 2 years after *Substantial Performance of the Work*.

.3 Automobile Liability Insurance:

The policy covers for bodily injury, death, and damage to property with respect to all licensed vehicles owned or leased by the *Design-Builder*. The policy shall have limits of not less than \$2,000,000 inclusive per occurrence. If the policy is issued pursuant to a government-operated automobile insurance system, the *Design-Builder* shall provide the *Owner* with confirmation of automobile insurance coverage for all automobiles registered in the name of the *Design-Builder*.

.4 Aircraft and Watercraft Liability Insurance:

The policy shall be for owned or non-owned aircraft and watercraft used directly or indirectly by the *Design-Builder* in the performance of the *Work*, including use of additional premises. The policy shall have limits of not less than \$2,000,000 inclusive per occurrence for bodily injury, death, and damage to property including loss of use thereof and limits of not less than \$2,000,000 for aircraft passenger hazard.

.5 Property and Boiler and Machinery Insurance:

(1) "All risks" property insurance shall be in the joint names of the *Design-Builder*, the *Owner*, the *Consultant*, all other consultants, and all *Subcontractors*. The insurance coverage shall not be less than the insurance required by IBC Forms 4042 and 4047, or their equivalent replacement. The insurance provided shall have limits of not less than the sum of the amount of the *Contract Price*, the applicable *Value Added Taxes*, and the full value of products provided by the *Owner* for incorporation into the *Work* as specified in the Supplementary Conditions. The policy shall have a deductible of not more than \$10,000.

(2) Boiler and machinery insurance shall be in the joint names of the *Design-Builder*, the *Owner*, the *Consultant*, all consultants, and all *Subcontractors*. The insurance coverage shall not be less than the insurance provided by the "Comprehensive Boiler and Machinery Form". The insurance provided shall have limits of not less than the replacement value of the boilers, pressure vessels, and other insurable objects forming part of the *Work*.

(3) The policies shall allow for partial or total use or occupancy of the *Work*. If because of such use or occupancy the *Design-Builder* is unable to provide coverage, the *Design-Builder* shall notify the *Owner* in writing. Prior to such use or occupancy, the *Owner* shall provide, maintain, and pay for all risk property and boiler insurance in the amounts described in sub-paragraphs (1) and (2), including coverage for such use or occupancy and shall provide the *Design-Builder* with proof of such insurance. The policies shall be amended to include permission for completion of *Construction* and shall include all insureds as specified in sub-paragraph (1). The *Design-Builder* shall refund to the *Owner* the unearned premiums applicable to the *Design-Builder's* policies upon termination of coverage.

(4) The policies shall provide that, in the case of a loss or damage, payment shall be made to the *Owner* and the *Design-Builder* as their respective interests may appear. The *Design-Builder* shall act on behalf of the *Owner* for the purpose of adjusting the amount of such loss or damage payment with the insurers. When the extent of the loss or damage is determined, the *Design-Builder* shall proceed to restore the *Work*. Loss or damage shall not affect the rights and obligations of either party under the *Contract* except that the *Design-Builder* shall be entitled to a reasonable extension of *Contract Time*.

(5) The *Design-Builder* shall be entitled to receive from the *Owner*, in addition to the amount due under the *Contract*, the amount at which the *Owner's* interest in restoration of the *Work* has been appraised, such amount to be paid as the restoration of the *Work* proceeds and as provided in GC 5.2 - APPLICATIONS FOR PROGRESS PAYMENT and GC 5.3 - PROGRESS PAYMENT. In addition the *Design-Builder* shall be entitled to receive from the payments made by the insurer the amount of the *Design-Builder's* interest in the restoration of the *Work*.

- (6) In the case of loss or damage to the *Work* arising from the work of another contractor, or *Owner's* own forces, the *Owner*, in accordance with the *Owner's* obligations under paragraph 3.3.2.4 of GC 3.3 - CONSTRUCTION BY OWNER OR OTHER CONTRACTORS, shall pay the *Design-Builder* the cost of restoring the *Work* as the restoration of the *Work* proceeds and as provided in GC 5.2 - APPLICATIONS FOR PROGRESS PAYMENT and GC 5.3 - PROGRESS PAYMENT.

.6 Equipment Insurance:

The policy covers construction machinery and equipment used by the *Design-Builder* for the performance of the *Work*, including boiler insurance on temporary boilers and pressure vessels. The policy shall be in a form acceptable to the *Owner* and shall not allow subrogation claims by the insurer against the *Owner*. Subject to satisfactory proof of financial capability by the *Design-Builder* for self-insurance, the *Owner* agrees to waive the equipment insurance requirement.

- 11.1.2 Unless otherwise stipulated, the duration of each insurance policy shall be from the date of commencement of the *Work* until the date of the final certificate for payment.
- 11.1.3 The *Design-Builder* shall be responsible for deductible amounts under the policies except where otherwise provided in GC 11.1 - INSURANCE or where such amounts may be excluded from the *Design-Builder's* responsibility by the terms of GC 9.1 - PROTECTION OF WORK AND PROPERTY and GC 9.2 - DAMAGES AND MUTUAL RESPONSIBILITY.
- 11.1.4 Prior to commencement of the *Work* and upon the placement, renewal, amendment, or extension of all or any part of the insurance, the *Design-Builder* shall promptly provide the *Owner* with confirmation of coverage and, if required, a certified true copy of the policies certified by an authorized representative of the insurer together with copies of any amending endorsements.
- 11.1.5 Where the full insurable value of the *Work* is substantially less than the *Contract Price*, the *Owner* may reduce the amount of insurance required or waive the Property and Boiler and Machinery Insurance requirement.
- 11.1.6 If the *Design-Builder* fails to provide or maintain insurance as required by the *Contract Documents*, then the *Owner* shall have the right to provide and maintain such insurance and give evidence to the *Design-Builder* and the *Consultant*. The *Design-Builder* shall pay the cost thereof to the *Owner* on demand or the *Owner* may deduct the amount which is due or may become due to the *Design-Builder*.
- 11.1.7 All required insurance policies shall be placed with insurers licensed to underwrite insurance in the jurisdiction of the *Place of the Work*.
- 11.1.8 All required insurance policies shall be endorsed to provide the *Owner* with not less than 30 days notice in writing in advance of any cancellation and material amendment or change restricting coverage.
- 11.1.9 All insureds shall cooperate with the *Design-Builder* to comply with any reporting requirements of the insurance policies in order to maintain the policies in good standing, to give notice in writing of any incidents which may result in a claim or loss covered by the policies and to provide documentation necessary in the defence or settlement of claims.

GC 11.2 BONDS

- 11.2.1 The *Design-Builder* shall, prior to commencement of the *Work* or within the time specified in the *Contract*, provide to the *Owner* such surety bonds as are required by the *Contract Documents*.
- 11.2.2 Such bonds shall be issued by a duly licensed surety company authorized to transact a business of suretyship in the province or territory of the *Place of the Work* and shall be maintained in good standing until the fulfilment of the *Contract*. The surety bonds shall be in accordance with the latest edition of the CCDC approved bond forms.

PART 12 INDEMNIFICATION — WAIVER — WARRANTY

GC 12.1 INDEMNIFICATION

- 12.1.1 The *Design-Builder* shall indemnify and hold harmless the *Owner*, the *Owner's* agents and employees from and against claims, demands, losses, costs, damages, actions, suits, or proceedings (hereinafter called "claims"), by third parties that arise out of, or are attributable to, the *Design-Builder's* performance of the *Work*, provided such claims are:
- .1 attributable to bodily injury, sickness, disease, or death, or to injury to or destruction of tangible property, and
 - .2 caused by negligent acts or omissions of the *Design-Builder*, the *Consultant*, all other consultants, all *Subcontractors* or anyone for whose acts the *Design-Builder* may be liable, and
 - .3 made in writing within a period of 2 years from the date of *Substantial Performance of the Work* or within such shorter period as may be prescribed by any limitation statute of the province or territory of the *Place of the Work*. The *Owner* expressly waives the right to indemnify for claims other than those stated above.
- 12.1.2 The obligation of the *Design-Builder* to indemnify under this *Contract* shall be limited to the insurance coverages and limits as agreed to be provided in GC 11.1 - INSURANCE.
- 12.1.3 The *Owner* shall indemnify and hold harmless the *Design-Builder*, the *Consultant*, all other consultants, all *Subcontractors*, all *Suppliers*, their agents and employees from and against claims, demands, losses, costs, damages, actions, suits, or proceedings arising out of the *Design-Builder's* performance of the *Design Services* and *Construction*, which are attributable to a lack of or defect in title or an alleged lack of or defect in title to the *Place of the Work* or a negligent act or omission or wilful default of the *Owner*, its agents and employees or any other person in respect of those acts the *Owner* may be liable.
- 12.1.4 GC 12.1 - INDEMNIFICATION shall govern over the provisions of paragraph 1.4.1 of GC 1.4 - RIGHTS AND REMEDIES or GC 9.2 - DAMAGES AND MUTUAL RESPONSIBILITY.

GC 12.2 WAIVER OF CLAIMS

- 12.2.1 Waiver of Claims by *Owner*
- As of the date of the final certificate for payment, the *Owner* expressly waives and releases the *Design-Builder*, the *Consultant*, all other consultants, all *Subcontractors*, all *Suppliers*, and their agents and employees from all claims against them including without limitation those that might arise from the negligence or breach of contract by the *Design-Builder*, the *Consultant*, all other consultants, all *Subcontractors*, and their agents and employees except one or more of the following:
- .1 those made in writing prior to the date of the final certificate for payment and still unsettled;
 - .2 those arising from the provisions of GC 12.1 - INDEMNIFICATION or GC 12.3 - WARRANTY;
 - .3 those arising from the provisions of paragraph 9.3.5 of GC 9.3 - TOXIC AND HAZARDOUS SUBSTANCES AND MATERIALS and arising from the *Design-Builder* bringing or introducing any toxic or hazardous substances and materials to the *Place of the Work* after the *Design-Builder* commences the *Work*.
- In the Common Law provinces GC 12.2.1.4 shall read as follows:
- .4 those made in writing within a period of 2 years from the date of *Substantial Performance of the Work* or within such shorter period as may be prescribed by any limitation statute of the province or territory of the *Place of the Work* and arising from any liability of the *Design-Builder* for damages resulting from the *Design-Builder's* performance of the *Contract* with respect to substantial defects or deficiencies in the *Work* for which the *Design-Builder* is proven responsible. As used herein "substantial defects or deficiencies" means those defects or deficiencies in the *Construction* which affect the *Work* to such an extent or in such a manner that a significant part or the whole of the *Construction* is unfit for the purpose specified in the *Contract Documents*.
- In the Province of Quebec GC 12.2.1.4 shall read as follows:
- .4 those arising under the provisions of Article 2118 of the Civil Code of Quebec.
- 12.2.2 Waiver of Claims by *Design-Builder*
- As of the date of the final certificate for payment, the *Design-Builder* expressly waives and releases the *Owner* from all claims against the *Owner* including without limitation those that might arise from the negligence or breach of contract by the *Owner* except:
- .1 those made in writing prior to the *Design-Builder's* application for final payment and still unsettled; and
 - .2 those arising from the provisions of GC 9.3 - TOXIC AND HAZARDOUS SUBSTANCES AND MATERIALS or GC 10.3 - PATENT FEES.

- 12.2.3 GC 12.2 - WAIVER OF CLAIMS shall govern over the provisions of paragraph 1.4.1 of GC 1.4 - RIGHTS AND REMEDIES or GC 9.2 - DAMAGES AND MUTUAL RESPONSIBILITY.

GC 12.3 WARRANTY

- 12.3.1 The warranty period with regard to the *Contract* is one year from the date of *Substantial Performance of the Work* or such other periods specified in the *Contract Documents* for certain portions of the *Work* or *Products*.
- 12.3.2 The *Design-Builder* warrants that the *Design Services* meet the standard described in GC 2.1.4. and that the *Work* is in accordance with the *Contract Documents*.
- 12.3.3 Except for the provisions of paragraphs 12.3.2 and 12.3.6, the *Design-Builder* shall correct promptly, at the *Design-Builder's* expense, any work which is not in accordance with the *Contract Documents* or defects or deficiencies in the *Work* which appear prior to and during the warranty periods specified in the *Contract Documents*.
- 12.3.4 The *Owner* shall promptly give the *Design-Builder* notice in writing of observed defects and deficiencies that occur during the warranty period.
- 12.3.5 The *Design-Builder* shall correct or pay for damage resulting from the defects or deficiencies and the corrections made under the requirements of paragraph 12.3.3.
- 12.3.6 The *Design-Builder* shall be responsible for obtaining *Product* warranties in excess of one year on behalf of the *Owner* from the manufacturer. These *Product* warranties shall be issued by the manufacturer to the benefit of the *Owner*.
- 12.3.7 The *Design-Builder* does not warrant against the effects of corrosion, erosion or wear and tear of any *Product* or failure of any *Product* due to faulty operations or maintenance by the *Owner* or conditions of operation more severe than those specified for the *Product*.
- 12.3.8 The warranties and guarantees specified in GC 12.3 - WARRANTY or elsewhere in the *Contract Documents* are the only warranties and guarantees of the *Design-Builder* applicable to the *Work* and no other warranties or guarantees, statutory or otherwise, are or will be implied.

Report to Council



Date: March 26, 2013

Rim No. 0600-10

To: City Manager

From: City Clerk

Subject: BL10814 - Amendment No. 22 to Traffic Bylaw No. 8120

Report Prepared by: Corinne Boback, Legislative Coordinator

Recommendation:

THAT Bylaw No. 10814, being Amendment No. 22 to Traffic Bylaw No. 8120 be adopted.

Purpose:

To consider adoption of Bylaw No. 10814 being Amendment No. 22 to Traffic Bylaw No. 8120.

Background:

Bylaw No. 10814 received first three readings by Council on Monday, March 25, 2012. A copy of the Bylaw is attached. All legislative requirements have been met.

Submitted by:

S. Fleming, City Clerk

CITY OF KELOWNA

BYLAW NO. 10814

Amendment No. 22 to Traffic Bylaw No. 8120

The Municipal Council of the City of Kelowna, in open meeting assembled, enacts that the City of Kelowna Traffic Bylaw No. 8120 be amended as follows:

1. THAT the **Index**, PART 7 - SIDEWALK/ROADWAY OCCUPANCY PERMITS be amended by deleting the following:

“PART 7 - SIDEWALK/ROADWAY OCCUPANCY PERMITS 7-1

7.1 Sidewalk/Roadway Occupancy Permits 7-1”

And replaced with:

“PART 7 - SIDEWALK/ROADWAY OCCUPANCY PERMITS 7-1

7.1 Sidewalk/Roadway Occupancy Permits Excluding Bernard Avenue 7-1

7.2 Bernard Avenue Sidewalk Program 7-2”

2. AND THAT **PART 1 - INTRODUCTION. 1.4 Definitions**, 1.4.1 Definitions be amended by adding the following in their appropriate location:

“**Large Patio Food Only / Large Scope Retail** - a patio for any use except the consumption of alcohol and has greater use than Small Patio/ Limited Scope Retail.

Patio - Food and Liquor -any patio that allows alcohol to be consumed or that must have a Perimeter Structure as required by the Liquor Control Licensing Branch .

Small Patio / Limited Scope Retail - a patio that is used for retail purposes occupying less than 6 feet of building frontage or food serving purposes that does not exceed 2 small tables and 6 chairs total.”

3. AND THAT the title “**7.1 Sidewalk/Roadway Occupancy Permits**” under **PART 7 - SIDEWALK/ROADWAY OCCUPANCY PERMITS** be deleted and replaced with “**7.1 Sidewalk/Roadway Occupancy Permits Excluding Bernard Avenue**”;

4. AND THAT **PART 7 - SIDEWALK/ROADWAY OCCUPANCY PERMITS** be amended by adding a new sub-section in its appropriate location as follows:

“**7.2 Bernard Avenue Sidewalk Program**

7.2 Bernard Avenue Sidewalk Program Fees:

- 7.2.1 Permit Required. No person may occupy a portion of **lane, sidewalk, walkway, boulevard, or roadway**, hereinafter referred to in this Part as the ‘Bernard Avenue Sidewalk Program Permit Area’, for the purposes of temporary tables or seating, or both, without first obtaining a Bernard Avenue Sidewalk Program **permit** from the **City**

in accordance with the conditions outlined in this Bylaw and the Bernard Avenue Sidewalk Program as approved by Council.

Any **permit** holder who is required to forfeit a security deposit shall be prohibited from applying for a future permit, and no application for a permit will be accepted from any other person for any establishment to which such a **permit** holder is connected, for a period of one year from the date of the forfeiture, and not until any outstanding amount has been reimbursed to the City with respect to the seizure and storage of property or equipment seized pursuant to this Bylaw.

- 7.2.2 **Application Fee.** Applicants for a Bernard Avenue Sidewalk Program **permit** shall submit a non-refundable application fee as outlined on Schedule "A", at the time of application.

- 7.2.3 **Permit Expiration.** Bernard Avenue Sidewalk Program **permits** are as follows:

Seasonal **Permits** for the use of frontage zone: issued from May 1st to September 30th.
Annual **Permits** for the use of frontage zone: issued from January 1st to December 31st.

Permit Holders are required to remove all furniture, goods and improvements from the **permit area** during the period it is not being actively used."

- 7.2.4 **Permit Fee.** An applicant for a Bernard Avenue Sidewalk Program **permit** shall submit the required **permit** fee outlined on Schedule "A" of this bylaw, prior to issuance of the **permit** or in accordance with an invoice received from the **City**."

- a) **Permit Fee Credit** - An applicant for a Bernard Avenue Sidewalk Program **permit** may submit a summary of the costs of patio construction and/or improvements to receive a one time credit towards the permit fee. The credit may be carried over one or more years if the amount exceeds the annual permit fee. The credit will be determined as follows:

Construction/Improvement costs x (0.50) = Permit Fee Credit

5. AND THAT **SCHEDULE "A" FEES** be amended by adding a new sub-section in its appropriate location as follows under **PART 7 - SIDEWALK/ROADWAY OCCUPANCY PERMITS** as follows:

"Subsection 7.2.2 Bernard Avenue Sidewalk Program Permit Fees

Bernard Avenue Sidewalk Program Permit Application Fee:

New Applications (one time fee) - \$250

Change in Scope - \$150

Existing Permit Holders (up to May 01, 2014)

Renewal Fee (one time fee) - \$150.00

Change in Scope (after May 01, 2014) - \$150

Bernard Avenue Sidewalk Program Permit Fees:

200 - 300 Block	2013 and 2014	2015	2016	2017
Small Patio / Limited Scope Retail (Annual Fee)	\$0	\$255	\$510	\$510
*Large Patio / Food only or Large Scope Retail (per square foot per year)	\$0	\$2.16	\$4.32	\$4.32
*Patio - Food and Liquor (per square foot per year)	\$0	\$4.32	\$8.64	\$8.64
400 Block	2013 and 2014	2015	2016	2017
Small Patio / Limited Scope Retail (Annual Fee)	\$0	\$0	\$213	\$425
*Large Patio / Food only or Large Scope Retail (per square foot per year)	\$0	\$0	\$1.80	\$3.60
*Patio - Food and Liquor (per square foot per year)	\$0	\$0	\$3.60	\$7.20
500 - 550 Block	2013 and 2014	2015	2016	2017
Small Patio / Limited Scope Retail (Annual Fee)	\$0	\$0	\$170	\$340
*Large Patio / Food only or Large Scope Retail (per square foot per year)	\$0	\$0	\$1.44	\$2.88
*Patio - Food and Liquor (per square foot per year)	\$0	\$0	\$2.88	\$5.76
560 - 600 Block	2013 and 2014	2015	2016	2017
Small Patio / Limited Scope Retail (Annual Fee)	\$0	\$170	\$340	\$340
*Large Patio / Food only or Large Scope Retail (per square foot per year)	\$0	\$1.44	\$2.88	\$2.88
*Patio - Food and Liquor (per square foot per year)	\$0	\$2.88	\$5.76	\$5.76

* The minimum fee will be the Small Patio annual fee or the cost per square foot per year whichever is greater.

Discount

For the first year rent is due, the following discounts will apply:

- Patios that are constructed for less than \$2,500 receive \$0 credit.
- Patios that are constructed for more than \$2,500 but less than \$5,000 receive a 50% credit.
- Patios that are constructed for more than \$5,000 receive a 100% credit.

Subsection 7.2.3 Security Deposit for Bernard Avenue Sidewalk Program Permit

Bernard Avenue Sidewalk Program Permit Security Deposit: \$500.00"

6. This bylaw may be cited for all purposes as "Bylaw No. 10814, being Amendment No.22 to City of Kelowna Traffic Bylaw No. 8120."
7. This bylaw shall come into full force and effect and is binding on all persons as of the date of adoption.

Read a first, second and third time by the Municipal Council this 25th day of March, 2013.

Adopted by the Municipal Council of the City of Kelowna this

Mayor

City Clerk