

City of Kelowna
Regular Council Meeting
AGENDA



Monday, October 28, 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. Development Application Reports & Related Bylaws

- 2.1 Official Community Plan Bylaw Amendment Application No. OCP13-0012 and Rezoning Application No. Z13-0019 - 2049 Byrns Road, Margarita Littley 3 - 18

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

To consider a staff recommendation NOT to change the Future Land Use designation for the eastern portion of the property from the Resource Protection Area designation to Multiple Unit Residential (Low Density) designation; and for the western portion of the property from the Resource Protection Area designation to the Single/Two Unit Residential designation. To consider a staff recommendation NOT to rezone the eastern portion of the property from the A1 - Agriculture 1 zone to the RM1 - Four Dwelling Housing zone; and for the western portion of the property from A1 - Agriculture 1 zone the RU6 - Two Dwelling Housing zone.

- 2.2 Rezoning Application No. Z13-0034 - 464 Cadder Avenue, Painchaud Family Holdings Inc. 19 - 32

The applicant is seeking to rezone the subject property to the RU1c - Large Lot Housing with Carriage House zone to facilitate the construction of a carriage house.

- 2.2.1 Bylaw No. 10893 (Z13-0034) - 464 Cadder Avenue, Painchaud Family Holdings Inc. 33 - 33

To give Bylaw No. 10893 first reading.

3. **Bylaws for Adoption (Development Related)**
- 3.1 **Bylaw No. 10867 (OCP13-0014) - 1150 & 1200 Steele Road, No. 21 Great Projects Ltd.** 34 - 35
- Requires a majority of all Members of Council (5).**
 To adopt Bylaw No. 10867 in order to change the Future Land Use Designation of portions of the subject properties from the Multiple Unit Residential - Low Density, Single/Two Unit Residential, Major Park & Open Space, Educational/Institutional and Commercial Designations to the Multiple Unit Residential - Low Density, Single/Two Unit Residential, Major Park & Open Space, Educational/Institutional and Commercial Designations.
- 3.2 **Bylaw No. 10868 (Z13-0023) - 1150 & 1200 Steele Road, No. 21 Great Projects Ltd.** 36 - 37
- To adopt Bylaw No. 10868 in order to rezone portions of the subject properties from the A1 - Agriculture 1, RU1 - Large Lot Housing, RU1H - Large Lot Housing (Hillside), and P3 - Parks & Open Space zones to the A1 - Agriculture 1, RU1 - Large Lot Housing, RU1H - Large Lot Housing (Hillside), P2 - Educational & Minor Institutional and P3 - Parks & Open Space Zones.
4. **Non-Development Reports & Related Bylaws**
- 4.1 **Utility Billing Customer Care, Water Meter and Meter Reading Services Contract** 38 - 40
- To obtain Council approval to further extend the contract with Corix to allow time for a decision to be made on the ultimate form of service provision.
- 4.2 **Center of Gravity** 41 - 57
- To provide Council with a report on the 2013 Center of Gravity Festival and an update on the planning process for the 2014 festival as requested in Service Request 265462 dated August 6, 2013.
5. **Bylaws for Adoption (Non-Development Related)**
- 5.1 **Bylaw No. 10850, Housing Agreement Authorization Bylaw - 550 Rowcliffe Road and 555 Buckland Avenue, Davara Holdings Ltd.** 58 - 64
- To adopt Bylaw No. 10850 being the Housing Agreement Authorization Bylaw for 550 Rowcliffe Avenue and 555 Buckland Avenue with Davara Holdings Ltd.
6. **Mayor and Councillor Items**
7. **Termination**

REPORT TO COUNCIL



Date: October 23, 2013
RIM No. 1210-21
To: City Manager
From: Todd Cashin, Subdivision, Agriculture & Environment Services Manager
Application: OCP13-0012
Z13-0019 **Owner:** Margarita Littley
Address: 2049 Byrns Road **Applicant:** Tony Lockhorst
Subject: Official Community Plan (OCP) Amendment and Z13-0019 Report to Council_October 23
Existing OCP Designation: Resource Protection Area (REP)
Proposed OCP Designation(s): Single/Two Unit Residential (S2RES)
Multiple Unit Residential (Low Density) (MRL)
Existing Zone: A1- Agriculture 1
Proposed Zone(s): RM1 - Four Dwelling Housing
RU6 - Two Dwelling Housing

1.0 Recommendation

THAT Official Community Plan Bylaw Amendment No. OCP13-0012 to amend Map 4.1 of the Kelowna 2030 - Official Community Plan Bylaw No. 10500, by changing the Future Land Use designation of part of Lot 2, District Lot 130, Osoyoos Division Yale District, Plan 17289, Except Plan 22166, located at 2049 Byrns Road, Kelowna, BC, from the Resource Protection Area (REP) designation to the Multiple Unit Residential (Low Density) (MRL) designation, and part of Lot 2, District Lot 130, Osoyoos Division Yale District, Plan 17289, Except Plan 22166, located at 2049 Byrns Road, Kelowna, BC, from the Resource Protection Area (REP) designation to the Single/Two Unit (S2RES) designation as shown on Map "A" attached to the Report from the Land Use Planner dated July 19, 2013, NOT be considered by Council;

AND THAT Rezoning Application No. Z13-0019 to amend the City of Kelowna Zoning Bylaw No. 8000, by changing the zoning classification of a portion of Lot 2, DL 130, ODYD, Plan 17289 Except Plan 22166, located at 2049 Byrns Road, Kelowna, BC, from the A1-Agriculture 1 zone to the RU6-Two Dwelling Housing zone, and by changing the zoning classification of a portion of Lot 2, DL 130, ODYD, Plan 17289 Except Plan 22166, located at 2049 Byrns Road, Kelowna, BC, from the A1-Agriculture 1 zone to the RM1-Four Dwelling Housing zone, as shown on Map "B" attached to the Report from the Land Use Planner dated July 19, 2013, NOT be considered by Council;

AND FURTHER THAT Council direct Bylaw Services Staff to ensure that the existing illegal dwelling located in the accessory structure be decommissioned to the satisfaction of the City's Chief Building Official.

2.0 Purpose

The applicant is proposing to amend the Future Land Use (FLU) designation for the eastern portion of the property from Resource Protection to Multiple Unit Residential (Low Density) and for the western portion of the property to the Single/Two Unit Residential designation. It is also proposed that the zoning designation for the eastern portion of the property be amended from the A1 - Agriculture 1 zone to the RM1 - Four Dwelling Housing zone, and for the western portion to the RU6 - Two Dwelling Housing zone. The proposed amendments are to facilitate a two lot subdivision and develop two new dwellings on a newly created parcel. The rezoning would also bring the existing duplex and carriage house into conformance on the subject property.

3.0 Land Use Management

While the subject property is not within the Agricultural Land Reserve (ALR), the future land use designation is identified as Resource Protection Area consistent with either Agricultural or Rural Residential zoning. The property abuts productive ALR land and is outside of the City's Permanent Growth Boundary, meaning that Rural Residential is anticipated to be the most intensive use of the property.

The existing subject property is approximately 3,000 m² in size which is consistent with a Rural Residential property size on community sewer. The 0.3 ha property is not, however, large enough to subdivide into two rural residential (i.e. RR3) zoned lots, as the minimum parcel size for an RR3 lot on community sewer is 1600 m².

The Official Community Plan amendment and rezoning of the subject property are being driven by a desire to subdivide the subject property to construct a new duplex dwelling on the western portion. The stated intent is to provide affordable housing for family members.

Three dwellings currently exist on the subject property. The principal dwelling was constructed with Building Permits from the Regional District as an up/down duplex in 1972 and is legally non-conforming (neither the A1 zone or the Rural Residential zones permit duplex housing) with the current zoning. The third dwelling does not, however, appear to have been authorized by way of Building Permits as the Building Permit was initially issued for a garage. The applicant claims however that the building has only been used as a residence since it was constructed. The applicants are now seeking a total of five dwellings (two on the western portion and three on the eastern). Staff have concerns with the proposed development for the following reasons:

- The City's Agriculture Plan discourages new urban growth within agricultural areas which creates additional pressure on the City's rural road network (see Section 5.2 below). An added benefit of discouraging new growth is that the low density rural character remains intact.
- From an agricultural perspective, the proposed development has the potential to worsen an existing urban/rural interface area. This is true as the number of individuals exposed to farm practices such as farm machinery, bird-scaring equipment, odours, and crop spraying would be significantly increased.
- Ideally, agricultural parcels are contiguous and relatively isolated from non-agricultural properties. This is especially true of commercial and residential uses which typically have

low compatibility with farm practices. Where urban-rural (i.e. agricultural) interface does exist, fewer units are preferred. Complaints with farm practices is expected to increase with density and further exacerbated by new arrivals not accustomed to normal farm practices.

- The question of whether additional density should be supported in rural areas was considered through the development of the Agriculture Plan (1998) which states:
Existing urban development within an agricultural area contributes to urban-rural conflict, adds to the speculative value of surrounding agricultural lands, and speculation weakens farmer capitalization. New urban development, even if appropriately buffered, also increases speculation and discourages farm investment. The City should not support extensions to existing developments or new development within agricultural areas, regardless of ALR status (p.124).
- Rezoning to RM1 would allow for up to four units, though the applicant has not indicated that there would be an additional unit constructed on the eastern lot at this time, further compounding the above noted concerns.

Public Notification

The proposal is consistent with an Official Community Plan Amendment - Major ("OCP Major") as per Council Policy 367 - Public Notification & Consultation for Development Applications. An OCP major involves a major change to the Future Land Use class (e.g. Resource Protection to Residential). The applicant has been advised of the requirements for this type of proposed development which include a Project Board, Neighbour Consultation, and Public Information Session.

The applicant is thus far unwilling to undertake the prescribed public notification. Instead, the applicant has provided evidence of notification of three adjacent property owners and one owner a short distance away. Further, the information contained within the notification is not consistent with the proposal being sought. That is to say that the proposal alludes to a RM1 zoning and subdivision, but it is not clear that the signatories would have understood that the plan calls for two new dwellings on the western parcel and three dwellings on the eastern parcel.

Should Council elect to forward this application to a Public Hearing, staff recommend that Council require the applicant to conduct additional neighbour consultation of all landowners within 150 metres of the subject property using content agreed to by staff to ensure accurate messaging.

Conclusions

The provision of affordable housing for young families is an important planning consideration. In addition to the costs to rent or own housing, proximity to urban services is also very important. The development of future affordable housing should not, however, be at the expense of agriculture, or another niche housing stock (i.e. large lot, rural residential).

The Official Community Plan identifies extensive areas within the Permanent Growth Boundary that are available for the future development of three or four-plex housing. Much preferred is for this type of development to be located in areas of the City which already have the appropriate Future Land Use designation (e.g. MRL) in place. Introducing the MRL Future Land Use designation in this location will only serve to increase speculation for the other smaller lots along Byrns Road to Benvoulin Road.

Staff have suggested to the applicant that a more acceptable approach would be to consider a Single/Two Unit Residential FLU designation for the entire parcel and decommission either the suite in the existing dwelling or the non-conforming carriage house thereby limiting each lot to a maximum of two units. The applicant has advised, however, that they wish to pursue their original request at this time.

Should Council support development of this property, staff recommend an extensive landscape buffer be required on the subject properties. Specifically, staff recommend a minimum 15.0 metre landscape buffer consistent with the Ministry of Agriculture's Urban-Side Buffer (with berm) specification (see attached).

4.0 Proposal

4.1 Background/ Project Description

The subject property has a land use designation of Resource Protection Area in the City's Official Community Plan and is zoned A1-Agriculture. The property is also outside of the Permanent Growth Boundary.

The subject property contains a legal non-conforming up/down duplex which was permitted in 1973 by the Regional District. An accessory structure (garage) was also permitted at this time. In the time since, the garage has been converted to an illegal dwelling unit (i.e. without zoning and Building Permits). A resident alerted staff to the presence of the illegal third dwelling (i.e. Carriage House). While it is unclear how long this illegal dwelling has been occupied, a second garage was constructed in 1988 which may correspond with the conversion.

The current owner appears to have purchased what was likely a non-conforming property in 2007. When asked, the property owner acknowledged that the garage is occupied as a dwelling. The owner also remarked that the duplex dwelling is being used as a single dwelling with unrestricted access between the two floors. That said, by definition, three dwellings currently exist on the subject property while the A1 zone allows for a single dwelling with suite in the principal dwelling for a maximum of two dwellings. A site inspection to confirm the dwellings has not been undertaken at this time.

As background, the original proposal was to rezone the western portion of the approximately 0.3 ha site to the RM1 - Four Dwelling Housing zone to allow for up to four dwellings. The application has been modified as a result of public consultation with an adjacent neighbour who did not support the original proposal.

The proposed rezoning is a necessary precursor to achieving the applicant/owners goal of a two lot subdivision. The proposed rezoning to the RU6 and RM1 zone require an OCP amendment from the current Resource Protection Area designation to the Single/Two Residential and Multifamily Residential (Low Density) respectively.

As proposed, the existing garage appears to be located within the 2.0 metre minimum side yard setback distance of the RM1 zone. As such, should Council support the rezoning, a Development Variance Permit would be required prior to the two lot subdivision being authorized.

The application contains a stated intention of providing permanent and affordable accommodation for the families of the property owner.

4.2 Site Context

The subject property is located south of Byrns Road between Benvoulin and Burtch Roads. The 0.30 ha (0.74 ac) subject property is in a rural/agricultural area, outside of the City's Permanent

Growth Boundary. The subject property along with eight others fronting Byrns and Benvoulin Roads are legally non-conforming A1 - Agriculture zoned properties given their parcel size (all significantly less than 4.0 ha). The average parcel size of these properties is 0.18 ha which is consistent with the City’s Rural Residential Zones (i.e. RR1, 2 & 3) which provide for a range of lot sizes between 0.18 and 0.8 hectares when connected to community sewer (1.0 ha if not connected).

All but one property are connected to community water and all but two are currently connected to community sewer. Byrns Road is constructed to a rural standard and contains no storm sewer.

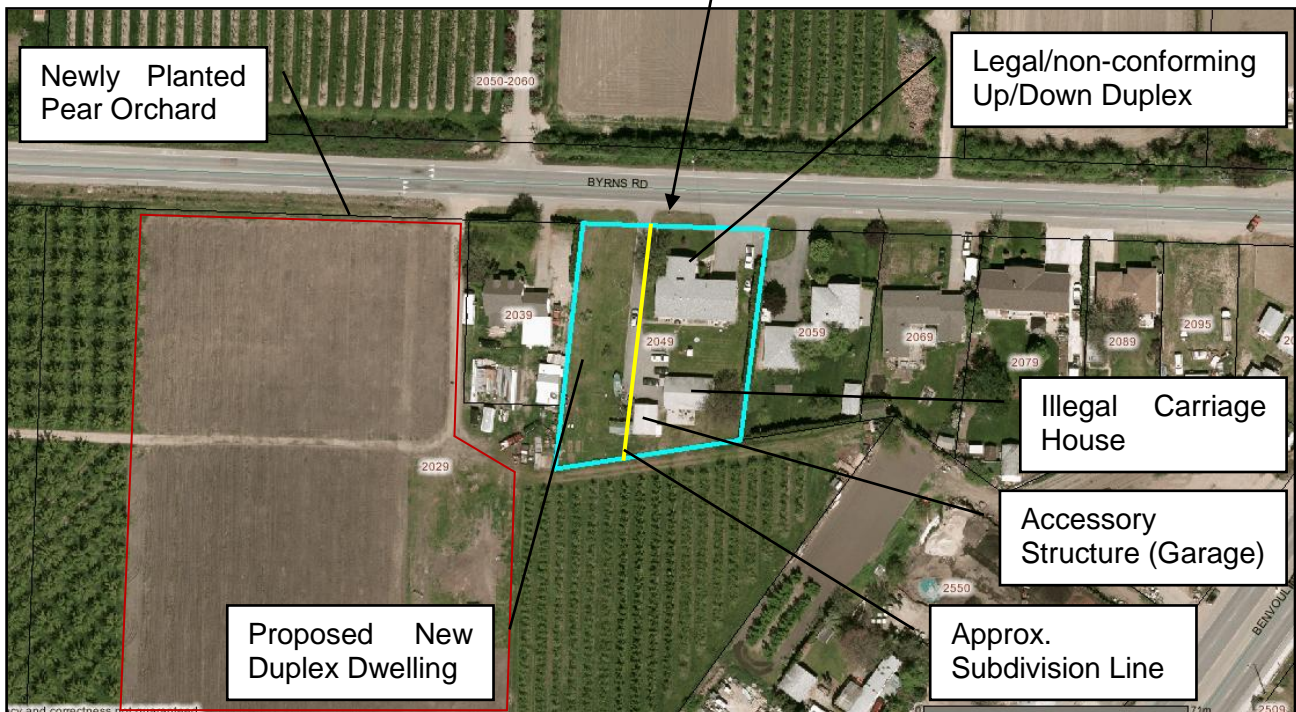
Properties to the north and south of the subject property are large agricultural properties, while properties to the east and west are rural residential in nature, consistent with the subject property.

Specifically, adjacent land uses are as follows:

Orientation	Zoning	ALR (Yes/No)	Land Use
North	A1 - Agriculture 1	Yes	Agriculture (Ground Crops)
East	A1 - Agriculture 1	No	Rural residential
South	A1 - Agriculture 1	Yes	Agriculture (Orchard)
West	A1 - Agriculture 1	No	Rural residential

The subject property is located within a Development Permit Area for Farm Protection given its proximity to ALR land. Should Council endorse the proposal, Form & Character (Intensive Residential) Development Permits would also apply and would be authorized at the staff level.

Map 1 - Subject Property Map: 2049 Byrns Road



Map 2 - Photo Key

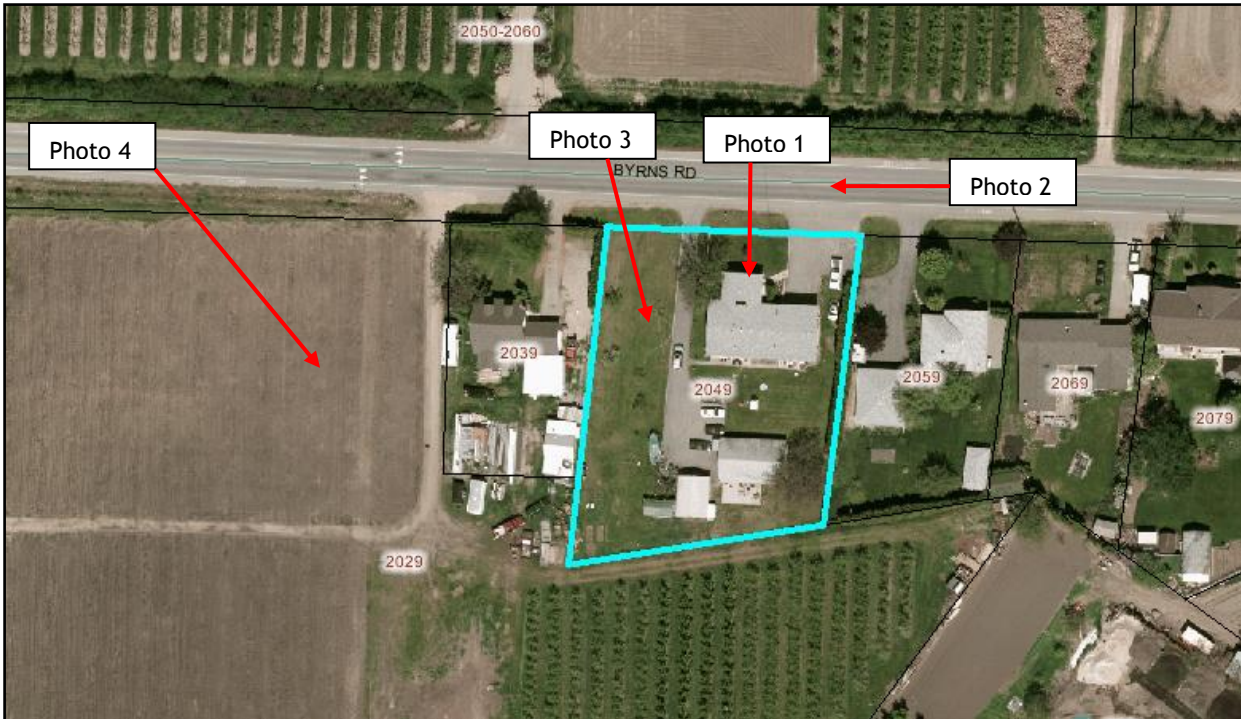


Photo 1: Subject Property and Existing Up/Down Duplex Looking South from Byrns Road (Google Street View - Date Unknown)



Photo 2: Byrns Road Looking West with Subject Property and Existing Dwelling in Foreground (Google Street View - Date Unknown)



Photo 3: Subject Property with Existing Dwelling in Foreground and "Carriage House" in Background (Google Street View - Date Unknown)



Photo 4: Byrns Road Looking Southeast with Newly Planted Pear Orchard Approximately 30 metres from Subject Property (May 30, 2013)



5.0 Current Development Policies

5.1 Kelowna Official Community Plan (OCP)

Objective 5.3 Focus development to designated growth areas¹.

Policy .1 Permanent Growth Boundary. Establish a Permanent Growth Boundary as identified on Map 4.1 and Map 5.2. Support development of property outside the Permanent Growth Boundary for more intensive uses only to the extent permitted as per the OCP Future Land Use designations in place as of initial adoption of OCP Bylaw 10500, except as per Council's specific amendment of this policy. Resource Protection Area designated properties not in the ALR and outside the Permanent Growth Boundary will not be supported for subdivision below parcel sizes of 4.0 ha (10 acres). The Permanent Growth Boundary may be reviewed as part of the next major OCP update.

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

Objective 5.33 Protect and enhance local agriculture².

Policy .3 Urban Uses. Direct urban uses to lands within the urban portion of the Permanent Growth Boundary, in the interest of reducing development and speculative pressure on agricultural lands.

Farm Protection DP Guidelines³

Objectives

- Protect farm land and farm operations;
- Minimize the impact of urban encroachment and land use conflicts on agricultural land;
- Minimize conflicts created by activities designated as farm use by ALC regulation and non-farm uses within agricultural areas.

Guidelines

1.1 On properties located adjacent to agricultural lands, design buildings to reduce impact from activities associated with farm operations. Design considerations include, but are not limited to maximizing the setback between agricultural land and buildings and structures, and reducing the number of doors, windows, and outdoor patios facing agricultural land.

1.3 On agricultural and non-agricultural lands, establish and maintain a landscape buffer along the agricultural and/or property boundary, except where development is for a permitted farm use that will not encourage public attendance and does not concern additional residences (including secondary suites), in accordance with the following criteria:

- 1.3.1 Consistent with guidelines provided by Ministry of Agriculture "Guide to Edge Planning" and the ALC report "Landscape Buffer Specifications" or its replacement.

1.5 Design any subdivision or urban development of land to reduce densities and the intensity of uses gradually towards the boundary of agricultural lands.

¹ City of Kelowna 2030 Official Community Plan (2011) - Farm Protection Development Permit Chapter; p. 15.2 - 15.4.

² City of Kelowna 2030 Official Community Plan (2011) - Development Process Chapter; p. 5.35.

³ City of Kelowna 2030 Official Community Plan (2011) - Farm Protection Development Permit Chapter; p. 15.2 - 15.4.

5.2 City of Kelowna Agriculture Plan

Transportation Policies⁴

New Growth Areas. Discourage the establishment of new growth areas within or beyond agricultural areas that create additional traffic pressure on the local rural road network.

Urban-Rural/Agricultural Boundary Policies⁵

Farmland Preservation. Direct urban uses to land within the urban portion of the defined urban - rural / agricultural boundary, in the interest of reducing development and speculative pressure, toward the preservation of agricultural lands and discourage further extension of existing urban areas into agricultural lands;

Urban Buffers. Require new development, adjacent to agricultural areas, to establish setbacks, fencing and landscape buffers on the urban side of the defined urban - rural/agricultural boundary;

Parcel Size: Non - Agricultural Land. Discourage subdivision to smaller parcel sizes on lands beyond agricultural areas in order to reduce negative impacts on the farming community and encourage the Central Okanagan Regional District and the Ministry of Environment, Land and Parks to consider maintaining larger minimum parcel sizes for Crown Lands within and adjacent to the City in recognition of the provincial interest in retaining farming;

Isolated Development. In general, not support extensions to existing development or new development isolated within agricultural areas, regardless of ALR status.

6.0 Technical Comments

6.1 Building & Permitting Department

- With respect to legalizing the existing “carriage house” dwelling, staff would need to inspect the structure and plumbing & heating system to see if it meets the requirements of the current building code. An architect and/or engineer would need to submit a report and provide as-built drawings along with establishing if Code criteria is met. Areas of the house may need to be exposed to confirm the work meets Code and retrofit/repair any areas of non-compliance.
- The drawings and specifications are to be submitted as part of a building permit for validation of the work done without permit.

6.2 Development Engineering Department

- See attached.

6.3 Agricultural Advisory Committee

The rezoning was not formally considered by the AAC, but staff referred it to AAC as staff were seeking AAC comments with respect to mitigating the effects on adjacent agriculture should Council support the rezoning:

- AAC members noted that the adjacent farmer (to the south) has recently planted a new pear orchard;
- AAC members cited the potential increase in urban/rural conflict as their primary concern; and
- Should the rezoning be supported, AAC members suggested an extensive buffer zone (e.g. 15 - 20 metres with berm) and plantings to mitigate urban/rural conflict.

⁴ City of Kelowna Agriculture Plan (1998); p. 99.

⁵ City of Kelowna Agriculture Plan (1998); p. 131 & 132.

7.0 Application Chronology

Application Received:	April 25, 2013
AAC Referral Review:	May 9, 2013
Technical Comments Complete:	May 29, 2013
Applicant Submits Public Notification Summary:	June 12, 2013
Applicant Submits Revised Land Use Proposal:	July 11, 2013
Applicant Places File on Hold:	August 6, 2013

8.0 Alternate Recommendation

As an alternative solution to the applicants desire to provide duplex housing for family members consideration may be given to a FLU designation of Single/Two Unit Residential designation and RU6-Two Dwelling Housing zoning for the entire parcel which would limit both proposed lots to a maximum of two dwelling units per parcel and may lesson future speculation that multi-family housing would be appropriate in this area. Should Council choose to consider this approach the following recommendations would apply:

THAT Official Community Plan Bylaw Amendment No. OCP13-0012 to amend Map 4.1 of the Kelowna 2030 - Official Community Plan Bylaw No. 10500, by changing the Future Land Use designation of Lot 2 District Lot 130 Osoyoos Division Yale District Plan 17289 Except Plan 22166, located at 2049 Byrns Road, Kelowna, BC, from the Resource Protection Area (REP) designation to the Single/Two Unit Residential (S2RES) be considered by Council.

AND THAT Rezoning Application No. Z13-0019 to amend City of Kelowna Zoning Bylaw No. 8000 by changing the zoning classification of Lot 2 District Lot 130 Osoyoos Division Yale District Plan 17289 Except Plan 22166, located at 2049 Byrns Road, Kelowna, BC, from the A1 - Agriculture 1 zone to the RU6 - Two Dwelling Housing zone be considered by Council;

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

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

AND FURTHER THAT Council Staff confirm that one of the existing dwellings located on eastern proposed lot be decommissioned to the satisfaction of the City's Chief Building Official.

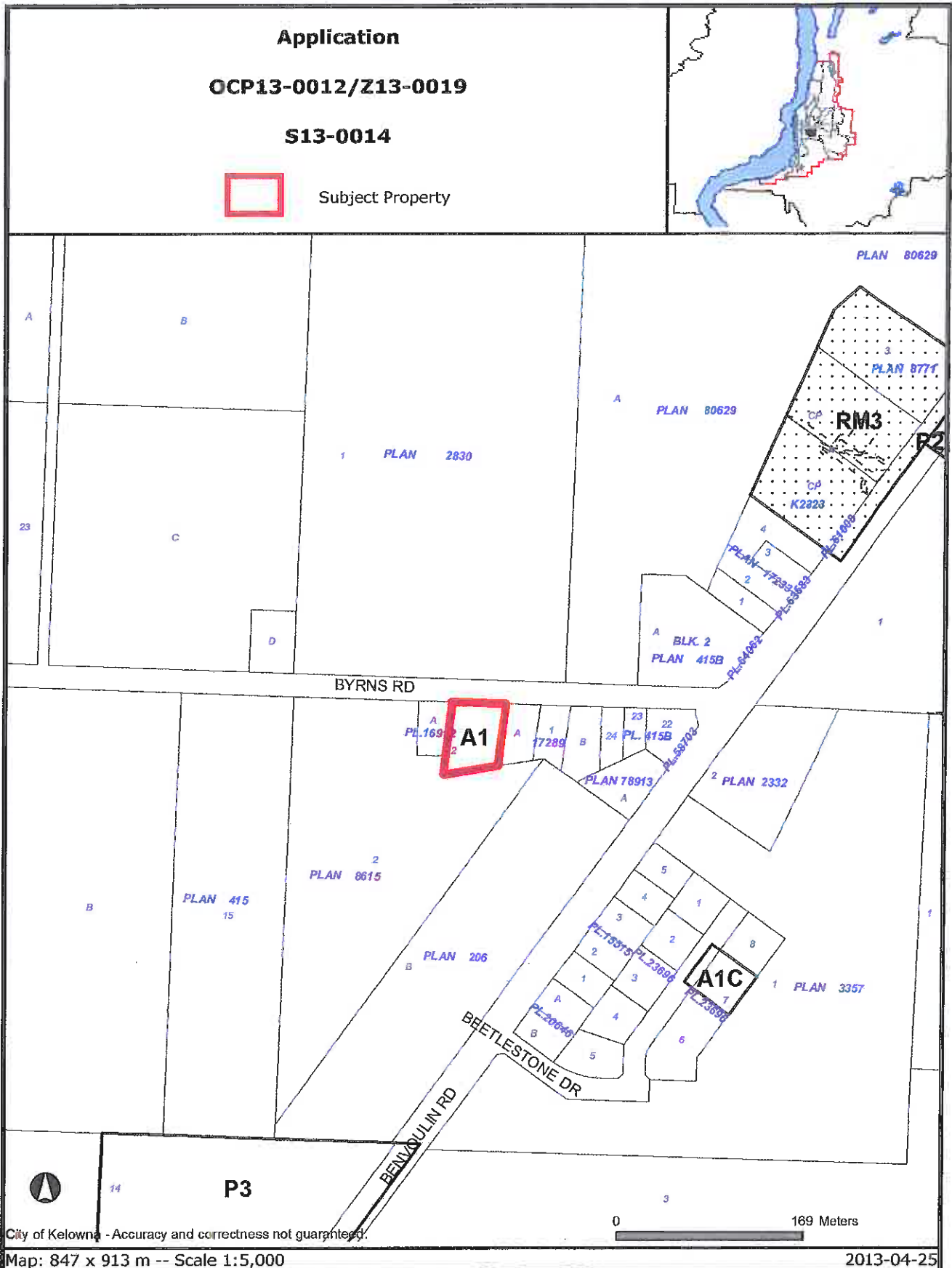
Report prepared by:

Todd Cashin, Subdivision, Agriculture & Environment Services Manager

Approved for Inclusion S. Gambacort, Director

Attachments:

Subject property/zoning map & ALR map (2 pages)
Development Engineering Comments (1 page)
Schedule "A" - Landscape Buffer (1 page)
Map "A" - OCP Amendment (1 page)
Map "B" - Proposed Zoning (1 page)
Preliminary Lot Layout (1 page)



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
MEMORANDUM

Date: June 24, 2013
File No.: Z13-0019

To: Land Use Management Department (GS)

From: Development Engineering Manager

Subject: 2049 Byrns Road *REVISED* Lot 2 Plan 17289 A1 to RU6 & RM1

Development Engineering has the following comments and requirements associated with this application to rezone from A1 to RU6 & RM1.

1. Domestic Water and Fire Protection

Our records indicate that this property is serviced with a 19mm diameter copper water service. The current by-law requires that only one service be permitted for this application. *The service required for RM1 and RU6 will need to be sized adequately for each zoning. Larger new services and disconnection of the existing can be provided by City forces at the applicant's expense for the RM1 & RU6 future lot.* For estimate inquiry's please contact Sergio Sartori, by email ssartori@kelowna.ca or phone, 250-469-8589.

2. Sanitary Sewer

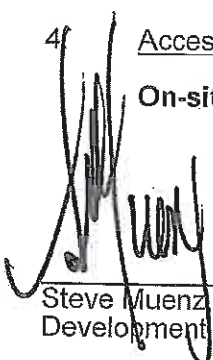
Our records indicate that this property is serviced with a 100mm-diameter sanitary sewer service complete with inspection chamber. *The service is adequate for either the RU6 future lot or the RM1 future lot.*

3. Road Improvements

Byrns Road must be upgraded to an urban standard along the full frontage of this property, including curb and gutter, piped storm drainage facilities, sidewalk, street lighting and pavement widening. A one-time cash payment in lieu of construction must be collected from the applicant for future construction by the City. The cash-in-lieu amount is determined to be **\$18,300.00** not including utility service costs

4. Access, Manoeuvrability and Parking Requirements

On-site parking modules must meet bylaw requirements.



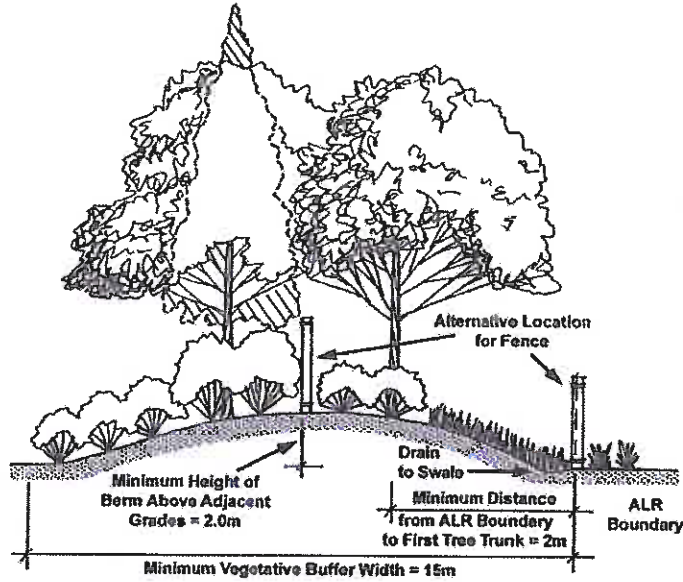
Steve Muenz P. Eng.
Development Engineering Manager

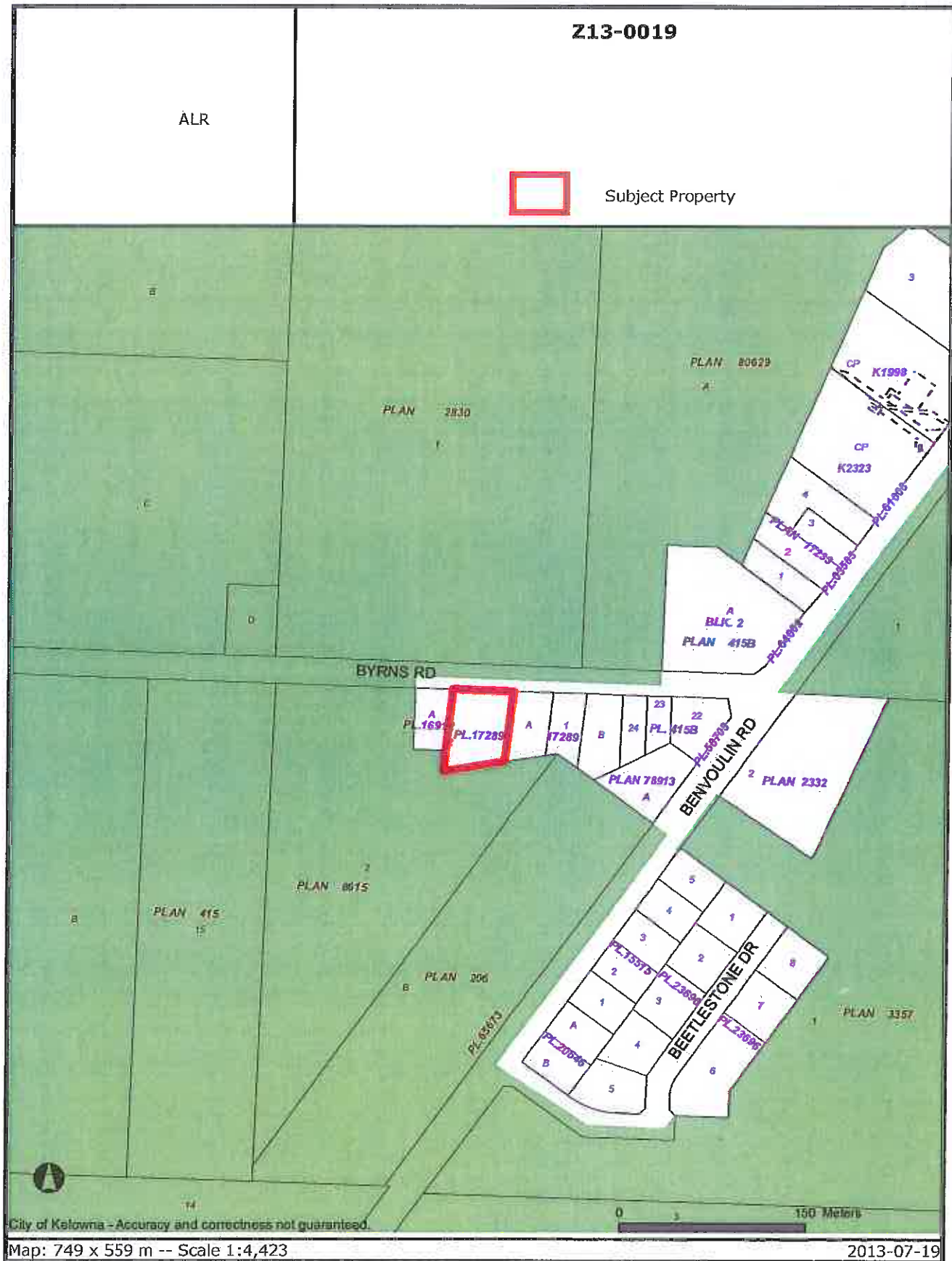
SS

Schedule "A" - Landscape Buffer

Urban-Side Buffer B (with berm) - Design specifications & layout

The Urban-side Buffer B includes all elements of Buffer A as well as a berm with minimum height 2 m above adjacent grades.





Certain layers such as lots, zoning and dp areas are updated bi-weekly. This map is for general information only.
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N



2190

1980

2050-2060

Subject Property Note:

Amend the OCP for a portion of the subject property from Resource Protection (REP) to Multiple Unit Residential (Low Density) (MRL).

1990

2090

BYRNS RD

2039

2049

2059

2069

2079

2089

2095

2099

2430

2029

2589

Subject Property Note:

Amend the OCP for a portion of the subject property from Resource Protection (REP) to Single / Two Unit Residential (S2RES).

2509

1909

2519

2510

2550






BENVOULIN RD

2529

2530

2539

**MAP "A" OCP AMENDMENT
OCP13-0012**

-  Subject Property
-  Resource Protection
-  REP to MRL
-  REP to S2RES
-  Legal Parcel

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



N



1980

2190

2050-2060

Subject Property Notes:

Rezone a portion of the subject property from A1 Agriculture 1 to RM1 Four-plex Housing.

1990

2090

BYRNS RD

2039

2049

2059

2069

2079

2089

2095

2099

A1

2430

2029

Subject Property Notes:

Rezone a portion of the subject property from A1 Agriculture 1 to RU6 Two Dwelling Housing.

1909

2589

2509

2519

2510

2550

2529


BENVOULIN RD

2539

2530

MAP "B" PROPOSED ZONING

File #Z13-0019

-  Subject Property
-  A1 to RM1
-  A1 to RU6
-  Legal Parcel

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: October 11, 2013
RIM No. 1250-30
To: City Manager
From: Urban Planning Department, Community Planning and Real Estate (BD)
Application: Z13-0034 **Owner:** Painchaud Family Holdings Inc.
Address: 464 Cadder Avenue **Applicant:** Donald Painchaud
Subject: 2013-10-28 Report Z13-0034 Cadder Ave
Existing OCP Designation: Single/Two Unit Residential
Existing Zone: RU1 - Large Lot Housing
Proposed Zone: RU1c - Large Lot Housing with Carriage House

1.0 Recommendation

THAT Rezoning Application No. Z13-0034 to amend the City of Kelowna Zoning Bylaw No. 8000 by changing the zoning classification of Lot 3, District Lot 14, ODYD Plan 1063, located on 464 Cadder Ave, Kelowna, BC from the RU1 - Large Lot Housing zone to the RU1c- Large Lot Housing with Carriage House zone be considered by Council;

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

2.0 Purpose

The applicant is seeking to rezone the subject property to the RU1c - Large Lot Housing with Carriage House zone to facilitate the construction of a carriage house.

3.0 Urban Planning

The proposal to rezone the site to allow for a carriage house is not unusual for the area and policies within the OCP support sensitive integration into existing neighbourhoods, where services are already in place and densification can easily be accommodated. The subject property is ample in size and located in the Abbott Street Heritage area, a desirable area close to the downtown core.

The subject property is located within the Permanent Growth Boundary and the requested zoning is consistent with the land use designation. Should the land use be supported by Council, a Heritage Application Permit executed at a staff level will evaluate the merits of the form and character relative to the *Abbott Street Conservations Guidelines*

4.0 Proposal

4.1 Project Description

The proposal seeks to relocate an existing small dwelling located on the subject property to the rear of the site and to construct a new single family dwelling. The new dwelling is inspired by the French “arts and crafts movement” and incorporates many architectural features. At 6.5m in height it is in keeping with building heights of its neighbours. The mature landscape will be retained which will maintain the current streetscape.

The existing building is only 83m² (892 sq. ft.) and meets the regulations for a carriage house. No changes are proposed for the relocated house with the exception of re-orientating the building to have the entrance facing the site’s frontage. Parking is achieved within the two car garage and a third space on the east side of the site. No significant landscape improvements are proposed.

Neighbourhood consultation showed that all neighbours reached (10 out of 15), reacted favorably to the proposal.

4.2 Site Context

The subject property is located on the north side of Cadder Avenue in the Abbott Street Conservation Area of Kelowna in close proximity to the Hospital and Downtown center. The subject property is designated as Single/Two Unit Residential in the Official Community Plan, and the *Abbott Street Heritage Conservation Area Guidelines* identify the character of the existing building as the ‘Early arts and crafts” style. Surrounding land uses in all directions are residential and zoned RU1- Large Lot Housing.

4.3 Subject Property: 464 Cadder Avenue



4.4 Zoning Analysis

The proposed application meets the requirements of RU1c- Large Lot Housing with carriage house zone follows:

Zoning Bylaw No. 8000		
CRITERIA	PROPOSAL	RU1c ZONE REQUIREMENTS
Subdivision Regulations		
Lot Area	1,114 m ²	550 m ²
Lot Width	24.74 m	15 m
Lot Depth	45.1 m	30 m
Site Coverage (buildings)	25.5%	40%
Site Coverage (buildings/parking)	46%	50%
Principal Dwelling (New Development)		
Height	6.55 m / 1.5 storeys	2 ½ storeys / 9.5 m
Front Yard	9.14m	4.5m or 6m to garage with front vehicular access
Side Yard (e)	3.03m	2.0 m (1 - 1 ½ storey) 2.3 m (2 - 2 ½ storey)
Side Yard (w)	2.32m	2.03 m (2 - 2 ½ storey)
Rear yard	16.39m	7.5m
Carriage House		
Height	3.66 m / 1 storey	1 ½ storeys / 4.5 m
Front Yard	Exceeds requirements	4.5 m
Side Yard (e)	3.21 m	2.0 m (1 - 1 ½ storey)
Side Yard (w)	13 m	2.0 m (1 - 1 ½ storey)
Rear yard	2.13 m	7.5m
Distance between dwellings	4.52 m	4.5m
Accessory foot print	83 m ² or 7.4 % of lot area	Lesser of 90m ² or 14% of lot area
Floor Area of principal dwelling ratio	Principal dwelling: 331.6 m ² Carriage House: 83 m ² 25 %	Lesser of 90m ² or 75% of the for principal dwelling
Other Requirements		
Parking Stalls (#)	3 spaces	3 spaces

5.0 Current Development Policies

5.1 Kelowna Official Community Plan (OCP)

Development Process

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

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

Policy 5.22.6 Sensitive Infill³ Encourage new development or redevelopment in existing residential areas to be sensitive to or reflect the character of the neighborhood with respect to building design, height and siting.

Policy 5.22.7 Healthy Communities⁴ Through current zoning regulations and development processes, foster healthy, inclusive communities and a diverse mix of housing forms, consistent with the appearance of the surrounding neighbourhood.

6.0 Technical Comments

6.1 Development Services Department

- 1) Development Cost Charges (DCC's) are required to be paid prior to issuance of any Building Permits.
- 2) Structural Engineering required for foundations of existing house to be moved.
- 3) Full Plan check for Building Code related issues will be done at time of Building Permit applications.

6.2 Development Engineering Department

No required upgrades (See attached).

6.3 FortisBC Electric

There are primary distribution facilities within Cadder Avenue. The applicant is responsible for costs associated with any change to the subject property's existing service, if any, as well as the provision of appropriate land rights where required.

Otherwise, FortisBC Inc. (Electric) has no concerns with this circulation.

¹ Official Community Plan Objective 5.2 Community Sustainability

² Official Community Plan Objective 5.3 Focus development to designated growth areas.

³ & ⁴ Official Community Plan Objective 5.22 Residential Land Use Policies.

7.0 Application Chronology

Date of Application Received: August 20, 2013

Community Heritage Commission

The above noted application was reviewed by the Community Heritage Commission at the meeting on September 5, 2013 and the following recommendations were passed:

THAT the Community Heritage Committee support the application to rezone the subject property from RU1 - Large Lot Housing to RU1c - Large Lot Housing with Carriage House and the Heritage Alteration Permit for the form and character of the proposed building.

Anecdotal Comments

CHC did have concerns over the massing of the proposed building but justified their support by stating it is sufficiently mitigated by the large front yard setback, mature trees and the architectural merit of the proposed dwelling.

Report prepared by:

Birte Decloux, Urban Planner

Reviewed by:



Danielle Noble-Brandt, Urban Planning Manager

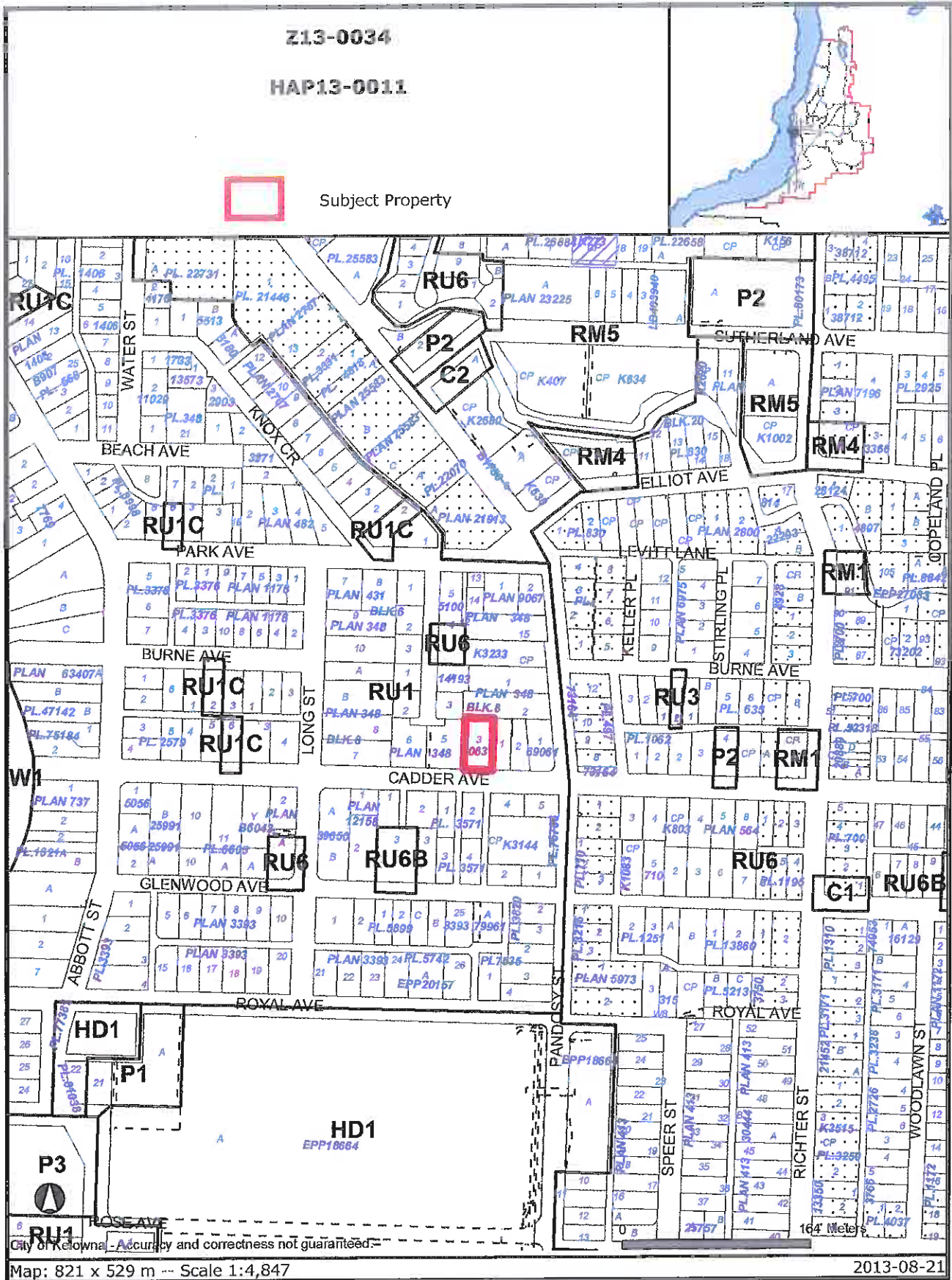
Approved for Inclusion:



Doug Gilchrist, Divisional Director,
Community Planning and Real Estate

Attachments:

Location Map
Site Plan
Elevations
Colour rendering
Floor Plans
Materials Board
Context photos
Original dwelling photo
Technical 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.



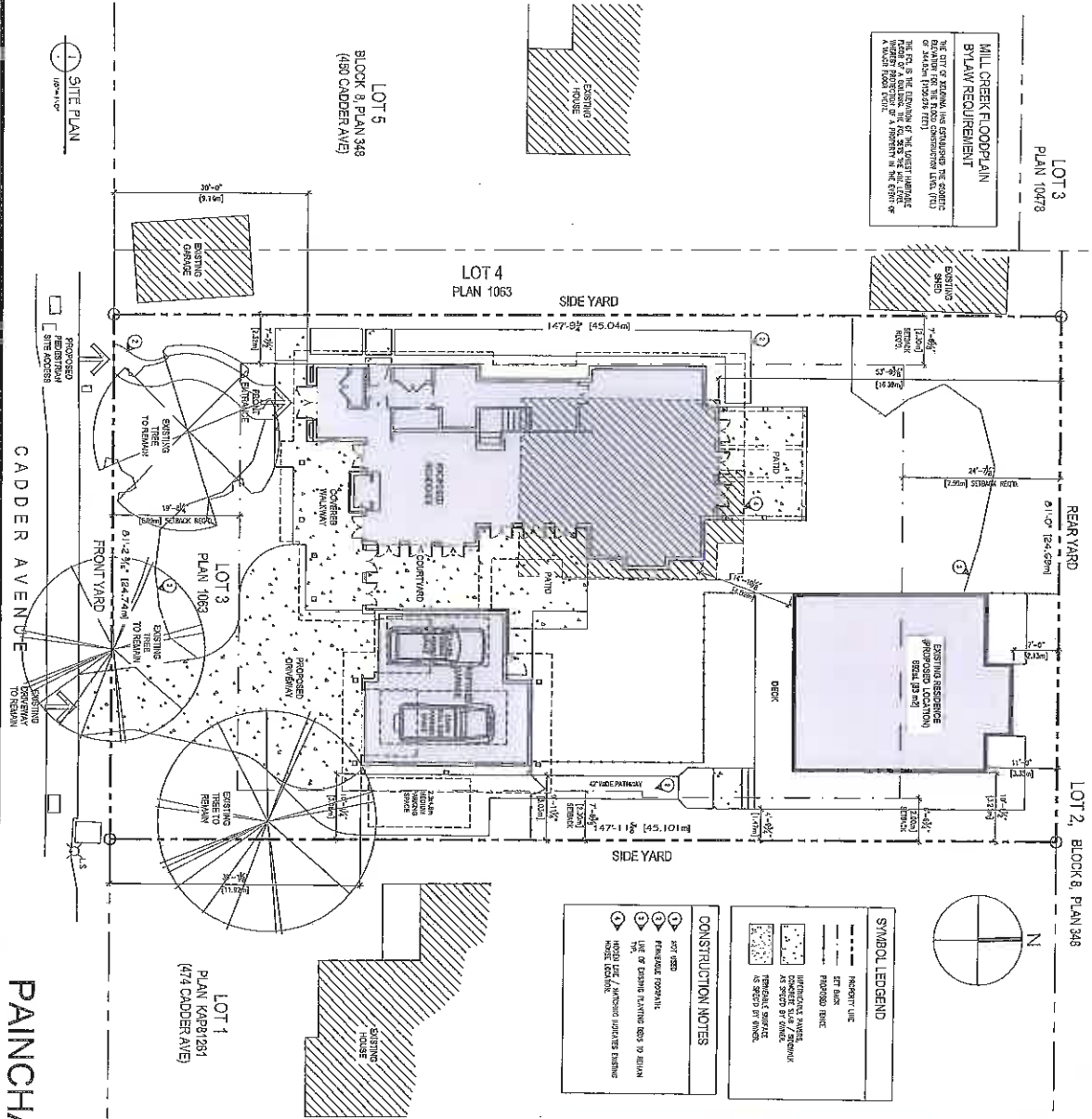
KEY PLAN

SYMBOL LEGEND

- PROPOSED LOT
- EXISTING LOT
- PROPOSED DRIVE
- PROPOSED SIDEWALK
- PROPOSED SIDEWALK AS SHOWN BY OWNER
- PROPOSED SIDEWALK AS SHOWN BY OWNER
- PROPOSED SIDEWALK AS SHOWN BY OWNER

CONSTRUCTION NOTES

- NOT USED
- PROPOSED FOOTING
- LINE OF EXISTING STAMING DEGS TO BE MAINTAINED
- HOUSE LINE / APPROXIMATE IMPACTS EXISTING HOUSE LOCATION



AS NOTED | AUG-19-2013

SITE PLAN
A101

NOT FOR CONSTRUCTION

PAINCHAUD RESIDENCE

SURVEY NOTES

1. THE SURVEY CONTAINS INFORMATION THAT HAS BEEN OBTAINED FROM THE RECORDS OF THE LOCAL GOVERNMENT AND IS NOT TO BE USED FOR ANY OTHER PURPOSE.

2. THE SURVEY IS NOT TO BE USED FOR ANY OTHER PURPOSE.

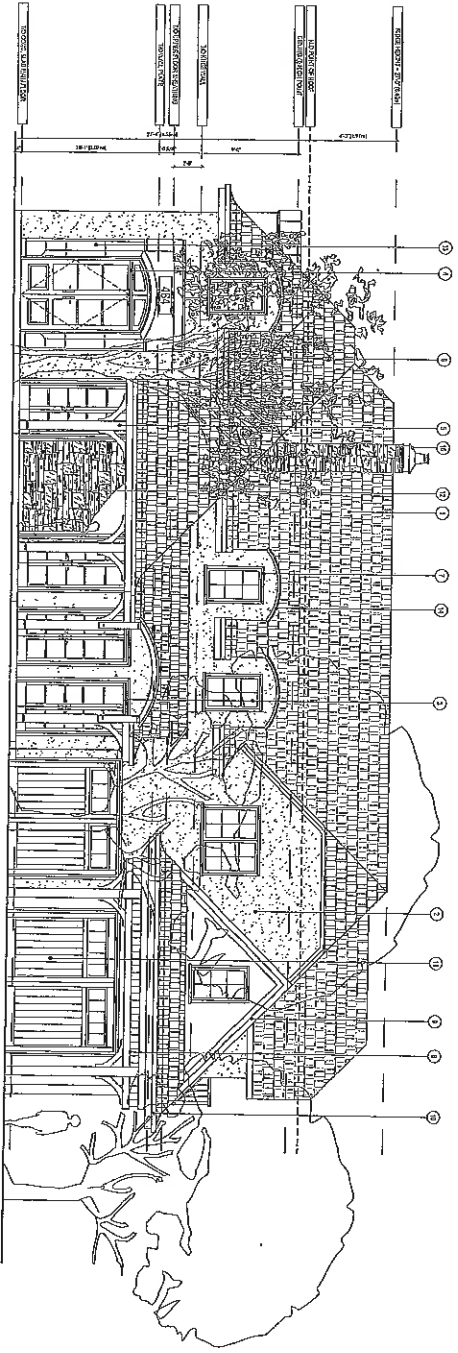
3. THE SURVEY IS NOT TO BE USED FOR ANY OTHER PURPOSE.

ZONING BY-LAW SUMMARY

LEGAL DESCRIPTION	LOT 1 PLAN 1003	LOT 2 BLOCK 8 PLAN 348	LOT 3 PLAN 10478	LOT 4 PLAN 1063	LOT 5 BLOCK 8 PLAN 348 (450 CADDER AVE)
LOT ADDRESS	471 CADDER AVE	450 CADDER AVE	450 CADDER AVE	450 CADDER AVE	450 CADDER AVE
LOT AREA	18,240 sq ft	18,240 sq ft	18,240 sq ft	18,240 sq ft	18,240 sq ft
SETBACKS	Front: 10m, Side: 3m, Rear: 3m	Front: 10m, Side: 3m, Rear: 3m	Front: 10m, Side: 3m, Rear: 3m	Front: 10m, Side: 3m, Rear: 3m	Front: 10m, Side: 3m, Rear: 3m
PERMITTED USES	Residential Single-Family	Residential Single-Family	Residential Single-Family	Residential Single-Family	Residential Single-Family
PROPOSED USES	Residential Single-Family	Residential Single-Family	Residential Single-Family	Residential Single-Family	Residential Single-Family
COMMENTS					

464 CADDER AVE
KELOWNA, BC

STICKS+ STONES
design group inc.
KELOWNA



1 SOUTH ELEVATION
1/4" = 1'-0"

- KEYNOTES - EXTERIOR FINISHES**
- 1 STONE TO MATCH EXISTING STONE TO EXISTING WALL
 - 2 VERTICAL SLATS MATCH EXISTING TO EXISTING WALL
 - 3 STONE TO MATCH EXISTING STONE TO EXISTING WALL
 - 4 STONE TO MATCH EXISTING STONE TO EXISTING WALL
 - 5 STONE TO MATCH EXISTING STONE TO EXISTING WALL
 - 6 STONE TO MATCH EXISTING STONE TO EXISTING WALL
 - 7 STONE TO MATCH EXISTING STONE TO EXISTING WALL
 - 8 STONE TO MATCH EXISTING STONE TO EXISTING WALL
 - 9 STONE TO MATCH EXISTING STONE TO EXISTING WALL
 - 10 STONE TO MATCH EXISTING STONE TO EXISTING WALL
 - 11 STONE TO MATCH EXISTING STONE TO EXISTING WALL
 - 12 STONE TO MATCH EXISTING STONE TO EXISTING WALL



2 WEST ELEVATION
1/4" = 1'-0"

BUILDING
ELEVATIONS

A301

AS NOTED | AUG-19-2013

ISSUED FOR HA PERMIT

NOT FOR CONSTRUCTION

PAINCHAUD RESIDENCE

464 CADDER AVE
KELOWNA, BC

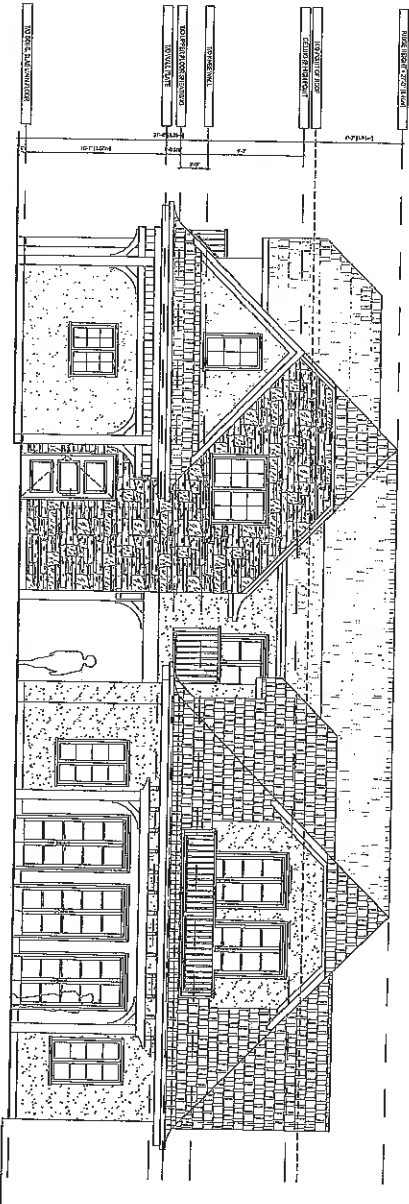
STICKS+
STONES
design group inc.
KELOWNA
www.sticksstones.ca

CANMORE

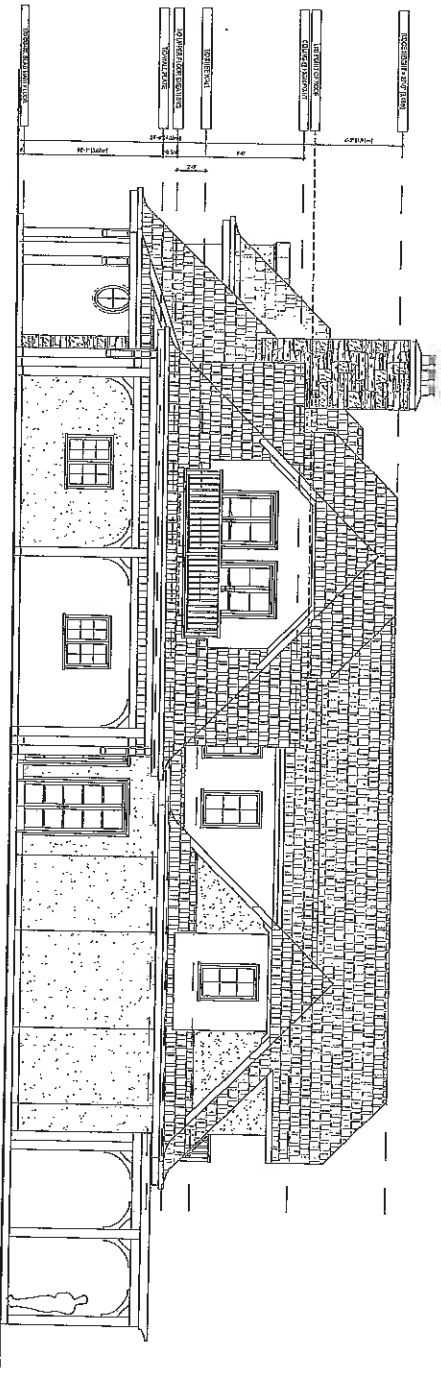
BUILDING ELEVATIONS
A302

AS NOTED | AUG-19-2013

ISSUED for IA PERMIT



1 NORTH ELEVATION
1/4" = 1'-0"



2 EAST ELEVATION
1/4" = 1'-0"

NOT FOR CONSTRUCTION

PAINCHAUD RESIDENCE

464 CADDER AVE
KELOWNA, BC

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STONES
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CANMORE
KELOWNA



03

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3D MASSING

PAINCHAUD RESIDENCE

All dimensions and measurements must be checked and verified by the General Contractor

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STONES
DESIGN GROUP INC.
www.sticksstones.com



Door Style
Windows & Doors:
Black



Roofing Color



Stone: K2 Arbutus Fieldstone Veneer



Fascia, Wood Elements
Benjamin Moore: 2124-10
"Wrought Iron"



Exterior Stucco Color



Exterior Stucco Texture

Painchaud Residence

464 Cadder Avenue Exterior Finishes





450 CADDER AVE - STREET VIEW



464 CADDER AVE - STREET VIEW (SUBJECT PROPERTY)



474 CADDER AVE - STREET VIEW



461 CADDER AVE - STREET VIEW



481 CADDER AVE - STREET VIEW



464 CADDER AVE - EXISTING HOUSE (FRONT)



464 CADDER AVE - EXISTING HOUSE (REAR)



464 CADDER AVE - INTERIOR LOT VIEW (FRONT)



464 CADDER AVE - INTERIOR LOT VIEW (FRONT)



464 CADDER AVE - INTERIOR LOT VIEW (FRONT)

**STREET &
SITE
CONTEXT
PHOTOS**

A102

AS NOTED | MAY-28-2013

ISSUED for CHC MEETING
REVIEW

NOT FOR CONSTRUCTION

PAINCHAUD RESIDENCE

464 CADDER AVE
KELOWNA, BC

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CANMORE
KELOWNA

APR 1963



Original house in 1963 when built

CITY OF KELOWNA
MEMORANDUM

Date: August 28, 2013
File No.: Z13-0034

To: Urban Planning Department (BD)
From: Development Engineering Manager

Subject: 464 Cadder Ave

Carriage House RU1c

Development Engineering has the following requirements associated with this rezoning application.

1. Domestic Water and Fire Protection

This property is currently serviced with a 19mm-diameter copper water service. The service will be adequate for this application. One metered water service will supply both the main residence and the suite.

2. Sanitary Sewer

Our records indicate that this property is currently serviced with a 100mm-diameter sanitary sewer service complete with inspection chamber (IC). No service upgrades are required for this application.

3. Electric Power and Telecommunication Services

It is the applicant's responsibility to make a servicing application with the respective electric power, telephone and cable transmission companies to arrange for service upgrades to these services which would be at the applicant's cost.



Steve Muenz, P. Eng.
Development Engineering Manager

SS

CITY OF KELOWNA
BYLAW NO. 10893
Z13-0034 - Painchaud Family Holdings Inc.
464 Cadder 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 3, District Lot 14, ODYD, Plan 1063 located on 464 Cadder Avenue, Kelowna, B.C., from the RU1 - Large Lot Housing zone to the RU1c - Large Lot Housing with Carriage House 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

CITY OF KELOWNA

BYLAW NO. 10867

Official Community Plan Amendment No. OCP13 - 0014 No. 21 Great Projects Ltd. 1150 and 1200 Steele 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, District Lot 579, SDYD, Plan EPP9618 Except Plans EPP9638, EPP15721, EPP18670, EPP20408 and EPP22118, located at 1150 Steele Road, Kelowna, B.C., and Lot 1, District Lot 579, SDYD, Plan EPP20408, located at 1200 Steele Road from the Multiple Unit Residential - Low Density, Single / Two Unit Residential, Major Park & Open Space, Educational / Institutional, Commercial designation to the Multiple Unit Residential - Low Density, Single / Two Unit Residential, Major Park & Open Space, Educational / Institutional, Commercial designation as shown on Map "A";
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 29th day of July, 2013.

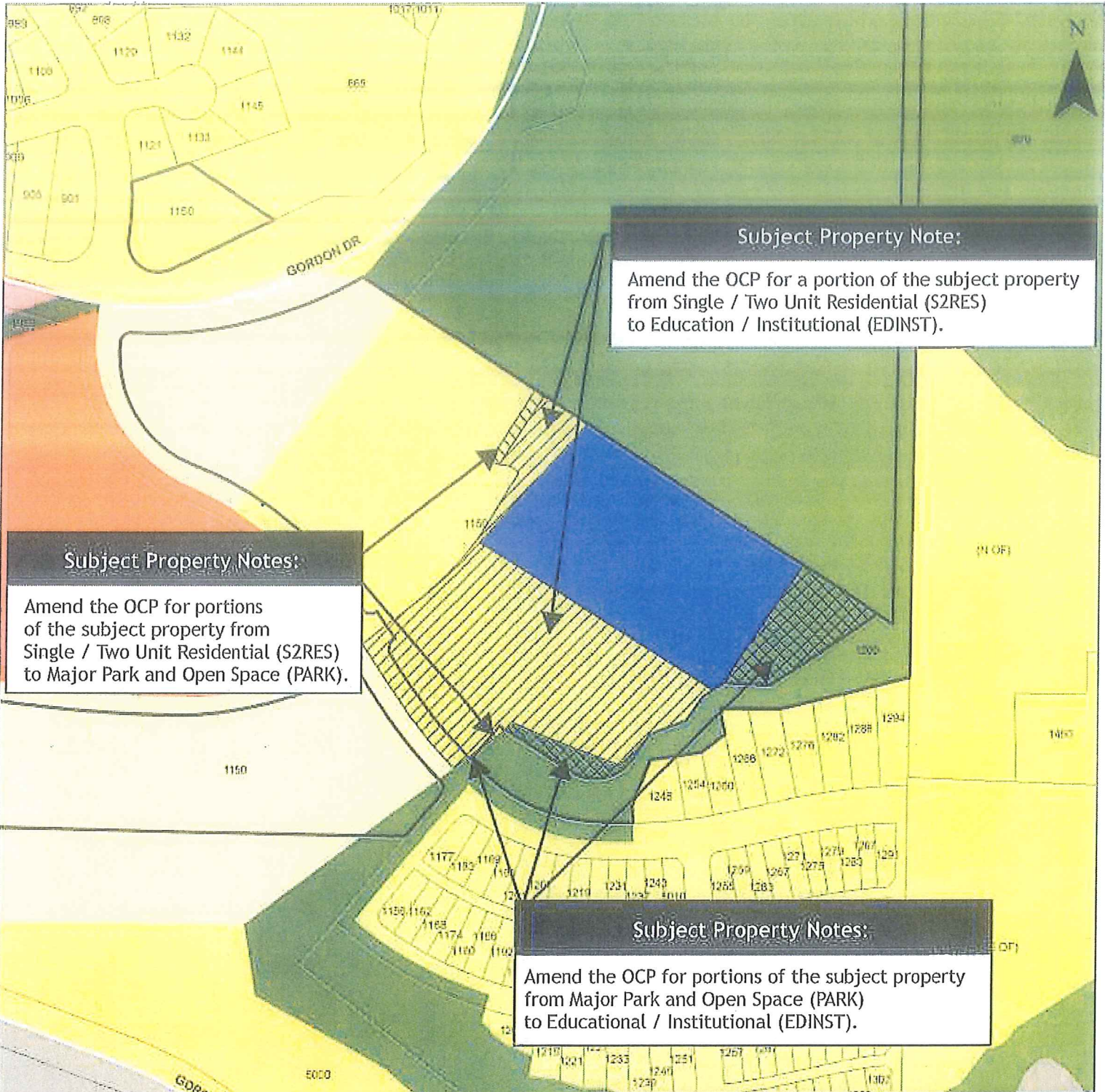
Considered at a Public Hearing on the 13th day of August, 2013.

Read a second and third time by the Municipal Council this 13th day of August, 2013.

Adopted by the Municipal Council of the City of Kelowna this

Mayor

City Clerk



Subject Property Note:

Amend the OCP for a portion of the subject property from Single / Two Unit Residential (S2RES) to Education / Institutional (EDINST).

Subject Property Notes:

Amend the OCP for portions of the subject property from Single / Two Unit Residential (S2RES) to Major Park and Open Space (PARK).

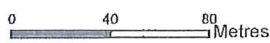
Subject Property Notes:

Amend the OCP for portions of the subject property from Major Park and Open Space (PARK) to Educational / Institutional (EDINST).

**MAP "A" OCP AMENDMENT
OCP13-0014**

Commercial	Legal Parcel
Education / Institutional	Subject Properties
Multiple Unit Residential (Cluster Housing)	PARK to EDINST
Multiple Unit Residential (Medium Density)	S2RES to EDINST
Multiple Unit Residential (Low Density)	S2RES to PARK
Major Park and Open Space	
Public Service Utilities	
Single / Two Unit Residential	
Single / Two Unit Residential - Hillside	

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



Rev. Jun 26, 2013



CITY OF KELOWNA
BYLAW NO. 10868
Z13-0023 - No. 21 Great Projects Ltd.
1150 and 1200 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 a portion of Lot A, District Lot 579, SDYD, Plan EPP9618 Except Plans EPP9638, EPP15721, EPP18670, EPP20408 and EPP22118 located at 1150 Steele Road, Kelowna, B.C., and Lot 1, District Lot 579, SDYD, Plan EPP20408, located at 1200 Steele Road from the A1 - Agriculture 1, RU1 - Large Lot Housing, RU1H - Large Lot Housing Hillside, P3 - Parks & Open Space zone to the A1 - Agriculture 1, RU1 - Large Lot Housing, RU1H - Large Lot Housing Hillside, P2 - Educational & Minor Institutional, P3 - Parks & Open Space zone as shown on Map "B".
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 29th day of July, 2013.

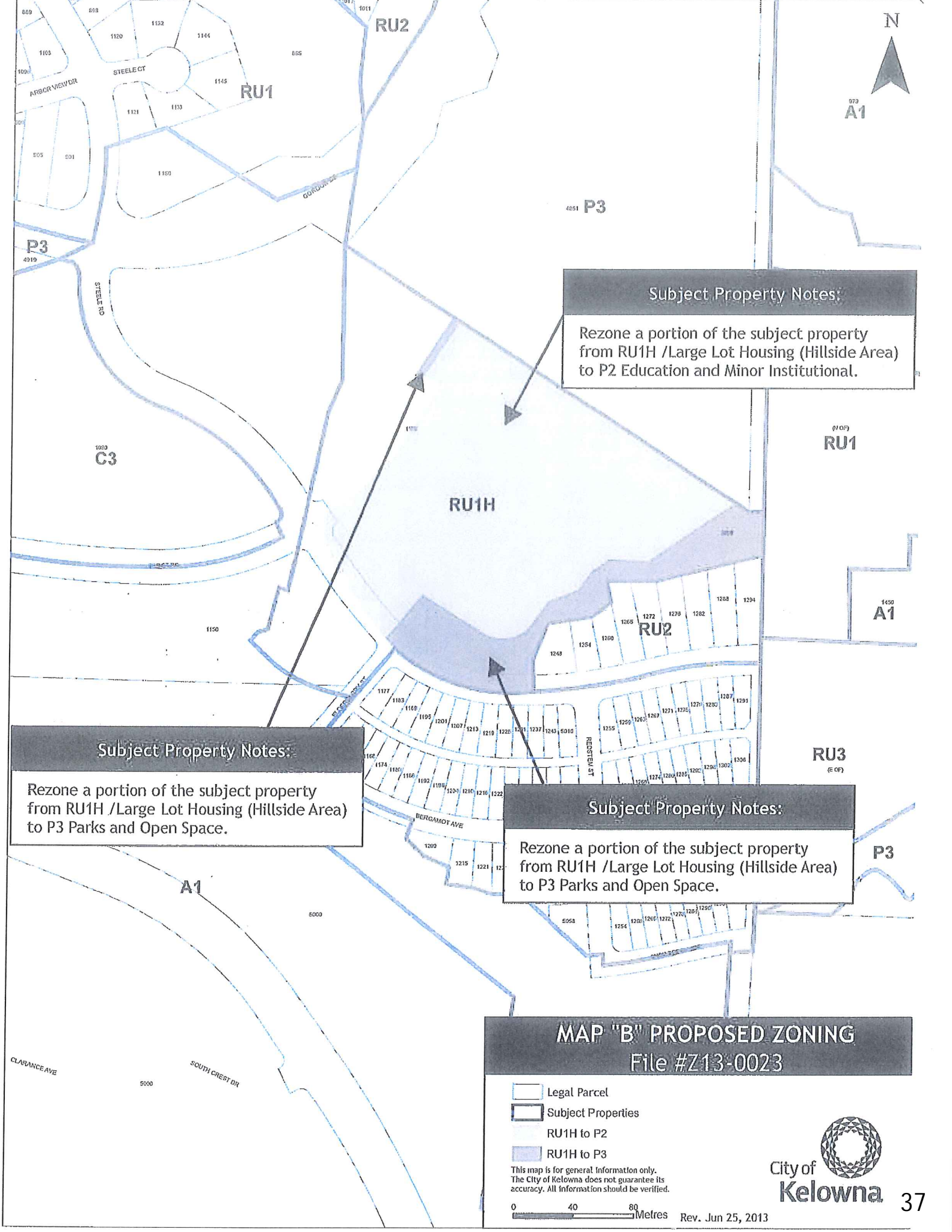
Considered at a Public Hearing on the 13th day of August, 2013.

Read a second and third time by the Municipal Council this 13th day of August, 2013.

Adopted by the Municipal Council of the City of Kelowna this

Mayor

City Clerk



Subject Property Notes:

Rezone a portion of the subject property from RU1H /Large Lot Housing (Hillside Area) to P2 Education and Minor Institutional.





Subject Property Notes:

Rezone a portion of the subject property from RU1H /Large Lot Housing (Hillside Area) to P3 Parks and Open Space.

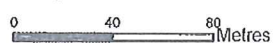
Subject Property Notes:

Rezone a portion of the subject property from RU1H /Large Lot Housing (Hillside Area) to P3 Parks and Open Space.

MAP "B" PROPOSED ZONING
File #Z13-0023

-  Legal Parcel
-  Subject Properties
-  RU1H to P2
-  RU1H to P3

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



City of Kelowna

Report to Council



Date: October 23, 2013
File: 0505-15
To: City Manager
From: George King, Revenue Manager
Subject: Utility Billing Customer Care, Water Meter and Meter Reading Services Contract

Recommendation:

THAT Council approve a twenty four (24) month extension of the Corix Utilities Inc. contract for Utility Billing Customer Care, Water Meter and Meter Reading Services from January 1, 2014 to December 31, 2015, with options to extend the contract for two further one year periods.

AND THAT Council approve billing utility customers bi-monthly starting in April, 2014.

AND FURTHER THAT the Mayor and City Clerk be authorized to sign an extension agreement.

Purpose:

To obtain Council approval to further extend the contract with Corix to allow time for a decision to be made on the ultimate form of service provision.

Background:

The City of Kelowna and BCG Services Inc. (now Corix Utilities Inc. and referred to as Corix in this document) executed a Master Agreement effective January 31, 2001 for the provision of services related to customer care, water meter and meter reading for a five year term. In July of 2005 there was a five year extension of those services to January 31, 2011. In August 2010, Council approved an eight month extension with Corix until September 30, 2011.

As the extension was about to expire a request for information (RFI) was prepared and released on October 8, 2010, with a closing date of October 28, 2010. The RFI was made to be very flexible so that a variety of solutions could be considered. The intent was to open up the customer service delivery model and welcome all solutions for a part or all of the requirements.

From the responses there were three different options considered:

1. A full service provider looking after all aspects of the requirement,
2. Repatriate all functions and purchase software to support in-house customer service and utility billing systems,
3. Repatriate all functions but use a service provider as a managed solution.

Further details were obtained for the three options that allowed for consideration of how that solution may look for the City of Kelowna. The budget estimate of the solution was then considered along with the time frame for implementation and the benefits from that solution. Corix was the only company that responded as a full service provider.

Not knowing the future of the electrical service contract with FortisBC, which was expiring in September, 2012, it was recommended to Council that over the short term there were advantages to remain with the current service provider to avoid the uncertainty of a system change along with the potential disruption to the utility customers. On March 17, 2011 Council approved a fifteen (15) month extension of the Corix Utilities Inc. contract for Utility Billing Customer Care, Water Meter and Meter Reading Services from September 30, 2011 to December 31, 2012, with an option to extend the contract for a further year.

On March 29, 2013 the City of Kelowna's electrical utility was transferred to FortisBC with the completed purchase of the City's electrical assets. In order to achieve uninterrupted service it was endorsed by Council that for the next nine months (to December 31, 2013), from the date of transfer of the electrical utility, that the customer care billing services for electrical customers be maintained by Corix Utilities Inc. utilizing the City's billing system.

As December 31, 2013 marks the end of the current contract with Corix as well as the transfer of all electrical customers to FortisBC's billing system City staff are recommending that Council extend the current agreement; in order to allow sufficient time to re-examine customer service delivery models that do not have an electrical utility component.

During our discussions for the current extension with Corix, City staff reviewed all aspects of the Master Agreement terms. Amongst other things, this review included the option of moving from our current practice of billing customers monthly to either bi-monthly billing or quarterly billing.

A cost reduction for the current extension was negotiated with Corix. In order to achieve a further cost reduction, staff are recommending that the current contract agreement with Corix be extended for twenty four months (to December 31, 2015) with an option for two further twelve month extensions if required (six month notice to be provided if the extension was not being granted) and that the City move to billing utility customers bi-monthly. This billing change will be scheduled to start in April, 2014, to provide time to ensure that all issues related to the electrical utility customers have been resolved.

Internal Circulation:

John Vos, Interim Divisional Director, Infrastructure
Cam Moody, Cross Connection Program Coordinator
Brian Butchart, Systems Development Manager

Financial/Budgetary Considerations:

There will be a decrease to the 2014 budget for the water & wastewater utilities areas of approximately \$133,830 as a result of moving to bi-monthly billing starting in April, 2014.

Based on current allocations the estimated saving would be as follows:

Water Utility - \$55,807

Wastewater Utility - \$78,023

The \$200,000 which was previously approved by council will be a part of the City's "Carry Over" process for 2014 to offset any costs associated with the examination of the customer service delivery models.

Considerations not applicable to this report:

Legal/Statutory Authority:

Legal/Statutory Procedural Requirements:

Existing Policy:

Personnel Implications:

External Agency/Public Comments:

Communications Comments:

Alternate Recommendation:

Submitted by:

G. King, CMA, Revenue Manager

Approved for inclusion:



(Keith Grayston, CGA, Director, Financial Services)

Report to Council



Date: October 23, 2013
Rim No. 1620-15
To: City Manager
From: Don Backmeyer, Sport & Event Development Manager
Subject: 2013-10-23 Report - Center of Gravity
Report Prepared by: Event Development Supervisor

Recommendation:

THAT Council receives, for information, the report from the Sport and Event Development Manager dated October 23, 2013, regarding the 2013 Center of Gravity Festival.

Purpose:

To provide Council with a report on the 2013 Center of Gravity Festival and an update on the planning process for the 2014 festival as requested in Service Request 265462 dated August 6, 2013.

Background:

Event Overview

Organized by Wet Ape Productions (Wet Ape), Kelowna's Center of Gravity began as *Volleyfest* in 2007. The inaugural event was held over the Labour Day weekend in City Park and consisted of a recreational and professional volleyball tournament. In 2008 the festival moved to the August long weekend and was renamed *Center of Gravity* in 2009 to reflect additional components. Each year new elements were added to the festival: basketball, skateboarding, wakeboarding and other sports as well as an evening concert. Since 2007, the festival has increased capacity from 2500 to 8000 and has expanded its program to encompass a 650,000 square foot event site with a variety of activity zones.

- Urban Zone - a skate park (built on site), basketball courts (for a 3-on-3 tournament), an entertainment stage and a beer garden
- Beach Zone - beach volleyball courts, a man-made wake board pool and track, beer garden, VIP cabanas and an entertainment stage
- Dirt Zone - Freestyle Motorcross and Freestyle Mountain Bike demonstration area with large built ramps and jumps
- Main Stage - concert venue with capacity for 8000, including a licensed area with a 1700 person capacity, food vendors and premium lounge area
- North Field - recreational grass volleyball tournament

- Food and Vendor Village - also housed various administration, parking and logistic areas and structures

The site map is located in Appendix 1.

In 2013, the sport zones were programmed daily from 9 a.m. to 6 p.m. After 6 p.m. the focus shifted from sports to music. The majority of the acts programmed on the mainstage between 6 p.m. and 11 p.m. were DJs. While the headliner concluded the concert at 10 p.m., a soft close was implemented between 10 p.m. and 11 p.m. A lesser known act played during the soft close, with reduced volume, to allow the concert area to gradually flush. This was very effective in both reducing noise complaints as well as dispersing the crowd slowly to distribute the pedestrian and vehicular congestion.

Accompanying the soft close was a nightly road closure from Abbott Street to Mill Street between 9 p.m. and 11 p.m. to facilitate the safe movement of attendees away from the event site. To assist participants in travelling safely throughout the city, Wet Ape coordinated a shuttle bus service which brought people to hotels downtown, along Highway 97 and as far as the UBC dormitories (which were secured by Wet Ape to address the need for additional accommodations).

In addition, Wet Ape shuttled people to and operated the *COG House*, an after-party, with capacity of 1000 people, at the curling rink. COG House was an initiative started in 2012 to alleviate some of the pressure on the downtown establishments and enforcement officers. COG House ran each night of the festival until 2:00 a.m. with no issues reported.

To accommodate the event, partial and full closures of City Park were required. A partial closure was in effect from July 29 to 31 to allow for set-up and on August 6 to facilitate final site cleanup. The full closure was in effect from August 1 to 5.

Event Attributes

Center of Gravity has become a prominent event in Kelowna’s summer event calendar. It is a “home grown” event with a local organizer and has evolved significantly over the past six years. It brings a number of benefits to Kelowna.

1. Sport / Event tourism

Within weeks of opening sales, the three-day festival sold out at over 10,000 tickets. With only 23 per cent of the tickets sold to Kelowna residents, the majority of participants were from other parts of BC and Alberta.

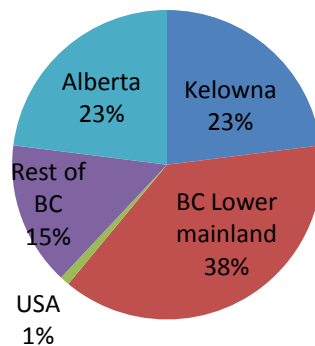


Figure 1: Ticket sales by region

The event showcases sport, culture and active lifestyle in a unique format. It has the potential to enhance Kelowna’s reputation as a destination for hosting high-level competition and entertainment events.

- Over 500 athletes, ranging from recreational to Olympic level, competed in nine different sporting events for over \$20,000 in prize money.
- Close to thirty musical artists performed on four stages over three days

2. Event Identity and Profile

Center of Gravity is unique to Kelowna. It is three days of non-stop activities including the most current music and sport entertainment. The target demographic is between the ages of 16 to 25: a population not typically programmed towards.

Exposure for the event reached national audiences through a variety of sources including print media, online blogs and articles as well as radio, television and social media. From July 7 to August 8, 2013, Center of Gravity reached the following online milestones.

Center of Gravity Website	100,000 (63,000 unique) visits
Facebook	17,000 fans
Twitter	4000 followers
COG iPhone App	4000 downloads
Youtube/Vimeo	100,000 video views

Through this online presence, Center of Gravity is able to connect with fans and maintain its position as one of the biggest and most elaborate festivals in the province.

General Comments

At the start of the outdoor event application and approval process, the City imposed a significant list of permit conditions to which Wet Ape was required to adhere. Included in the permit was an extensive security plan involving both private security and RCMP members. The plan was vetted through, and approved by, the Outdoor Event Committee, including the RCMP. All RCMP staffing costs directly related to the security plan are covered by Wet Ape.

Overall, Wet Ape followed through with the permit conditions. The site, security and beer gardens were well managed. The production schedule was implemented as planned and communication between organizers and City staff was good both prior to and during the festival.

Community & Stakeholder Feedback

During and after the event residents and members of the Outdoor Event Committee raised concerns with respect to the event itself and events that took place over the festival weekend. To assemble a complete report on the event and its challenges, Outdoor Event staff sought out and received feedback from key stakeholders: residents, RCMP, BC Ambulance, BC Liquor Control and Licensing Branch, Kelowna General Hospital, Tourism Kelowna, Kelowna Hotel/Motel Associate and the Downtown Kelowna Association. In addition, staff also solicited feedback from the following City departments: Bylaw Services, Risk Management, Parking Services, Kelowna Fire Department and Park Services.

It was clear from the review that the hotel and tourism related industries benefit directly from the festival weekend. Every hotel room in the city was booked, and other than the downtown property owners, hotel operators had relatively few concerns. Tourism Kelowna

estimates that Center of Gravity has an economic impact of approximately five million dollars.

It was also evident from the review that there were concerns for the community, which can be captured in five main categories.

1. Resident/business community impact

Lack of rooms for attendees - with more than 70 per cent of attendees coming from outside the Okanagan valley, a number of people were unsuccessful in securing accommodations. There were reports of individuals using neighbourhood streets and parks (generally those in close proximity to City Park) as campgrounds resulting in property damage and residents in the affected area expressed safety concerns.

Noise & inappropriate language - while generally better than in past years, noise levels and inappropriate language (originating from the main stage) were still a concern for those in close proximity to the concert area.

Miscellaneous issues - lack of parking for attendees which spilled over into neighbourhoods limiting parking for residents and their visitors, increased litter and lack of washroom facilities.

2. Litter, damage to public space

Within the event site, litter and impact on park infrastructure was a concern. Crowd size and resulting compaction as well as introduction of foreign debris (i.e., bottle caps and other plastic) into the turf (primarily in front of the stage) had a negative impact on the playing surface. After the event, the field was closed for six to eight weeks while City staff rehabilitated the field to required standards. The Parks department has indicated that rehabilitation of the field will become less effective each year due to the extensive amount of damage it sustains and may compromise future sport use.

Excessive litter was noted downtown as well; however city crews and contract workers did an excellent job to minimize this.

3. Safety

Over the long weekend, RCMP responded to 65 per cent more calls/incidents than on a regular summer weekend, including the July long weekend. Of particular concern were gang and drug trafficking related violations involving non-residents. There were 146 identified gang/organized crime members or associates identified in Kelowna over the August long weekend, of which only 17 were considered local members.

BC Ambulance reported a total of 84 requests for emergency medical assistance over the three days of the event. In 54 of these instances, drug and/or alcohol was the primary contributing factor. Kelowna General Hospital received 20 per cent more patients that weekend over other weekends in the summer.

Emergency services personnel, and some residents, expressed concerns for personal safety with the number of intoxicated people crowding the downtown area and nearby residential areas until five in the morning. With extended hours (4 a.m.) approved for some bars and a lack of transportation options (buses and taxis) at that time of day, some people were in effect stranded in the downtown core.

Within the event site, lighting, site layout and logistics were identified as areas needing attention to improve overall safety.

4. Resources

Agencies and City departments who provided feedback expressed that they were operating at maximum or near maximum capacity during the August long weekend. While not every call-out can be attributed to the festival, there is likely a correlation between the two. With the largest amount of people congregating in the downtown core, the bulk of first responders were deployed to the area. Two residents reported dissatisfaction with a lack of response from enforcement officers when calls for assistance were made.

In addition to two BC Ambulance Service units and an Incident Commander dedicated to the event, it was necessary to deploy extra units to incidents directly or indirectly related to the event. As well, the BCAS "cross covered" Kelowna during event times with units normally assigned to the communities of Sumemrland, Peachland, West Kelowna and Lake Country.

5. Reputational Risk

Several of the organizations polled felt that the August long weekend was not the best time for this festival because of the number of non-festival tourists in the city. Concerns were expressed about the impression visitors were getting of Kelowna.

Center of Gravity and Kelowna also received mixed headlines: Centre of Gravity a drug haven; Center of Gravity, Canada's Hottest Beach Festival; Center of Gravity Festival Brings Big Dough to Kelowna; and, Center of Gravity attracts gangsters and their drugs.

Strategies for Improvement

In the weeks following the event, Wet Ape and City staff had a number of debrief meetings and identified areas of focus for the 2014 festival. Wet Ape understands the importance of community support and has been proactive in developing strategies to address the concerns. Collaboratively, Wet Ape, the City and the Outdoor Events Committee have identified the following list of suggestions to address many of the safety and on-site concerns.

- Moving Center of Gravity off the August long weekend
- Changing the music genre and scheduling more live (versus DJ) entertainment to promote a more diverse audience
- Align event capacity numbers with available security and emergency services resources
- Implement strategies to minimize damages to the sport field
- Evaluate and augment the current security plan in collaboration with Wet Ape, RCMP and security to addresses security checks, contraband controls, site layout and emergency access
- Focus marketing on the daytime sport events

Some of the biggest challenges that lie outside of the festival grounds are the drug related issues, organized crime presence and intoxicated/inappropriate behavior. While Wet Ape's focus is within their site, they recognize their ability to positively contribute to the challenges off-site. Some recommendations, listed below, have been identified to diversify event demographics, lessen the impact on the adjacent neighbourhoods and deter drug use thereby creating a safer and more sustainable event.

- Neighbourhood patrols to increase security presence

- Enforcement of parking regulations (permit only) for residential areas around the downtown
- Work with RCMP, Bylaw, Transportation and Parking Services to create an integrated off-site security plan including road closures on Leon and Lawrence avenues to increase safety for pedestrians and emergency service personnel downtown
- Improve transportation options during late night/early morning hours
- Better waste management strategies and improved implementation

Final Thoughts

The members of the Outdoor Event Committee understand the complexity and demands of Center of Gravity festival. They have made valuable suggestions and recommendations to address the challenges associated with the event. Wet Ape has been responsive to concerns and has committed to working with the Outdoor Event Committee to implement strategies that will lead to a safer and more sustainable event. While there are substantial challenges, Wet Ape has a committed team of individuals willing to invest in this unique sport and music festival to ensure it contributes positively to the reputation, spirit and culture that exists in Kelowna. Planning for the 2014 festival will continue with renewed focus on developing a well rounded festival with a long future in Kelowna.

Internal Circulation:

Communications Advisor, Parking Operations, Parks Community Relations, Bylaw Services Manager, Risk and Claims Analyst, Fire Prevention Officer

External Agency/Public Comments:

Through the Outdoor Events Committee, comments were received by BCAS, RCMP

Considerations not applicable to this report

Legal/Statutory Authority
 Legal/Statutory Procedural Requirements
 Existing Policy
 Financial/Budgetary Considerations
 Personnel Implications
 Communications Comments
 Alternate Recommendation

Submitted by: D. Backmeyer, Sport & Event Development Manager

Approved for inclusion: J. Gabriel, Divisional Director, Active Living & Culture

Attachments:
 Appendix 1 - Site Map

cc: Divisional Director, Communications
 Divisional Director, Corporate Services
 Divisional Director, Civic Operations

Kelowna's City Park
Aug 2 - 4, 2013



Map created on July 25, 2013



City of
Kelowna

CENTER OF GRAVITY

2013 Summary of Event



BACKGROUND



- 2007 Volleyfest
- Labour Day weekend
 - 2500 People

BACKGROUND



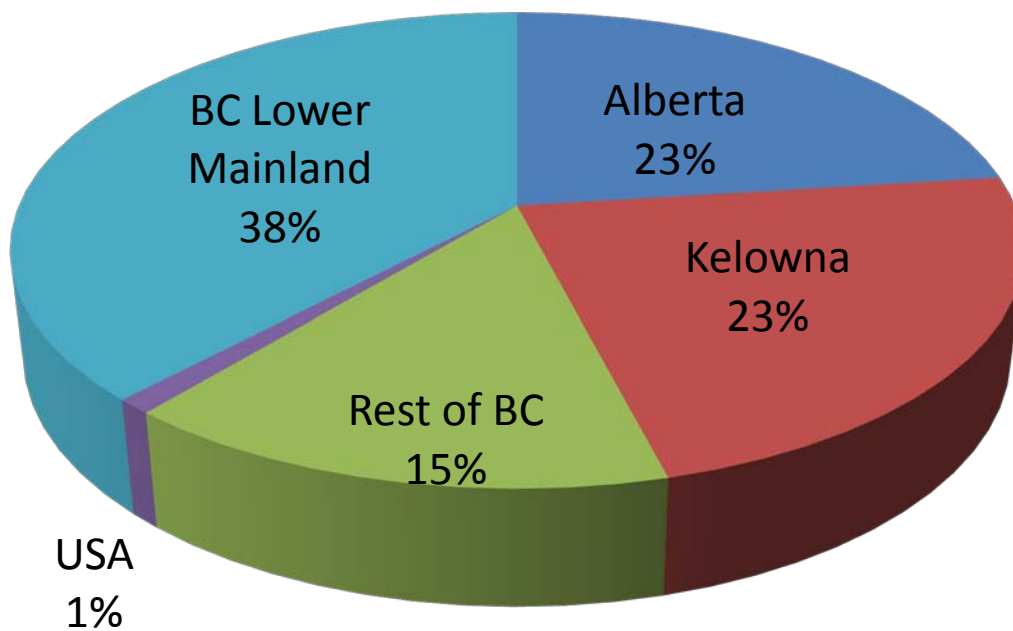
- 2013 Center of Gravity
- August Long Weekend
- 8000 People
- 9 sports, 500 athletes
- 30 + musicians 4 entertainment stages



EVENT OVERVIEW



EVENT ATTRIBUTES



Ticket Sales by Region

EVENT PROFILE



100,000 visits to COG website

17,000 Facebook fans



4000 Twitter followers

4000 downloads of iphone app



100,000 video views

2013 EVENT REVIEW

Stakeholder Feedback

Residents

RCMP

BCAS

BC LCLB

KGH

Tourism Kelowna

Hotel/Motel Assoc

DKA

Bylaw Services

Risk Management

Parking Services

Fire Dept

Park Services

AREAS OF CONCERN



Resident/business community
impact

Litter, damage to public space

Safety

Resources

Reputational Risk

STRATEGIES FOR IMPROVEMENT



FINAL THOUGHTS



CITY OF KELOWNA

BYLAW NO. 10850

**Housing Agreement Authorization Bylaw
Davara Holdings Ltd
550 Rowcliffe Avenue and 555 Buckland Avenue**

Whereas pursuant to Section 905 of the *Local Government Act*, a local government may, by bylaw, enter into a housing agreement.

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

1. The Municipal Council hereby authorized the City of Kelowna to enter into a Housing Agreement under Section 905 of the *Local Government Act*, in the form attached to this Bylaw as Schedule "A", with Davara Holdings Ltd., or its nominee, with respect to lands known as Lot 6, District Lot 14, ODYD, Plan KAP92715, located at 550 Rowcliffe Avenue and Lot 5, District Lot 14, ODYD, Plan KAP92715, located at 555 Buckland Avenue, which Housing Agreement shall be executed and delivered concurrently with or following the transfer of such lands from the City of Kelowna to Davara Holdings Ltd., or its nominee.
2. The Mayor and City Clerk are hereby authorized to execute the attached agreement as well as any conveyances, deeds, receipts or other documents in connection with the attached agreement.
3. This bylaw may be cited for all purposes as "Bylaw No. 10850, being "Housing Agreement Authorization Bylaw for Rowcliffe Avenue and 555 Buckland Avenue with Davara Holdings Ltd."
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, second and third time by the Municipal Council this 21st day of October, 2013.

Adopted by the Municipal Council of the City of Kelowna this

Mayor

City Clerk

Schedule "A"

PURPOSE-BUILT RENTAL HOUSING AGREEMENT & SECTION 219 COVENANT

THIS AGREEMENT dated for reference October __, 2013 is:

BETWEEN:

DAVARA HOLDINGS LTD. (Inc. No. BC0797640),
#1 - 911 Borden Avenue
Kelowna, British Columbia V1Y 6A5

(the "Owner")

AND:

CITY OF KELOWNA
1435 Water Street
Kelowna, British Columbia V1Y 1J4

(the "City")

GIVEN THAT:

- A. The Owner is the registered owner of the land and all improvements thereon and thereto legally described in the *Land Title Act* Form C attached to and forming part this Agreement (the "Land");
- B. Pursuant to a Purchase and Sale Agreement between the Owner and the City dated for reference February 25, 2013, the Owner purchased the Land from the City and agreed to enter into this Agreement to restrict the subdivision, development, use and occupation of the Land and all buildings from time to time thereon, to have effect as both a covenant under section 219 of the *Land Title Act* and a housing agreement under section 905 of the *Local Government Act*; and
- C. Council of the City has adopted a bylaw authorizing this Agreement pursuant to section 905 of the *Local Government Act*.

This Agreement is evidence that in consideration of \$10.00 paid by the City to the Owner, and other good and valuable consideration, the receipt of which the Owner hereby acknowledges, the City and the Owner agree, pursuant to section 905 of the *Local Government Act* and section 219 of the *Land Title Act*, as follows:

ARTICLE 1 DEFINITIONS AND PURPOSE

1.1 Definitions - In this Agreement, in addition to terms defined elsewhere:

"Caregiver" means an individual who provides assistance with the performance of the personal functions and activities necessary for daily living that a person is unable to perform efficiently for himself or herself.

"Dwelling Unit" means accommodation containing sleeping rooms, washrooms and no more than one kitchen per dwelling unit, intended for domestic use and used or intended to be used permanently or semi permanently for occupation by a Household. For clarity, this use does not include a room in a hotel or a motel.

"Household" means

- (a) a person;

Schedule "A"

Page 2 of 6 Pages

- (b) two or more persons related by blood, marriage, or adoption or associated through foster care, all living together in one Dwelling Unit as a single household using common cooking facilities;
- (c) a group of not more than five persons, including boarders, who are not related by blood, marriage, or adoption, or associated through foster care, all living together in one Dwelling Unit as a single household using common cooking facilities; or
- (d) a combination of (b) and (c), provided that the combined total does not include more than 5 persons unrelated by blood, marriage or adoption or associated through foster care, all living together in one Dwelling Unit as a single household using common cooking facilities.

In addition, a household may also include up to one Caregiver or nanny.

"Sleeping Unit" means a habitable room not equipped with self-contained cooking facilities, providing accommodation for guests.

"Special Needs Housing" means housing for Households or Supportive Housing that meet the criteria for a core need for housing including but not limited to seniors or persons without children who lack safe and secure housing or are leaving an abusive relationship, single parents and children who are at risk, street youth or homeless persons, or people with mental or physical disabilities, illnesses, or dependencies.

"Supportive Housing" means housing consisting of dwellings with support services on-site that may or may not include collective dining facilities, laundry facilities, counselling, educational services, homemaking and transportation. Supportive housing might also qualify as Special Needs Housing.

"Congregate Housing" means housing in the form of multiple sleeping units where residents are provided with common living facilities, meal preparation, laundry services and room cleaning. Congregate housing may also include other services such as transportation for routine medical appointments and counselling.

"Purpose-Built Rental Housing" means a self-contained building(s) containing three or more Dwelling Units that are intended to be used for rental housing.

- 1.2 **Purpose of Agreement** - The Owner and the City agree that this Agreement is intended to serve the public interest by providing for occupancy of a certain number of Dwelling units and Supportive Housing of the kinds provided for in this Agreement, that are in demand in the City of Kelowna but that are not readily available.

ARTICLE 2 DEVELOPMENT, SUBDIVISION AND OCCUPANCY RESTRICTIONS

- 2.1 **Development and Subdivision Restrictions** - The Owner covenants and agrees with the City as follows:
- (a) The Land and all buildings from time to time thereon must be used only in accordance with this Agreement.
 - (b) The Owner will design, construct and maintain a building or buildings on the Land providing a minimum of 30 Dwelling Units, as Purpose-Built Rental Housing, Congregate Housing and or Sleeping Units including related Supportive Housing supportive services facilities and no other Units shall be constructed or placed on the Land.
 - (c) The Land and any buildings from time to time thereon shall not be subdivided by any means

Schedule "A"

Page 3 of 6 Pages

whatsoever, including, by deposit of subdivision plan, reference or explanatory plan or strata plan of any kind under the *Strata Property Act* or by any scheme involving shared interests in land, prior to the expiration of this agreement or upon approval from the City of Kelowna.

2.2 Occupancy, Tenure and Management Requirements and Restrictions - The Owner covenants and agrees with the City as follows:

- (a) Every Dwelling Unit or Sleeping Unit on the Land that is not occupied by a person or person(s) defined under **Special Needs Housing** must be rented or leased pursuant to the *British Columbia Residential Tenancy Act*
- (b) The Owner will, from time to time upon the City's request, provide to the City copies of all then current leases and rental agreements pertaining to the Dwelling or Sleeping Units on the Land and a statutory declaration, in a form provided by the City, certifying that all such copies are true copies and that there are no other then current leases or rental agreements in relation to any Dwelling Units on the Land and solemnly declaring the same to be true, sworn by the Owner or, if the Owner is a corporation, a senior officer of the Owner, before a commissioner for the taking of affidavits in the Province of British Columbia.
- (c) The Owner shall furnish good and efficient management of all Dwelling Units on the Land and will maintain all Dwelling Units on the Land in a good state of repair and fit for habitation and will comply with all enactments, including health and safety standards, applicable to the Land and the Dwelling Units.
- (d) The Owner shall, upon request from the City from time to time, acting reasonably, hire, at the Owner's expense, a person or company with the skill and expertise to manage the Dwelling Units on the Land as required by this Agreement.
- (e) The Owner will permit representatives of the City to inspect the Dwelling Units at any reasonable time, subject to the notice provisions of the *Residential Tenancy Act*.

ARTICLE 4 GENERAL

4.1 Notice of Housing Agreement - For clarity, the Owner acknowledges and agrees that:

- (a) this Agreement constitutes both a covenant under section 219 of the *Land Title Act* and a housing agreement entered into under section 905 of the *Local Government Act*;
- (b) the City is required to file a notice of housing agreement in the land title office against title to the Land; and
- (c) once such a notice is filed, this Agreement binds, as a housing agreement under section 905 of the *Local Government Act*, all persons who acquire an interest in the Land .

4.2 No Effect On Laws or Powers - This Agreement does not

- (a) affect or limit the discretion, rights, duties or powers of the City under any enactment or at common law, including in relation to the use or subdivision of land,
- (b) impose on the City any legal duty or obligation, including any duty of care or contractual or other legal duty or obligation, to enforce this Agreement,
- (c) affect or limit any enactment relating to the use or subdivision of land, or

Schedule "A"

Page 4 of 6 Pages

- (d) relieve the Owner from complying with any enactment, including in relation to the use or subdivision of land.
- 4.3 **Notice** - Any notice which may be or is required to be given under this Agreement must be in writing and either be delivered or mailed to the applicable address identified above, provided that notice to the Owner may be given to the address for the Owner shown from time to time on title to the Land in the land title office. Any notice which is delivered is to be considered to have been given on the day it is delivered. Any notice which is sent by mail is to be considered to have been given on the fifth business day after it is deposited at a Canada Post mailing point. If a party changes its address or facsimile number, or both, it must promptly give notice of its new address or facsimile number, or both, to the other party as provided in this section.
- 4.4 **Agreement Runs With the Land** - This Agreement runs with and burdens, and binds the successors in title to, the Land each and every part into which the Land may be subdivided by any means.
- 4.5 **Discharge** - The City will execute and deliver to the Owner a release of this Agreement, in registrable form prepared and registered by and at the expense of the Owner, discharging this Agreement from title to the Land as a section 219 covenant and a legal notation if:
 - (a) at least 15 years have elapsed following the date this Agreement is registered in the land title office as a section 219 covenant against title to the Land; and
 - (b) the Owner has repaid to the City any grant monies provided by the City for the construction of the purpose-built rental housing on the Land.
- 4.6 **Release** - The Owner by this Agreement releases and forever discharges the City and its elected and appointed officials, officers, employees and agents, and its and their heirs, executors, administrators, personal representatives, successors, and assigns, from and against all claims, demands, damages, actions, or causes of action by reason of or arising out of advice or direction respecting the ownership, lease, operation or management of the Land or the Dwelling Units on the Land which has been or at any time after the execution of this Agreement may be given to the Owner by all or any of them. This clause will survive the termination of this Agreement.
- 4.7 **No Partnership or Joint Venture** - Nothing in this Agreement will constitute the Owner as the agent, joint venturer, or partner of the City or give the Owner any authority to bind the City in any way.
- 4.8 **Waiver** - An alleged waiver of any breach of this Agreement is effective only if it is an express waiver in writing of the breach. A waiver of a breach of this Agreement does not operate as a waiver of any other breach of this Agreement.
- 4.9 **Further Acts** - The Owner shall do everything reasonably necessary to give effect to the intent of this Agreement, including execution of further instruments.
- 4.10 **Severance** - If any part of this Agreement is held to be invalid, illegal or unenforceable by a court having the jurisdiction to do so, that part is to be considered to have been severed from the rest of this Agreement and the rest of this Agreement remains in force unaffected by that holding or by the severance of that part.
- 4.11 **Specific Relief** - The Owner acknowledges and agrees that damages would be an inadequate remedy for the City for breach of this Agreement and that the public interest strongly favours specific performance, injunctive relief (mandatory or otherwise), or other equitable relief, as the only adequate remedy for a default under this Agreement.

Schedule "A"

Page 5 of 6 Pages

4.12 Interpretation - In this Agreement:

- (a) reference to the singular includes a reference to the plural, and vice versa, unless the context requires otherwise;
- (b) article and section headings have been inserted for ease of reference only and are not to be used in interpreting this Agreement;
- (c) reference to a particular numbered section or article, or to a particular lettered Schedule, is a reference to the correspondingly numbered or lettered article, section or Schedule of this Agreement;
- (d) if a word or expression is defined in this Agreement, other parts of speech and grammatical forms of the same word or expression have corresponding meanings;
- (e) the word "enactment" has the meaning given in the *Interpretation Act* on the reference date of this Agreement;
- (f) reference to any enactment includes any regulations, orders or directives made under the authority of that enactment;
- (g) reference to any enactment is a reference to that enactment as consolidated, revised, amended, re-enacted or replaced, unless otherwise expressly provided;
- (h) the provisions of s. 25 of the *Interpretation Act* with respect to the calculation of time apply;
- (i) time is of the essence;
- (j) all provisions are to be interpreted as always speaking;
- (k) reference to a "party" is a reference to a party to this Agreement and to their respective successors, assigns, trustees, administrators and receivers;
- (l) reference to a "day", "month", "quarter" or "year" is a reference to a calendar day, calendar month, calendar quarter or calendar year, as the case may be, unless otherwise expressly provided;
- (m) the definitions given in the City of Kelowna Zoning Bylaw No. 8000 apply for the purposes of this Agreement; and
- (n) any act, decision, determination, consideration, consent or exercise of discretion by a party, or other person, as provided in this Agreement must be performed, made or exercised acting reasonably.

4.13 **No Other Agreements** - This Agreement is the entire agreement between the parties regarding its subject and it terminates and supersedes all other agreements and arrangements regarding its subject.

4.14 **Amendment** - This Agreement may be amended only by an instrument duly executed by both the Owner and the City.

4.15 **Enurement** - This Agreement binds the parties to it and their respective successors, heirs, executors and administrators.

4.16 **Deed and Contract** - By executing and delivering this Agreement each of the parties intends to create

Schedule "A"

both a contract and a deed executed and delivered under seal.

As evidence of their agreement to be bound by the terms of this Agreement, the parties have each executed the Part 1 of the Land Title Act Form C attached to and forming part of this Agreement.

IN WITNESS WHEREOF the parties hereunto have executed this Agreement on the date and year first above written.

SIGNED, SEALED & DELIVERED in the presence of:)

Denise Davies
Signature of Witness)

Denise Davies
Print Name)

1435 Water St
Address)

PLANNING TECHNICIAN
Occupation)

DAVARA HOLDINGS LTD.
by its authorized signatories:

[Signature]
Print Name: David Sargent

Print Name:

DENISE I. DAVIES
A COMMISSIONER FOR TAKING
AFFIDAVITS FOR BRITISH COLUMBIA
1435 Water Street, Kelowna, BC

SIGNED, SEALED & DELIVERED in the presence of:)

Signature of Witness)

Print Name)

Address)

Occupation)

CITY OF KELOWNA
by its authorized signatories:
