

City of Kelowna Public Hearing AGENDA



Tuesday, June 30, 2015
6:00 pm
Council Chamber
City Hall, 1435 Water Street

Pages

1. Call to Order

THE CHAIR WILL CALL THE HEARING TO ORDER:

1. (a) The purpose of this Hearing is to consider certain bylaws which, if adopted, shall amend *Kelowna 2030 - Official Community Plan* Bylaw No. 10500 and Zoning Bylaw No. 8000.

(b) All persons who believe that their interest in property is affected by the proposed bylaws shall be afforded a reasonable opportunity to be heard or to present written submissions respecting matters contained in the bylaws that are the subject of this hearing. This Hearing is open to the public and all representations to Council form part of the public record. A live audio feed may be broadcast and recorded by Castanet.

(c) All information, correspondence, petitions or reports that have been received concerning the subject bylaws have been made available to the public. The correspondence and petitions received after June 16, 2015 (date of notification) are available for inspection during the course of this hearing and are located on the information table in the foyer of the Council Chamber.

(d) Council debate on the proposed bylaws is scheduled to take place during the Regular Council meeting after the conclusion of this Hearing. It should be noted, however, that for some items a final decision may not be able to be reached tonight.

(e) It must be emphasized that Council will not receive any representation from the applicant or members of the public after conclusion of this Public Hearing.

2. Notification of Meeting

The City Clerk will provide information as to how the Hearing was publicized.

3. Individual Bylaw Submissions

- 3.1 205 Lougheed Road, BL11100 (TA14-0021), BL11101 (OCP14-0023) & BL11102 (Z14-0048) - Watermark Ventures Ltd. 4 - 53**

To create the CD25 - Light Industrial / Residential Mixed Use zone and to rezone the subject property to CD25 - Light Industrial / Residential Mixed Use zone in order to develop a 9 residential unit and 9 industrial unit development.

- 3.2 883 McCurdy Place, BL11104 (Z15-0012) - Hyatt Auto Sales Ltd. 54 - 59**

To consider a Rezoning application to rezone the subject property from the I1 - Business Industrial zone to the I2 - General Industrial zone to allow general industrial uses with outdoor storage.

4. Adjourn to Regular Meeting

5. Reconvene Public Hearing

6. Individual Bylaw Submissions

- 6.1 700 Highway 33 East, TA15-0002 - Hillcrest Farm Market Inc. 60 - 103**

To amend the A1 - Agriculture 1 zone to permit the use of a primary food establishment (Café) at 700 Hwy 33 E in accordance with Agricultural Land Commission Resolution # 101/2014.

7. Terminate Public Hearing and Reconvene Regular Meeting

8. Procedure on each Bylaw Submission

- (a) Brief description of the application by City Staff (Land Use Management);
- (b) The Chair will request that the City Clerk indicate all information, correspondence, petitions or reports received for the record.
- (c) The applicant is requested to make representation to Council regarding the project and is encouraged to limit their presentation to 15 minutes.
- (d) The Chair will call for representation from the public in attendance as follows:
 - (i) The microphone at the public podium has been provided for any person(s) wishing to make representation at the Hearing.
 - (ii) The Chair will recognize ONLY speakers at the podium.
 - (iii) Speakers are encouraged to limit their remarks to 5 minutes, however, if they have additional information they may address Council again after all other members of the public have been heard a first time.

(e) Once the public has had an opportunity to comment, the applicant is given an opportunity to respond to any questions raised. The applicant is requested to keep the response to a total of 10 minutes maximum.

(f) Questions by staff by members of Council must be asked before the Public Hearing is closed and not during debate of the bylaw at the Regular Meeting, unless for clarification.

(g) Final calls for representation (ask three times). Unless Council directs that the Public Hearing on the bylaw in question be held open, the Chair shall state to the gallery that the Public Hearing on the Bylaw is closed.

Note: Any applicant or member of the public may use visual aids (e.g. photographs, sketches, slideshows, etc.) to assist in their presentation or questions. The computer and ELMO document camera at the public podium are available. Please ask staff for assistance prior to your item if required.

REPORT TO COUNCIL



Date: 1/16/2015
RIM No. 1250-30
To: City Manager
From: Urban Planning, Community Planning & Real Estate (AC)
Application: OCP14-0023, Z14-0048 & TA14-0021 **Owner:** Watermark Ventures Ltd.
Address: 205 Lougheed Road **Applicant:** CTQ Consultants Ltd.
Subject: Rezoning and Text Amendment Application
Existing OCP Designation: IND - Industrial
Proposed OCP Designation: IND-T Industrial - Transitional
Existing Zone: I1 - Business Industrial
Proposed Zone: CD25 - Light Industrial / Residential Mixed Use Zone

1.0 Recommendation

THAT Zoning Bylaw Text Amendment No. TA14-0021 to amend City of Kelowna Zoning Bylaw No. 8000 by amending Section 18 Comprehensive Development Zones as outlined in Schedule 'A', be considered by Council.

AND THAT Official Community Plan Amendment Application No. OCP14-0023 to amend the City of Kelowna Official Community Plan Bylaw No. 10500 by changing the Future Land Use designation of Lot A, Section 2, Township 23, ODYD, Plan KAP84518, located on 205 Lougheed Road, Kelowna, BC from IND - Industrial to IND-T Industrial - Transitional designation, be considered by Council;

AND THAT Rezoning Application No. Z14-0048 to amend the City of Kelowna Zoning Bylaw No. 8000 by changing the zoning classification of Lot A, Section 2, Township 23, ODYD, Plan KAP84518, located on 205 Lougheed Road, Kelowna, BC from the I1 - Business Industrial zone to CD25 - Light Industrial / Residential Mixed Use zone, be considered by Council;

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

AND THAT final adoption of the Zone Amending Bylaw be subsequent to the following:

1. Requirements of Development Engineering Branch being completed to their satisfaction;

AND FURTHER THAT Council direct Staff not to support any further industrial / residential mixed use applications until after Staff has reviewed the success of this application (1 year after occupancy permit has been granted for this development).

2.0 Purpose

To create the CD25 - Light Industrial / Residential Mixed Use zone and to rezone the subject property to CD25 - Light Industrial / Residential Mixed Use zone in order to develop a 9 residential unit and 9 industrial unit development.

3.0 Urban Planning

The Official Community Plan (OCP) designates the area as industrial which does not permit any residential uses. However, the Advisory Planning Commission and the previous Council endorsed an affordable housing strategy that stated the idea of mixing industrial and residential land uses should be explored. Therefore, Staff support the proposed OCP amendment, text amendment and rezoning to the CD25 - Light Industrial / Residential Mixed Use Zone as an experimental land use case study. Further, Staff recommends that Council not consider any further mixed industrial / residential applications until this development can be evaluated for its success at mitigating the inherent land use conflicts.

The founding principles of zoning and planning were to separate incompatible uses such as polluting industrial uses and residential uses. Ironically, recent planning trends have seen many previously thought incompatible uses with residential uses being mixed together. The City of Kelowna is not the only City considering mixed industrial and residential uses. The City of Vancouver is considering a residential-industrial project in the Strathcona Village area (see attached media article).

This application to mix light industrial uses with residential uses is seen as a way to facilitate affordable housing. The applicant explains the compatibility between the proposed residential and industrial uses will be controlled through the zoning regulations and within the strata bylaws (limiting the hours of operation for the industrial component). Further, the strata corporation could provide within their bylaws, notification to each industrial and residential tenant that they are living / operating within a mixed-use development.

The residential units may attract buyers/tenants that typically desire an affiliation with an industrial shop/work space. However, there will be no restrictions on who can occupy the units. The applicant feels that the volume of delivery trucks and vehicle trips will not pose a problem as sufficient and dedicated parking spaces, garages, and loading areas have been made available on the site. However, each residential unit only has access to one immediately adjacent parking stall. This increases the probability that residential parking may intermingle with the industrial parking. Each residential parking garage and residential unit will not be permitted to be converted into expanded industrial space as indicated in the proposed zoning regulations. This should avoid any potential "creep" of industrial activity into the residential area on the upper floor. Further, on-site storage of goods and materials for the businesses would be located indoors as outdoor storage is prohibited in the proposed CD-25 zone.

While the overall intent of this application is generally consistent with OCP policy, it should be noted that residential uses in industrial areas should be monitored as recommended in the Housing Strategy and Staff's recommendation. The purpose is to protect lands to serve industrial needs and to limit potential conflict between industrial and residential uses, which could threaten the viability of existing and future industrial operations.

If the zoning, OCP, and text amendment applications are approved, a Development Permit will be necessary to approve the form and character of the proposed development. Currently, there

remains unresolved design issues which will be resolved at Development Permit stage. These include:

- Minimum distance to residential units for fire department access.
- Maximum turning radius for fire department driveway access.

The applicant is required to hire a civil engineer to determine the finished grading prior to resolving the above issues. The applicant wished to gain approval of the proposed land use prior to engaging a civil engineer.

In fulfillment of Council Policy No. 367 respecting public consultation, the applicant undertook neighbour consultation program including a information session which was held on March 24th 2015. The details of the consultation are described in the Council Report 'Attachments'. The neighbouring residents brought up the following questions:

- Stability of slope below the residential area;
- Views overtop of the building;
- Access into the site and assurance that traffic would not have to go into their residential area;
- Type of use.

4.0 Proposal

4.1 Project Description

The applicant is proposing to rezone the subject property to allow a mixed use industrial and residential vertically-integrated building, located at 205 Lougheed Road. The subject property is situated between a light industrial precinct to the east (Hollywood Road) and a residential neighbourhood to the west (College Heights). The applicant is proposing to achieve the mixed uses into a single building regulated by a custom Comprehensive Development (CD) zone.

The uses permitted in the proposed CD zone are limited to light industrial uses (see attached CD zone). Residential development is only permitted above the first floor, and industrial uses are only permitted on the first floor. Industrial uses that were not included are: recycling depot, automotive repair, bulk fuel depots, gas bars, and other medium / heavy industrial uses. Typical industrial uses that are proposed include: commercial storage, equipment rentals, industrial high technology research and product design, custom indoor manufacturing, as well as other light industrial uses (for a full list industrial uses see the attached proposed Comprehensive Development zone).

The applicant's rationale letter states that the overlap in parking needs (hours of day) between industry workers / customers, and the residential tenants can be managed by the Strata Corporation and the City would not be responsible for regulating such issues. This provides some comfort to City Staff that the parking issues will be managed.

Light exposure and high illumination will be limited through the proposed zoning regulations and Development Permit guidelines. Regulations will help mitigate the lighting impacts on the residents in the evenings and night time while considering the needs of the industrial tenants to have sufficient illumination.

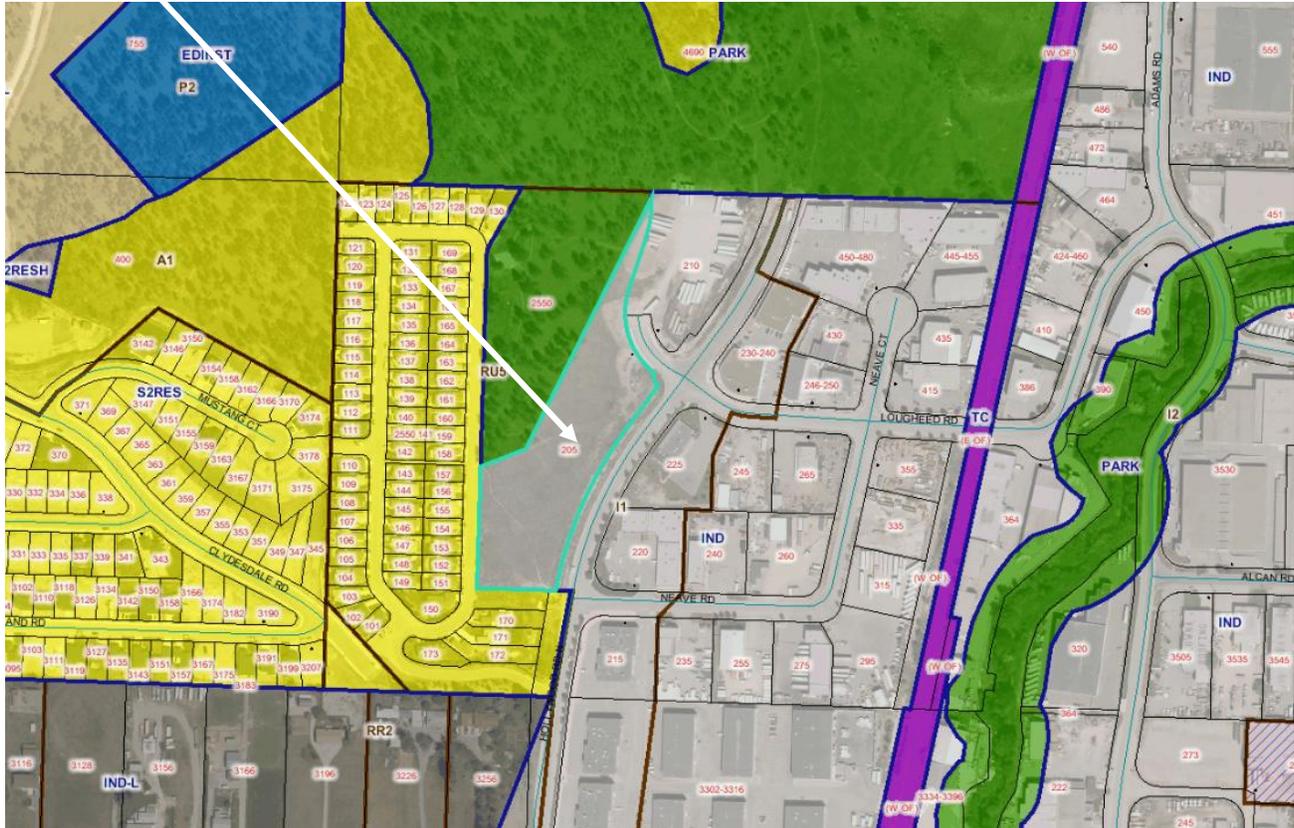
4.2 Site Context

The site is approximately 15,898 m² in area and is located within an Industrial area. The subject parcel is located adjacent to the College Heights bareland strata housing development. The

subject property is designated as Industrial (IND) in the OCP and the lot is within the Permanent Growth Boundary. Specifically, the adjacent land uses are as follows:

Orientation	Zoning	Land Use
North	RU5 - Bareland Strata Housing I1 - Business Industrial	Vacant Industrial
East	I1 - Business Industrial	Industrial
South	RU5 - Bareland Strata Housing I1 - Business Industrial	Residential Industrial
West	RU5 - Bareland Strata Housing	Residential

Subject Property Map: 205 Loughheed Ave



4.3 Zoning Analysis

See the attached CD-25 zone (Schedule 'A').

5.0 Current Development Policies

5.1 Kelowna Official Community Plan (OCP)

Development Process

Compact Urban Form.¹ 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

¹ City of Kelowna Official Community Plan, Policy 5.3.2 (Development Process Chapter).

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.

Sensitive Infill.² Encourage new development or redevelopment in existing residential areas to be sensitive to or reflect the character of the neighbourhood with respect to building design, height, and siting.

Industrial - Transition³. Light industrial and residential uses located in areas as a transition between industrial and residential that must include provision for residential use as live / work space. Generally the residential component would be adjacent to nearby residential uses and the industrial component would be adjacent to nearby industrial uses.

The Official Community Plan (OCP) designates the subject property as industrial which does not permit any residential uses, with the exception of a security operator unit. The proposed designation, Industrial - Transitional (IND-T), fits the proposed land uses. That designation states

“Light industrial and residential uses located in areas as a transition between industrial and residential that must include provision for residential use as live / work space. Generally the residential component would be adjacent to residential uses and the industrial component would be adjacent to nearby industrial uses.”

The subject property meets the criteria stated above with the exception of live / work space. All the residential and industrial units will have separate entrances. The location of the site fits the transitional industrial goal as there is residential located to the west and up the hill while being located adjacent to a future arterial road and an established industrial area to the east and down the hill.

The City of Kelowna’s Housing Strategy recommended:

"Housing as Secondary to Light Industrial:

Create policy to explore limited expansion of housing options as secondary uses in light/transitional industrial areas."

This was thought to be a way to create housing that may be less costly but attractive to specific populations like young working people and students. This recommendation was adopted into the Official Community Plan as Policy 5.29.2, Secondary Housing in Light Industrial Areas, supports consideration of "limited expansion of housing as a secondary use within industrial buildings in light or transitional industrial areas." Further the OCP’s future land use designation definition of Industrial (IND) states that it may also include Comprehensive Development (CD) zoning that provides for industrial uses.

6.0 Technical Comments

6.1 Building & Permitting Department

- a) Development Cost Charges (DCC’s) are required to be paid prior to issuance of any Building Permit(s)
- b) A Building Code analysis is required for the structure at time of building permit applications, but the following items may affect the form and character of the building(s):
- c) Any security system that limits access to exiting needs to be addressed in the code analysis by the architect.
- d) Access to the roof is required per NFPA and guard rails may be required and should be reflected in the plans if required.

² City of Kelowna Official Community Plan, Policy 5.22.6 (Development Process Chapter).

³ City of Kelowna Official Community Plan, Chapter 4 (Future Land Use).

- e) A second exit will be required for the upper storey deck that all the units access
- f) A Geotechnical report is required to address the sub soil conditions and site drainage at time of building permit application.
- g) Guards are required for all decks and parking areas. The drawings provided don't clearly identification of compliance to these minimum requirements, but will be reviewed at time of building permit application. The appearance of these guards may affect the form and character of the building.
- h) Fire resistance ratings are required for storage, janitor and/or garbage enclosure room(s). The drawings submitted for building permit is to clearly identify how this rating will be achieved and where these area(s) are located.
- i) An exit analysis is required as part of the code analysis at time of building permit application. The exit analysis is to address travel distances within the units, number of required exits per area, door swing direction, handrails on each side of exit stairs, width of exits etc.

6.2 Development Engineering

- See attached

6.3 Fire Department

- a) Construction fire safety plan is required to be submitted and reviewed prior to construction and updated as required.
- b) A visible address must be posted on Loughheed depending on access as per City of Kelowna By-Laws.
- c) Sprinkler drawings are to be submitted to the Fire Dept. for review when available. Ensure that isolation valves are at an acceptable level as per the COK Bylaw 10760.
- d) A fire safety plan as per section 2.8 BCFC is required at occupancy. The fire safety plan and floor plans are to be submitted for approval in AutoCAD Drawing format on a CD or DVD to facilitate Fire Department pre-planning for this structure. The fire safety plan should clearly detail the unique requirements for this structure. A copy of the sprinkler system owner's certificate is to be included in the fire safety plan.
- e) Fire Department access is to be met as per BCBC 3.2.5.6 - access to the residential area with a place to turn around?
- f) Fire Department steel lock box or key tube acceptable to the fire dept. is required by the fire dept. entrance. Kurt's Lock & Safe at 100A - 1021 Ellis Street, Kelowna is the approved supplier for flush mount lock boxes.
- g) All requirements of the City of Kelowna Fire and Life Safety Bylaw 10760 shall be met.
- h) Fire alarm system is to be monitored by an agency meeting the CAN/ULC S562 Standard.
- i) Contact Fire Prevention Branch for fire extinguisher requirements and placement.
- j) Fire department connection is to be within 45M of a fire hydrant - please ensure this is possible and that the FD connection is clearly marked and visible from the street.

7.0 Application Chronology

Date of Application Received: October 3rd 2014
Date of Public consultation: March 30th 2015

Report prepared by:

Adam Cseke, Planner

Reviewed by:



Ryan Smith, Urban Planning Manager

Attachments:

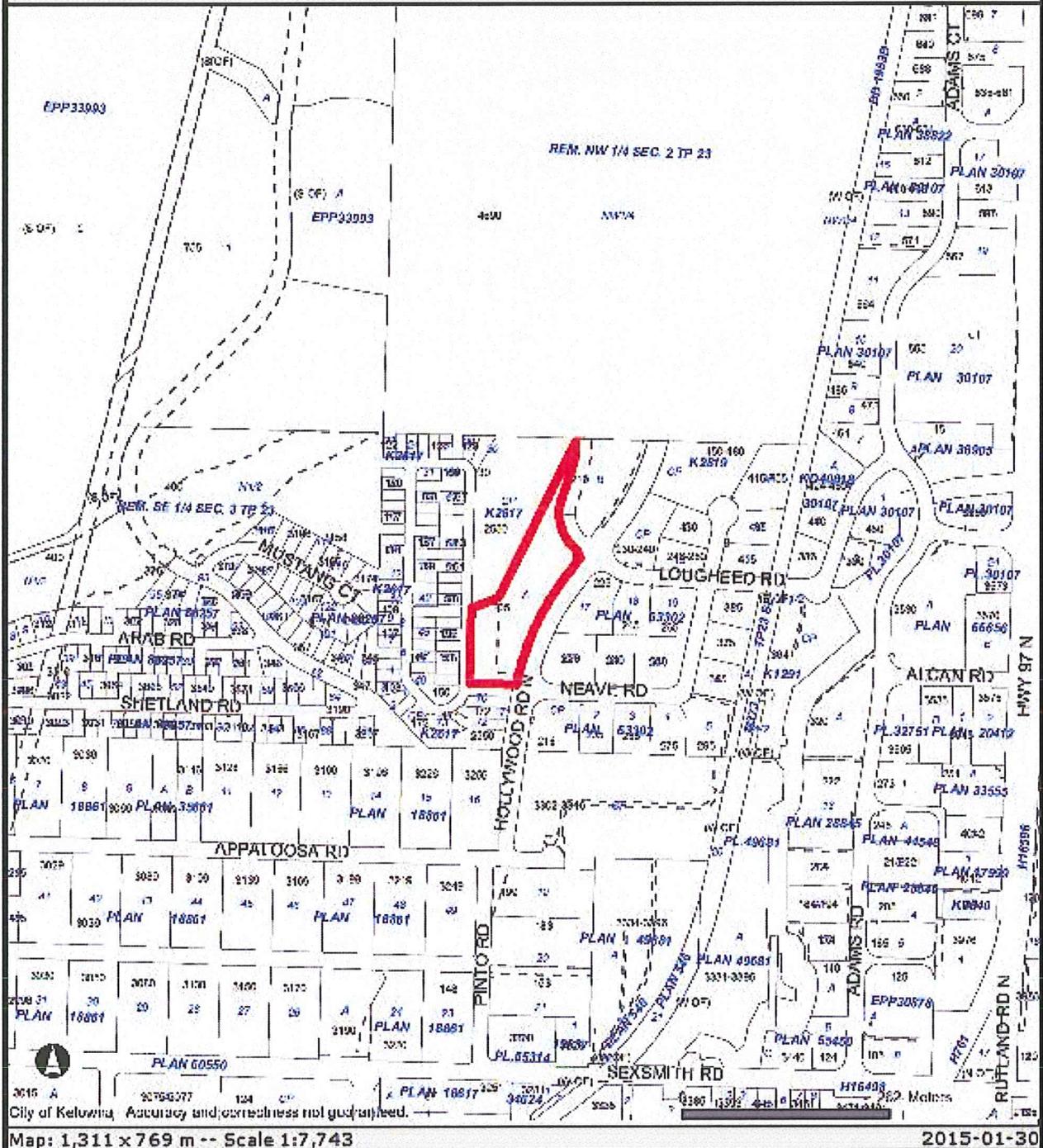
Subject Property Map
Applicant's rationale
Proposed CD-25 zone
Application Package
Development Engineering Comments dated Oct 28th 2014
Strathcona Village news article (January 20th 2015)

214-0048

TA14-0021



Subject Property



City of Kelowna Accuracy and correctness not guaranteed.

Map: 1,311 x 769 m -- Scale 1:7,743

2015-01-30



Community Planning
 1435 Water Street
 Kelowna, BC V1Y 1J4
 250-469-8626
 kelowna.ca

Application Form

Development Proposal

TYPE OF APPLICATION

Please check all that apply

<input checked="" type="checkbox"/> Rezoning	<input type="checkbox"/> Heritage Revitalization Permit
<input checked="" type="checkbox"/> Official Community Plan Amendment TEXT ONLY	<input type="checkbox"/> Heritage Alteration Permit
<input checked="" type="checkbox"/> Development Permit (all types)	<input type="checkbox"/> File Extension request
<input type="checkbox"/> Development Variance Permit	<input type="checkbox"/> LUC discharge
<input checked="" type="checkbox"/> Text Amendment	<input type="checkbox"/> Other:

APPLICANT

Development Application Primary Contact:

Full Legal Name:	
CTQ CONSULTANTS LTD (E. GRIFONE)	
Corporate Owner: (if applicable)	
Mailing Address:	
1334 ST. PAUL STREET	
City:	Postal Code:
KELOWNA BC	V1Y 2E1
Primary Contact No.:	Secondary Contact No.:
250-919-1221	250-212-6763
Email/ Fax:	
egrifone@ctqconsultants.ca	

Registered Owner(s) of the Property:

Full Legal Name:	
WATERMARK VENTURES LTD	
Corporate Owner: (if applicable)	
Mailing Address:	
#106 ACADEMY WAY	
City:	Postal Code:
KELOWNA BC	V1V 3C8
Phone:	Cell:
250-763-8840	250-878-7755
Email / Fax:	
Johnhertay@highlinerealty.com	

NOTE: If the applicant is other than the registered owner(s), a Letter of Authorization is required.

PROPERTY(IES) DESCRIPTION

Legal Description:	
LOTA SECTION 2 TOWNSHIP 23 OSOYDOS DIV. YALE DIST KAPB4518	
Civic Address:	
205 LOUGHEED ROAD	
Current Zoning:	Proposed Zoning:
	COMPREHENSIVE DEVELOPMENT
Purpose & Variances if any proposed:	
To Rezone the property from I1-Business Industrial to a Comprehensive Development zone (C.D) to permit a mixed use vertically integrated industrial-residential complex (strata) to accommodate 9 industrial units and 9 residential units.	
Form and Character D.P. materials are included herewith	

DEVELOPMENT PROPOSAL

Please describe your development proposal: (A supplemental letter of rationale is strongly encouraged to be submitted)

It has been determined that the subject property warrants a special approach due to the location and the topography of the site. A CD Zone is proposed for this unique approach and setting, and that accommodates a limited/controlled amount of light industrial that is compatible with residential (affordable) units. Rationale report along with the CD zone is attached.

COORDINATING PROFESSIONALS

List any professionals known to date (e.g. Architect, Landscape Architect, Engineer, Biologist, etc):

Name: ED GRIFONE, MCIP, RPP	
Title: SENIOR CONSULTANT/PRINCIPAL	
Address: 1334 ST. PAUL STREET	
Phone: 250-979-1221	Cell: 250-212-6763
Email: egrifone@ctqconsultants.ca	

Name: JIM MEIKLEJOHN, MAIBC, MRAC	
Title: ARCHITECT	
Address: 233 BERNARD AVE. KELOWNA	
Phone: 250-762-3004	Cell:
Email: jim@mai@shaw.ca	

(SEE) AP

APPLICANT CONFIRMATION

A. As applicant or approved agent, I confirm that I have read all relevant City of Kelowna bylaws and policies and that this application is in conformance (unless a bylaw amendment forms part of this application).

I have attached to this application the required plans and specifications of the proposed development in accordance with the application checklist. I accept responsibility for processing delays caused by incorrect or insufficient submission materials.

I understand that this application form is a public document and that any and all information contained in it, including personal information as that term is defined in the Freedom of Information and Protection of Privacy Act of B.C., is open for inspection by the public and may be reproduced and distributed to the public as part of a report(s) to Council or for purposes of a public hearing. I am aware that I am responsible to display and remove the development sign.

I understand that I am responsible for obtaining development authorizations and permissions from Telus, FortisBC, Terasen, and Shaw Cable and for providing the File Manager with copies of responses from these utilities.

B. I further acknowledge that Development Cost Charges (DCC's) may be payable at the time of subdivision or Building Permit for the construction of new dwelling units, commercial, institutional or industrial development.

Applicant Signature: *J. C. Injane* Dated: SEPT. 17. 2014

FEES

For completion by One Window Staff:

Fees submitted:	Received by:	Date:
-----------------	--------------	-------

Fees are as per City of Kelowna Development Application Fee Bylaw No. 10560 (kelowna.ca/bylaws). Acceptance of fees does not imply or guarantee application approval.



Community Planning
 1435 Water Street
 Kelowna, BC V1Y 1J4
 250-469-8626
 kelowna.ca

ZONING ANALYSIS TABLE

This zoning table applies to all Rezoning and Development Permit applications for:

- ▶ Multi-family / Intensive Residential
 - ▶ Commercial Development
 - ▶ Industrial Development
 - ▶ Comprehensive Development and Institutional Applications
 - ▶ Heritage Alteration Permit / Heritage Revitalization Permit
 - ▶ Development Variance Applications
 - ▶ Carriage House Application
 - ▶ Text Amendment
- ALL MEASUREMENTS TO BE PROVIDED IN METRIC*

This analysis table provides the applicant an opportunity to demonstrate that the proposal meets the regulations of the Zoning Bylaw 8000. Please refer to the Zoning Bylaw 8000 on line at kelowna.ca/bylaws when completing this table.

CRITERIA FOR COMMERCIAL, INSTITUTIONAL, INDUSTRIAL, MULTIPLE UNIT/INTENSIVE RESIDENTIAL APPLICATIONS *

Site Details:	Proposal
Site Area (m ²)	15,884
Site Width (m)	60
Site Depth (m)	22.5
Site Coverage of Building(s) (%)	15
Site Coverage buildings, driveways, and parking (%)	50

Development Regulations:	Proposal
Total number & break down of units	9 INDUSTRIAL / 9 RESIDENTIAL
Floor area gross / Floor area net	3,405 SM
Floor Area Ratio (FAR)	.20
Building height (stories/meters)	2 / 14 M
Building(s) Setbacks (m):	
Front	10
Side (include direction)	25 (E)
Side (include direction)	11.5 (W)
Rear	41
Number of Parking stalls/Loading spaces	55 (9 LOADING)
Setbacks to Parking (m):	N/A "MEETS REQUIREMENTS OF FUTURE ROAD WIDENING ALONG HOLLYWOOD ROAD N."
Front	
Side (include direction)	
Side (include direction)	
Rear	
Drive Aisle Width (m)	7
Number of Bicycle Parking Spaces	17 (9 FOR RES; 8 IND.)
Private open space	550 SM
Daylight Angle, Podium Height & Floor Plate Size (if a tower)	N/A



Engineering

Date: December 10, 2014

Project No: 12094

Planning

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

Urban Design

Attention: Mr. Adam Cseke, Planner

RE: Light Industrial-Residential CD Zone Application – Loughheed and Hollywood Rd. North

Further to our submission of September 17, 2014 and your reply of November 7, along with our recent meeting with you, Ryan Smith and members of the Building Dept, I am resubmitting the package, acknowledging the appropriate and necessary changes.

Please note the following action regarding your comments from the November 7 email:

Building Department

1. DCCs required prior to issuance of Building Permit – *Acknowledged*
2. Access to roof per NFPA if required – *Acknowledged*
3. A second exit will be required for the upper storey deck that all units access – *As per discussion; there was agreement that it is not required*
4. Fire walls between each unit as per the F2 article – *Acknowledged*
5. Geotechnical Report required at time of building permit application – *Acknowledged*
6. Guards are required for all decks and parking areas – *Acknowledged to be addressed at BP stage*
7. Fire resistance ratings – *See Code Review Summary (A2.00) attached*
8. An exit analysis is required as part of the code analysis at time of building permit application – *Acknowledged; See Code Review Summary (A2.00) attached (See Location of Access Routes)*

Fire Department

1. Location of Access Routes (residential units) – *Acknowledged; See Code Review Summary (A2.00) attached*
2. Fire Department pumper truck access routes – *Acknowledged; See Code Review Summary (A2.00) and Fire Truck Turning Plan (Oct 3, 2013) reflecting "Design Requirements for Access Routes" provided by City of Kelowna.*

- 3. Sprinklered building – See clarification in Code Review Summary (A2.00)
- 4. Unobstructed path of travel for firefighters – *Acknowledged; See Code Review Summary (A2.00) and Fire Truck Turning Plan (Oct 3, 2013).*
- 5. If portion of building is completely cut off from remainder (residential suites); location of access routes – *Acknowledged; See Code Review Summary and statement under "Fire Protection" 3.2.4/3.2.5/3.2.6*
- 6. Access Route Design - (Clear width of 6 m; centerline radius not less than 12 m; gradient change not more than 1 in 12.5 over min distance of 15 m; turnaround for any dead-end portion of the access route) – *Acknowledged; See Fire Truck Turning Plan (Oct 3, 2013) reflecting "Design Requirements for Access Routes" provided by City of Kelowna. Also see: Site Layout Plan for CL Radius.*
- 7. Fire Flow Requirements – *Acknowledged; please refer to "Fire Flow Calculation Sheet" prepared and signed by Matt Cameron, P.Eng. Also refer to Hydrants Area Plan, which includes new on-site hydrant.*

Planning and Design

- 1. CD Zone – *We have made changes in accordance to your suggestions. NOTE: It was difficult to understand all of your handmade comments, but if more changes are required, please let us know. It appears different staff had varying opinions. Our inclusions respect legal opinion, other bylaws in BC and our experience in preparing CD zones. Zone name has been changed to: "Light Industrial-Residential CD Zone", in accordance to your suggestion.*
- 2. DP Guideline – *One shade tree per parking stall – Acknowledged; Note that the DP drawing (LP-01) references the type and quantity of various tree species.*

Thank you for your feedback on our initial submission and for arranging the meeting with your Building Department officials. We would now appreciate having this application for rezoning move forward as quickly as possible. Any further questions, please do not hesitate to give me or Jim Meiklejohn a call to discuss.

Sincerely,


 Ed Grifone, MCIP, RPP
 Senior Consultant/Principal
 CTQ Consultants Ltd.

- C: Jim Meiklejohn, Meiklejohn Architects Inc.
- C: John Hertay, President, Watermark Ventures Ltd.

Enclosure

Introduction

Watermark Developments Ltd. of Kelowna, BC is proposing to rezone property to permit a mixed use industrial and residential vertically-integrated building, located at 205 Lougheed Road. This is a unique site that warrants a special zoning approach. The land is situated between a light industrial precinct on one side (Hollywood Road) and a residential neighbourhood on the other flank (College Heights). Highest and best use, and most compatible use, has been determined to be a combination of the two uses in one building; the lower floor accommodating light industrial uses, while the upper floor will accommodate residential uses. Due to the sloping topography of the site, the upper floor residential uses will be compatible with the nearby residential that is located just upslope from the proposed project.

A Comprehensive Development (CD) Zone is proposed to permit nine units of industrial and nine units of multi-family residential above the industrial uses. The project development and ultimate uses will be regulated by this CD zone (attached), development permit, building code, and covenants. Furthermore, a strata corporation will control the residential and industrial use responsibilities that extend beyond zoning regulations.

Watermark Developments and CTQ Consultants have discussed this unique but strategic development with City Planning Department staff. It was agreed that a rationale statement should accompany the (CD) Rezoning Application and Development Permit Submission. The following is offered for Council's consideration:

1. Protecting Employment Lands

The concern for the protection of "employment lands" from encroaching residential use should not apply here. Typically, mixed use industrial/residential are avoided due to the disparate uses that are in close proximity to one another. Industrial/employment land use will not be threatened in this case. The project does not subtract from the amount of building area for industrial use, if the land were developed under its current I1 zoning. In other words the residential component is added to the allowable industrial building area foot print.

2. Topographic Relief of Site

The topographic relief of the site allows for both buffer and transition towards the residential use in College Heights. The building has been designed and sited so that residential units that are located on the upper floor can relate to the College Heights residential area. The elevation of the residential uses provides a transition with the



Rezoning Rationale for Industrial/Residential Mixed Use Hollywood Road North

adjacent existing neighbourhood while offering a buffer to the industrial uses along Hollywood Road.

3. Compatibility between Residential and Industrial Uses

Relationship with adjacent industrial and the type of light/business industrial proposed for the site allows for complete compatibility. The proposed industrial use does not have the nuisances that would otherwise inhibit the businesses from conducting their work in the area. The permitted industrial uses are not much different from typical commercial uses that are often found in mixed use commercial/residential vertically integrated buildings. As an example a plumbing fixture store is a commercial use that would allow residential above. In this project the plumbing contractor's use (activity) is industrial and the residential would be above, similar to the commercial plumbing fixture use.

4. Size of Site is Limited

The mixed use building will be located in a confined area that would not have extraneous impacts due to the limitations of the size of the site. This implies full containment of the industrial uses and any associated activities.

5. Residential is Limited

Residential is a principal use, and is limited to only nine (9) units. This limits the amount of residents that will reside in close proximity to the industrial lands.

6. Control of Uses

The compatibility between residential and industrial uses can be easily controlled by zoning regulations, development permit provisions, building code, covenants, and by addressing the hours of operation for the industrial component. Further, the Strata Corporation will control the residential use and require each tenant to complete the Strata Property Act Form K that sets out the Tenant's Responsibilities. In addition an acknowledgement of the industrial uses on the property could be incorporated into the Form K.

"Notice of special restriction" can be signed (by both residential and industrial owners) to acknowledge living in a mixed-use development.



7. Residential Market Type

The residential units will attract special buyers/tenants that will typically desire an affiliation with an industrial shop/work space.

8. Delivery Vehicles

Delivery trucks and vehicles should not pose a problem as sufficient and dedicated parking spaces, garages and loading areas has been made available.

9. Storage

On-site storage of goods and materials for the businesses would only occur indoors.

The site premises would be kept clean and void of outdoor storage, consistent with a multi-family residential development and potentially cleaner than most commercial use areas.

10. Size of Industrial Units

Dimensions/size of industrial space for viable use is restricted by zoning and Development Permit.

11. Size of Residential Units

Size and Floor Area Ratio (FAR) limitations on the residential units are controlled by zoning. They are intended to be relatively small and affordable apartment units encouraging compatibility with the location and the mixed use concept.

12. Conversions

Parking garage and residential unit conversions will not be permitted as per zoning regulations.

This will avoid any potential "creep" of the industrial activity into the residential area on the upper floor.

13. Outdoor Lights

Light exposure/high lamination will be limited as per zoning regulations and DP.

This will help ensure disruption of the residents in the evenings and night time is avoided, but that there is sufficient lamination to meet industrial tenants' needs.



14. Parking Management

Overlap in parking needs (hours of day) between industry workers/customers and residential tenants can be managed by the Strata Corporation. The City would not be responsible for regulating such issues.

15. Nuisance Control

Noise, vibration, dust and other emissions are not permitted as per zoning or code (e.g. fire restrictive construction).

16. Retail

On-site retail would only be permitted as ancillary to primary/principal use. This implies retail traffic to the site would be extremely limited regardless of the ultimate industrial uses.

17. Additional Controls by D.P.

The Development Permit calls for landscaping, limited signs (amount and size) and low light lumination.

18. Disposal Bins

Trash and disposal bins for industrial tenants are kept separate from bins for residential tenants.

19. Affordable Housing

There is an emphasis in providing affordable housing that is near an employment area, the growing university and airport precinct.

This proposed project allows for the development of nine quality homes that are affordable to a cross-section of the market that is continuing to seek out attainable housing.

20. Industrial Jobs/Economic Impact

Industrial jobs are provided for local residents and students that may be attending nearby UBCO.

The development keeps industrial jobs intact while promoting compatibility with adjacent residential above the subject site.



Rezoning Rationale for Industrial/Residential Mixed Use Hollywood Road North

The residential component allows economic impact from the industrial use on a site that may otherwise be much more limited due to proximity to the single family residential area.

The industrial use permits 'flex' incubator space for a variety of small business enterprises.

21. Nuisance Complaints

Nuisance complaints will be minimized by ensuring that an active working and living environment will be developed and is central to the project.

22. Crime Prevention

Residents occupying the premises in the evenings and weekends will dissuade "break and enters" in the industrial units of the building and surrounding industrial buildings that are usually targeted because of limited policing in industrial areas.

CITY OF KELOWNA
BYLAW NO. 11100
TA14-0021 - New CD25 - Light Industrial-Residential Mixed Use Zone

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, **Section 1 - General Administration, 1.3 Zoning Map, 1.3.1** be amended by adding the following to the table under **Section 18 - Comprehensive Development Zone**:

CD25	Light Industrial-Residential Mixed Use Zone
------	---

2. AND THAT **Schedule 'B' - Comprehensive Development Zones**, be amended by adding a new **CD25 - Light Industrial-Residential Mixed Use Zone** as attached to and forming part of this bylaw.
3. This bylaw shall come into full force and effect and is binding on all persons as and from the date of adoption.

Read a first time by the Municipal Council this

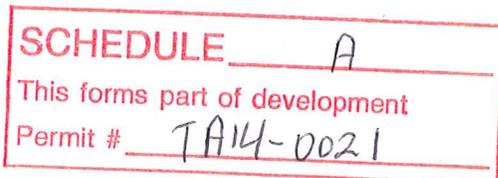
Considered at a Public Hearing on the

Read a second and third time by the Municipal Council this

Approved under the Transportation Act

(Approving Officer-Ministry of Transportation)

Adopted by the Municipal Council of the City of Kelowna this



Mayor

City Clerk

Schedule 'B' Comprehensive Development Zones

CD25 - Light Industrial-Residential Mixed Use Zone

1.1 Purpose

The intent of this zone is to permit a mixed light industrial and residential use development. The development will consist of residential uses in combination with small light industrial uses to be contained in the same structure. The purpose for this zone is to provide for a transition between the adjacent residential on one side and the light industrial on the other side. This strategic use of the site allows a residence in close proximity to a superior class of clean industrial and office space where compatibility amongst all uses is paramount.

1.2 Principal Uses

The principal uses in this zone are as follows:

- a) **broadcasting studios**
- b) **commercial storage**
- c) **contractor services, limited**
- d) **custom indoor manufacturing**
- e) **equipment rentals**
- f) **food primary establishment**
- g) **household repair services**
- h) **industrial high technology research and product design**
- i) **liquor primary establishment, minor**
- j) **mobile catering food services**
- k) **participant recreation services, indoor**
- l) **private clubs**
- m) **multiple dwelling housing**

1.3 Secondary Uses

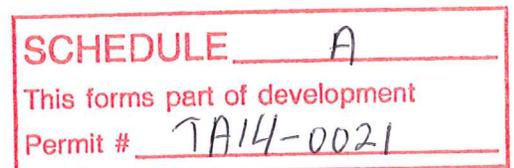
The secondary uses in this zone are as follows:

- a) **home based business, minor**
- b) **retail (ancillary to principle uses)**

1.4 General Conditions of Use

1.4.1 Industrial

- a) No use shall produce dust or other emissions that exceed standards set by provincial legislation without the authorization from appropriate provincial agency.



- b) No use shall produce odor, glare, vibration or noise that creates a nuisance or that impairs the use, safety or livability of adjacent properties including the residential units above the industrial.
- c) All principal uses, except residential, shall be confined to the lower units with all operations, storage, office and administration functions.
- d) Outdoor operations, storage or associated long term **vehicle** parking is not permitted on the premises.
- e) Contractors and other similar operators requiring fleet vehicles are not permitted to park more than two **vehicles** in outdoor parking areas.
- f) **Drive-in food services** are not a permitted form of development in this zone.
- g) All lighting shall be of a residential character in design, downward directional and constructed at the lowest elevation practical for the intended application so as to minimize light trespass to residential units above.
- h) Mezzanine floors within the first storey may only be used for office or light storage. Operations, residential use and associated industrial activity are not permitted on mezzanine floors.
- i) Principal uses other than residential are not permitted above the first storey.
- j) Auto body repair and paint shops are prohibited in this zone.

1.4.2 Residential

- a) All residential uses shall be located above the first storey.
- b) Garages for residential units shall be on the second storey, accessed from ground level from the rear of the building.
- c) Residential outdoor space is restricted to amenity areas on decks and balconies. Common landscaped areas are accessible as passive green space for all homeowners.
- d) Separate entrances to each residential unit will be located on the upper floor and separated from the industrial uses respecting all British Columbia Building Code requirements that are in force.
- e) **Home based businesses** shall only be permitted within a dwelling unit.

1.4.3 Outdoor Storage

- a) No outdoor storage of any kind is permitted.
- b) **Ancillary** storage shall not be permitted in compounds, **accessory buildings**, or **storage containers**. Outdoor storage racks are also not permitted on site, except when exchanging equipment and apparatus from inside the industrial

<p style="margin: 0;">SCHEDULE <u> A </u></p> <p style="margin: 0;">This forms part of development</p> <p style="margin: 0;">Permit # <u> JA 14-0021 </u></p>
--

units. Duration of such racking will not be permitted longer than one (24 hour) day.

- c) All garbage bins shall be located and screened in accordance with the City of Kelowna Zoning Bylaw requirements. Access for pick up and drop off of garbage bins shall not conflict with residential or customer traffic and parking.
- d) Trucks and company fleet vehicles may not be parked in designated on-site parking spaces while being used for storage, outdoor displays or sales and in any state of disrepair.

1.4.4 Parking

- a) Parking for residential tenants shall be separate from parking designated for the industrial uses and associated customers.
- b) Residential uses will be required to contain their own parking spaces within the structure in accordance to the City of Kelowna Zoning Bylaw.

1.4.5 Home Based Business

- a) A **home based business, minor** will be permitted in accordance to the City of Kelowna zoning provisions and only if associated with the principal residential use.
- b) A home occupation/home based business will not be permitted to occupy additional residential units in the building.

1.4.6 Retail Commercial

- a) Retail for the purposes of the CD25 zone means where goods, merchandise and other materials are offered for sale at retail to the general public.
- b) Retailing of any goods and services may only be permitted if such goods and services are directly related to the principal use, must entail minor retail occurrences and occupy very limited space to displays within the industrial unit. The maximum floor area devoted to retailing and such accessory activities shall not exceed 25% of the **gross floor area** of the **building(s)**.

1.4.7 Signs

- a) The type, size, design, amount and placement of signs shall be subject to Development Permit Area Guidelines and provisions of the City of Kelowna Sign Bylaw.

1.4.8 Landscaping, Screening and Fencing

- a) All landscaping of yards shall be in accordance with the City of Kelowna Zoning Bylaw.
- b) Visual screening of any appurtenances and equipment on building walls and rooftops is required in accordance with the Development Permit Area Guidelines.

SCHEDULE <u> A </u>
This forms part of development
Permit # <u> TA14-0021 </u>

- c) Garbage receptacles and bins must be screened from view with appropriate opaque fencing and landscape materials which are consistent with the overall site design.
- d) All other requirements shall be subject to the Development Permit Area Guidelines.

1.4.9 Appurtenances/Mechanical

- a) Vents, ducts, stacks and any other appurtenances or mechanical equipment that may be required for the lower floor uses shall not direct noise, dust or odors towards or onto the upper floor uses or adjacent uses.
- b) All external appurtenances and mechanical equipment must be designed to not be visually obtrusive or are to be properly screened.

1.5 Floor Area Ratio/Lot Coverage

- a) The maximum **floor area ratio** is 0.20.
- b) The maximum **site coverage** is 50% including building, drive lanes and parking areas.

1.6 Setbacks

- a) The minimum front yard is 10m for all buildings and structures.
- b) The minimum side yards are 25m (east side) and 11.5m (west side) for all buildings and structures.
- c) The minimum rear yard is 41m for all buildings and structures (abutting other zones).

1.7 Height

- a) The maximum height is 14m for the combined industrial and residential building.

1.8 Parking and Loading (Off-street)

- a) Parking shall be provided in accordance with the Parking and Loading regulations of the City of Kelowna Zoning Bylaw.
- b) Off-street parking space requirements for the industrial uses will account for 41 stalls, including space for tenants and customers.
- c) Off-street parking space requirements for the residential uses will account for 14 stalls, including the enclosed garages and visitor parking spaces.
- d) Loading and unloading bays are required at one stall per industrial unit (9 oversized stalls).

SCHEDULE <u> A </u>
This forms part of development
Permit # <u> TA14-0021 </u>

1.9 Development Permit Guidelines

- a) Every application for CD25 Zone shall be accompanied by an application for a Development Permit.

SCHEDULE A
This forms part of development
Permit # TA/4-0021



SCHEDULE A



m + m a

Hollywood mixed-use industrial building

shop front facing hollywood road north

sept 8, 2014



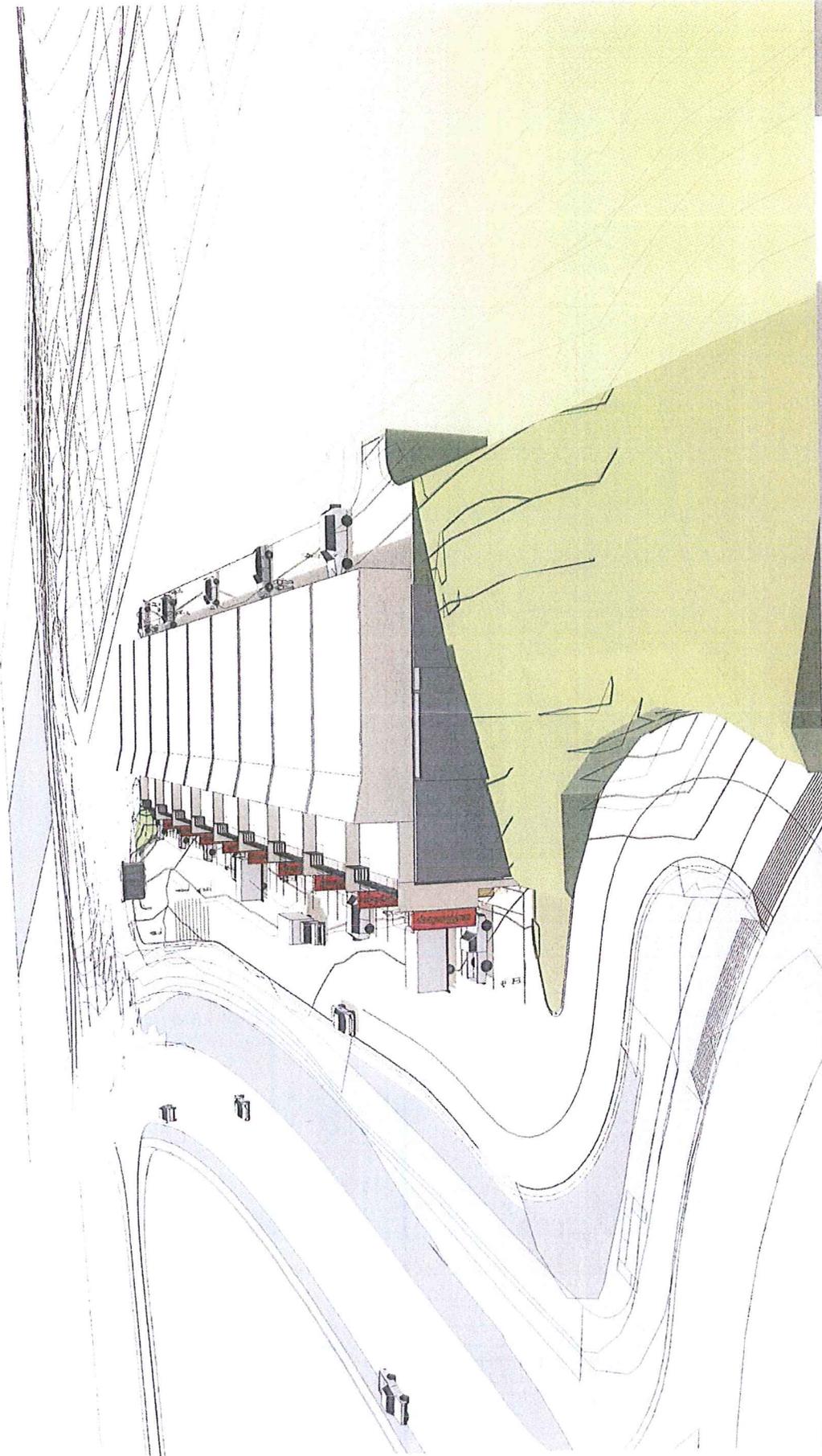
m + m a

Hollywood mixed-use industrial building

parking stalls at front of shop

sept 8, 2014

2



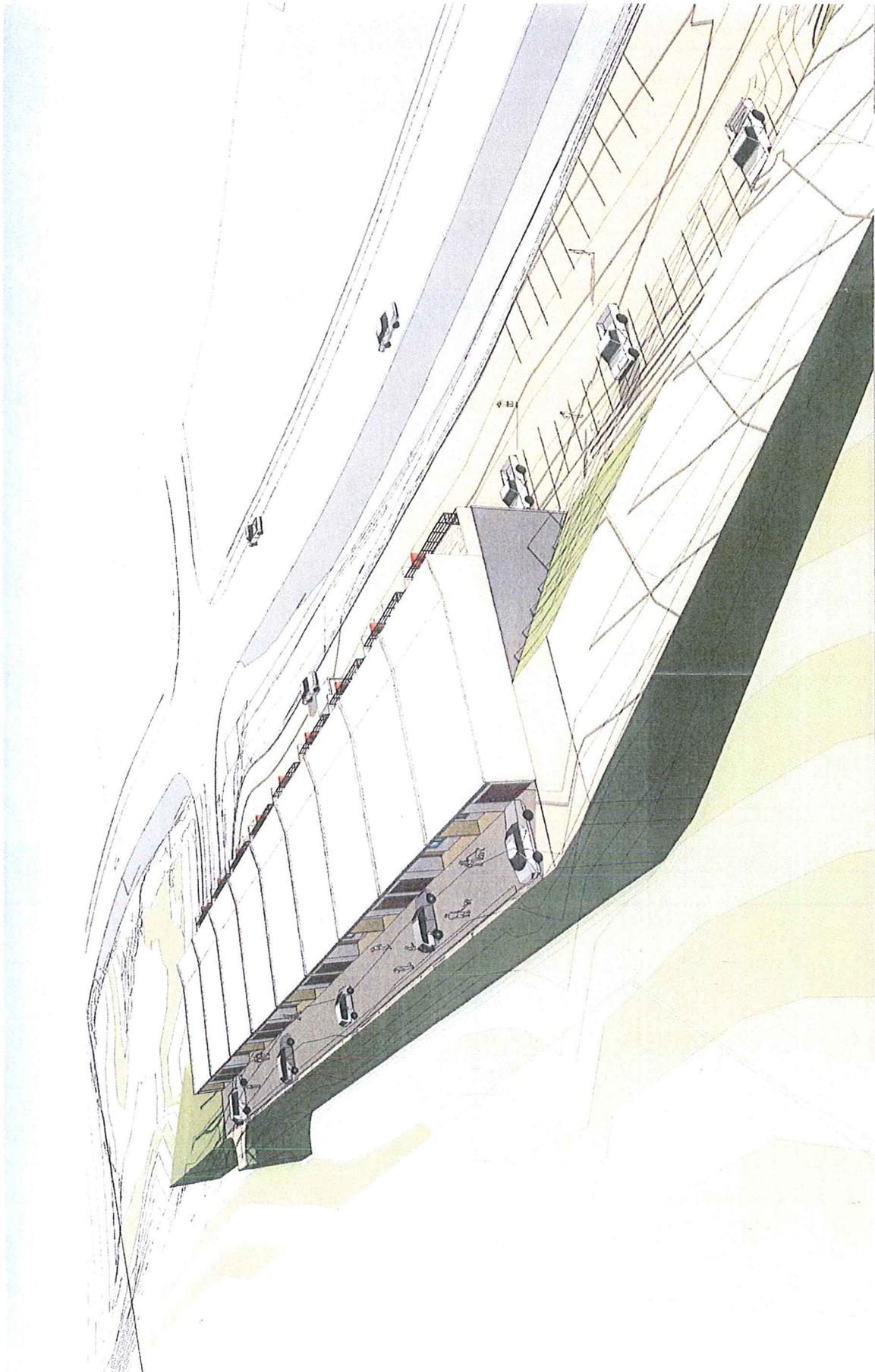
3

sept 8, 2014

aerial view of front & back of building

Hollywood mixed-use industrial building

m + m a



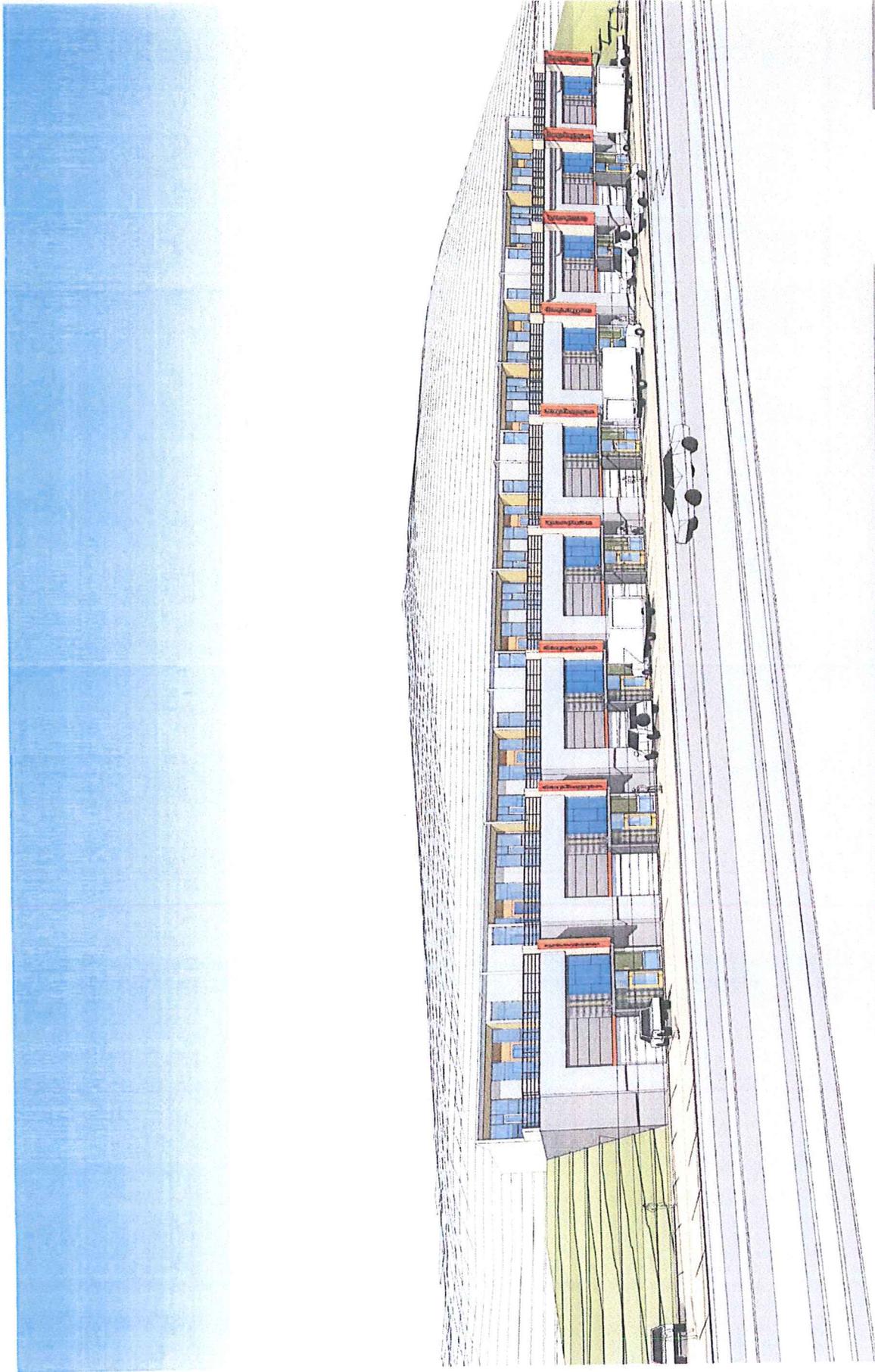
m + m a

Hollywood mixed-use industrial building

residential entry door & garage

sept 8, 2014

4



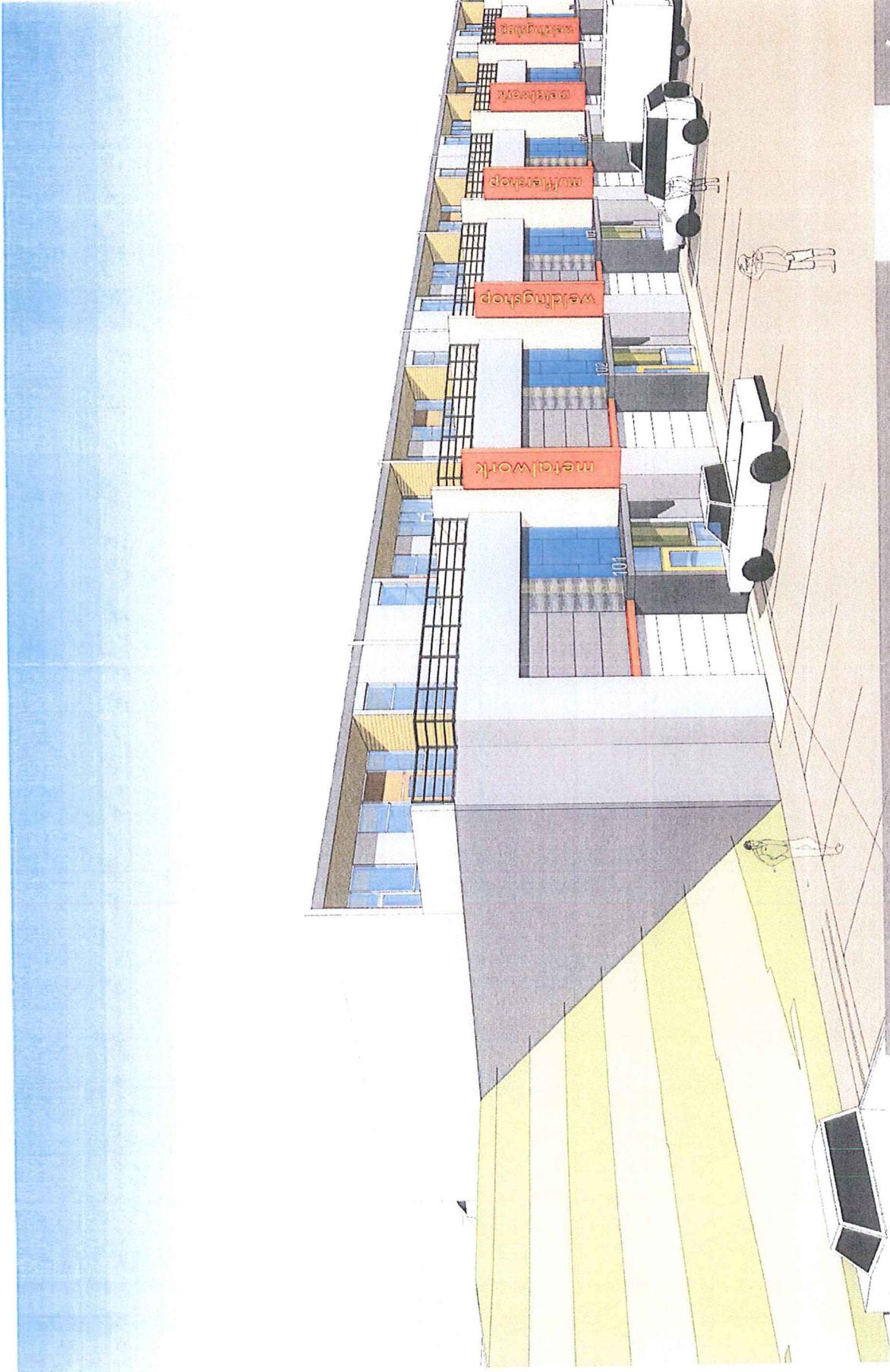
m + m a

Hollywood mixed-use industrial building

2nd floor residential deck

sept 8, 2014

5



m + m a

Hollywood mixed-use industrial building

parking stalls outside shop

sept 8, 2014

6

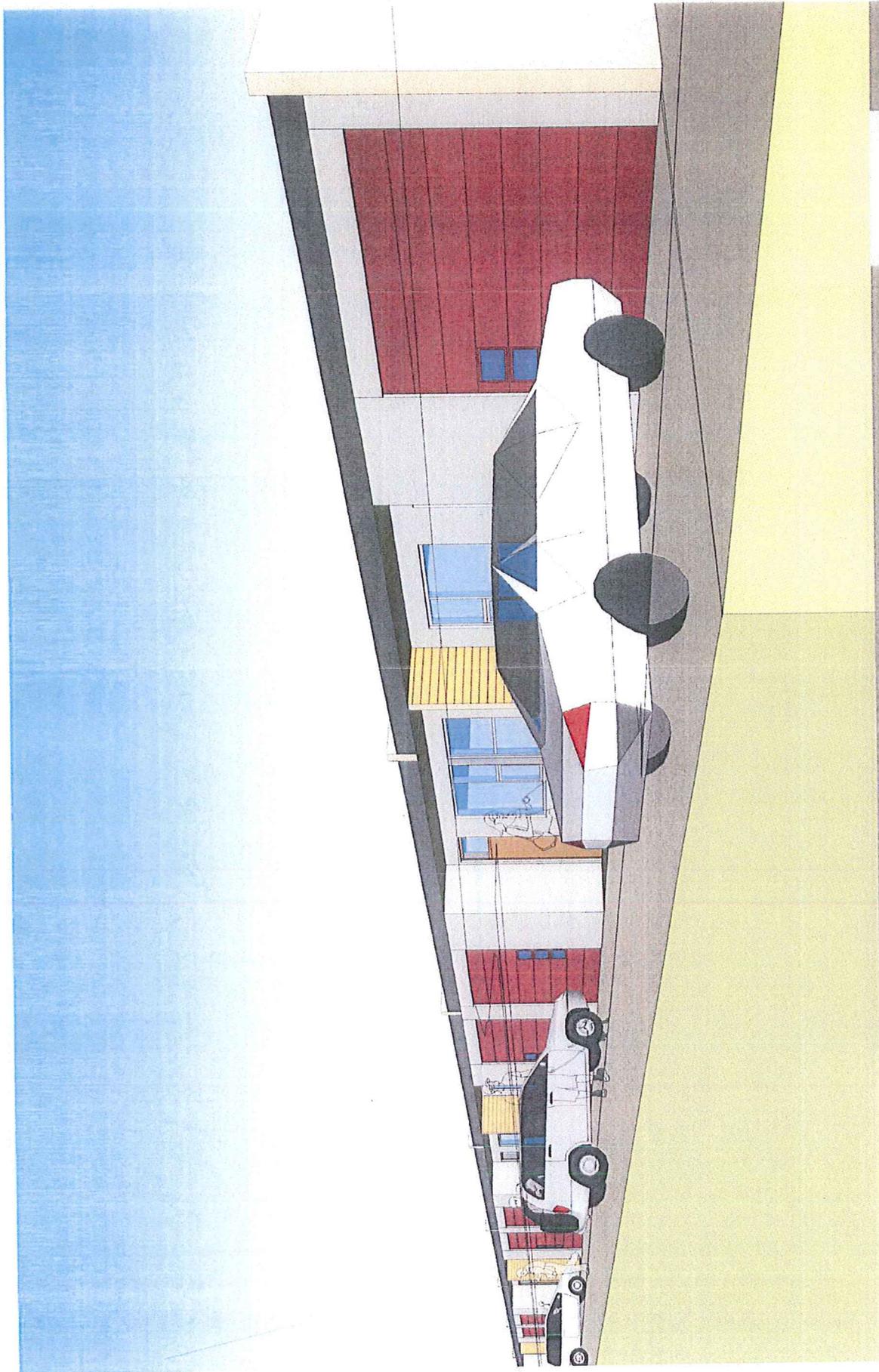


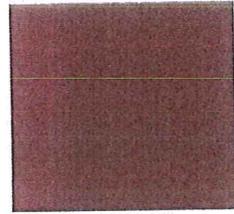
m + m a

Hollywood mixed-use industrial building

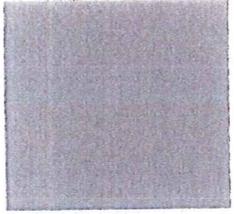
overhead door with shop entry door

sept 8, 2014

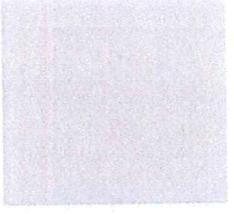




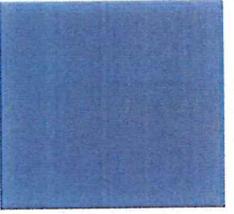
bm - AF-295
pomegranate



bm - 1615
rock gray



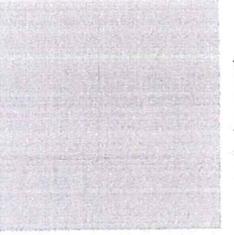
bm - 1613
silent night



bm - 2065-20
dark royal blue



bm - 2017-10
orange juice



metal panel



board-form
concrete

m + m a

Hollywood mixed-use industrial building

material board

sept 8, 2014

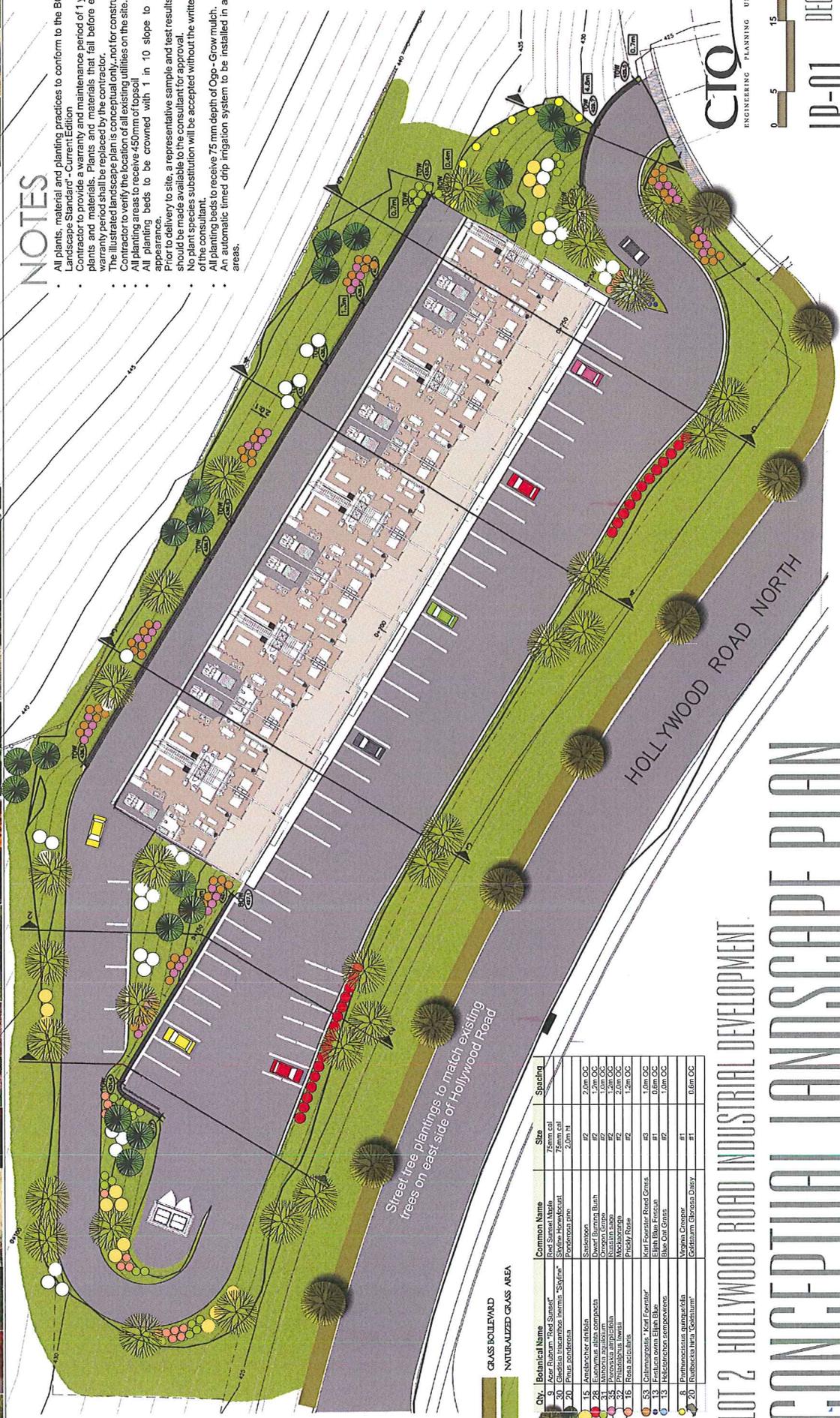
9



PROPOSED PLANT MATERIAL

NOTES

- All plants, material and planting practices to conform to the BCLNA BC Landscape Standard - Current Edition
- Contractor to provide a warranty and maintenance period of 1 year on all plants and materials. Plants and materials that fall before end of the warranty period shall be replaced by the contractor.
- The illustrated landscape plan is conceptual only, not for construction.
- Contractor to verify the location of all existing utilities on the site.
- All planting beds to be crowned with 1 in 10 slope to avoid flat appearance to site, a representative sample and test results of topsoil should be made available to the consultant for approval.
- No plant species substitution will be accepted without the written consent of the consultant.
- All planting beds to receive 75 mm depth of Ogo - Grow mulch.
- An automatic lined drip irrigation system to be installed in all planting areas.



CIO
ENGINEERING PLANNING URBAN DESIGN

IP-01

DEC. 2014

12/01/4

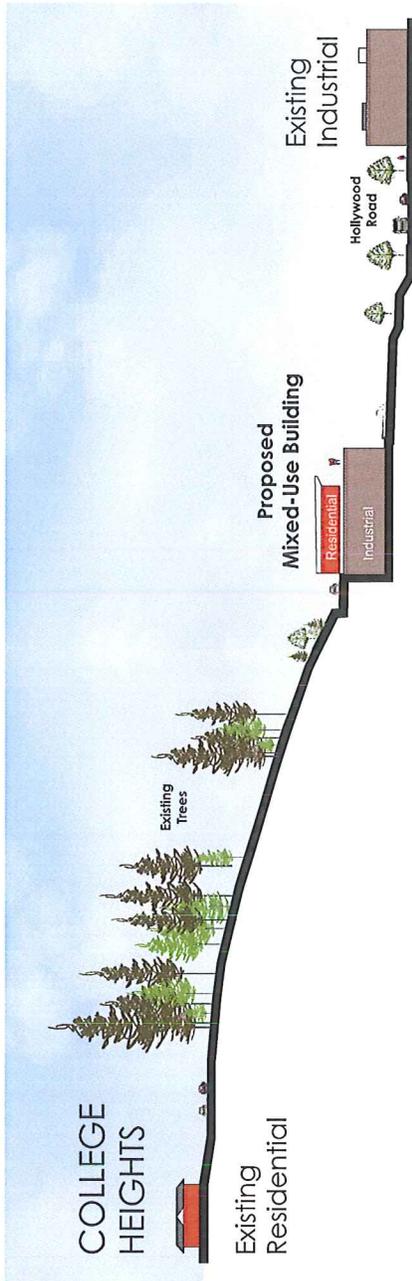
GRASS HOLLOWARD

NATURALIZED GRASS AREA

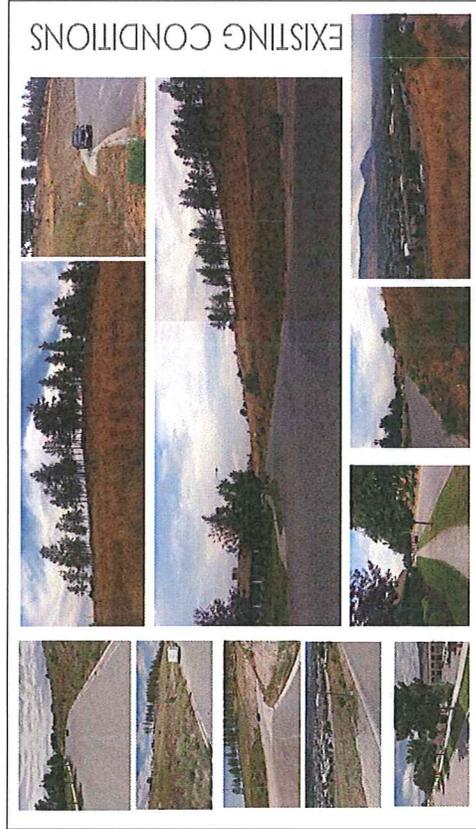
Street tree plantings to match existing trees on east side of Hollywood Road

Qty	Botanical Name	Common Name	Spacing	Size
6	Acer glabrum "Red Spire"	Red Spire Maple	7.5m call	7.5m call
30	Gleditsia triacanthos "Inermis" "Skyline"	Skyline Honeylocust	2.0m H	2.0m H
20	Pinus ponderosa	Ponderosa pine		
15	Arctostaphylos uva-ursi	Strawberry tree	Ø2	2.0m OC
28	Eucalyptus alata compacta	Dwarf Burning Bush	Ø2	1.2m OC
31	Mazonia aquilegifolia	Orange Gums	Ø2	1.0m OC
22	Philadelphus lewisii	Mockorange	Ø2	2.0m OC
16	Rosa acicularis	Priestly Rose	Ø2	1.2m OC
63	Calluna rosea "East Explorer"	Soft Explorer Field Gums	Ø3	1.0m OC
13	Fuchsia ovata Elph Blue	Elph Blue Fuchsia	Ø1	0.8m OC
15	Hebe pinnatifida	Blue Oat Gums	Ø2	1.0m OC
8	Raphanistrum alpinum	Alpine Crosser	Ø1	1.0m OC
20	Rubus chingii "Cockburn"	Giantstem Groundsley	Ø1	0.8m OC

LOT 2 HOLLYWOOD ROAD INDUSTRIAL DEVELOPMENT CONCEPTUAL LANDSCAPE PLAN



SCHEMATIC SECTION



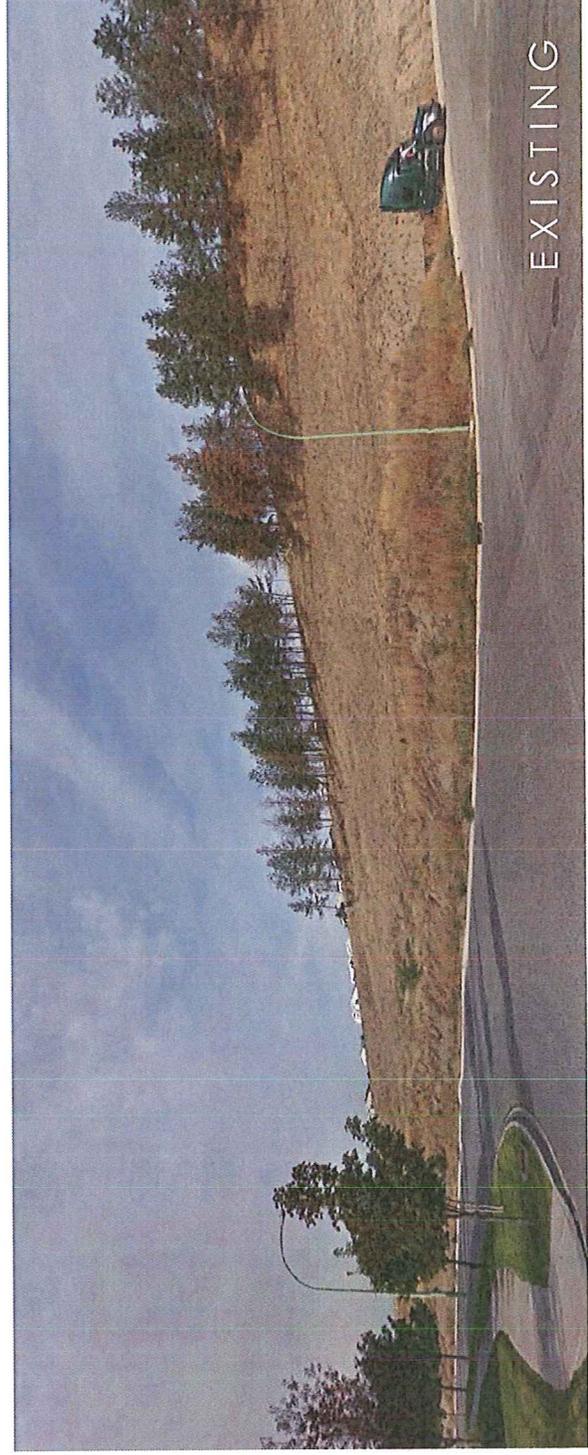
CONCEPTUAL LANDSCAPE PLAN

CTO
 ENGINEERING PLANNING URBAN DESIGN
 LP-02 MS DEC. 2014 12054

LOT 2 HOLLYWOOD ROAD INDUSTRIAL DEVELOPMENT



PROPOSED



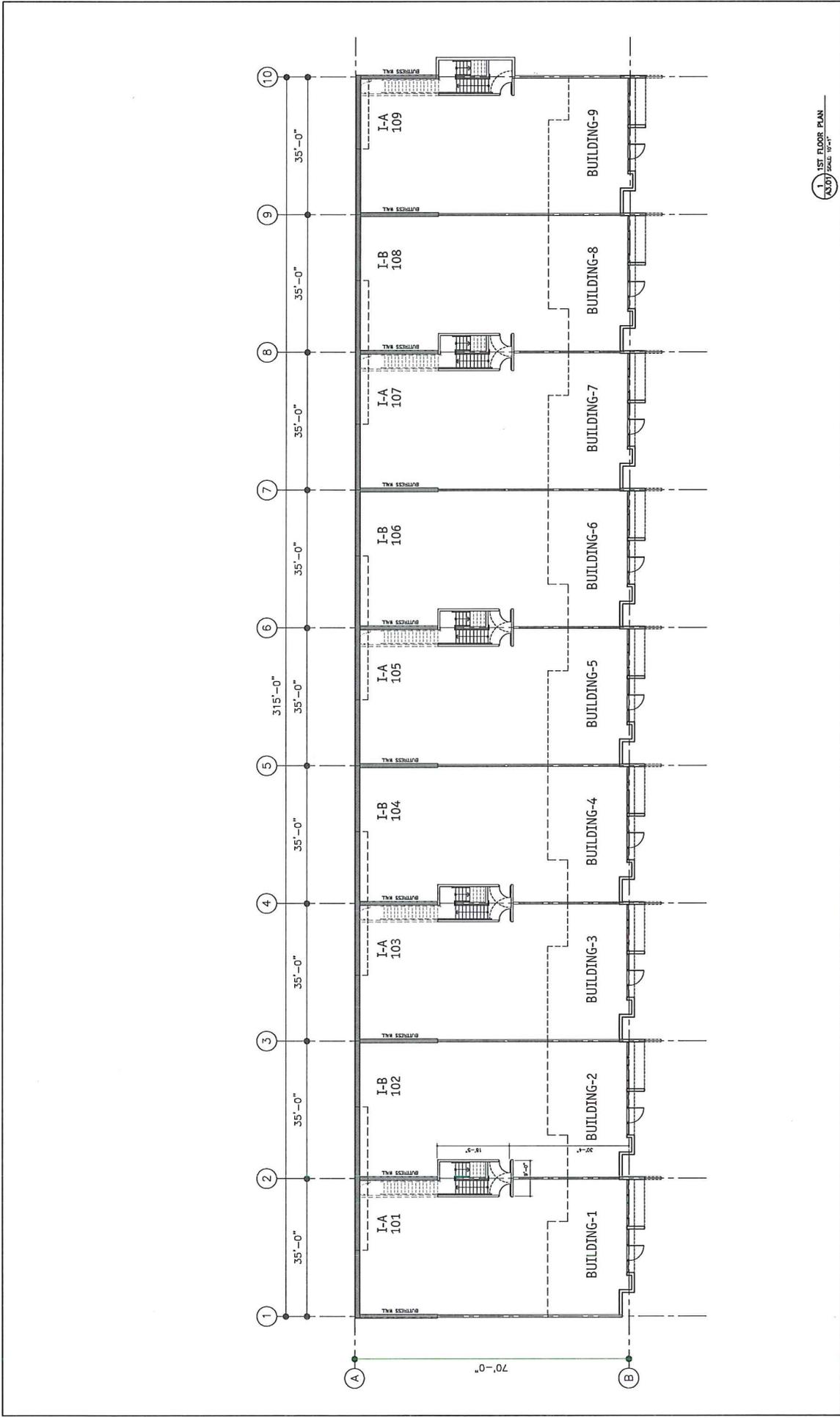
EXISTING

LOT 2 HOLLYWOOD ROAD INDUSTRIAL DEVELOPMENT

CONCEPTUAL

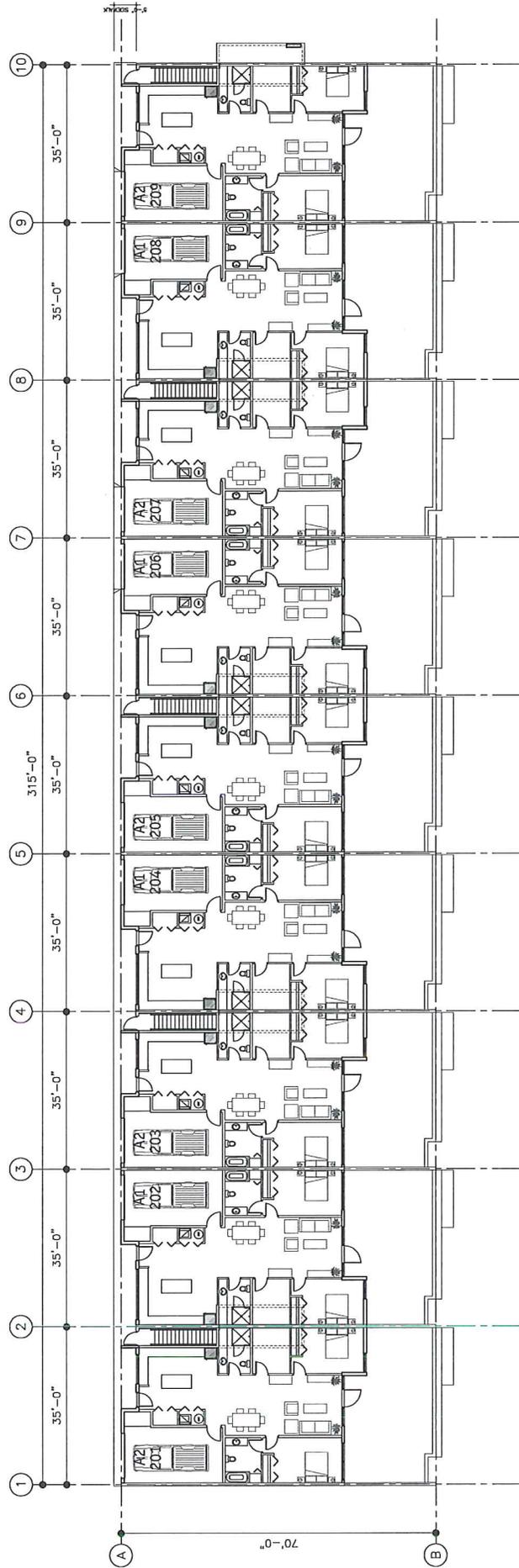
LANDSCAPE

PLAN
IP-03
C/O
ENGINEERING PLANNING URBAN DESIGN
IP-03 DEC. 2014
12004



1 1ST FLOOR PLAN
SCALE: 1/8" = 1'-0"

<p>2013-09-08 submit rezoning</p>		<p>TRUE NORTH</p>	<p>Project Title 2-STORY HOLLYWOOD ROAD INDUSTRIAL DEVELOPMENT (9 UNITS) 200 LUDLIGHED ROAD NORTH, ICELANDIA</p>	<p>Client Name COLUMBIAN TOWER</p>	<p>Architect m+ma MEIKLEJOHN ARCHITECTS INC.</p>	<p>Project Title 1ST FLOOR PLAN</p>	<p>Scale 1/8" = 1'-0"</p>	<p>Sheet Number A3.01</p>
-----------------------------------	--	-------------------	--	--	--	---	-------------------------------	-------------------------------



1 2ND FLOOR PLAN
SCALE: 1/8"=1'-0"

Project Title
2ND FLOOR PLAN

Client
2013-09-08

Date
2013-09-08

Drawn by
AK/STW

Checked by
AK



MEKLEJOHN ARCHITECTS INC.
1000 W. BROADWAY
SUITE 200
ANN ARBOR, MI 48106
PH: 734.769.4444
WWW.MKLEJOHN.COM

General/Architect

Project Title
2-STORY HOLLYWOOD ROAD
INDUSTRIAL DEVELOPMENT
(9 UNITS)

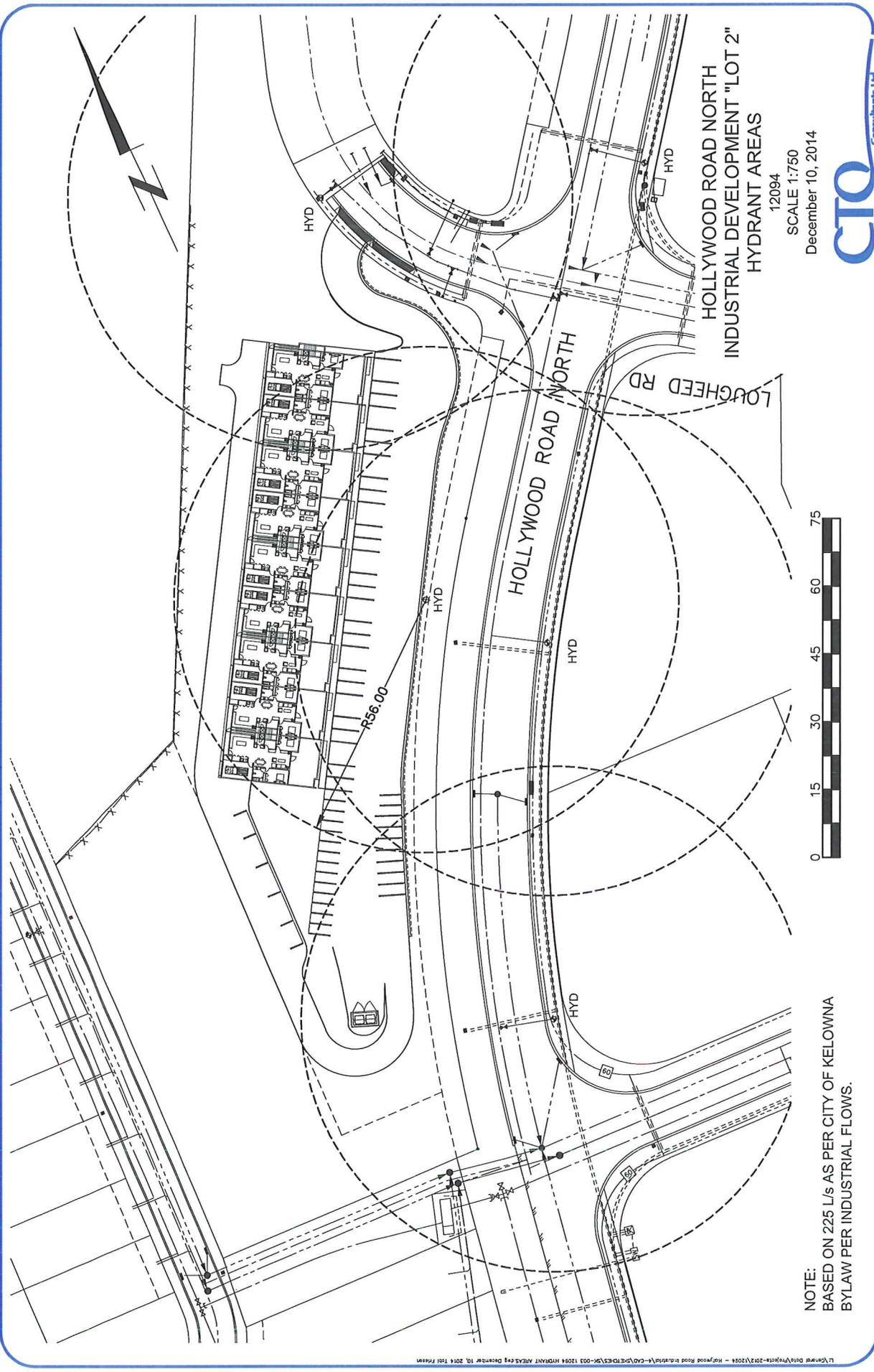
200 LOUGHEED ROAD NORTH ELLIOWNA



No.	Date	Revisions
1	2013-09-08	Issue for Review

2013-09-08 submit rezoning

A3.02
INDUSTRIAL DEVELOPMENT
ALL DIMENSIONS UNLESS OTHERWISE NOTED



HOLLYWOOD ROAD NORTH
INDUSTRIAL DEVELOPMENT "LOT 2"
HYDRANT AREAS

12094

SCALE 1:750

December 10, 2014



NOTE:
BASED ON 225 L/s AS PER CITY OF KELOWNA
BYLAW PER INDUSTRIAL FLOWS.

L:\Project Data\Projects-2012\12094 - Hollywood Road Industrial Development - 003 12094 HYDRANT AREAS.dwg December 10, 2014 10:01 PM



FIRE FLOW CALCULATION SHEET

(Based on "Water Supply for Public Fire Protection 1999, Part II - Guide for Determination of Required Fire Flow" by Fire Underwriter's Survey)

Project:	Hollywood Road Industrial	By:	MHC
Project No:	12094	Date:	2014-12-10
Client:	Watermark Ventures Ltd		
Building ID:	Industrial/Residential		

1. Type of Construction (TC): Non Combustible
 Coefficient (C) based on type of construction = 0.8
 Total Floor Area: 6,448 m² 69,406 ft²

Fire Flow From Formula ($F = 220 C A^{0.5}$): (rounded) 14,000 l/min. (a)

2. Type of Occupancy: Residential / Light Industrial Hazard: Medium
 Hazard Allowance: -20% x (a) = -2,800 l/min.
 Sub-Total: 11,200 l/min. (b)

3. Automatic Sprinklers: Yes - Standard
 Sprinkler Allowance: 40% x (b) = 4,480 l/min. (c)

4. Exposures:	<u>Description</u>	<u>Distance</u>	<u>TC</u>	<u>Sprinklered</u>	<u>Exposure</u>	
	North	Residential	> 45m	N/A	Yes	0%
	South	Industrial	> 45m	N/A	Yes	0%
	East	Industrial	> 45m	N/A	Yes	0%
	West	Residential	> 45m	N/A	Yes	0%

Total Exposure Allowance: 0% x (b) = 0 l/min. (d)

TOTAL FIRE FLOW REQUIRED:	(rounded)	<u>7,000</u> l/min. (b-c+d)
TOTAL FIRE FLOW REQUIRED:		<u>117</u> l/s
BYLAW REQUIREMENTS:		<u>225</u> l/s

Notes:

The Average Area Per Hydrant is based on **Total Fire Flow Required**
 (Fire Underwriters Survey - Table Pg 16)

Average Area per Hydrant (See Table - Pg. 16)	14,000 m ²
Maximum Spacing of Hydrant	134 m

CITY OF KELOWNA
MEMORANDUM

Date: October 28, 2014
File No.: DP14-0204
To: Urban Planning (AC)
From: Development Engineer Manager (SM)
Subject: 205 Lougheed Road, Lot A, plan KAP84518, Sec. 2, Twp. 23, ODYD.

The Development Engineering comments and requirements regarding this Development Permit application are as follows:

1. Subdivision

- a) Provide easement as may be required.

2. Geotechnical Study.

A comprehensive Geotechnical Study is required (3 reports), which is to be prepared by a Professional Engineer competent in the field of geotechnical engineering, the study is to address the following:

- a) Overall site suitability for development.
- b) Presence of ground water and/or springs.
- c) Presence of fill areas.
- d) Presence of swelling clays.
- e) Presence of sulfates.
- f) Potential site erosion.
- g) Provide specific requirements for footings and foundation construction.

3. Domestic water and fire protection.

This development is within the service area of the Glenmore Ellison Improvement District (GEID). The developer is required to make satisfactory arrangements with the GEID for these items. All charges for service connection and upgrading costs are to be paid directly to the GEID. The developer is required to provide a confirmation that the district is capable of supplying fire flow in accordance with current requirements for the proposed development.

A watermeter is mandatory as well as a sewer credit meter to measure all the irrigation water. Watermeters must be housed in an above-ground, heated, accessible and secure building, either as part of the main site buildings or in a separate building. Remote readers units are also mandatory on all meters.

.../2

4. Sanitary Sewer.

The subject property is serviced by the Municipal wastewater collection system and is located within specified area Specified Area #. The existing service connection is 150mm. and this application does not trigger any upgrades or Specified Area charges.

5. Drainage.

A comprehensive site drainage management plan and design to comply with the City's drainage design and policy manual, will be a requirement under the building and plumbing permit application.

6. Power and Telecommunication Services.

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

7. Road improvements.

The frontages of Lougheed Road and Hollywood Road North have been constructed under previous phase of development. This application does not trigger any further upgrades.



Steve Muenz, P.Eng.
Development Engineering Manager

B²

CITY OF KELOWNA
MEMORANDUM

Date: October 28, 2014
File No.: Z14-0048
To: Urban Planning (AC)
From: Development Engineer Manager (SM)
Subject: 205 Loughheed Road, Lot A, plan KAP84518, Sec. 2, Twp. 23, ODYD.

The Development Engineering comments and requirements regarding this rezoning application are as follows:

1. General.
 - a) The property is connected to all the Municipal infrastructure services in accordance with Bylaw 7900, this application does not trigger any offsite upgrades.



Steve Muenz, P.Eng.
Development Engineering Manager

B²

CITY OF KELOWNA
MEMORANDUM

Date: October 28, 2014
File No.: OCP14-0023
To: Urban Planning (AC)
From: Development Engineer Manager (SM)
Subject: 205 Loughheed Road, Lot A, plan KAP84518, Sec. 2, Twp. 23, ODYD.

The Development Engineering comments and requirements regarding this OCP amendment application are as follows:

1. General.
 - a) This application does not compromise any Municipal services.
 - b) Development Engineering has no requirements associated with this application.



Steve Muenz, P.Eng.
Development Engineering Manager

B²

CITY OF KELOWNA
MEMORANDUM

Date: October 28, 2014
File No.: TA14-0021
To: Urban Planning (AC)
From: Development Engineer Manager (SM)
Subject: 205 Lougheed Road, Lot A, plan KAP84518, Sec. 2, Twp. 23, ODYD.

The Development Engineering comments and requirements regarding this OCP amendment application are as follows:

1. General.
 - a) This application does not compromise any Municipal services.
 - b) Development Engineering has no requirements associated with this application.



Steve Muenz, P.Eng.
Development Engineering Manager

B²

6.5%

Biggest one-week REIT gainer: WPT Industrial
» CIBC

5.6%

Biggest one-week REIT decliner: Morguard
» CIBC

6.0%

Vancouver's downtown office space vacancy rate in Q4 2014, up from 5.4% in Q3. » Colliers

8.5%

Calgary's downtown office space vacancy rate in Q4 2014, up from 7.3% in Q3. » Colliers

PLANNING

Industrial grit meets residential glass in Vancouver

In new twist, Strathcona Village port project puts housing units on top with light industrial space at street level

FRANCES BULA VANCOUVER

Erin Sinclair loves the sounds of Vancouver's port – the trains shunting, the foghorns, the trucks rumbling by.

That's a good thing, since she and her husband, Rob Forbes, have chosen to buy a condo in an unusual Vancouver development – the city's first effort to combine industrial and residential space in a single building in an industrial zone near the port.

It's a first for Canada, as far as anyone knows. But it's an idea that has been getting attention in San Francisco and New York, as those cities look at how to retain or expand industrial jobs, which typically pay substantially more than service jobs, and also provide low-cost housing.

For city planners and developers, the emerging solution is to combine the two in a single building.

Ms. Sinclair doesn't know yet what will occupy the two big floors at the base of her condo project, which is being built on the site of a former glove-manufacturing company. It might be a commercial bakery, a clothing factory, someone making boots or wood furniture, or any number of other light-industrial uses.

"It's a big mystery," says Ms. Sinclair, a graphic designer who works in the film industry. "But we love the area. Vancouver is a city that can be ugly at times, with all the new glass, but at least this has some grit."

That enthusiasm, which appears to have been shared by enough buyers that Wall Financial Corp. has sold almost all of its 280 units in the euphemistically named Strathcona Village, is demonstrating that at least the residential side is popular.

Now the company's president, Bruno Wall, has to see what will happen with the other part of the equation – the industries that might move in.

Talks are just beginning, as Mr. Wall feels out bakeries, local artists and others. (Commercial clients usually make commitments only 12 months ahead of time, and the building, due to start construction in February, will take 30 months to build.)

"Our approach is to be as open as possible. And our strategy has been to see if the residential works first," Mr. Wall said.

But the company was willing to take the gamble, which has brought extra construction costs with it in order to comply with requirements for industrial buildings, as well as ensuring that odours and noise don't intrude on the condo residents. That's



A rendering of Strathcona Village, a residential-industrial project located a few kilometres east of Vancouver's central business district. The city has designated a strip along East Hastings as a PDR – production, design and repair – area, in an effort to retain or grow light industry. DESIGNTOR

“It's not your grandmother's industry. It's less noxious than when zoning laws were first put in place.”

Mark Foggin
Principal, Public Works Partners,
N.Y. public-policy consulting firm

meant a separate ventilation system, among other things.

Mr. Wall's experiment is attracting attention. He's had a call from New York public-policy consulting firm Public Works Partners to talk about the details of this kind of project.

Principal Mark Foggin said cities are re-evaluating how to incorporate industrial into neighbourhoods, as the nature of industrial activity has taken some new turns.

"In general, there's been an increase in smaller-scale manufacturing lately," he said. Small food operations, producing anything from pickles to ice cream to salami, Etsy-focused craft operations, artisan studios for furniture and glass, craft brewing and more have created a demand for small-scale industrial space.

"I don't want to over-romanti-

cize this. And there are many immigrants starting their own small operations," Mr. Foggin said. "But it is happening. It's not your grandmother's industry. It's less noxious than when zoning laws were first put in place."

Cities started to separate residential, commercial and industrial uses in the early 20th century, as newcomers packed into cities to work in the factories that proliferated during the Industrial Revolution. They crowded into blocks that also had everything from slaughterhouses to tanning factories to welding operations. Health officials, in particular, drove the effort to get people's living quarters away from factories that produced smells, waste and toxic substances.

But New York city council just started discussing in November a new report it commissioned on how to revitalize its industrial sector. One of the recommendations: a new mixed commercial-residential-industrial district.

"The creation of the 'MX' zone acknowledged the value of mixed-use neighborhoods and tried to find a solution that could increase the residential capacity while maintaining their dynamism," the report said.

San Francisco has developed a strategy to combine industrial

and residential in some neighbourhoods near its downtown. Vancouver hasn't gone that far. It has designated only a small strip along East Hastings, bordering the port industrial zone a few kilometres east of the central business district, for this new combination of condos with a sector of industrial called PDR – production, design and repair.

The tricky part in Vancouver, where land and housing prices have skyrocketed to unprecedented levels, is to ensure that any new zoning doesn't set off a frenzy of land speculation, as developers bet on the possibility of industrial land being converted to residential.

The city's assistant planning director, Kevin McNaney, said the city is allowing this kind of combination, which will also have a small amount of retail, in a very limited area.

"We put this forward as a possibility, a chance to get different kinds of jobs," he said. "Vancouver has fewer large-scale operations or wholesale that is space-intensive. It is more artisans and small-scale. They need cheap space. If we want to keep those jobs, we need to keep those low values and rents."

The combination also allows for low housing prices, since the

industrial-zoned land is cheaper than other kinds. Ms. Sinclair and her husband bought a two-bedroom condo in the project, where those units are priced in the high \$300,000s – a good deal for Vancouver.

As well, as a condition of the rezoning, Mr. Wall is building 70 units, aside from the market condos, that will be turned over to the city to be used for social housing. Those will be rented at rates ranging from \$375 a month to market levels – a pool of relatively low-cost rentals that wouldn't have been possible on another site.

Will this project be replicated in Vancouver? Mr. Wall says it would be difficult. His company bought a piece of land that was large enough to accommodate a big project, which this kind of combination needs. But there aren't a lot of similar large lots around.

Since this project was approved, the city has also put in new requirements for an even higher proportion of social housing in any project.

But, says Mr. Wall, "as other developers see our success, they'll be able to project whether it will work for them."

Special to The Globe and Mail

COMMERCIAL REAL ESTATE

Firm Capital • 7.87% Yield*
 • MONTHLY DISTRIBUTIONS
 • LISTED SINCE 1999
 Mortgage Investment Corporation (FC-TSX) www.FirmCapital.com
(As at December 31, 2014)

866.298.0939
FIRST NATIONAL
 FINANCIAL LP
 Recent Financing
 CMHC
 \$9.0 Million
 St. John's, NL
FCO Licence 141111

TO PLACE AN AD CALL: 1-800-560-0521 » EMAIL: ADVERTISING@GLOBEANDMAIL.COM

Accelerating success.

Prime Queen West Retail

FOR SALE

Windsor's Bustling Retail District

FOR SALE

Woodstock Commercial Development

FOR SALE

Tier-1 Distribution Centre

FOR LEASE



subject property to the I2 zone protects the industrial land supply and supports more efficient use of industrial sites in this area.

The main differences between the I1 and I2 zones are the permitted uses and regulations regarding outdoor storage. The I1 zone allows some light industrial and office uses, with very limited outdoor storage. The I2 zone permits a greater range of industrial uses and fewer restrictions on outdoor storage. Offices are not a permitted use in the I2 zone.

In fulfillment of Council Policy No. 367 respecting public consultation, the applicant undertook neighbour consultation by presenting the proposed rezoning at the Marshall Business Centre Strata Annual General Meeting on March 30, 2015. The strata owners, which include all properties within the required 50 m consultation area, have indicated support for the rezoning. To date, staff have not been contacted with any questions or concerns.

4.0 Proposal

4.1 Background

The Marshall Business Centre was created as a bareland strata industrial park in 2007 through rezoning and subdivision of a former feedlot. The lots on the outside of McCurdy Place are zoned I2 and the inside lots were all originally zoned I1, intended for light industrial and office uses with limited outdoor storage. Several of the outer lots zoned I2 have been purchased and developed with various general industrial uses, including automotive, motorcycle and minor recreational vehicle retailers, manufacturing, and equipment sales and rentals. The majority of these uses involve some outdoor storage on the property.

One inner lot zoned I1 was developed in 2012 with two multi-unit buildings, on 840-842 McCurdy Place. Some units are occupied while others remain vacant, and there has been little interest in developing other lots under the I1 zone. In February 2015, five inner lots were rezoned from I1 to I2 to respond to the demand for industrial property zoned I2.

4.2 Site Context

The subject property is located within the Marshall Business Centre, southwest of the intersection of McCurdy Road and Highway 97 in the City's Highway 97 Sector. The property is designated IND - Industrial in the Official Community Plan and is within the Permanent Growth Boundary. The area surrounding the property is industrial.

Specifically, adjacent land uses are as follows:

Orientation	Zoning	Land Use
North	I1 - Business Industrial	Vacant
East	I2 - General Industrial	General industrial
South	I2 - General Industrial	Vacant
West	I2 - General Industrial	Vacant

Subject Property Map: 883 McCurdy Place



5.0 Current Development Policies

5.1 Kelowna Official Community Plan (OCP)

Development Process

Industrial Land Use Intensification.¹ Encourage more intensive industrial use of currently under-utilized industrial sites during site redevelopment or by permitting lot subdivision where new lots can meet the minimum lot size requirements of the Zoning Bylaw.

Industrial Supply Protection.² Protect existing industrial lands from conversion to other land uses by not supporting the rezoning of industrial land to preclude industrial activities unless there are environmental reasons for encouraging a change of use.

6.0 Technical Comments

6.1 Building & Permitting Department

- No comments.

6.2 Development Engineering Department

- See attached memorandum, dated April 8, 2015.

¹ City of Kelowna Official Community Plan, Policy 5.29.1 (Development Process Chapter).

² City of Kelowna Official Community Plan, Policy 5.30.1 (Development Process Chapter).

6.3 FortisBC - Electric

- There are primary distribution facilities along McCurdy Place. 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.

7.0 Application Chronology

Date of Application Received: March 19, 2015
Date Public Consultation Completed: March 30, 2015

Report prepared by:

Laura Bentley, Planner

Reviewed by: Lindsey Ganczar, Urban Planning Supervisor

Approved for Inclusion: Ryan Smith, Urban Planning Manager

Attachments:

Subject Property Map
Development Engineering Memorandum

CITY OF KELOWNA
MEMORANDUM

Date: April 8, 2015
File No.: Z15-0012
To: Urban Planning Services (LB)
From: Development Engineer Manager (SM)
Subject: 883 McCurdy Place Lot 25, Plan K3323, DL124, ODYD

The Developments Engineering comments and requirements regarding this application to rezone the subject properties from I1 to I2 are as follows

1. General.
 - a) This development is within a strata industrial park. All Municipal services have been provided to the property line.
 - b) This application does not trigger any offsite upgrades.



Steve Muenz, P. Eng.
Development Engineering Manager

B²

*Subdivision and Procedure Regulation*¹ (the Regulation). The applicants subsequently applied for a Non-Farm Use to allow the café use and in March of 2014 received Resolution #101/2014 (attached) to allow the use under the following conditions:

1. That the café be limited to its current size and that there be submission of notification or an application to the Commission should there be plans in the future for any significant changes or plans to expand the current footprint.
2. Approval for non-farm use is granted for the sole benefit of the applicant and is non-transferable.

The café includes 272 square feet of indoor and 372 square feet of outdoor seating for in addition to the display and retail sales area.

Staff notes that retail sales is considered an 'ancillary farm use' under the Regulation as long as 50% of the product is grown on the farm and the area does not exceed 300 square metres.

Staff supports the text amendment for the subject property together with the conditions as resolved by the ALC (ALC Resolution attached), as well as the completion of outstanding bylaw and real estate issues noted through the circulation process, including:

- Resolution of the loading dock location and number of access roads;
- Resolution of the sign location;
- Covenant on property that the use of the café will not transfer to future owners (in accordance with ALC Resolution #101/2014;
- Covenant on property that the café will not expand beyond the size approved by the ALC, without a resolution from the ALC authorizing the same; and
- Submission of a Non-farm Use application for weddings / events on the property.

4.0 Proposal

4.1 Background

The subject property is part of a larger agricultural operation (three properties totalling approximately 35 hectares). In addition to these parcels, the owners of the subject property also own additional agricultural parcels elsewhere (i.e. McCurdy Road).

In November 2010, the landowner was issued a Building Permit to construct an approximately 800 m² accessory structure with two floors (i.e. ~400 m²/floor). The Building Permit plans provided to the City reflected a main floor which was largely dedicated to the display and sale of fruit and vegetables with pie and jam preparation areas, large coolers and office space. All seating appeared as picnic tables outside under the covered entry. The second floor was shown with a four unit Bed & Breakfast facility with a manager/operator's suite as is required to conduct this use. Building Department staff reviewed the plans submitted and made the following conditions of the issued Building Permit:

2. See attached ALC Policy #2 dated March 2003 *ACTIVITIES DESIGNATED AS FARM USE: FARM RETAIL SALES IN THE ALR*. Be advised that all of the farm product offered for sale must be produced on the farm on which the retail sales are taking place as the retail sales area exceeds the max 300 m².

¹ RSBC, 2002. Agricultural Land Reserve Use, Subdivision and Procedure Regulation, incl. Amendments up to BC Reg. 167/2014. http://www.bclaws.ca/civix/document/id/complete/statreg/171_2002

Building Department staff correctly noted that due to the size, to operate the building as proposed, the landowners may only retail farm product produced on this parcel or others operated by them.

However, the building was not constructed as proposed. Rather, the southern portion of the structure was altered to a café format with interior seating (see attached as-built floor plan and photos). The café currently occupies approximately 276 ft² indoors and 372 ft² outdoor exclusively. The café also occupies other areas of the structure which is estimated by the applicant to be an additional 1,090 ft² with shared areas including the kitchen, pie preparation area and washrooms.

A café is a use consistent with a "Food Primary Establishment". The use is not however, a permitted use in the ALR or in the City's A1 - Agriculture zone. An exception is where a Food Primary Establishment is developed in conjunction with a winery or cidery.

The Hillcrest Farm Market Café as it is referred, began operating in the summer of 2012 and has been operating since that time. The business is being operated without a City issued business license which cannot be issued given the non-conforming use in the zone and City Bylaw Services staff have been seeking compliance since this time. This application addresses the legalization of this use.

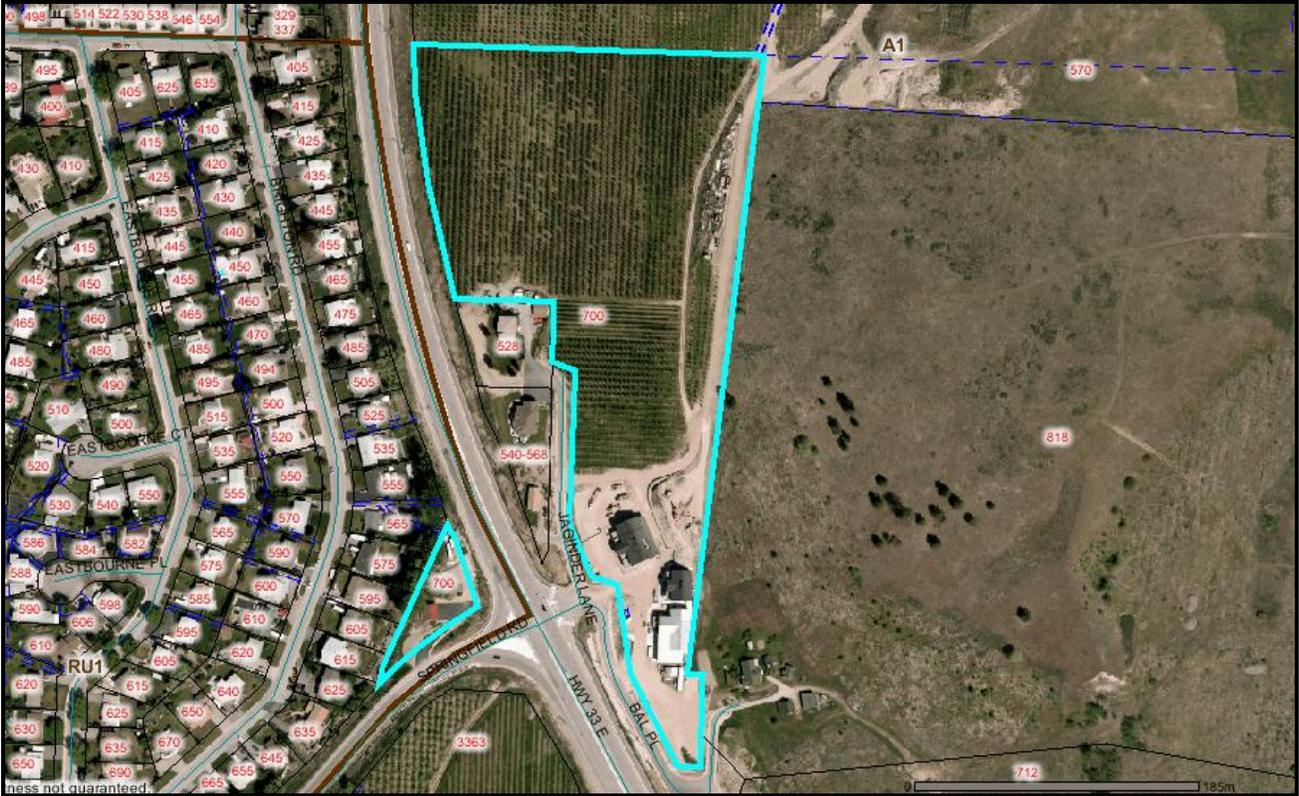
4.2 Project Description

Staff recommends that the A1-Agriculture zone be amendment to include the ALC Resolution # 101/2014, to permit the use of a 'primary food establishment' at 700 Hwy 33 E, as outlined in Attachment A.

4.3 Site Context

The subject property is located east of Highway 33 E at the intersection with Springfield Road in the Rutland Sector. The site area is ~5.8 hectares (14.3 acres) and the site elevation varies between 457 and 493 metres. The subject property includes a ~0.22 ha hooked portion (across Hwy 33 E) which is zoned RU1 - Large Lot Housing.

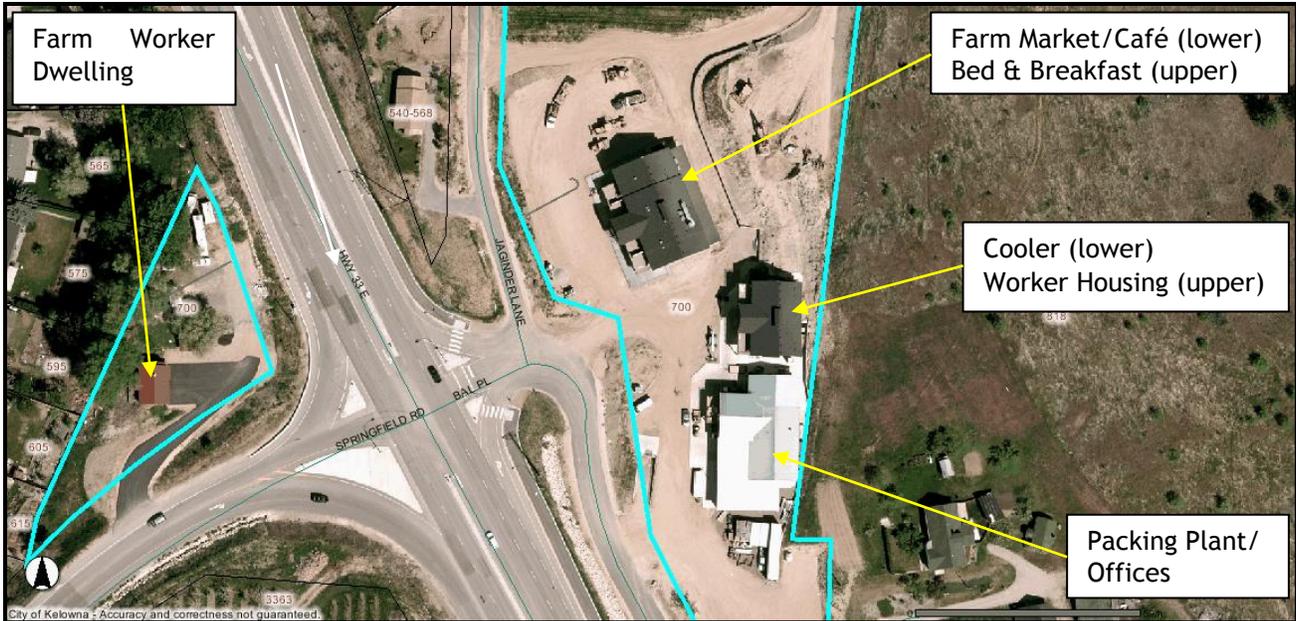
Map 1 - Subject Property - 700 Highway 33 E



The subject property is at an urban/rural interface area with the Permanent Growth Boundary directly across Highway 33 (to the west). The large road cross section (averaging approximately 50 metres) does however provide extensive buffering from farm practices. Zoning and land uses adjacent to the property are as follows:

Direction	Zoning	ALR	Land Use
North	A1 - Agriculture 1	Yes	Orchard
South	A1 - Agriculture 1 Roadway	Yes No	Rural Residential Highway
East	A1 - Agriculture 1	Yes	Rural/agricultural
West	A1 - Agriculture 1 RU1 - Large Lot Housing	Yes No	Rural/agricultural Residential

Map 2 - Hillcrest Farm Structures



4.4 Current Development Policies

4.5 Kelowna Official Community Plan (OCP)

The subject property has a future land use designation of Resource Protection Area and relevant policies are included below:

Objective 5.33 Protect and enhance local agriculture².

Policy. 1 Protect Agricultural Land. Retain the agricultural land base by supporting the ALR and by protecting agricultural lands from development, except as otherwise noted in the City of Kelowna Agricultural Plan. Ensure that the primary use of agricultural land is agriculture, regardless of parcel size.

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.

Policy .7 Non-farm Uses. Support non-farm use applications on agricultural lands only where approved by the ALC and where the proposed uses:

- are consistent with the Zoning Bylaw and OCP;
- provide significant benefits to local agriculture;
- can be accommodated using existing municipal infrastructure;
- minimize impacts on productive agricultural lands;
- will not preclude future use of the lands for agriculture;
- will not harm adjacent farm operations.

Objective 5.34 Preserve productive agricultural land³.

Policy .3 Homeplating. Locate buildings and structures, including farm help housing and farm retail sales area and structures, on agricultural parcels in close proximity to one another and where appropriate, near the existing road frontage. The goal should be to maximize use of existing infrastructure and reduce impacts on productive agricultural lands.

² City of Kelowna 2030 Official Community Plan: Greening Our Future (2011), Development Process Chapter; p. 5.33.

³ City of Kelowna 2030 Official Community Plan: Greening Our Future (2011), Development Process Chapter; p. 5.34.

4.1 City of Kelowna Agriculture Plan (1998)

Farm Retail Sales

For some time the use of agricultural land to sell products grown or reared on that farm operation has been permitted within the ALR. In addition, it was possible to receive permission from the Land Commission to sell products not produced on site under Regulation 313/78. In recognizing that farm retail sales contribute to the productive use of farmland without interfering or prohibiting agriculture the Land Commission has acknowledged the traditional role of marketing of farm products, particularly in the Okanagan. The Land Commission has established a policy that encourages retail activity associated with the direct sale of farm products, processed farm products, and some off-farm products subject to that portion of the retail sales building used for the sale of off farm products does not exceed one-third of the building floor area, up to a maximum of 100 square metres. In addition, where off-farm products are sold, farm products and processed farm products must also concurrently be offered for sale.

ALR Application Criteria⁴

Exclusion, subdivision, or non-farm use of ALR lands will generally not be supported. General non-support for ALR applications is in the interest of protecting farmland through retention of larger parcels, protection of the land base from impacts of urban encroachment, reducing land speculation and the cost of entering the farm business, and encouraging increased farm capitalization.

Economic Enhancement Policies⁵

29. Integration. Support the establishment of a process to consider, in addition to the promotion of agri-tourism and direct farm marketing businesses within the community, an integrated approach that creates linkages to the cultural and heritage tourism sectors, in terms of marketing an identity of Kelowna.

4.2 Zoning Bylaw

11.1.7 (c) Agricultural and garden stands selling only produce grown on the site or another site operated by the same producer do not have a maximum area. The maximum gross floor area of stands selling produce that is produced off-site shall be 50.0 m². For sites within the Agricultural Land Reserve, the maximum gross floor area of agricultural and garden sales for produce produced off-site or off-farm products shall be the lesser of one-third of the total floor area of the agricultural and garden sales stand or 100.0 m².

4.3 Agricultural Land Reserve Use, Subdivision and Procedure Regulation

Section 2 (2) The following activities are designated as farm use for the purposes of the Act and may be regulated but must not be prohibited by any local government bylaw except a bylaw under Section 917 of the Local Government Act:

(a) farm retail sales if

- (i) all of the farm product offered for sale is produced on the farm on which the retail sales are taking place, or
- (ii) at least 50% of the retail sales area is limited to the sale of farm products produced on the farm on which the retail sales are taking place and the total area, both indoors and outdoors, used for the retail sales of all products does not exceed 300 m²;

Section 1 (1) "farm product" means a commodity that is produced from a farm use as defined in the Act or designated by this regulation.

⁴ City of Kelowna Agriculture Plan (1998); p. 130.

⁵ City of Kelowna Agriculture Plan (1998); p. 150 - 152.

Farm retail sales – means the retail sale to the public of tangible products grown or raised on a farm, from that farm and may include the sale of non-farm products as permitted by the regulation.

Retail sales area – means the floor area or dedicated outside area on which the farm retail sales are taking place and includes areas used for retail purposes inside buildings (indoors) and areas outside buildings (outdoors). It does not include parking, driveways, office space, washrooms or areas for processing or product storage.

5.0 Technical Comments

5.1 Building & Permitting Department

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

5.2 Development Engineering Department

- a) The property is connected to the Municipal wastewater collection system. This application to legalize an existing eating establishment does not trigger any offsite upgrades.
- b) The subject property is located within the Black Mountain Irrigation District (BMID) service area. The applicant is to confirm that the water supply system is capable of supplying domestic and fire flow demands, for the contemplated uses on the subject property, in accordance with the Subdivision, Development & Servicing Bylaw. Ensure that every building within the property is located at an elevation allowing a water pressure within the Bylaw pressure limits.
- c) There are on-sites issues that have been identified in previous Engineering reports, such as the encroaching location of the sign and the accessibility of the existing loading bay. Both these issues must be addressed and corrected by the owner prior to the adoption of the zone amending Bylaw.

5.3 Bylaw Services

Bylaw Services have a number of concerns with respect to non-conforming uses and / or violations on the site, including:

- Wedding / Event Venue on the farm is not a permitted use. Website currently advertises as such and having some noise and bylaw violations last summer.
- Hall under construction over the currently constructed cherry packing plant.
- No Special Events Licenses were obtained for wedding events last year.
- Completion required to works on the adjacent 1071 McKenzie Road parcel.
- Soil Permits for the event venue built and advertised on 570 and 500 Hwy 33 .
- New application for a Non-farm Use Application to the ALC to allow weddings / events on the property.
- Building Inspection for the house on the linked lot across Hwy 33 E, to determine if it is safe for occupancy.

5.4 Fire Department

The Fire department has no concerns with the zoning change as the building already exists. The concern is that the drawings indicate 6 bedrooms on the second floor - the BC Building Code requires a fire alarm be installed. BCBC Division B section 3.2.4.1(4)(l) indicates that a fire alarm shall be installed in a residential occupancy with sleeping accommodation for more than 10 persons. Section 3.1.17.1(1)(b) indicates that the occupant load determination is 2 persons per sleeping unit.

5.5 Real Estate Department

Note that applicant recently made application to acquire portion of roadway to legalize existing loading bay, but the application was not supported by City staff. Parking requirements should be reviewed to ensure that parking and access issues are not exacerbated based on the cafe seating and commercial parking.

5.6 Development Engineering Department

- a) The property is connected to the Municipal wastewater collection system. This application to legalize an existing eating establishment does not trigger any offsite upgrades.
- b) The subject property is located within the Black Mountain Irrigation District (BMID) service area. The applicant is to confirm that the water supply system is capable of supplying domestic and fire flow demands, for the contemplated uses on the subject property, in accordance with the Subdivision, Development & Servicing Bylaw. Ensure that every building within the property is located at an elevation allowing a water pressure within the Bylaw pressure limits.
- c) There are on-sites issues that have been identified in previous Engineering reports, such as the encroaching location of the sign and the accessibility of the existing loading bay. Both these issues must be addressed and corrected by the owner prior to the adoption of the zone amending Bylaw.

5.7 Policy and Planning

The subject property is located within that ALR and is designated REP - Resource Protection Area. The proposal to introduce a site specific text amendment to the A1 zone in order to permit an orchard cafe is challenging to overall policy direction, which seeks to protect and to enhance productive agricultural lands within the city. While this is a unique situation and is subject to strict limitations in its ALC approval, Policy & Planning staff would strongly urge caution in considering further expansion on the property or further proliferation of the cafe concept to other orchard operations.

6.0 Application Chronology

Date of Application Received: February 27, 2015

Date Circulation Completed: March 27, 2015

Report prepared by:

Melanie Steppuhn, Land Use Planner

Reviewed by: Todd Cashin, Subdivision, Agriculture & Environment Services Manager

Reviewed by
Approved for Inclusion: Shelley Gambacort, Subdivision, Agriculture & Environment Services Director

Approved for Inclusion: Doug Gilchrist, Divisional Director, Community Planning & Real Estate

Attachments:

Attachment 'A' - Proposed A1 - Agricultural Zones Text Amendments
Schedule 'B' - ALC Resolution #101/2014
ALR Map
Plans - Café
Market / Café Elevations
Context/Site Photos

ATTACHMENT 'A' Proposed A1 - Agricultural Zones Text Amendments
TA15-0002

Section	Existing Text	Proposed Text	Rationale
<p>Section 11 - Agricultural Zones Secondary Uses</p>	<p>11.1.3 Secondary Uses The secondary uses in this zone are: (a) agricultural dwellings, additional (b) agri-tourism (c) agri-tourist accommodation (A1t only) (d) animal clinics, major (e) animal clinics, minor (f) bed and breakfast homes (g) care centres, intermediate (h) carriage house (A1c only) (i) forestry (j) group homes, minor (k) home based businesses, major (l) home based businesses, minor (m) home based businesses, rural (n) kennels and stables (o) secondary suite (p) wineries and cideries</p>	<p>11.1.3 Secondary Uses The secondary uses in this zone are: (a) agricultural dwellings, additional (b) agri-tourism (c) agri-tourist accommodation (A1t only) (d) animal clinics, major (e) animal clinics, minor (f) bed and breakfast homes (g) care centres, intermediate (h) carriage house (A1c only) (i) forestry (j) group homes, minor (k) home based businesses, major (l) home based businesses, minor (m) home based businesses, rural (n) kennels and stables (o) secondary suite (p) wineries and cideries (q) Non-Farm Use in accordance with ALC Resolution #101/2014 attached as Schedule B to Section 11 – Agricultural Zones applicable only to Lot A, Section 24, Township 26 ODYD Plan EPP7145 (700 Hwy 33 E).</p>	<p>The subject property is zoned A1 which is the appropriate zone for this parcel. Based on the ALC Resolution #101/2014, the use of a food primary establishment in accordance with the conditions of that resolution, per Schedule B.</p> <p>Staff does not want to see <i>food primary establishment</i> added to the entire A1 zone as food primary establishments would not be appropriate on other parcels zoned A1 in the city, and are not permitted without an ALC Resolution where the A1 parcels are also in the Agricultural Land Reserve.</p>

SCHEDULE 'B'



MINUTES OF THE PROVINCIAL AGRICULTURAL LAND COMMISSION

A meeting was held by the Provincial Agricultural Land Commission on March 26, 2014 at the offices of the Commission located at #133 – 4940 Canada Way, Burnaby, B.C. as it relates to Application #53542.

COMMISSION MEMBERS PRESENT:

Richard Bullock	Chair
Jennifer Dyson	Vice-Chair
Gordon Gillette	Vice-Chair
Bert Miles	Commissioner
Jim Johnson	Commissioner
Jerry Thibeault	Commissioner
Lucille Dempsey	Commissioner

COMMISSION STAFF PRESENT:

Ron Wallace	Planner
Colin J. Fry	Chief Tribunal Officer

PROPOSAL (Submitted pursuant to section 20(3) of the *Agricultural Land Commission Act*)

To legalize an existing "food and beverage service lounge" (café) on the subject property. The facility includes approximately 272 ft² of indoor and 372 ft² of outdoor seating for café customers, along with a display and retail sales area. The café also shares approximately 1,090 ft² with the farm market. The shared space includes the kitchen area, staff and public washrooms, storage and pie preparation areas.

PROPERTY INFORMATION:

Owner: Hillcrest Farm Market Inc.

Legal: PID: 028-389-387
Lot A, Section 24, Township 26, Osoyoos Division Yale District, Plan EPP7145

Location: 700 Highway 33 East, Kelowna

Size: 5.8 ha (5.6 ha in the ALR)

LEGISLATIVE CONTEXT FOR COMMISSION CONSIDERATION

Section 6 (Purposes of the commission) of the *Agricultural Land Commission Act* states:

- 6 The following are the purposes of the commission:
- (a) to preserve agricultural land;
 - (b) to encourage farming on agricultural land in collaboration with other communities of interest; and

- (c) to encourage local governments, first nations, the government and its agents to enable and accommodate farm use of agricultural land and uses compatible with agriculture in their plans, bylaws and policies.

COMMISSION CONSIDERATION

The Commission reviewed a previous application involving the subject property:

Application #18547 (Basran, 1989) To subdivide Lot 3 (being 29.2 ha) into three lots of approximately 9.7 ha. The Commission, by Resolution #9/89, approved the request for subdivision into three lots.

Note: The subject property was created from this approval.

In its consideration of this application the Commission reviewed some of the chronology of events – as outlined by both the applicant and in the City's 'Report to Council' – to better understand the details of this non-farm use proposal.

The application is to legalize an existing "food and beverage service lounge" (i.e. Hillcrest Farm Market Café) on the subject property.

At issue – as the Commission understands – is that the proposed building was not constructed as authorized by the City of Kelowna's building permit for a farm retail sales and Bed & Breakfast (issued in November 2010); as the main floor was altered to include a café with interior seating. The facility includes approximately 272 ft² of indoor and 372 ft² of outdoor seating for café customers, along with a display and retail sales area. The café is considered a "Food Primary Establishment" pursuant to the City of Kelowna Zoning Bylaw which is not allowed on parcels (like the subject property) zoned for agriculture (A-1 designation). As a result, the business has been operating without a business license since the summer of 2012 as a non-conforming use.

The Commission wishes to express its disapproval of the process of receiving an application for the purpose of reviewing the option to either 'legalizing an existing non-farm use' or refusing the existing use (which implies the requirement to bring the use into compliance with the *ALC Act* and its Regulations) on ALR land. The Commission is extremely frustrated that this proposal was not submitted before construction so that it could carefully consider the use in context to Section 6 of the *ALC Act* as noted above.

In its consideration the Commission noted the subject property is part of a larger agricultural operation consisting of three properties totaling approximately 35 ha. Further, each of these parcels is in agricultural production which helps supply the farm products sold from the farm market and provide for the meals sold from the café. It was expressed by the applicant that the café has become an integral component of the overall business plan of the farm; and that if required to be removed, the impact to the overall business would be significant. As a result the Commission is prepared to support the proposal subject to the conditions outlined below.

IT WAS

MOVED BY: Commissioner Thibeault
SECONDED BY: Commissioner Gillette

THAT the request to legalize an existing "food and beverage service lounge" (café) on the subject property be conditionally approved.

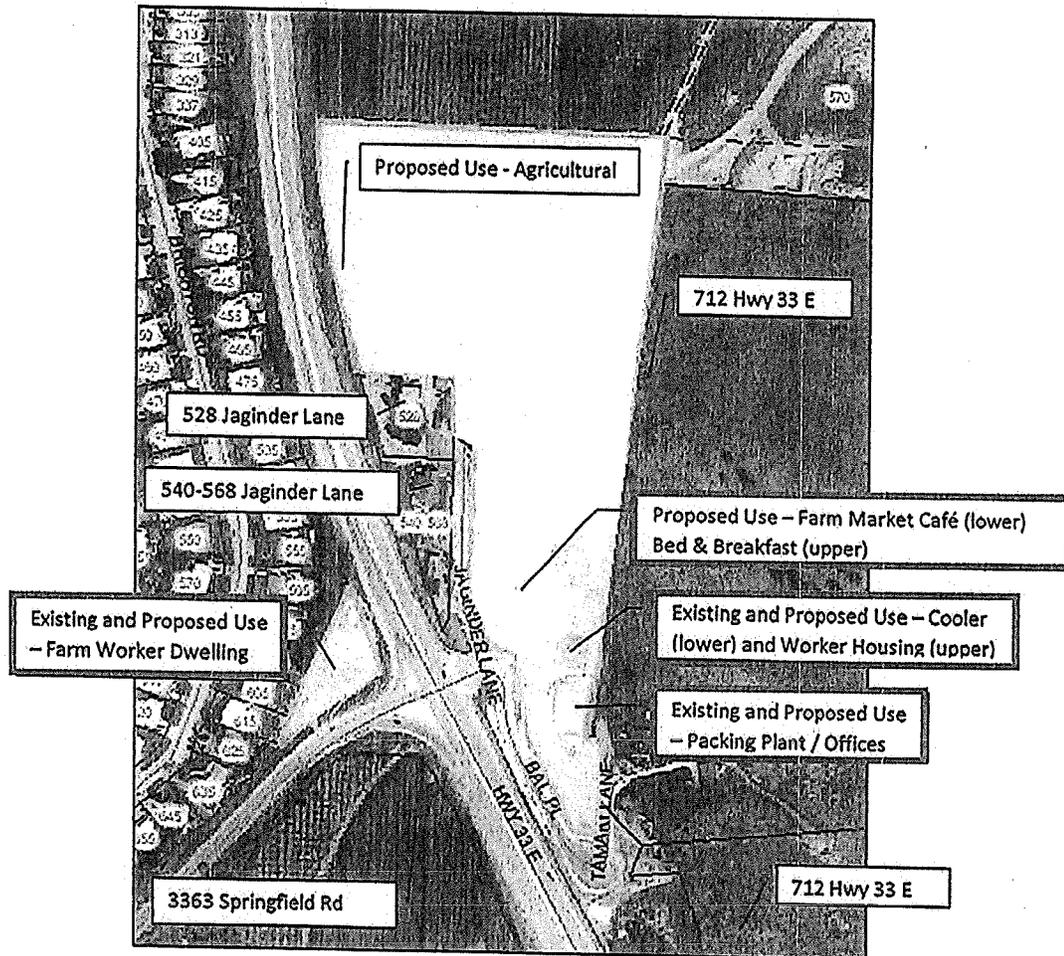
AND THAT the approval is subject to the following conditions:

1. That the Café facility be limited to its current size and that there be submission of notification or an application to the Commission should there be plans in the future for any significant changes or plans to expand the current footprint.
2. Approval for non-farm use is granted for the sole benefit of the applicant and is non-transferable.

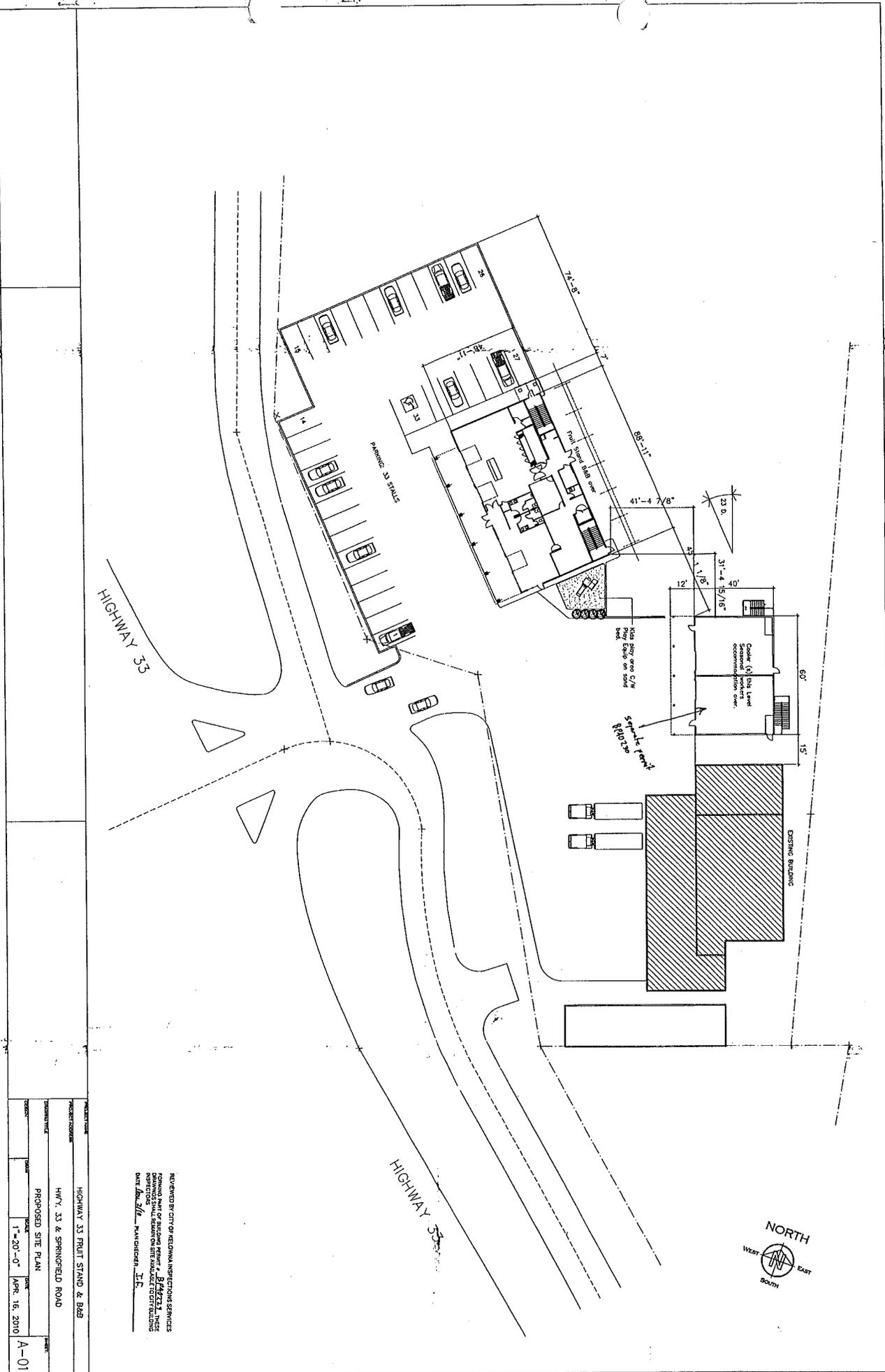
AND FINALLY THAT this decision does not relieve the owner or occupier of the responsibility to comply with applicable Acts, regulations, bylaws of the local government, and decisions and orders of any person or body having jurisdiction over the land under an enactment.

CARRIED
Resolution #101/2014

ALC Application # 53542 (Hillcrest Farm Market Inc.)



 Non farm uses conditionally
Approved by Resolution # 101/2014



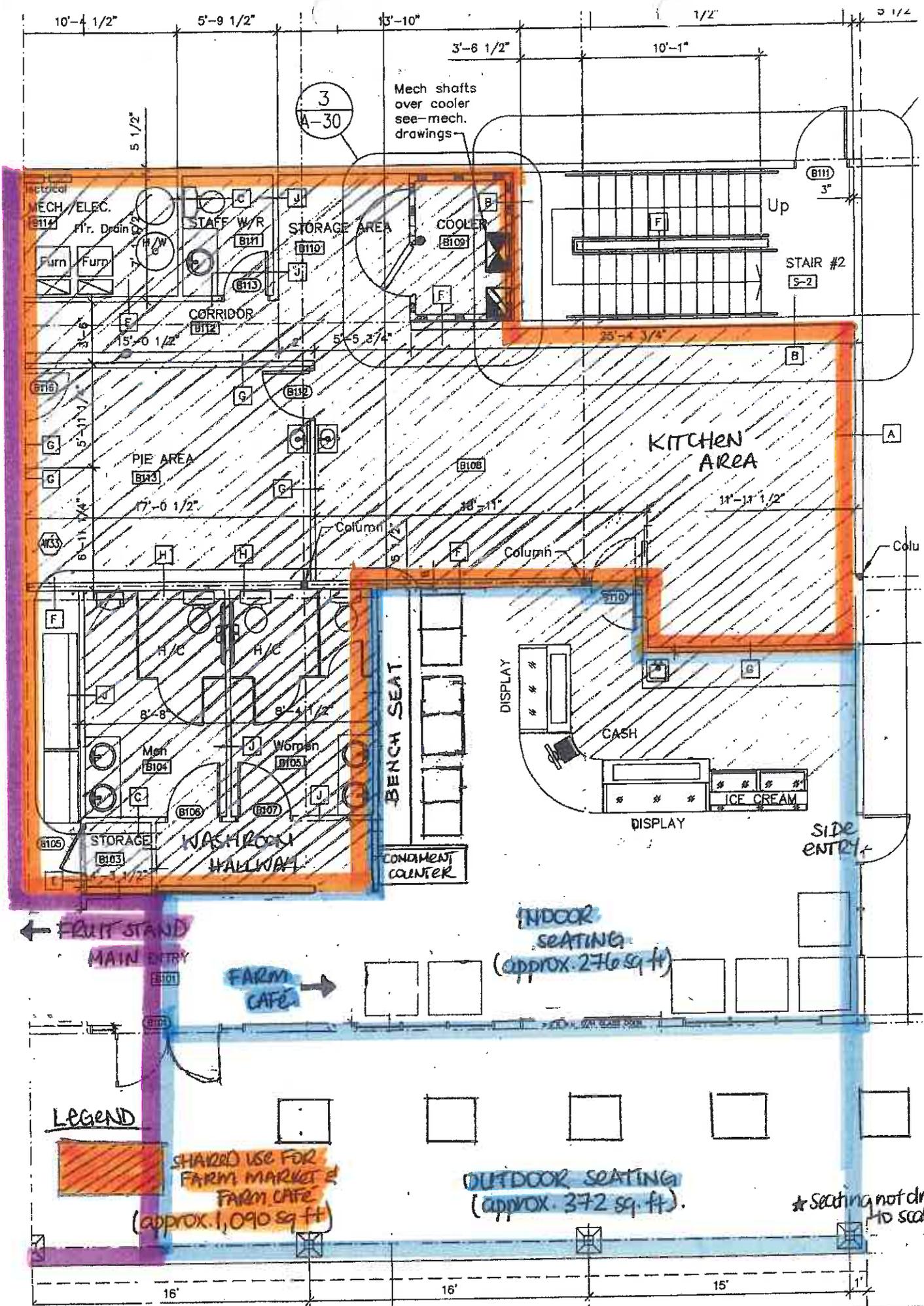
HIGHWAY 33

HIGHWAY 33

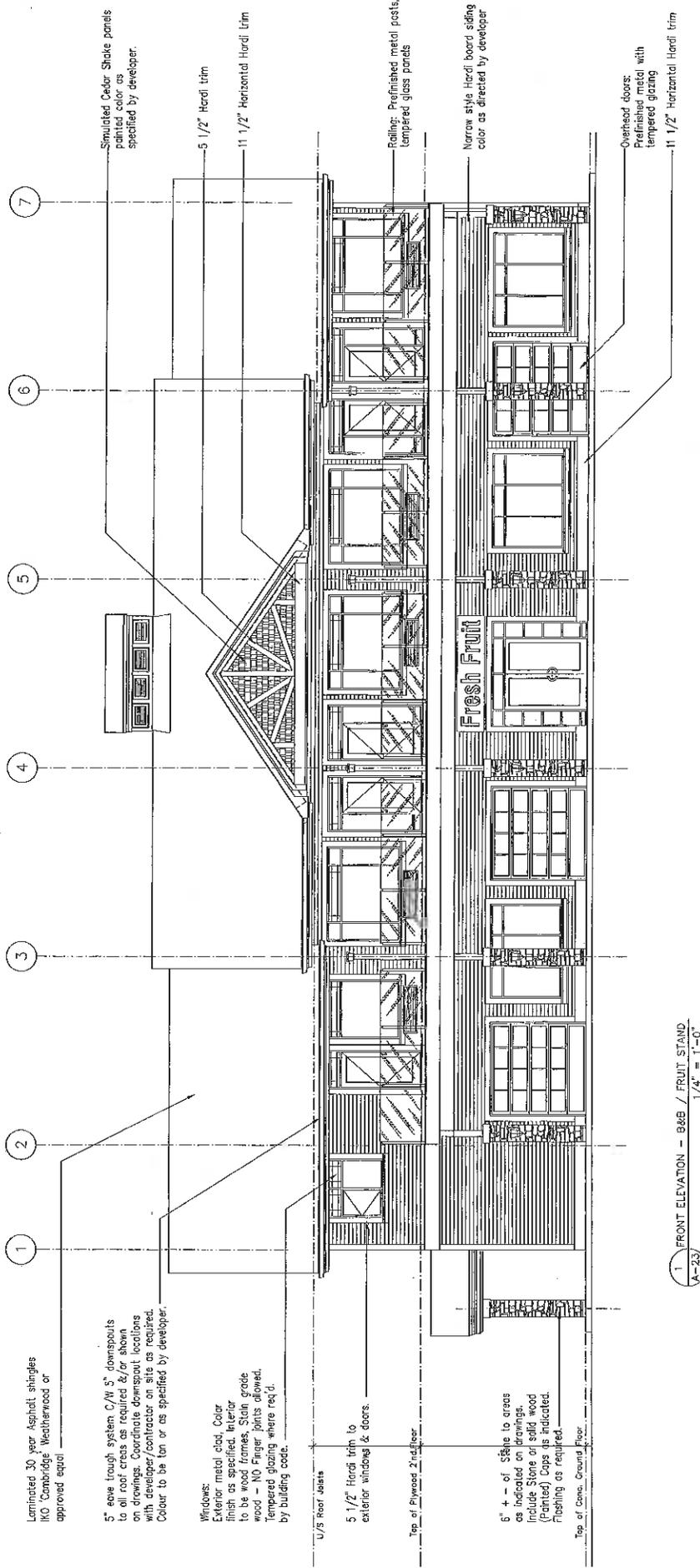


REVIEWED BY CITY OF PELOUMA INSPECTIONS SERVICES
 CONSULTANT: **PIZZA**
 DATE: **APR 15, 2010**

PROJECT NUMBER	HIGHWAY 33 FRUIT STAND & B&B
CONSULTANT	HWY. 33 & SPRINGFIELD ROAD
PROPOSED SITE PLAN	
SCALE	1" = 20'-0"
DATE	APR. 15, 2010
PROJECT	A-01







1
2
3
4
5
6
7

Simulated Cedar Shake panels
painted color as
specified by developer.

5 1/2" Hardi trim

11 1/2" Horizontal Hardi trim

Roller: Prefinished metal posts,
tempered glass panels

Narrow style Hardi board siding
color as directed by developer

Overhead doors:
Prefinished metal with
tempered glazing
11 1/2" Horizontal Hardi trim

Laminated 30 year Asphalt shingles
IKO 'Cambridge' Weatherwood or
approved equal

5" sawe trough system C/W 5" downspouts
to all roof crees as required &/or shown
on drawings. Coordinate downspout locations
with developer/contractor on site as required.
Colour to be tan or as specified by developer.

Windows:
Exterior metal clad, Color
finish as specified. Interior
to be wood frames, Stain grade
wood - NO Finger joints allowed.
Tempered glazing where req'd.
by building code.

U/S Roof Joists

5 1/2" Hardi trim to
exterior windows & doors.

Top of Plywood 2nd floor

6" + - of Sillie to crees
as indicated on drawings.
Include Stone or solid wood
(Painted) Caps as indicated.
Flashing as required.

Top of Conc. Ground Floor

1 FRONT ELEVATION - B&B / FRUIT STAND
1/4" = 1'-0"

PROJECT NAME	HIGHWAY 33 - FRUIT STAND - B&B BLD'G.
CLIENT	KELOWNA, B.C.
DATE	APR. 13, 2010
SCALE	1/4" = 1'-0"
SHEET	A-23

Staff do support the Text Amendment for Hillcrest Farm subject to the completion of outstanding requirements noted through the circulation process including:

- The occupancy load of the Café cannot exceed 30 persons;
- A permanent sign be posted inside the Café that indicates the maximum occupant load of the cafe cannot exceed 30 persons at any given time;
- The Hillcrest Farm sign including sign size and sign location be resolved; and
- The number of access roads to Bal Place be resolved.

and together with the conditions as resolved by the ALC (ALC Resolution attached):

- Covenant on property that the use of the café will not transfer to future owners (in accordance with ALC Resolution #101/2014); and
- Covenant on property that the café will not expand beyond the size approved by the ALC, without a resolution from the ALC authorizing the same.

In addition, City staff recommend that Council also ensure that the remaining outstanding issues be resolved in a timely manner:

- Occupancy of the cherry packing plant (under construction) cannot occur without sufficient fire flows and a fire alarm;
- Occupancy load of the Temporary Farm Worker Housing at Bal Place cannot exceed 10 persons without a fire alarm;
- Submission of a Non-farm Use application for weddings & special events;
- Resolution of loading dock location(s) including associated safe turning movements to Bal Place;
- Development Permit requirements for the restoration of Francis Brook; and
- Development Permit landscaping requirements for Temporary Farm Worker Housing on McKenzie Road.

4.0 Proposal

4.1 Background

The subject property is part of a larger agricultural operation (three properties totalling approximately 35 hectares). In addition to these parcels, the owners of the subject property also own additional agricultural parcels elsewhere (i.e. McCurdy Road).

In November 2010, the landowner was issued a Building Permit to construct an approximately 800 m² accessory structure with two floors (i.e. ~400 m²/floor). The Building Permit plans provided to the City reflected a main floor which was largely dedicated to the display and sale of fruit and vegetables with pie and jam preparation areas, large coolers and office space. All seating appeared as picnic tables outside under the covered entry. The second floor was shown with a four unit Bed & Breakfast facility with a manager/operator's suite as is required to conduct this use. Building & Permitting staff reviewed the plans submitted and made the following conditions of the issued Building Permit:

2. See attached ALC Policy #2 dated March 2003 ACTIVITIES DESIGNATED AS FARM USE: FARM RETAIL SALES IN THE ALR. Be advised that all of the farm product offered for sale must be produced on the farm on which the retail sales are taking place as the retail sales area exceeds the max 300 m².

Building & Permitting staff correctly noted that due to the size, to operate the building as proposed, the landowners may only retail farm product produced on this parcel or others operated by them.

However, the building was not constructed as proposed. Rather, the southern portion of the structure was altered to a café format with interior seating (see attached as-built floor plan and photos). The café currently occupies approximately 276 ft² indoors and 372 ft² outdoor exclusively. The café also occupies other areas of the structure which is estimated by the applicant to be an additional 1,090 ft² with shared areas including the kitchen, pie preparation area and washrooms. Staff notes that retail sales is considered an 'ancillary farm use' under the Regulation as long as 50% of the product is grown on the farm and the area does not exceed 300 square metres.

A café is a use consistent with a "Food Primary Establishment". The use is not however, a permitted use in the ALR or in the City's A1 - Agriculture zone. An exception is where a Food Primary Establishment is developed in conjunction with a winery or cidery.

The Hillcrest Farm Market Café as it is referred, began operating in the summer of 2012 and has been operating since that time. The business is being operated without a City issued business license which cannot be issued given the non-conforming use in the zone and City Bylaw Services staff have been seeking compliance since this time. This application addresses the legalization of this use.

In 2014, Hillcrest Farm applied to the Agriculture Land Commission (ALC) for authorization to allow the Non-Farm Use of a 'primary food establishment' (café) along Hwy 33 E. The café was established without prior authorization by the City of Kelowna nor the Agricultural Land Commission (ALC) and is not a permitted use under the *Agricultural Land Reserve Use, Subdivision and Procedure Regulation*¹ (the Regulation). The applicants subsequently applied for a Non-Farm Use to allow the café use and in March of 2014 received Resolution #101/2014 (attached) to allow the use under the following conditions:

1. That the café be limited to its current size and that there be submission of notification or an application to the Commission should there be plans in the future for any significant changes or plans to expand the current footprint.
2. Approval for non-farm use is granted for the sole benefit of the applicant and is non-transferable.

4.2 Project Description

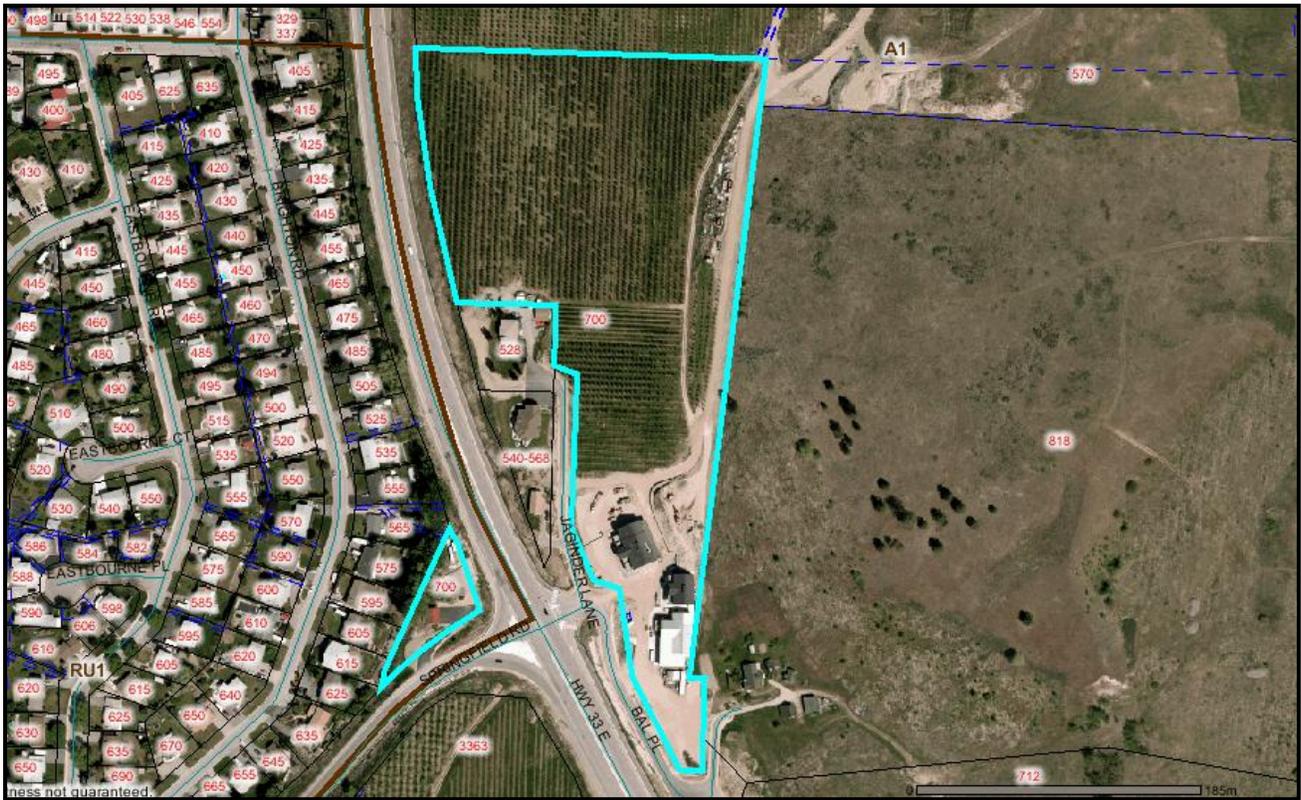
Staff recommends that the A1-Agriculture zone be amended to include the ALC Resolution # 101/2014, to permit the use of a 'primary food establishment' at 700 Hwy 33 E, as outlined in Attachment A.

4.3 Site Context

The subject property is located east of Highway 33 E at the intersection with Springfield Road in the Rutland Sector. The site area is ~5.8 hectares (14.3 acres) and the site elevation varies between 457 and 493 metres. The subject property includes a ~0.22 ha hooked portion (across Hwy 33 E) which is zoned RU1 - Large Lot Housing.

¹ RSBC, 2002. Agricultural Land Reserve Use, Subdivision and Procedure Regulation, incl. Amendments up to BC Reg. 167/2014. http://www.bclaws.ca/civix/document/id/complete/statreg/171_2002

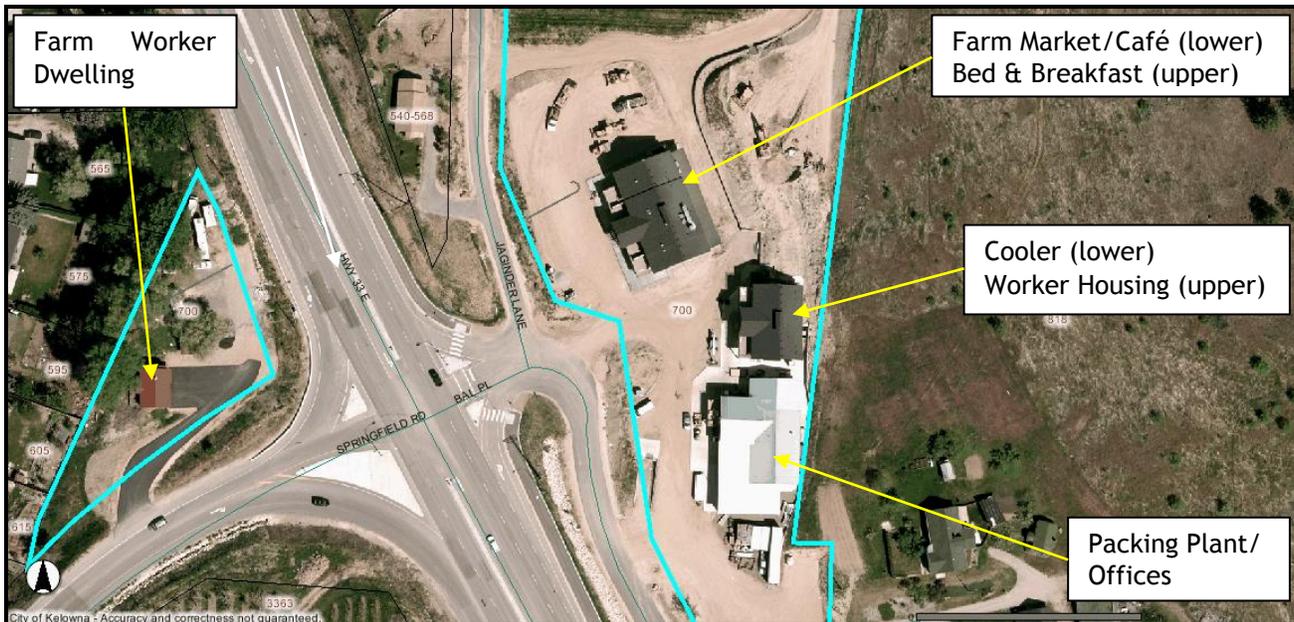
Map 1 - Subject Property - 700 Highway 33 E



The subject property is at an urban/rural interface area with the Permanent Growth Boundary directly across Highway 33 (to the west). The large road cross section (averaging approximately 50 metres) does however provide extensive buffering from farm practices. Zoning and land uses adjacent to the property are as follows:

Direction	Zoning	ALR	Land Use
North	A1 - Agriculture 1	Yes	Orchard
South	A1 - Agriculture 1 Roadway	Yes No	Rural Residential Highway
East	A1 - Agriculture 1	Yes	Rural/agricultural
West	A1 - Agriculture 1 RU1 - Large Lot Housing	Yes No	Rural/agricultural Residential

Map 2 - Hillcrest Farm Structures



4.4 Current Development Policies

4.5 Kelowna Official Community Plan (OCP)

The subject property has a future land use designation of Resource Protection Area and relevant policies are included below:

Objective 5.33 Protect and enhance local agriculture².

Policy .1 Protect Agricultural Land. Retain the agricultural land base by supporting the ALR and by protecting agricultural lands from development, except as otherwise noted in the City of Kelowna Agricultural Plan. Ensure that the primary use of agricultural land is agriculture, regardless of parcel size.

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.

Policy .7 Non-farm Uses. Support non-farm use applications on agricultural lands only where approved by the ALC and where the proposed uses:

- are consistent with the Zoning Bylaw and OCP;
- provide significant benefits to local agriculture;
- can be accommodated using existing municipal infrastructure;
- minimize impacts on productive agricultural lands;
- will not preclude future use of the lands for agriculture;
- will not harm adjacent farm operations.

Objective 5.34 Preserve productive agricultural land³.

Policy .3 Homeplating. Locate buildings and structures, including farm help housing and farm retail sales area and structures, on agricultural parcels in close proximity to one another and

² City of Kelowna 2030 Official Community Plan: Greening Our Future (2011), Development Process Chapter; p. 5.33.

³ City of Kelowna 2030 Official Community Plan: Greening Our Future (2011), Development Process Chapter; p. 5.34.

where appropriate, near the existing road frontage. The goal should be to maximize use of existing infrastructure and reduce impacts on productive agricultural lands.

4.1 City of Kelowna Agriculture Plan (1998)

Farm Retail Sales

For some time the use of agricultural land to sell products grown or reared on that farm operation has been permitted within the ALR. In addition, it was possible to receive permission from the Land Commission to sell products not produced on site under Regulation 313/78. In recognizing that farm retail sales contribute to the productive use of farmland without interfering or prohibiting agriculture the Land Commission has acknowledged the traditional role of marketing of farm products, particularly in the Okanagan. The Land Commission has established a policy that encourages retail activity associated with the direct sale of farm products, processed farm products, and some off-farm products subject to that portion of the retail sales building used for the sale of off farm products does not exceed one-third of the building floor area, up to a maximum of 100 square metres. In addition, where off-farm products are sold, farm products and processed farm products must also concurrently be offered for sale.

ALR Application Criteria⁴

Exclusion, subdivision, or non-farm use of ALR lands will generally not be supported. General non-support for ALR applications is in the interest of protecting farmland through retention of larger parcels, protection of the land base from impacts of urban encroachment, reducing land speculation and the cost of entering the farm business, and encouraging increased farm capitalization.

Economic Enhancement Policies⁵

Integration. Support the establishment of a process to consider, in addition to the promotion of agri-tourism and direct farm marketing businesses within the community, an integrated approach that creates linkages to the cultural and heritage tourism sectors, in terms of marketing an identity of Kelowna.

4.2 Zoning Bylaw

11.1.7 (c) Agricultural and garden stands selling only produce grown on the site or another site operated by the same producer do not have a maximum area. The maximum gross floor area of stands selling produce that is produced off-site shall be 50.0 m². For sites within the Agricultural Land Reserve, the maximum gross floor area of agricultural and garden sales for produce produced off-site or off-farm products shall be the lesser of one-third of the total floor area of the agricultural and garden sales stand or 100.0 m².

4.3 Agricultural Land Reserve Use, Subdivision and Procedure Regulation

Section 2 (2) The following activities are designated as farm use for the purposes of the Act and may be regulated but must not be prohibited by any local government bylaw except a bylaw under Section 917 of the Local Government Act:

(a) farm retail sales if

- (i) all of the farm product offered for sale is produced on the farm on which the retail sales are taking place, or
- (ii) at least 50% of the retail sales area is limited to the sale of farm products produced on the farm on which the retail sales are taking place and the total area,

⁴ City of Kelowna Agriculture Plan (1998); p. 130.

⁵ City of Kelowna Agriculture Plan (1998); p. 150 - 152.

both indoors and outdoors, used for the retail sales of all products does not exceed 300 m²;

Section 1 (1) "farm product" means a commodity that is produced from a farm use as defined in the Act or designated by this regulation.

Farm retail sales – means the retail sale to the public of tangible products grown or raised on a farm, from that farm and may include the sale of non-farm products as permitted by the regulation.

Retail sales area – means the floor area or dedicated outside area on which the farm retail sales are taking place and includes areas used for retail purposes inside buildings (indoors) and areas outside buildings (outdoors). It does not include parking, driveways, office space, washrooms or areas for processing or product storage.

5.0 Technical Comments

5.1 Black Mountain Irrigation District

Black Mountain Irrigation District has outlined the outstanding water servicing requirements and a number of concerns with the application (Attachment C). More specifically, the concerns are:

- No fire capacity to the area;
- No fire hydrants; and
- Limited flow capacity through the existing mains that service the area.

5.2 Building & Permitting Branch

Building & Permitting staff completed a full plan check for BC Building Code related issues at time of Building Permit application (April 2010). Please note that this building was originally constructed as a Fruit Stand and Jammary with a Single Family Dwelling and a Bed and Breakfast on the upper floor. The cafe was added after Final Occupancy was granted.

Further to the new information provided by BMID, Building & Permitting staff inspected (June 3, 2015) the structure as it relates to Fire Department Access in the BC Building Code:

For Part 9 Buildings the BC Building Code states:

9.10.20.3 Fire Department Access To Buildings

- 1) *Access for fire department equipment shall be provided to each building by means of a street, private roadway or yard.*

Specific to the access requirement, staff identified that fire department access requirement was adequately provided at the time of inspection and further that both the Owners Unit and the Bed & Breakfast have the two required exits leading directly to the exterior.

For Part 3 Buildings the BC Building Code states:

3.2.5.7. Water Supply

- 1) *Every building shall be provided with adequate water supply for firefighting.*
- 2) *Buildings that are sprinklered throughout with a sprinkler system conforming to Article 3.2.5.12 or have a standpipe system conforming to Article 3.2.5.9. to 3.2.5.11 need not comply with Sentence 3.2.5.7.1*

Specific to the water supply requirement, staff identified that the cafe was nearly at capacity and the existing seating layout allowed a total seating for 28 people. The Low Occupant Load for an Assembly Use permits less than 30 occupants. If kept under 30 occupants, the building and the use are considered under Part 9 of the BC Building Code as a Personal and Business Services use and no water supply would be required for firefighting purposes.

However, should the occupancy load in the cafe be greater than 30 occupants then the following Part 3 building requirements are required:

- Adequate water supply to be provided for firefighting;
- Building to be sprinklered; and
- Fire alarm is required in the building.

Based on this information, staff require that a permanent sign be posted inside that indicates the maximum occupant load of the cafe cannot exceed 30 persons at any given time.

5.3 Kelowna Fire Department (KFD)

The Kelowna Fire Department initially had no concerns with the Text Amendment given that the building already existed.

However, further to the cafe being added and new information provided by BMID, KFD staff reviewed the structure as it relates to the BC Building Code and fire protection as it relates to the City of Kelowna's Fire & Life Safety Bylaw:

- At the time of reviewing the BMID report identifying flows and infrastructure, KFD staff are concerned that the existing fire flows and existing fire hydrant locations are insufficient to provide adequate fire protection to the structures on the property (including the cafe).
- At the time of inspection (on May 25th), KFD staff were concerned with the number of sleeping units on the second floor given that the building plans indicate 6 bedrooms on the second floor and given that the BC Building Code indicates that a fire alarm shall be installed in a residential occupancy with sleeping accommodation for more than 10 persons:
 - Division B, Section 3.2.4.1(4)(I) - a fire alarm shall be installed in a residential occupancy with sleeping accommodation for more than 10 persons.
 - Division B, Section 3.1.17.1(1)(b) - the occupant load determination is 2 persons per sleeping unit.

5.4 Development Engineering Branch

Development Engineering have identified a number of bylaw requirements and outstanding non-conforming issues on the farm including:

- The applicant is to confirm with Black Mountain Irrigation District (BMID) that the water supply system is capable of supplying domestic and fire flow demands, for the contemplated uses on the subject property, in accordance with the Subdivision, Development & Servicing Bylaw. The applicant is to also ensure that every building within the property is located at an elevation allowing water pressure within the Bylaw pressure limits.
- Although not directly related to the Cafe, there are on-sites issues that have been identified in previous Development Engineering reports and must be addressed and corrected by the owner prior to the adoption of the Text Amendment. The outstanding issues include:
 - Sign Location;
 - Loading Bay Accessibility & Turning Movements; and
 - Number of Driveways.

5.5 Bylaw Services

Although not directly related to the Cafe, Bylaw Services have a number of concerns with respect to non-conforming uses, outstanding issues and violations on the farm including:

- The Hillcrest Farm Market website currently advertises both Wedding & Special Promotional Events. The wedding and events venue on the farm is not a permitted use.
- An application for a Non-farm Use to allow weddings / events on the property is required.
- Bylaw staff received noise complaints and issued bylaw violations last Summer.
- No Special Events Licenses were obtained for wedding events last year.
- Completion of required Development Permit conditions on the adjacent farm parcel (1071 McKenzie Road).
- Building inspection for the house on the linked lot across Hwy 33 E, to determine if it is safe for occupancy.
- Possible Assembly Hall being constructed above the cherry packing plant.

5.6 Real Estate Services

Real Estate Services have identified a couple of concerns with respect to outstanding issues on the farm including:

- Parking requirements should be reviewed to ensure that parking and access issues are not exacerbated based on the commercial parking and seating required for the Market, Cafe and Bed & Breakfast.
- The applicant recently made application to Real Estate staff to acquire a portion of roadway to legalize both a sign and an existing loading bay but the application was not supported by City staff.

5.7 Policy & Planning

Policy & Planning recognize that this is a unique situation and is subject to strict limitations in its ALC approval, Policy & Planning staff would strongly urge caution in considering further expansion on the property or further proliferation of the cafe concept to other farm operations.

6.0 Application Chronology

Date of Application Received:	February 27 th , 2015
Date Circulation Completed:	March 27 th , 2015
First Reading:	May 4 th , 2015
Application Deferred at Public Hearing:	May 26 th , 2015

Report prepared by:

Todd Cashin, Suburban & Rural Planning Manager

Reviewed by: Ryan Smith, Community Planning Department Manager

Approved for Inclusion: Doug Gilchrist, Community Planning & Real Estate Director

Attachments:

- Attachment 'A' - Proposed A1 - Agricultural Zones Text Amendments
- Attachment 'B' - ALC Resolution #101/2014
- Attachment 'C' - BMID Letter - Outstanding Water Servicing Requirements
- Attachment 'D' - City of Kelowna - Outstanding Bylaw Requirements
- Attachment 'E' - ALR Map
- Attachment 'F' - Plans - Café
- Attachment 'G' - Market / Café Elevations
- Attachment 'H' - Context/Site Photos

ATTACHMENT 'A' Proposed A1 - Agricultural Zones Text Amendments
TA15-0002

Section	Existing Text	Proposed Text	Rationale
<p>Section 11 - Agricultural Zones Secondary Uses</p>	<p>11.1.3 Secondary Uses The secondary uses in this zone are: (a) agricultural dwellings, additional (b) agri-tourism (c) agri-tourist accommodation (A1t only) (d) animal clinics, major (e) animal clinics, minor (f) bed and breakfast homes (g) care centres, intermediate (h) carriage house (A1c only) (i) forestry (j) group homes, minor (k) home based businesses, major (l) home based businesses, minor (m) home based businesses, rural (n) kennels and stables (o) secondary suite (p) wineries and cideries</p>	<p>11.1.3 Secondary Uses The secondary uses in this zone are: (a) agricultural dwellings, additional (b) agri-tourism (c) agri-tourist accommodation (A1t only) (d) animal clinics, major (e) animal clinics, minor (f) bed and breakfast homes (g) care centres, intermediate (h) carriage house (A1c only) (i) forestry (j) group homes, minor (k) home based businesses, major (l) home based businesses, minor (m) home based businesses, rural (n) kennels and stables (o) secondary suite (p) wineries and cideries (q) Non-Farm Use in accordance with ALC Resolution #101/2014 attached as Schedule B to Section 11 – Agricultural Zones applicable only to Lot A, Section 24, Township 26 ODYD Plan EPP7145 (700 Hwy 33 E).</p>	<p>The subject property is zoned A1 which is the appropriate zone for this parcel. Based on the ALC Resolution #101/2014, the use of a food primary establishment in accordance with the conditions of that resolution, per Schedule B.</p> <p>Staff does not want to see <i>food primary establishment</i> added to the entire A1 zone as food primary establishments would not be appropriate on other parcels zoned A1 in the city, and are not permitted without an ALC Resolution where the A1 parcels are also in the Agricultural Land Reserve.</p>

SCHEDULE 'B'



MINUTES OF THE PROVINCIAL AGRICULTURAL LAND COMMISSION

A meeting was held by the Provincial Agricultural Land Commission on March 26, 2014 at the offices of the Commission located at #133 – 4940 Canada Way, Burnaby, B.C. as it relates to Application #53542.

COMMISSION MEMBERS PRESENT:

Richard Bullock	Chair
Jennifer Dyson	Vice-Chair
Gordon Gillette	Vice-Chair
Bert Miles	Commissioner
Jim Johnson	Commissioner
Jerry Thibeault	Commissioner
Lucille Dempsey	Commissioner

COMMISSION STAFF PRESENT:

Ron Wallace	Planner
Colin J. Fry	Chief Tribunal Officer

PROPOSAL (Submitted pursuant to section 20(3) of the *Agricultural Land Commission Act*)

To legalize an existing "food and beverage service lounge" (café) on the subject property. The facility includes approximately 272 ft² of indoor and 372 ft² of outdoor seating for café customers, along with a display and retail sales area. The café also shares approximately 1,090 ft² with the farm market. The shared space includes the kitchen area, staff and public washrooms, storage and pie preparation areas.

PROPERTY INFORMATION:

Owner: Hillcrest Farm Market Inc.

Legal: PID: 028-389-387
Lot A, Section 24, Township 26, Osoyoos Division Yale District, Plan EPP7145

Location: 700 Highway 33 East, Kelowna

Size: 5.8 ha (5.6 ha in the ALR)

LEGISLATIVE CONTEXT FOR COMMISSION CONSIDERATION

Section 6 (Purposes of the commission) of the *Agricultural Land Commission Act* states:

6 The following are the purposes of the commission:

- (a) to preserve agricultural land;
- (b) to encourage farming on agricultural land in collaboration with other communities of interest; and

- (c) to encourage local governments, first nations, the government and its agents to enable and accommodate farm use of agricultural land and uses compatible with agriculture in their plans, bylaws and policies.

COMMISSION CONSIDERATION

The Commission reviewed a previous application involving the subject property:

- Application #18547 (Basran, 1989) To subdivide Lot 3 (being 29.2 ha) into three lots of approximately 9.7 ha. The Commission, by Resolution #9/89, approved the request for subdivision into three lots.

Note: The subject property was created from this approval.

In its consideration of this application the Commission reviewed some of the chronology of events – as outlined by both the applicant and in the City's 'Report to Council' – to better understand the details of this non-farm use proposal.

The application is to legalize an existing "food and beverage service lounge" (i.e. Hillcrest Farm Market Café) on the subject property.

At issue – as the Commission understands – is that the proposed building was not constructed as authorized by the City of Kelowna's building permit for a farm retail sales and Bed & Breakfast (issued in November 2010); as the main floor was altered to include a café with interior seating. The facility includes approximately 272 ft² of indoor and 372 ft² of outdoor seating for café customers, along with a display and retail sales area. The café is considered a "Food Primary Establishment" pursuant to the City of Kelowna Zoning Bylaw which is not allowed on parcels (like the subject property) zoned for agriculture (A-1 designation). As a result, the business has been operating without a business license since the summer of 2012 as a non-conforming use.

The Commission wishes to express its disapproval of the process of receiving an application for the purpose of reviewing the option to either 'legalizing an existing non-farm use' or refusing the existing use (which implies the requirement to bring the use into compliance with the *ALC Act* and its Regulations) on ALR land. The Commission is extremely frustrated that this proposal was not submitted before construction so that it could carefully consider the use in context to Section 6 of the *ALC Act* as noted above.

In its consideration the Commission noted the subject property is part of a larger agricultural operation consisting of three properties totaling approximately 35 ha. Further, each of these parcels is in agricultural production which helps supply the farm products sold from the farm market and provide for the meals sold from the café. It was expressed by the applicant that the café has become an integral component of the overall business plan of the farm; and that if required to be removed, the impact to the overall business would be significant. As a result the Commission is prepared to support the proposal subject to the conditions outlined below.

IT WAS

MOVED BY: Commissioner Thibeault
SECONDED BY: Commissioner Gillette

THAT the request to legalize an existing "food and beverage service lounge" (café) on the subject property be conditionally approved.

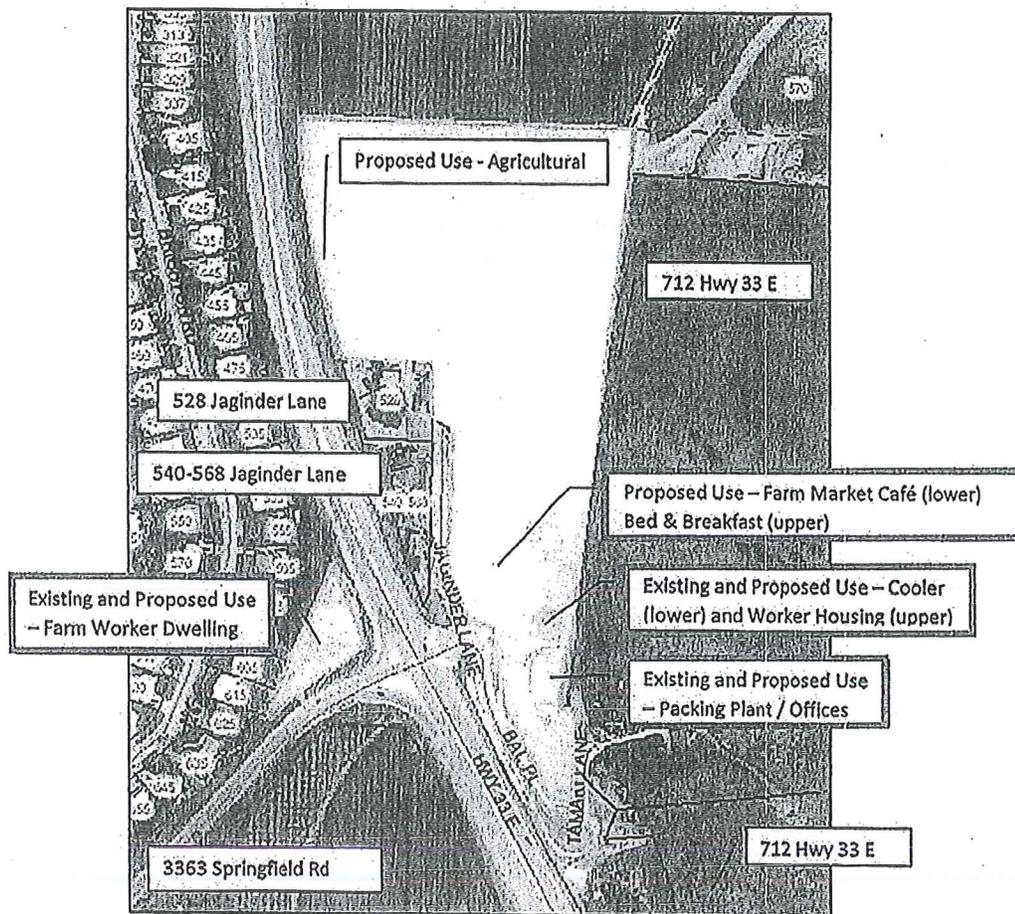
AND THAT the approval is subject to the following conditions:

1. That the Café facility be limited to its current size and that there be submission of notification or an application to the Commission should there be plans in the future for any significant changes or plans to expand the current footprint.
2. Approval for non-farm use is granted for the sole benefit of the applicant and is non-transferable.

AND FINALLY THAT this decision does not relieve the owner or occupier of the responsibility to comply with applicable Acts, regulations, bylaws of the local government, and decisions and orders of any person or body having jurisdiction over the land under an enactment.

CARRIED
Resolution #101/2014

ALC Application # 53542 (Hillcrest Farm Market Inc.)





Office: (250) 765-5169
Fax: (250) 765-0277
www.bmid.ca

BMID File No. 2015.43

May 22, 2015

Mr. Chanchal Bal
1795 McCurdy Road East
Kelowna, BC
V1P 1B5

Attention: Mr. Chanchal Bal,

**RE: 700 HIGHWAY 33 EAST – HILLCREST FARM MARKET INC. TA15-0002 / Z15-007
OUTSTANDING WATER SERVICING REQUIREMENTS**

Dear Mr. Bal

I am writing in response to COK's rezoning application referral Z15-007 (TA15-002) to allow a non-farm use (café) at the above noted property, dated March 2, 2015.

BMID had previously issued a letter to you, dated April 11, 2014. The letter (attached) outlined the requirements necessary for BMID's to review the domestic water supply and fire protection for the development area and the building which was already constructed. Further information with respect to BMID's requirements has been obtained, subsequent to your recent rezoning application to City of Kelowna. Our concerns with this application are as follows:

Requirements outlined in this letter remaining outstanding. **Specifically, BMID still has no fire protection capacity to this area.** There are no fire hydrants and there is limited flow capacity through the existing mains that service this area.

In this letter BMID required a Fire Underwriters Survey (FUS) form for fire protection requirements be submitted and sealed by a professional Engineer. This FUS form sets out the fire protection flows that must be available from the water system for the building(s). Items such as construction materials, exposures to/from other structures, building size, fire sprinkler system, etc. all form part of the calculation. BMID requires this information to ensure that the fire protection from our water mains to this area is adequate to service the existing and proposed buildings.

Subsequent to COK's rezoning referral last month, I requested your Engineer, Mike Young of Ecora Engineering Ltd, submit the FUS calculations necessary for us to complete our review. This information had not been provided previously.

Ecora provided a fire flow requirement of 250l/s to BMID on May 12, 2015.

BMID retained AF Consulting Ltd. to run our water distribution model with the fire protection requirement of 250 l/s. I have attached his report dated May 12, 2015 for your review.

C. Bal
1795 McCurdy Road East
April 11, 2014

In summary:

- **Significant Water Distribution Upgrades:** Water system upgrades are still required to be construction to provide fire protection and increase the servicing capacity to the site. Analyses and three upgrade options are outlined in the report. Major upgrades or new mains total length ranging from 1.15 to 1.4km based on the required flow provided by your Engineer. Cost analysis and review of each option can also be complete by your Engineer based on the data presented in the report. Finalized design drawings, signed and sealed by a Professional Engineer, must be submitted to BMID for written approval prior to construction.
- **Water Main Ownership:** The water main must be installed by the applicant and assigned to BMID for ownership and maintenance. The main must be installed on a Statutory Right-of-Way (SRW) in favour of BMID that permits access for maintenance, repairs and eventual replacement when required. Standard Terms of Instrument for a SRW have been previously provided to you for review prior to agreement to this condition;
- **Water Main Design and Workmanship:** Water system materials must be in conformance with the Kelowna Joint Water Committee approved materials list. Design and installation standards must meet the municipal standard for new waterworks installations including professional design, Interior Health approval, construction inspections by a professional engineering firm, and pressure testing and disinfection as per BMID requirements;
- **Building Plumbing Design Submission:** Drawings of mechanical building plumbing for the existing buildings must be still submitted to confirm that the existing water meter and water service to the building is adequate and whether a larger meter is required.
- **Hydrant Locations:** Future Hydrants locations are to be on the public right-of-way. The location on public right-of-way will eliminate the issue of it being a public hydrant, resulting in regular annual service of this hydrant by BMID;

We trust that these requirements are clear. We strongly recommend that improvements to the water distribution system are carried out to provide fire protection to the existing structures prior to this application being approved by City Council. If you have any questions regarding these requirements, please contact our office.

Yours truly,



Dawn Williams.
Administrator
BLACK MOUNTAIN IRRIGATION DISTRICT

cc: BMID Board of Trustees
Todd Cashin – City of Kelowna

Hillcrest Farm Market & Café - Attachment D

City of Kelowna Requirements:

- The occupancy load of the Café cannot exceed 30 persons;
- A permanent sign be posted inside the Café that indicates the maximum occupant load of the Café cannot exceed 30 persons at any given time;
- The Hillcrest Farm sign including sign size and sign location be resolved; and
- The number of access roads to Bal Place be resolved.

Agricultural Land Commission Requirements:

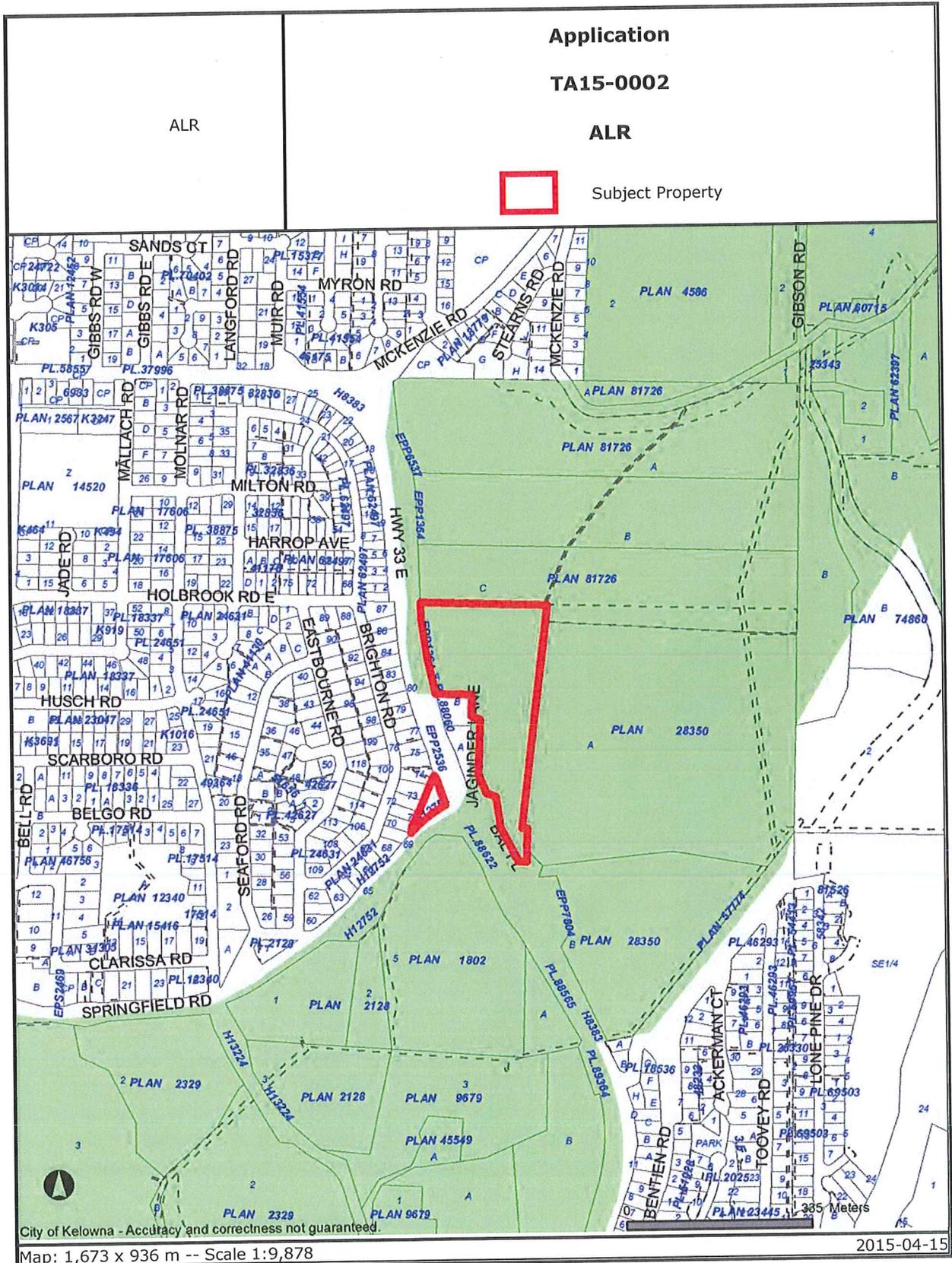
As per ALC Resolution #101/2014 (attached to Council Report):

- Covenant on property that the use of the Café will not transfer to future owners; and
- Covenant on property that the Café will not expand beyond the size approved, without a resolution from the ALC authorizing the same.

Additional Outstanding Issues:

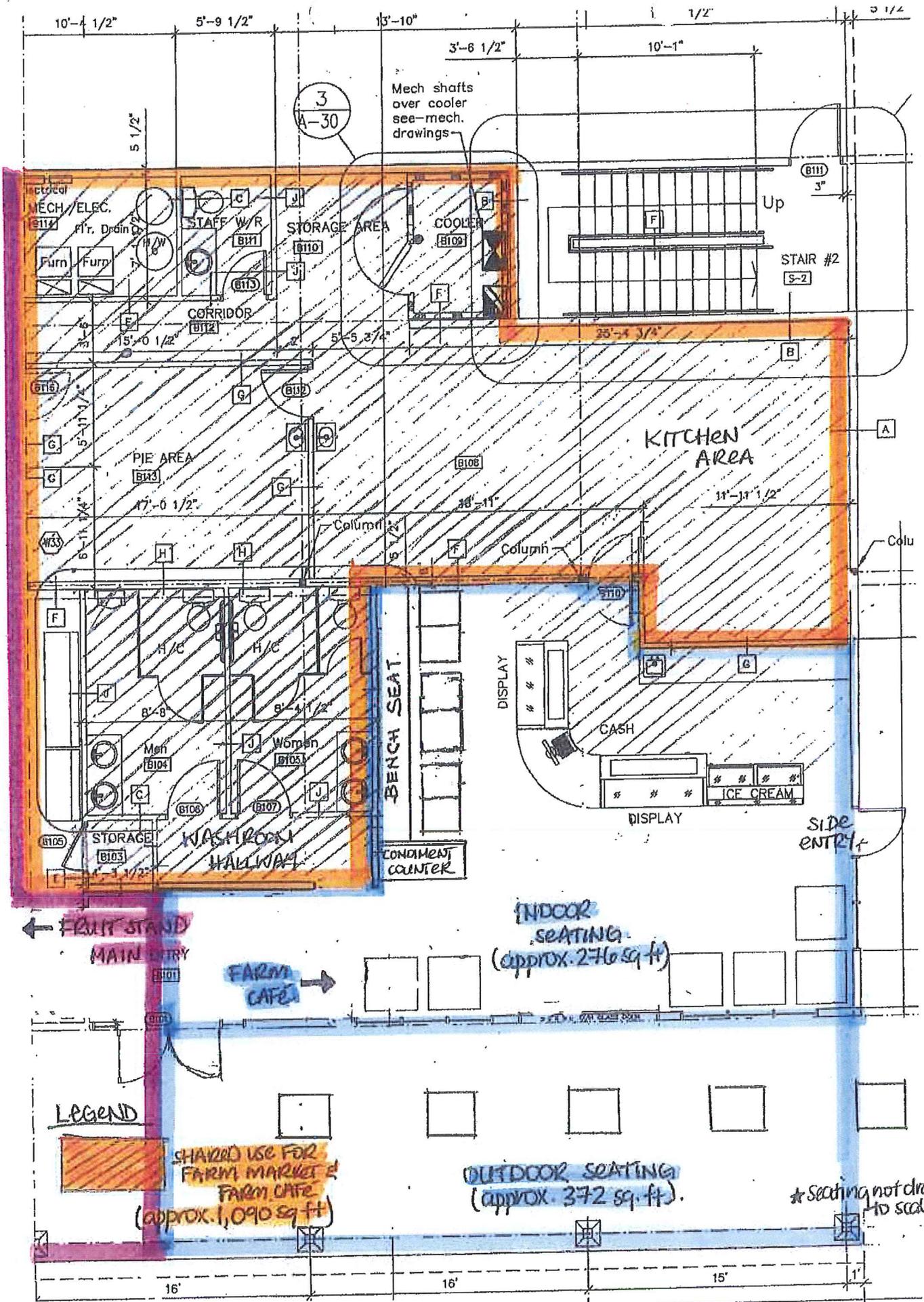
- Occupancy of the Cherry Packing Plant (under construction) cannot occur without sufficient fire flows and a fire alarm;
- Occupancy load of the Temporary Farm Worker Housing at Bal Place cannot exceed 10 persons without a fire alarm;
- Submission of a Non-Farm Use application for weddings (& special events);
- Resolution of loading dock location(s) including associated safe turning movements to Bal Place;
- Development Permit requirements for the restoration of Francis Brook; and
- Development Permit landscaping requirements for Temporary Farm Worker Housing on McKenzie Road.

Attachment E

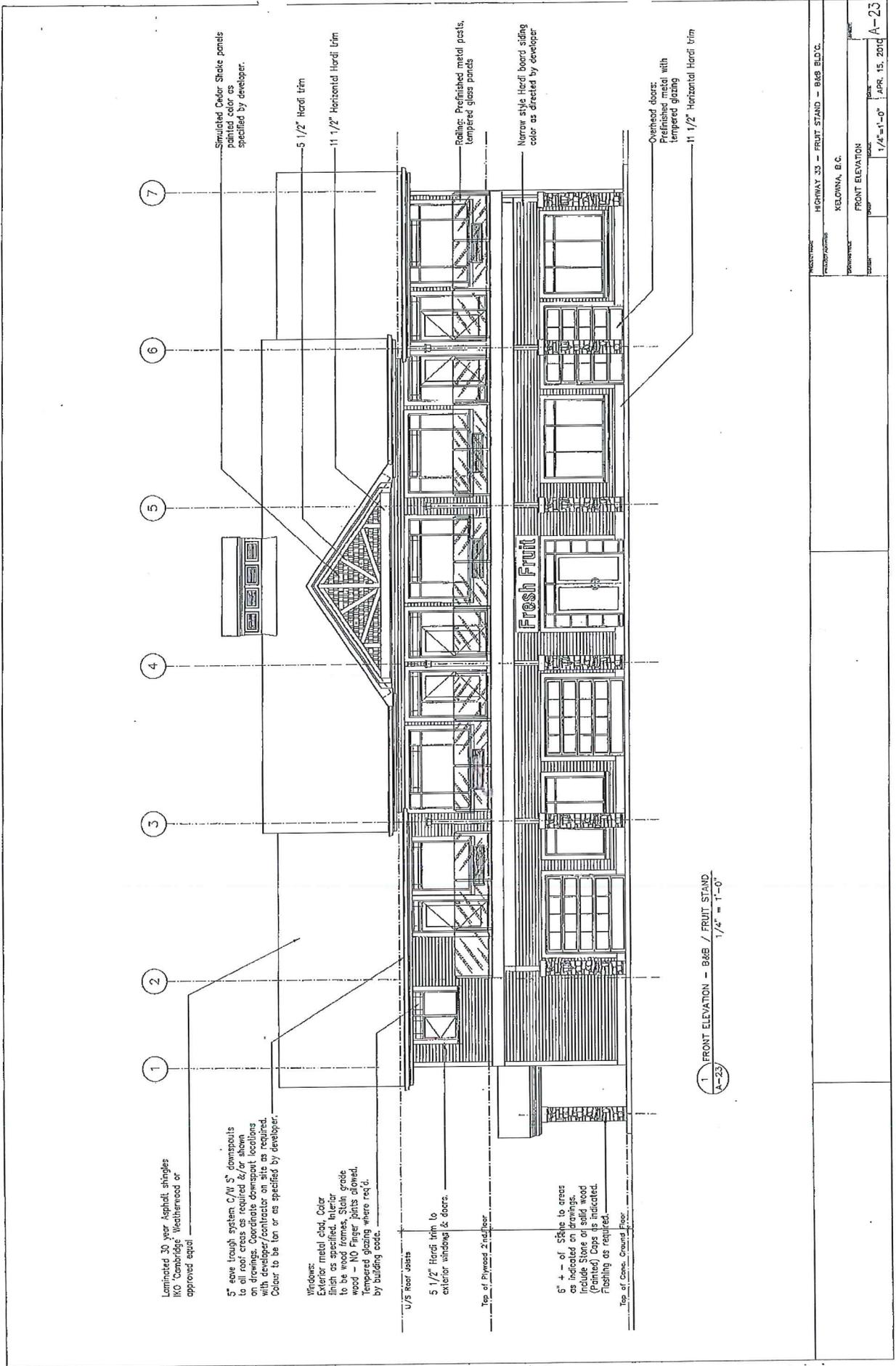


Certain layers such as lots, zoning and dp areas are updated bi-weekly. This map is for general information only.
The City of Kelowna does not guarantee its accuracy. All information should be verified.

Attachment F: Updated Plans



Attachment G: Front Elevations



Attachment H: Photos

