

City of Kelowna

Regular Council Meeting

AGENDA



Monday, June 10, 2013
1:30 pm
Council Chamber
City Hall, 1435 Water Street

Pages

1. Call to Order

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

2. Confirmation of Minutes

4 - 11

Regular PM Meeting - May 27, 2013

3. Development Application Reports & Related Bylaws

3.1 Rezoning Application No Z13-0013 - 1383 Ellis Street, 564913 BC Ltd.

12 - 21

This application seeks to rezone the subject property from I4 - Central Business Industrial zone to C7 - Central Business Commercial, to facilitate commercial uses within the existing building on site.

3.1.1 Bylaw No. 10852 (Z13-0013) - 1383 Ellis Street, 564913 BC Ltd.

22 - 22

To give Bylaw No. 10852 first reading.

3.2 Rezoning Application No. Z11-0004, Extension Request - 3399 East Kelowna Road, Clayton Ivan

23 - 25

To extend the date for adoption of the Zone Amending Bylaw from April 5, 2012 to October 5, 2012. To further extend the date for adoption of the Zone Amending Bylaw from October 5, 2012 to October 5, 2013.

- 3.3 Land Use Contract Discharge LUC13-0001 - 381 Oakview Road, Don Bouwman 26 - 34

To consider a proposal to discharge the existing Land Use Contract over the subject property in order to permit the development of an accessory building.

4. Bylaws for Adoption (Development Related)

- 4.1 Bylaw No. 10841 - Heritage Designation Application No. HD13-0001 - 0874309 BC Ltd., 784 Elliot Avenue 35 - 35

To consider adoption of Bylaw No. 10841, being HD13-0001 Jackie Gordon "Copeland House" 784 Elliot Avenue in order to designate as a municipal heritage building under Section 967 of the Local Government Act.

- 4.2 Bylaw No. 10840 - Heritage Revitalization Agreement Application No. HRA12-0001 - 0874309 BC Ltd., 784 Elliot Avenue 36 - 60

To consider adoption of Bylaw No. 10840, being HRA12-0001 0874309 BC Ltd. - 784 Elliott Avenue in order to restore the heritage house.

5. Non-Development Reports & Related Bylaws

- 5.1 Housing Agreement Request - 1933 Ambrosi Rd. 61 - 63

The purpose of this report is to consider Staff recommendation in response to a written request from the subject property owner, to either release the notice of Housing Agreement or amend the Housing Agreement for his subject property to permit rental of his dwelling.

- 5.1.1 Bylaw No. 10851 - Amendment No. 1 to Housing Agreement Authorization Bylaw No. 9884 64 - 84

To give Bylaw No. 10851 first, second and third readings.

- 5.2 Arab/Appaloosa Road - Water, Sewer and Road Pre-design - SR 252565 85 - 88

To seek Council's support to fund a predesign for water, sewer and roads for the Appaloosa Area.

- 5.3 Kelowna United Football Club Soccer Facility 89 - 92

To seek Council's endorsement for the continued negotiations and development of a Licence of Occupation and Operating Agreement with Kelowna United Football Club (KU) regarding the construction and operation

of an indoor/outdoor multi-use artificial turf facility.

6. Mayor and Councillor Items
7. Termination



City of Kelowna Regular Council Meeting Minutes

Date: Monday, May 27, 2013
Location: Council Chamber
City Hall, 1435 Water Street

Council Members Present: Mayor Walter Gray and Councillors Andre Blaneil, Maxine DeHart, Gail Given, Robert Hobson, Mohini Singh, Luke Stack and Gerry Zimmermann

Council Members Absent: Councillor Colin Basran

Staff Present: Acting City Manager, Paul Macklem; City Clerk, Stephen Fleming; Acting General Manager, Community Sustainability, Doug Gilchrist*; Acting Director, Real Estate & Building Services, Derek Edstrom*; Manager, Environment & Land Use, Todd Cashin*; Director, Financial Services, Keith Grayston*; Acting Director, Infrastructure Planning, Signe Bagh*; Manager, Capital Assets & Investment, Joel Shaw*; Subdivision Approving Officer, Ryan Smith*; Engineering Traffic Technician, Brian Oliveira*; and Council Recording Secretary, Sandi Horning

(* denotes partial attendance)

1. Call to Order

Mayor Gray called the meeting to order at 2:00 p.m.

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

2. Confirmation of Minutes

Moved By: Councillor Singh/Seconded By: Councillor Given

R374/13/05/27 THAT the Minutes of the Regular PM Meeting of May 13, 2013 be confirmed as circulated.

Carried

3. Public in Attendance

3.1. Luby Pow, CEO, Southern Interior Development Initiatives Trust, re: Presentation to Kelowna City Council

Luby Pow, CEO, Southern Interior Development Initiatives Trust:

- Displayed a PowerPoint presentation and provided an overview of the Southern Interior Development Initiatives Trust's mandate.
- Responded to questions from Council.

Council:

- Raised questions and concerns regarding the governance of Southern Interior Development Initiatives Trust.

4. Unfinished Business

4.1. Agricultural Land Reserve Appeal Application No. A13-0004 - Supplemental Report, 982 Old Vernon Road, Manraj and Jeetender Kandola

Staff:

- Displayed a Land Use Map of the subject property and the surrounding area.
- Provided an overview of the discussions with Agricultural Land Commission staff and the Applicants.
- Responded to questions from Council.

Mayor Gray invited the Applicants to come forward.

Manraj & Jeetender Kandola, Applicants:

- Responded to questions from Council.
- Advised that they are open to any economically feasible options.

Moved By: Councillor Hobson/Seconded By: Councillor Zimmermann

R375/13/05/27 THAT Agricultural Land Reserve Appeal A13-0004 for Lot 3, Section 1, Township 23 Osoyoos Division Yale District, Plan 546, located at 982 Old Vernon Road for exclusion of land in the ALR under Section 30(1) of the Agricultural Land Commission Act, NOT be supported by Municipal Council;

AND THAT Council directs staff to forward the subject application to the Agricultural Land Commission with a proviso that Council would support a non-farm use within the Agricultural Land Reserve.

Carried

5. Development Application Reports & Related Bylaws

5.1. Rezoning Application No. Z12-0062 - 2190 Cooper Road, Brian and Linda Pahl

This Agenda Item was withdrawn at the Applicants' request.

5.2. Rezoning Application No. Z13-0011 - 370 Fleming Road, Wendy Cullen & Michael Anderson

Moved By: Councillor Zimmermann/Seconded By: Councillor Singh

R376/13/05/27 THAT Rezoning Application No. Z13-0011 to amend the City of Kelowna Zoning Bylaw No. 8000 by changing the zoning classification of Lot B, Section 27, Township 26, ODYD Plan 11730, located on 370 Fleming Road, Kelowna, BC from the RU1- Large Lot Housing zone to the RU1c- Large Lot Housing with carriage house zone be considered by Council;

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

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

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

Carried

5.2.1. Bylaw No. 10849 (Z13-0011) - 370 Fleming Road, Wendy Cullen & Michael Anderson

Moved By: Councillor Zimmermann/Seconded By: Councillor DeHart

R377/13/05/27 THAT Bylaw No. 10849 be read a first time.

Carried

Staff:

- Advised that this rezoning application is scheduled for the June 18, 2013 Public Hearing.

5.3. Agricultural Land Reserve Appeal Application No. A13-0008 - 3690 Berard Road and 1640 Ward Road, Ronald, James and Wilma McMillan

Staff:

- Summarized the application before Council and responded to questions from Council.

Moved By: Councillor Hobson/Seconded By: Councillor Zimmermann

R378/13/05/27 THAT Agricultural Land Reserve Appeal A13-0008 for Lot 2, Section 8, Township 26 Osoyoos Division Yale District Plan 1554, located at 3690 Berard Road and for Lot 3, Section 8, Township 26 Osoyoos Division Yale District Plan 1554 except Plan B4459, located at 1640 Ward Road, Kelowna, B.C. for a non-farm use of agricultural land in the Agricultural Land Reserve, pursuant to Section 20(3) of the Agricultural Land Commission Act, be supported by Municipal Council;

AND THAT Municipal Council forward the subject application to the Agricultural Land Commission.

Carried

5.4. Rezoning Application No. Z10-0013, Extension Request - 546 McWilliams Road, Terry Oxley

Moved By: Councillor Given/Seconded By: Councillor DeHart

R379/13/05/27 THAT in accordance with Development Application Procedures Bylaw No. 10540, the deadline for the adoption of Zone Amending Bylaw No. 10325, Z10-0013, Lot 7, Section 26, Township 26, ODYD, Plan 29389, 546 McWilliams Road, be extended from May 18, 2012 to May 18, 2013;

AND THAT in accordance with Development Application Procedures Bylaw No. 10540, the deadline for the adoption of Zone Amending Bylaw No. 10325, Z10-0013, Lot 7, Section 26, Township 26, ODYD, Plan 29389, 546 McWilliams Road, be extended from May 18, 2013 to May 18, 2014.

Carried

6. Bylaws for Adoption (Development Related)

6.1. Bylaw No. 10783 (Z12-0059) - 250 and 260 Lake Avenue, Marianne Hill

Moved By: Councillor Stack/Seconded By: Councillor Given

R380/13/05/27 THAT Bylaw No. 10783, being Z12-0059 Marianne Hill (Ed Guy) - 250 and 260 Lake Avenue, be adopted.

Carried

6.2. Bylaw No. 10804 (TA12-0012) - Amendment to City of Kelowna Zoning Bylaw No. 8000, Care Centre Text Amendments, City of Kelowna

Moved By: Councillor Hobson/Seconded By: Councillor Singh

R381/13/05/27 THAT Bylaw No. 10804, being TA12-0012, be adopted.

Carried

7. Non-Development Reports & Related Bylaws

7.1. Development Application Process Review - Final Report and Recommendations

Staff:

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

Moved By: Councillor Hobson/Seconded By: Councillor Blanleil

R382/13/05/27 THAT Council receives, for information, the Report from Acting General Manager, Community Sustainability dated May 6, 2013 with respect to the Development Application Process Review;

AND THAT Council endorses the implementation of the recommendations contained in the Development Application Process Review Report dated April 29, 2013 as attached to the Report from the Acting General Manager, Community Sustainability dated May 6, 2013, as budgets and resourcing permit.

Carried

7.2. Ellis Street Truck Route

Moved By: Councillor Blanleil/Seconded By: Councillor Zimmermann

R383/13/05/27 THAT Council directs staff to, once associated road network improvements have been undertaken as detailed in the May 14, 2013 report from the Engineering Traffic Technician, to complete a new traffic order to remove Ellis Street as a truck route;

AND THAT Council directs staff to submit 2014 budget requests to fund the road network improvements necessary to close Ellis Street to heavy truck traffic, as detailed in the May 14, 2013 report from the Engineering Traffic Technician;

AND FURTHER THAT Council directs staff to inform the public prior to implementing removal of the Ellis Street truck route.

Carried

7.3. Transit 2013/2014 Annual Operating Agreements

Staff:

- Provided an overview of the 2013/2014 Annual Operating Agreements.

Moved By: Councillor Hobson/Seconded By: Councillor Given

R384/13/05/27 THAT Council approves the 2013/2014 Annual Operating Agreements for conventional and custom transit services for the City of Kelowna;

AND THAT the Mayor and City Clerk be authorized to execute the Operating Agreements between BC Transit, the City of Kelowna and FirstCanada ULC covering the period April 1, 2013 to March 31, 2014;

AND THAT Council approves the amendment to the 2012/2013 Annual Operating Agreement for conventional transit;

AND FURTHER THAT the Mayor and City Clerk be authorized to execute the amended Operating Agreement between BC Transit, the City of Kelowna and FirstCanada ULC covering the period April 1, 2012 to March 31, 2013.

Carried

7.4. License of Occupation - City of Kelowna to Callahan Construction Company Ltd. and 3720 Investments Ltd. (Mission Park Shopping Centre)

Staff:

- Provided an overview of the Licences of Occupation.

Moved By: Councillor Zimmermann/Seconded By: Councillor Stack

R385/13/05/27 THAT Council approves the City entering into a ten (10) year License of Occupation, with Callahan Construction Company Ltd. and 3720 Investments Ltd.

(collectively referred to as "Callahan"), for Callahan's use of City-owned property for signage with the option to renew for an additional ten (10) year term, in the form attached to the Report of the Manager, Property Management, dated May 17, 2013;

AND THAT Council approves the City entering into a ten (10) year License of Occupation with Callahan Construction Company Ltd. and 3720 Investments Ltd. (collectively referred to as "Callahan"), for the City's use of Callahan property for a bus shelter with the option to renew for an additional ten (10) year term, in the form attached to the Report of the Manager, Property Management, dated May 17, 2013;

AND FURTHER THAT the Mayor and City Clerk be authorized to execute the License of Occupations.

Carried

7.5. Concession and Vendor Bid Awards

Staff:

- Provided an overview of the concession and vendor bids and responded to questions from Council.

Moved By: Councillor Given/Seconded By: Councillor Stack

R386/13/05/27 THAT Council approves the City entering into a three (3) year contract, with two (2) one (1) year options to renew with Vietnam Village, to provide mobile concession services at City Park Cold Sands Beach (Site A) on Abbott Street, in the form attached to the Report of the Manager, Property Management, dated May 17, 2013;

AND THAT Council approves the City entering into a three (3) year Contract, with two (2) one (1) year renewal options with Una Mak, to provide concession services at the Ben Lee Park concession on Houghton Road (Site B), in the form attached to the Report of the Manager, Property Management, dated May 17, 2013;

AND THAT Council approves the City entering into a three (3) year Contract, with two (2) one (1) year renewal options with SUP, SAND and SUN, to provide activity concession services at Waterfront Park (Tugboat Bay) on Water Street (Site C), in the form attached to the Report of the Manager, Property Management, dated May 17, 2013;

AND THAT Council approves the City entering into a one year (1) year Contract, with four (4) one (1) year renewal options with Fresh Air Experience, to provide activity concession services at the foot of Queensway Street (Site D), in the form attached to the Report of the Manager, Property Management, dated May 17, 2013;

AND FURTHER THAT the Mayor and City Clerk be authorized to execute all documents associated with the contracts.

Carried

7.6. Commercial Lease - Duncan's Bistro & Bar Ltd., 375 Lawrence Avenue (Chapman Parkade)

Staff:

- Provided an overview of the Lease.

Moved By: Councillor Hobson/Seconded By: Councillor Zimmermann

R387/13/05/27 THAT Council approves the City entering into a five (5) year Commercial Lease, with Duncan's Bistro & Bar Ltd., with the option to renew for an additional five (5) year term, in the form attached to the Report of the Manager, Property Management, dated May 13, 2013;

AND THAT the Mayor and City Clerk be authorized to execute the agreement.

Carried

7.7. Corporate GHG Emissions Update

Staff:

- Displayed a PowerPoint presentation.

Moved By: Councillor Hobson/Seconded By: Councillor Blanleil

R388/13/05/27 THAT Council receives, for information, the report from the Capital Assets and Investment Manager dated May 22, 2013 with respect to corporate GHG emissions data and emission reduction projects.

Carried

8. Bylaws for Adoption (Non-Development Related)

8.1. Bylaw No. 10848 - Road Closure Bylaw, A Portion of Road that bisects 2018 Cross Road

Councillor Stack declared a conflict of interest as the Society he is a Director of has an interest in land that is near the subject property and left the meeting at 5:03 p.m.

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

Moved By: Councillor Blanleil/Seconded By: Councillor Singh

R389/13/05/27 THAT Bylaw No. 10848 , being Road Closure and Removal of Highway Dedication - A Portion of Road that bisects 2018 Cross Road, be adopted.

Carried

9. Mayor and Councillor Items

Councillor Stack rejoined the meeting at 5:04 p.m.

Councillor Given:

- Thanked Parks Staff for their support during the Rutland May Days Parade.
- Noted that there is a 'North End Business Walk' event Tuesday morning which is sponsored by the Economic Development Commission.

Councillor Stack:

- Reminded the public that this week is 'Bike to Work Week'.

Councillor Zimmermann:

- Commented on his attendance on behalf of the Mayor at the 'Review of the Army Cadets' this past Sunday.

Councillor Blanleil:

- Congratulated the organizers of the 'Play On! Street Hockey' event and thanked the Kelowna Rockets for their support.

Mayor Gray:

- Commented on his attendance at today's Bike to Work Week event and the City's previous, and future, efforts on expanding the cycle network.

10. Termination

This meeting was declared terminated at 5:13 p.m.

Mayor

/slh



City Clerk

DRAFT

REPORT TO COUNCIL



Date: May 22, 2013

RIM No. 1250-30

To: City Manager

From: Land Use Management, Community Sustainability (AR)

Application: Z13-0013 **Owner:** 564913 BC Ltd., Inc. No. 564913

Address: 1383 Ellis Street **Applicant:** Joseph Higgins, President, 564913 BC Ltd.

Subject: Rezoning Application

Existing OCP Designation: Mixed Use (Residential/Commercial)

Existing Zone: I4 - Central Industrial

Proposed Zone: C7 - Central Business Commercial

1.0 Recommendation

THAT Rezoning Application No. Z13-0013 to amend the City of Kelowna Zoning Bylaw No. 8000 by changing the zoning classification of Lot 8, District Lot 139, ODYD, Plan 432, located at 1383 Ellis Street, Kelowna, BC from the I4 - Central Industrial zone to the C7 - Central Business Commercial zone, be considered by Council;

AND THAT Council considers the applicant's April 30, 2013 Public Information Session to be appropriate consultation for the purpose of Section 879 of the Local Government Act, as outlined in the Report of the Land Use Management Department dated May 22, 2013;

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

AND THAT final adoption of the Zone Amending Bylaw be considered following provision of the nine (9) required parking spaces through registration of an off-site parking agreement on 1350 Ellis Street in the Land Titles Office, to the satisfaction of the City of Kelowna;

AND THAT final adoption of the Zone Amending Bylaw be considered subject to receipt of payment for a bicycle parking facility accommodating a minimum of four (4) bicycles;

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

2.0 Purpose

This application seeks to rezone the subject property from I4 - Central Business Industrial zone to C7 - Central Business Commercial, to facilitate commercial uses within the existing building on site.

3.0 Land Use Management

The subject property is designated Mixed Use (Residential/Commercial) in the Kelowna 2030 Official Community Plan (OCP) and located in the Downtown Urban Centre. The proposal to rezone the subject property from the existing I4 - Central Business Industrial zone to the C7 - Central Business Commercial zone is consistent with the future land use designation, and is the appropriate zone for the Downtown.

The proposed rezoning will enable the existing building to be re-used for commercial uses that are both appropriate for and consistent with the surrounding Downtown context. Given that the existing building is proposed to be retained at this point in time, staff is satisfied with the provision of additional, secured off-site parking to accommodate future commercial uses at 1350 St. Paul Street (a short walking distance away at approximately 120 m), and with a contribution towards a future bicycle parking facility in this area of Ellis Street.

4.0 Proposal

4.1 Project Description

The purpose of this application is to rezone the subject property from I4 - Central Business Industrial zone to C7 - Central Business Commercial, to facilitate commercial uses within the existing building on site, consistent with the Kelowna 2030 Official Community Plan (OCP) future land use designation for the subject site of MXR - Mixed Use (Residential/Commercial) and the surrounding downtown properties.

Until recently, the building was the long-time location of Valley Canvas and Awning Ltd. The property owner is now seeking to rezone the property to the C7 zone to enable re-use of the existing building for commercial uses that are appropriate and consistent with the surrounding downtown context.

Rezoning to the C7 zone imports a higher parking standard resulting in nine (9) required parking spaces for the subject site, an increase from the five (5) previously provided under the I4 zone. As the existing building is presently built entirely to property line, the applicant proposes to amend the existing off-site parking agreement registered on the property at 1350 St. Paul Street to accommodate the additional four (4) required parking spaces. On-site loading and employee bike parking can be accommodated within the existing building with access from the rear lane. Given the inability to accommodate accessible on-site bicycle parking for visitors on the subject site, the applicant is providing payment in lieu to be allocated towards future provision of City bicycle parking along this block of Ellis Street. As the existing building is proposed to be retained and no changes to the exterior are proposed at this time, no Development Permit is required.

4.2 Site Context

This 700 m² site is located on Ellis Street in Kelowna's Downtown Urban Centre, directly east of the Kelowna Branch of the Okanagan Regional Library and the Cultural District area. It is bound by The Madison development to the south and the future Monaco development to the east.

Specifically, adjacent land uses are as follows:

Orientation	Zoning	Land Use
North	C7 - Central Business District	Commercial (Kelowna Actors Studio)
East	C7 - Central Business District	Vacant (future Monaco development)
South	C7 - Central Business District	Mixed Commercial/Residential (The Madison)
West	C7 - Central Business District	Institutional (Kelowna Library Branch)

Subject Property Map: 1383 Ellis Street



Zoning Analysis Table		
CRITERIA	C7 ZONE REQUIREMENTS	EXISTING BUILDING
Existing Lot/Subdivision Regulations		
Lot Area	200 m ²	699 m ²
Lot Width	6 m	15.24 m
Lot Depth	30 m	45.94 m
Development Regulations		
Floor Area Ratio	9.0 FAR	1.0 FAR
Height	44 m	Approx. 6.1 m
Front Yard	0 m	0 m
Side Yard (south)	0 m	0 m
Side Yard (north)	0 m	0 m
Rear Yard	0 m	0 m

Zoning Analysis Table Cont.		
CRITERIA	C7 ZONE REQUIREMENTS	EXISTING BUILDING
Other Regulations		
Minimum Parking Requirements	9 spaces	9 spaces (secured off-site)
Bicycle Parking	2 Class I / 4 Class II	Provided
Loading Space	28 m ²	Provided

5.0 Current Development Policies

5.1 Kelowna Official Community Plan (OCP)

Chapter 5 - Development Process

Policy 4 - Downtown Development. Support rezoning to C7 use in the downtown Urban Centre area only where properties are surrounded on a minimum of 3 sides by existing C7 zoning. The intent of this policy is to support intensification within the existing core areas of the Downtown.

6.0 Technical Comments

6.1 Development Engineering Department

See attached Memorandum.

7.0 Application Chronology

Date of Application Received: March 11, 2013

Applicant Hosted Public Information Session: April 30, 2013 (See attached Summary)

Report prepared by:

Abigail Riley, Land Use Planner

Reviewed by:

☐

Danielle Noble, Manager, Urban Land Use

Approved for Inclusion

☐

Doug Gilchrist, A/General Manager, Community Sustainability

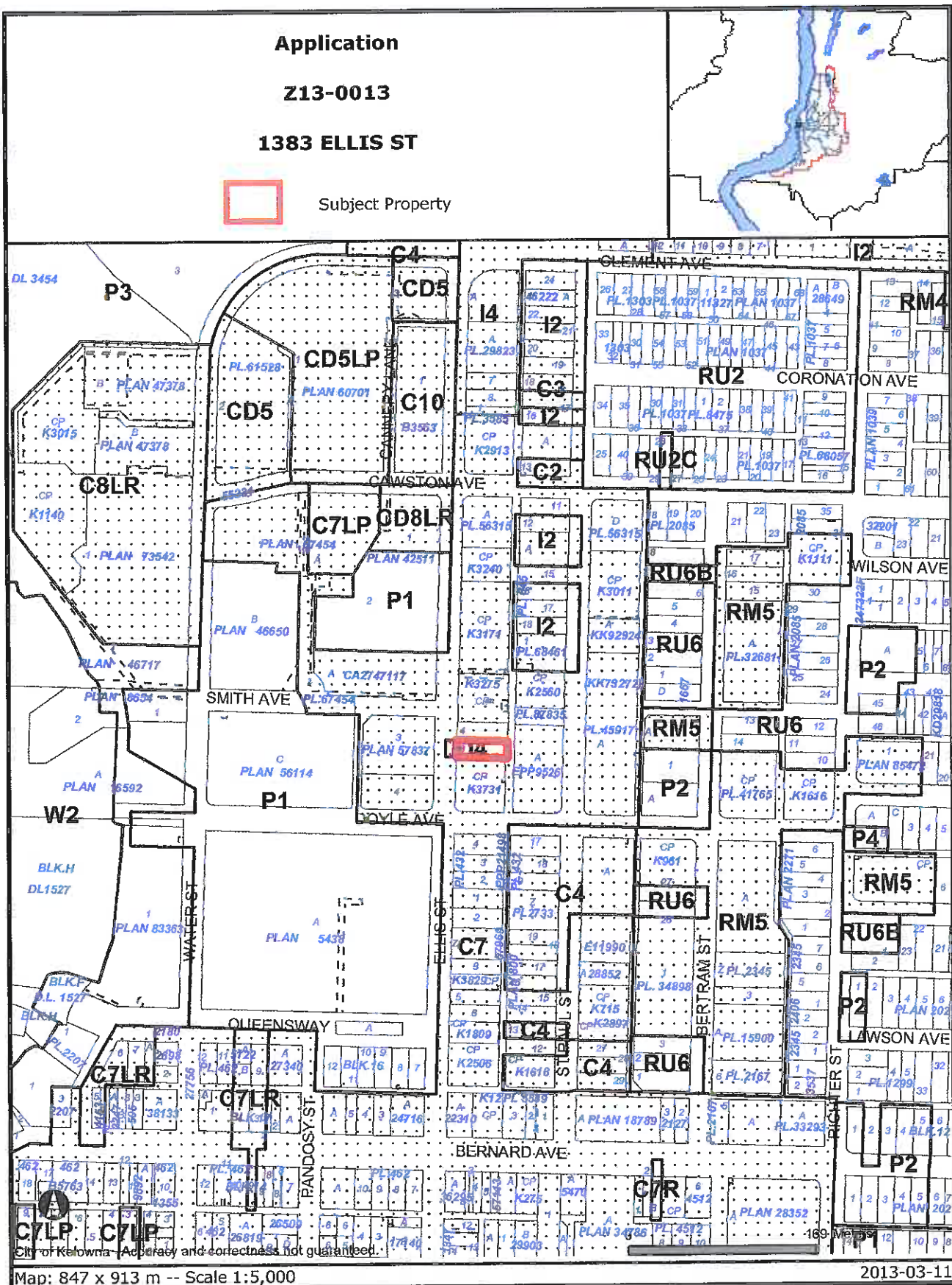
Attachments:

Subject Property Map

Site Photos

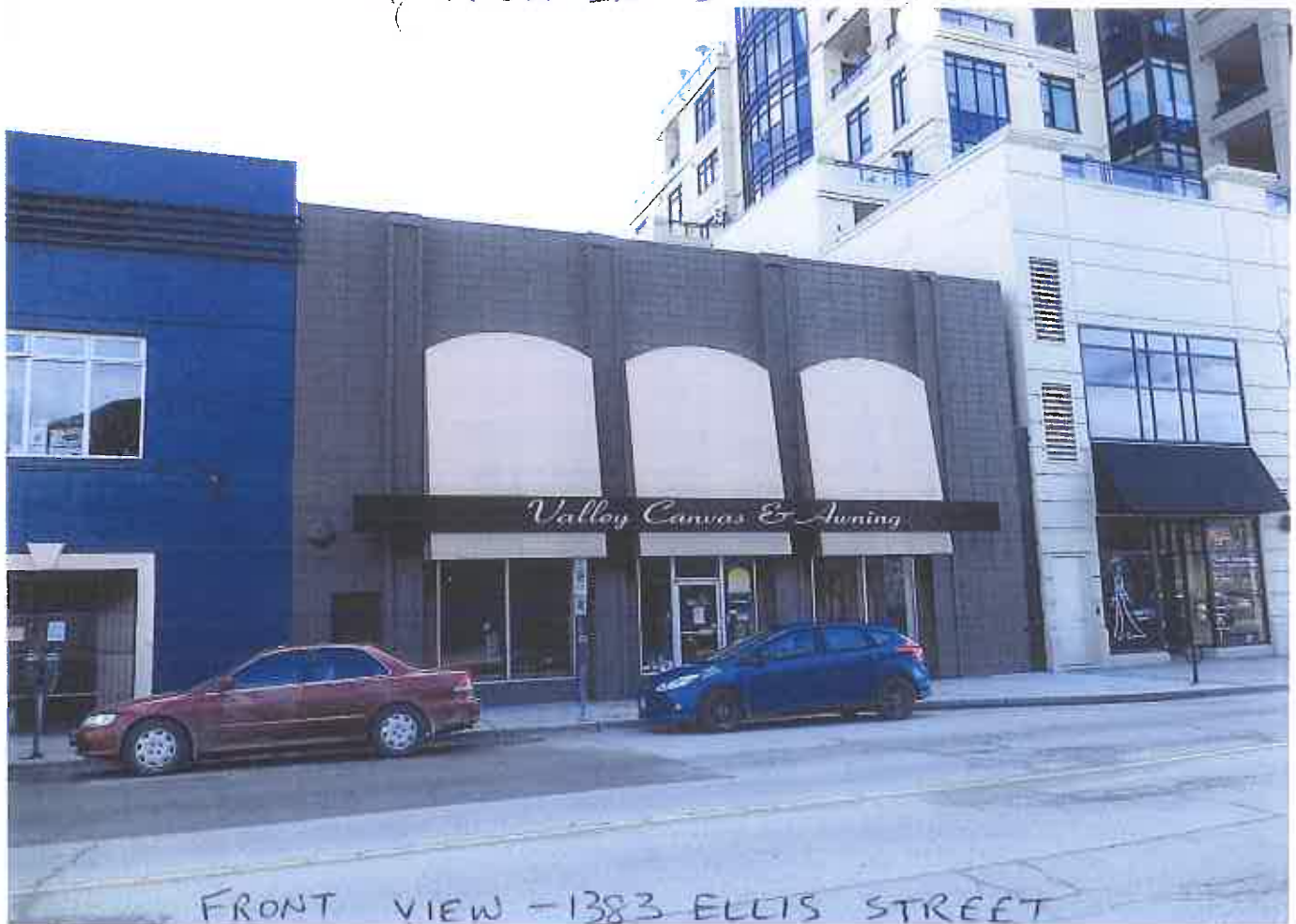
Development Engineering Requirements

Applicant's Summary - Public Information Session



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 B



FRONT VIEW - 1383 ELLIS STREET



REAR VIEW - 1383 ELLIS STREET

CITY OF KELOWNA

MEMORANDUM

Date: May 22, 2013
File No.: Z13-0013
To: Land Use Management (AR)
From: Development Engineering Manager
Subject: 1383 Ellis Street, Lot 8, Plan 432 *REVISED*
I4 to C7

The Development Engineering Department has the following comments and requirements associated with this application to rezone from I4 to C7. The road and utility upgrading requirements outlined in this report will be a requirement of this development.

The Development Engineering Technologist for this project is Sergio Sartori.

1. Domestic Water and Fire Protection

- (a) The existing lot is serviced with a 19mm diameter copper water service and 150mm diameter cast iron (substandard) water service. The developer must engage a consulting mechanical engineer to determine the domestic and fire flow requirements of this development. The applicant, at his cost, will arrange for the removal of all existing services and the installation of one metered water service and if determined, the installation of fire hydrants.
- (b) Tie-ins and disconnections to the existing watermain must be supervised by City forces at the applicants cost.
- (c) A water meter is mandatory for this development and must be installed inside the building on the water service inlet as required by the City Plumbing Regulation and Water Regulation bylaws. The developer or building contractor must purchase the meter from the City at the time of application for a building permit from the Inspection Services Department, and prepare the meter setter at his cost.

2. Sanitary Sewer

- (a) The existing lot is serviced with 100mm diameter sanitary sewer service. The developer must engage a consulting mechanical engineer to determine the requirements of this development. The applicant, at their cost, will arrange for the disconnection of the existing service and the installation of one new larger service if necessary.

3. Storm Drainage

- (a) The existing lot is serviced with 100 mm diameter storm drainage service.
- (a) The developer must engage a consulting civil engineer to provide a storm water management plan for the site, which meets the requirements of the City Storm Water Management Policy and Design Manual.

4. Road Improvements

Ellis Street

The existing curb and 2.5m wide monolithic sidewalk fronting this development is acceptable.

Public Lane

The lane is in poor condition and the drainage is not functioning properly. Upgrade lane to a paved standard. *The cash in lieu of construction is \$2,970.00 and will be completed by the City at its own schedule.*

1. Road Dedication and Subdivision Requirements

By registered plan to provide the following:

- (a) Dedicate, by way of road reserve, ~1.31m lane widening along the lane frontage.
- (b) Grant statutory-right-of-way without charge, if required for utility services.

2. Electric Power and Telecommunication Services

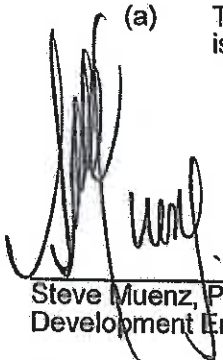
The electrical and telecommunication services to this building as well as the local distribution must be installed in an underground duct system, and the building must be connected by underground ducting. It is the developer's responsibility to make a servicing application with the respective electric power, telephone and cable transmission companies to arrange for these services which would be at the applicant's cost.

3. Engineering

Road and utility construction design, construction supervision, and quality control supervision of all off-site and site services including on-site ground recharge drainage collection and disposal systems, must be performed by an approved consulting civil engineer. Designs must be submitted to the City Engineering Department for review and marked "issued for construction" by the City Engineer before construction may begin.

4. Development Permit and Site Related Issues

- (a) The developer must provide a location for screened garbage bins on the site that is accessible to an SU-9 standard garbage truck.



Steve Muenz, P. Eng.
Development Engineering Manager

ss

RECEIVED.
May 2/13.
[Signature]

564913 BC Ltd.
PO Box 2309 Banks Centre RPO
Kelowna, BC
V1X 6A5

May 1, 2013

To: City of Kelowna Planning Department
1435 Water Street
Kelowna, BC V1Y 1J4
Attention: Abigail Riley, Land Use Planner, RPP, MCIP

From: 564913 BC Ltd.
Joe Higgins, President

Re: **Public Information Meeting in Support of Rezoning Application Z13-0013**
1383 Ellis Street, Kelowna BC

As required by City of Kelowna planning staff, the owner of the above named property held a Public Information Meeting on April 30, 2013. The meeting was announced and held in compliance with City of Kelowna Council Policy 367 - Public Notification & Consultation for Development Applications. As per your email of April 4, 2013, notification by way of newspaper ad was waived based on the uniqueness of the rezoning and ownership adjacencies.

In your email dated March 20, 2013, you outlined the requirements for the Public Information Meeting (PIM). The purpose of the meeting is to allow a meaningful opportunity for owners and occupants of neighbouring properties to access information on the rezoning application, and provide input on the application. As such, we notified the owners and occupants of all abutting and adjoining parcels within 50m of the subject property (1383 Ellis Street), and invited them to attend the meeting. The remainder of this report and attachments provide information to summarize how the meeting was planned, advertised, and conducted.

Location:

The Bean Scene Coffee House, 274 Bernard Avenue, Kelowna - This venue is within walking distance or a short drive from the subject property.

Date/Time, and Duration:

Tuesday April 30, 2013 from 5 pm to 7 pm. This timeframe allowed flexibility to those who work and was not disruptive of plans that neighbours may have had for the evening.

Planning/Advertising:

In your March 20, 2013 email, you kindly provided a map showing the catchment area for all properties within 50m of 1383 Ellis Street (copy attached). We prepared and issued an invitation letter and Site Plan describing the nature of the rezoning application, and the reason for the PIM. A copy of the letter is attached, as well as copies of the email correspondence indicating who was invited to attend the PIM. The correspondence was issued 15 days from the date of the meeting.

Meeting Format:

The PIM was intended to be informal and allow one-on-one discussion between neighbours and the applicant. Cathy Higgins attended to represent the applicant.

We had a Sign-In sheet, two different site plans, and photographs. These materials, as well as a photograph of the room and display materials are included with the attachments.

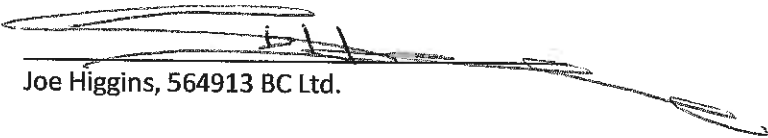
The applicant was available to describe the purpose of the application - i.e., to rezone the property from the current I4 (Central Industrial) to C7 (Central Business Commercial), which is consistent with the City of Kelowna OCP.

Meeting Attendance/Results:

No one attended the meeting, with the exception of Abigail Riley. The Sign-In sheet which summarizes the meeting attendance is attached.

We trust that this report and attachments provide the information necessary to satisfy the City's requirement for a Public Information Meeting in support of this rezoning application. Please contact us if you have any questions or concerns.

Sincerely,



Joe Higgins, 564913 BC Ltd.

Attachments:

List and Map of Neighbours invited to the PIM

Example of the Invitation Letter

Sign-In Sheet and Materials on Display at the Meeting

Photograph

CITY OF KELOWNA
BYLAW NO. 10852
Z13-0013 - 564913 BC Ltd,. Inc. No.564913
1383 Ellis Street

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

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

1. THAT City of Kelowna Zoning Bylaw No. 8000 be amended by changing the zoning classification of Lot 8, District Lot 139, ODYD, Plan 432 located on 1383 Ellis Street, Kelowna, B.C., from the I4 - Central Industrial zone to the C7 - Central Business Commercial zone.
2. This bylaw shall come into full force and effect and is binding on all persons as and from the date of adoption.

Read a first time by the Municipal Council this

Considered at a Public Hearing on the

Read a second and third time by the Municipal Council this

Approved under the Transportation Act

(Approving Officer-Ministry of Transportation)

Adopted by the Municipal Council of the City of Kelowna this

Mayor

City Clerk

REPORT TO COUNCIL



Date: May 24, 2013

RIM No. 1250-30

To: City Manager

From: Land Use Management, Community Sustainability (BD)

Application: Z11-0004 **Owner:** Clayton Bruce Ivan

Address: 3399 East Kelowna Road **Applicant:** Clayton Bruce Ivan

Subject: Rezoning Application, Extension Request

Existing Zone: A1 - Agriculture 1

Proposed Zone: A1c - Agriculture 1 with Carriage House

1.0 Recommendation

THAT in accordance with Development Application Procedures Bylaw No. 10540, the deadline for the adoption of Amending Bylaw No. 10498 Lot A, Section 15, Township 26, ODYD Plan KAP68999, located on East Kelowna, Kelowna, BC, be extended from April 5, 2012 to October 5, 2012;

AND THAT in accordance with Development Application Procedures Bylaw No. 10540, the deadline for the adoption of Amending Bylaw No. 10498 Lot A, Section 15, Township 26, ODYD Plan KAP68999, located on East Kelowna, Kelowna, BC, be extended from October 5, 2012 to October 5, 2013.

2.0 Purpose

To extend the date for adoption of the Zone Amending Bylaw from April 5, 2012 to October 5, 2012. To further extend the date for adoption of the Zone Amending Bylaw from October 5, 2012 to October 5, 2013.

3.0 Land Use Management

Section 2.12.1 of Procedure Bylaw No. 10540 states that:

In the event that an application made pursuant to this bylaw is one (1) year old or older and has been inactive for a period of six (6) months or greater:

- a) The application will be deemed to be abandoned and the applicant will be notified in writing that the file will be closed;
- b) Any bylaw that has not received final adoption will be of no force and effect;

c) In the case of an amendment application, the City Clerk will place on the agenda of a meeting of **Council** a motion to rescind all readings of the bylaw associated with that Amendment application.

Section 2.12.2 of the Procedure Bylaw makes provision that upon written request by the applicant prior to the lapse of the application, **Council** may extend the deadline for a period of twelve (12) months by passing a resolution to that affect.

By-Law No. 10498 received second and third readings on April 5, 2011 after the Public Hearing held on the same date. The applicant wishes to have this application remain open for an additional twelve (12) months in order to complete the requirements of the Building and Permitting branch to obtain final occupancy and be eligible for final adoption. It is noteworthy that this application pre-dated the September 2012 change in the City's secondary suite process and this extension report reflects the current terminology. This project remains unchanged and is the same in all respects as originally applied for.

The Land Use Management Department recommends Council consider the request for an extension; however, given the length of time that has lapsed, and that the suite was the result of Bylaw Enforcement, this will be the only extension that Staff will support favourably.

Report prepared by:

Birte Decloux, Land Use Planner
/hb

Reviewed by:

☐

Danielle Noble, Manager, Urban Land Use

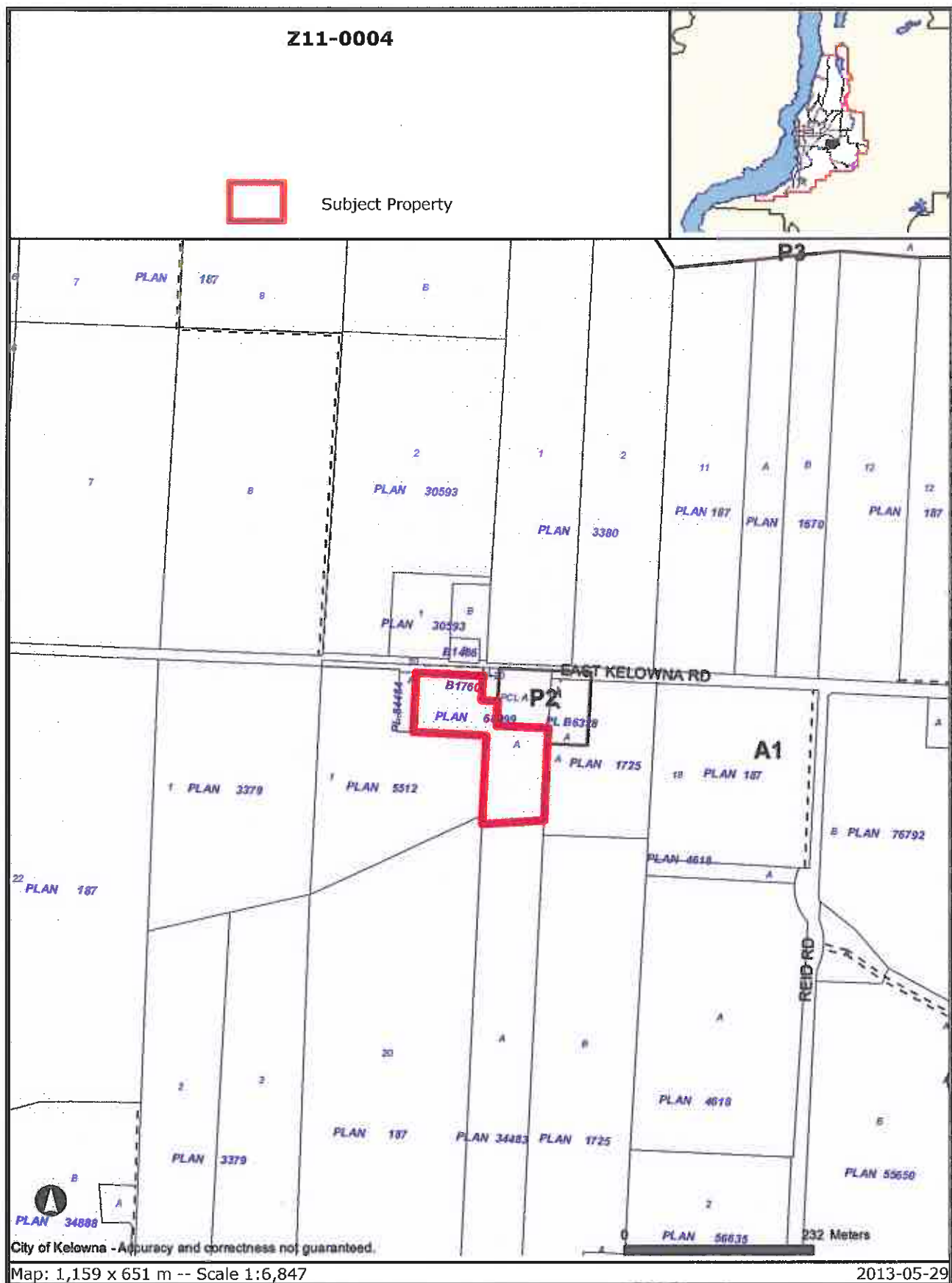
Approved for Inclusion

☐

Doug Gilchrist, Acting General Manager, Community Sustainability

Attachments:

Site Plan



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

REPORT TO COUNCIL



Date: May 28, 2013

RIM No. 0940-50

To: City Manager

From: Land Use Management, Community Sustainability (JM)

Application: LUC13-0001 **Owner:** Alan Dadswell, Marguerite Alston

Address: 381 Okaview Road **Applicant:** Don Bouwman

Subject: Land Use Contract Discharge

Existing OCP Designation: S2RES - Single / Two Unit Residential

Existing Zone: RR1 - Rural Residential 1

Land Use Contract: 77-1002

1.0 Recommendation

THAT Application No. LUC13-0001 to discharge Land Use Contract No. 77-1002 from Lot B, Section 23, Township 28, SDYD, Plan KAP47783, located at 381 Okaview Road, Kelowna, BC, be considered by Council;

AND THAT LUC13-0001 be forwarded to be forwarded to a Public Hearing for further consideration.

2.0 Purpose

To consider a proposal to discharge the existing Land Use Contract over the subject property in order to permit the development of an accessory building.

3.0 Land Use Management

Land Use Management staff are supportive of the proposed land use contract discharge over the subject property. Land use contracts are an antiquated method of regulating land use that contribute to greater confusion in the administration of land use regulation and development activity. Council Policy No. 282 "Strategy for the Elimination of Remaining Land Use Contracts" directs staff, where practical, to seek to eliminate land use contracts. In this instance, the land owner was amenable to this strategy.

It is noteworthy that the subject property will be rendered lawfully non-conforming in lot area through this discharge, as the minimum lot area of the RR1 - Rural Residential 1 zone is 8,000m².

This will not negatively impact the land owner, as the lot was not able to be subdivided under the minimum lot area regulations of the land use contract.

4.0 Proposal

4.1 Background

The Land Use Contract was a tool that entered into use in the early 1970's before it was eliminated in 1978. The purpose of the tool was to allow local governments to arrive at agreements with specific developers to grant development rights over and above what was allowed under current zoning. This was typically done in exchange for commitments by developers to help finance the infrastructure costs of development.

In 1978, the City entered into a Land Use Contract (LUC #77-1002) to allow the development of a large portion of the Okaview Road area. At that time, the Kelowna Mission area had recently been incorporated into the City, and a mass rezoning of lands had taken place, severely limiting development potential. The developer at the time used the Land Use Contract tool to arrive at a customized agreement with the City to develop the lands in excess of what was permitted under zoning at that time.

Under LUC #77-1002, the subject property was governed under the provisions of the A-4 (Rural Residential) zone of Zoning Bylaw No. 4500, 1976. Once an LUC is discharged, the underlying zoning of a property applies. In this case, the underlying zoning is RR1 - Rural Residential 1.

4.2 Project Description

The applicant is seeking to develop a large garage structure at the rear of the subject property in order to accommodate a recreational vehicle (RV) and one or more classic cars. There is an existing two car garage attached to the principal dwelling. To access this new garage the existing driveway at the front yard will be continued through the side yard to the rear of the property.

The proposed garage is approximately 151.4m² in area and contains two bays: one bay with a 3.0m ceiling to accommodate up to two standard vehicles in tandem, and one bay with a 4.9m ceiling to accommodate the recreational vehicle. The structure is one storey with a height of 5.3m.

The garage proposed is taller than what is permitted within the current LUC. As a result, the applicant is proposing to discharge the LUC in favour of the underlying RR1 zoning. However, it should be noted that the proposal also triggers two (2) variances to the underlying RR1 zone (see Section 4.4), which will be brought forward for Council consideration should this LUC discharge be approved.

The applicant has canvassed surrounding land owners within a 50m radius of the subject property. All but three (3) have signed in support of the project. The remaining three were either not available or vacant. In addition, the three properties that were not able to sign in favour of the proposal are well below the grade of the subject property and the project is not visible from their lots.

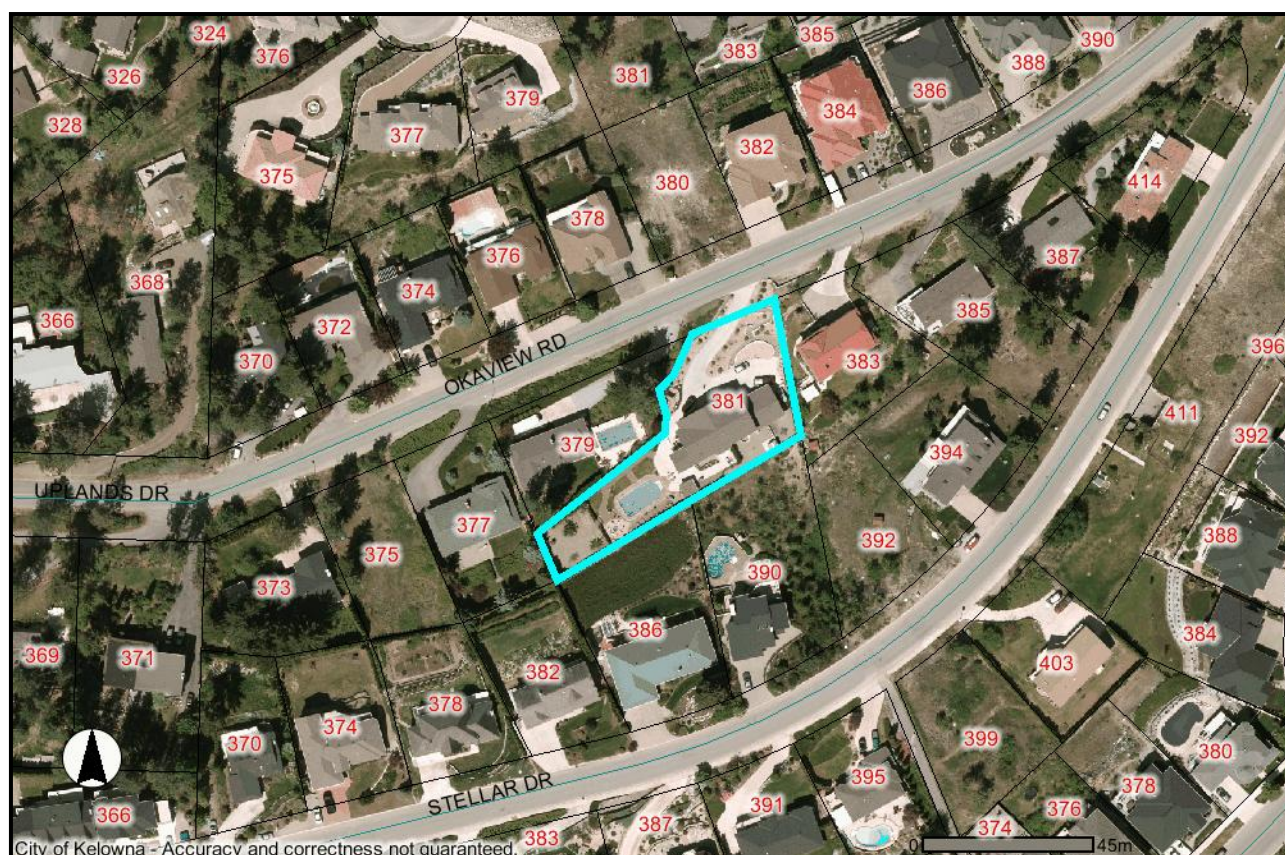
4.3 Site Context

The subject property is situated on the south side of Okaview Road, approximately 185m west of its intersection with Stellar Drive. The lot is 1,936m² in area and is zoned RR1 - Rural Residential 1 in the Zoning Bylaw, but is subject to a Land Use Contract (LUC#77-1002). The parcel under consideration is serviced by City of Kelowna water and sanitary services, and is located within the Permanent Growth Boundary.

Surrounding development is characterized by large lot, rural residential development. Specifically, adjacent land uses are as follows:

Orientation	Zoning	Land Use
North	RR2 - Rural Residential 2	Large lot, rural residential housing
East	RR1 - Rural Residential 1, RR2 - Rural Residential 2	Large lot, rural residential housing
South	RR1 - Rural Residential 1, RU1 - Large Lot Housing	Large lot, rural residential housing
West	RR2 - Rural Residential 2	Large lot, rural residential housing

Subject Property Map: 381 Okaview Road



4.4 Zoning Analysis Table

Zoning Analysis Table		
CRITERIA	RR1 ZONE REQUIREMENTS	PROPOSAL
Existing Lot/Subdivision Regulations		
Lot Area	8,000 m ²	1,936 m ²
Lot Width	40 m	variable
Lot Depth	30 m	36.55 m
Development Regulations		
Height (accessory bldgs)	6.0 m	5.37 m
Front Yard	6.0 m	exceeds
Side Yard (west)	3.0 m	1.5 m [●]

Side Yard (east)	3.0 m	exceeds
Rear Yard (accessory bldgs)	3.0 m	3.0 m
Site Coverage	10%	21.4% ^❶
Other Regulations		
Minimum Parking Requirements	2	5
^❶ Indicates a requested variance to the minimum side yard setback from 3.0m required to 1.5m proposed. ^❷ Indicates a requested variance to the maximum site coverage from 10% required to 21.4% proposed.		

5.0 Current Development Policies

5.1 Kelowna Official Community Plan (OCP)

The subject property is designated S2RES - Single / Two Unit Residential in the Official Community Plan.

5.2 Council Policy No. 282: “Strategy for Elimination of Remaining Land Use Contracts”

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

6.0 Technical Comments

To be addressed in the associated Development Variance Permit application (DVP13-0069), which will be brought forward for Council consideration, should this LUC be successfully discharged.

7.0 Application Chronology

Date of Application Received: May 10, 2013

Updated Drawings Received: May 23, 2013

Report prepared by:

James Moore, Land Use Planner

Reviewed by:

☐

Danielle Noble, Urban Land Use Manager

Approved for Inclusion:

☐

Doug Gilchrist, Acting GM of Community Sustainability

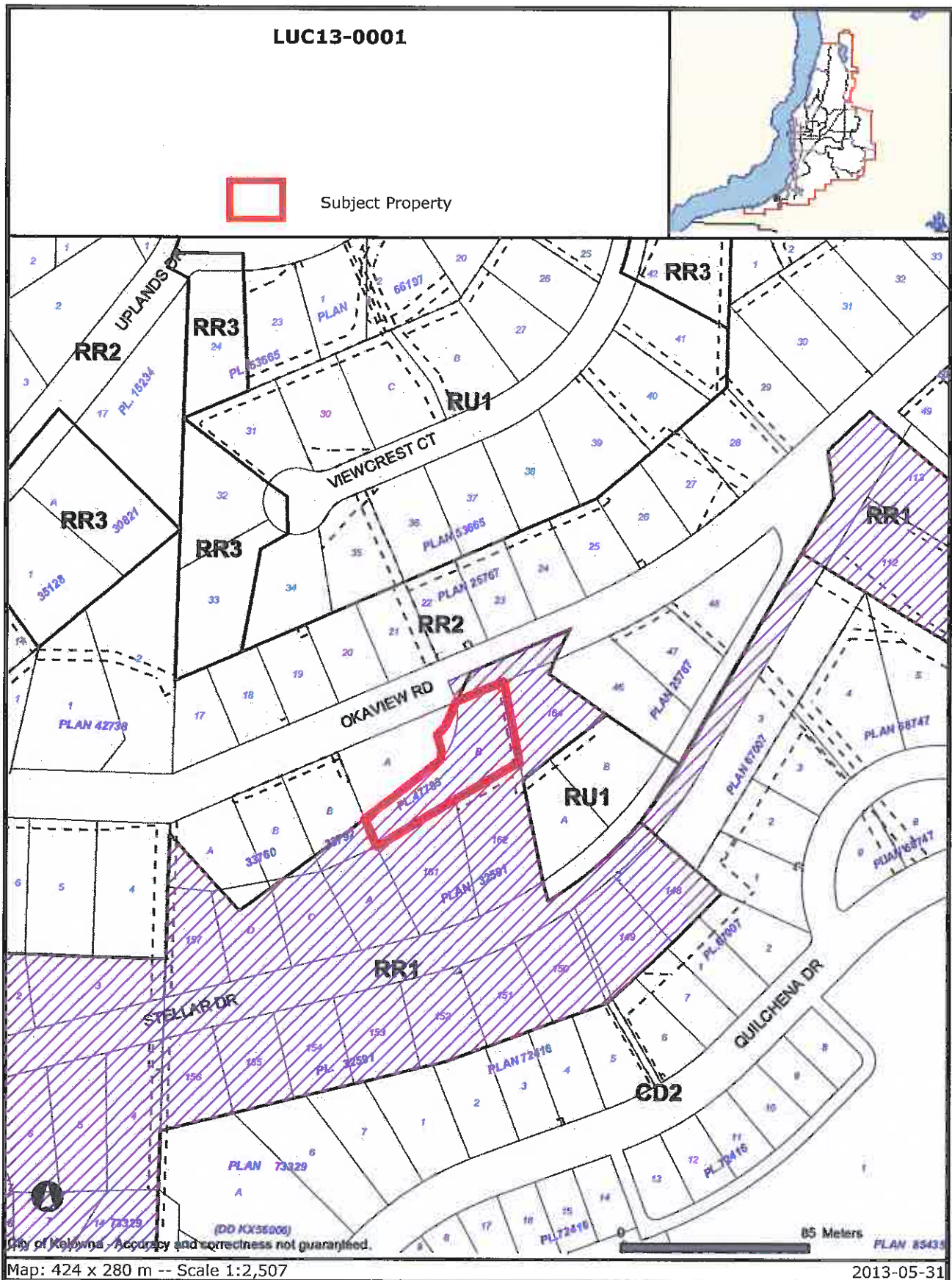
Attachments:

Subject Property Map

Site Plan

Conceptual Elevations

Excerpts from LUC77-1002



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.



381 Oakview KA Kelowna BC

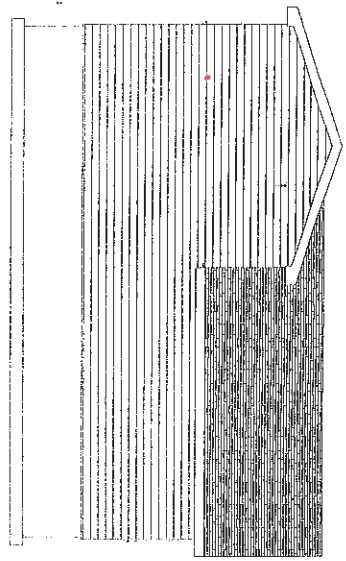
Proposed RV Garage

Plot Plan

Scale 1"=20'

NOTE: All utilities & site work to be done per code and per subdivision requirements

Note: Paper size B - 11 x 17 if printed on D - 22 X 34 size is 2X of stated scale
©COPYRIGHT 2003 SDS&AD Specialized Design Systems



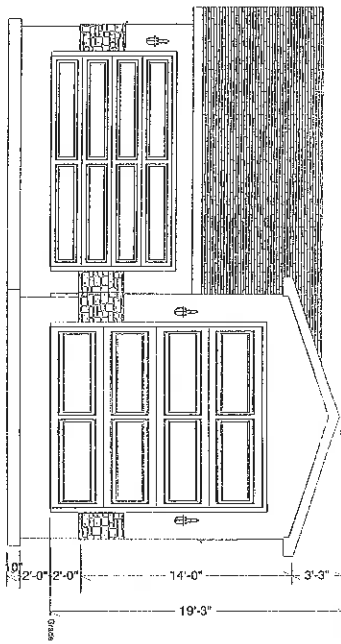
REAR ELEVATION

SCALE
1/8"=1'

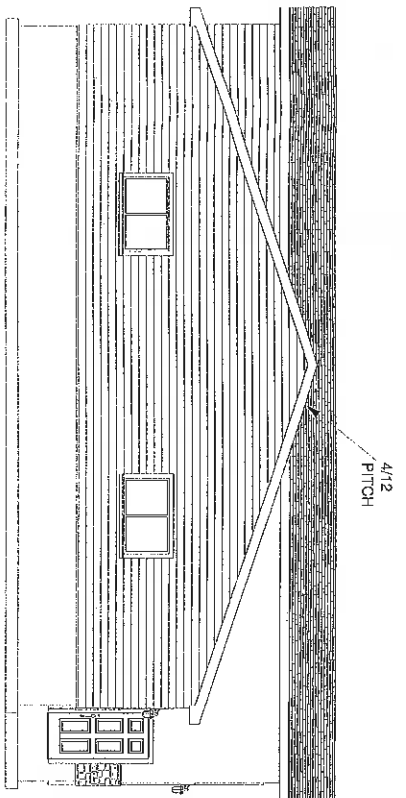
Asphalt Shingles
14" Tall 2 x Walls

Horizontal Vinyl Siding
Sides and Back
Stucco and Rock on
the Front

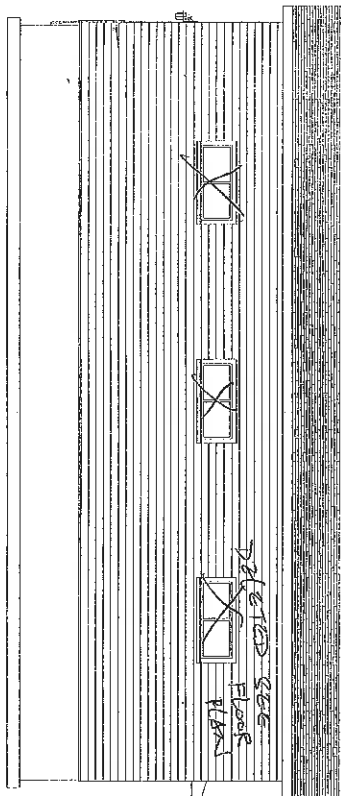
4/12
PITCH



FRONT ELEVATION



LEFT ELEVATION



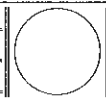
RIGHT ELEVATION

©COPYRIGHT Specialized Design Systems

Residential Design

SDS-CAD
Specialized Design Systems



© 2000 SDS-CAD



Garage for

Sheet	
Size	
Scale	
Author	
Check	
Date	

Sheet	2
Size	6

- (4) The southeast quarter of
Section 23
Township 28
Similkameen Division Yale District
(except that part thereof included in Plan
23380 and the 35.72 acre portion shown out-
lined in red on Schedule "E" attached hereto)
(herein called the "Land")
- 
- 

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

COMPONENT

3. Except as hereinafter specifically provided, the Land shall be used and developed strictly in compliance with all of the By-Laws and all consistently applied policy of the Municipality which By-Laws and policies are in effect as at the date of application for each stage of development as hereinafter described and shall be subdivided generally in compliance with the plan attached hereto as Schedule "A".

4. (a) The use of Land, including the surface of water, buildings and structures within the Land and the regulation of the size, shape and siting of buildings and structures and the provision of off-street parking and other zoning regulations shall be subject to the provisions of the A-4 (Rural-Residential) zone as described in the City of Kelowna By-Law No. 4500 as amended and the Land shall be used and developed strictly in compliance with such regulations.

(b) Notwithstanding the provisions of paragraph 4(a) herein, portions of the Land required for school and park purposes may be developed in strict accordance with the P-2 (Institutional) and P-3 (Park, Recreation and Open Space) zones as more particularly set out in the City of Kelowna Zoning By-Law, 1976, No. 4500.

5. Notwithstanding the provision of Section 4 above, no lot shall be created which is less than twelve thousand square feet (12,000 square feet) in area or of such larger area as may be required by the Medical Health Officer in order to provide adequate sewage disposal.

26. No terms of this Contract shall be construed as imposing upon the Municipality a liability to the Developer save and except the specific covenants herein contained as made by the Municipality for the expenditure of funds and construction of vehicular access as set out herein.

27. Schedules "A", "B", "B1", "B2", "C" and "D" hereinbefore referred to are hereby incorporated into and made part of this Contract.

28. On or after the 31st day of December, 1994, the Municipality may by resolution, in its sole discretion, unilaterally terminate all or any part of this Contract provided always that:

TERMINATED
(a) the Municipality before adopting any such resolution shall hold a Public Hearing thereon in the manner provided for in Section 703 of the Municipal Act, R.S.B.C. 1960 Chapter 255 and amendments thereto;

(b) any such resolution shall be registered in the Land Registry Office at the City of Kamloops in the same manner as this Contract.

(c) the Municipality shall still be liable to the Developer pursuant to Section 17 (b) (3) herein.

29. None of the payments required to be made herein by the Developer are to be construed in any way as payment by the Developer towards any tax, charge or other levy made by the Municipality against the Developer or the Lands.

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

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

32. This Contract shall be construed as running with the Land and shall be registered in the Land Registry Office by the Municipality pursuant to the provisions of Section 702A(4) of the Municipal Act. ³⁴

CITY OF KELOWNA

BYLAW NO. 10841

Copeland House Heritage Designation Bylaw

WHEREAS the Municipal Council of the City of Kelowna considers the building known as the “Copeland House” located at 784 Elliot Avenue, Kelowna, B.C. to be a building with heritage value and that the designation of the building as a heritage site pursuant to Section 967 of the *Local Government Act* is desirable for the conservation of the building;

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

1. The building and land known as the ‘Copeland House’ situated on lands legally described as Lot 3, District Lot 138, ODYD, Plan 9360 on Elliot Avenue, Kelowna B.C. to be commonly known in the future as the “Copeland House” is hereby designated a Municipal Heritage Site pursuant to Section 967 of the *Local Government Act*.
2. Except as authorized by this bylaw or as authorized by a Heritage Alteration Agreement approved by Council, no person shall:
 - (a) alter the exterior of any building situated on the property designated by this bylaw;
 - (b) make a structural change to a building or structure situated on property designated by this bylaw;
 - (c) move any building situated on the property designated by this bylaw; or
 - (d) alter, excavate or build on land designated by this bylaw.
3. The following alterations to the designated property are hereby authorized without a Heritage Alteration Permit:
 - (a) Normal day to day maintenance and repairs.
4. This bylaw may be cited for all purposes as the ‘Heritage Designation Bylaw No. 10841 (Copeland House)’.

Read a first time by the Municipal Council this 29th day of April, 2013.

Considered at a Public Hearing this 21st day of May, 2013.

Read a second and third time by the Municipal Council this 21st day of May, 2013.

Adopted by the Municipal Council of the City of Kelowna this

Mayor

City Clerk

CITY OF KELOWNA

BYLAW NO. 10840

Heritage Revitalization Agreement Authorization Bylaw

**HRA12-0001- 784 Elliot Avenue -
0874309 B.C. Ltd., Inc. No. BC874309**

WHEREAS a local government may, by bylaw, enter into a heritage revitalization agreement with the Owner of property which Council deems to be of heritage value pursuant to section 966 of the *Local Government Act*;

AND WHEREAS the Municipal Council of the City of Kelowna is desirous of entering into a Heritage Revitalization Agreement with 0874309 B.C. Ltd., Inc. No. BC874309 for the property located at 784 Elliot Avenue, Kelowna, B.C.;

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

1. The Municipal Council of the City of Kelowna hereby authorizes the City of Kelowna to enter into a Heritage Revitalization Agreement with 0874309 B.C. Ltd., Inc. No. BC874309 for the property located at 784 Elliot Avenue, Kelowna, B.C., and legally described as:

Lot 3, District Lot 138, ODYD, Plan 9360

In the form of such Agreement attached to and forming part of this bylaw as Schedule "A".

2. The Mayor and City Clerk are hereby authorized to execute the attached agreement, as well as any conveyances, deeds, receipts and other documents in connection with the attached agreement, and to affix the corporate seal of the City of Kelowna to same.

Read a first time by the Municipal Council this 29th day of April, 2013.

Considered at a Public Hearing this 21st day of May, 2013.

Read a second and third time by the Municipal Council this 21st day of May, 2013.

Approved under the Transportation Act this 4th day of June, 2013.

Lynda Lochhead
(Approving Officer-Ministry of Transportation)

Adopted by the Municipal Council of the City of Kelowna this

Mayor

City Clerk

SCHEDULE "A"
HERITAGE REVITALIZATION AGREEMENT

DOCUMENT APPROVAL			
Document No. HRA12-0001			
Cir	Department	Date	Init.
	LUM		
	Dev. Eng.		
	Bldg & Permit		
	City Clerks		

THIS AGREEMENT dated as of the 15 day of April, 2013

BETWEEN:

CITY OF KELOWNA, a Municipal Corporation having offices at
1435 Water Street, Kelowna, British Columbia V1Y 1J4

(herein called the "CITY")

OF THE FIRST PART

AND: 0874309 BC Ltd., Inc. No. BC00874309
(Jackie Gorton)
9 - 3151 Lakeshore Rd
Suite 318
Kelowna, BC, V1W 3S9

(herein called the "OWNER")

OF THE SECOND PART

WHEREAS a local government may, by bylaw, enter into a Heritage Revitalization Agreement with the Owner of property identified as having heritage value, pursuant to Section 966 of the *Local Government Act*;

AND WHEREAS the Owner owns certain real property on which is situated a building of heritage value, pursuant to the City's Heritage Register, which property and building are located at 862 Bernard Avenue, Kelowna, British Columbia and legally described as:

Parcel Identifier: 004-962-028
Lot 3, District Lot 138, ODYD, Plan 9360

(herein called the "Heritage Lands")

AND WHEREAS the Owner has presented to the City a proposal for the use, development and preservation of the Heritage Lands and has voluntarily and without any requirement by the City, entered into this agreement pursuant to Section 966 of the *Local Government Act*;

AND WHEREAS a local government must hold a Public Hearing on the matter before entering into, or amending, a Heritage Revitalization Agreement if the agreement or amendment would permit a change to the use or density of use that is not otherwise authorized by the applicable zoning of the Heritage Lands and for these purposes Section 890 through 894 of the *Local Government Act* apply;

AND WHEREAS within thirty days after entering into, or amending, a Heritage Revitalization Agreement the local government must file a notice in the Land Title Office in accordance with Section 976 of the *Local Government Act* and give notice to the Minister responsible for the *Heritage Conservation Act* in accordance with Section 977 of the *Local Government Act*;

NOW THEREFORE in consideration of the mutual promises contained in this agreement and other good and valuable consideration, the receipt and sufficiency of which is hereby acknowledged, the parties agree as follows:

1.0 Heritage Revitalization

1.1 The parties agree that the Heritage Lands have heritage value, deserving of protection and conservation and the Owner specifically agrees to restore, maintain, preserve and protect the heritage character of the buildings located on the Heritage Lands in accordance with attached Schedules "A", "B", & "C".

1.2 The parties agree that the Heritage Lands may, notwithstanding the RU6 - Two Dwelling Housing zoning on the Heritage Lands, be used for the following permitted uses within the Heritage Building on the identified Heritage Lands:

(a) The adaptive reuse of the house to a multi-family dwelling provided that:

- i. The construction of 6 residential units to be located with the existing building;
- ii. The construction of an additional 3 units within an addition of the existing dwelling as shown in Schedules "A2" and "B6-B9";
- iii. A commemorative placard noting "Copeland House" and historical family facts be installed on the site.

(b) The Owner will apply for all necessary building permits and complete the heritage revitalization works to the Heritage Building detailed in Schedules "B" attached to this agreement at the satisfaction of the City of Kelowna's Building and Permitting Branch prior to substantial completion of the entire development.

(c) The Owner agrees to the designation of the property under Section 967 of the *Local Government Act* as a municipally designated Heritage Lands.

1.3 The parties agree that, except as varied or supplemented by the provisions of this agreement, all bylaws and regulations of the City and all laws of any authority having jurisdiction shall apply to the Heritage Lands and the Heritage Building.

1.4 Where a Heritage Alteration Permit is required, the discretion to approve, refuse, or revise such permit is delegated by Council to the Director of Land Use Management.

2.0 Conservation and Maintenance of Existing Development.

2.1 The owner agrees not to alter the exterior of the heritage building except pursuant to a heritage alteration permit issued by the City, and in accordance with this agreement.

- 2.2 The owner agrees to restore the exterior of the Heritage Building on the Heritage Lands in general accordance with the design proposal attached hereto as Schedules "B 1-B9", and forming part of this agreement, which restoration shall include, but not be restricted to the following:

a) Performing cosmetic upgrades to the exterior of the existing Heritage Building which will increase the life of the building's heritage features as shown on Schedule "B1-B9";

- 2.3 If original features must be replaced, the new material shall be similar or identical to the original. Where original features were removed through earlier renovations or alterations and the replacements were not in keeping with the original style of the building, any subsequent replacement of these features shall complement the building's heritage style.

3.0 **Proposed Development**

- 3.1 The parties agree that variances to the following subsections of Section 8 - Parking and Loading of City of Kelowna Zoning Bylaw No. 8000 be granted through this agreement for **Phase One**:

Zoning Bylaw No. 8000 - Table 8.1 - Parking Schedule:

Section 8.1 - Parking Schedule - Apartments

To vary the parking requirement from 9 spaces required to 7 spaces proposed as shown in Schedule "A1" attached to this agreement.

- 3.2 The parties agree that variances to the following subsections of Section 13 - Urban Residential Zones & Section 8 - Parking and Loading of City of Kelowna Zoning Bylaw No. 8000 be granted through this agreement for **Phase Two**:

Zoning Bylaw No. 8000 - 13.10.6 Development Regulations:

Section 13.6.6 (d) - Development Regulation - Side Yard Setback

To legitimize the west side yard set back from 2.3m required to 1.6m proposed (existing) as shown in Schedule "A2" attached to this agreement.

Section 13.6.6 (e) - Development Regulations - Rear Yard

To vary the minimum required rear yard for the proposed addition from 7.5m required to 2.3m proposed, as shown in Schedule "A2" attached to this agreement.

Zoning Bylaw No. 8000 - Table 8.1 - Parking Schedule:

Section 8.1 - Parking Schedule - Apartments

To vary the parking requirement from 13 spaces required to 10 spaces proposed as shown in Schedule "A2" attached to this agreement.

Zoning Bylaw No. 8000 - Section 8 - Parking and Loading:

Section 8.1.11(a) - Size of Parking Spaces

To vary the allowable percentage of small parking space from 40% to 70% proposed.

- 3.3 The Owner agrees to undertake and maintain landscaping on the subject property in general accordance with the landscape plans attached hereto as Schedule "C1- C5" and forming part of this agreement.

(herein after called the "Landscaping Works")

- 3.4 The Owner agrees to provide and pay for all servicing required by the proposed development of the Heritage Lands and to provide required bonding for same, including, but not limited to: domestic water and fire protection, sanitary sewer, storm drainage, road improvements, road dedications and statutory rights-of-way for utility servicing, power and telecommunication services and street lighting all as noted in section 4.0 of this agreement.

(herein after called the "Development Engineering Department Requirements")

4.0 Development Engineering Requirements

4.1 Domestic Water and Fire Protection

- (a) The property is located within the City of Kelowna service area and is serviced by a 19mm copper water service.
- (b) The developer's consulting mechanical engineer will determine the domestic and fire protection requirements of this proposed development (both phases) and establish hydrant requirements and service needs. Only one service will be permitted for this development. The applicant, at his cost, will arrange for the disconnection and replacement of the existing service. Upgrades to the existing hydrant and the installation of an additional hydrant, if required, will be at the applicants cost.
- (c) A water meter is mandatory for this development and must be installed inside the building on the water service inlet as required by the City Plumbing Regulation and Water Regulation bylaws. The developer or building contractor must purchase the meter from the City at the time of application for a building permit from the Inspection Services Department, and prepare the meter setter at his cost. Boulevard landscaping, complete with underground irrigation system, must be integrated with the on-site irrigation system.

4.2 Sanitary Sewer

- (a) The property is serviced by a 100mm diameter service.
- (b) The developer's consulting mechanical engineer will determine the development requirements of this proposed development (both phases) and establish the service needs. Only one service will be permitted for this development. The applicant, at his cost, will arrange for the removal and disconnection of the existing service and the installation of one new larger service.

4.3 Site Access and Development Related Issues

- (a) Elliot Avenue must be upgraded to an urban standard along the full frontage of this proposed development, including curb and gutter, fillet pavement, street lighting and re-location or adjustment of utility appurtenances if required to accommodate the upgrading construction.

this proposed development, including curb and gutter, fillet pavement, street lighting and re-location or adjustment of utility appurtenances if required to accommodate the upgrading construction.

- (b) The development will be required to contain and dispose of site generated storm water on the site by installing ground recharge system consisting of drywells and perforated pipe bedded in drain rock/rock pits.
- (c) The request is to vary the following do not compromise our servicing requirements:
 - (i) Rear yard set back of 7.5m required to 2.3m proposed.
 - (ii) To legalize the non conforming side yard for heritage building to accommodate the addition.
 - (iii) To reduce the drive isle width from 7.0m required to 6.0m proposed.
 - (iv) To increase the allowable percentage of small parking spaces from 40% to 70% proposed.
 - (v) To vary the parking requirement for the project we would suggest the applicant justify the deficiency in parking for both phases and detail how they intend to control and manage the reduction in parking and vehicle size requirements.

4.4 Electric Power and Telecommunication Services

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

5.0 Building and Permitting

No comment for phase 1.

Drawings are required for the phase 2 prior to comment (new building). *No comments were provided with the exception of the need for a full plan check review when revised drawings were submitted.*

6.0 Fire Department

No comments.

7.0 Commencement and Completion

The Owner agrees to commence the Restoration Works, Landscaping Works, and Development Engineering Requirements forthwith upon adoption of City of Kelowna Heritage Revitalization Agreement Authorization Bylaw No. 10840 as follows:

- the restoration work, landscape works and Development Engineering requirements as described in Phase 1 shall be completed within three years following the adoption of the Bylaw authorizing this Agreement; and
- the remaining works as outlined in Phase 2 shall be completed within five years following the adoption of the Bylaw authorizing this Agreement.

accordance with all other bylaws or regulations of the City or any other laws of authority having jurisdiction.

9.0 Breach

- 9.1 In the event that the Owner is in breach of any term of this Agreement, the City may give the Owner notice in writing of the breach and the Owner shall remedy the breach within 30 days of receipt of the notice. In the event that the Owner fails to remedy the breach within the time allotted by the notice, the City may, by bylaw and after conducting a Public Hearing in the manner prescribed by Sections 890 through 894 of the *Local Government Act*, cancel this Agreement whereupon all use and occupation of the Heritage Lands shall thenceforth be in accordance with the zoning bylaws of the City and in accordance with all other bylaws or regulations of the City or any other laws of authority having jurisdiction.

10.0 Amendment

- 10.1 The parties acknowledge and agree that this Agreement may only be amended by one of the following means:
- a) By bylaw with the consent of the parties provided that a Public Hearing shall be held if an amendment would permit a change to use or density of use on site or;
 - b) By Heritage Alteration Permit (HAP), issued pursuant to Section 972 of the *Local Government Act*.

11.0 Representations

- 11.1 It is mutually understood and agreed upon between the parties that the City has made no representations, covenants, warranties, promises or agreements expressed or implied, other than those expressly contained in this Agreement.

12.0 Statutory Functions

- 12.1 Except as expressly varied or supplemented herein, this Agreement shall not prejudice or affect the rights and powers of the City in the exercise of its statutory functions and responsibilities including, but not limited to, the *Local Government Act* and its rights and powers under any enactments, bylaws, order or regulations, all of which, except as expressly varied or supplemented herein, are applicable to the Heritage Lands.

13.0 Enurement

- 13.1 This Agreement inures to the benefit of and is binding upon the parties hereto and their respective heirs, executors, administrators, successors and assigns.

14.0 Other Documents

- 14.1 The Owner agrees at the request of the City, to execute and deliver or cause to be executed and delivered all such further agreements, documents and instruments and to do and perform or cause to be done and performed all such acts and things as may be required in the opinion of the City to give full effect to the intent of this Agreement.

be required in the opinion of the City to give full effect to the intent of this Agreement.

15.0 Notices

15.1 Any notice required to be given pursuant to this Agreement shall be in writing and shall either be delivered mailed by registered mail as follows:

(a) To the City:

City of Kelowna
1435 Water Street
Kelowna, B.C. V1Y 1J4

ATTENTION: City Clerk

(b) To the Owner:

0874309 BC Ltd., Inc. No. BC00874309
(Jackie Gorton)
9 - 3151 Lakeshore Rd
Suite 318
Kelowna, BC, V1W 3S9

Or, to such other address to which a party hereto may from time to time advise in writing

16.0 No Partnership or Agency

16.1 The parties agree that nothing contained herein creates a relationship between the parties of partnership, joint venture or agency.

IN WITNESS WHEREOF this Agreement has been executed by the parties hereto on the day and year first above written.

CITY OF KELOWNA
By its authorized signatories

Mayor

City Clerk

0874309 BC Ltd., Inc. No. BC00874309

Signed by JACKIE GORTON



In the presence of:

B Dedoux

Witness (print name)



Witness (Signature)

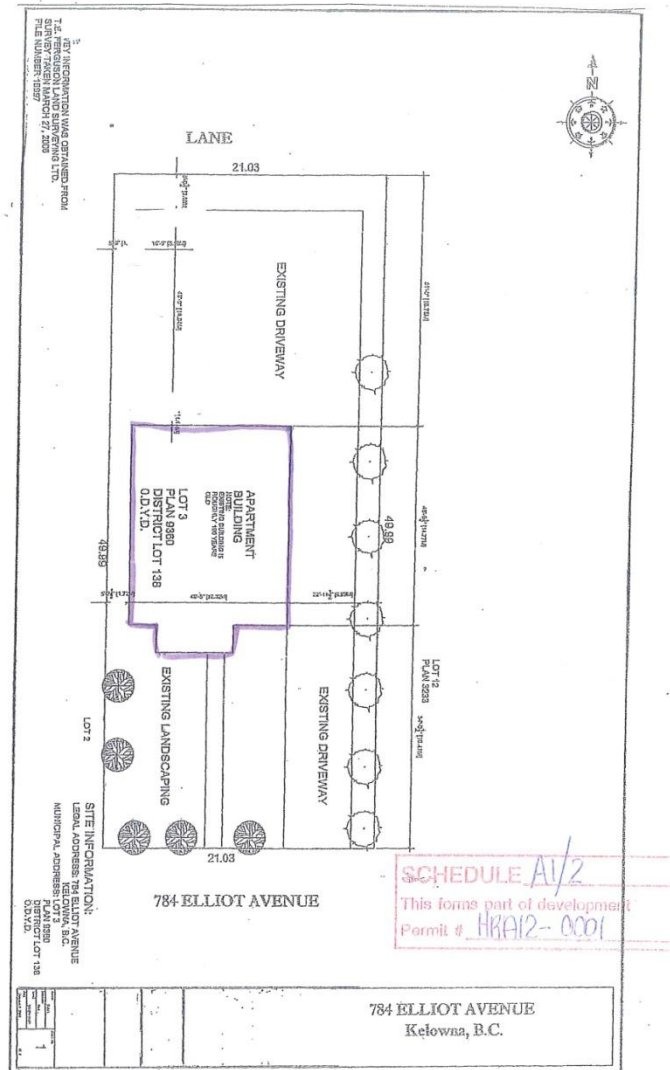
Kelowna City Hall

Address

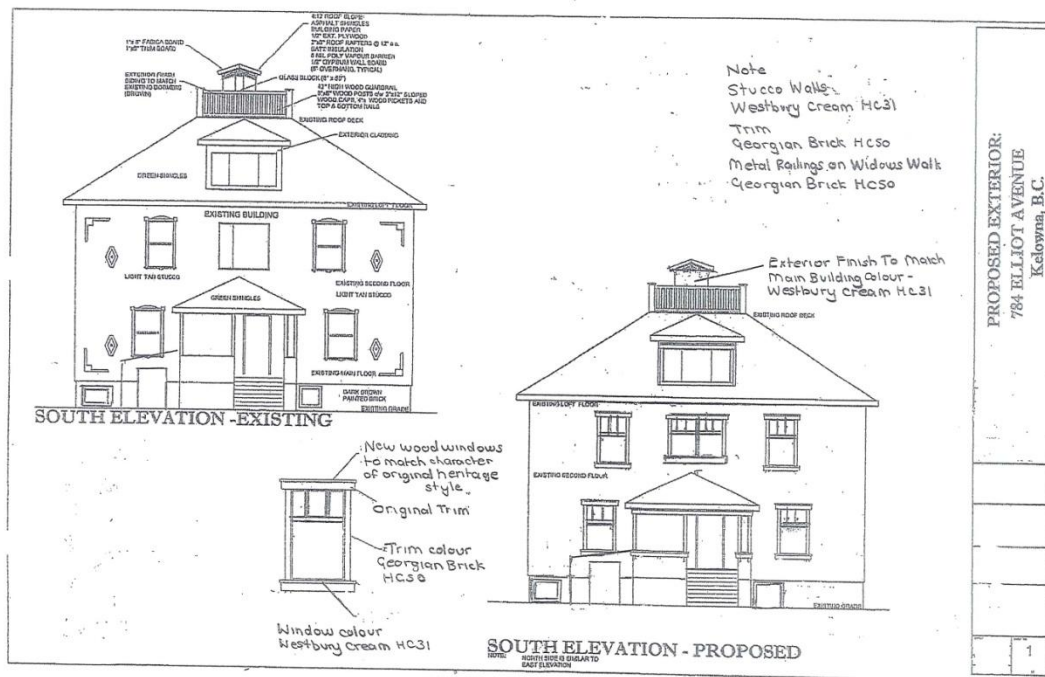
Urban Land Planner

Occupation

Copeland House Existing



Copeland House Phase 1



SCHEDULE B1/9

This forms part of development

Permit # HRA12-0001

Phase 1

East and West Elevations

Windows to be replaced with wood.
Heritage style windows.

Stucco Walls : HC31 Westbury Cream
Trim : HC50 Georgian Brick
Colours from the Benjamin Moore
Historia Collection.



SCHEDULE 32/9
This forms part of development
Permit # HRA12-0001

1.



2.



3.



4.



- 1. Proposed wrought iron fence
- 2. and 3. Proposed lighting
- 4. Proposed heritage style wood windows

SCHEDULE B3/9
This forms part of development
Permit # 11RA12-0001

Copeland House

Copeland House

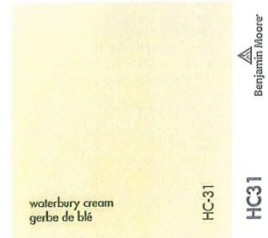
784, Elliot Avenue
Kelowna
V1Y 5T1

COLOUR BOARD EXTERIOR

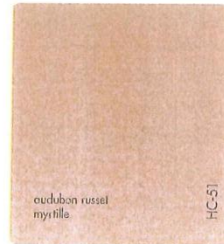
ROOF: Certainteed Landmark
Heather Blend



STUCCO WALLS: HC31 Westbury Cream
Acrylic Latex



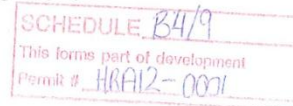
TRIM: HC50 Georgian Brick
Acrylic Latex Low Lustre



METAL RAILINGS: Widows Walk Railings – HC50 Georgian Brick

LOWER STONE FASCIA: HC50 Georgian Brick
Acrylic Latex Low Lustre

All paints selected from the Benjamin Moore Historic Collection. The Georgian Brick was matched from the original back door, penetrating many layers to uncover the original paint colour.



Finish Refurbishment Plan - Copeland House



New roof to prevent further leaks and decay.

Soffits, gutters, fascia and downspouts to be repaired and replaced.

Damaged stucco to be repaired.



Removal of all aerial cables and replaced underground.

New wood windows to match character of original historical style.

New lighting to building and path.

New signage and hardware.

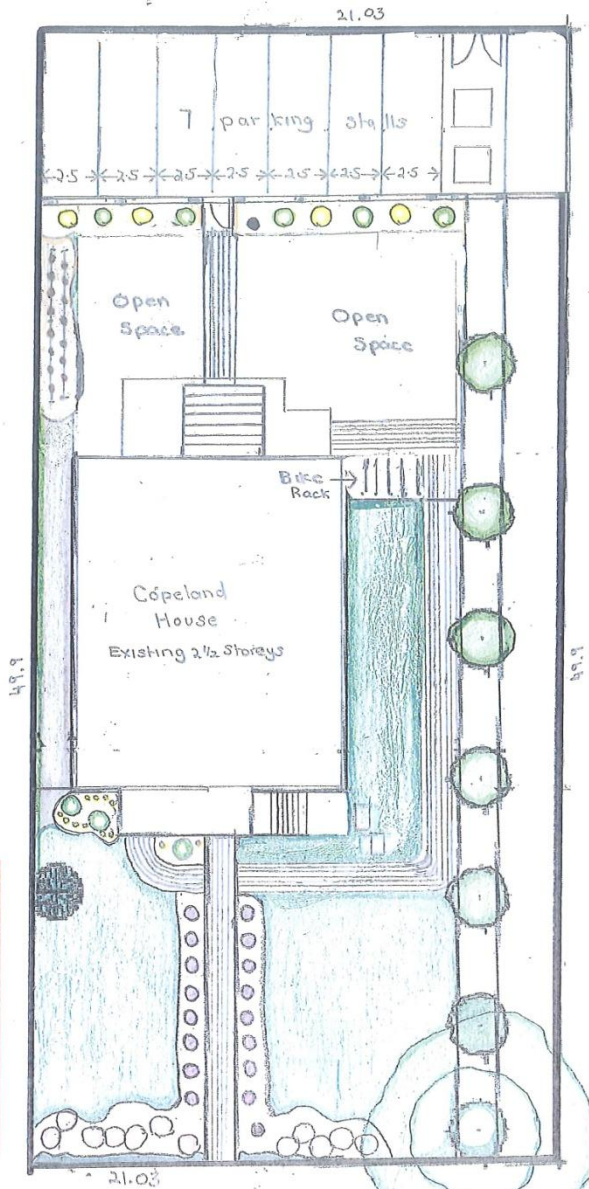


Carport to be removed.

New vehicular access to be made available from alley.

SCHEDULE B5/1
This forms part of development
Permit # H8812-0001

SCHEDULE C1/5
 This forms part of development
 Permit # HR12-002



Copeland House Phase 1



The new landscape plan will introduce a Victorian/Edwardian period perennial type of garden, lawn, shrubs and trees. Similar to above the pathway will be bordered by lavender.



Continuous plantings of green shrubs with occasional splashes of color exemplify the Victorian style.

SCHEDULE 12-15
This forms part of development
Permit # HRA12-0001

Bike Rack

A Bike Rack will be installed to provide a secure facility for the tenants to store their bicycles.

Samples for proposed type of Bicycle parking rack:



Tofino No Scratch® Bike Rack

The Sportworks Tofino is a unique combination of beautiful aesthetics and superior functionality at a terrific price. With a modern design and thoughtful integration of Sportworks No Scratch® bumper that protects bikes, the Tofino sets a new standard for all commercial bike racks.

The Tofino offers high space efficiency for two bikes in sidewalk settings, campuses, city parks, or anywhere space is limited. The Tofino provides the highest security allowing both the wheel and the frame to be secured using a variety of lock types. The Tofino is available in stainless or mild steel, and comes in a variety of mounting and coating options.

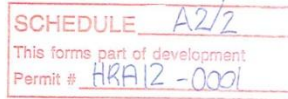
SCHEDULE <u>C3/5</u>
This forms part of development
Permit # <u>HRA012-001</u>



Sample for proposed type of Bicycle Shelter, may be modified as new models and designs become available early 2013.

SCHEDULE <u>C4/5</u>
This forms part of development
Permit # <u>HRP12-0001</u>

RECEIVED
MAR 01 2013
CITY OF KELOWNA
Development Services Department



project no. 3332	
drawing title	
SITE PLAN - MASSING	
designed by	PG
drawn by	PG/JS
checked by	JS
drawing title	
DP1.01	
project	3332/0000 - Northwood

SCHEDULE B6/9
This forms part of development
Permit # HRA12-0001



RECEIVED
MAR 01 2013
CITY OF KELOWNA
Development Services Department

<u>DRAWING LIST</u>	
DP 0.01	COVER
DP 1.01	SITE PLAN - MASSING
DP 1.02	SITE PLAN - LEVEL 01
DP 3.01	ELEVATIONS
DP 3.02	ELEVATIONS
DP 3.02	ELEVATION



PHASE TWO

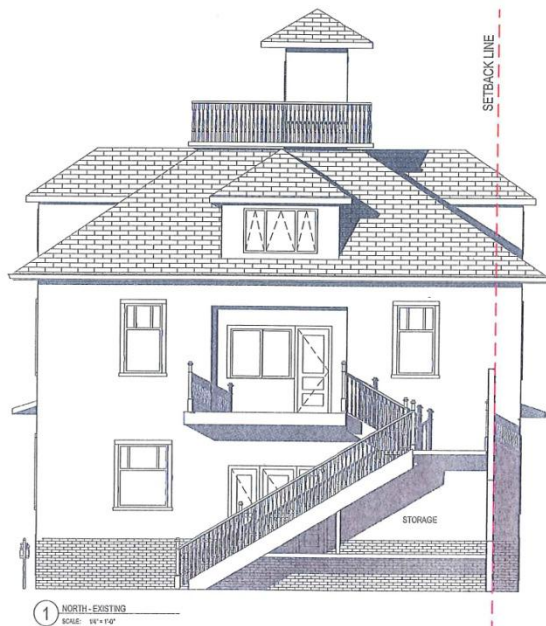
SCHEDULE B8/A
This forms part of development
Permit # HRA12-0001

RECEIVED
MAR 01 2013
CITY OF KELLOWNA
Development Services Department



SCHEDULE B9/9
 This forms part of development
 Permit # **HR12-0001**

Cross Section View
 between Existing building
 & Phase 2. addition.



Notes:
 1. All work shall be in accordance with the City of Kelowna Building Bylaw and the applicable codes and standards.
 2. All work shall be in accordance with the City of Kelowna Building Bylaw and the applicable codes and standards.
 3. All work shall be in accordance with the City of Kelowna Building Bylaw and the applicable codes and standards.
 4. All work shall be in accordance with the City of Kelowna Building Bylaw and the applicable codes and standards.
 5. All work shall be in accordance with the City of Kelowna Building Bylaw and the applicable codes and standards.
 6. All work shall be in accordance with the City of Kelowna Building Bylaw and the applicable codes and standards.
 7. All work shall be in accordance with the City of Kelowna Building Bylaw and the applicable codes and standards.
 8. All work shall be in accordance with the City of Kelowna Building Bylaw and the applicable codes and standards.
 9. All work shall be in accordance with the City of Kelowna Building Bylaw and the applicable codes and standards.
 10. All work shall be in accordance with the City of Kelowna Building Bylaw and the applicable codes and standards.
 End

- This document is:
- ☒ A set of drawings. Drawings may be made without notes.
 - ☐ A CONTINUED document. Drawings will be added.
 - ☒ The first issue of the document.
 - ☐ A complete revision. Remove previous issues from work.
 - ☐ A partial revision. Remove previous issues of corresponding sheets/pages from work.
 - ☒ Not for Construction.

PHASE TWO

NEW TOWN
 ARCHITECTURE
 URBAN PLANNING
 1150 PANDOSY STREET
 KELOWNA BC V1Y1P3
 www.newtownservices.net

project title
 COPELAND HOUSE

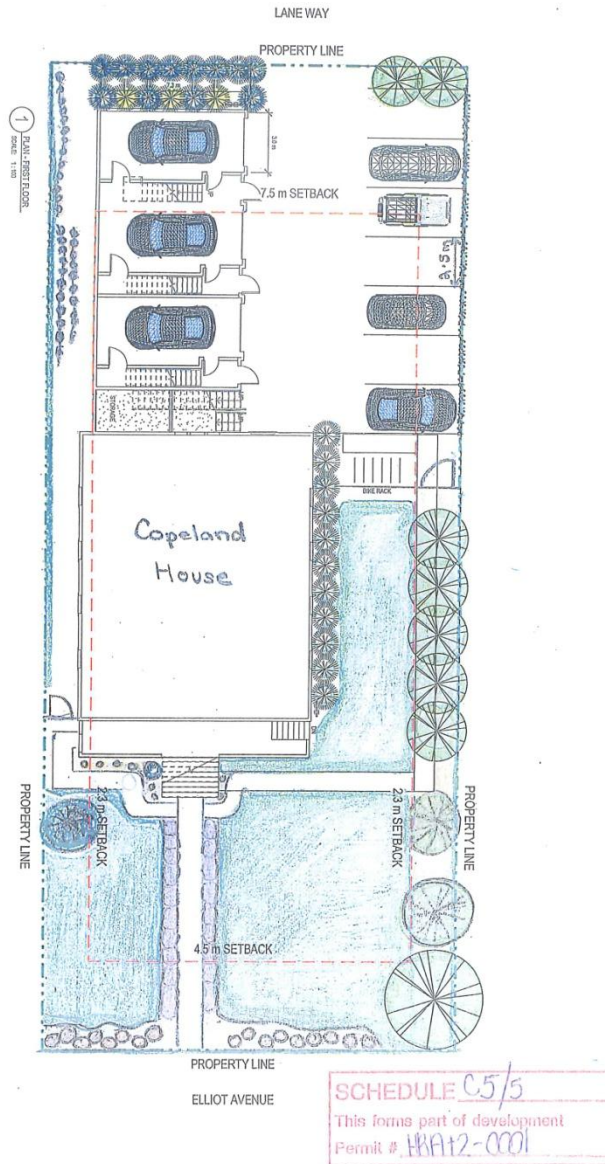
project no. 3332

drawing title
 ELEVATIONS - NORTH

designed by Designer
 drawn by Author
 checked by Checker
 date 01/01/2012

DP3.03

print 20120101 10:00 AM



Copeland House Phase A

Report to Council



Date: May 28, 2013

Rim No. 0505-35

To: City Manager

From: Theresa Eichler, Community Planning Manager

Subject: Housing Agreement Request, 1933 Ambrosi Rd., Strata Lot 28, District Lot 129, ODYD, Strata Plan KAS3642 together with a common interest in the common property in proportion to the unit entitlement of the strata lot as shown on form V

Recommendation:

THAT Council, receives for information, the report from the Community Planning Manager, dated May 28, 2013 with respect to a new Housing Agreement for the property located at Strata Lot 28, District Lot 129, ODYD, Strata Plan KAS3642 together with a common interest in the common property in proportion to the unit entitlement of the strata lot as shown on form V;

AND THAT Council give reading consideration to Bylaw No. 10851 being Amendment No.1 , for the purpose of allowing an affordable dwelling to be rented or sold, to Bylaw No. 9884 being the Housing Agreement Bylaw for 1314694 Alberta Ltd. (Tessco);

AND FURTHER THAT following adoption of Bylaw No. 10851 being Amendment No. 1 to Bylaw No. 9884 being the Housing Agreement Bylaw the Mayor and City Clerk be authorized to execute the Housing Agreement for the property located at Strata Lot 28, District Lot 129, ODYD, Strata Plan KAS3642 together with a common interest in the common property in proportion to the unit entitlement of the strata lot as shown on form V, as attached to the report of the Community Planning Manager dated May 21, 2013.

Purpose:

The purpose of this report is to consider Staff recommendation in response to a written request from the subject property owner, to either release the notice of Housing Agreement or amend the Housing Agreement for his subject property to permit rental of his dwelling.

Background:

Starting in 2006, housing agreements were put in place to secure a few affordable dwellings within a building in return for an increase in density. At that time, the Kelowna homebuyer's market did not offer much choice for households with a combined income at or below the

median income level for a Kelowna family. Historically, there was Council direction that affordable homes guaranteed by housing agreements should remain as a housing resource for the community, particularly given the fact that they were originally secured as a developer's commitment to generate some affordable housing. In 2012, Council chose not to continue to require housing agreements for additional ownership housing. Existing housing agreements would continue to be administered.

In 2013, the market has shifted and it is not difficult to find a re-sale stratified dwelling at or below the City's starter home price of \$209,902.

A letter to the Mayor and Council requesting release from the notice of housing agreement registered to the condominium at 209-1933 Ambrosi was received from the owner on April 23rd, 2013. Alternatively, should the release not be authorized, the owner has requested that he be allowed to rent his dwelling, which would then require an amendment to the housing agreement.

The owner exemplifies the type of housing need that was envisioned when the affordable ownership definition was originally approved by Council. The owner bought the dwelling in 2009 as a first-time homeowner and now, anticipating a transfer, he would like to sell his unit without restrictions due to the current soft housing market. As an alternative to releasing the housing agreement, the owner would like the ability to rent his home which is one of three affordable homes created within the 72 unit stratified complex.

Staff supports the need for flexibility in this situation and recommends that the agreement be amended to allow the dwelling to be rented or sold in accordance with the City's affordability definitions.¹ Similar requests were made and granted by Council for two dwellings affected by an agreement for the "Mode" building at 1550 Dickson Ave. in 2012. This report recommends the same approach to respond to the current request.

Internal Circulation:

City Clerk
Director of Land Use Management

Legal/Statutory Authority:

Local Government Act Section 905

A housing agreement under section 905 of the Local Government Act (LGA) is the only tool available to the City to ensure that affordable housing commitments are kept. Under Section 905(2) of the LGA: "*A housing agreement may include terms and conditions agreed to by the local government and the owner regarding the occupancy of the housing units identified in the agreement...*"

Legal/Statutory Procedural Requirements:

Existing Housing Agreement Bylaw Number 9884 will be amended to allow a new agreement providing for rental or owner occupancy of affordable dwellings, subject to the City's affordability definitions. Notice of the new agreement would be registered for the subject property.

Existing Policy:

¹ OCP- Chapter 17 - Definitions - Page 3

Official Community Plan

Objective 5.9 - Support the creation of affordable and safe rental, non-market and/or special needs housing.

Considerations not applicable to this report:

Financial/Budgetary Considerations:

Personnel Implications:

External Agency/Public Comments:

Communications Comments:

Alternate Recommendation:

THAT Council cancel the housing agreement for this property, and direct staff to proceed with lifting the notice of the housing agreement and amending By-law 9884 to remove Strata Lot 28, District Lot 129, ODYD, Strata Plan KAS3642 together with a common interest in the common property in proportion to the unit entitlement of the strata lot as shown on form V from the legal description.

Submitted by:

T. Eichler, Community Planning Manager

Shelly Gambacort,
Director of Policy and Planning
Approved for inclusion:



SG, Acting Director of Policy & Planning

cc: City Clerk
Director of Finance
Director of Land Use Management
Director of Communications

CITY OF KELOWNA

BYLAW NO. 10851

Amendment No. 1 to Bylaw No. 9884 being Housing Agreement Authorization Bylaw - 1314694 Alberta Ltd., Inc. No. A0070953

The Municipal Council of the City of Kelowna, in open meeting assembled, enacts that Bylaw No. 9884 being Housing Agreement Authorization Bylaw - 1314694 Alberta Ltd., Inc. No. A0070953 be amended as follows:

1. THAT Section 1 be amended by adding a new sub-section 1a. that reads:

“The Municipal Council hereby authorizes the City of Kelowna to enter into a Housing Agreement with Brendan Kenneth John Harkness for the lands known as:

Strata Lot 28, District Lot 129, ODYD, Strata Plan KAS3642 together with a common interest in the common property in proportion to the unit entitlement of the strata lot as shown on form V.

located on Ambrosi Road, Kelowna, B.C., a true copy of which is attached to and forms part of this bylaw as Schedule “B”.”

3. The Mayor and City Clerk are hereby authorized to execute the attached agreement as well as any conveyances, deeds, receipts or other documents in connection with the attached agreement.
4. This bylaw shall come into full force and effect and is binding on all persons as and from the date of adoption.

Read a first, second and third time by the Municipal Council this

Adopted by the Municipal Council of the City of Kelowna this

Mayor

City Clerk

Schedule "B"

Page 1

AFFORDABLE RENTAL AND/OR OWNER HOUSING AGREEMENT

THIS AGREEMENT dated for reference _____, 2013 affects:

PID 027-835-201

Strata Lot 28, District Lot 129, ODYD, Strata Plan KAS3642 together with a common interest in the common property in proportion to the unit entitlement of the strata lot as shown on form V

And is

BETWEEN:

Brendan Harkness
209-1933 Ambrosi Rd.
Kelowna, B.C.,

("Owner")

AND:

CITY OF KELOWNA, a local government incorporated pursuant to the *Community Charter* and having its offices at 1435 Water Street, Kelowna, B.C. V1Y 1J4

("City")

GIVEN THAT:

- A. The City may, pursuant to section 905(1) of the *Local Government Act*, enter into an agreement with an owner of land that includes terms and conditions regarding the occupancy, tenure, and availability of the housing units on the land or construction on land;
- B. The Owner and the City wish to enter into this Agreement to provide for affordable ownership and/or affordable rental housing on the terms and conditions set out in this Agreement, and agree that this Agreement is a housing agreement under s. 905 of the *Local Government Act*; and
- C. The City has, by bylaw, authorized the execution of this Agreement and the Owner has duly authorized the execution of this Agreement.

THIS AGREEMENT is evidence that in consideration of \$1.00 paid by the City to the Owner (the receipt of which is acknowledged by the Owner) and in consideration of the promises exchanged below, the City and Owner agree, as a housing agreement between the Owner and the City under s. 905(1) of the *Local Government Act*, as follows:

ARTICLE 1

INTERPRETATION

1.1 Definitions -

"Affordable Ownership" means the income level, published annually by the City, at which a Household would be capable of buying a home at the Starter Home Price, and is based on the purchase ability at the median income level from the most recent federal census for all two or more person households, assuming 30% of gross household income expenditure for shelter;

"Affordable Ownership Dwelling Unit" means a Dwelling Unit to be sold for the Starter Home Price to a Household that meets the Affordable Ownership criteria;

"Affordable Rental" is the affordable rental rate published periodically by the City, being a calculation of average rents for Kelowna, using data from the annual Canada Mortgage and Housing Corporation ("CMHC") Rental Market Report as set out in Schedule E;

"Affordable Rental Unit" means a Dwelling Unit that is available for rent at an Affordable Rental rate;

"BCCPI" means the All-Items Average Annual Consumer Price Index for British Columbia, published yearly by Statistics Canada, or its successor in function, where 2002 = 100;

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

"City" means the City of Kelowna;

"Dwelling Unit" means accommodation providing sleeping rooms, washrooms, and no more than one kitchen, intended for domestic use, and used or intended to be used permanently or semi permanently for a Household. This use does not include a room in a hotel or a motel;

"Gross Annual Income" means the sum of all taxable incomes, being the amount identified as taxable income on the most recent income tax return (line 260 of the income tax T1 General Form), of all individuals 15 years and older that reside in the Household;

"Household" means

- (a) a person;
- (b) two or more persons related by blood, marriage, or adoption; or associated through foster care, all living together in one dwelling unit as a single household using common cooking facilities;
- (c) a group of not more than five persons, including boarders, who are not related by blood, marriage, or adoption, or associated through foster care, all living together in one dwelling unit as a single household using common cooking facilities; or
- (d) a combination of (b) and (c), provided that the combined total does not include more than 3 persons unrelated by blood, marriage or adoption or associated through foster care; all living together in one dwelling unit as a single household using common cooking facilities.

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

"Land" means the land described herein;

"LTO" means the Kamloops Land Title Office or its successor;

"Maximum Allowable Income" means, in respect of an Affordable Rental Dwelling Unit, the threshold income level calculated according to the formula set out in Schedule E;

"Official Community Plan" means the City of Kelowna Official Community Plan Bylaw No. 7600, or its successor bylaw;

"Owner" means the registered owner of the Land from time to time and any parcels into which the Land is subdivided;

"Starter Home Price" means the prices published annually by the City for:

- (a) basic non-strata titled home
- (b) basic strata-titled home, and
- (c) mobile/manufactured home with pad rental

in the Kelowna market, and which will be derived from the formula set out in Schedule B and increased between Census years by the percentage increase in BCCPI from the last Census year;

"Tenancy Agreement" means a tenancy agreement as defined in, and subject to, the *Residential Tenancy Act*; and

"Tenant" means a Household occupying an Affordable Rental Unit pursuant to a Tenancy Agreement, and that has a Gross Annual Income equal to or lesser than the Maximum Allowable Income.

1.2 Interpretation - In this Agreement:

- (a) reference to the singular includes a reference to the plural, and vice versa, unless the context requires otherwise;
- (b) article and section headings have been inserted for ease of reference only and are not to be used in interpreting this Agreement;
- (c) reference to a particular numbered section or article, or to a particular lettered Schedule, is a reference to the correspondingly numbered or lettered article, section or Schedule of this Agreement;
- (d) if a word or expression is defined in this Agreement, other parts of speech and grammatical forms of the same word or expression have corresponding meanings;

- (e) the word "enactment" has the meaning given in the *Interpretation Act* on the reference date of this Agreement;
- (f) reference to any enactment includes any regulations, orders or directives made under the authority of that enactment;
- (g) the provisions of s. 25 of the *Interpretation Act* with respect to the calculation of time apply;
- (h) time is of the essence;
- (i) reference to a "party" is a reference to a party to this Agreement and to their respective successors, assigns, trustees, administrators and receivers; and
- (j) reference to any enactment is a reference to that enactment as consolidated, revised, amended, re-enacted or replaced, unless otherwise expressly provided.

1.3 Purpose of Agreement - The Owner and the City agree that:

- (a) this Agreement is intended to serve the public interest by providing for occupancy of a certain number of Dwelling Units, of the kinds provided for in this Agreement, that are in demand in the City of Kelowna but that are not readily available;
- (b) performance of this Agreement by the Owner is a condition, as contemplated by s. 904 of the *Local Government Act*, of the Owner becoming entitled to certain density bonuses respecting development of the Land, which density bonuses the Owner acknowledges are a benefit to the Owner; and
- (c) damages are not an adequate remedy to the City in respect of any breach of this Agreement by the Owner, such that the Owner agrees the City should be entitled to an order for specific performance, injunction or other specific relief respecting any breach of this Agreement by the Owner.

ARTICLE 2

HOUSING AGREEMENT AND LAND USE RESTRICTIONS

2.0 Land Use Restrictions - The Owner and the City hereby covenant and agree as follows:

- (a) the Land must be used only in accordance with this Agreement;
- (b) the Dwelling Unit on the Land must be used either as an Affordable Rental Unit or Affordable Ownership Dwelling Unit, as defined in this Agreement.

ARTICLE 3

HOUSING AGREEMENT AND TRANSFER RESTRICTIONS

3.0 Purchaser Qualifications - The City and the Owner agree that the Owner must not sell or transfer, or agree to sell or transfer, any ownership interest in any Affordable Rental Unit and/or Affordable Ownership Dwelling Unit other than a full interest in the fee simple title to:

- (a) an agency or individual that will continue to ensure that the Affordable Rental Unit(s) are only occupied as Affordable Rental Unit(s) in accordance with this Agreement; or
- (b) a Household that meets the Affordable Ownership criteria contained in section 3.1(d) below.

AFFORDABLE OWNERSHIP DWELLING UNITS

OCCUPATION AND TRANSFER RESTRICTIONS

3.1 Occupation and Transfer Restrictions - The City and the Owner agree as follows:

- (a) **Prospective Purchasers** - The Owner will be solely responsible for screening prospective purchasers of an Affordable Ownership Dwelling Unit to determine whether or not they meet the Affordable Ownership criteria in accordance with this Agreement. For greater certainty, the Owner agrees that the City is not responsible for, and makes no representation to the Owner regarding, the suitability of any prospective purchaser;
- (b) **Purchase Price** - The maximum sale price of the Affordable Ownership Dwelling Unit to a Household that meets the Affordable Ownership criteria is:
 - (i) the applicable Starter Home Price; or,
 - (ii) market value of the Affordable Ownership Dwelling Unit, if the Owner has owned that unit for 10 years and the Owner has requested the City discharge this Agreement.
- (c) **Notification of this Agreement** - The Owner must disclose in every purchase and sale agreement for the Affordable Ownership Dwelling Unit, the existence of this Agreement and the occupancy and resale price restrictions applicable to that unit, and provide the prospective purchaser with a copy of this Agreement;
- (d) **Affordable Ownership criteria** - The Owner agrees that the following apply in respect of those who occupy an Affordable Ownership Dwelling Unit:
 - a. the Owner of the Affordable Ownership Dwelling Unit must be part of the Household that occupies that unit,
 - b. the Gross Annual Income of all individuals who occupy the Affordable Ownership Dwelling Unit must not exceed the Affordable Ownership income level, and
 - c. Within five days of transfer of the title of an Affordable Ownership Dwelling Unit, the new Owner of that unit must deliver to the City a statutory declaration, substantially in the form attached as Schedule A, sworn by the new Owner under oath before a commissioner for taking affidavits in British Columbia, containing all of the information required to complete the statutory declaration.

- (e) **Rental only as Landlord for Affordable Rental Unit** - The Owner shall not rent or lease the Land or any Affordable Ownership Dwelling Unit on the Land, except that the Owner may rent the Affordable Ownership Dwelling Unit as an Affordable Rental Unit in accordance with sections 3.5 through 3.8 inclusive of this Agreement; and
 - (f) **Applies to all Owners** - For clarity, the restrictions in this section 3.1 shall not apply to an Owner who bought the Affordable Ownership Dwelling Unit pursuant to section 3.0(a).
- 3.2 **Statutory Declaration** - Within five days after receiving notice from the City, the Owner must deliver to the City a statutory declaration, substantially in the form attached as Schedule A, sworn by the Owner, or a knowledgeable director, officer or employee of any corporate Owner, under oath before a commissioner for taking affidavits in British Columbia, containing all of the information required to complete the statutory declaration. The City may request such a statutory declaration no more than four times in any year. The Owner must submit such a statutory declaration if an Affordable Owner Dwelling Unit is sold to a new Owner.
- 3.4 **Mortgages and Mortgage Insurers** - In the event that the Affordable Ownership Dwelling Unit is subject to a mortgage or charge in favour of a lender insured by a mortgage insurer, as further defined in Schedule C (attached), the terms of Schedule C shall govern.

AFFORDABLE RENTAL UNITS

- 3.5 **Use and Occupancy For Affordable Rental Unit** - Unless the Owner is occupying the Affordable Rental Unit and/or Affordable Ownership Dwelling Unit in accordance with section 3.1, the Owner agrees with the City as follows:
- (a) the Owner must rent or lease the Affordable Rental Unit on the Land, and in no event may the Owner himself or herself occupy the Affordable Rental Unit;
 - (b) the Owner must specify in every Tenancy Agreement the existence of this Agreement and the occupancy restrictions applicable to an Affordable Rental Unit, and attach a copy of this Agreement to every Tenancy Agreement; and
 - (c) the Owner will deliver a copy of the Tenancy Agreement for each Affordable Rental Unit to the City upon demand.
- 3.6 **Prospective Tenants** - The Owner will be solely responsible for screening prospective Tenants. For greater certainty, the Owner agrees that the City is not responsible for, and makes no representation to the Owner regarding, the suitability of any prospective Tenant.
- 3.7 **Damages and Rent Charge** - The Owner agrees with the City as follows:
- (a) **Damages for Breach** - for each day an Affordable Rental Unit is occupied in breach of this Agreement, the Owner must pay the City \$100.00 for each day on which the breach has occurred, as liquidated damages and not as a penalty, due and payable at the offices of the City on the last day of the calendar month in which the breach occurred, but the City agrees that this section applies only if the City has given 60 days' written notice to the Owner of occupancy of

the Affordable Rental Unit in breach of this Agreement and the Owner has not cured that breach before expiry of that 60 days; and

- (b) **Statutory Declaration** - When making an application for a business license or a renewal of a business license pursuant to the City's Business License Bylaw No. 7878, or its successor, the Owner must deliver to the City a statutory declaration, substantially in the form attached as Schedule D, sworn by the Owner, or a knowledgeable director, officer or employee of any corporate Owner, under oath before a commissioner for taking affidavits in British Columbia, containing all of the information required to complete the statutory declaration. Additionally, the City may request the Owner deliver to the City such a statutory declaration no more than four times in any year. The Owner must submit such a statutory declaration a minimum of once a year.

- 3.8 **Mortgages and Mortgage Insurers** - In the event that the building containing one or more Affordable Rental Unit(s) is subject to a mortgage or charge in favour of a lender insured by a mortgage insurer, as further defined in Schedule F (attached), the terms of Schedule F shall govern.

ARTICLE 4

GENERAL

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

- (a) this Agreement constitutes a housing agreement entered into under s. 905 of the *Local Government Act*;
- (b) the City will file a notice of housing agreement in the LTO against title to the Land; and
- (c) once such a notice is filed, this Agreement binds all persons who acquire an interest in the Land.

- 4.1 **No Effect On Laws or Powers** - This Agreement does not:

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

- 4.2 **Notice** - Any notice which may be or is required to be given under this Agreement must be in writing and either be delivered or sent by facsimile transmission. Any notice which is delivered is to be considered to have been given on the first day after it is dispatched for delivery. Any notice which is sent by fax transmission is to be considered to have been given on the first business day after it is sent. If a party changes its address or facsimile number, or both, it must promptly give notice of its new address or facsimile number, or both, to the other party as provided in this section.

- 4.3 **Agreement Runs With the Land** - Every obligation and covenant of the Owner in this Agreement constitutes a contractual obligation by the Owner to the City in and this Agreement burdens the Land and runs with it and binds the Owner's successors in title and binds every parcel into which it is consolidated or subdivided by any means, including by subdivision or by strata plan under the *Strata Property Act*.
- 4.4 **Release** - The Owner by this Agreement releases and forever discharges the City and each of its elected officials, officers, directors, employees and agents, and its and their heirs, executors, administrators, personal representatives, successors, and assigns, from and against all claims, demands, damages, actions, or causes of action by reason of or arising out of advice or direction respecting the ownership, lease, operation or management of the Land or the Dwelling Units which has been or at any time after the commencement of this Agreement may be given to the Owner by all or any of them. This clause will survive the termination of this Agreement.
- 4.5 **Hardship** - If for reasons of hardship, the Owner cannot comply with the requirements of this Agreement in relation to any Affordable Dwelling Unit, the Owner may request a temporary waiver or alteration of the terms in this Agreement in respect of that unit. This request must be delivered to Council in writing, explain the nature and circumstances of the hardship involved, the reasons why the Owner cannot comply, and the hardship that compliance would cause. The Owner agrees that Council is under no obligation to grant any relief, and may proceed with all remedies available under this Agreement, and at law and in equity, despite the Owner's request or the hardship involved, and the relief, if any, is to be determined by Council, acting reasonably in its sole discretion.
- 4.6 **Joint Venture** - Nothing in this Agreement will constitute the Owner as the agent, joint venturer, or partner of the City or give the Owner any authority to bind the City in any way.
- 4.7 **Limitation on Owner's Obligations** - The Owner is only liable for breaches of this Agreement that occur while the Owner is the registered owner of the Land.
- 4.8 **Waiver** - An alleged waiver of any breach of this Agreement is effective only if it is an express waiver in writing of the breach. A waiver of a breach of this Agreement does not operate as a waiver of any other breach of this Agreement.
- 4.9 **Equitable Remedies** - The Owner acknowledges and agrees that damages would be an inadequate remedy for the City for breach of this Agreement, that the City is entitled to obtain an order for specific performance of this Agreement and a prohibitory or mandatory injunction in respect of any breach by the Owner of this Agreement, and further that this clause is reasonable given the public interest in restricting the occupancy and disposition of each Affordable Ownership Dwelling Unit on the Land in accordance with this Agreement.
- 4.10 **Further Acts** - The Owner shall do everything reasonably necessary to give effect to the intent of this Agreement, including execution of further instruments.
- 4.11 **Severance** - If any part of this Agreement is held to be invalid, illegal or unenforceable by a court having the jurisdiction to do so, that part is to be considered to have been severed from the rest of this Agreement and the rest of this Agreement remains in force unaffected by that holding or by the severance of that part.

- 4.12 No Other Agreements - This Agreement is the entire agreement between the parties regarding its subject and it terminates and supersedes all other agreements and arrangements regarding its subject.
- 4.13 Amendment - This Agreement may be discharged, amended or affected only by an instrument duly executed by both the Owner and the City.
- 4.14 Enurement - This Agreement binds the parties to it and their respective successors, heirs, executors and administrators. Reference in this Agreement to the "City" is a reference also to the elected and appointed officials, employees and agents of the City.
- 4.15 Deed and Contract - By executing and delivering this Agreement each of the parties intends to create both a contract and a deed executed and delivered under seal.

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

SIGNED, SEALED & DELIVERED in the presence of:

Corinne Boback
Signature of Witness

CORINNE BOBACK
Print Name
1435 Water Street
Address Kelowna, BC
Legislative Coordinator
Occupation

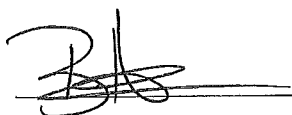
SIGNED, SEALED & DELIVERED in the presence of:

Signature of Witness

Print Name

Address

Occupation


BRENDAN HARKNESS

CITY OF KELOWNA
by its authorized signatories:

Mayor

City Clerk

SCHEDULE A

[AFFORDABLE OWNERSHIP DWELLING UNITS]

CANADA) IN THE MATTER OF A HOUSING AGREEMENT
)
) WITH THE CITY OF KELOWNA ("Housing
PROVINCE OF BRITISH COLUMBIA) Agreement") for the land legally described
) as [INSERT LEGAL]

I, _____, of _____, do solemnly declare:

3. This declaration is made with respect to the Dwelling Unit ("Unit") legally or otherwise described as follows:

[INSERT LEGAL DESCRIPTION AND CIVIC ADDRESS].

4. That I am the Owner of the Unit and make this declaration to the best of my personal knowledge.
- [or]
- That I am the _____ [director, officer, employee] of the Owner of the Unit and [make this declaration to the best of my personal knowledge] [or: have been informed by _____ and believe the statements in this declaration to be true].

5. This declaration is made pursuant to the Housing Agreement in respect of the Unit.

6. The City's published applicable Starter Home Price for the Unit is \$ _____.

7. For the period from _____, _____ to _____, _____ the Unit was occupied by the following persons, whose names and addresses appear below, and in accordance with the Housing Agreement

[INSERT NAMES AND AGES OF ALL OCCUPANTS WITH ADDRESS OF UNIT].

8. The Annual Gross Income of all of the individuals described in paragraph 5 is \$_____. This amount does not exceed the income defined under Clause 9 (below).

9. The annual median income of a 2 or more person City of Kelowna household, as determined in accordance with the federal census and increased between census periods by the percentage increase in the annual average consumer price index for all items in British Columbia using 2002 = 100 as a base, published by the City is \$_____.

10. I make this solemn declaration conscientiously believing it to be true and knowing that it is of the same force and effect as if made under oath and pursuant to the *Canada Evidence Act*.

SWORN BEFORE ME at the City of _____
_____, in the _____
_____, this ____ day of _____
_____, ____.

)
)
)
)
)

) Signature of person making
) declaration

A Commissioner for taking affidavits for British Columbia

SCHEDULE B

[AFFORDABLE OWNERSHIP DWELLING UNITS / STARTER HOME PRICE
CALCULATION BY CITY]

"Affordable Ownership" is based on the income level at which a household would be capable of entering the Kelowna ownership market. This is equivalent to the "starter home price" and is derived based on the purchase ability at the median income level for all two or more person households from the most recent Census, assuming 30 % of gross household income expenditure for shelter. The starter home price will be increased annually between Census years by the percentage increase in the B.C. Consumer Price Index (BCCPI), be given for a non-strata-titled home, a strata-titled home and a mobile /manufactured home, and be published annually by the City.

On the basis of policy direction in the City of Kelowna Official Community Plan By-law 7600, (policy 8.1.16) the City has committed to calculating and providing the starter home prices on an annual basis published in The Housing Resources Handbook: Benchmarks and Resources for Affordable, Special Needs and Rental Housing. The following Methodology is used to calculate the starter home prices in the City of Kelowna every five years. Between Census years, the numbers for median income and starter home prices are increased annually using the BCCPI

STARTER HOME PRICE CALCULATION

Line		Single Family	Strata	Manufactured Home
Insert:				
1	Gross Income			
2	Mortgage Rate			
3	Insurance Rate			
4	Mill Rate			
5	Property Tax			
6	Homeowner Grant			
7	Strata Fees / Mobile Home Pad Rental			
8	Annual Heating Costs			
9	Annual Utility Costs			
Calculate:				
10	Annual Housing Cost (30% of Income)			
11	Yearly Mortgage Payment			
12	Monthly Mortgage Payment			
13	Total Home Financing			
14	Mortgage Insurance Cost			
15	Mortgage Financing (95%)			
16	Home Price (Starter Home)			

The process used to calculate the Starter Home Price in the City of Kelowna is as follows:

1. COLLECT THE FOLLOWING DATA FROM THE SOURCES LISTED AND INSERT INTO THE TABLE:

1.1 Gross Income (Line 1)

- When new Census information is available, the figure for median income of a two or more person household in Kelowna is obtained and used as the gross income. Gross Income is the aggregated taxable income (line 260 of income tax T1 General Form) of all residents 15 years and older residing in the household. Income data recorded by the Census, however, is usually for the year prior to the Census (for example, the 2001 Census recorded 2000 income levels). The income level may therefore need to be increased to the most recent year, using the BCCPI.

1.2 Mortgage Rate (Line 2)

- The mortgage rate is equal to the Bank of Canada Prime Lending Rate, plus 3

1.3 Insurance Rate (Line 3)

- The insurance rate is equivalent to Canada Mortgage and Housing Corporation (CMHC) mortgage insurance rate for a mortgage with a 5% down payment.

1.4 Mill Rate (Line 4)

- The current mill rate for residential taxation used by the City of Kelowna.

1.5 Property Tax (Line 5)

- The property tax figure is estimated based on the previous figures used in the table. This figure may be later adjusted based on the outcome of the final calculations

1.6 Homeowners Grant (Line 6)

- Homeowner grants are offered by the provincial government amount. Establish the standard grant amount.

1.7 Strata Fees and/or Pad Rentals (Line 7)

- Comparing strata fees, as found using MLS listings for Kelowna and/or as indicated by a local realtor, estimate the average strata fee.
- Using sample from mobile home sites in the city, estimate the average mobile home pad rental fees

1.8 Heating Costs (Line 8)

- Using local data, determine Heating Costs using CMHC methodologies. Subsequently, heating costs are adjusted in accordance with inflation as determined using the BCCPI percentage change in energy costs from the previous year.

1.9 Utilities Costs (Line 9)

- Using local data, determine Utilities Costs using CMHC methodologies. Subsequently, utilities costs are adjusted in accordance with inflation as determined using the BCCPI percentage change in electricity from the previous year. Phone, cable/satellite, and internet costs are not included in the utilities cost calculation.
- Note if there were changes in sewer and water rates from the City and adjust accordingly.

2. CALCULATE THE FOLLOWING NUMBERS AND INSERT INTO THE TABLE:

2.1 Annual Housing Cost (Line 10)

- The annual housing cost is based on the assumption that 30% of gross income may be spent on housing.

$$\text{Gross Income (Line 1)} \times 0.30 = \text{Annual Housing Cost}$$

2.2 Annual Mortgage Payment (Line 11)

- The annual mortgage payment is equal to the annual housing costs (Line 10) minus the heating costs, utility costs, strata fees/pad rent, and the total property tax payment amount (i.e. property tax minus the homeowner grant).

$$\begin{aligned} &\text{Annual Housing Cost} \\ &\quad - \text{Heating Cost} \\ &\quad - \text{Utility Costs} \\ &\quad - \text{Strata/Pad Rental Fees} \\ &\quad - \text{(Property Tax - Homeowner Grant)} \\ &= \text{Annual Mortgage Payment} \end{aligned}$$

2.3 Monthly Mortgage Payment (Line 12)

- The annual mortgage payment is spread out over 12 months:

$$\text{Annual Mortgage Payment} \div 12 = \text{Monthly Mortgage Payment}$$

2.4 Total Home Financing (Line 13)

- The total financing required is determined by using a mortgage calculator (such as <http://www.mortgages-bc.com/calculator.shtml>). Assume a 5 year renewable/25 year mortgage, and insert the interest rate as per Line 2. Enter an estimate in the mortgage amount. Adjust the mortgage amount until the monthly payment matches, as close as possible, the monthly mortgage payment in Line 12. This amount is the total financing required.

2.5 Mortgage Insurance (Line 14)

- The mortgage insurance amount is calculated, using the insurance rate from Line 3 as follows:

$$\text{mortgage financing (Line 13)} \times \frac{1}{(\text{insurance rate} + 1) \div \text{insurance rate}}$$

$$= \text{mortgage insurance (Line 14)}$$

2.6 Mortgage Financing (95%) (Line 15)

- Mortgage Financing (95%) is the home financing required based on a 5% down payment and is calculated as follows:

$$\text{mortgage insurance (Line 14)} \div \text{Insurance Rate (Line 3)}$$

$$= \text{mortgage financing at 95\% (Line 15)}$$

2.7 Starter Home Price (Line 16):

- The Starter Home Price is calculated as follows:

$$\frac{\text{Mortgage financing (Line 15)} \times 100}{95} = \text{starter home price}$$

2.8 Confirmation of Starter Home Price

- The starter home price is then confirmed using the mill rate (Line 4) to calculate the property tax as follows:

$$\text{starter home price (Line 16)} \times \text{mill rate (Line 4)} = \text{property tax}$$

- Compare this property tax figure to the property tax figure used in Line 5. If the numbers are not similar, adjust the property tax (Line 5) to number

closer to the figure above and repeat the above calculations (Lines 13 through 16).

- Next, using the starter home price, as re-calculated above, work through the table backwards in order to calculate the gross annual income. The gross annual income calculated should be equal to the gross annual income figure representing the median income of a two or more person household in Kelowna (Line 1). If the numbers are not the same, continue to adjust the property tax figure, and repeat the calculations, until the gross annual income figures match.
- Update the figures using the BCCPI if necessary.

SAMPLE ONLY

The following is the starter home price calculation, based on the median income figure for a Kelowna 2 or more person household obtained from the 2006 Census. Income from the Census was for the year 2005 and has been increased using the BC Consumer Price Index to 2007. All the other calculations are based on 2007 rates (e.g. mortgage, mortgage insurance, property tax, utility costs, strata fees).

STARTER HOME CALCULATION

Line		Single Family	Strata	Manufactured Home
Insert:				
1	Gross Income	63426	63426	63426
2	Mortgage Rate (5 year)	0.0775	0.0775	0.0775
3	Insurance Rate	3.1%	3.1%	3.1%
4	Mill Rate	0.0056898	0.0056898	0.0056898
5	Property Tax	1182.72	1115.39	1064.56
6	Homeowner Grant	570	570	570
7	Strata Fees / Mobile Home Pad Rental	0	2100	3600
8	Annual Heating Costs	2012	2012	2012
9	Annual Utility Costs	1947	1947	1947
Calculate:				
10	Annual Housing Cost (30% of Income)	19027.80	19027.80	19027.80
11	Yearly Mortgage Payment	14456.08	12423.41	10974.24
12	Monthly Mortgage Payment	1204.67	1035.28	914.52
13	Total Home Financing	203,595	192,005	183,255
14	Mortgage Insurance Cost	6121.68	5773.17	5510.10
15	Mortgage Financing (95%)	197,473.65	186,231.35	177,745.00
16	Home Price (Starter Home)	207,867.00	196,033.00	187,100.00

Calculation to Update Starter Home Prices for 2008

In 2008, the numbers in the table (page 2) are increased, as in step 1, to generate the following numbers:

- 2008 median income = 2007 median income (\$63426 X 1.021 (based on BCCPI) = \$64,758
- Single Family Starter Home 2008 = \$207,867 X 1.021 = \$212,232
- Strata Titled Starter Home 2008 = \$196,033. X 1.021 = \$200,150
- Mobile / Modular Starter Home 2003 = \$187,100. X 1.021 = \$191,029

SCHEDULE C
MORTGAGE and MORTGAGE INSURER AGREEMENT TERMS

In the event that an Owner, who met the Affordable Ownership criteria, enters into a mortgage in respect of an Affordable Ownership Dwelling Unit, the Owner, the Lender, the Mortgage Insurer, and the City agree to the following terms:

In this Agreement:

“Lender” means a mortgagee or holder of a financial charge (the “Charge”) that is registered against the title to the Affordable Ownership Dwelling Unit;

“Mortgage Insurer” means Canada Mortgage and Housing Corporation or another company or organization that has an interest in the Charge and that has entered into a mortgage default insurance agreement or other mortgage loan insurance arrangement with a Lender;

“Owner” means the current Owner meeting the Affordable Ownership criteria in possession of the Affordable Ownership Dwelling Unit; and

“Property” means the Affordable Ownership Dwelling Unit and any real property upon which it is located.

In the event of default by the Owner under the Charge, where a Lender or Mortgage Insurer holding a Charge on the Property, notifies the City that the Owner is in default under its Charge, the City shall have a sixty (60) day period beginning on the date of such notice to take such steps as the City deems necessary to preserve the Housing Agreement. Following the sixty (60) day period, if the Owner’s default is not cured, the Lender or Mortgage Insurer can enforce the rights under the Charge, including the right to foreclose or sell the Property. Upon sale or foreclosure of the Owner’s Property by the Lender or Mortgage Insurer, the Housing Agreement shall cease to apply to the Property and notice shall be discharged from the title to the Property by the City. Notwithstanding the foregoing, if the proceeds of sale from the foreclosure or sale of the Property by the Lender or Mortgage Insurer exceed the balance due under the Charge and related costs, including without limitation, charges, taxes, commissions, utilities and other expenses regarding the Property and claim under the loan insurance, as determined by CMHC, such excess funds shall, subject to applicable provincial or federal legislation, forthwith be paid to the Owner up to the Starter Home Price in the Housing Agreement, and the balance payable to the City, for its own use absolutely.

SCHEDULE D
[AFFORDABLE RENTAL UNITS]

CANADA)	IN THE MATTER OF A HOUSING AGREEMENT
)	WITH THE CITY OF KELOWNA ("Housing
PROVINCE OF BRITISH COLUMBIA)	Agreement") for the land legally described
)	as [INSERT LEGAL]
)	
)	
)	
)	

I, _____, of _____, do solemnly declare:

11. This declaration is made with respect to the Dwelling Unit ("Unit") legally or otherwise described as follows:

[INSERT LEGAL DESCRIPTION AND CIVIC ADDRESS].

12. That I am the Owner of the Unit and make this declaration to the best of my personal knowledge.

[or]

That I am the _____ [director, officer, employee] of the Owner of the Unit and [make this declaration to the best of my personal knowledge] [or: have been informed by _____ and believe the statements in this declaration to be true].

13. This declaration is made pursuant to the Housing Agreement in respect of the Unit.
14. The average affordable rent for Kelowna from the most recent annual Canada Mortgage and Housing Corporation (CMHC) Rental Market Report for an apartment of the Unit's size is \$_____ per month, including the cost of heat, water, and electricity;
5. The rent charged each month for the Unit is as follows:
- (d) the monthly rent on the date 365 days before the date of this statutory declaration was \$_____ per month;
- (e) the monthly rent on the date of this statutory declaration is: \$_____; and
- (f) the proposed or actual monthly rent that will be payable on the date that is 90 days after the date of this statutory declaration is \$_____.
6. For the period from _____, _____ to _____, _____ the Unit was occupied by the following persons, whose names and addresses appear below, and in accordance with the Housing Agreement:

[INSERT NAMES AND AGES OF ALL OCCUPANTS WITH ADDRESS OF UNIT].

7. The gross annual income of all individuals aged 15 and over who reside in the Unit is equal to or less than the maximum allowable income \$_____, being the average affordable rent set out in Clause 4 above multiplied by 40.
8. I make this solemn declaration conscientiously believing it to be true and knowing that it is of the same force and effect as if made under oath and pursuant to the *Canada Evidence Act*.

SWORN BEFORE ME at the City of _____)
_____, in the)
_____, this ____ day of ____)
_____, ____)
_____) _____
Signature of person making declaration
_____)
A Commissioner for taking affidavits for)
British Columbia)

SCHEDULE E
[AFFORDABLE RENTAL CALCULATIONS]

The "Affordable Rental" rate is based on the premise that households that spend 30% of their income on basic shelter costs to afford rents equivalent to the average rents published annually by Canada Mortgage and Housing Corporation (CMHC) for Kelowna are facing a housing shortage. This is the direction behind the City of Kelowna Official Community Plan, Bylaw 7600 (policy 8.1.16). This Housing Agreement is a method of creating affordable housing for such households.

The City of Kelowna will publish the Average Monthly Rents for different sizes of Affordable Rental Dwelling Units periodically, which will be the average rents for Kelowna from the annual CMHC Rental Market Report.

The Owner may not permit a Household whose Gross Annual Income is greater than the Maximum Annual Income, as calculated according to the formula below, to occupy an Affordable Rental Dwelling Unit. Gross Annual Income is aggregated taxable income (line 260 of income tax T1 General Form) of all residents 15 years and older residing in the Dwelling Unit. The Maximum Allowable Income is calculated based on the Dwelling Unit size by number of bedrooms that the Household rents. Rent, for affordability purposes, must include heat, electricity and water.

The formula to calculate the Maximum Annual Income permitted for a Household to occupy an Affordable Rental Dwelling Unit is as follows:

$$\text{Maximum Annual Income} = \text{Average Monthly Rent (CMHC)} \times 40$$

This is an abbreviated version of:

$$(\text{Maximum Annual Income} \times 30\%) = (\text{Average Monthly Rent} \times 12 \text{ months})$$

SAMPLE:

Average Monthly Rents of All Private Apartments in the City of Kelowna, 2011
(Canada Mortgage and Housing Corporation Market Rental Survey- City of Kelowna)

	Bachelor	One Bedroom	Two Bedroom	Three Bedroom +
Average Monthly Rent	\$586	\$734	\$914	\$1,068

The Maximum Annual Income Calculations for 2008:

1 Bedroom Unit

$$\text{Maximum Annual Income} = \$586 \times 40 = \$23,440$$

2 Bedroom Unit

$$\text{Maximum annual income} = \$914 \times 40 = \$29,360$$

3 Bedroom Unit

$$\text{Maximum annual income} = \$1,068 \times 40 = \$42,720$$

SCHEDULE F
MORTGAGE and MORTGAGE INSURER AGREEMENT TERMS

In the event that an Owner, of a property containing one or more Affordable Rental Unit(s) to which this Housing Agreement pertains, enters into a mortgage in respect of the property in question, the Owner, the Lender, the Mortgage Insurer, and the City agree to the following terms:

In this Agreement

"Lender" means a mortgagee or holder of a financial charge (the "Charge") that is registered against the title to the Property;

"Mortgage Insurer" means Canada Mortgage and Housing Corporation or another company or organization that has an interest in the Charge and that has entered into a mortgage default insurance agreement or other mortgage loan insurance arrangement with a Lender; and

"Owner" means the current Owner of the Property

"Property" means the Affordable Rental Units and any real property upon which they are located, identified in the Housing Agreement attached hereto.

In the event of default by the Owner under the Charge, where a Lender or Mortgage Insurer holding a Charge on the Property, notifies the City that the Owner is in default under its Charge, the City shall have a sixty (60) day period beginning on the date of such notice to take such steps as the City deems necessary to preserve the Housing Agreement. Following the sixty (60) day period, if the Owner's default is not cured, the Lender or Mortgage Insurer can enforce the rights under the Charge, including the right to foreclose or sell the Property.

Upon sale or foreclosure of the Owner's Property by the Lender or Mortgage Insurer, the Housing Agreement shall cease to apply to the Property and shall be discharged from the title to the Property by the City.

Notwithstanding the foregoing, if the proceeds of sale from the Lender or Mortgage Insurer exceed the loss under the Charge including all costs and expenses incurred, as determined by the Lender or Mortgage Insurer, such excess amount shall be paid to the City, subject to any prior encumbrances or applicable provincial or federal legislation.

END OF DOCUMENT

Report to Council



Date: May 28, 2013

Rim No. 1350-20

To: City Manager

From: Manager of Utilities Planning

Subject: Arab/Appaloosa Water, Sewer and Road Pre-design - SR 252565

Recommendation:

THAT Council receives, for information, the report from the Utilities Planning Manager dated May 28, 2013 regarding the Appaloosa Water, Sewer and Road Pre-design;

AND THAT Council approves a 2013 Capital Plan budget transfer of \$50,000 from the DeHart/Crawford drainage project, to fund a Road, Water and Sewer pre-design for the Arab/Appaloosa area as shown in the attachment of the report from the Utilities Planning Manager dated May 28, 2013.

Purpose:

To seek Council's support to fund a pre-design for water, sewer and roads for the Arab/Appaloosa area in an attempt to confirm cost allocations for developing properties in the area.

Background:

At the December 3, 2012, Council meeting, Council requested that staff "...report back with options for amending the I6 - Low-Impact Transitional Industrial Zone, to ensure consistency of intent and purpose with the Kelowna 2030 - Official Community Plan (OCP)".

Options were developed and presented to Council at the March 25th, 2013 Council meeting and at this meeting Council resolved:

THAT Council receive for information, the supplementary report from the Manager of Urban Land Use dated March 19, 2013, with respect to the Industrial - Limited future land use designation contained in the Kelowna 2030 - Official Community Plan;

AND THAT Council direct staff to pursue Land Use Alternative 1, as identified below;

AND THAT Council direct staff to initiate the process to advance Sanitary Sewer Connection Area #35 to a Specified Sanitary Sewer Service Area;

AND FURTHER THAT Council direct staff to accept no further Rezoning applications for the Arab/ Appaloosa road area, pending final resolution of land uses for the area.

In order for future rezoning of the subject land to proceed, improvements to the road network, water fire flow and the provision of sewer will be required.

It is proposed that required improvements be identified with a pre-design exercise that would adjust the existing sewer pre-design, identify upgrades to the GEID water system to meet fire flow requirements, and create a pre-design for the road network and associated drainage improvements.

The OCP identifies a need for a road connector, “the Hollywood Extension” between Hollywood Road and Cambro Rd to be constructed. Although this connector is part of our DCC road network, a pre-design for the connector and changes to the adjacent road network have never been completed. Some of the costs for the road network within the “Arab/Appaloosa Road Area” will be associated with the DCC program. Other costs for road upgrades within the subject area would be appropriate to associate with the proposed local area service upgrades. A pre-design for the road network in this area will be required in order to present residents with costs and to identify which upgrades would be funded by the DCC road program and which would be associated with local area service upgrades.

The noted road and drainage designs will be required whether or not residents choose to proceed with a Specified Sanitary Sewer Service Area. The designs will support proper identification of DCC costs and land acquisition planning associated with completion of the area’s road network.

Once the pre-design costs are determined, staff will be sending out a *Public Interest Survey* to determine if there is any interest from the community within the aforementioned subject area to pay for these upgrades. The results of this survey will then be reported back to Council in order to determine if a formal Local Area Service process should be pursued.

Internal Circulation:

Director, Financial Services
Manager of Land Use Planning
Manager of Development Engineering

Financial/Budgetary Considerations:

Staff propose that this project be funded by transferring \$50,000 from the DeHart/Crawford drainage budget to create a new pre-design project for roads, drainage, water and sewer in the Appaloosa area shown. The purpose of the 2013 Dehart/ Crawford drainage project is to create a pre-design and to purchase land for drainage improvements for the area. The change in budget will not affect the creation of a pre-design in 2013, but may delay any land purchase until 2014 depending on land costs.

Considerations not applicable to this report:

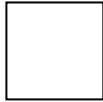
Legal/Statutory Authority:
Legal/Statutory Procedural Requirements:
Existing Policy:
Personnel Implications:
External Agency/Public Comments:
Communications Comments:

Alternate Recommendation:

Submitted by:

A. Reeder, Manager of Utilities Planning

Approved for inclusion:



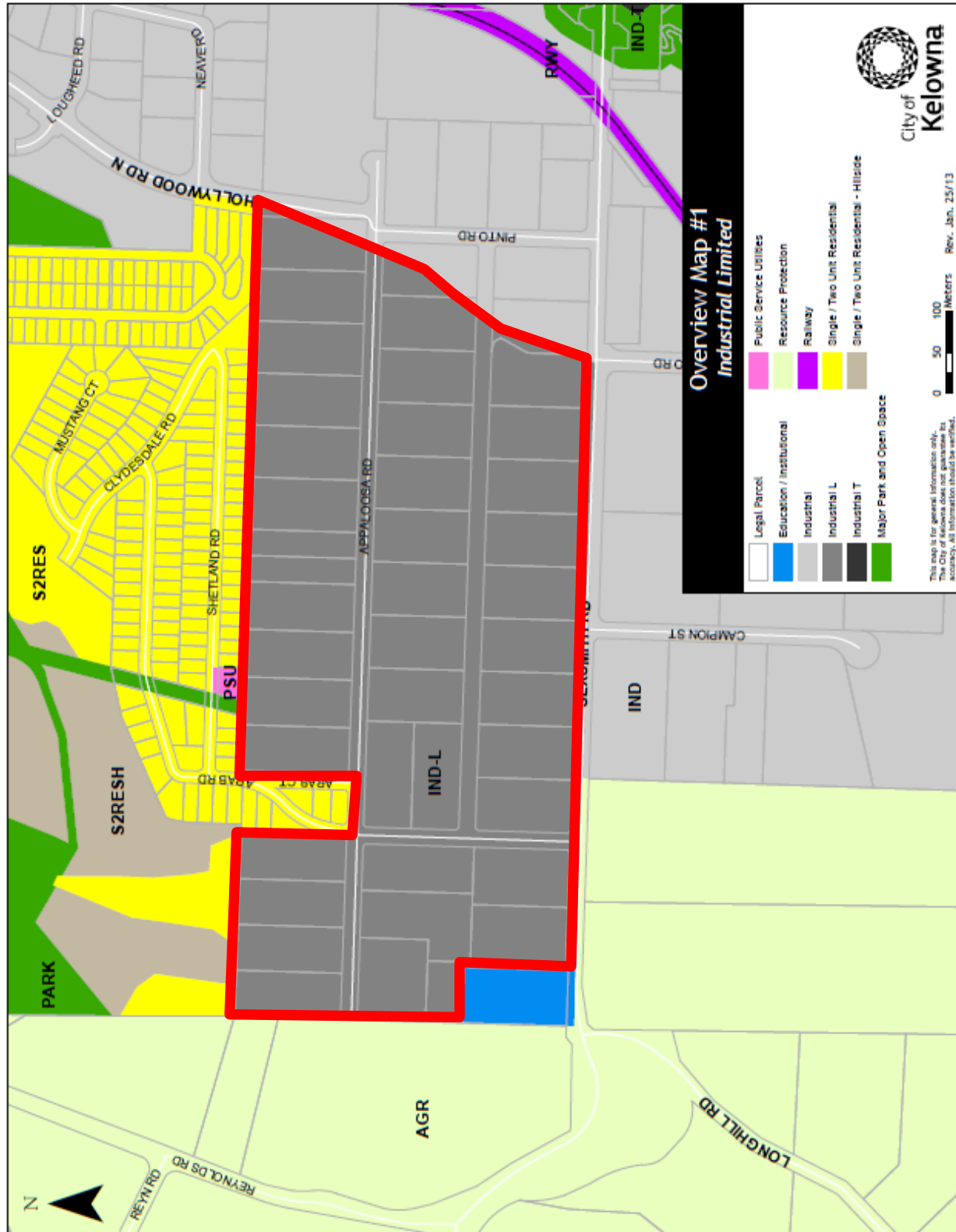
S. Bagh, Acting Director, Infrastructure Planning

cc: Acting General Manager, Community Sustainability
 General Manager, Community Services
 Director, Communications
 Director, Civic Operations
 Director, Financial Services
 Director, Development Services
 Manager, Land Use Management

//attached



Subject Area



Report to Council



Date: June 5, 2013

Rim No. 0610-41

To: City Manager

From: Director, Recreation & Cultural Services

Subject: Kelowna United Football Club Soccer Facility

Recommendation:

THAT Council receives the report from the Director of Recreation & Cultural Services dated June 5, 2013, regarding a proposal from the Kelowna United Football Club for the development of a multi-use artificial turf indoor/outdoor facility to be located at the Mission Recreation Park.

AND THAT Council directs staff to continue discussions with Kelowna United Football Club towards the development of a Licence of Occupation and Operating Agreement.

Purpose:

To seek Council's endorsement for the continued negotiations and development of a Licence of Occupation and Operating Agreement with Kelowna United Football Club (KU) regarding the construction and operation of an indoor/outdoor multi-use artificial turf facility.

Background:

Kelowna United provided the City a proposal where the City provides the land and long term lease and KU designs, fully funds and operates a multi-use indoor/outdoor artificial turf field approximately 50yds x 80yds. The air inflated cover (dome) would be erected for the fall/winter months and removed for outdoor use for the spring/summer season.

The proposed location is at the Mission Recreation Park adjacent to the H₂O Adventure & Fitness Centre (Site Plan attached).

Sport and recreation benefits of the proposal include:

- Adds new facility inventory to the sport and recreation delivery system. While significant time would be used for KU programs there would be ample time for use through rentals by other community groups.

- New generation artificial turf venue; six months covered and six months uncovered. Provides additional indoor time during busy winter months.
- Addresses soccer development needs for KU programs. Currently many of their programs occur in gyms or require travel to other communities with indoor turf facilities.
- No board system provides an ideal high performance training venue for soccer and other turf sports.

Staff has continued negotiations with KU and have developed a Memorandum of Understanding (MOU) which would become the framework for development of a final Agreement.

Key aspects of the MOU include:

Purpose & Uses - While the primary use will be to further develop KU programs, the Facility will also provide opportunities for the broader sports community. Examples of programs and services include: KU training programs, community soccer programs, community sport rentals, events and competitions.

Objectives - Development of a facility that meets the soccer development needs of KU while addressing broader community needs for artificial turf training space.

Term - Initial term for 15 years commencing upon completion of capital construction.

Renewal - An additional five (5) year renewal term upon mutual agreement.

Program - KU will operate and manage all aspects of the facility however time will be made available for suitable community use.

Financial - KU will be responsible for all associated capital construction and operating costs of the field and dome as well as ensure there is reserve for repairs.

Branding, Marketing and Sponsorship - Facility naming and signage will follow City approved guidelines and policies.

Operations - KU commits to operations at a high level of excellence; the City will be involved through inspections and problem solving through collaborative decision making.

Construction - KU will construct the facility to all industry standards and meet all city building and development standards. The City has applied to the Province for a Section 9 approval to fill a wetted area (a partially unfilled ditch and wet area).

Internal Circulation: General Manager, Community Services; Property Manager, Real Estate & Building Services; Parks and Public Spaces Planning Manager, Parks and Public Spaces Construction Manager; Communications Director

Personnel Implications: Design and Construction will provide direct advice and support to KU during the construction phase. Property Management and Recreation and Cultural Services will negotiate the Management and Operating Agreement for Council's consideration.

Considerations not applicable to this report:

Legal/Statutory Authority
Legal/Statutory Procedural Requirements
Existing Policy
Financial/Budgetary Considerations
External Agency/Public Comments
Communications Comments
Alternate Recommendation

Submitted by:



J. Gabriel, Director, Recreation & Cultural Services

Approved for inclusion:



J. Vos, General Manager, Community Services

Attachment: Site Plan

cc: General Manager, Community Services
Director, Financial Services
Director, Real Estate & Building Services
Director, Infrastructure Planning
Director, Design & Construction

