

City of Kelowna Public Hearing AGENDA



Tuesday, July 29, 2014
6:00 pm
Council Chamber
City Hall, 1435 Water Street

Pages

1. Call to Order

THE CHAIR WILL CALL THE HEARING TO ORDER:

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

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

(c) All information, correspondence, petitions or reports that have been received concerning the subject bylaws have been made available to the public. The correspondence and petitions received after July 15, 2014 (date of notification) are available for inspection during the course of this hearing and are located on the information table in the foyer of the Council Chamber.

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

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

2. Notification of Meeting

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

3. Individual Bylaw Submissions

- | | | |
|-----|---|-----------|
| 3.1 | Bylaw No. 10979 (Z14-0019) - 260 Ponto Avenue, Alexander Ryan Tull | 5 - 18 |
| | To consider a rezoning application from RU1 - Large Lot Housing zone to RM1 - Four Dwelling Housing zone in order to allow a fourplex to be built on the subject property. | |
| 3.2 | Bylaw No. 10986 (TA14-0007) - Amendments to Carriage House and Accessory Building Regulations | 19 - 26 |
| | To improve bylaw regulations for carriage houses and accessory buildings as per Council's direction to staff on March 17, 2014. Staff was tasked with improving the bylaw regulations for carriage house and dormer regulations. | |
| 3.3 | Bylaw No. 10875 (OCP11-0011), Bylaw No. 10876 (TA11-0010) and Bylaw No. 10877 (Z11-0069) - 2755 McCurdy Road, PRODEV GP Ltd. & 1378310 Alberta Ltd. | 27 - 91 |
| | To amend the Official Community Plan and Zoning Bylaw No. 8000 to allow for the development of 343 multi-unit residential dwelling units, including 17 units of purpose-built rental housing, in a mix of row housing and low-rise apartment housing forms on the subject parcel. | |
| 3.4 | Bylaw No. 10984 (Z13-0030) - (S of), 823 & 890-950 Academy Way, Watermark Developments Ltd., City of Kelowna & Aberdeen Hall Senior School Society | 92 - 99 |
| | To rezone portions of the subject properties in order to accomodate the future development of single and multi-family developments and a large natural open space park. | |
| 3.5 | Bylaw No. (OCP14-0014) and Bylaw No. 10981 (TA14-0010) - Various addresses in the Hospital | 100 - 129 |

Area, City of Kelowna

To consider a proposal to change the Official Community Plan Future Land Use designations for select properties to the north and south of the Kelowna General Hospital campus to create a Health Services Transitional designation. To accompany this designation, it is proposed to introduce a Health District 3 - Health Services Transitional zone in order to allow low-impact, health service uses to create a transitional area between Kelowna General Hospital and the established residential neighbourhoods in the surrounding area.

4. Termination

5. Procedure on each Bylaw Submission

(a) Brief description of the application by City Staff (Land Use Management);

(b) The Chair will request that the City Clerk indicate all information, correspondence, petitions or reports received for the record.

(c) The applicant is requested to make representation to Council regarding the project and is encouraged to limit their presentation to 15 minutes.

(d) The Chair will call for representation from the public in attendance as follows:

(i) The microphone at the public podium has been provided for any person(s) wishing to make representation at the Hearing.

(ii) The Chair will recognize ONLY speakers at the podium.

(iii) Speakers are encouraged to limit their remarks to 5 minutes, however, if they have additional information they may address Council again after all other members of the public have been heard a first time.

(e) Once the public has had an opportunity to comment, the applicant is given an opportunity to

respond to any questions raised. The applicant is requested to keep the response to a total of 10 minutes maximum.

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

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

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

REPORT TO COUNCIL



Date: 5/15/2014

RIM No. 1250-30

To: City Manager

From: Urban Planning, Community Planning & Real Estate (AC)

Application: Z14-0019

Owner: Alexander Ryan Tull

Address: 260 Ponto Avenue

Applicant: Alexander Ryan Tull

Subject: Rezoning Application

Existing OCP Designation: MRL - Multiple Unit Residential (Low Density)

Existing Zone: RU1 - Large Lot Housing

Proposed Zone: RM1 - Four Dwelling Housing

1.0 Recommendation

That Rezoning Application No. Z14-0019 to amend the City of Kelowna Zoning Bylaw No. 8000 by changing the zoning classification of Lot 17, Section 26, Township 26, ODYD, Plan 4414, located on 260 Ponto Avenue, Kelowna, BC from the RU1 - Large Lot Housing zone to the RM1 - Four Dwelling Housing zone be considered by Council;

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

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

AND FURTHER THAT final adoption of the Zone Amending Bylaw be subsequent to approval of the Ministry of Transportation and Infrastructure.

2.0 Purpose

To consider a rezoning application from RU1 - Large Lot Housing zone to RM1 - Four Dwelling Housing in order to allow a fourplex to be built on the subject property.

3.0 Urban planning

Staff are supportive of the proposed rezoning to allow a fourplex on the subject property as it is consistent with the Official Community Plan (OCP) Future Land Use designation for the area. The subject property is surrounded by RU1 zoned single family homes however it is located within the Rutland Urban Centre. The proposed fourplex would be the first property on the block to develop to the OCP's low density multifamily designation and the proposal does not require any variances to the Zoning Bylaw.

In fulfillment of Council Policy No. 367 respecting public consultation, the applicant undertook neighbour consultation by individually contacting the neighbours as per Council Policy 367 - Public Notification and Consultation for Development Applications. No major issues were identified during consultation with neighbouring parcels.

4.0 Proposal

4.1 Project Description

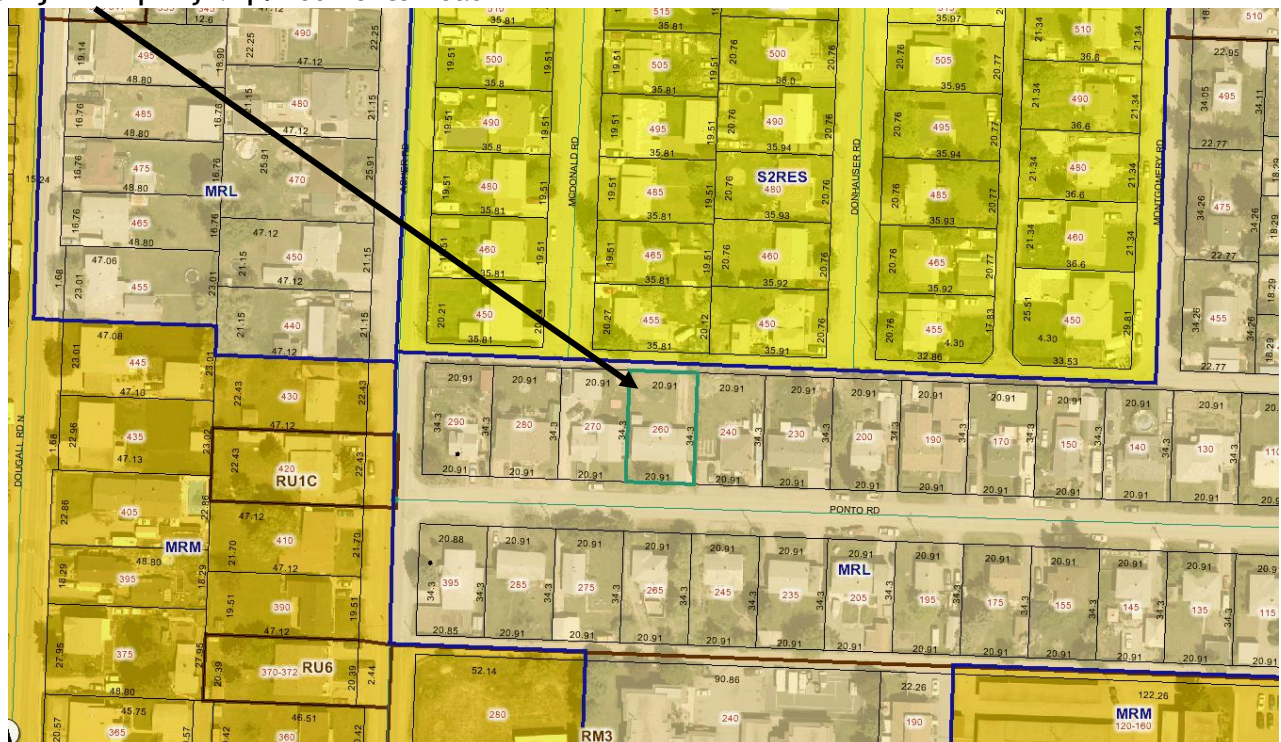
The subject property presently contains one single detached dwelling. The proposal is to convert the existing home into an 'up down' two unit structure and add an addition to the house that contain another two units. The existing driveway will be removed and all the parking will be located off the lane as required by the zoning bylaw.

4.2 Site Context

The subject property is approximately 716 m² in area. Specifically, the adjacent land uses are as follows:

Orientation	Zoning	Land Use
North	RU1 - Large Lot Housing	Residential
East	RU1 - Large Lot Housing	Residential
South	RU1 - Large Lot Housing	Residential
West	RU1 - Large Lot Housing	Residential

Subject Property Map: 260 Ponto Road



4.3 Zoning Analysis Table

Zoning Analysis Table		
CRITERIA	RM1 ZONE REQUIREMENTS	PROPOSAL
Development Regulations		
Max Height	9.5 m or 2.5 storeys	5.3 m (1.5 stories)
Min Front Yard	4.5 m	7.5 m
Min Side Yard (e)	2.0 m	2.6 m
Min Side Yard (w)	2.0 m	2.0 m
Min Rear Yard	6.0 m	7.7 m
Max site coverage of buildings	40 %	32 %
Max site coverage of buildings, driveways & parking	50 %	45 %
Subdivision Regulations		
Lot Area	700 m ²	716 m ²
Lot Width	20.0 m	20.9 m
Lot Depth	30.0 m	34.2 m
Other Regulations		
Max FAR	0.6	0.58
Min Parking Requirements	6 stalls	6 stalls
Min Private Open Space	25 m ² / dwelling unit	30 m ² / dwelling unit

5.0 Current Development Policies

5.1 Kelowna Official Community Plan (OCP)

Development Process

Compact Urban Form.¹ Develop a compact urban form that maximizes the use of existing infrastructure and contributes to energy efficient settlement patterns. This will be done by increasing densities (approximately 75 - 100 people and/or jobs located within a 400 metre walking distance of transit stops is required to support the level of transit service) through development, conversion, and re-development within Urban Centres (see Map 5.3) in particular and existing areas as per the provisions of the Generalized Future Land Use Map 4.1.

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

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

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

6.0 Technical Comments

6.1 Building & Permitting Department

- As a multi family dwelling (4 plex) all the upgraded code requirements from a single family dwelling will apply. This will be required to be provided at time of building permit. This will include an upgrade to the water, sewer and fire separations as well as electrical and heating systems. Development Engineering Department

6.2 Engineering Department

- See Attached.

6.3 Fire Department

- Requirements of section 9.10.19 Smoke Alarms of the BCBC 2012 are to be met. Ensure proper addressing off of Abbott Street.

7.0 Application Chronology

Date of Application Received: May 8th 2014

Date of Public consultation: May 8th 2014

Report prepared by:

Adam Cseke, Planner

Reviewed by:

☐

Lindsey Ganczar, Urban Planning Supervisor

Approved for Inclusion:

☐

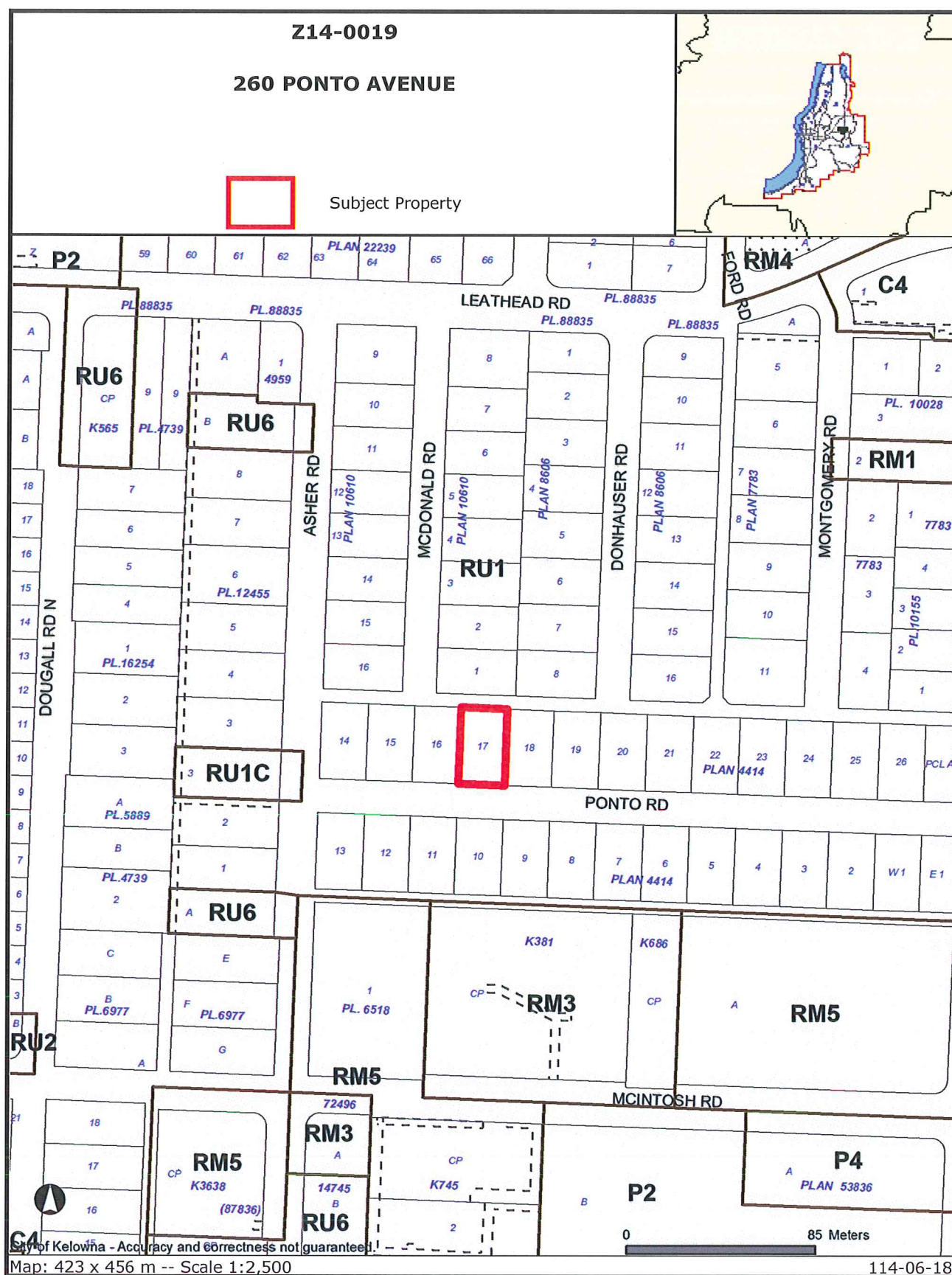
Ryan Smith, Urban Planning Manager

Attachments:

Site Plan / Landscape Plan

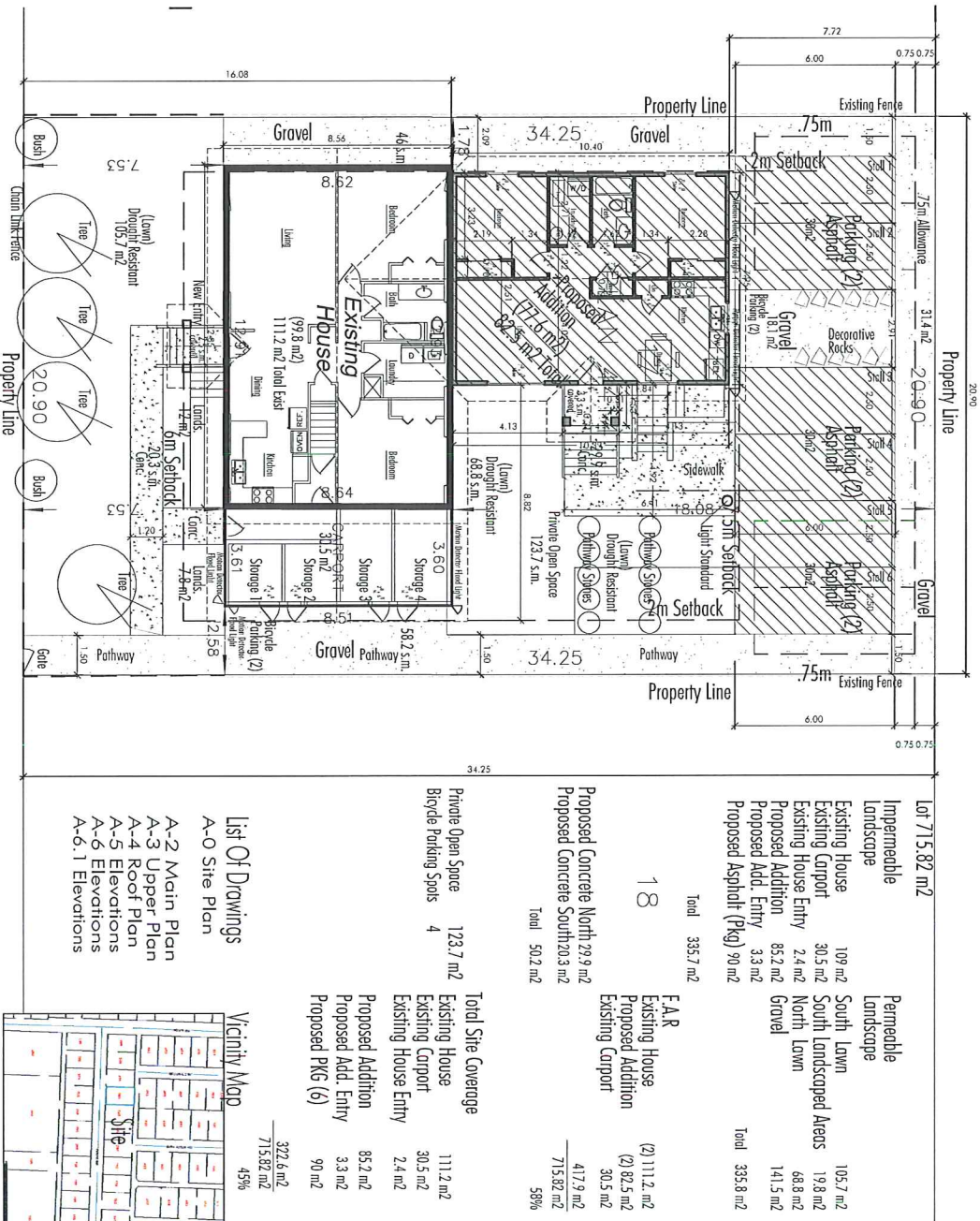
Conceptual Elevations

Development Engineering Memo



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

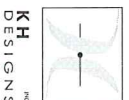
LANE



PONTO ROAD



A-O



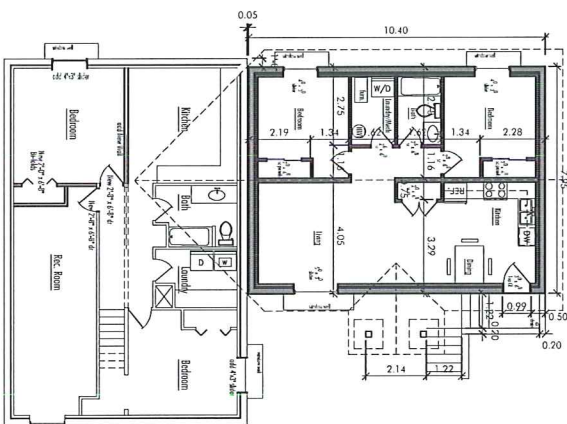
2016 Kingston Highway
 10000 Highway
 BC V4T 3H5
 250.575.0590

260
 Ponte Road
 Rutland BC

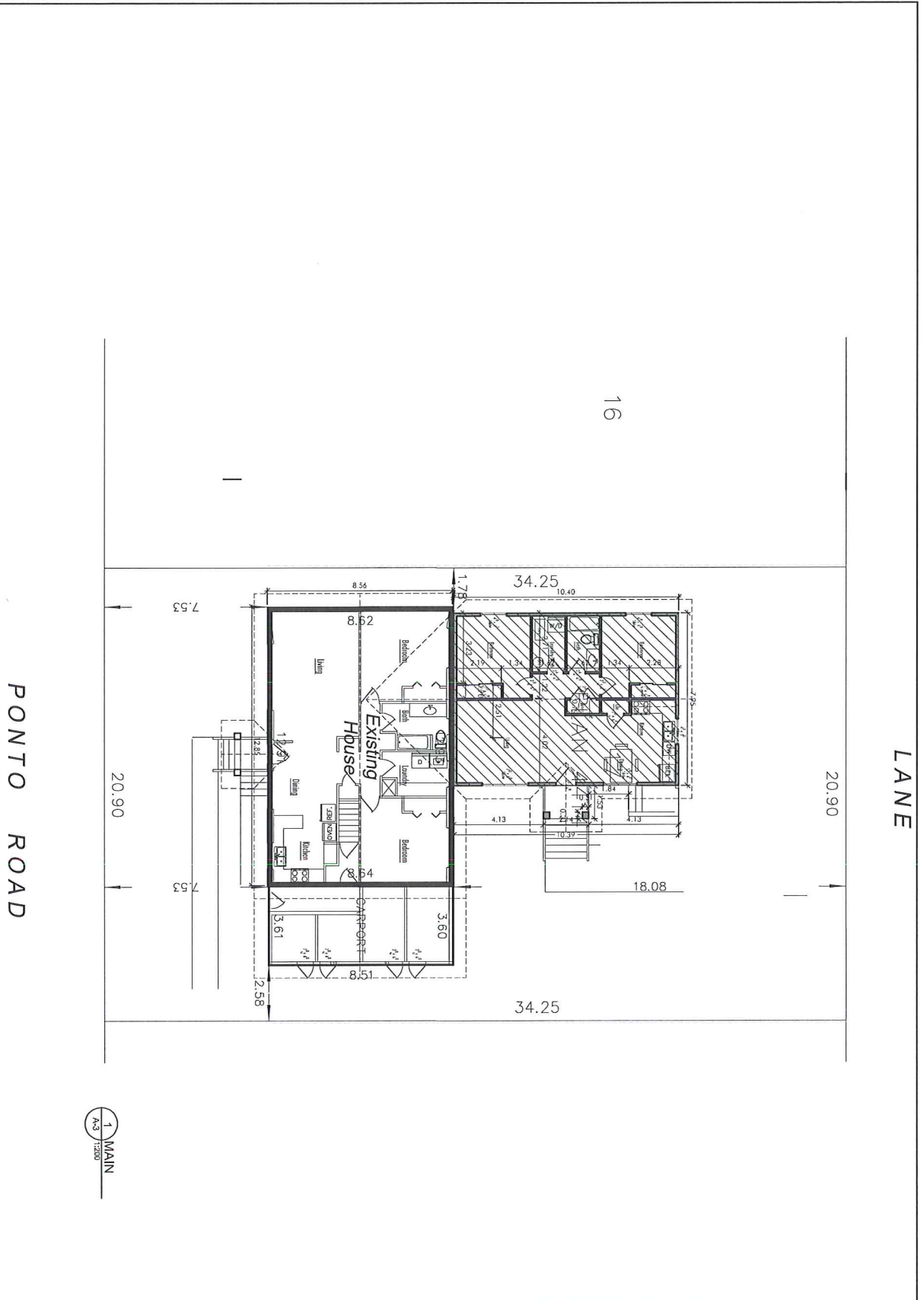
DRAWN BY: KCH
 PROJECT: 10-14
 FILE:
 ISSUE DATE
 Drawing Issued 02/24/14

Lower
 Plan

A-2



1 LOWER
 A-2 1200



KH
DESIGNS

2113 Kensington Hillside Lane
Vancouver, British Columbia
B.C. V4T 1H5
250-575-0570

2500
Ponto Road
Rutland BC

DRAWN BY: K.H.

PROJECT: 10-14

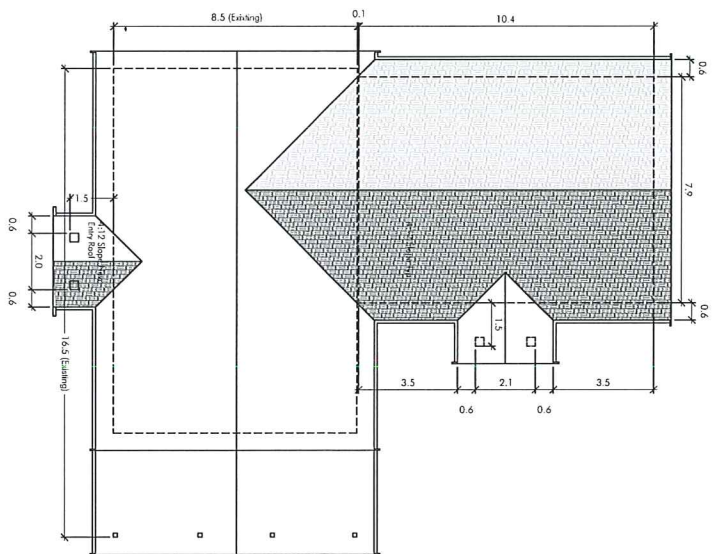
FILE:

ISSUE: DATE

Drawing Issued: 03/24/14

Main
Plan

A-3



1 ROOF
A-4 1/20



K.H.
DESIGNS

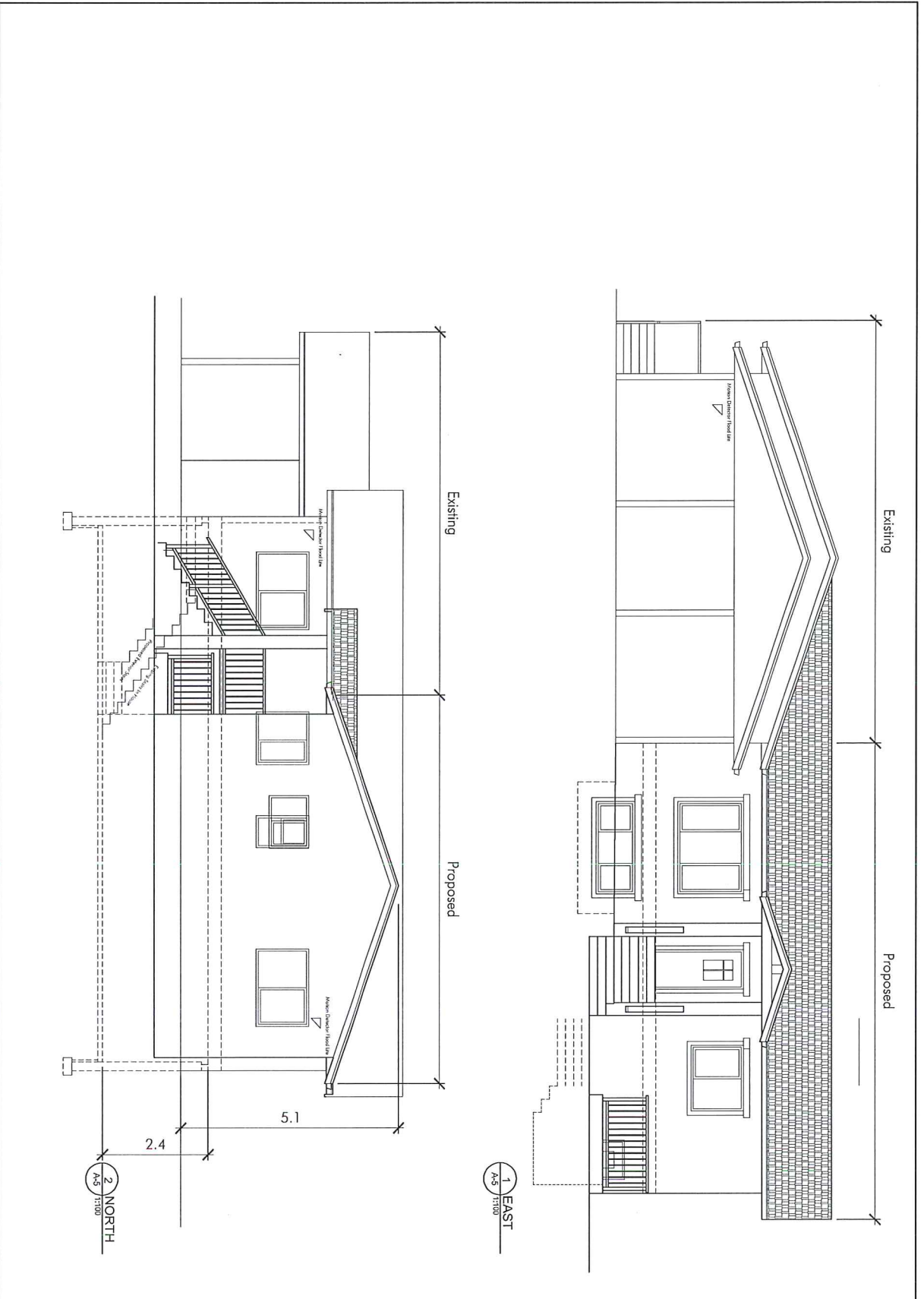
2116 Newmarket Highway
Vancouver, British Columbia
B.C. V4T 3H5
250-575-9590

2500
Ponto Road
Rutland BC

DRAWN BY: K.H.
PROJECT: 10-14
FILE:
DATE:
Drawing Issued: 02/24/14

Roof
Plan

A-4



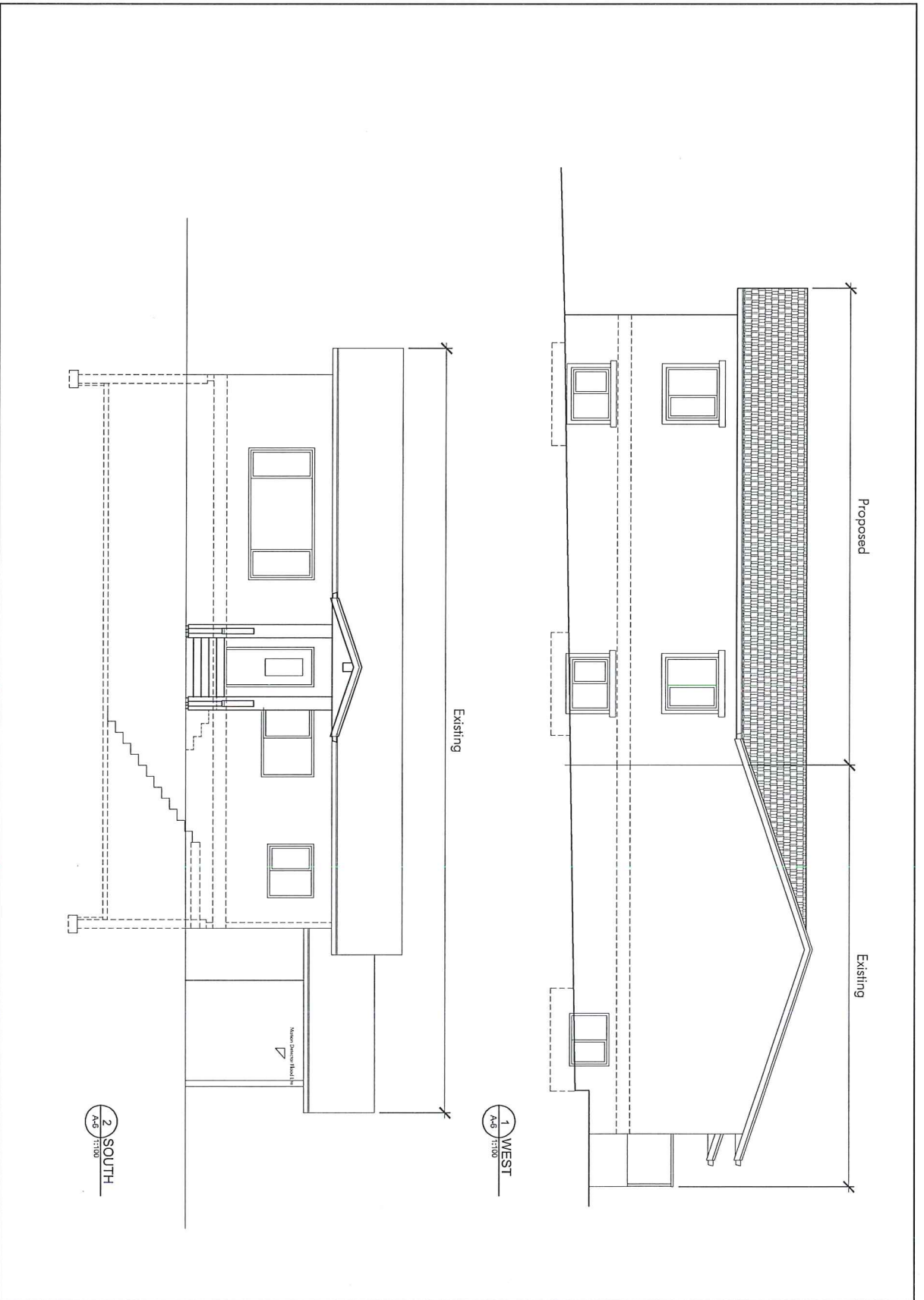
2148 Macmillan Hollow Lane
Vancouver, British Columbia
V6L 4K4
250.575.0590

260
Ponto Road
Rutland BC

DRAWN BY: K.H.
PROJECT: 10-14
FILE:
DATE:
Drawing Based: 02/24/14

Elevations

A-5



2416 Meadows Hillside Lane
West Kelowna
BC V1Y 9S5
250.575.9590

260
Ponto Road
Rutland BC

DRAWN BY: K.H.
PROJECT: 10-14
FILE:
SCALE: DATE:
Drawing Issued: 03/24/14

Elevations

A-6

CITY OF KELOWNA
MEMORANDUM

Date: June 5, 2014
File No.: Z14-0019
To: Subdivision approvals (AC)
From: Development Engineering Manager (SM)
Subject: 260 Ponto Road, lot 17 plan 4414, Section 26, Township 26, ODYD

Development Engineering Services comments and requirements pertaining to this application to rezone the subject property from RU1 to RM3 are as follows:

.1) General

- a) Provide easement as may be required.
- b) Dedicate 0.75 m. at the rear lane for a future lane width of 7.5 m.
- c) Dedicate approx. 1.38 m. along the front of the property to provide an 18.0 m. multi-family standard ROW instead of the existing 15.24 m. ROW

.2) Water

The property is located within the Rutland Waterworks District (RWD) service area. All the fees and charges pertaining to this application are to be dealt directly with the RWD. The existing hydrant will require relocation behind the sidewalk extension.

.3) Sanitary Sewer

- a) The subject property is connected to the Municipal wastewater collection system and a 100 mm. service is provided to the property line. The size should be adequate for the proposed development.
- b) The subject property is located within the Local Area Service (LAS) #20 and the current Policy requires that all the LAS charges be cash commuted when the property is rezoned. The pay-out charge for a RM1 zone is **0.7 SFE** (Single Family Equivalent) per Unit for a total of **2.8 SFE** (4 Units x 0.7). The current LAS #20 payout rate is **\$3,268.69** per SFE and the total charge is in the amount of **\$9,152.33**. The charge is valid until April 30, 2015.

.../2

.4) Road improvements.

- a) Ponto Road must be upgraded to a full urban standard (SS-R7) including sidewalk, curb and gutter, storm drainage system, fillet pavement adjustment as required, boulevard grading street lights, and adjustment and/or re-location of existing hydrant and utility appurtenances, if required, to accommodate this construction. The cost of this frontage upgrade is estimated at \$11,200.00 and is inclusive of a bonding escalation.
- b) The rear lane must be widened by the amount of dedication of 0.75m. The cost of this lane widening is estimated at \$ 900.00 and is inclusive of a bonding escalation.

.5) Power and Telecommunication Services.

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

.6) Engineering.

Design, construction, supervision and inspection of all off-site civil works and site servicing must be performed by a consulting civil Engineer and all such work is subject to the approval of the city engineer.

.7) Design and Construction.

- a) Design, construction supervision and inspection of all off-site civil works and site servicing must be performed by a Consulting Civil Engineer and all such work is subject to the approval of the City Engineer. Drawings must conform to City standards and requirements.
- b) Engineering drawing submissions are to be in accordance with the City's "Engineering Drawing Submission Requirements" Policy. Please note the number of sets and drawings required for submissions.
- c) Quality Control and Assurance Plans must be provided in accordance with the Subdivision, Development & Servicing Bylaw No. 7900 (refer to Part 5 and Schedule 3).
- d) A "Consulting Engineering Confirmation Letter" (City document 'C') must be completed prior to submission of any designs.
- e) Before any construction related to the requirements of this subdivision application commences, design drawings prepared by a professional engineer must be submitted to the City's Works & Utilities Department. The design drawings must first be "Issued for Construction" by the City Engineer. On examination of design drawings, it may be determined that rights-of-way are required for current or future needs.

.../3

.8) Servicing Agreements for Works and Services

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

.9) Bonding and Levies Summary.

a) Performance security

Ponto Road frontage upgrade	\$11,200.00
Lane widening	\$ <u>900.00</u>
TOTAL performance	<u>\$12,100.00</u>

Note that the applicant is not required to do the construction. The construction can be deferred and the City will initiate the work later at its own construction schedule, the cost would be reduced to **\$8,190.00.** (\$7,425.00 and \$765.00 respectively) and the 3% Engineering & Admin. fee would be waived.

b) Levies

3% Engineering and Administration fee	\$ 315.00 (300.00 + 15.00 GST)
Specified Area #20 charges	<u>\$9,152.33</u>
	(Valid until April 30, 2015)

TOTAL Levies \$9,467.33



Steve Muenz, P. Eng.
Development Engineering ManagerB²

Report to Council



Date: 6/27/2014
File: TA14-0007
To: City Manager
From: Urban Planning, Community Planning & Real Estate (AC)
Subject: Proposed Zoning Bylaw Text Amendment to Carriage House and Accessory Building regulations.

Recommendation:

THAT Zoning Bylaw Text Amendment No. TA14-0007 to amend City of Kelowna Zoning Bylaw No. 8000 by amending Section 2 Interpretation, Section 6.5 Accessory Development, Section 6.6 Height and Grade, Section 9.5b Carriage House Regulations, and Section 13 (RR1 - Rural Residential 1, RR2 - Rural Residential 2, RR3 - Rural Residential 3, RU1 - Large Lot Housing, RU2 - Medium Lot Housing, RU6 - Two Dwelling Housing) as outlined in the report from Urban Planning dated June 27th 2014, be considered by Council.

AND THAT the Text Amendment Bylaw be forwarded to a Public Hearing for further consideration.

Purpose:

To improve bylaw regulations for carriage houses and accessory buildings as per Council's direction to Staff on March 17th 2014. Staff was tasked with improving the bylaw regulations for carriage house and dormer regulations.

Background:

A text amendment regarding dormer regulations was adopted by Council on April 8th 2013. This amendment changed the dormer height regulations and changed the definition of height for various buildings. The concern at the time was that large dormers and steeped pitched roofs were not meeting the bylaw regulations and were creating taller and more imposing carriage houses compared to the existing principal dwelling and the surrounding dwellings. Bylaw 10796 amended the dormer regulations from 50% of the width of the roof to 2 dormers per elevation with a maximum dormer width of 1.2m and 1.0m minimum separation. The new regulations restricted the design and usefulness of dormers.

On March 17th 2014, a group of carriage house designers approached Council with their concerns regarding dormers, carriage house height, and other regulations. Council agreed and

directed Staff to produce a zoning bylaw text amendment. The major purposes of the text amendments (as directed by Council) are: to slightly increase carriage house height, to change the dormer rules, to incentivize single storey carriage houses, and to fix the regulatory errors / contradictions within the zoning bylaw. The detailed changes for the text amendments are attached within 'Schedule A'. The summary of the major changes are as follows:

Change #1 (dormers):

- Return to old dormer rules.
 - o Delete maximum 2 dormer per elevation with a maximum width of 1.2 m.
 - o Replace with dormers cannot exceed 50% width of the roof.

Change #2 (carriage house height):

- Add a carriage house height rule stating the peak of the roof cannot be higher than the peak of the principal dwelling.
- Increase the maximum height from 4.5m to 4.8m.
- Add new rule limiting the upper storey of a carriage house to 75% of the carriage house footprint.

Change #3 (setbacks):

- Change carriage house minimum setback from a principal dwelling from 4.5m to 3.0m.
- Where there is a rear lane, reduce the minimum rear setback for a carriage house to 0.9m however for any garage or carport that faces and directly accesses the lane keep the minimum rear yard setback at 1.5m.
- Where there is no rear lane, increase the minimum rear setback for a carriage house to 2.0m (matches the sideyard setback requirement).
- Accessory building side yard setbacks increased from 1.0 metres to 1.2 metres.

Change #4 (one storey incentives):

- (for A1, RR1, RR2, & RR3) If a carriage house is one storey, amend the maximum floor area increases from 90m² to 100m².
- (for RU1, RU2, RU3, & RU6) If all accessory buildings / structures and carriage houses are limited to one storey, then increase the maximum allowed lot coverage from 14% to 20% and increase the maximum combined footprint for all accessory buildings / structures and carriage house from 90m² to 130m² subject to:
 - o The maximum footprint size for carriage houses is limited to 100m².
 - o The maximum footprint size for all accessory buildings / structures (including garages) is limited to 50m².

Circulation:

The proposed text amendment was circulated to the following departments for comment:

- Policy & Planning
- Urban Planning
- Engineering
- Building Department
- Community Planning & Real Estate
- Various carriage house designers

Existing Policy:

Relevant Official Community Plan (OCP) objectives and policies regarding dormers and carriage house heights:

1.0 General Considerations

- 1.7 Design with consideration given to the relationship between window size and placement and scale of building faces, projections, and dormers. Dormers and building faces should not be windowless;

4.0 Massing and height

- 4.1 Mitigate the actual and perceived bulk of buildings by utilizing appropriate massing, including:
- Architectural elements (e.g. balconies, bay windows, cantilevered floors, cupolas, dormers);
- 2.3 Reduce massing next to the backyard of adjacent properties to enhance solar access and limit the sense of scale from adjacent properties (i.e., step back the upper level of the building or incorporate living space within volume of a sloped roof);
- 2.4 Design and finish buildings to complement and enhance the principal dwelling (upgrades to the principal dwelling may be required to achieve visual consistency);

Considerations not applicable to this report:

Legal/Statutory Authority;
 Legal/Statutory Procedural Requirements;
 Financial/Budgetary Considerations;
 Personnel Implications;
 External Agency/Public Comments;
 Communications Comments;
 Alternate Recommendation;

Submitted by:

Adam Cseke, Planner

Reviewed by:

☐

Lindsey Ganczar, Urban Planning Supervisor

Approved for inclusion:

☐

Ryan Smith, Urban Planning Manager

Attachments:

Schedule "A" - Summary of Proposed Text Amendments

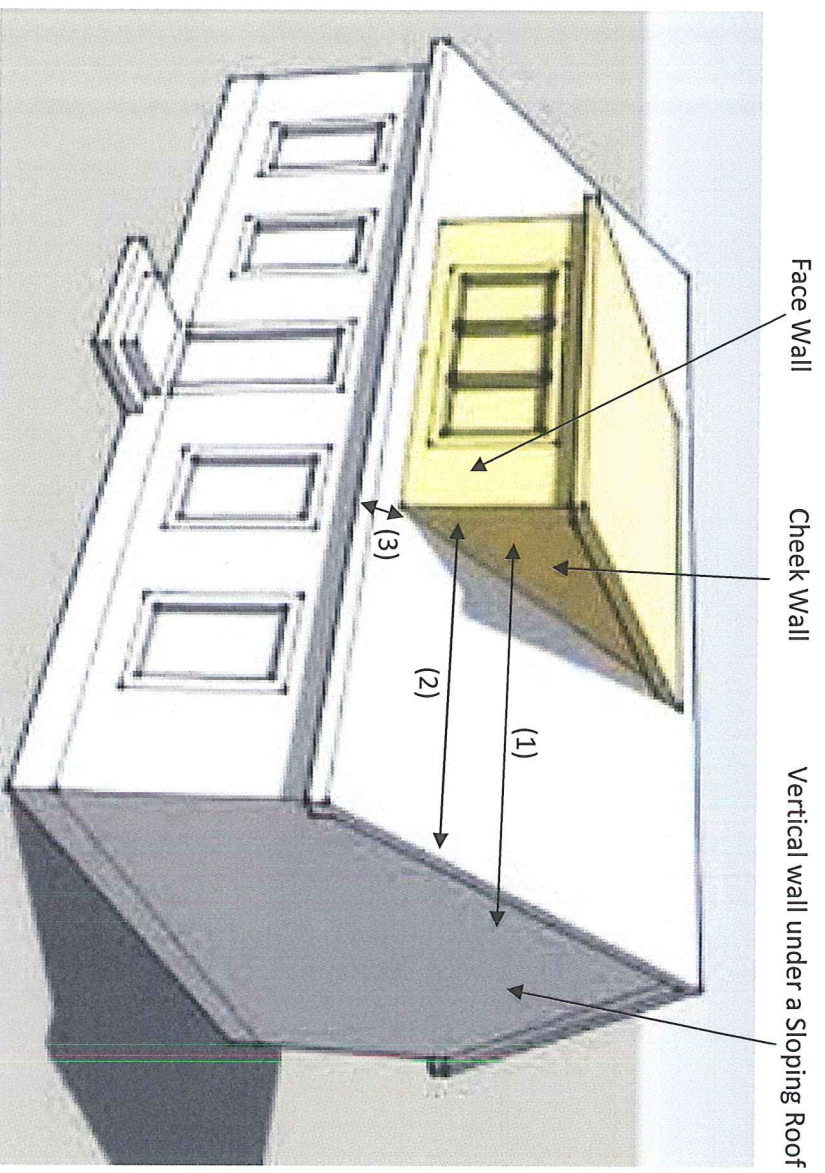
SCHEDULE 'A' Proposed Carriage House Text Amendments
TA14-0007

Zoning Bylaw No. 8000					
No.	Section	Old text	Existing Text	Proposed Text	Rationale
1.	Section 6.6. Height and Grade 6.6.4 - dormers	Where the width of the dormer or dormers exceeds 50% of the width of the roof on which they are located the height of the dormer will be measured as if it was the main roof.	The height of dormers will be measured as if they are the main roof, unless the dormers are limited to 2 dormers per elevation, with a maximum width of 1.2m each and a minimum 1m separation. The total width of the dormers may not exceed 50% of the horizontal width of the building elevation on which they are located.	Where the width of the dormer or dormers exceeds 50% of the width of the roof on which they are located the height of the dormer will be measured as if it was the main roof.	Height is regulated by the number of stories and roof height. Dormers are an architectural feature that can be addressed at Development Permit stage if the house design has negative impacts on neighbouring properties and therefore height definition back to the old definition.
	Section 2	n/a	n/a	Add text and diagram from the word document labeled "Dormer definition".	A definition, diagram, and associated setbacks are proposed to address the concerns that dormers could be essentially two full stories on the edge of the building. This is why the dormer rules were restricted to 4 feet width originally.
2.	Section 9.5b.1(d) Carriage House Regulations	Same as existing text	A carriage house shall not be higher than the lesser of 4.5m or the height of the existing principal dwelling unit on the same property.	<ul style="list-style-type: none">A carriage house shall not be higher than the existing principal dwelling unit on the same property as measured to the midpoint of each roof. Additionally, the highest point of a carriage house shall not be higher than the highest point of the existing principal dwelling unit.The upper storey floor area of any carriage house is limited to 75% of the carriage house footprint (this includes any attached garages but not a carport).	Carriage house height is outlined within each zone, therefore delete absolute height limit. The proposed change will increase flexibility of design while maintaining carriage houses and as secondary use. The restriction on the upper storey is intended to limit shadowing and overlook on neighbouring backyards as well as limit the scale and massing of carriage houses. Vancouver limits their upper storey laneway houses to 60%.
3.	RR1	Same as existing text	...except it is 6.0m for accessory buildings and accessory structures.	... except it is 6.0m for accessory buildings, carriage house, and accessory structures.	
4.	RR2, RR3, RU1, RU2,& RU6	Same as existing text	The maximum height is the lesser of 9.5m or 2 ½ storeys, except it is 4.5 m for accessory buildings and accessory structures.	The maximum height for principal buildings is the lesser of 9.5m or 2 ½ storeys. The maximum height for accessory buildings / structures is 4.5m. The maximum height for carriage houses is 4.8m.	Add height to carriage house as directed by Council.
5.	Section 13 - Other Regulations RU1, RU2,& RU6	Same as existing text	A carriage house, in accordance with Section 9.5b, may only be located within an accessory building that is no closer than 4.5m to the principal building.	A carriage house must not be closer than 3.0m to an existing principal building.	SFDs with 1.5 metre side yard setbacks is an appropriate distance before significant bldg code requirements for separation are applicable. The additional 1.5 metres does not add any value in terms of open space as the city already has an open space requirement.
	Section 13 - Other Regulations A1, RR1, RR3	Same as existing text	A secondary suite, in accordance with Section 9.5a, may only be located within a single detached dwelling. A carriage house, in accordance with Section 9.5b, may only be located within an accessory building that is no closer than 5.0 m to the principal building.	A carriage house must not be closer than 3.0m to an existing principal building.	Same rationale as above. Secondary suite definition does not need to be repeated here.
	Section 13 - Development Regulations RR2	Same as existing text	A secondary suite, in accordance with Section 9.5a, may only be located within a single detached dwelling. A carriage house, in accordance with Section 9.5b, may only be located within an accessory building that is no closer than 5.0 m to the principal building.	A carriage house must not be closer than 3.0m to an existing principal building. (and move to section 12.2.7 Other regulations)	Same rationale as above. Secondary suite definition does not need to be repeated here.

Zoning Bylaw No. 8000					
No.	Section	Old text	Existing Text	Proposed Text	Rationale
6.	Section 2 - Interpretation	Same as existing text	ACCESSORY BUILDING OR STRUCTURE means a separate building or structure that may be connected to the principal building by a breezeway , normally ancillary , incidental, subordinate, and located on the same lot as the main building or structure . Typical accessory structures include but are not limited to antennae, propane tanks, satellite dishes, flagpoles, garages, and garden sheds.	ACCESSORY BUILDING OR STRUCTURE means a separate building or structure that may be connected to the principal building by a breezeway , normally ancillary , incidental, subordinate, and located on the same lot as the main building or structure . Typical accessory structures include but are not limited to antennae, propane tanks, satellite dishes, flagpoles, garages, and garden sheds. Accessory buildings or structures may not contain a dwelling unit.	Split up definition of accessory building and carriage house. It is confusing because currently, RU4, RM1, & RM2 can technically be permitted a carriage house.
			CARRIAGE HOUSE means an additional dwelling unit located within an accessory building that is subordinate to the principal dwelling unit and is a single real estate entity. The total floor space is no more than 90m2 in area, and has a floor space less than 75% of the total habitable floor space of the principal building.	CARRIAGE HOUSE means an additional dwelling unit located within a building that is subordinate to the principal dwelling unit and is a single real estate entity.	
			TWO DWELLING HOUSING means housing that contains two single family dwelling units, one of which may or may not be a permitted secondary suite in a single family dwelling or a carriage house .	TWO DWELLING HOUSING means housing that contains either: two single family dwelling units, one single family dwelling with a permitted secondary suite , one duplex, or one semi-detached dwelling unit.	
7.	Multiple sections... Zones (A1, RR1, RR2, RR3, RU1, RU2)	N/A	b) Permitted accessory buildings or structures (which may contain a carriage house ____c zone only)	b) Permitted accessory buildings or structures c) Carriage house (permitted only on properties that have a ‘c’ designated sub-zone) d) Only one secondary dwelling unit is permitted (e.g. secondary suite or carriage house)	
	Section 13.6 RU6 zone		e) Permitted accessory buildings or structures which may contain a carriage house .	b) Permitted accessory buildings or structures c) Carriage house d) Only one secondary dwelling unit is permitted (e.g. secondary suite or carriage house)	
8.	Section 6.5	Same as existing text	6.5.5 An accessory building or structure shall not be used as a dwelling unless it is a permitted carriage house .	Delete	Covered in the new accessory building definition
			6.5.6 Where an accessory building or structure is used as a dwelling and is greater than one storey in height, the accessory building or structure must include a garage or a carport for a minimum of one vehicle .	Delete	Regulation already stated in carriage house section

Zoning Bylaw No. 8000					
No.	Section	Old text	Existing Text	Proposed Text	Rationale
			6.5.7 Lot coverage of accessory buildings or structures shall not exceed 14% or a maximum area of 90 m ² for accessory buildings in the Residential Urban zones.	<p>Keep section 6.5.7</p> <p>Add to each zones site coverage:</p> <ul style="list-style-type: none"> (A1, RR1, RR2, RR3) - Lot coverage of accessory buildings or structures and carriage house shall not exceed a combined 14%. The maximum floor area of a carriage house shall be 90 m² or 75% of the total floor area of the principal building. The maximum floor area of a carriage house may increase to a maximum of 100 m² only if the carriage house is limited to one (1) storey in height and is less than 75% of the total floor area of the principal building. (RU1, RU2, RU6) "For all accessory buildings or structures and carriage houses:" <ul style="list-style-type: none"> The maximum combined lot coverage of all accessory buildings or structures and carriage houses shall not exceed 14% The maximum combined area of all accessory buildings / structures and carriage houses (e.g. footprint size) shall not exceed 90 m². The maximum net floor area of a carriage house shall not exceed 90 m². The maximum net floor area of all carriage houses (including 1 storey carriage houses) shall not exceed 75% of the total net floor area of the principal building. If a development contains a carriage house and if the height of all the accessory buildings / structures, and carriage house are limited to one (1) storey then the following bonus applies: <ul style="list-style-type: none"> The maximum combined lot coverage of all accessory buildings / structures and carriage houses may be increased to a maximum of 20% The maximum combined area of all accessory buildings / structures and carriage houses (e.g. footprint size) may be increased to a maximum of 130 m² subject to: <ul style="list-style-type: none"> The maximum area (e.g. footprint size) of a carriage house shall not exceed 100 m². The maximum area (e.g. footprint size) of all accessory buildings / structures (including garages) shall not exceed 50 m². 	<p>Delete size requirement as they are outlined within each zone.</p> <p>A1, RR1, RR2, & RR3 will be proposed to permit 90m² of total area (footprint size) for a carriage house and 90m² of total area (footprint size) for accessory buildings.</p> <p>This is a way to incentivize 1 storey development by increasing the allowable area. 100 m² was chosen as this would provide a 10% bonus in floor. A maximum of 130 m² combined area was chosen as this would provide enough space for the bonus carriage house a two car garage (~30 m²).</p>
			6.5.8.(b) Accessory buildings containing secondary suites shall conform to the side yard setback requirements for the principal building in the zone.	Delete	Regulation moved to carriage house section
			6.5.8 (b) an accessory building in an urban residential zone or a rural residential zone shall be located no less than 1.0 metres from the side lot line, except that where the accessory building does not exceed the fence height (2.0 metres) and is less than 10.0m ² in area, it may be located closer than 1.0 metres from the side lot line.	6.5.8 (b) an accessory building in an urban residential zone or a rural residential zone shall be located no less than 1.2 metres from the side lot line, except that where the accessory building does not exceed the fence height (2.0 metres) and is less than 10.0m ² in area, it may be located closer than 1.2 metres from the side lot line.	Increase setbacks for accessory buildings as this conforms with building code requirements.
			6.5.9 In addition to the provisions of Section 6.5.8, the distance between an accessory building and the side lot line abutting a flanking street, shall not be less than the side yard abutting a flanking street required for the principal building.	All accessory buildings shall adhere to the setbacks outlined in this section. All other setback requirements shall adhere to the principal building setback as outlined within the particular zone unless specified otherwise within that zone.	Clean up language. Add clarity.

Zoning Bylaw No. 8000					
No.	Section	Old text	Existing Text	Proposed Text	Rationale
9.	Section 9.5b Carriage House Regulations	Same as existing text	No structural alteration or addition shall be undertaken that alters the existing low-density residential character of the neighbourhood.	Delete	This has no regulatory meaning.
			A 1 ½ storey carriage house must include a garage or carport for a minimum of one vehicle. Single storey carriage houses are not required to provide an attached garage or carport.	Any carriage house above one storey in height (including half stories) must include a garage or carport for a minimum of one vehicle. Single storey carriage houses are not required to provide an attached garage or carport.	Shed roof and other architectural design for carriage houses were permitted but were deemed to be a second storey rather than a half storey. Therefore, the garage / carport regulation is intended to be applied to all cases above 1 storey.
			The principal dwelling unit shall be located between the front yard and the carriage house except for double fronting lots or for a lot in the A1c - Agricultural 1 with carriage house zone. Where a carriage house is located in the A1c - Agricultural 1 with carriage house zone, the accessory building must be located at least two times the distance of the required front yard setback.	The principal dwelling unit shall be located between the front yard and the carriage house except for double fronting lots or for a lot in the A1c - Agricultural 1 with carriage house zone. Where a carriage house is located in the A1c - Agricultural 1 with carriage house zone, the carriage house must be located at least two times the distance of the required front yard setback. For double fronting lots, the carriage house shall be sited in accordance with the regulations for a single detached dwelling.	Clarify meaning and separate carriage house from accessory building.
		n/a	n/a	The minimum side yard setback for carriage houses is 2.0 metres except it is 4.5 metres from a flanking street.	Add side setback clarification
		n/a	Previous rear setback was 1.5m (what the accessory building setback is).	When there is a rear lane, carriage houses must adhere to the following requirements: <ul style="list-style-type: none">The minimum rear yard setback for a carriage house is 0.9m. Any garage or carport that faces and directly accesses the lane must be setback a minimum 1.5 metres from the rear parcel line. When there is no rear lane, carriage houses must adhere to the following requirements: <ul style="list-style-type: none">The minimum rear yard setback for a carriage house is 2.0 metres.	0.9m setback is used in Vancouver for laneway housing and it is undesirable to create a driveway that will cause parking issues blocking the lane (2.0m to 6.0m).
			The maximum floor area of the carriage house shall not exceed the lesser of 90 m² or 75% of the total floor area of the principal building .	Delete	This regulation has been moved to be located within each zone.



A **dormer** is a structural element of a building that projects from the plane of a sloping roof surface. The following setbacks apply:

- (1) The dormer's cheek wall must be setback horizontally a minimum 0.90 metres from a vertical wall under a sloping roof.
- (2) The dormer's cheek wall must be setback horizontally a minimum 0.90 metres from the outer edge of the eaves.
- (3) The dormer's face wall must be setback horizontally a minimum 0.60 metres from the outer edge of the eaves.

REPORT TO COUNCIL



Date: July 2, 2014

RIM No. 1250-30

To: City Manager

From: Urban Planning, Community Planning & Real Estate (JM/LG)

Application:	OCP11-0011	Owner:	PROVDEV GP LTD
	Z11-0069		(INC NO A87135
	TA11-0010		1378310 ALBERTA LTD
			(INC NO A77231)

Address: 2755 McCurdy Road **Applicant:** NORR Architects Planners

Title: Official Community Plan Amendment, Rezoning, Text Amendment and Housing Agreement Applications

Existing OCP Designation: REP - Resource Protection Area
PARK - Major Park & Open Space (public)

Proposed OCP Designation: REP - Resource Protection Area
PARK - Major Park & Open Space (public)
S2RES - Single/Two Unit Residential
MRL - Multiple Unit Residential (low density)

Existing Zone: A1 - Agriculture 1

Proposed Zone: A1 - Agriculture 1
P3 - Parks and Open Space
RH3- Hillside Cluster Housing
RHM4 - Hillside Cluster Multiple Housing

1.0 Recommendation

THAT Official Community Plan Bylaw Amendment No. OCP11-0011 to amend Map 4.1 of the Kelowna 2030 - Official Community Plan Bylaw No. 10500, by changing the Future Land Use designation of portions of Lot 1, District Lots 124 & 415, ODYD, Plan KAP84653 located at 2755 McCurdy Road, Kelowna, BC from the REP - Resource Protection Area and PARK - Major Park & Open Space designations to the S2RES - Single/Two Unit Residential, MRL - Multiple Unit Residential (low density), REP - Resource Protection Area and PARK - Major Park & Open Space designations, as shown on Map "A" attached to the Report from the Urban Planning Department dated July 2, 2014, be considered by Council;

AND THAT Council considers the Public Information Session public process 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 April 28, 2014;

AND THAT Rezoning Application No. Z11-0069 to amend City of Kelowna Zoning Bylaw No. 8000 by changing the zoning classification of portions of Lot 1, District Lots 124 & 415, ODYD, Plan KAP84653 located at 2755 McCurdy Road, Kelowna, BC from the A1 - Agriculture 1 zone to the P3 - Parks and Open Space, RH3 - Hillside Cluster Housing and RHM4 - Hillside Cluster Multiple Housing, and A1 - Agriculture 1 zones, as shown on Map "B" attached to the Report from the Urban Planning Department dated July 2, 2014, be considered by Council;

AND THAT Zoning Bylaw Text Amendment Application No. TA11-0010 to amend the City of Kelowna Zoning Bylaw No. 8000 to add a new zone, RHM4 - Hillside Cluster Multiple Housing, as outlined in the report from the Urban Planning department dated July 2, 2014, be considered by Council;

AND THAT Bylaw No. 10886 authorizing a Housing Agreement between the City of Kelowna, PRODEV GP LTD., Inc. No. A87135 and 1378310 ALBERTA LTD., Inc. No. A77231, which requires the owners to designate 17 dwelling units for purpose-built rental housing on Lot 1, District Lots 124 & 415, ODYD, Plan KAP84653 located at 2755 McCurdy Road, Kelowna, BC, be forwarded for reading consideration;

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

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

AND THAT final adoption of the Zone Amending Bylaw be considered subsequent to the issuance of a Preliminary Layout Review Letter by the Approving Officer;

AND THAT final adoption of the Zone Amending Bylaw be considered subsequent to the registration on title of a Section 219 Restrictive Covenant requiring the provision of 17 rental housing units;

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

2.0 Purpose

To amend the Official Community Plan and Zoning Bylaw No. 8000 to allow for the development of 343 multi-unit residential dwelling units, including 17 units of purpose-build rental housing, in a mix of row housing and low-rise apartment housing forms on the subject parcel.

3.0 Urban Planning

The applicant is seeking to develop a total of 343 multi-unit residential dwelling units on the site in a mix of row housing and low-rise apartment housing. In order to facilitate this, an Official Community Plan amendment and a Rezoning are required.

In addition, the applicant and staff have worked together to create a new zone entitled RHM4 - Hillside Cluster Multiple Housing for the development of low-rise apartment housing in hillside settings, which is proposed to be introduced through a Text Amendment to the Zoning Bylaw.

The applicant has also agreed to provide a total of 17 units of purpose built rental housing, which is secured via a Housing Agreement bylaw and associated Section 219 restrictive covenant.

After extensive deliberation, Urban Planning supports the application based on the following analysis. When considering a proposal to develop 343 residential units on the western portion of the subject property, its merits must be measured against the objectives of the Official Community Plan (OCP) as well as other major City of Kelowna policy documents. Such an evaluation involves examining the proposal on several fronts, such as its impact on agriculture and the environment, infrastructure, urban development patterns, and hillside context. Analysis of these impacts is provided below.

General Merits:

While the proposed development would cause a significant change in the future land use designation of the subject property (from Resource Protection Area (AGR) to multiple unit residential development) the proposal does provide several community benefits.

Foremost is the dedication of the majority of the property to the City. A portion of this dedicated land will be used to accommodate the future extension of the Central Okanagan Multi-Modal Corridor (COMC) running north/south through the subject property. Since the precise alignment for this corridor is yet to be determined, the proposed dedication allows a high degree of flexibility for the City when detailed design of the corridor is pursued. The dedicated lands will also provide for the extension and upgrade of McCurdy Road to full urban standard in the future. Beyond these transportation needs, the dedication affords opportunities for future recreational trails, and environmental protection and enhancement along Mill Creek.

Also, the proponent has included 17 units of Purpose Built Rental Housing (PBRH) in their application package. This represents approximately 5% of the total unit yield for the development. These units add to the diversity and affordability of housing tenures in the area, assisting in the creation of a more diverse neighbourhood.

Finally, the applicant team has expended a great deal of time in a genuine effort to create a sensitive hillside community. The team has worked with Staff to develop a new hillside cluster zone with the goal of facilitating high-quality, sensitive hillside development. The results are evident in the design, layout and siting of the proposal which features buildings that step back in accordance with the natural slope, minimize grading, and maximize the preservation of environmentally sensitive and visually significant features.

Urban Development:

The OCP has taken great care to lay out a plan for the future of residential development in the City. The OCP is built around the concept of creating complete communities by directing development towards Urban and Village Centres. This foundational concept is representative of good planning practice that aims to capitalize on the advantages provided by denser centres, such as:

- Increased transit access, as density is present to support increased service;
- Mixed-use development that improves ease of access to services, facilities and employment;
- Reduced vehicle use, as more services and employment are easily accessible by walking or transit;
- More efficient use of infrastructure, with lower long-term costs;
- Reduced environmental impacts, as pressure for development on greenfield sites is reduced;

- Improved energy efficiency, as denser, more compact forms of housing typically use less energy than more dispersed, low density development; and
- Increased housing variety, both in terms of form and tenure.

It is the combination of the factors above, in addition to others, that work together to create vibrant, efficient and sustainable urban environments. Despite the benefits listed in the preceding section, the proposed development is not situated in either an Urban or a Village Centre.

Building on this point, the physical location of a development is one of the factors that contributes most to its long term sustainability. For instance, it is likely that a purely residential development featuring a wide array of sustainable building features, but located in the outlying areas of a city, will be less sustainable than a similar development with fewer sustainable building features located in an urban centre. Using the above rationale, the success of Kelowna's designated urban centres is integral to the sustainability of the city over the long term.

In the case of the proposed development, the nearest accessible urban centre is the Midtown urban centre, which is more than 3km away by vehicle. Pedestrian access by trail reduces this distance to approximately 1.2km. This situation would be somewhat improved upon the eventual extension of McCurdy Road, which will bring the Rutland urban centre to within 1.8km. However, these distances do not compare favourably to the walkability measurement standards typically relied upon for analysis, which are the 400m and 800m radii, representing approximately 5 and 10 minute walking times respectively. Based on these standards, and considering future development in the area, it is unlikely that future residents of the proposed development would be within convenient walking distance of many amenities and services, beyond convenience commercial and recreational trails.

In addition, full development of this road is outside of the 20-year timeframe of the OCP, and is not identified in the Transit Future Plan for any transit service. Therefore, for at least 20 years, the development will be accessible by vehicles exclusively from Mount Baldy Drive, and, as a result, is relatively isolated from necessary employment and services (located in urban centres), except by trail.

Finally, a Permanent Growth Boundary (PGB) traditionally provides the ability for local governments to limit development on the periphery of the city. As the city grows, so expands the PGB, all the while encouraging more compact development within it and protecting lands outside of it from unnecessary and premature speculation and development pressure. While the proposed development is located within the edge of the Permanent Growth Boundary, this area was not projected to be developed within the 20 year timeframe of the OCP, as services and infrastructure are not in place. Ideally, development on this land would occur as the availability of serviced land is substantially reduced, thus following the logic of the PGB.

Infrastructure:

As part of the development proposal, the applicant team has worked with the City to construct a portion of the McCurdy Road corridor. The OCP has identified this portion as extending westward from its current terminus at the Marshall Business Centre, connecting to Rifle Road. The applicant would be responsible for the portion between Mt. Baldy Drive and the Marshall Business Centre. This is a significant infrastructure commitment from the applicant team, involving substantial design, engineering and construction elements.

However, there would remain a section of the eventual McCurdy Road connection still unbuilt, between Mt. Baldy Drive and Rifle Road. At this time, completion of the final phase of McCurdy Road has not been scheduled within the 20 year OCP timeframe. Without this ultimate alignment

complete, traffic on McCurdy Road, which is a full arterial classification, will be forced onto Mt. Baldy Drive, which is only a collector road. As planned, Mt. Baldy Drive will benefit from several road upgrades, including widening, and signalization in accordance with collector/rural road standards. Nevertheless, making this road connection in advance of preparing the ultimate build-out may put pressure on the City to complete the final phase of McCurdy much earlier than planned. Despite this future consideration, City staff have reviewed this application, and it may move forward without affecting either the City's Financial Plan or Waste Management Plan.

4.0 Proposal

4.1 Background

Introduction

In 2011, the proponent submitted their applications seeking permission to undertake a multiple unit residential development on the subject property. At that time, the proposal featured the following key elements:

- 314 dwelling units in a mix of row housing and low-rise apartments;
- Commitment to 5% affordable housing using a mix of units representative of the overall development;
- Dedication of all lands east of the existing gas right-of-way, but west of Mill Creek, to the City;
- Sensitive hillside development, which reduces development footprint and visual impact; and
- Pedestrian and emergency connection to Highway 97.

The proposal triggered the need for an application for subdivision within the Agricultural Land Reserve (ALR), which was considered by Council on December 12, 2011 and subsequently authorized by the Agricultural Land Commission (ALC) on June 11, 2012 (Resolution 208/2012).

Since then, the proposal has been amended several times as staff and the applicant have worked to find solutions to significant ownership, servicing and infrastructure challenges. Both water servicing and public road dedication and construction have posed significant obstacles to the development; however, these issues have now been addressed.

The initial plan for affordable housing has also changed a number of times, moving from affordable ownership, to affordable rental and ownership, and now purpose-built rental housing.

Public Consultation

The applicant team held an open house on June 17, 2014. 698 invitations were mailed out to the surrounding neighbours. Seven display posters and a miniature model of the proposed development were available to be viewed at the open house. The applicant has confirmed that 16 neighbours attended the meeting, which equates to a 1.9% attendance rate.

Infrastructure and Development Cost Charges

The City's *20 Year Servicing Plan and Financing Strategy* uses the OCP as a guide to plan for future infrastructure needs. For instance, where the OCP anticipates significant growth and development, the 20 Year Servicing Plan will ensure that the infrastructure is in place to accommodate such growth. Knowing this, contemplating a significant development outside the OCP becomes challenging, as it may require reconsideration of elements of the *20 Year Servicing*

Plan. This can have far-reaching consequences to other plans and documents, such as the Development Cost Charge (DCC) Bylaw.

As this is a significant development outside of the OCP, the applicant and staff have had to put considerable resources behind the transportation infrastructure requirements, as well as water and sanitary services. After review, staff did not feel that any of the infrastructure requirements warranted revision of the DCC program. Nevertheless, staff does note that the timing of this development may trigger the need for the City to consider advancing the construction of the connection between McCurdy and Rifle Roads.

4.2 Project Description

The proponent is seeking to develop a total of 343 dwelling units on the subject property in the form of row housing and low-rise apartment housing. Development is concentrated on the west side of the lot between the western property line and the existing gas utility right-of-way. The units are divided among three general clusters: one to the south containing up to 70 units of row housing or stacked row housing; a central cluster containing 122 condominium units, 24 apartment units, and 12 row housing units; and northern cluster featuring 107 condominium units, and 8 row housing units (see attached Site Plan).

The clusters of development respond to the unique geographic constraints of the site. The southern cluster is located in a large and low east-facing draw; the central cluster surrounds the north, south, and west sides of a knoll; and the northern site is located in a south-facing draw.

The applicant is dedicating the alignment of McCurdy Road through the site to the City. McCurdy Road is slated eventually to connect to Rifle Road to the west. In addition, the applicant is constructing a portion of McCurdy Road through the site to full standard, and is constructing the remainder to an emergency access standard, including the crossing of Mill Creek. This emergency access will serve a secondary purpose as an active modes connection from the development to Highway 97 and rapid transit.

Principal access for the development will be taken from Mt. Baldy Drive for the central cluster of development. Both southern and northern clusters will be accessed via private strata roads off McCurdy Road.

Both the road network and development siting have been designed so as to minimize impact on the prominent hillside and on the natural environment. Grading will be minimized and, where there are exposed cuts or fills, suitable landscaping is proposed to mitigate the visual impact. The design of the buildings themselves will also be sensitive to the hillside environment, featuring reduced massing, and increased building articulation. Significant riparian restoration will also be required on site along Mill Creek in order to compensate for the environmental impacts of the development and the extension of McCurdy Road.

The applicant is also proposing to dedicate the remainder of the subject property east of the gas utility right-of-way to the City, with the exception of the portion of the property east of Mill Creek. The lands can be used by the City for park purposes, and for the future Central Okanagan Multi-Modal Corridor, which is planned to run through the subject property roughly parallel to Mill Creek.

Finally, the applicant is proposing to build 17 units of purpose-built rental housing towards achieving the City's affordable housing objectives. This will be secured via Housing Agreement and covenant.

4.3 Site Context

The subject property is located west of Highway 97 between the Dilworth Mountain development and the westernmost extent of McCurdy Road. The lot is approximately 27.6ha in area and is hooked across Mill Creek, which runs roughly north-south through the parcel. The majority of the property lies on the west side of Mill Creek, with a relatively small remainder (approx. 2.3ha) on the east side. With the exception of several farm buildings that were part of the original Marshall Feedlot, the parcel remains undeveloped.

The property contains a mix of steep slopes and draws on the west and relatively flat lands to the east around Mill Creek. In addition to Mill Creek, the west side of parcel is further bisected by a Statutory Right of Way (SROW) for a gas transmission line, which runs roughly parallel to the creek. The majority of the parcel lying east of the SROW is situated within the Agricultural Land Reserve (ALR). The proposed development is located entirely outside of the ALR.

With the exception of the northeastern portion, the subject parcel is within the Permanent Growth Boundary. The proposal respects this boundary and no portion of the development is proposed to take place outside of the boundary. Specifically, adjacent land uses are as follows:

Orientation	Zoning	Land Use
North	A1 - Agriculture 1	Undeveloped/agricultural lands
East	P3 - Parks and Open Space, I1 - Business Industrial, I2 - General Industrial	Mill Creek Linear Park, Marshall Business Centre
South	C10 - Service Commercial, A1 - Agriculture 1, P3 - Parks and Open Space	CN Railway, service commercial development, Mill Creek Linear Park
West	A1 - Agriculture 1, P3 - Parks and Open Space, RM3 - Low Density Multiple Housing, RM4 - Transitional Low Density Housing, RM5 - Medium Density Multiple Housing	Agricultural development, natural open space, townhouse development, low-rise apartments, undeveloped land.



Within each new zoning bylaw, criteria for determining maximum density yields are outlined in order for applications to determine unit number and/or FAR for a subject site. The eventual unit count and square footage on site is determined by both the amount of eligible Development Area on the rezoned site and any Voluntary Dedication of valuable land to the City.

$$\text{Allowable Maximum RHM4 Yield} = (4.24 \text{ ha} + (60\% \times 3.98 \text{ ha})) \times 0.5 = 356,586 \text{ ft}^2$$

5.0 Current Development Policies

5.1 Kelowna Official Community Plan (OCP)

Development Process

Develop sustainably.¹

Complete Suburbs.² Support a mix of uses within Kelowna's suburbs (see Map 5.1 - Urban Core Area), in accordance with "Smart Growth" principles to ensure complete communities. Uses that should be present in all areas of the City (consistent with Map 4.1 - Future Land Use Map), at appropriate locations, include: commercial, institutional, and all types of residential uses (including affordable and special needs housing) at densities appropriate to their context. Building heights in excess of four storeys will not be supported within the suburban areas, unless provided for by zoning existing prior to adoption of OCP Bylaw 10500.

Complete Communities.³ Support the development of complete communities with a minimum intensity of approximately 35 - 40 people and/or jobs per hectare to support basic transit service - a bus every 30 minutes.

Focus development to designated growth areas.⁴

Compact Urban Form.⁵ Develop a compact urban form that maximizes the use of existing infrastructure and contributes to energy efficient settlement patterns. This will be done by increasing densities (approximately 75 - 100 people and/or jobs located within a 400 metre walking distance of transit stops is required to support the level of transit service) through development, conversion, and re-development within Urban Centres (see Map 5.3) in particular and existing areas as per the provisions of the Generalized Future Land Use Map 4.1.

Permanent Growth Boundary.⁶ Establish a Permanent Growth Boundary as identified on Map 4.1 and Map 5.2. The City of Kelowna will support development of property outside the Permanent Growth Boundary for more intensive use only to the extent permitted as per the OCP Future Land Use designations in place as of initial adoption of OCP Bylaw 10500, except for Agri-Business designated sites or as per Council's specific amendment of this policy. The Permanent Growth Boundary may be reviewed as part of the next major OCP update.

Ensure adherence to form and character, natural environment, hazardous condition and conservation guidelines.⁷

Support the creation of affordable and safe rental, non-market and/or special needs housing.⁸

Maximize Pedestrian / Cycling Connectivity.⁹ Require that pedestrian and cyclist movement and infrastructure be addressed in the review and approval of all City and private sector developments, including provision of sidewalks and trails and recognition of frequently used connections and informal pedestrian routes. With new developments, require dedication of on-

¹ City of Kelowna Official Community Plan, Objective 5.2 (Development Process Chapter).

² City of Kelowna Official Community Plan, Policy 5.2.3 (Development Process Chapter).

³ City of Kelowna Official Community Plan, Policy 5.2.4 (Development Process Chapter).

⁴ City of Kelowna Official Community Plan, Objective 5.3 (Development Process Chapter).

⁵ City of Kelowna Official Community Plan, Policy 5.2.3 (Development Process Chapter).

⁶ City of Kelowna Official Community Plan, Policy 5.3.1 (Development Process Chapter).

⁷ City of Kelowna Official Community Plan, Objective 5.4 (Development Process Chapter).

⁸ City of Kelowna Official Community Plan, Objective 5.9 (Development Process Chapter).

⁹ City of Kelowna Official Community Plan, Policy 5.10.1 (Development Process Chapter).

site walking and cycling paths where necessary to provide links to adjacent parks, schools, transit stops, recreation facilities, employment nodes, cul-de-sacs and large activity areas.

Provide parks for a diversity of people and a variety of uses.¹⁰

Dedication of Linear Parks.¹¹ At subdivision and rezoning for all development types secure a minimum 10-metre wide linear corridor for public access as included in Table 5.1 Linear Park - Public Access and/or are shown on Map 5.9 - Linear Corridors / Paths. The 10-metre wide corridor may be in addition to, and outside, any riparian management area requirements imposed through the Environmental Development Permit (see Chapter 12) requirements of the OCP. On the private property side of the public access corridor, the City may, as necessary, consider stipulating additional “no disturb” zones. Lot line adjustments or other subdivision applications not resulting in the creation of new lots suitable for the construction of buildings permitted under the applicable zoning will be considered exempt from this policy. Linear trail corridors can have the following tenure which will be determined by staff at the time of subdivision or rezoning:

- Titled property in the name of the city as a park, protected area, or
- Road reserve right of way; or
- Statutory right of way.

Environmentally Sensitive Area Linkages.¹² Ensure that development activity does not compromise the ecological function of environmentally sensitive areas and maintains the integrity of plant and wildlife corridors.

Habitat Management Hierarchy.¹³ Require that all City projects and private development proposals adhere to the following sequence of management actions, as identified in a Development Permit, to achieve the “no net loss/net gain” principle of ESA’s:

- AVOID impacts to habitat through appropriate project siting and design;
- MITIGATE minor or temporary impacts by minimizing impacts, and repairing and restoring damaged habitats to their former state or better;
- COMPENSATE only when residual, permanent loss of habitat is unavoidable, acceptable and compensable. Habitat compensation proposals will not be accepted as a trade-off for incomplete on-site mitigation where effective mitigation efforts are feasible. Development proponents are responsible for proving that all measures to avoid or mitigate potential habitat impacts have been exhausted prior to proposing habitat compensation measures on or off-site.

Habitat Protection.¹⁴ Ensure a proposed development footprint within an ESA is configured in such a way as to minimise the encroachment toward aquatic or terrestrial habitat. Consider zoning and/ or subdivision variances where needed to prevent or minimize a relaxation of or encroachment into the RMA or to acquire greater RMA width for environmental protection or hazard avoidance.

¹⁰ City of Kelowna Official Community Plan, Objective 5.14 (Development Process Chapter).

¹¹ City of Kelowna Official Community Plan, Policy 5.14.2 (Development Process Chapter).

¹² City of Kelowna Official Community Plan, Policy 5.15.3 (Development Process Chapter).

¹³ City of Kelowna Official Community Plan, Policy 5.15.4 (Development Process Chapter).

¹⁴ City of Kelowna Official Community Plan, Policy 5.15.11 (Development Process Chapter).

Steep Slopes.¹⁵ Prohibit development on steep slopes (+30% or greater for a minimum distance of 10 metres) except where provided for in ASPs adopted or subdivisions approved prior to adoption of OCP Bylaw 10500.

Access Through Steep Slopes.¹⁶ Discourage roads (public or private) through +30% slope areas intended to access lands beyond, except in cases where it can be demonstrated the road will be sensitively integrated (visual and aesthetic impacts minimized) with the natural environment and will present no hazards to persons or property, environmental threats or unreasonable servicing or maintenance challenges.

Ensure context sensitive housing development.¹⁷

Cluster Housing.¹⁸ Require new residential development to be in the form of cluster housing on / or near environmentally sensitive areas and areas of steeper slopes to lessen site disturbance and environmental impact on those areas identified on the Future Land Use Map 4.1 as single-two unit residential hillside. Steeply sloped areas should be retained as natural open space, public or private. The intent of the clustering would be to preserve features identified through the Development Permit process that otherwise might be developed and to maximize open space in order to:

- a. Protect environmentally sensitive areas of a development site and preserve them on a permanent basis utilizing the most appropriate tools available;
- b. Facilitate creative and flexible site design that is sensitive to the land's natural features and adaptive to the natural topography;
- c. Decrease or minimize non-point source (i.e. asphalt roofs, driveways and parking) pollution impacts by reducing the amount of impervious surfaces in site development;
- d. Promote overall cost savings on infrastructure installation and maintenance; and
- e. Provide opportunities for social interaction, walking and hiking in open space areas.

Ensure all development is consistent with the vision, goals and objectives of the OCP.¹⁹

Evaluation Checklist.²⁰ Evaluate development applications that require an OCP amendment on the basis of the extent to which they comply with underlying OCP objectives, including the following:

- Does the proposed development contribute to preserving lands with slopes greater than 30%? *Yes.*
- Does the proposed development respect the OCP Permanent Growth Boundary (OCP Map 4.1 and 5.2)? *Yes.*
- Does the proposed development feature a mix of residential, employment, institutional, and/or recreational uses within individual buildings or larger development projects? *No.*
- Is the proposed development located in an Urban Centre? *No.*
- Does the proposed development increase the supply of affordable (as defined in the OCP) apartments or townhouses? *Yes.*

¹⁵ City of Kelowna Official Community Plan, Policy 5.15.12 (Development Process Chapter).

¹⁶ City of Kelowna Official Community Plan, Policy 5.15.13 (Development Process Chapter).

¹⁷ City of Kelowna Official Community Plan, Objective 5.22 (Development Process Chapter).

¹⁸ City of Kelowna Official Community Plan, Policy 5.22.1 (Development Process Chapter).

¹⁹ City of Kelowna Official Community Plan, Objective 5.40 (Development Process Chapter).

²⁰ City of Kelowna Official Community Plan, Policy 5.40.1 (Development Process Chapter).

- Is the property serviced with water and City sanitary sewer at the time of application? *No.*
- Could the proposed project be built at no financial cost to the City? (This should consider operational and maintenance costs.) *No.*
- Would the proposed project help decrease the rate of travel by private automobile, especially during peak hours? *No.*
- Is there transit service within 400 metres of non-residential projects or major employment generators (50+ employees)? *n/a*
- Does the proposed project involve redevelopment of currently under-utilized, urbanized land? *No.*
- Does the proposed project result in the creation of substantially more public open space than would be available if the development were not to proceed (not including required open space dedications or non-developable areas)? *Yes.*
- Is there a deficiency of properties within the applicable Sector (see Map 5.4) that already have the required OCP designation? *No.*
- Does the project avoid negative impacts (shadowing, traffic, etc.) on adjoining properties where those adjoining properties are not slated for land use changes? *Yes.*
- Is the project consistent with the height principles established in the OCP? *Yes.*
- If the project goes ahead, would surrounding property owners be likely to develop their properties as per OCP Future Land Use and other City policy provisions? *Yes.*
- Would the additional density or new land use designation enhance the surrounding neighbourhood in a way that the current land use designation does not? *n/a.*
- Could the project be supported without over-burdening existing park and other community resources or threatening the viability of existing neighbourhood resources? *Yes.*

Servicing Plan.²¹ The 20 Year Servicing Plan and Financing Strategy has been developed assuming that growth will occur as noted in this Official Community Plan. Development in locations or of types not anticipated in this plan may trigger a requirement for an impact study to be prepared at developer expense so that impacts on the 20 Year Servicing Plan and Financing Strategy can be identified and addressed. The impact studies, may include, but will not necessarily be limited to preparation of advance road plans that identify all vehicle, transit, cycle route, and trail linkages and provide a mix of trail, local, collector and major roads necessary to create a balanced road system on and off-site.

6.0 Technical Comments

6.1 Building & Permitting Department

- Requires fire department access, refer to comments from the Fire Department.

6.2 Development Engineering Department

- See attached Memorandum, dated June 5, 2013.
-

²¹ City of Kelowna Official Community Plan, Policy 5.40.2 (Development Process Chapter).

6.3 Environment

- Environment and Land Use Branch supports the proposed development, subject to the following:
 - Submission of a complete Environmental Assessment prepared in accordance with City standards;
 - Adherence to OCP Section 5.15 for avoidance, mitigation and compensation;
 - Dedication to the City of all riparian areas on the subject property;
 - Avoidance of all slopes in excess of 30%; and
 - Receipt of Natural Environment and Hazardous Conditions Development Permits.

6.4 Fire Department

- The most significant issue is the 4m access lane required from the south-west townhouse area which could be linked across to Enterprise or back to McCurdy across the creek. This 4m access could be a multi use trail for hiking biking and walking.
- Additionally because this project is in a recognized interface area with one way in and one way out along with slower fire response times by a secondary fire apparatus, the Fire Department suggests the developer install fire protection sprinklers in all the premises.

6.5 FortisBC

- See attached letter dated September 21, 2011.

6.6 FortisBC - Gas

- Prior to final application Approval, the applicants will need to contact FortisBC at 1-866-436-7847 and quote the COK File#Z11-0069, DP11-0152, OCP11-0011, TA11-0010; 2755 McCurdy Rd to initiate arrangements for the development of an electrical service plan for the development which may include granting of rights of ways where required and that it is the developer's responsibility to ensure that all of FortisBC's requirements including construction fees have been addressed prior to final Approval.
- Of additional note, is the location of the overhead 138 kilovolt transmission facilities adjacent to Highway 97 relative to trees or growth in the proposed P3 area may need to be addressed? Appropriate clearances with overhead electrical conductors must be maintained with all vegetation and any future buildings.

6.7 Interior Health Authority

- This proposal has been significantly reduced from the original 2009 application of a 1500 units to the proposed 314 units. In addition, the voluntary land dedication of 68% of the total parcel allows for greater protection of environmentally sensitive land.
- The pledge to include 17 covenanted affordable housing units will create housing options for seniors and young families, two population groups in need of core affordable housing and aligns with the population health concepts endorsed by Interior Health.
- Interior Health is in support of this application.

6.8 Irrigation District

- Black Mountain Irrigation District can service the site, however we are recommending that the fire protection from Dilworth Summit Reservoir seriously be considered by the City.

6.9 Ministry of Transportation

- Preliminary Approval is granted for the rezoning for one year pursuant to section 52(3)(a) of the Transportation Act, subject to the following condition:
 - When the city is preparing to add network road connections to COMC and/or extension of McCurdy Road, through these subject lands, the Ministry be included in the planning and implementation of such roads with respect to their connection to Highway 97 (Harvey Avenue).

6.10 RCMP

- No comments.

6.11 Real Estate & Building Services

- No comments.

6.12 School District No. 23

- No comments.

6.13 Shaw

- No comments.

6.14 Subdivision

- All parcels created by subdivision (assuming that one is required) will require legal road frontage.
- Parcels subdivided that are on or adjacent to land designated ALR may require applications to the ALC.
- Covenants for steep slopes/ESA's will be registerable at subdivision.
- Land transfers to the City will require coordination with the applicant and city solicitors and the City's Real Estate Branch.

6.15 Telus

- TELUS will provide underground facilities to this development. Developer will be required to supply and install conduit as per TELUS policy.

7.0 Application Chronology

Date of Application Received: August 24, 2011

Advisory Planning Commission: September 13, 2011

- The Advisory Planning Commission (APC) supported the application and commented that the proposal is a sensitive integration of development on a hillside; however, the Commission encouraged the Applicant to work further with staff to address concerns relating to traffic volume and safety.
- The APC encouraged staff to look into the advancement in priority of the McCurdy Road extension. The APC also noted that the Applicant's affordable housing component and the dedication of sizeable lands to the City were critical considerations to support the application.

Agricultural Advisory Committee: May 17, 2012

- The subject application was presented to the Provincial Agriculture Land Commission (ALC) at a meeting in May, 2012. With positive recommendations from both City Council and the Agricultural Advisory Committee, ALC approved the application. The meeting minutes state that the subject site is unsuitable for agricultural development.

Public Consultation: June 17, 2014

Report prepared by:

James Moore, Long Range Planning Manager
Lindsey Ganczar, Urban Planning Supervisor

Reviewed by:

☐

Ryan Smith, Urban Planning Manager

Approved for Inclusion:

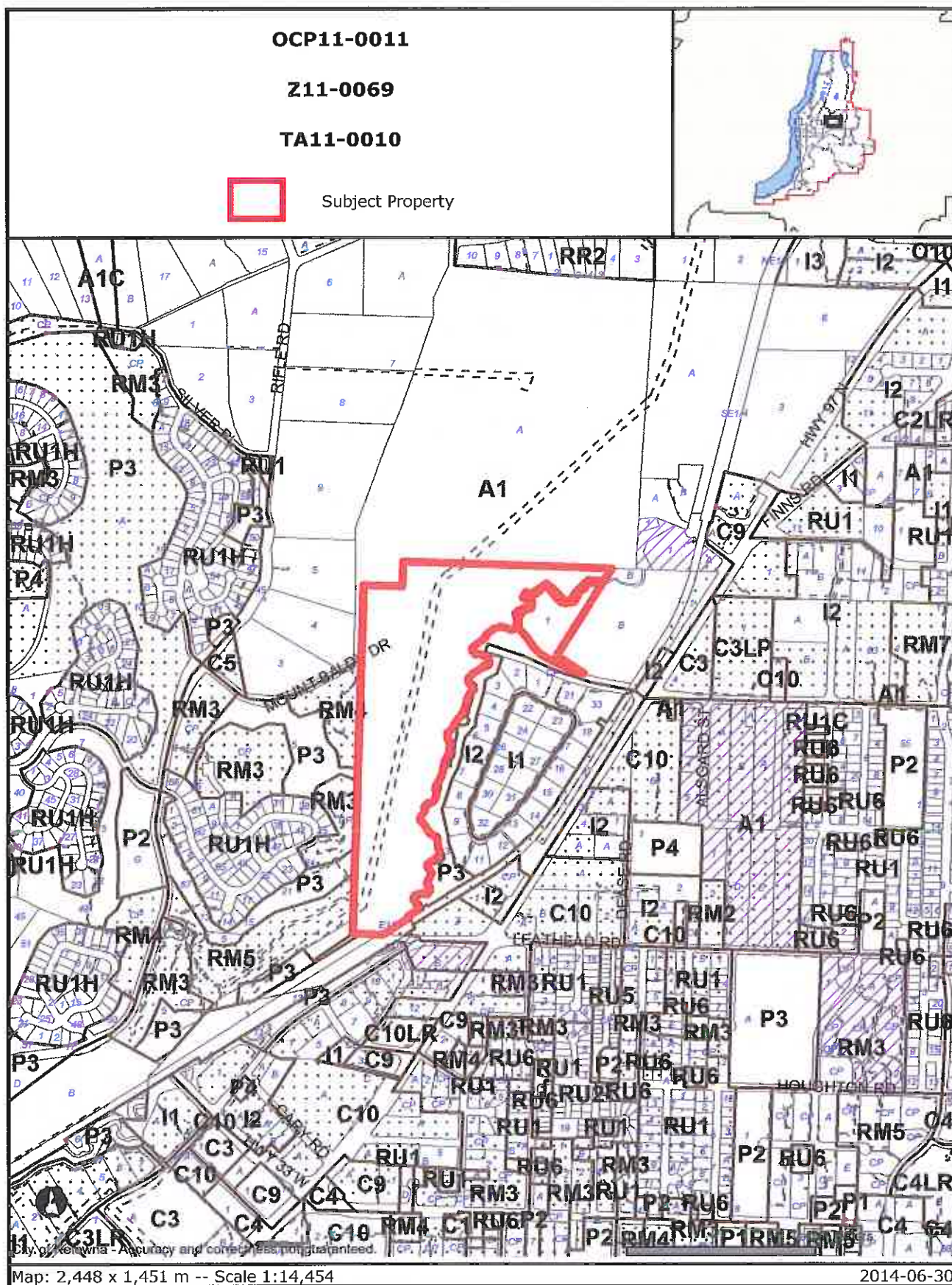
☐

Doug Gilchrist, Divisional Director
Community Planning & Real Estate

Attachments:

Subject Property Map
Map "A" - Proposed OCP Amendment
Map "B" - Proposed Zoning
Preliminary Site Plan
Preliminary Site Plan with Physical Constraints
Preliminary Landscape Plan (north)
Preliminary Landscape Plan (south)
Conceptual Sections and Elevations

Density Transfer Plan
Preliminary Subdivision Plan
Visual Impact Analysis Conceptual Rendering
DRAFT RHM4 - Hillside Cluster Multiple Housing Zone
Proposed Housing Agreement
Proposed Restrictive Covenant
Development Engineering Memorandum, dated June 5, 2013
Fortis BC letter, dated September 21, 2011



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

Subject Property Notes:

Amend the OCP for portions of the Subject Property from Resource Protection (REP) to Multiple Unit Residential (Low Density) (MRL).

Subject Property Notes:

Amend the OCP for a portion of the Subject Property from Resource Protection (REP) to Major Park and Open Space (PARK).

Subject Property Notes:

Amend the OCP for portions of the Subject Property from Major Park and Open Space (PARK) to Resource Protection (REP).


















Subject Property Notes:

Amend the OCP for portions of the Subject Property from Resource Protection (REP) to Major Park and Open Space (PARK).

Subject Property Notes:

Amend the OCP for a portion of the Subject Property from Resource Protection (REP) to Single/Two Unit Residential - Hillside (S2RES).

**MAP "A" OCP AMENDMENT
OCP11-0011**

	Commercial		PARK to REP
	Industrial		REP to MRL
	Multiple Unit Residential (Medium Density)		REP to PARK
	Multiple Unit Residential (Low Density)		REP to S2RESH
	Major Park and Open Space		Legal Parcel
	Resource Protection		Highway 97
	Railway		Railway
	Service Commercial		
	Single / Two Unit Residential		
	Single / Two Unit Residential - Hillside		

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

0 50 100 Metres

Rev. Aug 15, 2013

Subject Properties Notes:

Rezone portions of the subject property from A1 Agriculture 1 to RHM4 Hillside Cluster Multiple Housing.

Subject Properties Notes:

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

Subject Properties Notes:

Rezone a portion of the subject property from A1 Agriculture 1 to RH3 Hillside Cluster Housing.

MAP "B" PROPOSED ZONING
File #Z11-0069

A1 to P3	Zoning
A1 to RH3	Legal Parcel
A1 to RHM4	Easement

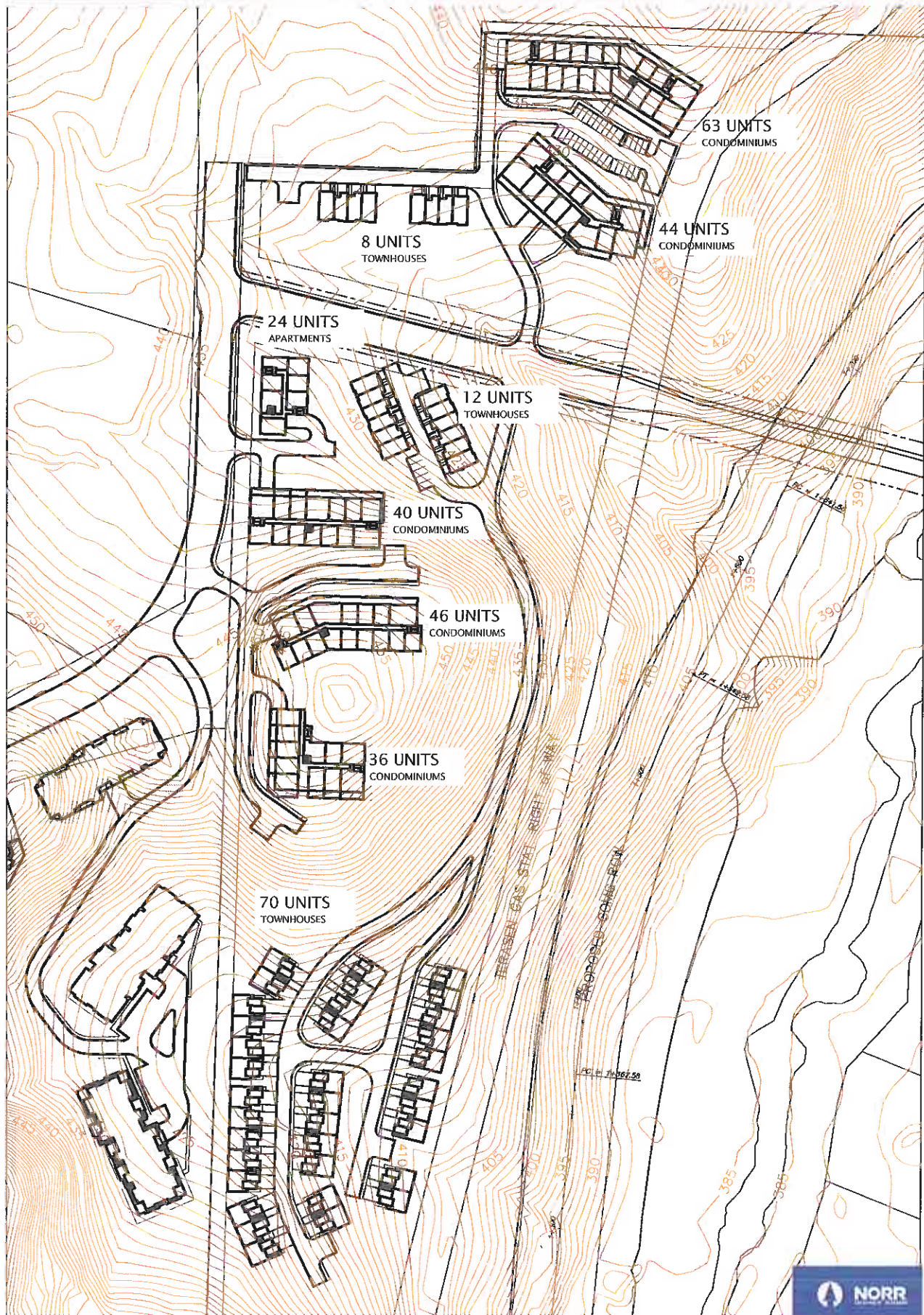
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Rev. Aug 15, 2013



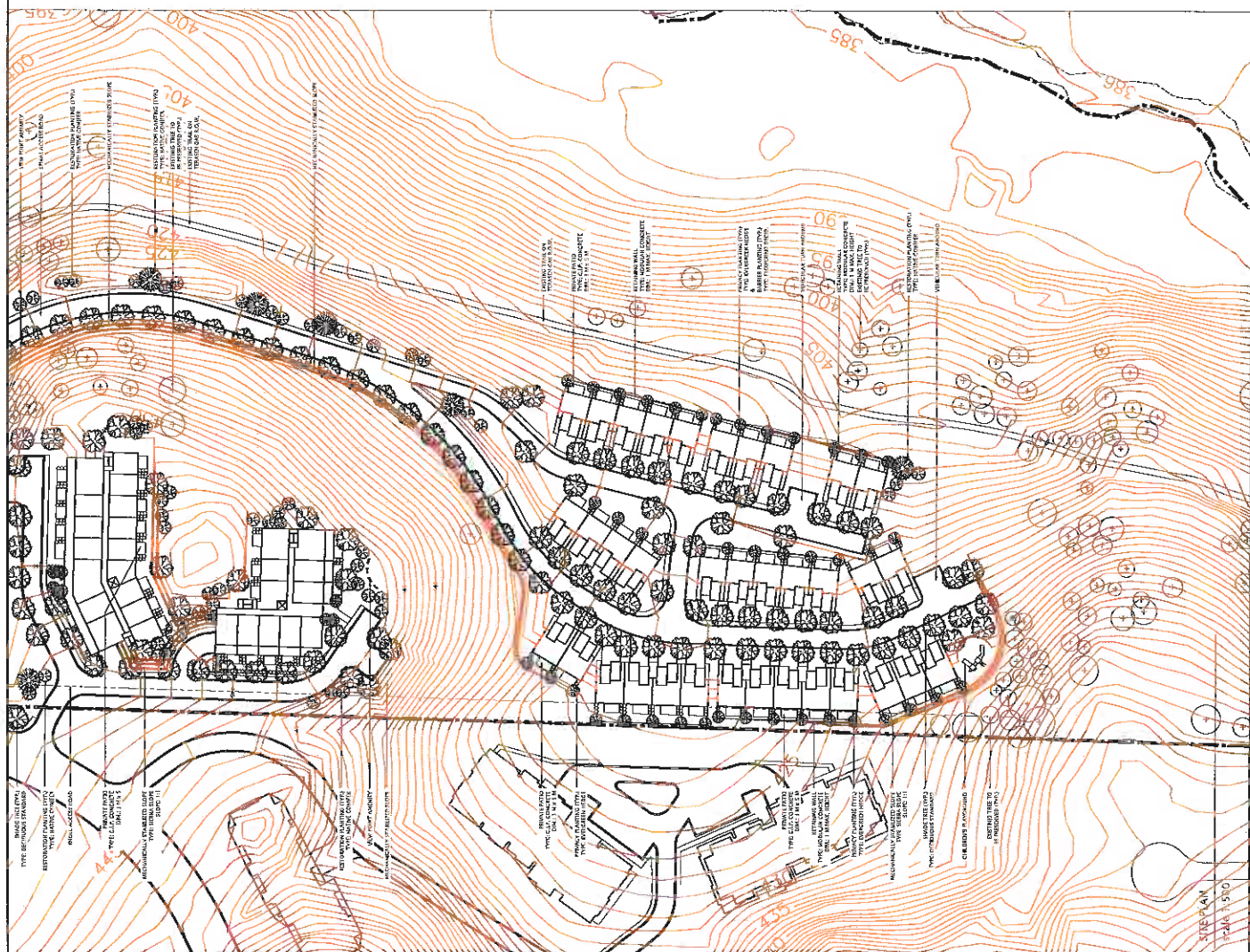
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Kelowna

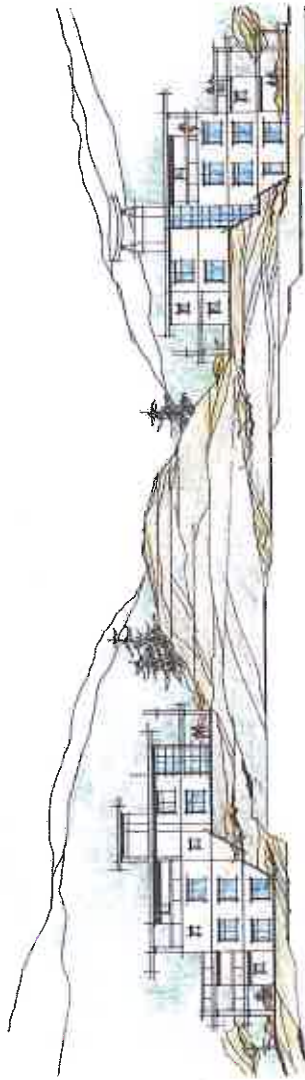




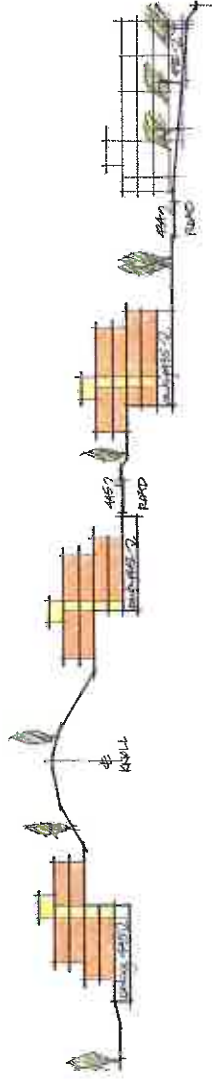
DATE	REVISION	BY
08/14/12	1	101-00-01
<p>THIS DRAWING IS THE PROPERTY OF NORR ARCHITECTS. IT IS TO BE USED ONLY FOR THE PROJECT AND SITE SPECIFICALLY IDENTIFIED HEREON. NO PART OF THIS DRAWING IS TO BE REPRODUCED OR TRANSMITTED IN ANY FORM OR BY ANY MEANS, ELECTRONIC OR MECHANICAL, WITHOUT THE WRITTEN PERMISSION OF NORR ARCHITECTS. THE USER OF THIS DRAWING AGREES TO HOLD NORR ARCHITECTS HARMLESS FROM AND AGAINST ALL CLAIMS, DAMAGES, LOSSES AND EXPENSES, INCLUDING REASONABLE ATTORNEY'S FEES, THAT MAY BE ASSERTED AGAINST NORR ARCHITECTS BY ANY THIRD PARTY AS A RESULT OF THE USER'S USE OF THIS DRAWING.</p>		
<p>THESE COMMENTS ARE TO BE USED FOR CONSTRUCTION OF THE PROJECT AND NOT FOR ANY OTHER PURPOSE. ANY CHANGES TO THE PROJECT MUST BE MADE BY A WRITTEN CHANGE ORDER SIGNED BY THE ARCHITECT.</p>		
<p>PROJECT COMMENTS</p>		
<p>Begin</p>		
<p>Scale: 1" = 40'</p>		
<p>North Arrow</p>		
<p>NOAA Architects, Planners, Inc. 2200 North 1st Avenue Suite 700 Tampa, FL 33602 Phone: 813.241.1111 Fax: 813.241.1112 www.norr.com</p>		
<p>NORR</p>		
Project Name	Owner	Architect
PRODEV	United Partnership	PRODEV
Project	Marshall West Hillside Development	Marshall West Hillside Development
<p>LANDSCAPE PLAN NORTH SITE AND KNOLL</p>		
Client Name	Client Address	Client Phone
PRODEV	2200 North 1st Avenue, Suite 700, Tampa, FL 33602	813.241.1111
Project No.	Project Name	Project Address
101-00-01	Marshall West Hillside Development	2200 North 1st Avenue, Suite 700, Tampa, FL 33602



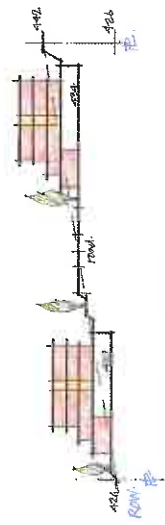
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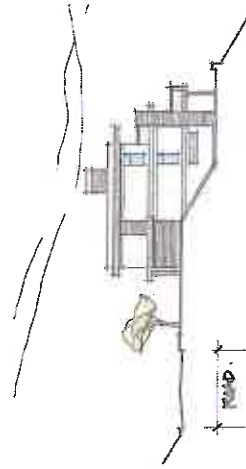
EAST ELEVATION - KNOLL SITE



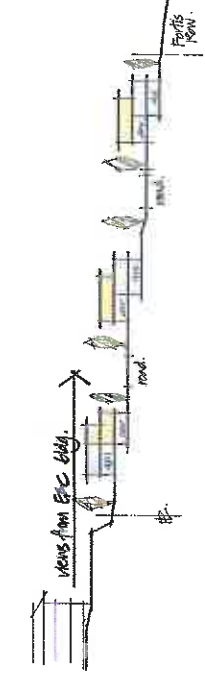
SECTION B - KNOLL SITE



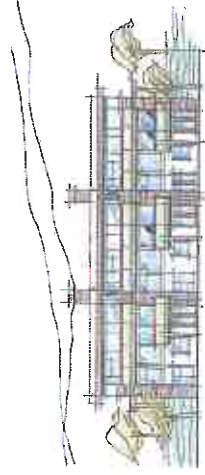
SECTION A - NORTH SITE



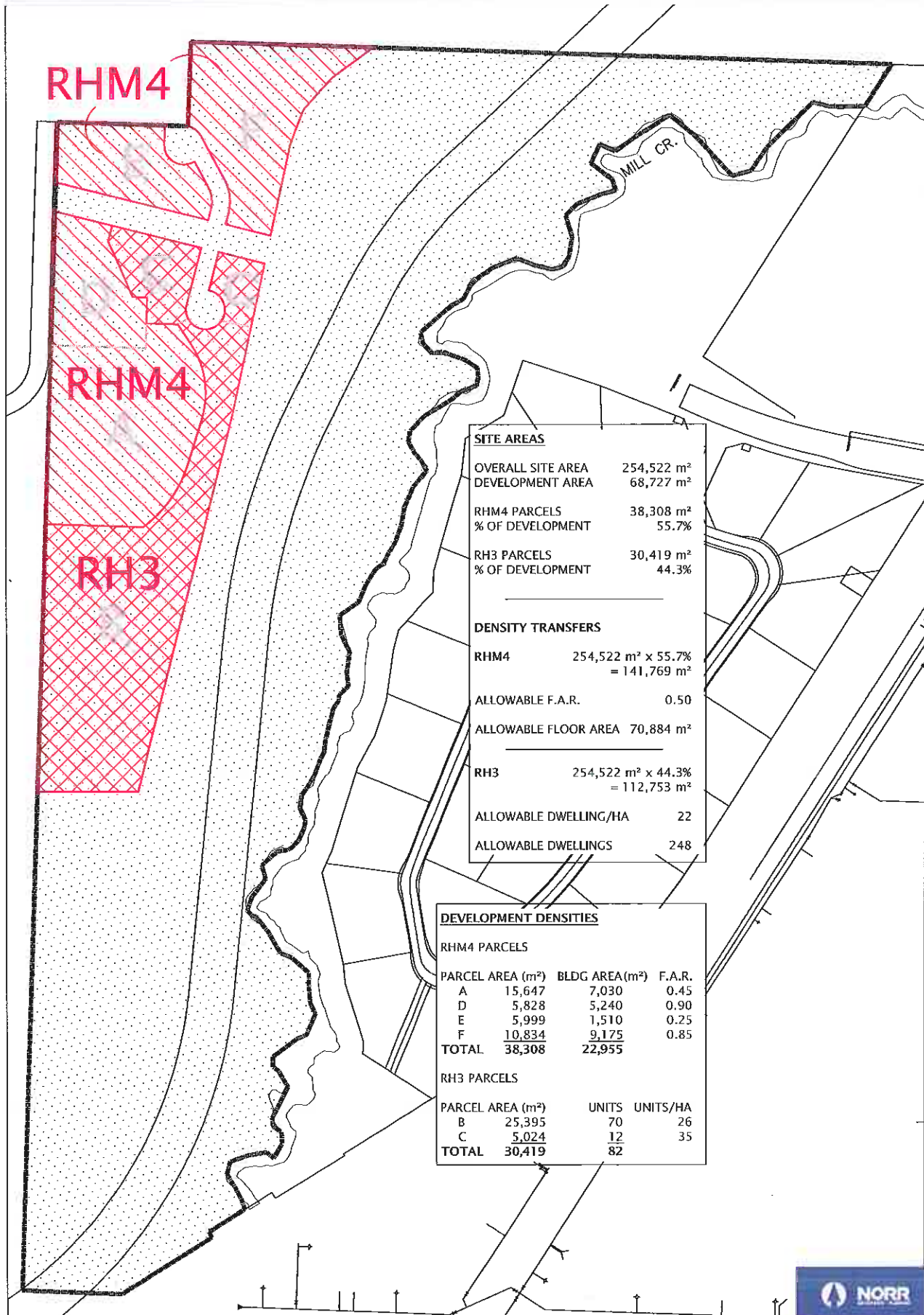
TOWNHOUSE - SIDE ELEVATION

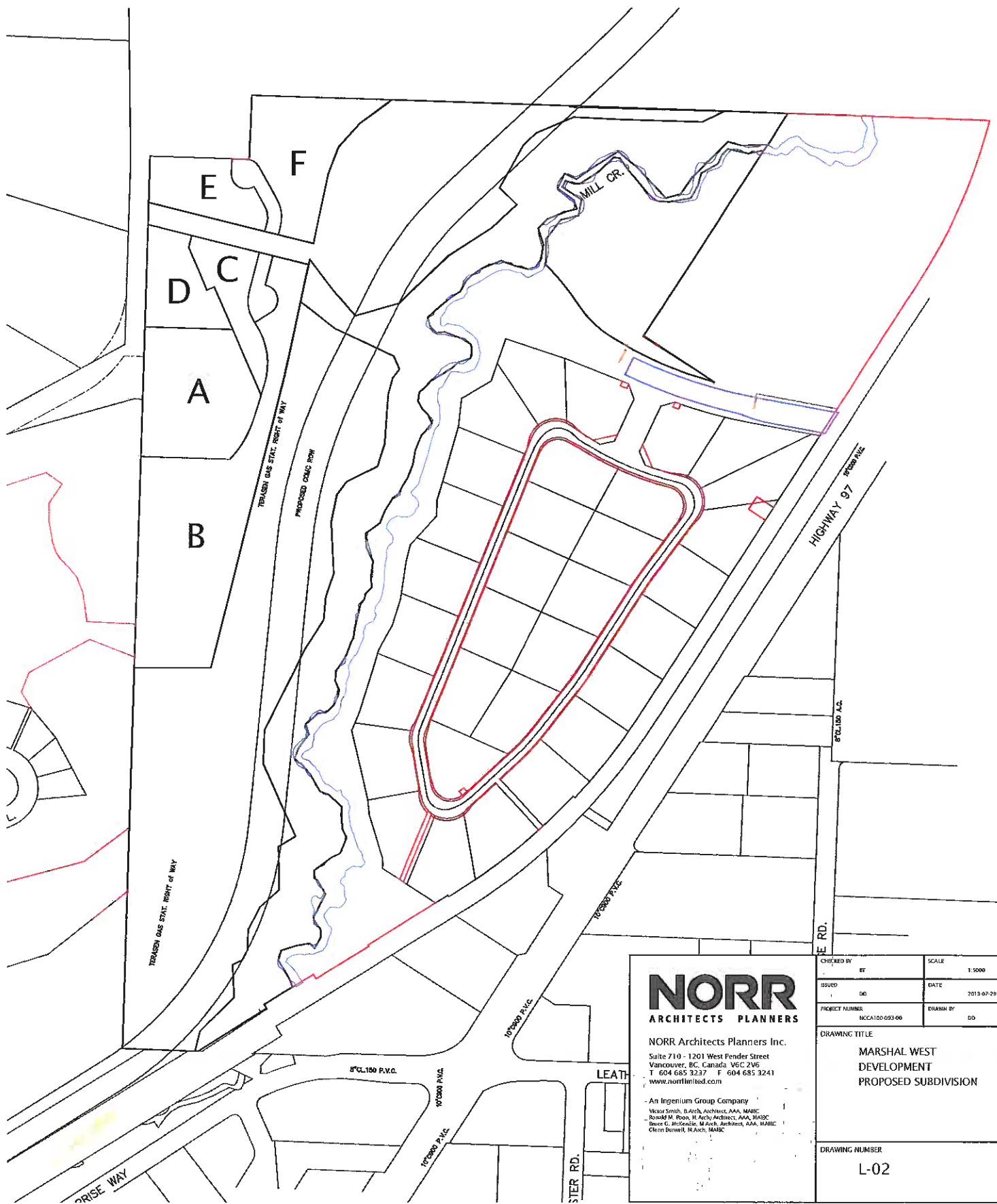


SECTION C - SOUTH SITE



TOWNHOUSE - ELEVATION





NORR ARCHITECTS PLANNERS

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Vancouver, BC, Canada V6C 2V6
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- An Ingenium Group Company
Victor Smith, B.Arch, Architect, A.A.A., M.A.S.C.
Ronald M. Poon, B.Arch, Architect, A.A.A., M.A.S.C.
Doreen G. McFarlane, M.Arch, Architect, A.A.A., M.A.S.C.
Clem Burwell, B.Arch, M.A.S.C.

CHECKED BY	ET	SCALE	1:5000
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PROJECT NUMBER	NCCA100-093-00	DRAWN BY	DO
DRAWING TITLE			
MARSHAL WEST DEVELOPMENT PROPOSED SUBDIVISION			
DRAWING NUMBER			
L-02			



CURRENT CONDITIONS



PROPOSED CONDITIONS

13.17 RHM4 - Hillside Cluster Multiple Housing

13.17.1 Purpose

To provide a zone for comprehensively planned clusters of low rise, low density apartment housing with urban services, typically in a strata format. The express goal is to minimize the impacts of development on the natural environment, topography, open space, and visual character of Kelowna. Site wide density including areas of voluntary dedication and protection is to be generally consistent with Multiple Unit Residential (Low Density) Official Community Plan future land use designation; however, the form and character of development may include low density apartment housing.

13.17.2 Definitions

Despite conflicting definitions found elsewhere in this bylaw, the following definitions shall apply for the purposes of interpreting the regulations of this zone:

HEIGHT means, with respect to a building, the maximum vertical distance above a straight line drawn between the lowest corner of the front of the approved Building Envelope Covenant and the lowest corner of the rear of the approved Building Enveloped Covenant measured to the highest point of the structure of a non-sloping roof, or the mid-point of a sloping roof, excluding those structures identified in Section 6.6.1 of this bylaw.

13.17.3 Principal Uses

- (a) multiple dwelling housing
- (b) boarding or lodging housing
- (c) congregate housing
- (d) group home, major
- (e) supportive housing

13.17.4 Secondary Uses

- (a) agriculture, urban
- (b) care centres, major
- (c) home based businesses, minor
- (d) community recreation services

13.17.5 Buildings and Structures Permitted

- (a) apartment housing
- (b) row housing
- (c) stacked row housing
- (d) permitted accessory buildings and structures

13.17.6 Subdivision Regulations

- (a) The minimum site width is 30.0 m.
- (b) The minimum site depth is 30.0 m.
- (c) The minimum site area is 5000 m².

13.17.7 Development Regulations

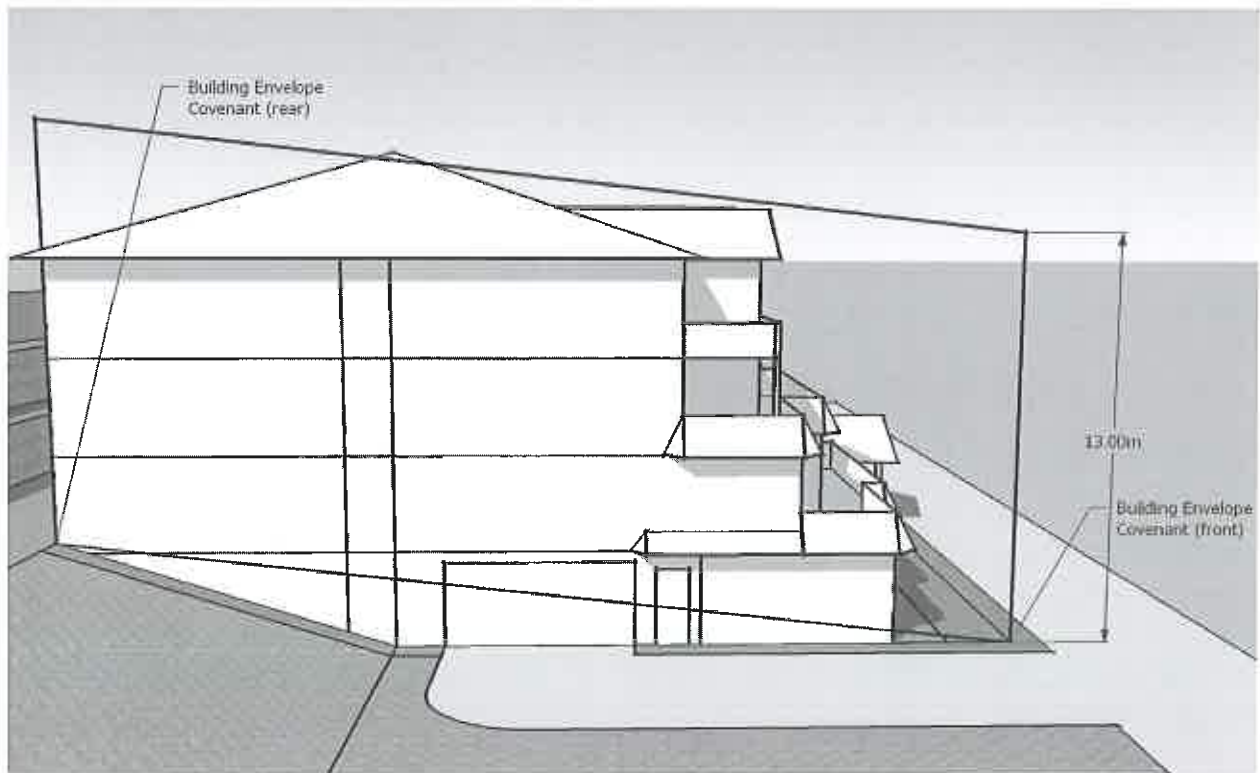
- (a) The maximum floor area ratio is 0.5. Maximum density may be calculated using the original site area, but is dependent on the protection (dedicated or covenanted) of environmentally sensitive features, hazardous condition areas (including slopes greater than 30%), and visually significant features. It is possible that the maximum density may not be achievable on the resulting developable areas.

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

- (b) The maximum site coverage is 50% and together with the areas of driveways and parking areas shall not exceed 60%. Those areas dedicated, covenanted or otherwise protected may not be used in calculating site coverage.
- (c) The minimum site front yard is 3.0m except that it is 4.5m, measured from the back of curb or sidewalk, whichever is closest, for any part of a building over the lesser of 7.5m or 2 storeys.
- (d) The minimum site side yard is 4.5m, except that it is 6.0m for any part of a building over the lesser of 7.5m or 2 storeys.
- (e) The minimum site rear yard is 7.5m, except that it is 9.0 m for any part of a building over the lesser of 7.5m or 2 storeys.
- (f) Dwellings or groups of dwellings must be separated by a minimum of 4.5 m. Vehicle parking or storage is not permitted in this area.
- (g) Accessory buildings and structures shall be set back 1.5m from any lot line, and shall be a minimum of 4.5m from any principal residential building.

13.17.8 Building Form and Massing

- (a) For apartment housing, the following Building Form and Massing regulations shall apply, with the intent of providing a flexible approach to building height while improving building articulation standards:
 - i. The maximum height is 13.0m. Where a principal building is located entirely on a natural bench having a natural grade of less than 20%, the maximum height is the lesser of 13.0m or 3 storeys. See Diagram 13.9.



**Diagram 13.9: 13m Maximum Height As Measured From Straight Line
Between Building Envelope Points**

- ii. The maximum height of any vertical wall element facing down-slope is the lesser of 7.5m or 2 storeys, above which the down-slope building face must be stepped back by a minimum average cumulative depth of 6.0m. Where a principal building is located entirely on a natural bench having a natural grade of less than 20%, no down-slope step back is required. See Diagram 13.10.

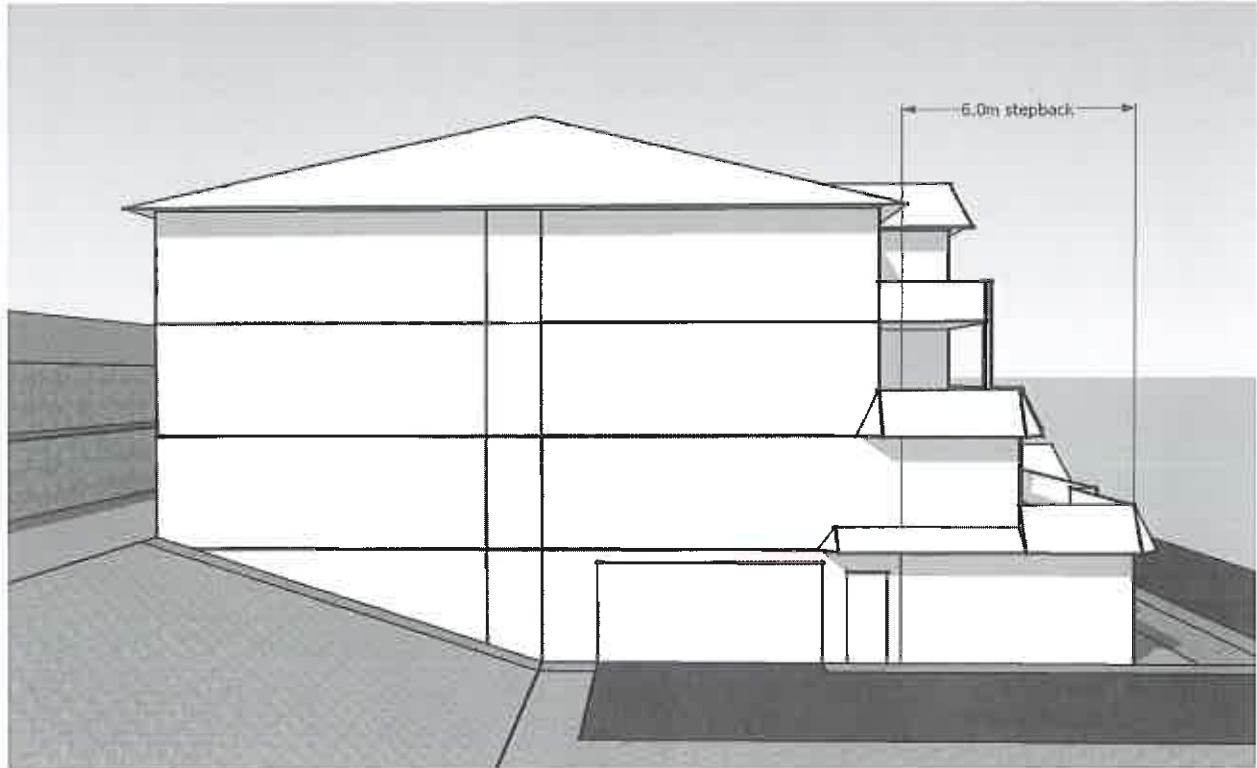


Diagram 13.10: Downslope Building Articulation

- (b) For row housing or stacked row housing, the following Building Form and Massing regulations shall apply:
 - i. The maximum height is 9.5m, except it is 4.5m for accessory buildings. See Diagram 13.11.

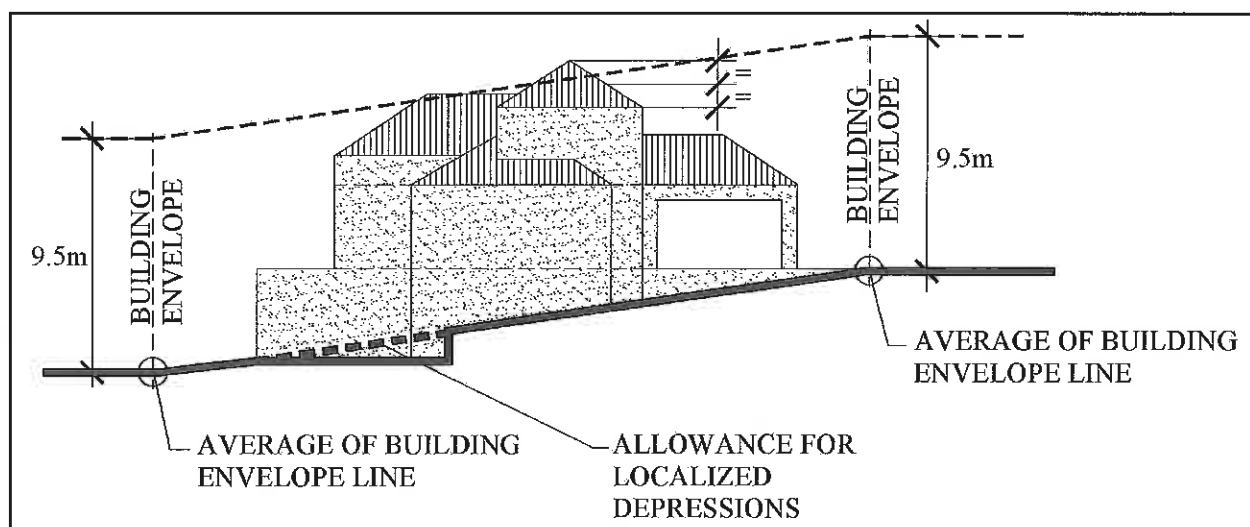


Diagram 13.11: 9.5m Maximum Height As Measured From Straight Line Between Building Envelope Points

- ii. The maximum height of any vertical wall element facing a front yard, rear yard or flanking street (including walkout basements) is the lesser of 7.5 m or 2 storeys above which the building face must be stepped back a minimum of 2.1 m. A maximum of 30% of the length of the building elevation may exceed 7.5 m in height to a maximum of 9.5m, provided that a deck and roof structure projecting a minimum of 3.0 m from the face of the wall breaks up the wall face. No wall face directly above or below the deck and roof structure may exceed 5.0m in height. See Diagram 13.12.

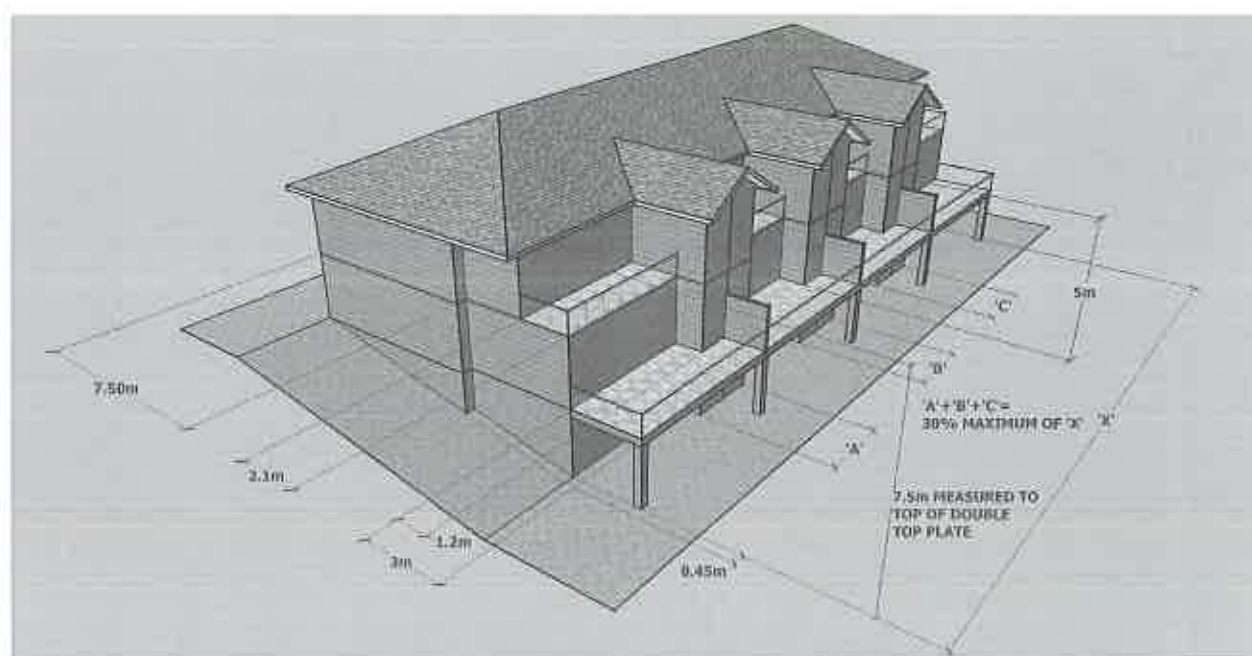


Diagram 13.12: Downslope Building Articulation

- iii. All decks (including the supporting posts or columns) shall not exceed 4.5 m or 1 storey in height inclusive of any support structure or retaining wall (within a horizontal distance of 1.2 m). Height will be measured from the grade at the base of the deck, post, or column to the highest point of the deck, exclusive of railings.
- iv. No horizontal wall face may exceed 7.5 m in length after which the wall face must be staggered or offset by a minimum of 0.45 m in a side yard, and by 1.2 m in a front yard, rear yard, or flanking street. See Diagram 13.12.
- v. A maximum of 6 ground oriented dwelling units per building is permitted.

13.17.9 Other Regulations

- (a) A minimum area of 7.5 m² of private open space shall be provided per bachelor dwelling, congregate housing bedroom or group home bedroom, 15.0 m² of private open space shall be provided per 1 bedroom dwelling, and 25.0 m² of private open space shall be provided per dwelling with more than 1 bedroom. Despite Section 2.3.3, private open space may also include recreational trails and natural areas directly accessible by residents.
- (b) No continuous building frontage shall exceed 40.0 m for a building 3 storeys or greater, or 65.0m for a 2 storey building. An accessory building containing recreational amenities for the use of all residents shall conform to the setback requirements for principal buildings.
- (c) In addition to the regulations listed above, other regulations may apply. These include the general development regulations of Section 6 (accessory development, yards, projections into yards, lighting, stream protection, etc.), the landscaping and fencing provisions of Section 7, the parking and loading regulations of Section 8, and the specific use regulations of Section 9.

PURPOSE-BUILT RENTAL HOUSING AGREEMENT

THIS AGREEMENT dated for reference July 21, 2013 affects:

LEGAL DESCRIPTION OF PROPERTY SUBJECT TO THE AGREEMENT:

PID: 027-196-101

Lot 1 District Lots 124 and 415 Osoyoos Division Yale District Plan KAP84653

("Land")

And is

BETWEEN:

PRODEV GP LTD., Inc. No. A87135

2800, 715 5th Avenue SW
Calgary, AB T2P 2X6, and

1378310 ALBERTA LTD., Inc. No. A77231

12220 Stony Plain Road
Edmonton, AB T5N 2X6

(collectively, "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 Owner has applied to the City for rezoning of the Lands to permit the construction of a housing complex that will include purpose-built rental housing units, as defined in this Agreement, on certain lands more particularly described in this Agreement;
- B. 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;
- C. The Owner and the City wish to enter into this Agreement to provide for purpose-built 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
- D. 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 -

"Area D" means that portion of the Land shown as "D" on Schedule "A" attached hereto;

"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;

"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;

"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 Lands from time to time and any parcels into which the Lands are subdivided;

"Purpose-Built Rental Housing" means strata lots or a self-contained building(s) containing Dwelling Units that are intended to be used only for rental purposes to tenants who will reside in the identified dwelling unit;

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

"Tenant" means a Household occupying a Rental Unit pursuant to a Tenancy Agreement.

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) reference to any enactment is a reference to that enactment as consolidated, revised, amended, re-enacted or replaced, unless otherwise expressly provided;
- (h) the provisions of s. 25 of the *Interpretation Act* with respect to the calculation of time apply;
- (i) time is of the essence;
- (j) all provisions are to be interpreted as always speaking;
- (k) reference to a "party" is a reference to a party to this Agreement and to their respective successors, assigns, trustees, administrators and receivers;
- (l) reference to a "day", "month", "quarter" or "year" is a reference to a calendar day, calendar month, calendar quarter or calendar year, as the case may be, unless otherwise expressly provided;
- (m) the definitions given in the City of Kelowna Zoning Bylaw No. 8000, or its successor bylaw, and the Official Community Plan apply for the purposes of this Agreement; and
- (n) any act, decision, determination, consideration, consent or exercise of discretion by a party, or other person, as provided in this Agreement must be performed, made or exercised acting reasonably.

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; and
- (b) 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 Owner will design, construct and maintain strata lots, a building, buildings, or a portion of a building or buildings providing 17 Dwelling Units as Purpose-Built Rental Housing within Area D;
- (d) The Owner will designate 17 of the Dwelling Units on Area D as Purpose-Built Rental Housing by written notice delivered to the City, which is irrevocable by the Owner upon receipt by the City of the written notice, but no designation is effective unless and until the City confirms in writing that the location of the Dwelling Units are approved by the City for the Purpose-Built Rental Housing, acting reasonably as a local government.

2.1 Partial Release - If not all the Dwelling Units on the Land are to be used as Purpose-Built Rental Housing, the Owner will not apply for a release of registered notice of this Agreement pursuant to section 2.2 in respect of any Dwelling Unit, and the Municipality will be under no obligation to provide such release, unless at the time that the Owner applies for the release

- (a) the Owner is not in breach of any of its obligations under this Agreement;
- (b) the Purpose-Built Rental Housing Dwelling Units within Area D have been designated as Purpose-Built Rental Housing and occupancy permits for those Purpose-Built Rental Housing Dwelling Units have been issued by the City; and
- (c) those Purpose-Built Rental Housing Dwelling Units have been issued by the City and those Purpose-Built Rental Housing Dwelling Units are used and always have been used, occupied and transferred in compliance with this Agreement.

Notwithstanding the foregoing, the Owner may apply for a release of this Agreement pursuant to section 2.2 in respect of the first 155 dwelling units built on the Land which need not be Purpose-Built Rental Housing.

2.2 Process for Partial Release - Subject to section 2.1, at the request of the Owner and at the Owner's sole expense, the City will deliver to the Owner releases of notice of this Agreement in registrable form for each portion of the Land not within Area D and each Dwelling Unit that:

- (a) is a separate legal parcel; and
- (b) is not a Purpose-Built Rental Housing Dwelling Unit,

provided that, if that portion of the Lands containing the Purpose-Built Rental Housing Dwelling Units is subdivided under the *Strata Property Act*, the City may withhold delivery of any release against units in Area D that are not Purpose-Built Rental Housing Dwelling Units under this section unless:

- (c) the Owner has filed a Rental Disclosure Statement pursuant to section 139 of the *Strata Property Act* designating each Purpose-Built Rental Housing Dwelling Unit as a rental strata lot with a rental

period expiry date no earlier than 10 years from the date of stratification; and

- (d) the strata corporation created by the filing of the strata plan over Area D has the following contained within its bylaws:

"Strata Lots are subject to a Housing Agreement with the City of Kelowna. No action shall be taken by the owners or the strata corporation to restrict or limit the terms of the Housing Agreement, including, but not limited to, amendment to these bylaws".

ARTICLE 3 HOUSING AGREEMENT AND TRANSFER RESTRICTIONS

3.0 Purchaser Qualifications - The City and the Owner agree as follows:

- (a) the Owner must not sell or transfer, or agree to sell or transfer, any interest in any strata lot or building containing Dwelling Unit(s) that are Purpose-Built Rental Housing on the Land other than a full interest in the fee simple title to an agency or individual that will continue to ensure that the identified 17 Dwelling Unit(s) that are Purpose-Built Rental Housing are available in accordance with this Agreement.

3.1 Use and Occupancy For Purpose-Built Rental Housing Dwelling Unit - The Owner agrees with the City as follows:

- (a) the Owner must rent or lease each Purpose-Built Rental Housing Dwelling Unit on the Land, and in no event may the Owner himself or herself occupy a Purpose-Built Rental Housing Dwelling Unit;
- (b) the Owner must specify in every Tenancy Agreement the existence of this Agreement and the occupancy restrictions applicable to a Purpose-Built Rental Housing Dwelling 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 Purpose-Built Rental Housing Dwelling Unit to the City upon demand.

3.2 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.

ARTICLE 4 GENERAL

4.1 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 is requiring the Owner to 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.

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

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

- 4.3 Management** – The Owner covenants and agrees that it will furnish good and efficient management of the Purpose-Built Rental Housing Dwelling Units and will permit representatives of the City to inspect the Purpose-Built Rental Housing Dwelling Units at any reasonable time, subject to the notice provisions of the *Residential Tenancy Act*. The Owner further covenants and agrees that it will maintain the Purpose-Built Rental Housing Dwelling Units in a satisfactory state of repair and fit for habitation and will comply with all laws, including health and safety standards applicable to the Land. Notwithstanding the foregoing, the Owner acknowledges and agrees that the City, in its absolute discretion, may require the Owner, at the Owner's expense, to hire a person or company with the skill and expertise to manage the Purpose-Built Rental Housing Dwelling Units.
- 4.4 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.
- 4.5 Agreement Runs With the Land** - Every obligation and covenant of the Owner in this Agreement constitutes both a contractual obligation and a covenant granted by the Owner to the City in respect of the Land 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*.
- 4.6 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.
- 4.7 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.
- 4.8 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.
- 4.9 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.


- 4.10 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 Equitable Remedies** - The Owner acknowledges and agrees that damages would be an inadequate remedy for the City for breach of this Agreement and that the public interest strongly favours specific performance, injunctive relief (mandatory or otherwise), or other equitable relief, as the only adequate remedy for a default under this Agreement.
- 4.13 No Other Agreements** - This Agreement is the entire agreement between the parties regarding its subject and it terminates and supersedes all other agreements and arrangements regarding its subject.
- 4.14 Amendment** - This Agreement may be discharged, amended or affected only by an instrument duly executed by both the Owner and the City.
- 4.15 Enurement** - This Agreement binds the parties to it and their respective successors, heirs, executors and administrators. Reference in this Agreement to the "City" is a reference also to the elected and appointed officials, employees and agents of the City.
- 4.16 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.

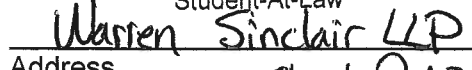
SIGNED, SEALED & DELIVERED in)
the presence of.)



Signature of Witness)

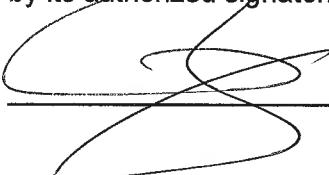


Print Name)
LOUIS PIERRE CORRIVEAU)
Student-At-Law)

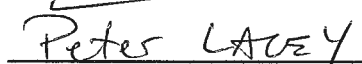


Address)
600 4911 51st Street Red Deer)
T4N 6V4)
student-at-law)
Occupation 403-343-3320)

PRODEV GP LTD.
by its authorized signatories:




Print Name: PRESIDENT)



Print Name: PRESIDENT)

Print Name:)

SIGNED, SEALED & DELIVERED in)
the presence of:)



Signature of Witness)

PRATHAVAN P. VENKATRAMAN
BARRISTER & SOLICITOR

Print Name **A NOTARY PUBLIC AND COMMISSIONER**
FOR OATHS IN AND FOR THE PROVINCE
OF ALBERTA

303, 9811-34 Ave.

Address **EDMONTON, AB**

LAWYER

Occupation

1378310 ALBERTA LTD. by its
authorized signatories:



Tim Latimer
Print Name:

Print Name:

SIGNED, SEALED & DELIVERED in)
the presence of:)

Signature of Witness

Print Name

Address

Occupation

CITY OF KELOWNA
by its authorized signatories:

Mayor

City Clerk



LAND TITLE ACT
FORM C (Section 233) CHARGE
GENERAL INSTRUMENT - PART 1 Province of British Columbia

PAGE 1 OF 10 PAGES

Your electronic signature is a representation that you are a subscriber as defined by the Land Title Act, RSBC 1996 c.250, and that you have applied your electronic signature in accordance with Section 168.3, and a true copy, or a copy of that true copy, is in your possession.

1. APPLICATION: (Name, address, phone number of applicant, applicant's solicitor or agent)

Christina Reed, Barrister & Solicitor

YOUNG ANDERSON

1616 - 808 Nelson Street

Vancouver

BC V6Z 2H2

Phone: (604) 689-7400

File: 122-459

Deduct LTSA Fees? Yes ☒

2. PARCEL IDENTIFIER AND LEGAL DESCRIPTION OF LAND:

[PID]

[LEGAL DESCRIPTION]

027-196-011

**LOT 1 DISTRICT LOTS 124 AND 415 OSOYOOS DIVISION YALE DISTRICT
 PLAN KAP84653**

STC? YES ☐

3. NATURE OF INTEREST

Covenant

CHARGE NO.

ADDITIONAL INFORMATION

s.219 - Development

4. TERMS: Part 2 of this instrument consists of (select one only)

(a) ☐ Filed Standard Charge Terms D.F. No.

(b) ☒ Express Charge Terms Annexed as Part 2

A selection of (a) includes any additional or modified terms referred to in Item 7 or in a schedule annexed to this instrument.

5. TRANSFEROR(S):

PRODEV GP LTD., INC. NO. A87135 (AS TO S.219 COVENANT)

1378310 ALBERTA LTD., INC. NO. A77231 (AS TO S.219 COVENANT)

6. TRANSFEREE(S): (including postal address(es) and postal code(s))

CITY OF KELOWNA

A LOCAL GOVERNMENT INCORPORATED PURSUANT TO THE COMMUNITY CHARTER

1435 WATER STREET

KELOWNA

BRITISH COLUMBIA

Incorporation No

N/A

V1Y 1J4

CANADA

7. ADDITIONAL OR MODIFIED TERMS:

N/A

8. EXECUTION(S): This instrument creates, assigns, modifies, enlarges, discharges or governs the priority of the interest(s) described in Item 3 and the Transferor(s) and every other signatory agree to be bound by this instrument, and acknowledge(s) receipt of a true copy of the filed standard charge terms, if any.

Officer Signature(s)

Execution Date

Y	M	D
14	06	11

Transferor(s) Signature(s)

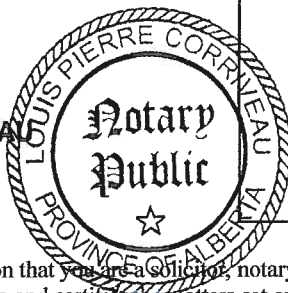
PRODEV GP LTD. by its authorized signatory(ies):

Name: **PETER LACEY - PRES**

Name:

LOUIS PIERRE CORRIVEAU
 Student-At-Law

(as to all signatures)



OFFICER CERTIFICATION:

Your signature constitutes a representation that you are a solicitor, notary public or other person authorized by the *Evidence Act*, R.S.B.C. 1996, c.124, to take affidavits for use in British Columbia and certifies the matters set out in Part 5 of the *Land Title Act* as they pertain to the execution of this instrument.

LAND TITLE ACT
FORM D

EXECUTIONS CONTINUED

PAGE 2 of 10 pages

Officer Signature(s)

Execution Date

Transferor / Borrower / Party Signature(s)

Y	M	D
'14	05	26

1378310 ALBERTA LTD. by its
authorized signatory(ies):

Name: Tim Lettmer

Name: _____

CITY OF KELOWNA by its authorized
signatory(ies):

Name: _____

Name: _____

(as to all signatures)

WITNESS.

PRATHAVAN P. VENKATRAMAN
BARRISTER & SOLICITOR
A NOTARY PUBLIC AND COMMISSIONER
FOR OATHS IN AND FOR THE PROVINCE
OF ALBERTA
(as to all signatures)

OFFICER CERTIFICATION:

Your signature constitutes a representation that you are a solicitor, notary public or other person authorized by the *Evidence Act*, R.S.B.C. 1996, c.124, to take affidavits for use in British Columbia and certifies the matters set out in Part 5 of the *Land Title Act* as they pertain to the execution of this instrument.

TERMS OF INSTRUMENT – PART 2

DEVELOPMENT COVENANT

(Section 219 *Land Title Act*)

THIS AGREEMENT dated for reference July 21, 2013 is

BETWEEN:

PRODEV GP LTD., (Inc. No. A87135),
2800, 715 5th Avenue SW
Calgary, AB T2P 2X6, and

1378310 ALBERTA LTD., (Inc. No. A77231)
12220 Stony Plain Road
Edmonton, AB T5N 3Y4

(collectively, the "Owner")

AND:

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

(the "City")

GIVEN THAT:

A. The Owner is the registered owner in fee simple of the land legally described as follows:

PID: 027-196-011, Lot 1 District Lots 124 and 415 Osoyoos Division Yale District
Plan KAP84653

(the "Land");

B. The Owner has applied to the City for rezoning of the Land to permit the construction of a multi-family housing development of approximately 343 residential housing units (the "Project") that will include a mix of market-price dwelling units and purpose-built rental dwelling units, in accordance with the City's definitions, as more particularly described in this Agreement; and

C. In connection with the City's proposed rezoning of the Land contemplated by Zoning Amendment Bylaw No. 10876, 2012 to create a new zone known as RHM4 – Hillside Cluster Multiple Housing, the Owner wishes to grant the City a covenant under section

219 of the *Land Title Act* regarding the use, development and subdivision of the Land, including the provision of 17 Rental Dwelling Units as part of the multi-family housing to be built on that portion of the Land shown as "D" on the sketch plan of subdivision attached hereto;

THIS AGREEMENT IS EVIDENCE THAT in consideration of the payment of \$1.00 by the City to the Owner and other good and valuable consideration (the receipt and sufficiency of which the Owner acknowledges), the Owner covenants and agrees with the City under section 219 of the *Land Title Act* as follows:

1. **Definitions** – In this Agreement:

- (a) "Area D" means that portion of the Land shown as "D" on Schedule "A" attached hereto;
- (b) "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 for a household. This use does not include a room in a hotel or motel;
- (c) "Market Dwelling Unit" means a Dwelling Unit which is not a Rental Dwelling Unit; and
- (d) "Rental Dwelling Unit" means a Dwelling Unit that will be restricted to rental housing, pursuant to a Housing Agreement under s. 905(1) of the *Local Government Act*.

2. **Land Use Restrictions** – The Owner promises and agrees that the Land shall not be used, built upon or subdivided (by any means whatsoever, including under the *Strata Property Act*) and any buildings on the Land or any portion of the Land shall not be used, built upon or subdivided (by any means whatsoever, including under the *Strata Property Act*) except in accordance with the following conditions:

- (a) the Owner subdivides the Land substantially as shown on Schedule "A", to the satisfaction of the City's Municipal Planner;
- (b) as part of, and concurrently with, the construction of the Project on that portion of the Land shown as Area D on Schedule "A", the Owner constructs and maintains at least 17 dwelling units as Rental Dwelling Units:
 - (i) in accordance with the building permit issued by the City and in accordance with any development permit issued by the City;
 - (ii) that meet or exceed the construction standards for the Market Dwelling Units as specified by the City in a development permit issued by the City in respect of development on Land; and

- (iii) in locations approved by the City;
 - (c) after receiving occupancy permits for the first 155 Market Dwelling Units built on the Land, the Owner agrees that it shall not apply to the City for, and City shall not be obligated to issue, an occupancy permit for any further Market Dwelling Units unless the Owner has obtained an occupancy permit for all Rental Dwelling Units required by this Agreement. The Owner agrees that the City may, but shall not be obligated to, withhold approval or issuance of an occupancy permit for any building constructed on the Land if, in the opinion of the City's Director of Land Use Management, the development as constructed does not comply with this Agreement or any other restrictions or conditions contained herein have not been complied with;
 - (d) before applying for an occupancy permit in respect of any of the Rental Dwelling Units, the Owner designates 17 of the Dwelling Units on the Land as Rental Dwelling Units by written notice delivered to the City, which is irrevocable by the Owner upon receipt by the City of the written notice, but no designation is effective unless and until the City confirms in writing that the location of the Dwelling Units are approved by the City for the Rental Dwelling Units, acting reasonably as a local government; and
 - (e) when Area D is subdivided under the *Strata Property Act*, the Owner will register, concurrently with the strata plan, a 'no separate sale' covenant, pursuant to section 219(2)(d) of the *Land Title Act*, in favour of the City on the City's standard terms, to ensure all Rental Dwelling Units are owned by the same owner for at least 10 years after stratification.
3. **Partial Release** – The Owner will not apply for a release of this Agreement pursuant to section 4 in respect of any Market Dwelling Unit or other portion of the Land, and the City will be under no obligation to provide such releases, unless at the time that the Owner applies for the releases:
- (a) the Owner is not in breach of any of its obligations under this Agreement;
 - (b) the Rental Dwelling Units within Area D have been designated as Rental Dwelling Units and occupancy permits for those Rental Dwelling Units have been issued by the City;
 - (c) the Owner has entered into a Rental Housing Agreement with the City on the City's standard terms for the Rental Dwelling Units; and
 - (d) the Rental Dwelling Units, if built, are used and always have been used and occupied in compliance with this Agreement.

Notwithstanding the foregoing, the Owner may apply for a release of this Agreement pursuant to section 4 in respect of the first 155 Market Dwelling Units built on the Land, so long as the Owner is in all other respects in compliance with the terms of this Agreement.

4. **Process for Partial Release** - Subject to section 3, at the request of the Owner and at the Owner's sole expense, the City will deliver to the Owner a release of this Agreement in registrable form:
 - (a) for each portion of the Land not within Area D, when the Owner has made application for such release;
 - (b) for each Market Dwelling Unit that is a separate legal parcel in Area D, provided that all identified Rental Dwelling Units have been designated and granted an occupancy permit; and
 - (c) if Area D is subdivided under the *Strata Property Act*, the City may withhold delivery of any release under section 4(b) unless:
 - (i) the Owner has filed a Rental Disclosure Statement pursuant to section 139 of the *Strata Property Act* designating each Rental Dwelling Unit as a rental strata lot with a rental period expiry date no earlier than 10 years from the date of stratification; and
 - (ii) the strata corporation created by the filing of the strata plan over Area D has the following contained within its bylaws:

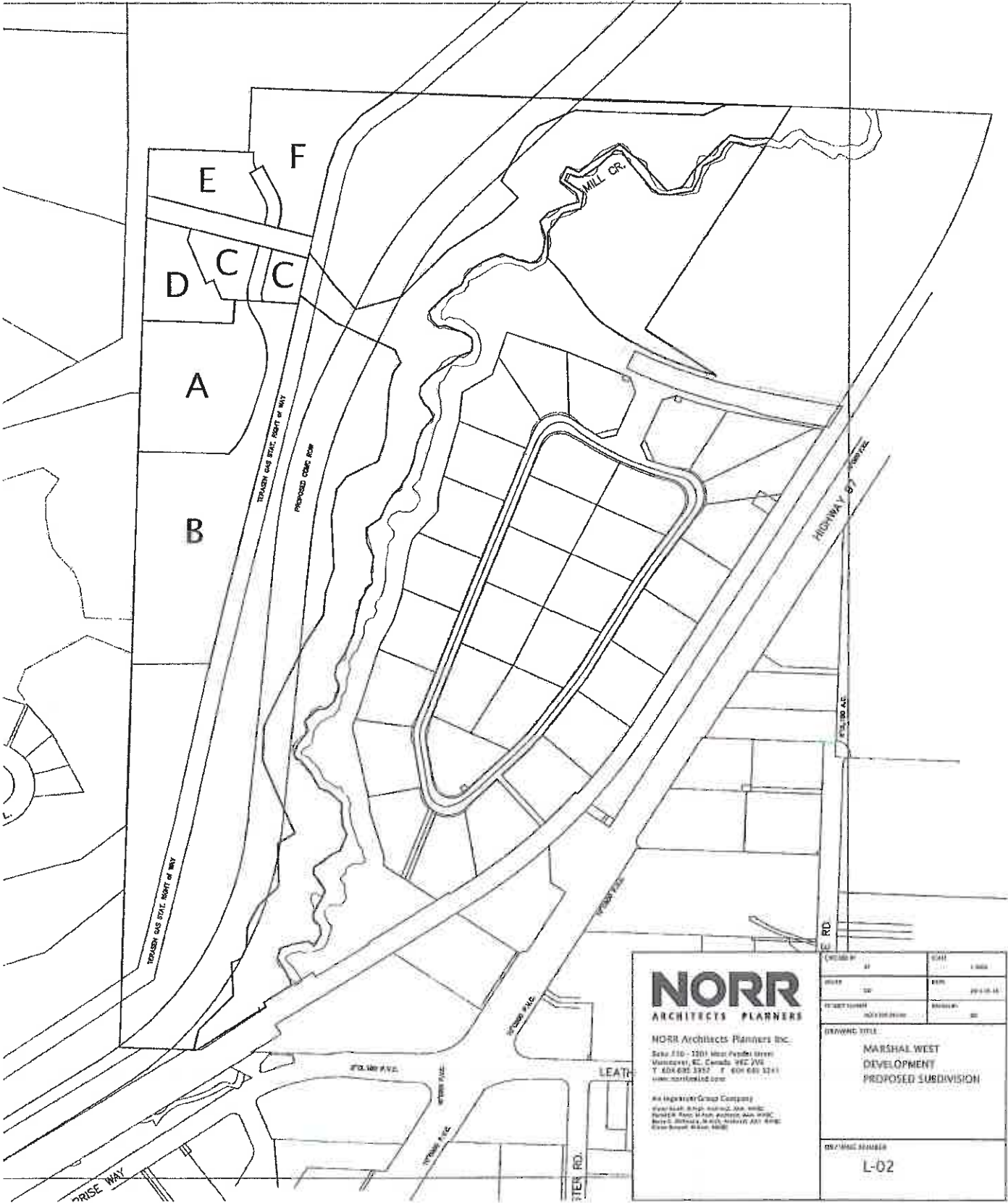
"Strata Lots are subject to a Housing Agreement with the City of Kelowna. No action shall be taken by the owners or the strata corporation to restrict or limit the terms of the Housing Agreement, including, but not limited to, amendment to these bylaws".
5. **Specific Relief** – Because of the public interest in ensuring that all of the matters described in this Agreement are complied with, the public interest strongly favours the award of a prohibitory or mandatory injunction, or an order for specific performance or other specific relief, by the Supreme Court of British Columbia at the instance of the City in the event of an actual or threatened breach of this Agreement.
6. **Other Development Requirements** – The Owner acknowledges and agrees that this Agreement does not include all the requirements for development of the Land or any portion of the Land, and that prior to construction or other development work, the Owner must obtain all necessary development permits, development variance permits, building permits, and other required approvals from the City. The Owner acknowledges and agrees that acceptance of this Agreement by the City is not confirmation that permits and other approvals will be granted or given by the City.

7. **Other Subdivision Requirements** – The Owner acknowledges and agrees that this Agreement does not include all the requirements for subdivision of the Land or any portion of the Land, and that subdivision is a matter governed by the Approving Officer, who is an independent officer of the City, based on his or her application of statutory requirements and his or her determination of the public interest. The Owner further acknowledges and agrees that although the Owner may have already supplied plans and other information to the City pursuant to this Agreement, the acceptance of this Agreement and the plans by the City for the purposes of this Agreement is not confirmation that those plans or information are satisfactory to the Approving Officer, or complete, or that any subdivision of the Land or a portion of the Land will be approved.
8. **Third Party Approvals** – The Owner also acknowledges and agrees that acceptance of this Agreement by the City does not relieve the Owner from obtaining all necessary approvals, permits, releases and authorizations from other land owners, charge holders, government ministries and any other person who may have an interest in the Land or jurisdiction over the Land.
9. **Inspection** – The City may, by its officers, employees, contractors and agents, enter upon the Land and within all buildings and structures thereon at all reasonable times for the purpose of ascertaining compliance with this Agreement.
10. **Discharge of Covenant** – The City agrees that once the Owner fully and strictly complies with this Agreement, the City will, upon request by the Owner and at the cost of the Owner, execute a registrable discharge of this Agreement.
11. **Time of Essence** – Time is of the essence of this Agreement.
12. **No Effect on Powers** – This Agreement does not:
 - (a) affect or limit the discretion, rights or powers of the City, or the City's approving officer, under any enactment or at common law, including in relation to the use, development or subdivision of the Land;
 - (b) affect or limit any enactment relating to the use, development or subdivision of the Land; or
 - (c) relieve the Owner from complying with any enactment, including in relation to the use, development or subdivision of the Land.
13. **Runs With Land** – This Agreement burdens and runs with, and binds the successors in title to, the Land and each and every part into which the Land may be subdivided by any means (including by way of subdivision plan, reference or explanatory plan, lease plan or strata plan of any kind).

14. **No Obligation To Enforce** – The rights given to the City under this Agreement are permissive only and nothing in this Agreement imposes any legal duty of any kind on the City to anyone, or obliges the City to enforce this Agreement, to perform any act or to incur any expense in respect of this Agreement.
15. **Waiver** – An alleged waiver of any breach of this Agreement is effective only if it is an express waiver in writing of the breach in respect of which the waiver is asserted. A waiver of a breach of this Agreement does not operate as a waiver of any other breach or continuing breach of this Agreement.
16. **Further Assurances** – The Owner shall do and cause to be done all things, including by executing further documents, as may be necessary to give effect to the intent of this Agreement.
17. **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.
18. **Severance** - If any part of this Agreement is for any reason held to be invalid by a decision of a court with the jurisdiction to do so, the invalid portion is to be considered severed from the rest of this Agreement and the decision that it is invalid shall not affect the validity of the remainder of this Agreement.
19. **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) the term “enactment” has the meaning given to it under the *Interpretation Act* (British Columbia) on the reference date of this Agreement;
 - (d) reference to any enactment includes any regulations, orders or directives made under the authority of that enactment;
 - (e) reference to any enactment is a reference to that enactment as consolidated, revised, amended, re-enacted or replaced from time to time, unless otherwise expressly provided;

- (f) except where otherwise provided in this Agreement, 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 and any Schedules to this Agreement form part of this Agreement; and
 - (g) where the word “including” is followed by a list, the contents of the list are not intended to circumscribe the generality of the expression preceding the word “including”.
20. **Governing Law** – This Agreement shall be governed by and construed in accordance with the laws of the Province of British Columbia, which shall be deemed to be the proper law hereof.
21. **Enurement** – This Agreement and each and every provision hereof shall enure to the benefit of and be binding upon the parties hereto and their respective heirs, executors, administrators, successors and assigns, as the case may be.
22. **Entire Agreement** – This Agreement is the entire agreement between the parties regarding its subject.

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



CITY OF KELOWNA
MEMORANDUM

Date: June 5, 2013 (Revision 7)
File No.: Z11-0069 – OCP11-0011
To: Land Use Management (JM)
From: Development Engineer Manager (SM)
Subject: 2755 McCurdy Road – Marshall West Hillside Development - Lot 1, District Lots 124 and 125, ODYD, plan KAP84653

Development Engineering comments and requirements regarding this application to rezone the upper portion of the subject property to accommodate 343 residential units are as follows:

These are Development Engineering, Infrastructure Planning and Parks & Public open spaces comments and requirements; they are subject to the review and requirements from the Ministry of Transportation Infrastructure.

1. General.

- a) Provide easement as may be required.

2. Geotechnical Study.

The owner has provided a detailed Geotechnical report prepared by Beacon geotechnical, dated November 22, 2011. The layout of the development has been substantially modified. Along with the submission of the revised layout, the developer is required to provide a graphic confirmation that the correlation between the development and the slope analysis meets the current steep slope development policies.

3. Domestic water and fire protection.

- a) This development is currently within the service area of the Black Mountain Irrigation District (BMID). The developer is required to make satisfactory arrangements with the BMID for these items. All charges for service connection and upgrading costs are to be paid directly to the BMID.
- b) Provide an adequately sized domestic water and fire protection system complete with individual lot connections. The water system must be capable of supplying domestic and fire flow demands for the project in accordance with the Subdivision, Development & Servicing Bylaw. Provide water calculations for this subdivision to confirm this. Ensure every building site is located at an elevation that ensures water pressure is within the bylaw pressure limits. Note: Private pumps are not acceptable for addressing marginal pressure.

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- c) The applicant has indicated that some of the proposed development areas (up to 146 units) may be better serviced by the City water system. The Municipal water system servicing the area was not designed to accommodate any development outside the current water supply boundary. The City will only consider a boundary adjustment as a permanent solution; it will not be supported as a temporary measure. Should this water supply option be considered by the applicant, the following requirements and conditions must be satisfied prior to the adoption of the zone amending Bylaw:
- i) The applicant must provide financial compensation for City staff time required to amend the service area Boundaries and obtain approval from the Provincial Government.
 - ii) The applicant must provide a comprehensive study to ascertain the ability of the Dilworth water system to adequately supply domestic and fire protection for that section of the development.
 - iii) The applicant must provide conceptual engineering drawings detailing the necessary upgrades to the City water supply system to deliver the required water flows for the development.
 - iv) The Water service boundary must be amended prior to the adoption of the zone amending Bylaw.
 - v) The costs of the water supply infrastructure improvements will have to be determined and financially secured by the applicant prior to the adoption of the zone amending Bylaw.

4. Sanitary Sewer.

- a) In an effort to reduce the consumption of energy and the maintenance of potential lift stations, the owner has provided a sketch suggesting the possibility of a gravity connection to the Municipal wastewater collection system at the intersection of McCurdy Road and Hwy 97. The connection offers several long term cost saving measures to the City as follows:
- i) Potentially eliminate the need for publicly operated and maintained sanitary sewage lift stations within the proposed development.
 - ii) Avoid a flow increase within a section of the Municipal wastewater main on Enterprise Way which is at near conveyance capacity.
 - iii) Lay some of the groundwork for ultimately decommissioning the existing Rifle Road sanitary sewage lift station such as constructing the sanitary sewer main between Mt Baldy Drive and Rifle Road along the McCurdy Road ROW.
- b) The Mill creek channel crossing over a culvert or bridge must be located in a way to ensure that the pipe will not be damaged due to potential high flows and endure a severe environmental liability.
- c) The cost of the offsite wastewater collection system will have to be determined based upon a detailed preliminary design and secured financially prior to the adoption of the zone amending Bylaw. In addition the owner is required to provide financial compensation for decommission, removal or alteration of any temporary infrastructure, installed for the proposed development which does not serve the ultimate permanent wastewater collection infrastructure.

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5. Drainage.

- a) A conceptual storm water management sketch has been submitted in support of the application. The plan provided is conceptual in nature.
- b) The Geotechnical report recommends that detention or infiltration ponds be located along the Mill Creek flood plain. The preliminary storm water design must address the storm water discharge method.
- c) The cost of the offsite storm drainage system will have to be determined based upon a detailed preliminary design and be secured financially prior to the adoption of the zone amending Bylaw. In addition the owner is required to provide financial compensation for decommission, removal or alteration of any temporary infrastructure, installed for the proposed development, that does not serve the ultimate permanent drainage collection infrastructure.

6. Road Improvements.**General.**

- a) Development Engineering comments are subject to the B.C. Ministry of Transportation & infrastructure.

Transportation & Mobility

- a) A Traffic Impact Study has been provided by the owner, and has been reviewed by staff. The conclusion and recommendations have been incorporated in the road upgrades triggered by the proposed development.

Mt Baldy Drive.

- a) Mt Baldy Drive must be dedicated and constructed from the end of the existing paved section to the northerly property boundary beyond McCurdy Road to an urban standard with a minimum of 10.75 m. carriageway way and rural standard along the properties within the ALR, as per the existing cross section and the attached sketch. The construction is inclusive but not limited to curb, gutter, sidewalk, storm drainage, street lights, boulevard landscaping, relocation and or removal of existing utilities as required, etc. The construction must include the relocation of the existing temporary detention pond, removal of the temporary turnaround, modification to the curb & gutter along the section affected by the curve and modification to the existing driveway. The vertical and horizontal alignment of Mt Baldy Drive must be designed and constructed to meet the ultimate alignment and elevation of McCurdy Road. The cost of Mt Baldy Road extension must be determined based upon a detailed preliminary design and must be secured financially prior to the adoption of the zone amending Bylaw.
- b) The design of Mt Baldy Drive must extend a minimum of 50m. into lot A plan 36774 to ensure that the grades do not compromise the future development of the land beyond the subject property and the design must be reviewed and endorsed by the owners of lot A plan 36774. It should be noted that the dedication of Mt Baldy Drive occurs on the "panhandle" lot A Plan 36774

- c) The Mt Baldy Drive right of way has an abrupt change in direction that does not meet the City current road standard. The curve must be constructed to a standard equivalent to the ultimate collector level of service and as per the City of Kelowna servicing requirements for the requested zone.
- d) The angle of the intersection of Mt Baldy Drive with McCurdy Road must meet the current standard of between 70 deg. and 110 deg. If necessary, the owner is to provide the necessary additional right of way on Mt Baldy Dr. to serve the lands to the North beyond the intersection, insuring straight lanes through the intersection of McCurdy Road and Mt Baldy Dr.
- e) The intersection of Mt Baldy Drive and Rifle Road must be upgraded in accordance with the recommendations of the Traffic Impact Study which consists of a separate Westbound left turn lane on Mt Baldy Drive, a separate Northbound right turn lane on Dilworth Drive and a Traffic signal at the intersection. These works must be completed and operational prior to issuing the development or building permit for the 201st unit; a covenant must be registered on the property to that effect. The cost of the intersection upgrades and the traffic lights must be determined based upon a detailed preliminary design and must be secured financially prior to the adoption of the zone amending Bylaw.

McCurdy Road.

- a) McCurdy Road is an important East-West transportation link that would give easy access from the proposed development to the facilities and services located in the Rutland area identified in the applicant drawing submitted in support of this application. The construction of McCurdy Road is not identified in the current 20 years servicing plan mainly due to the OCP not recognizing any future land use' for the subject property, to a higher level than the current zone. Only the McCurdy Road Right of Way dedication is identified in the current OCP and 20 years servicing plan.
- b) The applicant must provide a preliminary detailed design of the ultimate McCurdy Road extension between the railroad track and Rifle Road. The conceptual design must take into account the grade separation with the future COMC. A conceptual design for the McCurdy road section between Rifle Road and Mt Baldy Road must be also provided as well to ensure that the grades can meet the current standards at the intersections.
- c) McCurdy Road must be constructed to the ultimate alignment and elevations along the proposed development frontage (West of the FortisBC ROW) in accordance with City urban standard SS-R6 in order to ensure an appropriate permanent access to the lands and in order to avoid any potential future grading issues between the McCurdy Road and the proposed development. The construction is inclusive but not limited to curb, gutter, sidewalk on both sides, storm drainage, street lights, boulevard landscaping, relocation and or removal of existing utilities as required, etc. The cost of this section of McCurdy Road must be based upon a detailed preliminary design and financially secured prior to the adoption of the zone amending Bylaw.

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- d) The McCurdy Road section (East of the FortisBC ROW) between the proposed development and the entrance of the business park to the East must be constructed with a 5.0 m. wide paved with 1.0 m. graveled shoulder on each side to accommodate a combined multi-modal corridor and emergency access. The alignment must be design in a manner that the corridor can remain operational through the future construction of McCurdy Road. The corridor must include storm drainage management and street lights as well as gates to control motor vehicles access. The corridor must be completed prior to issuing an occupation permit; a covenant must be registered on the property to that effect. The cost of the construction of the combined multi-modal and emergency lane must be based upon a detailed preliminary design and financially secured prior to the adoption of the zone amending Bylaw.
- e) The crossing of Mill Creek with McCurdy Road must be in accordance with all the current regulations in effect for work within a watercourse. The culvert(s) must be sized to accommodate the 200 years Mill Creek flow and also accommodate pedestrians to the satisfaction of the Parks and Open Spaces Branch. The culvert(s) must be installed with provisions for extension to accommodate the ultimate road embankment width. The cost of this section of McCurdy Road crossing Mill Creek must be based upon a detailed preliminary design and financially secured prior to the adoption of the zone amending Bylaw.

7. Parks & public places requirements.

- a) *The owner will transfer the land area called 'Voluntary Dedication' of ~19.81 hectares (ha) to the City for park and transportation objectives between the Mill Creek corridor and the FortisBC Gas right of Way and the Southerly portion of the land shall be transferred to the City under the existing A1 zone.*
- b) *The land transferred to the City shall be kept in a natural, undisturbed condition except where approved by the City. Natural, undisturbed condition means no damage to natural vegetation; no re-grading; no material and construction storage; and/or no contractor equipment parking. In order to minimize impacts of adjacent development activity these no disturb areas should be delineated with temporary fencing as per page 20 of the Parkland Acquisition Guidelines which can be found at:*

http://www.kelowna.ca/CityPage/Docs/PDFs//Parks/2010_Parkland_Acquisition_Guidelines.pdf

- c) *While trail construction by the developer will not be a requirement, the applicant will be required prove out a trail connection between the existing Dilworth Mountain Park in the west, to the existing gas Right of Way in the east. The trail must be to City of Kelowna Class 6 trail standards, see:*
<http://www.kelowna.ca/CityPage/Docs/PDFs//Infrastructure%20Planning/KMP/Trail%20Standard%20Cross%20Sections.pdf> *without the construction of any structures (steps, staircases etc.). The preferred trail alignment will parallel to the existing contour lines as much as possible but it may be necessary to include some switchbacks. Prior to a site meeting with City Staff, the applicant will stake the proposed Right of Way boundaries and trail alignment in the field. At the site meeting, the configuration of the Right of Way, for public access listed in d) below will be confirmed.*

The applicant may wish to consider adding a connection to this trail alignment from the southern most cul-de-sac complete with installation of "private property / trail" signage."

- d) *The proposed trail Right of Way between the Dilworth Mountain park and the Southerly boundaries of the proposed development will be registered on title for public access once its configuration has been confirmed in the field with City Staff.*
- e) *The site may potentially include hazardous trees as determined by a registered professional forester (RFP). Removal of hazardous trees to ensure adequate public safety must be conducted by the developer. All tree removals need to be identified in the Development Permit Application.*
- f) *Playgrounds and neighbourhood amenities (e.g. gardens, landscaping, play areas, seating areas, etc) can be private facilities as proposed by the owner and incorporated into the management of the future private strata housing. The details and layout will be reviewed by the City as part of the Development Permit Application;*
Note: The location and development of public or private storm water detention ponds could provide joint-use opportunities for park/recreation facilities.
- g) *The design of McCurdy Road extension needs to accommodate a safe crossing for the future Mill Creek Linear Trail.*
- h) *The owner will be required to delineate the private property lines adjacent to public lands. The treatment and details will be reviewed by the City as part of the Development Permit Application.*
- i) *The cost of the Parks & public spaces requirements will have to be determined and be financially secured prior to the adoption of the zone amending Bylaw.*
- j) *All disturbed slopes that are not "landscaped" will be hydroseeded with an appropriate native grassland seed mix to prevent establishment of noxious weeds. Developer to contact Parks Services to determine an appropriate seed mix. If the first application is not successful, the applicant will be prepared to re-hydroseed several times until a grass cover is established.*
- k) *Preliminary Landscape Plans indicate some steep slopes immediately adjacent to the site access road. Rockfall / debris catchment areas must be provided between the bottom of slope and the surface of the paved access road.*

8. Power and Telecommunication Services.

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

9. Design and construction.

- a) Design, construction supervision and inspection of all civil works and site servicing must be performed by a Consulting Civil Engineer and all such work is subject to the approval of the City Engineer. Drawings must conform to City standards and requirements.

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

10. Servicing Agreements for Works and Services

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

11. Other Engineering Comments

- a) Provide all necessary Statutory Rights-of-Way for any utility corridors required.
- b) Provide easements and dedications as may be required.
- c) If any road dedication affects lands encumbered by a Utility right-of-way (such as BC Gas, BMID, etc.) please obtain the approval of the utility prior to application for final subdivision approval. Any works required by the utility as a consequence of the road dedication must be incorporated in the construction drawings submitted to the City's Engineering Development Manager.
- d) DCC credits will be payable at the time of application for building permits.
- e) DCC Credits will be available for permanent infrastructure of McCurdy Road construction between the FortisBC ROW and the entrance to the industrial park. The exact amount of credits will have to be determined.
- f) DCC credits will be available for the permanent infrastructure installed for the Mill Creek crossing. The exact amount of credits will have to be determined.

- g) The City will be reimbursing, to the owner, the cost of the sanitary sewer main portions installed upstream of the proposed development for the purpose of eliminating a sanitary sewage lift station.
- h) The additional cost for oversize works required by the City, which are not DCC creditable items, may be reimbursed to the owner subject to availability of funds. The oversize cost for pipes must be verified by actual construction tender or invoice and be based on pipe material cost only for the increase in size.

12. Bonding and Levies Summary.

a) Performance Bonding

Municipal Water system upgrades	To be determined
Water boundary adjustment staff time	To be determined
Offsite wastewater extension	To be determined
Offsite storm water extension, detention and outfalls	To be determined
Mt Baldy Dr. construction	To be determined
Mt Baldy Dr. – Rifle Road intersection upgrades	To be determined
McCurdy Road construction(development frontage)	To be determined
Multi-modal/Emergency access to business park	To be determined
McCurdy Road Mill Creek crossing	To be determined
Park and Public open spaces requirements	To be determined
Total Performance Security	<u>To be determined</u>

b) Levies

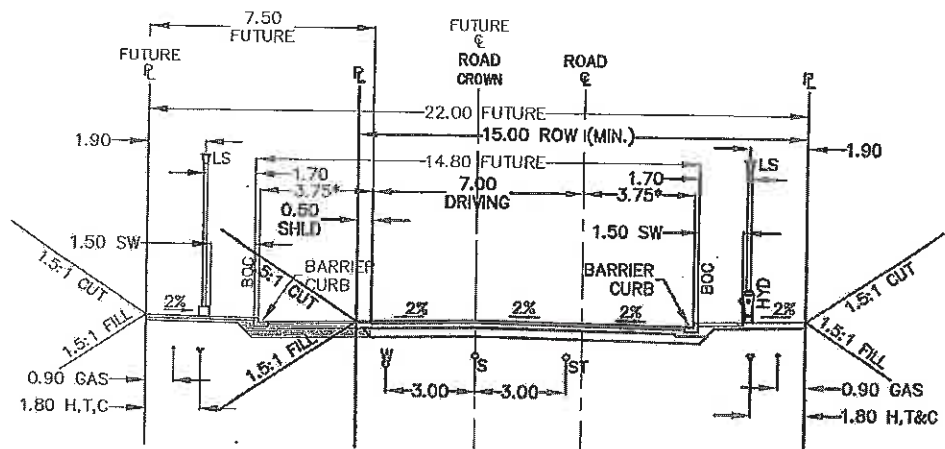
Sanitary Specified Area inclusion admin.fee	\$250.00
Traffic signs (third party work order)	<u>To be determined</u>
Administration and Inspection fee (3% + GST)	<u>To be determined</u>

Total Levies

To be determined


 Steve Muenz, P. Eng.
 Development Engineering Manager

B²



Mt BALDY DRIVE - EXISTING CROSS-SECTION



jm
FILE COPY

1
FortisBC Energy Inc.
Property Services Dept
16705 Fraser Hwy
Surrey, BC
V4N 0E8

21 September 2011

Your Files: Z11-0069
DP11-0152
OCP11-0011
TA11-0010

Our File: 6045
C/R: ML22-014

City of Kelowna
Community Sustainability
1435 Water St
Kelowna, BC, V1Y 1J4

Attn: Heather Benmore

Re: 2755 McCurdy Rd

Thank you for your letter received **August 24, 2011** regarding the above noted proposal. FortisBC has no objection in principal to the Rezoning, Development Permit, OCP and Temporary Access applications of the subject land with the following conditions:

Site Specific Comments

- The FortisBC pipeline was initially installed to the required standards of the prevailing land use at the time of installation and may not be to the standards necessary to support the proposed re-zoning. As such, the acceptability of the pipeline to support the change in land use may require an engineering assessment and possible pipeline upgrade by FortisBC, and at the expense of the Applicant / Property Owner. (see item #3 below)
- Existing soil conditions, final site grades, building elevations, and adjacent preloading must be considered during design and feasibility study as it relates to the existing FortisBC pipeline and right of way.
- FortisBC encourages the use of its ROW for linear park areas
- FortisBC requests that the proposed property lines align with the FortisBC right of Way boundaries and in no case do the property lines terminate over the FortisBC pipeline.

General Development Requirements

1) Pipeline Permits

The Oil and Gas Activities Act of British Columbia requires that an application be made for a "Pipeline and/or Right of Way Permit" for all work within the pipeline right of way. A permit application must be forwarded to FortisBC for all work within the pipeline right of way. An application can be obtained from the Permit Representative by calling (604) 576-7021 or toll free 1-877-599-0996.

Each utility designed to cross a FortisBC right of way (i.e. road, driveway, parking lot) will require a pipeline crossing permit from FortisBC. It is recommended that, given the nature of the development and proposed use of the right of way, the applicant submit an application for pipeline crossing permit to FortisBC as soon as possible so that the issues can be dealt with in timely manner.

2) Inspection

A FortisBC Pipeline Representative **must be** on site to witness **all work** within the pipeline right of way. The applicant must notify FortisBC a minimum of **72 hours** in advance of starting any activities within the right of way and have an approved permit on site.

3) Vehicle Crossing - Parking Lots - New Roads

In respect to vehicle crossings and parking lots, FortisBC is required to complete an engineering assessment of all proposed vehicle crossings of a FortisBC transmission pipeline. A physical inspection and possible upgrading of the pipeline is required at all proposed road and parking lot locations. A minimum 1.2m pipeline cover is mandatory as well. All costs to complete this work will be borne by the property owner or applicant.

Upon receipt of the applicant's final design drawings and permit application, FortisBC will prepare an estimate of costs to complete these works and shall include the following:

- Physical inspection and engineering assessment and analysis of loads that will be potentially imposed on the pipeline for a minimum distance of seven meters (7m) beyond the proposed travelled surface; and
- Mitigative action by FortisBC to protect or upgrade our pipelines or facilities. This may require upgrading, realigning or replacing the existing pipeline in order to accommodate the development proposal and change in land use.

The property owner or applicant is responsible for the following costs:

- To retain the services of a qualified geotechnical engineer to prepare a soils report of the existing soil conditions below and around the pipeline;
- To provide an engineering drawing illustrating the geodetic elevation of the pipeline, existing grade and proposed grade; and
- FortisBC costs to complete the pipeline inspection, engineering assessment and facility upgrade. The property owner must commit the necessary funds to FortisBC by way of certified cheque or an irrevocable letter of credit prior to FortisBC commencing its works. Scheduling of the pipeline inspection and upgrade will be at the discretion of FortisBC.

4) Right of Way Identification

The pipeline right of way must remain clearly identifiable from the ground and the air at all times. Provision must be made for the installation of FortisBC pipeline markers, which must be placed directly over the gas pipeline. The FortisBC right of way should be defined on the development plan and all property boundaries intersecting with the FortisBC right of way should be posted with new iron pins at the applicant's expense.

If the applicant plans to pave the right of way, both vent grates and painted pavement identification will be required over the pipeline.

As a general comment, effective March 1, 1998, FortisBC will not endorse a subdivision plan that consents to the dedication of a new roadway or park over an area presently charged with a FortisBC Statutory Right of Way. This applies to transmission pipelines only, operating in excess of 2069 kPa. FortisBC will require that a new lot be created over the right of way, which is to become road or park. The new lot must be assigned a lot number and registered with the Land Title Office. For road, it can be noted on the plan that the lot is "For Road Purposes Only". This policy is to ensure that our rights of way, which allow us to protect and maintain the pipeline, are not extinguished. Additionally, FortisBC would prefer not to sign any subdivision plan until we are assured that any inspection and/or upgrade to the gas pipeline are completed.

5) Landscaping

Landscaping within the right of way shall be restricted to low growing ground cover within 1 metre either side of the pipeline (i.e. grass or ground cover shrubs); the balance of the right of way may be planted with vegetation that does not exceed 1.8m maximum height at maturity. Trees exceeding 1.8 m in height should not be planted in a location outside the right of way where the tree canopy will encroach on the right of way.

6) Statutory Right Of Way Agreement

The conditions in this letter are to be read in conjunction with the Statutory Right of Way Agreement charged on the land and shall not be construed as diminishing the terms of the Right of Way Agreement.

FortisBC shall be released from all claims and demands from future property owners that may arise directly or indirectly from the construction, operation, protection, surveillance, maintenance and repair of the pipeline or any other future activities within the gas pipeline Right of Way.

7) Construction Fill Material

All fill material placed within the Right of Way must be clean and free of any hazardous substances. This would include all materials that present a hazard to human, animal and plant life or health. No material is to be imported onto the right of way that would cause any damage to the environment. The placement of fill within the right of way must be done in accordance with all laws and authorities pertaining to contaminated soil regulations. If the property owner introduces any hazardous substance within the right of way, then the property owner shall remove all such hazardous substances at its sole cost and expense and the property owner shall indemnify FortisBC from any costs, damages or claims which may be made against

FortisBC including all clean-up costs and legal or professional fees. Prior to placing any material within the Right of Way, the applicant must provide FortisBC with analytical data assuring that no hazardous substances are present in the fill material.

8) Site Topography

Consideration must be given to changes to existing topography and maintaining adequate cover over FortisBC pipeline. Cut and fills must be balanced to ensure minimum 1.2m and maximum 1.8m pipeline coverage is maintained.

9) Building Construction

The developer is responsible to ensure that their actions adjacent to the FortisBC right of way do not adversely impact our facilities. This includes:

- Activities such as land filling, preloading or excavation which have the potential of displacing the pipeline as a result of loading or sloughing; and
- The existing drainage must not be altered in a manner that will result in water accumulation within the right of way.

In respect to the future buildings proposed outside of the right of way, no building, structure or foundation or portions thereof, and roof overhangs are permitted within the pipeline right of way. We recommend that the future buildings be set back far enough from the FortisBC right of way to ensure that the foregoing structures do not encroach into the FortisBC right of way.

10) Utilities

Utilities (i.e. future telephone and electrical ducts, storm and sanitary sewers, water main etc.) will not be permitted to run parallel within the FortisBC right of way. Crossing angles must be between 45 and 90 degrees to the gas pipeline. All street light poles, junction boxes, luminaries, catch basins or manholes and signage are to be located outside the pipeline right of way.

We trust the information contained herein is suitable for your purposes at this time. However, if you require any further clarification, please contact the undersigned directly at (604) 576-7253. Please ensure the applicant is aware of the requirements and conditions in respect to the use of the FortisBC right of way.

Yours truly,

FORTISBC ENERGY INC.

Lorne Sandstrom A.Sc.T, SR/WA
Project Coordinator

Cc: Bryan Balmer,
Manager System Integrity Programs

REPORT TO COUNCIL



Date: July 2nd, 2014

RIM No. 1250-30

To: City Manager

From: Subdivision, Agriculture & Environment Services (TC)

Owner: Watermark Developments Ltd.,
(Inc. No. BC0642787)

Application: Z13-0030

City of Kelowna

Aberdeen Hall Senior School
Society, (Inc. No. S005022)

Address: South of Academy Way
890 - 950 Academy Way
823 Academy Way

Applicant: Watermark Developments Ltd.

Subject: Rezoning

Existing OCP Designation: Agriculture, Park & Open Space, Multiple Unit Residential

Proposed OCP Designation: Agriculture, Park & Open Space, Multiple Unit Residential

Existing Zones: A1 - Agricultural, P3- Parks & Open Space, RM5 - Medium
Density Multiple Housing

Proposed Zones: A1 - Agricultural, P3- Parks & Open Space, RM5 - Medium
Density Multiple Housing

1.0 Recommendation

THAT Rezoning Application No. Z13-0030 to amend the City of Kelowna Zoning Bylaw No. 8000 by changing the zoning classification of:

1. Part of the North East $\frac{1}{4}$ of Section 3 Township 23 ODYD Except Plans EPP33993 and EPP36884 located at 823 Academy Way;
2. Part of Lot A Section 3 Township 23 ODYD Plan EPP33993 "see plan as to limited access", located (S of) Academy Way; and
3. Part of Lot C Section 3 Township 23 ODYD Plan EPP33993 "see plan as to limited access", located (S of) Academy Way; and

from the A1 - Agriculture 1 to P3 - Parks and Open Space, P3 - Parks and Open Space to A1 -

Agriculture 1, RM5 - Medium Density Multiple Housing to A1 - Agriculture 1, RM5 - Medium Density Multiple Housing to P3 Parks and Open Space, P3 - Parks and Open Space to RM5 - Medium Density Multiple Housing, A1 - Agriculture 1 to RM5 - Medium Density Multiple Housing as shown Map "A1" attached to the report of Subdivision, Agriculture & Environment Services, dated June 26th, 2014, be considered by Council;
AND THAT Rezoning Application No. Z13-0030 to amend the City of Kelowna Zoning Bylaw No. 8000 by changing the zoning classification of:

1. Part of Lot 1 Sections 3 and 10 Township 23 ODYD Plan EPP38015 (limited access as to part formerly Lot B Plan EPP33993) located at 890-950 Academy Way;
2. Part of Lot A Section 3 Township 23 ODYD Plan EPP33993 "see plan as to limited access", located (S of) Academy Way; and
3. Part of Lot C Section 3 Township 23 ODYD Plan EPP33993 "see plan as to limited access", located (S of) Academy Way; and

from the A1 - Agriculture 1 to P3 - Parks and Open Space and P3 - Parks and Open Space to A1 - Agriculture 1 as shown Map "A2" attached to the report of Subdivision, Agriculture & Environment Services, dated June 26th, 2014, be considered by Council;

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

2.0 Purpose

To rezone portions of the subject properties in order to accommodate the future development of single and multi family developments and a large natural open space park.

3.0 Subdivision, Agriculture & Environment Department

Subdivision, Agriculture & Environment staff is supportive of the requested approval to rezone small sections of the University South neighborhood. This proposal is seen as an administrative exercise to reflect the more detailed line work that resulted in the previous subdivision application.

Given the largely undeveloped surrounding context, staff believes that the neighbour notification was adequately satisfied through the previous public notification process which included posting of Development Application signage.

4.0 Proposal

4.1 Background

In February 2014, a four (4) lot block plan subdivision was registered on the parent parcel that included the dedication of a large park (gully area) to the City of Kelowna.

4.2 Project Description

This application is to rezone parts of the subject properties required to facilitate the development of the next phase of the University South development and ensure land uses align appropriately with newly created subdivision line work. The previous subdivision resulted in a

significant gain in P3 land and will ensure the long term protection of steep terrain, a north south wildlife corridor and a significant natural area park. The proposal is in general accordance with the University South Area Structure Plan (2009).

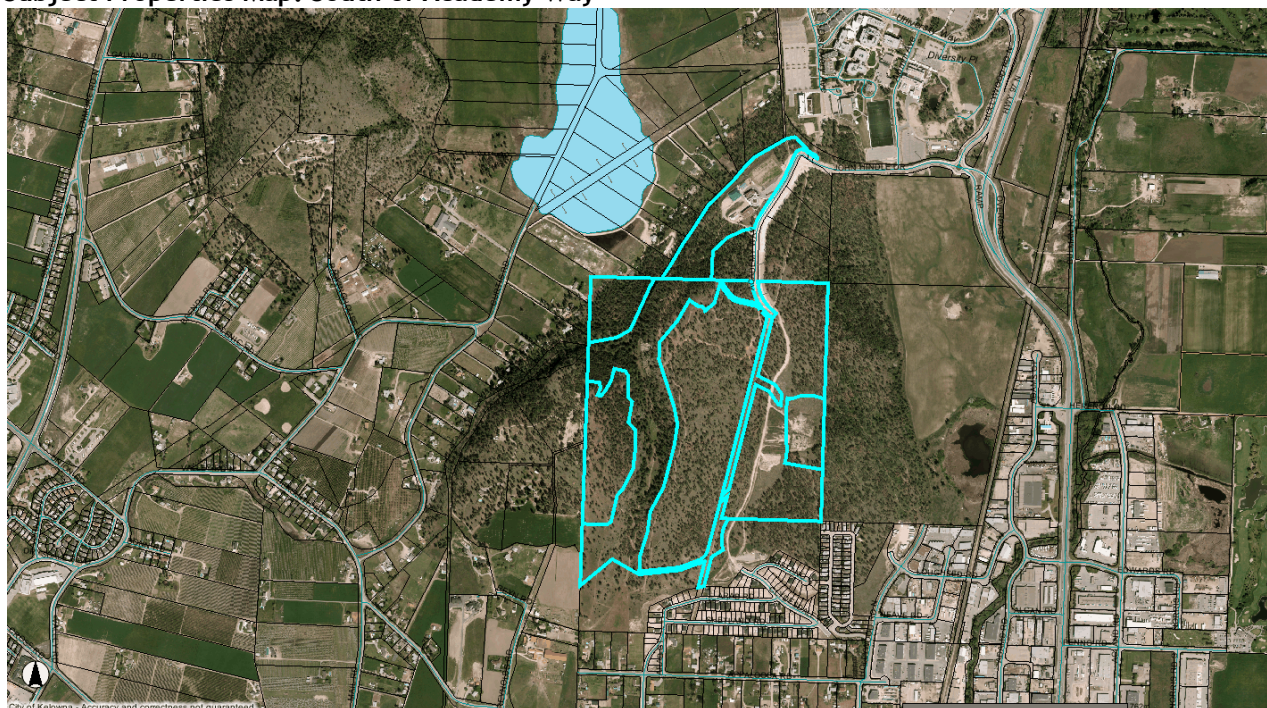
4.3 Site Context

The subject property is located on the north facing slope of the developing University South Area, on the east side of Academy Way south of Aberdeen Hall, and south of John Hindle Drive and the UBC Okanagan campus.

Presently, the adjacent land uses are as follows:

Orientation	Zoning	Land Use
North	A1 - Agricultural Zone P2 - Institutional RM5 - Medium Density Multiple Housing	Resource Protection Educational / Institutional Multiple Unit Residential
East	C3 - Parks and Open Space RM3 - Low Density Multiple Housing RM4 - Transitional Low Density Housing RM5 - Medium Density Multiple Housing	Community Commercial Multiple Unit Residential Multiple Unit Residential Multiple Unit Residential
South	A1 - Agricultural Zone	Resource Protection
West	A1 - Agricultural Zone	Resource Protection

Subject Properties Map: South of Academy Way



5.0 Current Development Policies

5.1 Kelowna Official Community Plan (OCP)

Development Process

Compact Suburbs.¹ Support a mix of uses within Kelowna's suburbs.

Environmentally Sensitive Area Linkages.² Ensure that development activity does not compromise the ecological function of environmentally sensitive areas and maintains the integrity of plant and wildlife corridors.

6.0 Technical Comments

6.1 Building & Permitting Department

No comment.

6.2 Development Engineering Department

Refer to attached Development Engineering Memorandum.

6.3 Fire Department

No concerns.

6.4 Glenmore Ellison Irrigation District (GEID)

Refer to attached GEID letter.

6.5 FortisBC (Electric)

No concerns.

6.6 FortisBC (Gas)

Refer to attached memorandum.

6.7 Telus

No comment.

6.8 Shaw Cable

Approves of rezoning.

6.9 Interior Health

Interests unaffected.

6.10 RCMP

No comment.

¹ City of Kelowna Official Community Plan, Policy 5.2.3 (Development Process Chapter).

² City of Kelowna Official Community Plan, Policy 5.15.3 (Development Process Chapter).

Application Chronology

Date of Application Received:	July 9, 2013
Subdivision Approved:	December 13, 2013
Subdivision Registered:	February 13, 2013
OCP Amendment Adopted:	May 27, 2014

Report prepared by:

Todd Cashin
Subdivision, Agriculture & Environment Services Manager

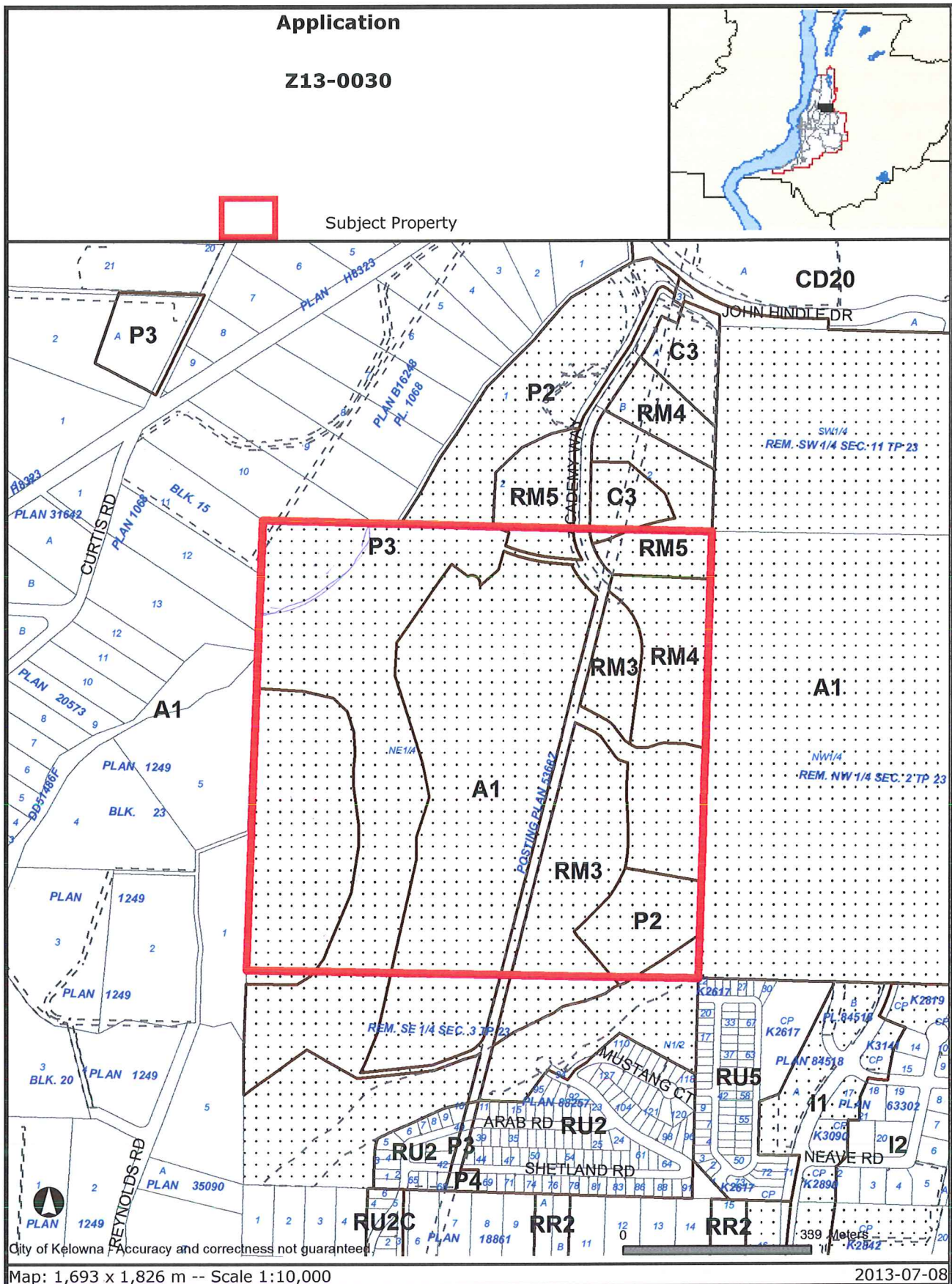
Approved for Inclusion:



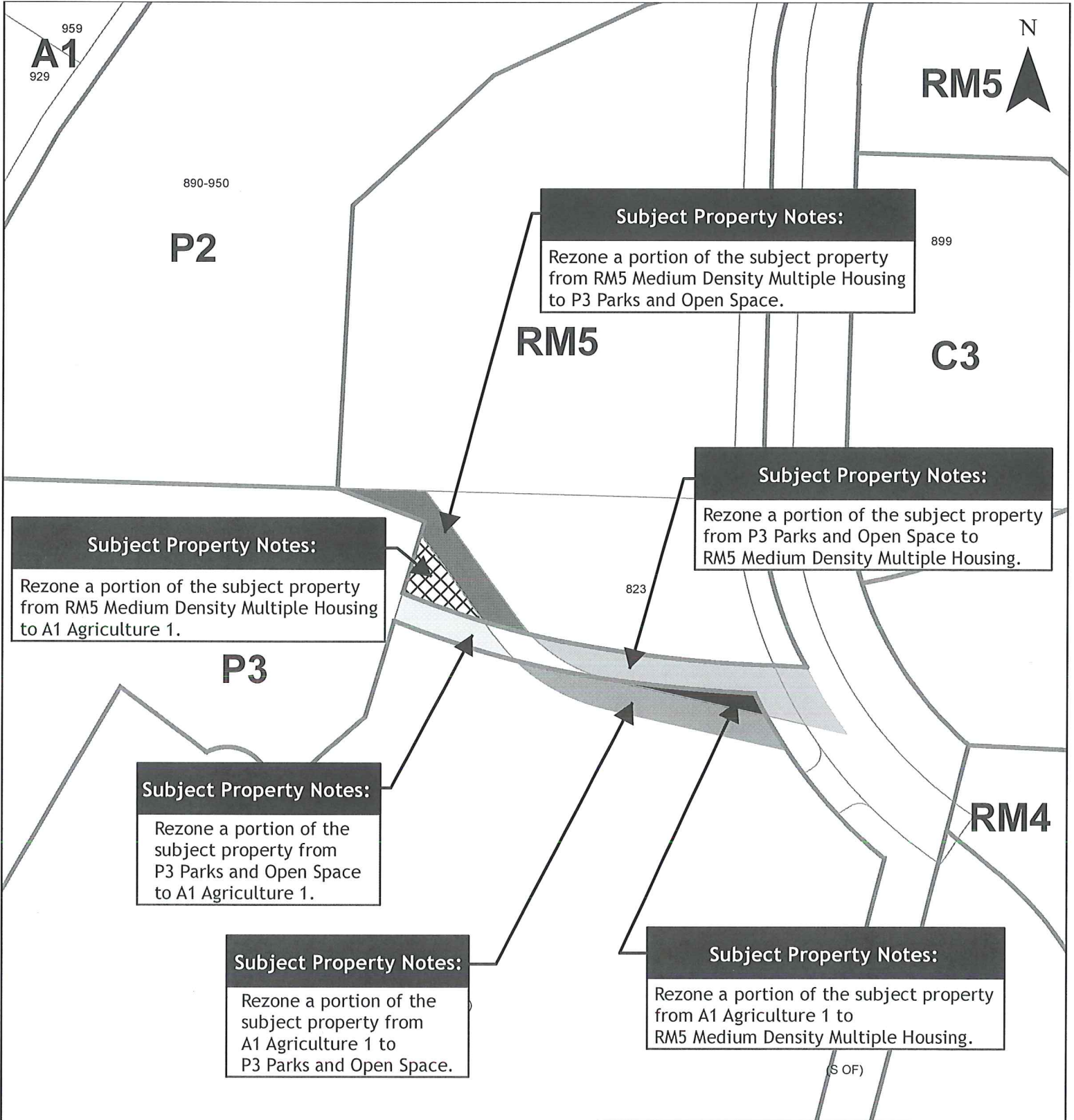
Shelley Gambacort, Subdivision, Agriculture & Environment Director

Attachments:

Map A1
Map A2
Subject Property Map



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.



MAP "A" PROPOSED ZONING
File #Z13-0030 Map #A1

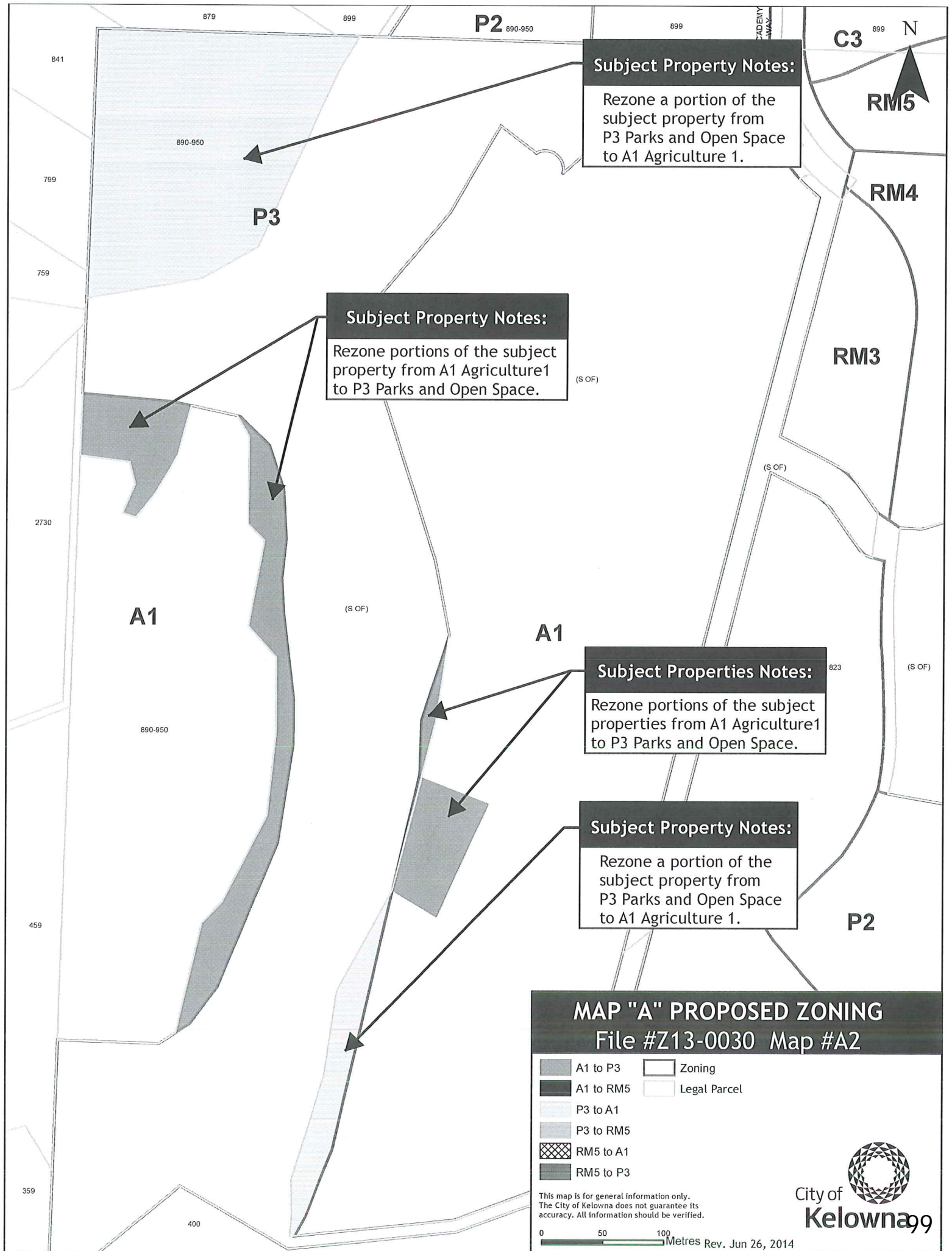
- | | |
|-----------|--------------|
| A1 to P3 | Zoning |
| A1 to RM5 | Legal Parcel |
| P3 to A1 | |
| P3 to RM5 | |
| RM5 to A1 | |
| RM5 to P3 | |

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

0 20 40 Metres

Rev. Jun 26, 2014





REPORT TO COUNCIL



Date: July 14, 2014

RIM No. 1200-70

To: City Manager

From: Policy & Planning, Community Planning & Real Estate (LB)

Application: OCP14-0014 / TA14-0010 **Owner:** Various

Address: Hospital Area (See Attachment 1) **Applicant:** City of Kelowna

Title: Official Community Plan Amendment, Zoning Bylaw Amendment and Sign Bylaw Amendment

Existing OCP Designation: S2RES - Single / Two Unit Residential

Proposed OCP Designation: HLTH - Health District
EDINST - Educational / Major Institutional

Existing Zone: RU1 - Large Lot Housing
RU1c - Large Lot Housing with Carriage House
RU2 - Medium Lot Housing

Proposed Zone: No change

1.0 Recommendation

THAT Official Community Plan Bylaw Amendment No. OCP14-0014 to amend Map 4.1 of the Kelowna 2030 - Official Community Plan Bylaw No. 10500, by changing the Future Land Use designation of the subject properties identified in Attachment 1 from the S2RES - Single / Two Unit Residential designation to the HLTH - Health District designation, as shown on Map #1 attached to the Report of the Policy & Planning Department dated July 14, 2014, be considered by Council;

AND THAT Official Community Plan Bylaw Amendment No. OCP14-0014 to amend Map 4.1 of the Kelowna 2030 - Official Community Plan Bylaw No. 10500, by changing the Future Land Use designation of Lot 1 District Lot 14 ODYD Plan KAP3451, located on 2303 Abbott Street, Kelowna, BC from the S2RES - Single / Two Unit Residential designation to the EDINST - Educational / Major Institutional designation, as shown on Map #1 attached to the Report of the Policy & Planning Department dated July 14, 2014, be considered by Council;

AND THAT Official Community Plan Bylaw Amendment No. OCP14-0014 to amend Map 5.8 of the Kelowna 2030 - Official Community Plan Bylaw No. 10500, by adding the Revitalization Development Permit Area Designation to the subject properties identified in Attachment 1 as shown on Map #2 attached to the Report of the Policy & Planning Department dated July 14, 2014, be considered by Council;

AND THAT Official Community Plan Bylaw No. OCP14-0014 to amend Kelowna 2030 - Official Community Plan Bylaw No. 10500, by revising the definition of 'Health District' as outlined in the Report of the Policy & Planning Department dated July 14, 2014, be considered by Council;

AND THAT Zoning Bylaw Text Amendment No. TA14-0010 to amend City of Kelowna Zoning Bylaw No. 8000, by adding the Health District 3 - Health Services Transitional zone in Section 17; adding definitions for Health Services, Major, Supportive Housing, Minor, and Supportive Housing, Major in Section 2, adding a new Level 2 landscape buffer in Section 7, and revising Table 8.1 - Parking Schedule to include Health Services, Major and Minor in Section 8 as outlined in the Report of the Policy & Planning Department dated July 14, 2014, be considered by Council;

AND THAT Amendment No. 21 to Sign Bylaw No. 8235 be forwarded for reading consideration;

AND THAT Council considers the Public Information Session public process to be appropriate consultation for the purpose of Section 879 of the *Local Government Act*, as outlined in the Report of the Policy & Planning Department dated July 14, 2014;

AND FURTHER THAT the Official Community Plan Bylaw Amendment Bylaw and the Text Amendment Bylaw be forwarded to a Public Hearing for further consideration.

2.0 Purpose

To consider a proposal to change the Official Community Plan Future Land Use designations for select properties to the north and south of the Kelowna General Hospital campus to create a Health Services Transitional designation. To accompany this designation, it is proposed to introduce a Health District 3 - Health Services Transitional zone in order to allow low-impact, health service uses to create a transitional area between Kelowna General Hospital and the established residential neighbourhoods in the surrounding area.

3.0 Policy & Planning

This planning exercise was initiated in response to the impact of Kelowna General Hospital (KGH) activities on the surrounding residential neighbourhood, particularly concerning building interface, emergency access and parking. The Centennial Building, associated helipad and Emergency Department, as well as the new parking lot on the north side of Royal Avenue are all necessary operational improvements; however, they have impacted livability for area residents and present a challenging interface. Additionally, the parkades on the south side of the KGH campus have resulted in interface concerns with adjacent properties along Christleton Avenue, which are separated by only a lane. The areas both north and south of KGH present an opportunity for low-impact health services uses to create a transitional zone between KGH and the established residential neighbourhoods.

As outlined in the OCP, the Health District designation is intended for development that is supportive of KGH or other health administration operations, health education, patient services or care facility operation, within the current boundary east of Pandosy Street. The long-term goal is to direct complimentary health services uses to this area with eventual connectivity to the Cottonwoods Care Centre. The purpose of this Phase 1 Hospital Area Interface planning exercise is to review uses and boundaries for the blocks immediately north and south of the KGH campus and to establish defined interface boundaries. The goal is to preserve the integrity of the adjacent residential areas while allowing a transitional use and building form that is compatible with the established residential character, with more intensive uses and developments concentrated east of Pandosy Street.

The Health District 3 (HD3) - Health Services Transitional Zone would allow for small-scale health services that are generally compatible with residential land uses and building form, which will be

capable of being located in a neighbourhood setting. Building design shall reflect the scale and context of nearby residential areas.

The Phase 1 study area is bounded by Glenwood Avenue to the north, Pandosy Street to the east, the properties on the south side of Christleton Avenue to the south (inclusive of those properties), and Abbott Street to the west¹. A survey was delivered to property owners in this area in February 2014 to gather feedback regarding the potential boundary for the HD3 zone along with the specific land use regulations. Property owners were also invited to a neighbourhood meeting in April 2014 to further discuss and refine the proposed regulations. Staff considered public and stakeholder input when evaluating a final boundary recommendation for the designation and zoning regulations.

Through the Hospital Area Planning exercise, the Future Land Use designation for 2303 Abbott Street was given consideration, as it is bordered on three sides by properties designated Educational / Major Institutional. To create a contiguous designation and allow for context appropriate use of this area in the long-term, it is proposed that the Future Land Use designation change to Educational / Major Institutional.

In summary, the proposed boundaries and zone regulations have been arrived at based on consideration of: addressing significant interface issues; preserving the integrity of the residential neighbourhoods; and identifying appropriate transitional uses, built form and character that are sensitive to the residential character of the area. Residents and stakeholders provided input and feedback during the study process, which helped to inform how to create a transitional buffer from KGH activities to the surrounding area. The OCP Health District designation boundary is intended to clearly define the area to be considered for the HD3 zone; by limiting the extent of the HD3 zone, the additional impact to the residential neighbourhoods is anticipated to be minimized. This will assist with maintaining the integrity of the residential neighbourhoods and the Abbott Street Heritage Conservation Area (HCA) while allowing for transitional buffer zones with low-impact health services uses. Other health services uses will be directed to the Health District east of Pandosy Street.

4.0 Proposal

4.1 Background

Staff presented reports to Council on July 29, 2013, December 16, 2013 and June 23, 2014 seeking direction to proceed with the Hospital Area Planning exercise intended to resolve transitional land use issues in neighbourhoods adjacent to KGH.

Major steps in the study process to date have included:

- July 29, 2013: Council support to proceed with the Hospital Area Planning exercise, including meeting with Interior Health (IH);
- September 20, 2013: Staff meeting with IH to discuss neighbourhood interface issues and intent for IH-owned properties;
- December 16, 2013: Council update and support received to proceed with Phase 1 of the study;
- February 2014: Resident survey regarding the proposed HD3 zone and boundaries;
- February 25, 2014: Staff meeting with Interior Health to discuss KGH Campus Planning vision and growth strategy;

¹ See Attachment 4

- March 3, 2014: Meeting with Kelowna Planning Director of the BC Cancer Clinic to discuss future planning needs of this facility;
- April 9, 2014: Neighbourhood Public Open House meeting to gather additional input on the details of the proposed HD3 zone and boundaries;
- April 10, 2014: Residents' Association Meeting (FRAHCAS, KSAN and KLOCNA Associations) to discuss the merits of the proposed boundaries and HD3 zone; and
- June 23, 2014: Council update and support received to proceed with the Health District designation boundary and introduction of the HD3 zone.

Staff have been in consultation with stakeholders and affected property owners throughout the study and have taken into the consideration their suggestions to define the boundaries and land use regulations of the HD3 zone.

4.2 Review of Best Practices

Staff conducted a review of best practices and zoning guidelines for similar hospital campuses that are surrounded primarily by residential uses. The hospitals considered were Vancouver General Hospital (Vancouver, BC), City Hospital (Saskatoon, SK) and the Children's and Women's Health Centre of British Columbia (Vancouver, BC). These hospitals are in neighbourhoods of low-density residential, multi-residential and/or local commercial uses with building heights ranging from one and two storey residential and office buildings to high-rise residential buildings. The Children's and Women's Health Centre of British Columbia is most similar to KGH in its relationship to the surrounding residential area, with a local road acting as the separation between the hospital campus and the surrounding low-density residential area. Based on this review, the uses that were ultimately considered for the proposed HD3 zone are scaled back in terms of built form and use to be site-specific and context sensitive.

4.3 Interior Health Authority

On September 20, 2013, staff met with IH representatives to discuss interface issues and to identify IH-owned properties and their intentions for future use.

IH acknowledged that development on their properties on Christleton Avenue would likely need to be of a nature that complemented the single family residential uses of the surrounding properties, although they do not currently have plans or funding to expand on these properties. Parking remains an important concern for IH, but there are currently no plans for parking expansion. However, Staff reinforced that future parking for this area will be encouraged to be in the Health District area east of Pandosy Street. A more comprehensive review of parking demands, once the buildings currently under construction are completed and in operation, would be beneficial.

In follow-up to the September 2013 meeting, Staff met with IH representatives on February 25, 2014 to further discuss the future use of properties, parking needs and the status of the KGH Master Plan.

IH indicated they are focusing land acquisitions in the area east of Pandosy Street between Royal Avenue and Rose Avenue. With a current parking shortage of 275 spaces, IH intends to use the west side of Speer Street for parking in the future. IH is currently holding the five properties they own on Christleton Avenue and does not anticipate acquiring more properties in this area.

Further expansion at KGH is expected in terms of employee growth, rather than building expansion and the focus will be on re-tasking existing space rather than adding new space. The Heart and Surgical Centre will be the last building constructed as part of the current expansion

program with completion expected in fall 2015. Additional office space is needed, but can be located off-site from KGH.

4.4 Neighbourhood Associations

Friends and Residents of the Abbott Street Heritage Conservation Area Society (FRAHCAS) and Kelowna South-Central Association of Neighbourhoods (KSAN)

Part of the Hospital Area Plan study area is within the Abbott Street HCA and the Friends and Residents of the Abbott Street Heritage Conservation Area Society (FRAHCAS) provided a letter² dated June 5, 2013 stating their preliminary position on the study. FRAHCAS presented several options which staff considered to address the interface, traffic and parking issues that are increasingly impacting residents' quality of life.

Following the public consultation in April 2014, FRAHCAS and KSAN provided a joint letter³ dated April 12, 2014 with some additional considerations for the Hospital Area Plan. They generally support the proposed form and character details of the HD3 zone, including a building height limit of two and a half storeys, with an option for three storeys only where there is a need for surface parking with two storeys above. They stated the need to provide adequate parking to keep vehicles from parking on residential roads.

FRAHCAS and KSAN expressed their support for the inclusion of the north side of Christleton Avenue in the Hospital Area Planning exercise and the HD3 zone to provide guidance for future development and give property owners certainty and permanency about allowed uses in the area. Notably, they remain firm to fielding health-related commercial interests outside of the HD3 boundary and to be directed to the HD2 zone east of Pandosy Street. This direction already established in the OCP will allow a concentration of uses to be established, and to allow sequential growth east as the area builds out and provides the long-term land use connection to the Cottonwoods site.

KLO Central Neighbourhood Association (KLOCNA)

The KLO Central Neighbourhood Association (KLOCNA) provided a letter⁴ dated April 16, 2014 indicating their support for the HD3 zone along Royal Avenue from Long Street to Pandosy Street, with the rear lane as the northern boundary. They generally support the form and character guidelines as well as principle and secondary uses allowed in this zone. KLOCNA suggested the maximum building height be three storeys to allow for surface parking, consistent with other buildings on Royal Avenue and Pandosy Street. They also recommended that all structural facades be required to meet the general form and character bylaws of surrounding neighbourhoods.

KLOCNA encourages clearly defined uses and boundaries for each of the Health District zones to allow for coordinated, long-term planning in the area, including parking and transit improvements.

4.5 Public Consultation

In February 2014 residents within the Phase 1 study area were sent a survey that was available both online and in hard copy to be sent back to the City. This survey was to gauge neighbourhood opinion on possible boundaries for the HD3 zone, as well as determine compatible land uses and regulations for this unique interface.

² See Attachment 5

³ See Attachment 6

⁴ See Attachment 7

Of approximately 90 household surveys that were sent, 42 responses were received. The following is an overview of the feedback:

- The majority of respondents support locating health services uses east of Pandosy Street, and there is modest support for locating HD3 uses within small areas both to the north and south of the hospital;
- The majority of respondents support the following uses in the HD3 zone: bed & breakfasts (88%), low-density housing (78%), health services (75%), minor home-based businesses (70%), carriage houses (69%), supportive housing (64%) and lodging house (57%);
- The majority of respondents agree that the maximum height of new housing, and any potential buildings in the area, should remain at two and a half storeys;
- The majority of respondents (80%) support mixed-use buildings;
- The majority of respondents do not support reduced parking requirements; and
- The majority of respondents support design guidelines in the proposed HD3 zone.

In follow-up to the survey, a neighbourhood meeting was held at City Hall on April 9, 2014. There were 28 residents in attendance at this meeting, and through an informal poll the majority of attendees support a boundary for the new HD3 zone that includes the block of houses adjacent to the new parking lot on Royal Avenue, and the houses immediately abutting the hospital along the north side of Christleton Avenue. Attendees indicated their support for a clearly defined boundary to prevent health services uses from expanding further into the residential area. Attendees generally agreed that the proposed built form of the draft zone were appropriate.

Property owners within the study area were sent a letter dated June 25, 2014 to provide them with an update regarding the Phase 1 Hospital Area Plan and draft HD3 zone. The letter indicated upcoming opportunities to provide input on the recommendations directly to Council and included a map showing the proposed Health District designation boundaries.

Following receipt of this letter, staff received correspondence from the property owner of 2303 Abbott Street requesting inclusion in the recommended Health District designation to allow for smaller scale health services as a transition from institutional uses to residential areas, while maintaining the residential character and liveability of Abbott Street. Although this designation would create a transitional buffer towards Abbott Street, the subject property would still be surrounded by Institutional uses, thus limiting future land use and redevelopment opportunities on both this site and the property immediately to the south (currently designated Educational / Major Institutional). A contiguous Educational / Major Institutional designation is appropriate to allow for context appropriate use of this area in the long-term that remains sensitive to the residential character along Abbott Street.

4.6 Neighborhood Park

Staff considered residents' requests for a park in the study area as a buffer from KGH activities and the parking lot on Royal Avenue. One option examined was to create an urban park at the base of Long Street immediately north of Royal Avenue, restricting vehicular access between the two roads. This park could create a neighbourhood amenity and buffer from KGH while maintaining pedestrian and cycling access between Royal Avenue and the area to the north. By restricting through traffic at this location, vehicles would be directed to Pandosy Street.

Review of this option presented several concerns related to traffic flow and emergency access to KGH. The intersection of Royal Avenue and Pandosy Street is not currently signalized and left turn movements from Royal Avenue can be difficult due to traffic volumes on Pandosy Street. A

signalized intersection at this location has been approved and will assist with traffic flow. Ambulances often use Long Street to access the KGH Emergency Department when Pandosy Street is experiencing high traffic volumes. With restricted access at Long Street, emergency and other vehicles could experience additional delays or use Abbott Street as an alternate route, creating an undesirable situation given the goal of moving traffic east of this area.

The creation of an urban park at this location is not recommended at this time due to the traffic issues and safety concerns for emergency vehicles. This option can be considered in the future once the intersection of Royal Avenue and Pandosy Street is signalized and Royal Avenue is realigned with access through to Richter Street.

4.7 Project Description

Incorporating feedback from area residents, stakeholders and Council, staff have prepared boundary recommendations and proposed zoning regulations for the Hospital Transition Area, as follows.

The Health District designation boundary is proposed for an area north of KGH along Royal Avenue between Long Street and Pandosy Street, and an area south of KGH along the north side of Christleton Avenue between the lane access and Pandosy Street. The Educational / Major Institutional designation is proposed for 2303 Abbott Street, immediately west of KGH. Map #1 shows the proposed changes to the Future Land Use designations.

The subject properties would also be added to the Revitalization Development Permit Area as per Chapter 14 of the OCP, which requires that a development permit addressing design guidelines must be approved for properties that are zoned for health district. Map #2 shows the proposed changes to the Revitalization Development Permit Areas.

The proposal includes an amendment to Chapter 4 of the OCP to reflect the transitional nature of the area west of Pandosy Street.

The proposed HD3 zone would allow for supportive and low-impact health services uses that are compatible with residential land uses and of a built form and character that reflects the scale and context of nearby residential areas. The uses, regulations and design guidelines encourage a transitional buffer from KGH to the surrounding neighbourhoods that is sensitive to the residential character of the area.

The City of Kelowna Zoning Bylaw No. 8000 would be amended to introduce the HD3 zone and associated regulations and definitions in Sections 2, 7, 8 and 17. The City of Kelowna Sign Bylaw No. 8235 would be amended to include the sign regulations for the HD3 zone.

4.8 Site Context

There are a total of 27 subject properties, located in three groupings around the main KGH campus (see Subject Property Map): six properties to the north front on Royal Avenue and Pandosy Street; 20 properties to the south front on Christleton Avenue and Pandosy Street; and one property to the west fronts on Abbott Street. All the subject properties are currently designated S2RES - Single / Two Unit Residential and are zoned for residential uses (RU1, RU1C and RU2).

The properties to the north of KGH are all zoned RU1 - Large Lot Housing and are within the Abbott Street HCA. The new KGH parking being developed on Royal Avenue is located between the subject properties fronting on Royal Avenue and those fronting on Pandosy Street. The parking lot is designated EDINST - Educational / Major Institutional and zoned P1 - Major Institutional. Adjacent land uses are as follows:

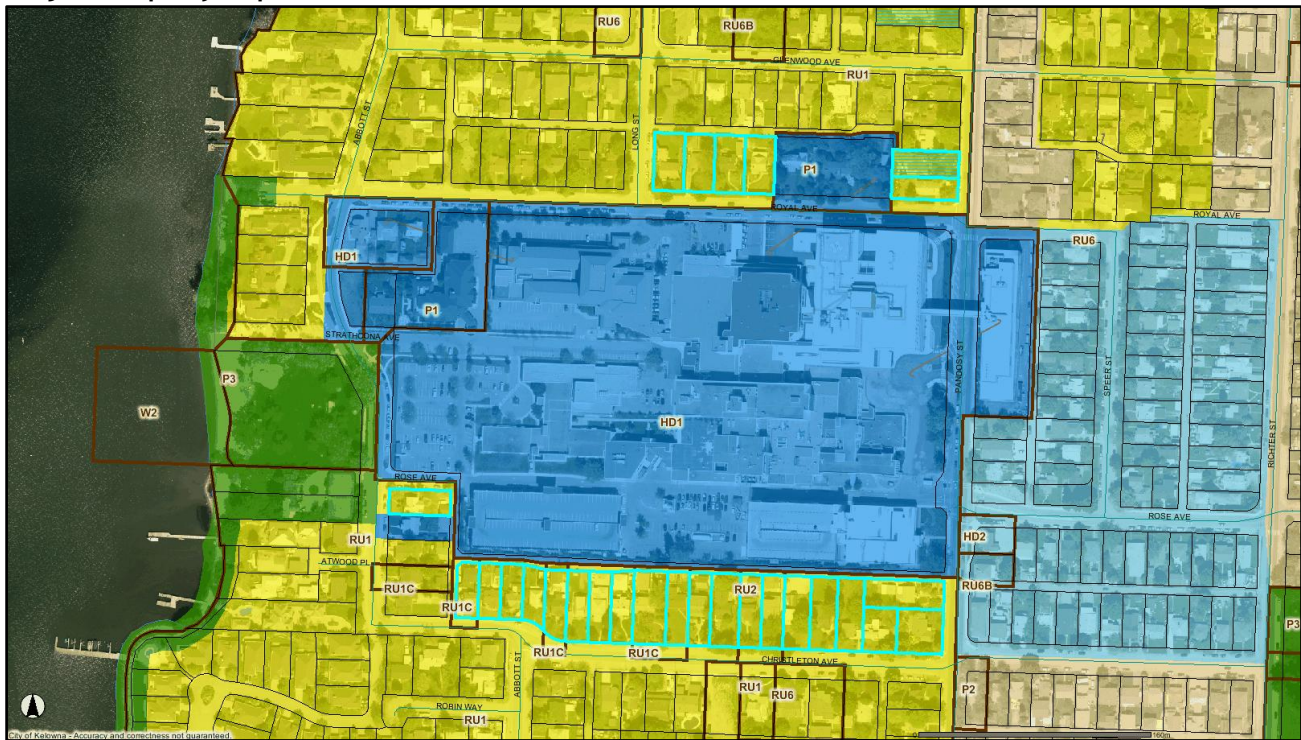
Orientation	Land Use Designation	Zoning	Land Use
North	S2RES - Single / Two Unit Residential	RU1 - Large Lot Housing	Residential
East	MRL - Multiple Unit Residential (Low Density) <i>Collett Manor development proposal would be HLTH - Health District</i>	RU6 - Two Dwelling Housing <i>Proposed Collett Manor development proposal would be HD2 - Hospital & Health Support Services</i>	Residential <i>Proposed Collett Manor development proposal would be institutional, commercial and residential uses</i>
South	EDINST - Educational / Major Institutional	HD1 - Kelowna General Hospital	Kelowna General Hospital (Centennial Building)
West	S2RES - Single / Two Unit Residential	RU1 - Large Lot Housing	Residential

The properties to the south of KGH are primarily zoned RU1, with four properties zoned RU1c - Large Lot Housing with Carriage House, and two properties zoned RU2 - Medium Lot Housing. Adjacent land uses are as follows:

Orientation	Land Use Designation	Zoning	Land Use
North	EDINST - Educational / Major Institutional	HD1 - Kelowna General Hospital	Kelowna General Hospital (Parkades)
East	HLTH - Health District	RU6 - Two Dwelling Housing	Residential
South	S2RES - Single / Two Unit Residential	RU1 - Large Lot Housing RU6 - Two Dwelling Housing	Residential
West	S2RES - Single / Two Unit Residential	RU1 - Large Lot Housing RU1c - Large Lot Housing with Carriage House	Residential

The property at 2303 Abbott Street is zoned RU1 with adjacent land uses as follows:

Orientation	Land Use Designation	Zoning	Land Use
North	EDINST - Educational / Major Institutional	HD1 - Kelowna General Hospital	Kelowna General Hospital (Surface Parking)
East	EDINST - Educational / Major Institutional	HD1 - Kelowna General Hospital	Kelowna General Hospital (Parkades)
South	EDINST - Educational / Major Institutional	RU1 - Large Lot Housing	Residential (currently vacant)
West	PARK - Major Park and Open Space	RU1 - Large Lot Housing	Residential

Subject Property Map:**4.9 Proposed Zoning Regulations**

The proposed HD3 zone subdivision and development regulations are summarized below, with the existing Health District 2 (HD2) - Hospital and Health Support Services zone regulations shown for comparison. The complete proposed regulations are shown in Attachment 8.

Zoning Comparison Table				
CRITERIA	Proposed HD3 Requirements		Existing HD2 Requirements	
	Properties north of KGH	Properties south of KGH	Properties with lot area of 900m ² or more	Properties with lot area less than 900m ²
Existing Lot/Subdivision Regulations				
Minimum Lot Area	490m ²	490m ²	900m ²	490m ²
Maximum Lot Area	n/a	1800m ²	n/a	n/a
Lot Width	13.0m	13.0m	30.0m	13.0m
Lot Depth	30.0m	30.0m	30.0m	30.0m
Development Regulations				
Floor Area Ratio	0.5*	0.5	1.2**	n/a
Site Coverage	50%*	50%*	55%	55%
Height	9.5m or 2 ½ storeys*	9.5m or 2 ½ storeys*	16.5m	9.5m or 2 ½ storeys**
Front Yard	4.5m	4.5m	4.5m	4.5m
Side Yard	2.0-2.3m*	2.0-2.3m*	4.5-6.0m**	2.0-2.3m**
Rear Yard	6.0m*	6.0m*	6.0m**	6.0m**

*Exceptions apply, see Attachment 8 for full regulations

**Exceptions apply, see City of Kelowna Zoning Bylaw No. 8000, Section 17 for details

5.0 Current Development Policies

5.1 Kelowna Official Community Plan (OCP)

Development Process

Heritage Conservation Areas.⁵ Continue to recognize the established heritage conservation areas of Abbott Street and Marshall Street as identified on Map 9.1.

Health Care Facilities.⁶ Support the extension of services and appropriate building expansions of the Kelowna General Hospital and other health care facilities, as provided for on the Generalized Future Land Use Map 4.1. The form and character of future expansions should be compatible with the surrounding neighbourhood context.

6.0 Technical Comments

6.1 Development Engineering Department

Some transportation infrastructure improvements are needed to facilitate the development of health services uses in the proposed health district designation area. IH is completing urbanization of Royal Avenue; therefore further significant road upgrades are not anticipated for these select few properties.

A Traffic Impact Review was completed to identify improvements required along Christleton Avenue and surrounding road network. Recommendations include eventual realignment of the east end of the lane north of Christleton Avenue to Rose Avenue, and upgrading Christleton Avenue to a full urbanized standard.

Improvement costs will be shared among the properties on the north side of Christleton Avenue within the Health District designation as they redevelop. The cash levy will be applied as property owners apply to rezone to HD3 to allow for low-impact health services uses. Based on an average property size of 800m², the *estimated* average cost to property owners for these upgrades is \$20,500, which includes full frontage improvements. (Additional details are provided in Attachment 9: Development Engineering Memorandum).

Report prepared by:

Laura Bentley, Planner

Reviewed by:

☐

D. Noble-Brandt, Department Manager, Policy & Planning

Approved for Inclusion

☐

D. Gilchrist, Divisional Director of Community Planning & Real Estate

⁵ City of Kelowna Official Community Plan, Policy 5.7.4 (Development Process Chapter)

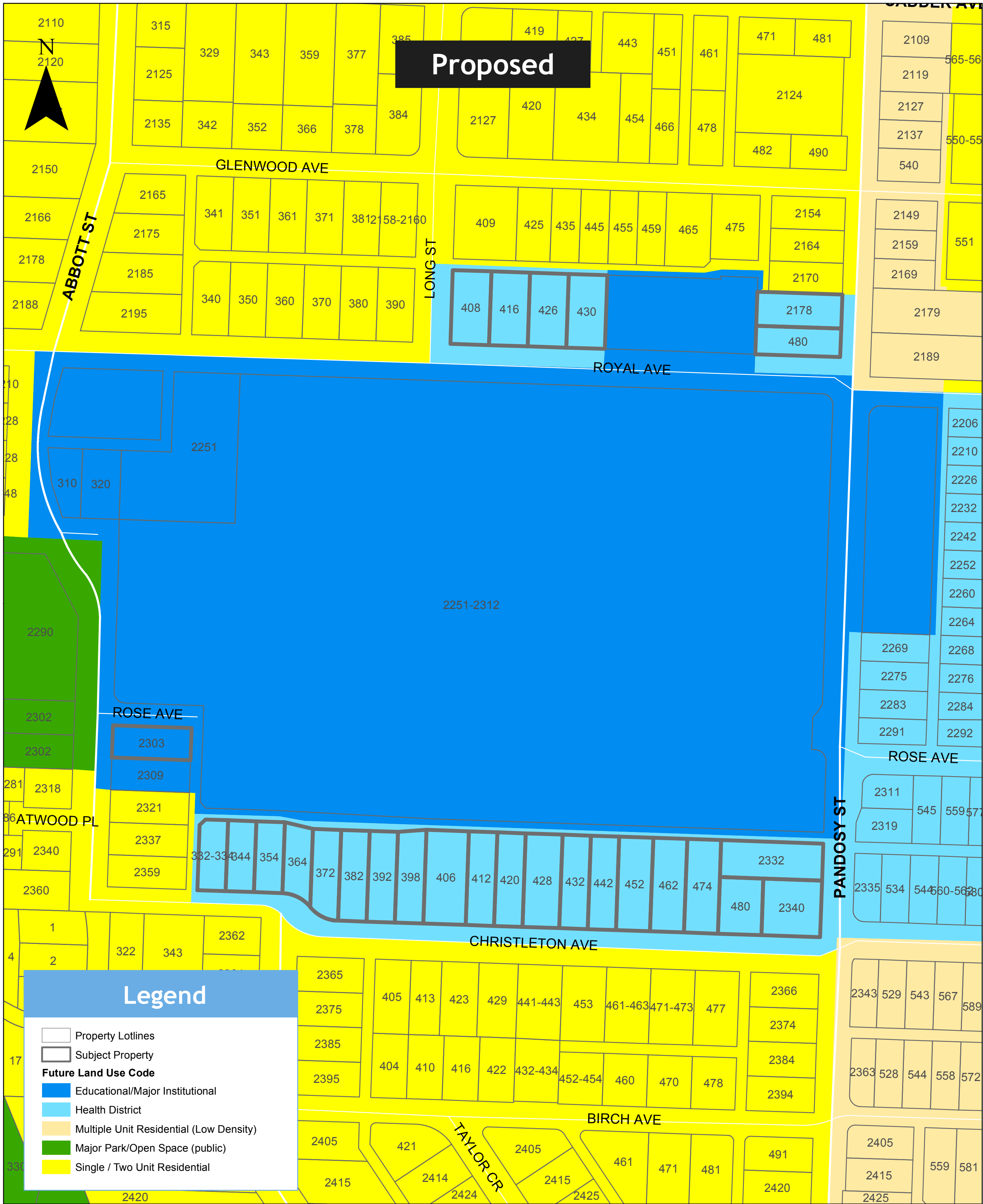
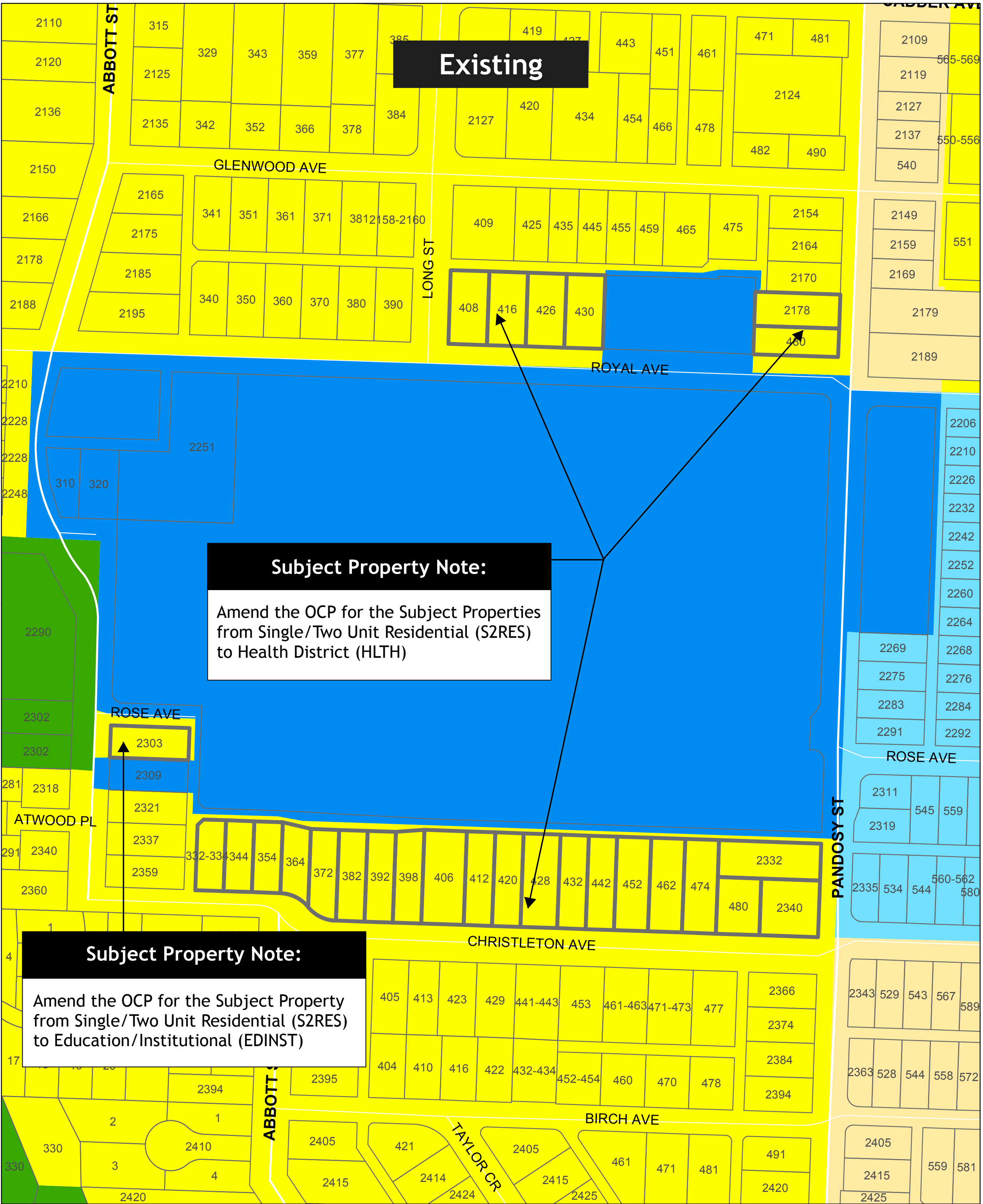
⁶ City of Kelowna Official Community Plan, Policy 5.32.10 (Development Process Chapter)

Attachments:

- Attachment 1 - List of Subject Properties
- Attachment 2 - Map #1 Proposed OCP Map 4.1 Future Land Use Amendments
- Attachment 3 - Map #2 Proposed OCP Map 5.8 Revitalization DP Area Amendments
- Attachment 4 - Map #3 Hospital Area Plan Phase 1 Study Area
- Attachment 5 - FRAHCAS Position Letter, June 5, 2013
- Attachment 6 - FRAHCAS and KSAN Position Letter, April 12, 2014
- Attachment 7 - KLOCNA Position Letter, April 16, 2014
- Attachment 8 - Proposed Health District 3 (HD3) Zone
- Attachment 9 - Development Engineering Memorandum

ATTACHMENT 1: Legal Descriptions, Civic Addresses and Zoning

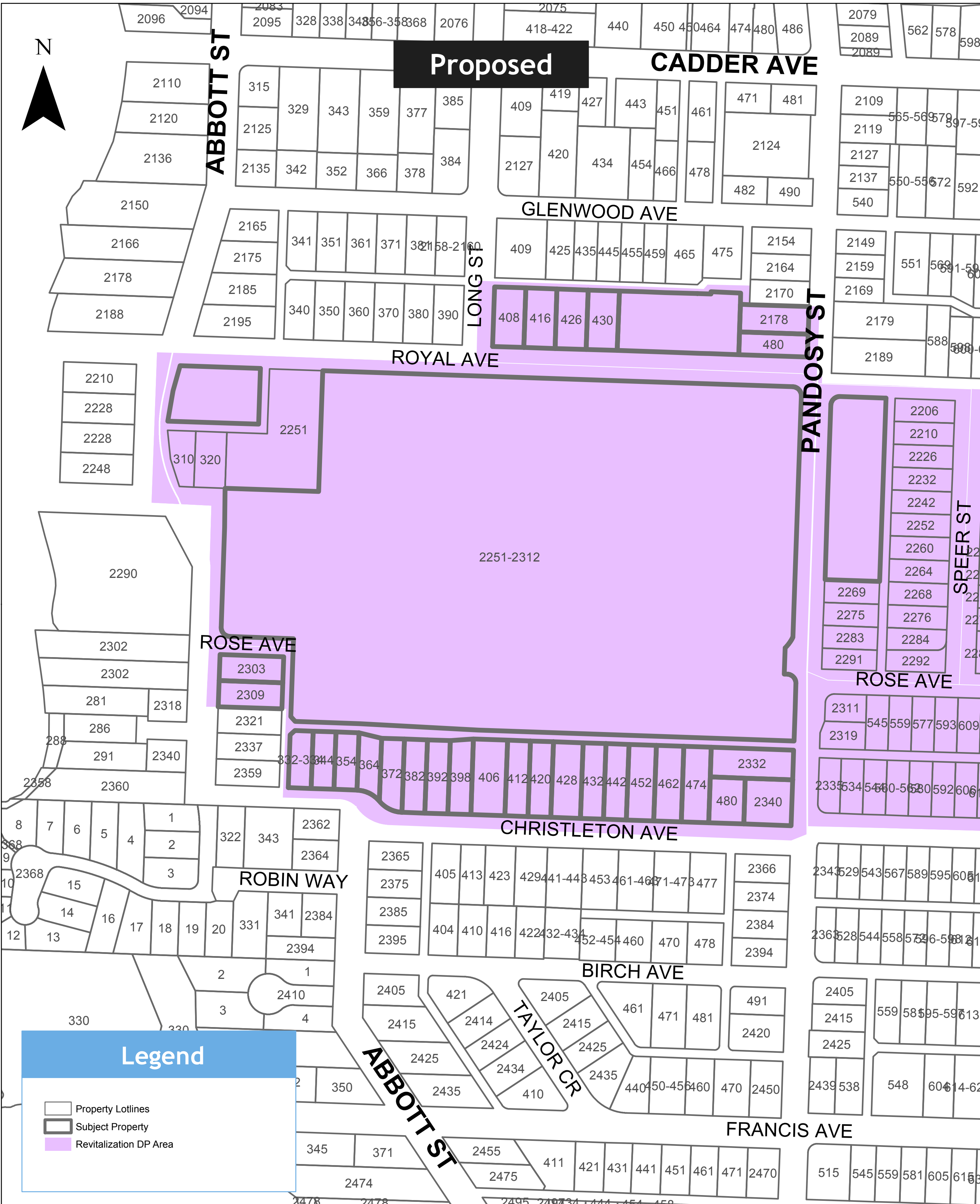
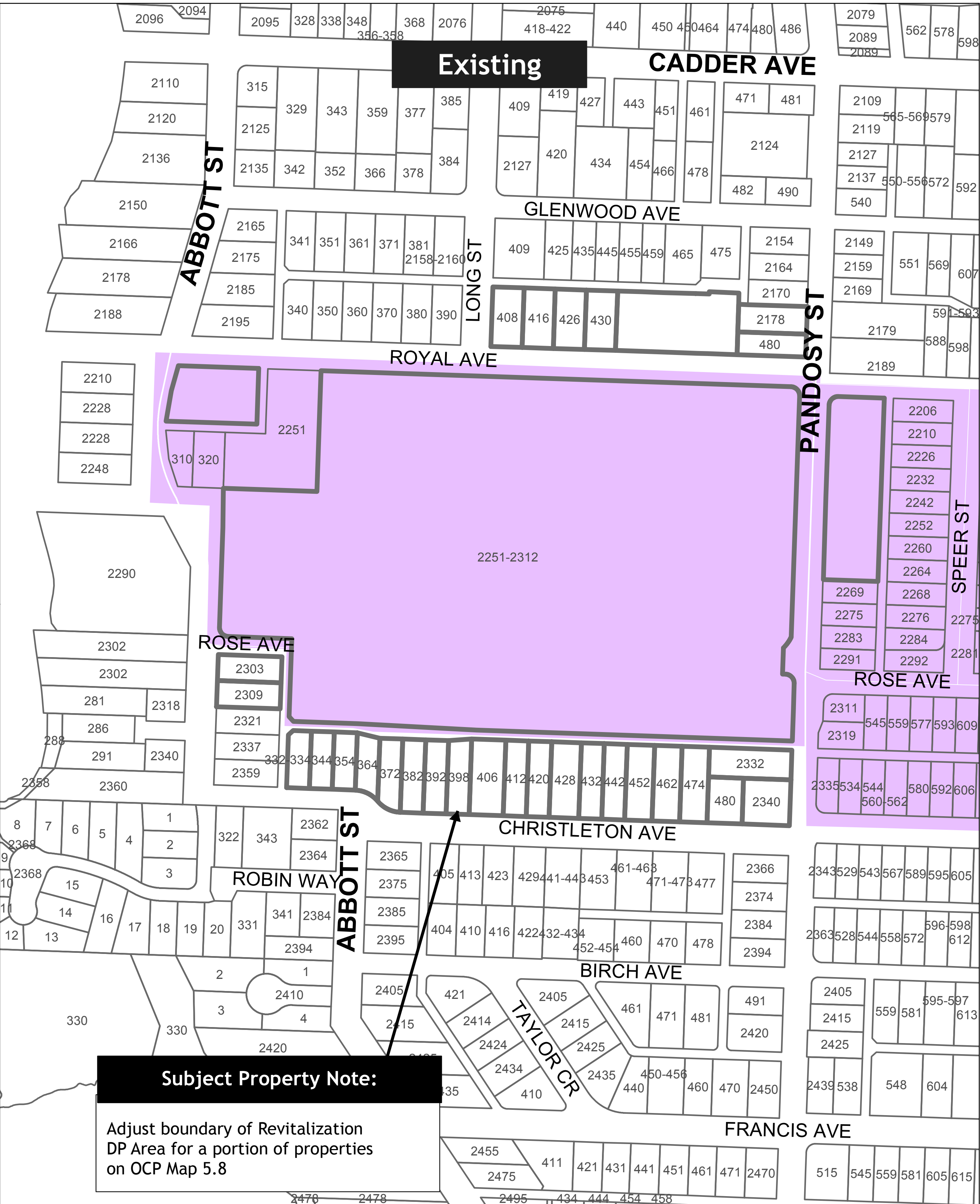
Legal Plan	Civic Address	Current Zoning
Lot 3 District Lot 14 ODYD Plan KAP7535	2178 Pandosy Street	RU1
Lot 1 District Lot 14 ODYD Plan KAP3451	2303 Abbott Street	RU1
Lot 11 District Lot 14 ODYD Plan KAP2553	2332 Pandosy Street	RU1
Lot 2 District Lot 14 ODYD Plan KAP12868	2340 Pandosy Street	RU1
Lot 6 District Lot 14 ODYD Plan KAP3451	332-334 Christleton Avenue	RU1C
Lot 7 District Lot 14 ODYD Plan KAP3451	344 Christleton Avenue	RU1
Lot 8 District Lot 14 ODYD Plan KAP3451	354 Christleton Avenue	RU1
Lot 9 District Lot 14 ODYD Plan KAP3451	364 Christleton Avenue	RU1
Lot 10 District Lot 14 ODYD Plan KAP3451	372 Christleton Avenue	RU1C
Lot 11 District Lot 14 ODYD Plan KAP3451	382 Christleton Avenue	RU1
Lot 12 District Lot 14 ODYD Plan KAP3451	392 Christleton Avenue	RU1
Lot 4 District Lot 14 ODYD Plan KAP4366	398 Christleton Avenue	RU1
Lot 3 District Lot 14 ODYD Plan KAP4366	406 Christleton Avenue	RU1C
Lot 21 District Lot 14 ODYD Plan KAP3393	408 Royal Avenue	RU1
Lot 2 District Lot 14 ODYD Plan KAP4366	412 Christleton Avenue	RU1C
Lot 22 District Lot 14 ODYD Plan KAP3393	416 Royal Avenue	RU1
Lot 1 District Lot 14 ODYD Plan KAP4366	420 Christleton Avenue	RU1
Lot 23 District Lot 14 ODYD Plan KAP3393	426 Royal Avenue	RU1
Lot 2 District Lot 14 ODYD Plan KAP2553	428 Christleton Avenue	RU1
Lot 24 District Lot 14 ODYD Plan KAP3393	430 Royal Avenue	RU1
Lot A District Lot 14 ODYD Plan KAP60634	432 Christleton Avenue	RU2
Lot B District Lot 14 ODYD Plan KAP60634	442 Christleton Avenue	RU2
Lot B District Lot 14 ODYD Plan KAP7206	452 Christleton Avenue	RU1
Lot 13 District Lot 14 ODYD Plan KAP2553	462 Christleton Avenue	RU1
Lot 12 District Lot 14 ODYD Plan KAP2553	474 Christleton Avenue	RU1
Lot 1 District Lot 14 ODYD Plan KAP12868	480 Christleton Avenue	RU1
Lot 4 District Lot 14 ODYD Plan KAP7535	480 Royal Avenue	RU1



Proposed OCP Map 4.1 Future Land Use Amendments Bylaw 10980 - Map # 1

July 2014

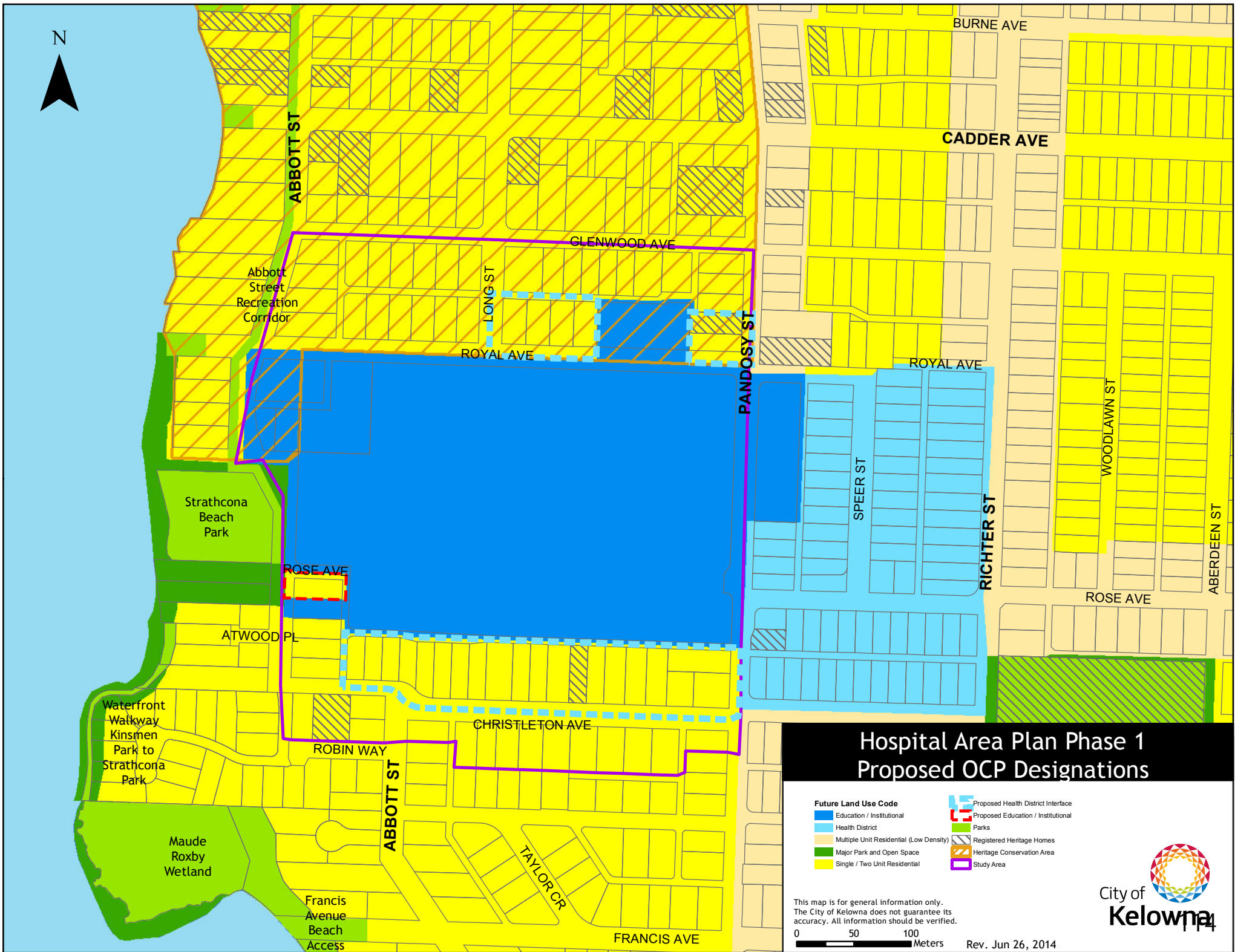




Proposed OCP Map 5.8 Revitalization DP Area Amendments Bylaw 10980 - Map # 2

July 2014





Hospital Area Plan Phase 1 Proposed OCP Designations

- This map is for general information only.
The City of Kelowna does not guarantee its
accuracy. All information should be verified.
- 0 50 100 Meters
- Rev. Jun 26, 2014



June 5, 2013

To: **Shelley Gambacourt**, Acting Director, Policy & Planning
Alec Warrender, Land Use Planner
Land Use Management Department

From: James Avery, Pres. FRAHCAS

Subject: **"VOX POPULI" / THREE INTER-RELATED PROPOSALS :**

- Heritage Area Boundary Review
- Z13-0015: Interior Health Association (IHA) Emergency Parking Lot
- OCP/HAP13-0004: 434 Royal Ave., move or demolition request

All of these very serious items relate to the documented interface issues pursuant to expansion in operations by Interior Health and as such all three suggest the need for concurrent consideration. It is the intent of this writer to both document and openly share our findings with those most interested in and directly responsible for these considerations.

On January 28 of this year Council passed a resolution asking City staff to prepare a report examining the interface issues resulting from expanded operations of Kelowna General Hospital. That the Interior Health Association (IHA) has a mandate to address the ever growing demands for medical services both within our community and beyond is understood. This expansion however has severely impacted the quality of life once enjoyed by residential homes in this immediate area of KGH. Particularly affected are those homes along Royal Ave. in close proximity to the emergency operations. Inevitably the economic significance of KGH operations both present day and pending has already and will increasingly spawn commercial development interest in this area. This point is duly noted in my correspondence with Mayor Walter Gray (File No. 0700-40).

The challenge then for all concerned and particularly for those of executive decision is to find the most appropriate compromise that balances the needs of IHA's expanded footprint with sensitivity to the quality of life impact for any and all residences caught up in this interface. At stake is the integrity of the Heritage Conservation Area, a unique and prized City of Kelowna asset for residents and non-residents alike.

The "buffer zone" concept tabled in January by Brian Anderson, Chair of the Community Heritage Committee (CHC) was initially received by most with some misgivings. This is understandable given the implications. It is only with months of assessment and considerable testimonials from affected residents that this proposal is now received with a sense of practicality.

This practicality flows from acceptance that the dramatic increase in traffic into this area and related parking issues on residential streets supports IHA's interest in a parking lot to accommodate ER staff and patients, as well as a broader consideration of the impact to the residential quality of life in this immediate area*.

** residents located on Royal Ave. and Glenwood Ave as well as Pandosy St. and Long St..*

PROPOSED KGH EMERGENCY PARKING LOT

Much of the input that informs this document culminated in a facilitated dialogue on April 23 with these residents deemed most affected by the proposed IHA parking lot. The convention of affording some weight to the thoughts of those most immediately affected in such a situation is well established. Moreover these individuals have been experiencing the interface issues most intimately and were highly motivated to finding practical resolutions for same.

As the facilitator of these discussions I was struck with the patience of each attendee to fully hear and understand the diverse positions ranging from those committed to gaining back some residential quality of life along side those equally committed to leaving.

I wish to share for your consideration the items prepared by this amazing group. Please note that each item documented was passed by consensus (i.e., this is not merely a list of individual requests but a list of items discussed and adopted by way of consensus).

Moreover many of these items are intended to compliment one another (i.e., they should be considered in concert with one another as opposed to being considered severally).

A prime example of this point is to note that their acceptance of the proposed IHA ground level parking lot is contingent upon the following:

* Long term assurance of a surface only parking lot by way of a covenant or preferably by way of a unique "buffer zone" code. We propose HD3 could be created and used not only in this area but may be an applicable option for other points of interface between IHA and established residential areas. The HD3 code proposed would allow for daytime only commercial operations within repurposed existing residences or new builds, limit new buildings to 2 1/2 stories as is currently the case, ensure new buildings design and landscaping would be sensitive to a residential heritage look and feel. Most importantly it is vital that surface parking only is a feature of any/all developments within the "buffer zone". If a prospective commercial buyer in this "buffer zone" was afforded HD2 or other zoning that allowed for a parking facility beyond surface parking, the proposed covenant with IHA could be deemed prejudicial. This alone supports the notion of a unique HD3 buffer zone that stipulates surface parking only for all development (i.e., prejudice towards none).

* Robustly enforced Resident Only Parking (RPO) on the Royal Ave., Glenwood Ave., and Long Street to Glenwood Ave..

* Closure of a walkway that currently fosters pedestrian traffic between Glenwood Ave., and Royal Ave.. (It is understood and supported that IHA will want to acquire this same walkway to integrate their 3 lots for the proposed parking lot).

* Various design details of the parking lot (as per attached). These details and any variances required are intended to minimize negative impacts to residents in the immediately defined area with respect to aesthetics, noise, lighting, traffic flow, pedestrian traffic through yards, littering, smoking, ... IHA has integrated many of these requests into the proposal most recently submitted to City Planning.

Again, the comprehensive scope and depth of thought provided by this group of residents is most impressive. If IHA is afforded approval of the proposed parking lot without ROP or without enforcement of ROP, it will be most embarrassing for all concerned to see ongoing parking issues on these immediate streets along side an empty parking lot. IHA will require many years to amortize the \$3 million plus in land and construction cost of a surface parking lot. Thus ROP enforcement will be crucial to their investment return as well. Support for the need of ROP as an effective solution in this area is also apparent in the recently published report by Urban Systems on traffic and parking issues within the City of Kelowna.

PROPOSED HERITAGE CONSERVATION AREA (SOUTHERN BOUNDARY)

These residents also gave serious consideration to determining the scope of the "buffer zone" commensurate with the concentration of interface issues. Whereas the Emergency operation of KGH is the principal core of the interface issues it is accepted that the proposed "buffer zone" would also run on Royal Ave. from Pandosy St. to Long St. with the new boundary for the Heritage Conservation Area defaulting to the back lane that runs behind these lots. This position also respects those residents who reside on Royal Ave. between Long St. and Abbott St. who have not experienced the interface issues to the same degree and would choose to remain RU1 residential.

As indicated, it is the thoughtful list of considerations itemized by residents (see attached document) that has served to inform both FRAHCAS (Friends and Residents of the Abbott Street Conservation Society) and the broader neighbourhood society (KSAN). We jointly stand in support of the consensus reached by these residents.

I have met regularly with Doug Levell, Real Estate Services Manager, and David Fowler, Project Manager, et al., from IHA. Each of the aforementioned has stated their general support for this consensus driven process and the resultant positions expressed. I also met with Brian Anderson post the committee hearing of May 2 wherein he indicated support of the back lane behind Royal Ave. as the natural choice as a revised southern

boundary of the Heritage Conservation Area. I will continue to seek support beyond the publishing of this position paper.

HAP13-0004 / 434 ROYAL AVE DISPOSITION

As this address represents a registered heritage home situated on one of the 3 lots that IHA is intending to develop as a surface parking lot, its disposition must also be considered and determined concurrent with the above proposals. In this regard I have had multiple discussions with Doug Levell, Realestate Services Mgr., IHA. We (FRAHCAS) have put forward the notion that failing an interested party who would purchase this historic home outright and relocate same to a residential lot, it could potentially serve as basis of a commercial “tea house” in Kelowna City Park (similar to the very popular Tea House Restaurant located in Stanley Park, Vancouver). It has been suggested that IHA would contribute an amount equal to potential demolition costs towards the overall cost of relocation. Our local historian and board member, Marietta Lightbody has reminded us of past building relocations using a barge by way of Okanagan Lake (including the Eldorado Hotel). It is at the very least conceivable that this home could be barged to City Park for the above repurposing. It would create an historic event and a public relations event at the same time.

In closing I hope that I have fulfilled my objective of preparing a position paper that reflects political consensus among various parties involved with these three pending matters: Heritage Boundary Review and Proposed Parking Lot for KGH Emergency and disposition of the registered heritage home (434 Royal Ave.). I respectfully submit for your due consideration on all counts.

Sincerely,

James Avery
FRAHCAS President
1850 Abbott Street, Kelowna
V1Y 1B5

CC: Mayor and City Council
Community Heritage Committee
Birte Decloux, Community Sustainability Div./Land Use Mgmt. Dept.
Doug Levell, Realestate Serv. Mgr., IHA
David Fowler, Project Mgr., IHA
FRAHCAS board members
KSAN board members
Residents Affected

April 12, 2014

To: Danielle Noble-Brandt
Dept. Manager, Policy & Planning
cc: Lindsey Ganczar - Planner II
Janine Taylor - Community Engagement Advisor
Board Members of KSAN
Board Members of FRAHCAS

Subject: **FRAHCAS/KSAN Position Summary**
Health District Study
Stakeholder Meeting at City Hall (April 10)

Dear Danielle,

Let us express once again our gratitude for the apparent thoughtfulness with which your team has undertaken the challenge of this matter. We appreciate fully the opportunity to participate in a dialogue intended to broaden our mutual understandings.

It is the purpose of this letter to summarize and document the shared position of FRAHCAS/KSAN. For the most part our position is contained in the formal Position Paper of June 5, 2013 and so this document may be considered an addendum to it. The elements of our joint position were arrived at by way of consensus of residents and it is gratifying to hear that this consensus position was upheld by residents in their survey responses as well as your Resident Meeting of April 9 at City Hall.

SECTION 17 - HEALTH DISTRICT ZONE PARAMETERS:

Clearly your team has developed well reasoned parameters for HD3 as a transition zone within the Hospital District including the application of the Abbott Street and Marshall Street Heritage Conservation Area design guidelines. This attention to detail and sensitivity to the nature of development permitted is further evident in the minimum and maximum lot sizing/dimensions, massing percentages, setbacks, landscaping buffers, and of course the itemized principal and secondary uses applicable to HD3 zoning. Our initial perusal of these proposed items finds general acceptance and nothing inconsistent with the intended transition character sought for this zone. Our current reservations and thoughts are limited and follow below. More may follow once we more fully digest these details however we extend our compliments to you and your team for the obvious due diligence inherent in their work.

BUILDING HEIGHT/ONSITE PARKING:

FRAHCAS/KSAN would like to support the prevailing consensus for an HD3 building height limit of 2 1/2 stories. That said, the notion you put forward that an additional 1/2 story (3 stories total) could allow for ground level parking on site with 2 stories of space above is worthy of consideration particularly in the context of the caveat that variance requests for same are likely. Moreover these variance requests could invite additional undoing of the proposed HD3 zoning parameters. We appreciate greatly your mention of this caveat.

Residents in the area will be highly sensitive to additional demand for parking on residential streets. There may be a reasonable compromise position whereby 2 1/2 stories is the prescribed height limit with a 3 story limit ONLY allowed for a building design that dedicates the surface level of the building to parking. This proviso trades 1/2 additional story height for dedicated parking stalls intended to keep vehicles off residential streets. We would not want to support a 3 story height limit without the parking proviso assurance however.

PROPOSED HERITAGE AREA BOUNDARY CHANGES:

With respect to the proposed boundary changes to allow for HD3 zoning, taking homes out of the Abbott Heritage Conservation Area, we hold to our Position Paper parameters that consider only those homes situated on Royal Ave. between Pandosy and Long Streets. It is my understanding from you that a consensus of residents also reaffirmed this position at your April 9 meeting. We acknowledge that the City of Kelowna must address traffic issues both current and future that will involve properties in the area of Royal Avenue and along Pandosy Street. To date the City's plan with respect to this has not formed part of our discussion and this aspect has been set aside (perhaps for Phase II). Of course we invite the opportunity to participate on a broader discussion when all appropriate parties are ready to do so.

DISPOSITION OF CHRISTLETON AVENUE:

With respect to the question to include or defer Christleton Avenue for consideration of HD3, it must be acknowledged that 2 distinct camps exist (one for no change and the other favours HD3). I should point out to you that residents on Royal Avenue began with a similar polarizing stance. It was stated that the rationale (in part) to defer HD3 designation related to potential traffic flow issues as Christleton Avenue does not intersect cleanly with Pandosy Street in a way that would allow for a proper intersection as well as limitations of the rear lane. You will recall this led our discussion to consider the notion of blocking off Christleton Avenue at Pandosy Street and the possible benefits of eliminating an intersection along Pandosy Street. Obviously this thought prompts the need for further discussion and consideration by various departments and stakeholders.

On this same matter, we believe there is an emotional burden overhanging those Christleton Avenue residents both for and against the application of HD3 zoning in not knowing if or when the rezoning might eventuate. If it is determined that this street of residents will inevitably experience the impact of KGH growth and related activities in a way that will diminish residential desirability then perhaps it makes sense to apply the HD3 zone now.

There is a shortfall of parking available to meet current demand of KGH employees that currently numbers in the hundreds of spaces. This does not even take into account the exponential growth in demand that is pending once the expanded towers are staffed, additional patients added and of course the multiple of visitors per patient added to the equation. It is speculated that Interior Health Authority may intend the lots they currently hold in this area be rezoned for parkade(s). This would certainly impact residents in the area.

Rezoning Christleton Avenue to HD3 at this time allows owners of property to act from a place of knowing as opposed to an impending or overhanging possibility. Moreover failure to apply HD3 at this time leaves the door open for properties to change hands with the same conflicting positions and interests mentioned above. Commercial interests will undoubtedly acquire RU1 properties and increasingly advocate for HD3 status (perhaps HD2 or other) on a piecemeal basis. One additional reason for doing so now in this scenario is that HD3 (as proposed in Section 17 - Health District Zone) reflects uses that have been duly considered as transitional between the hospital proper (HD1) and residential communities to the north and south. We subscribe to the position that it is best to apply these limitations to the immediate area around the hospital concurrently so as to avoid requests that would not otherwise comply with the proposed HD3.

Let's make it clear for all (residents, speculators, City staff, City Council alike). In this way commercial interests beyond the defined limitations of HD3 can then be directed to the designated HD2 area east of Pandosy Street.

Thank you for this opportunity to share our thoughts.

Sincerely,

Concur:

James Avery
FRAHCAS President

Debby Helf
KSAN President



April 16, 2014

Lindsey Ganczar
Planner II
Policy and Planning
City Hall
1435 Water Street,
Kelowna, BC V1Y 1J4

Re: Hospital Area Plan HD3 Zoning

Dear Lindsey,

Thank you for the opportunity to provide feedback along with other neighbourhood associations regarding the proposed changes to the zoning bylaws related to the Kelowna General Hospital area.

We support the creation of a transitional zone (HD3) from the Kelowna General Hospital campus to the established residential neighbourhood to the north that would include supportive and low-impact health services. Ideally we would suggest that this northern area include the properties on the north side of Royal from Long to Pandosy using the east-west alleyway as the northern boundary. (See attached map)

The Association, in principle, supports the form and character guidelines and the principal and secondary uses outlined for the proposed HD3 zone. However, we would recommend that the maximum building height be changed from 2 ^{1/2} storeys to 3 storeys to facilitate ground floor parking. This height limit would be consistent with the 3 story building heights on Royal Avenue and Pandosy Street. We would also recommend that all structural facades of buildings constructed under HD3 bylaw be required to meet the general form and character bylaws of the surrounding neighborhoods. This would mean that laneway and driveway accessed ground floor parking areas would also have to be compatible with the general form and character of the immediately adjacent neighbourhood.

In order to make the new structures compatible with the surrounding neighborhoods we support the proposed maximum lot area for consolidation of 1700 m². We also support the inclusion of detailed and rigorous form and character regulations for any new structures constructed in the new HD3 zone. These regulations should include provisions for permeable fencing and prominent entrances. We would also request a requirement for covenants to be placed on title covering the compulsory Level 2 & 3 landscape buffers located in the setback areas of each new complex or structure initiated under this bylaw. The covenants would ensure that these landscape buffers are properly maintained and that they remain compatible with the adjacent neighborhoods throughout the life of the associated structures.

The Association recommends that the HD3 zoning bylaw is presented to Council within the auspices of a larger Comprehensive Development Bylaw that would include the existing HD1 and HD2 Bylaws. The benefits of doing this are:

- The development boundaries of the Hospital Zone, as roughly outlined on the accompanying map, would be clearly defined:
 - HD1 -the hospital zone that includes the existing campus, the auxiliary building to the east of Pandosy, and the Royal parking lot.
 - HD2 – the planned development area to the east of Pandosy
 - HD3 – the areas described immediately north of the hospital campus.
- The preamble and purpose of the Comprehensive Development Zoning Bylaw would clearly define the land uses acceptable within

- the entire zone and would dissuade applications for fast food outlets or drive-through pharmacies in the area.
- The clearly defined comprehensive zone would encourage coordinated, long-term planning for parking and transit improvements.
 - The well-defined development of the zone would stabilize and encourage the current medical support offices existing or being developed in the Pandosy Village neighbourhood.
 - Coordination of the overall form and character of the area could be established along with the establishment of coordinated transition and buffer zones.
 - Future residential and commercial development in the designated areas in the south and south-east of the Pandosy and Mission areas would be forced to recognize and offer solutions to any further traffic congestion and transit problems that would develop within the Pandosy/Richter transportation corridor.

The KLOCNA thanks you for allowing us to be involved in the development of this important bylaw. KLOCNA appreciates the opportunity to participate in neighbourhood planning discussions and sincerely hopes that this type of involvement continues throughout the process of the further redevelopment of the Pandosy corridor and the surrounding areas.

Yours truly,

O. J. (John) Mardall
Vice President, KLO Central Neighbourhood Association
#6 – 3775 Springbrook Road,
Kelowna, BC, V1W 4A3
mardall@telus.net
250-762-4792

Section 17 – Health District Zone

17.3 HD3 –Health Services Transitional

17.3.1 Purpose

The purpose is to provide a transitional zone, including supportive and low-impact health service uses, from the Kelowna General Hospital campus to the established residential neighbourhood to the north and south. For those parcels identified on the boundary map, this zone will allow for small-scale health services that are generally compatible with residential land uses and capable of being located in a neighbourhood setting. Building design should reflect the scale and context of nearby residential areas as established in the *Abbott Street & Marshall Street Heritage Conservation Areas Development Guidelines*.

17.3.2 Principal Uses

17.3.2.1 The **principal uses** in this zone are:

- (a) **boarding or lodging house**
- (b) **group home, minor**
- (c) **health services, minor**
- (d) **health services, major**
- (e) **single detached housing**
- (f) **supportive housing, minor**
- (g) **two dwelling housing**

17.3.2.2 The **secondary uses** in this zone are:

- (a) **bed & breakfast home**
- (b) **carriage house**
- (c) **home based business, minor**
- (d) **secondary suite**

17.3.3 Subdivision Regulations

17.3.3.1 The subdivision regulations for properties north of Kelowna General Hospital (fronting on Royal Avenue and Pandosy Street) are:

- (a) The minimum **lot width** is 13.0m.
- (b) The minimum **lot depth** is 30.0m.
- (c) The minimum **lot area** is 490m².

17.3.3.2 The subdivision regulations for properties south of Kelowna General Hospital (fronting on Christleton Avenue and Pandosy Street) are:

- (a) The minimum **lot width** is 13.0m.
- (b) The minimum **lot depth** is 30.0m.
- (c) The minimum **lot area** is 490m².

- (d) The maximum lot area is 1800m².

17.3.4 Development Regulations

- (a) The maximum floor area ratio is 0.5, except it is 1.0 for properties with a lot area of more than 1800m².
- (b) The maximum site coverage is 50% and together with driveways and parking areas, shall not exceed 60%.
- (c) The maximum building height is the lesser of 9.5m or 2 ½ storeys, except it is 4.5m for accessory buildings.
Where parking spaces are provided totally beneath habitable space of a principal building providing that in all cases, the parking spaces are screened from street frontage view, the maximum building height is the lesser of 10m or 3 storeys, except it is 4.5m for accessory buildings.
- (d) The minimum front yard is 4.5m.
- (e) The minimum side yard is 2.0m for a 1 or 1 ½ storey portion of a building and 2.3m for a 2, 2 ½ or 3 storey portion of a building.
- (f) The minimum rear yard is 6.0m except it is 1.5m for accessory buildings.

17.3.5 Other Regulations

- (a) In addition to the regulations listed in this section, other regulations apply. These include the general development regulations of Section 6, the landscaping and fencing regulations of Section 7, the parking and loading regulations of Section 8 (except as specified by section 1.6 of this zone), and the specific use regulations of Section 9 of Zoning Bylaw No. 8000.
 - (b) Level 2 landscape buffers are required for the side yards and Level 3 landscape buffers are required in the front and rear yard setback areas. A visual screen is required along side or rear lot lines that are adjacent to a residential land use designation. The visual screen may consist of either vegetation or decorative fence or wall. The minimum height of the screen is 1.2m (at maturity for vegetation, planted at a minimum height of 1.0m high on a maximum spacing of 900mm).
 - (c) Vehicle-oriented or drive through services are not permitted in this zone.
 - (d) All vehicle access must be from the rear lane, where a lane is present.
 - (e) One non-illuminated Identification sign, as defined in the City of Kelowna Sign Bylaw No. 8235, which meets the following conditions is permitted per lot:
 - i. 0.23m² maximum area;
 - ii. Placed within, flat against or hanging from the building;
 - iii. For lots fronting on Pandosy Street, signs of this size and dimension may be hung from a free-standing post; and
 - iv. The sign must be of high-quality materials in heritage colours, and consistent with the architectural style of the building.
- One non-illuminated Free-standing sign, as defined in the City of Kelowna Sign Bylaw No. 8235, which meets the following conditions is permitted per lot:
- v. 1.0m² maximum area;
 - vi. Maximum 1.5m above height measured from sidewalk elevation;
 - vii. Minimum 1.0m setback from front property line; and
 - viii. The sign must be of high-quality materials in heritage colours, and consistent with the architectural style of the building.

- (f) The maximum height of fences or landscape screening located in a front yard is 1.0m.

17.3.6 Design Guidelines

The *Abbott Street & Marshall Street Heritage Conservation Areas Development Guidelines* form the basis of the Design Guidelines for those parcels within the Abbott Street Heritage Conservation Area. The following base guidelines shall apply to all parcels in addition to the Revitalization Development Permit Design Guidelines:

- (a) Built form should resemble a residential building design that disguises health services uses and is complimentary to the established residential character.
- (b) Maintain the established front yard setback by placing additions and new constructions within 10% of the adjacent or average building setback.
- (c) Rear setbacks may vary from the established pattern, within the limits of the Zoning Bylaw, to accommodate additions to the residential building footprint.
- (d) The massing of auxiliary buildings should be subordinate to the massing of the principal structure.
- (e) New construction or additions to existing structures are encouraged to maintain the established massing of the streetscape.
- (f) Larger buildings should use architectural design techniques to reduce the apparent massing and emulate the established neighbouring building massing.
- (g) Established block face building spacing, foundation height, proportion, wall to window/door ratio and setbacks of adjacent development are to be considered with new development or additions to existing buildings.
- (h) Roof form complexity, roof line silhouette, and the use of secondary elements (dormers, gables, chimneys, etc.) shall be consistent with the building style.
- (i) Low maintenance materials, of similar design to traditional materials, may be used for buildings not being restored to period authenticity.
- (j) Main entrances should be prominent from the street and are encouraged to adhere to the pattern of the established architectural style.
- (k) Front steps leading to the principal entrance are encouraged to be constructed in a style and of materials consistent with the established architectural style of the building.

CITY OF KELOWNA

MEMORANDUM

Date: June 12, 2014
File No.: Christleton Avenue
To: Policy & Planning (LB)
From: Development Engineering Manager(SM)
Subject: Proposed Hospital District HD3; Christleton Ave & Royal Ave


Development Engineering has the following comments associated with Transportation Issues (TIS) pertaining to this application.

1. Royal Avenue

- (a) As part of the IHA Rezoning Application Z11-0015 and Z13-0015 the transportation improvements to Royal Ave will complete the full urbanization of Royal Avenue therefore no further upgrades would be necessary related to the proposed HD3 zone.

2. Christleton Avenue

- (a) The Traffic Impact Review completed in May, 2014 identified the following improvements required to facilitate the proposed HD3 zone;
 - Realignment of east end Christleton Laneway to Rose Ave
 - Upgrade of Christleton Avenue to a full urbanized standard
- (b) The combined estimated cost of these improvements is \$410,000.00 of which will be cost shared among the 20 properties within the proposed HD3 zone. The cost share will be determined using a land area calculation for the square meter unit cash levy. The total land mass area for Christleton Ave properties is 16,006 square meters (3.96 acres) therefore the Christleton Ave cash levy per square meter cost is \$25.62 complete with an annual rate of inflation increase until such time that enough funding is collected to complete construction. This cash levy does include full frontage improvements including sidewalk, curb and gutter, storm drainage system, boulevard landscaping, pavement fillet and re-location or adjustment of existing utility appurtenances if required to accommodate the upgrading construction but does not include deep service utility or shallow utility upgrades as may be required.
- (c) The development site access to the on-site parking on these lots will be from the rear lane which will trigger the dedication of approximately 1.6m of road right of way and pavement construction for a commercial standard width laneway.
- (d) The on-site parking should include stalls for both staff and visitors which meets the needs on the proposed development.
- (e) The east end of Christleton Avenue Laneway at the intersection of the lane and Pandosy Street will be restricted to right in/right out movements only. This restriction will remain as an interim measure until such time as a turnaround can be created at this location and the lane closed off at Pandosy Street with the potential to redirect traffic to Rose Avenue.



Steve Muenz, P. Eng.
Development Engineering Manager
SS