

ADMINISTRATIVE REPORT



TO: Board of Directors
FROM: J. Zaffino, Chief Administrative Officer
DATE: March 7, 2024
RE: Official Community Plan (OCP) & Zoning Bylaw Amendment – Electoral Area “C” (C2023.013-ZONE)

Administrative Recommendation:

THAT the Electoral Area “C” Official Community Plan Amendment Bylaw No. 2452.24, 2024, and the Okanagan Valley Zoning Amendment Bylaw No. 2800.32, 2024, be read a first and second time and proceed to public hearing;

AND THAT the Board of Directors considers the process, as outlined in this report from the Chief Administrative Officer dated March 7, 2024, to be appropriate consultation for the purpose of Section 475 of the *Local Government Act*;

AND THAT, in accordance with Section 477 of the *Local Government Act*, the Board of Directors has considered Amendment Bylaw No. 2452.24, 2024, in conjunction with its Financial and applicable Waste Management Plans;

AND THAT the holding of a public hearing be scheduled for the Regional District Board meeting of March 21, 2024;

AND THAT staff give notice of the public hearing in accordance with the requirements of the *Local Government Act*.

Purpose: To allow for subdivision and parcel consolidation with 6886 Highway 97 Folio: C-05301.005

Civic: no civic address Legal: Lot 48D, Plan 1729, District Lot 2450S, SDYD

OCP: Agriculture (AG) Zone: Agriculture One (AG1)

Proposed Development:

This application is seeking to amend the zoning of the subject property in order to allow for subdivision and parcel consolidation with the adjacent property located at 6886 Highway 97.

The subdivision is to formalize a historic encroachment of the adjacent vehicle repair use onto a portion of the subject Crown parcel.

In order to accomplish this, the following land use bylaw amendments are being proposed by the applicant for a 0.12 ha portion of the parcel:

- amend the land use designation under Schedule ‘B’ (OCP Map) of the Electoral Area “C” Official Community Plan (OCP) Bylaw No. 2452, 2008, from Agriculture (AG) to Industrial (I); and

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- amend the zoning under Schedule '2' (Zoning Map) of the Okanagan Valley Zoning Bylaw No. 2800, 2022, from Agriculture One (AG1) to General Industrial (I1).

In support of the rezoning, the applicant has stated, amongst other things, that “the OCP and rezoning application will legitimize the existing industrial land use on a portion of crown land and will allow for the continued operation of the existing auto repair business.”

Site Context:

The subject property is an approximately 0.55 ha Crown parcel and is situated on the west side of Highway 97, approximately 38 metres from the boundary with Town of Oliver.

The parcel has been developed with a road providing access to adjacent agricultural properties and is understood to be predominantly used as a right of way for an electrical transmission line.

The surrounding pattern of development is generally characterised by agriculture to the north and south, Crown land to the west and a mix of agriculture, administrative, low density residential and service commercial uses to the east.

Background:

The current boundaries of the subject property were created by a Plan of Subdivision deposited with the Land Titles Office in Kamloops on October 27, 1967, while available Regional District records indicate that building permits have not previously been issued for this property.

BC Assessment has not classified this property.

Official Community Plan

Under the Electoral Area “C” Official Community Plan (OCP) Bylaw No. 24520, 2008, the subject property is currently designated Agriculture (AG).

The Electoral Area “C” OCP includes supportive policies for boundary adjustments between parcels smaller than 4 hectares, subject to approval of the Agricultural Land Commission.

While the OCP includes policies that generally direct industrial uses to town centres, which have the necessary infrastructure to support these uses, the OCP also includes policies encouraging the protection of existing industrial uses.

Zoning Bylaw

Under the Okanagan Valley Zoning Bylaw No. 2800, 2022, the property is currently zoned Agriculture One (AG1) which lists agriculture as a permitted principal use and lists a range of other permitted uses that support agriculture.

The proposed General Industrial (I1) zoning lists a range of industrial uses as permitted principal uses, including a “service industry establishment”.

While the minimum parcel size for subdivision in the Agriculture One (AG1) zone is 4.0 ha, the zoning bylaw includes exemptions to minimum parcel size requirements for boundary adjustments.

The proposed subdivision is proposing a de-facto boundary adjustment, which will occur in two steps due to the need to “raise title” for the Crown parcel before it can be consolidated with the adjacent parcel.

Agricultural Land Reserve

While the subject property is located within the Agricultural Land Reserve (ALR), Section 23(1) (Exceptions) of the *Agricultural Land Commission Act*, states that restrictions on the use of agricultural land do not apply to land that, on December 21, 1972, was, by separate certificate of title issued under the *Land Registry Act* (1960), less than 2.0 acres (0.81 ha) in area.

ALC resolution #325/2023 authorized the subdivision and non-farm use of a 0.12 ha portion of the subject parcel, which is proposed to be consolidated with the adjacent property at 6886 Highway 97.

Subdivision

On April 15, 2020, the Ministry of Transportation and Infrastructure (MoTI) referred a proposed 2 lot subdivision involving the subject property to the Regional District for compliance with any applicable RDOS land use bylaws.

In support of this proposal, the applicant received approval of a Crown Grant over 0.12 ha of the subject property for the purpose of consolidating with the property at 6886 Highway 97.

The intent of the proposed subdivision is to subdivide this 0.12ha portion of the subject Crown parcel into a separately titled lot and immediately consolidate this portion with the adjacent property at 6886 Highway 97.

Referrals:

Approval from the Ministry of Transportation and Infrastructure (MoTI) is required prior to adoption as the proposed amendments involve lands within 800 metres of a controlled access highway (i.e. Highway 97).

Pursuant to Section 476 of the *Local Government Act*, the Regional District must consult with the relevant School District when proposing to amend an OCP for an area that includes the whole or any part of that School District. In this instance, School District No. 53 and 67 have been made aware of the proposed amendment bylaw.

Pursuant to Section 477 of the *Local Government Act*, after first reading the Regional Board must consider the proposed OCP amendment in conjunction with Regional District's current financial and waste management plans. The proposed OCP amendment has been reviewed by the Public Works Department and Finance Department, and it has been determined that the proposed bylaw is consistent with RDOS's current waste management plan and financial plan.

Pursuant to Section 475 of the *Local Government Act*, the Regional District must consult with the Agricultural Land Commission (ALC) when proposing to amend an OCP which might affect agricultural land. Both the ALC and the Ministry of Agriculture have been made aware of the proposed amendment bylaws.

Public Process:

On January 4, 2024, a Public Information Meeting (PIM) was held electronically via Webex and was not attended by any members of the public.

At its meeting of February 21, 2024, the Electoral Area "C" Advisory Planning Commission (APC) resolved to recommend to the RDOS Board that the subject development application be approved.

Administration recommends that the written notification of affected property owners, the public meetings as well as formal referral to the agencies listed at Attachment No. 1, should be considered appropriate consultation for the purpose of Section 475 of the *Local Government Act*. As such, the consultation process undertaken is seen to be sufficiently early and does not need to further ongoing. All comments received to date in relation to this application are included as a separate item on the Board Agenda.

Analysis:

In considering this proposal, Administration notes that OCP policies discouraging subdivision and rezoning of agricultural land are primarily intended to prevent the fragmentation and alienation of productive agricultural land.

In this case, the subject property and the adjacent property at 6886 Highway 97 have not historically been used for agricultural purposes and are of a size that would not be conducive to agriculture.

Further, both parcels were created prior to December 21, 1972 and for this reason, restrictions on the agricultural use of these lands under the *Agricultural Land Commission Act* do not apply.

Administration understands that the 0.12 ha portion of this parcel is subject to a longstanding encroachment by the adjacent vehicle repair use and that the Crown Grant Offer is intended to rectify this encroachment.

For this reason the proposal is seen to be consistent with Electoral Area “C” OCP policies encouraging the protection of existing industrial uses.

Alternative

Conversely, Administration recognises that the Electoral Area “C” OCP generally directs industrial uses to town centres where adequate infrastructure exists to support this type of use.

Summary

In summary, the proposed amendments are seen to rectify a historic encroachment and to protect an existing industrial use. For these reasons, administration is recommending that the proposed amendments be supported.


Alternatives:

1. THAT the Electoral Area “C” Official Community Plan Amendment Bylaw No. 2452.24, 2024, and the Okanagan Valley Zoning Amendment Bylaw No. 2800.32, 2024, be denied.

Respectfully submitted:

Ben Kent
Ben Kent, Planner II

Endorsed By:


C. Garrish, Senior Manager
of Planning

Attachments:

- No. 1 – Agency Referral List
- No. 2 – Applicant’s Site Plan
- No. 3 – Applicant’s Building Elevations
- No. 4 – Site Photo
- No. 5 – Aerial Photo

Attachment No. 1 – Agency Referral List

Referrals have been sent to the following agencies as highlighted with a , regarding Amendment Bylaw No. 2452.24, 2024 and Amendment Bylaw No. 2800.32, 2024:

<input checked="" type="checkbox"/>	Agricultural Land Commission (ALC)	<input checked="" type="checkbox"/>	Fortis
<input type="checkbox"/>	Interior Health Authority (IHA)	<input type="checkbox"/>	City of Penticton
<input checked="" type="checkbox"/>	Ministry of Agriculture	<input type="checkbox"/>	District of Summerland
<input type="checkbox"/>	Ministry of Energy, Mines & Petroleum Resources	<input checked="" type="checkbox"/>	Town of Oliver
<input type="checkbox"/>	Ministry of Municipal Affairs & Housing	<input type="checkbox"/>	Town of Osoyoos
<input type="checkbox"/>	Ministry of Lands, Water and Resource Stewardship	<input type="checkbox"/>	Town of Princeton
<input checked="" type="checkbox"/>	Ministry of Forest, Lands, Natural Resource Operations & Rural Development (Archaeology Branch)	<input type="checkbox"/>	Village of Keremeos
<input type="checkbox"/>	Ministry of Jobs, Trade & Technology	<input checked="" type="checkbox"/>	ONA / OKIB (via NationsConnect)
<input checked="" type="checkbox"/>	Ministry of Transportation and Infrastructure	<input type="checkbox"/>	Environment Canada
<input type="checkbox"/>	Integrated Land Management Bureau	<input type="checkbox"/>	Fisheries and Oceans Canada
<input type="checkbox"/>	BC Parks	<input type="checkbox"/>	Canadian Wildlife Services
<input checked="" type="checkbox"/>	School District #53 (Areas A, B, C, D & G)	<input type="checkbox"/>	OK Falls Irrigation District
<input type="checkbox"/>	School District #58 (Area H)	<input type="checkbox"/>	Kaleden Irrigation District
<input checked="" type="checkbox"/>	School District #67 (Areas D, E, F, I)	<input type="checkbox"/>	Vaseux Lake Irrigation District
<input type="checkbox"/>	Keremeos Irrigation District	<input type="checkbox"/>	Irrigation District / improvement Districts / etc.
<input type="checkbox"/>	Central Okanagan Regional District	<input type="checkbox"/>	Kootenay Boundary Regional District
<input type="checkbox"/>	Thompson Nicola Regional District	<input type="checkbox"/>	Fraser Valley Regional District
<input checked="" type="checkbox"/>	Oliver Fire Department		

Attachment No. 2 – Applicant’s Subdivision Plan

PROPOSED SUBDIVISION PLAN OF PART OF
LOT 48D, DL 2450s, SDYD, PLAN 1729

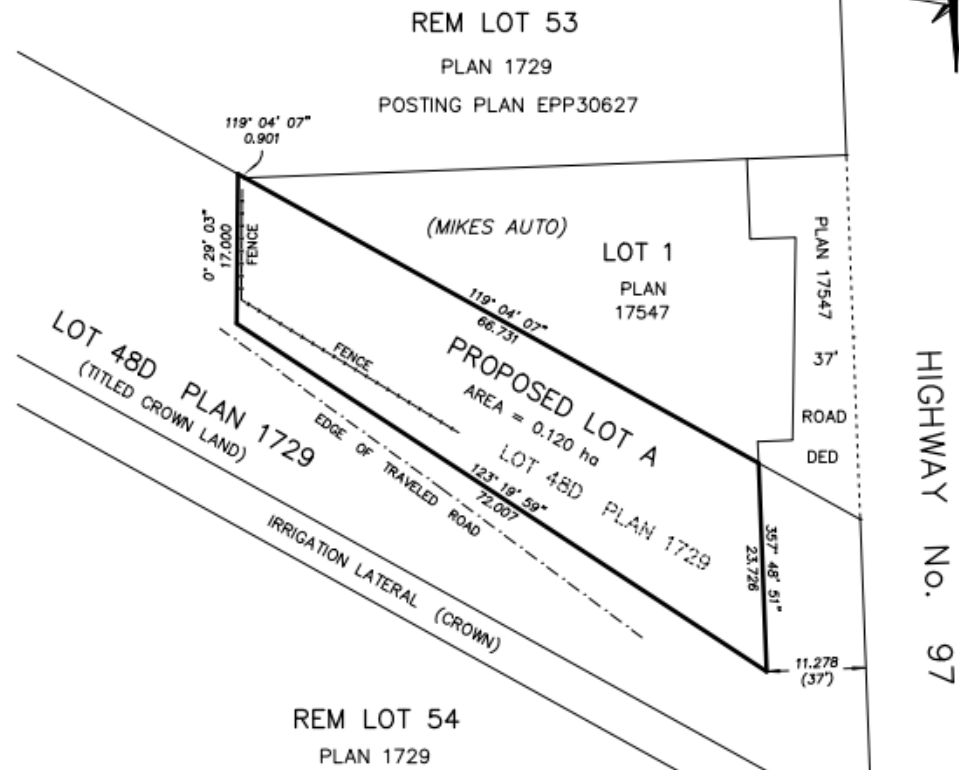
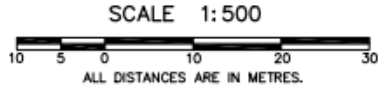
PID: 011-280-573
CHARGES: RIGHT OF WAY F5029 (FORTISBC)

CIVIC ADDRESS:
6886 HIGHWAY 97, OLIVER

CLIENT: M.F. WADMAN'S LTD.

DATE: MARCH 30, 2020

VERSION #1



NOTE:
THIS SUBDIVISION IS TO BE STEP 1, TO ACQUIRE TITLE TO THE CROWN LAND TO BE PURCHASED. STEP 2 IS TO BE THE CONSOLIDATION OF THE PARCEL CREATED IN STEP 1 WITH THE ADJACENT LOT 1 PLAN 17547.

LOT DIMENSIONS ARE DERIVED FROM LAND TITLE OFFICE RECORDS PLAN EPP30627
BEARINGS ARE UTM GRID, ZONE 11
THIS SKETCH PLAN WAS PREPARED FOR SUBDIVISION APPLICATION PURPOSES AND IS FOR THE EXCLUSIVE USE OF THE CLIENT SHOWN.

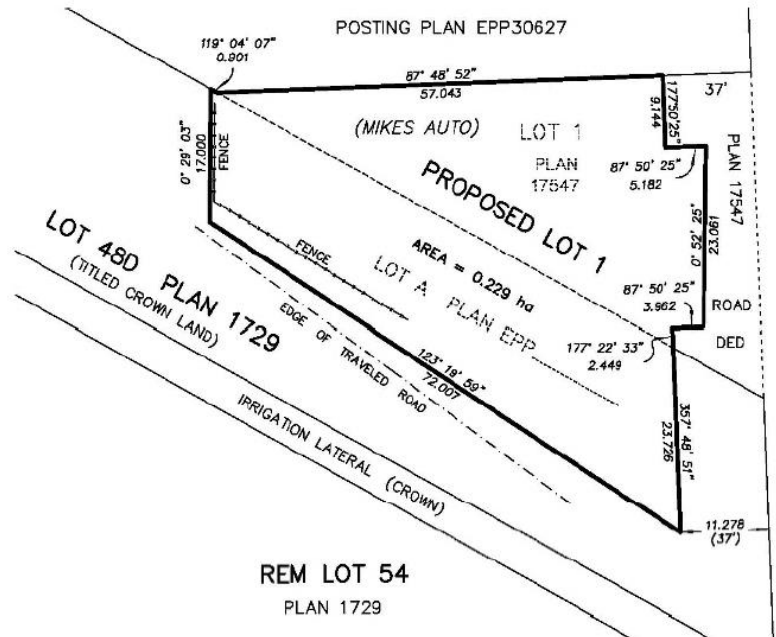
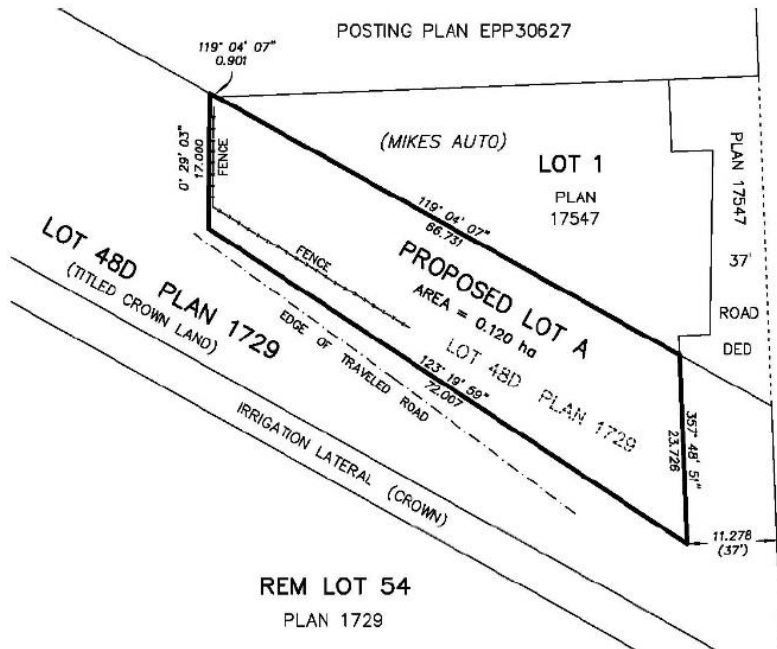
PENDERGRAFT PROFESSIONAL LAND SURVEYING INC.
BOX 640
OSOYOOS, B.C. ©
VOH 1V0
PHONE: (250) 495-7127
email: brad@pendergraftsurveying.ca
OUR FILE NO. 1132322B SUB.DWG
DC FILE NO. 1132322

Attachment No. 3 – Applicant’s Subdivision Plan Steps 1 and 2

Illustration 5: Proposed Subdivision of Crown Land

Step 1

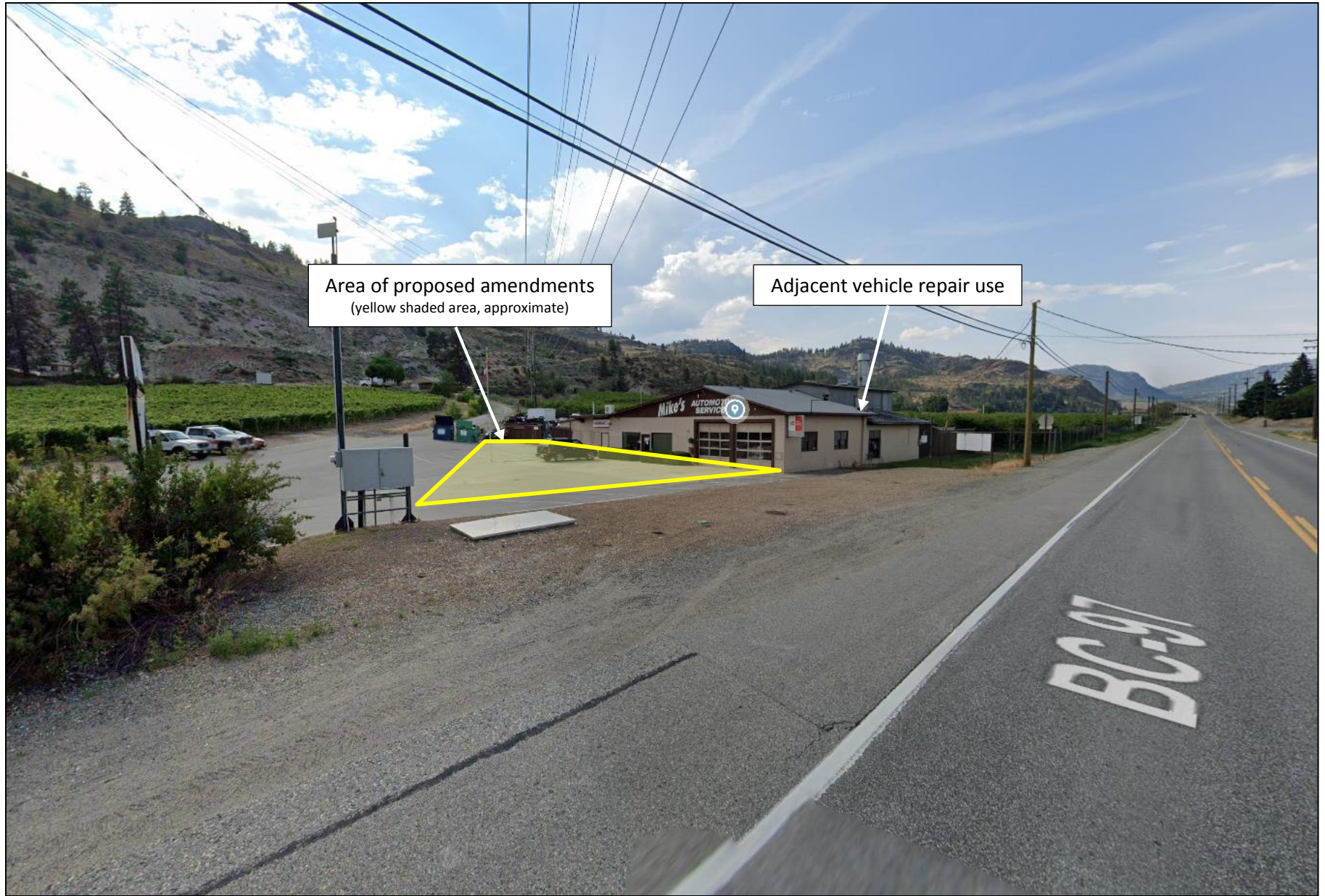
Step 2



HIGHWAY NO. 97

HIGHWAY NO. 97

Attachment No. 4 – Site Photo (Street View)



Attachment No. 5 – Aerial Photo

