

## ADMINISTRATIVE REPORT



**TO:** Board of Directors  
**FROM:** B. Newell, Chief Administrative Officer  
**DATE:** November 18, 2021  
**RE:** Official Community Plan (OCP) & Zoning Bylaw Amendment – Electoral Area “D” (D2021.016-ZONE)

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### Administrative Recommendation:

**THAT Bylaw No. 2603.21, 2021, being a bylaw to amend the Electoral Area “D” OCP to facilitate a land donation to a conservation organization at 4899 Eastside Road; and, Bylaw No. 2455.47, 2021, a bylaw to amend the Electoral Area “D” Zoning Bylaw be read a third time and adopted.**

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<u>Folio:</u>	D-06809.010	<u>Legal:</u> Lot 1, Plan KAP35151, Sublot 38, DL 2710, SDYD
<u>OCP:</u>	part Resource Area (RA); and part Tourist Commercial (CT)	<u>Proposed OCP:</u> part Large Holdings (LH); and part Conservation Area (CA)
<u>Zone:</u>	part Resource Area (RA); and part Tourist Commercial One (CT1)	<u>Proposed Zoning:</u> part Large Holdings Two (LH2) part Conservation Area (CA); and part Tourist Commercial Site Specific (CT1s)

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### Proposed Development:

This application is seeking to amend the zoning of the subject property in order to facilitate a subdivision on the property and create a new 17.4 ha remainder lot and consolidate the remaining 29.2 ha with the adjoining Nature Trust lot to the south.

In order to accomplish this, the following land use bylaw amendments are being proposed by the applicant:

- amend the land use designation under Schedule ‘B’ (OCP Map) of the Electoral Area “D” OCP Bylaw No. 2603, 2013, from part Resource Area (RA), part Tourist Commercial (CT), to part Tourist Commercial (CT); Part Large Holdings (LH); and Part Conservation Area (CA).
- amend the zoning under Schedule ‘2’ (Zoning Map) of the Electoral Area “D” Zoning Bylaw No. 2455, 2008, from part Resource Area (RA); part Tourist Commercial One (CT1), to Part Large Holdings Two (LH2); part conservation Area (CA); and part Site Specific Tourist Commercial One (CT1s).

In support of the rezoning, the applicant has stated that “the current RA zoned area would support two, 20 ha lots. The proposed land use bylaw amendments provide for 29.2 ha of conservation land and a 17 ha rural lot that maintains the very rural, low impact character of this part of Area “D” as well as addressing bylaw non-conformity of a well established tourist accommodation use.”

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**Site Context:**

The subject property is approximately 46.59 ha in area and is situated on the east side of Eastside Road 71 m from the municipal boundary with the City of Penticton. The parcel is comprised of God's Mountain B&B, two accessory dwellings, a pool, agriculture and vacant resource area land.

The surrounding pattern of development is generally characterised by crown land and conservation land with Skaha Lake to the west.

**Background:**

**October 13, 2021** - an electronic Public Information Meeting (PIM) was held and was attended by one member of the public.

**September 14, 2021** - the Electoral Area "D" Advisory Planning Commission (APC) recommended that the subject development application be approved.

**October 21, 2021** - the Regional District approved first and second reading of the amendment bylaws and scheduled a public hearing ahead of its meeting of November 18, 2021.

All comments received prior to the publication of the agenda for the meeting of November 18, 2021, was included in the Agenda.

Approval from the Ministry of Transportation and Infrastructure (MoTI) is not required prior to adoption as the proposed amendments involve lands beyond 800 metres of a controlled access highway (i.e. Highway 97).

**Analysis:**

The proposed amendments will permit the landowner to convey land to Natures Trust of BC, which is generally consistent with the intent of the Plan to protect environmentally sensitive areas. Specifically, the OCP speaks to encouraging the protection, preservation, enhancement and management of sensitive ecosystem through the introduction of conservation area designation and encourages conservation organizations, such as Natures Trust, to acquire land for conservation purposes (Section 17.3.2.7(c) and Section 17.4).

Moreover, the OCP also directs that the Regional District encourage the protection, enhancement and management of sensitive ecosystem through the creation of conservation covenants in favour of private conservation organizations (Section 17.3.2.7(d)).

The proposal is not proposing to create any additional parcels and providing a site specific CT1 zoning will allow currently non-conforming structures to be brought into compliance with the zoning bylaw.

For the western 16.8 ha, LH2 is seen to be an appropriate alternative to the current RA zoning as it features many similarities in terms of permitted uses with the LH zone being only slightly less permissive. The rural holdings zoning is seen to be generally compatible with the surrounding rural character.

In considering the designation change from RA to LH2, Administration notes that the minimum lot size in the LH2 zone is 8.0 ha which would allow the property owner to subdivide the property further in the future. However, the area is constrained by steep slopes, environmentally sensitive ecosystems, and a lack of sanitary sewer infrastructure which would make future subdivision and development difficult.

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Alternative:

Conversely, Administration recognises that it is not generally considered good planning practice to allow “spot zoning” as these are generally divorced from broader strategic land use objectives. In such instances, spot zonings grant privileges to a single parcel which are not granted or extended to other parcels in the vicinity, and which individually may seem harmless, but could incrementally establish a pattern of development that will erode an area’s existing rural character.

In this instance, the introduction of a Large Holdings (LH) designation and zoning would be inconsistent with surrounding land use designations, which are predominantly Resource Area (RA) and would allow for the possible subdivision of the LH zoned area into two new 8.0 ha parcels.

Alternatively, a site specific regulation could be applied in order to maintain the current RA zoning and limit the potential for additional parcels to be created.

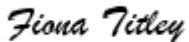
Summary:

The property could be subdivided into a maximum of two new parcels under the current RA zoning and the introduction of the LH2 Zone merely preserves this development potential while allowing the owner to donate a substantial part of the property for conservation purposes.

**Alternatives:**

1. THAT first and second readings of Bylaw No. 2603.21, 2021, Electoral Area “D” Official Community Plan Amendment Bylaw and Bylaw No. 2455.47, 2021, Electoral Area “D” Zoning Amendment Bylaw be rescinded and the bylaws abandoned.

**Respectfully submitted:**



Fiona Titley, Planner I

**Endorsed By:**

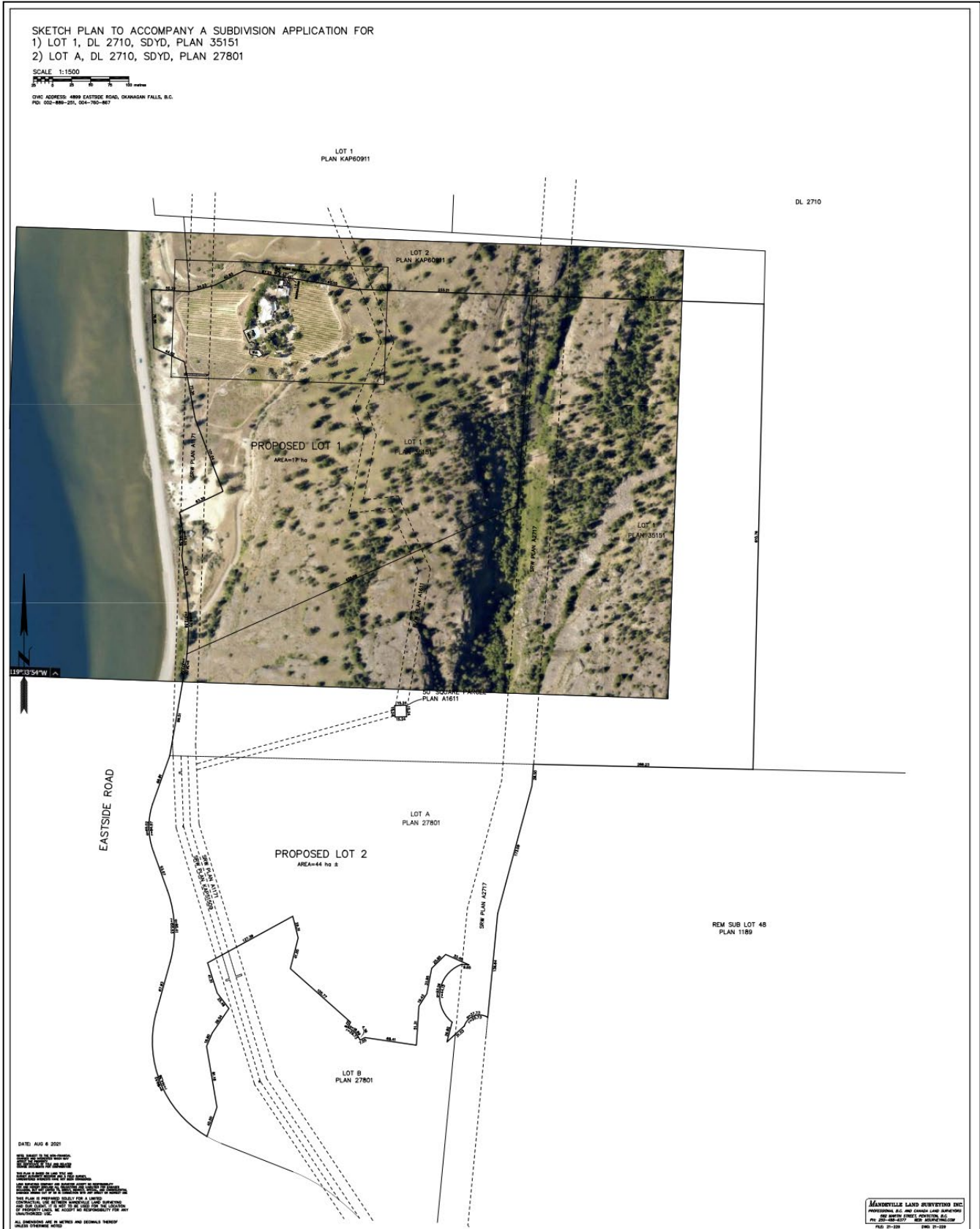


C. Garrish, Planning Manager

Attachments: No. 1 – Applicant’s Site Plan

No. 2 – Site Photo

# Attachment No. 1 – Applicant’s Site Plan



Attachment No. 2 – Site Photo

