

ADMINISTRATIVE REPORT



TO: Advisory Planning Commission
FROM: B. Newell, Chief Administrative Officer
DATE: September 14, 2021
RE: Official Community Plan (OCP) & Zoning Bylaw Amendment – Electoral Area “D”

Purpose: To facilitate a land donation to a conservation organization. **Folio:** D-06809.010

Civic: 4899 Eastside Road **Legal:** Lot 1, Plan KAP35151, Sublot 38, District Lot 2710, SDYD

OCP: part Resource Area (RA); and **Proposed OCP:** part Large Holdings (LH); and
part Tourist Commercial (CT) part Conservation Area (CA)

Zone: part Resource Area (RA); and **Proposed Zoning:** part Large Holdings Two (LH2)
part Tourist Commercial One (CT1) part Conservation Area (CA); and
part Tourist Commercial Site Specific (CT1s)

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, series of mapping amendments are being proposed to both the Electoral Area “D” Official Community Plan (OCP) Bylaw No. 2603, 2013, and Zoning Bylaw No. 2455, 2008 (see Attachment No. 1).

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.”

Site Context:

The subject property is approximately 46.59 ha in area and is situated on the east side of Eastside Road approximately 71 m from the municipal boundary with the City of Penticton. It is understood that 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:

The current boundaries of the subject property were created by a Plan of Subdivision deposited with the Land Titles Office in Kamloops on December 24, 1984, while available Regional District records indicate that a building permits for a swimming pool (1990) and an addition to a single family dwelling (1991) have previously been issued for this property.

File No: D2021.016-ZONE

Under the Electoral Area “D” Official Community Plan (OCP) Bylaw No. 2603, 2013, the subject property is currently designated part Resource Area (RA) part Tourist Commercial (CT), and is the subject of an Environmentally Sensitive Development Permit (ESDP) and Hillside Development Permit (HDP) Area designations.

Under the Electoral Area “D” Zoning Bylaw No. 2455, 2008, the property is currently zoned part Resource Area (RA) part Tourist Commercial One (CT1) which establishes a minimum parcel size of 20.0 ha (RA) and 1000 m² (CT1) for subdivision

Under Section 8.0 (Floodplain Regulations) of the Zoning Bylaw, the subject property is within the floodplain associated with Skaha Lake.

The property is also within the G.G. Runka Geological Hazard Zone with the north western portion of the property holding a Soil Stability rating for hazards of materials sliding of slumping and hazard of slumps and slide, site specific engineering investigations recommended where high density development is anticipated.

BC Assessment has classified the property as part “Residential” (Class 01), part “Business and Other” (Class 06) and part “Farm” (Class 09).

On August 18, 2021, the Ministry of Transportation and Infrastructure (MoTI) referred a proposed boundary adjustment involving the subject property to the Regional District for compliance with any applicable RDOS land use bylaws.

Analysis:

In considering this proposal, Administration notes that 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)).

Importantly, 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.

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.

That said, Administration recognises that the property could be subdivided into a maximum of two new parcels under the current RA zoning and that 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. For this reason, Administration is generally supportive of the proposed bylaw amendments.

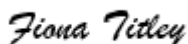
Administrative Recommendation:

THAT the APC recommends to the RDOS Board of Directors that the subject development application be approved.

Options:

1. THAT the APC recommends to the RDOS Board of Directors that the subject development application be approved.
2. THAT the APC recommends to the RDOS Board of Directors that the subject development application be approved with the following conditions:
 - i) *TBD*
3. THAT the APC recommends to the RDOS Board of Directors that the subject development application be denied.

Respectfully submitted:



Fiona Titley, Planner I

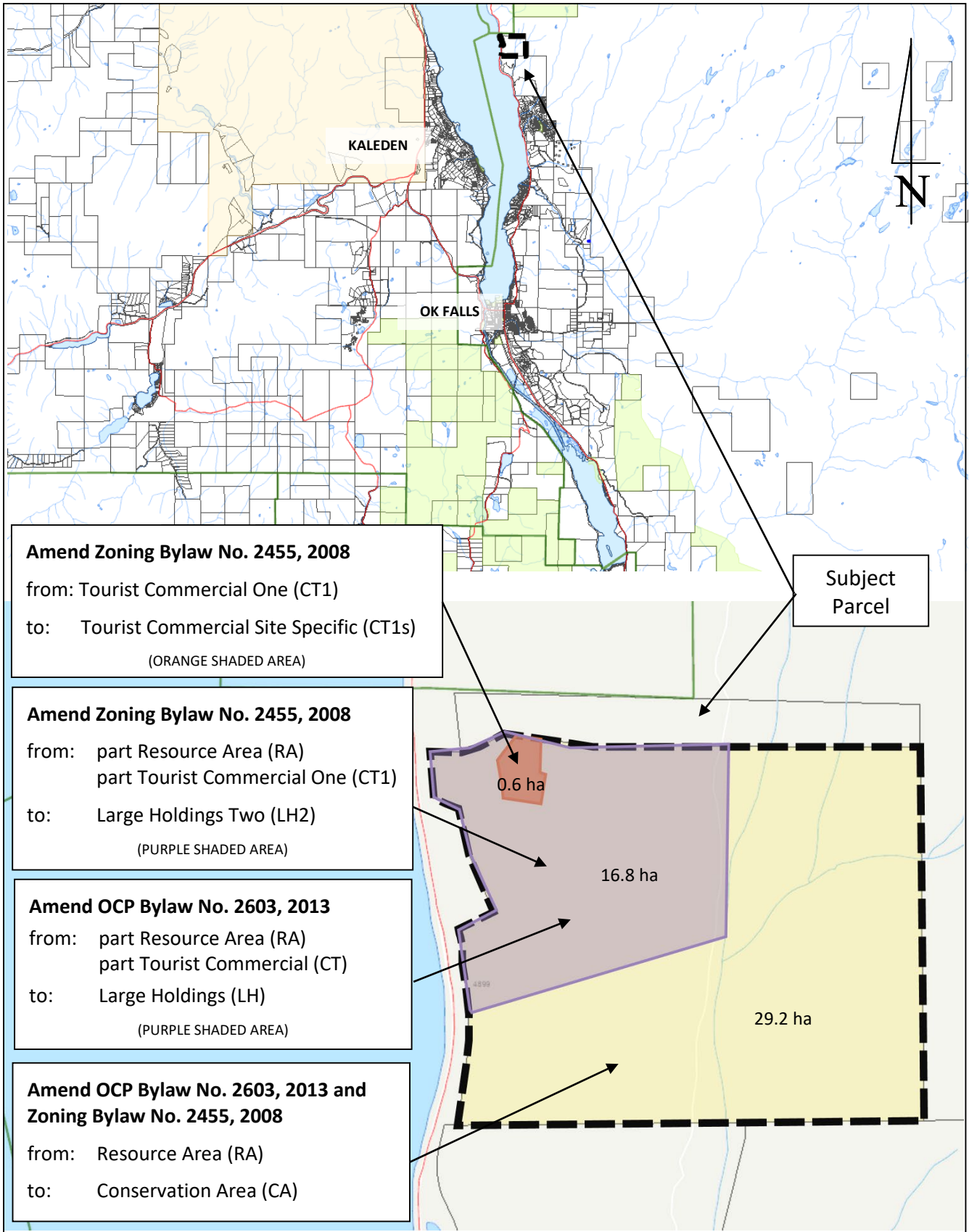
Endorsed By:



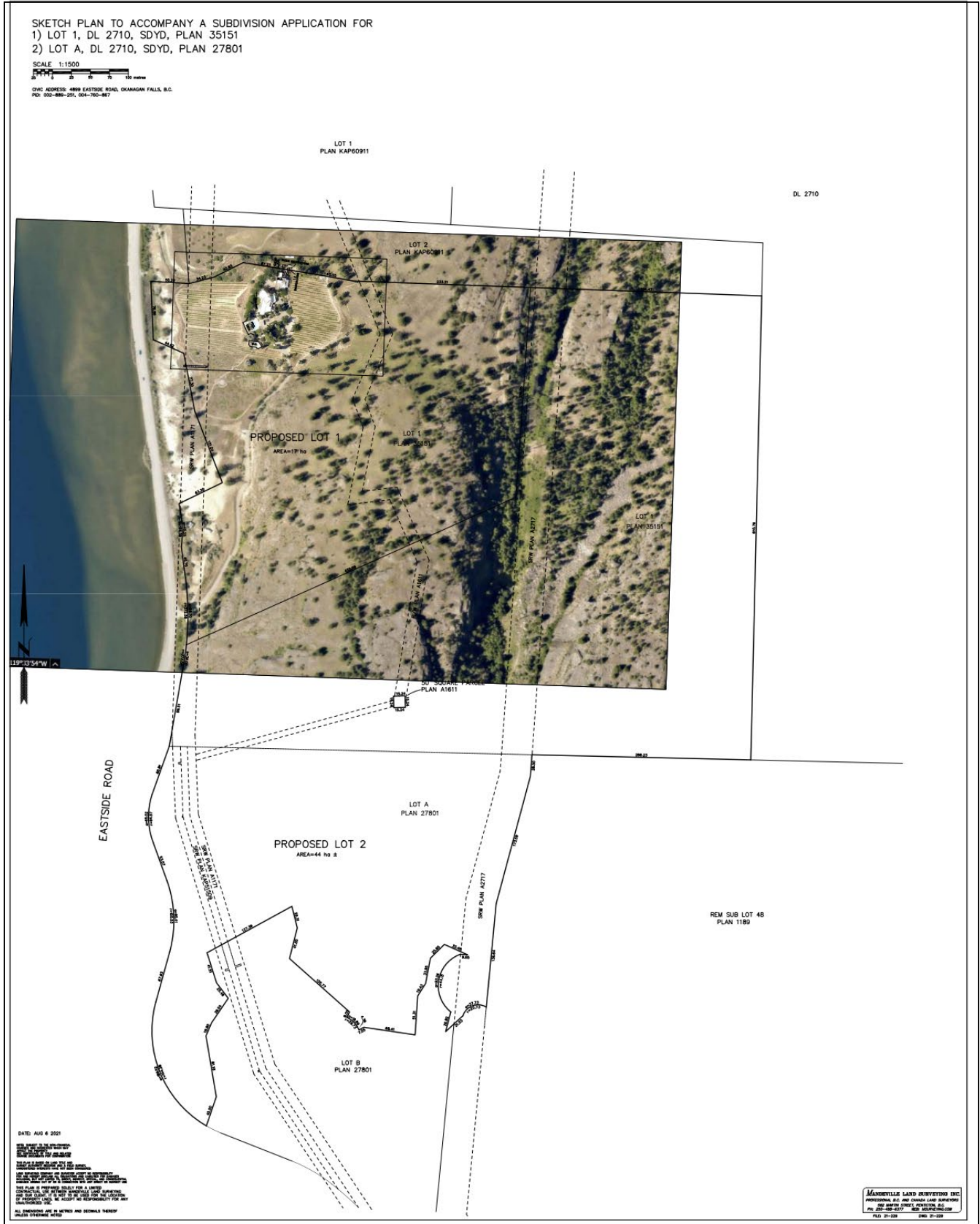
C. Garrish, Planning Manager

Attachments: No. 1 – Context Maps
No. 2 – Applicant’s Site Plan
No. 3 – Site Photo

Attachment No. 1 – Context Maps



Attachment No. 2 – Applicant’s Site Plan



Attachment No. 3 – Site Photo (Google Earth)

