

ADMINISTRATIVE REPORT



TO: Board of Directors
FROM: B. Newell, Chief Administrative Officer
DATE: July 2, 2020
RE: Zoning Bylaw Amendment – Electoral Area “A”

Administrative Recommendation:

THAT Bylaw No. 2451.30, 2020, being a bylaw to amend the Electoral Area “A” Zoning Bylaw to alter minimum yard setbacks at 10210 81st St., be read a first and second time;

AND THAT pursuant to sub-section 464 of the *Local Government Act*, the Regional District Board resolves to waive the holding of a public hearing for Bylaw No. 2451.30, 2020, Electoral Area “A” Zoning Amendment Bylaw;

AND THAT pursuant to sub-section 467 of the *Local Government Act*, staff give notice of the waiving of the public hearing for Bylaw No. 2451.30, 2020, Electoral Area “A” Zoning Amendment Bylaw.

Purpose: To amend minimum setbacks to expand the building envelope on the subject property.

Owners: Lual Orchards Ltd. Agent: Brad Elenko, McElhanney Ltd. Civic: 10210 81st Street

Legal: Lot 3, Plan EPP87173, District Lot 2450S, SDYD Folio: A-06047.060

OCP: Low Density Residential (LR) Proposed OCP: Low Density Residential (LR)

Zone: Residential Single Family One (RS1) Proposed Zoning: Residential Single Family One Site Specific (RS1s)

Proposed Development:

This application is seeking to amend the zoning of the subject property in order to expand the building envelope.

In order to accomplish this, the applicant is proposed to amend the zoning of the property under the Electoral Area “A” Zoning Bylaw No. 2451, 2008, from Residential Single Family One Zone (RS1) to Site Specific Single Family One Zone (RS1s) with the site specific regulation to reduce the rear parcel line setback (southern property line) from 7.5 metres to 2.0 metres and to increase the interior parcel line setback for the eastern property line from 1.5 metres to 7.5 metres.

In support of the rezoning, the applicant has stated that “due to the odd shape of the property and the resulting setbacks, the owner is requesting that the setbacks be re-adjusted to provide a greater spatial separation from the adjacent east property and reduced on the south side of the property where there is no real need or purpose for the large 7.5 m setback.” The applicant has also noted that:

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- the setbacks defined for the property are not based on typical or obvious features or thinking, but rather all manifest from the definition of front parcel line, which in this case is very non-typical and unconventional.
 - the Streamside Protection Enhancement Area (SPEA) occupies a majority of the large ½ acre property and provides protection for riparian values. However, in doing so, it restricts development from a significant portion of the property.
 - the reduction in the setback will not have a negative impact on the use and enjoyment of any adjacent or surrounding property owners.

Site Context:

The subject property is approximately 2,360 m² in area and is accessible via a pan handle from 81st Street, abutting Osoyoos Lake to the North and approximately 600 metres from the Town of Osoyoos boundary.

It is understood that the parcel is vacant land, while the surrounding pattern of development is generally characterised by residential along Osoyoos Lake foreshore and a mix of agriculture and residential parcels abutting 87th Street.

Background:

The current boundaries of the subject property were created by a Plan of Subdivision deposited with the Land Titles Office in Kamloops on March 22, 2019, while available Regional District records indicate that building permits have not previously been issued for this property.

Under the Electoral Area “A” Official Community Plan (OCP) Bylaw No. 2450, 2008, the subject property is currently designated Low Density Residential (LR), and is the subject of a Watercourse Development Permit (WDP) Area designation and is also partially identified as Important Ecosystem along the foreshore.

Under the Electoral Area “A” Zoning Bylaw No. 2451, 2008 the property is currently zoned Residential Single Family One Zone (RS1) which allows for a single detached dwelling as the only principal use.

Given the shape of this panhandle lot, the minimum setbacks for a principal building are as follows:

- front parcel line – 7.5 metres - Panhandle portion abutting 81st Street
- rear parcel line – 7.5 metres – Southern parcel line
- interior parcel line – 1.5 metres – All remaining parcel lines

Under Section 8.0 (Floodplain Regulations) of the Zoning Bylaw, the subject property is partially within the floodplain associated with Osoyoos Lake. BC Assessment has classified the property as “Residential” (Class 01).

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). Preliminary Approval has been granted by MoTI for this rezoning.

It should also be noted that in response to comments from FortisBC regarding overhead servicing and required Statutory Right-of-Way, the applicant has since provided underground services and a reference plan for a 3 m wide SROW to be registered on title. The proposed rear parcel line setback is generally aligned with the SROW, as demonstrated on Attachment 3.

Public Process:

On February 10, 2020 a Public Information Meeting (PIM) was held at the Sonora Community Centre at 8505 68th Avenue in Osoyoos and was attended by approximately 3-4 members of the public.

This item was referred to the Electoral Area “A” Advisory Planning Commission (APC) in the February 10, 2020 agenda; however, the meeting was cancelled due to lack of quorum.

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 the “U” shape of the panhandle is an unusual, atypical parcel layout, which results in an atypical application of front and rear parcel lines.

For a typical panhandle lot, the rear parcel line would be opposite where the panhandle meets the non-panhandle portion of the lot (as the panhandle would typically be straight).

As such, the applicant is requesting minimum building setbacks that are no less than what would be permitted if the “front” parcel line was aligned with where the panhandle met the buildable area of the parcel.

A reduced “rear” parcel line setback will allow for additional building area that is outside the riparian area, which is identified as 30 metres from Osoyoos Lake, and further from identified Important Ecosystems on the property along the lakeshore.

The “rear” parcel line setback reduction is considered to align with Electoral Area “A” OCP Bylaw objectives to protect aquatic habitat areas by providing a development scenario that allows development to be further from the protected riparian area.

This proposal has minimal impact to the neighbouring properties to the west and east, as the proposed setbacks along abutting parcel lines are equal to or greater than what is currently permitted under the RS1 zone.

It should be noted that this proposal reduces separation distance between residential buildings and structures on this RS1 parcel and active farming operations on the agricultural lands immediately to the south.

Although Administration has concerns with reducing separation distances between residential and agricultural uses, the southern parcel line immediately abuts a panhandle access driveway which provides a further separation of 10.0 metres between the subject property and agriculturally-designated parcel.

Conversely, this recently created parcel contains sufficient building area (360 m²) to accommodate a single detached dwelling while adhering to riparian area regulation and existing zoning setbacks.

The “rear” parcel line setback provides additional separation between residential buildings/structures on the subject property and agricultural activities on the agriculturally-designated property to the immediate south.

Further, although the parcel is within a Watercourse Development Permit Area, a Riparian Area Assessment conducted by a Qualified Environmental Professional (QEP) has not been provided to verify the location of the Streamside Protection and Enhancement Area (SPEA).

It can also be argued that setback reductions are more appropriately administered by variance, where specific development plans are provided.

In summary, this proposal is considered consistent with the Electoral Area “A” OCP as it would allow for building options that are further from the protected riparian area.

Alternatives:

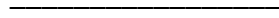
1. THAT Bylaw No. 2451.30, 2020, Electoral Area “A” Zoning Amendment Bylaw be read a first and second time and proceed to public hearing;
AND THAT the holding of a public hearing be scheduled for the Regional District Board meeting of August 2, 2020;
AND THAT staff give notice of the public hearing in accordance with the requirements of the *Local Government Act*.
2. THAT Bylaw No. 2451.30, 2020, Electoral Area “A” Zoning Amendment Bylaw be read a first and second time and proceed to public hearing;
AND THAT the holding of the public hearing be delegated to Director Pendergraft, or their delegate;
AND THAT staff schedule the date, time, and place of the public hearing in consultation with Director Pendergraft;
AND THAT staff give notice of the public hearing in accordance with the requirements of the *Local Government Act*.
3. THAT Bylaw No. 2451.30, 2020, Electoral Area “A” Zoning Amendment Bylaw be deferred; or
4. THAT Bylaw No. 2451.30, 2020, Electoral Area “A” Zoning Amendment Bylaw be, be denied.

Respectfully submitted:

Endorsed By:



JoAnn Peachey, Planner I



C. Garrish, Planning Manager

Attachments: No. 1 – Applicant’s Site Plan (Proposed Setbacks)

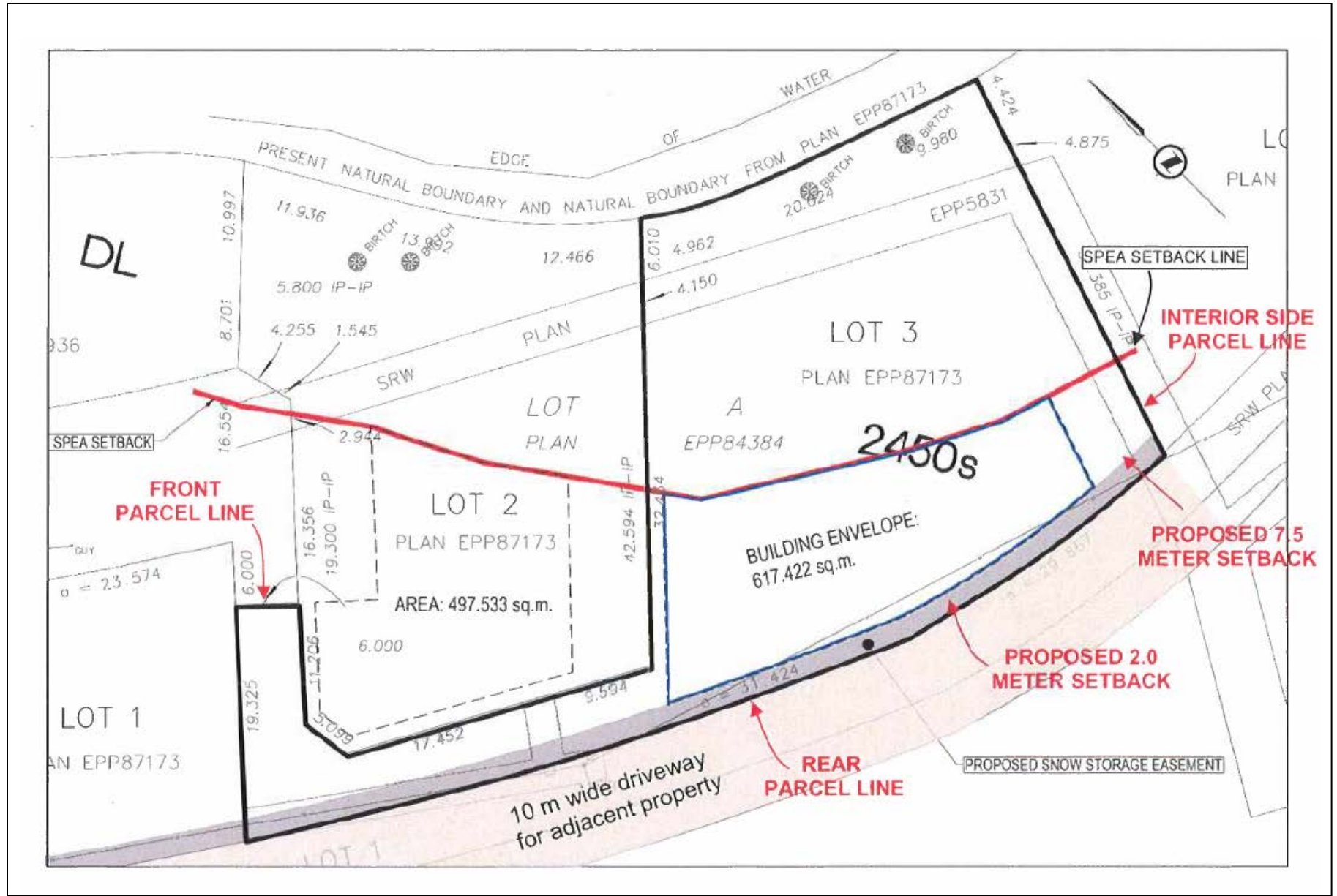
No. 2 – Applicant’s Site Plan (Existing Setbacks)

No. 3 – Applicant’s Site Plan (Building Envelope and Fortis SRW)

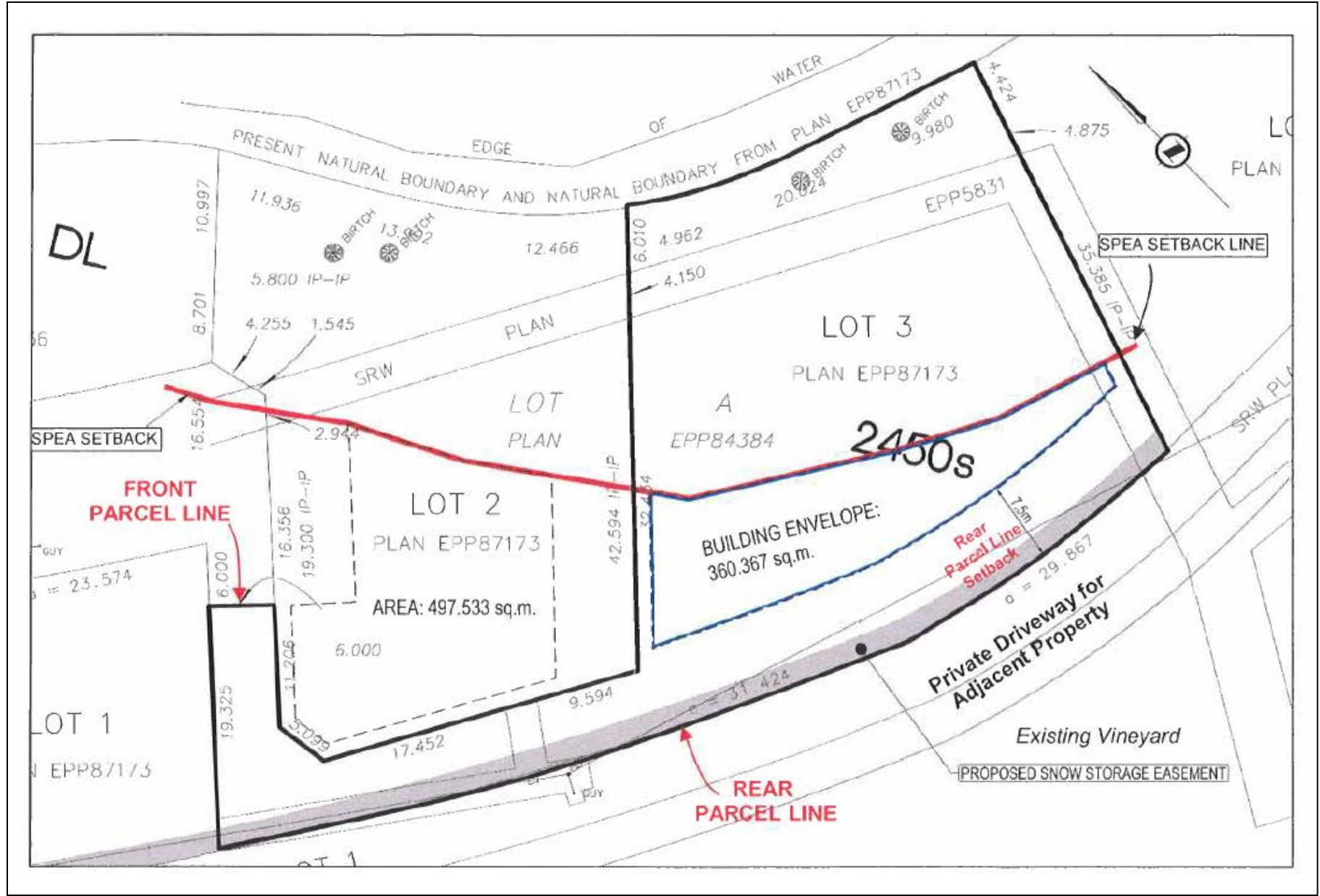
No. 4 – Fortis Statutory Right of Way Reference Plan

No. 5 – Site Photo (Google Earth)

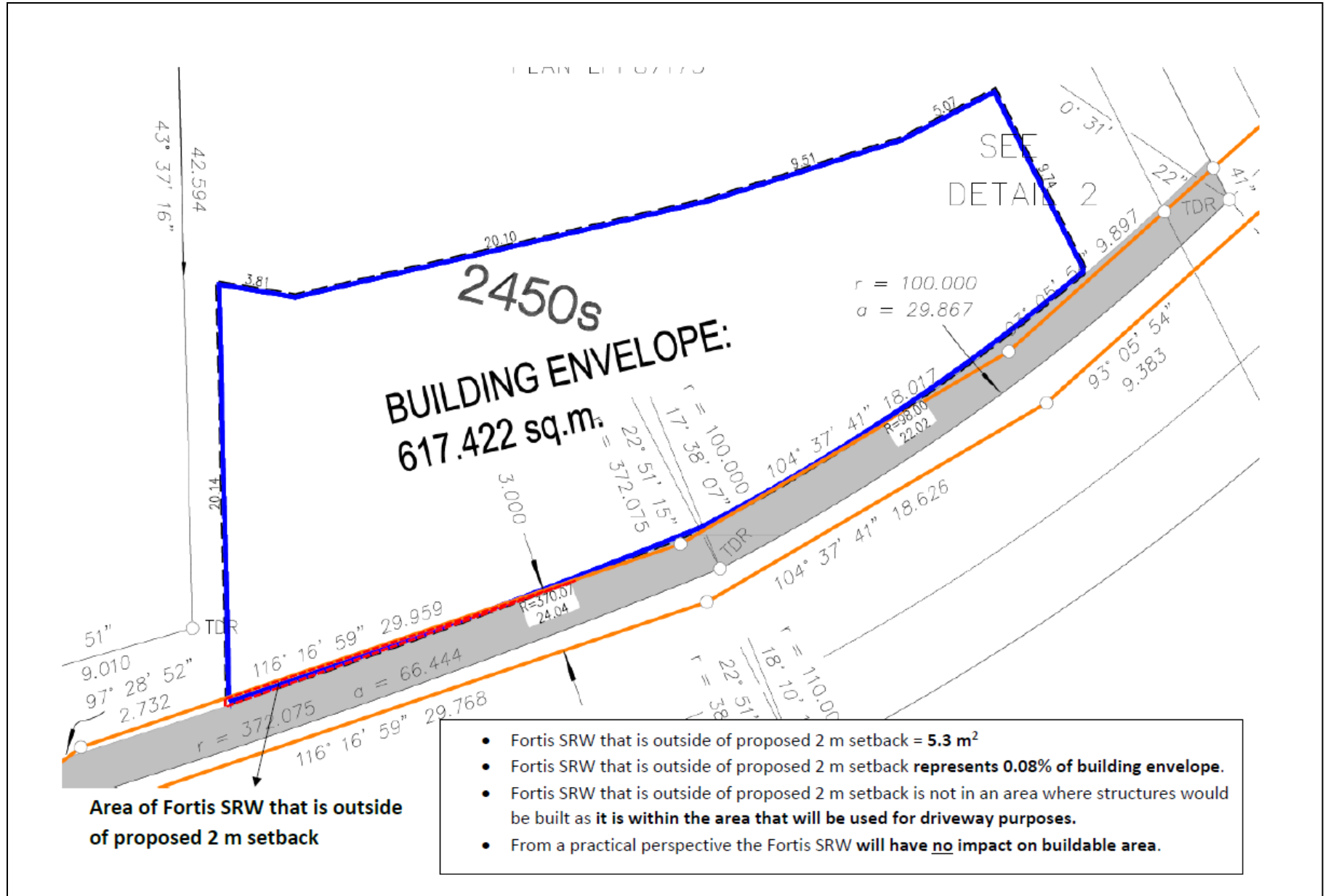
Attachment No. 1 – Applicant’s Site Plan (Proposed Setbacks)



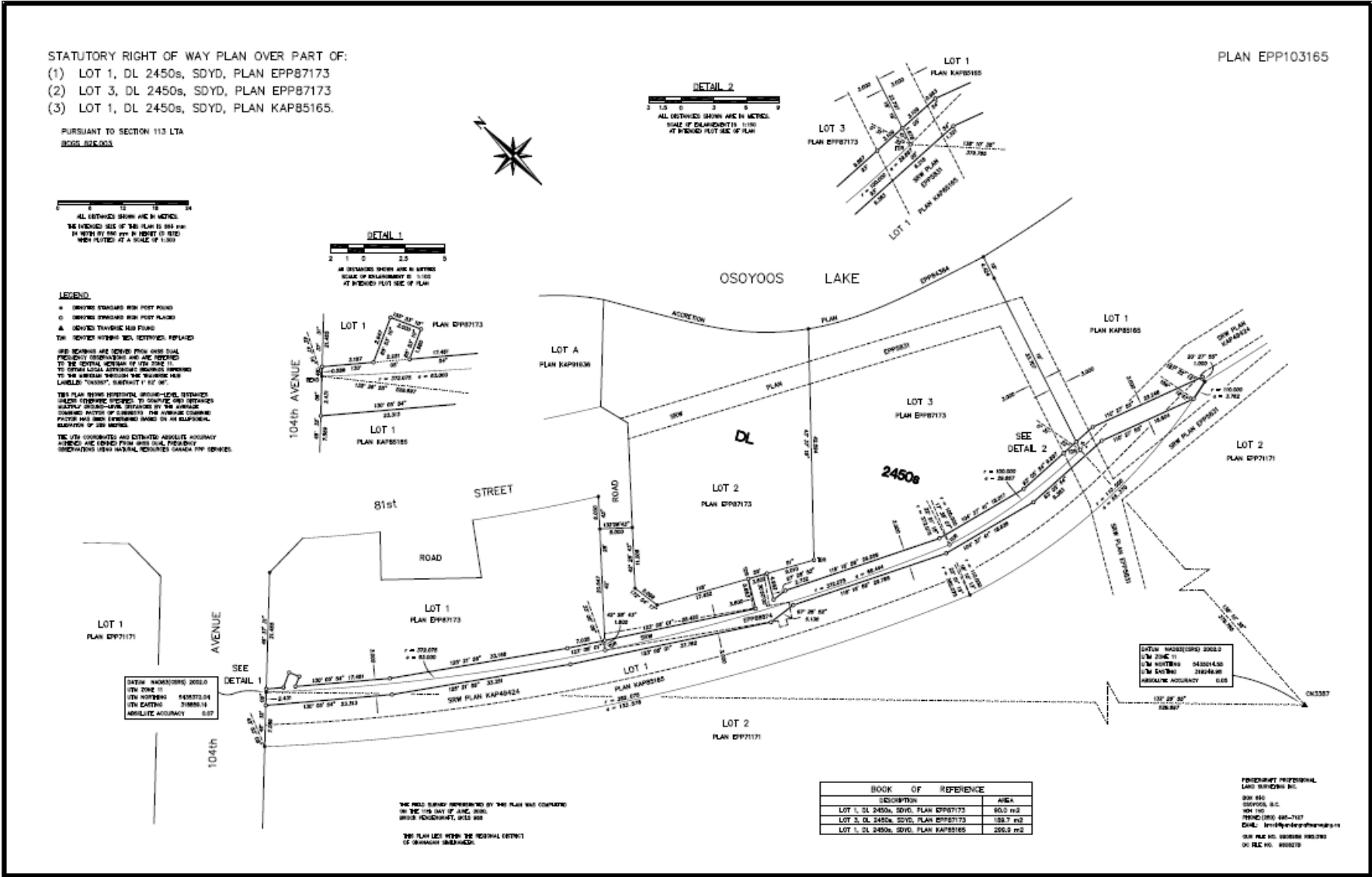
Attachment No. 2 – Applicant’s Site Plan (Existing Setbacks)



Attachment No. 3 – Applicant’s Site Plan (Building Envelope & Fortis SRW)



Attachment No. 4 –Fortis Statutory Right of Way Reference Plan



Attachment No. 5 – Site Photo (Google Earth)



Subject Property
(Approximate)