

ADMINISTRATIVE REPORT



TO: Board of Directors
FROM: J. Zaffino, Interim Chief Administrative Officer
DATE: December 7, 2023
RE: Official Community Plan (OCP) & Zoning Bylaw Amendment – Electoral Area “H” (H2023.009-ZONE)

Administrative Recommendation:

THAT the Electoral Area “H” Official Community Plan Amendment Bylaw No. 2497.16, 2023, and the Electoral Area “H” Zoning Amendment Bylaw No. 2498.27, 2023, be denied.

<u>Purpose:</u>	To allow for a one lot and two remainder subdivision	<u>Folio:</u> H-00923.000
<u>Civic:</u>	551 Un-named Road	<u>Legal:</u> District Lot 1195, YDYD, Except those portions thereof included within the boundaries of District Lots 901 and 627
<u>OCP:</u>	Commercial (C) and Resource Area (RA)	<u>Zone:</u> Tourist Commercial One (CT1) and Resource Area (RA)

Proposed Development:

This application is seeking to amend the zoning of the subject property in order to allow a one lot and two remainder subdivision.

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 “H” Official Community Plan (OCP) Bylaw No. 2497, 2012, from Resource Area (RA) to Large Holdings (LH); and
- amend the Electoral Area “H” Zoning Bylaw No. 2498, 2012, by:
 - amending the zoning under Schedule ‘2’ (Zoning Map) from Resource Area (RA) to Large Holdings Two Site Specific (LH2s); and
 - introducing a site specific regulation to allow a hooked parcel with a portion that is 0.2 hectares in area.

In support of the rezoning, the applicant has stated, amongst other things, that “the owner hopes to create Proposed Lot 1 for development, working within the guidelines of the CT1 zone ...” and that development of the remainder will occur at some future point.

Site Context:

The subject property is approximately 17.4 ha in area and is mostly situated on the south side of Highway 3, with a 0.2 hectare portion that is hooked on the north side. It is understood that the

parcel is currently vacant, but that a portion of the parcel immediately south of the highway had previously been used as a campground.

The surrounding pattern of development is generally characterised by Crown Land and rural holdings parcels. Some of these parcels appear vacant and others have been developed with single detached dwellings.

Background:

Regional District records do not include a Plan of Subdivision deposited with the Land Titles Office in Kamloops and indicate that building permits have not previously been issued for this property.

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

Official Community Plan:

Under the Electoral Area “H” Official Community Plan (OCP) Bylaw No. 2497, 2012, the northern portion of the subject property is currently designated Commercial (C) and the southern portion is designated Resource Area (RA).

The property is the subject of Watercourse Development Permit (WDP) and Environmentally Sensitive Development Permit (ESDP) Areas adjacent to the Similkameen River, which bisects the property.

Zoning Bylaw:

Under the Electoral Area “H” Zoning Bylaw No. 2498, 2012, the northern portion of the property is currently zoned Tourist Commercial One (CT1) which allows a range of commercial and tourism-related uses and requires a minimum parcel size of 1.0 hectare for subdivision when serviced by a well and septic system.

The southern portion of the property is currently zoned Resource Area (RA) which allows a range of rural residential and natural resource-based uses. The RA zone requires a minimum parcel size of 60.0 hectares for subdivision.

Section 10.0 (Subdivision Regulations) of the Zoning Bylaw requires that a hooked parcel satisfy the minimum parcel size requirements of the applicable zone. In this case, a hooked parcel in the Resource Area zone would be required to have portions with a minimum size of 60.0 hectares each.

Under Section 8.0 (Floodplain Regulations) of the Zoning Bylaw, the subject property is within the floodplain associated with the Similkameen River, which requires a flood construction level of 3.0 metres above the natural boundary of the river.

Subdivision:

On October 14, 2022, the Ministry of Transportation and Infrastructure (MoTI) referred a proposed 3 lot subdivision involving the subject property to the Regional District for compliance with any applicable RDOS land use bylaws.

This subdivision application proposes to create a separately titled lot corresponding to the boundaries of the CT1 zoned portion of the subject property. Accordingly, the Subdivision Review Report (SRR) prepared for this referral included a note that OCP and Zoning amendments would be required because the portion of the property currently zoned Resource Area does not currently satisfy the 60.0 hectare minimum parcel size requirement for subdivision.

The BC Land Surveyor who prepared the plan of subdivision also indicated that a 0.2 hectare portion of the parcel is currently hooked across Highway 3. Because the subdivision proposes to create new hooked parcels, a site specific provision is required to formalize this under-sized portion.

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 3).

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. 58 has 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.

Public Process:

On November 8, 2023, a Public Information Meeting (PIM) was held electronically via Webex and was attended by approximately seven (7) members of the public.

At its meeting of November 14, 2023, the Electoral Area "H" Advisory Planning Commission (APC) did not achieve quorum and therefore was unable to provide a recommendation to the RDOS Board regarding the subject development.

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 be 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 has serious concerns that the proposed rezoning will facilitate the creation of a large holdings parcel that may be unsuitable for development due to numerous land constraints.

Administration is also concerned that the proposal is not consistent with the Electoral Area "H" OCP and that the proposal will worsen a hooked parcel that does not comply with the Zoning Bylaw.

Land Constraints

The southern portion of the proposed remainder parcel comprises land that has no legal access due to concrete barricades that have been installed along the highway for traffic safety. The Provincial

Approving Officer has indicated that these safety measures preclude construction of an access in this location.

The provision of alternate access via adjacent lands is believed to be limited due to steep slopes in this area and because the Similkameen River spans the entire length of the parcel, alienating it from the highway.

This portion of the parcel is entirely comprised of land with steep slopes and moderate to high wildfire hazard, and the area immediately adjacent to the river is also subject to Environmentally Sensitive and Watercourse Development Permit Areas.

For these reasons, Administration understands that this portion of the parcel was designated and zoned Resource Area in recognition of the low development potential of these lands.

OCP Consistency

The Electoral Area "H" OCP contains policies requiring proposals involving the designation of new Large Holdings lands to clearly demonstrate the need for these lands in the context of the OCP. The Area "H" OCP projects that there is adequate existing land for residential development within the plan area, and for this reason the proposal is not seen to satisfy this policy.

The OCP also includes policies requiring proposals to designate new Large Holdings lands to demonstrate (amongst other things) that the proposal will not impact the natural environment, that the land will not be susceptible to natural hazards and that access to existing roads can be provided.

The proposal is not seen to satisfy these policies due to the number of land constraints on the subject parcel.

The OCP also includes local area policies for Eastgate, which discourage additional residential development in the Passayton Valley until legal road access is provided.

Hooked Parcel

Administration recognizes that District Lot 1195 already includes a hooked portion that is under-sized. However, the proposed subdivision would increase the distance between the portions of the hooked parcel from approximately 35 metres to 91 metres.

In other electoral areas, the Regional District Board has introduced a regulation limiting the maximum distance between the portions of a hooked parcel to 30 metres. This is because hooked parcels have, on occasion, been used to create developments that inconsistent with the intent of a zoning approved by the Board.

While this regulation has not been introduced to the Electoral Area "H" Zoning Bylaw, it is recognized to be a best practice because larger distances between the portions of a hooked parcel are seen to increase the likelihood that the portions will become de facto independent parcels.

Alternate (No. 1)

Conversely, Administration recognises that the applicant is not proposing any development at this time and that the Large Holdings Zone permits the same number of residential dwellings currently permitted by the Resource Area Zone.

The subject property includes ESDP areas and areas with steep slopes. The proposal should demonstrate that the proposed remainder parcel includes a useable area and avoids/ mitigates impacts to the environment.

For this reason, if the Board wishes to proceed with the proposed amendments, administration recommends that the amendments be given first reading only and that prior to second reading, the applicant be directed to provide supplementary reports demonstrating a useable area exclusive of any areas with steep slopes and demonstrating that potential impacts to the natural environment will be avoided/ mitigated.

Alternate (No. 2)

Alternatively, the RDOS Board may choose to give first and second readings and proceed to public hearing without requesting additional information, no new information could be introduced after the public hearing.

Summary

In summary, the current proposal does not adequately demonstrate the need to designate the land Large Holdings and there is concern that it may result in the land being alienated.

While administration recognizes that the intent of this proposal is to satisfy minimum parcel size requirements for subdivision and no development is currently proposed, administration does not consider the subdivision to be necessary for development of the existing commercially zoned portion of the parcel.

For these reasons, administration does not support the requested amendments and is recommending denial.

Alternatives:

1. THAT the Electoral Area "H" Official Community Plan Amendment Bylaw No. 2497.16, 2023, and the Electoral Area "H" Zoning Amendment Bylaw No. 2498.27, 2023, be read a first time;

AND THAT, prior to second reading, the applicant provide the following:

- i) a signed and sealed environmental assessment prepared by a Qualified Environmental Professional indicating that potential impacts to the environment can be avoided/ mitigated; and
- ii) a signed and sealed geohazard report prepared by a Qualified Professional indicating a useable building area exclusive of any areas with steep grades and prepared in accordance with the Preliminary Layout Review Issued by the Ministry of Transportation and Infrastructure on March 22, 2023.

2. THAT the Electoral Area "H" Official Community Plan Amendment Bylaw No. 2497.16, 2023, and the Electoral Area "H" Zoning Amendment Bylaw No. 2498.27, 2023, be read a first and second time and proceed to public hearing;

AND THAT the Board of Directors considers the process, as outlined in the report from the Chief Administrative Officer dated December 7, 2023, 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. 2497.16, 2023, 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 January 4, 2024;

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

Respectfully submitted:

Ben Kent

Ben Kent, Planner I

Endorsed By:



C. Garrish, Senior Manager of Planning

Attachments: No. 1 – Agency Referral List

No. 2 – Applicant’s Site Plan

No. 3 – Proposed Land Use Bylaw Changes

No. 4 – Site Photo Facing Southeast (Street View – 2023)

No. 5 – Site Photo Facing Southwest (Street View – 2023)

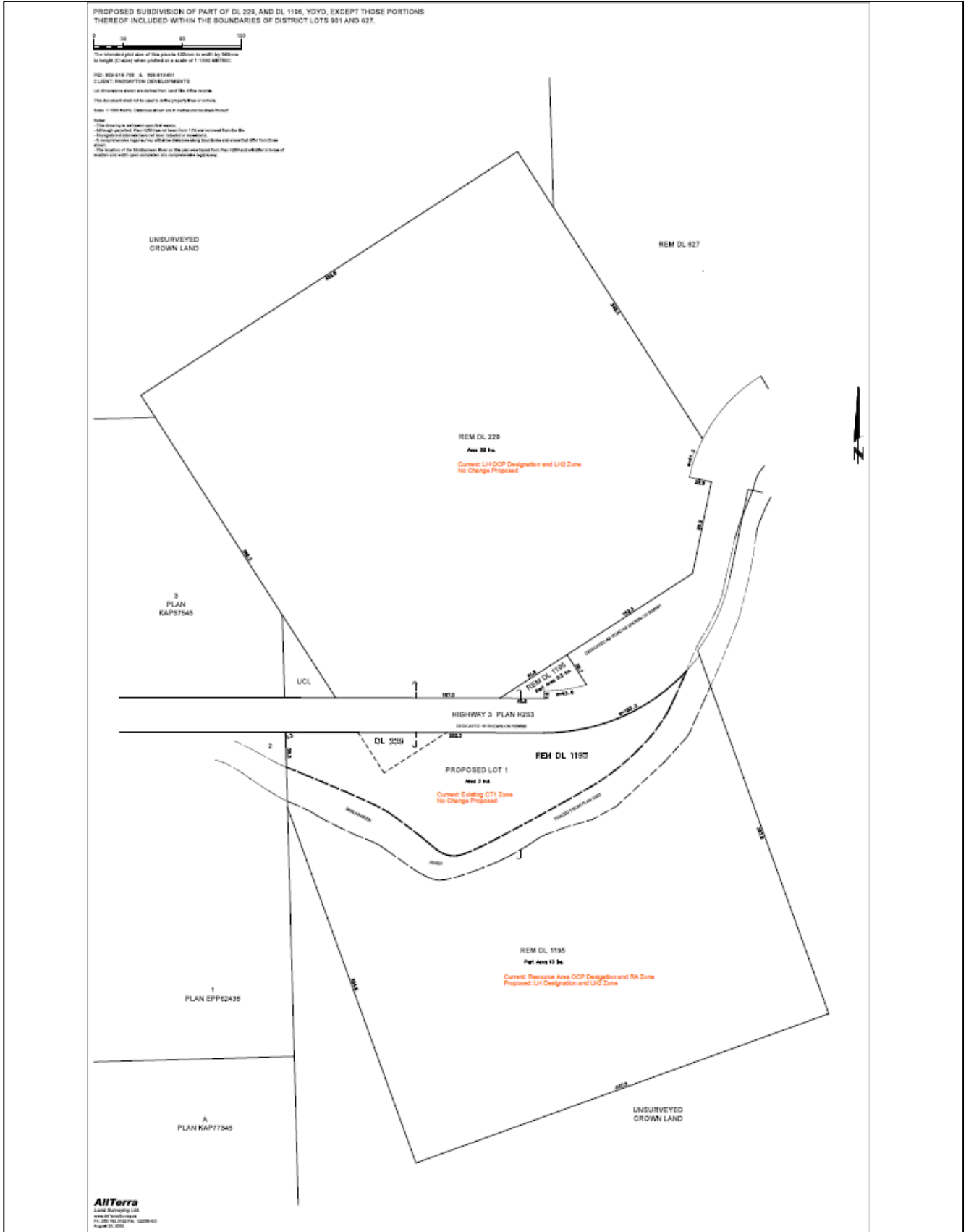
No. 6 – Aerial Photo

Attachment No. 1 – Agency Referral List

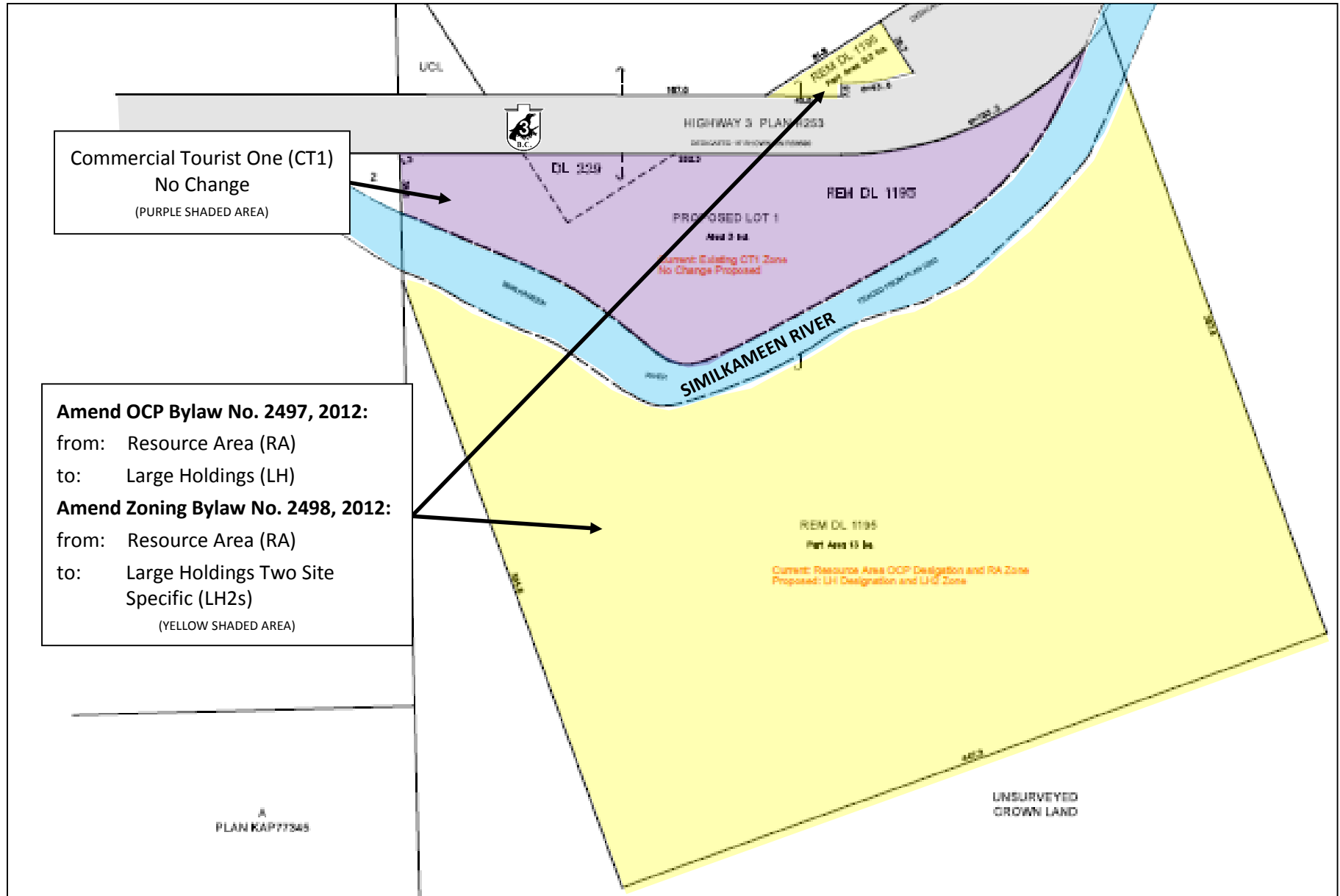
Referrals to be sent to the following agencies as highlighted with a , prior to the Board considering first reading of Amendment Bylaw Nos. 2498.27, 2023 and 2497.16.

<input type="checkbox"/>	Agricultural Land Commission (ALC)	<input type="checkbox"/>	Fortis
<input type="checkbox"/>	Interior Health Authority (IHA)	<input type="checkbox"/>	City of Penticton
<input type="checkbox"/>	Ministry of Agriculture	<input type="checkbox"/>	District of Summerland
<input type="checkbox"/>	Ministry of Energy, Mines & Petroleum Resources	<input type="checkbox"/>	Town of Oliver
<input type="checkbox"/>	Ministry of Municipal Affairs & Housing	<input type="checkbox"/>	Town of Osoyoos
<input checked="" type="checkbox"/>	Ministry of Lands, Water and Resource Stewardship	<input type="checkbox"/>	Town of Princeton
<input 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/ OIB / LSIB (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 type="checkbox"/>	School District #53 (Areas A, B, C, D & G)	<input type="checkbox"/>	OK Falls Irrigation District
<input checked="" type="checkbox"/>	School District #58 (Area H)	<input type="checkbox"/>	Kaleden Irrigation District
<input 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 type="checkbox"/>	Volunteer Fire Department		

Attachment No. 2 – Applicant's Site Plan



Attachment No. 3 – Applicant’s Building Elevations



Attachment No. 4 – Site Photo Facing Southeast (Street View – 2023)



Attachment No. 5 – Site Photo Facing Southwest (Street View –2023)



Attachment No. 6 – Aerial Photo

