

**REGULAR MEETING OF COUNCIL
AGENDA**

DATE: October 19, 2020
TIME: 4:30 p.m.
LOCATION: Enderby City Hall

Please contact Enderby City Hall at 250-838-7230 or info@cityofenderby.com by **3:30pm on the day of the meeting** to obtain access codes to attend the meeting electronically.

The City of Enderby uses Zoom for its electronic facilities and encourages members of the public unfamiliar with the application to test it in advance; for technical support, please contact Zoom.

If you do not have a computer or mobile phone capable of using Zoom, please let us know and we can provide you with a number that you can call in from a regular telephone.

When applicable, public hearing materials are available for inspection at www.cityofenderby.com/hearings/

1. APPROVAL OF AGENDA

2. ADOPTION OF MINUTES

2.1. Meeting Minutes of October 5, 2020

Page 1

3. BUSINESS ARISING FROM THE MINUTES AND/OR UNFINISHED BUSINESS

4. DEVELOPMENT MATTERS

4.1. 0029-20-DVP-END

Page 7

Legal: LT 2 DST LT 226 KAMLOOPS DIVISION YALE DISTRICT AND OF SECTION 35 T18 R9 W6M KAMLOOPS DIVISION YALE DISTRICT PLAN 1593 EXCEPT PLANS B5872 AND B6868 (327 Brickyard Road, Enderby)
PARCEL A (DD 121824F AND PLAN B5872) OF LT 2 DST LT 226 KAMLOOPS DIVISION YALE DISTRICT AND OF SECTION 35 T18 R9 W6M KAMLOOPS DIVISION YALE DISTRICT PLAN 1593 (321 Brickyard Road, Enderby)
Address: 327 and 321 Brickyard Road, Enderby BC
Applicant: Ram Gopal, 1203167 B.C. LTD.

4.2. Road Closure and Removal of Dedication Bylaw No. 1707, 2020 (Unnamed and Unconstructed Road Adjacent to 321 Brickyard Road)
1st, 2nd and 3rd readings

Page 15

5. BYLAWS

- 5.1. Housing Agreement Authorization Bylaw No. 1708, 2020 Page 30
adoption

6. REPORTS

- 6.1. Mayor and Council Reports Verbal

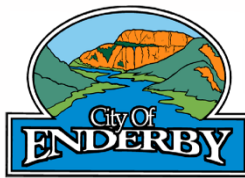
7. NEW BUSINESS

- 7.1. Community Economic Recovery Infrastructure Program (CERIP) Grant Page 38
Application - Construction of Diamond 5 at Riverside Park
Memo prepared by Chief Administrative Officer dated October 14, 2020

- 7.2. Community Economic Recovery Infrastructure Program (CERIP) Grant Page 40
Application - Replacement of Drill Hall Metal Roof
Memo prepared by Planner and Deputy Corporate Officer dated October 14, 2020

- 7.3. Bylaw Enforcement Statistics for Second Period of 2020 (May - Aug) Page 42
Memo prepared by Planner and Deputy Corporate Officer dated October 14, 2020

8. ADJOURNMENT



THE CORPORATION OF THE CITY OF ENDERBY

Minutes of a **Regular Meeting** of Council held via video conference on Monday, October 5, 2020 at 4:32 p.m. in Council Chambers

Present: Mayor Greg McCune
Councillor Tundra Baird
Councillor Brad Case
Councillor Roxanne Davyduke
Councillor Raquel Knust
Councillor Shawn Shishido
Councillor Brian Schreiner

Staff: Chief Administrative Officer – Tate Bengtson
Chief Financial Officer – Jennifer Bellamy
Planner and Deputy Corporate Officer – Kurt Inglis
Clerk Secretary – Laurel Grimm

Other: Supt. Shawna Baher, RCMP

APPROVAL OF AGENDA

Moved by Councillor Baird, seconded by Councillor Davyduke
“THAT the October 5, 2020 Council Meeting agenda be approved as circulated.”

CARRIED

ADOPTION OF MINUTES

Council Meeting Minutes of August 17, 2020

Moved by Councillor Knust, seconded by Councillor Schreiner

“THAT the August 17, 2020 Council Meeting minutes be adopted as circulated.”

CARRIED

PETITIONS AND DELEGATION

Supt. Shawna Baher, RCMP

Supt. Shawna Baher presented the quarterly policing report for April-June 2020 noting some key changes:

- The North Okanagan Detachment for the Enderby area has moved away from on-call to 24-hour policing.
- Changes to how prisoners are held have been made due to COVID-19.
- Provincial Traffic Enforcement ongoing.
- The Vernon Detachment currently has two Police Dogs in service.
- Mental Health calls are common; must dispatch two members per call.

Councillor Schreiner questioned why prisoners are released after such a short period of time? He asked if there is a 24-hour timeline to press charges and if so, what determines that a prisoner gets released?

Supt. Baher explained that there is a 24-hour limit to keeping a person in custody without charges, or otherwise they must be released. There are three options once a person is in custody:

- 1) they can be released by the RCMP on a promise to appear in court;
- 2) they can be released on conditions; or
- 3) the Court may order their release on conditions.

Councillor Baird commented that the City has received complaints of excessive speeding on residential roads and asked about Supt. Baher's experience in effectively getting people to abide by the posted speeding restrictions.

Supt. Baher stated that studies show in the event of a collision, speeds over 30km/hr decreases survivability, but this requires changes that will change driver behavior to ensure compliance with speed limits. Also, many people perceive speeding as the problem, but sometimes no actual speeding is occurring – it is perception. People who are already breaking the speed limit will continue to break the speed limits even if it is lowered, so compliance should be the goal.

Supt. Baher advised Council that, once the new Staff Sergeant has started, he will be able to take a deeper dive into localized issues with City staff.

BUSINESS ARISING FROM THE MINUTES AND/OR UNFINISHED BUSINESS

None

BYLAWS

Housing Agreement Authorization Bylaw No. 1708, 2020
Moved by Councillor Knust, seconded by Councillor Baird

“THAT Council gives three readings to Housing Agreement Authorization Bylaw No. 1708, 2020;

AND THAT upon adoption of Housing Agreement Authorization Bylaw No. 1708, 2020, Council directs the Corporate Officer to execute an amendment to the Section 219 Covenant/Housing Agreement registered on the title of 607 Cliff Avenue, Enderby BC.”

CARRIED

REPORTS

Mayor and Council Reports

Councillor Baird

Attended the Okanagan Regional Library meeting in September. There has been some challenges around hold times for books prior to placing them back into circulation, due to decontamination requirements.

Shuswap North Okanagan Rail Trail community engagement continues. There have been discussions on fundraising concepts to support the construction of the Rail Trail.

Councillor Baird also attended the Enderby and District Services Commission meeting regarding the new pool grant application.

Councillor Knust

Thank you to everyone for the support while she has been home sick.

The Harvest Hut was a huge success this year and two new garden beds were installed.

Councillor Knust questioned the process for snow removal on Evergreen Street. The Planner and Deputy Corporate Officer informed Councillor Knust that under the City of Enderby Good Neighbour Bylaw No. 1517, 2013 you are not permitted to deposit snow offsite. All snow removal must be retained onsite. The City first seeks voluntary compliance and no tickets have been issued. Council discussed parking along the Rail Trail at the Enderby and District Chamber of Commerce.

Councillor Knust asked for clarification around Christmas celebrations this year. The CAO stated that there is \$1000 allocated in the 2020 budget for lighting the feature tree on Cliff Avenue, however, because of COVID-19 restrictions, celebrations will most likely be limited. Some guidelines for Christmas celebrations will likely be forthcoming from the Provincial Health Officer in November.

Councillor Schreiner

Councillor Schreiner had the opportunity to welcome the new businesses in town over the weekend: The Rusty Spur, Soapolallie and Animal Instincts Yoga.

Councillor Shishido

Enderby and District Arts Council (EDAC) Meeting September 16, 2020. EDAC has had over \$3400 in sales at the Courtyard Gallery in August 2020. A Coffee House is planned for October 16, 2020. The Enderby and District Chamber of Commerce supported the last Music by the River.

Councillor Davyduke

Councillor Davyduke provided a Community Futures update. They continue to perform one-on-one calls with businesses. Small Business Week is October 20-22, 2020. This will be a virtual event with a day to focus on Marketing, Human Resources, and working remotely. There is no cost for the workshops. The Women's Group is identifying new intakes. They have been receiving inquiries from Enderby residents.

“REACH” Program is a new business accelerator program which aims to help the region’s agricultural entrepreneurs get the tools and support they need to pivot operations, scale up and succeed.

Mayor McCune

Staff to send a letter of support to Caravan Farm Theatre commending them on their strategic approach to continuing to provide the public with ongoing performances at the farm.

Chief Administrative Officer

3rd Street Reconstruction is on schedule and on budget.

RDNO Building Permit Summary for August 2020

Moved by Councillor Knust, seconded by Councillor Davyduke

“That the RDNO Building Permit Summary for August 2020 is received and filed.”

CARRIED

NEW BUSINESS

New Pool Grant Application - Resolution of Support

Moved by Councillor Case, seconded by Councillor Baird

“That Council directs staff to submit an application for grant funding for a new public pool through the Investing in Canada Infrastructure Program – Rural and Northern Communities;

AND THAT Council supports the project and commits to its share (\$600,000) of the project, as well as cost overruns.”

CARRIED

Public Meeting and Hearing Procedures During Covid-19 Pandemic

Moved by Councillor Shishido, seconded by Councillor Schreiner

“THAT in accordance with Ministerial Order No. M192/20, Local Government Meetings and Bylaw Process (COVID-19) Order No. 3, Council for the City of Enderby resolves that, until such time as this matter is reconsidered or rescinded, all meetings shall be held without members of the public in attendance due to the inability to assure that contact with a person who tests positive for COVID-19 will not occur, despite physical distancing, enhanced sanitation and

hygiene, occupancy limits, screening, and other safety measures prescribed in the City of Enderby City Hall COVID-19 Safe Operations Plan;

AND THAT, during this time, Council shall ensure openness, transparency, accessibility, and accountability in respect of the meeting by making best efforts to use electronic facilities that allow the public to watch, hear and, during designated times, be heard;

AND THAT, during this time, Council directs staff to include a notice on public meeting agendas that includes instructions for how to participate in a public meeting or hearing by means of electronic facilities;

AND THAT, during this time, Council directs staff to make available online public hearing material that would normally be available for inspection at City Hall;

AND THAT, during this time, Council resolves that any reference to the place of a meeting or hearing includes a hearing that is conducted by means of electronic facilities;

AND THAT, during this time, Council resolves to discontinue its practice of regularly holding Committee of the Whole meetings prior to the regular Council meeting and, in its place, may hold special meetings when the need arises in accordance with Council Procedure Bylaw No. 1606, 2020 and the Community Charter;

AND THAT Council directs staff to allow public participation for all statutory and non-statutory public hearings via electronic facilities that enable the participant to watch, hear, and be heard, while also encouraging submissions in writing or via email;

AND THAT the foregoing shall apply to the public meetings of the committees and commissions of Council, as well as the City of Enderby Board of Variance and any delegated public hearing;

AND FURTHER THAT Council, in consideration of the new measures proposed to ensure openness, transparency, accessibility, and accountability in respect of a public meeting or hearing, rescinds those motions adopted at its special meeting of April 8, 2020 that:

- limited the consideration of new or controversial initiatives;*
- required the posting of a decision summary;*
- changed the location of the Public Notice Posting Place;*
- limited the form of public participation for non-statutory hearings;*
- waived statutory public hearings for Zoning Bylaw amendments provided it was consistent with the Official Community Plan; and*
- limited the consideration of an Official Community Plan amendment to two readings”*

CARRIED

Rescission of Flood Construction Exemption Resolution for 2205 McGowan Street

Moved by Councillor Baird, seconded by Councillor Davyduke

“THAT Council rescinds its August 17, 2020 resolution granting an exemption to Section 1401.4.a of the City of Enderby Zoning Bylaw No. 1550, 2014 for the property legally described as LOT 1 DISTRICT LOT 226 OSOYOOS DIVISION YALE DISTRICT PLAN KAP59001 and located at 2205 McGowan Street, Enderby to reduce the flood construction level of an existing accessory residential building.”

CARRIED

Letter of Support for Splatsin Youth Group Community Workforce Response Grant

Moved by Councillor Shishido, seconded by Councillor Schreiner

“That send a letter in support of Splatsin’s Youth Group Community Workforce Grant application.”

CARRIED

Support for Extension of Temporary Expanded Service Area (TESA) Authorizations Unit October 31, 2020

Moved by Councillor Schreiner, seconded by Councillor Knust

“THAT Council directs Staff to send correspondence to the Liquor and Cannabis Regulation Branch confirming that the City of Enderby is supportive of extending Temporary Expanded Service Area (TESA) Authorizations within Enderby until October 31, 2021.”

CARRIED

PUBLIC QUESTION PERIOD

There was no public present.

CLOSED MEETING RESOLUTION

Moved by Councillor Shishido, seconded by Councillor Baird (5:22 p.m.)

“That, pursuant to Section 92 of the Community Charter, the regular meeting convene In-Camera to deal with matters deemed closed to the public in accordance with Section 90 (1)(f) of the Community Charter.”

CARRIED

ADJOURNMENT

Moved by Councillor Baird, seconded by Councillor Davyduke

“That the regular meeting of October 5, 2020 adjourn at 6:47 p.m.”

CARRIED

MAYOR

CORPORATE OFFICER

Agenda

**CITY OF ENDERBY
DEVELOPMENT VARIANCE PERMIT APPLICATION**

File No.: 0029-20-DVP-END

October 13, 2020

APPLICANT/OWNER: Ram Gopal, 1203167 B.C. LTD.

LEGAL DESCRIPTION: LOT 2 DISTRICT LOT 226 KAMLOOPS DIVISION YALE DISTRICT AND OF SECTION 35 TOWNSHIP 18 RANGE 9 WEST OF THE 6TH MERIDIAN KAMLOOPS DIVISION YALE DISTRICT PLAN 1593 EXCEPT PLANS B5872 AND B6868 (327 Brickyard Road, Enderby)

PARCEL A (DD 121824F AND PLAN B5872) OF LOT 2 DISTRICT LOT 226 KAMLOOPS DIVISION YALE DISTRICT AND OF SECTION 35 TOWNSHIP 18 RANGE 9 WEST OF THE 6TH MERIDIAN KAMLOOPS DIVISION YALE DISTRICT PLAN 1593 (321 Brickyard Road, Enderby)

P.I.D #: 011-519-878 (327 Brickyard Road, Enderby)

011-519-827 (321 Brickyard Road, Enderby)

CIVIC ADDRESS: 327 and 321 Brickyard Road, Enderby BC

PROPERTY SIZE: 0.444 hectares (1.09 acres) – 327 Brickyard Road

0.667 hectares (1.65 acres) – 321 Brickyard Road

ZONING: General Industrial (I.2)

O.C.P DESIGNATION: Residential Medium Density

PROPOSAL: To construct a 37,000 square foot industrial building for the purposes of modular home manufacturing.

PROPOSED VARIANCE: Vary Sections 3.0, 4.0, and 4.2.9 of Schedule "A" and Schedule "B" of Subdivision Servicing and Development Bylaw No. 1278, 2000 by not requiring a connection to a community water system or community sanitary sewage system, and permitting an on-site sewage disposal system on a lot less than 2 hectares in size.

RECOMMENDATION:

THAT Council authorizes the issuance of a Development Variance Permit for the properties legally described as, i) LOT 2 DISTRICT LOT 226 KAMLOOPS DIVISION YALE DISTRICT AND OF SECTION 35 TOWNSHIP 18 RANGE 9 WEST OF THE 6TH MERIDIAN KAMLOOPS DIVISION YALE DISTRICT PLAN 1593 EXCEPT PLANS B5872 AND B6868 and located at 327 Brickyard Road, Enderby, and ii) PARCEL A (DD 121824F AND PLAN B5872) OF LOT

2 DISTRICT LOT 226 KAMLOOPS DIVISION YALE DISTRICT AND OF SECTION 35 TOWNSHIP 18 RANGE 9 WEST OF THE 6TH MERIDIAN KAMLOOPS DIVISION YALE DISTRICT PLAN 1593 and located at 321 Brickyard Road, Enderby, to permit variances to the following Sections of the City of Enderby Subdivision Servicing and Development Bylaw No. 1278, 2000:

- Section 3.0 of Schedule "A" and Schedule "B" by not requiring a connection to a community water system;
- Section 4.0 of Schedule "A" and Schedule "B" by not requiring a connection to a community sanitary sewage system; and
- Section 4.2.9 of Schedule "A" by permitting an on-site sewage disposal system on a lot less than 2 hectares in size,

Subject to the property owner providing a sworn affirmation acknowledging that they are aware that:

1. The issuance of variances does not limit the City's ability to require connection to the City's community water and sanitary sewer systems in the future, at the property owner's expense; and
2. It would be prudent to plumb and pre-service for community water and community sewer on any future buildings of the subject properties, in order to minimize the potential connection costs when required by the City.

BACKGROUND:

This report relates to a Development Variance Permit application for the properties located at 327 and 321 Brickyard Road. The applicant is proposing to construct a 37,000 square foot industrial building for the purposes of modular home manufacturing; the applicant is proposing for this development to be serviced on-site by a private well and septic system, rather than connect to community water and sewer.

The applicant is requesting variances to the following Sections of City of Enderby Subdivision Servicing and Development Bylaw No. 1278:

- Section 3.0 of Schedule "A" and Schedule "B" by not requiring a connection to a community water system;
- Section 4.0 of Schedule "A" and Schedule "B" by not requiring a connection to a community sanitary sewage system; and
- Section 4.2.9 of Schedule "A" by permitting an on-site sewage disposal system on a lot less than 2 hectares in size.

Site Context

The subject properties are 0.444 hectares/1.09 acres (327 Brickyard) and 4.077 hectares/1.65 acres (321 Brickyard Road) in size. The parcels are located adjacent to one another on the east side of Brickyard Road, along the northern stretch of the corridor which is constructed to a gravel standard with no underground utilities. Both of the parcels are flat and are currently undeveloped with no improvements on the sites. To

the west of the subject properties is the former Canadian Pacific Railway corridor and to the east is the Shuswap River. The eastern portion of the properties is within the Riparian Assessment Area.

The following orthophoto of the subject and surrounding properties was taken in 2011:



****NOTE:** The property lines shown above are not an accurate representation of their true locations and are intended for display purposes only.

The Proposal

As shown on the attached Schedule "A", the applicant is proposing to construct a 37,000 square foot industrial building for the purposes of modular home manufacturing; the applicant is proposing for this development to be serviced on-site by a private well and septic system, rather than connect to community water and sewer.

Primary access to the properties would be gained off of Brickyard Road via a private access driveway. The proposed industrial building is shown along the western edge of the subject properties. The applicant is proposing to construct the industrial building over the shared property boundary between 327 and 321 Brickyard Road. As buildings are not permitted to be located over a shared property line, the applicant has registered a 'No Transfer Covenant' over the subject properties, which in effect consolidates the properties by requiring that the parcels can only be sold together and to the same owner.

As the applicant is still in the preliminary stage of the development planning process, a number of elements of the proposed development have not been finalized such as parking, fencing and landscaping; should the applicant not be able to satisfy the bylaw standards for these items, they will need to apply for an additional Development Variance Permit in the future.

ZONING BYLAW:

The subject properties and the properties to the north and south are zoned General Industrial (I.2) and are designated in the Official Community Plan (OCP) as Residential Medium Density. The properties to the east and west are located within Area 'F' of the Regional District of North Okanagan.

OFFICIAL COMMUNITY PLAN:

Policies contained within the Official Community Plan which apply to this development include:

- Policy 2.2.c - To maintain and enhance the social well-being, development, and the quality of life for all citizens of Enderby.
- Policy 3.3.c - Council recognizes that development of land has social impacts and will act through the approval process to minimize negative and maximize positive impacts.
- Policy 5.3.f - Council will develop strategies and tools to encourage and facilitate infill and redevelopment within existing developed areas of the community.
- Policy 8.3.h - Council will support infill and redevelopment within the community.
- Policy 8.3.i - Council will support alternative infrastructure standards and urban design principles which promote environmental, economic, and social sustainability.

SUBDIVISION SERVICING AND DEVELOPMENT BYLAW

Schedule 'B' of the City of Enderby Subdivision Servicing and Development Bylaw No. 1278, 2000 sets forth the required levels of works and services for development throughout the community, while Schedule 'A' presents the design criteria, specifications, and standard drawings for the required works and services. As the subject properties are zoned General Industrial (I.2), Schedule 'B' of the Bylaw requires development on the properties to be connected to the City's community water and sanitary sewer systems. Furthermore, Section 4.2.9 of Schedule 'A' states that on-site sewage disposal will only be permitted on lots with a minimum size of 2 hectares (4.94 acres). Given that the applicant is proposing to service the development by a private well and septic system rather than connect to community water and sanitary sewer, and the

combined area of both parcels is less than 2 hectares (4.94 acres), variances to those Sections of the Bylaw are required.

REFERRAL COMMENTS:

The application was referred to the City of Enderby Public Works Manager, Building Inspector, and Fire Chief.

The Public Works Manager provided the following comments:

With respect to the proposed variances, I think that it is prudent to ensure that the properties are developed in such a way that it will be cost effective for the property owner to connect to community water and sewer services, if and when they are extended. The property owner should also acknowledge the City's right to require connection to community water and sewer services in the future, at a property owner's expense.

No other comments were received in response to the referral.

PLANNING ANALYSIS:

The City of Enderby Planner raises no objections to the applicant's request to waive the requirement to connect to a community water system or community sanitary sewer system, and to permit an on-site sewage disposal system on a lot less than 2 hectares in size, for the following reasons:

- The City completed a servicing study in 2016 and determined that the costs associated with extending community water and sewer services from the intersection of Brickyard Road and Bass Avenue to the northern end of Brickyard Road, and completing the necessary upgrades to the broader system to provide sufficient fire flows, are extremely high; the costs are significant enough that Staff do not anticipate that there is any scale of industrial development that could occur on the subject properties that would make extending the services economically viable;
- On-site servicing avoids a significant community water and sanitary sewer extension to service a single development, which is consistent with sound asset management planning (i.e. leap frog servicing would result in the City inheriting significant linear assets with minimal adjacent assessment value);
- On-site servicing makes development of the subject properties viable in the short-term which will result in job creation and economic development;
- Together the subject properties are of sufficient size to accommodate an on-site septic system, although the applicant would be required to go through the necessary permitting and approval process through Interior Health;
- Permitting on-site servicing does not limit the potential for service extensions in the future, which could occur through a number of different mechanisms including a Local Area Service, a Connection Area Charge, or having the City or a developer complete the works and potentially recover costs through a Latecomer Agreement; and
- It is not anticipated that the proposed variances will negatively impact the use and enjoyment of the subject or neighbouring properties.

The City of Enderby Planner is recommending that the proposed variances be supported subject to the property owner providing a sworn affirmation acknowledging that they are aware that:

1. The issuance of variances does not limit the City's ability to require connection to the City's community water and sanitary sewer systems in the future, at the property owner's expense

Although the issuance of variances would enable the property owner to service the development on-site by a private well and septic system, this would not limit the City's ability to require the property owner to connect to the community water or sanitary sewer systems in the future (should they be available), at their expense. Given this, Staff feel that it is advisable to require the property owner to affirm awareness of this fact.

2. It would be prudent to plumb and pre-service for community water and community sewer on any future buildings of the subject properties, in order to minimize the potential connection costs when required by the City

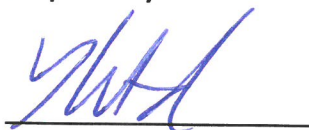
As previously mentioned, notwithstanding issuance of variances, the City has the ability to require the property owner to connect to the community water or sanitary sewer systems at the property owner's expense. Given this, it would be prudent for the property owner to plumb and pre-service for community water and sewer on any future buildings, in order to minimize potential connection costs when required by the City. Staff feel that it is prudent to require the property owner to affirm awareness of this fact.

SUMMARY:

This is an application for a Development Variance Permit for the properties located at 327 and 321 Brickyard Road, Enderby BC. The applicant is proposing to construct an industrial building for the purposes of modular home manufacturing; the applicant is proposing for this development to be serviced on-site by a private well and septic system, rather than connect to community water and sewer. The applicant is proposing to vary the City of Enderby Subdivision Servicing and Development Bylaw No. 1278, 2000 in order to waive the requirement to connect to a community water system or community sanitary sewage system, and to permit an on-site sewage disposal system on a lot less than 2 hectares in size.

It is recommended that upon consideration of adjacent land owner's comments, Council issue a Development Variance Permit to authorize the proposed variances subject to the applicant satisfying the aforementioned terms and conditions.

Prepared By:



Kurt Inglis, MCIP, RPP
Planner and Deputy Corporate Officer

Reviewed By:



Tate Bengtson
Chief Administrative Officer

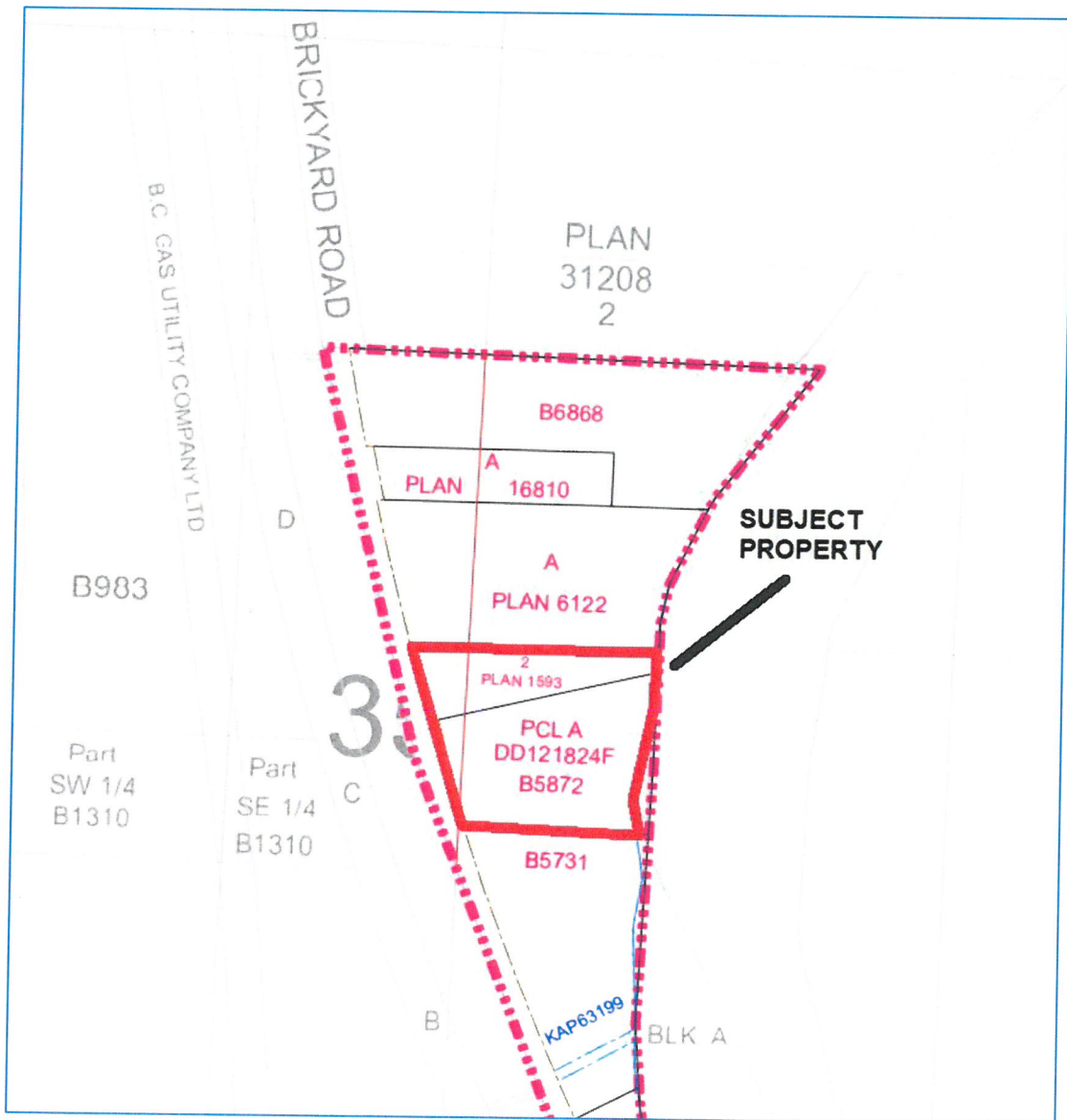
THE CORPORATION OF THE CITY OF ENDERBY
DEVELOPMENT VARIANCE PERMIT APPLICATION
SUBJECT PROPERTY MAP

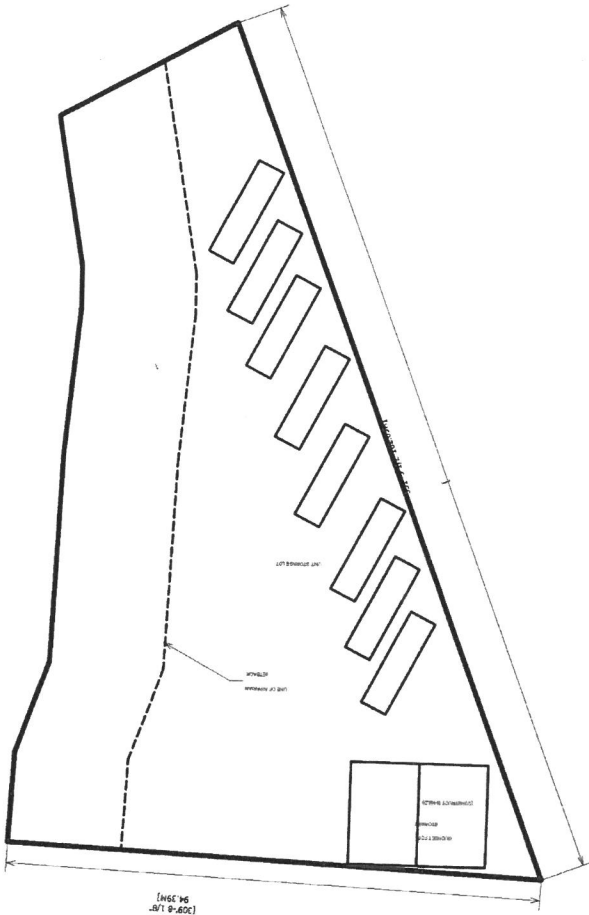
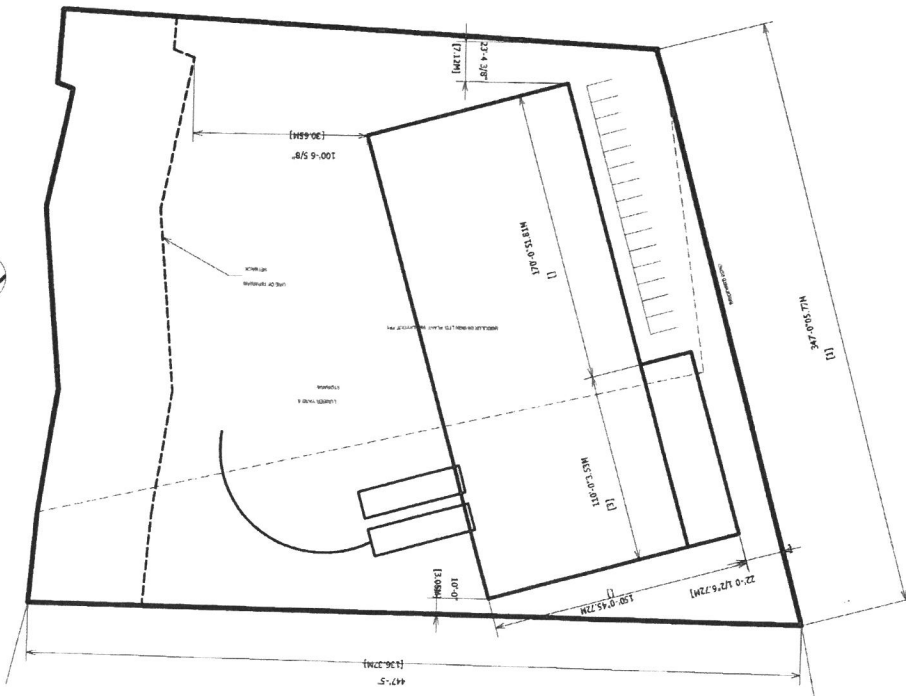
File: 0029-20-DVP-END

Applicant: Ram Gopal

Owner: 1203167 B.C. LTD.

Location: 321 and 327 Brickyard Road, Enderby BC






LEGEND:

—	Property Line
- - -	New Security Fence
—○—	Sell Back Line
—	Overhead Power Line

Note: Site Dimension to Nearest Inch

Project:	MODULUX
Job Number:	19 - 0905
Scale:	KVM
Date:	2020.09.08
Client:	MODULUX
Designed By:	
Drawn By:	KVM
Checked By:	

Project:	PRODUCTION FACILITY
Drawing Name:	SITE PLAN
	A0.01



ConstructShield®
 Fire • Mold • Water • Impact
Refrain from Construction

DO NOT SCALE DRAWINGS

NO.	DATE	REVISIONS	REMARKS	APPROVED
1				
2				
3				
4				
5				
6				
7				
8				
9				
10				



THIS DRAWING IS THE PROPERTY OF CONSTRUCTSHIELD LTD. AND IS NOT TO BE REPRODUCED OR TRANSMITTED IN ANY FORM OR BY ANY MEANS, ELECTRONIC OR MECHANICAL, INCLUDING PHOTOCOPYING, RECORDING, OR BY ANY INFORMATION STORAGE AND RETRIEVAL SYSTEM, WITHOUT THE WRITTEN PERMISSION OF CONSTRUCTSHIELD LTD. ANY REPRODUCTION OR TRANSMISSION OF THIS DRAWING WITHOUT THE WRITTEN PERMISSION OF CONSTRUCTSHIELD LTD. IS STRICTLY PROHIBITED. FOR YOUR PROTECTION, PLEASE VERIFY THE PROJECT NUMBER AND DATE OF THE DRAWING. CONSTRUCTSHIELD LTD. AND BSA (A DIVISION OF CONSTRUCTSHIELD)

Agenda

THE CORPORATION OF THE CITY OF ENDERBY

MEMO

To: Tate Bengtson, Chief Administrative Officer
From: Kurt Inglis, Planner and Deputy Corporate Officer
Date: October 14, 2020
Subject: Road Closure and Removal of Dedication Bylaw No. 1707, 2020 (Unnamed and Unconstructed Road Adjacent to 321 Brickyard Road)

RECOMMENDATION

THAT City of Enderby Road Closure and Removal of Dedication Bylaw No. 1707, 2020 be given three readings and referred to the Ministry of Transportation and Infrastructure and affected utility companies;

AND THAT in accordance with Sections 24 and 94 of the *Community Charter*, the attached Public Notice be published in the local newspaper for two consecutive weeks and posted on the City of Enderby public notice posting place, and that Council provide an opportunity at a Regular Council Meeting for persons that may be affected by the bylaw to make representation to Council;

AND THAT subject to appropriate notice and the adoption of City of Enderby Road Closure and Removal of Dedication Bylaw No. 1707, 2020, Council authorizes the disposal and transfer of the property (0.103 hectares) that was formerly the unnamed and unconstructed road closed under Bylaw No. 1707, 2020 to the owner of the property legally described as PARCEL A (DD 121824F AND PLAN B5872) OF LOT 2 DISTRICT LOT 226 KAMLOOPS DIVISION YALE DISTRICT AND OF SECTION 35 TOWNSHIP 18 RANGE 9 WEST OF THE 6TH MERIDIAN KAMLOOPS DIVISION YALE DISTRICT PLAN 1593 and located at 321 Brickyard Road so that the closed road area can be consolidated with the legally described property;

AND THAT the aforementioned disposal and transfer of the road area be subject to the dedication of an equal portion of land as 'Road' on the property legally described as LOT 3 SECTION 35 TOWNSHIP 18 RANGE 9 WEST OF THE 6TH MERIDIAN KAMLOOPS DIVISION YALE DISTRICT PLAN 1593 EXCEPT PLAN B5731 and located at 275 Brickyard Road, as shown on the attached Schedule 'B';

AND THAT the Mayor and Corporate Officer be authorized to execute the necessary agreements and documents on behalf of the City;

AND THAT pursuant to the Resumption of Highways Regulation, B.C. Reg. 245/2004, the Corporate Officer be authorized to file a certificate in the Land Title Office in order to effect a discharge of the Province's right of resumption for the unnamed road to be closed under City of Enderby Road Closure and Removal of Dedication Bylaw No. 1707, 2020;

AND THAT adoption of City of Enderby Road Closure and Removal of Dedication Bylaw No. 1707, 2020 be subject to:

- i. The City having received letters of undertaking from the current owner, and the prospective future owner for which an offer has been accepted for the property, of the property legally described as THAT PART OF LOT 3 SHOWN ON PLAN B5731 DISTRICT LOT 226 KAMLOOPS (FORMERLY OSOYOOS) DIVISION YALE DISTRICT PLAN 1593 and located at 305 Brickyard Road, which states that the owner/future owner will register an 18.0 metre wide statutory right-of-way through the subject property to encompass works associated with the City's existing and future infrastructure, as shown on the attached Schedule 'C'; and
- ii. The owner of the property legally described as LOT 3 SECTION 35 TOWNSHIP 18 RANGE 9 WEST OF THE 6TH MERIDIAN KAMLOOPS DIVISION YALE DISTRICT PLAN 1593 EXCEPT PLAN B5731 and located at 275 Brickyard Road entering into an indemnification agreement with the City of Enderby for cost recovery obligations under the *Environmental Management Act*, if any;

AND FURTHER THAT all costs related to advertising, survey, legal and other costs associated with raising title, sale, and transfer, shall be borne by the applicant.

BACKGROUND

The owner of the property legally described as PARCEL A (DD 121824F AND PLAN B5872) OF LOT 2 DISTRICT LOT 226 KAMLOOPS DIVISION YALE DISTRICT AND OF SECTION 35 TOWNSHIP 18 RANGE 9 WEST OF THE 6TH MERIDIAN KAMLOOPS DIVISION YALE DISTRICT PLAN 1593 and located at 321 Brickyard Road has requested the acquisition of a ~12 m wide unnamed and unconstructed road dedication directly south of the subject property (shown as 'Closed Road' on the attached Schedule 'A'), for the purposes of consolidating it with the subject property. This road closure and consolidation would support development of the subject property, which is proposed for a modular home manufacturing facility. The subject road area was originally dedicated in 1920 when a number of parcels were created through subdivision. The road area was never constructed nor maintained. At the time of subdivision, the subject property was outside the incorporated area of the City of Enderby.

As part of the road closure process, the property owner is proposing to dedicate an equal portion of land as 'Road' on the property to the south legally described as LOT 3 SECTION 35 TOWNSHIP 18 RANGE 9 WEST OF THE 6TH MERIDIAN KAMLOOPS DIVISION YALE DISTRICT PLAN 1593 EXCEPT PLAN B5731 and located at 275 Brickyard Road (shown as 'Road' on the attached Schedule 'B'). Given that the proposed road closure and consolidation would support development on the owner's parcel, and the owner is proposing to dedicate of an equal portion of land as 'Road' on a nearby parcel, Staff are recommending that Council proceeds with closing this portion of road and removing its dedication. Staff are recommending that the road closure be subject to the following:

1. The City receiving letters of undertaking confirming that the current and prospective future owners of the property located at 305 Brickyard Road (the owner of the parcel proposed for consolidation with the road area is not the current owner of 305 Brickyard Road, but does have an accepted offer on the lot) will register a 18.0 m wide statutory right of way through the subject property to encompass works associated with the City's existing, and to potentially accommodate a future lift station which would address stormwater management challenges in the northwest sector of the community, as shown on the attached Schedule 'C'; and

2. The owner of 275 Brickyard Road entering into an indemnification agreement with the City of Enderby for any cost recovery obligations under the *Environmental Management Act*, in order to limit any potential liability exposure associated with potential contamination of the area proposed for road dedication. It should be noted that Staff received a legal opinion regarding potential liability exposure given the history of the area proposed for road dedication (sawmill site) and the legal opinion confirmed that an indemnification agreement is an adequate tool to limit exposure, which has been recognized by the courts; this protection through an indemnification agreement is in addition to the protection afforded under Section 46 of the *Environment Management Act*, which states that a local government is not responsible for remediation of a contaminated site (which may or may not be the case with the area proposed for road dedication) if the area is being used for a roadway, highway, or right of way for sewerage or waterworks, as long the local government does not deposit the contamination.

The following summarizes the issues that must be considered by the City as part of the proposed road closure:

- ***Is the road vested with the City?***
Section 35 (1)(a) of the Community Charter vests with the municipality the soil and freehold of every highway in the municipality, subject to the exception listed in Section 35 (2); Section 35 (2) was reviewed by Staff and it was determined that no exceptions apply to the City of Enderby in this case, and therefore the road is vested with the City.
- ***Does the owner who originally dedicated the road continue to have an interest in the road?***
Where a highway was dedicated by subdivision or reference plan, the dedication may not be removed without the dedicating owner's consent if: (a) the highway has not been developed for its intended purpose, AND (b) the owner of the land at the time of the dedication is still the owner of all the parcels created by the subdivision or reference plan.

The road area in question was dedicated as part of a subdivision in 1920. Given that the owner of the land at the time of the dedication is no longer the owner of all the parcels created at subdivision, the owner who originally dedicated the road does not continue to have an interest in the road.

- ***Will the road closure affect access to a body of water?***

If a road area provides access to the ocean, a lake or a watercourse, the City may only dispose of the road:

- (a) in exchange for property that Council considers will provide public access to the same body of water that is of at least equal benefit to the public, or;
- (b) if the City places the proceeds received from the sale into a reserve fund to acquire property providing access to the same body of water of at least equal benefit to the public.

The road area in question does provide access to a body of water, albeit an unsafe access given that the road is unconstructed and the steepness of the river bank is significant; however, the owner of the adjacent parcel is proposing to dedicate an equal portion of land as 'Road' on the property located at 275 Brickyard Road (as shown on the attached Schedule 'B'). Given that the area proposed for dedication is of equal area to the proposed road closure area, and is adjacent to the same body of water and with the same severe access constraints, it is Staff's opinion that this proposed road dedication would provide an equivalent value.

- ***Will the road closure completely deprive an owner of access?***

The road area is unconstructed and is not used to provide access to any fronting properties, therefore the road closure will not deprive any property owners of access.

- ***Is the road area within 800 metres of an arterial highway?***

Yes, the road area is within 800 metres of Highway 97A, therefore the City will have to obtain approval from the Minister of Transportation and Infrastructure prior to adopting City of Enderby Road Closure and Removal of Dedication Bylaw No. 1707, 2020.

- ***Will utilities be affected by the road closure?***

The City will refer City of Enderby Road Closure and Removal of Dedication Bylaw No. 1707, 2020 and the reference plan to all applicable utility companies in order to determine if any utilities will be affected by the proposed road closure.

- ***Can the Province's right of resumption be cancelled?***

Pursuant to Sections 35 (7) and (8) of the *Community Charter*, the City's interest in its highways is subject to a right in favour of the Province to resume such highways for Provincial arterial highway purposes, transportation purposes, or park or ecological related purposes. As per the Resumption of Highways Regulation, B.C. Reg. 245/2004, if a closed highway is not adjacent to a park, recreation area or ecological reserve under the *Park Act*, the *Ecological Reserve Act*, or *Protected Areas of British Columbia Act* or an area to which an order under s.7 (1) of the *Environmental Land Use Act* applies, the right of resumption will be cancelled if the land is disposed to an adjoining landowner for the purpose of consolidating the former highway land with the adjoining owner's land; as this provision applies and the City is intending to dispose of the road area to an adjoining land owner for consolidation purposes, the Corporate Officer will file a certificate in the Land Titles Office in order to effect the discharge (see attached certificate).

- ***Is the City receiving fair market value from the purchaser of the sale of the road area?***

The City is prohibited from providing assistance to business, including selling land to a business at less than fair market value as defined under Section 25 of the *Community Charter*. The adjacent land owner is a developer and is therefore considered a 'business', and the City may not dispose of the land at less than fair market value.

It is Staff's opinion that the City would be receiving fair market value from the purchaser of the sale of the road area, based on the following:

- i. The road area proposed for closure and the area proposed for road dedication on the nearby parcel are the same size and have a similar context (i.e. both located along Brickyard Road, both adjacent to Shuswap River but providing no safe access, both are located in an industrial area);
- ii. The area proposed for road dedication has more road frontage than the area proposed for closure (43 m vs 13 m); and
- iii. There is significant value associated with obtaining an 18.0 m wide statutory right of way through the subject property to encompass existing works associated with the City's storm sewer system, and to potentially accommodate a future lift station which would address stormwater management challenges in the northwest sector of the community, to which Staff are recommending that the road closure be subject.

If Council gives Three Readings to City of Enderby Road Closure and Removal of Dedication Bylaw No. 1707, 2020, Staff will proceed with referring the proposed Bylaw to the Ministry of Transportation and Infrastructure and affected utility companies, and advertise the attached Public Notice in the local newspaper and on City of Enderby public notice posting place.

Respectfully Submitted,

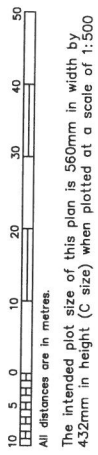


Kurt Inglis
Planner and Deputy Corporate Officer

Schedule 'A'

PLAN EPP101824

Reference Plan to Accompany
 City of Enderby Road Closure
 Bylaw Number 1707, 2020
 of a Portion of Road,
 District Lot 226,
 KDYD, Plan 1593
 Pursuant to Section 120 of the Land Title Act
 and Section 40 of the Community Charter
 BCGS 82L.055



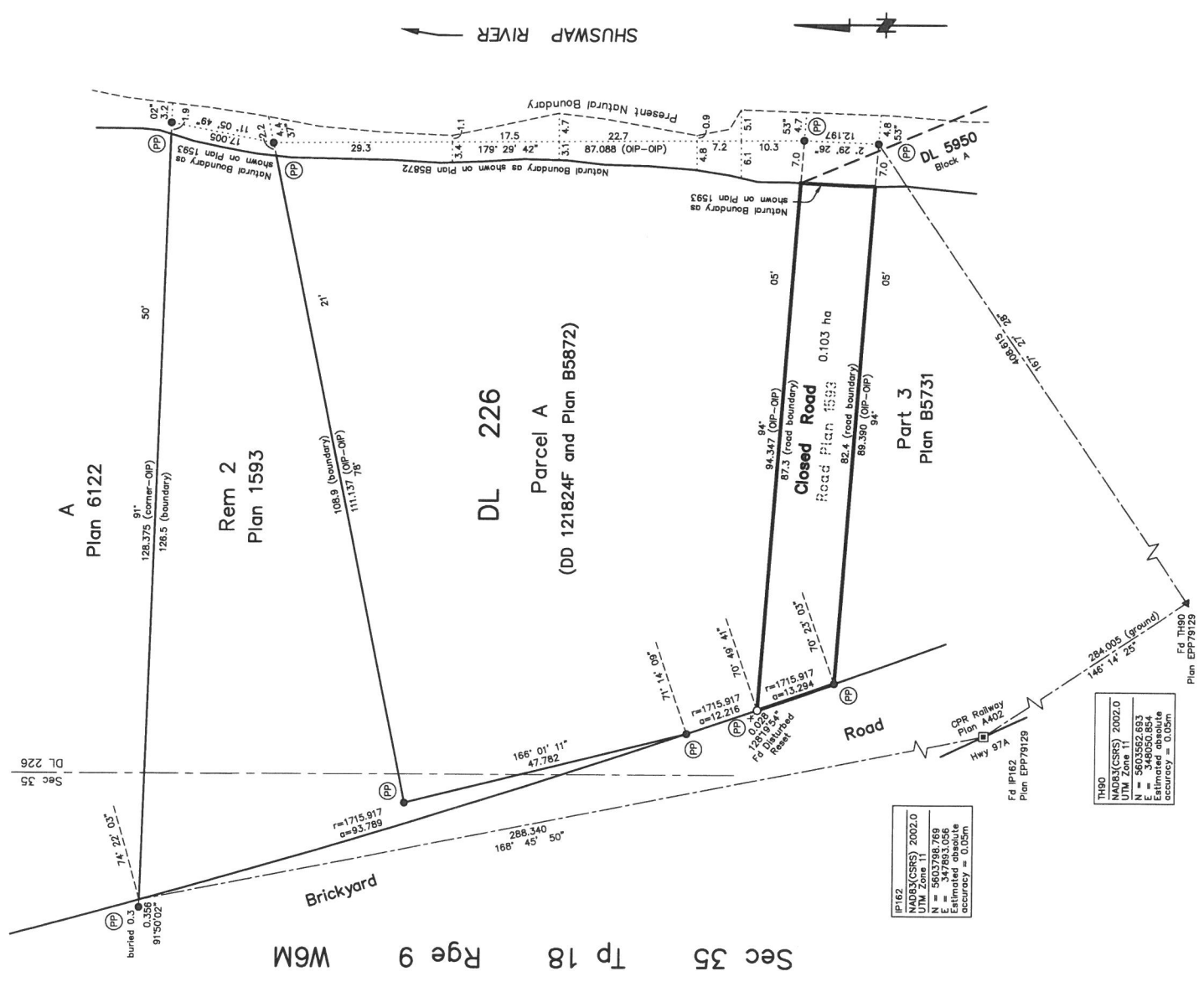
LEGEND

- Grid bearings are derived from differential dual frequency GNSS observations and are referred to the central meridian of UTM Zone 11.
- This plan shows horizontal ground level distances, unless otherwise specified. To compute grid distances, multiply ground level distances by the average combined factor of 0.999832. The average combined factor has been determined based on an ellipsoidal elevation of 335 metres.
- The UTM coordinates and estimated absolute accuracy achieved are derived from differential dual frequency GNSS observations post processed using the Natural Resources Canada Precise Point Positioning Service.
- Standard Iron Post Found (OIP)
- Standard Iron Post Placed (IPP)
- ▲ Traverse Hub Found
- Old Pattern Dominion Iron Post Found
- + Unmonumented point
- Fd Denotes Found
- Ⓟ See Posting Plan EPP79129

This plan lies within the Regional District of North Okanagan

The field survey represented by this plan was completed on the 28th day of August, 2020
 Mark R. Mason, BCLS (929)

BROWNE JOHNSON LAND SURVEYORS
 B.C. AND CANADA LANDS
 SALMON ARM, B.C. 250-832-9701
 File: 85-20 85-20.raw



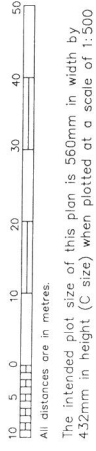
IP162
 M02(CSRS) 2002.0
 UTM
 N = 5603788.769
 E = 347893.056
 Estimated absolute
 accuracy = 0.05m

TH90
 NAD83(CSRS) 2002.0
 UTM
 Zone 11E
 E = 348050.854
 Estimated absolute
 accuracy = 0.05m

Schedule 'B'

PLAN EPP101826

Reference Plan of Road in Part of Lot 3, Sec 35, Tp 18, Rge 9, W6M, KDYD, Plan 1593, Except Plan B5731 Pursuant to Section 107 of the Land Title Act BCGS 82L.055



LEGEND

Grid bearings are derived from differential dual frequency GNSS observations and are referred to the central meridian of UTM Zone 11.

This plan shows horizontal ground level distances, unless otherwise specified. To compute grid distances, multiply ground level distances by the average combined factor of 0.999832. The average combined factor has been determined based on an ellipsoidal elevation of 335 metres.

The UTM coordinates and estimated absolute accuracy achieved are derived from differential dual frequency GNSS observations post processed using the Natural Resources Canada Precise Point Positioning Service.

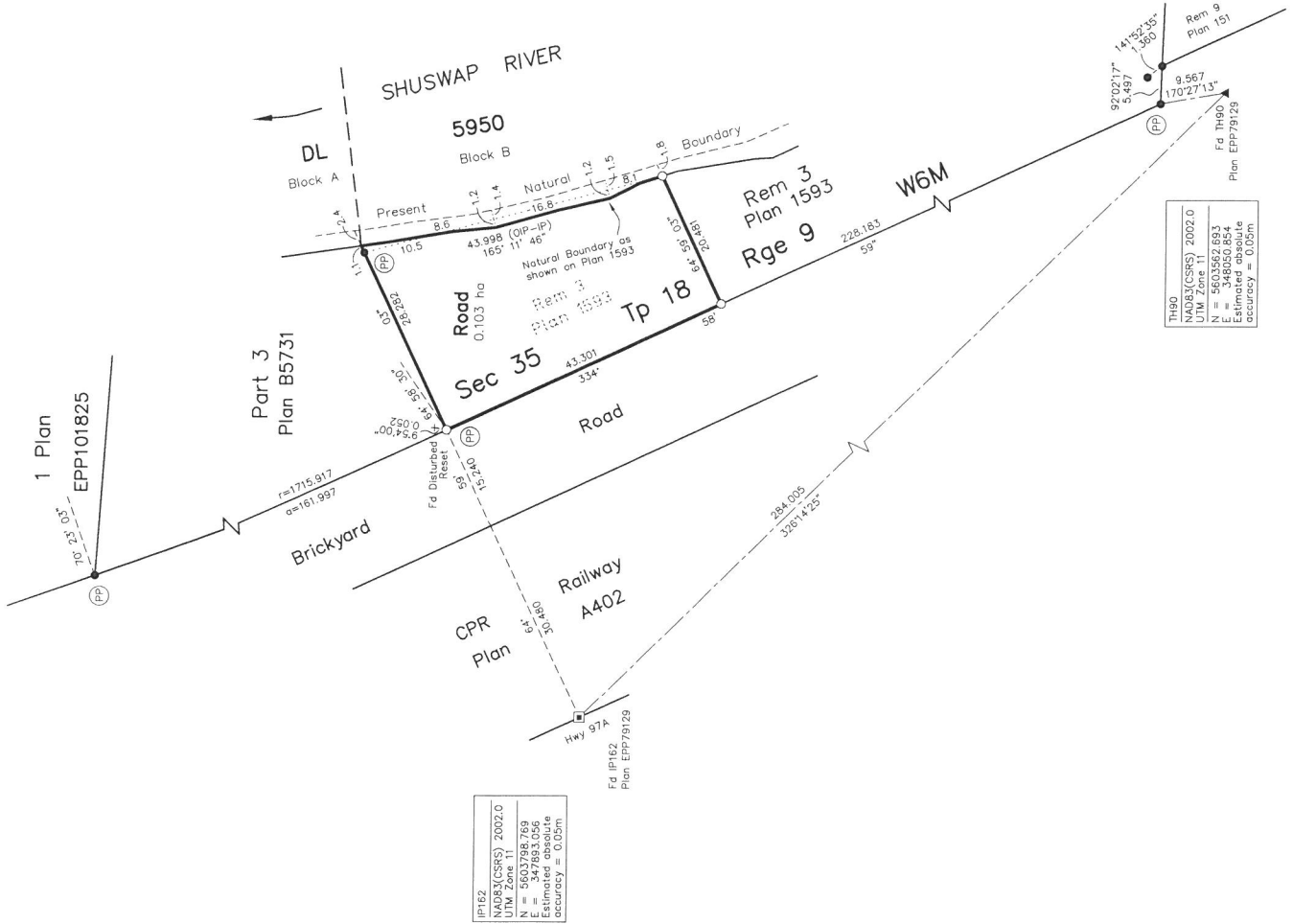
- Standard Iron Post Found (OIP)
- Standard Iron Post Placed (IP)
- ▲ Traverse Hub Found
- Old Pattern Dominion Iron Post Found
- + Unmonumented point
- Fd Denotes Found
- Ⓟ See Posting Plan EPP79129

This plan lies within the jurisdiction of the Approving Officer for the City of Enderby

This plan lies within the Regional District of North Okanagan

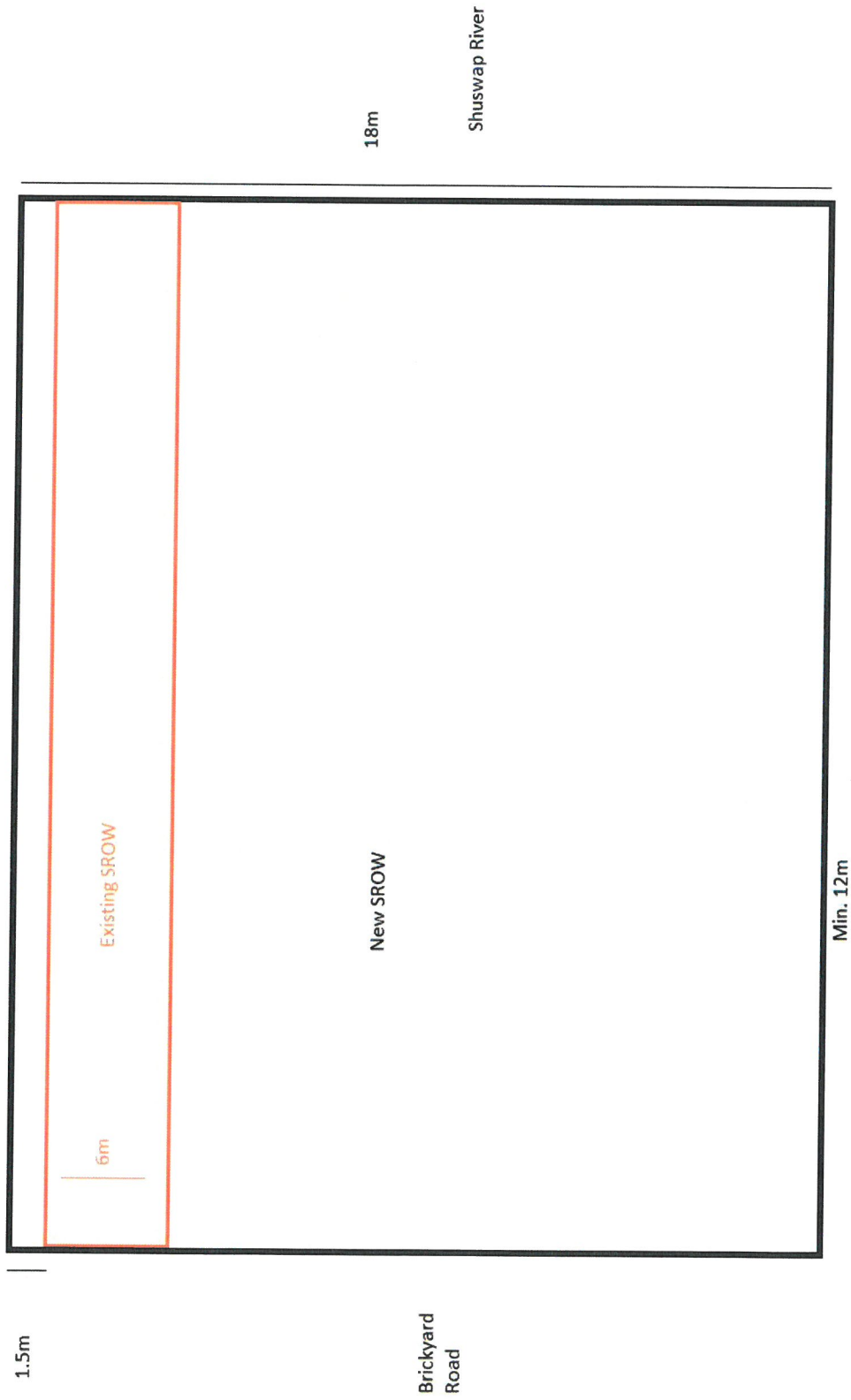
The field survey represented by this plan was completed on the 28th day of August, 2020 Mark R. Mason, BCLS (929)

BROWNE JOHNSON LAND SURVEYORS
B.C. AND CANADA LANDS
SALMON ARM, B.C. 250-832-9701
File: 87-20 85-20.raw



Schedule 'C'

Drawing not to scale, project north not true north - adjusted at survey stage



**Certificate Pursuant to Resumption of Highways Regulation
B.C. Reg. 245/2004 as amended by B.C. Reg. 18/2005**

I, Tate Bengtson, Corporate Officer for the City of Enderby hereby certify that:

- a) the municipality has, by City of Enderby Road Closure and Removal of Dedication Bylaw No. 1707, 2020 under Section 40 of the *Community Charter*,
 - i. closed the highway or portion, and
 - ii. removed its dedication,
- b) the closed highway or portion is not adjacent to,
 - i. a park, recreational area or ecological reserve established under the *Park Act*, the *Ecological Reserve Act* or the *Protected Areas of British Columbia Act*, or
 - ii. an area to which an order under Section 7 (1) of the *Environmental and Land Use Act* applies, and
- c) the land is to be disposed of
 - i. in exchange for land necessary for the purpose of improving, widening, straightening, relocating or diverting a highway, or
 - ii. to one or more adjacent landowners for the purpose of consolidating it with the landowners' existing adjacent parcel or parcels of land.

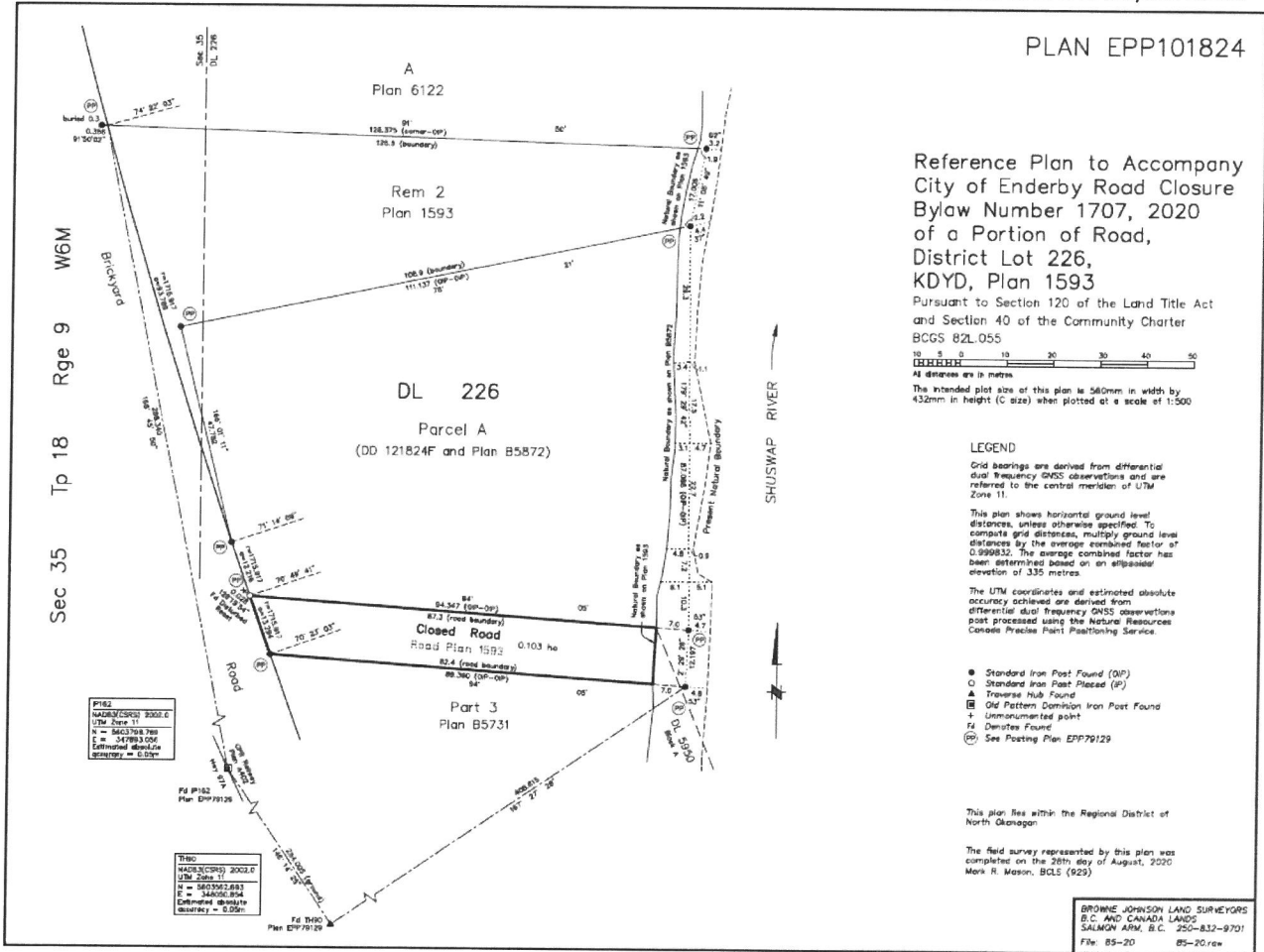
Certified true this day of , .

Tate Bengtson, Corporate Officer
City of Enderby

ROAD CLOSURE AND REMOVAL OF DEDICATION BYLAW NO. 1707, 2020

Public Notice of Permanent Road Closure, Removal of Highway Dedication and Land Disposal

The City of Enderby intends to close and cancel the dedication as highway of an unnamed and unconstructed highway, as shown on the sketch below, for the purposes of transferring it to an adjacent property to consolidate with their lot legally described as PARCEL A (DD 121824F AND PLAN B5872) OF LOT 2 DISTRICT LOT 226 KAMLOOPS DIVISION YALE DISTRICT AND OF SECTION 35 TOWNSHIP 18 RANGE 9 WEST OF THE 6TH MERIDIAN KAMLOOPS DIVISION YALE DISTRICT PLAN 1593 and located at 321 Brickyard Road, in exchange for an equal portion of road dedication from the property legally described as LOT 3 SECTION 35 TOWNSHIP 18 RANGE 9 WEST OF THE 6TH MERIDIAN KAMLOOPS DIVISION YALE DISTRICT PLAN 1593 EXCEPT PLAN B5731 and located at 275 Brickyard Road.



City of Enderby Road Closure and Removal of Dedication Bylaw No. 1707, 2020, which proposes to close the aforementioned road area and remove its dedication as highway, will be considered by Council at its Regular Meeting of _____, 2020 at 4:30 pm, which will be held electronically. All persons who consider they are affected by the bylaw will be provided an opportunity to make representation to Council by attending the meeting electronically or by delivering a written submission to the Corporate Officer by 4:30 pm on _____, 2020 (drop off at City Hall, 619 Cliff Avenue, or email to info@cityofenderby.com). Should you wish to attend the _____ Council meeting electronically, please refer to the agenda package for the Council meeting of _____, 2020 for instructions.

THE CORPORATION OF THE CITY OF ENDERBY

BYLAW NO. 1707

A BYLAW TO AUTHORIZE CLOSURE AND REMOVAL OF THE DEDICATION AS HIGHWAY
OF AN UNNAMED AND UNCONSTRUCTED HIGHWAY ADJACENT TO BRICKYARD ROAD

WHEREAS Section 35(1)(a) of the *Community Charter* provides that the soil and freehold of every highway in a municipality is vested in the municipality;

AND WHEREAS Section 40(1)(a) and 2(b) of the *Community Charter* provides that Council may, by bylaw, close all or part of a road right of way, and remove the dedication of a highway;

AND WHEREAS the City of Enderby wishes to close and cancel the dedication of an unnamed and unconstructed highway, as shown and described as a "Closed Road" and outlined in bold on Explanatory Plan EPP101824 accompanying this bylaw, certified by Mark. R. Mason, BCLS and completed on the 28th day of August, 2020 (hereinafter referred to as the "Plan"), a copy of which is attached hereto as Schedule "A";

NOW THEREFORE Council of the City of Enderby, in open meeting assembled, hereby ENACTS AS FOLLOWS:

Citation

1. This bylaw may be cited as the "City of Enderby Road Closure and Removal of Dedication Bylaw No. 1707, 2020".

General

2. That highway dedicated by Plan 1593 and identified as "Closed Road" on Explanatory Plan EPP101824, which is attached hereto as Schedule "A" and forms part of this bylaw, is hereby stopped up and closed to traffic.
3. The highway dedication of the highway referred to in Section 2 is hereby removed.
4. The Mayor and Corporate Officer are hereby authorized to execute and deliver such transfers, deeds of land, plans and other documents as are necessary or desirable to effect the aforesaid closure and removal of highway dedication.

READ a FIRST time this day of , 2020.

READ a SECOND time this day of , 2020.

READ a THIRD time this day of , 2020.

Public Notice of permanent road closure, removal of highway dedication, and land disposal was advertised on the day of , and the day of , 2020.

RECEIVED APPROVAL OF THE MINISTER OF TRANSPORTATION AND INFRASTRUCTURE
this day of , 2020.

(Community Charter, Section 41(3))

District Development Technician
Ministry of Transportation and Infrastructure

ADOPTED this day of , 2020.

MAYOR

CORPORATE OFFICER

Reference Plan to Accompany
City of Enderby Road Closure
Bylaw Number 1707, 2020
of a Portion of Road,
District Lot 226,
KDYD, Plan 1593
Pursuant to Section 120 of the Land Title Act
and Section 40 of the Community Charter
BCGS 82L.055

All distances are in metres.
The intended plot size of this plan is 560mm in width by
432mm in height (C size) when plotted at a scale of 1:500

LEGEND

Grid bearings are derived from differential
dual frequency GNSS observations and are
referred to the central meridian of UTM
Zone 11.

This plan shows horizontal ground level
distances, unless otherwise specified. To
compute grid distances, multiplicative level
distances by the average combined factor of
0.999832. The average combined factor has
been determined based on an ellipsoidal
elevation of 335 metres.

The UTM coordinates and estimated absolute
accuracy achieved are derived from
differential dual frequency GNSS observations
post processed using the Natural Resources
Canada Precise Point Positioning Service.

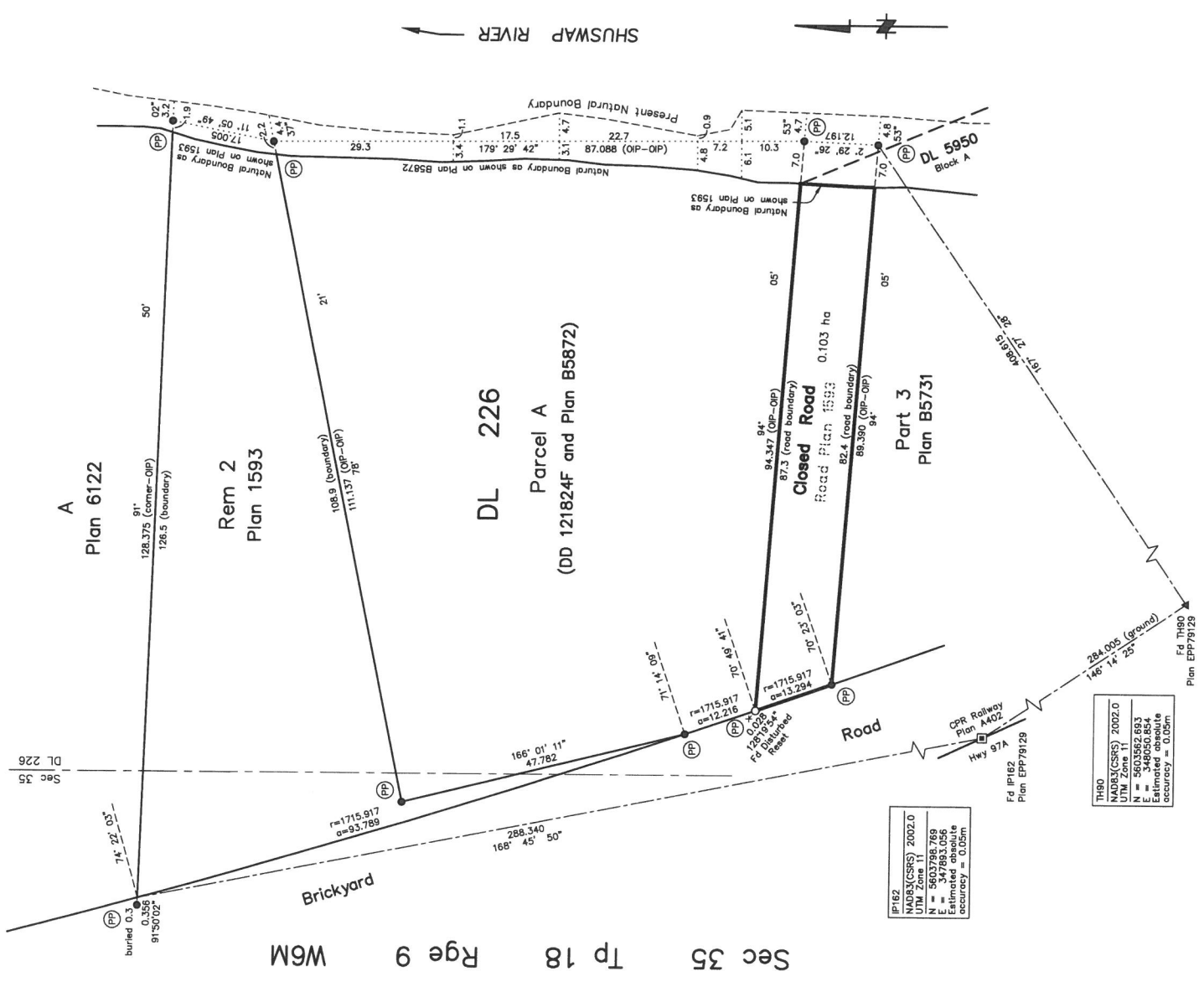
- Standard Iron Post Found (OIP)
- Standard Iron Post Placed (IP)
- ▲ Traverse Hub Found
- ▣ Old Pattern Dominion Iron Post Found
- + Unmonumented point
- Fd Denotes Found
- (PR) See Posting Plan EPP79129

This plan lies within the Regional District of
North Okanagan

The field survey represented by this plan was
completed on the 28th day of August, 2020
Mark R. Mason, BCLS (929)

BROWNE JOHNSON LAND SURVEYORS
B.C. AND CANADA LANDS
SALMON ARM, B.C. 250-832-9701
File: 85-20
85-20.rdw

Schedule 'A'



IP162
NAD83(CRS) 2002.0
UTM Zone 11
N = 5603788.769
E = 3478933.056
Estimated absolute accuracy = 0.05m

TH80
NAD83(CRS) 2002.0
UTM Zone 11
N = 5603562.893
E = 3480050.854
Estimated absolute accuracy = 0.05m

FH&P

LAWYERS LLP

400 - 275 Lawrence Avenue
Kelowna, BC V1Y 6L2
250.762.4222

www.fhplawyers.com
www.okanaganelderlaw.com

Email: dswitzer@fhplawyers.com

Direct: (250) 869.6029

Fax: (250) 762.8616

OUR FILE NO.: **11138-83325**

September 29, 2020

VIA EMAIL

City of Enderby
619 Cliff Avenue
PO Box 400
Enderby, BC V0E 1V0

Dear Sirs/Mesdames:

Re: Road Closure Application

Registered Owner: 1203167 B.C. Ltd.

Parcel Identifier: 011-519-827

Legal Description: PARCEL A (DD 121824F AND PLAN B5872) OF LOT 2
DISTRICT LOT 226 KAMLOOPS DIVISION YALE DISTRICT
AND OF SECTION 35 TOWNSHIP 18 RANGE 9 WEST OF
THE 6TH MERIDIAN KAMLOOPS DIVISION YALE DISTRICT
PLAN 1593

Civic Address: 321 Brickyard Road, Enderby, BC

Parcel Identifier: 011-519-878

Legal Description: LOT 2 DISTRICT LOT 226 KAMLOOPS DIVISION YALE
DISTRICT AND OF SECTION 35 TOWNSHIP 18 RANGE 9
WEST OF THE 6TH MERIDIAN KAMLOOPS DIVISION
YALE DISTRICT PLAN 1593 EXCEPT PLANS B5872 AND
B6868

Civic Address: 327 Brickyard Road, Enderby, BC

We act on behalf of 1203167 B.C. Ltd. in regards to the above noted matter.

We hereby apply on behalf of our client for a Road Closure in accordance with the attached Reference plans prepared and certified by Mark Mason, BCLS, of Salmon Arm, BC.

We also attach hereto the following for your reference:

1. Title Searches; and
2. Environment Site Investigation.

Please confirm receipt of our application and advise as soon as possible if you require anything further from our client to proceed with this application.

Yours truly,

FH&P LAWYERS LLP

Per:


for
Dylan J. Switzer

/sls

Enc.

THE CORPORATION OF THE CITY OF ENDERBY

MEMO

To: Tate Bengtson, Chief Administrative Officer
From: Kurt Inglis, Planner and Deputy Corporate Officer
Date: September 4, 2020
Subject: Amendment to Housing Agreement/Covenant for 607 Cliff Avenue

RECOMMENDATION

THAT Council gives three readings to Housing Agreement Authorization Bylaw No. 1708, 2020;

AND THAT upon adoption of Housing Agreement Authorization Bylaw No. 1708, 2020, Council directs the Corporate Officer to execute an amendment to the Section 219 Covenant/Housing Agreement registered on the title of 607 Cliff Avenue, Enderby BC.

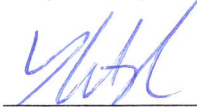
BACKGROUND

In 2017, the City of Enderby became the owner of 607 Cliff Avenue through the tax sale process. The City prepared a Request for Expressions of Interest seeking proposals from parties interested in purchasing 607 Cliff Avenue to redevelop the property to a mix of commercial and residential land uses. One Expression of Interest was received from Alpine Consultants Ltd. (Alpine) which proposed a ground-level commercial space with three residential dwelling units on the second storey.

Ultimately, a sale was negotiated which included a subject where the parties entered into a Housing Agreement/Section 219 Covenant in order to ensure that, i) the use of the proposed residential dwelling units is preserved into the future (i.e. dwelling units cannot be redeveloped or converted to a different use without amending the Housing Agreement), and ii) tenants of the dwelling units are restricted to parking no more than one vehicle per dwelling unit in a public parking lot at any one time.

In the Spring of 2020, the City of Enderby received a written request from Alpine advising that they are unable to proceed with the proposed development due to estimated construction costs being higher than anticipated. Alpine requested that the Housing Agreement/Covenant be discharged from the title of the property. Council supported amending the Housing Agreement/Covenant to remove the provision which requires that the residential dwelling units cannot be redeveloped or converted to a different use, given that the original proposed dwelling units were never constructed. The amendment to the Housing Agreement has received the support of Alpine and is now being advanced to Council for three readings.

Respectfully Submitted,



Kurt Inglis
Planner and Deputy Corporate Officer

THE CORPORATION OF THE CITY OF ENDERBY

BYLAW NO. 1708

A BYLAW TO AUTHORIZE A HOUSING AGREEMENT

WHEREAS pursuant to Section 483 of the *Local Government Act*, a local government may, by bylaw, enter into a housing agreement.

NOW THEREFORE Council of the City of Enderby, in open meeting assembled, enacts as follows:

1. This bylaw may be cited as the "City of Enderby Housing Agreement Authorization Bylaw No. 1708, 2020".
2. Council hereby authorizes the City of Enderby to enter into a Housing Agreement for the property legally described as *Lot 7 and that part of Lot 6 Block 14 and those parts of Lots 38 and 39 shown on Plan B1133 except thereout the south 10 feet of Lot 39 District Lot 150 Kamloops (formerly Osoyoos) Division Yale District Plan 211A the whole to Form A single parcel and to be known hereafter as Parcel A (DD KC7720 and Plan B1133) District Lot 150 Kamloops (formerly Osoyoos) Division Yale District Plan 211A (PID: 012-977-535) and located at 607 Cliff Avenue, Enderby BC, a true copy of which is attached to and forms part of this bylaw as Schedule "A".*
3. The Mayor and Corporate Officer are hereby authorized to execute the attached agreement as well as any conveyances, deeds, receipts or other documents in connection with the attached agreement.
4. This bylaw shall come into full force and effect and is binding on all persons as and from the date of adoption.

READ a FIRST time this day of , 2020.

READ a SECOND time this day of , 2020.

READ a THIRD time this day of , 2020.

ADOPTED this day of , 2020.

MAYOR

CORPORATE OFFICER

PART 2 – TERMS OF INSTRUMENT

HOUSING AGREEMENT AND SECTION 219 COVENANT
(Section 483 of the Local Government Act and Section 219 of the Land Title Act)

THIS AGREEMENT IS MADE BETWEEN:

ALPINE CIVIL ENGINEERING CONSULTANTS LTD., a British Columbia corporation with an address for service at 1998 Vernon Street, Lumby, BC V0E 2G0;

(the “**Transferor**”)

AND:

THE CORPORATION OF THE CITY OF ENDERBY, with an address for service at 619 Cliff Avenue, Enderby, BC, V0E 1V0;

(the “**Transferee**”)

WHEREAS:

- A. The Transferee, **CITY OF ENDERBY**, is called the “**City**” when referring to the corporate entity and “**Enderby**” when referring to a geographical location.
- B. The Transferor is the registered owner of those certain parcels or tracts of land situate, lying and being in Enderby, Province of British Columbia, and legally known and described as:

Civic Address: 607 Cliff Avenue, Enderby, BC, V0E 1V0

PID: 012-977-535

Legal Description: Lot 7 and that part of Lot 6 Block 14 and those parts of Lots 38 and 39 shown on Plan B1133 except thereout the south 10 feet of Lot 39 District Lot 150 Kamloops (formerly Osoyoos) Division Yale District Plan 211A the whole to Form A single parcel and to be known hereafter as Parcel A (DD KC7720 and Plan B1133) District Lot 150 Kamloops (formerly Osoyoos) Division Yale District Plan 211A

(the “**Property**”).

and has agreed to grant the Transferee this Section 219 Covenant charging the Property in accordance with the conditions of sale, which furthers the City’s goals of increasing the quantity and variety of housing available in Enderby.

- C. This Section 219 Covenant herein granted is necessary for the operation and maintenance of the Transferor’s undertaking.

NOW THEREFORE THIS AGREEMENT WITNESSES that in consideration of the covenants and agreements herein contained and other good and valuable consideration (the receipt and sufficiency of which is hereby acknowledged and agreed to by the parties), the parties hereby covenant and agree as follows:

**ARTICLE 1
RESTRICTIVE COVENANTS**

- 1.1 Pursuant to Section 219 of the *Land Title Act*, R.S.B.C. 1996 Chapter 250 and amendments thereto and re-enactments thereof, the Transferor covenants and agrees with the City in respect of the use of the Property that:
- (a) It will be a condition of any tenancy agreement entered into between the Transferor and any tenant of any one of the Residential Units (a “Tenant”) that the Tenant shall be allowed to park no more than one vehicle in a public parking lot within Enderby.
 - (b) the City will be under no obligation to issue a permit for the construction of any improvements on the Property.

**ARTICLE 2
OWNER'S REPRESENTATIONS AND WARRANTIES**

- 2.1 The Transferor represents and warrants to and covenants and agrees with the City that it has the full and complete power, authority and capacity to enter into, execute and deliver this Agreement and to bind all legal and beneficial interests in the title to the Property with the interests in land created hereby.

**ARTICLE 3
RELEASE AND INDEMNITY**

- 3.1 The Transferor hereby releases and forever discharges the City, its employees, contractors, subcontractors, agents, licensees, permittees, officials and officers, and covenants to indemnify and save harmless the City, its employees, contractors, subcontractors, agents, licensees, permittees, officials and officers, from and against all liability for any and all losses, costs, expenses, claims, suits, demands, causes of action and judgments whatsoever at law or at equity which the Owner may at any time have arising out of or in any way connected with this Agreement.

**ARTICLE 4
NOTICES**

4.1 Any notice, approval or request required or permitted to be given under this Agreement will be in writing and may be given by delivering such notice, approval or request to a representative of the party for whom it is intended, either by personal delivery, or by mailing such notice, approval or request by prepaid registered mail from any post office in British Columbia:

(a) in the case of the Transferor at:

ALPINE CIVIL ENGINEERING CONSULTANTS LTD.
1998 Vernon Street
Lumby, BC V0E 2G0
Attn: James Kay

(b) in the case of the City at:

CITY OF ENDERBY
619 Cliff Avenue
PO Box 400
Enderby BC V0E 1V0

or at such other address as the parties may from time to time advise by notice in writing. Any such notice, approval or request will be deemed to have been received on the date of delivery of such notice, approval or request or on the third business day next following the date of such mailing if mailed as aforesaid, provided that if mailed should there be, between mailing and the actual receipt of such notice, approval or request, a mail strike, slowdown or other labour dispute which might affect the delivery of such notice, approval or request, such notice, approval or request will only be effective if actually delivered.

**ARTICLE 5
NO DEROGATION**

5.1 Nothing contained or implied in this Agreement will derogate from the obligations of the Transferor under any other agreement with the City or prejudice or affect the City's rights, powers, duties or obligations in the exercise of its functions pursuant to the *Local Government Act and Community Charter* as amended from time to time and the rights, powers, duties and obligations of the City under all public and private statutes, by-laws, orders and regulations, may be as fully and effectively exercised in relation to the Property as if this Agreement had not been executed and delivered by the Transferor and the City.

**ARTICLE 6
MISCELLANEOUS**

- 6.1 This Agreement shall run with and bind the Property and each and every part into which the same may be subdivided, whether by way of subdivision plan, strata plan or otherwise.
- 6.2 Notwithstanding anything contained herein, the Transferor shall not be liable under any of the covenants and agreements contained herein where such liability arises by reason of an act or omission occurring after the Transferor ceases to have any further interest in the Property.
- 6.3 Any covenant, agreement, condition, or proviso made by two or more persons shall be construed as several as well as joint.
- 6.4 The Transferor will exercise and deliver to the City on request by the City from time to time, such further assurances and instruments as the City may reasonably require to give full force and effect of the Transferor's grants and agreements under this Agreement.

**ARTICLE 7
SEVERABILITY**

- 7.1 If any part of this Agreement is found to be illegal or unenforceable, that part will be considered separate and severable from the rest, and the remaining parts will not be affected hereby and will be enforceable to the fullest extent permitted by law.

**ARTICLE 8
CONTINUING EFFECT**

- 8.1 This instrument will enure to the benefit of and bind each of the City and its successors and assigns and the Transferor and the Transferor's heirs, executors, administrators, successors, and assigns.

IN WITNESS WHEREOF, the parties hereto have executed this Agreement on the General Instrument - Part 1, which is a part hereof.

END OF DOCUMENT

ALPINE

Consultants Ltd.

September 2, 2020

City of Enderby
619 Cliff Avenue
PO Box 400
Enderby, BC V0E 1V0

Attention: Mr. Kurt Inglis, MCIP, RPP
Planner and Deputy Corporate Officer

Dear Sirs;

**Re: Request to Amend Housing Agreement/Section 219 Covenant
Proposed Development of 607 Cliff Avenue
City of Enderby**

Alpine Civil Engineering Consultants Ltd. submits this request that the City amend the Housing Agreement/Section 219 Covenant, as outlined in the resolution from Council of May 4, 2020, which states:

“AND THAT Council directs Staff to prepare a Bylaw to amend the Housing Agreement/Section 219 Covenant registered for 607 Cliff Avenue, in order to remove the provision restricting dwelling units from being redeveloped or converted to a different use;”

Thank you for your assistance in this matter. If you have any questions or concerns, or if there is anything further we can provide, please contact me anytime.

Yours truly,
ALPINE CONSULTANTS LTD.

James Kay

James B. Kay, P.Eng
Principal

MEMO

To: Mayor and Council
From: Tate Bengtson, CAO
Date: October 14, 2020
Subject: Community Economic Recovery Infrastructure Program (CERIP) Grant Application – Construction of Diamond 5 at Riverside Park

RECOMMENDATION

THAT Council directs staff to submit an application for grant funding for the construction of Diamond 5 at Riverside Park through the Community Economic Resilience funding stream of the Community Economic Recovery Infrastructure Program (CERIP);

AND THAT Council supports the project and commits to covering any cost overruns.

BACKGROUND

The Community Economic Recovery Infrastructure Program (CERIP) was developed by the provincial government to help communities in British Columbia recover from the economic impacts experienced from COVID-19. CERIP supports job creation through small-scale infrastructure projects, destination and economic development initiatives and cultural heritage projects. CERIP provides 100% grant funding for projects up to \$1 million.

The grant program has 4 funding streams, including:

1. Community Economic Resilience;
2. Destination Development;
3. Unique Heritage Infrastructure; and
4. Rural Economic Recovery.

Staff are recommending that the City of Enderby submits a grant application under the Community Economic Resilience funding stream of CERIP to fund the construction of Diamond 5 at Riverside Park. The Enderby & District Services Commission has been engaging with the community and user groups for over a year, which has most recently, as of January 2020, led to direction to complete detailed design. The detailed design and budget are nearing completion and are expected prior to the grant submission deadline; staff are projecting a cost of approximately \$250,000, which includes irrigation, backstop, protective fencing, in addition to earthworks, the construction of the infield and the outfield, engineering/project inspection, and contingency.

In terms of community resilience, outdoor physical activities are growing in importance as we adjust to the impacts of the COVID-19 pandemic, and the associated public health measures intended to manage the risk.

Respectfully submitted,



Tate Bengtson
Chief Administrative Officer

Agenda
—

THE CORPORATION OF THE CITY OF ENDERBY

MEMO

To: Tate Bengtson, Chief Administrative Officer
From: Kurt Inglis, Planner and Deputy Corporate Officer
Date: October 14, 2020
Subject: Community Economic Recovery Infrastructure Program (CERIP) Grant Application – Replacement of Drill Hall Metal Roof

RECOMMENDATION

THAT Council directs staff to submit an application for grant funding to replace the Enderby Drill Hall's metal roof through the Unique Heritage Infrastructure funding stream of the Community Economic Recovery Infrastructure Program (CERIP);

AND THAT Council supports the project and commits to covering any cost overruns.

BACKGROUND

The Community Economic Recovery Infrastructure Program (CERIP) was developed by the provincial government to help communities in British Columbia recover from the economic impacts experienced from COVID-19. CERIP supports job creation through small-scale infrastructure projects, destination and economic development initiatives and cultural heritage projects. CERIP provides 100% grant funding for projects up to \$1 million.

The grant program has 4 funding streams, including:

1. Community Economic Resilience;
2. Destination Development;
3. Unique Heritage Infrastructure; and
4. Rural Economic Recovery.

Staff are recommending that the City of Enderby submits a grant application under the Unique Heritage Infrastructure funding stream of CERIP to fund the replacement of the Enderby Drill Hall's metal roof. The Drill Hall's metal roof is well past the end of its lifecycle, and its substandard condition has resulted in damage to the interior of the building, as well as patch repairs to the roof itself. A successful grant application through CERIP to fund the replacement of the Drill Hall's roof will achieve the following objectives:

1. Preserving a local heritage asset; and
2. Preserving the continued use of an important civic building that is a venue for recreation programming, youth and senior programming, events, and local business use.

It is recommended that Council supports the project by directing Staff to submit an application for grant funding to replace the Drill Hall's metal roof through the Unique Heritage Infrastructure funding stream of the Community Economic Recovery Infrastructure Program (CERIP), and committing to covering any cost overruns associated with the project. The Enderby Drill Hall Society has agreed to provide a local contribution for the project in the form of a 10% contingency.

Respectfully Submitted,



Kurt Inglis
Planner and Deputy Corporate Officer

Agenda

THE CORPORATION OF THE CITY OF ENDERBY

MEMO

To: Tate Bengtson, Chief Administrative Officer
From: Kurt Inglis, Planner and Deputy Corporate Officer
Date: October 14, 2020
Subject: Bylaw Enforcement Statistics for Second Period of 2020 (May - Aug)

RECOMMENDATION

THAT Council receives this memorandum for information.

BACKGROUND

The bylaw enforcement statistics for the second period of 2020 (May - Aug) are attached to this memorandum as Appendix "A"; the highlights of these statistics are as follows:

- A total of 118 complaints were received between May 1, 2020 and August 31, 2020, which is comparable to the 122 complaints received for the same period in 2019;
- The most common complaints were related to unsightly properties, unlawful parking, and excessive noise (combined 52.5% of complaints);
- Of the 118 complaints, 84 (71.2%) were resolved through voluntary compliance or were already compliant upon investigation;
- The City issued the following:
 - 15 warnings;
 - 11 Orders to Comply;
 - 4 Bylaw Notices;
 - 2 Nuisance Abatement charges; and
 - 1 Stop Work Order;
- One unlawfully parked vehicle was towed at the owner's expense; and
- The City received 1 COVID-19 related complaint in the second period of 2020, which was a report of a local business not having plexiglass installed at their location; WorkSafe BC does not require the installation of plexiglass for all businesses, and upon follow up with the business, it was determined that they had the required COVID-19 Safety Plan in place that outlined the policies, guidelines, and procedures implemented to reduce the risk of COVID-19 transmission.

Respectfully Submitted,



Kurt Inglis
Planner and Deputy Corporate Officer

Appendix "A" - BYLAW COMPLAINT STATISTICS FOR SECOND PERIOD OF 2020 (MAY-AUG)

BREAKDOWN OF COMPLAINTS		
Category	No. of Complaints	Percentage of Complaints
Property	45	38.1%
Parking/Traffic	34	28.8%
Dogs	14	11.9%
Nuisance	12	10.2%
Zoning	5	4.2%
Public Spaces	4	3.4%
Building	2	1.7%
COVID-19	1	0.8%
Civil	1	0.8%
TOTAL	118	
Identified By	Bylaw Enforcement / Staff	Public
	68 (57.6%)	50 (42.4%)

PROPERTY COMPLAINTS		
Type	No. of Complaints	Percentage of Property Complaints
Unightly property	39	86.7%
Unlawful burning	3	6.7%
Derelict vehicle	1	2.2%
Garbage overflowing from container	1	2.2%
Vegetation overhanging on to sidewalk	1	2.2%
TOTAL	45	

PARKING/TRAFFIC COMPLAINTS		
Type	No. of Complaints	Percentage of Parking/Traffic Complaints
Unlawful parking	14	41.2%
Detached trailer on public property	6	17.6%
Continuous parking of recreational vehicle on public property	4	11.8%
Derelict vehicle	3	8.8%
Blocking flow of vehicular traffic	3	8.8%
Blocking flow of pedestrian traffic	2	5.9%
Deposit material on roadway	2	5.9%
TOTAL	34	

DOG COMPLAINTS		
Type	No. of Complaints	Percentage of Dog Complaints
Dog at large	8	57.1%
Excessive barking	5	35.7%
Failure to remove feces	1	7.1%
TOTAL	14	
Complaints Per Jurisdiction	Enderby	Area 'F'
	12 (85.7%)	2 (14.3%)

NUISANCE COMPLAINTS		
Type	No. of Complaints	Percentage of Nuisance Complaints
Excessive noise	9	75%
Annoyance or nuisance by the emission of odours	1	8.3%
Operating lawn grooming equipment outside of permitted hours	1	8.3%
Construction work outside of permitted hours	1	8.3%
TOTAL	12	

ZONING COMPLAINTS		
Type	No. of Complaints	Percentage of Zoning Complaints
Unlawful use	2	40%
Unlawful fencing	1	20%
Oversized commercial vehicle parked in residential zone	1	20%
Unlawful growing of cannabis outdoors	1	20%
TOTAL	5	

PUBLIC SPACES COMPLAINTS		
Type	No. of Complaints	Percentage of Public Spaces Complaints
Temporarily taking abode in public space	3	75%
Unlawful excavation	1	25%
TOTAL	4	

BUILDING COMPLAINTS		
Type	No. of Complaints	Percentage of Building Complaints
Construction without a permit	2	100%
TOTAL	2	

COVID-19 COMPLAINTS		
Type	No. of Complaints	Percentage of COVID-19 Complaints
Business not adhering to WorkSafe BC Requirements	1	100%
TOTAL	1	

CIVIL COMPLAINTS		
Type	No. of Complaints	Percentage of Civil Complaints
Civil matter between private property owners	1	100%
TOTAL	1	