

THE CORPORATION OF THE CITY OF ENDERBY

MEMO

AGENDA

To: Tate Bengtson, Chief Administrative Officer
From: Kurt Inglis, Planner
Date: March 8, 2022
Subject: 0011-22-RZ-END (Taylor) - Third Reading and Adoption of City of Enderby Official Community Plan Bylaw No. 1549, 2014 Amendment Bylaw No. 1743, 2022 and City of Enderby Zoning Bylaw No. 1550, 2014 Amendment Bylaw No. 1744, 2022

RECOMMENDATION

THAT Council receives and files the attached Staff Report dated March 3, 2022;

AND THAT upon consideration of input at the Public Hearing, City of Enderby Official Community Plan Bylaw No. 1549, 2014 Amendment Bylaw No. 1743, 2022, which proposes to change the future land use designations of the properties legally described as, i) LOT 9 BLOCK 7 DISTRICT LOT 150 KAMLOOPS (FORMERLY OSOYOOS) DIVISION YALE DISTRICT PLAN 211A, and located at 712 Cliff Avenue, Enderby BC, and ii) THE WEST ½ OF LOT 12 BLOCK 7 DISTRICT LOT 150 KAMLOOPS (FORMERLY OSOYOOS) DIVISION YALE DISTRICT PLAN 211A, and located at 710 Cliff Avenue, Enderby BC, from *General Commercial* to *Residential Low Density*, be given Third Reading and Adoption;

AND THAT upon consideration of input at the Public Hearing, City of Enderby Zoning Bylaw No. 1550, 2014 Amendment Bylaw No. 1744, 2022 which proposes to rezone the properties legally described as, i) LOT 9 BLOCK 7 DISTRICT LOT 150 KAMLOOPS (FORMERLY OSOYOOS) DIVISION YALE DISTRICT PLAN 211A, and located at 712 Cliff Avenue, Enderby BC, and ii) THE WEST ½ OF LOT 12 BLOCK 7 DISTRICT LOT 150 KAMLOOPS (FORMERLY OSOYOOS) DIVISION YALE DISTRICT PLAN 211A, and located at 710 Cliff Avenue, Enderby BC, from the General Commercial (C.1) zone to the Residential Single Family (R.1-A) zone, be given Third Reading and Adoption.

AND FURTHER THAT should Council give Third Reading and Adoption to City of Enderby Zoning Bylaw No. 1550, 2014 Amendment Bylaw No. 1744, 2022, such Adoption shall come into force and effect once the Ministry of Transportation and Infrastructure has endorsed the Bylaw.

BACKGROUND

A Joint Official Community Plan Amendment and Rezoning Application has been submitted for the properties located at 712 and 710 Cliff Avenue, Enderby BC (collectively referred to hereafter as “the subject property”). The applicant is proposing to change the Official Community Plan designation for the subject property from *General Commercial* to *Residential Low Density* and to rezone it from the General Commercial (C.1) zone to the Residential Single-Family (R.1-A) zone. The applicant is seeking to

bring the current residential use of the subject property into alignment with the City of Enderby Official Community Plan Bylaw No. 1550, 2014 and the City of Enderby Zoning Bylaw No. 1550, 2014.

At the Regular Meeting of March 7, 2022, Council gave First and Second Readings to the associated City of Enderby Official Community Plan Bylaw No. 1549, 2014 Amendment Bylaw No. 1743, 2022 and City of Enderby Zoning Bylaw No. 1550, 2014 Amendment Bylaw No. 1744, 2022 and forwarded them to a Public Hearing; the Public Hearing provides an opportunity for all persons who believe that their interest in property is affected by the Bylaws to make public representation. Following the conclusion of the Public Hearing, Council will consider the Bylaws for Third Reading and Adoption.

Respectfully Submitted,



Kurt Inglis
Planner

AGENDA

CITY OF ENDERBY
OFFICIAL COMMUNITY PLAN AMENDMENT AND REZONING APPLICATION

File No: 0011-22-OR-END

March 3, 2022

APPLICANT/OWNER: Ariella Taylor

LEGAL DESCRIPTION: LOT 9 BLOCK 7 DISTRICT LOT 150 KAMLOOPS (FORMERLY OSOYOOS) DIVISION YALE DISTRICT PLAN 211A

and,

THE WEST ½ OF LOT 12 BLOCK 7 DISTRICT LOT 150 KAMLOOPS (FORMERLY OSOYOOS) DIVISION YALE DISTRICT PLAN 211A

PID #(s): 001-725-548
001-725-572

LOCATION: 712 and 710 Cliff Avenue, Enderby BC

PROPERTY SIZE: 1,003 square meters/10,800 square feet (combined)

PRESENT ZONING: General Commercial (C.1)

PROPOSED ZONING: Residential Single Family (R.1-A)

**PRESENT O.C.P
DESIGNATION:** General Commercial

**PROPOSED O.C.P
DESIGNATION:** Residential Low Density

PROPOSAL: Bring the current residential use of the properties into alignment with Official Community Plan Bylaw No. 1549, 2014 and Zoning Bylaw No. 1550, 2014

RECOMMENDATION:

THAT City of Enderby Official Community Plan Bylaw No. 1549, 2014 Amendment Bylaw No. 1743, 2022 which proposes to change the future land use designations of the properties legally described as, i) LOT 9 BLOCK 7 DISTRICT LOT 150 KAMLOOPS (FORMERLY OSOYOOS) DIVISION YALE DISTRICT PLAN 211A, and located at 712 Cliff Avenue, Enderby BC, and ii) THE WEST ½ OF LOT 12 BLOCK 7 DISTRICT LOT 150

KAMLOOPS (FORMERLY OSOYOOS) DIVISION YALE DISTRICT PLAN 211A, and located at 710 Cliff Avenue, Enderby BC, from *General Commercial* to *Residential Low Density*, be given First Reading;

AND THAT after First Reading of City of Enderby Official Community Plan Bylaw No. 1549, 2014 Amendment Bylaw No. 1743, 2022 and in accordance with Sections 473 (2.1) and 477 of the *Local Government Act*, Bylaw No. 1743 be considered in conjunction with the City's Housing Needs Assessment Report, Financial Plan, and Regional Solid Waste Management Plan;

AND THAT after considering City of Enderby Official Community Plan Bylaw No. 1549, 2014 Amendment Bylaw No. 1743, 2022 in conjunction with the City's Housing Needs Assessment Report, Financial Plan, and Regional Solid Waste Management Plan, Bylaw No. 1743 be given Second Reading and forwarded to a Public Hearing;

AND THAT the referral process which requests that various authorities and organizations review the amendments proposed by City of Enderby Official Community Plan Bylaw No. 1549, 2014 Amendment Bylaw No. 1743, 2022, as outlined in this Staff Report, be considered appropriate consultation for the purposes of Sections 475 and 476 of the *Local Government Act*;

AND FURTHER THAT City of Enderby Zoning Bylaw No. 1550, 2014 Amendment Bylaw No. 1744, 2022 which proposes to rezone the properties legally described as, i) LOT 9 BLOCK 7 DISTRICT LOT 150 KAMLOOPS (FORMERLY OSOYOOS) DIVISION YALE DISTRICT PLAN 211A, and located at 712 Cliff Avenue, Enderby BC, and ii) THE WEST ½ OF LOT 12 BLOCK 7 DISTRICT LOT 150 KAMLOOPS (FORMERLY OSOYOOS) DIVISION YALE DISTRICT PLAN 211A, and located at 710 Cliff Avenue, Enderby BC, from the General Commercial (C.1) zone to the Residential Single Family (R.1-A) zone, be given First and Second Reading and forwarded to a Public Hearing.

BACKGROUND:

This report relates to a Joint Official Community Plan Amendment and Rezoning Application for the properties located at 712 and 710 Cliff Avenue, Enderby BC (collectively referred to hereafter as "the subject property"). The applicant is proposing to change the Official Community Plan (OCP) designation for the subject property from *General Commercial* to *Residential Low Density* and to rezone it from the General Commercial (C.1) zone to the Residential Single-Family (R.1-A) zone. The applicant is seeking to bring the current residential use of the subject property into alignment with the City of Enderby Official Community Plan Bylaw No. 1550, 2014 and the City of Enderby Zoning Bylaw No. 1550, 2014.

Site Context

The subject property involves two adjacent lots on the south side of Cliff Avenue, west of Highway 97A/George Street. The lots are relatively flat and have a combined area of 1,003 square meters (10,800 square feet). A single-family dwelling built in 1910 is located on the larger western lot (712 Cliff Avenue) while the smaller eastern lot (710 Cliff Avenue) remains undeveloped.

The Zoning and OCP designations of the subject property and surrounding properties are as follows:

- Subject property - Zoned General Commercial and designated in the OCP as General Commercial
- South, west and northwest properties - Zoned Residential Single Family (R.1-A) and designated in the OCP as Residential Low Density
- Southwest property – Zoned Residential Two Family (R.2) and designated in the OCP as Residential Low Density
- North properties – Zoned Residential Single Family (R.1-A) and designated in the OCP as General Commercial

The following figure shows the zoning designations of the subject and surrounding properties:



Figure 1. Zoning Map

Yellow – Residential Single Family (R.1-A)
 Orange – Residential Two Family (R.2)
 Purple – General Commercial (C.1)

***Note: 709 Russell Avenue is zoned Residential Multi-Family Low Intensity (R.3-A) but is incorrectly labelled and shaded as Residential Single Family (R.1-A) on the RDNO mapping system.

The following figure shows the OCP future land use designations of the subject and surrounding properties:

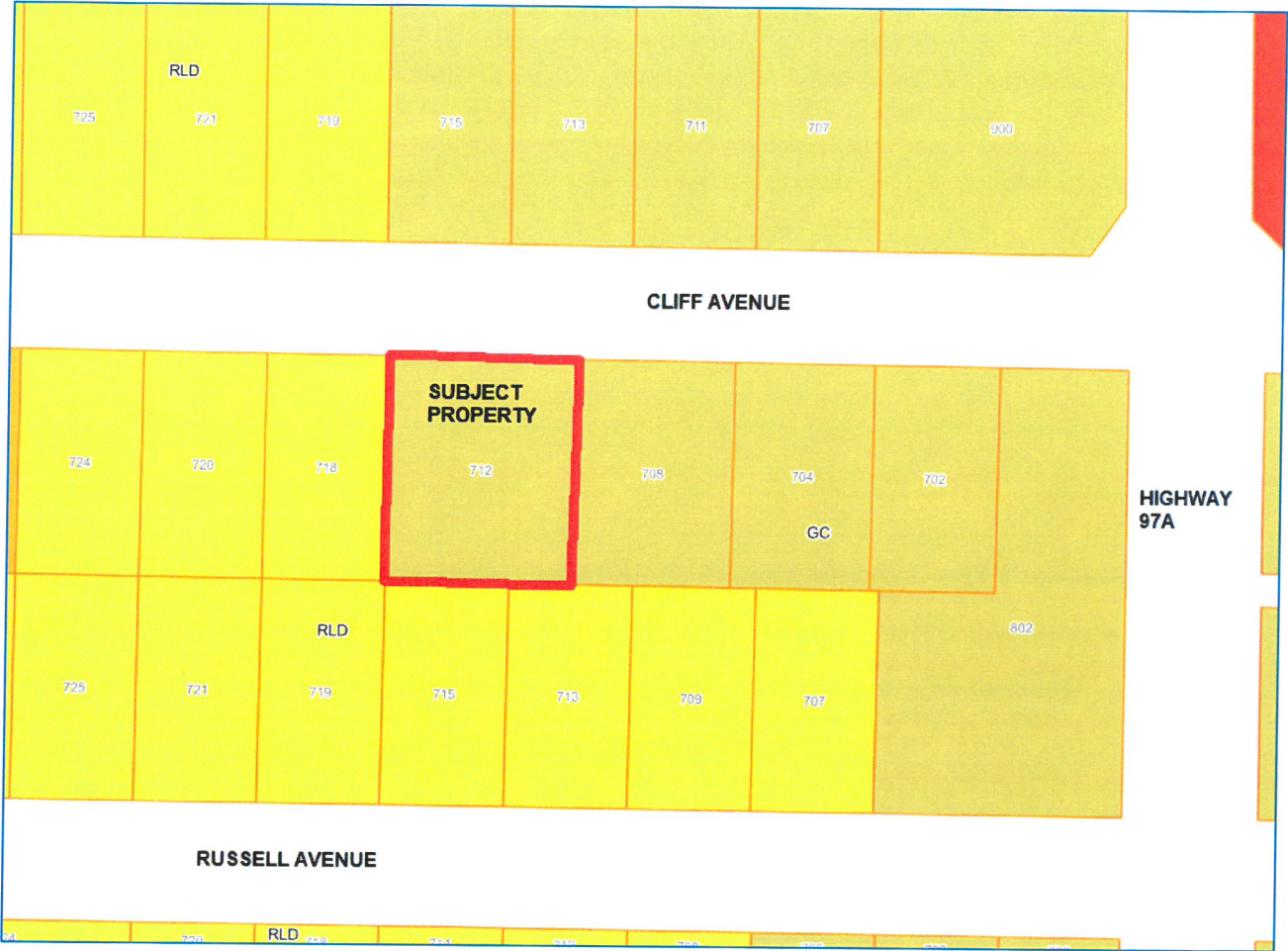


Figure 2. OCP Future Land Use Designations

Yellow – Residential Low Density
Brown – General Commercial

***Note: 709 Russell Avenue is designated in the OCP as Residential Medium Density but is incorrectly labelled and shaded as Residential Low Density on the RDNO mapping system.

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



Figure 3: Orthophoto

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

The Proposal

The applicant is proposing to change the OCP designation of the subject property from *General Commercial* to *Residential Low Density* and to rezone it from the General Commercial (C.1) zone to the Residential Single-Family (R.1-A) zone. The applicant is seeking to bring the current residential use of the property (a single-family dwelling) into alignment with the City of Enderby Zoning Bylaw No. 1550, 2014 and Official Community Plan Bylaw No. 1549, 2014. Given that a single-family dwelling is not a permitted use within the subject property's General Commercial (C.1) zoning designation, the current residential use is deemed 'legally non-conforming' pursuant to the *Local Government Act*. The applicant has advised that this legally non-conforming status has resulted in the need to finance the property through a commercial mortgage, which comes at a significantly higher interest rate.

Legally Non-Conforming Status

The single-family dwelling located on the subject property was constructed in 1910, at which point there was no Zoning Bylaw in effect for the community. The City of Enderby subsequently adopted a Zoning

Bylaw to regulate uses within the community and the subject property was ultimately zoned to its current General Commercial (C.1) zoning designation.

Given that the subject property's current zoning designation of General Commercial (C.1) does not permit single-family dwellings, but this use was permitted when the single-family dwelling was originally constructed, the use is deemed 'legally non-conforming' (i.e. grandfathered) and is subject to the provisions contained in Division 14 of Part 14 of the *Local Government Act*. Under Division 14 of Part 14 of the *Local Government Act*, a legally non-conforming use is permitted to continue but is subject to a number of restrictions, including:

- Section 530 - Does not authorize the non-conforming use of land to be continued on a scale or to an extent or degree greater than that at the time of the adoption of the land use regulation bylaw.
- Section 531 - A structural alteration or addition must not be made in or to a building or other structure while a non-conforming use is continued in all or any part of it, unless i) required by enactment, ii) permitted by the Board of Variance, or iii) is done to a protected heritage property through a heritage alteration permit.
- Section 532 - If the building associated with a legally non-conforming use is damaged or destroyed to the extent of 75% or more of its value above its foundations, as determined by the building inspector, the structure must not be repaired or reconstructed except for a conforming use in accordance with the bylaw.

*NOTE: Sections 531 and 532 of the LGA mean that there is an 'expiration date' on a legally non-conforming uses, and that when a building associated with a legally non-conforming use reaches the end of its useful life, the property is to be redeveloped in a manner that is consistent with its base zoning designation.

ZONING BYLAW:

The subject property is zoned General Commercial (C.1) and uses within this zone include:

- Accessory buildings and structures
- Accommodation including dwelling units, hotels and motels
- Civic use
- Auditoriums, youth centres and social halls
- Educational facilities and professional studios
- Entertainment and recreation facilities
- Cannabis-Related Business
- Food service (excluding drive-through restaurants)
- Office and commerce facilities
- Public service use
- Retail sales
- Service and repair
- Transportation facilities

Uses permitted within the proposed Residential Single Family (R.1-A) zone include:

- Accessory residential
- Restricted agriculture
- Single-family dwellings
- Secondary suites
- Bed and breakfasts
- Civic and public service use

OFFICIAL COMMUNITY PLAN:

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

- 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 3.3.h - Council will utilize the development approval process, including Phased Development Agreements, to secure an adequate supply of quality affordable, attainable and special needs housing which meets the needs of all residents of the community, regardless of age, mobility, background or socio-economic status.
- Policy 4.4.c - Council will encourage and support a spectrum of housing choices throughout the community, including secondary suites, in order to meet the diverse housing needs of residents.
- Policy 12.3.c - Council encourages and supports creative and innovative infilling, development, redevelopment and renovation of existing buildings in order to maintain a strong focus on commercial activity in commercial areas.

HOUSING NEEDS REPORT

As per Section 473 (2.1) of the *Local Government Act*, when a local government is amending its OCP in relation to statements or map designations relating to the location, amount, type and density of residential development required to meet anticipated housing needs, the local government must consider its most recently received Housing Needs Report. The City of Enderby received its first Housing Needs Report at the Regular Council Meeting of November 2, 2020, which can be accessed through the following link:

<https://www.cityofenderby.com/enderby-housing-needs-assessment-report/>

An overview of how the proposal relates to the outcomes of the Housing Needs Assessment Report is provided in the Planning Analysis section of this report.

REFERRAL COMMENTS:

The application was referred to the following individuals/agencies:

- City of Enderby Public Works Manager;
- City of Enderby Chief Financial Officer;
- Building Inspector;
- Fire Chief;
- Regional District of North Okanagan Manager of Regional Engineering Services; and
- Ministry of Transportation and Infrastructure.

The following comments were received in response to the application

City of Enderby Chief Financial Officer

"This application would not have an effect on the Financial Plan."

RDNO Manager of Regional Engineering Services

"The OCP Amendment and Rezoning Application is not near any RDNO waste facilities, so no objection to the Bylaw."

PLANNING ANALYSIS:

The City of Enderby Planner raises no objections to the applicant's request to change the OCP future land use designation of the property from *General Commercial* to *Residential Low Density* and to rezone it from the General Commercial (C.1) zone to the Residential Single Family (R.1-A) zone, and upon consideration of input received at a Public Hearing, recommends that Council approve the application for the following reasons:

- The subject property has been used for residential purposes since 1910, and is located in a commercial/residential interface area with residential land uses occurring directly to the south, west, and north;
- The subject property is currently being used for residential purposes and therefore a rezoning would have no immediate impact on reducing commercial floor space within the community;
- Although rezoning the subject property would impact its future commercial development potential, current or future owners of the subject property could always seek to rezone the subject property back to the General Commercial (C.1) zone in the future, should there be economic or contextual changes that increase the demand for commercial development within this interface area (i.e. a future highway realignment that facilitates increased demand for commercial development west of Highway 97A/George Street);
- The rezoning of the property would alleviate significant challenges being faced by the applicant with regards to financing a legally non-conforming property; and
- Given that the rezoning would not result in a change to the current residential use of the property, and would only bring that use into alignment with the Official Community Plan and Zoning Bylaw, it is not anticipated that the rezoning would negatively impact the use and enjoyment of the subject or surrounding properties.

It should be noted that a successful rezoning would help to preserve the residential use of the subject property into the future, which would ultimately work towards achieving objectives within the City of Enderby Housing Needs Assessment Report related to increasing the availability of housing within the community. Having said that, it is recognized that the subject property's current General Commercial (C.1) zoning designation permits residential dwelling units to accompany a principal commercial use, such that a future commercial redevelopment of the property could also accommodate a degree of residential development.

SUMMARY

This report relates to a Joint Official Community Plan Amendment and Rezoning Application for the properties located at 712 and 710 Cliff Avenue, Enderby BC. The applicant is proposing to change the Official Community Plan (OCP) designation for the subject property from *General Commercial* to *Residential Low Density* and to rezone it from the General Commercial (C.1) zone to the Residential Single-Family (R.1-A) zone. The applicant is seeking to bring the current residential use of the subject property into alignment with the City of Enderby Official Community Plan Bylaw No. 1550, 2014 and the City of Enderby Zoning Bylaw No. 1550, 2014.

The City of Enderby Planner is supportive of the application.

Prepared By:



Kurt Inglis, MCIP, RPP
Planner

Reviewed By:



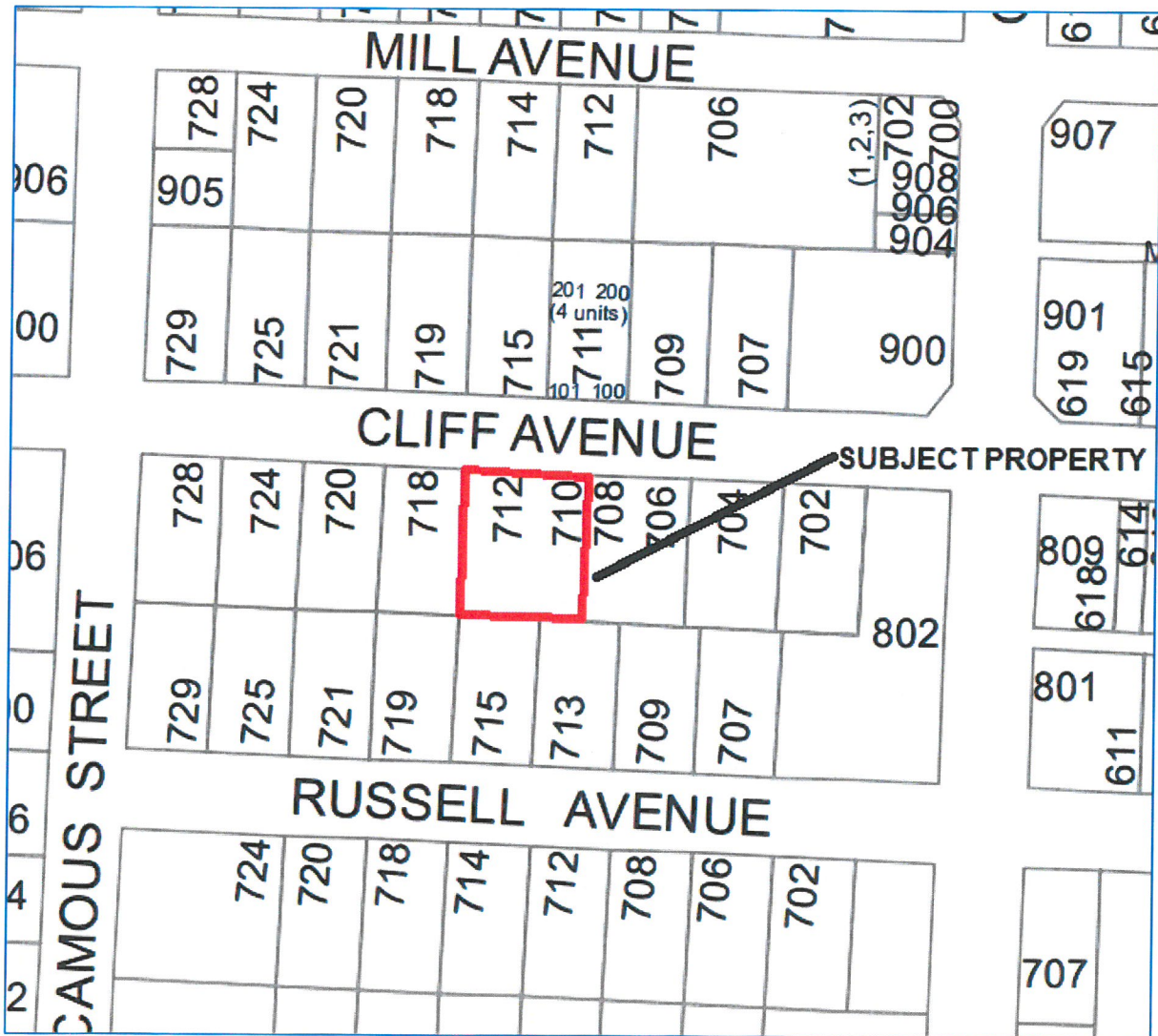
Tate Bengtson
Chief Administrative Officer

THE CORPORATION OF THE CITY OF ENDERBY

OCP/REZONING APPLICATION

SUBJECT PROPERTY MAP

File: 0011-22-OR-END (Taylor)
Applicant/Owner: Ariella Taylor
Location: 712/710 Cliff Avenue, Enderby BC



THE CORPORATION OF THE CITY OF ENDERBY

BYLAW NO. 1743

A BYLAW TO AMEND THE CITY OF ENDERBY OFFICIAL COMMUNITY PLAN BYLAW NO.
1549, 2014 AND AMENDMENTS THERETO

WHEREAS Council of the City of Enderby has determined to make an amendment to "City of Enderby Official Community Plan Bylaw No. 1549, 2014";

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 Official Community Plan Bylaw No. 1549, 2014 Amendment Bylaw No. 1743, 2022".
2. The future land use designations of the properties legally described as, i) LOT 9 BLOCK 7 DISTRICT LOT 150 KAMLOOPS (FORMERLY OSOYOOS) DIVISION YALE DISTRICT PLAN 211A, and located at 712 Cliff Avenue, Enderby BC, and ii) THE WEST ½ OF LOT 12 BLOCK 7 DISTRICT LOT 150 KAMLOOPS (FORMERLY OSOYOOS) DIVISION YALE DISTRICT PLAN 211A, and located at 710 Cliff Avenue, Enderby BC, are hereby changed from *General Commercial* to *Residential Low Density*.

READ a FIRST time this day of , 2022.

READ a SECOND time this day of , 2022.

Advertised on the day of , 2022 and the day of , 2022, and a Public Hearing held pursuant to the provisions of Section 464 of the Local Government Act on the day of , 2022.

READ a THIRD time this day of , 2022.

ADOPTED this day of , 2022.

MAYOR

CORPORATE OFFICER

THE CORPORATION OF THE CITY OF ENDERBY

BYLAW NO. 1744

A BYLAW TO AMEND THE CITY OF ENDERBY ZONING BYLAW NO. 1550, 2014 AND
AMENDMENTS THERETO

WHEREAS pursuant to Section 479 of the *Local Government Act*, Council of the City of Enderby may, by bylaw, divide the whole or part of the City of Enderby into zones, name each zone, establish boundaries for the zones and regulate uses within those zones;

AND WHEREAS Council has created zones, named each zone, established boundaries for those zones and regulated uses within those zones by Bylaw No. 1550, cited as "The Corporation of the City of Enderby Zoning Bylaw No. 1550, 2014";

WHEREAS Council of the City of Enderby has determined to make an amendment to "The Corporation of the City of Enderby Zoning Bylaw No. 1550, 2014";

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 Zoning Bylaw No. 1550, 2014 Amendment Bylaw No. 1744, 2022".
2. The zoning designations of the properties legally described as, i) LOT 9 BLOCK 7 DISTRICT LOT 150 KAMLOOPS (FORMERLY OSOYOOS) DIVISION YALE DISTRICT PLAN 211A, and located at 712 Cliff Avenue, Enderby BC, and ii) THE WEST ½ OF LOT 12 BLOCK 7 DISTRICT LOT 150 KAMLOOPS (FORMERLY OSOYOOS) DIVISION YALE DISTRICT PLAN 211A, and located at 710 Cliff Avenue, Enderby BC, are hereby changed from the General Commercial (C.1) zone to the Residential Single Family (R.1-A) zone.

READ a FIRST time this day of , 2022.

READ a SECOND time this day of , 2022.

Advertised on the day of , 2022 and the day of , 2022, and a Public Hearing held pursuant to the provisions of Section 464 of the Local Government Act on the day of , 2022.

READ a THIRD time this day of , 2022.

APPROVED pursuant to Section 52(3)(a) of the Transportation Act this day of , 2022.

Development Officer
Ministry of Transportation and Infrastructure

ADOPTED this day of , 2022.

MAYOR

CORPORATE OFFICER