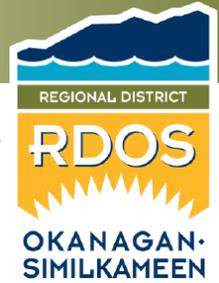


MEMORANDUM

DEVELOPMENT SERVICES DEPARTMENT



DATE: July 5, 2024 **FILE NO.:** D2024.021-DVP

TO: Christopher Garrish, Senior Manager of Planning

FROM: Ben Kent, Planner II

RE: Development Variance Permit (DVP) — Electoral Area “D”

Owner: 1655 Maple Street Holdings Agent: Brad Elenko Folio: D-03459.000

Civic: 1655 Maple Street Legal: Lot B, Plan KAP22642, District Lot 551, SDYD, Except Plan EPP34540 & Except Plan EPP86797

Proposed Development:

This application is seeking a variance to the minimum parcel size for subdivision regulation to formalize an existing under sized portion of a lot that is divided by a zone boundary. The purpose of the requested variance is to facilitate subdivision.

Specifically, it is being proposed to vary the minimum parcel size for a portion of a parcel in the Large Holdings One (LH1) Zone from 4.0 ha to 2.0 ha.

In support of this request, the applicant has stated (amongst other things) that:

- *The proposed variance will reduce the minimum parcel size requirement to allow the portion of the property that is presently zoned LH1 to comply with the minimum parcel size requirements which will expedite the subdivision approval process.*
- *It is critically important that the Industrial subdivision be completed as soon as possible as there are contracts in place for the sale of some of the lots in the subdivision and buildings are ready to be constructed on the new lots. Delays in the subdivision approval could compromise lot sales and building construction and delay economic development in the community of Okanagan Falls*
- *The proposed variance to reduce the minimum parcel size to allow the industrial park subdivision to be completed will not have a negative impact on the use or enjoyment of any adjacent or surrounding properties.*

Site Context:

The subject property is approximately 45.8 ha in area and is situated on the east side of Maple Street in Okanagan Falls. The property is understood to contain two (2) industrial buildings.

The surrounding pattern of development is generally characterised by a manufactured home park to north, industrial lands to the southwest and southeast, and agriculture to the northwest, northeast, east and south.

Background:

The current boundaries of the subject property were created by a Plan of Subdivision deposited with the Land Titles Office in Kamloops on May 18, 1972, while available Regional District records indicate

that numerous building permits for industrial buildings have been issued (1973-2022). Most recently, a building permit has been issued for an indoor growing facility (2022).

Under the Electoral Area “D” Official Community Plan (OCP) Bylaw No. 2603, 2013, the subject property is currently designated part Industrial (I) and part Large Holdings (LH), and is the subject of Watercourse Development Permit (WDP), Environmentally Sensitive Development Permit (ESDP) and Industrial Development Permit Area designations.

Under the Okanagan Valley Zoning Bylaw No. 2800, 2022, the property is currently zoned part General Industrial (I1) and part Large Holdings One (LH1) which require minimum parcel sizes of 500 m² (when connected to a community sewer) and 4.0 ha for subdivision respectively.

Under Section 8.0 (Floodplain Regulations) of the Zoning Bylaw, the subject property is within the floodplain associated with Shuttleworth Creek and any future development on the property must abide by prescribed floodplain setbacks and flood construction levels.

The property has been the subject of a Stop Work Notice for “for alterations to a growing facility without a building permit”.

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

On August 4, 2021, the Ministry of Transportation and Infrastructure (MoTI) referred a proposed 18 lot subdivision involving the subject property to the Regional District for compliance with any applicable RDOS land use bylaws.

The proposed subdivision has been amended several times in the interim. Most recently, the Regional District prepared a Subdivision Review Report dated February 22, 2024 for an amended 20 lot subdivision.

Under Section 3.21 of the Regional District’s *Chief Administrative Officer Delegation Bylaw No. 3033, 2023*, “the CAO or their designate shall ... be delegated authority to issue a development variance permit under Section 498.1 of the *Local Government Act* ...”

Public Process:

In accordance with Section 2.4 of Schedule 4 (Application for a Development Variance Permit) of the Regional District’s Development Procedures Bylaw No. 2500, 2011, adjacent residents and property owners were notified of this DVP application on June 14, 2024, and provided 15 working days to submit comments electronically or in-person to the Regional District.

As of July 5, 2024, being 15 working days from the date of notification, no representations have been received electronically or by submission at the Regional District office.

Delegated Authority:

Under Section 498.1(2) of the *Local Government Act*, a local government that has delegated authority to an officer or employee to issue a development variance permit (DVP) must include “criteria for determining whether a proposed variance is minor.”

Under Section 3.22 of the Regional District’s Chief Administrative Officer Delegation Bylaw No. 3033, staff are to consider if the variance would be “minor and would have no significant negative impact on the use of immediately adjacent or nearby properties” through the use of the following criteria:

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1. *degree or scope of the variance relative to the regulation from which a variance is sought;*
 2. *proximity of the building or structure to neighbouring properties; and*
 3. *character of development in the vicinity of the subject property.*

With regard to the scope of the requested variance it is considered that a 50% decrease in the minimum parcel size is not minor due to the significant decrease from the bylaw standard.

With regard to the proximity of the existing portion of the parcel to neighbouring properties, the nearest adjacent dwelling is approximately 215 metres from this location and for this reason the variance is seen to be minor.

With regard to the final criteria and the character of development in the vicinity of the subject property, the subject portion of the property is an existing undersized portion and the proposed subdivision will result in no material change in this area. For this reason, the variance is seen to be minor.

For these reasons, the proposed variance is deemed to be minor, and consideration by staff of whether to issue a development variance permit (DVP) under delegation may proceed.

Analysis:

When considering a “minor” variance request, and in accordance with Section 498.1(2) of the *Local Government Act*, the Regional District Board requires that staff consider the following guidelines when deciding whether to issue a DVP:

1. *is the proposed variance consistent with the general purpose and intent of the zone;*
2. *is the proposed variance addressing a physical or legal constraint associated with the site (e.g. unusual parcel shape, topographical feature, statutory right-of-way, etc.);*
3. *is strict compliance with the zoning regulation unreasonable or un-necessary; and*
4. *Would the proposed variance unduly impact the character of the streetscape or surrounding neighbourhood.*

In this instance, minimum parcel sizes in the Large Holdings zones are intended to “retain and enhance the rural character” of these lands by preserving them in a largely undeveloped state.

Consequently, the Large Holdings One (LH1) zone establishes a minimum parcel size of 4.0 ha in order to preserve rural lands as large intact parcels and to forestall incremental fragmentation of the land base through subdivision.

In this instance, the subject portion of the property is an existing undersized area that is wholly separated from the rest of the property by Shuttleworth Creek, which spans its southwest flank.

This portion of the property is seen to have little development potential as it is within the floodplain associated with Shuttleworth Creek, it is subject to a Watercourse Development Permit Area, it is entirely within an Environmentally Sensitive Development Permit Area and it lacks formal access to the remainder of the property.

The proposed variance would not result in any material change to this portion of the property and would not allow for future subdivision.

For these reasons, it is recommended that the requested variances be approved.

Recommendation:

THAT Development Variance Permit No. D2024.021-DVP, to allow for a strata subdivision at 1655 Maple Street, be approved.

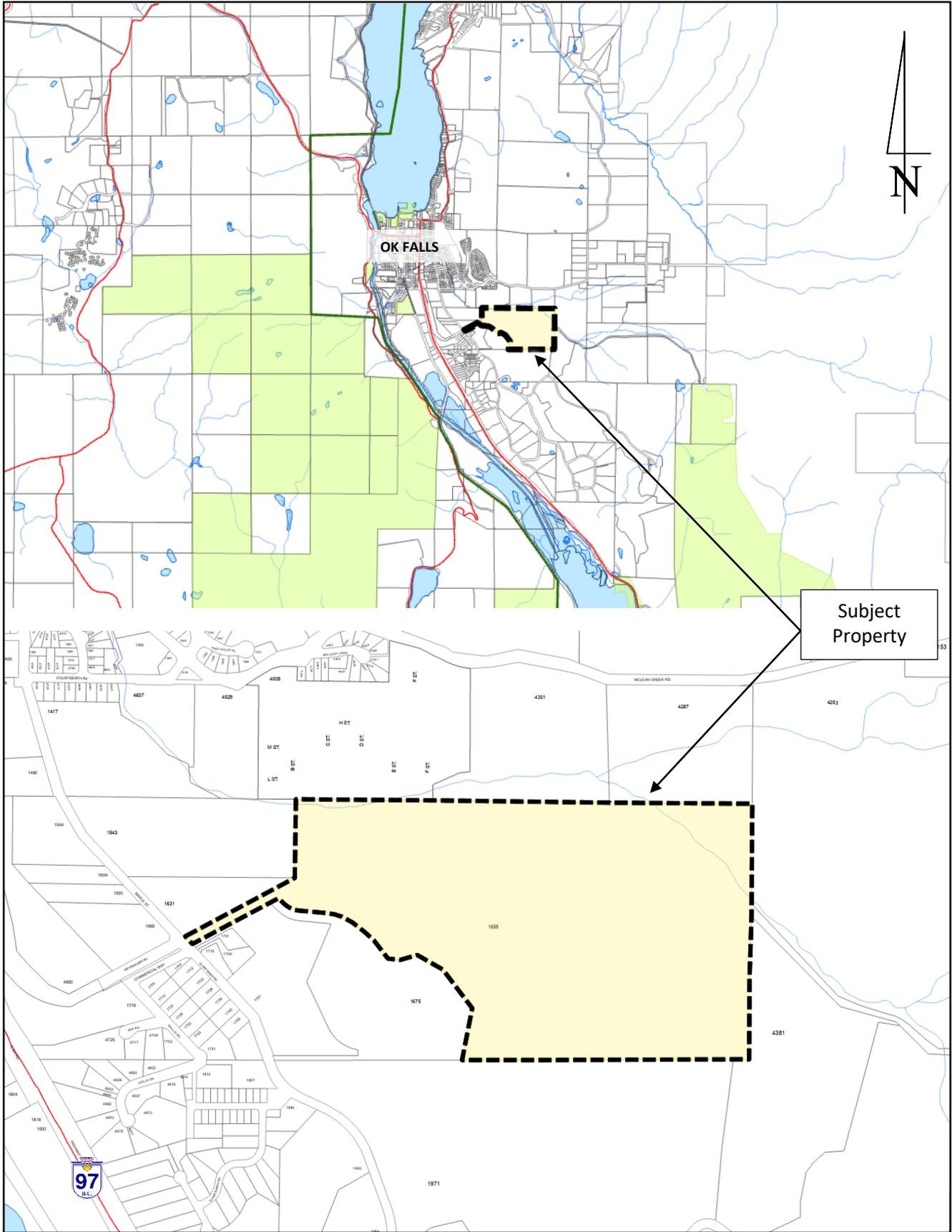
Respectfully submitted:

Ben Kent

Ben Kent, Planner II

Attachments: No. 1 — Context Maps
 No. 2 — Applicant's Subdivision Plan
 No. 3 — Applicant's Site Plan
 No. 4 — Aerial Photo

Attachment No. 1 – Context Maps



Attachment No. 2 – Applicant’s Subdivision Plan

Illustration 3: Strata Subdivision

**Subject
Portion of
Property**

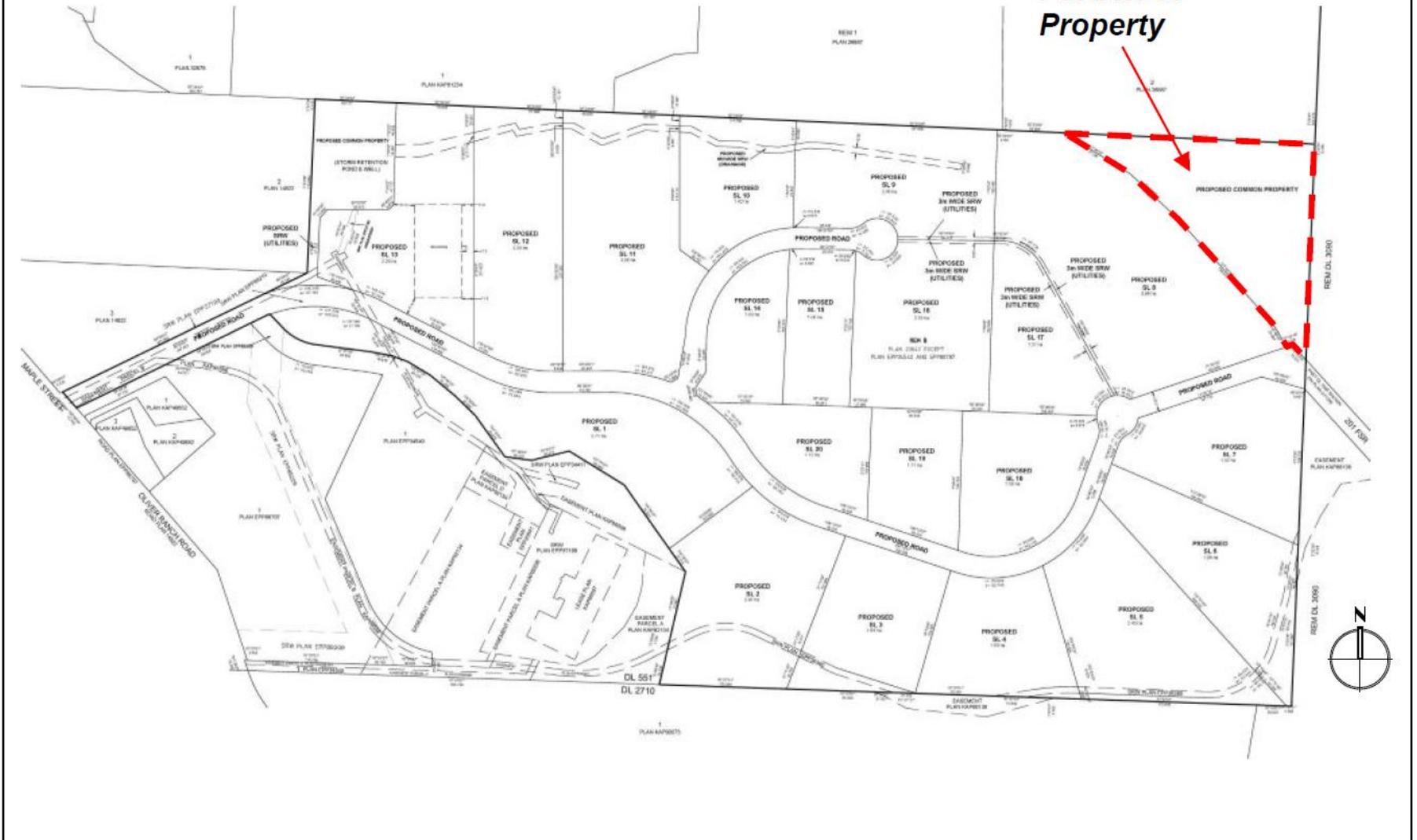


Illustration 2: Site Plan



Attachment No. 4 – Aerial Photo

