



## COUNCIL REPORT

To: Paul Gipps, CAO

Date: December 13, 2022

From: Chris Oliver, Planning Supervisor

File No: LUCA 22-01

Subject: **LUCA 22-01; Land Use Contract Discharge; 753 Lindsay Court**

### RECOMMENDATION

**THAT** Council consider and resolve to give first and second readings to Land Use Contract Discharge Bylaw No. 0302, 2022; and

**THAT** Council consider and resolve to direct staff to schedule the application for Public Hearing.

### STRATEGIC AREA(S) OF FOCUS

**Economic Growth and Prosperity** – We will work with our partners on the Westside and throughout the region to advocate for and support efforts aimed at helping West Kelowna businesses prosper. With a focus on the future, we will advance opportunities to expand our economy, increase employment, and develop the community in ways that contribute towards prosperity for all.

### BACKGROUND

The subject property currently has a single-family dwelling with a detached accessory building at the rear. The property is subject to Land Use Contract No. 183 which restricts secondary uses such as carriage houses or secondary suites.

PROPERTY DETAILS			
<b>Address</b>		753 Lindsay Court	
<b>PID</b>		004-413-628	
<b>Folio</b>		36414409.600	
<b>Lot Size</b>		1354.4825 sq m (14,374.77 sq ft)	
<b>Owner</b>	<b>Ryan Zazelenchuk</b>	<b>Agent</b>	<b>Ryan Zazelenchuk</b>
<b>Current Zoning</b>	Single Family Residential (R1)	<b>Proposed Zoning</b>	Single Family Residential (R1)
<b>Current OCP</b>	Single Family Residential	<b>Proposed OCP</b>	Single Family Residential

<b>Current Use</b>	Accessory Building –Storage	<b>Proposed Use</b>	Carriage House
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### ADJACENT ZONING & LAND USES

<b>North</b>	^	Agriculture (A1/ALR)
<b>East</b>	>	Single Family Residential (R1)
<b>West</b>	<	Single Family Residential (R1)
<b>South</b>	v	Single Family Residential (R1)

### NEIGHBOURHOOD MAP



### PROPERTY MAP



## **Legislative Requirements**

The *Miscellaneous Statutes Amendment Act, 2014* amended several sections of the *Local Government Act*, which included new provisions regarding the termination of all land use contracts in the Province effective June 30, 2024. Local governments containing lands that were subject to these contracts were required to establish zoning for these lands through the adoption of a zoning bylaw no later than June 30, 2022. The City has this underlying zoning in place for all land use contract areas.

Council has the authority under the *Local Government Act* to discharge Land Use Contracts on title. All land use contracts are required by the Provincial government to be terminated on June 30, 2024. Early termination of a land use contract may occur before June 30, 2022, in accordance with s. 548 of the *Local Government Act*.

## **DISCUSSION**

### **Proposal**

The applicant is requesting a discharge of Land Use Contract (LUC) No. 183 of the subject property to allow the underlying zoning of R1 to allow for the alteration of an accessory building into a two-bedroom carriage house.

### **Policy and Bylaw Review**

#### **Land Use Contracts**

During the late 1970s, the provincial *Municipal Act* enabled local governments to enter into agreements with property owners specifying area and site-specific land uses and conditions of development. While new LUCs are no longer allowed to be created, some LUCs are still in effect such as LUC 183.

#### **Official Community Plan No. 0100**

The application is consistent with the Official Community Plan (OCP). The property is designated Single Family Residential which aims to provide low density, single detached housing opportunities and encourage more land efficient compact housing forms. The neighbourhood policies include infill development of carriage houses that complements the type, scale, use and character of adjacent buildings and the neighbourhood, where appropriate.

#### **Zoning Bylaw No. 0265**

If the land use contract is successfully discharged, the underlying Single Detached Residential (R1) zone automatically applies. The R1 Zone permits the secondary use of a carriage house in accordance with section 10.5.3 of Zoning Bylaw No. 0265. The proposed accessory building complies with the Zoning Bylaws requirements, including necessary on-site parking, and no variances appear necessary (Attachment 2).

## **Referral Responses**

The application was referred internally and externally, and no concerns were highlighted.

The application was also presented to the City's Advisory Planning Commission (APC) on November 16, 2022, and the Commission carried the following motion:

***THAT the Advisory Planning Commission recommend support for file LUCA 22-01, Land Use Contract Discharge, 753 Lindsay Court.***

## **PUBLIC NOTIFICATION**

Per the City's Procedures Bylaw, a development notice sign has been installed on the property. Should Council give first and second reading to the proposed bylaw amendment, a public hearing will be held in accordance with the Local Government Act, which includes a mail out to all property owners and their tenants within 100 metres of the subject property and advertisements to be placed in the local newspaper.

## **CONCLUSION**

Staff recommend that Council give reading to the discharge bylaw as the request precedes the imminent discharge of all land use contracts scheduled on June 30, 2024. The existing building can accommodate conversion to a carriage house with the required parking on site, and minimal impact on the neighbourhood.

## **Alternate Resolution:**

- 1) **THAT** Council consider and resolve to postpone first and second reading to Land Use Contract Discharge Bylaw No. 0302, 2022.

Should Council postpone consideration of the proposed land use contract discharge, further direction to staff on how to proceed is required.

- 2) **THAT** Council consider and resolve to deny City of West Kelowna Land Use Contract Discharge Bylaw No. 0302, 2022.

Should Council deny the proposed land use contract discharge, the file will be closed. As per the City's Procedures Bylaw No. 0260, the applicant could re-apply for a similar proposal 6 months after initial Council consideration.

## **REVIEWED BY**

Brent Magnan, Director of Development Approvals.

Corinne Boback, Legislative Services Manager/Corporate Officer

**APPROVED FOR THE AGENDA BY**

Paul Gipps, CAO

Powerpoint: Yes ☒ No ☐

**Attachments:**

1. Land Use Contract Discharge Bylaw No.0302, 2022
2. Site plan

CITY OF WEST KELOWNA

BYLAW NO. 0302

A BYLAW TO DISCHARGE “LAND USE CONTRACT NO. 183”

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WHEREAS the Council of the City of West Kelowna, pursuant to the *Local Government Act*, may discharge a land use contract that is entered into and registered in a land title office subject to the terms and conditions therein set out;

THEREFORE BE IT RESOLVED that the Council of the City of West Kelowna in open meeting assembled, hereby enacts as follows:

1. Title

This Bylaw may be cited as the “CITY OF WEST KELOWNA LAND USE CONTRACT DISCHARGE BYLAW NO. 302, 2022.”

2. Discharge

2.1 “Land Use Contract No. 183” is hereby discharged in its entirety (charge number M72284) and Amendment (charge number R12557) from Lot 1, DL 2689, ODYD, Plan 29101 (PID: 004-413-628), as shown on Schedule ‘A’, attached to and forming part of this bylaw.

READ A FIRST AND SECOND TIME THIS XX DAY OF XXX, 2022

PUBLIC HEARING HELD THIS XX DAY OF XXX, 2022

READ A THIRD TIME AND ADOPTED BY 2/3 OF COUNCIL THIS XXX DAY OF XXX, 2022

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MAYOR

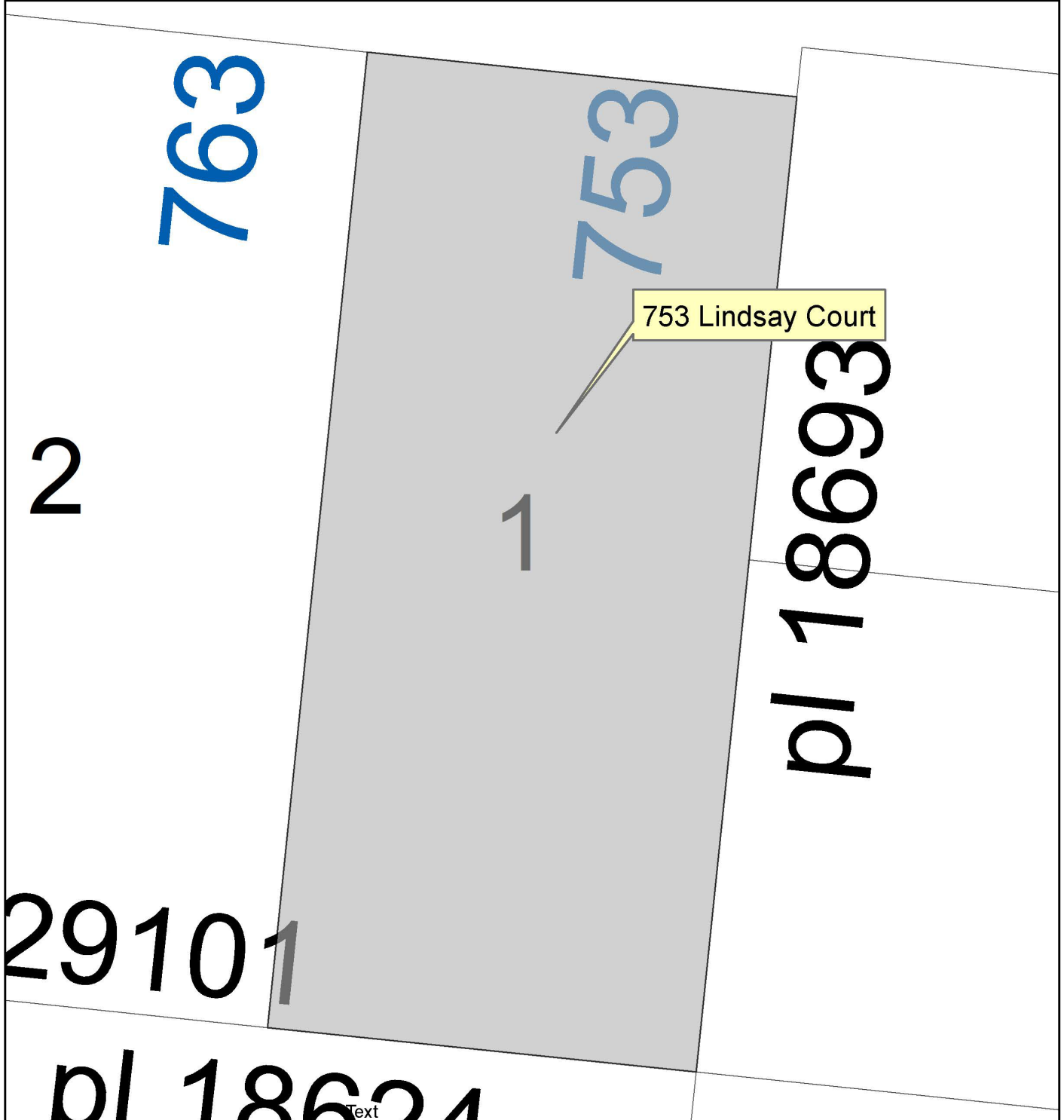
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CORPORATE OFFICER



# SCHEDULE 'A' of BYLAW NO. 0302

Date: 2022-11-24



File: LUCA 22-01

Legal Description: Lot 1, DL 2689, ODYD, Plan 29101

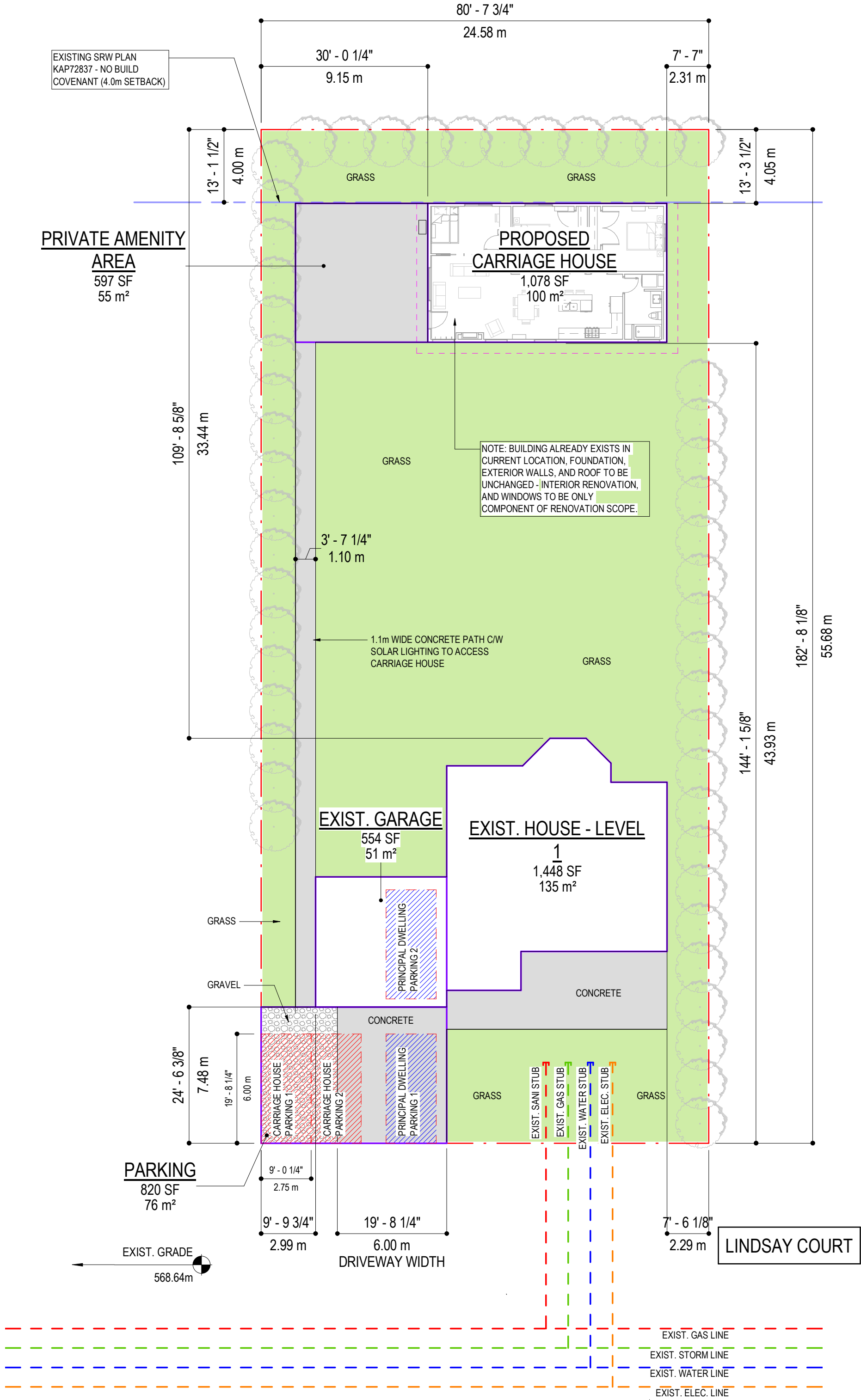
Path:

Subject Property Zoning Boundary Parcels

0 4.25 8.5 17 Metres







ZONING SUMMARY		753 LINDSAY COURT
ADDRESS	753 LINDSAY COURT, WEST KELOWNA, BC V1Z 3C4	
LEGAL DESCRIPTION	LOT 1, DISTRICT LOT 2689, PLAN KAP29101 ODYD	
DEVELOPMENT PERMIT AREA	N/A	
EXISTING ZONING	R1	
PROPOSED ZONING	N/A	
EXISTING LEGAL USE	SINGLE FAMILY HOME	
PROPOSED LEGAL USE	SINGLE FAMILY HOME + CARRIAGE HOUSE	
ZONING REQUIREMENTS		
MAIN BUILDING		
	ZONING STANDARD	PROPOSED
FRONT SETBACK	4.5m / 6.0m (GARAGE)	7.48m (UNCHANGED)
SIDE SETBACK	1.5m (4.5m FLANKING STREET)	2.26m (UNCHANGED)
REAR SETBACK	3.0m	33.44m (UNCHANGED)
PARCEL SIZE	550 SM	1,368 SM (14,732 SF)
BUILDING HEIGHT	9.0m or 3 storeys	2 storeys (8.0m +/-) (UNCHANGED)
LEVEL 1 PARCEL COVERAGE AREA	547.2 SM (40%)	186 SM
TOTAL PARCEL COVERAGE %	40%	13.6%
TOTAL PARKING COVERAGE %	-	5.6%
ZONING REQUIREMENTS		
CARRIAGE HOUSE		
	ZONING STANDARD	PROPOSED
FRONT SETBACK	4.5m / 6.0m (GARAGE)	43.93m (UNCHANGED)
SIDE SETBACK	1.5m (4.5m FLANKING STREET)	2.31m (UNCHANGED)
REAR SETBACK	3.0m	4.05m (UNCHANGED)
BUILDING HEIGHT	5.0m	3.76m (UNCHANGED)
LEVEL 1 PARCEL COVERAGE AREA	100 SM	100 SM (UNCHANGED)
TOTAL PARCEL COVERAGE %	40%	7.3%
ZONING REQUIREMENTS		
BUILDINGS COMBINED		
	ZONING STANDARD	PROPOSED
PARCEL COVERAGE (HOUSE + CARRIAGE HOUSE)	547.2 SM 40%	286 SM (100 SM + 186 SM) 20.9%

PARCEL SIZE		
Name	Area	Area (SM)
PARCEL SIZE	14,732 SF	1,368.6 m²
	14,732 SF	1,368.6 m²
PARKING AREA		
Name	Area	Area (SM)
PARKING	820 SF	76.2 m²
	820 SF	76.2 m²
TOTAL BUILDING AREA		
Name	Area	Area (SM)
EXIST. GARAGE	554 SF	51.5 m²
EXIST. HOUSE - LEVEL 1	1,448 SF	134.5 m²
PRIVATE AMENITY AREA	597 SF	55.4 m²
PROPOSED CARRIAGE HOUSE	1,078 SF	100.1 m²
	3,677 SF	341.6 m²

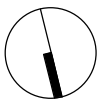


LOCATION PLAN - N.T.S.

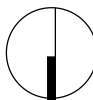
No.	Date	Revision
01	2022-08-10	ISSUED FOR BUILDING PERMIT

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TRUE  
NORTH



PROJECT  
NORTH



Project Title

753 LINDSAY COURT

Drawing Title

SITE PLAN & ZONING

753 LINDSAY COURT, WEST KELOWNA, BC V1Z3C4  
LOT 1, DISTRICT LOT 2689, PLAN KAP29101

Drawing Number

A2.01

Job No.

18 - 1816

Scale

As indicated