



PLANNING DEPARTMENT INFORMATION REPORT

REZONING APPLICATION

| | |
|----------------------------|---|
| DATE: | February 9, 2024 |
| FILE NO.: | 23-0987-D-RZ |
| OWNER/APPLICANT: | Kevin Bos |
| LEGAL DESCRIPTION: | Lot 24, DL 418, ODYD, Plan 19560, Except Part Lying North of a Line Parallel to and Perpendicularly Distant 80' from North Boundary of Said Lot |
| P.I.D.#: | 008-005-648 |
| CIVIC ADDRESS: | 701 Franklyn Road |
| PROPERTY SIZE: | 0.12 ha |
| SERVICING: | Whitevale Water System and on-site septic disposal |
| PRESENT ZONING: | Neighbourhood Commercial (C.3) |
| PROPOSED ZONING: | Residential Single Family (R.1) |
| O.C.P. DESIGNATION: | Residential |
| PROPOSAL: | Rezone the property to allow the construction of a single family dwelling and an accessory building (detached garage) |

PLANNING DEPARTMENT RECOMMENDATION:

That notice be given in accordance with Section 467 of the *Local Government Act* that Zoning Amendment Bylaw No. 3005, 2024, which proposes to rezone the property legally described as Lot 24, DL 418, ODYD, Plan 19560, Except Part Lying North of a Line Parallel to and Perpendicularly Distant 80' from North Boundary of Said Lot and located at 701 Franklyn Road, Electoral Area "D" from the Neighbourhood Commercial (C.3) zone to the Residential Single Family (R.1) zone, will be considered for First Reading at a future meeting.

SUMMARY:

This report relates to an application to rezone the property located at 701 Franklyn Road, Electoral Area "D" from the Neighbourhood Commercial (C.3) zone to the Residential Single Family (R.1) zone. If successful in rezoning the property, the applicant plans to construct a single family dwelling and an accessory building (detached garage).

The Planning Department recommends that the application be supported as the proposed residential land use is consistent with the Electoral Areas “D” and “E” Official Community Plan (OCP) designation of the property and complies with the relevant OCP Policies.

BACKGROUND:

Site Context

The following orthophoto of the subject and surrounding properties was taken in 2022:



The subject property is located on the corner of Whitevale Road and Franklyn Road. The property contains a dwelling which previously contained a neighbourhood store. Access to the property is gained from Franklyn Road.

The subject property is zoned Neighbourhood Commercial (C.3) and designated Residential. The property was rezoned from Residential Two Family (R.2) to C.3 in 1987 to provide for the operation of a neighbourhood store. In 2019 the property reverted to a residential use only.

Surrounding properties to the north, east and west are zoned Residential Two Family (R.2) and designated Residential with the exception of the adjacent property to the north, which is zoned and designated the same as the subject property and contains community water infrastructure (Whitevale pumphouse). Properties to the south-east are zoned Residential Manufactured Home Subdivision (R.4) and designated Residential, and the property to the south-west is zoned Non-Urban (N.U) and dedicated Agricultural.

The Proposal

The applicant is seeking to rezone the subject property from Neighbourhood Commercial (C.3) to Residential Single Family (R.1) in order to construct a new single family dwelling and separate garage without any commercial activity being undertaken on the property. The applicant has already applied for and been issued a Building Permit to demolish the existing building on the subject property. The proposed dwelling would have a floor area of 168.8 m², and would be a single storey with a cellar below ground. The dwelling would contain two bathrooms and three bedrooms.

The proposed garage would be two storeys in height, with a floor area of 80.2 m². The applicant originally intended to use the second storey as a secondary dwelling on the property. Staff have advised the applicant that the proposed zoning does not allow a secondary dwelling and in response, the applicant confirmed that he intends to use the second storey of the garage for storage space only. The proposed building height of the garage would be 8.05 m which is in excess of the 6 m permitted for an accessory building in the R.1 zone. The applicant has confirmed that he will seek a variance for the accessory building height.

The garage would be located towards the north-eastern corner of the subject property, with a driveway providing access to Franklyn Road at the western boundary. The dwelling would be located south of this, closer towards Whitevale Road.

The applicant has applied for a water service through the Whitevale Water Utility and an approval letter with conditions for the water connection issued on August 17, 2023. The RDNO Utilities Department have confirmed to the applicant that due to the age of the water connection that previously served the building on the property, a new connection will be required for the proposed residential development.

The applicant has engaged a Registered On-site Wastewater Practitioner (ROWP) to design a new septic disposal system for the subject property. The design is based on a three-bedroom single family dwelling and two-bedroom dwelling above the garage. The Record of Sewerage System filing was accepted by Interior Health on October 3, 2023.

PLANNING ANALYSIS:

The subject and surrounding properties to the north, east and west were created in 1969 and predate the regulations and policies of the current Zoning Bylaw and Official Community Plan (OCP) for the area. The property was rezoned from residential to neighbourhood commercial at the request of the property owner in 1987. The subject application proposes to revert the use of the subject property to what originally existed. The current Electoral Areas "D" and "E" Official Community Plan designates the land use of the subject and surrounding properties to the north, east and west as Residential.

The Planning Department recommends that the application be supported as the proposal is consistent with the OCP land use designation of the property and with the relevant OCP policies. With the exception of the height of the proposed accessory building, the proposal also complies with the regulations of Zoning Bylaw No. 3000. Also, the applicant has obtained approval to upgrade the connection to the Whitevale community water system and to install a new septic disposal system.

It is noted that the proposed height of the detached garage requires approval of a Development Variance Permit, and this is a separate consideration from the present rezoning application. Therefore the recommendation to support the rezoning should not be construed as any approval of the required building height variance.

Public Hearing

On November 30, 2023, Bill 44 received Royal Assent. This brought changes to the *Local Government Act* which states that:

- a local government must not hold a Public Hearing on a zoning amendment bylaw if the bylaw is consistent with an official community plan; and the sole purpose the bylaw is permit a development that is a residential development.
- if a local government is prohibited from holding a Public Hearing, it must provide notice of the proposed date of the First Reading of the applicable zoning amendment bylaw.

In keeping with the above and as the subject Bylaw is consistent with the policies and land use designation of the Electoral Areas “D” and “E” OCP, a notice will be posted in accordance with the new provisions of Section 467 of the *Local Government Act* to advise the public that the Board of Directors will consider giving First Reading to Zoning Amendment Bylaw No. 3005 at a future meeting once the applicant has posted a development notice sign in accordance with Section 6.1.7 of Development Application Procedures and Administrative Fees Bylaw No. 2677. At this meeting, the Bylaw may also be considered for Adoption if there are no conditions of the rezoning. Should the Board wish to receive input from the public, the Board could require public consultation through means other than a Public Hearing and could pass a resolution in this regard.

ZONING BYLAW:

The subject property is currently zoned Neighbourhood Commercial (C.3). The uses permitted in the C.3 zone include assembly, civic and public service uses, entertainment and recreation facilities, food service limited to bakeries, butcher shops, caterers, coffee shops and fish shops, major day cares and group homes, office and commerce facilities, professional studios, retail sales, and limited service and repair uses.

The subject property is proposed to be rezoned Residential Single Family (R.1). The uses permitted in the R.1 zone include single family dwellings, secondary suites, secondary dwellings, accessory buildings and structures, boarding house use, minor day cares and group homes, home occupation use, public parks and playgrounds, and restricted agricultural use.

As the property is less than 0.4 ha and there is no community sewer service available in this location, Section 15.1.5 of the Zoning Bylaw restricts the number of dwelling units on the property to one single family dwelling. The applicant originally indicated that he intended to use the space above the garage as a secondary dwelling. However, they have revised the intent of this space to storage only with no plumbing fixtures included. The applicant has been advised that the accessory building may contain two plumbing fixtures and that the Zoning Bylaw will be updated this year to comply with Bill 44 to allow secondary suites on all residential zoned properties.

As the subject property is not serviced by community sewer, the minimum lot size for lots created by subdivision would be 1 ha under Section 15.1.11.b. The lot is existing at 0.12 ha, and no subdivisions are proposed.

The proposal as compared to the requirements of the R.1 zone is as follows:

| CRITERIA | PROPOSAL | ZONE REQUIREMENTS |
|------------------------------------|-----------------|--------------------------|
| Lot size (min.) | 0.12 ha | 1.0 ha |
| Lot coverage (max.) | 20.8% (total) | 35% (total) |
| Lot coverage (accessory buildings) | 6.7% | 7.5% |
| Single Family Dwelling | | |
| Building Height (max.) | 5.5 m | 10.0 m |
| Setbacks (min.) from lot lines | | |
| - Front (south) | 10.36 m | 4.5 m |
| - Exterior Side (west) | 7.5 m | 4.5 m |
| - Rear (north) | 16.67 m | 7.5 m |
| - Interior Side (east) | 7.69 m | 2.0 m |
| Detached garage | | |
| Building Height (max.) | 8.05 m | 6 m |
| Setbacks (min.) from lot lines | | |
| - Front (south) | 30 m | 4.5 m |
| - Exterior Side (west) | 17.5 m | 6.0 m |
| - Rear (north) | 2.0 m | 2.0 m |
| - Interior Side (east) | 2.0 m | 2.0 m |
| Number of parking spaces | 2 | 2 |

Section 15.1.7.b states that the height of accessory buildings or structures must not exceed 6 m. The proposed garage is shown on the attached plans as having a maximum height of 8.05 m. Therefore, a Development Variance Permit is required to construct the garage as shown.

OFFICIAL COMMUNITY PLAN:

The Electoral Areas “D” and “E” Official Community Plan designates the land use of the subject property as Residential. The following OCP Policies are applicable to the application:

5.3 Residential Land Use Policies

- 5.3.1 In accordance with provincial recommendations and standards, no lots will be created less than 1.0 ha unless connected to a community sewer system. Lots less than this size have been determined to be not acceptable for septic effluent disposal. There are three existing Residential developments in the plan area that were established prior to this policy.
- 5.3.2 Residential use is development on lots less than 1 ha in size and is encouraged to be located within the Village of Lumby and not within the plan area.

6.2 Commercial Policies

- 6.2.2 Neighbourhood Commercial uses to supply goods and services to serve local needs should be permitted at locations to serve existing or future residential areas. Existing commercial lands are designated on Schedules B, B1 and B2. Applications for new neighbourhood commercial developments should address the following:
 - a. Minimizing impacts on adjacent land uses;

- b. Strengthening an existing community focal point (e.g. in close proximity to existing commercial developments or community uses – “Downtown Cherryville”);
- c. Contributing to more sustainable land use patterns, minimizing trip generations and thereby reducing GHG emissions and supporting the sale of local products and foods, including local restaurants and farmers markets;
- d. Provide safe access for both pedestrians and vehicles; and
- e. Consider alternative transportation options, including potential for connections to a local trail network.

REFERRAL COMMENTS:

The application was referred for comments to the following:

1. Building Inspection Department

2. Interior Health Authority

Upon reviewing this information, we have no comments.

3. Ministry of Transportation and Infrastructure

The property does not fall within Section 52 of the Transportation Act and will not require Ministry of Transportation and Infrastructure formal approval.

The Ministry has no objections to the zoning text amendment.

4. Lumby Fire Department

No concerns.

5. Utilities Department

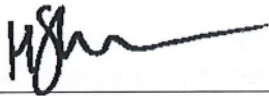
Properties located in the Whitevale Water service area are subject to all applicable RDNO Bylaws, Policies and Procedures.

Develop to RDNO standards. Refer to Water Service Application 23-0707-D-WSA associated with the proposed development.

6. Community Services Manager

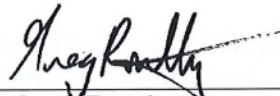
7. Rural Services Manager

Submitted by:



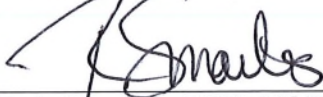
Heather Shannon
Planner

Reviewed by:



Greg Routley
Deputy Planning Manager

Endorsed by:



Rob Smiles, RPP, MCIP
General Manager, Planning and Building

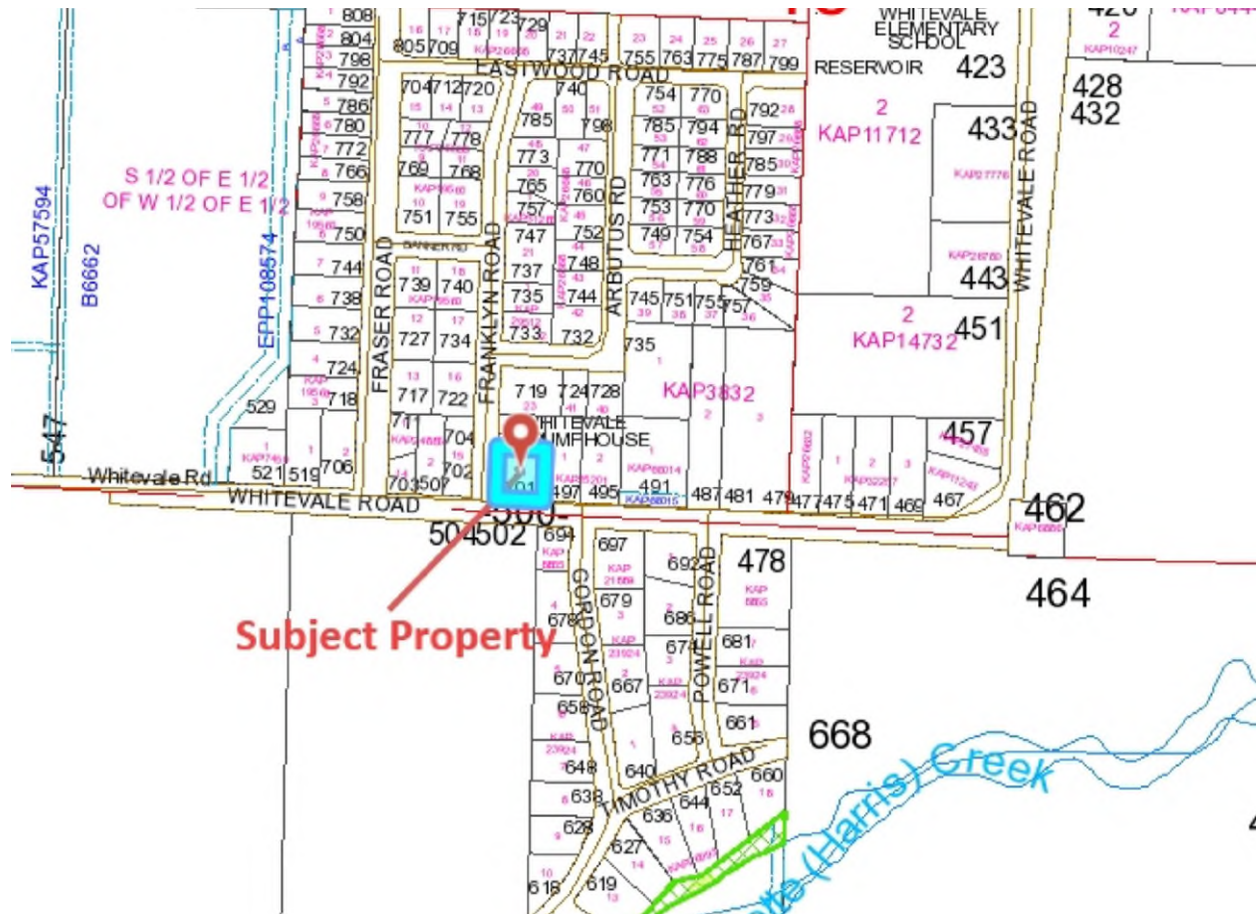
Approved for Inclusion:



David Sewell
Chief Administrative Officer

SUBJECT PROPERTY MAP REZONING

File: 23-0987-D-RZ
Location: 701 Franklyn Road



SUBJECT PROPERTY MAP

OCP Designation

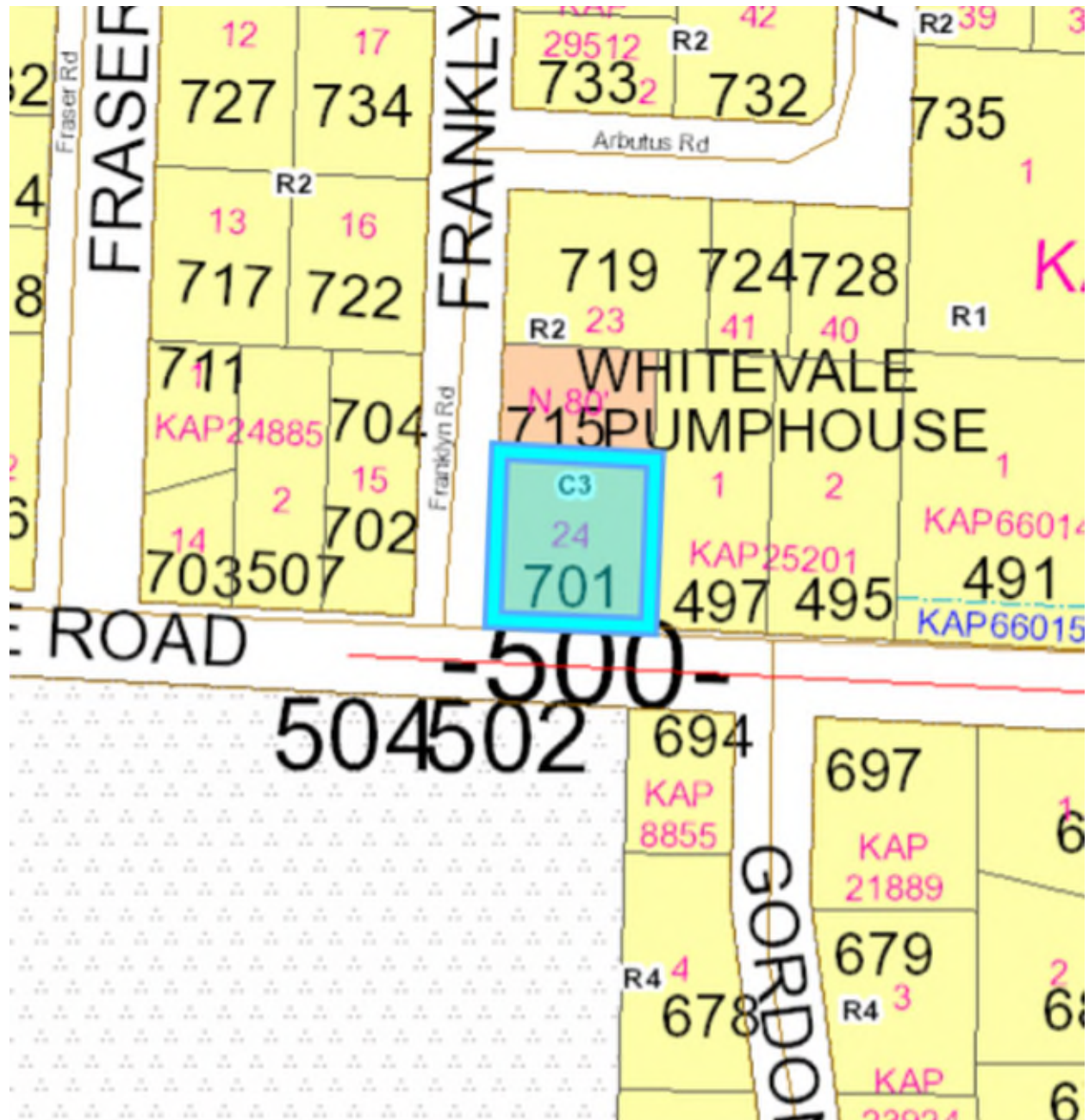
File: 23-0987-D-RZ
Location: 701 Franklyn Road

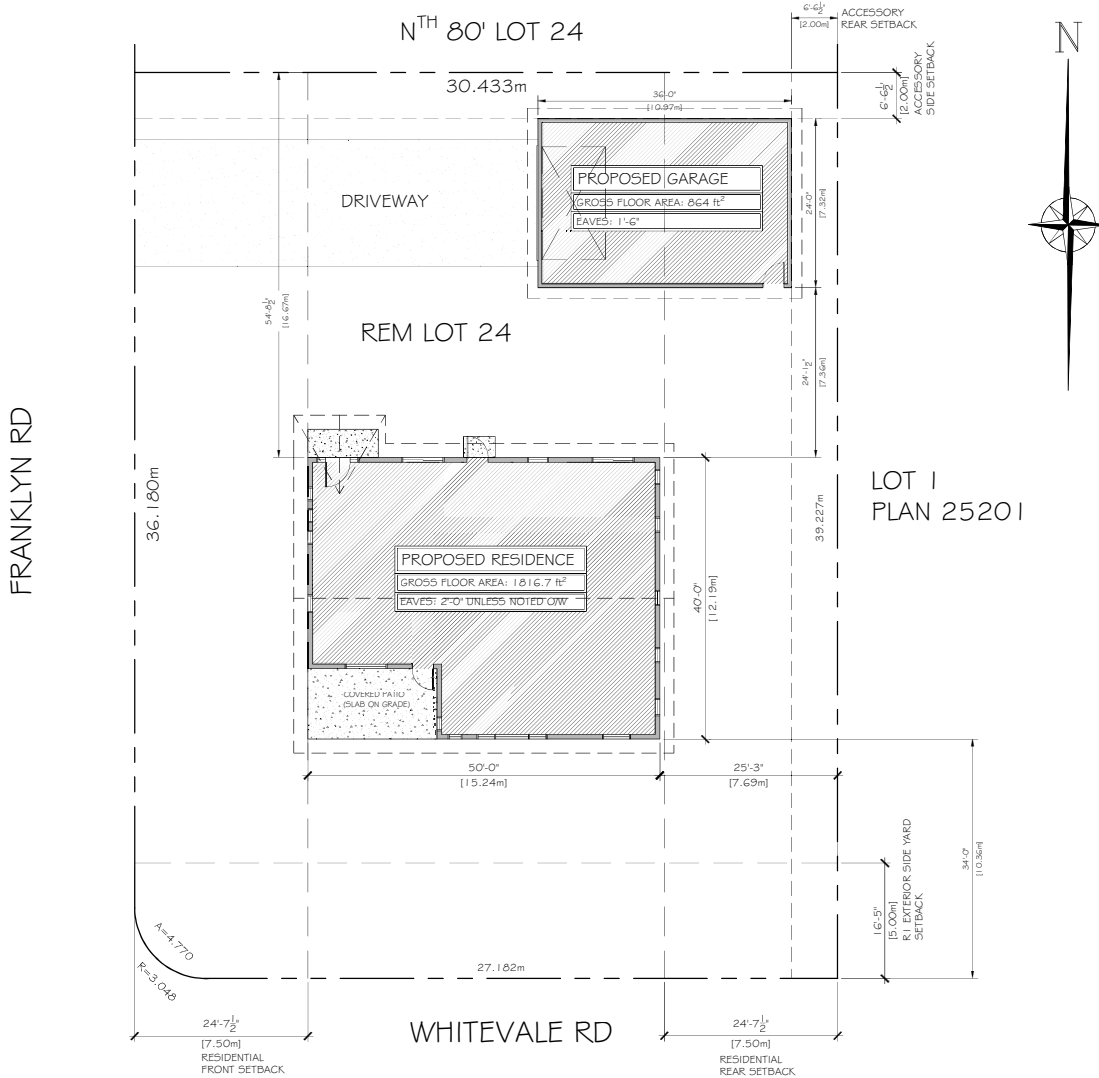


SUBJECT PROPERTY MAP

Zoning

File: 23-0987-D-RZ
Location: 701 Franklyn Road





SITE PLAN: PROPOSED

SCALE = 1:100

MUNICIPAL ADDRESS:
701 FRANKLYN ROAD
LUMBY, BC

LEGAL DESCRIPTION:
LOT 24, PLAN KAP19560, DISTRICT LOT 418,
OSOYOOS DIV OF YALE LAND DISTRICT,
EXC N 80'

CLIENT:
KEVIN BOS

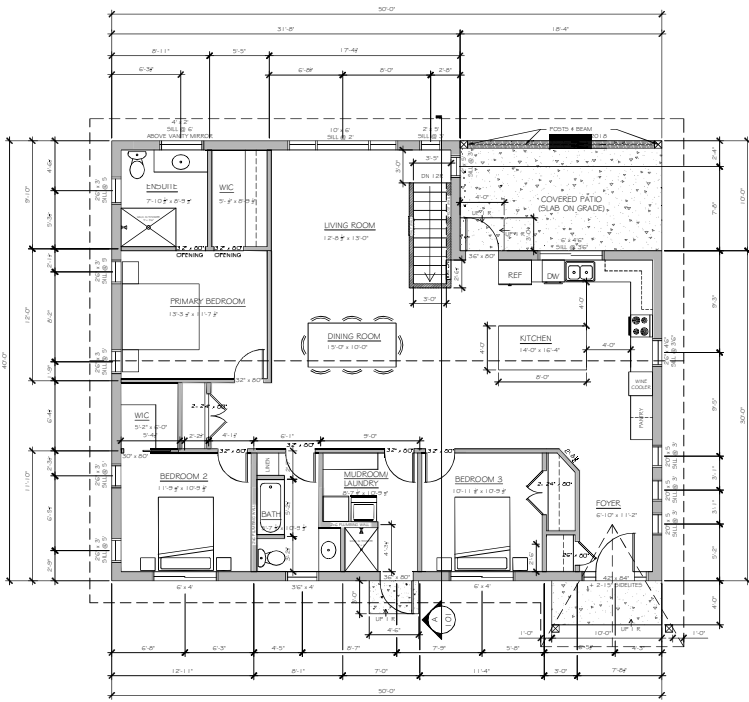
SCALE: 1:100
ALL DEVELOPMENT IS PROPOSED.
DESIGN & DRAWINGS BY: JENNIFER HANNAH
WELLSPRING DEVELOPMENTS
(C) 778-212-4131
(E) JENHANNAH.RISE@GMAIL.COM
DATE: OCTOBER 5, 2023

REVISION HISTORY:

- GARAGE ADDED 10/05/23
- LOCATION OF PROPOSED RESIDENCE CHANGED 10/05/23

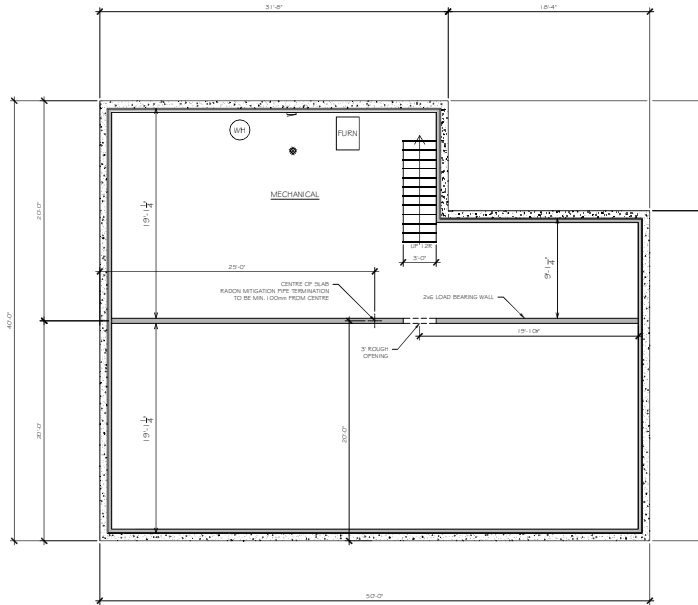


A001
SITE PLAN:
PROPOSED



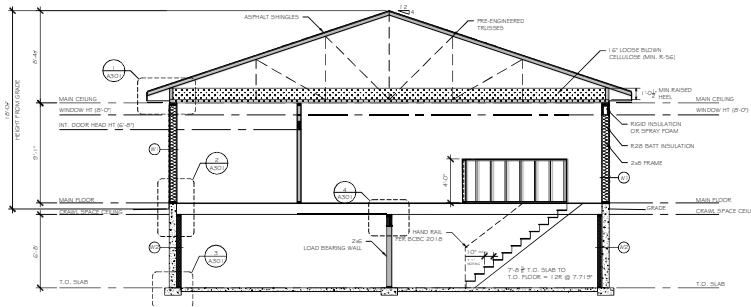
MAIN FLOOR

SCALE: $\frac{1}{4}'' = 1'-0''$
 INTERNAL FLOOR AREA: 1669 SQ FT
 GROSS FLOOR AREA: 1817 SQ FT



CRAWL SPACE

SCALE: $\frac{1}{4}'' = 1'-0''$
 INTERNAL FLOOR AREA: 1626 SQ FT
 GROSS FLOOR AREA: 1817 SQ FT



A CROSS - SECTION

SCALE: $\frac{1}{2}'' = 1'-0''$

MUNICIPAL ADDRESS:
 701 FRANKLYN ROAD
 LUMBY, BC

LEGAL DESCRIPTION:
 LOT 24, PLAN KAP19560, DISTRICT 418,
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 EXC N 80'

CLIENT:
 KEVIN BOS

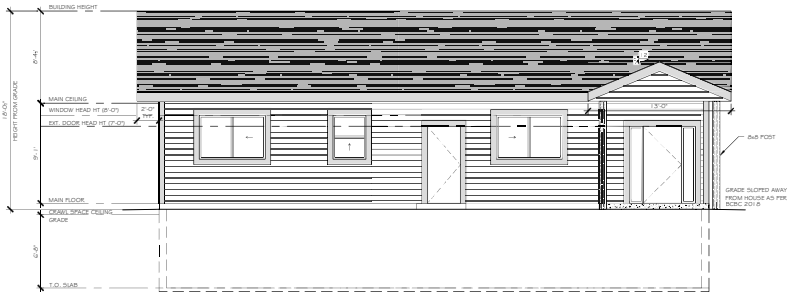
SCALE: $\frac{1}{4}'' = 1'-0''$
 ALL DEVELOPMENT IS PROPOSED.
 DESIGN & DRAWINGS BY: JENNIFER HANNAH
 WELLSRING DEVELOPMENTS
 (C) 778-212-4131
 (E) JENHANNAH.RISE@GMAIL.COM

DATE: JULY 12, 2023

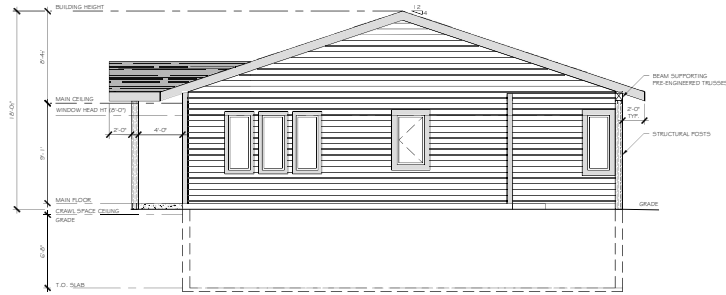
REVISION HISTORY:



A101
 FLOOR PLANS
 & CROSS-SECTION



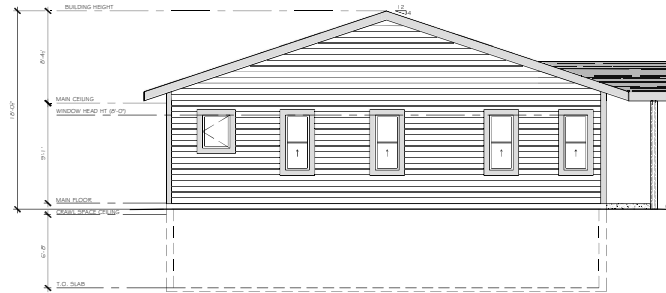
FRONT (NORTH) ELEVATION
SCALE: 1/4" = 1'-0"



RIGHT (WEST) ELEVATION
SCALE: 1/4" = 1'-0"



REAR (SOUTH) ELEVATION
SCALE: 1/4" = 1'-0"



LEFT (EAST) ELEVATION
SCALE: 1/4" = 1'-0"

SPATIAL SEPARATION CALCULATION
 EXPOSING BUILDING FACE: 554.4 ft² = 51.51 m²
 LIMITING DISTANCE = 7.5m
 MAX OPENING 75% = 37.24 m²
 PROPOSED = 50.83 ft² = 4.72 m²

MUNICIPAL ADDRESS:
701 FRANKLYN ROAD
LUMBY, BC

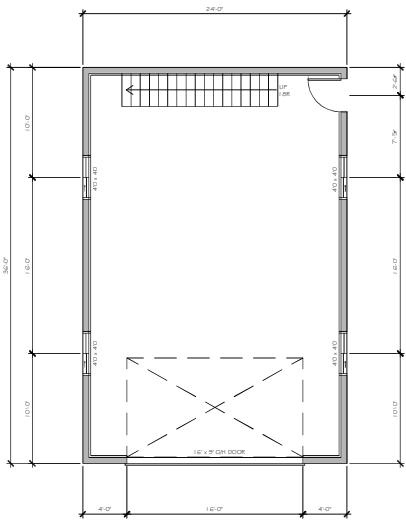
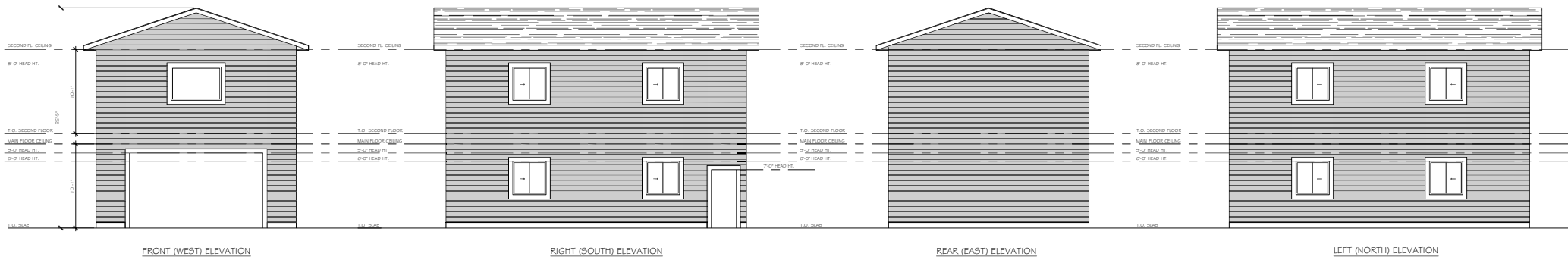
LEGAL DESCRIPTION:
LOT 24, PLAN KAP19560, DISTRICT LOT 418,
OSOYOOS DIV OF YALE LAND DISTRICT,
EXC N 80'

CLIENT:
KEVIN BOS

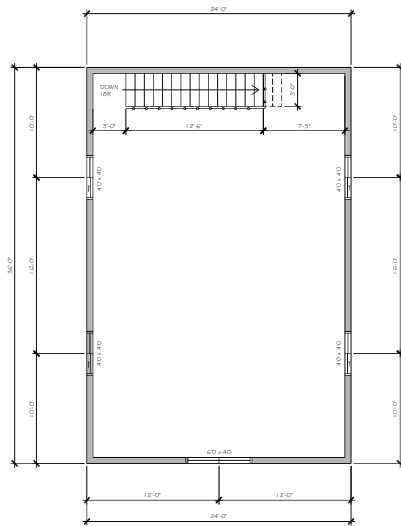
SCALE: 1/4" = 1'-0"
 ALL DEVELOPMENT IS PROPOSED.
 DESIGN & DRAWINGS BY: JENNIFER HANNAH
 WELLSRING DEVELOPMENTS
 (C) 778-212-4131
 (E) JENHANNAH.RISE@GMAIL.COM
 DATE: JULY 12, 2023

REVISION HISTORY:

A201
ELEVATIONS



GARAGE: MAIN FLOOR
664 SQ FT



GARAGE: UPPER FLOOR
664 SQ FT

MUNICIPAL ADDRESS:
701 FRANKLYN ROAD
LUMBY, BC

LEGAL DESCRIPTION:
LOT 24, PLAN KAP19560, DISTRICT LOT 418,
OSOYOOS DIV OF YALE LAND DISTRICT,
EXC N 80'

CLIENT:
KEVIN BOS

SCALE: 3/8" = 1'-0"
ALL DEVELOPMENT IS PROPOSED.
DESIGN & DRAWINGS BY: JENNIFER HANNAH
WELLSPRING DEVELOPMENTS
(C) 778-212-4131
(E) JENHANNAH.RISE@GMAIL.COM
DATE: JULY 12, 2023

REVISION HISTORY:

A301
GARAGE PLANS
& ELEVATIONS

REGIONAL DISTRICT OF NORTH OKANAGAN

BYLAW No. 3005

A bylaw to rezone lands and amend the Zoning Map attached to the Regional District of North Okanagan Zoning Bylaw No. 3000, 2023 to change a zone designation.

WHEREAS pursuant to Section 479 [Zoning bylaws] of the *Local Government Act*, the Board of the Regional District of North Okanagan may, by Bylaw, divide the whole or part of the Regional District into zones, name each zone, establish boundaries for the zones and regulate uses within those zones;

AND WHEREAS the Board has created zones, named each zone, established boundaries for these zones and regulated uses within those zones by Bylaw No. 3000, being the “*Regional District of North Okanagan Zoning Bylaw No. 3000, 2023*” as amended;

AND WHEREAS, pursuant to Section 460 [*Development approval procedures*] of the *Local Government Act*, the Board must, by bylaw, define procedures under which an owner of land may apply for an amendment to a Zoning Bylaw and must consider every application for an amendment to the bylaw;

AND WHEREAS the Board has enacted the “*Regional District of North Okanagan Development Application Procedures and Administrative Fees Bylaw No. 2677, 2018*” as amended to establish procedures to amend an Official Community Plan, a Zoning Bylaw, or a Rural Land Use Bylaw, or to issue a Permit:

AND WHEREAS the Board has received an application to rezone property;

NOW THEREFORE, the Board of the Regional District of North Okanagan in open meeting assembled, hereby **ENACTS AS FOLLOWS**:

CITATION

1. This Bylaw may be cited as “**Zoning Amendment Bylaw No. 3005, 2024**”.

AMENDMENTS

2. The zoning of the property legally described as Lot 24, District Lot 418, ODYD, Plan 19560 Except Part Lying North of a Line Parallel to and Perpendicularly Distant 80 Feet from North Boundary of Said Lot and located at 701 Franklyn Road, Electoral Area “D” is hereby changed on Schedule “A” of the *Regional District of North Okanagan Zoning Bylaw No. 3000, 2023* from the **Neighbourhood Commercial (C.3) zone** to the **Residential Single Family (R.1) zone**.

| | | | |
|-------------------------------------|------|--------|--------|
| Advertised on | this | day of | , 2024 |
| | this | day of | , 2024 |
| Read a First and Second Time | this | day of | , 2024 |
| Read a Third Time | this | day of | , 2024 |
| ADOPTED | this | day of | , 2024 |

Chair

Deputy Corporate Officer