



Report to Council

To: Mayor and Council **File No:** 3360-20 (ZON00431)
Date: May 25, 2026
From: Michelle Austin, Senior Planner
Subject: Bylaw 6075 – Zoning Amendment Bylaw for 6092 Okanagan Landing Road (ZON00431)

Purpose:

To present a Zoning Amendment Application and Bylaw for Council's consideration for 6092 Okanagan Landing Road to allow for a future multi-family development.

Recommendation:

THAT Bylaw 6075, 2026 "6092 Okanagan Landing Road Zoning Amendment Bylaw 6075, 2026", a bylaw to rezone the property from CMTY – Community to MUM – Multi Unit: Medium Scale and PANS – Parks & Natural Spaces, be read a first, second and third time;

AND FURTHER, that prior to final adoption of Bylaw 6075, 2026 (ZON00431), for Lot 1, DL 66, ODYD, Plan KAP92604 (6092 Okanagan Landing Road), the following conditions be satisfied:

- 1) Registration of a Section 219 Covenant in favour of the City of Vernon stating that the land must not be built on or subdivided until the owner:
 - a) Dedicates to the City a maximum of 30.0 m width from the High Water Mark of Vernon Creek, or lesser width as determined by a Qualified Environmental Professional (QEP), for environmental protection and a future public trail along Vernon Creek;
 - b) Registers a Statutory Right-of-Way over the subject property to provide the City with access to the dedicated lands for operations and maintenance; and
 - c) Constructs a frontage road from the northeast corner of 6190 Okanagan Landing Road to the northeast corner of the subject property, including a 6.0 m travel lane, a 3.0 m multi-use pathway, curb and gutter, street lighting, and sanitary, storm, and water services to the satisfaction of City Administration.
- 2) Discharge of Covenant LB495954, which restricts the use of the property to a group home and seniors housing.

Background:

a. Rationale:

- a) Administration supports the zoning amendment application for the following reasons:
 - i. The site is within the Urban Containment Boundary and Focused Growth Area, where growth and density are encouraged.
 - ii. The proposed zone is consistent with the Urban Neighbourhood and Parks, Open Space & Natural Areas designation.
 - iii. Dedication of the Vernon Creek corridor supports long-term environmental protection and enables future public trail connectivity.
 - iv. The site is located on an arterial road with transit and active transportation connections and is serviced with water and sewer.
 - v. The site is close to schools, commercial services, and recreational amenities.
 - vi. The proposal helps increase housing supply and meet provincial housing targets.

b. Overview:

- a) The subject property is located at 6092 Okanagan Landing Road, within the Okanagan Landing Neighbourhood near the Vernon Airport and the intersection of Okanagan Landing Road and Tronson Road (Figures 1 and 2). The property is 0.63 hectares (1.6 acres) and backs onto Vernon Creek.

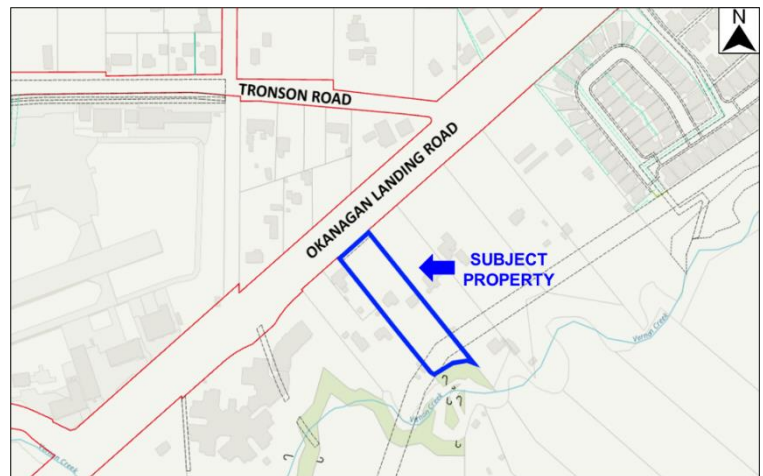


Figure 1 - Location

- b) The property is currently designated Urban Neighbourhood and Parks, Open Space & Natural Areas along Vernon Creek (Attachment 1). It is zoned CMTY – Community (Attachment 2). The application proposes to rezone the property to Multi-Unit Medium Scale (MUM) to allow for an apartment building and to rezone the riparian area along the creek to Parks & Natural Spaces (PANS) (Attachment 3).



Figure 2 – Aerial

- c) The conceptual plans (Attachment 4) show a four-storey, 62-unit apartment building with surface parking at the front and rear, and an outdoor amenity area adjacent to the riparian area along Vernon Creek. The conceptual plans are for illustration purposes only and have not been reviewed for compliance with the Zoning Bylaw or Official Community Plan (OCP) Development Permit Area (DPA) guidelines. Compliance would be confirmed through a future Development Permit (DP) application. At the DP stage, the proposal would be evaluated against the Form and Character Development Permit Area Guidelines for Apartment Buildings. These guidelines provide the City with significant control over the design and appearance of the project. Key considerations include building design, massing, landscaping, pedestrian experience, parking layout, streetscape improvements, and how the development fits within the surrounding area. Through the DP process, staff can require revisions to ensure the development is well-designed and contributes positively to the neighbourhood and public realm prior to permit issuance.

c. Policy Analysis:

a) Key Official Community Plan Policies:

- i. The property is within the Urban Containment Boundary (OCP, Map 1.2), where growth is directed to support compact, walkable communities and protect rural and agricultural lands.
- ii. The property is within a Focused Growth Area (OCP, Map 1.3), where the City prioritizes infrastructure, transportation, parks, and amenities, and supports medium to high residential density development.
- iii. The property is designated Urban Neighbourhood (OCP, Map 5.1), which supports low to medium density residential development, including a range of housing types up to 6 storeys.
- iv. The property is within the Airport Operational Height Limit Area (OCP, Map 3.2) and must comply with applicable height restrictions.
- v. Section 4.4.1.1 requires up to 30.0 m dedication to protect the riparian area along Vernon Creek.
- vi. The property is located within several DPAs, including Aquatic Ecosystem, Flood Hazard, and Form & Character. Prior to development, the owner must obtain a DP that addresses riparian protection, flood hazards, and includes architectural and landscape plans addressing site layout, building design, and landscaping.

b) Consistency with OCP Policies:

- i. The proposed MUM zone aligns with the Urban Neighbourhood a designation by permitting a range of low to medium density residential uses, including apartments. The maximum building height of 18.0 m (4 storeys) is within the Urban Neighbourhood supported range of 1 to 6 storeys.
- ii. The proposed PANS zone aligns with the Parks, Open Space and Natural Areas designation, which is intended to preserve and enhance natural spaces and support outdoor recreation, while limiting development.

- iii. The owner has confirmed that the proposed development can comply with the applicable height restrictions within the Airport Operational Height Limit Area.
 - iv. The site is located along an arterial road with transit service and a multi-use path, and is close to key amenities, including the Okanagan Landing commercial area (~400 m), Ellison Elementary (~600 m), and Fulton Secondary (~1 km). Marshall Fields (<1 km) and Lakeshore Park & Beach (<2 km) are also nearby, with many amenities within walking or cycling distance.
- c) Land Dedications: To secure land for riparian protection and a future public trail, the recommended covenant approach provides flexibility while meeting City objectives. The covenant allows the rezoning to proceed but restricts development until the required dedications are completed. It provides the option to dedicate the full 30 m Riparian Assessment Area (RAA) or complete a Riparian Areas Protection Regulation (RAPR) Assessment to determine a potentially reduced dedication (i.e., Streamside Protection and Enhancement Area (SPEA)). A Statutory Right-of-Way would also be required to provide the City with access for operations and maintenance of the dedicated area.
- d) Off-site Works and Services:
- i. Through the application referral process, Engineering Development Services and Transportation identified the need for a frontage road, including a 6.0 m travel lane and 3.0 m multi-use path, with curb and gutter, street lighting, and sanitary, storm, and water services. These works would extend from the northeast corner of 6190 Okanagan Landing Road to the northeast corner of the subject property. The owner would commit to these works through a covenant as part of the Rezoning Application conditions and carry-out the construction at the time of development.
 - ii. Attachment 5 illustrates the approximate location of the frontage road, multi-use path, and storm and sanitary upgrades. Final design details will be confirmed at the building permit stage.
 - iii. Attachment 6 shows the subject property and the existing frontage road and multi-use path at 6190 Okanagan Landing Road, which are to be extended to the northeast corner of the subject property.
- e) Existing Use Covenant: An existing restrictive covenant (LB495954) registered on title from a previous development proposal (2011) restricts the use of the property to seniors housing (Attachment 7). Administration is recommending that the covenant be discharged to align with the current proposal for market housing.
- f) CMTY & MUM Comparison:
- i. The MUM zone supports medium-density, multi-unit residential development, including apartments and townhouses up to 4 storeys, while the CMTY zone is intended for community, civic, and institutional uses such as schools, parks, and health services.

- ii. MUM is primarily residential in nature with limited supporting uses, whereas CMTY permits a broad range of public and community-serving uses, with only limited residential in the form of a caretaker or operator unit.
- iii. CMTY allows for greater building scale and intensity, with a higher density (3.0 FAR vs. 1.25 FAR) and height (22.0 m vs. 18.0 m), reflecting its role in accommodating larger institutional and community buildings.

g) Table 1 below indicates the surrounding zoning and land uses.

	Zoning	Actual Use
North	INDA – Airport Industrial	Okanagan Landing Road Recreational vehicle rentals, boat storage and repair
East	AGRS – Agriculture & Rural: Small Block (Non-ALR)	Residential acreage
South	PANS – Parks & Natural Spaces	Vernon Creek
West	AGRS	Residential acreage

Table 1: Surrounding Properties – Zoning & Actual Use

Surrounding land uses include light industrial, rural residential, and undeveloped parkland along the creek (Attachments 1 and 2). The proposed rezoning and multi-family development may not appear fully compatible with surrounding land uses at this time. However, the proposal is consistent with the OCP, and compatibility is expected to improve as the area redevelops, and additional higher-density development occurs. This is one of the first applications under the new OCP, and this transition is anticipated.

d. Relevant Policy/Bylaw/Resolutions/Legislative Authority:

- a) Official Community Plan Bylaw 6200
- b) Zoning Bylaw 6000
- c) Regional Airport Zoning Regulations Bylaw 4578

e. Council’s Strategic Plan Alignment:

- | | |
|---|--|
| <input type="checkbox"/> Governance & Organizational Excellence | <input checked="" type="checkbox"/> Livability |
| <input checked="" type="checkbox"/> Recreation, Parks & Natural Areas | <input type="checkbox"/> Vibrancy |
| <input checked="" type="checkbox"/> Environmental Leadership | <input type="checkbox"/> Not Applicable |

f. Committee Recommendations:

At its April 28, 2026 meeting, the Advisory Planning Committee passed the following resolution:

THAT the Advisory Planning Committee recommend that Council support Zoning Application ZON00431 to rezone Lot 1, DL 66, ODYD, Plan KAP92604 (6092 Okanagan Landing Road), from CMTY – Community to MUM – Multi-Unit Medium Scale and PANS – Parks & Natural Spaces;

AND FURTHER, THAT Council's support be subject to registration of a restrictive covenant on title, prior to adoption of the zoning amendment bylaw, securing the following:

- a) Dedication to the City of, at a minimum, the Streamside Protection and Enhancement Area (SPEA), plus up to an additional 10.0 m wide area outside the SPEA to accommodate a future trail.*
- b) Construction of a frontage road and multi-use path from the northeast corner of 6190 Okanagan Landing Road to the northeast corner of the subject property.*
- c) Extension of the storm sewer main from the northeast corner of 6190 Okanagan Landing Road to the northeast corner of the subject property.*
- d) Registration of a Statutory Right-of-Way over the subject property to provide the City with access for operations and maintenance following land dedication.*

AND FURTHER, THAT Council's support be subject to discharge of Covenant LB495954, which restricts the use of the property to a group home and seniors housing.

THAT the Advisory Planning Committee recommend that Council direct the Planning and Engineering Development Services Departments to prepare a plan addressing comprehensive urban design, servicing and access for properties zoned AGRS – Agricultural & Rural: Small Block (Non-ALR) and CMTY – Community, inclusive of and between 5948 and 6120 Okanagan Landing Road, on the northwest side of Vernon Creek.

Administration's recommendation to Council differs from that of the APC. After further review, Administration recommends that the future trail can be adequately accommodated within a 30.0 m wide dedication area, or a lesser width determined by a QEP. This approach achieves the City's environmental protection and trail objectives while retaining the necessary land for development, amenity, and open space.

Administration's recommendation also does not include preparation of a neighborhood-level plan. Through the referral process, Development Engineering and Transportation identified the required frontage road, servicing, and transportation improvements needed to support the proposed development and future growth in the area.

Financial Implications:

There would be future capital and maintenance costs to construct a trail along the creek. There may also be future capital and maintenance costs for off-site works and services along the frontage typical with the City's local road standards.

Alternatives & Implications:

N/A

Communication:

N/A

Attachments:

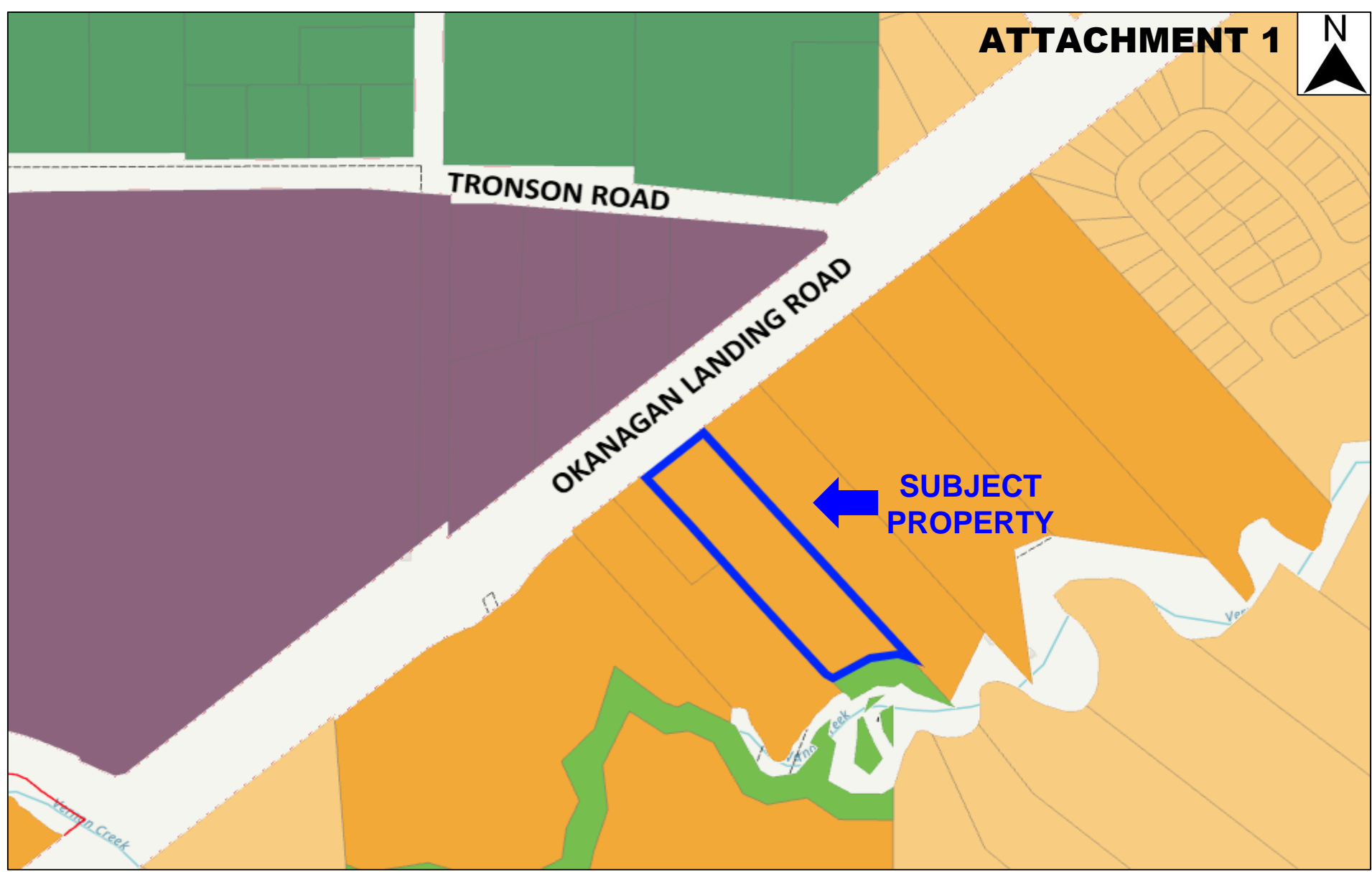
- Attachment 1 – OCP Map
- Attachment 2 – Zoning Map (Existing)
- Attachment 3 – Bylaw 6075
- Attachment 4 – Conceptual Plans
- Attachment 5 – Off-site Works & Services Maps
- Attachment 6 – Photos
- Attachment 7 – Restrictive Covenant LB495954

Reviewed by: Lydia Korolchuck, Manager, Current Planning

Reviewed by: Roy Nuriel, Director, City Planning

Reviewed by: Terry Barton, General Manager, Planning & Community Services

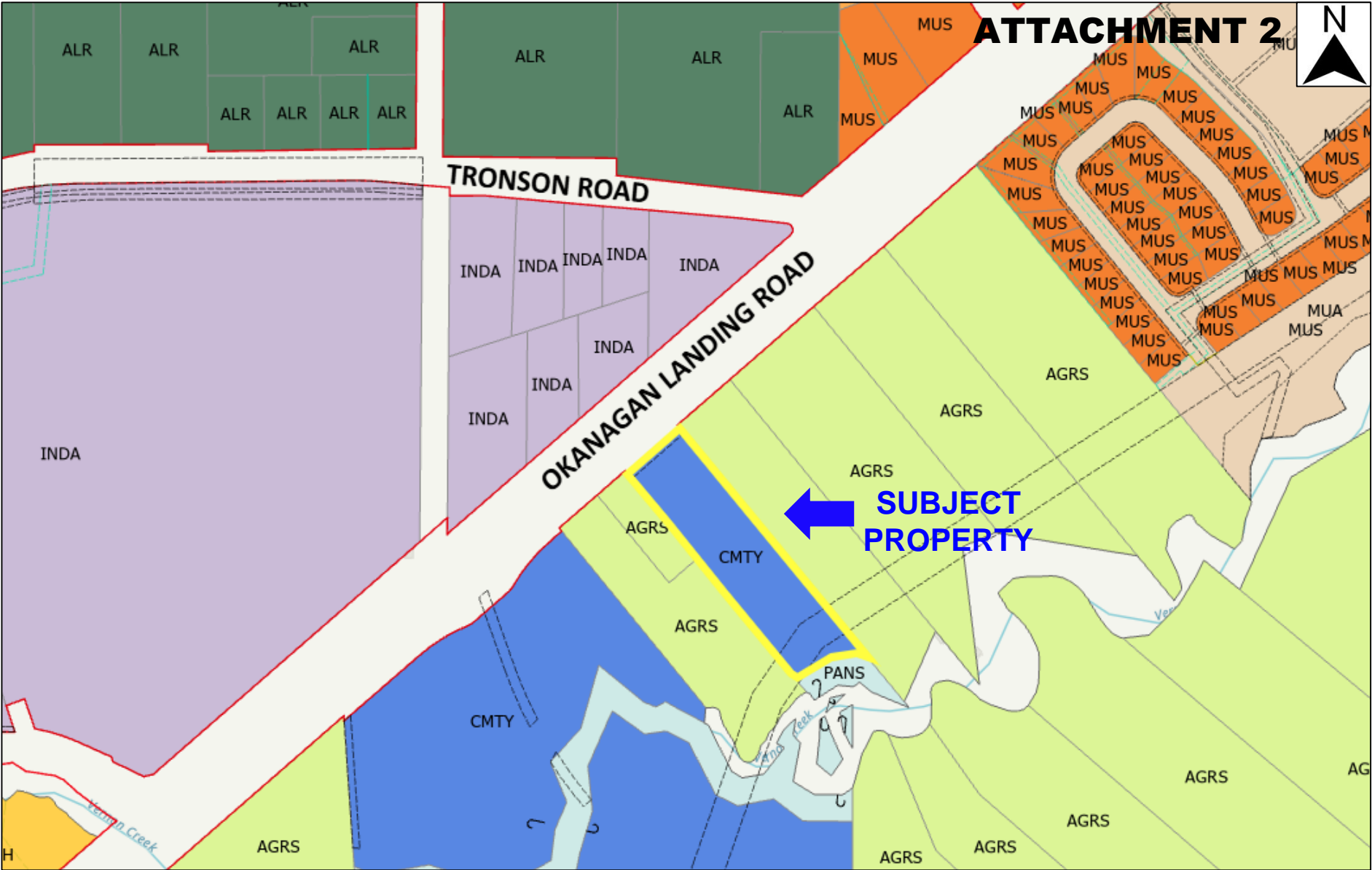
Approved by: Carey Herd, Chief Administrative Officer










-  Agricultural Land Reserve
-  Industrial
-  **Urban Neighbourhood**
-  Suburban Neighbourhood
-  Parks, Open Space, & Natural Areas

OCP Designation
ZON00431

ATTACHMENT 2



-  ALR – Agricultural Land Reserve
-  AGRS – Agricultural & Rural: Small Block (Non-ALR)
-  MUS – Multi-Unit: Small Scale
-  MUA – Multi-Unit Acreage: Small Scale

-  INDA – Airport Industrial
-  CMTY – Community
-  PANS – Parks & Natural Spaces

Zoning Map
ZON00431

ATTACHMENT 3

THE CORPORATION OF THE CITY OF VERNON

BYLAW 6075

A bylaw to amend the City of Vernon Zoning Bylaw 6000

WHEREAS the Council of the Corporation of the City of Vernon has determined to amend the “Zoning Bylaw 6000”;

AND WHEREAS in accordance with the provisions of Section 464 of the *Local Government Act*, and all amendments thereto, no public hearing was held;

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

1. This bylaw may be cited as “**6092 Okanagan Landing Road Zoning Amendment Bylaw 6075, 2026**”.
2. Pursuant to the Official Zoning Map, Schedule “A” attached to and forming part of Bylaw 6000, is hereby amended as follows:

That the following legally described lands be rezoned from “**CMTY – Community**” to “**MUM – Multi-Unit: Medium Scale and PANS – Parks and Natural Spaces**”:

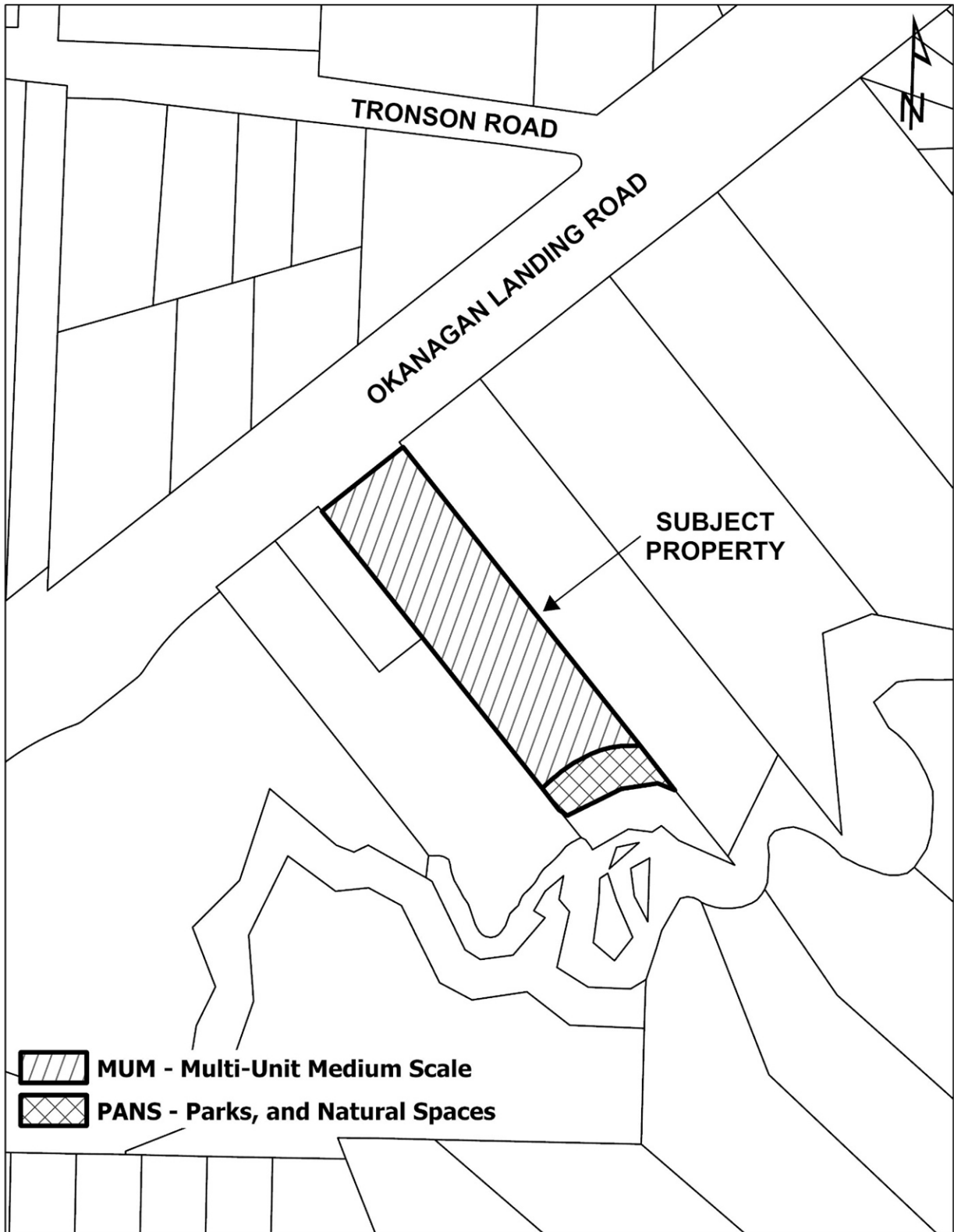
Legal Description:

**LOT 1, DISTRICT LOT 66, ODYD, PLAN KAP92604
(6092 Okanagan Landing Road)**

and the Zoning Map be amended accordingly, as shown in diagonal-hatching and cross-hatching on Schedule “A” attached to and forming part of this bylaw.

3. Zoning Bylaw 6000 is hereby ratified and confirmed in every other respect.

SCHEDULE 'A'
Attached to and Forming Part of Bylaw 6075
"6092 Okanagan Landing Road Zoning Amendment Bylaw 6075, 2026"





Ankenman Associates Architects Inc.
 12321 Beecher St., Crescent Beach, BC V4A 3A7 604.536.1600

6092 OKANAGAN LANDING RD, VERNON BC SCHEMATIC RENDERING

Dev. For ZEN GROUP

2012

REV.	DATE	DESCRIPTION	BY
SCALE: ISSUED FOR DP JUNE 18, 2021			

A1.1



— Frontage Road & Pathway

Frontage Road & Pathway

ZON00431





OKANAGAN LANDING ROAD

**SUBJECT
PROPERTY**



- Existing Storm Mains
- - - Proposed Storm Mains

Storm Mains

ZON00431





- Existing Sanitary Mains
- - - Proposed Sanitary Mains

Sanitary Mains

ZON00431



ATTACHMENT 6



Photo 1 – Subject Property (view southeast from Okanagan Landing Rd)



Photo 2 – Existing frontage road/multi-use path (view northeast from 6190 Okanagan Landing Rd)



Photo 3 – Existing frontage road/multi-use path (view northeast from 6190 Okanagan Landing Rd)

ATTACHMENT 7

LAND TITLE ACT
FORM C
(Section 233)

LB495955

22 DEC 2011 11 02

LB495954

C7346
C7346
PA

Province of British Columbia

GENERAL INSTRUMENT-PART 1 (This area for Land Title Office use)

PAGE 1 of 7 pages

1. APPLICATION: (Name, address, phone number and signature of applicant, applicant's solicitor or agent)

LTO#10560 NIXON WENGER, Barristers and Solicitors,
4th Fl, 3201 - 30th Ave, Vernon, BC, V1T 2C6
(250) 542-5353

City of Vernon Permitted Use Covenant

File Ref. No: DGL:jf/trl 37209-001

Applicant's Agent/Agent for Subsequent Chargee

2. PARCEL IDENTIFIER(S) AND LEGAL DESCRIPTION(S) OF LAND: *
(PID) (LEGAL DESCRIPTION)

SEE SCHEDULE

3. NATURE OF INTEREST: *

DESCRIPTION

DOCUMENT REFERENCE
(page and paragraph)

PERSON ENTITLED TO INTEREST

SEE SCHEDULE

4. TERMS: Part 2 of this Instrument consists of (select one only)

- (a) Filed Standard Charge Terms D.F. No.
- (b) Express Charge Terms x Annexed as Part 2
- (c) Release There is no Part 2 of this instrument

A selection of (a) includes any additional or modified terms referred to in Item 7 or in a schedule annexed to this instrument. If (c) is selected, the charge described in Item 3 is released or discharged as a charge on the land described in Item 2.

5. TRANSFEROR(S):*

SEE SCHEDULE

MM 12/22/2011 11:05:04 AM
Charge 2 \$148.80

6. TRANSFEREE(S): (Including occupation(s), postal address(es) and postal code(s))*

THE CORPORATION OF THE CITY OF VERNON, 3400 - 30th Street, Vernon, B.C. V1T 5E6

7. ADDITIONAL OR MODIFIED TERMS:*


NIL

8. EXECUTION(S): **This instrument creates, assigns, modifies, enlarges, discharges or governs the priority of the interest(s) described in Item 3 and the Transferor(s) and every other signatory agree to be bound by this instrument, and acknowledge(s) receipt of a true copy of the filed standard charge terms, if any.

Officer Signature(s)

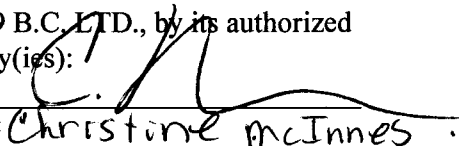
Execution Date

Party(ies) Signature(s)


DOUGLAS G. LEMISKI
 Barrister and Solicitor
 #301 2706-30 Avenue
 Vernon BC V1T 2B6
 Telephone (250) 542-5353
 (as to all signatures)

Y	M	D
11	07	15

0889769 B.C. LTD., by its authorized signatory(ies):

Print name:  Christine McInnes

Print name:

OFFICER CERTIFICATION:

Your signature constitutes a representation that you are a solicitor, notary public or other person authorized by the Evidence Act, R.S.B.C. 1996, s. 124, to take affidavits for use in British Columbia and certifies the matters set out in Part 5 of the Land Title Act as they pertain to the execution of this instrument.

* If space insufficient, enter "SEE SCHEDULE" and attach schedule in Form E.

** If space insufficient, continue executions on additional page(s) in Form D.

KAMLOOPS
AGENT
#10588
Gillespie Renkema
Barnett Broadway LLP

LAND TITLE ACT
FORM D
EXECUTIONS CONTINUED

Execution Date

Officer Signature(s)

Y	M	D
11	07	26

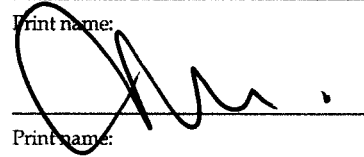
Transferor/Borrower/Party
Signature(s)

The Toronto-Dominion Bank, by
its authorized signatory(ies):



Jody Jean Moher
Barrister, Solicitor and Notary Public
14718 - 48 Avenue
Edmonton, Alberta T6H 5N2

Print name:



Print name:

MONICA TSE
Discharge Administrator
Credit Administration Services

As to All Signatures

OFFICER CERTIFICATION:

Your signature constitutes a representation that you are a solicitor, notary public or other person authorized by the *Evidence Act*, R.S.B.C. 1996, c.124 to take affidavits for use in British Columbia and certifies the matters set out of the *Land Title Act* as they pertain to the execution of this instrument.

LAND TITLE ACT
FORM E
 SCHEDULE

ENTER THE REQUIRED INFORMATION IN THE SAME ORDER AS THE INFORMATION MUST APPEAR ON THE FREEHOLD TRANSFER FORM, MORTGAGE FORM OR GENERAL DOCUMENT FORM.

2. PARCEL IDENTIFIER(S) AND LEGAL DESCRIPTION(S) OF LAND: *
 (PID) (LEGAL DESCRIPTION)

Lot A, D1 66, ODYD, Plan KAP 092602

3. NATURE OF INTEREST: *
 DESCRIPTION

DOCUMENT REFERENCE
 (page and paragraph)

PERSON ENTITLED TO INTEREST

3.1 Covenant

Entire Instrument

Transferee

3.2 Priority Agreement granting the within Covenant priority over Mortgage CA1786149

Page 6

Transferee

5. TRANSFEROR(S):*

- 5.1 0889769 B.C. LTD., (Inc. no. BC00889769), granting the Covenant; and
- 5.2 The Toronto-Dominion Bank, granting the priority agreement;

TERMS OF INSTRUMENT - PART 2

This Covenant granted the 15 day of July, 2011.

BETWEEN:

**0889769 B.C. LTD., (Inc. no. BC0889769), c/o #1 – 3009 – 43rd Avenue,
Vernon, British Columbia, V1T 3L4**

(the "Transferor")

AND:

THE CORPORATION OF THE CITY OF VERNON, a Municipal Corporation,
having its offices at 3400 – 30th Street, Vernon, British Columbia, V1T 5E6

(the "City")

WHEREAS:

- A. The Transferor is the registered owner in fee simple of lands in the City of Vernon, in the Province of British Columbia, legally described as:

Lot A, District Lot 66, Osoyoos Division Yale District, Plan KAP 092602

(hereinafter called the "Lands");

- B. Section 219 of the *Land Title Act* R.S.B.C. 1996, c. 250 provides that the Transferor may grant a covenant to the City of a negative or positive nature respecting the use of the Lands;
- C. The Transferor has applied to the City to amend the Official Community Plan and to re-zone the Lands to permit further development of the Lands;
- D. The use of the Lands will be limited to certain primary uses contained within the Zoning Bylaws of the City from time to time;
- E. The Transferor has asked the City to accept the covenant created by this Agreement so that approval of the amendment to the Official Community Plan and the re-zoning application sought by the Transferor can proceed more expeditiously;

- F. The Transferor wishes to grant and the City accepts, the Section 219 Covenant contained in this Agreement over the Lands; and
- G. In this Covenant:
- (a) Group Home, Major means: a residential premise licensed as required under the *Community Care Facilities Act* intended to provide residential care to children, youth or adults;
 - (b) Seniors Assisted Housing means: Housing in the form of either multiple sleeping units where residents are provided with common living facilities; or apartment housing, where residents do not require 24 hour care and supervision but require personal care (meal assistance or provision, transportation for residents, medication management, dressing or bathing assistance), hospitality services (laundry and housekeeping) and on-site emergency monitoring and emergency response services. This housing type is wholly or partially targeted to individuals receiving income assistance or eligible for a rental subsidy, and subject to the conditions of a Housing Agreement.
 - (c) Seniors Residential Care means: Housing intended for residents, who on account of age, infirmity or their physical, mental or psychiatric condition, require 24 hour care and supervision as well as assistance with the performance of the personal functions and activities necessary for daily living.
 - (d) Seniors Supportive Housing means: Housing in the form of either multiple sleeping units where residents are provided with common living facilities; or apartment housing, both of which provide some combination of personal care (meal assistance or provision, transportation for residents, medication management, dressing or bathing assistance) and/or hospitality services (laundry and housekeeping), but which does not require onsite medical personnel, and where common amenity spaces and dining facilities are provided for the residents. This housing may or may not be licensed as required under the *Community Care Facilities Act*.

THIS AGREEMENT is evidence that in consideration of payment of \$10.00 by the City to the Transferor (the receipt and sufficiency of which is acknowledged by the Transferor), and in consideration of the promises exchanged below, the Transferor covenants and agrees with the City in accordance with Section 219 of the *Land Title Act* as follows:

- 1) The Transferor covenants and agrees with the City that, without the prior written consent of the City, the

use of the Lands will be limited to the following primary uses contained within the zoning designation as set out in the Zoning Bylaws of the City, namely:

- a) Group Home, Major;
- b) Seniors Assisted Housing;
- c) Seniors Residential Care;
- d) Seniors Supportive Housing;

2) This Covenant is granted voluntarily by the Transferor to the City pursuant to Section 219 of the *Land Title Act* of the Province of British Columbia and shall run with the Lands.

3) The Transferor hereby releases, indemnifies and saves the City, its elected officials, officers, employees and agents harmless from and against any and all actions, causes of action, losses, damages, costs, claims, debts and demands whatsoever by any person, arising out of or in any way due to the granting or existence or enforcement of this Covenant.

4) Nothing in this Covenant affects the City's rights and powers in the exercise of its statutory functions under its statutes, bylaws, resolutions, orders and regulations, all of which may be fully exercised in relation to the Lands as if this Covenant had not been granted.

5) The Transferor shall, forthwith after execution hereof by it, do or cause to be done all acts or things reasonably necessary to give proper effect to the intentions of this Covenant and to ensure that this Covenant may be registered against the title to the Lands in the Land Title Office.

6) Notwithstanding anything contained herein, neither the Transferor nor any future owner of the Lands shall be liable under any of the covenants or agreements contained herein where such liability arises by reason of an act or omission occurring after the Transferor or such future owner ceases to have any further interest in the Lands.

7) Whenever the singular or masculine is used herein, the same shall be construed as meaning the plural, feminine or body corporate or politic where the context or the parties so require; this Covenant runs with the Lands; every reference to each party hereto shall be deemed to include the officers, employees, elected officials, agents, servants, successors and assigns of that party; this Covenant and each and every provision hereof shall enure to the benefit of and be binding upon the parties hereto and their respective successors and assigns, as the case may be, NOTWITHSTANDING any rule of law or equity to the contrary; and if any section, subsection, clause or phrase of this Covenant is for any reason held to be invalid by the decision of a Court of competent jurisdiction the invalid portion shall be severed and the decision that it is invalid shall not affect the validity of the remainder.

IN WITNESS WHEREOF the parties hereby acknowledge that this Agreement has been duly executed and delivered by executing the Forms C and D attached hereto.

CONSENT & PRIORITY

The Toronto-Dominion Bank hereby consents to the within Covenant and grants priority over its Mortgage registered under number CA1786149.

END OF DOCUMENT