



THE CORPORATION OF THE CITY OF VERNON

## REPORT TO COUNCIL

**SUBMITTED BY:** Michelle Austin  
Current Planner

**COUNCIL MEETING:** REG ☒ COW ☐ I/C ☐  
**COUNCIL MEETING DATE:** December 13, 2021  
**REPORT DATE:** November 25, 2021  
**FILE:** 3360-40 (General\NRPT)

**SUBJECT:** IMPACTS OF PROVINCIAL TERMINATION OF ALL LAND USE CONTRACTS

---

### PURPOSE:

To advise Council of the impacts of the Province terminating all Land Use Contracts (LUCs) on June 30, 2024, including such impacts on example residential and commercial properties.

### RECOMMENDATION:

THAT Council direct Administration to give notice of termination by June 30, 2022 to each owner, whose land is subject to a land use contract that will be terminated, stating where and the times and dates when zoning regulations that will apply to the land are available for public inspection;

AND FURTHER, that Council direct Administration to provide each owner, whose land is subject to a land use contract that will be terminated, with supplemental information to include the underlying Official Community Plan Designation and Zoning; to advise each owner to assess compliance of their land use with the permitted uses of Official Community Plan Bylaw #5470 and Zoning Bylaw #5000; and, if the use does not comply, to contact Administration for direction and initiate an Official Community Plan and rezoning process if necessary, as outlined in the report titled "Impacts of Provincial Termination of all Land Use Contracts", dated November 25, 2021 and respectfully submitted by the Current Planner.

### ALTERNATIVES & IMPLICATIONS:

1. THAT Council direct Administration to give notice of termination by June 30, 2022 to each owner whose land is subject to a land use contract that will be terminated, stating where and the times and dates when zoning regulations that will apply to the land are available for public inspection;

AND FURTHER, that Council direct Administration to retain a consultant to develop a comprehensive strategy to determine the lawfulness of the existing uses of each property subject to a land use contract; to make recommendations for bringing non-compliant uses into compliance; and, to initiate and complete necessary re-designations and rezonings, as outlined in the report titled "Impacts of Provincial Termination of all Land Use Contracts", dated November 25, 2021 and respectfully submitted by the Current Planner.

*Note: This alternative would be contrary to the usual approach to development where property owners initiate land use applications. There are many non-conforming properties (not due to LUCs being terminated) within the City of Vernon that continue to be used effectively. As each property nears redevelopment, Administration's proposal under the "Recommendation" is to work with each applicant on the appropriate designation and zoning to fit their needs at the time. This approach has been*

*utilized successfully to date in discharging LUCs. This alternative would also require funds over and above those within the Department's operating budget.*

**ANALYSIS:**

**A. Committee Recommendations:**

N/A

**B. Rationale:**

1. Land use Contracts (LUCs) were widely used in B.C. from 1971 to 1977. They were intended to provide more flexibility than traditional zoning. The terms of an LUC were negotiated between the owner and municipality and often included zoning, development permits, subdivision layouts and servicing agreements in one document. If a property lies within the boundaries of an LUC, all land use regulations are prescribed in the LUC, despite any municipal bylaw, even zoning.
2. The enabling legislation for LUCs was repealed in 1978 because, in some municipalities, virtually every development application became a negotiation over off-site amenities and development activity was being seriously impaired.
3. On June 30, 2024, Section 547 (1) of the Local Government Act (LGA) terminates all LUCs that remain in force as of that date. When this occurs, municipal bylaws governing use and development of lands formerly under an LUC will automatically apply, such as the Official Community Plan (OCP) and Zoning Bylaw. The charge registered on title is deemed to be discharged as of the date of the termination of the land use contract. For the last several years, Administration has been working with applicants on a case-by-case basis to discharge land use contracts when a property comes forward for redevelopment.
4. By June 30, 2022, Section 547 (2) of the LGA requires all municipalities to adopt zoning for all affected lands to replace LUCs upon their termination. There are 48 LUCs in place within the City of Vernon regulating the use and development of 449 parcels (Attachment 1). To the best of Administration's knowledge, using the City's Geographic Information Systems software, all properties currently under an LUC have underlying replacement zoning. As such, this requirement is fulfilled.
5. Section 549 of the LGA requires the City of Vernon to give written notice of termination by June 30, 2022 to each owner whose land is subject to an LUC that will be terminated. The notice must state where and the times and dates when zoning regulations that will apply to the land are available for public inspection.
6. Section 528 of the LGA affords "legal non-conforming status" to land uses that existed at the time the applicable zoning bylaw (i.e. Zoning Bylaw #5000) was adopted. This means that a non-conforming use may be continued under certain conditions. Non-conforming uses are not intended to continue indefinitely. The purpose of the statutory provisions is that non-conforming uses should ultimately be discontinued to bring the parcel into compliance with the current zoning scheme. If a non-conforming use is discontinued for a period of six months or more, any subsequent use of the land, building or other structure becomes subject to the Zoning Bylaw. Expansion of the use is also limited to within an existing building, provided no structural alterations occur.



7. To better understand the potential impacts of this sweeping termination of LUCs on affected properties, Administration has selected a few properties (Attachment 2) to illustrate as shown in Table 1, below. Table 1 compares the actual use of select properties with the current OCP designation and underlying replacement zoning, looking for incompatibilities as a starting point to determine possible implications and next steps.

**Table 1**

Civic Address	LUC #	OCP Designation	Zoning	BC Assessment Description	Actual Use	Conformance with Zoning	Implications/ Options
2810 35 St	#2252, 1974	RHD- Residential High Density & Park	RH3- High-Rise Apartment Residential	Commercial – Motel & Auto Court	Schell Motel	<ul style="list-style-type: none"> <li>Non-conforming</li> <li>Motel not a permitted primary use</li> <li>Hotel/motel accommodation allowed as a secondary use</li> </ul>	<ul style="list-style-type: none"> <li>Property can continue to be used for a motel as long as the use does not lapse for six months or more</li> <li>Property could be redeveloped to comply with RH3 Zone</li> <li>OCP designation could be amended to Commercial and rezoned to a commercial zone allowing "motels" as a primary use</li> </ul>
4303 Pleasant Valley Rd	#2389, 1975	RLD- Residential Low Density	R2- Large Lot Residential	Commercial- Store & Service Commercial	Pleasant Valley Funeral Home	<ul style="list-style-type: none"> <li>Non-conforming</li> <li>Funeral Services not a permitted use</li> </ul>	<ul style="list-style-type: none"> <li>Property can continue to be used for funeral services as long as the use does not lapse for six months or more</li> <li>Property could be redeveloped to comply with R2 Zone</li> <li>OCP designation could be amended to Commercial and rezoned to a commercial zone allowing "funeral services" as a primary use</li> </ul>
3100 34 Ave	#2304, 1976	Community Commercial	C5- Community Residential	Parking (lot only, paved or gravel-com)	Paved parking lot (Vantage One Credit Union)	<ul style="list-style-type: none"> <li>Conforming</li> <li>Non-accessory parking is a primary use</li> </ul>	No action required
1802 45 Ave	#2530, 1976	PUBINS- Public & Institutional	P3-Private Institutional	Schools & universities, college or tech school	Seventh Day Adventist Church & School	<ul style="list-style-type: none"> <li>Conforming</li> <li>Educational services – private is a primary use</li> </ul>	No action required

8. As Table 1 above shows, there are properties and uses under an LUC within the City of Vernon that, upon termination of the LUC, will comply with the underlying replacement zoning and not require action by the property owner or City. However, there are also properties and uses that will contravene the underlying replacement zoning and ultimately require rezoning or redevelopment, though they can continue to be used under "legal non-conforming" protection status until the use is discontinued for six months or more.

9. In order to determine the most appropriate course for each property subject to a land use contract termination, Administration presents the following questions to determine the best course of action.
  - a) Did the actual use conform to the LUC when Zoning Bylaw #5000 was adopted? In instances where the actual use does not conform to the underlying replacement zoning, it is important to determine whether the use was legal to begin with and can be given "legal non-conforming" status.
  - b) Does the actual use conform to the underlying replacement zoning? If yes, then no changes are required. If no, and it has been deemed "legal non-conforming", then it can continue to exist under certain conditions. If no, and the use has been deemed "illegal", then the property should be rezoned to allow the actual use, or redeveloped to comply with the current zoning.
  - c) Is the underlying replacement zoning consistent with the OCP designation? If not, this should be reviewed and resolved through the OCP Review process in 2022 to ensure use of the property is consistent with the City's long term vision for the use of the property.
10. Despite "legal non-conforming" or "illegal" status, for properties where the actual use is not permitted under the zoning, Administration should inform the owners about the implications and encourage them to contact Administration for direction on how to bring the use into compliance.
11. Alternatively, the City of Vernon could initiate necessary re-designations and rezonings itself using Planning Staff or by retaining a consultant to complete the project.

**C. Attachments:**

Attachment 1 – Location Maps of LUCs  
Attachment 2 – Aerial and Zoning Maps of Select Properties

**D. Council's Strategic Plan 2019 – 2022 Goals/Action Items:**

The subject recommendation is related to the following goals/action items in Council's Strategic Plan 2019 – 2022:

- Review and stream line residential development approval process.

**E. Relevant Policy/Bylaws/Resolutions:**

1. There are 48 LUCs in place throughout the City of Vernon regulating the use and development of 449 parcels.
2. These 449 parcels have underlying replacement zoning under Zoning Bylaw #5000.

**BUDGET/RESOURCE IMPLICATIONS:**

Budget and resource implications of Administration's Recommendation include staff time to prepare notices and materials for public inspection and printing and mailing costs. Depending on Council direction, budget and resource implications for Alternative Recommendations #1 and #2 vary. Hiring a consultant will have greater budget implications. Utilizing Planning Staff will have greater capacity implications, affecting workloads and land use application processing times.

Prepared by:

Approved for submission to Council:

**X**

*Michelle Austin*

Signer 1

*Will Pearce*  
Will Pearce, CAO

Date: 07. DECEMBER. 2021

Michelle Austin  
Planner, Current Planning

**X**

*Kim Flick*

Signer 2

Kim Flick  
Director, Community Infrastructure and Development

**REVIEWED WITH**

- |   |   |   |
|---|---|---|
| <input type="checkbox"/> Corporate Services     | <input type="checkbox"/> Operations           | <input checked="" type="checkbox"/> Current Planning          |
| <input type="checkbox"/> Bylaw Compliance       | <input type="checkbox"/> Public Works/Airport | <input type="checkbox"/> Long Range Planning & Sustainability |
| <input type="checkbox"/> Real Estate            | <input type="checkbox"/> Facilities           | <input type="checkbox"/> Building & Licensing                 |
| <input type="checkbox"/> RCMP                   | <input type="checkbox"/> Utilities            | <input type="checkbox"/> Engineering Development Services     |
| <input type="checkbox"/> Fire & Rescue Services | <input type="checkbox"/> Recreation Services  | <input type="checkbox"/> Infrastructure Management            |
| <input type="checkbox"/> Human Resources        | <input type="checkbox"/> Parks                | <input type="checkbox"/> Transportation                       |
| <input type="checkbox"/> Financial Services     |   | <input type="checkbox"/> Economic Development & Tourism       |
| <input type="checkbox"/> COMMITTEE:             |   |   |
| <input type="checkbox"/> OTHER:                 |   |   |



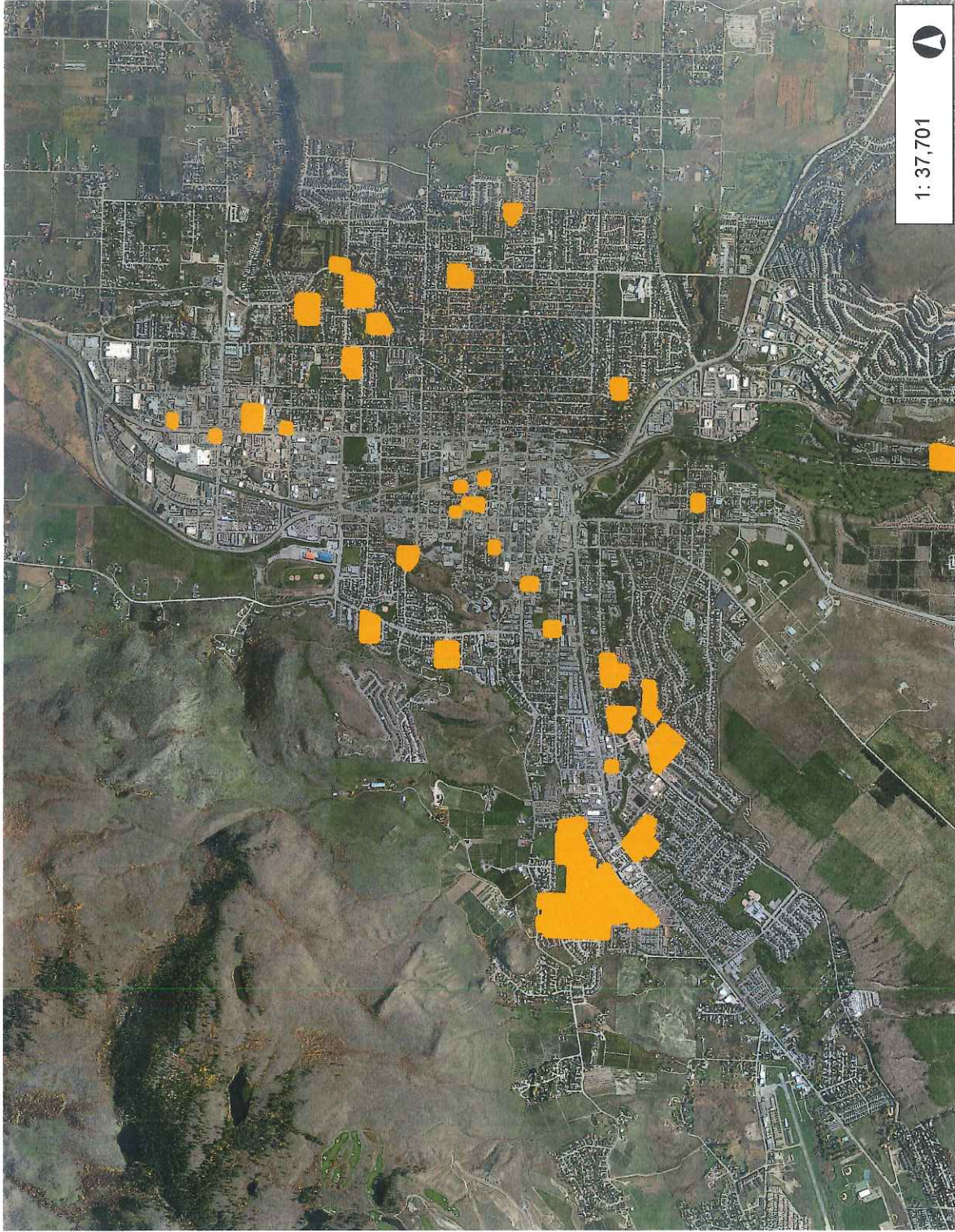
# LUCs - Core Vernon Area

## Attachment 1



**Legend**

Land Use Contracts



1: 37,701



**Notes**

This drawing has been produced by the City of Vernon's Geographic Information System. The data provided is derived from a variety of sources with varying levels of accuracy. The City of Vernon makes no warranty or representation, expressed or implied, with the regard to the correctness, accuracy and/or reliability of the information contained herein.

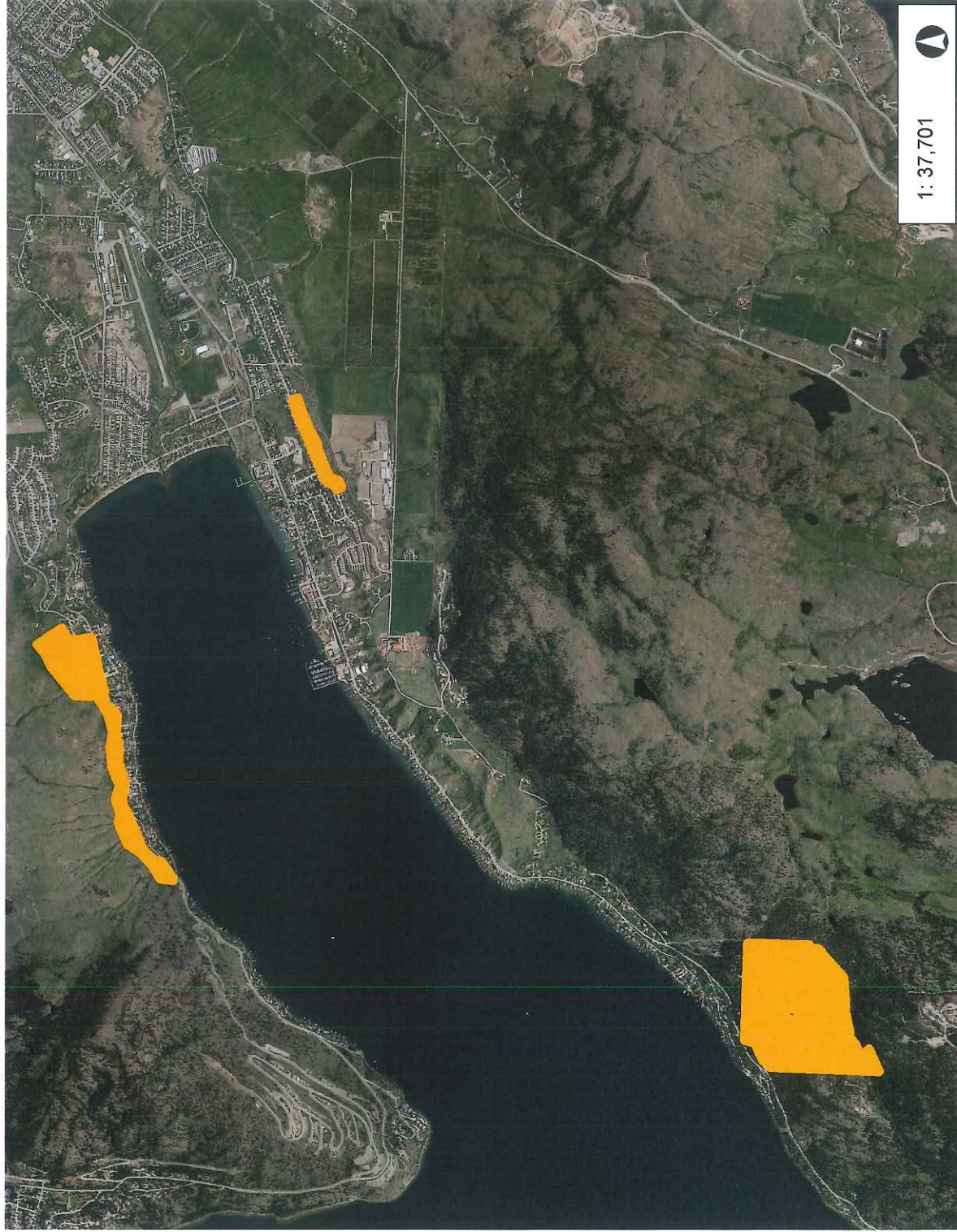
1.2 Miles



1.2



# LUCs - Okanagan Landing & Eastside Road



1: 37,701



## Legend

Land Use Contracts



## Notes

This drawing has been produced by the City of Vernon's Geographic Information System. The data provided is derived from a variety of sources with varying levels of accuracy. The City of Vernon makes no warranty or representation, expressed or implied, with the regard to the correctness, accuracy and/or reliability of the information contained herein.

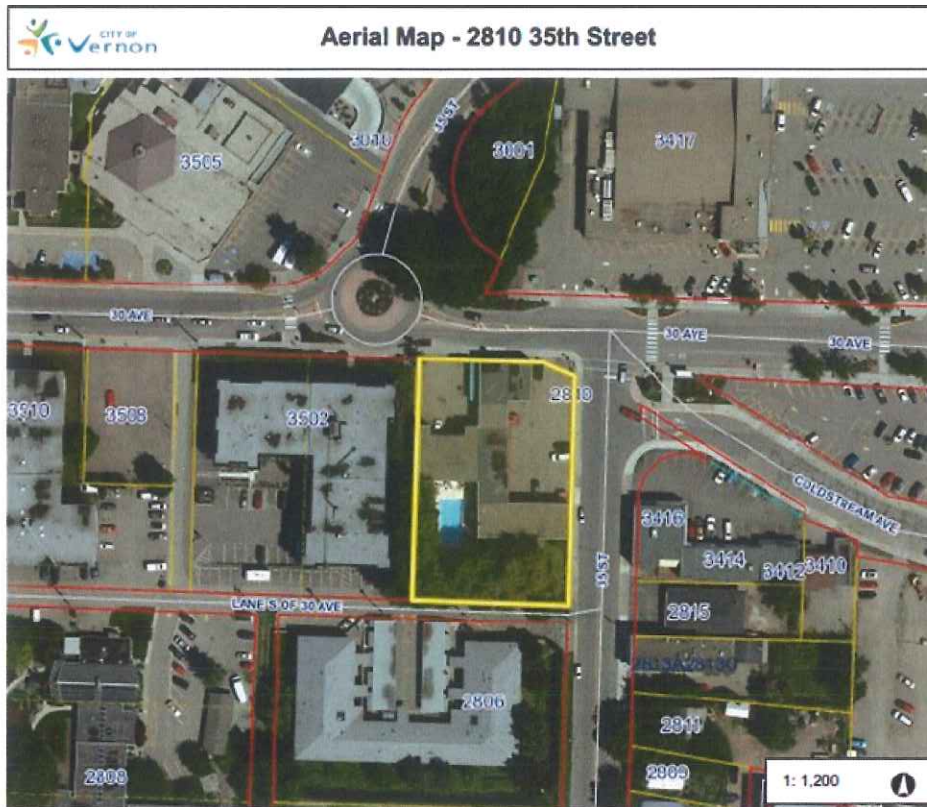
1.2 Miles

0.60

0

1.2





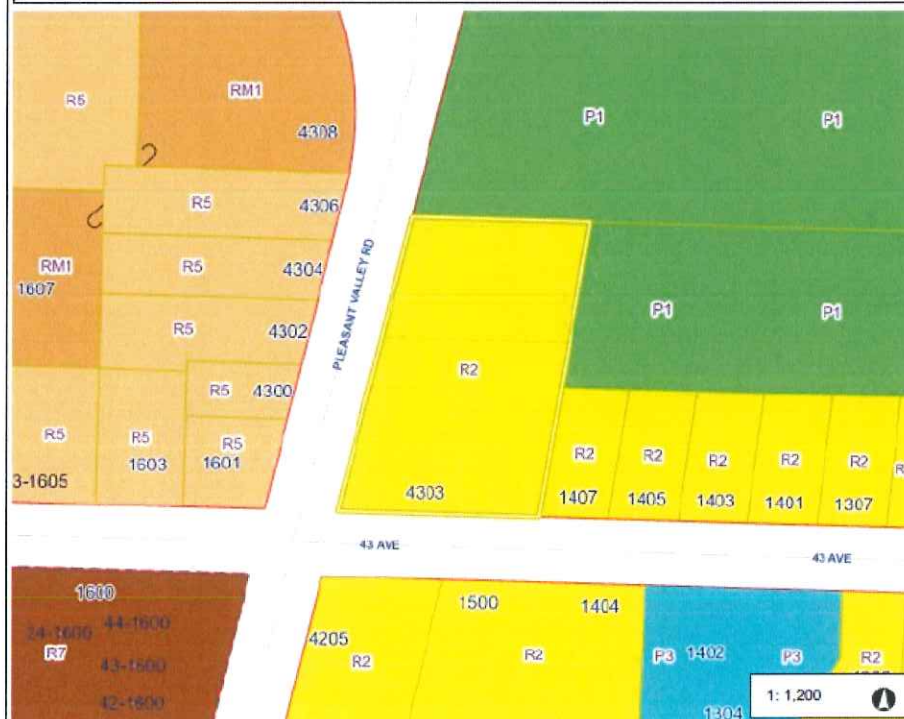




### Aerial Map - 4303 Pleasant Valley Road



### Zoning Map - 4303 Pleasant Valley Road



# Aerial Map - 3100 34th Avenue



# Zoning Map - 3100 34th Avenue





# Aerial Map - 1802 45th Avenue



# Zoning Map - 1802 45th Avenue

