



SUBDIVISION APPLICATION – PREVIOUSLY OCCUPIED BUILDING

Date:	July 27, 2021
File No.:	21-0155-CSS-SUB
Applicant:	Silver Star Club Resort Ltd c/o Russell Haubrich
Legal Description:	Lot A, DL 1355, ODYD, Plan KAP70786
P.I.D.#:	025-332-856
Civic Address:	150 Silver Lode Lane (Chilcoot Lodge and Conference Centre)
Property Size:	0.51 ha (1.26 acres)
Zoning	Village Commercial (V.C)
OCP Designation:	Commercial
Proposal:	37 unit strata conversion of a previously occupied building

PLANNING DEPARTMENT RECOMMENDATION:

That the application for a proposed 37 unit strata conversion of a previously occupied building under Section 242 of the *Strata Property Act* for the property legally described as Lot A, DL 1355, ODYD, Plan KAP70786 and located at 150 Silver Lode Lane, Electoral Area “C” not be supported unless and until

1. a Development Variance Permit to vary the requirements of the Silver Star Zoning Bylaw related to the number and size of off-street parking and loading spaces has been approved for the reduced amount of existing parking supplied on-site;
2. the registered leaseholders have been notified about the Strata Subdivision application and given opportunity to express their comments or concerns to the Regional District;
3. the Mountain Resort Branch of the Ministry of Forests, Lands, Natural Resource Operations and Rural Development has been notified about the Strata Subdivision application and given opportunity to express their comments or concerns to the Regional District;
4. the affected landowners of the adjacent properties, including Strata subdivision KAS3027 (Snowbird Lodge), Strata subdivision KAS1259 (Cabin Colony) have been notified about the Strata Subdivision application and given opportunity to express their comments or concerns to the Regional District.

SUMMARY:

The proposed strata subdivision requires the Board of Directors approval to create 37 units (36 hotel units and 1 commercial unit) within a previously occupied building at 150 Silver Lode Lane (Chilcoot Lodge and Conference Centre). The Planning Department recommends the application not be supported unless and until the applicant addresses the matter of parking supply for the property and persons or agencies affected by proposal have been given opportunity to provide their comments or concerns to the Regional District. This could be achieved by a Development Variance Permit being approved to vary the requirements of the Silver Star Zoning Bylaw related to off-street parking and loading spaces the has been approved for the proposed development of the subject property and notification of the proposal being sent to the affected persons/agencies.

BACKGROUND:

Charges on Title

Covenant KT56265 was registered in 2002. The covenant requires leaseholders of their accommodation units to include their units in the rental pool when not being used for personal use. The covenant also requires owners to book the personal use of their unit through the rental pool, but does not restrict the number of days that the unit is used for personal use.

Covenant KT24215 was registered in 2002 and Covenant Modifications CA3485726 & CA3485727 were registered in 2013. The covenants require a turnaround area which is to be kept free of snow for the purposes of fire access.

Site Context and Proposal

The subject property is located on the northeast side of Silver Lode Lane. Silver Lode Lane is adjacent and is a strata road (common access property) which extends from Silver Star Road and provides access to several properties which are a part of Strata Subdivision KAS1259 (Cabin Colony) in the west through the subject property to Strata Subdivision KAS3027 (Snowbird Lodge) in the east, in addition to others. The subject property has an easement to use the strata road which was approved when the property was created in 2002. The property is used for hotel accommodations and a conference centre. All units are currently held in long term lease agreements which are registered on the property's title.

The proposed 37 unit strata conversion of a previously occupied building consists of 36 hotel units and 1 commercial unit which is the conference centre. The building contains 5 storeys, three of which are above ground, the main floor and a basement which is the conference centre. The hotel units range in size from 85.5 m² to 86.0 m². The building was originally constructed in 1992 and has been renovated onto several times.

Access to the hotel buildings is gained from a driveway which connects to Silver Lode Lane in the southeast portion of the property. 5 undersized parking spaces have been indicated on the site plan on the east side of the building.

The subject property is serviced by the Silver Star Water Utility and Silverhawk Sewer Utility.

The subject property is located within the area known and designated as the 'Upper Village' in the Official Community Plan. The attached maps show the zoning and Official Community Plan land used designations of the subject and surrounding properties. The attached orthophoto of the subject and surrounding properties was taken in 2018.

PLANNING ANALYSIS:

The Planning Department's review of applications for stratification of previously occupied buildings is based on consideration of Section 242(6) of the *Strata Property Act*, Board Policy, *Strata Property Act* matters, and ability to comply with relevant Bylaw regulations.

The Planning Department provides the following comments in regards to consideration of Section 242(6) of the *Strata Property Act* as outlined below:

1. The Silver Star OCP does not have policies relating to the priority of commercial rental accommodation. A shortage of commercial rental accommodation in the Silver Star area has not been identified as a problem. It is suggested that the change in ownership tenure as a result of the conversion to strata titled units would not detract from the overall availability of commercial rental accommodation.
2. The units are currently held as long term leases which are used by the owners or rented in the rental pool to visitors to the resort. This could will continue regardless of a change in tenure.
3. Relocation of persons occupying this building would not be required as they are currently held as long term leases which would transfer to strata titled lots should this application be approved.
4. Based on the age of the building, constructed in 1984, the life expectancy of the building and the current condition of the buildings are expected to be good; however staff suggest this should be confirmed by a third party professional.
5. Under the *Strata Property Act*, funds must be allocated on a proportionate basis towards maintenance costs. As indicated above, staff suggest a third party professional confirm the condition of the buildings and that there are no projected major increases in maintenance costs due to the condition of the buildings that will be a detriment to the proposal.
6. Matters that would be considered relevant for this proposal would include:
 - a. compliance with the Zoning Bylaw including requirements for off-street parking and loading and BC Building Code as listed in the Board Policy LU039 (attached);
 - b. the registered leaseholders have been notified about the Strata Subdivision application and given opportunity to express their comments or concerns to the Regional District;
 - c. the Mountain Resort Branch of the Ministry of Forests, Lands, Natural Resource Operations and Rural Development has been notified about the Strata Subdivision application and given opportunity to express their comments or concerns to the Regional District;
 - d. the affected landowners of the adjacent properties, including Strata subdivision KAS3027 (Snowbird Lodge), Strata subdivision KAS1259 (Cabin Colony) and others who share the Silver Lode Lane private easement areas notified about the Strata Subdivision application and given opportunity to express their comments or concerns to the Regional District.

Based on the requirements of the Zoning Bylaw, 52 spaces for the hotel and 5 spaces for the conference centre for a total of 57 parking spaces are required. Due to site constraints, it is unlikely that all the required parking spaces to meet the Zoning requirements could be provided on-site and therefore, a variance to the parking requirements of the Zoning Bylaw is required.

The plan provided by the applicant does not demonstrate that there are a sufficient number of parking stalls and the property appears to be insufficient to allow for a re-design of the parking area to ensure compliance with the Bylaw.

Staff recognize that as this requires a discretionary approval of the Board of Directors and as such have recommended that consideration of the subject application not take place unless and until the matter of parking and loading has been resolved. Staff also note, should the applicant propose to amend the existing turnaround right of way, additional discretionary approvals would also be required.

Should the above noted matter be resolved, the matter would need to be brought back to the Board for further consideration. However, staff note the following conditions would be recommended by staff in following with Board Policy to comply with RDNO Bylaws and policies:

1. The Building Inspector should confirm the BC Building Code, Plumbing Code and Building Bylaw requirements have been met. A special inspection will be required and a report from a registered professional which indicates any requirements have been met may be required.
2. Comments from the Utilities and Parks Department did not reflect requirements for Development Cost Charges. These Departments should confirm if Development Cost Charges are applicable and payment should be made (if applicable) prior to final subdivision plan approval.

In addition, referral comments from Silverhawk Utilities and RDNO Engineering indicate these agencies may have outstanding conditions. As such, requirements of these agencies would also need to be met prior to subdivision approval if the off street parking and loading requirements have been resolved.

STRATA PROPERTY ACT:

Section 242 of the *Strata Property Act* states that strata conversions for previously occupied buildings within a Regional District require the approval of the Board of Directors. The Board may refuse to approve the plan or approve the strata plan, or approve the strata plan subject to terms and conditions. The Board must not approve the strata plan unless the building substantially complies with the applicable bylaws of the Regional District and the BC Building Code.

In making its decision, the Board must consider the following in accordance with Section 242(6):

- a) The priority of rental accommodation over privately owned housing in the area,
- b) Any proposals for the relocation of persons occupying a residential building,
- c) The life expectancy of the building,
- d) Projected major increases in maintenance costs due to the condition of the building, and
- e) Any other matters that, in its opinion, are relevant.

Section 244 states that a strata plan must, among other things, show the boundaries of the land included in the strata plan, show the boundaries and area of the strata lots, be endorsed by a BC Land Surveyor, and must identify parking stalls, garage areas, storage areas, and other similar areas or spaces as part of a strata lot or as part of the common property.

REGIONAL DISTRICT BOARD POLICY NO. LU039:

Board Policy No. LU039 states that building strata subdivisions of previously occupied buildings requiring Board approval must be reviewed by the Regional District Fire Prevention Officer and the Building Inspector to ensure that the provisions of the applicable fire and building codes are met. Where the building is located in a water metred area, then one (1) water meter per dwelling unit shall be required to be installed as a condition precedent to the subdivision approval. Off-street parking shall also be required meeting the requirements of the Zoning Bylaw and in this instance would require a Development Variance Permit.

DEVELOPMENT COST CHARGES:

The Building Permit for the building was issued in 1992. RDNO records do not indicate any DCCs were paid related to water or parks at the time of building permit as there were not any Development Cost Charge Bylaws in existence at the time. Development Cost Charge Bylaw No. 1768, 2002 for providing water facilities within the Silver Star Mountain Community requires DCCs at the time of subdivision, as applicable, based upon a pillow rate of \$57.10 for condominium units. Greater Vernon Trails and Natural Space Development Cost Charge Bylaw No. 2789, 2018 requires DCCs at the time of subdivision and for commercial development at a rate of \$2.53 / per m² of gross floor area.

ZONING BYLAW:

The subject property is zoned Village Commercial (V.C). Uses in the V.C zone include but are not limited to accommodation uses including hotels, hostels, conference facilities, apartments, and townhouses and one dwelling unit is permitted for the owner, operator or employee of the principle and permitted use; food service and drinking place uses; retail trade uses; transportation uses; community service uses; and arts, entertainment and recreation service uses.

The Silver Star Zoning Bylaw states apartment means a building divided into not less than three dwelling units each of which is occupied or intended to be occupied as a residence as distinct from a hotel. Access to each dwelling unit is obtained from a common interior corridor or exterior passageway. An apartment does not include check-in facilities or on-site housekeeping services. The Silver Star Zoning Bylaw states hotel means a commercial establishment building primarily for providing temporary or seasonal accommodation which establishment may include food service, drinking places, retail sales and services industries. A hotel would normally also include check-in facilities and on-site housekeeping services.

Off-Street Parking and Loading Spaces

Zoning Bylaw requires hotels to have 1 space for a “room” consisting of one sleeping unit, 0.5 spaces for each lock-off unit, 1.3 spaces for each “room” with more than 1 sleeping unit. The Zoning Bylaw states that Village Commercial zoned properties shall be exempted from parking requirements under Food Services, Drinking Place Uses, and Retail Trade Uses except that each legal title shall provide a minimum of 5 parking spaces dedicated and signed for non-accommodation use. The above noted regulations would require 52 spaces for the hotel and 5 spaces for the conference centre for a total of 57 parking spaces.

The Zoning Bylaw requires that outdoor parking spaces have a clear length of 5.8 m and a width of 2.8 m. Ingress and egress to and from all parking spaces must be by means of unobstructed driveway aisles of not less than 7.3 m for two way maneuvering aisles and 5.8 m for one way maneuvering aisles. The Zoning Bylaw states a minimum of two-thirds of all parking spaces for a commercial use shall be provided in an indoor parking garage.

The Zoning Bylaw states that the provision of snow storage areas for snow removed from an outdoor parking area in the Village Commercial zone shall be determined when considering a Development Permit.

The Zoning Bylaw states all commercial parking areas shall be provided on the parcel where the subject building or use is situated; and notwithstanding this requirement, up to 50% of an outdoor parking area may be located on another parcel where this bylaw has applicability where an Easement or Right-of-Way has been registered to favour the parking use and a legal instrument such as a Covenant is provided to the Regional District to prevent the discharge of this agreement.

The Zoning Bylaw requires one off-street loading space for every 2,000 m² of commercial uses in a building or combination of commercial establishments involving the receipt and delivery of goods and every fractional unit shall require the addition of one loading space. All loading spaces shall be provided on the parcel where the subject building or use is situated. A loading space shall not be less than 9.0 m long, 2.4 m wide and 3.7 m in height.

Screening and Landscaping

Screening and landscaping shall be provided and maintained in accordance with Division Ten of the Zoning Bylaw.

OFFICIAL COMMUNITY PLAN:

The Silver Star Official Community Plan designates the land use of the subject property as Commercial and as being within the Upper Village Development Permit Area. The following Policies are applicable to the application:

Commercial

1. Except for Neighbourhood Commercial uses as listed in the “Zoning Bylaw”, the Regional District supports the concentration of commercial uses around or in the vicinity of the existing Village and Upper Village areas and the new Village West and Silver Woods commercial development areas.

Transportation Policies

1. The Regional District recognizes the benefits of strata road standards with regard to reduced environmental disruption for both roadways and development sites and the benefits of strata corporations to manage snow removal and illegally parked vehicles; therefore, the Regional District generally supports the establishment of strata roads for bare land and building strata developments except as outlined below in Section I.4 of this Plan.
2. Notwithstanding the general support for strata roads as outlined above in Section I.3 of this Plan, certain road corridors should be developed and maintained as public roads to merge and concentrate vehicle traffic around the community as outlined on map Schedule B and described as follows:

- a. The road corridor from Mistaya Road (Monashee Road) around through the Knoll Phase Three development area to and through the Monashee Views development area to access Crown lands beyond at the proposed Silver Woods Chair as depicted on map Schedules B and C.
 - b. The road corridor from Silver Star Road to and through the Bella Vista development area to a connector corridor to the road corridor through the Knoll Phase Three development area as depicted on map Schedules B and C.
 - c. The road corridor from Monashee Road to and through the Silver Woods development area to access Crown lands beyond at the proposed Silver Woods Chair as depicted on map Schedules B and C.
3. The Regional District supports a policy that all road ends should be a cul-de-sac constructed to Ministry of Transportation standard and suitable for use by the Silver Star Fire Department trucks; except a hammer turn-around may be permitted if such standards are not possible and where supported by the Fire Chief and the Office of the Assistant to the Fire Commissioner.

Public Parking

1. The Regional District will continue to recognize previous legal commitments by the resort corporation to some commercial operators in the Village and Upper Village to accommodate the vehicles for their customers on the day-use and/or overnight parking lots.

REFERRALS:

The application has been referred to the following for their review and comment:

- 1. Building Inspection Department**
- 2. RDNO Utilities Department**
- 3. RDNO Community Services**
- 4. Silver Star Fire Department**

Silver Star Fire Department provided the following comments:

Silver Star Fire Department does not support the application as presented.

The Fire Department turnaround was implemented using the requirements of the BC Fire Code. The parking area in question has been the subject of numerous applications to reduce/change the Fire Department turnaround for the benefit of the applicant. This is a dead-ended highly congested area. Snow removal and illegal parking in the turnaround are ongoing problems. I am not in favor to reduce /change the existing turnaround.

- 5. BC Hydro**

BC Hydro provided the following comments:

BCH has no issues with this application.

- 6. Ministry of Transportation and Infrastructure**

The Ministry provided the following comments:

As these building strata subdivisions are not proposed to be phased, the Ministry of Transportation and Infrastructure's approval is not required. We have not started a file and we have no comment. I suggest sending a referral to Tori.Meeks@gov.bc.ca from Mountain Resort Branch of the Ministry of Forests Lands Natural Resource Operations and Rural Development in regards to the patio, adjacent to the Vance Creek building, on Crown Land.

7. Silverhawk Utilities

Silverhawk Utilities provided the following comments:

This letter is to inform the Regional District of North Okanagan of Silverhawk Utilities requirements regarding the proposed application. Prior to the release and approval of the above-mentioned Strata Subdivision Application, the following requirements must be satisfied:

- Full payment of all outstanding amounts owed to Silverhawk Utilities Inc. by for sewer services provided to the above-mentioned property, including interest.
- At the time of a Strata Corporation being created for this subdivision, the new corporation is required to enter into a new Service Agreement with Silverhawk Utilities.
- The office currently leased and operated by Silverhawk Utilities located within the Vance Creek (Lot A, D.L. 1355, ODYD, Plan KAP70786 shown as Lease Area 8 filed in the Kamloops Land Title Office under number KAP74711) must be legally registered into the utilities name, and any documents including title registration and lease agreements must be updated to reflect this change.
- The parking spot currently designated for Silverhawk Utilities located in front of our office must be designated as a full-time parking spot for the utility.
- Silverhawk Utilities requires the registration of the Statutory Right of Way (SRW) in favour of the utility on the above-mentioned property. This provides Silverhawk Utilities rights to access and service our works as condition of providing services to the property.
- As part of the new Service Agreement, at any time Silverhawk Utilities Inc. may request access to the property as per Item #15 of our Sewer Tariff to inspect sanitary and or storm piping systems, and to verify pillow counts.
- The subject property is required to install a wastewater inspection chamber in the Service Line at the property line or other acceptable location specified in writing by Silverhawk Utilities, as per item #14 of our Sewer Tariff.

8. Silver Star Mountain Resort

Silver Star Mountain Resort provided the following comments:

Thank you for the above mentioned referral package. We, Silver Star Ski Resort Ltd., cannot not support this application at this time, we require further information on the matter. Specifically, we need to review the mentioned “comprehensive parking scheme ... in efforts to satisfy the parking requirements” and the proposed “Parking Requirement variance” and “compelling rationale to support our variance application.” We also note that the applicant has included the Vance Creek Hotel commercial and dwelling unit requirements (31.7), but has not included the Chilcoot parking requirements nor does the “site plan indicating the parking changes/additions proposed” indicate additional parking. We also require information indicating snow storage locations (on their own property) as required for all existing and any additional proposed parking (within 10 meters of the parking area, and 50% of the area of the parking). Parking will be a significant issue for this application. The applicant already faces significant parking management challenges regularly throughout the winter season with commercial tenants “parking double deep” and guests parking in undesignated areas impeding access between the Chilcoot and Vance Creek buildings. We note that the Snowbird Lodge strata, and the Cabin Colony have not be referred on this matter. We feel that both properties could be significantly impacted by this proposal/application and should also receive the referrals for comment.

Submitted by:

Reviewed by:



Jennifer Miles, RPP, MCIP
Planner




Greg Routley
Deputy Planning Manager

Endorsed by:

Approved for Inclusion:



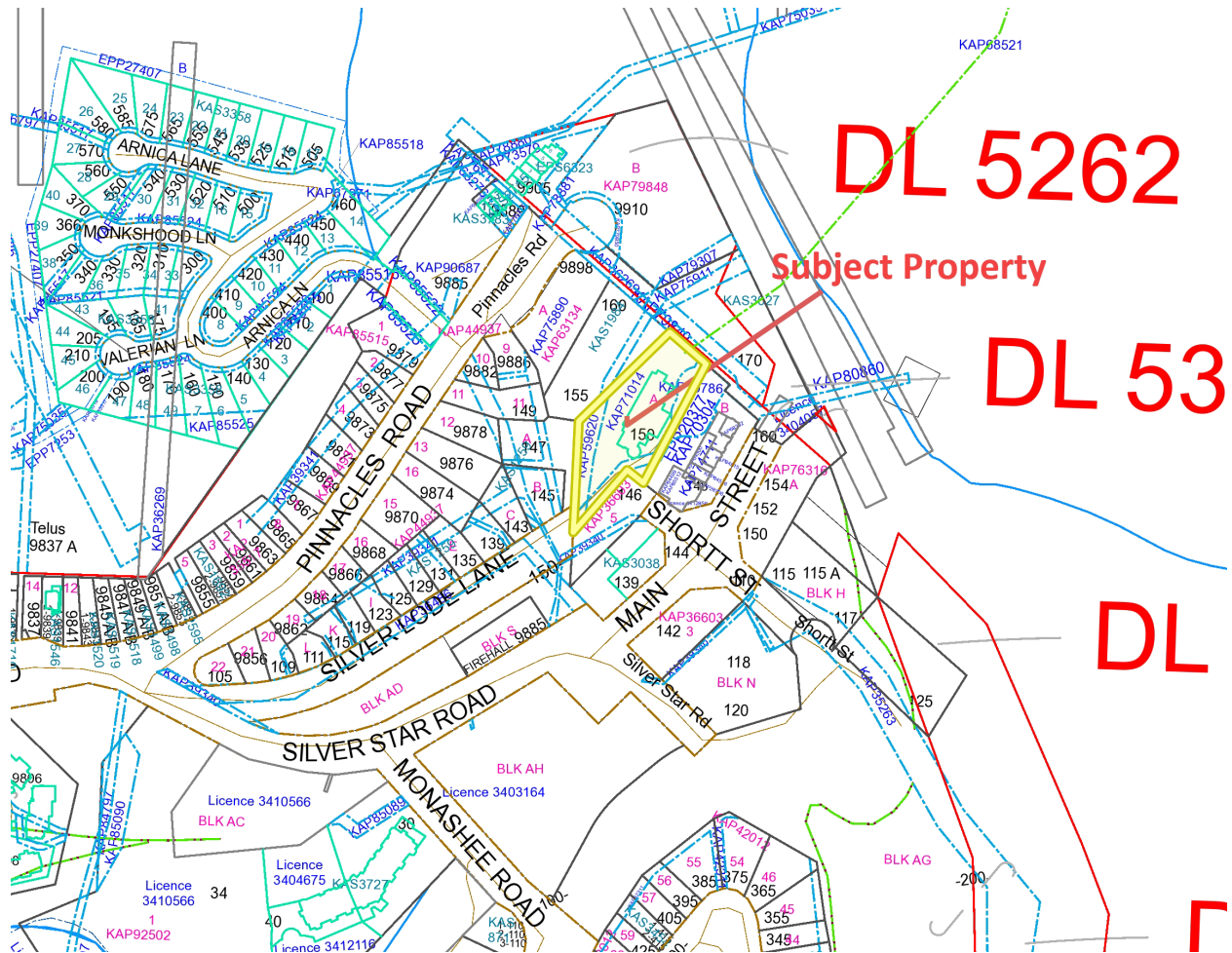
Rob Smailes, RPP, MCIP
General Manager, Planning and Building



David Sewell
Chief Administrative Officer

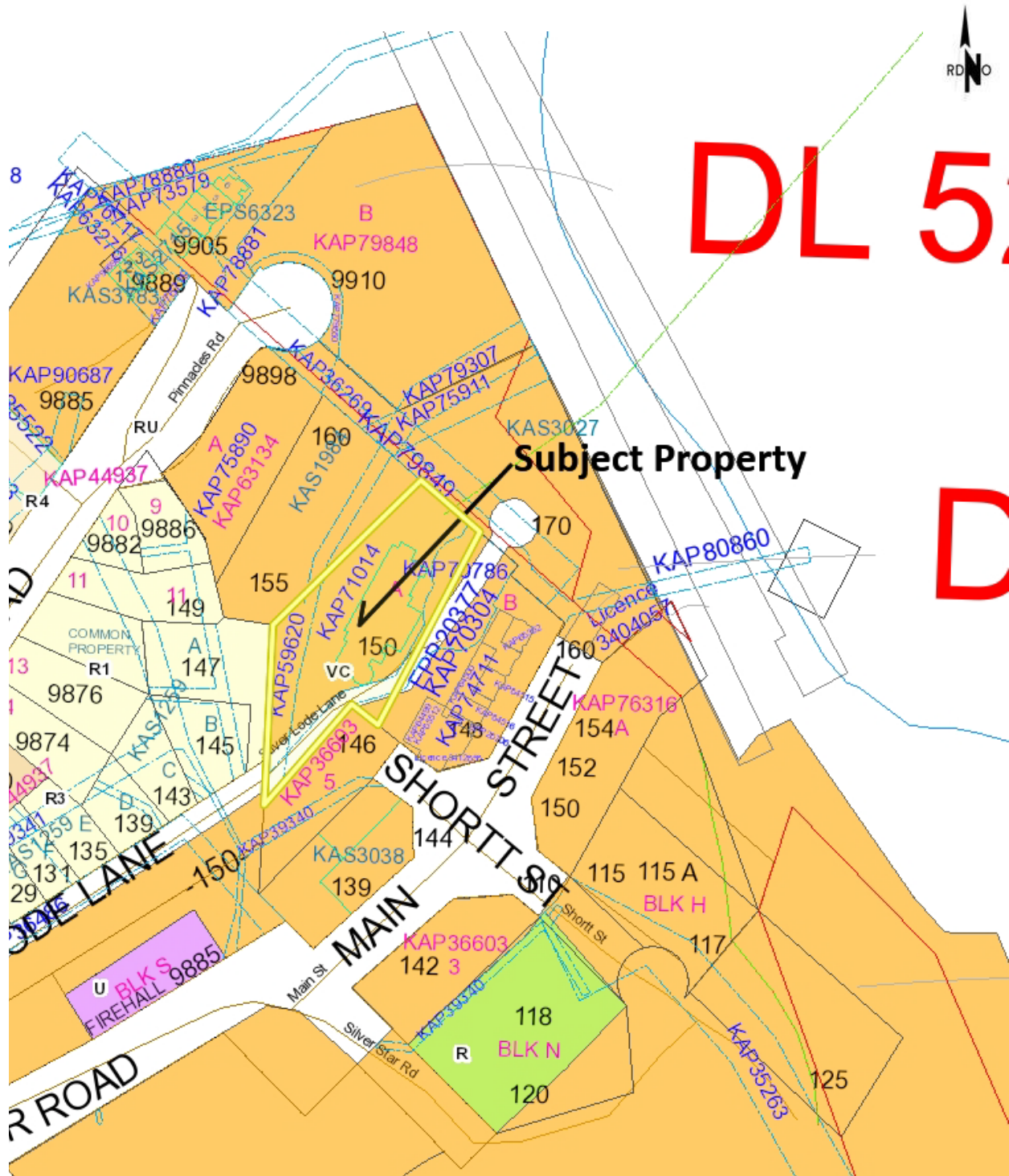
SUBJECT PROPERTY MAP STRATA SUBDIVISION

File: 21-0155-CSS-SUB
Owner/Applicant: Silver Star Club Resort c/o Russell Haubrich
Location: 150 Silver Lode Lane



SUBJECT PROPERTY ZONING MAP STRATA SUBDIVISION

File: 21-0155-CSS-SUB
Owner/Applicant: Silver Star Club Resort c/o Russell Haubrich
Location: 150 Silver Lode Lane



SUBJECT PROPERTY ORTHOPHOTO MAP STRATA SUBDIVISION

File: 21-0155-CSS-SUB
Owner/Applicant: Silver Star Club Resort c/o Russell Haubrich
Location: 150 Silver Lode Lane



**EXPLANATORY PLAN OF LEASE OF PART OF A 5 STOREY BUILDING
LOCATED ON LOT A, PLAN KAP 70236 D.L. 1355, O.D.Y.D.**

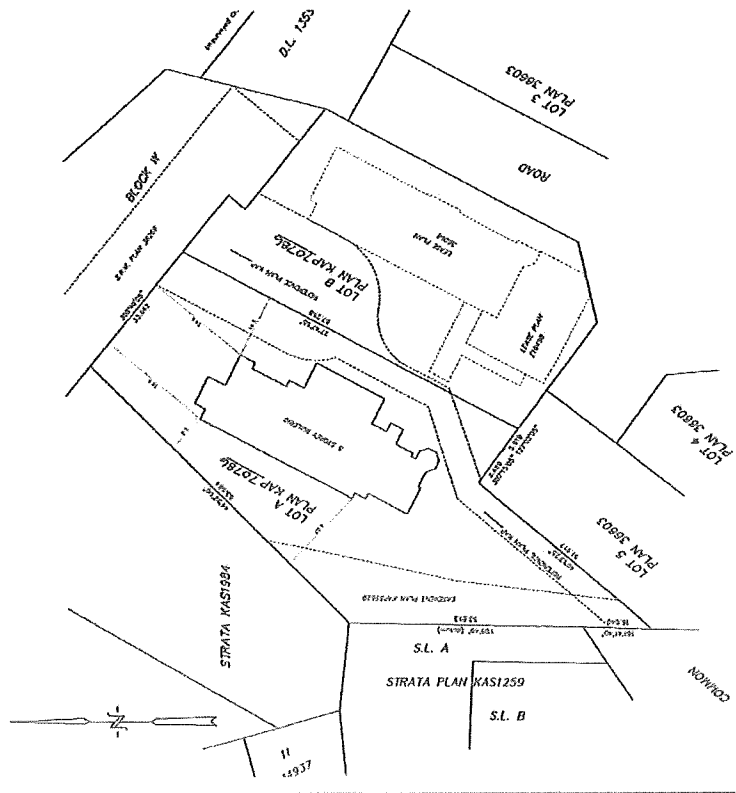
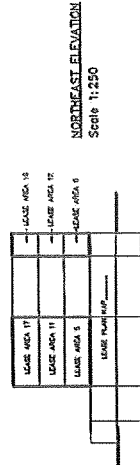
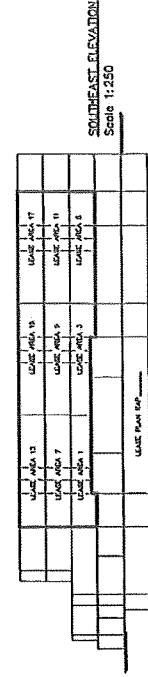
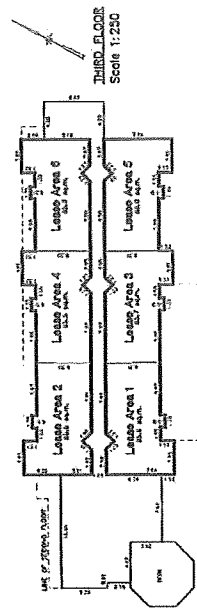
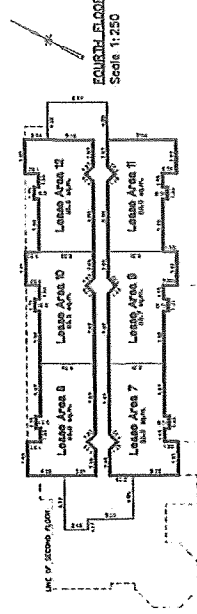
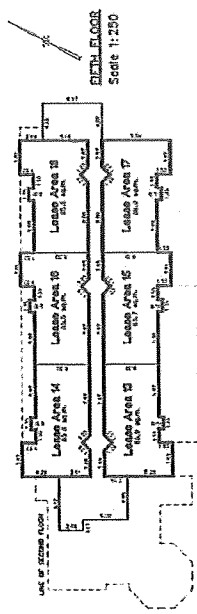
B.C.G.S. No. B2L-035
SCALE 1:500
(All distances are in metres and decimals thereof)

PLAN No. KAP 71014
COPYRIGHT OF THE DRAWING BELONGS TO: **ARCHITECTS INC. 17 INC.**
DATE OF DRAWING: **14.08.21**
Architect
K739955-S.G.

LEGEND
DIMENSIONS ARE APPROXIMATE AND ARE DERIVED FROM PLAN MAP
LEASE LINE IS BY WHITE WALLS
THE PLAN LIES WITH THE POSITIVE EFFECT OF NORTH BEING UPWARDS

DESIGNED CONTACT NO. 5 BY: **ARCHITECTS INC.**
Architect

RUSSELL N. SHAW
Architect
Professional Stamp and Signature
P. 5 1077





REGIONAL DISTRICT OF NORTH OKANAGAN

POLICY NO. LU039

Page 1 of 1

Title	STRATA CONVERSION APPLICATIONS		
Purpose of Policy			
Reference		Date	
Approved By	Planning and Building	Date	October 18, 1994
Amended By	Board of Directors	Date	October 7, 2003
Supersedes		Prepared by	

POLICY STATEMENT	This policy is subject to any specific provision of the Municipal Act, or other relevant legislation or Union Agreement.
<p>Building Strata subdivisions of previously occupied buildings requiring Board approval must be reviewed by the Regional District Fire Prevention Officer and the Building Inspector to ensure that the provisions of the applicable fire and building codes are met. Where the building is located in a water metered area, then one (1) water meter per dwelling unit shall be required to be installed as a condition precedent to subdivision approval. Off-street parking shall also be required meeting the requirements of the Zoning Bylaw.</p>	