

To: Her Worship Mayor McKortoff and Members of Council
From: Leah Curtis, Planning Technician
Date: January 23, 2024
Subject: Report 2 – 5809 89th Street – Zoning Amendment Bylaw No.1085.147, 2023
(Z23-03) Rescinding First and Second Reading
Tracker No: BLW-378

Recommendation:

That Council rescind first and second reading given to Zoning Amendment Bylaw No.1085.147, 2023 on December 12th, 2023.

CAO Comments:

Approved for Council consideration.

Executive Summary:

On December 12th, 2023, Council gave first and second reading for Zoning Amendment Bylaw No.1085.137, 2023. However, on November 30th, 2023, Bill 44 received Royal Assent. The new legislation requires that no public hearings be held for certain residential projects that are consistent with official community plans. A public hearing is not required for this Zoning Amendment Bylaw; however, the *Local Government Act* requires that notification be given prior to first reading of the bylaw. As a result, the first and second reading of the Bylaw Amendment must be rescinded in order to give proper notification to the surrounding properties.

Background:

At the Regular Open Council Meeting on December 12, 2023, Council passed the following resolution:

Moved by Councillor Poturica

Seconded by Councillor Bennett

That Zoning Amendment Bylaw No.1085.147, 2023 be read for a first and second time.

CARRIED

As a result of Bill 44 receiving royal assent on November 30, 2023, changes were made to the *Local Government Act*. These new changes stipulate that a local government is not required to hold a public hearing on a proposed zoning amendment bylaw if the proposed zoning amendment is consistent with the local government's Official Community Plan's designation of the property.

However, Section 467 of the *Local Government Act* states that in the event that a public hearing is not required for the Zoning Amendment Bylaw (because it complies with the Official Community Plan) then notification of the bylaw is required before first reading can be given to the Bylaw Amendment.

Administration's decision to rescind first and second reading of Zoning Amendment Bylaw No.1085.147, 2023 rather than abandoning the Bylaw Amendment took into consideration that referrals to outside agencies have been sent out previously and will prevent confusion. The applicant has already placed a sign on their property that contains the existing bylaw number, and this will also prevent additional costs to the applicant.

Options / discussion

1. That Council rescind first and second reading given to Zoning Amendment Bylaw No. 1085.147, 2023 on December 12, 2023.
2. That Council abandon Zoning Amendment Bylaw No.1085.147, 2023.
3. That Council request more information prior to making a decision.

Implications:

a) Community

- Neighbors who think their interests may be affected can provide comment for Council consideration of the amendment bylaw through written submission.

b) Organizational

- If Council determines that first and second reading be rescinded, notification will be mailed or otherwise delivered to properties within a 60-metre radius as per the Town's *Land Use Procedure Bylaw*.

c) Budget

- NA

d) Significant Dates

- Should first and second reading be rescinded, Administration is proposing that notification be given for the Regular Council meeting held on February 13, 2024.

e) Sustainability

- NA

Others Consulted:

Corporate Services

Attachments:

1. Zoning Amendment Bylaw No.1085.147, 2023
2. Property Location Map
3. Meeting Minutes of the Open Council Meeting held on December 12, 2023
4. Report 1 - Zoning Amendment Bylaw No.1085.147, 2023 - 5809 89th Street

**TOWN OF OSOYOOS
BYLAW NO. 1085.147, 2023**

A bylaw to amend the Zoning Bylaw 1085, 1998.

WHEREAS Council deems it desirable to amend the Zoning Bylaw.

APPLICANT: Brent Ogilvy
ADDRESS: 5809 89th Street

NOW THEREFORE BE IT RESOLVED THAT the Municipal Council of the Town of Osoyoos in open meeting assembled **ENACTS AS FOLLOWS:**

1. This Bylaw may be cited for all purposes as “Zoning Amendment Bylaw No. 1085.147, 2023”.
2. That the Town of Osoyoos Bylaw 1085, 1998 Schedule “A” Zoning Map be amended by changing the designated zoning from “R1 - Single Family Residential” to “R2 – Single Family Residential Small Lot” of the property legally described as “Lot 17, District Lot 2450S, SDYD, Plan KAP29593”.

Read a First and Second time on the 12th day of December, 2023.

First and Second reading rescinded on day of , 2024.

Read a First, Second and Third time on the day of , 2024.

Notice was given in accordance with the *Local Government Act* and Section 94 of the *Community Charter* by advertising twice in the *Times Chronicle* newspaper on the day of , 2024 and the day of , 2024 and posting on the **Public Notice Posting Places** on the day of , 2024.

Approved pursuant to section 52(3)(a) of the Transportation Act this day of , 2024.

for Minister of Transportation & Infrastructure

Adopted on the day of , 2024.

Mayor

Corporate Officer

EXTRACTED FROM THE
DECEMBER/12/2023
REGULAR OPEN COUNCIL MEETING

Zoning Amendment Bylaw No. 1085.147, 2023 - Consideration of First and Second Readings

Zoning Amendment Application Z23-02

5809 89th Street

- BLW-378

Moved by Councillor Poturica

Seconded by Councillor Bennett

That Zoning Bylaw Amendment Application Z23-02 be accepted.

CARRIED

Moved by Councillor Poturica

Seconded by Councillor Bennett

That Zoning Amendment Bylaw No.1085.147, 2023 be read for a first and second time.

CARRIED

Regular Open Council Report

To: Her Worship Mayor McKortoff and Members of Council
From: Leah Curtis, Planning Technician
Date: December 12, 2023
Subject: Report 1 – Zoning Amendment Bylaw No.1085.147, 2023
 5809 89th Street
Tracker No: BLW-378

Recommendation:

That Zoning Bylaw Amendment Application Z23-02 be accepted.

That Zoning Amendment Bylaw No.1085.147, 2023 be read for a first and second time.

CAO Comments:

Approved for Council consideration.

Executive Summary:

The purpose of this report is to request that Council consider Zoning Amendment Bylaw No.1085.147, 2023 (Attachment 1). The Applicant is proposing to amend the zoning for the Property located at 5809 89th Street in order to accommodate the subdivision of the Property into two small lots. One lot containing the existing residence.

Background:

OWNER	Brent Ogilvy
APPLICANT	Brent Ogilvy
CIVIC ADDRESS	5809 89 th Street
LEGAL DESCRIPTION	Lot 17, DL 2450s, SDYD, Plan 29593
OCP DESIGNATION	Low-Medium Density Residential
ZONING Current Proposed	R1 – Single Family Residential R2 – Single Family Residential Small Lot

Site Context and Proposal

The subject property is approximately 1001.3m² in area and is situated on the east side of 89th Street. The parcel currently has a single-family home with a large garage.

The surrounding pattern of development is varied, with multiple zones surrounding the subject property (see Figure 1). The applicant is looking to rezone the property in order to subdivide the property into two small lots.

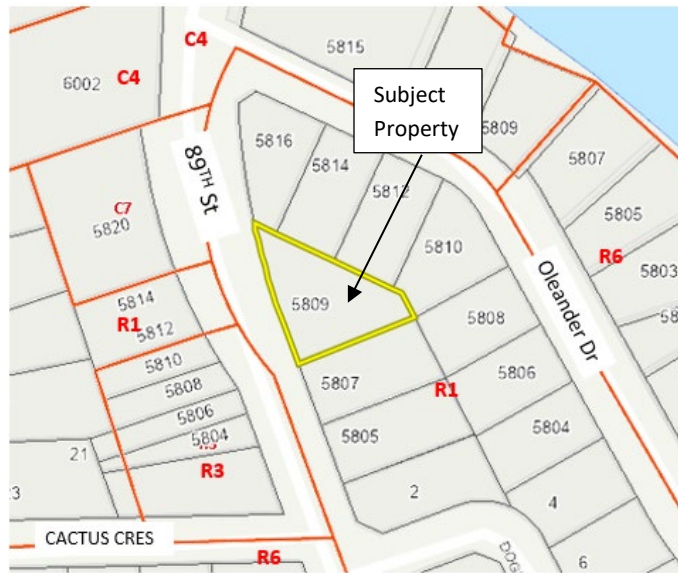


Figure 1 Site Context – Zoning Designations of Surrounding Area

It is important to note that the subject property has an easement along the rear property line for a sewer right of way. No permanent or temporary structures would be permitted to be located on this easement.

Attachment 5 shows the proposed subdivision of the subject property and provides the building envelope (developable) area of the property. The easement as well as the required setbacks for the R2 zoned have not been included in the building envelope calculations. Tables 1 and 2 below shows the proposed lot sizes and the size of the building envelopes.

Table 1: Proposed Lot Sizes

Minimum Lot Size R2 Zone	Proposed Lot 1	Proposed Lot 2
400m ²	450.6m ²	550.7m ²

Table 2: Proposed Building Envelope (Developable) Areas

	Proposed Lot 1	Proposed Lot 2
Building Envelope (Developable) Area	161.4m ² or 1,737 ft ²	314.8m ² or 3388 ft ²

The applicant has been informed that should the rezoning and subsequent subdivision of the subject property occur; the following changes would need to be made:

1. the external cladding on the garage building must be non-combustible; and
2. that the location of the sanitary sewer for the existing residence must be moved so that it will not cross the newly proposed lot.

The applicant acknowledged that these changes would be required to subdivide the property. Furthermore, the applicant was advised that a variance to the setbacks would not be supported

by administration for the proposed new parcel, as the intent of the subdivision would be to be able to build without having a variance.

Analysis

Official Community Plan Bylaw No.1375, 2022

The current Official Community Plan (OCP) designation of the property is Low-Medium Density Residential. The proposed rezoning would comply with the OCP designation's density requirements. The OCP seeks to accommodate diverse housing options as a form of infill and intensification in existing low-density neighbourhoods and support smaller lots where possible and suitable. The proposed rezoning and subsequent subdivision of the subject property complies with the OCP designation and policies.

Zoning Bylaw No.1085, 1998

A zoning amendment is required as the Property is currently zoned R1 – Single Family Residential. The proposed R2 – Single Family Residential Small Lot designation would allow for a minimum lot size of 400m², enabling the applicant to subdivide the property into two small lots. The proposed site plan illustrates that all proposed lots conform to the minimum lot size for the R2 zone (Attachment 5).

Subdivision and Development Servicing Bylaw No.1100, 1998

Off-site servicing costs and any additional engineering requirements will be secured through the subdivision process. Development Cost Charges will be payable at subdivision stage.

Land Use Procedure Bylaw No.1235, 2007

As per the Town of Osoyoos *Land Use Procedure Bylaw No.1235, 2007*, rezoning application signage was placed on the subject property notifying the public of the pending application. Once a public hearing date has been determined, neighbouring property owners and tenants will receive notification by mail and notices will be placed in the local newspaper as required by the *Local Government Act*.

Options:

- 1 a) That Zoning Bylaw Amendment Application Z23-03 be accepted.
b) That Zoning Amendment Bylaw No.1085.147, 2023 be read for a first and second time.
- 2 That Council denies the application and the amendment bylaw be abandoned.
- 3 That Council request additional information before proceeding further.

Implications:

a) Community

- The proposed amendment and subsequent subdivision will enable one new residential lot to be created.

b) Organizational

- A notice of development sign has been posted on the subject property (Attachment 3) on September 29, 2023. Notification of the Public Hearing will be mailed or otherwise delivered to properties within a 60-metre radius as per the Town's *Land Use Procedure Bylaw No.1235* following Council's approval of the application and 1st and 2nd readings of the amending bylaw.

c) Budget

- There are no impacts to the budget associated with this report.

d) Significant Dates

- Should 1st and 2nd reading be granted, administration is proposing a Public Hearing be held on January 23, 2024, following the required notification process.

e) Sustainability

- The proposed amendment is consistent with the Town's approach to sustainability as this area is currently serviced.

Others Consulted:

Operational Services

Attachments:

1. Zoning Amendment Bylaw No.1085.147, 2023
2. Application Package
3. Location Map
4. Development Sign
5. Proposed Subdivision Plan

**TOWN OF OSOYOOS
BYLAW NO. 1085.147, 2023**

A bylaw to amend the Zoning Bylaw 1085, 1998.

WHEREAS Council deems it desirable to amend the Zoning Bylaw.

APPLICANT: Brent Ogilvy
ADDRESS: 5809 89th Street

NOW THEREFORE BE IT RESOLVED THAT the Municipal Council of the Town of Osoyoos in open meeting assembled **ENACTS AS FOLLOWS:**

1. This Bylaw may be cited for all purposes as “Zoning Amendment Bylaw No. 1085.147, 2023”.
2. That the Town of Osoyoos Bylaw 1085, 1998 Schedule “A” Zoning Map be amended by changing the designated zoning from “R1 - Single Family Residential” to “R2 – Single Family Residential Small Lot” of the property legally described as “Lot 17, District Lot 2450S, SDYD, Plan KAP29593”.

Read a First and Second time on the _____ day of _____, 2023.

Notice was given in accordance with the *Local Government Act* and Section 94 of the *Community Charter* by advertising twice in the *Times Chronicle* newspaper on the _____ day of _____, 2023 and the _____ day of _____, 2023 and posting on the **Public Notice Posting Places** on the _____ day of _____, 2023.

Public Hearing was held on the _____ day of _____, 2023.

Read a Third time on the _____ day of _____, 2023.

Approved pursuant to section 52(3)(a) of the Transportation Act this _____ day of _____, 2023.

for Minister of Transportation & Infrastructure

Adopted on the _____ day of _____, 2023.

Mayor

Corporate Officer



PLANNING & DEVELOPMENT SERVICES
 PO Box 3010, 8711 MAIN ST. Osoyoos BC V0H 1V0
 TEL: 495-6191 FAX: 495-2400

SCHEDULE "A2"
 LAND USE PROCEDURES BYLAW 1235, 2007
ZONING AMENDMENT APPLICATION

Attachment 2

Date: **RECEIVED**
 Cheque No.: **SEP 22 2023**
 Amount: _____
 Received By: **Town of Osoyoos Planning and Development Services**

CIVIC ADDRESS: 5809 89th ST

LEGAL DESCRIPTION: Lot 17 Block _____ PLAN KAP29593 DISTRICT LOT 2450\$

EXISTING ZONING: <u>R1</u>	PROPOSED ZONING: <u>R2</u>	OCP DESIGNATION: <u>LOW & MED DEN.</u>	OCP AMENDMENT: <input type="checkbox"/> Yes <input checked="" type="checkbox"/> No
EXISTING USE: <u>RESIDENTIAL</u>		PROPOSED USE: <u>RESIDENTIAL</u>	PROPOSED OCP DESIGNATION: (if applicable)

APPLICATION MUST INCLUDE:

- CURRENT STATE OF TITLE CERTIFICATE OR A CURRENT TITLE SEARCH
- SITE PLANS - MUST INCLUDE: LEGAL DESCRIPTION, SCALE, EASEMENTS AND RIGHT OF WAYS, SETBACKS, EXISTING AND PROPOSED BUILDINGS, LOT AREA, NUMBERED PARKING STALLS, ROADS, VEHICLE AND PEDESTRIAN ACCESS
- PRELIMINARY ELEVATIONS AND FLOOR PLANS
- ANY ADDITIONAL TECHNICAL INFORMATION OR REPORTS THE TOWN MAY REQUIRE
- NON-REFUNDABLE APPLICATION FEES IN ACCORDANCE WITH SCHEDULE "B"

REGISTERED OWNER'S NAME: <u>BRENT OGILVY</u>			APPLICANT'S NAME: <u>SAME AS PREVIOUS</u>		
ADDRESS: <u>5809 89th ST</u>			ADDRESS: ←		
CITY: <u>OSOYOOS</u>	PROVINCE: <u>BC</u>	POSTAL CODE: <u>V0H 1V1</u>	CITY:	PROVINCE:	POSTAL CODE:
TEL: <u>250-498-7077</u>			TEL:		
FAX: <u>N/A</u>			FAX:		
EMAIL: <u>brentogilvy@hotmail.com</u>			EMAIL:		

An application must be made either by the property owner or by an agent with the owner's written authorization.

SIGNATURE OF REGISTERED OWNER

SEPT 22-2023
 DATE

SIGNATURE OF APPLICANT

SEPT 22-2023
 DATE

ZONING AMENDMENT APPLICATION

PLANNING & DEVELOPMENT SERVICES

PO Box 3010, 8711 MAIN ST. Osoyoos BC V0H 1V0
 TEL: 495-6191 FAX: 495-2400

Text Amendment (if applicable)

Describe the Proposed Text Amendment: APPLYING TO REZONE
5809 89th ST FROM R1 ZONING
TO R2 ZONING.

1. Services currently existing or readily available to the property (check applicable boxes):

SERVICES	CURRENTLY EXISTING		READILY AVAILABLE*	
Road Access	<input checked="" type="checkbox"/> Yes	<input type="checkbox"/> No	<input type="checkbox"/> Yes	<input type="checkbox"/> No
Water Supply	<input checked="" type="checkbox"/> Yes	<input type="checkbox"/> No	<input type="checkbox"/> Yes	<input type="checkbox"/> No
Sewage Disposal	<input checked="" type="checkbox"/> Yes	<input type="checkbox"/> No	<input type="checkbox"/> Yes	<input type="checkbox"/> No
Hydro	<input checked="" type="checkbox"/> Yes	<input type="checkbox"/> No	<input type="checkbox"/> Yes	<input type="checkbox"/> No
Telephone	<input checked="" type="checkbox"/> Yes	<input type="checkbox"/> No	<input type="checkbox"/> Yes	<input type="checkbox"/> No

NOTE* Readily Available means existing service can be easily extended to the subject property.

2. Proposed water supply method TOWN WATER

3. Proposed sewage disposal method TOWN SEWER

4. Approximate commencement date of proposed project _____

5. Reasons and comments in support of the application (use separate sheet if necessary):

THERE IS A LACK OF BARE BUILDING LOTS
WITH-IN TOWN OF OSOYOOS BOUNDARIES FOR
SINGLE FAMILY CUSTOM HOMES. THIS LOT
IS CLOSE TO DOWNTOWN AMENITIES AND
THE PUBLIC BEACH.

Contaminated Sites Regulation

Please note: The Town of Osoyoos does not receive site profiles. Applicants are required to submit contaminated site information directly to the Ministry of Environment to satisfy any Provincial requirements under the *Environmental Management Act*.



REZONING APPLICATION Z23-03

5809 89th Street

Legal Description: Lot 17, DL 2450s, SDYD, Plan KAP29593

PROPOSED DEVELOPMENT: The purpose of this proposal is to rezone the property from R1 – Single Family Residential to R2 – Single Family Residential Small Lot to allow the owner to subdivide and create one new small residential lot.

OCP LAND USE	CURRENT	Low-Medium Density Residential
ZONING DESIGNATION	CURRENT	R1 – Single Family Residential
	PROPOSED	R2 – Single Family Residential Small Lot

OWNER – Brent Ogilvy
APPLICANT – Brent Ogilvy

Phone number: 250-498-7077

PUBLIC HEARING:

Date:
Time:
Location: Council Chambers
8707 Main Street

Town of Osoyoos
Planning & Development Services
250.495.6191



PROPOSED

SUBDIVISION PLAN OF

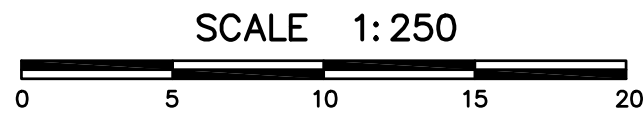
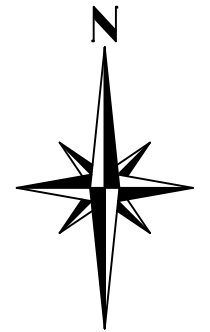
LOT 17, DL 2450s, SDYD, PLAN 29593.

PID: 004-245-377
 CHARGES: SRW P13247
 STATUTORY BUILDING SCHEME P13240

CIVIC ADDRESS:
 5809 - 89th STREET, OSOY00S

CLIENT: BRENT OGILVY

DATE: NOVEMBER 9, 2023
 VERSION #1



ALL DISTANCES SHOWN ARE IN METRES.
 THE INTENDED SIZE OF THIS PLAN IS 432 mm
 IN WIDTH BY 280 mm IN HEIGHT (B SIZE)
 WHEN PLOTTED AT A SCALE OF 1:250

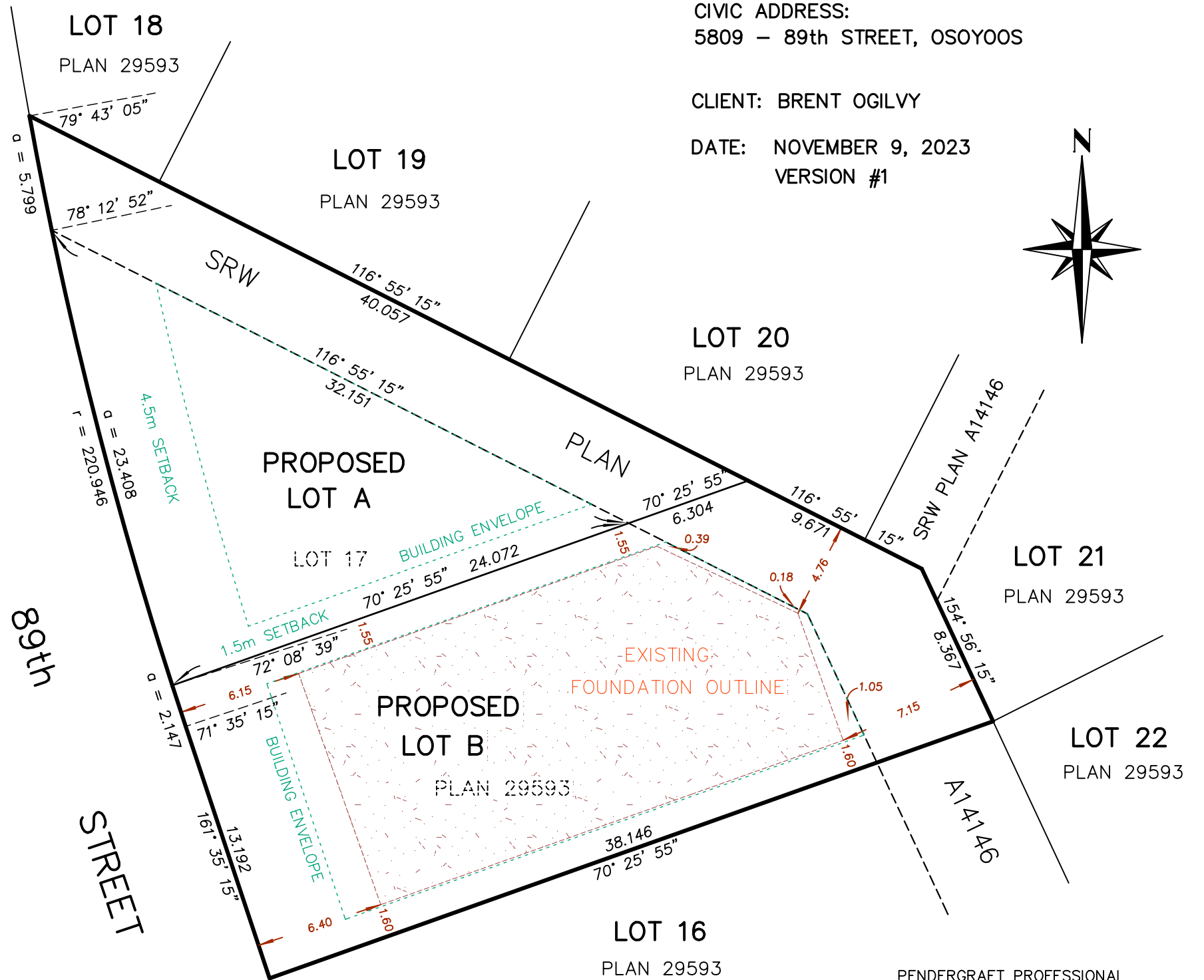
PROPOSED RE-ZONING TO R2 REQUIRED

FRONT - 4.5m MINIMUM WIDTH - 10m
 REAR - 4.5m MINIMUM AREA - 400m²
 INTERIOR SIDE - 1.5m
 EXTERIOR SIDE - 3.0m

NOT SUITABLE FOR
 MORTGAGE PURPOSES

LOT DIMENSIONS ARE DERIVED
 FROM LAND TITLE OFFICE RECORDS
 PLAN 29593, AND ARE SUBJECT TO
 CHANGE UPON A COMPLETE NEW
 LEGAL SURVEY

BEARINGS ARE UTM GRID, ZONE 11
 THIS SKETCH PLAN WAS PREPARED FOR
 SUBDIVISION APPLICATION PURPOSES
 AND IS FOR THE EXCLUSIVE
 USE OF THE CLIENT SHOWN.



NOTE: BUILDING ENVELOPE AREAS SHOWN
 EXCLUDE ANY AREAS ENCUMBERED BY
 R2 ZONING SETBACKS, AS WELL AS THE
 SRW PLAN A14146, AT THE REAR OF THE LOTS

TABLE OF AREAS	LOT AREA	BUILDING ENVELOPE (DEVELOPABLE) AREA
PROPOSED LOT A	450.6 m ²	161.4 m ² OR 1737 sqft
PROPOSED LOT B	550.7 m ²	314.8 m ² OR 3388 sqft

PENDERGRAFT PROFESSIONAL
 LAND SURVEYING INC.
 BOX 640
 OSOY00S, B.C. ©
 VOH 1V0
 PHONE: (250) 495-7127
 email: brad@pendergrftsurveying.ca
 OUR FILE NO. 1213202 PR01.DWG
 DC FILE NO. 1162520