

To: Her Worship Mayor McKortoff and Members of Council
From: Leah Curtis, Planning Technician
Date: February 27, 2024
Subject: Report 3 – Zoning Amendment Bylaw No.1085.147, 2023
 5809 89th Street
Tracker No: BLW-378

Recommendation:

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

Subdivision Approving Officer:

Approved for Council consideration.

CAO Comments:

Approved for Council consideration.

Executive Summary:

On January 23, 2024, Council rescinded first and second reading of Zoning Amendment Bylaw No.1085.147, 2023 (Attachment 1) in order to meet the new regulatory requirements that can into effect with Bill 44 receiving Royal Assent.

The purpose of this report is to request that Council consider Zoning Amendment Bylaw No.1085.147, 2023. 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 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 property 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).

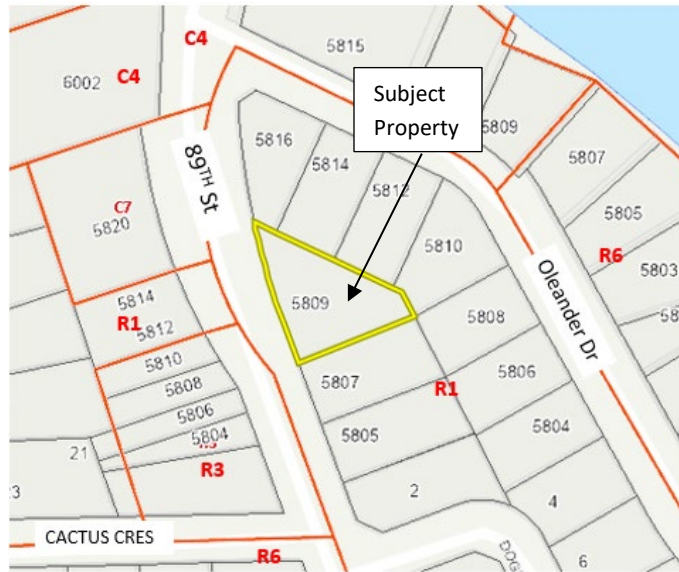


Figure 1 Site Context – Zoning Designations of Surrounding Area

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).

In accordance with section 464(3) of the *Local Government Act*, the Town must not hold a Public Hearing for this application. This is due to the recent changes to Provincial housing legislation, adopted by the Province of BC on November 30, 2023, that prohibits local governments from holding public hearings for rezoning applications for residential developments that are consistent with the local government's OCP.

This rezoning application, proposing the subdivision of the subject property, to create two small lots, one containing the existing residence is consistent with the Low-Medium Density Residential designation in the OCP.

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

- Although a Public Hearing cannot be held for this application, due to this rezoning application being consistent with the Low-Medium Density Residential designation in the OCP. Notices of the proposed Zoning Bylaw Amendment invited residents to share their views with Council through written submission.

b) Organizational

- A notice of development sign has been posted on the subject property on September 29, 2023.
- Notice of the Council's intent to make a decision on the Bylaw Amendment was mailed or otherwise delivered to properties within a 60-metre radius as per the Town's *Land Use Procedure Bylaw* on February 14, 2024, as required by the *Local Government Act*.
- Notices were placed in the Times Chronicle on February 15, 2024, and February 22, 2024.

c) Budget

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

d) Significant Dates

- NA

e) Sustainability

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

Others Consulted:

Corporate Services
Operational Services

Attachments:

1. Zoning Amendment Bylaw No.1085.147, 2023
2. Meeting Minutes of the January 23, 2024, Council Meeting
3. Proposed Plan of Subdivision
4. Correspondence Received to Date

**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 23rd day of January 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

Attachment 2: Meeting Minutes

EXTRACTED FROM THE
JANUARY/23/2024
REGULAR OPEN COUNCIL MEETING

Zoning Amendment Bylaw No. 1085.147, 2024 - Rescinding First and Second reading
- Report from Planning Technician

Moved by Councillor Poturica

Seconded by Councillor Cheong

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

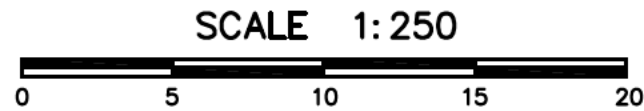
CARRIED

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

DATE: NOVEMBER 9, 2023
VERSION #1



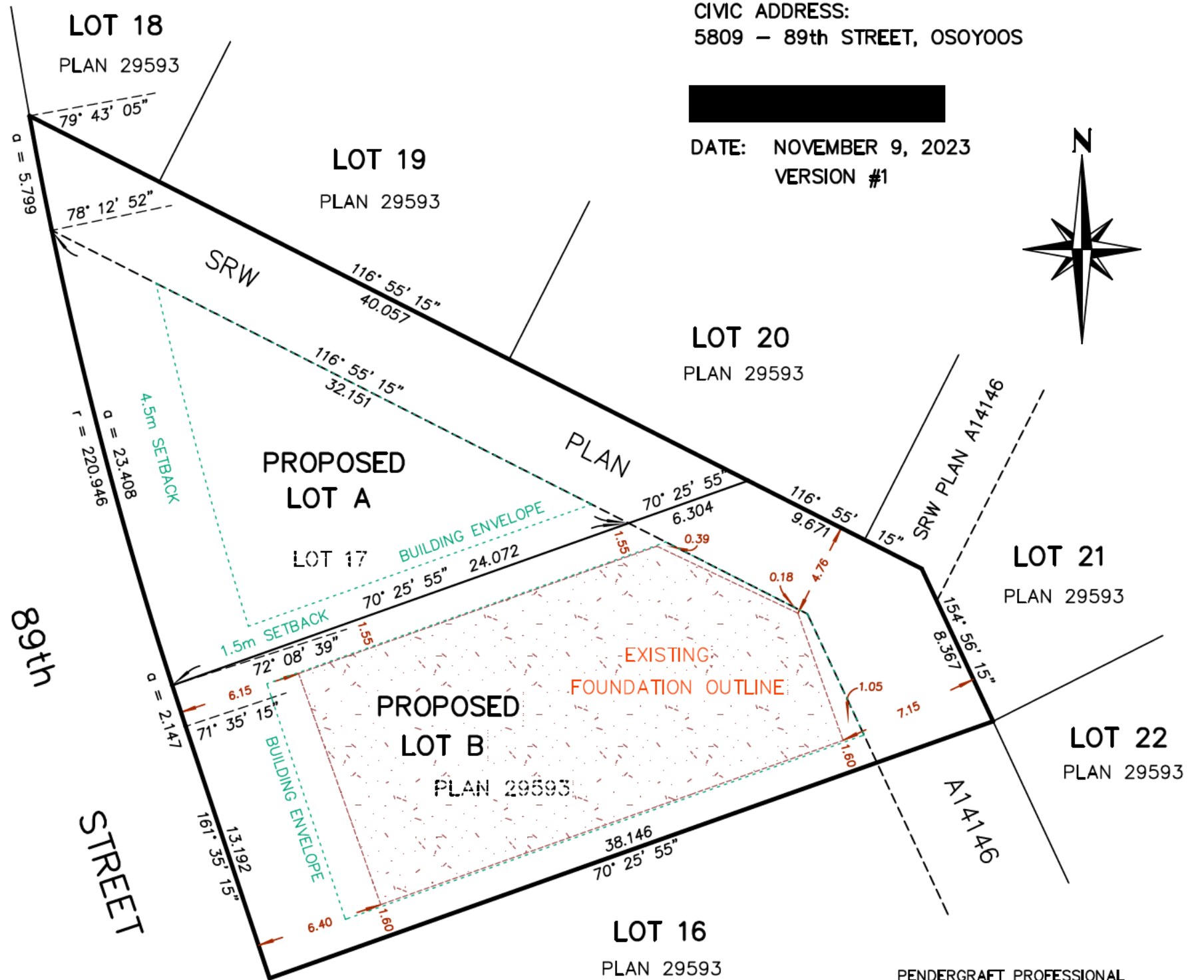
ALL DISTANCES SHOWN ARE IN METRES.
THE INTENDED SIZE OF THIS PLAN IS 432 mm
IN WIDTH BY 280 mm IN HEIGHT (B SIZE)
WHEN PLOTTED AT A SCALE OF 1:250

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.



| 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 |

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

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

Attachment 4: Correspondence Received To Date

Public Submission - Zoning Amendment Bylaw No. 1085.147

Submitted by Janet Marcotte residing at 7 Yucca Place, Osoyoos on February 8, 2024

I am concerned about the passing of this bylaw because it does not enhance the beauty of this area of residential properties.

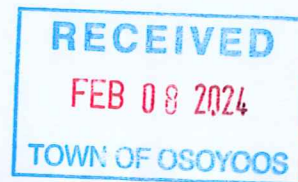
The main structure that was built on this residential lot is very large and more in keeping with buildings that should be located in the Industrial Park as it is more of a garage than a residence. The parcel of land remaining is a small triangle shape which definitely challenges the required 10m minimum lot width for R2 Single Family Residential Small Lot Zoning Regulations. A structure on this size of a lot could only be something quite small that would not fit into the area especially if it was built to its maximum allowable height of 9m. Any landscaping or green space development would be impossible.

I walk or drive past this property on a daily basis as do many others. There is a sidewalk on this side of the street that is very well used by residents and school children. It is a busy street connecting Highway 97 to Highway 3 bypassing the downtown area. There is only one exit to 89th Street from this lot. Adding another driveway access in such a short distance is not safe.

I have lived in my home since 1970 and saw this parcel of land change from a beautiful apricot orchard to a residential area. The residences to the north and south of this parcel of land have done their best to enhance this space. My only hope is that this could continue.

Thank you!
Sincerely,
Janet Marcotte

Janet Marcotte
Feb. 8, 2024



From: [Claudia Lenz](#)
To: [Info](#)
Subject: FW: Bylaw change 89 avenue
Date: Thursday, February 15, 2024 3:30:33 PM
Attachments: [image003.png](#)

Hi there,
Please see below.
Thank you,

Claudia Lenz | Planning and Development Administrative Support

Tel 250.495.6191 | **Fax** 250.495.2400 | **Toll Free** 1.888.495.6515

Email clenz@osoyoos.ca | **Website** www.osoyoos.ca

Town of Osoyoos | 8711 Main Street, Box 3010, Osoyoos BC, V0H 1V0



From: Claudia Lenz <CLenz@osoyoos.ca>
Sent: Thursday, February 15, 2024 3:26 PM
To: Kristina Najman <kristina.najman@osoyoos.ca>; plan <plan@osoyoos.ca>
Subject: RE: Bylaw change 89 avenue

Hi Kristina,
Thank you for your email.
Any submissions need to please go to info@osoyoos.ca Attention: Corporate Services.
Thank you,

Claudia Lenz | Planning and Development Administrative Support

Tel 250.495.6191 | **Fax** 250.495.2400 | **Toll Free** 1.888.495.6515

Email clenz@osoyoos.ca | **Website** www.osoyoos.ca

Town of Osoyoos | 8711 Main Street, Box 3010, Osoyoos BC, V0H 1V0



From: Kristina Najman
Sent: Thursday, February 15, 2024 2:32 PM
To: plan <plan@osoyoos.ca>

Subject: Bylaw change 89 avenue

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Hi there,

I'm for the subdividing of this property to two smaller residential lots.

Best Regards,

Kristina Najman

[EXTERNAL] This email originated from outside of the organization.

From: [Leah Curtis](#)
To: [Info](#)
Subject: FW: 5809 89th Street. Zoning Amendment Bylaw No. 1085.147, 2023:
Date: Friday, February 16, 2024 2:45:41 PM

Good afternoon

Not sure if this also falls into correspondence. Given that there are two different properties mentioned...

Thank you,

Leah

From: Leah Curtis
Sent: Friday, February 16, 2024 2:41 PM
To: Brenda Kuss
Cc: plan <plan@osoyoos.ca>
Subject: RE: 5809 89th Street. Zoning Amendment Bylaw No. 1085.147, 2023:

Good afternoon Brenda,

With regards to the Zoning Amendment Bylaw No.1085.147, 2023, I can provide the following information:

- The proposed small lot does meet with the R2- Single Family Residential Small Lot zoning requirements, including the minimum lot size requirement of 400m².
- Regarding the size of the house, there is a building envelope (developable area) of approximately 1,500 ft² which would give you plenty of space to build a house, even if it is a smaller house.
- While there are no R2 lots within located in the immediate proximity to the subject property, there are duplexes across the street on 89th that would have a similar size. Furthermore, there is a mix of zoning in the surrounding area.

As for the other property on Oleander, I cannot comment on that development.

Thank you,

Leah Curtis | Planning Technician

Tel 250.495.4615 | **Fax** 250.495.2400 | **Toll Free** 1.888.495.6515

Email lcurtis@osoyoos.ca | **Website** www.osoyoos.ca

Town of Osoyoos | 8711 Main Street, Box 3010, Osoyoos BC, V0H 1V0

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If you are not the intended recipient, please notify the sender immediately and securely destroy the communication.

The Town of Osoyoos is subject to the Freedom of Information and Protection of Privacy Act.

From: Brenda Kuss

Sent: Thursday, February 15, 2024 5:30 PM

To: plan <plan@osoyoos.ca>

Subject: 5809 89th Street. Zoning Amendment Bylaw No. 1085.147, 2023:

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[. Learn why this is important](#)

Hello,

I would like to know how big the small lot would be (square footage)? What size of house (square footage) would be able to be built on this size lot. Lastly, do you really think this small lot fits in with the neighborhood, when all residential lots surrounding the small lot, are all the same.

Also, on a different subject....

I would appreciate a response to my questions.

Thank you,
Brenda Kuss

Sent from my iPad

[EXTERNAL] This email originated from outside of the organization.