

To: Mayor and Council
From: Paul Gipps, CAO
Meeting Date: January 21, 2025
Meeting Type: Regular Council Meeting

Prepared by: James Robertson, Land Agent
Department: Corporate Services

Title: Road Closure Application | RC2023-030 | 11th Street
Description: A Bylaw to close a portion of road, and remove its highway dedication, 11th Street

RECOMMENDATION

Council Decision

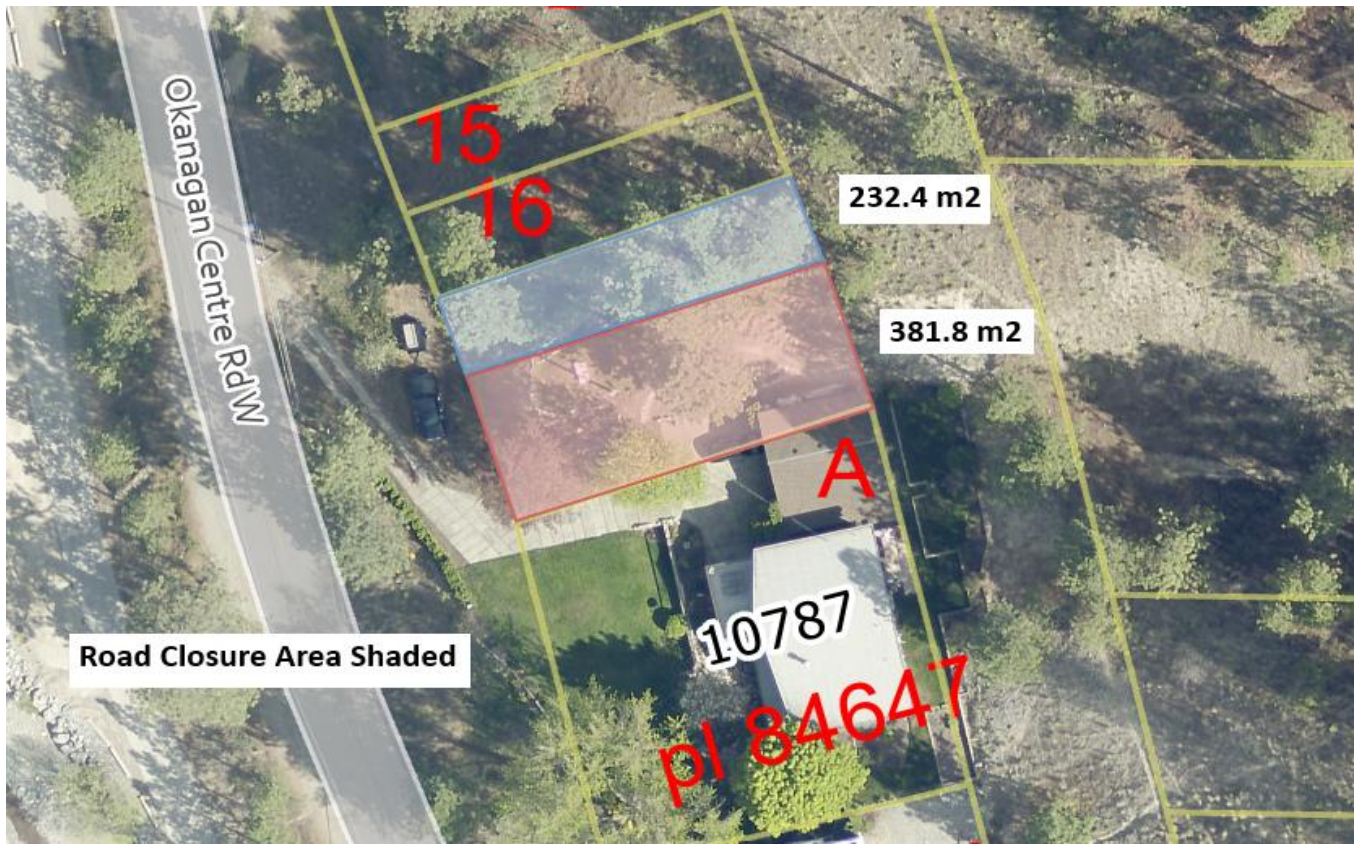
EXECUTIVE SUMMARY

Staff identified 11th Street between Okanagan Centre Road W and Maddock Avenue as surplus to the District’s needs and approached the adjoining property owners to inquire if they would be interested in purchasing the land. See Map 1 (Proposed Road Closure). Staff had the land appraised (Attachment A) and property corners located by legal survey so the adjacent property owners could determine their interest. The adjacent property owners have offered \$100,000 for the land, to be divided between the owner of Lots 15 & 16 Plan 454 who would purchase 232.4 square meters of land for \$37,837.84 and the owner of 10787 Okanagan Centre Road W who would purchase 381.8 square meters of land for \$62,162.16. The owners have agreed to grant the District a Statutory Right of Way (SRW) over the closed road area for the District’s utilities should they be required in future. See Map 2 (Proposed Statutory Rights of Way).

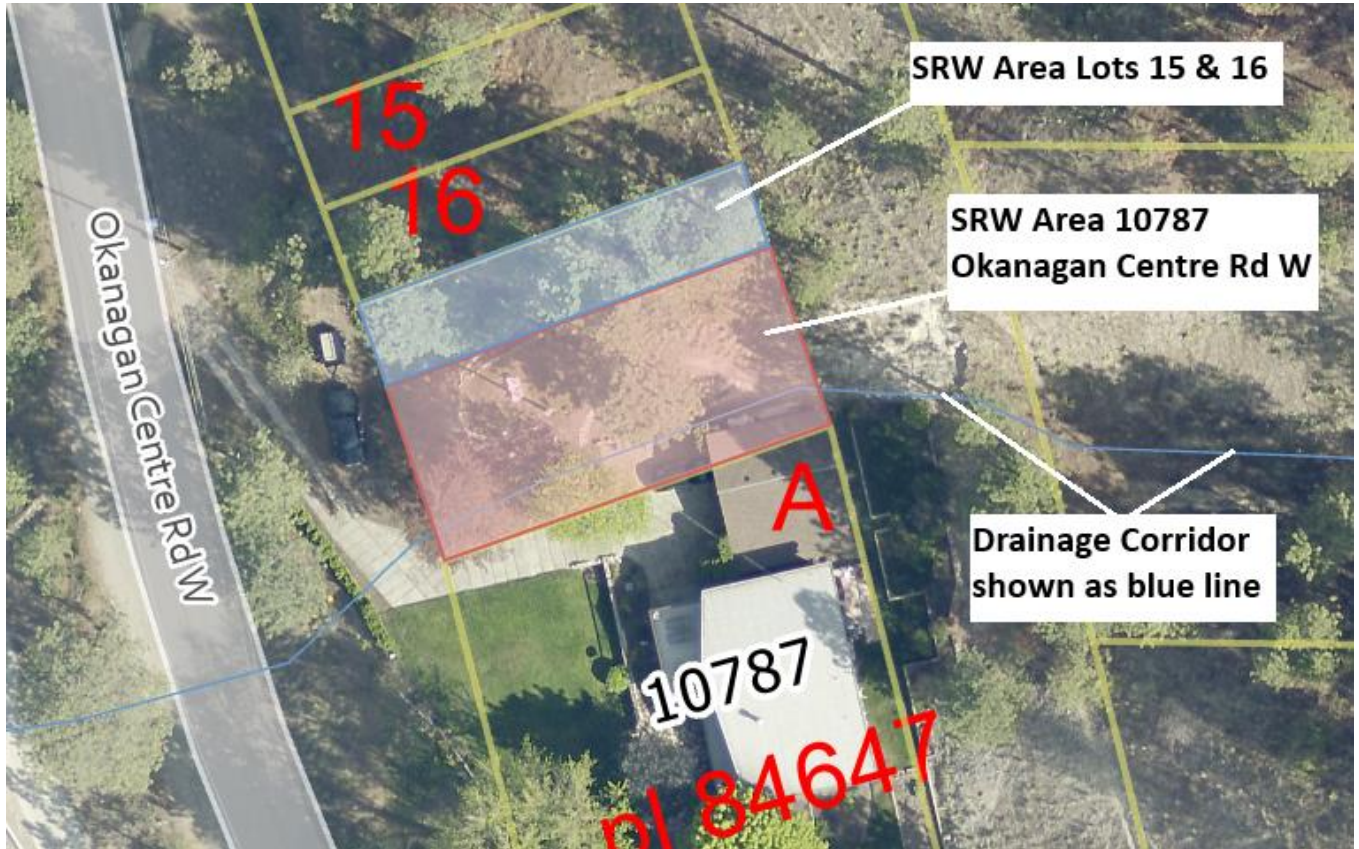
PROPERTY INFORMATION (Lots 15&16 Block M and 10787 Okanagan Centre Road W)

PROPERTY INFORMATION		
File #	RC2023 - 030	RC2023 - 030
Civic Address:	Lots 15&16 Okanagan Centre Road W	10787 Okanagan Centre Road W
Legal Description:	Lot 15 & 16 Block M Section 17 Township 20 ODYD Plan 454	Lot A Section 17 Township 20 ODYD Plan KAP84647
PIDs:	001-969-625; 001-969-633	027-190-013
Roll #	2639.015; 2639.016	2641.000
Charges on Title:	None	Mortgage KG59873; Mortgage CB120430
Parcel Size:	468.8 m ² (Both lots together)	978.2 m ²
Consolidated Parcel Size:	701.2 m ²	1360 m ²
ALR:	No	No
Zoning:	RU1	RU1
DP Areas:	Natural Environment; Agri Tourism; Stability, Erosion and Drainage; Industrial, Commercial, Multiple Unit	Natural Environment; Agri Tourism; Stability, Erosion and Drainage; Industrial, Commercial, Multiple Unit
Water:	Undeveloped	Water Licence
Sewer:	Undeveloped	On Site Septic

MAP 1 – PROPOSED CLOSED ROAD



MAP 2 – PROPOSED STATUTORY RIGHTS OF WAY



DISCUSSION/ANALYSIS

Should Council wish to proceed with the sale of land, the District would require that both parties consolidate the respective portions of closed road with their existing property to create a single legal parcel and grant a Statutory Right of Way (SRW) over the areas of closed road in favour of the District for drainage works and access to allow the District to install drainage infrastructure in future, if required. The adjacent property owners would be responsible for the cost of the Consolidation Plans and their legal costs including registering the SRWs.

The District has ownership of unbuilt roads and portions of parcels that are not required to support current or future District uses. These lands have value that can be realized when combined with existing parcels. 11th Street is not required to access Maddock Avenue, which was originally intended to be built from 1st Street through to 15th Street, but has only been partially constructed from 4th Street to 10th Street with a break between 7th and 8th Streets. All upland parcels between 10th and 15th Streets are serviced through 10th Street, 14th Street, Hare Road or Nighthawk Road which makes 11th street surplus to the District.

Several of the numbered streets and lanes in the area have been closed or altered in the past:

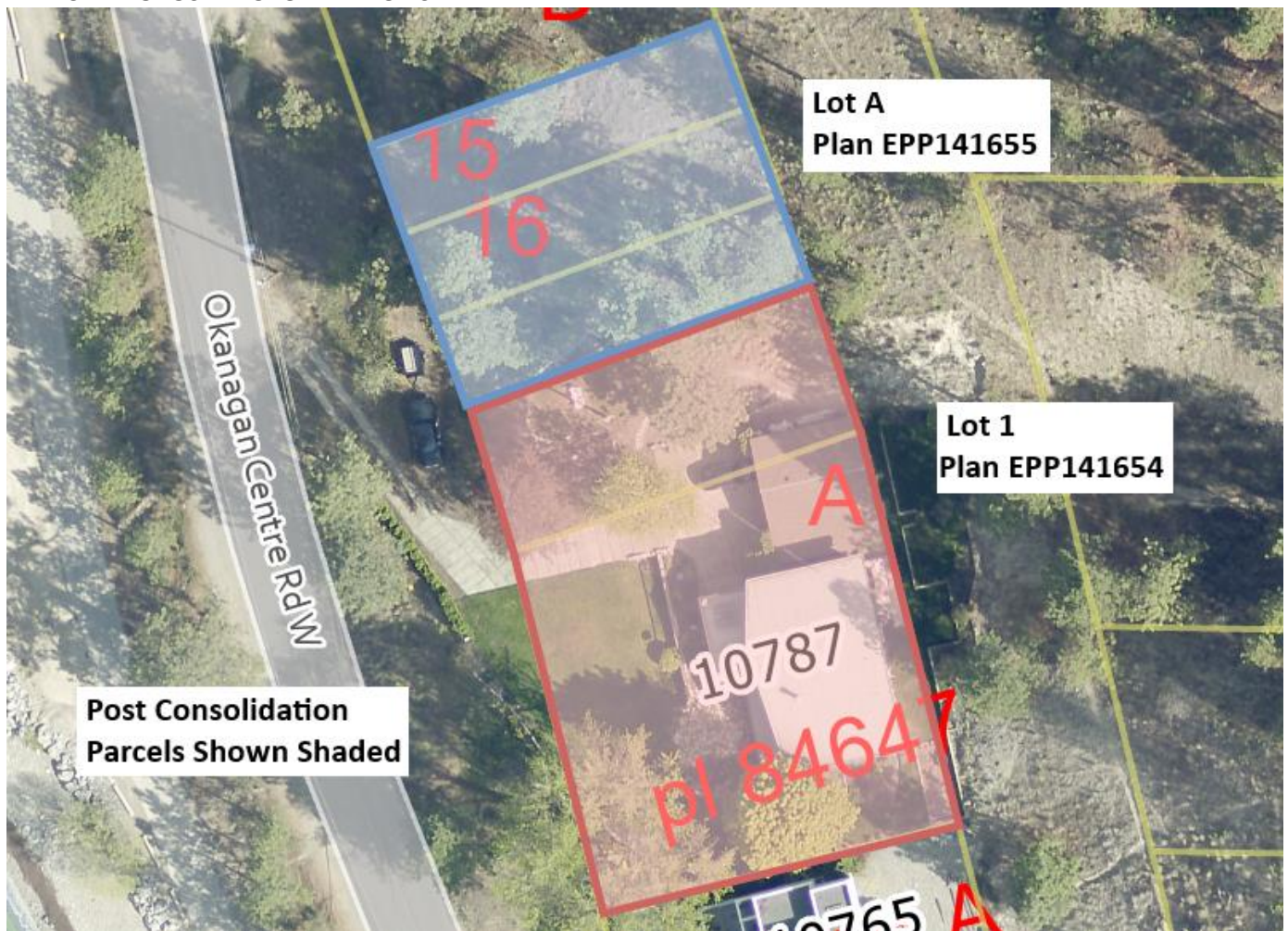
- 13th Street was closed and consolidated with Lot 16 Block O and Lot 1 Block P by KAP39142 on January 18, 1988.
- The north half of 7th Street and Lots 13 through 20 Block I and a portion of Lane located between the Lots was amalgamated into a single parcel, Lot 1 KAP40839, on March 14, 1989.
- The Lane between Lots 1 and 2 and Lots 31 and 32 Block J was closed on July 25, 1989 creating Lot A KAP41468.
- Lot A KAP41468 and the south half of 7th Street were amalgamated on May 1, 2006 by KAP80878 with that plan dedicating a road 9.11 metres wide directly south of the original location of 7th Street connecting Maddock Avenue with Okanagan Centre Road West.
- On May 16, 2023, Council approved the road closure and sale of a triangular portion of 5th Street to the adjacent owner as shown on Plan EPP124759.
- On August 20, 2024, Council approved the road closure and sale of a portion of 3rd Street to adjacent owner as shown on Plan EPP138618.

The garage and driveway of the property at 10787 Okanagan Centre Road W encroach on 11th Street and the owners appreciate the opportunity to resolve the encroachment through purchase of the land. The previous owners secured encroachment permits from the Ministry of Transportation in 1978 and 1993. The permits authorize the existing garage on 11th Street. After incorporation in 1995, the authority of the encroachment permits vested to the District of Lake Country.

Lots 15 & 16 located north of 11th Street are undeveloped and the owner is interested in acquiring a portion of the closed road to allow easier development of his property in future. Consolidating the proposed closed road with lots 15 & 16 would allow a driveway to be constructed that is less steep due to the increased ability to traverse slopes and may reduce the need for retaining walls. Driveway construction would be permitted on the SRW areas.

Should Council not wish to proceed with closing the road and disposing of the land the situation would remain status quo. See Map 3 (Proposed Future Parcels).

MAP 3 – PROPOSED FUTURE PARCELS



FUTURE DEVELOPMENT POTENTIAL OF OWNERS PROPERTIES

The requirement to consolidate the portion of closed road with existing parcels limits future development on both properties. Without the addition of the new land, the owners of Lots 15 & 16 could construct a single-family dwelling on each lot providing they can locate a septic disposal area and secure a potable water source for each parcel. This is permitted because the lots were created before 2007. Undeveloped lots created before 2007 are exempt from the Okanagan Basin Water Board's minimum 1 ha policy for subdivision. Lot 15 and Lot 16 are each 234.4 m² (.06 acres or 2,523 ft²). Both lots are zoned RU1 which has a minimum lot area of 500m². If both lots plus the additional road closure land are consolidated, the total lot area is 701.2 m² (0.17 acres or 7,547.7 ft²). Consolidation of all 3 pieces of land would allow one single family dwelling and would require a potable water source and approved septic system. Consolidation of all 3 pieces of land is not considered creation of a new lot under the OBWB regulations.

The owners of 10787 Okanagan Centre Road W are not currently able to subdivide and would not be able to subdivide after adding the new land because their parcel would be under 1 ha in area and is not connected to a community sewer system. The property is 10,529.3 ft² / 978.2 m² in area. The additional 4,109.7 ft² / 381 m² provides a total lot size of approximately 14,638.9 ft² / 1,360m² or 0.34 acres. The minimum lot size for RU1 is 500m². If community sewer was available, 10787 Okanagan Centre Road W could potentially be subdivided, however adding another dwelling would be challenging because of the existing buildings and the proposed SRW to be registered on title protecting the natural drainage corridor. The current owners have no intention of subdividing the consolidated parcel and would continue to use the acquired land as an outdoor sitting area.

Accessory Dwelling units would not be allowed on either property until the land is included in the Urban Containment Boundary and when a Community (District) Sewer System is available for connection. Changes to the Urban Containment Boundary require an Official Community Plan amendment.

DEVELOPMENT POTENTIAL IF RETAINED BY DLC

There are no future Parks, Roads or Utilities use of the land required by the District. Raising title to the parcel with the intention of selling it as a residential lot is not recommended as this is contrary to the District's obligations regarding the Okanagan Basin Water Board (OBWB) Sewerage Facilities Assistance Grants Program and the "1.0 Hectare Policy". This is a provincial eligibility requirement where local governments must have policies or bylaws in place to prohibit the creation of lots smaller than one hectare unless they are connected to a community sewer, to qualify for grant funding. The objective of the "1.0 ha Policy" is to forestall creation of small parcels having on-site septic fields.

IMPACTS ON INFRASTRUCTURE AND SERVICES

The District has no services in the vicinity of 11th Street except roads. 11th Street is not required for access to Maddock Avenue because Maddock Avenue will not be developed south of 10th Street due to steep terrain. A future extension of water service to the area would occur on Okanagan Centre Road West and the subject land would not be required for that purpose. The grant of the SRWs over the proposed road closure area in favour of the District requires any development to address drainage through a report from a Qualified Professional.

APPRAISAL

In determining the value of the land, the appraiser used a before and after approach which means the value of the land in the appraisal is based on how much value it adds to the property when consolidated with the road closure land, not how much the land is valued at if it was an independent parcel for sale on the market. The property cannot be valued as an independent lot because subdivision is not permitted for a lot less than 1 hectare without sewer at this time.

The appraiser initially prepared a report based on an even split of the land between the adjacent properties although following the offer from the owners, a final report was prepared based on lots 15 and 16 acquiring 232.4 m² and 10787 Okanagan Centre Road W acquiring 381.2 m².

The appraiser determined the value to be \$55,000 for the 232.4 m² to be added to Lots 15 & 16 and \$75,000 for the 381.2 m² to be added to 10787 Okanagan Centre Road W. The blended rate is $\$130,000 / 614.2 \text{ m}^2 = \211.66 m^2 .

Property	Size	Appraised Value Land	Appraised Value per Square Metre	New Size	Appraisal Value	Value Difference
10787 OK Centre Rd W	978.2 m ²	\$730,000	\$746.27	1360 m ²	\$805,000	\$75,000
Lots 15 & 16	468.8 m ²	\$495,000	\$1,055.89	701.2 m ²	\$550,000	\$55,000

The property owners are offering \$100,000.00 for 614.2 m² of land which is \$162.81/m². The District received a rate of \$231.70/m² for the 84.8 m² of land when the Fifth Street road closure occurred in 2023 and \$238.40/m² for the 159.9 m² of land when the Third Street road closure occurred in 2024.

APPLICABLE LEGISLATION, BYLAWS AND POLICIES

Section 40 of the *Community Charter* allows Council, by bylaw, to close all or part of a highway that is vested in the municipality. Section 26 of the *Community Charter* requires notice of disposition to include a description of the land or improvements, the nature and, if applicable, the term of the proposed disposition; the person acquiring the property and the consideration to be received for the disposition. Section 94 of the *Community Charter* requires the notice described above to be published twice in a local newspaper.

Council has the ability to negotiate as part of their fundamental powers and privileges and may accept or reject an offer submitted for the proposed road closure. Market Value is determined by a seller and buyer negotiating an arms length transaction in the open market with the standard review of reasonableness.

FINANCIAL IMPLICATIONS

None Budget Previously Approved Other (see below)

Revenue:	Purchase Price	\$100,000.00	(\$37,837.84 + \$62,162.16 = \$100,000.00) + GST
	Survey	\$1,500.00	(Consolidation Plans)
Expenses:	Appraisal	\$4,935.00	
	Survey	\$6,825.00	
	Legal	\$750.00	(estimated)

COMMUNICATION

This proposal was referred to all internal departments.

OPTIONS

- A. THAT Road Closure Bylaw (11th Street) 1210, 2024 be read a first, second, and third time.
- B. THAT Road Closure Bylaw (11th Street) 1210, 2024 be read a first and second time with the following amendments.
- C. THAT Road Closure Bylaw (11th Street) 1210, 2024 not be read and the file closed.

Respectfully Submitted.

James Robertson, Land Agent

Report Approval Details

Document Title:	RC2023-030 Road Closure - 11th Street.docx
Attachments:	- Attachment A - RC2023-030 - Appraisal.pdf - Attachment B - RC2023-030 - Bylaw 1210, 2024.pdf
Final Approval Date:	Jan 16, 2025

This report and all of its attachments were approved and signed as outlined below:

Kiel Wilkie, Capital Project Manager - Jan 16, 2025 - 8:36 AM

Scott Unser, Public Works Manager - Jan 16, 2025 - 2:14 PM

Brad Savoury, Director of Legal Services and Risk Management - Jan 16, 2025 - 3:12 PM

Task assigned to Matt Vader, Director Parks, Recreation and Culture was completed by workflow administrator Reyna Seabrook, Director of Corporate Services

Matt Vader, Director Parks, Recreation and Culture - Jan 16, 2025 - 3:59 PM

Reyna Seabrook, Director of Corporate Services - Jan 16, 2025 - 4:03 PM

Paul Gipps, Chief Administrative Officer - Jan 16, 2025 - 4:39 PM