

City of Kelowna

Special Council Meeting

AGENDA



Monday, March 29, 2021
9:00 am
Council Chamber
City Hall, 1435 Water Street

Pages

1. Call to Order

I would like to acknowledge that we are gathered today on the traditional, ancestral, unceded territory of the syilx/Okanagan people.

In accordance with the most recent Provincial Health Officer Order regarding gatherings and events, the public is currently not permitted to attend Council meetings in-person. As an open meeting, a live audio-video feed is being broadcast and recorded on kelowna.ca.

2. Development Application Reports

2.1.	June Springs Rd 4350 - Z20-0032 - Frank Robert Vezer	30 m	3 - 30
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The Mayor to invite the Applicant, or Applicant's Representative, to participate online.

To consider a Staff recommendation to NOT rezone the subject property that would bring the existing carriage house into conformance.

2.2.	Longhill Rd 2825 - A19-0014 - Carol Grassmick	30 m	31 - 60
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The Mayor to invite the Applicant, or Applicant's Representative, to participate online.

To consider a Staff recommendation to NOT support an application to the ALC for a Non-Farm Use Permit to allow a soil storage and fabrication business to operate on the subject property.

3. Bylaws for Adoption (Non-Development Related)

3.1.	BL12192 - 2021 By-Election Procedures	61 - 62
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To adopt Bylaw No. 12192.

3.2. BL12195 - Amendment No. 2 to the Automated Voting Machines Authorization Bylaw No. 10970

63 - 64

To adopt Bylaw No. 12195.

4. Resolution Closing Meeting to the Public

THAT this meeting be closed to the public pursuant to Sections (2)(b) of the Community Charter for Council to deal with matters relating to the following:

- Negotiations between a Municipality and Provincial Government

5. Adjourn to Closed Session

6. Reconvene to Open Session

7. Termination

REPORT TO COUNCIL



Date: March 15, 2021

To: Council

From: City Manager

Department: Development Planning Department

Application: Z20-0032

Owner: Frank Robert Vezer

Address: 4350 June Springs Rd

Applicant: Rina E. Jeyakumar (Araya Law)

Subject: Rezoning Application

Existing OCP Designation: REP – Resource Protection Area

Existing Zone: RR1 – Rural Residential 1

Proposed Zone: RR1c – Rural Residential 1 with Carriage House

1.0 Recommendation

THAT Rezoning Application No. Z20-0032 to amend the City of Kelowna Zoning Bylaw No. 8000 by changing the zoning classification of Lot 6 Section 35 Township 29 ODYD Plan KAP56325, located at 4350 June Springs Road, Kelowna, BC from RR1 – Rural Residential 1 zone to the RR1c – Rural Residential 1 with Carriage House zone NOT be considered by Council.

2.0 Purpose

To consider a Staff recommendation to NOT rezone the subject property that would bring the existing carriage house into conformance.

3.0 Development Planning

Development Planning Staff do not support rezoning to add the 'c' designation to the subject property. The property is located in Southeast Kelowna and has no ability to connect to a community sanitary system. The City's Zoning Bylaw and Subdivision, Development & Servicing Bylaw as well as the Okanagan Basin Water Board's Policies do not support the development of carriage houses on lots less than 1.0 hectare that rely on on-site sewage disposal. Since 2014, the Okanagan Basin Water Board (OBWB) has required grant recipients, including the City of Kelowna, to have bylaws in place restricting carriage houses to properties greater than 1.0 hectare or to properties with community sewer connections. As per the OBWB Sewage Facilities Assistance Grants' Terms of Reference, OBWB will only fund sewage infrastructure applications in communities that comply with its 1.0 Hectare Policy and Development Planning Staff do not wish to

compromised future funding opportunities by supporting the development of carriage houses which contravene OBWB's policies.

4.0 Proposal

4.1 Background

Following the Okanagan Basin Water Board's policy changes, TA16-0005 (BL11333) which amended Zoning Bylaw No. 8000 to restrict carriage houses on lots less than 1.0 hectare was adopted by Council at the February 27, 2017 meeting.

This file came forward due to illegal suite investigation that was instigated by Bylaw Services on May 30th, 2018. The accessory building began being resided in full-time in 2014, without the correct zoning or permits. Now, the applicant is seeking the carriage house subzone to allow for the legal conversion of the accessory building into a carriage house. The City of Kelowna received a Building Permit (BP23727) for an accessory building on January 24th, 2003. The accessory building was labelled as an unfinished basement (which hasn't been permitted to be finished), an art studio and an office. This Permit also appeared to include a full bathroom and a kitchen area, which are not permitted in accessory buildings. This was likely an oversight by Staff, however, when approved, this Building Permit had a condition stating that this accessory building cannot be used as a dwelling.

4.2 Project Description

The proposed rezoning from RR1 to RR1C would allow the conversion of the accessory building into a carriage house on the subject property. The proposed suite is roughly 60m² in area, is on the second level of the structure and it is located on the eastern portion of the property, accessed from June Springs Road. The accessory building has been inhabited since 2014 by the owner's family members and has remained unchanged from the exterior.

4.3 Site Context

The subject property is located in the Southeast Kelowna OCP Sector and the surrounding area is primarily zoned RR1 – Rural Residential 1, A1 – Agriculture 1 and RR1C – Rural Residential 1 with Carriage House. The surrounding area entirely has a Future Land Use Designation of REP – Resource Protection Area.

Specifically, adjacent land uses are as follows:

Orientation	Zoning	Land Use
North	RR1 – Rural Residential 1 and A1 – Agriculture 1	Single-Family Home(s)
East	RR1C – Rural Residential 1 with Carriage House	Single-Family Home with Carriage House
South	A1 – Agriculture 1	Single-Family Home with Agriculture
West	RR1 – Rural Residential 1	Single-Family Home

Subject Property Map: 4350 June Springs Road



5.0 Current Development Policies

5.1 Okanagan Basin Water Board's 1.0 Hectare Policy

- 5.1.1 The Okanagan Basin Water Board (OBWB) updated its Sewage Facilities Grant Program Policy on carriage houses (Attachment 'B') in 2014. The OBWB requires sewage grant recipients, including the City of Kelowna, to have bylaws in place restricting carriage houses to properties greater than 1.0 hectare or to properties with community sewer connections. As per the OBWB Sewage Facilities Assistance Grants' Terms of Reference, OBWB will only fund sewage infrastructure application in communities that comply with its 1.0 Hectare Policy.

5.2 Kelowna Official Community Plan (OCP)

- 5.2.1 Objective 5.3.1 – Permanent Growth Boundary: Establish a Permanent Growth Boundary as identified on Map 4.1 and Map 5.2. Lands outside of the Permanent Growth Boundary will not be supported for urban or intensive uses with the exception of the extent permitted as per the OCP Future Land Use designations in place as of initial adoption of Bylaw 10500.

6.0 Application Chronology

Date of Application Received: April 1st, 2020

Date Public Consultation Completed: Feb 4th, 2021

7. Alternative Recommendation

THAT Rezoning Application No. Z20-0032 to amend the City of Kelowna Zoning Bylaw No. 8000 by changing the zoning classification of Lot 6 Section 35 Township 29 ODYD Plan KAP56325, located at 4350 June Springs Road, Kelowna, BC from RR1 – Rural Residential 1 zone to the RR1c – Rural Residential 1 with Carriage House zone be considered by Council;

AND THAT the Rezoning Bylaw be forwarded to a Public Hearing for further consideration;

AND FURTHER THAT final adoption of the Rezoning Bylaw be considered in conjunction with Council's consideration of a Development Variance Permit for the subject property.

Report prepared by: Tyler Caswell, Planner I

Reviewed by: Dean Strachan, Community Planning & Development Manager

Reviewed by: Terry Barton, Development Planning Department Manager

Approved for Inclusion: Ryan Smith, Divisional Director, Planning & Development Services

Attachments:

Attachment A: Applicant's Rationale

Attachment B: Original Accessory Building Permit Drawings

Attachment C: Okanagan Basin Water Board Memorandum dated January 20, 2014.

Attachment D: Development Engineering Memorandum dated April 29th, 2020

March 1, 2021

Our File: 00046-002

Attention: Community Planning Department

City of Kelowna
1435 Water Street
Kelowna, BC
V1Y 1J4



Dear Sirs/Mesdames:

**RE: Supplemental Letter in Support of Development Proposal Application
Package for 4350 June Springs Road, Kelowna, B.C. (the "Property")**

I have been retained as counsel by Mr. Frank Vezer (the "Owner") in relation to two Bylaw Offence Notices issued by the City of Kelowna Bylaw Services Department for alleged violations of sections 4.3.7(g) and 4.3.7(h) of the City of Kelowna Zoning Bylaw No. 8000 (the "Zoning Bylaw") in relation to the Property legally described as:

PID: 023-331-062
LOT 6 SECTION 35 TOWNSHIP 29 OSOYOOS DIVISION YALE DISTRICT
PLAN KAP56325

A. Chronology of Events

In 2003 the Owner wished to construct a studio (the "Studio") on the Property. Prior to construction of the Studio, the Owner did his due diligence as required by the City of Kelowna, including:

1. having a percolation test conducted on the Property;
2. having a second septic system installed and approved by the City of Kelowna; and
3. having all drawings of the Studio (which clearly indicated a kitchen) signed off by a City of Kelowna inspector.

Once the Owner completed his due diligence and the requisite permits were obtained, the Studio was constructed. When construction of the Studio was complete, the Owner

subsequently obtained and passed all permitting inspections with the City of Kelowna Inspection Services Department.

The Studio remains structurally unchanged from that which was approved by the City of Kelowna in 2003.

In 2014 security became a serious concern in the neighbourhood and on the Property. To address the issue, the Owner's daughter and son-in-law began residing full time and year round in the Studio so that they could care for the Property, including the principal dwelling unit, while the Owner and his wife were in the United States operating their family business.

On or about June 18, 2018, the Owner was issued two Bylaw Offence Notices under ticket numbers KN 0041127 & KN 0041128 (the "Bylaw Offence Notices") by the City of Kelowna Bylaw Services department for alleged violations of sections 4.3.7(g) and 4.3.7(h) of the Zoning Bylaw for having permitted "use contrary to zone" and "occupancy of secondary dwelling unit contrary to zone", respectively, on the basis that the occupancy of the Studio by the Owner's daughter and son-in-law deems the building a "carriage house" for purposes of the Zoning Bylaw.

On or about August 10, 2018 a compliance agreement was executed in respect of the Bylaw Offence Notices pursuant to which the Owner was provided the opportunity to ameliorate the offences.

On or about March 20, 2020 a Development Proposal Application Package was submitted on behalf of the Owner to rezone the Property from its current RR1 zoning to RR1C.

B. The Owner's Development Proposal Application

In order to ameliorate the offences noted under the Bylaw Offence Notices the Owner hereby applies to the City of Kelowna for:

1. consent to rezone the Property from its current RR1 zoning to RR1C zoning on the basis of subsection 1.8.2 of Section 1 [General Administration] of the Zoning Bylaw such that the Studio now deemed a "carriage house" under the Zoning Bylaw may remain as-constructed on the Property; or
2. in the alternative, issuance of a Development Variance Permit to be registered against title to the Property such that the Studio now deemed a "carriage house" under the Zoning Bylaw may remain as-constructed on the Property as a "non-conforming use" as defined under the Zoning Bylaw.

Rezoning of the Property from RR1 to RR1C

Section 12 [Rural Residential Zones] of the Zoning Bylaw, subsection 12.1.S(c) provides that the minimum lot size of any RR1 or RR1C zoned property is 1.0 ha.

While the Property is only surveyed as being 0.91 ha in size, Section I [General Administration] of the Zoning Bylaw provides as follows:

1.8.2 A principal or secondary use is permitted on a lot less than the minimum lot size in that zone, provided that the lot was created before adoption of this Bylaw and the development otherwise complies with all the regulations of this Bylaw.

The Owner submits that though the surveyed lot size of the Property is marginally less than the minimum lot size under Section 12 for any newly subdivided RR1C lots, the Property was created before adoption of the Zoning Bylaw and the "carriage house" otherwise complies with all the regulations of the Zoning Bylaw.

The Owner also submits that the proposed rezoning of the Property to RR1C is aligned with that of the intended future use (REP) of the Property as laid out in the City of Kelowna's Official Community Plan as well as the current zoning of the properties immediate adjacent to the Property that already hold an RR1C zoning designation.

Furthermore, the Owner submits that the Studio, including the kitchen, as well as the second septic system, were approved and permitted by the City of Kelowna prior to and after construction. This is not a situation where the Owner deviated away from what the City of Kelowna had given him the green light for. Nor is it a situation where the Owner acted dishonestly or surreptitiously. The Owner's actions were proper, transparent and authorized by the City of Kelowna.

Finally, the City of Kelowna itself has made clear there is a housing crisis in the area. The Owner submits that the Studio, which is structurally the same as it was in 2003, fills an articulated need in the community.

Accordingly, the Owner requests that the City of Kelowna consent to the proposed rezoning of the Property from its current RR1 zoning to RR1C zoning under subsection 1.8.2 of Section 1 [General Administration] of the Zoning Bylaw such that the Studio now deemed a "carriage house" under the Zoning Bylaw may remain as-constructed on the Property.

Issuance of A Development Variance Permit to allow "non-conforming use" of the Property

If the City of Kelowna should decline to rezone the Property from RR1 to RR1C, there are no practical nor cost-feasible options in relation to bringing the Property

into compliance with RR1 zone requirements under the Zoning Bylaw, particularly given the existing construction of the Studio or "carriage house" and the long-standing use of the Property.

Additionally, prior to the Owner's daughter and son-in-law occupying the Studio, the Property had been subject to multiple break-and-enters. Security had become such an issue that the insurers of the Property advised they would not provide coverage for losses incurred due to the Owner's extended vacancy of the Property. Since the Owner's daughter and son-in-law began occupying the building in 2014, there have been no further break-and-enters at the Property.

Thus the Owner submits that the occupancy of the building by his daughter and son-in-law have mitigated the risk of further uninsured break-and-enters at the Property and serves to further general City of Kelowna objectives with respect to general deterrence of crime in the surrounding neighbourhood where nearby rural properties have also been subject to break-and-enters in previous years while owners have been away during winter months.

The Owner also submits that the practical "use" of the Property has remained unchanged since acquired in 2002. The only change in "use" has been the result of the City of Kelowna's Bylaw Services department determination as of July 2018 that the occupancy of the Studio by the Owner's daughter and son-in-law now deems the building a "carriage house" for purposes of the Zoning Bylaw.

Finally, the Owner submits that given the current housing shortage, the current and intended use of the Studio fills a need and meets the City of Kelowna's objectives with respect to creating more and affordable housing.

Section 1 [General Administration] of the Zoning Bylaw provides as follows:

1.4.1 Except for legal non-conforming uses or development approved by a development variance permit or a Board of Variance order, or another agreement or permit as authorized by the Local Government Act, the use, buildings, structures, in each zone or area shall be in accordance with the uses listed in the zone and all the appropriate regulations and requirements of this Bylaw.

Section 2 [Interpretation] of the Zoning Bylaw defines a "non-conforming use" as follows:

NON-CONFORMING USE means a lawful existing use made of a lot or building, intended to be made of a building lawfully under construction, or a development which is approved under provisions of Section 1.7 of this Bylaw at the date of Council adoption of this Bylaw, or amendment thereof, which on the date this Bylaw or an amendment thereto becomes effective, would no longer comply with this Bylaw.

Accordingly, should rezoning be denied, the Owner requests that the City of Kelowna issue a Development Variance Permit to be registered against title to the Property such that the Studio now deemed a "carriage house" under the Zoning Bylaw may remain as-constructed on the Property as a "non-conforming use", despite non-compliance with RR1 lot restrictions under Section 12 [Rural Residential Zones] disallowing a "carriage house" on the Property.

C. Conclusion

The Owner thanks the City of Kelowna for considering his requests. He would like to make clear that in approving his request for rezoning, the City of Kelowna will not be setting an improper precedent with regard to use and lot size. This is a unique situation. In granting the requested rezoning application the City of Kelowna will simply be confirming what it already approved in the past while simultaneously fulfilling a housing need for the future.

Should you have any questions regarding the Owner's Development Proposal or require any further documentation in order to make a decision in respect of the Owner's Development Proposal, please contact me directly at my contact information above.

The Owner looks forward to any further guidance the City of Kelowna may be able to offer in respect of the Development Proposal and working towards an amicable resolution of the matter.

Yours truly,

ARAYA LAW Corporation

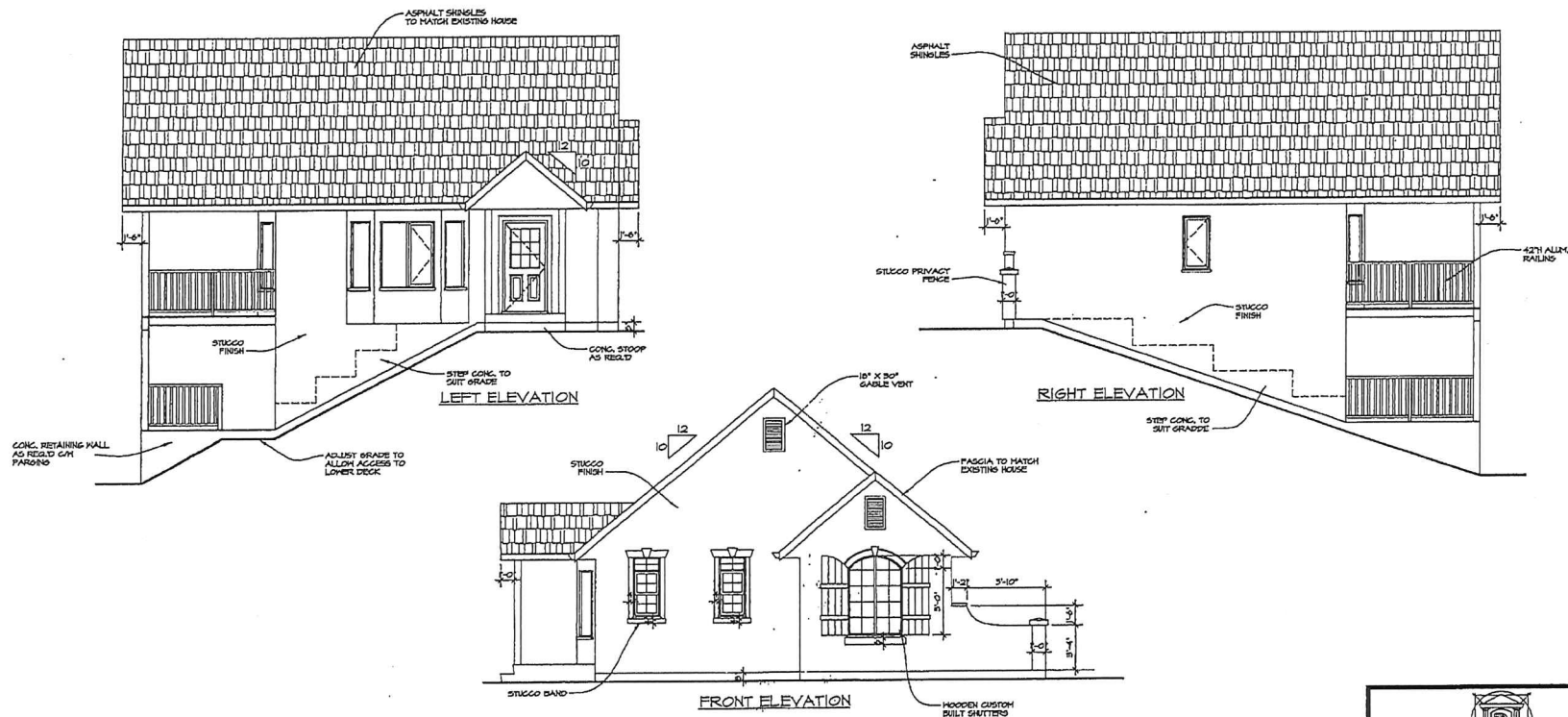
per:



Rina E. Jeyakumar, B.A. (Hons.), J.D.
Director and Principal Lawyer

This forms part of application

Z20-0032

Planner
Initials TCCity of
Kelowna
DEVELOPMENT PLANNING**BAXTER DESIGN**

Custom Building Design

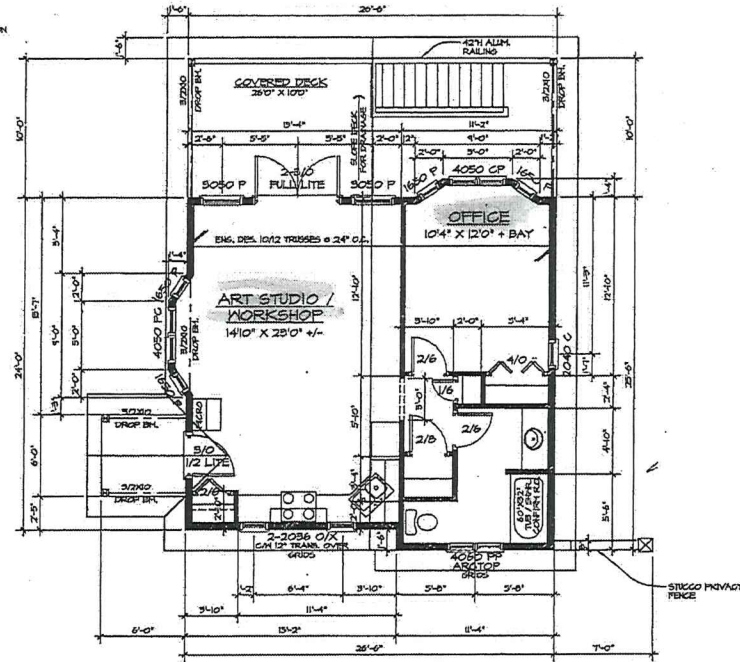
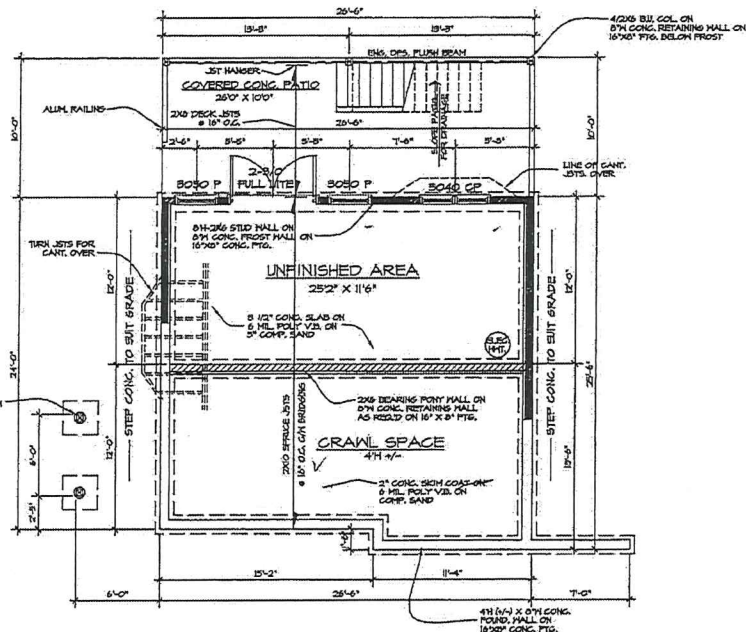
ph: (250) 862-9562

FRANK YEEZER - JUNE SPRINGS RD.
KELOWNA, B.C.

DEC. 3 / 02

This forms part of application

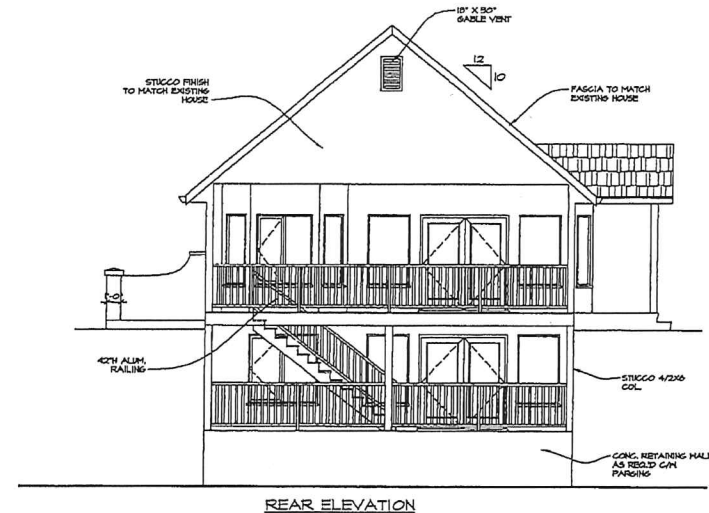
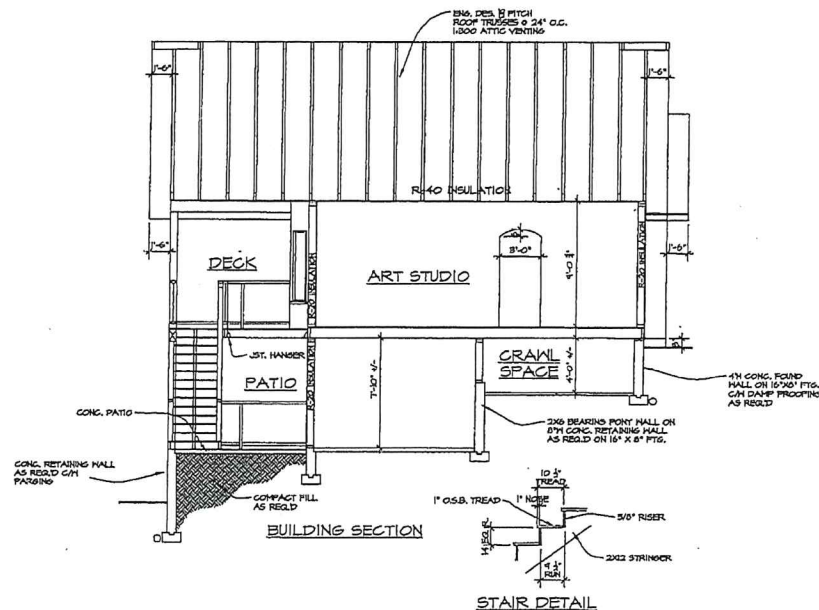
Z20-0032

Planner
Initials TCCity of
Kelowna
DEVELOPMENT PLANNING

BAXTER DESIGN
Custom Building Design
ph: (250) 862-9662

FRANK YEEZER - JUNE SPRINGS RD.
KELOWNA, B.C.

DEC. 3 / 02



ROOF CONSTRUCTION

- ASPHALT SHINGLES
- 30# ROOFING FELT
- 1/16" O.S.B. ROOF SHEATHING
- C/M 1" CLIPS
- ENGINEER DESIGNED ROOF TRUSS SYSTEM
- R-40 INSULATION
- 6 MIL. POLY. VAPOUR BARRIER
- 1/2" GYPSUM BOARD

EXTERIOR WALL CONSTRUCTION

- STUCCO ON STUCCO LATH
- PERMAK PAPER
- 5/8" O.S.B. WALL SHEATHING
- 2X6 SPRUCE STUDS @ 24" O.C.
- R-20 INSULATION
- 6 MIL. POLY. VAPOUR BARRIER
- 1/2" GYPSUM BOARD

INTERIOR WALL CONSTRUCTION

- 1/2" GYPSUM BOARD TO BOTH SIDES OF 2X4 SPRUCE STUDS @ 16" O.C.

INTERIOR FLOOR CONSTRUCTION

- FINISHED FLOORING
- 1/4" UNDERLAY (STURDI-HOOD) @ LINO AREAS
- 5/8" T.E.G. SPRUCE PLYWOOD
- SUB-FLOOR
- 2X10 SPRUCE FLOOR JOISTS @ 16" O.C. (GLUED, SCREENED, AND BRIDGED)
- 1/2" GYPSUM BOARD TO FINISHED AREAS

DECK CONSTRUCTION

- WEATHER PROOF MEMBRANE
- 5/8" T.E.G. SPRUCE PLYWOOD
- DECKING
- 2X8 SPRUCE DECK JOISTS @ 16" O.C.

STAIR CONSTRUCTION

- 14 EQUAL RISERS OF 5/8"
- 1 1/2" RUN
- 10 1/2" TREADS OF 1" O.S.B.
- 2X12 STRINGERS
- 2'-8" HANDRAIL HEIGHT

BASEMENT SLAB

- 8 1/2" CONC. SLAB @ 20 MPa
- 6 MIL. POLY. VAPOUR BARRIER
- 5" COMPACTED SAND

CRAWL SPACE SLAB

- 2" CONC. SKIM COAT @ 15 MPa
- 6 MIL. POLY. VAPOUR BARRIER
- 5" COMPACTED SAND



DEC. 3 / 02

MEMORANDUM

To: Okanagan Local Government Administrators
From: Anna Warwick Sears, Executive Director
Date: January 20, 2014
Subject: Sewage Facilities Grant Program Policy on Small-lot Accessory Dwellings

Summary: The purpose of this memo is to update local governments on OBWB's sewage grants 1.0-hectare policy. This policy, which requires grant recipients to enact bylaws prohibiting the subdivision of small lots on septic, has now been expanded to include accessory dwellings (carriage houses) on lots smaller than 1.0-hectare. **The OBWB requests Okanagan local governments to update their bylaws to exclude development of accessory dwellings (carriage houses) on lots less than 1.0 hectare that rely on on-site sewage disposal. The OBWB further requests an update of zoning and/or subdivision and development servicing bylaws, requiring that secondary suites be tied to the sewage disposal system of the existing dwelling.**

This request only applies to the areas of your jurisdiction within the Okanagan Basin drainage area. Secondary suites that are tied into the existing domestic septic system are accepted (although not recommended) if the sewage disposal system has adequate capacity per health regulations.

Background: The OBWB's Sewage Facilities Assistance program provides funding for Okanagan communities to upgrade wastewater treatment plants and extend community sewer to areas on septic. The program was initiated in 1975.

Since 2007, the OBWB has required sewage grant recipients to have bylaws prohibiting subdivision of lots smaller than 1.0 hectare (see attached Terms of Reference). The 1.0 Hectare (minimum subdivision) Policy is in line with provincial government rules, and was established recognizing that much of the pollution entering lakes and streams comes from failing septic systems. Septic is the highest human-produced source of phosphorus in the watershed.

The premise behind the 1.0 hectare rule is that the more dwelling units there are using septic systems in a given area, the greater the chance that systems may malfunction and less opportunity to find sufficient, suitable, available land for replacement effluent dispersal fields – potentially leading to water pollution and health threats.

- The 1.0 Hectare Policy is based on a scientific assessment by the Ministry of Community, Sport and Cultural Development in the 1990s. Exceptions cannot be made for in-fill subdivision properties, because of the risk of cumulative impacts from many closely-spaced septic systems, and because for fairness reasons we must have a uniform policy throughout the Basin.
- There are many advances in on-site sewage treatment available. However, each of these solutions requires long-term maintenance or else there are continued risks of system failure. Following Provincial policy, the Water Board allows the 1.0 Hectare Policy to be waived only if a Liquid Waste Management Plan is prepared for the site, and if the system itself is adopted by the local government as permanent infrastructure.

In October, the OBWB received an inquiry whether development of secondary suites and detached accessory dwellings (carriage houses) on properties less than 1.0 hectare violates the 1.0 Hectare Policy within the OBWB sewage grant program. With respect to septic systems, adding a carriage house creates similar risks for system failure and water quality impairment as small-lot subdivision, without creating a separate title.


For this reason, the OBWB has now expanded the 1.0 Hectare Policy, and now requires all sewage grant recipients to have bylaws in place restricting carriage houses to properties greater than 1.0 hectare, or to properties with community sewer connections (see Terms of Reference section 3.6.1). Secondary suites that are tied into the existing domestic septic system are accepted (although not recommended) if the sewage disposal system has adequate capacity per health regulations.

Please do not hesitate to contact me with any questions, by email at: anna.warwick.sears@obwb.ca, or phone at: (250) 469-6251.

Sincerely,



Anna Warwick Sears
Executive Director

ATTACHMENT		C
This forms part of application		
# Z20-0032		
Planner Initials	TC	 City of Kelowna <small>DEVELOPMENT PLANNING</small>

CITY OF KELOWNA MEMORANDUM

Date: April 29, 2020
File No.: Z20-0032
To: Land Use Planning Manager (AK)
From: Development Engineering Manager (JK)
Subject: 4350 June Springs Road Lot 2 Plan 56325 RR1 to RR1C

Development Engineering has the following comments and requirements associated with this application.

1. Domestic water and fire protection.

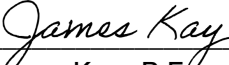
- a) The subject property is within the service area of the former South East Kelowna Irrigation District (SEKID). The utilisation of existing and proposed services, as well as fire protection will be reviewed by Building & Permitting.


2. Sanitary Sewer.

- a) This subject parcel is currently not within the City service area. Sanitary sewage is presently handled by an on-site sewage disposal system.
- b) Existing and proposed on-site servicing will be reviewed by the Interior Health Authority and Building & Permitting.

3. General and Access

- a) Foliage shall be kept cleared in both directions for the existing driveways to ensure that when egressing the properties, sightlines are not obstructed


James Kay, P.Eng.
Development Engineering Manager
JF

ATTACHMENT		D
This forms part of application # Z20-0032		
Planner Initials	TC	 City of Kelowna DEVELOPMENT PLANNING



Z20-0032

4350 June Springs Road

Rezoning Application



Proposal

- ▶ To consider a Staff recommendation to NOT rezone the subject property that would bring the existing carriage house into conformance.

Development Process

Apr 1st, 2020

Development Application Submitted



Staff Review & Circulation



Feb 4th, 2021

Public Notification Received



Mar 15th, 2021

Initial Consideration



Public Hearing
Second & Third Readings



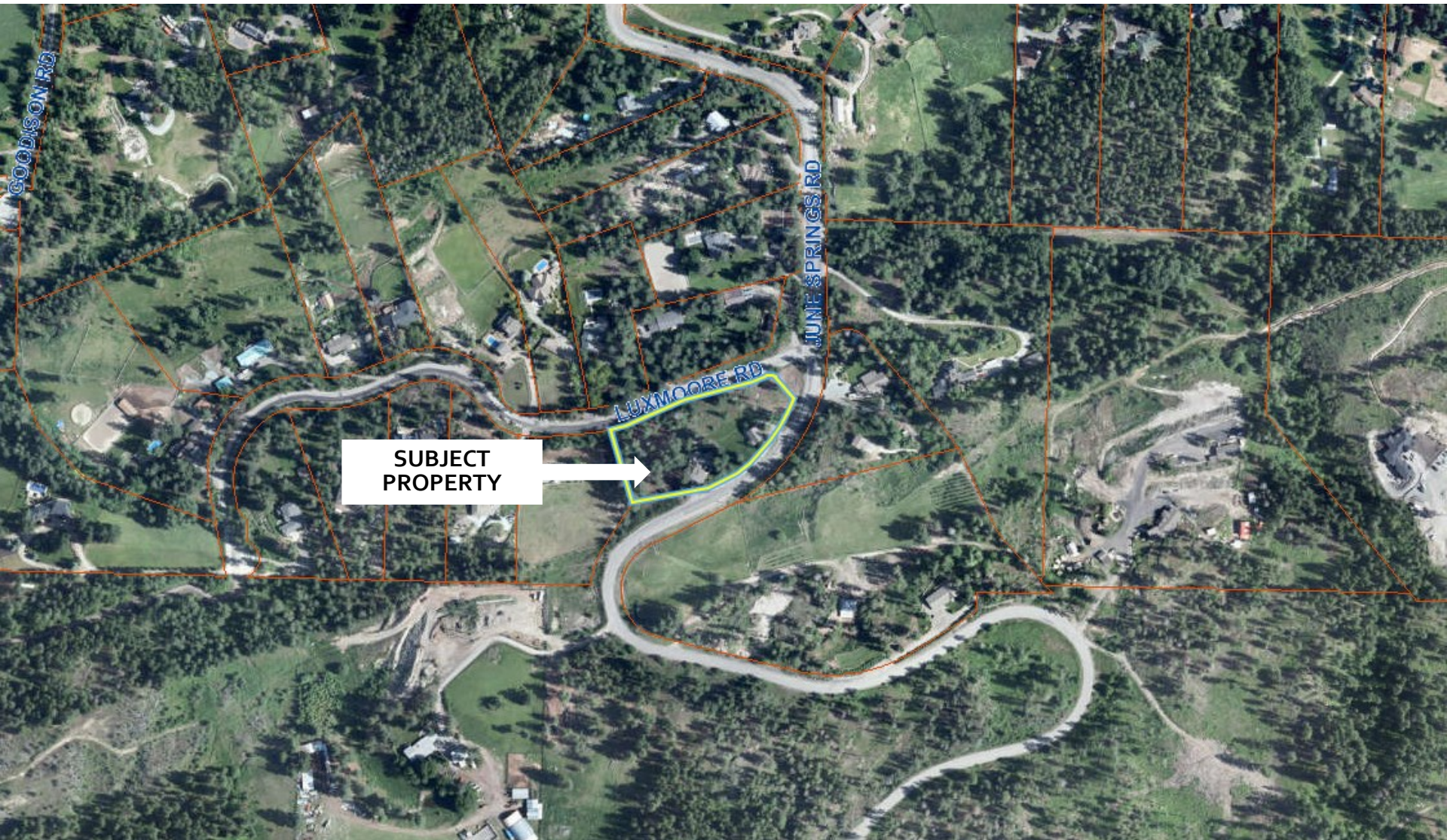
Final Reading
DP & Variances



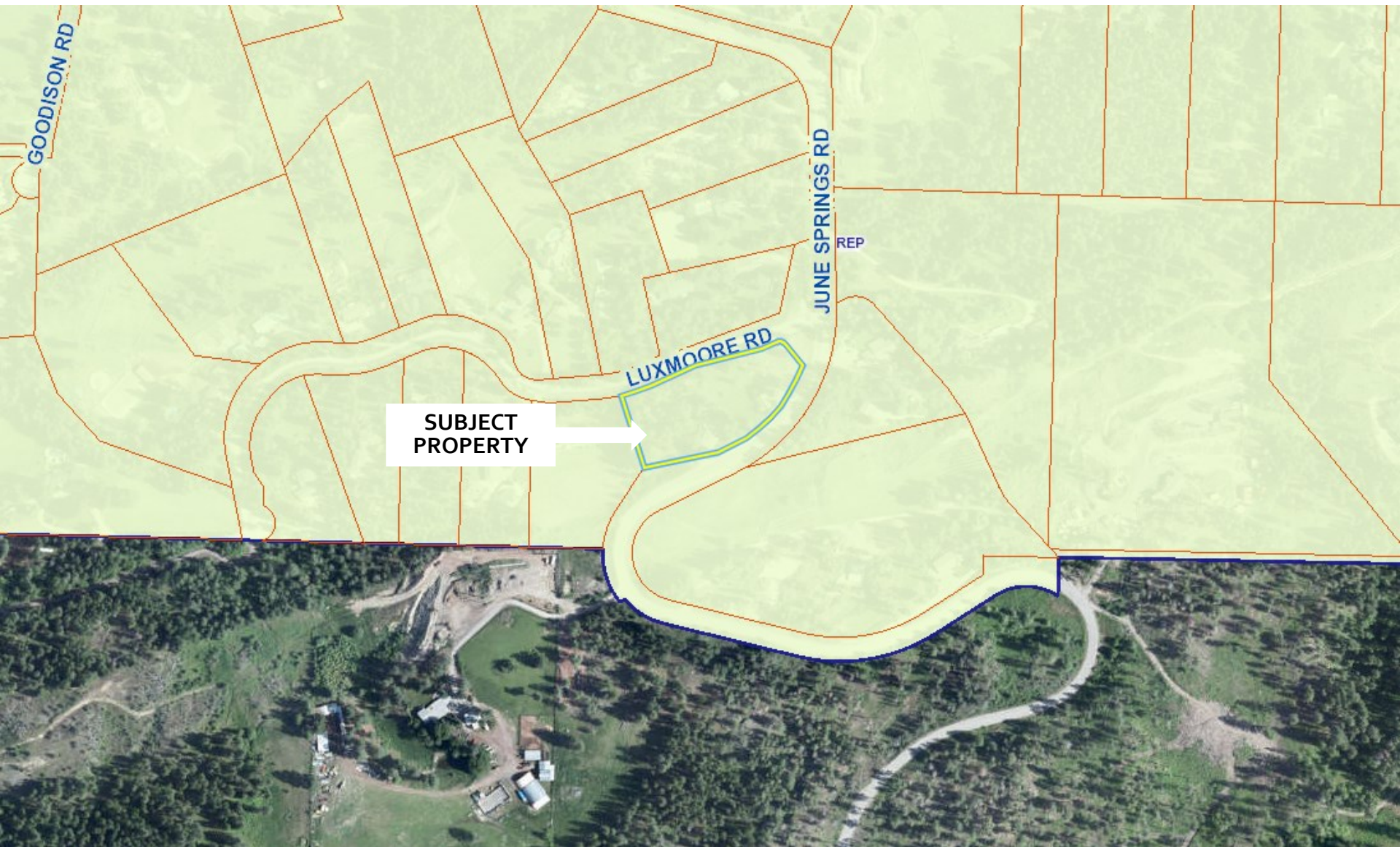
Building Permit

Council
Approvals

Context Map



OCP Future Land Use



Subject Property Map



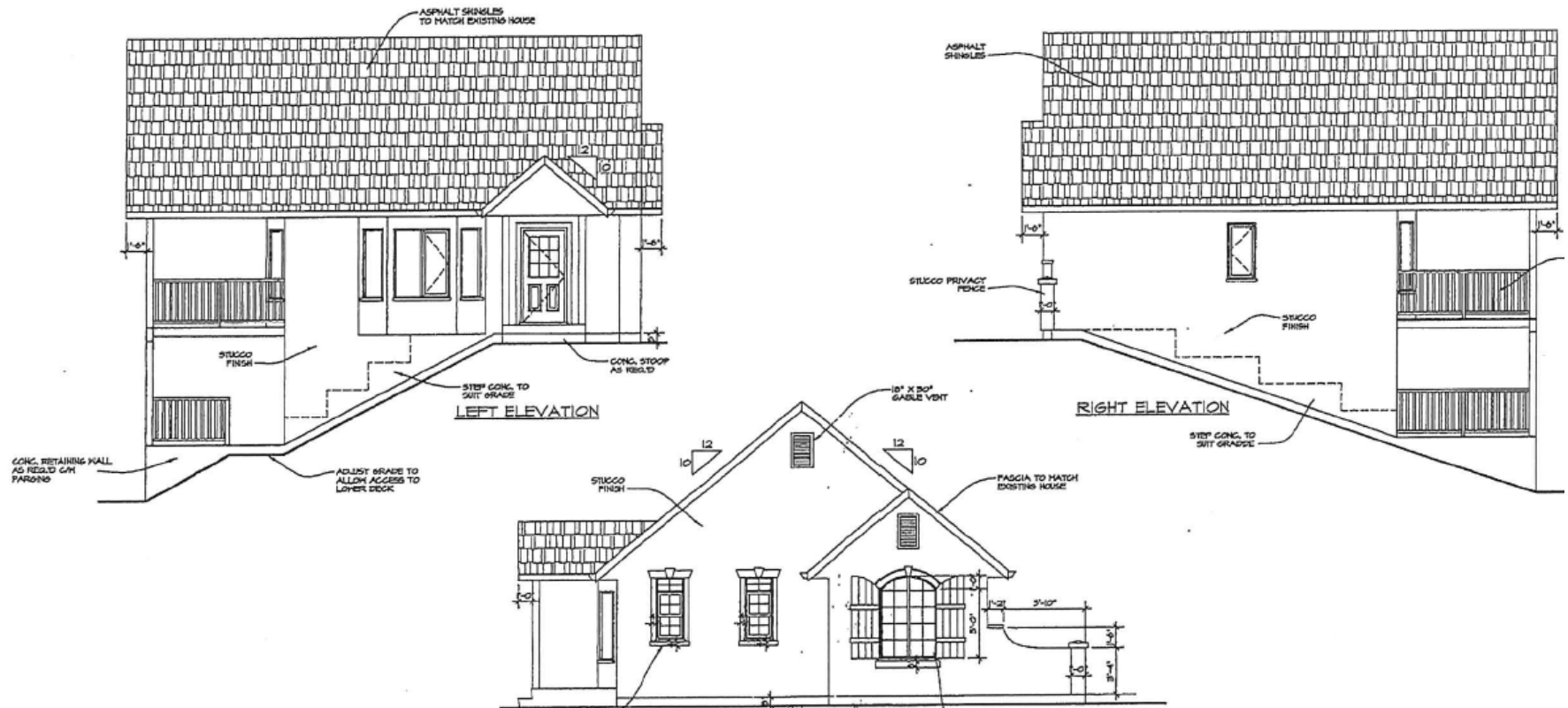
Project details

- ▶ The accessory building was built in 2003.
 - ▶ It was built as an art studio, office and an unfinished basement.
- ▶ Illegal suite investigation was initiated on May 30th, 2018 by Bylaw Services.
 - ▶ Investigation concluded that the building had been inhabited since 2014.
- ▶ The proposed rezoning would bring the illegal carriage house into conformance.

Site Photos



Site Plan



Development Policy

- ▶ Okanagan Basin Water Board's (OBWB) Sewage Grant Program Policy.
 - ▶ Amended in 2014.
 - ▶ Requires sewage grant recipients (incl. CoK) to have bylaws in place restricting carriage houses to properties greater than 1.0ha or to properties with community sewer connections.

- ▶ Official Community Plan
 - ▶ Objective 5.3.1 – Permanent Growth Boundary.

Public Notification Policy no. 367

- ▶ Applicant submitted a neighbourhood consultation summary form on February 4th, 2021.
 - ▶ All neighbours within 300m of the subject property were notified.

Staff Recommendation

- ▶ Development Planning Staff do **not** recommend support for the proposed Rezoning Application:
 - ▶ Property is located in Southeast Kelowna with no abilities to connect to a community sanitary system.
 - ▶ Zoning Bylaw, Subdivision & Servicing Bylaw, and OBWB's policies do not support the development of carriage houses on lots less than 1.0hha that rely on on-site sewage disposal.
 - ▶ Staff do not wish to compromised future sewage infrastructure funding opportunities by supporting the development of carriage houses that contravene OBWB's policies.



Conclusion of Staff Remarks

REPORT TO COUNCIL



Date: March 15th, 2021

To: Council

From: City Manager

Department: Development Planning Department

Application: A19-0014

Owner: Carol Grassmick

Address: 2825 Longhill Road

Applicant: Associated Environmental -
Melanie Piorecky

Subject: Agricultural Land Reserve Application

Existing OCP Designation: REP – Resource Protection

Existing Zone: A1 – Agriculture 1 and RR2 – Rural Residential 2

1.0 Recommendation

THAT Agricultural Land Reserve Appeal No. A19-0014 for Lot A Section 34 Township 26 ODYD Plan 36168 Except Plan 36259, located at 2825 Longhill Road, Kelowna, BC, for a non-farm use in the Agricultural Land Reserve pursuant to Section 20(2)(a) of the Agricultural Land Commission Act, NOT be supported by Council;

AND FURTHER THAT Council directs Staff NOT to forward the subject application to the Agricultural Land Commission for consideration.

2.0 Purpose

To consider a Staff recommendation to NOT support an application to the ALC for a Non-Farm Use Permit to allow a soil storage and fabrication business to operate on the subject property.

3.0 Development Planning

Staff do not support the proposal for a soil storage and fabrication business to operate on the subject property located within the Agricultural Land Reserve (ALR) as it is not consistent with the objectives of the Official Community Plan and Agricultural Plan. In order to protect and enhance local agriculture, the policy of the Official Community Plan provides support for non-farm use applications only where the proposed use meets the following criteria:

- i. Consistent with the Zoning Bylaw and Official Community Plan;
- ii. Provides significant benefits to local agriculture;

- iii. Can be accommodated using existing municipal infrastructure;
- iv. Minimizes impacts on productive agricultural lands;
- v. Will not preclude future use of the lands for agriculture; and,
- vi. Will not harm adjacent farm operations.

The proposal does not demonstrate how the business would enhance or protect the lands, but largely does the opposite and Staff have not been able to quantify any significant benefit to agriculture. Reflective of this land use conflict, soil fabrication businesses are not an allowable use within the A1 – Agricultural 1 zone.

The proposal has no impact on municipal infrastructure; however, the Development Engineering Memo indicates that this property has two entrances onto Longhill Road, which doesn't meet Bylaw 7900 – Subdivision, Development and Servicing Bylaw. More specifically in Section 4.6 – Curb and Gutter, Sidewalk and Bike Lanes, which only allows one driveway access per road frontage. The second driveway will have to be removed to meet the bylaw.

Part of the protection of ALR land is to maintain long-term access to agriculture and help with food security. Soil fabrication and storage doesn't help with either agriculture or with food security. There is potential to preclude future use of the land for agricultural purposes. The Land Capability Classification for Agriculture in BC manual published by the Ministry of Agriculture which assesses the agricultural capability of land, identifies that the agricultural land capability is both Class 4 and Class 5. Class 4 and 5 have limitations, which only make it suitable for a few crops, however, this is appropriate for fruit trees or grapes and adapted crops like cranberries. This soil can also be improved to both Class 3NW and Class 3D soil, which is more suitable for a wide range of crops. The soil storage and fabrication does not benefit the existing agricultural land and can be improved to a point many crops suitable to the Central Okanagan climate. There is limited agricultural activity adjacent to the property, however, the runoff from the soil storage may impact neighbouring soil conditions as well as the neighbouring wetland.

4.0 Proposal

4.1 Project Description

The subject property is a 3.71-acre (1.5 ha) property located near the intersection of Longhill Road and Sexsmith Road. There is an existing single-family dwelling on the subject property. There is no agriculture on the property and the site is being used for a commercial business that stores and fabricates soils for resale to businesses.

This non-farm use application came forward due to compliance and enforcement activity by the ALC. They required the operator to stop the use or apply for a non-farm use application, as the uses on-site are not a permitted use in the ALR. The property has been in possession of the owners since 1991, an excavation company started in 1995 and the soil fabrication business started in 2007. The business was operating under a nursery license, but as of October 2019 it wasn't renewed because it was determined that the business did not meet the definition of a nursery. As part of the business operation, a mini excavator, a large excavator, and a large backhoe are stored on site.

The soil fabrication business requires several types of soil and amendments to be imported and stored on the property, which consist of the following materials:

- Topsoil, which is excavated and hauled to the property from excavation jobs;

- Manure and animal bedding mixture from a nearby cattle feedlot;
- OgoGrow, Class A compost mixture that is sold by the City of Kelowna;
- GlenGrow, compost that is created by the City Of Kelowna green waste;
- Fly ash from Tolkos bioenergy burner;
- Crushed gravel that is brought on site from local quarries.

These materials are screened and sold by the owner, none of which remains on the property full-time. The fill area measures 0.9ha, with a depth of 6m and the estimated volume of fill is 6000m³.

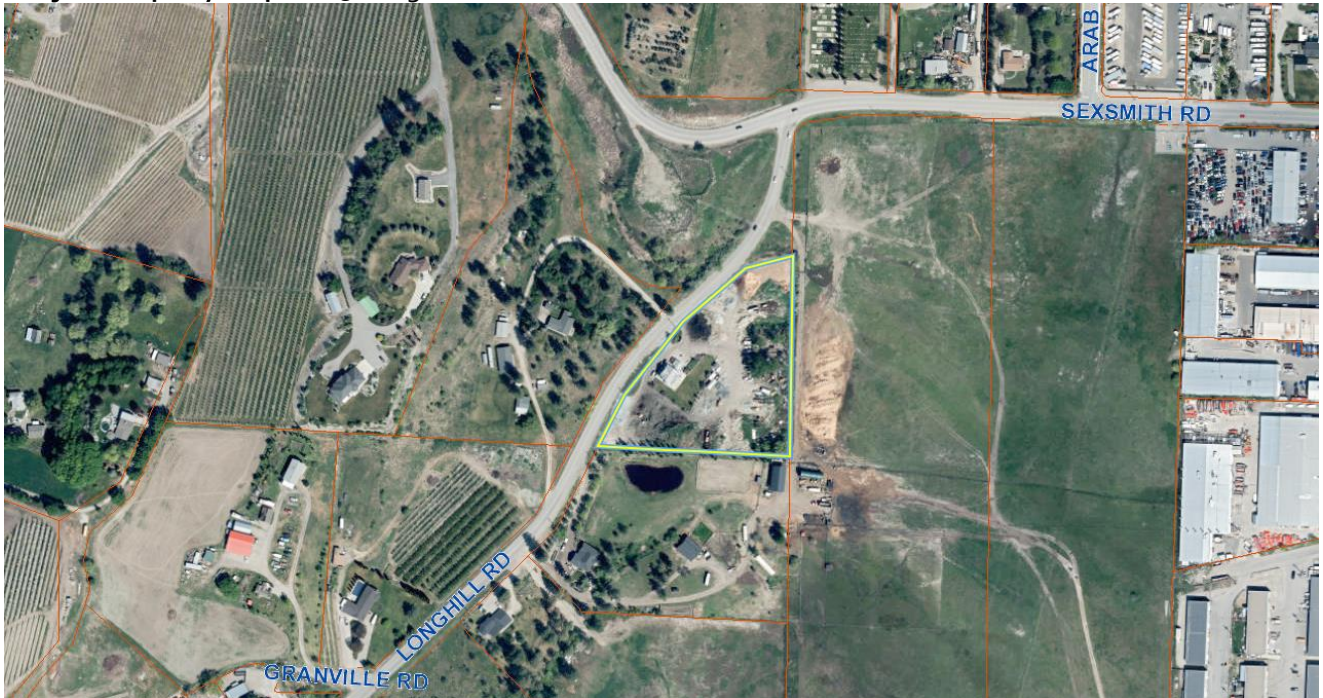
4.2 Site Context

The subject property has the Future Land Use Designation of REP – Resource Protection Area within the City's Official Community Plan (OCP). The property is zoned both A1 – Agriculture 1 and RR2 – Rural Residential 2 and is within the Agricultural Land Reserve (ALR). The subject property lies within the Glenmore – Clifton – Dilworth OCP Sector. Much of the surrounding area is within the ALR and has a Future Land Use Designation of REP – Resource Protection.

Specifically, adjacent land uses are as follows:

Orientation	Zoning	Land Use
North	A1 – Agriculture 1 (ALR)	Vacant City-Owned Parcel / Wetland
East	A1 – Agriculture 1 (ALR)	Cattle / Vacant
South	A1 – Agriculture 1 / RR2 – Rural Residential 2 (Partially in ALR)	Rural Residential / Minimal Agriculture
West	A1 – Agriculture 1 (ALR)	Rural Residential

Subject Property Map: 2825 Longhill Road



5.0 Current Development Policies

5.1 Kelowna Official Community Plan (OCP)

Chapter 5: Development Process

Objective 5.33 Protect and enhance local agriculture Policy .1 - Protect Agricultural Land.

Retain the agricultural land base by supporting the ALR and by protecting agricultural lands from development, except as otherwise noted in the City of Kelowna Agricultural Plan. Ensure that the primary use of agricultural land is agriculture, regardless of parcel size.

Objective 5.33 Protect and enhance local agriculture Policy .6 - Non-farm Uses.

Support non-farm use applications on agricultural lands only where approved by the ALC and where the proposed uses:

- are consistent with the Zoning Bylaw and OCP;
- provide significant benefits to local agriculture;
- can be accommodated using existing municipal infrastructure;
- minimize impacts on productive agricultural lands;
- will not preclude future use of the lands for agriculture;
- will not harm adjacent farm operation

5.2 **Kelowna Agriculture Plan**

Official Community Plan recommendations

- **Prohibit non-farm use.** Support non-farm uses in farm areas only that have a direct and ongoing benefit to agriculture. Restrict and/or prohibit non-farm uses that do not directly benefit agriculture.

6.0 Technical Comments

6.1 Development Engineering Department

- Development Engineering Memo Attached

6.2 Ministry of Agriculture

- See Attached Letter

6.3 Interior Health

- See Attached Letter

7.0 Application Chronology

Date of Application Received: September 5th, 2019
Agricultural Advisory Committee February 25th, 2021

The above note application as reviewed by the Agricultural Advisory Committee at the meeting held at February 25th, 2021 and the following recommendations were defeated:

THAT the Committee recommend Council the permission of a non-farm use permit to allow for a soil fabrication business to operate on the subject property.

Anecdotal comments from the Agricultural Advisory Committee (AAC) are that a length of time for the non-farm use should be established. The applicant should work with the City to see if there are other avenues to pursue that would allow for a non-farm use. In general, fabricating soil does not support agricultural use. The Committee recognizes it is a non-farm use and is not comfortable providing a permanent recommendation for this kind of use on the property. It sets a precedent for other small ALR properties in Kelowna.

8.0 Alternate Recommendation

THAT Agricultural Land Reserve Appeal No. A19-0014 for Lot A Section 34 Township 26 ODYD Plan 36168 Except Plan 36259, located at 2825 Longhill Road, Kelowna, BC, for a non-farm use in the Agricultural Land Reserve pursuant to Section 20(2)(a) of the Agricultural Land Commission Act, be supported by Council;

AND THAT Council directs Staff to forward the subject application to the Agricultural Land Commission for consideration.

Report prepared by: Tyler Caswell, Planner I

Reviewed by: Dean Strachan, Community Planning & Development Manager

Reviewed by: Terry Barton, Development Planning Department Manager

Approved for Inclusion: Ryan Smith, Divisional Director, Planning & Development Services

Attachments:

Attachment A: ALC Non-Farm Use Application

Attachment B: Site Plan

Attachment C: Letter from Ministry of Agriculture

Attachment D: Letter from Interior Health

Attachment E: Development Engineering Memo



ATTACHMENT		A
This forms part of application		
# A19-0014		
Planner Initials	TC	 City of Kelowna DEVELOPMENT PLANNING

Provincial Agricultural Land Commission - Applicant Submission

Application ID: 59572

Application Status: Under LG Review

Applicant: Carol Grassmick

Agent: Associated Environmental

Local Government: City of Kelowna

Local Government Date of Receipt: 08/13/2019

ALC Date of Receipt: This application has not been submitted to ALC yet.

Proposal Type: Non-Farm Use

Proposal: The property has been under review by the ALC (ALC C&E File 79623), and the ALC requires that the landowner apply for non-farm use approval. This application and supporting report is meant to describe the land use and the mapped soils and agricultural capability on site and is in support of the fill placement under a non-farm use application.

Agent Information

Agent: Associated Environmental

Mailing Address:

200-2800 29th Street

Vernon, BC

V1T 9P9

Canada

Primary Phone: (250) 545-2038

Email: pioreckym@ae.ca

Parcel Information

Parcel(s) Under Application

1. **Ownership Type:** Fee Simple

Parcel Identifier: 002-745-950

Legal Description: L A SEC 34 TP 26 OSOYOOS DIVISION YALE DISTRICT PL 36168 EXC PL 36259

Parcel Area: 1.5 ha

Civic Address: 2825 Longhill Road, Kelowna, BC

Date of Purchase: 07/23/1991

Farm Classification: No

Owners

1. **Name:** Carol Grassmick

Address:

Applicant: Carol Grassmick

2825 Longhill Road
Kelowna , BC
V1V 2G5
Canada
Phone: (250) 863-3181
Email: carolgrassmick@hotmail.com

ATTACHMENT A

This forms part of application

A19-0014

Planner
Initials

TC



Current Use of Parcels Under Application

1. Quantify and describe in detail all agriculture that currently takes place on the parcel(s).

No agriculture

2. Quantify and describe in detail all agricultural improvements made to the parcel(s).

Fabricated soil mixed on site has been placed in the immediate area around the residence to increase nutrients and drainage for landscaping. Beyond basic landscaping, no agricultural improvements have been made the parcel itself.

3. Quantify and describe all non-agricultural uses that currently take place on the parcel(s).

Currently, the property is used to store and fabricate soils for resale to businesses and individuals for use in landscaping. The soil and amendments imported and stored on the property consist of the following materials:

*Topsoil excavated and hauled to the property by the proponent from excavation jobs;
Manure and animal bedding mixture from nearby cattle feedlot;
OgoGrow, the Class A compost mixture sold by the City of Kelowna;
GlenGrow compost created from the City of Kelownas green waste;
Fly ash sourced from Tolkos bioenergy burner in Kelowna; and
Crushed gravel screened from imported topsoil and decorative rocks from local quarries*

The proponent screens the imported topsoil on site and then mixes it with amendments in various proportions. Contaminated soils and construction debris are not accepted on the property. None of the material is intended to stay on the property permanently. The materials will be removed from the property upon closure of the business and/or when the proponent retires.

To reduce potential for compaction, the proponent uses a bobcat to move materials and only provides access for hauling trucks along existing roads.

Adjacent Land Uses

North

Land Use Type: Unused
Specify Activity: unused

East

Land Use Type: Other
Specify Activity: some cattle grazing, mostly unseeded

South**Land Use Type:** Residential**Specify Activity:** single family home**West****Land Use Type:** Residential**Specify Activity:** single family home**Proposal****1. How many hectares are proposed for non-farm use?***1 ha***2. What is the purpose of the proposal?**

The property has been under review by the ALC (ALC C&E File 79623), and the ALC requires that the landowner apply for non-farm use approval. This application and supporting report is meant to describe the land use and the mapped soils and agricultural capability on site and is in support of the fill placement under a non-farm use application.

3. Could this proposal be accommodated on lands outside of the ALR? Please justify why the proposal cannot be carried out on lands outside the ALR.

The soil fabrication could be accommodated on lands outside the ALR, but due to the retroactive nature of this proposal, it is not considered feasible. The Grassmicks have been operating their soil fabrication business since 2007 and have established a base of local clientele, and due to the cost restrictions associated with hauling soils, moving properties could mean a large loss in clientele. It would also not be economically feasible to move locations, due to property prices in the area and the cost to haul the existing soil stockpiles offsite.

4. Does the proposal support agriculture in the short or long term? Please explain.

The business may not directly support agriculture onsite, but it creates nutrient rich, viable soils for an affordable price. These soils are sold locally to landscapers, nurseries and hobby farms in the area. Native soils are preserved beneath the stockpiles for future cultivation of the land.

5. Do you need to import any fill to construct or conduct the proposed Non-farm use?*Yes***Proposal dimensions****Total fill placement area (to one decimal place)** *0.9 ha***Maximum depth of material to be placed as fill** *6 m***Volume of material to be placed as fill** *6000 m³***Estimated duration of the project.** *1 Years***Describe the type and amount of fill proposed to be placed.**

Six types of fill are to be brought on site in the following quantities. Note this is a continuing operation and volumes are on a per year basis.

*Topsoil - 800 m³/year**Manure - 500 m³/year*

OgoGrow- 3000 m3/year
GlenGrow - 500 m3/year
Fly ash - 200 m3/year
Crushed gravel/decorative rocks 1000 m3/year

Briefly describe the origin and quality of fill.

Topsoil is excavated and hauled to the property by the proponent from excavation jobs. This soil is free of foreign materials in contaminants. Quality varies based on where it is excavated from, but generally the material is somewhat sandy, nutrient poor material found within the Okanagan valley.

Manure is mixed with animal bedding from a nearby cattle feedlot. The mixture is partially composted before it is moved to the property.

OgoGrow is the Class A compost mixture sold by the City of Kelowna. The compost is mix of biosolids, wood waste and wood ash created using Extended Aerated Static Pile Composting. OgoGrow is tested to assure it meet the standards of the BC Organic Matter Recycling Regulations and the federal Canadian Food Inspection Agency regulation to safely be applied to flowers, shrubs and vegetable gardens.

GlenGrow is the compost created from the City of Kelownas green waste (plant material). The plant material is processed to remove foreign materials such as metal or plastic, before being chipped, and composted at a facility at the Glenmore Landfill.

Fly ash is sourced from Tolkos bioenergy burner in Kelowna.

Crushed gravel/decorative rocks are screened from the imported topsoil as well as brought in from quarries

Applicant Attachments

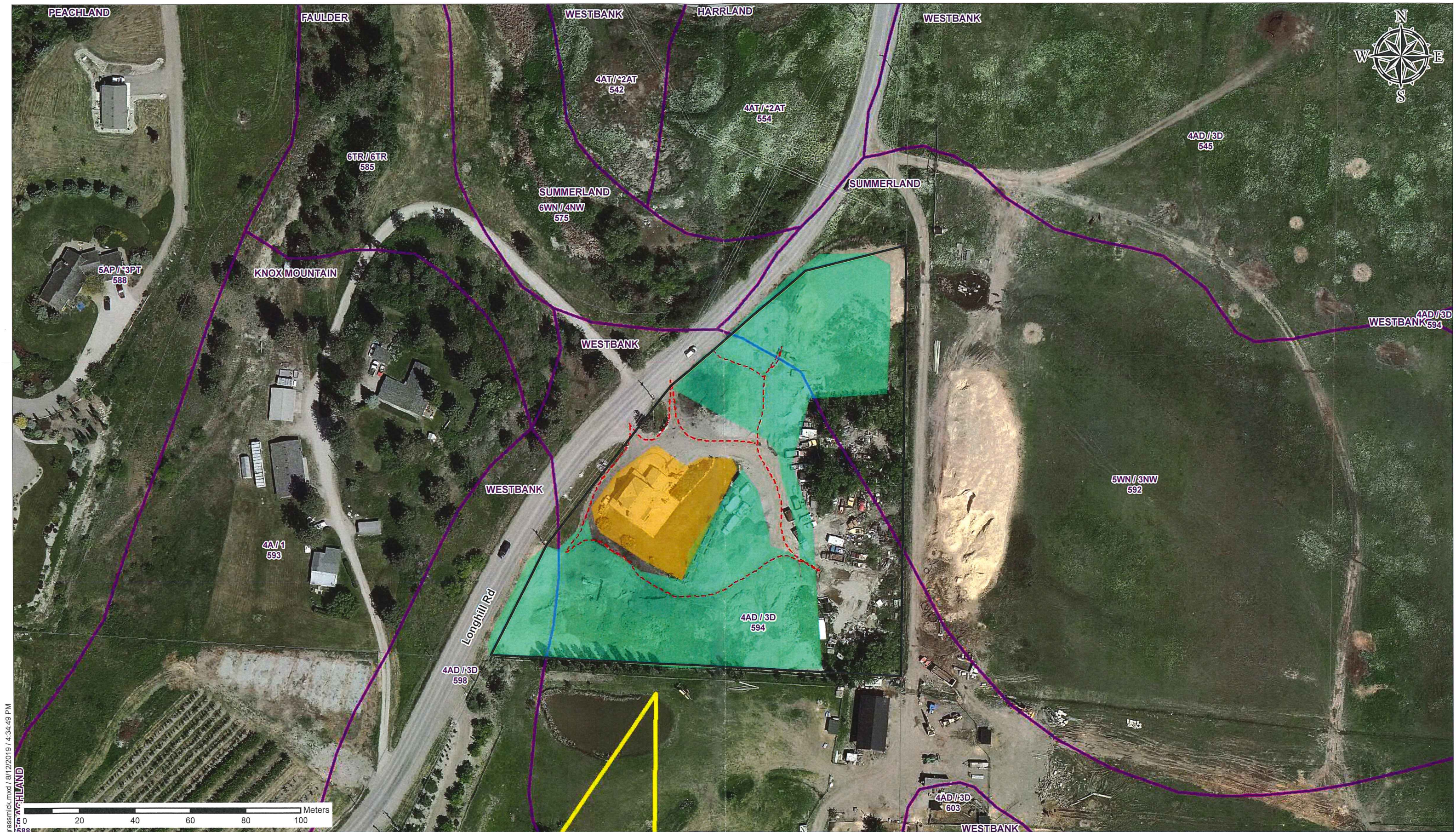
- Agent Agreement - Associated Environmental
- Other correspondence or file information - agent authorization Jerald
- Proposal Sketch - 59572
- Certificate of Title - 002-745-950

ALC Attachments

None.

Decisions

None.



grassmick.mxd / 8/12/2019 / 4:34:49 PM



**Associated
Environmental**

- Subject property
- Access roads
- ALR boundary
- Residence
- Stockpiles

ATTACHMENT B

This forms part of application
A19-0014

Planner Initials TC

City of Kelowna
DEVELOPMENT PLANNING

Soil polygons

Decile and dominant agricultural class (normal) with limitations

Decile and dominant agricultural class (improved) with limitations

Soil type

GAMMIL
7:3 AT/7:1A

PROJECT NO.: 2019-8414
DATE: August 2019
DRAWN BY: BdJ

FIGURE 3-1: MAPPED SOIL AND AGRICULTURAL CAPABILITY
Grassmick's Excavating Ltd.
Agriculture Advisory Services



September 5 2019

File: A19-0014

City of Kelowna
1435 Water Street
Kelowna BC V1Y 1J4
E-mail: planninginfo@kelowna.ca

Re: ALC Non-Farm Use Application A19-0014 at 2825 Longhill Road

To the City of Kelowna,

Thank you for providing the B.C. Ministry of Agriculture the opportunity to comment on the Agricultural Land Commission Non-Farm Use application at 2825 Longhill Road. I have reviewed the documents you have provided. From an agricultural perspective I can provide the following comments for your consideration:

- The parcel is located within the Agricultural Land Reserve (ALR), a provincial zone in which agriculture is recognized as the priority use; where farming is encouraged, and non-agricultural uses are restricted.
- Ministry of Agriculture staff have concerns regarding this application. When non-agricultural uses occur in the ALR, the potential for conflict between land uses and users can increase as practices may not be compatible.
- It is not in the best interest of agriculture to remove land from agricultural productivity in the ALR. Long term access to ALR lands is in the interest of agriculture and food security. The non-agricultural commercial use of agricultural land can negatively impact the farming operation on the remaining parcel.
- Ministry staff are available to discuss viable agricultural opportunities with land owners considering pursuing farming activities on non-farmed ALR land.

If you have any questions, please contact me directly at christina.forbes@gov.bc.ca or 250-861-7201.

Sincerely,

Christina Forbes, P.Ag
Regional Agrologist
B.C. Ministry of Agriculture – Kelowna
Office: (250) 861-7201
E-mail: christina.forbes@gov.bc.ca

Email copy: ALC Planner, ALC.Okanagan@gov.bc.ca



Interior Health

Every person matters

September 12, 2019

Sergio Sartori
Development Technician
City of Kelowna
1435 Water Street, Kelowna, BC V1Y 1J4

Dear Sergio,

Re. Application for non-farm use in the ALR: A19-0014

Thank you for the opportunity to provide comments on this application. It is our understanding that this is an application for non farm use to permit soil storage and fabrication for resale. This application has been reviewed from the Healthy Food System perspective.

The following are Population Health related comments for Kelowna staff, councillors to consider when making their decision. Interior Health has an interest in protecting agricultural land and increasing the capacity of local food systems as a way to support our community's food security. Food security is vital to the health and well-being of a community and is the foundation for healthy eating. Food security has been recognized as a key public health issue by the BC Ministry of Health.

In the interest of food security, and the ability of our citizens to access healthy and safe food, we suggest the consideration of the following:

- From a food security perspective, it is ideal that land in the ALR be used for its intended purpose. This application does not support food security and our communities' ability to produce local food. This is primarily a landscape business.
- Food self-sufficiency in BC is increasingly important, as extreme weather will affect food production in California and elsewhere. Currently, California supplies 40%-50% of BC's imported fruits and vegetables.
- If this application is approved, ensuring the non-farm use is done in a way that minimally impacts farmland and can be easily converted back to land that supports agriculture activities

Regards,



Joanne Redies, BSc, RD
Public Health Dietitian
Healthy Communities 505 Doyle Avenue, Kelowna, BC V1Y 0C5

Business: 250-469-7070 ext 12085

Fax: 250-868-7760

Email: joanne.redies@interiorhealth.ca

CITY OF KELOWNA

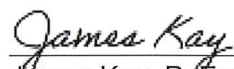
MEMORANDUM

Date: September 10, 2019
File No.: A18-0014
To: Suburban and Rural Planning (LB)
From: Development Engineering Manager (JK)
Subject: 2825 Longhill Road

The Development Engineering comments regarding this application within the Agricultural Land Reserve are as follows:

Development Engineering has the following comments at this point in time with regard to this application, however, This Land Capability Assessment report will be assessed at the time of development application submission, if the Agricultural Land Commission agrees to the proposed activity on the subject property.

- a) Note that the current residence appears to be outside of the existing Fire Hydrant coverage limits.
- b) Only an entrance and one exit will be allowed for access to Longhill Rd. All others must be removed.
- c) All dust complaints will be addressed by owner/Business of this property.


James Kay, P. Eng.
Development Engineering Manager

RO



A19-0014

2825 Longhill Road

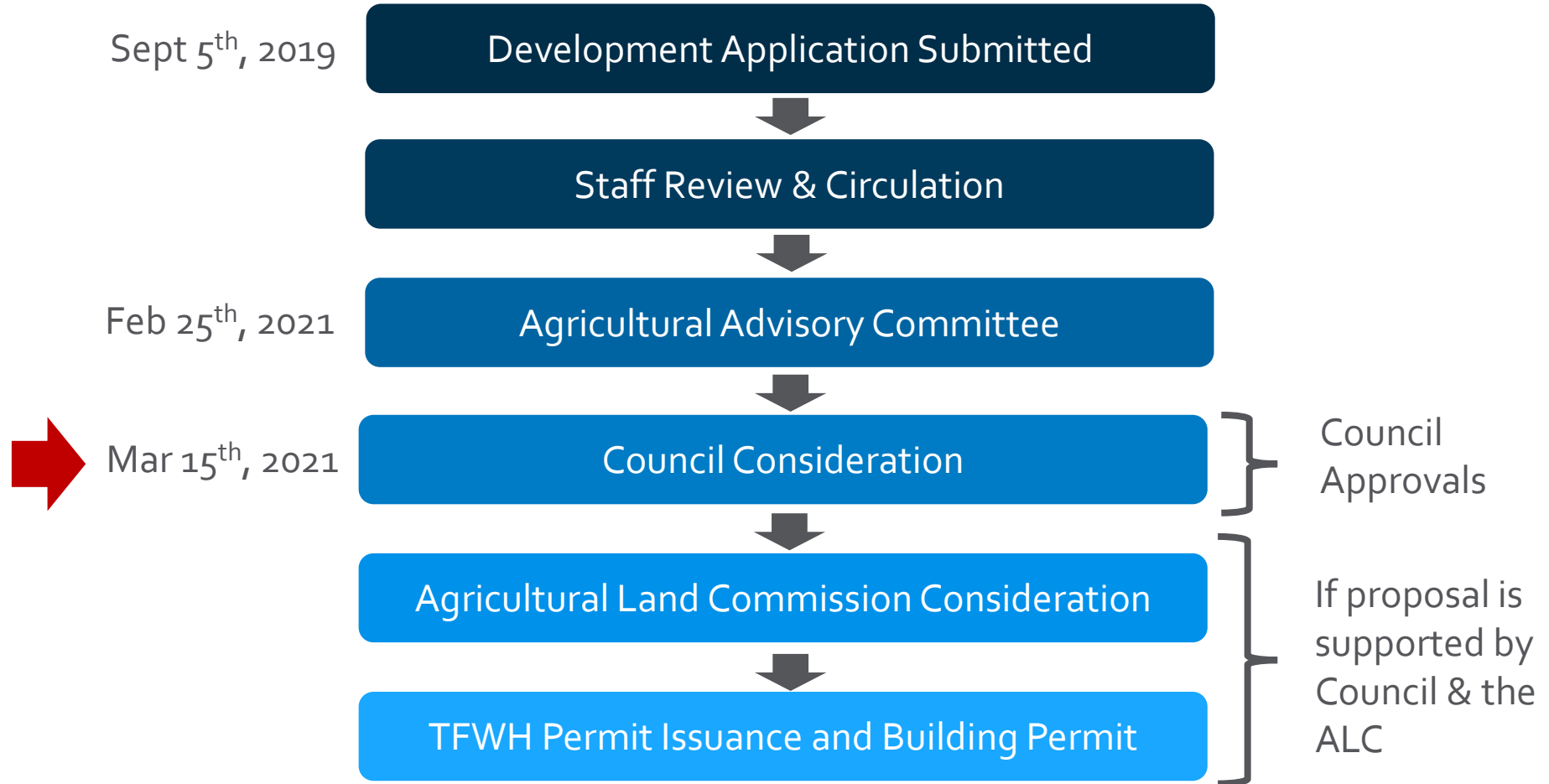
Non-Farm Use Application



Proposal

- ▶ To consider a Staff recommendation to NOT support an application to the ALC for a Non-Farm Use Permit to allow a soil storage and fabrication business to operate on the subject property.

Development Process



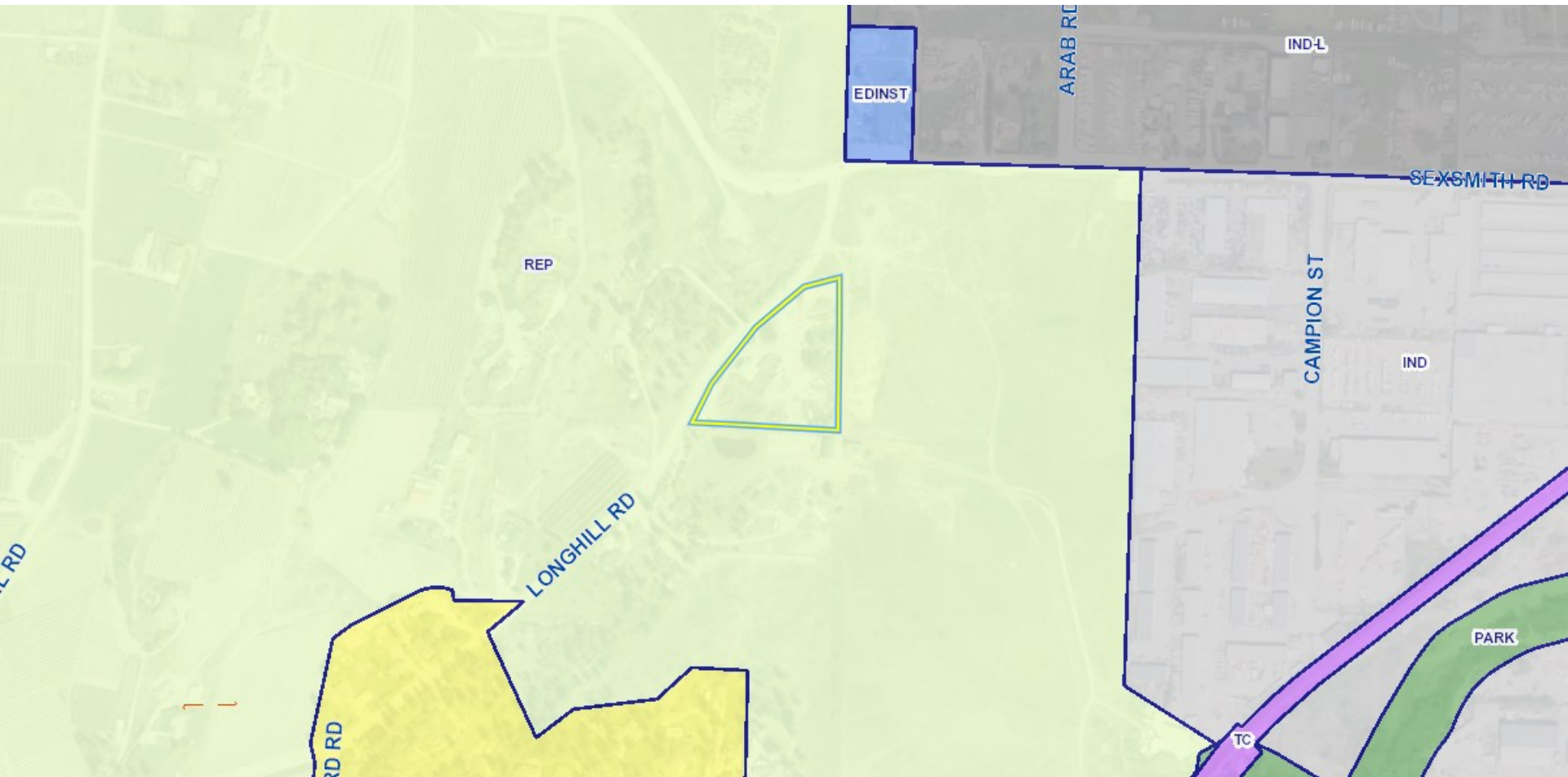
Context Map



Agricultural Land Reserve



OCP – Future Land Use



Subject Property

- ▶ 3.617 acres
- ▶ Split zoned A1 – Agriculture and RR2 – Rural Residential 2
- ▶ Within the ALR
- ▶ Outside of the Permanent Growth Boundary
- ▶ Future Land Use Designation – REP – Resource Protection Area

Subject Property





2000

City of Kelowna



2009

City of Kelowna



2017

City of Kelowna



2020

City of Kelowna

Project Details

- ▶ The Non-Farm Use Application came forward as part of a compliance and enforcement activity by the ALC and Bylaw Services.
- ▶ Applicant was required to apply for the non-farm use application or to stop the operation.
- ▶ The business did have a Business License; however, it was under a Nursery Licences and was not renewed by the City in 2019.

Project Details

- ▶ The Non-Farm Use Application is to allow for the soil storage and fabrication to remain operating on the subject property.
- ▶ As part of the business, a mini excavator, a large excavator and a large backhoe are stored on site.
- ▶ The soil and amendments that are stored on site are:
 - ▶ Topsoil, which is excavated and hauled to the property from excavation jobs
 - ▶ Manure and animal bedding mixture from a nearby cattle feedlot
 - ▶ OgoGrow, Class A compost mixture that is sold by the City of Kelowna
 - ▶ GlenGrow, compost that is created by the City Of Kelowna green waste
 - ▶ Fly ash from Tolkos bioenergy burner
 - ▶ Crushed gravel that is brought on site from local quarries

Non-Farm Use Applications

- ▶ Official Community Plan provides support for non-farm use applications where the proposal meets:
 - ▶ i. Consistent with the Zoning Bylaw and OCP;
 - ▶ ii. provides significant benefits to local agriculture;
 - ▶ iii. can be accommodated using existing municipal infrastructure;
 - ▶ iv. minimizes impacts on productive agricultural lands;
 - ▶ v. will not preclude future use of the lands for agriculture; and,
 - ▶ vi. will not harm adjacent farm operations

Staff Recommendation

- ▶ Staff do **not** recommend support of the proposed Non-Farm Use Permit.
 - ▶ The business does not meet the intent of the OCP and Rezoning Bylaw.
 - ▶ The business does not benefit agricultural within the City of Kelowna.
 - ▶ The non-farm use will likely preclude the land for future agriculture.
- ▶ Recommend the Bylaw **not** be forwarded to ALC for consideration.



Conclusion of Staff Remarks

CITY OF KELOWNA

BYLAW NO. 12192

A Bylaw to provide for the procedures for the conduct of the 2021 School Trustee By-Election

WHEREAS under the *Local Government Act* and the *School Act*, the Council of the City of Kelowna may, by bylaw, determine various procedures and requirements to be applied in the administration and conduct of school trustee by-elections and other voting;

AND WHEREAS the Council of the City of Kelowna wishes to establish various procedures and requirements in relation to school trustee by-elections and any other voting under that authority;

NOW THEREFORE the Council of the City of Kelowna, in open meeting assembled, enacts as follows:

1. CITATION

1.1 This bylaw may be cited for all purposes as "2021 School Trustee By-Election Bylaw No. 12192".

2. ACCESS TO NOMINATION DOCUMENTS

2.1 As authorized under section 89 of the *Local Government Act*, public access to nomination documents will be available at the Office of the City Clerk, 1435 Water Street, Kelowna, BC during normal working hours of 8 am to 4 pm, Monday to Friday.

3. ADVANCE VOTING OPPORTUNITIES

3.1 The following days are hereby established as required advance voting opportunities for the 2021 school trustee by-election:

- (a) June 16, 2021; and
- (b) June 23, 2021.

3.2 The Chief Election Officer is hereby authorized to establish additional advance voting opportunities in advance of general voting day, and designate the voting places, and set the voting hours for these voting opportunities as identified under section 108 of the *Local Government Act*.

4. MAIL BALLOT VOTING

4.1 Mail ballot voting shall be permitted in accordance with the provisions of Section 110 of the *Local Government Act*, and elector registration shall be permitted to be conducted in conjunction with this voting.

4.2 Sufficient record shall be kept by the Chief Election Officer so that challenges to the elector's right to vote may be made in accordance with the intent of section 126 of the *Local Government Act*.

4.3 A person exercising the right to vote by mail under the provisions of the *Local Government Act* may be challenged in accordance with, and on the grounds specified in section 126 of the *Local Government Act*, until 4:30 p.m. two days before general voting day.

- 4.4 The Chief Election Officer is hereby authorized to establish time limits in relation to voting by mail ballot.
- 4.5 As provided in the *Local Government Act*, a mail ballot must be received by the Chief Election Officer before the close of voting on general voting day in order to be counted for an election.
5. GENERAL VOTING OPPORTUNITIES
- 5.1 The Chief Election Officer is hereby authorized to establish additional general voting opportunities for general voting day, and designate the voting places, and set the voting hours for these voting opportunities.

Read a first, second, and third time by the Municipal Council this 22nd day of March, 2021.

Adopted by the Council of the City of Kelowna this

Mayor

City Clerk

CITY OF KELOWNA

BYLAW NO. 12195

Amendment No. 2 to City of Kelowna Automated Voting Machines Authorization Bylaw No. 10970

The Municipal Council of the City of Kelowna, in open meeting assembled, enacts that the City of Kelowna Automated Voting Machines Authorization Bylaw No. 10970 be amended as follows:

1. THAT "AND WHEREAS pursuant to Section 102 of the *Local Government Act*" be deleted and replaced with "AND WHEREAS pursuant to section 112 of the *Local Government Act*";
2. AND THAT the following definition be added in its appropriate place in Section 2. DEFINITIONS, 2.1:

" '**By-election**' means an election held under Section 54 of the *Local Government Act* or Section 36 of the *School Act*";
3. AND THAT the definition for '**Other voting**' be amended by adding "Part 4" after "referred to in";
4. AND THAT Section 3 USE OF VOTING MACHINES, 3.1 be amended by adding "and **by-elections**" after "**general local elections**";
5. AND THAT Section 4 AUTOMATED VOTING PROCEDURES, 4.4 be amended by deleting "at Parkinson Recreation Centre, 1800 Parkinson Way voting location" and replacing it with "at a voting location determined by the chief election officer.";
6. AND THAT Section 4 AUTOMATED VOTING PROCEDURES, 4.4 be amended by adding the following in its appropriate location:

"(d) Use of the **voter assist terminal** in a **general local election** or **by-election** shall be determined by the chief election officer."
7. AND THAT Section 6 SPECIALVOTING OPPORTUNITY PROCEDURES be amended by adding the following in its appropriate location:

"6.4 For clarity, sections 6.1 to 6.3 only apply to a general local election or by-election that includes special voting opportunities."
8. This bylaw may be cited for all purposes as "Bylaw No. 12195, being Amendment No. 2 to Automated Voting Machines Authorization Bylaw No. 10970."
9. This bylaw shall come into full force and effect and is binding on all persons as and from the date of adoption.

Read a first, second and third time by the Municipal Council this 22nd day of March, 2021.

Adopted by the Municipal Council of the City of Kelowna this

Mayor

City Clerk