

REPORT TO COUNCIL



Date: February 1, 2016

RIM No. 1210-21

To: City Manager

From: Community Planning Department (MS)

Application: A15-0013

Owner: Bikar Johal

Address: 2115 Rutland Road
175 Old Vernon Road
219 Old Vernon Road

Applicant: Kent-Macpherson

Subject: ALC Application to exclude portions of 2115 Rutland Road, 175 Old Vernon Road, and 219 Old Vernon Road from the Agricultural Land Reserve

Existing OCP Designation: Service Commercial / Resource Protection Area

Existing Zone: A1 - Agriculture 1

1.0 Recommendation

THAT Agricultural Land Reserve Appeal No. A15-0013 for portions of Lot 1 Section 35 Township 26 ODYD Plan 4375, located at 2115 Rutland Road North; Lot 11 Section 35 Township 26 ODYD Plan 4375, located at 175 Old Vernon Road; and Lot 12 Section 35 Township 26 ODYD Plan 4375, located at 219 Old Vernon Road; as outlined in Schedule 'A', attached to the staff report dated February 1, 2016, for an exclusion of agricultural land in the Agricultural Land Reserve (ALR) pursuant to Section 30 of the Agricultural Land Commission (ALC) Act, be supported by Council;

AND THAT Council's support be subject to:

1. An Agrology Report which includes:

- 1.1 Agricultural mitigation measures, including the potential for soil salvage and its relocation to other farm properties in the ALR;
- 1.2 A cost estimate and corresponding bonding for soil relocation and mitigation measures; and

2. A Final Report by an Agrologist stating that mitigation measures have been completed.

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

3. Purpose

To support an application to the Agricultural Land Commission for exclusion for the portions of the subject properties orphaned to the west of the Rutland Road Realignment proposed Right of Way.

4. Community Planning

Staff supports the application to exclude the portions of the properties as shown in Schedule 'A', subject to an agrologist's report that outlines measures to mitigate impacts to agriculture, and to benefit agriculture in Kelowna generally. The conditions of support also outline the supervision of mitigation measures and a final completion report signed by a professional agrologist.

The Official Community Plan (OCP) indicates support for exclusions where they satisfy civic objectives¹. The Future Land Use of Service Commercial is identified in the OCP on the lands that will be orphaned by the Rutland Road Extension. In addition, these lands are identified within Permanent Growth Boundary.

Council should consider the impacts of a non-agricultural use and consider mitigation opportunities that would benefit agriculture in the community as a whole, as well as to mitigate any potential impacts to adjacent agricultural lands should the ALC choose to support the proposed exclusion.

5. Proposal

a. Background

Since the 1990s, the transportation plan for Reid's Corner has identified the realignment of Rutland Road to connect with Acland Road to the northeast. The realignment forms part of the Ministry of Transportation Project Six-Laning of Highway 97, as it will help to relieve traffic congestion at the corner of the intersection at Highway 97, Old Vernon Road, and Sexsmith Road.

The realignment bisects three properties in the ALR. Since 1985, the OCP has identified the Future Land Use of the properties in the area as Service Commercial.

A summary of the planning history for the realignment includes (also see attached figures in the Applicant Package):

- OCP 1985 - 2004 - Future Land Use Map identifies Service Commercial identified northeast of Reid's Corner.
- OCP 1994 - 2013 - Future Land Use Map identifies a realignment of Rutland Road from bisecting the subject properties, with a future land use of service commercial to the west of the realignment.
- OCP 2000 - 2020 - Urban Rural Boundaries Maps shows the Permanent Growth Boundary along the Rutland Road Realignment, with the lands to the west shown to be excluded, per the 1998 Agriculture Plan.
- OCP 2000 - 2020 - Future Land Use shown as Service Commercial
- OCP 2010 - 2030 - Future Land Use shown as Service Commercial

A number of applications have been put forward to the Agricultural Land Commission regarding the project. A summary is included below:

- ALC Resolution #1373/92 - Review of draft Highway 97 Sector Plan
 - The Commission instructed staff to convey to the City and the Ministry of Transportation and Highways that:

The Commission agrees in principle with the requested extension and the implied conversion of ALR lands west of the route to the non-farm use, provided the design is based on the lowest standard acceptable for network status in an urban area, so as to minimize encroachment on the ALR.

¹ City of Kelowna, 2012. Official Community Plan – Future Land Use. Section 4.2

- ALC Resolution #203/96 - Exclusion Application for Lot 12 Plan 4375 (219 Old Vernon Road)
- The exclusion as proposed was refused as it was considered premature, however the resolution read:

Notwithstanding, when consensus has been achieved (regarding the precise configuration of the realignment of Rutland Road), the Commission would be willing to exclude the portion of your property which would lie to the west of the finalized road alignment.

This report also cites:

Background Information:

The Commission has agreed in principle to the exclusion of lands west of the proposed Rutland Road extension by the way of the OCP and also by the way of the Kelowna Transportation Plan.

Staff Comment / Recommendation:

Allow exclusion of lands to the west of Rutland Road realignment subject to the consolidation of any remainder with an adjacent ALR Property.

Through an application for exclusion for Lot 12, Plan 4375 in 1996, as noted above, the ALC provided support in principle of the plan, and of the exclusion for the properties west of the realignment, once the design and road location had been finalized. The Rutland Road Alignment was determined and confirmed through the ALC Resolution #295/2014, whereby the Commission approved the exclusion of 2.6 ha of land (ALC File #53711) for the purpose of Highway 97 expansion and the Realignment of Rutland Road.

- ALC Resolution #295/2014 - Application by the Ministry of Transportation and Infrastructure for the application for the Six Laning of Highway 97 Project (including the Rutland Road realignment). The Commission resolved:

THAT the request to use 2.6 ha of ALR affecting fourteen (14) parcels for road right of way for the widening of Highway #97 and the realignment of Rutland Road be approved;

AND THAT the approval is subject to the following conditions(s):

- 1. The road widening and realignment is consistent with the plans submitted with the application.*
- 2. Mitigation of the impacts of the project on agriculture be fulfilled as per the May 29th, 2014 Talisman Land Resource Consultants Agricultural Impact Assessment.*
- 3. The submission of a final report by a professional agrologist confirming that the proposed mitigation actions outlined in the above referenced 'Agricultural impact Assessment are completed as proposed. The final report must be provided to the ALC within 60 days of the completion of the project.*

AND FINALLY THAT this decision does not relieve the owner or occupier of the responsibility to comply with applicable Acts, regulations, bylaws of the local government, and decisions and orders of any person or body having jurisdiction over the land under an enactment.

b. Project Description

The Rutland Road Extension is designed to eliminate a dangerous corner at Old Vernon Road and Sexsmith. The new Rutland Road will make a defensible boundary for the ALR properties to the east. Both Council and staff supported the 1995 application for exclusion of Lot 12 Plan 4375 (219 Old Vernon Road), and have endorsed the future land use of the properties as commercial properties in previous and current Official Community Plans (including OCPs from 1985 to 2004, 1994 to 2013, and 2000 to 2020). In addition, the lands proposed for exclusion lie within the City's Permanent Growth Boundary.

This application is requesting that the lands west of the proposed Rutland Road Realignment Right of Way be excluded from the ALR.

c. Site Context

The subject properties are located in the Rutland Sector of the City and are within the Agricultural Land Reserve. The Future Land Use of the properties is Service Commercial. The portions of the properties in question are zoned A1 - Agriculture 1 (Maps 1 - 7, below) and are within the Permanent Growth Boundary. The properties are level with a slight grade of approximately 1% from a high point on the northeast corner of 219 Old Vernon Road to a low at the west property line of 2115 Rutland Road.

Parcel Summary - 2115 Rutland Road:

Parcel Size: 0.91 ha (2.26 acres)

Parcel Summary - 175 Old Vernon Road:

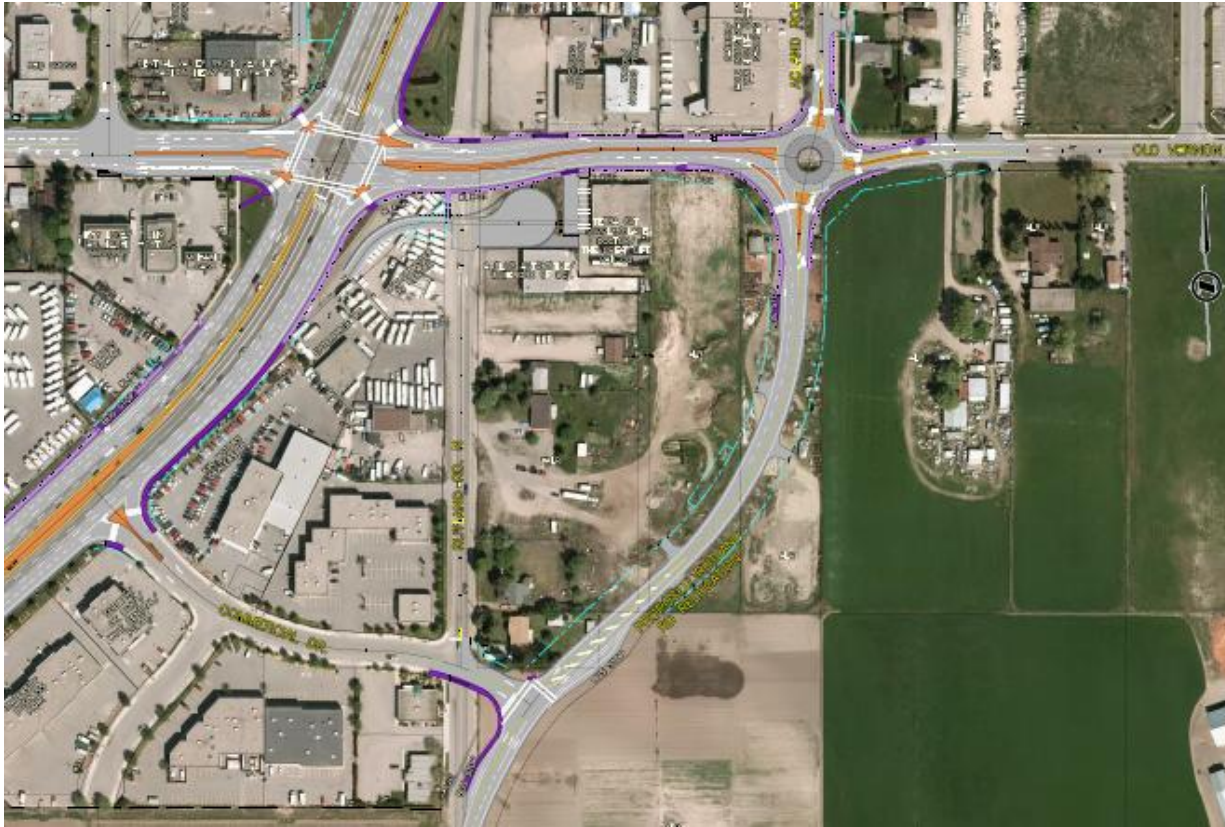
Parcel Size: 1.21 ha (3 acres)

Parcel Summary - 219 Old Vernon Road Road:

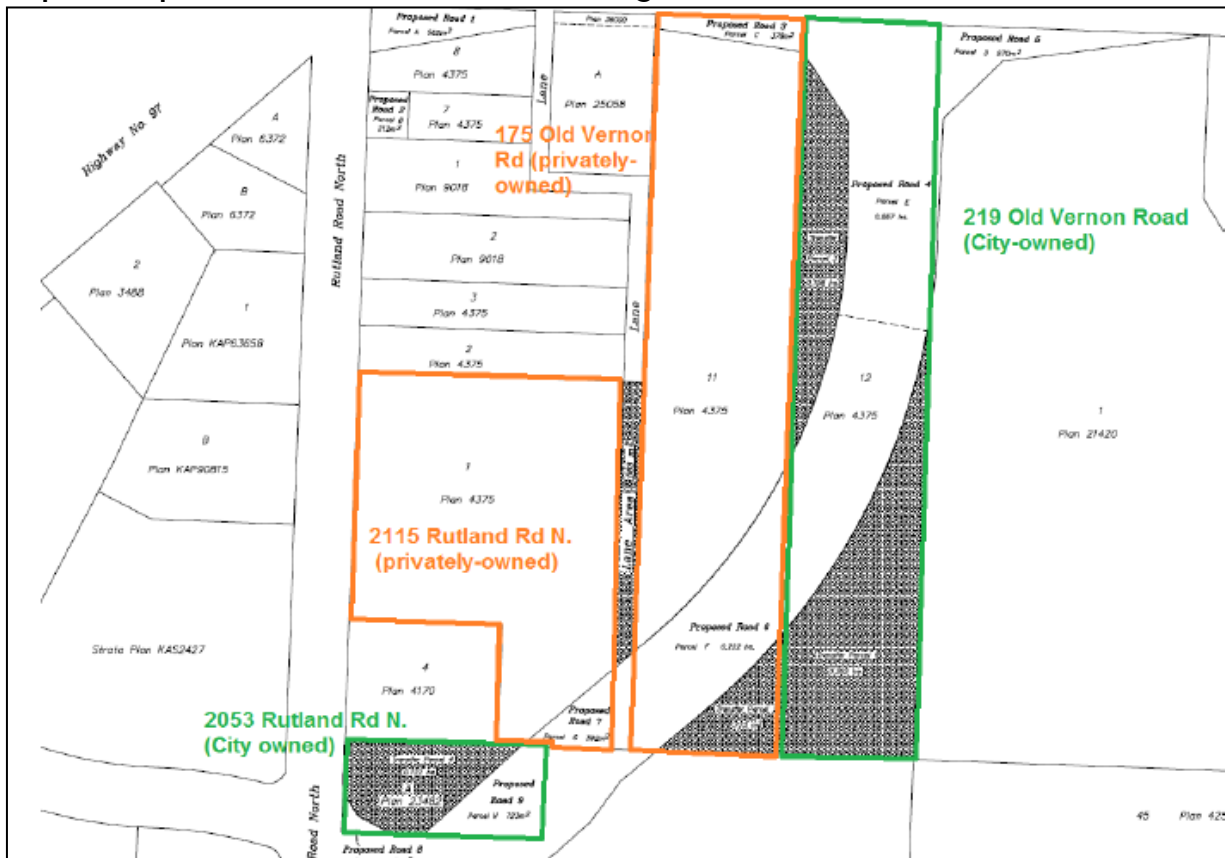
Parcel Size: 0.89 ha (2.19 acres)

Elevation Range: 409 to 406 metres above sea level (masl) (approx.)

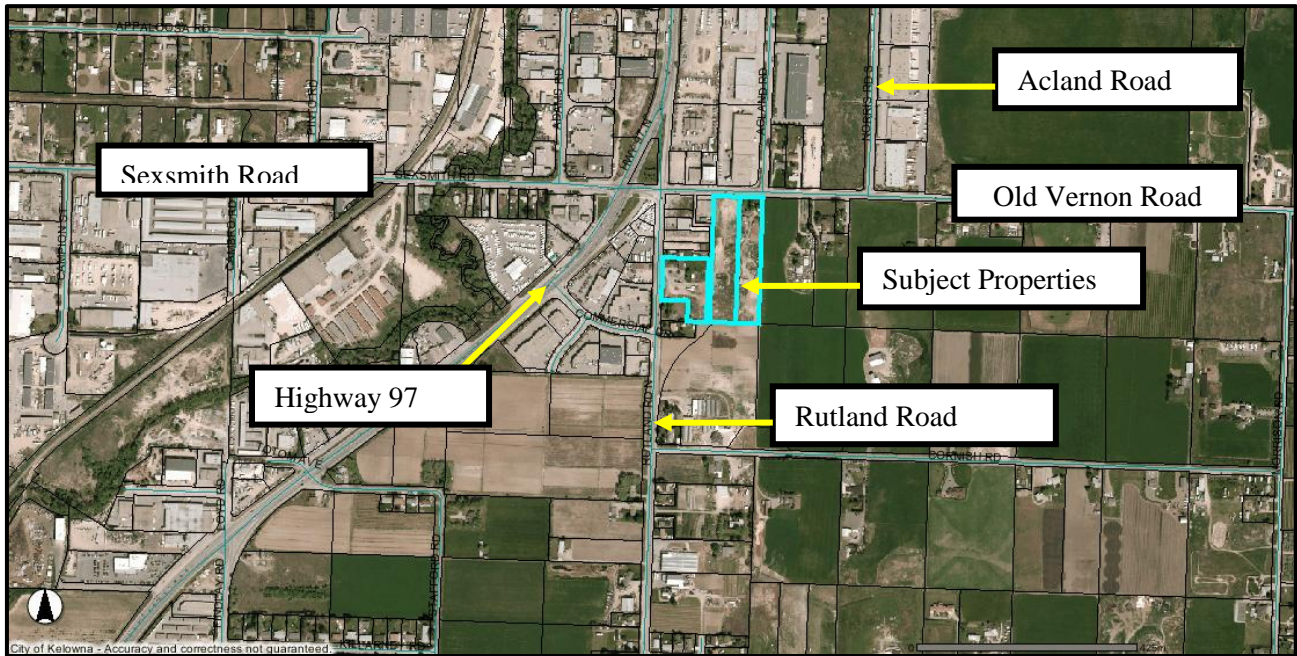
Map 1 - Proposed Rutland Road Alignment (MOTI)



Map 2 - Properties Affected - Rutland Road Alignment



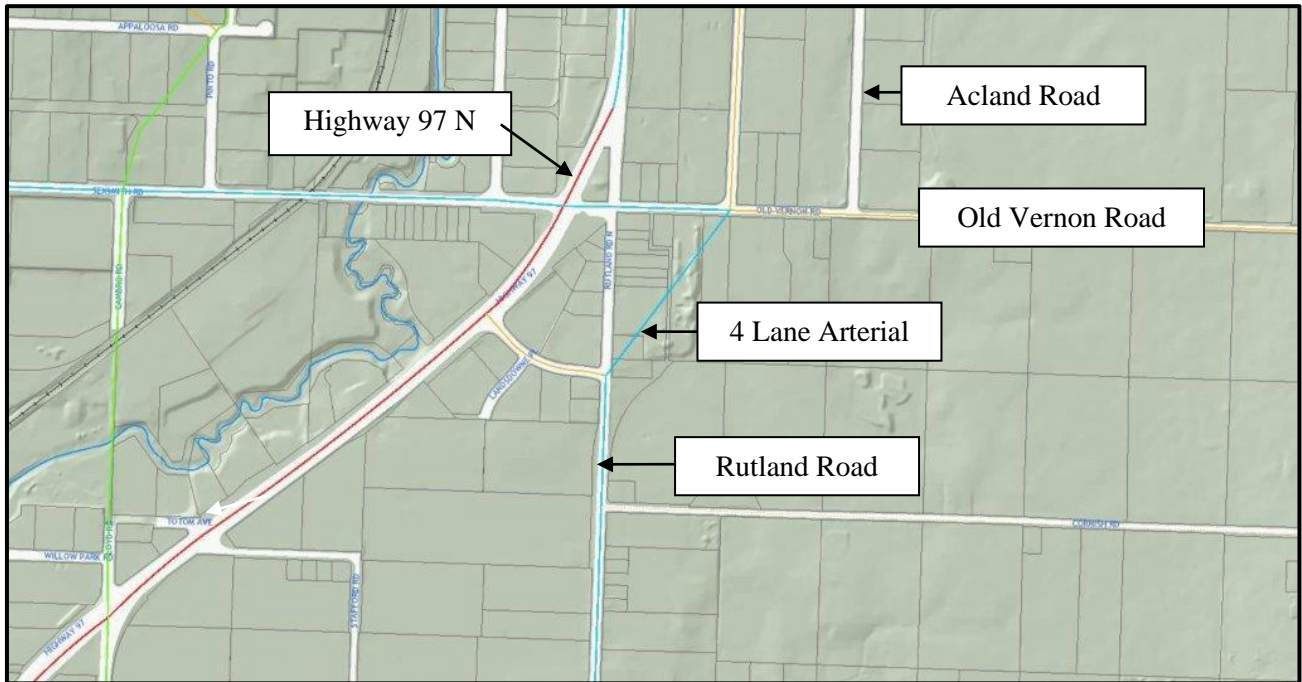
Map 3 - Neighbourhood



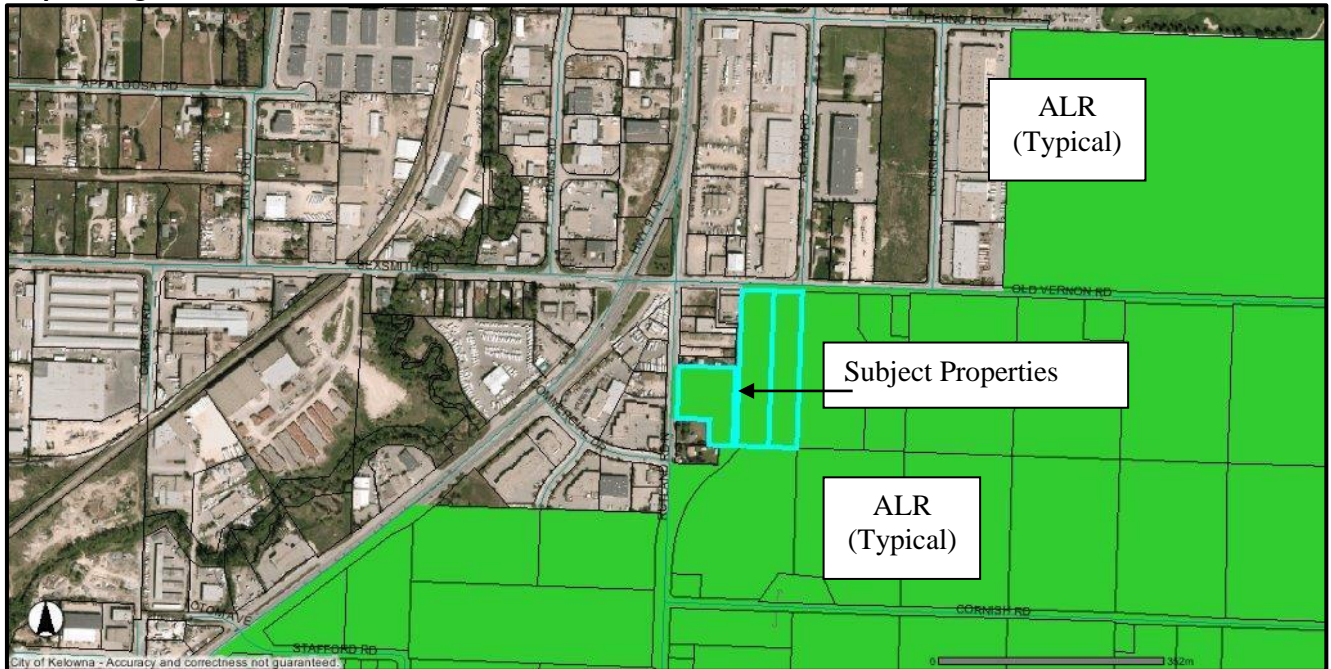
Map 4 - Permanent Growth Boundary



Map 5 - Transportation Plan - 20 Year



Map 6 - Agricultural Land Reserve



According to the BC Land Classification Inventory, the land proposed for exclusion is Class 3 land with limitations due to soil moisture deficits (A) and soil structure limitations (D). Soil moisture deficits are generally considered improvable with the addition of irrigation. Soil structure limitations are generally considered unimprovable. A soil structure limitation is given to soils that may be difficult to till, have insufficient aeration or distribute water slowly. With improvements, the property can be improved to Class 3 with soil structure (D) limitations (Map - Land Capability, attached).

f. **Soil Capability**

Soil Capability of the lands proposed for exclusion are Glenmore Soils. Soil textures range from silty clay loam to clay loam. Sandy or gravel lenses may be present at depths greater than 2 metres. Glenmore soils are fairly well suited for most agricultural crops, and are stone free, have good water holding capacity and are relatively fertile. Most land with Glenmore soils are farmed for hay or tree fruits².

6. Public Notification

The applicant has complied with the requirements of the ALC regarding exclusion notification. They have:

- posted signage on their property of the application for exclusion;
- advertised the application in the Kelowna Daily Courier (October 23rd and October 30th, 2015); and
- sent registered mail to all neighbours immediately adjacent their property.

7. Current Development Policies

a. **Kelowna Official Community Plan**

Future Land Use (Section 4.2)

Resource Protection Area. Generally land areas within this designation (whether they are within the permanent growth boundary or not) will not be supported for exclusion from the ALR or for more intensive development than that allowed under current zoning regulations, except in specific circumstances where the City of Kelowna will allow exceptions to satisfy civic objectives for the provision

Service Commercial (SC) (Section 4.5)

Developments for the provision of business support services and other commercial uses requiring extensive on-site storage. Building densities would be consistent with the provision of the C10 zone of the Zoning Bylaw.

Permanent Growth Boundary (PGB) (Section 4.7)

Lands within the permanent growth boundary may be considered for urban uses within the 20 year planning horizon ending 2030.

8. Technical Comments

a. **Development Engineering Department**

Development Engineering has no comments at this point in time with regard to this application, however, a comprehensive report will be provided at the time of development application submission when the Agricultural Land Commission agrees to the proposed activity on the subject property.

b. **IPlan - Parks & Public Places**

² MOE, 1983. Soils of the Okanagan and Similkameen Valleys – MOE Technical Report 18.
http://sis.agr.gc.ca/cansis/publications/surveys/bc/bc52/bc52_report.pdf

No comment.

c. Irrigation District

No response.

d. Ministry of Agriculture

No response.

9. Application Chronology

Public Consultation Completed: October 30, 2015

Application Received: November 2, 2015

Agricultural Advisory Committee December 10, 2015

The above noted application was reviewed by the Agricultural Advisory Committee at the meeting held on December 20, 2015 and the following recommendations were passed:

Moved By Keith Duhaime /Seconded By Ed Schiller

THAT the Agriculture Advisory Committee recommends that Council support an application to the Agricultural Land Commission under Section 30 (1) of the Agricultural Land Commission Act for an exclusion of a portion of three properties from the Agricultural Land Reserve on the subject property at 2115 Rutland Road.

Defeated
Ed Schiller - Opposed

ANECTODOTAL COMMENT:

The Agricultural Advisory Committee did not support the exclusion and believes the orphaned properties can be used for agricultural with adjacent properties and that vegetative buffers should be explored. The Committee recognized the benefit to the community, however felt that:

- an agricultural plan needs to be in place for these types of infrastructure projects across the City;
- a clear benefit to agriculture to clear mitigation / compensation plan should be put in place; and the overall benefit to agriculture needs to be demonstrated.

One example of mitigation / compensation included providing City water to agricultural properties along Burtch Road, in order to return them to agriculture, instead of the water licenses along Mission Creek, and that this may be one way to compensate for the loss of these lands to agriculture.

The Committee believes that there is no clear benefit to agriculture. However, the Committee does recognize the transportation benefits of this project.

Report prepared by:

Melanie Steppuhn, Land Use Planner

Reviewed by

Approved for Inclusion:

☐

Ryan Smith, Community Planning Department Manager

Approved for Inclusion:

☐

Doug Gilchrist, Divisional Director, Community Planning & Real Estate

Attachments:

Schedule 'A'

Subject Property Map

Applicant ALC Act Application for Exclusion - Supplementary Information

ALC Resolution 295/2014

Agricultural Capability Map

Soil Map