

# REPORT TO COUNCIL



**Date:** January 21<sup>st</sup> 2019

**RIM No.** 1210-21

**To:** City Manager

**From:** Community Planning Department (AK)

**Application:** A18-0004 **Owner:** Albert and Elinor Van Beest

**Address:** 1251 McKenzie Road **Applicant:** City of Kelowna

**Subject:** Application to the ALC to Subdivide Land within the Agricultural Land Reserve

Existing OCP Designation: Resource Protection Area (REP) and Single/Two Unit Residential (S2RES)

Existing Zone: A1 – Agriculture 1

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## 1.0 Recommendation

THAT Agricultural Land Reserve Application No. A18-0004 for Lot B, Sections 24 and 25 Township 26, ODYD, Plan KAP74860 located at 1251 McKenzie Road, Kelowna, BC to subdivide land within the Agricultural Land Reserve, pursuant to Section 21(2) of the *Agricultural Land Commission Act*, be supported by Council, subject to the following:

- a) The entirety of the lot be included into the ALR in accordance with Section 17(3) of the *Agricultural Land Commission Act*; and
- b) An 8.3 ha environmentally sensitive portion of the subject parcel be transferred to the City of Kelowna as a condition of subdivision approval.

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

## 2.0 Purpose

To consider an application for subdivision of land within the Agricultural Land Reserve under Section 21(2) of the *Agricultural Land Commission Act*.

## 3.0 Community Planning

The City's Agriculture Plan and the Official Community Plan (OCP) recommend not supporting subdivision in the Agricultural Land Reserve (ALR) unless it provides a significant positive benefit to agriculture. The OCP promotes protection of environmentally sensitive areas. Community Planning staff support this proposal for a subdivision in the Agricultural Land Reserve (ALR) because of the potential to benefit

agriculture and protection of an environmentally sensitive area. Specifically, the potential benefits of this application are:

- A 2 ha (5 acre) portion of the property currently not located in the ALR is proposed to be included into the ALR.
- There is potential to put existing agricultural land that is not currently being farmed into production by creating a new 11.9 ha (29 acre) lot that could be sold to someone wishing to farm the land.
- There is an opportunity to protect an environmentally sensitive area and drainage course which would be transferred to the City for preservation and protection purposes.

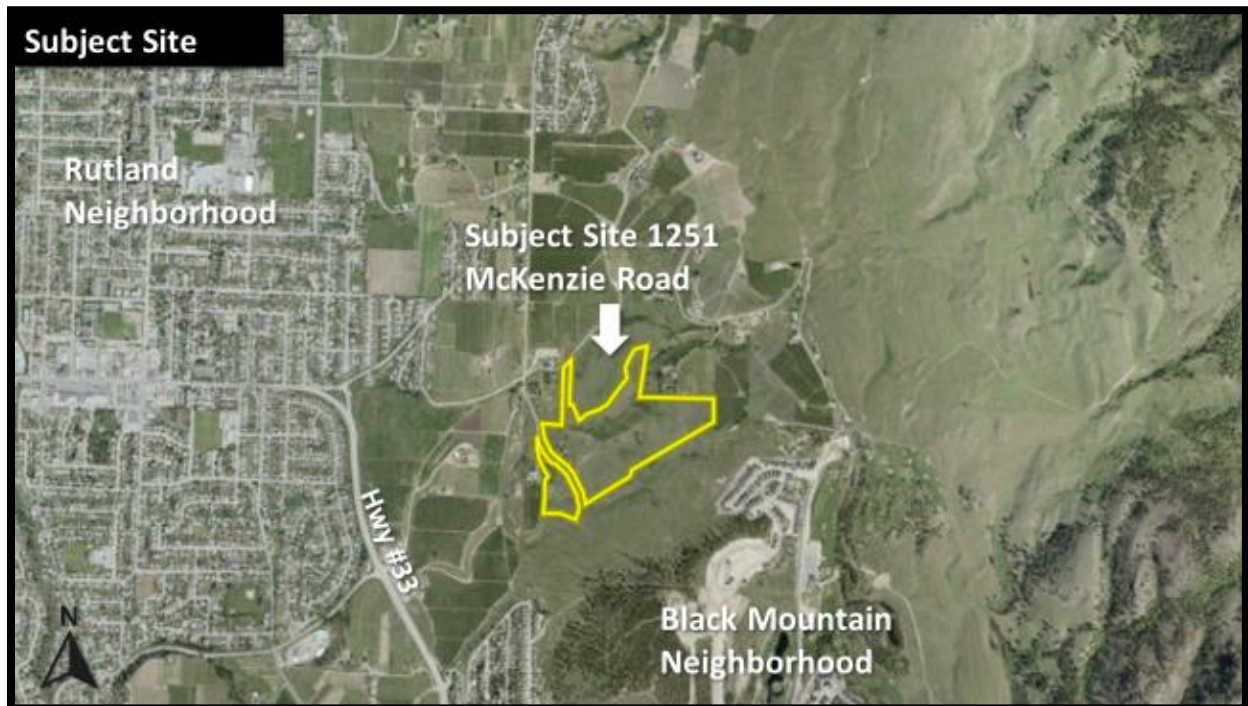
The ALR Regulation allows for biodiversity conservation, passive recreation, wildlife and scenery viewing as a permitted use in the ALR, and the use of a municipal park for the same purposes. Should the application be supported and approved by the Agricultural Land Commission (ALC), further municipal approvals would be required through Subdivision and Farm Protection Development Permit applications.

#### 4.0 Proposal

##### 4.1 Background

The subject property is zoned A1 – Agriculture 1. The property is approximately 23 ha (57 ac) in area and is mostly within the ALR. Approximately 2 ha (5 ac) of land in the southwest corner of the property is currently outside of the ALR and is designated for future single family residential development in the City's OCP. The property is a 'hooked lot' which is bisected by a road reserve that forms part of an adjacent property.

Approximately one quarter of the property contains significant ecological wetlands and a large gulley that has not historically been farmed. Current agriculture on the property includes about 70 cherry trees, eight apricot trees, and five walnut trees. Chickens, turkeys and horses are also raised on the property, and there are four small chicken coops, a horse shelter and corral, and several agricultural accessory structures.



#### 4.2 Proposed Subdivision

The application is to subdivide the property into three lots measuring 2.8 ha (6.9 ac), 8.3 ha (20.6 ac) and 11.9 ha (29.4 ac) as shown on the map below.

- Lot 1 (2.8 ha) shown in green is partially outside of the ALR and has a future land use designation of Single/Two Unit Residential (S2RES). The entirety of this lot is proposed to be included into the ALR. There is an existing single detached house on the property. This lot and the existing house on it would be retained by the current owners. There is also a second detached dwelling on this lot. To ensure ALC and Zoning Bylaw compliance of the proposed lot, a condition of subdivision approval would be that this dwelling be removed or decommissioned. At the subdivision stage a Development Variance Permit would be required as the proposed lot is 2.8 ha, which does not meet the minimum lot size of 4.0 ha required in the A1 zone.
- Lot 2 (8.3 ha) outlined in blue contains an environmentally sensitive gulley and wetland, it is proposed that this area be transferred to the City to be preserved as a natural area. There is an existing single detached house on the property. A life estate would be provided to the current occupants of the house with the existing house and associated structures on that lot to be removed once the owners pass away. No additional residential uses would be permitted on the lot.
- Lot 3 (11.9 ha) outlined in red contains the most arable land and is intended to be sold to a local farmer and envisioned to be put back into active agricultural production.



#### 5.0 Site Context

The majority of the subject property is designated Resource Protection Area (REP) in the OCP, meaning allowable uses are intended to be related to agriculture or open spaces on lands considered environmentally sensitive or hazardous. A 2 ha (5 acre) area near the southwest corner has a Future Land

Use designation of Single/Two Unit Residential (S2RES) and is located within the Permanent Growth Boundary. This area is proposed to be included into the ALR. If this area is included in the ALR the Future Land Use designation should be changed to REP as the OCP states 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.

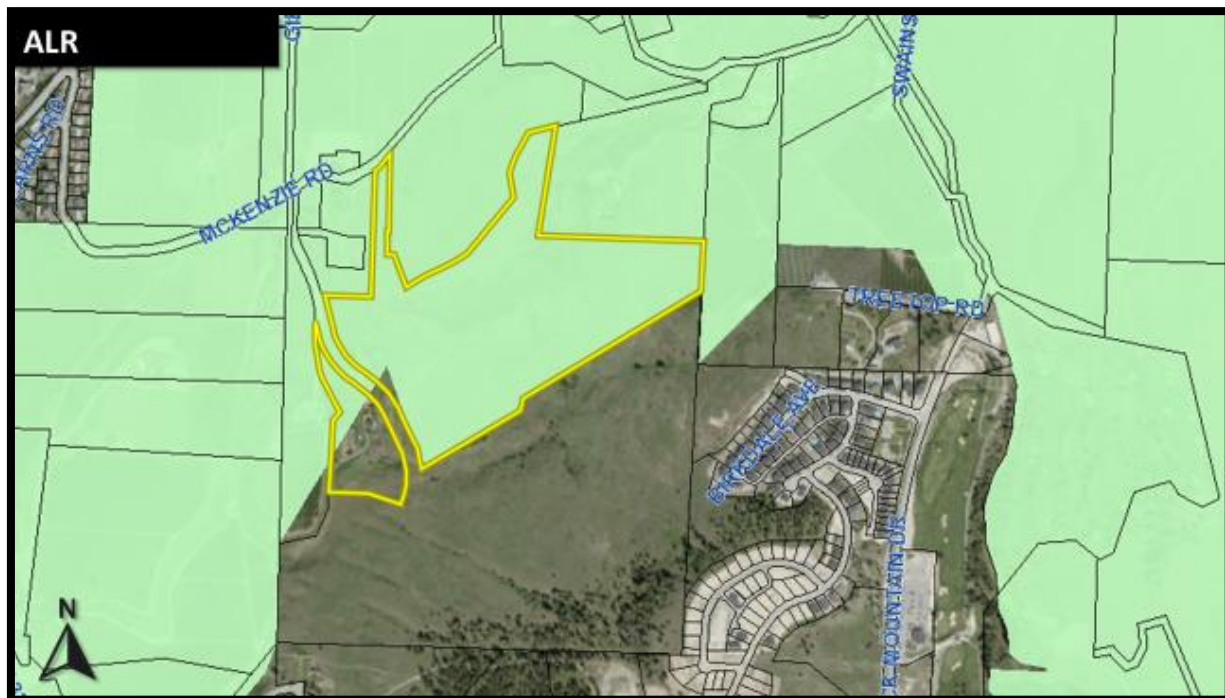
The subject property lies within the Belgo-Black Mountain City Sector and is mostly in the ALR. Land to the north, west, and east is located within the ALR and has a Future Land Use designation of REP. The land to the south of the subject site is outside of the ALR, is designated for future single family residential development, and is located within the permanent growth boundary.

Adjacent land uses are as follows:

Direction	Zoning	ALR	Land Use
North	A1 – Agriculture 1	Yes	Agriculture / Open Field
East	A1 – Agriculture 1	Yes	Agriculture / Natural Area / Residences
South	A1 – Agriculture 1	No	Agriculture / Open Field (designated S2RES)
West	A1 – Agriculture 1	Yes	Agriculture / Residence

#### 5.1 Agricultural Farming Availability

The majority of the property is located in the Agricultural Land Reserve. The Agricultural Land Use Inventory identifies the majority of the property as being available and having potential for farming, with the exception of the steep slopes and existing structures.





## 5.2 Agricultural Potential

The Land Capability Classification for Agriculture in BC Manual published by the Ministry of Agriculture identifies that approximately 67% of the subject property has a Class 4 or 5 agricultural land capability, most of which can be improved to Class 1 or 2 with irrigation. The bottom of the gulley and part of the southwest portion of the property have excess water deficiencies. With drainage improvements they could be Class 4 with excess water and fertility deficiencies.

The agricultural capability of the land to be included into the ALR is deemed Class 6, a portion of which could be improved to Class 4. Class 6 land can provide sustained natural grazing for livestock but generally isn't suitable for cultivation. Class 4 land is generally suitable for some crops provided special farm management practices related to tillage, planting and harvesting are followed. A portion of this land is currently being used for animal paddocks.

## 5.3 Environmental Values

The majority of the area to be transferred to the City for environmental protection is identified in the OCP as being located in the 'Natural Environment Development Permit Area'. This is because of its environmental significance as habitat for fish and wildlife and its vital function in natural water storage and flood protection.

## 6.0 Agricultural Advisory Committee July 12<sup>th</sup> 2018

The above noted application was reviewed by the Agricultural Advisory Committee at the meeting held on July 12<sup>th</sup> 2018 and the following recommendations were passed:

*THAT the Agricultural Advisory Committee recommends that Council **Support** Agricultural Land Reserve Application No. A18-0004 for the property located at 1251 McKenzie Road to request permission from the Agricultural Land Commission for a "Subdivision of Agricultural Land Reserve" under Section 21 (2) of the Agricultural Land Commission Act.*

Anecdotal comments were that the Agricultural Advisory Committee commended the applicant for protecting the environmental qualities and seeking to enhance the agricultural value of the properties, including the inclusion of land into the ALR, making it more practical to acquire and use the farmable portion of the property.

**Report prepared by:** Alex Kondor, Planner Specialist

**Reviewed by:** Laura Bentley, Community Planning Supervisor

**Approved for Inclusion by:** Ryan Smith, Community Planning Department Manager

### Attachments:

Schedule A: Policies

Schedule B: Technical Comments

Schedule C: Proposed Subdivision Plan