

# REPORT TO COUNCIL



**Date:** November 23<sup>rd</sup> 2020

**To:** Council

**From:** City Manager

**Department:** Development Planning Department

**Application:** A20-0006

**Owner:** Dorothy Thomson

**Address:** 4213-4233 Gordon Drive

**Applicant:** Dorothy Thomson

**Subject:** Subdivision of Land within the ALR

**Existing OCP Designation:** REP – Resource Protection Area

**Existing Zone:** A1 – Agriculture 1

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## **1.0 Recommendation**

THAT Agricultural Land Reserve Appeal No. A20-0006 for Lot A, District Lot 358 and of Section 6, Township 26, ODYD, Plan 2284 Except Plans 7297, KAP46025, and H17715 located at 4213-4233 Gordon Drive, Kelowna, BC for a subdivision of agricultural land in the Agricultural Land Reserve pursuant to Section 21(2) of the Agricultural Land Commission Act, be supported by Council;

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

## **2.0 Purpose**

To consider an application to subdivide land within the ALR.

## **3.0 Development Planning**

Development Planning staff are recommending the subdivision application be supported as the proposed subdivision is comparable to a homesite severance and does not impede the ability to continue to farm the remainder of the property. Staff are also supportive of the proposal as the lot currently has two existing single detached houses on the property, if approved the subdivision would bring the property into compliance with the City's Zoning Bylaws which only allows one single detached house per lot.

The request is that the subdivision be considered as comparable or in lieu of a homesite severance as the current owner was living on the site prior to 1972. The proposal appears to meet the ALC criteria for homesite severances except the applicant wishes to remain on the parcel that would become the larger farm parcel and sell what would typically become the homesite severance lot.

## 4.0 Development Planning

### 4.1 Background

The subject property is a 19-acre (7.7ha) property that includes two single detached houses and fruit/vegetable land. One single detached house is the main farmhouse which was permitted in 1993 and is currently occupied by the applicant. The 2<sup>nd</sup> single detached house is the original house built in 1940s and is being rented out and is not part of the agriculture occurring on the property. The property is actively being farmed which includes the use of a cattle pasture and a 7-acre lease for the growing of organic fruits and vegetables.

No subdivisions or homesite severances have occurred on the property since the creation of the Agricultural Land Reserve (ALR). Prior to the ALR in 1955 the lot was subdivided to create a ½ acre lot along Gordon Drive at 4223 Gordon Drive. The current property owner (Dorothy Thomson) has lived on the property prior to 1972 with her husband but she was not a titled landowner. The applicant's husband's name was stated on the land title, but the applicant's name wasn't on the land title until 1991.

### 4.2 Project Description

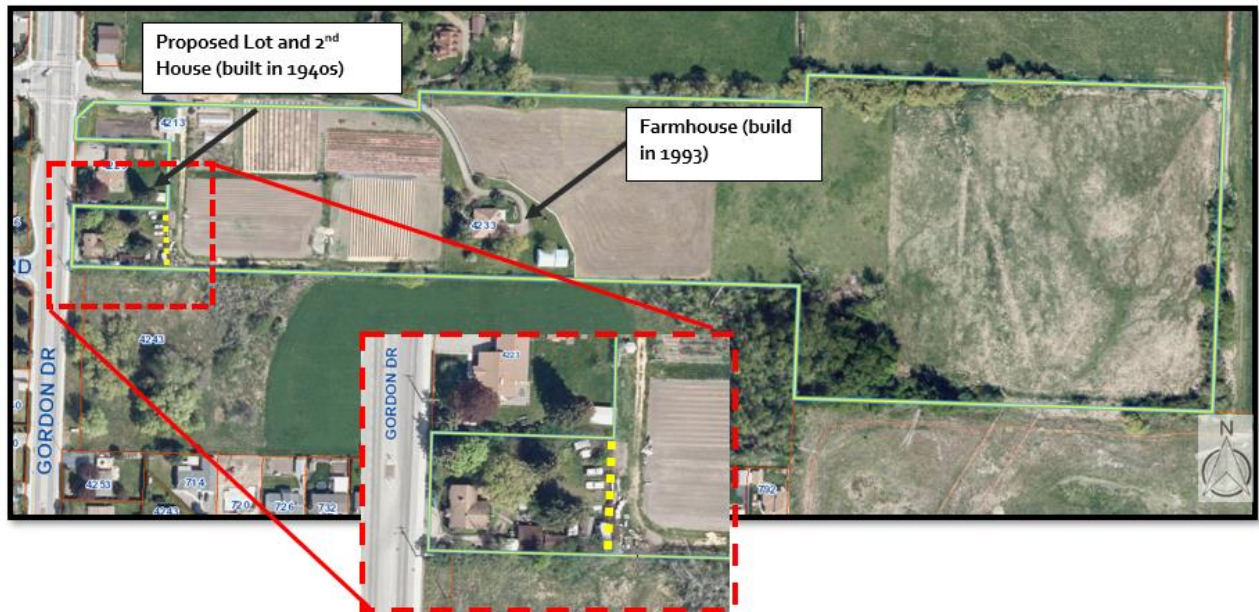


Figure 1. Proposed Subdivision Plan (Proposed Property line shown in Dashed Yellow)

The applicant is seeking a two-lot subdivision for a portion of the farm, to create a separate lot for the existing second single detached house near Gordon Drive where no farming occurs. The smaller parcel proposed to be subdivided is approximately 1,700m<sup>2</sup> (0.42 acres) and contains the old house built in the 1940s. The remaining farm parcel is proposed to be 18 acres in size and would contain the other existing single detached house being used as the farmhouse built in 1993 and continues to be farmed.

If approved the property owner has indicated she wishes to sell the smaller lot. The applicant may consider transferring the farm parcel to the Central Okanagan Land Trust to eventually be developed as a park but that the farm would likely continue to be farmed for the foreseeable future. If a new house is built on the smaller parcel a vegetative buffer would be required to be maintained or planted in accordance with the City's Farm Protection guidelines.

The proposed subdivision does not impede the ability to continue to farm the remainder of the property. Specifically, the proposed subdivision is not expected to impact the organic farm or the cattle pasture as the existing house near Gordon Drive is not currently part of the farm and functions as if it is already a separate lot as it is buffered from the farm by an existing vegetative buffer/hedge.

The proposed lot is comparable to a homesite severance, however the applicant is not applying to the ALC for a homesite severance lot as she does not strictly meet two of the following ALC policies related to homesite severances.

- ALC policy related to homesite severances requires that property owners demonstrate a legitimate intention to sell the remainder of the property upon the approval of the homesite severance application. In a typical homesite severance the concept is that the retiring farmer lives on the severance lot and sells the remainder farm lot. In this application the owner would continue to live on what would be the remainder parcel being farmed and sell what would typically be the homesite severance parcel. The applicant has indicated she may consider transferring the farm lot to the Central Okanagan Land Trust (COLT) for future park and preservation purposes, but that the land would continue to be leased for farming for the foreseeable future.
- ALC policy related to homesite severances requires that applicant submit documentary evidence that he or she has owned and occupied the property as their principal residence since December 21, 1972. The applicant's name has only been on the land title since 1991. However, she has lived on the property with her husband whose name was on the title prior to 1972.

#### 4.3 Site Context

The subject property lies within the North Mission – Crawford OCP Sector. The subject property has a future land use of REP – Resource Protection and is outside of the City's Permanent Growth Boundary. The surrounding area is primarily agriculture and single-family dwellings, with H2O Adventure + Fitness Centre and Thomson Marsh Park to the North. The area immediately surrounding the subject property has seen little change over the past decade, except for an RM4 – Transitional Low-Density Housing development across the street on Gordon Drive and the new Orchard in the Mission, an RU2 – Medium Lot Housing subdivision to the South. Specifically, adjacent land uses are as follows:

Direction	Zoning	ALR	Land Use
North	A1 – Agriculture 1	Yes	Grain
South	A1 – Agriculture 1 & RU2 – Medium Lot Housing	Yes/No	Cattle Pasture & Vacant – Future Subdivision
East	A1 – Agriculture 1	Yes	Vacant
West	RU6 – Two Dwelling Housing	No	Duplex Housing

#### 5.0 **Current Development Policies**

##### 5.1 Kelowna Official Community Plan (OCP)

Objective 5.33: Minimize the impact of urban encroachment and land use conflicts on agricultural land.

Policy 5.33.7 Subdivision. Maximize potential for the use of farmland by not allowing the subdivision of agricultural land into smaller parcels (with the exception of Homesite Severances approved by the ALC) except where significant positive benefits to agriculture can be demonstrated.

## **6.0 Technical Comments**

### **6.1 Ministry of Agriculture**

- The application appears to potentially be a “Homesite Severance” subdivision on the Agricultural Land Reserve within the decision-making jurisdiction of the ALC.
- Given the proposed parcel’s location, history and size, Ministry staff note that it is not unreasonable for subdivision to be considered.
- As per the Ministry’s Guide to Edge Planning, new subdivisions near farming areas are encouraged to include disclosure statement in the form of a restrictive covenant under section 219 of the Land Title Act be placed on title of a newly created lot, specifying that the lot is located near a farming area, that noise, odour, and dust associated with farming practices may be expected, and that, for example, development along the agricultural edge be restricted.
- Ministry staff also encourage Kelowna to consider a requirement for a lawful fence between the two properties be a condition to deter access between the severed parcel and the remnant parcel. A requirement for a vegetative buffer between the lots may also be beneficial in reducing the impacts of future farming activities on the severed lot.

## **7.0 Application Chronology**

Date of Application Received: April 8<sup>th</sup> 2020  
Agricultural Advisory Committee: August 13<sup>th</sup> 2020

The above noted application was reviewed by the Agricultural Advisory Committee at the meeting held on August 13<sup>th</sup> 2020 and the following recommendation was passed:

THAT the AAC recommend to Council that the application to subdivide land within the ALR be supported.

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

**Reviewed by:** Dean Strachan, Community Planning & Development Manager

**Approved for Inclusion:** Terry Barton, Development Planning Department Manager

### **Attachments:**

Attachment A – Site Plan

Attachment B – ALC Application