

REPORT TO COUNCIL



Date: September 13, 2021

To: Council

From: City Manager

Department: Development Planning Department

Application: A20-0008 **Owner:** City of Kelowna

Address: 4690 Highway 97 North **Applicant:** City of Kelowna

Subject: Application to the ALC for "Exclusion"

Existing OCP Designation: IND – Industrial
PARK – Major Park / Open Space (public)
S2RES – Single / Two Unit Residential

Existing Zone: A1 – Agriculture 1

1.0 Recommendation

THAT Agricultural Land Reserve Appeal No. A20-0008 for The South West ¼ of Section 11 Township 23 ODYD Except: (1) Those Parts Shown on Plan Attached to DD 1953D (2) Plans 10273, 18883, H764, H16596 And KAP83101 (3) Parcel A (E10197) and The North West ¼ of Section 2 Township 23 ODYD Except: (1) Those Parts Shown on Plan Attached to DD1953D (2) Part Described in DD 169668F (3) Plans 12349, H764, H16596, KAP83101 and EPP76079 located at 4690 Highway 97 North, Kelowna, BC for an "Exclusion" under Section 29(1) of the Agricultural Land Commission Act, be supported by Council;

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

2.0 Purpose

The applicant is requesting permission from the Agricultural Land Commission for an "Exclusion" under Section 29(1) of the Agricultural Land Commission Act.

3.0 Development Planning

The City's agricultural policies of the OCP are aimed at protection of agricultural land and supporting the ALR. As identified in Policy 5.33.2, it states that the City of Kelowna will not support ALR exclusion applications to the ALC except in extraordinary circumstances where such exclusions are otherwise consistent with the goals, objectives, and other policies of this OCP. The proposed subject properties have been long identified for future industrial development dating back to the University South Area Structure Plan and the City's 1995 OCP Future Land Use Map. Discussions between the City and ALC staff have

occurred periodically over time which led to the land being purchased by the City in July of 2017 to accommodate a future transportation corridor (Hollywood Road North) and relocation of the BC Transit Regional Transit Facility consistent with the industrial land use intent. These important transportation objectives are noted in OCP Objectives 7.9 and Policies 7.9.2, 3 and 4. An efficient transit facility is an integral component of a healthy transportation network and a new, expanded facilities will help build capacity of the current system increasing the availability and quality of public transit in Kelowna and the region.

The existing transit facility is located on Hardy Road and does not have the necessary land area to increase transit service to meet rising needs of the community. Suitable locations have been explored by City staff, in coordination with BC Transit, both locally and regionally for several years. However, none have been found which met the criteria or operational needs of BC Transit. The subject properties have been identified as a suitable location which could meet the requirements of future transit expansion. Further information and a letter of support from BC Transit is provided and attached as part of this report.

Even though the proposal is considered to meet the policy threshold for exclusion consideration, there remains an impact to agriculture. An extensive evaluation of these impacts has been completed through an Agricultural Impact Assessment and consultation with the City's Agricultural Advisory Committee (AAC). As a result of this process over the past year, the proposal includes additional mitigation and compensation measures aimed at promoting and strengthen agricultural objectives in the community to a total of \$600,000. As fully outlined in Attachment E, these resources would be used for the establishment of an Agricultural Reclamation Fund, a dedicated agricultural planning resource, an agricultural signage program, and enhanced agricultural buffering around the proposed facility.

Staff recommend support for the proposed exclusion application and that it be forwarded onto the Agricultural Land Commission for consideration. Staff have been in close contact with the Agricultural Land Commission regarding the 2040 OCP and this property. In June of this year, staff received correspondence from the ALC executive committee supporting the on-going future land use designation of portions of this property as Industrial.

4.0 Proposal

4.1 Background

The subject properties have been considered for non-agricultural purposes dating back to the University South Area Structure Plan and the City's OCP adopted in 1995. In communication with the ALC a portion of the lands has been identified as challenging for long term agriculture uses and subsequently designated as future industrial. Continued discussions between City and ALC staff have occurred periodically over time which led to the land being purchased by the City in July of 2017 and continued into 2021 with overall land use discussions for the draft 2040 OCP.

The City of Kelowna has had ongoing dialogue with the ALC for the subject property through policy and plan review. The initial review of future land use of the property by the ALC occurred in 1995 at the time of the University South Concept Plan development. At that time, the ALC review indicated support of the future industrial land use designation "provided the OCP text clearly identifies a broad range of uses and specifically encourages uses which might otherwise be targeted to productive farmland in the ALR". Subsequent Agricultural Plan and OCP updates have confirmed the industrial land use designation including the recent 2040 Draft Official Community Plan which was reviewed by the ALC earlier this year.

Carney Pond is also located on the south portion of the property is identified as future parkland and is intended on being conserved for environmental considerations. In addition, a portion of the property, which is hooked across Highway 97 and the ORT, has a large wetland area. It is near Mill Creek and has significant environmental value. The current proposal maintains existing high value environmental areas and future park land associated with Carney Pond and surrounding area.

Regional Transportation

Public transportation service delivery for the City of Kelowna is provided in partnership with BC Transit, the City, and other local governments. The existing transit facility is located on Hardy Road and does not have the necessary land area to increase transit service to meet rising needs of the community. Suitable locations have been explored by City staff, in coordination with BC Transit, both locally and regionally for several years. However, none have been found which met the criteria or operational needs of BC Transit. The subject properties have been identified as a suitable location which could meet the requirements of future transit expansion. Further information and a letter of support from BC Transit is provided and attached as part of this report.

Public Notification

For an exclusion application under Section 29(1) of the Agricultural Land Commission Act., public notification is required prior to making a formal application with the ALC. The required public notification was conducted in June and July of 2020 which included posting of signage, advertisements in local newspapers, and direct notification of adjacent landowners. Public input and feedback have been collected and will form part of the application.

4.2 Project Description

The proposal is to exclude 16.2 ha of land from the Agricultural Land Reserve for the purposes of a future transportation corridor (Hollywood Road North) and relocation of the BC Transit Regional Transit Facility. The extension of Hollywood Road north is identified as a two-lane arterial road in the OCP and is proposed to ultimately connect with John Hindle Drive directly to the north.

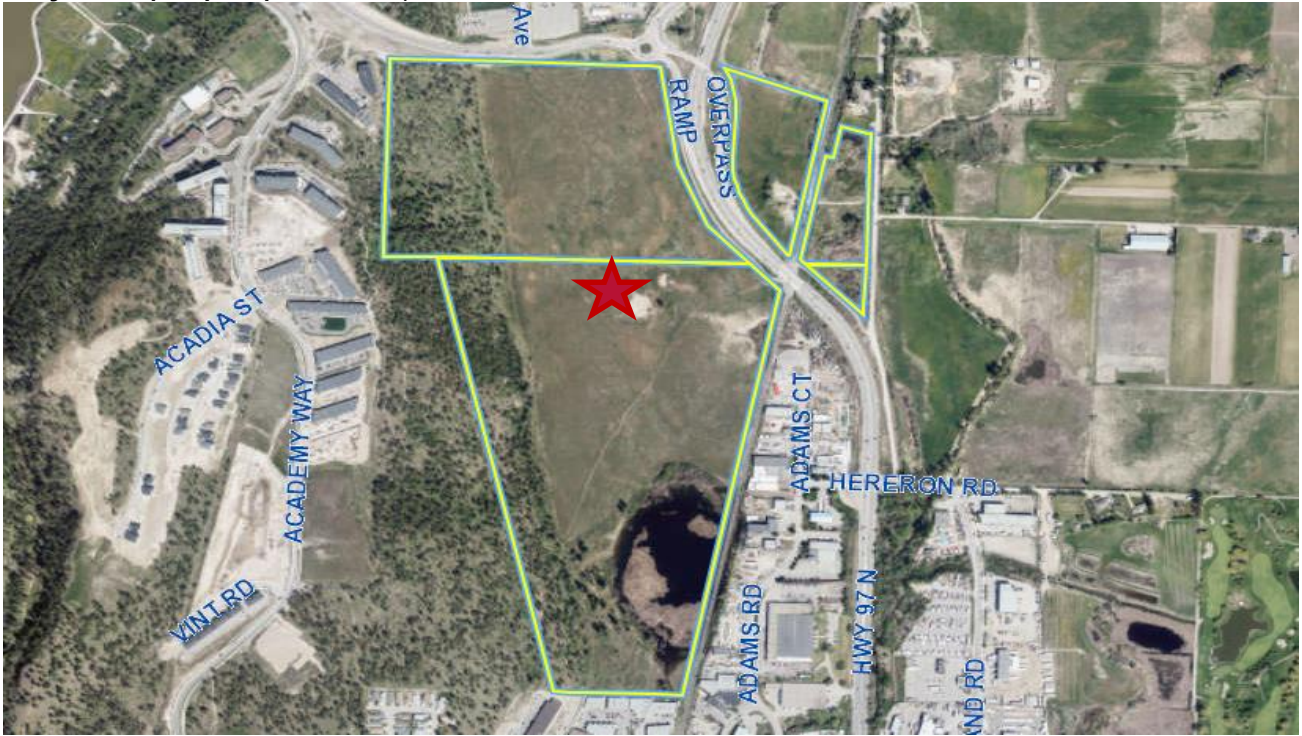
4.3 Site Context

The subject properties are in the Highway 97 City Sector. The Future Land Use is REP – Resource Protection is zoned A1 – Agriculture, is within the Agricultural Land Reserve however is within the Permanent Growth Boundary (PGB). The properties are a total of 72.8 ha in size with the northern property having a portion hooked across Highway 97 and the Okanagan Rail Trail (ORT). The property does currently have hay production onsite as agricultural activity. Zoning and land uses adjacent to the property are as follows:

Table 1: Zoning and Land Use of Adjacent Property

Orientation	Zoning	Land Use
North	CD20 – Comprehensive University Development Zone	John Hindle Drive/UBCO
East	A1 – Agriculture 1 & I2 – General Industrial	Hwy 97/Agriculture/Industrial
South	I2 – General Industrial	Industrial
West	C3L, RM4, RM5, P3, A1	Commercial/Agriculture/Residential

Subject Property Map: 4690 Hwy 97N



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 .2 ALR Exclusions. The City of Kelowna will not support ALR exclusion applications to the ALC except in extraordinary circumstances where such exclusion is otherwise consistent with the goals, objectives, and other policies of this OCP. Soil capability alone should not be used as justification for exclusion.

Objective 7.9 Ensure efficient and effective transit infrastructure and facilities.

Policy 2. Transit Expansions. Prioritize future transit expansions in accordance with Map 7.2 – Transit Plan

Policy 3. Transit Service. Implement a Primary Transit Network of high-frequency and convenient (including late night service) transit routes to connect Urban Centres and surrounding urbanized central areas as well as institutional and community services such as the hospital, university, college, and recreational facilities.

Policy 4. Base Level Transit Service. Provide a base level of transit service (every 30 minutes) to facilitate convenient access to transit in areas with sufficient population and employment intensity to achieve acceptable performance standards and return on investment.

6.0 Technical Comments

6.1 Development Engineering Department

6.1.1 See attached memorandum dated March 22, 2020.

6.2 Ministry of Agriculture

6.2.1 See attached letter dated July 29, 2020

6.3 Interior Health

6.3.1 See attached letter dated July 30, 2020

6.4 Regional District of Central Okanagan

6.4.1 Consider regional and transportation policies of the Regional Growth Bylaw No. 1336 including:

- Support the protection of ALR lands and land uses which are supportive and/or complimentary to agricultural use; and
- Policy 3.2.9.1 of the RGS supports the Sustainable Transportation Partnership of the Central Okanagan as a means of administering, governing and coordinating the delivery of regional transportation planning and services

7.0 Application Chronology

Date of Application Received: July 16, 2020

Date Public Consultation Completed: July, 2020

Agricultural Advisory Committee: August 13, 2020

The above noted application was reviewed by the Agricultural Advisory Committee at the meeting held on August 13, 2020 and the following recommendations were passed:

THAT the Agricultural Advisory Committee recommends that Council not support Agricultural Land Reserve Application No. A20-0008 for the property located at 4690 Hwy 97N to allow for an "Exclusion" under Section 29(1) of the Agricultural Land Commission Act.

Anecdotal comments were that the Agricultural Advisory Committee (AAC) have concerns with a more exhaustive search for potential sites needed to be conducted and that the agricultural assessment for the property was underestimated.

Agricultural Advisory Committee: March 11, 2021

Proposed mitigation options related to application A20-0008 was reviewed by the Agricultural Advisory Committee at the meeting held on March 11, 2021 and the following recommendations were passed:

THAT the Agricultural Advisory Committee recommends that Council not support the mitigation options related to Agricultural Land Reserve Application No. A20-0008 for the property located at 4690 Hwy 97N to allow for an "Exclusion" under Section 29(1) of the Agricultural Land Commission Act.

Anecdotal comments were that the Agricultural Advisory Committee (AAC) have concerns and strongly encourages the City to follow through with their commitments and make all land it owns that is designated and zoned for agriculture useable for agriculture, mitigation efforts presented are not connected to the application, encouraged a full review of the subject property during the current Official Community Plan review, would like to emphasize that support for the application was rejected based on the principle of not wanting to take a large track of land out of the ALR for a municipal infrastructure project.

Agricultural Land Commission Executive Committee: May 26, 2021/June 8, 2021

The Executive Committee confirms the endorsement of the Hollywood Road North extension and the existing designation of 16.2 Ha of the property as Industrial (IND) in the Kelowna 2040 OCP.

Report prepared by:	Wesley Miles, Planner Specialist
Reviewed by:	Dean Strachan, Community Planning and Development Manager
Reviewed by:	Terry Barton, Development Planning Department Manager
Approved for Inclusion:	Ryan Smith, Divisional Director, Planning & Development Services

Attachments:

Attachment A: Development Engineering Memorandum
Attachment B: Site Plan
Attachment C: Referral Comments MoA and IH, July 2020
Attachment D: Agricultural Impact Assessment
Attachment E: Mitigation Compensation Letter – Real Estate Department
Attachment F: BC Transit Letter of Support