

# REPORT TO COUNCIL



**Date:** December 7, 2016

**RIM No.** 1250-30

**To:** City Manager

**From:** Community Planning (BD)

**Application:** Z16-0065 / DP16-0237 /  
DVP16-0238

**Owner:** Jamie D. Coates

**Address:** 4077 & 4079 June Springs Rd

**Applicant:** Shanti Handley

**Subject:** Z16-0065 RTC 4077 - 4079 June Springs Rd rev

Existing OCP Designation: REP – Resource Protection Area

Existing Zone: A1 – Agriculture 1

Proposed Zone: A1c – Agriculture 1 with Carriage House

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## 1.0 Recommendation

THAT Rezoning Application No. Z16-0065 to amend the City of Kelowna Zoning Bylaw No. 8000 by changing the zoning classification of Parcel B (Plan B5939) Lot: 77 Section 3 Township 26 ODYD Plan 1247, located on 4077 and 4079 June Springs Road, Kelowna, BC from A1 – Agriculture 1 zone to A1c – Agriculture 1 with Carriage House zone, be NOT supported by Council,

AND 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 NOT to support the application rezone the subject property from A1 – Agriculture 1 zone to A1c – Agriculture 1 with Carriage House zone.

## 3.0 Community Planning

Community Planning staff does not support the proposal to convert the second floor of an existing accessory building to a carriage house. The subject parcel has a Future Land Use designation of REP – Resource Protection.

The objectives of the Resource Protection Area (REP) include:

- to protect the REP for agriculture as well as environmental objectives;

- avoid densification of the REP; and to
- direct urban uses within the Permanent Growth Boundary.

The Agriculture Plan's Policies include:

- To discourage new urban growth within agricultural areas which creates additional pressure on the City's rural road network<sup>1</sup>.
- To reduce non-farmer / farmer conflict, resulting from farm practices; such as farm machinery, bird-scaring equipment, odours, and crop spraying,
- To plan such that agricultural parcels are contiguous and isolated from non-agricultural properties. This is especially true of residential uses which have low compatibility with farm practices. Where urban-rural (i.e. agricultural) interface does exist, fewer units are preferred.

Section 18 of the Agricultural Land Commission Act states:

*Unless permitted under this Act,*

*(a) a local government ..... may not*

*(i) permit non-farm use of agricultural land or permit a building to be erected on the land except for farm use.*

## **Proposal**

### **3.1 Background**

This property is zoned A1 – Agriculture; is located within the Agricultural Land Reserve; is located outside of the Permanent Growth Boundary; and has a Future Land Use Designation as REP – Resource Protection Area.

Prior to 2007 three structures existed on site including two detached single family residences, a single family dwelling and a mobile home for family. These were located in the southeast corner of the property.

In 2007, a building permit (BP 34965) was issued for a two storey accessory building with one dwelling unit on the second story, based on the understanding that the existing dwellings would be removed from the site. In September 2009, a demolition permit was issued and the original three structures were removed from site. Occupancy was given for the accessory building with the dwelling above.

The property was previously owned by the applicant and her father. Between the date of receipt of this rezoning application and the date of this report to Council, the property has been sold. The previous owner is acting as the authorized agent for the new owner.

To date, the second storey dwelling in the accessory building was intended for use as a residence by the applicant's father. In 2009, discussions with staff indicated that the applicant intended to build an additional second detached dwelling as the principal residence. A letter was sent to the applicant's father, and copied to the applicant through their business, indicating that the approval for the second dwelling (the larger home) was based on the dwelling on the second storey of the accessory building being used for farm worker accommodation (see Attachment 1: June 18, 2009). In September 2009, a second building permit (BP39006) was issued for the construction of one Single Family Dwelling as the principal residence. Occupancy was permitted in 2011.

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<sup>1</sup> City of Kelowna Agriculture Plan (1998); p. 99.

The northern third of the parcel is utilized as a plant nursery. The southeast corner produces wildflowers that are used for seed collection for the family's landscaping business.

The current rezoning application proposes to rezone the property from A1 – Agriculture 1 to A1c – Agriculture 1 with Carriage House. The Development Permit (DP16-0237) is also currently under review for farm protection, while the Development Variance Permit (DVP16- 0238) addresses four proposed variances to the Zoning Bylaw.

### 3.2 Project Description

The applicant is proposing to rezone the property from A1 – Agriculture 1 zone to A1c – Agriculture 1 with Carriage House zone in order to allow an existing dwelling unit constructed in the upper floor of an accessory building to conform to City of Kelowna Zoning Bylaw.

The siting and overall exterior design of the building remains unchanged. Private open space is provided on an uncovered 32.7 m<sup>2</sup> balcony accessed on the south side of the dwelling unit.

Four variances are proposed for consideration:

- To vary the maximum floor area of the carriage house from 90 m<sup>2</sup> to 107.4 m<sup>2</sup>.
- To vary the upper storey floor area of the carriage house to be more than 75% permitted to 76.7%.
- To vary the distance between the principal dwelling and the carriage house, from 10m permitted to 30.48m.
- To vary the building height, from 6.0m permitted to a height of 7.47 m.

### 3.3 Site Context

The subject property is located in Southeast Kelowna on the north side of June Springs Road, between Spiers and McClain Roads. The subject parcel and adjacent parcels on the east and west, as well as south across June Springs Road have a Future Land Use designation of REP and all are within the Agricultural Land Reserve (ALR). The parcel to the north, with frontage on McCullough Road has a Future Land Use designation of S2RES and is within the Agricultural Land Reserve (ALR).

Specifically, adjacent land uses are as follows:

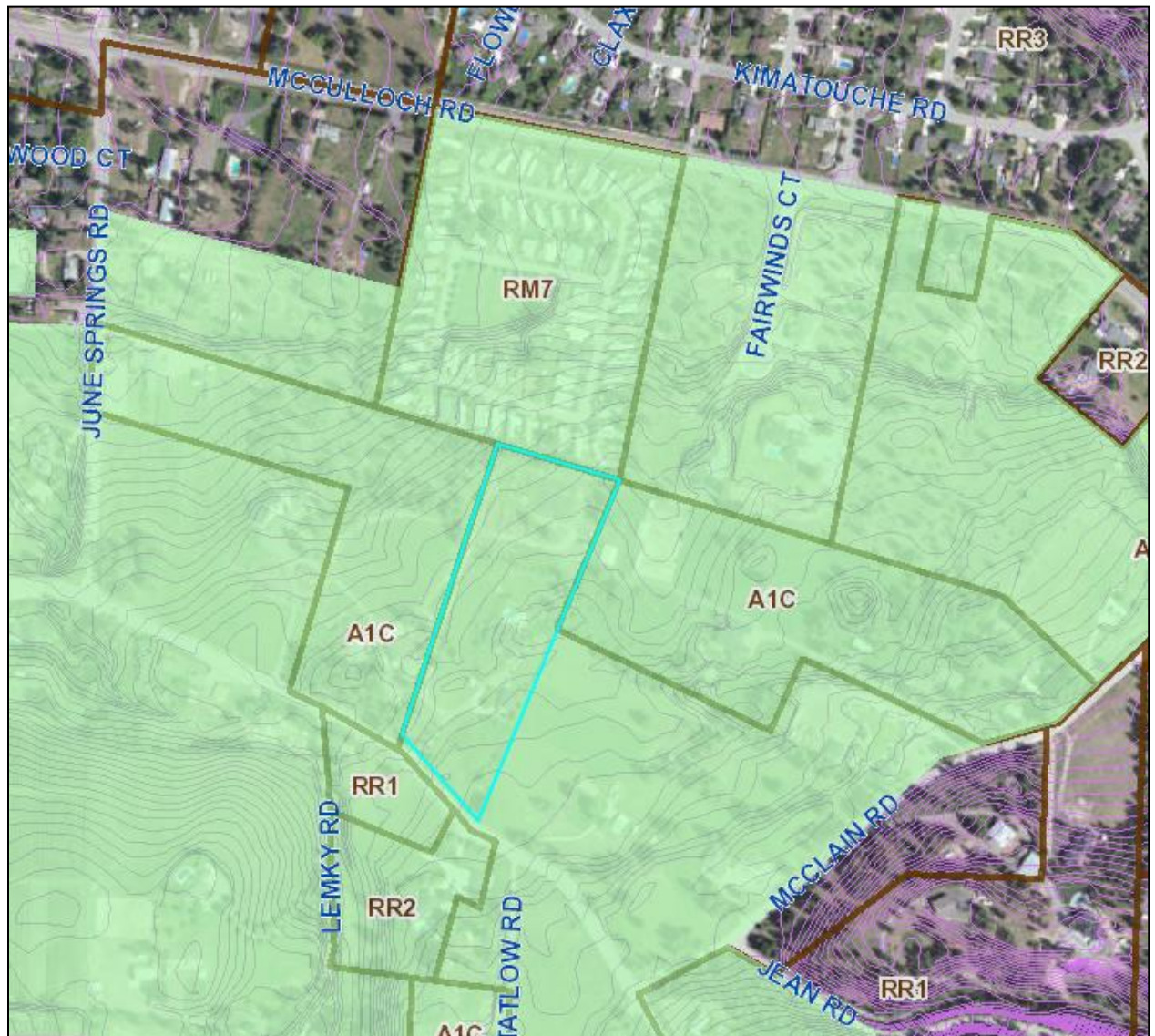
Orientation	Zoning	Land Use
North	RM7– Mobile Home Park	Residential
East	A1c –Agriculture 1	Agriculture
South	A1 –Agriculture 1	Agriculture
West	A1 – Agriculture 1 A1c - Agriculture	Agriculture

Neighbourhood Context Map: 4077 & 4079 June Springs Road





**Agricultural Land Reserve Map: 4077 & 4079 June Springs Road**



**Subject Property Map: 4077 & 4079 June Springs Road**



#### 4.1 Zoning Analysis Table

Zoning Analysis Table		
CRITERIA	A1c ZONE REQUIREMENTS (Carriage House)	PROPOSAL
Existing Lot/Subdivision Regulations		
Min. Lot Area	20,000 m <sup>2</sup>	26,830.6 m <sup>2</sup>
Min. Lot Width	40 m	92.88 m
Development Regulations		
Max. Site Coverage for residential development (principal dwelling and carriage house)	10%	2.45%
Max. Floor Area of carriage house	90m <sup>2</sup>	107.4m <sup>2</sup> ❶
Maximum carriage house floor area to accessory building footprint	75%	76.7% (+1.7%)❷
Setback from Principal Dwelling	Maximum 10.0m	30.48m (+20.48 m)❸
Carriage House Regulations		
Max. Height (mid point of roof)	6.0m	7.47m (+1.47m)❹
Min. Front Yard (to June Springs Rd)	6.0m	> 6m
Min. Side Yard (east)	3.0m	>3m
❶ Indicates a requested variance to the carriage house floor area. ❷ Indicates a requested variance to the second storey floor area. ❸ Indicates a requested variance to the setback from the principal dwelling. ❹ Indicates a requested variance to the roof height.		

## 5.0 Current Development Policies

### 5.1 Kelowna Official Community Plan (OCP)

#### Objective 5.3 Focus development to designated growth areas<sup>2</sup>.

**Policy .2 Compact Urban Form.** Develop a compact urban form that maximizes the use of existing infrastructure and contributes to energy efficient settlement patterns.

#### Objective 5.33 Protect and enhance local agriculture<sup>3</sup>.

**Policy .3 Urban Uses.** Direct urban uses to lands within the urban portion of the Permanent Growth Boundary, in the interest of reducing development and speculative pressure on agricultural lands.

#### Farm Protection DP Guidelines<sup>4</sup>

##### Objectives

<sup>2</sup> City of Kelowna 2030 Official Community Plan (2011) - Farm Protection Development Permit Chapter; p. 15.2 - 15.4.

<sup>3</sup> City of Kelowna 2030 Official Community Plan (2011) - Development Process Chapter; p. 5.35.

<sup>4</sup> City of Kelowna 2030 Official Community Plan (2011) - Farm Protection Development Permit Chapter; p. 15.2 - 15.4.



- Protect farm land and farm operations;
- Minimize the impact of urban encroachment and land use conflicts on agricultural land;
- Minimize conflicts created by activities designated as farm use by ALC regulation and non-farm uses within agricultural areas.

### **Guidelines**

- On properties located adjacent to agricultural lands, design buildings to reduce impact from activities associated with farm operations.
- On agricultural and non-agricultural lands, establish and maintain a landscape buffer along the agricultural and/or property boundary, except where development is for a permitted farm use that will not encourage public attendance and does not concern additional residences (including secondary suites).
- Design any subdivision or urban development of land to reduce densities and the intensity of uses gradually towards the boundary of agricultural lands.

### 5.2 Agriculture Plan

#### **Transportation Policies<sup>5</sup>**

**New Growth Areas.** Discourage the establishment of new growth areas within or beyond agricultural areas that create additional traffic pressure on the local rural road network.

#### **Urban-Rural/Agricultural Boundary Policies<sup>6</sup>**

**Farmland Preservation.** Direct urban uses to land within the urban portion of the defined urban – rural / agricultural boundary, in the interest of reducing development and speculative pressure, toward the preservation of agricultural lands and discourage further extension of existing urban areas into agricultural lands.

**Urban Buffers.** Require new development, adjacent to agricultural areas, to establish setbacks, fencing and landscape buffers on the urban side of the defined urban – rural/agricultural boundary.

**Parcel Size.** Non - Agricultural Land. Discourage subdivision to smaller parcel sizes on lands beyond agricultural areas in order to reduce negative impacts on the farming community and encourage the Central Okanagan Regional District and the Ministry of Environment, Land and Parks to consider maintaining larger minimum parcel sizes for Crown Lands within and adjacent to the City in recognition of the provincial interest in retaining farming.

**Isolated Development.** In general, not support extensions to existing development or new development isolated within agricultural areas, regardless of ALR status.

### **6.0 Technical Comments**

#### 6.1 Development Engineering Department

- 1) Refer to attached memorandum dated November 16, 2016

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<sup>5</sup> City of Kelowna Agriculture Plan (1998); p. 99.

<sup>6</sup> City of Kelowna Agriculture Plan (1998); p. 131 & 132.



- 6.2 Fire Department – no issues with zoning: \*Requirements of section 9.10.19 Smoke Alarms and Carbon Monoxide alarms of the BCBC 2012 are to be met: \*All units shall have a posted address on June Springs Rd. for emergency response.
- 6.3 Shaw Cable - Shaw requires owner/developer to install 1-2" (50mm) DB2 WHITE duct from dwelling to nearby FortisBC pole at property line to allow for servicing.
- 6.4 Fortis BC Inc (Electric) – There are FortisBC Inc (Electric) ("FBC(E)") primary distribution facilities along June Springs Road. The applicant is responsible for costs associated with any change to the subject property's existing service, if any, as well as the provision of appropriate land rights where required.
- 6.5 South East Kelowna Irrigation District (SEKID) – The property is currently serviced by SEKID and the covenant <a 1947 covenant in favour of SEKID registered on title> is no longer required. SEKID would have no objections if the owner wished to have the covenant removed and were willing to cover costs.

#### **7.0 Application Chronology**

Date of Application Received:	September 23, 2016
Circulated for comment	September 28, 2016
Agricultural Advisory Committee	October 13, 2016
Change in Ownership	October 24, 2016
Comments Due Back	November 14, 2016
Request for Owner's Authorization Form	November 16, 2016
Receipt of Owner's Authorization Form	December 5, 2016
Neighbourhood Consultation Submitted	December 6, 2016

#### **7.0 Agricultural Advisory Committee**

The above noted application was reviewed by the Agricultural Advisory Committee at the meeting held on Thursday, October 13, 2016. The Agricultural Advisory Committee did not recommend support for the application as they did not feel it was a benefit to agriculture and Committee Members felt that the property owners should honour the existing condition that the dwelling be used for farm help.

The following recommendation was passed:

THAT the Agricultural Advisory Committee recommends that Council NOT support Rezoning Application No. Z16-0065 for the properties located at 4077 & 4079 June Springs Road, Kelowna, BC to rezone the subject properties from the A1 - Agriculture 1 zone to the A1c - Agriculture 1 with Carriage House zone in order to allow an existing dwelling unit constructed in the upper floor of an accessory building to conform to the City of Kelowna Zoning Bylaw.

**Report prepared by:** Barb Davidson, Planner

**Reviewed by:**



Todd Cashin, Suburban and Rural Planning Manager

**Reviewed by:**



Ryan Smith, Urban Planning Manager

**Attachments:**

Attachment 1: letter from City of Kelowna Development Services dated June 18, 2009

Attachment 2: Site Photographs

Attachment 3: Development Engineering Memorandum

Attachment 4: Owner's Authorization Form

Attachment 5: Neighbourhood Consultation

**Attachment 1:**