

REPORT TO COUNCIL



Date: November 16, 2015

RIM No. 1210-21

To: City Manager

From: Community Planning Department (MS)

Application: A15-0009 **Owner:** Gabriel Arthur Coupal
Linda Anne Coupal

Address: 1789 Munson Road **Applicant:** Gabriel Arthur Coupal

Subject: Application to the ALC to exclude a property from the ALR

Existing Zone: A1 - Agriculture 1

1.0 Recommendation

THAT Agricultural Land Reserve Appeal No. A15-0009 for Parcel B on *Plan B6522 Amended Lot 7 DL 130 ODYD Plan 415 except Plans 18843 and KAP64190*, located at 1789 Munson Road, Kelowna BC, for an exclusion of agricultural land in the Agricultural Land Reserve, pursuant to Section 30(1) of the Agricultural Land Commission Act, NOT be supported by Council;

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

2.0 Purpose

To consider a Staff recommendation NOT to support an application to the Agricultural Land Commission for an exclusion of land within the Agricultural Land Reserve.

3.0 Community Planning

Staff does not support the application. The City of Kelowna Agriculture Plan states general non-support for exclusion of ALR lands¹. The Official Community Plan does not support lands within the Resource Protection Area for exclusion². In addition, it states that lands outside the Permanent Growth Boundary will not be supported for urban uses. The property has a future land use of Resource Protection Area as well as being outside the Permanent Growth Boundary. Objective 5.33 of the Official Community Plan³. states that the primary use of agricultural land remain agriculture, and that urban uses should be directed lands within the Permanent Growth Boundary, to reduce speculative pressure on agricultural lands. (See Section 5.0, below).

¹ City of Kelowna Agriculture Plan. 1998. P. 130.

² City of Kelowna 2030 Official Community Plan. Future Land Use Chapter. P. 4.2.

³ City of Kelowna 2030 Official Community Plan: Agricultural Land Use Policies Chapter. P. 5.35.

The applicants wish to have their property excluded from the ALR. In recent years, they have run their farm as a "U-Pick" Strawberry Farm and retail sales operation. There is no specific future land use proposed, but the applicant suggest that the use should be harmonized with other no-farm uses in the area.

The applicants have found the increasing urbanization surrounding their property has compromised their ability to farm the land. (See attached letter of rationale).

These concerns include:

- increased traffic on Benvoulin has become an impediment to entry and egress into their farm;
- children playing on the soccer fields to the west present a restriction on spraying times;
- diesel trucks running on the Fortis site to the south create unpleasant conditions for their customers during picking; and
- inconsistent soil conditions present challenges to soil based crops.

4.0 Proposal

4.1 Background

The subject property was purchased by the applicant's parents in 1971. The applicants purchased the property from their parents in 2003. Over the years, agriculture on the property has included pasture, vegetable crops and, more recently, strawberries. The property is approximately 2.49 ha (6.15 acres), which includes:

- farm residential footprint (including yard, house, and driveway);
- recently farmed land;
- parking area; and
- retail sales building.

The applicants have had challenges with traffic and conflicts with adjacent non-farm uses. Concerns include increased traffic along Benvoulin, customers challenged with accessing their property, and the intrusion of a new median placed on Benvoulin (shown below).

Map 1 - Property Access from Benvoulin



The adjacent properties to the south, the Kelowna Christian School and Fortis BC, are within the Agricultural Land Reserve, and have received non-farm use approvals from the ALC. The history of the area is:

- 1988: Kelowna Christian School - ALC Resolution #341/1988 to allow the a Non-Farm Use for the school
- 1997: Kelowna Christian School - Rezoning and Development Permit - Kelowna Christian School, including the requirement of a 3.0 metre vegetated buffer along other ALR properties
- 2001: ALC Resolution - Fortis BC - ALC Resolution - Non-Farm Use Approval for the Expansion of Use of the utility, which existed as West Kootney Power prior to 1972
- 2003: Applicant purchased property from parents
- 2006: Application - 1789 Munson - for exclusion
- 2007: ALC refused exclusion - 1789 Munson Road
- 2012: ALC refused to reconsider the 2007 exclusion application

Staff advised that they have communicated to the Christian School and Fortis that they would not support expansion of either buildings at their current locations. In 2007, the application for exclusion was submitted, with the intent of extending the Fortis BC operation. (See attached ALC Minutes of Resolution #28/2007).

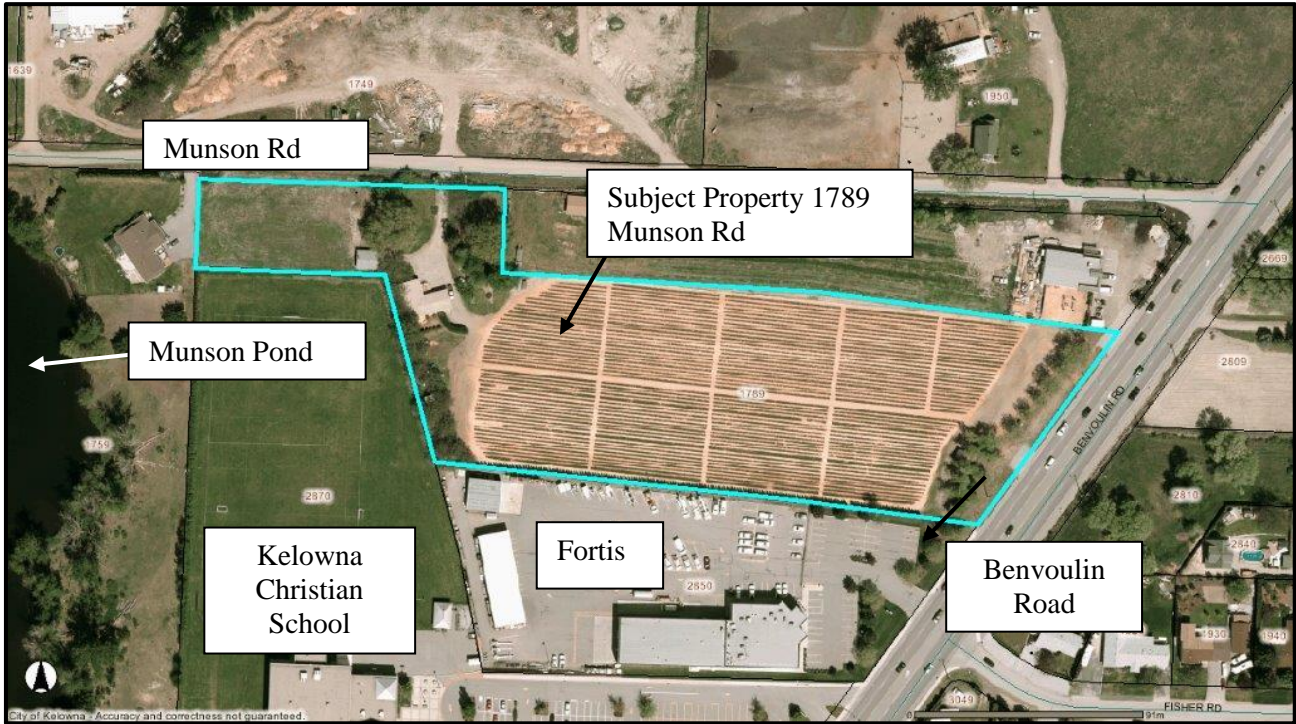
4.2 Site Context

The subject property is located in the South Pandosy / KLO Sector of the City and is within the Agricultural Land Reserve. The Future Land Use of the property is Resource Protection Area (REP). It is zoned A1 - Agriculture 1 (Maps 2 - 5, below) and is outside of the Permanent Growth Boundary. The property is level with less than 1% grade change, with a grade of 352.0 at Benvoulin Road at the east to 350.25 at the west property line.

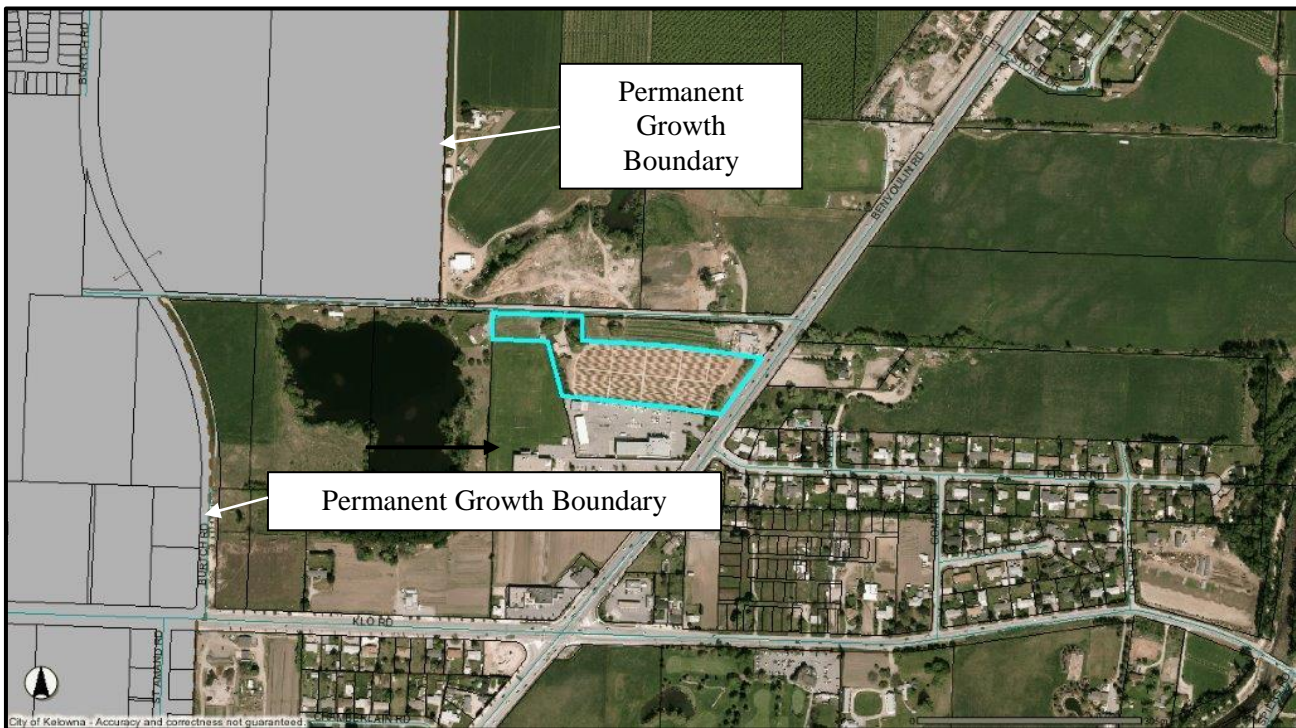
Parcel Summary - 1789 Munson Road:

- Parcel Size: 2.49 ha (6.15 acres)
- Elevation: 352.0 to 350.25 metres above sea level (masl) (approx.)

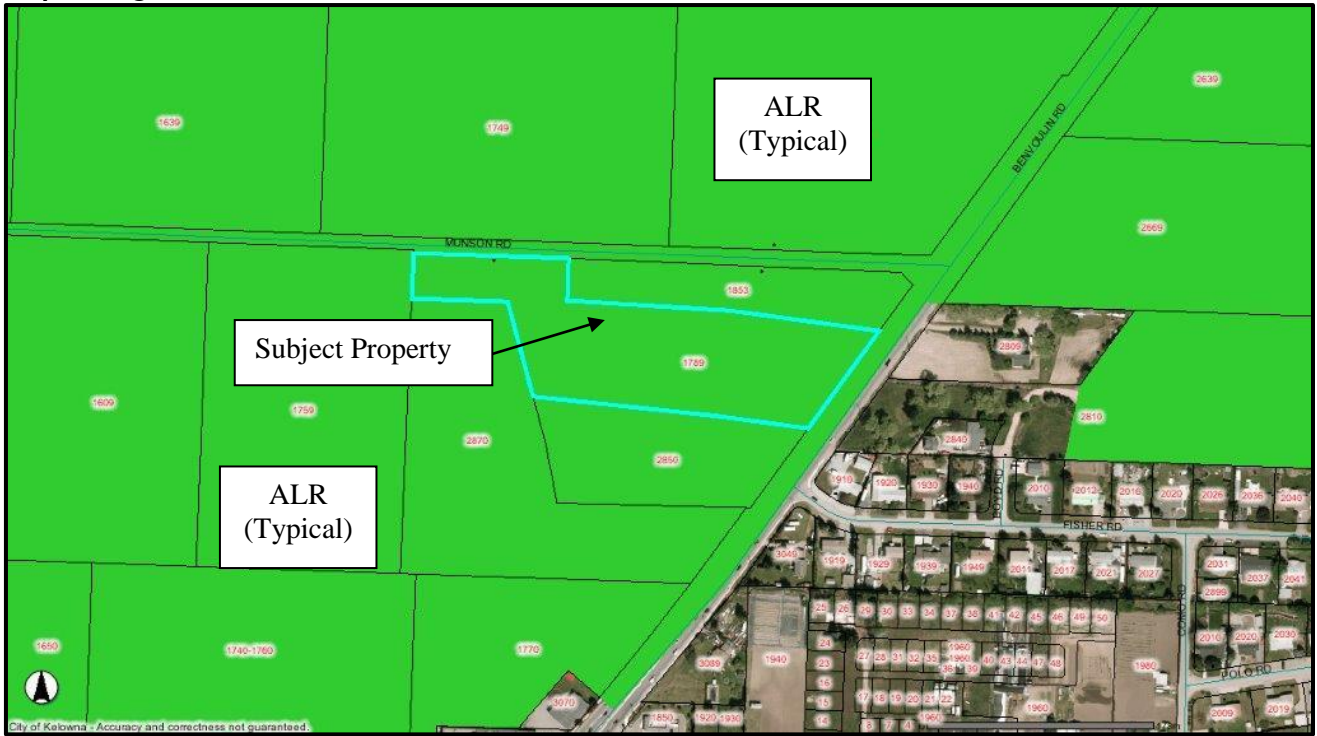
Map 2 - Neighbourhood



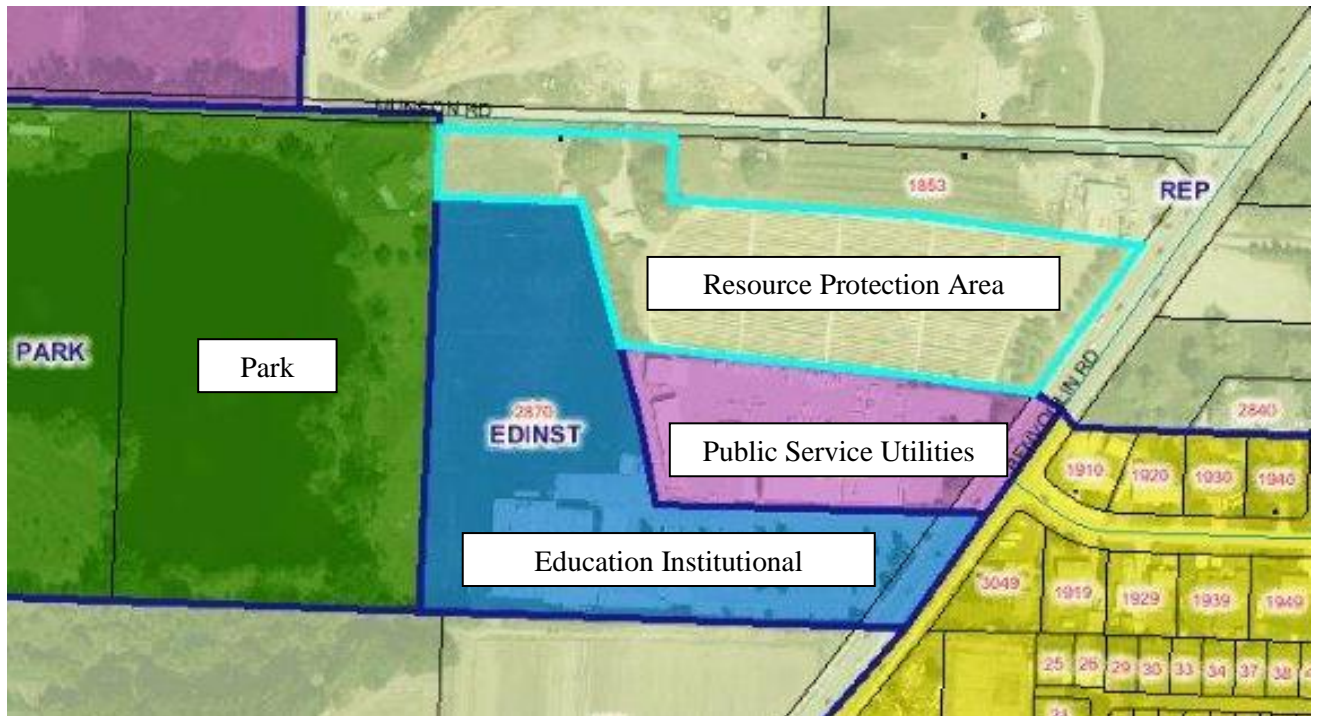
Map 3 - Permanent Growth Boundary



Map 4 - Agricultural Land Reserve



Map 5 - Future Land Use



4.3 Neighbourhood Context

The subject property lies within the Resource Protection Area for future land use according to the Official Community Plan. The properties to the north and east are also within the Resource Protection Area Future Land Use. The properties to the southeast are not in the ALR. This area was developed into residential lots prior to its establishment in 1972.

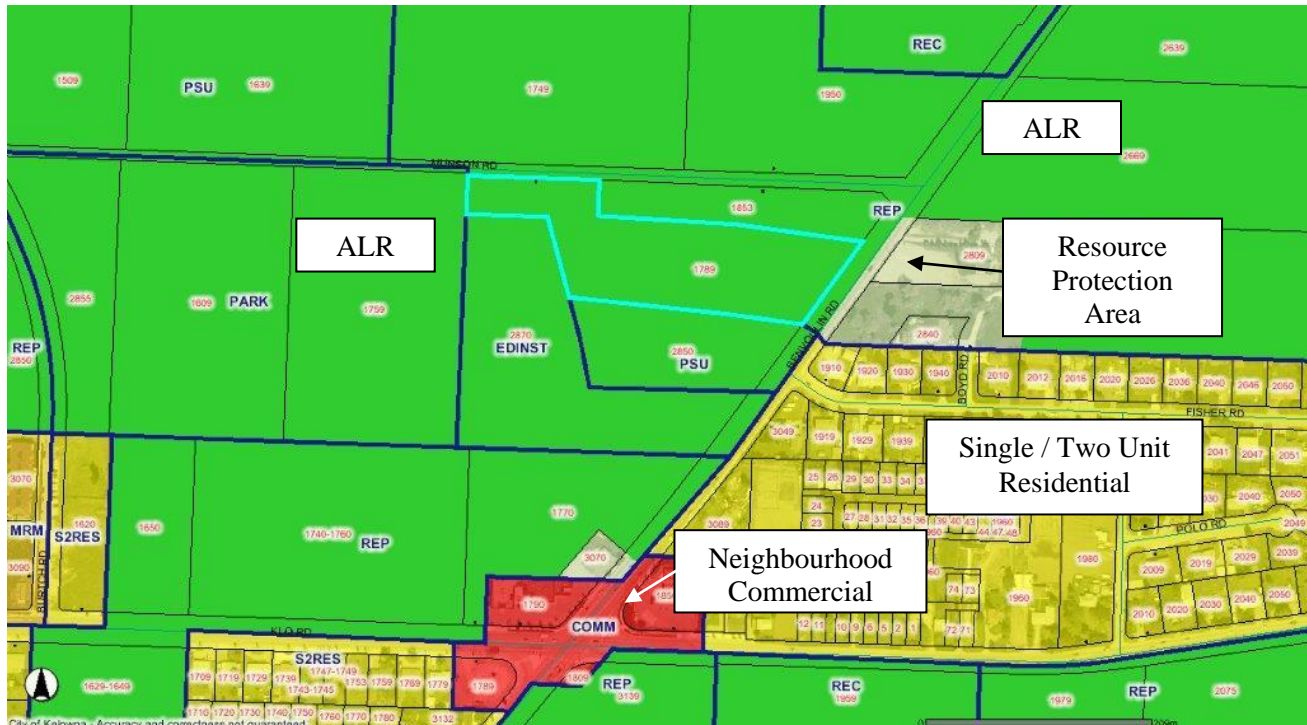
Fortis lies directly south of the property. This property has functioned as a public utility since 1969. In 2001, the utility applied to the ALC, and was granted a Non-Farm Use, in order to expand their facilities. To the west lies Munson Pond. This is owned by the City of Kelowna, for park and natural environment protection. The protection of land for biodiversity is a permitted use in the ALR. The Kelowna Christian School lies to the west and south, which received a non-farm use approval from the ALC in 1988, as previously noted.

Zoning and land uses adjacent to the property are as follows:

Table 1: Zoning and Land Use of Adjacent Property

Direction	Zoning	ALR	Land Use
North	A1 - Agriculture 1	Yes	Agriculture / Fill Vacant
South	P4 -Utilities P2 - Education and Minor Institutional	Yes	Public Utility / School
East	A1 - Agriculture 1 / Land Use Contract	No / Yes	Agriculture / Rural Residential
West	A1 - Agriculture 1	Yes	Park / Natural Area

Map 5 - Land Use



City of Kelowna - Accuracy and correctness not guaranteed.

4.4 Agricultural Land Capability

The Agricultural Land Capability of the subject property is rated at Class 4W for 70% of the property, and Class 5W for 30% of the property. The classification 'W' indicates that there is a limitation due to the occurrence of excess water during the growing period.

The improved rating for the property is 70% Class 2, and 30% Class 3WF. Class 1 - 3 is considered prime agricultural land and relatively rare in Kelowna. Class 2 has minor limitations that require good ongoing management practices or slightly restrict the range of crops. They are deep, hold moisture well and can be managed with little difficulty.

Class '3W' indicates occasional occurrence of excess water during the growing period causing minor crop damage, but no crop loss, or the occurrence of excess water during the winter months, adversely affecting perennial crops. Class '3F' includes soils with moderate nutrient holding ability, high acidity or alkalinity and/or high levels of carbonates. Fertility status does not restrict the range of crops.

4.6 Soil Capability

The soils on the property are 70% Guisachan and 30% Tanaka. These soils are common within the floodplain of Mission Creek, and often occur together, with Tanaka soils occurring in depressions. Guisachan soils are moderately coarse textured, stone free, typically 30 - 100 cm deep and overlay coarse fluvial fan deposits. The textures are silty or sandy loam. Groundwater is near the surface during the winter and recedes through the year, with the lowest during the autumn. The soils are suited to crops that are not sensitive to occasional high groundwater. These crops range from vegetable crops to hay and pasture.

Tanaka soils are moderately textured, gravel free fluvial fan deposits. The textures range from sandy loam to silty loam. They poorly drained, and have a high water holding capacity. The water table fluctuates between the surface and 1.5 metre depth. Depressions are susceptible to flooding. They are limited to agricultural uses that can tolerate high groundwater. Suitable crops include pasture and hay, turf, field crops and vegetables.

4.7 Agricultural Land Reserve Application #G - 37151

In 2006 an application to the ALC was made to exclude the subject property. Fortis BC was requesting a 6.42 acre (2.6 ha) expansion of their operation. The motions of the Agricultural Advisory Committee (AAC) and Council are included below. The resulting ALC Minutes of Resolution #28/2007 are attached.

Agricultural Advisory Committee

In 2006, the AAC passed the motion below.

THAT the Agricultural Advisory Committee NOT SUPPORT Application A06-0019 submitted by New Town Planning on behalf of FortisBC and the current property owner (Coupal) to obtain approval under Section 20(3) of the Agricultural Land Commission Act for a non-farm use within the Agricultural Land Reserve to allow for an expansion of FortisBC's operations on property located at 1789 Munson Road and legally described as Lot B, Plan 86522, Sec 17, Twp 26, ODYD because it is taking valuable farmland out of production.

Graeme James abstained.

CARRIED

City of Kelowna Council

In 2006, Council passed the motion below.

Council:

THAT further consideration of Agricultural Land Reserve Appeal No. A06-0019 (Coupal - 1789 Munson Road) be deferred pending FortisBC providing a business case to support expanding on agricultural land instead of relocating to industrial land and providing details on any plans to replace the lost agricultural land with other agricultural land in the City of Kelowna, and for City Transportation staff to advise whether they would permit a signal light at Munson Road, whether there are plans for Munson Road to connect through to Burtch Road and whether the City could compel closure of the Benvoulin Road accesses.

5.0 Current Development Policies

5.1 City of Kelowna Agriculture Plan (1998)

ALR Application Criteria⁴

Exclusion, subdivision, or non-farm use of ALR lands will generally not be supported. General non-support for ALR applications is in the interest of protecting farmland through retention of larger parcels, protection of the land base from impacts of urban encroachment, reducing land speculation and the cost of entering the farm business, and encouraging increased farm capitalization.

5.2 City of Kelowna Strategic Plan

Objective⁵: Sensitively integrate new development with heritage resources and existing urban, agricultural and rural areas.

Action towards this objective⁶: Evaluate the effectiveness of City policies and bylaws in preserving agricultural lands.

5.3 Kelowna Official Community Plan (OCP)

Land Use Designation Definitions

Resource Protection Area⁷

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 of park/recreation uses.

Permanent Growth boundary⁸

Lands outside the permanent growth boundary will not be supported for urban uses.

Chapter 5 - Development Process

Objective 5.3 Focus development to designated growth areas.

⁴ City of Kelowna Agriculture Plan. 1998. P. 130.

⁵ City of Kelowna Strategic Plan. 2004. P. 7.

⁶ City of Kelowna Strategic Plan. 2004. P. 29.

⁷ City of Kelowna 2030 Official Community Plan. Future Land Use Chapter. P. 4.2.

⁸ City of Kelowna 2030 Official Community Plan. Future Land Use Chapter. P. 4.6.

Policy .1 Permanent Growth Boundary⁹. Establish a Permanent Growth Boundary as identified on Map 4.1 and Map 5.2. Support development of property outside the Permanent Growth Boundary for more intensive uses only to the extent permitted as per the OCP Future Land Use designations in place as of initial adoption of OCP Bylaw 10500, except as per Council’s specific amendment of this policy. Resource Protection Area designated properties not in the ALR and outside the Permanent Growth Boundary will not be supported for subdivision below parcel sizes of 4.0 ha (10 acres). The Permanent Growth Boundary may be reviewed as part of the next major OCP update.

Agricultural Land Use Policies

Objective 5.33 Protect and enhance local agriculture¹⁰.

Policy .1 Protect Agricultural Land. Retain the agricultural land base by supporting the ALR and by protecting agricultural lands from development, except as otherwise noted in the City of Kelowna Agricultural Plan. Ensure that the primary use of agricultural land is agriculture, regardless of parcel size.

Policy .2 ALR Exclusions. The City of Kelowna will not forward 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.

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.

5.4 Agricultural Land Commission Act (ALCA)

Purposes of the commission - Section 6 of the ALCA

The following are the purposes of the commission:

- (a) to preserve agricultural land;
- (b) to encourage farming on agricultural land in collaboration with other communities of interest;
- (c) to encourage local governments, first nations, the government and its agents to enable and accommodate farm use of agricultural land and uses compatible with agriculture in their plans, bylaws and policies.

⁹ City of Kelowna 2030 Official Community Plan. Development Process Chapter. P. 5.2.

¹⁰ City of Kelowna 2030 Official Community Plan: Agricultural Land Use Policies Chapter. P. 5.35.

6.0 Technical Comments

6.1 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.

7.0 Application Chronology

Dates of Newspaper Notification: July 6 and July 17, 2015

Date of Application Received: August 27, 2015

Agricultural Advisory Committee October 8, 2015

AAC/Applicant Discussion:

- Applicant was asked why they would not sell it as farm land. The applicant had been advised by ALC staff to make an exclusion application, and they see it in as a better land use to harmonize the land uses in this area.
- AAC Interior Health member advised that it was important to consider preserving land for the future, with consideration to climate change and focus on food production.
- AAC suggested that the City work with the Kelowna Christian School and Fortis to ensure the buffers are still in place and functioning.
- AAC suggested that the Kelowna Christian School be approached to coordinate recess and outside activity times with spraying schedules.

Moved By Jeff Ricketts/Seconded By Tarsem Goraya

THAT the Agricultural Advisory Committee recommends that Council NOT support an application to the Agricultural Land Commission under Section 30(1) of the *Agricultural Land Commission Act* for an "exclusion" from the Agricultural Land Reserve on the subject property at 1789 Munson Road.

Carried

ANECTODOTAL COMMENT:

The Agricultural Advisory Committee expressed empathy for what the Applicant is going through due to previous decisions made to encroach on ALR land that has affected their personal life and caused hardship. Encouraged Council to look at operations going on around this property and to ensure they can find bylaw regulations to look at ways that such properties can be supported and encouraged to have food production.

8.0 Alternate Recommendation

THAT Agricultural Land Reserve Appeal No. A15-0009 for Parcel B on *Plan B6522 Amended Lot 7 DL 130 ODYD Plan 415 except Plans 18843 and KAP64190*, located at 1789 Munson Road, Kelowna BC, for an exclusion of agricultural land in the Agricultural Land Reserve, pursuant to Section 30(1) of the Agricultural Land Commission Act, be supported by Council; subject to the issuance of a Farm Protection Development Permit, and that the conditions of the Community Planning Department and the Development Engineering Department, including but not limited to access, be satisfied;

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

Report prepared by:

Melanie Steppuhn, Land Use Planner

Reviewed by: Todd Cashin, Subdivision, Suburban and Rural Planning Manager

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

Approved for Inclusion: Doug Gilchrist, Divisional Director, Community Planning & Real Estate

Attachments:

- Photos
- Subject Property Map
- ALC Resolution #28/2007 (March, 2007)
- Soils and Agricultural Capability Maps
- Soils and Agricultural Capability Legends
- Applicant ALC Act Application for Exclusion - Supplementary Information