

REPORT TO COUNCIL



Date: July 10, 2017

RIM No. 1210-21

To: City Manager

From: Community Planning Department (MS)

Application: Z17-0010 **Owner:** Dana Vanrensselaer Johnson
Carmen Elaine Janzen

Address: 5555 Lakeshore Road **Applicant:** Bear Land Development

Subject: Rezone to RR1c to facilitate a 2 lot subdivision to RR1c with Carriage Houses

Existing OCP Designation: Resource Protection Area (REP)

Existing Zone: A1c - Agriculture 1 with Carriage House

Proposed Zone: RR1c – Rural Residential with Carriage House

1.0 Recommendation

THAT Rezoning Application No. Z17-0010 to amend the City of Kelowna Zoning Bylaw No. 8000 by changing the zoning classification of *Lot 2 Sections 15 and 22, Township 28, SDYD Plan 6042* located at 5555 Lakeshore Road, Kelowna, BC from the A1c – Agriculture 1 with Carriage House zone to RR1c – Rural Residential 1 with Carriage House zone, as outlined in the Report from the Community Planning Department dated July 10, 2017, NOT be considered by Council.

2.0 Purpose

To consider a Staff recommendation to NOT rezone the subject property from the A1c – Agriculture 1 with Carriage House zone to the RR1c – Rural Residential 1 with Carriage House zone, to facilitate a two lot subdivision to create two rural residential lots, both with carriage houses.

3.0 Community Planning

Staff does not support the application to rezone the subject property to facilitate a subdivision of the property into two lots with carriage houses on each proposed lot. The City of Kelowna Agriculture Plan, Strategic Plans and Official Community Plan have overlapping policies that direct growth inside the Permanent Growth Boundary, and stipulate non-support of subdivision outside the PGB, regardless if a property is within the Agricultural Land Reserve. In addition, the property is adjacent an active vineyard, and additional dwellings have the potential to increase rural / urban conflicts due to farming practices. Furthermore, the addition of an additional carriage house in this location does not support the infill role

that carriage houses were intended, as it would be remote from transit and services. The parcel relies on a private water system and septic fields. Additional dwellings would require additional reliance on a private water system and two additional septic fields. Through Council's objective this year to 'Protect Agricultural Land', it is important to acknowledge lands adjacent farm land as well as farm land itself, and the difficulty farmers have due to complaints about normal farming practices.

The proposal contradicts the OCP objective of containing urban growth¹, and focusing development into a compact urban form² that maximizes the use of existing infrastructure and contributes to energy efficient settlement patterns. In addition, the OCP protection of local agriculture policy³ outlines directing urban and residential uses to lands within the Permanent Growth Boundary in order to reduce speculative pressure on agricultural lands, and avoid isolated developments, both within ALR and outside of the ALR. Additionally, the Farm Protection Development Permit objectives and guidelines specifically direct to minimizing the impact of urban encroachment and land use conflicts on agricultural land, and minimize conflicts created by activities between farm uses and non-farm uses within agricultural areas, as well as reducing densities towards the boundary of agricultural lands.

The proposed zoning for each of the proposed parcels is Rural Residential 1 with Carriage House - RR1c. This would result in the current number of dwellings adjacent the neighbouring vineyard from two dwellings to four dwellings. Staff has received correspondence from the neighbouring vineyard, with concerns over potential conflicts and complaints from normal farm practices resulting from additional dwellings should a subdivision be permitted. Their concerns include potential complaints about normal farm practices including such as bird scare cannons, equipment noise and pesticide drift.

Furthermore, the proposed house location is to the southeast corner, closest to the adjacent vineyard. While this location affords the best views, it is also the location that is closest and most vulnerable to normal farm practices conflicts.

4.0 Proposal

4.1 Project Description

The applicant is requesting permission to rezone the property from A1c – Agriculture 1 with Carriage House to RR1c – Rural Residential with Carriage House, to facilitate a two lot subdivision. The applicant proposes to subdivide the existing 3.1 ha (7.6 ac) parcel into a 2.1 hectare (5.1 acres) lot and a 1.0 hectare (2.5 acres) lot. An existing easement that provides access to the 125 acre agricultural property to the south, and the next property beyond be is the proposed boundary for the lot split.

Bylaw 7900 Schedule 1, Works & Services Requirements (BL11309) indicates that the parcels must be supplied by a community water distribution system capable of delivering domestic and fire flow demands that meet the parameters of Schedule 4 of that bylaw (see attached Development Engineering Memo). This would require the applicant to bond for and construct a water main extension of approximately 600 metres. Should the applicant wish to go through with the alternate water system proposed, a variance authorized by Council would be required prior to the fourth reading of the rezoning process.

The property currently has a water license with an easement over another Lakeshore Road property. There is also a second water license, currently inactive, for the property that is conditional upon being beneficially

¹ City of Kelowna, 2012. OCP Chapter 1 – Introduction.

² City of Kelowna, 2012. Official Community Plan – Chapter 5, Objective 5.3

³ City of Kelowna, 2012. Official Community Plan – Chapter 5, Objective 5.3

used by December, 2017⁴. This licence crosses Lakeshore Road and goes through the road right of way. The applicant is proposing to consolidate the two licenses into one intake, removing the one on private property and replacing it with the licence in the road right of way area. The intake would be installed with directional drilling under slopes that exceed 45%.

Sewer is not available to the property via the municipal system. The proposed size of the second lot is 1 ha (2.5 acres), which is the minimum size permitted by Interior Health for a septic system. The proposal would require an additional two septic systems, one for the proposed primary dwelling and one for the additional carriage house.

The applicant wishes to apply for an exemption from the Hazardous Condition Development Permit and the Natural Areas Development Permit (see Applicant Package, p. 10, attached).

4.2 Background

The site is split by an existing road access easement through the site, which provides access to the 125 acre agricultural property located above the site to the south. All of the structures on the property and most of the trees were lost during the Okanagan Park Wildfire in 2003.

The lower portion of the property below the access easement has been rebuilt with a single family residence, a carriage home, an accessory building/garage, a small personal garden, chicken coop, and hobby vineyard of 75 plants located on fill which was imported. The remainder of the site above the access easement is open and generally rocky. The proposed second house site location is above the access easement at the northeast corner of the property, next to the adjacent vineyard.

4.3 Site Context

This subject property is located in South Okanagan Mission, on the upper side of Lakeshore Road, just south of Cedar Creek and Martins Lane wineries. The parcel is not in the ALR, but the ALR is immediately adjacent to the east and south.

The property lies within the following Development Permit Areas:

- Farm Protection DP Area;
- Natural Environment/ Hazardous Areas DP Area; and
- Wildland Fire Hazard DP Area.

Parcel Summary:

Parcel Size: 3.1 ha (7.6 ac) parcel
Elevation: 360 masl –397 masl

The zoning of adjacency properties is outlined in the table below.

Table 1: Zoning of Adjacent Property

<i>Direction</i>	<i>Zoning Designation</i>	<i>Land Use</i>
North	RR1 – Rural Residential 1	Rural Residential
East	A1 – Agriculture 1	Vineyard

⁴ Province of BC, Oct. 29, 2014. Conditional Water License C131869

South	A1 – Agriculture 1	Vineyard
West	A1 – Agriculture 1	Rural Residential / Agriculture

Figure 1 – Subject Property Map 5555 Lakeshore Road



Figure 2 – Proposed Subdivision Perspective View

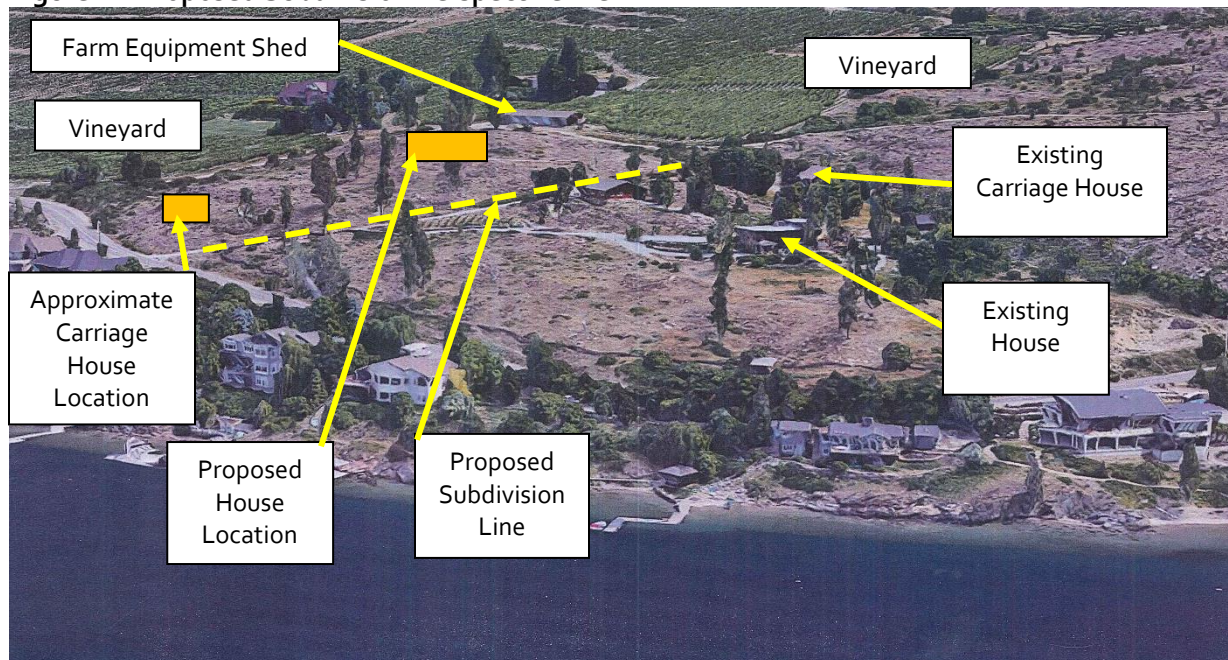


Figure 3 – Current Lot – 5555 Lakeshore Road



Figure 4 – Proposed RR1c Zone and Subdivision



Figure 5 – Proposed RR1c Zone and Proposed Dwelling Locations

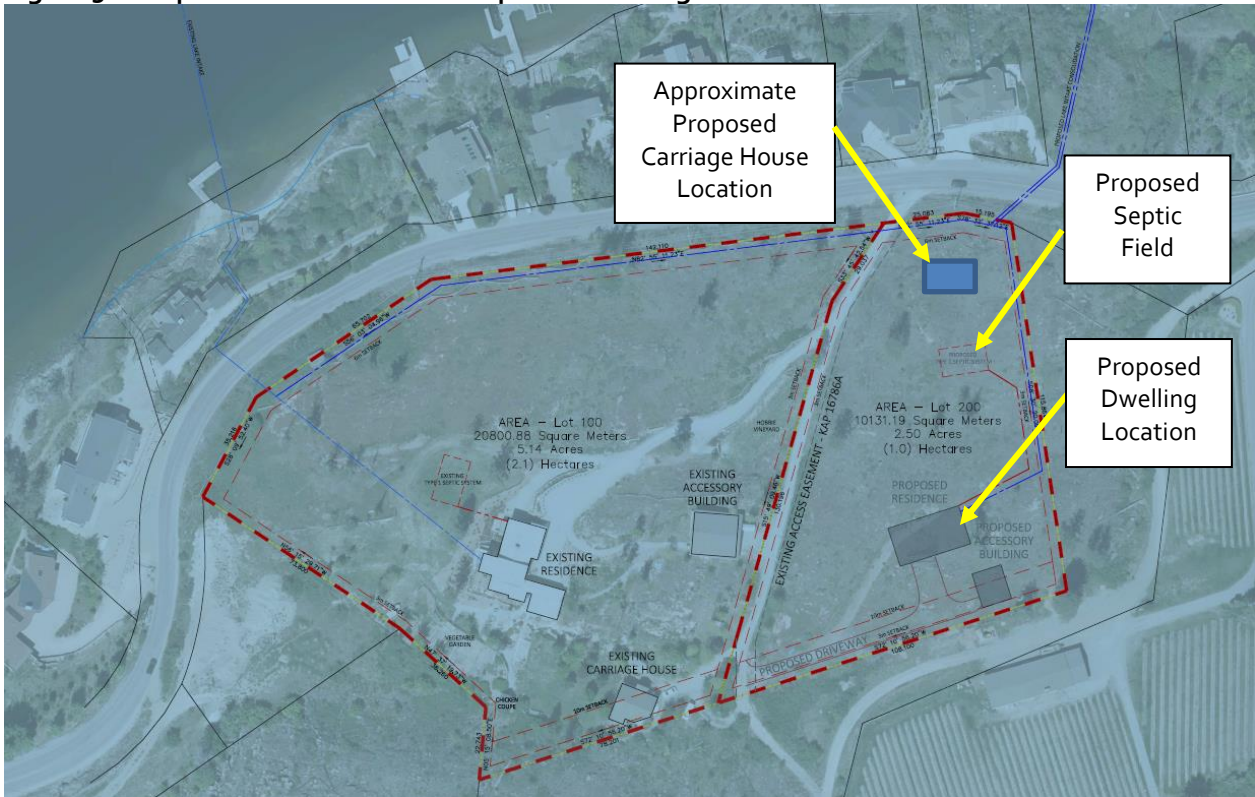


Figure 6 – Future Land Use



Figure 7 – Agricultural Land Reserve

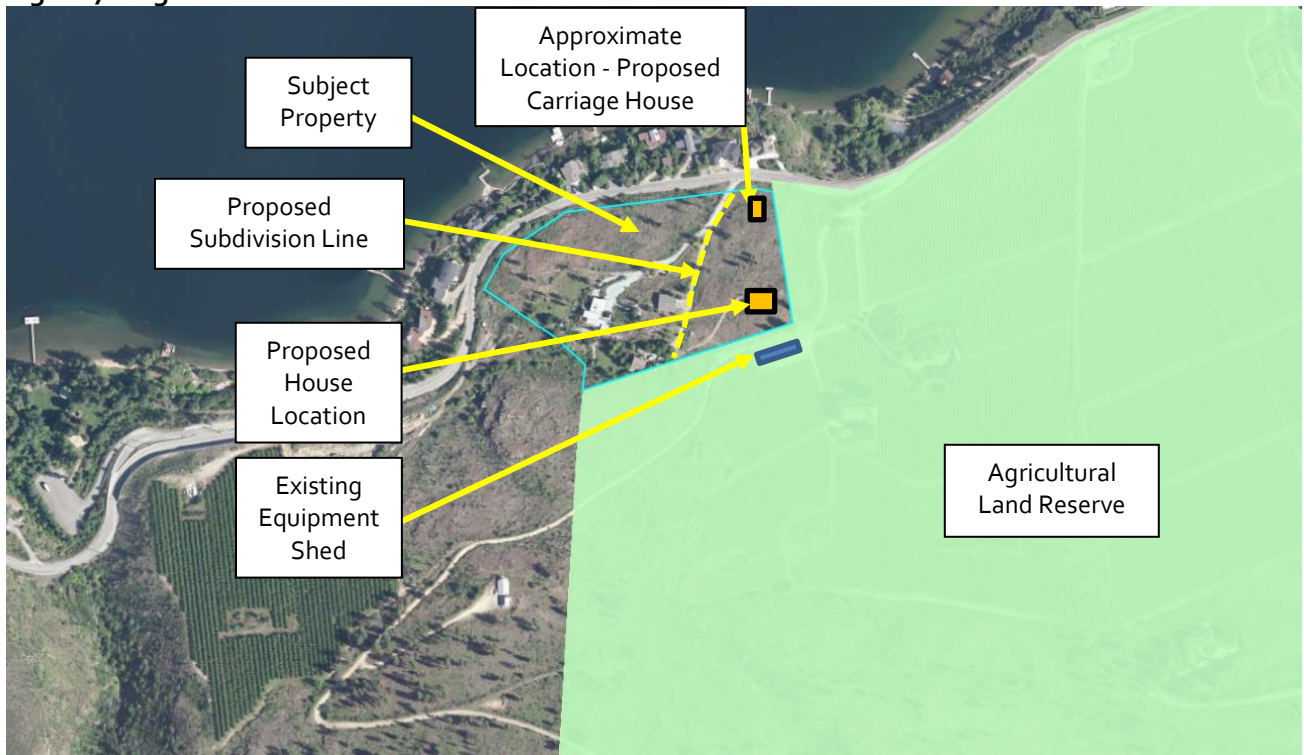
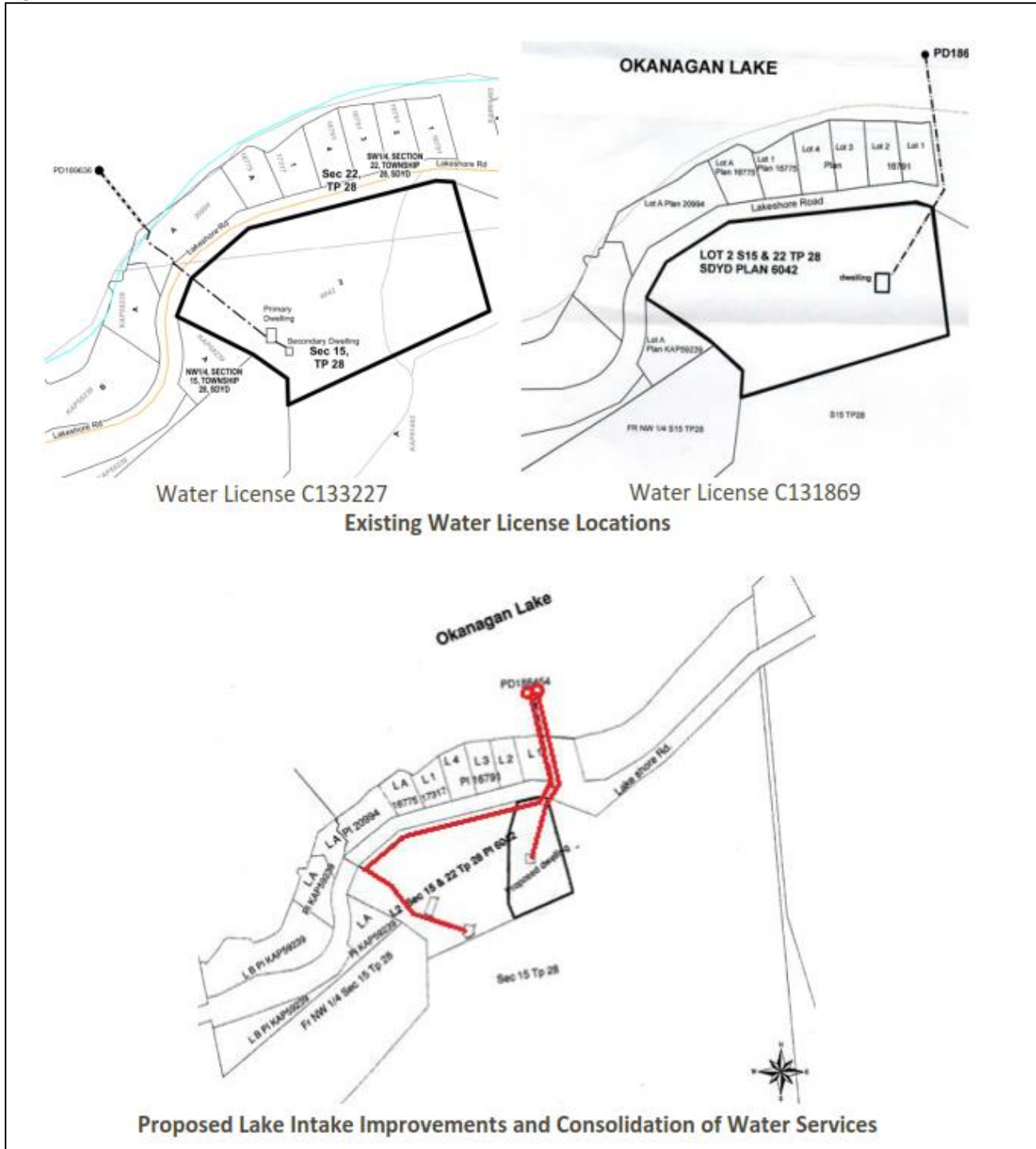


Figure 8 – Proposed Lake Intake Consolidation of Water Licenses



4.4 Subdivision and Development Criteria

Subdivision and development criteria for the RR1c – Rural Residential 1 with Carriage House zone include the following:

CRITERIA	RR1c (Rural Residential) ZONE REQUIREMENTS	Proposed West Lot	Proposed East Lot
Subdivision Regulations			
Minimum Lot Area	1.0 hectare	2.1 hectare	1.0 hectare
Minimum Lot Width	40.0 m	140.0 m+	43.0 m+
Minimum Lot Depth	30.0 m	140.0 m+	124.0 m+

5.0 Current Development Policies

In January of this year, Council added the following to the set of their objectives 'Protect Agricultural Land'. In addition, the City of Kelowna Agriculture Plan, Strategic Plans and Official Community Plan has overlapping policies that direct growth inside the Permanent Growth Boundary, stipulate non-support of subdivision outside the PGB, and protect farm land with respect to reducing density and potential sources of conflicts adjacent agricultural land. These are outlined below.

5.1 Kelowna Official Community Plan (OCP)

Contain Urban Growth⁵. Reduce greenfield urban sprawl and focus growth in compact, connected and mixed-use (residential and commercial) urban and village centres.

Permanent Growth Boundary (PGB)⁶. Non-ALR land outside the Permanent Growth Boundary will not be supported for any further parcelization⁷.

Focus development to designated growth areas⁸. **Compact Urban Form**. Develop a compact urban form that maximizes the use of existing infrastructure and contributes to energy efficient settlement patterns.

Protect and enhance local agriculture⁹

- **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.
- **Housing in Agricultural Areas**. Discourage residential development (both expansions and new developments) in areas isolated within agricultural environments (both ALR and non-ALR).

⁵ City of Kelowna, 2012. OCP Chapter 1 – Introduction.

⁶ City of Kelowna, 2012. Official Community Plan – Chapter 4, Permanent Growth Boundary

⁷ City of Kelowna, 2012. Official Community Plan – Chapter 4, Permanent Growth Boundary

⁸ City of Kelowna, 2012. Official Community Plan – Chapter 5, Objective 5.3

⁹ City of Kelowna, 2012. Official Community Plan – Chapter 5, Objective 5.3

5.2 Farm Protection Development Permit (DP)¹⁰

Objectives

- 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.

- Design any subdivision or urban development of land to reduce densities and the intensity of uses gradually towards the boundary of agricultural lands.

5.3 Agriculture Plan (1998)¹¹

Transportation Policies

- 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

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.

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

5.4 City of Kelowna Strategic Plan¹²

Sensitively integrate new development with heritage resources and existing urban, agricultural and rural areas. Action towards this objective¹³: Evaluate the effectiveness of City policies and bylaws in preserving agricultural lands

6.0 Technical Comments

6.1 Building & Permitting Department

Proof of Potable water is required prior to applying for any building permits.

¹⁰ City of Kelowna, 2012. Official Community Plan – Chapter 15 – Farm Protection Development Guidelines

¹¹ City of Kelowna Agriculture Plan. 1998. P. 130.

¹² City of Kelowna Strategic Plan. 2004. P. 7.

¹³ City of Kelowna Strategic Plan. 2004. P. 29.

6.2 Development Engineering Department

Refer to the attached for the complete memo. A summary is included below:

Water

- a) The subject parcel under this application is located within the Future City of Kelowna service area. The parcel is currently served by a licenced fresh water lake intake.
- b) As a condition of rezoning, Schedule 1 of Bylaw 7900, Works & Services Requirements (BL11309) indicates that the parcels **must** be supplied by a community distribution system capable of delivering domestic and **fire flow demands** that meet the flow and pressure parameters of Schedule 4 in the Subdivision, Development & Servicing Bylaw.
- c) To meet this requirement, the applicant would need to provide bonding and construct a water main extension within Lakeshore Road (approximately 600 meters).

Sewer

- a) This subject parcel is currently not within the City service area. Sanitary sewage is presently handled by an on-site sewage disposal system.
- b) Sanitary sewage effluent ground disposal shall be in accordance with Part 2, Section 5.2 (o)(viii) of the Subdivision, Development & Servicing Bylaw No.7900.

Drainage

- a) A requirement of this rezoning application will be to prepare a storm water management plan and design to comply complete with the City's drainage design and policy manual. Detailed Site Grading Plans including erosion and sedimentation controls will be required at time of subdivision.
- b) Show details of dedications, rights-of-way, setbacks and non-disturbance areas on the lot Grading Plan.

Roads

- a) Verify that physical driveway access will satisfy City requirements. For steeper lots (15%), show driveways on the lot grading plan with grades or profiles. Where lots are serviced by onsite sewage disposal systems, show limits of cut and fill lines.
- a) Verify that adequate (130m) sightlines exist on Lakeshore Road for the driveway location.

6.3 Fire Department

The Fire Department have no concerns with the zoning provided acceptable fire flows are provided for the properties and hydrants are provided.

6.4 Interior Health Authority

As the proposed rezoning of the subject property is to allow for a 2 lot subdivision this office recommends having an "Authorized Person" as defined in the Sewerage System Regulation investigate the property and produce a report confirming whether or not the proposed lots will be able to meet Interior Health's onsite sewerage dispersal system requirements for subdivision. For reference please find attached Interior Health's "Subdivision Report Criteria for Authorized Persons".

Information provided indicates that should the subject property be subdivided into 2 lots each lot would have its own water license and separate water supply system. Interior Health does not regulate individual private water supply systems however it should be noted that any shared water supply system is regulated and must be in compliance with the Drinking Water Protection Act and regulations made there under.

7.0 Public Notification

As staff understands it, the applicant has undertaken public notification in accordance with Council Policy 367. The applicant has provided five letters from neighbours on Lakeshore Road that they did not object to the proposed rezoning or subdivision as presented. Staff has received one letter of non-support from the agricultural parcel adjacent.

8.0 Application Chronology

Date of Application Received:	January 10, 2017
Date Public Consultation Completed:	February 22, 2017
Agricultural Advisory Committee	March 9, 2017

Moved by Domenic Rampone/**Seconded by** Jeff Ricketts

THAT the Agricultural Advisory Committee recommends that Council support Rezoning Application No. Z17-0010 for the property located at 5555 Lakeshore Road, Kelowna, BC in order to rezone the subject property from the A1c - Agriculture 1 with Carriage House zone to the RR1c - Rural Residential 1 with Carriage House zone to facilitate a two (2) lot subdivision to create two (2) rural residential lots, both with carriage houses.

Defeated

Domenic Rampone, Ed Schiller, Jeff Ricketts & Tarsem Goraya – Opposed.

ANECDOTAL COMMENTS:

The Agricultural Advisory Committee expressed a concern with respect to the proposed subdivision due to concerns with potential conflicts with additional neighbours in additional houses would have adjacent the existing vineyard. The Committee acknowledged that it would be difficult to provide a buffer in this area.

9.0 Alternate Recommendation

THAT Rezoning Application No. Z15-0000 to amend the City of Kelowna Zoning Bylaw No. 8000 by changing the zoning classification of Lot 2 Sections 15 and 22, Township 28, SDYD Plan 6042, located at 5555 Lakeshore Road, Kelowna, BC from the A1c – Agriculture 1 with Carriage House zone to RR1c – Rural Residential 1 with Carriage House zone, as outlined in the Report from the Community Planning Department dated July 10, 2017, be considered by Council;

AND THAT the Rezoning Bylaw be forwarded to a Public Hearing for further consideration;

AND THAT final adoption of the Rezoning Bylaw be considered subsequent to the outstanding conditions of approval as set out in Schedule "A" attached to the Report from the Development Engineering Department dated (June 26, 2017);

AND THAT final adoption of the Rezoning Bylaw be considered subsequent to the issuance of a Preliminary Layout Review Letter by the Approving Officer;

AND FURTHER THAT final adoption of the Rezoning Bylaw be considered in conjunction with Council's consideration of a Farm Protection and Natural Environment Development Permit for the subject property.

Report prepared by:

Melanie Steppuhn, Land Use Planner

Reviewed by:

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Todd Cashin, Subdivision, Suburban and Rural Planning Manager

Approved for Inclusion:

☐

Ryan Smith, Community Planning Department Manager

Approved for Inclusion:

☐

Doug Gilchrist, Divisional Director, Community Planning & Real Estate

Attachments:

Application Package

Development Engineering Services Memo