

ADMINISTRATIVE REPORT



TO: Board of Directors

FROM: J. Zaffino, Chief Administrative Officer

DATE: October 3, 2024

RE: Official Community Plan (OCP) & Zoning Bylaw Amendment – Electoral Area “C”
(C2024.010-ZONE)

Administrative Recommendation:

THAT the Electoral Area “C” Official Community Plan Amendment Bylaw No. 2452.24, 2024, and the Okanagan Valley Zoning Amendment Bylaw No. 2800.41, 2024, be denied.

| | |
|--|--------------------------------------|
| <u>Purpose:</u> To allow for a two-lot subdivision | <u>Folio:</u> C-04144.000 |
| <u>Civic:</u> 5900 McKinney Road | <u>Legal:</u> District Lot 858, SDYD |
| <u>OCP:</u> Agriculture (AG) | <u>Zone:</u> Agriculture Two (AG2) |

Proposed Development:

This application is seeking to amend the zoning of an approximately 2.6 hectare portion of the subject property in order to allow for a two-lot subdivision.

In order to accomplish this, the following land use bylaw amendments are being proposed by the applicant:

- amend the land use designation under Schedule ‘B’ (OCP Map) of the Electoral Area “C” Official Community Plan (OCP) Bylaw No. 2452, 2008, from Agriculture (AG) to Small Holdings (SH); and
- amend the zoning under Schedule ‘2’ (Zoning Map) of the Okanagan Valley Zoning Bylaw No. 2800, 2022, from Agriculture Two (AG2) to Small Holdings Four (SH4).

In support of the rezoning, the applicant has stated, amongst other things, that “this application is supported by the Area C OCP in ... [in that it] improves farming buffers by eliminating the need and risk of farm vehicle road crossings of McKinney Road. McKinney Road is a busy year-round access road to Mount Baldy, logging, hunting and recreation areas ...”

Site Context:

The subject property is approximately 32.2 ha in area and straddles the north and south sides of McKinney Road. The portion of the property subject to the proposed amendments is approximately 2.6 ha in area and is located entirely on the south side of McKinney Road.

It is understood that the parcel is comprised of a single detached dwelling and various accessory structures, which are located on the north side of McKinney Road.

The surrounding pattern of development is generally characterised by vacant Crown land. The nearest privately held properties are located approximately 840 metres to the west and are comprised of a mix of agriculture and rural holdings that have been developed with single detached dwellings.

Background:

A Plan of Subdivision deposited with the Land Titles Office in Kamloops is unavailable for this property, while available Regional District records indicate that building permits have not previously been issued for this property. BC Assessment has classified the property as “Residential” (Class 01).

Under the Electoral Area “C” Official Community Plan (OCP) Bylaw No. 2452, 2008, the subject property is currently designated Agriculture (AG), and is the subject of a Watercourse Development Permit (WDP) designation.

The Area “C” OCP currently requires proposals to designate additional land as Small Holdings to be assessed against certain criteria (i.e. adequate water and sewage disposal, impact to the natural environment, impacts to adjacent uses and the form and character of the area, susceptibility to natural hazards and adequate road access).

Under the Okanagan Valley Zoning Bylaw No. 2800, 2022, the property is currently zoned Agriculture Two (AG2) which requires a 10.0 hectare minimum parcel size for subdivision.

Under Section 8.0 (Floodplain Regulations) of the Zoning Bylaw, the subject property is within the floodplain associated with Baldy Creek and the flood construction level is 1.5 metres above the natural boundary of the creek.

The property is within the Agricultural Land Reserve (ALR) and is the subject of a previous ALC decision (Resolution #2720/82), which allowed for subdivision of the property along McKinney Road to create two (2) separate parcels.

On April 27, 2023, the Ministry of Transportation and Infrastructure (MoTI) referred a proposed two (2) lot subdivision involving the subject property to the Regional District for compliance with any applicable RDOS land use bylaws.

Referrals:

Approval from the Ministry of Transportation and Infrastructure (MoTI) is not required prior to adoption as the proposed amendments involve lands beyond 800 metres of a controlled access highway (i.e. Highway 97 & 3).

Pursuant to Section 476 of the *Local Government Act*, the Regional District must consult with the relevant School District when proposing to amend an OCP for an area that includes the whole or any part of that School District. In this instance, School District No. 53 have been made aware of the proposed amendment bylaw.

Pursuant to Section 477 of the *Local Government Act*, after first reading the Regional Board must consider the proposed OCP amendment in conjunction with Regional District's current financial and waste management plans. The proposed OCP amendment has been reviewed by the Public Works Department and Finance Department, and it has been determined that the proposed bylaw is consistent with RDOS's current waste management plan and financial plan.

Pursuant to Section 475 of the *Local Government Act*, the Regional District must consult with the Agricultural Land Commission (ALC) when proposing to amend an OCP which might affect agricultural land. Both the ALC and the Ministry of Agriculture have been made aware of the proposed amendment bylaws.

Public Process:

On July 7, 2024, a Public Information Meeting (PIM) was held electronically via Webex and was not attended by any members of the public.

At its meeting of August 21, 2024, the Electoral Area “C” Advisory Planning Commission (APC) resolved to recommend to the RDOS Board that the subject development application be approved.

Administration recommends that the written notification of affected property owners, the public meetings as well as formal referral to the agencies listed at Attachment No. 1, should be considered appropriate consultation for the purpose of Section 475 of the *Local Government Act*. As such, the consultation process undertaken is seen to be sufficiently early and does not need to further ongoing.

All comments received to date in relation to this application are included as a separate item on the Board Agenda.

Analysis:

Administration considers this proposal to be inconsistent with the growth management policies in the South Okanagan Regional Growth Strategy (RGS) as well as the Electoral Area “C” Official Community Plan (OCP) bylaws.

This is primarily due to the rezoning seeking to change the land use designation of a property to facilitate subdivision outside of a Growth Area (Primary or Rural) and within the Agricultural Land Reserve (ALR).

It is noted that the Agricultural (AG) designation of the property reflects its intended future use for farming purposes and is consistent with the approach taken by the Board in relation to properties in the ALR.

Administration also considers this proposal to be representative of the type of “rural sprawl” that the Regional District’s land use bylaws seek to prevent from occurring within the electoral areas.

While the Electoral Area “C” OCP does not include policies specifically discouraging additional development outside of the designated Rural Growth Areas, this is because the Electoral Area “C” OCP pre-dates the South Okanagan Regional Growth Strategy and has not been updated to reflect the policy direction of this document.

In other Okanagan Electoral Areas, the OCPs have been updated to align with the South Okanagan Regional Growth Strategy by generally discouraging the creation of new rural holdings parcels outside of the designated Rural Growth Areas.

For these reasons, Administration supports the current AG designation of the property and maintaining it as a large parcel (i.e. 8.0 ha, or greater) in recognition that this areas will remain as rural, with limited community services and infrastructure and that larger parcels are generally more viable for agricultural operations.

While the applicant has indicated the subdivision is intended to allow for more efficient use of this land, Administration does not consider the presence of McKinney Road (which is built to a rural standard at this location) to be an insurmountable impediment to the agricultural use of the land.

Administration recognizes that it has previously supported the un-hooking of parcels along an existing road dedication, however, in this instance the un-hooking of the parcel would be incongruous with surrounding land use patterns (i.e. un-surveyed Crown land) and is contrary to other policy directions.

With regard to the previous approval from the ALC in relation to this subdivision, Administration notes that this decision is from 1982 and no longer reflects current strategic land use directions contained within the Regional District's land use bylaws.

Alternative

Conversely, Administration recognises that the proposal generally meets the assessment criteria currently listed in the Electoral Area "C" OCP for the designation of new small holdings parcels.

However, Administration has concerns that these assessment criteria are not consistent with the South Okanagan Regional Growth Strategy.

Administration further recognizes that a historic ALC decision authorized the subdivision of this property along McKinney Road.

Summary

In summary, the proposal is seen to be inconsistent with the growth management objectives of the Regional District's land use bylaws. For this reason, Administration is recommending that the proposal be denied.

Financial Implications:

Financial implications have been considered and none were found.

Communication Strategy:

The proposed bylaw amendments have been notified in accordance with the requirements of the *Local Government Act* as well as the Regional District's Development Procedures Bylaw No. 2500, 2011.

Alternatives:

1. THAT the Electoral Area "C" Official Community Plan Amendment Bylaw No. 2452.24, 2024, and the Okanagan Valley Zoning Amendment Bylaw No. 2800.41, 2024, be read a first and second time and proceed to public hearing;

AND THAT the Board of Directors considers the process, as outlined in this report from the Chief Administrative Officer dated October 3, 2024, to be appropriate consultation for the purpose of Section 475 of the *Local Government Act*;

AND THAT, in accordance with Section 477 of the *Local Government Act*, the Board of Directors has considered Amendment Bylaw No. 2452.24, 2024, in conjunction with its Financial and applicable Waste Management Plans;

AND THAT the holding of a public hearing be scheduled for the Regional District Board meeting of October 17, 2024;

AND THAT staff give notice of the public hearing in accordance with the requirements of the *Local Government Act*.

Respectfully submitted:

Ben Kent

Ben Kent, Planner II

Endorsed By:

CG

C. Garrish, Senior Manager of Planning

Attachments: No. 1 – Context Maps

No. 2 – Applicant’s Subdivision Plan

No. 3 – Aerial Photo

Attachment No. 1 – Agency Referral List

Referrals have been sent to the following agencies as highlighted with a , regarding Amendment Bylaw No. 2452.24, 2024 and 2800.41, 2024:

| | | | |
|-------------------------------------|---|-------------------------------------|--|
| <input checked="" type="checkbox"/> | Agricultural Land Commission (ALC) | <input type="checkbox"/> | Fortis |
| <input type="checkbox"/> | Interior Health Authority (IHA) | <input type="checkbox"/> | City of Penticton |
| <input type="checkbox"/> | Ministry of Agriculture | <input type="checkbox"/> | District of Summerland |
| <input type="checkbox"/> | Ministry of Energy, Mines & Petroleum Resources | <input type="checkbox"/> | Town of Oliver |
| <input type="checkbox"/> | Ministry of Municipal Affairs & Housing | <input type="checkbox"/> | Town of Osoyoos |
| <input type="checkbox"/> | Ministry of Lands, Water and Resource Stewardship | <input type="checkbox"/> | Town of Princeton |
| <input type="checkbox"/> | Ministry of Forest, Lands, Natural Resource Operations & Rural Development (Archaeology Branch) | <input type="checkbox"/> | Village of Keremeos |
| <input type="checkbox"/> | Ministry of Jobs, Trade & Technology | <input checked="" type="checkbox"/> | ONA / PIB / OIB / USIB / LSIB (via NationsConnect) |
| <input type="checkbox"/> | Ministry of Transportation and Infrastructure | <input type="checkbox"/> | Environment Canada |
| <input type="checkbox"/> | Integrated Land Management Bureau | <input type="checkbox"/> | Fisheries and Oceans Canada |
| <input type="checkbox"/> | BC Parks | <input type="checkbox"/> | Canadian Wildlife Services |
| <input checked="" type="checkbox"/> | School District #53 (Areas A, B, C, D & G) | <input type="checkbox"/> | OK Falls Irrigation District |
| <input type="checkbox"/> | School District #58 (Area H) | <input type="checkbox"/> | Kaleden Irrigation District |
| <input type="checkbox"/> | School District #67 (Areas D, E, F, I) | <input type="checkbox"/> | Vaseux Lake Irrigation District |
| <input type="checkbox"/> | Keremeos Irrigation District | <input type="checkbox"/> | Irrigation District / improvement Districts / etc. |
| <input type="checkbox"/> | Central Okanagan Regional District | <input type="checkbox"/> | Kootenay Boundary Regional District |
| <input type="checkbox"/> | Thompson Nicola Regional District | <input type="checkbox"/> | Fraser Valley Regional District |
| <input type="checkbox"/> | Volunteer Fire Department | | |

Attachment No. 2 – Applicant’s Subdivision Plan

**PROPOSED
SUBDIVISION PLAN OF PART OF
DL 858, SDYD**

PID: 014-476-932
CHARGES: X101773 (ROAD GAZETTE NOTICE)
SRW LB348504

CIVIC ADDRESS:
5900 MCKINNEY ROAD, OLIVER

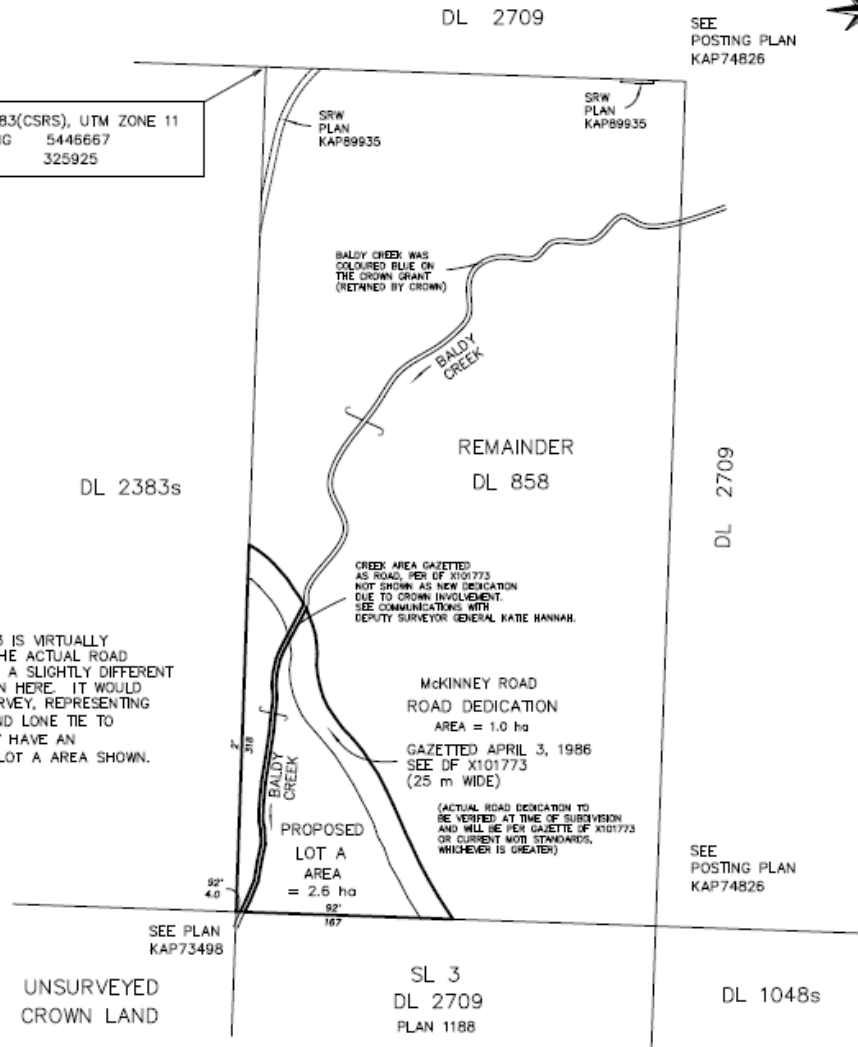
CLIENT: MARK MATTES

DATE: APRIL 17, 2023
VERSION #1

SCALE 1:3000
0 60 120 180 240
ALL DISTANCES SHOWN ARE IN METRES.
THE INTENDED SIZE OF THIS PLAN IS 432 mm
IN WIDTH BY 560 mm IN HEIGHT (C SIZE)
WHEN PLOTTED AT A SCALE OF 1:3000



DATUM NAD83(CSRS), UTM ZONE 11
UTM NORTHING 5446667
UTM EASTING 325925



LOT DIMENSIONS ARE DERIVED FROM LAND TITLE OFFICE RECORDS PLAN KAP89935

BEARINGS ARE UTM GRID, ZONE 11

THIS SKETCH PLAN WAS PREPARED FOR SUBDIVISION APPLICATION PURPOSES AND IS FOR THE EXCLUSIVE USE OF THE CLIENT SHOWN.

CURRENT ZONING AG2
PROPOSED ZONING CHANGED TO SH4

SEE ALC RESOLUTION FOR CONCEPTUAL SUBDIVISION APPROVAL

PENDERGRAFT PROFESSIONAL LAND SURVEYING INC.

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OSOYOOS, B.C.
V0H 1V0
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EMAIL: info@pendergraftsurveying.ca

OUR FILE NO. 9706398 AP1.DWG
BC FILE NO.

Attachment No. 3 – Aerial Photo

