

ADMINISTRATIVE REPORT



TO: Board of Directors

FROM: B. Newell, Chief Administrative Officer

DATE: August 1, 2019

RE: Official Community Plan (OCP) & Zoning Bylaw Amendment – Electoral Area “H”

Administrative Recommendation:

THAT Bylaw No. 2497.11, 2019, Electoral Area “H” Official Community Plan Amendment Bylaw and Bylaw No. 2498.18, 2019, Electoral Area “H” Zoning Amendment Bylaw 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 August 1, 2019, 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. 2497.11, 2019, 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 September 5, 2019;

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

Purpose: To rezone the southern portion of the property to allow for the creation of an 8.6 ha parcel

Owner: Jennifer & Lawrence Liss Agent: AllTerra Land Surveying Folio: H-00724.040

Civic: 336 Tulameen River Road Legal: Lot 2, Plan KAP29927, District Lot 395, LDYD

OCP: Agriculture (AG) Proposed OCP: Large Holdings

Zoning: Agriculture Three Zone (AG3) Proposed Zoning: Large Holdings Two (LH2)

Proposed Development:

This application proposes to amend zoning of the southern portion of the subject property in order to facilitate the subdivision of the northern part of the property into six (6) lots and allow the creation of an 8.6 hectare (ha) remainder parcel in the southern portion where the owners reside.

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 “H” Official Community Plan (OCP) Bylaw No. 2497, 2012, from Agriculture (AG) to Large Holdings (LH); and

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- amend the zoning under Schedule '2' (Zoning Map) of the Electoral Area "H" Zoning Bylaw No. 2498, 2012, from Agricultural Three Zone (AG3) to Large Holdings Two (LH2).

In support of the rezoning, the agent has stated that the owners wish to complete the previously ALC approved subdivision "to create 13 lots with the subject parcel as the remainder" and to "continue abiding on this parcel in the same way they have been", as their primary residence.

Site Context:

The subject property is approximately 25.8 ha in area and is situated approximately 800 metres west of Tulameen on the north side of Tulameen River Road.

It is understood that the southern portion of the parcel is comprised of a single detached dwelling, accessory structures and undeveloped agricultural land. The surrounding pattern of development is generally characterised by vacant agricultural land, and residential parcels.

Background:

The current boundaries of the subject property were created by a Plan of Subdivision deposited with the Land Titles Office in Kamloops on May 4, 1979, while available Regional District records indicate that building permits have previously been issued for a single detached dwelling (1981), mobile home (1982), cabin (2003), an addition to the single family dwelling (2006), and a detached garage (2006).

Under the Electoral Area "H" Official Community Plan (OCP) Bylaw No. 2497, 2012, the northern portion of the subject property is designated Small Holdings (SH), the southern portion is Agriculture (AG) and the property is also the subject of a Watercourse Development Permit (WDP) Area designation adjacent its boundary with the Tulameen River.

Under the Electoral Area "H" Zoning Bylaw No. 2498, 2012, the northern portion of the subject property is zoned Small Holdings Two (SH2), which specifies a minimum parcel size for subdivision of 2.0 ha. The southern portion of the property is zoned Agriculture Three (AG3). AG3 zoning specifies a minimum parcel size for subdivision of 20.0 ha. In comparison, the proposed Large Holdings Two (LH2) Zone specifies a minimum parcel size of 8.0ha.

Prior to 2012, the southern portion of the parcel was zoned Resource Area (RA), which, at that time, allowed a minimum parcel size of 8.0 ha.

When the current Electoral Area "H" OCP & Zoning Bylaws were adopted in 2012, lands in the Agricultural Land Reserve (ALR) were designated as "Agriculture (AG)" and re-zoned to "Agriculture Three (AG3)", which established a minimum parcel size of 20.0 ha.

While the whole of the property is within the ALR, in 2004 the Agricultural Land Commission (ALC) approved a 13 lot subdivision of the property, provided parcels were not less than 2.0 ha in area. Between 2006 and 2009 the first seven (7) parcels of this subdivision were created.

On February 13, 2019, the Ministry of Transportation and Infrastructure (MoTI) referred a proposed six (6) lot subdivision involving the subject property to the Regional District for compliance with any applicable RDOS land use bylaws.

An assessment of this proposed subdivision determined that, due to the property being split zoned, subdivision will result in a sub-minimal remainder parcel that will not meet the 20 ha minimum parcel size required by the Agriculture Three (AG3) Zone.

BC Assessment has classified the property as “Residential” (Class 01).

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 3).

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. Both the ALC and the Ministry of Agriculture have been made aware of the proposed amendment bylaw.

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. 58 has 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 will be reviewed by the Public Works Department and Finance Department, to ensure it is consistent with RDOS's current waste management plan and financial plan.

All agency comments that have been received are included as a separate item on the Board Agenda.

Public Process:

At its meeting of July 16, 2019, the Electoral Area “H” Advisory Planning Commission (APC) resolved to recommend to the Regional District Board that this application be approved.

A Public Information Meeting was held ahead of the APC meeting on July 16, 2019, and was attended by approximately Two (2) members of the public.

Administration recommends that the convening of the public information meeting, consideration by the Electoral Area “H” APC 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, this process is seen to be sufficiently early and does not need to further ongoing consultation.

Analysis:

In considering this proposal, Administration notes that it is generally not considered good planning practice to encourage the fragmentation of agricultural land and that the OCP generally seeks to discourage this type of subdivision by supporting the consolidation of legal parcels that support more efficient agricultural operations and encourage the protection of agricultural lands and maximizing productive farm activity.

Administration is concerned that the principle agricultural rationale put forward in support of this subdivision, which is the creation of smaller parcels, runs counter to the direction provided by the OCP.

Moreover, Administration notes that the ALC has been consistent in its support for larger parcel sizes on ranching and grazing lands — such as the subject property — in the Similkameen. For instance, the Commission recommended a 42.0 ha parcel size be applied to the AG3 Zone in Electoral Area “H”.

In this context, the creation of an 8.4 ha remainder may impede the agricultural opportunities available in the long-term.

That said, Administration also recognises that the ALC previously approved the subdivision of this parcel into smaller lots and that the subject property is now dis-contiguous as a result of the subdivisions that has since been completed.

Moreover, requiring compliance with the 20.0 ha minimum parcel size requirement of the AG3 Zone is not going to result in a more viable agricultural parcel.

Administration also recognises that it has previously supported proposals in other Electoral Areas that seek to undertake subdivision along a road alignment or where parcels are physically separated by other parcels within the ALR on the basis that these generally form a boundary between what is seen to be two separate parcels.

While the requested LH2 Zone is not an “Agriculture” zone, it shares many of the same regulations as the AG3 Zone, such as similar permitted uses and the same maximum parcel coverage requirements which will ensure that the general use of the property remains the same. For reference purposes, a comparison of the AG3 Zone and LH2 Zone is presented at Attachment No. 3.

In summary, Administration generally supports the proposed OCP and Zoning Bylaw amendments.

Alternative:

THAT first reading of the Electoral Area “H” Official Community Plan (OCP) Amendment Bylaw No. 2497.11, and the Electoral Area “H” Zoning Amendment Bylaw No. 2498.18, be denied.

Respectfully submitted:


F. Titley, Planning Student

Respectfully Submitted:


C. Garrish, Planning Manager

Endorsed By:


B. Dollevoet, G.M. of Dev. Services

Attachments: No. 1 – Agency Referral List

No. 2 – Aerial Photo (2019)

No. 3 – Applicant’s Proposed Plan of Subdivision

No. 4 – Comparison of AG3 Zone vs. LH2 Zone

Attachment No. 1 – Agency Referral List

Referrals have been sent to the following agencies as highlighted with a ☒, regarding Amendment Bylaws No. 2497.11 and 2498.18:

<input checked="" type="checkbox"/>	Agricultural Land Commission (ALC)	<input checked="" type="checkbox"/>	Fortis
<input checked="" type="checkbox"/>	Interior Health Authority (IHA)	<input type="checkbox"/>	City of Penticton
<input checked="" type="checkbox"/>	Ministry of Agriculture	<input type="checkbox"/>	District of Summerland
<input type="checkbox"/>	Ministry of Energy & Mines	<input type="checkbox"/>	Town of Oliver
<input type="checkbox"/>	Ministry of Community, Sport and Cultural Development	<input type="checkbox"/>	Town of Osoyoos
<input type="checkbox"/>	Ministry of Environment	<input type="checkbox"/>	Town of Princeton
<input type="checkbox"/>	Ministry of Forest, Lands & Natural Resource Operations	<input type="checkbox"/>	Village of Keremeos
<input type="checkbox"/>	Ministry of Jobs, Tourism and Innovation	<input type="checkbox"/>	Okanagan Nation Alliance (ONA)
<input type="checkbox"/>	Ministry of Transportation and Infrastructure	<input type="checkbox"/>	Penticton Indian Band (PIB)
<input type="checkbox"/>	Integrated Land Management Bureau	<input type="checkbox"/>	Osoyoos Indian Band (OIB)
<input type="checkbox"/>	BC Parks	<input checked="" type="checkbox"/>	Upper Similkameen Indian Bands (USIB)
<input type="checkbox"/>	School District #53 (Okanagan Similkameen)	<input type="checkbox"/>	Lower Similkameen Indian Bands (LSIB)
<input checked="" type="checkbox"/>	School District #58 (Nicola Similkameen)	<input type="checkbox"/>	Environment Canada
<input type="checkbox"/>	School District #67 (Okanagan Skaha)	<input type="checkbox"/>	Fisheries and Oceans Canada
<input type="checkbox"/>	Central Okanagan Regional District	<input type="checkbox"/>	Archaeology Branch
<input type="checkbox"/>	Kootenay Boundary Regional District	<input type="checkbox"/>	Dominion Radio Astrophysical Observatory
<input type="checkbox"/>	Thompson Nicola Regional District	<input type="checkbox"/>	Canadian Wildlife Services
<input type="checkbox"/>	Fraser Valley Regional District	<input checked="" type="checkbox"/>	Tulameen Fire District

Attachment No. 2 – Aerial Photo (2019)



Attachment No. 3 – Applicant's Proposed Plan of Subdivision

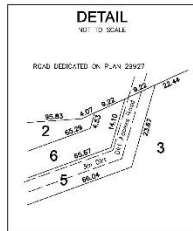
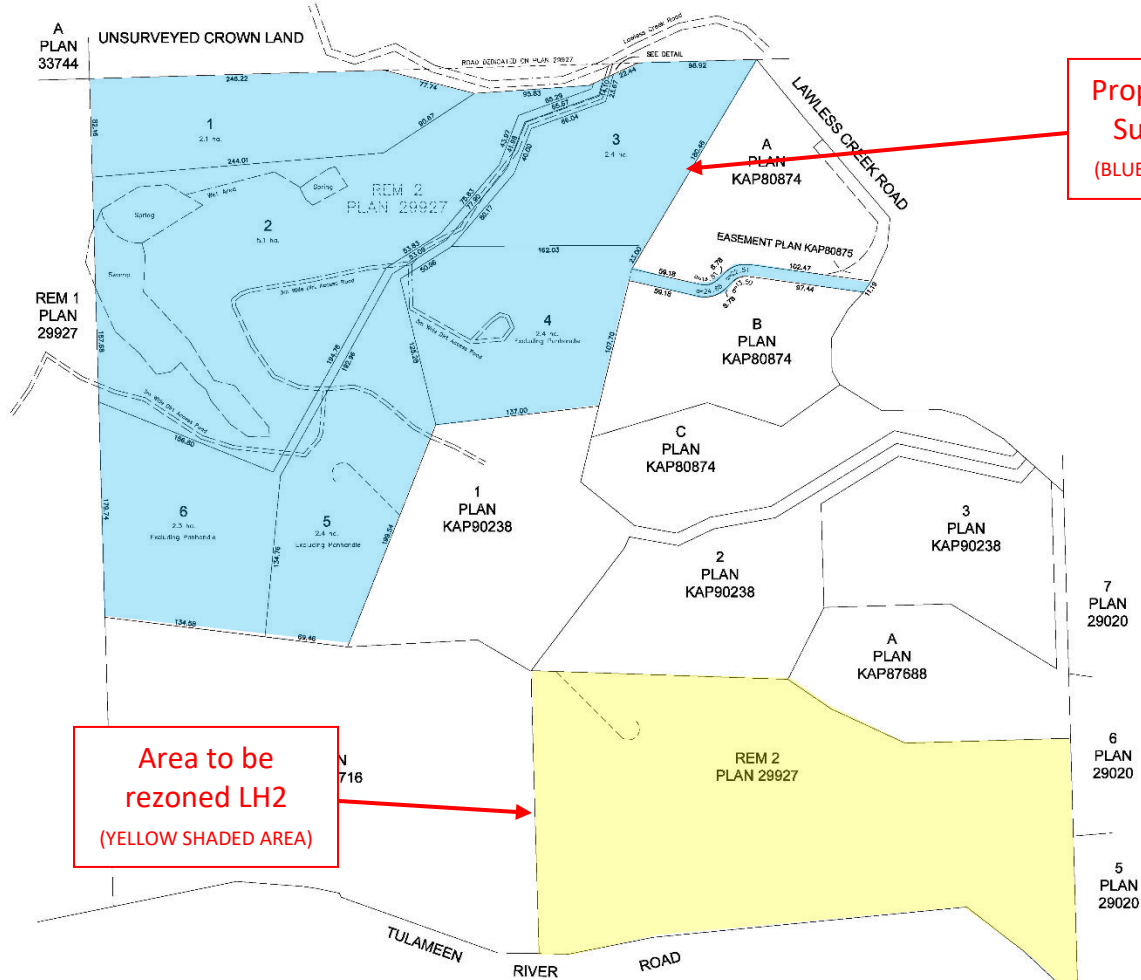
PLAN OF PROPOSED SUBDIVISION OF LOT 2, DL 395, YDYD, PLAN 29927 EXCEPT PLANS E17889, KAP52208, KAP76716, KAP80874, KAP87688 AND KAP90238.
SCALE 1:1750 METRIC

0 35 105 175
The intended plot view of this plan is uniform in width by 350mm in height (D size) when plotted at a scale of 1:1750 METRIC.

Lot dimensions shown are derived from field survey measurements and may vary from land title office records.

Notes:
- Based on a field survey completed January 17, 2018.
- Unregistered interests have not been located or considered.

Other:
- Consent: KAP54764
- Statutory Right of Way: LB19071



AltTerra
Land Surveying Ltd.
www.AltTerra.ca
Tel: 780-433-8096 Fax: 780-433-8097

Attachment No. 3 – Comparison of AG3 Zone vs. LH2 Zone

Permitted Uses: <u>Principal Uses:</u> agriculture; brewery, cidery, distillery, meadery or winery; equestrian centre; guest ranches; guide camps; meteorological towers; packing, processing & storage of farm & off-farm products; single detached dwelling or mobile home; veterinary establishments;	Permitted Uses: <u>Principal Uses:</u> agriculture; cemeteries; equestrian centre; open land recreation; packing, processing & storage of farm & off-farm products; single detached dwelling, mobile home or RV; veterinary establishments;
<u>Accessory Uses:</u> accessory dwellings; agri-tourism accommodation; bed and breakfast operations; home industry; home occupation; retail sale of farm & off-farm products; secondary suite; accessory buildings and structures.	<u>Accessory Uses:</u> accessory dwellings; bed and breakfast operations; carriage house; home industry; home occupation; retail sale of farm & off-farm products; secondary suite; accessory buildings and structures.
Minimum Parcel Size: 20.0 ha	Minimum Parcel Size: 8.0 ha
Minimum Parcel Width: Not less than 25% of the parcel depth	Minimum Parcel Width: Not less than 25% of the parcel depth
Maximum Number of Dwellings Per Parcel: one (1) principal dwelling unit. up to two (2) accessory dwelling units with a max. floor area not exceeding 180 m ² between the unit(s).	Maximum Number of Dwellings Per Parcel: one (1) principal dwelling unit. two (2) accessory dwelling units with a max. floor area of 70 m ² per unit
Minimum Setbacks: <u>Buildings and Structures:</u> Front parcel line: 7.5 metres Rear parcel line: 7.5 metres Interior side parcel line: 4.5 metres Exterior side parcel line: 7.5 metres <u>livestock shelters, generator sheds, boilers or walls with fans, and on-farm soil-less medium production facilities:</u> Front parcel line: 15.0 metres Rear parcel line: 15.0 metres Interior side parcel line: 15.0 metres Exterior side parcel line: 15.0 metres <u>Incinerator:</u> Front parcel line: 30.0 metres Rear parcel line: 30.0 metres Interior side parcel line: 30.0 metres Exterior side parcel line: 30.0 metres	Minimum Setbacks: <u>Principal Buildings and Structures:</u> Front parcel line: 9.0 metres Rear parcel line: 9.0 metres Interior side parcel line: 4.5 metres Exterior side parcel line: 4.5 metres <u>livestock shelters, generator sheds, boilers or walls with fans, and on-farm soil-less medium production facilities:</u> Front parcel line: 15.0 metres Rear parcel line: 15.0 metres Interior side parcel line: 15.0 metres Exterior side parcel line: 15.0 metres <u>Incinerator or compost facility:</u> Front parcel line: 30.0 metres Rear parcel line: 30.0 metres Interior side parcel line: 30.0 metres Exterior side parcel line: 30.0 metres
Maximum Height: 10.0 metres	Maximum Height: 10.0 metres
Maximum Parcel Coverage: 5% / 75% for greenhouse uses	Maximum Parcel Coverage: 5% / 75% for greenhouse uses