

---

**CITY OF KELOWNA**  
**MEMORANDUM**

---

**Date:** October 21, 2007  
**File No.:** A07-0021  
**To:** City Manager  
**From:** Planning & Development Services Department  
**Purpose:** To obtain approval from the Agricultural Land Commission under Section 21(2) of the *Agricultural Land Commission Act* to subdivide the subject property in order to create five (5) lots and one parcel remainder.  
**OWNERS:** Al's Construction Ltd.      **APPLICANT:** Rick Bruschinsky  
**AT:** 1095 Crawford Road  
**EXISTING ZONE:** A1 Agriculture 1 Zone  
**REPORT PREPARED BY:** Nelson Wight

---

### **1.0 RECOMMENDATION**

THAT Agricultural Land Reserve Appeal No. A07-0021 for Lot 1, Section 31, Township 29, O.D.Y.D., Plan KAP77146, located on Crawford Road, Kelowna, B.C. for a subdivision within the Agricultural Land Reserve pursuant to Section 21(2) of the Agricultural Land Commission Act, NOT be supported by Municipal Council.

### **2.0 SUMMARY**

The applicant is seeking approval from the Agricultural Land Commission (ALC) to subdivide a portion of the subject property, creating five (5) urban residential lots. The applicant has provided a letter of rationale, which provides justification for this subdivision based on certain improvements being made to the land, including the expansion of agriculture on unused portions of the land, and an intensified agricultural activity (see attached letter dated August 2, 2007).

### **3.0 HISTORY**

In 2005 a similar application was made to exclude a 6.21 ha portion of the property (application # A05-0017). The application was not supported by the AAC, Staff, or Council, and was not approved by the ALC.

### **4.0 AGRICULTURAL ADVISORY COMMITTEE**

At a meeting held on October 11, 2007, the Agricultural Advisory Committee reviewed this application, but could not provide any official recommendation, due to opposing positions on the matter. Please find a summation of those opposing positions below, and see the attached minutes from that meeting for further explanation:

#### **AAC Rationale #1:**

An AAC member stated that the Committee cannot allow the effective removal of land from the Agricultural Land Reserve in order to finance agriculture. Supporting this application would go against the policies and mandate of this Committee and the Agricultural Land Commission.

#### **AAC Rationale #2:**

Another AAC member does not have any difficulty with this particular application to remove land from agricultural production in order to finance the vineyard as he feels it would be a

benefit to agriculture as grapes are a viable agricultural industry. Buffering the property in accordance with the Agricultural Land Commission policies would integrate the agricultural lands with the residential lots.

## **5.0 SITE CONTEXT**

The subject property is located in Southeast Kelowna at the westernmost boundary of the Southeast Kelowna Irrigation District Area. The property currently lies outside of any identified sewer specified area. The property is accessed from Crawford Road by means of a panhandle driveway. The western boundary of the lot at Westpoint Drive is at an approximate elevation of 421 m. Urban-sized lots fronting on Westpoint Drive are located along the western boundary of the property. There is an overall change in elevation of approximately 20 m (65.5 feet) from the western boundary to the eastern boundary of that portion of property proposed for exclusion, over a distance of approximately 400 m. The property is generally sloping down to the southeast.

There is an existing a single family dwelling and an accessory building on the eastern portion of the property.

The applicant has indicated that these proposed urban residential lots could remain in the ALR or be excluded, but the current application is for a subdivision within the ALR.

Parcel Size: 12.57 ha. (31.060 ac.)

Elevation: 421m to ~448 m GSC

### **Zoning of Adjacent Property**

North	A1 – Agriculture 1
East	RR2 - Rural Residential 2 & A1 – Agriculture 1
South	RU1 - Large Lot Housing & P3 - Parks and Open Space
West	RU1 – Large Lot Housing

### **BCLI Land Capability for Agriculture (1: 20,000)**

The central portion of the parcel is identified on the BC Land Capability for Agriculture Map as having an unimproved rating of Class 5A ("Limitations that restrict its capability to producing perennial forage crops or other specifically adapted crops" and "Soil Moisture Deficiency – Crops are adversely affected by droughtiness cause by low soil water holding capacity or insufficient precipitation"). The improved rating is Class 3A ("Limitations that require moderately intensive management practices or moderately restrict the range of crops, or both"). The steep slopes along the north and south boundaries of the property appear to have an unimproved rating of Class 6TA (Non-arable but is capable of producing native and/or uncultivated perennial forage crops), limited by moisture deficiency and topography. The improved rating is stated as Class 6T.

### **Soil Classification (1: 20,000)**

The soil classification for the central portion of the subject property is PE:3 "Paradise". Paradise soils are characterized by land that is nearly level to very steeply sloping fluvioglacial deposits. The texture of the soil is described as "25 to 60 cm of sandy loam or loamy sand over gravely loamy sand or very gravely sand". The soils are also characterized by rapid drainage.

The slope class is 2 to 5 % (1 to 3 degrees) - very gentle slopes. The slope at the northern edge of the property is described as: GM:8 ("Gammil" with extreme slopes of 45+ to 70% or 17 to 24 degrees). The southern edge of the property is described as: PE:56 ("Paradise" with moderate to strong slopes of 9 to 30 % or 5 to 17 degrees).



## 6.0 POLICY AND REGULATION

### 4.1 City of Kelowna Strategic Plan

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

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

### 4.2 Kelowna 2020 – Official Community Plan

**Subdivision** – Discourage the subdivision of agricultural land into smaller parcels, except where positive benefits to agriculture can be demonstrated.

### 4.3 City of Kelowna Agriculture Plan

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.

**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.

**Parcel Size (Agricultural Land)** – Discourage the subdivision of agricultural land into smaller parcels, except where positive benefits to agriculture can be demonstrated.

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

## 7.0 PLANNING AND DEVELOPMENT SERVICES COMMENTS

The applicant proposes that an increased benefit to agriculture could be realized through this development. That is, the revenue generated through the sale of these urban residential lots could be used for the intensification and expansion of the agricultural productivity of the proposed parcel remainder. The applicant intends to intensify 4.85 ha (12 acres) of the 12.57 ha. (31 ac) parcel for the establishment of a vineyard, and bring in to agricultural production those portions of the property that are currently unused (see areas A and B on Schedule 1). These initiatives are proposed to benefit the agricultural use of the land.

However, the notion of justifying urban development in an agricultural area in contravention of the policy direction detailed above from the OCP and Agriculture Plan seems imprudent. There would be a loss of agricultural land resulting from such a proposed subdivision development, and there would be increased potential for conflict given the proximity of those urban residential lots next to agriculturally productive land. Furthermore, such reasoning would set an unwelcome precedent.

Consequently, Staff does not support this application.

**8.0 ALTERNATE RECOMMENDATION**

THAT Agricultural Land Reserve Appeal No. A07-0021 for Lot 1, Section 31, Township 29, O.D.Y.D., Plan KAP77146, located on Crawford Road, Kelowna, B.C. for a subdivision within the Agricultural Land Reserve pursuant to Section 21(2) of the Agricultural Land Commission Act, be supported by Municipal Council.



Shelley Gambacort  
Current Planning Supervisor

---

**ATTACHMENTS**

Location/Zoning Map

ALR Map

Plan of Property Subdivision

Supplemental Material from Applicant (4 pages)

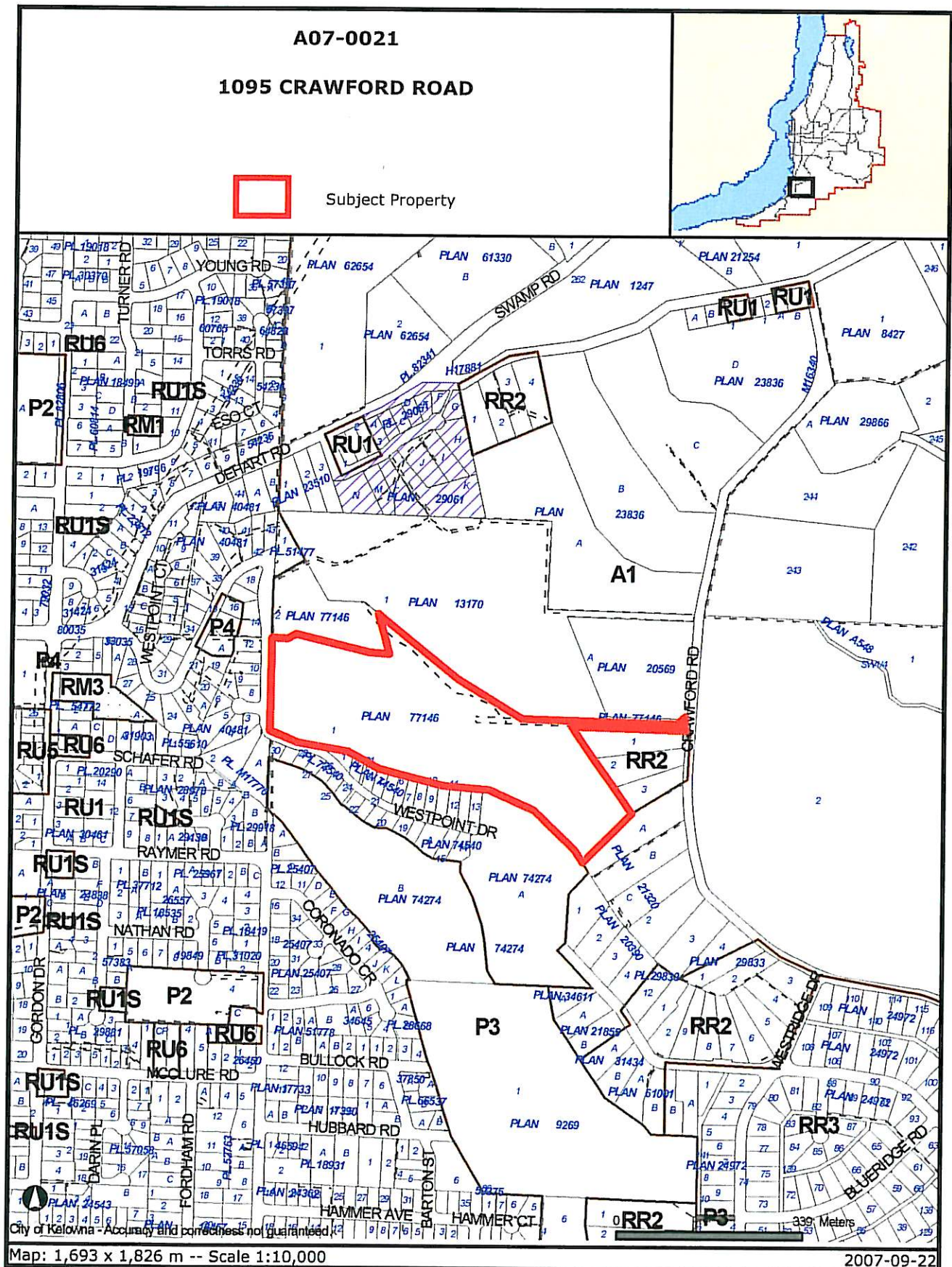
- Letter, dated August 2, 2007
- Schedule 1
- Schedule 2
- Schedule 3

Land Capability Map

Soil Classification Map

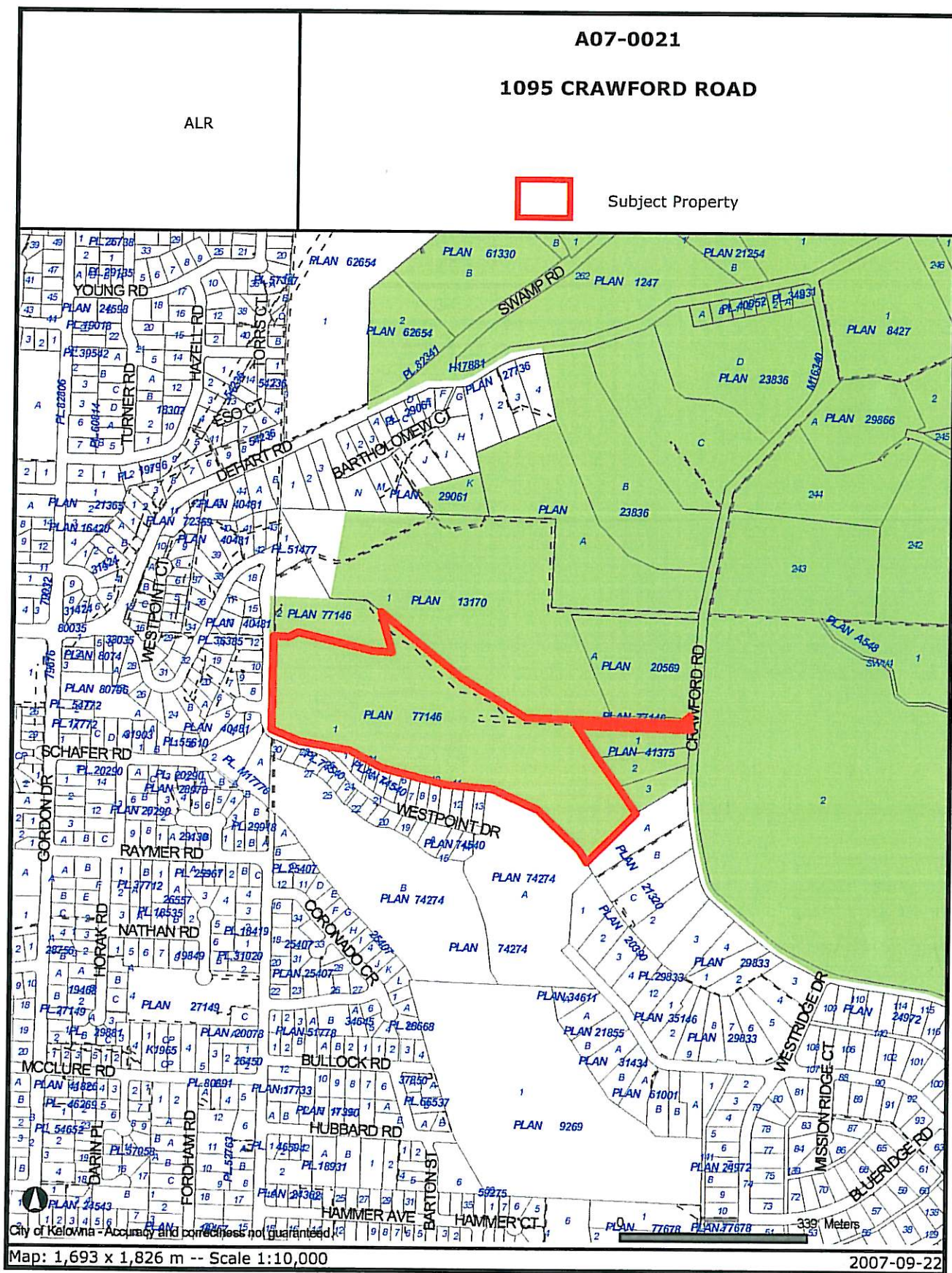
(DRAFT) Minutes from Agriculture Advisory Committee Meeting, October 11, 2007





Certain layers such as lots, zoning and dp areas are updated bi-weekly. This map is for general information only.  
 The City of Kelowna does not guarantee its accuracy. All information should be verified.





Certain layers such as lots, zoning and dp areas are updated bi-weekly. This map is for general information only.  
The City of Kelowna does not guarantee its accuracy. All information should be verified.





**Stanbec**

Stanbec Consulting Ltd.  
400 - 1620 Dickson Avenue  
Kelowna BC Canada  
V1Y 9Y2  
Tel. 250.860.3225  
Fax. 250.860.3367  
www.stanbec.com

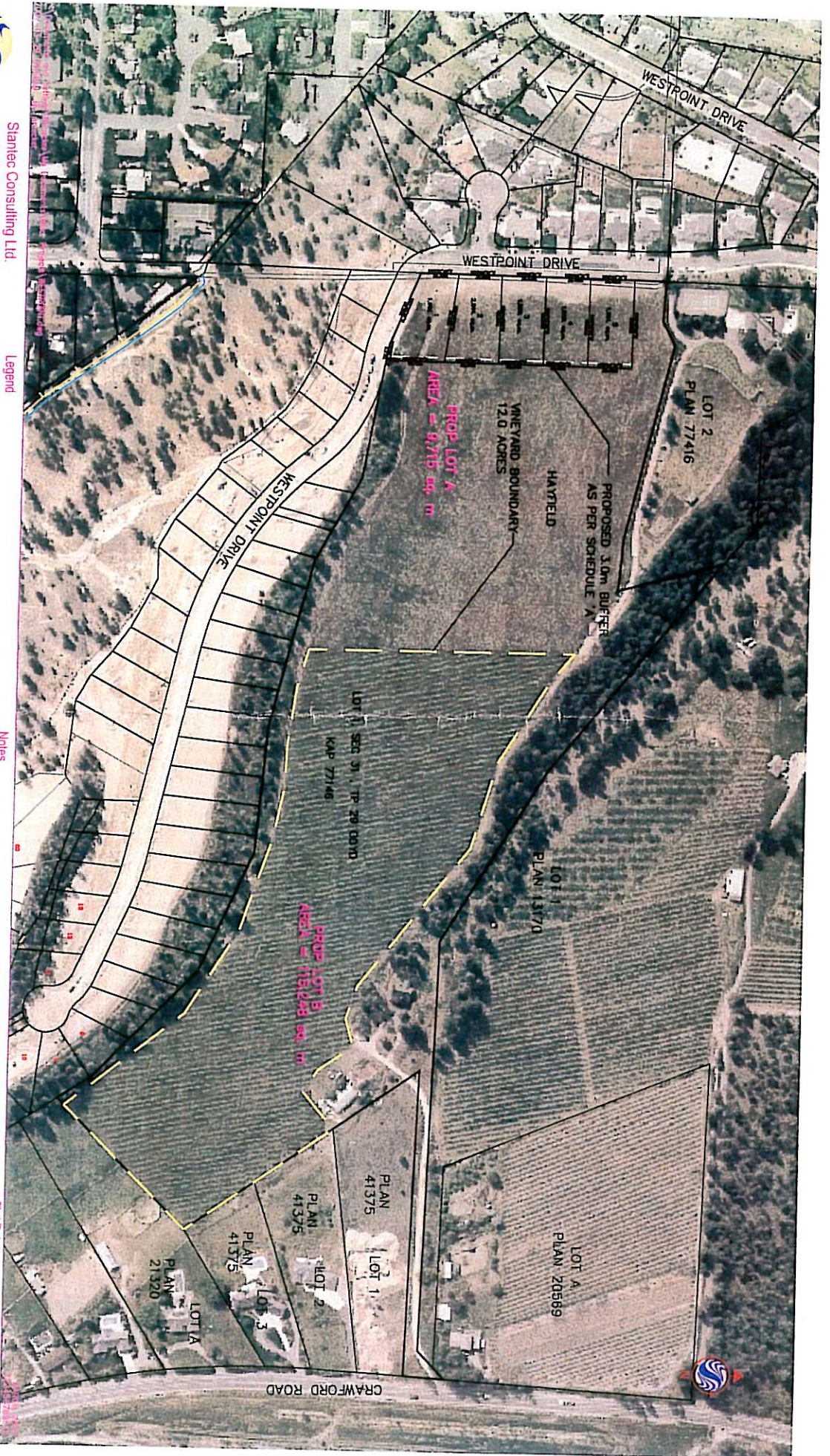
**Legend**



**Notes**

Drawn/Prepared  
STONEWOOD DEVELOPMENT CORP.  
PROPOSED SUBDIVISION  
WESTPOINT DRIVE  
Figure No. 1.0  
Title

**PROPOSED LEGAL PLAN**



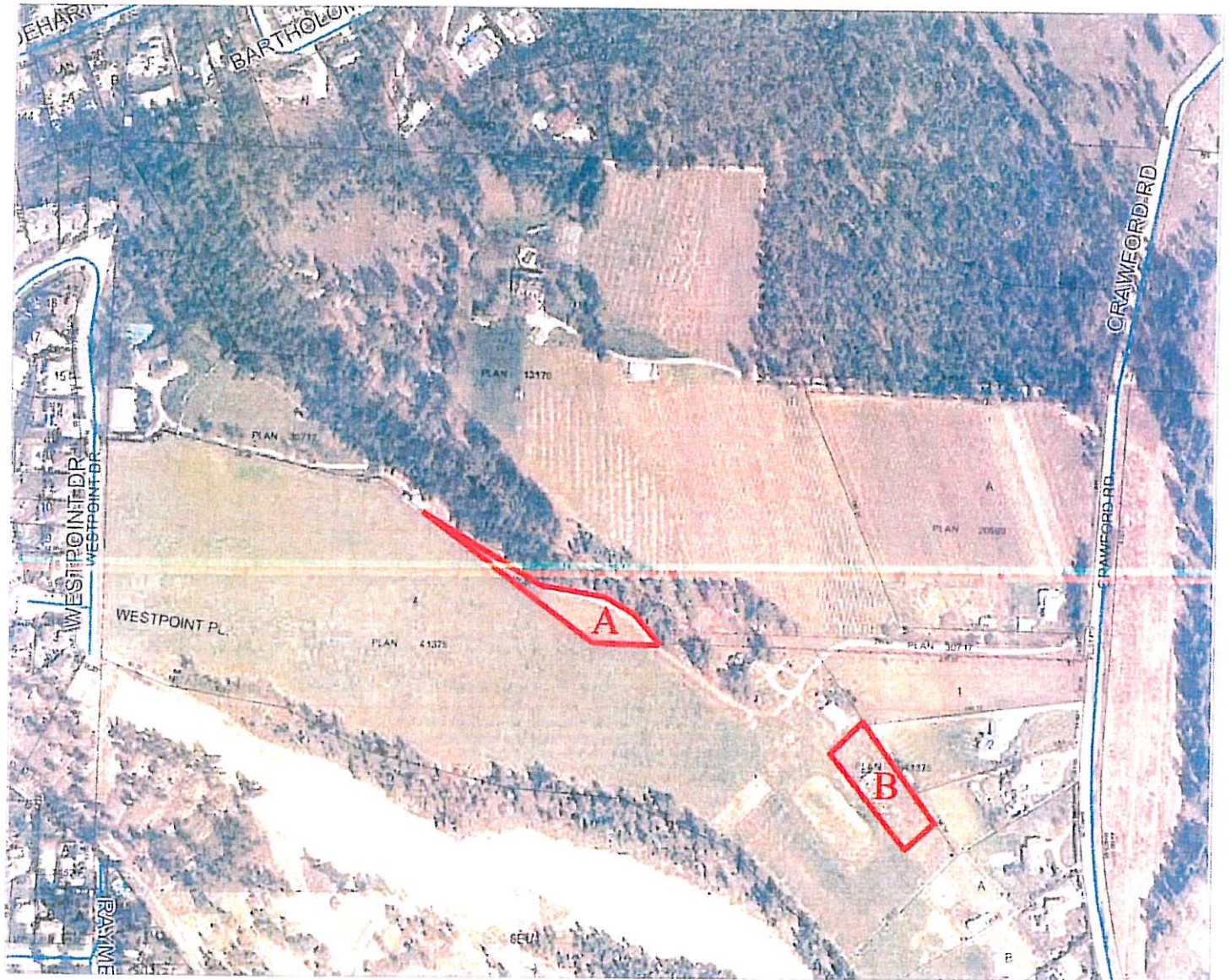


August 2, 2007

- Purpose: To enter into a long-term agreement with Gray Monk Estate Winery to create a vineyard.
- Works: Re-grade the property, if necessary, to remove all frost pockets.  
Plant a vineyard on approximately 12 acres of the property.  
Install and upgrade the required irrigation system.  
Remove fencing and bring into production area A (see schedule 1) purchased and amalgamated (see schedule 2) with this property. Area A had been too small to farm with limited access when it belonged to the neighboring property (see schedule 3, pre-amalgamation property lines).  
Remove old barns and outbuildings to reclaim land for vineyard on area B (see schedule 1).
- Offsets: To offset the costs of the works we need to exclude a portion of land at the western end of the property.
- Buffering: Maintain a remaining portion of the existing hayfield as buffering for transition from the vineyard to the proposed residential lots.  
  
Install the recommended ALC buffering (see schedule A) to the proposed residential lots.
- Airflow: As the attached topographical map shows, the property slopes and funnels from the east end of the property to the north west corner. It is with this in mind that the northwest corner of the property at Westpoint Drive remains open to allow the natural flow of air to move unimpeded. This also allows access for farm vehicles and equipment on the east and west ends of the property.
- Timeline: We will be prepared to plant the vineyard in the spring of 2009.



# SCHEDULE 1



SCALE 1 : 4.575





PLAN OF PROPOSED SUBDIVISION OF LOT 4, SEC. 31, TP. 29, ODYD, PLAN 41375, PART OF LOT 1, SEC. 31, TP. 29, ODYD, PLAN 13170, & LOT 4, SEC. 31, TP. 29, ODYD, PLAN 30717, EXCEPT PLANS KAP51477 & KAP51479.

Westpoint Drive



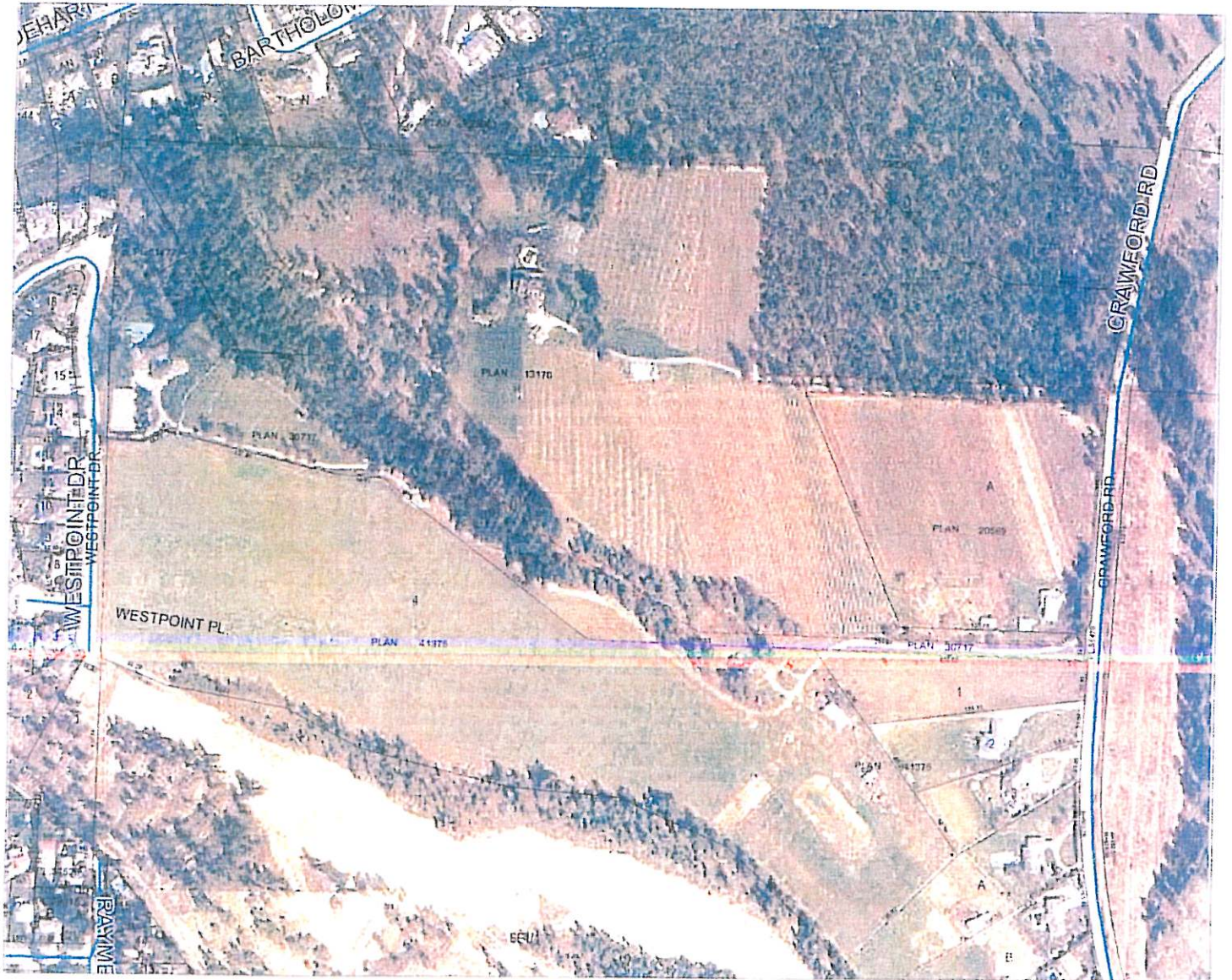
#202 - 580 Loan Advance

Kelowna, B. C., May 686

Rom. S.E. 1/4 Sec. 31, Tp. 29



# SCHEDULE 3

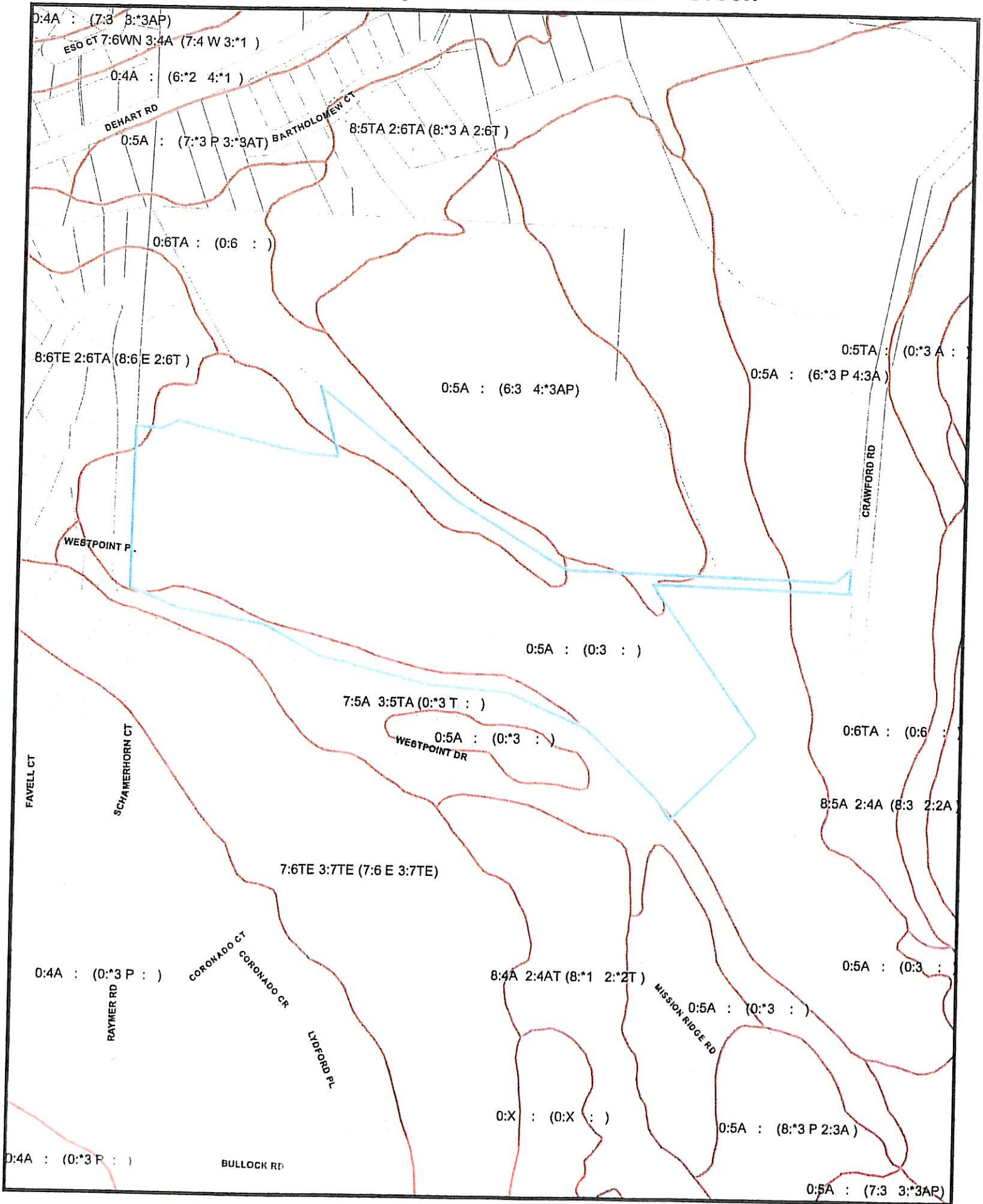


SCALE 1 : 4,575





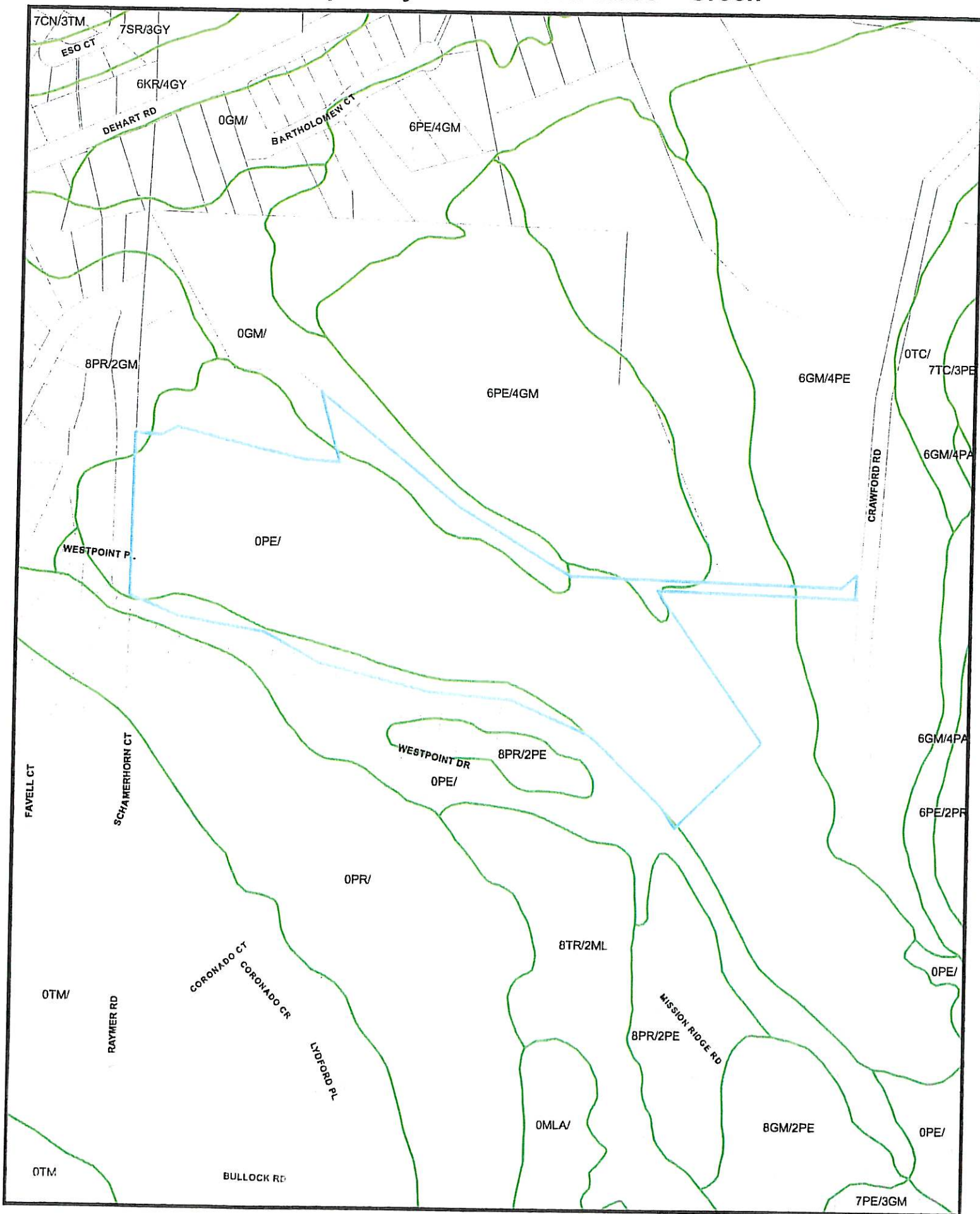
Land Capability = Brown/ Soil Class = Green



1:5,000



Land Capability = Brown/ Soil Class = Green



1:5.000



**RECOMMENDATION**

**Moved by Pierre Calissi/Seconded by Leo Gebert**

THAT the Agricultural Advisory Committee support Application No. A07-0017 for 1390 & 1496 Geen Road, by J. Yates (J. Kitaura) to obtain approval from the Agricultural Land Commission under Section 21(2) of the *Agricultural Land Commission Act* to complete a homesite severance subdivision.

**CARRIED**

**ITEM 2. Location/Legal: 4240 Spiers Road**  
**Application No:** A07-0020  
**Applicant:** D. Taylor  
**Owner:** J. Verkerk  
**Purpose:** To obtain approval from the Agricultural Land Commission under Section 21(2) of the *Agricultural Land Commission Act* to allow a .52 ha. lot homesite severance subdivision from the 5.12 ha. subject property.

The Chair advised that Item #2 has been deferred and will be dealt with at the next AAC meeting.

**ITEM 3. Location/Legal: 1095 Crawford Road**  
**Application No:** A07-0021  
**Applicant:** R. Bruschinsky  
**Owner:** AI's Construction Ltd.  
**Purpose:** To obtain approval from the Agricultural Land Commission under Section 21(2) of the *Agricultural Land Commission Act* to subdivide the subject property in order to create six (6) lots and one parcel remainder.

**Staff:**

- The applicant wishes to subdivide the property in order to intensify the agricultural activity.
- Planning staff do not see the balance between urban residential and agriculture and advised that justifying urban development in an agricultural area is contrary to the Official Community Plan.
- Planning staff do not support this application.

**Applicant:**

(R. Bruschinsky)

- Advised that there are five (5) lots to be subdivided; not the six (6) as stated in the staff report.
- Feels the subdivision of the lots would help with the capital funding of the vineyard as well as provide buffering between the vineyard and the residential area located near the property.



- The Applicant is willing to provide the buffering that the Land Commission recommends even though this would be a subdivision within the Agricultural Land Reserve and not an exclusion from it.

AAC/Applicant Discussion:

- Clarification of the maps that were provided with the application was given.
- The piece of property noted in the middle was purchased from another property owner and consolidated with the applicant's property.
- Confirmed that the Applicant wishes to enhance the vineyard by eventually planting and growing more grapes.
- An inquiry was made as to what the "buffer zone" would actually look like and where it would be located. The Applicant advised that the buffering would be along the back portions of the lots and would include fencing.
- A concern was raised regarding taking property out of the Agricultural Land Reserve this is currently being used for agricultural. The Applicant feels that this matter should be looked at as a site specific situation.
- Staff are concerned that a successful rezoning application will be required in order to allow the subdivision of the lots.
- A suggestion was made that covenants be placed on the subdivided property stating that it must be used for agriculture.
- Staff and the Applicant confirmed that the agricultural land is very close to residential properties.
- A suggestion was made that a landscaping bond be put in place to ensure that the vineyard is enhanced and the grapes are actually planted. The Applicant suggested that the subdivision could be withheld until the grapes are actually planted.
- It was noted that the Applicant contradicted himself in that he originally stated he wanted to sell the subdivided lands in order to finance the grapes and then he stated he would not sell the subdivided lands until such time as the grapes are planted.
- A question was raised regarding the existing Easement over Crawford Road and the Applicant advised that since purchasing the property, the Easement has been removed.
- The Applicant advised that the entrance to the vineyard would be off of Crawford Road and the farmland would have two (2) accesses off of Crawford Road and Westpointe Drive.
- The Applicant advised that the proposed residential lots are not on the south side of the property as the bank along that side is too steep.

**RECOMMENDATION**

**Moved by Leo Gebert/Seconded by Lorne Antle**

THAT the Agricultural Advisory Committee NOT support Application No. A07-0021 for 1095 Crawford Road, by R. Bruschinsky (Al's Construction Ltd.) to obtain approval from the Agricultural Land Commission under Section 21(2) of the *Agricultural Land Commission Act* to subdivide the subject property in order to create six (6) lots and one parcel remainder.

**DEFEATED**

Ed Henkel, Domenic Rampone and Graeme James - Opposed.



AAC Rationale #1:

- An AAC member stated that the Committee cannot allow the effective removal of land from the Agricultural Land Reserve in order to finance agriculture. Supporting this application would go against the policies and mandate of this Committee and the Agricultural Land Commission.

A motion by Graeme James to support Application No. A07-0021 was lost for lack of a seconder.

AAC Rationale #2:

- Another AAC member does not have any difficulty with this particular application to remove land from agricultural production in order to finance the vineyard as he feels it would be a benefit to agriculture as grapes are a viable agricultural industry. Buffering the property in accordance with the Agricultural Land Commission policies would integrate the agricultural lands with the residential lots.

### **III. MINUTES**

#### **Moved by Lorne Antle/Seconded by Graeme James**

THAT the Agricultural Advisory Committee approves the Minutes of the Meeting for the Agricultural Advisory Committee Meeting of August 9, 2007.

**CARRIED**

### **IV. OLD BUSINESS**

Graeme James advised that the Agricultural Waste Control Regulations are still being worked out and he will report back to the Committee in the future.

As requested by the Committee, staff provided the Members with a copy of the recent Agricultural Advisory Committee decisions, as well as Council's decisions on the same applications.

Staff confirmed that it is not a requirement of local government to forward an application to the Agricultural Land Commission, but that, in general, it is the City of Kelowna's policy to do so.

The Chair raised the question of a quorum and there was a discussion surrounding the current vacancy on the Committee. A further discussion then took place as to what the Terms of Reference of the Committee are and how the Members are applying that mandate to their decisions.

### **V. REFERRALS**

There were no referrals.