

Memo



Date: November 20, 2009
To: City Manager
From: Community Sustainability Division
File No: A09-0011 Applicant: Inland Manor Ltd. (John Tietzen)
At: 3691 Gordon Drive Owner: Inland Manor Ltd.

Purpose: To obtain approval from the Agricultural Land Commission under Section 30(1) of the *Agricultural Land Commission Act* to exclude the subject property from the Agricultural Land Reserve for a proposed Commercial development.

Existing Zone: A1 - Agriculture 1
Future Land Use: Rural / Agricultural
Report by: Paul McVey

1.0 RECOMMENDATION

THAT Agricultural Land Reserve Appeal No. A09-0011 for Lot 7, Block 1, D.L. 133, O.D.Y.D., Plan 515, Exc. Plan H17514, located on Gordon Drive, Kelowna, B.C. for an exclusion of the subject property from the Agricultural Land Reserve, pursuant to Section 30(1) of the *Agricultural Land Commission Act*, NOT be supported by Municipal Council;

AND THAT Municipal Council forward the subject application to the Agricultural Land Commission.

2.0 SUMMARY

The applicant is requesting permission from the Agricultural Land Commission (ALC) to allow the subject property to be excluded from the Agricultural Land Reserve.

3.0 AGRICULTURAL ADVISORY COMMITTEE

At a meeting held on October 8, 2009, the Agricultural Advisory Committee passed the following recommendation:

THAT the Agricultural Advisory Committee NOT support Application No. A09-0011 for 3691 Gordon Drive, Lot 7, Plan 515, Block 1, by J. Tietzen to obtain approval from the Agricultural Land Commission under Section 30(1) of the Agricultural Land Commission Act to exclude the subject property from the Agricultural Land Reserve.

AAC Anecdotal Comment:

The Agricultural Advisory Committee did not support this application because the land is viable agricultural land and should not be taken out of the ALR. There was also concern expressed regarding increased speculative pressure on land in the area and the potential for land use conflicts.

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4.0 SITE CONTEXT

The subject property is located on the east side of the intersection at Gordon Drive and Casorso Road. The subject property was previously occupied with an older single unit dwelling which was demolished in December 2008. The property has been used for hay production in conjunction with the neighbouring property to the south-east. The site area is currently 0.7078 hectares (1.75 acres) and the site elevation is 344-345 m. However, a road dedication in March 1983 reduced the lot size.

4.1 BCLI Land Capability (Map 82E.083)

Land Capability Rating, Unimproved	Land Capability Rating, with Improvements
100% Class 4 with soil moisture excess	100% Class 2 with soil moisture excess

4.2 Soil Classification

Soil Type	Description
GN - Guisachan	<u>Land</u> : Nearly level to and very gently sloping fluvial fan deposits. <u>Texture</u> : 10 to 100 cm of silt loam, loam, or sandy loam over loamy sand or very gravely loamy sand. <u>Drainage</u> : Poor, fluctuating ground water table.

Zoning of Adjacent Property

- North-East A1 - Agriculture 1 / Agriculture uses (in ALR)
- South-East A1 - Agriculture 1 / Agriculture uses (in ALR)
- North-West RM5 - Medium Density Multiple Housing - Gordon Dr. / Apartment Housing
- South-West A1 - Agriculture 1 - Casorso Road / Agriculture uses (in ALR)

5.0 PROPOSAL

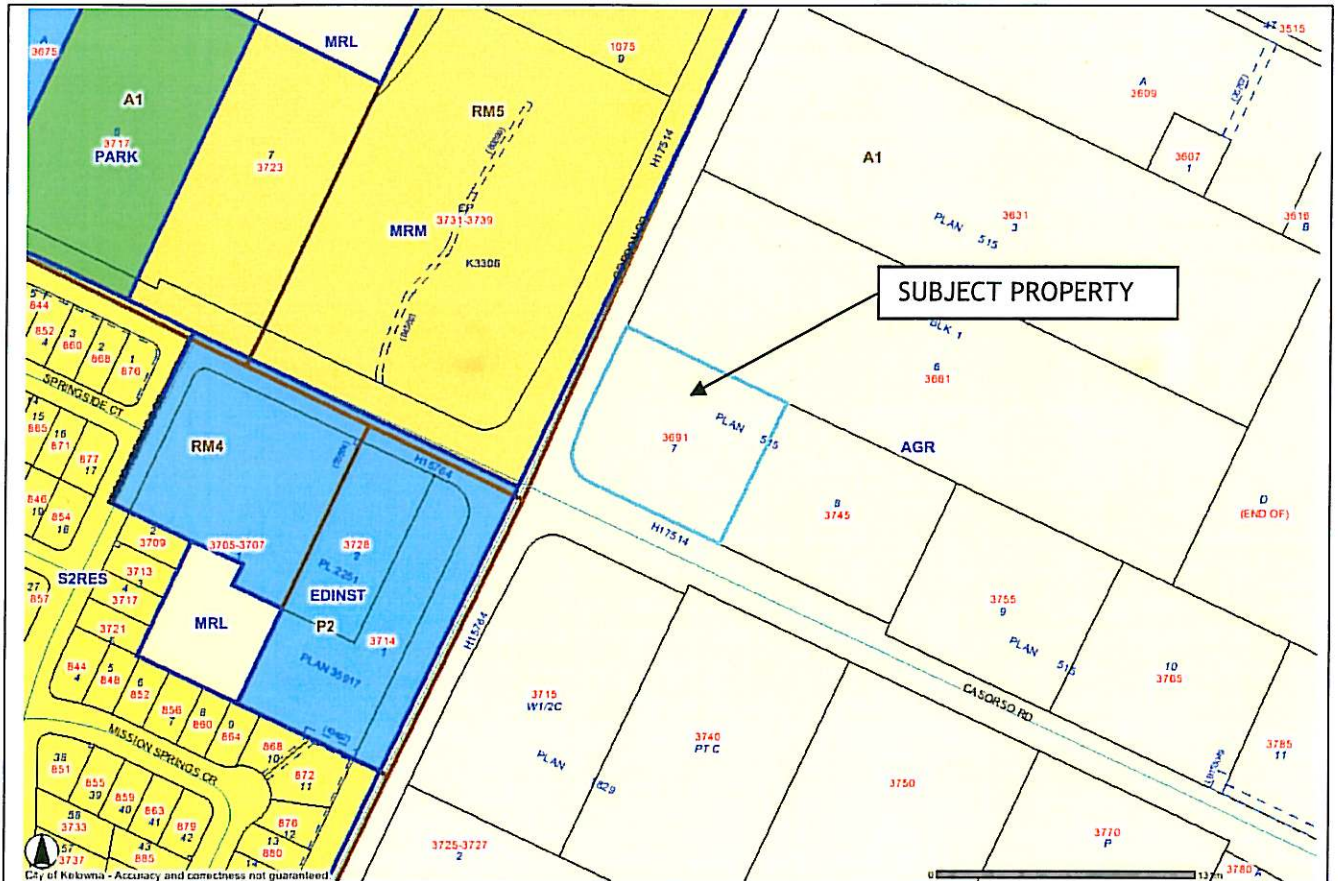
The applicant is requesting exclusion of the subject property from the Agriculture Land Reserve in order that the property can be developed with a strictly commercial development to include a Wendy's restaurant and a bank, as noted in the attached site plan. The property has been owned by the applicant since October, 2008.

As noted in the applicant's rationale letter attached to the report, the applicant is basing this application on section 23(1) of the Agriculture Land Commission Act which states;

"23 (1) Restrictions on the use of agricultural land do not apply to land that, on December 21, 1972, was, by separate certificate of title issued under the *Land Registry Act*, R.S.B.C. 1960, c. 208, less than 2 acres in area."

The property was created by a plan of subdivision registered in 1908.

Subject Property: 3691 Gordon Drive



6.0 POLICY AND REGULATION

6.1.1 Kelowna 2020 - Official Community Plan

The current Official Community Plan has designated the subject property as Rural / Agricultural.

Agricultural Policies:

- 11.1.12 Sustained Agriculture. Encourage the retention of diverse agricultural uses through limits on urban development and non-farm use on lands of sustainable production capability;
- 11.1.16 Parcels Less Than .8 Hectares (2 Acres). Discourage the non-farm use of parcels less than .8 hectares where such parcels are located in an agricultural area;

6.1.2 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.

Defined Urban - Rural/Agricultural Boundary - Confirm support for the Agricultural Land Reserve and establish a defined urban - rural/agricultural boundary, as indicated on Map 14 - Urban - Rural/Agricultural Boundary, utilizing existing roads, topographic features, or watercourses wherever possible.

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.

7.0 LAND USE MANAGEMENT DEPARTMENT COMMENTS

The subject property is designated as “Rural / Agricultural” in the OCP and based on the “Urban - Rural / Agricultural Boundary Map 11.2” the property is on the rural side of the boundary and is intended for retention in the ALR. This OCP policy direction is based on the Agriculture Plan.

This proposal for exclusion for urban uses (Wendy's restaurant and commercial retail) does not comply and is a significant departure from the Future Land Use designation, the Urban - Rural / Agricultural Boundary Map or OCP Policy 11.1.16 that discourages the non-farm use of parcels less than .8 ha where such parcels are located in an agricultural area.

Both the City of Kelowna Official Community Plan and Agriculture Plan express concern that the permitted expansion of urban uses into what is otherwise an agricultural landscape will serve to diminish the viability of agricultural practice. Increased speculative pressure on land and conflict between land uses should be avoided, particularly in agricultural areas under development pressure.

The existing Gordon Drive corridor creates a natural, defensible boundary between ALR and non-ALR lands and once crossed would likely generate additional speculation that other properties would be available for non-farm use, thereby raising the value of those lands so that farming becomes even more economically challenged. This .7 ha property is one of many similar sized parcels in the area and the exclusion or use of any of these sites for non-farm uses would set a precedent that would be problematic for the agricultural stability of the area.

Too often, the preservation of agricultural land is perceived as an impediment to urban development. The ALR has influenced the development of more compact and efficient urban areas with a multitude of benefits. As agriculture is particularly vulnerable at its point of interface with other land uses, Gordon Drive is the well established definitive boundary. The Agriculture Plan objectives and goals are to ensure permanency of the urban/rural edge, as it adds stability to the farm community, and therefore makes a direct contribution to securing a viable agricultural land base in the City. As noted, the land capability with improvements of the subject property is class 2, which is considered “prime capability” in accordance with the Land Capability for Agriculture rating system. The property was purchased as recently as last year and not intended to be utilized for rural/agricultural uses. Regardless of the Agricultural Land Reserve status, any development of this property would require an Official Community Plan and rezoning amendment, of which no City policies would support the conversion of agricultural land to commercial uses.

Should Council choose to support this exclusion application, an alternative recommendation is provided below;

THAT Agricultural Land Reserve Appeal No. A09-0011 for Lot 7, Block 1, D.L. 133, O.D.Y.D., Plan 515, Exc. Plan H17514, located on Gordon Drive, Kelowna, B.C. for an exclusion of the subject property from the Agricultural Land Reserve, pursuant to Section 30(1) of the *Agricultural Land Commission Act*, be supported by Municipal Council;

AND THAT Municipal Council forward the subject application to the Agricultural Land Commission.



Shelley Gambacort
Director of Land Use Management

Approved for Inclusion

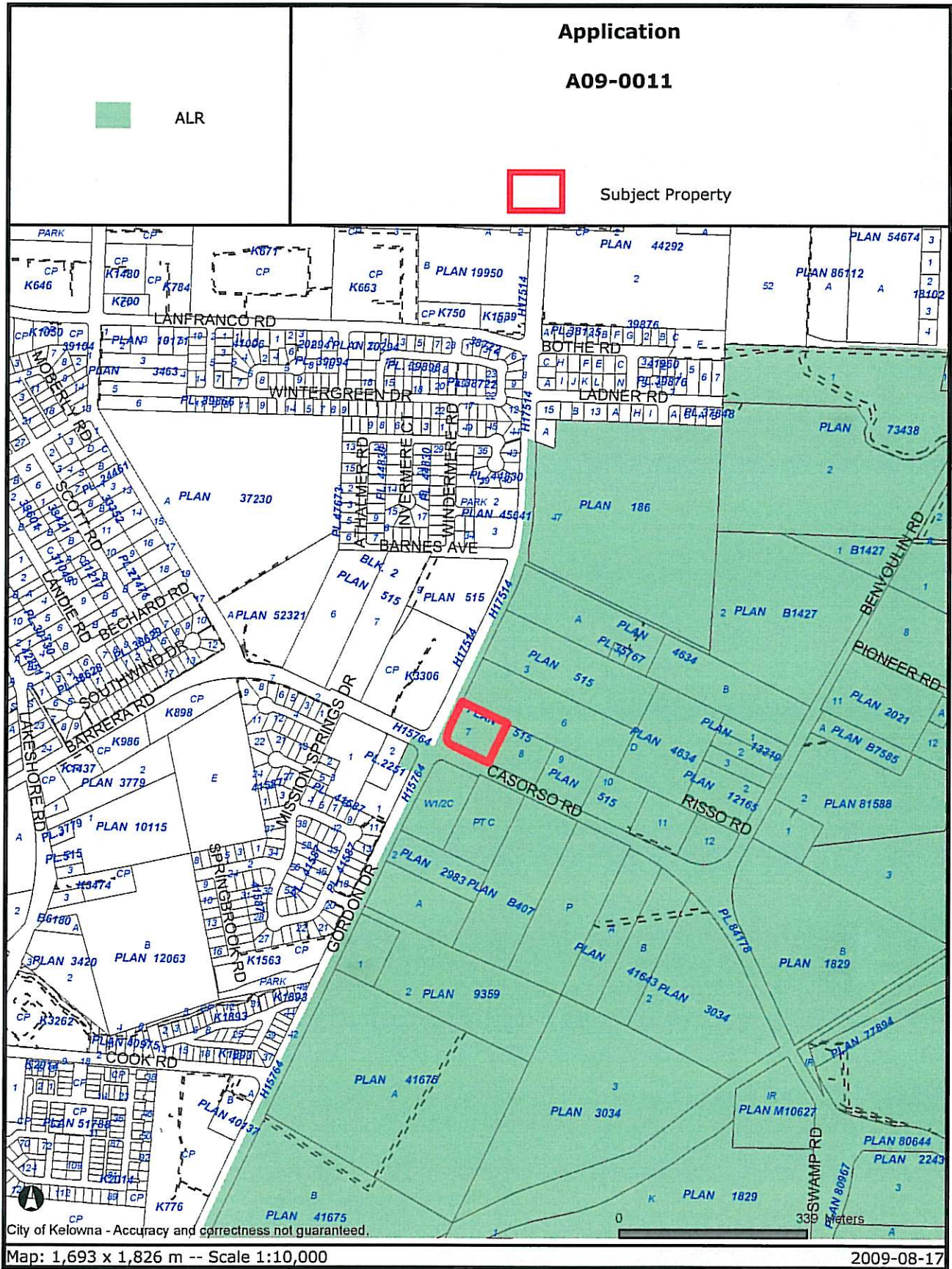


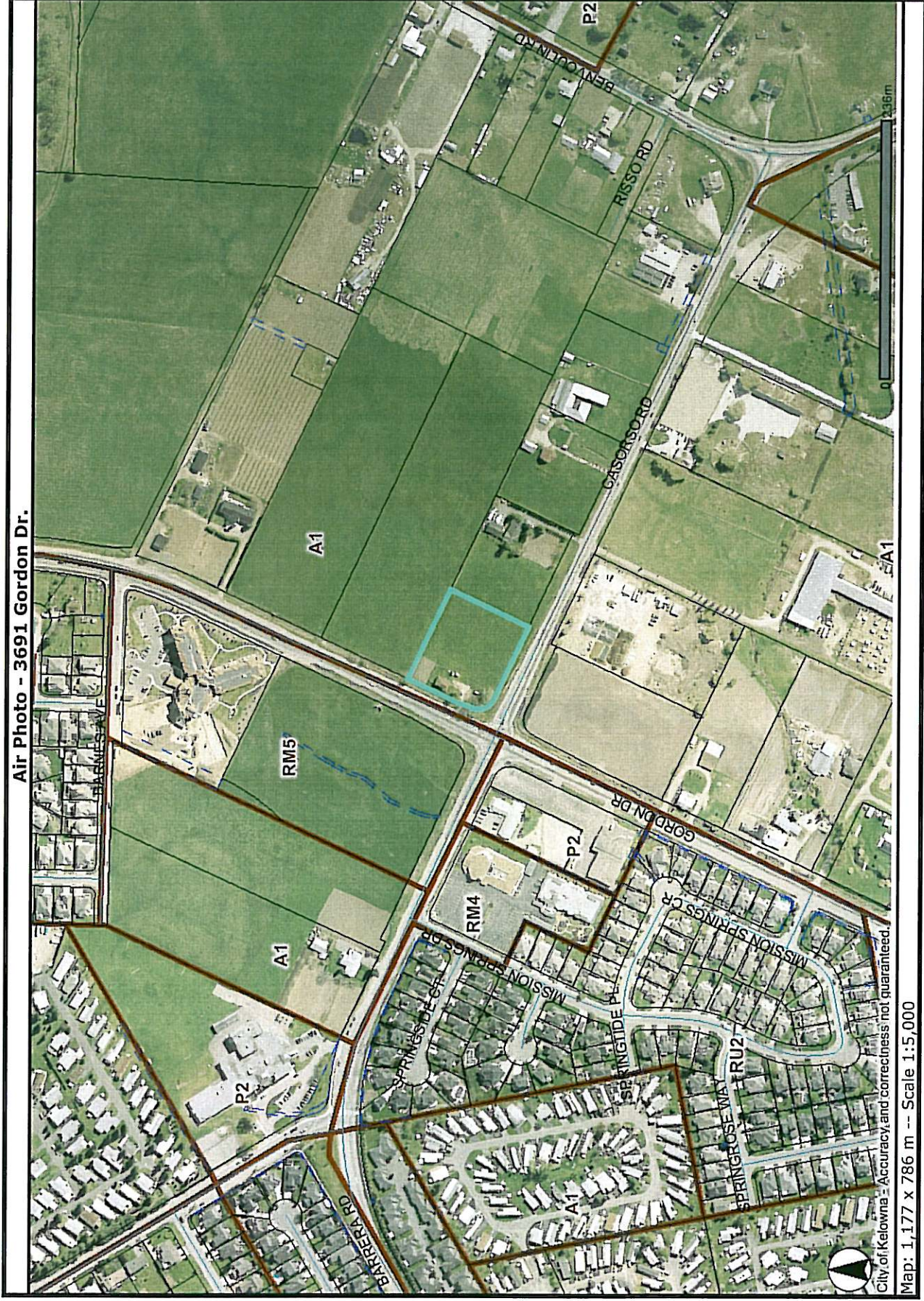
Jim Paterson
General Manager of Community Sustainability

PMC/pmc

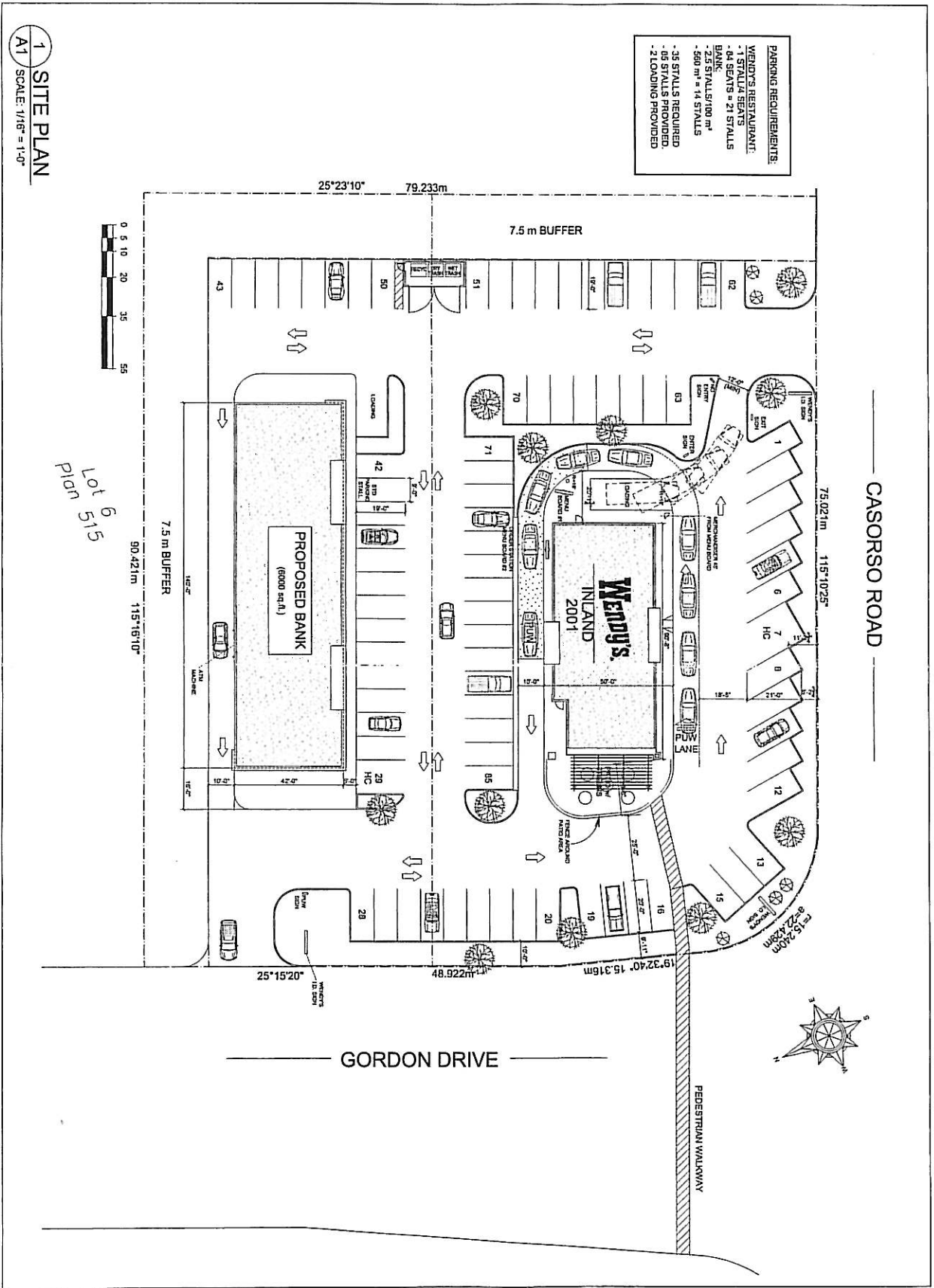
Attachments

Subject Property/ALR Map
Submission Package from Applicant (16 pages)
Land Capability Map
Soil Classification Map





This map is for general information only. The City of Kelowna does not guarantee its accuracy. All information should be verified.



		370 Lower Ranch Road Frederick, B.C. V2A 9K4 phone: (250) 493-2998 e mail: mjcoody@mjcoody.com	Jun 17, 2008 Revised Elevators and Site Plan Apr 1, 2008 Issued For Final Review
		DATE: 1/10/2008 DRAWN: 1/10/2008 CHECKED: 1/10/2008 APPROVED: 1/10/2008 SCALE: 1/8" = 1'-0" SHEET: A1	DATE: _____ DRAWN: _____ CHECKED: _____ APPROVED: _____ SCALE: _____ SHEET: _____



REVISION / THE ARCHITECT

August 7, 2009

City of Kelowna
Community Sustainability Division
1435 Water Street,
Kelowna, B.C.
V1Y 1J4



Attention: Mr. Paul McVey, Planner

Dear Sir;

RE: 3691 GORDON DRIVE, KELOWNA, B.C. (Lot 7, Plan 515)

Further to our recent meeting, I have now enclosed an information package in support of the application by Inland Manor Ltd. for Exclusion of the above noted property from the Agricultural Land Reserve. Please find enclosed:

1. ALC "Application by Land Owner" form , complete and signed (3 copies).
2. \$600.00 application fee , payable to the City of Kelowna.
3. Title Search Print of the subject property (Title No. CA957232) (3 copies) .
4. Agent Authorization for Fred Marin to act on behalf of Inland Manor Ltd. in my absence.
5. Map showing subject property with adjacent uses noted (3 copies)
6. Proof of Notice of Application:
 - a. Copy of published notice in Kelowna Daily Courier June 30, 2009
 - b. Copy of published notice in Kelowna Daily Courier July 09, 2009
 - c. Sample letter to neighboring ALR property owners giving notice of this application.
 - d. Proof of Serving Notice (original document dated July 11, 2009)
 - e. Photographic evidence of City of Kelowna prescribed signage, posted on the property since June 27, 2009 (2 signs, one on Gordon Drive frontage , the other on Casorso Road frontage)
7. 8 ½" x 11" Artist Rendering of proposed development of the site (3 copies) .
8. 11" x 17" Conceptual Landscape Plan detailing proposed "buffer" from adjacent ALR lands (3 copies)
9. 11" x 17" Preliminary Site Plan showing general layout of proposed uses within the City of Kelowna C-3 community commercial zoning (3 copies)

The above Application for Exclusion is based on the criteria for "exceptions" as noted in the Agricultural Land Commission Act Section 23 (1) which reads:

" 23 (1) restrictions on the use of agricultural land do not apply to land that , on December 21, 1972, was, by separate certificate of title issued under the *Land Registry Act*, R.S.B.C. 1960, c.208, less than 2 acres in area."

It is my opinion, based on discussion with our Legal Counsel, that the subject property qualifies for this Exclusion.

Further, it is my intent to make application for Rezoning and a Development Permit upon completion of the ALR exclusion process. At that time, I intend to present all details and positive reasoning behind the proposed commercial use for this site.

It is understood that current City of Kelowna policy discourages "non-farm" use of parcels less than 2 acres where such parcels are located in an agricultural area. It is my intent to show that this location should not be subject to that general policy due to:

- A-1 zoned lands in the neighborhood already have a number of "quasi-commercial" uses in place.
- The location on the Gordon Drive arterial corridor is a logical location for commercial outlets servicing the growing South Kelowna / Mission neighbourhood.
- Every effort will be taken to "buffer" the adjoining ALR lands from the proposed development.
- "Green" and "Sustainable" building design / procedures will be maintained throughout the development and ongoing operation of this site.
- The proposed development will provide much needed employment during construction, as well as an ongoing employment base.
- We have decided to develop the site on a very "low density" basis to ensure no problems arise given the interface with adjacent ALR and residential land uses.

Further, it is my firm belief that the immediate neighbourhood is generally in support of the proposed development and as part of the rezoning process, a detailed survey of neighbourhood opinions will be undertaken and presented to the City.

Trusting the enclosures are all that are required to move this application forward, I would ask that you contact the undersigned (or Fred Marin) at your earliest convenience should you require clarification or additional information.

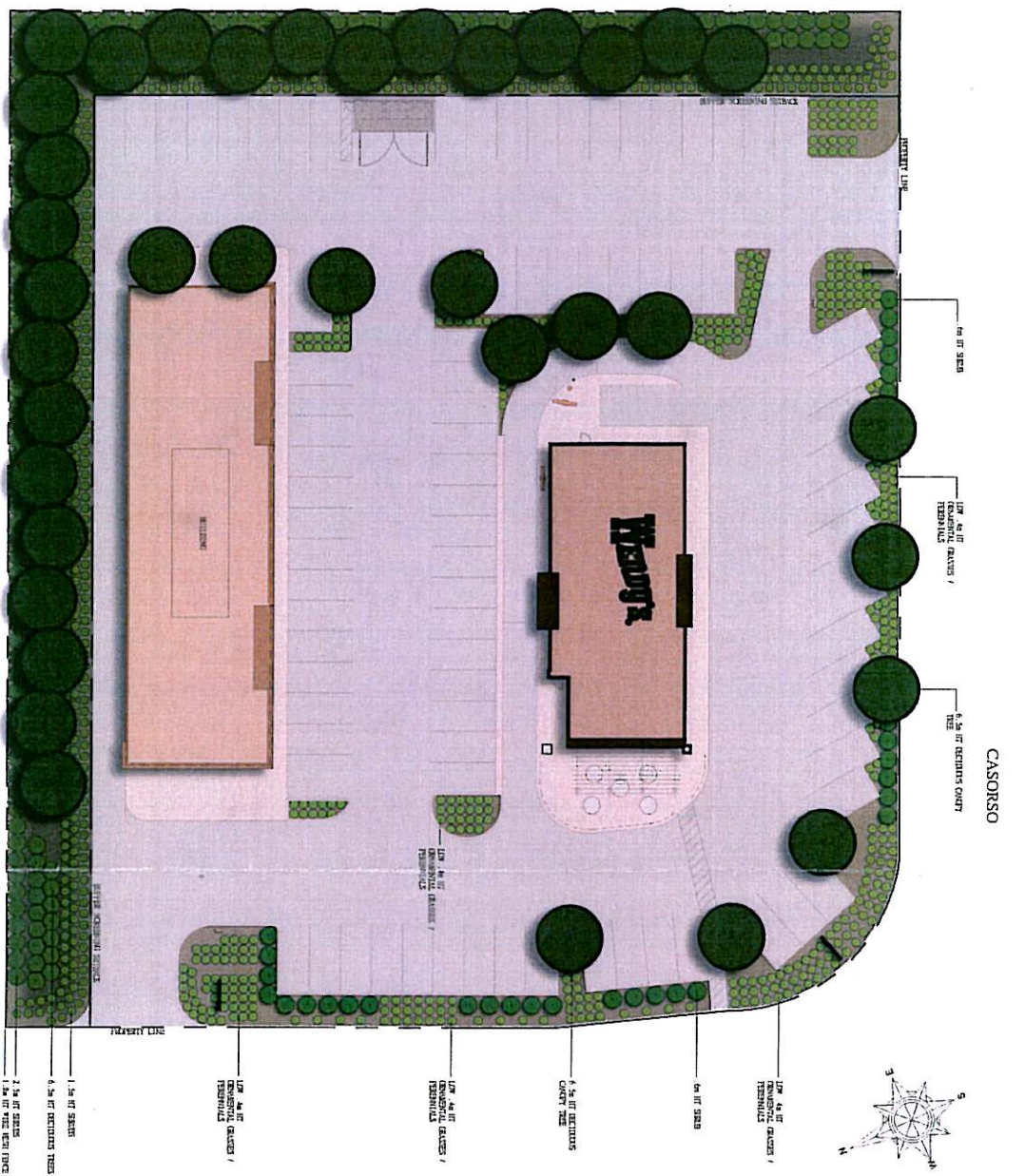
Yours very truly,
INLAND MANOR LTD.

Per: _____


John Tietzen, President

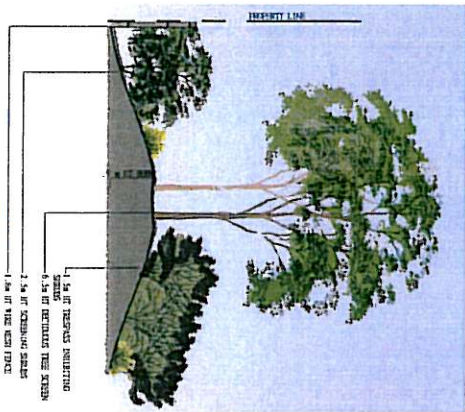
Encls.

Cc. Fred Marin



SITE PLAN
SCALE 1:200

7.5m ALB BUFFER SECTION
SCALE 1:50



PREFERRED PLANT LIST

PLANT NAME	COMMON NAME	SP. SIZE & RATE
1.5m of 12m trees	1.5m of 12m trees	1.5m of 12m trees
1.5m of 6m trees	1.5m of 6m trees	1.5m of 6m trees
1.5m of 4m trees	1.5m of 4m trees	1.5m of 4m trees

*Species identified in all landscape buffer specifications acceptable plant material used throughout development.

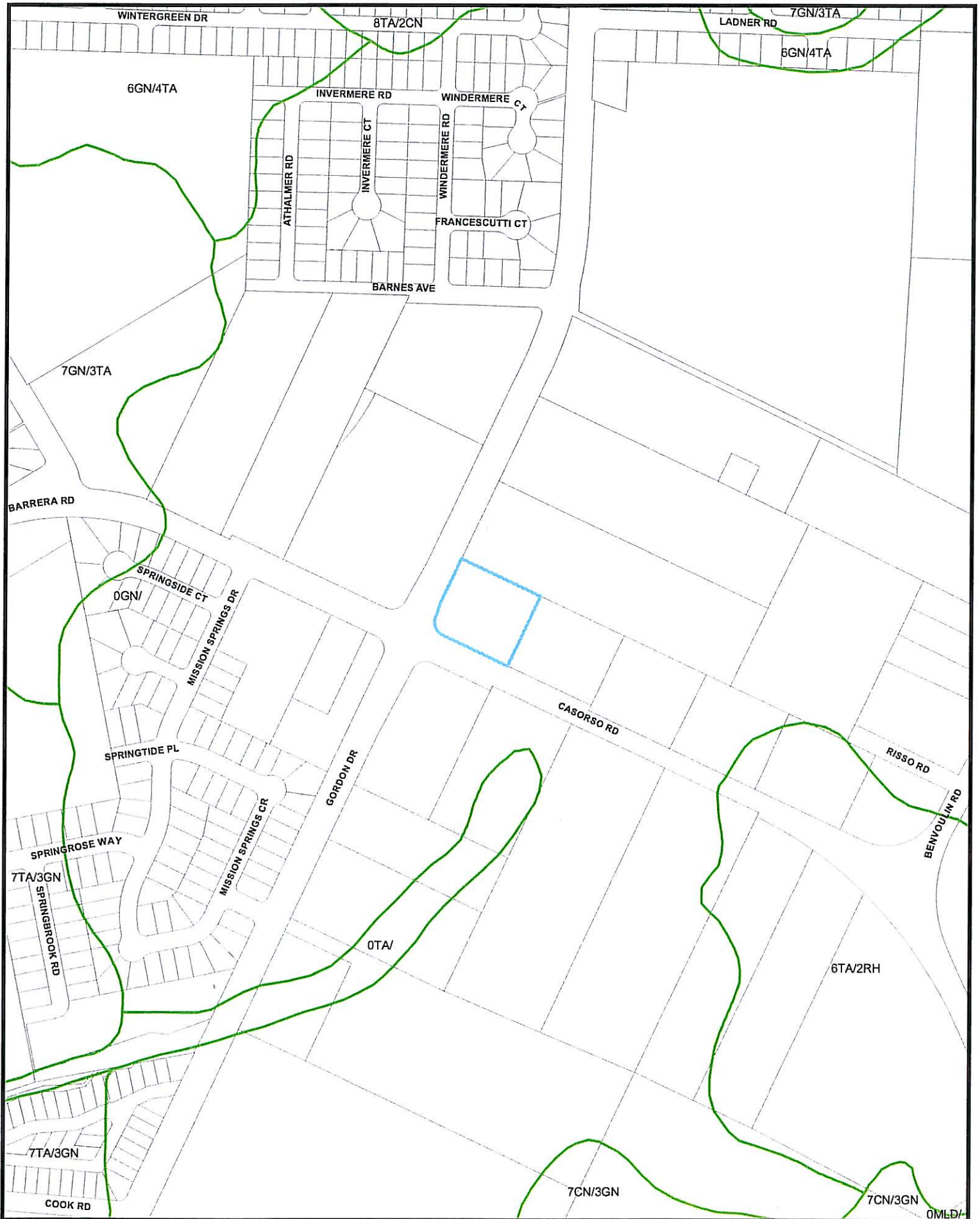
GORDON DRIVE

DATE	2009.04.24
DRAWN BY	AS SHOWN
CHECKED BY	AS SHOWN
APPROVED BY	AS SHOWN
SCALE	1:50

M-J Coady
Architect, Inc.
370 Lower Bench Road
Friedrich, B.C. V2A 8K4
phone: (250) 493-3294
e-mail: mjcoady@mjcady.com

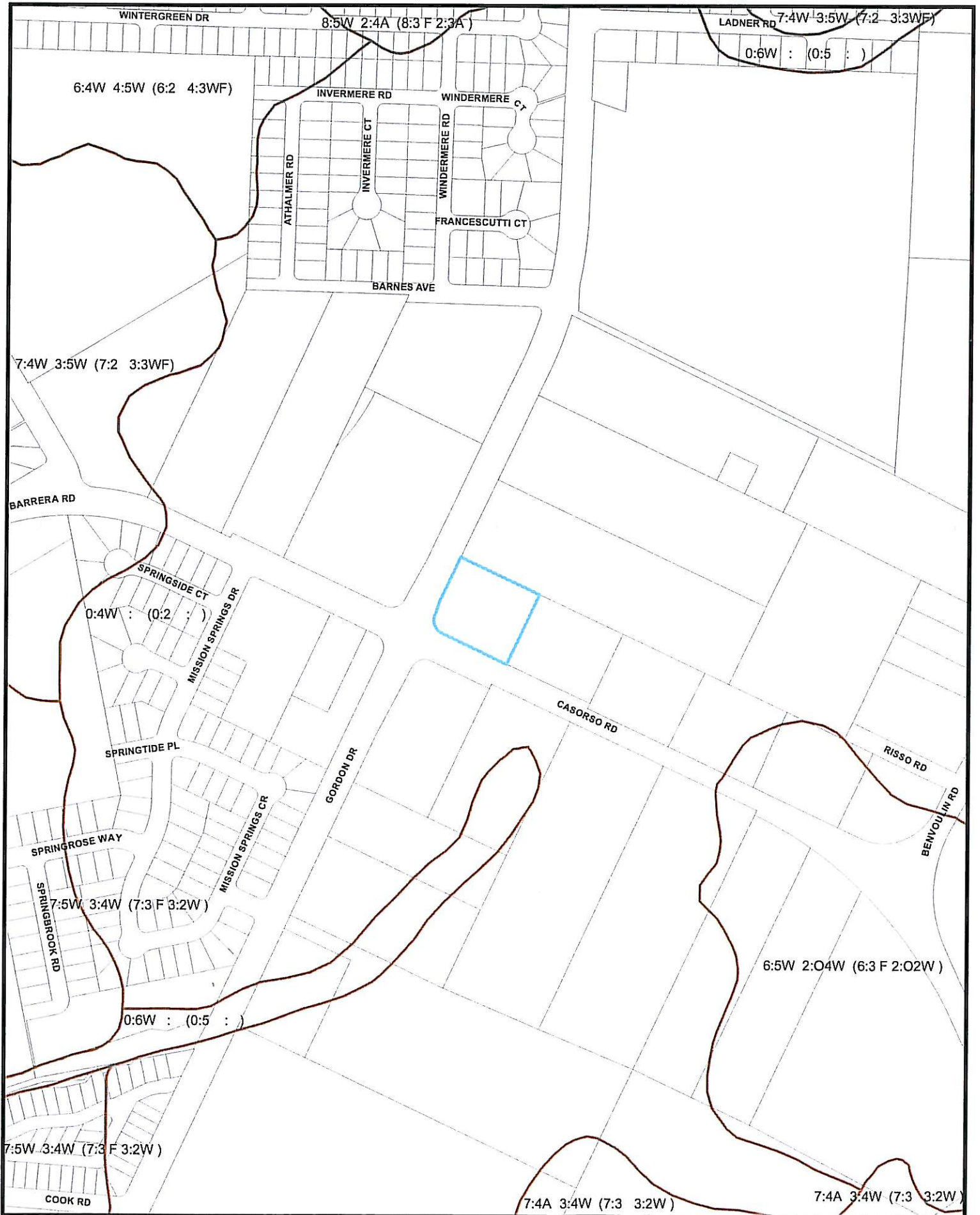
NO.	DATE	REVISION
▲	Apr 24 2009	Issued For Review
▲	Apr 22 2009	Issued For Client Review
▲	Apr 13 2009	Issued For Final Review

Land Capability = Brown/ Soil Class = Green



1:5,000

Land Capability = Brown/ Soil Class = Green



1:5,000