

Memo



Date: April 1, 2010
To: City Manager
From: Community Sustainability Division
File No: A09-0019
Applicant: Tom Smithwick, Porter Ramsay
At: 1565 Lewis Road
Owner: Beverly Druitt Hazzard
Purpose: To obtain approval from the Agricultural Land Commission under Section 21(2) of the Agricultural Land Commission Act to undertake a three lot subdivision within the Agricultural Land Reserve.
Existing Zone: A1 - Agriculture 1
Proposed Zone: RR2 - Rural Residential 2
Proposed Number of Lots: 3
Report Prepared by: Greg Sauer

1.0 RECOMMENDATION

THAT Agricultural Land Reserve Appeal No. A09-0019 for Lot 3 Section 13 Township 26 ODYD Plan 4283 Except Plans H16654, H8383 and KAP85622 located at 1565 Lewis Road, Kelowna, B.C. for approval to undertake a three lot subdivision within the Agricultural Land Reserve, pursuant to Section 21(2) of the Agricultural Land Commission Act, NOT be supported by Municipal Council;

AND FURTHER THAT Municipal Council direct staff to forward the subject application to the Agricultural Land Commission for consideration.

2.0 SUMMARY:

The applicant is requesting permission from the Agricultural Land Commission (ALC) to subdivide the parent 2.52 ha (6.22 ac) parcel into three lots. If granted approval to subdivide the subject property by the Agricultural Land Commission, the applicant would seek Council approval to rezone the property from A1 - Agriculture 1 zone to a Rural Residential 2 (RR2) zone. Rezoning would be followed by the technical subdivision through the City's Subdivision Approving Officer.

3.0 SITE CONTEXT:

The subject property is located in the Belgo/Black Mountain Sector of the City. Highway 33 forms the eastern boundary of the parcel, and Lewis Road the western boundary. Elevations on the property are in the range of 516 and 536 meters above sea level (masl) with an overall change in elevation of 20 m (65 feet). The high points of the lot are near the centre of the parcel with slopes toward Lewis Road and Highway 33.

The property is located in a Natural Environment Development Permit area as it contains a small portion of a large wetland (Garner Pond) and its associated riparian habitat in the southeast corner.

At present this property has no identifiable agricultural activities occurring onsite, and contains one single access off of Lewis Road and one single family residence.

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Parcel Summary:

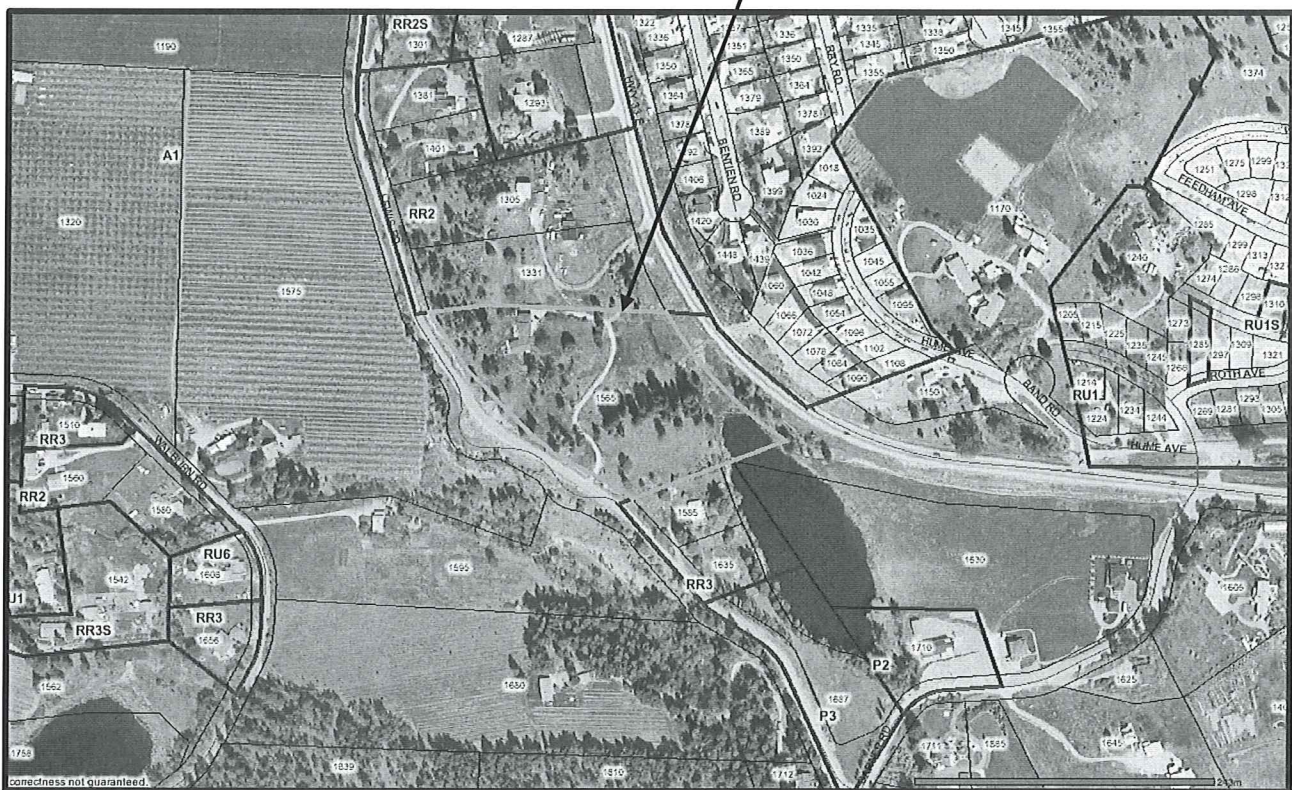
Parcel Size: 2.52ha (6.22 ac)
Elevation: 516 m - 536 masl

3.1 Zoning of Adjacent Property

Adjacent zoning includes:

North	RR2 - Rural Residential 2
South	RR3 - Rural Residential 3
East	A1 - Agriculture 1
West	RU1 - Large Lot Housing
	A1 - Agriculture 1
	A1 - Agriculture 1

3.2 Subject Property Map - 1565 Lewis Road



4.0 THE PROPOSAL:

The applicants note in the attached application package dated October 20, 2009 that sanitary sewer is available in the Lewis Road area which makes subdivision of this parcel into smaller lot sizes possible. The applicants further suggest that the Rural Residential 2 (RR2) zone is compatible and consistent with the land use of the adjoining properties to the north and with the urban residential subdivision to the east.

The landowner wishes to obtain the rezoning and subdivision in order to create three lots which would allow her to live in the existing home and make the remaining two lots available to her children. The proposed lots are 0.809, 0.607 and 0.607 in size (see attached map).

4.1 Subdivision and Development Criteria

Subdivision and development criteria for the Rural Residential 2 zone include the following:

CRITERIA	RR2 ZONE REQUIREMENTS
Subdivision Regulations	
Minimum Lot Area	10,000 m ² (septic & field) 4,000 m ² (connection to sanitary sewer)
Minimum Lot Width	36.0 m
Minimum Lot Depth	30.0 m
Maximum Site Coverage	20%

5.0 POLICY AND REGULATION:

5.1 Kelowna 2020 - Official Community Plan

Agriculture Policies:

Subdivision. Discourage the subdivision of agricultural land into smaller parcels, except where positive benefits to agriculture can be demonstrated¹.

5.2 City of Kelowna Strategic Plan

Objective: Sensitively integrate new development with heritage resources and existing urban, agricultural and rural areas².

Action towards this objective: Evaluate the effectiveness of City policies and bylaws in preserving agricultural lands³.

5.3 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 capitalization⁴.

Parcel Size (Agricultural Land) - Discourage the subdivision of agricultural land into smaller parcels, except where positive benefits to agriculture can be demonstrated⁵.

6.0 AGRICULTURAL ADVISORY COMMITTEE

At a meeting held on March 11, 2010, the Agricultural Advisory Committee passed the following recommendation:

THAT the Agricultural Advisory Committee **NOT** support Application No. A09-0019 for 1565 Lewis Road, by Porter Ramsay (T. Smithwick), to obtain approval from the Agricultural Land Commission to undertake a three lot subdivision within the Agricultural Land Reserve.

¹ Official Community Plan, Policy #11-17, page 11-3

² Shaping Our Future: City of Kelowna Strategic Plan, Objectives, page 7

³ Shaping Our Future: City of Kelowna Strategic Plan, Objective #7 - Actions, page 36

⁴ Agriculture Plan, ALR Application Criteria, page 130

⁵ Agriculture Plan, Urban - Rural/Agricultural Boundary Policy #12, page 132

The Agricultural Advisory Committee also commented that they do not consider the precedent of subdivision to the north and the presence of sanitary sewer in the area to warrant an intensification of the residential land use. In addition, no benefit to agriculture has been demonstrated.

7.0 TECHNICAL COMMENTS

Development Engineering

Development Engineering will provide technical comments if required at subdivision. If the Agricultural Land Commission agrees to the proposed subdivision, a dedication around Garner Pond will be required and will affect the subdivision layout as currently proposed.

8.0 LAND USE MANAGEMENT DEPARTMENT COMMENTS:

This applicant's proposal seeks to expand the type of rural residential development that presently exists to the north and south of the subject property by rezoning and subdividing the existing 2.52 hectare parcel. Highway 33 road widening is currently underway and will result in the parcel being reduced by 0.173 hectares resulting in a 2.35 hectare remainder (see attached).

The subject property has a variety of land capability and soil classification conditions across the site and has the potential for land capability to increase through improvements such as irrigation and grading modifications (see BCLI Land Capability and Soil Classification attached). In fact the central portion of the land is thought to be improvable to Class 1, while the remaining portions may be improved to Class 3 and 4.

City of Kelowna policy is strongly geared to the preservation of agricultural land and does not support the subdivision of agricultural land into smaller parcels. Both the City of Kelowna Official Community Plan and Agriculture Plan further discourage the expansion of urban uses into what is otherwise an agricultural landscape. The fear is that encroachment will diminish the viability of agricultural practices. The only exceptions are cases where positive benefits to agriculture can be demonstrated; or where the proposal is for a homesite severance and the proposal is consistent with ALC policy.

As background, adjacent properties to both the north and south have been subdivided between 2004 and 2007. The northern parcel was 2.36 ha (5.83 ac) in size and the applicants proposed a four lot subdivision. The Agricultural Advisory Committee considered this application on June 8, 2006. The AAC did not support the proposal citing that "the land has the potential to be rehabilitated in order to sustain arable agriculture, and exclusion of the land has no obvious benefit to agriculture...and would result in a further extension of the urban development in an agricultural area". City Council confirmed the AAC's decision not to support the applicant's request.

The Agricultural Land Commission later considered the application and determined that a four lot residential subdivision would eliminate the agricultural capacity of the property and could affect the adjacent property to the south (the subject property) by raising expectations of land use change. The Commission did, however, determine that the expansion of Highway 33 would erode the limited land available for agriculture and found that a subdivision into two, roughly equal size parcels would not have a substantial impact on the farm capability of the subject property. The Commission further concluded that the subdivided property would act as a transition between smaller parcels to the north and urban development to the east. The two lot subdivision was later effected in 2007.

In terms of the adjacent property to the south (1585 Lewis Road), it was originally 0.56 hectare in size prior to being subdivided into two parcels (1585 & 1635 Lewis Road) in 2004. These properties are currently zoned Rural Residential 3 (RR3).


The effect of the decision by the ALC to support a two lot subdivision on the adjacent parcel to the north, in addition to the two lot subdivision to the south are recognized as relevant factors in this application. However, this precedent and the presence of sanitary sewer do not warrant an intensification of the residential land use. From a policy perspective, given that no benefit to agriculture has been articulated by the applicants, staff recommend that Council does not support this application.

9.0 ALTERNATE RECOMMENDATION:

THAT Agricultural Land Reserve Appeal No. A09-0019 for Lot 3 Section 13 Township 26 ODYD Plan 4283 Except Plans H16654, H8383 and KAP85622 located at 1565 Lewis Road, Kelowna, B.C. for approval to undertake a three lot subdivision within the Agricultural Land Reserve, pursuant to Section 21(2) of the Agricultural Land Commission Act be supported by Municipal Council;

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

Submitted by:



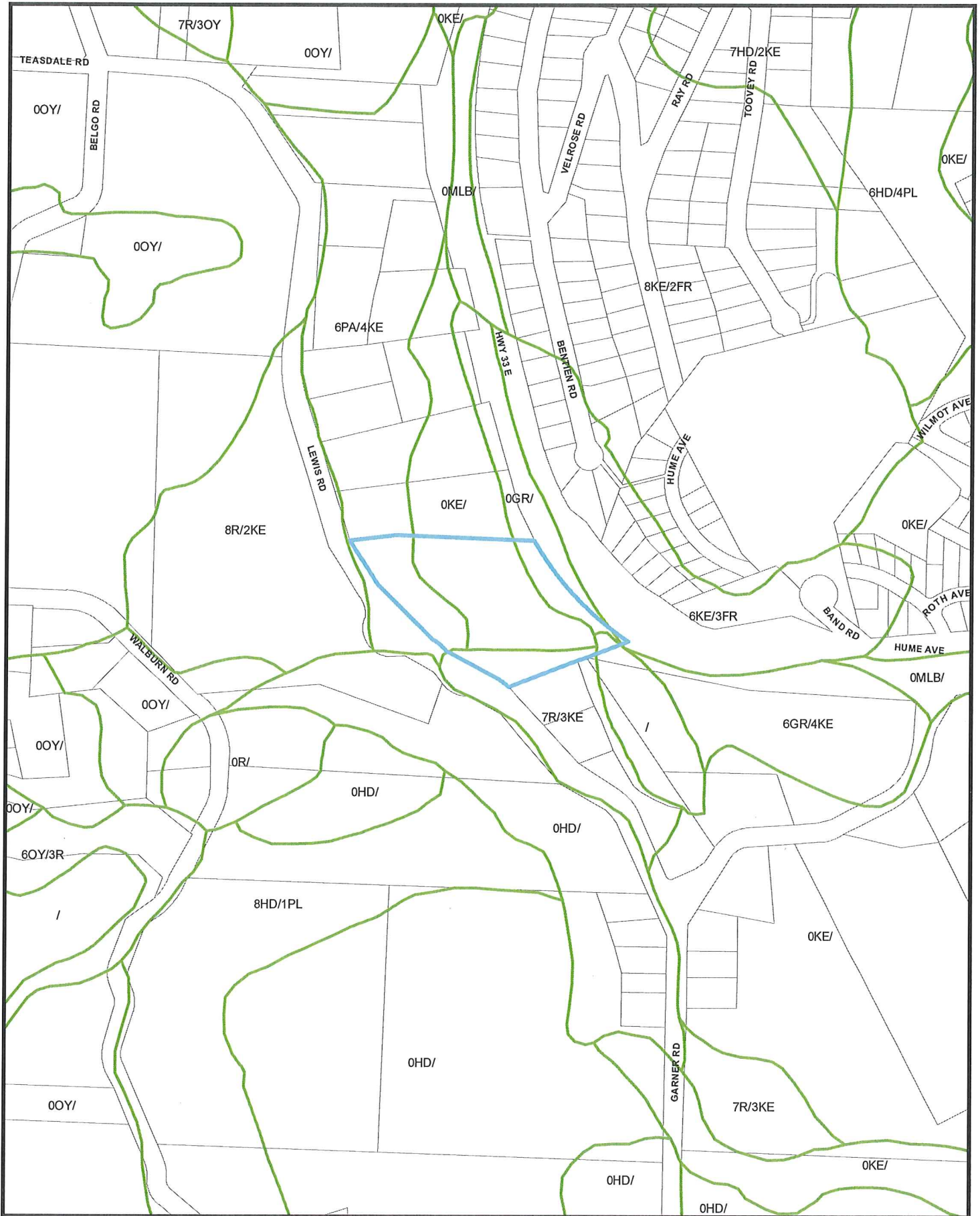
Shelley Gambacort
Director, Land Use Management

Approved for inclusion: 
Jim Patterson
General Manager, Community Sustainability

Attachments:

Soil Classification Map
Subject Property Soil Classification Description
BCLI Land Capability Map
Subject Property BCLI Land Capability Description
Subject Property Map
ALR Map
Site Plan
Site Map Showing Highway 33 Widening
Application by Landowner's Agent
Contour Map

Land Capability = Brown/ Soil Class = Green



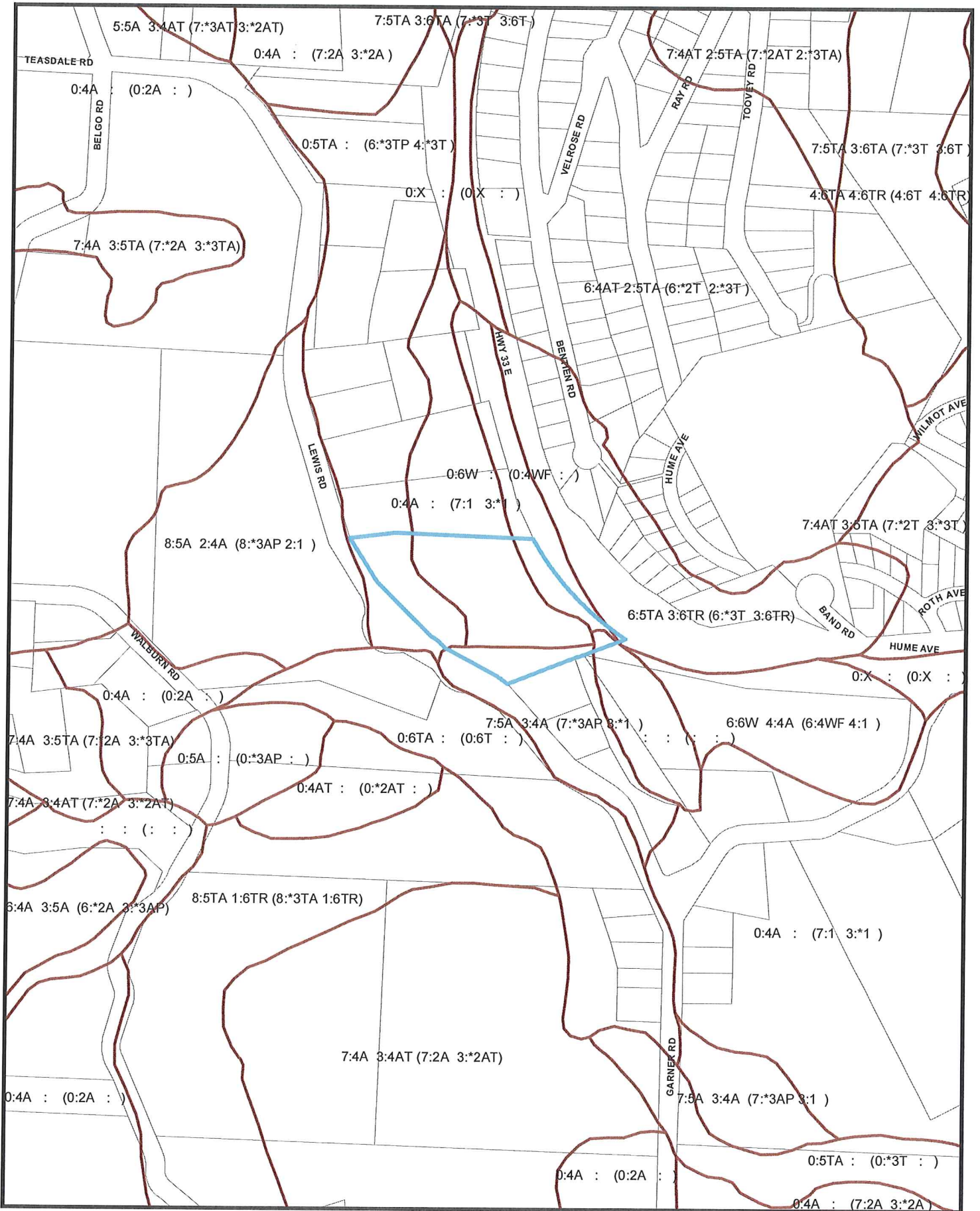
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Soil Classification

The soil classification for the subject property is broken into three sections with soil types as defined below.

Portion of Site / %	Soil Type	Description
Eastern Portion 100%	GR - Gartrell	<u>Land</u> : nearly level and very gently sloping fluvioglacial deposits in depressions. <u>Texture</u> : 60 to 100 cm of loam or sandy loam over gravely sandy loam or gravely loamy sand. <u>Drainage</u> : dominantly poor, ranging to imperfect; fluctuating groundwater table and seepage. <u>Classification</u> : Rego Humic Gleysol
Central Portion 100%	KE - Kelowna	<u>Land</u> : moderately and strongly sloping glacial till. <u>Texture</u> : 10 to 30 cm of loam or sandy loam veneer over gravely sandy loam or gravely loam. <u>Drainage</u> : well <u>Classification</u> : Orthic Dark Brown
Western Portion 60%	PA – Peachland	<u>Land</u> : hummocky, pitted fluvioglacial deposits often over gently to very steeply sloping glacial till. <u>Texture</u> : 100 cm or more of gravely silt loam, gravely sandy loam or gravely loamy sand. <u>Drainage</u> : well. <u>Classification</u> : Eluviated Eutric Brunisol
Western Portion 40%	KE - Kelowna	<u>Land</u> : moderately and strongly sloping glacial till. <u>Texture</u> : 10 to 30 cm of loam or sandy loam veneer over gravely sandy loam or gravely loam. <u>Drainage</u> : well <u>Classification</u> : Orthic Dark Brown

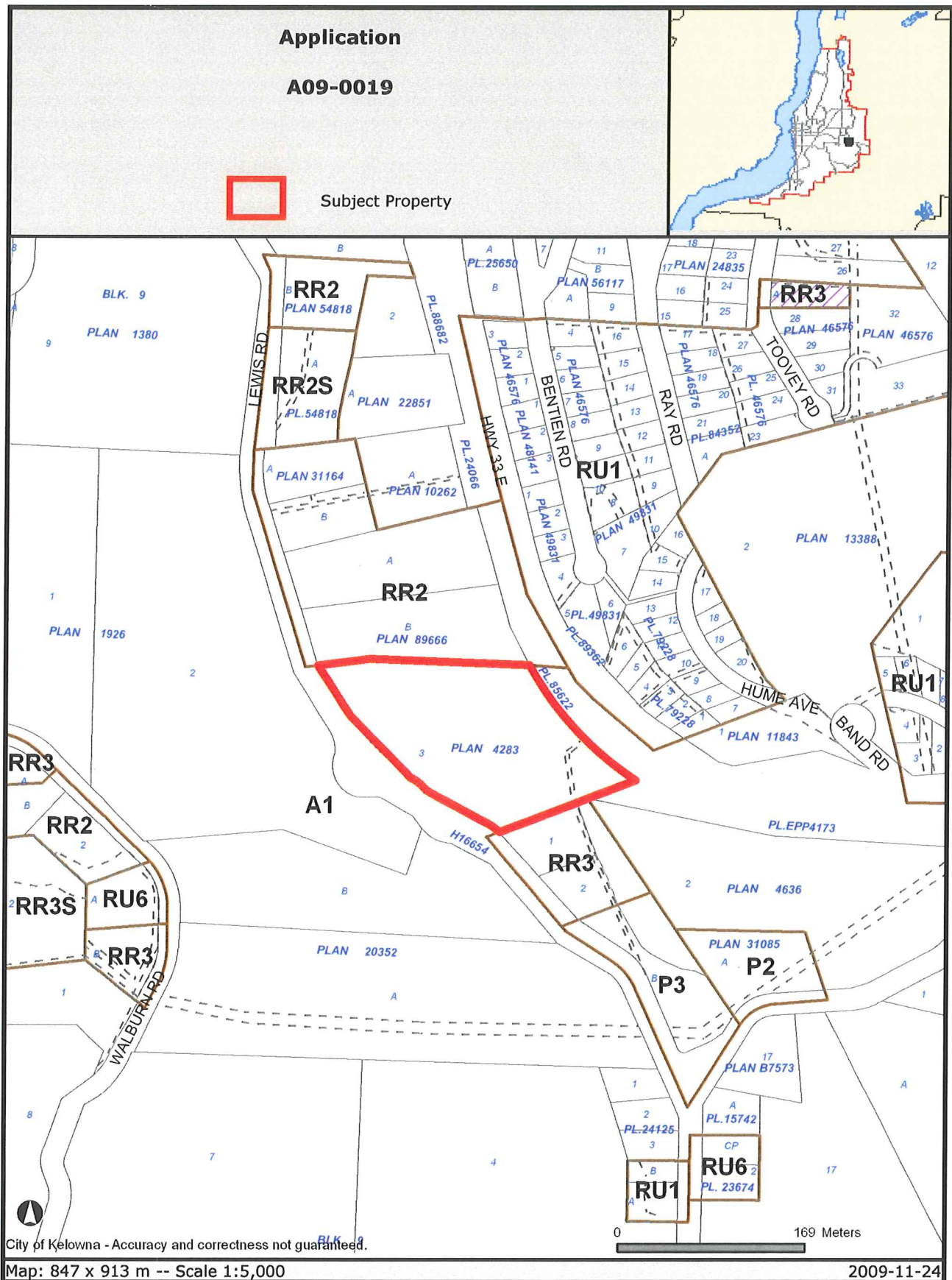
Land Capability = Brown/ Soil Class = Green



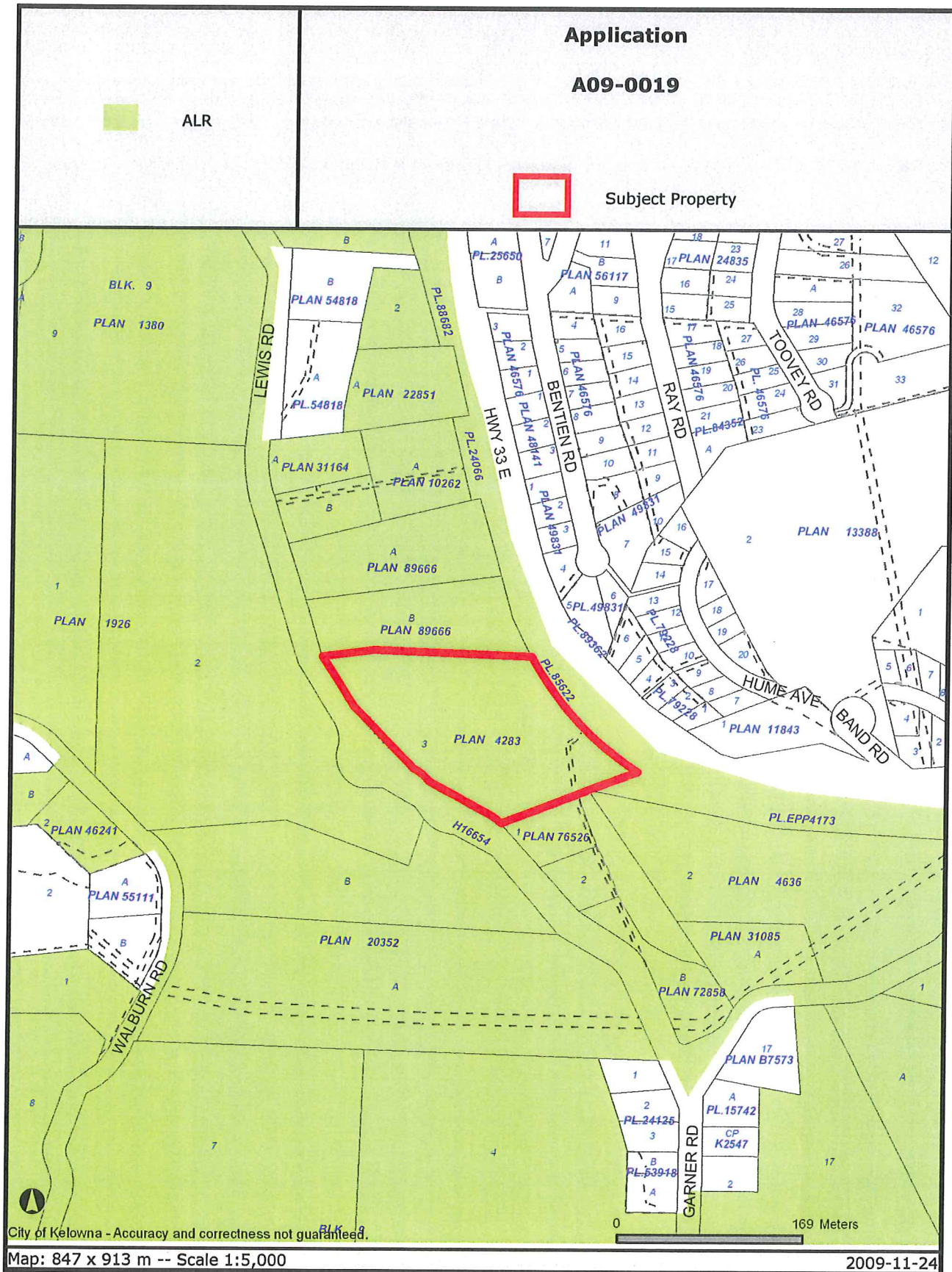
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BCLI Land Capability

Portion of Site	Land Capability Rating, Unimproved	Land Capability Rating, With Improvements
Eastern	100% Class 6 with excess water (soils are limited by excess water, other than from flooding).	100% Class 4 with excess water and low levels of fertility (due to lack of available nutrients, low cation exchange capacity or nutrient holding ability, high acidity or alkalinity, high levels of carbonates, presence of toxic elements or compounds, or high fixation of plant nutrients).
Central	100% Class 4 with soil moisture deficiency (crops are adversely affected by droughtiness caused by low soil water holding capacity or insufficient precipitation).	100% Class 1
Western	100% Class 5 with soil moisture deficiency and adverse topography (Soils are limited by steepness or pattern of slopes which hinders the use of farm machinery, decreases the uniformity of growth and maturity of crops, and/or increases the potential for water erosion).	60% Class 3 with soil moisture deficiency and stoniness 40% Class 3 with soil moisture deficiency and adverse topography

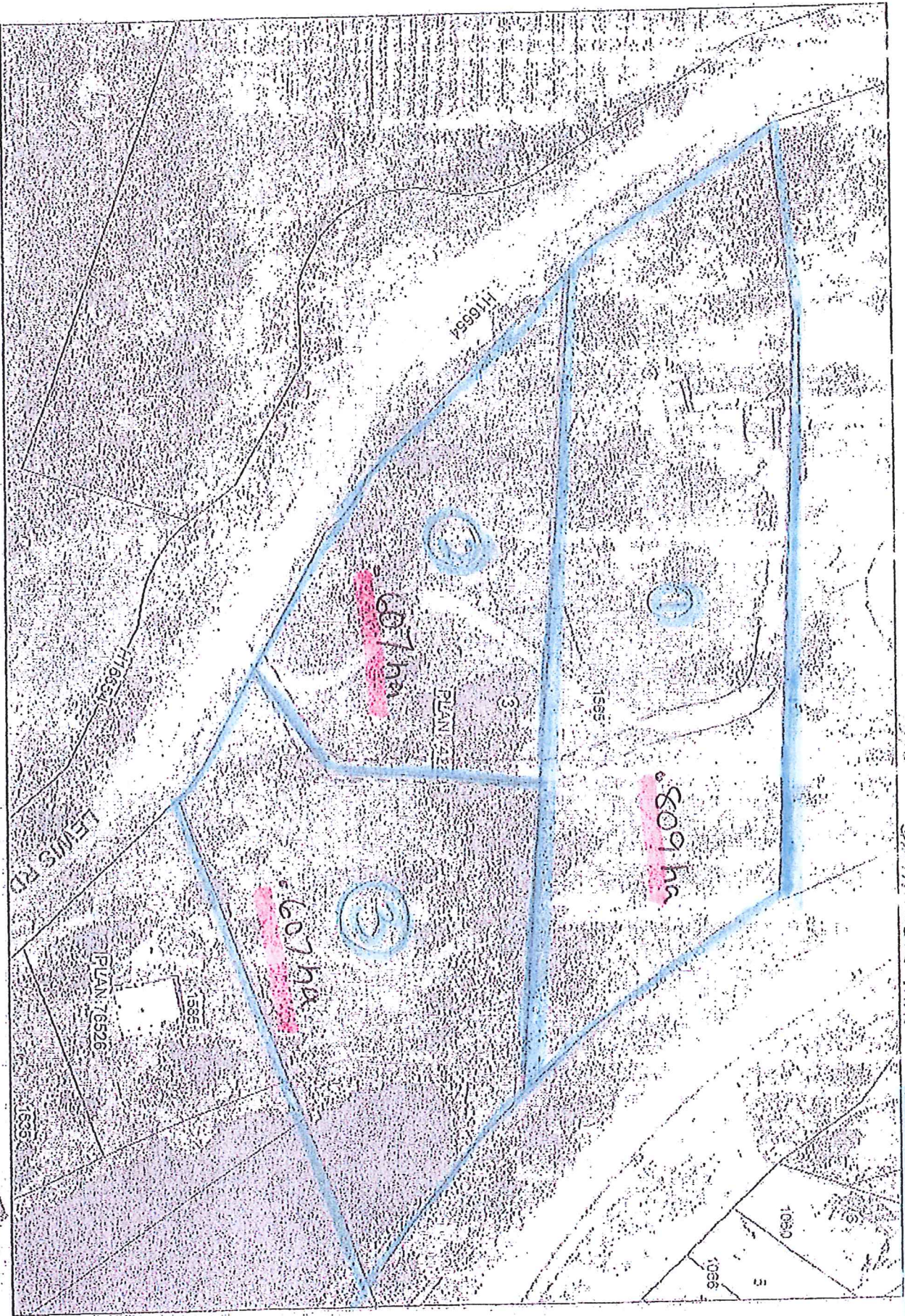


Certain layers such as lots, zoning and dp areas are updated bi-weekly. This map is for general information only. The City of Kelowna does not guarantee its accuracy. All information should be verified.



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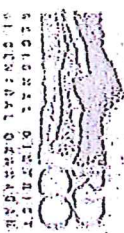
Summitville map
Revised Jan 8/10



Regional District of Central Okanagan (2009).
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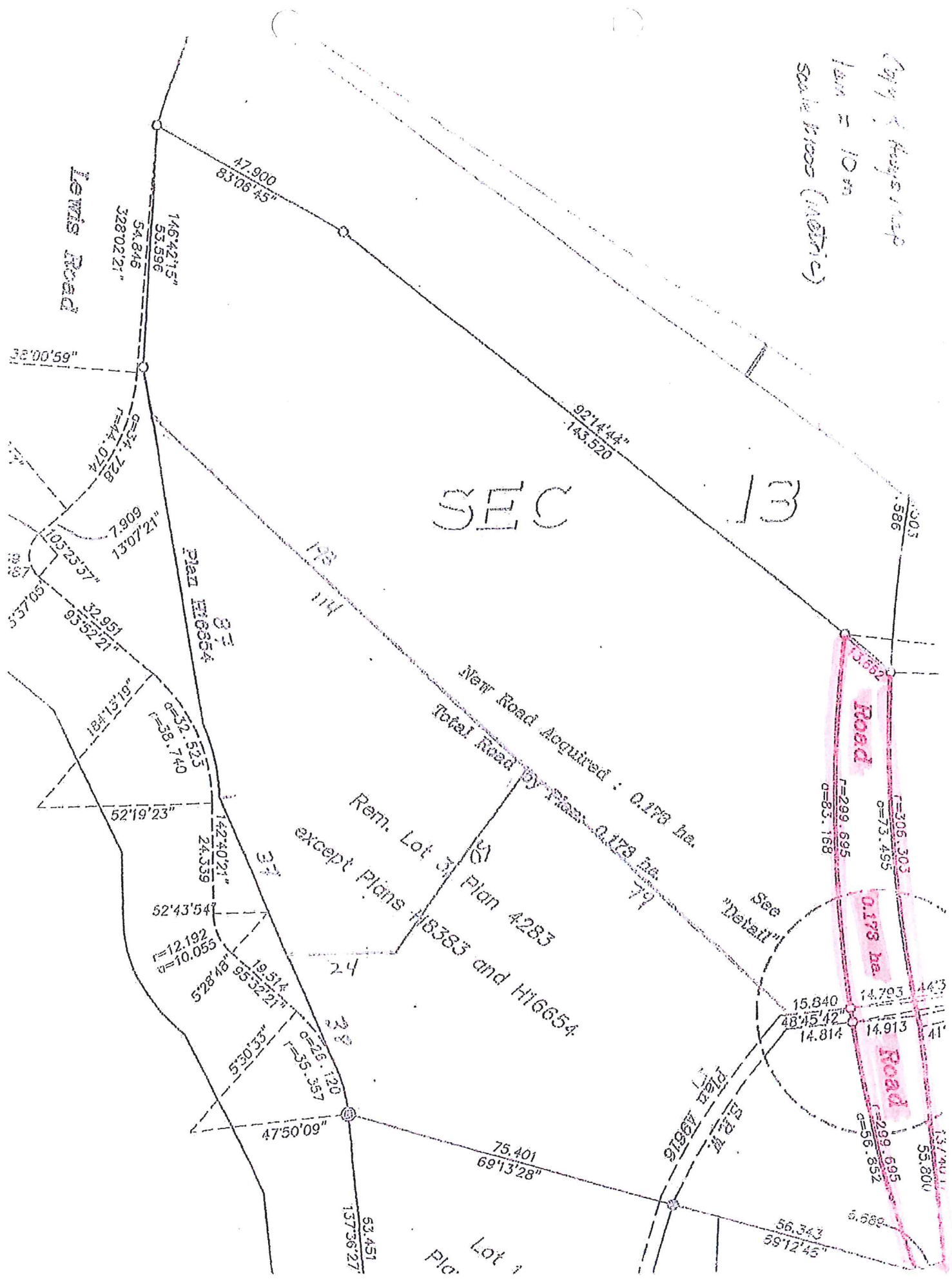
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R.D.C.O. Internet Mapping Service



Copy of Survey Map
Date = 10/27
Scale 1:1000 (Metric)

SEC 13



New Road Acquired: 0.178 ha.
Total Road by Plans: 0.178 ha.

Rem. Lot 3
except Plans 118383 and 116654

See "Detail"

0.178 ha.
Road

Lot 1
Pla



Accuracy not guaranteed.

1565 Lewis Road - 1 meter Contours