

# Memo



**Date:** July 20, 2010  
**To:** City Manager  
**From:** Community Sustainability Division  
**File No:** A10-0003                      **Applicant:** Clayton Ivan  
**At:** 3399 East Kelowna Rd.              **Owner:** Clayton Bruce Ivan

**Purpose:** TO OBTAIN APPROVAL FROM THE AGRICULTURAL LAND COMMISSION UNDER SECTION 20(3) OF THE *AGRICULTURAL LAND COMMISSION ACT* FOR A NON-FARM USE TO ALLOW A DETACHED SECONDARY SUITE ON THE PROPERTY.

**Existing Zone:** A1 - Agriculture 1

**Report Prepared by:** Birte Decloux

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## 1.0 RECOMMENDATION:

THAT Agricultural Land Reserve Application No. A10-0003 for Lot A, Section 15, Township 26, O.D.Y.D., Plan KAP68999, located at 3399 East Kelowna Road, Kelowna, B.C. for a non-farm use of the subject property, pursuant to Section 20(3) of the *Agricultural Land Commission Act*, be supported by Municipal Council subject to:

- the remediation/clean-up of the subject property with respect to the storage and placement of vehicles and other equipment to allow for the provision of future agricultural activities or the expansion of current farm operations.

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

## 2.0 SUMMARY:

The applicant is requesting permission to allow a non-farm use within the Agricultural Land Reserve to permit a detached secondary suite on the property.

## 3.0 AGRICULTURAL ADVISORY COMMITTEE

At a meeting held on July 8, 2010, the Agricultural Advisory Committee passed the following recommendation:

THAT the Agricultural Advisory Committee NOT support Application No. A10-0003 for 3399 East Kelowna Road, Lot A, Section 15, O.D.Y.D., Plan to obtain approval from the ALC under Section 20(3) of the ALC Act to allow a secondary suite in an accessory building on the property.

In addition, the following anecdotal comments were recorded in the minutes:

gv

The Agricultural Advisory Committee did not support this application as the Members felt that there was no net benefit to agriculture. The Members also felt that this application would increase speculative pressure on agricultural lands and that an urban/rural conflict would impact the farming activity.

#### 4.0 SITE CONTEXT:

The subject property is located on the south side of East Kelowna Road in the Southeast Kelowna Sector of the City. The site has a unique configuration resulting from subdivisions created before 2001. The site is relatively flat, however the topography of the rear portion of the site rises steeply climbing from an elevation of 454m to 462m over a distance of 25 meters. The steep portion of the site is located in a Hazardous Condition Development Permit Area.

The only identifiable agricultural activity on the property is a Christmas tree farm which has been in operation for approximately twenty years. The owner has indicated that hog and poultry production also occurs on the site. The site has an older home located near the road, an assortment of sheds and accessory structures, and a newly built accessory structure containing the illegal suite on the east property line.

#### Parcel Summary:

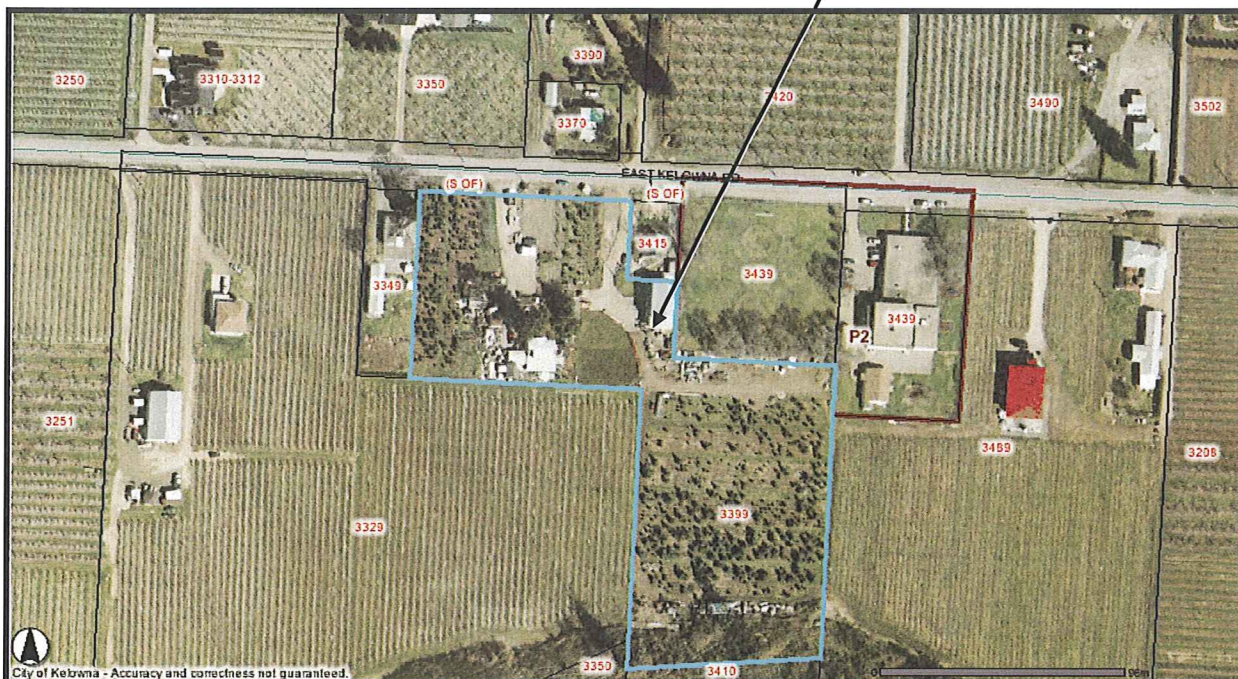
Parcel Size: 1.56ha (3.87 ac)  
Elevation: 450 m - 462m

#### 4.1 Zoning of Adjacent Property

Adjacent zones and uses are:

North	A1 - Agriculture 1
South	A1 - Agriculture 1
West	A1 - Agriculture 1 (residential site)
East	P2 - Education and Minor Institutional (Montessori school)

#### 4.2 Subject Property Map - 3399 East Kelowna Road



## 5.0 THE PROPOSAL:

A bylaw investigation is the catalyst for the application. The applicant built an accessory building containing a suite on the upper floor and workshop on the ground floor without securing appropriate zoning in 2005. This application is the first step of the process the owner must complete to legalize the secondary suite. Should this non-farm use application be successful, the applicant will be required to rezone the subject property from the A1- Agriculture 1 zone to the A1(s) - Agriculture with a secondary suite zone.

The accessory building is situated in a corner of the site directly behind a separate lot that has been in existence prior to the Agriculture Land Reserve (the applicant also owns this property). The original farm house and related outbuildings are located on the front portion of the oddly configured property.

The current suite is oversized and does not meet the requirements of the Zoning Bylaw 8000, however, the owner has submitted plans to reduce the size of the suite should the land use be favourably supported.

## 6.0 POLICY AND REGULATION:

### 6.1 Kelowna 2020 - Official Community Plan

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

- 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;

### 6.2 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.

**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 siting of the existing accessory structure does not severely compromise the overall agricultural productivity of the parcel. The building is located in a corner of the property south of a small lot which is also owned by the applicant. Land Use Management does not condone building structures without the proper zoning. A building permit (2005) was granted to construct the building containing a garage and a studio (without a kitchen) which now contains the illegal suite.

The land capacity and soil classification of the subject property are conducive to agriculture. Notably, the shape and size of the lot does not impact the current farm use as a Christmas tree farm and demonstrates that the parcel could be used for a wide range of agricultural crops and practices that are suitable for non-traditional land configurations.

As part of the garage has already been converted to a secondary suite without the proper applications, it does not give Staff an opportunity to comment on the siting of the suite and ensure it meets council endorsed guidelines and policies. Additionally, the Building and Permitting Branch has not had an opportunity to review the plans to ensure that all code regulations of the BC Building code can be met.

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, as noted in the AAC recommendation section.

Nevertheless, considering the accessory building exists and that the lower floor may be used for machinery storage or other agricultural functions, no additional land will be converted or removed from agricultural production. The siting of the accessory structure is very close to the eastern property line, and therefore does not intentionally isolate itself and detract from the contiguous area that can be devoted to farming operations. Therefore, it is suggested that support for the secondary suite be contingent on site remediation/clean-up to allow for the potential to expand on-site agricultural activities. Should the Agriculture Land Commission look favourably on this non-farm use application, a rezoning application will be required.




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Danielle Noble  
Manager, Urban Land Use

**Approved for inclusion:**  
Shelley Gambacort  
Director, Land Use Management




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**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  
Application by Landowner's Agent  
Contour Map

**Application Chronology:**

Date Application Accepted from applicant: February 15, 2010  
Revised suite drawings received: May 20, 2010  
Agricultural Advisory Committee: July 8, 2010 (June meeting cancelled as quorum not attainable)

## Soil Classification

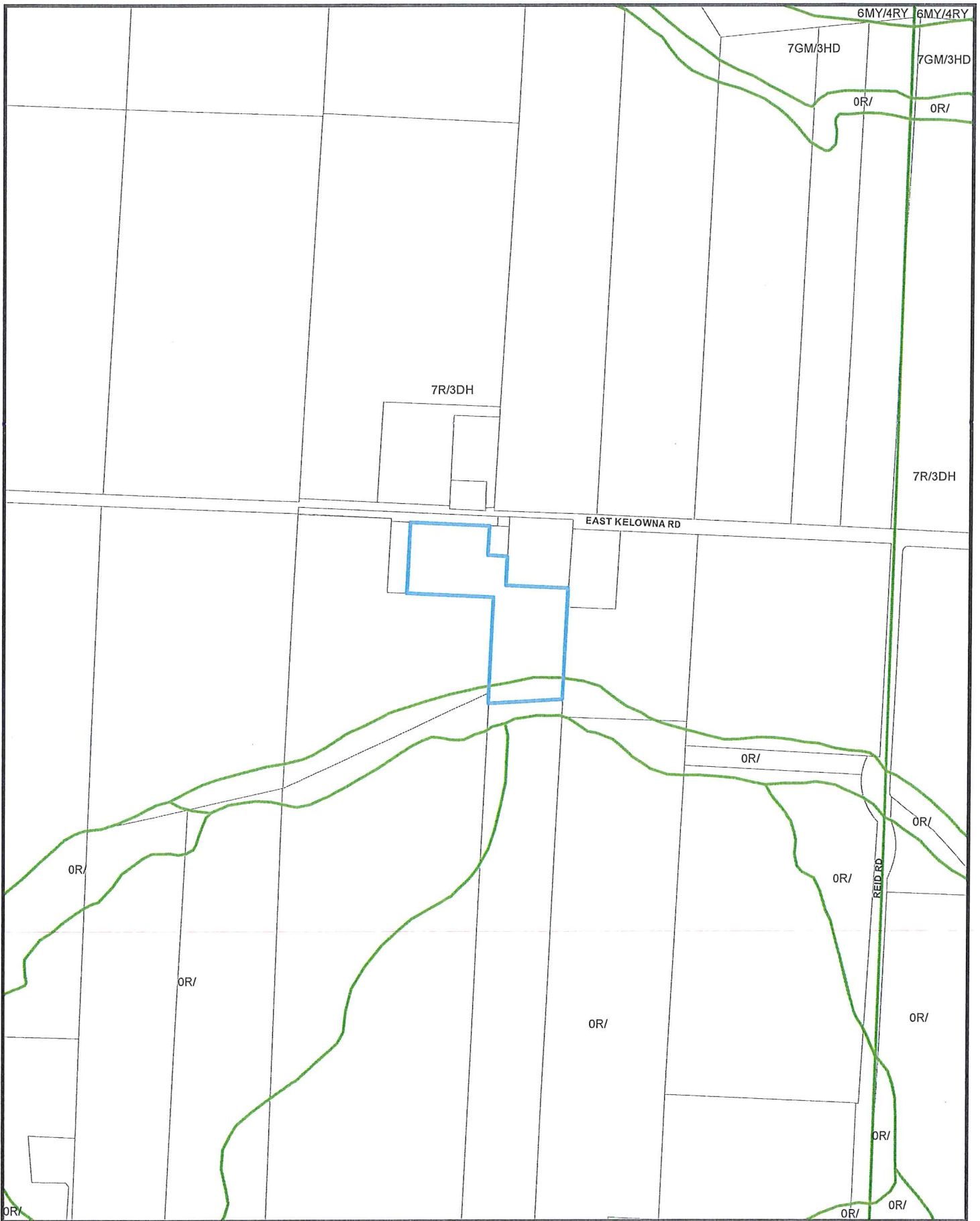
The soil classification for the subject property is broken into three sections with soil types as defined below.

Portion of Site / %	Soil Type	Description
Majority of the site 70%	R - Rutland	<u>Land:</u> very gently to strongly sloping fluvioglacial deposits. <u>Texture:</u> 10 to 25 cm of sandy loam or loamy sand over over gravelly loamy sand or very gravelly sand. <u>Drainage:</u> rapid. <u>Classification:</u> Orthic Dark Brown
30%	DH - Dartmouth	<u>Land:</u> nearly level to very steeply sloping fluvioglacial deposits. <u>Texture:</u> 25 to 60 cm of sandy loam or loam over gravelly sandy loam or gravelly loamy sand. <u>Drainage:</u> well to rapid <u>Classification:</u> Orthic Dark Brown
Rear slope section 100%	R - Rutland	<u>Land:</u> very gently to strongly sloping fluvioglacial deposits. <u>Texture:</u> 10 to 25 cm of sandy loam or loamy sand over over gravelly loamy sand or very gravelly sand. <u>Drainage:</u> rapid. <u>Classification:</u> Orthic Dark Brown

## BCLI Land Capability

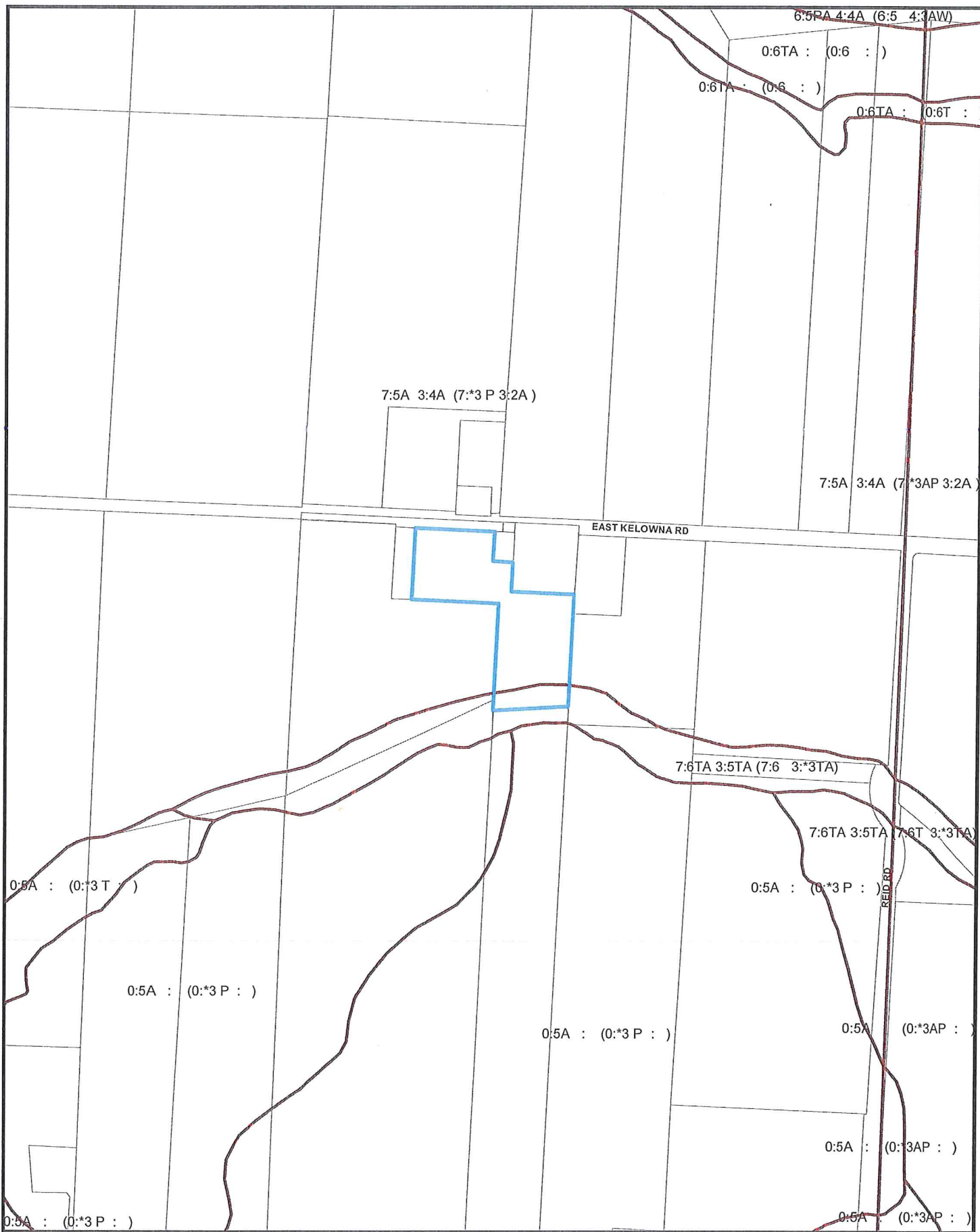
Portion of Site	Land Capability Rating, Unimproved	Land Capability Rating, With Improvements
Majority	70% Class 5 with soil moisture deficiency 30% Class 4 with soil moisture deficiency	70% Class 3 with stoniness: Soils are limited by the presence of coarse fragments which significantly hinder tillage, planting and or harvesting.  30% Class 2 with soil moisture deficiency
Rear sloped section	70% Class 6 with topography constraints and soil moisture deficiency. 30% Class 5 with topography constraints and soil moisture deficiency.	70% Class 6 30% Class 3 with topography constraints and soil moisture deficiency.

Land Capability = Brown/ Soil Class = Green



1:5,000

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1:5,000

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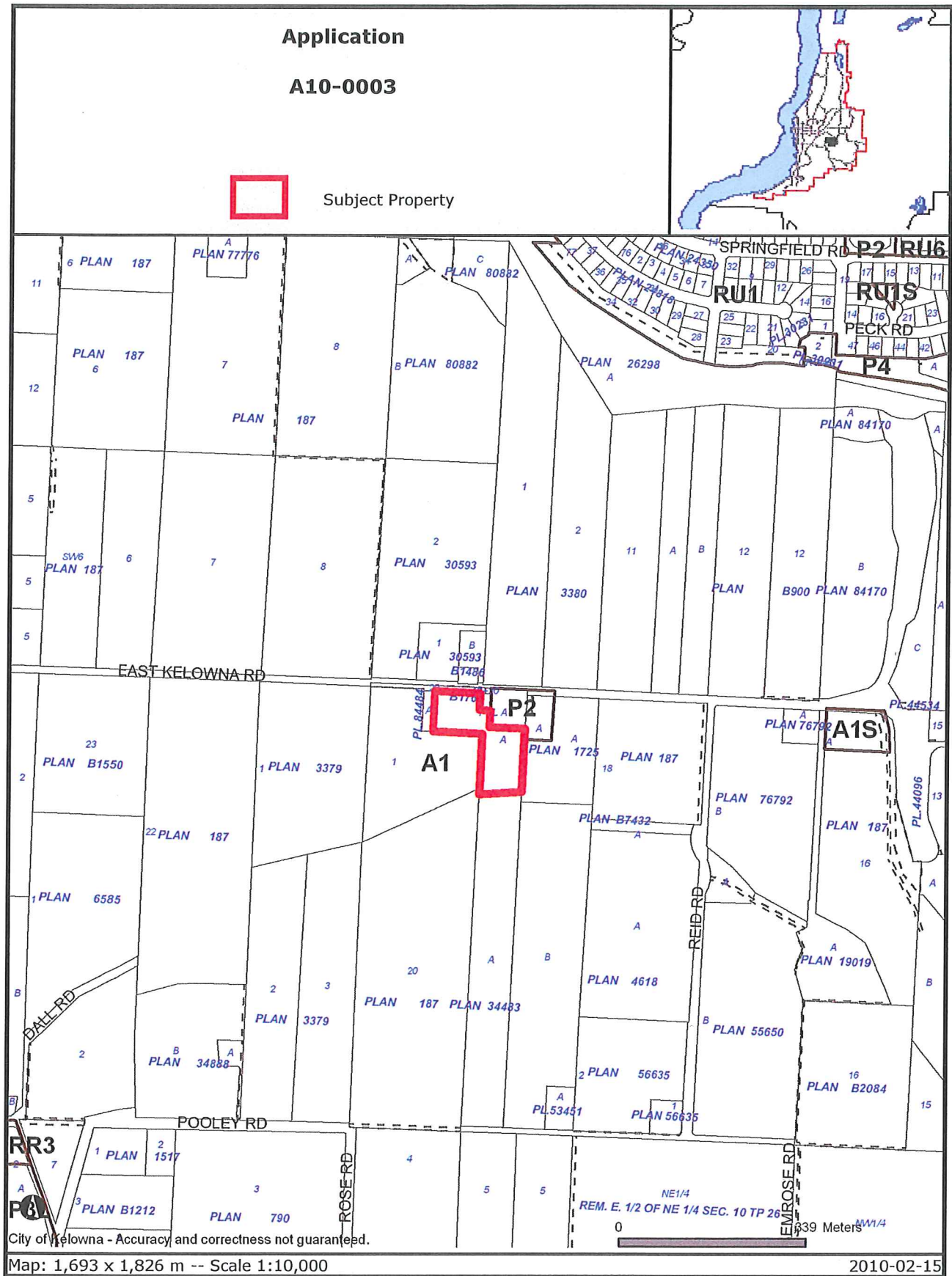
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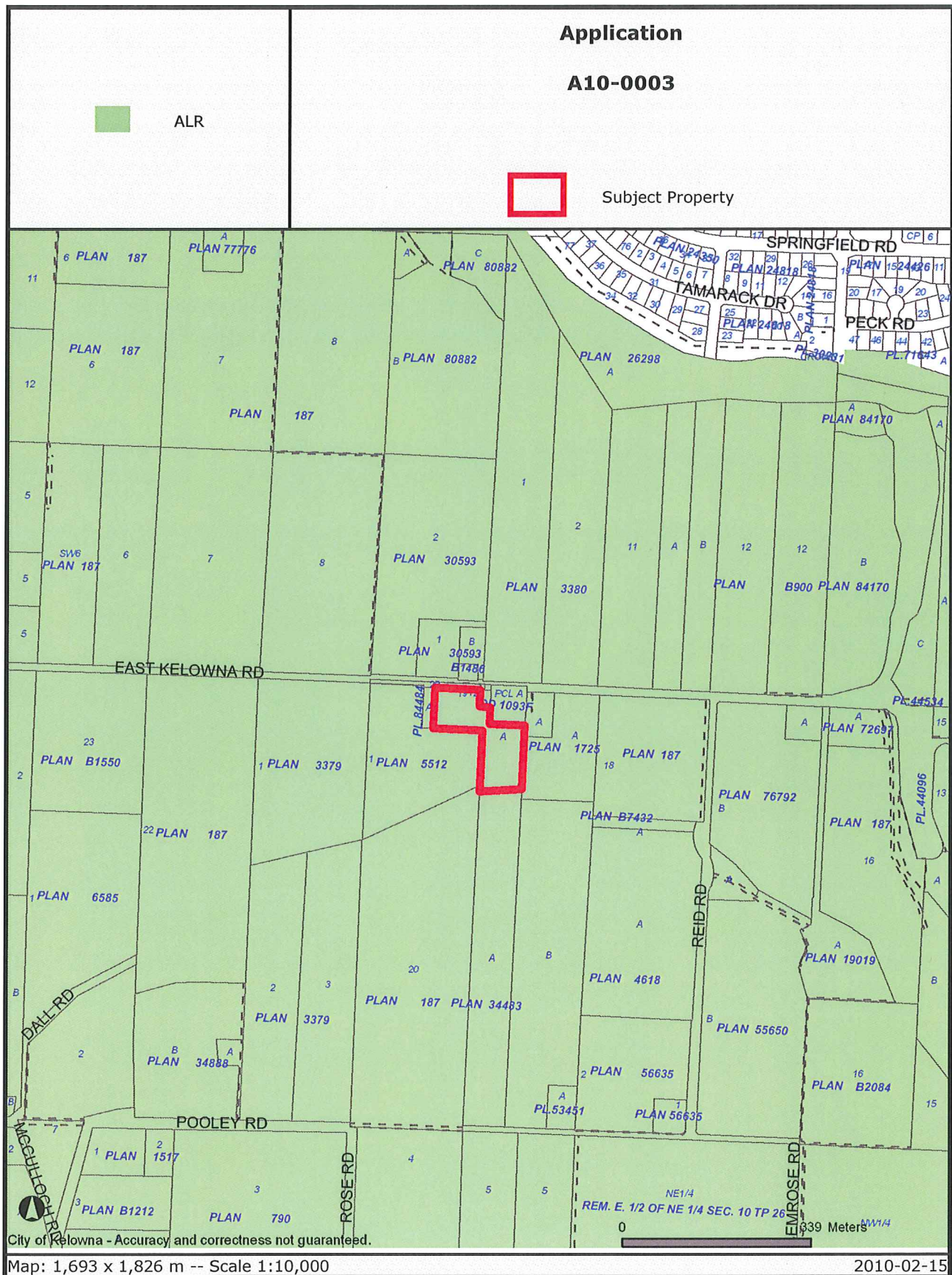
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Rear sloped section	70% Class 6 with topography constraints and soil moisture deficiency. 30% Class 5 with topography constraints and soil moisture deficiency.	70% Class 6 30% Class 3 with topography constraints and soil moisture deficiency.





Certain layers such as lots, zoning and dp areas are updated bi-weekly. This map is for general information only.  
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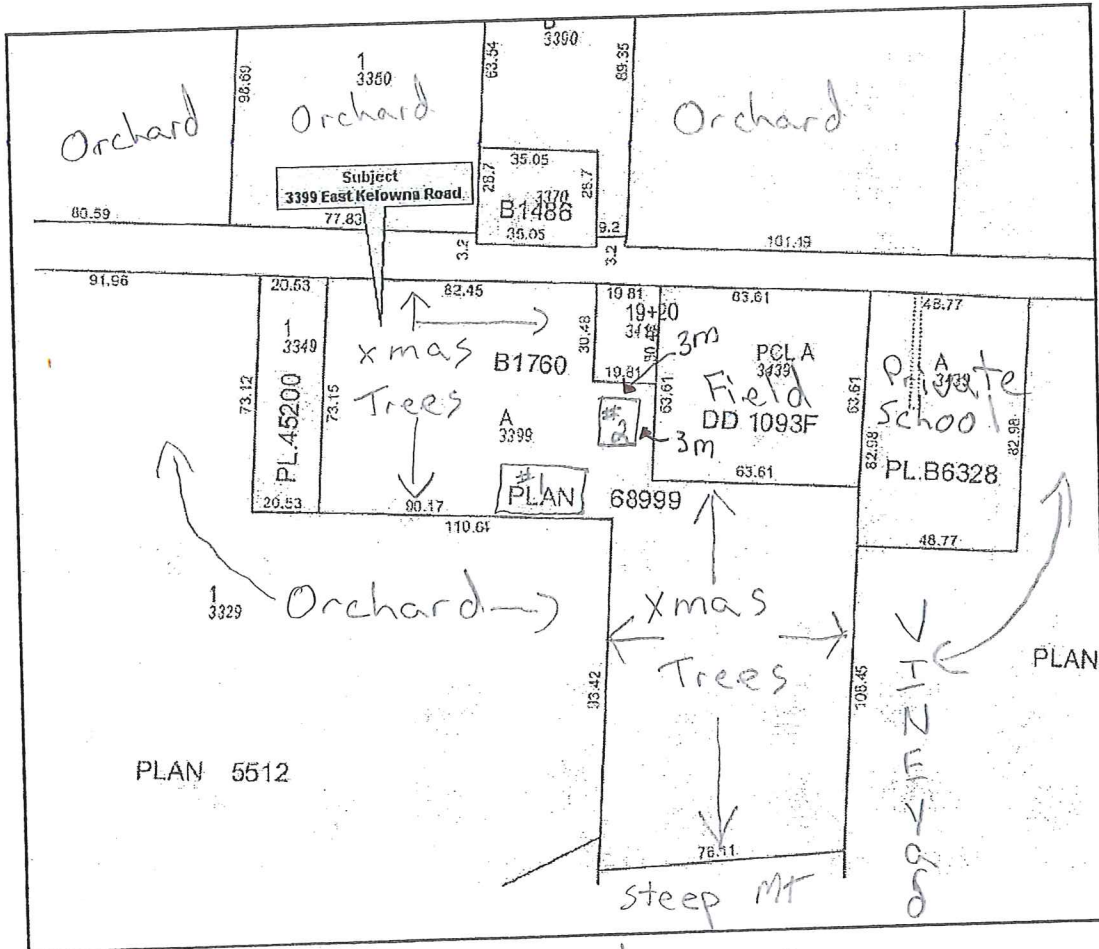
Site Map

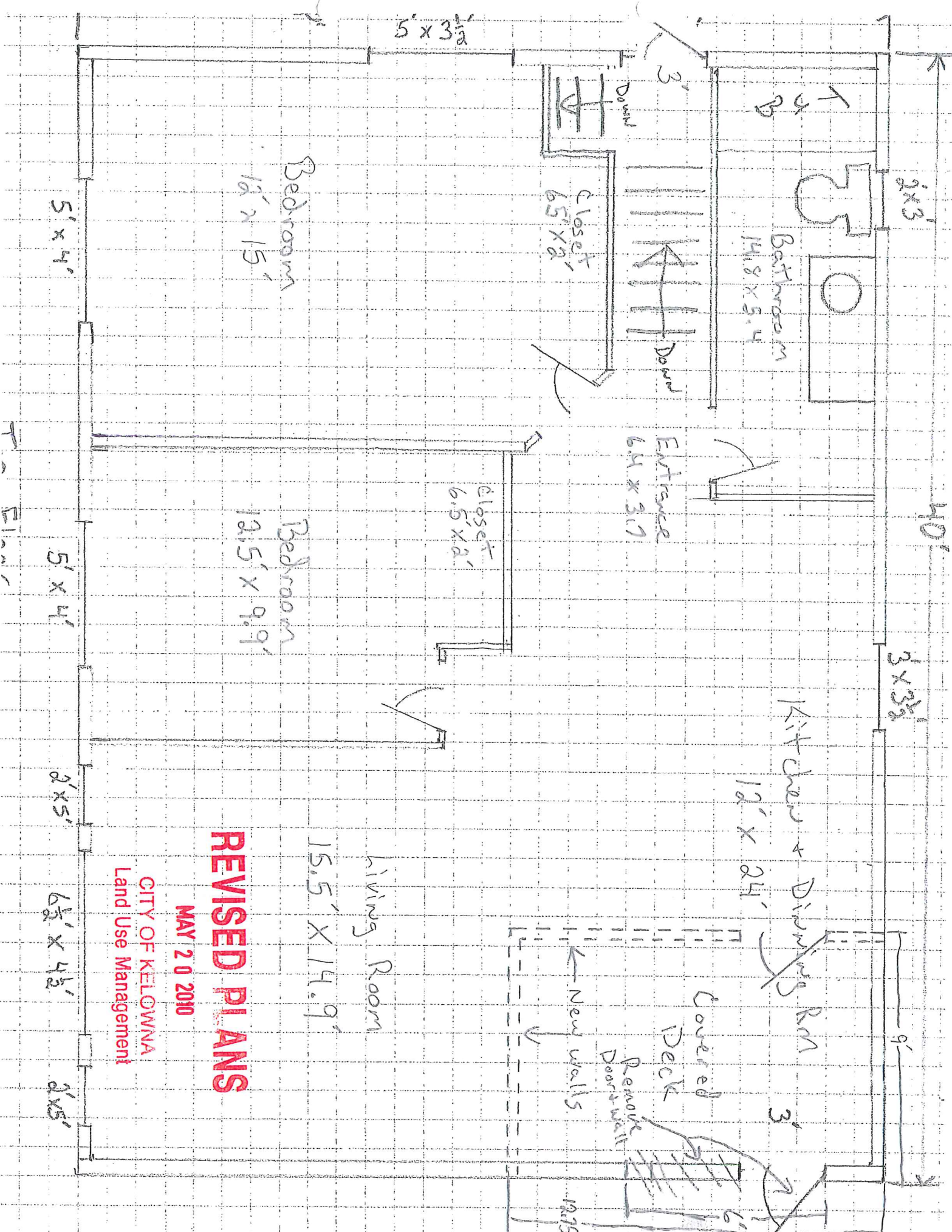
FILE NO.: 0908-IVA

REFERENCE:

CLIENT	CLIENT:	Interior Savings Credit Union	APPRaiser	APPRaiser:	Brad Farrell	
	ADDRESS:	595 K.L.O. Rd.		ADDRESS:	201-1909 Bredin Road	
		Kelowna, BC V1Y 8E7			Kelowna, BC V1Y 7S9	
	PHONE:	(250) 763-8144		FAX:	(250) 862-4851	
			PHONE:	(250) 861-3101	FAX:	(250) 979-0094

3399 East Kelowna Road, Kelowna, BC

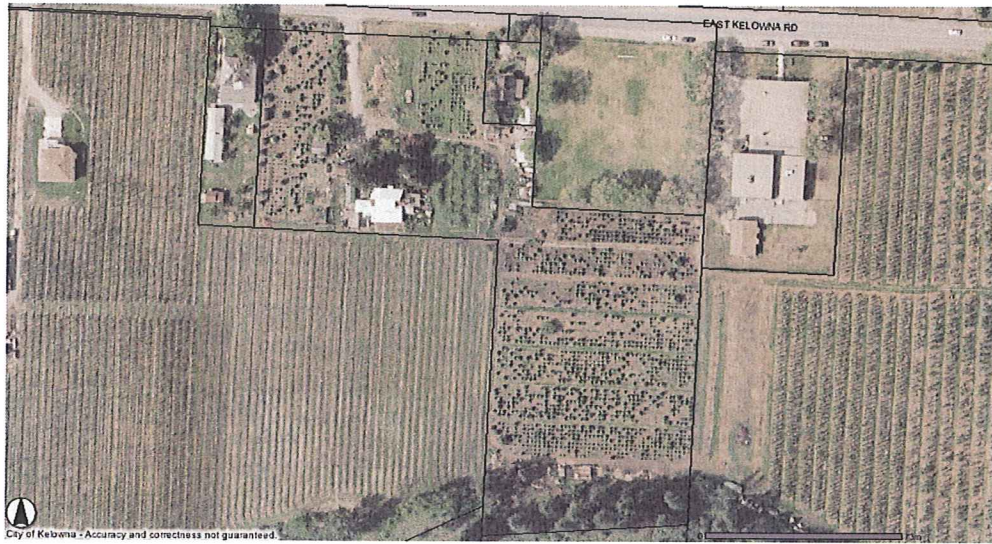




**REVISED PLANS**

MAY 20 2010  
 CITY OF KELOWNA  
 Land Use Management

2003

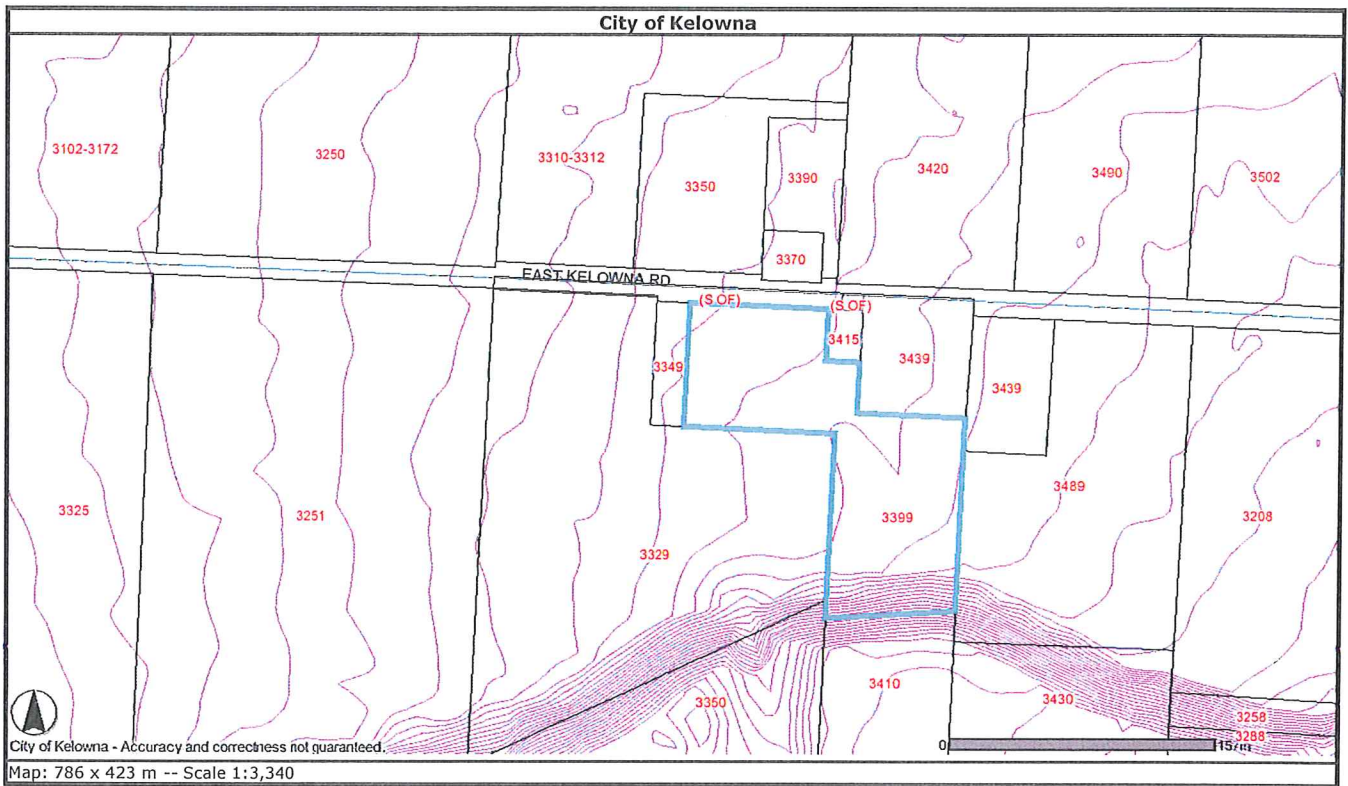


2006

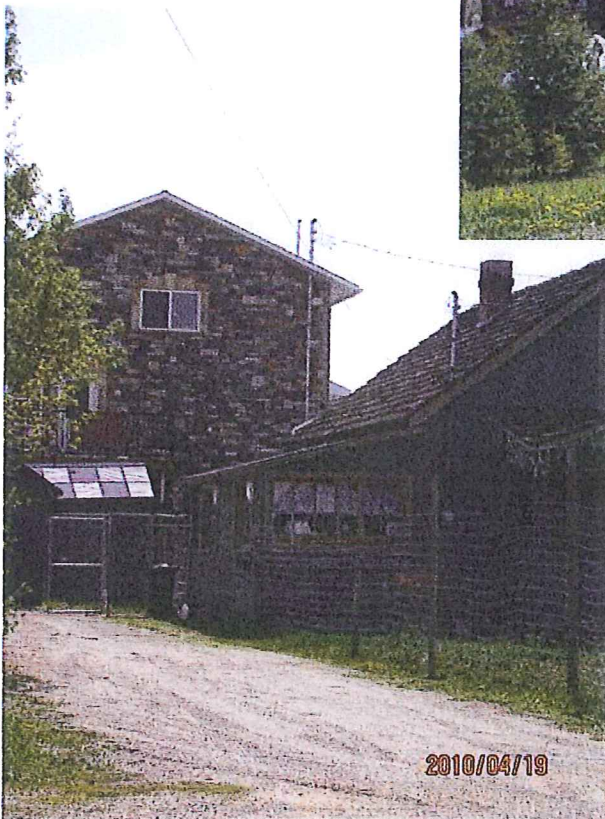


2009





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3399 East Kelowna Rd.  
Accessory building