

Memo



Date: January 4, 2011
To: City Manager
From: Land Use Management, Community Sustainability
Application: Z10-0074 **Owner:** Arjan Poonian
Address: 781 Wallace Rd (AB) **Applicant:** Protech Consultants Ltd. (Grant Maddock)
Subject: Rezoning Application
Existing OCP Designation: Rural/Agricultural
Existing Zone: A1 - Agriculture 1
Proposed Zones: RR1 - Rural Residential 1 & Rural Residential 2

1.0 Recommendation

THAT Rezoning Application No. Z10-0074 to amend City of Kelowna Zoning Bylaw No. 8000, by changing the zoning classification of Lot 1 Section 36 Township 26 ODYD Plan 41383 Except Plan KAP60857, located at 781 Wallace Rd, Kelowna, BC, from the A1 - Agriculture 1 zone to the RR1 - Rural Residential 1 and RR2 - Rural Residential 2 zones, as shown on Map "A" attached to the report of the Land Use Management Department, dated January 4, 2011, NOT be considered by Council;

2.0 Purpose

The applicant is proposing to rezone the subject property from the A1 - Agriculture 1 zone to the RR1 - Rural Residential 1 and RR2 - Rural Residential 2 zones in order to facilitate a three lot subdivision.

3.0 Land Use Management

The lot sizes resulting from the proposed subdivision are insufficient for any portion of the subject property to remain zoned as A1 - Agriculture 1, and a rezoning to RR1 - Rural Residential 1 and RR2 - Rural Residential 2 is being sought. While the land will remain within the ALR, the proposed zones do not include agriculture as a permitted use and they are not intended for agricultural use. This should indicate that the proposed lot sizes are inappropriate for the ALR and that small lots typically serve only to disrupt legitimate farm operators and lead to further land speculation.

While the alignment of McCurdy Rd does complicate easy farm access between portions of the subject property, the original ALC decision permitting the road extension noted mandatory lot consolidations with the aim of ensuring farm viability for this, and neighbouring properties. However, the previous applicant/owner did not proceed to fulfill these mandatory conditions.

Both the City of Kelowna Official Community Plan and the Agriculture Plan express concern that allowing expansion of urban uses into what is otherwise an agricultural landscape will serve to diminish the viability of agricultural practice. Though it is acknowledged that the subject property is adjacent to a pocket of land not within the ALR, it is critical to limit the potential for increased speculative pressure on rural/agricultural land. Limiting the conflicts between what is

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essentially a residential land use and agricultural uses should be avoided, particularly in these agricultural areas which are under development pressure.

The Subdivision Approving Officer notes that the proposed rezoning and future agricultural use requirements by the ALC appear to be at odds. It would be preferable from a subdivision perspective to create only two lots, one on the west side of McCurdy and one on the east, utilizing McCurdy Road as the logical and defensible divide between the two lots. The ALC noted that their decision does not relieve the owner of the responsibility to comply with the bylaws of the local government, including zoning, subdivision or other land use bylaws and they have confirmed that they would endorse a plan of subdivision to allow for two lots rather than the three that were approved by the ALC in their initial approval. Accordingly, the Land Use Management Department is prepared to support the rezoning of the parcel to the RR1 - Rural Residential zone in support of a 2 lot subdivision (as referenced in section 8.1 of the Alternate Recommendations section).

4.0 Proposal

4.1 Background

An application for exclusion from the ALR (A09-0001) was received by the City in February 2009 and the Agricultural Land Commission delivered a decision in April 2010. While an outright exclusion was refused, the ALC decision did reference a subdivision layout that was permissible, subject to:

- the preparation of a subdivision plan for the 0.9 ha area showing how the properties will be accessed;
- the rehabilitation of the northern portion of the subject property to an agricultural standard, with a report from a registered professional agrologist verifying that the area has been rehabilitated;
- the submission and approval of a farm development plan for the northern portion of the subject property and bonding for the amount required to implement the plan;
- subdivision being completed within three years.

4.2 Project Description

The applicant is proposing to rezone the subject property from the A1 - Agriculture 1 zone to the RR1 - Rural Residential 1 and RR2 - Rural Residential 2 zones in order to facilitate a three lot subdivision. The proposed application compares with the Zoning Bylaw No. 8000 requirements for the zones as follows:

Criteria for Lot	Proposed Lot 1 (RR1)		Proposed Lot 2 (RR2)		Proposed Lot 3 (RR2)	
	Proposed	Required	Proposed	Required	Proposed	Required
Area	10,050.0 m ²	8,000 m ² *	4,416.7 m ²	4,000 m ² *	4,425.6 m ²	4,000 m ² *
Width	~ 61 m †	36.0 m	~ 115 m †	36.0 m	~ 53 m †	36.0 m
Depth	~ 140 m †	30.0 m	~ 70 m †	30.0 m	~85 m †	30.0 m

* When served by community sewer.

† Irregular lot - refer to attached plans for detail.

4.3 Site Context

The subject property is located in the Rutland OCP sector, in the ALR, alongside a variety of agricultural and rural residential land uses. The property slopes upward from northwest to southeast and has a range of elevation of 430 m to 449 m. McCurdy Road East bisects the property, built and extended to service the Tower Ranch development, and this has created challenges in accessing to and from each portion of the property.



Specifically, the adjacent zones are:

Direction	Zone	ALR
North	A1 - Agriculture 1	Yes
South	A1 - Agriculture 1	Partial
East	A1 - Agriculture 1	No
West	A1 - Agriculture 1	Yes

5.0 Current Development Policies

5.1 Kelowna Official Community Plan (OCP)

The subject property is designated as Rural/Agricultural for future land use. Relevant policies are included below.

Growth Management Policies:

Minimize Impact on Agricultural Lands. Support the Agricultural Land Reserve and establish a defined urban-rural/agricultural boundary, as indicated on Map 11.2 - Urban -Rural/Agricultural

Boundary, utilizing existing roads, topographic features, or watercourses wherever possible. The City will 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. The City will discourage further extension of existing urban areas into agricultural lands.

Develop a Compact Urban Form. Develop a more compact urban form that maximizes the use of existing infrastructure, by increasing densities through development, conversion, and re-development within existing areas, particularly in designated Urban Centres, and by providing for higher densities within future urban areas. Encourage development to proceed in a logical, sequential order, concurrently with availability of required urban services.

Environment - Hillside Policies:

Visual Impact. Retain the option of requiring those pursuing development of visually prominent slopes and ridgelines to submit a report providing information on the anticipated aesthetic impacts of the proposed development.

Housing Policies:

Infrastructure Availability. Give preference to supporting new housing in areas where required services already exist or can be provided most economically and efficiently.

Housing in Agricultural Areas. Discourage residential development (both expansions and new developments) in areas isolated within agricultural environments (both ALR and non-ALR).

Agriculture Policies:

Sustained Agriculture. Encourage the retention of diverse agricultural uses through limits on urban development and non-farm use on lands of sustainable production capability.

Transition Uses. Consider complementary agricultural uses as a transition between existing urban development and farm operations. Consideration of such uses should not be construed as support for subdivision to smaller parcels.

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.

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

Buffering. Require that new developments adjacent to or abutting agricultural areas provide sufficient setbacks, on-site fencing and vegetative buffering to mitigate potential conflicts. *(Please refer to Zoning Bylaw and appropriate provincial ministry or agency specifications for information on minimum landscape buffers).*

5.2 City of Kelowna Agriculture Plan

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. (p. 79)

“Smaller lot sizes also add to the speculative value of surrounding agricultural lands, and speculation weakens farmer capitalization.” (p. 121)

“While recognizing that the minimum [agricultural] parcel size within the City of Kelowna is 2.0 ha (5.0 ac), it may be appropriate to discourage subdivision to smaller parcel sizes beyond agricultural areas in order to reduce negative impacts on the farming community.” (p. 121)

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. (p. 125)

Parcel Size: Agricultural Land. Discourage the subdivision of agricultural land into smaller parcels, except where positive benefits to agriculture can be demonstrated. (p. 126)

6.0 Technical Comments

Building & Permitting Branch. No comment.

Development Engineering Branch. See attached.

Fire Department. Additional address will be required.

FortisBC. No comment.

Infrastructure Planning Department. No comment.

Black Mountain Irrigation District. See attached.

Shaw Cable. Owner/Developer to supply and install an underground conduit system per Shaw Cable drawings and specifications.

Subdivision Approving Officer. The proposed rezoning to the RR2 zone and future agricultural use requirements by the ALC appear to be at odds. The ALC will not endorse a plan of subdivision unless their requirements are met, however; if the applicant meets the requirements, they will be in contravention of the City's RR2 zone. It is recommended that staff and the applicant approach the ALC regarding their requirements for subdivision to determine if they may be relaxed or waived. In addition, it would be preferable from a Subdivision perspective to create only two lots, one on the west side of McCurdy and one on the east.

Telus. Telus will provide aerial service.

Terasen. Please be advised that Terasen Gas' facilities will not be adversely affected. Therefore, Terasen Gas has no objection to the proposed rezoning for purposes of subdividing.

7.0 Application Chronology

Date of Application Received: August 26, 2010

Advisory Planning Commission September 28, 2010

The rezoning application was reviewed by the Advisory Planning Commission at the September 28, 2010 meeting and the following recommendation was passed:

THAT the Advisory Planning Commission NOT support Rezoning Application No. Z10-0074 for 781 Wallace Road, to rezone the subject property from the A1 - Agriculture 1 zone to the RR2 - Rural Residential 2 zone in order to facilitate a three lot subdivision.

In addition, a motion passed confirming the following anecdotal comments:

The Advisory Planning Commission does not support this rezoning application and further considers this application to be premature. There are still outstanding issues of ALC's recommendations to return lands back to agricultural state and the RR2 zone not fitting this application. There should be further discussions to resolve issues prior to this application moving forward to Council.

Agricultural Advisory Committee September 9, 2010

The rezoning application was referred to the AAC for their comment on September 9, 2010, and the following was noted in the minutes:

The AAC commented that they are concerned because this has not improved agriculture. The AAC attempts to protect ALR lands and it appears that the ALC is undermining our mandate and credibility; as well a precedent has now been set. Committee Members asked staff to invite the ALC staff who made this decision to a future AAC meeting to further discuss.

8.0 Alternate Recommendations

8.1 Should Council choose to support the rezoning of the subject parcel to the RR1 - Rural Residential 1 Zone as recommended by the Land Use Management Department, the following recommendation would apply:

THAT Rezoning Application No. Z10-0074 to amend City of Kelowna Zoning Bylaw No. 8000, by changing the zoning classification of Lot 1 Section 36 Township 26 ODYD Plan 41383 Except Plan KAP60857, located at 781 Wallace Rd, Kelowna, BC, from the A1 - Agriculture 1 zone to the RR1 - Rural Residential 1 zone, be considered by Council;

AND THAT Rezoning Application No. Z10-0074 be forwarded to a Public Hearing for further consideration;

AND THAT final adoption of the Zone Amending Bylaw be considered subsequent to the issuance of a Preliminary Layout Review Letter for a 2-lot subdivision by the Approving Officer;

AND FURTHER THAT final adoption of the Zone Amending Bylaw be considered subsequent to the requirements of the Agricultural Land Commission, Black Mountain Irrigation District, and Development Engineering Branch being completed to their satisfaction.

8.2 Should Council choose to support the application as presented by the applicant, the following recommendation would apply:


THAT Rezoning Application No. Z10-0074 to amend City of Kelowna Zoning Bylaw No. 8000, by changing the zoning classification of Lot 1 Section 36 Township 26 ODYD Plan 41383 Except Plan KAP60857, located at 781 Wallace Rd, Kelowna, BC, from the A1 - Agriculture 1 zone to the RR1 - Rural Residential 1 and RR2 - Rural Residential 2 zones, as shown on Map "A" attached to the report of the Land Use Management Department, dated January 4, 2011, be considered by Council;

AND THAT Rezoning Application No. Z10-0074 be forwarded to a Public Hearing for further consideration;


AND THAT final adoption of the Zone Amending Bylaw be considered subsequent to the issuance of a Preliminary Layout Review Letter by the Approving Officer;

AND FURTHER THAT final adoption of the Zone Amending Bylaw be considered subsequent to the requirements of the Agricultural Land Commission, Black Mountain Irrigation District, and Development Engineering Branch being completed to their satisfaction.

Report prepared by:

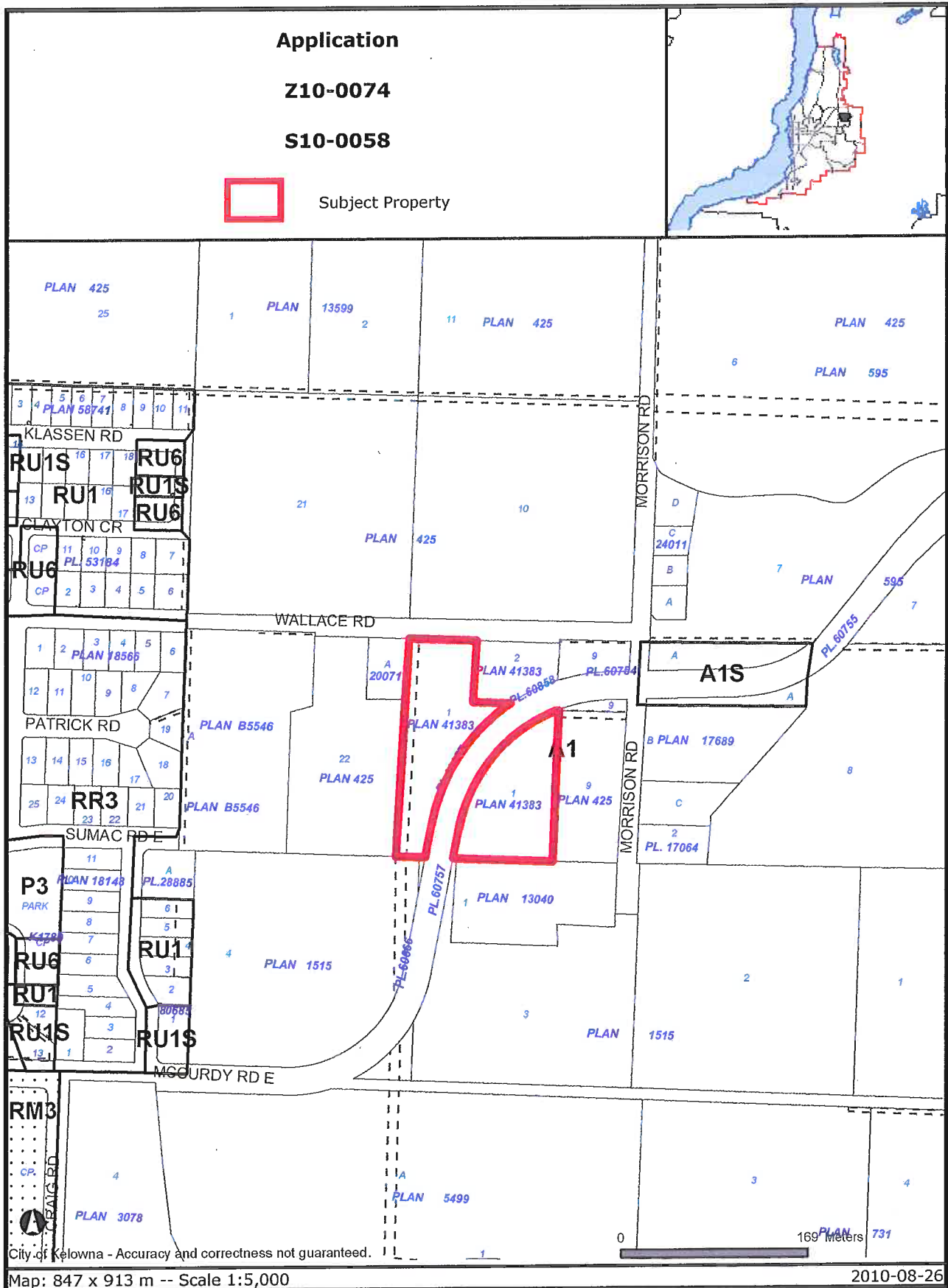

Andrew Browne, Planner II

Reviewed by:  Shelley Gambacort, Director, Land Use Management

Approved for Inclusion:  Jim Paterson, General Manager, Community Sustainability Attachments:

Subject property and zoning map
Requested rezoning plan ("Map A") and subdivision plan
Letter of Rationale from Applicant





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.

WALLACE ROAD



LEGAL DESCRIPTION
LOT 1, PLAN 41383, SECTION 36,
TWP 26, ODYD, EXCEPT PLAN KAP60857

PROPOSED PLAN OF SUBDIVISION
781 WALLACE ROAD



PROTECH CONSULTANTS LTD.
200-1161 St. Paul Street Kelowna, B.C.
PHONE 800-1771
FAX 800-1894

1:1000

A1 to RR1
 A1 to RR2

Map "A"

November 2, 2010
Our File 8071

City of Kelowna
1435 Water St.,
Kelowna, B.C.
VIY IJ4

Attention: Mayor and Councilors

Dear Sir or Madam:

Re: 781 Wallace Road – Rezoning Application to RR-2

In support of the rezoning and subdivision of the south east parcel we wish to point out the following:

The south east parcel is somewhat land locked by McCurdy Road to the west and north, non farmed non ALR properties to the east and south.

ALC approval of a 3 lot subdivision, subject to the north west portion being extensively rehabilitated, including a farm development plan, bonding for the implementation of the plan and removal and replacement of the disturbed soils due to the construction of McCurdy Road.

We have submitted a farm plan to the ALC and have received their approval and is within the parameters of City of Kelowna RR zoning. The farm plan will be implemented in the spring.

Kelowna's Agricultural Plan notes figures from the Ministry of Agriculture and Food that describes minimum farm unit areas.

Tree Fruits	6/ 8 ha
Grapes	4 ha
Vegetables	2 ha
Berries	2 ha

Further statement suggests “the subject property would be a challenging site for agriculture”.

Kelowna's servicing requirements requires any parcels less than 1ha must be serviced by sewer. The cost of extending sewer to the south east parcel from Wallace Road and under McCurdy Road, and water from BMID R's/W on the west side of McCurdy to the south west parcel is very onerous for one lot.

Cost of fencing that was a requirement of the ALC approval for the McCurdy Road extension adds additional costs to the north west parcel that must be recouped from the sale of the south east parcel.

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Whether the south east parcel remains as one lot or 2 lots, it will have no impact on the neighbouring properties as neither are in the ALR or farmed.

In closing, the ALC indicated that the reason they supported the 2 lot subdivision of the south east portion is that it would eliminate request for future exclusion and subdivision.

Respectfully submitted,

PROTECH CONSULTANTS LTD.

H. Grant Maddock

HGM/sam

c.c. Bal Poonian