

Memo



Date: May 20, 2011

To: City Manager

From: Land Use Management, Community Sustainability (GS)

Application: Z11-0017

Owner: Satnam Basran
Sucha Sanghera

Address: 3443 Benvoulin Road

Applicant: Satnam Basran

Subject: Rezoning - Agri-tourist Accommodation

Existing OCP Designation: Rural/Agricultural

Existing Zone: A1 - Agriculture 1

Proposed Zone: A1t - Agriculture 1 with Agri-tourist Accommodation

1.0 Recommendation

THAT Rezoning Application No. Z11-0017 to amend the City of Kelowna Zoning Bylaw No. 8000, by changing the zoning classification of Lot 1 District Lot 132 ODYD Plan KAP78305, located at 3443 Benvoulin Road, Kelowna, BC from the A1-Agriculture 1 zone to the A1t-Agriculture 1 with Agri-tourist Accommodation zone, be considered by Council;

AND THAT Zone Amending Bylaw be forwarded to a Public Hearing for further consideration;

AND FURTHER THAT final adoption of the Zone Amending Bylaw be considered subsequent to the requirements of Interior Health Authority, Real Estate & Building Services and Development Engineering being completed to their satisfaction.

2.0 Purpose

The applicant is requesting permission from City Council to rezone the parcel located at 3443 Benvoulin Road to allow for the addition of Agri-tourist Accommodation (A1t). The rezoning to A1t would facilitate the development and operation of seven (7) recreational vehicle (RV) sites.

3.0 Land Use Management

Agri-tourist accommodation is a "permitted use" in the Agricultural Land Reserve (ALR) according to the Agricultural Land Reserve Use, Subdivision and Procedure Regulation (see Section 5.5 below). While the use is permitted by the Agricultural Land Commission (ALC), the activity is not designated as a "farm use" and therefore may be regulated or prohibited by a local government bylaw. Although agri-tourism is permitted in the ALR, discussions with ALC staff indicate that

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there are concerns about the potential for agri-tourist activities to become the principal use of a parcel, and erode agricultural potential.

Due to past experience with agri-tourist accommodation, the City of Kelowna has chosen to use its authority to regulate this use in an effort to ensure that the intended goals are better achieved and an undue hardship is not created on adjacent and nearby properties, owners and residents. The regulations adopted by Council in September 2010 address a number of aspects of agri-tourist accommodation such as siting, buffering and site coverage. This application represents the first A1t rezoning to be considered by Council.

Agri-tourist Accommodation¹ means:

“the seasonal availability of short term accommodation for tourists on a farm, orchard, or vineyard in association with an agri-tourism activity which is subordinate and secondary to the principal agricultural use. Typical uses include but are not limited seasonal farm cabins, and campsites/recreational vehicle sites. Seasonal, in this instance, means the accommodation must be available for use only between April 1 and October 31 of each year”.

The subject property is home to “Don-O-Ray Vegetables” and is an agriculturally productive property within the ALR. The property produces an array of fruits and vegetables for human consumption. The agricultural production is complemented by a farm direct retail sales operation. ALC regulations permit retail sales in the ALR (*Agricultural Land Reserve Use, Subdivision and Procedure Regulation Section 2(2)(a) and Section 1(1)*). Section 2(2)(a) designates farm retail sales as a farm use if²:

- (i) *all of the farm product offered for sale is produced on the farm on which the retail sales are taking place, or*
- (ii) *at least 50% of the retail sales area is limited to the sale of farm products produced on the farm on which the retail sales are taking place and the total area, both indoors and outdoors, used for the retail sales of all products does not exceed 300 m².*

The applicants have proposed the maximum number of recreational vehicle (RV) units available, seven (7), on the subject property. This number is limited based on the size of the property, with the regulations permitting up to one (1) unit per hectare on properties greater than four (4.0) hectares to a maximum of ten (10).

According to the Canada Land Inventory (CLI), the subject property contains a variety of land capability and soil classification conditions and has the potential for land capability to increase through improvements such as dewatering and grading modifications (see attached BCLI Land Capability and Soil Classification maps and ratings). The Inventory rates the soil in the location to be developed for RV sites as 60% Class 5 and 40% Class 4 improvable to 100% Class 3. Class 3 land is considered to be very good in the Okanagan.

While soil and land in this area is productive and valuable to local agricultural production an area of Class 6 soils to the north are already developed on and do not represent a siting alternative. Further, the location of the proposed RV pads is among the most appropriate from a siting perspective given that the proposed development area is located between a home and the road.

¹ City of Kelowna Zoning Bylaw 8000 - Section 2; p. 2-2.

² Agricultural Land Reserve Use, Subdivision and Procedure Regulation; Retrieved from: http://www.alc.gov.bc.ca/legislation/Reg/ALR_Use-Subd-Proc_Reg.htm#sec2

This location will ensure that the associated impacts can be contained and will not allow the use to migrate into productive areas (i.e. east of the home and retail sales area).

As final notes, the proposal for the subject property is reasonably well contained and will minimize some concerns associated with other examples of agri-tourist accommodation in Kelowna. A concern however is the visual impact that this development will have along this agricultural corridor. Further, while City staff is strongly in favour of supporting agriculture and adding value to agricultural production, both Land Use Management and the Agricultural Advisory Committee continue to have concerns with the agri-tourist accommodation provision and how it impacts agricultural land use in our City.

4.0 Proposal

4.1 Project Description

As noted, the applicants seek to augment their existing farm uses with a permitted use in the form of agri-tourist accommodation. The applicants propose to maximize the number permitted in the Zoning Bylaw seeking seven RV sites on the subject property.

The application submission in support of the proposed rezoning notes that:

- Don-O-Ray Farm has been producing vegetables for the past 35 years;
- Is a producer of vegetables and herbs that are not commonly produced locally;
- The location along a major arterial and designated wine route is advantageous; and,
- A number of complimentary uses and services located in relatively close proximity.

4.2 Site Context

The subject property is located along Benvoulin Road in the South Pandosy/KLO Sector. Benvoulin Road forms the western boundary, with the remaining property boundaries to the north, east and south abutting private lands. The area proposed to be developed for agri-tourist accommodation is currently used for boarding/pasturing horses (see Figures 1 & 2 below). A 10 meter wide road reserve is located along the western property boundary for future widening of Benvoulin Road.

The subject property is not within the City's service area with respect to water and sanitary sewer and domestic water is presently supplied by an on-site well, which according to the Health Authority does not meet all requirements of the B.C. Drinking Water Protection Act and Regulation. Water and sewage disposal must be proven out through the rezoning process. A Water Users irrigation ditch (South Kelowna and Benvoulin) also bisects the property (east/west) and provides irrigation water to the subject property and flows into Mission Creek.

Parcel Summary:

Parcel Size: 7.37 ha (18.20 ac)
Elevation: 348 m - 351 masl

Figure 1: Subject Property and Proposed RV Site (in the foreground) Looking North on Benvoulin Road



Figure 2: Subject Property and Proposed RV Site (in the background) Looking South on Benvoulin Road



4.3 Zoning of Adjacent Property

Adjacent zones and uses are:

<i>Direction</i>	<i>Zoning Designation</i>	<i>Land Use</i>
North	A1 - Agriculture 1	Agriculture
East	P3 - Parks & Open Space	Golf Course
South	A1 - Agriculture 1	Agriculture/ Rural Residential
West	A1 - Agriculture 1	Agriculture

4.4 Subject Property Map - 3443 Benvoulin Road



4.5 Development Criteria

CRITERIA	PROPOSAL	ZONE REQUIREMENTS
Minimum Lot Area	4	7.37 ha = 7 units
Maximum setback from road	meets	30.0 m
Minimum distance from lot line	TBD	10.0 m
Maximum Site Coverage	<5%	5%

5.0 Current Development Policies

5.1 Kelowna Official Community Plan (OCP)

11. Agriculture Policies³

³ City of Kelowna Official Community Plan (Bylaw 7600) - Agriculture; p. 11-3.

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.

11.1.14 Transition Uses. Consider complementary agricultural uses as a transition between existing urban development and farm operations.

5.2 Zoning Bylaw 8000

Section 2.3 - General Definitions⁴

Agritourist Accommodation means the seasonal availability of short term accommodation for tourists on a farm, orchard, or vineyard in association with an agri-tourism activity which is subordinate and secondary to the principal agricultural use. Typical uses include but are not limited seasonal farm cabins, and campsites/recreational vehicle sites. Seasonal, in this instance, means the accommodation must be available for use only between April 1 and October 31 of each year.

Section 11.1 - Agriculture 1⁵

Purpose - Agri-tourist accommodation shall be accessory and subordinate to a legitimate agriculture operation. The intent is to augment or subsidize and not to replace or complete with farm income.

5.3 City of Kelowna Strategic Plan⁶

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.

5.4 City of Kelowna Agriculture Plan⁷

Agri-tourist Accommodation. Pursue an amendment to the Zoning Bylaw to include agri-tourist accommodation uses in conjunction with bona fide agricultural operation, consistent with conditions under the Land Commission Policy #375/97.

5.5 Agricultural Land Commission Agricultural Land Reserve Use, Subdivision and Procedure Regulation⁸

Part 1 - Definitions and Interpretation

1(1) "agri-tourism" means a tourist activity, service or facility accessory to land that is classified as a farm under the Assessment Act.

Part 2 - Permitted uses for land in an agricultural land reserve

3(1) The following land uses are permitted in an agricultural land reserve unless otherwise prohibited by a local government bylaw or, for lands located in an agricultural land reserve that are treaty settlement lands, by a law of the applicable first nation government:

(a) accommodation for agri-tourism on a farm if

(i) all or part of the parcel on which the accommodation is located is classified as a farm under the Assessment Act,

⁴ City of Kelowna Zoning Bylaw 8000 - Section 2; p. 2-2.

⁵ City of Kelowna Zoning Bylaw 8000 - Section 11; p. A1-1 to A1-4.

⁶ City of Kelowna Strategic Plan; p.7 & 36.

⁷ City of Kelowna Agriculture Plan; p. 85.

⁸ Agricultural Land Reserve Use, Subdivision and Procedure Regulation; Retrieved from:
http://www.alc.gov.bc.ca/legislation/Reg/ALR_Use-Subd-Proc_Reg.htm#sec3

- (ii) the accommodation is limited to 10 sleeping units in total of seasonal campsites, seasonal cabins or short term use of bedrooms including bed and breakfast bedrooms under paragraph (d), and
- (iii) the total developed area for buildings, landscaping and access for the accommodation is less than 5% of the parcel

6.0 Technical Comments

6.1 Interior Health Authority

This proposal requires further information or supporting documentation prior to approval. The facility has an existing domestic water supply system serving Don-O-Ray Vegetables which does not currently meet all regulatory requirements of the B.C. Drinking Water Protection Act and Regulation. The applicant must ensure that all requirements of the local Drinking Water Officer have been met. Any repairs, modifications, or new construction of onsite wastewater systems must be performed or directly supervised by an Authorized Person, as defined in the B.C. Sewerage System Regulation.

Further, it is our understanding that the location of the well serving the property has not been located. As such, it is incumbent on the applicant to ensure that all legislated setbacks can be, and will be met.

6.2 Real Estate & Building Services Department

Existing road reserve on title should be released and a new covenant and option to purchase registered on title.

6.3 Development Engineering Department

The subject property is not within either the domestic water or sanitary sewer service areas for the City. Domestic water is provided by an on-site well and no off-site hydrant protection is available. Sanitary sewerage is presently handled by an on-site treatment facility.

In terms of transportation, Benvoulin Road is classified as a Major Arterial Road and access to this property will be limited to one access point. Depending on future road usage, access could be limited to right in, right out only.

6.4 Bylaw Services

Bylaw services has four closed records for the subject property with dates ranging between March 2007 and December 2010. Bylaw infractions pertain to RV storage (2), noise, and the operation of a commercial business from the site not consistent with the zone. All files have been closed.

7.0 Application Chronology

Date of Application Received: March 7, 2011

Agricultural Advisory Committee April 14, 2011

The above noted application was reviewed by the Agricultural Advisory Committee at the meeting on Thursday April 14, 2011 and the following recommendations were passed:

THAT the Agricultural Advisory Committee support Rezoning Application No. Z11-0017 for 3443 Benvoulin Road, by S. Basran, to rezone the subject property from the A1 - Agriculture 1 to the A1t - Agriculture 1 with Agri-tourist Accommodation zone within the Agricultural Land Reserve

(ALR) to facilitate the development of a maximum seven (7) units of agri-tourist accommodation.

Anecdotal Comments:

The Agricultural Advisory Committee supported the Rezoning Application based on the fact that this is the best example of Agri-tourist accommodation that has been brought forward to date, and that the Applicant is adhering to the intent of the process. However, as a general matter, the AAC still does not support agricultural land being withdrawn from production.

Report prepared by:


Greg Sauer, Land Use Planner

Approved for Inclusion:



Shelley Gambacort, Director, Land Use Management

Attachments:

- Subject Property Map/ALR Map
- Rezoning Application
- Development Engineering Comments

Handwritten notes:
11/15/17
11/15/17



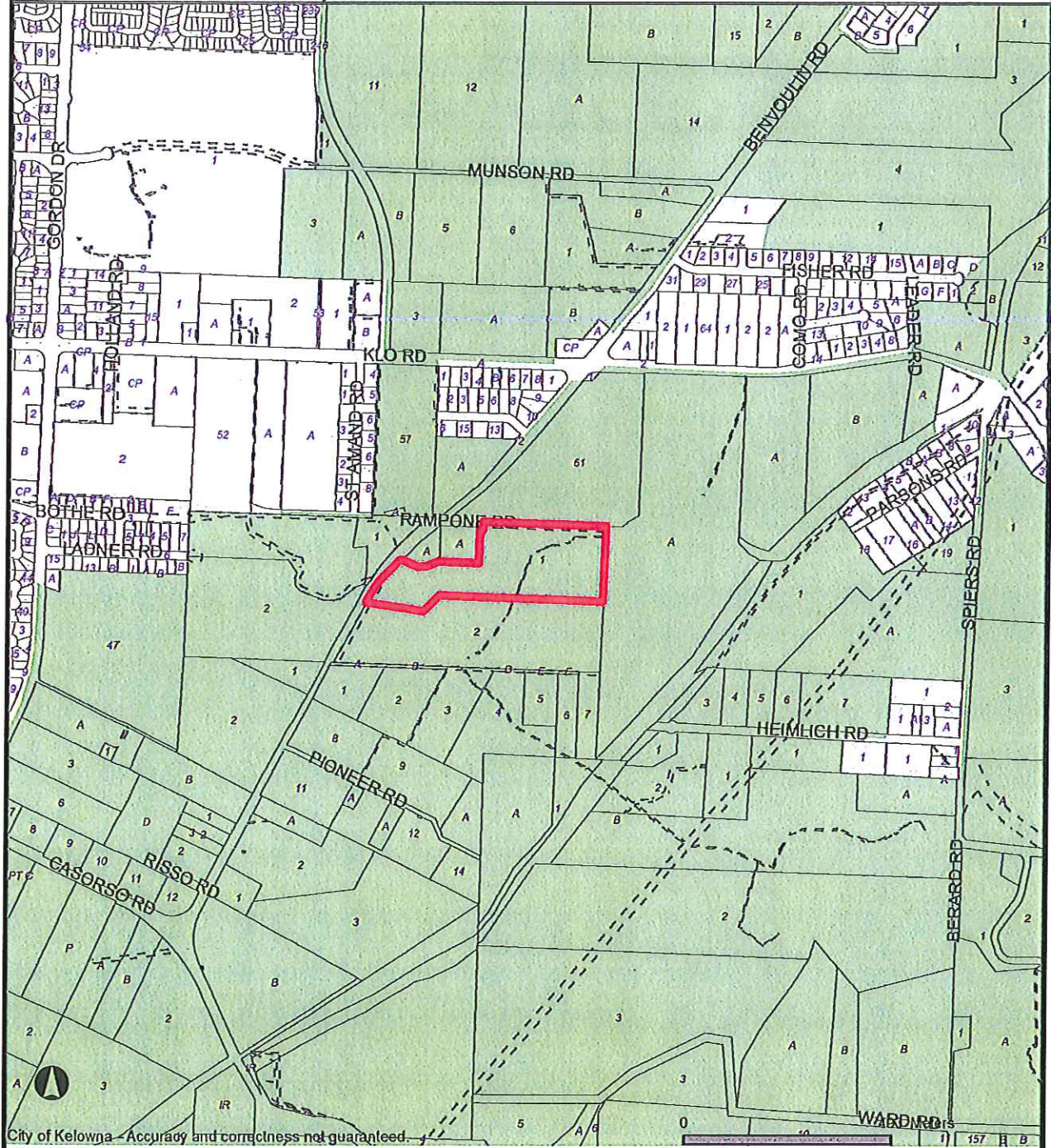
APPLICATION Z11-0017

3443 BENVOLIN ROAD

ALR



Subject Property



City of Kelowna - Accuracy and correctness not guaranteed.

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.

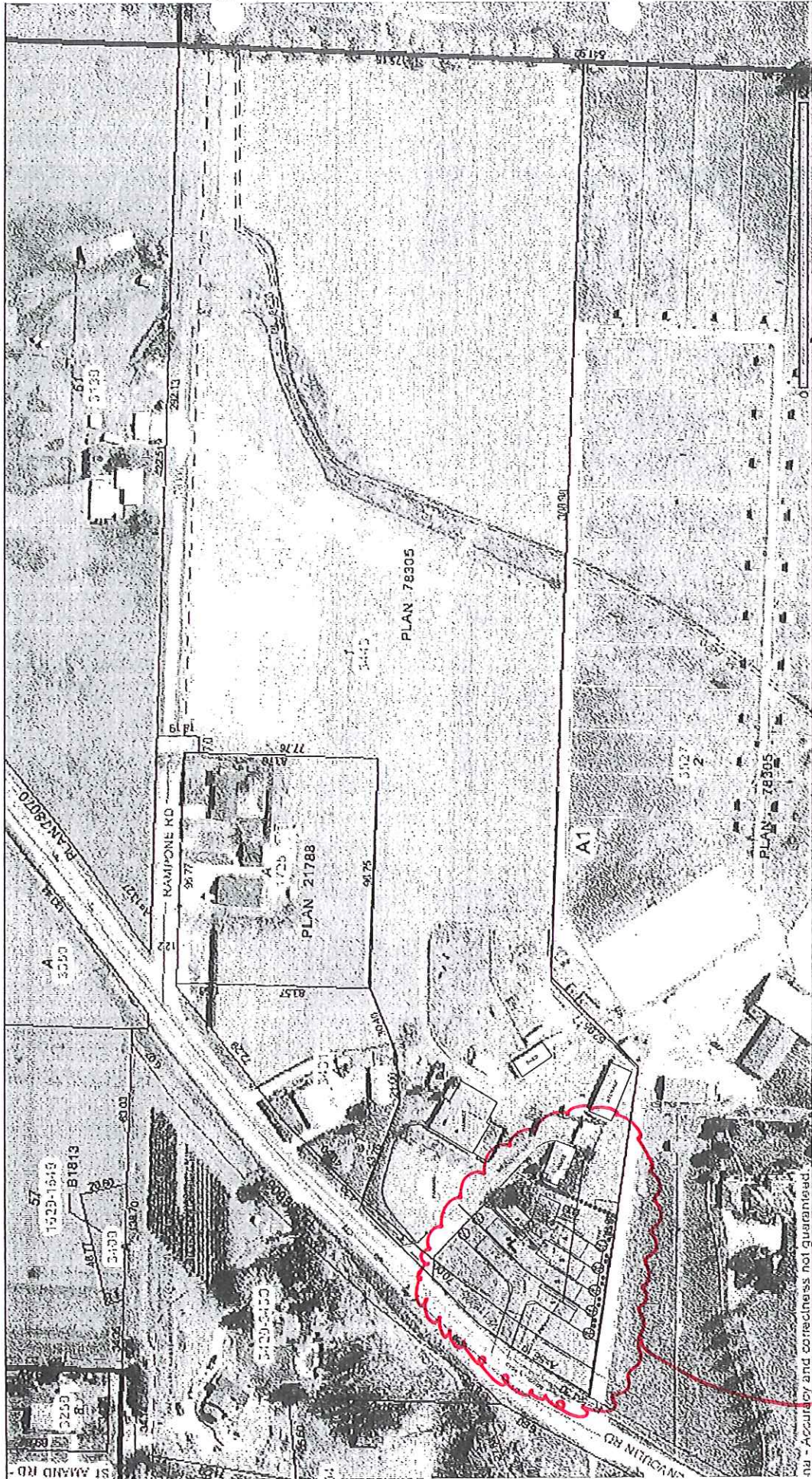
LETTER OF RATIONALE

At Don-O-Ray Farm (3443 Benbowlin Rd.) we have been growing vegetables for last 35 years. It is the biggest and oldest vegetable & corn farm in the middle of Kelowna.

Why tourists come here

- Grow special kind of vegetables like veronica (Dinosaur cauliflower) which is inbetween cauliflower & broccoli, no body else grows. Also different herbs.
- On the main Hwy.
- Wide open and clean space.
- On winery route.
- Horses and horse training centre is a tourist attraction.
- Beside Golf course.
- Horse rides for kids
- Pumpkins for kids.
- Secure property with fences.
- Great quantity of good quality of fruits and vegetables.
- Close to Golf range, H₂O, Orchardpark Mall, Pubs golf courses, liquor stores, banks, coffee shops - that is what tourists want.
- Tourists play, relax and pick up their own corn & vegs.

Sat
SATNAM BASRAN.

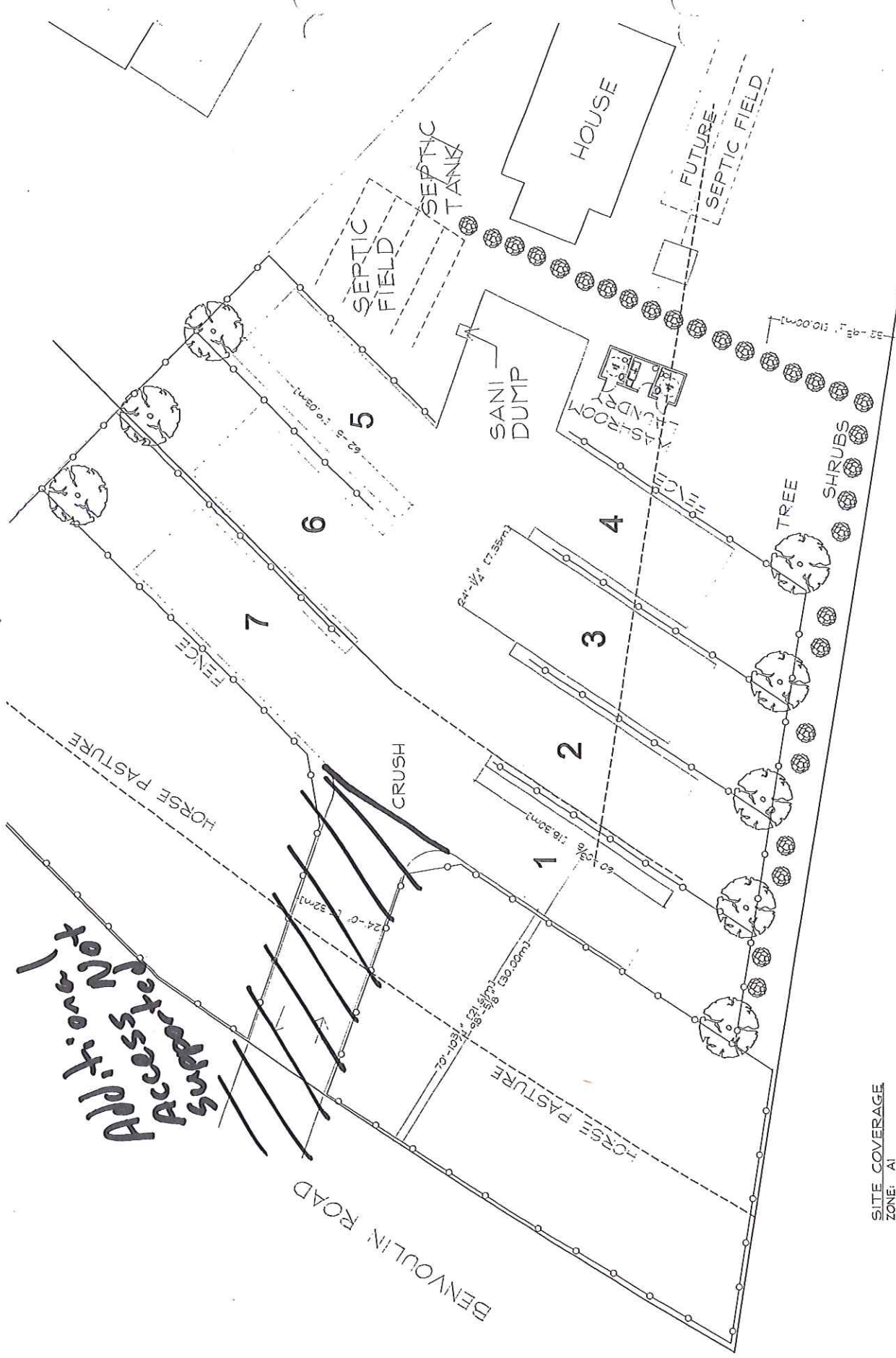


Proposed Development Area (see A2)

"Proposed Agri-Tourist"

LOT 1, PLAN 78305, 3443 BENOULIN ROAD

TGM Drafting & Design Tom Masters Kelowna, BC (250)755-3305 tgdrafting@shawbiz.ca	SCALE: N.T.S. DATE: FEB. 28/2011	SHEET NO. A1
	SITE PLAN OVERALL	



*Additional Not
Accessed
Support*

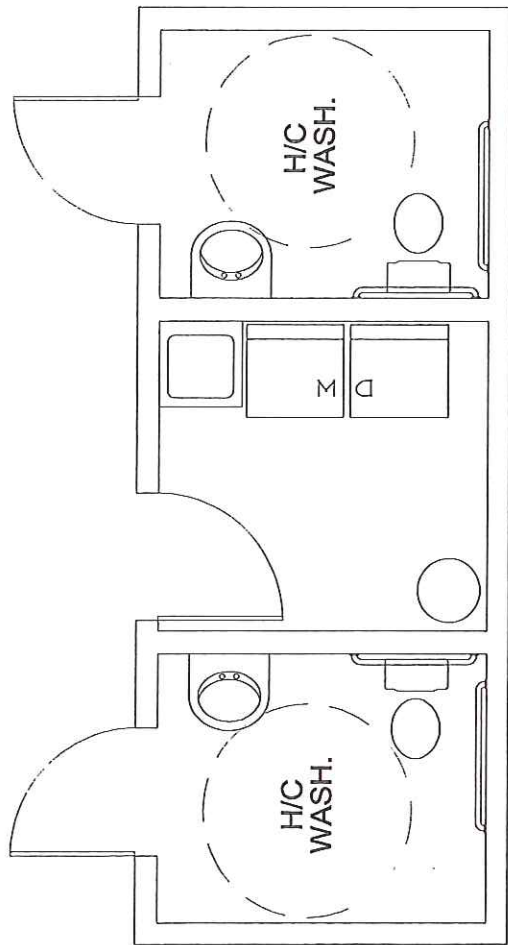
SITE COVERAGE
 ZONE: A1
 SITE: 784,219 SF [7.19 HA]
 AGR1-TOURIST: 30,000 SF [0.28 HA]
 COVERAGE = 3.83%

SCALE: 1/8" = 1'-0"
 DATE: FEB 28/2011
 SHEET NO. **A2**
SITE PLAN

TGM
 Drafting & Design
 Tom Masters
 Kelowna, BC (250) 755-3305
 tgm.drafting@shawbiz.ca

"Proposed Agri-Tourist"

LOT 1, PLAN 78085, 3443 BENVOULIN ROAD



SCALE: 1/2" = 1'-0"
 DATE: FEB. 23/2011
 SHEET NO. A3
 WASHROOM
 -LAUNDRY

TGM
 Drafting & Design
 Tom Masters
 Kelowna, BC (250) 875-3305
 gtmasterdtp@shawbiz.ca

" Proposed Agri-Tourist "

LOT 1, PLAN 78305, 3443 DENYOULIN ROAD

