

REPORT TO COUNCIL



Date: November 4, 2011

To: City Manager

From: Land Use Management, Community Sustainability (GS)

Application: A11-0011 **Owner:** Dejan Rasovic
Mihaela Rasovic

Address: 3985 Fairwinds Ct. **Applicant:** Dejan Rasovic

Subject: Non-farm use in the Agricultural Land Reserve (ALR)

Existing OCP Designation: Resource Protection Area

Existing Zone: RR3 - Rural Residential 3

1.0 Recommendation

THAT Agricultural Land Reserve appeal A11-0011 for Lot 3, Section 3, Township 26, Osoyoos Division Yale District Plan EPP9487, located at 3985 Fairwinds Court, Kelowna, B.C. for a non-farm use within the Agricultural Land Reserve, pursuant to Section 20(3) 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 Purpose

To obtain approval from the Agricultural Land Commission under Section 20(3) of the Agricultural Land Commission Act for a non-farm use within the Agricultural Land Reserve to permit a detached secondary suite.

3.0 Land Use Management

Permission by the Agricultural Land Commission to effect a subdivision of the original parcel into four lots sets the stage for estate residential development. While a 1.2ha lot is marginal, the size does not preclude some agriculture now or in the future. Excessive residential development is more likely to have this result however.

Current policy (OCP and Agricultural Plan) supports the development of a secondary suite within the footprint of a principal dwelling consistent with ALC Policy #8 - Permitted Uses In The ALR: Residential Use (see attached). Policy does not however support additional residential development beyond the footprint of the principal dwelling.

Furthermore, supporting incremental development such as this is contrary to a key goal in the 2030 OCP which is to:

Contain Urban Growth. Reduce greenfield urban sprawl and focus growth in compact, connected and mixed-use (residential and commercial) urban and village centres.

4.0 Proposal

4.1 Background/Project Description

The subject property was part of a larger request for exclusion in 2007 (R. Bennett) on the grounds that the land was non-arable. The ALC refused the exclusion, but granted the owner a four lot subdivision. The rezoning to RR3 and four lot subdivision were finalized earlier this year. The result is four estate lots which are not likely to be productive at any notable scale given the small parcel sizes.

The subject property is currently a vacant rural residential parcel. A site plan has been submitted which shows a principal residence and associated development (garage, cabana, pool) and an accessory building located on the eastern property line. The accessory building is proposed to contain a garage along with a secondary suite.

4.2 Site Context

The subject property is located south of McCulloch in the Southeast Kelowna Sector. The site area is 1.24 hectares (3.07 acres) and the site elevation varies between 514m and 524m. The soils in this area are noted to be 100% Class 5 improvable to 100% Class 3 according to the land inventory (see attached Canada Land Inventory information).

Specifically, adjacent land uses are as follows:

Orientation	Zoning	Land Use	ALR
North	RR3 - Rural Residential 3	Rural residential	Yes
South	A1s - Agriculture 1 with Suite	Rural/agricultural with residence	Yes
East	A1 - Agriculture 1	Rural/agricultural	Yes
West	RR3 - Rural Residential 3	Rural residential	Yes

Subject Property Map: 3985 Fairwinds Court



5.0 Current Development Policies

5.1 Kelowna Official Community Plan (OCP)

The subject property has a future land use designation of Resource Protection Area. Relevant policies are as follows:

Protect Agricultural Land¹. Retain the agricultural land base by supporting the ALR and by protecting agricultural lands from development by supporting a “no net loss” approach, except as otherwise noted in the City of Kelowna Agricultural Plan. Ensure that the primary use of agricultural land is agriculture, regardless of parcel size.

Urban Uses². Direct urban uses to lands within the urban portion of the Permanent Growth Boundary, in the interest of reducing development and speculative pressure on agricultural lands.

Non-farm Uses³. Support non-farm use applications on agricultural lands only where approved by the ALC and where the proposed uses:

- are consistent with the Zoning Bylaw and OCP;
- provide significant benefits to local agriculture;
- can be accommodated using existing municipal infrastructure;
- minimize impacts on productive agricultural lands;
- will not preclude future use of the lands for agriculture;
- will not harm adjacent farm operations.

Secondary Suites⁴. Encourage secondary suites on agricultural land to be located within a permitted principal dwelling.

Farm Help Housing⁵. Accommodation for farm help on the same agricultural parcel will be considered only where:

- agriculture is the principal use on the parcel, and
- the applicant demonstrates that the additional housing is necessary to accommodate farm employee(s) whose residence on the farm property is considered critical to the overall operation of the farm. The primary consideration is whether the scale of the farm operation is large enough that permanent help is deemed necessary.

Temporary farm worker housing (e.g. bunkhouse accommodation on non-permanent foundations) is the preferred solution where the need for farm worker housing is justified.

Homeplating⁶. Locate buildings and structures, including farm help housing and farm retail sales area and structures, on agricultural parcels in close proximity to one another and where appropriate, near the existing road frontage. The goal should be to maximize use of existing infrastructure and reduce impacts on productive agricultural lands.

General Infrastructure Policies⁷. The City of Kelowna will minimize impacts on agricultural land.

¹ City of Kelowna Official Community Plan, Policy 5.33.1 (Development Process Chapter).

² City of Kelowna Official Community Plan, Policy 5.33.3 (Development Process Chapter).

³ City of Kelowna Official Community Plan, Policy 5.33.7 (Development Process Chapter).

⁴ City of Kelowna Official Community Plan, Policy 5.34.1 (Development Process Chapter).

⁵ City of Kelowna Official Community Plan, Policy 5.34.2 (Development Process Chapter).

⁶ City of Kelowna Official Community Plan, Policy 5.34.3 (Development Process Chapter).

⁷ City of Kelowna Official Community Plan, Policy 7.5 (Infrastructure Chapter).

5.2 City of Kelowna Agriculture Plan

ALR Application Criteria⁷

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.

Legislative Policies

10. Secondary Suites. Support the provision of secondary suites in agricultural areas as per Land Commission Policy # 770/98 (see Attached Policy #8), which allows one suite per parcel, substantially within the footprint of an existing or proposed single family dwelling provided it is clearly secondary to the single family dwelling. Suites in accessory buildings or enlarging the footprint of an existing residence for a suite would require an ALC application.

6.0 Technical Comments

6.1 Development Engineering Department

Development Engineering has no comments at this point in time with regard to this application. However, a comprehensive report will be provided at the time of development application if the Agricultural Land Commission agrees to the proposed non-farm use.

7.0 Application Chronology

Date of Application Received: September 6, 2011

Agricultural Advisory Committee October 13, 2011

The above noted application was reviewed by the Agricultural Advisory Committee at the meeting on October 13, 2011 and the following recommendations were passed:

THAT the Agricultural Advisory Committee NOT support Agricultural Land Reserve Application No. A11-0011 for 3985 Fairwinds Court, by Dejan Rasovic, to obtain approval from the Agricultural Land Commission pursuant Section 20(3) of the *Agricultural Land Commission Act* for a non-farm use within the Agricultural Land Reserve to permit a detached secondary suite.

Anecdotal Comment:

The Agricultural Advisory Committee did not support Application as the Members felt that the application does not demonstrate a net benefit to agriculture. The application proposes significant coverage of the lands and the secondary suite will not be used for farm-help.

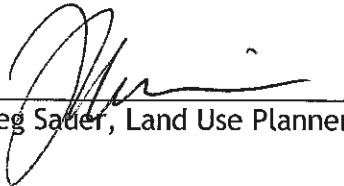
⁷ City of Kelowna Agriculture Plan (1998); p. 130.

8.0 Alternate Recommendation

9.0 THAT Agricultural Land Reserve appeal A11-0011 for Lot 3, Section 3, Township 26, Osoyoos Division Yale District Plan EPP9487, located at 3985 Fairwinds Court, Kelowna, B.C. for a non-farm use within the Agricultural Land Reserve, pursuant to Section 20(3) of the Agricultural Land Commission Act, be supported by Municipal Council;

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

Report prepared by:

for: 
Greg Sadler, Land Use Planner

Approved for Inclusion:



Shelley Gambacort, Director, Land Use Management

Approved for Inclusion



J. Paterson, General Manager, Community Sustainability

Attachments:

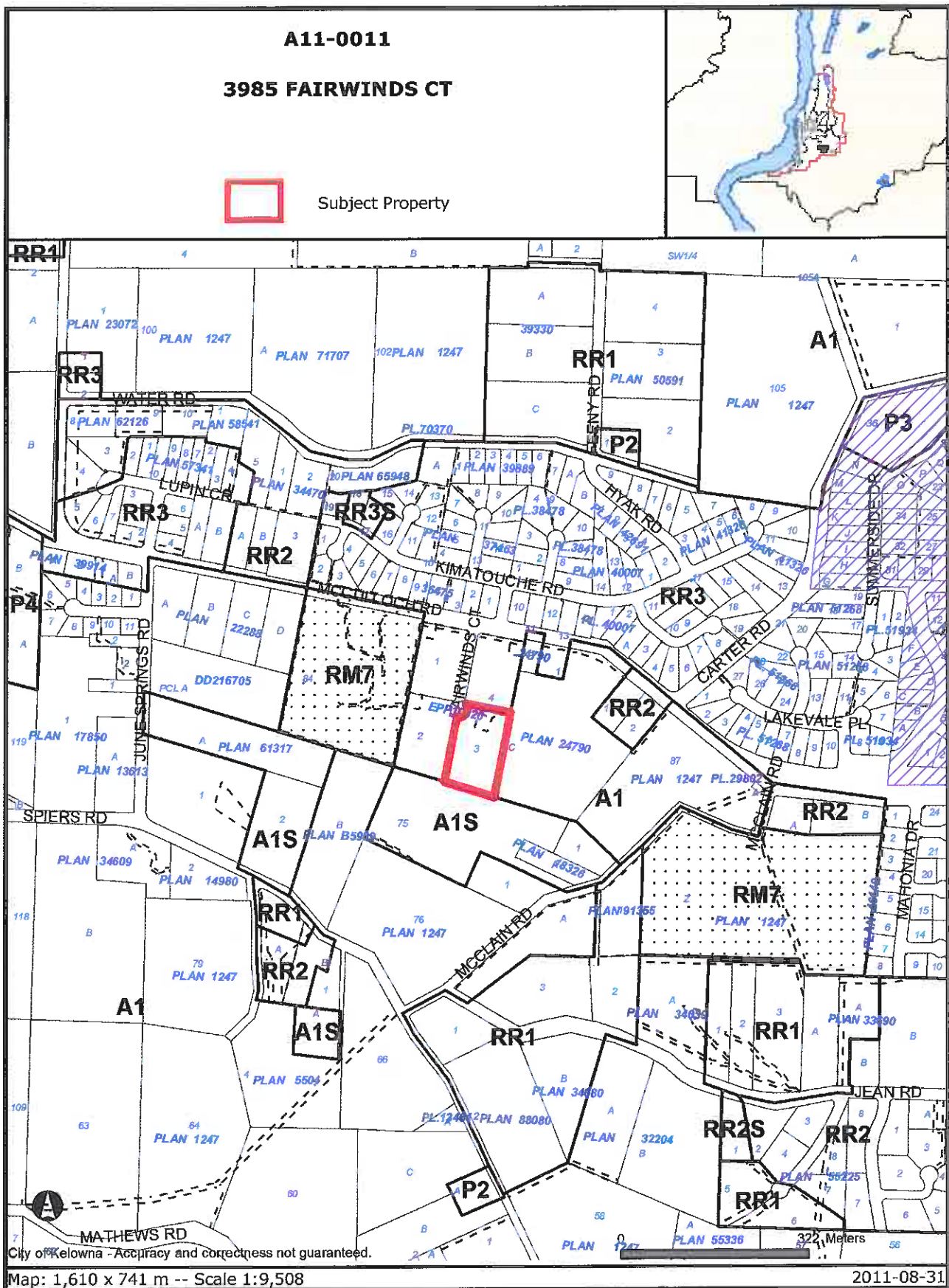
Subject property/zoning map & ALR Map (2 pages)

ALC application by landowner (2 pages)

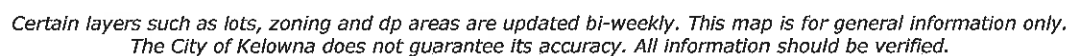
Site Plan (1 page)

BC Land Inventory - Land Capability and Soil Classification (5 pages)

ALC Policy #8 Permitted Uses In The ALR: Residential Use (2 pages)



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.



Land Capability = Brown/ Soil Class = Green



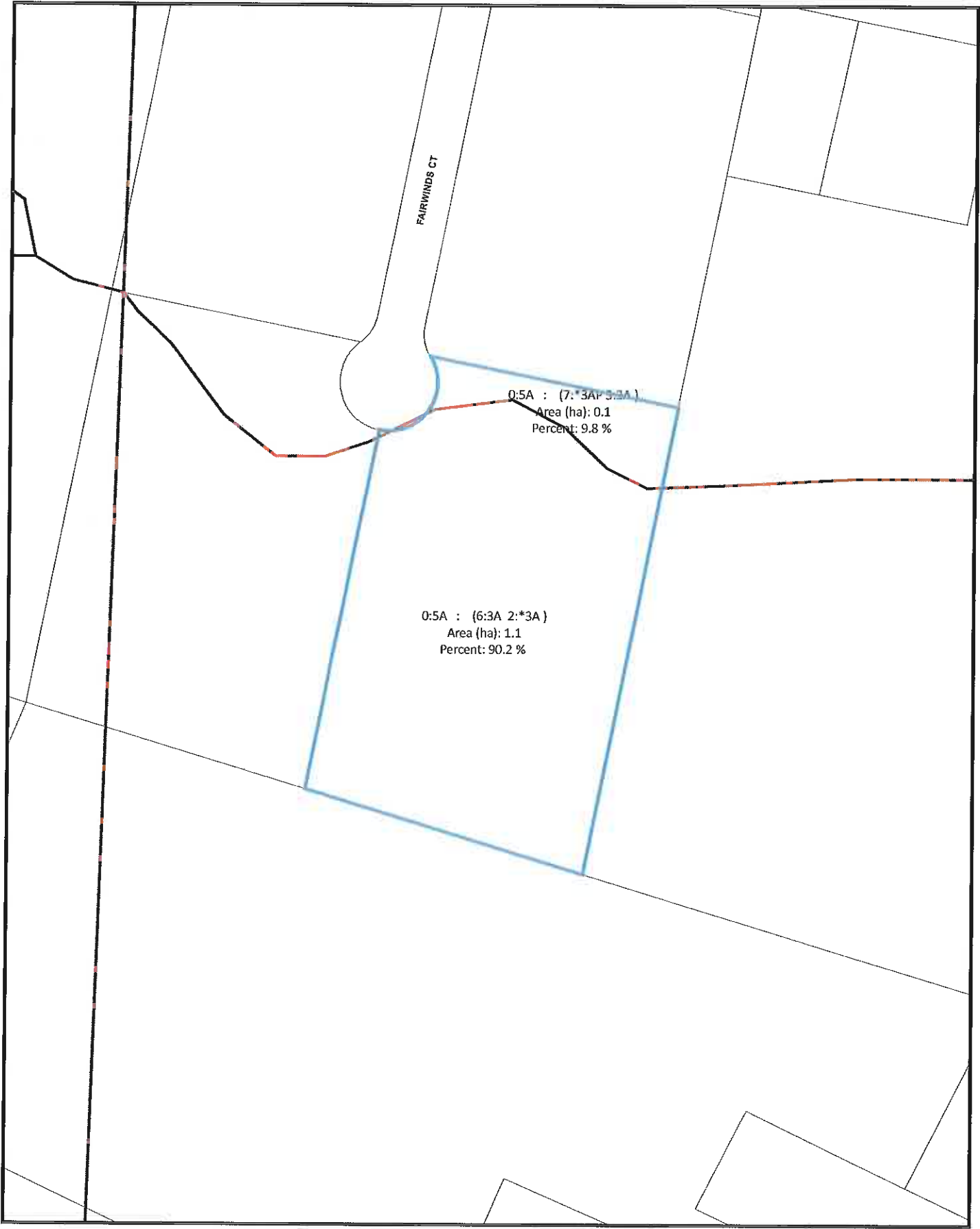
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Soil Classification

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

Portion of Site / %	Soil Type	Description
1.1 ha / 90.2%	PE - Paradise	<u>Land</u> : nearly level to very steeply sloping fluvioglacial deposits. <u>Texture</u> : 25 to 60cm of sandy loam or loamy sand over gravelly loamy sand or very gravelly sand. <u>Drainage</u> : rapid. <u>Classification</u> : Eluviated Eutric Brunisol.
40%	PR - Parkhill	<u>Land</u> : very gently to strongly sloping fluvioglacial deposits. <u>Texture</u> : 1100cm or more of loamy sand or sand. <u>Drainage</u> : rapid. <u>Classification</u> : Eluviated Eutric Brunisol.
0.1 ha / 9.8%	GM - Gammil	<u>Land</u> : very gently to extremely sloping fluvioglacial deposits. <u>Texture</u> : 10 to 25 cm of sandy loam or loamy sand over very gravelly loamy sand or very gravelly sand. <u>Drainage</u> : rapid. <u>Classification</u> : Eluviated Eutric Brunisol.
30%	PE - Paradise	<u>Land</u> : nearly level to very steeply sloping fluvioglacial deposits. <u>Texture</u> : 25 to 60cm of sandy loam or loamy sand over gravelly loamy sand or very gravelly sand. <u>Drainage</u> : rapid. <u>Classification</u> : Eluviated Eutric Brunisol.

Land Capability = Brown/ Soil Class = Green



1:1,500

BCLI Land Capability

Portion of Site	Land Capability Rating, Unimproved	Land Capability Rating, With Improvements
1.1 ha / ~90.2%	<p>100% Class 5. Land in this Class has limitations which restricts its capability to producing perennial forage crops or other specially adapted crops. Land in Class 5 is generally limited to the production of perennial forage crops or other specially adapted crops. Productivity of these suited crops may be high. Class 5 lands can be cultivated and some may be used for cultivated field crops provided unusually intensive management is employed and/or the crop is particularly adapted to the conditions peculiar to these lands. Cultivated filed crops may be grown on some Class 5 land where adverse climate is the main limitation, but crop failure can be expected under average conditions.</p> <p>Crops are adversely affected by droughtiness caused low soil water holding capacity or insufficient precipitation.</p>	<p>80% Class 3. Land in this Class has limitations that require moderately intensive management practices or moderately restrict the range of crops, or both. The limitations are more severe than for Class 2 land and management practices are more difficult to apply and maintain. The limitations may restrict the choice of suitable crops or affect one or more of the following practices: timing and ease of tillage, planting and harvesting, and methods of soil conservation.</p> <p>Crops are adversely affected by droughtiness caused low soil water holding capacity or insufficient precipitation.</p>
0.1 ha / ~9.8%	<p>100% Class 5. Land in this Class has limitations which restricts its capability to producing perennial forage crops or other specially adapted crops. Land in Class 5 is generally limited to the production of perennial forage crops or other specially adapted crops. Productivity of these suited crops may be high. Class 5 lands can be cultivated and some may be used for cultivated field crops provided unusually intensive management is employed and/or the crop is particularly adapted to the conditions peculiar to these lands. Cultivated filed crops may be grown on some Class 5 land where adverse climate is the main limitation, but crop failure can be expected under average conditions.</p> <p>Crops are adversely affected by droughtiness caused low soil water holding capacity or insufficient precipitation.</p>	<p>70% Class 3. Land in this Class has limitations that require moderately intensive management practices or moderately restrict the range of crops, or both. The limitations are more severe than for Class 2 land and management practices are more difficult to apply and maintain. The limitations may restrict the choice of suitable crops or affect one or more of the following practices: timing and ease of tillage, planting and harvesting, and methods of soil conservation.</p> <p>Crops are adversely affected by droughtiness caused low soil water holding capacity or insufficient precipitation.</p> <p>Soils are limited by the presence of coarse fragments which significantly hinder tillage, planting and/or harvesting.</p> <p>30% Class 3. Land in this Class has limitations that require moderately intensive management practices or moderately restrict the range of crops, or both. The limitations are more severe than for Class 2 land and management practices are more difficult to apply and maintain. The limitations may restrict the choice of suitable crops or affect one or more of the following</p>


Portion of Site	Land Capability Rating, Unimproved	Land Capability Rating, With Improvements
		<p>practices: timing and ease of tillage, planting and harvesting, and methods of soil conservation.</p> <p>Crops are adversely affected by droughtiness caused low soil water holding capacity or insufficient precipitation.</p>

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 Agricultural Land Commission Act	<p style="text-align: right;">Policy #8 March 2003</p> <p style="text-align: center;">PERMITTED USES IN THE ALR: RESIDENTIAL USE</p>
<p><i>This policy provides advice to assist in the interpretation of the Agricultural Land Commission Act, 2002 and Regulation. In case of ambiguity or inconsistency, the Act and Regulation will govern.</i></p>	

REFERENCE:

Agricultural Land Reserve Use, Subdivision and Procedure Regulation (BC Reg. 171/2002), the "Regulation", Section 3 (1) (b)

Section 3 (1) *"the following land uses are permitted in an agricultural land reserve unless otherwise prohibited by a local government bylaw:*

(b) for each parcel,

(i) one secondary suite within a single family dwelling, and

(ii) one manufactured home, up to 9 m in width, for use by a member of the owner's immediate family;

Section 1 (1) **"immediate family"** means, with respect to an owner, the owner's

(a) parents, grandparents and great grandparents,

(b) spouse, parents of spouse and stepparents of spouse,

(c) brothers and sisters, and

(d) children or stepchildren, grandchildren and great grandchildren;

INTERPRETATION:

The Regulation permits a secondary suite for residential purposes, wholly contained within a single family dwelling, on a parcel in the ALR. The secondary suite use is not limited as to who occupies the suite. The Regulation also provides for one manufactured home, in addition to a dwelling, on a parcel in the ALR, but only for use by the property owner's immediate family. The maximum width of manufactured or mobile home allowed is 9 metres, which provides for what is commonly known as a 'double-wide'. The Commission may make an exception to the width requirement in the Peace and Northern Rockies Regional Districts to provide for a 'double wide' up to the industry standard width (10 metres).

The Regulation defines "immediate family" as noted above. If the manufactured home is no longer occupied by immediate family of the property owner, it is no longer a permitted use in the ALR and must be removed from the parcel or, if it remains, not used for residential purposes.

It should be noted that [Section 18 \(a\) \(ii\) of the Agricultural Land Commission Act](#) provides for one residence per parcel of land, and more than one residence where "the additional residences are necessary for farm use." See Commission Policy ["Additional Residences for Farm Use"](#).

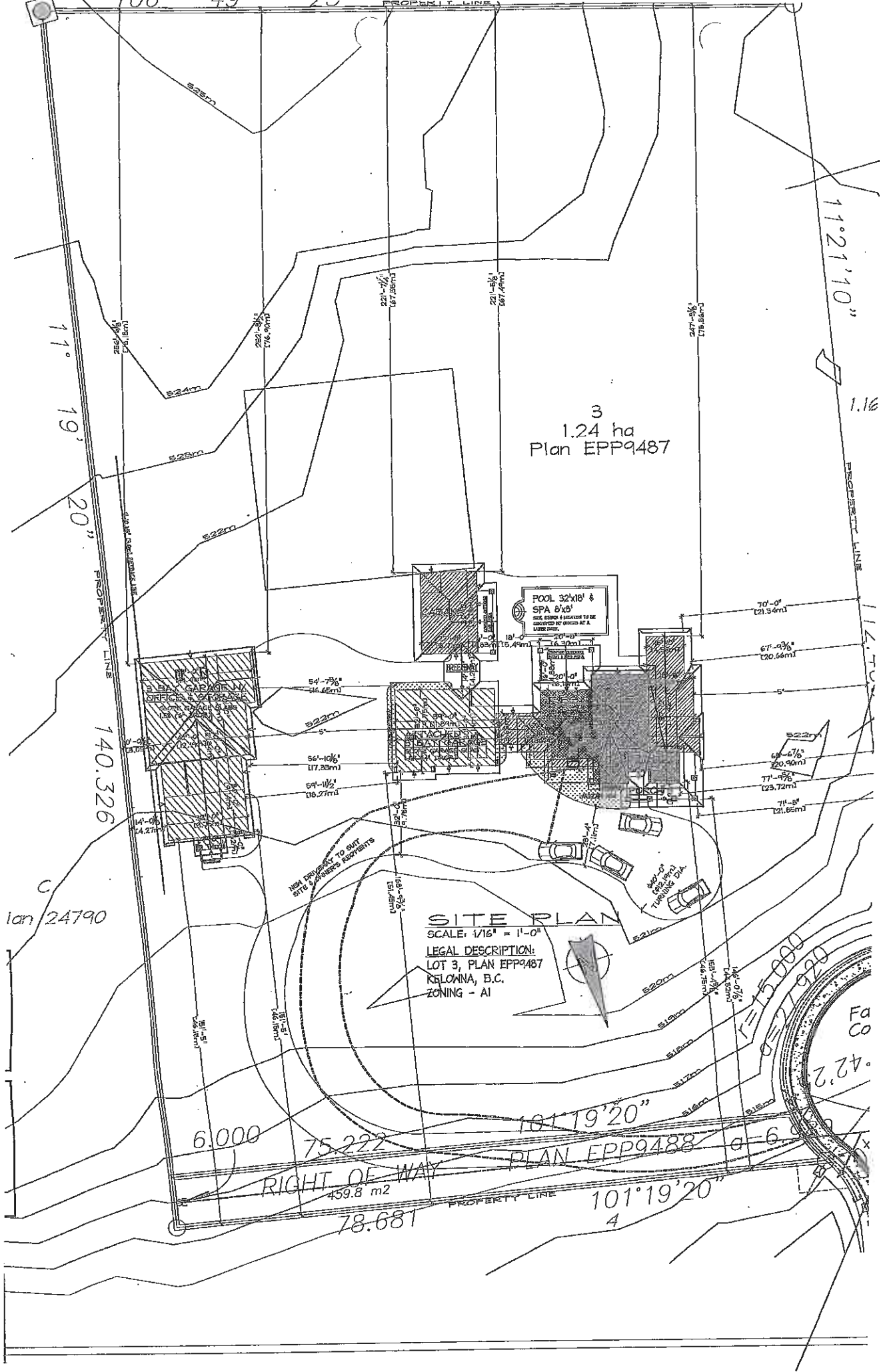
Related uses that are not permitted in the Act or Regulation for residential use require application to and approval from the Commission.

Where a zoning bylaw is in place, this use must be specifically permitted by the bylaw.

TERMS:

Secondary suite — means an area set aside for residential use, within the footprint of a single family dwelling, and secondary or ancillary to the residential use of that single family dwelling.

Manufactured home — means a transportable prefabricated structure, whether ordinarily equipped with wheels or not, that is designed, constructed or manufactured to be moved from one place to another and to be used for residential use by a single family. The structure normally conforms to the CSA Z240 series standards of the Canadian Standards Association for manufactured homes.



3
1.24 ha
Plan EPP9487

SITE PLAN
SCALE: 1/16" = 1'-0"
LEGAL DESCRIPTION:
LOT 3, PLAN EPP9487
KELOWNA, B.C.
ZONING - A1

RIGHT OF WAY
459.8 m²

PLAN EPP9488

101'19'20"

Fa
Co

42.2'

6.000

75.222

78.681

11°21'10"

1.16

PROPERTY LINE

11.70'

70'-0"

(21.34m)

67'-9 3/8"

(20.66m)

5'

52'-2"

(15.85m)

68'-6 7/8"

(20.90m)

77'-9 3/8"

(23.72m)

71'-8"

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