

REPORT TO COUNCIL



Date: October 24, 2011
To: City Manager
From: Land Use Management, Community Sustainability (GS)
Application: A11-0013
Owner: Randy Spencer
Kim Spencer
Address: 2225 Brentwood Road
Applicant: Randal & Kim Spencer
Subject: Non-farm use in the Agricultural Land Reserve (ALR)
Existing OCP Designation: Resource Protection Area
Existing Zone: A1 - Agriculture 1

1.0 Recommendation

THAT Agricultural Land Reserve appeal A11-0013 for Lot 7, Sections 7 and 18, Township 27, Osoyoos Division Yale District Plan 32945, located at 2225 Brentwood Road, 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

The applicant submitted a request for a lot line adjustment in March 2010, with a portion of 3105 Hwy 33 E proposed to be added to the subject property. Following consultation with the ALC, the Subdivision Approving Officer could not identify a benefit to agriculture and declined the request. Of importance is that a significant amount of topography exists between these two properties and it is unclear how a lot line adjustment would improve the agricultural viability of either or both of the parcels.

Further, a request for an additional dwelling for farm help was received by the Land Use Management Department in April 2010. Upon reviewing the request, Staff determined that the area occupied by fruit trees is not significant (i.e. <1/4 ha) and little to no other agriculture is apparent on the subject property. Given the small parcel size and insufficient agriculture taking place, the request for an additional dwelling for a full-time farm employee was denied and the applicant notified of their ability to pursue the use through a "non-farm use" application.

12

The current non-farm use application is to develop a dwelling within an accessory structure. The dwelling is for the owner's daughter and family and in an accessory structure currently under construction. The Building Permit cited a "Potting Studio" as the intended use.

A significant amount of residential development exists in rural and semi-rural areas within Kelowna. Extensive residential development (non-agricultural "improvements") is often a detriment to agricultural land as it occupies the land base and the cumulative impacts are significant. Given this reality, City policy has been adopted to restrict non-farm (including residential) uses on agricultural land. The Official Community Plan provides clear guidance with respect to the preservation of agricultural land (see Section 5.1 below).

The demonstration of a legitimate need for additional dwellings is a key requirement with respect to agricultural land. An exception exists with respect to secondary suites within principal dwellings. Policies of both the ALC and the City (OCP and Agriculture Plan) are supportive of the provision of a secondary suite which is located within a single family dwelling. These policies allow for accommodation of a family member with minimal impact on the land and land economics.

Finally, 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

One single detached dwelling and a detached shop currently exist, or are under construction on the subject property. An accessory building was applied for in late 2009 and which was proposed at that time to be a "Potting Studio" located over top of a "Shop". The applicant suggests that this building has been completed to "lock-up". City records however show that inspections have only been completed to backfilling stage. Building Permit drawings for the structure are attached and which suggest a fairly residential exterior design to the structure.

While the building has yet to receive an "Occupancy Permit", at this time the owners are seeking to amend the proposed use of the accessory structure from a "Potting Studio" to a dwelling unit in an effort to house the owner's daughter and her family. The application notes that the daughter and family "have been actively involved in increasing productivity and potential of land".

4.2 Site Context

The subject property is located south of Highway 33 and on the east side of Brentwood Road, and is designated as Hazardous Condition, and Natural Environment Development Permit Areas. The site area is 2.28 hectares (5.63 acres) and the site elevation varies between 620 m and 650 m. The soils in this area are above average for the Okanagan and can be improved to Class 2 and 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	A1 - Agriculture 1	Rural/unproductive	Yes
East	A1 - Agriculture 1	Rural/agricultural with residence	Yes
South	A1 - Agriculture 1	Grazing	Yes
West	A1 - Agriculture 1	Rural/agricultural with residence	Yes

Subject Property Map: 2225 Brentwood Road



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:

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).

- 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 Policies⁸. The City of Kelowna will minimize impacts on agricultural land.

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.

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 Agriculture Plan (1998); p. 130.

⁸ City of Kelowna Official Community Plan, Policy 7.5 (Infrastructure Chapter).

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 9, 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. A11-0013 for 2225 Brentwood Road, by Randal and Kim Spencer, to obtain approval from the Agricultural Land Commission pursuant to Section 20(3) of the Agricultural Land Commission Act for a non-farm use within the Agricultural Land Reserve in order to permit a detached secondary suite.

Anecdotal Comment:


The Agricultural Advisory Committee did not support the request as the Members felt that the application does not demonstrate any benefit to agriculture.

8.0 Alternate Recommendation

THAT Agricultural Land Reserve appeal A11-0013 for Lot 7, Sections 7 and 18, Township 27, Osoyoos Division Yale District Plan 32945, located at 2225 Brentwood Road, 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 Sauer, Land Use Planner

Approved for Inclusion:  Shelley Gambacort, Director, Land Use Management

Approved for Inclusion  J. Paterson, General Manager, Community Sustainability

Attachments:

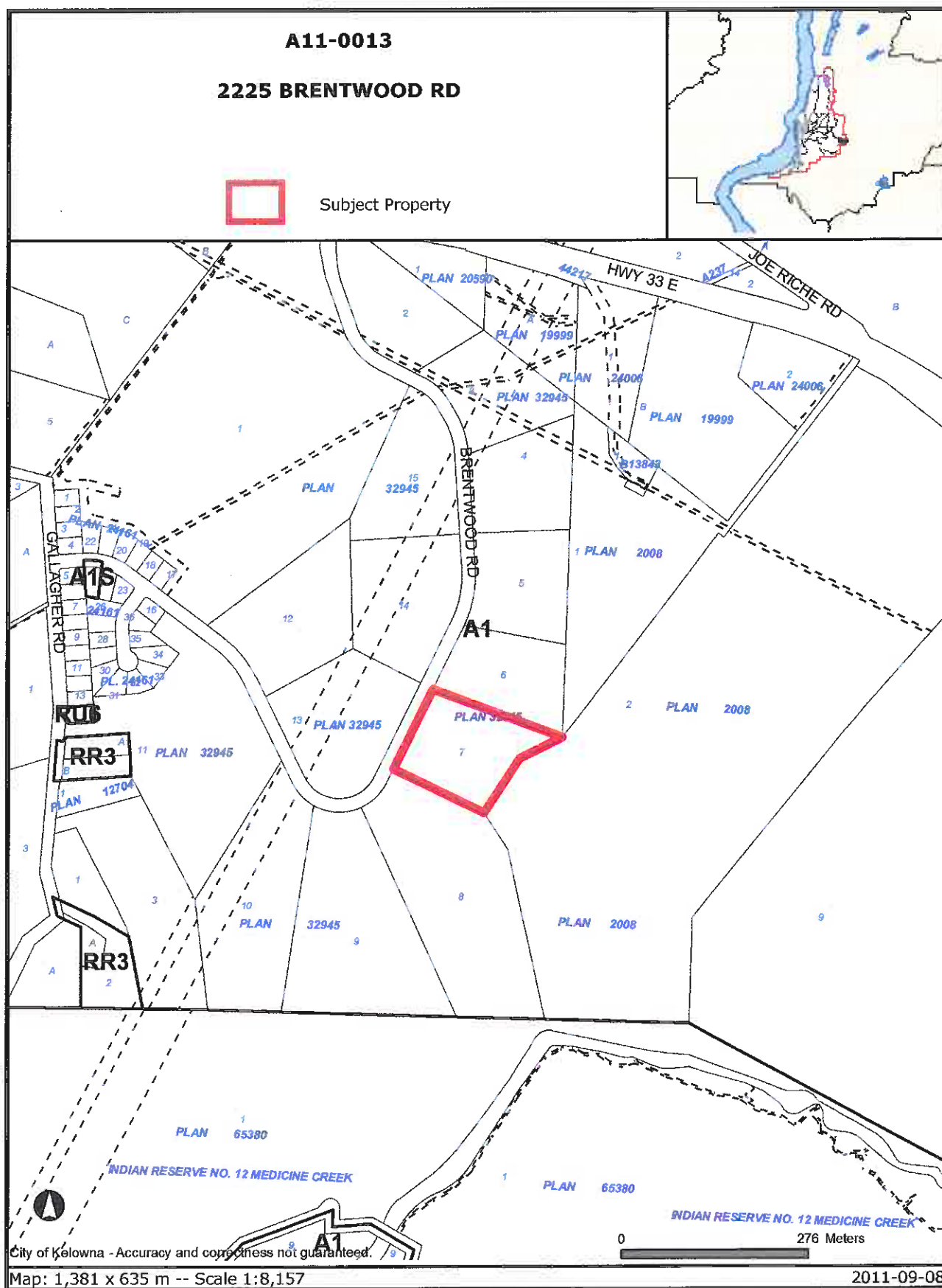
Subject property/zoning map & ALR Map (2 pages)

Building Permit elevation and floor plan drawings of accessory building (3 pages)

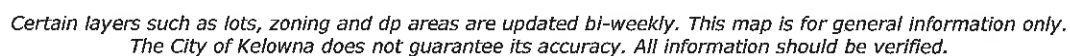
ALC application by landowner (3 pages)

BC Land Inventory - Land Capability and Soil Classification (6 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.

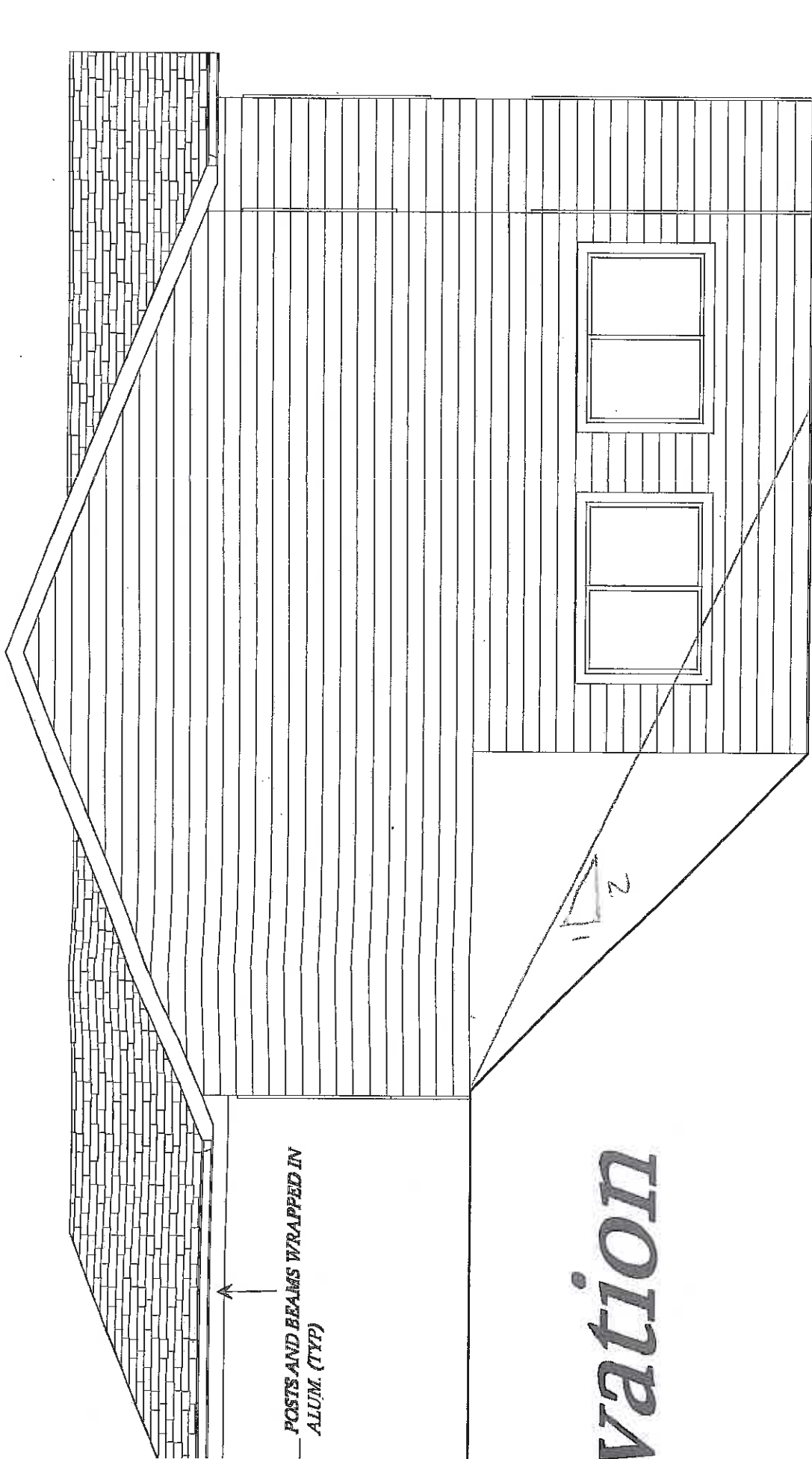


[illegible]

THIS SPACE IS NOT PERMITTED TO BE
USED AS A SEPARATE DWELLING UNIT

[illegible]

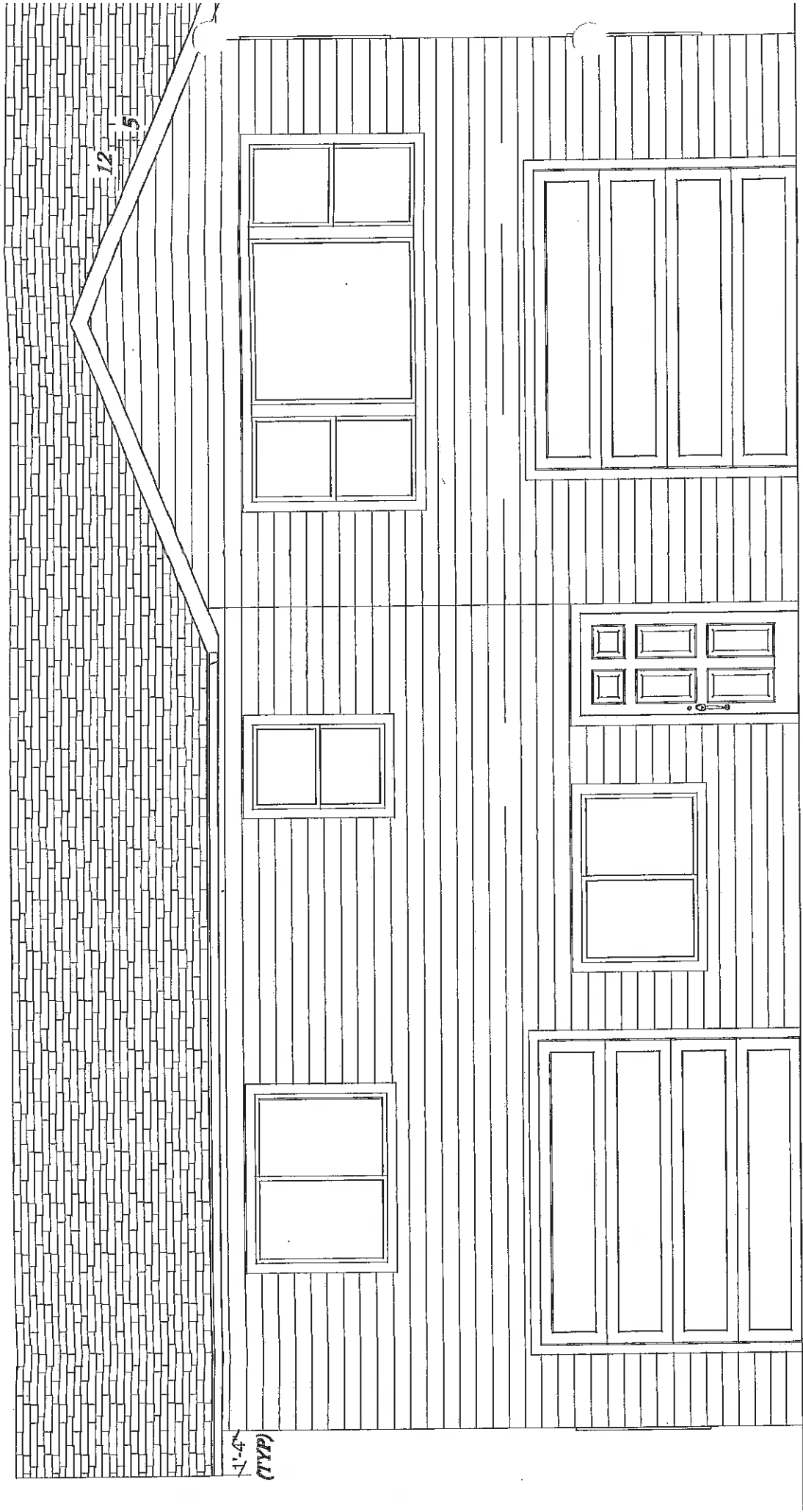
<i>Drawing Title:</i> Main Fl	<i>Notes:</i> All work to completed i accordance current BC. Code. Inti verify all di prior to con	<i>Project:</i>	<i>Prepared for:</i> Mr. & Mrs	<i>Date:</i> August 3	<i>Drawn By:</i> VOLK CON
---	---	-----------------	---------------------------------------	--------------------------	------------------------------



POSTS AND BEAMS WRAPPED IN
ALUM. (TYP)

vation

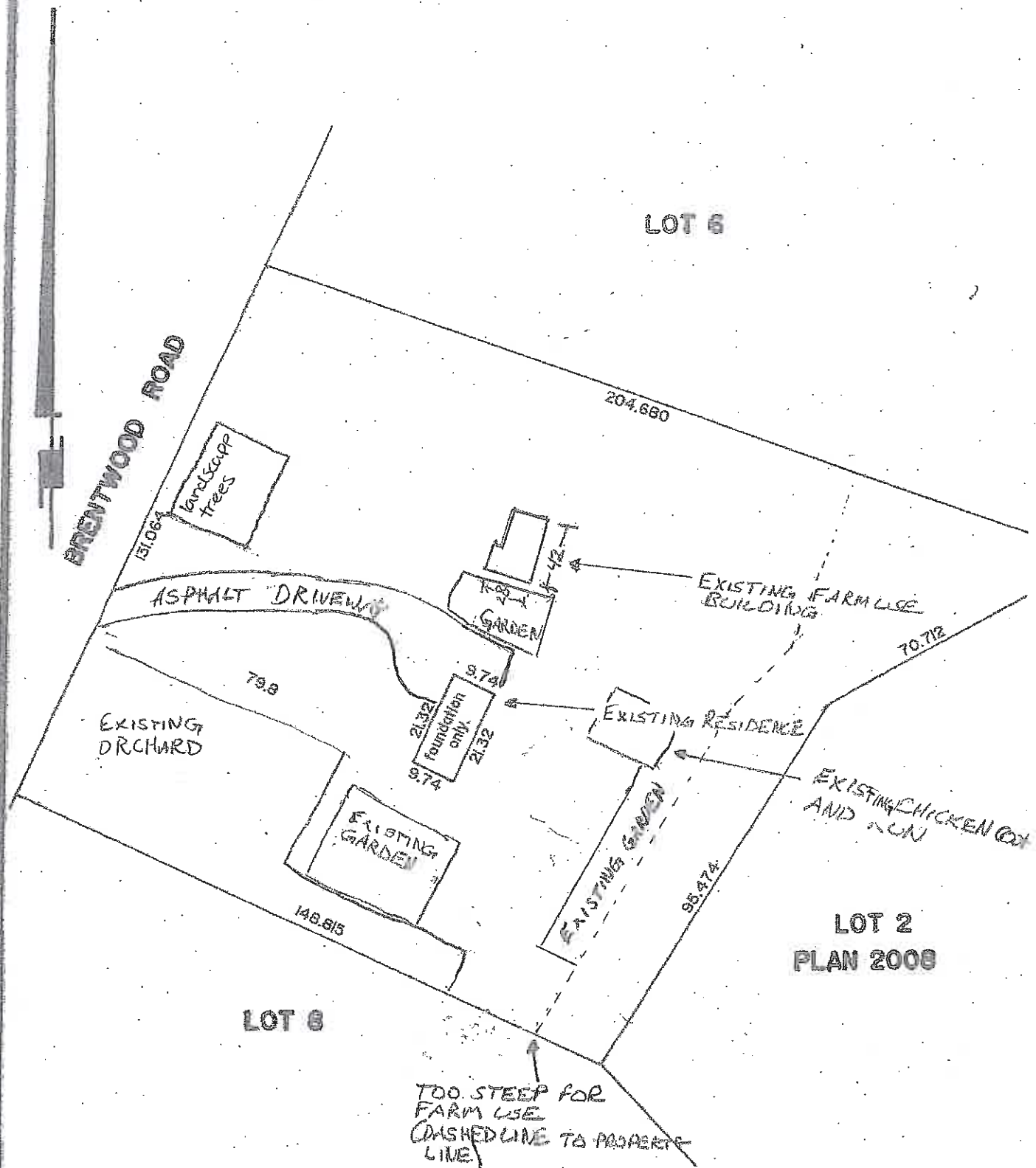
MAX 1:2 SLOPE
SHRUB & GROUND COVER



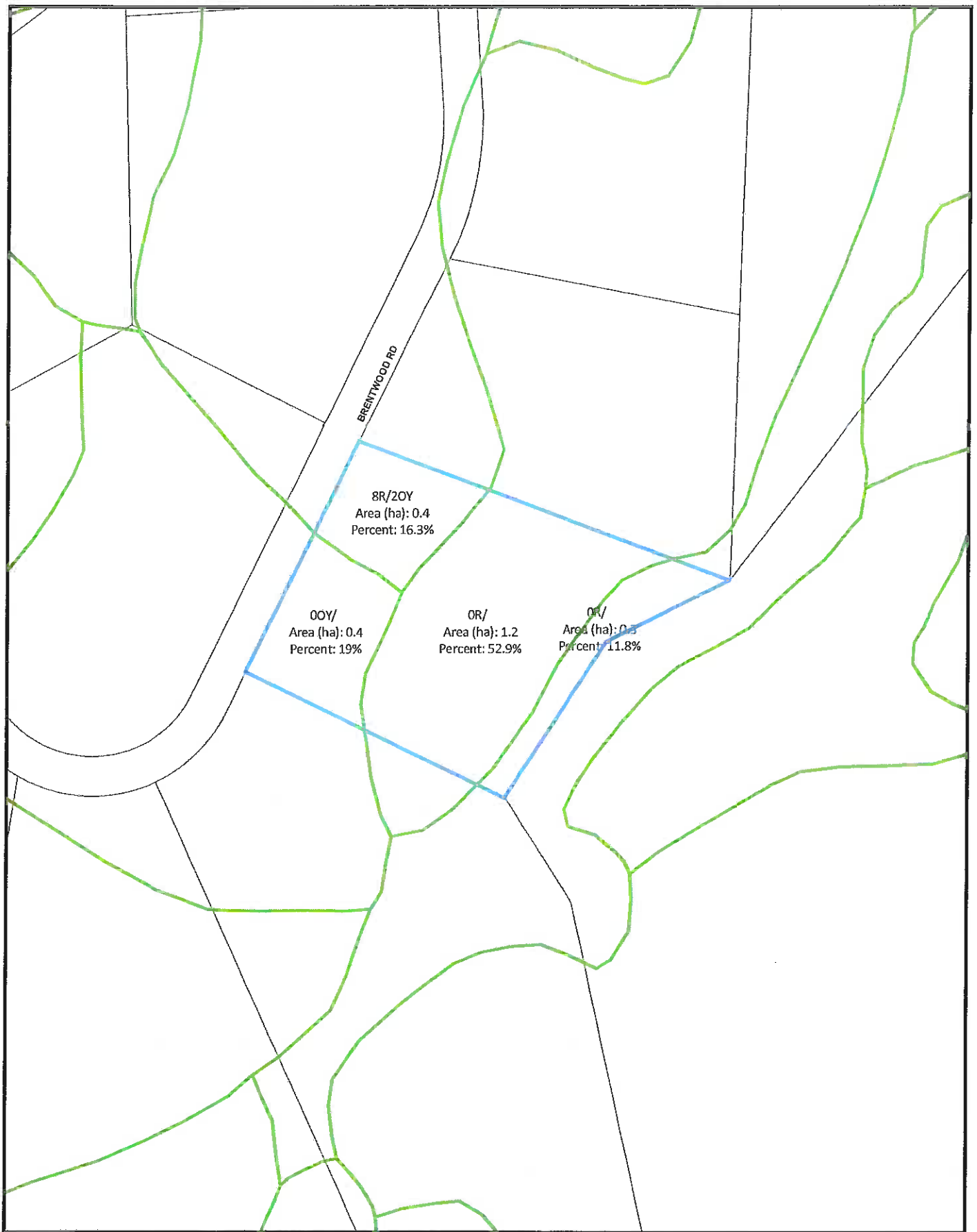
1'-4"
(TYP)

B.C. LAND SURVEYOR' CERTIFICATE OF LOCATION ON LOT 7,
PLAN 32945, SECTIONS 7 AND 18, TOWNSHIP 27, O.D.Y.D.

2225 BRENTWOOD ROAD



Land Capability = Brown/ Soil Class = Green



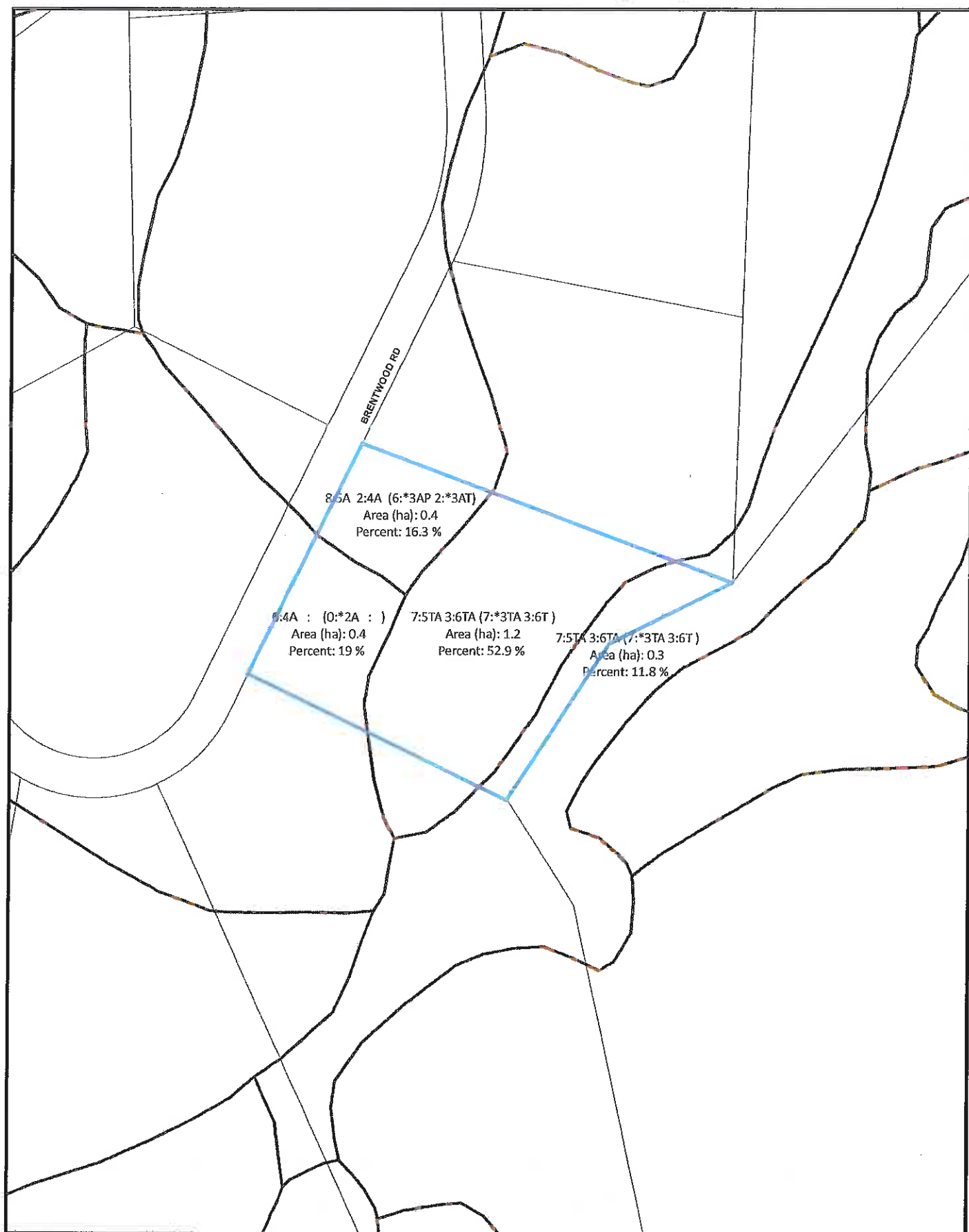
1:2,500

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
1.5 ha / 64.7% 100%	R - Rutland	<u>Land</u> : very gently to strongly sloping fluvioglacial deposits. <u>Texture</u> : 10 to 25cm of sandy loam or loamy sand over gravelly loamy sand or very gravelly sand. <u>Drainage</u> : rapid. <u>Classification</u> : Orthic Dark Brown.
0.4 ha / 19 % 100%	OY - Oyama	<u>Land</u> : very gently to extremely sloping fluvioglacial deposits. <u>Texture</u> : 100cm or more of sandy loam or loamy sand grading to sand. <u>Drainage</u> : rapid. <u>Classification</u> : Orthic Dark Brown.
0.4 ha / ~16.3% 80%	R - Rutland	<u>Land</u> : very gently to strongly sloping fluvioglacial deposits. <u>Texture</u> : 10 to 25cm of sandy loam or loamy sand over gravelly loamy sand or very gravelly sand. <u>Drainage</u> : rapid. <u>Classification</u> : Orthic Dark Brown.
20%	OY - Oyama	<u>Land</u> : very gently to extremely sloping fluvioglacial deposits. <u>Texture</u> : 100cm or more of sandy loam or loamy sand grading to sand. <u>Drainage</u> : rapid. <u>Classification</u> : Orthic Dark Brown.

Land Capability = Brown/ Soil Class = Green



1:2,500

BCLI Land Capability

Portion of Site	Land Capability Rating, Unimproved	Land Capability Rating, With Improvements
1.5 ha / ~64.7%	<p>70% 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 field 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>Soils are limited by steepness or pattern of slopes which hinders the use of farm machinery, decreases uniformity of growth and maturity of crops, and/or increases the potential for water erosion.</p> <p>Crops are adversely affected by droughtiness caused low soil water holding capacity or insufficient precipitation.</p> <p>30% Class 6. Land in this Class is non-arable but capable of producing native and/or uncultivated perennial forage crops. Land in Class 6 provides sustained natural grazing for domestic livestock and is not arable in its present condition. Land is placed in this class because of severe climate, or the terrain is unsuitable for cultivation or use of farm machinery, or the soils do not respond to intensive improvement practices. Some unimproved Class 6 land s can be improved by draining, diking and/or irrigation.</p> <p>Soils are limited by steepness or pattern of slopes which hinders the use of farm machinery, decreases uniformity of growth and maturity of crops, and/or increases the potential for water erosion.</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>Soils are limited by steepness or pattern of slopes which hinders the use of farm machinery, decreases uniformity of growth and maturity or crops, and/or increases the potential for water erosion.</p> <p>Crops are adversely affected by droughtiness caused low soil water holding capacity or insufficient precipitation.</p> <p>30% Class 6. Land in this Class is non-arable but capable of producing native and/or uncultivated perennial forage crops. Land in Class 6 provides sustained natural grazing for domestic livestock and is not arable in its present condition. Land is placed in this class because of severe climate, or the terrain is unsuitable for cultivation or use of farm machinery, or the soils do not respond to intensive improvement practices. Some unimproved Class 6 land s can be improved by draining, diking and/or irrigation.</p> <p>Soils are limited by steepness or pattern of slopes which hinders the use of farm machinery, decreases uniformity of growth and maturity or crops, and/or increases the potential for water erosion.</p>

Portion of Site	Land Capability Rating, Unimproved	Land Capability Rating, With Improvements
0.4 ha / ~19%	<p>100% Class 4. Land in this Class has limitations that require special management practices or severely restrict the range of crops, or both. Land in Class 4 has limitations which make it suitable for only a few crops, or the yield for a wide range of crops is low, or the risk of crop failure is high, or soil conditions are such that special development and management practices are required. The limitations may seriously 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>100% Class 2. Land in this Class has minor limitations that require good ongoing management practices or slightly restrict the range of crops, or both. Land in Class 2 has limitations which constitute a continuous minor management problem or may cause lower crop yields compared to Class 1 land but which do not pose a threat of crop loss under good management. The soils in Class 2 are deep, hold moisture well and can be managed and cropped with little difficulty.</p> <p>Crops are adversely affected by droughtiness caused low soil water holding capacity or insufficient precipitation.</p>
0.4 ha / ~16.3%	<p>80% 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 field 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>20% Class 4. Land in this Class has limitations that require special management practices or severely restrict the range of crops, or both. Land in Class 4 has limitations which make it suitable for only a few crops, or the yield for a wide range of crops is low, or the risk of crop failure is high, or soil conditions are such that special development and management practices are required. The limitations may seriously 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</p>	<p>60% 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>20% Class 3. 60% 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>


Portion of Site	Land Capability Rating, Unimproved	Land Capability Rating, With Improvements
	insufficient precipitation.	Soils are limited by steepness or pattern of slopes which hinders the use of farm machinery, decreases uniformity of growth and maturity of crops, and/or increases the potential for water erosion.

Copyright © 2003: Agricultural Land Commission,
Burnaby, British Columbia, Canada

This is not the official version.

Only the printed version issued by the Agricultural Land Commission is the official version. Copies of the official version may be obtained from the Agricultural Land Commission, Room 133 - 4940 Canada Way, Burnaby, BC V5G 4K6, telephone: 604 660-7000.

Copyright in the electronic version of this Policy belongs exclusively to the Province of British Columbia. This electronic version is for private study or research purposes only.

 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.