

REPORT TO COUNCIL



Date: January 17, 2012

To: City Manager

From: Land Use Management, Community Sustainability (GS)

Application: A11-0014 **Owner(s):** Christine Schmidt
Frances Larson
Joan Casorso

Address: 3850 Swamp Road **Applicant:** Mission Creek Restoration Initiative

Subject: Subdivision of Land in the Agricultural Land Reserve (ALR)

Existing OCP Designation: Resource Protection Area
Major Park/Open Space (public)

Existing Zone: A1 - Agriculture

Proposed Zone: A1 - Agriculture

1.0 Recommendation

THAT Agricultural Land Reserve appeal A11-0014 for Lot K, District Lot 168, Osoyoos Division Yale District Plan 1829, located at 3850 Swamp Road, Kelowna, B.C. for subdivision within the Agricultural Land Reserve, pursuant to Section 21(2) of the Agricultural Land Commission Act, be supported by Municipal Council;

AND THAT Council forward the subject application to the Agricultural Land Commission (ALC).

2.0 Purpose

The Mission Creek Working Group (MCWG) which represents the Mission Creek Restoration Initiative (MCRI) is proposing a subdivision of ALR land adjacent to Mission Creek for stream restoration purposes. Council is being asked to support the MCRI subdivision proposal which will be considered by the Agricultural Land Commission (ALC).

3.0 Land Use Management

From a land use perspective, the subdivision of agricultural land is typically viewed to erode agricultural capability and not supported as a result. Agricultural policy in the Official Community Plan and Agriculture Plan speak to the importance of preserving agricultural land and resisting subdivision proposals (see Section 5 below). With respect to the subject property and land adjacent to Mission Creek generally, the dyking and channelization of Mission Creek in 1938 had a significant impact on agricultural farmland in the lower reaches of Mission Creek. The dyking efforts mitigate against seasonal flooding thereby creating viable agriculture land.

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Historically, land adjacent to Mission Creek and within the Mission Creek floodplain functioned as valuable ecological resource, providing an array of “ecological goods and services”. As examples, ecological goods and services include:

- habitat for numerous species including kokanee salmon and species which are now considered to be at risk of extinction or extirpation;
- water retention and purification; and
- carbon sequestration provided by the riparian vegetation.

Some ecological goods and services rely on the seasonal flooding which no longer occurs due to the dyking and channelization. As with agricultural policy, the City has specific environmental policy that speak to the importance of aquatic and terrestrial habitats (see Section 5).

The land removed from agricultural production will result in additional stream width and environmental productivity. The loss of agricultural land is not something that can be mitigated beyond the already small parcel size being sought; however, the overall impact on agriculture can be mitigated. As proposed, the 4.0 ha remainder parcel will remain agriculturally viable. Moreover, \$46,000 has been earmarked for agricultural improvements including fencing, ditching and fill removal on the remainder. Improvements as a result of this \$46,000 expenditure should improve agricultural viability of the remainder, offsetting the area lost to stream restoration.

Based on the improvements proposed to the 4.0 ha remainder, along with the net benefits to the City and regions hydrology and ecology, the proposal is thought to reflect good multiple bottom line land use planning.

4.0 Proposal

4.1 Background

The subject property represents the intended partial property acquisition for the MCRI and if successful would represent the second property acquisition adjacent to Mission Creek. The MCRI is a multi-disciplinary, multi-stakeholder undertaking with a goal of restoring the lower section of Mission Creek to a more natural condition. The restoration initiative is being led by a Working Group comprised of representatives from local, provincial and federal governments, non-government organizations and First Nations. The City of Kelowna is a key stakeholder on the Working Group and is represented by the Environment & Land Use Branch. Land acquisition expertise are provided by the City's Real Estate & Building Services Department.

The purpose of the proposed subdivision is for future dyke setback and creek “re-meandering”. Increasing the channel width to allow for more natural stream processes and hydrology is critical to this Initiative. See attached air photo.

The proposed subdivision in the ALR reflects an individual request to satisfy an immediate need (i.e. condition of purchase of a portion of the subject property). However, the MCWG recognizes the ALC as a key stakeholder and critical to the success of the MCRI and therefore intends to seek project level support (e.g. Memorandum of Understanding) from the ALC in the near future.

The above being said, this application proposes the subdivision in the ALR on the subject property only.

4.2 Project Description

The proposal is to subdivide approximately 2.72 ha (6.72 ac) adjacent and parallel to Mission Creek from the 6.77 ha (16.72 ac) parent parcel (see “Land Acquisition” map dated Dec. 19/11 attached). The City of Kelowna will hold title to the 2.72 ha subdivided property, but staff are

currently exploring partner options including the Central Okanagan Land Trust and The Nature Trust of BC. Regardless of who is on title, the Province will maintain responsibility for the dyke.

From an agricultural perspective, the parcel is presently non-uniform (wedge shaped) and is not ideal from a production perspective. As proposed, the remnant parcel will be more appropriately configured to accommodate farm equipment turning movements. The property is also affected by a localized high water table¹ which limits the agricultural potential.

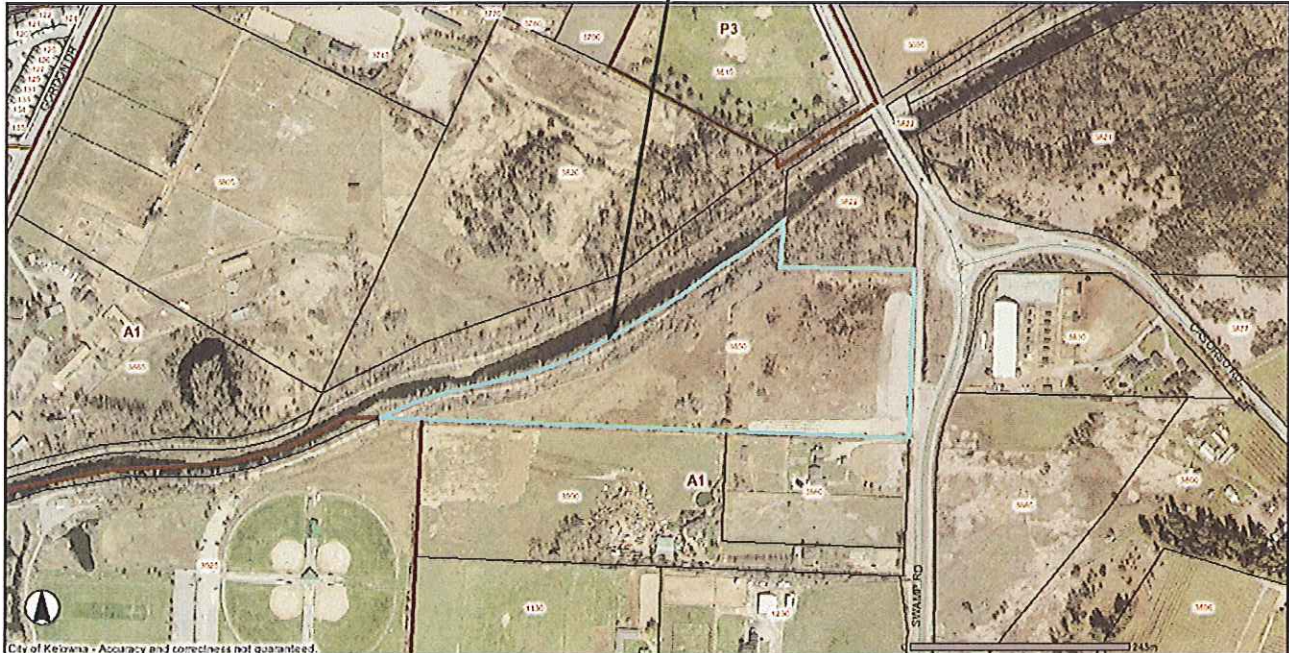
4.3 Site Context

The subject property at 3850 Swamp Road (Lot K, Plan 1829) is located in Kelowna's lower mission and on the city's urban fringe and is zoned for agricultural purposes (i.e. A1). The subject property is also within the provincial ALR.

Specifically, adjacent land uses are as follows:

Orientation	Zoning	Land Use
North	Mission Creek IR#8 (WFN)	Undeveloped, natural
East	A1 - Agriculture	Agriculture
South	A1 - Agriculture	Limited agriculture/ rural residential
West	Mission Creek	Undeveloped, natural capital

Subject Property Map: 3850 Swamp Road



5.0 Current Development Policies

5.1 Kelowna Official Community Plan (OCP)

Development Process

¹ Based on observation made by the Working Group in addition to discussions with Rob Casorso, brother of the owners, local farmer and operator of this land and as identified in the City's Agriculture Plan.

No Net Loss of Aquatic Habitat Productivity.² Require “no net loss” with respect to land use decisions that affect aquatic habitat based on the “no net loss” principle of the Department of Fisheries and Oceans policy. In the long term the City will strive for a net gain in overall productivity of the city’s aquatic habitats. “Tradeoffs” in the interest of land development will only be supported when long term net gains in habitat productivity can be substantiated.

No Net Loss of Terrestrial Habitat.³ Require that “no net loss” in the productive capacity of important and/or critical terrestrial habitats as determined through environmental assessment in land use decisions and project approvals that affect terrestrial habitats as identified on the Natural Environment DP Map 5.5. In the long term the City will strive for a net gain in overall productivity of the city’s terrestrial habitats. “Tradeoffs” in the interest of land development will only be supported when long term net gains in habitat productivity can be substantiated.

Protect Agricultural Land.⁴ Retain the agricultural land base by supporting the ALR and by protecting agricultural lands from development, 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.

Subdivision.⁵ Maximize potential for the use of farmland by not allowing the subdivision of agricultural land into smaller parcels (with the exception of Homesite Severances approved by the ALC) except where significant positive benefits to agriculture can be demonstrated.

Biodiversity.⁶ Maintain and improve biodiversity through the establishment of corridors (connectivity) and where appropriate, through the integration of wild species within agricultural landscapes.

Natural Ecosystem Management.⁷ Ensure the protection of biodiversity, the conservation of critical habitats and the sustainable use of biological resources through the incorporation of an integrated ecosystem management approach and the use of best available knowledge.

Species at Risk.⁸ Require a landscape level approach to ecological planning and management to ensure the ongoing function of environmentally sensitive areas, establishment and/or retention of corridors and habitat connectivity and the preservation of threatened and endangered species.

5.2 Agriculture Plan

Ditch Maintenance.⁹ Encourage the Ministry of Transportation and Highways and the City to work with the agricultural community to improve flow and ditch conditions in the Benvoulin / Mission Creek / Swamp Road area, incorporating a mutual understanding of drainage and water quality objectives, toward the ability to maximize flows and a reduction of wet conditions on adjoining agricultural lands.

Benvoulin Flats - Mission Creek Area.¹⁰ Encourage on-farm drainage improvements for the general Benvoulin Flats - Mission Creek Area and support drainage improvements in the public ditch system to assist on-farm drainage.

6.0 Technical Comments

² City of Kelowna Official Community Plan, Policy 5.15.1 (Development Process Chapter).

³ City of Kelowna Official Community Plan, Policy 5.15.2 (Development Process Chapter).

⁴ City of Kelowna Official Community Plan, Policy 5.33.1 (Development Process Chapter).

⁵ City of Kelowna Official Community Plan, Policy 5.33.8 (Development Process Chapter).

⁶ City of Kelowna Official Community Plan, Policy 5.35.1 (Development Process Chapter).

⁷ City of Kelowna Official Community Plan, Policy 6.1.1 (Environment Chapter).

⁸ City of Kelowna Official Community Plan, Policy 6.1.2 (Environment Chapter).

⁹ City of Kelowna Agriculture Plan, Policy 5.35.1 (Environmental Policies, p. 92).

¹⁰ City of Kelowna Agriculture Plan, Policy 14 (Economic Enhancement Policies, p. 150).

6.1 Development Engineering Department

Development Engineering has no comments at this point in time. However, a comprehensive report will be provided at the time of development application should the ALC grant the subdivision.

6.2 Infrastructure Planning

The City needs to secure a formal, legal route of public access/trail as a continuation of the Mission Creek Greenway on this property.

6.3 Subdivision Approving Officer

The Subdivision Approval branch has no objections to the proposed subdivision as shown, but offer the following comments:

- If the City of Kelowna becomes owner of the proposed subdivided land abutting Mission Creek, considerations should be given to consolidating that portion of land to Lot 1, Plan 80134 (City-owned land) located directly southwest of the subject property.
- The Approving Officer will exempt this application from the frontage requirement as outlined in Section 944 of the local Government Act which states that the minimum frontage on the highway must be greater of:
 - i. 10% of the perimeter of that parcel; or
 - ii. The minimum frontage that the local government has established under a bylaw.

7.0 Application Chronology

Date of Application Received: December 23, 2011

Agricultural Advisory Committee N/A

The above noted application was NOT reviewed by the Agricultural Advisory Committee as is typical. The reason for this is that the AAC is not established at this time following the fall 2011 municipal election and the terms of the sale require that the subdivision be considered by the ALC early this spring.

Report prepared by:


Greg Sauer, Land Use Planner

Reviewed by:



Todd Cashin Manager, Manager, Environment & Land Use

Approved for Inclusion:



Shelley Gambacort, Director, Land Use Management

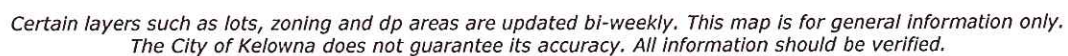
Attachments:

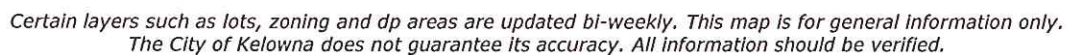
Subject Property Map

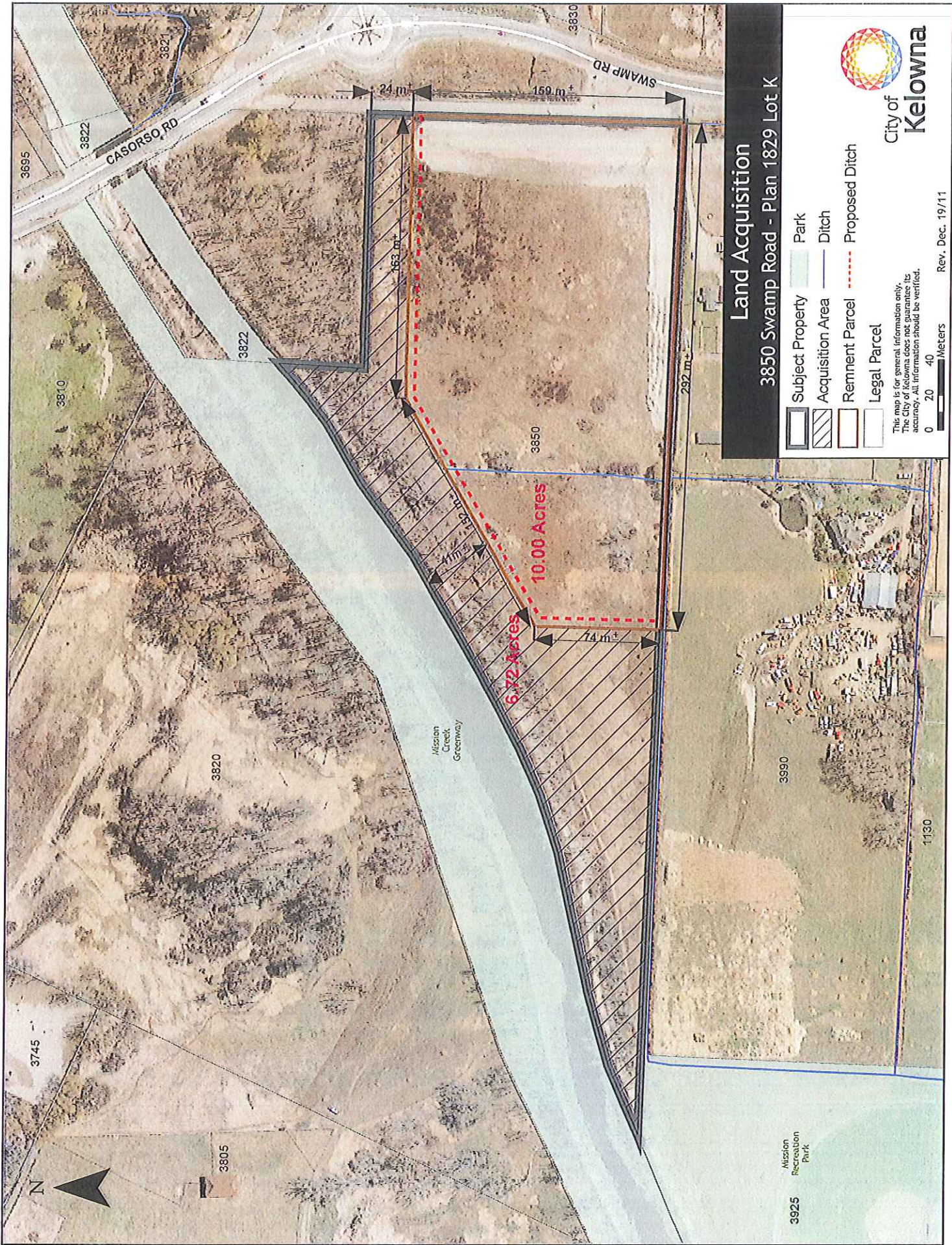
Subject Property Map - ALR

Land Acquisition" map dated Dec. 19/11

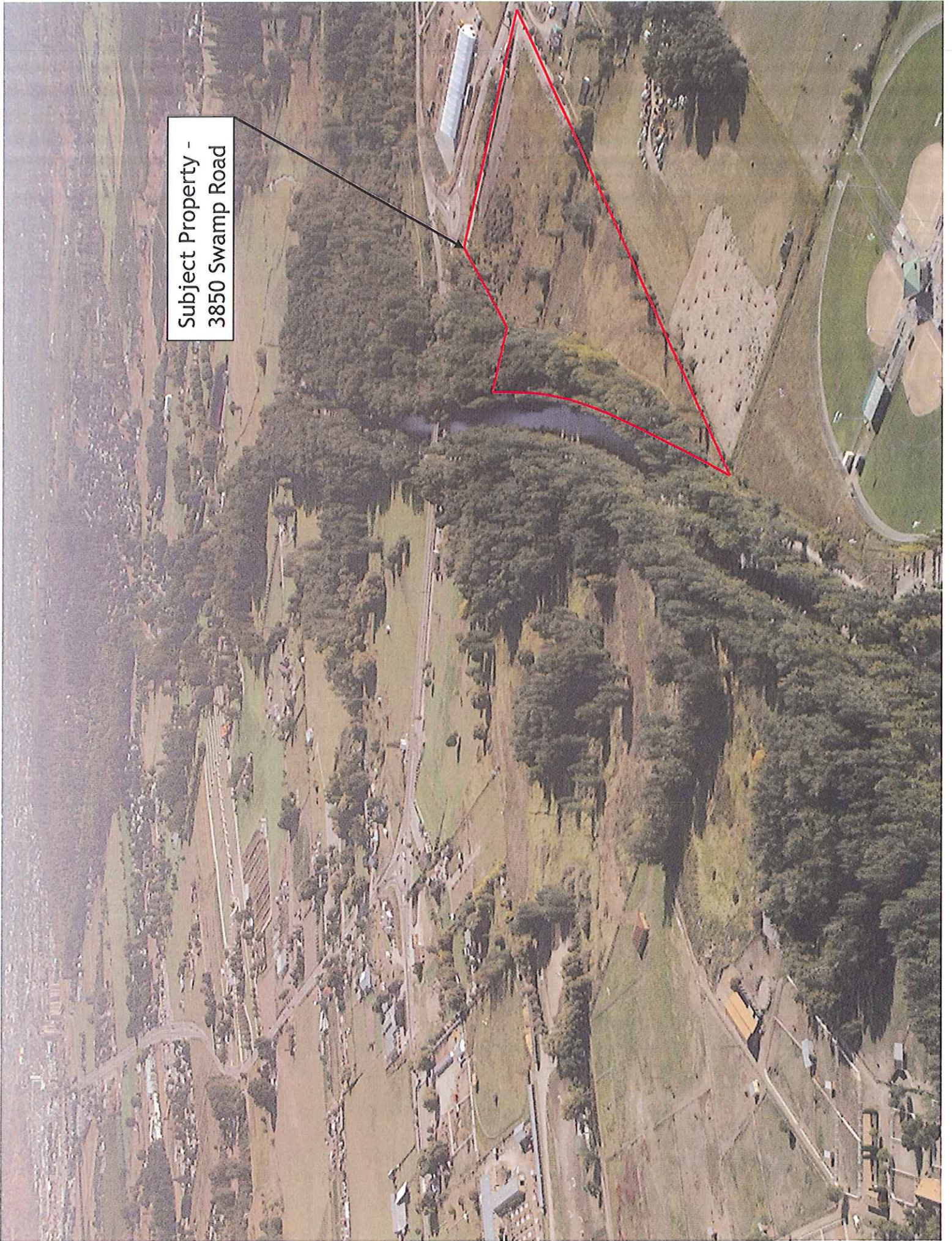
Context/Site Photos (3 pages)







Subject Property -
3850 Swamp Road



3888 Swamp Road, Kelowna, British Columbia, Canada
Address is approximate

