

REPORT TO COUNCIL



Date: July 17, 2012
To: City Manager
From: Land Use Management, Community Sustainability (GS)
Application: A12-0006 **Owner(s):** Nirmal Dhaliwal
Rimplejeet Dhaliwal
Address: 2940 - 2960 Dunster Road **Applicant:** Nirmal Dhaliwal
Subject: Subdivision of land in the Agricultural Land Reserve (ALR).
Existing OCP Designation: Resource Protection Area
Existing Zone: A1 - Agriculture
Proposed Zone: A1 - Agriculture

1.0 Recommendation

THAT Agricultural Land Reserve appeal A12-0006 for Lot 1, Section 22, Township 26, Osoyoos Division Yale District Plan KAP73437, located at 2940 - 2960 Dunster Road, Kelowna, B.C. for subdivision within the Agricultural Land Reserve, pursuant to Section 21(2) of the Agricultural Land Commission Act, NOT be supported by Municipal Council;

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

2.0 Purpose

The applicant is requesting permission from the Agricultural Land Commission (ALC) for a "*Subdivision of agricultural land reserve*" under Section 21(2) of the Agricultural Land Commission Act.

3.0 Land Use Management

The subject property is the result of a previous lot consolidation which was completed in support of a subdivision at another location by a former owner. The result was to create a large (i.e. ~30 acre) parcel by Kelowna standards. These parcels are few and far between and permit contiguous agriculture at a sizable scale. Larger parcels are generally regarded as a benefit to agriculture. At present, two modest homes are located on the subject property. The current owner purchased the subject property earlier this year and now desires to subdivide the property citing "farm financial management" and "succession planning" as reasons for the subdivision.

City of Kelowna plans (e.g. OCP and Agriculture Plan) and policies do not currently address farm financial management or succession planning. Plans and policies are however, in firm support of retaining larger parcels and the proposal is therefore contrary to City policies.

A handwritten signature in red ink, located at the bottom right of the page.

The proposed lot line running north/south would see the two existing dwellings located on the smaller, eastern lot while the western lot would be vacant and therefore would allow for the development of at least one additional dwelling which would not be a positive result. A mobile home which was placed on the western property (see subject property map below) for farm workers, but never occupied was removed in 2011 following bylaw enforcement action.

In exchange for the two lot subdivision, the applicant is proposing to consolidate two properties in the Regional District of Okanagan-Similkameen (RDOS). The subject properties in the South Okanagan near Oliver are zoned AG1 (Agriculture One) and are neither adjacent nor contiguous. Rather, they are separated by a rail Right-Of-Way and which would require the lots to be hooked. The larger parcel of approximately 10.5 acres also has a dwelling in addition to what appears to be a homesite severance taken from the northern edge and rezoned to a residential (RS1) zone.

The location of the subject properties between the Highway and the Okanagan River is cause for some concern. Lands adjacent Okanagan River are likely to experience some issues with high water table and drainage which could limit productivity. Further, the Okanagan River Restoration Initiative (ORRI) plans to set back dykes which have hemmed in the river from its natural pathway. It is unknown if and when this parcel may be affected by river restoration and what the agricultural impacts would be to the smaller (6.2 acre) parcel adjacent Okanagan River.

In terms of the soil quality of the subject parcels, a federal Agrologist notes that:

Both parcels [in the RDOS] are considered 5A without irrigation but with irrigation the larger more westerly parcel is class 3PF which means good farmland with limitations related to stoniness and fertility.

The more easterly parcel by the channel is labelled as class 2W with irrigation which means good farmland with only a minor limitation due to periodic high water table.

Retaining larger parcels for agricultural production in Kelowna is regarded as being of high importance. Further, while the RDOS properties have similar soil ratings and agricultural potential, the two parcels in the RDOS are smaller, not adjacent and as a result are not seen as equal to the large Kelowna parcel. Given this, City staff recommend that Council not support the proposed subdivision.

4.0 Proposal

4.1 Project Description

The applicant is seeking to subdivide the 12.0 ha subject property into two parcels of approximately 7.1 ha (west) and 4.9 ha (east).

Associated with this application is a proposed consolidation of two lots, which are both in the ALR, but outside of the City of Kelowna. The two properties are located along Highway 97 S near Oliver in the Regional District of Okanagan-Similkameen (RDOS).

The applicant notes that "restoring these two lots [on Dunster Road in Kelowna] to their original sizes would be of major benefit with regards to financing, leasing/crop sharing, farm replant programs, and succession planning".

The applicant notes that he has begun improving the agricultural production of the Kelowna parcel with a one acre tree nursery of 10,000 graftings. The applicant also plans to increase production by replanting the entire 29.65 acres to super spindle trees and cherries (~30% cherries and add Honeycrisp and Ambrosia apples).

4.2 Site Context

The subject property is located on the north side of Dunster Road and south of Mission Creek and the Mission Creek Regional Park and Greenway and within the Southeast Kelowna Sector. The subject property is separated from the Creek and Park to the north by a significant change in topography and a "Hazardous Condition" in terms of steep slopes.

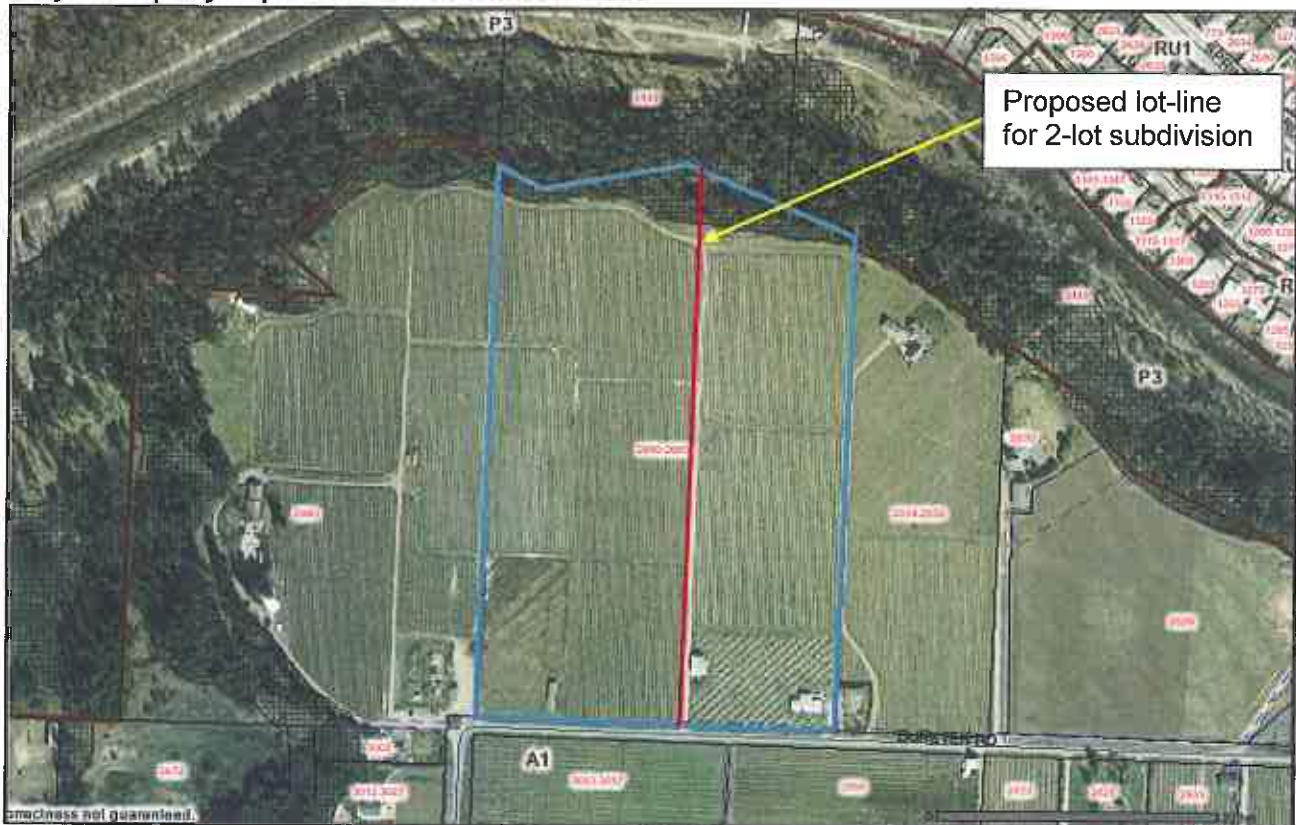
The subject property is located among agricultural parcels in the ALR and is currently planted as an apple orchard. According to the Canada Land Inventory (CLI), the bulk of the productive (i.e. flat) area is largely Class 5 improved to Class 3, some Class 3 soils improved to Class 2 (see attached "Land Capability Map"). The subject property has good agricultural capability with desirable soils and topography.

Parcel Summary: 2940 - 2960 Dunster Road
 Parcel Size: 12.0 ha (29.6 ac)
 Elevation: ~405 - 436 masl

Specifically, adjacent land uses are as follows:

Direction	Zoning	ALR	Land Use
North	P3 - Parks & Open Space	Yes	Mission Creek & Mission Creek Regional Park
South	A1 - Agriculture 1	Yes	Rural/agricultural
East	A1 - Agriculture 1	Yes	Rural/agricultural
West	A1 - Agriculture 1	Yes	Rural/agricultural

Subject Property Map: 2940 - 2960 Dunster Road



5.0 Current Development Policies

5.1 Kelowna Official Community Plan (OCP)

Objective 5.33 Protect and enhance local agriculture¹.

Policy .1 Protect Agricultural Land. 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.

Policy .8 Subdivision. 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.

Policy .9 Housing in Agricultural Areas. Discourage residential development (both expansions and new developments) in areas isolated within agricultural environments (both ALR and non-ALR).

Development Permit Guidelines²

1.2 On agricultural lands, where appropriate, locate all buildings and structures, including farm help housing and farm retail sales, within a contiguous area (i.e. homeplate). Exceptions may be permitted where the buildings or structures are for farm use only.

5.2 City of Kelowna Agriculture Plan

ALR Application Criteria³

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.

Urban - Rural/Agricultural Boundary Policies⁴

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

6.0 Technical Comments

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.

7.0 Application Chronology

Date of Application Received: May 2, 2012

Agricultural Advisory Committee June 14, 2012

¹ City of Kelowna Official Community Plan - Chapter 5 - Development Process; pp. 5.33 & 5.34.

² City of Kelowna Official Community Plan - Chapter 15 - Farm Protection DP Guidelines; p. 15.3.

³ City of Kelowna Agriculture Plan (1998); p. 130.

⁴ City of Kelowna Agriculture Plan (1998); p. 131.

The above noted application was reviewed by the AAC and the following recommendation was passed:

THAT the Agricultural Advisory Committee NOT support Agricultural Land Reserve Application No. A12-0006 for 3940-2960 Dunster Road, by Nirmal & Rimplejeet Dhaliwal, to obtain approval from the Agricultural Land Commission for a "Subdivision of Agricultural Land Reserve" under Section 21(2) of the Agricultural Land Commission Act.

Anecdotal Comment:

The AAC did not support the Application and noted that larger parcels are usually more viable while smaller parcels are often less viable. The AAC regards this proposal as being driven by economics rather than good land use. The AAC is also uncomfortable trading parcels in other jurisdictions as it is outside their mandate which focuses on agricultural land use in Kelowna.

8.0 Alternate Recommendation

THAT Agricultural Land Reserve appeal A12-0006 for Lot 1, Section 22, Township 26, Osoyoos Division Yale District Plan KAP73437, located at 2940 - 2960 Dunster 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).

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:

BC Land Inventory - Land Capability and Soil Classification - 2940 - 2960 Dunster Rd (5 pages)

Subject property/zoning map & ALR map - 2940 - 2960 Dunster Rd (2 pages)

Proposed Subdivision Plan - 2940 - 2960 Dunster Rd (1 page)

ALC application by landowner (7 pages)

RDOS Mapping (3 pages)

Land Capability = Brown/ Soil Class = Green



Soil Classification (Map 82E 083)

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

Portion of Site / %	Soil Type	Description
Central / 66.8% (8ha) 70%	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.
30%	DH - Dartmouth	<u>Land:</u> nearly level to very steeply sloping fluvioglacial deposits. <u>Texture:</u> 25 to 60 cm of sandy loam or loam over gravelly sandy loam or gravelly loamy sand. <u>Drainage:</u> well to rapid. <u>Classification:</u> Orthic Dark Brown.
Southern / 20.8% (2.5ha) 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.
Northern / 12.4% (2.5ha) 70%	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%	HD - Harrland	<u>Land:</u> Eolian veneer over gently to very steeply sloping glacial till. <u>Texture:</u> 10 to 30 cm of sandy loam or loamy sand over gravelly sandy loam or gravelly loamy sand. <u>Drainage:</u> well. <u>Classification:</u> eluviated eutric brunisol.

Land Capability = Brown/ Soil Class = Green



BCLI Land Capability

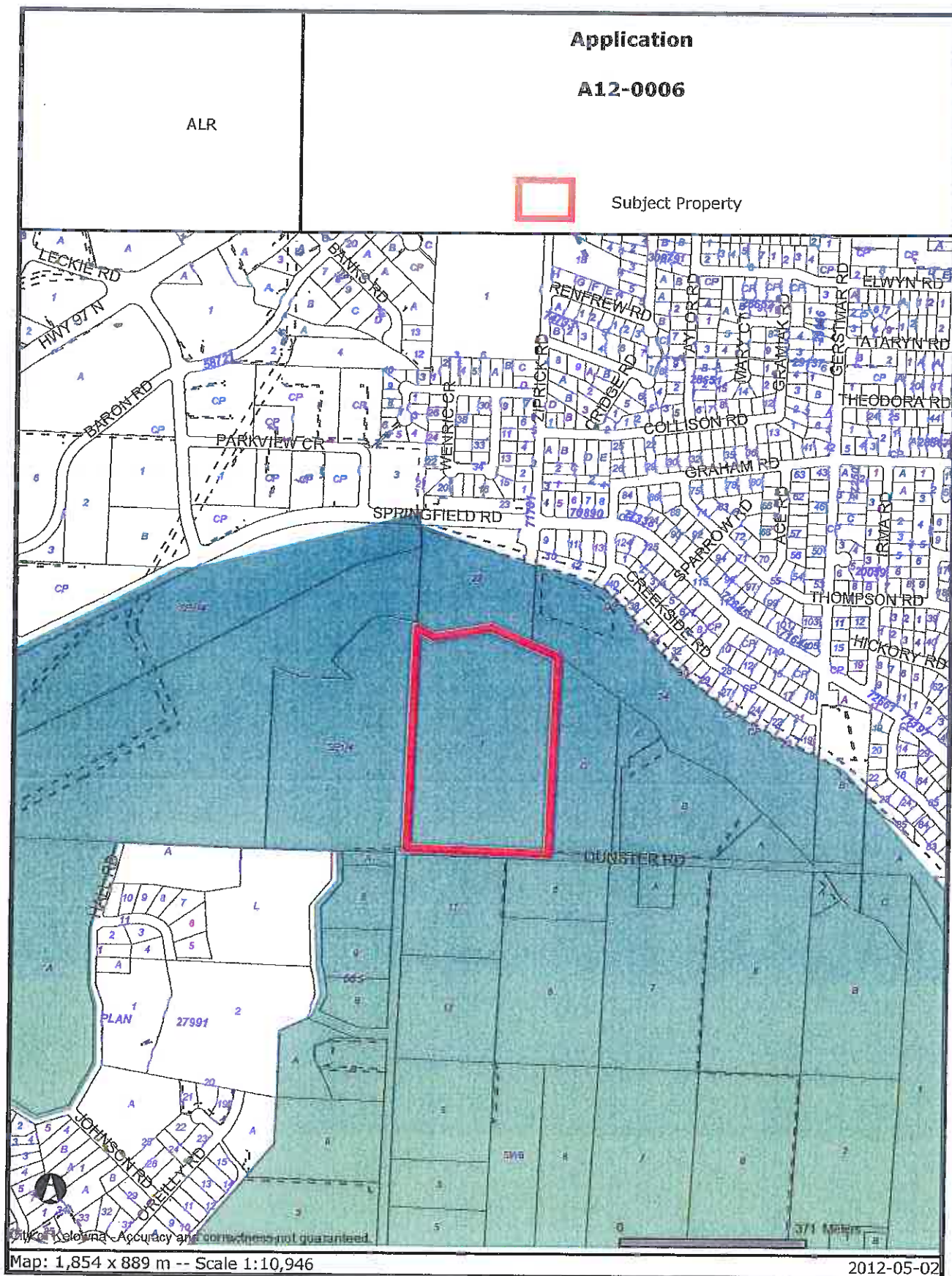
Legend

1	Land in this Class has no or only very slight limitations that restrict its use for the production of common agricultural crops. Land in Class 1 is level or nearly level. The soils are deep, well to imperfectly drained under natural conditions, or have good artificial water table control, and hold moisture well. They can be managed and cropped without difficulty. Productivity is easily maintained for a wide range of field crops.
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.
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.
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.
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.
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.
7	Land in this Class has no capability for arable agriculture or sustained natural grazing. All classified areas not included in Classes 1 to 6 inclusive are placed in this class. Class 7 land may have limitations equivalent to Class 6 land but does not provide natural sustained grazing for domestic livestock due to unsuited natural vegetation. Also included are rock land, other non-soil areas, and small water bodies not shown on the maps. Some unimproved Class 7 land can be improved by draining, diking, irrigation, and/or levelling.

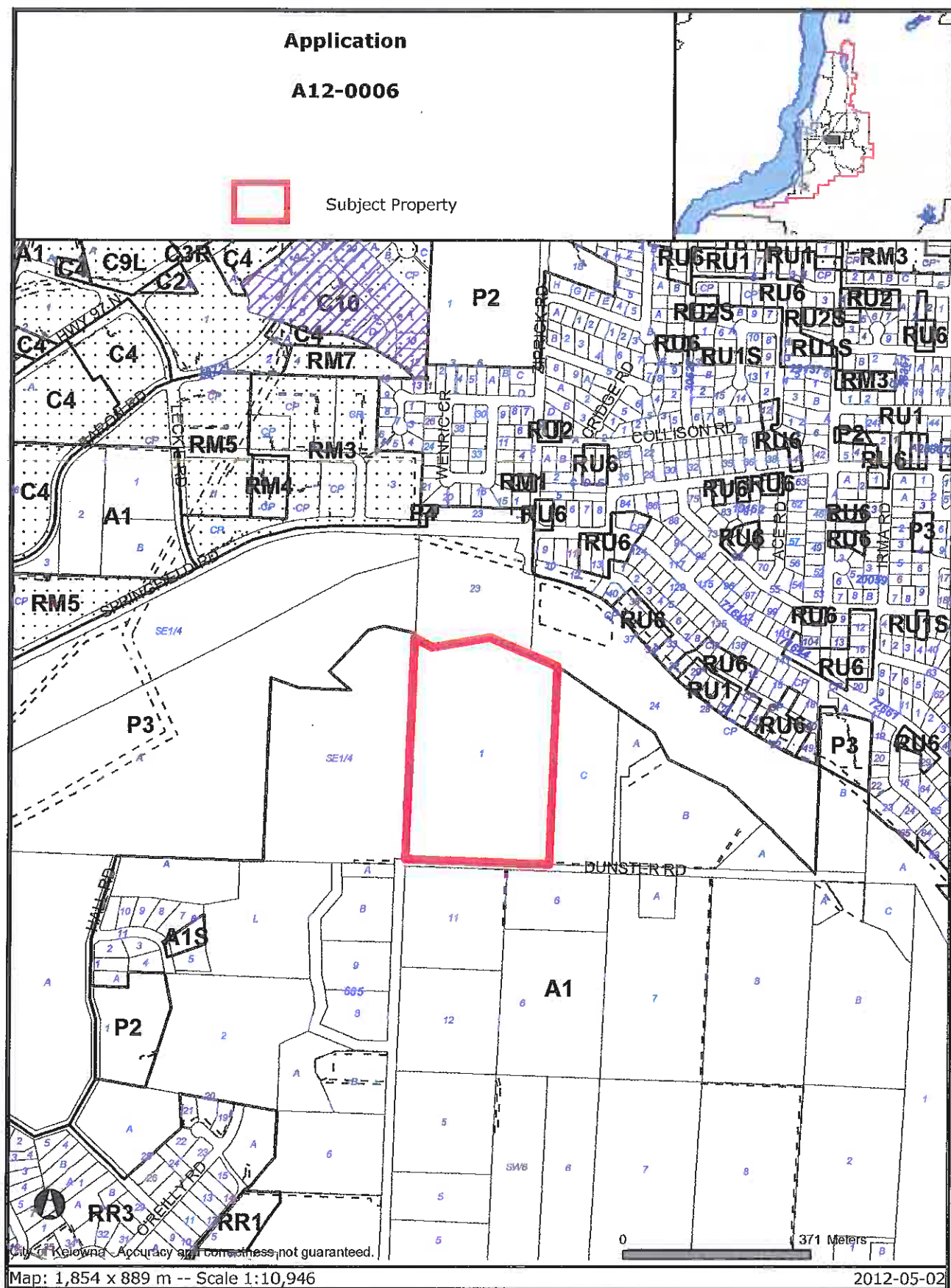
Subject Property Land Capability (Map 82E 083)

Portion of Site	Land Capability Rating, Unimproved	Land Capability Rating, Improved
Central / 66.8% (8ha)	<p>70% Class 5 with crops affected by droughtiness caused low soil water holding capacity or insufficient precipitation.</p> <p>30% Class 4 with crops affected by droughtiness caused low soil water holding capacity or insufficient precipitation.</p>	<p>70% Class 3 with crops affected by droughtiness caused low soil water holding capacity or insufficient precipitation.</p> <p>30% Class 2 with soils which are limited by the presence of coarse fragments which significantly hinder tillage, planting and/or harvesting.</p>
Southern / 20.8% (2.5ha)	100% Class 5 with crops affected by droughtiness caused low soil water holding capacity or insufficient precipitation.	30% Class 3 with soils which are limited by the presence of coarse fragments which significantly hinder tillage, planting and/or harvesting.

Portion of Site	Land Capability Rating, Unimproved	Land Capability Rating, Improved
Northern / 12.4% (2.5ha)	100% Class 6 where 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; and with crops affected by droughtiness caused low soil water holding capacity or insufficient precipitation.	100% Class 6.



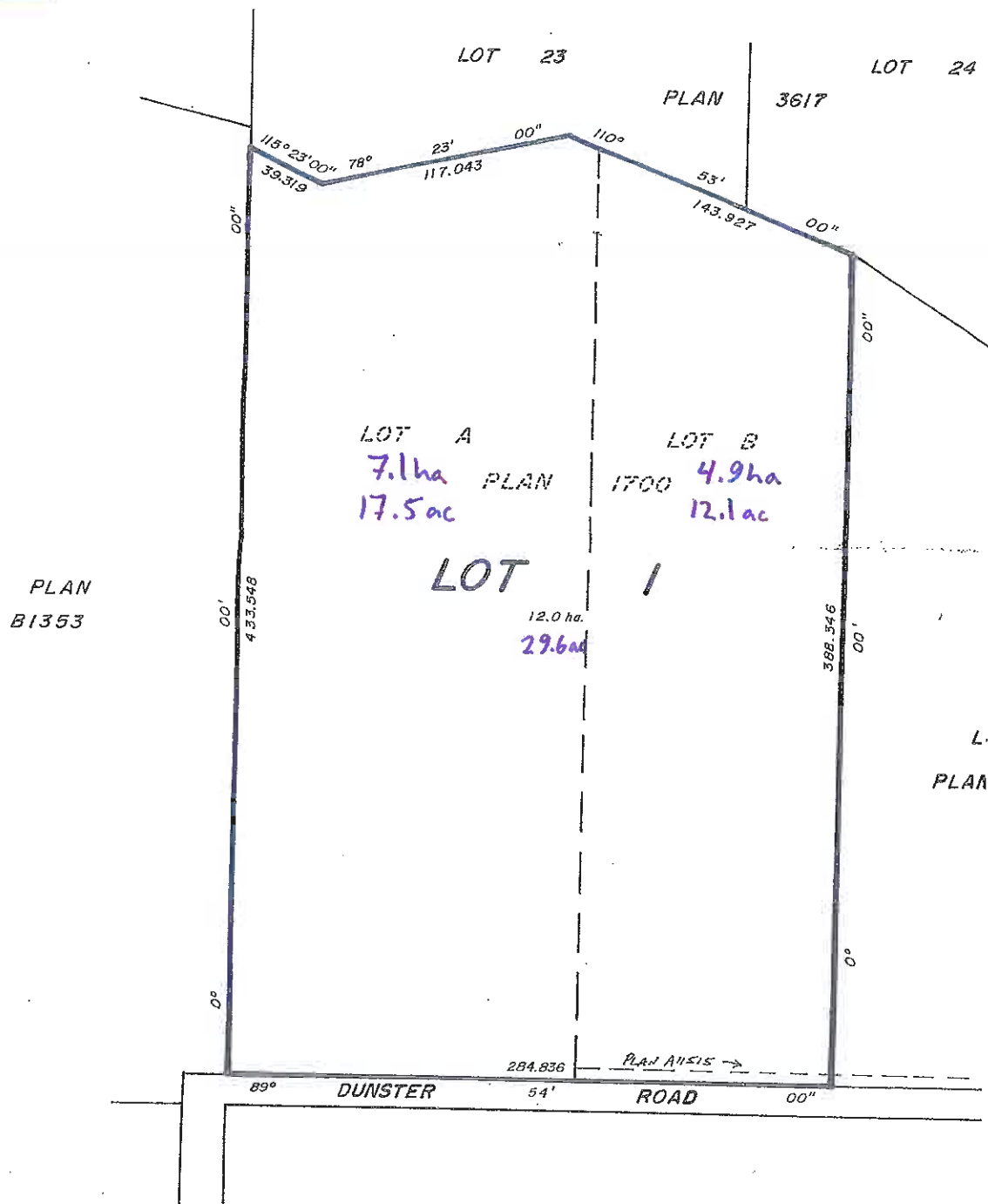
Certain layers such as lots, zoning and dp areas are updated bi-weekly. This map is for general information only.
The City of Kelowna does not guarantee its accuracy. All information should be verified.



O.D.Y.D.

7 PURSUANT TO SECTION 100 OF THE LAND TITLE ACT.

1 : 2000



Bullock
BULLOCK

~~MAIL~~ _____
IA BULLOCK

111

MITCHELL
(PRINT)

ELLIS ST. _____

NA, B.C.

Nirmal Dhaliwal
RR#1 Site-36 Comp-36
Oliver, BC
V0H 1T0

May 15/12

Greg Sauer
City of Kelowna
Kelowna, BC

Dear Mr. Sauer:

Re: Subdivision in the ALR (2940 & 2960 Dunster)

This application is a request to restore 2940 and 2960 Dunster Road, Kelowna back to the original lot sizes of approximately 12.0 acres and 17.65 acres which were merged in 2003 by the previous owner Mr. Bullock. Restoring these two lots to their original sizes would be of major benefit with regards to financing, leasing/crop sharing, farm replant programs, and succession planning. (my two sons).

We propose the merger of two lots in the Oliver area for your consideration. I currently have a farm for sale at 32091 and 32087 Hwy 97 S. It is comprised of two lots, 10.5 acres lot#273 (cherry/apples) and 6.2 acres lot#317 (prunes). If purchased in its current designation as two lots, the new owner could quickly sell off the lower 6.2 acre block to a hobby farmer, thereby reducing his total production and making the remaining farm less viable.

As a dedicated grower and board member of the BC Tree Fruits LTD, I make every effort to support and advance the interests of agriculture in BC and encourage others to do the same. When we purchased lot #317 in 2003, it was vacant and unproductive. After a great deal of work and investment, it is now highly productive and successful orchard of early and late prunes. Short term ground crops are currently produced North and South of this lot. Although the property qualifies for building permits, we have not put any structures on it in order to maximize production. Even if this lot is not sold off separately, any new home or service buildings would reduce production on this farm.

In 2005 we decided to upgrade the adjacent primary farm lot #273 to a mixed orchard to stabilize farm income. Large trees of old varieties were removed and high density cherries, superspindle Ambrosia and Gala apples were planted. Automated drip and overhead irrigation systems were installed to compensate for the higher density plantings and water conservation. Overhead watering provides for both frost protection and summer cooling.

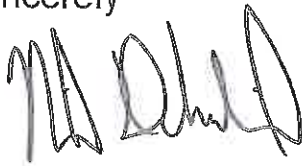
The Oliver lots #273 and #317 are no longer immature orchards but combined into one full production farm and buffered from mono culture market prices. Combining these two lots would prevent erosion of production and a net benefit to agriculture in the Okanagan Valley.

In Kelowna we have aggressively started a small one acre tree nursery of 10,000 graftings. Plans are to increase production by replanting the entire 29.65 acres to super spindle trees and cherries. As a buffer to market trends, we again plan to replant approximately 30% of the property to cherries and add Honeycrisp and Ambrosia apples to the mix.

In conclusion, a return to a two lot designation in Kelowna would be of great assistance to our farm financial management. The parcel sizes would be very viable for farming with no negative impact on agriculture.

Orcharding would continue and be improved with newer varieties and more production. Additionally, the consolidation of the Oliver properties would ensure future agricultural production.

Sincerely

A handwritten signature in dark ink, appearing to read 'Nirmal Dhaliwal', with a stylized, cursive script.

Nirmal Dhaliwal.

Nirmal

From: Bill Wolk [bwolk@bctree.com]
Sent: Friday, May 11, 2012 8:32 AM
To: Nirmal Dhaliwal
Subject: FW: AG Land capability info
Attachments: Slide1.JPG

Hello Nirmal-

Read the email below and take a look at the attached picture to see if that's the information you need.

Bill

From: Smith, Scott [mailto:Scott.Smith@AGR.GC.CA]
Sent: May 9, 2012 2:20 PM
To: Bill Wolk
Subject: RE: AG Land capability info

Bill,

As I will be out of the office tomorrow, I went ahead and just matched your location to the old paper ag capability maps that I have. The symbols from that map are transferred onto the picture.

Both parcels are considered 5A without irrigation (means marginal farmland without irrigation) but with irrigation the larger more westerly parcel is class 3PF which means good farmland with limitations related to stoniness and fertility. The more easterly parcel by the channel is labelled as class 2W with irrigation which means good farmland with only a minor limitation due to periodic high water table. This is an old rating system whereby best land is class 1 and the poorest is class 7. Both class 2 and 3 are considered arable farmland by the ALC. If the grower needs more info, they can call me at 250 494-6382.

When individual parcels of land are involved, we usually suggest the proponent hire a soil consultant to confirm the map rating. Note also that the ratings are not crop specific and in particular do not relate well to grape growing. There is a separate system for that and maybe the grape atlas would be your best bet.

Cheers,

Scott

From: Bill Wolk [mailto:bwolk@bctree.com]
Sent: Wednesday, May 09, 2012 1:23 PM
To: Smith, Scott
Subject: RE: AG Land capability info

Thanks, Scott. I'm going up to Kelowna tomorrow (Thursday) for a 1:30 pm meeting. If I were to stop by the station shortly before lunch, say 11:45, would you be around? If that doesn't work, I could stop by on my way back. In the attached file, the properties in question are the orchard on the southeast corner of Hwy 97 and Road 11 (322 Ave) and another to the southeast that touches the first block's corner. I've outlined them in yellow.












Regards,

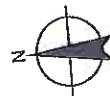
Bill



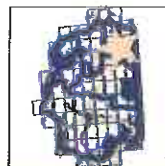
RDOS BASE MAP

Legend:

-  Parcels
-  Electoral Boundary
-  Major Highway
-  Lakes
-  Streams
-  Indian Reserve
-  Parks
-  Provincial Park
-  Protected Area
-  Regional Park
-  Ecological Reserve



This is a computerized map compiled from aerial photography data to be used for convenience only and has no legal function. The Regional District of Similkameen makes no warranty for the accuracy or reliability of the information on this map.



Scale: 1:4,663



April 25, 2012



RDOS
ZONING
BASE MAP

Legend

-
- Parcel Boundary
Streams
Contour - 20 m
Contour - 100 m
Lake
Park
Indian Reserves
Zoning Boundary
Municipal Boundary

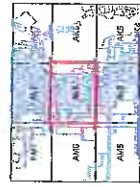


Scale 1:5,000

A vertical scale bar labeled "Meters" with markings at 0, 100, and 200.

Revised Date
08 May 2012

This is a consolidated map compiled from representational data to be used for convenience only and has no legal sanction. The Regional District of Okanagan-Similkameen makes no warranty to the correctness or accuracy of the information on this map.



SLA

Subject Properties



Legend:

- Parents
Testing
Breast/Breastmilk
Hepatitis B
Latex
Gloves
Infants/Children
Parents
Breastmilk
Preventive Area
Responsible
Breastfeeding Area

Subject Properties



This is a consolidated map compiled from representational data to be used for convenience only and has no legal sanction. The Regional District of Okanagan Similkameen makes no warranty of the correctness or accuracy of the information on this map.



Scale: 1:5,997

74 8P 72 96

June 2, 2012

