

City of Kelowna
Public Hearing
AGENDA



Tuesday, December 17, 2013
6:00 pm
Council Chamber
City Hall, 1435 Water Street

Pages

1. Call to Order

THE CHAIR WILL CALL THE HEARING TO ORDER:

1. (a) The purpose of this Hearing is to consider certain bylaws which, if adopted, shall amend *Kelowna 2030 - Official Community Plan* Bylaw No. 10500 and Zoning Bylaw No. 8000.

(b) All persons who believe that their interest in property is affected by the proposed bylaws shall be afforded a reason-able opportunity to be heard or to present written submissions respecting matters contained in the bylaws that are the subject of this hearing. This Hearing is open to the public and all representations to Council form part of the public record. A live audio feed may be broadcast and recorded by Castanet.

(c) All information, correspondence, petitions or reports that have been received concerning the subject bylaws have been made available to the public. The correspondence and petitions received after December 3, 2013 (date of notification) are available for inspection during the course of this hearing and are located on the information table in the foyer of the Council Chamber.

(d) Council debate on the proposed bylaws is scheduled to take place during the Regular Council meeting after the conclusion of this Hearing. It should be noted, however, that for some items a final decision may not be able to be reached tonight.

(e) It must be emphasized that Council will not receive any representation from the applicant or members of the public after conclusion of this Public Hearing.

2. Notification of Meeting

The City Clerk will provide information as to how the Hearing was publicized.

3. Individual Bylaw Submissions

3.1 Bylaw No. 10897 (OCP13-0012) & Bylaw No. 10898 (Z13-0019) - 2049 Byrns Road, Margarita Littley

4 - 17

The applicant is proposing to amend the Future Land Use designation for the property from Resource Protection to the Single/Two Unit Residential designation. It is also proposed that the zoning designation of the property be amended from the A1 - Agriculture 1 zone to the RU6 - Two Dwelling Housing zone. The proposed amendments are to facilitate a two lot subdivision and the development of a total of two new dwellings on the proposed new westerly parcel. The rezoning will bring the existing carriage house into conformance on the subject property and the applicant has agreed to decommission the suite in the existing single family dwelling.

4. Termination

5. Procedure on each Bylaw Submission

(a) Brief description of the application by City Staff (Land Use Management);

(b) The Chair will request that the City Clerk indicate all information, correspondence, petitions or reports received for the record.

(c) The applicant is requested to make representation to Council regarding the project and is encouraged to limit their presentation to 15 minutes.

(d) The Chair will call for representation from the public in attendance as follows:

(i) The microphone at the public podium has been

provided for any person(s) wishing to make representation at the Hearing.

(ii) The Chair will recognize ONLY speakers at the podium.

(iii) Speakers are encouraged to limit their remarks to 5 minutes, however, if they have additional information they may address Council again after all other members of the public have been heard a first time.

(e) Once the public has had an opportunity to comment, the applicant is given an opportunity to respond to any questions raised. The applicant is requested to keep the response to a total of 10 minutes maximum.

(f) Questions by staff by members of Council must be asked before the Public Hearing is closed and not during debate of the bylaw at the Regular Meeting, unless for clarification.

(g) Final calls for representation (ask three times). Unless Council directs that the Public Hearing on the bylaw in question be held open, the Chair shall state to the gallery that the Public Hearing on the Bylaw is closed.

Note: Any applicant or member of the public may use visual aids (e.g. photographs, sketches, slideshows, etc.) to assist in their presentation or questions. The computer and ELMO document camera at the public podium are available. Please ask staff for assistance prior to your item if required.

REPORT TO COUNCIL



Date: November 18, 2013 (Revised Report)
RIM No. 1210-21
To: City Manager
From: Todd Cashin, Subdivision, Agriculture & Environment Services Manager
Application: OCP13-0012
Z13-0019 **Owner:** Margarita Littley
Address: 2049 Byrns Road **Applicant:** Tony Lockhorst
Subject: Official Community Plan (OCP) Amendment and Z13-0019 Report to Council_Nov 18
Existing OCP Designation: Resource Protection Area (REP)
Proposed OCP Designation: Single/Two Unit Residential (S2RES)
Existing Zone: A1- Agriculture 1
Proposed Zone: RU6 - Two Dwelling Housing

1.0 Recommendation

THAT Official Community Plan Bylaw Amendment No. OCP13-0012 to amend Map 4.1 of the Kelowna 2030 - Official Community Plan Bylaw No. 10500, by changing the Future Land Use designation of Lot 2, District Lot 130, Osoyoos Division Yale District, Plan 17289, Except Plan 22166, located at 2049 Byrns Road, Kelowna, BC, from the Resource Protection Area (REP) designation to the Single/Two Unit Residential (S2RES) designation, be considered by Council;

AND THAT Rezoning Application No. Z13-0019 to amend the City of Kelowna Zoning Bylaw No. 8000 by changing the zoning classification of Lot 2 District Lot 130 Osoyoos Division Yale District Plan 17289 Except Plan 22166, located at 2049 Byrns Road, Kelowna, BC, from the A1 - Agriculture 1 zone to the RU6 - Two Dwelling Housing zone, be considered by Council;

AND THAT the Official Community Plan Amendment Bylaw Bylaw and Zone Amending Bylaw be forwarded to a Public Hearing for further consideration;

AND THAT final adoption of the zone amending bylaw be considered subsequent to the requirements of Development Engineering Branch being completed to their satisfaction;

AND FURTHER THAT final adoption of the zone amending bylaw be considered subsequent to the decommissioning of the suite within the single family dwelling to the satisfaction of the City's Chief Building Official.

2.0 Purpose

The applicant is proposing to amend the Future Land Use (FLU) designation for the property from Resource Protection to the Single/Two Unit Residential designation. It is also proposed that the zoning designation of the property be amended from the A1 - Agriculture 1 zone to the RU6 - Two Dwelling Housing zone. The proposed amendments are to facilitate a two lot subdivision and the development of a total of two new dwellings on the proposed new westerly parcel. The rezoning will bring the existing carriage house into conformance on the subject property and the applicant has agreed to decommission the suite in the existing single family dwelling.

3.0 Land Use Management

At the November 4th regular meeting of Council, a recommendation of non-support was considered for an OCP amendment from the current Resource Protection Area designation to the Single/Two Residential and Multiple Unit Residential (Low Density) designations respectively and a proposed rezoning to the RU6 and RM1 zones. Council passed a resolution deferring consideration of both the OCP and Zone amending bylaws and directed staff to work with the applicant on an alternate proposal and report back to Council.

Subsequently staff met with the applicant to discuss the outcome of the Council meeting wherein the applicant advised they would be prepared to amend the application to pursue an OCP amendment to Single/Two Unit Residential and a rezoning to RU6 - Two Dwelling Housing for both proposed lots. The applicant has agreed that, should Council support this revised application, they would decommission the suite in the single family dwelling and retain the carriage house on the proposed easterly lot.

While the subject property is not within the Agricultural Land Reserve (ALR), the existing future land use designation is identified as Resource Protection Area consistent with either Agricultural or Rural Residential zoning. The property abuts productive ALR land and is outside of the City's Permanent Growth Boundary, meaning that Rural Residential is anticipated to be the most intensive use of the property.

The existing subject property is approximately 3,000 m² in size which is consistent with a Rural Residential property size on community sewer. The 0.3 ha property is not, however, large enough to subdivide into two rural residential (i.e. RR3) zoned lots, as the minimum parcel size for an RR3 lot on community sewer is 1600 m².

The Official Community Plan amendment and rezoning of the subject property are being driven by a desire to subdivide the subject property to construct a new duplex dwelling on the western portion. The stated intent is to provide affordable housing for family members.

Though the applicant has amended the application to the Single/Two Unit Residential future land use designation for both lots, Staff must be cognizant of the following concerns with the introduction of the Single/Two Unit Residential designation within this rural area:

- The City's Agriculture Plan discourages new urban growth within agricultural areas which creates additional pressure on the City's rural road network (see Section 5.2 below). An added benefit of discouraging new growth is that the low density rural character remains intact;
- From an agricultural perspective, the proposed development has the potential to worsen an existing urban/rural interface area. This is true as the number of individuals exposed to farm practices such as farm machinery, bird-scaring equipment, odours, and crop spraying would be significantly increased;
- Ideally, agricultural parcels are contiguous and relatively isolated from non-agricultural properties. This is especially true of commercial and residential uses which typically have low compatibility with farm practices. Where urban-rural (i.e. agricultural) interface does exist, fewer units are preferred; and

- Complaints with farm practices is expected to increase with density and further exacerbated by new arrivals not accustomed to normal farm practices.

To mitigate the impact that this increased density could have on the existing agricultural operations Staff recommend that an extensive landscape buffer be required on the subject properties. Specifically, Staff recommend a minimum 15.0 metre landscape buffer consistent with the Ministry of Agriculture's Urban-Side Buffer (with berm) specification (see attached).

Public Notification

The proposal is consistent with an Official Community Plan Amendment - Major ("OCP Major") as per Council Policy 367 - Public Notification & Consultation for Development Applications. An OCP major involves a major change to the Future Land Use class (e.g. Resource Protection to Residential). The applicant has been advised of the requirements for this type of proposed development which include a Project Board, Neighbour Consultation, and Public Information Session.

Should Council elect to forward this application to a Public Hearing, staff recommend that Council require the applicant to conduct additional neighbour consultation of all landowners within 150 metres of the subject property using content agreed to by staff to ensure accurate messaging.

4.0 Proposal

4.1 Background/ Project Description

The subject property has a land use designation of Resource Protection Area in the City's Official Community Plan and is zoned A1-Agriculture. The property is also outside of the Permanent Growth Boundary.

The subject property contains a legal non-conforming up/down duplex which was permitted in 1973 by the Regional District. An accessory structure (garage) was also permitted at this time. In the time since, the garage has been converted to an illegal dwelling unit (i.e. without zoning and Building Permits). A resident alerted staff to the presence of the illegal third dwelling (i.e. Carriage House). While it is unclear how long this illegal dwelling has been occupied, a second garage was constructed in 1988 which may correspond with the conversion.

The current owner appears to have purchased what was likely a non-conforming property in 2007. When asked, the property owner acknowledged that the garage is occupied as a dwelling. The owner also remarked that the duplex dwelling is being used as a single dwelling with unrestricted access between the two floors. That said, by definition, three dwellings currently exist on the subject property while the A1 zone allows for a single dwelling with suite in the principal dwelling for a maximum of two dwellings. A site inspection to confirm the dwellings has not been undertaken at this time.

As background, the original proposal was to rezone the western portion of the approximately 0.3 ha site to the RM1 - Four Dwelling Housing zone to allow for up to four dwellings. The application has been modified as a result of public consultation with an adjacent neighbour who did not support the original proposal. The proposed rezoning is a necessary precursor to achieving the applicant/owners goal of a two lot subdivision. The proposed rezoning to the RU6 zone requires an OCP amendment from the current Future Land Use designation of Resource Protection Area to the Single/Two Unit Residential.

As proposed, the existing garage appears to be located within the 2.0 metre minimum side yard setback distance of the RU6 zone. As such, should Council support the rezoning, a Development Variance Permit would be required prior to the two lot subdivision being authorized.

Site Context

The subject property is located south of Byrns Road between Benvoulin and Burtch Roads. The 0.30 ha (0.74 ac) subject property is in a rural/agricultural area, outside of the City’s Permanent Growth Boundary. The subject property along with eight others fronting Byrns and Benvoulin Roads are legally non-conforming A1 - Agriculture zoned properties given their parcel size (all significantly less than 4.0 ha). The average parcel size of these properties is 0.18 ha which is consistent with the City’s Rural Residential Zones (i.e. RR1, 2 & 3) which provide for a range of lot sizes between 0.18 and 0.8 hectares when connected to community sewer (1.0 ha if not connected).

All but one property are connected to community water and all but two are currently connected to community sewer. Byrns Road is constructed to a rural standard and contains no storm sewer.

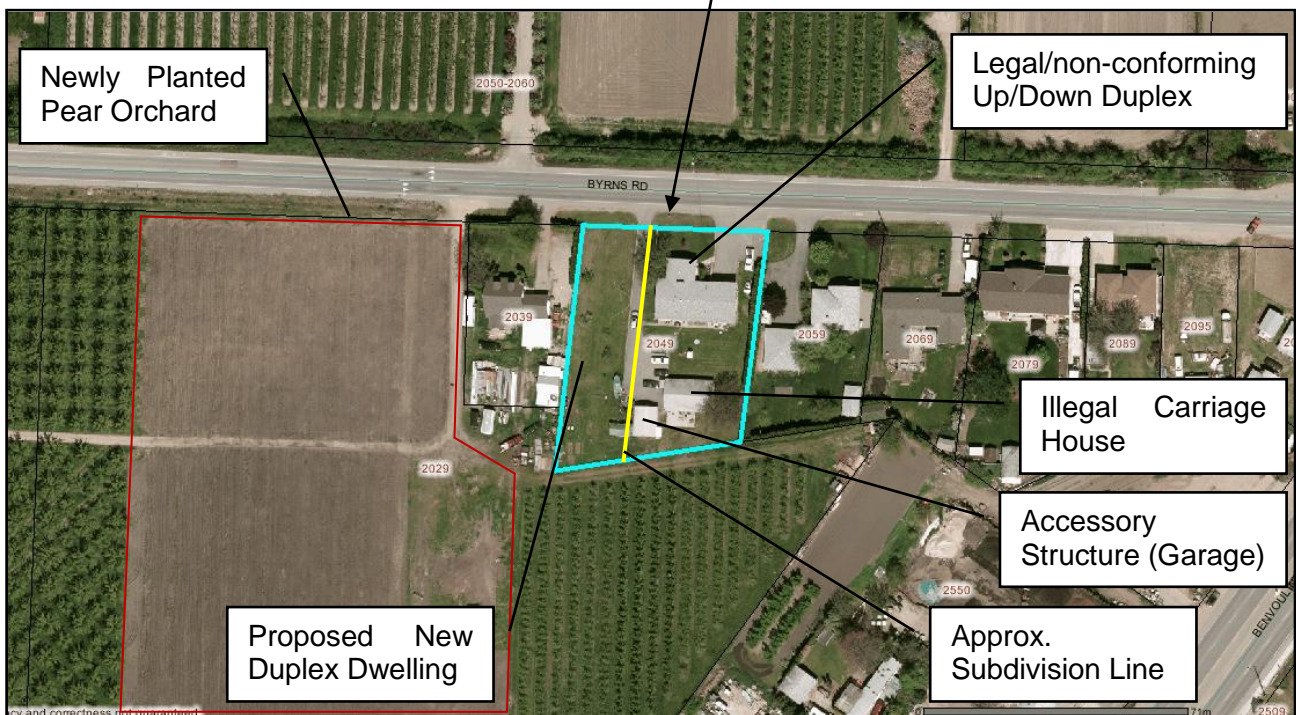
Properties to the north and south of the subject property are large agricultural properties, while properties to the east and west are rural residential in nature, consistent with the subject property.

Specifically, adjacent land uses are as follows:

Orientation	Zoning	ALR (Yes/No)	Land Use
North	A1 - Agriculture 1	Yes	Agriculture (Ground Crops)
East	A1 - Agriculture 1	No	Rural residential
South	A1 - Agriculture 1	Yes	Agriculture (Orchard)
West	A1 - Agriculture 1	No	Rural residential

The subject property is located within a Development Permit Area for Farm Protection given its proximity to ALR land. Should Council endorse the proposal, Form & Character (Intensive Residential) Development Permits would also apply and would be authorized at the staff level.

Map 1 - Subject Property Map: 2049 Byrns Road



Map 2 - Photo Key

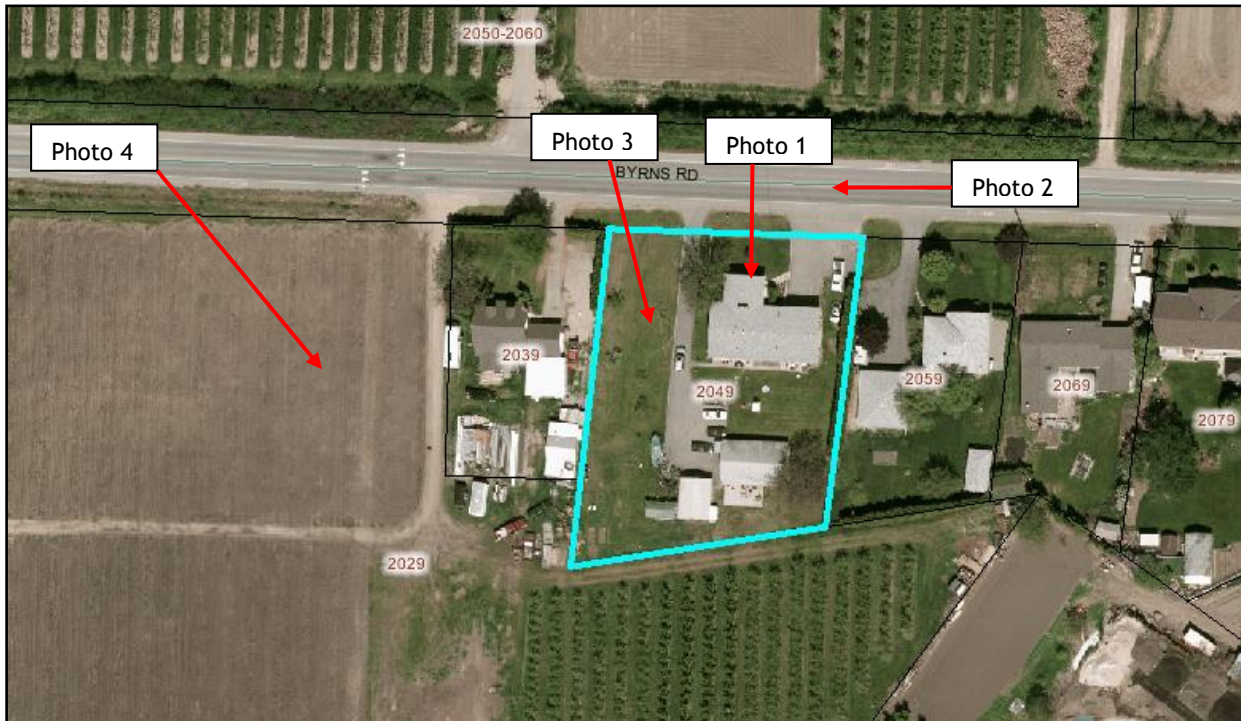


Photo 1: Subject Property and Existing Up/Down Duplex Looking South from Byrns Road (Google Street View - Date Unknown)



Photo 2: Byrns Road Looking West with Subject Property and Existing Dwelling in Foreground (Google Street View - Date Unknown)



Photo 3: Subject Property with Existing Dwelling in Foreground and "Carriage House" in Background (Google Street View - Date Unknown)

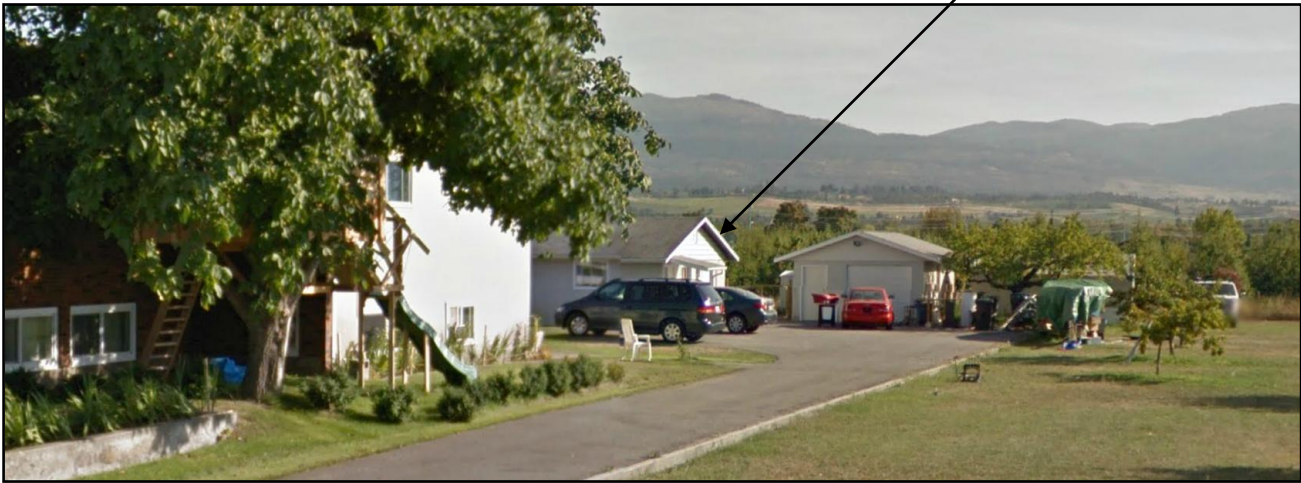


Photo 4: Byrns Road Looking Southeast with Newly Planted Pear Orchard Approximately 30 metres from Subject Property (May 30, 2013)



5.0 Current Development Policies

5.1 Kelowna Official Community Plan (OCP)

Objective 5.3 Focus development to designated growth areas¹.

Policy .1 Permanent Growth Boundary. Establish a Permanent Growth Boundary as identified on Map 4.1 and Map 5.2. Support development of property outside the Permanent Growth Boundary for more intensive uses only to the extent permitted as per the OCP Future Land Use designations in place as of initial adoption of OCP Bylaw 10500, except as per Council's specific amendment of this policy. Resource Protection Area designated properties not in the ALR and outside the Permanent Growth Boundary will not be supported for subdivision below parcel sizes of 4.0 ha (10 acres). The Permanent Growth Boundary may be reviewed as part of the next major OCP update.

Policy .2 Compact Urban Form. Develop a compact urban form that maximizes the use of existing infrastructure and contributes to energy efficient settlement patterns. This will be done by increasing densities (approximately 75 - 100 people and/or jobs per ha located within a 400 metre walking distance of transit stops is required to support the level of transit service) through development, conversion, and re-development within Urban Centres (see Map 5.3) in particular and existing areas as per the provisions of the Generalized Future Land Use Map 4.1.

Objective 5.33 Protect and enhance local agriculture².

Policy .3 Urban Uses. 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.

Farm Protection DP Guidelines³

Objectives

- Protect farm land and farm operations;
- Minimize the impact of urban encroachment and land use conflicts on agricultural land;
- Minimize conflicts created by activities designated as farm use by ALC regulation and non-farm uses within agricultural areas.

Guidelines

1.1 On properties located adjacent to agricultural lands, design buildings to reduce impact from activities associated with farm operations. Design considerations include, but are not limited to maximizing the setback between agricultural land and buildings and structures, and reducing the number of doors, windows, and outdoor patios facing agricultural land.

1.3 On agricultural and non-agricultural lands, establish and maintain a landscape buffer along the agricultural and/or property boundary, except where development is for a permitted farm use that will not encourage public attendance and does not concern additional residences (including secondary suites), in accordance with the following criteria:

1.3.1 Consistent with guidelines provided by Ministry of Agriculture "Guide to Edge Planning" and the ALC report "Landscape Buffer Specifications" or its replacement.

1.5 Design any subdivision or urban development of land to reduce densities and the intensity of uses gradually towards the boundary of agricultural lands.

5.2 City of Kelowna Agriculture Plan

Transportation Policies⁴

New Growth Areas. Discourage the establishment of new growth areas within or beyond agricultural areas that create additional traffic pressure on the local rural road network.

¹ City of Kelowna 2030 Official Community Plan (2011) - Farm Protection Development Permit Chapter; p. 15.2 - 15.4.

² City of Kelowna 2030 Official Community Plan (2011) - Development Process Chapter; p. 5.35.

³ City of Kelowna 2030 Official Community Plan (2011) - Farm Protection Development Permit Chapter; p. 15.2 - 15.4.

⁴ City of Kelowna Agriculture Plan (1998); p. 99.

Urban-Rural/Agricultural Boundary Policies⁵

Farmland Preservation. Direct urban uses to land within the urban portion of the defined urban - rural / agricultural boundary, in the interest of reducing development and speculative pressure, toward the preservation of agricultural lands and discourage further extension of existing urban areas into agricultural lands;

Urban Buffers. Require new development, adjacent to agricultural areas, to establish setbacks, fencing and landscape buffers on the urban side of the defined urban - rural/agricultural boundary;

Parcel Size: Non - Agricultural Land. Discourage subdivision to smaller parcel sizes on lands beyond agricultural areas in order to reduce negative impacts on the farming community and encourage the Central Okanagan Regional District and the Ministry of Environment, Land and Parks to consider maintaining larger minimum parcel sizes for Crown Lands within and adjacent to the City in recognition of the provincial interest in retaining farming;

Isolated Development. In general, not support extensions to existing development or new development isolated within agricultural areas, regardless of ALR status.

6.0 Technical Comments

6.1 Building & Permitting Department

- With respect to legalizing the existing “carriage house” dwelling, staff would need to inspect the structure and plumbing & heating system to see if it meets the requirements of the current building code. An architect and/or engineer would need to submit a report and provide as-built drawings along with establishing if Code criteria is met. Areas of the house may need to be exposed to confirm the work meets Code and retrofit/repair any areas of non-compliance.
- The drawings and specifications are to be submitted as part of a building permit for validation of the work done without permit.

6.2 Development Engineering Department

- See attached.

6.3 Agricultural Advisory Committee

The rezoning was not formally considered by the AAC, but staff referred it to AAC as staff were seeking AAC comments with respect to mitigating the effects on adjacent agriculture should Council support the rezoning:

- AAC members noted that the adjacent farmer (to the south) has recently planted a new pear orchard;
- AAC members cited the potential increase in urban/rural conflict as their primary concern; and
- Should the rezoning be supported, AAC members suggested an extensive buffer zone (e.g. 15 - 20 metres with berm) and plantings to mitigate urban/rural conflict.

⁵ City of Kelowna Agriculture Plan (1998); p. 131 & 132.

7.0 Application Chronology

Application Received:	April 25, 2013
AAC Referral Review:	May 9, 2013
Technical Comments Complete:	May 29, 2013
Applicant Submits Public Notification Summary:	June 12, 2013
Applicant Submits Revised Land Use Proposal:	July 11, 2013
Applicant Places File on Hold:	August 6, 2013
Council Consideration:	November 4, 2013
Applicant Meeting to Review Council Outcome:	November 6, 2013

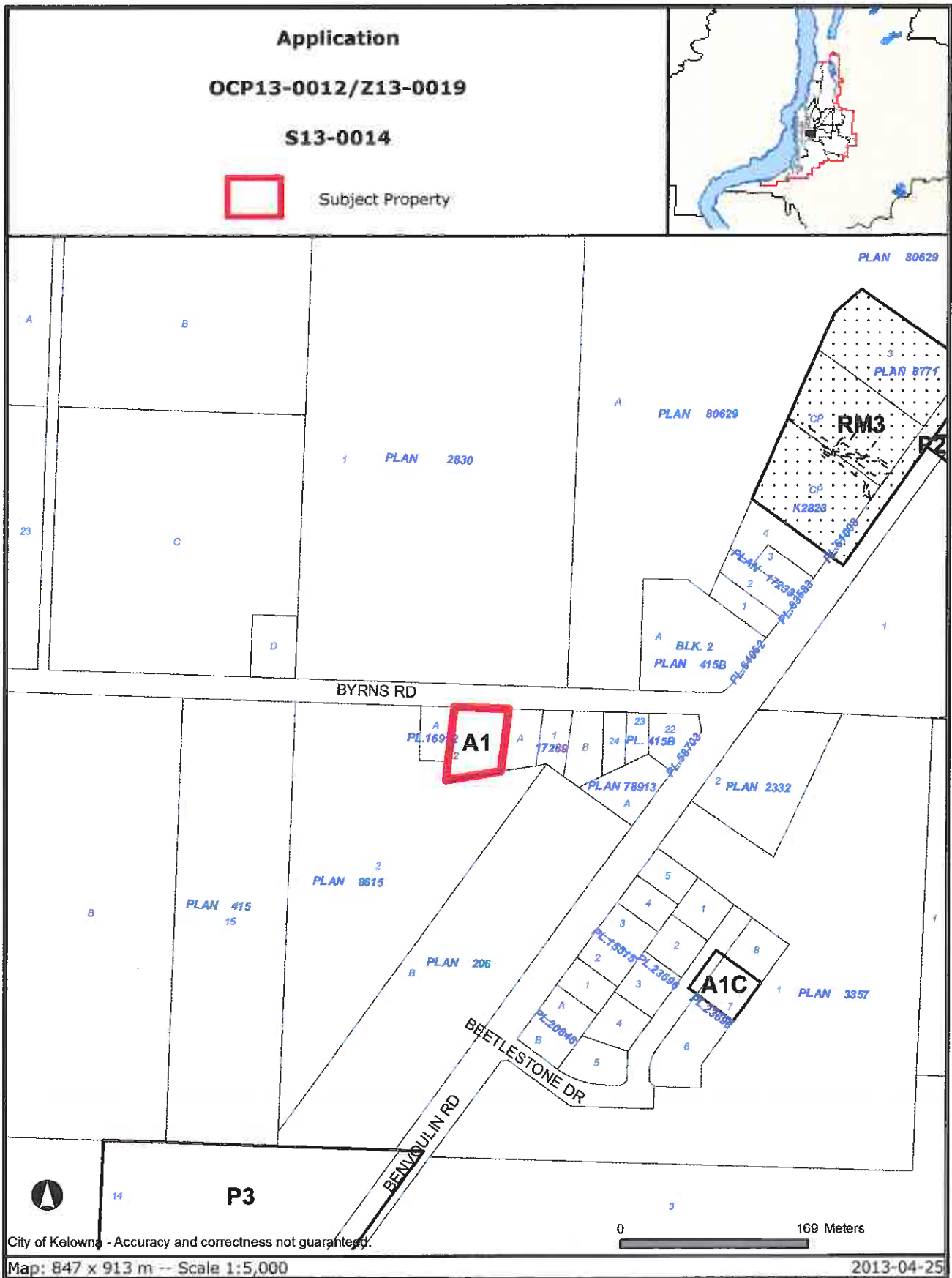
Report prepared by:

Todd Cashin, Subdivision, Agriculture & Environment Services Manager

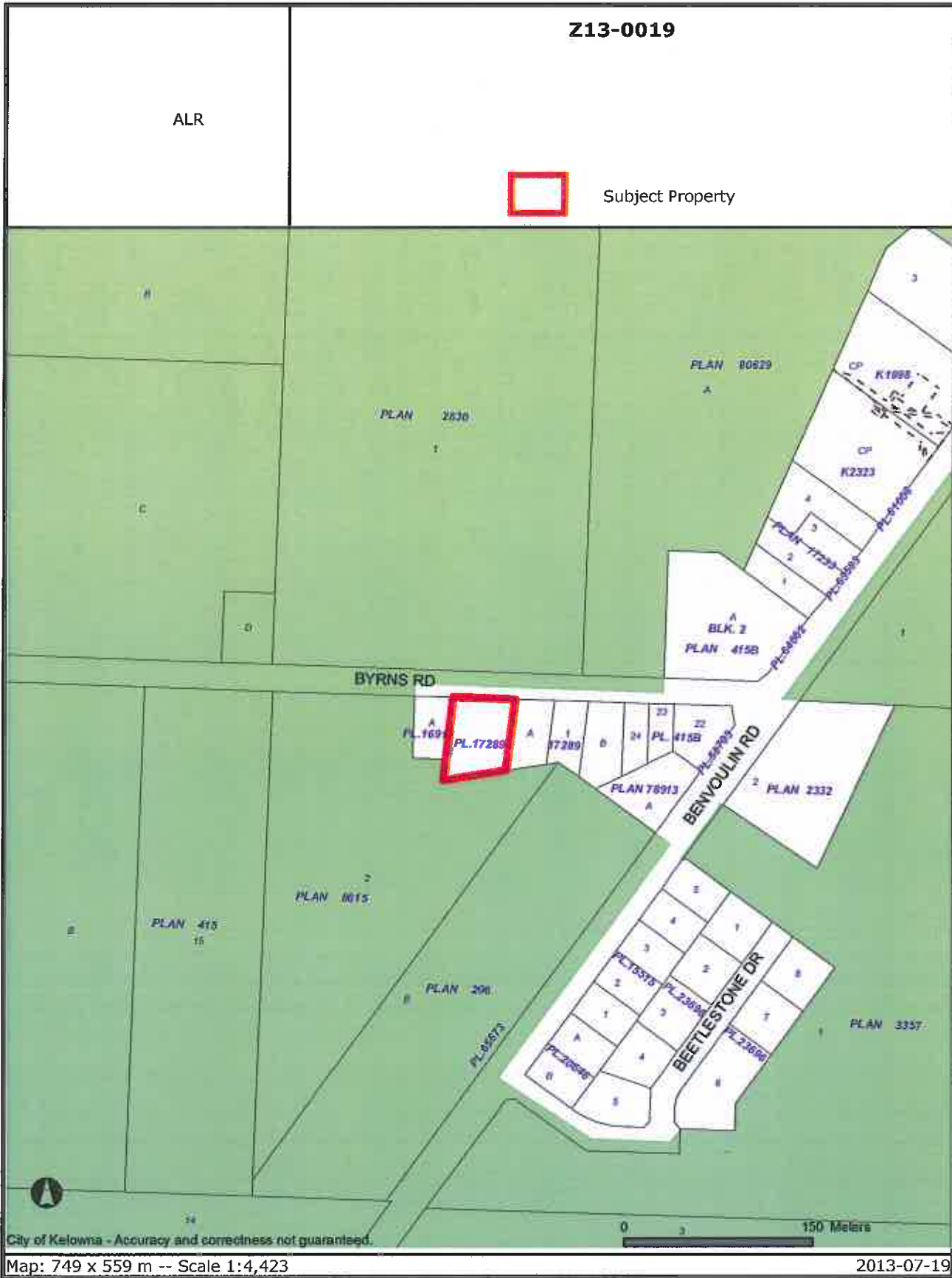
Approved for Inclusion S. Gambacort, Director

Attachments:

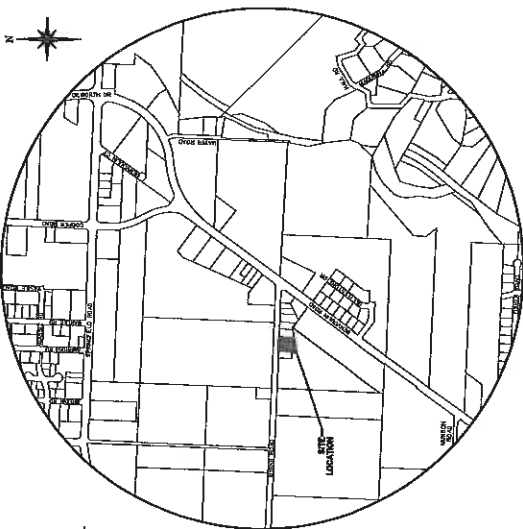
Subject property/zoning map & ALR map (2 pages)
Development Engineering Comments (1 page)
Schedule "A" - Landscape Buffer (1 page)
Preliminary Lot Layout (1 page)



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.



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SITE PLAN

PROPOSED LOT 2	
ZONING	RESIDENTIAL SINGLE-FAMILY
SETBACKS	FRONT YARD: 6.0m SIDE YARD: 3.0m REAR YARD: 3.0m LANDSCAPE BUFFER: 3.0m

PROPOSED LOT 1	
ZONING	RESIDENTIAL SINGLE-FAMILY
SETBACKS	FRONT YARD: 6.0m SIDE YARD: 3.0m REAR YARD: 3.0m LANDSCAPE BUFFER: 3.0m

NOTES	
TOTAL SUBDIVISION AREA	3.00m ²
TOTAL NO. OF LOTS	2

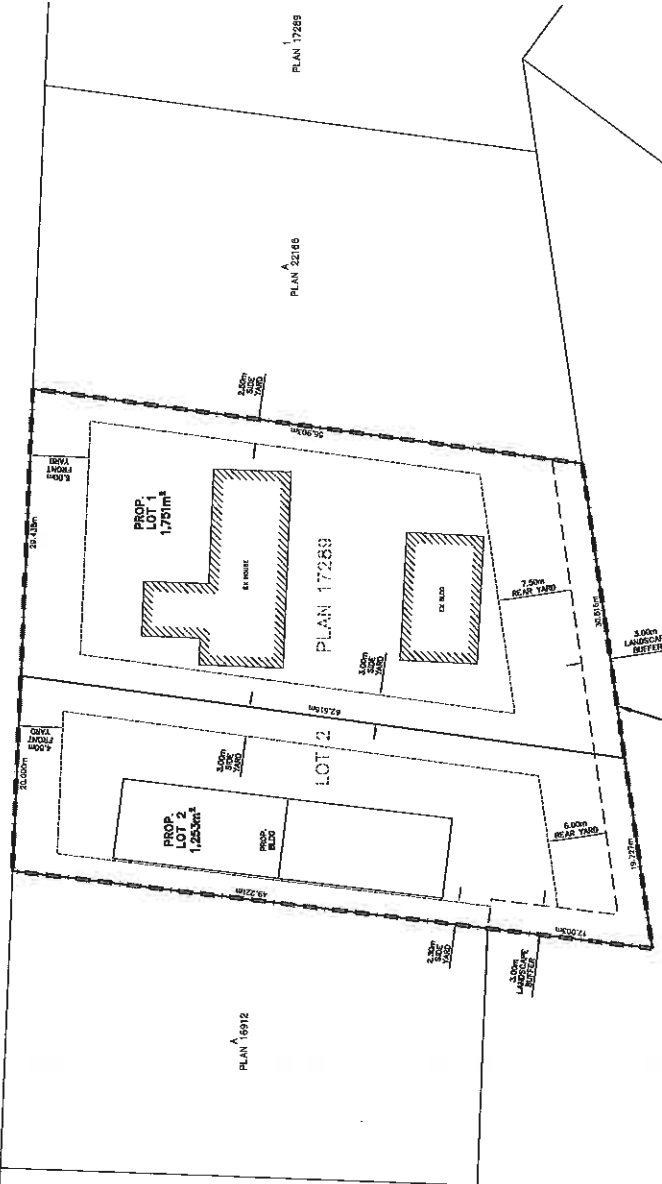
LEGEND	
[Line Style]	SUBDIVISION BOUNDARY
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[Line Style]	NATURAL GAS

LEGAL DESCRIPTION	
CITY OF KELOWNA	INDUSTRIAL DEPARTMENT
2049 BYRNS ROAD	MARGARITA LITTELY
PRELIMINARY LOT LAYOUT	
PROPOSED SUBDIVISION OF LOT 2, PLAN 17289, O.D.V.C.	

DRAWING INFORMATION	
CITY FILE NO.	2267-P1
DRAWING NO.	2267-P1
REVISION	2

PLAN 2830

BYRNS ROAD



SUBDIVISION BOUNDARY

PLAN 206

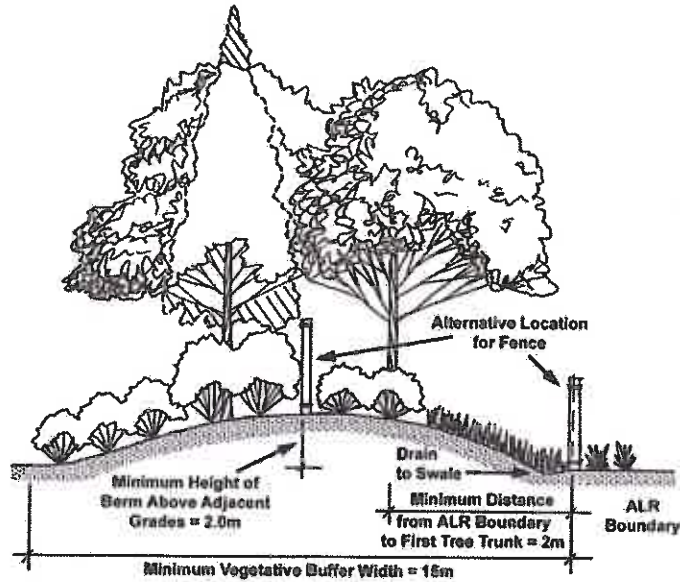


NO.	DATE	BY	REVISION
1	04/30/13	LMV	REVISED PROPOSED ZONING
2	07/11/13	LMV	REVISED AS PER CITY

Schedule "A" - Landscape Buffer

Urban-Side Buffer B (with berm) - Design specifications & layout

The Urban-side Buffer B includes all elements of Buffer A as well as a berm with minimum height 2 m above adjacent grades.



CITY OF KELOWNA
MEMORANDUM

Date: June 24, 2013
File No.: Z13-0019
To: Land Use Management Department (GS)
From: Development Engineering Manager
Subject: 2049 Byrns Road *REVISED* Lot 2 Plan 17289 A1 to RU6 & RM1

Development Engineering has the following comments and requirements associated with this application to rezone from A1 to RU6 & RM1.

1. Domestic Water and Fire Protection

Our records indicate that this property is serviced with a 19mm diameter copper water service. The current by-law requires that only one service be permitted for this application. *The service required for RM1 and RU6 will need to be sized adequately for each zoning. **Larger new services and disconnection of the existing can be provided by City forces at the applicant's expense for the RM1 & RU6 future lot.*** For estimate inquiry's please contact Sergio Sartori, by email ssartori@kelowna.ca or phone, 250-469-8589.

2. Sanitary Sewer

Our records indicate that this property is serviced with a 100mm-diameter sanitary sewer service complete with inspection chamber. *The service is adequate for either the RU6 future lot or the RM1 future lot.*

3. Road Improvements

Byrns Road must be upgraded to an urban standard along the full frontage of this property, including curb and gutter, piped storm drainage facilities, sidewalk, street lighting and pavement widening. A one-time cash payment in lieu of construction must be collected from the applicant for future construction by the City. The cash-in-lieu amount is determined to be **\$18,300.00** not including utility service costs

4. Access, Manoeuvrability and Parking Requirements

On-site parking modules must meet bylaw requirements.



Steve Muenz, P. Eng.
Development Engineering Manager

SS