



Regional Board Report

Request for Decision

Approved for Board Consideration

A handwritten signature in black ink, appearing to read "Corie Griffiths".

Corie Griffiths, Deputy CAO

To: Regional Board

From: Todd Cashin, Director of Community Services

Date: August 22, 2022

Subject: RDCO File: Z22/02
D. Arcand (owner), Rick Reece (agent)
944 Bear Creek Road (Central Okanagan West Electoral Area)

Voting Entitlement: *Custom Vote –Electoral Areas & West Kelowna Fringe Area – 1 Director, 1 Vote*

Purpose: To consider non support of an application to amend the Rural Westside Official Community plan to rezone a portion of the subject property from Rural 1 (RU1) to Rural 2 (RU2) for the purpose of future subdivision.

Executive Summary:

The applicant is seeking to rezone a portion of Lot A, District Lot 2176, ODYD, Plan 23825, Except Plans KAP59351 and KAP82794, from Rural 1 (RU1) to Rural 2 (RU2) for the purpose of future subdivision. To date there have been no concerns received from internal departments, external agencies or the public. However, the area is not within a Fire Protection Area and the application does not comply with the Large Holding future land use designation policies as per the Rural Westside Official Community Plan (OCP). The OCP does not support zoning amendment application that would allow for the further fragmentation of parcels within this future land use designation.

Recommendation(s):

THAT the Regional Board receives the report from the Director of Community Services, dated August 22, 2022, with respect to RDCO file: Z22/02 for the property located at 944 Bear Creek Road, legally described as Lot A, District Lot 2176, ODYD, Plan 23825, Except Plans KAP59351 and KAP82794 (“the subject property”);

AND THAT OCP Amendment Bylaw No. 1274-12 for the subject property **is not** given first reading;

AND FURTHER THAT Zoning Amendment Bylaw No. 871-274 for the subject property **is not** given first reading.

Respectfully Submitted by: Michael Czarny, Senior Planner

Approved by:



Todd Cashin, Director of Community Services

Attachments:

- Orthophoto Map
- Subject Property Map
- OCP Amendment No. 1274-12
- Zoning Amendment Bylaw No. 871-274
- Site Plan
- Zoning Bylaw No.871, Section 6.1 – Rural 1
- Zoning Bylaw No.871, Section 6.2 – Rural 2
- Regional Board Presentation

Strategic Plan Alignment:

Priorities: This application does not meet the Board's Strategic Plan Priorities.

Values: Transparency

Background:

The subject property is developed with a single detached house finalized under a building permit in 2002, an accessory home and garage finalized under a building permit in 2005, and several accessory buildings.

Previous applications for the property include a subdivision in 1997, Zoning Bylaw Amendment (Z03/17) to rezone a portion of the original property from RU1 to RU6 for the purpose of subdivision, a Development Variance Permit (VP-05-09) to vary the servicing requirement from community water system to private water source for the RU6 zoned portion of land, and a subdivision (04/5338) registered in 2006 to create one new residential parcel.

Through previous applications, professional technical reports were submitted including a Geotechnical Hazard Assessment and a Wildfire Assessment Report in 1995. As a result two covenants were registered on title: a Wildfire Covenant for the purpose of making the owners and future owners aware and responsible for wildfire mitigation activities, and a Building Site Covenant limiting where future dwellings can be constructed on the subject property.

Applicant's Proposal:

The purpose of the application is to amend the zoning on a portion of the subject property from Rural 1 (RU1) to Rural 2 (RU2) to facilitate a future subdivision. The portion of the parcel proposed to be rezoned to RU2 is 10 acres in size and contains all the existing buildings and structures on the property. The

property is adequately large to meet the minimum parcel area regulations for both zones and all other zoning provisions for the RU1 and RU2 zones.

The applicant provided 9 letters of support from neighbouring property owners as part of their application. Additionally, the applicant indicated that they are willing to register a covenant to restrict any further subdivision of the subject property.

Regional Growth Strategy Bylaw No. 1336:

The following policies from the Regional Growth Strategy are applicable to the proposal:

- Policy 3.2.1.2 Proposals for new growth areas should consider the impacts on existing services and facilities in the community; and
- Policy 3.2.1.3 Support the protection of the rural areas that offer a rural lifestyle choice.

Rural Westside Official Community Plan Bylaw No. 1274:

The subject property has a Large Holdings future land use designation which supports RU1 and RU2 zoning and requires a minimum parcel size of 4 hectares. The following policies of the Rural Westside Official Community Plan are applicable to the proposal:

- Encourage new housing on existing vacant lots prior to considering more of the same housing type on large holding or rural residential lots;
- In consideration of limited community services, infrastructure, and existing land available for development, zoning amendment applications to allow for further fragmentation of parcels within “Agriculture” and “Large Holding” designations will not be supported.

Despite the Large Holdings future land use designation supporting the RU2 zone, the Large Holdings’ policies do not support the Zoning Bylaw Amendment application and therefore an Official Community Plan amendment is required.

Zoning Bylaw No. 871:

The current zoning of the property is RU1. The 10-acre portion of the parcel proposed as RU2 meets all regulations of the Zoning Bylaw including siting, size, and general and specific use regulations. The remaining RU1 portion of the property also complies with the regulations of the Zoning Bylaw.

Subdivision Servicing Bylaw No. 1397:

The Subdivision Servicing Bylaw requires a minimum standard of works and services for each zone and land use designation in the RDCO. At minimum, the RU2 zone must be serviced by a private water source and onsite wastewater disposal. The applicant indicates that both these requirements can be met.

Site Context:

The subject property is not within a Fire Protection Area. As per the Rural Westside Official Community Plan, the parcel is affected by several Development Permit Areas. A Development Permit may be required at time of subdivision.

Owner/Applicant:	Daniel Arcand
Legal Description:	Lot A, District Lot 2176, ODYD, Plan 23825, Except Plans KAP59351 and KAP82794
Address:	944 Bear Creek Road
Lot Size:	+/- 32.24 hectares (84.62 acres)
OCP Designation:	Large Holdings
Zoning:	Rural 1 (RU1)
Water Supply:	Private water source
Sewage Disposal:	Septic system

Existing Use:	Rural Residential
Surrounding Uses:	North: Rural Residential South: Rural Residential, Small Holdings East: Forest Resource West: Vacant Crown Land
ALR:	Not within the ALR
Fire Protection:	Not within a Fire Protection Area

RDCO TECHNICAL COMMENTS:

Fire Services staff note that the subject property is outside the RDCO Fire Protection Area therefore a response to a structure fire is not guaranteed. Initial response to a wildfire would be provided by BC Wildfire Service unless a request is made by the province for local resources to attend.

Staff advise that the applicant must adhere to FireSmart Principles and to the Wildfire Covenant registered on title. Any proposed buildings and structures associated with the proposal must meet or exceed the BC Fire Code.

Additionally, staff note that first medical response to the residence would be provided by BCEHS only unless a request to respond is made by the province.

Unaffected RDCO Departments include Park Services, Engineering Services and Inspection Services.

AGENCY REFERRAL COMMENTS:

Advisory Planning Committee (APC) recommends support for the application as presented.

Interior Health Authority has not identified any health impacts with the proposal and therefore IHA interests are unaffected.

City of West Kelowna has a right of way on the northeast portion of the property for water infrastructure for the Lakeview Irrigation District however, the intake is not located on the subject property and therefore the West Kelowna staff's interests are unaffected.

Ministry of Forests, Lands, Natural Resource Operations and Rural Development staff have no objections to the proposal. Ministry staff note that the property in question contains water licence for domestic use from Lambly Creek. The Water Sustainability Act requires licensees seeking to subdivide land attached to a water licence to apply for an amendment (apportionment) of their water licence so the subdivision can be reflected in the water licensing for the parcel(s). The owner of this land must apply for an amendment of their water license, and they are encouraged to do so while they still own all of the land in question.

Ministry of Transportation and Infrastructure staff comment that the property is beyond MOTI jurisdiction for zoning as it is beyond 800 metres from a Controlled Access Highway. Ministry staff have no concerns with the proposal.

Unaffected agencies include Telus, FortisBC, City of West Kelowna.

Considerations:

- Organizational/External: In accordance with the Development Applications Procedures Bylaw No. 944, a Notice of Application Sign has been posted. Any correspondence received from the public will be provided to the Board as part of a future public hearing report.
- Legal/Statutory Authority: Not granting first reading of the amendment bylaws complies with *Local Government Act*, Sections 472 and 479.
- Alternate Recommendation: **THAT** the Regional Board receives the report from the Director of Community Services, dated August 22, 2022, with respect to RDCO file: Z22/02 for the property located at 944 Bear Creek Road, legally described as Lot A, District Lot 2176, ODYD, Plan 23825, Except Plans KAP59351 and KAP82794 (“the subject property”);
- AND THAT** OCP Amendment Bylaw No. 1274-12 for the subject property receive first reading;
- AND THAT** Zoning Amendment Bylaw No. 871-274 for the subject property receive first reading;
- AND FURTHER THAT** scheduling a Public Hearing for application Z22/02 be withheld pending a draft covenant to restrict further subdivision of the subject property.
- Considerations not applicable:
- Organizational
 - Financial
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