

ADMINISTRATIVE REPORT



TO: Advisory Planning Commission
FROM: B. Newell, Chief Administrative Officer
DATE: June 21, 2023
RE: Zoning Bylaw Amendment – Electoral Area “C”

Purpose: To allow for the continued operation of an “eating and drinking establishment” **Folio:** C-05854.010

Civic: 3692 Fruitvale Way **Legal:** Lot 2, District Lot 2450S, SDYD, Plan 19063

OCP: Agriculture (AG) **Zone:** Agriculture One (AG1)

Proposed Development:

This application is seeking to amend the zoning of the subject property in order to allow for the continued operation of an “eating and drinking establishment”, namely, Backyard Farm Chef’s Table.

In order to accomplish this, the applicant is proposed to amend the zoning of the property under the Okanagan Valley Zoning Bylaw No. 2800, 2022, from Agriculture One (AG1) to Agriculture One Site Specific (AG1s), with the site specific regulation to permit “eating and drinking establishment” as a principal use.

In support of the rezoning, the applicant has stated, amongst other things, that “Back Yard Chef’s farm-to-table culinary experience business model supports agriculture. The ALC Panel through its decision recognizes the value-added services are supportive of, and ancillary to, agriculture.”

Site Context:

The subject property is approximately 3,747 m² in area and is situated on the west side of Fruitvale Way. The surrounding pattern of development is generally characterised by agricultural and associated residential uses.

It is understood that the parcel is comprised of a single detached dwelling that was converted in 2015 into an “eating and drinking establishment” with the remainder of the dwelling use on an occasional basis by the property owners when they are visiting the Okanagan.

It is further understand that some food items used in the “eating and drinking establishment” are grown on-site, and that there is also an accessory building (i.e., a farm storage building).

Background:

The current boundaries of the subject property were created by a Plan of Subdivision deposited with the Land Titles Office in Kamloops on May 12, 1969, and available Regional District records indicate that building permits have been issued for an addition to a single detached dwelling (1974) and interior renovations to a single detached dwelling (2015).

Under the South Okanagan Regional Growth Strategy Bylaw No. 2770, 2017, the property is not within a Primary or Rural Growth Area.

Under the Electoral Area “C” Official Community Plan (OCP) Bylaw No. 2452, 2008, the subject property is currently designated Agriculture (AG), which seeks to “preserve and protect the existing agricultural land base in rural Oliver” and encourages secondary “value added” uses that diversify and enhancing farm income.

Under the Okanagan Valley Zoning Bylaw No. 2800, 2022, the property is currently zoned Agriculture One (AG1) which permits “agriculture” and “single detached dwelling” as principal uses, but excludes “eating and drinking establishment”. An “eating and drinking establishment” is defined as meaning:

a development where prepared foods and beverages are offered for sale to the public for consumption within the premises or off the site...

The subject property has been classified by BC Assessment as “Residential” (Class 01) and is within a water service area operated by the Town of Oliver.

Enforcement:

The property has been the subject of a Stop Work Notice for constructing an accessory structure (e.g. covered patio) without a building permit and intended to support an “eating and drinking establishment”. A building permit cannot be issued until the property is brought into compliance with the Zoning Bylaw as “eating and drinking establishment” is not a permitted use.

Due to the property being in the Agricultural Land Reserve (ALR), the use of the property as an “eating and drinking establishment” required approval of the Agricultural Land Commission (ALC).

At its meeting of August 18, 2022, the Regional District Board resolved to “authorize” the applicant’s Non-Farm Use application proceed to the ALC. Subsequently, on March 31, 2023, the ALC conditionally approved the use of the property for the purposes of a restaurant (e.g. “dining and catering services”).

Analysis:

In considering this proposal, Administration maintains many of the concerns it previously raised in the assessment of the Non-Farm Use application to the Agricultural Land Commission (ALC), however, it is also recognized that the Board previously supported this application and that the ALC subsequently approved the proposal (with conditions).

For these reasons, Administration is recommending that in support of the proposed zoning bylaw amendments.

Alternative:

Conversely, and as referenced above, Administration maintains many of its previous concerns contained in its August 18, 2022, assessment of the Non-Farm Use application to the ALC, including:

- that the “eating and drinking establishment” use, being a value-added use which is meant to be secondary to a predominating agricultural use, is the prevailing land use on the subject property and the agricultural use appears to be secondary and supportive to the commercial use;
- that the eating and drinking establishment is a commercial use which should typically be directed towards commercially designated properties within Primary Growth Areas that have appropriate servicing to support commercial uses; and,

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- concerns regarding the cumulative impacts of the commercial use and its associated parking on the agricultural land base and the potential resultant land use conflicts between farming and non-farming interests in the vicinity.
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Administrative Recommendation:

THAT the Okanagan Valley Zoning Amendment Bylaw No. 2800.28, 2023, be supported.

Options:

1. THAT the APC recommends to the RDOS Board of Directors that the subject development application be approved.
2. THAT the APC recommends to the RDOS Board of Directors that the subject development application be approved with the following conditions:
 - i) *TBD*
3. THAT the APC recommends to the RDOS Board of Directors that the subject development application be denied.

Respectfully submitted:



Shannon Duong, Planner II

Endorsed By:

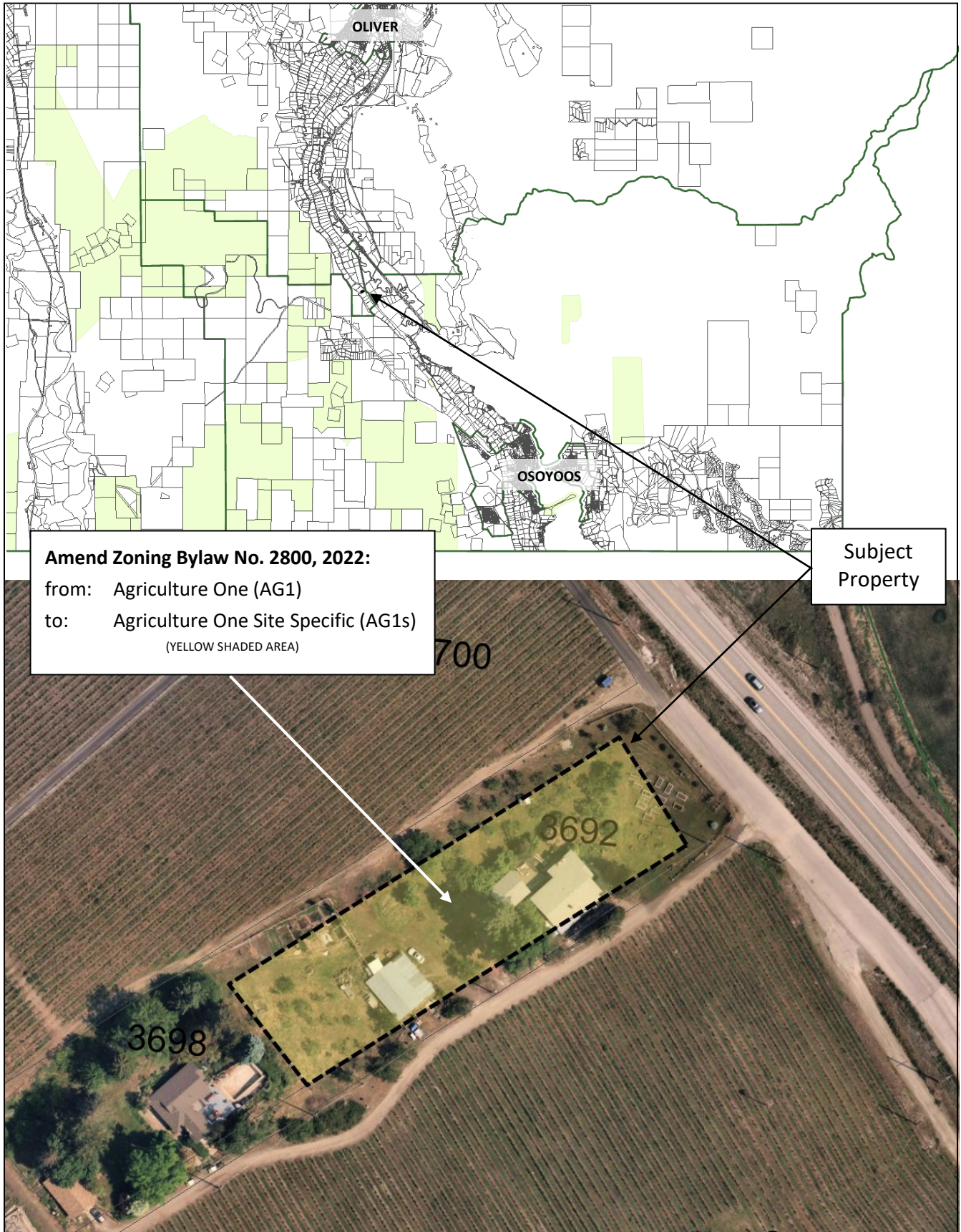


C. Garrish, Planning Manager

Attachments: No. 1 – Context Maps

No. 2 – Applicant’s Site Plan

Attachment No. 1 – Context Maps



Attachment No. 2 – Applicant’s Site Plan

