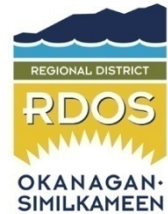


## ADMINISTRATIVE REPORT



**TO:** Advisory Planning Commission  
**FROM:** B. Newell, Chief Administrative Officer  
**DATE:** January 11, 2011  
**RE:** Zoning Bylaw Amendment Application – Electoral Area 'E'

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**Purpose:** To facilitate the subdivision of approximately 41 parcels as well as the designation of a residentially zoned area to conservation for the purposes of preserving a wildlife corridor.

**Owner:** Naramata Benchland Properties Ltd.      **Agent:** Urban Connections      **Folio:** E-10-06834.000

**Civic:** 3440 Arawana Road & 3480 Arawana Forestry Road, Naramata

**Legal:** Plan 1190, District Lot 2711, Subsidy Lot 14, Except Plan A62, 29843, 38736, KAP44343, KAP45544, KAP46231, KAP54137, KAP57167, KAP86517, SDYD (3440 Arawana Road);  
Lot A, Plan KAP58675, District Lot 3474, SDYD (3480 Arawana Forestry Road); and  
District Lot 3474, SDYD, Except Plans KAP44343 and KAP59640.

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### **Proposed Development:**

This proposal is seeking to rezone an approximately 14.7 hectare (ha) area of land at 3480 Arawana Forestry Road and District Lot 3474 from Resource Area (RA) to Residential Single Family One Site Specific (RS1s) in order to facilitate a 41 lot subdivision.

It is proposed that the site specific component of the zoning allow for a minimum parcel size of approximately 464.5 m<sup>2</sup>, while permitting single detached dwellings, agriculture (including sales), and public service and utility buildings.

If successful, the applicant would simultaneously rezone an adjacent 14.85 ha area situated at 3440 Arawana Road that is under their ownership from part RS1s and part Residential Single Family One (RS1) to Conservation Area (CA). The applicant has suggested that this would be beneficial as it would "provide an increased separation between residential development and the natural movement and migration of wildlife through the area."

### **Site Context:**

The area under application is comprised of three separate legal titles, two of which have civic addresses, while the third is comprised as part of a District Lot. In order to ensure clarity and consistency throughout this report, these three parcels have been labelled on Attachment No. 1 as follows:

- **'Lot 1'** (being Plan 1190, District Lot 2711, Subsidy Lot 14, Except Plan A62, 29843, 38736, KAP44343, KAP45544, KAP46231, KAP54137, KAP57167, KAP86517, SDYD);
- **'Lot 2'** (being Lot A, Plan KAP58675, District Lot 3474, SDYD); and
- **'Lot 3'** (being District Lot 3474, SDYD, Except Plans KAP44343 and KAP59640)

'Lot 1' has recently received approval for a 25 lot subdivision on its western portion, with the eastern portion (that is the subject of this application) comprised of undeveloped land and a number of right-of-ways associated with Terasen and Fortis infrastructure.

'Lot 2' is bisected by and provided legal access by a forest service road and is relatively undeveloped apart from an existing single detached dwelling and related accessory structures and buildings situated approximately 200 metres from the northern property boundary, along with a "municipal water

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reservoir” situated near the north-eastern corner of the property. There is also an area where earthworks were “historically done ... to create a rectangular shaped reservoir ... [and] this feature is planned to be used as one of the required components for a sewer treatment plant for the proposed subdivision. Arawana Creek bisects the property on an east-west axis.

‘Lot 3’ is seen to be relatively undeveloped apart from some “clearing, earthworks and grading” that has occurred on the property (and thereby resulting in “numerous terraces and plateaus”). It is not clear if this parcel enjoys a legal access (other than to a forest service road) and how this may be affected by subdivision. Arawana Creek bisects the property on an east-west axis.

### **Background:**

Under the Electoral Area ‘E’ Zoning Bylaw No. 2459, 2008, the area under application comprises a number of different zones, including an Resource Area (RA) Zone over all of Lot 3; an RA and Small Holdings Two (SH2) zoning over Lot 2; and a Single Family Residential One (RS1) and a Single Family Residential One Site Specific Zone at ‘Lot 1’.

The property is also the subject of a Watercourse Development Permit (WDP) Area under the Electoral Area ‘E’ Official Community Plan (OCP) Bylaw No. 2459, 2008.

Historically, these properties were part of the Blackwell Stores Limited development. The western part of ‘Lot 1’ was rezoned from the equivalent of Resource Area (RA) to Single Family Residential (RS1) in 1992. This zoning was subsequently amended to the equivalent of an RS1s zoning in 1994. The remainder of the parcel was rezoned the equivalent of RS1 sometime in the early 1990s.

As the Advisory Planning Commission (APC) will recall, this area was the subject of a separate proposal in 2006 which sought to rezone the property at 3480 Arawana Road as well as the adjacent parcel to the west in order to create approximately 295 parcels over eleven (11) phases.

At its meeting of September 11, 2006, the Advisory Planning Commission (APC) resolved to recommend that this proposal not be approved, and the applicant subsequently withdrew the application on September 27, 2006.

More recently, ‘Lot 2’ has been utilised to facilitate the development of Phase I & II of the Benchlands development to the west. Specifically, a water reservoir has been constructed at the north-east corner of the ‘Lot’ to service these two phases, as well as servicing the remainder of ‘Lot 1’ (which is now proposed for conservation area).

This reservoir, however, is unable to supply domestic or fire flows to the majority of ‘Lot 2’ due to insufficient pressure within the system and, while the applicant has petitioned the Regional District to include ‘Lot 2’ within Naramata Community Water System Area, they have not applied to enter the fire protection service area at this time.

In terms of effluent disposal, the progression of Phase II of the Benchlands development has been premised on the development of a sewer treatment plant on ‘Lot 2’. The Ministry of Environment (MoE) has confirmed that a permit has been issued to the applicant that allows for the discharge of treated effluent for approximately 95 single family dwelling units. As Phase II comprises 25 parcels, and the applicant has indicated that they wish to develop no more than 41 parcels on ‘Lot 2’, this leaves an unused capacity for a further 29 parcels.

The road bisecting ‘Lot 2’ is part road dedication and part forestry road. The applicant will be required to apply to the Ministry of Forests (MoF) in order to have the Arawana Forestry Road transferred to the Ministry of Transportation and Infrastructure (MoT) as road dedication, and that the road will be required to be built MoT standards by the applicant.

### **Referrals:**

Approval from the Ministry of Community, Sport and Cultural Development (MCSCD) will be required as the proposal is not seen to involve a land area greater than 20 ha and the creation of more than 30

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units/parcels. Approval from MoT is not required as the proposal is not situated within 800 metres of a controlled area (NOTE: dedication of the forestry road will require the approval of MoT).

**Analysis:**

Although the applicant has characterised this application as “the transfer of the zoning rights” from one parcel to another, Administration notes that zoning does not create development “rights” that can be transferred in this way. Therefore, each component of this application must be considered on its own merits, and, in order to provide clarity, each will be assessed under a different sub-section below.

Proposed Conservation Area Zoning

In support of the proposal to rezone part of Lot 1 to Conservation Area, the applicant has submitted an “Ecological Assessment of Proposed Housing Development of Naramata Benchlands” that was prepared by Okanagan Wildlife Consulting in July of 2005 in relation to the previous proposal to develop 295 parcels over ‘Lot 1’ and ‘Lot 2’.

This Assessment included Sensitive Ecosystem Inventory (SEI) mapping of the property, which established the presence of “Woodland (WD)” and “Old Forest (OF)” ecosystems, and recommended avoiding development of these areas where they occurred south of Arawana Creek.

A second recommendation favoured the incorporation of “two narrow wildlife corridors in the lower portion of the development ... These would be for potential Bighorn Sheep migrations at low-elevations, as well as for movement of other wildlife that are restricted to low elevations in the Okanagan valley. One of these corridors would be along existing utility corridors, and the other would be through the development area.”

This is supported by the OCP which specifically speaks to encouraging “the retention of existing wildlife corridors within and outside Environmentally Sensitive Areas” (Section 15.3.2.15).

For these reasons, Administration is generally supportive of the applicant’s proposal to rezone part of the property to Conservation Area, and considers that there is an advantage to removing the RS1 and RS1s zoning from this part of ‘Lot 1’ as residential land uses do not appear to be congruent with the environmental attributes of this particular area. Consideration could also be given to amending Schedule ‘D’ (Development Permit Areas) of the OCP and expanding the ESDP Area to include the whole of ‘Lot 1’ that is proposed as a conservation area.

Where there is a concern, however, is that the creation of a “corridor” over part of ‘Lot 1’ is somewhat *ad hoc* and is not yet related to any broader strategic plan to preserve a wildlife corridor linking Okanagan Mountain Park with the Penticton Creek area.

As the assessment by Okanagan Wildlife Consulting notes, 75% of the route from the Park to Penticton is situated on private lands and, in the absence of a strategy to create a “low elevation corridor” — possibly through the OCP — and to “set aside other developments on private lands within this corridor”, the long-term integrity of any such corridor will likely be tenuous.

By way of example, the wildlife corridor is seen to pass through that part of ‘Lot 2’ which is situated on the north side of Arawana Road (and is presently zoned SH2 – see Attachment No. 3), yet it is not being proposed by the applicant to protect this area in the same way as where the corridor passes through ‘Lot 1’.

The APC may, therefore, wish to turn its attention to the question of whether the SH2 zoned part of ‘Lot 2’ should be similarly preserved for the purposes of a wildlife corridor. The APC may also wish to consider whether a corridor linking Okanagan Mountain Park to Penticton should be addressed through the OCP, and as a potential project for the Regional District in 2011 (subject to available resources).

In addition, the possible retention of that part of ‘Lot 1’ to be zoned CA in private ownership is also seen to be a concern as the pressure to develop the land in future would not be removed. While the

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applicant has stated that the long-term tenure could be ownership by the RDOS, the Province, The Nature's Trust or even The Land Conservancy, no letter of support has been submitted that would indicate that one of these agencies is prepared to assume ownership and maintenance of the land.

### Proposed Residential Zoning

In considering the second component of this application, reference is made to the Green Bylaws Toolkit (a resource produce for local governments in British Columbia), which states that an “appropriate mechanism for conserving sensitive ecosystems if the existing zoning allows an inappropriate level of density is to zone designated areas as rural conservation zones and to use amenity density bonus programs.”

While the absence of such a program at the Regional District is somewhat problematic, an amenity density bonus can generally be used to allow a developer “to build additional density in return for providing the local government and the public an amenity in return” (i.e. environmental protection or the acquisition of parkland) and has a clear basis in provincial legislation (Section 904 of the *Local Government Act*).

In this instance, the applicant has stated that “the transfer of the zoning rights does not provide the owner of the land with any additional development rights as the area of land that will be rezoned to RS1s for residential purposes will be similar (slightly less) in size to the area of land proposed to be rezoned ... to Conservation Area.”

Administration is concerned that, while a concept plan has been provided showing potential for the creation of 41 parcels on ‘Lot 1’, no corroborating information has been provided to confirm this actually achievable. Administration also questions this potential density as the area being proposed for Conservation Area zoning is seen to be fettered by a number of natural and man-made impediments.

Specifically, the area is encumbered by two significant rights-of-ways related to Terasen and Fortis infrastructure, while also being subject to riparian area setbacks as well as slopes in excess of 30%. It is also noted that the applicant’s own environmental assessment recommended that this area not be developed.

The question for the APC, therefore, becomes twofold: in the absence of an amenity density bonus policy, is the creation of upwards of 41 parcels an appropriate return to the applicant for setting aside over 14 ha of land as a potential public amenity (i.e. wildlife corridor); and is such a rural-residential development appropriately located at ‘Lot 2’?

### **GROWTH MANAGEMENT:**

On the question of whether a 41 parcel subdivision is an appropriate level of development at ‘Lot 2’, the OCP contains very prescriptive wording as to when the Regional Board “may consider new development proposals greater than five (5) dwelling units where [the proposal involves an] OCP amendment and associated infrastructure projects.”

Specifically, such a proposal should “clearly demonstrate how [it] responds to the community’s slow managed growth mandate [1.5%/year], and shall require the development of a Comprehensive Development Plan (CDP) ... this Plan will be prepared in accordance with Provincial environmental best management practices guidelines before any development approvals are considered, specifically addressing a land use element, a housing element, a capital facilities plan element, a utilities element, and a transportation element.”

The applicant has suggested that, because “this application does not propose any new or additional development land and does not propose any increase to the current development potential that has already been approved by the community of Naramata and the RDOS” the requirement for a CDP is not triggered.

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Administration does not share this conclusion, and views the requirement to prepare a CDP as addressing not only population increase, but also the physical challenges and constraints that may be presented by a particular parcel in relation to the environment, servicing, housing, transportation, and community engagement. For these reasons, it is recommended that the applicant be required to undertake the preparation of a CDP prior to this proposal being considered by the Board.

Administration also notes that the applicant is currently petitioning to include the whole of 'Lot 2' into the Naramata Water System, yet is only proposing to create the 41 parcels on the northern half of the property. Similarly, it is being proposed to situate a sewer treatment plant near the southern boundary of 'Lot 2', but no details have been provided as to the capacity of this plant and the number of parcels it could potentially serve — i.e. is the discharge capacity greater than the 95 parcels approved by MoE, and, if not, how will the remaining discharge capacity for 29 parcels be utilised (if at all)?

Although not directly related to this particular application, the APC may wish to give consideration as to how the remainder of the Naramata Benchlands holdings may be developed in future given 'Lot 2' will be fully serviced by water and sewer. Should the applicant be encouraged to give consideration to a cluster form of development with the available density from 'Lot 3' clustered onto the serviced area of 'Lot 2' so that the area further up the hillside can be set aside for conservation purposes?

#### *INFRASTRUCTURE SERVICING*

Although the applicant is currently petitioning to enter the Naramata Water System, existing infrastructure is seen to be insufficient to service the proposed development. The applicant has not supplied any information as to how water will be supplied to the proposed development area, but is aware of the capacity issues and has indicated that any required upgrades would be undertaken after zoning is approved.

The Regional District's preference for any upgrades to the water system would be a dual-celled concrete reservoir at a higher elevation, and it is noted that, under the OCP, "it is intended that the developer incur costs for all upgrades, including design, associated with [an] increase in the related infrastructure."

The Plan also "encourages that potential developers of lands adjacent or above the Kettle Valley Railway corridor and the north bench of Naramata undertake an engineering study for future expansion of the existing water systems to these areas."

With regard to the proposed sewer treatment plant, it is noted that, despite "utility uses" being permitted in every zone, the definition of a "utility use" in the Zoning Bylaw specifically excludes "sewage treatment plants". In other Okanagan Electoral Areas, this has been addressed through the introduction of an industrial designation and zoning, however, it is noted that the Industrial designation was specifically excluded from the Naramata OCP as part of the 2006 Review. It is likely, therefore, that the accommodation of the sewer treatment plant will likely have to be done through a site specific amendment and that this should occur as part of the current application.

It is also recommended that support for the transfer of the Arawana Forestry Road should be given by the Ministry of Forest prior to the adoption of any zoning amendment bylaw.

Administration also does not support the proposed conservation zoning of 'Lot 2' as satisfying park land dedication under the *Local Government Act* as this areas is being preserved for wildlife habitat and not for general public use.

Finally, it is recommended that any development of the area should undertake a fire hazard assessment to mitigate and reduce the fire hazard risk following Provincial Fire Smart guidelines.

#### *LAND USE DESIGNATION:*

While it is noted that a stated objective of the OCP as it relates to the creation of Low Density Residential (LR) designations is to generally direct these "to the Naramata Townsite or the City of

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Penticton where services and amenities are more readily available”, Administration does not support the applicant’s request for an LR designation and RS1s zoning.

The LR designation is seen to establish a strategic direction that is not compatible with the stated intent of developing only 41 parcels as it signals preference for a much higher density, similar to what is found within the Naramata Townsite.

Alternatively, Administration favours the introduction of a Small Holdings (SH) designation and Small Holdings Five (SH5) Zone. Although not presently found within the Electoral Area ‘E’ Zoning Bylaw, such a zoning is utilised in other Okanagan Electoral Areas (i.e. Area ‘F’ and Area ‘D-2’) and permits similar uses as well as a minimum parcel size of 2,020 m<sup>2</sup> — which is seen to be consistent with the parcel layout established at Phase I of the Benchland development, as well as the applicant’s preferred 41 parcel layout over parts of ‘Lot 2’ and ‘Lot 3’. That said, a 2,020 m<sup>2</sup> minimum parcel size may allow for the creation of more than 41 parcels, and a site specific amendment would likely be required to limit parcel numbers.

The SH designation (which falls under the Rural Holdings section of the OCP) is also seen to be more supportive of the applicant’s proposal than is the LR designation as it speaks to proposed developments respecting the character of the surrounding area; voluntary environmental stewardship on private land; as well as the encouragement of cluster housing.

**Questions for Consideration:**

1. Should Schedule ‘D’ (Development Permit Areas Map) of the OCP be amended to include the proposed Conservation Area Zone as an ESDP Area?
2. Should that part of ‘Lot 2’ which is situated north of Arawana Road (zoned SH2) and is also seen to form part of the wildlife corridor be similarly zoned for conservation purposes?
3. Should the identification of a wildlife corridor linking Okanagan Mountain Park and Penticton Creek — for inclusion in the OCP — be undertaken as a strategic project for the Regional District in 2011?
4. Is the creation of upwards of 41 parcels an appropriate development on ‘Lot 2’ and an appropriate return to the applicant for setting aside over 14 ha of land as a potential public amenity (i.e. wildlife corridor)?
5. Would the APC’s assessment of this proposal benefit from the preparation of a Comprehensive Development Plan?
6. Should consideration be given as to how the remainder of ‘Lot 2’ as well as ‘Lot 3’ will be developed in future in light of the services (water and sewer) being provided?

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**Administrative Recommendation:**

Insufficient information has been provided at this time that would allow for the formulation of an Administrative Recommendation.

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**Options:**

THAT the APC defers consideration of the subject development application.

THAT the APC recommends to the RDOS Board that the subject development application be approved.

THAT the APC recommends to the RDOS Board that the subject development application be approved with the following conditions:

That the APC recommends to the RDOS Board that the subject development application be denied.

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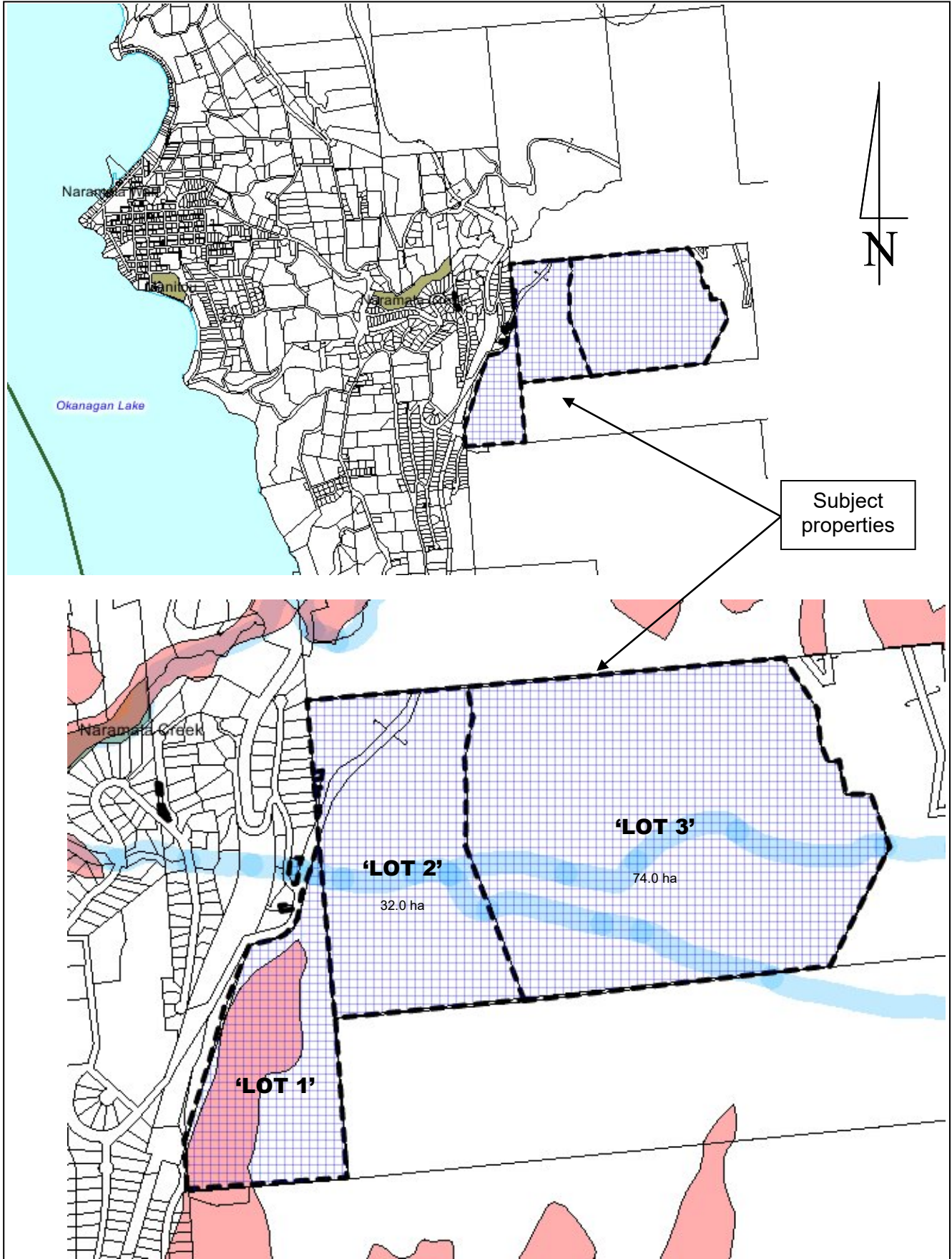
**Respectfully submitted:**



Christopher Garrish MCIP  
Planner

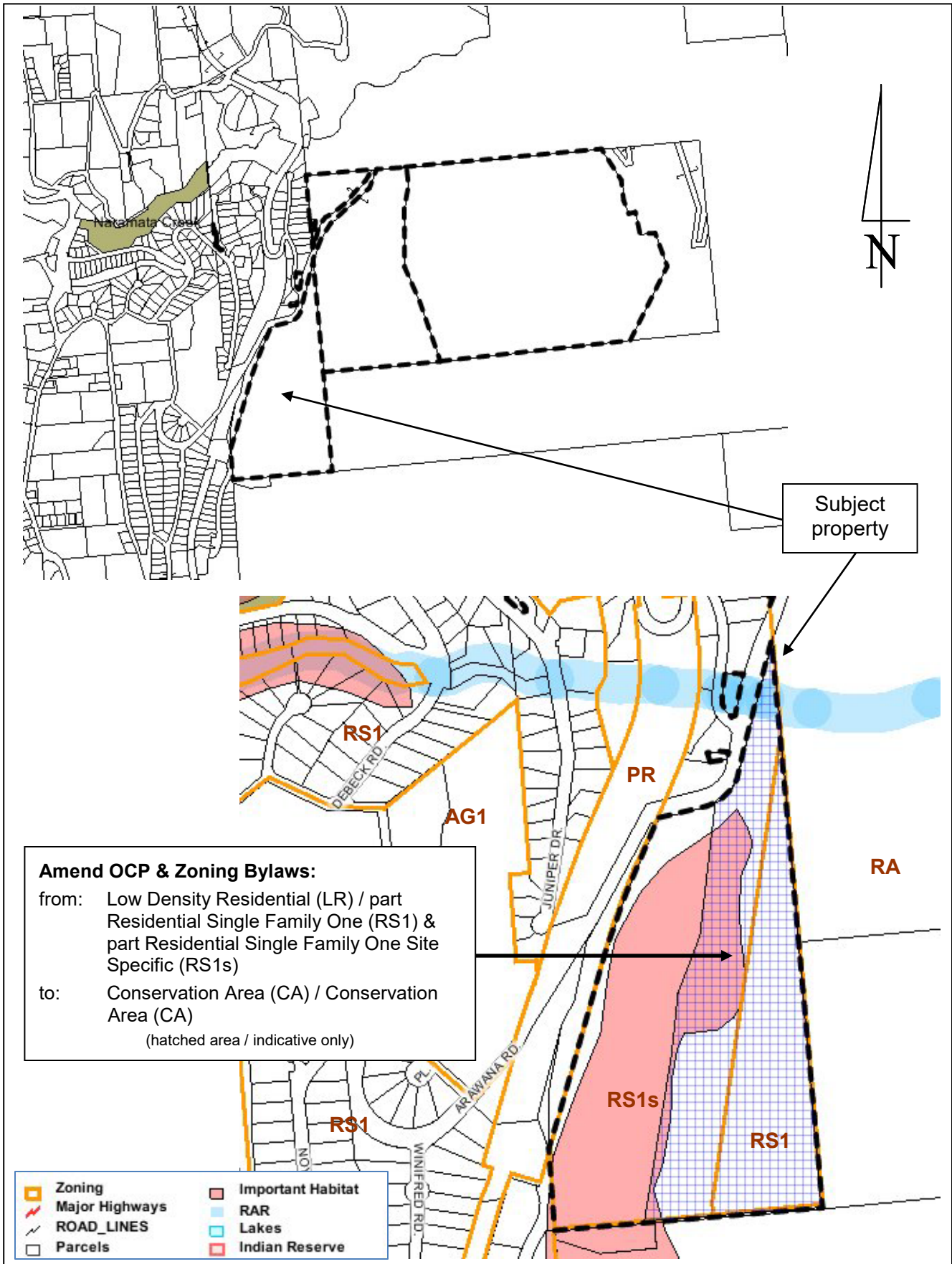
Attachments: Attachment No. 1 – Context Maps  
Attachment No. 2 – Proposed Conservation Zoning  
Attachment No. 3 – Proposed Residential Zoning  
Attachment No. 4 – Applicant’s Site Plan  
Attachment No. 5 – “Sensitive Ecosystems of the Naramata Benchlands site” (2005)

Attachment No. 1 — Context Maps

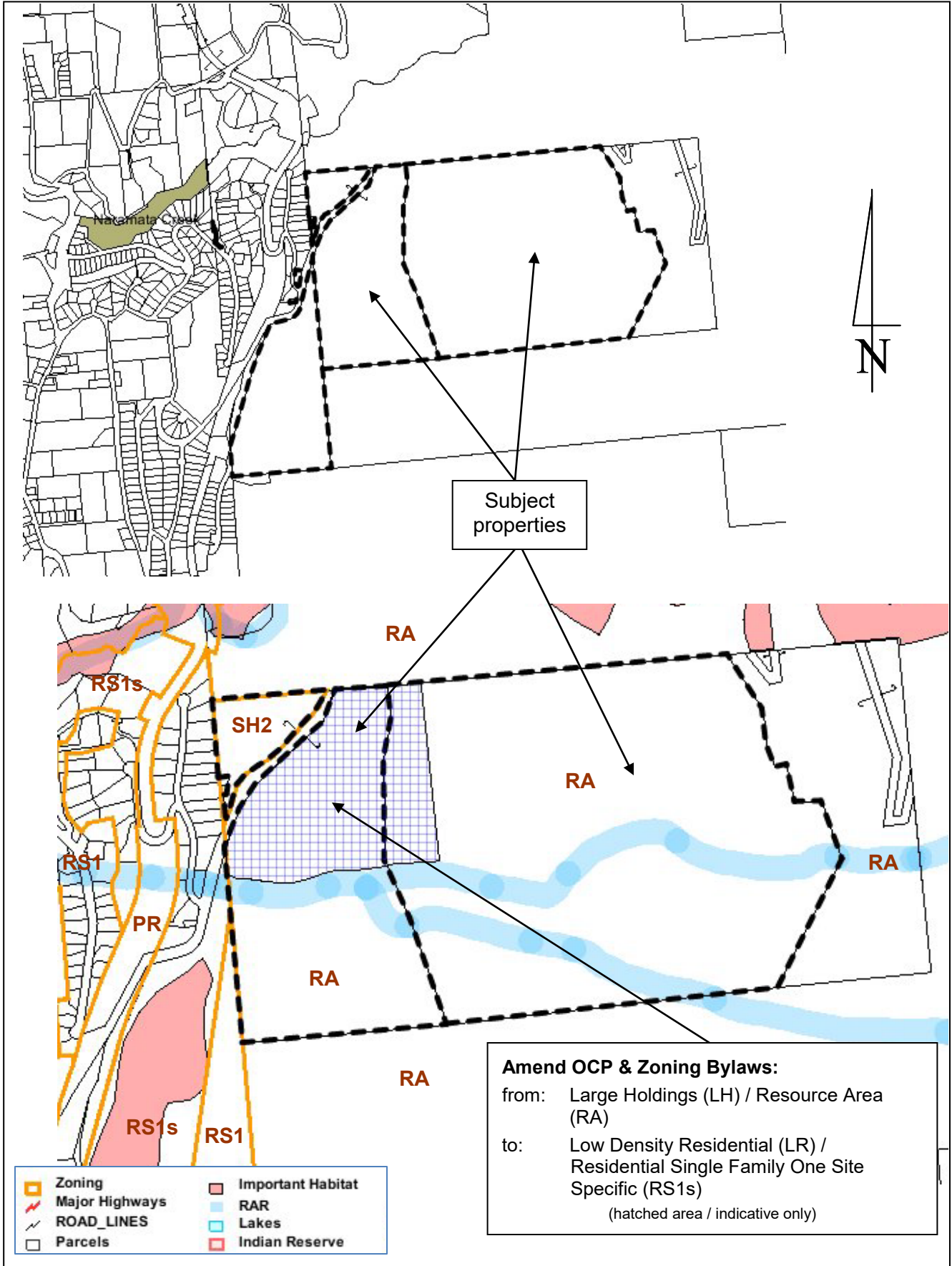




Attachment No. 2 — Proposed Conservation Zoning



Attachment No. 3 — Proposed Residential Zoning



Attachment No. 4 — Applicant's Site Plan

