

ADMINISTRATIVE REPORT



TO: Board of Directors

FROM: B. Newell, Chief Administrative Officer

DATE: October 19, 2023

RE: Official Community Plan (OCP) & Zoning Bylaw Amendment – Electoral Area “E” (E2023.005-ZONE)

Administrative Recommendation:

THAT Bylaw No. 2458.21, 2023, a bylaw to amend the Electoral Area “E” Official Community Plan to facilitate a two-lot subdivision at 1238 Gawne Road; and,

THAT Bylaw No. 2800.27, 2023, a bylaw to amend the Okanagan Valley Zoning Bylaw, be denied.

Folio: E-02037.007

Legal: Lot 2, District Lot 206, SDYD, Plan EPP109777

OCP: Agriculture (AG)

Zone: Agriculture One (AG1) & Small Holdings One (SH1)

Proposed Development:

This application is to facilitate the subdivision of the property into two lots of approximately 2.11 ha (“Proposed Lot A”) and 1.82 ha (“Proposed Lot B”).

In order to accomplish this, the following land use bylaw amendments are being proposed by the applicant:

- amend the land use designation under Schedule ‘B’ (OCP Map) of the Electoral Area “E” Official Community Plan (OCP) Bylaw No. 2452, 2008, for an approximately 1.76 ha portion of the property, from Agriculture (AG) to Small Holdings (SH); and
- amend the zoning of the subject property under Schedule ‘2’ (Zoning Map) of the Okanagan Valley Zoning Bylaw No. 2800, 2022, as follows:
 - an approximately 2.11 ha portion be rezoned from Agriculture One (AG1) to Agriculture One Site Specific (AG1s) with the site specific provision allowing a 2.11 ha parcel size for subdivision;
 - an approximately 1.76 ha portion be rezoned from Agriculture One (AG1) to Small Holdings Three (SH3); and
 - an approximately 0.06 ha portion be rezoned from Small Holdings One (SH1) to Small Holdings Three (SH3).

In support of the rezoning, the applicant has stated, amongst other things, that:

- *The proposed SH3 rezoned Lot B has little agricultural viability, is primarily residential in nature ... will “retain & enhance the rural character” of adjacent SH properties and maintain residential density & secondary ‘hobby farm’ agricultural uses consistent with OCP intent ... is suitable in ‘the*

context of its impact on the community and the objectives of this OCP', namely conserving the "agriculturally productive land & environmentally sensitive areas" as both lots existed prior to 2007.

- The proposed AG1 2.11 ha Lot A will maintain approved [Ministry of Transportation and Infrastructure] farm operation access directly from Naramata Rd (2280 Naramata Rd) as it was prior to 2007. This will reduce potential commercial traffic on Gawne Rd. accessing the proposed Lot A. This reduction of potential commercial traffic on Gawne Rd. supports the OCP intent ...*
- The proposed AG1 Lot A will maintain the existing 2 ha vineyard planting in a more viable & affordable farm parcel ... and protect the same level of agricultural production as it was prior to 2007. The Naramata Rd Access will also allow for commercial frontage in the future, consistent with neighbouring property uses & consistent with ALR objectives.*

Site Context:

The property is approximately 3.93 ha in area and is situated on the east side of Naramata Road, and south of Gawne Road. The parcel is comprised of residential development which includes a single detached dwelling, a detached garage and a pool; all of which are located on the portion of the property which is delineated as Proposed Lot B. The portion of the property west of the existing driveway (i.e., Proposed Lot A), is comprised of vineyard.

The surrounding pattern of development is generally characterised by parcels of varying sizes, which appear to be used for agricultural and residential purposes.

Background:

The property was created May 13, 2022, which provided a panhandle access to Gawne Road. Prior to this, the configuration of the parent parcel of the property had been created following the consolidation of an approximately 1.26 ha portion of a Crown Grant parcel which was located to the east, abutting the KVR trail.

Available Regional District records indicate that building permits have been issued for a single detached dwelling (2010), detached garage (2010), and a swimming pool (2011). A permit was also issued for the demolition of a single detached dwelling, which was formerly located on the western portion of the property fronting Naramata Road (2021).

Sub-Regional Growth Strategy (RGS):

Under the South Okanagan Regional Growth Strategy Bylaw No. 2770, 2017, the property is not within a Primary or Rural Growth Area and the bylaw speaks to discouraging further subdivision of farm parcels (Policy 1D-3).

Official Community Plan (OCP):

The property is designated Agriculture (AG), and is the subject of an Environmentally Sensitive Development Permit (ESDP) Area designation.

The Plan speaks to supporting the consolidation of parcels in order to "support more efficient agricultural operations" and establishes 4.0 ha as the minimum parcel size for an agricultural parcel (with minor exceptions) being used for commercial operations of vine growing and other compatible agricultural uses.

Zoning Bylaw:

The property is primarily zoned Agriculture One (AG1), which allows for a range of farm uses and requires a minimum parcel size of 4.0 ha for subdivision.

NOTE: an approximately 0.06 ha part of the property that provides a “panhandle” access to Gawne Road is currently zoned Small Holdings One (SH1), which reflects the zoning applied to the rural-residential parcels fronting this road. The SH1 Zone allows for a 0.25 ha minimum parcel size for subdivision (when connected to community water and sewer).

Other Land Use Classifications/Designations:

The property is partially within the Agricultural Land Reserve (ALR) and has been classified by BC Assessment as part “Residential” (Class 01) and part “Farm” (Class 09).

The applicant has previously submitted an application to the Agricultural Land Commission (ALC) to include a 0.9 ha portion of the subject property into the ALR, such that Proposed Lot A would be entirely within the ALR.

By way of ALC Resolution #445/2023, the ALC approved the application on the condition that a restrictive covenant be registered in favour of the Commission on the title of the property at 1238 Gawne Rd, restricting residential development to a 0.21 ha Covenant Area (being the area along Naramata Road which formerly contained a single detached dwelling and associated septic system; see Attachment No. 3).

On February 7, 2023, the Ministry of Transportation and Infrastructure (MoTI) referred a proposed 2-lot subdivision involving the subject property to the Regional District for compliance with any applicable RDOS land use bylaws.

Referrals:

Approval from the Ministry of Transportation and Infrastructure (MoTI) is not required prior to adoption as the proposed amendments involve lands beyond 800 metres of a controlled access highway (i.e. Highway 97 & 3).

Pursuant to Section 476 of the *Local Government Act*, the Regional District must consult with the relevant School District when proposing to amend an OCP for an area that includes the whole or any part of that School District. In this instance, School District No. 67 have been made aware of the proposed amendment bylaw.

Pursuant to Section 477 of the *Local Government Act*, after first reading the Regional Board must consider the proposed OCP amendment in conjunction with Regional District's current financial and waste management plans. The proposed OCP amendment has been reviewed by the Public Works Department and Finance Department, and it has been determined that the proposed bylaw is consistent with RDOS's current waste management plan and financial plan.

Pursuant to Section 475 of the *Local Government Act*, the Regional District must consult with the Agricultural Land Commission (ALC) when proposing to amend an OCP which might affect agricultural. Both the ALC and the Ministry of Agriculture have been made aware of the proposed amendment bylaws.

Public Process:

On June 14, 2023, a Public Information Meeting (PIM) was held electronically via Webex and was attended by approximately 14 members of the public.

At its meeting of October 10, 2023, the Electoral Area “E” Advisory Planning Commission (APC) recommended that the development application be denied.

The written notification of affected property owners, the public meetings as well as formal referral to the agencies listed at Attachment No. 1, is considered appropriate consultation for the purpose of Section 475 of the *Local Government Act*. The consultation process undertaken is sufficiently early and does not need to further ongoing.

All comments received to date in relation to this application are included as a separate item on the Board Agenda.

Analysis:

The proposed subdivision is inconsistent with the Area “E” OCP as it seeks to fragment agricultural land. Additionally, the proposal is seen to facilitate rural sprawl and introduce additional non-agricultural uses (i.e., rural-residential/residential uses) into an agricultural area which could present potential conflicts.

The purpose of the Agricultural (AG) OCP designation is to protect agricultural lands for current and future agricultural production and to not fragment and/or subdivide such land into smaller parcels. In a majority of instances, an agricultural parcel has greater viability and long-term potential as a single, larger unit than it does as a fragmented, smaller unit.

In addition, the creation of ad hoc or spot zonings where they are divorced from broader strategic land use objectives is contrary to good land use planning. In such instances, spot zonings grant privileges to a single parcel which are not granted or extended to other parcels in the vicinity, even though it is likely other property owners would equally benefit from such a zoning change.

While the OCP does speak to supporting the subdivision of agricultural lands in very limited circumstances, the current proposal is not seen to satisfy any of these:

- it is not a homesite severance being pursued in accordance with ALC policy;
- it does not appear to allow for more efficient use of agricultural land/farm buildings; and
- it is not in the community interest (e.g. it is unrelated to public infrastructure projects such as roads, parkland, open space for conservation purposes, trails, sewer, water, storm water and other utilities).

The OCP also requires that a proposal seeking to create a new Small Holdings zoning “clearly demonstrate and articulate the need for it in the context of its impact on the community and the objectives of this OCP.” This “need” has not been demonstrated by the applicant, while recent growth projections completed for Naramata indicate that there is sufficient capacity to meet the needs of the community to 2041 without introducing new zoning.

Finally, the request for a site specific provision allowing a 2.11 ha remainder to be zoned AG1 is seen to be potentially invalid as such a parcel is considered — within the context of the OCP — to be rural-residential and is more appropriately designated and zoned as Small Holdings. As a rule-of-thumb, a

site specific zoning *should* only be used to vary an existing regulation by no more than 25%. The applicant, however, is asking for a 47% variance to the minimum parcel size regulation of 4.0 ha.

The applicant has referenced the former configuration and Small Holdings OCP designation of two of the parent parcels of this property. The configuration of the subject property was different in the past and returning it to this previous state runs contrary to current strategic land use directions adopted by the Regional District (outlined in the “Background” above) and does not provide a valid planning rationale.

Support for this application is available but there is no solid planning rationale that might speak in favour of this.


Summary:

The proposal is inconsistent with the Area “E” OCP Bylaw relating to lands designated for Agriculture.

Alternatives:

1. THAT the Electoral Area “E” Official Community Plan Amendment Bylaw No. 2458.21, 2023, and the Okanagan Valley Zoning Amendment Bylaw No. 2800.27, 2023, be read a first and second time and proceed to public hearing;
AND THAT the Board of Directors considers the process, as outlined in this report from the Chief Administrative Officer dated October 19, 2023, to be appropriate consultation for the purpose of Section 475 of the *Local Government Act*;
AND THAT, in accordance with Section 477 of the *Local Government Act*, the Board of Directors has considered Amendment Bylaw No. 2458.21, 2023, in conjunction with its Financial and applicable Waste Management Plans;
AND THAT the holding of a public hearing be scheduled for the Regional District Board meeting of November 16, 2023;
AND THAT staff give notice of the public hearing in accordance with the requirements of the *Local Government Act*.

Respectfully submitted:



Shannon Duong, Planner II

Endorsed By:



C. Garrish, Senior Manager of Planning

Attachments:

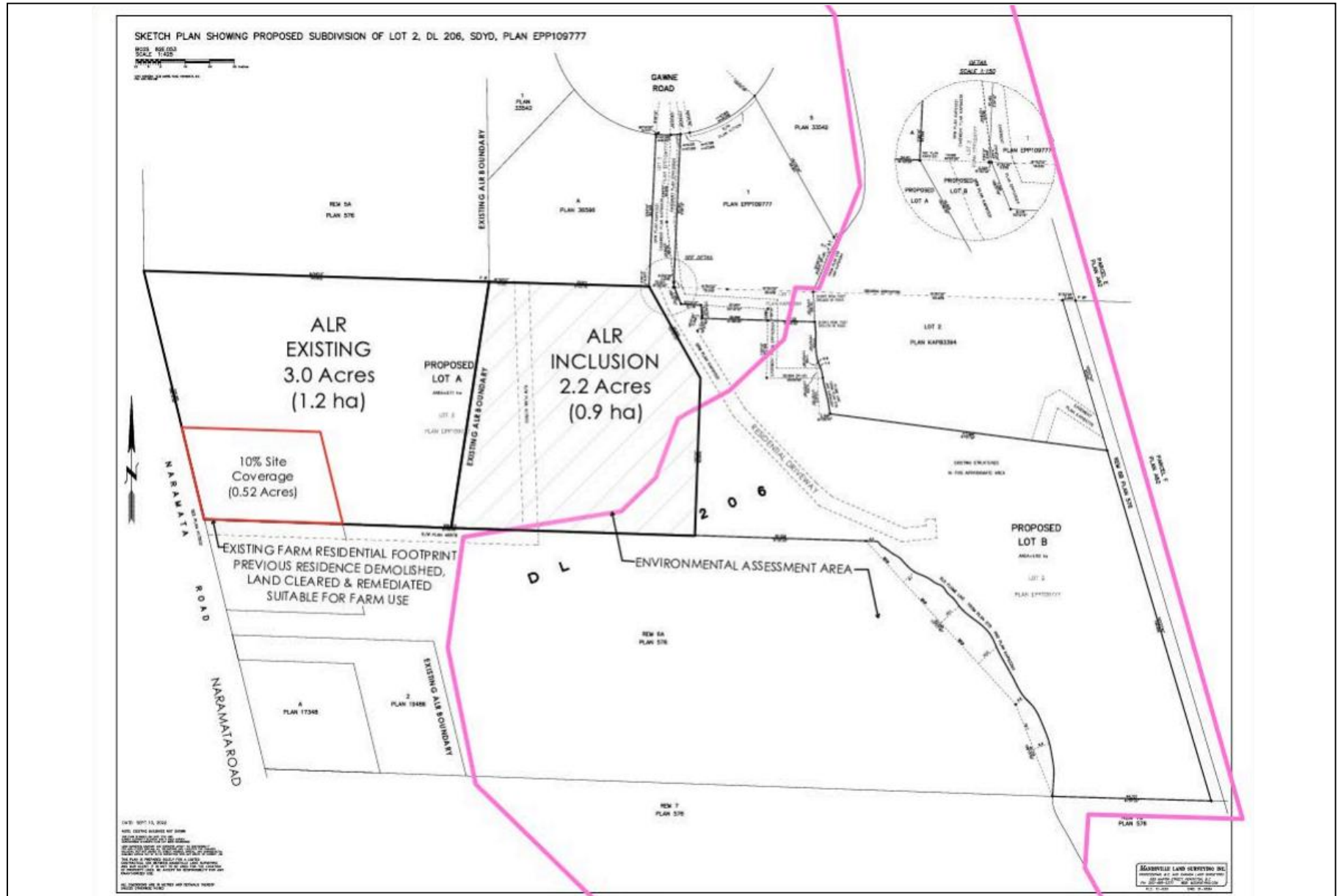
- No. 1 – Agency Referral List
- No. 2 – Applicant’s Site Plan
- No. 3 – Site History
- No. 4 – Aerial Photo (2022)

Attachment No. 1 – Agency Referral List

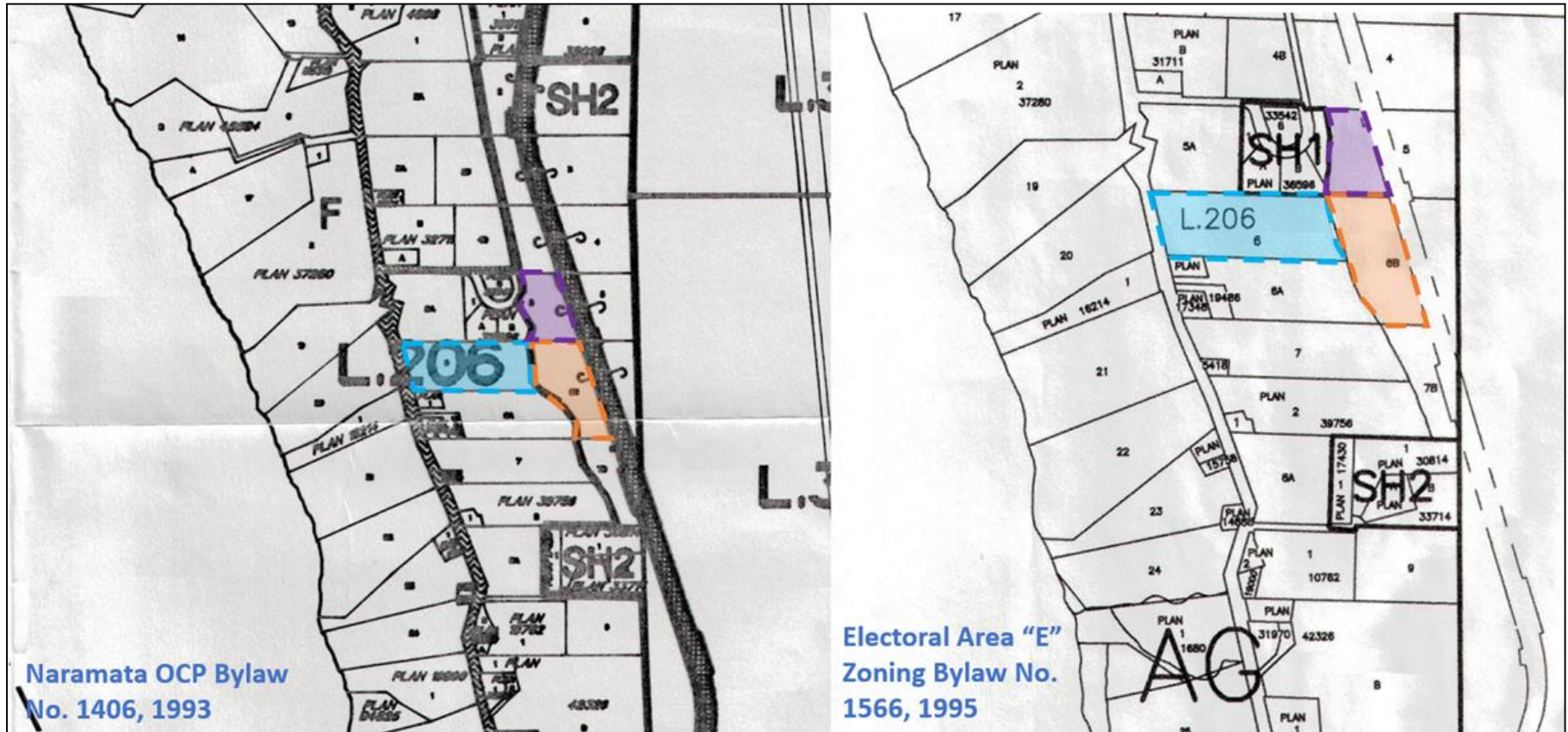
Referrals to be sent to the following agencies as highlighted with a , prior to the Board considering first reading of Amendment Bylaw Nos. 2800.27 & 2458.21, 2023:




<input checked="" type="checkbox"/>	Agricultural Land Commission (ALC)	<input checked="" type="checkbox"/>	Fortis
<input checked="" type="checkbox"/>	Interior Health Authority (IHA)	<input type="checkbox"/>	City of Penticton
<input checked="" type="checkbox"/>	Ministry of Agriculture and Food	<input type="checkbox"/>	District of Summerland
<input type="checkbox"/>	Ministry of Energy, Mines & Petroleum Resources	<input type="checkbox"/>	Town of Oliver
<input type="checkbox"/>	Ministry of Municipal Affairs & Housing	<input type="checkbox"/>	Town of Osoyoos
<input type="checkbox"/>	Ministry of Lands, Water and Resource Stewardship	<input type="checkbox"/>	Town of Princeton
<input type="checkbox"/>	Ministry of Forests	<input type="checkbox"/>	Village of Keremeos
<input type="checkbox"/>	Ministry of Jobs, Trade & Technology	<input checked="" type="checkbox"/>	ONA / PIB / OIB / USIB / LSIB (via NationsConnect)
<input checked="" type="checkbox"/>	Ministry of Transportation and Infrastructure	<input type="checkbox"/>	Environment Canada
<input type="checkbox"/>	Integrated Land Management Bureau	<input type="checkbox"/>	Fisheries and Oceans Canada
<input type="checkbox"/>	BC Parks	<input type="checkbox"/>	Canadian Wildlife Services
<input type="checkbox"/>	School District #53 (Areas A, B, C, D & G)	<input type="checkbox"/>	OK Falls Irrigation District
<input type="checkbox"/>	School District #58 (Area H)	<input type="checkbox"/>	Kaleden Irrigation District
<input checked="" type="checkbox"/>	School District #67 (Areas D, E, F, I)	<input type="checkbox"/>	Vaseux Lake Irrigation District
<input type="checkbox"/>	Keremeos Irrigation District	<input type="checkbox"/>	X Irrigation District / improvement Districts / etc.
<input type="checkbox"/>	Central Okanagan Regional District	<input type="checkbox"/>	Kootenay Boundary Regional District
<input type="checkbox"/>	Thompson Nicola Regional District	<input type="checkbox"/>	Fraser Valley Regional District
<input checked="" type="checkbox"/>	Naramata Volunteer Fire Department		

Attachment No. 2 – Applicant’s Site Plan



Attachment No. 3 – Site History (Previous Parcel Configurations & Land Use Designations)



-  Parent Parcel #1 (Small Holdings Two OCP Designation, Agricultural Zoning)
-  Parent Parcel #2 (Small Holdings Two OCP Designation, Agricultural Zoning)
-  Parent Parcel #3 (Farmland OCP Designation, Agricultural Zoning)

Attachment No. 4 – Aerial Photo (2022)

