

ADMINISTRATIVE REPORT



TO: Board of Directors

FROM: J. Zaffino, Chief Administrative Officer

DATE: October 3, 2024

RE: Official Community Plan (OCP) & Zoning Bylaw Amendment – Electoral Area “E” (E2024.014-ZONE)

Administrative Recommendation:

THAT the Electoral Area “E” Official Community Plan Amendment Bylaw No. 3010.02, 2024, and the Okanagan Valley Zoning Amendment Bylaw No. 2800.46, 2024 be read a first and second time and proceed to public hearing;

AND THAT the Board of Directors considers the process, as outlined in the report from the Chief Administrative Officer dated October 3, 2024, 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. 3010.02, 2024, 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 October 17, 2024;

AND THAT staff give notice of the public hearing in accordance with the requirements of the *Local Government Act*.

Purpose: To allow for a single detached dwelling and agriculture. Folio: E02073.005

Civic: 3005 Naramata Road Legal: Lot 2, Plan KAP26537, District Lot 207, SDYD

OCP: Commercial (C) Zone: General Commercial (C1)

Proposed Development:

This application is seeking to amend the zoning of the subject property in order to allow for an existing structure on the property to be converted to a single detached dwelling, and to allow for agriculture.

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. 3010, 2023, from Commercial (C) to Agriculture (AG); and
- amend the zoning under Schedule ‘2’ (Zoning Map) of the Okanagan Valley Zoning Bylaw No. 2800, 2022, from General Commercial (C1) to Agriculture One (AG1).

In support of the rezoning, the applicant has stated that:

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- *Property [sic] is in the ALR and ALC wants to see this property [sic] and neighbouring lot both returned to AG1 zoning in the latest OCP. (ALC File 46842 page 4).*
 - *Neighbouring lot (3015 Naramata Rd) mentioned above is non-conforming and ALC (residential + business [sic] on commercial)*
 - *Wanting to renovate [sic] interior of building to residential (primary residence) and turn lower property into a nursery/farm crop (trees, plants, vegetables, etc.)*

Site Context:

The subject property is approximately 9,842 m² in area and is situated on the east side of Naramata Road, approximately 1.5 km southeast of the Naramata Village Centre. It is understood that the parcel is currently developed with a distillery.

The surrounding pattern of development is generally characterised by a mix of agricultural land, as well as low-density residential development to the northeast and south.

Background:

The current boundaries of the subject property were created by a Plan of Subdivision deposited with the Land Titles Office in Kamloops on December 16, 1975, while available Regional District records indicate that building permits have previously been issued for a kitchen addition (2016; 2017), an addition to the distillery (2015), an addition to a commercial building (2014), and a medical building (1982).

BC Assessment has classified the property as part “Light Industry” (Class 05) and part “Business and Other” (Class 06).

Under the Electoral Area “E” Official Community Plan (OCP) Bylaw No. 3010, 2023, the subject property is currently designated Commercial (C), and is the subject of a Watercourse Development Permit (WDP) Area designation.

Zoning Bylaw

Under the Okanagan Valley Zoning Bylaw No. 2800, 2022, the property is currently zoned General Commercial (C1), which lists “alcohol production facility” as a permitted principal use, but does not list “agriculture” as a permitted use. While the C1 zone lists “accessory dwelling” as a permitted accessory use, it does not list “single detached dwelling” as a permitted principal use.

The property is located within the Agricultural Land Reserve (ALR). In accordance with the *Agricultural Land Commission Act*, a local government bylaw that is inconsistent with this *Act* has no force or effect to the extent of the inconsistency. As such, the current C1 Zone is seen to have no force or effect to the extent that it prohibits agriculture, which is permitted on all lands within the ALR and may not be prohibited by local government bylaws.

In contrast, the C1 Zone’s limitation of residential uses to accessory dwellings only is seen to apply as the *Agricultural Land Reserve Use Regulation* allows for local government bylaws to regulate, or prohibit, residential uses.

The property has been the subject of one Bylaw Enforcement file, whereby an initial complaint about a watercourse in the gully on the property was forwarded from Report All Poachers and Polluters

(RAPP) to Emergency Management British Columbia (EMBC) to the RDOS on May 30, 2019. The RDOS requested an inspection, however, the CAO later determined the case falls under Provincial Authority, not RDOS. As a result, the file was closed, and the complainant was notified on July 4, 2019.

Agricultural Land Commission Application History

In November 2013, the Agricultural Land Commission (ALC) approved a non-farm use application (ALC Resolution #326/2013) to allow for the development of a “micro distillery” in an existing structure.

In rendering its decision, the Commission considered the matter of the Regional District’s historic Commercial zoning on the subject property. The Commission noted that “the ALC did not object to the property’s *commercial* designation in its 2006 review of the OCP and Zoning Bylaws because the medical office use identified by the designation had existed for more than two decades”.

In July 2023, a draft copy of the Electoral Area “E” OCP Bylaw No. 3010, 2023 was referred to the ALC for comments. In reviewing the draft bylaw, the ALC noted that:

3005 Naramata Road (PID 005-105-307) is designated Commercial. In 2013, the Commission approved the use of this property for a micro distillery (Application 53523). As alcohol production is now a permitted use in the ALR, ALC staff recommend that the RDOS explore redesignating this property to Agriculture.

Referrals:

Approval from the Ministry of Transportation and Infrastructure (MoTI) is not required prior to adoption as the proposed amendments involve lands are 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 Solid Waste 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 land. Both the ALC and the Ministry of Agriculture have been made aware of the proposed amendment bylaw(s).

Public Process:

On September 11, 2024, a Public Information Meeting (PIM) was held at the virtually and was attended by one member of the public.

At its meeting of September 9, 2024, the Electoral Area “E” Advisory Planning Commission (APC) resolved to recommend to the RDOS Board that the subject development application be approved.

Administration recommends that the written notification of affected property owners, the public meetings as well as formal referral to the agencies listed at Attachment No. 1, should be considered appropriate consultation for the purpose of Section 475 of the *Local Government Act*. As such, the consultation process undertaken is seen to be 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:

Administration considers that the proposed rezoning is intended to realign the zoning of this property to reflect the allowances of the Agricultural Land Commission.

As such, the proposal is seen to be consistent with the Electoral Area “E” OCP, which includes policies speaking to “support(ing) the use of land designated Agriculture (AG) ... for agricultural use”.

Further, the proposed rezoning would also be consistent with the recommendations by the ALC, as the proposed rezoning would clarify that agricultural uses are permitted on the property.

Lastly, both proposed uses for the subject site have been considered. Use of the existing building as a single detached dwelling is permitted in the AG1 Zone, and the use of a ‘nursery’ is generally considered “agriculture”, subject to compliance with the provisions of the zoning bylaw and ALR Use Regulations.

Summary

In summary, the proposed rezoning is seen to align the zoning of this property with the regulations of the Agricultural Land Commission and is consistent with the Electoral Area “E” OCP Bylaw.

Financial Implications:

Financial implications have been considered and none were found.

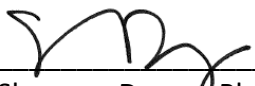
Communication Strategy:

The proposed bylaw amendments have been notified in accordance with the requirements of the *Local Government Act* as well as the Regional District’s Development Procedures Bylaw No. 2500, 2011.

Alternative:

1. THAT the Electoral Area “E” Official Community Plan Amendment Bylaw No. 3010.02, 2024, and the Okanagan Valley Zoning Amendment Bylaw No. 2800.46, 2024, be denied.

Respectfully submitted:



Shannon Duong, Planner II

Endorsed By:



C. Garrish, Senior Manager of Planning

Attachments:

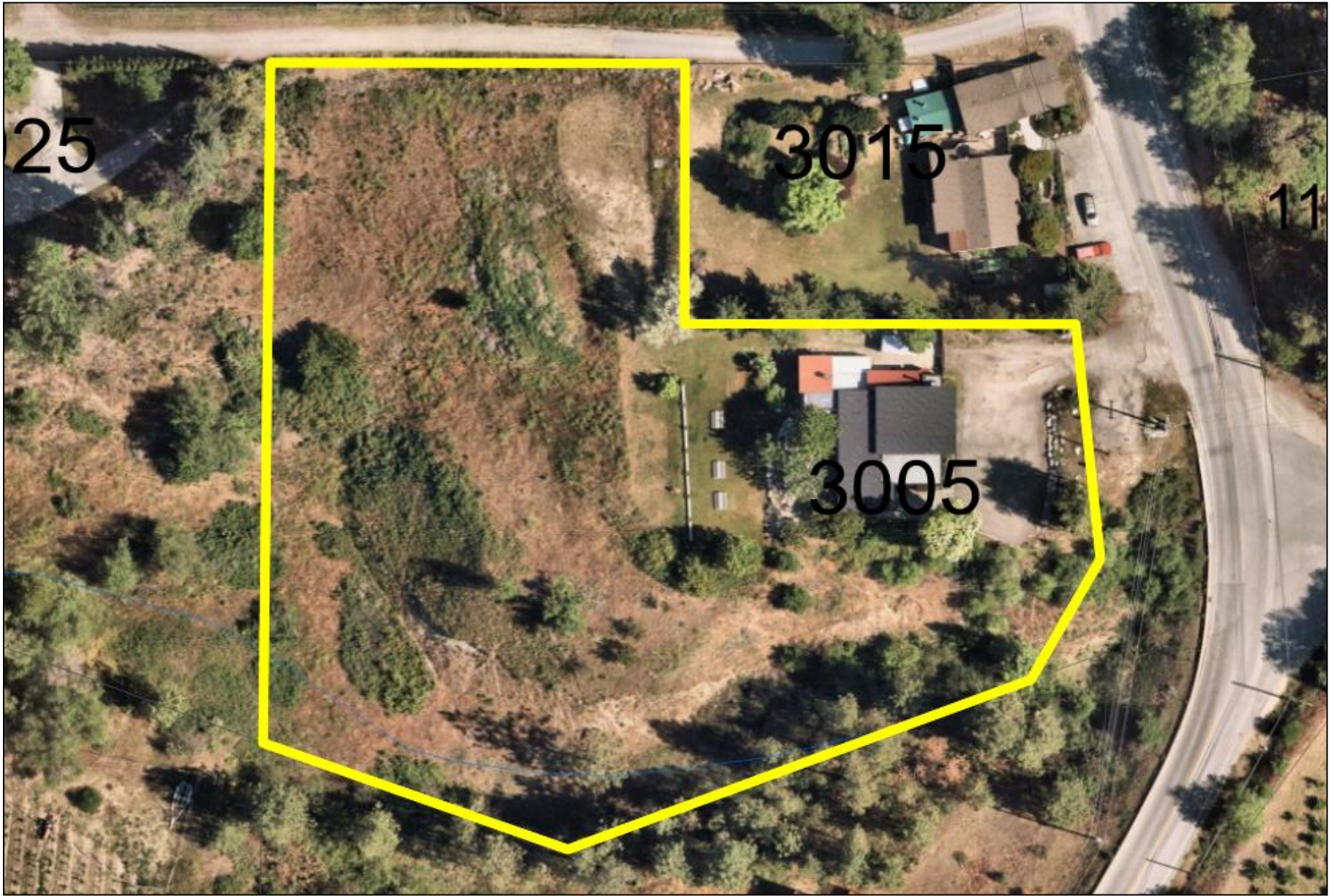
- No. 1 – Agency Referral List
- No. 2 – Aerial Photo
- No. 3 – Site Photo
- No. 4 – Applicant’s Site Plan

Attachment No. 1 – Agency Referral List

Referrals have been sent to the following agencies as highlighted with a , regarding Amendment Bylaw No. 3010.02:

<input checked="" type="checkbox"/>	Agricultural Land Commission (ALC)	<input checked="" type="checkbox"/>	Fortis
<input type="checkbox"/>	Ministry of Agriculture	<input type="checkbox"/>	City of Penticton
<input type="checkbox"/>	Interior Health Authority (IHA)	<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 checked="" type="checkbox"/>	Ministry of Water, Land and Resource Stewardship	<input type="checkbox"/>	Town of Princeton
<input type="checkbox"/>	Ministry of Forest, Lands, Natural Resource Operations & Rural Development (Archaeology Branch)	<input type="checkbox"/>	Village of Keremeos
<input type="checkbox"/>	Ministry of Jobs, Trade & Technology	<input checked="" type="checkbox"/>	OKIB/PIB (via NationsConnect)
<input type="checkbox"/>	Ministry of Transportation and Infrastructure	<input type="checkbox"/>	Osoyoos Indian Band (OIB)
<input type="checkbox"/>	Integrated Land Management Bureau	<input type="checkbox"/>	Environment Canada
<input type="checkbox"/>	BC Parks	<input type="checkbox"/>	Fisheries and Oceans Canada
<input type="checkbox"/>	School District No. 53 (Areas A, B, C, D & G)	<input type="checkbox"/>	Canadian Wildlife Services
<input type="checkbox"/>	School District No. 58 (Area H)	<input type="checkbox"/>	Apex Mountain Resort (utilities)
<input checked="" type="checkbox"/>	School District No. 67 (Areas D, E, F, I)	<input type="checkbox"/>	Kaleden Irrigation District
<input type="checkbox"/>	Keremeos Irrigation District	<input type="checkbox"/>	Vaseux Lake Irrigation District
<input type="checkbox"/>	Central Okanagan Regional District	<input type="checkbox"/>	Irrigation District / improvement Districts / etc.
<input type="checkbox"/>	Thompson Nicola Regional District	<input type="checkbox"/>	Kootenay Boundary Regional District
<input checked="" type="checkbox"/>	Naramata Volunteer Fire Department		Fraser Valley Regional District

Attachment No. 2 – Aerial Photo



Attachment No. 3 – Site Photo



Attachment No. 4 – Applicant's Site Plan

