

# ADMINISTRATIVE REPORT



**TO:** Advisory Planning Commission  
**FROM:** B. Newell, Chief Administrative Officer  
**DATE:** August 9, 2021  
**RE:** Zoning Bylaw Amendment – Electoral Area “A”

---

Purpose: To allow for a minimum parcel size of 3.7 ha.

Civic: 2257 82<sup>nd</sup> Avenue Folio: A-02336.030

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

Legal: Lot A, Plan KAP92472, District Lot 223, SDYD, Except Plan EPP9754

---

## **Proposed Development:**

This application is seeking to amend the zoning of the subject property from Agriculture One (AG1) to Site Specific Agriculture One (AG1s), in order to allow a minimum parcel size of 3.7 ha and allow for an eventual boundary adjustment.

In order to accomplish this, the applicant is proposing to amend the zoning of the property under the Electoral Area “A” Zoning Bylaw No. 2451, 2008, from Agriculture One (AG1) to Site Specific Agriculture One (AG1s) with the site specific regulation stipulating that despite section 10.2.3(a), the minimum parcel size shall be 3.7 ha.

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

*The requested zoning amendment to reduce the minimum lot size will not result in the creation of any new lots or any physical changes to the land. Presently both lots are 4.01 hectares and located within the ALR, despite being in the ALR - Lot 1 does not actually have any agricultural potential as it primarily comprised of rock /gravel mounds. The only portion of the property being used for agricultural purposes is the 0.31 ha. area which is proposed to be conveyed to Lot 2. More so, this 0.31 ha. area is being used by the owner of Lot 2, who happens to be the brother of the owner of Lot 1. Lot 2 is primarily being used for agricultural and the requested zoning amendment will simply allow for a lot line adjustment to contain all of the active and capable agricultural land on one lot.*

## **Site Context:**

The subject property is approximately 4.01 ha in area and is situated on the south side of 82<sup>nd</sup> avenue, west of Highway 3, and approximately 2.2 km east of the Town of Osoyoos boundary. The property currently contains a single family dwelling and farm outbuildings.

The surrounding pattern of development is generally characterised by agricultural use.

## **Background:**

---

The current boundaries of the subject property were created by a Plan of Subdivision deposited dated October 3, 2020, while available Regional District records indicate that no building permits have not previously been issued for this property.

Under the Electoral Area “A” Official Community Plan (OCP) Bylaw No. 2905, 2021, the subject property is currently designated Agriculture (AG), and part of the property is the subject of a Watercourse Development Permit (WDP) and Environmentally Sensitive Development Permit (ESDP) designation.

Under the Electoral Area “A” Zoning Bylaw No. 2451, 2008, the property is currently zoned Agriculture One (AG1) which requires a minimum parcel size of 4.0 ha.

Approval from the Ministry of Transportation and Infrastructure (MoTI) is required prior to adoption as the subject property is situated within 800 metres of a controlled area (i.e. Highway 97).

The property is within the Agricultural Land Reserve (ALR).

**Application History:**

At its meeting on July 20, 2017, the Regional District Board “authorised” an application to subdivide the property, which was then 16.7 ha in area, to proceed to the Agricultural Land Commission (ALC).

Administration understands that the applicant subsequently attempted to revise the subdivision to allow a 0.31 ha part of the property at its northern boundary to be consolidated with the adjacent property to the west.

On February 16, 2018, the ALC passed a resolution approving a two-lot subdivision, creating the 4.01 ha parcel which is the subject of this application.

However, in its decision, the ALC advised that “the alternative proposal refers to land which is not currently under application, is a significant change from the original Proposal, and was not considered by the Regional District of Okanagan-Similkameen” and therefore would not be considered.

The subject parcel is zoned Agriculture One (AG1) which has a minimum parcel size of 4.0 ha. The applicant still wishes to convey 0.31 ha of the northern tip of the parcel to the adjacent parcel to the west. To do so, the zoning on the subject property must be amended to allow for a minimum parcel size of 3.7 ha.

Administration further understands that the Provincial Approving Officer has indicated that they are open to considering this subdivision under Section 10(c)(ii) of the *ALC Act*, which states that a boundary adjustment can be approved by an Approving Officer without ALC approval if, in the opinion of the Approving Officer, it will allow for the enhancement of the owners overall farm, or for the better utilization of farm buildings for farm purposes.

**Analysis:**

In considering this proposal, Administration notes that the requested change to the minimum parcel size requirement of the AG1 Zone from 4.0 ha to 3.7 ha is minor in nature and is unlikely to adversely impact on the agricultural viability of the property given the area being removed is comprised of a rocky bench and outcroppings.

Further, the zoning amendment will not change the permitted uses allowed on the property and the applicant is not proposing any new development on the property or a change in use.

---

It is noted that the portion of the land most suitable for agriculture is currently being used by the neighbouring property owner, and the rezoning will allow the owner and their neighbour to formalize this arrangement by consolidating all viable agricultural land into one parcel through a boundary adjustment.

Conversely, Administration recognises that it is not generally considered good planning practice to allow “spot zoning”. In such instances, spot zonings grant privileges to a single parcel which are not granted or extended to other parcels in the vicinity.

In summary, given the minor nature of the requested variance to the parcel, Administration is generally supportive of this application.

---

**Administrative Recommendation:**

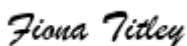
**THAT the APC recommends to the RDOS Board of Directors that the subject development application be approved.**

---

**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:**



Fiona Titley, Planner I

**Endorsed By:**



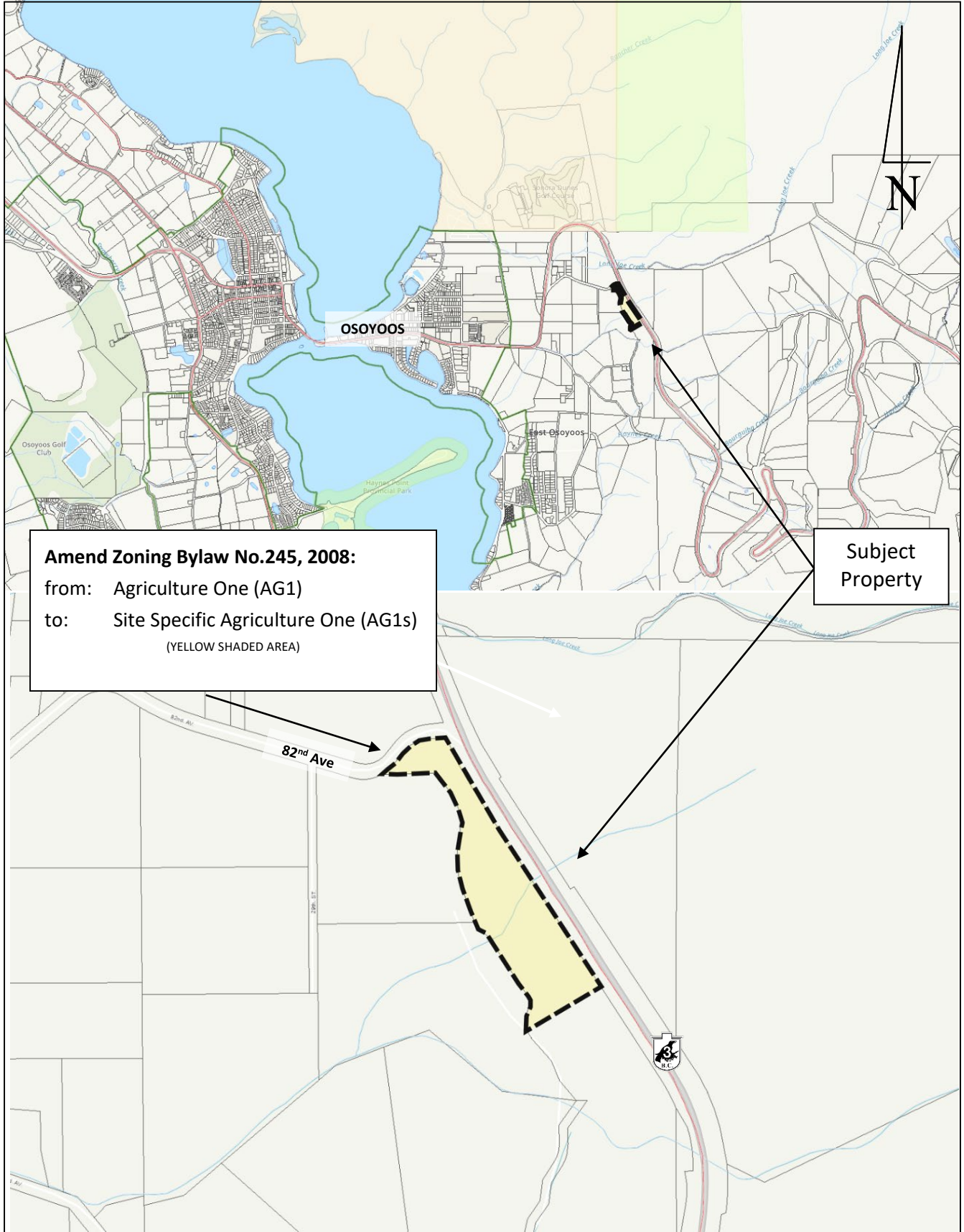
C. Garrish, Planning Manager

Attachments: No. 1 – Context Maps

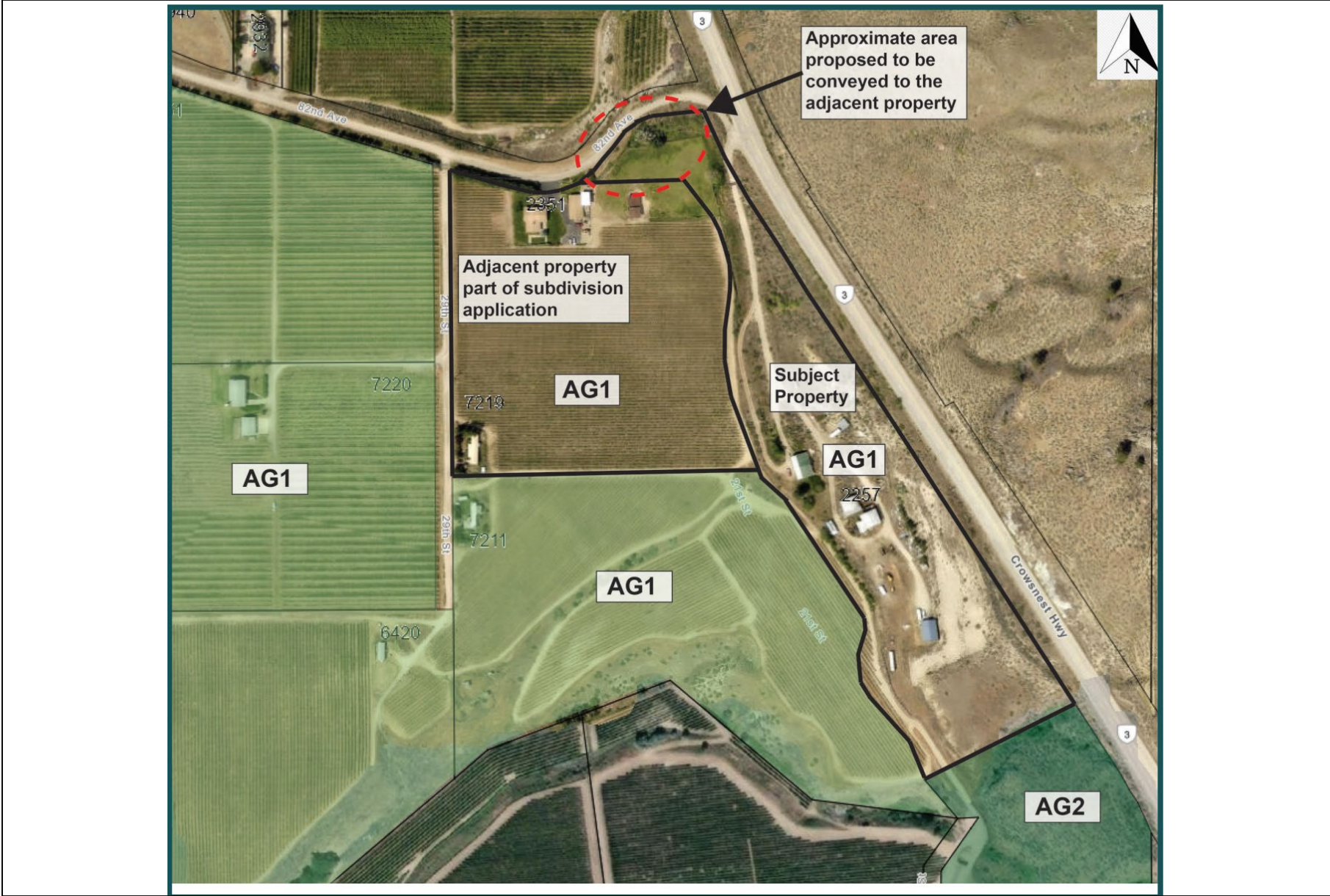
No. 2 – Applicant’s Site Plan

No. 3 – Site Photo (Google Earth 2016)

Attachment No. 1 – Context Maps



Attachment No. 2 – Applicant’s Site Plan



Attachment No. 4 – Site Photo (Google Earth 2016)

