

## ADMINISTRATIVE REPORT



**TO:** Board of Directors  
**FROM:** B. Newell, Chief Administrative Officer  
**DATE:** September 23, 2021  
**RE:** Zoning Bylaw Amendment – Electoral Area “A”

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### **Administrative Recommendation:**

**THAT Bylaw No. 2451.32, 2021, a bylaw to amend the Electoral Area “A” Zoning Bylaw to allow for a minimum parcel size of 3.7 ha at 2257 82<sup>nd</sup> Ave in Area “A” be read a first and second time and proceed to public hearing;**

**AND THAT the holding of a public hearing be scheduled for the Regional District Board meeting of October 21, 2021;**

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

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**Purpose:** To allow for a minimum parcel size of 3.7 ha. **Folio:** A-02336.030

**Civic:** 2257 82<sup>nd</sup> Avenue **Legal:** Lot A, Plan KAP92472, DL 223, SDYD, Except Plan EPP9754

**Zone:** Agriculture One (AG1) **Proposed Zone:** Agriculture One Site Specific (AG1s)

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### **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 ... 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.

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**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.

**Referrals:**

Approval from the Ministry of Transportation and Infrastructure (MoTI) is required prior to adoption as the proposed amendments involve lands within 800 metres of a controlled access highway (i.e. Highway 3).

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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 bylaw.

**Public Process:**

On August 30, 2021, an electronic Public Information Meeting (PIM) was held via Webex and was attended by approximately 0 members of the public.

At its meeting of August 9, 2021, the Electoral Area “A” Advisory Planning Commission (APC) resolved to recommend to the RDOS Board that the subject development application be approved.

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

**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.

**Alternatives:**

1. THAT Bylaw No. 2451.32, 2021, Electoral Area “A” Zoning Amendment Bylaw be read a first and second time and proceed to public hearing;  
AND THAT the holding of the public hearing be delegated to Director Pendergraft;  
AND THAT staff schedule the date, time, and place of the public hearing in consultation with Director Pendergraft;  
AND THAT staff give notice of the public hearing in accordance with the requirements of the *Local Government Act*.
2. THAT Bylaw No. 2451.31, 2021, Electoral Area “A” Zoning Amendment Bylaw be deferred; or
3. THAT Bylaw No. 2451.31, 2021, Electoral Area “A” Zoning Amendment Bylaw be, be denied.

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**Respectfully submitted:**

*Fiona Titley*

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Fiona Titley, Planner I

**Endorsed By:**

*CG*

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C. Garrish, Planning Manager

Attachments: No. 1 – Applicant’s Site Plan

No. 2 – Site Photo (Google Streetview)

Attachment No. 1 – Applicant’s Site Plan





Attachment No. 2 – Site Photo (Google Streetview)

