



COUNCIL REPORT  
Development Services  
For the February 11, 2020 Council Meeting

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DATE: February 3, 2020

TO: Paul Gipps, CAO

FROM: Brent Magnan, Planning Manager

RE: Application: ALR Exclusion Application, 3620 Webber Road (A 19-05)  
Legal: Lot A, DL 3189, ODYD, Plan KAP18407 (PID: 008-248-885)  
Owners: Manfred and Rosemarie Loch  
Agent: Glen McCrae

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RECOMMENDED MOTION:

**THAT** Council supports the exclusion of 3620 Webber Road (Lot A, DL 3189, ODYD. Plan 18407) from the Agricultural Land Reserve (File: A 19-05); and

**THAT** Council directs Staff to forward the application to the Agricultural Land Commission for consideration.

RATIONALE:

The recommendation motion is based on the following considerations:

- The Agricultural Land Commission (ALC) has previously confirmed through an official policy resolution that they support exclusion of all remaining ALR lands within the Glenrosa neighbourhood west of Powers Creek;
- The parcel is not located within one of the City's agricultural precinct growth management areas;
- The parcel is located in a neighbourhood growth management area and provides an opportunity to allow for necessary infill in this neighbourhood as the parcel is surrounded by established residential lots; is within a 10 minute walk distance from schools, the community centre and the future Glenrosa commercial area; and
- In line with the City's OCP agricultural policies, the 1993 policy direction by the ALC is an extraordinary circumstance where such exclusion would otherwise be consistent with the goals, objectives and other policies of the OCP.

LEGISLATIVE REQUIREMENTS:

The *Agricultural Land Commission Act* (s.30) states that an exclusion application by a property owner may not proceed unless authorized by a resolution of the local government if, on the date the application is made, the application:

- a) applies to land that is zoned by bylaw to permit farm use, or

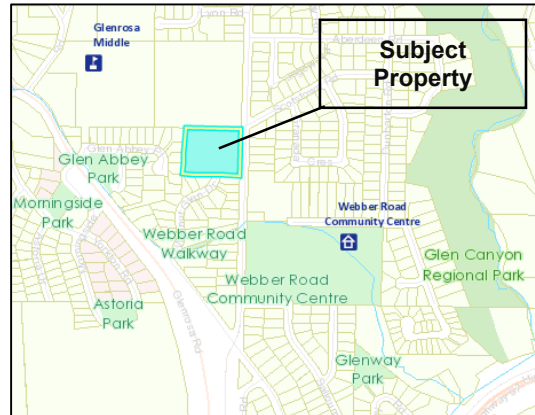
- b) requires, in order to proceed, an amendment to an official community plan or a zoning bylaw.

## BACKGROUND:

### **Proposal:**

This ALC Application is a request to exclude the 1.4 hectare (3.47 acres) subject property from the Agricultural Land Reserve (ALR) in order to allow for a future proposed 10 lot subdivision.

In their ALC Applicant Submission<sup>1</sup> (Attachment 2), the owners contend that this parcel should be excluded from the ALR as it is a small isolated lot, far from any other agricultural lands or market, fairly steep graded, surrounded by residential uses on three sides and agriculture use on the north side. They further state that the parcel is easily serviced and within walking distance to Glenrosa Middle School. They believe the exclusion will bring uniformity to the primarily residential neighbourhood.



**Figure 1. Context Map, see Attachment 1**

Due to the nature of the applicant's rationale and the ALC decision history in this area, no agricultural capability report was provided.

### **Location & Surrounding Uses:**

The A1 agriculturally zoned subject property is located in the Glenrosa neighbourhood at 3620 Webber Road, just northeast of the Webber Road Community Centre fields and southwest of the Scotstown Road and Webber Road intersection (see Subject Property Map – Attachment 1). There are residential structures on the northeast corner of the subject property and the parcel was historically fenced off for livestock purposes. The subject property fronts Webber Road and Walnut Glen Drive, with access to the single family home from Webber Road. The parcel slopes up from Webber Road at an approximately 15% grade.



**Figure 2. Photo from Webber Road looking west – see Attachment 3 for further site photos**

<sup>1</sup> ALC Application ID 59717

### Surrounding Uses:

- North: a four hectare (10 acre) agriculturally zoned parcel currently used for logging (excluded from the ALR in 2010).
- South: the Walnut Glen residential subdivision.
- East: Webber Road, with residential lots across Webber.
- West: the Glen Abbey residential subdivision.

### **Historical Policy Review/Background:**

#### **1993 ALC Decisions:**

The lower Glenrosa area has a history of ALC policy resolutions spanning the 1980s and 1990s. In 1993, the ALC completed a planning study of ALR boundaries in relation to the proposed new major street system of Glenrosa. As a result of this study and in response to the Glenrosa Interchange project, the Commission advised the Ministry of Transportation that the ALC supports exclusion of all remaining ALR lands west of Powers Creek, north of District Lot 3482 (ALC Resolution # 1243/1993). The ALC decision further states that this decision should be recorded as ALC policy in relation to any applications that may be received in the area and be conveyed to the Regional District as part of the consultation process on the next update of the Westside Official Community Plan (ALC backgrounder and decision attached – Attachment 4). The ALC staff advised that this decision was a policy decision and a formal ALR Exclusion Application for each of the identified parcels was still required.

#### **1995 RDCO Policy:**

In 1995, the Regional District adopted the Westside Official Community Plan Bylaw No.1050 and included policy language (section 14, policy 2.21) that stated that the Regional District will support the ALR exclusion of the isolated properties indicated on Figure No.14.2, as these properties were identified as being of low value for retention in the ALR (see Figure 5 – Attachment 5).

#### **CWK Policy:**

Following incorporation, the City of West Kelowna replaced the Regional District's OCP with the new City of West Kelowna Official Community Plan Bylaw No. 0100 (adopted in 2011). The current West Kelowna OCP does not include the same exclusion support language and all ALR parcels have been designated as agricultural regardless of the underlying zone or use.

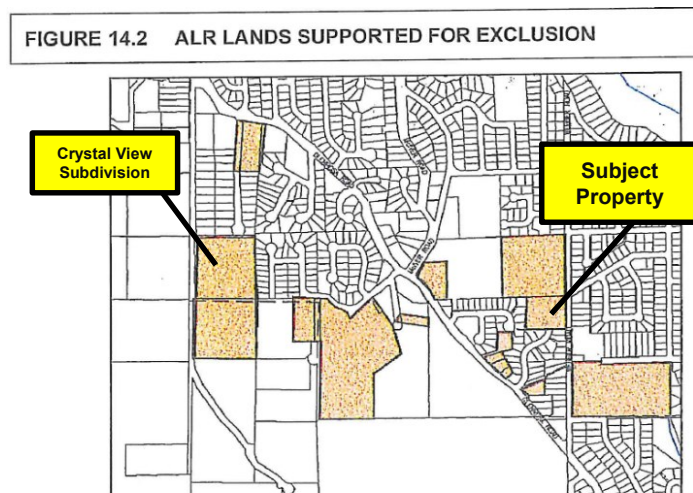


Figure 3. Map from RDCO Westside OCP Bylaw No. 1050

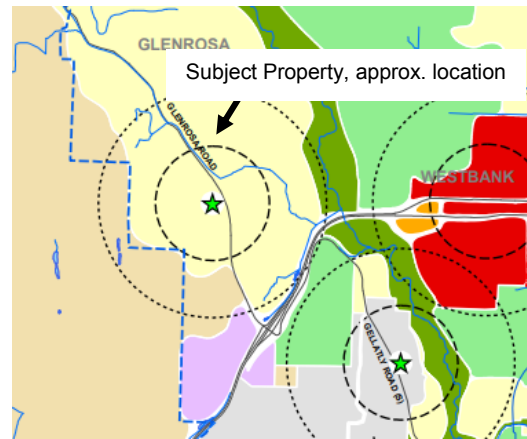
### **Current Policy Review:**

CWK Official Community Plan (OCP) Bylaw No. 0100  
The A1 zoned subject property has an agricultural land use designation in the current OCP and the parcel is located within a neighbourhood growth management designation area.

If the ALC excludes the parcel from the ALR, an OCP amendment and zoning bylaw amendment would need to be adopted by Council prior to submission of a subdivision application.

### **OCP Agricultural Objectives and Policies:**

- Support the preservation and enhancement of the agricultural land base through land use decisions consistent with identified agricultural policies, ALC policies and decisions where applicable, and the Agricultural Plan.
- Applications to the ALC to remove lands from the ALR will not be supported except in extraordinary circumstances where such exclusion would otherwise be consistent with the goals, objectives and other policies of the OCP.
- Further subdivision of agricultural lands is not supported. Although the City endeavours to protect larger lot sizes, it also fully recognizes the contribution and viability of all sizes of farms, including existing small farms, in its jurisdiction.
- Encourage innovative farming practices on smaller parcels within agricultural areas.



**Figure 4. Growth Management Designation Map, West Kelowna OCP Bylaw No. 0100**

### **CWK Agricultural Plan:**

- West Kelowna supports the protection of agricultural land in the City by ensuring an agricultural impact assessment is completed by a qualified professional whenever applications such as, but not limited to, the removal of land from the Agricultural Land Reserve or land zoned A1, or boundary adjustments, are received.
- The City of West Kelowna supports the protection of agricultural land in the City by ensuring that removal of land from the Agricultural Land Reserve or land zoned A1, or boundary adjustments result in no net loss of agricultural land within the City and the same agricultural value of land is maintained in accordance with the provisions of the Agricultural Land Commission Act.

### **Agricultural Referral Comments:**

#### **Agricultural Land Commission (ALC) Comments:**

The ALC staff defer all comments to allow the ALC Commissioner's to provide a response to the application by way of a decision letter; however, ALC staff confirmed that Resolution #1243/1993 remains valid and approval runs with the land and has no expiry unless specified. The ALC staff advises that in reviewing the exclusion application, the Commission would likely consider the length of time that has passed since the resolution was adopted and would consider the merits of exclusion for the specific property, including, but not limited to, its agricultural capability and suitability. ALC staff have further advised that the resolution is a policy resolution and does not bind Council's discretion in this matter.

#### **Ministry of Agriculture**

Ministry staff have advised that they have concerns regarding this proposal. While Ministry staff recognize that the referenced historical documentation from both the ALC and Westside OCP indicate previous support for exclusion, removal of land from potential productivity in this area is

not in the best interest of agriculture and food security. In reviewing the Agricultural Capability Classes and Soil Surveys of the parcel the soil is considered well drained sandy loam. The Agricultural Capability is 70% Class 2 and 30% Class 3. Ministry staff also believe that if exclusion were to proceed, it could also set a precedent for future removal of other ALR parcels in the area, with the potential to increase price speculation of surrounding agricultural land.

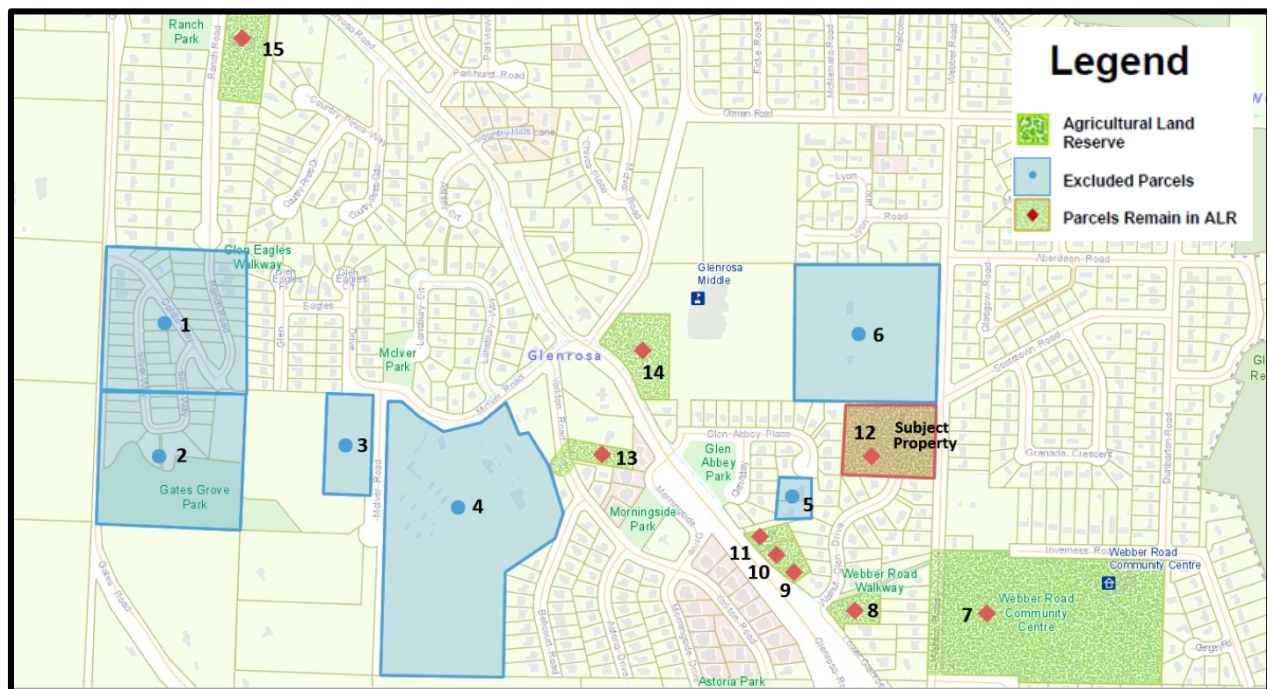
**CWK Agricultural Advisory Committee:**

On January 9, 2020, the Agricultural Advisory Committee received this application and provided the following recommendation to Council:

*THAT the AAC not support file A 19-05, 3620 Webber Road, due to the contradiction with the no net loss of agricultural land mandate, OCP policies, and opinion that the property is viable as a farm.*

**Discussion:**

The Glenrosa area has a unique agricultural policy history. Within the Land Commission’s ALR study boundaries, 15 parcels were located in the ALR when the ALC decided to support the exclusion of all Glenrosa lands west of Power’s Creek. Since the 1993 decision, six of the larger parcels have been excluded, leaving nine parcels remaining in the ALR, see Figure 5.



**Figure 5. Status of Glenrosa Parcels – Attachment 6**

The most recent exclusions were for a parcel on Mclver Road in 2013 (#3) and the parcel to the north of the subject property in 2010 (#6). Of the remaining parcels, four (#9, #10, #11 and #13) are less than 1 acre R1 single family zoned parcels, one (#2) is an P2 institutionally zoned church (Morning Star Bible Camp), one (#7) is operated as the community centre with a non-farm use to allow for a future secondary school and the remaining three include the subject property (#12) and two other parcels that have residential uses (#14 and #15), see Attachment 6.

The AAC and Ministry of Agriculture have both indicated that they do not recommend exclusion of these parcels. The Ministry has raised concern about precedent and land speculation for the

remaining parcels in the area. Based on the size, zoning and nature of the remaining nine parcels in the Glenrosa area, staff do not anticipate that the exclusion of this parcel will have a negative impact on the protection of the agricultural land base in West Kelowna.

While the OCP policies support the preservation and enhancement of the agricultural land base and fully recognizes the contribution and viability of all sizes of farms, including existing small farms, given the 1993 ALC direction and the nature of the remaining parcels in the Glenrosa area, the 1993 policy direction by the ALC is an extraordinary circumstance where such exclusion would otherwise be consistent with the goals, objectives and other policies of the OCP.

While staff recommend supporting the exclusion of this parcel due to extraordinary circumstances created by the 1993 ALC decision, should Council wish to provide a resolution that is in line with the City's agricultural policies and the AAC and Ministry comments, two alternative motions of non-support has been provided for Council's consideration.

#### PUBLIC NOTIFICATION:

In line with the *Agricultural Land Reserve General Regulation (s.15 and 16)*, the applicant undertook the following public notification prior to submitting the application to the City:

- two newspaper advertisements;
- notice of exclusion request to adjacent neighbours with land in the ALR; and
- posted a sign on the subject property.

No public comments have been received to date by the City.

#### ALTERNATE MOTIONS:

1. **THAT** Council not support the exclusion of 3620 Webber Road (Lot A, DL 3189, ODYD, Plan 18407) from the Agricultural Land Reserve (File: A 19-05); and

**THAT** Council directs Staff to forward the application to the Agricultural Land Commission for formal consideration.

Should Council choose this motion, a local government report will be sent to the ALC advising that Council does not support the exclusion. By forwarded the application, Council is advising their non-support, but defers to the ALC for a formal exclusion decision.

2. **THAT** Council not support the exclusion of 3620 Webber Road (Lot A, DL 3189, ODYD, Plan 18407) from the Agricultural Land Reserve (File: A 19-05); and

**THAT** Council direct staff to not forward the application to the ALC for consideration.

Should Council choose this motion, the file will be closed and the ALC will be advised that the application did not receive a motion to proceed.

#### REVIEWED AND APPROVED BY:

Brent Magnan, Planning Manager  
Mark Koch, Director of Development Services  
Paul Gipps, CAO

Powerpoint: Yes  No

Attachments:

1. Context Map and Subject Property Map
2. ALC Applicant Submission, including proposed subdivision plan
3. Site Photos
4. ALC Policy Decision Backgrounder
5. Westside OCP Bylaw No.1050 Agricultural Section, including Figure 14.2
6. Status of ALR Parcels included in 1993 ALC "Glenrosa Neighbourhood" Resolution Area Map and Table

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