



Public Hearing No. 2

penticton.ca

Public Hearing
to be held at the City of Penticton Council Chambers
171 Main Street, Penticton, B.C.
To view the Council Meeting, visit www.penticton.ca

Tuesday, March 1, 2022
at 6:00 p.m.

1. Mayor Calls Public Hearing to Order for **“Agricultural Land Reserve Exclusion Application for 610 Pineview Road”** 1-19
- CO Reads Opening Statement and Introduction of Application
- “Agricultural Land Reserve Exclusion Application (ALR) for 610 Pineview Road”
- Purpose: To exclude 3.8 hectares/9.3 acres from 610 Pineview Road, Lot 1 District Lot 2710 Similkameen Division Yale District Plan EPP22470.
- The applicant intends to develop a residential subdivision on the subject property.
- Notice: The Public Hearing was advertised in the Penticton Herald Newspaper on Tuesday, February 22, 2022 and Wednesday, February 23, 2022 (pursuant to the *Local Government Act*).
- CO No correspondence has been received regarding the Agricultural Land Reserve Exclusion Application (as of noon Wednesday, February 23, 2022).
- Mayor Requests Development Services staff describe the proposed application
- Mayor Invitation to applicant for comment or elaboration on the application
- Mayor Invitation to electronic and in person participants to present their views
- Mayor Invites Council members to ask questions
- Mayor Invites applicants to respond to questions and participants may provide new additional information
- PUBLIC HEARING for “Agricultural Land Reserve Exclusion Application (ALR) for 610 Pineview Road” is terminated and no new information can be received on this matter.

Electronic Regular Council Meeting
held via Zoom at City of Penticton
171 Main Street, Penticton, B.C.

Tuesday, February 15, 2022
at 1:00 p.m.

Resolutions

10.11 Agricultural Land Reserve (ALR) Exclusion Application
Re: 610 Pineview Road

46/2022

It was MOVED and SECONDED

THAT Council forward the ALR Exclusion application, for Lot 1 District Lot 2710 Similkameen Division Yale District Plan EPP22470, located at 610 Pineview Road, an application to exclude the subject property from the Agricultural Land Reserve, to the March 1, 2022 Public Hearing to give the public an opportunity to provide comments and feedback.

CARRIED

Councillors Bloomfield, Miller and Sentes, Opposed

Council Report

penticton.ca

Date: February 15, 2022 File No: RMS/610 Pineview Rd
To: Donny van Dyk, Chief Administrative Officer
From: Steven Collyer, Planner II
Address: 610 Pineview Road
Subject: **Agricultural Land Reserve (ALR) Exclusion Application for 610 Pineview Road**

Staff Recommendation

THAT Council forward the ALR Exclusion application, for Lot 1 District Lot 2710 Similkameen Division Yale District Plan EPP22470, located at 610 Pineview Road, an application to exclude the subject property from the Agricultural Land Reserve, to the March 1, 2022 Public Hearing to give the public an opportunity to provide comments and feedback.

Strategic Priority Objective

Community Vitality: The City of Penticton, guided by the Official Community Plan, will promote the economic wellbeing and vitality of the community.

Proposal

The applicant is proposing to develop a residential subdivision on the subject property. The preliminary draft concept plan (Attachment 'E') shows 11 duplex lots, and a bareland strata consisting of approximately 24 single detached homes proposed for the property. This draft concept is subject to change. The subject property is part of a conditionally-approved ALR exclusion that includes two other properties on Valleyview Road, however due to challenges with achieving the conditions between the three land owners, the applicant is proposing to exclude 610 Pineview Road on its own. As such, the applicant has submitted this ALR Exclusion application to the City, and the City is responsible for hosting a public hearing on the exclusion request prior to Council giving a resolution of support and forwarding the application for review and final approved by the Agricultural Land Commission (ALC).

The purpose of this report is to send the ALR exclusion application to a public hearing, as required by the ALC legislation for ALR Exclusion applications. Council will still have an opportunity to discuss and determine whether to support the application following the public hearing.

Background

The subject property is 3.8 hectares (9.3 acres) in size and is located on the south side of Pineview Road, near Gordon Place (Figure 1). The lands currently contain a single detached dwelling and an orchard. Surrounding land uses include residential subdivisions to the north and east, and agricultural lands within the Agricultural Land Reserve (ALR) to the south and west. There is an environmentally-sensitive gully leading down towards Green Ave W near the western edge of the property. The property is within a transition area between urban residential subdivisions and agricultural lands.

Residential development on this property has been contemplated since the 1990s. In 1994, the northern portion of the subject property was rezoned to allow single detached dwellings. This area is currently zoned R1 (Large Lot Residential), as shown in Attachment 'A'.

In 2005, the City adopted an amendment to the Official Community Plan (OCP) which designated a substantial amount of land in the upper Valleyview Road area for residential development, including the subject property. This change was supported in principle by the Agricultural Land Commission (ALC), with the condition that a more detailed development plan be prepared prior residential development occurring.

In 2011, an ALR Exclusion application was submitted (through the previous ALC exclusion process) as part of a 9 hectare (22 acre) development proposal for 610 Pineview Rd as well as portions of 2900 Valleyview Rd and 3050 Valleyview Rd (Figure 2). The intent at the time was to develop the three properties together under an area-specific plan, what would become the 'Upper Valleyview Area Plan' endorsed by Council in 2011.

The Agricultural Advisory Committee (AAC) did not support the proposed ALR exclusion in 2011, having noted concerns with the loss of quality agricultural land and weakening the integrity of the ALR in this area of Penticton if these lands were excluded. Nevertheless, the Upper Valleyview Area Plan was adopted by City Council in 2011, despite the AAC's recommendation. After the City endorsed the ALR Exclusion application, the ALC provided conditional approval to exempt these lands from the ALR.

The ALC granted conditional exclusion of the subject property from the ALR in 2011. This approval stemmed from their support in principle of the 2005 OCP amendment and their review and consideration of the



Figure 1 - Property location map

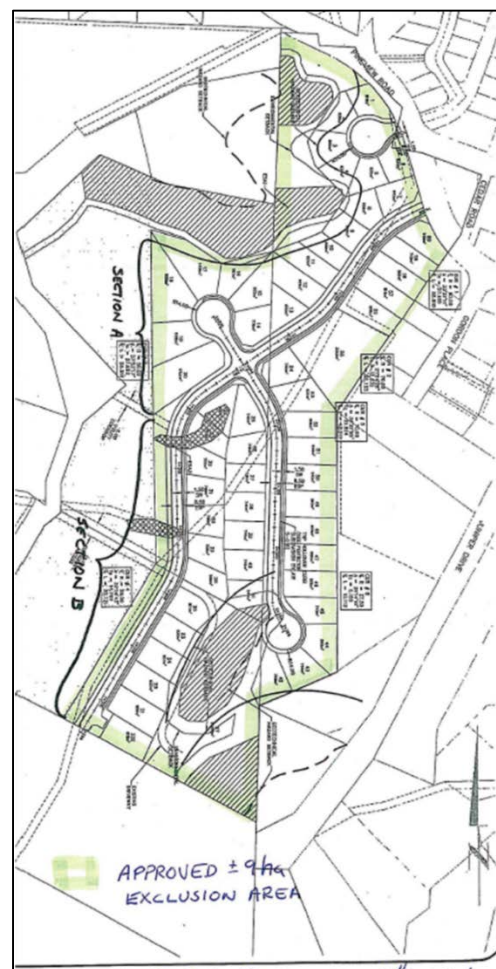


Figure 2 - Lands included with 2011 conditional ALR Exclusion.

Upper Valleyview Area Plan. The conditional approval has been extended on several occasions, and most recently on November 3, 2021 the ALC approved an extension until November 3, 2022. The conditions of their approval for exemption of these lands from the ALR are noted below:

- Preparation of a subdivision plan showing the lands to be excluded in conformance with the drawing forming part of the conditional approval granted by the ALC (Figure 2).
- The construction of fencing and planting of a vegetated buffering. Minimum 5 foot fencing along the ALR boundary. Planting of a 6m to 10m wide, irrigated vegetated buffer along ALR boundary.
- Registration of covenants prohibiting residences within 10m of ALR Boundary on Lots 18 to 20.
- Completion of the subdivision plan that is in substantial compliance with the plan submitted in 2011.

In February 2021, the applicant submitted a rezoning application to change the zoning on the property from R1 (Large Lot Residential) and A (Agriculture) to RD1 (Duplex Housing) and RM1 (Bareland Strata Housing). The rezoning is on-hold until the lands are excluded from the ALR, as the zoning amendment is not permitted while the lands are contained within the ALR. Additional planning approvals are required should the rezoning be successful (following the ALR Exclusion), and are outlined further in this section of this report.

The subject application is for exclusion of 610 Pineview Road (subject property) from the ALR, and does not include the other two Valleyview Road properties. The subject application for ALR exclusion of the subject property was presented to the City’s Agricultural Advisory Committee (AAC) on January 19, 2022 for their review and resolution. After some discussion, the AAC generally found the lands to demonstrate agricultural capability and felt that the lands should remain for agriculture long-term. The AAC passed the following resolution for Council to consider:

It was MOVED and SECONDED

THAT the Agriculture Advisory Committee does not support the ALR Exclusion application for 610 Pineview Road.

CARRIED UNANIMOUSLY

In addition to the ALR Exclusion application, there are several additional approvals necessary for the applicant to proceed with the intended development. These are summarized in the chart below:

Application Required	Description	Approval Authority
ALR Exclusion	To remove the subject property from the ALR.	Agricultural Land Commission
Zoning Amendment Bylaw	To change the zoning on the subject property from R1 (Large Lot Residential) and A (Agriculture) to RD1 (Duplex Housing) and RM1 (Bareland Strata Housing).	Council
Hillside Development Permit	To approve the lot grading and subdivision scheme in a hillside area, in line with the guidelines of the OCP.	Council

Environmental Development Permit	To approve development in an Environmental Assessment and Environmental Protection area, subject to the requirements of a Qualified Environmental Professional (QEP) report.	Staff
Subdivision	To legally divide the property into separate parcels.	Staff
Form and Character Development Permits	To approve the form and character of each future duplex.	Staff

Financial Implication

Under the new provincial rules regarding ALR Exclusion applications, the City is responsible for a portion of the application fee paid to the Agricultural Land Commission (ALC), while the proponent is responsible for the other portion. The application fee is \$1,500 total, with the City covering \$750 of that amount.

Technical Review

In February 2021, the related rezoning application was reviewed by the City’s Technical Planning Committee (TPC), a group of City staff from various departments who review development applications. Since that meeting, no changes to the proposed subdivision layout have occurred. The three property owners that are part of the 2011 ALC conditional exclusion approval have not yet achieved the exclusion conditions, therefore the applicant is now proposing to exclude only 610 Pineview Rd from the ALR at this time. The rezoning will remain on-hold until the lands are officially excluded from the ALR.

Standard subdivision requirements would apply at the time of subdivision (i.e. servicing, geotechnical review, environmental review, etc.)

Analysis

Under a recent change to provincial legislation, the local government now acts as the applicant for ALR Exclusion applications proposed by land owners. This allows local governments to establish criteria for which applications it will process on a land owner’s behalf. The City adopted Policy CP#2021-06 on November 3, 2021 to establish criteria for which applications will be processed on the landowner’s behalf (Attachment ‘F’). This policy was referred to the AAC in 2021 and approved by Council on November 3, 2021. This ALR Exclusion application is the first application to be processed by the City under the new policy. The two key criteria of the new policy are outlined within the table below as well as a brief description detailing how this proposal meets both criteria:

ALR Exclusion Application Criteria (City policy)	Staff Comments
All available ALR approval processes have been exhausted prior to applying for ALR Exclusion.	No ALR approvals process allows residential development as proposed. Therefore, ALR Exclusion is the only option for the applicant to pursue.

<p>No portion of the subject property(ies) shall be designated 'Agriculture' by the Official Community Plan (OCP).</p>	<p>The subject property is designated 'Detached Residential' by the OCP (Attachment 'B'). This future land use envisions residential development on the property. Properties designated 'Agriculture' by the OCP are anticipated to remain used for agricultural purposes in the long-term, however that is not the case for the subject property according to the OCP.</p>
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Staff consider the following OCP policies support the development proposal:

- Policy 4.1.1.1 Focus new residential development in or adjacent to existing developed areas.
- Policy 4.1.1.2 Avoid development in environmentally-sensitive areas, geological hazard and flood hazard areas, on steep slopes, in agricultural areas and in areas not readily served by transit. *(Staff note: An environmental assessment would be required as a condition of subdivision, should the land use be put in place, to ensure environmental features are protected through site development.)*
- Policy 4.1.4.1 Work with the development community – architects, designers and builders – to create new residential developments that are attractive, high-quality, energy efficient, appropriately scaled and respectful of their context.
- Policy 4.4.2.1 Identify environmentally sensitive areas and riparian areas, and protect them through application of the Environmental and Riparian Development Permit Guidelines.
- Policy 4.5.1.5 Consider establishing buffers including distance setbacks, landscape buffers and fencing requirements to minimize conflicts between agricultural and other land uses (e.g., residential or commercial). *(Staff note: the ALC required a landscape buffer as a condition in 2011, it is expected a similar condition will apply should the one property be excluded.)*

The subject property is designated 'Detached Residential' by the OCP (Attachment 'B'). The Detached Residential designation envisions residential development on the property, consisting of single detached building types and some duplexes (Figure 3). Generally, properties within the Detached Residential designation are anticipated to have 1-2 dwelling units per property. The proposed residential development is consistent with the future land use designation on the property as per the OCP.


Land Use	Description	Building Type(s)	Uses	Height / Density	Zone(s)
Detached Residential 	Lower-density areas of single detached houses and/or duplexes in primarily residential neighbourhoods including single-detached bareland stratas	<ul style="list-style-type: none"> • Single detached houses with secondary suites or carriage houses • Duplexes • Small-scale neighbourhood commercial building (e.g., corner store, coffee shop) • Manufactured homes 	<ul style="list-style-type: none"> • Residential • Limited retail/service 	<ul style="list-style-type: none"> • 1 or 2 units per lot • Generally up to 2 ½ storeys to reflect 30' maximum in Zoning Bylaw 	<ul style="list-style-type: none"> • R1 • R2 • R3 • RD1 • RSM • C2
<p>Site-Specific Detached Residential Policy Statement: 375 Smythe Drive: a maximum of 27 detached single-family houses are permitted on this site. Houses may include secondary suites but not carriage houses.</p>					

Figure 3 - Excerpt from the Official Community Plan Land Use Designations table

Staff are recommending that Council forward the ALR Exclusion application for 610 Pineview Road to a public hearing, to gather comments and feedback on the proposal. Staff consider that the exclusion will facilitate residential development, which is aligned with the OCP future land use designation on the subject property. Following the public hearing Council will pass a resolution on whether or not to forward the ALR Exclusion application for 610 Pineview Road with Council support.

Alternate Recommendations

Council may choose to not forward this ALR Exclusion application to a Public Hearing, considering that the lands should instead remain as agriculture and within the ALR. Staff acknowledge there are several policies in the OCP which support the preservation of agricultural land within the City. Council may feel that these policies supporting the preservation of agricultural land outweigh other OCP policies related to compact growth, a range of housing forms, and development adjacent to the built-up area.

Staff are recommending against this alternate recommendation, as it would be inconsistent with the 'Detached Residential' OCP future land use designation on the subject property and the proposal meets the two policy criteria for processing ALR Exclusion applications. Staff recommend that if Council desires to not support the ALR exclusion, that direction be given to amend the OCP to an agricultural zone as reflected in the Alternative Recommendation.

1. THAT Council deny support for the ALR Exclusion application for 610 Pineview Road and not forward it to a Public Hearing;

AND THAT Council give staff direction to initiate an OCP amendment to change the future land use designation of the subject property from 'Detached Residential' to 'Agriculture', subject to an appropriate public engagement process.

Attachments

Attachment A – Zoning Map

Attachment B – Official Community Plan Map

Attachment C – Photos of Property

Attachment D – Letter of Intent

Attachment E – Draft Concept Plan

Attachment F – Council Policy CP#2021-06: Process for Agricultural Land Reserve (ALR) Exclusion Applications

Respectfully submitted,

Steven Collyer, RPP, MCIP
Planner II

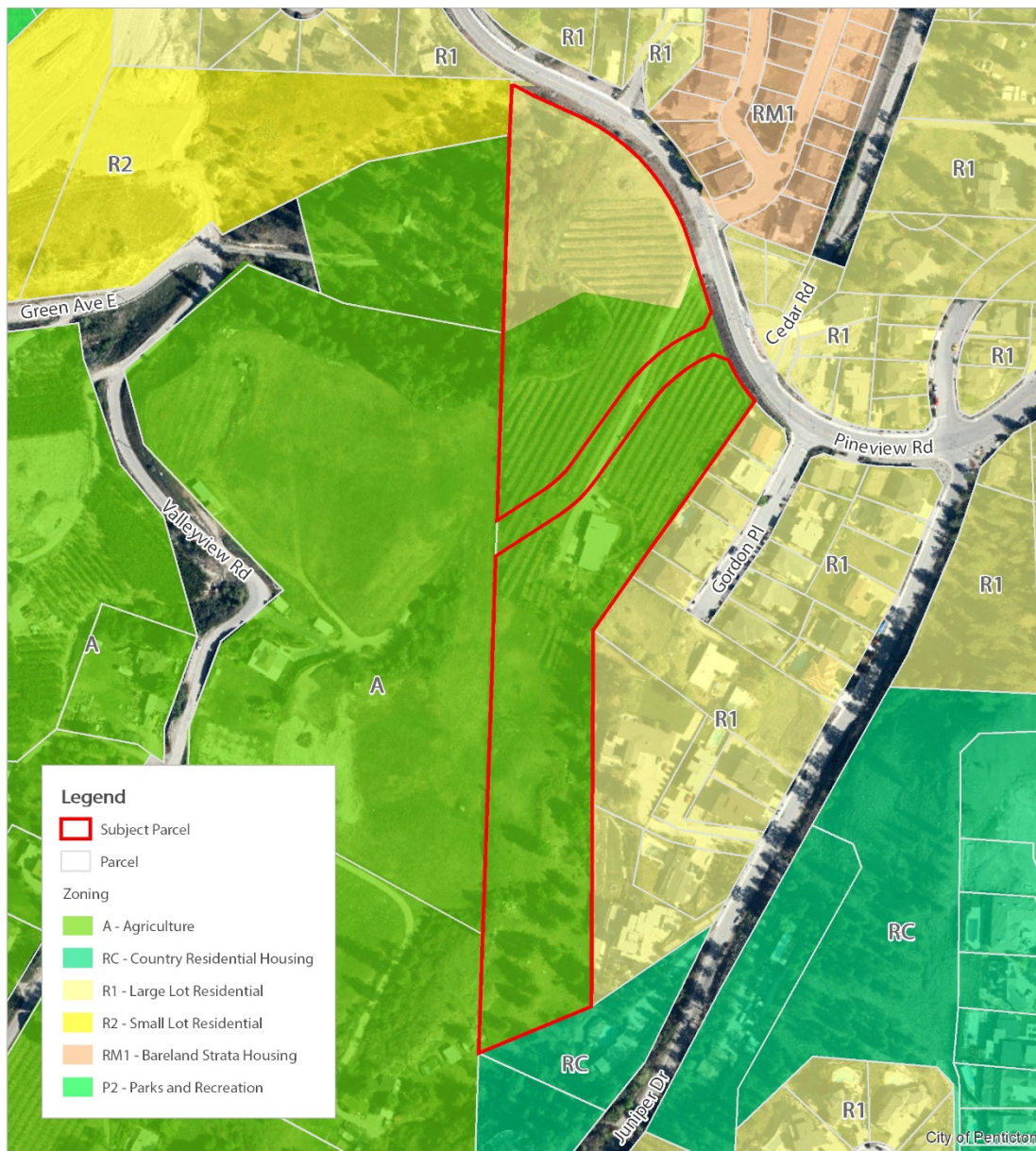
Director of Development Services <i>BL</i>	Chief Administrative Officer DvD
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Attachment A – Zoning Map



610 Pineview Road

Zoning Map



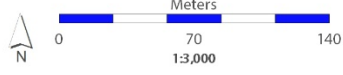
Legend

- Subject Parcel
- Parcel

Zoning

- A - Agriculture
- RC - Country Residential Housing
- R1 - Large Lot Residential
- R2 - Small Lot Residential
- RM1 - Bareland Strata Housing
- P2 - Parks and Recreation

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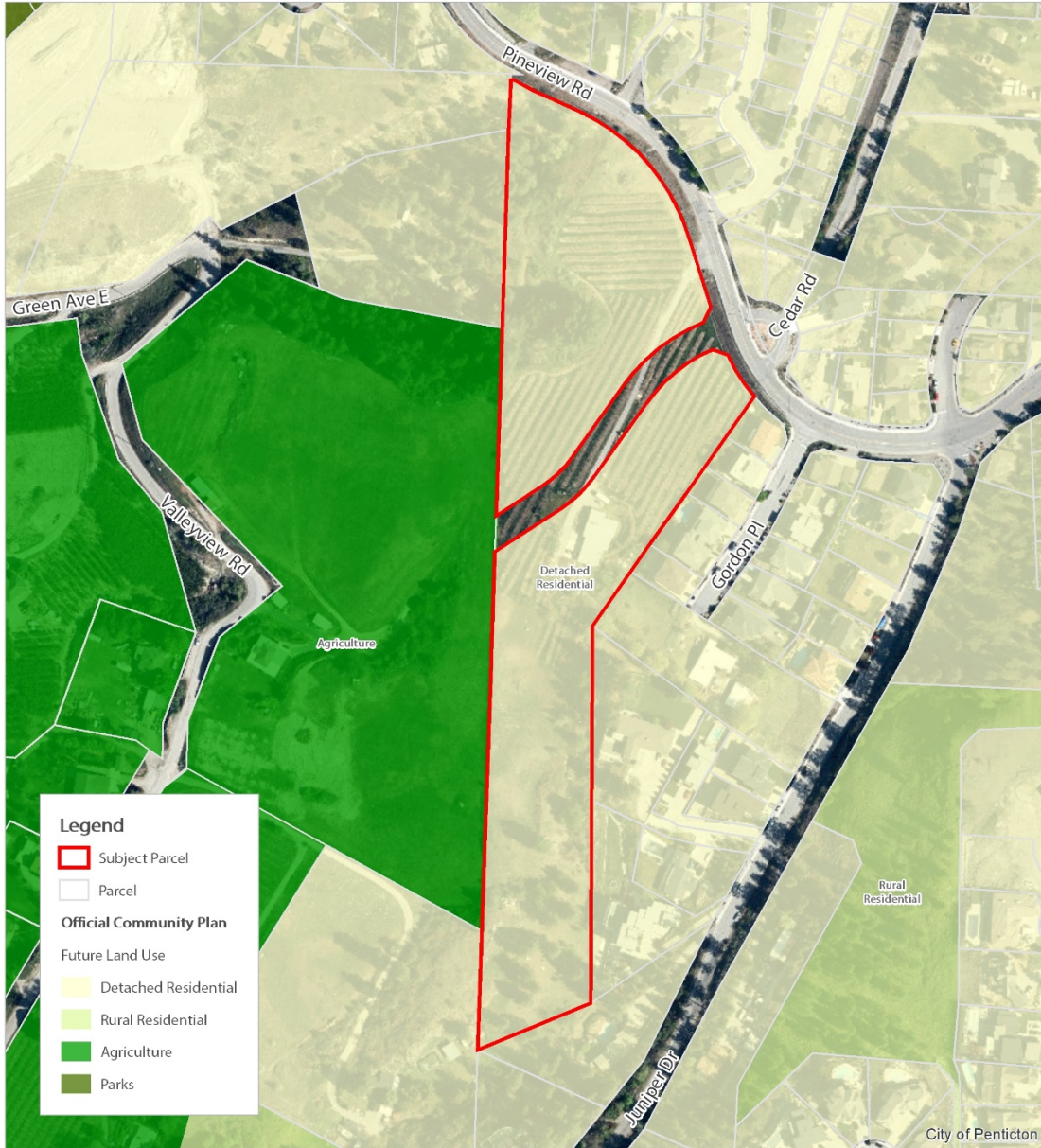
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Attachment B – Official Community Plan Map



610 Pineview Road

Official Community Plan Map



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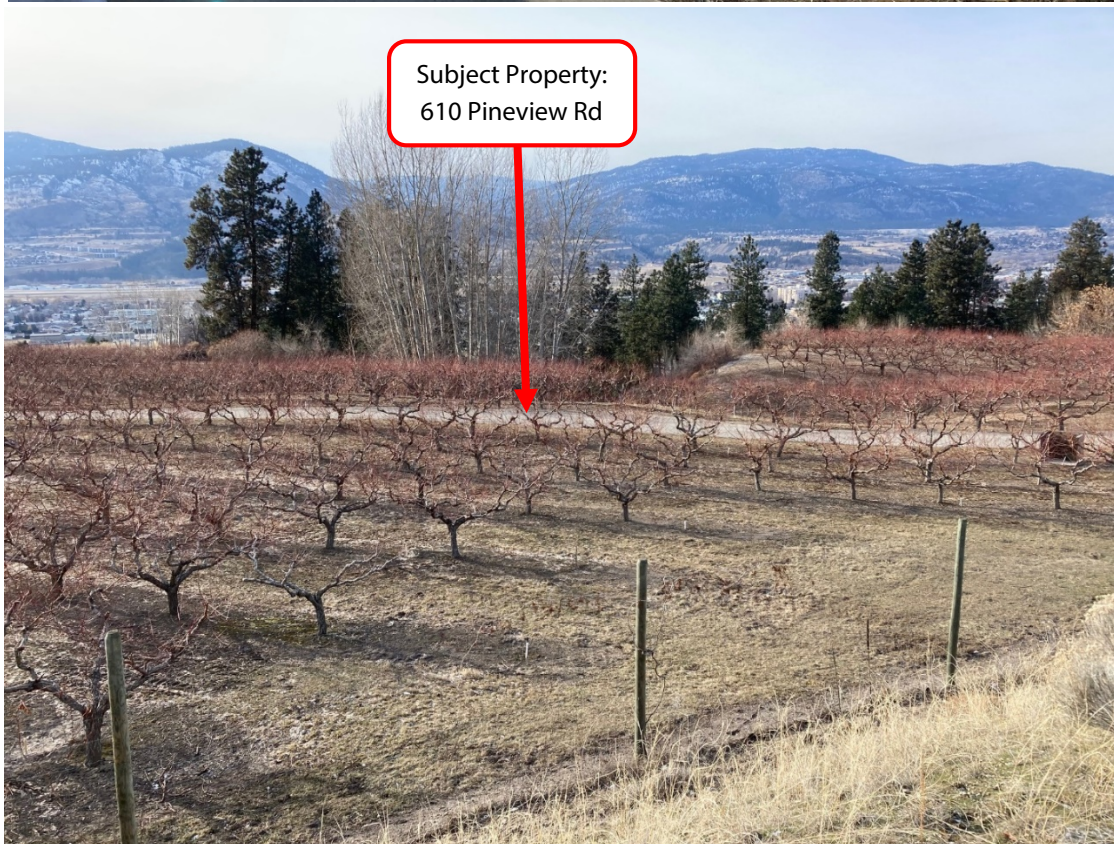


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Attachment C – Photos of Property





Attachment D - Letter of Intent

Supplementary Information Package

ALR Exclusion Application, 610 Pineview Road, Penticton

611 Pineview Road
 Lot 1, District Lot 2710 Similkameen Division Yale,
 District Plan EPP22470

BACKGROUND AND INTRODUCTION

The property located at 610 Pineview Road is 3.4 ha. (9.8 ac.) in area and is located in the Wiltse neighbourhood in Penticton. The property is bisected by an undeveloped road allowance creating two distinct parcels on the subject property. The property slopes down from east to west, and the north portion of the property contains the beginning of a gully that continues onto the adjacent west property. The south portion of the property contains a significant rock outcropping. A context map showing the location of the property and surrounding land uses is provided below:

ALC History

In 2005, in response to the City of Penticton proposing a residential OCP designation on the subject property and other adjacent lands, the ALC by resolution 24/2005 endorsed the designation of Low Density Residential on the subject property. The endorsement arose from the recognition that the land had significant challenges to agricultural development due to excessive topography. In 2009 the Commission indicated that it was prepared to accept a phased approach to the ALR exclusion of the subject property, conditional to an area plan being completed for the 'Upper Valleyview Area' which included the subject property. A Neighbourhood Plan was prepared for the subject property and portions of two adjacent



properties, and although the cost of the preparation of the plan was supposed to be shared by all three property owners, the Figueiras, owners of the subject property paid for the plan and were never reimbursed by the other property owners. On the strength of the Neighbourhood Plan, the subject property, together with portions of two other contiguous properties were excluded from the ALR, with conditions, by the ALC in 2011 by ALC resolution 322/2011.

The ALR Exclusion approval had several conditions, and there was a time limit for the completion of the required conditions. For various reasons, the conditions could not be satisfied within the ALC time limit, and the City of Penticton had requested extensions to the ALC deadline for completion of the required conditions, which the ALC granted. The conditions were to expire on October 19, 2021, and in advance of that expiry date, McElhanney submitted a request for a further one-year additional extension, which the ALC also approved on November 3, 2021, extending the deadline to November 3, 2022.

Efforts To Comply with ALC Exclusion Requirements.

Over the past years since the ALC conditional approval was granted, the Figueiras tried to work with the adjacent two property owners to satisfy the ALC conditions, but for numerous reasons the adjacent property owners were not willing to make the necessary decisions and capital investment to satisfy the ALC conditions. In 2018, the owner of the subject parcel of land partnered with a land developer to work towards satisfying the ALC requirements. Through communication with the adjacent property owners, it was determined that the owners of the larger adjacent property were not prepared or willing to move forward or cooperate in a constructive manner to share in the financial obligations required to satisfy the ALC requirements. Over the years, the City of Penticton staff had also corresponded on numerous occasions with the owners of the adjacent property and realized that a collective and cooperative approach to develop the lands in accordance with the ALC's conditions would be challenging and likely not possible which resulted in the City and the developer of the Figueira property working towards exclusion of only the Figueira's property from the ALR for development for residential use as allowed in the ALC approval.

As the October 19th ALC deadline was approaching, McElhanney Ltd. took the initiative to try again to get the other two property owners to commit to the financial requirements to allow all three properties to be excluded in accordance with the ALC requirements, but again that effort was not fruitful. In fact, the owner of the larger adjacent property commented that they may be interested in simply leaving the property in agriculture as an inheritance for their children.

After the ALR exclusion deadline extension request was submitted to the ALC in August of 2021, the Figueiras, their realtor and the land developer, reviewed the history of communication with the owner of the larger of the adjacent properties and concluded that due to a number of reasons including the age and health of the adjacent property owners, and their apparent desire to possibly want to leave the property in agriculture, moving forward in collective approach towards ALR exclusion would not be possible.

On many occasions, due to the actions and correspondence with the owner of the larger of the two adjacent properties, it seemed evident that the owner was simply not prepared to invest the time, money, and effort to complete the ALR exclusion requirements.

PROPOSED EXCLUSION APPLICATION

With there being an impasse in the ability of the three property owners to work collectively and cooperatively to satisfy the ALC conditions for ALR exclusion, the Figueira's have decided that the only way forward is to apply to have their land excluded from the ALR independent of the other two properties. This will allow them to control the ability to satisfy any ALC requirements on their own, without requiring consent and financial cooperation from anyone else.



The Figueiras understand that they will be responsible for the ALC landscape buffer on their property to screen the proposed residential development from the adjacent farm operation, and the spirit of the ALC decision will be respected in the Figueira's new ALR exclusion application, with single family residential housing proposed for the Figueira's property. It is anticipated that a slightly more compact single family residential design will occur on the Figueira's property resulting in better utilization of the land and more housing provided.

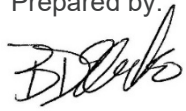
RATIONALE AND JUSTIFICATION

In support of the ALR exclusion of the Figueira property, I offer the following information.

- In 2005, the City of Penticton identified the subject property as having residential potential and changed the OCP designation of the property to residential, and the ALC supported the residential designation on the land.
- The City of Penticton supported the exclusion of the Figueira property from the ALR in 2011 and the ALC excluded the Figueira property and portions of the two adjacent properties from the ALR with the conditions.
- The Figueiras have always wanted to proceed with a residential subdivision and considerable money and effort has been spent undertaking the necessary work and technical reports to support a residential development on their property.
- A rezoning application was submitted to the City in the spring of 2021 requesting the Figueira property be zoned to residential to move towards completion of the ALC conditions.
- The owners of the larger adjacent property have not been cooperative in wanting to participate and cost share in the planning and engineering necessary to advance the subdivision so the only way for the Figueiras to move forward with the ALR exclusion is to do it on their own.
- The Figueiras are simply requesting that the ALC exclude their property independent from the adjacent property owner's ALC approval, so they are not reliant on the cooperation from other property owners for subdivision approval.
- The Figueira exclusion application is not really an exclusion application as the ALC has already consented to exclusion of the property with conditions. The application is really a request to have the ALR exclusion conditions amended to allow the Figueira property to be excluded and developed for residential use independent of the adjacent properties.
- The exclusion of the Figueira property independent of the other two adjacent properties will not abrogate the ability of the adjacent properties to pursue ALR exclusion on their own, when the timing is correct for them. It will however allow the Figueiras to develop their properties independent of the adjacent properties and without requiring the cooperation from the adjacent property owners.



Prepared by:



Brad Elenko, Senior Planner

belenko@mcelhanney.com

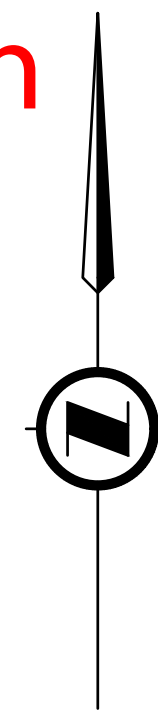
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Attachment E - Draft Concept Plan

McElhanney ANSID - 2020-01-21

LOT CALCULATIONS				
LOT No.	LOT AREA (m2)	LOT WIDTH (m)	BUILDING ENVELOPE AREA	BUILDING ENVELOPE WIDTH
1	1156.15	19.41	411.86	22.32
2	1212.64	22.08	446.79	18.77
3	1076.13	22.74	456.91	19.13
4	884.42	23.14	489.09	19.48
5	815.55	47.92	305.21	29.34
6	798.53	22.80	349.90	19.03
7	794.61	27.77	406.34	20.91
8	1558.87	21.61	454.05	20.65
9	1351.84	29.39	305.33	17.97
10	1138.32	24.91	344.65	18.01
11	1870.52	29.30	908.56	25.18
12	24,617.47			

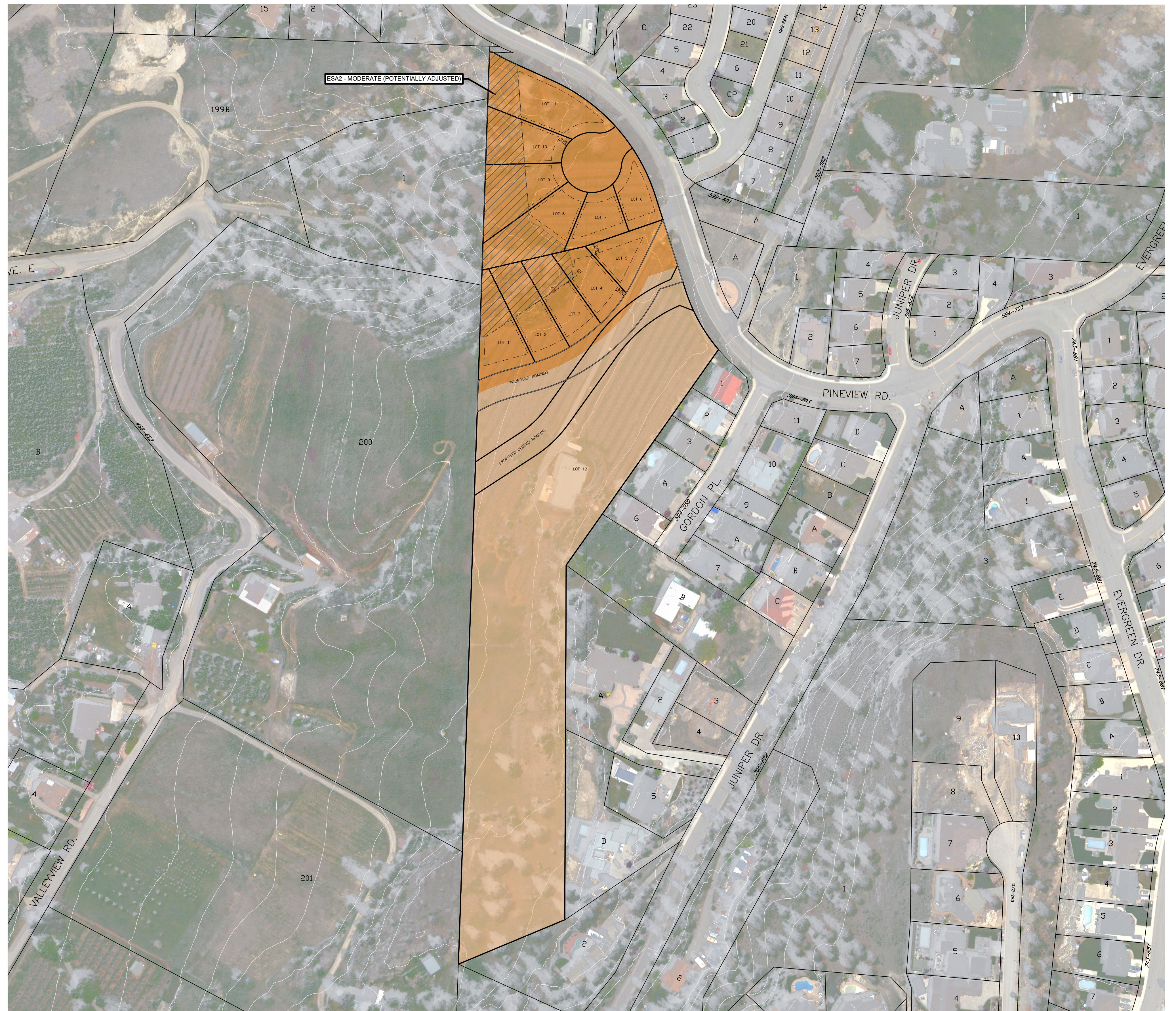


NOTES:

ZONING:

- RD1 (DUPLX HOUSING)
- RM1 (BARE LAND STRATA HOUSING)
- ESA 2 - MODERATE (POTENTIALLY ADJUSTED)

APPROXIMATE LAND USE AREA		
ZONING	TOTAL AREA (ac)	PERCENT OF LAND TO TOTAL PROPERTY AREA
RD1	3.7	36.6%
RM1	6.4	63.4%
TOTAL PROPERTY AREA	10.1	100%



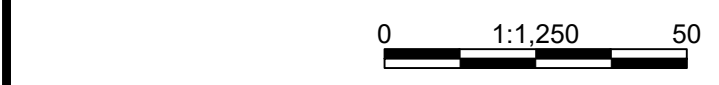
DATE: JANUARY 29 2021 FILE: C:\Users\jgamborg\OneDrive - McElhanney Group\Desktop\Plan View Development\BASE\Preview Development - JG.dwg

Rev	Date	Description	Drawn	Design	App'd
0	2021-01-29	SUBDIVISION CONCEPT	JG	BE	BE

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ORIGINAL DWG SIZE: ANSI D (22" x 34")

McElhanney

Suite 203
570 Raymer Ave
Kelowna BC
Canada V1Y 4Z5
T 250-861-8783

PALLADIN PROPERTIES INC.

PROPOSED RD1 SUBDIVISION CONCEPT
610 PINE VIEW RD.
PENTICTON, BC

Drawing No. **C01**

Project Number 2422 20318 00 Rev. 0

THIS DRAWING HAS NOT BEEN APPROVED AND MAY CONTAIN ERRORS AND OMISSIONS

DESTROY ALL PRINTS BEARING PREVIOUS REVISION



Category:

PLANNING

Subject:

Process for Agricultural Land Reserve (ALR) Exclusion Applications

Purpose

The purpose of this policy is to establish a process for accepting, reviewing and processing applications for Agricultural Land Reserve (ALR) Exclusions; in which a property owner requests that the City of Penticton apply on their behalf and pays all applicable costs to have their property excluded from the ALR.

Scope

This policy applies to all requests from property owners who wish to exclude their property from the Agricultural Land Reserve (ALR) and guides staff when an application is received.

Policy Statement

The City of Penticton recognizes the importance of the Agricultural Land Reserve (ALR), and that the purpose of the Agricultural Land Commission (ALC), which is to preserve agricultural land, encourage farming in collaboration with other communities of interest, and to encourage local governments, First Nations, the government and its agents to enable and accommodate farm use of agricultural land and uses compatible with agriculture in their plans, bylaws and policies.

As of September 30, 2020, private landowners are no longer able to make an application for ALR exclusion. As of this date, the City of Penticton is required to be the applicant for an exclusion application to the Agricultural Land Commission (ALC).

1. Application Requirements

Applications for exclusion from the ALR will only be considered by staff if the property owner demonstrates both of the following:

1. The property owner(s) have exhausted all other applicable ALR Applications prior to considering exclusion from the ALR; and
2. No portion of the property (ies) are designated as 'Agriculture' by the City's Official Community Plan Bylaw.

2. Application Submission

Should staff proceed with considering an ALR Exclusion application, the property owner(s) will be required to submit a complete application package in order to be considered by staff. Subsequent information may be requested and required in order for staff to proceed with the application.

3. Application Process

All ALR Exclusion applications will proceed through the following general process:

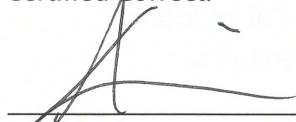
1. Staff will complete a technical review of the application, which may include referral to the Technical Planning Committee (TPC).
2. The application will be referred to the City's Agriculture Advisory Committee for review and comment prior to consideration by Council.
3. Staff will follow the ALC's mandated process for submitting ALR Exclusion Applications (as amended from time to time) including notifications to the public and hosting an opportunity for the public to speak to Council on the matter.
4. The application will be considered by Council. Council will pass a resolution to either forward (with or without conditions), or not forward the ALR Exclusion Application to the ALC for consideration.

Related Policies and Legislation

- Official Community Plan Bylaw No. 2019-08, as amended
- Agricultural Land Commission Act
- Bill 15-2019

Approval History			
Previous revisions/replaces: n/a			
Approved by Council on:	November 2, 2021	Resolution No.:	380/2021

Certified Correct:



Angie Collison, Corporate Officer

Public Hearing - LATE SUBMISSION -
610 Pineview Road

From: Nicole MacMillan
Sent: Monday, February 28, 2022 10:54 PM
To: Public Hearings
Cc: Steven Collyer
Subject: ALR Exclusion, 610 Pineview Rd.

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Hello,

My name is Nicole MacMillan and I am emailing on behalf of myself and my husband, Mitch MacMillan. Our address is 3001 Juniper Drive, Penticton BC V2A7T1.

I am emailing in regards to the proposed change from Agricultural land on 610 Pineview Road. Unfortunately, we never received any notification that this was proposed until we saw the sign up on the road today. No communication from the city or the developer was sent to us.

We purchased our "forever home" 3 years ago and moved in with our 2 young children. At that time we had tried to purchase this property for over a year and put together every penny we had to be able to afford this lot. We paid a premium for it with one huge factor being that our property line touched this agricultural land. It is a beautiful, quiet area that we plan to have in our family for years to come. We never wished to come in here and flip this house or sell when the market is high. We are here to stay. We love the serenity and privacy this home has to offer.

We bought this lot trusting the city would not change the zoning on the agricultural land below us. If changed, it will result in a decrease of value and a decrease to quality of life at our home. We will be losing our quiet, private lot if we have multiple homes directly in front of us on agricultural land.

I do not believe this land should be excluded from the ALR. That land is there for a reason and it is in limited supply.

We are business owners of Penticton, tax payers, and huge supporters of our community. We wish that you would take our concerns with great consideration and not move forward on excluding this land from the ALR.

Thank you for your time.
Nicole and Mitch MacMillan

Public Hearing - LATE SUBMISSION -
610 Pineview Road

From: Al Caputo
Sent: Monday, February 28, 2022 3:36 PM
To: Public Hearings
Subject: ALR Exclusion, 610 Pineview Rd.

Follow Up Flag: Follow up
Flag Status: Flagged

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My wife and I were dismayed to learn from a neighbor this past weekend of a Public Hearing for an Agricultural Land Reserve Exclusion Application.

We received no notification by mail.

This application proposes a development adjacent to our property – 3009 Juniper Drive.

We recently purchased this property understanding that the land below our property was zoned as an Agricultural Land reserve.

We are opposed to the application.

Some of our concerns (but not limited to) include:

- Loss of value, both financial value and intrinsic value
- Loss of habitat for wildlife in our neighborhood
- Loss of agricultural value to the community
- Environmental impacts
- Construction noise and pollution
- Traffic

We purchased this property so we could look out at the amazing views and sunsets in our retirement. Now we face spending our retirement watching a huge construction project in our back yard followed by looking directly down on backyards instead of the beautiful natural/agricultural land that added so much value to our property.

We respectfully request City Council to reject the proposal to remove this land from the Agricultural Land Reserve.

-----EOP-----

This e-mail message and any attachments are confidential. Any dissemination or use of this information by a person other than the intended recipient is unauthorized. If you are not the intended recipient, please notify me by return e-mail, do not open any attachment and delete this communication and any copy.

Thank you

Public Hearing - LATE SUBMISSION -
610 Pineview Road

Feb. 28, 2022

Colleen and Richard Potter

575 Pineview Rd
Penticton, BC
V2A7S8

Corporate Officer

City of Penticton

171 Main St
Penticton, BC
V2A 5A9
publichearings@penticton.ca

Re: **ALR Exclusion, 610 Pineview Rd**

We are writing in response to the public notice and proposal for Agricultural Land Reserve (ALR) Exclusion Application for 610 Pineview Road. We are very much **not** in support of this property being granted an exclusion from the designation of ALR.

We are concerned with the prospect of increased loss of ALR lands in the Penticton area. The Agricultural Advisory Council (AAC) states that it found the lands at 610 Pineview Rd “to demonstrate agricultural capability and felt that the lands should remain for agriculture long-term”. We support these findings as when you reference Penticton Area ALR land maps - there is a scarcity of this land left within the core of Penticton. We recognize that there is more land preserved further out from the city core. The Agricultural Land Use Target in the Official City plan is 843 hectares of land within the ALR within city limits.



We believe that policies and decisions that support the preservation of agricultural land do outweigh the need for increased development in some cases. There has been extensive development approved in recent years in areas above Pineview Rd and do not feel that this loss of ALR land is currently merited even though it is captured in the Official Community Plan (OCP).

The importance of the Penticton area maintaining viable agricultural land has been highlighted even more in recent years - with significant interruptions to food supply chains. Local residents have had to rely on local farmers during these times of crisis. With the predicted increase of extreme weather events in BC, related to global warming, it has become even more important to preserve lands that are agriculturally viable within and near more densely populated areas.

We also have concerns about the ecological disruption of the environmentally-sensitive gulley leading down towards Green Ave W that is captured in the ALR area. In the OCP - there is an environmentally protected area that runs very close to the proposed development site.

We hope that you will take our objection to moving forward with this ALR exclusion under serious consideration.

Sincerely,

Colleen and Richard Potter

Paula McKinnon

From: D Tulk
Sent: Friday, February 25, 2022 12:24 PM
To: Public Hearings
Subject: Subject: ALR Exclusion, 610 Pineview Rd.

Follow Up Flag: Follow up
Flag Status: Flagged

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Subject: ALR Exclusion, 610 Pineview Rd.

TO:
Audrey Tanguay
Planning Manager

AND
Penticton City Council

FROM
David Tulk 112 Green Court.

yes it's me again...

REJECT THE REQUEST

CONCERNS:

this property has had various requests over the years to be removed from the ALR. All rejected.

I suspect the owners over the years have enjoyed tax breaks due to the ALR status. I suspect that the owners were fully aware of the ALR allowance to have small parcels of land kept in the ALR even though the small parcel may be "less profitable" to manage for an agricultural crop than a larger parcel. So the excuse of taking the parcel out of the ALR because it is less profitable is not valid.

the strategy the owner/developer is attempting to use here is "divide and conquer"
. That is, chip away at the ALR land base size until it becomes too small to operate as agriculture.

they do not make any more land! this ALR land was retained in the ALR because it has good operability, soil, access, and climate. Once it is removed it cannot be replaced.

contrary to any statement that Penticton needs more building lots, there is actually an inventory of lots in this part of Penticton. some of the lots may require a bit of site preparation costs, but the lots are not ALR. Opening up this ALR parcel for development will drive down the demand for existing lots that require more investment to build on.

Any support from the city staff or council for the parcel being removed from the ALR will be seen as biased towards their interest in increasing revenues from development work and increased taxes .

I could see the approval of removing a property from the ALR if it was proven inoperable and a land swap was available. This parcel has been proven operable and has no merit for removal.

Thanks for reading my concerns on this matter.

David Tulk

Public Hearing - LATE SUBMISSION -
610 Pineview Road

Sent: Tuesday, March 1, 2022 8:46 AM
To: corpadmin
Subject: FW: Do not support Agricultural Land Reserve (ALR) Exclusion Application for 610 Pineview Road

From: SHARON SADLER
Sent: February 26, 2022 4:53 PM
To: Council <Council@penticton.ca>
Subject: Do not support Agricultural Land Reserve (ALR) Exclusion Application for 610 Pineview Road

To Penticton Mayor and Council:

Please follow the recommendations of staff and the ALR, and do NOT approve removal of 610 Pineview Road from ALR. The need to grow our own food and eat local is far more important than anything at this time. There is little enough arable land in Penticton as it is.

Many thanks to those councilors and staff who understand this need--and it is vital that the rest of council also understands.

Thank you for caring about Penticton's ability to grow food for coming generations.

Yours truly,
S. Sadler
T. Hetman
Penticton

Public Hearing - LATE SUBMISSION -
610 Pineview Road

From: Tian Yo
Sent: Tuesday, March 1, 2022 9:11 AM
To: Public Hearings
Subject: ALR Exclusion, 610 Pineview Rd.

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Attention: Corporate Officer, City of Penticton
171 Main Street, Penticton B.C.V2A 5A9

Council or Committee of Council

As a Resident of Penticton I am completely opposed to taking any more land out of the ALR for private or public development. Once this land is out it can never be replaced and the benefits to the residents is lost forever. Please Look to the future of the land as well as the people who live here.

Thank you for your consideration.

Sincerely

Richard Lautsch
567 Pineview Road
Penticton B.C. V2A 7S8

Public Hearing - LATE SUBMISSION -
610 Pineview Road

From: Dori Lionello
Sent: Tuesday, March 1, 2022 9:30 AM
To: Public Hearings
Subject: 610 Pineview Road

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City Council and Mayor
Re:610 Pineview Drive, Penticton BC

I am pro development, I am also extremely **opposed** to the removal of lands from Agricultural Land Reserves.

I live at 3115 Juniper Drive - I share a property line with the reserved lands in question. (The pie parcel at the end.)

- I purchased my property with intentions to develop and have another newer home or two on it, I would never have made the purchase if my parcel itself was deemed "in the ALR."
- As a professional in the real estate community, I am aware that ALR lands are never to be touched, they are reserved for agriculture.
- Home buyers are making decisions based on the zoning of the lands are bordering ALR - "It is in the agricultural land reserve"
- (I have not sold any of these to my clients in the area....noting that I am surprised to be personally receiving a letter as a neighbour that the public hearing would be required for the city to take on the role of applicant - to have this land removed from the ALR - I as a neighbour do not support)
- In its name is an explanation that these lands are reserved, we neighbors and community expect such a strong designation to be upheld.

I expect, request and am hopeful the city respects the integrity of the designation that the neighbors have sought in their lifestyle.

There seems to be no reason for a change in its use. The city requested the advice of an advisory committee which was clearly reviewed, yet again the Agricultural Advisory committee had a long healthy discussion and unanimously decided in January of this year that they are **not in support**.

The Advisory committee's unanimous decision that it is reserved for a purpose with healthy agricultural use. - this in itself should be respected that a committee is designed and has much more knowledge than others to consider the merit.

If it's developed, many large trees will be removed, I wish the city would support development, however I believe it is wrong to remove any lands from designated reserves unless specifically supported by an advisory committee.

Professionally as a realtor and personally when purchasing ALR lands are bordered because it has value in being protected and we do not anticipate it to become a dusty loud construction site.

Regardless of the OCP blanketing the Wiltse hillside as low density residential, one expects the ALR pieces of the Okanagan landscape to remain as it states in its name Reserved for Agriculture.

I purchased my property with the knowledge that ALR land is safe from development. When we sell homes the comments often state (not in the ALR) meaning - it is those lands that developers can keep an eye out for, they do exist and I hope to see those applications successful in the future. I plan to support all developments I can and in one way and I do support the development however I live beside and truly value the lifestyle I chose for myself and to raise my children in one of privacy and amongst nature.

OCP - should not trump reserved lands - It should respect the decision of the advisory committees recommendations and adjust accordingly.

- appreciate that counselor Judy drove past - I am on the opposite side of the entrance and its landscape is a woodsy large treed area, the property is an untouched forest with bears, coyotes, rabbits, deer and birds.
- I have a view of this natural forested, home to the wildlife area and I do not support it being removed from the ALR
- New provincial applications require the City to become the applicant - I do not see the application from the City having any support from the committee who is designated to provide such

You all put in so many hours to make the right decisions and I have followed some very tough and debated developments before you, this one to preserve agricultural reserve land is one, I think should remain ALR.

Dori Lionello
3115 Juniper Drive
Penticton BC
V2A 7T1



Public Hearing - LATE SUBMISSION
- 610 Pineview Road

Sent: Tuesday, March 1, 2022 11:13 AM
To: corpadmin
Subject: RE: [External] Fwd: ALR Exclusion, 610 Pineview Rd.

----- Forwarded message -----

From: **Roland Curnow**
Date: Tue, Mar 1, 2022 at 12:10 AM
Subject: ALR Exclusion, 610 Pineview Rd.
To: <publichearings@penticton.ca>

Hello Mayor and Council:

My wife and I purchased 3005 Juniper Drive and took possession, January 2018. Our property is directly above the subject property.

Before noting our concerns we would like to mention a few points:

- Notice was never sent or given to us or any of our immediate neighbours that we have spoken with in the short time we have been aware of this Application. This has not met the parameters set out by the City or Province - which is 10 days notice. We still have not received a letter by mail. As we drove down Pineview we happened to see the sign posted on the property last Wednesday. It was NOT there on Tuesday.
- The Application claims that neighbours' input is requested, yet their lack of effort to engage us "Stakeholders" says otherwise.
- The notes within this Application are misleading. They state that the development of this property is dependent to go forward on two other westerly properties joining in, then further deviates from this point stating that this Application applies solely to 610 Pineview. A brand new application needs to be submitted, not a continuance of previous approval as implied in the Application document.
- Several of the surrounding properties are under new ownership in the past 4 years and one of the major attractions we all decided to purchase these homes on was that we are overlooking ALR land, not a packed subdivision.
- The entire purpose of the Agricultural Land Reserve is to preserve farmland to produce crops society needs into the future. The current land owners have benefitted from a rather large tax break for many years due to this Act. If they are successful in removing the land from the ALR designation, do they then have to remit back taxes as residential since this Application speaks of being in the works for the past eleven years.
- Why would the Penticton OCP even designate farmland as a future subdivision in the first place? This seems extremely suspect.

If Council ignores our request to deny this Application, we would like some of our concerns addressed going forward that would include, but not be limited to:

- Loss of Property value, both financially and intrinsically
- Effect on wildlife in our neighborhood
- Future traffic and decibel noise levels that would directly affect our properties and be brought on by a dense subdivision that currently is a peaceful area.
- Possible environmental impacts.
- Noise from Construction which could easily go on for many years. In the past two years our lifestyle and well-being have been directly affected, at first by the new subdivision off Dartmouth and next on south Evergreen - which involved scarifying the top of the mountain and much blasting, again without notification to any of us warning of repeated days of jackhammering, plus the incessant noise of bulldozers and excavators.
- Recently "improvements" at the south end of Juniper, without notice once again from the City or the contractor who told us it was a one month project, lasted from June 2021 until the Fall and is as yet still incomplete. The contractor, Twin Con, did not comply with working hours laid out by the City or Worksafe BC Rules regarding traffic control or emergency access or garbage collection to homes at the end of the street.

We purchased our property to take us into our twilight years and enjoy with our family and friends, not to live above a construction site for years to come. Since we have lived here we have been saddened to learn that nothing will happen if dust or noise is excessive or unnecessarily unaddressed by crews. The ALR exclusion documents do not even give a clear idea of what this subdivision's building code guidelines might look like should it be approved. We strongly oppose this Application as it was submitted.

We, with all due respect, humbly ask the City Council to reject this Application proposal to remove this land from the Agricultural Land Reserve and ask that you uphold the ALR designation.

Regards,

Roland and Sandra Curnow

3005 Juniper Drive

-----EOP-----

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