



BOARD REPORT

TO: Chair and Directors

SUBJECT: Electoral Area D: Agricultural Land Commission (ALC) Application
Section 21 (2) Subdivision LC2611D

DESCRIPTION: Report from Ken Gobeil, Senior Planner, dated September 27, 2024.
3033 and 3045 McTavish Rd, Glenemma

RECOMMENDATION: THAT: Application No. LC2611 Section 21(2) - Subdivision for Lot 1, Section 30, Township 17, Range 10, West of the 6th Meridian, Kamloops Division Yale District, Plan 40938 be forwarded to the Agricultural Land Commission recommending approval, this 17th day of October 2024.

Corporate Vote Unweighted Majority

SUMMARY:

The owners of 3033 and 3045 McTavish Rd are applying for a subdivision to separate the two single detached dwellings on the subject property onto their own separate lots.

In 2018 the owners were issued a Temporary Use Permit (TUP2500-02) for placement of a second dwelling (3045 McTavish Rd) to provide a residence for their son to live on the property and care for the parents (who live at 3033 McTavish Rd). The Permit was renewed in 2021 and expired September 17, 2024. The owners are now applying for subdivision to provide their son with a separate lot for their existing dwelling.

Since the Temporary Use Permit was issued, Salmon Valley Land Use Bylaw No. 2500 has been updated and permits the placement of two dwellings on the subject property. However, staff note that this application is only reviewing the proposed subdivision and is not regarding the placement of single detached dwellings on the property.

BACKGROUND:

ELECTORAL AREA:
D

LEGAL DESCRIPTION:
Lot 1, Section 30, Township 17, Range 10, West of the 6th Meridian, Kamloops Division Yale District

PID:
013-519-115

CIVIC ADDRESS:
3033 and 3045 McTavish Road, Glenemma

SURROUNDING LAND USE PATTERN:
North= McTavish Road, Residential, Rural, ALR
South= Agriculture, Rural, ALR
East= McTavish Road, Residential, Rural Holdings, ALR
West= Glenemma CSR D Transfer Station, Rural, ALR

CURRENT USE:

Residential, agricultural

PROPOSED USE:

Residential, agricultural

PARCEL SIZE:

2.79 ha

PROPOSED PARCEL SIZE:

1 ha

1.79 ha

DESIGNATION & ZONE:

[Salmon Valley Land Use Bylaw No. 2500](#)

RR –Rural Residential

PROPOSED DESIGNATION & ZONE

NA – No changes proposed

AGRICULTURAL LAND RESERVE:

100%

SOIL CAPABILITY:

5 MT (6:4TP – 4:5TM)

The improved agricultural capability ratings for the property are Class 4 and 5. Class 4 soils are low to medium in productivity with a narrow range of suitable, or sustainable crops. There are severe limitations to Class 5 soils for sustained production of annual field crops.

The limitations associated with this parcel are topographic limitations (T), stoniness (P) and moisture deficiency (M).

HISTORY: SUBJECT PROPERTY

ALC File 21-H-85-19501 (CSRD File 1985-D)

Prior to 1989, the subject property was joined with 2992/3038 McTavish Rd on the north side of McTavish Rd (Legal Subdivision 15, Section 30, Township 17, Range 10, West of the 6th Meridian, Kamloops Division Yale District). Legal Subdivision 15 was bisected by McTavish Rd and in 1985 the owners applied for subdivision to separate portions of the property bisected by McTavish Rd. The CSRD supported this application based on a review of the agricultural capability of the property (which was their policy at the time). The application was approved by the Agricultural Land Commission in 1987 and the subdivision was completed in 1989. See "LC2611D_Maps_Plans_

Photos.pdf" attached for maps showing the subject property in relation to McTavish Rd and 2992/3038 McTavish Rd.

This subdivision was completed prior to adoption of the Salmon Valley Land Use Bylaw No. 2500. When the Salmon Valley Land Use Bylaw No. 2500 was adopted on April 19, 1991, the property was zoned RR – Rural Residential.

HISTORY: SURROUNDING PROPERTIES

There have been no ALC applications within in the last 10 years (2014) for surrounding properties.

SITE COMMENTS:

The subject property is located south of McTavish Road in Glenemma. Most of the property is open

fields. There are two single detached dwellings on the property. The first dwelling is 3033 McTavish Rd, it is near the centre of the property. The second dwelling is 3045 McTavish Rd it is a modular home with addition at the northwest corner of the property. The property is assessed as residential by BC Assessment (not agricultural).

The property is surrounded by open fields to the south and east. Immediately west of the subject property is a gravel pit, the Glenemma Transfer Station is to the south-west. To the north is densely treed rural residential land.

BYLAW ENFORCEMENT:

There is no bylaw enforcement related to this file.

POLICY:

For relevant excerpts from the Salmon Valley Land Use Bylaw No. 2500 see attached "LC2611D_Excerpts_BL2500.pdf" attached.

[Salmon Valley Land Use Bylaw No. 2500](#)

- 1.7 Rural and Agricultural Character
- 1.8 Land Resource Capability
- 1.9 Land Use Patterns
- 2.2.19 Secondary Dwelling Unit
- 2.2.5 Agricultural Land Reserve
- 2.2.5.1 Additional Residences within the ALR
- 2.6 RR - Rural Residential
- 3.1 Interpretation

FINANCIAL:

There are no financial implications associated with this application.

KEY ISSUES/CONCEPTS:

[Temporary Use Permit No. 2500-02](#)

In 2018 the owners applied for and were issued a three year Temporary Use Permit to allow a second single detached dwelling (mobile home with an addition and attached deck 182 m² in size) to be placed on the subject property for the owners' son to provide health support and assistance to the owners who live on the property.

- The owners live at 3033 McTavish Rd, the second dwelling proposed in this application is located at 3045 McTavish Rd

At the time of the application, the Salmon Valley Land Use Bylaw and provincial regulations regarding dwellings in the Agricultural Land Reserve were different than they are today.

- (CSRD) Salmon Valley Land Use Bylaw No. 2500
 - The Rural Residential Zone permitted one 'single family dwelling' (updated to single detached dwelling) and one "guest cottage" (a cottage dwelling accessory to the primary dwelling on a parcel, and not exceeding 50 m² in gross floor area).
- (Province) Agricultural Land Reserve

- The Agricultural Land Commission permitted one modular home for immediate family (in addition to a single family dwelling on a parcel). However, the modular home must be removed from the parcel if it is no longer occupied by an immediate family member.

Staff supported the application because the Rural Residential Zone permits two dwellings (one single family dwelling and one guest cottage) on the property and the owners only proposed to have a maximum of two dwellings on the property.

Temporary Use Permit No. 2500-02 was issued with the TUP stipulating that:

- a) A cottage is not permitted to be placed on the subject property while the modular home is located on the property; and
- b) If the modular home is no longer occupied by a member of the property owners' immediate family who is providing health support assistance to the owners of the property, it will be removed from the parcel.

See [Item 14.3 of the September 20, 2018 Board of Directors Meeting](#) for a copy of the Board Report and all attachments of Temporary Use Permit No. 2500-02.

Temporary Use Permits are valid for three years and can only be renewed one time for an additional three years. Temporary Use Permit No. 2500-02 was issued September 20, 2018, renewed on September 17, 2021 for an additional three years and expired September 17, 2024.

Current Salmon Valley Land Use Bylaw

Since the Temporary Use Permit No. 2500-02 was renewed, the Salmon Valley Land Use Bylaw has been amended and the number of dwellings on the property (two) is permitted by the Salmon Valley Land Use Bylaw.

At their June 20, 2024 meeting, the CSRD Board of Directors adopted Salmon Valley Land Use Amendment Bylaws No. 2565 and 2566. These amending bylaws were in response to changes in provincial legislation (Bill 44). Bill 44 required all local governments in the province to change their zoning bylaws and official community plans to permit secondary dwelling units on all residential properties.

- Salmon Valley Land Use Amendment Bylaw No. 2566
 - All references to "single family dwelling" were replaced by "single detached dwelling".
 - References to "guest cottage" were deleted and replaced with "secondary dwelling unit".
 - Authorizes an attached and detached secondary dwelling unit on the subject property. The floor area, net (living space of the secondary dwelling, and does not include decks or carports) of the secondary dwelling unit must be a maximum of 140 m².
- Salmon Valley Land Use Amendment Bylaw No. 2565
 - Established definitions of net floor area and gross floor area
 - Net is regarding a specific use (such as home occupation or secondary dwelling unit) and does not include additional space such as parking areas and decks.
 - Gross is regarding the total area of a building and includes parking areas and decks.
 - Increased the size of accessory buildings in in the Rural Residential Zone to authorize a maximum gross floor area (including decks) of 250 m² on the subject property when it contains a secondary dwelling unit.

See "LC2611D_Excerpts_BL2500.pdf" attached for relevant excerpts of the Salmon Valley Land Use Bylaw.

Staff explained these amendments to the owners and the owners noted that the floor area (182m²) that was used in their Temporary Use Permit application (182m²) was gross floor area (total size of the building with decks and covered areas). Orthophotos indicate the net floor area (living space) of the secondary dwelling (3045 McTavish Rd) would be approximately 165 m² exceeding the 140 m² net floor area requirement of the Salmon Valley Land Use Bylaw. The total size of the building is less than the 250 m² floor area, gross requirement. See "LC2611D_Maps_Plans_Photos.pdf" attached for a copy of maps and orthophotos of the subject property.

A development variance permit would be required for the second dwelling (3045 McTavish Rd) to be permitted as a secondary dwelling unit on the property. The owners were informed of the floor area regulations and they would like to focus on the subdivision application.

Current Regulations for additional dwellings in the Agricultural Land Reserve

In addition to the Salmon Valley Land Use Bylaw, all properties in the Agricultural Land Reserve (ALR) are administered by the Agricultural Land Commission (ALC) and the provincial regulations regarding land use and subdivision regulations also apply to the subject property and supersede the CSRD.

At the time the second dwelling (3045 McTavish Rd) was built on the property the ALC permitted a second dwelling for the use of the owners' family. However, since then the regulations for additional dwellings in the ALR were updated and the provision regarding a second dwelling for an immediate family member no longer exists. When the new regulations regarding residential use in the ALR were enacted, the ALC provided guiding documents for the continuation of pre-existing dwellings. In ALC Bulletin 05 (Residences in the ALR) the ALC confirmed that where an additional dwelling used as a residence of an immediate family member was lawfully established it may continue to be used as a residence for an immediate family member at its current size if the size and siting are not altered.

If this subdivision application is not approved the second dwelling (3045 McTavish Rd) may continue to be used in its current configuration and would not require additional approvals from the ALC. However, this must be confirmed by the ALC. The CSRD does not have authority over the Provincial regulations and staff cannot confirm whether the existing dwelling meets the ALC criteria. The ALC has sole discretion in confirming whether the second dwelling (3045 McTavish Rd) met provincial regulations when it was first constructed.

Proposed Subdivision

The owners are proposing to subdivide the property and separate each single detached dwelling onto a separate lot. 3033 McTavish Rd would be 1.79 ha and 3045 McTavish Rd would be a 1 ha lot. Each lot would have its own independent on-site water system, sewage disposal system and access to McTavish Rd.

The Salmon Valley Land Use Bylaw promotes residential development and subdivision in established communities (Falkland, Silvernails, Silver Creek and Glenemma) and on properties which are zoned for residential development (see LC2611D_Excerpts_BL2500.pdf" for all relevant bylaw excerpts).

The subject property is in Glenemma – one of the established communities referenced in the Land Use Bylaw; and zoned Rural Residential – a zone which permits further subdivision (the minimum lot size for subdivision in the Rural Residential zone is 1 ha).

The proposed subdivision complies with the minimum lot size for new lots created by subdivision, and buildings will meet the minimum setback requirements in the proposed subdivision. There is no maximum size for principal dwelling units and if the subdivision is approved, the dwelling at 3045 McTavish Rd can maintain its current size without any additional permits from the CSRD or provincial authorizations.

Subdivision of the Agricultural Land Reserve

Final approving authority for subdivisions in the CSRD is with the provincial government. Any subdivision that affects the ALR boundary must be approved by the ALC before it is reviewed by the CSRD and Ministry of Transportation and Infrastructure (MOTI). The Provincial Approving Officer (PAO) with MoTI is the final approving authority for subdivision in the CSRD.

The CSRD will include this Board report and attachments when forwarding a recommendation to the ALC for reference. However, the ALC's review of a subdivision application will focus on the ALC Act, ALC Regulations and policies, not local government bylaws.

If the ALC approves the proposed subdivision, the owners will be able to submit a subdivision application to MoTI and then the CSRD. CSRD Staff will review the subdivision application for compliance with relevant bylaws and policies for the Provincial Approving Officer. For this application relevant bylaws include the Salmon Valley Land Use Bylaw No. 2500, as amended, and the Subdivision Servicing Bylaw No. 680, as amended.

As noted above, the proposed subdivision complies with the Salmon Valley Land Use Bylaw. However, the application has not been compared to the Subdivision Servicing Bylaw. Technical requirements of the Subdivision Servicing Bylaw are related to road access, the assessment and demonstration of potable water, and a review of the sewage disposal system or feasibility of a new sewage disposal system.

Staff will review the proposed subdivision in more detail when a complete subdivision application is received.

Rationale For Recommendation

Staff recommend that the Board forward the ALC Application LC2611D to subdivide in the ALR to the ALC with a recommendation to approve the application because the proposed subdivision complies with the Salmon Valley Land Use Bylaw No. 2500, as amended.

IMPLEMENTATION:

If the proposed subdivision is approved by the ALC, the property owner will then be able to make applications to the CSRD and MOTI for subdivision of the subject property.

COMMUNICATIONS:

The recommendation of the Board, staff report, and supporting documents will be forwarded to the ALC for consideration during its review of the application.

DESIRED OUTCOMES:

That the Board endorse the staff recommendation.

BOARD'S OPTIONS:

1. *Endorse the Recommendation(s).*
2. *Deny the Recommendation(s).*
3. *Defer.*
4. *Any other action deemed appropriate by the Board.*

Report Approval Details

Document Title:	2024-10-17_Board_DS_LC2611D.docx
Attachments:	- LC2611D_ALC_Application_Redacted.pdf - LC2611D_Excerpts_BL2500.pdf - LC2611D_Maps_Plans_Photos.pdf
Final Approval Date:	Oct 8, 2024

This report and all of its attachments were approved and signed as outlined below:



Corey Paiement

No Signature - Task assigned to Gerald Christie was completed by assistant Jennifer Sham

Gerald Christie



Jennifer Sham



John MacLean