



Est. 1873

# REPORT TO MAYOR AND COUNCIL

**PRESENTED:** OCTOBER 3, 2016 - REGULAR AFTERNOON MEETING  
**FROM:** COMMUNITY DEVELOPMENT DIVISION  
**SUBJECT:** AGRICULTURAL LAND COMMISSION APPLICATION NO. 100293  
 (BEALE / PARKINSON 22188 – 96 AVENUE)

**REPORT:** 16-102  
**FILE:** 11-31-0046

**PROPOSAL:**

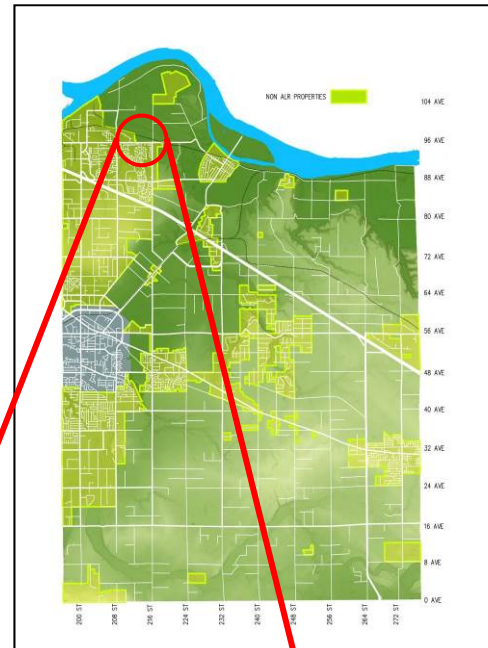
Non-farm use application to the Agricultural Land Commission submitted by Dianne Parkinson to permit a group children’s day care centre at 22188 - 96 Avenue.

**RECOMMENDATION SUMMARY:**

That Council consider forwarding the non-farm use application to the Agricultural Land Commission, and request consideration based on agricultural merits.

**RATIONALE:**

The proposed non-farm use application does not comply with current Township’s Zoning Bylaw provisions. The application is forwarded to Council for consideration.



**RECOMMENDATION:**

**That** Council consider forwarding the non-farm use application submitted by Dianne Parkinson to permit a group children's day care centre on property located at 22188 - 96 Avenue within the Agricultural Land Reserve to the Agricultural Land Commission, and request consideration based on agricultural merits.

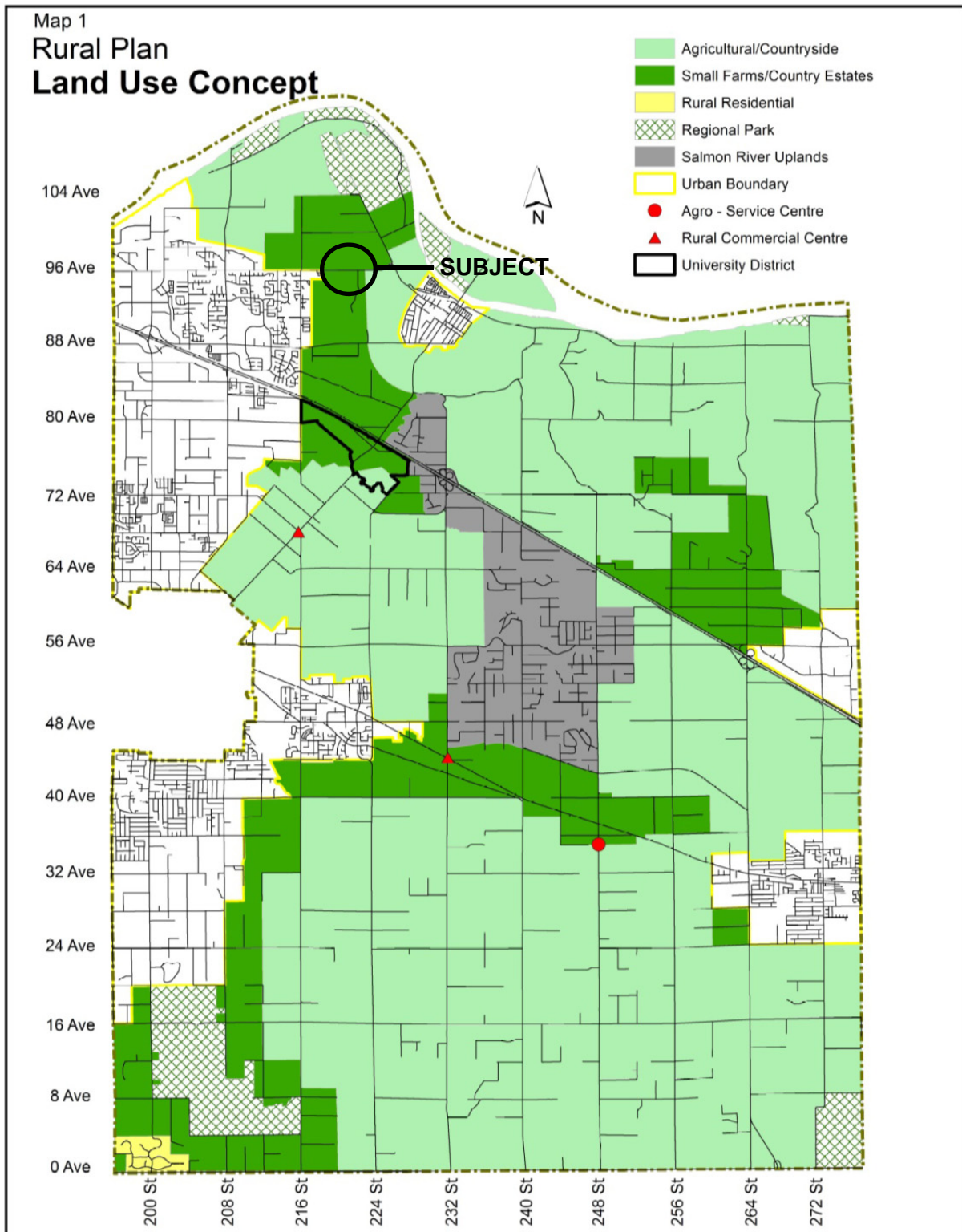
**EXECUTIVE SUMMARY:**

The Township has received a non-farm use application proposing a group children's day care centre for 25 children located at 22188 - 96 Avenue. The day care centre would be located in a double-wide mobile home (which would be renovated to suit the proposed use) currently located on the property.

The property is zoned Rural Zone RU-1 and is located within the Agricultural Land Reserve (ALR). Group children's day care centres (for more than eight (8) children) are not a permitted use in the Rural Zone RU-1. Should the non-farm use request be approved by the Agricultural Land Commission (ALC), the proponent will be required to apply to the Township for rezoning of the subject site.

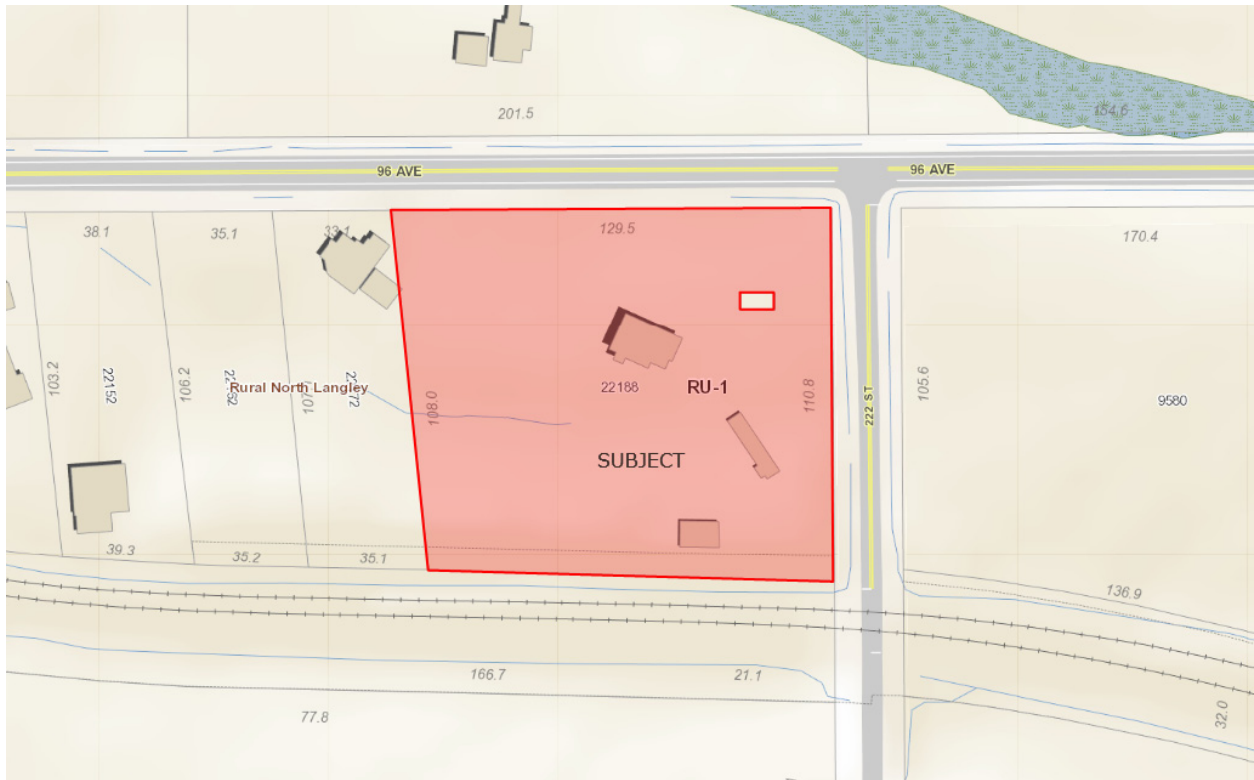
**PURPOSE:**

This report is to provide Council with information and a recommendation with respect to a non-farm use application submitted under Section 20(3) of the ALC Act. Consideration of the application by Council is required prior to it being forwarded for consideration by the ALC.



AGRICULTURAL LAND COMMISSION APPLICATION NO.100293  
(BEALE / PARKINSON / 22188 - 96 AVENUE)

Page 4 . . .



ZONING BYLAW NO. 2500



Site Plan – Provided by Applicant

**REFERENCE:**

<b>Owner/Applicant:</b>	Keith Beale and Dianne Parkinson
<b>Legal Description:</b>	Parcel C (Reference Plan with fee deposited 13392F) District Lot 241 Group 2 Except: Firstly: Part Shown on Reference Plan 1588 Secondly: Part Shown on Explanatory Plan 11853 Thirdly: Part Shown on Plan with Bylaw Filed 59444 and Fourthly: Parcel C (Statutory Right of Way Plan 67877), NWD
<b>Location:</b>	22188 - 96 Avenue
<b>Area:</b>	1.3 ha (3.28 ac)
<b>Existing Zoning:</b>	Rural Zone RU-1
<b>Minimum Parcel Size:</b>	1.7 ha (4.2 ac)
<b>Rural Plan Designation:</b>	Small Farms / Country Estates

**BACKGROUND / HISTORY:**

The subject property is zoned Rural Zone RU-1 and it is located in the ALR, midway between Walnut Grove and Fort Langley.

The Township's Zoning Bylaw provides for two types of day care uses:

1. A licensed family day care – permits up to 8 children under the age of 12 (including those of the operator) to operate under the Zoning Bylaw's "accessory home occupation" provisions; or
2. A "group children's day care" – permits a nursery, pre-school, and other like child minding facility for more than 8 children under the age of 12 (including those of the operator)

On June 26, 2015, the applicant, Dianne Parkinson, submitted a building permit application to convert an existing temporary double-wide mobile home on the subject site to a group children's day care. At the time of the building permit application, a group children's daycare was a permitted use in the RU-1 Zone. However, as the site is in the ALR, ALC approval of a non-farm use application is required prior to a building permit being issued. Staff advised Ms. Parkinson on July 8, 2015 that a non-farm use approval from the ALC would be required before a permit could be issued.

On July 6, 2015, Council granted first and second reading to Bylaw No. 5109 (2015 Zoning Bylaw Update). The Bylaw removed "group children's daycare" from the list of permitted uses in the Rural and Suburban Residential zones. The rationale for this amendment was to require a rezoning process for this use, given potential impacts associated with this use on an area, and a desire to control locations of these uses based on established criteria for "assembly uses".

The Locational Guidelines for Assembly Uses provide that an “assembly use” such as a group children’s day care should be located in a designated “urban” area in the Official Community Plan, outside the ALR, and have access to full municipal services. Based on the property’s location, it would not meet the majority of the Locational Guidelines.

The applicant submitted the required non-farm use application on February 12, 2016, approximately five (5) months after the adoption of Bylaw No. 5109 and elimination of the group children’s day care use from the list of permitted uses in the Rural Zone RU-1.

As a group children’s day care was a permitted land use in the RU-1 Zone at the time of the building permit submission, the proponent believed that the proposed use could be “grandfathered” and that a non-farm use application could be submitted subsequently.

Section 528 of the Local Government Act contains “grandfathering” provisions concerning non-conforming uses which provide for existing uses to continue after a bylaw is adopted which results in the use no longer conforming to the bylaw. As the group children’s day care use was not lawfully in operation on the subject property at time of adoption of Bylaw No. 5109 (on September 14, 2015), the use cannot be “grandfathered”. At the time of submission of the building permit application, the applicant had not yet submitted a non-farm use to the ALC.

The ALC Act allows Council the opportunity to provide recommendations on non-farm use applications made to the ALC. Information available to Council to consider making recommendations are policies contained in the Township’s Official Community Plan, Rural Plan and Zoning Bylaw.

#### **DISCUSSION / ANALYSIS:**

The applicant has applied under Section 20(3) of the ALC Act for a non-farm use for property located at 22188 - 96 Avenue. The applicant is proposing to convert an existing temporary double wide mobile home currently located on the property to a group children’s day care facility (as shown in the site plan contained in this report).

The applicant has indicated that the soil on the property is solid clay and that the property has never been used for agriculture. According to the applicant, the proposal will be geared to providing affordable day care services for the growing Yorkson neighbourhood of Willoughby. The day care will promote agriculture by teaching children and parents about small plot gardening and composting through on-site raised garden plots and composting.

The subject 1.3 ha (3.28 ac) site is located in the ALR at the southwest corner of 96 Avenue and 222 Street. The property is designated “Small Farms / Country Estates” in the Township’s Rural Plan, and is zoned Rural RU-1. A house, a double-wide temporary mobile home, and accessory buildings are currently located on the subject site, with access provided from a driveway on 96 Avenue and another driveway on 222 Street. The western portion of the property is heavily treed and is traversed by a yellow coded watercourse.

#### **Adjacent Uses and Property Sizes:**

North: 96 Avenue, beyond which is a property zoned Rural Zone (RU-1) within the ALR, 15.5 ha (38.3 ac) in size, designated Small Farms / Country Estates in the Rural Plan ;

West: several rural residential properties (located between 96 Avenue and the railway line) zoned Rural Zone (RU-1) within the ALR, ranging from 0.2 to 0.8 ha (0.57 to 2.0 ac) in size, designated Small Farms / Country Estates in the Rural Plan;

South: the railway line; beyond which is a property zoned Rural Zone (RU-1) within the ALR, 11.6 ha (28.7 ac) in size, designated Small Farms / Country Estates in the Rural Plan ;

East: 222 Street, beyond which is a property zoned Rural Zone (RU-1) within the ALR, 6.9 ha (17.1 ac) in size, designated Small Farms / Country Estates in the Rural Plan ;

### **Rural Plan and Zoning Bylaw:**

The property is designated “Small Farms / Country Estates” in the Rural Plan. Section 5.15.3 of the Plan states “Day care facilities will be encouraged to locate in association with schools in the rural area.”

The Zoning Bylaw regulates childrens’ day care uses by permitting licenced family day cares (for the care of up to eight (8) children) to operate as an accessory home occupation in all zones which permit single family dwellings. Larger day cares (more than eight (8) children) are accommodated by the Zoning Bylaw as a “*group children’s day care*” which are permitted in certain commercial and institutional zones.

In addition to the Rural Plan policies and Zoning bylaw regulations, group children’s day cares are subject to locational criteria outlined in the “Guidelines for Assembly Uses”. The Guidelines assist in the evaluation of suitable locations for assembly uses including group children’s day cares.

Should Council and the ALC support the proposed non-farm use application, the applicant will need to submit a rezoning application that will be evaluated in light of current Township’s policies and regulations.

### **Agricultural Advisory and Economic Enhancement Committee:**

In accordance with past practice the application will be forwarded to the Agricultural Advisory and Economic Enhancement Committee (AAEEC) for information purposes.

### **Servicing:**

The site is located in Rural Service Level 4 requiring the provision of rural services (septic and well). Should the ALC approve the application, a condition of subsequent rezoning application would be confirmation from a professional engineer as to the adequacy of the existing systems to accommodate the proposed assembly use.

### **POLICY CONSIDERATIONS:**

The Rural Plan designates the subject property Small Farms / Country Estates. The Plan contemplates day care facilities in the rural area by encouraging such uses to locate in association with schools. The site’s Rural RU-1 zoning does not permit a group children’s day care facility.



AGRICULTURAL LAND COMMISSION APPLICATION NO.100293

(BEALE / PARKINSON / 22188 - 96 AVENUE)

Page 9 . . .

As the building permit application was submitted to the Township before the Zoning Bylaw amendment that eliminated group children's day care as a permitted use in rural zones, Council may wish to consider the non-farm use application on compassionate / hardship grounds and forward it to the ALC. Should the ALC approve the application, a future rezoning application would require approval from Council to accommodate the proposal.

Respectfully submitted,

Zorica Andjelic  
DEVELOPMENT PLANNER  
for  
COMMUNITY DEVELOPMENT DIVISION

This report constitutes the "Local Government Report" as required under Section 12 or 29 of the Agricultural Land Reserve Use, Subdivision and Procedure Regulation.