



Regional Board Report

TO: Regional Board

FROM: Todd Cashin
Director of Community Services

DATE: June 24, 2019

SUBJECT: Development Variance Permit (VP-19-03)
P. & B. Uppal (owner/applicant)
2711 & 2735 Lakha Road - Central Okanagan East Electoral Area

Voting Entitlement: *Custom Vote – Electoral Areas & Kelowna Area – 1 Director, 1 Vote*

Purpose: To consider issuance of a Development Variance Permit to vary setbacks to accommodate the location of existing Temporary Agricultural Worker Dwellings and Accommodation.

To consider a refund of Development Applications Procedures Bylaw No. 944's application fees.

Executive Summary:

A Development Variance Permit Application has been submitted to allow the location of two trailers used for temporary agricultural worker housing, which has been permitted since 2013 by the Regional District under a Temporary Use Permit. The applicants rationalize that the siting of the trailers makes efficient use of agricultural land and that the Temporary Agricultural Worker Dwellings and Accommodation Zoning Bylaw regulations were not adopted until 2014.

The applicants have also requested that the Regional District refund the Development Variance Permit Application Fee (\$800).

No opposition has been received from affected agencies or neighbouring residents regarding the application.

RECOMMENDATION #1:

THAT Development Variance Permit Application VP-19-03 to vary the following sections of Zoning Bylaw No. 871 be approved based on the Surveyor's Certificate dated February 28, 2019, by Vector Geomatics Land Surveying Ltd.:

- Section 3.25.6 by allowing a reduction of the minimum parcel line setback for a Temporary Agricultural Worker Dwellings and Accommodation from 15.0 m (49.2 ft) to 1.15 m (3.8 ft).
- Section 3.25.7 by allowing an increase in the maximum setback of a Temporary Agricultural Worker Dwellings and Accommodation building from a principal residence from 15.0 m (49.2 ft) to 32.44 m (106.4ft).

RECOMMENDATION #2:

THAT the Regional Board does not approve a refund of the Development Applications Procedures Bylaw No. 944's Development Variance Application Fee.

Respectfully Submitted:



Todd Cashin
Director of Community Services

Approved for Board's Consideration



Brian Reardon, CAO

Prepared by: Janelle Taylor, Planner

Implications of Recommendation:

Strategic Plan:	Development Variance Permits provide options/solutions to address building/location issues provided there are no negative impacts (visual, health and safety) to neighbouring residents.
Policy:	Not approving the request for a refund is in accordance with Development Applications Procedures Bylaw No. 944, Schedule C, Section 6 Refund of Application Fees.
Legal/Statutory Authority:	In accord with Section 498 of the Local Government Act, on application by an owner of land, a local government may, by resolution, issue a development variance permit that varies, in respect of the land covered in the permit, the provisions of a bylaw. A development variance permit must not vary the use or density of land from that specified in the bylaw and a local government may not delegate the issuance of a permit.

Background:**History:**

Two Atco trailers which provide accommodation for migrant farm workers were moved to the subject property prior to Zoning Bylaw No. 871 allowing temporary farm worker housing (TFWH). The Regional Board conditionally approved Temporary Use Permit (TUP-13-04) to permit temporary accommodation for 14 migrant farm workers for three years in 2013 and the Board renewed the TUP for another three years in 2016.

On March 28, 2014, the Regional Board adopted a Zoning Bylaw text amendment to allow TFWH subject to a specific list of conditions and requirements (Section 3.25 attached). Building Permit No. 7308/16 was finalized for the trailers on June 8, 2016.

Proposal:

A Development Variance Permit Application has been submitted to permit the location of the two trailers used for TFWH. TUP-13-04 is set to expire August 2019 and the trailers achieve all but two of the Zoning Bylaw regulations outlined in Section 3.25.

The owners rationalize that the siting of the trailers makes efficient use of agricultural land and at time of placement the owners could not have achieved Zoning Bylaw setback requirements as the TFWH regulations were not adopted until 2014.

The owners also request that the Board refund the Development Variance Permit Application Fee (\$800). The owners paid for processing of the TUP in 2013; however, had the Zoning Bylaw regulations been in place for TFWH the applicants could have sited the trailers in accordance with the regulations or applied for the one-time Development Variance Permit. Development Applications Procedures Bylaw No. 944 provides the Regional Board with the authority to consider full or partial refunds of up to 100% of an application fee.

Site Context:

The subject property is located within the ALR, within Ellison OCP Bylaw No. 1124, and is not affected by Development Permit Areas. The property is developed with an apple orchard, one single detached home, one accessory home, and two Atco trailers.

Additional Information:

Owner/Applicant:	Parvinder & Baljit Uppal
Legal Description:	Lot A, Plan 16575, Section 6, Township 24, ODYD
Address:	2711 & 2735 Lakha Road
Lot Size:	+/- 5.5 ha (13.49 acres)
Zoning:	A1 Agricultural
OCP Designation:	Farming
Sewage Disposal:	Septic tank and tile field
Water Supply:	Black Mountain Irrigation District (BMID)
Existing Use:	Agriculture
Surrounding Uses:	North: Farming/Rural residential South: Farming/Rural residential East: Farming/Rural residential West: Lakha Road/Farming/Rural residential
A.L.R.:	Within the A.L.R.
Fire Protection Area:	Ellison Fire Protection Area

RDCO TECHNICAL COMMENTS:

Agricultural Advisory Commission supports the application as presented.

AGENCY REFERRAL COMMENTS:

Ministry of Agriculture supports the development of seasonal farm worker accommodation on the property. To maximize the greatest long term potential for agriculture in the area, it is important to site any additional homes in a manner that maintains the greatest productive capacity of the parcel while limiting potential nuisance conflicts.

Agricultural Land Commission indicates that an application for Non-Adhering Residential Use is not required as the landowners have existing valid building permits and the trailers have been approved and existed on the property prior to the new regulations. Provided there is no expansion, the trailers would be permitted without the need to make an application.

Unaffected Agencies include Ministry of Transportation and Infrastructure and Interior Health Authority.

Unaffected RDCO Departments include Engineering Services and Planning Services.

Financial Considerations:

While staff sympathizes with the applicant's position, refunding Development Applications Procedures Bylaw No. 944's Development Variance Permit Application Fee of \$800 would set an unwanted precedent for the organization.

External Implications:

In accord with Development Applications Procedures Bylaw No. 944, a Notice of Application sign was posted on the property and written notices were mailed to all registered property owners of land situated within 100 metres of the subject property. Further to the notification process, at time of writing this report, there have been no letters received for the application.

Alternative Recommendation #1:

Based on staff's analysis of the feedback received to date, staff does not propose an alternative recommendation on this matter.

Alternative Recommendation #2:

THAT the Regional Board approve a refund of the Development Procedures Applications Procedures Bylaw No. 944's Development Variance Application Fee.

Considerations not applicable to this report:

- *General*
- *Organizational*

Attachment(s):

- Subject Property and Orthophoto Maps
- Surveyor's Certificate, February 28, 2019, Vector Geomatics Land Surveying Ltd.
- Request for Refund, received March 20, 2019
- Section 3.25 Zoning Bylaw No. 871 TFWH