



Regional Board Report

TO: Regional Board

FROM: Todd Cashin
Director of Community Services

DATE: July 29, 2019

SUBJECT: Zoning Amendment Bylaw No. 871-251
Application Z18/06 S. & P. Sandher (Owners)
4401 Old Vernon Road - Central Okanagan East Electoral Area

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

Purpose: To seek Board approval for first reading of Zoning Amendment Bylaw No. 871-251 and establish conditions prior to scheduling a public hearing.

Executive Summary:

The subject property, a part of a large agricultural operation which utilizes migrant farm workers, currently provides accommodation for approximately 102 farm workers on-site. This allows for operational efficiencies as well as social benefits for workers. The owners previously received conditional approvals in 2013 and 2016 (File: TUP-13-01) to permit temporary farm worker housing (TFWH) on the subject property. The TFWH were placed on the property prior to the Regional District's current Temporary Farm Worker Dwelling and Accommodation regulations. The TUP is expiring in 2019 and is not eligible for renewal; therefore, the owners are requesting a site-specific rezoning to legitimize the TFWH use on a go forward basis.

Regional District policies recognize the need for seasonal farm worker housing, support the retention of large continuous blocks of agricultural land, and further seek to protect the supply of agricultural land.

No agency concerns have been identified at this time. Water and septic servicing have received the necessary approvals. Any correspondence received from the public will be provided to the Board as part of a future public hearing report.

RECOMMENDATION:

THAT Zoning Amendment Bylaw No. 871-251 be given first reading;

AND THAT scheduling of a Public Hearing be withheld pending receipt of the following:

- A draft covenant restricting the individual sale of neighbouring parcels owned by S. & P. Sandher and/or S. Sundher Orchards Ltd.
- A draft covenant prohibiting new Temporary Agricultural Worker Dwellings and Accommodation on neighbouring parcels owned by S. & P. Sandher and/or S. Sundher Orchards Ltd.
- Written confirmation that a covenant which achieves Zoning Bylaw No. 871, Section 3.25.9 requirements will be registered prior to final adoption on the subject property.

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:	Granting first reading to the amendment bylaw meets the 2015-2018 Strategic Priorities Plan, Strategic Priority #3: Nurture Responsible Growth and Development.
Policy:	Granting first reading to the amendment bylaw complies with: <ul style="list-style-type: none"> • Regional Growth Strategy Bylaw No. 1336 goals and policies. • Agricultural Plan objectives. • Ellison OCP Bylaw No. 1124 policies.
Legal/Statutory Authority:	Granting first reading to the amendment bylaws is in compliance with Local Government Act, Section 479.

Background:

Proposal:

The subject property forms part of a large agricultural operation specializing in apple and cherry production that spans just over 500 acres of owned and leased properties located in the North and Central Okanagan. Migrant farm workers are a necessary part of the operation. The agricultural property includes accommodation for approximately 102 farm workers on-site, which allows for operational efficiency of a centralized site to coordinate and transport workers, plus the social benefit of common housing.

The following is an overview of the accommodation provided on-site:

- 24 temporary farm worker housing (TFWH) located within three atco trailers (~1300ft²),
- 18 TFWH located within an accessory home/agricultural dwelling (~2,034 ft²), and
- 60 TFWH located within a residential lodge (~5180 ft²).

The photo on the next page identifies the buildings that comprise the temporary farm worker housing.



History:

The owners previously received conditional approvals in 2013 and 2016 (File: TUP-13-01) to permit temporary farm worker housing (TFWH) on the subject property. These applications were precipitated due to ongoing difficulties faced by the landowners with respect to securing suitable TFWH. At the time, Zoning Bylaw No. 871 did not have provisions to allow TFWH.

On March 28, 2014, the Regional Board adopted a Zoning Bylaw text amendment to allow TFWH on properties subject to a specific list of conditions and requirements (Section 3.25 attached). The accessory home/agricultural dwelling, lodge and three atco trailers were placed on the property prior to the Regional District's current Temporary Farm Worker Dwelling and Accommodation regulations. The TUP is expiring in 2019 and not eligible for a renewal; therefore, the applicant is requesting a site-specific rezoning to recognize the TFWH use occurring.

The TFWH does not achieve the following RDCO Zoning Bylaw No. 871, Section 3.25 Temporary Agricultural Worker Dwellings and Accommodation regulations:

- The maximum building gross floor area on the property utilized for TFWH is greater than 250m².
- The minimum setback from a parcel line is less than 15.0 m.
- The maximum setback from the principal building is greater than 15.0 m.
- Two of the structures have permanent foundations.

Servicing:

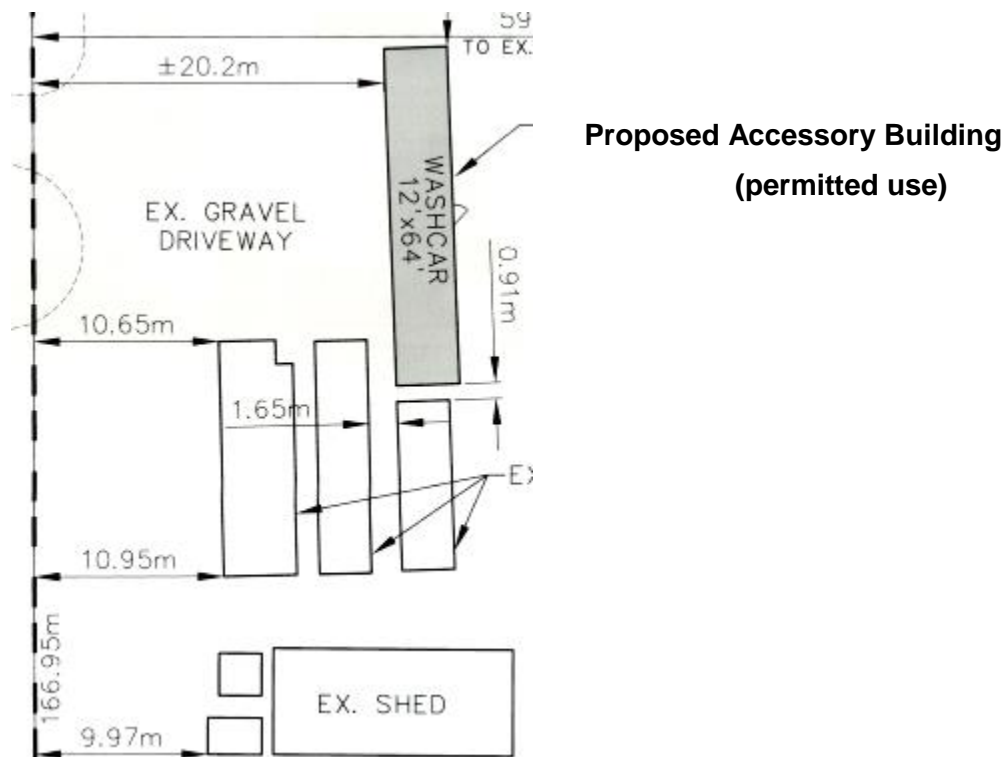
Water

Glenmore Ellison Improvement District provides the property with potable water. GEID has indicated that the owner has satisfied all requirements for the existing TFWH.

Sewerage Disposal

Through the building permit process, RDCO is in receipt of on-site sewerage disposal system information which confirms that the buildings are adequately serviced.

Currently, the 24 workers who reside in the 3 atco trailers use the washroom facilities located within the residential lodge; however, under direction from the Seasonal Agricultural Worker Program, the owners have submitted a Building Permit Application (File No. 19/092) to install a washroom facility adjacent to the 3 atco trailers for the workers' use. The proposed accessory building (non-residential) is a permitted use and has received approval from the Agricultural Land Commission and a Registered Onsite Wastewater Practitioner.



Seasonal Agricultural Worker Program:

The property owners have submitted the annual declaration for 2019 that they participate in the Government of Canada's Seasonal Agricultural Worker Program.

Regional Temporary Farm Worker Housing Regulation Review:

Regional District staff has worked collaboratively with Provincial agencies and member municipalities to review the Central Okanagan region's TFWH regulations with the intent of developing a consistent approach. Subsequent to the regional initiative commencing, the City of Kelowna adopted new TFWH regulations in 2017. RDCO, District of Lake Country, City of West Kelowna, and City of Kelowna jointly hosted an industry stakeholder workshop regarding farm worker housing April 2018; after which the City of West Kelowna adopted their new TFWH regulations.

It was anticipated that the Regional Board would consider bylaw revisions to Zoning Bylaw No. 871 by the end of 2018; however, the Province's Bill 52 – 2018: Agricultural Land Commission Amendment Act received Royal Assent on November 27, 2018. Bill 52 and the corresponding Agricultural Land Reserve General Regulation and Agricultural Land Reserve Use Regulation (approved February 22, 2019) brought about changes to residential uses occurring within the Agricultural Land Reserve, which affect TFWH.

In recognition that the Agricultural Land Commission changes affect TFWH, further review is required prior to staff recommending Zoning Bylaw No. 871 changes. The re-evaluation of Zoning Bylaw No. 871 TFWH regulations has been scheduled for the third quarter of 2019.

Agricultural Plan:

The Regional District's Agricultural Plan (approved June 2005) recognizes the need for seasonal farm worker housing in the region and includes a recommendation to explore options for providing a regulatory context to permit this use.

Ellison Official Community Plan Bylaw No. 1124:

- Policy No. 14.2.11 Support the retention of large continuous blocks of agricultural land and discourage fragmentation.

Regional Growth Strategy Bylaw No. 1336:

The Central Okanagan has strong agricultural roots and this sector has been important in defining the region and its growth pattern. With changes in population, pressures of development, increased climate impacts, water pressures, and more focus on local food production for sustainability, these changes have raised more awareness on food systems from cultivating and planting to consumption to the compost heap, and back again.

Today, food policies appear on the agenda of dozens of municipal governments across North America and beyond. Future planning can help ensure food systems are adequately addressed in growth management decisions.

- The goal of Our Food: To support a regional food system that is healthy, resilient and sustainable.
- Policy No. 3.2.5.7: Protect the supply of agricultural land and promote agricultural viability.

Site Context:

The property is located in the Ellison Area. Servicing includes the Ellison Fire Protection Area, on-site sewerage disposal system and water is provided by the Glenmore Ellison Improvement District. In accordance with the Ellison Official Community Plan Bylaw No. 1124, the property is not affected by Development Permit Areas.

Additional Information:

Owners/Applicants:	S. & P. Sandher
Legal Description:	Lot D, Plan KAP63914, DL 121 & 122, ODYD
Address:	4401 Old Vernon Road
Lot Size:	+/- 4.0 ha (9.91 acres)
Zone:	A1 Agricultural
Official Community Plan Designation:	Agriculture
Sewage Disposal:	Septic system
Water Purveyor:	Glenmore Ellison Improvement District
Existing Use:	Agricultural
Surrounding Uses:	North: Agriculture South: Agriculture East: Agriculture West: Agriculture
A.L.R.:	Within the A.L.R.
Fire Protection:	Within the Ellison Fire Protection Area

RDCO TECHNICAL COMMENTS:

Agricultural Advisory Commission supports the application as presented.

The AAC appreciates that the accommodations have been consolidated into one area of the farm and does not disturb neighbours.

Inspection Services staff indicates that all TFWH has received approved building permits.

Fire Services staff notes no concerns as the building permit process ensures the accommodations achieve fire code.

Bylaw Enforcement staff advises that no complaints have been received.

Planning Services staff indicates that at time of considering the Temporary Use Permit (TUP-13-01), there was potential that RDCO's future Zoning Bylaw regulations may not fit the TFWH occurring on the subject property and the owners would be required to pursue alternative options, such as applying for a site-specific zoning amendment.

The owners are utilizing buildings with permanent foundations which were constructed with building permits prior to the 2014 RDCO TFWH regulations coming into effect. The three atco trailers are on non-permanent foundations, which also have building permits.

As the TFWH is organized in a manner that allows for operational efficiency of a centralized site to coordinate and transport workers, plus the social benefit of common housing, it is proposed that a covenant be registered on the titles of the surrounding agricultural lands owned by the property owners to not permit new TFWH to be constructed on those properties.

Furthermore, to protect the retention of large continuous blocks of agricultural land, it is recommended that a covenant restricting the individual sale of 4381/4395 Old Vernon Road, 4401 Old Vernon Road, 4475 Old Vernon Road, and 4240 Black Road be registered on the properties' titles.

RDCO staff reviewed the above-noted covenants with the property owners in the spring of 2019. The covenants should be registered prior to final adoption of the amendment bylaw.

AGENCY REFERRAL COMMENTS:

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 structures have been approved and existed on the property prior to the new regulations. Provided there is no expansion, the TFWH would be permitted without the need to make an application.

While not a part of this application, the ALC notes that the proposed washroom facilities (Building Permit Application No. 19/092) would be considered a necessary structure and ancillary services; therefore, no application to the ALC is required for the washroom/shower trailer to service the existing TFWH.

Ministry of Agriculture staff provides the following comments for consideration:

- MOA staff supports the development of seasonal farm worker accommodation appropriate to the farm operation's agricultural activity.
- The MOA's 'Guide for Bylaw Development in Farming Areas' (Bylaw Guide) provides guidelines approved by the Minister for local governments when developing their bylaws regarding farm areas.
- In order to maximize the greatest long term potential for agriculture in the area, it is important to maintain the most optimal configuration of contiguous, productive land.

Glenmore-Ellison Improvement District advises that the owner has satisfied all requirements GEID requested for the existing TFWH. GEID does not have any concerns with the proposed zoning amendment.

FortisBC advises that there are primary distribution facilities along Old Vernon Road and Black Road. The applicant is responsible for costs associated with any change to the subject property's existing service, if any, as well as the provision of appropriate land rights were required. Otherwise, FortisBC has no concerns.

Unaffected Agencies include BC Hydro, City of Kelowna, Interior Health Authority, Ministry of Transportation and Infrastructure.

Unaffected RDCO Departments include Parks Services and Environmental Services.

External Implications:

In accordance with Development Applications Procedures Bylaw No. 944, a Notice of Application Sign has been posted. Any correspondence received from the public will be provided to the Board as part of a future public hearing report.

Alternative Recommendation:

THAT Zoning Amendment Bylaw No. 871-251 not be given first reading.

Considerations not applicable to this report:

- *Financial*
- *Organizational*
- *General*

Attachment(s):

- Zoning Amendment Bylaw No. 871-251
- Subject Property & Orthophoto Maps
- Site Improvement Survey, dated June 5, 2019
- Zoning Bylaw No. 871, Section 3.25

REGIONAL DISTRICT OF CENTRAL OKANAGAN

BYLAW NO. 871-251

A Bylaw to Amend Regional District of Central Okanagan Zoning Bylaw 871, 2000

WHEREAS the Regional Board of the Regional District of Central Okanagan is desirous of amending Zoning Bylaw No. 871, 2000 under the provisions of the Local Government Act.

NOW THEREFORE the Regional Board of the Regional District of Central Okanagan, in an open meeting enacts as follows:

1. **This bylaw may be cited as Regional District of Central Okanagan Zoning Amendment Bylaw No. 871-251.**
2. **That the Regional District of Central Okanagan Zoning Bylaw No. 871, 2000 is hereby AMENDED by the following and forms a part of this bylaw:**
 - 2.1 Amending **PART 3 General Regulations**, Section 3.25 - Temporary Agricultural Worker Dwellings and Accommodation
 - 2.1.1 Subsection 2 by **ADDING** "2.1 Except for Lot D, Plan KAP63914, DL 121 & 122, ODYD which is permitted a maximum building gross floor area of 791 m² (8,514 sq. ft)."
 - 2.1.2 Subsection 5 by **ADDING** "5.1 Except for Lot D, Plan KAP63914, DL 121 & 122, ODYD which is permitted to use dwellings existing prior to March 28, 2014."
 - 2.1.3 Subsection 6 by **ADDING** "6.1 Except for Lot D, Plan KAP63914, DL 121 & 122, ODYD which is permitted to site Temporary Agricultural Worker Dwellings and Accommodation buildings in accordance with the Site Improvement Survey, dated June 5, 2019, by Bret M. Christensen."
 - 2.1.4 Subsection 7 by **ADDING** "7.1 Except for Lot D, Plan KAP63914, DL 121 & 122, ODYD which is permitted to site Temporary Agricultural Worker Dwellings and Accommodation buildings in accordance with the Site Improvement Survey, dated June 5, 2019, by Bret M. Christensen."

READ A FIRST TIME this _____ day of _____

PUBLIC HEARING HELD PURSUANT TO THE LOCAL GOVERNMENT ACT this _____ day of _____

READ A SECOND TIME this _____ day of _____

READ A THIRD TIME this _____ day of _____

ADOPTED this _____ day of _____

Chairperson

Director of Corporate Services

I hereby certify the foregoing to be a true and correct copy of Zoning Bylaw No. 871-251 as read a third time by the Regional District of Central Okanagan the _____ day of _____

Dated at Kelowna, this _____ day of _____

Director of Corporate Services

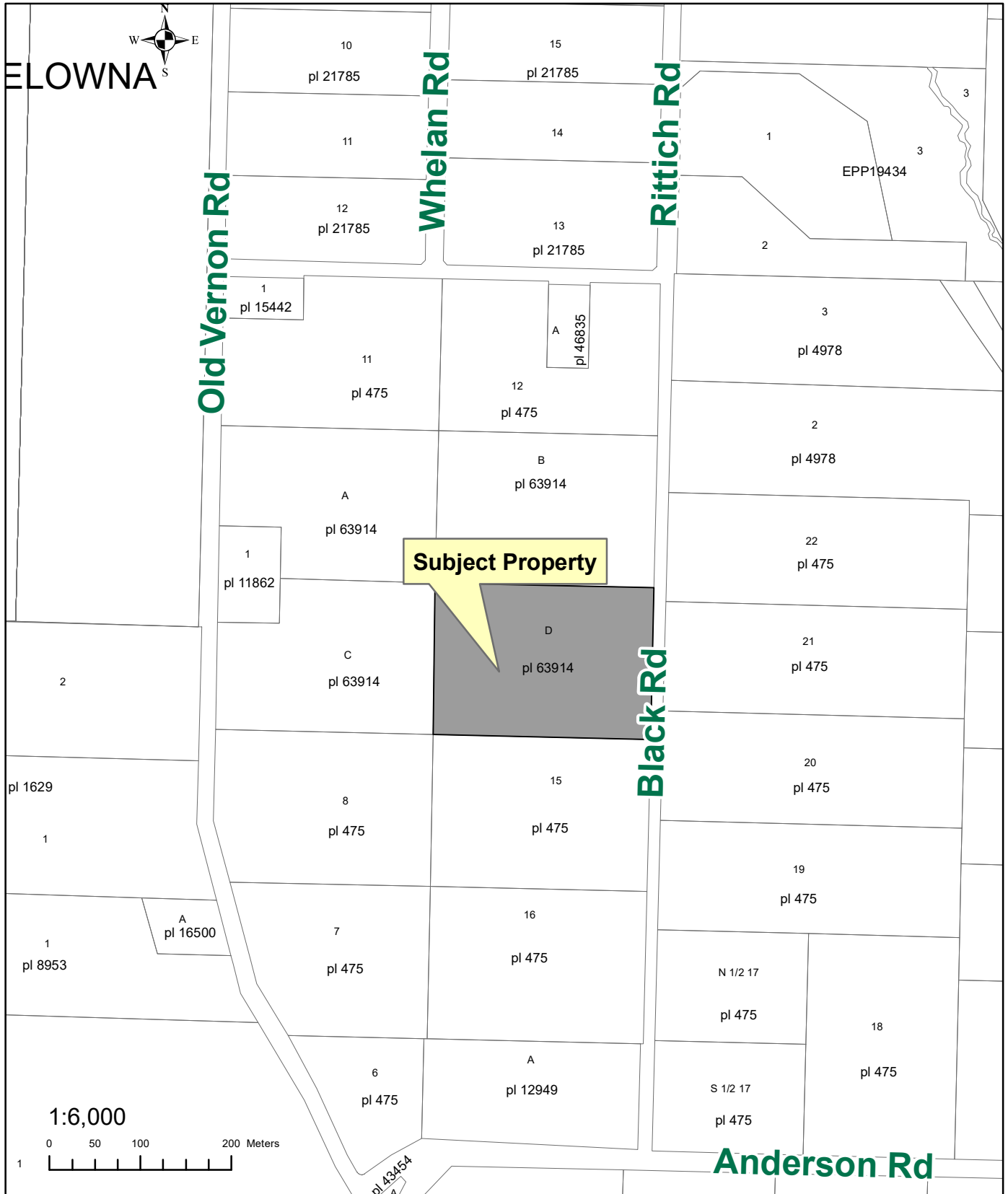
I hereby certify the foregoing to be a true and correct copy of Zoning Bylaw No. 871-251 which was Adopted by the Regional District of Central Okanagan on the _____ day of _____

Dated at Kelowna, this _____ day of _____

Director of Corporate Services

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SUBJECT PROPERTY



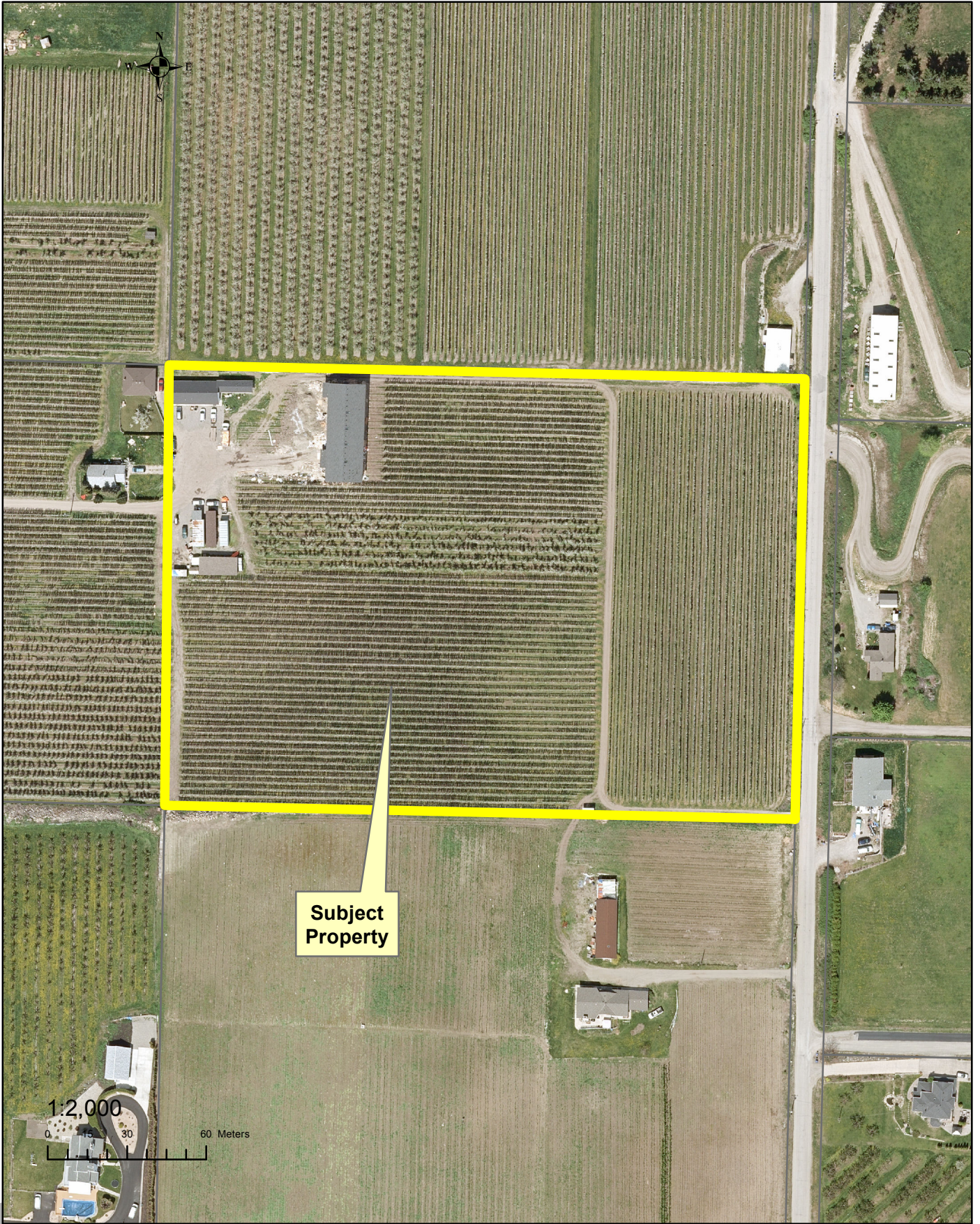
File: Z18/06

Drawn by: CA

Date: July 8, 2019

Lot D, ODYD, Plan KAP63914, DL 121 & DL 122

ORTHOPHOTO



**Subject
Property**



File: Z18/06

Drawn by:JM

Date: Nov. 27, 2018

Lot D, ODYD, Plan KAP63914,DL 121 & DL 122

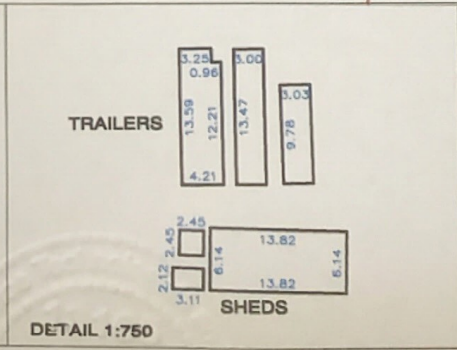
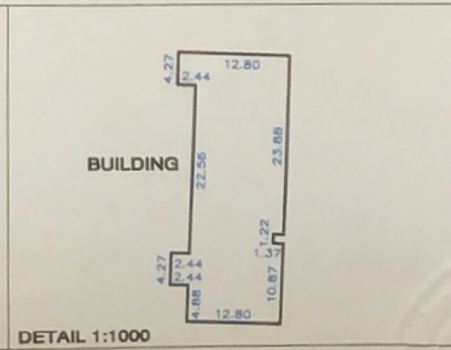
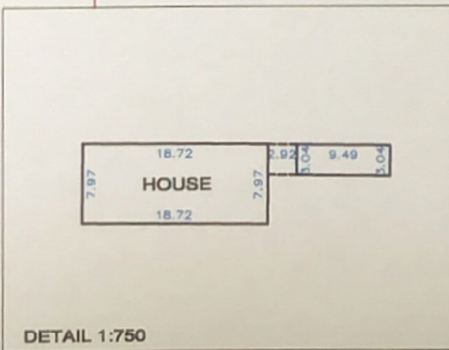
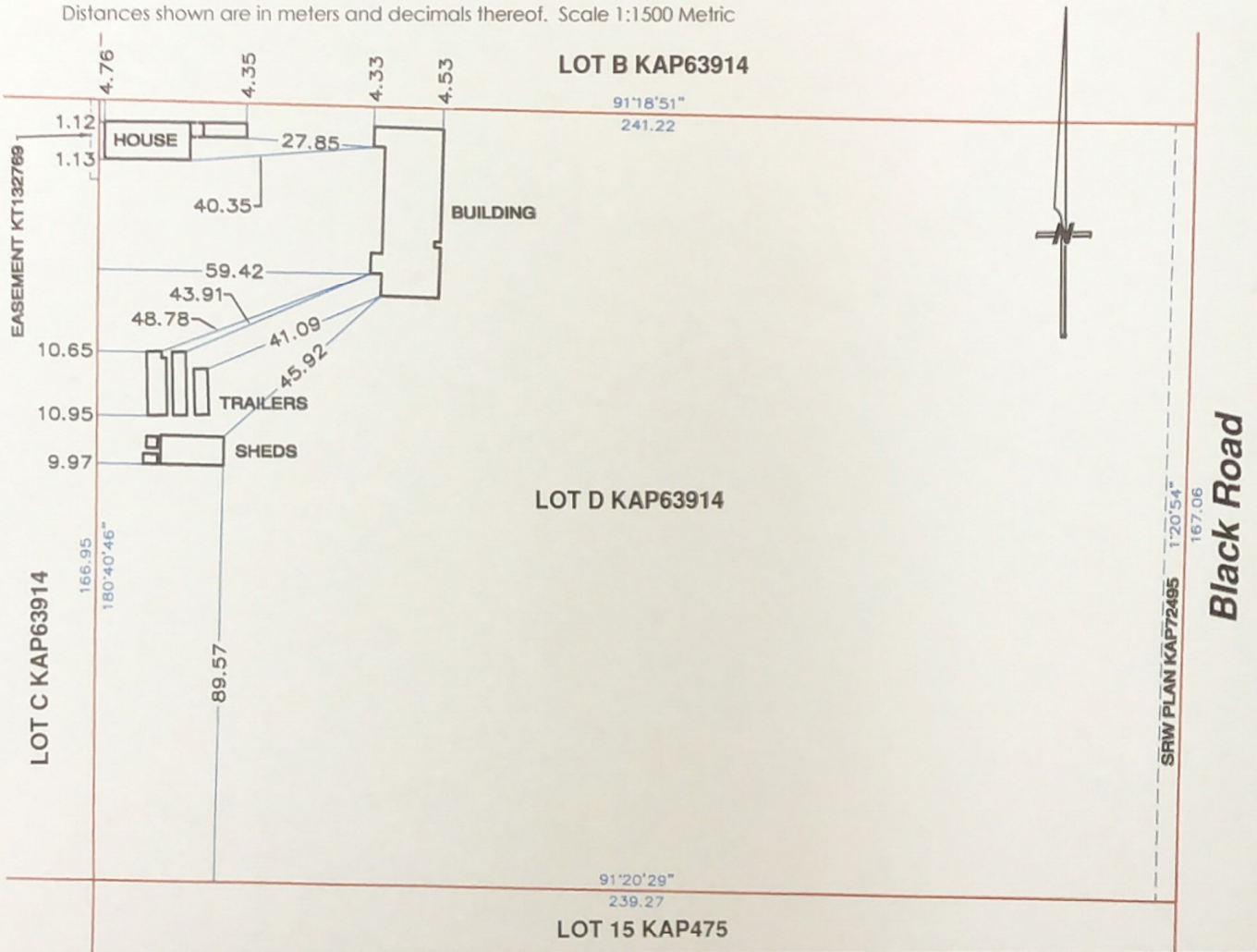
SITE IMPROVEMENT SURVEY

Survey Performed on the 15th day of May, 20 19

Legal Description Lot D, District Lots 121 & 122, O.D.Y.D., Plan KAP63914

Civic Address 4401 Old Vernon Road, Kelowna, BC

Distances shown are in meters and decimals thereof. Scale 1:1500 Metric



I Bret Christensen hereby declare that the dimensions shown on this drawing are accurate and I make this solemn declaration conscientiously believing it to be true and knowing that it is of the same force and effect as if made under oath.
 This document is not valid unless originally signed and sealed.
 This plan is prepared for mortgage purposes and/or building inspections and is not to be used to establish legal boundaries.

this 10th day of JUNE, 20 19

Bret M. Christensen ASCT, RSIS

3.25 Temporary Agricultural Worker Dwellings and Accommodation

Temporary Agricultural Worker Dwellings and Accommodation are subject to the following regulations:

1. A minimum *parcel* size of 3.8 ha (9.4 acres) is required to permit a *Temporary Agricultural Worker Dwellings* and Accommodation.
2. The *Temporary Agricultural Worker Dwellings* and Accommodation shall be limited to a maximum *building gross floor area* of 186 m² (2002.1 sq. ft.), except that where the owner of a farm operation can document by ownership records or copies of leases registered in the Land Title Office that the farm operation is at least 40 ha (98.8 acres) in size, a maximum *building gross floor area* of 250 m² (2,691.0 sq. ft.) for *Temporary Agricultural Worker Dwellings* and Accommodation per farm operation shall be permitted.
3. The *Temporary Agricultural Worker Dwellings* and Accommodation shall be used for the temporary accommodation of seasonal agricultural workers who are employed by the owner of the *parcel* to work in the owner's agricultural operation.
4. The parcel upon which the accommodation is located is classified as a "farm" under the Assessment Act.
5. A *Temporary Agricultural Worker Dwellings* and Accommodation is a *building* or *manufactured home* placed on a temporary foundation or footings with no basement.
6. The required minimum *setback* of a *Temporary Agricultural Worker Dwellings* and Accommodation *building* from any *parcel line* is 15.0 m (49.2 sq. ft.).
7. The required maximum *setback* of a *Temporary Agricultural Worker Dwellings* and Accommodation *building* from a principal residence is 15.0 m (49.2 ft.).
8. One parking space for every 30.0 m² (322.9 sq. ft.) of *gross floor area* of a *Temporary Agricultural Worker Dwellings* and Accommodation is required in addition to those required for the principal dwelling.
9. The owner of the *parcel* shall enter into a restrictive covenant, under the Land Title Act, with the Regional District of Central Okanagan, that states:
 - 9.1 A statutory declaration shall be filled out with local government annually stating the *building* will only be used for *Temporary Agricultural Worker Dwellings* and Accommodation for a specified period of time;
 - 9.2 only used by temporary farm workers and that the owner will remove or decommission the housing if vacant for two consecutive years;
 - 9.3 the *Temporary Agricultural Worker Dwellings* and Accommodation applies to farms registered with a Federal and/or Provincial seasonal agricultural workers program or is for the accommodation of workers employed by those farms.