



Regional Board Report

For the Public Hearing May 31, 2021

TO: Regional Board

FROM: Todd Cashin
Director of Community Services

DATE: May 31, 2021

SUBJECT: Zoning Amendment Bylaw No. 871-266 (Z21/01)
L. & D. Ketler (owners/applicants)
5060 Whelan Road, Central Okanagan East Electoral Area

Purpose: To amend the Zoning Bylaw No.871 to permit an accessory home on Lot 7, District Lot 121, ODYD, Plan 21785.

Executive Summary:

The applicants are requesting approval of a site-specific rezoning application that will permit an additional dwelling on the subject property. The property is within the Agricultural Land Reserve (ALR) however, in accordance with s. 32 of the ALR Use Regulation, a property in the ALR may have a manufactured home as an additional residence. All technical requirements will be addressed in conjunction with the zoning amendment and Building Permit process. Zoning Amendment Bylaw No. 871-266 received first reading on March 29, 2021.

At the time of writing this report, no opposition has been received from affected agencies or neighbouring properties. To date, nine letters of support have been received for the application.

Respectfully Submitted:

A handwritten signature in black ink, appearing to read "Todd Cashin".

Todd Cashin
Director of Community Services

Approved for Board Consideration

A handwritten signature in black ink, appearing to read "Brian Reardon".

Brian Reardon, CAO

Prepared by: Danika Dudzik, Senior Planner

Background:

The 2.02 ha (5 acre) subject property is currently developed with one single detached house and multiple accessory buildings, some of which accommodate agricultural operations and related activities. Agricultural uses occurring on the property include vegetable production, fruit trees, and forage crops (alfalfa and hay).

Proposal:

The applicants are requesting a site-specific amendment to permit an accessory home in the form of a manufactured home for the accommodation of a household caretaker. As staff understand, the owners intend for their daughter and grandchildren to assist with the ongoing agricultural operations.

An accessory home currently would not achieve the following RDCO Zoning Bylaw No. 871, Section 3.18 Accessory Home regulations:

- The minimum parcel area 3.8 ha (9.4 acres) to accommodate the use.

Zoning Amendment Bylaw No. 871-266 received first reading on March 29, 2021. The Regional Board directed that prior to scheduling a Public Hearing the following were required:

- Receipt of a proposed agricultural (farm) plan for a 2-3 year period in order to demonstrate the future expansion of agricultural activity on the property;
- A draft covenant recognizing the location of the subject property and acknowledging the potential for aircraft noise impact; and
- Written confirmation that a covenant which achieves Zoning Bylaw No. 871, Section 3.18.10 requirements will be registered prior to final adoption of the bylaw amendment.

Since first reading, Planning staff received the proposed agricultural plan and appropriate draft documentation for the required covenant.

History:

Between 1991 and 2011, a temporary accessory dwelling; mobile home was previously located at the southwest corner of the property, adjacent to Old Vernon Road and Lindley Road. The mobile home was permitted under a previous Zoning Bylaw through Zoning Amendment Bylaw No. 887 as a temporary accessory dwelling which was subject to various conditions including:

- The principal dwelling was to be occupied by the owner of the property or the owner's family;
- That the use be permitted for a period of one year but may be renewed on a yearly basis; and
- That when the temporary use ceases, the mobile home be removed.

The temporary accessory dwelling was 1500 ft² and serviced by power, a well, and on-site sewerage disposal system. The site also had an irrigation system, established landscaping, and surrounding fence.

The temporary use ceased and the dwelling was removed from the site. The applicants indicate that the home was part of an estate settlement and was sold and removed from the property. Building Permit No. 6522/11 was issued for the removal of the mobile home and subsequently closed.

More recently, upon further inquiry the applicants discovered that re-establishing an accessory home on the parcel was not permitted due to the minimum parcel area required to accommodate this use. Should the bylaw amendment be approved, the applicants intend to place a manufactured home in the same location as the previous residence.

Servicing:Water

The existing single detached house is currently serviced by GEID.

An existing well can provide potable water to the proposed accessory home. However, the applicants have indicated that they wish to apply to Glenmore Ellison Improvement District (GEID) to utilize the GEID water system for potable water.

Sewerage Disposal

The existing single detached house is currently serviced by an on-site sewerage disposal system.

Through the building permit process, RDCO will require receipt of on-site sewerage disposal system information which confirms that the proposed accessory home may be adequately serviced.

Airport Regulations:

The subject property is within the Airport zoning regulations under the *Aeronautics Act* regulated by Transport Canada. However, these regulations are not enforced by Transport Canada and it is left up to local governments to voluntarily enforce. The RDCO does not have any policies in place to require a letter of no objection from YLW and land use approval from Transport Canada as part of a development application approval process.

As identified in YLW's Master Plan 2045, the Noise Exposure Forecast (NEF) is the generally accepted and recognized industry standard for aircraft noise measurement at Canadian airports. NEFs produce noise contours that are typically used to encourage compatible land use planning in the vicinity of airports in Canada through Transport Canada guidelines. Community response to aircraft noise will typically vary according to the level of exposure within an individual noise contour area. Transport Canada's *Land Use in the Vicinity of Airports* guidelines recommend compatible land uses within various NEF contour zones. In particular, Transport Canada recommends no new residential construction in areas situated within the NEF 30 contour or higher at existing airports. Further, through previous development applications YLW staff have advised RDCO that development in the 25 NEF contour is suitable in relation to contour zones closer to the airport.

Kelowna's Official Community Plan establishes the framework to protect the Airport against encroachments by incompatible development and contains an Airport Noise Contour Map. Kelowna's OCP designates YLW as an 'Airport' area for land use purposes and identifies specific considerations that apply to surrounding properties. One of which, is to avoid incompatible development through prohibiting urban residential development within the Airport 25 NEF contour. Policy in the OCP also encourages the RDCO to not permit additional residential development within this contour.

Ellison Official Community Plan Bylaw No. 1124:

Section 16, Policy 2.6 discourages additional residential development in the 25 NEF contour. For residential construction within the 25 NEF contour, Policy 2.7 requires a restrictive covenant indicating potential for aircraft noise impact and soundproofing measures be incorporated in construction.

Site Context:

This property is located in the Ellison Area and within the Ellison Fire Protection Area. In accordance with the Ellison Official Community Plan Bylaw No. 1124, the property is not affected by any Development Permit Areas.

Additional Information:

Owner/Applicant:	Denise and Lane Ketler
Address:	5060 Whelan Road
Legal Description:	Lot 7, District Lot 121, ODYD, Plan 21785
Lot Size:	+/- 2.02 ha (5 acre)
Zoning:	A1 Agricultural
OCP Designation:	Agriculture
Proposed Sewage Disposal:	Septic system
Proposed Water Supply:	Glenmore-Ellison Improvement District
Existing Use:	Agriculture
Surrounding Uses:	North: Agriculture South: Lindley Road / Agriculture East: Whelan Road / Agriculture West: Old Vernon Road / Agriculture (City of Kelowna)
A.L.R.:	Within the A.L.R.
Fire Protection:	Ellison Fire Protection Area

RDCO TECHNICAL COMMENTS (Presented at First Reading):

Inspections Services staff advises that over the years, the owners have applied for various building permit applications and received subsequent approvals. There does not appear to be any outstanding building permits associated with the subject property.

Technical requirements for the accessory home will be addressed through the building permit process. The applicant will need to ensure that septic system can service the proposed residence and any additional introduction of water and effluent. Should the Board approve the proposal, a Registered Onsite Wastewater Practitioner (ROWP) report and approvals from Interior Health Authority need to be provided at time of building permit application.

Agricultural Advisory Commission (AAC) recommends that the application be supported subject to the condition that the owners prepare an agricultural (farm) plan for a 2-3 year period in order to demonstrate the proposed expansion of agricultural activity on the property.

Unaffected RDCO Departments include Parks Services, Fire Services, and Engineering Services.

AGENCY REFERRAL COMMENTS (Presented at First Reading):

Ministry of Agriculture, Food and Fisheries staff advises the following comments are included for consideration:

- The type and scale of farm operation does not typically require on-farm labour accommodation.
- The proposal does not appear to constitute a benefit to agriculture in general.
- An additional non-farm residence on the property may result in complaints about farm practices employed in the area.
- Amending the Zoning Bylaw for this property may result in expectations for similar amendments on other Agricultural properties.

Agricultural Land Commission staff advise that in addition to a principal residence up to 500 m², a property in the ALR may have a manufactured home as an additional residence, up to 9 m in width for immediate family member use. To be consistent with the intentions of the manufactured home provisions in s. 32 of the ALR Use Regulation, the home must also comply with the requirements outlined in ALC Policy L-25: Manufactured Homes in the ALR.

Provided all requirements under s. 32 of the ALR Use Regulation, and ALC Policy L-25 are adhered to, ALC staff have no objection to the proposed bylaw amendment. The additional residence would not require approval from the ALC.

City of Kelowna staff advises as the subject property is located within the 25 NEF contour, Planning staff do not support the application.

As it relates to the application, it appears that the applicants are following ALC requirements. The property size requirements for accessory homes are more restrictive in the RDCO's Zoning Bylaw than they are for mobile homes for immediate family in the City's Zoning Bylaw.

Should the application be considered further, the owners could register a farm residential footprint with the manufactured home on title, in addition to a covenant that specifies the manufactured home will be removed if no longer used by immediate family.

Glenmore-Ellison Improvement District (GEID) staff advises no objections to the proposal. Applications for new development proposing to utilize the GEID water system must proceed in compliance with GEID bylaws, regulations, and policy. GEID will have requirements that must be met prior to providing a Water Service Certificate to facilitate the issuance of future building permit for the accessory home. The applicant must contact GEID to ensure all servicing requirements, fees and charges have been addressed prior to the placement of the accessory home.

FortisBC advises that there are primary distribution facilities along Whelan Road and Old Vernon Road. The applicant is responsible for costs and land right requirements associated with changes to the existing servicing. For any changes to the existing service, the applicant must contact an FBC(E) designer regarding design, servicing solutions, and land right requirements.

Unaffected Agencies include Ministry of Transportation and Infrastructure, Interior Health Authority, BC Hydro, Shaw Cable, and Telus.

External Implications:

In accordance with the Development Applications Procedures Bylaw No. 944, Notice of Application Signs has been posted. Furthermore, *Local Government Act* requirements including newspaper notices and neighbourhood notification were completed.

To date, no opposition has been received from affected agencies. At time of writing this report, nine letters of support have been received from throughout the Ellison area. No letters of opposition have been received.

Conclusion:

Should the Regional Board close the Public Hearing, the application will come forward with a separate report for Board consideration of further readings to the bylaw amendment.

Considerations not applicable to this report:

- Legal/Statutory Authority
- Financial Considerations
- Organizational Issues

Attachment(s):

- Bylaw No. 871-266
- Subject Property & Orthophoto Maps
- Site Plan
- 2009 Orthophoto
- Zoning Bylaw No. 871, Section 3.18
- ALC Policy L-25 – Manufactured Homes in the ALR
- Proposed Agricultural Plan