



# Regional Board Report

**TO:** Regional Board

**FROM:** Todd Cashin  
Director of Community Services

**DATE:** March 29, 2021

**SUBJECT:** Agricultural Land Commission Application (A-21-01)  
A. & J. Wright (owner/applicant)  
2570 Old Vernon Road, Central Okanagan East Electoral Area

**Voting Entitlement:** *All Directors – Unweighted Corporate Vote – Simple Majority – LGA 208.1*

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**Purpose:** To obtain Agricultural Land Commission approval for a Non-Adhering Residential Use to construct a second accessory home on the subject property.

## **Executive Summary:**

The owner of 2570 Old Vernon Road is proposing a second accessory home on the subject property on lands within the Agricultural Land Reserve. The proposed accessory home would be the third dwelling on the subject property. The construction of this dwelling would include a workshop on the main floor and the accessory home above. To date, the Ministry of Agriculture, Food and Fisheries has expressed concerns regarding the application and the Black Mountain Irrigation District does not support the application. Notwithstanding, the property is zoned A1 Agricultural and the proposal meets all regulations on RDCO Zoning Bylaw No. 871. All technical requirements will be addressed in conjunction with the Non-Adhering Residential Use application and the Building Permit process. .

## **RECOMMENDATION:**

**THAT** the Regional Board support Agricultural Land Commission Application A-21-01 for applicant A. & J. Wright, to allow a non-adhering residential use to occur within the Agricultural Land Reserve pursuant to Section 20.1 (2) of the *Agricultural Land Commission Act*, on part of the following property: 2570 Old Vernon Road, Lot 3, District Lot 123, ODYD, Plan 3874.

**AND FURTHER THAT** staff be directed to forward the subject application to the Agricultural Land Commission for consideration.

Respectfully Submitted:

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

Todd Cashin  
Director of Community Services

Approved for Board's Consideration

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

Brian Reardon, CAO

*Prepared by: Michael Czarny, Planner*

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**Implications of Recommendation:**

Policy:	Support of the Agricultural Land Commission Non-Adhering Residential Use Application complies with: <ul style="list-style-type: none"><li>• Regional Growth Strategy Bylaw No. 1336</li><li>• Ellison Official Community Plan Bylaw No. 1124</li></ul>
Legal/Statutory Authority:	Support of the Agricultural Land Commission Non-Adhering Residential Use Application complies with: <ul style="list-style-type: none"><li>• Section 20.1(2) and 25 of the Agricultural Land Commission Act</li><li>• Section 32 of the Agricultural Land Reserve Use Regulation</li></ul>

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**Background:**

The subject property is located at 2570 Old Vernon Road in Electoral Area East within the Agricultural Land Reserve (ALR) where land uses are regulated by the Provincial Agricultural Land Commission (ALC).

The property is currently developed with 13 acres of cherries, 3 acres of apples, 0.25 acres of mixed fruit trees, 0.5 acres of vegetables, and 6 beehives. The buildings and structures on the property include a single detached dwelling (farmhouse), accessory home, two greenhouses, two chicken coops, and a shed. The farmhouse was the original dwelling on the property built in the early 1900's and, as staff understand it, is not currently occupied but used for agricultural purposes.

In 2016, the owners applied for an accessory home (Building Permit No. 7291/16) which was finalized in 2020 (Building Permit No. 8035/20). Additional issued Building Permits include: Building Permit No. 7067/15 for the construction of two greenhouses, Building Permit No. 7086/15 for a free standing sign, and Building Permit No. 8091/20 for the construction of an outdoor pool. The pool has not been completed and will require a final inspection when finished. At the time, a secondary residence was permitted by the ALC under Section 32(2)(b) of the Agricultural Land Reserve Use Regulation prior to the new regulations established in 2019 restricting no more than one residence per parcel on farmland.

**Proposal:**

The property owner is proposing to construct a second accessory home that will include a workshop, storage, bathroom, and lunchroom on the main floor and a dwelling on the second floor. The total gross floor area will not exceed 140 square metres as per the Zoning Bylaw. The owners rationalize that the accessory home is necessary for farm help and will accommodate family and/or agricultural caretakers of the land. The proposed building will further allow the owners to demolish one of the existing sheds on the property and utilize that land for farming.

In an A1 zone, accessory homes are a permitted use as per Section 3.18 of Zoning Bylaw No. 871. One accessory home is permitted per 3.8 ha (9.4 acres) to a maximum of two (2) accessory homes per parcel. As the parcel is 19.3 acres, the proposal achieves the requirements of the Zoning Bylaw. If approved, this accessory home would be the third dwelling on the property.

**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 RGS goal of 'Our Food' is to support a regional food system that is healthy, resilient and sustainable. Further, the following policies are applicable a:

- Policy No. 3.2.5.7: Protect the supply of agricultural land and promote agricultural viability.

It is staff's understanding that this proposal will assist with securing farm help accommodation and therefore support the agricultural viability of this property.

**Ellison Official Community Plan Bylaw No. 1124:**

Section 14 of the OCP identifies that agricultural land is a major influence on the physical layout of the community and the rural character it creates is important to residents in Ellison. The following policies are relevant to the subject application:

- Policy 2.11: Support the retention of large continuous blocks of agricultural land and discourage fragmentation.
- Policy 2.16: Discourage the proliferation of non-farm residential development or use. Accessory homes shall be limited to legitimate uses by caretaker or farm help.

It is staff's understanding that the dwelling is permitted assuming it is being utilized by caretakers or farm help.

**ALR Use Regulation:**

The *Agricultural Land Commission Act (ALCA)* and its regulations govern residential uses within the ALR. Though many concepts contained in the ALCA and its regulations are unchanged from the past, there have been significant changes as of February 22, 2019.

Anyone who intends to place an additional residence land in the ALR must comply with the ALCA and its regulations. As per Section 20.1 of the ALCA, the agricultural land may have no more than one residence per parcel.

It is RDCO staff's understanding that the proposal does not meet the ALCA, as such authorization from the Province is required for the proposed Non-Adhering Residential Use.

**Site Context:**

This property is located within the Ellison Official Community Plan Bylaw No. 1124 and within the Ellison Fire Protection Area. The parcel is serviced by a private well and an on-site sewerage disposal system. The property is not affected by any Development Permit Areas.

## Additional Information:

<b>Owner/Applicant:</b>	Alexandra and John Wright
<b>Address:</b>	2570 Old Vernon Road
<b>Legal Description:</b>	Lot 3, District Lot 123, ODYD, Plan 3874
<b>Lot Size:</b>	+/- 7.8 hectares (19.3 acre)
<b>Zoning:</b>	A1 Agricultural
<b>OCP Designation:</b>	Agriculture
<b>Sewage Disposal:</b>	Septic system
<b>Water Supply:</b>	Private Well
<b>Existing Use:</b>	Agricultural, Residential
<b>Surrounding Uses:</b>	<b>North:</b> Agriculture <b>South:</b> Agriculture (City of Kelowna) <b>East:</b> Old Vernon Road / Agriculture <b>West:</b> Residential / Kelowna Springs Golf Course (City of Kelowna)
<b>A.L.R.:</b>	Within the A.L.R.
<b>Fire Protection:</b>	Ellison Fire Protection Area

**RDCO TECHNICAL COMMENTS:**

**Agricultural Advisory Commission** resolution is to support the application with the condition that the old farm house be removed.

**Planning Services** staff notes the subject property is surrounded by farmland. While it is not a requirement for parcels zoned A1, a Level 1 Buffer to reduce potential conflict between residential uses and normal farm practices (e.g. overspray from cherries, noise, and dust) would be beneficial to the property owner.

Furthermore, the applicant must ensure that existing septic system can service the proposed residence and any additional introduction of water and effluent. Should the ALC approve the application, a Registered Onsite Wastewater Practitioner (ROWP) report and approvals from Interior Health Authority need to be provided to the RDCO at time of Building Permit application.

**Inspection Services** staff advises that, should the ALC approve of the Non-Adhering Residential Use application, a Building Permit application is required. Furthermore, based on the proposal, adequate on-site parking is achievable for the accessory home and servicing requirements for water and wastewater must be addressed at time of building permit application.

**AGENCY REFERRAL COMMENTS:**

**Black Mountain Irrigation District (BMID)** staff do not support the application. Staff noted that the property is serviced by a private well which should be tested for quality and reviewed by the Interior Health Authority if any third-party renters are living on this property. The proposal should follow the policies of the Agricultural Land Reserve regarding all buildings and structures which include the two existing dwellings on the property. BMID staff state that the viable option within the ALR rules is to renovate the existing older house and rebuild the shop to the same square footage. The subject property is currently not serviced by BMID.

**Ministry of Agriculture, Food and Fisheries** staff expressed the following concerns:

- Additional residences on agricultural parcels can lead to rising agricultural land costs and increased farm practice complaints if the property is sold in the future.
- The rationale for the proposed request include compassionate reasons due to the applicant's recent health issues.
- Increasing the financial value of property through building construction may be positive for the current owners it carries the potential for a longer term price rise not connected to the productive capacity of the land and can cause a financial barrier to new and existing farmers.
- The applicant's parents would be supporting the family and agricultural uses financially; this is not typically considered direct farm labour.
- It is unclear if further farm labour accommodation will be sought.

**Interior Health Authority** staff comment that the applicant should contact the Ministry of Health to obtain additional support to complete the necessary application to develop agricultural housing. Industrial Camp Regulations may be applicable. The private wells that services the proposal may be subject to the approval and permitting requirements of the BC *Drinking Water Protection Act* and *Regulation* if it provides domestic water to employees.

**Unaffected Agencies** include the Ministry of Transportation and Infrastructure, BC Hydro, Shaw Cable, Telus, District of Lake Country, District of Peachland, City of West Kelowna, and the City of Kelowna.

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

#### **Financial Considerations:**

As per the Agricultural Land Commission Fee Schedule, the Regional District of Central Okanagan has received \$450.00 in application fees to process this referral.

#### **External Implications:**

Development Applications Procedures Bylaw No. 944 does not apply. The applicant is subject to meeting the notification requirements of the ALC; however, public notification is not required.

#### **Alternative Recommendation:**

**THAT** the Regional Board NOT support application A-21-01, applicant A. & J. Wright, to allow a Non-Adhering Residential Use to occur within the Agricultural Land Reserve;

**AND THAT** the Regional Board directs staff to NOT forward the subject application to the Agricultural Land Commission.

#### **Considerations not applicable to this report:**

- *Organizational Issues*

#### Attachment(s):

- RDCO Maps: Orthophoto, ALR
- ALC Application
- Applicant Rationale for Non-Farm Use Application
- Site Photos
- Site Plan
- Referral Comments from the Ministry of Agriculture, Food and Fisheries