

ADMINISTRATIVE REPORT



TO: Board of Directors

FROM: J. Zaffino, Chief Administrative Officer

DATE: March 20, 2025

RE: Agricultural Land Commission Referral (Non-Farm Use) – Electoral Area “C” (C2024.010-ALC)

Administrative Recommendation:

THAT the RDOS Board not “authorize” the application for “non-adhering residential use as a non-farm use on the parcel located at 5526 Primrose Lane (Lot 148, Plan KAP1728, District Lot 2450S, SDYD) to proceed to the Agricultural Land Commission.

Purpose: To allow for farm labour housing

Folio: C-05451.000

Civic: 5526 Primrose Lane Legal: Lot 148, Plan KAP1728, DL 2450S, SDYD Zone: Agriculture One (AG1)

Proposed Development:

An application to the Agricultural Land Commission (ALC) under Section 20 of the *Agricultural Land Commission Act* (the Act) has been lodged with the Regional District in order to allow for a non-farm use within the Agricultural Land Reserve (ALR).

Specifically, the applicant is seeking the Commission’s approval to allow for Temporary Farm Worker Housing.

In support of this proposal, the applicant has stated, amongst other, that:

- *House temporary workers to plant, prune and pick high quality cherries and apples.*
- *“We are unable to plant, prune and pick our crop without TFW. We continue to expand our agricultural production and need housing to support our increased numbers of TFW’s”; and*
- *Federal approval is for 21 workers.*

Statutory Requirements:

Under Section 34.1(2) of the *Agricultural Land Commission Act*, the Regional District of Okanagan-Similkameen (RDOS) must “review the application, and ... forward to the commission the application together with [its] comments and recommendations”, unless Section 25(3) applies wherein the Board has the ability to refuse to “authorise” an application.

Under Section 25(3) of the Act, formal “authorization” by the Regional District Board is only required for applications that apply to land that is zoned by bylaw to permit farm use, or requires an amendment to an official community plan or a zoning bylaw.

In this instance, Section 25(3) is seen to apply as the property” is zoned by bylaw to permit (an) agricultural use or farm use”.

Site Context:

The subject property is approximately 4.29 ha in area and is situated on the west side of Primrose Lane, approximately 1,000 metres south of the boundary with the Town of Oliver. It is understood that the parcel is comprised of a principal dwelling, and various accessory structures.

The surrounding pattern of development is generally characterised by similarly sized agricultural parcels that have been developed with an agricultural or farm use.

Background:

The current boundaries of the subject property were created by a Plan of Subdivision prepared with the Land Titles Office in Kamloops on December 19, 1920, while BC Assessment has classified the property as part “Residential” (Class 01), and part “Farm” (Class 09).

Available Regional District records indicate that a building permit has previously been issued for a farm storage chemical shed (2011).

Under the Electoral Area “C” Official Community Plan (OCP) Bylaw No. 2452, 2008, the subject property is currently designated as Agriculture (AG) with an objective “to preserve agricultural land with continuing value of agriculture for current and future production, and to protect this land uses which are inconsistent with agricultural use or are incompatible with existing agricultural uses in the area.”

Under the Okanagan Valley Zoning Bylaw No. 2800, 2022, the property is currently zoned Agriculture One (AG1), which permits a maximum of one (1) principal dwelling and either one (1) secondary suite or one (1) accessory dwelling with a gross floor area not exceeding 125m² for parcel area less than 8.0 ha.

Application History:

At its meeting of June 6, 2019, the Board resolved to “authorize” a Non-Farm Use application to proceed to the ALC in order to allow for the conversion of the chemical storage shed to farm labour housing.

As a condition of “authorization”, the Board recommended that a statutory covenant registered under Section 219 of the *Land Title Act* be used in order to ensure that:

- *the use of the dwelling unit is restricted to farm labour only; and*
- *the dwelling unit be decommissioned once an on-going need for farm labour no longer exists.*

On May 14, 2021, the Commission refused the Non-Farm Use application and provided the following rationale:

- *the Panel finds that there is no evidence provided in the Application to explain why the [five(5)] residences currently occupied by tenants [on other parcels owned by the applicant] cannot be converted into temporary foreign worker accommodations.*

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- *In fact, the Panel finds that the conversion of existing residences is likely less costly and more appropriate than converting a former chemical storage shed into a temporary farmworker residence.*
 - *The Panel is concerned about the significant amount of housing on ALR farm parcels for residents not employed to work on the farm. Although the occupants of these homes may be long standing tenants the Panel finds that the priority for residences on farm parcels must be for farm labour.*
 - *Therefore, the Panel finds that the proposed Additional Residence is not necessary for farm use because there are many other residences on other farm parcels owned by the Applicants that could be used/converted for temporary farmworker housing.*
 - *The Panel has reservations about converting a chemical shed into safe housing that would be approved by the Federal government.*

At its meeting of April 1, 2021, the Board resolved to “authorize” a separate Non-Adhering Residential Use application to allow for the development farm labour housing (approx. 24 units) on a nearby property at 5475 Sumac Street to proceed to the ALC (**NOTE**: a rationale for this application was the need for farm labour to work the subject property - being 5526 Primrose Lane).

On December 22, 2022, the ALC approved the Non-Adhering Residential Use application on the basis that “the Proposal is necessary for farm use.”

Bylaw Enforcement:

At its meeting of July 25, 2024, the Board resolved to file a Section 302 Notice on Title of the subject property in relation to works having been undertaken on the property contrary to the Regional District’s Building Bylaw No. 2805, 2018. Specifically, the conversion of the chemical storage shed to residential occupancy.

As was noted in the Administrative Report considered by the Board, enforcement action commenced in 2017 following the issuance of a Stop Work Order by an RDOS Building Official and re-confirmed in 2023 when it was documented that 15 persons appeared to be residing within the accessory structure (e.g. chemical storage shed).

Board Consideration:

At its meeting of February 6, 2025, the Board considered and resolved to support a request from the applicant to defer consideration of this referral to its meeting of March 20, 2025.

Analysis:

Administration notes that the allowance for accessory dwellings on agriculturally zoned parcels is generally to ensure, amongst other things, that accommodation is available for required farm labour.

The Regional District’s land use bylaws reflect this by increasing the number and size of accessory dwellings by parcel size, recognizing that larger operations will require more units for farm labour.

This is supported by the Electoral Area “C” OCP, which “supports establishing housing for year round farm help and seasonal farm workers”, and further using temporary use permits (TUP) to increase the supply of housing on an “as-needed” basis.

In considering this proposal, Administration shares many of the concerns expressed by the Agricultural Land Commission (ALC) when it previously refused a similar application in 2021 to convert the accessory structure into farm labour housing, namely:

- dwelling units on other parcels under the ownership of the applicant may be available to accommodate farm labour;
- that the use of a former chemical storage shed may not be suitable for residential re-use; and
- additional farm labour units were previously approved by the ALC on a separate parcel and it is not clear why more units are now required.

Administration maintains its previous assessment (from 2019), regarding the suitability of an un-inspected structure previously used for the storage of potentially hazardous materials being converted to human habitation purposes. There may be significant challenges for the property owner in bringing this structure into compliance with the BC Building Code.

Similarly, the cumulative impact of dwelling development on farm land owned by the applicant is a concern and (as noted in the dot points above) there *may* already be sufficient dwelling units on other parcels owned by the applicant to accommodate the labour requirements.

Alternative:

Conversely, Administration recognises that there may be a necessity to supply additional farm labour housing to accommodate the expansion of the applicant's agricultural production.

Summary:

In summary, and for the reasons outlined above, Administration is recommending that this application not be "authorized" to proceed to the ALC on the basis that the ALC's previous decision in 2021 regarding a similar proposal remains sound.

Should, however, the Board resolve to "authorize" this application to proceed to the ALC and it is approved by the Commission, the applicant will be required to seek an amendment to the Okanagan Valley Zoning Bylaw in order to allow for an oversized accessory dwelling unit.

Financial Implications:

Financial implications have been considered and none were found.

Communication Strategy:

No communication strategy is proposed as the Regional District has been referred this application by the Agricultural Land Commission (ALC), and the Commission is seeking the Regional District's input on compliance with applicable land use bylaws. The Administration considers any communication required in relation to this proposal to be within the purview and responsibility of the ALC.

Alternatives:

1. THAT the RDOS Board "authorize" the application for "non-adhering residential use as a non-farm use on the parcel located at 5526 Primrose Lane (Lot 148, Plan KAP1728, District Lot 2450S, SDYD) to proceed to the Agricultural Land Commission.

Respectfully submitted:

Endorsed By:

Endorsed By:

Tharini Prakash



Tharini Prakash
Planning Technician

C. Garrish
Senior Manager of Planning

A. Fillion
Managing Director, Dev & Infrastructure

Attachments: No. 1 – Context Maps

No. 2 – Applicant's Site Plan

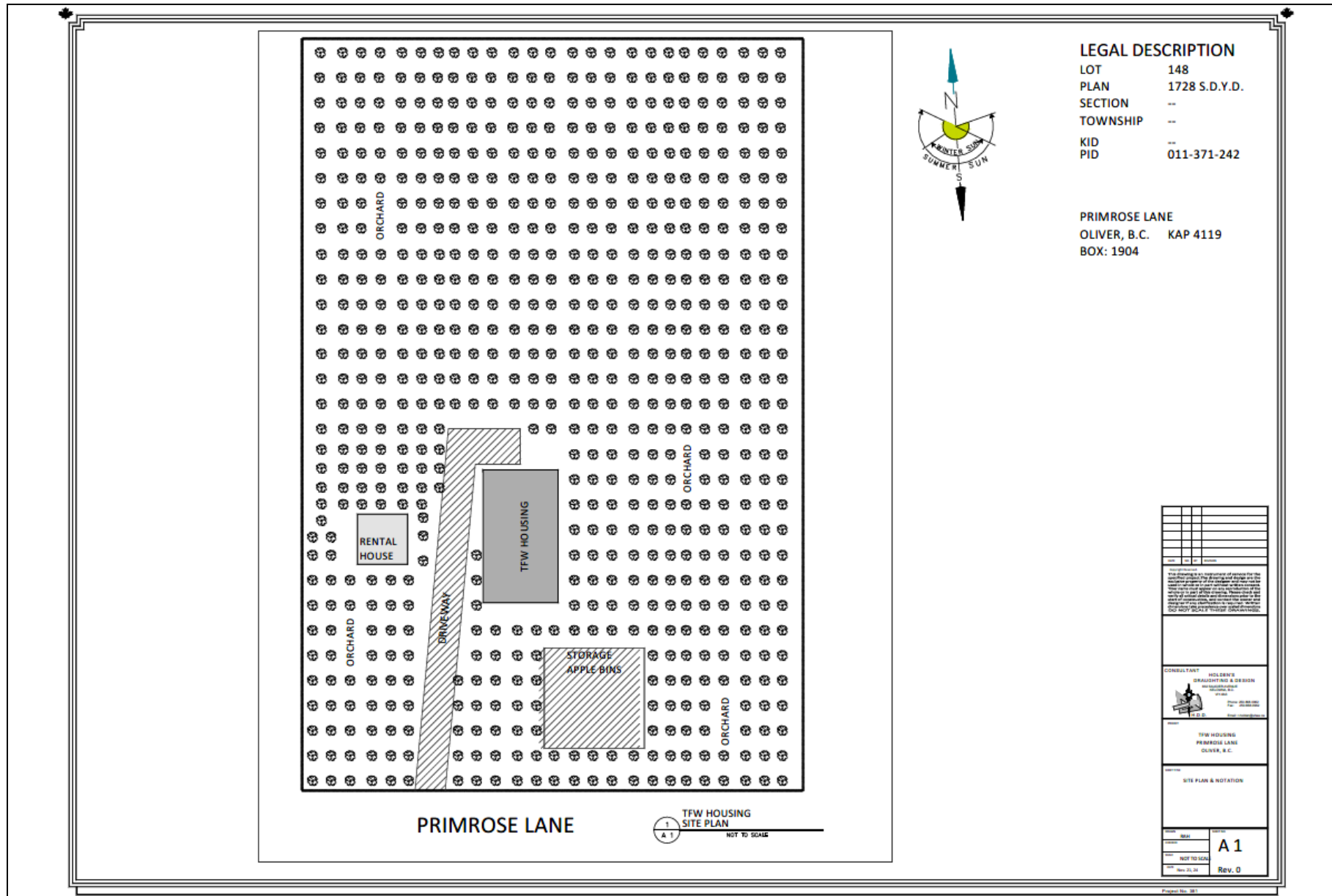
No. 3 – Site Photo

No. 4- Building Photos (Interior of Structure- Bylaw Enforcement)

Attachment No. 1 – Context Maps



Attachment No. 2 – Applicant's Site Plan



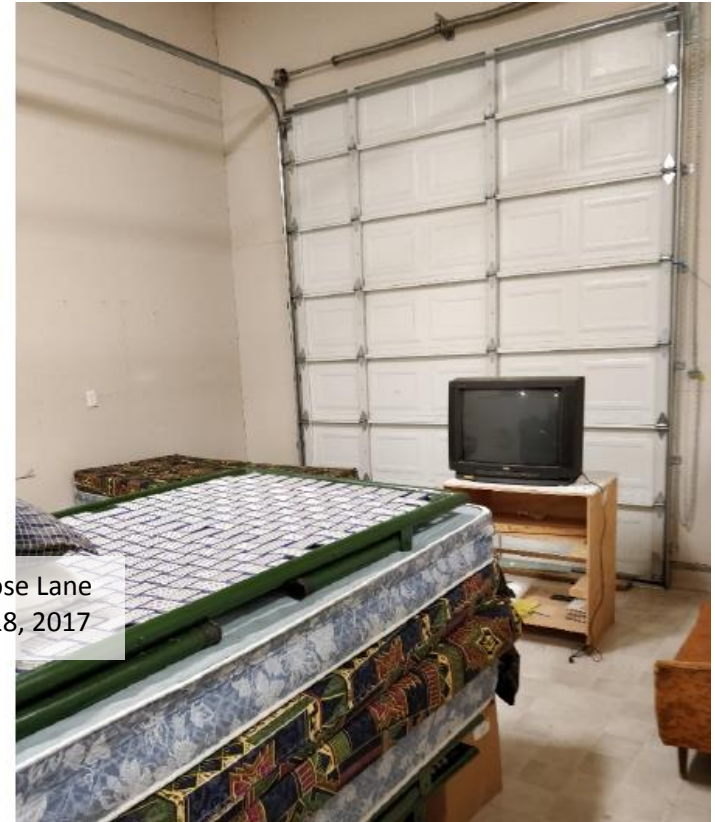
Attachment No. 3 – Site Photo



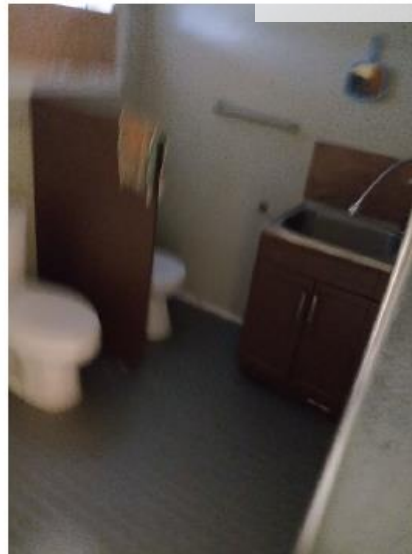
Attachment No. 4 – Building Photos (Interior of Structure- Bylaw Enforcement)



5530 Primrose Lane
December 18, 2017



5530 Primrose Lane
December 18, 2017



5530 Primrose Lane
February 1, 2023