

## ADMINISTRATIVE REPORT



**TO:** Board of Directors

**FROM:** J. Zaffino, Chief Administrative Officer

**DATE:** April 17, 2025

**RE:** Agricultural Land Commission Referral - Non-Farm Use – Electoral Area “C” (C2025.006-ALC)

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### Administrative Recommendation:

**THAT the RDOS Board “authorize” the application to place fill within the ALR at 7910 Highway 97 (Lot 15, Plan KAP5631B, District Lot 2450S, SDYD) to proceed to the Agricultural Land Commission.**

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Purpose: To place fill required for the construction of an approximately 884 m<sup>2</sup> multi-use farm building

Civic: 7910 Highway 97

Legal: Lot 15, Plan KAP5631B, District Lot 2450S, SDYD

Folio: C-05223.000

Zone: Commercial One (C1)

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### Proposed Development:

An application has been submitted to the Agricultural Land Commission (ALC) under Section 20.3(5) of the *Agricultural Land Commission Act* (the Act), and referred to the Regional District, in order to permit the placement of fill on land in the Agricultural Land Reserve (ALR).

Specifically, the applicant is seeking the Commission’s approval to place approximately 0.02 m<sup>3</sup> of aggregate as part of the construction of a foundation (approx. 700 m<sup>2</sup> footprint) for a new farm building to comprise a fruit stand and packing and storage facilities.

The applicant has further indicated that the area to be affected by the fill is approximately 700 m<sup>2</sup> in area, that the maximum depth of the fill will be 0.03 metres and the average depth will be 0.2 metres.

In support of this proposal, the applicant has indicated that the proposed structure will allow them to “sell our produce.”

### 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.

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In this instance, Section 25(3) is seen to apply as an amendment to the Electoral Area “C” Official Community Plan and the Okanagan Valley Zoning Bylaw will be required in order for the development to proceed.

**Site Context:**

The subject property is approximately 1.0 ha in area and is situated on the north-east corner of the intersection of Highway 97 and Secrest Hill Road.

The surrounding pattern of development is generally characterised by a mix of rural-residential and agricultural land uses.

**Background:**

The current boundaries of the subject property were created by a Plan of Subdivision deposited with the Land Titles Office in Kamloops on September 17, 1947, while available Regional District records indicate that a building permit(s) have previously been issued for a demolition (1988), change of occupancy (1993), new roof (1993), demolition of shop and house (2018), and a greenhouse (2023).

It is understood that the construction of a previous dwelling and service station on the property predate the introduction of zoning and building inspection services to Electoral Area “C” in the early 1970s. BC Assessment has classed the property as part Residential (01) and part “Business and Other” (06).

Official Community Plan (OCP) Bylaw:

Under the Electoral Area “C” Official Community Plan (OCP) Bylaw No. 2452, 2008, the subject property is designated as Commercial (C), an objective of which is to “maintain the current level of local commercial sites to serve the existing communities and tourists and expand services as future growth may dictate.”

The property has also been designated under a development permit area for the purposes of the Protection of Farming (which is triggered at subdivision) and is affected by a Watercourse Development Permit (WDP) Area designation along its southern property line.

Zoning Bylaw:

Under the Okanagan Valley Zoning Bylaw No. 2800, 2023, the property is zoned General Commercial (C1), which permits a variety of commercial uses. Importantly, the C1 Zone does not list any uses that would be conducive to growing, harvesting, packing, storing or wholesaling of agricultural crops.

This Commercial zoning is seen to date to the first Electoral Area “C” Zoning Bylaw introduced in 1973 and reflected the historical use of the property as a service station.

Under Section 10.0 (Floodplain Regulations) of the Zoning Bylaw, the subject property is within the floodplain associated with Okanagan River and any associated development would be required to abide by all applicable Floodplain Management Regulations.

Agricultural Land Reserve (ALR):

The subject property is located within the ALR and, under Section 46 (Conflict with bylaws) of the *Agricultural Land Commission Act*, it is stated that “a local government bylaw ... that is inconsistent

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with this Act, the regulations or an order of the commission has, to the extent of the inconsistency, no force or effect.”

In 2019, the ALC resolved to refuse a “Non-Farm Use” application that sought to formalize the use of the subject property for a commercial outdoor storage facility. As part of this process, the Commission advised the Regional District that the C1 Zone that applies to the subject property is considered to be inconsistent with the Act and not recognized by the ALC.

**Analysis:**

Normally, Administration would consider this type of proposal against the objectives of the Agriculture (AG) land use designation, which includes, amongst other things, a direction to “protect the agricultural land base of the Plan Area ...”, and that this includes the soils used to undertake various types of farming.

Introducing foreign fill to an agricultural parcel can dilute or degrade fertility by altering the soil’s physical, chemical, or biological properties. Foreign fill may also contain contaminants or invasive species that can make land unsuitable for agriculture.

It is for this reason that it is understood the ALC regulates the removal and placement of soils and fill on farmland, as it is important for protecting agricultural resources and ensuring sustainable land uses in the Reserve.

In this instance, however, the Regional District does not regulate the removal or placement of fill in Electoral Area “C”. Moreover, the placement of fill on the subject property is not seen to be inconsistent with the current Commercial designation of the property under the OCP.

(NOTE: Administration is aware that the ALC does not recognize the OCP designation or the C1 Zone that applies to the property on the basis that it is inconsistent with the ALC Act).

Finally, the proposed fill (and related structure) are seen to be generally supportive of the agricultural use of the property – regardless of its current designation and zoning.

**Alternative:**

Conversely, Administration recognizes that the disturbance of soil currently deemed to possess agricultural value could pose some risks compared to keeping the soil undisturbed, where it could be farmed as-is.

Other options may also be available to the property owner, such as utilizing other existing processing facilities to produce various food products created by the crops cultivated from the subject site.

**Summary:**

In summary, Administration considers the proposed placement of soil to not be unreasonable and as unlikely to adversely impact the agricultural use of the property. For this reason, it is being recommended that this application be “authorized” to proceed to the ALC for its consideration.

Should the Board resolve to “authorize” this proposal and if it is subsequently approved by the ALC, an amendment to the zoning of the property (e.g. from C1 to AG1) may be advisable in order to bring it into compliance with the ALC Act.

**Financial Implications:**

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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. 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 not "authorize" the application to place fill on the property at 7910 Highway 97 (Lot 15, Plan KAP5631B, District Lot 2450S, SDYD) to proceed to the Agricultural Land Commission.

**Respectfully submitted:**

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Jerritt Cloney  
Jerritt Cloney  
Planner I

**Endorsed By:**

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C. Garrish  
Senior Manager of Planning

**Endorsed By:**

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A. Fillion  
Managing Director, Dev. & Infrastructure

Will a PowerPoint presentation be presented at the meeting?      No

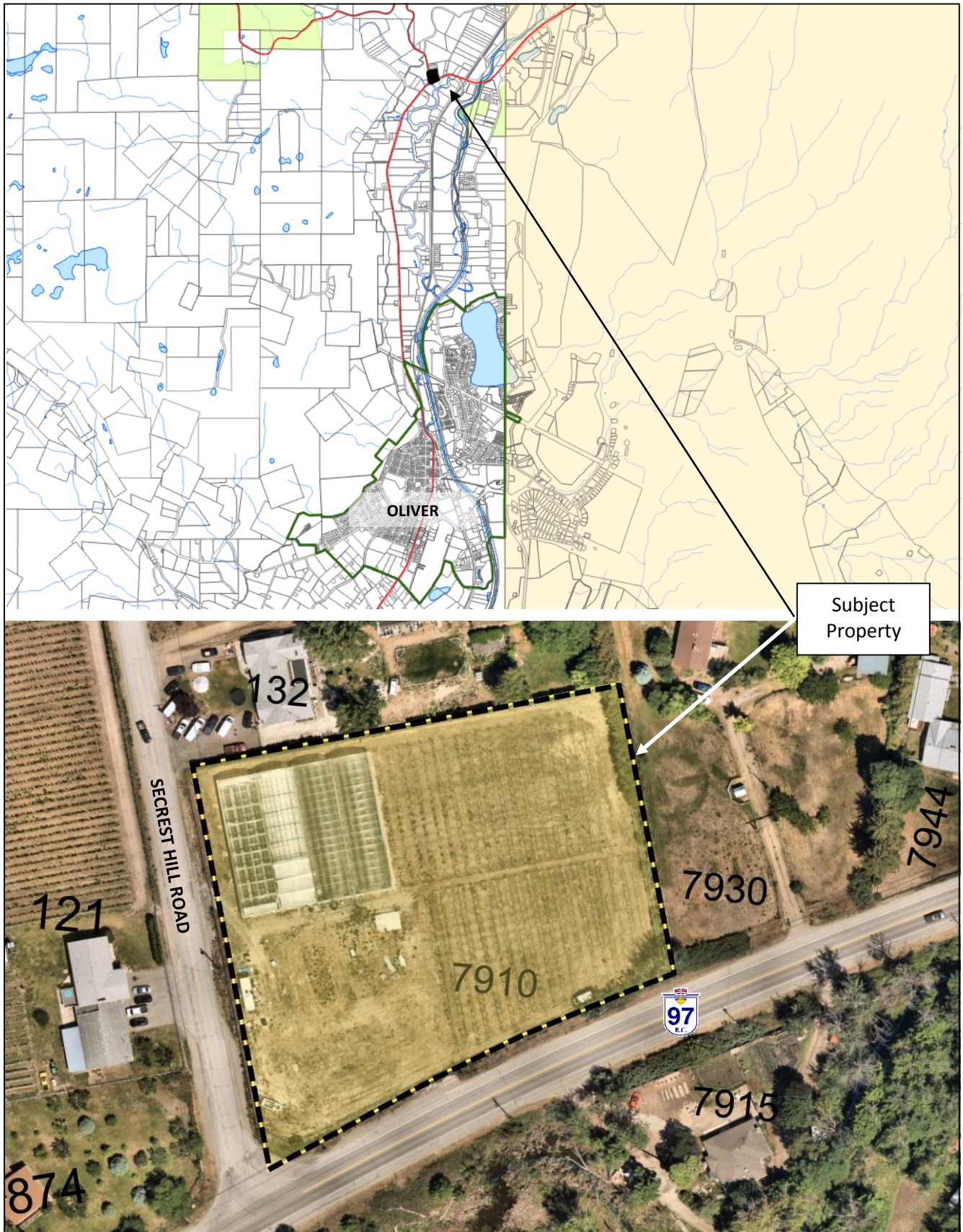
Attachments: No. 1 – Context Maps

No. 2 – Applicant's Site Plan

No. 3 – Building Elevations (Front and Rear Views)

No. 4 – Site Photo (Google Streetview)

Attachment No. 1 – Context Maps



Attachment No. 2 – Applicant's Site Plan

The site plan shows a property bounded by Seacrest Hill Road to the west and Highway-97 to the south. A 40x36m poly green house is located in the upper left, with a driveway leading to it. The house is surrounded by tree plants. A parking area with 11 spaces is located in the lower left. The plan includes various dimensions in feet and meters, and labels for chainlink fences and a wide gate.

SEACREST HILL ROAD

DRIVEWAY 20'0" WIDE

40x36m POLY GREEN HOUSE  
7900-SEACREST HILL ROAD

TREE PLANTS

CHAINLINK FENCE

20'0" DRIVEWAY WIDE GATE

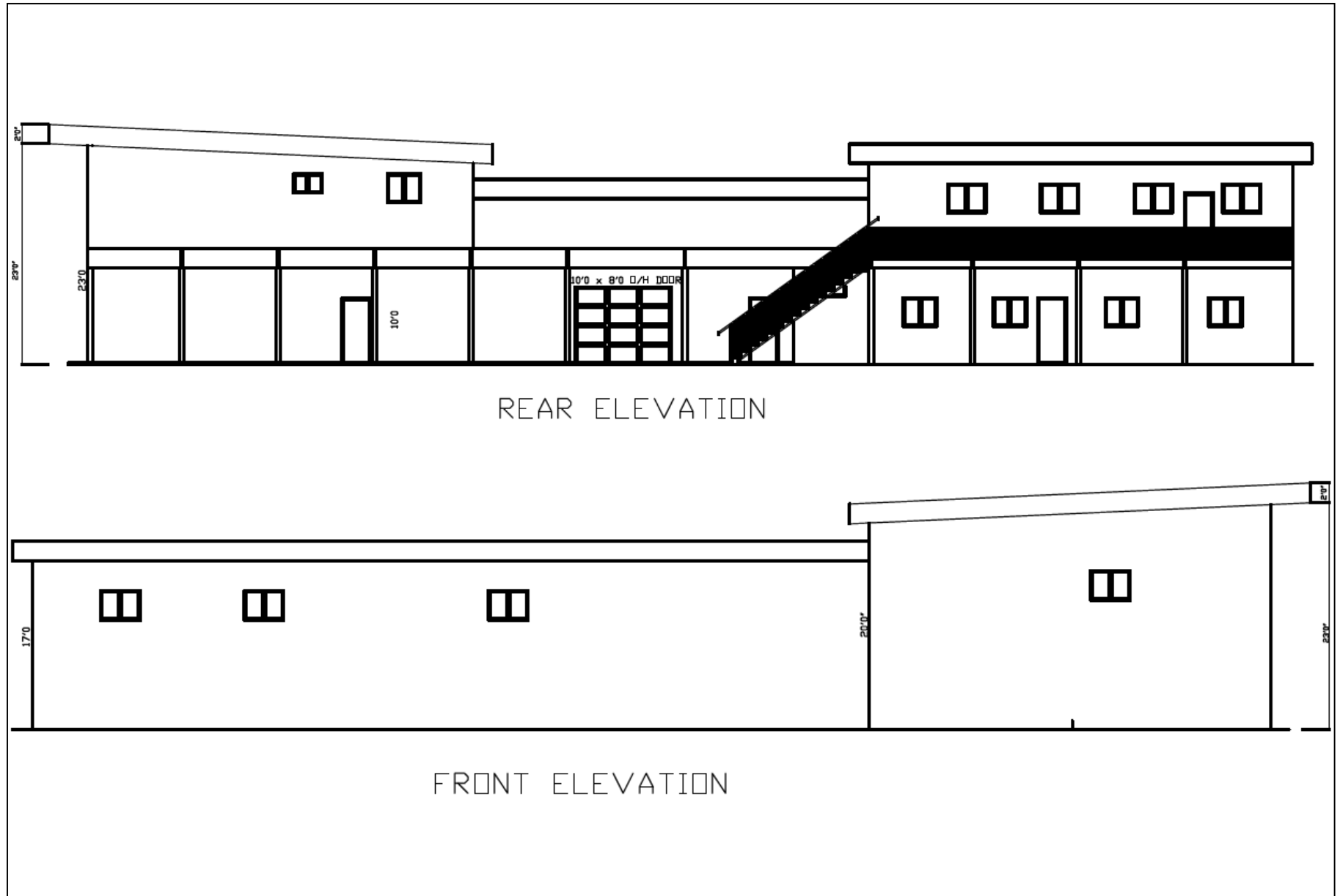
6m WIDE GATE

PARKING 11 SPACES

HIWAY-97

SITE PLAN

Attachment No. 3 – Building Elevations (Front and Rear Views)



Attachment No. 4 – Site Photo (Google Streetview)

