

## ADMINISTRATIVE REPORT



**TO:** Board of Directors

**FROM:** B. Newell, Chief Administrative Officer

**DATE:** August 4, 2022

**RE:** Zoning Bylaw Amendment – Electoral Area “C” (C2022.009-ZONE)

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### Administrative Recommendation:

**THAT Bylaw No. 2800.14, 2022, a bylaw to amend the Okanagan Valley Zoning Bylaw to allow for eight livestock to be kept on a SH property at 479 Johnson Crescent in Willowbrook be read a first and second time and proceed to public hearing;**

**AND THAT the holding of a public hearing be scheduled for the Regional District Board meeting of September 1, 2022;**

**AND THAT staff give notice of the public hearing in accordance with the requirements of the *Local Government Act*.**

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Folio: C-01131.240

Legal: Lot 48, District Lot 26, SDYD, Plan 23124

OCP: Small Holdings (SH)

Zone: Small Holdings Three (SH3)

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### Proposed Development:

This application is seeking to amend the zoning of the subject property in order to formalise the keeping of eight livestock on a parcel between 0.4 ha and 1.0 ha.

The applicant is proposing to amend the zoning under Schedule ‘2’ (Zoning Map) of the Okanagan Valley Zoning Bylaw No. 2800, 2022 from Small Holdings Three (SH3) to Small Holdings Three Site Specific (SH3s), with the site specific regulation to increase the number of livestock permitted to be kept on the property from two to eight.

The property currently contains two full-sized horses, four miniature horses, one goat, and one miniature donkey.

*...This is an animal sanctuary, which means the owner has taken in unadoptable animals and given them a forever home. They are pets. They are geriatric and special needs and vet bills, medications, [and] special feeds are very high so [it is] very unlikely to re-home [the animals] or [for] the animals [to] withstand being re-homed. I am not a business of any kind. I have had these animals since 2012 and we are a very attached family. They bring a lot of joy to people and children in Willowbrook and are very happy we are here.*

### Site Context:

The subject property is approximately 0.97 ha in area and is situated on the south side of Johnson Crescent. It is understood that the parcel is comprised of a single detached dwelling, a detached garage, and a barn with horse shelters.

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The surrounding pattern of development is generally characterised by similarly sized rural residential parcels that have been developed with single detached dwellings.

### **Background:**

The property was created on October 3, 1972, while available Regional District records indicate that building permits have been issued for the addition of a double carport (1975), and to upgrade a garage and install a new roof (2003).

BC Assessment has classified the property as “Residential” (Class 01).

### **Land Use Bylaws**

The property is designated Small Holdings (SH), and is the subject of an Environmentally Sensitive Development Permit (ESDP) Area designation. It is zoned Small Holdings Three (SH3) which permits “single detached dwelling” as a principal use, and “agriculture” as an accessory use.

“Agriculture” is defined within the Zoning Bylaw to mean “the use of land, buildings or structures for growing, harvesting, packing, storing and wholesaling of agricultural crops for the purposes of providing food, horticultural, medicinal or farm products...” and includes “...producing and rearing animals and range grazing of horses, cattle, sheep, and other livestock, composting operation and includes apiculture and aquaculture” [emphasis added].

Section 6.6.1 of the Zoning Bylaw regulates the use of land for the keeping of livestock outside of the definition of “agriculture”, and states that, where “single detached dwelling” is a permitted use, the keeping of “livestock” is permitted subject to certain limitations which are based on parcel size as shown in the table below:

PARCEL AREA	MAXIMUM NUMBER OF LIVESTOCK	MAXIMUM NUMBER OF SMALL LIVESTOCK	MAXIMUM NUMBER OF HONEYBEE HIVES
Less than 625 m <sup>2</sup>	0	0	0
625 m <sup>2</sup> to 2,500 m <sup>2</sup>	0	5	2
2,500 m <sup>2</sup> to 0.4 ha	0	25	Not applicable
0.4 ha to 1.0 ha	2	50	Not applicable
1.0 ha to 1.5 ha	3	75	Not applicable
1.5 ha to 2.0 ha	4	100	Not applicable

“Livestock” is defined in the Zoning Bylaw to mean “horses, cattle, sheep, swine, llamas, ratites, goats, farmed game and other similar animals”.

### **Enforcement History**

The Regional District has previously received a written complaint regarding the number of livestock being kept on the property, the storage of a trailer and tent within the boulevard. The enforcement file was closed in 2021.

The Regional District has also received a written complaint regarding the use of the detached garage as a vacation rental. The enforcement file was closed in 2022 following an inspection of the property on January 11, 2022.

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During the January 11, 2022 inspection, the attending Bylaw Enforcement Officer observed the presence of eight livestock on the subject property. As such, the enforcement file was re-opened in February 2022. This application has been made in response to this enforcement file.

**Referrals:**

Approval from the Ministry of Transportation and Infrastructure (MoTI) is not required prior to adoption as the proposed amendments involve lands beyond 800 metres of a controlled access highway (i.e. Highway 97 & 3).

Pursuant to Section 476 of the *Local Government Act*, the Regional District must consult with the relevant School District when proposing to amend an OCP for an area that includes the whole or any part of that School District. In this instance, School District No. 53 have been made aware of the proposed amendment bylaw.

**Public Process:**

On July 13, 2022, a Public Information Meeting (PIM) was held at the Oliver Community Centre and was attended by three members of the public.

At its meeting of July 19, 2022 the Electoral Area “C” Advisory Planning Commission (APC) resolved to recommend to the RDOS Board that the subject development application be denied and a proposed temporary use permit be approved.

All comments received to date in relation to this application are included as a separate item on the Board Agenda.

**Analysis:**

In considering this proposal, Administration notes that in rural residential neighbourhoods such as Willowbrook, it is not uncommon for property owners to keep livestock due to the size and nature of rural residential parcels; however, zoning provisions do limit the number and type of animals which may be kept based on parcel size as a means of preventing associated nuisances unto neighbouring properties.

While “agriculture” is permitted as a secondary use on the property, the purpose of the application is to formalize an existing geriatric animal sanctuary, which is a use that is not captured under the definition of “agriculture” as livestock are not produced or reared as part of an agricultural operation, but rather, are being kept for personal enjoyment.

In this case, Administration notes that the applicant would otherwise not be restricted in the number of livestock allowable on the property should the nature of their livestock keeping be consistent with the Zoning Bylaw’s definition of “agriculture”.

From a land use perspective, there is not seen to be a substantial difference between the use of land for the keeping of livestock for personal enjoyment and the use of land for the keeping of livestock as part of an agricultural operation.

Residential and agricultural uses are both permitted within Small Holdings zones under the Zoning Bylaw, but these uses may not always be compatible. In particular, neighbourhoods consisting of smaller parcels may be disproportionately impacted by the keeping of livestock due to reduced

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physical distances between livestock grazing and livestock-related infrastructure and neighbouring residential uses.

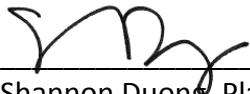
The property owner has the option to apply for a Temporary Use Permit (TUP). A TUP would provide a means of ensuring that the increased allowance for non-agricultural keeping of livestock remains temporary, is only permitted during the duration of animal sanctuary use by the current property owner, and imposing conditions on that use to mitigate nuisances and conflicts with neighbouring property owners.

In summary, “agriculture” is ordinarily a permitted use on SH3 lands and the impact of the proposal is not seen to differ substantially from the use of land for the keeping of livestock for agricultural purposes.

**Alternatives:**

1. THAT Bylaw No. 2800.14, 2022, Okanagan Valley Zoning Amendment Bylaw be denied.

**Respectfully submitted:**



Shannon Duong, Planner II

**Endorsed By:**



C. Garrish, Planning Manager

**Attachments:** No. 1 – Applicant’s Site Plan

No. 2 – Aerial Photo

No. 3 – Site Photos (Pasture Areas in Southwest Portion of the Property)

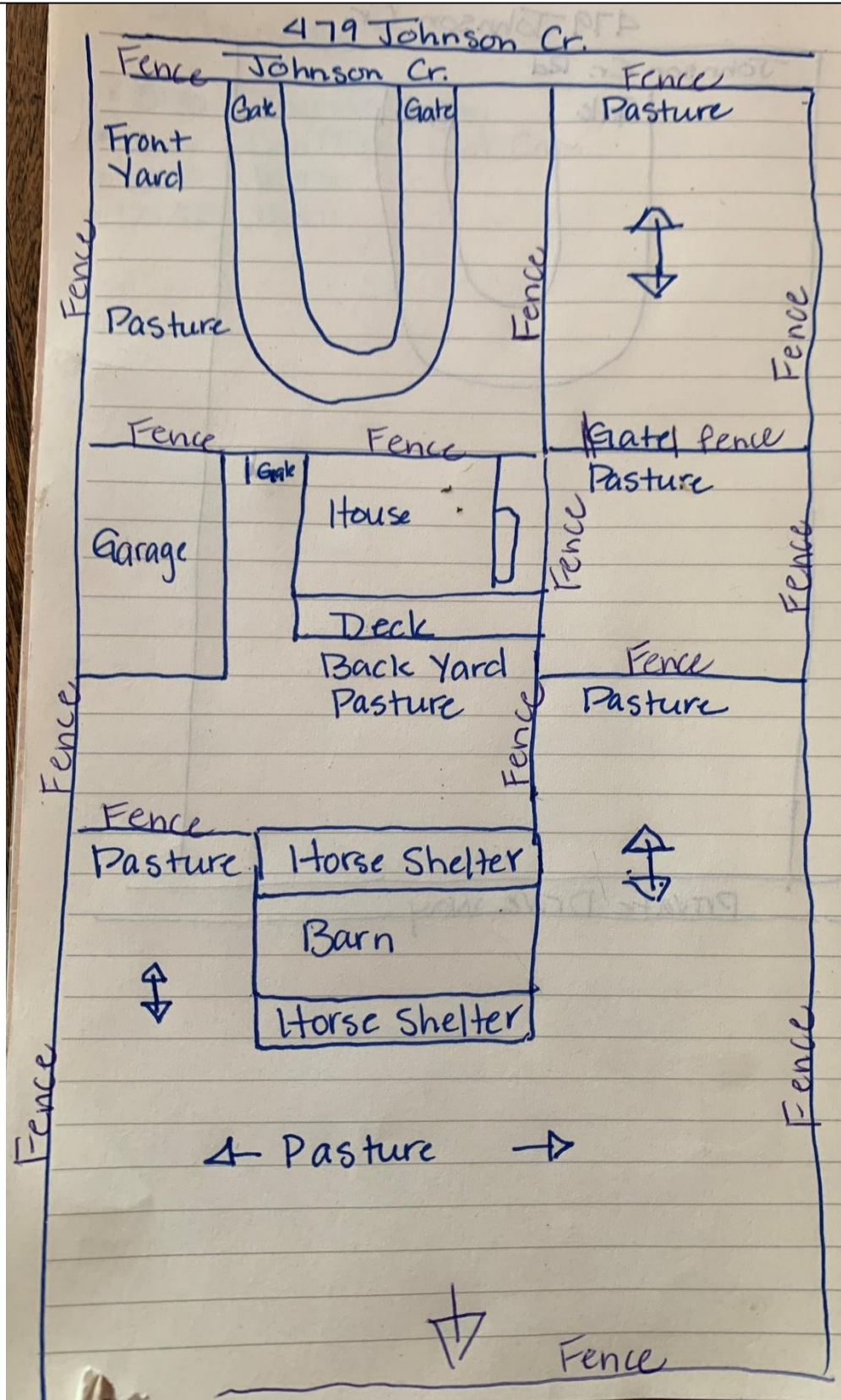
No. 4 – Site Photos (Pasture Areas towards the Rear of the Property)

No. 5 – Site Photo (Pasture Area in the Western Portion of the Property)

No. 6 – Site Photos (Barn/Horse Shelters 1)

No. 7 – Site Photos (Barn/Horse Shelters 2)

Attachment No. 1 – Applicant's Site Plan





Attachment No. 2 – Aerial Photo





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Attachment No. 3 – Site Photos (Pasture Areas in Southwest Portion of the Property)





Attachment No. 4 – Site Photos (Pasture Areas towards the Rear of the Property)





Attachment No. 5 – Site Photo (Pasture Area in the Western Portion of the Property)





Attachment No. 6 – Site Photos (Barn/Horse Shelters 1)





Attachment No. 7 – Site Photos (Barn/Horse Shelters 2)

