



Agenda No: 8.1

Mtg. Date: August 24, 2015

Regional Board Report

TO: Regional Board
FROM: Ron Fralick
Manager of Planning
DATE: August 17, 2015
SUBJECT: Temporary Use Permit (Application TUP-14-01) Owner/Applicant: C. Stowell
Lot 4, Plan KAP81460, District Lot 1380, ODYD - 4715 Paradise Valley Drive

Purpose:

To consider renewal of a Temporary Use Permit (TUP) for a period of three years to allow a Medical Marihuana Production Facility as a permitted use on the 4.0 ha (9.88 acre) property.

Executive Summary:

The owner received Board approval for TUP-14-01 for a one-year term on July 28, 2014. A renewal of the permit is requested to accommodate Health Canada inspection and licensing of the facility, and to complete the associated lot consolidation/boundary adjustment with two adjoining parcels. Should the subdivision process be successful, the newly created parcel will meet the minimum site area required for Medical Marihuana Production Facilities.

RECOMMENDATION:

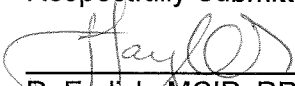
THAT the Temporary Use Permit (Application TUP-14-01 – authorized July 28, 2014) for C. Stowell is renewed for an additional three years to permit a Medical Marihuana Production Facility.

AND THAT the applicant provides an update in writing to the Community Services Department six months after renewal of the permit regarding:

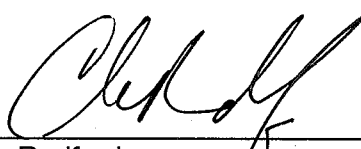
- Status of the lot consolidation/boundary adjustment application and an access permit with the Ministry of Transportation and Infrastructure, and
- Status of the application with Health Canada for a Marihuana for Medical Purposes Regulations (MMPR) licence.

AND FURTHER THAT the Temporary Use Permit shall expire in three years and all uses temporarily authorized by the Permit shall cease upon expiry of the Permit, unless otherwise authorized.

Respectfully Submitted:



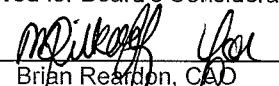
R. Fralick, MCIP, RPP
Manager of Planning



C. Radford
Director of Community

Prepared by: Janelle Taylor, Planner 1

Approved for Board's Consideration



Brian Reardon, CEO

Implications of Recommendation:**Strategic Plan:**

The Regional Board articulated that they want to describe the Central Okanagan in ten years as having a diverse economy, and would like to promote and support economic opportunity. Furthermore, the RDCO will provide solutions that consider competing interests and community expectations, in an effective and efficient manner. The safety and health of residents is a paramount consideration.

Policy:

Regional Growth Strategy Bylaw No. 1336, Policy No. 3.2.2.11 Promote land development patterns that support a diverse regional economy.

Brent Road & Trepanier OCP: Section 11 – Temporary Use Permits

Objective 1: Allow opportunity for the consideration of interim activities.

Policy 1 (b): The temporary use should not create an unacceptable level of negative impact on surrounding permanent uses.

Legal/Statutory Authority:

Section 921 of the LGA states that a local government may issue a temporary use permit which may allow a use not permitted by a zoning bylaw, specify conditions under which the temporary use may be carried on, and/or allow and regulate the construction of buildings or structures in respect of the use for which the permit is issued. The permit may be issued for up to three years with the option of one renewal for an additional three years.

In accord with Section 791 of the Local Government Act (Voting on Resolutions and Bylaws), all resolutions and every reading and the adoption, amendment or repeal of all bylaws must be decided by a majority of the votes cast, and in accord with all applicable provisions. Voting on the resolution lies with all Directors.

History:

The Temporary Use Permit (TUP-14-01) to allow a Medical Marihuana Production Facility use for one year was conditionally approved by the Regional Board on July 28, 2014. A copy of the July 21, 2014 staff report and Board resolution is appended.

While the subject property is zoned to allow a Medical Marihuana Production Facility, the parcel does not meet the following regulatory requirements for the use:

- minimum lot size of 8.0 ha (19.7 acres), and
- required building setback from the side parcel line of 30.0 m (98.4 ft.).

A subdivision application for a lot consolidation/boundary adjustment with the two adjoining parcels to the north is in progress (RDCO File:14/5553 / MOTI File: 2014-05336). If approved, the newly created parcel will meet the minimum site area requirement of 8 ha for Medical Marihuana Production Facilities under Zoning Bylaw No. 871. As the owner is waiting for a final Health Canada facility inspection prior to the subdivision (lot consolidation/boundary adjustment) being concluded, a request dated July 16, 2015, has been submitted to the Planning Section to have the permit renewed for a three-year term (attached).

A Development Variance Permit will be required to reduce the side setback (from 30.0 m to 26.4 m) in conjunction with approval of the subdivision/lot consolidation.

Status of Temporary Use Permit conditions:

As noted earlier, Temporary Use Permit (TUP-14-01) was conditionally approved by the Regional Board on July 28, 2014. The following is an overview of the conditions and their status:

Condition	Status
Wildfire Risk Assessment Report taking the proposed use into account.	Assessment received. Compliant with condition.
Environmental/watershed study - assess availability of water in area & how release/disposal of treated water may impact aquifer.	Received by RDCO and District of Peachland staff. Compliant with condition.
Vegetative buffer/solid screen.	Plantings completed/bonding received. Compliant with condition.
MMPF Licensed by Federal Government.	Marihuana production not commenced. Awaiting final facility inspection
No additional buildings used for Medical Marihuana Production Facilities.	Compliant with condition.
Meet Provisions of Section 3.31 of Zoning Bylaw No. 871.	Marihuana production not commenced. Compliant with condition.
Completion of all Building Permit requirements and obtaining a RDCO Business Licence once a Federal Licence has been issued.	Compliant with condition.

While not conditions of the Temporary Use Permit, the Regional Board had requested the following status updates be provided to Regional District staff six months after renewal of the permit:

Item	Current Status
Lot consolidation/boundary adjustment application and access permit with the Ministry of Transportation and Infrastructure	Subdivision application on hold pending final Health Canada facility inspection. Access permit applied for; MOTI to issue commercial access permit after subdivision is complete.
Health Canada application for a Marihuana for Medical Purposes Regulations (MMPR) licence	Final Health Canada facility inspection requested.

External Implications:

Further to approval of TUP-14-01, no opposition to the subject Medical Marihuana Production Facility has been received by Planning staff.

Conclusion:

The landowner has complied with all conditions of the original Temporary Use Permit and is awaiting a final facility inspection to be conducted by Health Canada. The lot consolidation/boundary adjustment application with the Ministry of Transportation and Infrastructure is on hold pending approval from Health Canada and application for the appropriate access permit with the Ministry is in process.

Simply refusing renewal of the Temporary Use Permit is of concern to Planning staff in that the building proposed to be utilized for production of medical marihuana has been constructed and Health Canada may decide to issue a licence regardless of zoning and other regulatory requirements of the RDCO. Planning staff wishes to be proactive and attempt to address all issues/impacts associated with this new land use to the best of the RDCO's legislated ability.

In the event that the Temporary Use Permit is denied by the Regional Board and/or a Licence from Health Canada is not issued to the proponent, the building that has been constructed, will be considered a permitted use under the RU2 zoning in accordance with the current Building Permit (ie: a farm building).

Alternatives:

THAT the Temporary Use Permit (Application TUP-14-01) for C. Stowell to allow a Medical Marihuana Production Facility not be renewed.

Attachment(s):

July 16, 2015, Correspondence

Resolution #132/14

July 21, 2014 staff report and attachments

Considerations not applicable to this report:

- Financial Considerations
- Organizational Issues

From: homeandweb@shaw.ca [mailto:homeandweb@shaw.ca]
Sent: Thursday, July 16, 2015 11:06 AM
To: Michael Noga
Cc: Ron Fralick
Subject: Re: Cliff Stowell Subdivision

Hi Ron and Mike.

To follow up on earlier emails regarding our Temporary Use Permit, we wish at this time to ask for an extension of the permit. It was suggested we ask for a 3-year duration, as it can only be renewed once.

On July 10th, 2015 we asked Health Canada, formally, for a pre-license inspection for our completed facility and have received confirmation that this correspondence was received. We're hoping to hear back soon on an inspection date, but have no idea as to when this will be scheduled.

All Temporary Use Permit conditions are in place as per RDCO requirements.

All related matters, along with our lot consolidation will be promptly finalized once we have had our Health Canada inspection and approval.

Thanks for your patience over the past while.

Sincerely,
Cliff Stowell

#132/14

EDGSON/OPHUS

THAT the Temporary Use Permit (Application TUP-14-01) for C. Stowell to allow a Medical Marihuana Production Facility be conditionally approved subject to the following:

- The applicant to complete an updated Wildfire Risk Assessment Report taking the proposed use into account. The applicant to complete and adhere to all recommendations outlined in the report.
- The applicant to address how this land use will affect the availability of water in the area as well as how the release or disposal of treated water may impact the aquifer. The assessment is to be reviewed by District of Peachland and RDCO staff.
- Submission of a plan to RDCO Planning staff for installation of a vegetative buffer/solid screen along the subject parcel line adjacent to Lot 5, Plan KAP81460, District Lot 1380, ODYD. The vegetative buffer/solid screen (or an appropriate bond) must be in place within six-months of issuance of the temporary use permit, and must be in compliance with the Wildfire Covenant registered on title (LA099911) and updated wildfire assessment that is to be completed.
- The site must be licensed by the Federal Government prior to producing, manufacturing, processing, packaging, shipping and/or destroying of marihuana for medical purposes.
- No additional buildings used for Medical Marihuana Production Facilities shall be permitted in conjunction with approval of this permit.
- The buildings used for medical marihuana production facilities shall not discharge or emit odorous, toxic or noxious matter or vapour; heat, glare or radiation; recurrently generated ground vibration; noise in excess of ambient noise at the property boundary; electrical interference; or any other health or safety hazards.
- Completion of all requirements associated with the Building Permit for retro-fit renovations (BP No. 6986/14) and applicant to obtain a Business License from the RDCO once a Federal License has been issued.

AND THAT the applicant provides an update in writing to the Community Services Department six months after issuance of the permit regarding;

- Status of the lot consolidation/boundary adjustment application and an access permit with the Ministry of Transportation and Infrastructure,
- Status of the application with Health Canada for a Marihuana for Medical Purposes Regulations (MMPR) license;
- Status of all conditions imposed with this permit.

AND THAT the Temporary Use Permit may be rescinded by the Regional Board in six-months in the event that conditions of the permit have not been addressed or are not being adhered to;

AND FURTHER THAT the Temporary Use Permit shall expire in one year and all uses temporarily authorized by the Permit shall cease upon expiry of the Permit, unless otherwise authorized.

CARRIED (Findlater opposed)



Agenda No: _____

Mtg. Date: July 28, 2014

Regional Board Report

TO: Regional Board

FROM: Ron Fralick
Manager of Planning

DATE: July 21, 2014

SUBJECT: Temporary Use Permit (Application TUP-14-01)
Owner/Applicant: C. Stowell
Lot 4, Plan KAP81460, District Lot 1380, ODYD - 4715 Paradise Valley Drive

Purpose:

To consider issuance of a Temporary Use Permit for a period of three years to allow a Medical Marihuana Production Facility on the 4.0 ha (9.88 acre) property.

Executive Summary:

The parcel and building do not meet the minimum lot size and required building setback for the Medical Marihuana Production Facility use.

A Temporary Use Permit is requested to allow the use while a lot consolidation/boundary adjustment with two adjoining parcels is pursued. Should the subdivision process be successful, the newly created parcel will meet the minimum site area required for Medical Marihuana Production Facilities; however, a subsequent Development Variance Permit Application would be required for the building encroachment into the required setback.

RECOMMENDATION:

THAT the Temporary Use Permit (Application TUP-14-01) for C. Stowell to allow a Medical Marihuana Production Facility be conditionally approved subject to the following:

- The applicant to complete an updated Wildfire Risk Assessment Report taking the proposed use into account. The applicant to complete and adhere to all recommendations outlined in the report.
- The applicant to complete an environmental/watershed study to assess how this land use will affect the availability of water in the area as well as how the release or disposal of treated water may impact the aquifer. The assessment is to be reviewed by District of Peachland and RD CO staff.
- Submission of a plan to RD CO Planning staff for installation of a vegetative buffer/solid screen along the subject parcel line adjacent to Lot 5, Plan KAP81460, District Lot 1380, ODYD. The vegetative buffer/solid screen (or an appropriate bond) must be in place within six-months of issuance of the temporary use permit, and must be in compliance with the Wildfire Covenant registered on title (LA099911) and updated wildfire assessment that is to be completed.

- The site must be licensed by the Federal Government prior to producing, manufacturing, processing, packaging, shipping and/or destroying of marihuana for medical purposes.
- No additional buildings used for Medical Marihuana Production Facilities shall be permitted in conjunction with approval of this permit.
- The buildings used for medical marihuana production facilities shall not discharge or emit odorous, toxic or noxious matter or vapour; heat, glare or radiation; recurrently generated ground vibration; noise in excess of ambient noise at the property boundary; electrical interference; or any other health or safety hazards.
- Completion of all requirements associated with the Building Permit for retro-fit renovations (BP No. 6986/14) and applicant to obtain a Business License from the RDCO once a Federal License has been issued;

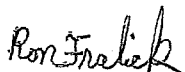
AND THAT the applicant provides an update in writing to the Community Services Department six months after issuance of the permit regarding;

- Status of the lot consolidation/boundary adjustment application and an access permit with the Ministry of Transportation and Infrastructure,
- Status of the application with Health Canada for a Marihuana for Medical Purposes Regulations (MMPR) license;
- Status of all conditions imposed with this permit;

AND THAT the Temporary Use Permit may be rescinded by the Regional Board in six-months in the event that conditions of the permit have not been addressed or are not being adhered to;

AND FURTHER THAT the Temporary Use Permit shall expire in one year and all uses temporarily authorized by the Permit shall cease upon expiry of the Permit, unless otherwise authorized.

Respectfully Submitted:

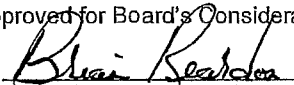


R. Fralick, MCIP, RPP
Manager of Planning



C. Radford
Director of Community

Prepared by: Janelle Taylor, Planning Technician

Approved for Board's Consideration


Brian Reardon, CAO

Implications of Recommendation:**Strategic Plan:**

The Regional Board articulated that they want to describe the Central Okanagan in ten years as having a diverse economy, and would like to promote and support economic opportunity. Furthermore, the RDCO will provide solutions that consider competing interests and community expectations, in an effective and efficient manner. The safety and health of residents is a paramount consideration.

Policy:

Brent Road & Trepanier OCP: Section 11 – Temporary Use Permits

Objective 1: Allow opportunity for the consideration of interim activities.

Policy 1 (b): The temporary use should not create an unacceptable level of negative impact on surrounding permanent uses.

Legal/Statutory Authority:

In accord with Section 791 of the Local Government Act (LGA) (Voting on Resolutions and Bylaws), all resolutions must be decided by a majority of the votes cast, and in accord with all applicable provisions.

Section 921 of the LGA states that a local government may issue a temporary use permit which may allow a use not permitted by a zoning bylaw, specify conditions under which the temporary use may be carried on, and/or allow and regulate the construction of buildings or structures in respect of the use for which the permit is issued. The permit may be issued for up to three years with the option of one renewal for an additional three years.

As the property is located within designated Fringe Planning Areas, voting on the permit lies with the Electoral Area Directors, Peachland and West Kelowna Fringe.

Background:**Medical Marihuana Production Facilities:**

New Health Canada Medical Marihuana Production Regulations (MMPR) came into effect on April 1, 2014. The Regional Board adopted revisions to Zoning Bylaw No. 871 on May 26, 2014 to regulate Medical Marihuana Production Facilities within select rural and agricultural zones on properties having a minimum lot area of 8 ha. The primary objective of the bylaw amendment is to minimize the impact of proposed facilities on adjacent properties. A 30 m setback to property lines was also included to provide a significant buffer between the subject use and neighbouring properties. These zoning bylaw provisions are consistent with land use regulations proposed, or now in place, in many other jurisdictions of the Province.

Additional to the extensive federal requirements (see attached information brochure), Medical Marihuana Production Facilities within the region are subject to RDCO Building Bylaw No. 835, with respect to building permit(s), and facility proponents will be subject to obtaining a Business License, as per Business License Bylaw No. 689.

Site Context:

The property is located in the upper Trepanier area within the Brent Road/Trepanier Official Community Plan Bylaw No. 1304. Surrounding land use is varied with rural residential lots, commercial RV/Tourist Cabin resort development, agricultural lands, community/regional parks and greenways, and aggregate extraction. There is limited community services and

infrastructure in place (ie: property is not located within an established fire protection area and a community water system is not available).

The three neighbouring properties to the south were the subject of a zoning amendment application in 2008 (RDCO File: Z07/24) to the C8 Wilderness Resort Commercial zone with the intent of developing a maximum of 120 RV sites. The first phase of the development, known as Camp Okanagan, has been completed with 40 RV sites/Forest Cottages available for private ownership or rental on a seasonal / temporary use basis (no year-round occupancy).

History & Project Description:

An existing single family dwelling is situated on the subject parcel. A fully engineered, 60' x 100' steel manufactured accessory building (shell) has been constructed (Building Permit No. 6912/13), and recently Building Permit No. 6986/14 has been issued to commence renovations to the accessory building. The owner's intent of the renovations is to retrofit the building to meet Health Canada's stringent requirements for a Medical Marihuana Production Facility; however, as this use is not permitted on the parcel, Inspections staff has issued the permit for the sole purpose of renovations to a farm building (a permitted use), which includes creating a second story and installing all mechanical.

While the subject property is zoned to allow a Medical Marihuana Production Facility, the parcel does not meet the following regulatory requirements for the use:

- minimum lot size of 8.0 ha (19.7 acres), and
- required building setback from the side parcel line of 30.0 m (98.4 ft.).

The owner is requesting issuance of a Temporary Use Permit (three-year term) in order to allow a Medical Marihuana Production Facility on the property while the owner pursues an application with the Ministry of Transportation and Infrastructure for a lot consolidation/boundary adjustment with the two adjoining parcels to the north. Should the subdivision process be successful, the newly created parcel will meet the minimum site area requirement of 8 ha for Medical Marihuana Production Facilities.

Should the Regional Board choose to issue the Temporary Use Permit, the reduced side setback (26.4 metres rather than 30 metres) would be recognized through the Temporary Use Permit conditions; however, once the Temporary Use Permit expires, the requirement for a Development Variance Permit from the Regional Board would remain. The variance application would be required in conjunction with approval of the subdivision/lot consolidation.

Additional Information:

Owner/Applicant:	Claude Stowell
Legal Description:	Lot 4, Plan KAP81460, District Lot 1380, ODYD
Address:	4715 Paradise Valley Drive
Lot Size:	+/- 4.0 ha (9.88 acre)
Current Zoning:	RU2 Rural 2
Official Community Plan:	Rural Residential
Sewage Disposal:	Septic tank
Water Supply:	Well
Existing Use:	Rural residential

Surrounding Uses:

North: Rural residential
South: C8 zoning (Future additional development of Camp Okanagan)
East: Rural residential
West: Paradise Valley Drive/Rural residential

Approximate distance from proposed building used for Medical Marihuana Production Facility to nearest:

Residential Zone: 35 metres
Residential Structure: 200 metres adjacent parcel/60 metres (SFD on site)
Daycare Facility: Over 1 km (District of Peachland)
Community Centre: Over 1 km (District of Peachland)
School: Over 1 km (District of Peachland)
Park: 190 metres (Coldham Regional Park)
Playground: 350 metres (Camp Okanagan)

A.L.R.: Not within the A.L.R.
Fire Protection: Outside of Fire Protection Area
Stage of Federal approval: Screening
Date of Letter of Intent: June 24, 2013
Business License: Application not submitted to date

The subject property is located within the Brent Road & Trepanier OCP and is affected by the Aquatic Ecosystem and Wildfire Development Permit Areas (DPA). As the accessory building is located outside of the Aquatic Ecosystem DPA, at time of building permit the requirement for a Development Permit Application was waived.

Further to a Wildland Interface Assessment Report dated November 12, 2004, a covenant (LA099911) was registered on title of the parcel at time of subdivision (RDCO File: 04/5331). The covenant identifies the need to minimize potential for wildfire on the rural residential lot outlining disposal methods for piles of debris, fuel modification procedures to complete prior to housing construction, and recommended building materials and landscaping. A wildfire covenant specifically pertaining to the accessory building (Building Permit 6912/13) is required to be registered on title prior to completing the Building Permit. This covenant is to regulate the type of materials (fire safe) used.

AGENCY REFERRALS/TECHNICAL COMMENTS:

Environmental Services staff has no issues or comments.

District of West Kelowna, Ministry of Agriculture, Fortis BC and Interior Health Authority interests are unaffected.

Fire Services and Inspections Manager notes that the subject parcel is in an unprotected area and the fire department would not respond. Chemicals used at this type of facility would be the same as any other agricultural-type occupancy. The operators are required to have a list of all chemicals on site and applicable Material Safety Data Sheet (MSDS).

Regarding the structure, Inspection staff has addressed all fire code and safety requirements in the initial building permit. As noted earlier, issues related to retrofits to the building are being addressed in conjunction with Building Permit No. 6986/14. The biggest hazard is the large use of electrical power and overheating due to demand as this could result in a fire and extend into

the surrounding forested area. The Regional District understands that regular inspections would be carried out by Federal licensing authority (Health Canada) and Worksafe BC.

Environmental/Land Use Planner provided the following comments related to Aquatic Resources, Wildfire, and Air Quality:

Aquatic Resources:

- The proposed development is located outside of the Aquatic DP area and is exempt from the need to obtain a Development Permit. It should be noted that no development including land disturbance, services, construction, clearing or grading is allowed within 30 metres of Trepanier Creek without first obtaining a Development Permit from RDCO.
- Trepanier Creek traverses through the northeast corner of the property and is located within the Trepanier Community Watershed. Water quality concerns should be taken into account for this application. As this type of operation will use/reuse a substantial amount of water and also generate waste water, it is recommended that the availability of water as well as release or disposal of treated water be investigated to ensure water quality is not affected. This should include an investigation of the potential need to dispose of water used at a wastewater facility.

Wildfire:

- As part of the building permit application, a wildfire covenant will be registered (for buildings) and as such the building constructed was exempt.
- The property is located within a forest fuel type and as per the OCP, a Wildfire Risk Assessment Report is required for subdivision. This requirement may however be waived as technical subdivisions for lot consolidation or boundary adjustments are exempt. Also, there was a report of wildfire risk conducted for the property in 2004 that may apply.
- The Community Wildfire Protection Plan has the area noted as a moderate fire risk and a high consequence rating and is located within an urban interface area. Given that the 2004 study did not take the current proposed use into account; that the property is located outside of a fire protection area; that the potential fire risk/consequence outlined in the CWPP are moderate/high; and past history of fires in proximity to the subject lands; it is recommended that an updated Wildfire Risk Assessment Report be required for the TUP, subdivision and/or variance.

Air quality:

- Appropriate air scrubbers or other air filtration should be required as regulated by Health Canada and the new MMPR to address air quality concerns.

Central Okanagan West Advisory Planning Commission (APC) reviewed the application and recommends approval.

Ministry of Transportation and Infrastructure has no objections to the proposed temporary use permit to allow a Medical Marihuana Production Facility on the subject property subject to the applicant submitting an application to their office for access for the intended land use.

RCMP staff noted at time of considering amendments to the Zoning and Joe Rich Rural Land Use Bylaw for the production of medical marihuana that;

- Fire service is not robust in the RDCO areas generally and these locations will have chemical use to foster plant growth and health including fertilizers and insecticides which may be difficult to deal with.

- Unlike most municipalities, regional districts do not conduct regular business fire inspections, which increase the risk of fire.
- Should the use cease, an industrial structure would remain on a rural parcel.

District of Peachland Council provides the following resolution: "THAT Council deny support the RDCO Temporary Use Permit Referral TUP-14-01 for a Medical Marihuana Production Facility on Lot 4, Plan KAP81460, D.L. 1380, ODYD located at 4715 Paradise Valley Drive."

It is noted that Peachland staff outlined the following concerns in the July 8, 2014, Report to Council (attached):

- Proposed use conflicts with neighbouring parcel (Camp Okanagan).
- If the owner is granted a Temporary Use Permit, but is unsuccessful in the matter of the Development Variance Permit or subdivision, considerable costs will have been incurred to convert the accessory building and construct a compound to meet the stringent requirements of Health Canada. There is considerable concern that once established and licensed, it will be very difficult to enforce discontinuation and removal of the use upon the lapse of the temporary term.
- The property is located within the District of Peachland watershed. Additional environmental and watershed studies should be conducted to assess how this type of land use, the associated irrigation, potential chemical additives, water and wastewater recycling will be conducted without the benefit of a municipal water system and what the potential impact may be on the aquifer.
- This subject site is located outside the Peachland Fire and Rescue Services' fire service boundary. A detailed fire assessment report will be required to assess wildfire fuel modification/reduction work to be done to reduce the risk of a wildfire spreading.

External Implications:

In accord with provision of the Local Government Act, a Notice of Application sign was posted on site and notification forwarded by mail to all property owners located within 100 metres of the subject property. In addition, notice of the application was published in the local newspaper.

At time of submitting the report, five letters of opposition had been received (copies attached). The prevalent concern among the correspondence is that the proposed use is inappropriate for the surrounding residential and recreational properties.

Conclusion:

The Regional District's Strategic Plan – Vision 2020 – Planning for the Future states, 'the RDCO will provide solutions that consider competing interests and community expectations, in an effective and efficient manner and that the safety and health of residents is a paramount consideration.' The Brent Road/Trepanier OCP provides that a temporary use should not create an unacceptable level of negative impact on surrounding permanent uses.

Notwithstanding that the landowner is working towards compliance in terms of meeting the minimum lot size requirement of 8 ha, Planning staff concurs with comments and concerns that have been received from agencies and the public. These issues include; lack of fire protection and risk of wildfire, environmental/watershed impacts, and potential negative impacts to the adjacent recreational resort property. To this end, it is being recommended that a number of conditions be applied to issuance of the Temporary Use Permit and that the permit be issued for an initial term of one year, as opposed to the applicant's request for a 3 year term.

Staff is also recommending that the applicant provides an update in writing to the Community Services Department six months after issuance of the permit regarding; status of the lot consolidation/boundary adjustment application and requirement for an access permit with Ministry of Transportation and Infrastructure; status of the application with Health Canada for a Marihuana for Medical Purposes Regulations (MMPR) license; and status of all conditions recommended for issuance of the temporary use permit.

Additionally, the applicant is being informed via the recommendation to the Board that the Temporary Use Permit may be rescinded after six-months in the event that conditions of the permit have not been addressed, or are not being adhered to.

In the event that the Temporary Use Permit is denied by the Regional Board and/or a License from Health Canada is not issued to the proponent, the building that has been constructed and currently undergoing retro-fits, will be considered a permitted use under the RU2 zoning in accordance with the current Building Permit (ie: a farm building).

Simply refusing issuance of the Temporary Use Permit is of concern to Planning staff in that the building proposed to be utilized for production of medical marihuana has been constructed and Health Canada may decide to issue a license regardless of zoning and other regulatory requirements of the RDCO. Planning staff wishes to be proactive and attempt to address all issues/impacts associated with this new land use to the best of our legislated ability.

Alternatives:

THAT the Temporary Use Permit (Application TUP-14-01) for C. Stowell to allow a Medical Marihuana Production Facility not be approved.

Attachment(s):

Subject property map and orthophoto

Site plan, May 29, 2014

Proposed subdivision layout

District of Peachland July 9, 2014, correspondence with attachment

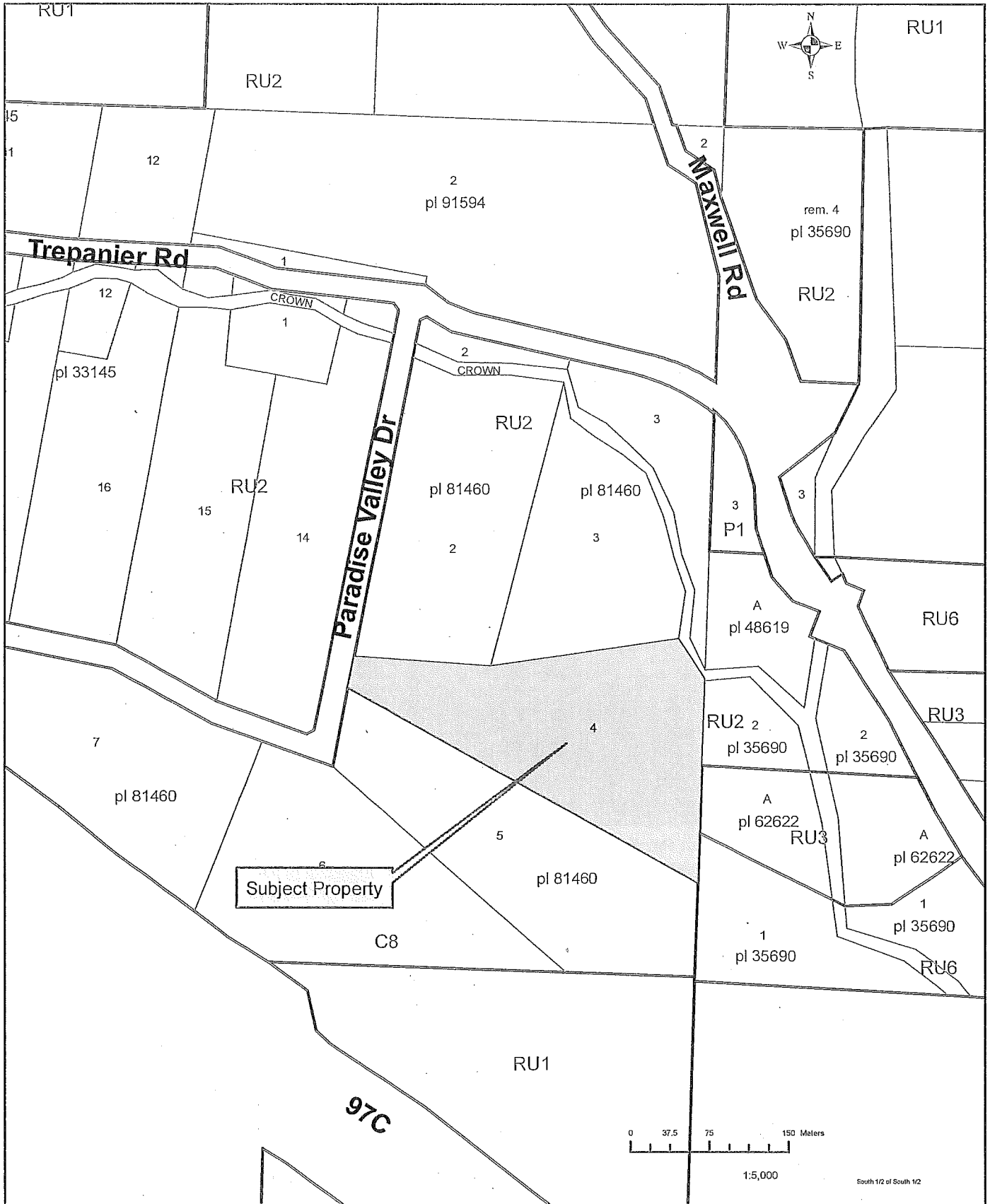
Health Canada Question/Answer Brochure

Letters of Objection

Considerations not applicable to this report:

- Financial Considerations
- Organizational Issues

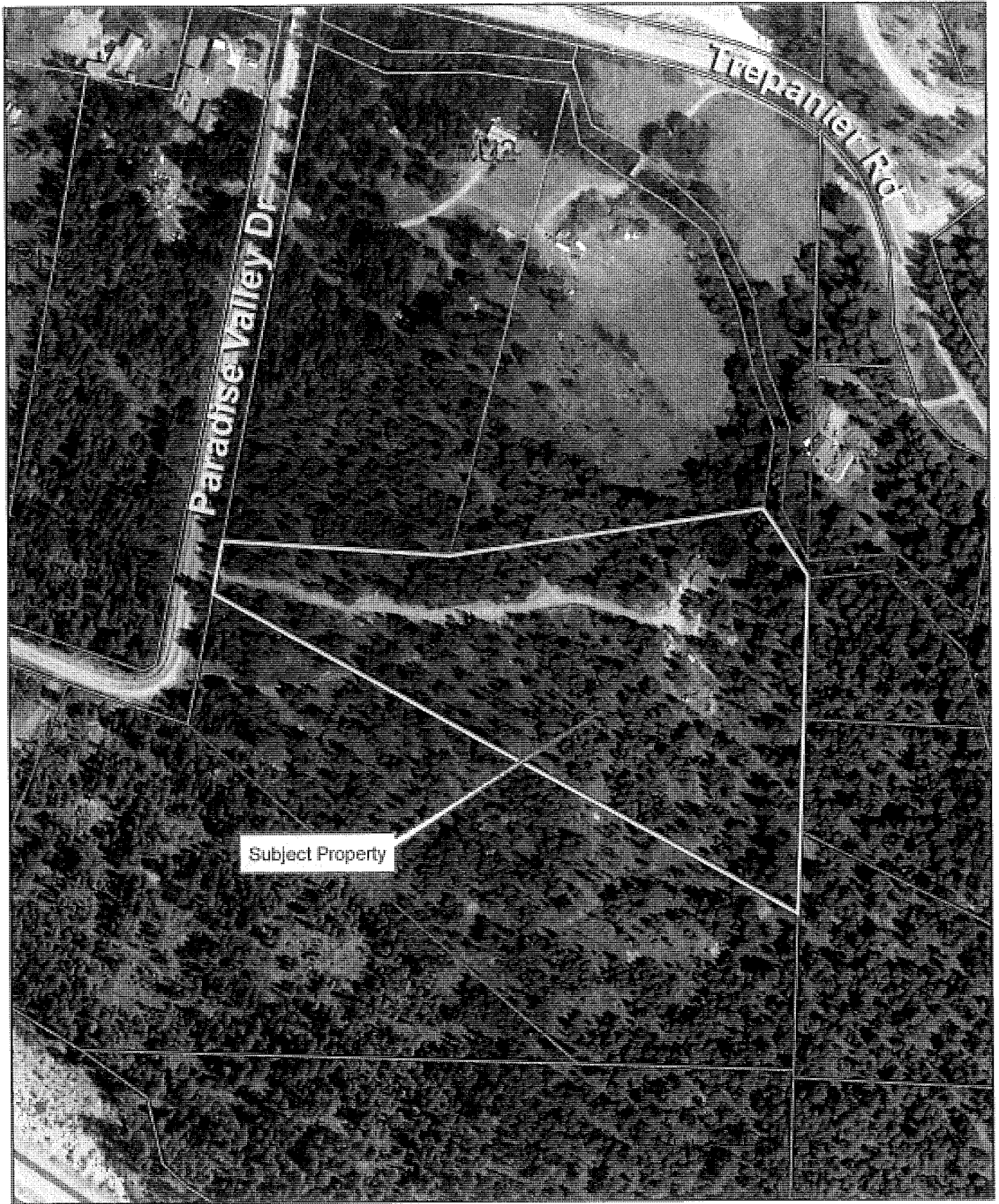
SUBJECT PROPERTY

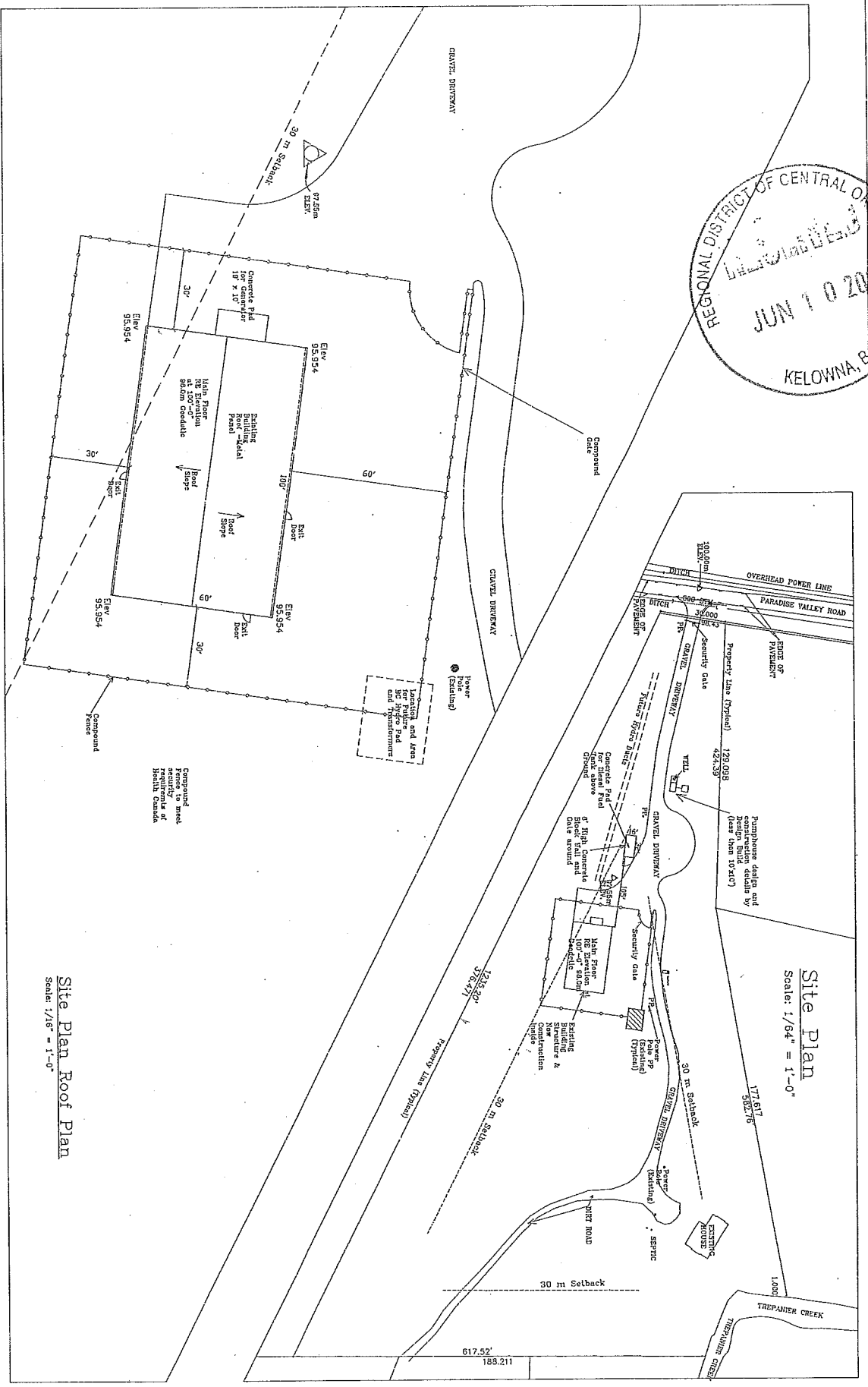


TUP-14-01
June 11, 2014

Lot 4, Plan KAP81460, DL 1380, ODYD
Drawn by: jm

ORTHOPHOTO





Site Plan
Scale: 1/8" = 1'-0"

Site Plan Roof Plan
Scale: 1/8" = 1'-0"

Revisions	Date	Description
00	May 21 2014	Rev 01 for final
01	May 29 2014	Rev 02 for applications

May 29 2014a

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Potamois
Green Growers

Project:
Building A
4715 Paradise Valley Drive,
Pescadero, BC

Sheet Title:
Site Plan

Scale: 1/8" = 1'-0"

A01.1

* Proposed Subdivision Configuration





The Corporation of the District of Peachland

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July 9, 2014

File TUP-14-01

Regional District Central Okanagan
1450 KLO Road
Kelowna, BC
V1W 3Z4

**Attention: Janelle Taylor,
Planning Technician**

Re: Application for Temporary Use Permit Referral for a Medical Marihuana Production Facility on lot 4, Plan KAP81460, D.L. 1380, ODYD located at 4715 Paradise Valley Drive

The District of Peachland has been requested to provide comment with respect to the above-noted application for a trap and skeet shooting field. Council at their Regular Meeting of July 8, 2014 provided the following resolution:

“THAT Council deny support the RDCO Temporary Use Permit Referral TUP-14-01 for a Medical Marihuana Production Facility on Lot 4, Plan KAP81460, D.L. 1380, ODYD located at 4715 Paradise Valley Drive.”

A copy of the report presented to Council has been attached, it will provide additional rationale with respect to the Council's decision.

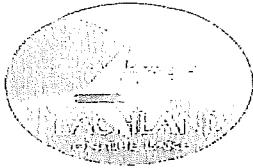
Yours truly,

Heidi Simkins

Heidi Simkins
Planning Administrator

Attachment





District of Peachland Request for Decision

To: Mayor and Council
From: Director of Planning and Development Corine (Cory) Gain
Date: July 8, 2014
Subject: Fringe Area Planning Referral File TUP-14-01, 4715 Paradise Valley Drive
Recommendation: **THAT Council deny support the RDCO Temporary Use Permit Referral TUP-14-01 for a Medical Marihuana Production Facility on Lot 4, Plan KAP81460, D.L. 1380, ODYD located at 4715 Paradise Valley Drive.**

Chief Administrative Officer's Comments:

I support the recommendation: _____

Implications of Recommendation:

General: The District of Peachland cannot support the approval of a Temporary Use Permit for a Medical Marihuana Production Facility which does not meet current zoning bylaw requirements, permitting the construction or use of buildings that do not meet setback requirements, and the potential impact to the District of Peachland Trepanier Creek watershed.

Organizational: The proposed Temporary Use Permit will negatively affect the District of Peachland Trepanier Creek watershed.

Financial: N/A

Policy: N/A

Strategic Plan: N/A

Background:

The owner of 4715 Paradise Valley Drive is requesting issuance of a Temporary Use Permit to allow the conduct of a Medical Marihuana Production Facility on the 4.0 hectare (9.88 acre) property. Regional District of Central Okanagan (RDCO) Zoning Bylaw 871 section 3.31 Medical Marihuana Production Facilities requires a minimum parcel size of 8.0 hectare (19.7 acres) for this type of use. Further, section 3.31 also requires that all buildings used for this type of use to be setback a minimum of 30.0 meters (98.4 ft.) from all parcel lines. The current proposal does not meet either of these bylaw requirements.

The site currently contains a single family dwelling and an accessory building. The owner proposes to use the accessory building constructed under Building Permit No. 6912/13 for the Medical Marihuana Production Facility. The existing accessory building is setback approximately 26.4 meters from the southern property line. As such, some accommodation of the reduced setback will be required. RDCO staff has advised that the reduced setback will be dealt with through the conditions of the TUP should it be approved.

The property located directly to the south, fronting Highway 97C was rezoned in 2008 to C-8 Wilderness Resort. According to Super Natural BC Accommodations website *Camp Okanagan Resort* has been developed into a prime Okanagan/Peachland campground - RV Resort site consisting of 21 RV and camping sites, 19 cabins and cottages, a swimming pool and recreational activities, all within 10 minutes of Peachland. The apparent conflict of these two land uses is a concern to staff.

The referral information advises that the owner intends to pursue a lot consolidation/boundary adjustment with the two adjoining parcels located immediately to the north. If successful, the newly created parcel will be able to meet the minimum site area requirement of the zoning bylaw. However, this will not address the deficient setback to the southern property line.

The RDCO advises that should the owner be successful in the Temporary Use Permit and the lot consolidation, then the owner will also be required to obtain a Development Variance Permit from the Regional Board to address the setback deficiency. Any or all of these applications may be denied.

If the owner is granted a Temporary Use Permit, but is unsuccessful in the matter of the Development Variance Permit or subdivision, considerable costs will have been incurred to convert the accessory building and construct a compound to meet the stringent requirements of Health Canada. There is considerable concern that once established and licensed, it will very difficult to enforce discontinuation and removal of the use upon the lapse of the temporary term. The *Local Government Act* includes a provision for a single renewal for an additional three (3) year term, thereby extending this temporary use for at least six (6) years.

Trepanier Creek forms a portion of the eastern boundary of the subject property. As such, the property is located within the District of Peachland watershed. Additional environmental and watershed studies should be conducted to assess how this type of land use, the associated irrigation, potential chemical additives, water and wastewater recycling will be conducted without the benefit of a municipal water system and what the potential impact may be on the aquifer.

This subject site is located outside the Peachland Fire and Rescue Services' fire service boundary. A detailed fire assessment report will be required to assess wildfire fuel modification/reduction work to be done to reduce the risk of a wildfire spreading.

Report/Document: Attached: 1 Available: Nil:

Temporary Use Permit Referral TUP-14-01

- Options:**
1. COUNCIL MAY CHOOSE TO SUPPORT THE RECOMMENDATION
 2. COUNCIL MAY CHOOSE TO REFER BACK TO STAFF FOR ADDITIONAL INFORMATION
 3. COUNCIL CAN CHOOSE TO NOT SUPPORT THE RECOMMENDATION

A. Licensing Process

1. Is there a limit on how many production licences will be approved in each jurisdiction?

The *Marihuana for Medical Purposes Regulations* do not limit the number of licensed producers of marihuana for medical purposes based on geographic location.

2. Are licensed producers required to display their HC licence on site?

No. Licensed producers must keep the original copy of the licence issued by Health Canada, but it does not need to be posted in the facility. A list of licensed producers is available on the Health Canada website.

3. What should a licensed producer include in a notification to local authorities?

Under the *Marihuana for Medical Purposes Regulations*, a potential licensed producer must provide a written notice to a senior official of the local government, fire authority and local police force or detachment of the RCMP in the area in which the site is located. This written notice must include the name of the applicant, the date on which the application will be submitted, the address of the proposed site and each building on the site, and the activities for which the licence is being sought.

The same information must be provided to the local authorities upon a change to the licence (i.e., issued, amended, revoked or suspended) within 30 days of the status change.

Please note that a response from the local authority is not required.

4. Who will inform the local authorities when a licence to produce marihuana for medical purposes has been revoked?

Under the *Marihuana for Medical Purposes Regulations*, the licensed producer is required to notify their local authorities regarding changes to the status of their licence, including revocation. This notice to local authorities must occur within 30 days of the change. In addition, Health Canada's website is updated regularly.

5. Are there any restrictions on where production sites can be located?

Production of marihuana under the *Marihuana for Medical Purposes Regulations* can only be indoors and cannot be conducted in dwelling places.

Licensed producers must also comply with all applicable provincial/territorial and municipal legislation and regulations. Parties interested in becoming licensed producers are encouraged to communicate with their municipal officials to determine if there are any zoning or by-law restrictions.

6. Can a licensed producer operate multiple locations?

Yes. If the applicant intends to engage in an activity at more than one site, the *Marihuana for Medical Purposes Regulations* indicate that a separate application must be made for each proposed site.

7. Are delivery systems such as storefronts or vending machines compliant with the *Marihuana for Medical Purposes Regulations*?

No. Licensed producers must ship dried marihuana directly to the client.

8. Can compassion clubs dispense for a licensed producer?

No. Licensed producers must ship dried marihuana directly to the client.

B. Bylaws and Zoning

9. Do municipal zoning by-laws apply to production sites under the *Marihuana for Medical Purposes Regulations*?

Licensed producers must comply with all other federal, provincial and municipal laws and by-laws, including municipal zoning by-laws. It is the responsibility of the municipality to conduct the relevant inspections for compliance with by-laws such as zoning.

Health Canada can only inspect for compliance with the *Marihuana for Medical Purposes Regulations* and any related federal legislation.

10. Can municipalities stop the licensing process if they disagree with the proposed site of production or any other requirement?

Health Canada will issue a licence to produce as long as the applicant satisfies the requirements set out in the *Marihuana for Medical Purposes Regulations*. If

Q&A package for Municipalities

municipalities disagree with the proposed site of production, they can communicate any concerns directly to the owner of the production site and enforce local by-laws.

Licensed producers are subject to local by-laws. It is the responsibility of the municipality to conduct the relevant inspections for compliance with local requirements such as zoning.

C. Security

11. How is HC and/or RCMP/local police enforcing security measures?

All applicants for a producer's licence under the *Marihuana for Medical Purposes Regulations* have to meet rigorous physical security requirements, including a site design and security system that prevents unauthorized access to their facility.

Additionally, enhanced background checks are undertaken, in cooperation with the RCMP, to ensure that there are no associations with individuals or organizations that pose an unacceptable risk, such as the risk of diversion of marihuana to the illicit market. These checks are required for key personnel and alternates, officers and directors of corporation. For more information on security, please visit: <http://www.hc-sc.gc.ca/dhp-mpps/marihuana/info/add-supp-eng.php>

Once licences are issued, licensed producers are subject to compliance and enforcement measures, including audits and inspections by Health Canada.

D. Inspections

12. When are inspections conducted by HC?

All licensed producers (LP) of marihuana for medical purposes will be subject to ongoing inspection on a broad range of factors. There will be three core inspection types: pre-licensing inspections, full inspection and targeted inspections.

After an application has been screened and reviewed with a focus on security measures at the site and for key personnel, a pre-licence inspection is conducted. This is prior to the issuance of a licence under the *Marihuana for Medical Purposes Regulations*.

Once an applicant has passed a pre-licence inspection and has met all requirements under the regulations, a licence is issued. Upon receipt of a licence to produce marihuana for medical purposes, producers are subject to audits and inspections by Health Canada.

A full inspection is an inspection after the licence has been issued where the licensed producer will be assessed against the full range of elements required under the MMPR,

Q&A package for Municipalities

such as: security measures, record keeping, product storage, review of loss and theft reports, review of monthly sales reports, inventory audit, etc.

A targeted inspection is an inspection which will focus on previously identified criteria, such as follow-up to observations previously identified on an inspection or a review of certain high risk elements, such as review on inventory, product storage, security, etc.

13. Can a municipality request a Health Canada inspection?

If there are concerns regarding the activities taking place at a licensed producer's site, the information can be provided to Health Canada and the information will be considered for follow up on a case-by-case basis.

Licensed producers must comply with all other federal, provincial and municipal laws and by-laws, including municipal zoning by-laws. It is the responsibility of the province, territory, or municipality to conduct the relevant inspections for compliance with their laws.

14. What is the scope of an inspection executed by Health Canada?

Health Canada inspects licensed producers for all requirements under the *Marihuana for Medical Purposes Regulations* and other related legislation, such as the *Narcotic Control Regulations* and *Food and Drugs Act*. For example, this includes inspecting their production practices, record-keeping and security measures. In addition, licensed producers are required to have standard operating procedures. All of these measures mitigate risks to individual and public health and safety.

15. If non-compliance is identified, does Health Canada have the authority to suspend or revoke the licence?

Yes. Health Canada has the authority to suspend or revoke a licence as described in the *Marihuana for Medical Purposes Regulations*. Examples of circumstances where a licence can be suspended or revoked include:

- grounds to believe that the licence was issued on the basis of false or misleading information;
- the licensed producer has contravened a provision of the *Controlled Drugs and Substances Act* or the *Food and Drugs Act* ;
- the licensed producer has contravened a condition of their licence or of an import or export permit issued under the *Marihuana for Medical Purposes Regulations*;

Q&A package for Municipalities

- information received from law enforcement raises grounds to believe that they have been involved in the diversion of a controlled substance to an illicit market;
- key persons required to hold a security clearance do not hold a valid clearance; and
- it is necessary to suspend or revoke the licence to protect public health, safety, or security.

E. Transition from the Marihuana Medical Access Regulations

16. What will happen to all of the marihuana plants that were legal under the old program?

When a licence to produce or an authorization to possess marihuana for medical purposes expires or is revoked under the Program participants must destroy all marihuana in their possession and notify the Minister of Health of the destruction within 10 days.

If participants do not comply with the requirement to notify Health Canada, the department may take compliance and enforcement actions, including notifying law enforcement of non-compliance.

17. What experience does Health Canada have in regulating manufacturers and distributors of drugs (like marihuana)?

Health Canada has been regulating the activities of manufacturers and distributors of controlled drugs, including cannabis, since the coming into force of the *Narcotics Control Act* in 1961. The *Narcotics Control Act* was repealed in 1996 by the current *Controlled Drugs and Substances Act*. Health Canada has a licensing scheme in place that is supported by compliance and enforcement activities to ensure compliance with the Act and its regulations.