



REGIONAL DISTRICT OF NORTH OKANAGAN

BOARD of DIRECTORS MEETING

Wednesday, March 5, 2014

4:00 pm

PUBLIC HEARING AGENDA

A. CALL PUBLIC HEARING TO ORDER

B. INTRODUCTION OF BYLAW

1. Rezoning Bylaw No. 2611, 2013

- Staff report dated February 3, 2014

Page 1

Bylaw 2611, 2013 – Rezoning [Hazeldine]

Purpose: A bylaw to rezone lands and amend the Zoning Map attached to the Regional District of North Okanagan Zoning Bylaw No. 1888, 2003 to change a zone designation.

2. Medical Marihuana Bylaw No. 2606, 2013

- Staff report dated February 24, 2014

Page 15

Bylaw 2606, 2013 – Medical Marihuana

Purpose: A bylaw to amend the text of Zoning Bylaw No. 1888, 2003 to regulate medical marihuana production facilities.

C. PUBLIC PRESENTATIONS

D. CLOSE PUBLIC HEARING



**REGIONAL DISTRICT
of
NORTH OKANAGAN**

REPORT

File No.: 13-0343-D-RZ

TO: Board of Directors
FROM: Planning Department
DATE: February 3, 2014
SUBJECT: Rezoning Bylaw No. 2611, 2013 [Hazeldine]

RECOMMENDATION:

That following consideration of comments received at the Public Hearing, Rezoning Bylaw No. 2611, 2013 which proposes to rezone a portion of the property legally described as the South ½ of the South West ¼ of Sec 5, Twp 40, ODYD, Except Plan 28492 and located at 171 Brookfield Road, Electoral Area "D" from the Non-Urban (N.U) zone to the Country Residential (C.R) zone as shown on Schedule 'A' attached to and forming part of Bylaw No. 2611 be considered for Third Reading; and further,

That Rezoning Bylaw No. 2611, 2013 be adopted.

BACKGROUND:

This report relates to an application to rezone a portion of the property located at 171 Brookfield Road from Non-Urban (N.U) to Country Residential (C.R). If approved, the applicant is proposing to create two additional lots within the C.R zoned area. The proposed remainder lot would remain zoned Non-Urban (N.U).

The application was considered by the Board of Directors at the Regular Meeting of January 15, 2014, at which time the Board gave First and Second Readings to Rezoning Bylaw No. 2611, 2013 and also resolved to forward the Bylaw to a Public Hearing.

Notification of Public Hearing

The applicant has submitted a Development Notification Certificate which confirms that on February 2, 2014, a Development Notice was posted on the subject property in accordance with the *Regional District of North Okanagan Development Application Procedures and Administrative Fees Bylaw No. 2315, 2008*. The Public Hearing for the application and associated Bylaw has been advertised in the local newspapers and the adjacent land owners have been notified by letter of the Public Hearing, all in accordance with the Regional District Development Application Procedures and Administrative Fees Bylaw and the provisions of the *Local Government Act*.

DISCUSSION:

Aside from the above noted notification requirements associated with the Public Hearing, no conditions were required to be met prior to forwarding this application to a Public Hearing. The Planning Department therefore recommends that upon consideration of comments received at the Public Hearing, Rezoning Bylaw No. 2611, 2013 be considered for Third Reading.

Rezoning Bylaw No. 2611, 2013 [Hazeldine]
Report to Board of Directors – February 3, 2014


Page 2

After Bylaw No. 2611 receives Third Reading it can also be considered for adoption as approval of the Ministry of Transportation and Infrastructure is not required.


SUMMARY:

As there are no conditions that are required to be met prior to Third Reading and adoption of the subject Rezoning Bylaw No. 2611, it is recommended that upon consideration of comments received at the Public Hearing, Bylaw No. 2611 be considered for Third Reading and Adoption.


Submitted by:


Jennifer deGroot, B.Sc.
Executive Assistant (Temp.)

Approved For Inclusion:

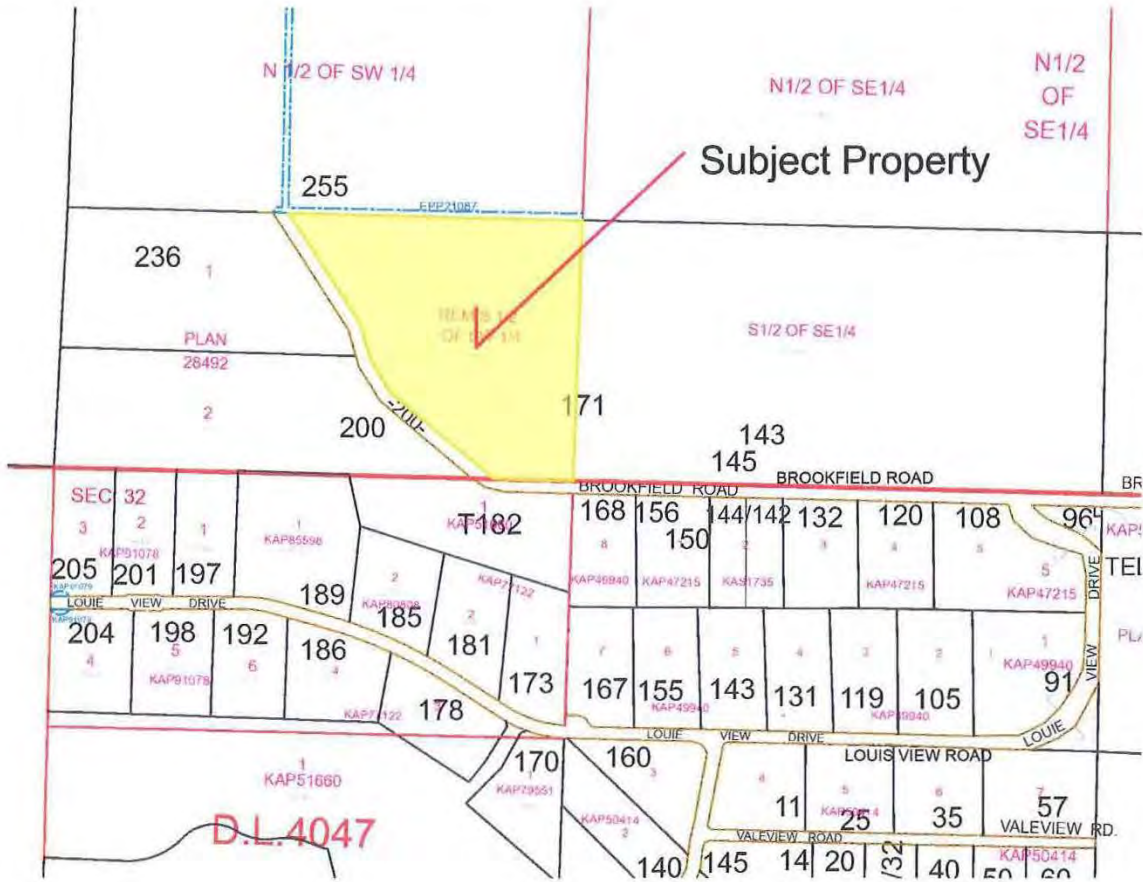

Trafford Hall, Administrator

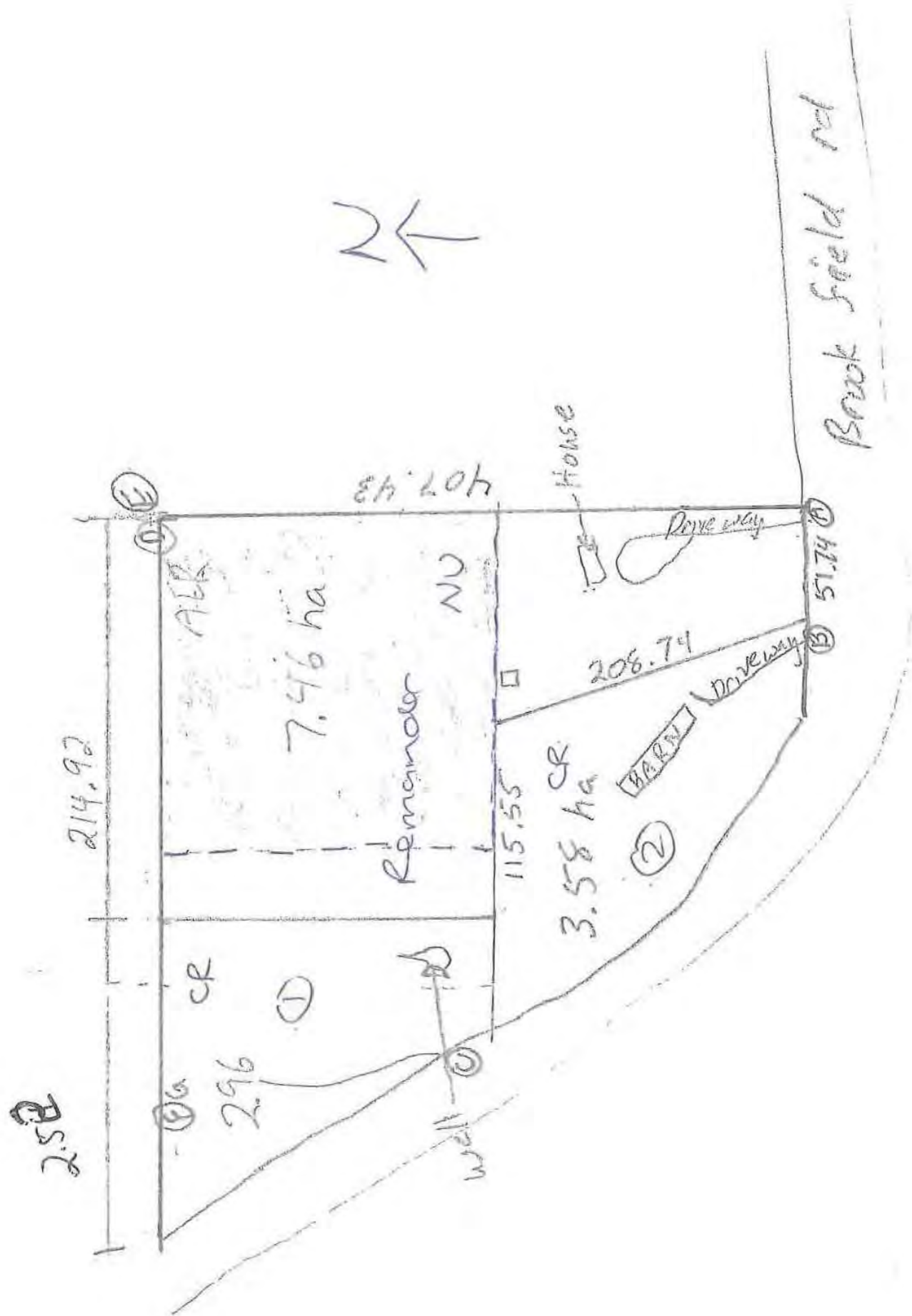
Endorsed by:


Rob Smailes, MCIP, RPP
General Manager, Planning and Building

ELECTORAL AREA "D" REZONING APPLICATION SUBJECT PROPERTY MAP

File: 13-0343-D-RZ
Applicant: Colleen Hazeldine
Location: 171 Brookfield Road





REGIONAL DISTRICT OF NORTH OKANAGAN

BYLAW No. 2611

A bylaw to rezone lands and amend the Zoning Map attached to the Regional District of North Okanagan Zoning Bylaw No. 1888, 2003 to change a zone designation

WHEREAS pursuant to Section 903 [Zoning bylaws] of the *Local Government Act*, R.S.B.C., 1996, Chapter 323, as amended, and Regulations passed pursuant thereto, the Board of the Regional District of North Okanagan may, by Bylaw, divide the whole or part of the Regional District into zones, name each zone, establish boundaries for the zones and regulate uses within those zones;

AND WHEREAS the Board has created zones, named each zone, established boundaries for these zones and regulated uses within those zones by Bylaw No. 1888 being the "*Regional District of North Okanagan Zoning Bylaw No. 1888, 2003*" and amendments thereto;

AND WHEREAS, pursuant to Section 895 [*Development approval procedures*] of the *Local Government Act*, the Board must, by bylaw, define procedures under which an owner of land may apply for an amendment to a Zoning Bylaw and must consider every application for an amendment to the bylaw;

AND WHEREAS the Board has enacted the "*Regional District of North Okanagan Development Application Procedures and Administrative Fees Bylaw No. 2315, 2008 and amendments thereto*" to establish procedures to amend an Official Community Plan, a Zoning Bylaw, or a Rural Land Use Bylaw, or to issue a Permit:

AND WHEREAS the Board has received an application to rezone property;

NOW THEREFORE, the Board of Directors of the Regional District of North Okanagan, in open meeting assembled, enacts as follows:

A. CITATION

This Bylaw may be cited as the "**Rezoning Bylaw No. 2611, 2013**".

B. AMENDMENTS

The Regional District of North Okanagan Zoning Bylaw No. 1888, 2003 is hereby amended by changing the zoning of a portion of the property legally described as The South ½ of the South West ¼ of Sec 5, Twp 40, ODYD, Except Plan 28492 and located at 171 Brookfield Road, Electoral Area "D" from the **Non Urban Zone [N.U]** to the **Country Residential Zone [C.R]** as shown on the attached Schedule 'A'.

Read a First and Second Time	this	15 th	day of	January , 2013
Advertised on	this		day of	, 2013
	this		day of	, 2013

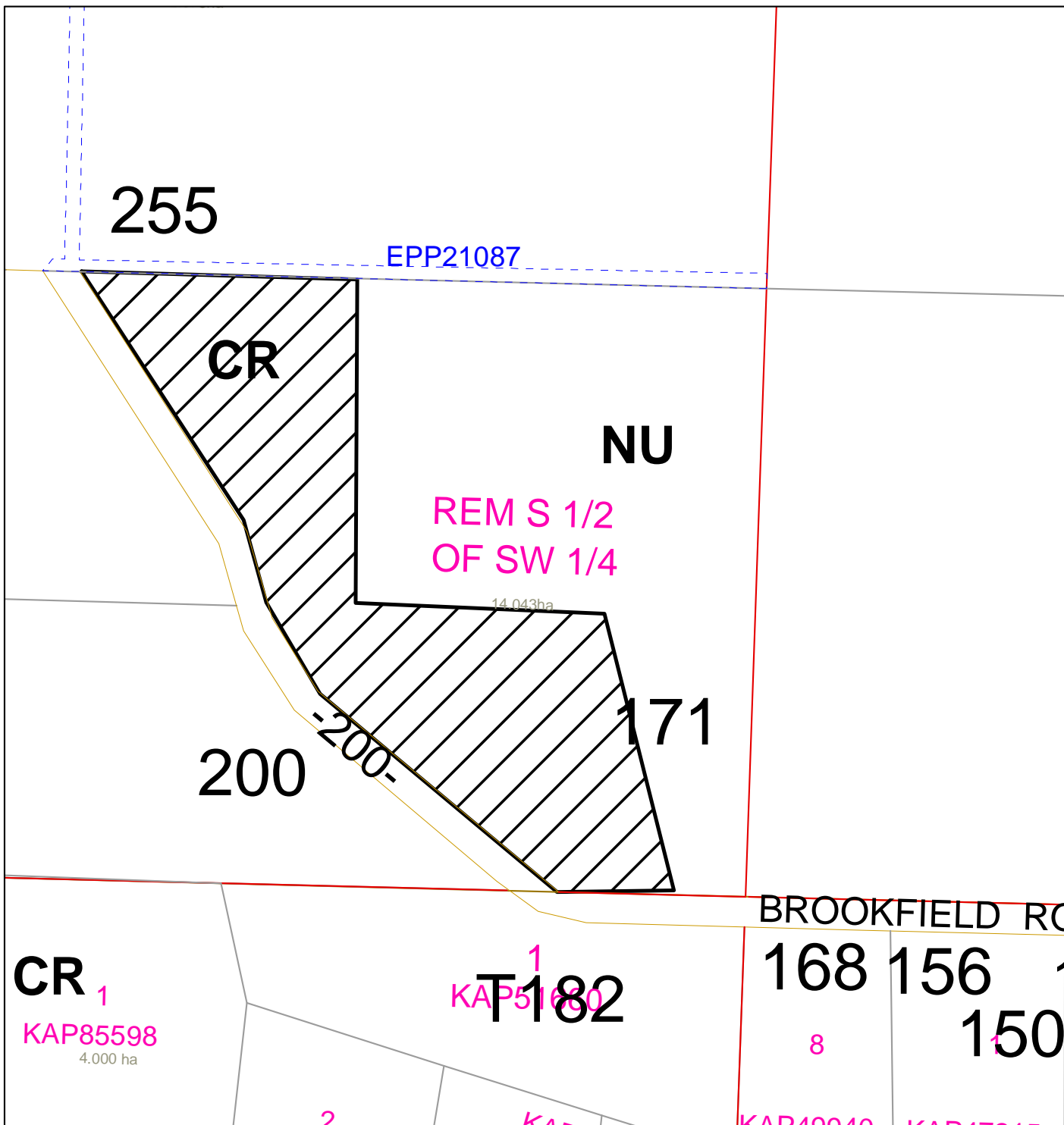
Public Hearing held pursuant to the provisions of this day of , 2013
Section 890 of the *Local Government Act*

Read a Third Time this day of , 2013

ADOPTED this day of , 2013


Chair

Corporate Officer



1:3,500

SCHEDULE "A" to accompany the Rezoning Bylaw No. 2611, 2013.

Area rezoned from Non Urban (N.U) to Country Residential (CR).... 

I hereby certify this to be a true and correct copy of SCHEDULE "A" attached to and forming part of the Rezoning Bylaw No. 2611, 2013.

Dated at Coldstream, BC this _____ day of _____, 2013

 Corporate Officer



REGIONAL DISTRICT
of
NORTH OKANAGAN

PLANNING DEPARTMENT INFORMATION REPORT

REZONING APPLICATION

DATE: November 18, 2013

FILE NO.: 13-0343-D-RZ

APPLICANT: Colleen Hazeldine

LEGAL DESCRIPTION: The S $\frac{1}{2}$ of the SW $\frac{1}{4}$ of Sec 5, Twp 40, ODYD, Except Plan 28492

P.I.D.# 013-591-428

CIVIC ADDRESS: 171 Brookfield Road

PROPERTY SIZE: 14.04 ha

SERVICING: On-site well and septic sewage disposal

A.L.R. 4.6 ha in ALR, 9.44 ha out of ALR

SOIL CLASSIFICATION ALR: 60% Class 4, 40% Class 5
Non-ALR: 70% Class 6, 30% Class 5

PRESENT ZONING: Non-Urban (N.U)

PROPOSED ZONING: Country Residential (C.R) and Non-Urban (N.U)

O.C.P. DESIGNATION: Non-ALR portion: Country Residential, ALR portion: Agricultural

PROPOSED USE: Subdivision to create 2 additional lots plus 1 remainder lot

PLANNING DEPARTMENT RECOMMENDATION:

That Rezoning Bylaw No. 2611, 2013 which proposes to rezone a portion of the property legally described as the South $\frac{1}{2}$ of the South West $\frac{1}{4}$ of Sec 5, Twp 40, ODYD, Except Plan 28492 and located at 171 Brookfield Road, Electoral Area "D" from the Non-Urban (N.U) zone to the Country Residential (C.R) zone as shown on Schedule 'A' attached to and forming part of Bylaw No. 2611 be given First and Second Readings and be forwarded to a Public Hearing.

BACKGROUND:

This report relates to an application to rezone a portion of the property located at 171 Brookfield Road from Non-Urban (N.U) to Country Residential (C.R). If approved, the applicant is proposing to create two additional lots within the C.R zoned area. The proposed remainder lot would remain zoned Non-Urban (N.U).

**Rezoning Application
13-0343-D-RZ (Hazeldine)**

Site Context

The subject property is located within Electoral Area “D” on the north side and westerly end of Brookfield Road, which is gravel road within a 20 m wide right of way. Brookfield Road intersects with Rawlings Lake Road and can also be accessed from Highway 6 via McInnes Road and Louie View Drive. From Brookfield Road, one driveway on the subject property provides access to a house, a second driveway provides access to a barn and a third provides access to the northwest corner of the property. The property is generally flat and partially treed and an area has been cleared for pasture.

The following orthophoto of the subject and surrounding properties was taken in 2007.



The subject property is zoned Non-Urban and is partially within the Agricultural Land Reserve. The ALR portion is designated in the Electoral Area “D” and “E” Official Community Plan as Agricultural and the non-ALR portion is designated as Country Residential. The current use, zoning, OCP designation and ALR status of adjacent properties are as follows:

- North – vacant, zoned Non-Urban (N.U), designated Country Residential and Agricultural, eastern portion is in the ALR;
- East – rural residential and agricultural, zoned N.U, designated Country Residential and Agricultural, northern portion is in the ALR;
- South – rural residential (approximately 60 parcels), zoned C.R, designated Country Residential, not in the ALR;
- West – rural residential, zoned N.U, designated Country Residential, not in the ALR.

**Rezoning Application
13-0343-D-RZ (Hazeldine)**

Page 3

The Proposal

The applicant proposes to rezone a portion of the subject property from Non-Urban (N.U) to Country Residential (C.R) to facilitate a subdivision that would create two additional lots outside of the ALR, and with frontage on Brookfield Road. Within the proposed C.R. zoned area, proposed Lots 1 and 2 would be approximately 2.96 ha and 3.58 ha respectively. A 7.46 ha remainder lot, also with frontage on Brookfield Road, is proposed to remain zoned Non-Urban (N.U) and would include the existing house and a 4.6 ha area of ALR land. The applicant proposes to service the proposed C.R zoned lots with new wells and the remainder lot with an existing well. Access to the lots would be gained from the existing driveways.

OFFICIAL COMMUNITY PLAN:

The Electoral Areas “D” and “E” Official Community Plan designates the ALR portion of the subject property as Agricultural and the non-ALR portion as Country Residential. An OCP amendment is not required as the proposed rezoning would be within the Country Residential portion of the lot. The following OCP Land Use Policies are relevant for this application:

Rural Residential Policies

- 1) Rural Residential lands are intended to provide an alternate to urban living with lots 1.0 ha or larger. These lots emphasize an attachment to the lands and utilization for rural and agricultural uses, but with lesser services and greater distances to community facilities and shopping. Rural Residential Lands are designated as Country Residential (CR) with a minimum parcel size of 2 ha and Small Holdings (SH) with a minimum parcel size of 1 ha.
- 2) Rural Residential lands should conform to the following requirements:
 - a) outside the ALR and not in an area of excessive slopes;
 - b) not in an area that has a high capacity for other uses;
 - c) not subject to flooding or in an area of high water table;
 - d) not subject to excessive expenditures for services;
 - e) contains suitable building sites, sewage disposal areas, and adequate water supplies;
 - f) does not destroy or alienate important habitat for fish and wildlife; and
 - g) does not detrimentally affect neighbouring properties and the community as a whole.
- 3) Upon receipt of a rezoning application for Rural Residential developments, the Regional Board will give consideration to the fire protection issues in the local area.
- 4) Subdivision for Rural Residential housing shall be in a manner that will conform to the physical site characteristics and not produce a continuous expanse of housing.
- 5) Due to the importance of an adequate water supply in Rural Residential areas, and the uncertainty about water supply in some areas, assurances about the water supply as specified in the Subdivision Servicing Bylaw shall be provided prior to the zoning of land for Rural Residential use.
- 6) Development of land (where more than 1 additional lot is created) that is dependant upon subsurface groundwater supplies in areas that are known to have supply issues should be subject to certification by a professional engineer, or a groundwater geologist, or by a hydrogeologist as to the quality and quantity of water available prior to rezoning or subdivision approval. The Regional Board may request information that demonstrates the impact to neighbouring wells of such a development.

**Rezoning Application
13-0343-D-RZ (Hazeldine)**

Page 4

ZONING BYLAW:

The subject property is zoned Non-Urban (N.U) in Regional District of North Okanagan Zoning Bylaw No. 1888, 2003. The minimum lot size standard of the N.U zone is 7.2 ha. Uses permitted in the N.U zone include single and two family dwellings, manufactured homes, ancillary single family dwellings, accessory buildings and structures, accessory farm sales, bed and breakfast uses, boarding house uses, community care facilities, fruit and produce pickers' cabins and work force housing units, home occupations, intensive and limited agricultural uses, packing houses, public parks and playgrounds, rapid infiltration and spray irrigation of treated effluent, resource uses, veterinary clinics, wineries and cideries.

With respect to the proposed 7.4 ha remainder lot, the N.U zone would limit the number of residential dwellings to not more than:

- one single family dwelling or one two family dwelling or one manufactured home; and
- one ancillary single family dwelling on lands in and out of the ALR.

The applicant is proposing to rezone a portion of the subject property to Country Residential (C.R) to facilitate a two lot subdivision. The minimum parcel size for a lot created by subdivision in the C.R zone is 2.0 ha and the uses permitted in the C.R zone are similar to those of the N.U zone with the exception of rapid infiltration and spray irrigation of treated effluent which are not permitted. In addition, in the C.R zone, one additional single family dwelling would be permitted on lots 4 ha or larger on lands out of the ALR.

In both the N.U and C.R zones, principal and accessory farm buildings, structures and areas are required to conform to the agricultural setbacks specified in Schedule G of the Zoning Bylaw.

Building Sites & Lot Frontage

The Zoning Bylaw requires that all lots created within the Non-Urban (N.U) and Country Residential (C.R) zones contain a contiguous area of land 2,000 m² or larger in size to serve as a suitable building site. A building site must be less than 30% natural slope and must be accessible from a public highway via private access driveway having a minimum width of 5.5 m for a distance of 6 m and a 4 m minimum width thereafter and a maximum slope of 2% from the ditch line for a minimum distance of 10 m and a maximum slope of 15% thereafter.

Lots proposed to be subdivided in both the Non-Urban (N.U) and Country Residential (C.R) zones are required to have frontage not less than one-tenth of the perimeter of the lot.

PLANNING ANALYSIS:

The Planning Department recommends that this application for rezoning be granted First and Second Reading as it represents a Rural Residential land use that is consistent with the land use designations and policies applicable to the subject property with the exception of the lot frontage of the proposed remainder lot. As proposed, the frontage of the proposed remainder lot would not meet the minimum lot frontage requirement of the Non-Urban (N.U) zone which is required to be not less than one-tenth of the perimeter of the lot. The applicant has not submitted the type of information that would be required to process a Lot Frontage Waiver Request and in this regard, the Planning Department's support for the proposed rezoning should not be interpreted as support for the subdivision proposal as submitted.

**Rezoning Application
13-0343-D-RZ (Hazeldine)**

Page 5

The proposed rezoning of a portion of the subject property from Non-Urban (N.U) to Country Residential (C.R) is consistent with the Official Community Plan land use designations which are Country Residential and Agricultural on the non-ALR and ALR portions respectively. A preliminary sketch of the proposed subdivision indicates two new lots of 2.96 and 3.58 ha are proposed within the area to be rezoned to Country Residential and a 7.46 ha remainder lot is proposed within the area to remain zoned Non-Urban (N.U). The 4.6 ha ALR portion of the subject property would be wholly contained within the proposed remainder lot and all three lots are proposed to have frontage on Brookfield Road.

The applicant has not submitted information to demonstrate that driveways and building sites can be provided in accordance with the Zoning Bylaw, however, the topography of the property should enable these requirements to be achieved.

The applicant has not submitted information on the proposed water supply other than to indicate that it would be provided by on-site wells and that an existing well is used to service a barn and a dwelling and to irrigate fields. The OCP suggests that an adequate water supply be proven to be available by a qualified professional prior to rezoning a property in an area that is known to have groundwater supply issues. In this regard, staff have reviewed the well logs submitted for Building Permits related to several dwellings that have been recently constructed in the immediate area and note that they demonstrate that the wells in the area are producing a minimum of 20 US gpm. Such capacity exceeds that which is required by the Regional District Subdivision Servicing Bylaw and as such, it is recommended that proof of water be deferred to subdivision stage.

SUMMARY:

The subject application proposes to rezone a portion of the property located at 171 Brookfield Road from Non-Urban (N.U) to Country Residential (C.R). If approved the applicant proposes to subdivide the property to create two additional lots within the proposed C.R zoned area and one remainder lot within the area proposed to remain zoned N.U. The Planning Department recommends that the proposed Zoning Amendment Bylaw be given First and Second Readings as the proposal represents a rural residential form of development that is consistent with the Official Community Plan policies and land use designations.

REFERRAL COMMENTS:

The application was referred for comments to the following:

1. **Electoral Area "D" Director**
2. **Electoral Area "D" Advisory Planning Commission**
3. **Electoral Area Advisory Committee**
4. **Ministry of Agriculture**
5. **Interior Health Authority**
6. **Lumby Fire Department**

Rezoning Application
13-0343-D-RZ (Hazeldine)

Page 6

7. Building Inspection Department

The Building Inspection Department has no concerns with this property with regard to bylaw enforcement or building issues.

8. Ministry of Transportation and Infrastructure

Preliminary Approval is granted for the rezoning for one year pursuant to section 52(3)(a) of the *Transportation Act*. Any and all items and requirements the Ministry may have will be dealt with at the subdivision stage.

9. Agricultural Land Commission

The ALC has no objection to the proposed subdivision of the subject property provided the ALR remainder (~4 ha) lies wholly within a single lot.

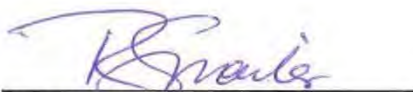
Submitted by:



Marnie Skobalski, MCIP, RPP
Planner

Approved For Inclusion:

Endorsed by:



Rob Smaltes, MCIP
General Manager, Planning and Building



Trafford Hall, Administrator



**REGIONAL DISTRICT
of
NORTH OKANAGAN**

REPORT

File No.: 13-0257-B-TA / 3060.03.03

TO: Board of Directors
FROM: Planning Department
DATE: February 24, 2014
SUBJECT: Zoning Text Amendment Bylaw No. 2606, 2013 [Medical Marihuana Production Facilities]

RECOMMENDATION:

That following consideration of comments received at the Public Hearing, Zoning Text Amendment Bylaw No. 2606, 2013, be considered for Third Reading.

DISCUSSION:

The Federal Government has enacted the new *Marihuana for Medical Purposes Regulations* to replace the current *Marihuana Medical Access Regulations* program. The new regulations will no longer authorize individuals to grow medical marihuana and will only authorize larger scale licensed producers. Stricter security, inspection and quality control measures will be required along with greater communication with local police, fire departments and local governments in addition to complying with Local Government bylaws. The Marihuana for Medical Purposes Regional implementation date is April 1, 2014.

This report relates to Zoning Text Amendment Bylaw No. 2606, 2013, which proposes to amend the Regional District of North Okanagan Zoning Bylaw No. 1888, 2003 to establish regulations related to medical marihuana production facilities. The amendment was considered by the Board of Directors at the Regular Meeting of November 20, 2013 at which time the Board gave Bylaw No. 2606 First Reading and referred the Bylaw to various internal and external agencies. On February 19, 2014, Zoning Text Amendment Bylaw No. 2606, 2013 was considered by the Board of Directors and was given Second Reading and the Board also resolved to forward the Bylaw to a Public Hearing.

The Public Hearing for the amendment and associated Bylaw has been advertised in the local newspapers, all in accordance with the Regional District Development Application Procedures and Administrative Fees Bylaw and the provisions of the *Local Government Act*.

The Planning Department recommends that upon consideration of comments received at the Public Hearing, Zoning Text Amendment Bylaw No. 2606, 2013, be considered for Third Reading. Following Third Reading, certain amendments are possible provided the use or density provisions are not changed. Bylaw No. 2606 must be forwarded to the Ministry of Transportation and Infrastructure for approval. Once endorsed by the Ministry, Bylaw No. 2606 can be considered for Adoption.

SUMMARY:

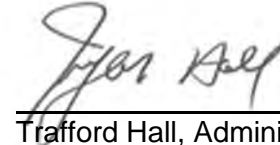
The Planning Department recommends that upon consideration of comments received at the Public Hearing, Zoning Text Amendment Bylaw No. 2606, 2013, be considered for Third Reading. Following Third Reading, the Bylaw must be forwarded to the Ministry of Transportation and Infrastructure for approval. Once endorsed by the Ministry, Bylaw No. 2606 can be considered for Adoption.

Submitted and Endorsed by:

Approved For Inclusion:



Rob Smailes, MCIP, RPP
General Manager, Planning and Building



Trafford Hall, Administrator

REGIONAL DISTRICT OF NORTH OKANAGAN

BYLAW No. 2606

A bylaw to amend the text of Zoning Bylaw No. 1888, 2003 to regulate medical marihuana production facilities.

WHEREAS pursuant to Section 903 [Zoning bylaws] of the *Local Government Act*, R.S.B.C., 1996, Chapter 323, as amended, and Regulations passed pursuant thereto, the Board of the Regional District of North Okanagan may, by Bylaw, divide the whole or part of the Regional District into zones, name each zone, establish boundaries for the zones and regulate uses within those zones;

AND WHEREAS the Board has created zones, named each zone, established boundaries for these zones and regulated uses within those zones by Bylaw No. 1888, being the "*Regional District of North Okanagan Zoning Bylaw No. 1888, 2003*" and amendments thereto

AND WHEREAS the Board is desirous to amend the Zoning Bylaw to regulate Medical Marihuana Production Facilities;

NOW THEREFORE, the Board of Directors of the Regional District of North Okanagan, in open meeting assembled, enacts as follows:

A. CITATION

This Bylaw may be cited as the "**Zoning Bylaw Text Amendment No. 2606, 2013**".

B. AMENDMENTS

1. Division Two – Interpretation of the Regional District of North Okanagan Zoning Bylaw No. 1888, 2003 is hereby amended by adding the following definitions:

"Marihuana" means all parts of the genus cannabis whether growing or not and the seed or clone of such plants.

"Medical Marihuana Production Facility" means a facility, licensed by the Federal Government under the *Marihuana for Medical Purposes Regulation* used solely for the production, manufacturing, processing, testing, packaging, and shipping of marihuana and marihuana products for medical purposes.

2. Division Three – Basic Provisions of the Regional District of North Okanagan Zoning Bylaw No. 1888, 2003 is hereby amended by adding Section 306.9 as follows:

Medical marihuana production facilities or grow operations except as explicitly permitted under the provisions of this bylaw.

3. Division Six – Industrial Zones of the Regional District of North Okanagan Zoning Bylaw No. 1888, 2003 is hereby amended by amending Section 601.1.f as follows:

...manufacturing and processing, ***including medical marihuana production facilities***, provided that they do not create fire, explosion, or safety hazards; noise in excess of average intensity of street and traffic noise in the area in question; emit smoke, dust, dirt, toxic, or offensive odours or gas; and there is no production of heat or glare perceptible from any lot line of the site on which the use is located...

4. Division Six – Industrial Zones of the Regional District of North Okanagan Zoning Bylaw No. 1888, 2003 is hereby amended by adding Section 601.10.j. as follows:

A medical marihuana production facility will not be permitted on lots smaller than 1.0 ha (2.47 acres).

5. Division Six – Industrial Zones of the Regional District of North Okanagan Zoning Bylaw No. 1888, 2003 is hereby amended by adding Section 601.10.k. as follows:

A medical marihuana production facility shall be a mutually exclusive use to the property; no other use shall be permitted on a property where a medical marihuana production facility is sited. A medical marihuana production facility must be sited a minimum of 7.5 metres from all property lines and where the property is adjacent to a residential or rural use, buildings must be sited a minimum of 30 metres from the property line.

6. Division Six – Industrial Zones of the Regional District of North Okanagan Zoning Bylaw No. 1888, 2003 is hereby amended by adding Section 602.10.j. as follows:

A medical marihuana production facility will not be permitted on lots smaller than 1.0 ha (2.47 acres).

7. Division Six – Industrial Zones of the Regional District of North Okanagan Zoning Bylaw No. 1888, 2003 is hereby amended by adding Section 602.10.k. as follows:

A medical marihuana production facility shall be a mutually exclusive use to the property; no other use shall be permitted on a property where a medical marihuana production facility is sited. A medical marihuana production facility must be sited a minimum of 7.5 metres from all property lines and where the property is adjacent to a residential or rural use, buildings must be sited a minimum of 30 metres from the property line.

8. Division Six – Industrial Zones of the Regional District of North Okanagan Zoning Bylaw No. 1888, 2003 is hereby amended by adding Section 603.10.j. as follows:

A medical marihuana production facility will not be permitted on lots smaller than 1.0 ha (2.47 acres).

9. Division Six – Industrial Zones of the Regional District of North Okanagan Zoning Bylaw No. 1888, 2003 is hereby amended by adding Section 603.10.k. as follows:

A medical marihuana production facility shall be a mutually exclusive use to the property; no other use shall be permitted on a property where a medical marihuana production facility is sited. A medical marihuana production facility must be sited a minimum of 7.5 metres from all property lines and where the property is adjacent to a residential or rural use, buildings must be sited a minimum of 30 metres from the property line.

10. Division Six – Industrial Zones of the Regional District of North Okanagan Zoning Bylaw No. 1888, 2003 is hereby amended by adding Section 604.1.i. as follows:

Medical marihuana production facilities, provided that they do not create fire, explosion, or safety hazards; noise in excess of average intensity of street and traffic noise in the area in question; emit smoke, dust, dirt, toxic, or offensive odours or gas; and there is no production of heat or glare perceptible from any lot line of the site on which the use is located.

11. Division Six – Industrial Zones of the Regional District of North Okanagan Zoning Bylaw No. 1888, 2003 is hereby amended by adding Section 604.7.h. as follows:

A medical marihuana production facility will not be permitted on lots smaller than 1.0 ha (2.47 acres).

12. Division Six – Industrial Zones of the Regional District of North Okanagan Zoning Bylaw No. 1888, 2003 is hereby amended by adding Section 604.7.i. as follows:

A medical marihuana production facility shall be a mutually exclusive use to the property; no other use shall be permitted on a property where a medical marihuana production facility is sited. A medical marihuana production facility must be sited a minimum of 7.5 metres from all property lines and where the property is adjacent to a residential or rural use, buildings must be sited a minimum of 30 metres from the property line.

13. Division Eight – Rural Zones of the Regional District of North Okanagan Zoning Bylaw No. 1888, 2003 is hereby amended by adding Section 802.1.t. as follows:

Medical Marihuana Production Facilities, subject to the provisions of 802.10.m. of this Bylaw.

14. Division Eight – Rural Zones of the Regional District of North Okanagan Zoning Bylaw No. 1888, 2003 is hereby amended by adding Section 802.10.m. as follows:

Medical Marihuana Production Facilities

Medical marihuana production facilities shall only be permitted on lands with a minimum lot size of 8.0 ha (19.77 acres) within the Agricultural Land Reserve, subject to the setbacks of Schedule G of this bylaw and provided that these facilities do 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.

15. Division Eight – Rural Zones of the Regional District of North Okanagan Zoning Bylaw No. 1888, 2003 is hereby amended by adding Section 803.1.u. as follows:

Medical Marihuana Production Facilities, subject to the provisions of 803.10.n. of this Bylaw.

16. Division Eight – Rural Zones of the Regional District of North Okanagan Zoning Bylaw No. 1888, 2003 is hereby amended by adding Section 803.10.n. as follows:

Medical Marihuana Production Facilities

Medical marihuana production facilities shall only be permitted on lands with a minimum

lot size of 8.0 ha (19.77 acres) within the Agricultural Land Reserve, subject to the setbacks of Schedule G of this bylaw and provided that these facilities do 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.

17. Division Eight – Rural Zones of the Regional District of North Okanagan Zoning Bylaw No. 1888, 2003 is hereby amended by adding Section 804.1.u. as follows:

Medical Marihuana Production Facilities, subject to the provisions of 804.10.o. of this Bylaw.

18. Division Eight – Rural Zones of the Regional District of North Okanagan Zoning Bylaw No. 1888, 2003 is hereby amended by adding Section 804.10.o. as follows:

Medical Marihuana Production Facilities

Medical marihuana production facilities shall only be permitted on lands with a minimum lot size of 8.0 ha (19.77 acres) within the Agricultural Land Reserve, subject to the setbacks of Schedule G of this bylaw and provided that these facilities do 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.

19. Division Eleven – Off Street Parking, Schedule “B” of the Regional District of North Okanagan Zoning Bylaw No. 1888, 2003 is hereby amending Section 1101.3. Schedule of Parking Requirements to include:

Uses	Minimum Number of Parking Spaces Required
Medical Marihuana Production Facilities	1.5 per 100 m ² (1076 square feet) gross floor area

20. Division Sixteen – Agriculture Setbacks of the Regional District of North Okanagan Zoning Bylaw No. 1888, 2003 is hereby amended by amending Table 1: Minimum Setbacks From Lot Lines – Principle Farm Buildings, Structures and Areas, Row 1, Column 4: Dog Kennels, Livestock, Poultry, Game & Fur as follows:

Dog Kennels, Livestock, Poultry, Game & Fur, **Medical Marihuana** (barns, brooder houses, confined livestock areas, **medical marihuana production facilities** fur farming sheds, hatcheries, kennels, livestock shelters, milking facilities, indoor and outdoor riding arenas & stables)

21. Division Sixteen – Agriculture Setbacks of the Regional District of North Okanagan Zoning Bylaw No. 1888, 2003 is hereby amended by amending Table 2: Minimum Setbacks From Lot Lines – Residential Zones – Accessory Farm Buildings, Structures and Areas, Row 1, Column 4: Livestock, Poultry, Game & Fur as follows:

Livestock, Poultry, Game & Fur, **Medical Marihuana**

22. Division Sixteen – Agriculture Setbacks of the Regional District of North Okanagan Zoning Bylaw No. 1888, 2003 is hereby amended by amending Table 3: Minimum Setbacks From Lot Lines – Other Than Residential Zones – Accessory Farm Buildings, Structures and Areas, Row 1, Column 4: Dog Kennels, Livestock, Poultry, Game & Fur as follows:

Livestock, Poultry, Game & Fur, **Medical Marihuana**

23. Division Sixteen – Agriculture Setbacks of the Regional District of North Okanagan Zoning Bylaw No. 1888, 2003 is hereby amended by amending Table 4: Building and Facilities Setbacks from Watercourses for Riparian Protection in Farming Areas, Row 2, Column 4: Category 3:

Medical Marihuana Production Facility

Read a First Time	this	20th	day of	November	,	2013
Read a Second Time, as amended	this	19th	day of	February	,	2014
Advertised on	this		day of		,	2014
	this		day of		,	2014
Public Hearing held pursuant to the provisions of Section 890 of the <i>Local Government Act</i>	this		day of		,	2014
Read a Third Time	this		day of		,	2014
Approved by Minister of Transportation and Infrastructure <i>(Transportation Act s. 52(3))</i>	this		day of		,	2014

ADOPTED	this		day of		,	2014
----------------	------	--	--------	--	---	------

Chair

Corporate Officer



**REGIONAL DISTRICT
of
NORTH OKANAGAN**

REPORT

File No.: 13-0257-B-TA / 3060.03.03

TO: Board of Directors
FROM: Planning Department
DATE: February 11, 2014
SUBJECT: Zoning Text Amendment Bylaw No. 2606, 2013 [Medical Marihuana Production Facilities]

RECOMMENDATION:

That Zoning Text Amendment Bylaw No. 2606, 2013, which proposes to amend the Regional District of North Okanagan Zoning Bylaw No. 1888, 2003 to establish regulations related to medical marihuana production facilities, be amended to include provisions which:

1. Prohibit medical marihuana production facilities as a Home Occupation;
2. Prohibit medical marihuana production facilities within Commercial, Residential, and Rural Zones outside of the Agricultural Land Reserve; and
3. Establish setbacks and minimum parcel size standards in both the Agricultural Land Reserve and Industrial Zones; and further,

That Zoning Text Amendment Bylaw No. 2606, 2013, be amended to include the following:

1. Amend Section 601 – Light Industrial (I.1) of Zoning Bylaw No. 1888 by adding Section 601.10.j. as follows: A medical marihuana production facility will not be permitted on lots smaller than 1.0 ha (2.47 acres);
2. Amend Section 601 – Light Industrial (I.1) of Zoning Bylaw No. 1888 by adding Section 601.10.k. as follows: A medical marihuana production facility shall be a mutually exclusive use to the property; no other use shall be permitted on a property where a medical marihuana production facility is sited. A medical marihuana production facility must be sited a minimum of 7.5 metres from all property lines and where the property is adjacent to a residential or rural use, buildings must be sited a minimum of 30 metres from the property line;
3. Amend Section 602 – General Industrial (I.2) of Zoning Bylaw No. 1888 by adding Section 602.10.j. as follows: A medical marihuana production facility will not be permitted on lots smaller than 1.0 ha (2.47 acres);
4. Amend Section 602 – General Industrial (I.2) of Zoning Bylaw No. 1888 by adding Section 602.10.k. as follows: A medical marihuana production facility shall be a mutually exclusive use to the property; no other use shall be permitted on a property where a medical marihuana production facility is sited. A medical marihuana production facility must be sited a minimum of 7.5 metres from all property lines and where the property is adjacent to a residential or rural use, buildings must be sited a minimum of 30 metres from the property line;
5. Amend Section 603 – Industrial Park (I.3) of Zoning Bylaw No. 1888 by adding Section 603.10.j. as follows: A medical marihuana production facility will not be permitted on lots smaller than 1.0 ha (2.47 acres);
6. Amend Section 603 – Industrial Park (I.3) of Zoning Bylaw No. 1888 by adding Section 603.10.k. as follows: A medical marihuana production facility shall be a mutually exclusive use

to the property; no other use shall be permitted on a property where a medical marihuana production facility is sited. A medical marihuana production facility must be sited a minimum of 7.5 metres from all property lines and where the property is adjacent to a residential or rural use, buildings must be sited a minimum of 30 metres from the property line;

7. Amend Section 604 – Agricultural Industrial (I.4) of Zoning Bylaw No. 1888 by adding Section 604.7.h. as follows: A medical marihuana production facility will not be permitted on lots smaller than 1.0 ha (2.47 acres);
8. Amend Section 604 – Agricultural Industrial (I.4) of Zoning Bylaw No. 1888 by adding Section 604.7.i. as follows: A medical marihuana production facility shall be a mutually exclusive use to the property; no other use shall be permitted on a property where a medical marihuana production facility is sited. A medical marihuana production facility must be sited a minimum of 7.5 metres from all property lines and where the property is adjacent to a residential or rural use, buildings must be sited a minimum of 30 metres from the property line; and further,

That Zoning Text Amendment Bylaw No. 2606, 2013, be amended as follows:

1. Remove proposed Amendment 3;
2. Amend proposed Amendment 7 by including the provision "...with a minimum lot size of 8.0 ha (19.77 acres)..." following the words "...shall only be permitted on lands...";
3. Amend proposed amendment 9 by including the provision "...with a minimum lot size of 8.0 ha (19.77 acres)..." following the words "...shall only be permitted on lands...";
4. Amend proposed amendment 11 by including the provision "...with a minimum lot size of 8.0 ha (19.77 acres)..." following the words "...shall only be permitted on lands..."; and further,

That Zoning Text Amendment Bylaw No. 2606, 2013 be given Second Reading, as amended, and be referred to Public Hearing.

DISCUSSION:

On December 16, 2012, Health Canada announced changes to Federal Legislation regarding the production and distribution of marihuana for medical purposes. The new regulations will no longer authorize individuals to grow medical marihuana and will only authorize larger scale licensed producers. Stricter security, inspection and quality control measures will be required along with greater communication with local police, fire departments and local governments. As well, these facilities must comply with all applicable federal, provincial and local government legislation, regulations and bylaws, including land use bylaws. In this regard, the *Marihuana for Medical Purposes Regulations* are proposed to become fully implemented by April 1, 2014.

In response to the changes in medical marihuana regulations and the associated land use implications, Regional District staff presented Zoning Text Amendment Bylaw No. 2606, 2013 to the Electoral Area Advisory Committee on November 7, 2013 for consideration. Bylaw No. 2606, 2013 proposed the following amendments to Zoning Bylaw 1888, 2003:

1. Create a new definition for Marihuana and Medical Marihuana Production Facilities;
2. Include Medical Marihuana Production Facilities as a permitted use on properties:
 - a) Within the Agricultural Land Reserve (ALR) in rural Zones (C.R., N.U. and L.H) subject to the facility meeting agricultural setback requirements;
 - b) Within Industrial Zones including Light Industrial (I.1), General Industrial (I.2), Industrial Park (I.3) and Agricultural Industrial (I.4) Zones;
 - c) Subject to the provisions of Home Occupation Use, potentially as a Home Occupation use; and,
3. Prohibit Medical Marihuana Production Facilities in all other zones, unless otherwise permitted.

At the regular meeting of November 20, 2013, the Board of Directors, passed the following resolution:

“That Zoning Text Amendment Bylaw No. 2606, 2013, which proposes to amend Regional District of North Okanagan Zoning Bylaw No. 1888, 2003 to establish regulations related to medical marihuana production facilities, be given First Reading; and further,

That Zoning Text Amendment Bylaw No. 2606, 2013 be referred to legal counsel, internal departments (including Fire Departments), Agricultural Land Commission, the Royal Canadian Mounted Police, Health Canada and other various agencies for review and comment prior to consideration of Second Reading.”

Zoning Text Amendment Bylaw No. 2606 was referred to the following agencies on November 26, 2013: Agricultural Land Commission; Ministry of Agriculture; Interior Health Authority; Ministry of Transportation and Infrastructure; Building Inspection Department; Regional Agricultural Advisory Committee; Health Canada; Regional Fire Protection; BX/Swan Lake Fire Department and Royal Canadian Mounted Police – Vernon Detachment.

At the regular meeting of January 16, 2014, staff requested the Electoral Area Advisory Committee consider appropriate land uses for medical marihuana production within their respective jurisdictions and provide comments to staff.

REFERRAL COMMENTS:

Ministry of Agriculture:

The Ministry identified several comments and recommendations for consideration, including:

- The Ministry has not established Minister’s Bylaw Standards for Medical Marihuana, as of January 16, 2014;
- The Ministry has indicated that a 60 meter setback from residential zoned priorities is not consistent with “Guide to Bylaw Development in Farming Areas”, updated October 2013. The Ministry has indicated that overly restrictive setbacks can reduce farm use viability on individual properties and recommended that maximum building setbacks of 15 to 30 meters from the property boundary be considered. The Ministry is of the opinion that impacts associated with marihuana production facilities can be addressed through Health Canada requirements;
- The Ministry recommends that the Regional District alter the proposed 15 meter setback from streams be included within the Bylaw, which is consistent with the above mentioned Guide;
- Setbacks from residential areas are not included within the above noted Bylaw Guide except where edge planning is used on both sides of the ALR boundary. The Ministry recommends that the Regional District consider implementing the “Edge Planning Farm Bylaw Standard” should a setback be proposed that is more restrictive than permitted by the above mentioned Guide;
- If minimum lot sizes are used, then they should not be so large that they are prohibitive;
- The Ministry has requested that the Regional District review and update Schedule ‘J’ of the Zoning Bylaw to reflect the setbacks established in the “Guide to Bylaw Development for Farming Areas”, updated October 2013¹;
- Parking requirements should not apply to agricultural buildings, including medical marihuana production facilities, on agricultural lands;

¹ Note: The Bylaw identifies a setback of 30 metres from lot lines.

- Screening and landscaping guidelines, if they apply outside of Industrial zones, may have consequences to the viability of agriculture. The Ministry has also indicated that the screening and landscaping provisions of the Bylaw may be in conflict with Health Canada requirements; and,
- The Ministry has requested that the Regional District consider the “Guide to Edge Planning” that employ vegetative buffers as a tool to promote land use compatibility together with other tools for development along the Urban-ALR boundary.

Agricultural Land Commission:

The ALR has no objection to Bylaw No. 2606, 2013 and has noted that through regulation, such as setbacks from adjacent property lines, medical marihuana growing and processing facilities are permitted in the ALR.

Regional Agricultural Advisory Committee:

The Regional Agricultural Advisory Committee provided the following comments on January 23, 2014:

- Consider minimum parcel sizes for agricultural properties/uses;
- Federal requirements of the construction of these buildings;
- Scale of the facilities is similar to larger agricultural buildings;
- Requirements of the Agricultural Land Commission regarding medical marihuana as a permitted use;
- Similarities between medical marihuana and other intensive agricultural uses;
- Identified the importance of setbacks within siting these facilities;
- How can these facilities be returned to farm land once the use is discontinued; and,
- Concerns regarding light pollution on adjacent properties.

Electoral Area Directors:

At the regular meeting of January 16, 2014, staff requested the Electoral Area Directors provide comments regarding Bylaw No. 2606, 2013. The following comments of preferences have been received as of February 4, 2014:

- Three Electoral Area Directors (“B”, “C” and “F”) suggested that “medical marihuana production facility” be a prohibited use under “home occupation”;
- Four Electoral Area Directors (“B”, “C”, “D”, and “F”) suggested that the Regional District restrict “medical marihuana production facility” as a permitted use within the ALR through parcel size, with a suggested minimum parcel sizes ranging from 2.0 ha to 8.0 ha;
- The Electoral Area Directors also commented that consideration be given to the following additional restrictions:
 - Prohibition in Country Residential (C.R.) Zone;
 - Add medical marihuana odour to RDNO Nuisance Bylaw;
 - Public input prior to approval;
 - Requirement for Proof of Federal license;
 - Requirement for emergency plan for fire/protocol for disposal of chemicals; and,
 - Restrict Business Licenses to medical marihuana production facilities.

While some of the considerations that the Electoral Area Directors have identified are outside of the scope the Zoning Bylaw may address, staff could be directed to investigate mechanisms for addressing some of these non-Zoning Bylaw concerns.

Interior Health Authority:

The Interior Health Authority (IHA) commented they recognize that zoning bylaws do not normally prescribe specific operating standards for land uses; however local governments can define where industrial or agricultural operations are located and how they are serviced, including liquid and solid waste management.

IHA notes that federal legislation establishes best practices, although Health Canada has indicated that these practices may not be adequate to contain all odours from an operation. As a result, IHA strongly encourages that, whenever possible, medical marihuana operations are located away from residential areas to avoid creating a potential nuisance.

IHA has requested that the Regional District consider a good cross connection prevention program for medical marihuana facilities, which may involve the use and storage of chemical fertilizers and pesticides, to protect drinking water from contamination.

Health Canada:

Health Canada commented they are committed to working with local governments to ensure a smooth transition to the new system of licensed producers and, although the *Marihuana for Medical Purposes Regulation* does not include zoning requirements, Health Canada has confirmed that licensed producers must comply with all federal, provincial and local laws and bylaws, including zoning bylaws.

Royal Canadian Mounted Police – Vernon Detachment:

The Royal Canadian Mounted Police (RCMP) commented they have concerns regarding the Home Occupation provisions and minimum lot size provisions of Bylaw No. 2606. The RCMP believe that there are additional health and community safety risks associated with medical marihuana production facilities and that these facilities may pose greater risks to neighbours if permitted on 2.0 hectare parcels.

The RCMP is concerned that the Regional District does not currently have a requirement for Business Licenses within the Electoral Areas, which would provide a local government mechanism to regulate the operation of medical marihuana production facilities with regard to conformance with local bylaws.

Although the proposed Bylaw states that “these facilities do not discharge or emit odorous, toxic or noxious matter or vapor, heat, glare or radiation, recurrently generated ground vibration, noise in excess of ambient noise at the property boundary; electrical interference; or any other health and safety hazards”, the RCMP have indicated that the Regional District does not have provisions in the Bylaw to provide authority to enter premises for the purpose of conducting inspections to ensure that the facility is compliant and/or to levy fines to ensure compliance.

The RCMP requested that the Regional District consider developing a Business License Bylaw which would provide a mechanism to regulate the operation of medical marihuana production facilities.

The RCMP has identified the generation of a great deal of plant material in the production of medical marihuana as a concern and has requested clarification how those wastes will be dealt with by the Regional District.

Ministry of Transportation and Infrastructure:

The Ministry commented they have granted Preliminary Approval for one year for proposed Bylaw No. 2606, 2013, pursuant to Section 52(3)(a) of the *Transportation Act*. The Ministry is required to endorse Bylaw 2606 prior to Adoption by the Board of Directors.

Building Department:

The Building Department has indicated that the *Marihuana for Medical Purposes Regulations* should pose no problems with regard to compliance with Regional District Building Bylaw regulations and the *B.C. Building Code*. The Building Department has indicated the following concerns regarding regulatory enforcement of the proposed zoning regulations.

Where a Building Permit is required and issued for new buildings or alternations to existing buildings, it may be a challenge to enforce a prohibition of offensive odour generation, especially when odours have been shown to be prevalent to marihuana grow operations. It is reasonable to assume that small lot industrial zones will be most negatively impacted by a malodorous use. The Building Department has requested that more prescriptive requirements for odour control for proposed medical marihuana production facilities be considered.

The Building Department noted that, according to Building Standards in Victoria, medical marihuana production facilities are classified as low hazard industrial buildings (F3 occupancies) under the *B.C. Building Code*. Most buildings located in the ALR are classified as farm buildings under the *B.C. Building Code* and changing the occupancy of these buildings to F3 industrial use would trigger the need for a building permit under the Regional District's Building Bylaw. Most existing agricultural buildings would require alterations if used to produce medical marihuana to comply with the *B.C. Building Code*. Basic life safety features such as exits, emergency lighting, exit signage and ventilation would be required to meet code compliance.

ANALYSIS:

The proposed amendments to Bylaw No. 2606 will further clarify the Regional District's land use approach to addressing the implementation of the *Marihuana for Medical Purposes Regulation*, which include the following:

1. Clarifying the type of use under which a medical marihuana production facility will be permitted;
2. Identifying appropriate zones for the location of medical marihuana production facilities; and,
3. Clarifying appropriate regulations within the zones for medical marihuana production facilities.

Medical marihuana production is often associated with odorous or unpleasant emissions, glare, noise, and vibration and community safety concerns. These facilities require a large amount of indoor space for growing, cultivating, drying, packaging and distributing marihuana for medical purposes.

The RCMP, Interior Health Authority, Electoral Area Directors and Building Department have identified odorous emissions as a nuisance issue that will need to be further addressed within the proposed Bylaw to reduce the impact on adjacent properties, including those zoned residential, rural,

commercial or industrial. IHA commented, they are of the opinion, which was confirmed by Health Canada, that established best practices² may not be adequate to contain all odours from an operation.

The proposed amendments to Bylaw No. 2606 will attempt to address these concerns through careful siting and minimum parcel size. Other efforts may also be required through other regulatory bylaws.

Agricultural Land Reserve:

The Agricultural Land Commission (ALC) provided further clarification, through an Information Bulletin updated in January 2014, on local government regulation of medical marihuana production facilities within the ALR. The Information Bulletin, attached to this report, specified that "...zoning bylaws enacted by municipalities may set out restrictions on land use, including but not limited to the use of land for medical marihuana production. Where such restrictions may apply to land within the ALR, such restrictions with respect to the particular land use of lawfully sanctioned medical marihuana production would not in and of themselves be considered as inconsistent with the *ALC Act*."

The Ministry of Agriculture and the ALC have indicated that regulation of medical marihuana production facilities through minimum parcel size is possible, on the condition that minimum parcel size is not overly prohibitive, with the caution that the establishment of minimum ALR parcel sizes that restrict farm uses may result in legal challenge by a landowner. The Regional District may chose to establish a minimum parcel size within the ALR to minimize medical marihuana production facility impacts on adjacent parcels, especially residential or institutional properties.

Health Canada has indicated that the federally established 'best practices' may not adequately contain all odours from an operation and therefore there may be a reoccurring nuisance impact on adjacent properties.

The Ministry of Agriculture has indicated that a 60 meter setback from Residential zoned properties is not consistent with the updated "Guide to Bylaw Development in Farming Areas (October 2013)" and should be reconsidered.

To limit impacts associated with offensive odours, noise and vibration, Bylaw No. 2606 proposes that buildings used to house medical marihuana production facilities be setback 30 m from adjacent Rural, Commercial and Industrial zoned properties, 60 m from Residential zoned properties and 15 m from natural streams. Such setbacks would be consistent with setback requirements associated with dog kennels and buildings that house livestock and poultry in Schedule "J".

Based upon the comments received from the RCMP, IHA and Building Department regarding the difficulty containing odorous emission nuisances from these operations, Staff recommend that the proposed building setbacks be maintained and potential revisions of Schedule "J" be included within the next Zoning Bylaw Review.

Due to concerns from the Interior Health Authority, RCMP and Building Department regarding the close proximity of these facilities to residential neighborhoods and small lot rural properties, such as properties zoned Small Holding (S.H.), staff recommend that medical marihuana production facilities only be permitted on Rural Zoned properties within the ALR (properties zoned Country Residential (C.R.), Large Holdings (L.H.) and Non-Urban (N.U.)) which are equal to or greater than 8 ha (19.77

² Health Canada (2013) Guidance Document: Building and Production Security Requirements for Marihuana for Medical Purposes (Pub: 130083), Controlled Substances and Tobacco Directorate, Healthy Environments and Consumer Safety Branch, June 2013.

acres). The use would be prohibited on ALR parcels with a lot area less than 8 ha. This approach is consistent with the comments received from the Electoral Area Directors and the approach taken by some other jurisdictions (i.e. Thompson-Nicola Regional District).

Staff have identified there are 1,441 parcels which are located within the ALR and are equal to or greater than 8.0 ha in the Electoral Areas. Table 1 provides an overview of the number of ALR parcels \geq 8.0 ha by Electoral Area.

Table 1: Number of Electoral Areas' ALR Properties \geq 8.0 ha

Area Name	# Private Parcels	# Parcels Partially or Within ALR	
		Total	\geq 8.0 ha
Electoral Area "B"	1378	614	103
Electoral Area "C"	1903	689	26
Electoral Area "D"	1441	930	487
Electoral Area "E"	714	414	135
Electoral Area "F"	2350	1144	390
Electoral Area (TOTAL)	7786	3791	1141

Appendix "A" shows the distribution of parcels that have a minimum parcel size of 8.0 ha located in the ALR.

In summary, staff recommends Bylaw. No. 2606 be amended to include a provisions to only permit medical marihuana production facilities on Rural Zoned properties within the ALR (properties zoned Country Residential (C.R.), Large Holdings (L.H.) and Non-Urban (N.U.)) which are equal to or greater than 8 ha (19.77 acres).

Industrial:

Based upon the comments received, staff reviewed the Industrial zones and recommend that a minimum lot size of 1.0 ha be applied to the use of medical marihuana production facilities to minimize the potential for odorous nuisance on adjacent properties, especially rural and residential properties. The majority of Light Industrial (I.1) zoned parcels, especially within the Swan Lake Corridor, are small (under 1.0 hectares) and adjacent to properties zoned Residential (R.1), Country Residential (C.R.) or Small Holdings (S.H.). These properties, based upon parcel size and setback from adjacent lots, may be inappropriate for the location of medical marihuana production facilities. A minimum lot size of 1.0 ha is proposed to reduce the probability of nuisance caused by odorous emissions, vibration, noise and glare.

Based on a cursory review, staff have identified 21 Industrial zoned properties which are larger than 1.0 ha in size. The properties are as follows:

- Swan Lake Corridor (Electoral Area "B") – two I.2 zoned properties that are at the north end of Swan Lake, adjacent to the Township of Spallumcheen boundary;
- Greater Lumby Industrial Park (Electoral Area "D") – nine I.2 zoned properties within the Industrial Park currently used by Tolko Industries;
- Whitevale Road (Electoral Area "D") – one I.4 zoned property currently used by the North Okanagan Gleaners Society;
- Lumby Mabel Lake Road (Electoral Area "D") – one I.4 zoned property located north of Lumby;

- North of Enderby (Electoral Area “F”) – two 1.2 properties that are currently used by North Enderby Timber;
- Ashton Creek (Electoral Area “F”) – three 1.2 zoned properties that are to the southeast of the unincorporated community of Ashton Creek; and,
- Grindrod (Electoral Area “F”) – one 1.2 zoned property to the south of the unincorporated community of Grindrod and two 1.4 zoned properties one located on Monks Road and the other located on Enderby Grindrod Road.

Staff recommend amending Bylaw No. 2606 to establish a minimum lot size of 1.0 ha in all Industrial zones as a requirement for allowing medical marihuana production facilities as a permitted use.

IHA, RCMP and the Building Department have expressed concerns regarding nuisance impacts on adjacent residential, commercial and industrial properties from the emissions of medical marihuana production facilities, especially when sited on small (less than 2.0 ha) industrially zoned properties. IHA has requested that these facilities be placed as far away from residential properties as possible.

The majority of small (1.0-2.0 ha) Industrially Zoned properties are located with residential or commercial areas and have a limited buildable footprint to accommodate a facility, in comparison with the proposed 8.0 ha minimum lot size for facilities located within the ALR.

To accommodate this use through appropriate siting, with consideration of the concerns expressed, staff recommend that buildings are established with setbacks of 7.5 metres from the property line and 30 meter setbacks from residential or rural properties. As well, staff recommend that, due to the extensive security requirements of these facilities and in an effort to minimizing nuisance impacts on adjacent businesses, medical marihuana production facilities be a mutually exclusive use on an industrial property.

In conclusion, staff recommends the following additional requirements for medical marihuana production facilities within Industrial zones:

1. A minimum lot size of 1.0 ha for Industrially Zoned properties;
2. Buildings must be sited a minimum of 7.5 metres from all property lines and where the property is adjacent to a property zoned residential or rural, buildings must be sited a minimum of 30 metres from the property line; and,
3. A medical marihuana production facility shall be a mutually exclusive use to the property; no other use shall be permitted on a property where a medical marihuana production facility is sited.

Home Occupation:

In response to RCMP community health and safety concerns, IHA and Building Department nuisance concerns and direction provided by the Electoral Area Directors, the proposed home occupation amendment to Bylaw No. 2606 would specifically prohibit medical marihuana production facilities as a home occupation.

Business License Considerations:

Based upon the comments received by the Building Department and the RCMP, the Board could also consider establishing a Business License Bylaw for some or all Electoral Areas to provide additional regulatory authority over medical marihuana production facilities and other businesses. A Business License Bylaw could provide the regulatory tools regarding other restrictions or considerations

identified by the Electoral Area Directors. Should the Directors wish to investigate this further, staff could be directed to further explore Electoral Area Business License Bylaw options.

Assessment Considerations:

BC Assessment authority has indicated that the property assessment for the manufacture and production of a medical marihuana production facilities would be under Assessment Class 9 Farm Class, regardless of actual zoning.

Waste Considerations:

The RCMP has requested clarification on how the Regional District will address waste materials generated by a medical marihuana production facility.

All waste cannabis material from a medical marihuana production facility is considered to be a controlled substance with the exception of mature cannabis stalks that do not include leaves, flowers, branches or seeds; and fibers derived from the stalks as well as any non-viable cannabis seeds as per Schedule II of the *Controlled Drugs and Substances Act* (CDSA). Waste cannabis material that is a controlled substance must be secured in accordance with the CDSA and as outlined in Health Canada's Directive on Physical Security Requirements for Controlled Substances (Security Directive) until destroyed. Chemical fertilizers, pesticides and other hazardous and explosive materials may be produced as waste and would require disposal as well. RDNO waste facilities accept and disposes of waste materials that conform with Municipal Solid Waste Management Bylaw (No. 2572, 2013).

Although the Regional District can dispose of some of the wastes generated by a medical marihuana production facility, a facility owner would need to pursue appropriate private disposal options for substances which are prohibited material under Bylaw No. 2572 (i.e. explosive or hazardous wastes) or labeled a controlled substance under the CDSA.

SUMMARY:

The Federal Government has enacted the new *Marihuana for Medical Purposes Regulations* to replace the current *Marihuana Medical Access Regulations* program. The new regulations will no longer authorize individuals to grow medical marihuana and will only authorize larger scale licensed producers. Stricter security, inspection and quality control measures will be required along with greater communication with local police, fire departments and local governments in addition to complying with Local Government bylaws.

Based upon the recommendations within the report, Staff recommend that Zoning Text Amendment Bylaw No. 2606, 2013, be amended to include provisions which:

1. Prohibit medical marihuana production facilities as a permitted use as a Home Occupation;
2. Prohibit medical marihuana production facilities as a permitted use within Commercial, Residential, and Rural Zones outside of the Agricultural Land Reserve; and
3. Establish setbacks and minimum parcel size standards in both the Agricultural Land Reserve and Industrial Zones.

Specifically, Staff recommend that Zoning Text Amendment Bylaw No. 2606, 2013, be amended by including the following:

1. Amend Section 601 – Light Industrial (I.1) of Zoning Bylaw No. 1888 by adding Section 601.10.j. as follows: A medical marihuana production facility will not be permitted on lots smaller than 1.0 ha (2.47 acres);

2. Amend Section 601 – Light Industrial (I.1) of Zoning Bylaw No. 1888 by adding Section 601.10.k. as follows: A medical marihuana production facility shall be a mutually exclusive use to the property; no other use shall be permitted on a property where a medical marihuana production facility is sited. A medical marihuana production facility must be sited a minimum of 7.5 metres from all property lines and where the property is adjacent to a residential or rural use, buildings must be sited a minimum of 30 metres from the property line;
3. Amend Section 602 – General Industrial (I.2) of Zoning Bylaw No. 1888 by adding Section 602.10.j. as follows: A medical marihuana production facility will not be permitted on lots smaller than 1.0 ha (2.47 acres);
4. Amend Section 602 – General Industrial (I.2) of Zoning Bylaw No. 1888 by adding Section 602.10.k. as follows: A medical marihuana production facility shall be a mutually exclusive use to the property; no other use shall be permitted on a property where a medical marihuana production facility is sited. A medical marihuana production facility must be sited a minimum of 7.5 metres from all property lines and where the property is adjacent to a residential or rural use, buildings must be sited a minimum of 30 metres from the property line;
5. Amend Section 603 – Industrial Park (I.3) of Zoning Bylaw No. 1888 by adding Section 603.10.j. as follows: A medical marihuana production facility will not be permitted on lots smaller than 1.0 ha (2.47 acres);
6. Amend Section 603 – Industrial Park (I.3) of Zoning Bylaw No. 1888 by adding Section 603.10.k. as follows: A medical marihuana production facility shall be a mutually exclusive use to the property; no other use shall be permitted on a property where a medical marihuana production facility is sited. A medical marihuana production facility must be sited a minimum of 7.5 metres from all property lines and where the property is adjacent to a residential or rural use, buildings must be sited a minimum of 30 metres from the property line;
7. Amend Section 604 – Agricultural Industrial (I.4) of Zoning Bylaw No. 1888 by adding Section 604.7.h. as follows: A medical marihuana production facility will not be permitted on lots smaller than 1.0 ha (2.47 acres);
8. Amend Section 604 – Agricultural Industrial (I.4) of Zoning Bylaw No. 1888 by adding Section 604.7.i. as follows: A medical marihuana production facility shall be a mutually exclusive use to the property; no other use shall be permitted on a property where a medical marihuana production facility is sited. A medical marihuana production facility must be sited a minimum of 7.5 metres from all property lines and where the property is adjacent to a residential or rural use, buildings must be sited a minimum of 30 metres from the property line; and,

That Zoning Text Amendment Bylaw No. 2606, 2013, be amended as follows:

1. Remove proposed Amendment 3 of Bylaw 2606;
2. Amend proposed Amendment 7 of Bylaw 2606 by including the provision “...with minimum lot size of 8.0 ha (19.77 acres)...” following the words “...shall only be permitted on lands...”;
3. Amend proposed amendment 9 of Bylaw 2606 by including the provision “...with minimum lot size of 8.0 ha (19.77 acres)...” following the words “...shall only be permitted on lands...”;
4. Amend proposed amendment 11 of Bylaw 2606 by including the provision “...with minimum lot size of 8.0 ha (19.77 acres)...” following the words “...shall only be permitted on lands...”.

Staff recommend the Bylaw No. 2606 be given Second Reading as amended and be referred to Public Hearing at the first opportunity, due to the upcoming Marihuana for Medical Purposes Regional implementation date of April 1, 2014.

Submitted by:



Anthony Kittel, Regional Growth Strategy Coordinator

Endorsed by:

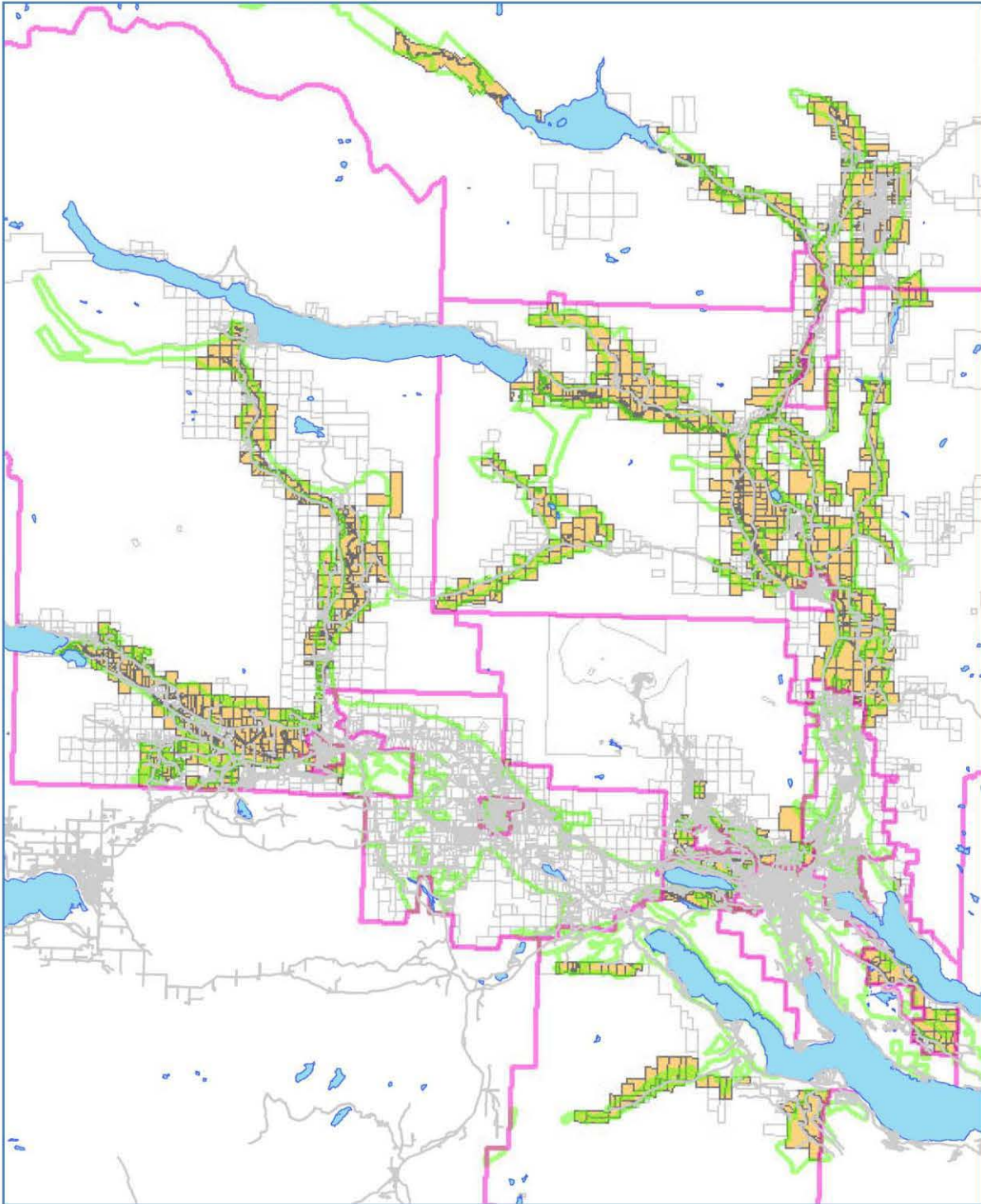


Rob Smailes, MCIP, RPP
General Manager, Planning and Building

Approved For Inclusion:


Trafford Hall, Administrator

Appendix "A": Electoral Area Properties Within the Agricultural Land Reserve \geq 8 Ha



Health Canada's Marihuana for Medical Purposes Regulation (MMPR) <http://www.laws-lois.justice.gc.ca/eng/regulations/SOR-2013-119/> has changed the parameters for the production of medical marihuana in Canada. The current system of personal use licenses and designated person licenses will be phased out by April 1, 2014. In its place, new Federal licenses are geared to larger scale production/distribution facilities. For further information about the changes see the following website <http://www.hc-sc.gc.ca/dhp-mps/marihuana/index-eng.php>.

Various local governments in British Columbia are looking at their zoning bylaws to determine where these larger scale commercial production facilities should be directed. A number of local governments are considering industrial, commercial and agricultural zones, within purpose built structures and with siting regulations from property lines and residential uses. Others are looking to restrict this land use or direct to particular areas of their community.

The Agricultural Land Commission Act and regulations determine land use in the Agricultural Land Reserve (ALR). Due to the number of inquiries from local governments and Medical Marihuana production proponents, the ALC provides the following for clarification purposes with regard to Medical Marihuana production in the ALR.

Section 1 of the *Agricultural Land Commission Act* defines "farm use" as:

An occupation or use of land for farm purposes, including farming of land, plants and animals and any other similar activity designated as farm use by regulation, and includes a farm operation as defined in the *Farm Practices Protection (Right to Farm) Act*.

Based on the above definition, if a land owner is lawfully sanctioned to produce marihuana for medical purposes, the farming of said plant in the Agricultural Land Reserve (ALR) is allowed and would be interpreted by the Agricultural Land Commission as being consistent with the definition of "farm use" under the *ALC Act*.

Notwithstanding the farming of land for the production of medical marihuana, not all activities associated with its production would necessarily be given the same "farm use" consideration. Accessory uses associated with the farm use include a small business office, testing lab, processing and drying, packaging shipping areas, cloning room and anything else directly related to the growing and processing of the plant. Determining an accessory use is contingent on the use being necessary and commensurate with the primary function of the property/building to produce an agricultural product. If a land use activity is proposed that is not specifically related to the growing of an agricultural product including a stand-alone research and development facility, an application to the ALC for non-farm use would be required.

Municipalities are responsible for governing the use of land within the respective municipality's jurisdiction. Zoning bylaws enacted by municipalities may set out restrictions on land use, including but not limited to the use of land for medical marihuana production. Where such restrictions may apply to land within the ALR, such restrictions with respect to the particular land use of lawfully sanctioned medical marihuana production would not in and of themselves be considered as inconsistent with the *ALC Act*.

Proponents of medical marihuana production facilities should contact their local government to determine the applicability of zoning bylaws, approval processes and to determine building permit requirements that may apply.