

# ADMINISTRATIVE REPORT



**TO:** Board of Directors  
**FROM:** B. Newell, Chief Administrative Officer  
**DATE:** September 7, 2023  
**RE:** Development Variance Permit Application — Electoral Area “E” (E2023.020-DVP)

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## Administrative Recommendation:

**THAT Development Variance Permit No. E2023.020-DVP, to formalize an indoor cannabis production building at 2864 Arawana Road, be approved.**

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Legal: Lot 13, Plan KAP576, District Lot 207, SDYD, Except Plan A62 B5981 KAP81407 EPP30242 & EPP116242 Folio: E-02088.000

OCP: Agriculture (AG) Zone: Agriculture One (AG1)

Variance Request: to allow a concrete foundation in an indoor cannabis production building.

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## Proposed Development:

This application is for a variance to the Cannabis Production general regulation that applies to the property in order to formalize an indoor cannabis production building with a concrete base.

Specifically, it is being proposed to vary the Cannabis Production general regulation that requires a structure used for cannabis production, indoor to have a base consisting entirely of soil by allowing a building used for cannabis production, indoor to have concrete construction, hardsurfacing and similar impermeable forms of construction sunk into, at or below the natural elevation of the site.

In support of this request, the applicant has stated that:

- *The proposed variance is consistent with the general purpose and intent of the zone, that being agriculture.*
- *The proposed variance addresses a physical constraint, a concrete foundation and slab that is necessary not only for building integrity but also with the sanitization required for [cultivation] and processing of farm products.*
- *Strict compliance with the non-concrete base regulation is unreasonable and unnecessary. In addition, building was approved to be constructed on bedrock so there would be no soil to disturb. This was done at a cost of \$135,000.*
- *There is no undue impact to neighbourhood, concrete base cannot be seen.*

## Site Context:

The subject property is approximately 4.09 ha in area and is situated on the east side of Arawana Road, approximately 3.3 km north from the boundary with City of Penticton. The property is File No:

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E2023.020-DVP Page 2 of 5 understood to contain two (2) singled detached dwellings, and an indoor cannabis production building.

The surrounding pattern of development is generally characterised by low density residential development to the north and east, rural holdings to the south, and agriculture to the west.

**Background:**

The property was created in March, 1909 and building permits have been issued for a storage building (1979), a roof and deck extension (1997), a renovation to the single detached dwelling (2014), an auxiliary single family dwelling (2016) and a cannabis micro grow facility (2019).

BC Assessment has classified the property as part “Residential” (Class 01) and part “Farm” (Class 09).

Official Community Plan:

The property is designated Agriculture (AG) and the OCP contains policies for the consideration of “micro cannabis production facility” proposals through rezoning subject to the following assessment criteria:

- i) the parcel is not less than 2.0 hectares;*
- ii) the maximum size of the plant surface cultivation area is 200.0 m<sup>2</sup>;*
- iii) adequate water and servicing is available to the site; and*
- iv) if the parcel of land that is the subject of an application adjoins a Low or Medium Density Residential zone, the micro cannabis production facility will be setback 60.0 metres from that zone boundary.*

Zoning Bylaw:

The property is zoned Agriculture One (1), which lists agriculture as a principal permitted use. The zoning bylaw considers indoor cannabis production to be an agriculture use if the structure has a soil foundation.

Building Permit:

A building permit for the construction of a “cannabis micro grow facility” with a concrete foundation was originally issued on October 29, 2019. This building permit was renewed once in 2021 and subsequently lapsed on October 29, 2022, without the building having been completed.

Agricultural Land Reserve (ALR):

The property is within the Agricultural Land Reserve (ALR). Under the Agricultural Land Reserve Use Regulation, indoor cannabis production is considered a farm use. The regulation further lists cannabis produced in a building with a base entirely of soil as a farm use that may not be prohibited by a local government bylaw.

A non-farm use application was not required because the proposal was consistent with the *Agricultural Land Reserve Use Regulation* (which had been introduced earlier that same year) and did not require non-farm use approval.

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APC Consideration

The Regional District referred this application to the Area “E” APC and at their meeting August 14, 2023, the Area “E” Advisory Planning Commission recommended that the development application be approved.

**Analysis:**

The zoning bylaw’s prohibition on concrete foundations in indoor cannabis production buildings is generally intended to prevent the alienation of productive agricultural lands. Allowing an existing building with a concrete foundation to be used for indoor cannabis production will not alienate productive agricultural land and will allow for the type of diversification and enhancement of farm income that the OCP seeks to encourage.

While “micro cannabis production facility” use regulations are not included in the current zoning bylaw, Administration considers the assessment criteria for this type of use in the Electoral Area “E” OCP to be a helpful guide for considering for the current proposal.

The parcel is greater than 2.0 hectares in area, the proposed cultivation area will not exceed 200m<sup>2</sup> and the property is within a water service area. While the nearest parcel line is approximately 50 metres from the building, the nearest dwelling is approximately 80 metres away.

**Alternative:**

1. That the Board deny Development Variance Permit No. E2023.020-DVP.

**Respectfully submitted**

*Ben Kent* \_\_\_\_\_

Ben Kent, Planner I

**Endorsed by:**

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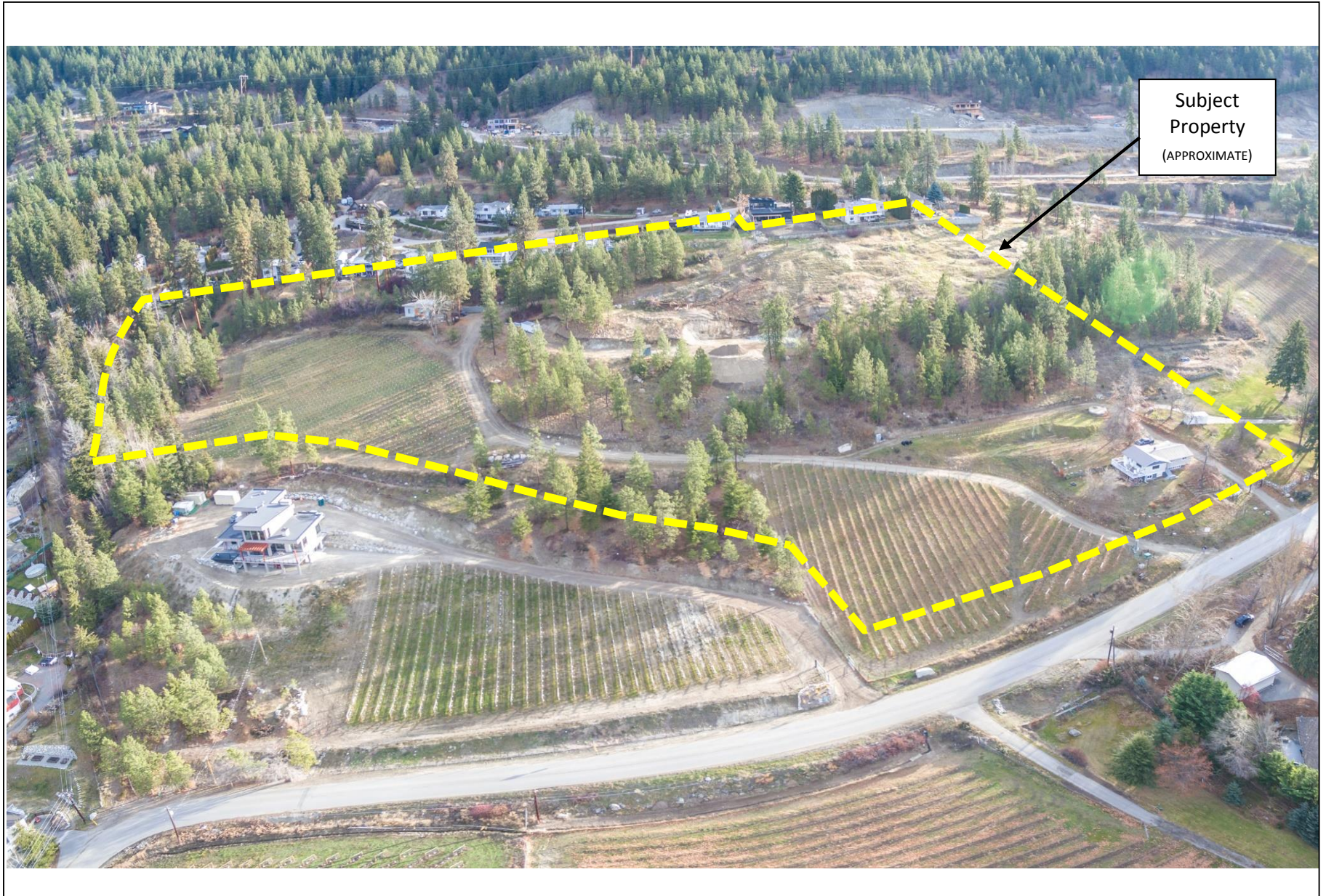
C. Garrish, Senior Manager of Planning

Attachments: No. 1 – Site Photo (Google Streetview)

Attachment No. 1 – Aerial Photo (2023)



Attachment No. 2 – Aerial Photo (2019)



Subject  
Property  
(APPROXIMATE)

Attachment No. 3 – Site Photo (Google Streetview)

