

ADMINISTRATIVE REPORT



TO: Advisory Planning Commission
FROM: J. Zaffino, Chief Administrative Officer
DATE: February 18, 2025
RE: Zoning Bylaw Amendment – Electoral Area “C” (C2024.016-ZONE)

Purpose: To allow for 10 agri-tourism sleeping units on a parcel under 8.0 ha. Folio: C-05878.000

Civic: 325 Road 20 Legal: Lot 393, Plan kAP1957, District Lot 2450S, SDYD

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

Proposed Development:

This application is seeking to amend the zoning of the subject property in order to allow for the ten (10) agri-tourism sleeping units on a parcel under 8.0 ha.

In order to accomplish this, the applicant is proposed to amend the zoning of the property under the Okanagan Valley Zoning Bylaw No. 2800, 2022, from Agriculture One (AG1) to Agriculture One Site Specific (AG1s), with the site specific regulation that despite Section 7.3.3, the maximum number of agri-tourism accommodation sleeping units shall be ten (10).

In support of the rezoning, the applicant has stated that:

- The proposed zoning will not conflict with the Area “C” Official Community Plan.
- No increase to the number of agri-tourist accommodation units will occur in the area beyond what is presently allowed in the Zoning bylaw.
- The proposed restrictive covenant being offered by the owner will preclude their adjacent farm parcel at 4114 Highway 97 from having an agri-tourist accommodation building.

Site Context:

The subject property is approximately 5.17 ha in area and is situated on the southeast corner of the intersection of Road 20 and Highway 97 and is approximately 7.7 km south of the boundary of the Town of Oliver. It is understood that the parcel is comprised of a vineyard, a winery, and an equipment storage building.

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

Background:

The current boundaries of the subject property were created by a Plan of Subdivision deposited with the Land Titles Office in Victoria on September 12, 1924, while BC Assessment has classified the property as part “Residential” (Class 01), part “Light Industry” (Class 05) and part “Farm” (Class 09).

Available Regional District records indicate that a building permits for demolishing a burned dwelling (2024), steel storage building (2023), demolish shop (2022), steel building stand alone addition to existing (1999), office addition to existing building (1999), metal frame building, pre-engineered metal frame building, unenclosed farm shelter for coolers, demo 3 pickers cabins without permit, lean to addition to existing farm shed – pole structure, and a single family dwelling have previously been issued for this property.

Official Community Plan (OCP) Bylaw:

Under the Electoral Area “C” Official Community Plan (OCP) Bylaw No. 2452, 2008, the subject property is currently designated Agriculture (AG), an objective of which is “to preserve agricultural land with continuing value for agriculture for current and future production ...” while a supporting policy speaks to supporting “agri-tourism activities which promote local agriculture and are secondary and incidental to the area’s farming production.”

Part of the subject property is also the subject of a Watercourse Development Permit (WDP) designation associated with an existing pond.

Zoning Bylaw:

Under the Okanagan Valley Zoning Bylaw No. 2800, 2022, the property is currently zoned Agriculture One (AG1) which under Section 13.1.1(h) allows for agri-tourism accommodation, subject to Section 7.3 as a permitted accessory use.

Section 7.3.3 outlines the maximum number of agri-tourism accommodation sleeping units permitted on a parcel. Parcels between 4.0 ha and 8.0 ha are permitted a maximum of five (5) agri-tourism accommodation sleeping units.

Under Section 8.0 (Floodplain Regulations) of the Zoning Bylaw, the subject property is within the floodplain associated with a small un-named waterbody partially on the property.

Agricultural Land Reserve (ALR):

The property is within the Agricultural Land Reserve (ALR) and the Agricultural Land Commission (ALC) has advised that this proposal *may* require there separate approval in the form of either a Notice of Intent (NoI) or a Non-Farm Use application.

Of note, Section 33(2) of the ALR Use Regulation states that up to 10 sleeping units as seasonal or short-term accommodation in relation to an agri-tourism activity is permitted subject to the accommodation being located on land classified as “farm”, that there be a “tourist” use occurring and the total developed area for structures, landscaping and access for the accommodation being less than 5% the parcel.

In this instance, the applicant has stated that the total proposed developed area for structures, landscaping and access for the accommodation is approximately 2.33%.

As an aside, the applicant is proposing the inclusion of a restrictive covenant on the neighbouring property at 4114 Highway 97, which is also owned by the applicant, in order to restrict the development of any agri-tourism accommodation units on 4114 Highway 97.

Analysis:

In considering this proposal, Administration notes that one of the objectives for land designated as Agricultural (AG) under the OCP Bylaw is to “protect the agricultural land base of the Plan Area including associated farming, orchards, vineyards, ranching, and associated value-added activities”.

The Plan seeks a balance between preserving agricultural land for the current and future production with the use of agricultural land for compatible secondary, value-added activities which are meant to provide supplementary income to farmers and diversify the local agricultural and rural economy.

Under the Okanagan Valley Zoning Bylaw, the property owners would be able to construct five (5) agri-tourism accommodation sleeping units on the subject property. The applicant also owns the neighbouring property at 4114 Highway 97, which would also permit up to five (5) agri-tourism accommodation sleeping units.

The proposed agri-tourism building will have an approximately 2.33% parcel coverage, which will include the driveway, the structure itself and any landscaping related to the structure. The of constructing ten agri-tourism accommodation sleeping units on the same property will reduce the amount agricultural land that will need to be removed if it were five (5) units on both properties.

Proposed Restrictive Covenant

The applicant has proposed applying a restrictive covenant to the neighbouring property at 4114 Highway 97 to restrict the property from constructing agri-tourism accommodation sleeping units in an attempt to trade density.

In this instance, however, Administration considers that the proposal should stand on its own merits and the “down-zoning” of a separate property – which may be in different ownership in future – is not in not favoured.

Should, however, the APC consider there to be merit in this proposal, Administration considers zoning to be the more robust legal instrument to give effect to this and does not favour the use of a restrictive covenant. Accordingly, consideration could be given to a site specific amendment prohibiting the development agri-tourism accommodation units at 4114 Highway 97.

Alternative

The proposed site specific rezoning, deviates from the broader strategic land use objectives, granting privileges to a single parcel that may not be permitted to other similar parcels in the area.

Additionally, the increased number of agri-tourism accommodation sleeping units creates the potential for uses that may stray from the agricultural intentions of the AG1 zone.

Summary:

In summary, the proposed ten (10) agri-tourism accommodation sleeping units is not seen to reduce the agricultural viability of the property, and provide a financial safety net to the agricultural use of the property during low yield years.

Administrative Recommendation:

THAT the Okanagan Valley Zoning Bylaw Amendment Bylaw No. 2800.49, 2025 be supported.

Options:

1. THAT the APC recommends to the RDOS Board of Directors that the subject development application be supported.
2. THAT the APC recommends to the RDOS Board of Directors that the subject development application be approved with the following conditions:
 - i) A restrictive covenant be registered on title with 4114 Highway 97, preventing agri-tourism accommodations on the property.
3. THAT the APC recommends to the RDOS Board of Directors that the subject development application be denied.

Respectfully submitted:

Colin Martin
Colin Martin, Planner I

Endorsed By:


C. Garrish, Senior Manager of Planning

Attachments: No. 1 – Context Maps

No. 2 – Applicant’s Site Plan

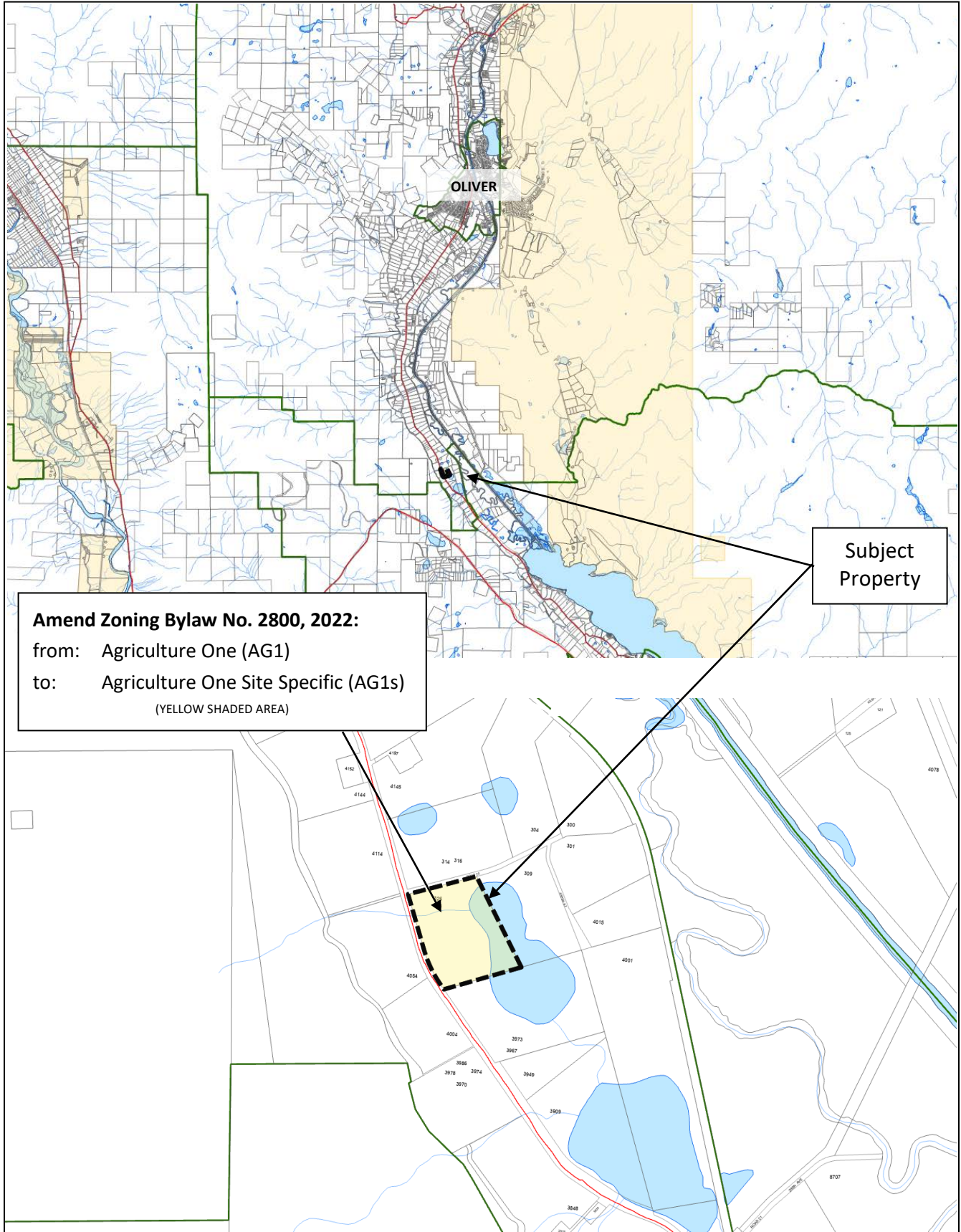
No. 3 – Applicant’s Building Elevations (East & West)

No. 4 – Applicant’s Building Elevations (South & North)

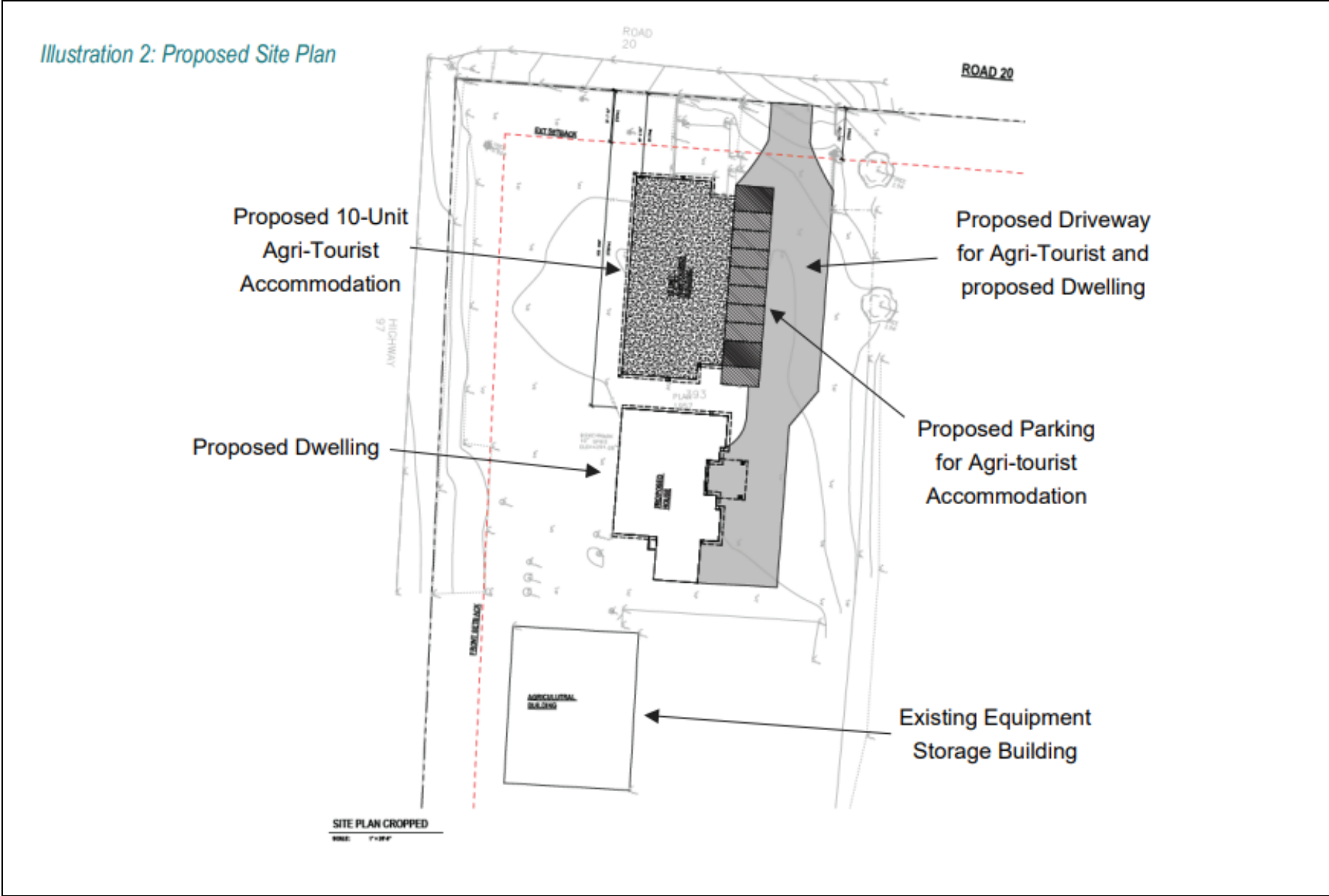
No. 5 – Site Photo (Google Earth, 2023)

No. 6 – Applicants context for 4114 Highway 97

Attachment No. 1 – Context Maps



Attachment No. 2 – Applicant’s Site Plan



Attachment No. 3 – Applicant’s Building Elevations (East & West)

Illustration 3: Proposed Elevation Drawings of Proposed 10-Unit Agri-Tourist Accommodation



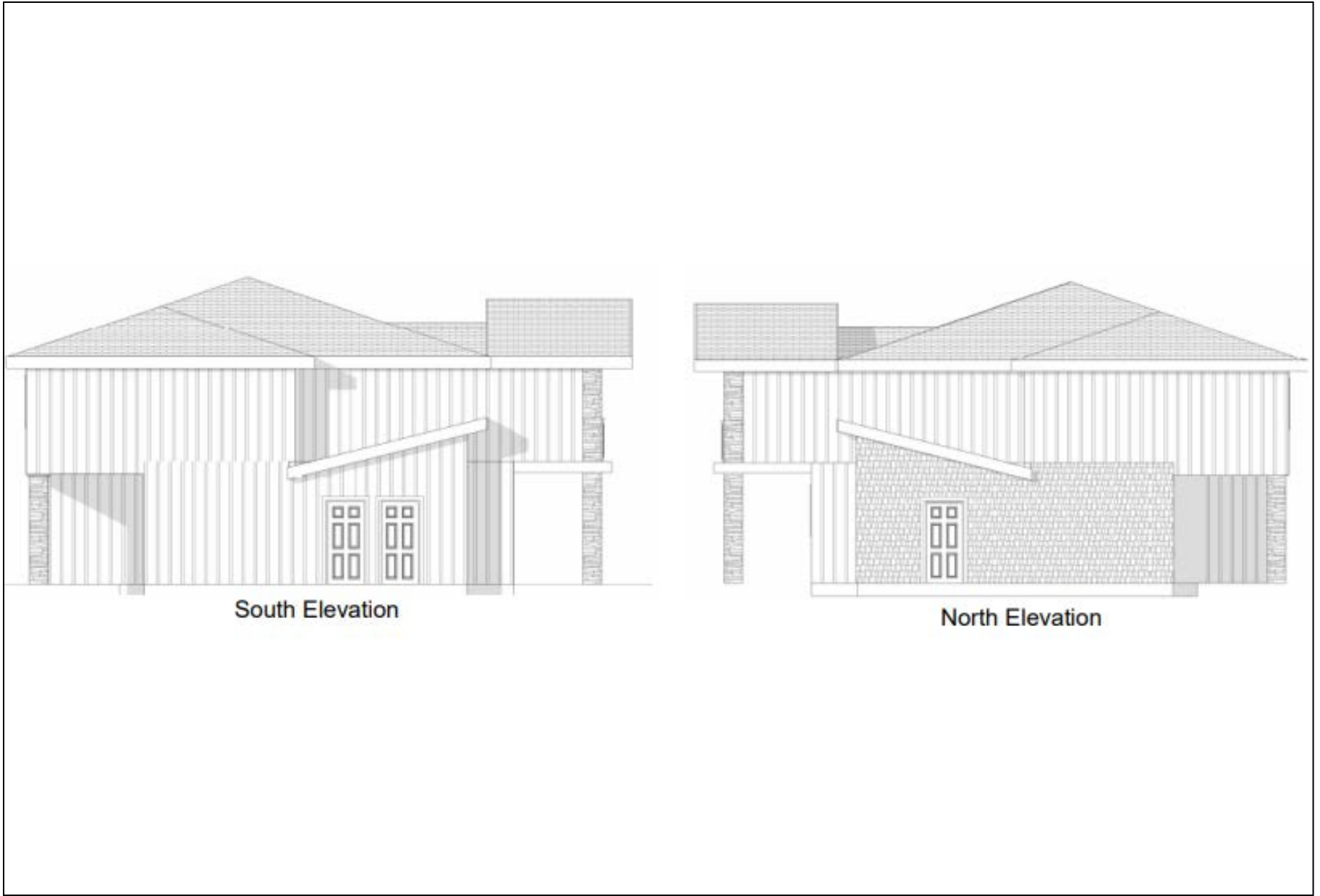
East Elevation



West Elevation



Attachment No. 4 – Applicant’s Building Elevations (South & North)



Attachment No. 5 – Site Photo (Google Earth, 2023)



Illustration 1: Site Context

