

RESPONSE SUMMARY

AMENDMENT BYLAW NOS. 2498.16

Approval Recommended for Reasons Outlined Below

Interests Unaffected by Bylaw

Approval Recommended Subject to Conditions Below

Approval Not Recommended Due to Reasons Outlined Below

Pursuant to Section 52 of the Transportation Act, the Ministry of Transportation and Infrastructure have no issues with the proposed housekeeping amendments. Please forward the Bylaw for signature.

Feel free to contact me at (778)-684-2253 or by email at Kevin.McGowan@gov.bc.ca.

Signature: _____

Signed By: _____

Agency: _____

Title: _____

Date: _____

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Thank you for the opportunity to review and this referral from a healthy community development perspective. It is my understanding that the textual amendments to the Area H Zoning bylaw would allow for cannabis production to be a permitted use in the I1 and I2 zones in electoral area H. The following comments are noted and should be given consideration regarding cannabis production facilities:

1. Water Supply:

The water supply system that services the facility may be subject to the approval and permitting requirements of the BC Drinking Water Protection Act and Regulation.

2. Waste Water Disposal:

Waste water generated by these operations is not considered "domestic sewage." Domestic Sewage would include washroom, food preparation, dishwashing and showering waste. Interior Health enforces the BC Sewerage System Regulation.

Industrial Waste is managed by the Ministry of Environment, under the Environmental Waste Management Act, Municipal Sewerage Regulation.


3. Location:

Industrial operations are expected to follow best practices for protecting the environment and public health. Best practices, however, may not be adequate to contain all odors from the operation. As such, proximity and impact on adjacent land uses need to be considered:

- proximity to residences and schools
- The size and configuration of the property, including access to the property
- Proposed scale of the production facility and accessory usage
- Potential noise, glare and vibration issues
- Air quality – prevailing winds, ventilation, odors

4. Agricultural Land Reserve:

Consider food security in cannabis production on Agricultural Land Reserve (ALR) lands. Interior Health supports retention of ALR food producing lands for food production. See the [Agricultural Land Commission](#) website for further information on regulatory requirements.

Signature: 
Agency: IHA
Date: March 8, 2015

Signed By: Janelle Russell
Title: Environmental Health Officer



Interior Health
Every person matters

November 25, 2020

Regional District of Okanagan-Similkameen
Attn: Planning Services
101 Martin Street
Penticton BC V2A 5J9

<mailto:planning@rdos.bc.ca>

Dear Cory Labrecque:

**RE: File #: Amendment Bylaw #2498.16
(File# H2019.002-Zone)
Our interests are unaffected**

The IH Healthy Built Environment (HBE) Team has received the above captioned referral from your agency. Typically we provide comments regarding potential health impacts of a proposal. More information about our program can be found at [Healthy Built Environment](#).

An initial review has been completed and no health impacts associated with this proposal have been identified. As such, our interests are unaffected by this proposal.

However, should you have further concerns, please return the referral to hbe@interiorhealth.ca with a note explaining your new request, or you are welcome to contact me directly at 1-855-744-6328 then choose HBE option.

Sincerely,

Mike Adams, CPHI(C)
Team Leader, Healthy Communities
Interior Health Authority



November 18, 2020

File: 0280-30

Local Government File: H2019.002-ZONE

Cory Labreque, Planner II
Regional District Okanagan Similkameen
101 Martin Street
Penticton, B.C. V2A 5J9
Via E-mail: planning@rdos.bc.ca

Dear Cory Labreque,

Re: Bylaw 2498.16

Thank you for providing British Columbia Ministry of Agriculture (Ministry) staff the opportunity to comment on the proposed zoning amendments to Bylaw 2498. Overall ministry staff consider the amendments to be positive given that one intent appears to be bringing the regulations surrounding additional dwellings into line with the *Agricultural Land Commission Act* (ALCA) and Regulations. We offer the following comments for your consideration:

Additional dwellings:

We note that the bylaw will limit additional dwellings in the Agriculture Three (AG 3) zone to one, provided a Non-Adhering Residential Use (NARU) application is approved by the Agricultural Land Commission (ALC). From an agriculture perspective, this is an improvement over the existing bylaw that allows up to four additional dwellings regardless of purpose. However, ministry staff have concerns that there is currently no provision in the bylaw or the amending bylaw for allowing housing for Temporary Farm Worker Housing (TFWH). This would mean that legitimate farms that have a requirement to house workers on site would have to go through a rezoning process. Given that the ALC has oversight on TFWH through the NARU process, it would be preferable to allow TFWH as a permitted use accessory to a farm operation on lots greater than 4ha in size as outlined in the TFWH Minister's Bylaw Standard in the Ministry's [Guide for Bylaw Development in Farming Areas](#).

The amending bylaw will still allow for up to four additional dwellings in the Resource Area (RA), Large Holdings One (LH1), and Large Holdings Two (LH2) zones. It is unclear to ministry staff whether these zones intersect with the Agricultural Land Reserve (ALR), but given the sections listed below under "Secondary suites", it appears that at least some parcels in each zone may. If this is the case, four additional dwellings for any purpose is unlikely to be consistent with the priority use of the ALR being for agriculture. The exception could be if the purpose of the additional housing is to house farm workers, in which case this should be made clear. In order to avoid the issue of zones that intersect with the ALR that contain uses not

consistent with agriculture as the priority use in an effort to accommodate non-ALR properties within the zone, we suggest that it may be prudent to encapsulate all of the ALR in Electoral Area H within a purpose-built Agriculture (AG) zone or zones.

Secondary suites:

The use of land in the ALR for one secondary suite is a permitted use if located within the principal residence (see section 31 of the Agricultural Land Reserve Use Regulation); therefore, a NARU application is not required for this use. We recommend changing sections 11.1.4(c), 11.3.4(c), 11.4.4(c), and 11.5.4(c) to reflect the fact that a NARU application is not required for one secondary suite within a principal residence but would be required for any other additional dwellings.

The Ministry has an interest in ensuring that farm workers have access to essential hygiene facilities while working on local farms. This is critical from both food safety and public health perspectives. We suggest that hygiene and cooking facilities be allowed in buildings that are accessory to farm operations. COVID-19 has demonstrated the necessity for these facilities to be provided for the health and safety of domestic farm workers.

The Ministry of Agriculture has been looking at ways of increasing residential flexibility in the ALR, which included public and local government consultation in mid-2020. Work on this may continue under the new government; if it is determined that there should be regulatory changes, this could happen as early as spring 2021.

If you have any questions, please contact us directly at the email addresses or numbers below.

Sincerely,



Alison Fox, P.Ag.
Land Use Agrologist
B.C. Ministry of Agriculture
Email: Alison.Fox@gov.bc.ca
Office: (778) 666-0566



Christina Forbes, P.Ag.
Regional Agrologist
B.C. Ministry of Agriculture - Kelowna
E-mail: Christina.Forbes@gov.bc.ca
Office: (250) 861-7201

Email copy: Sara Huber, Regional Planner, Agricultural Land Commission



Agricultural Land Commission
201 – 4940 Canada Way
Burnaby, British Columbia V5G 4K6
Tel: 604 660-7000 | Fax: 604 660-7033
www.alc.gov.bc.ca

November 20, 2020

Reply to the attention of Sara Huber
ALC Planning Review: 46744
Local Government File: H2019.002-ZONE

Cory Labrecque
Planner 2, RDOS
planning@rdos.bc.ca

**Re: Regional District of Okanagan Similkameen Electoral Area H Zoning
Amendment Bylaw No. 2498.16**

Thank you for forwarding a draft copy of Regional District of Okanagan Similkameen (RDOS) Electoral Area H Zoning Amendment Bylaw No. 2498.16 (the “Bylaw”) for review and comment by the Agricultural Land Commission (ALC). The following comments are provided to help ensure that the Bylaw is consistent with the purposes of the *ALC Act* (ALC Act), the Agricultural Land Reserve (ALR) General Regulation, (the “ALR General Regulation”), the ALR Use Regulation (the “ALR Use Regulation”), and any decisions of the ALC.

The Bylaw proposes a series of text amendments, including the following, underneath which, ALC staff have provided comment where applicable:

- Creates a definition and regulations for a “scientific research facility”.
- Implements a maximum size for a secondary suite of 125 m².

ALC staff support the inclusion of a maximum size for a secondary suite. In 2018, the BC Building Code was amended, and secondary suites were no longer required to be a maximum of 90 m². Due to this change, secondary suites could potentially be the same size as the rest of the residence, thus resulting in duplexes, rather than a residence with a secondary suite. The 125 m² maximum for a secondary suite seems reasonable as the secondary suite would account for 25% of the space if a proponent built a residence up to the 500 m² maximum residence size, thus would remain “secondary”.

- Restricts accessory buildings or structures from having showers, bathtubs, bedrooms, sleeping facilities or other living facility, but allows one shower in an accessory building or structure in the RA, AG3, and LH zones.

ALC staff generally do not object to this but note that some farm uses may require washing facilities. ALC staff note that the AG3 zone does have the provision for one shower, which may be sufficient to address this concern.

- Prescribes a maximum number of secondary suites or accessory dwellings and maximum gross floor area based on parcel size, including the following:

Parcel Size	Number of Secondary Suites or Accessory Dwellings	Maximum Gross Floor Area
< 8 ha	1	125 m ²
8 – 11.9 ha	2	250 m ²
12 – 15.9 ha	3	375 m ²
>16 ha	4	500 m ²

- For lands within the ALR, the Bylaw specifies that a secondary suite or accessory dwelling in excess of one may be permitted only if approved by the ALC as a non-adhering residential use.

ALC staff note that under the ALC’s current legislation, only one residence up to 500 m² with the possibility of a secondary suite contained within is permitted in the ALR. The accessory dwelling being proposed in the Bylaw would therefore not currently be permitted. Given the Ministry of Agriculture’s residential flexibility policy intentions, ALC staff do not object to this provision, but note that once the Ministry of Agriculture has concluded any regulatory changes (if applicable), the Bylaw should be amended to reflect those provisions. If an accessory dwelling is permitted in regulation in future, the RDOS may also wish to consider whether it would allow a secondary suite in the principal residence, as well as an accessory dwelling. However, the RDOS retains the ability to further restrict residential use in the ALR beyond what is permitted by regulation.

The ALC strives to provide a detailed response to all bylaw referrals affecting the ALR; however, you are advised that the lack of a specific response by the ALC to any draft bylaw provisions cannot in any way be construed as confirmation regarding the consistency of the submission with the ALCA, the Regulations, or any Orders of the Commission.

This response does not relieve the owner or occupier of the responsibility to comply with applicable Acts, regulations, bylaws of the local government, and decisions and orders of any person or body having jurisdiction over the land under an enactment.

If you have any questions about the above comments, please contact the undersigned at 236-468-3258 or by e-mail (Sara.Huber@gov.bc.ca).

Yours truly,

PROVINCIAL AGRICULTURAL LAND COMMISSION

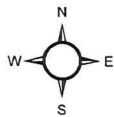
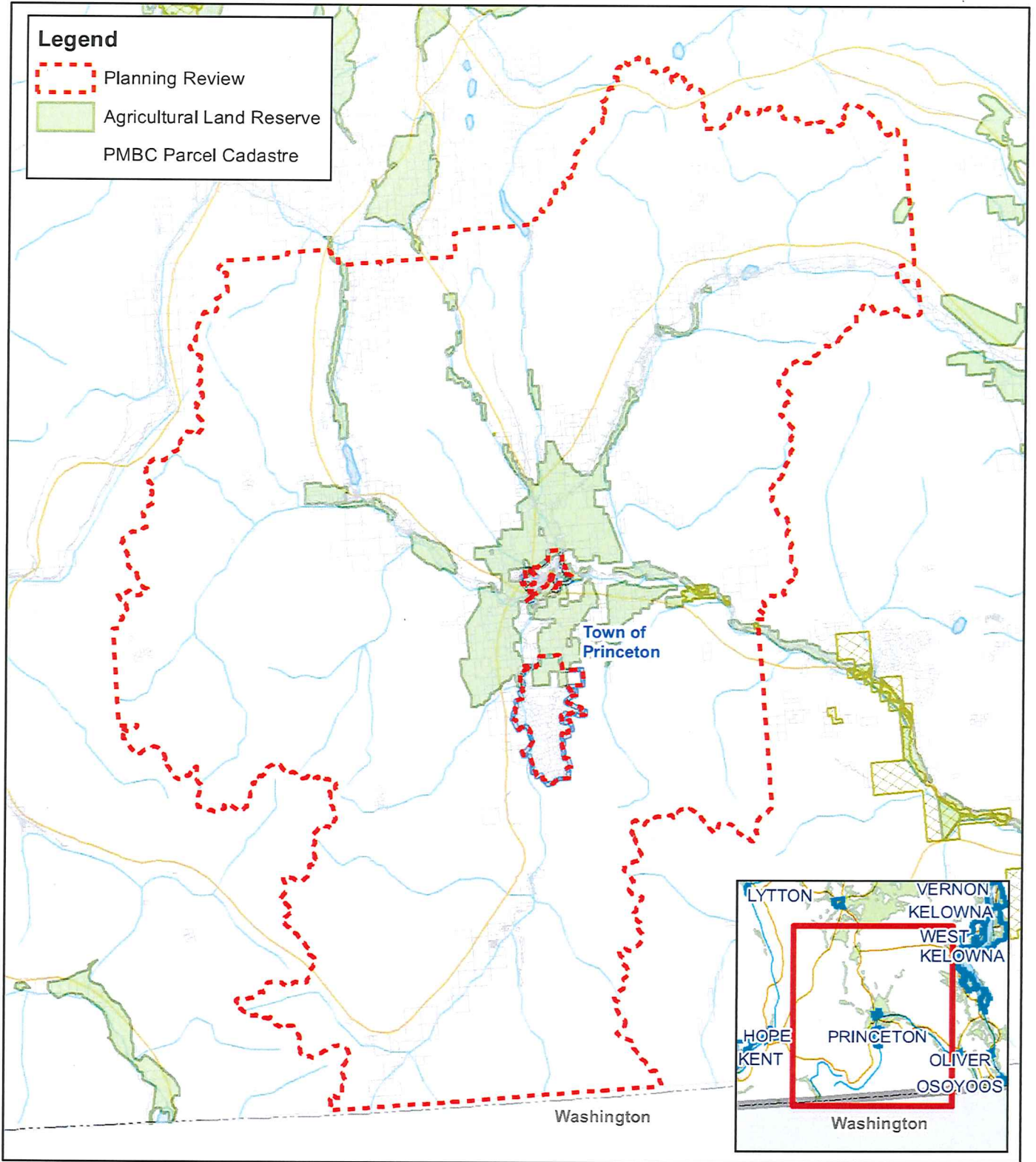


Sara Huber, Regional Planner

Enclosure: Referral of RDOS BL2498-16

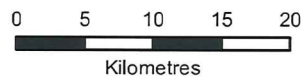
CC: Ministry of Agriculture – Attention: Alison Fox

46744m1



ALR Context Map

Map Scale: 1:525,000



ALC File #:	46744
Mapsheet #:	92H
Map Produced:	October 28, 2020
Regional District:	Okanagan-Similkameen

Note - Subject property location is approximate. Map for reference only. Accuracy not guaranteed.

REGIONAL DISTRICT OF OKANAGAN-SIMILKAMEEN

BYLAW NO. 2498.16, 2020

A Bylaw to amend the Electoral Area “H” Zoning Bylaw No. 2498, 2012

The REGIONAL BOARD of the Regional District of Okanagan-Similkameen in open meeting assembled ENACTS as follows:

1. This Bylaw may be cited for all purposes as the “Electoral Area “H” Zoning Amendment Bylaw No. 2498.16, 2020.”
2. The Electoral Area “H” Zoning Bylaw No. 2498, 2012, is amended by:
 - i) adding the following definition of “scientific research facilities” under Section 4.0 (Definitions):

“scientific research facilities” means buildings or structures used for scientific research, investigation, testing or experimentation, but does not include facilities for the manufacturing or retail sale of products;
 - ii) replacing sub-section 7.10.2 (Secondary Suites) under Section 7.0 (General Regulations) in its entirety with the following:
 - .2 The maximum floor area of a secondary suite shall not exceed 125 m².
 - iii) replacing sub-section 7.12.3 under Section 7.12 (Accessory Buildings and Structures) in its entirety with:
 - .3 No accessory building or structure shall contain showers and bathtubs, bedrooms, sleeping facilities or other living facilities, with the exception of an accessory building or structure in the RA, AG3 and LH Zones where one (1) shower is permitted.
 - iv) replacing sub-section 11.1.4 (Maximum Number of Dwellings Permitted Per Parcel) under Section 11.1 (Resource Area Zone (RA)) in its entirety with the following:

11.1.4 Maximum Number of Dwellings Permitted Per Parcel:

- a) one (1) principal dwelling unit.
- b) the number of secondary suites or accessory dwellings permitted per parcel to a maximum of one (1) secondary suite permitted per parcel, and the total gross floor area of all secondary suites and accessory dwellings permitted per parcel shall not exceed the following:

PARCEL AREA	MAXIMUM NUMBER OF SECONDARY SUITES OR ACCESSORY DWELLINGS	MAXIMUM GROSS FLOOR AREA OF ALL SECONDARY SUITES AND ACCESSORY DWELLINGS PER PARCEL
Less than 8.0 ha	1	125 m ²
8.0 ha to 11.9 ha	2	250 m ²
12.0 ha to 15.9 ha	3	375 m ²
Greater than 16.0 ha	4	500 m ²

- c) Despite Section 11.1.4(b), for parcels situated within the Agricultural Land Reserve (ALR), the maximum number of secondary suites or accessory dwellings permitted per parcel under Section 11.1.4(b) in excess of one (1) secondary suite or accessory dwelling per parcel are permitted only to the extent that a “non-adhering residential use” approval from the Agricultural Land Commission (ALC) has been granted for such secondary suites or accessory dwellings.
- v) replacing sub-section 11.1.8(d)(2) (Site Specific Resource Area (RA) Regulations) under Section 11.0 (Rural) in its entirety with the following:
 - .2 two (2) seasonal cabins, which may have a floor area not greater than 150 m².
- vi) adding a new sub-section 11.1.1(h) (Permitted Uses - Resource Area Zone) under Section 11.0 (Rural) to read as follows and renumbering all subsequent sub-sections:
 - h) scientific research facilities;
- vii) replacing sub-section 11.3.4(c) (Maximum Number of Dwellings Permitted Per Parcel) under Section 11.3 (Agriculture Three (AG3) Zone) in its entirety with the following:
 - c) Despite Section 11.3.4 (b), for parcels situated within the Agricultural Land Reserve (ALR), the maximum number of secondary suites or accessory dwellings permitted per parcel under Section 11.3.4 (b) in excess of one (1) secondary suite or accessory dwelling per parcel are permitted only to the extent that a “non-adhering residential use” approval from the Agricultural Land Commission (ALC) has been granted for such secondary suites or accessory dwellings.

- viii) replacing sub-section 11.4.4 (Maximum Number of Dwellings Permitted Per Parcel) under Section 11.4 (Large Holdings One Zone (LH1)) in its entirety with the following:

11.4.4 Maximum Number of Dwellings Permitted Per Parcel:

- a) one (1) principal dwelling unit.
- b) the number of secondary suites or accessory dwellings permitted per parcel to a maximum of one (1) secondary suite permitted per parcel, and the total gross floor area of all secondary suites and accessory dwellings permitted per parcel shall not exceed the following:

PARCEL AREA	MAXIMUM NUMBER OF SECONDARY SUITES OR ACCESSORY DWELLINGS	MAXIMUM GROSS FLOOR AREA OF ALL SECONDARY SUITES AND ACCESSORY DWELLINGS PER PARCEL
Less than 8.0 ha	1	125 m ²
8.0 ha to 11.9 ha	2	250 m ²
12.0 ha to 15.9 ha	3	375 m ²
Greater than 16.0 ha	4	500 m ²

- c) Despite Section 11.4.4(b), for parcels situated within the Agricultural Land Reserve (ALR), the maximum number of secondary suites or accessory dwellings permitted per parcel under Section 11.4.4(b) in excess of one (1) secondary suite or accessory dwelling per parcel are permitted only to the extent that a “non-adhering residential use” approval from the Agricultural Land Commission (ALC) has been granted for such secondary suites or accessory dwellings.

- ix) replacing sub-section 11.5.4 (Maximum Number of Dwellings Permitted Per Parcel) under Section 11.5 (Large Holdings Two Zone (LH2)) in its entirety with the following:

11.5.4 Maximum Number of Dwellings Permitted Per Parcel:

- a) one (1) principal dwelling unit.
- b) the number of secondary suites or accessory dwellings permitted per parcel to a maximum of one (1) secondary suite permitted per parcel, and the total gross floor area of all secondary suites and accessory dwellings permitted per parcel shall not exceed the following:

PARCEL AREA	MAXIMUM NUMBER OF SECONDARY SUITES OR ACCESSORY DWELLINGS	MAXIMUM GROSS FLOOR AREA OF ALL SECONDARY SUITES AND ACCESSORY DWELLINGS PER PARCEL
Less than 8.0 ha	1	125 m ²
8.0 ha to 11.9 ha	2	250 m ²
12.0 ha to 15.9 ha	3	375 m ²

Greater than 16.0 ha	4	500 m ²
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- c) Despite Section 11.5.4(b), for parcels situated within the Agricultural Land Reserve (ALR), the maximum number of secondary suites or accessory dwellings permitted per parcel under Section 11.5.4(b) in excess of one (1) secondary suite or accessory dwelling per parcel are permitted only to the extent that a “non-adhering residential use” approval from the Agricultural Land Commission (ALC) has been granted for such secondary suites or accessory dwellings.

READ A FIRST AND SECOND TIME this ____ day of _____, 2020.

PUBLIC HEARING held on this ____ day of _____, 2020.

READ A THIRD TIME this ____ day of _____, 2020.

I hereby certify the foregoing to be a true and correct copy of the "Electoral Area "H" Zoning Amendment Bylaw No. 2498.16, 2020" as read a Third time by the Regional Board on this ____ day of ___, 2020.

Dated at Penticton, BC this ____ day of ___, 2020.

Corporate Officer

Approved pursuant to Section 52(3) of the Transportation Act this ____ day of _____, 2020.

For the Minister of Transportation & Infrastructure

ADOPTED this ____ day of ___, 2020.

Board Chair



Your File #: H2019.002-
ZONE Area H
eDAS File #: 2019-00699
Date: Dec. 10, 2020

Regional District Okanagan Similkameen
101 Martin Street
Penticton, BC V2A 5J9

Attention: Planning Department

Re: **Proposed Text Amendment Bylaw 2498.16, 2020 for Area "H"**

Preliminary Approval is granted for the rezoning for one year pursuant to section 52(3)(a) of the *Transportation Act*.

If you have any questions, please feel free to call Penticton Development Services at (250) 712-3660.

Yours truly,

Rob Bitte
Development Officer

Local District Address
Penticton Area Office 102 Industrial Place Penticton, BC V2A 7C8 Canada Phone: (250) 712-3660 Fax: (250) 490-2231