

Provincial Agricultural Land Commission - Applicant Submission

Application ID: 63489

Application Status: Under LG Review

Applicant: JEALOUS FRUITS LTD.

Agent: Kent-Macpherson

Local Government: City of Kelowna

Local Government Date of Receipt: 07/16/2021

ALC Date of Receipt: This application has not been submitted to ALC yet.

Proposal Type: Non-Adhering Residential Use - Additional Residence for Farm Use

Proposal: To build two (2) drill camp style dormitories (of 6 trailers each) to accommodate ~48 seasonal farm workers to support the existing cherry orchard on the properties (2 contiguous titles). This temporary farm worker housing will impacting ~0.25 ha of ALR.

Agent Information

Agent: Kent-Macpherson

Mailing Address:

304-1708 Dolphin Ave

Kelowna, BC

V1Y 9S4

Canada

Primary Phone: (250) 763-2236

Email: jhettinga@kent-macpherson.com

Parcel Information

Parcel(s) Under Application

1. **Ownership Type:** Fee Simple

Parcel Identifier: 031-090-249

Legal Description: LOT C SECTIONS 11 AND 14 TOWNSHIP 26 OSOYOOS DIVISION
YALE DISTRICT PLAN EPP98515

Parcel Area: 19.9 ha

Civic Address: 3700 Pooley Road, Kelowna

Date of Purchase: 04/14/2018

Farm Classification: Yes

Owners

1. **Name:** JEALOUS FRUITS LTD.

Address:

7980 Highway 97 North

Kelowna, BC

V4V 1T3

Canada

Phone: (250) 766-5393

Email: david@jealousfruits.com

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| ATTACHMENT | A |
| This forms part of application | |
| # A21-0012 FH21-0003 | |
| Planner Initials | TC |
| City of Kelowna DEVELOPMENT PLANNING | |

Ownership or Interest in Other Lands Within This Community

1. **Ownership Type:** Fee Simple
Parcel Identifier: 012-296-660
Owner with Parcel Interest: JEALOUS FRUITS LTD.
Parcel Area: 4.1 ha
Land Use Type: Agricultural/Farm
Interest Type: Partial Ownership

2. **Ownership Type:** Fee Simple
Parcel Identifier: 012-296-643
Owner with Parcel Interest: JEALOUS FRUITS LTD.
Parcel Area: 4.1 ha
Land Use Type: Agricultural/Farm
Interest Type: Partial Ownership

3. **Ownership Type:** Fee Simple
Parcel Identifier: 003-919-447
Owner with Parcel Interest: JEALOUS FRUITS LTD.
Parcel Area: 3.5 ha
Land Use Type: Agricultural/Farm
Interest Type: Partial Ownership

4. **Ownership Type:** Fee Simple
Parcel Identifier: 011-344-385
Owner with Parcel Interest: JEALOUS FRUITS LTD.
Parcel Area: 10.9 ha
Land Use Type: Agricultural/Farm
Interest Type: Partial Ownership

5. **Ownership Type:** Fee Simple
Parcel Identifier: 004-566-238
Owner with Parcel Interest: JEALOUS FRUITS LTD.
Parcel Area: 19.6 ha
Land Use Type: Agricultural/Farm
Interest Type: Registered Lease

6. **Ownership Type:** Fee Simple
Parcel Identifier: 004-566-246
Owner with Parcel Interest: JEALOUS FRUITS LTD.
Parcel Area: 8.4 ha
Land Use Type: Agricultural/Farm
Interest Type: Registered Lease

7. **Ownership Type:** Fee Simple
Parcel Identifier: 003-621-634
Owner with Parcel Interest: JEALOUS FRUITS LTD.
Parcel Area: 4.1 ha
Land Use Type: Agricultural/Farm
Interest Type: Registered Lease

8. **Ownership Type:** Fee Simple
Parcel Identifier: 011-844-493

Applicant: JEALOUS FRUITS LTD.



Owner with Parcel Interest: JEALOUS FRUITS LTD.
Parcel Area: 3.5 ha
Land Use Type: Agricultural/Farm
Interest Type: Registered Lease

9. **Ownership Type:** Fee Simple
Parcel Identifier: 023-482-770
Owner with Parcel Interest: JEALOUS FRUITS LTD.
Parcel Area: 1.5 ha
Land Use Type: Agricultural/Farm
Interest Type: Unregistered Lease
-

10. **Ownership Type:** Fee Simple
Parcel Identifier: 011-507-039
Owner with Parcel Interest: JEALOUS FRUITS LTD.
Parcel Area: 1.5 ha
Land Use Type: Agricultural/Farm
Interest Type: Unregistered Lease
-

11. **Ownership Type:** Fee Simple
Parcel Identifier: 023-482-842
Owner with Parcel Interest: JEALOUS FRUITS LTD.
Parcel Area: 2.5 ha
Land Use Type: Agricultural/Farm
Interest Type: Unregistered Lease
-

12. **Ownership Type:** Fee Simple
Parcel Identifier: 011-506-903
Owner with Parcel Interest: JEALOUS FRUITS LTD.
Parcel Area: 3.8 ha
Land Use Type: Agricultural/Farm
Interest Type: Unregistered Lease
-

13. **Ownership Type:** Fee Simple
Parcel Identifier: 023-239-638
Owner with Parcel Interest: JEALOUS FRUITS LTD.
Parcel Area: 7.7 ha
Land Use Type: Agricultural/Farm
Interest Type: Unregistered Lease
-

14. **Ownership Type:** Fee Simple
Parcel Identifier: 003-268-993
Owner with Parcel Interest: JEALOUS FRUITS LTD.
Parcel Area: 8.1 ha
Land Use Type: Agricultural/Farm
Interest Type: Unregistered Lease
-

15. **Ownership Type:** Fee Simple
Parcel Identifier: 004-713-982
Owner with Parcel Interest: JEALOUS FRUITS LTD.
Parcel Area: 11.7 ha
Land Use Type: Agricultural/Farm
Interest Type: Unregistered Lease
-

16. **Ownership Type:** Fee Simple

Parcel Identifier: 030-944-988
Owner with Parcel Interest: JEALOUS FRUITS LTD.
Parcel Area: 9.3 ha
Land Use Type: Agricultural/Farm
Interest Type: Unregistered Lease

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A21-0012 FH21-0003

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17. **Ownership Type:** Fee Simple
Parcel Identifier: 013-786-733
Owner with Parcel Interest: JEALOUS FRUITS LTD.
Parcel Area: 3.2 ha
Land Use Type: Agricultural/Farm
Interest Type: Unregistered Lease

18. **Ownership Type:** Fee Simple
Parcel Identifier: 030-555-787
Owner with Parcel Interest: JEALOUS FRUITS LTD.
Parcel Area: 61.3 ha
Land Use Type: Agricultural/Farm
Interest Type: Full Ownership

19. **Ownership Type:** Fee Simple
Parcel Identifier: 031-090-222
Owner with Parcel Interest: JEALOUS FRUITS LTD.
Parcel Area: 4.7 ha
Land Use Type: Agricultural/Farm
Interest Type: Full Ownership

Current Use of Parcels Under Application

1. Quantify and describe in detail all agriculture that currently takes place on the parcel(s).

12.2 ha Cherry Orchard

2. Quantify and describe in detail all agricultural improvements made to the parcel(s).

26 ha cleared and planted for over 50 years

Historic packing plant located on site

Fully irrigated and fenced

3. Quantify and describe all non-agricultural uses that currently take place on the parcel(s).

There is no current non-agricultural use on this property.

Adjacent Land Uses

North

Land Use Type: Agricultural/Farm

Specify Activity: Orchard

East

Land Use Type: Unused

Specify Activity: Mission Creek

Applicant: JEALOUS FRUITS LTD.

South

Land Use Type: Agricultural/Farm
Specify Activity: Orchard

West

Land Use Type: Agricultural/Farm
Specify Activity: Orchard

Proposal

1. What is the purpose of the proposal?

To build two (2) drill camp style dormitories (of 6 trailers each) to accommodate ~48 seasonal farm workers to support the existing cherry orchard on the properties (2 contiguous titles). This temporary farm worker housing will impacting ~0.25 ha of ALR.

2. Describe the necessity for an additional residence for farm use and how it will support agriculture in the short or long term.

The accommodation will house seasonal workers to prune, spray, harvest, etc the farm that the dorms will be place on (~60 acres) in addition, they will work on surrounding cherry farms that Jealous Fruits either owns or leases.

Cherries are a labour intensive crop that cannot be farmed without workers, that are not available locally. Building accommodations and hiring seasonal workers is critical to ensure these farmlands are used to their full productive capacity.

Additionally, the proposed farm worker housing is built on steel skids to reduce the impact on the ALR lands.

We have no alternative accommodation, and rental accommodation is not a viable option in the peak of the Interior's tourism season.

3. Describe the size, type and number, as well as occupancy of all residential structures currently located on the property.

There is currently a single dorm that accommodates 12 workers on this site (adjacent title). In addition, there is a small house and cabin on the property that were part of the original farm.

4. What is the total floor area of the proposed additional residence in square metres?

836 m²

5. Describe the rationale for the proposed location of the additional residence.

The northwest corner of the subject site is low lying and requires the least amount of disturbance for utilities to service the dorms. The location also provides adequate drainage for the necessary septic fields, and produces the lowest quality fruit on the existing farm. Additionally, this area will require the fewest fruit trees from being removed.

6. What is the total area of infrastructure necessary to support the additional residence?

Each of the two dorms are 19m x 22m for a combined footprint of 836 sq m. The total area including landscape buffer, recreational area and septic fields is 0.25 ha.

7. Do you need to import any fill to construct the additional residence or infrastructure?

No

Applicant Attachments

- Agent Agreement-Kent-Macpherson
- Proposal Sketch-63489
- Other correspondence or file information-Landscape Plan
- Site Photo-Site Photos
- Certificate of Title-031-090-249

ALC Attachments

None.

Decisions

None.

ATTACHMENT A

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A21-0012 FH21-0003

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City of **Kelowna**
DEVELOPMENT PLANNING



CITY OF KELOWNA MEMORANDUM

Date: September 7, 2021
File No.: A21-0012
To: Land Use Planning Manager (TC)
From: Development Engineering Manager (RO)
Subject: 3700 Pooley Road Farm Worker Housing jf Lot 3 Plan KAP90274 ALC pre application

Development Engineering has the following comments at this point in time with regard to this application for Non-Adhering Residential Use – 12 Trailers to accommodate Temporary Farm Workers

Potential requirements are provided for information only and are subject to the policies in effect at the time when a formal building permit application is made by the owners.

1. Domestic water and fire protection.

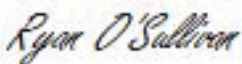
- a) Our records indicate that the subject property is provided with domestic and non-portable irrigation services. We also note that a care must be taken when crossing or working in close proximity to a fragile 100mm AC watermain that is within ROW Plan A12215.
- b) All charges for service connection and upgrading costs, as well as any costs to decommission existing services, shall be the responsibility of the developer.
- c) On-site servicing including the utilisation of existing or proposed services as well as fire protection requirements will be reviewed by Building & Permitting.
- d) Meters with double check valve assemblies are required for all services.

2. Sanitary Sewer.

- a) This subject parcel is currently not within the City sewer service area. Sanitary sewage is presently handled by an on-site sewage disposal system.
- b) Existing and proposed on-site servicing upgrades will be reviewed by the Interior Health Authority and Building & Permitting.

3. Electric Power and Telecommunications Services.

- a) It is the developer's responsibility to make a servicing application with the respective electric power, telephone and cable transmission companies to arrange for these services, which would be at the applicant's cost



Ryan O'Sullivan
Development Engineering Manager
JF

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ATTACHMENT C

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A21-0012 FH21-0003

Planner Initials **TC**

City of Kelowna
DEVELOPMENT PLANNING

September 3, 2021

File No: 0280-30

Local Government File No: A21-0012

City of Kelowna
1435 Water Street
Kelowna, BC V1Y 1J4
Via E-mail: planninginfo@kelowna.ca

Dear City of Kelowna planning staff:

Re: Non-Adhering Residential Use, 3700 Pooley Road, Parcel Identifier: 031-090-249

Thank you for providing the Ministry of Agriculture, Food and Fisheries staff the opportunity to comment on the proposed non-adhering residential use application. From an agricultural perspective, we offer the following comments on the materials provided:

- The applicant wishes to house Temporary Farm Workers (TFW) that are part of the federal Seasonal Agricultural Worker Program (SAWP) on-site to support cherry production on multiple properties. Cherries are a labour-intensive crop which require a significant number of people for a property of 19.9 ha in size. The applicant owns or leases 19 other properties in the region in addition to this one.
- The applicant proposes to build two drill camp style dormitories of six trailers each for this purpose. The trailers will be built upon skids instead of permanent foundations and can therefore be removed if no longer required.
- The trailers will be located at the corner of the lot which will minimize the impact of the housing on the productive area of the parcel. It does appear, though, that some cherry trees will need to be removed in order to provide room for the housing and septic systems.
- The total floor area of the trailers will be 836 m² which works out to more than 17 m² per worker. This is more than the 10 m² maximum useable floor area per worker recommended by the Minister's Bylaw Standard for Temporary Farm Worker Housing (TFWH) in the [Guide for Bylaw Development in Farming Areas](#); however, the TFWH Standard was developed in 2009 and is due for a review. Covid-19 has posed significant challenges with regard to housing of SAWP workers in such a way as to achieve good public health outcomes. The applicants may be attempting to address public health issues by providing more space for each worker.



- Suitable housing is a requirement of the SAWP program.
- Based on the information provided, the proposal appears reasonable based upon the crop, scale, and location.

If you have any questions, please contact us directly by email or phone.

Sincerely,

Handwritten signature of Alison Fox in black ink.

Alison Fox, P.Ag.
Land Use Agrologist
Ministry of Agriculture, Food and Fisheries
Alison.Fox@gov.bc.ca
(778) 666-0566

Handwritten signature of Chris Zabek in black ink.

Chris Zabek, P.Ag.
Regional Agrologist
Ministry of Agriculture, Food and Fisheries
Chris.Zabek@gov.bc.ca
(250) 861-7680

Cc: Sara Huber, ALC



ATTACHMENT D

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A21-0012-FH21-0003

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ATTACHMENT D

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ATTACHMENT D

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TEMPORARY FARM WORKER HOUSING PERMIT



APPROVED ISSUANCE OF TEMPORARY FARM WORKER HOUSING PERMIT NO. FH21-0003

Issued To: Jealous Fruits Ltd., Inc. No. 1282068
Site Address: Jordan Hettinga
Legal Description: Lot C Sections 11 and 14 Township 26 ODYD Plan EPP98515
Zoning Classification: A1 – Agriculture 1
Development Permit Area: Temporary Farm Worker Housing

SCOPE OF APPROVAL

This Permit applies to and only to those lands within the Municipality as described above, and any and all buildings, structures and other development thereon.

This Permit is issued subject to compliance with all of the Bylaws of the Municipality applicable thereto, except as specifically varied or supplemented by this Permit, noted in the Terms and Conditions below.

The issuance of a Permit limits the Permit Holder to be in strict compliance with regulations of the Zoning Bylaw and all other Bylaws unless specific Variances have been authorized by the Permit. No implied Variances from bylaw provisions shall be granted by virtue of drawing notations that are inconsistent with bylaw provisions and that may not have been identified as required Variances by the applicant or Municipal staff.

1. TERMS AND CONDITIONS

THAT Temporary Farm Worker Housing Permit No. FH21-0003 Lot C Sections 11 and 14 Township 26 ODYD Plan EPP98515 located at 3700 Pooley Road, Kelowna, BC to allow the development of temporary farm worker housing be approved subject to the following:

- a) The dimensions and siting of the buildings and structures to be constructed on the land be in accordance with Schedule "A";
- b) A vegetated buffer is provided for screening adjacent property lines and between the temporary farm worker housing and active farming areas in accordance with Schedule B;
- c) The applicant be required to post with the City a Landscape Performance Security deposit in the form of an Irrevocable Letter of Credit in the amount of 125% of the estimated value of the landscaping, as determined by a Registered Landscape Architect;
- d) Registration of a Section 219 Restrictive Covenant restricting the use of the temporary farm worker housing to accommodation for temporary farm workers only, to a maximum forty-eight (48) temporary farm workers, and to a maximum occupation of ten (10) months of the year;

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| # A21-0012 FH21-0003 | | |
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- e) Registration of a Section 219 Restrictive Covenant on all parcels owned or leased by the farmer in the Southeast Kelowna OCP Sector restricting the total number of temporary farm worker housing to sixty (60) on those parcels; and
- f) Registration of a Section 219 Restrictive Covenant on the farm unit parcels prohibiting the parcels from being sold or otherwise transferred separately; and

AND THAT this Temporary Farm Worker Housing Permit is valid for two (2) years from the date of Council approval, with no opportunity to extend.

2. PERFORMANCE SECURITY

As a condition of the issuance of this Permit, Council is holding the security set out below to ensure that development is carried out in accordance with the terms and conditions of this Permit. Should any interest be earned upon the security, it shall accrue to the Developer and be paid to the Developer or his or her designate if the security is returned. The condition of the posting of the security is that should the Developer fail to carry out the development hereby authorized, according to the terms and conditions of this Permit within the time provided, the Municipality may use enter into an agreement with the property owner of the day to have the work carried out, and any surplus shall be paid over to the property own of the day. Should the Developer carry out the development permitted by this Permit within the time set out above, the security shall be returned to the Developer or his or her designate. There is filed accordingly:

- a) An Irrevocable Letter of Credit in the amount of \$7,000.00

Before any bond or security required under this Permit is reduced or released, the Developer will provide the City with a statutory declaration certifying that all labour, material, workers' compensation and other taxes and costs have been paid.

3. DEVELOPMENT

The land described herein shall be developed strictly in accordance with the terms and conditions and provisions of this Permit and any plans and specifications attached to this Permit that shall form a part hereof.

If the Permit Holder does not commence the development permitted by this Permit within two years of the date of this Permit, this Permit shall lapse.

This Permit IS NOT a Building Permit.

4. Indemnification

Upon commencement of the works authorized by this Permit the Developer covenants and agrees to save harmless and effectually indemnify the Municipality against:

- a) All actions and proceedings, costs, damages, expenses, claims, and demands whatsoever and by whomsoever brought, by reason of the Municipality said Permit.
- b) All costs, expenses, claims that may be incurred by the Municipality where the construction, engineering or other types of works as called for by the Permit results in damages to any property owned in whole or in part by the Municipality or which the Municipality by duty or custom is obliged, directly or indirectly in any way or to any degree, to construct, repair, or maintain.

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5. APPROVALS

Issued and approved by Council on the January 10th, 2022.

Terry Barton, Development Planning Department Manager

Date

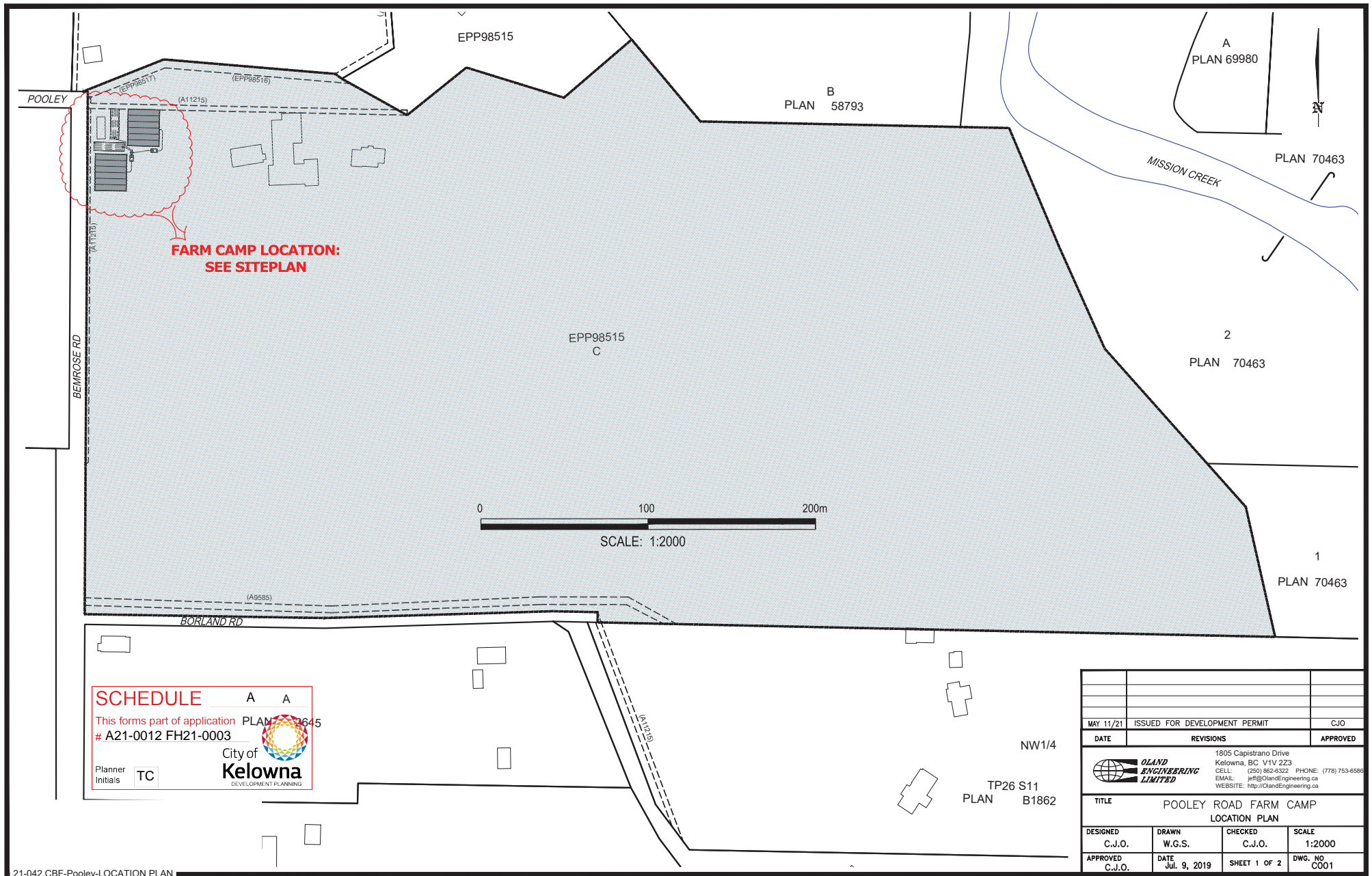
**The PERMIT HOLDER is the CURRENT LAND OWNER.
Security shall ONLY be returned to the signatory of the
Landscape Agreement or his or her designates**

ATTACHMENT _____ **E**

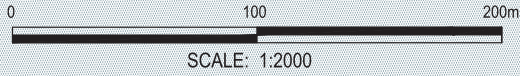
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A21-0012 FH21-0003 _____

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**FARM CAMP LOCATION:
SEE SITEPLAN**



SCHEDULE A A

This forms part of application # A21-0012 FH21-0003

City of Kelowna DEVELOPMENT PLANNING

Planner Initials TC

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| MAY 11/21 | | | | ISSUED FOR DEVELOPMENT PERMIT | | CJO | |
| DATE | REVISIONS | | | APPROVED | | | |
| | | 1805 Capistrano Drive Kelowna, BC V1V 2Z3 CELL: (250) 862-6322 PHONE: (778) 753-6586 EMAIL: jrf@OlandEngineering.ca WEBSITE: http://OlandEngineering.ca | | | | | |
| TITLE POOLEY ROAD FARM CAMP LOCATION PLAN | | | | | | | |
| DESIGNED | DRAWN | CHECKED | SCALE | | | | |
| C.J.O. | W.G.S. | C.J.O. | 1:2000 | | | | |
| APPROVED | DATE | SHEET | | DWG. NO. | | | |
| C.J.O. | Jul. 9, 2019 | 1 OF 2 | | C001 | | | |

POOLEY RD

(A11215)

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SCHEDULE A

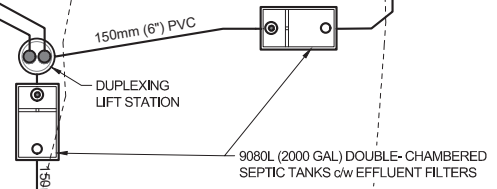
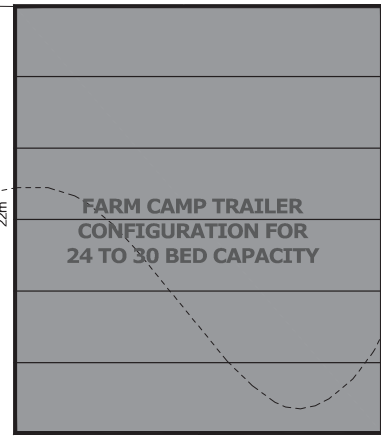
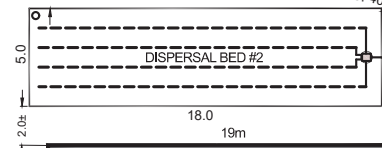
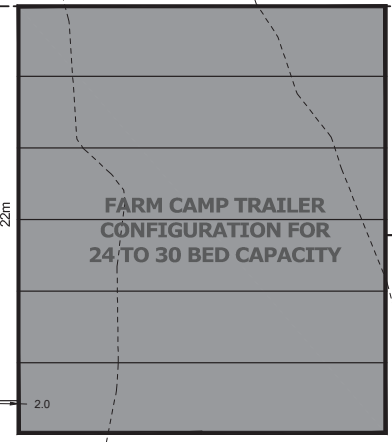
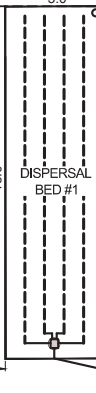
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A21-0012 FH21-0003

Planner Initials **TC**



LOT C
EPP98515

NE ¼
PLAN T26 S10




LEGAL: LOT C, PLAN EPP98515, SECTION 11&14, TOWNSHIP 26, ODYD
 CIVIC: 3700 POOLEY RD KELOWNA BC
 PID: 031-090-249
 ROLL: 19-217-04200.103
 OWNER: JEALOUS FRUITS LTD

1 SITE PLAN
SCALE: 1:250



NOT FOR CONSTRUCTION

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| | | |
| | | |
| | | |
| | | |
| MAY 11/21 | ISSUED FOR DEVELOPMENT PERMIT | CJO |
| DATE | REVISIONS | APPROVED |
|  1805 Capistrano Drive Kelowna, BC V1V 2Z3 CELL: (250) 862-6322 PHONE: (778) 753-6586 EMAIL: jf@OlandEngineering.ca WEBSITE: http://OlandEngineering.ca | | |
| TITLE POOLEY ROAD FARM CAMP SITEPLAN | | |
| DESIGNED C.J.O. | DRAWN W.G.S. | CHECKED C.J.O. |
| APPROVED C.J.O. | DATE Jul. 9, 2019 | SHEET 2 OF 2 |
| SCALE 1:250 | DWG. NO C001 | |

SCHEDULE

B

This forms part of application
A21-0012 FH21-0003



City of
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Pooley Rd

Driveway

Bemrose Road

