

REPORT TO COUNCIL



Date: September 7, 2012
To: City Manager
From: Land Use Management, Community Sustainability (GS)
Application: A12-0012
Owner: Vera Hanson
Christopher Hanson
Patricia Deacoff
Address: 3097 East Kelowna Road
Applicant: Frank Buckland
Harold Hatfield
Subject: Subdivision in the Agricultural Land Reserve - Homesite Severance
Non-farm use of Land in the Agricultural Land Reserve
Existing OCP Designation: Resource Protection Area
Existing Zone: A1 - Agriculture 1

1.0 Recommendation

THAT Agricultural Land Reserve appeal A12-0012 for Parcel B (Plan B1550) of Lot 23, Section 15, Township 26 Osoyoos Division Yale District Plan 187, located at 3097 East Kelowna Road, Kelowna, B.C. for a subdivision within the Agricultural Land Reserve, pursuant to Section 21(2) of the Agricultural Land Commission Act, be supported by Municipal Council;

AND THAT Agricultural Land Reserve appeal A12-0012 for Parcel B (Plan B1550) of Lot 23, Section 15, Township 26 Osoyoos Division Yale District Plan 187, located at 3097 East Kelowna Road, Kelowna, B.C. for a "non-farm use" (additional dwelling) under Section 20(3) of the Agricultural Land Commission Act, be supported by Municipal Council;

AND FURTHER THAT Municipal Council forward the application to the Agricultural Land Commission.

2.0 Purpose

To consider:

- 1) an Agricultural Land Commission (ALC) application for a "Subdivision of agricultural land reserve" under Section 21(2); and
- 2) an Agricultural Land Commission (ALC) application for "non-farm use" under Section 20(3) of the Agricultural Land Commission Act.

The subdivision is more specifically a "Homesite Severance" request, while the non-farm use reflects a request for a secondary suite in an accessory building (i.e. Carriage House).

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3.0 Land Use Management

Land Use Management staff are generally supportive of the applicants proposal, but do have concerns with specific details of the request. City policy recommends support for homesite severance's consistent with ALC Policy #11, which allows farmers to retire or sell the property while retaining a homesite. A key consideration identified by the ALC is that all homesite severances should be reviewed in the context of the overall agricultural integrity of the parcel, where the size and configuration will constitute a viable agricultural remainder. To this end, homesite severance parcels should be modest in size in an effort to ensure the remainder can be viable. This is particularly important in Kelowna where most parcels are small.

In addition to a small homesite severance, existing agricultural structures should remain with the agricultural remainder, rather than with the homesite severance which functions as a rural residential parcel. Achieving these goals can be particularly challenging on the more compact and well-designed homeplates which have structures in close proximity to maximize the plantable area. In this case, the applicants are proposing a homesite severance which would see all of the agricultural structures remain with the homesite severance.

While Land Use staff support the proposed homesite severance, the size of the proposed severance parcel can be reduced in size. Doing so would result in existing agricultural structures staying with the remainder parcel, a modification that will help to ensure greater agricultural viability. Map 3, below, reflects a more compact subdivision that staff support. The proposed lot lines are approximate and final lot lines would need to ensure that the existing septic systems are located within the boundaries. A variance or variances may be necessary to accomplish this layout, though these variances would be supported by staff given the net benefit in doing so.

The farm help dwelling is a permitted use as an "Agricultural Dwelling, Additional" in the Zoning Bylaw and must be used to accommodate farm employees (temporary or full-time) only. If subdivided, the homesite no longer warrants this dwelling. Options include removal, decommissioning or demolishing the dwelling; a subdivision which does not include the farm worker housing; or legalizing the dwelling as a non-farm use. The owners have elected to pursue the non-farm use approach. If the ALC approves the non-farm use, the City will need to consider rezoning the property to a zone that includes provisions for a carriage house (e.g. RR2c).

From a policy perspective, preference is given to suites located within principal dwellings which are permitted by the ALC Act. The existing mobile home meets the size requirements for carriage houses and would not likely have a negative impact on the agricultural viability of the remainder. Staff do however cautiously support the carriage house. Additional residences result in the potential for increased urban/rural conflict and add incremental traffic to rural roads which have both short and long term consequences. To mitigate the interface conflict, staff recommend that a buffer consisting of fencing, shrubs and medium height trees (see attached, Schedule A - Buffer Types) be required around the perimeter of the homesite severance (within the homesite severance).

A proposed restrictive (no build) covenant that would prevent buildings and structures within 30.5 m of the western property line and within 15.2 m of the southern property line of the proposed homesite is not however supported. Restrictive covenants on agricultural land are uncommon and must be approved by the ALC. The Zoning Bylaw establishes standard setbacks from lot lines on a community-wide scale and should be respected.

4.0 Proposal

4.1 Background

The applicant is requesting permission from the ALC for a “*Subdivision of agricultural land reserve*” under Section 21(2) of the ALC Act. The applicants are seeking a two lot subdivision for the purpose of a homesite severance. The owner purchased the subject property in 1962 and therefore qualifies for subdivision consideration as a homesite severance.

The proposal is to subdivide the existing homesite which is located in the northeast corner of the property. The applicant is seeking a 0.53 ha (1.32 ac) subdivision that includes a number of structures including the existing dwelling, a farm help structure, large garage and utility shed and a horse barn. The proposed subdivision would also see a portion of the orchard and a corral staying with the severance portion. If the subdivision were to be approved as proposed the remainder parcel would be 4.43 ha (10.95 ac) in size.

The applicant is also requesting permission from the ALC for a “non-farm use” as pertains to the existing farm help structure (see attached photos). If the subdivision is granted the owners will no longer have a need for farm employee accommodation (~45m² structure) which necessitates the non-farm use approval. If approved as a non-farm use the homesite severance parcel would need to be rezoned from the current A1 zoning designation to an appropriate zone (e.g. A1c or RR2c) to reflect the “Carriage House”.

Finally, the applicant is seeking a buffer from future development on the remainder property. The applicant is proposing an approximate 15.2 m buffer from the proposed rear yard and 30.5 m buffer along the side yard which would be secured by way of a Section 219 Restrictive Covenant.

4.2 Site Context

The subject property is located south of East Kelowna Road between Dunster and Reid Roads in the Southeast Kelowna Sector of the City. The subject property is in a rural/agricultural area, surrounded by agricultural land on all sides.

Soils on the parcel are thought to be relatively uniform and of high quality, relatively speaking. The Canada Land Inventory suggests the entire parcel is 30% Class 2 and 70% Class 3, improved.

Parcel Summary:

Parcel Size: 4.96 ha (12.27 ac)
Elevation: 436 - 441 masl

4.3 Zoning of Adjacent Property

<i>Direction</i>	<i>Zoning Designation</i>	<i>Land Use</i>
North	A1 - Agriculture 1	Agriculture
East	A1 - Agriculture 1	Agriculture
South	A1 - Agriculture 1	Agriculture
West	A1 - Agriculture 1	Agriculture

Map 1 - Subject Property - 3097 East Kelowna Road



Map 2 - Proposed Homesite Severance



Map 3 - Staff Recommended Homesite Severance Reduced in Size



5.0 Policy and Regulation

5.1 Kelowna 2030 Official Community Plan (OCP)

Objective 5.33 Protect and enhance local agriculture¹.

Policy .1 Protect Agricultural Land. Retain the agricultural land base by supporting the ALR and by protecting agricultural lands from development, except as otherwise noted in the City of Kelowna Agricultural Plan. Ensure that the primary use of agricultural land is agriculture, regardless of parcel size.

Policy .3 Urban Uses. Direct urban uses to lands within the urban portion of the Permanent Growth Boundary, in the interest of reducing development and speculative pressure on agricultural lands.

Policy .7 Non-farm Uses. Support non-farm use applications on agricultural lands only where approved by the ALC and where the proposed uses:

- are consistent with the Zoning Bylaw and OCP;
- provide significant benefits to local agriculture;
- can be accommodated using existing municipal infrastructure;
- minimize impacts on productive agricultural lands;
- will not preclude future use of the lands for agriculture;
- will not harm adjacent farm operations.

Policy .8 Subdivision. Maximize potential for the use of farmland by not allowing the subdivision of agricultural land into smaller parcels (with the exception of Homesite

¹ City of Kelowna Official Community Plan - Chapter 5 - Development Process; pp. 5.33 & 5.34.

Severances approved by the ALC) except where significant positive benefits to agriculture can be demonstrated.

Policy .9 Housing in Agricultural Areas. Discourage residential development (both expansions and new developments) in areas isolated within agricultural environments (both ALR and non-ALR).

Objective 5.34 Preserve productive agricultural land².

Policy .1 Secondary Suites. Encourage secondary suites on agricultural land to be located within a permitted principal dwelling.

Policy .3 Homeplating. Locate buildings and structures, including farm help housing and farm retail sales area and structures, on agricultural parcels in close proximity to one another and where appropriate, near the existing road frontage. The goal should be to maximize use of existing infrastructure and reduce impacts on productive agricultural lands.

Objective 6.2 Improve energy efficiency and reduce community greenhouse gas emissions³.

Policy .1 GHG Reduction Target and Actions. The City of Kelowna's efforts will be focussed on creating more mixed-use neighbourhoods (as identified on the OCP Future Land Use map) and on ensuring that residents can conveniently and safely travel by bus or by foot, bicycle and other forms of active transportation to get to major community destinations while ensuring the efficient movement of goods and services.

5.2 City of Kelowna Agriculture Plan

ALR Application Criteria⁴

Exclusion, subdivision, or non-farm use of ALR lands will generally not be supported. General non-support for ALR applications is in the interest of protecting farmland through retention of larger parcels, protection of the land base from impacts of urban encroachment, reducing land speculation and the cost of entering the farm business, and encouraging increased farm capitalization.

Urban - Rural/Agricultural Boundary Policies⁵

Parcel Size (Agricultural Land) - Discourage the subdivision of agricultural land into smaller parcels, except where positive benefits to agriculture can be demonstrated.

Homesite Severance - Continue to support the concept of homesite severance, consistent with Agricultural Land Commission Policy #025/78 [11]⁶.

Legislative Policies

10. Secondary Suites. Support the provision of secondary suites in agricultural areas as per Land Commission Policy # 770/98 (see Attached Policy #8), which allows one suite per parcel, substantially within the footprint of an existing or proposed single family dwelling provided it is clearly secondary to the single family dwelling. Suites in accessory buildings or enlarging the footprint of an existing residence for a suite would require an ALC application.

² City of Kelowna 2030 Official Community Plan: Greening Our Future (2011), Development Process Chapter; p. 5.34.

³ City of Kelowna 2030 Official Community Plan: Greening Our Future (2011), Environment Chapter; pp. 6.1 & 6.2.

⁴ City of Kelowna Agriculture Plan (1998); p. 130.

⁵ City of Kelowna Agriculture Plan (1998); p. 131.

⁶ City of Kelowna Agriculture Plan (1998); p. 85.

5.3 Agricultural Land Commission Policy #11- Homesite Severance on ALR Lands

Persons making use of this policy should understand clearly that⁷:

- a. no one has an automatic right to a "homesite severance";*
- b. the Commission shall be the final arbiter as to whether a particular "homesite severance" meets good land use criteria;*
- c. a prime concern of the Commission will always be to ensure that the "remainder" will constitute a suitable agricultural parcel.*

4. There will be cases where the Commission considers that good land use criteria rule out any subdivision of the land because subdivision would compromise the agricultural integrity of the area, and the Commission must therefore exercise its discretion to refuse the "homesite severance".

Where the Commission decides to allow a "homesite severance", there are two options:

- a) the existing homesite may be created as a separate parcel where it is of a minimum size compatible with the character of the property (plus a reasonable area, where required, for legal access purposes); or*
- b) where the location of the existing homesite is such that the creation of a parcel encompassing the homesite would, in the Commission's opinion, create potential difficulty for the agricultural operation or management of the "remainder", the Commission may, as it deems appropriate, approve the creation of a parcel elsewhere on the subject property.*

5. The remainder of the subject property after severance of the homesite must be of a size and configuration that will, in the Commission's opinion, constitute a suitable agricultural parcel. Where, in the Commission's opinion, the "remainder" is of an unacceptable size or configuration from an agricultural perspective, there are three options:

- a) the Commission may deny the "homesite severance";*
- b) the Commission may require that the "remainder" be consolidated with an adjacent parcel; or*
- c) the Commission may require the registration of a covenant against the title of the "remainder" and such a covenant may prohibit the construction of dwellings.*

6.0 Technical Comments

6.1 Subdivision Approvals Branch

- Subdivision subject to ALC approval
- Compliance with homesite severance policy
- DCCs and engineering fees payable at final subdivision approval
- Applicant to prove out septic field location (to be covenanted)
- Subdivision subject to FortisBC and water provider approval.

6.2 South East Kelowna Irrigation District

See attached.

⁷ Agricultural Land Commission - Policy #11 - Homesite Severance on ALR Lands (http://www.alc.gov.bc.ca/legislation/policies/Pol11-03_homesite-severance.htm)

7.0 Application Chronology

Date of Application Received: July 13, 2012

Agricultural Advisory Committee August 14, 2012

The above noted application was reviewed by the Agricultural Advisory Committee and the following recommendation was passed:

THAT the Agricultural Advisory Committee support Agricultural Land Reserve Application No. A12-0012 for 3097 East Kelowna Road, for subdivision in the ALR (Homesite Severance);

AND THAT the Agricultural Advisory Committee NOT support Agricultural Land Reserve Application No. A12-0012 for 3097 East Kelowna Road, for a "non-farm use" (additional dwelling) under Section 20(3) of the Agricultural Land Commission Act.

Report prepared by:


Greg Sater, Land Use Planner

Reviewed by:



Todd Cashin Manager, Manager, Environment & Land Use

Approved for Inclusion:



Shelley Gambacort, Director, Land Use Management

Attachments:

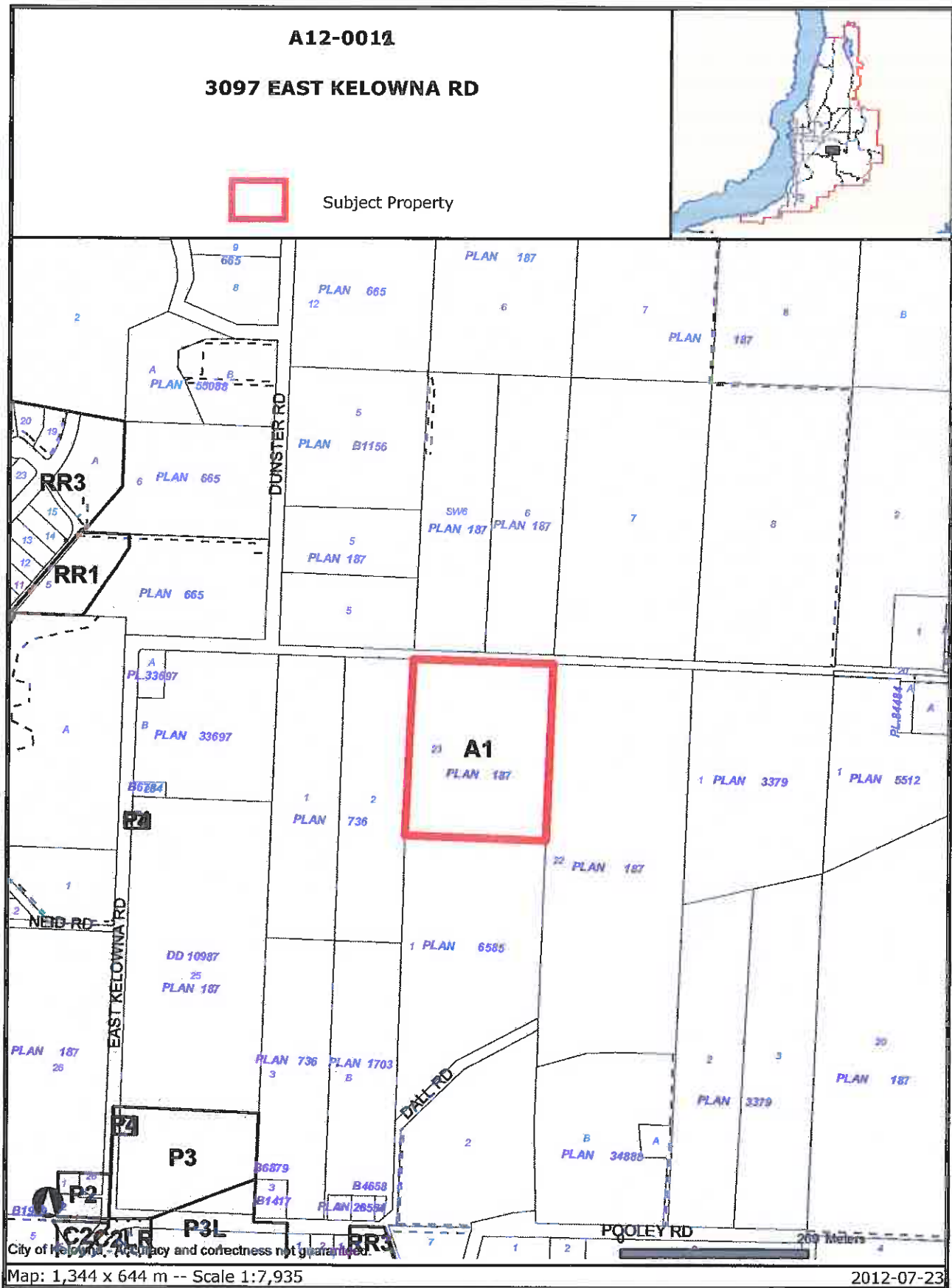
Subject property/zoning map & ALR map (2 pages)

BC Land Inventory - Land Capability and Soil Classification (5 pages)

ALC Buffering - Schedule A2 - Medium Height Trees (1 page)

SEKID Comments (1 page)

ALC application by landowner (13 pages)

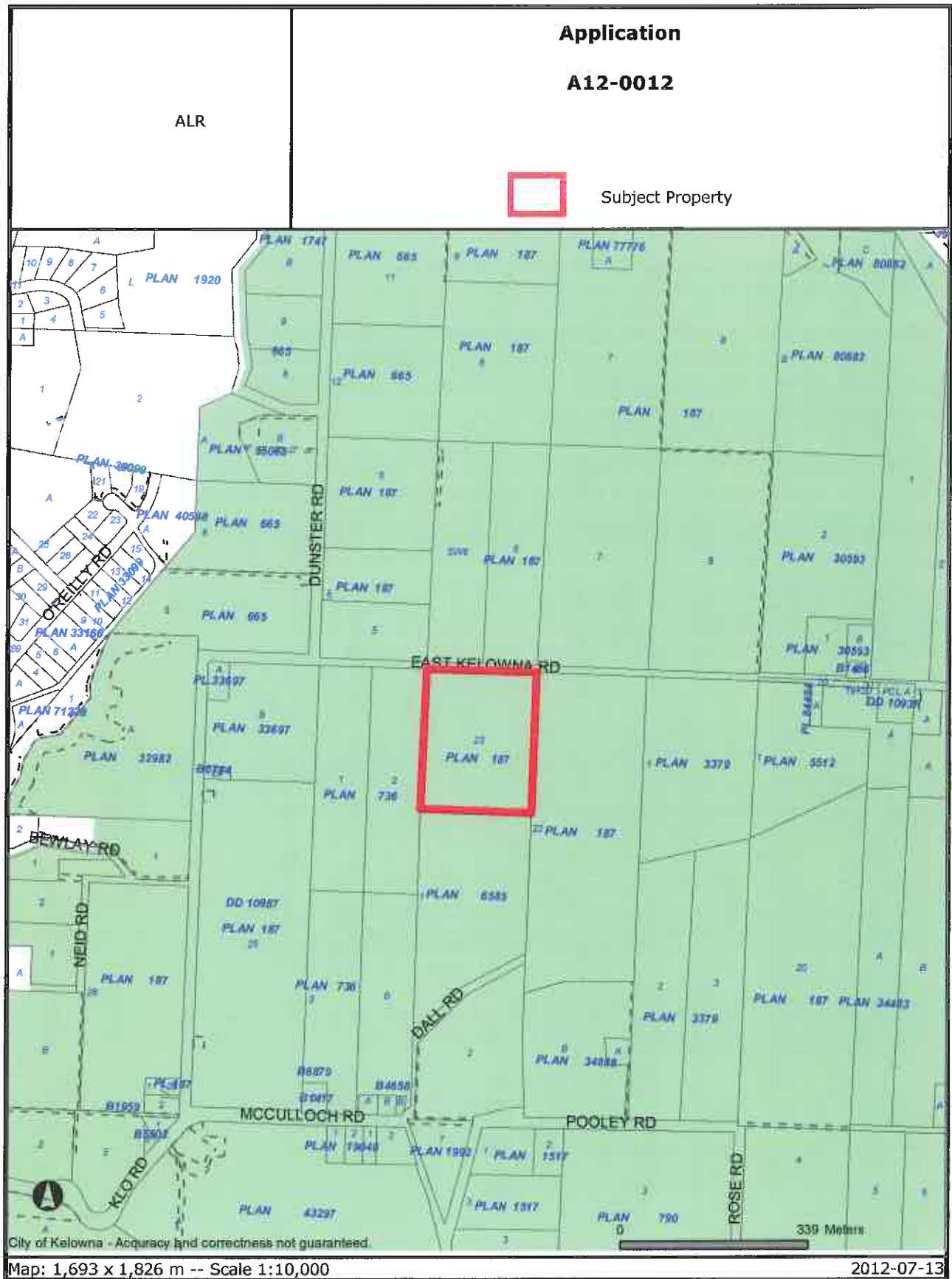


City of Kelowna - Accuracy and correctness not guaranteed.

Map: 1,344 x 644 m -- Scale 1:7,935

2012-07-23

Certain layers such as lots, zoning and dp areas are updated bi-weekly. This map is for general information only. The City of Kelowna does not guarantee its accuracy. All information should be verified.



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Land Capability = Brown/ Soil Class = Green



BCLI Land Capability

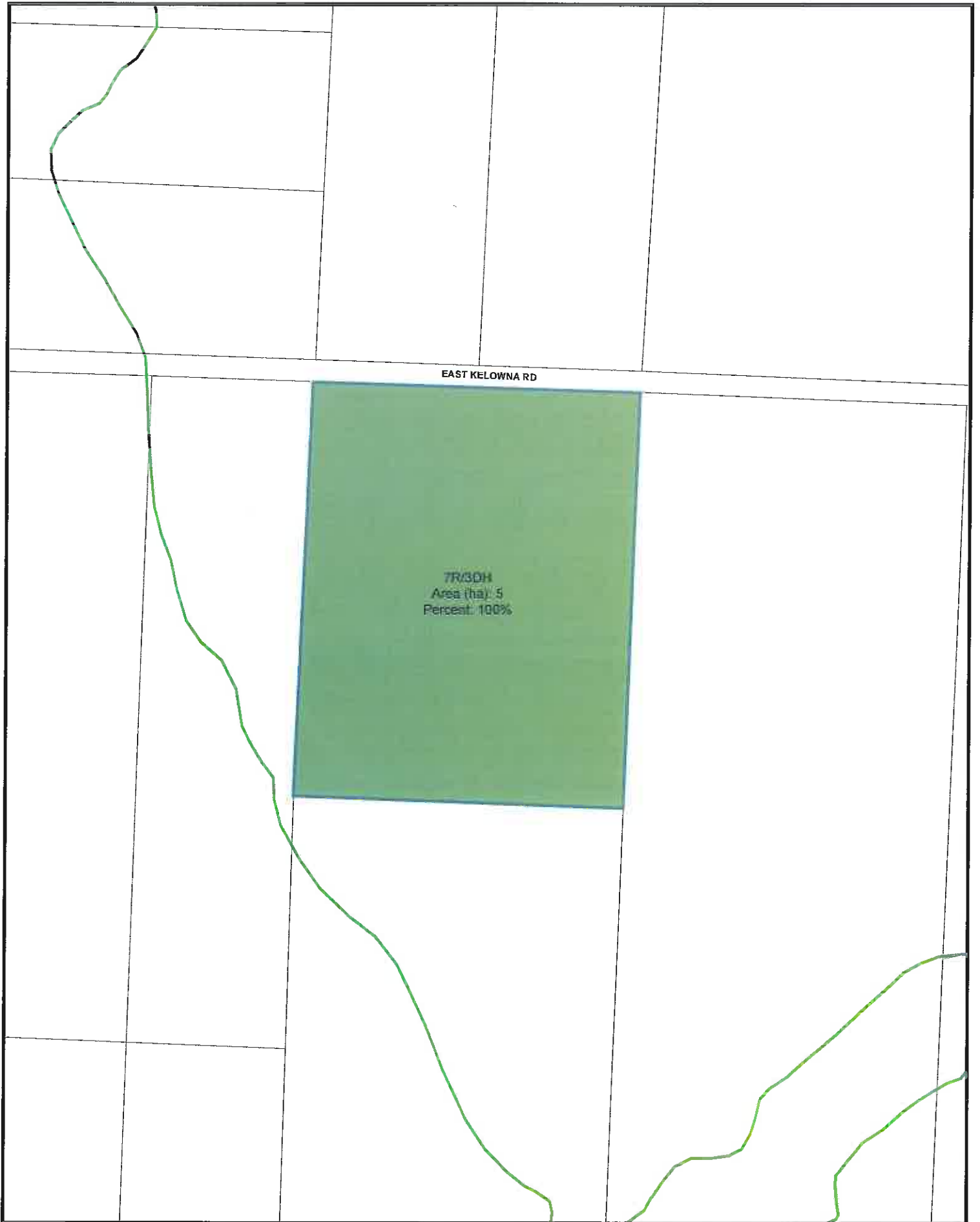
Legend

1	Land in this Class has no or only very slight limitations that restrict its use for the production of common agricultural crops. Land in Class 1 is level or nearly level. The soils are deep, well to imperfectly drained under natural conditions, or have good artificial water table control, and hold moisture well. They can be managed and cropped without difficulty. Productivity is easily maintained for a wide range of field crops.
2	Land in this Class has minor limitations that require good ongoing management practices or slightly restrict the range of crops, or both. Land in Class 2 has limitations which constitute a continuous minor management problem or may cause lower crop yields compared to Class 1 land but which do not pose a threat of crop loss under good management. The soils in Class 2 are deep, hold moisture well and can be managed and cropped with little difficulty.
3	Land in this Class has limitations that require moderately intensive management practices or moderately restrict the range of crops, or both. The limitations are more severe than for Class 2 land and management practices are more difficult to apply and maintain. The limitations may restrict the choice of suitable crops or affect one or more of the following practices: timing and ease of tillage, planting and harvesting, and methods of soil conservation.
4	Land in this Class has limitations that require special management practices or severely restrict the range of crops, or both. Land in Class 4 has limitations which make it suitable for only a few crops, or the yield for a wide range of crops is low, or the risk of crop failure is high, or soil conditions are such that special development and management practices are required. The limitations may seriously affect one or more of the following practices: timing and ease of tillage, planting and harvesting, and methods of soil conservation.
5	Land in this Class has limitations which restricts its capability to producing perennial forage crops or other specially adapted crops. Land in Class 5 is generally limited to the production of perennial forage crops or other specially adapted crops. Productivity of these suited crops may be high. Class 5 lands can be cultivated and some may be used for cultivated field crops provided unusually intensive management is employed and/or the crop is particularly adapted to the conditions peculiar to these lands. Cultivated field crops may be grown on some Class 5 land where adverse climate is the main limitation, but crop failure can be expected under average conditions.
6	Land in this Class is non-arable but capable of producing native and/or uncultivated perennial forage crops. Land in Class 6 provides sustained natural grazing for domestic livestock and is not arable in its present condition. Land is placed in this class because of severe climate, or the terrain is unsuitable for cultivation or use of farm machinery, or the soils do not respond to intensive improvement practices. Some unimproved Class 6 lands can be improved by draining, diking and/or irrigation.
7	Land in this Class has no capability for arable agriculture or sustained natural grazing. All classified areas not included in Classes 1 to 6 inclusive are placed in this class. Class 7 land may have limitations equivalent to Class 6 land but does not provide natural sustained grazing for domestic livestock due to unsuited natural vegetation. Also included are rock land, other non-soil areas, and small water bodies not shown on the maps. Some unimproved Class 7 land can be improved by draining, diking, irrigation, and/or levelling.

Subject Property Land Capability

Portion of Site	Land Capability Rating, Unimproved	Land Capability Rating, Improved
All	<p>70% Class 5 with crops affected by droughtiness caused low soil water holding capacity or insufficient precipitation.</p> <p>30% Class 4 with crops affected by droughtiness caused low soil water holding capacity or insufficient precipitation.</p>	<p>70% Class 3 with soils limited by the presence of coarse fragments which significantly hinder tillage, planting and/or harvesting.</p> <p>30% Class 2 with crops affected by droughtiness caused low soil water holding capacity or insufficient precipitation.</p>

Land Capability = Brown/ Soil Class = Green



Soil Classification

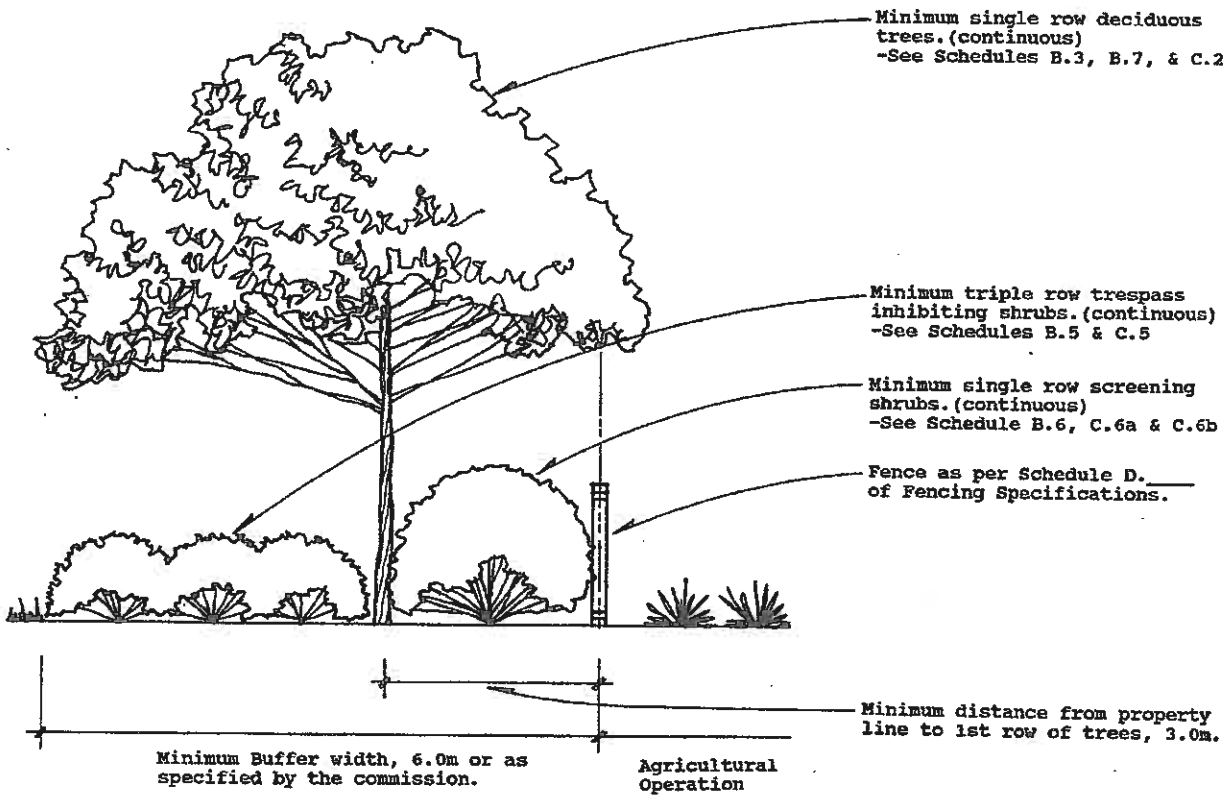
The soil classification for the subject property is as defined below.

Portion of Site / %	Soil Type	Description
70%	R - Rutland	<u>Land:</u> very gently to strongly sloping fluvioglacial deposits. <u>Texture:</u> 10 to 25cm of sandy loam or loamy sand over gravelly loamy sand or very gravelly sand. <u>Drainage:</u> rapid. <u>Classification:</u> Orthic Dark Brown.
30%	DH - Dartmouth	<u>Land:</u> nearly level to very steeply sloping fluvioglacial deposits. <u>Texture:</u> 25 to 60 cm of sandy loam or loam over gravelly sandy loam or gravelly loamy sand. <u>Drainage:</u> well to rapid. <u>Classification:</u> Orthic Dark Brown.

SCHEDULE A: BUFFER TYPES

**A.2: Minimum Vegetative Screen
(Medium Height Trees)**

Inhibits trespass and vandalism while providing minimum protection to non-farm developments from the movement of dust and pesticide spray from adjacent agricultural operations.





South East Kelowna Irrigation District

Fax/email Cover Sheet

DATE: July 30, 2012 TIME: 11:05 AM
TO: Shelly Gambacort, sgambacort@kelowna.ca Fax: (250) 862-3320
FROM: Toby Pike PHONE: 250-861-4200
General Manager FAX: 250-861-4213
e-mail: pike@sekid.ca
RE: ALR Application A12-0012

FILE COPY

Number of pages including cover sheet: 1

Message:

Please be advised we have reviewed the water servicing requirements for the above referenced subdivision application and the District requirements are as follows.

The District requires all fees associated with water servicing for one domestic unit be paid by the developer for the Remainder of Lot B1550 and that the existing domestic service to the residence(s) on the Homesite lot be upgraded from 19 mm to 25 mm in size. This will be the only water service to the Homesite Lot and it must be adequate to provide for two residences and 0.534 Ha of irrigation.

A new 19 mm domestic service is also required on the Remainder of B1550 and an Application Fee also must be paid which, in part, covers the cost of a water meter for a future residence on the property.

The existing 50 mm irrigation service on the remainder of B1550 is adequate for irrigation purposes. Note it is the developer's responsibility to insure the existing irrigation system on the Remainder of B1550 is modified to make sure water use is confined within the new property boundary. This requirement can be costly (depending on the irrigation system layout) and is strictly enforced.

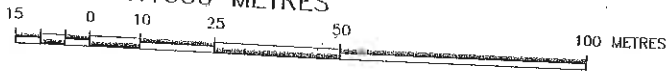
A summary of fees that must be paid prior to approval:

1.	Capital Expenditure Charge (Remainder B1550)	\$5,000.00
2.	New 19 mm Domestic Service (Remainder B1550)	1,800.00
3.	Upgrade existing 19 mm domestic to 25 mm (Homesite)	2,500.00
4.	Application Fee (Meter Charge for new domestic on Rem. B1550)	450.00
5.	New Account Fee	20.00
	Total:	\$9,770.00

Upon receipt of the above fees and compliance with all applicable District bylaws the application will be approved.

SKETCH PLAN OF PARCEL B (PLAN B1550) OF LOT 23, PLAN 187, SECTION 15, TOWNSHIP 26, ODYD

SCALE: 1:1000 METRES



EAST

KELOWNA

ROAD

OLD IRON POST
DISTURBED—NO GOOD

100 ft
30.48 m

OLD IRON POST

200.23(c)

94.50 m
310.00 ft

1.32 Ac
.534Ha

Homesite Lot

No Build/Disturb Covenant
Area

56.5 m
185 ft

50 ft
15.24m

LOT 2
PLAN 736

248.89(c)

PARCEL B
PLAN B1550

Remainder of Lot
12.27 Ac Less 1.32 Ac
= 10.95 Ac/4.43 Ha

REM LOT 22
PLAN 187

248.02

OLD IRON POST

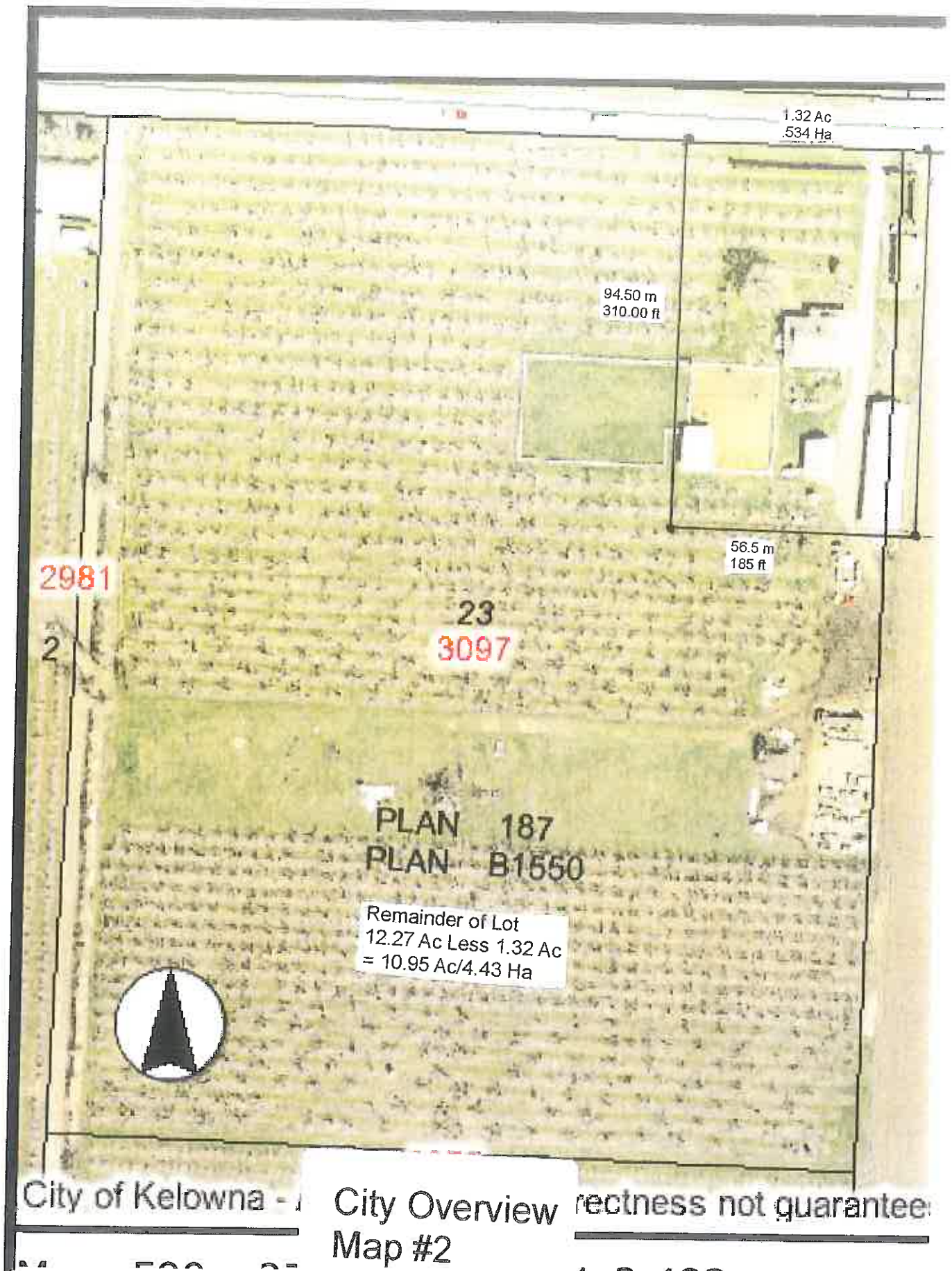
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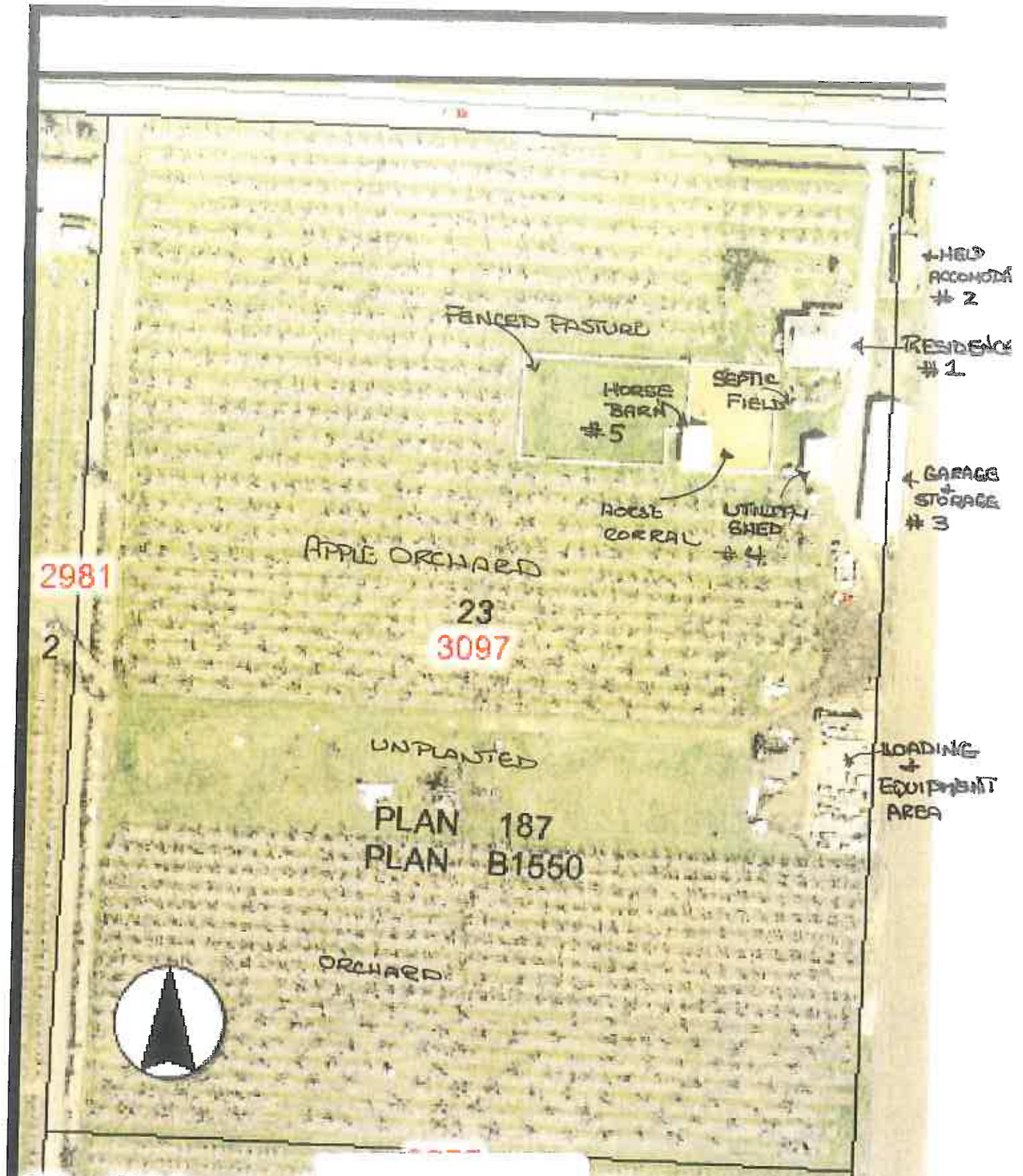
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LOT 1
PLAN 6585

Layout
Map #1

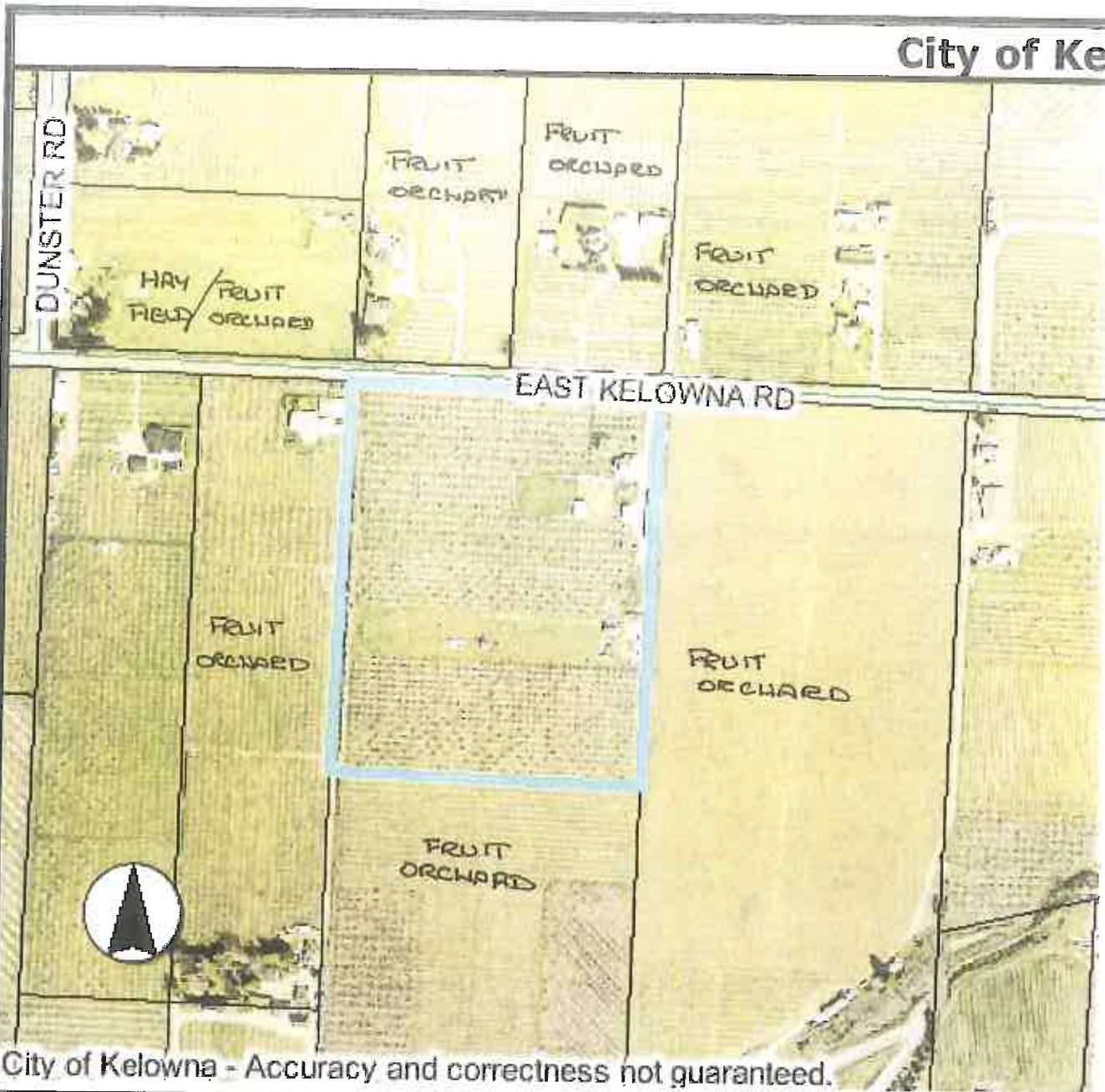
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City of Kelowna - A City Overview accuracy not guaranteed
 Map #3

City of Ke



City of Kelowna - Accuracy and correctness not guaranteed.

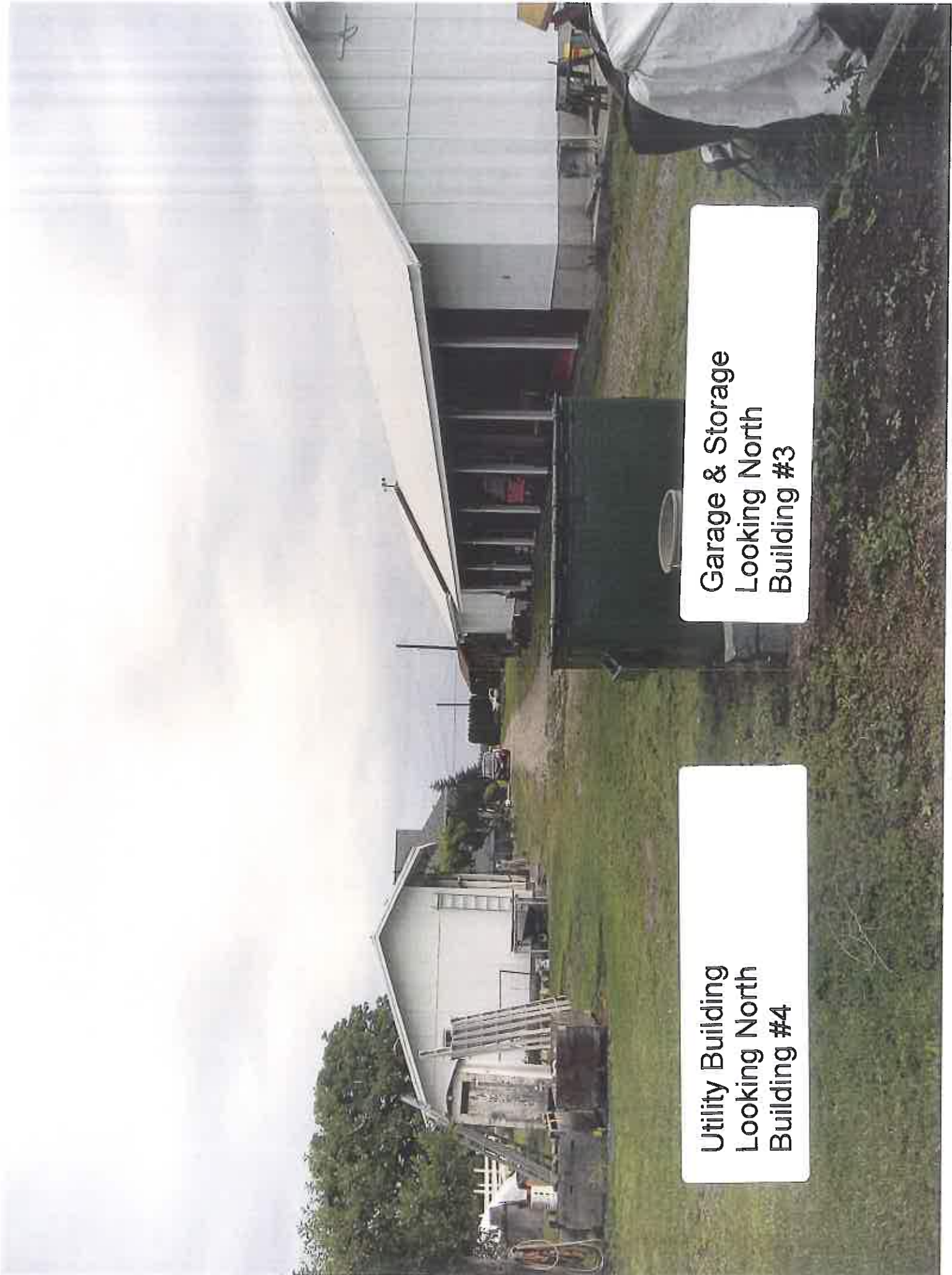
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This map is for general information only. The City of Kelowna does r.

City Overview Map #4

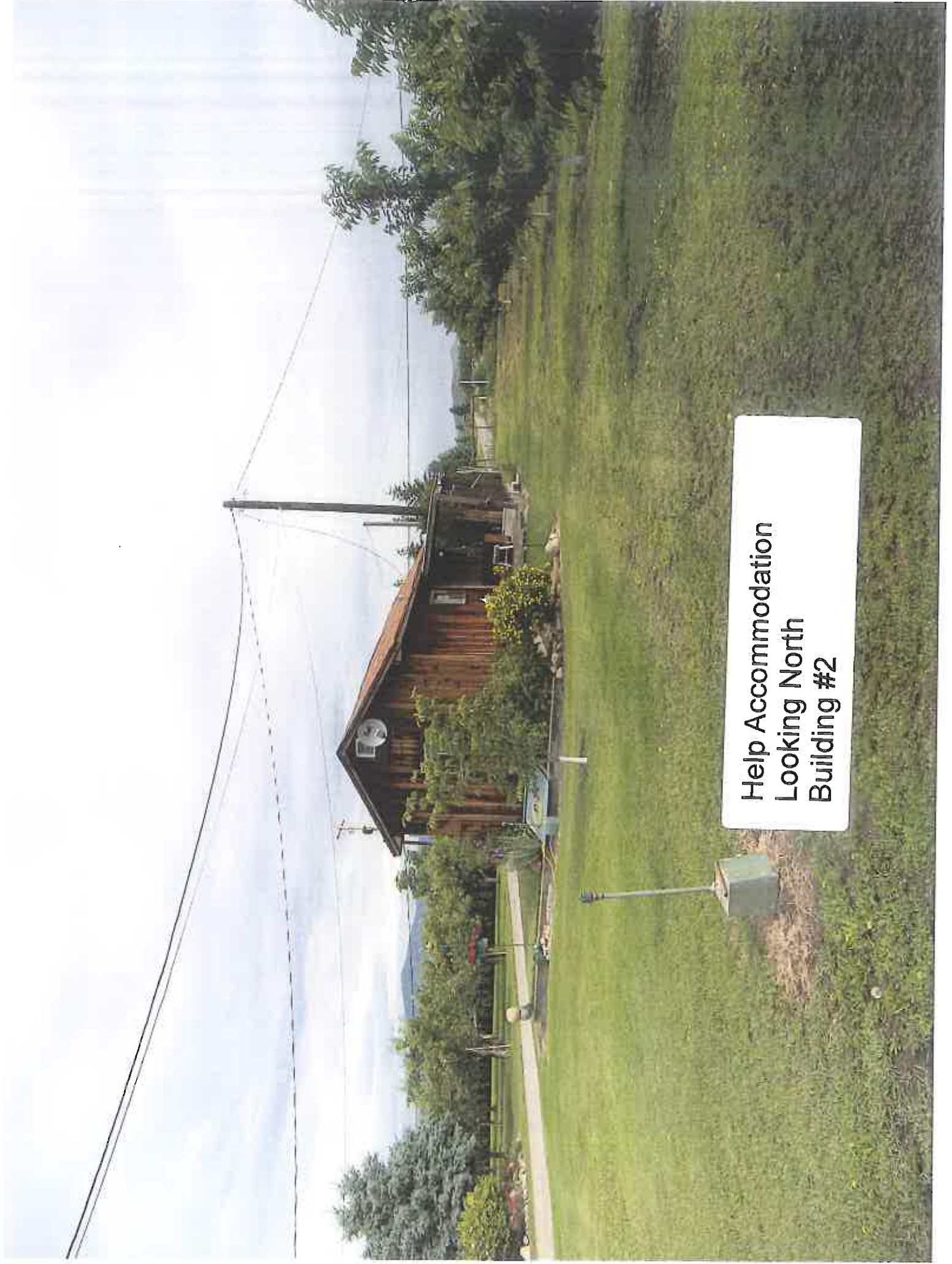


Residence
Looking West
Building #1



Utility Building
Looking North
Building #4

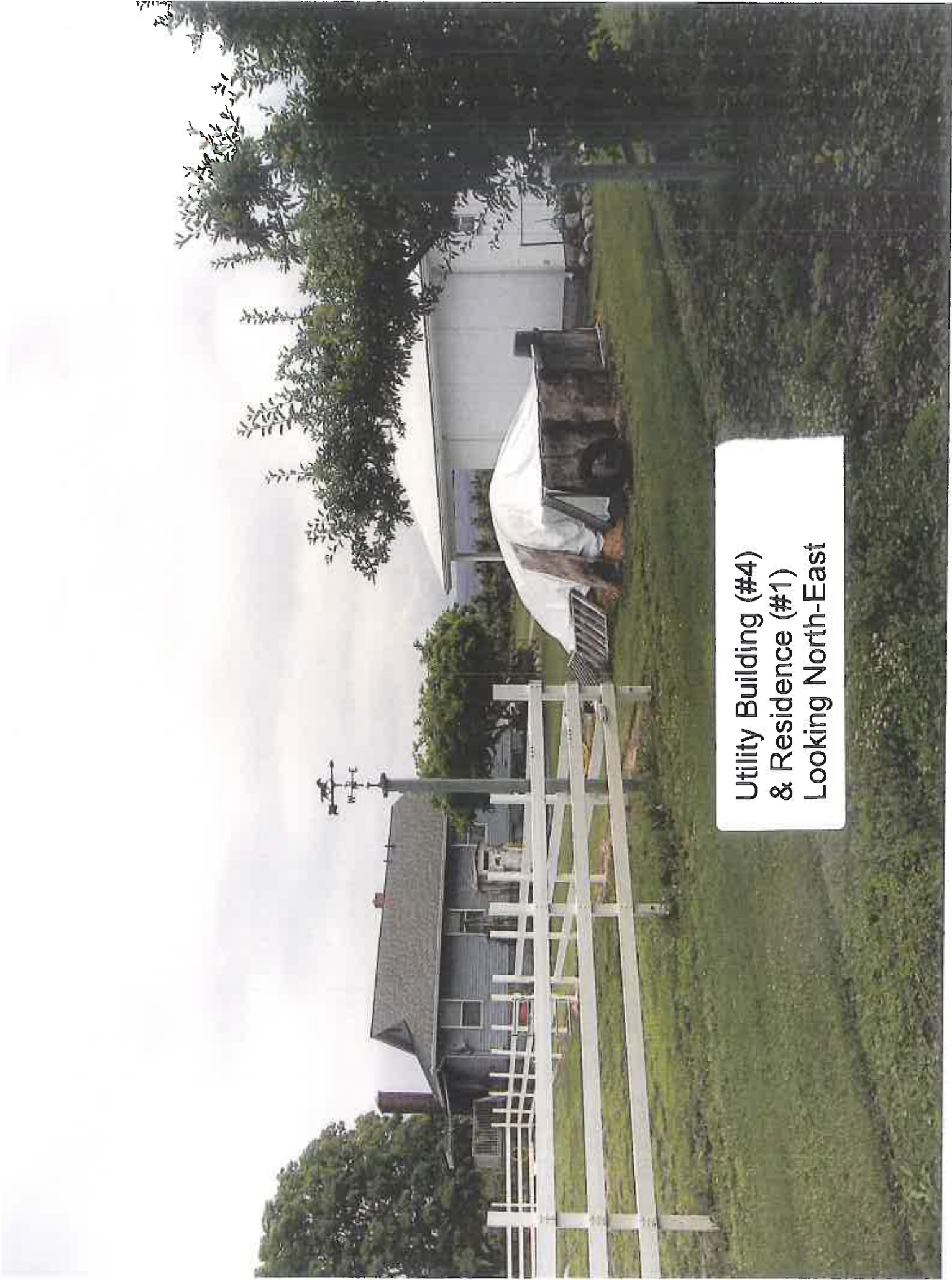
Garage & Storage
Looking North
Building #3



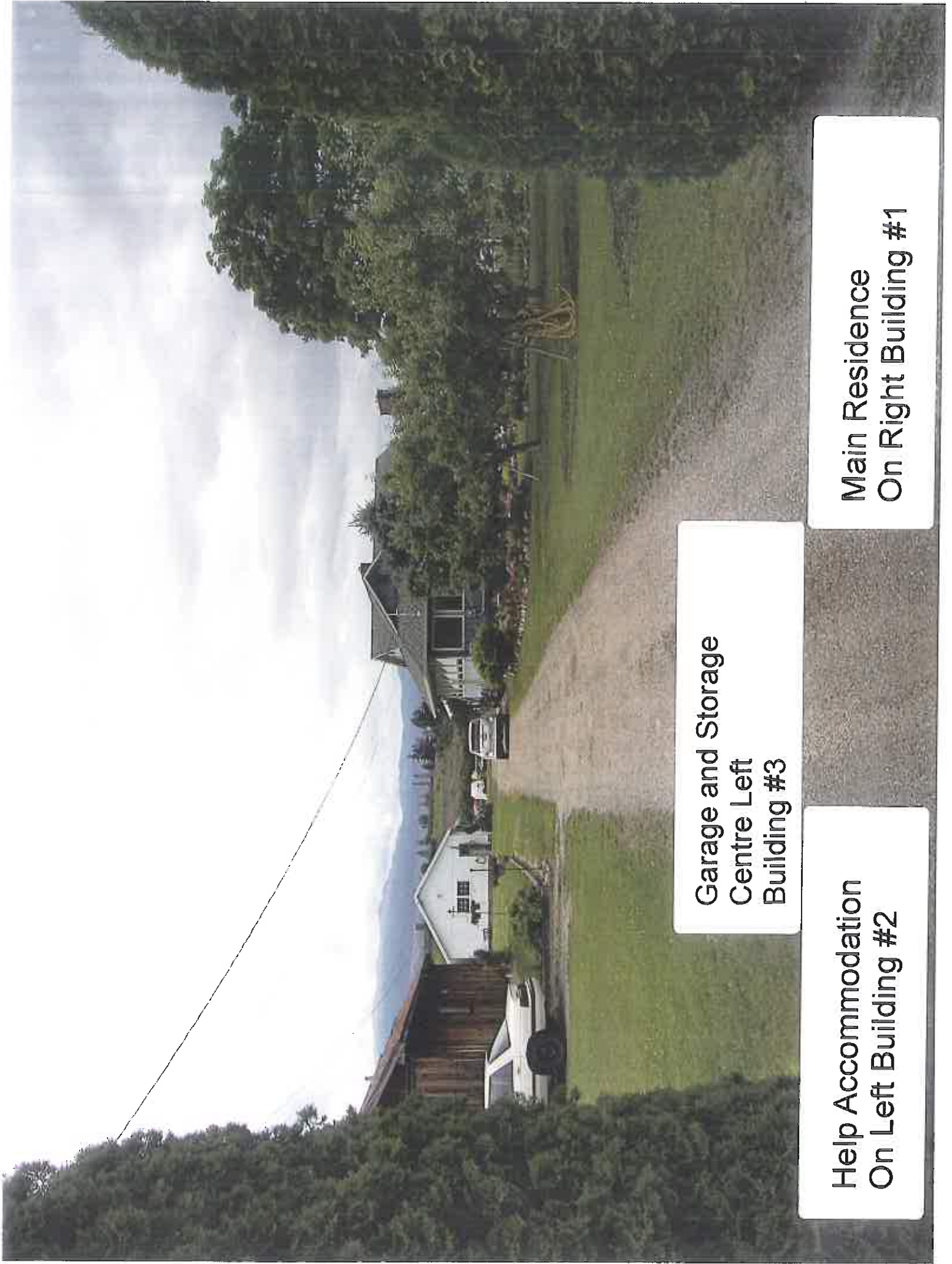
Help Accommodation
Looking North
Building #2



Horse Barn
Looking North-West
Building #5



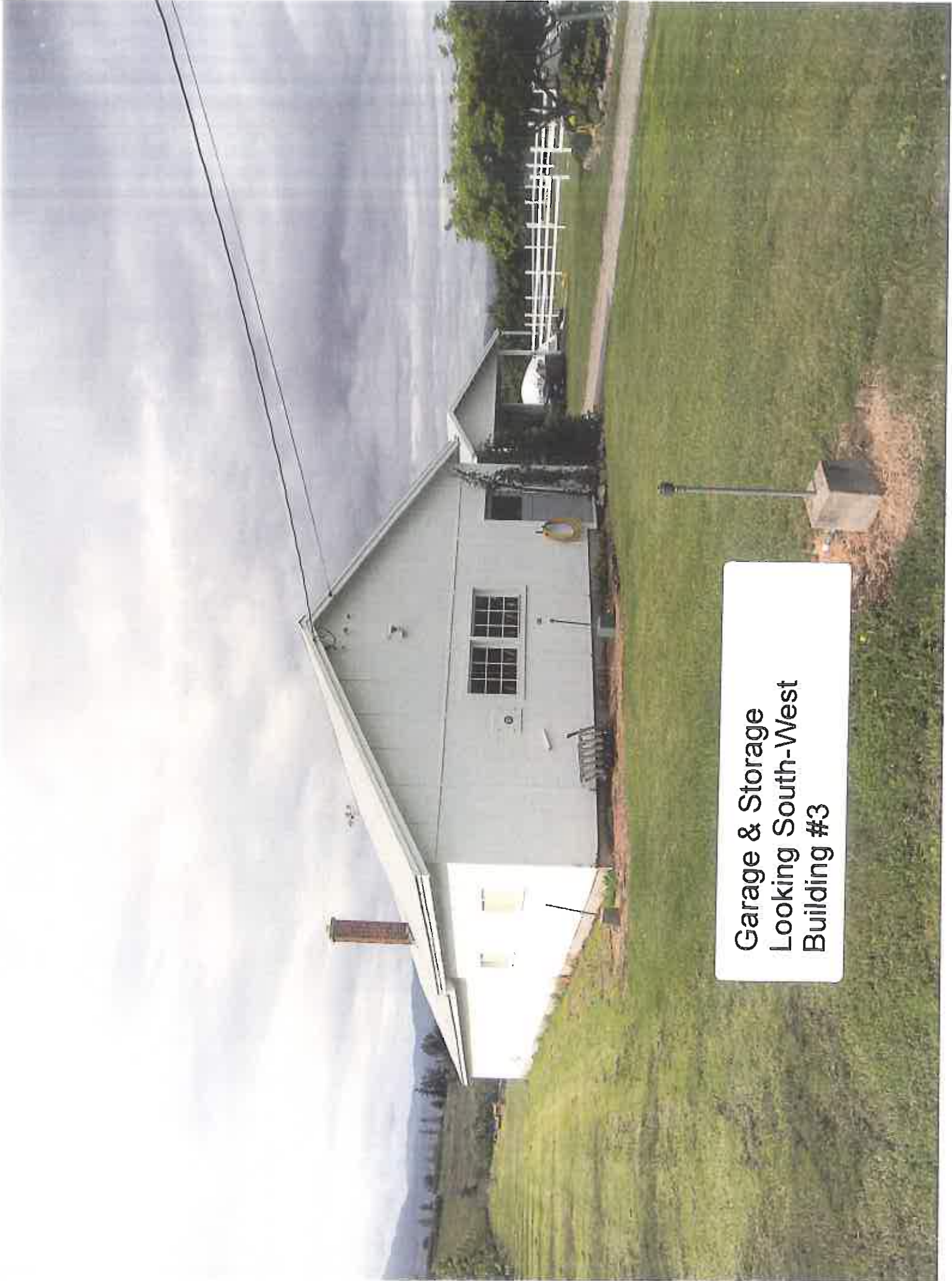
Utility Building (#4)
& Residence (#1)
Looking North-East



Help Accommodation
On Left Building #2

Garage and Storage
Centre Left
Building #3

Main Residence
On Right Building #1



**Garage & Storage
Looking South-West
Building #3**